UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 96th CONGRESS
SECOND SESSION

VOLUME 126—PART 14

JUNE 28, 1980 TO JULY 21, 1980
(PAGES 17591 TO 18950)

GENERAL SERVICES ADMINISTRATION
LAW
LIBRARY
SEP 22 1983
CENTRAL OFFICE

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1980

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

For sale by the Superintendent of Documents, U.S. Government Printing Office Washington, D.C. 20402

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, SECOND SESSION

SENATE—*Saturday, June 28, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by Hon. WILLIAM PROXMIRE, a Senator from the State of Wisconsin.

PRAYER

The Reverend Dr. James David Ford, Chaplain, U.S. House of Representatives, offered the following prayer:

We thank You, O God, for those people who sustain us by their love and undergird us with their concern. We recognize that we do not travel alone through the avenues of life, nor do we carry the demands of decision by ourselves, but are assisted, encouraged and supported by family, friends and colleagues. We pause at this moment to express our praise to You, O God, for the gifts we know through Your providence—for life, and hope, and forgiveness, and we remember with joy those whose fellowship and friendship we value. Keep us all in Your care as we seek to serve You this day. In Your name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 28, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WILLIAM PROXMIRE, a Senator from the State of Wisconsin, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. PROXMIRE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for routine morning business, not to extend beyond 2 minutes, without prejudice to the orders entered.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE FARM INCOME CRISIS OF 1980

Mr. COCHRAN. Mr. President, a lot has been said about the economic condition of agriculture during the months following the Soviet grain embargo. I have read countless reports pointing out that prices received by farmers this year will be down and that prices paid by farmers for inputs are up. Taken separately it is hard to measure the magnitude of the financial problems faced by farmers, but taken together one can quickly see that agriculture is in a serious crisis.

Perhaps the best indicator of the economic health of agriculture is net farm income. Although net farm income figures do not adequately reflect the individual commodity sectors, they do bring all of the economic pressures—including lower prices and higher costs—together to reflect the general condition of the agricultural economy.

I have been following the farm income developments during the last few months, and want to share the current estimates published by the Department of Agriculture in the June "Agricultural Outlook" report.

The written text of this official USDA publication did not mention the farm income prospects for 1980. However, when one digs into the table of forecasts in the back of the report, it is obvious why they decided not to discuss the numbers—farm income is just too dismal for the Carter administration to want to take credit for it.

Some simple comparisons illustrate the crisis situation which threatens the future of agriculture. Note in table 1 that net farm income in the first quarter was 23 percent below the same quarter last year, the second quarter was 41 percent below, and the third quarter is forecast to be 21 percent lower. It is unfortunate that USDA decided not to publish its fourth quarter forecast, as it normally does in the June report. At this rate, farm income for the year will be less than $24 billion—a decline from last year of nearly 30 percent. Several of the private forecasting services feel that USDA is optimistic.

But this is only part of the picture. The above numbers are expressed in current dollars which means that inflation has not been taken into account. When farm income is converted to 1967 dollars, the decline in purchasing power of the income farmers have to buy such things as clothes, food, transportation, and housing is devastating.

Comparisons of real income prospects this year to those in previous years are contained in table 2. Using a deflator which reflects an inflation rate of 13 percent for 1980, the real farm income will likely be less than $10 billion in 1967 dollars. This would represent a decline in real farm income of nearly 40 percent from last year and the lowest level since 1934. It is unreasonable for one sector of our economy to sustain such a decline.

Not only are farmers facing a reduced standard of living of substantial propor-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

tions, but also, the sharp decline in farm income has left many without sufficient income to service the record debt load being carried by farmers. Currently, the farm debt is $157.9 billion (table 2)—up 15 percent from last year. If net income is around the $24 billion level, this will result in an income to debt ratio of 6.6—that is a debt 6.6 times larger than expected income. This would be the worst income-to-debt ratio on record.

What this means is that many farmers who are unable to use savings or to refinance existing equity to pay their debt will be forced into foreclosure this year. This will be unfortunate, coming at a time when considerable discussion is focusing on the decline in farm numbers.

One does not have to look much beyond the inability to control inflation, the embargo of grain to the Soviet Union, and the unwillingness to assist farmers to adjust supply relative to demand at prices which provide a fair return, to see where the Carter administration policies went wrong.

The fault does not lie with the Agricultural Act of 1977. This legislation provides sufficient flexibility for the administration to deal with many problems facing agriculture. A major problem has been poor administration of the farm programs. Bad judgment and untimely decisions have also helped put farmers into an economic straitjacket.

I understand that the recent cost of production estimates made by USDA have the administration concerned. They should be. The sharp increases in the cost of production reported to Congress simply verified what farmers have been telling me all along—that the higher costs of inputs are killing them. Specific cost of production figures will be published by the Senate Committee on Agriculture, Nutrition and Forestry in the near future. Specific cost estimates have been made for cotton, soybeans, rice, corn, wheat, sorghum, barley, oats, peanuts, and flaxseed. At current farm prices all but one of the crops in the ground now would not yield a positive return. This means that farmers planted their crops this year in hopes of a better market.

The embargo, however, resulted in large stocks of grain hanging over the market. Barring a poor crop there is little hope that prices will improve enough by this fall to cover cost of production.

It is time for those of us concerned with the health of agriculture to get our heads together to come up with a sound plan to help farmers recover from the embargo, to seek new markets, and to bring supplies back into relation with demand so the market will provide prices which allow American farmers to make a fair return on their investment.

If we do not, the farm income crisis of 1980 could further impair the family farm structure, and hamper our ability to meet future food and fiber needs of domestic and foreign markets.

Mr. President, I ask unanimous consent to have printed in the RECORD the tables to which I have referred.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE 1.—FARM INCOME BY QUARTERS FOR 1979 AND 1980

[In billions of dollars]

	1979			
	I	II	III	V
Cash receipts	129.7	129.1	127.2	130.4
Livestock	69.8	67.8	65.2	66.2
Crops	59.4	61.3	62.0	64.2
Total gross farm income	145.2	146.2	145.0	150.6
Production expenses	109.2	112.1	115.1	118.1
Net farm income	36.0	34.1	29.9	32.5

	1980 (forecasts)		
	I	II	III
Cash receipts	132.5	128.5	136.3
Livestock	67.5	62.5	66.8
Crops	65.2	66.0	69.5
Total gross farm income	150.1	145.4	152.7
Production expenses	122.5	125.2	129.2
Net farm income	27.6	20.2	23.5

[1] Quarterly data are seasonally adjusted at annual rates.

TABLE 2.—NET FARM INCOME AND FARM DEBT

[Dollar amounts in billions]

	Net farm income			
	Current dollars	1967 dollars	Farm debt	Debt/income ratio
1964	$10.5	$11.3	$34.4	3.3
1965	12.9	13.6	36.8	2.9
1966	14.0	14.4	40.7	2.9
1967	12.3	12.3	44.1	3.6
1968	12.3	11.8	47.4	3.9
1969	14.3	13.0	50.5	3.5
1970	14.2	12.2	53.0	3.7
1971	14.6	12.1	54.5	3.7
1972	18.7	14.9	59.1	3.2
1973	33.3	25.1	64.3	2.0
1974	26.1	17.7	74.1	2.8
1975	24.5	15.2	81.8	3.3
1976	18.7	11.0	90.8	4.9
1977	19.8	10.9	102.6	5.2
1978	27.9	14.3	119.3	4.3
1979	33.3	15.3	137.5	4.1
1980 [1]	23.8	9.7	157.9	6.6

[1] Estimate based on USDA forecasts of the 1st 3 quarters.

FLOOD DAMAGE IN MISSISSIPPI

Mr. COCHRAN. Mr. President, as my colleagues are aware, I have on several occasions brought to their attention the problems and suffering resulting from the disastrous flooding in the Pearl River Basin of Mississippi during Easter of last year and again this spring.

Mr. President, damages from the Easter flood of 1979, alone are estimated to have exceeded ½ billion dollars in Jackson, Miss. With two sucessive floods, the residents of the Pearl River Basin are extremely concerned that efforts to review and study the problems of the basin be expedited in order that remedial measures may be implemented as soon as possible to prevent future losses and suffering.

I was pleased to learn that the House Appropriations Committee had included language in the reports accompanying both the supplemental for fiscal year 1980 and the fiscal year 1981 appropriations bills to direct the Corps of Engineers to expedite its study and formulation of plans to prevent a repeat of the recent floods.

The fiscal year 1981 appropriations bill which passed the House contained $2,015,000 to complete the studies of the basin and mandates a progress report be prepared by the corps no later than November 1, 1980.

If we are to provide the necessary flood protection to the residents of the Pearl River Basin to prevent future disasters, Mr. President, every effort must be made to expedite the corps' review and study process. With the two consecutive floods of 1979 and 1980, the residents of the basin are fearful that a flood of the magnitude of 1979 may not be as unique as the experts indicate. In fact, Mr. President, many feel that periodic flooding could become the norm.

I hope that the Corps of Engineers will do all it can to allay these fears by expediting the studies and devising a plan to prevent the disastrous impact we witnessed in 1979, which displaced 17,000 people and inundated 1,000 homes in Jackson, Miss., alone.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

RECOGNITION OF SENATOR HARRY F. BYRD, JR.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) is recognized for not to exceed 15 minutes.

THE COMMITTEE TO FIGHT INFLATION

Mr. HARRY F. BYRD, JR. Mr. President, I present to the Senate today some good news. I believe it will be good news for the distinguished Presiding Officer, the Senator from Wisconsin (Mr. PROXMIRE), who is a leader in the cause which I will mention in a moment.

A committee of outstanding Americans has been organized to fight inflation.

It is appropriately titled "Committee To Fight Inflation."

Its chairman is Dr. Arthur F. Burns, former Chairman of the Board of Governors of the Federal Reserve System. Its vice chairman is Henry H. Fowler, former Secretary of the Treasury.

Both are men of great ability and great dedication. It is a measure of their patriotism that they are willing to give their time and talent and efforts to the fight to protect the purchasing power of the earnings of the working men and women of our Nation. It should be borne in mind that the only place the Government can obtain tax funds is out of the pockets of the people who work.

The Committee To Fight Inflation is a committee of private citizens with extensive experience in government. The mailing address of the committee is: Sidney L. Jones, Secretary of the Committee To Fight Inflation, American Enterprise Institute for Public Policy Research, 1150 17th Street NW., Washington, D.C. 20036.

The founding members of the committee include:

Arthur F. Burns, Chairman, former Chairman of the Board of Governors, Federal Reserve System.

Henry H. Fowler, Vice Chairman, former Secretary of the Treasury.

W. Michael Blumenthal, former Secretary of the Treasury.

John W. Byrnes, of the State of Wisconsin, former Ranking Minority Member, Ways and Means Committee, U.S. House of Representatives.

Frederick L. Deming, former under Secretary of the Treasury.

C. Douglas Dillon, former Secretary of the Treasury.

Paul W. McCracken, former Chairman of the Council of Economic Advisers.

George H. Mahon, former Chairman of the Appropriations Committee, U.S. House of Representatives.

William McC. Martin, Jr., former Chairman of the Board of Governors, Federal Reserve System.

Wilbur D. Mills, former Chairman of the Ways and Means Committee, U.S. House of Representatives.

George P. Shultz, former Secretary of the Treasury.

William E. Simon, former Secretary of the Treasury.

John J. Williams, of Delaware—our former colleague—former Ranking Minority Member, Finance Committee, U.S. Senate.

This is indeed an outstanding group. I believe it is indicative of how grave they view inflation as a threat to the American people, that they would take the time and effort to organize a committee to fight inflation. I do not know of a more important cause in which to wage a fight.

I commend these distinguished Americans for their willingness to undertake a difficult assignment and their recognition that chronic inflation at unprecedented levels is a serious threat to the stability of our system—economic, social, and political.

As I see it, if the fight against inflation is to be won, the leadership of persons such as those listed above is vital.

It is obvious that it is a bipartisan commission. For example, former Secretary Fowler is an outstanding Democrat. He served as Secretary of the Treasury under Lyndon Johnson and as Under Secretary under President Kennedy. On the other side of the political fence are former Secretary of the Treasury George Shultz and former Secretary of the Treasury William Simon, both of whom served under Republican Presidents.

So it is not a question of party lines in any way. It is a bipartisan commission of interested citizens, private citizens, who want to do their part in this fight against inflation.

Mr. President, the policy statement of the committee to fight inflation is, in my judgment, an excellent one. I ask unanimous consent to have printed in the RECORD this policy statement.

There being no objection, the policy statement was ordered to be printed in the RECORD, as follows:

Committee To Fight Inflation

A POLICY STATEMENT

The problem of inflation has reached crisis proportions in our country. From an annual average rate of rise in prices of 1.9 percent over the eleven years ending in 1967, inflation accelerated to a rate of 6.3 percent over the next eleven years, ending in 1978; and then to a rate of 13 percent in 1979 and to a still higher rate in early 1980.

The rapidity of price advances will abate during the recession that is now under way; indeed, the most recent price indexes suggest that such a process has already begun. We must be alert to the danger that this slowing will lead to complacency about inflation, and that the concurrent rise in unemployment will again elicit highly stimulative fiscal and monetary policies. In that event we can be certain that prices will be rising more rapidly at the start of the next economic recovery than in any preceding recovery, that inflation will have gained strong new momentum, and that the hope of ending it in the reckonable future will sharply diminish.

The urgency of dealing with the inflation problem can hardly be exaggerated. By causing economic imbalances, inflation has been the primary channel through which recession—and with it widespread unemployment—has come twice to our country since 1973. The signs of havoc brought on by inflation are all around us. Inflation has created large and wholly arbitrary redistributions of income and wealth. Inflation has eroded the real value of everyone's money income and monetary assets. For example, the real value of a 1967 dollar had declined to 41 cents by early 1980.

Inflation has thus been depriving people of effective means of planning for their future and of providing against the contingencies that arise in life. It has been destroying the self-respect of many of our citizens by forcing them onto the welfare rolls. It has damaged our nation by increasing anxiety, and by breeding discontent and social tension. It has reduced the efficiency of financial markets and of the workshops of our economy, and it has made our economy more vulnerable to recession. Ultimately, inflation threatens the survival of free competitive enterprise and of our democratic institutions.

Our rapid domestic inflation has already substantially reduced the value of the dollar abroad, and with it the power and prestige of the United States in the international arena. As inflation continues, it poses a continuing threat of flight from the dollar, and thus of further contraction of its value in foreign exchange markets. Such a development would intensify domestic inflation by raising the costs of all imported goods, and it would further weaken our country's international prestige.

We cannot afford delay in taking the measures needed to restore general price stability in our country. If we are to rout inflationary psychology we must act with determination to see the matter through despite the short-run costs that will be incurred by some, perhaps many, of our citizens. Under present circumstances, we must forswear superficially attractive but ultimately counter-productive measures such as mandatory wage and price controls.

We urge the prompt adoption of a program dealing with the following areas:

FISCAL POLICY

During recent decades there have been sharply rising pressures on Congress to adopt new spending programs and to expand existing programs. Pressures for spending cuts or tax increases have been much weaker. The result has been a virtually unbroken string of budget deficits over the last twenty years. Moreover, these deficits have been generally increasing both in dollar amounts and—since the 1950's—as a percentage of the gross national product. This persistent pattern of deficit financing has contributed powerfully to the impetus of inflation and to the rapid spread of inflationary psychology.

In the Budget Act of 1974 Congress adopted new procedures designed to deal on a unified basis with separate revenue and expenditure decisions. While these procedures represent an important step forward, it is essential that the ability of Congress to resist pressures for deficit financing be considerably strengthened. We recommend a further revision of the budget process that would make it much more difficult to run deficits. Our proposal would require a balanced budget unless a deficit is authorized by something more than a simple majority—say, two-thirds—of each house of Congress. Such a measure would demonstrate to the public that the Congress is finally ready to take stern and responsible action to end the persistent budget deficits that have nourished our inflation.

Deficits can, of course, be eliminated either by raising taxes or by holding down expenditures. We believe that the national interest would now be best served by restraints on expenditures. We recognize that significant over-all savings are becoming difficult to achieve partly because of the requirements of national defense but also because of rapid growth of social security, federal pensions, and the other entitlement programs that are automatically linked to rising prices. We therefore urge the Congress to consider proposals to weaken the tie between the price indexes and outlays under the entitlement programs, insofar as that can be done without injuring those most in need. In addition to its beneficial effect on federal spending, such a course would strengthen the constituency opposed to inflation, and it would also set a constructive example for the private economy.

MONETARY POLICY

The ability of the Federal Reserve System to combat inflation has in the past been limited by lack of understanding and support in the Congress. Although the System has at times stepped hard on the monetary brakes, its policies have at other times accommodated a good part of the inflationary pressures in the market place. At present, the general thrust of monetary policy is appropriately restrictive. The Federal Reserve has been and will remain the faithful agent of Congress; but if it is to continue to combat inflation forthrightly and with vigor, it must have the strong and steadfast support of Congress. We recommend that Congress adopt a concurrent resolution stressing the importance of restrictive monetary policies in furthering the goal of ending inflation.

GOVERNMENT PRICE-RAISING ACTIONS

Over the years, our government has persistently acted to raise prices by measures that served to boost incomes and protect employment of particular groups at the expense of the public at large. These measures include tariffs, import quotas, marketing agreements and other restraints on international trade. They include farm price supports and acreage restrictions that raise the cost and reduce the supply of food. They include the minimum wage and Davis-Bacon legislation that tend to raise labor costs throughout the economy. They include also restrictions on competition in the transportation and numerous other industries. In view of overwhelming evidence of the power of market competition to serve the public interest by holding own prices, it is vitally important that Congress, first, stop raising prices by enacting new restraints on trade; and second, that it proceed methodically to dismantle, or at least weaken, much of existing legislation that impedes the competitive process.

GOVERNMENT REGULATION

During the past decade Congress has poured out a flood of legislation in response to public concerns about degradation of the environment and hazards to the health and safety of both workers and consumers. Much of this legislation and the regulations promulgated under it have been running up costs and prices unnecessarily. It is essential that there be a thorough reform of outstanding laws and regulations, and more careful design in any future measures, so that basic national objectives may be achieved at minimum feasible cost. The reform should take full account of costs as well as benefits; it should seek the most efficient means of reaching agreed-upon goals; it should give careful attention to the pace at which changes in processes, practices, or products are mandated; and it should provide expeditious procedures that yield timely and definitive conclusions.

THE ENVIRONMENT FOR BUSINESS INVESTMENT

Inflationary pressures have been fostered in recent years by a flattening-out of the trend in the output of goods and services per man-hour, and most recently by an absolute decline in productivity. Our country needs urgently to encourage productivity-enhancing capital investments and, more generally, a greater willingness by business firms to innovate and assume risks. The Congress should promote these objectives by scheduling reductions in business taxes in each of the next five to seven years—the reduction to be quite small in the first two years but to become substantial in later years. This sort of tax legislation, supplemented in due course by reduction in the capital gains tax, would not run up the budget deficit ni this critical year or next; it would thus scrupulously avoid fanning the fires of inflation. Its passage would, however, release powerful forces to expand capital investment, thereby improving the nation's productivity and exerting downward pressure on prices later on. Such tax legislation would also help in the more immediate future to ease the difficult adjustments forced on many businesses and their employees by the adoption of other parts of our suggested program.

OTHER MEASURES TO INCREASE PRODUCTIVITY

We urge that other feasible means be adopted to increase the productivity of our economy. These should include larger private and public outlays for research and development; more carefully designed manpower training programs; productivity councils in individual plants, shops, and offices in communities across the country, in which employees and employers can pool their ideas for improving the efficiency with which their tasks are discharged; and other means of encouraging cooperative efforts of labor and management in furthering their common interest in greater efficiency.

ENERGY

The problem of energy is intertwined with that of inflation. On the one hand, skyrocketing costs of imported oil have contributed to our domestic inflation; on the other hand, governmental actions to limit the rise in domestic prices of oil products have weakened incentives for conservation and for expansion of the domestic supply of oil and of alternative sources of energy. We believe that, despite the short-run effects on the price level, the rapid decontrol of oil prices—and perhaps the addition of consumption taxes—would serve the national interest by speeding the day when our nation regains substantial independence in the energy area. Only then will we be free of the threat to the stability of our price level—and to our national security—that is posed by present dependence on foreign energy supplies.

CONCLUDING COMMENTS

Our critical problem of inflation did not emerge suddenly. It has been gathering force for many years. Its roots lie deep in the political and philosophical attitudes that emerged from the Great Depression of the 1930's.

While our inflation is largely a consequence of government actions, those actions in turn reflect excessive public demands for the good things of life—rising living standards, better provisions for income security, more assistance to the disadvantaged among us, a cleaner environment, fuller protection of the public's health and safety, and special benefits for a growing number of interest groups. Each of these demands is thoroughly understandable. Together, however, they release persistent inflationary forces—first, by requiring of government greater outlays than tax revenues can finance, second, by demanding of the private economy greater output than its languishing productivity can support.

At best, the task of ending inflation will be difficult. But there is no hope of eventual success unless the American people come to understand the nature of the problem and are prepared to support the stern measures required to solve it. We see some signs that the needed understanding and support are growing. And we look forward to the time when our nation will again experience the economic progress that is possible in an environment of generally stable prices.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged against the time of the Senator from Virginia.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

ATOMS FOR INDIA

Mr. HARRY F. BYRD, JR. Mr. President, the Roanoke Times and World-News had an excellent editorial on June 26, discussing President Carter's proposal to send 38 tons of enriched uranium to India.

The Roanoke Times feels, as I do, that this is a mistake and breaches the effort to contain the spread of nuclear weaponry.

Harold Sugg is editorial page editor of the Times.

Mr. President, I ask unanimous consent to have the editorial printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

ATOMS FOR INDIA

Disregarding a unanimous vote by the Nuclear Regulatory Commission, President Carter has signed an order clearing the sale of 38 tons of enriched uranium to India. Fortunately, Congress can override his decision, and there seems ample sentiment to do so.

In 1963, the United States agreed to provide India fuel for the Tarapur reactor outside Bombay for 30 years. The contract stipulates that India must not reprocess any of the spent fuel to extract plutonium, an ingredient of nuclear explosives. India already has violated a similar agreement with Canada, taking plutonium to make a device it exploded in 1974.

Moreover, it has refused to accept international safeguards on its nuclear facilities. Under a 1978 law, the United States is forbidden nuclear cooperation with nations that decline to accept such safeguards after March 10, 1980. The president can bypass this law, but Congress in turn can overrule him within 60 days.

Mr. Carter expresses concern about India's failures on nuclear accountability, but says that these exports will help maintain a dialogue on the matter. That seems akin to supplying an arsonist with gasoline so he'll talk about changing his ways. The administration also says that because of the situations in Iran and Afghanistan, we must maintain good relations with New Delhi. Otherwise we could lose a potential moderating influence on the Soviet Union, and India might also turn to Moscow for nuclear fuel.

Well, India already has turned to Moscow for a sweetheart arms deal, commented on editorially here June 18. This allegedly neutral democracy has always been careful to keep its bridges to the U.S.S.R. in good repair, and the return of Indira Gandhi to power ensures that policy will continue. Sen. Harry F. Byrd, I-Va., comments:

"The United States has been seeking 'improved relations' with India for decades and has nothing to show for its efforts. . . . As I see it, 38 tons of enriched uranium will do no more to buy Indian friendship than have the many billions of American tax dollars lavished year after year on the vast Indian bureaucracy."

The senator is correct. As far as weaponry is concerned, India likely would be no more responsible with nuclear fuel from Moscow than from the West. To suggest that New Delhi would thus become "dependent" on the Soviet Union for this fuel—and thereby lost to the West—assumes, wrongly, that India is amenable to our pleadings. She has always taken our aid and then done as she pleased.

Approving the sale will win no influence in India; denying it should have positive effect elsewhere. It might deter India's nervous neighbor, Pakistan, from its own pursuit of nuclear weapons capability. More important, it would assure the rest of the world that nonproliferation remains a cornerstone of American policy. Finally, it would be consistent with Mr. Carter's previous stance in these matters—and with common sense.

Mr. HARRY F. BYRD, JR. Mr. President, unless any Senator has need for the remainder of my time, I yield it back.

RECOGNITION OF SENATOR STEWART

The **ACTING PRESIDENT** pro tempore. Under the previous order, the Senator from Alabama (Mr. STEWART) is recognized for not to exceed 5 minutes.

ECONOMIC DEMOCRACY

Mr. STEWART. Mr. President, two programs during the week of June 23, one on NBC and one on PBS, both focused on a concept that I think all Americans need to look at very seriously: economic democracy. The first program, an NBC white paper entitled "If Japan Can, Why Can't We," focused on how most Japanese firms, and a small number of American firms, have instituted systems in which all of a company's employees are encouraged to participate actively in the design and management of their work. The result has been an impressive rate of productivity growth in the entire Japanese economy—a rate matched by a few pioneering American firms but, sadly, not by our economy as a whole.

The second program was a "Bill Moyers' Journal," and its focus was the efforts of workers in Youngstown, Ohio to purchase a steel plant that has closed there. Moyers reviewed the arguments for and against the idea, concluding that worker ownership and participation presents an alternative America needs to consider, an alternative that has the potential to restore some of the spirit and dynamism that our economy has lost.

The thrust of these two excellent programs has been echoed in recent months by a spate of articles in newspapers and magazines on the subject of economic democracy. At the same time, Congress has taken a keen interest in the subject.

I hope in light of our present economic situation in this country that interest will become even keener. Legislation I sponsored to create an employee ownership program in the Small Business Administration was approved unanimously by the Senate and is about to be signed into law. A similar bill for the Economic Development Administration is in conference and should pass this year. The Chrysler loan guarantee bill provided for the creation of a $162.5 million employee stock ownership plan. In the next few months, I hope the Congress will move in further support of employee ownership by passing measures I will discuss later in this speech.

All of this attention is encouraging, but it is tragic to realize that, despite the increasing interest, this Nation, which prides itself on its democratic heritage, has done very, very little to promote economic democracy. In the process, we have wasted enormous human resources by refusing to take advantage of the knowledge and ability of the working American. Too many businesses treat their employees like pieces of machinery. They do not understand that the man who spends all his time on a job may not have a degree in financing or engineering, and may know little about theories of business management, but does know a great deal about that job he performs—probably more than anyone else. Unfortunately, this knowledge is largely wasted, because, for the most part, no one cares what he thinks about his job and no one gives him the incentive to use his abilities to perform beyond what is minimally expected of him.

Employees themselves believe that this is an enormous waste. A 1973 Gallup poll found that 60 percent of American workers believe they could increase their output by 20 percent or more. A 1977 University of Michigan study found that 36 percent thought their skills were underutilized, and 50 percent complained about a lack of control over their work.

Both programs pointed to several examples of firms that have involved the workers more, and their productivity and profit gains have been, to say the least, extremely impressive. These examples are not isolated cases. There have been, as of 1975, 2,000 studies of the relationship between worker participation and productivity. Eighty percent showed a strong, positive relationship. In 1973, the Department of Labor analyzed efforts to redesign work with a participation emphasis, and concluded that productivity increased from 5–40 percent. There were no cases where productivity declined as the results of the participation efforts. A recent study by Carl Frieden of the National Center for Economic Alternatives concludes that no study has ever shown a negative relationship between participation and productivity.

Similarly, when workers are given significant ownership or profit-sharing plans, productivity rises dramatically. In one study of Scanlon plans, plans in which workers get bonuses linked to productivity improvements, eight of nine companies showed an average productivity gain of 23 percent over 2 years (the ninth did not show a positive relationship). In 38 large companies studied by the Profit Sharing Council of America, the median increase in productivity resulting from institution of the plans was 140–150 percent. The survey research center of the University of Michigan found that employee owned companies were 150 percent as profitable as comparable conventional firms. Recently, for instance, a plywood company owner testified before the Small Business Committee. His firm is now 43 percent employee owned, and he is gradually selling out to his workers. His company is making a profit, even in these hard times, and the total compensation to his workers, excluding top management, averages $30,000 to $50,000 a year. Those are wages being paid to truck drivers, warehousemen, and similar employees. His is a small company, but at E-Systems, a larger high-technology firm that is 25 percent employee owned, the institution of an employee ownership plant reduced turnovers 50 percent, increased profits, and more than doubled employee suggestions.

Mr. President, I could go on giving examples, but the simple fact is that American companies are tragically wasting a precious resource—the skills and minds of their workers. Worker ownership and worker participation schemes hardly cost a company anything, yet they almost invariably result in impressive productivity gains, provided—and I stress this point—provided that they are serious efforts, not just token contributions to a stock plan, or meaningless, insincere efforts to create the appearance of worker participation.

What would clearly work best in this country is to provide workers with a significant share of the ownership or the profits—or both—in their company and to establish a worker participation program. In that way, workers would have the incentive to participate and to improve productivity. In Japan, their consensual, cooperative culture creates this incentive. In this country, that cultural incentive does not exist. Ownership and profit sharing can provide their own incentive, however, and unleash an enormous outpouring of ingenuity, hard work, and creativity.

In order to pursue these goals, I believe we must rely primarily on the good sense of workers and business nonetheless, there is a role for Congress.

In addition to what we have already done this year, we should pass legislation Senator BAUCUS and I introduced, S. 2677, that would allow owners of small businesses to sell to their employees, and, if they invest the proceeds in another small firm, have the taxes on the sale deferred until the new stock is sold. This proposal, similar to the rollover allowed for the gains made in selling houses, would provide an incentive for the retention of small businesses as well as a boost to employee ownership. It would also remove the current bias in current law toward mergers and acquisitions, since an owner can now sell to an established firm for an exchange of stock and not be taxed on the transaction.

At the same time, I want to put the Senate on notice that I will argue most determinedly that any tax cut this body may enact must be linked to employee ownership. In the next few weeks, Senator LONG and I will be working out the details of this linkage, but I believe that we must establish as a principle of our Government that any tax incentives to business should be structured in such a way that they broaden, not concentrate, ownership. This can be done at little or no additional cost to the businessman or the taxpayer, but it will help to lay the foundation for a more equitable, more democratic society.

Albert Gallatin, one of the first Secretaries of the Treasury, and one of the "Founding Fathers" stated that "the democratic principle upon which this Nation was founded should not be restricted to the political processes but should be applied to the industrial as well." Economic democracy is not a panacea, but it is a way to make our society both more just and more productive and we should pursue it—privately and publicly, with the greatest urgency.

The Bill Moyers transcript will not be available until after the recess, and I will ask that it be reprinted at that time.

Mr. President, I ask unanimous consent that a transcript of the NBC white paper which reflects what took place in their program or that part that deals with the idea that I spoke about this morning be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

IF JAPAN CAN . . . WHY CAN'T WE?

PART II

(Dobyns on camera).

It is obvious that the United States economy is not in good shape. Increasing productivity will not make it all rosy again. It will not cure inflation and recession, but it will make them better. And it is certain that decreasing productivity will make them worse.

Japan is the third most productive nation in the world, but it now has the highest rate of productivity increase. We taught them how to do that after World War II. In those days, no one knew more about productivity than we did.

No more.

Now a frequent speaker on productivity at business and industrial conferences in the United States is Joji Arai.

JOJI ARAI:

. . . 16,000 Japanese executives visited the United States to exchange views and ideas with you. They learned a great deal. Twenty executives went to Japan from the United States last year under our auspices.

DOBYNS. Last year, the Productivity Center helped 20 American businessmen who went to Japan and 450 Japanese who came to the United States.

ARAI: I'll be happy to talk to your people. After all, we all learn from each other.

SECRETARY: His September schedule looks pretty full . . .

DOBYNS: The Washington office of the Productivity Center opened in 1962, and has helped more than 16,000 Japanese businessmen make contact with their American counterparts.

Joji Arai has headed the office since it opened and seems perfect for the job.

Arai has lived in the United States since 1960, but he is not the first of his family to come here. Arai's father was educated and worked here, so Arai grew up in Japan hearing stories of the United States.

He now lives in suburban Washington, and his friends say his knoweldge of the United States is detailed and extensive.

Mr. and Mrs. Arai have three children. Two of them were born here, and all of them are growing up and being educated here.

All of that, from his father to his children, makes Arai uniquely qualified to compare Japan and the United States. For recent years, the comparison is not comforting.

ARAI: Japan is a country about 1/25th the size of the United States. She is a nation without natural resources, and she depends upon oversea supply for 90 per cent of her energy and raw material. Yet Japan is now the third most productive nation in the world after the United States and the USSR. Japan's industries registered an increase of eight per cent in 1978 and 11.4 per cent in 1979. In the meantime, U.S. productivity growth rate hovered around zero.

DOBYNS: If Mount Fuji is a recognized symbol of Japan, then one of the Japan Productivity Centers at the base of Fuji ought to be a symbol of their industry. Established in 1955, the Center has trained thousands of company and union personnel, sent study teams abroad, published reams of material, and done anything it could to make productivity a household word. And it has worked.

The Center is partly financed by the government, but its directors are a Who's Who of industry and labor.

It has been so successful that Americans are now going to the Center to learn how it was done from Kohei Goshi, the chairman.

This group of personnel officers from Westinghouse and their consultant were told by the chairman, through an interpreter, how the Center was created to exchange technical information with the United States. And he spoke of Japan's economy after World War II.

KOHEI GOSHI through interpreter: At that time, the per capita income of Japanese people was about 200 U.S. dollars. At present, it is now 8,000 U.S. dollars. And the consensus among Japanese people at that time was to get out of the state of being a beggar!

DOBYNS: Japan no longer begs from anybody. It doesn't have to. This steel mill on a made-made island in Tokyo Bay is the world's most modern. There is nothing else like it anywhere.

Using the latest in technology, NKK, Japan's second largest steel company, opened the Ohgishima works starting in 1976. It is computer controlled and so highly automated that it can produce more steel than the plant it replaced with fewer than half the workers.

It cost $3,000,000,000 and took almost 10 years, but it tripled the average productivity of each worker. Tripled.

The equipment that this replaced was 30 years old. Some steel equipment still used in the United States is 50 or more years old. American companies have some difficulty raising the capital to buy new equipment. Japanese companies do not have that problem. They plow back more of their profits, and there is more money available to borrow.

ARAI: The propensity of workers to save over 20 per cent of their disposable income at financial institutions help the companies to borrow money, as debt financing has been the most prevalent mode of expansion in Japan. In addition, many Japanese companies, rather than aiming for a higher profit to be shared among stockholders, plow back the funds in expanding and renewing their plant and equipment. These efforts by companies enable them to lower the average age of machinery in all industries to seven years as compared to 12 years in the United States.

DOBYNS: Using modern computer controlled machines has helped Japan's auto industry flourish while ours is in decline. For example, Mazda made 740,000 cars in 1974. That year it had 37,000 workers. Last year it had only 27,000 workers, but it turned of 1,000,000 cars. Productivity. More for less.

That has taken a heavy capital investment. Eighty per cent of Mazda's annual investment goes to increase productivity or develop new products. But significantly, 20 per cent of the money goes for pollution control.

Pollution standards for the auto industry in Japan are more severe than they are in the United States, but while our auto industry is floundering, theirs is reporting record profits.

And part of those profits come from making vehicles under license for non-Japanese companies.

Their auto and most other industries were built to fill domestic needs, and only after that were they exported. And it was all done with next to no natural resources.

ARAI: The only abundant natural resource Japan has is people.

DOBYNS: Japan's industries take care of their workers in ways almost unknown in the United States, everything from cut-rate family stores to life-time employment.

Japanese factory workers not only have exercise breaks to ease the monotony, but often meet in the mornings to sing the company song and exhort each other to do better. They know that even in bad times they will not be let go or laid off, and in return for job security, they give their companies incredible loyalty.

The companies care not only about their workers' job performance, but about their health, their family life, and their ideas for doing things better.

Good ideas can win a Canon Camera worker a paid vacation and a cash bonus.

Visiting Americans, like the Westinghouse group, are always impressed with the loyalty between Japanese companies and their workers. It is uniquely Japanese, and it may be the only thing in their industry that is.

ARAI: Japanese are not as creative as Europeans or Americans. On the list of 100 outstanding inventions in the world in the past 50 years, you will find only a few Japanese achievements.

DOBYNS: That, too, is changing.

While in the United States the number of patent applications is going down, here at the Japanese Patent Office, the number of Japanese applying for patents has almost doubled in 10 years, despite a $20 fee with each application.

The Japanese are now moving into new fields, so they are turning out new ideas almost as fast as they have been turning out steel and cars and television sets.

The Japanese are quick to support new industries that show good potential, sunrise industries. They are equally quick to cut loose sunset industries, old industries that are growing less profitable, the kind Congress supports.

And the Japanese protect the worker.

ARAI: Japan is suffering from slow economic growth. Our unemployment rate, however, still remains around two per cent.

DOBYNS: Five years ago, Mitsubishi's Hiroshima shipyard used 11,000 tons of steel a month. Now it uses 2,000. The government decided that as a matter of national policy, Japan should reduce its shipbuilding capacity and turn that to something else, such as building drilling rigs for oil exploration.

Mitsubishi's Hiroshima yard cut its work force by 1,700, but no one was fired or laid off. This oil rig now off New Jersey's coast was built by some of the shipyard workers. Others were transfered to other Mitsubishi operations or loaned to other industries.

Either way, their jobs were safe, and their company moved into a new, expanding, and profitable field of foreign trade.

BAILEY ROGERS: The Ocean Ranger was designed by ODECO engineers. The Japanese would build it faster and less expensive and do as good a work.

DOBYNS: Out of an old business and into a new one with no lay-offs and minimum loss.

The Japanese do so well at some things that it is tempting to believe they do well at all things. They don't.

DOBYNS on camera: When it comes to agriculture in Japan, productivity seems to fall apart. The distribution system passes food from hand to hand for no apparent reason except to raise the price to the consumer. That's at the end of the line.

DOBYNS: At the beginning of the line, more than half of Japan's farms are less than 2½ acres, small family farms that are not efficient. So Japan has to import a quarter of all its food and more than half of all its grain.

An auction of fresh fruits and vegetables may be colorful and exciting and make fascinating pictures, but it is a clumsy way to distribute food. And the auction is only part of Japan's food distributing problem.

The traditional Mom-and-Pop grocery store may keep a whole family employed, but it makes the food cost more. But supermarkets, which are more efficient, are beginning to spread. And they are only a tiny part of what Japan has adopted from the United States.

ARAI: First of all, let me tell you that productivity game was taught us by Americans. We are very fortunate to have America as a good teacher, and we always try to be a very good student, and that's what made it possible to be somewhat competitive in international market with U.S. industries. (Laughter)

W. EDWARDS DEMING: The first time that I went there to teach industry, I taught 450 engineers in several cities: Tokyo, Nagoya, and Fukuoka.

Dobyns: W. Edwards Deming first went to Japan in 1950 to teach industrial productivity through statistical analysis.

He was so successful that Japan's annual award for productivity is called the Deming Prize. It is one of the most coveted awards in Japan, and the medal that goes with the award is a profile of Dr. Deming, an American.

The 1979 Deming Prize went to the Hiroshima plant of JSW, Japan Steel Works, which was so proud it had Dr. Deming's note of congratulation etched on a block of stone outside the plant headquarters.

Two thousand men and women work at that plant, and JSW provides recreational facilities for them to use when they're off. That is standard with major plants even in crowded industrial areas.

When the game is over, work resumes making industrial machines and devices, including huge ball valves for pipelines. The quality of the work is so high that there are only six people in the plant's quality control department. The production workers build in quality and make an average 10 suggestions per worker each year on how to do it even better.

"Reliability. The one word that tells it all." That's the motto of Fujitsu.

The company makes computers and telecommunications equipment, and the workers are organized into Quality Control groups, QC circles, as they are throughout Japanese industry.

The Japanese believe in consensus with workers and managers participating in and agreeing on the best course. In that way, when a decision is made everyone supports it.

Visiting Americans always want to see a QC circle meeting.

Traditionally in the United States, there is little participation and no consensus. Top management issues orders; everyone else takes orders.

Despite modernization not all machines in Japan are new. This one has been renovated to fit into a highly automated system for Matsushita.

It is one of the world's largest companies, making electronics and home appliances, in this case, refrigerators.

The beginning of the plant is the longest fully automated assembly line in the world. With fewer than 900 production workers, the plant turns out 4,000 refrigerators a day.

And to insure that each meets the quality standards, the factory makes almost all the parts itself.

The assembly line is computer controlled, and Matsushita says it is the largest, most modern refrigerator plant in Japan.

As much time and money as Matsushita has put into equipment, it still considers its most critical area of management employee relations. Despite advanced automation, no worker has been laid off. So workers have suggested some of the automated machines now in use, including this automated packer.

And with the limited population in Japan, more industries are turning to automation out of necessity.

Arai: In order to cope with the shortage of labor and reduce the cost of production, Japanese manufacturing industries initiated the dramatic onslaught to automate the production line by extensive use of computer assisted machines.

Dobyns. In several plants, the third shift each day is run entirely by computer assisted machines. There are no people.

In this type of advanced machinery, the Japanese are moving much faster than their American counterparts. There are 45,000 computer controlled robots in use in Japan. There are only 5,000 in the United States, despite the fact that the robot was an American invention.

But the Japanese have developed their own machines. Matsushita made this one for its television operation.

It is faster and better and relieved workers from tedious jobs so they could work mentally as well as physically. Matsushita officials say machines should do the repetitive labor and people should do what requires thought. And one of the things they think about is how to make better machines to do the work, how to increase productivity. There are signs, slogans, and exhortations in every Japanese factory.

Between the two world wars and for awhile after World War II, Japanese industry was famous for only one thing: producing shoddy goods and cheap junk. But in the 30 years since 1950, Japan has gone from being a producer of trash to a nation synonymous with quality and reliability.

Japan now sets industrial standards, standards that used to be measured by American products. The difference was a commitment to productivity, involving everyone.

This foreman, for instance, spends one day a week going over suggestions for improvement made by the workers under him.

For its part, management has invested in new technology and equipment and learned techniques of management that encourage productivity. It has all been part of a national goal.

To reach that goal, the Japanese hired Americans to teach them what to do and how to do it. Japan's industrial success was made in the U.S.A.

And the success is spectacular. In a modern Japanese factory, watching workers bawl out their colleagues for poor performance, it is difficult to remember that when the American occupation ended in 1952, the Japanese were not dominant at anything. Twenty-eight years later, they dominate several industries and are moving up rapidly in some others.

The United States supplies Japan with agriculture goods and raw materials and imports finished products. Whether we like it or not, that is the definition of a colony.

In 28 years, they have completely reversed the two economic roles. That did not happen by magic.

QC circles, new plants and equipment, different management techniques, worker training programs all take money, dedication, and a lot of time.

Americans taught them what to do and how to do it, but the Japanese actually did it. Brilliantly.

Leader: Kam pai!

Crowd: Kam pai!

Dobyns: Now with our productivity in decline, more American companies are sending officials to Japan to see for themselves.

S. O. Lemon, Jr.: I've been in a lot of industrial plants in the U.S. in the past 20 years, but I'd say very, very few of them would compare to those we've seen in the past two weeks.

Dobyns: Do you think quality control circles will work in American industry?

Lemon: I think they'll work in the United States, but I think it's important to realize that the success the Japanese are having with quality circle programs now is the product of over a decade of evolution. It didn't happen overnight.

W. A. Towle: They all work very, very closely together. Their bottom line is not what is in it for me, but what's in it for us.

W. J. Usery Jr.: After watching here the people at work, the quality of product, the cooperation between government and business and business and labor, and working together for the good of this nation, we have to do the same thing.

Lemon: If we intend to complete internationally, unless we can change some attitudes and ideas fairly quickly, why time's not on our side.

A. W. Pettit: If Americans saw what we have seen these past two weeks, they would be considerably less comfortable.

Dobyns on camera: If Americans are made less comfortable by seeing what is happening in Japan, they might be made more comfortable by seeing that there are plants in the United States where productivity is going up.

That is our next subject.

PART III

Unidentified Japanese No. 1, speaks Japanese.

Unidentified Japanese No. 2. As you know, you know that we increased our production quantity.

Lloyd Dobyns: This is a weekly management meeting at a manufacturing plant in the suburbs of Chicago.

The plant is owned by Matsushita, the Japanese electronics and home appliances giant, but most of its top management is American, including its president, Richard Kraft.

Matsushita bought the failing plant from Motorola and turned it around.

Richard Kraft: Bud, can we have a little report from production?

MIC Manager No. 1: I'd like to refer to the charts upon the wall, our productivity charts. 1979 showed an improvement over '78.

Dobyns. Under Matsushita, there are about four defects for every 100 television sets made. Under Motorola, for every 100 sets, there were 150 defects.

Kraft: It was pretty evident in the past, in those last few years with Motorola that the corporation was not really putting their best effort forward to make the consumer products division successful.

Dobyns: For one thing, the assembly line was outdated, and the production workers had to keep up with the set to do their work. That caused mistakes.

Matsushita installed a new assembly line so that each worker could stop the circuit board, do what had to be done, and send it on. They don't have to chase it to work on it.

Incidentally, the work force making Quasar sets for Matsushita is essentially the same group that made Motorola sets.

Some new Matsushita machinery to automate and speed circuit board building has been installed. Even though it is older, slower, and smaller than similar machines in Japan, it is technological progress.

And production workers are more involved. Each week, each line meets with its foreman to hear what the company is doing and what it plans. It isn't quite a QC circle, but it is worker participation.

Kraft: We basically believe in the concept of dealing directly with our people. We like to feel close to our people. We like to keep them informed. We like to hear from them about their problems and ideas, and this is very much in tune also with Japan.

Dobyns. So are the employees' quality signs around the plant and their recreational program.

MIC Manager No. 1: I'd like to inform the group as well that our annual spring fashion show is well on its way, and the theme this year will be "Steppin' in Style, Now and Then."

Unidentified Japanese No. 3: I try to wear a kimono. (Laughter).

Kraft: That's something we haven't tried yet, wearing a kimono.

Dobyns on camera: For years now, the American steel industry has been losing business to the Japanese, who could produce a ton of steel with fewer men for less money. Now some of that business is starting to come back, attracted by American mills that are small, modern, and beat even the Japanese at producing more for less.

Ken Iverson: We make steel at a lower

cost than any steel company in the world, including the Japanese.

Dobyns: The plant at Norfolk, Nebraska, is one of 10 owned by Nucor, a profitable, non-union steel company.

Iverson: We build plants very economically and, secondly, we run them very, very efficiently, the primary thanks to that goes to the employees themselves and the incentive production systems.

Dobyns: Nucor also invests heavily in modern technology, plowing back part of the profits to buy new equipment and experiment with new methods and machine improvements.

Iverson believes technology is important, but not as important as people. And people, he believes, want to be rewarded for their work, so when they produce more, he pays them more.

Iverson: Our production workers work on a production incentive system. They are groups of about 30 people who are doing some complete task, such as producing a certain number of rolled tons. If they exceed that standard in a week, then they receive extra pay based upon how much they exceeded the standard. It's not unusual for the bonuses to run over a hundred per cent. The bonus is paid the next week. There's no maximum on it. The average hourly worker in this plant earned about $22,000 last year; we had melters who earned about $35,000.

Nucor Employe No. 1: The job is good, but the money's great.

Iverson: Our, really, the first time we had a worker who had, a group that earned a hundred per cent bonus, I had a feeling in the pit of my stomach I might have created a monster. But it really works.

Nucor Employee No. 2: The more steel we make as a crew, and roll, the more money we make, and the more money we make, the more money the company makes.

Dobyns: If a man doubles his pay, what dose he do next?

Iverson: He doubles it again. There is no cap on it. If we produce, if they produce again twice as much, the bonus would go to 200 per cent. We never change the standard.

Dobyns: Could the huge steel mills do it?

Iverson: Yes, by designing incentives which properly reward workers when they produce added amount of production. I think there's one problem, though, in this country in that I think many corporate executives are not willing to do it. I think if, they'll give lip service to the fact that if a man does twice as much, I'll pay him twice as much. But if he does and it comes down to it, they'll either say the standard was wrong or he cheated or they'll bring their consultants in to say it for them.

Dobyns: Because of the bonus system, Nucor workers are critically interested in production.

Nucor Employee No. 3: It's the people's attitudes here. You look around and you talk to everybody, it's all production. They want to get production up. If we break down or break out ever on the caster, everybody is kind of running around trying to get things going.

Iverson: We're looking for that performance oriented person who, one, has goals and, secondly, sees the reward in those goals, and that's what he's looking for.

Nucor Employee No. 4: I like the incentive bonus program probably the best. The job security is another big, big item to me.

Iverson: We have not laid off a single employee for lack of work for more than 10 years.

Dobyns: No one?

Iverson: No one.

Dobyns: Modern equipment, production bonuses, job security and everyone makes a profit, including The United States.

Iverson: For the last four years, our price FOB, which is leaving this plant, has been equal or less than the Japanese price of steel landed dockside in the United States. Actually, most of our market has come from taking that market that used to belong to foreign steel producers.

Dobyns: Speaking of the Japanese, have they ever toured any of your facilities?

Iverson: Yes. They've been in this plant.

Dobyns: Did they like it?

Iverson: Yes, they said it was one of the most productive plants they had ever seen.

Productivity.—About 15,000,000 pieces of mail go through the General Post Office in New York every day. Working by hand, one person can sort about 30 pieces each minute. It is demanding, tiresome, lonesome, and often puzzling work.

New keyboard sorters are twice as fast, and the operators work to music. The machines are a productivity improvement, as was the ZIP code. And if the radio music helps the operators, that, too, contributes to Post Office productivity. And to increase the rate of sorting from 30 letters a minute to 60 is a good stunt.

But it doesn't come close to this optical character reader, which can sort 750 pieces of mail every minute, 45,000 per hour, and needs only a few people to operate.

With equipment like this, each postal worker here handles half again as much mail as he did 10 years ago.

In Detroit, this is a familiar sight: the city garbage truck with a driver and two men to pick-up and load. And as wages increase, the cost of garbage collection increases.

So the city began to move to one man garbage trucks in 1976. There are now 25 in service and 70 more on order. With the loading bin on the side near the front and the steering wheel on the right, collecting garbage becomes much more efficient.

Detroit officials say a one man truck picks up as much garbage as a three man truck.

The Donnelly Mirror Company in Holland, Michigan, is well known in industrial circles for its gains in productivity and its success in the marketplace.

The company makes automotive mirrors and glass and specialty glass. It is non-union, but operates on a bonus and worker participation plan first suggested by a steel union official in the late 1930's.

The plant is organized into teams to figure out better ways to do the work, and everybody gets a share of any productivity profits.

Arlyn Lanting, Donnelly's president, presides over a monthly meeting of workers where almost anything can be discussed.

Because the plant is organized into interlocking teams with information passing up and down among them, everyone in the plant always knows what is happening and what is likely to happen. No one feels left out or ignored.

Arlyn Lanting: We want people involved, we want them to know what's going on, we want them to, to see what they're doing, how that relates to what the corporation's doing.

Donnelly Worker: Participation. We all help, we all are stimulated and motivated by that to do as much as we can.

Dobyns: Workers at Donnelly even come up with ways to eliminate jobs. But if the job is eliminated, the worker isn't. He gets another job.

Donnelly Worker: We used to have only one dynacast machine, what they call, but due to the fact that we had so much time left, I did ask quite a few times, and I finally got my way that they ordered a second machine. It was a lot cheaper for the company, for we could operate two machines in the same time as what we used to do with one machine. It doubled the production, saved a lot of time and energy. Any kind of wild idea, what they call, bring 'em up. They'll look into it, and if it's possible, they will make it work.

Dobyns: Along with productivity increases, Donnelly has benefitted by taking risks to develop and market new products.

Lanting: We've come up with an innovative opera window for the automotive industry, because before this time, they'd have to get in the car and assemble an opera window, and it's a very difficult job. So we developed a window so you can stand outside the car and just pop it in and put three or four screws into the particular window, and it would be assembled. For them it was a cost reduction, they liked it; for us it was a whole new area for our company, and it's our objective now to be a world leader in opera windows.

Dobyns: An opera window is the small window used in limousines, but they are becoming increasingly popular in small sports cars.

Donnelly is already a major supplier of automobile mirrors world-wide and is moving ahead in coated glass. After five years of effort, it recently got an order from Japan.

Lanting: Quality is very, very sacred and very important to the Japanese. It doesn't impress them much what the rest of the world is doing concerning quality. They'll just nod and say, "That's fine, but here's what we want." And they've really helped upgrade our whole quality level. They seem very dedicated, they're very tenacious on productivity. They're doing some things right. How come they can do it, and we can't?

Dobyns: Donnelly is an established company. Romac Industries in Seattle, Washington, is new. And so is its pay system.

Production workers vote on each other's raises on the theory that no one knows how well you work better than the people who work with you.

Dobyns: Bob, when you decided you wanted a raise, what did you do?

Romac Employees, No. 1, No. 2, No. 3, inter-cut: I went into the plant manager and asked him for a raise slip . . . and you write also how much you want more an hour . . . everything I said was real sincere about what I was saying . . . I put in that my quality and quantity was up to the level . . . it was up there a week.

Dobyns: And who votes?

Employees No. 1, No. 2, No. 3, inter-cut: All the employees here . . . the people that you work with see you more than your managers do . . . and I got voted in for it . . . 11 to three.

Dobyns: You got your raise?

Employees No. 1, No. 2, No. 3, inter-cut: Yeah . . . it was unanimous, 15 to two.

Manford McNeil: What we wanted to do is involve our people.

Romac Employees No. 4, No. 5: Hi, Ray. Hello, John.

McNeil: We want them to be cognizant that productivity and conscientiousness and relating one to the other are all part of our jobs.

Dobyns: The voting system was part of a five point plan to improve relations after Romac faced two union elections in one year.

A second part was a monthly meeting between worker representatives and the company president. No foremen are allowed. No question is prohibited.

Romac Employee No. 6: We have dates set up for the office crew to come out into the shop. You are going to be first.

Dobyns: And once a year, every officer of the company must spend a day working in the shop. McNeil doesn't want any official to forget where the profits really come from.

Romac Employee No. 6: When?

McNeil: Yeah.

Employee No. 6: Six-thirty to three.

McNeil: Ah.

Dobyns: Romac Industries makes waterworks pipe fittings, a specialized but potentially highly profitable business. And another part of the Romac plan is profit sharing so that everyone benefits from everyone else's work, a clear reward for group effort.

McNeil, who started Romac doing his own work, is convinced this system builds productivity and trust.

McNeil: Can I do that?

Romac Employee No. 7: Yeah, I'll give you that one; you want to finish that one?

Dobyns: McNeil says the idea of his plan is to eliminate the traditional labor-management adversary relationship.

McNeil: Boy, you sure do it faster than I do it, holding a whole handful there . . .

Employee No. 7: I do it faster than anybody because I'm at it all the time.

McNeil: Okay. (Pause) I bet I can run faster than you can.

Dobyns: Building automobiles is considered a typically American industry, but it is in deep trouble. Different companies are reacting in different ways.

Chrysler at Belvedere, Illinois, is taking advantage of advances in technology, like these robot welding machines.

Oldsmobile at Lansing asked its workers how the assembly line could be made more efficient and adopted some of the suggestions, including this wide belt that lets the worker move with the car.

At Buick's complex at Flint, Axle Plant 31 was about to close. The old style axle was to be phased out anyway, and the plant had a poor labor record. Plant management and the union local agreed to cooperate without a formal program to try to get new axle business and keep the plant open.

William Rowland: We had to be competitive, to get new business in because we were about to lose some 1,200 jobs on the axle business, and we set an objective to bring in business and to replace those jobs.

Al Christer: And I felt that with their sincerity of bringing us some work in here, we would then look at trying to cooperate to see that we couldn't, I said that we could do this work as good as anybody at any other UAW plant or anywhere else.

Rowland: Some three years later, the axle is totally phased out. We have replaced that business with X-car business—it's called a trailing axle—and today we have roughly 1,300 people where we had some 1,200 that would have otherwise lost their jobs.

Buick Employee No. 1: Our employment today in 31. . . .

Dobyns: General Motors is now involved in Quality of Work Life programs, which can be described as democracy in the working place. QWL programs are designed to improve the product by increasing worker participation and involvement and making the worker's life better.

Buick Employee No. 1: . . . playing a game with high stakes, our jobs.

Roger Powell: Quality of work life is people oriented; it's human. GM in my own opinion got involved in it through fear. Why they got involved I don't, I don't really care. It's the goal we're after.

Rowland: The joint thrust of our union and ourselves and the employees is to improve the quality of the product. When we talk quality of the product, we're talking increased productivity. Because if we build it right the first time, we don't have to tear it down, we don't have to repair it.

Dobyns: At the Buick assembly plant at Flint, workers meet in Employee Circles, not unlike the Japanese Quality Circles, to talk about how to do their work better and make it easier for everyone else.

These utility men discuss how to spot and correct defects immediately and, equally important, how to make working at the plant more pleasant.

Utility Man No. 1: . . . can make a world of difference to somebody.

Utility Man No. 2: What you usually find in there, too, if guys can switch around on the various jobs, I have found this out in the past, it, it breaks up the monotony of the day, and the day goes by much faster.

Dobyns: The largest and most impressive Quality of Work Life program is at GM's Tarrytown plant.

In 1970, it had the worst labor relations and production records of any GM assembly plant. The company was going to close it, but GM and the United Auto Workers agreed to try a QWL program.

It took seven years, enormous patience, hard work, and more than $1,500,000.

Was it worth it?

Neither the company, nor the union wants to say too much, but with the auto industry in a slump, Tarrytown is going full blast.

Powell: Quality of work life is involvement, involving me in the decision-making process, in treating me as somebody.

I want to be somebody.

Dobyns on camera: In almost all the solutions to the problem of productivity, there is a common thread: each of them includes, in some way, worker participation, job security or both.

Every expert to whom we talked agreed that no solution can succeed fully unless it includes the active participation of the people who actually do the work, union or non-union.

All humans think, and nowhere is it chiseled in stone that those in management think best.

PART IV

Lloyd Dobyns on camera. We have said several times that much of what the Japanese are doing, we taught them to do. And the man who did most of the teaching is W. Edwards Deming, a statistical analyst, for whom Japan's highest industrial award for quality productivity is named.

But in his own country, he is not widely recognized. That may be changing.

Dr. Deming is working with Nashua Corporation, one of Fortune 500, a company with sales last year of more than $600,000,000. Deming was hired in late 1979 by Nashua's chief executive, William E. Conway.

William E. Conway: I would say that already we're saving millions of dollars. We'll probably improve the over-all productivity of the company something in a few years by 10 to 15 per cent, and every year thereafter you take and get incremental increases in productivity of four or five per cent. Now, I mean that over and above that which you would get by normal capital investments or normal changes in machinery and things like that.

Dobyns: Nashua started in New Hampshire in 1904 as a small paper converting company, and coated paper, like this carbonless paper, is still a substantial part of its business.

Nashua also makes computer memory discs and other office products, including, starting this year, its own office copying machines.

It had worked with a Japanese copy maker and through that relationship heard about Deming. The company sought him out.

Don Hunter: We've applied the Dr. Deming statistical technique to our carbonless coating operation. Once the process was under control, we were able to save up to $500,000 by reducing the coat weight and also maintaining consistent customer quality. And what this also has done is allowed us to free up personnel, make them available for testing in other areas, which we found to be very important. The statistical approach has allowed us to learn more about the system. Before the use of Dr. Deming's techniques, we were constantly changing the conditions on the coater.

Dobyns: The coater is crucial to the carbonless paper business, so Deming insisted that the machine be allowed to run by itself, then analyzed what the machine would do without human adjustments. It was more complicated than that, but based on the quality level Nashua's customers asked for, and the machine's performance on its own, Nashua could change its operation, meet all quality needs, and save money.

Hunter: After applying these techniques we're able now to sit back and let the coater operate on its own and make less adjustments to the machine.

W. Edwards Deming. If you get gains in productivity only because people work smarter, not harder, that is total profit, and it multiplies several times.

Dobyns. Dr. Deming, who is now 79, and his wife have lived for some years in this house in Washington. His office is in the basement, and Mrs. Deming is one of his assistants.

He works constantly and has absolute faith that his system of statistical analysis helps industry. He was equally certain of it when he went to Japan to teach it there.

Deming. I think that I was the only man in 1950 that believed that the Japanese could invade the markets of the world and would within four years.

Dobyns. If the Japanese were impressed with Deming and his system of quality production through statistical analysis, and they were, they were no more impressed with Deming than he was with them.

Deming. What I saw was a magnificent work force, unsurpassed management and the best statistical ability in the world. It seemed to me that those three forces could be put together, and I put them together, so that Japanese quality instead of being shoddy became known within a few years; in less than four years manufacturers were, all over the world were screaming for protection.

Conway. And, of course, our major supplier of copy machines was a Japanese company. And so we saw the advantages of many things the Japanese companies were doing, and we'd heard about Dr. Deming, and so we got off and got underway with our quality program with Dr. Deming.

Deming. They realized that if, what, that the gains that you get by statistical methods are gains that you get without new machinery, without new people. Anybody can produce quality if he lowers his production rate. That is not what I'm talking about. Statistical thinking and statistical methods are to Japanese production workers, foremen and all the way through the company, a second language.

Nashua Employee No. 1: And what we need is to have Dr. Deming help us learn what the Japanese so successfully have learned.

Dobyns. As part of his program, Dr. Deming teaches practical statistics, so that everyone in the plant becomes part of the quality control effort, understanding what has to be done and how to go about doing it. Everyone can participate; everyone gets a say. It encourages company loyalty.

Employee No. 1: Japan needed to do this for survival, and they did it, and they've done it well. Now we've got to try and learn the things that they've so successfully done.

Employee No. 2: If Japan did it, we can do it.

Deming: In statistical control you have a reproducible product hour after hour, day after day. And see how comforting that is to management. They now know what they can produce; they know what their costs are going to be.

Conway: Many of these programs on statistics have died in American companies because they didn't get the top management support. Now, why top management does not believe that this is the way the Japanese have improved their industry over the last 30 years, I don't know.

Deming: I think that people here expect miracles. American management thinks that they can just copy from Japan. But they don't know what to copy.

Conway. Probably for the first six months.

I would say, of the program, I spent half my time, at least half of my time, talking to people, thinking about it, writing memos, joining groups to take and try to convince them of the importance of this tool and how to use it.

Deming: The training that the Japanese workers have could be copied here, and is being copied some places, but there's not enough of it.

Conway: Even today, probably the top, oh, 100, 200 managers in the company are devoting 25 or 30 per cent of their time to nothing but furthering the quality program.

Dobyns: If that sounds like a lot of time and effort, it is. But Dr. Deming never said his system was simple; he only said it would work, and it would pay off. In the experience of Nashua so far, it pays off.

Employee No. 3: Since Monday, the loading and unloading has been much better because Morris, the mechanic . . .

Dobyns: The Deming system uses statistics to eliminate guesswork.

Statistics is not magic, nor is it a science. It is a method of finding out exactly what is happening and what is likely to happen. Once you know that, any competent management can fix what's wrong.

Employee No. 4: Does everything mesh now? (Garble)

Employee No. 3: All except, well, there's one that could use a little, number two mandrill could use just a little bit of attention, but other than that, they're pretty good. We begged for deeper grooves in the trays. They, they're not deep enough, they don't really grip. . . .

Dobyns: The idea is to establish, first, what a product should be or a process should do. From then on, if you leave it alone, it is always the same.

But the Deming method involves constant monitoring of the system, particularly by the people who do the work. The program to do it better, faster, and easier never stops.

Employee No. 4: It could be causing aluminum chips in the coating room, so anything like that be sure you let George know or somebody know.

Conway: And once we started to have some success stories, we started to use the people who made the successful program talk to other people in small groups and gradually larger groups.

Employee No. 4: By dropping the handling damage down from 12 per cent to approximately five per cent, we are presently saving $30,000 a month, and as our volume grows in the next three or four months, we should double that to $60,000 in cost savings a month.

Dobyns: That's $720,000 a year in one area, enough to please any management. But one part of Deming's program is not likely to please them. He insists that management causes 85 percent of all the problems.

Deming: I ask people in management what proportion of this problem arises from your production worker, and the answer is always, always, "All of it." That's absolutely wrong.

Employe No. 4: As we got into it, Dr. Deming was right: 85 percent of the problems were really management, management problems. It was part of the system, whether it be training, morale, mechanical type things. There weren't that many operators out there that just didn't care.

Deming: Inspection does not build quality, the quality is already made before you inspect it. It's far better to make it right in the first place. Statistical methods help you to make it right in the first place so that you don't need to test it. You don't get ahead by making product and then separating the good from the bad, because it's wasteful. It wastes time of men, who are paid wages; it wastes time of machines, if there are machines; it wastes materials.

Employee No. 5: The first thing we did was to have some posters drawn up to emphasize handling damage, how it was caused, and how we could, how we could eliminate it. People just didn't understand how delicate a disc is, that by scratching a fingernail across it, you indeed ruined it so that it couldn't be used again. They went out—our original group grew from eight to about 15—and they, it was a lot of peer pressure, you know, they got out on the floor and said, "Oh, by the way, you're not supposed to be wearing rings while you're handling discs. You know, that could cause a problem," and explain.

Conway: There's just no question in my mind that Dr. Deming is the father of the third wave of the industrial revolution. There was the first wave way back with Eli Whitney and the cotton gin and the development of the textile industry in England. And the second wave being in the United States, the large homogeneous market, followed up with the low unit cost from mass manufacturing and with standardization of parts. Now this change to the use of statistics to assist all phases of production, marketing, distribution, what have you, that Dr. Deming talked about, is just as big as either one of those, and any one who doesn't join that revolution, I think over time is going to be in serious trouble.

Deming: There's nobody comes out of a school of business that knows what management is or what its deficiencies are. No one coming out of a school of business ever heard of the answers that I'm giving to your questions or probably even thought of the questions.

Dobyns: That sounds a little harsh, Doctor.

Deming: Yes. I am harsh. I should know what I'm talking about.

Dobyns: Is there an attitudinal difference between the United States and Japan?

Deming: They are using statistical methods. They have not only learned them, they have absorbed them, as Japanese absorb other good things of cultures. They are giving back to the world the products of statistical control of quality in a form that the world never saw before.

Dobyns: Would the same methods work in the United States, could we do the same thing?

Deming: Why, of course we could. Everybody knows that we can do it.

Dobyns: Why don't we?

Deming: There's no determination to do it. We have no idea what, what's the right thing to do, have no goal.

PART V

Lloyd Dobyns on camera: Americans have always believed that wealth is not limited, that the economic pie always expands, and if you want more, you can get it without taking it from anyone else.

Other people—British and Swedes, for example—have come to believe that the economic pie is one size, and the only way to have a bigger share is for someone else to have a smaller share.

The trouble is that those without want to get more, and those with want to give less, and each side resents the other. That can make for very serious conflict.

The American belief of ever-expanding wealth avoids that conflict, but it works only while productivity increases, what Dr. Deming calls working smarter, not harder.

Productivity is society's dividend, the payoff for all our work. Increasing productivity pays for fighting society's ills without having to take money away from something else.

So, what is happening to our productivity now comes at a particularly bad time. As we recognize more human needs and try to meet them, our economy is suffering inflation and recession.

The United States has overcome inflation and recession before, but it has never even faced a productivity problem. That is why the United States has been the only industrial country without a national productivity policy. Last February 29th, a start was made.

The Office of Productivity, Technology and Innovation was created in the Commerce Department.

Assistant Secretary Jordan Baruche, who heads it, plans to adopt one program from the agriculture industry. Government and industry will establish industry-wide "best practices" programs; that is, everyone will share information on the best way to make something, just as farmers share information on the best way to grow something.

The country agent will finally have a counterpart in industry.

Dobyns on camera: That's a resolution rooted in the American experience rather than a slavish copying of the Japanese. Copying won't work.

We are two different societies. They operate by consensus; we, by confrontation. That explains why the United States on a per capita basis has 20 times as many lawyers as does Japan.

And we have more service industries and a huge government sector.

Government and service—banking, insurance, restaurants and that sort of thing—are inherently less productive than manufacturing, and that helps depress our productivity.

Manufacturing, making things, is a smaller percentage of our national economy than of any other industrial country, and that makes productivity improvement even more difficult.

Until now, probably because the United States was such an enormous and expanding market, productivity has almost automatically increased.

So, throughout our history, parents have expected their children to live better than they did. And that has always been true. We live better than did our parents, and they lived better than their parents.

Unless we solve the problem of productivity, our children will be the first generation in the history of the United States to live worse than their parents.

I'm Lloyd Dobyns, NBC News.

PART II

Speakers in order of first appearance:

1. Joji Arai, Director, Japan Productivity Center, Washington, D.C.
2. Kohei Goshi (through interpreter), Chairman, Japan Productivity Center, Tokyo, Japan.
3. Bailey Rogers, Engineer, ODECO, Murphy Oil.
4. Dr. W. Edwards Deming, Statistical Analysis, Washington, D.C.
5. S. O. Lemon, Jr., Assistant Director, Personnel Relations, Westinghouse Corporation.
6. W. A. Towle, Director, Personnel Relations, Westinghouse Corporation.
7. W. J. Usery, Jr., Consultant, Westinghouse Corporation. (Former Secretary of Labor, 1976–77).
8. A. W. Pettit, Assistant Director, Personnel Relations, Westinghouse Corporation.

PART III

Speakers in order first appearance:

1. Japanese Employee No. 1.
2. Japanese Employee No. 2.
3. Richard Kraft, President, MIC (Matsushita Industrial Company), Franklin Park, Illinois.
4. MIC Manager No. 1.
5. Japanese Employee No. 3.
6. Ken Iverson, President, Nucor Corporation, Norfolk, Nebraska, plant.
7. Nucor Employee No. 1.
8. Nucor Employee No. 2.
9. Nucor Employee No. 3.
10. Nucor Employee No. 4.
11.
12. Arlyn Lanting, President, Donnelly Mirror Company, Holland, Michigan.
13. Donnelly Employee No. 1.

14. Romac Employee No. 1.
15. Romac Employee No. 2.
16. Romac Employee No. 3.
17. Manford McNeil, Romac Industries, Seattle, Washington.
18. Romac Employee No. 4.
19. Romac Employee No. 5.
20. Romac Employee No. 6.
21. Romac Employee No. 7.
22. William Rowland, Director, Personnel, Buick, Flint, Michigan.
23. Al Christner, President, UAW Local No. 599, Flint, Michigan.
24. Buick Employee No. 1.
25. Roger Powell, Shop Committeeman, UAW, Flint, Michigan.
26. Utility Man No. 1.
27. Utility Man No. 2.

PART IV

Speakers in order of first appearance:

1. William E. Conway, Chairman and President, Nashua Corporation, Nashua, New Hampshire.
2. Don Hunter, Manufacturing Manager, Nashua Corporation.
3. Dr. W. Edwards Deming, Statistical Analyst, Washington, D.C.
4. Nashua Employee No. 1 (Male).
5. Nashua Employee No. 2 (Male).
6. Nashua Employee No. 3 (Female).
7. Nashua Employee No. 4 (Male).
8. Nashua Employee No. 5 (Female).

SUPPLEMENTAL APPROPRIATIONS, 1980

The ACTING PRESIDENT pro tempore. Under the previous order the Senate will now resume consideration of the pending business, H.R. 7542, which the clerk will state by title.

The legislative clerk read as follows:

A bill (H.R. 7542) making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes.

The Senate resumed the consideration of the bill.

AMENDMENT NO. 1928

The ACTING PRESIDENT pro tempore. The pending question is amendment No. 1928 by the Senator from North Carolina (Mr. HELMS).

The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, first of all, I ask unanimous consent that a statement by the distinguished chairman of the Agriculture Committee, Mr. TALMADGE, be printed in the RECORD following my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. I also ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Kansas (Mr. DOLE).

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

Mr. President, this amendment simply would clarify the provision of H.R. 7542 that provides appropriations from the energy security reserve for the implementation of S. 932 which, of course, is the Energy Security Act. The amendment will assure that funds are made available for the speedy implementation of title II of S. 932.

I am pleased to offer this amendment on behalf of the members of the Committee on Agriculture, Nutrition, and Forestry who served as conferees on title II of S. 932. In addition to the Senator from North Carolina, those conferees were the distinguished Senator from Georgia, the chairman of the committee (Mr. TALMADGE); the distinguished Senator from South Dakota (Mr. MCGOVERN); the distinguished Senator from Alabama (Mr. STEWART); and the distinguished Senator from Indiana (Mr. LUGAR).

H.R. 7542, as reported by the Appropriations Committee, allocates $18,792,000,000 in spending authority for the implementation of titles I and II of S. 932. Of this amount, $16,792,000,000 would be made available, on enactment of the bill, from funds in the energy security reserve. In addition, up to $2,000,000,000 would be transferred—on June 30, 1981—from funds already appropriated to the Department of Energy from the energy security reserve.

The amendment will accomplish two purposes. First, it will make clear that the $18,792,000,000 allocated for S. 932 will be used to implement title II, as well as title I. I am concerned that the committee report on H.R. 7542 leaves some doubt as to whether title II activities to produce energy from biomass would receive funding under this provision.

This concern is shared, I might add, by other members of the Committee on Agriculture.

Second, it will assure that funds for title II activities become available at the beginning of fiscal year 1981. This will be done by clarifying that title II funds are to come from the $16,792,000,000 that will be made available on enactment, rather than the $2,000,000,000 that will be transferred from the Department of Energy on June 30, 1981.

The agricultural and forestry biomass provisions of title II adopt the major thrust of S. 1775, the agricultural, forestry, and rural energy bill, that was developed by the Committee on Agriculture, Nutrition, and Forestry after extensive hearings were held over a 2-year period of time. The testimony at the hearings that led to the development of S. 1775, which one-third of the Senate cosponsored, indicated that production of alternative fuels from agricultural and forestry biomass offers one of the most practicable and least costly ways in the near future of filling the energy gap in the United States created by the escalating costs and reduced availability of petroleum and natural gas. The technologies for the efficient production of alternative fuels from wood, grain, and other biomass materials are available now for commercial application.

So the situation is this, Mr. President: Based on this encouraging evidence, this Senator believes that production from the facilities developed under title II can significantly increase domestic energy production over the next few years while a large-scale synthetic fuels industry under title I of S. 932 is being developed. Title II will enable the Nation to get moving quickly on the all-out program to produce energy from alternative sources.

Because of the importance, over the next several years, of the title II programs in achieving energy independence, we must provide the funds necessary to implement title II as soon as feasible.

That is the point of this amendment, to insure that the needed funds are made available to provide financial assistance to biomass energy projects, and to cover the administrative costs associated with providing that assistance.

I have the confidence that gasohol—and all of the other renewable energy sources suggested by the term—offers to supply this country with significant amounts of fuel in the years ahead. The nay-sayers and the doomsdayers who suggest that America will have to throw in the towel to future growth and prosperity simply demonstrate their lack of faith in the imaginative capacity of a free people to work their way out of their problems utilizing the benefits of the free enterprise system.

Mr. President, I would be remiss if I did not again extend my thanks and appreciation to Senator TALMADGE for his leadership in the development of the gasohol and biomass fuels title to S. 932. He and I have had a parallel interest in this, and we worked together as well as independently to come up with the best conception possible. It was my pleasure to be closely associated with Senator TALMADGE in these efforts and, in my judgment, this country owes the Senator from Georgia a debt of gratitude.

I will say again it is vital, Mr. President, that funds be made available immediately for activities under title II if the promise of biomass energy is to be achieved, and I urge my colleagues to join in support of this amendment.

EXHIBIT 1

STATEMENT BY SENATOR TALMADGE

This amendment will clarify language of H.R. 7542 providing funding for biomass energy. H.R. 7542 provides appropriations from the energy security reserve for the implementation of S. 932, the Energy Security Act. The amendment will assure that funds are made available for the speedy implementation of title II of S. 932.

It is important that funds be made available immediately for activities under title II. I urge my colleagues to join me in supporting this amendment.

PURPOSES OF THE AMENDMENT

H.R. 7542, as reported by the Appropriations Committee, allocates not to exceed $18,792,000,000 in spending authority for the implementation of titles I and II of S. 932. Of this amount, $16,792,000,000 would be made available, on enactment of the bill, from funds in the energy security reserve. In addition, not to exceed $2,000,000,000 would be transferred—on June 30, 1981—from funds already appropriated to the Department of Energy from the Energy Security Reserve.

The amendment will make clear that the $18,792,000,000 allocated for S. 932 will be used to implement title II, as well as title I. I share the concern of a number of my colleagues that the committee report on H.R. 7542 is unclear as to whether title II activities would receive funding under this provision.

The amendment will assure that funds for Title II activities become available as soon as possible. This will be done by clarifying that title II funds are to come from the $16,792,000,000 that will be made available on enactment, rather than the up to $2,000,-

000,000 that will be transferred from the Department of Energy on June 30, 1981.

NEED FOR IMMEDIATE IMPLEMENTATION OF TITLE II

Title II adopts the major thrust of S. 1775, the Agricultural, Forestry, and Rural Energy Act, which I introduced last September. That bill was developed after the Committee on Agriculture received strong testimony that production of alternative fuels from agricultural and Forestry biomass offers one of the most practicable and least costly ways of providing substitutes for imported petroleum and natural gas. The technologies for the efficient production of alternative fuels from wood, grain, and other biomass materials are available now for commercial application.

I believe that biomass energy production can significantly add to domestic energy production over the next few years while a large-scale synthetic fuels industry under title I of S. 932 is being developed. Title II will enable the Nation to get moving quickly to develop biomass energy.

Because of the importance, over the next several years, of the title II programs in achieving energy independence, we must provide the funds necessary to implement title II as soon as feasible. This amendment will ensure that the needed funds are made available.

I attach a summary of the biomass energy provisions of S. 932.

SUMMARY OF THE CONFERENCE AGREEMENT ON THE BIOMASS ENERGY PROVISIONS OF S. 932—THE ENERGY SECURITY ACT

I

S. 932, as passed by the Senate, contained authority for financial assistance or biomass energy projects in titles I, II, and III. Title I authorized the Synthetic Fuels Corporation to provide up to $1 billion in financial assistance to biomass energy projects that are of a size offering "a significant potential" for achieving the national goal for production of synthetic fuel. Title II authorized the Department of Agriculture to provide up to approximately $1 billion a year, through fiscal year 1984, in financial assistance to all types and sizes of biomass energy projects, provided that for projects producing more than one million gallons per year of alcohol (or equivalent of other forms of biomass energy), the Secretary of Agriculture would be required to obtain the concurrence of the Secretary of Energy. Title III authorized the Secretary of Energy to provide up to $1.2 billion in financial assistance to all sizes of alcohol production facilities.

S. 932, as passed by the House, did not contain any provisions comparable to titles I, II, and III.

On May 14, at a meeting of the committee of conference on S. 932, the House offered a proposal concerning biomass energy in substitution for titles I, II, and III of the Senate bill. On May 20, the Senate offered a counterproposal amending the House proposal of May 14. The conferees agreed to the House proposal with the Senate changes. The conference substitute would:

(1) Consolidate the biomass energy provisions of titles I, II, and III of S. 932 into title II, and establish a comprehensive biomass energy program for fiscal years 1981 through 1984 under title II.

(2) Provide the Secretary of Agriculture with exclusive jurisdiction over all projects, except those involving the production of biomass energy from municipal waste or aquatic plants, that produce less than 15 million gallons of ethanol per year (or equivalent of other forms of biomass energy).

(3) Provide the Secretary of Energy with exclusive jurisdiction over (a) all projects involving the production of biomass energy from municipal waste or aquatic plants and (b) all projects (except projects that use forestry feedstocks to produce biomass energy or projects that are owned and operated by agricultural cooperatives) that produce 15 million gallons or more of ethanol per year (or equivalent of other forms of biomass energy).

(4) Provide the Secretary of Agriculture and the Secretary of Energy with shared jurisdiction over projects that produce 15 million gallons or more of ethanol per year (or equivalent of other forms of biomass energy) and that use forestry feedstocks to produce biomass energy or that are owned and operated by agricultural cooperatives. For such projects, both the Secretary of Agriculture and the Secretary of Energy would be authorized to solicit proposals for and provide financial assistance to these projects, subject to the concurrence of the other Secretary. (The provisions setting forth the conditions and procedures for concurrence are similar to those for review of applications described in item (6).) The Secretary of Agriculture and the Secretary of Energy would be encouraged to develop joint projects from proposals that fit into this category.

(5) Require the Secretary of Agriculture and the Secretary of Energy, within six months after date of enactment of the bill, to prepare a comprehensive plan for maximizing biomass energy production and use. The plan would be designed to achieve an alcohol production level, to the maximum extent possible, of not less than 60,000 barrels per day by the end of 1982. The Secretary of Agriculture and the Secretary of Energy would also be required to jointly submit, by January 1, 1982, a comprehensive plan for the period 1983 through 1990 to (a) maximize biomass energy production and use, and (b) achieve an alcohol production level equal to not less than 10 percent of estimated gasoline consumption in 1990. This report would address the feasibility of reaching this goal.

(6) Require the Secretary of Energy to review Department of Agriculture projects for technical and national energy policy considerations, and require the Secretary of Agriculture to review all Department of Energy projects for national, regional, and local effects on agricultural supply, production, and use. Each Secretary would have 15 days in which to review the projects of the other Department. If concerns are raised within that 15-day period, both Secretaries would have an additional 30 days to resolve the issues raised. Following the consultation period, the Secretary providing assistance could proceed with the project. The Secretary of Agriculture and the Secretary of Energy could jointly establish categories of projects to which the consultation provisions shall not apply. Within 90 days after the date of enactment, the Secretaries would review potential categories and make an initial determination of exempted categories.

(7) Provide for the transfer of $1,450,000,000 (for the two-year period beginning October 1, 1980, to the extent provided in advance in appropriations Acts) from the special fund established in the Treasury of the United States by Public Law 96-126 (designated the "Energy Security Reserve" and made available for obligation by such law only to the extent provided in advance in appropriations Acts) for financial assistance to biomass energy projects. Of such amount, $600,000,000 would be available for biomass energy projects funded with financial assistance by the Secretary of Agriculture. Up to one-third of the amount of financial assistance provided by the Secretary of Agriculture would be for small-scale biomass energy projects (producing 1 million gallons or less of ethanol or energy equivalent per year). Also, $600,000,000 would be available to the Secretary of Energy—of which at least $500,000,000 would be made available to the Office of Alcohol Fuels for alcohol projects. Any amount not made available to the Office of Alcohol Fuels would be available to the Secretary of Energy for biomass energy production as authorized in title II or other existing authorities.

The remaining $250,000,000 would be available to the Secretary of Energy for projects producing energy from municipal waste.

These funds would be available until expended. There would be no authorization provided at this time for appropriations for the second two year period of the program.

The Secretary of Agriculture and the Secretary of Energy could use this funding for guaranteed loans, price guarantees, and purchase agreements to stimulate the production of biomass energy.

The Secretary of Agriculture would also be authorized to make insured loans, but only in amounts not in excess of $1 million per project, and only for projects having an annual production capacity of one million gallons or less of ethanol (or its equivalent of other forms of biomass energy). No insured loan could exceed 90 percent of the construction costs of the project (cost over-runs—not exceeding 10 percent of initial cost estimates—would also be eligible for insured loan financing).

The Secretary of Agriculture and the Secretary of Energy would be authorized to guarantee loans for up to 90 percent of the construction costs of a project (up to 60 percent of any cost over-run would also be eligible for a loan guarantee). The Federal Financing Bank could not participate in any guaranteed loan transaction. [Note: The amount of financial assistance that may be provided to projects producing biomass energy from municipal waste are different, and the terms are not explained in this summary.]

Projects involving the combustion of wood, either directly or indirectly, to produce biomass energy would be eligible for financial assistance (except for fireplaces, wood-burning stoves, and other related activities of a noncommercial nature).

Priority for financial assistance would be given to projects that (a) do not use petroleum or natural gas as the primary fuel in the production of biomass fuel or (b) that use new technologies or produce new forms of biomass energy. Projects not meeting these criteria, however, would not be excluded from receiving financial assistance. Each biomass energy project receiving financial assistance under this title would have to have a positive net energy balance and a reasonable expectation that the feedstock used in the production of biomass energy would be available in the future.

In determining the amount of financial assistance for any biomass energy project that will yield by-products, in addition to biomass energy, the Secretary must consider the potential value of such by-products and the costs attributable to their production.

No financial assistance could be provided to any person for any biomass energy project if the Secretary finds that the process to be used by the project will not extract the protein content of the feedstock for use as food or feed for readily available markets in any case in which to do so would be technically and economically practicable.

(8) Give the President authority to alter the division of administrative responsibilities between the Department of Agriculture and the Department of Energy if he finds such action to be necessary to achieve the purposes of title II.

(9) Adopt statutory requirements to provide times certain for (1) solicitation guidelines (90 days after date of enactment of the bill); (2) first solicitation (30 days later); (3) receipts, evaluation, and awards

for proposals (120 days after first solicitation) subject to availability of appropriations and the acceptability of the proposals; and (4) second solicitation (one year after first solicitation). These provisions would not apply to the extent either Department has existing procedures to process applications more expeditiously.

The Secretary of Agriculture and the Secetary of Energy would be expected, to the maximum extent practicable, to approve or disapprove any application for financial assistance within 120 days after receipt of the application.

(10) Make it clear that the authorities in title II will be in addition to, and not modify (except to the extent expressly provided for in the title), the authorities of the Secretary of Agriculture and the Secretary of Energy under other provisions of law.

(11) Provide authorization for appropriations of $12 million per year to the Secretary of Agriculture for biomass energy research through fiscal year 1984, and $10 million per year through fiscal year 1984 for the State cooperative extension services to provide educational programs for rural residents and producers of agricultural commodities and forest products concerning the production of biomass energy and the conservation of energy. The substitute would also authorize appropriations of up to $5 million per year through fiscal year 1984 for up to ten biomass energy production model demonstration facilities to exhibit the most recent technologies available for producing alcohol fuel and other forms of biomass energy.

(12) Delete the provisions in title II of the Senate bill that would provide for (a) new Farmers Home Administration loan programs for energy production and conservation; (b) a special rural electrification loan and grant program for producing electricity from nonfossil energy sources; (c) financial assistance to State foresters and expansion of the Forestry Incentives Program; and (d) a pilot loan program for small, private forest landowners to encourage better forest management for energy purposes. The substitute would not include a provision in title III of the Senate bill that would require the Secretary of Agriculture to sell excess sugar stocks for use in producing alcohol without regard to minimum price considerations.

(13) Provide for (a) a change in existing law to require the Secretary of Agriculture to permit crops that could be used in producing alcohol to be grown on set-aside or diverted acreage if certain conditions are met; (b) the burning of gasohol in motor vehicles owned or leased by the Federal Government when such fuel is available at reasonable prices and in sufficient quantities; (c) a study by the Secretary of Transportation to be completed within 9 months after enactment of the bill to determine (i) the need for legislation requiring that all new motor vehicles be capable of burning gasohol and (ii) the need for legislation to reduce technical or institutional barriers to widespread use of gasohol; (d) natural gas priorities for sugar refining for the production of alcohol, for agricultural production on set-aside or diverted acreage when such production is used for alcohol production, and (for the next 5 years) for the distillation of fuel-grade alcohol from biomass at existing production facilities that do not have the capability of lawfully using coal; and (e) authority for the President to allocate supplies of refined petroleum, if shortgages exist, for blending with alcohol to make gasohol.

● Mr. DOLE. Mr. President. I am pleased to support this amendment offered by Senator Talmadge, Mr. Helms, Mr. McGovern, Mr. Lugar, and Mr. Stewart.

This amendment would clarify the provision of H.R. 7542 that provides appropriations from the energy security reserve for the implementation of S. 932, the Energy Security Act. The amendment will assure that funds are made available for the speedy implementation of title II of S. 932.

S. 932

S. 932, as passed by the Senate, contained authority for financial asssitance for biomass energy projects in titles I, II, and III.

Title I authorized the Synthetic Fuels Corporation to provide up to $1 billion in financial assistance to biomass energy projects that are of a size offering "a significant potential" for achieving the national goal for production of synthetic fuel.

Title II authorized the Department of Agriculture to provide up to approximately $1 billion a year, through fiscal year 1984, in financial assistance to all types and sizes of biomass energy projects, provided that for projects producing more than 1 million gallons per year of alcohol (or equivalent of other forms of biomass energy), the Secretary of Agriculture would be required to obtain the concurrence of the Secretary of Energy.

Title III authorized the Secretary of Energy to provide up to $1.2 billion in financial assistance to all sizes of alcohol production facilities.

S. 932, as passed by the House, did not contain any provisions comparable to titles I, II, and III.

The House-Senate conference committee substitute consolidated the biomass energy provisions of titles I, II, and III of S. 932 into title II, and established a comprehensive biomass energy program for fiscal years 1981 through 1984 under title II.

AGRICULTURAL AND FORESTRY BIOMASS

The agricultural and forestry biomass provisions of title II adopt the major thrust of S. 1775, the agricultural, forestry, and rural energy bill that was developed by the Committee on Agriculture, Nutrition, and Forestry after extensive hearings were held over a 2-year period of time.

Energy from biomass products can be important to this Nation in the short run and in the long run. I believe energy from these sources should be given a fair chance to compete with the so-called synthetic fuels industry.

The technologies for the efficient production of alternative fuels from wood, grain, and other biomass materials are available now for commercial application. We should utilize these technologies immediately.

There are some experts who believe we are not giving energy from biomass enough action in the energy program and that we are giving the large-scale synthetic fuels industry too much action.

I believe all Americans should be interested in alternative fuels from all sources. We should look at all the options and not put all our eggs in one basket.

Alternative fuels are what we are looking for, not synthetic fuels only. Synthetic fuels are just one part of the total alternative fuels picture.

I am concerned that not enough emphasis is being put on the potential that biomass offers to the people of this country.

This amendment will insure that a modest amount of money will be made available to provide financial assistance to biomass energy projects and to cover the administrative costs associated with providing that assistance.

I urge my colleagues to support this amendment.●

Mr. JOHNSTON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, last night I informed my esteemed colleague from North Carolina that I would have an amendment which I called the "godfather" amendment which he could not refuse, and I have now given it to him. I have not introduced it.

What the substitute amendment would do is to proportionately share the shortfall in funds——

Mr. HELMS. Mr. President, I would like to have a little order because I have to understand what the Senator is saying.

The ACTING PRESIDENT pro tempore. The Senate will be in order.

Mr. HELMS. I thank the Chair.

Mr. JOHNSTON. To go back in history a little bit, you remember last year we had the Interior appropriations bill in which we appropriated $20 billion to the energy security reserve, as we called it, which was a fund we created in the Treasury.

The figure of $20 billion was based upon the thought, the expectation, that S. 932, the Energy Security Corporation legislation, would pass, which called for, at that stage of the metriculation through the legislative process, a $20 billion appropriation. And we thought that was going to be sufficient to cover all the activities. At that stage of the activity, we had an authorization for alcohol fuels, ethanol, of some $600 million, which testimony had indicated to us would be sufficient to cover it.

Well, we passed that appropriation for the $20 billion and then we took $2.2 billion of the $20 billion and made it available to the Secretary of Energy under the Federal Nonnuclear Energy Research and Development Act, which has procedures for loan guarantees and other means of giving aid to business on energy projects, plus the amount of money necessary to run the program to the Secretary of Energy. That is where the uneven funds came from.

(Mr. BENTSEN assumed the chair.)

Mr. JOHNSTON. We gave them that $2.2 billion and said go ahead and get to work on biomass projects, including ethanol projects, as well as big synfuel projects. We particularly had in mind the so-called Great Plains project in North Dakota, the synthetic gas from coal project.

We also said at that time that what remained of the $2.2 billion would revert over to the Synthetic Fuels Corporation. In other words, that was the scheme of it, as we fixed that at the time of the appropriations.

Now before we passed the appropriation bill, solar energy began to become more popular, and get more support, solar and energy conservation. So we created a solar and conservation reserve, a special fund, $1 billion in scope. Of the $20 million, then the first billion dollars to fall out was the billion dollars for the solar and conservation fund. That brought us down to $19 million out of the $20 million. Then we had the $2.2 billion I mentioned that was already committed. So that by the time we got to the Appropriations Committee this year, we had only $16,792,000,000 left for the Synthetic Fuels Corporation. The rest was over in the solar and conservation reserve, and in DOE under the Federal Nonnuclear Act.

Now, of the $2.2 billion in DOE, some of that will be spent for gasohol projects, some of that will be spent for, or maybe committed for, synthetic fuels projects. When we were in the Appropriations Committee, the distinguished Senator from Indiana, Mr. BAYH, being concerned as he was about the gasohol projects, wanted to make it clear that we were designating some money for gasohol and that that would remain in the hands of the Secretary of Energy, at least until June 30, 1981.

So this language which you see in the present committee bill, "June 30, 1981," is gasohol language put in by Senator BAYH to insure that the Secretary of Energy would have that money in his hands, the $2.2 billion, long enough to make those commitments.

Not only has there been no hostility to gasohol, I have, as chairman of the authorization subcommittee, been one of the most active proponents of gasohol. Our relationship with the Agriculture Committee has been not one of adversary, not one of contesting and yielding only when pinned to the wall, but rather as comrades in arms, as it were, for gasohol.

To show you how far we have come, while the testimony indicated $600 million would do the job, we got on the Senate floor and increased that to a $1.2 billion authorization. That amendment was not thrust on us by an adverse vote on the Senate floor but rather by our own enthusiasm for gasohol. When we got to the conference committee, we increased the fund to $1.45 billion and we allowed, in effect, TOM FOLEY, speaking for the agricultural interest, to specify the cutoff point for what goes with the Department of Agriculture and what goes with the Department of Energy.

Frankly, we had the votes, in my judgment, since it was principally an energy-related conference committee on the Senate side. I think we could have held and kept most of this program from going to the Department of Agriculture.

In effect, we surrendered jurisdiction to Agriculture for ethanol, which is in the Department of Energy, and it ought to be in Energy, if we were going to look at it in a jurisdictional sense. But we allowed the agricultural interest here to specify that projects of 15 million gallons and below would go to the Secretary of Agriculture and only those above that, which are huge projects, go to the Secretary of Energy.

So we have more than shown, as I say, not only our good faith but our active cooperation in trying to push gasohol.

Now, having heard, as the bill was coming on the Senate floor, that there was a desire on the part of ethanol people to nail down their funds. My staff and I went to work. I thought Senator TALMADGE was going to put in the amendment otherwise I would have given it to the Senator before last night—and we wanted to draw up an amendment that would be absolutely fair.

Mr. HELMS. If the Senator will yield, I am offering the amendment on behalf of Senator TALMADGE.

Mr. JOHNSTON. I understand. But I am just explaining the reason I did not give it to the Senator before last night.

Mr. HELMS. No problem.

Mr. JOHNSTON. What my amendment does is distribute the funds available on a proportional basis between synthetic fuels under title I and biomass under title II.

In my amendment we give $17,522,000,000 to title I and $1,270,000,000 to title II. That is an absolutely proportional split of the funds authorized. The way the amendment would work is this: of the $2.2 billion, that which is spent on the ethanol projects goes against the title II total, that which is spent on synfuels projects against title I total.

I suggest to my esteemed colleague that nothing could be more fair than that.

Indeed, ethanol is sort of riding on the back of synthetic fuels. This was a synthetic fuels bill before it was an ethanol bill. And it became an ethanol bill only because there was active cooperation from us on the Energy Committee—as I say cooperation, more than cooperation.

Now I think it is asking too much to say that gasohol should get whatever it can from the $2.2 billion and then it can get its full $1,450,000,000. It gets 100 percent and more and leaves synthetic fuels high and dry.

Under the amendment as proposed by the Senator from North Carolina, perhaps unintentionally, it would be possible for ethanol to get $3,650,000,000—$3,650,000,000—which is more than is needed, and only $16,792,000,000 would be left for synthetic fuels.

So that you would not only get 100 percent, you would get over 200 percent of the maximum authorization and synthetic fuels would be left without its authorization.

Mr. HELMS. If the Senator will yield, will he agree with my Scotch blood and not say "only $16 billion" but just say "$16 billion?" Sixteen billion dollars is a lot of money to a country boy from Monroe, N.C.

Mr. JOHNSTON. It is, of course, a lot of money by any standards. I think Will Rogers first said, "A million here and a million there and pretty soon it amounts to real money." Certainly, $16,700,000,000 is a lot of money. But it is really not that much in terms of a synthetic fuels industry when you consider the way we have this matter accounted for. This is not $16,700,000,000 that would be spent, but every dollar that is guaranteed counts dollar for dollar against the $16 billion. Every dollar in price guarantee counts against the $16 billion. There is no revolving fund. So there is a limited amount.

What we do not want to do is create the Government corporation for synthetic fuels and yet have it so lightly funded. We considered $20 billion to be a minimum amount. Anything below that is not adequate.

Frankly, I thought there would be no problem in getting a proportional amendment approved. I would hope we could.

Mr. HELMS. It may be that we can. I have been trying to write down and assimilate the figures as the Senator has been giving them. Is it not true that most of the $2 billion referred to will be spent for synthetic fuels and not biomass energy?

Mr. JOHNSTON. May I correct the record? I said under the amendment it would be possible for the Senator to get $3.6 billion and synthetic fuels $16.7 billion. I am informed that the correct figure is that we would be left with $15.2 billion. So it is less.

Mr. HELMS. I accept the adjusted arithmetic. Did the Senator hear my question?

Mr. JOHNSTON. I am sorry, I did not.

Mr. HELMS. Is it not true that most of the $2 billion referred to will be spent for synthetic fuels and not biomass energy?

Mr. JOHNSTON. We do not know. I think there is a very good chance——

Mr. HELMS. Mr. President, we are dealing with figures that I have to hear. May we have order in the Senate?

The PRESIDING OFFICER. The colloquy will not continue until there is order in the Chamber.

The Senator from North Carolina is recognized.

Mr. HELMS. I thank the Chair. I do not want to be overbearing about it, but I do want to understand what my friend from Louisiana is saying. I thank the Chair.

Mr. JOHNSTON. In answer to the question of where the $2.2 billion available to the Secretary of Energy between now and June 30, 1981, would principally be spent, I believe we are probably going to have more commitments and conditional commitments, the term we used in the appropriations bill, for gasohol projects than anything else. We may have a conditional commitment to the Great Plains project.

Mr. HELMS. I was going to raise a question about that.

Mr. JOHNSTON. I frankly do not know what the size of that would be.

Mr. HELMS. Is it $1 billion?

Mr. JOHNSTON. The size of the project, the total project, would be in that range. Whether or not there will be any commitment at all or whether there would simply be the application and workup of it to be transmitted——

Mr. HELMS. That is coal gasification the Senator is talking about?

Mr. JOHNSTON. That is correct.

It is entirely possible that we could have a large commitment, and I hope we do. It was our intention that they proceed with the Great Plains project as quickly as possible. But it is also my intention, and that is the reason I put in the June 30, 1981, language, to get gasohol on line as fast as possible. Gasohol projects can be built, some of them, within 12 months. Even some of the larger ones of 15 million gallons can be built within 2 years. They can move fast on those. We want them to move fast and expect them to.

So it is entirely possible that a major portion of this could be gasohol-ethanol. That is our intention and our hope.

Mr. HELMS. I want to yield in a moment to our friend from Iowa (Mr. JEPSEN). While the Senator from Iowa is speaking, I want the Senator from Louisiana to be thinking about a counterproposition that he cannot refuse.

Mr. President, let me say to my friend from Louisiana, I want to work this thing out. I wonder if he would consider taking basically my language and inserting his figures. While the Senator from Iowa is speaking, the Senator from Louisiana and I can talk about this.

Mr. JOHNSTON. I can tell the Senator very quickly that that will not be acceptable. I will tell him why and he will see very quickly why it would not be acceptable. That would allow gasohol projects to get up to $2.2 billion plus the $1.270 billion, which would be a higher proportion, more than 200 percent of the share you would be allowed if you proportionately distribute.

I am not trying to get in here and be greedy for synfuels. All I say is let us treat each with equal dignity. We cannot say that gasohol is of higher dignity than synfuels. I do not want to get into the pros and cons of the two fuels, because I have been actively promoting the two fuels. But it is at least fair to say that gasohol does not enjoy a higher priority than synthetic fuels.

Mr. HELMS. If the Senator will yield, I hope the Senator will not close his mind to the proposition because I think we can use the numbers to prevent the concern he has just stated. I hope he does not close his mind. Let us talk about it and see if we can reach an accommodation on it. The Senator from Louisiana, the Senator from North Carolina, the Senator from Georgia, and other cosponsors, have the same goal as all Senators: to do the best we can with the energy independence concept.

I yield to my distinguished colleague from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. JEPSEN. I thank the Senator.

I would respectfully point out that in a report issued June 3, 1980, the General Accounting Office found that even considering constraints on the availability of feedstocks for producing ethanol, it appears entirely feasible for the Nation's vehicle fleet to be operated on a 10 percent ethanol, 90 percent gasoline blend, gasohol, by the year 2000. A national gasohol program could cut U.S. oil imports by 260 million barrels a year, at a savings of over $8 billion, based on current prices for imported oil.

I do not understand how it can be desirable to reduce the funding for biomass energy and gasohol. First of all, the production of alternative fuels from agriculture and forestry products offers the greatest opportunity to reduce oil imports within the next 5 to 10 years.

Synthetic fuels may offer great potential, but I emphasize, not for many years down the line. It is a long way off. So why should we shortchange gasohol funding today?

If synfuels need more money 5 to 10 years from now, then, based on the merits of the projects and the technologies developed, Congress should appropriate needed funds at that time.

Also, even if the biomass energy provisions of title II of S. 932 are fully funded, this bill will still provide billions of dollars for synfuels over the next several years.

Finally, synfuel production is something only large corporations will be able to get into. Biomass energy, on the other hand, is something that many can participate in—including our farmers and ranchers. In light of rampant inflation in the costs of producing agricultural products, our farmers and ranchers are now facing a severe economic crunch. Biomass energy, the development of ethanol and gasohol, could give them an extra cash crop.

Mr. President, I urge that my colleagues will insure that we have the funding of gasohol as top priority and that we make sure that, indeed, it is in writing and that the writing says what it is meant to do.

I urge my colleagues to join the distinguished Senator from North Carolina in making sure that this happens.

Mr. STONE. Mr. President, I think that biomass gasohol offers hope not only for the rural areas of this country, but for the cities as well. Once we get the commercial viability firmly established, and I think it is on its way to being firmly established, the urban waste materials will find a proper conversion into gasohol as well as into various forms of energy.

In my State, Florida, a number of medium- and small-sized cities are looking at biomass fuel as a way out of this constant political tug of war at the local level on where we dump solid waste and how we dispose of liquid waste. In addition to that, almost every rural area in my State is now looking at gasohol as a way of taking care of unusual market conditions. When the market is too soft for a agricultural product, it is not too soft for fuel. So, instead of letting crops rot in the fields, they are going to have a place to put these crops which will benefit the consumers of our country, to say nothing of the producers of biomass of our country.

Just to give an example of how environmentally helpful this can be, in west Florida, where the disposition of peanut shells has been an environmental problem as well as a cost to the peanut producers and shellers, now they are going to use the peanut shells for fuel and take any extra crops that do not make it to market or that are not quite marketable—just being a little bit below quality, for example—and that becomes gasohol. One of our large industries out there, a peanut sheller, is doing it on his own. He cannot wait for all this aid that is coming along; they are going to start.

But, with some assistance, I have been notified at least a dozen times in the last 6 months by agribusiness people, by urban business people, that they want to get into this, is there any assistance at all that can actually be provided, instead of just talked about? The difference is, in a State like Florida, instead of being a gasoline-short State, we shall have ample supplies and the first beginnings of price reductions at the gasoline pump—believe it or not, gasoline price reductions.

Furthermore, as a product, people who use it are almost uniform in their praise of the performance it gives them in terms of octane and eliminating knocks.

Mr. President, I think that we should do anything we can do to make it crystal clear that gasohol production has the same high priority as synthetic fuels or other fossil fuels, which are limited in quantity, that gasohol source is a renewable source, environmentally helpful. It actually goes directly to the source of materials which is subject to foreign leverage. So it helps us in terms of foreign policy.

It helps us in terms of consumer prices, it helps us in terms of environmental cleanliness—not only in terms of disposing of biomass that might become a problem, but also in terms of the air emissions emitted by motors using gasoline or as improved by motors using gasohol.

In addition to all of that, it helps our agricultural producers to survive in an era of boycotts, interrupted supplies, uncertain markets and peculiar governmental policies toward them.

Mr. HELMS. Mr. President, I thank the Senator from Florida.

The PRESIDING OFFICER. Who seeks recognition? Does the Senator from North Carolina seek recognition?

The Chair cannot hear the Senator from North Carolina. Will the Senators carrying on their conversation please cease their conversation?

The Senator from North Carolina is recognized.

Mr. HELMS. I thank the Chair.

Mr. President, I have a feeling that we may be reaching a point of accommodation on this amendment. I dislike going down the road again, but if I may ask the Senator from Louisiana a few questions maybe we can establish some legislative history that will be satisfactory to Senator TALMADGE and me.

First of all does the Senator feel that less than $1.270 billion—could less than that be allocated to title II under his amendment?

Mr. JOHNSTON. No, under my amendment, the Senator would get exactly $1.270 billion, not less. It would be allocated and earmarked for him, which it is not now. Such funds as were spent out of the $2.2 billion would count against his total if spent for ethanol projects; such funds as were spent on other synthetic fuels projects would also count against the title I total. So it is absolute equity and proportionality.

Mr. HELMS. How much of that would DOE spend?

Mr. JOHNSTON. I do not know, but I have been urged by Senator BAYH and others to get DOE going, get them cracking, urge them to build gasohol plants and do it now.

If the Senator does not want DOE to do these plants, that is a new tack, because we have been urged by all the ethanol community to give DOE this money and, as a matter of fact, to let them give it for longer—up to June 30, 1981, so they would have the money as soon as possible and be able to get going.

Mr. HELMS. As I understand it, the able Senator from Louisiana is insisting that the biomass program be retained by the Department of Energy until June 30, 1981.

That is correct?

Mr. JOHNSTON. We put it in there to suit the gasohol people.

Mr. HELMS. What is the point in including the Department of Agriculture under S. 932?

Mr. JOHNSTON. Frankly, to suit the gasohol people.

Representative FOLEY in the House said, "We want this over in Agriculture." On the Senate Energy Committee, it was said, "We object to a proliferation of energy jurisdiction. Ethanol is, obviously, energy. What are you putting it in Agriculture for?"

Mr. HELMS. Because they are ready to move.

Mr. JOHNSTON. His answer was that there is an antipathy toward these projects over in the energy area, that there is a delivery system in agriculture, that they have——

Mr. HELMS. Loans and grants.

Mr. JOHNSTON. All that. They have Farmers Home and people who know how to do this.

Frankly, I was not persuaded. Frankly, I thought it should be in DOE. But I wanted to not only cooperate with Representative FOLEY, who is a great chairman, a good fellow, an effective spokesman, but I was willing to take his judgment, that putting this in Agriculture would get the project on line in the quickest way.

My purpose, and I think the purpose of all of us on that conference, was not so much to protect turf, but to see the projects are put on line quickly, and that is the spirit of putting $2.2 billion in there and leaving it until June 1981.

Senator BAYH, speaking for the gasohol community, and asking for the June 30, 1981 date, had in mind getting them on line quickly, and that was his view. That is why we went along. That was the only purpose.

We are not trying to grab Agriculture's jurisdiction in energy. If that was our purpose, we would not have agreed to that in the first place, because we had the votes.

Mr. HELMS. How much, if any, of the $1,270,000,000 for title II can be spent under Public Law 96-126?

Mr. JOHNSTON. It is possible, conceivable, that all of it could be spent. I doubt that it would be.

And, it is possible for all the $2.2 billion to be spent on synthetic fuels projects.

I would sincerely doubt that it would be. But I can tell the Senator that if it were all spent, and wisely spent, that would serve the purpose that he and I and other members of the Agriculture Committee want, which is to get as many gasohol projects on line as quickly as possible.

If they can accept that between now and June 30, 1981, I say more power to them.

Mr. HELMS. I am looking at the Senator's amendment. When did funds become available to the Department of Agriculture under the Senator's amendment? The amendment is silent on that.

Mr. JOHNSTON. The funds would——

Mr. HELMS. Just tell me what the intent was or what the Senator's intent is.

Mr. JOHNSTON. I believe funds would be available immediately to the Secretary of Agriculture.

Mr. HELMS. That would be the Senator's wish?

Mr. JOHNSTON. Under the appropriations language, the funds would be available immediately. However, under the authorization language, they would not be available until October 1, 1980.

Now, there may be a legal question as to whether or not that authorization would be binding. I am speaking of section 204(a) of S. 932.

But the appropriations language puts the $16,792,000,000 in the energy security reserve; and, in turn, section 195 of S. 932 makes these funds available forthwith, and for the purposes of alternate fuel.

Also, section 204 of S. 932 makes these funds available to the Secretary of Agriculture, and the Secretary of Energy for ethanol projects.

Mr. HELMS. I see.

Now, I think the Senator understands my concern as ranking member of the Agriculture Committee, and I am trying to represent the chairman, who is unavoidably absent today.

Our concern, of course, is that the Public Law 96-126 projects are likely to be enormous DOE projects and not farm-oriented, rural-oriented projects. Therefore, I would like the Senator to state to me the intent of his amendment as to the possibility that funds spent or used for DOE projects over the next year, through June 30, 1981, be counted against the Department of Agriculture share of funds under S. 932.

Now, what is the intent of the Senator's amendment in that regard?

Mr. JOHNSTON. I am sorry. I missed the Senator's question.

Mr. HELMS. Let me go back over it again.

I stated the concern. Did the Senator hear my concern, Senator Talmadge's and mine?

Mr. JOHNSTON. Yes.

Mr. HELMS. That we would be overtaken by enormous DOE projects, and funds would be spent there for nonfarm oriented nonrural oriented projects.

Mr. JOHNSTON. Yes.

Mr. HELMS. The Senator heard me say that?

Mr. JOHNSTON. Yes.

This concern is a legitimate one. In an earlier incarnation of this amendment, I had specific language which would say that of the $2.2 billion, such funds as were spent by the Secretary of Energy on ethanol projects would be allocated to Agriculture and to Energy according to the kind or size of projects that the Secretary of Energy funded under the Federal Non-nuclear Act.

That language was dropped out by staff and it was still my intention to have it allocated in that way. I think it is probably appropriate to put that language back in.

I think it is implicit in this amendment.

Does the Senator understand what I mean?

In other words, if the Secretary of Energy builds a plant above 15 million gallons, that should count against the $525 million made available under title II to the Secretary of Energy.

Mr. HELMS. Who decides that?

Mr. JOHNSTON. Excuse me?

Mr. HELMS. Who makes that judgment of the allocation?

Mr. JOHNSTON. It would be, I guess, the Secretary of the Treasury who oversees the energy security reserve. But it would be a mechanical process.

We know the size of the plant, and if the size of the plant is over 15 million gallons, it goes to Energy. If it is below 15 million gallons, it goes to Agriculture.

It counts against the total. I have that language. I have the language available.

Mr. HELMS. That is all right.

Mr. JOHNSTON. I have the language available to accomplish that, if the Senator wants the explanation.

Mr. HELMS. There is no problem for this Senator. I am just trying to get the intent.

Mr. McCLURE. Will the Senator yield?

Mr. HELMS. Let me ask one more question and then I would like for the Senator to participate because he is interested in this, as well.

Getting back to the intent of the Senator's amendment. Could the Department of Energy, using its authorities under Public Law 96-126, obligate the entire amount intended to go to the Department of Agriculture over the next 12 months?

That is not intended by this amendment?

Mr. JOHNSTON. It is possible that the Secretary of Energy could allocate all of the $1,450,000,000. Excuse me, that is not quite correct. It could obligate $1,350,000,000, because the amendment of Senator BRADLEY yesterday provided that only $150 million can be allocated out of the $250 million available for urban waste. But you could use up all the agricultural money. You could use up all the energy money under Federal Nonnuclear Act.

Mr. HELMS. Who makes that judgment?

Mr. JOHNSTON. The Secretary of Energy would make that judgment. I can tell the Senator that that is most unlikely.

Mr. HELMS. It had better be.

Mr. JOHNSTON. But if that happens, I can tell the Senator it would be the fruition of the greatest desires of the gasohol people. They want to get plants on line. Their complaint against the Secretary of Energy is that the Secretary of Energy has dragged his feet and has gone too slowly.

What complaint could there possibly be that the Secretary of Energy gets in there and really gets moving and obligates $1.45 or $1.35 billion for gasohol and urban waste? I say that that would be the culmination and the fruition of the greatest desires of the gasohol people.

Mr. HELMS. It would be a modern miracle.

I yield to the Senator from Idaho.

Mr. McCLURE. I thank the Senator for yielding.

Mr. President, I believe the Senator from Louisiana is right. I understand the concerns of the people in the Agriculture Committee and the Department of Agriculture, that this money that has been reserved for them might be invaded by DOE in the period before the money is allocated to them. It may be that, as a practical matter, it is not going to happen; and I agree with the Senator that if it is obligated that fast, it would be a miracle.

I believe it should be made abundantly clear that whatever is spent by DOE should be allocated against their fraction and not against the fraction that remains for agriculture, regardless of the size of the plant. Otherwise, they have the opportunity to change the allocation mix.

Mr. HELMS. Precisely. That is the point I am trying to make. I thank the Senator from Idaho, as a leader in this field, for making my point.

Mr. McCLURE. I believe there is a way in which that might be accomodated, although it might slow down the development of alcohol, and we have to be careful about that. We could preserve that by suggesting that the money is received for the Department of Agriculture—at least, during the interim.

Mr. HELMS. Mr. President, while we think about this, I suggest the absence of a quorum.

Mr. BRADLEY. Mr. President, will the Senator withhold that?

Mr. HELMS. Yes.

Mr. BRADLEY. While the Senator is thinking, I present this thought to the Senator from Louisiana.

I should like to confirm with the distinguished Senator from Louisiana that the amendment now pending does not in any way affect the amendment I offered yesterday, which was accepted by the committee. My amendment stated that between now and June 30, 1981, up to $150 million of the $2 billion presently under DOE control could be used for urban waste energy systems, for price guarantees, and for performance commitments; that the operating mechanism would be S. 932, price guarantees to be described as price support loans, among others.

Mr. JOHNSTON. Under the amendment I have proposed, the $150 million would be available. Under the amendment proposed by the Senator from North Carolina, the money also would be available. So under either amendment, the $150 million would be available.

Mr. BRADLEY. I thank the Senator.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. STEVENS. I am worried—and the words are not mine, but I believe I reflect the sentiments of the Senator from Idaho—that we are setting up little pots we cannot get around.

We had flexibility built into the authorizing legislation, and we had a reduction proposed in that account. Are we now earmarking money as the Senator from New Jersey earmarked money? It has been done for biomass, but are we doing it now for gasohol and all the others, so that three is no flexibility in this account, as was intended originally?

Mr. BRADLEY. Mr. President, if the Senator will yield, it is my understanding that this is not earmarking money. It is totally within the discretion of the Department of Energy.

What I am trying to solve is a problem in the Department of Energy, where they have reduced money for direct combustion of urban waste. That is the only issue I am dealing with, as well as to clarify those eligible types of commitments bv DOE.

Mr. STEVENS. It is my understanding that the Bradley amendment says that you can spend up to so much for that portion of S. 932. As I understand it, the Senator from North Carolina is seeking a similar concept. As I understand what the Senator from Louisiana is trying to do, it is to limit the cut in both portions of this fund so that it is equal. Is that correct?

Mr. JOHNSTON. Yes, that is right, so that the cut is proportionately equal based on the authorization levels in S. 932.

The amendment offered by the Senator from New Jersey yesterday does not destroy anything we want to do. All it does is clear up an ambiguity in the authorizing legislation as to whether urban waste would be authorized. This, in effect, says it is authorized and they can spend up to $150 million.

What the Senator from North Carolina would do by his amendment would be to earmark, and he would get all of the $2.2 billion that could conceivably be spent on gasohol projects. Then he would come along and also earmark $1.45 billion.

So it would be possible for them to get virtually $3.6 billion for gasohol and leave synfuels with only about 75 percent of its amount, or only some $15 billion.

Mr. STEVENS. What happens under that scenario with solar allocation?

Mr. JOHNSTON. Solar and conservation get the full 100 percent funding. He could end up getting more than 200 percent for gasohol, and all at the expense of synthetic fuels.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. HELMS. Will the Senator tell the Senator from North Carolina what authority the Department of Agriculture has under Public Law 86–126 to do that?

Mr. JOHNSTON. It is not in the Department of Agriculture. We are talking about expenditures on gasohol. This is not a Department of Agriculture bill. This is a gasohol bill. That is the spirit in which we approached it when we very generously gave to Agriculture—just gave up—our jurisdiction. We did that willingly.

Mr. HELMS. It was done because the Department of Agriculture, for once, is ready to move on something and the Department of Energy is not ready to move.

As Senator STONE and Senator JEPSEN emphasized, we have mechanisms all over this country and ready to go into motion on gasohol.

Mr. JOHNSTON. But you cannot have it both ways. Either the Secretary of Energy is ready to go and should not have to give up his jurisdiction, or he is not ready to go, and then you have no fears of his spending all your agriculture money.

Mr. HELMS. Mr. President, regretfully—and I say this with all sincerity—on behalf of the Agriculture Committee, I cannot agree to the substitute by the distinguished Senator. If Senators have said all they desire to say about the subject, I want to move to table, but I will withhold if there is any further comment.

Mr. JOHNSTON. Mr. President, I have not submitted the amendment. It was the desire on our part to be more than fair. As I said, I though it was an amendment that could not be refused. Frankly, I believe that the handiwork of the Appropriations Committee is suitable. It suited me, and I am willing to stick with it. Therefore, I will be prepared to move to table the amendment.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that the distinguished Senator from Iowa (Mr. JEPSEN) be made a cosponsor of the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, if the

Senator from North Carolina wishes an up-and-down vote, I certainly will be willing to do that rather than move to table if he is ready to vote at this time.

Mr. HELMS. Sure.

The Senator is offering an up-or-down vote?

Mr. JOHNSTON. Yes.

Mr. HELMS. Very well.

Mr. JOHNSTON. Mr. President, I ask for the yeas and nays on the Helms amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. Baucus), the Senator from North Dakota (Mr. Burdick), the Senator from Nevada (Mr. Cannon), the Senator from Iowa (Mr. Culver), the Senator from Massachusetts (Mr. Kennedy), the Senator from Hawaii (Mr. Matsunaga), the Senator from South Dakota (Mr. McGovern), the Senator from Montana (Mr. Melcher), the Senator from Connecticut (Mr. Ribicoff), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Utah (Mr. Garn), the Senator from Utah (Mr. Hatch), the Senator from Indiana (Mr. Lugar), the Senator from South Dakota (Mr. Pressler), and the Senator from New Mexico (Mr. Schmitt) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent due to illness.

Mr. HELMS. Regular order, Mr. President.

The PRESIDING OFFICER (Mr. Hollings). Have all Senators voted?

Mr. LEVIN voted in the affirmative.

The result was announced—yeas 45, nays 39, as follows:

[Rollcall Vote No. 268 Leg.]

YEAS—45

Armstrong
Baker
Bayh
Biden
Boschwitz
Bumpers
Byrd,
  Harry F., Jr.
Chafee
Church
Cochran
Cohen
Danforth
Dole
Durenberger
Exon
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Jepsen
Kassebaum
Laxalt
Levin
Magnuson
Mathias
McClure
Mitchell
Morgan
Nunn
Packwood
Percy
Pryor
Riegle
Schweiker
Simpson
Stewart
Stone
Thurmond
Tower
Warner
Weicker
Zorinsky

NAYS—39

Bellmon
Bentsen
Boren
Bradley
Byrd, Robert C.
Chiles
Cranston
DeConcini
Domenici
Durkin
Eagleton
Ford
Glenn
Gravel
Hart
Hatfield
Inouye
Jackson
Javits
Johnston
Leahy
Long
Metzenbaum
Moynihan
Nelson
Pell
Proxmire
Randolph
Roth
Sarbanes
Sasser
Stafford
Stennis
Stevens
Stevenson
Tsongas
Wallop
Williams
Young

NOT VOTING—16

Baucus
Burdick
Cannon
Culver
Garn
Goldwater
Hatch
Kennedy
Lugar
Matsunaga
McGovern
Melcher
Pressler
Ribicoff
Schmitt
Talmadge

So Mr. Helms' amendment (No. 1928) was agreed to.

Mr. JOHNSTON addressed the Chair.

Mr. HELMS. Mr. President, I move to table.

The PRESIDING OFFICER. The motion to table is agreed to.

Mr. JOHNSTON. Mr. President, I was on my feet, standing where the majority leader stands, and I asked for recognition. I wanted to move to reconsider and ask for the yeas and nays.

The PRESIDING OFFICER. All right. Let us do that. Move to reconsider.

Now, there was a motion over here made to table; is that not right?

Mr. HELMS. Mr. President, has the Chair ruled on the tabling motion?

The PRESIDING OFFICER. No, I have not ruled.

Mr. JOHNSTON. Mr. President, I would hope that the Senator from North Carolina would——

The PRESIDING OFFICER. All right, you move to reconsider. The Senator from Louisiana moves to reconsider the vote and asks for the yeas and nays.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Now, who moved over here to table?

Mr. JOHNSTON. Mr. President, I hope the Senator would not make a motion to table and give us just a couple of minutes to explain this matter.

Mr. CHILES. The Senator has the floor.

Mr. JOHNSTON. Will the Senator withhold the motion to table for 5 minutes on each side?

Mr. PROXMIRE. The Senator has the floor.

The PRESIDING OFFICER. The Senator has the floor.

Mr. JOHNSTON. Let me explain to my colleagues what is involved here.

Mr. MAGNUSON. Mr. President, could we have order in the Senate?

The PRESIDING OFFICER. Let us have order so we may hear the Senator.

Mr. MAGNUSON. And clear the well, Mr. President.

The PRESIDING OFFICER. The well will be cleared.

Mr. JOHNSTON. Mr. President, I will make this within 5 minutes. If Senators will lend me their ears, I believe I can show them why this amendment is not just, equitable, or good policy.

What we wanted to accomplish, what we are willing to accomplish, is to take a limited number of dollars and have a proportional cut for synthetic fuels and a proportional cut for ethanol.

We have a $20 billion authorized program for synthetic fuels. In the Energy Committee, we thought $20 billion was necessary to fund phase I of the energy program. We have a $1,450,000,000 program for ethanol or gasohol and municipal waste. Unfortunately we do not have $21,450,000,000 to fully fund both programs, because we took a billion dollars away for solar and conservation and because the original appropriation was not as large as the authorization.

We have an interim program of some $2 billion in scope between now and June 30, 1981, under which the Secretary of Energy, at the behest of the gasohol people, is directed to build gasohol plants as quickly as he can and also synthetic fuels plants.

What we are saying we ought to do is this: To the extent you do not have 100-percent funding, then let us take proportional cuts in both synthetic fuels and in gasohol, which would give you a $1,270,000,000 out of $1,450,000,000 for gasohol. It would give you some $18 billion out of $20 billion to synthetic fuels.

First, that is fair. Second, it is good policy. What would happen under the amendment the Senate just voted to accept is that you would take 100-percent funding for gasohol, which is $1,450,000,000, 100 percent, and guarantee that as of June 30, 1981, plus whatever you would get in the interim from the $2 billion interim program for gasohol, and that may be over a billion dollars. You get that as well. So it could be over $3 billion, over 200 percent for ethanol and maybe as little as 75 percent for synthetic fuels. That is not good policy. That was never intended.

Now, I know many Senators come to the floor and say, as some Senators said to me, "Look, I am for gasohol. Why should I be against this amendment?" Well, if just getting more and more money at whatever expense and without limit is good for the country and good for ethanol, then you should probably be for the amendment. But you should recognize that we were generous in the Energy Committee with ethanol—$1,450,000,000 for ethanol, which is over twice what we came out of that committee with. We came out of committee with $600 million. The testimony indicated that was sufficient. And, we more than doubled that.

All I am saying is, let us treat synthetic fuels and ethanol with equal dignity. Let us proportionately fund both of them—proportionately—which is about 87 percent for each one, over $1 billion for ethanol under what we are offering. Let us do that. That is fair and that is good policy.

Otherwise, you are going to end up with a synthetic fuels program that has been cannibalized and has been underfunded.

All the expectations of industry is that they are gearing up, but there is not enough money to fund them.

Mr. President, I yield to my colleague from North Carolina.

Mr. HELMS. Mr. President, I understand the Senator to suggest that each side take 5 minutes, and that is all I will take. Then I am going to move to table.

I ask unanimous consent, at the end of 5 minutes, that I be recognized for that purpose.

The PRESIDING OFFICER. Is the Senator from North Carolina asking unanimous consent that within 5 minutes he will be recognized to make a motion?

Mr. HELMS. Yes, Mr. President, no later than 5 minutes from now.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. The understanding was, when the Senator from Louisiana got the floor, that he would speak for 5 minutes and I would speak for 5 minutes or anyone to whom I yield.

The PRESIDING OFFICER. Is there objection. The Chair hears none.

The Senator from North Carolina.

Mr. HELMS. I thank Senators and I thank the Chair.

Mr. President, what this is all about is the big guys against the little guys. Let us not try to mesmerize anybody. It is a matter of the Agriculture Department being ready to go with hundreds of small-scale gasohol projects all across this country.

There are countless farmers ready to crank up and go into gasohol. The question is, are we going to turn it all over to DOE? This Senator simply says no.

In saying that, I represent the Agriculture Committee, Senator TALMADGE, and both Democrats and Republicans.

Now, we came to this floor with this amendment on behalf of the Agriculture Committee. A vote has been taken. We prevailed. Now there is an effort to reverse the expressed will of the Senate.

Unless someone else wants to speak—I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I would only say that I think this is big oil versus the farmer in America. Big oil wants all the money for synfuels. We have all these farmers trying to supplement their income and, not only that, to help the energy crisis. So it is a good test vote.

Mr. PERCY. Will the Senator yield for a brief comment?

Mr. HELMS. Yes, gladly.

Mr. PERCY. Mr. President, the Government Affairs Committee, after months of study, reported out legislation authorizing establishment of the Department of Energy. To say that we are satisfied with what was created would be a misstatement, however.

There has been a tremendous amount of criticism leveled against this department since its inception, probably more than any other in the Federal Government today. What we need is not just another bureaucracy, but more energy for our needs and better efficiency from the energy we do use. What we are not doing is getting the end results fast enough.

Mr. HELMS. Exactly.

Mr. PERCY. Our job in the Government Affairs Committee is to see that this job is well organized. I can simply report to the Senate that it is still not well organized enough. It is not working well enough. We have to make it work better and I will continue to work with DOE toward this common goal.

The Subcommittee on Permanent Investigations is going to hold hearings on why our gasohol and related programs are not working faster and better. Illinois is the largest single State producing gasohol. Archer-Daniels of Decatur, Ill., is the largest single producer and they are doing a great job.

But we have farmers all over Illinois and our country that want to get underway and get moving. I think the Department of Agriculture can help get us moving. Let us not worry about whose turf we are on. Let us get a little competition between Departments and let Agriculture prove they can do the job with farmers. Then maybe the Department of Energy will also be inspired to do better and get on with the job. We are not getting the end result fast enough. I think we need to set up a little competition here, and I am supporting this amendment.

Mr. HELMS. I would say to my friend from Illinois, "Amen, brother." [Laughter.]

I yield back the remainder of my time and move to table.

The PRESIDING OFFICER. Let me hear the motion again? The Senator yields back the remainder of his time and what?

Mr. HELMS. And I move to table.

Mr. JOHNSTON. I ask for the yeas and nays.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. Does the Senator withhold his request?

Mr. HELMS. I withhold my request.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I would just like to add my words of support for the actions that have been taken by the Senator from North Carolina.

I do not think it is really accurate to say that the Energy Committee was very appreciative of the role that gasohol can play. True, they came out with only about $600 million and we were able to double that on the floor of this body. The point that we must make here is that if we have to make a sacrifice at this time, as important as synfuels are, the facts of the matter are that the quickest way, Mr. President, to help cut down our dependence on foreign oil is to go to something like gasohol, which is proven and which will work. The only reason that it is not working now is that we do not have the production facilities to get ethanol produced to put into the tanks of the driving public.

It is my understanding that the amendment by the Senator from North Carolina is a step in that direction and, therefore, I support it.

Mr. HELMS. I thank the Senator.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BELLMON. Mr. President, I would like to speak in opposition to the amendment. There probably is a place in the fuels spectrum for some gasohol, but we are about to lead a lot of farmers down the primrose path. If we think we can grow grain in this country over a long period of time and turn it into gasohol, we are badly mistaken. Grain growers are now losing their shirts at the current prices and grain prices have to go up. If we set up a program that encourages a lot of farmers to build gasohol plants based on current grain economics, they will find that they have bought a white elephant and will be hurt. For that reason, I support the opposition.

Mr. STEWART. If the Senator will yield, I would encourage him to take a look at what this particular piece of legislation does. It encourages the use of more than grain. I would not want anybody to vote on this particular piece of legislation with the idea in mind that the feedstocks for alcohol fuels will be grain. If the Senator will take a look at it he will see that we are talking about the use of waste wood, we are talking about the use of many, many substances.

Mr. BELLMON. Farmers do not grow waste wood. They grow grain, primarily.

Mr. STEWART. We plan to use waste wood in Alabama, Mississippi, and in a lot of States in this country.

Mr. BELLMON. Mr. President, we have been hearing criticism about the Department of Energy on these programs. I would like to raise the point that the Agricultural Department administers the food stamp program. If anyone wants to get ecstatic about that, they ought to take a look at that program.

Mr. HELMS. Mr. President, I move my motion and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from North Carolina. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from North Dakota (Mr. BURDICK), the Senator from Nevada (Mr. CANNON), the Senator from Iowa (Mr. CULVER), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. MELCHER), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN), the Senator from Utah (Mr. HATCH), the Senator from Indiana (Mr. LUGAR), the Senator from South Dakota (Mr. PRESSLER), and the Senator from New Mexico (Mr. SCHMITT) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The result was announced—yeas 42, nays 43, as follows:

[Rollcall Vote No. 269 Leg.]

YEAS—42

Armstrong
Baker
Bayh
Biden
Boschwitz
Bumpers
Byrd,
  Harry F., Jr.
Chafee
Church
Cochran
Cohen
Danforth
Dole
Durenberger
Exon
Hayakawa
Heflin
Heinz
Helms
Hollings
Humphrey
Jepsen
Kassebaum
Laxalt
Levin
Magnuson
Mathias
Mitchell
Nelson
Packwood
Percy
Riegle
Schweiker
Simpson
Stewart
Stone
Thurmond
Tower
Wallop
Warner
Weicker
Zorinsky

NAYS—43

Bellmon
Bentsen
Boren
Bradley
Byrd, Robert C.
Chiles
Cranston
DeConcini
Domenici
Durkin
Eagleton
Ford
Glenn
Gravel
Hart
Hatfield
Huddleston
Inouye
Jackson
Javits
Johnston
Leahy
Long
Matsunaga
McClure
Metzenbaum
Morgan
Moynihan
Nunn
Pell
Proxmire
Pryor
Randolph
Roth
Sarbanes
Sasser
Stafford
Stennis
Stevens
Stevenson
Tsongas
Williams
Young

NOT VOTING—15

Baucus
Burdick
Cannon
Culver
Garn
Goldwater
Hatch
Kennedy
Lugar
McGovern
Melcher
Pressler
Ribicoff
Schmitt
Talmadge

So the motion to lay on the table the motion to reconsider was rejected.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I hope we can go ahead by voice vote, reconsider, lay the amendment aside, and try to work out something suitable.

I think we can. I think we can give the people who are for gasohol the full guarantee that the Department of Agriculture will get all the money.

The only reason we have this money for gasohol projects in the Department of Energy on an interim basis is that it has been suggested that would be the fastest way to do it.

If the Senator from North Carolina or others would like to designate the funds that would go to the Secretary of Agriculture and not have any of those spent by the Department of Energy on an interim program, that is perfectly agreeable with me.

I think we can work that out, if that is what the Senator wants. I did not think that was what we wanted.

Mr. BAYH addressed the Chair.

The PRESIDING OFFICER. We must have order.

The Senator from Louisiana has the floor.

The Senator from Louisiana.

Mr. HELMS. Will the Senator yield to me?

Mr. JOHNSTON. Mr. President, I will yield to my friend from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I want to reach an accommodation on this. I ask the Senator if he will yield for a quorum call now and——

Mr. BAYH. Mr. President, will the Senator from Indiana have an opportunity to be heard on this?

I tried to stay out of this debate earlier, but if we are going to put it all in the Department of Agriculture, we will end up cutting off our two hind legs.

I am in support of the position of the Senator from North Carolina to put more money into Agriculture.

But I listened to the Senator talk about ADM. That is across the border from Indiana, and no money will get into ADM hands from the Department of Agriculture. We have to keep some of it in the Department of Energy.

Mr. HELMS. Will the Senator from Louisiana yield to me?

Mr. JOHNSTON. Yes.

Mr. HELMS. I reiterate to the Senator from Indiana that I want to work this out, and I think we can.

All I ask is that we have a brief quorum call to determine precisely what the Senator from Louisiana has in mind.

Mr. CHILES addressed the Chair.

Mr. JOHNSTON. Mr. President, I am getting ready to accede to the desire of the Senator from North Carolina.

Mr. CHILES. Will the Senator yield to me before that?

Mr. JOHNSTON. Yes.

Mr. President, this illustrates that we were trying to go along with a different spokesman for gasohol in the Appropriations Committee and got double signals. Some said to put it in Energy and some said Agriculture. We are willing to do whatever the spokesman for gasohol wishes to do.

As soon as Senator Chiles has a chance to speak, I will ask we have a quorum and try to work it out.

Mr. CHILES. I say to the distinguished Senator from Louisiana and the Senator from North Carolina, we came in this morning at 9:30. We have been on this matter since 9:30.

Why in the world do we have to have a quorum that keeps us from going on to aditional business? Why can they not step out into the anteroom with a unanimous-consent agreement that if they agree, or do not agree, they can come back in on this item?

Why in the world keep the Senate listening to a rollcall when we have a major package we are trying to move, and see if we can break this logjam, when some of us would lie to shoot a firecracker off on the Fourth of July?

Mr. JOHNSTON. Mr. President, I think the suggestion is a good one. I am willing to lay the whole matter aside until we are able to work it out, if that is the desire of the Senator from North Carolina.

Mr. HELMS. I just say, Mr. President, if the Senator will yield, we are consuming more time by discussing this than it will take for the Senator from Louisiana and the Senator from North Carolina to work this out, I think.

Mr. President, I renew my request for a quorum call.

I thank the Chair.

Mr. CHILES. Mr. President, this will be a live quorum, so I would like the call to go quickly.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll and the following Senators answered to their names:

[Quorum No. 11 Leg.]

Baker
Bayh
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Byrd, Harry F., Jr.
Byrd, Robert C.
Chafee
Chiles
Church
Cohen
Cranston
Dole
Domenici
Durkin
Exon
Ford
Hatfield
Hayakawa
Heinz
Helms
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Kassebaum
Leahy
Long
Magnuson
Mathias
Matsunaga
McClure
Mitchell
Moynihan
Nelson
Nunn
Packwood
Percy
Randolph
Riegle
Sarbanes
Sasser
Stafford
Stennis
Stewart
Thurmond
Tower
Tsongas
Warner
Young
Zorinsky

The PRESIDING OFFICER. A quorum is present.

The Senate will be in order.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The pending question is the motion to reconsider the vote by which the Helms amendment was adopted.

Mr. CHAFEE. Mr. President, can we set that aside and move on? I move that we set that aside and move on to something else. I have an amendment I would like to send to the desk.

The PRESIDING OFFICER. That requires unanimous consent.

Mr. CHILES. Mr. President, I ask unanimous consent that we temporarily set aside the motion to reconsider and allow the Senator from Rhode Island to take up his amendment; and upon the completion of that amendment, we go back to the pending question.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, will the Senator withhold his request for 30 seconds? I understand they are working it out.

Mr. CHAFEE. Mr. President, I cannot hear the discussion.

Mr. CHILES. Anybody can object, but they have been working it out. That is what we asked them to do before they went to work it out, to set it aside temporarily.

Mr. MOYNIHAN. Would the majority leader want to make a bet on 30 seconds? We cannot get an agreement on 30 seconds. [Laughter.]

Mr. ROBERT C. BYRD. I understand that they are nearing an agreement, so if we can delay slightly——

Mr. LONG. Mr. President, while we are thinking about matters, it occurs to the Senator from Louisiana, if there is no objection on the other side of the aisle, that it might help to get on with the business if we could discharge the Finance Committee from considering the bill that extends the airport and airway user taxes. It will have to be extended, anyway. Perhaps we can find some way to put the amendment on another bill. It would help matters to discharge the committee and have that matter available so that it can be called up when we get through with the pending bill.

Mr. CHILES. That would take unanimous consent.

Mr. CHAFEE. Mr. President, I am willing to wait if the majority leader wants a reasonable amount of time.

Mr. President, I ask unanimous consent that when we dispose of the Helms amendment I then be recognized to proceed with my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who seeks recognition?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, I renew my unanimous-consent agreement that we temporarily set aside the motion to reconsider the vote on the motion to reconsider and that we go to the recognition of the distinguished Senator from Rhode Island.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Rhode Island.

UP AMENDMENT NO. 1337

(Purpose: To eliminate funds for the Tennessee-Tombigbee Waterway Project)

Mr. CHAFEE. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. CHAFEE) for himself and Mr. NELSON, Mr. SIMPSON, Mr. CULVER, Mr. JEPSEN, and Mr. PROXMIRE proposes an unprinted amendment numbered 1337:

On page 28, line 6, strike out "$136,600,000" and insert in lieu thereof: "$78,600,000, provided that no funds appropriated or made available by this Act shall be used for the construction, alteration, repair, or improvement of the Tennessee-Tombigbee Waterway project,".

Mr. STENNIS. Mr. President, if the Senator will yield to me, as I understood we were going to wait until the Senator from Louisiana got back before we proceeded with his amendment. There may be procedural matters. I do not know. But I am not handling that part of it. I clearly understood the Senator was to wait. I told the Senator that Senator JOHNSTON was tied up in a bona fide conference.

Mr. CHAFEE. Mr. President, I am willing to wait for Mr. JOHNSTON. I have been waiting quite a while to go ahead with this, and I do not know where Mr. JOHNSTON is.

Mr. HEINZ. Mr. President, will the Senator yield?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island has the floor.

Mr. STENNIS. Mr. President, will the Senator yield to me?

Mr. HEINZ. Mr. President, will the Senator yield to me?

Mr. CHAFEE. I am delighted to yield to the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. I thank the Senator.

Mr. President, I merely request this, that I go see Senator JOHNSTON for a moment—he is back here in the room—and I come right back and report about any question he has of procedure or anything like that and how long before he can be here.

It is almost without precedent for us to take an amendment this way without the manager of the bill to have a chance to be here. I will appreciate the Senator doing that.

Mr. CHAFEE. Mr. President, I am perfectly prepared to delay or whatever it is necessary for Mr. JOHNSTON.

The reason we got into this entanglement: the agreement was my amendment would come up next. We were waiting. Then Mr. CHILES said to set aside the Helms matter and proceed.

I had agreed with the Senator from Mississippi I would wait for Mr. JOHNSTON. I am prepared to wait for Mr. JOHNSTON.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. CHAFEE. I will do whatever is suggested to get over this problem.

Mr. HEINZ. Mr. President, will the Senator from Rhode Island yield?

Mr. CHAFEE. I yield.

Mr. HEINZ. Mr. President, I have an amendment that should not take very long. Perhaps if the Senator from Rhode Island would be willing to temporarily withdraw his amendment I could proceed with my amendment. I am perfectly agreeable to entering into a time limitation on my amendment.

Mr. CHAFEE. How long?

Mr. HEINZ. I am willing to have 10 minutes on each side or less.

Mr. CHAFEE. I think that sounds very reasonable.

I will withdraw my amendment and let the Senator from Pennsylvania proceed.

Mr. MAGNUSON. Let us quit talking and get moving.

Mr. HEINZ. Mr. President, if the Senator will yield, I ask unanimous consent that the amendment of the Senator from Rhode Island be temporarily withdrawn and that it be in order for me to offer an amendment and that there be a time limitation on the amendment of 10 minutes on a side.

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, what does the amendment do?

Mr. HEINZ. Who wants to know?

Mr. NELSON addressed the Chair.

Mr. ROBERT C. BYRD. I want to know what the amendment does.

Mr. HEINZ. One Senator at a time.

Mr. ROBERT C. BYRD. The Senator is suggesting a 20-minute time limitation on the amendment.

Mr. HEINZ. The Senator is correct.

Mr. ROBERT C. BYRD. Before Senators agree to the request, and it may be a very reasonable one, Senators would like to know what the amendment does.

Mr. MAGNUSON. He will explain the amendment.

Mr. HEINZ. I will describe the amendment. There is a copy of it.

Mr. ROBERT C. BYRD. We do not want to limit ourselves to 20 minutes until we know what the amendment does.

Mr. HEINZ. The amendment simply states that in the consideration of reapportionment illegal aliens shall not be counted.

Mr. ROBERT C. BYRD. Mr. President, I have to object to a time limitation of 20 minutes on that amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Let us have a little order.

The pending question is the amendment of the Senator from Rhode Island.

The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I am prepared to accommodate the senior Senator from Mississippi in any way that the body wishes in order to work out—here is Mr. JOHNSTON now. Maybe that solves the problem.

Several Senators addressed the Chair.

Mr. NELSON. Mr. President, may we have order so we can hear the Senator from Rhode Island?

The PRESIDING OFFICER (Mr. MITCHELL). The Senate will be in order.

Mr. CHAFEE. Mr. President, the Senator from Louisiana is here and therefore I am prepared to go ahead.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, this amendment which I have sent to the desk would eliminate the additional funding for this year, fiscal year 1980, that is included for the Tennessee-Tombigbee Waterway project in Mississippi and Alabama.

May I review the bidding a minute?

Mr. NELSON. May we have order so we can hear the distinguished Senator from Rhode Island?

The PRESIDING OFFICER. The Senator will suspend.

The Senate will be in order.

The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, we appropriated for 1980 $165 million for this project. What happened was the contractors disregarded and the Corps of Engineers disregarded the amounts that we had appropriated, and set their own pace, and thus from the Corps of Engineers the contractors received $23.3 million more in 1980. That is 50 percent above what we gave them.

Now they come back and for the balance of the year ask for $58 million on top of that.

Mr. President, the issue we are debating here today is not whether we are for or against this project, and I make no secret of the fact that I think this project is a boondoggle and should never have been started. But that is not the issue. The issue is whether we are going to have the U.S. Government led by the contractor and the Corps of Engineers, who proceed at any pace they want to, and then come to the U.S. Congress and say, "Give us the additional money, we have run out. We have exceeded the money you gave us for this year, we exceeded the $23 million that we got from the Corps of Engineers as a little extra, 14 percent, and for the final 3 months of this year, the final quarter, we ask for $58 million on top of all that."

Mr. President, this is a tight budget year, and we wrestled for 4½ hours yesterday on the floor of this Senate on the matter of renewing revenue sharing, and revenue sharing was added. and that threw us into a tizzy, and we had no way of finding the additional money.

Here is a source of additional money, Mr. President, to make up for that money we voted for revenue sharing.

We are going to hear that classic response which we have heard so often on a whole variety of subjects, whether it is the Hart Building or some water projects or whether it is the construction of aircraft carriers. All of us have heard it, "We started it, we have gone down the road this far. We spent $880 million and we cannot stop."

Well now, Mr. President, this project is going to cost about $3 billion; $880 million has been spent to date, and we will discuss whether to go ahead with the project or not go ahead with the project when we come to the appropriations bill on this matter not too far down the road. But the immediate subject is this supplemental for 1980 and, Mr. President, I just think it is wrong for the Corps of Engineers and the contractors to speed up, to work 7 days a week, 24 hours a day, pour their concrete, get more done so they could get us further down the road and then say, "We are out of money. Don't make us stop, that will be wasteful. Give us $58 million more to finish this year."

Every other department of Government has to work on a budget, and the Defense Department cannot come in here three-quarters of the way through the year and say, "We need more money or we cannot run our ships." The only people who can do that are those under an entitlement program. Well now, you can say what you want to about this Tennessee Tombigbee project, but nobody, I think, has called it an entitlement program, although it has got much of the wastefulness associated with many entitlement programs.

Mr. President, the simple issue before us today is, Are we going to have our spending, our outlays, controlled by the Corps of Engineers and the contractors on that job? I think the answer ought to be a resounding "no."

I am prepared to yield some time to our distinguished colleague, the junior Senator from the State of New York.

Mr. MOYNIHAN. Does the Senator from Wisconsin wish to speak next? If he does, I will be happy to defer.

Mr. NELSON. The Senator from Wisconsin will defer to the Senator from New York.

Mr. MOYNIHAN. I thank the Senator from Rhode Island. I rise in my capacity as the Senator from New York, but this is also the first time I have had occasion to speak on this floor as chairman of the Subcommittee on Water Resources of the Committee on Environment and Public Works, which is chaired by our distinguished and beloved Senator from West Virginia, who is, as always, near when we need to discuss these matters.

Mr. President, I would first like to make the point that the Senator from Rhode Island has raised on the floor a matter which ought deeply to concern this body and, even more so, ought to concern the great Corps of Engineers. From the early history of this Republic, the corps has been such an essential institution in the development of the American Nation and particularly of its waterways because the fact is that despite——

Mr. STENNIS. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. MOYNIHAN. I yield.

Mr. STENNIS. Mr. President, I ask unanimous consent that two of my staff members, Mr. Jim Jordan and Mr. W. E. Cresswell, be admitted to the floor for my assistance during the debate on this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. I make the same request for Amy Schwartz.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. I was saying this vital institution of American life, which we have depended on so in the past and on which we will depend as much or more in the future, is losing the confidence of the American people and, indeed, of this Congress.

If you would like to know the degree to which it has lost the confidence of the Congress, let me say to you that in real dollars the budget of the Corps of Engineers has declined 40 percent in the last decade.

If you would like to know the degree to which it has commenced to lose the confidence of the public, I would refer you to the press comment on this particular project, the Tenn-Tom Waterway.

In a spirit of good humor I have in the past referred to this as a project to clone the Mississippi River. But that is not necessarily the tone of much of the comment that has come from our press. We have seen the editorial in this morning's Washington Post "The $3,000,000,000 Ditch." We have seen the editorial in the New York Times of yesterday "River of No Financial Return." We have the editorial just yesterday in the Chicago Sun-Times called "Stop This $3 Billion Boondoggle."

Mr. President, I ask unanimous consent that these editorials be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Washington Post]

THE $3,000,000,000 DITCH

"Everybody agrees that we are going to complete the [Tenn-Tom]," Rep. Jamie L. Whitten told his colleagues in the House the other day. A few minutes later, the votes revealed that everybody does not agree. The Tennessee-Tombigbee Waterway—the nation's most expensive ditch—is in trouble. Support for its completion is wobbling in the House and a full-scale assault is under way in the Senate.

The Tenn-Tom was a bad idea when it was first proposed a century ago. It has not improved with age. Designed to create a 449-mile waterway from Tennessee to the Gulf of Mexico about 150 miles east of the Mississippi River, this project has never made economic sense. That fact is slowly settling in on members of Congress who have finally become concerned about the way federal money is spent on the pet projects of powerful members.

Construction of the Tenn-Tom was authorized by Congress in 1946. During the 1950s and 1960s, the House Appropriations Committee refused to provide funds for it because the projected return on the government's investment was marginal, at best. On its fourth try, however, the Corps of Engineers came up with a cost/benefit study that the committee (and Congress) found sufficiently persuasive to appropriate the first construction money in 1971.

Since then, almost everything about the Tenn-Tom has been seriously questioned. The cost estimates have gone from $323 million in 1970 to $2 billion last year to $3 billion this year. The validity of the Corps' projection on how many barges the new waterway would attract (and, therefore, the validity of its cost/benefit analysis) is in hot dispute.

These complaints, and even a request for a GAO study, have been routinely turned aside. Federal spending on the Tenn-Tom has passed the three-quarter-billion mark, and the House just voted to give it another quarter billion—$58 million of that as supplemental funding to be spent in the next three months.

It was in the debate over that supplement appropriation that Rep. Whitten made his confident statement about the Tenn-Tom's future. Two relatively junior members of the House, Reps. Joel Pritchard and Robert Edgar, had challenged the appropriation on the House floor. They lost 210 to 185, that day and lost again, 216 to 196, last Wednesday when they challenged the 1981 appropriation.

But Mr. Whitten had to pull out all the stops to keep Tenn-Tom alive. There were veiled threats, and some not so veiled, about the fate of other water projects. For some reason, comments about Mount St. Helens and the money's being appropriated to help victims of its eruption kept cropping up in the debate. Rep. Pritchard is from Seattle. Yet, a majorty of the members of the House elected since 1970 voted to defy Mr. Whitten's wishes and only the 2-to-1 support he got from the body's more senior members kept Tenn-Tom in the budget.

The effort to kill the Tenn-Tom and start reclaiming about half the federal investment in it by selling the land the Corps has acquired now shifts to the Senate. We wish it well. The idea of building an alternative to the Mississippi River makes even less sense now than it did in 1874.

[From the Chicago Sun-Times, June 27, 1980]

STOP THIS $3 BILLION BOONDOGGLE

God made one mistake when he made the Mississippi River, in the opinion of Congress and the Army Corps of Engineers. He put it in the wrong place.

So they're building their own mighty river 150 miles east of the Mississippi. The estimated cost to taxpayers: $3 billion.

The actual cost undoubtedly will be much higher. The estimate has gone up a billion dollars in just one year.

Known as the Tennessee-Tombigbee Waterway, it was begun by Richard Nixon in 1971 in a bid for Southern votes. Since then Congress has appropriated $800 million, and the waterway is well on its way toward becoming the most wasteful pork-barrel project in U.S. history.

The billions will be used to dam, dredge and widen the 400-mile Tombigbee River and to dig a 40-mile canal linking it to the Tennessee River in northern Mississippi.

And for what? Primarily, proponents say, to make it easier to barge coal and other commodities. But several companies in the sparsely populated area say they're satisfied to use railroads and the Mississippi River.

The Corps of Engineers says the project will bring $2.50 of economic benefit for each dollar spent. But two outside experts call that a wild fabrication; they say the economy actually will lose 77 cents per dollar spent.

The project also is an ecological disaster

> that will destroy millions of fish and thousands of acres of forest and farm.
>
> Many lawmakers are afraid to oppose it because it runs through the districts of powerful committee chairmen who control spending on pork projects nationwide.
>
> But two gutsy senators, Gaylord Nelson (D-Wis.) and Daniel Moynihan (D-N.Y.), are fighting to kill its 1981 appropriation, which narrowly passed the House Wednesday.
>
> Illinois Senators Percy and Stevenson say they oppose useless spending, but they've been silent on this colossal boondoggle.
>
> How about it, Senators?

> [From the New York Times, June 24, 1980]
>
> RIVER OF NO FINANCIAL RETURN
>
> Anyone credulous enough to believe that Congress seriously wants to hold down expenditures had better take a close look at the $3-billion Tennessee-Tombigbee Waterway. The estimated cost of this pork barrel rises higher every year while its alleged benefits fade. Yet Congress keeps appropriating more funds to push the waterway onto depressed areas of Mississippi and Alabama. It is a triumph of political muscle over common sense.
>
> The waterway has been a boondoggle from the start. It would create a barge route from the Tennessee River to the Gulf of Mexico, paralleling another perfectly usable route—known as the Mississippi River. Calculations of benefits and costs have repeatedly been jiggered to justify the construction while unfavorable audits have been suppressed. Yet the project advances, apparently because the Army Corps of Engineers is eager to build and powerful Southern legislators are determined to see it built.
>
> The only encouraging news is that this Federal beneficience is becoming so embarrassingly expensive that other members of Congress are having second thoughts. The waterway's northern section, the only part so far authorized, would cost almost $2 billion; the southern section, would be needed to complete the route, would cost at least $1 billion more. Mississippi and Alabama have shown little enthusiasm for putting up their own money, as required by law, for related costs. In fact, they have contrived to get some other Federal funds for bridge construction counted as their contribution.
>
> The House approved a supplemental appropriation for the waterway last week, by a surprisingly close vote of 230 to 185. Another key vote is due this week. The project's supporters contend that it is too far along to stop now. Indeed, about $800 million has been appropriated. But half that amount could probably be recovered by selling off the already acquired land. It seems wiser to cut the nation's losses now, at $400 million, than to waste $2 billion more.

Mr. MOYNIHAN. But I would go back 2 years, Mr. President, to just cite some other evidences of a deteriorating level of public confidence in an institution which must not be allowed to have its standing eroded.

The New York Times of December 4, 1978, referring to the Corps of Engineers—I do not endorse this editorial, I cite it—published an editorial entitled "The Engineering of Deceit," and, Mr. President, charged the Corps of Engineers with deceit; a responsible journal does not easily do so.

The Washington Star of November 28, 1978, points out, and I will read to the Senate the facts upon which these charges are ultimately based:

> When this project was first authorized in 1946, the Corps estimated its cost at $120 million. When ground finally was broken in 1972, the estimated cost was $465 million. In 1975 the Corps of Engineers told Congress the cost would be $815 million. Soon it was estimated it would exceed $1 billion, might go to $1.4 billion.

Two years ago the Washington Star said:

> Some published estimates now put the ultimate cost by 1986 at more than $2 billion.

Now, no one doubts the ultimate cost will be $3 billion. Lest anyone thinks these are the comments or the disgruntlements of ruthless cosmopolitans, let me cite the heading of the 1980 editorial by the St. Petersburg Times of St. Petersburg, Fla., an old and established municipality, one highly regarded in this Nation, with an accompanying map, of the route. The editorial is simply entitled "Abetting a Fraud."

Mr. President, I would like to say, second, with respect to the benefit-cost ratios that are used by the Corps of Engineers, that this is, in fact, a powerful and effective tool of analysis in Government. The actual use of benefit-cost ratios was a great enthusiasm of public administration experts in the 1930's. The Brown-Lowe Commission appointed by President Roosevelt very much endorsed it. It was the predecessor a generation earlier of Mr. McNamara as a program, planning, and budgeting system.

In 1936, following the Ohio floods of the previous year, when flood control became a serious enterprise in the Federal Government, the Corps of Engineers began this benefit-cost ratio. They have done well. They are the only agency in the Government required to do it.

The Agriculture Department does not use benefit-cost ratios. You may be sure the outcome of the conference taking place in the Democratic cloakroom at this moment on gasohol will not turn on benefit-cost ratio analysis. You may be sure that the interstate highway system does not have to justify its measures in this way, nor does the Environmental Protection Agency have to justify its measures, but the Corps does. Others should; EPA should.

But, in the meantime, I regret to say that the corps has fallen into practices which have to raise serious doubts in the mind of someone who supports it. To suggest, as the corps does, that the benefits of this project should be discounted at an interest rate of 3¼ percent is to suggest what rarely was and never will be and invites the charge of deception. It invites the charge of fraud. It invites the concern of the Senator from Rhode Island.

I would like to make this proposition to the body: Clearly, this project has been charged with serious departures from established practice and policy. It is, after all, only a device, a waterway to take coal out of Tennessee, out of Appalachia, and ship it to Japan so they could ship automobiles back, which is fine with me. I want to send our coal anywhere. But this has no purpose but the transportation of coal.

As the Senator from Wisconsin knows, there have been changes in the width and depth of the canal, but not its fundamental purpose.

As chairman of the Subcommittee on Water Resources, I will undertake to hold hearings on these charges before the appropriations bill for 1981 comes to the floor, which will be in early August, I would expect. I hope these will be comprehensive. I hope these might settle some of the issues before us.

But, for the moment, I would have to say that the charges are serious enough to require the Senate to pause, especially given the restraints under which we deal.

I would like to speak to a third matter, because the Senator from Louisiana is in the Chamber and the Senator from Mississippi asked particularly that he be here when we carried out this discussion. As the Senator from Louisiana knows, the Committee on Environment and Public Works has reported out a water policy proposal that would, on a 5-year demonstration basis, change the way we discuss and decide priorities in water programs in our country. It would make for a universal system. The system, we say, is national and rational; all States would participate.

At the present time, the Northeast has rarely spoken on these matters, because we are in no way involved. This has traditionally been a regional enterprise. But, as a regional enterprise, it has come to a screeching halt in most places, slowed down, and has come under the charges that are not attractive in other places.

I was surprised, when this bill was reported from our committee, to have some Members of this body act as if it were an impertinence for a Senator from New York to associate himself with water policy. We have water in our State. We have rivers. We have one of the great rivers.

The Senator has water in his State—lakes, I believe.

Mr. NELSON. If the Senator would yield, just so the RECORD is correct, we have 1,500 rivers in my State.

Mr. MOYNIHAN. And the Mississippi, I believe, as well.

Mr. NELSON. And the St. Croix.

Mr. MOYNIHAN. Including the Mississippi and St. Croix. There you are.

Mr. NELSON. We have Lake Superior to the north.

Mr. MOYNIHAN. We have lakes, yes.

Mr. NELSON. Lake Michigan to the east.

Mr. MOYNIHAN. Yes; the mighty St. Lawrence.

So it ought to be considered not altogether out of order or unseemly for us to concern ourselves with a matter which is deply in the national interest.

It was suggested to me that our bill could not be brought up for consideration—the very idea of considering a change in water policy. Well, when the suggestion was made that the chairman of the committee was in the habit of having the bills reported from his committee brought up on the floor of this body for consideration, it was then said, "Well, of course, it will have to be filibustered." That seems to be a routine. That need not be a routine. It is not an appropriate response to what is a crisis in water policy, a crisis evidenced by this matter here today.

The Senator from New York believes in waterways, believes in water projects, and has several times said, a concern which I know the Senator from Louisiana shares, that if we are to move to a greater use of coal, such as we have committed ourselves to, we are going to have to have an extraordinary development of inland water transportation. We are not getting that development because the present program has come to a stalemate and it will persist until there is a change in policy.

I thank the able Senator from Rhode Island (Mr. CHAFEE) and emphasize that the Subcommittee on Water Resources will hold hearings on this critical and controversial project. When the issue returns to this floor in approximately, hopefully, in 1 month's time, we will be able to inform Senators what the subcommittee has learned.

I see the chairman is on his feet. May I yield to him and then, of course, I have concluded my remarks.

Mr. President, the Senator from Rhode Island has the floor; would he yield?

Mr. RANDOLPH. Mr. President, I planned to enter into a brief colloquy, but I can wait, of course.

Mr. CHAFEE. Please proceed.

Mr. MOYNIHAN. We thank the Senator.

Mr. CHAFEE. If the Senator from West Virginia wishes to proceed. I know the Senator from Wisconsin has been waiting.

Mr. RANDOLPH. I shall be brief. The energetic chairman of our Subcommittee on Water Resources (Mr. MOYNIHAN) has studied this project and he will study it further.

Our subcommittees cover a wide jurisdiction. Anyone who looks at the Environment and Public Works Committee will know that it is a working committee, with subject matter that ranges from economic development to nuclear regulation.

I remember when the Senate reorganized the committee structure our committee received more jurisdiction. One of the issues given to us was endangered species. I understood this subject because I was to run for reelection.

Seriously, this is not the place to outline the work of our subcommittees, except to underscore that in our Water Resources Subcommittee through the years since I have been the chairman, we have been very careful in the choice of subcommittee members. They have been Senators who have had an intense interest in the Water Resources Subcommittee, now chaired by the junior Senator from New York.

I know of the concern of the capable Senator who is now speaking to this subject, about water development. He has stressed that many parts of New England and the eastern seaboard States should be areas of more active participation in water resources programs. He understands the value and benefit of these projects.

West Virginia is a State that has much water. Our State has long been known as the mother of rivers. For example, the Potomac River which flows by this Capital City has its headwaters in the mountains of West Virginia. Our citizens have benefited from water-related developments.

Waterborne commerce in our Mountain State has increased steadily over the years with well over 200 million tons now being shipped over our navigable waterways. Three hundred and fifty-five miles of navigable waters in our State have been made possible by the work of the Corps of Engineers in the development of river transportation and flood control.

This transportation activity includes the Ohio, Monongahela, Kanawha, Little Kanawha, and Big Sandy Rivers. These water development programs must be continued.

However, Senator MOYNIHAN is correct in stressing the importance of establishing an orderly, creative, realistic system in the future for the water resources of the United States. His subcommittee and our full committee are dedicated to this task.

Water resources activities bring many varied benefits, not just transportation and flood control.

I recall when the able Senator from Colorado (Mr. HART) was a member of our committee, and he stood almost where Senator MOYNIHAN is standing now. He spoke in reference to water projects.

He made the statement—I listened very carefully—that without water projects in the West carried forward by the Federal Government this area of the country would have been a desert.

People often forget with passage of time the value of these programs that have come about not only through the Corps of Engineers of the U.S. Army, but other Federal programs as well.

Mr. MOYNIHAN. If my chairman will permit me, perhaps he would permit me to amend his remark: "That area would have remained a desert." It was the great American desert.

Mr. RANDOLPH. That is correct. It was the great American desert.

As the able Senator from New York (Mr. MOYNIHAN) knows our committee is composed of 14 members: 8 Democrats and 6 Republicans. We do not take a partisan approach. We do not have a so-called narrow political preference which surfaces.

We have disagreements. Very often these disagreements and differences become our strengths as we hold hearings, markups, and report bills to the Senate. I feel very strongly that the committee on Environment and Public Works provides an opportunity for full expression and discussion of varying views on projects and issues before us.

I assure Members of the Senate of the dedication of the Senator from New York (Mr. MOYNIHAN) to these objectives of full discussion and debate. He will do this job and report back to the Senate, through the subcommittee and committee process, exactly what we find in reference to this issue of the Tennessee-Tombigbee, a project authorized approximately 35 years ago.

Mr. MOYNIHAN. But not before the chairman was in the Congress. I want to thank the chairman with one brief concluding remark, to draw upon his reference to endangered species. I would hope that those of us who care about the transportation policy of our Nation, and the adequate provision of water transportation in that overall policy would know that waterways are becoming an endangered species because the modes by which we have gone about authorizing, justifying, and constructing them are increasingly under attack. They are increasingly successful in their attacks, and increasingly, in my view, warranted in their attacks such as a new approach is necessary.

I have made my remarks. I thank my chairman. He is incomparable in his support for us. The commitment given by him on how I shall try to conduct myself is a commitment by me. I appreciate it more than I can say.

I thank the Senator from Rhode Island for his patience.

Mr. NELSON. Will the Senator yield for a question?

Mr. MOYNIHAN. I am happy to yield.

Mr. NELSON. Did I understand that the distinguished chairman of the Water Resources Subcommittee will conduct these hearings so that the hearing record will be available prior to the authorization bill?

Mr. MOYNIHAN. That would be my hope, and such that it seems to me that we need not go forward with the question before us today. It could legitimately be postponed. By that I mean it seems to me that the 1981 appropriation could provide for these additional moneys if the record appears to warrant it. We will have a hearing record in the face of very serious charges. I think the Senator will agree that these are very serious charges.

Mr. NELSON. There is not any doubt about the seriousness of the charges. I am satisfied, having spent a part of 2 years looking at records, testimony, and affidavits, that if the whole record were disclosed to the public there would not be a single person left in the United States, on the Tennessee-Tombigbee River or any place else, who would stand up and say this is a justifiable project upon which to spend the taxpayers' money. The problem is we have never been able to get a good airing of the issues. I asked for hearings. They were announced 1 year ago, and they were canceled. In the meantime, the corps has been trying to build as rapidly as they can in order to present us with a fait accompli, saying, "We have gone too far. We cannot stop the project."

I am delighted to find people interested in this project. American citizens are concerned about what we are doing. When it is over with, the Tenn-Tom is going to be such a discredited project, if completed, that it will damage all other projects all over this country. That is what concerns me. I thank the Senator.

Mr. MOYNIHAN. I thank the Senator from Wisconsin.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, waterway projects are indeed an endangered species in this country and I think to a large extent because such good fun is had with waterway projects. My distinguished friend from New York, a wonderful phrasemaker, talks about a boondoggle on the Mississippi River, and the Washington Post talks about waste. Of course, when they are talking about the Pennsylvania Avenue Corporation, over $100 million just to fix up the facade of Pennsylvania Avenue, that is not waste, that is not boondoggle. No; that is in the national interest.

This happens to be down South, a waterway project. When that is involved, then the Washington Post, the railroad and environmentalists cabal, that group of people who always seem to think together, are always against the waterway projects.

Mr. LONG. Will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. LONG. I would suggest those on the Appropriations Committee get ready. We are going to be asked to put hundreds of millions more into that turkey they call the Conrail. That is not making any money either. Of course, we will have to accommodate them. We will have to help take care of them.

Mr. JOHNSTON. Did the Senator know that when the railroad rehabilitation program, the Northeast Corridor, was first suggested 2 or 3 years ago, they said it would be $1 billion. It is now up to $3.5 billion. But, no, that is different. That is inflation. But it is deceit and fraud when you are talking about an increase in the cost of waterway projects.

Mr. CHAFEE. Will the Senator yield for one quick question?

Mr. JOHNSTON. When I am finished, Mr. President.

Mr. NELSON. May I interrupt this long enough to say to the distinguished Senator——

Mr. JOHNSTON. No, Mr. President, I shall not yield yet. I have let the proponents of the amendment yield around to one another now for a long time.

Mr. NELSON. I should like to call to the attention of the Chair that I was standing here asking for recognition while the Senator from Louisiana was in the cloakroom, and I should like to get recognized next.

The PRESIDING OFFICER. The Senator from Louisiana has the floor and declines to yield.

Mr. NELSON. I am calling the attention of the Chair to the fact that I was on my feet for a long time prior to the Senator from Louisiana.

Mr. JOHNSTON. I shall yield in a moment, Mr. President.

The PRESIDING OFFICER. The Senator from Louisiana has been recognized and has the floor and declines to yield.

The Senator from Louisiana.

Mr. JOHNSTON. I shall yield in just a moment, Mr. President. I just want to make a few remarks.

We can talk about all the charges in detail and I have a very detailed analysis of all these charges. I can tell that in my judgment, and I have read this, the charges are ill-founded.

In the opinion of others and in the opinion of the Senator from Wisconsin, who has been opposed to this project since it first started, they are well founded. We are all entitled to our opinion.

Mr. President, these charges of "deceit and illegality" have been tested in the courts of the United States not once, but six times, up through the Circuit Court of Appeals. On each occasion, these charges have been rejected—rejected on six occasions, Mr. President.

The Senator from New York may have confidence that his subcommittee can take these volumes and volumes of environmental impact statements—I think it is nine volumes of environmental impact statements—the records from six court hearings with all the briefs, all the testimony from the Corps of Engineers, and I doubt that the committee, even the committee staff, has time for that. It is totally impossible for that committee to take that record and do justice to it.

I can discuss the individual points of the matter ad infinitum, Mr. President. Let me boil it down to its essentials.

The essential fact is that 70 percent of the funds have been committed to this project, most of those spent; $1.2 billion has been committed or spent. And if we terminated today, we would have to spend the full $1.2 billion, which is 70 percent of the total, whether we terminate it or not.

The cost-benefit ratio of what is left is over 2½ to 1—over 2½ to 1. If we took the suggestion of my friend from New York and said, "Well, let's not kill it; let's just not fund it this year, have these hearings," then here is what would happen.

First, contractors would be issued out-of-funds notices and be told they could elect to continue work, suspend work, or terminate work. As a minimum, an additional $52 million would be required in fiscal year 1981 to cover the unmet contractual requirements. Some 3,000 employees would be laid off, out of work—at least a third of those are minority employees. We would have raging unemployment in an area that is already hard hit, as is all of the Nation. And for what, Mr. President? To reconsider that which has been considered 6 times in the courts, 13 times in Congress.

The matter was here last year, Mr. President. The only thing that has changed between this year and last year is that another court has decided. This time the Circuit Court of Appeals decided in March and upheld against these allegations. One more court decision has happened and over $200 million additional has been spent. That is all that is different between this year and last year.

I should add one more thing. The President, at the summit, has agreed with our colleagues of the Western World that we will commit ourselves to double coal production and consumption to 1.5 billion tons by the year 1990, present consumption being 775 million tons. One of the biggest bottlenecks for achieving that kind of coal consumption is the lack of shipping facilities for much of the coal. Eastern ports are clogged and cannot be unclogged quickly. The Port of Mobile offers a very good avenue, probably the most efficient avenue of all, to ship that eastern coal from Kentucky, Tennessee, and Alabama. Some may possibly even come from West Virginia, from Pennsylvania, from other States in the East. It would open up that whole area to meet the President's goal of coal. That is all that has changed since last year.

Mr. President, it is inconceivable to me, absolutely inconceivable, that Congress would stop a project 70 percent committed to funding, with 80 percent of the miles of the canal either complete or under construction, and walk away from it and say, "Let us just terminate the project."

Mr. TSONGAS. Will the Senator yield for a question?

Mr. JOHNSTON. Yes. I yield for a question.

Mr. TSONGAS. I point out to the Senator that I was in the chair and I listened to the Senator make the opposite argument on the solar tower question. It might make some interesting reading later, to go back and read the RECORD in the future and see how inconsistency seems to be the rule of the day.

Mr. JOHNSTON. Mr. President, I think there is no inconsistency. On the solar power tower, I began my speech by saying we shall work it out in conference, making the same argument, that committing funds and not finishing is a bad thing. But I opposed the amendment when it was pressed on the floor: First, because it broke the budget ceiling, and second, it you want to get into the details, there was only some $28 million committed on that project out of over—$28 million actually spent out of over $139 million; whereas, in this case, we have 70 percent spent or committed out of a total of 100.

That is the difference, and I am working with the Senators from California, as a matter of fact, to work out a way to get that funding.

Let me further say that this has a cost-benefit ratio of 2½ to 1 and the solar power tower, the power from that costs many, many times the cost of conventionally powered electricity. So there is a great difference and there is no inconsistency, I submit to the Senator.

Mr. MOYNIHAN. Will the Senator yield?

Mr. JOHNSTON. I yield to my friend from New York.

Mr. MOYNIHAN. I just wanted to make a simple comment on two things: First, to say that the Senator surely has heard me speak to the need of water transportation for coal. I could not be more concerned about that. It is our failure to get it that concerns me.

Second, on the question of benefit-cost ratio, that wonderful idea, as I say, of the Brown-Lowe Commission—one has to admit that there is some selectivity about what enterprise we are talking about. At present, the benefit-cost ratio for the entire Tenn-Tom is estimated to be 1.18 at a 3¼-percent interest rate.

Now, if we are going to take a benefit-cost ratio for that part which completes it, well, I see the distinguished Senator from California is on the floor. Suppose you had built the Golden Gate Bridge

40 percent over from San Francisco and 40 percent over from Oakland and you had 20 percent empty in the middle. If you ascribed all of the benefit of the bridge to that 20 percent, that is a very important 20 percent, and you might say the benefit-cost ratio is very high. You could say that without that 20 percent, it really is important to have that little part in the middle. But it is not exactly the same as analyzing the total cost of the program.

The benefit-cost ratio for the remaining division of the canal will be raised in the hearings, but I did want to reassure the Senator of my concern on the subject.

Mr. JOHNSTON. Let me ask my friend, why is it not legitimate if you have some cost—we have some cost here of almost $1.2 billion, which we cannot get back and we cannot use. Why is that not legitimate to be considered?

Mr. MOYNIHAN. It may be, but that raises the question of, How did you get youself in that fix? Which is what the hearing is going to be about. I am not sure. I do not know.

Mr. JOHNSTON. I was not here 13 years ago when this began——

Mr. MOYNIHAN. The matter was raised in 1824, so the Senator should not feel bad.

Mr. JOHNSTON. When Congress first debated it, to proceed with construction, I was not here in 1971, when my friend from Wisconsin (Mr. NELSON) made the same argument. I have been here on a number of occasions since that time and voted for the Tenn-Tom with the big majority of the Senate.

Mr. MOYNIHAN. If the Senator will allow me to say, it is my clear understanding the idea for this project was Franklin D. Roosevelt's. He said to move it ahead. So, obviously, it makes it clear to me and ought to remind the Senator of the bounty that has flown south from Hyde Park.

Mr. JOHNSTON. The Senator from New York on reflection would probably say that Franklin Roosevelt was wrong, I guess, to propose it. But he cannot really say we ought to stop it at this time.

Mr. MOYNIHAN. The Senator from New York did not say that. He said, he would hold hearings.

Mr. JOHNSTON. Does the Senator from New York want to fund the project, in the meantime?

Mr. MOYNIHAN. I think this year's funding should do this year, and next year's funding should be taken that year.

But I know the Senator from Wisconsin wants to speak on that.

Mr. JOHNSTON. Let me ask the Senator from New York, the amendment here would take away the fiscal year 1980 funding——

Mr. MOYNIHAN. Supplemental funding. Surely.

Mr. JOHNSTON. The supplemental funding.

Mr. MOYNIHAN. But we funded this to 1980. Let them spend what they were provided for in 1980.

Mr. JOHNSTON. Some 90 projects ran out of money, and the 90 projects, including Bloomington Lake, in Maryland, West Virginia—I have many pages here of projects, in the same situation.

Mr. MOYNIHAN. Do not tempt us, I say to the Senator.

Mr. JOHNSTON. Does the Senator really want these 3,000 employees to be laid off?

Mr. MOYNIHAN. No.

Mr. JOHNSTON. And the project terminated?

That is what would happen if we did not provide the money, if the Senator provided a special amendment with such treatment for Tenn-Tom that said, "We terminate the project." The Senator does not want to do that, does he?

Mr. MOYNIHAN. The Senator has spoken enough. The sponsors of the amendment are on the floor and the Senator from Wisconsin has not been heard yet.

Mr. JOHNSTON. Mr. President, a moment ago the Senator from Wisconsin wanted to ask me a question. I am glad to receive it at this point.

Mr. NELSON. It has been so long ago, I cannot remember the question. But when the Senator is through, I will be glad to speak from my desk here.

Mr. JOHNSTON. I say, Mr. President, to my colleagues that I think the issue here is, honestly, quite clear. It is a terribly important project to many Members who would want to speak for it. It is sort of the traditional boondoggle to many, including, certainly, the Senator from Wisconsin who opposes this every year.

I know from the past debates that this could extend on ad infinitum. I feel constrained to get ready to offer a motion to table. I feel constrained to, but I am advised that a number of my colleagues want to be heard. I will, therefore, withhold the motion, but only ask that we not have the full debate, but vote as quickly as we can.

I yield the floor.

Mr. BAKER addressed the Chair.

Mr. JOHNSTON. Mr. President, I yield for a question from Senator YOUNG.

Mr. YOUNG. Mr. President, I would like to comment on the debate here today concerning efforts to improve river navigation, specifically the Tennessee-Tombigbee project.

For years, the late Senator from Louisiana, Mr. Ellender, worked hard to improve navigation in the rivers of this country, not only in Louisiana, but in rivers all over the United States including locks and dams and harbor improvement.

He was severely criticized then. But if it had not been for that great improvement in navigation, we would be in terrible shape in the United States, particularly in the Midwest, the Ohio River Basin and everywhere. Railroads service has practically broken down. With all the business they have they cannot provide half the transportation that is necessary.

If we want to continue to be a great Nation, we will have to continue to improve our navigation.

After having spent this much money on a project, it just would not make sense to abandon it.

Mr. JOHNSTON. I quite agree with my distinguished friend from North Dakota.

I yield the floor.

The PRESIDING OFFICER. Is the Senator from Tennessee seeking recognition as the minority leader?

The Senator from Tennessee.

Mr. BAKER. Mr. President, I am perfectly happy to yield to the Senator from Wisconsin.

Mr. NELSON. Mr. President, I intend to discuss the pending issue, but I am perfectly prepared to allow the Senator to proceed.

Mr. BAKER. Mr. President, I intend to speak on this point, as well. I will wait in turn until the Senator from Wisconsin has completed his remarks.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. NELSON. Mr. President, first, let me make it clear that I agree with the Senator from New York. There are sound and appropriate water projects, and I support them, and there are those that are not sound, and I oppose them.

Just so that no one will conclude that I am opposing Tennessee-Tombigbee, which I have opposed now since its beginning 8 or 9 years ago, just so no one supposes I am opposing it because it is in some other part of the country, I point out to the Members here that I opposed the largest project in the history of my State, the Kickapoo Dam.

The corps went ahead with it, got it half completed. It was put on the President's hit list because it did not have a positive cost-benefit ratio and it would have been in violation of the water quality standards of the State.

I supported stopping the project. The funding of the project was stopped. I got a lot of criticism for it. It was not a good project, but it was in my State.

The Mississippi River is the most heavily trafficked river in this country. The Corps of Engineers had a plan to deepen the river from 9 to 12 feet, from lock and dam 26 up to Minneapolis, all along the border of the State of Wisconsin where all kinds of shipping come and go.

I oppose it. I do not think it should be done, and I do not think it will be done.

I want to make it clear to the Members here in those areas directly affected, I do not oppose the Tenn-Tom because it is in the South or not in my own territory. I oppose a project such as this because the cost-benefit ratio is negative.

I think when the hearings are finally held, it will be amply disclosed to be so.

For example, the Senator from New York mentioned that one of the most important purposes of the river was to haul coal.

In the cost-benefit ratio, 70 percent—70 percent—of that benefit is to come from shipping coal.

Let us see about the coal shipping. It is fascinating. The people who are listed by the corps as shippers of coal, who were to be responsible for $40 million of the annual navigation benefits, here is what they say.

Gulf Power Co.—this is one of the coal shippers that the corps is using to show total transportation benefits on that river—Gulf Power Co. says it will ship no coal on that waterway. The corps said 8 million tons per year.

The removal of these coal shipments subtracts nearly one-fourth of the total transportation benefits claimed by the corps and, by itself, destroys the whole benefit-to-cost ratio.

Now, what about the Kentucky Energy Development Corp.? They were asked, but they did not respond. They did not respond when they were asked how much they would ship, although the corps counts them for a certain amount of tonnage of shipping.

Why did not the Kentucky Energy Development Corp. respond? They did not respond because they are out of business. They were credited by the corps with the intention of shipping 2.4 million tons of coal over the project, at annual benefits of over $10 million. A nonexistent company is credited with shipping benefits of $10 million.

What about the Hawley Fuel Co. of New York? That is the State represented by Senator Moynihan. It is relied upon by the corps to ship 1.5 million tons of coal a year over the project. The company responded that they owned no mines in the area and did not intend to use the waterway.

So now we have a situation in which of the $86 million in annual navigation benefits claimed by the corps in 1978, more than $40 million was for coal shippers who either were out of business or whose shipments did not exist or who stated flatly that they would not use the waterway.

I have been raising this question year after year. Nobody ever answers. That is why it is very important that the chairman of the Water Resources Subcommittee, Mr. Moynihan, is going to have hearings, so that we will have an opportunity to disclose publicly what is going on here.

I should like to put into the Record a collection of editorials. Mr. President, I ask unanimous consent that the following editorials be printed in the Record at the conclusion of my remarks: The Detroit Free Press, June 24, 1980, and an editorial referred to by the Senator from New York, from the St. Petersburg Times, of April 23, 1980.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

Abetting a Fraud

It figures. In 1971 the government called a halt to the Cross Florida Barge Canal to save the environment and nearly a half-billion dollars. That same year, the government set out to dig the Tennessee-Tombigbee Waterway, which will ruin more land and squander as much as $3-billion.

The Tennessee-Tombigbee is a sorry fraud. Adding insult to injury, the state of Florida—whose citizens rallied to block the barge canal—is being used as a patsy to promote it.

The barge lobby's grand scheme is to make completion of the Tennessee-Tombigbee the predicate for resuming construction of the Cross Florida Barge Canal.

This danger was made clear in an excellent article Sunday in The Floridian. Writers Robert Ratner and Jeffrey Rothfeder recounted the Tennessee-Tombigbee's dismal history. They noted also that since 1967 Florida has belonged to a five-state development authority that was created to lobby for the waterway.

The 1967 law declared candidly that Florida's membership "will materially assist in the development of Florida's waterway projects."

Reubin Askew, governor form 1971 to 1979, opposed such man-made catastrophes, and during his administration Florida was an inactive partner in the Tennessee-Tombigbee boondoggle.

But Askew's footsteps are growing cold. Agriculture Commissioner Doyle Connor, one of the Florida delegates to the five-state authority, has been defending the Tenn-Tom. ". . . I bet you some day they'll build that Cross Florida Barge Canal," says an approving Harvey Cotten, another Florida member.

Askew's successor, Bob Graham, needs to take a stand—and quickly. Florida should withdraw from the five-state authority and declare active opposition.

The Tennessee-Tombigbee is a terrible example of government waste and irresponsibility.

The Army Corps of Engineers, in making traffic projections, assumed a canal width nearly twice what the Congress had approved.

Without asking Congress, the Corps then simply began to build it nearly twice as wide.

When work began, the Corps told Congress it would cost only $815-million to dig 232 miles of canal through Mississippi and Alabama, linking the Tennessee River with the Tombigbee at a point near Demopolis, Ala. But, as the forecasts rose to $1.8-billion, Corps officials deliberately concealed the truth from Congress and the public. And when Congress found out they rewarded the deception by throwing more money into the ditch.

Also kept secret was the fact that if the waterway is ever to carry the barge traffic the Corps predicted, as much as $1-billion more will have to be spent widening the Tombigbee for 217 miles south of Demopolis.

The Corps' basic projection—that the canal will save shippers at least as much as it's costing the taxpayers to build the waterway—cannot be believed. Several major shippers whose business was assumed say they won't use it. A Kentucky mine specified as a source of coal shipments doesn't exist. And so on.

The venture would have collapsed long ago but for the power of congressional sponsors such as Sen. John Stennis, D-Miss., former Sen. James Eastland, D-Miss., and Rep. Jamie Whitten, D-Miss., chairman of the House Appropriations Committee. They put their egos, parochialism and self-interest ahead of good government.

At least the state of Florida should not be their accomplice.

Pork & Water: How To Save Billions by Scuttling the Tenn-Tom

The Tennessee-Tombigbee waterway is the kind of public works project once beloved by kings and pharaohs who drained off the public wealth to build monuments to themselves. If it's completed, the Tenn-Tom will be a monument, too: to the pork barrel, to the relentlessness of the Corps of Engineers, to the clout of a handful of Southern congressmen.

Even by the Corps' own estimates, the Tenn-Tom is going to cost more than $3 billion. A former congressional economist says it will return about 30 cents in benefits for every $1 it costs to build. No matter. While Congress cuts aid for the cities, for jobs and social services, it still manages to find money for the Tenn-Tom.

The 1980 budget contained $240 million—nearly a quarter of a billion dollars—for continuing construction of the waterway, which will widen and straighten the Tennessee and Tombigbee rivers from the Tennessee-Mississippi border to the Gulf. For 1981, another $225 million is tucked away in a pending water development bill.

Yet all the awful things you ever heard about the pork barrel apply to the Tenn-Tom. It's unnecessary and inflationary. It'll destroy the river and forests along its route, and compound flood problems by speeding the high waters downstream every spring. It's the premier example of a crazy federal water policy that drains public funds away from the northeast and midwest to finance projects that do more harm than good in the south and west.

Last week an effort to delete Tenn-Tom funding from a 1980 supplemental appropriations bill failed; this week the House has a chance to scuttle funding for 1981. The Michigan delegation has generally looked askance at water project funding, a view that cuts across party lines: Republican David Stockman has spoken out against the economic idiocy of the Tenn-Tom. Democrat David Bonior and others have led the fight against the watery pork barrel. If ever there were a project to look askance at, it's the Tenn-Tom. And if ever there were a way to fight inflation and the federal deficit, it's by voting against the funds to perpetuate it.

Mr. NELSON. Mr. President, 7 weeks ago, during our consideration of the first concurrent budget resolution, I cosponsored a resolution with my distinguished colleagues from Maine (Mr. Cohen) and Wyoming (Mr. Simpson)—an amendment which would have reduced the Federal budget by $500 million by cutting spending on unnecessary water projects. At that time, I indicated that the prime example of wasteful water project spending was the Tennessee-Tombigbee Waterway. The cost to the American taxpayer of this project now exceeds $3 billion, which is a 50-percent increase over the $2 billion price tag reported just last year.

Last year, fiscal year 1980, the Congress appropriated $165 million for construction of this project. Another $23.5 million was transferred from other projects. In the supplemental appropriations bill before us today, the corps is back asking for an additional $58 million in fiscal year 1980—for a grand total of $246.5 million this year alone. For fiscal year 1981, $225 million has been requested, but given the performance in fiscal year 1980, you can be sure that far more than $225 million will be demanded before the end of that fiscal year. A New York Times editorial this week questioned the wisdom of spending any more money on this project:

River of No Financial Return

Anyone credulous enough to believe that Congress seriously wants to hold down expenditures had better take a close look at the $3 billion Tennessee-Tombigbee Waterway. The estimated cost of this pork barrel rises higher every year while its alleged benefits fade. Yet Congress keeps appropriating more funds to push the waterway onto depressed areas of Mississippi and Alabama. It is a triumph of political muscle over common sense.

The waterway has been a boondoggle from the start. It would create a barge route from the Tennessee River to the Gulf of Mexico, paralleling another perfectly usable route—known as the Mississippi River. Calculations

> of benefits and costs have repeatedly been jiggered to justify the construction while unfavorable audits have been suppressed. Yet the project advances, apparently because the Army Corps of Engineers is eager to build and powerful Southern legislators are determined to see it built.
>
> The only encouraging news is that this Federal beneficence is becoming so embarrassingly expensive that other members of Congress are having second thoughts. The waterway's northern section, the only part so far authorized, would cost almost $2 billion; the southern section, which would be needed to complete the route, would cost at least $1 billion more. Mississippi and Alabama have shown little enthusiasm for putting up their own money, as required by law, for related costs. In fact, they have contrived to get some other federal funds for bridge construction counted as their contribution.
>
> The House approved a supplemental appropriation for the waterway last week, by a surprisingly close vote of 230 to 185. Another key vote is due this week. The project's supporters contend that it is too far along to stop now. Indeed, about $800 million has been appropriated. But half that amount could probably be recovered by selling off the already acquired land. It seems wiser to cut the nation's losses now, at $400 million, than to waste $2 billion more.

Wednesday's vote in the House to limit the fiscal year 1981 funding for the Tenn-Tom was even closer than the vote on the supplemental fiscal year 1980 appropriations, 196 ayes to 216 nays.

Over a year ago, I introduced with my distinguished colleague from New York (Mr. MOYNIHAN) and others a bill to deauthorize this project (S. 769). At that time, March 27, 1979, the overriding question was whether or not the project was economically justified. The evidence is extensive and compelling that it is not. It is time, in fact far past time, for this evidence to be brought before the Congress for a full review.

New, even more damning information on this project has come to light since the deauthorization legislation was introduced last year. In 1 year, the ultimate project cost has increased by 50 percent. In 1979, the Corps of Engineers advanced a cost estimate of $2 billion, while I reported that independent experts were estimating that the cost would be closer to $3 billion. As we predicted then the private estimate would be more accurate than the corps estimate. Not surprisingly, in 1980, the corps now admits that the project cost will exceed $3 billion.

Another example: In September 1979 the U.S. Fish and Wildlife Service published its fish and wildlife coordination report, which found that it will be necessary for the corps to acquire 118,800 acres of prime farm and forest land to mitigate project impacts on fish and wildlife habitat. Not only are the estimated $38 million in land acquisition costs not included in the $3 billion price tag for the Tenn-Tom, but the resulting cost of $320 per acre is probably underestimated by a factor of at least two. Furthermore, the acreage that would be taken is potentially productive farm and timber land which should remain on the tax rolls rather than being added unnecessarily to the Federal land burden.

The price tag of the Tenn-Tom has increased nearly tenfold since the 91st Congress first appropriated construction funds in 1971—then, $323 million. Its yearly cost increases have exceeded the rate of inflation and indeed are a classic example of the kind of wasteful, politically generated Federal spending that has helped to generate the current rate of inflation. Annual spending for this project has increased by 15.8 percent for each of the past 2 years, significantly faster than the overall Federal budget which has gone up at a much-maligned rate of 11.8 percent. So far, approximately $868 million has been spent. But well over $2 billion remains to be appropriated for this meritless project. Halting the Tennessee-Tombigbee Waterway would be both a boon to the taxpayers and a symbolically significant step in reducing fruitless Federal spending.

A DESCRIPTION OF THE TENNESSEE-TOMBIGBEE WATERWAY PROJECT

A brief description of the Tennessee-Tombigbee Waterway and a review of its economic history may be useful. The original project was authorized in 1946 for the purpose of facilitating barge traffic on the inland waterway system. But the project which is currently under construction is not the project that was authorized by Congress.

The Tennessee-Tombigbee Waterway project is a 232-mile-long navigation channel from the Tennessee River at the Pickwick Pool in Tennessee to the Tombigbee River, terminating at Demopolis, Ala. Starting at the northern terminus of the project, this channel consists of three distinct sections: a 40-mile cut section through a divide connecting the Tennessee River to the Tombigbee River; a 44-mile canal section with five locks and dams, which parallels the river from the Bay Springs lock and dam to Amory; and a 148-mile river section with four locks and dams from Amory, Miss., to Demopolis, Ala. From Demopolis, the southern terminus of the authorized project, barge traffic would continue on the Tombigbee to the Gulf of Mexico at Mobile, Ala.

It is important to note the distinction between what the corps calls the "initial" project and what it calls the ultimate project costs, it is referring to are for the authorized project from the Pickwick Pool of the Tennessee River to Demopolis, Ala. When the corps reports ultimate project costs, it is referring to an unauthorized project which extends another 217 miles from Demopolis to Mobile, Ala. I will return to this issue, since it is for the ultimate unauthorized project that the benefit/cost ratio for this boondoggle has been calculated by the corps.

HISTORY OF THE TENNESSEE-TOMBIGBEE WATERWAY

For 21 years following its 1946 authorization, the corps was unable to justify construction of the project on economic grounds. In 1946, at the time of authorization, the benefit/cost ratio was 1.05 to 1. In 1951, at the conclusion of hearings by the House Appropriations Committee, that committee reported that the project was not economically sound, and that its staff had found the benefit/cost ratio to be 0.27 to 1. All planning was therefore directed to be discontinued, the funds previously allotted to the Tenn-Tom were revoked, and the project was placed in a "deferred-for-restudy" category.

The first restudy was called for in 1957 and completed in 1962. Again, the House Appropriations Committee rejected the project on economic grounds. The benefit/cost ratio was then calculated to be 1.08 to 1. In 1964, a second restudy was undertaken by the corps. This time, the corps dramatically changed the design of the project, without obtaining, or even asking for, authorization from Congress.

By nearly doubling the width of the project, from the authorized width of 170 feet to 300 feet, and by adding duplicate locks at two locations, the corps was finally able to increase the projected benefit/cost ratio to 1.24 to 1.

However, the text of Secretary of the Army Stanley Resor's cover letter submitting the economic reevaluation report to the Appropriations Committees in 1967 illustrates that even with this benefit/cost ratio, the economic foolhardiness of the project was fully recognized.

> The Tennessee-Tombigbee project has been under study for many years; in fact, the first study can be traced back to 1874. The current report is the fourth on this project by the Corps of Engineers since the end of World War II. In each previous instance the proposed investment was found only marginally justified; and that is also the case with the present study.
>
> Each purpose served by a project such as this must be economically justified. The principal purpose served by the Tennessee-Tombigbee Water project is navigation, which accounts for about $311 million of the total first cost. The estimated benefit/cost ratio for these features of the project required solely for navigation is 1.01 although if area redevelopment benefits are added, it reaches 1.24.
>
> While the inclusion of redevelopment benefits is not inconsistent with sound economic analysis, I have reservations about the wisdom of investing in a project which depends so heavily on counting local wage payments in calculating the benefit/cost ratio.
>
> Furthermore, if the costs of the project prove to be even slightly underestimated, or the projected waterway traffic slightly overestimated, the present barely favorable benefit/cost ratio will be lost.
>
> All in all, the conclusion is inescapable that the Tennessee-Tombigbee navigation project continues to lack that margin of economic safety which typically marks federal investments in water resource development.

Nevertheless, the project received approval for planning funding. Construction funds were first appropriated in 1971, and construction began in December 1972. Since 1974, project costs have skyrocketed, and project benefits have plummeted. Using corps estimates, the benefit/cost ratio dropped from its all-time high of 1.6 to 1 in fiscal years 1970 through 1972 to 1.2 to 1 in 1980, below the level that former Secretary of the Army Stanley Resor called marginal in 1967.

However, even this marginal benefit-to-cost ratio is bluntly repudiated by independent expert analysis by Dr. Joseph

L. Carroll of Pennsylvania State University and Dr. Robert Haveman of the University of Wisconsin, which shows that a more realistic figure for the benefit/cost ratio is closer to 0.23 to 1. Thus, instead of providing a return on the Federal investment, the Tennessee-Tombigbee Waterway will actually lose money on every dollar we sink into it.

That the Carter administration considers the project's economic credentials dubious is demonstrated by the Tennessee-Tombigbee Waterway's inclusion in its water project review.

In February 1977, the Tenn-Tom was included in the Carter administration's major review of water resource projects, because it did not meet the economic and environmental criteria established by the administration. Specifically, the Tenn-Tom failed to meet the administration's environmental criterion that completion of a project would not result in any major adverse environmental impacts, and it failed to meet their economic standard "that incremental benefits will exceed the remaining costs"—when discounted at a rate of 6⅜ percent. On April 18, 1977, the President released the findings of the Tenn-Tom evaluation:

> Environmentally, the project will destroy productive agricultural and forest land, free-flowing streams and wildlife habitat; it will reduce fisheries resource and cause water quality degradation; it will require relocation of 230 families and loss of archeological sites.

Economically, the remaining costs and benefits discounted at the then-current rate of 6⅜ percent resulted in a benefit/cost ratio of 0.87 to 1, clearly not meeting the administration's own standard.

Even so, Federal funding for the Tenn-Tom was not discontinued. I believe the facts demonstrate that this unfortunate decision to continue funding the Tenn-Tom was, like so many previous decisions regarding this project, clearly unjustified.

The Tennessee-Tombigbee is an economic disaster. When the 79th Congress first authorized the project, they thought they were committing $117 million in Federal funds. When the 91st Congress first appropriated funds to begin construction, the cost was reported as $323 million, a relatively modest increase over 25 years. The rate of increase is no longer modest. It is, in fact, shockingly immodest. According to the corps, the total cost to the American taxpayer was estimated in fiscal year 1973 at $386 million; in fiscal year 1975, $623 million; in fiscal year 1977, $1.36 billion; in fiscal year 1980, it was $1.677 billion; and today, in fiscal year 1981, it is $1.925.

BENEFITS AND COSTS

The figures discussed above refer to "initial" project costs. In themselves, those figures should doom this project. However, there is another aspect to the reporting of benefits and costs which is even more devastating to the economic case for the Tennessee-Tombigbee Waterway.

As I indicated at the outset, the corps was unable to justify the Tennessee-Tombigbee Waterway until the project was nearly doubled in size, without congressional authorization. From 1966 to 1975, the projected benefits were based on an unauthorized 300-foot-wide, 449-mile-long waterway, rather than the authorized 170-foot-wide, 232-mile-long waterway. Costs, however, were reported only for the authorized project. In 1976, the corps partially abandoned this ruse by modifying their annual budget submissions to Congress to differentiate between the "initial" 232-mile project, to Demopolis, and the "ultimate" 449-mile project, to Mobile. The benefits and costs for the project since construction funds were first appropriated in 1971 are presented in a table which I ask unanimous consent to have printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Fiscal years	Initial cost	Ultimate cost	Initial B/C ratio	Ultimate B/C ratio
1971[1]	$323	NA	1.6	NA
1972[1]	$346	NA	1.6	NA
1973[1]	$386	NA	1.5	NA
1974[1]	$465	NA	1.5	NA
1975[1]	$623	NA	1.5	NA
1976[1]	$815	NA	1.4	NA
1977[2]	$1.36	NA	1.08	1.3
1978[2]	$1.41	NA	1.15	1.4
1979[2]	$1.56	$1.874	1.19	1.3
1980[2]	$1.677	$2.013	1.2	1.3
1981[2]	$1.925	$3.030	[3] 2.5	[3] 2.3

[1] Dollar amounts in millions.

[2] Dollar amounts in billions.

[3] Calculated as remaining benefits and costs.

Mr. NELSON. Mr. President, the ultimate project cost has jumped from $2 billion to over $3 billion in a single year. And even this fantastic figure is based on an absurdly low interest rate of 3¼ percent. But as we all know, no one, including the Federal Government, can borrow money at 3¼ percent.

In the past, every fiscal year request has included a benefit/cost calculation for the project based correctly upon total benefits, however inflated, and total costs, however understated. Only by such a presentation of total benefits and costs can a fair and accurate evaluation of the project be made. Indeed, the regulations of the Corps of Engineers require that total benefits be compared to total costs in arriving at a true benefit/cost ratio. At last year's ultimate cost of $2.013 billion, the benefit/cost ratio was 1.3 to 1.

This year, however, the corps has used an economic sleight-of-hand to conveniently "write-off" nearly $900 million and produce a benefit/cost ratio of 2.3 to 1, which is wholly imaginary. Rather than comparing the total benefits and costs of the project, the corps has compared only the "remaining" benefits and costs. Since all the "benefits" of the project "remain" to be realized, the corps thus is able to continue to use the total benefits of the project in calculating the ratio.

However, without explanation or rationale, the corps uses only the "remaining" costs of the project in calculating the benefit/cost ratio, thus effectively disregarding the $868 million which has already been allocated for construction. As anyone can see, such a comparision not only makes no sense, it artificially inflates the benefit/cost ratio to a level of laughable dimensions. Using such sophistry, the benefit/cost ratio of a project increases with each dollar spent.

The simple fact is that calculating the ratio in the traditional and required manner would have relegated the project to the scrap heap. Based on the method for calculating the benefit-cost ratio which was used last year and every previous year, the 1981 benefit-cost ratio for the Tennessee-Tombigbee Waterway should be closer to 1.04 to 1. Apparently, the corps preferred not to report such a figure. Thus, instead of facing the issue squarely and admitting the disastrous economics of Tenn-Tom, the corps has chosen to fabricate a benefit-cost ratio and mislead the Congress.

This conduct is unacceptable in light of the obvious necessity for fiscal candor and restraint.

The importance of this project goes far beyond the lack of candor exhibited by the corps. The inflation rate in this country is at a disaster level. A courageous decision to eliminate waste from the budget of the Corps of Engineers by deleting the request for the Tennessee-Tombigbee Waterway would have provided an important example of this administration's dedication to cutting needless expenditures. Indeed, very few other actions would have more dramatically underscored a commitment to halt inflation.

At some point, we must realize that this Nation cannot afford the pork barrel politics of the past any longer. The 30-year history of the Tenn-Tom clearly demonstrates that it is economically unjustified. Hearings on this legislation would provide Congress with the opportunity to evaluate the economic worth of the project, which has so far been pushed along by inaccurate, misleading, and sometimes deliberately deceptive analyses of its benefits and costs.

Mr. President, the cost to the American taxpayer of this project now—now, as of this year—will exceed $3 billion. The fascinating thing about that statistic is that last year, it was pointed out in the debate that the project was going to cost $3 billion.

Mr. JOHNSTON. Mr. President, will the Senator yield on that point?

Mr. NELSON. I yield.

Mr. JOHNSTON. The $3 billion includes part that is not even authorized—the lower part of the project, which is not a necessary part. Is that not correct?

Mr. NELSON. Yes; and the corps, I think, is using in their cost-benefit ratio the assumption that the ultimate project from Demopolis to Mobile will be completed. That is correct.

Mr. JOHNSTON. I am advised that it is not correct that the corps is considering that as part of the cost-benefit ratio of the authorized project.

That is separate.

Second, only the authorized part has been used in the cost-benefit ratio, which is 2½ to 1 for the remaining part; and the bottom part, from Mobile north, is not essential for the project, because that is already an existing navigable stream. Is that not correct?

Mr. NELSON. I believe the hearings

will disclose that unless they get an authorization for the part below, the barge tows will be too big to complete the travel from Demopolis to Mobile.

Mr. JOHNSTON. I am advised that that is not correct. It would not be as efficient as an additional authorized project, but it would be entirely usable for barge traffic.

Mr. NELSON. I understand that it will be, but not for barge tows of the size that will be used in the upper river.

Mr. JOHNSTON. Six barge tows would be used, and are being used right now at times, on the bottom navigable part.

Mr. NELSON. So that I will have a record to refer to, if I am around here a few years from now, I want it in the record that the Senator from Louisiana, if he is around here—and I hope he will be, for a long time—will be on the floor with the authorization to complete the remainder of the ultimate project from Demopolis to Mobile. I think that will happen.

Mr. JOHNSTON. Is the Senator stating that, in effect, the amendment simply makes the point that the matter should have been considered more carefully but that he does not expect the Senate on the authorized, 70 percent end of the project, to abandon it at this point?

Mr. NELSON. I dearly hope that the Senate would not pour good dollars after those that already have been spent. I think that, in the interest of the country, it should be stopped. Only $800 million has been allocated—$800 million plus.

Mr. JOHNSTON. That is not correct.

Mr. NELSON. Using the corps' June figures, this is where we are: Of the 40-mile divide cut to connect two rivers, 6 miles have been dredged or cut through. Of the 44-mile canal, 1 mile has been completed. Of the 148-mile river section, 49 miles have been completed. That is a total of 56 miles out of 232 miles of the initially authorized project. The initially authorized project cost, as of now, I understand, is $1,925,000,000.

I say to the distinguished Senator from Louisiana that I referred to the lower half of the project which is not authorized yet, the part of the river from Demopolis to Mobile, because the corps gives figures on its cost every year. I do not know why the corps does this, unless they anticipate—which I am sure they do—that once we are into this for $1.9 billion, the argument will be made on the floor, "Give us another billion. The project won't be very efficient unless you do."

Here is the January 29, 1980, sheet of the corps itself: The project is the Tennessee-Tombigbee Waterway, Alabama-Mississippi. They list here the total estimated project cost, $1,925,000,000.

Immediately below that, total estimated project costs for ultimate development, $3,030,000,000.

So the corps gives us the costs of the authorized project, and every year they give us the cost of that part that is not yet authorized, on the assumption—which is clear to everybody—that it will be authorized.

I know the argument: You have $800 million now, of which about $200 million you could get back, and not all the rest of it is lost because of dredging in the river; the river is still there. But of that $800 million, you would get back about $200 million, and you would get the benefit of part of the remainder.

However, the argument will be made: "We have put in $1.9 billion, and we have to complete the balance from Demopolis down to Mobile, Ala."

There is not any question about that.

Mr. JOHNSTON. Mr. President, will the Senator yield at that point?

Mr. NELSON. I yield.

Mr. JOHNSTON. The Senator is not suggesting that the sheet to which he has referred makes any secret of the fact that this is not authorized? It specifically cites the channel improvements below Demopolis are not authorized.

Mr. NELSON. No. I said that.

Mr. JOHNSTON. And $145 million authorized for future recreation development in about the year 1997, and $375 million for future lock construction after the year 2000 at Demopolis and Coffeeville are not authorized as well.

Mr. NELSON. I said that. The Senator probably was not listening. I said, yes, the authorized project is $1,925,000,000. Then I read total estimated project cost of the ultimate development would be $3,030,000,000. It is not authorized as of now.

That is what I am talking about. That $1,925,000,000 is authorized. The Corps will be back for the balance of the project and that will cost $3 billion, and I suggest it will cost $4 billion or $5 billion.

It is absolutely astonishing that the corps figure last year for the ultimate completion of the project was $2 billion. In 1 year it has gone up a billion dollars.

Mr. JOHNSTON. Is it not a fact that in testimony before Judge Keady on the U.S. district court it was proven that the Black-Warrior-Tombigbee Waterway, which is part of an authorized and operational waterway, that is on the lower part to Mobile, has an operational width of 200 feet, that in many areas it is more than 300 feet, and that is sufficient to accommodate the six-barge tow exactly the size utilized by the corps in its analysis? Is that not correct?

Mr. NELSON. I am not familiar with that. But whose testimony was this?

Mr. JOHNSTON. This is testimony before Judge William Keady in the U.S. district court in the hearing on this matter.

I believe that is an established fact that if the corps based it on a six-barge tow Judge Keady accepted that as being proven because I mean it is an existing waterway and that is what they are doing right now.

Mr. NELSON. We are, of course, discussing the authorized project. I have assumed that the reason the corps keeps putting in the so-called ultimate development is to show what the total cost will be. Is the Senator saying that he will be in the Chamber opposing the corps, opposing any project to complete the so-called ultimate project from Demopolis to Mobile, Ala.?

Mr. JOHNSTON. Sufficient unto the day as the evil thereof. Suffice it to say that issue is not here in the Chamber. Before it would get to the Chamber I guess it would have to go through Senator MOYNIHAN's subcommittee and Senator RANDOLPH's committee and I would think with the comments made here about Tenn-Tom, the chances of that would not be terribly good.

If the choice is made at that time for another authorized project, I might vote and vote for it. But that is not here involved.

Mr. NELSON. I understand.

Mr. JOHNSTON. What we have here is a cost-benefit ratio based upon the 200-foot wide Black Warrior Canal which is now in existence and based upon that cost-benefit ratio it is 2½ to 1 for the remaining expense of the authorized project and 70 percent of the funds are committed against that authorized project.

That, it seems to me, is the ultimate fact. That is very difficult to get around. It is 70 percent committed and we cannot get out of that and it is for a project that has 2½ to 1 cost-benefit ratio.

Mr. NELSON. Mr. President, I wish to quote for the Senator from Louisiana a February 1976 memo of the corps. This is according to the corps' own economist:

> Towing companies reportedly only utilized the six-barge tow when the tail water gauge at Demopolis reads less than 28 feet. When a high water condition exists, the use of the six-barge tow is discontinued by the tow firms due to control difficulties when moving downstream and insufficient power on the upbound tows. Hydroelectric records from 1956 to 1972 show that a reading of 28 feet was equal or exceeded 21 percent of the time. Other factors noted by towing firms that hinder their use of six-barge tows include restrictive horizontan clearances on four bridges across the waterway and numerous sharp bends throughout the waterway.
>
> Based on the above information we do not foresee substantial future increases in the use of six-barge tows.

Mr. President, I only make this point about the lower half from Demopolis to Mobile simply because it is absolutely clear that the intent is to complete, to come in with another authorization. It will come here to the Chamber, and the argument will be made we have so much invested it would be a waste of the taxpayers' money to abandon that, the same argument that is being made now because there is $800 million in it of which a good part is recoverable. The same argument is being made now to complete a $2 billion project because of that investment and then it will be a $3 billion project because of that and next the project will be a $4 billion or $5 billion project.

I am happy to have it in the record that when we first were debating the question the total cost was $300 million. Now we are up to $2 billion. Everyone concedes that for this year.

Mr. President, I ask unanimous consent that a statement I made in debate a year ago, on March 27, 1979, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

TENNESSEE-TOMBIGBEE WATERWAY DEAUTHORIZATION ACT OF 1979

Mr. NELSON. Mr. President, in 1946, the 79th Congress authorized the Corps of Engineers to construct a waterway project which would link the Tennessee and Tombigbee Rivers for the purpose of facilitating barge traffic on the inland waterway system. The project, as originally authorized, consisted of a 260-mile-long navigation channel from the Tennessee River at the Pickwick pool to the confluence of the Tombigbee and Black Warrier Rivers at Demopolis, Ala. The channel is made up of three parts: A 40-mile-long cut through a dividing ridge connecting the two rivers and ending at the Bay Springs Lock and Dam; a 44-mile-long canal, generally paralleling the East Fork of the Tombigbee River between Bay Springs and Armory, Miss., and a 176-mile-long river section on the Tombigbee from Amory to the southern terminus of the project at Demopolis, Ala. In the river and canal sections, the authorized channel width was 170 feet. In the divide section, it was to be 150 feet wide.

For 21 years following this authorization, the Corps was unable to justify construction of the project on economic grounds. In 1946, at the time of authorization, the benefit-cost ratio was 1.05 to 1. In 1951, at the conclusion of hearings by the House Appropriations Committee, that committee reported that the project was not economically sound, and that its staff had found the benefit-cost ratio to be .27 to 1. All planning was therefore directed to be discontinued, the funds previously allotted to the Tenn-Tom were revoked, and the project was placed in a "deferred-for-restudy" category.

The first restudy was called for in 1957 and completed in 1962. Again, the House Appropriations Committee rejected the project on economic grounds. The benefit-cost ratio was then 1.08 to 1. In 1964, a second restudy was undertaken by the corps. This time, the corps dramatically changed the design of the project, without obtaining, or even asking for, authorization from Congress. By nearly doubling the width of the project, from the authorized width of 170 feet to 300 feet, and by adding duplicate locks at two locations, the corps was finally able to increase the projected benefit-cost ratio to 1.24 to 1, and to obtain approval from the Appropriations Committees for planning funding. Construction funds were first appropriated in 1971, and construction began in December 1972. Since 1974, project costs have skyrocketed and project benefits have plummeted. Using corps' estimates, the benefit-cost ratio has now dropped from its all-time high of 1.6 to 1 in fiscal years 1970 through 1972, to 1.2 to 1, below the level that former Secretary of the Army Stanley Resor called marginal in 1967.

However, even this marginal benefits-to-costs ratio is bluntly repudiated by independent expert analysis which shows that a more realistic figure for the benefit-cost ratio is closer to .23 to 1. Thus, instead of providing a positive return on the Federal investment, the Tennessee-Tombigbee is actually losing money on every dollar we sink into it.

The 30-year history of the Tennessee-Tombigbee Waterway overwhelmingly demonstrates that it is economically unjustified. But there are also several other issues, which, when added together, conclusively show that Congress should immediately halt this biggest pork barrel boondoggle of them all.

First, the project is already obsolete, even though, according to corps figures, it is only 29 percent complete. Second, the project which is currently being built is not the project which was authorized in 1946. Third, the corps' own memorandums detail how Congress, the President, and the public were deliberately deceived as to the cost of the project. Similarly, memos of meetings between the corps and their consultants show that the consultants were told by the corps to make assumptions about the project which were unjustified and, in many cases, unauthorized.

Therefore, it should come as no surprise that these studies justified, rather than rejected, the decision to build the waterway. Fourth, the construction of the project will cause serious environmental damage. To date, physical construction of the project has been largely limited to the 10 locks and dams sites. The river itself is virtually untouched and the project, at present, has not yet resulted in irreparable damage to the environment. But there is not much time. The project's largest construction contracts will be let later this spring, unless Congress acts. If the Congress does not act, and allows the Tenn-Tom to be completed, it will be an environmental, as well as economic disaster. And finally, 70 percent of the projected tonnage to be shipped on the Tennessee-Tombigbee is coal, over half of which is for export.

In a time of energy crisis, when we have set as a national priority the achievement of energy self-sufficiency, it does not make a great deal of sense to spend billions of American tax dollars to subsidize the export of American coal to a foreign country. In fact, very little about this project does make good sense.

It is time Congress demonstrated a will to challenge these wasteful projects which consume billions of tax dollars while providing inadequate returns on our investment. In my judgment, the 96th Congress should foreclose any further expenditures on the Tennessee-Tombigbee Waterway by acting to repeal the project authorization.

PROJECT DESCRIPTION

Today, due to design modifications which add several cutoffs in the river section, the Tennessee-Tombigbee Waterway project is a 232-mile long (rather than 260-mile-long) navigation channel from the Tennessee River, at the Pickwick Pool, to the Tombigbee River, terminating at Demopolis, Ala. Starting at the northern terminus of the project, this channel consists of three distinct sections: A 40-mile cut section through a divide connecting the Tennessee River to the Tombigbee River; a 44-mile canal section with five locks and dams, which parallels the river from the Bay Springs lock and dam to Amory; and a 148-mile river section with four locks and dams, from Amory, Miss., to Demopolis, Ala. From Demopolis, the southern terminus of the authorized project, barge traffic can continue on the Tombigbee to the Gulf of Mexico at Mobile, Ala.

The channel from the Tennessee River to Demopolis is being designed at a 300-foot width, while the authorized width of the channel, south of Demopolis is 200 feet. In addition to 10 locks and dams, the project requires the commitment of over 105,000 acres of land, excavation of over 280 million cubic yards of earth, and the destruction of the largest remaining unimpounded, unchannelized and unpolluted river in the Mobile river basin, the Tombigbee.

In order to fully describe the project, it is necessary to explain the "off again, on again" segment between Demopolis and Mobile. At present, the Corps claims that this is a different project. However, from 1966 to 1975, the Corps' design for the Tennessee-Tombigbee was based on a 300-foot-wide waterway from the Pickwick Reservoir on the Tennessee River all the way to the Gulf of Mexico at Mobile.

This project formed the factual basis and assumption for all planning and appropriations requests during that period. Its existence, however, was never disclosed to the public or the Congress. In apparently contradictory, but actually precise, language, one key Corps official has termed it a "well-kept, if open secret."

In August 1975, the Corps realized that there was absolutely no authority for constructing a 300-foot-wide waterway south of Demopolis. Therefore, in November, 1975, the Corps decided to split the project into two sections at Demopolis. The decision was made to continue construction of the project north of Demopolis, but to avoid analysis of the environmental and economic impacts of the inevitable construction of the portion south to Mobile. However, for purposes of claiming the benefits of the waterway between Pickwick and Mobile, it continued to be treated as a single project. Indeed, the traffic projections necessary to justify the project continued to be dependent upon the assumption of construction of the portion of the project south of Demopolis.

It was at this time that the Corps, in their annual budget submissions to Congress, began to use the term "initial" project for the portion between Pickwick and Demopolis and "ultimate" project for the overall waterway between Pickwick and Mobile. Thus, in addition to using the overall 300-foot waterway as the economic basis for project justification, the Corps also based its annual appropriations requests upon the 300-foot waterway from Pickwick to Mobile. Indeed, they continue to do so at the present.

PROJECT HISTORY

The idea of linking the Tennessee and Tombigbee Rivers has a long history. As early as 1874, consideration was being given to the Tennessee-Tombigbee concept. The first project survey, conducted by a Corps district engineer, Powhatan Robinson, concluded:

> I must confess that the merits of this enterprise are utterly beyond my comprehension. I can see good sense in spending a small amount of money in improving the high water navigation of the Tombigbee, but this scheme presents nothing but incongruities in every aspect. . . . It has no national character and therefore must rest solely on its merits as an investment. No capitalist would accept it as a gift, on condition that he should keep it in repair.

Unfortunately for the American taxpayer, Mr. Robinson's advice has gone unheeded.

The recent and most relevant history of the Tenn-Tom begins in 1945 with the submission by the Corps of a recommendation for Congressional authorization of a waterway to link the Tennessee and Tombigbee Rivers. In 1946, the Congress authorized construction of a 170-foot-wide waterway between the Tennessee River and Demopolis, Ala. in the Rivers and Harbors Act of 1946 (H.D. 486). Following authorization, project planning was carried as far as funds permitted until 1950 when the House Appropriations Committee began an investigation of the project. Questions were raised at hearings in May, 1951, regarding, among other things, the width of the proposed waterway, and the project's economic justification. The committee subsequently reported that the project was not economically sound, and the Tenn-Tom was removed from "active" status and placed in a "deferred-for-restudy" category. The Tenn-Tom remained in this category for 16 years.

In 1957, the Public Works Appropriation Act included funds for a restudy of the project. The restudy. completed in 1962, produced a benefit-cost ratio of 1.08 to 1. The House Apppropriations Committee considered this margin too small and Congress did not appropriate construction funds. Another economic study was authorized in 1964. This time, major unauthorized changes in the project configuration were assumed, including a 300-foot-wide channel all the way to Mobile, and duplicate locks at Coffeeville and Demopolis. By making these unauthorized changes, the Corps was finally able to argue that the project was economically sound. After receiving this restudy in 1967, the chairmen of the Appropriations Committees approved a resumption of project planning.

In 1971, subsequent to the passage of the National Environmental Policy Act, I became concerned that the Tenn-Tom project was not complying with the spirit or clear intent of the NEPA. To remedy this, I introduced an amendment to the appropriations bill which provided that no money would be spent on construction of a number of water resource projects, including the Tenn-Tom, until an adequate environmental statement was filed. This amendment was rejected, and in December 1972, construction began.

For several years the corps reported steadily rising project costs. In January of 1974, the corps' cost estimate was $623 million. However, in October 1974, the corps discovered that in constructing the divide cut, it would be necessary to excavate rock, rather than soil as has been originally assumed for cost calculation. This. among other things, caused project costs to skyrocket to just over $1 billion. The corps realized that, if this increase were to be reported to Congress, the project would be in serious political trouble. Therefore, instead of including these cost increases in the 1976 report, the corps decided to "hold off" making such a report until a new benefit study could be initiated and completed. Accordingly, A. T. Kearney Corp. was hired to overcome the rapidly escalating project costs by finding more project benefits.

In August 1975, as a result of Kearney's work, corps officials made a "surprising" discovery—that the 1966 restudy report was based on an assumed, but not authorized. waterway width of 300 feet all the way to Mobile. The corps had already begun to question the basis for their construction of a 300-foot rather than 170-foot channel north of Demopolis, with the corps' own legal counsel characterizing the authority as "cloudy," "doubtful" or "nonexistent." Now, they simultaneously realized that there was absolutely no authority for widening the existing 200-foot channel south of Demapolis to the assumed 300-foot width.

For any other organization, this one-two, knockout punch would have been a death blow. But not for the ever-resourceful Corps of Engineers. Instead, via the Kearney study, the corps manufactured the extra project benefits they needed to duck the first blow of soaring project costs. They avoided the second punch, lack of authority for widening the 217 miles of channel from Demopolis to Mobile, by claiming that the 300-foot waterway below Demopolis was suddenly a different project. But the Tennessee-Tombigbee itself has never recovered.

When the full cost increases were finally reported to Congress in fiscal year 1977, the benefit-cost ratio had dropped from its alltime high of 1.6 to 1 to a low of 1.08 to 1. Further, even by including the unauthorized 300-foot-wide channel from Demopolis, the southern terminus of the Tennessee-Tombigbee, to Mobile, the ultimate benefit-cost ratio could not regain all of its lost ground.

In February 1977, the Tenn-Tom was included in the Carter administration's major review of water resource projects, because it did not meet the economic and environmental criteria established by the administration. Specifically, the Tenn-Tom failed to meet the administration's environmental criteria that completion of the project will not result in any major adverse environmental impacts, and it failed to meet their economic standard "that incremental benefits will exceed the remaining costs"—when discounted at a rate of 6⅜ percent. On April 18, 1977, the President released the findings of the Tenn-Tom evaluation:

> Environmentally, the project will destroy productive agricultural and forest land, free-flowing streams and wildlife habitat; it will reduce fisheries resource and cause water quality degradation; it will require relocation of 230 families and loss of archeological sites.
>
> Economically, the remaining costs and benefits discounted at the then-current rate of 6⅜ percent resulted in a benefit-cost ratio of 0.87 to 1, clearly not meeting the administration's own standard.

Even so, Federal funding for the Tenn-Tom was not discontinued. I believe the facts make it clear that this unfortunate decision to continue funding the Tenn-Tom was, like so many previous decisions regarding this project, clearly unjustified.

CURRENT STATUS

According to corps estimates, the Tennessee-Tombigbee is now 29 precent complete, with a scheduled completion date of September 30, 1987. However, this percentage represents the amount expended on the project divided by total project costs, and not the percent of physical construction completed. According to affidavits filed with the Federal district court in conjunction with legal proceedings challenging the corps' authority to build the Tennessee-Tombigbee, actual physical construction of the project as of November, 1978, has been largely limited to the lock sites, and less than 10 percent of the navigation channels have been constructed at this time.

For example, in the 148-mile river section, only the Demopolis pool has had channel dredging throughout its length, and the remainder of the channel has only received minor dredging, primarily in the approaches to the locks. In the 41-mile canal section, construction has occurred only on locks and dams A and B and on a 1-mile test excavation. At least 38 miles of this section are completely untouched. In the 40-mile divide cut, at least half of the physical environment along the site is untouched. However, this will not last long.

The largest single construction contract of the entire Tennessee-Tombigbee Waterway project is about to be awarded. The $270 million contract for construction of the divide cut which will link the Tennessee and Tombigbee Rivers would obligate 60 percent of the total amount so far expended on the project. To accomplish this linkage, 94 million cubic yards of earth will have to be excavated. I have already written to the Secretary of the Army, asking him to withhold awarding this contract until Congress has had the opportunity to reevaluate the project.

Total corps expenditures through January 31, 1979 are $465 million. For fiscal year 1980 alone the Tenn-Tom budget request is $168 million. The corps currently estimates the total project cost to be $1.67 billion compared to the $323 million price tag when Congress first appropriated construction funds in fiscal year 1971. Thus, this project, which is not even one-third complete, is already 364 percent over budget.

THE TENN-TOM: AN ECONOMIC DISASTER

Congress has mandated that Federal investments in water resource projects must be economically sound, and that the benefits produced by such federally financed projects should at least exceed their costs. In other words, the benfit-to-cost ratio (BCR) must be greater than one.

The Tennessee-Tombigbee Waterway has repeatedly failed to meet this requirement and when the Corps' figures have seemed to meet the requirements, their assumptions, legal authority and claimed benefits have been challenged by independent outside experts.

After the Tennessee-Tombigbee's authorization in 1946, the project failed its first economic test in 1951, when the House Appropriations Committee, calculating a benefit-cost ratio of .27 to 1, found it to be economically unsound. It failed again in 1962, when the committee found a benefit-cost ratio of 1.08 to 1 to be unacceptable. Yet another economic reevaluation report was submitted to the committee in 1967 by then Secretary of the Army, Stanley Resor. The text of his cover letter illustrates that the economic foolhardiness of the project was fully recognized by the Secretary:

> The Tennessee-Tombigbee project has been under study for many years; in fact the first study can be traced back to 1874. The current report is the fourth on this project by the Corps of Engineers since the end of World War II. In each previous instance the proposed investment was found only marginally justified; and that is also the case with the present study.
>
> Each purpose served by a project such as this must be economically justified. The principal purpose served the Tennessee-Tombigbee Water project is navigation, which accounts for about $311 million of the total first cost. The estimated benefit-cost ratio for those features of the project required solely for navigation is 1.01, although if area redevelopment benefits are added it reaches 1.14.
>
> While the inclusion of redevelopment benefits is not inconsistent with sound economic analysis. I have reservations about the wisdom of investing in a project which demands so heavily on counting local wage payments in calculating the benefit-cost ratio.
>
> Furthermore, if the costs of the project prove to be even slightly underestimated, or the projected waterway traffic slightly overestimated, the present barely favorable benefit-cost ratio will be lost.
>
> All in all, the conclusion is inescapable that the Tennessee-Tombigbee navigation project continues to lack that margin of economic safety which typically marks federal investments in water resource development.
>
> The Bureau of the Budget, in advising that there is no objection to the submission of this report to the Congress, states that it agrees with the conclusion that the project is only marginally justified.

Unfortunately, the Secretary's advice was not followed. Instead of closing the door once and for all on the Tenn-Tom, the Appropriations Committees approved the allocation of $500,000 of corps funds for the resumption of project planning. At this time, the corps had boosted the benefit-cost ratio to 1.2 to 1 by making major changes in the project's configuration, including widening the channel from its authorized 170 feet to 300 feet. By fiscal year 1970, the benefit-cost ratio had reached its alltime high of 1.6 to 1 and it remained there through fiscal year 1972.

The first construction funds were appropriated during this period and construction on the Gainesville lock and dam began in December 1972. This period of economic well-being was not to last. However, between January of 1974, when the project cost was reported by the corps as $623 million, and October of 1974, project cost increases catapulted the total cost over the $1 billion mark. But rather than report that figure to the Congress, as prior procedure dictated, the corps initiated a benefit study and "held off" on reporting the big cost increase for a year while sufficient alleged benefits were uncovered to maintain a positive benefit-cost ratio.

In February 1975, the A. T. Kearney Co. was hired to find sufficient additional benefits to cover the increased costs. Once again, as in the 1967 report, a variety of extremely debatable assumptions were necessary to put project benefits ahead of project costs, barely. When the Kearney study was completed and when the cost increases were finally reported to Congress in spring of 1976, the benefit-cost ratio was down to 1.08 to 1, the figure which had been previously rejected by the House Appropriations Committee in 1962. Since then, the benefit-cost ratio has been inching upward to 1.15 to 1 in fiscal year 1978, and 1.19 to 1 in fiscal year 1979. However, as I will make clear, the accuracy of these corps' figures is extremely doubtful.

THE ECONOMIC FACTS

The Tennessee-Tombigbee Waterway is a economic bad joke. Its benefits have been created from thin air. Its costs have been consistently understated. And its benefit-cost ratio is computed on the basis of an absurdly low interest rate in violation of the law.

THE CORPS HAS MANUFACTURED PROJECT BENEFITS

In 1975, the corps retained A. T. Kearney, Inc., to do a navigation benefits study. Using this study, which was based on interviews with 121 shippers, the corps came up with a figure of $86 million for average annual navigational benefits. Other annual benefits (for area redevelopment, recreation, and fish and wildlife) totaled $12.9 million. These annual benefits are matched against project annual costs which are currently calculated by the corps as an annual charge of $84.5 million to yield a benefits-to-cost ratio of 1.2 to 1. Thus, the claimed navigational benefits, which constitute 87 percent of the total annual project benefits, are central to the corps claim that the project's benefits will exceed its costs. But a careful and expert examination of the Kearny study reveals a number of questionable calculations. Analyses of the Kearney report by Dr. Joseph L. Carroll and Dr. Robert Haveman clearly details the inaccurate and overestimations of projected benefits.

Dr. Carroll, a professor of business administration at Pennsylvania State University, and director of the transportation systems program of the Pennsylvania Transportation Institute, also at Penn State, is a transportation economist by profession with wide experience in public investment economics and transport system analysis, and with particular emphasis on the economics of inland waterway transport. While head of the transportation systems division of the Transportation Institute at Pennsylvania State University, Dr. Carroll served as project director for a major program of research in the area of waterway systems analysis which involved study of the physical and economic characteristics of inland waterways.

This program was sponsored by the U.S. Army Corps of Engineers during the period 1970 to 1974. His work for the corps has involved detailed studies of the operational characteristics of the inland waterway system including studies of lock capacities tow sizes and operations, physical constraints to barge traffic, and numerous other aspects of inland navigation. Dr. Carroll has detailed personal knowledge of the history and development of the Tennessee-Tombigbee Waterway. His doctoral dissertation at Indiana University was a study of the Tennessee-Tombigbee Waterway (1962).

Dr. Haveman is a professor of economics at the University of Wisconsin, specializing in the economic analysis of Government investments, with particular emphasis on the economics of water resource investments. Within the field of water resource economics, Dr. Haveman is a leading authority on benefit-cost analysis for public works projects and has published numerous books and articles which evaluate Federal investment in Corps of Engineers' designed and constructed projects. In his work as a senior economist with the Joint Economic Committee of the U.S. Congress, as a research associate at Resources for the Future, Inc., and as the author of several publications on the subject, Dr. Haveman has studied extensively the legal requirements, both statutory and regulatory, for calculating the economic benefits and costs for the Corps of Engineers' navigation projects.

As I have said, the vast majority of Tenn-Tom benefits are based on projected navigation traffic, and over 70 percent of those benefits are attributed by the corps to movements of coal from eastern Tennessee and Kentucky to Mobile. Yet the corps' own documents reveal that some project benefits are based on companies which are no longer in business; some on movements which simply cannot occur due to existing long-term contract commitments, some on movements which the shipper itself denies will take place, and some on movements to a nonexistent plant.

The whole tale of phantom shipments, phantom shippers, and phantom rates is carefully spelled out in the expert testimony given in a sworn affidavit by Dr. Joseph L. Carroll. Dr. Carroll has carefully reviewed the Kearney study and working papers which were used as the basis for the corps' new benefit claims in 1976 and their benefit claims ever since. In examining the 121 shipper interviews, Dr. Carroll found that the corps had blatantly violated their own regulations for computing navigation benefits. These violations include:

First. Inclusion of movements which were not existing traffic. Corps regulations permit only existing traffic to be included in the traffic base. Kearny included many movements which did not exist.

Second. Use of hypothetical rates for existing movements instead of the actual rate being charged on the alternative mode. By use of a hypothetical rate Kearney was able to claim rate savings in key instances where use of the actual rate being charged would have demonstrated that the existing movement was less costly to the shipper than the Tennessee-Tombigbee, or that the savings via the Tennessee-Tombigbee was much less than claimed.

Third. Complete and total failure to recognize and account for differences in inventory, storage, handling and other logistics costs as between TTW barge and the alternate modes (rail and truck).

Fourth. Where actual rates were not available, Kearney constructed unrealistically high and inaccurate rates for alternative waterway routes, e.g. the Mississippi River, which directly contradicted data in Kearney's possession.

Fifth. As to rates on the TTW, Kearney constructed rates which were unrealistically low and created bloated claims of savings which were contradicted by data in the Corps' and Kearney's possession.

Sixth. In addition there are numerous other errors and inconsistencies in Kearney's benefit calculations.

The result of these violations is to create a mountain of benefits which repeatedly violate the Corps' own regulations and which are almost entirely spurious and without factual substantiation. Dr. Carrol concludes:

> Based on my study of the entire Kearney/Corps working papers and having identified numerous open fabrications or erroneous assumptions such as noted in the above examples, I can confidently state that there is absolutely no support in the record for the vast majority of the navigation benefits claimed by the Corps.
>
> My professional opinion and conclusion is that at least $60 million of the average annual navigation benefits claimed by the Corps are spurious and wholly fictitious.

Dr. Carroll is not alone in challenging the wishful thinking of the corps as to what will move over the Tennessee-Tombigbee Waterway if it is ever built. Coal Week, a trade publication of the coal industry, which is supposed to be one of the major beneficiaries of the alleged transportation benefits, has challenged one of the corps' major assumptions: That in 1986, 18 million tons would move down the waterway. In a recent special report, Coal Week says:

> Most coal operators, sales agents and industry observers in recent interviews say Kearney overestimated the production potential for southern Tennessee.
>
> The Corps is "pipe dreaming" if it anticipates 7-to-8 million tons of export metallurgical coal moving on the Tennessee-Tombigbee Waterway out of southern Tennessee's Sequatchie and Walden's Ridge areas, according to Bill Allison, president of Tennessee Consolidated, a subsidiary of A. T. Massey and one of the largest export met coal producers in the southern mountains.

Moreover, if coal were shipped in the quantities predicted by the corps and its economic consultant, the A. A. Kearney Co., it has been calculated that the recoverable reserves in southern Tennessee would be exhausted by the year 2000, well before the end of the project's useful life. The same Coal Week article goes on to point out that:

> "An October, 1979 "Coal Resources" study by 3R Corp., for the Corps, Mobile District shows that Tennessee's annual production will actually decline from 10.3 million tons in 1977 to 10 million tons in 1986 . . . If coal leaves southern Tennessee at the rate Kearney estimates, all of southern Tennessee's current recoverable reserves would be depleted in 15 years or around the year 2000—well before the end of the 50-year economic life of the canal. (Kearney's studies are based on that 50-year reference)

Finally many of the assumptions which have gone into the calculation of navigation benefits are either incorrect or illegal. For example, from 1967 to 1975, project benefits were calculated on the basis of a 300-foot-wide channel all the way to Mobile. The corps admits that the project design on which these benefits depend is not authorized and they have gone so far as to reduce the assumed capacity of the river below Demopolis to six-barge tows. I commend their restraint. I point out, however, that according to shippers who have been operating on this stretch of the Tombigbee River for many years, moving six-barge tows is always difficult and sometimes impossible.

In fact, such six-barge tows make up only 8 percent of the traffic on the river today, according to the corps' own economists as explained in a February 1976 memo:

> Towing companies reportedly only utilize the 6-barge tow when the tailwater gage at Demopolis reads less than 28 feet. When a high water condition exists the use of the 6-barge tow is discontinued by the tow firms due to control difficulties when moving downstream and insufficient power on upbound tows. Hydrologic records from 1956 to 1972 show that a reading of 28 feet was equalled or exceeded 21 percent of the time. Other factors noted by the towing firms that hinder their use of 6-barge tows on the BWT (Tombigbee below Demopolis) include restrictive horizontal clearances on four bridges across the waterway and numerous sharp bends throughout the waterway. Based on the above information, we do not foresee substantial future increases in the use of the 6-barge tow.

The corps also says that the average tow size on the river below Demopolis is 3.5 barges, which leaves me curious as to the justification for using a six-barge tow as the baseline for this lower segment of the river in the Kearney benefits study.

THE CORPS HAS UNDERSTATED PROJECT COSTS

The charges are not limited to inaccuracies in the calculations of benefits. The cost esimates are equally suspect.

Regarding project costs, one issue is whether or not the costs as reported by the corps, are realistic, especially in terms of the interest rate applied. According to a 1976 Army Audit Agency (AAA) study, performed at the request of the Secretary of the Army when huge cost increases first became apparent.

Project cost estimates (PB-3s) were understated because costs were either not adjusted for price level increases or the adjustments made did not reflect actual market conditions.

The present cost estimate of $1.36 billion is based on the project's current design status, using 1975 prices, and does not realistically reflect the cost to complete the waterway, which is presently estimated to be in 1986.

A second issue is the performance to date of the non-Federal partners in the Tennessee-Tombigbee Waterway, Alabama and Mississippi. The authorizing legislation for the Tenn-Tom specifically states that Alabama and Mississippi will pay the costs of all highway bridges and all highway relocations or alterations, utility crossings, and other costs as stipulated in House Document 486. In the letter of transmittal for House Document 486, the Chief of the Corps of Engineers recommends authorization of the Tennessee-Tombigbee "subject to the condition that local interests construct, maintain, and operate" these facilities.

Thirty years later, in 1976, the Army Audit Agency (AAA) report questioned whether this required non-Federal participation would be forthcoming.

Projected non-federal participation may not materialize. Based on the latest data available, States' (Mississippi and Alabama) participation may fall short by as much as $170 million. Delays in construction could escalate this amount.

In 1970, when Federal construction funds were first appropriated by the Congress, the State's share was $38.1 million. In fiscal year 1980, it is estimated by the corps at $137 million, down from an all-time high value of $219 million in fiscal year 1977.

As of December 31, 1978, Mississippi has obligated something less than $8 million.

However, a good deal more than $9.5 million has been spent by Alabama and Mississippi. These extra dollars for the "local" cost share have come instead from Federal appropriations due to a curious turn of events.

To bail the States out of their local cost-share shortfall, an amendment to the Federal Aid to Highways Act of 1976 was submitted which provided $100 million in Federal funds, ostensibly to aid Federal public works projects in the entire country. In reviewing the legislative history of this amendment, however, the real purpose becomes clear. Commenting on the proceedings of the House-Senate Conference Committee on the Federal Aid to Highways Act of 1976, Senator HOWARD BAKER stated:

> During the course of the conference, it became clear that the $100 million authorized by this section was intended to replace bridges over the Tennessee-Tombigbee Waterway project in Mississippi and Alabama.

And, in fact, this purpose has been more than adequately served. Of the $86 million so far provided to the 50 States, the States of Alabama and Mississippi have received nearly $75 million. And of the remaining $14 million, it is likely that the "Tenn-Tom" States will receive the lion's share. So even the local cost sharing, which was the justification for the Carter administration's decision to remove the Tennessee-Tombigbee from its 1977 "hit-list," is now being paid by the Federal Government.

The Army Audit Agency report also raises the issue of the additional work which will be required south of Demopolis to accommodate the Tennessee-Tombigbee's projected traffic.

Although not presently authorized or included in cost estimates, additional locks will be required at Demopolis and Coffeyville, Alabama, and certain sections of the Tombigbee River will have to be widened between Demopolis and Mobile, Alabama. This additional work could increase the federal cost of the waterway by at least $215 million.

I might add that it will increase Alabama's cost share by $104 million. And Alabama has made it clear that they cannot afford this additional cost. In testimony on three separate occasions, Alabama's Director of Highways has stated that:

> Because of the difficulty the Highway Department is experiencing obtaining adequate funding and the uncertainty of our future financial situation, it is encouraged that funding of all road and bridge alteration be included in the Corps' obligations.

THE CORPS IS ILLEGALLY RELYING ON A 3¼ PERCENT INTEREST RATE

The corps uses a 3¼-percent interest rate to compute the TTW benefits to costs ratio. The lower the interest rate used in such a calculation, the more project benefits are inflated relative to project costs. For example, the corps has admitted that use of a 6⅞-percent interest rate would drive the project benefit-cost ratio below unity, even if its erroneous benefit and cost projects were accepted as accurate. And, as we all know, no one, including the Federal Government, can borrow money at 3¼ percent.

Furthermore, section 80 of the Water Resources Development Act of 1974 requires that the corps have received satisfactory assurances of local support from non-Federal project sponsors prior to December 31, 1969, in order to rely upon the 3¼ percent interest rate. No such assurances were received, yet the corps continues to rely upon the low interest rate, thereby illegally maintaining a project benefit-cost ratio above unity.

These are but a few examples of the lengths to which the corps has gone to justify this ill-conceived and economically unsound project.

The result is that the true benefits to costs ratio is much less than unity, and not, as the corps claims 1.2 to 1. Instead, Dr. Haveman calculates a benefits to costs ratio of .23 to 1, based on Dr. Carroll's and his own review of the economic benefits claimed by the corps, and by using the legal interest rate of 6⅞ percent. Thus, this project is losing 77 cents on every dollar we sink into it.

As I said at the outset, the waste of Federal funds by the Tenn-Tom project is a primary, but certainly not the only objection. There are other aspects of the Tenn-Tom Waterway which deserve to be investigated in detail, including questions or project authorization, and of environmental damage which will be caused if the Tenn-Tom is completed. Since the authorization issue is currently being decided by the courts, I will not put it before the Senate at present.

THE TENN-TOM: AN ENVIRONMENTAL DISASTER

THE ENVIRONMENTAL FACTS

The Tennessee-Tombigbee Waterway, as currently planned, will produce severe and irretrievable environmental impacts, virtually none of which have been adequately analyzed by the corps.

THE 1971 EIS COVERS ONLY HALF THE PROJECT

The corps is now claiming benefits for a project which stretches from the Pickwick Pool on the Tennessee River south to Mobile, Ala., a distance of 448 miles.

Yet the corps environmental impact statement, filed in 1971, covered only the area between Pickwick and Demopolis, Ala., which is located over 215 miles north of Mobile. Thus the only EIS ever prepared for the Tenn-Tom covers roughly half the area to be impacted by the project.

THE CORPS HAS FAILED TO ANALYZE ADEQUATELY NUMEROUS POST-1971 IMPACTS

In addition to the abject failure of the corps to analyze any impacts south of Demopolis, it has failed to file any sort of supplemental EIS on numerous significant project impacts which have become apparent since 1971.

As of 1976, when the corps conducted a new economic restudy for the project, the project's estimated traffic levels jumped dramatically. If these predictions are true, the number of barges using the Tenn-Tom will significantly and adversely affect the natural regime of the river by creating among other things, long-term resuspension of sediments and recurring shoreline erosion due to prop wash. The corps admits that it has never analyzed these eminently foreseeable impacts.

The latest corps estimate states that the project will require 105,000 acres. In 1971, the EIS analyzed a project which was to consume only 70,000 acres. Fish and Wildlife Service of the Department of the Interior has recently stated that it is impossible to mitigate the adverse impacts of project construction on fish and wildlife habitat. Yet the corps has never conducted any analysis of the project impacts on the additional 35,000 acres to be affected by the project.

Since 1971, the corps has changed the design for the canal section of the Tennessee-Tombigbee Waterway to include creation of five new impoundments. From their inception, all of these impoundments will consist in significant part of excessively shallow water, and will therefore experience severe water quality problems. Despite this fact, the corps has never filed any supplemental EIS addressing these or any other water quality problems associated with the project.

THE CORPS HAS NEVER ANALYZED IMPACTS ON COMPETING TRANSPORTATION MODES

Finally, the corps has repeatedly admitted that it has never analyzed the impacts of project construction on competing transportation modes. Thus, the negative secondary impacts of project construction on surrounding communities have never been addressed.

DECEPTION OF THE CONGRESS

One final issue is the deliberate deception of the Congress, the President, and the public which has been perpetrated by the Corps of Engineers in promoting this project.

Several instances of deliberate deception have already come to light in discussing the facts and figures surrounding this challenge to the economic justification of the Ten-Tom Waterway project. I would like to present one more reason to doubt the facts and figures given to us by the Corps of Engineers.

Strong evidence, in the form of Corps memos and internal reports, suggest that the corps deliberately deceived the Congress as to the costs of the project.

An October 1974 memo documents the corps' reaction to major increases in the benefit-cost ratio. The memo warns that "the project could well have some problems in Congress this year," and notes that there is "a strong possibility of Congress directing a special economic study as a direct consequence of such changes in cost and B/C." The changes referred to were quantified in the same memo as an increase in project costs from $732 million to $1.011 billion in Federal costs, and a sharp drop in the benefit-cost ratio from 1.5 to 1 to 1.2 to 1.

Apparently, the corps felt that the Congress would be unable to exercise good judgment if they were told the true costs. So instead, the corps took it upon itself to censor the information provided to the U.S. Congress.

The previously mentioned AAA study reports this extreme example of deceiving the Congress and the President:

According to available records, about $344 million in known cost increases were not reported in the fiscal year 1975 PB–3 estimate. The records show increased costs were not reported in order to reduce the "emotional impact" of any big cost increase and to negate the effect that the increase would have on the project's benefit-cost ratio.

And even after the completion of the AAA report, the corps persisted in deceiving the Congress as to the true project costs. Instead of reporting that the costs of the project had exceeded the $1 billion mark in January 1975, the corps reported a fiscal year 1976 cost of $815 million.

These instances demonstrate the lengths to which the corps has gone in attempting to economically justify this project during its long, sad history. After more than a quarter century of misrepresented costs and unauthorized project expansions to raise project benefits, this project still cannot be justified by any fair, objective standard.

This statement, while somewhat detailed, merely highlights the numerous economic, environmental, and authority problems surrounding the Tennessee-Tombigbee Waterway. In my judgment, it is absolutely essential that hearings be conducted to examine in detail the issues surrounding the project.

Concurrently, there is litigation ongoing in the U.S. District Court for the Northern District of Mississippi to resolve the legal issues relating to the project. By raising these issues today, I wish to emphasize that nothing in this statement is intended to create a legislative history that would in any way affect that litigation or limit the ability and duty of the court to resolve fully the serious issues raised by the plaintiffs. The matters I have raised here are serious issues requiring congressional attention; by the same token, the district court has a duty to resolve the issues in the litigation. Obviously, the court has the constitutional responsibility to decide the issues fully and fairly. In short, neither the raising of these issues nor the appropriation of further funds for the project can be construed by the court as approval of the corps' activities or a limitation on the duty of the court to decide each of the issues in the case.

CONCLUSIONS

Over 30 years ago, a much different Congress, with much different priorities, authorized the Tennessee-Tombigbee Waterway project. Quite obviously, many aspects of our lives have changed since then. In 1946, the country was on the verge of an era of enormous economic development. The most important goal of that time was the creation of an industrial infrastructure—highways, dams, and power supply grids. And the 79th Congress responded by authorizing 60 public works projects, including the Tennessee-Tombigbee.

In 1979, there is one overriding question, and that is whether or not this project is economically justified. It is not. And, it is time the 96th Congress wake up to present realities which demand the responsible management of the Federal public works dollar. A good place to start is with the deauthorization of one of the most expensive public works projects in our Nation's history, the Tennessee-Tombigbee Waterway.

The Tennessee-Tombigbee is an economic disaster. When the 79th Congress first authorized the project, they thought they were committing $117 million in Federal funds. When the 91st Congress first appropriated funds to begin construction, the cost was reported as $323 million, a relatively modest increase over 25 years. The rate of increase is no longer modest. It is, in fact, shockingly immodest. According to the Corps, the total cost to the American taxpayer was estimated in fiscal year 1973 at $386 million; in fiscal year 1975, $623 million; in fiscal year 1977, $1.36 billion; and today, in fiscal year 1980, it is $1.677 billion.

Outside experts, however, estimate that the final project costs will be closer to $3 billion by the time the Tennessee-Tombigbee is complete.

Proponents will argue that the project must continue because so many millions of dollars have already been spent. To support this argument, the Corps has employed an all too familiar strategy. They obtained approval to begin construction by deliberately misrepresenting the project costs and benefits. They have compounded this deceit by continuing to report less than full costs of the project and by expanding the size of the project when the costs began to skyrocket. Now that the Corps is being challenged, on these and other issues, the Tennessee-Tombigbee is on a speeded-up construction schedule, so that when the Congress is made aware of the facts, the project proponents may simply reply, "Too late."

Congress should not go along with the concept of throwing good money after bad. Yes, $465 million have been spent. But somewhere between $1.2 billion and $2.5 billion have not yet been spent. Further, some of the already spent dollars could be recovered by resale of the project lands.

The evidence is overwhelming that the Tennessee-Tombigbee should be stopped.

Mr. NELSON. Mr. President, for the time being I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, will the Senator allow me to proceed briefly and I will not ask to be indulged too long?

Mr. CHAFEE. Yes.

Mr. ROBERT C. BYRD. Mr. President, I inquire as to how many amendments remain to be called up?

Mr. MATHIAS. I have one.

Mr. HELMS. I have five.

Mr. ROBERT C. BYRD. Mr. MATHIAS has one and Mr. HELMS has five.

Mr. JOHNSTON. I have two. I believe that will be noncontroversial.

Mr. MATHIAS. I have one and possibly two. It will depend somewhat on the Senator right behind the majority leader, the distinguished Senator from Mississippi, how many I have.

Mr. BAKER. Senator HEINZ has one.

Mr. ROBERT C. BYRD. Senator HEINZ has one.

Mr. BAKER. Senator JEPSEN.

Mr. ROBERT C. BYRD. Senator JEPSEN has one.

And Senator JOHNSTON has two.

Mr. JOHNSTON. Yes, but just those are 2 minutes each, I say.

Mr. ROBERT C. BYRD. I see.

And Senator MATHIAS.

Mr. BAKER. MATHIAS is on the list?

Mr. ROBERT C. BYRD. Yes.

Is there going to be an amendment that is jointly offered by the chairman of the Budget Committee, Mr. HOLLINGS, and the ranking minority member, Mr. BELLMON, and others?

Mr. BAKER. My understanding, if the majority leader will yield to me, is that the chairman of the Appropriations Committee and Senator YOUNG, and the chairman of the Budget Committee and Senator BELLMON are trying to arrive at an amendment that they will offer jointly, so I expect we should count this on the list.

Mr. ROBERT C. BYRD. Yes. All right. And there may be an amendment by Mr. HART.

All right. Is it possible to get time limitations on any of these amendments?

Mr. BAKER. Mr. President, if the Senator will yield, I will be glad to inquire into that.

Mr. CHAFEE. We are glad to have a time limit on this one. Personally, I do not think anyone wishes to speak on our side. I do not know how many wish to speak on the other side.

Senator SIMPSON said he wishes to speak.

If we could have a total of 10 minutes on this side.

Mr. ROBERT C. BYRD. Is that agreeable?

Mr. JOHNSTON. I think that 10 minutes on our side should be sufficient. I say to Senator HEFLIN, would 10 minutes total be sufficient?

Mr. HEFLIN. Senator STEWART wants to make a statement also.

Mr. BAKER. I have a statement to make.

Mr. STENNIS. Does the Senator mean on this?

Mr. HEFLIN. Senator STENNIS has not spoken yet.

Mr. STENNIS. I want 2 minutes.

Mr. JOHNSTON. How much time do you think we need, Mr. President?

Mr. HEFLIN. I would like 8 or 10 minutes on the facts.

Mr. JOHNSTON. And there is Senator COCHRAN.

Mr. COCHRAN. Two minutes.

Mr. ROBERT C. BYRD. Thirty minutes on this side.

Mr. BAKER. Make it 30 minutes.

Mr. ROBERT C. BYRD. Equally divided.

Mr. BAKER. No. Thirty minutes in opposition.

Mr. STENNIS. Does the Senator have something cooking?

Mr. BAKER. Senator CHAFEE wants 10 minutes. Is that right?

Mr. CHAFEE. How much eloquence am I going to be faced with?

Mr. BAKER. About half an hour of eloquence over here. Does the Senator want a half hour on that side?

Mr. CHAFEE. Make it 20 minutes.

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that the principals have agreed to make it 30 minutes under the control of Mr. JOHNSTON and 20 minutes under the control of Mr. CHAFEE on the pending amendment. I make that request.

The PRESIDING OFFICER (Mr. BOREN). Is there objection?

Mr. McCLURE. Mr. President, reserving the right to object—and I do not intend to object—I wonder if the sponsor of the amendment would accept a substitute amendment, to turn the Tombigbee over to the State Department, and you will have the whole thing solved? [Laughter.] I withdraw my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, do the Senators anticipate amendments to the amendment?

Mr. JOHNSTON. No. We anticipate an

up-and-down vote. I will not make a motion to table, and not propose any amendment to the amendment.

Mr. ROBERT C. BYRD. Mr. President, that leaves one amendment by Mr. HEINZ, and I wonder if we can get a time limitation on that amendment.

Mr. BAKER. Mr. President, the Senator from Pennsylvania is not on the floor but I will be glad to contact him.

Mr. ROBERT C. BYRD. All right.

Senator HELMS has five amendments. Could we get an understanding about that?

Mr. HELMS. I will not take long, but I do not want to be standing in a situation of a time limitation. I do not want to put the Senate into a situation where——

Mr. ROBERT C. BYRD. All right.

Senator JEPSEN has an amendment. Can we get a time limitation on that amendment?

Mr. BAKER. Mr. President, I do not see the Senator from Iowa here either. I will be glad to check that.

Mr. ROBERT C. BYRD. May I ask the Senator from North Carolina if he would mind stating what the subject matter is of the amendments?

Mr. HELMS. Not at all. One relates to food stamps, specifically the existing practice of juggling of funds and another program. I want to stop that. At least two others have to do with proposed funds for Mount St. Helens; one has to do with newsletters of Senators. I will be happy to provide copies of all of my amendments.

Mr. ROBERT C. BYRD. All right.

Do we know anything about Mr. JEPSEN's amendment?

Mr. BAKER. No, I do not. I will see if I can contact him or his staff.

Mr. ROBERT C. BYRD. All right.

On the amendment by Mr. MATHIAS can we get any understanding as to the time that would be required for that amendment?

Mr. MATHIAS. I would hope, I can assure the majority leader, that we would only need about 60 seconds. But I do not want to be quite that optimistic. Half an hour for each of the two amendments.

Mr. ROBERT C. BYRD. Will the Senator state what they are?

Mr. MATHIAS. One of them involves trying to get the Naval Reserve money that they need to pay their training travel expenses in the month of July. It is a very urgent amendment. It is one that cannot be postponed. It is not something that can be taken care of in the 1981 budget.

The Senator from Kentucky, I think, has full knowledge of the urgency of this matter, and I count on his support and encouragement in it.

Mr. ROBERT C. BYRD. It is agreeable then that there be a half hour on that amendment equally divided?

Mr. HUDDLESTON. It is agreeable with me.

Mr. ROBERT C. BYRD. I make that request.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MATHIAS. The other amendment deals with—it may or may not be possible—the general subject of revenue sharing. I think we would allow an hour.

Mr. ROBERT C. BYRD. I think we had better leave that open.

Mr. MATHIAS. It is rather a contingent sort of thing.

Mr. ROBERT C. BYRD. Mr. President, I thank Senators for their cooperation.

I should state it is the intention of the leadership to finish this bill today.

Mr. STENNIS. Mr. President, will the Senator yield to me, this is just for clarity? Members ask each of us whether it is still the purpose of the leadership to bring in the general overall military procurement bill at the completion of this bill.

Mr. ROBERT C. BYRD. That is still the intent of the leadership, yes.

Mr. STENNIS. And to proceed then to dispose of that bill before the recess, if humanly possible.

Mr. ROBERT C. BYRD. If possible, yes.

There is another measure that has to be disposed of before the recess and that is the reconciliation measure. But that measure is under a built-in time agreement under the law so that can be done before the recess. That has to be done.

Mr. STENNIS. I know the leaders have tried to reach that bill and I want to thank them for that and the membership, too. They are highly interested in it, and I just bring it up to show that that is the continued objective.

Mr. ROBERT C. BYRD. I think Senators must be apprised of the fact that before the Senate recesses action will have to be completed on the supplemental appropriation bill. It is absolutely impossible for us to think of going out for a recess without completing action on this bill. That means final action on the bill. The bill has to be disposed of here in the Senate, it has to go to the House. The House will be back on Monday, and the Speaker has indicated that as soon as the Senate sends the bill over to the House the House will appoint conferees. I do not know how long this bill will be in conference, but we have Monday, we have Tuesday, and we have Wednesday before going out for the scheduled break.

If the Senate and House do not complete action—I am merely stating a fact, I am not attempting to make any threats; I am in no position to make any—I am stating a fact which we all must be aware of, and the fact is that unless both Houses complete action on this supplemental appropriations bill by the close of business on next Wednesday, we have no alternative but to either stay in Thursday, if the matter can be resolved by one additional day, or to go out and come back the following Monday. If that should be the unfortunate circumstance, the Senate would simply have to stay here until we have completed action on this bill.

Now we are going along as though we have plenty of time. I do not mean to unduly rush anyone or I do not want the Senate to act in haste. But we have to finish action on this measure.

Why do we have to finish action today? For the simple reason that if we do not finish action today, we will be here all day Monday on this, it very well could be, and that is a day when the House would be back and the House could appoint conferees and the conferees could go to work.

So I hope Senators could keep this in mind. We are not going to go out today at 3 o'clock. It is necessary that we finish action on this bill today, so that it can go over to the other side, the conferees can be appointed on Monday and the conferees can go to work, hopefully, and resolve the differences and allow the Senate to go out Monday or Tuesday or Wednesday and not have to come back in on Thursday the 3d or Monday the 7th.

I thank the Senate for its indulgence. I hope that everyone will keep these facts in mind in an attempt to expedite the business as much as reasonably possible.

Mr. YOUNG. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. YOUNG. The Senate has taken an hour on each amendment we have considered in the last 2 days. We have nearly 300 amendments in the conference. If we take an hour on each, that will be about 300 hours. Does the Senator think we can do that by the 4th of July?

Mr. ROBERT C. BYRD. I thank the Senator. He has made a very telling point.

Mr. BAKER. Mr. President, will the Senator yield to me for a moment?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, I have two other additions, one deletion and one addition to the Senator's list, just for the information of the majority leader of the Senate.

I understand now that the Senator from Iowa, Mr. JEPSEN, will not offer his amendment. I understand the Senator from Pennsylvania, Mr. HEINZ, would accept a time limitation of 30 minutes, equally divided. I also understand that there may be a requirement for a Budget Committee amendment, in addition to the one I described; that is, the Joint Appropriations Committee-Budget Committee amendment. So I think we ought to include that on the list on a contingency basis.

Mr. ROBERT C. BYRD. Yes. That is, in my judgment, the most important amendment of all, the one that will be a reconciliation type of amendment.

Mr. BAKER. There may be two of those. There may be one that is offered by Senator MAGNUSON and Senator YOUNG, together with Senator HOLLINGS and Senator BELLMON and there may be a different one offered by Senators HOLLINGS and BELLMON, I understand. So we made provision on the Senator's list for at least the possibility of two reconciliation type of amendments.

Mr. ROBERT C. BYRD. Yes. I thank the minority leader. Those are the most important amendments, if we mean business about staying within the ceiling that we adopted a little over 2 weeks ago. I will not attempt to get any time limitation on those here.

I thank the minority leader and I thank the Senators for their indulgence.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, what is the situation with respect to the Chafee amendment? As I recall, there is a 50-minute time limitation assigned, 20 minutes to the proponents of the amendment and 30 minutes to the opponents of the amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Who has control of the time?

The PRESIDING OFFICER. The Senator from Rhode Island and——

Mr. STENNIS. Mr. President, may I state that the Senator from Louisiana had to leave the Chamber. He asked me to substitute for him in the control of the time.

The PRESIDING OFFICER. The Senator from Rhode Island and the Senator from Mississippi controls the time.

Who yields time?

Mr. BAKER. Mr. President, will the distinguished Senator from Mississippi yield me 5 minutes?

Mr. STENNIS. Yes, I am glad to yield to the Senator.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, I have often found myself in this position; that is, a project which was begun, conceived, authorized, initial appropriations were made years ago, in many cases long before I came to the Senate. I recall other projects that were challenged after they were well along in their development and construction where circumstances, in some cases, were alleged to have changed and other factors developed that called into question the desirability of such a project.

In the course of consideration of those developments, Mr. President, I have come to have a view of Federal projects of this sort that I hope may have some appeal to my colleagues, and that is a sense of realism that we are not going back to the time of the original authorization of this project. Indeed, I expect there might be a very different arrangement of support and opposition to the Tennessee-Tombigbee project if, indeed, we were considering it for the first time as a new project to be reported by the Environment and Public Works Committee. Under the administration of Senator RANDOLPH, as chairman, and Senator STAFFORD, as ranking member, I expect we would have one set of criteria that we would judge it by.

But that is not the case. We have invested hundreds of millions of dollars in this project—indeed, billions of dollars—and the political imperative that arises to compel us to examine this thing is that at some point it becomes economically desirable to finish a project simply because it is still a good project—maybe not as good as some had wished—but that we had gone this far and we ought to finish it. I allude to the Tellico Dam project. Certainly, the Tennessee-Tombigbee is not analogous, but I allude to that project. I said on this floor that if I were called on today to authorize that project, I might not vote for it. But that project was 97 percent finished—97 percent finished—at the time it was called into challenge on the Senate floor.

Mr. President, you simply cannot say, "I am sorry I made that mistake with a billion dollars of taxpayers' money." Surely there is a requirement that we should try to finish, to capitalize, to utilize and to realize a benefit in the investment that we have already made, together with the investment we are about to make in the future.

This is a good project, Mr. President. It has good cost-benefit ratios. It has demonstrable advantages to the entire country. It has a significant impact in terms of the energy requirements of this Nation, our balance of payments, and the rest.

I am going to support it. I will oppose the Chafee amendment, not that it comes too late, but because that is one argument in opposition to the amendment, as well as the merits of this project.

Mr. President, I will make one other remark in this respect. I hope that we can regularize our reexamination of projects of this type in the future. I hope that the Environment and Public Works Committee—indeed, the entire Senate—would consider how we go about readjusting the cost-benefit ratio concept, the Corps of Engineers projects concept, so that we judge these projects in light of today's circumstances and situations and not as they existed 10, 20, 30, or 40 years ago.

I do not think it is a very good system that we have now. I think we ought to examine this whole field to see how we can better serve our purposes in the future.

I see the Senator from New York, Senator MOYNIHAN, is in the Chamber. I know he has spoken to this subject in the past and I applaud him for it. He has a special responsibility on his committee, within his jurisdiction, to pass on these projects and to give us advice on this subject. But, Mr. President, Tenn-Tom is not the place to do it.

Tenn-Tom must be finished because it is a good project, because we are deep into the project, because it would cause extraordinary dislocations if we were to stop it now or substantially reduce it. I will support the project as I have in the past. I will oppose the Chafee amendment. I urge others to do so as well.

Mr. President, I rise in opposition to the amendment offered by the Senator from Rhode Island. I support the Tennessee-Tombigbee Waterway because it is most unique among these inland waterway projects since it will link up about 16,000 miles of existing waterways in mid-America with the deepwater ports along the eastern Gulf of Mexico. The advantage of eliminating considerable distance traveled for existing barge movements will result in the Tennessee-Tombigbee becoming immediately one of the busiest waterways in the Nation.

Commerce due to the Tenn-Tom is expected to grow to about 40 million tons well before the turn of the century with savings in transportation cost averaging about $100 million each year during the life of the project. These savings are the difference in the costs of shipping the commerce on the Tenn-Tom and those costs associated with the alternative mode of transportation.

The project also will have a number of local and regional benefits while accomplishing the national goals mandated in the congressional authorization of the project. These benefits will be most felt in 165 economically depressed counties in Alabama, Mississippi, Tennessee, and Kentucky. It is estimated that in this area the project will result in an additional 135,000 jobs by the year 2000. These jobs will in turn produce $2.9 billion in personal income and private investment by the turn of the century. This predicted growth is expected to take place in those rural counties that desperately need a more diversified economy to help curtail outmigration and economic instability.

Another aspect of the project which is often overshadowed by the navigation benefits of the project is the outdoor recreational benefits that will occur as an important part of the waterway development. Scores of Federal and State agencies are working cooperatively with local government and private enterprise to develop the waterway into an outdoor paradise of lakes, parks, game management, and wildlife enhancement areas.

Some 40,000 acres of lakes will be created by the waterway and the Corps of Engineers will develop 13,000 acres of land along the lakes into a variety of parks and public use areas. By comparison, the entire State park system of Mississippi includes about this amount of acreage.

Included will be facilities for boating, swimming, fishing, camping, hiking, horseback and bike riding, nature study, and environmental education.

Development of the recreation facilities has already started on both ends of the project, and will be completed as lakes along the waterway are impounded.

In northeast Mississippi, Federal, State, and local efforts are planning a 100-mile-long public use area from the Tennessee River to Amory, Miss. It would include more than 100,000 acres of land for recreational purposes along the waterway.

These facilities are expected to attract about 3 million people immediately after the waterway is completed and eventually increase to over 7 million annually. This estimate does not include the local economic impact of this development such as small businesses and employment opportunities that will be generated by this activity. Since most of the counties where these recreational facilities will be located are rural and economically depressed, these new economic opportunities are most important toward stabilizing the local economy.

I support the Tennessee-Tombigbee project not only for the reasons just outlined, but because there are also many other equally worthwhile benefits which

I have not outlined in this statement. But, Mr. President, I particularly oppose the amendment offered by the Senator from Rhode Island for an additional reason. That is the amendment will really only result in delay of completion of the waterway. This delay can result in the loss of millions of dollars if construction is significantly delayed. The States in the project area have invested millions in this project on the assumption that the Federal Government will expeditiously fulfill its commitment to complete the waterway.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, I thank the Senator from Tennessee. He has made some significant remarks.

Mr. President, I yield myself 5 minutes.

I will say to Members of the Senate that here is one salient fact that will not be denied as basic fact. The 50-odd million dollars that we are talking about in this bill is for dirt moving under Federal contract. With new machinery, the contractors achieved a new productivity level for America. I went there and saw them moving this dirt. There is no question about that.

This money will have to be paid under our own contract. So there is not going to be anything saved by putting this amendment in here now.

Let me say another word. So many things are said that inferentially suggest something about the Corps of Engineers being deteriorated, and referring to the lesser amounts appropriated for them, words that carry connotations of that kind.

I have been on the Senate Public Works Subcommittee, as it was called then, almost ever since I came here. I literally went through hundreds and hundreds of highly complicated, troublesome projects. I have never seen this fine group of professional men to be found at fault on anything once the facts were fully developed.

Those of us on the subcommittee, and I am looking right at the Senator from North Dakota, know we are dealing with high class, highly responsible, professional men who stay right on their toes in this matter of civil functions, who then are more than ready when we have to go to war.

Let us get down to the very heart of this thing. As I say, this is not contested. So far as saving money or anything like that, this is not even claimed for that. It is not even a gesture in that direction. But it brings these charges here. With all deference to a morning editorial, which make inferential charges of wrongdoing, misdoing, and neglect of duty. Mr. President, there is not a word of truth in those charges. This project has been fully investigated. It almost became an indoor sport, in a way. The appropriations part has been before this body now for about 10 years, examined every year by four legislative committees, on the floor of the House and on the floor of the Senate. Those appropriations were recommended here by three consecutive Presidents of the United States. That administration has been hauled off to court six times, charged with fraud, misrepresentation, and almost everything in the book. Not once but every single time, after hearing the sworn testimony, every one of those court cases was decided in favor of this project, every single one.

I have the dates and the places where the trials were held. Two of those six times included decisions by the circuit court of appeals for the district.

So it is just not true that these charges turn out to be valid.

The other side of the coin is true, the charges turn out to be inadequate, and the agencies of this Government which have supported the project—with all deference to anyone who might have voted the other way—the ones which have supported this project have had the conclusion that it has been justified. With this justification and a benefit-to-cost ratio of 1.2-to-1 money has already been spent. Now, with changed conditions for the better in volume of transportation, the benefit-to-cost ratio is somewhere around 2½ to 1.

Let me speak about this extra $1 billion which has been added to arrive at this higher cost estimate. The engineers were called upon to make an estimate on the lower part of the Tombigbee River. Well, this lower part is really not a part of the project. That improvement has been there all these years, 25 or 30 years. The locks and the movable parts of the locks are about worn out. The volume of traffic has been increasing all the time.

It has been very clear since this coal movement started.

Most of that improvement, though not all of it, would have had to come anyway.

Our committees have been bringing in projects in the last few years. On the Appropriations Committee, we looked into them and approved some. We brought them up here and sustained them. I will refer to lock and dam 26 in the Ohio Valley country. It cost about 10 times what it was originally expected to cost. But it has served so much tonnage, so much freight, so much useful use over the years, that it had to be replaced. The facts came in and it was approved by a large vote. It is being built now.

We are talking about abandoning this project now. Seventy percent of all the estimated costs are already committed. We have a factsheet with all those figures. I do not now have time to read it, but I ask unanimous consent that this factsheet be printed in the RECORD at this point.

There being no objection, the factsheet was ordered to be printed in the RECORD, as follows:

TENNESSEE-TOMBIGBEE FACTSHEET, JUNE 26, 1980

DESCRIPTION

The Tennessee-Tombigbee Waterway is a 232 mile waterway between the Tennessee River on the north and the Tombigbee River on the south and links the Ohio, Tennessee, and Upper Mississippi Rivers to the Port of Mobile, Alabama and the Gulf Intracoastal Waterway.

Financial Status (as of June 1):

Estimated total appropriation requirement, $1,750,000,000.

Funds expended to date, $755,407,000 (43 percent).

Funds obligated to date, $799,409,000 (46 percent).

Funds allocated to date, $816,247,000 (47 percent).

Funds committed to date, $1,233,465,000 (70 percent).

Fiscal year 1980 supplemental appropriation:

The bill contains a requirement for $58 million to meet existing contractor earnings in fiscal year 1980. Approximately 35 contracts require additional funds as early as July 1.

Impact of not providing additional 1980 funds:

Contractors will be issued out-of-funds notices if additional funding is not provided. The contractors affected by the funding shortage may elect to continue to work, suspend work, or terminate work, depending on the contract provision and the ability and preference of the contractor. As a minimum, an additional $58,000,000 would be required in FY 1981 to cover the unmet contractual requirements accrued in FY 1980. Depending on how each contractor experiencing a shortage in FY 1980 elected to proceed in FY 1980, the FY 1981 requirement of $208,070,000 would increase by at least the $58,000,000.

Physical completion (as of June 1):

Navigation Channel: As of June 1 there will be 49 miles of the River Section, 1 mile of the Canal Section, and 6.7 miles of the Divide Section complete; and 65 miles of the River section, 34 miles of the Canal Section, and 33.3 miles of the Divide Section underway. 190 miles out of a total of 232 miles of channel are either completed or underway (81 percent). There are 117 miles of the waterway currently open to limited navigation (50 percent).

Mr. STENNIS. As shown here 70 percent of the funds are committed. This sheet shows the ongoing effort which will be completed in just a few years. The dirt-moving part is over 80 percent completed. That is the crucial part, of course.

I really do not know what we are arguing about here. Whether it cost $2 or $3 billion, it is worth the money. That is the important point. What have we been arguing about here this week? Energy—the cost of energy; the cost of transportation for mass-weight material, raw material—coal. We have recently passed a coal bill and everyone is convinced it has an amazing future—our future—the strong part that coal is going to play.

This transportation facility is going to be standing there with open arms, waiting, waiting to carry these hundreds of millions of added tons of coal that are going to be moving through those channels. Right down the Ohio River, right down the Tennessee River, from the coal areas of West Virginia, Virginia, and Kentucky.

I have a map here. I do not know how to produce it in the RECORD, but it shows the artery of water traffic and even has some estimate of some of the tonnage. So to turn our backs now on the energy matters which we have been considering all week, trying to get ready for the next decade, where we are not prepared in the way of transportation would be a terrible mistake. Look at it nationwide, we are not prepared in the way of low-cost transportation. Everything is going to be higher cost, of course. But water transport is the lowest-cost transportation man has ever been able to devise.

We are now just beginning, Mr. President, to see a clearer vision of this new era and there is nothing more clearer than the need for a total transportation system that must be used in its entirety. I hope, Mr. President, that we shall lay aside the small points and concentrate on our need for a total, capable, transportation system.

Is my time up? I asked for 5 minutes, Mr. President.

The PRESIDING OFFICER. Fourteen minutes remain.

Mr. STENNIS. Mr President, I yield the floor.

Mr. HEFLIN. Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. I yield time to the Senator from Alabama.

Mr. HEFLIN. Mr. President, with respect to the wisdom of going forward or stopping this project, there are a number of issues that Senator BAKER has spoken to. One is the issue of the wisdom of stopping the construction of this project after it is 70-percent authorized. It is like beginning work on a building that is to be 10 stories tall and building 7 stories and then stopping. Imagine reaction of the newspapers that have been talking about this project over the decades. How would they label it if the Senate stopped it now? They would always label it, the "Senate Ditch." I can just imagine those future editorials as newspaper reporters travel across the country to see what would then be an everlasting monument to a wrong decision.

The other point I want to make concerns the issue that Senator JOHNSTON has brought up on the environmental problems. He points out that, six times, it has gone to court. There have been six lawsuits, consuming a total of almost a year, as the trial level, for the taking of testimony and evidence. Six times, it has been decided that the Tennessee-Tombigbee complies with the environmental laws in the impact statements that were filed.

Then there is another point. The two key problems that are facing us today are energy and national defense. I asked a military expert recently, if the Russians were to pick a time when they thought that the United States would be the most ill-prepared, what would be the years that they would pick? The answer came back, 1983 to 1987.

The Tennessee-Tombigbee is scheduled for completion in 1986. Because of accelerated construction schedules, where the contractors worked around the clock, the predictions now are that it will be in 1984. What does this have to do with national defense? If we are cut off from our oil supply, what are we going to depend on? It is obvious we would have to depend on coal. The Tennessee-Tombigbee runs right through the heartland of American coal fields. Water transportation is the most cost-efficient way of moving large amounts of coal—more than 2½ times more efficient as the next most efficient method.

If we are cut off from our supply, we will have to depend on coal. We must have a cost-efficient method of transporting that coal. It seems to me that if one were interested in national defense, he would vote for the Tennessee-Tombigbee.

Moreover, if you are interested in the synthetic fuel problem, then it is incumbent on you to vote for the transportation of coal in the center of what are the important coal lands of this country.

Mr. President, the Tennessee-Tombigbee Waterway is located in the heart of one of the most economically depressed areas of the Nation, with a high percentage of the population minority and poor. The waterway is offering them an opportunity to raise their standard of living now and in the future. Today, there are 4,500 people working directly on constructing the Tennessee-Tombigbee Waterway with 30 percent of the work force being minority. Hundreds more are working in other jobs related to waterway construction.

With the project approximately 50-percent complete, construction is proceeding at a rapid pace well ahead of schedule. Most of the environmental changes have been in place for some time with future work expected to remedy, to a great extent, some of these changes. Over $1 billion has already been committed to this project and now it will cost about as much to stop it as to complete it.

The States involved have already met their obligations by investing over $100 million for relocation construction. At the same time, plans have been made by State and local governments for spending many more millions for terminals, ports, roads, utilities, and so forth.

On the local level, people deeply committed to Tenn-Tom are investing their own private resources to take advantage of the opportunities this waterway offers. Over the past 5 years, more than $3.5 billion in private investments has been recorded in only those counties contiguous to the waterway in Alabama and Mississippi.

This support was never more evident than when President Carter called for a full review of the waterway project in March 1977. More than 9,000 people jammed the meeting to support the waterway. Fewer than 200 voiced objections.

Despite the loud claims of a handful of so-called environmentalists, the Tennessee-Tombigbee Waterway is not an environmental disaster; in fact, it is doubtful that any of those disclaiming the project have ever been to see the waterway and to observe the paramount concern of everyone for preservation and enhancement of the environment. Dean Gerald McLindon, dean of the School of Environmental Science, Louisiana State University, says that the waterway is not being built on a "by gosh and by golly" method. He points out that the U.S. Army Corps of Engineers is doing a superb job in meeting and exceeding all aspects of the National Environmental Policy Act. The Tennessee-Tombigbee Waterway is the first such national project to be constructed under these stringent NEPA requirements. As a model project, its progress is being carefully monitored by an independent board of nationally known environmental consultants who oversee every aspect of construction. Dean McLindon is a member of that prestigious board.

Perhaps the greatest single concern of the world today is the availability of a ready source of energy. It is evident that the best chance we have to solve the immediate energy crisis is with the great coal deposits found in the Appalachian region. Methods of transporting this coal pose a most serious economic problem which can only be solved by all modes of transportation working together. It is now impossible for all these other modes of transportation to move this coal to market and for export without the Tennessee-Tombigbee Waterway in place.

The farsighted decision by Congress and the executive branch to build this waterway was made over 13 years ago. We are now 9 years into actual construction. With the completion date very near, coal and other commodities can soon be moved over this less costly waterway route to and from the heartlands of America.

In a recent ruling on Tenn-Tom, the U.S. Fifth Circuit Court of Appeals stated that the time for battle is past and that dissension over this project should be laid to rest and construction should proceed full speed ahead. Yet a small special interest group continues to spend millions of dollars to delay or stop this crucial national project.

Opponents of the waterway have examined over 240,000 documents and, from this information, have loudly and erroneously proclaimed a long list of unproved allegations detrimental to the waterway. It is these same allegations that are being circulated in the Halls of Congress.

Most of these allegations have been heard by the district and appellate courts and, on seven different occasions, these courts have ruled against them. These charges are blatantly false—the biggest fallacy of them all is that the project will cost $3 billion. The cost of the approved project as it is being constructed is $1.7 billion. If any of the supplemental projects to the Tennessee-Tombigbee Waterway are built, it will be for Congress to decide through the legislative process.

The Tennessee-Tombigbee Waterway has been thoroughly reviewed and approved by the legislative, executive and judicial branches of Government. The legislative process spans the last 35 years, and each year for the past 13 years, this project has been thoroughly analyzed during congressional appropriations hearings which consist of taking testimony from thousands of witnesses. We believe that the decision to build this waterway should be one made by the Congress, the President and the Courts and not by the whim of a few well-heeled Washington lobbyists who are prostituting the true environmental movement.

Mr. SASSER. Will the distinguished Senator yield some time to me?

Mr. STENNIS. Yes, I shall yield the Senator some time. I think the other side wants to speak now. I shall yield to the Senator from Tennessee after that.

Mr. CHAFEE. Does the Senator from Tennessee want to go ahead?

Mr. STENNIS. I just suggested that the Senator from Rhode Island may want to speak now.

Mr. CHAFEE. No, I am going to save any time for now, but Senator SIMPSON would like to speak.

Mr. STENNIS. I yield 3 minutes to the Senator from Tennessee.

Mr. SASSER. I thank the Senator. I yield 1 minute to the Senator from Alabama.

Mr. STEWART. Mr. President, I thank the Senator from Tennessee.

Mr. STENNIS. Mr. President, I yield to the Senator from Alabama 2 minutes direct.

Mr. STEWART. Mr. President, I want to say to the Members of the Senate that I join with my colleagues here, who have spoken in support of this particular project.

The question was raised earlier by my colleague from New York as to the financial benefit of this project. I can tell without question that it is going to benefit economically those States that border on the project. There is no question about that. There are already facilities located in my State and located in other States that border this particular project that are providing economic benefits for those areas.

I point out to the Senator from New York that, on occasions when he has been before the Committee on Banking, talking in terms of projects that have some question, and some real question, raised about them—both in that committee and on the floor of the Senate—Senators from our part of the country have seen the economic benefit of those projects and have supported them.

I echo the statements of those who have spoken earlier when they indicated that this is needed for transporation of coal and the energy crisis we now face. They indicated that this project has met, on more than one occasion, the environmental concerns that have been raised about the project itself. It has met the test here in Congress on more than one occasion when it went through the appropriations process.

I do not think that that can be ignored as we face this matter today.

Mr. President, I have been assured by the good Senator from Mississippi that these moneys that we are now talking about have to do with work that is already completed.

Mr. President, I have supported the Tennessee-Tombigbee for many years as a private citizen and as an Alabama legislator for 8 years and I have supported the waterway as long as I have been a U.S. Senator.

It is a great project, one that will mean more to Alabama than perhaps any other project in our lifetime.

This project has met the test of all three branches of the Federal Government. It passed its first test in Congress in 1946. Five Presidents and more than 25 Governors have given this project strong, nonpartisan support. The Federal courts have also approved this waterway. State legislatures have been supporting it financially since 1958.

Now it is time to go about the business of finishing it.

As you know, the first project was started in Alabama, with the Gainesville lock and dam. That project is now complete and the Aliceville lock and dam has also been recently completed.

However, it will not do Alabama much good, unless the entire project is completed and the connection is made between the Port of Mobile and the Tennessee River. Then the real benefits will start flowing.

Last year, our trade deficit was the highest in history.

We cannot continue to allow more dollars to leave our country to pay for foreign goods than the United States is earning from its sales abroad. This will lead to higher unemployment, higher inflation and declining value of our dollar.

We can export more coal, grain, soybeans, and other products which are plentiful in America. By having a shorter cheaper route to the gulf and modern, efficient ports at the southern terminus of the Tennessee-Tombigbee, this balance of trade can be improved. It must be improved soon.

I am also concerned about this project being stretched out even more. Everyone involved to date has done a marvelous job of getting this project 18 months ahead of schedule.

Alabama and America need this project completed.

What a shame it would be to stretch it out, from 1984 to 1987.

The Congress has been strong in its support of Tennessee-Tombigbee. I appreciate that more than I can say.

You have committed more than half a billion dollars.

The project has met all the tests applied to it.

The States are doing their part.

The people are for this project.

So, let us finish the job.

I rise today in full support of this project and urge and request that the full $58 million be retained so that we can get on with the job of finishing this very important project.

Mr. STENNIS. I yield 3 minutes to the Senator.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, I thank the distinguished Senator from Mississippi for yielding to me.

I would like to associate myself with the remarks made earlier by the distinguished Senator from Mississippi (Mr. STENNIS) and with the distinguished chairman of the Appropriations Subcommittee, the Senator from Louisiana (Mr. JOHNSTON).

I think the merits of this project, Mr. President, have been eloquently expressed by those who preceded me. I think they have more than justified the expenditure of taxpayers' funds for the completion of this project.

But I would like to make one or two additional points. One is that an amendment identical to the one presently before this body was resoundingly defeated in the House of Representatives by over 45 votes.

Now, this is not a new project and this is not a new issue. Congress has consistently supported this project for many years prior to my arrival in this body and prior to the arrival of many of those who speak both for and against this project.

The Tennessee-Tombigbee is now more than 50-percent physically complete. The remaining cost-benefit ratio for funds that will be expended is 2.5 to 1.

Mr. President, I think this is a good buy for the taxpayers. It is a particularly good buy at this time in our history. As the distinguished junior Senator from Alabama so eloquently pointed out, we are reaching a time where we desperately need the water transport, to transport the coal that is to be needed as we shift from imported oil over to more of a coal economy. This coal that will be transported is needed to be used for the development of synthetic fuels. Waterborne transport is one of the most economical ways to move the coal and the bulk cargo that needs to be moved in the remaining years of the 20th century as we rebuild America and increase our productivity.

Mr. President, the Tennessee-Tombigbee Waterway will play a major role in rebuilding our country and in increasing our productivity.

I think it would be pennywise and pound foolish at this time, with a project 50 percent complete, a cost-benefit ratio of 2.5 to 1, for us to move in the direction of slowing down on this work.

The PRESIDING OFFICER. The Senator's time has now expired.

Mr. STENNIS. I am sorry I do not have more time.

Mr. SASSER. I thank the distinguished Senator from Mississippi for yielding me the time that he did.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. I yield 5 minutes to the Senator from Wyoming.

Mr. President, I understand we have 20 minutes. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. SIMPSON. Mr. President, I have been observing this curious process from the vantage point of a committee member of the Environment and Public Works Committee. We grappled with these issues. Our chairman, Senator RANDOLPH, and Senator STAFFORD, work at it diligently, as does the sponsor of this particular amendment.

Many months ago, I joined my colleague (Mr. MOYNIHAN) in these type activities in challenging some of these projects referring to them, I believe, in the bizarre term as "turkeys."

I first want to assure Senators that I respect greatly what is being said by the Senators from Mississippi and Tennessee. Let me say, this is a perilous place for a Western Senator.

But I do not believe any longer that we can do business as usual in this area. We are hurting budgetarily, and here is a great place to start whacking.

Several weeks ago, I joined Senator COHEN in a hearty attempt to lop off $500 million. That failed, after rather spirited debate.

Here is a place where we could save more than that, because, at least, if we were talking about a western water project, the United States gets its money back. Here, it just goes down the tube. There are no fees, no tariffs, no tolls, no fuel charges. Nothing.

It is a testimonial to the corps mentality.

Indeed, they are allergic to the sound of running water. Hopefully, they will be alert to the sound of pleading voters the next time, and that phrase "turkey" is a kind word, perhaps, when we refer to this caper.

I hope Senators examine what I perceive to be the gimmicked-up cost-benefit ratios in this data study projection. That just is not there.

The corps, in this instance, must do the same amount of work. They must remove the same amount of dirt and rock as to build the Panama Canal, some 300 million cubic yards.

I would earnestly recommend we use that dirt to inter the project and tamp it down later.

At least, we would get a better grasp on it if we were able to examine into it further. I think that is the duty of the Environment and Public Works Committee, because while we are over here struggling, and while Senator HOLLINGS and Senator BELLMON are here on the floor struggling with the budget, meanwhile, back at the committee, we crank out this same material, new refuges, sanctuaries, water courses, dams, nesting areas, name it, we will send it over.

While you slave over the hot stove in the process of the budget, we sit out on the cool porch shooting the breeze and sending a ton of this tired old stuff over here like these projects—and they are in my State, too. Please be assured that some of these are in the State I represent.

I have a real ambivalence about the entire issue. But I think we have become whipsawed by constituents in this process, and it is the pork barrel process, and it is legendary in its attributes.

But the leeway is now narrowing, and anyone who is on this floor could say at any time it would be the height of hypocrisy for anyone to point the bony finger at another and say, "You are the spender, I am not."

Fortunately, I see a bunch of new young buckos around here, especially in the class of 1978, Democrat and Republican alike, who do not go for the whole business, at the old stand, with the usual stuff.

I do end up as a budget buster. Yes, you can go reach into the vat and say, "Simpson, we saw what you did one day."

I remember my good colleague (Mr. Muskie) used to remind me in his able way that we all do that. We do not need lectures. We are trapped in the system, but we do not have to remain there.

As to budget, I just hope we have learned to become tired of the phrases like "econometric modules, synergistic curves, interpolated synthesis," and just understand the solid fact that if we spend more than we earn, we lose our fanny.

We will find few technical pamphlets on that, or in that particular vocabulary, but here is a good place to, if you want to, hit a lick. I commend it to all Senators.

Mr. President, I am a cosponsor of the amendment to delete $58 million from the Tenn-Tom project and would urge my colleagues to vote to strip this money from the supplemental appropriation bill as we grapple with the need to adjust the overall spending level so as not to violate the terms of the Budget Act.

There is absolutely no reason to speed up the work on this waterway project which is now estimated to cost a whopping $3 billion.

A number of groups are concerned about the direction these type of projects are taking us and I share their concern. The "Coalition for Water Project Review"—made up of a number of national organizations—have studied the Tennessee-Tombigbee Waterway and have reached some important conclusions, conclusions that we should all take into consideration.

The coalition has found that:

This $3 billion barge canal is now consuming Federal funds at a rate of almost a quarter of a billion dollars per year.

That as a "superhighway" for barges, the waterway is being built almost totally at Federal expense with no provision for tolls or fees to recover one single tax dollar.

That the economic justification for the project includes benefits for companies that do not exist and rests on the painfully obsolete interest rate of 3½ percent to justify its benefit-cost ratio.

That the project will provide tax-subsidized competition for transporting bulk commodities, jeopardizing the jobs and the financial stability of an existing railroad network.

That the Corps of Engineers must excavate as much dirt and rock as was moved to build the Panama Canal—some 300 million cubic yards—and find a place to put it.

That the Tennessee-Tombigbee Waterway project is so wasteful that more money could be saved by halting construction now than by finishing the project—despite the fact that several hundred million dollars have already been washed down the rathole.

Mr. President, the National Taxpayers Union, the Natural Resources Defense Council, Inc., the Environmental Policy Center, and the National Wildlife Federation have indicated an interest in this amendment and have noted—as do I—that it is indeed ironic that in a budget year when a number of valuable programs are suffering a cutback to help balance the budget and reduce Federal spending, that the Tenn-Tom project funding is being accelerated. Acceleration of funding at this time is, indeed, a true distortion of national priorities.

The National Taxpayers Union has called attention to what they call "inexcusable pork-barrel spending," and I want to call attention to a recent letter from the NTU's President, George E. Snyder.

He states that this $3 billion project is so economically unsound that the taxpayer would lose less money by halting it now and taking the loss on money already spent and that it would add insult to injury to actually speed up the completion of something that was never justified in the first place. "Cut and run" we call that in my country.

The Tenn-Tom, Mr. Snyder said, cannot be justified by any of the usual arguments employed to excuse spending money on boondoggles: It provides no energy, no irrigation, no flood control and it may actually accentuate the impact on flooding. It is widely recognized that the original economic justification was based on fictitious, if not fraudulent, data—according to the National Taxpayers Union president—contrived by the Corps of Engineers and that what the corps is building was not what Congress originally authorized. We are all painfully aware of the corps self-serving and overzealous activities in every area of its mission.

Mr. President, costs have gone up from the original $300 million project figure to $3 billion and could even go to $4 billion if one includes the work needed on the lower Tombigbee.

Mr. President, our "Dear Colleague" letter makes some important points about this amendment and I would commend them to the attention of the Senate.

First. The lack of validity of the navigation benefit claims and the benefit-cost ratio for the project;

Second. The dramatic increase in project width and design without explicit congressional authorization;

Third. The failure of local sponsors to meet their share of project costs; and

Fourth. The need for a billion-dollar additional project on the lower Tombigbee River to make the Tennessee-Tombigbee Waterway functional.

Less than 25 percent of this "ultimate" Tenn-Tom project is completed. A decision to halt work or continue the project can be left to a later time. But it must be noted that a halt in the project construction near Columbus, Miss., will still allow that canal to function for a completed distance of 130 miles. Combined with sales of lands already purchased, much of the project costs to date will be recouped or usefully expended. This, in my opinion, is a project that needs to be reexamined.

Support of this amendment will give us that opportunity.

I urge that the amendment be passed.

Mr. President, I ask unanimous consent to have several letters printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEE ON ENVIRONMENT
AND PUBLIC WORKS,
Washington, D.C. June 27, 1980.

DEAR COLLEAGUE. Later today during the debate on H.R. 7542 (the F.Y. 1980 supplemental bill), we will offer an amendment to delete $58 million that is included for speeded-up work on the Tennessee-Tombigbee Waterway.

Our amendment does not halt the project or affect the ability of the Army Corps of Engineers to spend the $188,500,000 already allocated to the project in fiscal year 1980. Rather, our amendment says that in this period when the Budget is under severe strain, we should not appropriate additional funds to a project of dubious value the will utlimately cost the taxpayers some $3 billion.

We should point out several of the very serious questions that have been raised over the Waterway. These include:

1. The lack of validity of the navigation benefit claims and the benefit-cost ratio for the project.
2. The dramatic increase in project width and design without explicit congressional authorization.
3. The failure of local sponsors to meet their share of project costs.
4. The need for a billion dollar additional project on the lower Tombigbee River to make the Tennessee-Tombigbee waterway functional.

Less than 25 percent of this "ultimate" Tenn-Tom project is completed. A decision to halt work or continue the project can be left to a later time. But it must be noted that a halt in the project construction near Columbus, Mississippi, will still allow that canal to function for a completed distance of 130 miles. Combined with sales of lands already purchased, much of the project costs to date will be recouped or usefully expended.

We urge that you support our amendment to delete additional Tenn-Tom funds, indicating that Congress believe more important national priorities exist at this time.

Sincerely,

Alan K. Simpson.
John H. Chafee.
Gaylord Nelson.

Natural Resources
Defense Council, Inc.,
Washington, D.C., June 27, 1980.

Dear Senator: When the Supplemental Appropriations Bill for Fiscal Year 1980 comes to the floor of the Senate, an amendment will be offered to delete additional funding for the Tennessee-Tombigbee Waterway, a navigation project being constructed by the Army Corps of Engineers in Mississippi and Alabama. The Natural Resources Defense Council (NRDC), a public interest environmental organization of 45,000 members nationwide, urges your support for this amendment.

NRDC has great concern with this project. Tenn-Tom, as it is called, is speeding the already-serious losses of farmland and forestland in the region, taking more than 100,000 acres away from these uses. Hunting and fishing opportunities will suffer so severely that an estimated one million acres of land may have to be acquired to compensate for fish and wildlife losses. The project, by cutting through an aquifer, is drying up wells in a multi-county area, disrupting water supplies to the residents. The project, completely restructuring the land and water resources in the area, is seriously and adversely affecting the physical base necessary for ecological and agricultural productivity.

This tremendous destruction, with an equally tremendous price tag of $3 billion, does not merit the support of Congress in these times of increasing resource and monetary scarcity. We hope that you will support efforts to delete additional funding for the Tennesee-Tombigbee Waterway.

Sincerely,

Gloria Helfand

Coalition for Water Project Review
Washington, D.C., June 26, 1980.

Dear Senator: Soon you will have the opportunity to vote on an amendment to the Supplemental Appropriations Bill for FY 80 which would strike $58 million to pay for the acceleration of the largest public works project in the history of this country: the Tennessee-Tombigbee Waterway. Congress has already appropriated $165 million for this project this year, and nearly $30 million has been administratively transferred, making the FY 80 appropriation the largest appropriation for any project in a single year.

An amendment will be offered to halt supplemental funding for the Tennessee-Tombigbee Waterway until some of the many allegations surrounding the project have been resolved. We feel that Congress should carefully consider the implications of a doubled project scope, a faulty benefit-cost analysis, enormous losses to fish and wildlife, and the lack of local cost-sharing assurances before committing additional funds to this questionable project.

This year when so many worthwhile programs have been drastically reduced or totally cut, this nation should not fund a project so low on the scale of national priorities. Almost 90 percent of the benefits are associated with creating a shortcut route for barge traffic to reach the Gulf of Mexico in a region served by an existing transportation network. The barge companies which benefit from Tenn-Tom would not have to repay any of the costs of construction or operation.

The Coalition for Water Project Review has repeatedly argued for a rational water resources development policy that addresses genuine national needs in a systematic manner. Tenn-Tom flunks even the most elementary tests.

We urge you to vote to cut supplemental funding for the Tennessee-Tombigbee Waterway.

Sincerely,

Edward R. Osann,
Coordinator.

National Wildlife Federation,
Washington, D.C., June 27, 1980.

Hon. Alan Simpson,
Washington, D.C.

Dear Senator Simpson: Today the Senate will consider the Supplemental Appropriations Bill for FY 80. Senator Chafee of Rhode Island will be offering an amendment to delete $58 million from the appropriations for the Army Corps of Engineers for the Tennessee-Tombigbee Waterway. I urge you to vote for the Chafee Amendment.

If the Senate is to succeed in the effort to balance the federal budget, economically unsound projects like Tenn-Tom must be trimmed. Tenn-Tom is a direct subsidy to the barge industry. It will supply no hydropower, no municipal or agricultural water, and no flood control. It will, on the other hand destroy 84,000 acres of wildlife rich forestland and 19,000 acres of prime farmland—two important resources which are rapidly being depleted. And, according to current estimates, it will cost over $3 *billion* to complete. Of course, since project costs have increased by more than 600 percent since 1972, no one can say what the final price tag will be.

This year, many of the country's most valuable programs have suffered a tremendous cut-back to help balance the budget and reduce federal spending. Accelerating the funding for the Tenn-Tom project in this atmosphere of fiscal restraint is clearly a distortion of national priorities.

We ruge you to support the amendment offered by Senate Chafee to stop funding for the Tennessee-Tombigbee Waterway.

Sincerely,

Thomas L. Kimball,
Executive Vice President.

Environmental Policy Center,
Washington, D.C., June 27, 1980.

Hon. Alan Simpson,
Washington, D.C.

Dear Senator Simpson: The Environmental Policy Center opposes the massive amount of money being appropriated for the Tennessee-Tombigbee Waterway in the supplemental FY 80 appropriations and in the FY 81 appropriations. This canal is the most expensive water project the Army Corps of Engineers has ever undertaken. The canal would provide no flood control, water supply, power, or irrigation benefits. It is justified primarily on the basis of navigation through so-called "savings to shippers." An examination of these navigation benefits shows that the majority of them were claimed for companies which do not even exist or which stated that they would not use the canal.

In an incredible feat of bootstrapping, the Corps of Engineers will be coming back to Congress in several years to authorize a billion-dollar addition which is necessary to complete the lower 200 miles of the canal route to Mobile, Alabama. The currently authorized project is analogous to a barge superhighway 300-feet wide on the northern half of the Tombigbee River which will empty into the equivalent of a two-lane road, the meandering lower Tombigbee. The Corps acknowledges that the cost of developing the lower river is one billion dollars. It would be physically impossible to transport the tonnage claimed by the Corps to justify the canal along the twisting lower Tombigbee without this additional construction work.

The Corps of Engineers has proceeded with the project in the absence of the legally required mitigation plan under the Fish and Wildlife Coordination Act. The U.S. Fish and Wildlife Service estimates that between 118,000 and one million acres of land would have to be acquired to compensate for the tremendous loss of fish and wildlife habitat which will occur if the project is completed. The cost of this required mitigation could be several hundred million dollars.

The Environmental Policy Center urges you to support efforts to eliminate the $58 million in the supplemental appropriations bill for fiscal 1980 for this unnecessary project.

Sincerely,

Brent Blackwelder,
Washington Representative.

Mr. CHAFEE. Mr. President, I yield 2 minutes to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I speak now because I think this is an appropriate time to remind the Senate, once again, and to remind those who have come to the floor to talk about all the good things that come from this kind of watreway project what is involved.

We would not be here but for the stubbornness and shortsightedness of the barge companies of America. The real issue, as this Senator sees it, is, Who should pay for this kind of project? Those who use it for commercial purposes totally distort the transportation system of this country, make railroad traffic uneconomical, make highway transportation uneconomical.

We should come to the realization that the way to build these kinds of projects and to avoid the accusations that are made on the floor, and to avoid the concern that more is being done than need be done, is to let those who use them for commercial purposes pay their fair share of the cost. No transportation system in America never gets a free ride, except this one.

After 16 years of effort, we put on a 10-cent-per-gallon tax. It will not be fully in effect for 10 years; and when it is in effect, it will raise $100 million a year.

I say to those who think that this is a superb and necessary thing for America that this Senator does not necessarily disagree. It probably is. But we would not be here today, and we will not be here in 2 or 3 years, fighting on this waterway project or others, if those who want them will come to the realization that they can be paid for by the user and still be economical, and the taxpayer will not have to do it.

I thank the Senator for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. Mr. President, I yield 2 minutes to the Senator from Illinois.

Mr. PERCY. Mr. President, I do not wish to malign in any way the Corps of Engineers. I have read a great many editorials in which they have been taken to task on this project. I have found them through the years to be a very dedicated service; but, after all, they are subject to the direction of Congress, and if they get a direction set by Congress, it is not up to them to change it. They just do what they are authorized to do.

I know that we are all proponents of our own public works projects. We are all for cutting Government spending generally, but not specifically when it affects our own districts or our own States.

For example, I supported for many years the Oakley Dam at Decatur, Ill. However, I began to question the wisdom as to whether it was really cost effective. Some years ago, I requested the Comptroller General of the United States to make an independent study. The GAO knew that I supported the project and had been elected on that premise; but they came forward with a very honest, straightforward analysis indicating that this simply was not a cost-effective project, considering all the other urgent needs of the country, and I withdrew my support. We fought it and we defeated it.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PERCY. May I have 1 additional minute?

Mr. CHAFEE. I yield the Senator 1 additional minute.

Mr. PERCY. Mr. President, this is a $3 billion project. Chicago now has the biggest public works project, the Deep Tunnel, under way in the history of the world—$11 billion. We are in the process of tunneling 138 miles, hundreds of feet deep, to drain off rainwater during floods and for pollution control purposes. I have questioned that.

I appointed my own citizens task force, and I am severely questioning whether or not this country can afford to spend money on that particular project. Therefore, I have no hesitancy in saying that this project now should be subject to very, very severe questioning as to whether it is truly cost effective.

I commend the authors of this amendment. It is estimated that this project will involve the moving of 280 million cubic yards of earth, more dirt than was moved from the divide cut for the Panama Canal.

In addition, Mr. President, I am concerned over reports that Congress has continually been misled by faulty accounting procedures, guesswork, and misleading statements to justify construction of this waterway. We simply cannot afford, in our effort to balance the budget and hold down Federal spending, economically unsound projects like the Tennessee-Tombigbee Waterway. There are many water projects and public works projects of value that have to be cut back or eliminated because of the budget crisis to justfy this wasteful, unsound project.

Mr. President, I urge all Senators to support the amendment.

Mr. CHAFEE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Nine minutes and 45 seconds.

Mr. CHAFEE. I yield myself 5 minutes.

Mr. President, I ask unanimous consent to have printed in the Record an editorial published in the Birmingham Post-Herald, in Birmingham, Ala., entitled "Let's Stop Tenn-Tom."

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Let's Stop Tenn-Tom

Within the next 10 days President Carter will decide whether to fund a number of federal water resource projects in is fiscal 1978 budget. The largest project under review is the Tennessee-Tombigbee Waterway in Mississippi and Alabama, a $1.6 billion barge canal that enjoys the determined support of a phalanx of powerful Southern members of Congress.

Given that Congressional support, it would be easier for a new president with ambitious legislative plans to continue to fund the project. In the long-term interest of both the nation and the region, we urge the President to take the more difficult course of action.

When one looks beyond the reams of misinformation that have been disseminated at taxpayer expense by the Tennessee-Tombigbee Waterway Development Authority, the project falls short of the national interest in at least three categories, economics, energy conservation and environmental protection.

Tenn-Tom is a boondoggle of epic proportions. Since construction funding first was authorized in 1971, the projected cost of completing the waterway has increased more than tenfold. It is sure to go higher, with $4 billion probably a conservative final price tag if the project is completed in 1986 as planned.

In return taxpayers will get a shortcut water route linking the Tennessee Valley with the Port of Mobile. Unless the taxpayer happens to own a barge line or coal mine, the long-range economic benefits of this linkup are minimal.

The waterway has been highly touted as a source of new industry and jobs in the area through which it passes. Yet industry that would locate on the waterway is by the very nature of the type of transportation a waterway affords capital, not labor intensive. Barges transport bulk commodities, not manufactured goods, and the number of jobs available in a cement factory or chemical plant is limited.

Supporters of the waterway have repeatedly cited a government study that projects an increase of 135,000 jobs in the area by the year 2000 as a direct result of the waterway. But a more recent study commissioned by the same agency found the figure to be only 20,000.

Supporters rarely mention the jobs that would be lost if the waterway is built. Because waterway users pay nothing toward the construction of the routes they use, nothing for their operation and maintenance and no taxes on the waterway right of way, money spent on a project like Tenn-Tom is a direct federal subsidy of barge lines which compete with the nation's troubled railroads.

Although railroads in the South are among the few solvent lines in the nation, they would be hard pressed to compete with subsidized barges moving along their bread and butter routes. Established jobs would be lost if Tenn-Tom is completed, and with them an established tax base.

Using a projected cost of $1.6 billion computed on an archaic interest rate of 3¼ per cent, U.S. Army Corps of Engineers economists have calculated the return on each dollar spent on Tenn-Tom at $1.08. Using a more realistic interest rate of 6¾ per cent, a presidential task force has found the return on each Tenn-Tom dollar to be only 87 cents. As waterway construction costs rise that figure will drop even lower, leading to the inescapable conclusion that the waterway simply isn't worth the money.

Some public works projects are worthwhile even if they are not cost effective. Not Tenn-Tom. More than 65 per cent of the traffic on the waterway is expected to be coal bound for the Gulf of Mexico and export to foreign countries. As energy reserves dwindle, the last thing the nation needs is a conduit to ease shipment of a valuable energy resource overseas where, in some cases, it is simply stockpiled for future use. If Tenn-Tom is completed, it is not inconceivable that before the end of its 50-year span of usefulness that coal will return by the same route it departed, but at vastly higher prices.

One resource that will be lost forever if Tenn-Tom is completed is the Tombigbee River, the last natural river in the Mobile basin. Businessmen and boosters traditionally become livid at the mere suggestion that environmental concerns should stand in the way of progress, but the time has come to redefine progress.

In the South since World War II progress has meant increased industrialization, and vast sums of both money and human energy have been spent to attract industry. Tenn-Tom is perhaps the most spectacular result of this effort, but it bore fruit too late. The question in the South today is not how to attract industry, since industry really has no place else to go, but rather how to deal with it once it arrives.

Scenic beauty is an integral element of the quality of life, and the South is blessed with an abundance of it. The goal of progress should be to improve the quality of life, but all too often in our region industrial and commercial growth has been purchased with polluted rivers and air and once-lovely valleys spoiled by sprawling, poorly-planned cities.

Tenn-Tom will transform one of the few unpsoiled sections of our region into a chain of canals, flat water lakes and mud flats. It will not be beautiful, particularly when its banks become lined with shotgun boomtowns crammed with familiar commercial landmarks that could be found in any region of the nation.

The vast sums the waterway will require would be better spent on planning for controlled growth, education for the region's children and improved housing for less affluent residents. The South does not have to make the mistakes that have been made in other regions. It could be an example of the right way to grow, of growth without loss of regional character and environmental quality.

The Tennessee-Tombigbee Waterway is only slightly more than 11 percent complete. It is not too late to stop it, and there is no point in throwing good money after bad.

Mr. CHAFEE. Mr. President, we are hearing some familiar arguments, and I must say that the Senator from Louisiana presents them very skillfully because he is used to giving them. We heard them with respect to the Hart Building. He seemed embarrassed about that, and I guess he is a trifle embarrassed by this one, too.

We are always led down that primrose path, that we put so much into this, we have to keep going. I do not know what standards we live on around here. We do not seem to have the courage to say, "Stop. This is where we get off. It is wrong," regardless of how far we have gone.

The allegation is made on the floor that 70 percent of this project is complete. This project—forget the lower river, forget going south from Demopolis—is going to cost $1.9 billion; and as of yesterday, $836 million had been appropriated. That is 40 percent; that is not 70 percent.

In addition to all that, the river south from Demopolis, nearly 500 miles of twisting, turning river, has been described by the Corps of Engineers as more crooked than a barrel of snakes, able to accommodate only four tow barges, not two-way traffic with eight barges; that it has to be straightened out. That is where the other $1 billion comes from. So we are talking about $3 billion for this project.

Yes, we have made a mistake, but let us call it quits and not keep going. This project cannot be justified economically or environmentally.

We have two latest arguments: One is that we will be subject to the charge of vacillation if we quit now. My goodness, is that the way we plunge on? That is what went wrong in Vietnam: We cannot stop. We are in there so deep, we should keep going. I hope we are not controlled by that type of argument.

The second is the national defense argument. The suggestion is that we never have been in a big war in this country and that we could not be in another one without this Tennessee-Tombigbee project.

Mr. President, we went through a pretty big war in 1941 to 1945 without this waterway existing in anybody's imagination.

However, that is not what is before the Senate today. We are considering a supplemental, and the supplemental asks us to appropriate $58 million for this project for the remainder of this year, 3 months. We appropriated $165 million when we started the year. We said, "There you are. That's the amount."

Then, the Corps of Engineers somehow wangled $23.5 million more. So they spent all that, above what they were given originally. Now they come back and say, "We have run out of money."

The distinguished Senator from Louisiana tells us all sort of minorities are going to be laid off if we do not continue this project. But the question before us is, who is running the store—the U.S. Senate, the U.S. Congress, the House and the Senate, or the Corps of Engineers? Is this an entitlement program—they spend any amount they want and then come back for more?

They have been working night and day, 7 days a week, 24 hours a day, getting this thing done, so that they can come back and say, "We need more money. So much is done that you can't quit now."

Let us not dance to that tune.

Mr. President, the argument is that they have run out of money and cannot pay their help.

That is not true. As of last Friday, yesterday, $11 million of funds were unobligated that had previously been appropriated. So that argument just does not hold water.

So, basically we are deciding today who is in charge around here. Is it that arrogant Corps of Engineers that is going to do anything they want, or is it Congress?

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. COCHRAN. Mr. President, will the Senator from Louisiana yield to me 3 minutes?

Mr. JOHNSTON. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 3 minutes and 53 seconds remaining.

Mr. JOHNSTON. Mr. President, may I ask unanimous consent for 1 additional minute so I may yield 3 minutes to the Senator from Mississippi and keep 2 minutes to sum up?

Mr. CHAFEE. Mr. President, that is all right if we get an extra minute on this side also.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that each side be allotted an additional 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I yield 3 minutes to the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I thank the Senator from Louisiana.

Mr. President, I think we should focus on what we are really confronted with here, and that is a request of this body to delay or in fact to stop a project that is arguably 40 or 70 percent complete; let us say half complete. This means that there has been $1 billion invested in behalf of the American people in this national project.

Maybe the Senator from Rhode Island is not from one of the 23 States that will be directly benefited by the project, but the fact of the matter is that if we vote for this amendment, we are a party to saying to the American people that the Senate today took $1 billion of your money, went out, dug a hole in the ground, and then covered it over and tamped it down, as the distinguished Senator from Wyoming suggests we do.

I do not think the American people will applaud that action. We know what is going on. It is trendy to be against the project. All the editorial writers are on the Senator's side. The Washington Post this morning timely entered on its editorial page a criticism of a $3 billion project, a project that does not cost but $1.9 billion according to figures, but it is trendy to be against the project. It is not trendy, though, to throw away $1 billion of taxpayers' money and tell the American people we are doing them a favor.

We have an investment in this project. It is half through. We can save $1 billion. We can do what we want to with it, throw it away or continue the project until it is over with. If we stop the project we are going to have escalated unemployment compensation. We are going to have a hard time explaining that to the constituents who are looking for leadership from this Senate, not just trendy conversation and rhetoric that is designed to appeal to a few loud detractors of this project who have been in business since it began, some for the last 35 years, in fact. But for 13 years this Congress has appropriated money every year to fund this project, for 13 years it has been reviewed under Presidential requests, with a full review in 1977. It has been litigated in courts all over the country. It has been argued about in numerous committees in the House of Representatives and the Senate.

Let us go on and finish the project. This is a supplemental appropriation, not designed to benefit just this project. There are 92 contracts under Corps of Engineers projects that need funds in this bill. Ninety-two, not just one. So do not be misled by suggestions that this is an effort by the Corps of Engineers and some sort of clandestine conspiracy to move this project along faster than any others, so that it would not have to meet some other requirement. It has met every requirement, the environmental requirement, the economic requirement, that has been thrown up against it. It is a good project and should be finished.

I thank the Senator.

● Mr. LEVIN. Mr. President, I rise in opposition to the amendment proposed by Senator CHAFEE and others.

Much controversy exists regarding the need for the Tennessee-Tombigbee Waterway project, and the economic costs and benefits used for justifying construction. Because of these controversies, I have not decided whether to support or oppose further funding for fiscal year 1981. I look forward to studying testimony from the hearings Senator MOYNIHAN will conduct.

I oppose passage of this amendment. According to Assistant Secretary of the Army (Civil Works), Michael Blumenfeld, the corps in January of this year "estimated that the total requirement for fiscal year 1980 would include $58 million from a supplemental appropriation for contracts already underway on the project.

The Senator from Louisiana has indicated in effect, that this $58 million is for work already performed or obligated and that the money will have to be paid, in any event.

I believe the Federal Government must honor its contracts with businesses and firms providing goods and services. It is on that limited and narrow ground that I cannot support the amendment.●

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. Mr. President, will the Senator from Rhode Island yield 1 minute to me for a question?

Mr. CHAFEE. I yield 1 minute.

Mr. LEVIN. Mr. President, the question is of the Senator from Rhode Island. I am asking this as someone not committed to complete this project just because it has begun. I wish to know whether or not he concurs in the statements which were made by the Senators from Mississippi and the Senators from Louisiana, whether or not the corps had authority to obligate this and that is going to be subject to hearings by Senator MOYNIHAN, that, in fact, this $56 million is needed to pay for work already contracted for or completed.

Mr. CHAFEE. The answer is "No." That money is not committed to pay someone's salary now. The answer is "No." Eleven million dollars as of yesterday was unobligated on this project.

Mr. LEVIN. Mr. President, will the Senator from Louisiana yield 30 seconds so I may ask him the same question?

Mr. JOHNSTON. Mr. President, I yield myself 30 seconds, and the answer to the question is absolutely "Yes." The Senator from Rhode Island is absolutely wrong. I will stack my reputation on it, such as it is. This money is going to pay for ongoing multiyear fixed-price contracts. There is no question about that.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. Mr. President, I yield myself 30 seconds.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. We are in some kind of a fix in this Nation if the Corps of Engineers can go out and obligate the U.S. Government for funds that it does not even have. As of Friday they had $11 million unobligated from authorized funds and from appropriated funds and so that can pay any outstanding bills. If the Corps of Engineers goes about obligating money without having the authorized sums then they should be thoroughly chastized, and I cannot believe it is happening.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. There remains 4 minutes and 14 seconds to the proponents and 1 minute and 21 seconds to the opponents.

Who yields time?

Mr. DOLE. Vote.

Mr. CHAFEE. Mr. President, I yield 1 minute to the Senator from Wyoming.

Mr. SIMPSON. Mr. President, let me try to bring something into perspective as to what my good colleague, Senator COCHRAN, refers to. The United States will not lose a nickel on this one if we stopped. I hope Senators might keep that in mind. The existing construction could be halted, and the existing construction could be used for a waterway at the present time without any question, and in addition then the land sales would take place on the property that had already been condemned for the process. The land sales will recoup whatever the balance of that loss is. I think that it is good to keep that in mind and in perspective.

I thank the Chairman.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. I yield 1 minute.

Mr. BOSCHWITZ. Mr. President, would the distinguished Senator from Louisiana or Mississippi respond to the Senator from Wyoming inasmuch as the Senator from Minnesota is confused?

Mr. JOHNSTON. On the Senator's time?

Mr. CHAFEE. On that minute.

Mr. JOHNSTON. The question of the Senator from Wyoming was——

M. COCHRAN. That it would not cost anything to stop it.

Mr. JOHNSTON. That it would not cost anything to stop it. That is absolutely wrong.

Mr. BOSCHWITZ. And that improvements that may have been made could be used.

Mr. JOHNSTON. That is absolutely wrong.

I am looking at a letter dated May 1980 from Mike Blumenfeld, Assistant Secretary of the Army for Civil Works. It says:

> The same amount of additional funds is required in fiscal year 1980 in order to complete the project as scheduled in 1986 or to finsh early.

In effect, what he is saying it takes $1.2 billion total to either terminate the project because of the termination costs or to go ahead through with the project as presently committed. So that and also on the question of this land itself——

The PRESIDING OFFICER. The time has expired.

Mr. CHAFEE. Mr. President, I yield myself 1 minute. How much time do I have remaining?

The PRESIDING OFFICER. One minute and 50 seconds.

Mr. CHAFEE. I yield myself 50 seconds.

Mr. President, this amendment does not affect any other Corps of Engineers projects. This amendment on the very face of it goes solely to this Tennessee-Tombigbee project and eliminates the amount of money, the $58 million that the Corps of Engineers requested for this project.

Furthermore, Mr. President, there would be recovery made from the sale of the land that has been condemned for the project. That is estimated to recover for the U.S. Government about $100 million.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I yield myself the remainder of the time.

Mr. President, I just do not have the time to go into every allegation but believe me every one of these is false, innocently false but false. The figure on the sale of the land is not $100 million but $28,825,000 by estimate.

Mr. President, let us bring it back into focus. The essential facts are that every one of these items has been tested in court not once but six times, each time thoroughly and definitively rejected with the benefit of cross-examination, the benefit of due process.

No. 2, 70 percent of the cost of this project has been committed, over $800 million spent, $1.2 billion committed, and if you stopped now you would still have to go to the $1.2 billion for termination and restoration costs. So 70 percent is committed.

The cost-benefit ratio to complete is 2.5 to 1.

Mr. President, if you stop this project you lay off 3,000 people. You subject the Government to termination and restoration costs in the hundreds of millions, and you are left with a relatively useless ditch which is not completed because 20 percent of the project has yet to be commenced.

Mr. President, I hope the Senate will not exercise such bad judgment even for the sake of making a gesture to vote for this amendment. I hope we will reject it overwhelmingly.

Mr. CHAFEE. Mr. President, as of yesterday, just to get the figures right, the Corps of Engineers told us, and there is no reason to doubt their word, that $825 million had been obligated and $836 million appropriated. That is where the $11 million comes from.

This is a project that we got into unfortunately way over our heads. The returns are not there, and it seems to me that in a year in which we are cutting everything in sight, including school lunches, and school children's health programs, that it is unwise to give this group, the Corps of Engineers, who failed to live within their budget, $58 million extra to proceed on a project that we will later consider on its merits but, clearly, in my judgment is not worth while pursuing.

I hope this amendment will receive support.

I would like to add Senator Percy as a cosponsor.

I yield the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

MR. CRANSTON. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from New Jersey (Mr. BRADLEY), the Senator from North Dakota (Mr. BURDICK), the Senator from Nevada (Mr. CANNON), the Senator from Iowa (Mr. CULVER), the Senator from Ohio (Mr. GLENN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. MELCHER), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN), the Senator from Utah (Mr. HATCH), the Senator from New York (Mr. JAVITS), the Senator from South Dakota (Mr. PRESSLER), and the Senator from New Mexico (Mr. SCHMITT) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The PRESIDING OFFICER (Mr. STEWART). Are there any other Senators in the Chamber wishing to vote who have not done so?

The result was announced—yeas 36, nays 47, as follows:

[Rollcall Vote No. 270 Leg.]

YEAS—36

Armstrong
Bayh
Biden
Boschwitz
Chafee
Church
Cohen
Danforth
Domenici
Durenberger
Eagleton
Exon
Hart
Hayakawa
Heinz
Jepsen
Kassebaum
Leahy
Lugar
Mathias
Metzenbaum
Moynihan
Nelson
Pell
Percy
Proxmire
Roth
Sarbanes
Simpson
Stafford
Stevenson
Tsongas
Wallop
Weicker
Williams
Zorinsky

NAYS—47

Baker
Bellmon
Bentsen
Boren
Bumpers
Byrd,
Harry F., Jr.
Byrd, Robert C.
Chiles
Cochran
Cranston
DeConcini
Dole
Durkin
Ford
Gravel
Hatfield
Heflin
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Johnston
Laxalt
Levin
Long
Magnuson
Matsunaga
McClure
Mitchell
Morgan
Nunn
Packwood
Pryor
Randolph
Riegle
Sasser
Schweiker
Stennis
Stevens
Stewart
Stone
Thurmond
Tower
Warner
Young

NOT VOTING—17

Baucus
Bradley
Burdick
Cannon
Culver
Garn
Glenn
Goldwater
Hatch
Javits
Kennedy
McGovern
Melcher
Pressler
Ribicoff
Schmitt
Talmadge

So Mr. CHAFEE's amendment (UP No. 1337) was rejected.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. COCHRAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The question now recurs on the motion to reconsider the vote by which the amendment of the Senator from North Carolina was agreed to.

Mr. ROBERT C. BYRD. Mr. President——

The PRESIDING OFFICER. Will the Senator suspend until there is order in the Chamber?

The Senator from West Virginia.

THE SENATE WORKLOAD

Mr. ROBERT C. BYRD. Mr. President, while there is a good attendance, I thought I should reiterate what I said earlier so that Senators will be aware of the program.

As Senators know, this supplemental appropriations bill contains urgent funds for black lung recipients, trade assistance payments, payments to the unemployed, disaster relief for Mount St. Helens, and various other necessary moneys. The Senate cannot go out for the July break and the convention until it has completed action on this bill. That means final action. The bill has to go to the other body. The Speaker indicated to me on yesterday that as soon as the Senate sends the bill over to the House, the House will appoint conferees. The bill has to go to conference. I understand there are over 200 items that will be in disagreement. Until those conferees report back and the House adopts the conference report, or the House accepts this bill without sending it to conference, which I doubt is very likely, and the Senate acts on that conference report, we cannot and we will not go out.

If the Senate has not completed action on this conference report by the close of business on Wednesday of next week, if there is a chance that by staying on Thursday, the 3d, the day before the 4th, that we could finish it, we will do that. If there is not, we have to come back on the 7th, Monday, a week from this coming Monday. We cannot go home until action is completed on this bill.

At any other time we could put the bill over until Monday or Tuesday and continue work on it then. But come Monday, the House will be in a position to appoint conferees. We cannot afford to further chew into the time that would be available to conferees to work on this bill. We do not have the luxury of waiting until Monday to finish action on this bill. We have to finish it today. So we are not going home at 4 o'clock this Saturday, we are not going home at 5 o'clock this Saturday, we are not going home at 6 o'clock this Saturday, unless action is finished on this bill.

That is not a threat. That is a simple statement of fact. The conferees need to get to work on this bill just as soon as they can, and they can do that on Monday if the Senate will complete action on this bill today.

I say all that to say that I hope Senators will be around, will be available for votes, and those who have amendments will call them up, and, hopefully, we will not take too much time on amendments.

Prior to passing this bill, it is imperative that we get this bill back under the ceiling that was set. The ceiling was busted the other day. This bill needs to be gotten back under the ceiling.

There are Senators who have been working on an amendment that will provide the necessary adjustments that would get the bill back down to the ceiling. That amendment will be offered later.

I urge Senators to be as cooperative as they possibly can be. If they do not have to call up amendments to the bill, do not do it. If they do feel it is necessary to call up amendments, try to dispose of the amendments as soon as possible and let us get this bill passed. We have been on the bill since the evening before yesterday, all day yesterday, late into the evening, and we are going to be late in the evening today if Senators keep us around with amendments. We just cannot put this bill over until Monday. I hope the Senators will give their utmost cooperation.

Mr. MAGNUSON. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. MAGNUSON. I am glad the Senator has made that fine statement. I just do not know, unless we get started early on Monday, how we will get done in time. We will have to have 2 days of conference because there are well over 270 items in disagreement.

Mr. ROBERT C. BYRD. Will the Senator speak a little louder?

Mr. MAGNUSON. There are about 270 items in disagreement even as the bill stands right now. Everything we have been talking about for the last 2 days will not accomplish anything, unless we get this bill enacted. I am glad the Senator from West Virginia has made his statement.

I do not know how many more amendments there are, but I am hopeful that Senators will limit their debate. Talking and talking and talking will not change any votes at all.

Mr. ROBERT C. BYRD. Mr. President, may we have order? The distinguished chairman of the committee is speaking. What he is saying is important.

The PRESIDING OFFICER. The Senate will be in order.

Mr. MAGNUSON. I am getting an amendment ready, which I was going to offer now but it is just being typed up, and I hope it will probably be satisfactory to everybody. It will keep us within the budget resolution ceilings. The majority leader knows about it, the Senator from North Dakota, the Senator from Mississippi, the Senator from South Carolina knows about it, the Senator from Oklahoma, and others.

I have it here now. I am going to offer my amendment at this time.

If we approve this amendment, I think we can move swiftly. I wish on other amendments there would be a 10-minute time limitation, with 5 minutes to each side.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor. I hope the Senator will offer his amendment at this time. I feel if it is adopted, it will expedite action.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair will inform Senators that the motion to reconsider the vote on the amendment of the Senator from North Carolina is before the Senate. It take unanimous consent to set that aside.

Mr. JOHNSTON. Mr. President, I believe that was my motion to reconsider. I ask that that be temporarily laid aside.

Mr. HELMS. I object.

Mr. BAKER. Mr. President, could I speak?

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, I have not seen this amendment. I would like to see consideration of this amendment postponed at least until I get a chance to look at it.

I join with the Senator from North Carolina and object as to its immediate consideration.

Mr. MAGNUSON. Well, I have just had the amendment typed up. I would be glad to temporarily lay it aside with the idea that as soon as the Senator from Tennessee and others look at it that I be entitled to the floor.

Mr. President, I ask unanimous consent that when an amendment is pending I can butt in.

Mr. BAKER. Mr. President, I object.

UP AMENDMENT NO. 1338

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER (Mr. FORD). The Senator from Louisiana.

Mr. JOHNSTON Mr. President, while my friend from North Carolina is reading the product of our joint staff, I have an amendment to offer on behalf of the distinguished Senator from Georgia (Mr. TALMADGE), the distinguished Senator from North Carolina (Mr. HELMS), the distinguished Senator from South Carolina (Mr. THURMOND), and myself. I ask unanimous consent that the motion to reconsider be vitiated; that the amendment of the Senator from North Carolina be withdrawn; and that in its place, on behalf of the three Senators just named, the following amendment be considered and that the clerk state it.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Mr. President, reserving the right to object, and I shall not object, this amendment is perfectly satisfactory to the Senator from North Carolina. As a matter of fact, this is the equivalent of what we suggested in the first place, so I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) (for Mr. HELMS, Mr. TALMADGE, Mr. THURMOND, and himself) proposes an unprinted amendment numbered 1338.

Mr. JOHNSTON. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 78, line 9, delete "S. 932" and insert in lieu thereof the following: "the Energy Security Act (S. 932, 96th Congress)"

On page 78, line 22, delete the sentence beginning "This funding" and insert the following new paragraph:

The total available funding (including funds committed or conditionally committed under authority of Public Law 96-126) shall be apportioned so as to provide $17,522,000,000 for purposes of Title I and to provide $1,270,000,000 for purposes of Title II, to be apportioned as follows:

(i) not to exceed $525,000,000 to the Secretary of Agriculture for the purposes of Subtitle A, to be available immediately, except that not to exceed $50,000,000 of that amount may be available to the Secretary of Energy until June 30, 1981, under funding provided by Public Law 96-126, for projects as defined by section 212(a)(1)(A) of S. 932: *Provided*, That no other funds shall be available to the Secretary of Energy under Public Law 96-126 for projects as defined by section 212(a)(1)(A) of S. 932;

(ii) not to exceed $525,000,000 to the Secretary of Energy for the purpose of Subtitle A; and

(iii) not to exceed $220,000,000 to the Secretary of Energy for the purposes of Subtitle B.

Mr. JOHNSTON. Mr. President, this is the joint effort of all of those of us who were engaged in the discussion of synthetic fuel and gasohol and it represents that joint effort. I thank my colleague from North Carolina (Mr. HELMS), my colleague from Indiana (Mr. BAYH), my colleague from Alabama (Mr. STEWART), Mr. DOLE, and others for cooperating in this joint draft.

Quickly, what it does, Mr. President, is take those total funds available and distribute them to title I and title II of S. 932. Synthetic fuels is title I and biomass is title II. It distributes those funds proportionately so that synthetic fuels, title I, receives $17,522,000,000, and title II receives $1,270,000,000. The $1,270,000,000, for the purpose of title II, is further distributed to the three purposes under title II. That is, big projects over 15 million gallons to the Department of Energy; smaller projects——

Mr. HELMS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator is correct. The Senate will please come to order.

Mr. JOHNSTON. Mr. President, the $1,270,000,000 for title II has been proportionately distributed based on the authorized levels in S. 932 for the small alcohol fuel projects in the Department of Agriculture and the large alcohol fuel projects and the municipal waste projects in the Department of Energy.

We worked out one additional proviso. That is that the Department of Energy may be able to use $50 million of Agriculture's money between now and June 30, 1981, and to the extent that they commit any funds to projects which would otherwise fall into Agriculture—that is, plants below 15 million gallons—those funds shall be deducted from Agriculture's share. Otherwise, Agriculture shall get the balance of that $50 million.

So, when it all ends up, the small projects in Agriculture will get a full $525 million; Energy will get $525 million for large projects; and municipal waste will get $220 million.

All of that is allocated and everybody is happy, so I hope we can quickly pass the amendment.

Mr. PROXMIRE. Will the Senator from Louisiana yield?

Mr. JOHNSTON. Yes, Mr. President.

Mr. PROXMIRE. Does this amendment have any budgetary impact?

Mr. JOHNSTON. Mr. President, it is the same dollar amount, just reallocated.

Mr. PROXMIRE. It does not add any dollars at all?

Mr. JOHNSTON. It does not add a single dollar, Mr. President.

Mr. HELMS. Mr. President, I compliment my distinguished colleague from Louisiana on his cogent explanation of a rather complicated amendment, which, as he says, has been worked out by a number of Senators and their staffs.

Mr. President, I have been informed that the Department of Agriculture and the Department of Energy have had extensive discussions during the last week on applying the 15-million-gallon per year division to all of their existing authorities, in addition to title II of S. 932.

The Department of Agriculture has several loan guarantee proposals under active consideration under the Farmers Home Administration's rural business and industry loan program that exceed 15 million gallons annual capacity, but no approvals have yet been made.

The Department of Energy is about to announce funding for feasibility studies for ethanol plants, some of which will be below 15 million gallons annual capacity, but no loan guarantees have been awarded or considered by the Department of Energy as of this date for plant construction.

In light of the actions we are taking here today, these two Departments are encouraged to conclude an agreement on the 15-million-gallon division.

I ask unanimous consent that the distinguished Senator from Kansas (Mr. DOLE) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I ask unanimous consent that I may be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, I commend the managers of the bill and Senator HELMS for the work that has been done. I ask unanimous consent to be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Will the Senator yield?

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

Mr. HELMS. I yield, Mr. President.

Mr. EXON. Mr. President, I ask unanimous consent that I may be added as a cosponsor. I commend the distinguished Senator from North Carolina and the distinguished Senator from Louisiana for their work.

Mr. President, I assume that the Senator from Indiana, who has worked very hard on this, has agreed to the wording that has been worked out, is that correct?

Mr. JOHNSTON. That is correct, Mr. President. Through the staff of the Senator from Indiana, this has been worked out. I am confident that is so.

Mr. EXON. I thank the Senator.

The PRESIDING OFFICER. Without objection, the name of the Senator from Nebraska (Mr. EXON) will be added as a cosponsor.

Mr. HELMS. Mr. President, I ask unanimous consent to have added as cosponsors the distinguished Senator from Nebraska (Mr. ZORINSKY) and the distinguished Senators from North Dakota, (Mr. YOUNG), Iowa (Mr. JEPSEN), and Oregon (Mr. HATFIELD).

The PRESIDING OFFICER. Without objection, it is so ordered.

Without objection, the motion to reconsider the vote is vitiated, the amendment of the Senator from North Carolina is withdrawn and the amendment has been resubmitted. That is what we are voting on.

The question is on agreeing to the amendment.

The amendment (UP No. 1338) was agreed to.

Mr. HELMS. I move to reconsider the vote.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1339

(Purpose: To prohibit the use of appropriated funds for counting or reporting illegal aliens for purposes of apportioning Representatives of Congress)

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an unprinted amendment numbered 1339:

On page 149, line 4, strike out the semicolon and insert in lieu thereof a colon and the following: "*Provided*, That none of the funds appropriated or otherwise made available herein shall be obligated or expended to count or report, for the purposes of apportionment of Representatives in Congress among the several States, any individual who is an alien in the United States in violation of the Immigration and Nationality Act or any other law, convention, or treaty of the United States relating to the immigration, exclusion, deportation, or expulsion of aliens; nor shall any of the funds appropriated or otherwise made available herein be obligated or expended for the purpose of accepting into the United States any individual who is not entering the United States in accordance with the Immigration and Nationality Act or any other law, convention, or treaty of the United States relating to the immigration, exclusion, deportation or expulsion of aliens.

Mr. HEINZ. Mr. President, the purpose of this amendment is very, very simple. It is to decide the issue whether or not we are going to treat illegal aliens like legal residents of the United States. This Senator believes that to treat them as such for any purpose defeats the entire purpose of our immigration and naturalization laws and this amendment should provide a very direct statement on the part of the Congress on that issue, one way or the other.

It seems to me that I have heard a great deal of concern expressed by people in my State, people in other States, among my colleagues, that we have got to draw the line appropriately with respect to illegal aliens and to make it clear that we, in fact, do have a policy.

That, Mr. President, is what this amendment is all about. I do not wish to take a great deal of my colleagues' time.

Mr. STAFFORD. Will the Senator yield?

Mr. HEINZ. I am happy to yield to the Senator for not to exceed 30 seconds.

Mr. STAFFORD. Mr. President, I think the purpose of this amendment is appropriate. I ask unanimous consent to be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, I am prepared to vote on the amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. HEINZ. This Senator will be compelled to call for a quorum if he does not get the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. SARBANES. Will the Senator yield for a question?

Mr. HEINZ. The time on this amendment is equally divided between myself and the manager of the bill. I reserve the remainder of my time.

The PRESIDING OFFICER. The Chair tells the Senator from Pennsylvania that we have no order for time on his amendment.

Mr. HEINZ. Mr. President, I then apologize to my colleagues. I thought I had been informed there was a time limitation on this amendment. But I gather it was not agreed to by anybody. If so, I apologize to my colleagues.

Mr. SARBANES. Will the Senator yield?

Mr. HEINZ. I will yield the floor. I am happy to answer any questions.

Mr. SARBANES. What is the meaning of the latter part of the Senator's amendment?

Mr. HEINZ. The meaning, if the Senator will yield, of the latter part of the Senator's amendment is that, in effect, we do not wish to take any action that would, by its nature, result in the de facto acceptance of entering aliens into the United States as other than what they are.

If they are illegal aliens, they would be treated as illegal aliens and not resident aliens.

Mr. SARBANES. Does the latter part of the amendment not mean that any alien who came in, not pursuant to the Immigration Act—I take it there are funds in this bill for the Cuban refugees?

Mr. HEINZ. The Senator's understanding is that this would not affect the Cuban refugees. It is not my intention.

Mr. SARBANES. I appreciate that. I read the amendment. It was not clear that would be the effect of the amendment. I know the Senator has some of those refugees in his own State, as a matter of fact.

Mr. HEINZ addressed the Chair.

Mr. SARBANES. The reason I ask is that the explanation was largely devoted to the first part of the amendment.

Mr. HEINZ. Yes.

Mr. SARBANES. It seems to me the second part may raise some problems.

Mr. HEINZ. Mr. President, it is not my intention to raise any problems in that regard. I ask the Senator from Maryland exactly why he thinks this part of the amendment would raise that problem.

Mr. SARBANES. If the Senator will refrain while I get a copy of his amendment——

Mr. MAGNUSON. Will the Senator from Pennsylvania yield to me?

Mr. HEINZ. If the Senator from Maryland will send a page, I will supply him with a copy.

Mr. MOYNIHAN. Will the Senator yield to the Senator from New York?

Mr. HEINZ. Not at the moment. I am going to yield to the Senator from Washington.

Mr. MAGNUSON. I did not get a chance to hear the Senator's amendment because I was busy with the distinguished ranking minority member here on another amendment.

But this is pure legislation on an appropriation bill, is it not?

Mr. HEINZ. I say to the distinguished chairman——

Mr. MAGNUSON. First of all, it does not add any money to the bill?

Mr. HEINZ. First, it does not add any money to the bill.

Second, it is a limitation on the expenditure of funds. It does not impose any additional duties on anybody.

Mr. MAGNUSON. It would not be subject to a point of order, in the Senator's opinion?

Mr. HEINZ. In my opinion. But I am not the Parliamentarian, as the Senator knows.

Mr. MAGNUSON. That is all right.

Mr. SARBANES. If I could respond to the Senator from Pennsylvania, the part of the amendment that leads me to raise the question is the part that says:

> Nor shall any of the funds appropriated or otherwise made available herein be obligated or expended for the purpose of accepting into the United States any individual who is not entering the United States in accordance with the Immigration and Nationality Act or any other law, convention, or treaty of the United States relating to the immigration, exclusion, deportation or expulsion of aliens.

Now, if there is money in here for the Cuban refugees, it does seem to me that they are not, or it is certainly arguable, and I think with considerable legal validity, that they are not entering the United States in accordance with the act, or any other law.

That is one of the problems we are facing. Therefore, the funds would not be available for that purpose, if there are funds for that purpose in the bill, which I understand there are.

Mr. HEINZ. I say to the Senator that the problem, as I understand it, with the Cuban refugees is that the President has not used his authority to designate the Cuban refugees as refugees, or anything else.

It is not this Senator's fault that the President of the United States is not taking appropriate action.

Indeed, the Senators from Arkansas have tried to get the President to take action.

Mr. SARBANES. That is a very helpful answer from the Senator from Pennsylvania, because I think it begins, at least, to lay out to the Senate the fact that the latter part of the Senator's amendment is not as simple as it may have appeared on first blush.

If it is the Senator's intention, in effect, through this to compel a particular Presidential action, that, obviously, adds another dimension in reviewing the amendment.

But I only got into this and got up to ask the question because I heard this explained that it dealt with counting illegal aliens for apportionment purposes, and I looked at the amendment and discovered it has another whole half to it which seems to me to raise problems. The more questions we ask, the more problems I see.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. HEINZ. I am happy to yield the floor.

Mr. MOYNIHAN. If the Senator will yield, Mr. President——

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise to make the point of order that the amendment proposed by the Senator from Pennsylvania would make it impossible for the process of reapportionment to be carried out in accordance with section 2 of the 14th amendment of the Constitution, and that the amendment, therefore, is unconstitutional.

If I may explain, Mr. President, the 14th amendment, section 2, states that Representatives shall be apportioned among the several States according to their respective numbers.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senator is correct.

Mr. MOYNIHAN. Mr. President, this is from the Constitution.

The PRESIDING OFFICER. Will the Senator suspend?

The Senate will please come to order. Will Senators who wish to converse retire to the cloakrooms? Other Senators will take their seats while we listen to the Senator from New York.

The Senator from New York.

Mr. MOYNIHAN. Mr. President, I was reading section 2 of the 14th amendment, which says:

> Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed.

Mr. President, I am authorized by the Attorney General to state that the Department of Justice defended the case of Fair against Klutznick et al., on this basis, the charge having been made that illegal aliens were being enumerated, and that, although the case has not yet been finally settled, the courts' decisions thus far indicate that the Department of Justice is correct in its—and my—interpretation of the Constitution.

I further make the point, Mr. President, that the 1980 census has inevitably enumerated some persons who are illegal aliens; to accept this amendment would, therefore, have the effect of wipping out a $1 billion census and this too would be a violation of the Constitution.

I note the further point of order, which I do not make at this point, that this would be legislation on an appropriations bill. I now make the constitutional point of order.

Mr. HEINZ. Mr. President, may I be heard?

The PRESIDING OFFICER. The Senator will suspend.

Mr. HEINZ. Mr. President, may I be heard on the point of order?

The PRESIDING OFFICER. Once it is submitted, the Senator from Pennsylvania will have the time.

In the case of a point of order that raises a constitutional question, the Chair has no authority to rule on such a point of order. Such a point of order is submitted to the Senate for decision. The question is, Is it the judgment of the Senate that the point of order is well taken?

Mr. HEINZ. May I be heard on the point of order?

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, a constitutional point of order, of course, is fundamentally settled by the courts.

As I understand the ruling of the Chair, we certainly may decide for ourselves whether what amounts to a circumvention of that procedure as proposed by the Senator from New York is appropriate or not.

However, my colleagues should understand the fact that questions of constitutionality are not commonly decided by us. It is we who are judged by the court on the constitutionality of our actions or laws.

Second, Mr. President, questioning the constitutionality of this amendment is rather dubious. It is rather dubious because, if I understand the court decision that the Senator from New York is citing, it is a court decision that has to do with enumeration of persons under the census.

In the first instance, this amendment does not deal with the question of the enumeration of persons. We do not say in this amendment that the census cannot toll the illegal aliens. It does not say that anywhere.

So it is hard for me to understand how the Senator can cite a precedent that is in no way parallel to what is involved here.

We simply say that it will not be appropriate for the count of the census to be used for a particular purpose, and that is for the purpose of apportionment of Representatives in Congress among the several States.

Some might argue that there is a precedent, that aliens have been counted on previous occasions. If the Senator is referring to the court decision of some 50 years ago——

Mr. MOYNIHAN. Mr. President, may we have order in the Senate? The Senator from Pennsylvania is making a very important statement.

Mr. HEINZ. I thank my colleague from New York.

If we are making a reference to a court decision of some 50 years ago, we have to understand the historical context of that decision. The context of that decision was that people were concerned about whether what are now known as resident aliens should be counted. We decided, in our Immigration and Naturalization Act, that resident aliens, people with the green card, were here legally; that they should be enumerated; that it was in many respects only a question of time until they became legal citizens.

At that time, 50 years ago, there was no known or significantly known illegal immigration. That has become a recognized fact only in the last decade or two, due to the opening of increased economic relations and opportunities in this country and in our neighboring countries.

The result is that the question of illegal residents in the United States has never been determined in the courts because it was not a problem a long time ago.

Therefore, Mr. President, I dispute the constitutional point of order made by my good friend from New York on the grounds stated.

Mr. MOYNIHAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MOYNIHAN. If I withdraw the constitutional point of order I have made and substitute for it a point of order that this amendment would constitute legislation on an appropriations measure, would I be in a position, should that point of order not be sustained, to state the constitutional point of order I have made?

The PRESIDING OFFICER. The Senator could renew the point of order.

Mr. MOYNIHAN. I thank the Chair.

Without wishing to detain the body, and stating my great respect for the Senator from Pennsylvania in this matter, I believe that the constitutional issue is clear. The Senator's statement says that once funds are appropriated or made available, they shall not be used for the purpose of reapportionment of Representatives among the several States.

I believe that the constitutional question is clear. I cannot state with certainty, but it is my understanding that the case to which I referred was only recently litigated and has been successfully defended by the Department of Justice on this ground.

Mr. HEINZ. Mr. President, will the Senator yield on that point?

Mr. MOYNIHAN. I yield for a question.

Mr. HEINZ. Is the Senator referring to the district court dismissal within the last several months of the suit filed by a plaintiff called Fair?

Mr. MOYNIHAN. That is right.

Mr. HEINZ. I say to the Senator from New York that that issue was not decided on constitutional grounds. That issue was decided on the ground of standing alone.

Mr. MOYNIHAN. I have spoken to the Attorney General within the hour, and he put it that the United States successfully defended the case, asserting this constitutional position.

I certainly do not contest the clarification of the Senator from Pennsylvania.

In any event, Mr. President, this would wipe out our census. We would suddenly have wasted $1 billion—hardly the spirit of this body at this moment—and we would suddenly have a constitutional crisis because of the provision of article I, section 2, of the U.S. Constitution, that there shall be a decennial census, which in effect would be nullified because we would have abolished it.

However, I withdraw the constitutional point of order I have made.

The PRESIDING OFFICER. The Senator's point of order is withdrawn.

Mr. MOYNIHAN. And I respectfully make the point of order that the matter before us is legislation on an appropriations bill and is therefore out of order.

The PRESIDING OFFICER. The Senator's point is well taken.

Mr. HEINZ. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HEINZ. Is it in order for the Senator from New York to withdraw his first point of order, the constitutional point of order?

The PRESIDING OFFICER. Since the Senate has taken no action thereon, it was in order.

Mr. HEINZ. Very well.

A further parliamentary inquiry. I understand that the Senator from New York has just made a point of order that this is legislation on an appropriations bill.

The PRESIDING OFFICER. The Senator is correct.

Mr. HEINZ. The Chair has sustained that point of order.

The PRESIDING OFFICER. The Chair states that requires determination by the executive branch to implement the amendment. Under the precedents of the Senate the amendment is legislation on an appropriations bill and the point of order is sustained by the Chair.

Mr. HEINZ. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HEINZ. I know that it is in order for me to appeal the ruling of the Chair.

The PRESIDING OFFICER. That is the Senator's right.

Mr. HEINZ. What limitations are there with respect to debate if I make that appeal?

The PRESIDING OFFICER. The appeal is debatable.

Mr. HEINZ. Appeal is debatable?

The PRESIDING OFFICER. The Senator is correct.

Mr. HEINZ. A further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HEINZ. Is it in order for the Senator from Pennsylvania to modify his amendment at any time?

The PRESIDING OFFICER. The amendment has fallen. The Senator would have to submit another amendment but under the ruling of the Chair the Senator's amendment has fallen.

Mr. HEINZ. Mr. President, I appeal the ruling of the Chair.

The PRESIDING OFFICER. The question now is on the appeal of the ruling of the Chair.

Mr. HUDDLESTON. Mr. President, will the Senator yield me 1 minute?

Mr. HEINZ. I yield to my good friend.

Mr. HUDDLESTON. Mr. President, this is a subject that I have had more than a passing interest in for some time, the whole question of immigration, refugee policy of the United States, illegal aliens, all of which can I think very charitably be described as in something of a horrible mess.

The question of whether or not illegal aliens in this country should be counted when we reapportion Congress, the House of Representatives and all of the other State legislatures and other government bodies that function on the basis of population seems to me to be one that we could agree upon.

I recognize there is a constitutional question involved. I have introduced legislation that would do essentially what the distinguished Senator from Pennsylvania is seeking to do here; that is, not interfere with the count of the illegal aliens. Certainly it would be very helpful to have some idea how many are in this country. We have estimates all the way from 4 million to 12 million. I am sure it varies from day to day. It is a difficult situation and we have practically no handle on it at all.

I have introduced legislation which has been cosponsored by a number of the Members in this Chamber and is now in the Judiciary Committee. I am assured that the Judiciary Committee will give it attention. They are conducting a study.

I am hopeful that they will take action on it in time for the full Senate and the House of Representatives to act on that measure in a timely manner.

It is my judgment that after the count is made, and I hope the Census Bureau is successful in trying to count and identify those individuals who are in this country illegally, that number can still be broken out so that it will not have to be part of the total figures that are used for each State to determine the number of Representatives it will have in the House of Representatives. I hope we will move forward in that manner.

I make no judgment as to the ruling of the Chair on this particular amendment at this particular time.

The efforts of the Senator from Pennsylvania in my judgment are on the right track. I hope that we can reach a proper solution to this problem before it becomes a moot question which it will, of course, later this year when the decisions are made and the numbers are published insofar as our census is concerned and as far as the reapportionment figures are concerned.

So I just wish to say to the Senator from Pennsylvania that I agree with the thrust of his amendment. I think he is on the right track. I think we have legislation pending in the Judiciary Committee that will maybe make a broader approach, hopefully a proper approach to this problem.

I again call upon the members of the Judiciary Committee to with all due haste consider that legislation and get it out in a timely fashion so that we can make a proper decision here in the Senate.

Mr. HEINZ. Mr. President, I thank my good friend, Senator HUDDLESTON, for his comments.

Mr. President, I withdraw my appeal.

The PRESIDING OFFICER. The Senator's appeal has been withdrawn.

UP AMENDMENT NO. 1340

(Purpose: To prohibit the use of appropriated funds for counting or reporting illegal aliens for purpose of apportioning Representatives of Congress)

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an unprinted amendment numbered 1340.

Mr. HEINZ. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 149, line 4, strike out the semicolon and insert in lieu thereof a colon and the following: "*Provided*, That none of the funds appropriated or otherwise made available herein shall be obligated or expended to count or report, for the purposes of apportionment of Representatives in Congress among the several States, any individual who is an alien in the United States in violation of the Immigration and Nationality Act or any other law, convention, or treaty of the United States relating to the immigration, exclusion, deportation, or expulsion of aliens.

Mr. HEINZ. Mr. President, I will explain the amendment very promptly.

It addresses both the point of the Senator from New York and any confusion. The amendment I sent to the desk is in fact really a modification of the first amendment. What I have done is I have stricken everything out after the word "aliens" in line 10. This has to do with some of the language that says:

> Nor shall any of the funds . . . be expended for the purpose of bringing into the U.S. any individual . . .

So we have a much simpler amendment which I do not believe will be subject to a legitimate point that it is legislation on an appropriations bill.

The PRESIDING OFFICER. Does the Senator from New York wish to be recognized?

Mr. MOYNIHAN. Mr. President, I think it is the judgment of this body, and it certainly has been that of those of my colleagues with whom I have had the opportunity to consult, that in the matter of a court decision we should seek to resolve this issue on a narrower rather than a wider basis if possible, and therefore that we should seek to decide it on the basis of legislation on an appropriations measure.

Therefore, Mr. President, I once again make the point of order that this is legislation on an appropriations measure. If that should fail, I wish to note that because I hold strongly to the view that this is not constitutional, I would make a constitutional point of order if need be. I do not now do so. I make the point of order that this is legislation on an appropriations bill.

Mr. HEINZ. Mr. President, will the Senator yield for one moment?

Mr. MOYNIHAN. I am happy to yield.

The PRESIDING OFFICER. The point of order is not debatable.

The Chair will ask the Senator to withhold until a decision can be made.

Mr. MOYNIHAN. I thank the Chair.

The PRESIDING OFFICER. It is the judgment of the Chair that the amendment as modified still requires a determination by the executive branch to implement that part of the amendment, so under the precedents of the Senate, in the judgment of the Chair, the point of order is well taken.

Mr. MOYNIHAN. I thank the Chair.

Mr. HEINZ. Mr. President, I shall appeal the ruling of the Chair. It is the judgment of the Senator from Pennsylvania that this does not constitute any additional duties. It is a typical limitation on an appropriations bill. I have heard no argument made at all that in fact it imposes a duty. It really just says something that the executive should not do. It does not tell them to do anything.

So I appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question now is shall the decision of the Chair stand at the judgment of the Senate?

On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. Baucus), the Senator from New Jersey (Mr. Bradley), the Senator from North Dakota (Mr. Burdick), the Senator from Nevada (Mr. Cannon), the Senator from Iowa (Mr. Culver), the Senator from Ohio (Mr. Glenn), the Senator from Massachusetts (Mr. Kennedy), the Senator from South Dakota (Mr. McGovern), the Senator from Montana (Mr. Melcher), the Senator from Connecticut (Mr. Ribicoff), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. Ribicoff) would vote "yea."

Mr. STEVENS. I announce that the Senator from Utah (Mr. Garn), the Senator from Utah (Mr. Hatch), the Senator from New York (Mr. Javits), the Senator from South Dakota (Mr. Pressler), and the Senator from New Mexico (Mr. Schmitt) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent due to illness.

The PRESIDING OFFICER. Does any other Senator wish to vote?

The result was announced—yeas 52, nays 31, as follows:

[Rollcall Vote No. 271 Leg.]

YEAS—52

Bayh
Bellmon
Bentsen
Biden
Boren
Bumpers
Byrd, Harry F., Jr.
Byrd, Robert C.
Chiles
Church
Cranston
DeConcini
Durkin
Eagleton
Exon
Ford
Gravel
Hart
Hatfield
Hollings
Inouye
Jackson
Johnston
Kassebaum
Leahy
Levin
Long
Magnuson
Mathias
Matsunaga
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Pell
Percy
Proxmire
Pryor
Randolph
Riegle
Sarbanes
Sasser
Stennis
Stevenson
Stewart
Stone
Tsongas
Weicker
Williams
Young

NAYS—31

Armstrong
Baker
Boschwitz
Chafee
Cochran
Cohen
Danforth
Dole
Domenici
Durenberger
Hayakawa
Heflin
Heinz
Helms
Huddleston
Humphrey
Jepsen
Laxalt
Lugar
McClure
Packwood
Roth
Schweiker
Simpson
Stafford
Stevens
Thurmond
Tower
Wallop
Warner
Zorinsky

NOT VOTING—17

Baucus
Bradley
Burdick
Cannon
Culver
Garn
Glenn
Goldwater
Hatch
Javits
Kennedy
McGovern
Melcher
Pressler
Ribicoff
Schmitt
Talmadge

So the ruling of the Chair was sustained as the judgment of the Senate.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the decision of the Chair was sustained.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MAGNUSON addressed the Chair.

The PRESIDING OFFICER. Will the Senator suspend until there is order?

UP AMENDMENT NO. 1341

(Purpose: To bring the bill within the Budget Resolution ceilings)

Mr. MAGNUSON. Mr. President, I send an amendment to the desk for myself, and Senators Robert C. Byrd, Young, Hollings, Bellmon, Domenici, Metzenbaum, Jackson, Bayh, Johnston, Tsongas, Dole, Stevens, Weicker, Stennis, Proxmire, Inouye, Cranston, and several others who I did not get a chance to get their signature on this. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. Magnuson), for himself, Mr. Robert C. Byrd, Mr. Young, Mr. Hollings, Mr. Bellmon, Mr. Domenici, Mr. Metzenbaum, Mr. Jackson, Mr. Bayh, Mr. Johnston, Mr. Tsongas, Mr. Dole, Mr. Stevens, Mr. Weicker, Mr. Stennis, Mr. Proxmire, Mr. Inouye, and Mr. Cranston proposes an unprinted amendment numbered 1341.

Mr. MAGNUSON. Mr. President, I ask that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 171, line 18, strike the line and insert the following: "tem regarding consultant service contractual arrangements. Notwithstanding any other provision of this Act the following shall be the maximum amounts allowable under the following program accounts:

Corps of Engineers—Civil, $106,600,000

DEPARTMENT OF THE TREASURY

PAYMENTS TO STATE AND LOCAL GOVERNMENT FISCAL ASSISTANCE TRUST FUND

(Rescission)

Of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, $143,035,000 are rescinded: *Provided,* That the total amount rescinded shall be taken from funds allocated to State governments pursuant to 31 U.S.C. 1226.

: *Provided,* That notwithstanding any other provision of law the funds appropriated to the Federal Railroad Administration for grants to the National Railroad Passenger Corporation for Capital Improvements shall become available only as they are required to make payments to vendors for Capital equipment deliveries and services delivered during the balance of fiscal year 1980.

The total moneys appropriated in this Act for the operation of the military functions of the departments and agencies of the Department of Defense for fiscal year 1980 shall be reduced by $150,000,000. The Secretary of Defense is directed to allocate this reduction among the departments and agencies of the Department of Defense and report back to the Senate and House Committees on Appropriations within thirty days following the date of the enactment of this Act as to the allocation made.

Mr. MAGNUSON. Mr. President, I add Senator DeConcini and Senator Hatfield as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Will the Senator suspend? Will Senators refrain from talking, Will the staff refrain from talking? Senators will please take their seats.

I ask Senators to take their seats or retire from the Chamber.

The Senator may proceed.

Mr. MAGNUSON. Mr. President, this amendment is a result of extensive consultation with various Members of the Senate on both sides of the aisle in an effort to get us out of our dilemma with the budgetary process and the budget resolution ceilings.

Just to be brief about it, the amendment cuts the Corps of Engineers by $30 million. It cuts the ability of Amtrak to reduce its debt to the Federal Financing Bank. It will not cause any delay in capital projects, but it is a savings in fiscal 1980 of $40 million. It cuts State revenue sharing by $143 million, just a 25-percent cut to the committee's original rescission, or an annual 9-percent cut. It cuts the Defense Department. We originally talked about cutting defense or absorbing some pay costs by $200 million, but the Senator from North Dakota and the Senator from Mississippi thought that was too high, so this amendment cuts it $150 million.

This total package will bring the bill within the total ceiling for budget authority and outlays in 1980. I urge its adoption. I yield to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. YOUNG. Mr. President, I am happy to join as a cosponsor of this amendment. We have been wrestling for about 2 days now, mostly on how to balance the budget. We are $130 million over on budget authority and $279 million over on outlays. Just how to make this cut has been very controversial. But after discussing this with many on the Senate floor, almost a majority, we seem to agree that this is the best possible solution. It probably will not satisfy everyone. It is much like the abortion issue we had in the supplemental appropriation a year ago. In order to adjourn, we had to reach some kind of a compromise. Just about an hour before we adjourned, we reached our compromise. It did not satisfy everyone, but it did resolve the problem. I hope this compromise will be accepted. I am happy to yield to the distinguished chairman of the Budget Committee who has done so much in the matter.

Mr. HOLLINGS. I thank the Senator. I appreciate the understanding of all Senators. I appreciate the efforts of Senator MAGNUSON and his leadership.

Here is where we are on this supplemental. We voted not to waive the budget. Also, earlier I had to make the point of order on the amendment of Senator CRANSTON. That was overwhelmingly upheld. We are not, by this amendment, trying to cut off any amendments but to put us back within the budget. If amendments are offered later which exceed the budget, they will have to be challenged on a point of order, which we will have to make. We had to make it against Senator CRANSTON'S amendment, and we will have to make it against every other Senator's amendment which exceeds the budget. We have to get the bill back below the budget ceilings that the U.S. Senate set for itself 2 weeks ago.

As Senator YOUNG pointed out, at the present time we are $103 million over the budget totals in budget authority and $279 million over in outlays. Senator STEVENS and others have been trying to put together a package to bring us back within the totals. We have limited this package to four subjects: The Department of Defense, revenue sharing; the Corps of Engineers, and Amtrak.

Let us see exactly what this amendment does.

For the Corps of Engineers, the first part of the amendment, the amendment reduces the amount in the supplemental by $30 million in budget authority and $25 million in outlays. The distinguished Senator from Louisiana, who has been working hard on the budget as a member of the Budget Committee, and who is also the chairman of the subcommittee involved on the Appropriations Committee, has indicated that he does not want to cut there. But we think we can make that small reduction.

With respect to revenue sharing, there has been an unyielding stance on the part of the proponents of this program, and they feel very strongly about it, that we should cut the program by no more than 25 percent.

So we adhered to that particular figure. Actually, they will get only minus one-eighth of their payment for the third quarter and one-eighth of the payment for the last quarter. The payments lag one quarter, so really the impact in this fiscal year will only be a reduction of $71.5 million. The payment for the last quarter of this fiscal year will not be made until fiscal year 1981, so that the reduction for that quarter will not be felt until next fiscal year.

That is the minimal cut in State revenue sharing that we were able to get agreement on. The language is clear that we are not cutting funds going to the localities. There is no discussion or confusion about that. Only the State share will be cut, and only by that minimal amount. I will be glad to give each quarterly payment and how it was figured out.

On the matter of the Federal Railroad Administration, or Amtrak, we found that Amtrak has been paid each quarter in advance of its actual need for the money, so for the last quarter of this fiscal year they would ordinarily get $40 million and then bank it. What we are doing in this amendment is not giving them the $40 million in advance, but withholding it until they actually need it. In doing so, we will not delay any of Amtrak's projects.

In this fashion, the Government keeps the $40 million. We do not allocate it or expend it for this 1980 fiscal year. It is a financial transaction or transfer back into the General Treasury so we can pick up $40 million in outlays there with no budget authority effect whatever.

The most bitter pill for me, obviously, is the reduction for the Department of Defense, $150 million. We negotiated with the distinguished chairman of the Armed Services Committee to see if we could effect a reduction of approximately $150 million in both budget authority and outlays. This particular section of the amendment does exactly that.

What it does, in a general sense, is ask the Department of Defense to absorb about 5 percent of the pay raise. The other departments of Government are absorbing it at around 40 percent.

What does that mean to the Department of Defense? They do not cut the military pay. They do not cut the civilian pay. Actually, the civilian pay increase amounts to about $1 billion. The military pay increase amounts to $1.8 billion, for a total of $2.8 billion. Instead of getting the $2.8 billion we will subtract $150 million from that, for a total of $2,650,000,000. Then the Department would go about allocating the reduction. The language is clear, that in allocating that reduction among the departments and agencies of Defense, it will be done without impacting upon the pay to the military—these are the ideas we all had in mind in working on this section of the budget—and without affecting operation and maintenance or readiness.

We will be working on this in the conference with Senator STENNIS, who is our chief conferee, and, although he is reluctant, we have his consent on this particular amount.

The total amount saved puts us $220 million under the budget ceiling in budget authority and $7.5 million under in outlays.

There can be some other amendments. I have one other minor reduction in the area of the Bureau of Prisons, which we will offer after this package is accepted. There may be some other amendments.

For this particular moment, I hope we can all agree, at least on this side of the Capitol. They have worked this out very painfully, of course, on the House side, and it has been painful on this side. It has not been easy, but we will adhere to the budget process and budget limit that we set here 2 weeks ago.

I do thank all the other Senators—there are too many for me to give a long list—on both sides of the aisle who participated in working out this agreement.

I am glad to yield to the distinguished Senator from New Hampshire.

(Mr. BOREN assumed the chair.)

Mr. DURKIN. Will the Senator yield for a question?

Mr. HOLLINGS. Yes, sir.

Mr. DURKIN. The item under Defense Department, civilian pay, if I understand the Senator correctly, would not have any adverse impact on the substantial number of civilian employees we have at Portsmouth Naval Shipyard or Pease Air Force Base?

Mr. HOLLINGS. It will not.

Mr. BAYH. Will the Senator yield?

Mr. HOLLINGS. Yes.

Mr. BAYH. Mr. President, I, too, am concerned about civilian personnel, particularly those important maintenance facilities we have, where we have the cut directed in the O. & M. portion of that budget.

The Senator from South Carolina pointed out that we do not want to do anything that would damage readiness. It has been a constant fight for some of us who have the depots where we equip and rehabilitate weapons systems and develop new ones—like our Naval Avionics at Indianapolis and Crane Naval Depot at southern Indiana—and to try to maintain the personnel level there.

The way I read this cut and the way I read the intention of the Senator from South Carolina is that this should not be interpreted in such a way that we would cut personnel in those facilities and then go out and contract out services to replace the personnel that has been cut. Is that an accurate assessment?

Mr. HOLLINGS. I say that is very accurate—very much so. That is the way I understand it.

Mr. President, I have the same concerns the Senator does. They are just going to have to withhold on some items and some contracts so that we can stay within the budget.

But remember, this is quite a supplemental bill, overall. Some $6 billion of this supplemental is going to the Department of Defense.

Mr. BAYH. If I could reaffirm this, I hope the Senator from South Carolina could help us and the chairman of our committee could help us to sustain this position in conference so that we shall not have people going out and lopping off personnel, saying that they are trying to meet this figure, then going out on the side and contracting out to do the kind of services that personnel does there 12 months a year.

Mr. HOLLINGS. In response to the Senator from Indiana, I do not fly under false colors. In any conferences that we have on the House side, they will not have a similar cut. I would want to yield, personally, as the Senator from South Carolina, to the House position. I do not want any of this cut. But I think in good conscience, I shall have to carry out whatever the Senate says. I cannot disappoint the Senate. I have to support my children and support the committee's general position and, if we can, get the package approved.

Mr. MAGNUSON. Mr. President, I want to assure the Senator from Indiana or anybody else that I think this can be accomplished without anybody losing their jobs.

Mr. BAYH. Mr. President, I appreciate that. That is the magic word. I appreciate the comment of the Senator from Washington.

Mr. JOHNSTON. Will the Senator yield?

Mr. HOLLINGS. I shall yield the floor or yield for a question.

Mr. JOHNSTON. Mr. President, I just want to make clear, and I put it in the form of a question, but, really, it is a statement. I have gone along with this very, very reluctantly, as chairman of the Energy and Water Development Subcommittee of the Committee on Appropriations, even though it involves a $30 million cut in the Corps of Engineers. I want to make clear that this would probably slow down and terminate something between 30 and 40 projects, as best we can determine. We hope terminations can be minimized, but there will be some deferrals.

I make that statement because a number of Senators have asked me, in colloquy on the floor up to this point, whether or not this funding was adequate to permit ongoing projects to be completed without slippage. In each case, I have answered yes.

I think the corps can minimize, I hope they can minimize the impact. But I want to make that entirely clear.

Nevertheless, I have gone along with this amendment as a cosponsor, because we have to get this bill moving and get it into conference. It is in that spirit that I have cosponsored. But we should keep in mind that it is not without some real sacrifice and some real slippage on some projects.

Mr. WEICKER. Will the Senator yield?

Mr. MAGNUSON. I want to answer the question first.

I am a strong supporter of the corps myself. I mean the Corps of Engineers. But any slippage is only going to be for 60 days or 50 days, until we get the regular bill.

Mr. JOHNSTON. I hope the Senator is correct, and I hope they can find a way to minimize that slippage. It is sort of in confidence and in the spirit of hope that I go along with him. We have to get this bill moving and this is the second-best solution. I happened to think revenue sharing was the best solution. That was rejected. Therefore, I shall give some blood and go along with this.

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. JOHNSTON. Yes. I yield to the distinguished Senator from North Dakota.

Mr. YOUNG. As ranking Republican on the Defense Appropriations Subcommittee, I know something about defense. They are already short of maintenance funds, but, by reprograming maintenance and other things, I think they can live with it. It will not be easy, but they can live with it.

Mr. MAGNUSON. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were offered.

Mr. MAGNUSON. Mr. President, I yield the floor to the distinguished Senator from Connecticut.

Mr. WEICKER. Mr. President, I thank the distinguished Senator from Washington.

I rise to support the amendment of the Senator from Washington. First, I want to thank my cosponsor on the other side, Senator DURKIN, who has worked hard on this. I want to thank the minority leader (Mr. BAKER) and assistant minority leader (Mr. STEVENS) for the help they gave toward the objective of restoring funds, and those Senators on both sides of the aisle who supported that amendment and changed the priorities of the Appropriations Committee—I think justifiably so.

That having been done, I feel that the hard work done by Senator HOLLINGS and Senator BELLMON and those on the Budget Committee in trying to finance the commitment deserves both my thanks and the support of the Senate. The amount taken from State revenue sharing, Mr. President, is minimal. I think we got about 80 percent of the objective. I think that is about as much as any man should vote on this floor.

My other concern was on the Amtrak funding. It is my understanding, however, that this in no way reduces the commitment in capital terms to Amtrak; rather, it only creates a fiscal mechanism whereby the money does not get paid Amtrak until the bills are tendered. And that is fine.

I thank all those who were involved. I feel this was a very, very important step taken in the ordering of our priorities.

Again, my appreciation to those Senators who, I think, showed a great deal of courage in manifesting their wishes on this matter. More particularly, there are still many special-interest items in the appropriations bill—not improperly so. They are the result of the fighting of the individual Senators. But on this item of revenue sharing, it was an item that attached to every citizen of this country. They did not necessarily have the powerful spokesmen on the committee, but in the voice of the Senate, they spoke yesterday. I think that was very much upheld in the amendment that is now offered and I support it.

Mr. BAKER. Mr. President, I, too, support this amendment. Yesterday, I suggested that we ought to face our responsibility and try to readjust the bill to accommodate the increase in revenue sharing won so splendidly by the Senator from Connecticut yesterday. I think this does that in large measure.

I do not like it in the sense that we have now breached the compact with the States for revenue sharing without deviation from year to year.

I am convinced, Mr. President, it is the best we can do, under the circumstances.

I will support this effort. It is three-quarters of the State share of revenue sharing and works out to about 80 percent when we consider the time we have yet to deal with.

So it is a good arrangement. I think everybody had to give a little. Frankly, at a point in the evening late last night, when everybody else was giving, it occurred to me I ought to give my part, too.

So I consulted with the Senator from Connecticut, who has taken the lead in this matter on our side, and has done so well, and with the Senator from New Hampshire, who has worked so hard and diligently in the same way, and signaled them that as far as I was concerned, notwithstanding my deep commitment to the viability of the revenue sharing formula, that for this time, and this one time only, I would agree to this funding instead of 100 percent funding.

We are in a bind. We have to work our way through it. I think this is a good way to do it. It is a sad day that we have to, but we do.

I recommend that the amendment be adopted.

Mr. DOMENICI. Mr. President, I, too, support this. Obviously, some of the cuts are not cuts I would make.

I did not rise to make that statement. But, rather, to respond to some who have said that those of us who insisted on voting with Senator WEICKER yesterday on the first point of order to cut the rescission of general revenue sharing, did not want to live up to the budget process.

We did not vote to cut that rescission because we are not committed to the budget process. We voted because we knew the Senate was committed to the budget process and we knew the will of the Senate was going to prevail and it was going to prevail on the budget process, but also on the revenue sharing.

That is why we voted that way.

If my good friend from Ohio were here, I would now ask him whether or not those of us on both sides of the aisle that said that temporarily we would breach the ceiling, temporarily breach it, so that rescission will be knocked out on revenue sharing, were we any less for the budget process than anyone else, and that with this amendment the budget process is going to be completely vindicated.

This amendment will cut enough to make that 2-week old commitment, not of the Budget Committee, but of the U.S. Congress, for only 16 days ago we set the limit we would breach.

I want everyone to know there are those of us who support revenue sharing, who support the budget process with equal vigor, and we did not get 100 percent of the pie on revenue sharing, three-quarters, but we got 100 percent of the issue of complying with the budget process.

I think those who have worked so long to put this together are to be commended.

I want to give one figure; there are those who did not think the $572 million breach of the budget process was much, and thinking we ought to cavalierly agree with that yesterday and breach it, I did some arithmetic.

As of yesterday, we had a ceiling for 15 days, not a year ago, 15 days ago we set that ceiling, and if we would have breached it to the tune of $572 million in 15 days, on a yearly basis that would amount to $13.9 billion.

So our credibility was at stake.

If in 15 days we could breach it by that amount, anyone that wondered whether the process was valid could have said that if they breached by 13, 14, or 15 in a year.

So we won on both scores; revenue sharing is almost intact, and the budget process is alive.

Mr. President, I yield the floor.

Mr. McCLURE. Mr. President, I want to address myself to two or three items involved within this compromise amendment.

I will start out by saying that any compromise means that no one got exactly what he wanted. That is the whole idea of the reconciliation of the appropriations process.

I first want to commend the authors of the amendment for having done with the Amtrak moneys what I advocated in the subcommittee a year ago, which will now be effective in fiscal 1981.

This simply accelerates that process, that decision that was made, by one quarter.

I think it is a constructive addition, as a matter of permanent policy, and it aids us here in getting this budget back into balance.

Mr. President, I would like to ask a few questions because there are some portions of this, particularly related to defense, that concern me. I know the chairman of the Defense Subcommittee is on the floor and I would like to address some questions to him in a general way, if he would be good enough to answer.

Apparently, the operations and maintenance activities are affected. As I understand the colloquy that took place with the Senator from Indiana, we are going to have these reductions, but not affecting personnel and, as a matter of fact, we will have to have these reductions in the short term, over a 3-month period, and if we are not going to affect personnel levels, then where is the saving going to come from?

Does this only affect O. & M. and, if not, exactly what other activities are we talking about?

Will the Senator from Mississippi answer that question?

Mr. STENNIS. In the first place, Mr. President, this is considerably different language from what we had last evening. With those modifications, it was much more acceptable, not only as to the amount, but also as to the authority given here to the Secretary of Defense, really, a direction given that he should do certain things.

As we understand, in this field, we have normal attrition which goes on, and it will continue to go on at the average rate. This amendment places the authority to allocate this reduction with the Secretary of Defense because, to a degree, he would be the one that would be over the services on these money matters and would have direct responsibility to make the allocations where the funds were needed the most. He is charged with carrying out the will of the Congress by trying to make these reductions and, at the same time, keeping everything in balance. The amendment directs him to report back to the Congress on how these reductions are carried out.

So we thought there was ample room, or enough room, at least, within these figures, to avoid the pitfalls of making appreciable intrusions into the readiness problem.

Mr. McCLURE. Mr. President, as I read the language of the amendment, it says that the total moneys appropriated in this act for the operation of the military functions, of the departments and agencies, the Department of Defense shall be reduced by $150 million.

What I am concerned about is that this is, apparently, not civilian function. Apparently, it does not have to do with weapons systems or procurement. It has to do with operations, if I read the amendment correctly.

What I am concerned about is, if we do not cut civilians, if we do not cut procurement, if we do not cut anything except operations of military functions, and that is the language of the amendment, exactly what is it we are talking about?

Mr. STENNIS. I see the Senator's point there.

This is the whole Department of Defense, we might say, but we take a few activities that are what are considered outside activities, as far as the money is concerned, like the Corps of Engineers. They employ a lot of civilian people in various things, temporarily, and so forth. So that is a civilian function, as we call it. It is really beyond the realm of military appropriations.

Mr. McCLURE. But as I read this, this reduction is directed away from those civil functions and toward the military operations.

Mr. STENNIS. That is right. This is directed toward the matters that the Defense Department is responsible for.

Mr. McCLURE. Is it for all operations of defense? Am I to read this language as not literal but simply demonstrable? If I read it correctly, it says that these come out of the operations of military functions. It does not come out anywhere else in DOD except there.

Mr. STENNIS. I think the only function excluded is the Corps of Engineers, and they have operated for many years in a different category.

Mr. MAGNUSON. The Secretary of Defense is called upon to report back to the Senate and the House committees an appropriations within 30 days following the date of enactment of this act as to these allocations. We will review those very closely. He may want to take them from somewhere else. I do not know. What is wrong with taking it overall?

Mr. McCLURE. I have no objection to it being overall, but I do not read it that way. I read it as saying that it must come out of operations of military functions.

Mr. MAGNUSON. The operations of military functions includes everything, does it not?

Mr. McCLURE. It may not. That is what I am trying to get at.

Mr. MAGNUSON. If there is any problem of semantics, we will certainly take care of it in conference. But let us now get on with the bill and get to conference.

Mr. McCLURE. I should like to make some legislative history on this for the conference.

Mr. MAGNUSON. The Senator from Idaho is going to be a conferee.

Mr. McCLURE. That is why I am here. I hope to be a conferee, and I expect to be working with the Senator from Washington to make certain that we do this correctly when we get to the conference. But I want a little discussion of the legislative history we make here today, so that when we go to conference, we will be backed up by the understanding of the Senate as to what was intended.

When I read the language of the amendment, I become a little concerned, because my understanding of the critical needs of the service today are readiness. If we are going to cut $150 million, which must be cut over the next 3 months—that is all we are talking about; over the 3 months, we have to find $150 million—if that is confined to military operations, that impact would be severe.

What would be the manning effect on the maintenance of current sea-going efforts? If we are going to protect civilian employment, if we are not going to do anything with procurement, if we are going to focus only upon military operations, what happens to the current manning levels of sea-going task forces?

Mr. MAGNUSON. How big is the defense appropriation?

Mr. McCLURE. How big is the defense appropriation for the military operations?

Mr. MAGNUSON. For the whole business.

Mr. McCLURE. The Senator knows it is very large.

Mr. MAGNUSON. It is over $162 billion. If they cannot absorb $150 million, I will eat the Senator's hat.

Mr. McCLURE. The Senator from Washington will not have to eat my hat.

Mr. MAGNUSON. They spill that much at the Defense Department every week.

Mr. McCLURE. Bremerton has not polluted the Puget as yet from their spillage, but it has done a little over there.

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. McCLURE. I yield to the Senator from North Dakota.

Mr. YOUNG. When it applies to operations and maintenance, there is nothing to stop them from reprograming funds from other functions of the Defense Department—in fact, all their appropriations. They can reprogram.

Mr. McCLURE. So the language of the amendment should not be read, in the opinion of the Senator from North Dakota, to affect the reprograming opportunities from the entire budget?

Mr. YOUNG. They would have to take

it out of operations and maintenance unless they asked for reprograming, and that requires approval.

Mr. McCLURE. I thank the Senator.

Mr. BELLMON. Mr. President, will the Senator yield?

Mr. McCLURE. I yield to the Senator from Oklahoma.

Mr. BELLMON. I say to the distinguished Senator from Idaho that our information from the Congressional Budget Office is that about $100 million of this will be saved due to the freeze on civilian hire which has been put into place by the President. This means that only $50 million remains to be saved in either an absorption or other ways. This will not work a great hardship.

Mr. McCLURE. There will be a freeze in civilian hiring. In other words, it would not be a protection of civilian employment levels.

Mr. BELLMON. I am saying that as a result of the freeze the President has put in place, there would be a saving of $100 million.

Mr. McCLURE. In the colloquy I had with the Senator from Indiana, I understood that he was concerned about the employment impact in his area, that there should be no reductions in civilian personnel levels. I understood that he was given an answer that pacified him, which indicated to me that there would be no freeze, that the civilian operation levels would be maintained.

You cannot have it both ways. They will be maintained or there will be a freeze on hiring, which means that the levels will go down.

I have no objection to the freeze; I support it. But I do not want to build a legislative history here that says, "All right, Senator; the civilian employment in your area will be maintained, and we will take it out of somewhere else"; and then someone else will complain and we will say, "Don't worry; we'll take it out of the Senator from Indiana's civilian payroll."

It is one or the other. It cannot be both.

My concern is that we do not affect readiness. I am not at all certain that we have yet said—although I believe this colloquy has greatly helped—that indeed the $150 million does not have to come out of the readiness force levels or manning levels of the forces deployed around the world to provide protection—and which are spread too thin already.

Mr. STENNIS. The Senator is substantially correct.

I am advised that in this bill alone, for this relatively short time, there is $7 billion in the total funds that could be affected, and only $150 million of that $7 billion is affected by this section. If this reduction cannot be accommodated within the operating accounts without affecting readiness, the Defense Department can reprogram from other areas to make up the difference.

So that insures that someone at the top, with authority, can authorize a judgment here that this reduction will not have too much of an impact anywhere. That is the idea.

As Senator Young has said, the transfer and reprograming procedures still would be in operation.

Mr. McCLURE. Mr. President, I cannot begin to match the expertise of the Senator from Mississippi in this field. He has had a lifetime of experience. But I have heard much on this floor and elsewhere in recent months about the lack of readiness of some of our forces. I would be very much concerned if a $150 million cut here, as I read the amendment, would reduce our ability to deal with the lack of readiness of our F-14's, F-15's, and F-16's, about which much has been written recently.

Mr. MAGNUSON. The Secretary has to report to Congress; and if he reported that he was going to take $150 million out of readiness, I am sure that we would say, "No." We would say no resoundingly and probably unanimously.

Mr. McCLURE. I thank the Senator from Washington for that assurance, because that is exactly what I am afraid of, without some legislative history.

Mr. MAGNUSON. The Secretary of Defense has to make a report.

Mr. McCLURE. Just reading this amendment, on its face, it says that it will come out of military operations; and what I understand to have been said by the Senator from Washington is that we would not stand for that.

If I understand the Senator from North Dakota correctly, he is saying that it would come out of O. & M., except to the extent that they ask for reprograming and we would agree with reprograming.

I understand the Senator from Washington and the Senator from Mississippi as saying that if there is such a request for programing to maintain the readiness of forces to deal with these questions of the readiness of our fighter aircraft and the force levels of our seagoing task forces, we will respond affirmatively to such reprograming request.

Mr. MAGNUSON. I do not know the figures, but the Secretary will report them to us. He will not make any cuts in readiness, and we would not approve any cuts in the readiness of our Armed Forces.

Mr. STENNIS. This does not leave the burden on Congress to find something here that it does not approve. This requires a report to come in and state on its face everything that has been done, and there it is for all Members of Congress to see.

Mr. McCLURE. I thank the Senator.

I thank the Senator from Washington, the Senator from Mississippi, and the Senator from North Dakota for their comments.

I should like to conclude, Mr. President, by focusing on the last issue, that of revenue sharing.

I commend my colleagues who made such a fight to try to protect a commitment that has been made by this Congress to the people of this country and to the States and the State legislatures.

I am very concerned that we have established the principle that revenue sharing is not a commitment but is a negotiable item.

It seems to me that when we are talking about a basic sharing of revenue with the States we should not be saying:

> We will negotiate on this every year and, Governors, legislators, cities, counties, and local governments, do not depend upon us because we may not be there. You are going to always have to be looking over your shoulder trying to determine whether or not Congress really meant to give you revenue sharing or whether that is an item upon which we will negotiate in every fiscal year.

My friend from Tennessee, Senator Baker, said he wants to go on notice today that this one time he will negotiate on this issue.

I say to my friend from Tennessee, when he has negotiated on this issue once and conceded, he is going to be called upon to negotiate on this issue time and time and time again because the pattern has been established that this fund is no longer a commitment from Congress but an item upon which the States will have to negotiate.

Mr. President, I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I wish to compliment the chairman and ranking minority member of the Budget Committee and the chairman and ranking minority member of the Appropriations Committee for the work that they have done in developing this compromise.

I support the compromise, but I do it reluctantly, as we all do. As another Senator said earlier, this compromise, as any other compromise, will not fully please everyone.

The Budget Committee reported the first budget resolution for fiscal year 1981 on April 9, 1980. At the same time, it reported a revised resolution covering fiscal year 1980. As my colleagues are well aware, the Senate Budget Committee reported a balanced budget for 1981 and—because one can not magically cause a balanced budget to materialize overnight, out of thin air—the revised resolution for fiscal 1980 contained reconciliation instructions to the Appropriations Committee for 1980.

The resolution was taken up on the Senate floor on May 5. The Senate spent 7 days considering the resolution. There were 43 votes on amendments and motions relative to the resolution.

Many—if not most—of those votes were exceedingly difficult ones. A majority of Senators had previously committed themselves to a balanced budget for fiscal year 1981, when they voted on a Muskie substitute to a resolution introduced by my good friend from Delaware, Senator Roth.

A balanced budget is easier said than done. A balanced budget is easy to give lip service to and easy to support in concept. It is not easy to achieve.

Indeed, we are now being warned by economic forecasters that—regardless of the congressional intent to balance the budget—the pressure of recession is going to push up uncontrollable spending items, and force the budget out of balance.

These predictions should not, and must not obscure the fact that the budget resolution which was adopted is a good, lean budget. It contains recommendations—which 61 Senators voted to support on June 12, 1980—by eliminating inefficient, nonproductive, or wasteful spending.

Rescession is no excuse for spending money where it is not needed. It may be a reason for a tax cut. It may be a reason for targeted assistance. But, let me repeat, it is not a reason to breach a spending ceiling established by the Congress just 15 days ago.

The supplemental appropriation bill passed the House on June 19. Although many of the items in this supplemental are urgent items, the bill could not be considered before that time because the old 1980 budget ceiling precluded further spending for fiscal year 1980. The discipline of the budget process required a revision in the budget ceiling.

It was not easy—but the House sent us a bill which stayed within the revised budget ceiling.

It was not easy—but on June 23—the Senate Appropriations Committee reported a bill which stayed within the budget ceiling.

The Senate Appropriations Committee recommended rescission of $572 million of general revenue sharing funds. Both the bill and the report directed that this reduction come from the State portion of revenue sharing.

I was prepared to accept that recommendation—and on yesterday, I so voted.

I did so because I do not want to see this Senate abandon the budget ceiling which was so recently established.

I did so because I believed that the committee's recommendation was a good one: In my view, the use of Federal funds for revenue sharing at this time is not the most productive and efficient use of Federal funds.

In the last few years, 48 States have cut personal income taxes or sales taxes.

In 1979, no State had a budget deficit; and no State is projected to have a deficit in 1980.

Thus, I do not feel that the case for revenue sharing is strong enough to warrant breaching the budget ceiling or waiving the Budget Act.

As the Senate debated and voted on this issue yesterday, it became apparent that we were faced with a dilemma: a majority favored including revenue sharing funds—yet a majority also opposed waiving the Budget Act.

Members of the Budget Committee, members of the Appropriations Committee, and other interested Senators worked overnight to fashion a compromise to lead us out of this dilemma. The compromise amendment—which I am prepared to support—will make some reduction in revenue sharing, and make selective cuts in other programs.

The Appropriations Committee recommended a rescission of $572 million of general revenue sharing funds. This compromise recommends a rescission, I believe, of $143 million in general revenue sharing funds. In other words, there is a difference of something like $429 million, if I am correct in my mathematics.

I think the Appropriations Committee was right, and I have opposed changing the amount that was recommended by the Appropriations Committee.

In my view the use of Federal funds for revenue sharing at this time is not the most productive and efficient use of Federal funds.

Here we have more than 30 States that have asked for a constitutional amendment on balancing the budget. The States are not in deficit. Forty-eight States during the last few years have reduced their income taxes or their sales taxes or both. Not one single State had a budget deficit in 1979. Not a single State projects a budget deficit for 1980. Forty-five States have projected surpluses for fiscal year 1980.

The 50 States have a combined unobligated balance at the close of 1979 of $9.9 billion. In other words, while the States have a combined surplus of $9.9 billion the end of 1979, here we stand today facing a budget deficit for the Federal Government of somewhere between $40 billion and $50 billion, more exactly $46 billion or $47 billion.

So, I do not feel that the case for revenue sharing is strong enough to warrant changing the Appropriations Committee figure. But I recognize that we have to compromise.

A compromise amendment which I will support will make some reduction in revenue sharing but not nearly enough, in my judgment.

But the compromise does respect the budget ceiling and the budget process.

I hope that this amendment will be adopted. It may not coincide exactly with what each Senator would prefer. It does not coincide exactly with my own priorities.

But the budget process cannot work without a willingness to compromise and sacrifice.

I again commend the chairmen of the Budget and the Appropriations Committees and the ranking minority members of those two committees who worked out this amendment.

SEVERAL SENATORS. Vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. Baucus), the Senator from New Jersey (Mr. Bradley), the Senator from North Dakota (Mr. Burdick), the Senator from Nevada (Mr. Cannon), the Senator from Iowa (Mr. Culver), the Senator from Ohio (Mr. Glenn), the Senator from Massachusetts (Mr. Kennedy), the Senator from South Dakota (Mr. McGovern), the Senator from Montana (Mr. Melcher), the Senator from Connecticut (Mr. Ribicoff), the Senator from Tennessee (Mr. Sasser), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. Ribicoff) would vote "yea."

Mr. STEVENS. I announce that the Senator from Utah (Mr. Garn), the Senator from Utah (Mr. Hatch), the Senator from New York (Mr. Javits), the Senator from Oregon (Mr. Packwood), the Senator from South Dakota (Mr. Pressler), and the Senator from New Mexico (Mr. Schmitt) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent due to illness.

The PRESIDING OFFICER. Are there any Senators present who would like to vote?

The result was announced—yeas 71, nays 10, as follows:

[Rollcall Vote No. 272 Leg.]

YEAS—71

Armstrong
Baker
Bayh
Bellmon
Bentsen
Boschwitz
Bumpers
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Chafee
Chiles
Cochran
Cohen
Cranston
Danforth
DeConcini
Dole
Domenici
Eagleton
Exon
Ford
Gravel
Hart
Hatfield
Hayakawa
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Pell
Percy
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Thurmond
Tsongas
Warner
Weicker
Williams
Young
Zorinsky

NAYS—10

Biden
Boren
Church
Durenberger
Durkin
Heflin
McClure
Nunn
Tower
Wallop

NOT VOTING—19

Baucus
Bradley
Burdick
Cannon
Culver
Garn
Glenn
Goldwater
Hatch
Javits
Kennedy
McGovern
Melcher
Packwood
Pressler
Ribicoff
Sasser
Schmitt
Talmadge

So Mr. Magnuson's amendment (UP No. 1341) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

UP AMENDMENT NO. 1342

Mr. BAKER. Mr. President, I have an amendment at the desk and I ask the clerk to report.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. Baker), for himself and Mr. Sasser, proposes an unprinted amendment numbered 1342:

On page 70, line 11 strike the figure $6,400,000" and insert in lieu thereof "$8,400,000".

Mr. BAKER. Mr. President, last week I requested the Administrator of the Environmental Protection Agency and the Director of the Office of Management and Budget to move quickly to respond to the need to investigate the potential public health problems related to hazardous waste sites in the Memphis-Shelby County region of my home State of Tennessee. At this time, the Administrator of EPA has agreed with my assessment and that of my junior colleague, Senator SASSER, and has asked OMB for $2 million in fiscal year 1980 to allow immediate investigation of the problem.

EPA has already conducted preliminary studies in the area and, as a result of their findings, would, I am sure, join me in this request because, despite the prelminary work just mentioned, many important questions about the potential damages to the public remain unanswered.

The damages of hazardous wastes are of great importance nationally and the Congress is working on a generic solution to the issue. But since the questions concerning Memphis have already been raised, I believe there is an obligation now to those citizens in the area to immediately attempt to answer them. This is important in order to insure that any possible steps that should be taken, even before the passage of other legislation, can be taken as promptly as possible.

Mr. President, the Senator from Tennessee (Mr. SASSER) joins me in this request. I believe I am correct in saving that this is the only one of several hazardous waste sites around the country where EPA, the local authorities, State and county, and the administration, that is the current administration, have all joined together in agreeing on how the problem should be approached.

It is estimated that this study to make a final recommendation on what should be done would cost approximately $2 million. I am reluctant to ask for this consideration at this time, but I have no alternative, Mr. President. It is an extremely sensitive issue in my State and an extremely dangerous issue to the people of Memphis and Shelby County.

I urgently request my colleagues to consider this $2 million addition.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, this amendment comes within the chapter of the appropriations bill that is under the jurisdiction of our subcommittee. I do not think there is a Senator who is more reasonable or helpful than Senator BAKER and I sympathize with his goals.

There are a number of reasons why I hope we can work out something a little different than to simply add on $2 million to the bill. If we start adding on now, even though we do have a very, very small amount available—I believe we have $6 million or $7 million—if we start doing that, I am afraid it is going to be difficult to resist.

This is not part of the President's budget. We are trying to stay within a very tough budget ceiling.

There are literally thousands of abandoned hazardous waste sites across the country. The Senator from Tennessee is absolutely correct, however, that this is the only one, as far as I know, in which there is widespread agreement on acting.

Nevertheless, if we proceed in this way on this appropriations bill, if we start to clean up operations on an ad hoc budgeted basis, it seems to me we will be faced in the future with dozens of amendments costing tens of millions of dollars. In other words, the approval of the amendment we have before us now would set a very bad precedent.

Also, as I understand it, the House and Senate are currently working on a so-called superfund bill which would create a $1 billion fund through industry assessments and Government contributions to meet hazardous waste cleanup needs. So I just wonder if this is the time to jump the gun by providing 100 percent Federal funding to deal with an individual problem.

Let us look at this in perspective. Congress appropriated $509 million for the Environmental Protection Agency's abatement and control programs for 1980. We are adding $6.4 million to the account through the pending supplemental for hazardous waste activities. The amendment of the Senator from Tennessee would add another $2 million. If EPA feels that the problem now confronting the citizens of Tennessee is truly a critical one, they have ample authority and ample appropriations to reprogram funds to deal with the problem.

UP AMENDMENT NO. 1343

(Purpose: To provide funding for health studies and investigations in the Memphis-Shelby County area of Tennessee)

Mr. PROXMIRE. For that reason, Mr. President, I hope that the Senator would accept a compromise amendment. Before I send the amendment to the desk, I would like to read it so I can discuss it with the Senator from Tennessee.

At the same place in the bill, on page 70, line 12, I would add this language:

"*Provided*, That of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1980, up to $2,000,000 of the total shall be used for health studies and investigations at hazardous waste sites in the Memphis-Shelby County area of Tennessee."

This would meet the objective of the Senator from Tennessee. It would do it without an add on. It seems to me that it would be a better way to accommodate it, in view of the fact that we have funds in the bill for this purpose.

Mr. MATHIAS. Will the Senator yield for a question?

Mr. PROXMIRE. I yield.

Mr. MATHIAS. Mr. President, I personally support the original amendment which was offered by the Senator from Tennessee. I think there is a demonstrated case of need there. But the Senator from Wisconsin has offered a very ingenious suggestion. As I hear the language he has suggested, that would not mean that $2 million to take care of the urgent need in Tennessee would only come from the $6.4 million provided for the whole country, for similar situations, but would be available generally from EPA funds. Am I correct?

Mr. PROXMIRE. The Senator is absolutely correct. It would not come from $6.4 million alone, but the $509 million, the total fund.

Mr. MATHIAS. I think that becomes a very satisfactory way to deal with an urgent situation without prejudicing the other critical locations for which the $6.4 million was to be divided.

Mr. PROXMIRE. Mr. President, the Senator from Maryland, of course, is the ranking minority member of the subcommittee. I thank him.

Mr. BAKER. Mr. President, I think that is a good suggestion. I have no desire to add to the supplemental, but I want EPA to understand how they should spend that $2 million.

I interpret the language of the amendment to be offered by the Senator from Wisconsin as an instruction that that money should be spent for that purpose. The money will be taken not just from the $6.4 million but from general funds available for that purpose as described in this amendment.

I am perfectly willing to accede to the suggestion made by the Senator from Wisconsin and either accept his amendment as an amendment to my amendment or withdraw my amendment and let him offer his.

Mr. PROXMIRE. I suggest my amendment be an amendment to the amendment of the Senator from Tennessee.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 1343 in the nature of a substitute to unprinted amendment numbered 1342.

Mr. PROXMIRE. Mr. President, since I have already read the amendment, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 70, line 12, immediately before the period insert the following: ": *Provided*, That of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, up to $2,000,000 of this total shall be used for health studies and investigations at hazardous waste sites in the Memphis-Shelby County area of Tennessee."

Mr. PROXMIRE. Mr. President, I hope the Senate will agree to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin.

Without objection, the second degree amendment (UP No. 1343) is agreed to.

Without objection, the first degree amendment (UP No. 1342) is agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment, as amended, was agreed to.

Mr. PROXMIRE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I thank all Senators, and my friend from Wisconsin.

UP AMENDMENT NO. 1344

Mr. JOHNSTON. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON), for himself, Mr. CRANSTON, Mr. HAYAKAWA, Mr. DECONCINI, Mr. MCCLURE, and Mr. DOMENICI, proposes an unprinted amendment numbered 1344.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 25, after line 20, insert:

For an additional amount for "Plant and Capital Equipment, Energy Supply, Research and Development Activities," for Project 76–2–b, Ten Megawatt Central Receiver Solar Thermal Power Plant, $36,500,000, to be derived by transfer from the amounts made available in this Act under the heading "Department of Housing and Urban Development, Solar Energy and Energy Conservation Bank": *Provided*, That the budget authority provided hereunder is deferred to October 1, 1980: *Provided further*, That none of the amounts appropriated herein are to be obligated or expended except upon approval by the Secretary of Energy.

Mr. JOHNSTON. Mr. President, in addition to the cosponsors of the amendment, this amendment has also been cleared with the Budget Committee. It pertains to the $36.5 million at Barstow.

Yesterday during the debate, we indicated our desire to work on this project in conference, that there were good things to say for the project, but that we could not allow the $36 million to pierce our budget ceilings.

What this amendment does is to give us the flexibility in conference if we can find the money from other accounts so that it does not pierce the budget ceiling. It gives us a funding mechanism.

What it does is transfer $36.5 million from the Solar Energy and Conservation Bank created by S. 932 and funded at $1 billion by this same bill. It transfers that money to the Secretary of HUD, but it provides that the budget authority provided cannot be expended until October 1, 1980, the start of the next fiscal year.

It makes the expenditure or obligation of any money subject to the approval of the Secretary of Energy. It is a double protection against the budget: First, it cannot be expended until October 1, 1980; second, it makes it subject to approval by the Secretary of Energy.

This will give us a great deal of protection for our budget ceilings as we go to the conference committee.

If we can find a way to fund it, then this is the appropriate place to fund it.

I might add, Mr. President, that of the $1 billion fund created in the Solar Energy and Energy Conservation Bank, the full amount of that $1 billion has not been obligated.

So I say to my friends, particularly the distinguished Senator from Massachusetts (Mr. TSONGAS) who is concerned about this fund, that it will not raid the projects and purposes created under S. 932 for which there will still be more than 100 percent coverage in this bill to cover those projects.

As I say, it has been cleared with the Budget Committee and on both sides, and I hope my colleagues will accept this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1344) was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I thank the Senator very much for his cooperation on this matter which I deem to be so very important. He has been very helpful, and I appreciate it very much.

Mr. JOHNSTON. Mr. President, I thank the Senator from California for his cooperation and considerable work in helping to work this out.

UP AMENDMENT 1345

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON), for himself, Mr. HEFLIN, Mr. MCCLURE, Mr. DOMENICI, and Mr. STEWART, proposes an unprinted amendment numbered 1345.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 33, line 11, strike out all after "$19,353,000," and insert the following: "and, in addition, $40,000,000 to be derived by transfer from those amounts made available in the Energy Security Reserve to carry out the provisions of title I of S. 932 in this Act under the heading 'Department of the Treasury, Energy Security Reserve', all to remain available until expended: *Provided*, That the budget authority provided by transfer to this Fund is deferred to October 1, 1980."

Mr. JOHNSTON. Mr. President, in like manner, this amendment is proposed on behalf of myself and Senator MCCLURE, Senator HEFLIN, Senator STEWART, and Senator DOMENICI, and is our response to a $70 million amendment in the House bill providing for funds for Tennessee Valley Authority to build a medium Btu gas from coal commercial demonstration.

What we have done here, Mr. President, is transfer $40 million from the energy security reserve, less than the $70 million, to the Tennessee Valley Authority for this purpose, providing that the money cannot be expended until October 1, 1980, which is the next fiscal year. So it will have no budgetary impact. It will not pierce our budget ceiling, and it authorizes a lesser amount.

If we should be able to find the money in conference, then the energy security reserve, it is agreed with the Budget Committee and on both sides, is the appropriate place from which to derive the money.

I ask my colleagues to accept this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1345) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PERCY. Mr. President, I wonder if the distinguished manager of the bill would address his attention to a problem that we face in Illinois today. We have a real problem and need in the State of Illinois. The Kaskaskia River between New Athens and Fayetteville, Ill., has been dredged out to make it navigable, but it filled up with silt while a new railroad bridge was being built at New Athens. The river is important to coal and grain transportation in the region.

I would like to inquire of the chairman of the Water and Energy Development subcommittee, Senator JOHNSTON, as to his opinion of the language in the supplemental appropriations bill. Specifically, whether there are sufficient funds available in the supplemental bill under "operations and maintenance" to provide additional funds for the Corps of Engineers to begin "sweeping out" the silt and stabilizing the banks of the river between New Athens and Fayetteville?

Mr. JOHNSTON. Mr. President, the supplemental money provided for the Corps of Engineers in this bill was designed to take care of ongoing projects, such as Kaskaskia as well as scores of other projects around this country

In its original condition, I was able to say that it will be our full expectation that sufficient moneys were provided in the supplemental to take care of the Senator's problem with Kaskaskia as well as the other projects which have been preferred and accepted, and are ongoing around the country.

Because of the amendment just passed, which takes $30 million from the Corps of Engineers, my confidence in being able to make that statement is rather eroded, because I expect that something in the neighborhood of 30 to 40 projects around the country will be somewhat slipped, somewhat underfunded. It is possible that some will be terminated on account of that $30 million, should that $30 million cut survive in conference.

I know of the high pirority of the Kaskaskia project, the need to do that dredging, and to get on with that. It is my hope that the corps will be able, within the limits of the bill as presently perfected, to complete the work on schedule. My only caveat, my only reason for less confidence is the $30 million cut, which is going to affect some projects around the country. I hope it does not impact unevenly on the project in Illinois.

Mr. PERCY. I thank my distinguished colleague. I know that high priority has been placed, in the legislative history of this bill in the House, on this particular project—the only project in Illinois that I have spoken on specifically. I do place very high priority on it because it is of very high cost effectiveness.

Mr. President, I do not know of anything more important to this country than moving grain to export markets. Illinois is the largest grain exporter in the Nation. We need desperately to move that grain for our balance of payments. We also need to move coal.

I thank my distinguished colleague, even though there is an expression of concern, for the high priority that he has given to this.

Mr. EAGLETON. Mr. President, I would like to add my support for these improvements to the Kaskaskia Port District. The Kaskaskia Port District is an integral part of the port development in the St. Louis region that is essential to the shipping of coal and grain in our inland waterway system. It is important that we move forward with this work as expeditiously as possible.

UP AMENDMENT NO. 1346

(Purpose: To restore certain amounts for the Naval Reserve)

Mr. MATHIAS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maryland (Mr. Mathias) for himself and Mr. Bayh, Mr. Warner, Mr. Hatfield, Mr. Durkin, Mr. Armstrong, Mr. Dole, Mr. Schmitt, Mr. Garn, Mr. Durenberger, Mrs. Kassebaum, Mr. Ford, Mr. Exon, Mr. Hart, Mr. Stafford, and Mr. Sarbanes, proposes an unprinted amendment numbered 1346.

Mr. MATHIAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, line 4, strike out "$429,000" and insert in lieu thereof $2,329,000".

On page 9, line 6, after "1980'" insert ": *Provided*, That the funds available from this appropriation may be used to reimburse Navy Reservists travelling under permissive orders to active duty for training".

On page 150, line 17, strike out "$13,577,000" and insert in lieu thereof "$18,377,000".

Mr. MATHIAS. Mr. President, the amendment I introduce I offer on behalf of myself and Senators Bayh, Warner, Hatfield, Durkin, Armstrong, Dole, Schmitt, Garn, Durenberger, Kassebaum, Ford, Exon, Hart, Stafford, and Sarbanes. It provides the funds necessary to maintain the effectiveness of the Naval Reserve. I propose that we add $6.7 million to the fiscal year 1980 supplemental appropriations bill for Reserve Personnel Navy (RPN) to pay the dedicated Reservists for the time and effort which they contribute toward maintaining the national defense.

Briefly, I should like to explain why this addition is necessary. When the fiscal year 1980 Reserve Personnel Navy budget was formulated by the Pentagon 2 years ago, fiscal year figures were used to estimate the fiscal year 1980 costs. These estimates did not, however, reflect the high rate of inflation. With the costs of commercial airfare and accommodations up over 50 percent since 1978, the Navy has had to reorganize the RPN budget in order to cover the active duty for training (ACDUTRA) travel and per diem costs.

Despite the sustained efforts of the Chief of Naval Reserve, Rear Admiral Palmer, to cut costs, the shortage of RPN funds now stands at $13.6 million. The Navy has requested a reprograming of other Reserve operating funds amounting to $6.9 million which sacrifices flight hours for pilots and aircrews, steaming hours, and preventive maintenance. This still leaves a deficit of $6.7 million.

The Navy has proposed canceling pay for four drills (one drill weekend) for all 87,000 naval reservists across the country. The volunteer reservists are being asked to sacrifice 4 days' pay to help meet the administration's budget figures. It is this type of morale breaking action that we do not need at this time.

It is my understanding that we are serious about trying to solve our problem of critical military personnel shortages. I do not have to remind the Senate that the Guard and Reserve Forces represent the only source of available pretrained personnel to augment the Active Forces in time of national crisis. Are we going to ask these volunteers to double their sacrifice? Will they have to volunteer for Reserve duty and, in addition, give up their own pay to provide themselves with the training needed to defend our country? We must all share the costs of maintaining the mobilization readiness of the Naval Reserve.

When I proposed this amendment in the Appropriations Committee, it was argued that, since the House had already approved the $6.7 million, this issue could be used as a bargaining chip in conference. I do not believe that an issue as vital as support of our naval reservists should be left to the uncertain fate of conference.

Time is an important factor in this debate. The Chief of Naval Reserve needs a firm commitment from the Congress by July 1, 1980, that we will provide the money so that he can release the funds for the July drills. The longer we delay, the greater the adverse effect will be on the morale and mobilization readiness of the Naval Reserve.

The acceptance of this amendment would provide both the symbolic and substantive commitment that the Naval Reserve merits. I urge the Senate's support for this amendment.

Mr. President, let me summarize very, very briefly. There is a shortfall in the Naval Reserve account of a little over $13 million—$13.6 million to be precise. The Navy, in an effort to meet this shortfall so that it can pay naval reservists beginning the month of July—and I remind Senators that the month of July begins next Tuesday—will reprogram $6.9 million from funds that are really very badly needed for the maintenance of physical properties and real estate all over the country. But they will save $6.9 million by a reprograming, by really delaying and postponing maintenance. That leaves still $6.7 million that is not available to pay for drill pay and to pay for travel and per diem reimbursement.

Drill pay runs to $4.8 million and travel and per diem reimbursement is $1.9 million. This amendment merely provides that $6.7 million, which the Navy has not been able to scrape together even by real economies so that they can live up to the promises made to reservists.

Mr. President, the Senate, within the past month, adopted a program for the registration of military-aged males. One of the reasons given for that was to encourage participation in the Reserve, provide an incentive to join the Reserve or stay in the Reserve. I cannot think of a greater disincentive to stay in the Reserve or disincentive to join the Reserve than an example in which the Navy would say, "Well, come, sign up, join up with us, get experience, get training, get a little drill pay," and then find out that we are not able to pay the troops. That is the worst thing for military morale that can possibly happen.

Mr. President, this amendment will prevent that and I hope the Senate will adopt this amendment.

● Mr. DOLE. Mr. President, at the outset I want to commend my colleague from Maryland, Senator Mathias, for his leadership in bringing this issue before the Senate. The Senator from Kansas is pleased to join Senator Mathias and others in offering this amendment addressing pay for our naval reservists.

Mr. President, this amendment is simple and straightforward. This amendment, offered to the fiscal year 1980 supplemental appropriations bill, will provide an additional $6.7 million in Reserve personnel Navy funds for fiscal year 1980. This amount has already been approved by the House.

Very simply, Mr. President, without this additional $6.7 million, naval reservists will not receive drill pay in either June or July of this year. Naval reservists on their active duty training (ACDUTRA—category D) will also drill without pay if this amendment is not adopted.

EFFECTS OF INFLATION

Mr. President, the problem of running out of money to pay our naval reservists is the result of the increasing rate of inflation. The fiscal year 1980 Reserve personnel Navy budget was calculated on figures based on experience prior to September 1978, when inflation was considerably lower than it is now.

The Navy has already asked for reprograming of $6.9 million to help offset the total deficit of $13.6 million in Reserve personnel Navy funds. This reprograming request sacrifices flight hours, steaming time and preventive maintenance of real property within the Reserve Command.

Mr. President, we cannot allow this demoralizing action to occur. We have enough problems in our overall military manpower in that many of our servicemen and women are reconsidering their careers in the military because of the lack of adequate compensation and the general demise of benefits.

Mr. President, a vote for this amendment is a vote to insure the stability of one of the most important aspects of our national defense—our Reserves, and more specifically, the Naval Reserve. I urge the adoption of this important amendment.●

Mr. STENNIS. Mr. President, the Senator from North Dakota and I have gone over this matter. We had it up in the subcommittee, and we can propose this to the Senate and to the Senator from Maryland: So far as his amendment, and the House amendment that he is also sponsoring, we cannot agree to that amendment now, but we do agree that it will be in conference and that we shall give it consideration, along with another matter he is going to mention in a moment.

There is a problem about these naval reservists. It is something that I personally encourage all I can, within reason, and think it is a very important part of our real military strength. The Senator will propose some language, I understand. Suppose I let him proceed now.

Mr. MATHIAS. Mr. President, the amendment, as the distinguished chairman of the Armed Services Committee is aware, has, really, two provisions. One is the money provision. The other is that, on page 9, it is provided that funds available from this appropriation may be used to reimburse Navy reservists traveling under permissive orders to active duty for training.

That part of the amendment, as I said, is about $1.9 million as far as we can estimate at this time. Nobody knows how many exactly are going to show up for training or how far they have to travel.

The problem, as I see it, is that Admiral Palmer, the Chief of Naval Reserves, has to say on his honor as an officer and as a gentleman, "If you go out and take your training, you are going to get reimbursed for your travel and you are going to get your training pay."

I believe what the chairman of the Committee on Armed Services is suggesting is that we keep that money, which will guarantee the travel money—because that will then be in both the House bill and the Senate bill and that will remove that language from conference—and that, then, we will take the drill pay money, the $4.8 million, to conference. And, since that money is in conference or is in the House bill, has been provided by the other body, that Admiral Palmer may not be able to say, "On my honor as an officer and as a gentleman, you are going to get this money, but I believe the Senator from Maryland is going to help you get it and the Senator from Mississippi is going to help you get it."

Is that about the case, I ask the Senator from Mississippi?

Mr. STENNIS. Mr. President, I believe I express our position better when I just say at this point that we cannot recommend that the Senate adopt the House amendment, because that would add to the total of the bill. But we are in sympathy with the idea and the need behind the amendment and we shall recommend to the Senate that they take this language that the Senator has just explained, which is estimated to be, in effect, about $1.9 million of these funds that are in the Naval Reserve part and they will be able to use that on their travel expenses.

Mr. MATHIAS. Mr. President, I am listening very carefully to the distinguished Senator from Mississippi and I think I hear what he is saying.

I believe if I were still an active reservist and I were listening to this conversation, that I would be willing to report for duty on the 1st of July and have pretty good assurance, I would have absolute assurance, that I was going to get my travel money, and I would feel pretty comfortable about the probability I would get the training pay for that time.

Mr. STENNIS. Well, to the extent of $1.9 million.

Mr. MATHIAS. That is the travel money. They can be sure of that because that will be in both bills.

Mr. STENNIS. We considered that amendment and lean toward the idea of carrying out the Senator's wishes.

I cannot guarantee what the conferees will do. I thought once that I could, but I cannot. I canceled that practice, because that is what a conference is for.

Mr. MATHIAS. I have great confidence in the Senator's ability in conference to do this.

Mr. STENNIS. We are going to be for reaching the Senator's objective as much as we can.

UP AMENDMENT NO. 1346, AS MODIFIED

Mr. MATHIAS. With that assurance, Mr. President, I modify the amendment to strike out lines 1 and 2 and lines 7 and 8.

That would leave lines 3, 4, 5, and 6, providing for the reimbursement for travel in a manner similar to that of the House.

Mr. STENNIS. That is the way we understood it, that that would be agreeing to $1.9 million estimated, but not further than that in money.

Mr. MATHIAS. Mr. President, I went a little too far. I said strike lines 1 and 2, which are, in fact, the $1.9 million. So the modification should merely be to strike lines 7 and 8.

The PRESIDING OFFICER. Is there objection to the modification?

Will the Senator send the modification to the desk?

Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 9, line 4, strike out "$429,000" and insert in lieu thereof "$2.329,000".

On page 9, line 6, after "1980" insert ": *Provided*, That the funds available from this appropriation may be used to reimburse Navy Reservists travelling under permissive orders to active duty for training".

Mr. STENNIS. We accept the language the Senator offers here, then we will adjust the money with the conferees the best we can.

Mr. MATHIAS. I yield to the Senator from Oregon.

Mr. HATFIELD. Mr. President, I would like to make a very brief observation.

It was not too many days ago we had great wailing here on the floor and almost the gnashing of teeth, concerning the problems of the military and how we would resolve those problems by calling for registration of the 19- and 20-year-olds.

Let me say this, I think the amendment offered by the Senator from Maryland would do far more to meet the military needs of our Reserves than all the registrations of 18-, 19-, and 20-year-olds will accomplish.

I, for one, want to say now that I am going to fight very diligently in the conference to try to restore this full amount in order to maintain the good faith of the Government of this country with our national reservists, because when we do things that demean that reason and faith in their Government, we are not only hurting the naval reservists, we are undermining the whole Military Establishment of this country.

I cannot understand the miserly attitude that is expressed here on the floor concerning something to which we are already committed in trying to maintain a strong Naval Reserve and, at the same time, say we will do something significant in meeting the needs of our military personnel problems by calling for registration.

This, to me, does not even make logic or sense.

I appreciate the leadership given by the Senator from Maryland. But it is again an example of how little leadership we have gotten from the Armed Services Committee, if I may make that observation, concerning personnel problems in the military.

We have had to raise on the floor through amendment time after time the proposals to meet those needs of our military pay problems. It seems to me this is another example where we have to go almost around the Armed Services Committee that should be giving the leadership to correcting these problems.

Mr. President, I wanted to make that observation.

Mr. STENNIS. Mr. President, there is a lot to be said over and over every year, at every hearing, at every conference. We have these matters up, and we share the money pretty well with the services, I think.

We are interested in this matter. We will do, along the lines agreed upon, as best we can.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Maryland.

The amendment (UP No. 1346), as modified, was agreed to.

Mr. MATHIAS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STENNIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, I have been on this floor since 9:25 this morning. I know the hour is late, but I deferred to a number of Senators to call up their amendments. I want to assure Senators I will move through the package of amendments as rapidly as I can. I regret that it is Saturday evening, 23 minutes of 6, but I will do the best I can.

Mr. STEVENS. Will the Senator yield for a minute without losing his right to the floor?

Mr. HELMS. Yes.

Mr. ROBERT C. BYRD. I thank the Senator for yielding.

Mr. President, I ask unanimous consent that rollcall votes during the remainder of this day be limited to 10 minutes each.

Mr. STEVENS. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I was going to suggest that to the majority leader myself, and I appreciate his doing so.

Mr. President, the eruption of Mount St. Helens was unquestionably a disaster for those Americans who live in its vicinity. No one can question the human and economic problems which have arisen because of the shock of the eruptions and the spreading of ash over the countryside.

But in approaching the problem of relief, we ought to be mindful not only of the suffering of those in the immediate vicinity, but also of all those in the United States who pay taxes. No one would oppose disaster relief to the truly needy, or funding the agencies which will enable the people and the governments to recover from the blow. But such funding should be prudent and orderly, and it should be limited to amounts that can be spent in the short length of time which this supplemental is supposed to cover.

The purpose of this bill is to appropriate funds for shortfalls in previously authorized programs and for unanticipated emergencies—in an amount sufficient to provide the assistance necessary until the consideration of the regular appropriation. We should not irresponsibly appropriate funds to any agency for comprehensive programs of assistance continuing over many months. There are only 3 months left in fiscal year 1980; yet we are called upon in this bill to appropriate nearly a billion dollars for this purpose.

Now I realize that some of the money has already been spent through reprograming by the Corps of Engineers, by FEMA, and by others for short-term emergency assistance. And these agencies have more work to do.

But on the other hand, there are funds in here for massive, long-range reconstruction, loan, and research programs. There are funds in here that are proposed on the basis of vague estimates—perhaps I should call them "guesstimates." In the brief time that was available to study these ambitious recommendations, I was able to contact only a few of the agencies involved, and I find that they really have no reliable data upon which to project a rational estimate of needs. They are simply picking numbers out of the air. Furthermore, no comprehensive hearings have been held to justify the need. The need is there, but we do not know precisely what it is. There have been no hearings to speak of.

Mr. President, Congress can and should appropriate funds in this bill for the immediate needs in the affected areas, and for study and planning of certain long-range assistance programs. But an orderly process for the consideration of these plans can and should follow after a timely review of the situation. It is premature to expect an agency to estimate accurately the cost, for example, of such major programs as rebuilding a major system of highways when it is only 1 month after the devastating eruption of a volcano—especially when other eruptions are a real possibility.

This supplemental appropriation bill is the largest ever considered in the history of our country. The assistance package for Mount St. Helens relief is not the least of the items in it. Let us not forget that the people in the area of Mount St. Helens are taxpayers, too.

Mr. President, I have four related amendments which go to particular sections of the bill increasing disaster relief, and I shall take them up very briefly, one by one. They are all aimed at realistic funding of immediate needs, while leaving long-range programing for a more orderly procedure.

Mr. President, this package would cut $378 million in budget authority and $105 million in outlays without affecting the real needs of the people in the Mount St. Helens area.

I ask unanimous consent to have printed in the RECORD a table showing the amount of the House bill, the President's requests, the committee recommendations, and the amounts in the Helms proposals and the cuts.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

PROPOSED HELMS PACKAGE ON MOUNT ST. HELENS RELIEF

[In millions of dollars]

	House bill		President's request		Committee		Helms	
Department of Transportation	0		[1] 0		125	12	0	
Office of Water Research and Technology	0		0		3	3	0	
Forest Service	25	14	25	14	25	14	12.5	7.0
Department of Education	0		20	1	20	1	10.0	.5
Small Business Administration	412	205	430	163	430	163	215	82.5

	Budget authority	Outlays
Helms cuts:		
Department of Transportation	$125	$12.0
Office of Water Research and Technology	3	3.0
Forest Service	25	7.0
Department of Energy	10	.5
Small Business Administration	215	82.5
Total	378	105.0

[1] The President requested an additional $100,000,000 in authority for a general emergency fund, but no additional appropriation is required.

UP AMENDMENT NO. 1347

(Purpose: To delete certain funds from the Department of Transportation supplemental appropriation for Mount Saint Helens disaster relief)

Mr. HELMS. Mr. President, I send to the desk an unprinted amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1347.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 126, line 12, strike out "$375,000,000." and insert in lieu thereof "$250,000,000.".

Mr. HELMS. Mr. President, this amendment would reduce the supplemental appropriation to the Department of Transportation for Mount St. Helens disaster relief by $125 million.

I point out that none of the funds for DOT were requested by the President, not one penny. As I understand it, there was a request for an additional $100 million, but that was an authorization request for an emergency fund that does not require appropriation. In other words, it was a request for an increase in the authorizing, not in appropriation. Thus, the net effect of adding $125 million in the supplemental appropriation is to add, in effect $225 million for emergency purposes. I am sure that was not the intent of the distinguished Senator from Washington.

Representatives in the Department of Transportation have told my staff that the amount requested for the relief effort is—and I am quoting them—"at best a rough guess," as to what actually will be necessary.

Mr. President, let us face our responsibility as Senators. Surely, we cannot be in the business of appropriating such amounts without a clear idea of what the need is and for what the money is going to be spent.

Mr. MAGNUSON. Mr. President, will the Senator yield at that point?

Mr. HELMS. I yield.

Mr. MAGNUSON. Who in the Department of Transportation told that to the Senator? Name who told you that.

Mr. HELMS. Mr. President, I do not believe I will yield to the Senator at this point. The fact is that we were told that by the competent authorities when we made inquiries I will finish my statement and let him say what he wants.

Mr. MAGNUSON. I am asking a simple question. The Senator from North Carolina made a statement, that the Department of Transportation said this and that. Who did?

Mr. HELMS. Mr. President, I will suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I say to my friend from Washington that I have sent a staff member to the telephone, to call another staff member, to see if we can get the exact name and address, telephone number, and pedigree of the spokesman for the Department who was consulted. I will be glad to give the Senator any information I have.

In the meantime, I say again that the volcanic action may not be over. Although some of the Department of Transportation funds will go for ash removal, a good portion will go to road and bridge construction. It is inconceivable to me how the Department of Transportation can go ahead with plans to relocate and replace highways and bridges without some period of planning and consideration of the likelihood of further damage.

This $125 million is essential for a long-range program. The bill provides that the appropriation is "to remain available until expended." In the view of the Senator from North Carolina, such appropriations should not be considered within the concept of a "supplemental" appropriation bill.

I say, further, that when we come to the regular appropriation process, the Senator from North Carolina, in all likelihood, will not in the slightest be opposed to the additional money. But I am not certain that any other Senator in this body could have achieved this kind of money in the supplemental appropriations bill.

I do not want to suggest an argument with the distinguished Senator from Washington, but I think it speaks for itself, that this is a large amount of money for vague purposes, unclear, both as to the administration and to Congress.

I am just pleading for an orderly appropriations process, something that is based on the hearings and a clear understanding as to what we are spending the money for.

I yield the floor.

Mr. MAGNUSON. Mr. President, frankly, I resent any implication that the chairman of the Appropriations Committee is only self-serving on behalf of the State of Washington or the Pacific Northwest in reference to disaster assistance.

True enough—I am deeply and personally concerned about the Mount St. Helens disaster.

I am especially mindful that it is a unique disaster; that it is unprecedented in our Nation's recent history; that it will be an "on-going" disaster; and I am doing everything within my power to see that everyone involved—especially Federal officials and agencies—handle their missions accordingly.

But our Federal disaster assistance program is one that is available to all States and all local communities that suffer a disaster. This bill is an example of just how valuable that program is to helping citizens throughout our Nation.

If Members will just review one agency included in this bill—FEMA—just read that section of the report on pages 117 through 120—they will see just how national in scope this bill actually is.

FEMA is in this bill for $870 million—the President's request—and Mount St. Helens is slated for $86 million of that, just about 10 percent of the FEMA total.

Some 17 States will share in the balance: California is slated for $171 million, due to floods. Alabama is slated for $132 million and Mississippi is slated for $20 million; due to Hurricane Frederic; Puerto Rico and the Virgin Islands are slated for over $45 million, due to Hurricane David.

Disaster assistance is a national program—addressing national concerns that can be pinpointed to particular States—and it helps redress the losses suffered by citizens of those States.

In many ways, disaster assistance is an insurance fund for those who suffer a disaster. Mount St. Helens was and is such a disaster. I have tried to see that Federal agencies meet their responsibilities out in the Northwest. I will continue to do that, and I will see that they meet their responsibilities in any other State across our Nation.

Mr. President, I oppose the amendment. Disaster relief includes many things in this bill in 6 departments and at least 12 agencies. Appropriations for FEMA are the lowest in the Pacific Northwest, in our areas, as compared with California, Mississippi, and other disaster States. That includes the Tampa Bay bridge disaster. There have been more disasters this year than in the recent past.

I consider this only a downpayment, anyway. We will have to take care of the road system. We know that the roads and bridges are down.

The $275 million includes other many things in many other States. It includes bridges in Arizona that are down.

So, at the proper time, I am going to move to table the amendment.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. JACKSON. Mr. President, I am a little amazed that an attempt is being made here this afternoon to try to cut funds to help out in a desperate situation.

It appalls me. We are sitting on a very, very difficult situation in the Northwest. Our biggest problem is not just what has happened. That alone has been a truly national disaster. But we do not know from one day to the next whether we are going to have a whole series of disasters. And it is not just this particular mountain, Mount St. Helens, but the very best scientists, who have been accurate—are talking about what might happen also at Mount Baker, Mount Rainer, and Mount Hood. We hope they are wrong on this. But we must be prepared.

In getting up here on a Saturday evening, not knowing whether we are going to have more ash dumped on Portland, Oreg., or moving north and into the Puget Sound area of over 2 million people, is it the will of the Senate to send such a message to our own people. At the same time we give billions, which I have supported, in foreign aid, that we are not going to give them any help to deal with problems that are real and continuous and right here at home?

I know this amendment goes to the Department of Transportation, but I wish to say that one of the most devastating aspects of this disaster is the pervasiveness of the ash falling on motor vehicles and equipment of all kinds. Emergency vehicles cannot even get through in some areas. Then we do not know the lasting impact of the ash, and it is the fear of the unknown that is so disastrous.

Mr. President, as to the whole question of the ingestion of the ash into human beings we do not know whether it is going to be even worse than black lung. We have the best medical scientists from Atlanta, from NIH, from our medical schools at the University of Washington right in the area, the University of Oregon Medical School right in Portland. Their tentative findings are reassuring, but we must be sure. Some of the funds here will help to give that assurance.

Now all I want to say is the committee considered all these requests very carefully. Everyone in America knows day after day that the mountain has been on the tube, with the media telling them of what has happened and what might happen in the next minute.

Is it the will of this body to say that we are not even going to make the initial downpayment?

I strongly support the position taken by my colleague, and it is purely and totally bipartisan. We are all affected by it. They do not mark this ash R for Republicans or D for Democrats, or W for Washington, I for Idaho and O for Oregon. It is falling on this entire area.

I hope that my colleague the senior Senator will move to table this and let us send a clear signal that we are going to do something about that which is potentially the greatest disaster that this country has ever faced.

Mr. MAGNUSON and Mr. HELMS addressed the Chair.

Mr. HELMS. Mr. President, am I recognized?

Mr. JACKSON. No. Mr. MAGNUSON has the floor.

The PRESIDING OFFICER. The senior Senator from Washington retains the floor. I believe he yielded to the junior Senator from Washington.

Mr. CHILES. Mr. President, will the Senator from Washington yield?

The PRESIDING OFFICER. The Senator from Washington.

Mr. MAGNUSON. Mr. President, I move to table the amendment.

Mr. HELMS. Mr. President, will the Senator not withhold for a moment? Will the Senator not withhold for a moment?

Mr. MAGNUSON. On a rollcall?

Mr. HELMS. No. On the motion to table.

Mr. JACKSON. Just hold it a minute.

Mr. MAGNUSON. Yes. I will hold it a minute.

Mr. HELMS. I thank the Senator.

Mr. President, I am amazed. I would like for either Senator to explain to the Senator from North Carolina how he inferred from what I have said that I oppose disaster aid for the State of Washington. What I am questioning is the use of the supplemental to initiate programs that ought to be handled in due course in regular appropriations process. If I did not make that clear before, let me make it clear now.

Second, the junior Senator from Washington appeared to be speaking in favor of the amendment because he himself said that he did not know how much more damage was going to occur, how many more roads were going to be inundated, and that is the very question that I raised in part in my statement.

I am saying let us have an orderly appropriations process.

I tell both Senators from Washington when the regular appropriations bill comes——

Mr. MAGNUSON. We are only associating ourselves in the Appropriations Committee with what we know has happened up to date. We had an extensive hearing on this with witnesses from 11 separate agencies of the Federal Government. The Senator from Oregon and I were out there. We have reviewed the needs and the capability of agencies to respond to those needs. We know what the damage is now. The future, I do not know the full extent of those needs.

But the amendment of the Senator from North Carolina cuts out immediate relief for things that we now know have happened. We know it has happened and that need is right now.

Mr. HELMS. The amendment of the Senator from North Carolina does not cut immediate relief. It allows emergency relief for emergency purposes, but leaves long-range projects for regular appropriations.

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. HELMS. For example, what specific highways and bridges are proposed to be replaced? Was that developed in the hearings? Is this money going to be obligated in the next 3 months? That is all we are talking about—the next 3 months.

Mr. MAGNUSON. What?

Mr. CHILES. Yes. I can tell the Senator one of them. I will be glad to tell him one of them.

Mr. HELMS. I do not have the floor.

The Senator from Washington has the floor.

Mr. MAGNUSON. I yield to the Senator.

The PRESIDING OFFICER. The Senator from Washington yields to the Senator from Florida?

Mr. MAGNUSON. Just a minute. I yield to the Senator from North Dakota.

Mr. YOUNG. Mr. President, this is the most unusual disaster that has occurred in my time in the Senate. Our committee held a hearing and has carefully considered all aspects of this disaster. The amount we recommended may be too high or it may be too low. But we will be going to conference with the House of Representatives, and the Senator from Washington will have to convince the House conferees of the funds contained in the bill. The bill will be gone over very carefully there. So I intend to vote to support the committee position and keep the money in the bill.

Mr. MAGNUSON. I hope I will not have a tough time justifying it because the House of Representatives was not able to consider all these items. Some requests came up from the OMB after the House committee reported the bill. But we know the damage is there, and we do not know what will happen in the future.

Mr. President, I move to table the amendment of the Senator from North Carolina.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Washington to lay on the table the amendment of the Senator from North Carolina.

On this motion, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from New Jersey (Mr. BRADLEY), the Senator from Nevada (Mr. CANNON), the Senator from Iowa (Mr. CULVER), the Senator from Ohio (Mr. GLENN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. MELCHER), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Tennessee (Mr. SASSER), the Senator from Georgia (Mr. TALMADGE), the Senator from Michigan (Mr. LEVIN), the Senator from Colorado (Mr. HART), and the Senator from North Dakota (Mr. BURDICK) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF), would vote "yea."

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN), the Senator from Utah (Mr. HATCH), the Senator from New York (Mr. JAVITS), the Senator from Oregon (Mr. PACKWOOD), the Senator from South Dakota (Mr. PRESSLER), and the Senator from New Mexico (Mr. SCHMITT) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The PRESIDING OFFICER (Mr. EXON). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 55, nays 24, as follows:

[Rollcall Vote No. 273 Leg.]

YEAS—55

Bayh
Bellmon
Bentsen
Biden
Boren
Bumpers
Byrd, Robert C.
Chiles
Church
Cochran
Cranston
DeConcini
Dole
Domenici
Durkin
Eagleton
Exon
Ford
Gravel
Hatfield
Heflin
Hollings
Huddleston
Inouye
Jackson
Johnston
Laxalt
Leahy
Long
Magnuson
Mathias
Matsunaga
McClure
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Pell
Pryor
Randolph
Riegle
Sarbanes
Schweiker
Stennis
Stevens
Stevenson
Stewart
Stone
Thurmond
Tsongas
Williams
Young
Zorinsky

NAYS—24

Armstrong
Baker
Boschwitz
Byrd, Harry F., Jr.
Chafee
Cohen
Danforth
Durenberger
Hayakawa
Heinz
Helms
Humphrey
Jepsen
Kassebaum
Lugar
Percy
Proxmire
Roth
Simpson
Stafford
Tower
Wallop
Warner
Weicker

NOT VOTING—21

Baucus
Bradley
Burdick
Cannon
Culver
Garn
Glenn
Goldwater
Hart
Hatch
Javits
Kennedy
Levin
McGovern
Melcher
Packwood
Pressler
Ribicoff
Sasser
Schmitt
Talmadge

So Mr. MAGNUSON's motion to lay on the table Mr. HELMS' amendment (UP No. 1347) was agreed to.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1348

(Purpose: To delete certain funds from the Office of Water Research and Technology)

Mr. HELMS. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1348:

On page 75, strike out lines 5, 6, 7

Mr. HELMS. Mr. President, let me say again that the Senator from North Carolina is not contesting aid for the State of Washington as a result of that disaster. What the Senator from North Carolina is trying to emphasize is that this is not a proper procedure in terms of appropriations.

I say again to my friend from Washington that if regular proper appropriation processes had been followed, and if they should be followed, I probably would be leading the fight for him. But I am saying that to cram all of this money into this supplemental bill, making it the largest in history, drawing big figures out of the air when nobody is able to say what it is going to be used for, is an unwise procedure.

This amendment is very short and my statement will be likewise. It simply deletes an additional $3 million that was added at the last minute for salaries and expenses of the Office of Water Research and Technology.

I would point out that the House bill contains zero amount for this expenditure. The President's request contains a zero amount for this expenditure. Yet the committee has added an additional $3 million that was not even requested. I will be very curious to know whether a specific plan exists for this spending, or whether somebody at the last minute thought that it would be nice to step up water research in the Mount St. Helens area.

Of course, it would be nice to step up such research. But we have to make choices in the budget process and a lot of nice things get lost by the wayside. If additional work is necessary it ought to be considered in the fiscal year 1981 process, instead of spending a million dollars a month for July, August, and September, without even a plan for orderly spending and without detailed justification. I rest my case.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? The yeas and nays were ordered.

The Senator from Alaska.

Mr. STEVENS. Mr. President, I will not take much time of the Senate, but I remember the day after the Alaska earthquake when I found my way down to what was left of the downtown part of Anchorage and met with SBA Administrator Foley. We had people who were literally panicked; they did not know what they were going to do. And if the Federal Administrator had not shown up, I think many of them actually would have packed and left town.

When disaster strikes, responsible Government officials ought to be able to commit moneys to meet needs. Those of you who are thinking about cutting this budget now on the basis that the appropriations mean automatic spending ought to go back and take a look at the earthquake. We did not spend all the money that Congress put up.

There was no Senator up for election that year; there was no Governor up for election that year. It was not politics. It was people. And when we talk about disasters, every one of you who votes to take this money out, that is available to meet needs, and particularly this one. We want to know what has happened to the water quality in that area to see whether it is going to affect the anadromous fish. Those anadromous fish go up and mix with ours in Alaska and in Oregon. They are caught throughout the whole area. We want to know what is going to happen to those fish in terms of water quality.

I will say to the Senator from North Carolina that I want that $3 million. But, what is more, it is not necessarily going to be spent if it is in this budget if it is disaster money.

I think everyone here ought to think that disaster can strike your State, too. It strikes mine more often than any other State. We are one-fifth the size of the whole United States and we have volcanoes and floods and earthquakes, and you name it. We will be back here and we will be asking you for money long before the need can be defined, but on the basis that you trust us not to spend money that is unnecessary to meet the needs of the people who are affected.

I personally have great respect for my good friend from North Carolina. But I hope you would all keep in mind that disasters must be met. We have disaster standby legislation that authorizes Federal officials to step in and meet it.

I conducted hearings in our subcommittee concerning the U.S. Geological Survey and how they moved in and how one young man who was working for the U.S. Geological Survey, lost his life trying to keep track of what has happened on this volcano.

Now, believe me, if you vote on this on strictly a basis of trying to balance the budget, as far as I am concerned—and I have supported all the balancing-the-budget concepts that I have thought were valid—this one is invalid.

With due respect to my friend from North Carolina, the whole series of amendments is invalid, because this is not the place to cut the budget. We have already balanced the budget and there is nothing to say this money is going to be spent if it is made available.

It must be made available if these people can act to meet the needs of the area. If we do not put the money up, many people are liable to leave that area, which has been their home and their families' home for years. I know this area well and it can be restored. The need is there, particularly the need is there for this money for water resources.

Mr. McCLURE. Will the Senator yield?

Mr. STEVENS. Yes, I am happy to yield.

Mr. McCLURE. Mr. President, I want to supplement and applaud the Senator from Alaska for the statement that he made.

It was not long ago that a Federal dam burst in eastern Idaho. The area below it was flooded, and the devastation covered five counties and affected thousands of people. Within a matter of days, we had disaster relief legislation voted by Congress, supported by the administration, and a half a billion dollars was set aside for the relief of that area. As it turned out, not all of that money was spent. And I want to underscore that. The money was available, but not all of the money was spent. There are some claims that are still under litigation, and I suspect that would be normal under any circumstances.

But the devastation in the area of Mount St. Helens, which is primarily in the State of Washington, is not confined to the State of Washington. It is impossible for people who have not been there to conceive of the devastation and the difficulty of living with the conditions that have been created.

I do not know that we in the Appropriations Committee can say that all of this money will be spent. But I can tell Senators that if it is needed, it should be spent and it should be available for expenditures. To require that we know in advance exactly how every penny will be spent seems to me to defy the very nature of disaster assistance. It is because of the uncertainty, because of the devastation, because of the impact upon all of the systems that make our society work that it is impossible to know with precise definition exactly what has been damaged, what can be done, and what will be expended.

I have to agree with my friend from Alaska. I understand what the Senator from North Carolina is concerned about. But I think he misses the mark in this case, because it is not possible to know now—and it will not be possible to know over the next few days or the next few weeks—exactly what must be done and what will be done between now and the end of this fiscal year.

Mr. CHURCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. MAGNUSON. Will the Senator yield?

Mr. CHURCH. I yield.

Mr. MAGNUSON. I just want to say that the testimony on this was that the University of Idaho, which has special expertise in this matter, along with Oregon State, are going to examine what will be the result on the water of this tremendous amount of ash. Both ground and surface water supplies and quality must be throughly investigated. We do not know how it will affect our salmon. People do not know how it will affect them. Farmers do not know how it will affect the agricultural industry.

This is a very important item. It helps to support critical research. As a matter of fact, the University of Idaho, Washington State University, and Oregon State, have expended some of their money anticipating that they will be able to have the Federal Government work with them in this matter.

Mr. CHURCH. Will the Senator yield?

Mr. MAGNUSON. I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CHURCH. Mr. President, this is a unique disaster, concerning which we know very little. I wish I had a vial of the kind of ash that fell on the Northwest for each Member of the Senate. It looks and feels, has the texture and substance, of cement. It is very heavy.

When Mount St. Helens blew, it blew 1,300 feet off the top of the mountain, and the amount of dust that it threw into the air, into the stratosphere, was equal to more than a ton for every living inhabitant in the United States, over 220 million tons of this cement-like substance blown into the stratosphere. Most of it fell on Washington, Idaho, and portions of western Montana. We have never had a problem quite like this before.

We have had our problems, as my colleague has mentioned, such as when a great Federal dam failed and five counties were inundated. We have had plenty of problems. The Senate has been very generous in helping us out of those problems. But Mount St. Helens is unique.

We do not know quite what to expect from the ash. When it gets wet, it is like clay, and then it dries out and it is like talcum powder. It is over the fields. We do not know what effect it will have on the crops, the peas, the lentils, or the wheat. We do not know what the impact will be when big machinery moves in to try to harvest those crops. We do not know what the effect will be upon the water system or the fish.

There is only $3 million here. That is not a lot of money, considering the importance of that perpetual resource, the anadromous fish in the Northwest.

As Senator McClure has said, our previous experience with the flood was not one of profligate expenditure of money. The amount of money that was provided proved sufficient and any overage will be returned to the Treasury.

In this case, with only $3 million involved and with the importance of the resource, I would hope that the Senator's amendment would be rejected.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I say again I am in full sympathy with the people of Washington, Idaho, and all the rest. I am simply saying to Senators this is an improper way to appropriate. This bill appropriates $952,100,000 for disaster relief, $952,100,000. This amendment addresses itself to $3 million that was not requested. It does leave the very small amount of $949 million still available.

I do not think that is ungenerous.

Mr. McCLURE. I do not mean to prolong the debate, Mr. President, but let me indicate that this money in this particular amendment is not just dealing with anadromous fish, as important as that is, but it deals with water human beings will be drinking. What is the effect upon municipal water supplies and domestic water supplies? There needs to be some work done on that, starting now.

Mr. HELMS. Will the Senator yield?

Mr. McCLURE. Yes.

Mr. HELMS. Has the Office of Water Research and Technology said they could not perform this function if there were not another $3 million? They did not even request it.

Mr. McCLURE. Let me say to my friend whether they requested it or not, it is work that members of the Appropriations Committee, looking at the problem, decided was necessary for them to do.

Mr. HELMS. Based upon what?

Mr. McCLURE. Based upon the devastation in the area, I would say. I do not mean to prolong the discussion, but when the Teton Dam burst, we were not able to dot every "i" and cross every "t" as to exactly how every penny of money was going to be spent or what would have to be done. We knew that there were cities destroyed, that there were streets destroyed, that there were water systems wiped out. We asked Congress to appropriate money and Congress appropriated money to meet that disaster. It met the disaster as well as you can do. Money was left over when it was done and that shall be returned to the Treasury. I do not think it is possible for us to say exactly what has to be done, but we can say there has been widespread devastation in the areas and human needs that must be met, and human needs that will be met with this appropriation.

Mr. HELMS. One final word, Mr. President. I am not addressing myself to the human needs. I know about that. I am in sympathy with them and I am perfectly willing to vote in a normal, orderly appropriation process. But I say again all I am talking about is the unusual nature of this much money, with only one hearing, I might add, Mr. President, and I have not even been able to get the transcript on that.

If we are going to solve this problem and help the people of Washington by throwing money at it, by throwing $952,100,000, I hope it works.

Mr. MAGNUSON. Now wait a minute.

Mr. HELMS. The Senator said it was just a downpayment.

Mr. MAGNUSON. It could well be. We do not know. This only happened in the last 2 or 3 weeks. The water resource technology people did not know and we called upon them. They have the capability and are the only Federal agency with the legal authority to help do this cooperating research. We told them they had to get busy.

Let us get this straight about the $952 million. There is $430 million in there for the Small Business Administration. That cuts it almost in half. There is approximately $215 million for the Army engineers to dredge the Columbia River, and its tributaries. There are 63 ships stalled in Portland that cannot get through because of the silt. That is pretty nearly $750 million of the total. FEMA gets $870, but Mount St. Helens only gets $86 million out of this. That was their estimate, the President's budget estimate.

Also in the FEMA total is $171 million for California, and $132 million for Mississippi. There is the Tampa Bay Bridge in Florida in there in the Transportation total.

Do not be piling all of this on Mount St. Helens. $430 million of that amount is for the Small Business Administration and they say they are broke. Many of the people who came in there, after it was declared a disaster area, wanted to know about small business loans because their livelihood was destroyed and everything else destroyed, their businesses and everything.

Do not be piling this up on Mount St. Helens. We are having enough trouble with Mount St. Helens without the Senator from North Carolina adding to it.

Mr. President, I move to table the amendment.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from North Carolina (Mr. Helms). The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. Baucus), the Senator from New Jersey (Mr. Bradley), the Senator from North Dakota (Mr. Burdick), the Senator from Nevada (Mr. Cannon), the Senator from Iowa (Mr. Culver), the Senator from Ohio (Mr. Glenn), the Senator from Massachusetts (Mr. Kennedy), the Senator from South Dakota (Mr. McGovern, the Senator from Montana (Mr. Melcher), the Senator from Connecticut (Mr. Ribicoff), the Senator from Tennessee, (Mr. Sasser), the Senator from Georgia (Mr. Talmadge), the Senator from Michigan (Mr. Levin), the Senator from Colorado (Mr. Hart) and the Senator from Vermont (Mr. Leahy) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. Ribicoff) would vote "yea."

Mr. STEVENS. I announce that the Senator from Utah (Mr. Garn), the Senator from Utah (Mr. Hatch), the Senator from New York (Mr. Javits), the Senator from Oregon (Mr. Packwood), the Senator from South Dakota (Mr. Pressler), and the Senator from New Mexico (Mr. Schmitt) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent due to illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 72, nays 6—as follows:

[Rollcall Vote No. 274 Leg.]

YEAS—72

Armstrong
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bumpers
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Danforth
DeConcini
Dole
Domenici
Durkin
Eagleton
Exon
Ford
Gravel
Hatfield
Hayakawa
Heflin
Heinz
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Laxalt
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Pell
Percy
Pryor
Randolph
Riegle
Roth
Sarbanes
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young

NAYS—6

Baker
Durenberger
Helms
Kassebaum
Proxmire
Zorinsky

NOT VOTING—22

Baucus
Bradley
Burdick
Cannon
Culver
Garn
Glenn
Goldwater
Hart
Hatch
Javits
Kennedy
Leahy
Levin
McGovern
Melcher
Packwood
Pressler
Ribicoff
Sasser
Schmitt
Talmadge

So the motion to lay on the table Mr. Helms' amendment (No. UP 1348) was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, I have three more amendments. I want Senators to know there are three more amendments on this subject. I want Senators to know that I will call them up and then withdraw these three. There will be no rollcall votes on them.

Mr. President, I say again that I am not addressing myself to the effects of the disaster. I will go out there with Senator MAGNUSON, Senator JACKSON, and any other Senator, and help shovel the ash. I am addressing myself to the appropriation process. My amendments do not propose to cut FEMA or the Corps of Engineers. They do not cut the funds for the Tampa Bay Bridge, as the distinguished chairman suggested before the vote. Tampa is a long way from Mount St. Helens. My amendments go only to the funding of certain portions of projects designated by the committee as Mount St. Helens disaster relief, and only those portions concerned with long-range problems that ought to be handled in the regular appropriations process, not the supplemental.

UP AMENDMENT NO. 1349

(Purpose: To delete certain funds from the Department of Agriculture supplemental appropriation for Mount Saint Helens disaster relief)

Mr. HELMS. Mr. President, I send an unprinted amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1349.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 78, line 6, strike out "$113,000,000." and insert in lieu thereof "$100,500,000: *Provided*, That of the funds appropriated under this paragraph, not more than $12,500,000 shall be available for Mount Saint Helens disaster relief.".

Mr. HELMS. Mr. President, I offer this amendment which will reduce the appropriation to the U.S. Forest Service for disaster relief to Mount St. Helens from $25 million to $12.5 million.

The Forest Service presented an estimate of the cost of its operations relating to the disaster, not for a 3-month period, but for a 2-year program. This request includes moneys for items such as seed collection and planning for a visitors center. I do not deny that these needs should be addressed, however, not in a supplemental appropriations bill.

The Forest Service must plan an important role in the relief effort. I am pleased that it has assumed that responsibility and has begun to work on long-range resource recovery plans. The agency needs and deserves funding to develop plans and carry out its emergency programs. My amendment would provide an amount which the Forest Service could reasonably be expected to obligate by the end of this fiscal year. I assure my colleagues, as ranking member of the Senate Committee on Agriculture, Nutrition, and Forestry, that I will give full consideration to the long-term needs of the Forest Service in relation to the Mount St. Helens relief effort—in an orderly fashion during consideration of its fiscal year 1981 appropriation.

Now, Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

UP AMENDMENT NO. 1350

(Purpose: To delete certain funds from the Department of Education supplemental appropriation for Mount Saint Helens disaster relief)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1350.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 90, lines 1 and 2, strike out "$20,000,000, to remain available until September 30, 1981." and insert in lieu thereof "$10,000,000: *Provided*, That of the funds appropriated under this paragraph, not more than $10,000,000 shall be available for Mount Saint Helens disaster relief.".

Mr. HELMS. Mr. President, my amendment would simply reduce the appropriation of the Department of Education for the Mount St. Helens relief effort to $10 million.

The total damages to the school systems in the affected areas have not been fully assessed. In addition, further volcanic action is a real possibility. The funds requested would be for impact aid for the reconstruction or total construction of new schools, as well as for ash cleanup around them. It is inconceivable that the Department of Education can evaluate damage, receive and process requests, and obligate funds for such a major effort in 3 months. It is clear that the bureaucrats at the Department do not believe they can do that either. You will note in the bill that the funds would be available through September 30, 1981.

Mr. President, again I reiterate. This is a supplemental appropriation. Let us consider the needs of this Department for the rest of this fiscal year. Then, in the long-established method, let us consider a comprehensive program in the 1981 appropriations bill.

Now, Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. MAGNUSON. Mr. President, on June 17, 1980, the President requested a $20 million supplemental under the major disaster relief provisions of the impact aid program.

The funds would assist with the repair and cleanup of schools affected by major disasters, such as the eruption of Mount St. Helens, tornados, and other natural disasters.

How did the Department of Education determine that $20 million is needed?

First. The Washington State Superintendent of Public Instruction surveyed each of the school districts affected by the eruption and found 121 of its 300 school districts had sustained damage or ash fall;

Second. The Idaho Department of Education did the same and found 18 school districts had damage or ash accumulations;

Third. In Washington State, over $10 million has already been spent on ash removal and repairs;

Fourth. Over 30 school districts in Washington were unable to reopen. We will not know the cost of cleanup and repairs for these hardest hit districts until later; and

Fifth. Several Department of Education disaster assessment teams visited Washington and Idaho. After consulting with State and local officials and visiting school districts, the $20 million figure was arrived at.

The Governor of Oregon has requested that Oregon counties affected by the third eruption be included in the disaster declaration. If the President approves this request, schools in Oregon could be eligible for funds.

The Senate bill would make these funds available through fiscal 1981 so that the Department of Education can have adequate time to make sure that funds are properly spent.

In many school districts the clean up and repair costs have exceed their operating budget for an entire school year.

UP AMENDMENT NO. 1351

(Purpose: To delete certain funds from the Small Business Administration supplemental appropriation for Mount Saint Helens disaster relief)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1351.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 121, line 24, strike out "$1,177,000,000: *Provided*," and insert in lieu thereof "$962,000,000: *Provided*, That of the funds appropriated under this paragraph, not more than $215,000,000 shall be made available for Mount Saint Helens disaster relief: *Provided further*,".

Mr. HELMS. Mr. President, this amendment would reduce the supplemental appropriation to the Small Business Administration for the Mount St. Helens relief by one half. Even with that reduction the amount which would be available to the SBA during the remainder of the fiscal year for obligation to this relief effort will be $215 million.

In order for the SBA to obligate these funds, individual applications must be received from each qualifying applicant and evaluated, a field study must be made, a report filed, and loan papers prepared and processed. It is physically impossible for the SBA to process the anticipated number of claims in order to justify an appropriation of $430 million. My amendment would allow the SBA to go forward with its program, to receive applications and process the most urgent. Then, in the 1981 appropriation bill, when a better idea of the amount of assistance necessary is available, an additional appropriation could be secured.

Mr. President, I reiterate, a supplemental appropriation bill is to provide for the needs of an agency only until the end of the fiscal year—which is 3 months away. We should not provide such huge allocations without some orderly consideration.

Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

UP AMENDMENT NO. 1352

(Purpose: To delete assistance to Nicaragua)

Mr. HELMS. Now, Mr. President, I send to the desk an amendment and ask that it be stated. I suggest that the clerk read all the amendment.

I am through with Mount St. Helens, and I want Senators to hear the text of this amendment.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

> The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1352:
>
> On page 43, line 24, strike out "$1,984,500,000: *Provided*," and insert in lieu thereof the following: "$1,909,500,000: *Provided*, That none of the funds appropriated under this paragraph may be made available for assistance for Nicaragua: *Provided further*,".

Mr. HELMS. Mr. President, this amendment would reduce the amount of Economic Support Funds by $75 million, and prohibit any of the funds in this section from being used to provide assistance to the Marxist regime in Nicaragua.

It is perhaps necessary to recall some of the parliamentary background to the foreign assistance supplemental. As Senators are aware, the fiscal year 1980 foreign assistance appropriations bill emerged from conference too late to qualify under the over-all budget ceiling. The conference report, therefore, has been in a sort of limbo for several months, while funding proceeded under a continuing resolution. As I understand it, the committee has inserted the funding levels of the fiscal year 1980 conference report into the supplemental, and has referred the Senate to House Report No. 96-787 for an explanation of the figures.

In that report, after discussing the amount of ESF funding, the conferees stated:

> The Conferees are in agreement that $75,000,000 of the total amount shall be used for Nicaragua.

Mr. President, I think that the time has come for Senators to face the issue of whether assistance to Nicaragua will strengthen the resistance of the private sector against the Sandinistas, or whether it will weaken the private sector.

Let us look at the facts. Some Senators seem to have the idea that in Nicaragua we are dealing with two political movements, much like two political parties, which are struggling for control of the government. They seem to think that infusions of cash are going to help the private enterprise sector to resist the extension of Marxist control by the government.

In reality, the situation is quite different. The Government of Nicaragua is struggling to take control over the people of Nicaragua. That Government is totally controlled by the Marxist Sandinista party, but it has not yet been able to impose totalitarian control over large sectors of the Nicaraguan people who are resisting the Sandinista revolution. If we want to help the private sector, we should help them either directly or clandestinely; but we cannot help them by using the organs of the Government that is trying to destroy those sectors.

Now in Nicaragua, we have the governing junta, of which three of our five members are Sandinistas.

We also have the advisory Council of State, which was recently revised so that it was stacked with a Sandinista majority.

And then we have the Sandinista Front Directorate, the controlling group of a Communist-style revolutionary party which recently alined itself by treaty with the Communist Party of the Soviet Union. The Sandinista Front is the central committee of the party. Under the doctrine of so-called democratic centralism the party lays down the line from the top. Now what is that line?

Mr. President, during hearings before the Foreign Relations Committee, I questioned Assistant Secretary of State William Bowdler about the Sandinista Directorate. This is the reply he gave:

> The Sandinista Directorate controls the Nicaraguan military and influences the day-to-day operations of the Nicaraguan Government. The members of the Directorate are, for the most part, the Sandinista military commanders responsible for the defeat of Somoza. . . .
>
> Several members of the Sandinista Directorate have been to Cuba for visits, training or to live as exiles. They in general support increased state involvement in economic and social policies, but have not advocated police state control of Nicaraguan society along the lines of the totalitarian systems of some Eastern European countries and of the Soviet Union. The Directorate members have supported increased state activity in the economy (such as the nationalization of bank, insurance companies, and mins), an agrarian reform program (including nationalizations of large agricultural holdings with some collective ownership of farm land, government control of the marketing of agricultural production, a government-mandated rent control program, and social programs such as the literacy program to teach Nicaraguan peasants to read and write and to build support for the government.

Mr. President, there is a certain amount of naivete in this statement. It is well-known that the Sandinistas have chosen Cuba as their model, which is a totalitarian state. Obviously, no one advocates a totalitarian state while they are in the process of establishing one. But even the State Department admits the drive for "increased state activity"—that is to say, control by the party. Even the platform of the Sandinistas, as outlined by the State Department, is one which finds no place for the free market. If all economic decisions are ultimately controlled by the state, then there is no room for freedom, in the sense that we regard freedom as one of the basic human rights.

Let no one assume that private ownership of property is incompatible with communism. There is private property—of a sort in the Soviet Union. There is free enterprise in the Soviet Union—on the black market. Farmers in China are allowed to grow food in small allotments, and to keep the profits of their work. Nor are the larger forms of capitalism incompatible with communism, since both the Soviets and the Chinese are some of the sharpest bankers in the world. But this is not freedom.

If the rights of property are so circumscribed and so controlled by regulation that fundamental decisions are taken by the state, then no true private sector exists. If the state directs and allocates production and resources, then there is no such thing as a private sector.

Thus, if the United States gives economic assistance to the Sandinista government, and that assistance is regulated and allocated by the Sandinista Front, then it is obvious that what we are doing is increasing the control of the Sandinistas over the private sector. We weaken the ability of the private sector to resist. If all the organs of government, if the Sandinista armed forces, if the Sandinista secret police, are all given greater resources, and greater rewards to induce the private sector to accept greater controls, then we will be destroying the free market economy in Nicaragua, and fostering the development of another Communist state.

Mr. President, we have been up and down the road on this issue. I am not going to take and consume the time of the Senate. But, Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MORGAN. Mr. President, I do not know of any Member in this Senate that condones communism anywhere in the world. But I do believe that men, reasonable men, may differ about the way to combat communism.

I accord to my distinguished colleague full faith in his judgment. I hope that those who support this amendment and who oppose this aid to Nicaragua will afford me the same.

It seems to me that the one sure way to see Nicaragua go Communist and fall into the domination of the Communist dictator in Cuba, and under the influence of the Soviet Union, is to deny it all aid from the free world.

If we in this country are unwilling to risk $75 million with the hopes that we might give those people in Nicaragua who believe in the free enterprise system, who believe in democracy, some ray of hope, then where else can they turn but to the Communists?

I was not involved in national politics when Castro came to power in Cuba. But I often wonder, what would have happened had we given a little more attention to those people in Cuba who wanted to resist communism and had tried to keep the hope of freedom alive there.

I believe we would be pennywise and pound foolish not to try to help those people down there, who are trying to bring some semblance of order and to keep that country out of the hands of the Communists.

It may very well be that if we aid Nicaragua with $75 million, and it may still go to the aid and the assistance of the Communists. I hope and pray that it will not and that it will not solidify the Communists. I hope and pray that it will offer that one, little ray of hope that might save that small Latin American nation from the claws of the Communist world.

So I am willing to take my stand of risking $75 million, with the hope that we can do just that. I hope we will not support this amendment.

Mr. HELMS. Mr. President, my distinguished colleague from North Carolina, and perhaps other Senators, missed the point.

This $75 million is going to the Marxist government of Nicaragua. There is no way it is going to get to the private sector. It is aiding the Communist government. I am not willing to take a chance, because this is a one-sided chance.

I have heard all this before, and I do not intend to debate it, but I am prepared to debate it all night if anybody wants to do so. It is ridiculum ad absurdum to say that you are somehow taking a chance on behalf of freedom to send $75 million of the taxpayers' money to a Marxist regime in Nicaragua. It is the government, and the money will not get to the private sector unless the Marxists decide such distribution will strengthen Marxism. That is all there is to it.

Mr. BIDEN. Mr. President, will the Senator yield for a question?

Mr. HELMS. I yield.

Mr. BIDEN. Does the Senator think that we should in any wav, economically or militarily, aid the Government of Yugoslavia?

Mr. HELMS. We will discuss that issue when we get to it. I do not think it is in the U.S. interest to support a Marxist government because a Marxist government, by philosophy, suppresses fundamental human rights.

When we have hearings in the Foreign Relations Committee on Yugoslavia, we can explore those issues, including the role of the United States and the West in suppressing the freedom of the nation, the entity that Tito chose to call Yugoslavia. We have had hearings on the Nicaraguan question, I say to the Senator, and the facts are clear.

Mr. BIDEN. But the Senator does acknowledge that it is possible that it would be in the interests of the United States of America to give financial aid to a Communist government, does he not?

Mr. HELMS. No, I do not.

Mr. BIDEN. That is possible, is it not?

Mr. HELMS. Anything is possible in this world, but I have to know the facts. I do know the facts, I think, as to Nicaragua. If we aid the Marxist system in Nicaragua, we will be destroying freedom there.

Mr. BIDEN. The only point I want to make is to underscore what the Senators from North Carolina are saying, and that is that it is possible, depending on the facts, to supply everything, from money to guns, to a Communist government, and it would be in the express national interest of the United States of America.

I know that the Senator from North Carolina (Mr. HELMS) does not have any desire to see Yugoslavia fall under the sway of the Soviet Union and would probably fight in every way to keep that from happening. But it may mean that he is going to end up supporting a Communist government. I know he does not want to do that. I know that he is an American-firster. Whatever is in the interests of the United States of America, we should do.

So we in this country are aiding China against Russia, playing our China card—a Communist government. We probably will have to aid Yugoslavia, a Communist-Marxist dictatorship, because it is in the interest of the United States to aid Communists.

I suggest that although we can differ as to whether or not the U.S. interest is better served by aiding the Marxist regime in Nicaragua, we must acknowledge that it is a matter of opinion. The mere fact that one would state that we want to send aid to Nicaragua does not, in and of itself, indicate that it is not in America's interest.

That is the only point I want to make; because, unlike the Senator from North Carolina (Mr. HELMS), there are some people in the country who think that if you in any way aid a Communist government, you are acting against the interests of America.

Both Senators from North Carolina know that is patently absurd. Both Senators from North Carolina know that sometimes that may happen. They just disagree on this issue.

So I want all the world to know, anyone who bothers to read this RECORD, that sometimes we do aid Communist governments—governments—in order to secure our international interests. Example: China, Yugoslavia, and World War II.

At any rate, the fact is that I just want to make sure no one walks out of there thinking that anyone who voted for this is soft on or sympathetic to Communists. It merely is what we believe is in our national interest.

I hope the day does not come when we have to vote on the floor of the U.S. Senate as to whether or not we will send direct aid, military troops, to fight Russians in Yugoslavia to protect one Communist government from another. It could happen, and we had better be prepared. That is the only point I wanted to make.

I thank both Senators from North Carolina, and I yield the floor.

Mr. ZORINSKY. Mr. President, I know that a lot of people have come to the conclusion or reached the judgment that Nicaragua has been "lost"—lost to the Communists, they say.

I seriously question such judgments and conclusions. At best, they are premature. At worst, they are inaccurate. Yes, the fact of the matter is that there is sufficient evidence available to suggest that the situation in Nicaragua is not as clear cut as some would lead us to believe.

If it were, Mr. President, we all know that Castro and his Soviet benefactors would be out dancing in the streets. But they are not. No, indeed, there is no celebrating in Havana or Moscow—because the Communists know that strong, democratic forces remain in Nicaragua.

They know that the private sector has banded together, made its stand, and forced the government to capitulate on a number of key issues, such as open and free elections and judicial review of government actions.

They know that press freedom is alive and well and that La Prensa, the most popular daily in the country, is back on the streets with news articles and editorials that are often critical of the government.

If my colleagues would like to see this, I have a copy of a newspaper here. It depicts a picture of a resigned member of the Nicaraguan junta; his name is Alfonso Robelo. He resigned from the junta because, as the Senator from North Carolina indicated, there was a high degree of Marxism and communism being displayed by the junta and the FSLN, the directorate of the Government of Nicaragua.

He went out and formed his own party. In order to discredit him, the FSLN in Nicaragua, the directorate, published a picture in their controlled newspaper, the Barracudo, of Alfonso Robelo shaking hands with Somoza.

The title under the picture is "The Lackey of Somoza."

The Sandinista government has attempted to destroy his credibility, his ability to attract people in the Nicaraguan hills against the Sandinistas.

Mr. Robelo remembered that when the picture was taken, the archbishop accompanied him, and their mission was to ask Somoza to decrease the bloodshed, that there should be no more bloodshed, and to stop killing people. He got the original picture of him, the archbishop, and Somoza, which the Sandinistas had blacked out in their picture in the newspaper. But in blacking it out, they had forgotten to black out the chain that the archbishop was wearing in the original picture. It is quite evident in this picture.

Where did he take these pictures to expose the Government of Nicaragua? To La Prensa, the free newspaper that is publishing in Managua, Nicaragua. Does that sound like what the Washington Post might have done during Watergate? If this had been during Somoza's time, this newspaper would have been burned and blown up the next day. It is living, positive proof that there is a side remaining in Nicaragua to be saved, that there are democratic principles still alive; and many in this room would have us believe otherwise.

They know, too—the Communists—that the church commands a strong following and that it is continuing to play a very significant role in the postrevolutionary period.

The Communists also know that opposition political parties are being organized and are championing the cause of political pluralism and respect for democratic institutions. For example, Alfonso Robelo—to whom I have referred—former businessman and recently resigned member of the junta, has formed his own political party. He is out on the hustings and, to the government's dismay, is drawing large, enthusiastic crowds.

Yes, the leaders of the Communist world know that their struggle in Nicaragua is far from over. And because it is, they are prepared to stay there and fight it out.

On our side, Mr. President, we have to be prepared to do the same. We have to be prepared to stay in there and fight for the things we hold near and dear. It is not going to be an easy struggle. Nor are there any guarantees. But if we convince ourselves in advance that all is lost—despite the evidence to the contrary—then we leave the field open to our adversaries. And the one thing we can be sure of is that they will take full advantage of it.

I do not believe in running away from a fight. That is not what this country is all about. The people of Nebraska did not send me here to "cut and run" at the first sign of a Communist in Nicaragua or anywhere else for that matter. Rather they sent me here to protect U.S. interests and that is what I intend to do in Nicaragua.

Recognizing, Mr. President, that there are strong differences of opinion on this issue, all I ask of my colleagues is that they examine the facts with an open mind. Looking at the issue in this fashion, I believe they will come to conclusion that "the glass is actually half full, rather than half empty."

Thank you, Mr. President.

Several Senators. Vote!

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts.

Mr. TSONGAS. Mr. President, my colleagues probably have a sense of having been down this road before. In fact, we have.

Let me raise a point with them.

The elections in Rhodesia, remember that last year. The Senator from North Carolina, my good friend, got up and said to the Senate: "Look. Why don't we lift sanctions?"

This was the Ian Smith internal settlement, and some of us got up and said to the Senate it was not going to work, that the internal settlement had no chance and it was rejected by the world community.

What did the Senate do? The Senate went ahead and accepted the position of the Senator from North Carolina and we lifted sanctions on this side.

Fortunately, the House of Representatives saved us from our folly and as the Senate will remember now we went ahead and those elections were held under supervision and they had a peaceful transition in Rhodesia. The House of Representatives saved us from our own position.

What happened in that election? Bishop Muzorewa got three seats, three seats, and Senators were told that he was the person of the popular will in Rhodesia. Mr. Mugabe got 55.

What happened since then? Senators read the same papers I do. In fact, there was an article in the Washington Post this week about a lobbyist who used to be Ian Smith's fellow who is now up here arguing for the government of Mr. Mugabe. There has not been the violence. There has not been the turning to the Soviets that Senators were told about.

The fact is, in my opinion, there are men, there are women, and there are children who today would be dead if the position of this Senate had been upheld.

Let me ask a question. How often do Senators think about what they did? How often do they breathe a sigh of relief that they did not prevail? How often do they think about those people who would have been killed in that process? My guess is hardly at all.

Here is the Senate's second chance. The same argument, the same situation, the same human dilemma.

How often do we have to go through this? How often do people's lives have to be held in the balance while we reargue the old cold war?

We are safe. They are not. This is not dollars. This is lives.

It seems to me that what we are faced with is an old Boston political expression. It says: "Fool me once, shame on you; fool me twice, shame on me."

The difference is there are people's lives at stake and that is something I hope we would take very seriously and not repeat the mistake we made last year.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, in the course of our history of international relations we have often assumed that, first, any person who comes forward professing to be an anti-Communist is automatically a good person and, therefore, would merit our support, and that assumption has led this country to support an assortment of dictators throughout this world.

The second assumption is that any person or persons opposing this good person would be automatically Communist.

I wish to suggest, Mr. President, that that assumption has caused us more problems in our international relations than any other assumption that I can think of.

In the case of Nicaragua that assumption has no validity. As my dear colleague from Nebraska has pointed out there are many in Nicaragua who stand up, fight for democracy. They are worthy of our support.

I applaud my friend from North Carolina for his stand against communism. But I hope that in his stand against communism he is not suggesting that the rest of us are not equally patriotic. As his colleague stated we may differ in means.

In studying the history of Cuba, I am oftentimes led to conclude that if we had taken the time to converse with Fidel Castro, to communicate with him, Cuba might be different today. If we look back at that period, there was a time when we thought he was a great hero. But them some in Congress who were anti-Communist decided that the second assumption was valid. If you oppose an anti-Communist you are automatically a Communist, and here we are. As a result of this false assumption, we have been saddled with this man and I suppose the effect of his philosophy will be on our necks for generations to come.

As far as the proposed assistance is concerned, and this is where by subcommittee is involved, Mr. President, the Government of Nicaragua and the Government of the United States have agreed that if this amount should be appropriated, 60 percent of the funding will go to the private sector and 40 percent can be used by the Government.

However, every dollar that we appropriate here will be monitored by the U.S. Government and that Government, our Government, will be reporting back to us as to how each dollar has been spent.

I do not know how much more we can do to assure ourselves and our constituents that the money will be put to good use.

But I would like to concur with my dear friend from North Carolina (Mr. Morgan) that I support the appropriation of this $75 million in assistance to Nicaragua because I think it is a good gamble.

There are those who have suggested that Nicaragua is now being filled with Cubans, with Russians. I think the concern here should be why is it that Nicaragua is not being filled with Americans? We are giving away Nicaragua by default, and if we should act this evening to cut this amount out, then we can almost guarantee ourselves that Nicaragua will become communistic.

Several Senators addressed the Chair.

Mr. MATHIAS. It has been my privilege to serve on the Foreign Operations Subcommittee of the Appropriations Committee for a number of years. During much of that time the distinguished Senator from Hawaii has been chairman of that subcommittee, and I have watched him in action in many places and under many circumstances, and he is pretty tough in doling out money, money that is provided by the taxpayers of this country.

I have watched him with people who are our friends and people who may be not quite so friendly, and in each of the instances in which he has approved a program, he has done it on the basis that it is in the interests of the United States of America, that there was an interest of the United States at stake, and that the program which he has recommended would in some way protect or assure the interests of the United States.

I believe, as he has just explained to the Senate, that that is the case here. This appropriation is part of a package, a package that deals with a vital part of the world, Central America and Latin

America, and if I may paraphrase the words of Abraham Lincoln, the world will little note nor long remember what we say here, but Central America and Latin America will take very careful note of what we do here.

Now, this is not the first time the Senate has had to consider this. We have had to vote on it several times. We have already made a determination on it, and I would not see any reason for changing the determinations that have been made.

I think the previous votes of the Senate have recognized that while there may be other areas in the world of vital importance to the United States—Western Europe with our strong alliance there; the Middle East with friends there, and with sources of energy there; the Far East where we have an old friend in Japan and, I hope, a new friend in the People's Republic of China—no place is more important than our own front doorstep, the Western Hemisphere, and that is what this appropriation addresses itself to.

I do not want to delay the Senate any longer. Our colleague, our friend, the present Secretary of State, Ed Muskie, has said that Nicaraguan aid—he was speaking on the 13th of June and which the House has approved for fiscal year 1981 and an authorization bill with a margin of 74 votes:

> The case has been made that this is an important foreign policy priority, and there is no room for that $75 million in the 1980 continuing resolution, and so we are on the threshold of a foreign policy failure in a very sensitive area because of the failure of the Congress to provide the resources.

It underscores the importance that the Secretary of State places on this item.

The merits of this request, I think, have been stated many times. They may not be universally accepted, but they speak for themselves, and I strongly urge the amendment be rejected.

The PRESIDING OFFICER (Mr. TSONGAS). The Senator from Florida.

Mr. STONE. Mr. President, I respect and have deep affection for my colleagues on both sides of the aisle who support this appropriation. I do not disparage either their patriotism or their will to oppose Castro or Communist expansionism in this hemisphere. I just think they are mistaken, and we will be able to find that out because the votes in the past tests on this issue have been that the appropriation has been approved, and this is about the last test of it. The money will go.

But let me just point out a few things. First, what is not happening, No. 1, is the $75 million is not going to the Government of El Salvador, which needs it far worse, and which is fighting right now for its life with a centrist group which includes the Christian Democrats, and which is fighting both the left and the right, and this money is going not to El Salvador. Far less, very, very little compared to this, is going there.

What is happening? It is said there are democratic elements in Nicaragua, and that is true. I commend the Senator from Nebraska for pointing out efforts by the former member of the junta to stay alive politically and to use the press that remains able to speak, La Prensa, that is fine. But what do you do when you send $75 million to the opponents of that man? It is like saying, "I support the opponent of the mayor so I am going to let the mayor control x million dollars as a way of supporting the opponent of the mayor."

The fact that the junta, which is the majority in this junta in Nicaragua, is going to be able to parcel out the money, so-called, to the private sector and say who gets it and who does not get it does not make political sense or economic sense to this Senator.

And now, one word about this theme, and I again want to preface this remark with my respect for those Senators who feel that Castro could have been converted or remain as a friend of the United States. I want to tell you a little story that you have not heard. In the airplane on the way to America in the first of the two trips that Castro made up here was a very prominent businessman in Cuba. He was the managing director and head of the famous company Bacardi Rum. He was a very good friend and supporter of Fidel Castro all during Castro's time in the hills. He was one of those businessmen who felt that here was the Western Hemisphere equivalent of an agrarian reformer. His name was Papine Bosch, and he told me this true story himself.

On that airplane on the way up the plans that he heard, the man that he supported, on his way to America, the plans that he heard Fidel Castro tell him, this good staunch supporter, convinced him that he had better get off the plane.

He got off the plane and immediately went back to Cuba and started moving the trademarks of Bacardi Rum out of Cuba. He moved then to the Bahamas, he moved then to Mexico, he moved then to Spain. That is why there is a Bacardi Rum Co. in the world today. It is one of the most successful companies in the world, and that is why it is.

Then he had to fight for years to hold those trademarks because the Castro government tried to confiscate them, and they had a bunch of lawsuits all over the world. Then they prevailed.

If you do not believe that little story, which is true, then all you have to do is read what Fidel Castro said several weeks ago, that when he was in the hills fighting the weapons that Batista's army was using against him, he decided then and there to make the United States pay; then and there he decided he was going to make the United States pay.

The fact is that I was taken in as many, many others, that here was a Robin Hood, a man who was going to have free elections. What free elections has Cuba had, may I ask my good friends who believe that free elections will take place in Nicaragua?

I hope and pray they do, and maybe they will. If this $75 million produces free elections, I will stand up on the floor of the Senate when that time comes—I mean free elections, not controlled elections but free elections, I will stand up here on the floor of the Senate—and I will say, "Boy, am I glad I was wrong." But I do not think I am wrong because in the middle of taking all the aid from the European countries, and they are getting aid from the European countries, they went, the delegation of the Sandinistas went to Moscow and signed eight agreements; another delegation of the Nicaraguan Sandinistas went to Cuba. They have not announced those agreements, but I am pretty sure they have made some agreements there with Castro.

I think it is too late. Maybe it is not too late. We will find out, because you have the votes. But I think you are wasting and misplacing the $75 million. That is what I really think.

Mr. CHURCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CHURCH. Mr. President, none of us can forecast the future. None of us can say with certainty that the extension of American credit to Nicaragua will prevent it from becoming a hard-core Communist state.

But one thing does appear rather certain to me, and that is that if we fail to do it, if we fail to take the gamble, if we fail to try, if we shut the door at a time when Nicaragua is desperately in need of external help and force that country to turn, instead, to the Cubans or to the Russians, then we insure that ultimately Nicaragua will become a hard-core Communist state.

If that happens, the fallout, as it affects Guatemala, as it affects El Salvador, and other countries close to the brink of revolution in region, becomes inevitable and the problems of spreading communism in Central America will grow increasingly acute.

So it seems to me that the course of wisdom in this case is not to seal off Nicaragua, not to force her into the arms of Cuba or the Soviet Union, but to try to influence events in the direction of moderation. Perhaps we will succeed. And if we succeed, the money will be exceedingly well spent.

Certainly, the bitter harvest we reap today in Florida, the thousands of Cuban refugees crowding into our country should be evidence enough of the failure of our Cuban policy. Let us not repeat the same mistake in Nicaragua.

On that basis, I hope very much that this amendment will be defeated.

Mr. JEPSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. JEPSEN. Mr. President, I, too, will not prolong this. I want to answer a couple of questions that have been presented here.

The distinguished Senator from Hawaii said, "Why is it that they are filled up with Cubans"? I believe that is correct. It is because we helped put them there. Our Ambassador, Mr. Pezzullo, advised some of us at a luncheon a few weeks ago that he personally was involved in helping to deliver the request for an unconditional surrender from the Nicaraguan National Guard to the Sandinistas. He was involved, in fact, in quite a few things. Contrary to what we are reading in the newspapers about the U.S. policy, it was to leave hands off because it was an internal affair, our own Ambassador was helping. We put him there.

Do you want to know why Cubans are in Africa and all over? Because we helped put them there with a little amendment in this Senate that had to deal with Angola. That is why the Cubans are there. We helped put them there. It does not make sense.

Right now in the Caribbean, one after another, all these islands—somebody said there are about 30 potential nations there; 13 now, 18 soon to be; some 5,000, 6,000 population. One by one they are nationalizing, getting the vote in the OAS. Whose influence is much better than ours there? Castro. About to have elections, they say, in Jamaica. Do you want to bet? Free elections? I hope so. I hope that somebody does something to help insure that there are free elections.

And I hope that no one would ever misinterpret any remarks that I may make by way of reading into them as questioning anybody's patriotism in this body. That is not so.

Senator Tsongas and I have gotten to know each other a little bit better than we did when we first came here. All of those things that, at one time or another in the heat of campaigns or, as in most times is the case, a lack of understanding and appreciation, all go to naught when a person understands that it is not for us to judge where the intent of a man's heart is or the intent of a man's mind. The good Lord will do that.

But we must make judgments and we will make judgments and comments in this Senate body, and I will continue to, on the consequences of the actions that some may take or have taken.

I do not get very excited about Mugabe being used as an example of someone who really now is going to show how to run a country. Here is a man who came into power—again, with our help—a man who perpetuated some of the most vicious, inhumane atrocities that will go down in history ever known to mankind. And, I might add, the butchering of American doctors and missionaries, among others, and we watched it happen; helped it along.

So when questions are asked how some of these folks are in here—I agree, we must be involved, but we also must hear both sides. And when we say, "How come so many of those folks are in there," I will tell you, because, for some strange reason, there are some in our State Department and there are some who feel with all sincerity in our Congress that we should help those folks out. And we certainly have.

We corrected the Angola thing a little bit, thank goodness, a couple of weeks ago.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, during the extensive debate on Nicaragua, I have stayed out of this matter because my good friend, Senator Zorinsky, and I have not agreed on this issue.

I want to rise and give my colleagues the benefit of how I view this matter First and foremost, Ed Zorinsky and I are friends and we have known each for a long, long time. Ed Zorinsky feels very strongly—and he has been to Nicaragua—that we would aid Nicaragua. I do not happen to agree with Ed Zorinsky on this matter, but I think no less of him because we do not agree on this one particular issue.

I have a very fond and warm association with the junior Senator from North Carolina (Mr. Morgan). I am sad, indeed, I say to my friend, Senator Morgan, if any vote of his with regard to Nicaragua, siding with my friend and colleague Ed Zorinsky from Nebraska, in any way impinges upon his loyalty, his integrity, or that he is soft on communism. I am sure that he is not. I am sure that Ed Zorinsky is not.

I also have listened with interest to my good friend from Hawaii, my good friend from Massachusetts, my good friend from Maryland, and other friends who have stood on the floor of the Senate and defended their support for aid to Nicaragua. Mr. President, I happen to feel that all of my friends are wrong, because I believe that we are wasting this $75 million in sending it to Nicaragua for the various reasons that have been cited quite ably by my friend, the senior Senator from North Carolina (Mr. Helms).

However, since we are about to vote on this, I am going to feel no less sure of myself than I ever was that people who do not agree with me on this issue might be right, Mr. President. Once again, as I have said before, the junior Senator from Nebraska might be wrong. But we have to vote our convictions.

I am hopeful that we can go ahead and vote our convictions on this matter, free of partisan political considerations, with respect for people who disagree with us, recognizing that they might be right, and, in the end, I hope the interests of the United States of America are thus best served.

I say in closing, Mr. President, that the first time I ever heard of agrarian reform was at the end of World War II when I was in the Philippines.

There was a big meeting going on, and being used to politics I went over to listen to it. They were telling about the takeover by the Communists of mainland China and all of the good things they were going to do there in the interest of agrarian reform.

I heard about the same thing when Castro took over Cuba by force. I remember well listening to Jack Paar, who was one of the television stars of the day in those early days of television, telling his side of the story about Castro.

I simply say that some of the experiences that we have had and have been fooled on in the past would indicate to me that Uncle Sam had better be very cautious how and where we spend our money. However, I would say that I hope that no one would assume that just because I will be voting against aid for Nicaragua that I am automatically against all aid to any country that is generally considered to be Communist.

I think the situation is very difficult in Nicaragua. I think we are making a mistake, but I would emphasize once, again, Mr. President, in my closing sentence, I might be wrong. I hope I am.

Mr. RANDOLPH addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Did the Senator from Louisiana seek the floor?

Mr. JOHNSTON. I will say to my distinguished colleague when I last left the floor when this started, I thought I heard the distinguished Senator from North Carolina say he was going to offer this amendment and then withdraw it.

Mr. HELMS. No, that was the immediately preceding amendment.

Mr. JOHNSTON. Well, I have been hearing some Senators talk about catching airplanes. I will withhold my motion.

Mr. RANDOLPH. Mr. President, nostalgia is not a favorite subject in the Senate or in the House of Representatives, but I will shortly be casting my 9,000th vote on Capitol Hill. Not all of these votes are of a critical nature. The subject varies.

There has been discussion tonight about Castro and Cuba. Perhaps Members have heard me comment on this area. In the early forties I secured, in the House, the initial money for the Pan American Highway from Panama to Mexico. Central American countries have all been visited by me.

I had a dear friend, James B. McCauley, a fine man, a humanitarian and one of the earliest pilots to hold a pilot's license in this country. He was a businessman. He had a plant in Bristol, Tenn., in the tri-state area of Kingsport and Johnson City.

Colonel McCauley did not go to Cuba and open a plant because he wanted to make more money.

People appealed to Colonel McCauley to open a plant some 12 miles out of Havana. Six or seven of his key people went there to work with the Cubans, and some 300 men and women in Cuba were employed at his plant at the time Castro, the so-called agrarian reformer, came to power.

I remember, as others do, when Fidel Castro came into this Capitol.

I remember so well.

He said, "We come as your friends. I am your friend."

Castro has never been a friend, not then, not through the intervening years, and not now.

Colonel McCauley flew to Havana after he heard of the problems. He took his car and drove toward the plant. Castro's soldiers pulled him to the side of the road—all of this is documented—took him out of his car and threw this American citizen into the ditch, burning his car in front of him. Very soon the Castro government expropriated his plant.

Colonel McCauley died a disillusioned man, really, because he never was able to collect anything from Castro, even from our Government—our Government which sends foreign aid to one country or another, wasted funds.

I say this earnestly—that I cherish the friendship of every Member in this body. The handicapped are not only those people who have mental handicaps or physical handicaps of one type or another.

The handicapped are also those people who carry malice, anger, and envy in their hearts. Those are also the handicapped people of this world.

When a Member votes in this body, I have never questioned the reason or reasons why my colleagues voted as he or she voted their convictions—their beliefs.

We all share a personal responsibility.

The Castro story has been told because my friends, the Senators from Hawaii (Mr. INOUYE), Idaho (Mr. CHURCH), and Florida (Mr. STONE)——

Mr. HELMS. Mr. President, we have been debating a familiar topic; namely, whether or not to supply U.S. taxpayers' funds to a Communist government in the hope of strengthening the private sector. I think the situation may be summarized in this way.

The Sandinista movement, which has explicit ties with the world Communist movement, which has signed agreements with the Communist Party of the Soviet Union, and with the Cuban regime, is in total control of the instruments of government in Nicaragua. Now I recognize that the instruments of government in Nicaragua still do not have total control of the population.

There is strong resistance in Nicaragua to the totalitarian takeover. I believe that we should encourage that resistance. But we will discourage that resistance if we provide assistance directly to the government.

The question is simply one of credibility. How can we use the Sandinista government as a vehicle to strengthen the private sector when that government is committed to a Marxist program?

The vehicle itself is fundamentally skewed. It may be part of the Sandinista program to retain a docile private sector while it is consolidating power, but we can be sure that it will never retain a vigorous free market system providing economic and political freedom to the people.

Any money we give to the Communist government will be used for Communist purposes. The Communists will use the money to entrap and tame the private sector. Marxists fundamentally believe that economic priorities should be set by the state. Thus, there can be no truly private sector.

So the question comes down to this: Should we give $75 million of the U.S. taxpayers' money to a Communist government to help that government capture and destroy the private sector, and eliminate resistance to the revolution? If any Senator votes to continue these funds, that Senator is voting to support Marxism and Marxist revolution. It is as simple as that.

Thank you, Mr. President.

Mr. ZORINSKY subsequently said:

Mr. President, no one can predict the destiny of Nicaragua. But support for aid to Nicaragua is support for United States interests there. It is support for freedom of the press; it is support for free enterprise; it is support for political pluralism.

This is what our assistance dollars to Nicaragua are all about. It is about the basic things we hold near and dear in this country.

The amendment should be rejected.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, 10 Senators have spoken on this amendment, 5 for and 5 against. This is not the first debate we have had on this issue. I think enough has been said.

Mr. President, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from North Carolina. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from North Dakota (Mr. BURDICK), the Senator from Nevada (Mr. CANNON), the Senator from Iowa (Mr. CULVER), the Senator from Ohio (Mr. GLENN), the Senator from Colorado (Mr. HART), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Michigan (Mr. LEVIN), the Senator from South Dakota (Mr. McGOVERN), the Senator from Montana (Mr. MELCHER), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Tennessee (Mr. SASSER), the Senator from Georgia (Mr. TALMADGE), the Senator from New Jersey (Mr. BRADLEY), the Senator from Vermont (Mr. LEAHY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "yea."

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN), the Senator from Utah (Mr. HATCH), the Senator from New York (Mr. JAVITS), the Senator from Oregon (Mr. PACKWOOD), the Senator from South Dakota (Mr. PRESSLER), and the Senator from New Mexico (Mr. SCHMITT) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The PRESIDING OFFICER (Mr. SARBANES). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 44, nays 33, as follows:

[Rollcall Vote No. 275 Leg.]

YEAS—44

Bayh
Bellmon
Bentsen
Biden
Boschwitz
Bumpers
Byrd, Robert C.
Chafee
Church
Cranston
DeConcini
Domenici
Durenberger
Ford
Gravel
Huddleston
Inouye
Jackson
Johnston
Kassebaum
Lugar
Magnuson
Mathias
Matsunaga
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Pell
Percy
Pryor
Riegle
Roth
Sarbanes
Stafford
Stennis
Stevens
Stevenson
Stewart
Tsongas
Weicker
Zorinsky

NAYS—33

Armstrong
Baker
Boren
Byrd, Harry F., Jr.
Chiles
Cochran
Cohen
Danforth
Dole
Durkin
Eagleton
Exon
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Humphrey
Jepsen
Laxalt
Long
McClure
Proxmire
Randolph
Schweiker
Simpson
Stone
Thurmond
Tower
Wallop
Warner
Young

NOT VOTING—23

Baucus
Bradley
Burdick
Cannon
Culver
Garn
Glenn
Goldwater
Hart
Hatch
Javits
Kennedy
Leahy
Levin
McGovern
Melcher
Packwood
Pressler
Ribicoff
Sasser
Schmitt
Talmadge
Williams

So the motion to lay on the table was agreed to.

Mr. INOUYE. I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1353

(Purpose: To restore $39 million to the title XX training program)

Mr. TSONGAS. Mr. President, I have an amendment at the desk and I ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

> The Senator from Massachusetts (Mr. TSONGAS), for himself, Mr. MOYNIHAN and Mr. KENNEDY, proposes an unprinted amendment numbered 1353:
>
> On page 87, line 13, strike "225,750,000" and insert "264,750,000".

Mr. TSONGAS. Mr. President, let me advise my colleagues that this should not take very long at all. I would like to ask the distinguished chairman of the Appropriations Committee a question about State and local training requirements under the title XX social services program recently enacted in H.R. 3434.

This is an entitlement program under current law. The training requirement under H.R. 3434 totals $114 million in fiscal year 1980. Yet, I understand that only $75 million for this purpose is included in the bill—$39 million less than is required. Can the distinguished chairman tell me if that is correct?

Mr. MAGNUSON. Yes it is.

Mr. TSONGAS. Let me ask a further question. Even though the extra $39 million is not in the bill, I understand it has been factored into the totals used in calculating where the budget stands in relation to the budget resolution. Is that correct?

Mr. MAGNUSON. Yes, it is.

Mr. TSONGAS So, in essence, my amendment, which adds $39 million to the title XX training entitlement program, does not violate the budget resolution.

I see that the Senator from South Carolina is not on the floor, so I will dispense with my question to him.

Very briefly, Mr. President, the situation is as follows:

In December of last year, we passed H.R. 3434, the social services and child welfare program. Under that bill, there is an entitlement referred to in title XX; 4 percent of that money is used for training, so that the other 96 percent may be used effectively. The rationale, I think, is really quite clear.

In August of last year, we began to operate under the continuing resolution that had a $75 million cap. In December, we passed H.R. 3434, and States were then entitled to $137 million. The bill only has $75 million, so there is a shortfall of $62 million.

We have determined the amount of exposure being incurred by the States is less than the entitlement. It is $39 million.

My amendment seeks to put that $39 million back in. It does not seek to add the $62 million.

The issue here is whether States operating under the entitlement in good faith should be dealt with equitably, given the fact they have already incurred these expenses.

I would also point out that these obligations are there no matter what we do.

The final point I would make is that the budget resolution, when passed, had an entitlement section, and this $39 million does not violate that section.

I yield to the Senator from New York.

Mr. MOYNIHAN. I thank the Senator from Massachusetts.

Mr. President, I say to the body and to the distinguished chairman of the committee that we deal here with a fundamental question of the nature of entitlement programs under the Social Security Act which, nonetheless, require appropriations.

H.R. 3434, to which the Senator from Massachusetts referred, is now Public Law 96–272.

These funds have been made available to the State as entitlements.

Mr. President, I rise in support of the amendment offered by the Senator from Massachusetts to restore the full amount of fiscal 1980 funding for social services personnel training and retraining to that which the States are entitled to under the provisions of the Social Security Act, as amended by H.R. 3434, now Public Law 96–272.

A bit of background may be helpful. Prior to enactment of H.R. 3434, the training portion of title XX of the Social Security Act was the one open-ended entitlement within title XX. Under the terms of H.R. 3434 it remains an entitlement, but the payments to each State in each of the fiscal years 1980 and 1981 may not exceed the greater of: First, four percent of the State's allotment under the basic title XX services program or second, the amount actually received by the State during fiscal 1979.

The Social Security Act is crystal clear: these limitations on Federal reimbursements to States for social services training are "notwithstanding any other provision of law", and the "payment shall be made to a State."

Mr. President, this is a classic example of an entitlement program. So long as a State's claims are valid, and so long as they do not exceed the limitations set forth in the Social Security Act itself, the Federal Government must honor them.

I shall not at this point enter into discussion of the complex question of whether limitations and so-called caps on entitlement programs can be imposed through the appropriations process. It is my opinion that they cannot be, and I know I speak for the full Committee on Finance which, in its report on H.R. 3434, stated in unambiguous terms "that it is changing the open-ended nature of the funding for this program but is not changing the entitlement nature of the program. As with other Social Security Act matching grant programs, States have a right to expect that the Federal Government will live up to its statutory commitment to match qualified expenditures."

It would appear that there is a direct conflict between the entitlement nature of the program and the limitations that the appropriations acts seek to impose. In time, I have no doubt, this conflict will have to be resolved through litigation. I know that if I were Governor of a State with valid claims that the Department of Health and Human Services could not pay as a result of limitations imposed on the moneys appropriated to it, I would proceed directly into the Court of Claims and seek to have the Federal Government ordered to honor my State's claims. And if I were the Secretary of Health and Human Services, I would ask the Attorney General to enter a brief on behalf of the Federal Government in support of the claims by the affected State.

Until these matters—which appear in several other areas, not only in social services training—can be definitely resolved, probably by the Supreme Court, it is incumbent upon the Congress to provide the funds to honor the claims. I therefore have cosponsored and will vote for the amendment of the Senator from Massachusetts. But I wish to state that the offering of the amendment does not concede the legitimacy of efforts to cap entitlement programs through the appropriations process, efforts that obviously violate the spirit of entitlement authorizations and in my view, violate the letter of those authorizations as well.

Mr. President, I wish to support the Senator from Massachusetts in saying that this is an obligation we have incurred and ought to meet.

Mr. MAGNUSON. Mr. President, without going to the merits of the proposal of the Senator from Massachusetts, it does not add to the bill against the congressional budget ceilings. There is no addition involved. It is a matter of policy.

I am going to yield to the Senator from Florida who has some feeling about this matter of whether we should do this, or not.

It is an offsetting cut, not necessarily to stay under the budget, but it is an entitlement and the Congressional Budget Office has already counted it against the committee ceiling.

So it does not violate the ceiling.

Mr. CHILES. Mr. President, I do want to speak against the amendment. This would add $39 million for grants to States for training social workers.

I object to it not only on the budgetary grounds, but I object on the programmatic grounds.

One of the intents of the Budget Act was to allow Congress to look for duplication and overlapping programs, in which we included section 601 requiring mission budget procedures presentations by the agency.

A mission budget makes them sort out all their different programs into major functions.

With the cooperation of Senator MAGNUSON, the Labor, HEW Subcommittee carried this mission budget to the highest level we can get, and we found separate justifications for health educated welfare programs.

In some areas like child health, the mission budget showed unmet needs. But in other areas, it showed duplication.

As it turns out, when we asked for the mission budget presentation in this area, this is where I picked the program up and I made the cut in the Appropriation Committee.

I found out when I held hearings on this, there are six different programs in the budget to train social workers.

Those six programs add up to $161 million right now, in 1980. This amendment, if accepted, is going to bring it up to $200 million, to train social workers.

I chaired those hearings, as I said, and it is clear to me that the Department has no overall plan or strategy for training social workers. They have not figured out what particular areas of need they have for working with children. Whether it is working with children or working with the aged, they have not assessed where the various service programs are heading or what they require. They cannot even demonstrate the overall lack of social workers. In fact, there is a surplus of social workers. We have more social workers than we have jobs for. Yet, we have six programs out there training them and spending $161 million.

The Appropriations Committee has been trying for years to get a plan from the Department, and we started out a couple of years ago.

I want to read a few quotations from the agency's report in 1978. This is where we directed them in 1978 to give us a coordinated plan of how they were going to get into their training program, how they were going to spend their money. They said:

> There are gaps in information, most notably in the title XX State and local and section 426 training programs. . . . The data from most States were incomplete, fragmentary, or inaccurate. . . .

That is where we are talking about this money right now. Continuing:

> There is missing information across programs including:
>
> Data on the specialists that are most in need, such as administrators, planners, analysts, etc.
>
> Data and the know-how to forecast manpower, staffing and training needs.

There is no information to tell us where the specialists are in need, what data and know-how they need to forecast planning.

The evidence is mixed on whether there is an unmet need for social workers. One report's findings, however, seem particularly significant to me.

First, in a 1977 report on "Employment Issues in Agencies on Aging," the Department of Labor found:

> The supply of qualified applicants greatly exceeds job openings in Agencies on Aging; this trend is expected to continue as the number of graduates in social work, social planning, public administration, and related fields who have some experience or education in the field of aging grows each year.

If that is true for aging, where we have been rapidly increasing the programs, then it is probably true for all fields. That report also points out that the workers we need are being trained in a lot of other programs on top of the six I have mentioned here. The OHDS (Office of Human Development Services) report concluded:

> We need to move toward a comprehensive manpower and training policy.

They next listed out 11 basic questions needed to develop such a policy, then ended up by saying:

> As we have reflected in this report, our ability to answer these types of questions to design a manpower and training strategy for HDS is very uneven. We are dedicating FY 78 resources to begin the search for answers. By FY 79 we will have projects in place to answer, or to know what we need to know to answer, these questions. The general outline of a strategy will be in place by then. The details should be worked out by FY 80.

Mr. President, this is 1980 now, and they have neither the outline nor the details. They cannot answer the simplest question about where the needs are or how the money is being used. I just cannot see how, in tight budget time, we can add $31 million more to a program like this. That would be more than a one-third increase at a time when we are having to cut back all over the budget.

They said, "We are going to cure that. We are going to get the information, and by 1979 we will have all that information." In 1979, they did not do anything. In 1980, to date, they have not done anything. They have not given any plan; they have not made up a plan. But we see the training dollars growing and growing.

Listen to the argument that this is an entitlement program. That is the problem we have in this budget; 75 percent is sort of entitlements, and it grows and grows because nobody ever looks at it. Nobody has ever determined before that there are six programs here. Once the entitlement program is passed, nobody is supposed to touch it.

Mr. MOYNIHAN. Mr. President, will the Senator yield?

Mr. CHILES. I will yield when I have finished.

Nobody is supposed to look. But suddenly, with the Budget Act, we gave the Appropriations Committee more authority. We said that in spite of some of these entitlement programs, the money does have to be appropriated.

So far as this being an entitlement is concerned, the last 2 years the Appropriations Committee has capped this particular entitlement program with a ceiling, and it is under what the entitlement should be.

So the States are on notice that regardless of what the authorizing legislation says, they do not automatically get that. Being on notice, they should wait until the money is appropriated. The bill just became law; the conference was just worked out about the time we went to the supplemental markup. Now we are told that the States already have committed this money.

Mr. President, if we are going to try ever to do anything about some of these programs, we have to be able to see where there is overlapping. If you have six programs in a pot and they are all spending money and it is going at the rate these have been going, at some stage you have to try to do something about it.

I want to meet all the pressing needs we have, but another $39 million on top of $161 million for the training of social workers, when we have more social workers than we have work for them to do, does not make sense. It does not make sense to appropriate more money when we have told the Department to come up with a comprehensive plan; and if they have six programs, we know we do not have that.

Under the circumstances, I think it would be foolish for us to add another $39 million in this particular area, when there is $161 million out there for this now, when we just passed that bill. This is the first time anybody ever looked at it and decided that we are going to determine what these plans are supposed to do and what these programs are supposed to do.

I urge that the Senate reject this amendment.

I yield to the Senator from New York.

Mr. SCHWEIKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida has the floor.

Mr. MOYNIHAN. I believe the Senator from Florida yielded to me.

Mr. CHILES. I yield to the Senator. In fact, Mr. President, I yield the floor. At an appropriate time, I should like to make a motion to table.

The PRESIDING OFFICER. The Senator from Florida yields the floor. Who seeks recognition?

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, there is a simple issue before us, and it has been before this body before, I am alarmed to have to say, and it is: Do the entitlements of the Social Security Act constitute obligations of our Government to individuals and to States?

The Finance Committee has capped, but it is an entitlement program. If we begin to tamper with the nature of that obligation in any part of the act, we call it into question in every part of the act.

I do not dispute the views of the Senator from Florida. He knows that I share many of them. But the bound obligation of this body to keep the commitments of the Social Security Act surely should be met. You start here, and the day comes when medicare obligations are not met, when medicaid obligations become questioned, when retirement itself is called into question. This is not the way to proceed. No matter what we do, the States will take the case to court. The Department of HEW will support them. The Federal Government will meet its obligation.

Why should we call it into question? Why should we not go to the next fiscal year and handle the entitlements and obligations then? Why unravel one of the most sacred commitments this body has ever made—social security?

Mr. CHILES. Mr. President, I believe we have had an opportunity to discuss this matter. I know that everybody is ready to make a decision on it.

Mr. TSONGAS. Mr. President, I ask unanimous consent to have printed in the RECORD a table in connection with this matter.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TITLE XX—STATE AND LOCAL TRAINING

[Fiscal years]

State	1979 program costs	1980	1980 with $39 M additional provided by H.R. 3434
Total, United States	$103, 300, 717	$75, 000, 000	$114, 000, 000
Alabama	848, 262	698, 004	913, 000
Alaska	208, 575	151, 033	209, 000
Arizona	1, 924, 619	1, 333, 587	1, 924, 619
Arkansas	1, 862, 666	1, 287, 443	1, 862, 666
California	4, 427, 577	3, 751, 800	7, 308, 000
Colorado	936, 955	711, 022	1, 086, 000
Connecticut	11, 385, 795	7, 458, 159	11, 385, 795
Delaware	234, 788	175, 112	235, 000
District of Columbia	238, 181	181, 745	344, 000
Florida	1, 666, 558	1, 420, 848	2, 460, 000
Georgia	2, 760, 540	1, 985, 038	2, 760, 540
Hawaii	99, 034	99, 034	238, 000
Idaho	307, 409	233, 185	248, 000
Illinois	821, 857	821, 857	986, 000
Indiana	90, 741	90, 741	109, 000
Iowa	635, 127	527, 404	1, 044, 000
Kansas	1, 083, 062	793, 025	1, 161, 000
Kentucky	2, 640, 587	1, 842, 364	2, 640, 581
Louisiana	1, 725, 323	1, 272, 170	1, 957, 000
Maine	1, 204, 844	820, 344	1, 204, 844
Maryland	1, 970, 667	1, 439, 096	2, 066, 000
Massachusetts	3, 713, 551	2, 628, 803	3, 713, 551
Michigan	2, 011, 278	1, 670, 645	3, 559, 000
Minnesota	1, 380, 392	1, 052, 324	1, 924, 000
Mississippi	1, 348, 959	966, 804	1, 348, 959
Missouri	1, 398, 908	1, 098, 248	1, 399, 000
Montana	1, 178, 345	789, 948	1, 178, 345
Nebraska	390, 821	315, 866	469, 000
Nevada	272, 666	201, 599	316, 000
New Hampshire	179, 669	150, 618	216, 000
New Jersey	2, 487, 857	1, 903, 377	3, 000, 000
New Mexico	1, 081, 756	745, 423	1, 081, 756

TITLE XX—STATE AND LOCAL TRAINING—Continued

[Fiscal year]

State	1979 program costs	1980	1980 with $39 M additional provided by H.R. 3434
New York	15, 133, 256	10, 480, 662	15, 133, 256
North Carolina	4, 057, 171	2, 839, 448	4, 057, 171
North Dakota	535, 531	371, 656	535, 531
Ohio	1, 091, 886	1, 091, 886	1, 310, 000
Oklahoma	705, 478	569, 900	705, 000
Oregon	1, 129, 198	824, 787	1, 186, 000
Pennsylvania	4, 796, 127	3, 572, 874	5, 883, 000
Rhode Island	764, 702	530, 805	764, 702
South Carolina	1, 120, 457	839, 740	1, 552, 234
South Dakota	343, 071	249, 231	344, 000
Tennessee	1, 394, 703	1, 074, 874	1, 742, 000
Texas	9, 031, 604	6, 342, 707	9, 031, 604
Utah	1, 139, 416	785, 754	1, 139, 416
Vermont	673, 464	453, 458	673, 464
Virginia	1, 407, 767	1, 114, 697	1, 795, 000
Washington	2, 361, 547	1, 670, 944	2, 361, 547
West Virginia	2, 378, 813	1, 608, 012	2, 378, 813
Wisconsin	2, 175, 102	1, 591, 916	2, 323, 000
Wyoming	544, 055	266, 978	544, 055

Mr. SCHWEIKER. Mr. President, if we cannot control this item. we cannot control the budget.

We enacted in the continuing resolution a cap on this program. We said the cap was $75 million. Now we are saying that notwithstanding the cap, notwithstanding the continuing resolution, we are going to add another $39 million, 52 percent over the cap.

We put everybody on notice in the State program that there was a cap of $75 million. Notwithstanding that, we come back and plead for another $39 million, 52 percent over the cap.

We just restored $429 million for revenue sharing. Why on Earth do we set a cap, take it away, increase spending another 52 percent, and then wonder why we cannot control the budget?

I support the motion to table this amendment.

Mr. TSONGAS. Mr. President, will the Senator yield?

Mr. CHILES. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. On this question the yeas and nays have been ordered. and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from New Jersey (Mr. BRADLEY), the Senator from North Dakota (Mr. BURDICK), the Senator from Nevada (Mr. CANNON), the Senator from Iowa (Mr. CULVER), the Senator from Ohio (Mr. GLENN), the Senator from Colorado (Mr. HART), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Michigan (Mr. LEVIN), the Senator from South Dakota (Mr. McGOVERN). the Senator from Montana (Mr. MELCHER), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Tennessee (Mr. SASSER), the Senator from Georgia (Mr. TALMADGE), and the Senator from New Jersey (Mr. WILLIAMS), are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF), would vote "nay".

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from New York (Mr. JAVITS), the Senator from Oregon (Mr. PACKWOOD), the Senator from South Dakota (Mr. PRESSLER), and the Senator from New Mexico (Mr. SCHMITT) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

Mr. BELLMON. Mr. President, regular order.

The PRESIDING OFFICER (Mr. STEWART). Is there any other Senator in the Chamber who intends on voting and desires to do so?

The result was announced—yeas 58, nays 18, as follows:

[Rollcall Vote No. 276 Leg.]

YEAS—58

Armstrong
Baker
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bumpers
Byrd, Harry F., Jr.
Byrd, Robert C.
Chiles
Cochran
Danforth
Dole
Domenici
Eagleton
Exon
Ford
Gravel
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jepsen
Johnston
Kassebaum
Laxalt
Long
Lugar
Matsunaga
McClure
Morgan
Nunn
Pell
Percy
Proxmire
Pryor
Randolph
Roth
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Thurmond
Tower
Wallop
Warner
Weicker
Young
Zorinsky

NAYS—18

Bayh
Chafee
Church
Cohen
Cranston
DeConcini
Durenberger
Durkin
Jackson
Magnuson
Mathias
Metzenbaum
Mitchell
Moynihan
Nelson
Riegle
Sarbanes
Tsongas

NOT VOTING—24

Baucus
Bradley
Burdick
Cannon
Culver
Garn
Glenn
Goldwater
Hart
Hatch
Hatfield
Javits
Kennedy
Leahy
Levin
McGovern
Melcher
Packwood
Pressler
Ribicoff
Sasser
Schmitt
Talmadge
Williams

So the motion to lay on the table Mr. TSONGAS' amendment (UP No. 1353) was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1354

(Purpose: To make adjustments in the pay cost supplemental for the Department of Agriculture)

Mr. BELLMON. Mr. President, I ask that the amendment be stated.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment numbered 1354.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 147, line 2, strike "$2,850,000" and insert in lieu thereof "$2,650,000".

On page 147, line 5, strike "$2,000,000" and insert in lieu thereof "$1,750,000".

On page 147, line 20, strike "$6,000,000" and insert in lieu thereof "$5,500,000".

On page 147, line 22, strike "$7,500,000" and insert in lieu thereof "$6,900,000".

On page 147, line 25, strike "$3,000,000" and insert in lieu thereof "$5,000,000".

On page 148, line 7, strike "$13,400,000" and insert in lieu thereof "$12,950,000".

Mr. BELLMON. Mr. President, this amendment does not add any money to the bill. It makes adjustments in the levels provided various agencies of the Department of Agriculture in the pay cost supplemental. It has no budgetary impact, either in budget authority or in outlays.

It corrects an oversight in the committee action on the bill, by minimizing the programmatic impact of a reduction made by the committee to the pay cost supplemental for the Animal and Plant Health Inspection Service. It was the committee's understanding that no such reductions in programs would occur as a result of our recommendation.

Recently, however, we were informed that because of higher than estimated personnel levels, the savings reflected in the bill would not be realized and that on-going programs such as the Brucellosis eradication effort would be disrupted. Within the constraints of the Budget Act it is not possible to fully restore needed program funding, but my amendment is designed to assure the continuation of the highest priority aspects of these programs. Adjustments are made in other accounts to offset this modest increase which will more equitably distribute the effects of budgetary constraint.

I have discussed this amendment with the chairman of the subcommittee and with the chairman and ranking minority member of the full committee and it is my understanding that this revision is acceptable to them.

This amendment has been cleared all around.

Mr. EAGLETON. It is a good amendment. I hope the manager of the bill will accept it.

Mr. MAGNUSON. I am willing to accept the amendment if the Senator from North Dakota is willing to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment (UP No. 1354) was agreed to.

UP AMENDMENT NO. 1355

(Purpose: Providing an exemption for the Federal Prison Industries from limitation on furniture purchases)

Mr. MAGNUSON. Mr. President, I wonder if the Senator will yield to me to offer a technical amendment.

Mr. BELLMON. I would be happy to yield.

Mr. MAGNUSON. I send a technical amendment to the desk.

The PRESIDING OFFICER. Is there objection to temporarily laying aside the pending amendment? The Chair hears none, and it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON) proposes an unprinted amendment numbered 1355.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 169, line 10: After the word "by" insert Federal Prison Industries, Inc. or by".

Mr. MAGNUSON. Mr. President, this amendment merely clarifies the intent of the committee to permit the continued purchase of furniture from Federal Prison Industries if the need for such furniture is fully justified. This has been of concern to the junior Senator from South Dakota (Mr. BURDICK) and this clarification has been agreed to by the Senator from Florida (Mr. CHILES).

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington.

The amendment (UP No. 1355) was agreed to.

UP AMENDMENT NO. 1356

(Purpose: To provide an appropriation for Eastern Carolina Vocational Center)

Mr. MORGAN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN) for himself and and Mr. HELMS proposes an unprinted amendment numbered 1356.

Mr. MORGAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 93, between lines 9 and 10, insert the following:

REHABILITATION SERVICES

For an additional amount under section 311 of the Rehabilitation Act of 1973 for a grant to the Eastern Carolina Vocational Center in Greenville, North Carolina, $1,500,855.

Mr. MORGAN. Mr. President, on behalf of Mr. HELMS and myself we offer this amendment.

Mr. President, this amendment would rectify an injustice which is preventing the completion of a construction project at Eastern Carolina Vocational Center in Greenville, N.C.

Mr. President, several years ago, the vocational center, then known as the Eastern Carolina Sheltered Workshop, applied for grant funds for this project. In its proposal, the center requested that the Federal Government pay 90 percent of the costs as authorized by the Rehabilitation Act.

Unfortunately, HEW misinterpreted the law and concluded that the center was only entitled to get 60 percent of the costs from Washington. Based on this interpretation, Congress appropriated $2,190,000 for the center as part of the fiscal 1977 Labor-HEW appropriations bill.

When this mistake was later discovered it is my understanding that the chairman of the subcommitte with jurisdiction in the House informed HEW that a 90–10 Federal-local match was acceptable to Congress. However, no extra funds were provided to bring the Federal contribution up to 90 percent.

In the last 3 years, the estimated cost of the project has increased from about $3.5 million to about $4.1 million, a surprisingly small amount considering the inflation that this country has faced. But, for lack of the authorized Federal contribution, the project has not been completed.

As of February of this year, about $181,000 of the original grant had been spent, with the rest of the money being held for the project in the Atlanta regional office of the Rehabilitation Services Administration.

My amendment would provide the vocational center with $1,500,855, the amount needed to bring the Federal contribution up to 90 percent of the current estimate of the cost of the project.

Mr. President, the Eastern Carolina Vocational Center serves 26 predominantly rural counties in North Carolina. It is the only facility of its type in the area. It receives the active cooperation of area businesses, hospitals, county social service departments, and East Carolina University. It provides valuable services to people with physical disabilities, mental retardation, or emotional disturbances. Completion of their construction project would allow them better services to more individuals, and I urge my colleagues to support this amendment.

Mr. President, I ask unanimous consent that testimony on this subject by Congressman WALTER JONES, representing the First District of North Carolina, be printed in the RECORD.

I have discussed it with the distinguished Appropriations Committee chairman, and I have waited until the very last to make sure it did not break the budget and, as I understand it, there is no objection.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF CONGRESSMAN WALTER JONES

I am pleased to testify in support of H.R. 4635, to appropriate $1,500,853 to enable the Eastern Carolina Vocational Center in Greenville, North Carolina, to construct a new residential-recreational facility. As a result of this investment, physically and mentally disabled citizens in my state will learn skills which will allow them to lead productive, independent lives.

The Eastern Carolina Vocational Center is a private, nonprofit facility receiving its operating funds from state, county and private contributions. The Center serves 26 predominantly rural counties spread widely across eastern North Carolina. It is the only facility of its type in the area. Its clients are people with physical disabilities, mental retardation, or emotional disturbances. The Center provides physical therapy, vocational counseling, and training in skills necessary for independent living. At present there are 60 residents and 200 day clients. Area hospitals, county social services departments, and East Carolina University all participate in this joint effort to enable the clients to become productive citizens.

Area businesses and industries cooperate to provide jobs for those being helped at the Center. For example, the nearby Procter and Gamble facility employes up to 8 clients to perform lawn and nursery services and 15 to work on an assembly line manufacturing frozen desserts. Abbott Laboratories hires 35 clients to make metal fasteners for hospital glucose bottles. The TRW plants has 7 clients packaging stamped metallic parts. Empire Brushes has 15 persons and Burroughs Wellcome hires another 10 in similar programs.

The Center has found that training clients in vocational skills is not enough. In order for a patient to be truly rehabilitated, he must be taught social skills so that he can later successfully deal with all aspects of everyday life. He needs to be able to live on his own. To accomplish this "total person rehabilitation concept," the Center wants to develop programs oriented around a new residential-recreational facility.

The residential section of the new building would house 80 residents. Most would live in suites in which four persons would share two rooms and a bathroom. There would also be four efficiency apartments in which a client could be trained in independent housekeeping before going out into the community on his own. The building would have central lounge and dining areas. The construction would be free of architectural barriers. The new facility would replace twelve aging mobile home units now in use. No true recreational facilities now exist at the Center. The new building will have a gymnasium, pool, activity rooms, showers, and offices. The administrators believe that a recreational program, coordinated with the physical therapy and vocational training, helps clients develop both phsyical and social skills.

On March 30, 1978, the federal government awarded a grant of $2,190,000 to the Center to be applied toward construction of the proposed facility. The grant, which carried a 90–10 federal-local matching requirement, was provided under authority of the Rehabilitation Act of 1973 (Section 304(b) of P.L. 93–112, formerly 29 USC Section 774(b)(3)). Your subcommittee was instrumental in obtaining this initial grant by instructions contained in the Committee Report accompanying the fiscal 1978 appropriations bill for HEW.

The estimated construction cost for the project now stands at $4,100,950. Construction bids are now scheduled for next week. By means of H.R. 4635, I am seeking additional funds of $1,500,855 to provide for a full 90 percent federal match for the total cost of the project. Authority for the grant exists under Section 311 of the newly revised Rehabilitation Act of 1973, as amended (29 USC 777a).

Mr. Chairman, there is a tremendous need for this facility in North Carolina. It will target aid to our citizens who are physically and mentally handicapped and who, therefore, need extra attention before they can participate fully in everyday society. On the House floor this week we have been debating Welfare Reform. I submit to you that this is true welfare reform because the training provided at this new facility will take hundreds, possibly even thousands, who would otherwise be dependent on society and assist them in making themselves economically and socially free. We will see human dividends from this investment. I urgently solicit your support in incorporating H.R. 4635 in your supplemental appropriations bill. Thank you very much for your attention and consideration.

Mr. MAGNUSON. I can accept this amendment. This amount would still be within the budget ceiling, and the funds are necessary to complete the project. The project is on its way and going, and there is no reason why they should delay it.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I wholeheartedly support the amendment and urge its adoption.

Mr. MAGNUSON. You are for this amendment? I am glad you are for it. [Laughter.]

Mr. HELMS. Yes, this is a most worthwhile amendment. This is the type of amendment I am delighted to support.

Mr. SCHWEIKER. I just want to say as the ranking minority member of the subcommittee I, too, support the amendment and I certainly urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment (UP No. 1356) was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

UP AMENDMENT NO. 1357

(Purpose: To restore $3 million in rescissions and deferrals in the Department of Energy Office of Energy Research appropriation for fiscal year 1980)

Mr. HAYAKAWA. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California (Mr. HAYAKAWA) proposes an unprinted amendment numbered 1357.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 26, line 1, strike the figure "$45,150,000" and insert in lieu thereof the figure "$43,150,000".

On page 24, strike lines 8 through 14.

Mr. HAYAKAWA. I rise to offer a small additional amendment to the work of the Appropriations Committee which restores funding in areas appealed by the Department of Energy.

Mr. President, I wish to bring to the attention of my colleagues certain rescissions in fiscal year 1980 funding for the Department of Energy's Office of Energy Research. A number of midyear rescissions in basic research projects and activities had been recommended by the administration, and concurred in by the Department of Energy, and by the committee. Others, however, were the result of action taken by the House, were appealed by Secretary Duncan and I am pleased to note, in most cases were restored by the Senate Appropriations Committee. I applaud the recognition by the committee of the vital importance of retaining continuity in the Nation's long-range programs in basic energy research.

It is, in fact, for those reasons that I rise to offer a small additional amendment to the work of the Appropriations Committee, which restores funding in areas appealed by the Department of Energy. The amount involved is not large. It is just $3 million. But these midyear rescissions and deferrals in the programs in nuclear physics research and basic energy sciences research are not, I believe, fiscally conservative. In fact, they are damaging and counterproductive to the maintenance of a coherent and orderly program of basic research in those areas, and will add substantially in the long run to the costs of several ongoing projects and programs that often represent years of careful planning by highly trained personnel.

The effects of the $1 million rescission in nuclear physics operating funds recommended in the committee report will be immediate and will require a halt of experiments at two major national experimental facilities at the Los Alamos and Berkeley Laboratories. At both the Los Alamos and Berkeley facilities, scientists from across the country have planned and prepared experiments for the remainder of this fiscal year, including scheduled clinical doses for cancer patients. Their activities would be disrupted or deferred, thereby affecting operations well into the next fiscal year.

Similarly, the deferral of $2 million for the chemical and material sciences laboratory at the Lawrence Berkeley Laboratory impacts some of the most fundamental areas of materials, chemical, and engineering sciences. The committee provided the $2 million needed for the acquisition of the new atomic resolution electron microscope, a unique instrument that will enable the visualization at the atomic scale of materials and catalysts of great importance to the energy program. But it let stand the rescission of $2 million to proceed with construction of the facility which will ultimately house and provide supporting equipment and programs for this unique new instrument and a variety of other activities.

Mr. President, in summary, I would reemphasize my concern that in this time of serious fiscal constraints, we preserve the basis for the economic productivity and eventual energy security of an advanced technological society.

This $3 million, therefore, goes to the Lawrence Radiation Laboratory to complete the programs first in nuclear physics operating; and second, in the basic sciences, operating, and in basic energy sciences, construction.

It would mean that without this there would be a shutdown of ongoing projects at Los Alamos and Berkeley accelerators. These projects include one sponsored by the National Cancer Institute for multiyear testing of high energy ion particles for cancer treatment. Carefully selected cancer patients would not be treated, therefore, and the schedule disrupted.

The loss of the money will place in jeopardy the proper statistical analyses and results. A similar program is in place in Los Alamos.

I believe that the country can least afford cuts in the areas of basic research that are so important to our future growth. I therefore urge that $1 million of rescinded funds be restored to the general science and research activities of the Department of Energy, and that $2 million of budget authority be restored for plant and capital equipment in energy supply, research and development activities, for the purposes I have just discussed.

I also wish to add the fact that Senator BAKER of Tennessee is a cosponsor of this legislation.

Mr. BAKER. Mr. President, I will not take but just a few minutes. I want to commend the Senator from California for taking the initiative in this respect. I think they are worthwhile projects. A small amount of money is involved. The consequences of the loss of these projects in California would be very great. I am pleased to be a cosponsor of this amendment.

I would only add this to the record: I have a great admiration for Dr. Glenn Seaborg, who is a distinguished scientist and is directly involved in these research projects.

I talked to Dr. Seaborg on the telephone and he expresses his great concern that work of enormous importance in basic physics and basic research will be interrupted unless this provision is made. I hope the distinguished manager of the bill may consider this, and I am pleased to join with the Senator from California in cosponsoring the amendment.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the distinguished Senator from California (Mr. HAYAKAWA) and the distinguished Senator from Tennessee (Mr. BAKER) are correct. These are two very good budget items. But this is the old story of not enough money to go around and a question of us trying to prioritize the money we have.

In both accounts, Mr. President, they

are cuts which I think are reasonable. In the first instance, we had a budget of $105 million for nuclear physics operating expenses and only $1 million was cut out of the $105 million. I think the House cut that. I think the report well summarizes it. It says:

> The committee agrees with the House rescission of $1 million for fiscal year 1980 for the nuclear physics program and concurs that this reduction should have only minor impact on the program's long-range objectives.

I think that sums it up, $1 million out of $105 million. It is a general cut, not a specific one. It will not be harmful to that program.

The other item, Mr. President, was basic energy sciences to construction money for a chemical sciences building and lab at Berkeley, in California.

I might add that there were a number of cuts made by the House. Under our procedure, when the Department of Energy disagrees with cuts made in the House, they make an appeal. They made a number of appeals. This basic energy sciences and lab building was not one of their appeals. In other words, this was not, to the Department of Energy, one of the highest priorities, although it is a very worthwhile project.

What was a very high priority was a high resolution atomic microscope at Berkeley. We included the money for that. As I say, there was no appeal made from the House action. As a matter of fact, there was a $4 million rescission by the House from which no appeal was made.

But we added, in our committee in the Senate, $2 million additionally. So what we did was sweeten a program that had already been approved by $2 million.

Mr. President, the building at Berkeley will not be stopped. We can come back and consider it in future years, perhaps in fiscal year 1981, as the report states. But there have been construction projects all around the country under our budget that have been deferred in the spirit of fiscal austerity. We do not intend to abandon any of those. We have deferred construction in New Mexico, at the Solar Energy Research Institute in Colorado, and at other places around the country. We deferred that construction because of budget constraints.

I hope the distinguished Senators from California and Tennessee will go along with us on these cuts.

I might say to my distinguished friend from California that we have done very well by California in this project. We sort of went above and beyond the call of duty on the Barstow project, which yesterday I inadvertently called a turkey and since have realized the error of my ways. We are trying to find a way to resurrect that into the wonderful project which it may be and we hope it can be.

So I would hope that the distinguished Senator would allow us to keep these $3 million in cuts and go to conference with our budget in balance.

Mr. BAKER. Mr. President, will the Senator yield for a brief comment?

Mr. JOHNSTON. Yes, I yield.

Mr. BAKER. Mr. President, as far as I am concerned, if I have the assurances as I understood the Senator from Louisiana to make, if I had the assurance that these projects will receive the most careful consideration in the course of considering the regular appropriation bills, then I would have no purpose in trying to press at this late hour to include it in the supplemental. But I think they are good projects. I have great respect for Dr. Seaborg, who is a great public servant and who is a great American scientist. I hope that we will have that assurance that that consideration will be given.

Mr. JOHNSTON. The Senator is correct that he has my assurance.

Mr. HAYAKAWA addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. HAYAKAWA. Mr. President, let me express my thanks to the distinguished Senator from Louisiana for his understanding and sympathetic description of the project and our desire for it.

In view of his assurances that he shall push for its future funding and not forget about it, will continue to understand and sympathize with the particular scientific and technological goals which are involved in this project, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, we have before us a request for a supplemental appropriation of $392 million for the black lung benefits program. This, on top of $400 million we have already appropriated. I ask my colleagues to take a close look at this program and the reasons why it is costing 73 percent more than we allotted for it just a year ago. What went wrong with the reforms of 1978? This is the second year in a row that the Congress is being asked for a substantial supplemental appropriation for this program.

Clearly, the black lung benefits program is out of control. I submit for the RECORD the following true stories.

Example No. 1: Mr. A was employed as a coal miner for 8 years. He was killed at the age of 30 as a result of diving head first into a swimming pool that did not contain any water. The death certificate indicates that the cause of death was a crushed head and fractured neck. Records also indicate that Mr. A was in good health prior to his death, that he was working regularly as a coal miner and that he had engaged in a baseball game in the evening just prior to his death.

According to the Labor Department, Mr. A's widow is entitled to black lung benefits. She was sent a check for $19,056 for back payments and receives a monthly stipend of $348.

Example No. 2: Mr. B was employed actively in a coal mine until his auto accident and death. The cause of death listed on his death certificate as crushed thorax and abdomen, ruptured liver, and abdominal injuries.

Mrs. B, his widow, now receives full black lung benefits—even though her husband was fully employed in the mine at the time of his death.

Example No. 3: Mr. C worked regularly in a mine for 22 years. His death, at age 51, was due to suicide as a result of jumping from a hospital window.

At first, Mr. C's widow's application for black lung benefits was denied on the grounds that his death was due to suicide and that he was not totally disabled by pneumonconiosis (black lung disease) at the time of his death. His chest X-rays were negative and his chest was deemed "normal." There years after his death, a doctor submitted a report on Mrs. C's behalf claiming that he was treating Mr. C. for black lung disease and that he was incapacitated from the disease.

After the Black Lung Reform Amendments of 1978, Mrs. C's claim was reviewed. The Labor Department determined that she was entitled to $20,000 in retroactive benefits and monthly payments of $348.

These cases present just a few examples of the many abuses which we sanctioned when we liberalized the black lung benefits program in 1978. The Black Lung Benefits Reform Act expanded program coverage and liberalized eligibility requirements. For the first time:

Chest X-rays of miners applying for benefits are accepted as evidence of black lung disease. The Government cannot get a second reading of the X-ray from a Government radiologist;

Any miner who worked for 25 years in or around a mine and died before 1971 is presumed to have died from black lung disease, unless another cause of death is firmly established. Dependent survivors are entitled to lump sum and monthly payments;

Any coal miner or dependent survivor whose claim for black lung benefits had been previously denied will automatically have their claim reviewed.

The definition of "miner" was expanded to include individuals who not only work in a mine but also around a mine, in a coal preparation facility, in coal mine construction and transportation or who was exposed to coal dust in any such employment; and

"Pneumoconiosis" was redefined to include any respiratory or pulmonary impairment arising out of work in or around a coal mine.

Let us take a look at what happened to the black lung benefits program since the "reforms" of 1978. There has been an astronomical increase in the number of claims filed and approved, leading to costs which have spiraled out of control.

Black lung benefits paid to disabled miners in 1979 amounted to $729 million, nine times greater than the total paid in the previous 5 years;

The Government has received 27 percent more claims than originally anticipated—that is 40,000 additional claims;

The approval rate for new claims was anticipated to be 40 percent when the Congress considered the Black Lung Benefits Reform Act in 1977 and 1978. Instead, the approval rate is 60 percent; and

The approval rate for reopened cases was anticipated to be 3 percent. In truth, the approval rate is 27 percent—nine times greater than expected.

The black lung trust fund is bankrupt. The trust fund, supported by excise taxes on coal producing companies was intended to finance claims where the miners' last employment was before 1970 or where no responsible coal mine operator can be identified. Now we are being asked to provide $392 million in addition to the $467 million already budgeted for fiscal year 1980. The trust fund is woefully inadequate and there is no end in sight to these spiraling costs.

We all talk about curbing inflation and Government spending until an emotional issue—such as black lung disease—comes along. Before too long, a new entitlement program is established for its victims, along with a host of others who qualify because of liberal coverage and eligibility criteria.

Since black lung benefits are now provided as an entitlement to eligible individuals, Congress simply does not have the opportunity to review the program every 2 or 3 years. Instead, we are presented with emergency supplemental appropriation requests that are required to meet benefit claims.

The Carter administration continues to be silent about the runaway, uncontrollable costs of black lung benefits. The Labor Department was disinterested in helping the Labor and Human Resources Committee establish adequate safeguards in the program when the reforms were enacted in 1978. As a result, those who pay for black lung benefits, the taxpayers and coal mine operators, are left without any representation: there are no checks and balances in the black lung program.

I urge my colleagues and the Committee on Labor and Human Resources to take a good, close look at this program. I think that you will agree that the program goes way beyond its laudable intent and deserves a thorough overhaul.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, Senators need not get jittery. There will be no rollcall for this amendment.

UP AMENDMENT NO. 1358

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1358.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, line 10, strike out all after "$302,400,000" down through "Appropriation" on line 14.

Mr. HELMS. Mr. President, this amendment strikes language authorizing the transfer of funds from the child nutrition programs to the food stamp program. Both the child nutrition programs and the food stamp program are administered by the Food and Nutrition Service in the Department of Agriculture.

The Senate Appropriations Committee report on this bill states that this transfer may be accomplished because of a one-time savings that will result from shifting the child nutrition programs from an accrual basis accounting system to a cash basis accounting system. But, that is not the case. Shifting accounting systems will not accomplish any savings at all, it will only defer recognition of expenditures until the next fiscal year.

In fact, this shift will cause an increase in program costs because of the tremendous effort that must be made to make this rapid conversion of accounting systems midyear and without prior planning.

The effect of transferring this $243 million, rather than directly appropriating it, is to avoid technically adding to the level of budget authority in this bill. The distinction is purely a technical one, however. The same amount of tax dollars will be spent as if this additional $243 million for food stamps were directly appropriated. Only, this way, $243 million in budget authority will not count against the level permitted by the third concurrent budget resolution.

This transfer is nothing more than a case of budget gimmickry. Rather than recognizing the budget authority in this fiscal year when the expenditures will occur, authorizing this transfer will cause the Food and Nutrition Service to shift accounting systems so those expenditures will not be recognized until next year. Mr. President, that is a $243 million end run around the budget process.

The Senator from North Carolina believes that Congress has a responsibility to be straightforward in its dealings. Allowing the Food and Nutrition Service to juggle its books to evade budgetary constraints is not a tolerable practice.

Perhaps more important than this evasion of the budget process is the consequence that will follow a shift in accounting systems. A shift from the accrual basis of accounting to the cash basis of accounting would be a disaster. This fast shift is to be made without prior study or preparation.

Yesterday, when the General Accounting Office was contacted about this shift in accounting systems, personnel there reported that they were aware of no Federal agency that uses cash basis of accounting—the system it is proposed the child nutrition programs shift to. And, there is a good reason for that.

On page 2 to 14 of the Comptroller General's "Accounting Principles and Standards for Federal Agencies," it is stated:

> Achieving the primary objectives of Federal agency accounting set forth in the Budget and Accounting Procedures Act of 1950 requires the use of accrual basis of accounting. Public Law 84–863, approved August 1, 1956 (31 U.S.C. 661(c)), provides specifically that the head of each executive agency shall cause the accounts of his agency to be maintained on an accrual basis.

And, GAO has spelled out the problems with the cash basis of accounting. Briefly, they are:

It does not tell how much money is owed to the agency.

It does not show how much the agency has invested in materials, supplies, equipment, and other assets which are available for future use.

It does not show what liabilities the agency has incurred in performing its operations or acquiring goods and services which will have to paid for in the future.

Cost basis gives no help in keeping costs of operation in line by comparing costs from time to time with either predetermined standards or between time periods.

And, cost basis accounting is especially subject to manipulation, fraud, and abuse. Believe me there is already far too much fraud and abuse in food and nutrition service programs.

It is especially ironic, Mr. President, that the committee report on this bill at one point directs Federal agencies to undertake a review of their accounting systems so as to assure compliance with GAO requirements and, on another page, refer to an illusory one-time savings that will result from shifting to a basis of accounting that is specifically proscribed by law and requirements of sound accounting procedures.

My amendment will prevent this unwise shift in accounting procedures.

I yield to the Senator from Missouri.

Mr. EAGLETON. Mr. President, I agree with the sentiment expressed by the Senator from North Carolina about the change in accounting procedures. I must point out however, that this transfer was originally suggested by the Office of Management and Budget, and was included in the House bill. In effect what the amendment would do would be to cut food stamp funds by $243 million. It should be noted that less than 2 months ago the Senate voted against a reduction of some $200 million in food stamps. Without these funds, it is virtually certain that there will be benefit cutbacks in the food stamp allotments in September of this year.

I do share, however, the Senator's concern about the accounting systems, however, and would point out that the Appropriations Committee did not hold hearings on this proposal. My preference at this point would be to eliminate the transfer, and to provide the full $243 million in the direct food stamp program appropriation.

Mr. HELMS. Mr. President, I believe that would be a more straightforward way of presenting what is actually being done in this bill.

Mr. EAGLETON. I am advised, however, that there is only enough room within the budget resolution to provide a direct appropriation of $216 million. Accordingly, in order to provide the full amount that is necessary, would the Senator agree to an amendment that would provide for an additional appropriation of $216 million, and a transfer of $27 million—thereby making up the total of $243 million? We would take this action with the clear understanding that the

Department of Agriculture would not take immediate steps to modify its accounting procedures at this time, but would give the General Accounting Office, and the appropriate congressional committees the opportunity to look into the matter more carefully.

Mr. HELMS. Although I do not favor the provision of the supplemental funds for food stamps, I recognize that the Senate has recently addressed this issue and favors the provision of the additional funding. Accordingly, I shall not object to the most straightforward approach that is possible today, given the constraints of the budget resolution, and I therefore withdraw my amendment so that the Senator may offer his proposal as a separate amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

UP AMENDMENT NO. 1359

(Purpose: To provide for direct funding of food stamps in lieu of a transfer)

Mr. EAGLETON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) proposes an unprinted amendment numbered 1359.

Mr. EAGLETON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, line 10, strike out all after "$302,400,000," down through "Appropriation" in line 14 and insert in lieu thereof: "of which up to $27,000,000 may be transferred to and merged with the Food Stamp Program Appropriation".

On page 6, line 6, strike out "$203,226,000" and insert in lieu thereof "$419.226.000".

Mr. EAGLETON. Mr. President, this amendment would provide for a total of $446,226,000 for food stamps, with $27 million in the form of a transfer from child nutrition and $421,226,000 in direct appropriations. The net effect of this amendment is to add $216 million in budget authority, but no additional outlays.

Mr. EAGLETON. Mr. President, we are in agreement.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1359) was agreed to.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, there is no single program or no groups of programs funded by this bill, or any other bill in the Congress, that is administered in worse fashion, that is wasting more money, that is a greater rape of the taxpayers of this country, than the food stamp program.

For us here at a quarter to 9 at night on the last day of the supplemental to be asked to quietly say, "We are not going to change any of the administration of this country," is another mark on the bankruptcy of leadership of this country.

I am not going to object to this amendment unless the Senator from Missouri rubs me the wrong way, and then I may.

Mr. EAGLETON. Mr. President, I thought the Senator was going to go off on one of his diatribes, but I will not make that remark, so as not to rub him the wrong way.

Mr. McCLURE. If there is one thing that will give me more diatribe, it has to be this program. One out of 10 Americans now drawing food stamps and 1 out of 7 under current guidelines entitled to draw food stamps, and the taxpayers of this country rolling under the weight of a tax burden for which they demand relief, and we sit here and say, "Oh, but we will have no changes in the administration."

I recognize that is exactly where we are under the prior actions of this Senate. But I am not going to stand here quietly and see a further increase in this program with kind of a tacit, quiet acquiescence in the fact that this program is going to be further expanded and nothing is said about it.

Mr. HELMS. Will the Senator yield?

Mr. McCLURE. I am happy to yield.

Mr. HELMS. Mr. President, I hope the Senator realizes that the Senator from North Carolina has done his best to oppose this program and its excesses. This is merely a small step toward getting it straightened out.

My amendment went further than this, as the Senator knows, but the truth of the matter is I could not get it approved. This is all I could get approved.

As the ranking member of the Senate Committee on Agriculture, Nutrition, and Forestry, I appreciate the comments of the Senator, and I shall pursue the issue of the accounting system change. We are both in agreement on the point that there is nothing in this action that would cause the Department of Agriculture to change its accounting system, and that it will be reexamined carefully before that takes place.

I want to make clear that the amendment of the distinguished Senator from Missouri (Mr. EAGLETON) falls far short of what is needed. But because of the lateness of the hour on this Saturday night, the managers of the bill have made clear that this is the most that can be achieved. It is this or nothing at all. It will serve, to some small degree, to restrain the deliberate mismanagement of the food stamp program. It is at least a start in the right direction.

Congress needs to do more, far more, in curbing the abuse of the taxpayers so evident in the administration of the food stamp program. I have been fighting that battle for a long time. I would serve notice, here and now, that I intend to continue to fight to bring the program under control. The American people are demanding it. Perhaps next year, there will be more Members of Congress who are willing to face up to their duty.

Mr. McCLURE. Mr. President, this is not the time to go into all of the ills of the food stamp program.

We will be here through next week. I do not intend to do it now.

But I am not going to sit here quietly and see this thing increased with the remark made that we are not going to do anything to improve the administration of the program while we increase its expense.

Mr. HELMS. This amendment does not increase the food stamp spending.

SEVERAL SENATORS. Vote!

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1359) was agreed to.

SEVERAL SENATORS. Third reading.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

UP AMENDMENT NO. 1360

(Purpose: Relating to mass mailings)

Mr. HELMS. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1360.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 96, line 7, strike out "business" and insert in lieu thereof "business (except that, notwithstanding any other provision of law, no appropriated funds shall be used to pay for the mailing under the frank of any piece of mail by a Senator if such piece of mail is part of a mass mailing (as defined in section 3210(a) (5) (D) of title 39, United States Code) unless there is contained, in a boxed area on the front page thereof (in ten-point type) the statement 'This mailing is prepared and delivered at taxpayers' expense', plus a statement setting forth the number of pieces of mail included in the mass mailing of which such piece of mail is a part together with the total cost incurred for such mass mailing (including postage, materials, labor, and prorated overhead inclusive of expense of maintenance of computer lines); and the Secretary of the Senate shall compile such data and otherwise provide such technical assistance as may be necessary or appropriate to enable Senators to comply with this requirement)".

Mr. HELMS. Mr. President, while waiting for Mrs. Helms to pick me up a couple of years ago, I decided to step inside the Senate printshop in the basement of the Dirksen Senate Office Building. Frankly, Mr. President, I had not fully known the purpose of that room. I had heard machinery clicking there from time to time. I had seen rolls of newsprint being delivered. I had seen various other signs of activity, and it all caused me to wonder what was going on. So I went in and I was greeted very cordially. The employees were most gracious and polite. Indeed, one of them was kind enough to give me a sort of "minitour" of the Senate printshop.

I was fascinated by the sheer volume of printed matter coming off the high-speed offset presses in that facility. Upon inquiry, I learned that the printing in process that evening included no less than 700,000—let me repeat, 700,000—copies of a senatorial newsletter; and that, Mr. President, was for just one Senator. Moreover, I learned that newsletters of at least one or two Senators have been sent out to over 1 million persons in their States, presumably on a regular basis.

I hope the Senate will stop for just a moment and examine the cost of all of these newsletters. These newsletters are treated by the Postal Service as first-class mail. Then there is the cost of the paper, ink, and other materials. There is the cost of labor, the care and maintenance of the printing equipment, and the very costly, continuous updating of computer lists. There is the value of the space provided in the Dirksen Building for the Senate printshop. There is extensive staff time taken up in preparation of the contents of newsletters.

So, Mr. President, if we start with 15 cents, being the first-class postage that is covered by the frank, and add all the other expenses mentioned, we can see these newsletters cost in the neighborhood of 25 cents apiece. Hence, when one Senator mails out a million copies, it is costing the taxpayers at least $250,000. Multiply that, if you wish, by the 12 months of the year and again by the number of Senators who send out newsletters, and add similar expenses in the House of Representatives—we are talking, Mr. President, about hundreds of millions of dollars of the taxpayers' money.

I know that Senators will respond that newsletters are worth the cost, because they keep the people informed. Frankly, Mr. President, I doubt this is the case. It may be that the only thing newsletters keep the citizens informed about is whom to vote for in the next election. But even assuming there is some information of value, is it necessary? There are plenty of newspapers, magazines, television, and radio stations across this country which do a pretty thorough job of coverage. Of course, any citizen who has a specific question can always write or telephone his Senator for information. So the question emerges—and it is one, I believe, that Senators should face up to—do we really need to spend hundreds of millions of dollars of the taxpayers' money to give the citizens of this country, this additional "information"?

More fundamentally, do the citizens, who are purportedly being benefited, want their tax money to be spent to be so informed? I do not know the answer to the question, Mr. President, but there is one sure way to find out. The pending amendment requires a simple statement on the front page of each newsletter distributed by a Senator to contain the declaration that "this mailing is prepared and delivered at taxpayers' expense" followed by the total volume and total estimated cost of the mailing.

That is the kind of education I think the taxpayers ought to have, and I believe that Senators owe it to the taxpayers to give it to them. If the notation showing the cost of preparing and mailing the newsletter causes such adverse reaction that no Senator would dare mail out a newsletter with such a notation, then I believe we will have had an adequate answer to the question whether the citizens really want these newsletters.

Mr. President, I suppose this could be called a sort of a truth-in-packaging amendment. If the citizens are to be thusly informed, let them first be informed about how much it is costing them to be informed. Surely no one could object to this amendment. Who would want to advocate that the people should not know how much their Senator is spending of their tax dollars to keep them informed?

We now are supposed to have Government in the sunshine, so let the Sun shine in. If these newsletters are so necessary, then the people will see the wisdom of all of this and heartedly approve it.

Mr. President, I believe the distinguished chairman of the Rules Committee will address himself to this amendment. It has to do with what this Senator believes to be an abuse in the use of newsletters. I think it is time the taxpayers knew what these newsletters are costing. In the interest of time, I will not go further into this. I believe the distinguished chairman of the Rules Committee is willing to assure this amendment will be seriously considered by his committee.

Mr. PELL. Mr. President, I have had discussions regarding this matter and I assure the Senator we will consider it.

Mr. HELMS. Mr. President, I ask that I may withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

FISCAL YEAR 1980 U.S. CONTRIBUTION TO THE ASIAN DEVELOPMENT BANK AND FUND

Mr. INOUYE. Mr. President, the $363 million for the ADB with $171.3 million for the capital and concessional funds of the Asian Development Bank is the amount in the fiscal year 1980 conference bill. This $363 million represented a compromise between the $371 million in the Senate bill and the $356 million in the House bill.

The administration had requested $420 million for the ADB with $171.3 million of this amount to be contributed to the Asian Development Fund, the concessional lending window of the ADB. The Senate approved the full request for the Asian Development Fund, but the House Appropriations Committee recommended only $111 million for the fund. Specific allocations between ADB capital and the fund were not made by the fiscal year 1980 conference committee.

I would urge the administration to contribute $171.3 million to the Asian Development Fund as originally allocated by the Senate in the fiscal year 1980 bill. The fund is in great need of these resources. Because of the delay in enactment of legislation authorizing U.S. contributions to the current replenishment of the fund and the resulting withholding by other donors of their contributions, all lending by the fund ceased 6 months ago. A contribution in this amount will allow ADF lending to resume, and make the United States current on its obligations to the fund. It will show a clear U.S. commitment to the region and to the recipients of ADF lending, such as Pakistan and Thailand.

RESCISSION OF $59 MILLION IN FISCAL YEAR 1980 FOLLOW THROUGH FUNDS PROVIDED FOR IN THE SUPPLEMENTAL APPROPRIATIONS BILL

Mr. NELSON. Mr. President, the supplemental appropriations and rescission bill before the Senate provides for the rescission of $59 million in fiscal year 1980 Follow Through program funds. The $59 million rescission will eliminate the entire fiscal year 1980 appropriation for the Follow Through program. This means that Follow Through will be terminated and all of the local programs across the country will close their doors. I am opposed to the rescission of these funds and the termination of the Follow Through program.

Several months ago the Congress approved a fiscal year 1980 appropriation of $59 million for the Follow Through program. Local Follow Through projects throughout the country, therefore, have planned on the receipt of these funds to operate during the 1980–81 school year. In fact, the fiscal year 1980 funds were about to be made available to the local projects. What this rescission will do is "pull the rug out from under" the local projects right at the very last second. There will be no time to attempt to make alternative funding arrangements, if any could possibly be made.

The Follow Through project in Lac Du Flambeau, Wisc., for example, has less than 5 days left of last year's funding and had planned on receiving an allocation from the fiscal year 1980 Follow Through funds which had been appropriated. It is certainly understandable that the local programs would be planning on these funds given that the Congress had provided a fiscal year 1980 appropriation and that prior to several days ago there had been no indication that a rescission of all Follow Through funds was even contemplated.

If this rescission is approved, there will be 150 children in Lac Du Flambeau, Wisc., who will find within the next few days that their Follow Through program must close. In addition, 13 employees who assist in the classroom and who were low income and in many cases unemployed prior to securing their jobs in Follow Through, will join others in their community who must stand in the unemployment lines.

Mr. President, I cannot support this hatchet approach to making budget cuts. Follow Through has proven that it is one of the Federal programs that really does work. As chairman of the Subcommittee on Employment, Poverty, and Migratory Labor—the subcommittee with authorizing responsibility for the Follow Through program—I am well acquainted with the successes of this program. Like Headstart, the program after which Follow Through is patterned, Follow Through makes a very positive difference in the lives of the children who participate in the program—schoolchildren in grades 1 through 3—and in the lives of their parents.

Two years ago when the Follow Through program was reauthorized—at a level of $85 million in fiscal year 1980 and $100 million in fiscal year 1981, levels much higher than the actual appropriation—the Senate Labor and Human Resources Committee report discussed the record of the Follow Through program. Quoting from the report (No. 95–892), it stated:

> During the Subcommittee's review of the Follow Through Program much testimony was received and data submitted indicating that the Follow Through Program has been successful in the communities where it operates. For example, Follow Through children achieve academic grade level averages at or above the average, are absent less, experience fewer juvenile behavior problems and the juvenile crime rates for students are lower in Follow Through classrooms than for other nonparticipating students. Follow Through programs also were found to provide meaningful employment opportunities for parents. In fact, many local programs offer educational and training opportunities for parents. Some of these parents have earned college degrees after becoming involved with the Follow Through Program. Finally, local community support for the Follow Through Program was found to be exceptional.

It was the conclusion of the committee that, given the demonstrated accomplishments of the Follow Through program, the program should be expanded. That is what we should be considering now, not a zeroing-out of Follow Through.

The current budget constraints might not accommodate an expansion, but surely previously appropriated funds could be accommodated. Once again programs for the vulnerable in our society—in this case, low-income families and children—are expected to bear more than their fair share of the fight against inflation.

Before concluding my remarks, I would like to address two points which have been raised by those who have advocated the rescission of Follow Through funds.

First, it has been suggested that the States and localities will replace the rescinded Follow Through funds with their own funds. Anyone who actually believes this is deluding themselves. States and localities are also facing serious economic problems. They will have to cope with reductions in a variety of Federal programs they have previously counted on. There just are not the funds available at the State or local levels to replace the Federal Follow Through moneys.

In addition, it is one thing to provide sufficient warning that for future years funding will be reduced or eliminated. It is quite another thing to sneak up without warning and take currently available funds and make off with all of them.

That is what this rescission does; it demonstrates a lack of good faith with those low-income families and children who counted on this program continuing at least through the upcoming school year.

Second, it has been said that the Office of Education used millions of Follow Through dollars to conduct educational evaluations. This is true and is a practice that the Subcommittee on Employment, Poverty, and Migratory Labor strongly objected to and responded to in its last reauthorization of the Follow Through program. Let me quote, again from the committee report:

> Testimony received from Follow Through Program directors, supplemental information submitted to the Committee, and contacts made by parents of Follow Through participants indicate that the comprehensive and preventive focuses of the Follow Through program have not been sufficiently recognized and emphasized by the Office of Education. However, most of the local programs have attempted to recognize the comprehensive nature of the programs, as well as the program's emphasis on community and parental involvement, including the education and employment of parents. Like Headstart, these unique characteristics of the Follow Through Program are responsible for making these programs so successful.
>
> S. 2090 would specify the comprehensive services the Follow Through Program should provide, including educational, health, nutritional, social and other comprehensive services. Each of these services is very necessary to meet the needs of the Follow Through child. Follow Through originally was intended to sustain and expand upon the gains made by Headstart and similar pre-school programs. This objective should continue to be emphasized. The services provided in the Follow Through program are intended to be very similar to Headstart services, taking into account that the ages of children served differ in each of these programs.
>
> Testimony and supplemental statements submitted to the Committee indicated great concern over the administering agency's failure to evaluate all the goals of the Follow Through Program.
>
> The expansion of the scope of these activities, through the establishment of separate sections devoted to each activity, is done to emphasize the importance of these activities. The new sections parallel similar responsibilities for the Headstart Program. It is the Committee's intent that Follow Through Program purposes be evaluated and measured as to their short range and long range accomplishments relative to non-program participants of similar characteristics. In the future, contracts for evaluation should only be awarded when the effects of all aspects of Follow Through will be measured.
>
> S. 2090 also would delete the obsolete section 621, which provides that the Director of CSA delegate the administrative responsibility for the Follow Through Program to the Secretary of HEW, where program functions are to be carried out in the Office of Education. The statute currently gives administrative responsibility for the program directly to the Secretary. The delegation language is, therefore, obsolete.
>
> It is intended that the Secretary determine where the Follow Through Program can best be carried out within the Department of Health, Education, and Welfare. The Office of Education has not demonstrated sufficient sensitivity to the program's purposes therefore hindering the potential of this vital program.
>
> Since the Follow Through Program was originally intended to supplement and expand on a Headstart experience, these two programs more appropriately belong within the same administration in HEW. The Administration for Children, Youth and Families has demonstrated its commitment to the comprehensive and preventive services provided by the Headstart Program. The Follow Through Program is in need of the same level of commitment.

The committee report makes it clear that the past practices of the Office of Education were not condoned and it was the intent of the committee that similar practices not recur. The committee came close to mandating a transfer of the program but stopped short of that in the hopes that the new Department of Education would effectively carryout the purposes of the Follow Through program. It appears that next year when Follow Through must be reauthorized, further and more specific requirements in this regard should be considered.

In the meantime, however, it follows from this second argument that children and low-income families should be the ones who pay the price for the administering agency's failures. This is not the way to corect whatever problems may have existed or do exist with the administering agency. The rescission of all Follow Through programs would clearly be an "overkill" approach to rectifying a perceived problem.

Mr. President, those of us who are strong supporters of Follow Through have elected not to offer an amendment to restore the funds which are proposed to be rescinded. We have decided not to take any action on the Senate floor because we fear that many Senators are not well acquainted with the Follow Through program simply because it is a relatively small program. Since this legislation moved so rapidly through the Appropriations Committee and to the floor, adequate time does not exist to educate the Senate on the merits of this issue.

A move to restore Follow Through funding failed in the Appropriations Committee on a tie vote. I would, therefore, urge the members of the Appropriations Committee who supported the rescission to rethink their positions. I urge the Senate conferees to accept the House position on Follow Through funding—no Follow Through funds should be rescinded.

RESCISSION OF $100 MILLION IN LOW-INCOME WEATHERIZATION FUNDS CONTAINED IN THE SUPPLEMENTAL APPROPRIATIONS BILL

Mr. President, the fiscal year 1980 supplemental appropriations bill provides for the rescission of $100 million in low-income weatherization funds. In principle, I do not support the rescission of these weatherization funds which are so desperately needed by millions of low-income households. This proposed weatherization rescission comes at a time when low-income families and senior citizens across the country are being pushed far beyond their financial capacity to cope with high energy costs. Hundreds of millions of dollars are provided each winter by the Federal Government to low-income families and senior citizens to help them pay their fuel bills. At the same time, $100 million that should have been used to make low-income dwellings more energy efficient will be returned to the Treasury.

Weatherization offers the Nation the opportunity to not only reduce the need which low-income families currently have for energy financial assistance, but also to reduce the Nation's consumption of foreign oil. The energy conservation opportunities offered through weatherization will be significantly reduced, however, with the proposed rescission of $100 million in weatherization funds. In principle, then, it does not make for good energy policy to rescind these weatherization funds.

In reality, however, I recognize that it also does not make much sense for appropriated funds to be permitted to lie idle and unspent while many other pressing national needs go unmet. Under normal circumstances I do not believe the Senate would agree to take back weatherization funding when the Nation should be embarked on a major and comprehensive energy conservation program. However, the circumstances which led to the buildup of unexpended weatherization funds cannot be considered normal.

The circumstances to which I refer were those that resulted from the Department of Energy's (DOE) ineffective administration of the weatherization program. DOE took a program that was working well while under the Community Services Administration (CSA) and turned it into an unmitigated disaster. Several times the program has come to a virtual standstill in various areas of the country because of DOE's insensitivity to local program realities and DOE's overly restrictive regulations—regulations that went far beyond the confines of the law.

The General Accounting Office has issued two separate reports documenting the excessive problems in the DOE weatherization program. DOE's own inspector general issued a report which stated that the Department had failed to meet even its own internal production goals, let alone meet the production goals that DOE used to justify its budget requests.

Last October, the Subcommittee on Employment, Poverty, and Migratory Labor—which I chair—held hearings on low-income weatherization. At this hearing, data developed by the subcommittee staff was submitted for the record which documented that first, nearly $160 million in DOE weatherization funds remained unspent at the time and second, during the 3¼-year period in which DOE operated a weatherization program, only an estimated 180,000 dwellings had been weatherized. (In contrast, the CSA weatherization program weatherized over 400,000 houses during a similar period of time.) The Assistant Secretary for Conservation, Dr. Maxine Savitz, admitted during the hearing that the staff estimate, on unexpended funds, were too conservative and there actually were $200 million in unexpended DOE weatherization funds.

Now it appears that the unexpended DOE funds have ballooned to over $300 million. The fact of the matter is that DOE cannot spend all of these funds by the end of the current fiscal year.

After over 2 years of ignoring the obvious problems inherent in DOE's over regulation and management of its weatherization program, the Department has finally made some constructive and long overdue changes which were clearly needed. Unfortunately, these changes came too late. And, as a result, $100 million in funds earmarked for the weatherization of low-income housing must now be rescinded. The nearly 10 million low-income families who need their homes weatherized are, in effect, paying a very high price for DOE's blunders. The taxpayers of the country will suffer as well because the next $100 million appropriated for weatherization will not weatherize nearly as many houses as would have been weatherized by the $100 million that is now being rescinded if DOE had properly administered and expended these funds for their intended purpose.

Mr. President, the fact that weatherization funds are to be rescinded provides further evidence that DOE should not be in the business of operating a weatherization program for the poor. The Senate has heard me present, in previous discussions about weatherization, numerous reasons why the weatherization program should be transferred from DOE back to the agency that developed low-income weatherization, that is CSA. I will not repeat all those arguments again today. However, I would like to highlight one reason why this program should be removed from DOE, particularly given the recent reports on the failure of DOE with respect to all its energy conservation and solar programs.

DOE has a budget of over $11 billion. The Department's responsibilities span a broad range of complex, multimillion and billion dollar areas, such as breeder-reactor development, nuclear energy, synthetic fuels, geothermal resources, the strategic petroleum reserve, fossil energy, the power resource administration, uranium enrichment, energy supply research and demonstration, and atomic energy defense activities, to name a few. A relatively small low-income weatherization program gets lost in all of the more complex matters with which DOE must deal. Low-income weatherization is just a speck in a great big morass of other things.

The commitment, which is needed to make a program providing energy conservation services to the poor work, just is not present in the senior levels of DOE. Poor people's programs are all too often neglected—particularly when there are more complex and interesting problems to be solved and programs to be managed. It is quite understandable that in an agency like DOE, where a heavy emphasis is placed on highly technical programs and research—nuclear energy is a good example, that figuring out how to provide highly effective services to poor people just is not a majority priority. An agency such as DOE just does not place much emphasis on nor does it reward efforts to make services for poor people operate well in the Pocatello, Idaho's of the country.

At CSA this would be much different—CSA's mandate is to serve the poor and only the poor. Since CSA and its grantees originally developed the weatherization program and the CSA grantees now deliver over 90 percent of the DOE program at the local level, CSA is equipped to administer an energy conservation services program.

A recent report issued by the congressional office of technology assessment (OTA), entitled "Conservation and Solar Energy Programs of the Department of Energy, a Critique" confirms the fact that DOE is not carrying out its conservation and solar energy programs as it should. The OTA report was conducted with the aid of two advisory panels comprised of representatives having a wide range of expertise—including oil companies, electric utilities, environmental groups, and universities. Let me quote a few of the major findings of the OTA report:

> A striking conclusion of the panels was that, (the) Conservation and Solar Energy (division) lacks a clear vision of where it is going and how it will get there . . . no coherent theme permeates the entire office and guides the directions and paces of the various programs. Evidently, this deficiency results from the lack of clear direction from DOE management and the lack of a strong analytic capability within (the) Conservation and Solar Energy (division).
>
> There is a pervasive belief within and outside of DOE that senior DOE management does not really care about the (the) Conservation and Solar Energy (division) programs, and that the quality of management has been inadequate, as well as transient.
>
> Another major deficiency is inadequate program evaluation. (The) Conservation and Solar Energy (division) must have the capability of determining which programs have wandered off course or become irrelevant, and which might be usefully expanded.
>
> (The) Conservation and Solar Energy (division) needs to develop the capability to determine what it can accomplish for the country, to make sound policy and program decisions to research these objectives, and to keep the programs moving steadily toward the goals in the face of pressures to alter course in ways not necessarily in the national interest.
>
> Other problems that concerned the panels were the long delays in DOE processing of (the) Conservation and Solar Energy (division) requests for hiring new staff and letting contracts.

An article about the DOE problems recently appeared in the Washington Post. I ask unanimous consent that a copy of this article and a copy of a recent Washington Post editorial on DOE's failure to concentrate its rescurces in the conservation area be included at this point in the Record.

There being no objection, the articles were ordered to be printed in the Record.

[From the Washington Post]

Hill Energy Experts Hit DOE Programs

(By John M. Berry)

Congress' Office of Technology Assessment issued a scathing critique of the Department of Energy's conservation and solar energy programs yesterday, saying the programs "do not appear adequate" to meet DOE's own goals.

OTA specifically criticized long delays in the department's processing of requests for hiring new staff and in letting contracts associated with the conservation and solar energy programs, calling it "a nearly impossible situation."

"Not only are important projects delayed, but high-quality people and companies may not be willing to wait so long," the report declared.

"There is a pervasive belief within and outside of DOE that senior DOE management does not really care about the C&SE programs, and that the quality of management has been inadequate, as well as transient," it added.

The report, requested by the House Committee on Science and Technology, was compiled by two advisory committees with representatives from a wide range of organizations—including oil companies, electric utilities, environmental groups and universities among others.

It was critical of what it called DOE's failure to set priorities among various conservation and solar programs "to ensure that the total resources are being apportioned to achieve the maximum result." And it stated flatly, "DOE has no consistent method for evaluating program performance."

Solar energy for the purpose of this report and DOE programs generally includes not only solar collectors on the roof of a house to heat water or the house itself, but also wind, hydroelectric and ocean thermal energy systems and the use of "biomass"—a catchall for everything from grain or wood to organic garbage that can be used as a source of energy—along with the direct generation of electricity from sunlight in a process known as photovoltaics.

As an example of a lack of adequate planning and direction, the report cited the goals for solar energy use announced by President Carter last year. Part of that total involves production of 1.7 quadrillion BTU's worth of energy from wind by the 2000. Total energy use in the United States last year was less than 80 "quads."

"An adequately detailed plan would specify how many machines (windmills) of varying sizes would be required to produce 1.7 quads, the industrial capacity over time to produce and deploy them, material and capital requirements, the schedule for technological improvements . . . and estimates of when and how nonhardware-related market barriers can be evaluated and addressed," the report said.

"Such a plan would delineate a clear path to the desired goals, including what must be done this year as part of the overall effort," it continued. "Not only would such a plan provide clear direction to the programs, but it would also provide a means for Congress to evaluate programs' progress and need for funding . . ."

According to the report, little of that has happened.

[From the Washington Post]

CONFUSION AT DOE

In its budget for 1981, the Department of Energy finally seemed to have sorted out its research priorities, accelerating expenditures on those technologies that can displace oil in the near term (the rest of this decade) and cutting or deferring those that cannot make a contribution until well into the next century. Thus, funding for energy efficiency and conservation programs—unquestionably the largest near-term energy source—was increased, while the breeder reactor R&D budget was severely cut. For the midterm—the decade of the 1990s—the emphasis was placed on solar energy, for which the president had just set an ambitious goal of providing 20 percent of the nation's total energy in the year 2000.

Now, however, internal memorandums have come to light detailing DOE's plans for R&D spending over the next five years, and these raise a host of questions. For the new budgets seem to reflect an entirely different set of priorities and long-range plans. Such abrupt shifts are damaging to any research program that must have a steady commitment of interest and funds over many years in order to be successful. But in this case they are especially troubling, for DOE seems to be settling back into an old pattern of energy funding that does not reflect current realities.

In the early 1970s, growth in electricity demand was forecast to be at least 7 percent a year for the indefinite future. Accordingly, the energy budget went largely to nuclear power, and the lion's share of it went to the breeder. Last year, electricity demand grew at 0.2 percent, and many experts foresee negative growth rates ahead. Meanwhile, uranium prices have plummeted—falling nearly by half in the last four years. Economically competitive breeder reactors depend on greatly increased demand for electricity and cost of uranium, so the earliest breeder commercialization date has now slipped well beyond 2020. Yet Secretary Duncan's new budget calls for an $865 million increase over planned levels in funding for the breeder over the next five years.

Conversely, the potential of conservation has only been fully understood within the past few years. It has also become increasingly clear that the near term, especially the latter half of this decade—before nations have been able to make a full transition to energy-lean economies—may be the period of greatest energy shortage. Hence one would expect a growing emphasis on conservation programs, while the new budget projects a $26 million cut. Cuts are also projected in the solar budget, which is already below that needed to achieve the president's stated 20 percent goal. On the other hand, large increases are slated for synthetic fuels programs that not even their most enthusiastic supporters think can contribute substantial amounts of energy before 2000—and these are in addition to the $19 billion already set aside for these fuels.

This type of leaping around from one short-lived enthusiasm to another—last year solar energy, this year synthetic fuels, next year who knows what—will doom the R&D program. Coupled with DOE's lack of a long-range energy plan, continued waffling and confusion in this relatively little-noticed corner of the federal budget could well spell bad news for the country's economic health.

Mr. NELSON. The DOE weatherization program currently operates as part of the DOE Conservation and Solar Energy Division—a division that is plagued by management problems and the knowledge that its programs are not, in reality, top priority programs at DOE. The weatherization program suffers greatly from this situation.

In my judgment, the time has long since come and passed for the administration to recognize it made a poor decision when it advocated the transfer of the weatherization program to DOE. There is no reason for the administration to continue victimizing itself by permitting the bureaucrats in the Office of Management and Budget (OMB) to dictate policy in this regard. OMB propagated the notion that an energy-related program did not belong at CSA, but rather because the program was energy related it more appropriately belonged under the Government box labeled "Department of Energy." This might make sense on an organizational chart, but in real life it is impractical and misguided.

The Nation has paid a huge price—in terms of oil consumed that could have been saved—as a result of DOE administration of the low-income weatherization program. An additional price is extracted from the taxpayers because it will cost the taxpayers more to provide the weatherization services at a later date.

The biggest price for DOE's failures, however, has been paid by low-income families and senior citizens—they have lost, at least for the immediate future, $100 million in weatherization services.

CUBAN RESETTLEMENT OPERATION

● **Mr. BUMPERS.** Mr. President, if I could have the attention of the floor manager of the bill for a moment, I could ask him a couple of questions which would clarify matters in regard to the reimbursement of State and local governments as a result of the Cuban resettlement operation.

I would like to ask the distinguished chairman of the Appropriations Committee if there is not some $245 million in FEMA and $100 million for special migration and refugee assistance in this supplemental appropriations bill?

Mr. MAGNUSON. The Senator is correct.

Mr. BUMPERS. Of these amounts, is it not the intent of the committee that this money shall be used to reimburse State and local governments for expenses incurred as a result of the Cuban resettlement operation?

Mr. MAGNUSON. The Senator is correct.

Mr. BUMPERS. My State of Arkansas has, to date, incurred costs of approximately $200,000 as a result of the resettlement effort at Fort Chaffee, Ark., near Fort Smith. These expenses were incurred by the State, counties, and cities as a result of efforts to maintain public safety Is it the committee's intent that these expenses should also be eligible to be paid out of the moneys appropriated in this bill?

Mr. MAGNUSON. The Senator is correct.

Mr. BUMPERS. Mr. President, I thank the distinguished chairman of the Senate Appropriations Committee for his cooperation in this matter which is of great importance to me. I yield the floor.●

Mr. BAYH. Mr. President, the Senate today is considering H.R. 7542, the supplemental appropriations and rescission bill for fiscal year 1980. The bill reported to the floor by the Appropriations Committee provides for $20.8 billion in new budget authority, $5.2 billion less than the amount requested by the administration. Rescissions of funds total $4.3 billion even though the administration recommended only $1.5 billion in rescissions. Thus the bill reported out of committee represents an additional $2.8 billion of cuts in present programs. The $15.8 billion in supplemental funding is $508 million in budget authority below the ceiling contained in the third budget resolution and equal to the projected outlays ceiling that is contained in that resolution.

Supplemental funding must be appropriated if vital programs are to continue for the remaining months of this fiscal year. In need of supplemental funding are such programs as trade adjustment assistance, black lung, child nutrition programs, disaster relief caused by the Mount St. Helens volcanic eruption, food stamp program, the medicaid program, urban mass transportation discretionary grants, the Space Shuttle program, food for peace, and student loan insurance fund. Some of the programs receiving the highest levels of funding in the bill are defense items including retirement pay and funds for increased pay costs for military and civilian personnel.

In order to meet the additional costs of many programs, the committee made every effort to transfer funds between various accounts instead of appropriating additional sums. This is in line with the committee's determination to reduce unobligated balances.

It is important to note that this is the first spending bill Congress has acted on since passage of the third concurrent resolution for fiscal year 1980 and the first concurrent resolution for fiscal year 1981. The results of the committee's work illustrate our determination to cut Government spending. I believe the committee did an excellent job of balancing the need to cut spending with the desire to maintain adequate levels of funding for programs essential to the citizens of this country. Many tough decisions were made during the Appropriations Committee markups on this bill. We had to make cuts in some programs deeper than we would have liked.

While I believe the results of our work will not please everyone, the figures in this bill reflect the very painstaking and difficult decisions necessary to set spending priorities in a bill which affects the lives of almost every American. We were dedicated to staying within the budget ceilings established within the third concurrent budget resolution and I am pleased that we accomplished our goal. We were also successful in our efforts to make cuts in programs that will result in lower Government spending in ensuing years. Our objective was to lower future spending commitments now in order to have more control over Federal spending appropriated in later bills.

Included in the bill are several items of great concern to citizens of my State of Indiana—$1,498,000,000 has been appropriated in the bill for continuation of of trade adjustment assistance benefits, specifically the trade readjustment allowance (TRA). Benefits to recipients of TRA checks ran out on June 6 in Indiana and until we enact this bill, people who are out of work due to foreign imports will not receive benefits they are entitled to under law. Approximately 30,000 workers are eligible for TRA benefits in Indiana. This is a program which arouses ambivalent feelings in me. I would prefer that these funds not come to my State because I do not want to have unemployed workers in Indiana.

However, due to our current trade policy, many workers in my State have lost their jobs. Hardest hit at the present time are the auto workers. We have made a commitment and have a responsibility under the Trade Act of 1974 to help these workers through a time of hardship, with jobs lost because of our trade policies compounded by the present economic downturn. Steelworkers, those engaged in the color television industry and other import impacted industries also stand to resume receipt of benefits under the provisions of this bill.

At my urging, $100,000 has been allocated within the Corps of Engineers budget to develop remedial measures on the Patoka River downstream of Patoka Lake. There has been a great deal of flooding which has caused damage to much of the area. Numerous logjams and other debris have been clogging the river channel. This situation merits immediate attention so that work can begin soon to alleviate the problem. I am confident that the $100,000 available in the supplemental will enable us to move toward a final solution to the problems on the Patoka River.

I have been dedicated for several years now to get this country moving on the accelerated commercialization of alcohol fuels productions. For that reason, I worked with Senators JOHNSTON and TALMADGE to transfer funds out of the Energy Security Reserve for implementation of title II of S. 932, the Energy Security Act of 1980. This will move us one step closer toward our goal of energy independence and provides us with the best near-term vehicle to get the construction of alternative fuels plants of all kinds underway. I have received assurances from Secretary of Energy Duncan that he is as committed as I am to having the necessary loan guarantee program get underway as soon as possible. It is the intent of Congress that these funds be committed expeditiously.

The black lung benefits program was established to compensate miners, their survivors, and dependents when death or total disability results from the disease. Clinically known as pneumoconiosis, black lung is caused by continued inhalation of coal dust. Miners with the affliction suffer severe breathing difficulties and premature death. Included in the supplemental funding bill is $392 million to provide for increased benefit payments and interest charges from the Black Lung Disability Trust Fund. With the $467 million appropriated to date, the total amount appropriated in fiscal year 1980 will be $859 million.

I was dismayed with the recommendation made by the administration to rescind $251 million of the $509 million appropriated by Congress for the Land and Water Conservation Fund. This fund is allocated to the States and their political subdivisions for planning, acquisition of land, and construction of recreation facilities. Federal dollars are matched on a 50–50 basis by the States. I am pleased with the action taken by the Senate to defer $162 million until fiscal year 1981. I was particularly concerned that this proposed rescission and then deferral would have an adverse impact on the acquisition plans of the Indiana Dunes National Lakeshore. If the funds had been rescinded or if all $251 million remaining in the fund had been deferred until October 1, 1980, the Indiana Dunes National Lakeshore would have not been able to complete present land acquisition plans. Property values in the area of the park are constantly rising. If the lands are acquired now, they can be obtained at a total cost within the budgetary constraints set by Congress in Public Law 94–549.

If the acquisition is delayed due to a deferral of the funds, the costs would be much more than originally anticipated. Visitation at the Lakeshore doubled during the last year and further increases are already occurring this year. To interrupt the development of the many recreational opportunities at this park, serving so many urban residents, would have served no useful purpose. For that reason, I proposed that language be included in the bill specifying that of the $1 million available to the Indiana Dunes, $500,000 of the funds remain available for the remainder of this fiscal year. This will insure that acquisition plans can continue as originally planned without the total $1 million being deferred.

It was necessary to clarify in this bill the intent of the Congress when it appropriated $500,000 in the Interior appropriations bill so the Park Service could maintain roads within the Indiana Dunes National Lakeshore. Although the roads are within park boundaries, title to some is held by local communities. Therefore, included in the bill is language expressing the intent of Congress that the Park Service has the authority to maintain the roads.

I am pleased that the Senate as well as the House reversed earlier action to rescind $5 million of the $20 million appropriated for congregate housing services. Congregate services provide basic support services such as meals and personal care for elderly and handicapped residents of public housing and section 202 projects.

The program enables elderly citizens to remain in their homes rather than going to institutions. This is preferred by the persons involved because they are able to maintain their independence and thus prevent unnecessary or premature institutionalization. It also is estimated by the Department of Housing and Urban Development that the $5 million rescission would have cost taxpayers $15 to $50 million in additional Federal health care costs over the following 2 years as a result of increased institutionalization of our senior citizens.

Sixteen million dollars of the $55 million in the Historic Preservation Fund were recommended for rescission by the administration. I joined Senator LEAHY in his efforts to defer $10 million instead of rescinding the $16 million and am pleased that the amendment was agreed to in the full committee. The House took similar action. This is a very popular program in my State of Indiana because it allows for the preservation of rapidly disappearing historic resources. Preservation is less expensive than new construction and has much more meaning to our citizens. For every Federal dollar spent on historic preservation, as much as $16 is generated from the private sector. I am pleased that this program will be continued.

Rescissions had been proposed for the National Institutes of Health and for nurse capitation grants. The House and Senate acted to disapprove these rescissions. I firmly believe that health care and health research are areas where we should not be penny wise and pound foolish. Our commitment to medical research and sufficient quality medical personnel is firm.

We must move quickly to meet the pressing needs which have developed during the last few months. In areas such as disaster relief, trade adjustment assistance benefits, black lung benefits, it is clear that we cannot delay any longer. I urge my colleagues to respond to these needs by supporting early passage of the supplemental funding bill.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that amendment 1341 and that the four parts of the amendment be considered as having been adopted.

This merely puts them in the right place in the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill having been read the third time, the question is, Shall it pass?

Mr. MAGNUSON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I think I should state to the Senate what the program is for the rest of the day.

Mr. President, it is the intention of the leadership following the passage of this bill to go to the military procurement authorization bill, lay it down, and it will be the pending business on Monday.

The Senate will come in at 9:45 a.m. on Monday. There is one special order for 15 minutes. Then the Senate will proceed to the further consideration of the military procurement bill.

After the passage of this bill this evening, it is intended to take up the House bill extending for 30 days ERISA, the Employees Retirement Security Act.

I would like to ask unanimous consent at this time that immediately following the action on this pending bill, the Senate proceed to the consideration of the House bill, H.R. 7685, that it be considered as having been read the first and second time, that there be no amendments in order thereto, and I hope there would be no rollcall.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, I simply wish to clarify that it is the understanding of the majority leader that when we get to ERISA it will be taken up clean.

Mr. ROBERT C. BYRD. Exactly.

Mr. BAKER. And we will not have amendments to the bill. We will proceed on that basis.

Mr. ROBERT C. BYRD. Exactly. And that no motions be in order, no points of order or appeals, and that there be no time on any motion to reconsider.

Mr. MATHIAS. Reserving the right to object.

Mr. LONG. Mr. President, I hope that it can be agreed that, if anyone insists on the yeas and nays, we have the vote on Monday.

Mr. ROBERT C. BYRD. Mr. President, if we are going to have the yeas and nays, I think we should let the Senate say so now.

Does anybody wish the yeas and nays on the bill?

Mr. DOLE. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. DOLE. Mr. President, I have cleared this, I think with every Republican on the Finance Committee.

Mr. WALLOP. Mr. President, I want to have an understanding with Chairman LONG. I have no objections to this coming up at this time, but I want to make certain that it does not vitiate the agreement that I had with Chairman LONG and Chairman WILLIAMS about the offering of a MSHA amendment at the time the Senate takes up the ERISA bill in full.

Mr. DOLE. There are no requests for a rollcall among the Republicans on the Finance Committee.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. President, it is agreed there will be no rollcalls on that issue. I thank all Senators.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so ordered.

SUPPLEMENTAL APPROPRIATIONS, 1980

The Senate continued with consideration of the bill.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from New Jersey (Mr. BRADLEY), the Senator from North Dakota (Mr. BURDICK), the Senator from Nevada (Mr. CANNON), the Senator from Iowa (Mr. CULVER), the Senator from Ohio (Mr. GLENN), the Senator from Colorado (Mr. HART), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Michigan (Mr. LEVIN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. MELCHER), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Tennessee (Mr. SASSER), the Senator from Georgia (Mr. TALMADGE), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "yea."

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from New York (Mr. JAVITS), the Senator from Oregon (Mr. PACKWOOD), the Senator from South Dakota (Mr. PRESSLER), and the Senator from New Mexico (Mr. SCHMITT) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

I further announce that, if present and voting, the Senator from New York (Mr. JAVITS) would vote "yea."

The PRESIDING OFFICER (Mr. MORGAN). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 53, nays 22, as follows:

[Rollcall Vote No. 277 Leg.]

YEAS—53

Baker
Bayh
Bellmon
Bentsen
Biden
Boschwitz
Bumpers
Byrd, Robert C.
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Danforth
Dole
Durkin
Eagleton
Exon
Ford
Gravel
Huddleston
Inouye
Jackson
Johnston
Kassebaum
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Pell
Pryor
Randolph
Riegle
Sarbanes
Schweiker
Stafford
Stennis
Stevens
Stevenson
Stone
Tsongas
Warner
Weicker
Young
Zorinsky

NAYS—22

Armstrong
Boren
Byrd,
Harry F., Jr.
DeConcini
Domenici
Durenberger
Hayakawa
Heflin
Heinz
Helms
Humphrey
Jepsen
Laxalt
Nunn
Percy
Proxmire
Roth
Simpson
Stewart
Thurmond
Tower
Wallop

NOT VOTING—25

Baucus
Bradley
Burdick
Cannon
Culver
Garn
Glenn
Goldwater
Hart
Hatch
Hatfield
Hollings
Javits
Kennedy
Leahy
Levin
McGovern
Melcher
Packwood
Pressler
Ribicoff
Sasser
Schmitt
Talmadge
Williams

So the bill (H.R. 7542), as amended, was passed.

Mr. MAGNUSON. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House of Representatives on the disagreeing votes thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. MORGAN) appointed the following conferees on the part of the Senate:

Senator MAGNUSON, Senator STENNIS, Senator R. C. BYRD, Senator PROXMIRE, Senator INOUYE, Senator HOLLINGS, Senator BAYH, Senator EAGLETON, Senator CHILES, Senator JOHNSTON, Senator HUDDLESTON, Senator LEAHY, Senator SASSER, Senator YOUNG, Senator HATFIELD, Senator STEVENS, Senator MATHIAS, Senator SCHWEIKER, Senator BELLMON, Senator WEICKER, Senator MCCLURE, Senator LAXALT, Senator GARN, Senator SCHMITT.

ORDER DISCHARGING SENATE FINANCE COMMITTEE FROM FURTHER CONSIDERATION OF H.R. 7477

Mr. LONG. Mr. President, the taxes on airport and airway users are expiring on Monday, and unless the Senate extends those taxes there will be chaos and confusion. The airlines are subject to being sued if they collect taxes which are not levied under the law.

I think the Senate will find it the better part of wisdom to extend those taxes. In order to give the Senate the opportunity to consider the basic airway tax provisions in an orderly fashion——

The PRESIDING OFFICER. My apologies to the Senator from Louisiana. Will the Senator please hold for a moment? The Chair is having a great deal of difficulty in hearing the distinguished Senator from Louisiana, and he would like to ask the Senate to please be in order.

Mr. LONG. In order to give the Senate the opportunity to legislate on the airway tax provisions in an orderly fashion and in a thoughtful manner, we are going to ask to extend those expiring taxes for 90 days so that the Senate can consider what changes in the airway taxes it may wish to make.

What I am going to seek now is merely unanimous consent to discharge the Finance Committee so that the 90-day extension bill H.R. 7477 can be on the calendar and can be called up on Monday. Therefore, Mr. President, I ask unanimous consent that the Senate Committee on Finance be discharged from further consideration of H.R. 7477.

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—the distinguished Senator from Louisiana discussed this matter with me earlier today, and it has been generally agreed on this side that this is indeed an orderly way to handle the matter. We will not object to the unanimous-consent request to discharge the Finance Committee. The matter will then go onto the calendar and it is my understanding that there will be a motion to proceed or a request to proceed to the consideration of this matter on Monday. I think that is an orderly arrangement, and I have no objection to it——

Mr. DOLE. That is all right.

Mr. BAKER. I have no objection.

Mr. METZENBAUM. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Will the Senator from Louisiana tell us if there is anything more in the bill that is coming out from the Finance Committee besides renewal of the tax? Does it provide anything about distribution of the funds?

Mr. LONG. The House sent us a mere 3 months' extension of the expiring taxes. That is all we are asking for at this time, a mere 3 months' extension of the existing airway taxes, so that these taxes and their possible modification can be more carefully considered later on.

There might be an amendment offered to this 3-month extension bill from the other side of the aisle, but that is something that I am in no position to pass on.

Mr. METZENBAUM. Mr. President, reserving the right to object, the Senator from Ohio does have some concerns, because there have been some discussion about utilization of some of these airline taxes for special subsidies to the airlines.

Mr. LONG. The bill which my request relates to has no such provision, and I would resist anything of that sort as an amendment to this bill. I know of no amendment of that sort that will be offered. All we want to do in the bill I am talking about is simply to gain 90 days' time so the Senate can act in an orderly fashion on the airway taxes when we deal with this subject.

Mr. METZENBAUM. Under those circumstances, I have no objection.

The PRESIDING OFFICER. Is there objection? If not, the motion by the Senator from Louisiana (Mr. LONG) to discharge the Finance Committee is agreed to.

EMPLOYEE RETIREMENT INCOME SECURITY ACT

The PRESIDING OFFICER. Under the previous order, the clerk will state H.R. 7685.

The assistant legislative clerk read as follows:

A bill (H.R. 7685) to amend title IV of the Employee Retirement Income Security Act of 1974 to postpone for one month the date on which the corporation must pay benefits under terminated multiemployer plans.

Mr. LONG. Mr. President, I ask unanimous consent to have printed in the RECORD a statement of the chairman of the Human Resources Committee (Mr. WILLIAMS) supporting the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF MR. WILLIAMS

As you know, the administration introduced the Multiemployer Pension Plan Amendments Act of 1980 on May 3 of last year. The Labor and Human Resources Committee approved the bill with amendments on March 24 of this year and the Finance Committee approved the bill with amendments on the 12th of this month.

Since that time our two committees have worked together and have resolved the differences between our two bills. However, this effort has consumed all of the time since the completion of the Finance Committee markup and we have not yet been able to produce a joint report on the bill.

In view of the extraordinary complexity of this legislation, I believe that the best course is to defer the Monday deadline for enactment of the bill 31 days so that we may product a joint report to guide public and the courts in their interpretation of this important legislation.

Mr. LONG. Mr. President, I agree with Senator WILLIAMS that a 1-month extension is necessary with regard to the pension plan insurance provisions of ERISA as they apply to the multiemployer pension plans.

When the Congress enacted ERISA in 1974, we did not have enough knowledge about multiemployer plans or the risks which would be involved in the insurance of benefits under these plans by the PBGC (Pension Benefit Guaranty Corporation). Therefore, we decided to defer the mandatory PBGC insurance coverage of multiemployer plans until we had a chance to look at them more closely. This deferral has been extended three times. The last extension expires on June 30, 1980.

The Finance Committee and the Committee on Labor and Human Resources have each tentatively agreed to different versions of a bill which would provide mandatory PBGC insurance coverage of multiemployer pension plans. The staffs of the two committees have been working to reconcile the differences in the two committee bills. The staffs believe they have reached agreement on most of the provisions, but there is not enough time left before July 1 for the committees and the Senate to fully consider and pass on any compromises and for the Senate to reach final agreement with the House of Representatives.

Therefore, I am agreeing to the extension of present law for another month.

I hope the Senate will support this measure for a 1-month extension of the ERISA program.

The PRESIDING OFFICER. The bill before the Senate is open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 7685) was ordered to a third reading, was read the third time, and passed.

Mr. LONG. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF DEFENSE AUTHORIZATIONS, 1981

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 901, H.R. 6974.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6974) to authorize appropriations for fiscal year 1981 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for fiscal year 1981 for civil defense, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Armed Services with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Department of Defense Authorization Act, 1981".

TITLE I—PROCUREMENT

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1981 for the use of the Armed Forces of the United States for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, as authorized by law, in amounts as follows:

AIRCRAFT

For aircraft: for the Army, $1,004,300,000; for the Navy and the Marine Corps, $5,910,900,000; for the Air Force, $9,541,943,000, of which $518,800,000 shall be available only for procurement of War Reserve Materiel spares.

MISSILES

For missiles: for the Army, $1,514,400,000; for the Navy, $2,076,400,000; for the Marine Corps, $74,443,000; for the Air Force, $3,180,284,000.

NAVAL VESSELS

For naval vessels: for the Navy, $8,385,200,000.

TRACKED COMBAT VEHICLES

For tracked combat vehicles: for the Army, $2,210,500,000; for the Marine Corps, $45,825,000.

TORPEDOES

For torpedoes and related support equipment: for the Navy, $380,200,000.

OTHER WEAPONS

For other weapons: For the Army, $269,000,000; for the Navy, $195,500,000; for the Marine Corps, $93,490,000.

PATRIOT MISSILE SYSTEM

SEC. 102. Not more than $494,100,000 of the funds authorized to be appropriated by this title for the Army may be used for procurement of the PATRIOT missile system, and no unobligated funds heretofore appropriated for the Army for fiscal year 1980 and no funds authorized to be appropriated by this title for the Army may be obligated or expended for the procurement of PATRIOT missile system end-items unless and until the Secretary of Defense certifies to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives that, based upon operational and development testing conducted by the Army, the PATRIOT missile system is suitable for hardware production.

CERTAIN AUTHORITY PROVIDED SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) PROGRAM

SEC. 103. (a) During fiscal year 1981, the Secretary of Defense, in carrying out the Multilateral Memorandum of Understanding Between the North Atlantic Treaty Organization (NATO) Ministers of Defense on the NATO E-3A Cooperative Programme, signed by the Secretary of Defense on December 6, 1978, may—

(1) waive reimbursement for the cost of the following functions performed by personnel other than personnel employed in the United States Air Force Airborne Warning and Control System (AWACS) program office:

(A) auditing;
(B) quality assurance;
(C) codification;
(D) inspection;
(E) contract administration;
(F) acceptance testing;
(G) certification services; and
(H) planning, programing, and management services;

(2) waive any surcharge for administrative services otherwise chargeable; and

(3) in connection with the NATO E-3A Cooperative Programme for fiscal year 1981, assume contingent liability for—

(A) program losses resulting from the gross negligence of any contracting officer of the United States;

(B) identifiable taxes, customs duties, and other charges levied within the United States on the program; and

(C) the United States share of the unfunded termination liability.

(b) Authority under this section to enter into contracts shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

FIGHTING VEHICLE SYSTEMS

SEC. 104. (a) The Secretary of the Army shall select, on a competitive basis, a second source contractor for the production and final assembly of the Fighting Vehicle Systems not later than June 30, 1981. Each competitor shall be judged on its ability to reduce the procurement costs of such system to the maximum possible extent as well as on its ability to provide a dependable second source for the production and final assembly of the Fighting Vehicle Systems. The Secretary may not select as a second source contractor for such systems any contractor that is a subsidiary or otherwise a part of the prime contractor for such system.

(b) At least five of the vehicles procured with funds authorized by this Act for the procurement of the Fighting Vehicle Systems shall be manufactured and finally assembled by the second source contractor.

REQUIREMENT FOR AUTHORIZATION OF APPROPRIATIONS FOR FUNDS FOR MAJOR REPAIR WORK ON CERTAIN CLASSES OF SHIPS; RESTRICTIONS ON SERVICE LIFE EXTENSION PROGRAM (SLEP)

SEC. 105. (a) Section 138 of title 10, United States Code, relating to authorization of appropriations for the armed forces, is amended—

(1) by striking out "subsection (e)" in subsection (a)(6) and inserting in lieu thereof "subsection (f)"; and

(2) by redesignating subsection (e) as subsection (f) and inserting after subsection (d) the following new subsection (e):

"(e)(1) No funds may be appropriated for any fiscal year for major repair work on any ship over 3,000 tons (full load displacement) unless such work has been specifically authorized by law.

"(2) The Secretary of Defense shall submit to the Congress a written report, not later than February 15 of each fiscal year, recommending the number of ships over 3,000 tons (full load displacement) in each Navy ship classification on which major repair work should be performed in the next fiscal year.

"(3) The report required under paragraph (2) of this subsection shall include, in the case of each ship, the justification for and an explanation of the major repair work proposed to be performed on such ship and shall also include—

"(A) an estimate of the total cost of the work by appropriation category;

"(B) the estimated time for completing the work;

"(C) the number of military personnel, civilian employees of the Department of Defense, and private industry personnel planned for the work;

"(D) the estimated date of the next major repair work;

"(E) the amount of minor repair work expected to be performed in shipyards before the next major repair work;

"(F) a description of any improved or increased military capability which is expected to result from the work; and

"(G) the effect of the major repair work recommended in such report on the utilization of the peacetime capacity and capability of the United States and on the wartime mobilization capacity of private and public shipyards of the United States.

"(4) For purposes of this subsection—

"(A) The term 'major repair work' means, in the case of any ship to which this subsection is applicable, any overhaul, modification, alteration, or conversion work which will result in a total cost to the United States of more than $10,000,000.

"(B) The term 'minor repair work' means, in the case of any ship to which this subsection is applicable, any repair work which will result in a total cost to the United States of $10,000,000 or less.".

(b)(1) Funds authorized to be appropriated by this or any other Act for advance procurement in connection with the Service Life Extension Program (SLEP) for the conversion and overhaul of the U.S.S. *Forrestal* may be used for such purpose only if, and to the extent that, the use of such funds for such purpose does not result in the selection or designation of a particular shipyard at which such conversion, overhaul, and repair work is to be performed.

(2) The Secretary of the Navy shall conduct a comprehensive study after the date of the enactment of this Act (1) comparing the cost of performing the Service Life Extension Program work described in subsection (a) at public shipyards with the cost of performing such work at private shipyards, (2) comparing the number of Federal civilian personnel, armed forces personnel, and private industry personnel that will be utilized in performing such work at public shipyards with the number of such personnel that will be utilized in performing such work at private shipyards, and (3) evaluating such other factors as the Secretary of the Navy considers significant in selecting a shipyard at which such work should be performed.

(3) The Secretary of the Navy may not designate a shipyard at which the Service Life Extension Program (SLEP) work described in subsection (a) is to be performed until after the Secretary has submitted a report to the Congress containing the results of the study referred to in paragraph (2) and the Congress has enacted, after the date of the enactment of this Act, legislation authorizing funds for the performance of such work.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. Funds are hereby authorized to be appropriated for fiscal year 1981 for the use of the Armed Forces of the United States for research, development, test, and evaluation, as authorized by law, in amounts as follows:

For the Army, $3,233,614,000; for the Navy (including the Marine Corps), $5,116,396,000, of which $10,000,000 shall be available only for continuation of the development of the Extremely Low Frequency (ELF) Communications System; for the Air Force, $7,135,197,000, of which not more than $50,000,000 may be obligated or expended for the CX aircraft; for the Defense Agencies, $1,368,600,000, of which $42,100,000 is authorized for the activities of the Director of Test and Evaluation, Defense.

MX MISSILE AND BASING MODE

SEC. 202. (a) The Congress finds that a survivable land-based intercontinental ballistic missile (ICBM) system is vital to the security of the United States and to a stable strategic balance between the United States and the Soviet Union and that the timely deployment of a new basing mode is essential to the survivability of this Nation's land-based intercontinental ballistic missiles. It is, therefore, the purpose of this section to insure that the programs for development and deployment of the MX missile system, consisting of 200 missiles and 4,600 hardened shelters, are carried out as soon a practicable.

(b) The Secretary of Defense shall proceed immediately with the full-scale development of the MX missile and a Multiple Protective Structure (MPS) system basing mode for such missile which incorporates a linear or grid road system, and shall continue such development in a manner that will achieve an initial operational capability of such missile and basing mode not later than December 31, 1986.

(c) Notwithstanding any other provision of law, the initial phase of construction shall be limited to 2,300 protective shelters for the MX missile in the initial deployment area.

(d) The Secretary of Defense shall—

(1) submit to the committees on Armed Services of the Senate and the House of Representatives, not later than February 1, 1981, a general plan for maximizing the adverse economic, environmental, and social effects that are likely to result from the construction of multiple protective structures in the areas proposed for the deployment of the MX missile system, and

(2) conduct a comprehensive study to identify locations, in addition to the Great Basin of Nevada and Utah, suitable for construction of the remaining multiple protective structures, evaluate the costs and the military, environmental, and socioeconomic consequences associated with such further construction and deployment in all such areas, and submit the results of such study to the Committees on Armed Services of the Senate and the House of Representatives not later than February 1, 1981.

RESTRICTIONS ON USE OF FUNDS FOR CX AIRCRAFT

SEC. 203. (a)(1) None of the funds authorized to be appropriated by this title may be obligated or expended for full-scale engineering development of the CX aircraft or any other new transport aircraft associated with the study required under subsection (b) unless the Secretary of Defense certifies to the Congress in writing that (A) the magnitude and characteristics of the military cargo and material to be transported by air to the Indian Ocean area in military emergencies are sufficiently well defined to provide clear justification and design parameters for such aircraft, and (B) plans for such aircraft are sufficiently well developed to make such full-scale engineering development both economical and technically feasible.

(2) Not more than $10,000,000 of the amount authorized to be appropriated by section 201 for the CX aircraft may be obligated or expended before February 1, 1981. The balance of such amount may be obligated or expended only after the expiration of 90 days after the receipt by the Congress of the study required under subsection (b).

(b)(1) The Secretary of Defense shall conduct a study of the immediate and long-term overall military mobility requirements of the United States. In conducting such study the Secretary shall specifically consider and analyze the following factors:

(A) The immediate and long term transportation capacity needed by the armed forces to transport planned military units, equipment, and supplies to the Indian Ocean, Persian Gulf, and adjacent areas in emergency situations that may arise in such areas.

(B) The portion of the total transportation capacity referred to in clause (A) that will likely be needed to transport large or bulky equipment, flammable goods, high explosives, urgent replenishment supplies, and other equipment and supplies requiring special treatment.

(C) Any special considerations imposed by the environment of the areas of possible deployment, including the adequacy of airfield and port facilities, the requirement for inflight refueling and tanker aircraft, and the cubic area and weight or armored vehicles to be transported.

(D) The appropriate mix of airlift, sealift, and prepositioning of material in the planned deployment areas that would provide an adequate transportation capacity when needed at least cost.

(E) The relationship of the transportation demands estimated for emergency situations that may arise in the Persian Gulf, Indian Ocean, and adjacent areas to the transportation demands estimated for emergency situations that may arise in North Atlantic Treaty Organization countries and in other areas of the world.

(2) The Secretary of Defense shall submit a report to the Committees on Armed Services of the Senate and the House of Representatives not later than December 1, 1980, containing the results of the study required under paragraph (1), together with such comments and recommendations as the Secretary deems appropriate, including—

(A) recommendations for specific new programs to provide an adequate overall military transportation capacity for the United States and an assessment of the near and long term costs, benefits, and contribution to overall time phased transportation capacity in the case of each such program; and

(B) an analysis of the costs and benefits of at least one alternative group of programs which would provide an adequate overall military transportation capacity.

EXTREMELY LOW FREQUENCY (ELF) COMMUNICATIONS SYSTEM

SEC. 204. (a) Notwithstanding the provisions of section 202 of the Department of Defense Appropriation Authorization Act, 1979 (92 Stat. 1611) or section 203 of the Department of Defense Authorization Act, 1980 (93 Stat. 805), the Secretary of the Navy shall use, for the purpose of resuming research and development work on the Extremely Low Frequency (ELF) Communications System, any unobligated funds heretofore appropriated for such system for fiscal year 1979.

(b) The President shall select a site for deployment of the Extremely Low Frequency (ELF) Communication System not later than April 1, 1981, and shall promptly notify the Congress after the selection of such site has been made.

INCREASING CEILING ON FUNDS THAT MAY BE EXPENDED BY THE DEPARTMENT OF DEFENSE FOR INDEPENDENT RESEARCH AND DEVELOPMENT AND BID AND PROPOSAL COSTS

SEC. 205. Section 203 of Public Law 91-441 (84 Stat. 907) is amended—

(1) by striking out "$2,000,000" and "$250,000" in subsection (a)(1) and inserting in lieu thereof "$4,000,000" and "$500,000", respectively; and

(2) by adding at the end of such section the following new subsection:

"(f) Beginning October 1, 1983, and every three years thereafter, the Secretary may, based upon economic indexes that the Secretary has selected, adjust the amounts in subsection (a)(1)(B) of this section in accordance with economic changes reflected in those indexes.".

TITLE III—ACTIVE FORCES

AUTHORIZATION OF END STRENGTHS

SEC. 301. (a) For the fiscal year 1981, each component of the Armed Forces is authorized an end strength for active duty personnel as follows:

(1) The Army, 750,300.
(2) The Navy, 536,100.
(3) The Marine Corps, 185,200.
(4) The Air Force, 564,500.

(b) In addition to the active duty personnel strengths authorized by subsection (a), there is also authorized 1,250 active duty personnel for the Army, as of September 30, 1981, for each percentage point by which the proportion of high school male graduates (with no prior military service) enlisted or inducted into the Army during the fiscal year ending September 30, 1981, exceeds 52 percent of all male persons (with no prior military service) enlisted or inducted into the Army during such fiscal year, except that the total additional personnel strength under this subsection may not exceed 25,000.

LIMITATION ON INDUCTION OF PERSONS INTO THE ARMED FORCES WHOSE MENTAL ABILITY IS BELOW A PRESCRIBED LEVEL

SEC. 302. The number of individuals enlisted or inducted into any armed force during any fiscal year beginning after September 30, 1980, whose mental ability test results place them within the Mental Category Group IV, may not exceed a number equal to 20 percent of all individuals enlisted or inducted into such armed force during such fiscal year.

AUTHORIZATION TO REPAY LOANS FOR SERVICE IN THE ARMED FORCES

SEC. 303. (a)(1) The Secretary of Defense may repay, subject to the provisions of this section, any loan made, insured, or guaranteed under part B of the High Education Act of 1965, or any loan made under part E of such Act, and which was made after October 1, 1975. Repayment of any such loan shall be made on the basis of each complete year of service performed by the borrower.

(2) The Secretary of Defense may repay loans described in paragraph (1) of this subsection in the case of any person for—

(A) service performed (i) as an enlisted member of the Selected Reserve of the Ready Reserve of an armed force after September 30, 1980, and (ii) in a Reserve component and military specialty specified by the Secretary of Defense; or

(B) service performed on active duty as an enlisted member of the armed forces after September 30, 1980, in a military specialty specified by the Secretary of Defense.

In the case of service described in clause (A) of the first sentence of this paragraph, the Secretary of Defense may repay a loan described in paragraph (1) only if the person to whom the loan was made performed such service after the loan was made.

(b) The portion or amount of a loan that may be repaid under subsection (a) of this section is—

(1) 15 percent or $500, whichever is greater, for each year of service, in the case of service described in subsection (a)(2)(A) of this section; or

(2) 33⅓ percent or $1,500, whichever is greater, for each year of service, in the case service described in subsection (a)(2)(B) of this section.

(c) If a portion of a loan is repaid under this section for any year, interest on the remainder of such loan shall accrue and be paid in the same manner as is otherwise required.

(d) Nothing in this section shall be construed to authorize refunding any repayment of a loan.

(e) Any individual who transfers from service described in clause (A) or (B) of subsection (a)(1) of the section to service described in the other clause of such subsection during a year shall be eligible to have repaid a portion of such loan determined by giving appropriate fractional credit for each portion of the year so served, in accordance with regulations of the Secretary concerned.

(f) There is authorized to be appropriated $45,000,000 to carry out the provisions of this section and section 304.

(g) The Secretary of Defense shall, by regulation, prescribe a schedule for the allocation of funds made available to carry out the provisions of this section during any year for which funds are not sufficient to pay the sum of the amounts eligible for repayment under subsection (a).

(h) The Secretary of Defense shall equitably allocate the amount appropriated under this section between the repayment of loans made, insured, or guaranteed under part B of the Higher Education Act of 1965, the repayment of loans made under part E of such Act, and the educational assistance program provided for under section 304.

(i) The authority provided under this section shall apply only in the case of persons who enlist or reenlist in the Selected Reserve of the Ready Reserve of an armed force or enlist or reenlist for service on active duty after September 30, 1980, and before October 1, 1981.

EDUCATIONAL ASSISTANCE PILOT PROGRAM

SEC. 304. (a) (1) As a means of encouraging enlistments and reenlistments in the armed forces, the Secretary of Defense, on behalf of any person who enlists or reenlists in the armed forces after September 30, 1980, and before October 1, 1981, and who elects or has elected to participate in the Post-Vietnam Veterans Educational Assistance Program provided for under chapter 32 of title 38, United States Code, may pay the monthly contribution otherwise deducted from the military pay of such person. No deduction may be made under section 1622 of title 38, United States Code, from the military pay of any person for any month to the extent that the contribution otherwise required to be made by such person under such section for such month is paid by the Secretary of Defense.

(2) No payment may be made under this section on behalf of any person for any month before the month in which such person enlisted or reenlisted in the armed forces or for any month before October 1980.

(b) The amount paid by the Secretary of Defense under this section on behalf of any person shall be deposited to the credit of such person in the Post-Vietnam Era Veterans Education Account established under section 1622(a) of title 38, United States Code.

(c) Except as provided in subsection (d), the provisions of chapter 32 of title 38, United States Code, shall be applicable to payments made by the Secretary of Defense under this section.

(d) Notwithstanding the provisions of section 1631(a) (4) of title 38, United States Code, the Secretary of Defense, in the case of any person who enlists or reenlists in the armed forces or any officer who is ordered to active duty with the armed forces after September 30, 1980, and before October 1, 1981, or whose active duty obligation with the armed forces is extended after September 30, 1980, and before October 1, 1981, and who is a participant in the educational assistance program described in subsection (a) may make monthly payments out of the Post-Vietnam Era Veterans Education Account to the spouse or child of such person to assist such spouse or child in the pursuit of a program of education. Payments under this subsection may be made to the spouse or child of a person participating in such educational assistance program only upon the request of such person and only for such period of time as may be specified by such person. The total amount paid under this subsection in the case of any spouse or child may not exceed the amount credited to such person in the Post-Vietnam Veterans Education Account.

(e) (1) The authority conferred on the Secretary of Defense under this section shall be used by the Secretary only for the purpose of encouraging persons who possess critical military specialties (as determined by the Secretary of Defense) to enter or to remain in the armed forces.

(2) Except as otherwise provided in this section, the Secretary of Defense may offer the benefits of this section to persons eligible therefor for such period as the Secretary determines necessary or appropriate to achieve the purpose of this section.

(f) As used in this section—

(1) The term "program of education" shall have the same meaning as provided in chapter 32 of title 38, United States Code.

(2) The term "child" shall have the same meaning as provided in section 101(4) of title 38, United States Code.

(3) The term "armed forces" means the Army, Navy, Air Force, and Marine Corps.

EDUCATIONAL BENEFITS INCENTIVE PROGRAM REPORT

SEC. 305. (a) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives, within 30 days after the end of each quarter of fiscal year 1981, a report on the implementation of sections 303 and 304.

(b) The Secretary of Defense shall also submit to such committees, not later than March 1, 1981, a report on the extent to which the Post-Vietnam Veterans' Educational Assistance Program provided for under chapter 32 of title 38, United States Code, has encouraged persons to enter or remain in the armed forces. The Secretary shall include in such report—

(1) an evaluation of contributory and noncontributory educational assistance programs as incentives for individuals to enter or remain in the armed forces;

(2) an analysis of the costs and benefits of various educational assistance incentive programs designed to encourage individuals to enter and remain in the armed forces; and

(3) recommendations for such new programs or revision of existing programs as the Secretary determines necessary or appropriate to successfully encourage individuals to enter and remain in the armed forces.

PAY INCREASE FOR MEMBERS OF THE UNIFORMED SERVICES

SEC. 306. (a) Any adjustment required under the provisions of section 1009 of title 37, United States Code, relating to adjustments in the compensation of members of the uniformed services, which would otherwise first become effective beginning with any pay period in fiscal year 1981 shall not become effective.

(b) (1) Subject to the provisions of paragraph (2), each element of compensation specified in section 1009(a) of title 37, United States Code, shall be increased for members of the uniformed services by 11.7 percent effective with the first pay period beginning after September 30, 1980.

(2) The President may allocate the overall percentage increase specified under paragraph (1) in the same manner and to the same extent he is authorized under subsections (c) and (d) of section 1009 of title 37, United States Code, as amended by section 308 of this Act, to allocate the overall percentage increase of any increase described in subsection (b) (3) of section 1009 of such title, except that the overall percentage increase in the case of any member of the uniformed services with four years or less service may not be more than 11.7 percent.

MILITARY PAY RECOMMENDATIONS

SEC. 307. The President shall submit to the Congress not later than April 1, 1981, such recommendations as he deems necessary or appropriate to improve the method for determining adjustments in the pay and allowances for members of the uniformed services.

AUTHORITY TO ALLOCATE PAY INCREASES AMONG PAY GRADES AND YEARS OF SERVICE CATEGORIES

SEC. 308. Section 1009 of title 37, United States Code, relating to adjustments in compensation, is amended—

(1) by striking out "subsection (c)" in clause (3) of subsection (b) and inserting in lieu thereof "in subsections (b) and (c) of this section";

(2) by inserting "(1)" before "Whenever" at the beginning of subsection (c);

(3) by redesignating subsection (d) as paragraph (2) and striking out in such paragraph, as redesignated, "under subsection (c)" each place it appears and inserting in lieu thereof "under paragraph (1) of this subsection";

(4) by inserting after subsection (c) the following new subsection (d):

"(d) Whenever the President determines such action to be in the best interest of the Government, he may allocate the overall percentage increase in the element of basic pay that would otherwise be effective after any allocation made under subsection (c) of this section among such pay grades and years of service categories as he deems appropriate, except that (1) the basic pay increase for any given pay grade and years of service category after any allocation made under this subsection, subsection (c) of this section, or under both such subsections, as the case may be, may not be less than an amount equal to 75 per centum of the increase in the element of basic pay that would otherwise have been effective under subsection (b) (3) of this section, and (2) the overall percentage increase in the case of any member of the uniformed services with four years or less service may not exceed the overall percentage increase in the General Schedule rates of basic pay for civilian employees.";

(5) by inserting "or (d)" after "subsection (c)" in subsection (e) and by striking out "among the different elements of compensation" in such subsection; and

(6) by striking out "among the three elements of compensation" in subsection (f).

INCREASE IN ENLISTMENT AND REENLISTMENT BONUSES; EXTENSION OF PERIOD DURING WHICH BONUSES MAY BE PAID

SEC. 309. (a) Section 308 of title 37, United States Code, relating to reenlistment bonuses, is amended—

(1) by striking out "ten years" in paragraph (1) (A) of subsection (a) and inserting in lieu thereof "fourteen years";

(2) by striking out "$15,000" in the first sentence of paragraph (1) of subsection (a) and inserting in lieu thereof "$20,000";

(3) by striking out "twelve years" in the last sentence of paragraph (1) of subsection (a) and inserting in lieu thereof "sixteen years";

(4) by striking out "September 30, 1980" in subsection (f) and inserting in lieu thereof "September 30, 1982".

(b) Section 308a of such title, relating to enlistment bonuses, is amended—

(1) by striking out "$3,000" in the first sentence of subsection (a) and inserting in lieu thereof "$5,000"; and

(2) by striking out "'September 30, 1980" in subsection (c) and inserting in lieu thereof "September 30, 1982".

AVIATION CAREER PAY

SEC. 310. (a) Chapter 5 of title 37, United States Code, relating to special and incentive pays, is amended by adding at the end thereof the following new section:

"§ 314. Special pay: aviation career officers extending period of active duty

"(a) Under regulations prescribed by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, an officer of a uniformed service who—

"(1) is entitled to aviation career incentive pay under section 301a of this title;

"(2) is below the pay grade of O-7;

"(3) is qualified to perform operational flying duties as defined in clause (6) (A) of section 301a of this title;

"(4) has at least six but less than 18 years of aviation service as an officer;

"(5) executes a written agreement to remain on active duty in aviation service for at least one year; and

"(6) is in an aviation specialty designated as critical;

may, upon the acceptance of the written agreement by the Secretary of Defense or the Secretary of Transportation, as appropriate, be paid, in addition to all other compensation to which the officer is entitled, a sum of money not to exceed an amount equal to four months of the basic pay to which the officer is otherwise entitled at the time the agreement is executed, multiplied by the number of years, or the monthly fractions thereof, of obligated service under the agreement. No agreement under this section may extend beyond the date on which the officer would complete 19 years of aviation service. Upon acceptance of the agreement by the Secretary of Defense or the Secretary of Transportation, as appropriate, and subject to subsection (c) of this section, the total amount payable becomes fixed and may be paid in either a lum sum or in installments.

"(b) For the purpose of this section, the term 'aviation service' means the service performed by an officer holding an aeronautical rating or designation (except a flight surgeon or other medical officer) under regulations prescribed by the Secretary of Defense or the Secretary of Transportation, as appropriate. The years of aviation service are computed beginning with the effective date of the initial order to perform aviation service.

"(c)(1) A member who has received payment under this section and fails to serve the total period of active duty in aviation service specified in the member's agreement shall refund to the United States an amount which bears the same ratio to the amount paid such member under such agreement as the unserved period of active duty in aviation service bears to the total period of active duty in aviation service specified in the agreement.

"(2) Nothing in this section shall be construed (A) as altering or modifying the obligation of a regular officer to perform active service at the pleasure of the President, or (B) as obligating, in any way, the President to accept a resignation submitted by a regular officer upon completion of the period of active duty in aviation service agreed upon by such officer under this section.

"(d) An obligation to reimburse the United States as provided in subsection (c) is a debt owing to the United States for all purposes.

"(e) A discharge in bankruptcy under title 11 shall not release a person from an obligation to reimburse the United States required under the terms of an agreement described in subsection (a) of this section if the final decree of the discharge in bankruptcy was issued within a period of five years after the last day of the period which such person had agreed to serve. This subsection applies to any proceeding in bankruptcy which begins after September 30, 1980.".

(b) The table of sections at the beginning of chapter 5 of such title is amended by adding at the end thereof the following new item:

"314. Special pay: aviation career officers extending period of active duty.".

CHANGE IN METHOD OF COMPUTING RETIRED PAY AND RETAINER PAY

SEC. 311. (a)(1) Section 1401 of title 10, United States Code, relating to the computation of retired pay is amended by striking out all of column 1 of the table contained in such section and inserting in lieu thereof the following:

"Column 1

Take

1/36th of the highest total amount of basic pay to which the member was entitled for any 36 months of active duty service performed by the member or 1/36th of the highest total amount of basic pay to which the member was entitled for any 36 months of active duty service preceding the date on which his name was placed on the temporary disability retired list, whichever is higher. In the case of a member who has served on active duty for less than 36 months, take the average of the monthly basic pay to which the member was entitled for the period served on active duty.

1/36th of the highest total amount of basic pay to which the member was entitled for any 36 months of active duty service performed by the member or 1/36th of the highest total amount of basic pay to which the member was entitled for any 36 months of active duty service preceding the date on which his name was placed on the temporary disability retired list, whichever is higher. In the case of a member who has served on active duty for less than 36 months, take the average of the monthly basic pay to which the member was entitled for the period served on active duty.

1/36th of the total amount of basic pay in effect for the 36-month period immediately preceding the date on which the member becomes entitled to retired pay for the member's grade and years of service under the basic pay rates in effect during such period.

1/36 of the highest total of basic pay to which the member was entitled for any 36 months of active duty performed by the member.".

(2) Section 1401 of such title is further amended by striking out the footnote designation "4" in the table and by striking out footnotes 1, 2, and 4 following such table.

(b)(1) Section 1402(a) of such title is amended by striking out all of column 1 of the table contained in such section and inserting in lieu thereof the following:

"Column 1,

Take 1/36th of the highest total amount of basic pay to which the member was entitled for any 36 months of active duty preceding the date of his release from that active duty.".

(2) Section 1402 of such title is further amended by striking out footnote 1 following the table contained in such section.

(3) Section 1402(d) of such title is amended by striking out all of column 1 of the table contained in such section and inserting in lieu thereof the following:

"Column 1

Take 1/36th of the highest total amount of basic pay to which the member was entitled for any 36 months of active duty preceding the date of his release from active duty or 1/36th of the highest total amount of basic pay to which the member was entitled for any 36 months of active duty service preceding the date on which his name was placed on the temporary disability retired list, whichever is higher.".

(c)(1) Section 3991 of such title is amended by striking out all of column 1 of the table contained in such section and inserting in lieu thereof the following:

"Column 1

Take 1/36th of the total amount of basic pay to which the member was entitled for any 36 months of active duty service preceding the date of retirement.".

(2) Section 3991 of such title is further amended by striking out footnotes 1, 2, and 3 following the table contained in such section.

(d)(1) Chapter 571 of such title is amended by adding at the end thereof the following new section:

"§ 6333. Computation of retired pay or retainer pay

"Notwithstanding any other provision of law—

"(1) The monthly retired pay of a member retired under this chapter, chapter 573, or chapter 575 shall be computed by taking 1/36th of the highest total amount of basic pay to which the member was entitled for any 36 months of active duty service preceding the date of retirement multiplied by 2½ percent of years of service creditable for retirement purposes, but not to exceed 75 percent of the basic pay upon which the computation of retired pay is based.

"(2) A member who has become entitled to retired pay or retainer pay, and who thereafter serves on active duty (other than for training), is entitled to recompute his retired pay or retainer pay upon his release from that duty by taking 1/36th of the highest total amount of basic pay to which the member was entitled for any 36 months of active duty preceding the date of his release from that active duty or 1/36th of the highest total amount of basic pay to which the member was entitled for any 36 months of active duty service preceding the date on which his name was placed on the temporary disability retired list, whichever is higher, multiplied by the higher of—

"(A) 2½ percent of the years of service credited for retirement purposes, or

"(B) the highest percentage of disability attained while on active duty after retirement or after the date on which his name was placed on the temporary disability retired list, as appropriate,

plus any amount necessary to increase that product to 50 percent of the pay upon which the computation is based if the name of the member is on the temporary disability retired list; but the retired pay or retainer pay may not exceed 75 prcent of the pay upon which the computation is based.".

(2) The table of sections at the beginning of chapter 571 of such title is amended by adding at the end thereof the following new item:

6333. Computation of retired pay or retainer pay.".

(e)(1) Section 8991 of such title is amended by striking out all of column 1 of the table contained in such section and inserting in lieu thereof the following:

"Column 1

Take

1/36th of the total amount of basic pay to which the memoer was entitled for any 36 months of active duty service preceding the date of retirement.".

(2) Section 8991 of such title is further amended by striking out footnotes 1, 2, and 3 following the table contained in such section.

(f) Notwithstanding any other provision of law, the retired pay of commissioned officers of the Coast Guard, Public Health Service, and the National Oceanic and Atmospheric Administration shall be computed in the same manner as provided in the case of members of the armed forces under title 10, United States Code.

(g)(1) The amendments made by subsection (a) shall not be effective in the case of any member or former member of the uniformed services who, before the date of enactment of this section, had completed ten or more years of creditable service for purposes of determining eligibility for retired or retainer pay. The provision of law relating to retired pay and retainer pay as in effect on the day before the date of enactment of this Act shall be applicable in the case of any person described in the preceding sentence in the same manner as if such provisions had not been amended by this section.

(2) The amendment made by subsection (a) shall not reduce the monthly retired pay or retainer pay to which a member or former member of a uniformed service was entitled on the day before the effective date of this section.

INCREASE IN PER DIEM ALLOWANCES

SEC. 312. (a) Section 404(d) of title 37, United States Code, relating to travel and transportation allowances, is amended—

(1) by striking out "$35" in clause (2) of the first sentence and inserting in lieu thereof "$50"; and

(2) by striking out "$50" in the second sentence and inserting in lieu thereof "$75".

(b) The amendments made by subsection (a) shall be effective with respect to travel and transportation performed after September 30, 1980.

INCREASE IN TRANSPORTATION EXPENSES FOR MEMBERS OF THE UNIFORMED SERVICES WHO HAVE HOUSE TRAILERS OR MOBILE HOMES

SEC. 313. (a) Section 409 of title 37, United States Code, relating to travel and transportation allowances for trailers, is amended to read as follows:

"§ 409. Travel and transportation allowances: trailers

"(a) Under regulations prescribed by the Secretaries concerned and in place of the transportation of baggage and household effects, except as provided in subsection (c), a member, or, in the case of the member's death, the member's dependent who would otherwise be entitled to transportation of baggage and household effects under section 406 of this title, may transport a house trailer or mobile dwelling within the continental United States, within Alaska, or between the continental United States and Alaska, for use as a residence by one of the following means:

"(1) transport the trailer or dwelling and receive a monetary allowance in place of transportation at a rate to be prescribed by the Secretaries concerned, but not more than 20 cents a mile;

"(2) deliver the trailer or dwelling to an agent of the United States for transportation by the United States or by commercial means; or

"(3) transport the trailer or dwelling by commercial means and be reimbursed by the United States for the expense, including the expenses of necessary tolls, charges, and permit fees.

However, the cost of transportation under clause (2) or the reimbursement under clause (3) may not be more than the cost of packing, pick-up, line-haul or drayage, delivery, and unpacking costs of the maximum weight allowance of baggage and household effects prescribed by the Secretaries concerned for the member or dependent. Storage in transit of up to 180 days as specified in section 406 of this title is authorized. Any payment authorized by this section may be made in advance of the transportation concerned. For the purposes of this section, 'continental United States' means the forty-eight contiguous States and the District of Columbia.

"(b) A member transporting a house trailer or mobile home dwelling under this section is entitled to the dislocation allowance authorized in section 407 of this title.

"(c) Under regulations prescribed by the Secretaries concerned, a member who is ordered to make a change of permanent station from a place inside to a place outside, or from a place outside to a place inside, the continental United States or Alaska is entitled to both the transportation of the member's house trailer or mobile dwelling and the transportation of his baggage and household effects within the continental United States or Alaska. However, the total cost of moving baggage and household effects and house trailer or mobile dwelling within the continental United States or Alaska may not be more than the cost of transporting the maximum weight allowance of baggage and household effects and related costs authorized for the member or member's dependent from—

"(1) the old duty station in the continental United States or Alaska to the location to which the house trailer or mobile dwelling is transported at the expense of the United States thence to the port of embarkation through which household goods would have been transported from the old duty station; or

"(2) the greater distance of either—

"(A) the port of debarkation to the new duty station in the continental United States or Alaska; or

"(B) the location where the house trailer or mobile dwelling was transported at the expense of the United States to the new duty station in the continental United States or Alaska.".

(b) The amendment made by subsection (a) shall become effective on October 1, 1980.

REMOVAL OF PROHIBITION AGAINST PAYMENT OF FAMILY SEPARATION ALLOWANCE TO LOWEST FOUR PAY GRADES

SEC. 314. (a) Section 427(b) of title 37, United States Code, relating to family separation allowance, is amended by striking out in the first sentence thereof "(other than a member in pay grade E–1, E–2, E–3, or E–4 (4 years' or less service))".

(b) The amendment made by subsection (a) shall become effective on October 1, 1980.

AMENDMENTS TO CHAMPUS PROGRAM TO AUTHORIZE IMMUNIZATIONS FOR CHILDREN UNDER TWO YEARS OF AGE; TO AUTHORIZE ROUTINE CARE OF NEWBORN; TO AUTHORIZE WELL-BABY CARE; AND TO INCREASE GOVERNMENT'S SHARE OF COSTS

SEC. 315. (a) Section 1079 of title 10, United States Code, relating to contracts for medical care for spouses and children, is amended—

(1) by striking out the semicolon at the end of clause (2) of subsection (a) and inserting in lieu thereof a comma and the following: "except that immunizations may be provided children under two years of age;";

(2) by striking out "routine care of the new born, well-baby care, and" in clause (3) of subsection (a); and

(3) by striking out "$350" in clause (2) of subsection (e) and inserting in lieu thereof "$1,000".

(b) The amendment made by subsection (a) shall become effective October 1, 1980.

DENIAL OF BENEFITS TO PERSONS WHO FAIL TO COMPLETE AT LEAST TWO YEARS OF AN ORIGINAL ENLISTMENT

SEC. 316. (a) Section 505 of title 10, United States Code, relating to enlistment qualifications is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision of law, any enlisted member of a regular component of the armed forces who fails to complete at least twenty-four months of such person's period of original enlistment shall not be eligible for any right, privilege, or benefit for which persons become eligible by reason of serving on active duty in the armed forces if the claim for the eligibility of such person for such right, privilege, or benefit is based upon any period of service performed by such person under such enlistment, unless such member was discharged under section 1173 or chapter 61 of this title or unless it is later established that such person is suffering from a disability which resulted from an injury or disease incurred in or aggravated during the period of the enlistment completed by such member and is not the result of the member's intentional misconduct and was not incurred during a period of unauthorized absence.".

(b) The amendment made by subsection (a) shall be effective in the case of persons who enlist in the armed forces on or after the date of enactment of this Act.

ONCE A YEAR ADJUSTMENT OF RETIRED PAY AND RETAINER PAY TO REFLECT CHANGES IN THE CONSUMER PRICE INDEX

SEC. 317. (a) Section 1401a(b) of title 10, United States Code, relating to adjustment of retired pay and retainer pay to reflect changes in the Consumer Price Index, is amended to read as follows:

"(b) Each time that an increase in annuities is made under section 8340(b) of title 5, the Secretary of Defense shall increase the retired pay and retainer pay of members and former members of the armed forces by the same percentage figure by which annuities are increased under such section and the increase in such retired pay and retainer pay shall be effective on the same date as the effective date for the increase in annuities under such section 8340(b). An increase under this subsection shall be applicable in the case of the retired pay and retainer pay of members and former members of the armed forces who become entitled to that pay before the effective date of the increase.".

(b)(1) The amendment made by subsection (a) shall not become effective unless legislation is enacted which provides for a once-a-year adjustment of annuities paid under chapter 83 of title 5, United States Code. In the event such legislation is enacted, such amendment shall become effective with respect to adjustments in the retired pay and retainer pay of members and former members of the armed forces and with respect to the cost-of-living adjustment of annuities paid under the Central Intelligence Agency Act of 1964 for Certain Employees at the same time that the once-a-year adjustment of annuities paid under chapter 83 of title 5, United States Code, becomes effective.

(2) The provisions of paragraph (1) relating to legislation which provides for a once-a-year adjustment of the retired pay and retainer pay of members and former members of the armed forces shall be applicable to cost-of-living adjustments of the retired pay of commissioned officers of the National Oceanic and Atmospheric Administration and the retired pay of commissioned officers of the Public Health Service.

DELAY OF EFFECTIVE DATE FOR CEILINGS ON NUMBER OF COMMISSIONED OFFICERS ON ACTIVE DUTY AND CIVILIANS EMPLOYED BY THE DEPARTMENT OF DEFENSE

SEC. 318. Section 811 of the Department of Defense Appropriation Authorization Act, 1978 (Public Law 95–79) is amended by striking out "October 1, 1980" in the first sentence of subsection (a)(1) and inserting in lieu thereof "October 1, 1981".

TITLE IV—RESERVE FORCES

AUTHORIZATION OF RESERVE COMPONENT STRENGTHS

SEC. 401. (a) For the fiscal year 1981, the Selected Reserve of each reserve component of the Armed Forces shall be programed to attain an average strength of not less than the following:

(1) The Army National Guard of the United States, 371,300.

(2) The Army Reserve, 204,500.

(3) The Naval Reserve, 87,400.

(4) The Marine Corps Reserve, 33,700.

(5) The Air National Guard of the United States, 94,300.

(6) The Air Force Reserve, 58,800.

(7) The Coast Guard Reserve, 11,700.

(b) Within the average strengths authorized in subsection (a) for fiscal year 1981, each component of the Armed Forces is authorized an end strength of no more than the following numbers of reserve component members serving on full-time active duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve forces:

(1) The Army National Guard of the United States, 10,159.

(2) The Army Reserve, 5,400.

(3) The Naval Reserve, 708.

(4) The Marine Corps Reserve, 67.

(5) The Air National Guard of the United States, 3,207.

(6) The Air Force Reserve, 698.

(c) The average strength prescribed by subsection (a) of this section for the Selected Reserve of any reserve component shall be proportionately reduced by (1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at any time during the fiscal year; and (2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at any time during the fiscal year. Whenever such units or such individual members are released from active duty during any fiscal year, the average strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

BONUSES FOR ENLISTMENT, REENLISTMENT, AND EXTENSIONS IN THE READY RESERVE; SELECTIVE BONUSES FOR RESERVE AFFILIATION AGREEMENT PRIOR TO DISCHARGE OR RELEASE FROM ACTIVE DUTY

SEC. 402. (a) Chapter 5 of title 37, United States Code, relating to special and incentive pays, is amended by adding after section 308c the following new sections:

"§ 308d. Special pay: bonus for enlistment, reenlistment, or voluntary extension in the Ready Reserve of an armed force

"(a) Any eligible person who enlists, reenlists, or voluntarily extends his enlistment in a designated element of the Ready Reserve of an armed force for a period of three or more years may be paid a bonus as provided in subsection (b) of this section.

"(b) Eligibility for and the amount and method of payment of a bonus to be paid under this section be determined under regulations prescribed by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, except that the amount of such bonus may not exceed $600, and the bonus recipient must enlist, reenlist, or voluntarily extend in an element of the Ready Reserve other than the Selected Reserve.

"(c) A person who fails to participate satisfactorily in the designated element of the Ready Reserve in which he enlists, reenlists, or extends shall refund to the United States an amount which bears the same ratio to the amount of the bonus paid to such person as the unserved period of the enlistment, reenlistment, or extension bears to the total period of enlistment, reenlistment, or extension for which the bonus was paid.

"(d) An obligation to reimburse the United States as provided in subsection (c) is a debt owing to the United States for all purposes.

"(e) A discharge in bankruptcy under title 11 shall not release a person from an obligation to reimburse the United States required under subsection (c) of this section if the final decree of the discharge in bankruptcy was issued within a period of five years after the last day of the period which such person had agreed to serve under the enlistment, reenlistment, or extension for which a bonus was paid under his section. This subsection applies to any proceeding in bankruptcy which begins after September 30, 1980.

"(f) No bonus may be paid under this section to any person for an enlistment, reenlistment, or voluntary extension of an enlistment in the Ready Reserve after September 30, 1981.

"§ 308e. Special pay: bonus for reserve affiliation agreement

"(a) Under regulations prescribed by the Secretary of Defense, the Secretary of a military department may pay a reserve affiliation bonus to any person who is serving on active duty and has 180 days or less remaining of his active duty obligation, or who has served on active duty for any period of time and was discharged or released from such active duty under honorable conditions, and who—

"(1) is eligible for reenlistment or for an extension of his active duty service;

"(2) holds and is qualified in a military specialty approved by the Secretary of Defense;

"(3) has a grade for which there is a vacancy in the reserve component in which such person is to become a member;

"(4) is not affiliating in a reserve component to become a Reserve, National Guard, or Air National Guard technician;

"(5) enters into a written agreement with the Secretary concerned to serve as a member of the Selected Reserve of an armed force for the obligated period of reserve service such member has remaining or, if on active duty, will have remaining at the time of his discharge or release from active duty; and

"(6) meets all the other eligibility requirements for becoming a member of the Selected Reserve of the Ready Reserve of an armed force.

"(b)(1) The amount of the bonus paid to any person under this section shall be an amount determined by multiplying $25 times the number of months of reserve obligation such person has remaining or, if on active duty, will have remaining at the time of his discharge or release from active duty.

"(2) In the case of a person who has, or at the time of discharge or release from active duty will have, eighteen months or less reserve service obligation remaining, the Secretary concerned may pay the total amount of the bonus at the time such person signs his reserve affiliation agreement. In the case of a person who has, or at the time of discharge or release from active duty will have, more than eighteen months of such service remaining, the Secretary concerned may pay one-half of the bonus at the time such person signs his reserve affiliation agreement and the remaining one-half on the date of the fifth anniversary of such person's original enlistment or call to active duty.

"(c) In no case may a bonus be paid in whole or in part under this section to any person who has more than 180 days remaining on his active duty service obligation.

"(d) A person who fails to participate satisfactorily in the Selected Reserve in which such person agrees to serve shall refund to the United States an amount which bears the same ratio to the amount of the bonus paid to such person as the period which such person failed to serve satisfactorily bears to the total period for which the bonus was paid.

"(e) An obligation to reimburse the United States as provided in subsection (d) is a debt owing to the United States for all purposes.

"(f) A discharge in bankruptcy under title 11 shall not release a person from an obligation to reimburse the United States required under the terms of an agreement described in subsection (a) of this section if the final decree of the discharge in bankruptcy was issued within a period of five years after the last day of the period which such person had agreed to serve. This subsection applies to any proceeding in bankruptcy which begins after September 30, 1980.

"(g) No bonus may be paid under this section to any person for a reserve obligation agreement entered into after September 30, 1981.".

(b) The table of sections at the beginning of chapter 5 of such title is amended by inserting below the item relating to section 308c the following new items:

"308d. Special pay: bonus for enlistment, reenlistment, or voluntary extension in the Ready Reserve of an armed force.

"308e. Special pay: bonus for reserve affiliation agreement.".

(c) The amendments made by this section shall become effective on October 1, 1980.

EXTENSION OF RESERVE RECRUITMENT INCENTIVES

SEC. 403. (a) Section 2135 of title 10, United States Code, relating to the educational assistance for enlisted members of the Selected Reserve, is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1985".

(b) Section 308b(g) of title 37, United States Code, relating to reenlistment bonuses for members of the Selected Reserve, is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1985".

(c) Section 308c(f) of title 37, United States Code, relating to bonuses for enlistment in the Selected Reserve, is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1985".

TITLE V—CIVILIAN PERSONNEL

AUTHORIZATION OF END STRENGTHS

SEC. 501. (a) For the fiscal year 1981, the Department of Defense is authorized an end strength for civilian personnel as follows:

(1) The Department of the Army, 354,545.

(2) The Department of the Navy, including the Marine Corps, 309,245.

(3) The Department of the Air Force, 238,620.

(4) Activities and agencies of the Department of Defense (other than the military departments), 78,640.

(b) In computing the authorized end strength for civilian personnel there shall be included all direct-hire and indirect-hire civilian personnel employed to perform military functions administered by the Department of Defense (other than those performed by the National Security Agency) whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth such as the stay-in-school campaign, the temporary summer aid program, and the Federal junior fellowship program and personnel participating in the worker-trainee opportunity program. Whenever a function, power, duty, or activity is transferred or assigned to a department or agency of the Department of Defense from a department or agency outside of the Department of Defense, or from another department or agency within the Department of Defense, the civilian personnel end strength authorized for such departments or agencies of the Department of Defense affected shall be adjusted to reflect any increases or decreases in civilian personnel required as a result of such transfer or assignment.

(c) When the Secretary of Defense determines that such action is necessary in the national interest, he may authorize the employment of civilian personnel in excess of the number authorized by subsection (a) of this section but such additional number may not exceed 1¼ per centum of the total number of civilian personnel authorized for the Department of Defense by subsection (a) of this section. The Secretary of Defense shall promptly notify the Congress of any authorization to increase civilian personnel strength under the authority of this subsection.

(d) During fiscal year 1981, the Secretary of Defense shall manage the manpower resources of the Department of Defense in a manner that will insure that functions of the Department of Defense involving maintenance, construction, engineering acquisition, or repair activities will be provided civilian manpower resources sufficent to fulfill the work requirements for which funds have been appropriated, on a schedule consistent with the requirements of national security and military readiness.

TITLE VI—MILITARY TRAINING STUDENT LOADS

AUTHORIZATION OF TRAINING STUDENT LOADS

SEC. 601. (a) For the fiscal year 1981, each component of the Armed Forces is authorized an average military training student load as follows:

(1) The Army, 53,128.

(2) The Navy, 64,545.

(3) The Marine Corps, 21,393.

(4) The Air Force, 46,238.

(5) The Army National Guard of the United States, 7,177.

(6) The Army Reserve, 6,880.

(7) The Naval Reserve, 953.

(8) The Marine Corps Reserve, 3,144.

(9) The Air National Guard of the United States, 1,930.

(10) The Air Force Reserve, 1,139.

(b) In addition to the number authorized in subsection (a), each component of the Armed Forces is authorized a military training student load to be utilized solely for one station unit training of not less than the following:

(1) The Army, 18,890.

(2) The Army National Guard of the United States, 6,839.

(3) The Army Reserve, 2,468.

(c) The average military training student loads for the Army, the Navy, the Marine Corps, and the Air Force and the reserve components authorized in subsection (a) for fiscal year 1981 shall be adjusted consistent with the manpower strengths authorized in titles III, IV, and V of this Act. Such adjustment shall be apportioned among the Army, the Navy, the Marine Corps, and the Air Force and the reserve components in such manner as the Secretary of Defense shall prescribe.

EXTENSION OF AUTHORITY FOR SUBSISTENCE ALLOWANCE FOR MARINE CORPS PLATOON LEADER CLASSES

SEC. 602. (a) Chapter 3 of title 37, United States Code, relating to basic pay, is amended by adding at the end thereof the following new section:

"§ 210. Marine Corps officer candidate program: subsistence allowance

"(a) Except when serving on active duty, a member of the armed forces enrolled in a Marine Corps officer candidate program which requires a baccalaureate degree as a prerequisite to being commissioned as a regular or reserve officer, and who is not enrolled in a program under section 103 of title 10 or is not a cadet or midshipman in a service academy established under chapter 403, 603, or 903 of title 10, may be paid a subsistence allowance at the same rate as that prescribed under section 209(a) of this title for a member of the Senior Reserve Officers' Training Corps selected for advanced training under section 2104 of such title

"(b) No subsistence allowance may be paid under subsection (a) of this section for any period after September 30, 1982.".

(b) The table of sections at the beginning of chapter 3 of such title is amended by adding at the end thereof the following new item:

"210. Marine Corps officer candidate program: subsistence allowance.".

(c) Public Law 92-172 (85 Stat. 491; 37 U.S.C. 209 note) is repealed.

TITLE VII—WAR-RELATED CIVIL DEFENSE

AUTHORIZATION FOR APPROPRIATIONS

SEC. 701. There is authorized to be appropriated for fiscal year 1981 for the purpose of carrying out the provisions of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251-2297) the sum of $114,500,000.

REQUIREMENT FOR MATCHING FUNDS FOR CONSTRUCTION OF EMERGENCY OPERATING CENTERS

SEC. 702. Title II of the Federal Civil Defense Act of 1950 (50 App. U.S.C. 2281-2286) is amended by adding at the end thereof the following new section:

"SEC. 206. Notwithstanding any other provision of this Act, funds appropriated to carry out this Act may not be used for the purpose of constructing emergency operating centers (or similar facilities) in any State unless such State matches in any equal amount the amount made available to such State under this Act for such purpose.".

TITLE VIII—GENERAL PROVISIONS

TRANSFERS OF FUNDS FOR SELECTIVE SERVICE SYSTEM

SEC. 801. (a) Notwithstanding any other provision of law, funds appropriated to the Department of Defense shall be made available to the Director of Selective Service in such amounts as may be necessary, but not in excess of $13,300,000, to meet expenses in connection with the registration of male persons under the Military Selective Service Act during the fiscal year beginning October 1, 1979.

(b) The Secretary of Defense shall transfer from funds appropriated to the Department of Defense to the Director of Selective such amounts, not to exceed $13,300,000, as the Director may request for use during the fiscal year beginning October 1, 1979. Funds shall be transferred by the Secretary of Defense from such account or accounts of the Department of Defense as the Secretary shall specify.

(c) This section shall not constitute authority for enactment of new budget authority in fiscal year 1980.

EXEMPTION OF CERTAIN CONTRACTS FROM PROFIT LIMITATION PROVISIONS OF TITLE 10, UNITED STATES CODE

SEC. 802. (a) Notwithstanding the provisions of any contract or agreement to the contrary, the provisions of sections 2382 and 7300 of title 10, United States Code, relating to excess profits on contracts for the construction or manufacture of aircraft and naval vessels and parts thereof, shall not apply to any contract or subcontract the performance of which was completed during the period beginning on October 1, 1976, and ending on September 30, 1981.

(b) Neither the Department of Defense nor the Internal Revenue Service may require any report under section 2382 or 7300 of title 10, United States Code, before October 1, 1981; and neither the Department of Defense nor the Internal Revenue Service may promulgate any regulation which provides for the implementation of either or both such sections before October 1, 1981.

ALLIED COMMITMENTS REPORT

SEC. 803. (a) The Secretary of Defense shall submit a report to the Congress each year at the time of submission of the budget for the Department of Defense describing the degree to which the United States and its North Atlantic Treaty Organization (NATO) allies have met, in the preceding fiscal year, the 3 percent annual real growth commitment to NATO defense and their commitments to accomplishment of the NATO Long Term Defense Program. Such report shall include a description of efforts being made by the United States to ensure that all members of NATO fulfill these mutual defense commitments.

(b) The Secretary shall also include in the report described in subsection (a) a description of the defense cost-sharing arrangements within NATO and with Japan, and a report on comparative spending by the United States, its NATO allies, and Japan expressed on a per capita basis, together with an explanation of any disparities in such spending. The Secretary shall include in such report an explanation of any measures being undertaken by the United States to equalize the sharing of defense burdens with its NATO allies and Japan.

(c) It is the sense of Congress that the President should seek, through appropriate bilateral and multilateral arrangements, reasonable and adequate contributions from nations in which substantial United States forces are stationed and operate if such nations do not now adequately contribute to the direct payment of the costs of operations and support of United States forces and the host-nation support program.

PROVISION OF ADDITIONAL FUEL AND LUBRICANTS TO CIVIL AIR PATROL; REIMBURSEMENT FOR CERTAIN MAINTENANCE EXPENSES; AND CIVIL LIABILITY

SEC. 804. (a) Section 9441(b) of title 10, United States Code, relating to support of the Civil Air Patrol by the Air Force, is amended—

(1) by striking out the semicolon at the end of paragraph (3) and inserting in lieu thereof the following: ", including unit capability testing missions and training missions;";

(2) by striking out "and" at the end of paragraph (6);

(3) by striking out the period at the end of paragraph (7) and inserting "; and" in lieu thereof; and

(4) by adding at the end thereof the following new paragraph:

"(8) authorize the payment of aircraft maintenance expenses relating to operational missions, unit capability testing missions, and training missions.".

(b)(1) Section 9441(c) of such title is amended by striking out the period and inserting in lieu thereof the following: ", and for purposes of determining the civil liability of the Civil Air Patrol or any member thereof with respect to any act or omission committed by the Civil Air Patrol or any member thereof in fulfilling such mission, the Civil Air Patrol shall be deemed an instrumentality of the United States Government.".

(2) The amendment made by paragraph (1) shall be effective with respect to all services of the Civil Air Patrol provided to the Department of the Air Force before the date of enactment of this Act as well as to such services provided on and after such date.

Mr. STENNIS. Will the Senator from West Virginia yield to me for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. STENNIS. First, I want to thank the Senator for laying down this bill. I think it is a very wise thing for the leaders to have decided to do that.

Mr. President, this is the military procurement bill for fiscal 1981, which includes the major parts, all the parts, hardware, research and development, manpower and related matters. It is a large bill. There is more money in it than has ever before been, I think, in any other bill.

It launches the beginning of new programs, or additional programs, in the fields of weaponry, and has been thoroughly put together by the entire committee participating.

We prided ourselves in really going to the bottom as far as we could, and all the major phases of it, and had many rollcalls, more than the average, and many other votes by a show of hands, more hearings, about twice the volume of hearings as is ordinarily held, extending over about double the period of time.

But it is not free. It is not entirely free of amendments, which we welcomed, really, in a way. They are part of the constitutional process.

There is going to be debate over some of these policy changes, and about weaponry, even about manpower. So it is going to take some time, at the very best, for us to dispose of that bill with everyone working together.

I hope that as soon as the leaders

think it is right, I will, along with others, clarify the sentiment for controlled time. I think if we do not have controlled time for major parts of the bill, we will be unable to take care of it next week. But with an effort, coordinated in that way, we will have a good chance.

I am compelled, Mr. President, to say that I am afraid if we do not pass this bill next week, by the time we get back from the recess there will be so many things having intervened and so much activity going on by the service, by various individuals and other manufacturers, and they have a right to stir around to a degree, but it would be well for us to come in and make a judgment on it.

Then it has to go to conference, then to come back here for final affirmation, and the appropriations hearings held, but the markups have not been completed.

It will have to go through virtually the same process again.

Mr. President, I say that only to consider that from the end of the July recess until the beginning of the August recess, that is the time between conventions, if we do not finish this bill before we leave here next week, it is entirely possible that so many other things will have come in that we could fail to get it finished during the 2 weeks we are here, and those 2 weeks are certainly needed for the conferees to work on the bill.

Otherwise, we would have to wait after we come back from the August recess to finish up this bill, and the conferees to finish it up before the appropriation can move.

I am not trying to present a dark picture that is not realistic.

So I emphasize my appreciation to the leaders for whatever they can arrange. We members of the committee, without exception, will cooperate and will be ready and will be here. We would be willing to agree to a limitation of time—if not at the beginning, then a little later.

Mr. EAGLETON. Mr. President, the majority leader has laid down the defense authorization bill as the upcoming order of business and I wish to address some remarks this evening on that important measure.

For the past decade, Pentagon planners have struggled with the challenge of forging a military force capable of successfully encountering hostile forces in a "one-and-a-half" war scenario. Under such a scenario (the projected threat), the United States must be prepared to fight a major war with the Soviet Union in Europe while simultaneously engaging a lesser foe in some other region of the world. Given the acknowledged deteriorating readiness of our conventional Armed Forces, it is appropriate to question our ability to fight the so-called "half" war.

Since the United States first achieved superpower status, we as a nation have had a tendency to look to technological achievements in strategic weapons development as the sole measure of our military might. We have too long relied on our nuclear stockpile to provide the military muscle necessary to maintain world order and peace. As we have learned from the Iranian crisis, however, there are limitations to the leverage that a massive strategic arsenal offers.

The recent failure of the hostage rescue attempt has highlighted growing congressional concern over Pentagon efforts to maintain our less glamorous yet essential conventional forces.

I am one who agrees with those defense experts—former Chairman of the Joint Chiefs General Maxwell Taylor among them—who argue that it is improper to place the greatest emphasis on "forces designed to cope with the least likely threats to our security—a surprise strategic attack on the United States or a massive aggression by the Warsaw Pact against NATO." The implication being that far more likely a challenge to our national security comes from the growing tensions in the Persian Gulf region.

As so often the case in the past, this year's debate over the defense spending has thus far glossed over documented deficiencies in our conventional force structure and been dominated by those who evaluate defense posture in terms of aircraft and ship count.

A good "for instance" is the recent Senate Armed Services Committee action to increase the authorization for aircraft procurement in the coming year by $1.9 billion—allowing for a buy of 59 planes in addition to the 466 requested by President Carter. This comes at a time when, as Secretary of Defense Brown testified before the House Appropriations Defense Subcommittee, the overall readiness rate of tactical aircraft often hovers at about 50 percent. Loosely translated, this says that without sufficient warning, some 1,700 of the tactical aircraft now in our inventories would be inefficient or ineffective if suddenly needed. In a world where turbulence is the order of the day, such a grim assessment is cause for serious concern.

There are numerous factors that contribute to low operational readiness rates. Two key factors in the case of tactical aircraft are equipment maintenance and spare parts availability. Despite the $1 trillion pumped into the Pentagon over the past decade, these programs remain woefully underfunded.

Secretary Brown expressed his concerns in a recently published confidential memorandum. In February, Brown wrote:

> During peacetime, underfunding of depot maintenance . . . reduces the availability of operational aircraft despite low operating tempos.

He pointed out that the backlog in the Navy's aircraft maintenance program has grown in 3 years from $60.3 to $284.1 million, and the Air Force backlog from $67.7 to $196.1 million. Such a trend, allowed to continue unabated, threatens our ability to maintain a credible deterrent. The swiftest and surest means of enhancing military air capabilities is to revitalize our inventories and resist the temptation to divert required funding to procurement programs. Increasing spare parts inventories is deserving of the same priority treatment.

In his memo, Brown pointed out that inadequate inventories of spares requires cannibalization of aircraft and the drawing down of war reserves, especially in the case of the more complex aircraft.

> Cannibalization is a particularly inefficient use of resources in which increasingly scarce, highly-skilled manpower is wasted on the removal and reinstallation of two pieces of equipment instead of one, and aircraft bought to fight the enemy are turned into grounded "hangar queens." Drawing down war reserves to maintain peacetime activity rates can be extremely dangerous particularly since the drawdown tends to be greatest in precisely those parts we would need most in wartime.

Maintenance programs require and must receive an increased share of our limited defense dollars.

Another crucial threat to our efforts to maintain a first-rate defense posture is declining manpower resources. The problem is not simply a matter of recruitment. Scuttling the All-Volunteer Force and returning to the conscriptive service will not in itself enhance force readiness. At issue is the alarming exodus of our skilled and experienced personnel from military service.

Statistically, the Defense Department reports achieving 99 percent of its recruitment goals for the first half of this fiscal year. In contrast, the first-time reenlistment rate of Army personnel is down 8 percent and retention of Air Force pilots with 12 years of experience is down 9 percent. Time magazine, in a recent cover story article, pointed out that the Air Force estimates a pilot with 12 years of experience has received pay, allowances and training worth roughly $4 million. It goes without saying that private air carriers can afford to offer attractive compensation to lure a pilot it does not have to spend an exorbitant sum training.

An example of how the increasing manpower shortage need be included in the congressional decisionmaking process is evidenced in the recent congressional efforts to reactivate the World War II aircraft carrier *Oriskany* and battleship *New Jersey*. While there is no doubt that room can be made in the coming fiscal year defense appropriations bill for the $560 million necessary to overhaul these mothballed giants, the Congress is in no position to guarantee the manning for them.

We can only hope that the Navy can come up with the 4,200 officers and enlisted personnel required to properly staff these vessels. The Navy now estimates it is short 21,000 petty officers alone. If we are not going to seriously address the manpower issue, then there seems to be little use in reviving these sleeping giants.

Since the Congress moved in 1972 to increase military pay to bring it more in line with the level of compensation offered by the private sector, I have spoken to the need for a comprehensive revamping of the total military pay and benefits structure. All too often today you hear the charge that the Congress systematically eliminated the "perks" of military life and that this is the cause of people abandoning military careers. This is not the case. I believe a careful study of the record would show that the money we spend maintaining these outmoded and increasingly more expensive benefits programs has little impact on retention of talented personnel.

To address the alarming exodus of personnel, I would favor paring back benefit programs to free up assets for application to direct compensation accounts. The Nunn/Warner amendment to the Armed Forces personnel management bill, which passed the Senate by a vote of 87 to 1 and would provide military members with $3.2 billion in additional financial incentives over the next 5 years, is a step in the right direction. In addition, I would favor targeting future compensation initiatives toward retention of critical skills. To accomplish this the Congress must give the Secretary of Defense discretionary authority in distributing future pay increases.

If our military forces are to provide the strong military deterrent we require, then the Congress must act swiftly and responsibly to address known deficiencies in our conventional force structure.

Tonight, the Senate begins consideration of the fiscal year 1981 Defense Authorization bill. The action that we take on this measure will be the first test of our determination to reverse the declining readiness posture of our Armed Forces.

One of the more significant steps toward improved readiness this measure proposes is authorization of $1.1 billion to begin development of the rapid deployment forces. Estimated to cost $10 billion in the next 5 years, this force will act as the first-line defender of vital American interests around the world. The requirement for such a force is immediate and it must be met. We must build a responsible force, and we must support it by pre-positioning war materials and securing access to bases in locations where American interests must be protected.

This bill includes enhanced authorization for procurement of spare parts and engines to improve the readiness of our F–15 and F–16 aircraft; $70 million is provided above the President's request. In addition, the amount the committee recommends for procurement of replenishment spares for the Air Force and Navy aircraft exceeds the budget request by $500 million. I commend the committee for this recommendation and I am happy to support them.

As a member of the Senate Appropriations Defense Subcommittee, I will work to secure the necessary funding to support development of the rapid deployment forces and enhanced procurement of desperately needed spares. And, although this bill does not address the issue, I pledge my efforts to the fight to reverse the sagging posture of our equipment and facility maintenance programs.

In one break with the committee, I will join with Senators LEVIN, HOLLINGS, and DOLE in cosponsoring an amendment to restore the 25,000 man reduction that the committee recommends. Whatever the shortcomings of the All-Volunteer Force, I continue to assert that it can and will succeed—if it is properly supported.

Mr. President, today's Washington Post published an article entitled "The Quick-Fix Arms Bill Nobody Wants." Many of the views of its author, George Wilson, parallel the points I have just made and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE QUICK-FIX ARMS BILL NOBODY WANTS

(By George C. Wilson)

The Senate today will take up a Pentagon money bill that would give President Carter $5.8 billion more than he wants for defense. Neither the sponsoring senators nor the Pentagon is very happy about it. The president certainly is not.

The reason is that the bill—providing $51.9 billion for research and weaponry, with another $948 million on top of that for military pay and educational benefits—is largely a product of frustration. Many of the big weapons authorized in it are desperation choices, not the best money can buy.

The Senate Armed Services Committee, reflecting the same impatience that helped propel an equally generous procurement bill through the House recently, serves notice in the bill that it is tired of waiting for the Pentagon to invent the better mousetrap and is settling instead for lesser ones in reach.

Senate frustration is the driving force behind recommendations to spend more than $7 billion on a warmed-over bomber, take missiles out of the warehouse just to have something more lethal pointing at the Soviets, spend $600 million to bring World War II ships out of mothballs and cut the Army by two divisions, Afghanistan or not.

The proposals have been trotted out before, only to be knocked over by the force of logic. But in election year 1980 you must look as if you are doing something now to improve the military balance with the Soviet Union, instead of waiting for technology around the corner.

The procurement bill covers only about one-third of the total defense budget because funds for running the military and building its facilities are contained in separate legislation. But the procurement bill gives the lawmakers their first chance to show they want some weapons built in a hurry to combat the Soviet arms buildup.

The Senate Armed Services Committee proposal for getting a new strategic bomber in the sky is the most dramatic case. The chosen machine is the F111 fighter-bomber, called the TFX in the 1960s when Defense Secretary Robert S. McNamara forced it on the Air Force and Navy—for a while. The Navy TFX is now gathering dust in a museum.

The Armed Services Committee is urging the Senate to approve $91 million as a down payment on a $7.2 billion program to stretch 155 F111s into long-range bombers.

Many supporting senators would rather have the more technologically advanced B1 long-range bomber that Carter canceled in 1977. But they figure something is better than nothing. William J. Perry, Pentagon research chief, warns that this something could well turn out to be nothing. He predicts the Soviets will have a new, lethal air defense installed by the time the stretched F111 is ready to fly in the mid-1980s.

"So it is a very expensive proposal providing us with a very uncertain capability," says Perry of the stretched F111.

The House Armed Services Committee, like its Senate counterpart, also yielded to frustration and impatience. Although preferring the B1, the House settled for a lesser successor called Strategic Weapons Launcher, or Swill. It would carry cruise missiles. The Pentagon does not think Swill is any more worth buying than the stretched F111.

Whether the lawmakers are right or wrong about their bomber selections is debatable. What's not debatable is that the Pentagon has been promising Congress for almost 20 years, to find a bomber worth producing. It never has.

In October 1961, McNamara refused to spend the extra millions Congress had voted to continue production of the B52 and speed development of the new B70. The following March, President Kennedy walked Chairman Carl Vinson (D-Ga.) around the White House garden to talk him out of a bill directing the Air Force to speed extra money on a reconnaissance version of the B70. Then, as now, the Pentagon promised to keep looking for the ideal bomber.

During this long search, the B52s have grown older than their pilots. "Build me a new bomber," pleaded one pilot in a recent letter to Sen. George McGovern (D-S.D.) in which he detailed mechanical problems on his old B52. McGovern, once the leading Senate opponent of the B1, is urging colleagues to approve money for a new bomber, preferably the stretched F111 the Pentagon and many lawmakers, consider a waste of money.

Once again, the Air Force has a bomber on the drawing board that looks better to some experts than anything Congress intends to buy this year. Called the Long Range Combat Aircraft, it would fly high and slow but could be made invisible to enemy radar through highly secret gadgetry. But Congress, tired of looking at futuristic drawings of weaponry, is insisting that the Pentagon start cutting metal on something now.

The same impatience drove the Senate Armed Services Committee to recommend deploying 100 more Minuteman III missiles to add to those at the ready in underground silos.

Pentagon leaders believe this is a bad idea, too. For one thing, they insist that the 100 Minuteman III missiles the committee wants to use are needed for testing purposes. For another, they argue that yanking Minuteman II missiles out of silos and replacing them with the more lethal Minuteman III does not combat the biggest threat of all: Soviet warheads destroying any missile that stands still in a silo. The MX missile in development would move around so it would be harder to hit.

Pentagon civilians also make an impressive argument against the Senate committee's proposal to spend $294 million to bring the battleship New Jersey out of mothballs and $304 million to reactivate the aircraft carrier Oriskany. They contend that the Navy cannot find enough skilled sailors to operate the newer ships already at sea, much less find boiler technicians and other petty officers to operate the old ships once out of mothballs. But the House approved the demothballing and the Senate may do likewise in the "do something" mood that dominates defense decisions this year.

President Carter opposes the bomber ideas as well as bringing the two big ships out of mothballs. But, in the eagerness to keep sending signals of strength to the Soviet Union, he would be reluctant to veto a Pentagon money bill that authorized the unwanted weaponry. The lawmakers seem to sense this, and are emboldened.

This President's desire to send the right signals also has brought him in conflict with several senators he needs most on national security issues. John Stennis (D-Miss.) and Sam Nunn (D-Ga.), to name two, want to cut the Army by 25,000 troops to force it to emphasize quality over quantity. Only by recruiting a larger proportion of high school graduates in the future could the Army get back up to desired strength.

Carter and his allies counter that cutting the Army by two divisions right after the Soviets' Afghanistan invasion would send the world the wrong signal. Besides, they argue, a personnel nightmare would be created as Army planners tried to figure how many troops they had to work with in a given month.

Here again it was frustration with the Pentagon promising but not delivering that impelled the committee to take matters into its own hands, and initiative expected to be more vigorously challenged on the Senate floor today than the recommended "quick fixes" in weaponry.

AMENDMENT NO. 1935

Mr. WARNER. Mr. President, in H.R. 6974—the fiscal year 1981 defense authorization bill, the Committee on Armed Services unanimously adopted two closely related provisions for the purpose of providing a management tool for a Defense function where improved congressional oversight is critically needed. This is the Navy's overhaul and repair program.

PURPOSE OF PROVISION

Section 105(a) provides that beginning next year funds involving major repair work of at least $10 million on ships of 3,000 tons or over must be authorized by law. In addition, detailed information to be available when the funding request is considered will be submitted on cost, manpower utilization, and industrial base issues in connection with these projects.

Section 105(b) which relates only to the *Forrestal* provides that the $95 million advance funds requested in the bill may not be used for a particular shipyard, and that the shipyard assignment for the *Forrestal* may not be designated until the Secretary of the Navy completes and submits to the Congress a study on comparative shipyard costs, types of manpower to be utilized, fleet readiness, and other relevant data, and the Congress is afforded the opportunity of making a judgment on this study when the next funding request for the *Forrestal* is considered.

In effect, what this section requires is that the Congress have before it certain fundamental oversight information when further funds are considered next year for the *Forrestal*.

REMOVAL OF MISCONCEPTIONS

At this point, Mr. President I would like to remove certain misconceptions regarding the scope and intent of this provision.

First, the committee language does not determine in any manner the shipyard assignment for the *Forrestal*.

Second, this language has no impact whatsoever on the U.S.S. *Saratoga*—SLEP No. 1.

Third, the *Forrestal* shipyard assignment is not a public versus private shipyard issue. The Navy needs the industrial base of both resources.

Fourth, this is not a "North versus South" issue which characterized certain of the debate last year on the *Saratoga*.

DISCUSSION

I would emphasize that the committee language does not bind the Congress in any way with respect to actions that might be taken at a future date on the *Forrestal* program. Moreover, the Secretary of the Navy has complete discretion regarding the scope and content of the mandated study.

The issue before the Senate is whether to acquire this critically needed management tool by obtaining this information or proceed as some are urging to approve the money and ask no questions. This section goes to the heart of whether this body is to insist on effective congressional oversight of this program, and the Senate should face this issue head on.

If the Congress is to make a sensible judgment on this program, it must have available the essential information on comparative shipyard costs, manpower utilization, and fleet readiness. It is important to note that the advance funds will be available at all times for planning and long-lead purposes.

As the Senate knows, this four-ship, 10-year total SLEP program, extending each carrier life 15 years, is no small funding matter. Over $2 billion will be expended. The *Forrestal*, the second of these ships, is not scheduled to enter dry dock for about 33 months, until about March 1983, for its 28-month modernization.

NO INFORMATION AT THE PRESENT TIME AND UNADDRESSED ISSUES

Mr. President, none of the information mandated by this section is presently before the Congress.

I wish to refer briefly to these unaddressed issues and indicate the reasons why the Congress should have this oversight information.

COMPARATIVE SHIPYARD COSTS

Mr. President, even with prospective increased naval appropriations, we should continue to make certain that shipbuilding funds are used in the most efficient and economical manner. How can any such judgment be made if there is no information on the relative costs for competing yards?

THE IMPACT OF THE FORRESTAL PROGRAM ON FLEET READINESS

Mr. President, the Senate should be advised as to whether crew personnel of the *Forrestal* will be assigned as a part of the shipyard industrial work force in lieu of civilian personnel when the modernization work is begun on this carrier about March 1983. The Congress is obligated to exercise its judgment on this matter because of the definite prospect of further erosion in the already critical state of fleet readiness if skilled crew personnel are to be diverted from the active fleet and assigned to industrial shipyard work.

FLEET READINESS IMPACT OF SARATOGA CREW ASSIGNMENT

Mr. President, the *Saratoga* issue, decided last year in the Congress, is over. The fact remains, however, that over 1,100 skilled and experienced *Saratoga* crew members will be assigned to the Philadelphia Shipyard industrial workforce. Admiral Hayward testified last year that most all of these men are skilled and over 50 percent are engineering ratings.

Their shipyard assignment can only further diminish the critical state of fleet readiness since they will no longer be available for service in the fleet or essential shore duties. As a result of the *Saratoga* assignment action, the 20,000-man shortage of skilled Navy personnel will be increased by about 5 percent.

What does all this have to do with the *Forrestal*? The issue is whether the assignment experience of the *Saratoga* is to be repeated with the *Forrestal*, and if so, whether Congress is to be advised and have an opportunity to make a judgment on the matter.

How can the Senate exercise its oversight function if it does not even seek the information for determining whether the *Forrestal* assignment will have an impact on fleet readiness? As the Senate well knows, the Chief of Naval Operations has indicated that manpower is the Navy's No. 1 problem. For instance, we know that some of the shortages of the skilled petty officers are now reaching crisis proportion:

Thirty-eight percent of European forward deployed ships are so short of experienced petty officers that ships are arriving in the lowest category of military personnel readiness.

Last year there were reenlistment shortages in 61 percent of the 85 major enlisted skill areas. Less than one-half of the Navy petty officers completing their second reenlistment terms were retained.

When the nuclear carrier *Eisenhower* recently left for a long-term Indian Ocean deployment, almost one of every seven billets was vacant due to a personnel shortage of 735 men.

The 30,000-ton Navy supply ship U.S.S. *Canisto* only recently was unable to go to the Mediterranean with fuel and other supplies because of the lack of 14 skilled petty officers. The ship had on board only 2 of its 9 required boiler tenders and only 6 of the required 13 machinist mates.

These are only examples of the extremely serious, overall condition of the Navy at the present time.

RECENT STATEMENT OF SECRETARY BROWN

I would observe, Mr. President, that within the last few days Secretary Brown has urged the Congress to refuse the funds for reactivating the battleship *New Jersey*, noting that the Navy is hard-pressed to man its existing ships and that this activation would necessitate an additional 1,500 men. I observe with some irony that the Secretary's concern does not extend to the removal of 1,100 skilled seamen from the *Saratoga* to the Philadelphia Navy Shipyard.

POLICY OF ASSIGNING NAVY PERSONNEL TO INDUSTRIAL DUTIES

Mr. President, I would like to raise another policy implication of using skilled crew personnel for industrial shipyard work. Admiral Hayward has only recently supported a return to the draft in view of the Navy's many manpower problems. What is to be our policy, Mr. President, if we are to draft men into the Navy for reassignment to an industrial shipyard to perform what should be considered civilian jobs. Are men to be drafted in the Navy to fill vacancies of skilled personnel who are assigned to industrial shipyards? It is my strong view that the principal purpose of sailors is to man the fleet and be available for combat.

Mr. President, the practice of using men in uniform as military labor is an issue the Congress at some time must address. In the past, in times of strict peace, probably no great harm was done when Navy crew personnel were required to assist in short 3- to 6-month overhaul jobs on their ships. As we all know, times are now different. The Navy is hard pressed even to meet its combat manpower requirements. Moreover, aside from fleet readiness, industrial shipyard assignments cause severe morale problems. This general practice was severely criticized several years ago by the General Accounting Office. Admiral Hayward testified last year to the morale and other problems expected to result from the 1,100 *Saratoga* ship crew assignment. This situation will not be helped by the fact that the *Saratoga* crew will personally subsidize the labor costs at Philadelphia by $73 million, according to the General Accounting Office, which would be the additional cost of a full civilian labor force.

At the same time, we have a constantly declining civilian shipyard industrial base. This entire issue needs careful examination, and the *Forrestal* is the next case in point.

UNFORESEEN INDIAN OCEAN PROBLEM

Mr. President, the Navy's manpower conditions were severe last year. We all know that what has made their resources even more critical is the Indian Ocean crisis which occurred well after the debate on the *Saratoga* last year. There is no way that the Senate last May could have foreseen this current problem. I therefore wish to make it clear that my remarks should not be interpreted as criticizing the action taken last year by the Senate.

SECTION 105(b) WILL CAUSE NO DELAY OR DISRUPTION TO THE FORRESTAL PROGRAM

Mr. President, I would like to respond to the charge that the committee's language will cause delay and disruption to the *Forrestal* SLEP program.

Several members of the Senate have expressed opposition to the *Forrestal* provision charging, mistakenly, that it would cause delay and disruption to the planned overhaul of the U.S.S. *Forrestal*. Those members cite a June 24 letter from the Secretary of Defense which contends that section 105(b) would not permit a shipyard designation for the *Forrestal* overhaul until the fiscal year 1983 authorization bill is enacted.

Mr. President, as the original author of the language of section 105(b), I can assure the Senate as to the intent and meaning of that section. The legislative history is clear. Under the language of section 105(b) the Secretary of the Navy would be permitted to make a shipyard assignment in 1981 after Congress has acted on funds for the *Forrestal* SLEP—funds which will be requested in the fiscal year 1982 budget according to the current administration 5-year shipbuilding plan.

Mr. President, Secretary Brown's letter made an interpretation which is contrary to both the explicit language and the legislative history of section 105(b) and therefore I believe that concern over the matter of delay and disruption is unfounded.

I have responded to Secretary Brown's letter in detail and I ask unanimous consent to have printed in the RECORD at this point Secretary Brown's letter and my letter of response to him on this matter:

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE,
Washington, D.C., June 24, 1980.

Hon. JOHN H. HEINZ III,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HEINZ: I am responding to your letter of June 9, 1980 concerning the possible delay in industrial assignment of *Forrestal* SLEP. The amendment proposed by the SASC contains three major provisions:

(1) Funds authorized for advance procurement are restricted to those procurements which will not result in selection or designation of a particular shipyard for performance of SLEP-related work.

(2) A comprehensive study shall be conducted after enactment of the authorization bill to:

Compare service life extension program (SLEP) execution costs at public versus private shipyards,

Compare the number of Federal civilian personnel, armed forces personnel, and private industry personnel that will be utilized in performing the work at public versus private shipyards,

Evaluate other factors considered significant in selecting an execution site.

(3) The Secretary of the Navy may not designate the execution site until the above study is submitted to Congress and, "Congress has enacted after the date of the enactment of this act, legislation authorizing funds for performance of such work."

Such provisions as these would prevent the Secretary of the Navy from designating the *Forrestal* SLEP execution site until the FY 83 authorization bill (authorizing funds for the completion of the *Forrestal* SLEP) is enacted. This would require delaying designation of the *Forrestal* SLEP industrial activity until a few months before SLEP commencement, far beyond the date necessary to support orderly advance planning for an availability of this size. This action would have the following impact:

(1) The start date of *Forrestal* SLEP would slip significantly past January 1983 and would thus create severe perturbations to fleet operations and maintenance schedules.

(2) Parallel advance planning by all industrial activities under consideration would be required to help minimize the extent of the slip in start date. Such parallel advance planning would require additional FY 81 authorization of approximately $10 million for design work and $3 million for shipchecks. Additional increases in advance planning funds would be required in FY 82 as parallel planning proceeded. Parallel shipchecks by two shipyards also creates additional ship's force support workload.

(3) Ship's force plans for transfers of families from homeport to the SLEP execution site would be held in limbo until the eleventh hour. This would have an adverse impact on morale and retention.

In selecting industrial activity assignments for major ship availabilities (such as the CV SLEPs), the Navy evaluates many factors, not the least of which is a thorough review of shipyard workload impact, both public and private. This is done so that the Navy's decision maximizes both the proper and expeditious accomplishment of work and maintenance of a strong national ship repair mobilization base. Exhaustive review of these factors is in process now in preparation for a decision on *Forrestal's* SLEP assignment.

Accordingly, we oppose the amendment proposed by the SASC. Identical letters are being sent to Senators Biden, Bradley, Roth, Schweiker, and Williams.

Sincerely,

HAROLD BROWN.

COMMITTEE ON ARMED SERVICES,
Washington, D.C., June 26, 1980.

Hon. HAROLD BROWN,
Secretary of Defense,
Washington, D.C.

DEAR MR. SECRETARY: I appreciate the courtesy of receiving a copy of your recent letter to Senator Biden concerning the matter of the *Forrestal* SLEP.

Having read your letter very carefully, I am concerned that your letter is in error and is based on a mistaken interpretation of the meaning and intent of Section 105 of the FY 1981 Defense Authorization bill as reported by the Senate Armed Services Committee.

Your letter interprets Section 105 as preventing a shipyard designation for the *Forrestal* SLEP until the FY 1983 Authorization bill is enacted (i.e. Summer 1982).

This is an inaccurate interpretation and is not supported by the text of the amendment or its legislative history.

The amendment requires that the Secretary of the Navy not designate a site for the *Forrestal* SLEP until a study is submitted to Congress and "Congress has enacted after the date of the enactment of this act, legislation authorizing funds for performance of such work."

The operative phrase is ". . . legislation authorizing funds for performance of such work . . ." and that language is directed to the FY 1982 Defense Authorization bill, not the FY 1983.

The reference to the FY 1982 bill is clear and definitive because, under the current Administration five-year shipbuilding plan submitted to the Congress, funding for "such work" (the performance of the *Forrestal* SLEP) is included in FY 1982. (A copy of the five-year plan as submitted to Congress is attached.)

The legislative history is clear on this matter as is the intent of the author of the amendment and the intent of the Armed Services Committee. There has never been any intent to delay the SLEP program.

I refer you specifically to page 70 of the Committee Report on H.R. 6974 which states:

"The Committee would observe that the recommended approach will permit proper review without program disruption since the FORRESTAL is not scheduled to enter a shipyard until fiscal year 1983."

In summary, this amendment contemplates and intends that a shipyard designation be made in calendar year 1981, provided the mandated report is submitted to the Congress. This would allow a minimum of 17 months prior to a drydock entry of March 1983. This length of time following shipyard assignment has been more than adequate for the SARATOGA which, according to the Navy, is "on schedule".

Since your letter is based on a mistaken interpretation of Section 105, your arguments against this provision are accordingly invalid.

The Defense Authorization Bill may be called up imminently. In fairness to the membership of the Senate and in the view of the inaccuracy of your letter, I urge its immediate retraction.

Sincerely,

JOHN W. WARNER.

Mr. WARNER. Mr. President, I believe that the language and legislative history of section 105(b) is clear.

Nevertheless, in order to remove any doubt that any member of the Senate might have, I intend to offer an amendment to section 105(b) which will explicitly permit a shipyard assignment not later than October 1, 1981.

In this way the issue will be clarified and the Senate will be able to make a judgment on the merits of this matter.

I send to the desk an amendment and ask that it be printed.

SUMMARY

Mr. President, the issues I have discussed clearly point up the need of section 105 and the management tool the mandated information would provide. I urge the Senate to retain this section in order to provide the committee and the Congress with the essential legislative information needed to do our job.

Mr. President, I send the amendment to the desk and ask that it be printed. I also ask unanimous consent that the text of the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

On page 45, line 8, after "and" insert "until the earlier of (A) October 1, 1981, or (B) the date on which".

Mr. STENNIS. Does the majority leader have in mind convening at 10 o'clock on Monday morning?

ORDER FOR RECESS UNTIL 9:45 A.M. ON MONDAY, JUNE 30, 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:45 a.m. on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR HEFLIN ON MONDAY; ORDER FOR CONSIDERATION OF MILITARY PROCUREMENT BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time of the two leaders be reduced to 5 minutes on Monday; that immediately following the recognition of the two leaders under the standing order, Mr. HEFLIN be recognized for not to exceed 15 minutes, after which the Senate resume its consideration of the military procurement bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. So that would be shortly after 10 o'clock.

Mr. STENNIS. I thank the Senator.

This is notice to everyone to be here and to come back to Washington in time. I feel that we will have plenty of cooperation.

Mr. ROBERT C. BYRD. There will be rollcall votes on Monday on this measure.

LEGISLATIVE PROGRAM FOR NEXT WEEK

Mr. ROBERT C. BYRD. Mr. President, the leadership intends to stay in late on Monday and on Tuesday and, if necessary, on Wednesday.

It means I have to forego a trip I am planning to take on Wednesday, but I can do that. I will forego it longer, if necessary, in the interest of the Senate floor work. But we will be in late.

I must say that the reconciliation resolution is a privileged matter, and Senator HOLLINGS will be managing that measure.

Senator LONG, who is chairman of the Finance Committee, has a portion of it to handle. Senator LONG will be here on Monday, and it is his wish that the reconciliation measure be called up Monday so that he can be here and dispose of the segment of that resolution over which he has jurisdiction.

So I will have to have the understanding of the two managers that at some point on Monday, we would set aside the military procurement measure temporarily and go to the reconciliation measure, which is under a time agreement under the law.

Mr. STENNIS. We hope there will be a great deal of cooperation, to make it as brief as possible.

The Senator from Texas is our valuable minority leader.

Mr. TOWER. Mr. President, will the Senator yield so that I may ask a question of the distinguished majority leader?

Mr. STENNIS. I yield.

Mr. TOWER. About how much time does the distinguished majority leader estimate that resolution will take? The only reason I ask is so that we can plan our schedules for that day.

Mr. ROBERT C. BYRD. Under the law, there is 20 hours on a reconciliation measure, but I believe that a motion to reduce that is in order and not debatable.

I should like to verify that, if I may.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

I am told that it should not take—well, I should not say—but I am told that it will not take anywhere near the 20 hours. I hope it can be disposed of in 6 hours, if at all possible.

Mr. TOWER. I ask another question of the majority leader: Is it his intention that we stay here until we complete action on the military procurement bill, even if that means going over into Thursday of next week?

Mr. ROBERT C. BYRD. The Senate will have to stay here until action is completed on the supplemental appropriation bill. I do not know when the conferees will complete action on that, whether they will complete action in time for the Senate to dispose of the conference report on Wednesday or not. If they do not, the Senate will be back in the following week.

So, while the conferees are working on the supplemental, the Senate will stay with this bill. Of course, the longer the supplemental is delayed, the longer the Senate will have to complete action on this bill.

Once the reconciliation measure is disposed of and the airline tax measure—which is a must, in view of the expiration deadline—I do not know of anything else that it would be necessary to dispose of other than the supplemental appropriation.

We will stay with this bill. That does not answer the Senator's question.

Mr. TOWER. No.

Mr. ROBERT C. BYRD. I will stay as late Wednesday night as is necessary to finish the measure. If the measure is not finished Wednesday night and the managers want to come back on Thursday, July 3, and continue working on the bill, it will be fine with me. I will be here; I will come.

Mr. TOWER. My next question is this: Let us say the conferees on the supplemental conference report are in a very harmonious mood and agree very early on Monday afternoon, and the matter goes through the procedure in the House and comes here on Monday evening and we can vote on it on Tuesday morning. Would it be the intention of the distinguished majority leader to stay here after the disposition of the supplemental, to finish action on the military procurement bill, regardless of when action on that measure might be completed?

Mr. ROBERT C. BYRD. It is my intention to stay through Wednesday, if necessary, to complete action on this bill, if that is the wish of the managers of the bill.

Mr. TOWER. I cannot speak for my distinguished chairman, who is my leader in such matters. I am perpared to stay here all night Wednesday, through the day Thursday, or even be here on the Fourth of July. I cannot think of a more appropriate way to celebrate the Fourth of July than to pass the military procurement bill.

So I just wanted to express my willingness that I believe that we should press this matter to a conclusion.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. I must confess my chagrin, because the diligence of the scheduled effort that has been described by the Senator from Texas is one I usually hear from my friend the majority leader.

I hope we would not seriously consider continuing into Thursday and Friday. There are so many plans that it would cause much inconvenience.

I will be here, if that is the will of the Senate, and I will be here the week after if need be. I once had a stronger desire to go to Detroit than I now have. [Laughter.] Nothing much will be lost in that respect.

I hope that Senators on this side will be on notice of the fact that the Senator from Texas wishes to push this matter as long and as hard as he can and that there is a good likelihood we will be here until Wednesday. Before we get into more trouble, why do we not stop it there?

Mr. STENNIS. Mr. President, as a practical matter, I do not think we will have a quorum here beyond Wednesday.

Mr. BAKER. I promised the distinguished managers of this bill that, so far as I am concerned, I will do my dead level best to move this matter along, because I recognize the absolute necessity to finish it as soon as possible. I commend both of them for the good job they have done in bringing this matter to the Senate floor. I hope we can finish it next week.

Mr. STENNIS. That is my point—if we can finish this matter by Wednesday. Otherwise, there is no practical remedy. As I see it, we will not have a quorum.

Mr. ROBERT C. BYRD. I do not think there will be question about having a quorum through Wednesday.

As the distinguished minority leader has pointed out, Senators do have airline schedules to meet, and they have made their arrangements.

However, if the supplemental keeps the Senate around until the following week, we will stay on this measure until the supplemental is passed.

I hope that by having lengthy sessions on Monday and Tuesday—and Wednesday, if necessary—we can complete action on this bill. If we will all try hard to get time agreements on amendments as they come up, or on the overall bill, if possible, it will help.

Mr. TOWER. Mr. President, beyond time agreements, if I might inquire of the distinguished majority leader, will he do everything he can to convince Senators who have amendments that they should bring them up at the earliest opportunity? I do not want to be put in the position of handling a major procurement bill and have that bill put over until after the recess just because it was not convenient for someone to bring up an amendment he wanted to bring up that might not even be of major proportion.

Mr. STENNIS. That is correct.

Mr. TOWER. It might not even be of major proportion but something of interest to him and think that he can delay the final consideration of the bill to suit his own convenience.

I hope that notice could be served that Senators who have amendments to this bill will present them during the early hours of its consideration with the strong suggestion that if we reach late Wednesday afternoon and Senators are not forthcoming with amendments we will go to third reading.

I recognize that we cannot arbitrarily foreclose Senators but neither can we permit Senators to filibuster a bill simply by prevailing on the good nature of the leadership of the chairman or the ranking minority member to postpone consideration of an amendment.

Mr. ROBERT C. BYRD. The Senator is correct. I want to do everything I can possibly do to encourage Senators to do that.

Mr. BAKER. As will I, Mr. President.

Mr. STENNIS. I believe we are on the same track. If we let one Member go off and hold up everything until he gets back I will leave myself.

Mr. ROBERT C. BYRD. We will just have third reading. We cannot hold up this bill until after the July break just because a Member has an amendment and is not around to call it up.

Mr. STENNIS. We are on the same track.

Mr. BAKER. Mr. President, I congratulate both the Senator from Texas and the Senator from Mississippi for their concern about this measure. I pledge to both of them that in concert with the majority leader I will do my deadlevel best to encourage Members to offer their amendments, and Members on this side are on notice as of now that it will be an urgent request for them to do so, to offer their amendments at the earliest possible moment.

Mr. STENNIS. I thank both Senators very much.

Mr. ROBERT C. BYRD. I thank Mr. STENNIS and Mr. TOWER. And action will be taken on this side also to notify Members to be ready to call up their amendments.

Also I wish for my cloakroom determine on Monday, and I suggest that the minority cloakroom also determine as early as possible who has amendments and the nature of the amendments and how much time Senators who expect to call up those amendments would want on the amendment.

Mr. BAKER. Mr. President, I think that is a good suggestion. I will ask our cloakroom personnel to compile an inventory of amendments on this side and if the majority leader is agreeable maybe we could get together midday or early afternoon and explore the possibility of time agreements and a schedule of activities so that we can publish that to our colleagues as soon as possible.

Mr. ROBERT C. BYRD. That is very agreeable.

Mr. STENNIS. These amendments could be filed tonight or any time. I am not going to speak. The Senator from Texas is not going to speak. We can file amendments now.

Mr. TOWER. I just want to associate myself with what my distinguished chairman said earlier about this bill and what has been done with it. I, like he, would withhold my opening statement until Monday.

I commend him on putting together one of the best military procurement bills we have seen around here, I think in some time, and one that I think is of sufficient urgency that we should act on it with dispatch and that we should bring it to final passage virtually unscathed.

We are always willing to consider constructive amendments. This is simply an important bill.

Mr. STENNIS. I thank the Senator from Texas. He certainly had a big part putting this bill together.

Mr. WARNER. Mr. President, will the Senator yield a minute?

Mr. ROBERT C. BYRD. Mr. President, I do not suggest that Members lay down amendments tonight.

Mr. STENNIS. File them.

Mr. ROBERT C. BYRD. File them, yes, but I not suggest any Member call up an amendment tonight because there are Members around who have amendments and I would not——

Mr. TOWER. I do not think there is expectation of either of us that they be called up.

Mr. STENNIS. No.

INTELLIGENCE AUTHORIZATIONS, 1981

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the pending measure be temporarily laid aside for not to exceed 15 minutes and that the Senate proceed to the consideration of Calendar Order No. 920.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not, the purpose of the reservation is to advise the majority leader that this bill, which is the intelligence authorization bill, is cleared for passage on this side with the understanding that there is one amendment and that we are prepared at this time to waive the 3-day rule and proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2597) to authorize appropriations for fiscal year 1981 for intelligence activities of the United States Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Armed Services with amendments.

Mr. INOUYE. Mr. President, I ask that the committee amendments be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, the committee amendments are considered and agreed to en bloc and considered as original text.

The committee amendments agreed to en bloc are as follows:

On page 6, line 17, after "404." insert "(a)";

On page 8, beginning with line 17, insert the following:

(b) the amendment made by subsection (a) shall become effective October 1, 1980.

On page 10, beginning with line 23, insert the following:

SEC. 407. (a) Part III of subtitle A of title 10, United States Code, is amended by adding at the end thereof the following new chapter:

"Chapter 107.—GRANTING OF ADVANCED DEGREES AT DEPARTMENT OF DEFENSE SCHOOLS

"Sec.

"2151. Defense Intelligence School: degree.

"§ 2151. Defense Intelligence School: degree

"Under regulations prescribed by the Secretary of Defense, the Commandant of the Defense Intelligence School may, upon recommendation by the faculty of such school, confer the degree of master of science of strategic intelligence upon graduates of the school who have fulfilled the requirements for that degree.".

(b) The table of chapters at the beginning of subtitle A and of part III of subtitle A of such title are each amended by adding at the end thereof the following:

"107. Granting of Advanced Degrees
at Department of Defense
Schools ------------------- 2151.".

Mr. INOUYE. Mr. President, I have the privilege and honor again this year of presenting legislation to authorize appropriations for U.S. intelligence activities. Annual authorization for intelligence is now established practice, and represents clear evidence that our constitutional responsibilities can be fulfilled in this very sensitive area, while at the same time maintaining the confidentiality necessary for an effective intelligence system.

The Intelligence Authorization Act for fiscal year 1981 authorizes appropriations for those programs and activities of the U.S. Government which serve the intelligence needs of our national policymakers. This includes the Central Intelligence Agency, the National Security Agency, and the Defense Intelligence Agency, the national intelligence activities of the Departments of Defense, State, Treasury, and Energy, the Federal Bureau of Investigation, and the Drug Enforcement Administration.

The committee regards the budget authorization process as a key aspect of effective congressional oversight of U.S. intelligence activities. Thus, again this year, the Budget Authorization Subcommittee conducted a detailed examination of the budget request, which carefully weighed foreign and defense policy needs against the substantive contribution and resource requirements of each of the major intelligence programs. During the course of this review the subcommittee conducted some 25 hours of hearings which included testimony by the Director of Central Intelligence, key Department of Defense officials, and each of the principal program managers.

The decade of the 1980's will place a greater burden than ever on the intelligence community to provide timely, relevant, and unambiguous information to U.S. policymakers. Recent events in the Near East, Africa, Southwest Asia, and Latin America provide clear evidence that events in these and other areas of the Third World are of growing and strategic importance to the United States. Expanding global issues of strategic significance, such as energy, nuclear proliferation, and international terrorism will also place increasing demands on the intelligence system.

At the same time, there is no indication of any lessening of the need to maintain a strong intelligence commitment against our principal adversaries. If anything, competition between the United States and its adversaries is likely to grow during the 1980's which will require an even greater commitment of intelligence resources to adequately cover the military, political, and economic aspects of this challenge.

In the near term, some shifting of focus will be required by the intelligence community in order to be responsive to the policymakers' diversity of interests. Over the longer term, however, a robustness in collection and analytic capabilities must be established if the U.S. intelligence system is to continue to be responsive to the broad range of policy issues with which it will be faced.

Complicating the challenges in the period ahead are the continually changing trends in the target environment with which the intelligence system must keep pace. This will require modernization of selected collection and processing systems that are rapidly becoming obsolete or inefficient.

We must also insure a healthy mix of intelligence capabilities and sufficient redundancy to guard against over-reliance on individual systems that are easily compromised, or may be lost unexpectedly. There are also serious shortages of foreign area specialists and linguists in the workforce, which must be redressed to adequately cope with future analytic needs.

During the past decade intelligence experienced a decline in real dollar terms, and a substantial retrenchment in manpower. Most of the major collection systems in being today are founded on late 1960's technology, and were placed in operation in the early 1970's. In large measure, the intelligence system has been sustaining itself from past capital investments. Manpower has been stretched extremely thin during this period, and important data bases have been allowed to erode. The committee is recommending major investments over the next 5 years to insure the availability of a new generation of systems that will enable the intelligence community to cope with policymakers' needs well into the 1990's. Added investments have also been recommended to increase manpower and expand automation techniques to aid in improving analytic capabilities throughout the community. These investments are considered essential to adequately respond to policymakers' needs in the coming years.

Because of the sensitivity of our intelligence operations, and the potential for compromise by our adversaries, I cannot discuss in open session the details of the committee's recommendations. These have been set forth in a classified committee report which has been made available to any Member under the provisions of Senate Resolution 400.

In conclusion, Mr. President, the American people can be assured that the intelligence community's fiscal year 1981 budget request has been examined just as scrupulously as any other Government program. We are convinced that the budget authority recommended in this bill represents a reasonable balance between needed intelligence capabilities and cost, and that it forms a sound basis to enable intelligence to meet the challenges of the future.

UP AMENDMENT NO. 1361

(Purpose: To strengthen the system of congressional oversight of intelligence activities of the United States)

Mr. HUDDLESTON. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The **PRESIDING OFFICER.** The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON) proposes an unprinted amendment numbered 1361.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert the following:

SEC. . A new section. 407, is added to the Intelligence Authorization Act for Fiscal Year 1981

"SEC. 407. Presidential Findings and Congressional Oversight for Intelligence Activities.—(a) No funds appropriated under the authority of this or any other Act may be expended by or on behalf of the Central Intelligence Agency for operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, unless and until the President finds that each such operation is important to the national security of the United States. Each such operation shall be considered a significant anticipated intelligence activity for the purposes of subsections (b) through (e) of this section.

"(b) To the extent consistent with all applicable authorities and duties, including those conferred by the Constitution upon the executive and legislative branches of the Government, and to the extent consistent with due regard for the protection from unauthorized disclosure of classified information and information relating to intelligence sources and methods, the Director of Central Intelligence and the heads of all departments, agencies, and other entities of the United States involved in intelligence activities shall—

"(1) keep the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives (hereinafter in this section referred to as the 'Select Committees') fully and currently informed of all intelligence activities which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States, including any significant anticipated intelligence activity, except that (A) the foregoing provision shall not require approval of the Select Committees as a condition precedent to the initiation of any such anticipated intelligence activity, and (B) if the President determines it is essential to limit prior notice to meet extraordinary circumstances affecting vital interests of the United States, such notice shall be limited to the chairman and ranking minority members of the Select Committees, the Speaker and minority leader of the House of Representatives, and the majority and minority leaders of the Senate;

"(2) furnish any information or material concerning intelligence activities which is in the possession, custody, or control of any department, agency, or entity of the United States and which is requested by either of the Select Committee in order to carry out its authorized responsibilities; and

"(3) report in a timely fashion to the Select Committee any illegal intelligence activity or significant intelligence failure and any corrective action that has been taken or is planned to be taken in connection with such illegal activity or failure.

"(c) The President shall fully inform the Select Committees in a timely fashion of intelligence operations in foreign countries other than activities intended solely for obtaining necessary intelligence, for which prior notice was not given under subsection (b) and shall provide a statement of the reasons for not giving prior notice.

"(d) The President and the Select Committees shall each establish such procedures as may be necessary to carry out the provisions of subsections (b) and (c).

"(e) The House of Representatives and the Senate, in consultation with the Director of Central Intelligence, shall each establish by rule or resolution of such House, procedures to protect from unauthorized disclosure all classified information and all information relating to intelligence sources and methods furnished to the Select Committees or to Members of the Congress under this section. In accordance with such procedures, each of the Select Committees shall promptly call to the attention of its respective House, or to any appropriate committee or committees of its respective House, any matter relating to intelligence activities requiring the attention of such House or such committee or committees.

Mr. HUDDLESTON. Mr. President, this amendment is identical to Senate bill 2284 which the Senate passed by a vote of 89 to 1 on June 3 of this year. It is a bill that establishes the congressional oversight procedures dealing with our intelligence agencies and relieves the intelligence agencies of some of its reporting requirements under the so-called Hughes-Ryan amendment.

The reason for putting it on this particular bill is that given the kind of legislative year that we all know we have this year this provides a further backup and assuring that the bill will receive consideration in the House of Representatives and will have an opportunity to go to conference and insure final passage.

For that reason and because the bill is identical and to make sure that all of the understandings that prevailed when the bill originally passed will be included in this amendment, I also submit for the RECORD and ask unanimous consent to have printed in the RECORD the floor statements and colloquys that were held during the original discussions of S. 2284 to make sure that all points are clarified in the legislative history of this particular act.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Mr. JAVITS. Mr. President, we have heard from many Members on this issue which is designed to resolve a difficult situation for all of us.

I have been here in executive sessions, closed door sessions, when the ad hoc Committee on Intelligence was chaired by Senator CHURCH, now chairman of the Foreign Relations Committee, of which I am the ranking member, and have shared with my colleagues some of the grief in the premature disclosures of highly secret and sensitive information.

We have all labored over how to deal with these problems, which are in the so-called gray or twilight zone of the Constitution, to wit, there is nothing in the Constitution that says that the President has exclusive possession of intelligence information and there is nothing in the Constitution that says we have.

There is nothing in the Constitution that says he can classify it, or that says we cannot obtain it if he does.

So I, first, have a keen appreciation of the labor which has gone into developing this particular measure which must still be considered interim, because the so-called intelligence charter just turned out to have too many problems to be done with relative celerity, and yet it was necessary to crystallize in some way the practice of the oversight committees.

I agree thoroughly with the need for simplifying that practice. There are some seven committees here that could have had this wrestling match with the executive—and that have had it on many occasions. There are still plenty of open questions on which we do wrestle, like executive privilege and similar matters, with the President.

I have, with the immensely gratifying support of the Senate and the House, been privileged to be the author of the war powers resolution, which dealt with so awesome a matter as war, and the modern way in which we are likely to get into war, as shown by our experience since World War II in dealing with that particular twilight zone problem.

I think we owe a deep debt of gratitude to the members of our Intelligence Committee. Indeed, first, to the leadership for having simplified in Senate Resolution 400 the practices which were rather uncontrolled in this Chamber and in the Senate at large; and, second, for having developed the committee system which they have, and now for the committee having at least taken the first step toward a resolution of these great problems.

My problem arose, also, out of one of those gray areas because today foreign policy is composed of military policy, which is in the hands of the Armed Services Committee, of economic policy, which is heavily in the hands of the Finance Committee and the Banking Committee, and it is also intelligence policy for which we now have a select committee.

To assume that the President is going to decide what we should know and not know makes it very difficult for the Foreign Relations Committee to be in at the "takeoffs" as well as the "landings," which was Arthur Vandenberg's famous expression for characterizing a bipartisan and unified foreign policy.

If we are going to wait for the President to tell us, and if, when we ask, we face a blank wall—even if it is only the blank wall of another committee—the foreign policy of the country will hardly be subject to any great ministrations from the Foreign Relations Committee.

So, earlier today, we had a most interesting discussion with the chairman, Senator BAYH, and the chairman of the relevant subcommittee, Senator HUDDLESTON, on this subject.

I was rather disappointed—although it was the fault of no one, as it turned out—that the ranking minority member, Senator GOLDWATER, who has such rich and ripe experience in this field, was not with us this morning. He had other responsibilities of his own at the time. But I hope that by now—and I say this to my friend and colleague—he may have had an opportunity to be apprised of what has occurred; and I hope he may find it possible to concur with the solutions at which we arrived, which will be disclosed shortly in an agreed-upon colloquy which I hope to have with whoever on the part of the committee—I suppose it will be Senator HUDDLESTON—has been properly empowered in that regard.

Before going into the colloquy, may I say, Mr. President, that one of the great joys in this Chamber is the personal friendships one develops. Notwithstanding how men may think differently, they build up by experience a mutual respect and often a mutual trust which is found among those of the most diverse views. It is an enormous satisfaction to me that I believe I enjoy such a relationship with the distinguished Senator from Arizona, a former candidate, of my party, for President.

The second is that sometimes you can sit down, notwithstanding the politics and our own deeply held views, and have open and frank discussion of our mutual disquiets and have the inestimable privilege of ending it by both parties saying, "I am persuaded."

That is what this colloquy means.

I believe that the Senators who represented the Intelligence Committee persuaded us that their design was to accommodate fully our responsibilities in the Foreign Relations Committee. I believe, from the evidence which I will present shortly, that we persuaded them that, under the circumstances of the measure which is before the Senate, plus the way in which the measure was interpreted in the committee report, we had reason to be disquieted; because the one thing we did not wish to do, and which we then learned—and it was a matter of great satisfaction—that they did not wish to do, was to resolve any substantive constitutional question.

There are some things you cannot resolve. They will continue to be a wrestling match. We have a very vivid example of that in the fact that the President kept to himself the military operation in Iran, and historians will have a great time with that one, notwithstanding the war powers resolution, notwithstanding whatever the Intelligence Committee had a right to expect in disclosures of covert operations or intelligence gathering or whatever it was that was being done in Iran.

So we did not try to do that. What we have tried to do is to perfect—so that we, too, might be able to do our job—the methodology by which they do their work and we do ours.

I am satisfied, and I believe our whole committee is satisfied, that the method we now have chosen, which will be evident from this colloquy, represents a fair, effective, and objective way in which to accomplish the results of simplifying the intelligence relations between the President and Congress—the Senate in this case—and limiting further the opportunities for misadventure, premature disclosure, and so forth.

It will not eliminate them; we know that. But I believe it will limit them further, and we will have to go beyond that and beyond that, considering the sensitivity of what goes on in the world, yet leaving unresolved the fundamental struggle which politically must go on, whatever its ups and downs may be.

I should like to join those colleagues who addressed themselves to this matter, in the hope that we always may be able to settle these affairs ourselves. I believe deeply in the division of powers among the different branches, and I hope very much that less and less will it be necessary for the courts to be our arbiter.

So I welcome this particular resolution of this matter as another stone in that arch, and I hope we always have that profoundly in mind.

With that before us, Mr. President, I should like to engage the manager of the bill in this colloquy.

Mr. President, I am grateful for the opportunity to have an exchange of views and assurances with my colleagues from the Intelligence Committee on several issues raised by S. 2284, the Intelligence Oversight Act of 1980, and its accompanying report language.

In this regard, I direct the Senate's attention to the preambular language of section 501(a) on lines 12–18 of page 173 of the bill, which conditions the obligations in the remainder of the bill as applying only:

"To the extent consistent with all applicable authorities and duties, including those conferred by the Constitution upon the executive and legislative branches of the Government, and to the extent consistent with due regard for the protection from unauthorized disclosure of classified information and information relating to intelligence sources and methods."

I then direct the attention of the Senate to the language on page 4 of the Intelligence Committee report interpreting this portion of the legislation, as follows:

"In general terms, subsection (a) requires the Director of Central Intelligence and the head of each agency involved in intelligence activities to provide information to the two oversight committees. These obligations, however, are conditioned by two separate limitations. The obligations apply: (1) to the extent consistent with all applicable authorities and duties, including those conferred by the Constitution upon the executive and legislative branches of the Government; and (2) to the extent consistent with due regard for the protection from unauthorized disclosure of classified information and information relating to intelligence sources and methods. Consistent with these conditions, the two oversight committees are to be kept fully and currently informed of intelligence activities, including any significant anticipated intelligence activity."

I should like to confirm the following understandings with the leadership of the Intelligence Committee which, to the extent that it might be inconsistent with the language of the report, would supersede such language.

The first preambular clause—which reads "[t]o the extent consistent with all applicable authorities and duties, including those conferred by the Constitution upon the executive and legislative branches of the Government,"—is simply a routine disclaimer that the bill does not purport to change whatever authorities and duties may exist under the Constitution.

A similar disclaimer appeared in section 8d(1) of the war powers resolution. Its purpose is to state an important but accepted fact: That Congress does not have the power to change the Constitution by statute. However, this language should not be interpreted as meaning that Congress is herein recognizing a constitutional basis for the President to withhold information from Congress. We have never accepted that he does have that power, he has never conceded that he does not under certain circumstances, and the courts have never definitively resolved the matter.

But we are leaving that dispute for another day, specifically reserving both of our positions on this issue, and nothing in this statute should be interpreted as a change in that situation. What we are doing is simply legislating under the necessary and proper clause of article I a new arrangement or modus vivendi for the handling of information and consultations between Congress and the intelligence agencies, with both sides reserving their positions on the consitutional issues.

Is that the correct understanding of the meaning and intent of this language? I yield to Senator Huddleston.

Mr. HUDDLESTON. Yes, As the Senator from New York has stated the correct interpretation and meaning.

Mr. JAVITS. With respect to the second so-called limitation contained in the preamble to S. 2284, which reads "to the extent consistent with due regard for the protection from unauthorized disclosure of classified information and information relating to intelligence sources and methods," this standard simply states an obligation that applies equally to both branches, not uniquely or in a superceding manner to the executive branch, despite the fact that the subject of that sentence is specifically the "Director of Central Intelligence and the heads of all departments, agencies, and other entities of the United States involved in intelligence activities." That standard refers, inter alia, to the need for adequate general procedures for the protection of such information in the course of sharing it between the executive branch and Congress, as called for in section 501(c) and (d).

The President and the executive branch are not the superior judge of "due regard" for the protection of sensitive information. The congressional subpena power is not affected by this preambular clause. Where a subpena is not employed, the statute does not compel the committees to accept executive branch determinations as to whether due regard has been afforded. This new statutory authority to afford "due regard" is imposed equally upon the executive and legislative branches.

The legislative branch is not bound by the definition of "due regard" adopted by the executive branch. Information provided to the committee by the executive may be provided by the committee to other committees subject only to the rules of the Senate to protect sources and methods.

Mr. HUDDLESTON. These understandings are correct.

Mr. JAVITS. I thank my colleague.

In addition to these two matters with respect to the preamble of section 501(a), I would like to confirm several other understandings as to the intent of the bill. Section 501(c) appears to provide for the establishment of three separate and distinct sets of procedures for "protecting against the unauthorized disclosure of classified information"—that is, one set which the President establishes unilaterally and one set each by the Senate and House Select Committees.

Moreover, section 501(d) appears to provide for the establishment of two additional and possibly distinct, sets of procedures, one by the full Senate and one by the full House.

In addition, these rules which bind the full Senate and House have to be drawn in consultation with the Director of the Central Intelligence, whereas there is no reciprocal role for the Congress in the unilateral right of the President to set procedures for the executive branch (which nonetheless govern what can be disclosed in the first place.)

Does the consultative role of the Director of Central Intelligence in the framing of Senate and House procedures give a veto to the executive over information that can be passed on to the full Senate and to other committees, and does it give the DCI any role in determining what information in the select committee's possession may "require the attention of" the full Senate or another committee, such as the Foreign Relations Committee?

Mr. HUDDLESTON. The President has no statutory authority under sections 501(c) and (d) or any other reference to procedures to withhold information on the grounds that the procedures of the committees or the Houses are not satisfactory to the President or to the Director of Central Intelligence.

The Congress is required by statute to consult fully and in detail with the Director of Central Intelligence. This is a mandate to the Congress, and does not imply that agreement between the Congress and the executive branch is required. For example, such anagreement is not required for the procedures governing the final sentence of subsection (d).

Mr. JAVITS. My next question——

Mr. GOLDWATER. Mr. President, if I could interrupt my friend, will the Senator yield?

Mr. JAVITS. I yield.

Mr. GOLDWATER. I am attracted to the statement on the Senator's page 6.

On page 6 when the Senator states "protecting against the unauthorized disclosure of classified information," we are having, as the Senator knows, problems with this because we feel, without any real deep investigation, but we have reason to believe that disclosure is coming more from the executive branch than any other side. My question concerns the responsibility of correction in this, and I think we have a great gap in here as to what constitutes correction when sensitive information is released by Members of Congress, the committee, agencies, or the administration. This is what troubles us.

Mr. JAVITS. Mr. President, if I may reply, the very purpose of this particular question and answer was to say that we are, each of us, in terms of rules and regulations, bound only by what we do, each of us, according to our processes and in terms of general law. Then the law will control each or any of us. The reason for this point is that there is introduced here a consultative role for the Director of Central Intelligence that does not mean anything substantive in terms of what we decide we want to do to protect unauthorized disclosure, acting as the Senate or as the House.

I think that is quite consistent with the point the Senator just made.

Mr. GOLDWATER. I realize that, and the point of my question was not to raise any prolonged discussion here but to indicate that I feel there is a definite need in this field for substantive and understood legislation.

Mr. JAVITS. I thank my colleague and I agree.

Mr. TSONGAS addressed the Chair.

Mr. JAVITS. May I go on?

Mr. HUDDLESTON. Yes.

Mr. JAVITS. Mr. President, my next question relates to section 501(b):

Does information reported to the eight-man leadership group under section 501(a) (1)(B) have to be reported to the select committee under 501(b)? Is there anything to prohibit the passing on of information given to the leadership group under 501(a) (1)(B) to the full Senate or, to the Foreign Relations Committee? If information has been withheld from both the select committee and the leadership group (as section 501(b) envisages), can it be withheld on any grounds other than "independent constitutional authority," and, if so, what grounds? If prior notice has been withheld on grounds of "independent constitutional authority" on what basis can the President be compelled to report it subsequently under section 501(b)?

Mr. HUDDLESTON. In the case of prior notice to the eight leaders under section 501 (a)(1)(B), the intent is that the full oversight committees will be fully informed at such time as the eight leaders determine is appropriate. The committee will establish the procedures for the discharge of this responsibility under section 501(c).

Section 501(b) recognizes that the President may assert constitutional authority to withhold prior notice of covert operation, but would not be able to claim the identical authority to withhold timely notice under section 501(b). A claim of constitutional authority is the sole grounds that may be asserted for withholding prior notice of a covert operation. However, as stated in the report, highly senstitive aspects of an operation, such as the identity of an agent, may be withheld prior to implementation of such an operation.

Mr. JAVITS. My last question will be as follows:

It is my understanding that several changes will be made in the language of the report to clarify matters agreed to by the Intelligence Committee. First, on page 6 of the report in the sixth paragraph, the words "or classified information from unauthoried disclosure" shall be deleted. Second, the last sentence in that paragraph shall read: "This statute does not provide a statutory right to withhold information from Congress when subpenaed by Congress."

Finally, on page 12, the fourth full paragraph shall read: "The provisions of subsection (b) are expressly not conditioned upon the preambular clauses that apply to subsection (a)."

Mr. Huddleston. The Senator is correct. I will just say at this point that, speaking for the committee, we appreciate the interest the Senator has manifested in this legislation and the suggestions he has made and his help in working out these changes and these understandings.

So, Mr. President, I ask unanimous consent that these changes just indicated by the Senator from New York be made in a star print of report No. 96–730 on S. 2284.

I also want to state for the record that these answers have been reviewed with the administration, represented by Mr. Lloyd Cutler, Counsel to the President; Mr. Dan Silver, General Counsel of the CIA; and Mr. Frederick Hitz, Legislative Counsel of the CIA, and that the administration agrees with each one and with the changes in the report.

Mr. Javits. Mr. President, I thank my colleague, and I wish to express to him again and to Senator Bayh and their staffs and to Senator Goldwater my deep satisfaction in having been able to work this matter out to our general satisfaction.

The Presiding Officer. Is there objection to the star print? the Chair hears none, and it is so ordered. It needs to be sent to the desk.

Mr. Bayh. Mr. President, will the Senator yield?

Mr. Javits. I yield to Senator Goldwater.

Mr. Goldwater. I want to merely compliment my friend from New York for the usual perceptive way he has gone into this.

You know, Senators sitting here listening to this discussion, and knowing of your feelings in these matters, I am going to repeat a suggestion I have made to you, and I have made to other Members of this body from time to time, that maybe we should consider the fact that the world, with its more rapid movement, involving the United States more and more, that the Senate might be wise to consider the combination of pro forma consolidation of several committees, and I am thinking of Foreign Relations which I cannot believe can operate completely anymore without access to intelligence, the Armed Services Committee which I cannot believe can act in a full and proper way without access to the formation of foreign policy, and vice versa, and I would like to seriously suggest once again, as I have done to the leadership of this body on numerous occasions, that possibly the time has come for one group to consider all of these things or at least three groups to act in a concentrated way when needed so that we can come up with answers faster than having to wait months and months and months for a colloquy to take place on the floor.

Let me end by saying that I say also with a certain knowledge that we are going to have to solve these problems ourselves that come up between the administrative branch and the legislative branch. The courts have adequately proven to me down through the 200 years of our history that they are never going to take that ball in their own court.

I merely make these suggestions again on the floor of the Senate to my friend from New York, together with my thanks for having thought these important matters through and to cause this colloquy.

Mr. Javits. I thank my colleague. I certainly will give, as I always do, the most prayerful consideration to his suggestion, bearing in mind that we have already launched an effort with Armed Services to at long last see what military means it takes to effectuate our foreign policy.

We all owe a debt of gratitude to Henry Bellmon and John Glenn for having initiated that inquiry.

I yield to Senator Bayh 1 minute.

Mr. Bayh. I appreciate the Senator's yielding to me.

I would like to express my appreciation to him for pointing out the delicacy of writing legislation like this and for doing so in a manner that does not send the wrong kind of signals.

I hope this legislation can result in continuing the kind of relationship we have had with the President. I do not need to get into a long discussion, but I must say that I think the President would have been better served if there had not been one exception in his ordinarily forthcoming policy.

Be that as it may, what we are after here is to make sure that Congress, in the words of the Senator from New York and our former colleague, Senator Vandenberg, should be in on the takeoff so that we can be in on a better landing.

I appreciate the way in which he has worked with us to ease his misgivings, in his spirit of cooperation to move this legislation forward, and we are in his debt.

Mr. Javits. I thank my colleague for his remarks and his friendship.

I yield to Senator Moynihan.

Mr. Moynihan. I thank my revered colleague for giving me this moment to express my admiration and awe at the constitutional mastery which he has brought to this complex question, and the great mark of experience which is the prudential judgment that we were not going to resolve a constitutional issue of 2 centuries of pendency, perhaps deliberately left unresolvable, but we were going to make clear what we were not going to do as well as what we were going to do, and he does it with such mastery that it inspires my acknowledgement.

I would like to make one small observation, which is purely obiter, you might say, with respect to the phenomenon of unauthorized disclosure.

I would share his judgment that there can be no unauthorized disclosure by Congress. We are equal branches. But there is a rule of intelligence, which the Senator knows well from his wartime experience, which is that you protect sensitive information by compartmentation. The more important that matter is the fewer persons you want to know about it, and with respect to an executive branch judgment about what can be shared with the Congress we could usefully look at the fact that if only five persons know it, something in the executive branch, they might wish to disclose it to no more than eight here. But if 105 do in the executive branch, adding 15 does not significantly widen that circle.

There are almost mathematical principles upon which you can reach such judgments, and they ought to be pursued.

I just offer that as a thought, but certainly I want to say that this is a better bill because of the Senator's finding, I mean with all the other things you have to do, the energy to do it.

Mr. Javits. I thank my colleague very much.

May I say, however, that we are a collegial body and, hence, the success which the Senator has is properly entrusted to the rulemaking which we now have to do under this measure when it becomes law, both in the House and in the Senate.

But that is the problem for us. We are all equal and we all have the right to know, and that is our duty.

I thank my colleague very much for his kind thoughts.

Mr. Young. Mr. President, I have a question of the manager of the bill. In the past, appropriations committees have had to hide the appropriations for intelligence agencies. In order to do that, we have had to have information about what was being requested. Are we excluded under this bill from knowing the intended purpose of the money requested and the kinds of operations the various intelligence agencies are conducting?

Mr. Huddleston. No, not at all. As a matter of fact, I think the appropriations process now is much more extensive than it has been in previous years.

The Select Committee on Intelligence is, in effect, the authorizing committee and does develop the appropriations in conjunction with the Armed Services Committee and the Appropriations Committee. The Senator, as a member of the Appropriations Committee, is to have access to all information that the Committee on Intelligence has. As a matter of fact, the Intelligence Committee has an affirmative obligation to report to the Senator's committee information that is required by the Senator's committee. And the Senator certainly has, as a member of the Appropriations Committee, the prerogative of requesting from the committee any information that the Senator deems necessary.

Mr. Young. I thank the Senator for that explanation. We in Appropriations do not seek oversight, but we do have to know how the money is being spent.

Mr. Nunn. On the question of tactical intelligence which I made reference to in my remarks, I would like to address a couple of questions to the Senator from Indiana, who is very familiar with this subject, and who, I might add, has been most cooperative with the Armed Services Committee in ironing out any difficulties that we have had, I think, in the last 2 years to have a very smooth working relationship in this area where there necessarily is some overlap.

I note that the bill does not contain any definition of "intelligence activities" over which the bill gives the Intelligence Committee oversight.

Is it a correct understanding that this bill is intended to be, in effect, a legislative embodiment of Senate Resolution 400?

Mr. Bayh. That is accurate; the Senator from Georgia puts his finger right on it. We have been trying to incorporate the definitions and the actual means of implementation of Senate Resolution 400 into the provisions of this bill.

Mr. Nunn. Is it the view of the Senator from Indiana that the definition of intelligence activities contained in Senate Resolution 400 is carried over into this bill and that the term has the same meaning in this bill as it does in Senate Resolution 400?

Mr. Bayh. The Senator from Georgia is accurate.

Mr. Nunn. In other words, there was no intention on the part of the committee to change the scope of that definition so as to include within the meaning of intelligence activities tactical military intelligence having no policymaking function?

Mr. Bayh. As far as this House goes, that is accurate, I say to my friend from Georgia.

I would just like to respond to his thoughtful remarks earlier, if I might, by saying that I think we have shown that it is possible for committees and their members to have common and sometimes overlapping responsibilities, even differing views, and where those responsibilities overlap to work out those differences. It has been a privilege for our committee and for the Senator from Indiana to work with the Senator from Georgia, the Senator from Mississippi, and other members of the Armed Services Committee.

I have no question in my mind but we can continue the same kind of cooperation, based on the same practices that have existed in the past, with the passage of this legislation.

HISTORY OF THE BILL

S. 2284 was introduced on February 8, 1980, as the National Intelligence Act of 1980, by Senator Huddleston, chairman of the Subcommittee on Charters and Guidelines of the Select Committee on Intelligence. The bill was cosponsored by Senator

Mathias, vice-chairman of the Subcommittee on Charters and Guidelines, and by Senator Bayh and Senator Goldwater, chairman and vice-chairman of the Select Committee. It was introduced in the House as H.R. 6588 by Representative Boland, chairman of the House Permanent Select Committee on Intelligence.

Hearings on the bill began before the Select Committee on Intelligence on February 21, 1980. From the outset a principal issue was the provision for congressional oversight of intelligence activities, including modification of the Hughes-Ryan Amendment of 1974 requiring reports on CIA covert operations to as many as eight committees of the Congress. As introduced, S. 2284 repealed that requirement and would have substituted in its place a general provision requiring prior notice to the two intelligence oversight committees and full access by those committees to information concerning all intelligence activities. The Administration initially opposed this provision. While strongly urging the repeal of the Hughes-Ryan reporting requirement, Director of Central Intelligence Stansfield Turner testified that the Administration desired to "continue the current reporting standard under the Hughes-Ryan Amendment by requiring that special activities [covert operations] be reported 'in a timely fashion.' "

In addition to congressional oversight, S. 2284 as introduced would have provided a comprehensive statutory charter for the intelligence community. The Select Committee had held 13 days of hearings in 1978 on an earlier version of the charter, S. 2525, introduced by Senator Huddleston and other Committee members in the 95th Congress. During 1980 the Committee held an additional 9 days of hearings on S. 2284 covering the full range of charter issues. However, at meetings of the Committee held May 1, 6 and 8, 1980, two weeks after the end of these hearings, it was decided to focus on the congressional oversight provision of S. 2284, with other matters to be considered as separate legislation.

During the preceding weeks, an amended version of the congressional consultations with the Administration. Additional language providing for prior notice in extraordinary circumstances to 8 committee and congressional leaders (section 501(a)(1)(B), proposed by Senator Inouye) and for the reporting of significant intelligence failures (section 501(a)(3), proposed by Senator Wallop with modifications by Senator Moynihan) was adopted by the Committee on May 6, 1980. S. 2284, as amended, was approved unanimously by the Committee on May 8, 1980, as the Intelligence Oversight Act of 1980, with a recommendation for favorable action.

With respect to comprehensive charter legislation, the chairman of the Select Committee, Senator Bayh, stated at the May 6 meeting: "There is no question that such a charter is essential to place the intelligence community on the firmest possible constitutional foundation, and the Select Committee is fully committed to carrying that enterprise forward to completion.

POSITION OF THE ADMINISTRATION

The Administration fully supports S. 2284, as reported by the Select Committee on Intelligence with amendments, and the report of the Select Committee thereon.

GENERAL STATEMENT

The purpose of this Act is to place in statute the oversight process that has been in effect since 1976. It is based on the cumulative experience of successive oversight bodies since 1947, but primarily on the experience of the Select Committee on Intelligence since 1976. The language derives from Section 202 of the Atomic Energy Act of 1946, from Senate Resolution 400, May 19, 1976, and from Executive Order 12036, January 26, 1978. The only present statutory provision for intelligence oversight is the Hughes-Ryan Amendment of 1974 (Section 662 of the Foreign Assistance Act of 1961), which requires timely reporting of CIA covert operations to as many as eight congressional committees. This requirement is repealed by Section 2 of this Act, and such operations are expressly included in the provisions of this Act for "significant anticipated intelligence activities."

Section 3 of this Act amends the National Security Act of 1947 to add a new Section 501, Congressional Oversight. Section 501 establishes statutory requirements for congressional oversight of the activities of the intelligence community and for the provision to the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence of information necessary for this purpose. In general terms, subsection (a) requires the Director of Central Intelligence and the head of each agency involved in intelligence activities to provide information to the two oversight committees. These obligations, however, are conditioned by two separate limitations. The obligations apply: (1) to the extent consistent with all applicable authorities and duties, including those conferred by the Constitution upon the executive and legislative branches of the Government; and (2) to the extent consistent with due regard for the protection from unauthorized disclosure of classified information and information relating to intelligence sources and methods. Consistent with these conditions, the two oversight committees are to be kept fully and currently informed of intelligence activities, including any significant anticipated intelligence activity.

The separate amendment to Section 662 of the Foreign Assistance Act of 1961 provides that each CIA covert operation is included as a "significant anticipated intelligence activity" to be reported in advance to the two intelligence committees. This requirement of prior notice of significant activities does not require committee approval as a condition precedent to their initiation. Provision is made for prior notice only to the chairman and ranking minority members of the committees, and to the leaders of each House, if the President determines such limitation is essential to meet extraordinary circumstances affecting vital national interests. Subject to the two conditions under subsection (a), each committee is also to be furnished any information or material concerning intelligence activities which it requests to carry out its authorized responsibilities and to be informed in a timely fashion of any illegal intelligence activity or significant intelligence failure and any creative action that has been taken or is planned.

Subsection (b) requires timely notice to the committees of intelligence operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, for which prior notice was not given under subsection (a), and a statement by the President of the reasons for not giving prior notice.

Subsection (c) provides for the establishment of procedures by the President and by each oversight committee to carry out the foregoing provisions. Subsection (d) recognizes the responsibility of each House to ensure, by rule or resolution, the protection from unauthorized disclosure of sensitive information furnished under this section, and the responsibility of each oversight committee under such procedures to bring to the attention of its respective House, or the appropriate committees, any matter requiring their attention.

Out of necessity, intelligence activities are conducted primarily in secret. Because of that necessary secrecy, they are not subject to public scrutiny and debate as is the case for most foreign policy and defense issues. Therefore, the Congress, through its intelligence oversight committees, has especially important duties in overseeing these vital activities by the intelligence agencies of the United States. Section 501 is intended to authorize the process by which information concerning intelligence activities of the United States is to be shared by the two branches in order to enable them to fulfill their respective duties and obligations to govern intelligence activities within the constitutional framework. The Executive branch and the intelligence oversight committees have developed over the last four years a practical relationship based on comity and mutual understanding, without confrontation. The purpose of Section 501 is to carry this working relationship forward into statute.

SECTION-BY-SECTION ANALYSIS

AMENDMENT TO SECTION 662 OF THE FOREIGN ASSISTANCE ACT OF 1961

"Section 662 of the Foreign Assistance Act of 1961 (22 U.S.C. 2422) is amended by striking out in subsection (a) "and reports, in a timely fashion" and all that follows down through the period in subsection (b) and inserting in lieu thereof a period and the following: 'Each such operation shall be considered a significant anticipated intelligence activity for the purposes of section 501 of the National Security Act of 1947.'."

This amendment repeals the congressional reporting requirement of the Hughes-Ryan Amendment of 1974 which provides that no funds may be expended for any CIA covert operation unless and until the President "reports, in a timely fashion, a description and scope of such operation to the appropriate committees of the Congress, including the Committee on Foreign Relations of the United States Senate and the Committee on Foreign Affairs of the United States House of Representatives." This language is replaced by a requirement that each such operation be considered a "significant anticipated intelligence activity" for the purposes of the new Congressional Oversight provisions. The effect is to limit reporting to the two intelligence oversight committees, as compared with the seven committees that now receive such reports, and also to substitute for "timely" reporting the procedures for prior notice discussed below. These is no change in the Hughes-Ryan requirements for Presidential findings. The waiver which applies during a period of operations initiated under "an exercise of powers by the President under the War Powers Resolution" is repealed.

Section 501(a)—Preambular clause: "Authorities and Duties"

"SEC. 501. (a) To the extent consistent with all applicable authorities and duties, including those conferred by the Constitution upon the executive and legislative branches of the Government . . ."

The first preambular clause is intended to make it clear that the obligations imposed by subsection (a) are to be carried out to the extent consistent with all applicable authorities and duties including those conferred by the Constitution on both the Executive and Legislative branches. There is a recognition that such constitutional authorities and duties of the branches may sometimes come into conflict with one another. Subsection (a) does not prescribe hard and fast requirements for what may be a gray area resulting from the overlap between the constitutional authorities and duties of the branches.

There is no mention in the Constitution of intelligence activities. Whatever constitutional authorities may exist must follow from other constitutionally conferred duties, such as the power of the President to act as Commander-in-Chief and to make treaties with the advice and consent of the Senate, or the power of the Legislature to "provide for the common defense," "to define and punish piracies and felonies committed on the high seas, and offenses against the law of nations," "to declare war, . . . and to make rules concerning captures on land and water," "to make rules for the government and regulation of the land and naval forces," "to make all laws which shall be necessary and proper for carrying into execution . . . all other powers vested by this Constitution in the government of the United States, or in any Department or officer thereof," and to insist that "no money shall be drawn from the Treasury, but in consequence of appropriations made by law."

Nothing in this subsection is intended to expand or to contract or to define whatever may be the applicable authorities and duties, including those conferred by the Constitution upon the Executive and Legislative branches.

Section 501(a)—Preambular clause: "Protection from unauthorized disclosure"

"SEC. 501. (a) . . . and to the extent consistent with due regard for the protection from unauthorized disclosure of classified information and information relating to intelligence sources and methods. . . . "

The clause in Section 501(a) concerning the protection of classified information and intelligence sources and methods from unauthorized disclosure is intended to recognize the shared responsibilities of the Executive and Legislative branches for such protection.

The Administration recognizes that the intelligence oversight committees of the House and Senate are authorized to receive such information. However, it is recognized that in extremely rare circumstances a need to preserve essential secrecy may result in a decision not to impart certain sensitive aspects of operations or collection programs to the oversight committees in order to protect extremely sensitive intelligence sources and methods. This statute does not provide a statutory right to withhold information from Congress when subpoenaed by Congress.

Subsection (d), discussed below, provides expressly for the fulfillment by each House of its responsibilities for the protection of sensitive information from unauthorized disclosure.

Section 501(a)(1)—Informing the Intelligence Committees

"SEC. 501. (a) . . . the Director of Central Intelligence and the heads of all departments, agencies, and other entities of the United States involved in intelligence activities shall—

(1) keep the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives (hereinafter in this section referred to as the 'Select Committees') fully and currently informed of all intelligence activities which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, of entity of the United States, including any significant anticipated intelligence activity, except that (A) the foregoing provision shall not require approval of the Select Committees as a condition precedent to the initiation of any such anticipated intelligence activity, and (B) if the President determines it is essential to list prior notice to meet extraordinary circumstances affecting vital interests of the United States, such notice shall be limited to the chairmen and ranking minority members of the Select Committees, the Speaker and minority leader of the House of Representatives, and the majority and minority leaders of the Senate;

FULLY AND CURRENTLY INFORMED

Under Section 501(a)(1), the intelligence agencies shall have the affirmative duty to keep the two intelligence committees fully and currently informed. The origin of the phrase "fully and currently informed" is the requirement contained in Section 202 of the Atomic Energy Act of 1946. For over thirty years this authority served the information needs of the Joint Committee on Atomic Energy well by assuring it complete and timely notice of actions and policies of the Federal government in the field of atomic energy. The language is also contained in Senate Resolution 400, 94th Congress, and has served the Select Committee well by ensuring that the Committee is informed of intelligence activities in such detail as the committee may require. The responsibility of the Executive here is not limited to providing full and complete information upon request from the committees; it also includes an affirmative duty on the part of the head of each entity to keep the committees fully and currently informed of all major policies, directives, and intelligence activities. The references to "any" department, agency or entity in subsection (a) impose obligations upon officials to report only with respect to activities under their responsibility, subject to the procedures established by the President under subsection (c).

SIGNIFICANT ANTICIPATED INTELLIGENCE ACTIVITIES

Section 501(a)(1) specifically states that the committees will be kept "fully and currently informed . . . of significant anticipated intelligence activities." Such activities include CIA covert operations and, among other things, certain collection and counterintelligence activities. As was stated in the legislative history of S. Res. 400, Report of the Committee on Government Operations, U.S. Senate, to Accompany S. Res. 400, 1976, pages 26–27:

> An anticipated activity should be considered significant if it has policy implications. This would include, for example, activities which are particularly costly financially, as well as those which are not necessarily costly, but which have . . . [significant] potential for affecting this country's diplomatic, political, or military relations with other countries or groups . . . It excludes day-to-day implementation of previously adopted policies or programs.

The Executive branch and the Committee expect to work together, as we have in the past, to delineate the matters covered by this provision.

The intent is that the Committee will indicate to the Executive branch those categories of intelligence activities for which it expects advance information, and that those categories will be discussed fully with the Executive branch. As required by the separate amendment to Hughes-Ryan, CIA operations in a foreign country, other than activities intended solely for obtaining necessary intelligence, are to be considered "significant intelligence activities" for this purpose. It is intended that such intelligence operations abroad by other agencies would also be subject to the prior notice designation. In addition, certain intelligence collection and counterintelligence activities may be included if, for example, they are governed by high-level Executive branch approval requirements similar to those that apply to CIA covert operations. Such collection activities are not, however, subject to the separate provisions of subsection (b), discussed below, for timely notice and a statement of the reasons for withholding prior notice. Any collection activity that has not been designated by the Committee as "significant" or that is not governed by the type of approval requirements applying to CIA covert operations would, of course, be subject to the requirements to keep the Committee "fully and currently informed." Special procedures for handling highly sensitive information in these areas may also be established by each committee under subsection (c).

Prior notification of intelligence activities that affect foreign policy encourages consultation between the branches and offers the possibility that better decisions might be made. In testimony on February 21, 1980 before the Select Committee, Admiral Turner stated that "the actions of both [intelligence] committees in reviewing these covert action findings [have] influenced the way in which we have carried them out." He said further that the influence had been "absolutely" beneficial. Similarly, former Director Colby said in testimony on March 24 that discussion of significant planned activities "enables the Executive to get a sense of congressional reaction and avoid the rather clamorous repudiation which has occurred in certain cases . . . and I think that is a helpful device."

The Executive Branch has argued that the President's "constitutional authorities and duties," mentioned in the preamble, might permit a withholding of prior notice through the exercise of the President's constitutional authority. The Constitution does not specifically address the allocation of powers to the President associated with national security and foreign policy matters beyond such functions as the duties of the Commander-in-Chief and the power of the President to appoint ambassadors. Congress is given the powers to declare war, raise and support armed forces, and make rules and regulations governing their use, and, in the Senate, give advice and consent to treaties and the appointment of ambassadors. Those powers concerning national security and foreign policy are in a "zone of twilight" in which the President and Congress share authority whose distribution is uncertain.[1]

Former DIC Colby has given an example of a rare extraordinary emergency situation when the President might be required to act to defend the vital interests of the nation and there might not be time to provide notice until the plan had begun. Mr. Colby stated:

> I can conceive of a cable arriving in the wee hours of the night which says that you have an opportunity to do something of vast importance. It makes a great deal of sense but . . . the return cable has to go out in a matter of three hours. It will be a little hard in that situation to be able to go through the procedure [of notifying Congress] . . . but to hold it because you couldn't get to the Committee at that point I think would be a mistake.

The requirement to "fully and currently inform" the oversight committees of "any significant anticipated intelligence activity" is intended to mean that the committees shall be informed at the time of the Presidential finding that authorizes initiation of such activity. Arrangements for notice are to be made forthwith, without delay.

Congress, of course, has the power to attach the condition of prior notice to expenditure of funds for intelligence activities. The preambular clause referring to authorities under the Constitution is an indication that a broad understanding of these matters concerning intelligence activities can be worked out in a practical manner, even if the particular exercise of the constitutional authorities of the two branches cannot be predicted in advance.

Section 501(a)(1)(A)—Approval of committees not required for anticipated intelligence activity

Section 501(a)(1)(A) states simply that prior notice is required but "the foregoing provision shall not require approval of such committees as a condition precedent to the initiation of any such anticipated intelligence activity." This intent can be traced to S. Res. 400 where it is expressed in different terms in Section 11(A). During debate on the measure, Senator Howard Baker requested such a proviso to be added: "to make absolutely clear that the inclusion of the words 'including any significant anticipated activities' did not constitute a requirement that the Select Committee either give its consent or approval before any covert action or intelligence activity could be implemented by the Executive branch." Rather, the intent of [including those words] is to require prior consultation between the Committee and the intelligence community, but not prior consent or approval.[2]

---

[1] *U.S.* v. *American Tel. and Tel. Co.*, 567 F 2d 121, 128 (D.C. Cir. 1977). *Youngstown Sheet and Tube Co.* v. *Sawyer*, 343 U.S. 570, 637–638 (1952), opinion of Mr. Justice Jackson.

Section 501(a)(1)(B)—Limited prior notice

Provision has been made in (a)(1)(B) for those rare cases in which the President determines it is essential to limit prior notice to meet extraordinary circumstances affecting the vital interests of the United States. For these cases, the President shall limit prior notice to the Chairmen and ranking minority members of the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence, the Speaker and the minority leader of the House of Representatives, and the majority and minority leaders of the Senate.

The purpose of this limited prior notice in extraordinary circumstances is to preserve the secrecy necessary for very sensitive cases while providing the President with advance consultation with the leaders in Congress and the Chairmen and ranking minority members who have special expertise and responsibility in intelligence matters. Such consultation will ensure strong oversight, and at the same time, share the President's burden on difficult decisions concerning significant activities. This limited prior notice calls only for prior consultation, and in no way suggests prior approval.

Section 501(a)(2)—Access to information

"SEC. 501. (a) . . . the Director of Central Intelligence and the heads of all departments, agencies, and other entities of the United States involved in intelligence activities shall—

* * * * *

(2) furnish any information or material concerning intelligence activities which is in the possession, custody or control of any department, agency or entity of the United States and which is requested by either of the Select Committees in order to carry out its authorized responsibilities;"

Section 501(a)(2) states that agency heads are to furnish the committee any document or information which the agency has in its possession, custody, or control. The purpose of this section is to supplement subsection (a)(1), which requires that the committees be kept fully and currently informed, by permitting the committees to obtain information upon request that is relevant to its authorized responsibilities.

Many of the mandated duties of the Committee do not require access to sources and methods, but some do. In the usual course of the Committee work, the identities of human sources are not needed, nor have they been requested. A hypothetical case would serve to illustrate the point. An ally of the United States has a source highly placed in the cabinet of Ruritania. This ally is willing to give the information to the United States provided that the nature of the source is disclosed to the President and the Director of Central Intelligence only and no one else. The information is of critical importance to the United States. The President therefore would agree to such a condition, and the committees would not seek nor expect to receive the source of such information. However, in the event that the information turned out to be spurious and was actually contrived by the Ruritanian government and caused harm to the United States in some way, the intelligence oversight committees would, in the course of their proper inquiries, have every right to learn the identity of the source. This underlines the general approach of the oversight committee. The right of full access to any intelligence information implies some measure of discretion. It does not mean trucking the entire product of the intelligence community each day to the Committee offices. It does mean, however, that should the Committee believe it necessary, in the conduct of its mandated duties, all the information it desires shall be supplied consistent with subsection (a). The occasions when any information including sources and methods might be sought are almost always confined to abuse or misuse situations or in the case of intelligence failures. The Committee has exercised this authority on a number of occasions over the past five years without any unauthorized disclosure of classified information or sensitive sources and methods.

Section 501(a)(3)—Reports on illegal activities or significant intelligence failures

"SEC. 501. (a) . . . The Director of Central Intelligence and the heads of all departments, agencies, and other entities of the United States involved in intelligence activities shall—

* * * * *

(3) report in a timely fashion to the Select Committees any illegal intelligence activity or significant intelligence failure and any corrective action that has been taken or is planned to be taken in connection with such illegal activity or failure."

Section 501(a)(3) provides that the head of each intelligence agency is to report any intelligence activity that violates any law of the United States, including violation of any Executive Order or Presidential Directive, or significant violation of an entity rule or regulation issued pursuant to law. A report would be made to the intelligence oversight committees upon confirmation of any violation, and would include a description of what corrective action has been taken or is expected to be taken by the entity with respect to such violations.

This requirement parallels similar language in section 11(c) of Senate Resolution 400 for reporting activities which "constitute violations" and in section 3–403 of Executive Order 12036 for reporting activities that "are illegal." It is not intended in any way to affect or alter the responsibilities and practices of the Executive branch for reporting to appropriate authorities, including the Attorney General, evidence of possible violations and activities which raise questions of legality. (See, *inter alia*, sections 1–706, 1–709, 3–102, 3–2, and 3–3 of Executive Order 12036.)

The Director of Central Intelligence and the head of each agency are also to report to the intelligence oversight committees each significant intelligence failure in the work of that entity or for which the entity is responsible; this report would likewise contain a description of any corrective actions which have been taken or which are planned to ensure that such a failure does not recur. Significant failures to be reported would include major errors in analysis and/or prediction, failures in technical collection systems or other clandestine operations, and failures to protect sensitive sources and methods information from unauthorized disclosure.

Section 501(b)—Timely notice

"SEC. 501. (b) The President shall fully inform the Select Committees in a timely fashion of intelligence operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, for which prior notice was not given under subsection (a) and shall provide a statement of the reasons for not giving prior notice."

The Senate Select Committee and the Executive branch and the intelligence agencies have come to an understanding that in rare extraordinary circumstances if the President withholds prior notice of covert operations, he is obliged to inform the two oversight committees in a timely fashion of the action and the reasons for withholding of such prior notice. This requirement retains in full force the current statutory obligation under the Hughes-Ryan Amendment for the reporting of covert operations in a timely fashion to the two oversight committees (but not to other committees). The further requirement of a statement of the President's reasons for not giving prior notice is intended to permit a thorough assessment by the oversight committee as to whether legislative measures are required to whether the President had valid grounds for withholding prior notice and whether legislative measures are required to prevent or limit such action in the future.

The term "intelligence operations in foreign countries, other than activities intended solely for obtaining necessary intelligence," is drawn directly from the Hughes-Ryan Amendment and applies to covert operations abroad by any department, agency, or other entity of the United States. It does not apply to activities intended solely to collect or otherwise obtain necessary intelligence. Collection activities are intended, however, to be covered by the requirements of subsection (a) for informing the committees of "significant anticipated intelligence activities" in the circumstances described previously, as well as by the requirements of subsection (a) for keeping the committees "fully and currently informed of all intelligence activities," for furnishing "any information or material concerning intelligence activities" requested by the committees to carry out their responsibilities, and for reporting illegal intelligence activities and significant intelligence failures.

The provisions of subsection (b) are expressly not conditioned upon the preambular clauses that apply to subsection (a).

Section 501(c)—Presidential and committee procedures

"SEC. 501. (c) The President and the Select Committee shall each establish such procedures as may be necessary to carry out the provisions of subsections (a) and (b)."

The authority for procedures established by the President is based on Executive Order 12036 and is intended to apply to the Executive branch. The President may, for example, prescribe procedures under which certain information is to be furnished by a designated official. Such procedures shall ensure that the oversight committees are fully and currently informed, that they are furnished requested information, and that they receive reports of illegal activities and intelligence failures in accordance with subsections (a) and (b).

The authority for procedures established by the Select Committees is based on the current practice of the committees in establishing their own rules. One or both committees may, for example, adopt procedures under which designated members are assigned responsibility on behalf of the committee to receive information in particular types of circumstances, such as when all members cannot attend a meeting or when certain highly sensitive information is involved.

Section 501(d)—Congressional procedures to protect national security information

"SEC. 501. (d) The House of Representatives and the Senate, in consultation with the Director of Central Intelligence, shall each establish by rule or resolution of such House, procedures to protect from unauthorized disclosure all classified information and all information relating to intelligence sources and methods furnished to the Select Committees or to Members of the Congress under this section. In accordance with such procedures, each of the Select Committees shall promptly call to the attention of its respective House, or to any appropriate committee or committees of its respective House, any matter relating to intelligence activities requiring the attention of such House or such committee or committees."

---

[2] Congressional Record. 94th Congress, 2d session, May 13, 1976, v. 122, p. 7261.

Under the preambular clause in subsection (a), the responsibility of each agency head to inform the intelligence committees is to be carried out "to the extent consistent with due regard for the protection of classified information and intelligence sources and methods from unauthorized disclosure." The Congress recognizes that it has a similar responsibility to that of the Executive branch, to protect national security secrets from unauthorized disclosure. Subsection 501(d) requires both the House of Representatives and the Senate in consultation with the Director of Central Intelligence to establish procedures to protect national security information from unauthorized disclosure. Establishment and implementation of such procedures is intended to ensure consistency with "due regard" for protection of such information. The procedures of both Houses under subsection (d), as well as the procedures under subsection (c), will presumably be worked out with the Executive branch in the same healthy spirit of give-and-take that has prevailed since this Committee began its work in 1976. These procedures will not constitute a "standing subpoena"; in fact, while operating under the provisions of Senate Resolution 400 which also used the phrases "fully and currently informed", "furnish any information", and "significant anticipated activities", the Committee has not once found it necessary to issue a subpoena to obtain information from the Executive branch.

Both the House of Representatives through H. Res. 658, 95th Congress, and the Senate through Senate Resolution 400, 94th Congress, have already established certain procedures to protect national security information or materials provided to them from unauthorized disclosure as called for in subsection (d). The provisions that contribute to effective physical security and sound security practices which would protect against unauthorized disclosure are contained in these resolutions and are envisioned by subsection (d). Under the procedures required by subsection (d), the Select Committee is to call to the attention of the Senate, or any appropriate Senate Committee, intelligence matters requiring its attention.[3] This provision is subject to the security restrictions in the procedures adopted under subsection (d). The relevant sections of Senate Resolution 400 are as follows:

"SEC. 6. No employee of the select committee or any person engaged by contract or otherwise to perform services for or at the request of such committee shall be given access to any classified information by such committee unless such employee or person has (1) agreed in writing and under oath to be bound by the rules of the Senate (including the jurisdiction of the Select Committee on Standards and Conduct) and of such committee as to the security of such information during and after the period of his employment or contractual agreement with such committee; and (2) received an appropriate security clearance as determined by such committee in consultation with the Director of Central Intelligence. The type of security clearance to be required in the case of any such employee or person shall, within the determination of such committee in consultation with the Director of Central Intelligence, be commensurate with the sensitivity of the classifed information to which such employee or person will be given access by such committee.

"SEC. 7. The select committee shall formulate and carry out such rules and procedures as it deems necessary to prevent the disclosure, without the consent of the person or persons concerned, of information in the possession of such committee which unduly infringes upon the privacy or which violates the constitutional rights of such person or persons. Nothing herein shall be construed to prevent such committee from publicly disclosing any such information in any case in which such committee determines the national interest in the disclosure of such information clearly outweighs any infringement on the privacy of any person or persons.

"SEC. 8. (a) The select committee may, subject to the provisions of this section, disclose publicly any information in the possession of such committee after a determination by such committee that the public interest would be served by such disclosure. Whenever committee action is required to disclose any information under this section, the committee shall meet to vote on the matter within five days after any member of the committee requests such a vote. No member of the select committee shall disclose any information, the disclosure of which requires a committee vote, prior to a vote by the committee on the question of the disclosure of such information or after such vote except in accordance with this section.

"(b)(1) In any case in which the select committee votes to disclose publicly any information which has been classified under established security procedures, which has been submitted to it by the executive branch, and which the executive branch requests be kept secret, such committee shall notify the President of such vote.

"(2) The select committee may disclose publicly such information after the expiration of a five-day period following the day on which notice of such vote is transmitted to the President, unless, prior to the expiration of such five-day period, the President, personally in writing, notifies the committee that he objects to the disclosure of such information, provides his reasons therefor, and certifies that the threat to the national interest of the United States posed by such disclosure is of such gravity that it outweighs any public interest in the disclosure.

"(3) If the President, personally in writing, notifies the select committee of his objections to the disclosure of such information as provided in paragraph (2), such committee may, by majority vote, refer the question of the disclosure of such information to the Senate for consideration. The committee shall not publicly disclose such information without leave of the Senate.

"(4) Whenever the select committee votes to refer the question of disclosure of any information to the Senate under paragraph (3), the chairman shall, not later than the first day on which the Senate is in session following the day on which the vote occurs, report the matter to the Senate for its consideration.

"(5) One hour after the Senate convenes on the fourth day on which the Senate is in session following the day on which any such matter is reported to the Senate, or at such earlier time as the majority leader and the minority leader of the Senate jointly agree upon in accordance with section 133(f) of the Legislative Reorganization Act of 1946, the Senate shall go into closed session and the matter shall be the pending business. In considering the matter in closed session the Senate may—

"(A) approve the public disclosure of all or any portion of the information in question, in which case the committee shall publicly disclose the information ordered to be disclosed,

"(B) disapprove the public disclosure of all or any portion of the information in question, in which case the committee shall not publicly disclose the information ordered not to be disclosed, or

"(C) refer all or any portion of the matter back to the committee, in which case the committee shall make the final determination with respect to the public disclosure of the information in question.

"Upon conclusion of the consideration of such matter in closed session, which may not extend beyond the close of the ninth day on which the Senate is in session following the day on which such matter was reported to the Senate, or the close of the fifth day following the day agreed upon jointly by the majority and minority leaders in accordance with section 133(f) of the Legislative Reorganization Act of 1946 (whichever the case may be), the Senate shall immediately vote on the disposition of such matter in open session, without debate, and without divulging the information with respect to which the vote is being taken. The Senate shall vote to dispose of such matter by one or more of the means specified in clauses (A), (B), and (C) of the second sentence of this paragraph. Any vote of the Senate to disclose any information pursuant to this paragraph shall be subject to the right of a Member of the Senate to move for reconsideration of the vote within the time and pursuant to the procedures specified in rule XIII of the Standing Rules of the Senate, and the disclosure of such information shall be made consistent with that right.

"(c)(1) No information in the possession of the select committee relating to the lawful intelligence activities of any department or agency of the United States which has been classified under established security procedures and which the select committee, pursuant to subsection (a) or (b) of this section, has determined should not be disclosed shall be made available to any person by a Member, officer, or employee of the Senate except in a closed session of the Senate or as provided in paragraph (2).

"(2) The select committee may, under such regulations as the committee shall prescribe to protect the confidentiality of such information, make any information described in paragraph (1) available to any other committee or any other Member of the Senate. Whenever the select committee makes such information available, the committee shall keep a written record showing, in the case of any particular information, which committee or which Members of the Senate received such information. No Member of the Senate who, and no committee which, receives any information under this subsection, shall disclose such information except in a closed session of the Senate.

"(d) It shall be the duty of the Select Committee on Standards and Conduct to investigate any unauthorized disclosure of intelligence information by a Member, officer or employee of the Senate in violation of subsection (c) and to report to the Senate concerning any allegation which it finds to be substantiated.

"(e) Upon the request of any person who is subject to any such investigation, the Select Committee on Standards and Conduct shall release to such individual at the conclusion of its investigation a summary of its investigation together with its findings. If, at the conclusion of its investigation, the Select Committee on Standards and Conduct determines that there has been a significant breach of confidentiality or unauthorized disclosure by a Member, officer, or employee of the Senate, it shall report its findings to the Senate and recommend appropriate action such as censure, removal from committee membership, or expulsion from the Senate, in the case of Member, or removal from office or employment or punishment for contempt, in the case of an officer or employee."

---

[3] Inclusion of this provision was specifically requested by the Chairman and Ranking Minority Member of the Committee on Foreign Relations. Letter from Senator Church and Senator Javits to Senator Bayh and Senator Goldwater. Apr. 30, 1980.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. HUDDLESTON. I yield.

Mr. PROXMIRE. Mr. President, the Senator just told the Senate what the vote was on the bill as it passed initially, 89 to 1. I was the one who voted against the bill. I did so without an explanation at that time to the Senate. I did so, however, with the very, very strong feeling that it was a serious mistake. It not only kills the Hughes-Ryan proposal but everyone who carefully reads that bill can see that the reporting to Congress is entirely within the discretion of the head of the CIA and the President.

I feel that was an abdication that I could not possibly accept, but I did not make a fuss about it, of course, when it came up before the Senate. It would not have made any difference, but that was my position, and it is still my position, and I oppose the amendment as I did that time.

Mr. BAKER. Mr. President, I wish to report that on this afternoon I talked with the Senator from Arizona (Mr. GOLDWATER), who is the senior Republican on the Intelligence Committee and its vice chairman. He cannot be present in the Senate Chamber tonight, and he asked me to convey to the distinguished chairman of the committee, the Senator from Indiana, and the chairman of the subcommittee, the Senator from Kentucky, his full concurrence and agreement with this procedure, including the amendment which has just been offered and the insertion of a colloquy as an explanation.

Mr. HUDDLESTON. Mr. President, will the Senator from Indiana yield for just 1 minute?

Mr. BAYH. Yes.

Mr. HUDDLESTON. Mr. President, this amendment is identical to the bill, S. 2284, the Intelligence Oversight Act of 1980, which the Senate passed on June 3 of this year by a vote of 89 to 1. The only difference is a matter of form.

The purpose of the amendment to this annual authorization bill for intelligence activities is to insure that the Congress acts in this session to provide the necessary intelligence oversight authorities for the Intelligence Oversight Committees to carry out the Senate's mandate as expressed in Senate Resolution 400 and by the Senate on June 3 in its 89-to-1 vote. These authorities should be promptly enacted into law either in this amendment form or as passed in S. 224.

It is the expressed, almost unanimous judgment of the Senate that these principles are vital to any legislation that would seek to clarify the procedures for congressional oversight of intelligence activities. There must be comprehensive and balanced provisions that both enhance the strength and security of our intelligence community and insure that the Congress maintains strong and effective oversight of necessarily secret intelligence activities in accordance with the Constitution.

Since this amendment incorporates S. 2284 as passed by the Senate, the legislative history of that bill as found in the Intelligence Committee's report and the floor discussions of June 3, 1980, should be viewed as applicable to this amendment as well. At the time of its passage, questions were raised about the meaning and intent of certain provisions in S. 2284, and about the language of the report which accompanied it.

At that time, a number of clarifications and assurances were given by the leadership of the Intelligence Committee in colloquies with Senator JAVITS, Senator YOUNG, and Senator NUNN, including the assurance of certain changes in the language of the report which were incorporated into a star print. Since both the clarification given on the floor and the changes made in the report are an essential part of the Senate's understanding and intentions in passing this legislation, I ask unanimous consent that the entire text of these June 3 colloquies on S. 2284 and of the substantive portions of the star print of the committee report (S. Rept. No. 96-730) appear in the RECORD at this point and be considered as the authoritative legislative history of this amendment.

I would like to ask unanimous consent that this amendment, which is identical to S. 2284, be added to S. 2597, the Intelligence Authorization Act for Fiscal Year 1981.

Mr. BAYH. Mr. President, this is the fourth annual authorization bill put before the Senate by the Select Committee on Intelligence. It provides the authority for the conduct of intelligence efforts by the United States throughout the world.

The national intelligence system is our first line of defense. In conjunction with our diplomatic efforts, intelligence offers the best means of enhancing our national well-being; advancing our influence in the world; and of protecting the Nation from the dangers of attack, war, or other hostile actions.

The moneys that are to be spent for maintaining and improving our intelligence capabilities have been rigorously scrutinized by the committee, particularly under the guidance of Senator DANIEL K. INOUYE, chairman of the select committee Subcommittee on Budget Authorization. It is a budget aimed at improving our ability to collect and analyze information of direct relevance to our foreign policy and defense and to continue to improve our capability to offset efforts by hostile powers to weaken the position of the United States in the world.

The committee has also undertaken to add as an amendment to this bill the language of S. 2284, the National Intelligence Oversight Act of 1980, which passed the Senate on June 3, by a vote of 89 to 1. The House Permanent Select Committee on Intelligence has reported out a somewhat similar bill. It is our desire to assure that the Congress acts this year to provide the statutory authorities needed to carry out effective oversight. This amendment will assist that effort.

The purpose of the Oversight Act of 1980 was to provide the framework of checks and balances and shared responsibility necessary for the exercise of effective oversight of the intelligence agencies of the United States.

The language of the bill and the identical language of the amendment offered to S. 2597 by Senator HUDDLESTON on behalf of the committee was worked out in close consultation with the President, his chief advisers, the intelligence agencies, and the Senate committee. The language of the report explaining the purposes of the act was also written jointly.

The wording of the bill is based on Executive Order 12036 and Senate Resolution 400, by which instruments the President and the Senate provided authorities to exercise oversight and the experience of the oversight committees and the executive branch with each other over the past 4 years. It is intended to provide the checks and balances necessary to assure that the great powers that our vast intelligence system provides remain within the governance of our Constitution.

We are seeking to meet the standard called for by James Madison, in Federalist 48, by providing "a sufficient guard against those encroachments which lead to a tyrannical concentration of all the powers of government in the same hands," and to do this by enabling the respective branches "to be so far connected and blended as to give each a constitutional control over the others."

The effort to legislate effective means of oversight that will serve as a constitutional means of checks and balances and shared responsibility, not unexpectedly, has met with resistance and obstacles have been encountered at every step of the way.

This is understandable because the problems that arise in framing authority for effective oversight all involve the interaction of powers conferred by the Constitution on respective branches. In almost every case the powers of the two branches come into contact, sometimes collide, and on rare occasions come into confrontation with one another.

Recognizing this, we have sought to respect the authorities, powers, duties, and obligations of the branches and to devise ways in which solutions may be obtained rather than to create the certainty of confrontations.

Working under authorities given to the committee by the Senate in Senate Resolution 400 and under terms very similar to that of the Intelligence Oversight Act of 1980, and this amendment over the past 4 years, the Senate Intelligence Committee, and I believe that of the House, have been able to carry out their duties with full access to information. When information has been requested, it has been supplied and in the degree of detail required.

The Senate Intelligence Committee has not yet been required to issue a subpena to obtain information. We have received in almost every case the information needed when we want it.

This has sometimes required discussion and negotiation but we have never failed to meet, discuss and negotiate when necessary. It is therefore imperative to assure that the means to work out solutions to difficulties that arise are encouraged. This was an underlying principle in the Intelligence Oversight Act of 1980.

A recent court case, *United States* v. *American Telephone & Telegraph Co.*, 567 F.2d 121 (D.C. Cir. 1977), is in essence the approach the committee has taken now to deal with conflicts of authority that might arise. This case raised many issues similar to those encountered in providing for the authorities of both branches for the governance of the intelligence activities of the United States. Two pasages from the case are of particular pertinence:

> The framers, rather than attempting to define and allocate all governmental power in minute detail, relied, we believe, on the expectation that where conflicts in scope of authority arose between the coordinate branches, a spirit of dynamic compromise would promote resolution of the dispute in the manner most likely to result in efficient functioning of our governmental system. Under this view, the coordinate branches do not exist in an exclusively adversary relationship to one another when a conflict in authority arises. Rather, each branch should take cognizance of an implicit constitutional mandate to seek optional accommodation through a realistic evaluation of the needs of the conflicting branches in the particular fact situation. This aspect of our constitutional scheme avoids the mischief of polarization of disputes.
>
> * * * * *
>
> The course of negotiations reflects something of greater moment than the mere degree to which ordinary parties are willing to compromise. Given our perception that it was a deliberate feature of the constitutional scheme to leave the allocation of powers unclear in certain situations, the resolution of conflict between the coordinate branches in these situations must be regarded as an opportunity for a constructive modus vivendi, which positively promotes the functioning of our system. The Constitution contemplates such accommodation. Negotiation between the two branches should thus be viewed as a dynamic process affirmatively furthering the constitutional scheme.

The language of the Oversight Act was written with these thoughts in mind to try and avoid the "mischief of polarization of disputes" and to create the most favorable circumstances for working out conflicts of authority through accommodation achieved by "a realistic evaluation of the needs of the conflicting branches in the particular fact situation."

Mr. President, I want to commend the efforts of Vice Chairman Senator **Barry Goldwater**, of Senator **Inouye** and Senator **Huddleston**, and of all of the members of the committee for their determination to make effective oversight an appropriate application of what was intended by our constitutional system of checks and balances.

I would like to offer my congratulations and my deep appreciation to the first chairman of the Select Committee on Intelligence, the distinguished Senator from Hawaii, who has done a professional job, held lengthy hearings and is presenting a good bill.

I would also like to express our appreciation to the Senator from Mississippi for the way in which the Armed Services Committee and the Intelligence Committee in the Senate continue to work in harmony, as they should, and without his efforts and the efforts of the Senator from Hawaii this would not be the case.

Lastly, I would like to offer my special word of appreciation to our distinguished colleague from Kentucky who has labored mightily on this whole question of the charter. We are here, I think, with all respect to a contrary assessment of our good friend from Wisconsin, and I think we are taking a significant step, not a vital step by any means but a significant step, toward making the intelligence community more efficient through the repeal of Hughes-Ryan on one side and providing the first recognition of the importance of congressional oversight on the other.

This has been a very, very frustrating experience, I do not think I have been involved in anything which has been so frustrating. You think you had an agreement and they compromise and then you start out from where the Senate was and you move toward where the folks downtown were.

Without reliving all of those negotiations, I think this is better than where we are. It is not where I hope we can go, but without the strong leadership of the Senator from Kentucky, the chairman of that subcommittee on oversight we would not be here where we are today, and I want to express my appreciation and urge my colleagues to accept this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky.

The amendment (UP No. 1361) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and to be read a third time.

The bill was read the third time.

The bill (S. 2597), as amended, was passed as follows:

S. 2597

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1981".

TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. (a) Funds are hereby authorized to be appropriated for fiscal year 1981 for the conduct of intelligence activities of the following departments, agencies, and other elements of the United States Government:

(1) The Central Intelligence Agency and the Director of Central Intelligence.

(2) The Departmentof Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(6) The Department of State.

(7) The Department of the Treasury.

(8) The Department of Energy.

(9) The Federal Bureau of Investigation.

(10) The Drug Enforcement Administration.

(b) The amounts authorized to be appropriated under this Act for the conduct of the intelligence activities of the agencies listed in subsection (a) are those listed in the classified Schedule of Authorizations for fiscal year 1981 prepared by the Select Committee on Intelligence. That Schedule of Authorizations shall be made available to the Committee on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

(c) Nothing contained in this Act shall be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

TITLE II—INTELLIGENCE COMMUNITY STAFF

Sec. 201. (a) There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1981 the sum of $18,700,000.

(b) For the fiscal year beginning October 1, 1980, the Intelligence Community Staff is authorized an end strength of two hundred and forty-five full-time employees. Such personnel may be permanent employees of the Intelligence Community Staff or employees on detail from other elements of the United States Government.

(c) Any employee who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that an employee may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary duties as required by the Director of Central Intelligence.

(d) Except as provided in subsections (b) and (c), the activities and personnel of the Intelligence Community Staff shall be administered by the Director of Central Intelligence in accordance with the provisions of the National Security Act of 1947 (50 U.S.C. 401, et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a–403j).

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Sec. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1981 the sum of $55,300,000.

TITLE IV—GENERAL PROVISIONS

Sec. 401. Appropriations authorized by this Act for salary, pay, retirement and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such benefits authorized by law.

Sec. 402. Section 5 of the Central Intelligence Act of 1949 (50 U.S.C. 403f), is amended by adding at the end thereof the following new subsections:

"(f) Accept, hold, administer, and utilize for artistic or general employee or dependent welfare, educational, recreational or like purposes, gifts, bequests, or devises of money, securities, or other property whenever the Director determines such action would be in the interest of the United States to do so, but may not accept any gift which is expressly conditioned upon any expenditure not to be met from such money, securities, or other property or from the income thereof unless such expenditure has been approved by law. Unless otherwise restricted by the terms of the gift, bequest, or devise, the Director may sell or exchange, or invest or reinvest, such property in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. Gifts, bequests, and devises of money, securities, and other intangible property accepted under the authority of this subsection, and the earnings and proceeds thereof, shall be deposited in a separate fund to be called the Central Intelligence Agency General Gift Fund and shall be disbursed upon the order of the Director. For purposes of Federal income, estate and gift taxes, all gifts, bequests, and devises accepted by the Director shall be deemed to be to or for the use of the United States.

"(g) Grant such monetary or other relief as the Director in his sole and unreviewable discretion deems appropriate whenever an employee or former employee of the Agency is found by the Director to have suffered unjustified negative career development or an unjustified personnel or administrative action.".

SEC. 403. (a) Chapter 4, title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 140a. Foreign cryptologic support.

"Funds made available to the Department of Defense for intelligence and communications purposes may be used to pay expenses of arrangements with foreign countries for cryptologic support. Such funds may be exchanged without regard to the prohibition contained in section 3651 of the Revised Statutes (31 U.S.C. 543).".

(b) The table of sections at the beginning of chapter 4 of such title is amended by adding at the end thereof the following new item:

"140a. Foreign cryptologic support.".

SEC. 404. (a) The Act of May 29, 1959 (73 Stat. 63) is amended by adding at the end thereof the following new sections:

"SEC. 9. (a) Funds of the National Security Agency may be used, with respect to a special limited class of its civilian and military personnel assigned outside the United States, to provide allowances and other benefits comparable to those authorized for officers and employees of the Foreign Service under clauses (1), (2), (7), (9), (10), and (11) of section 911 and sections 912, 914, 933, 941, 942, and 945 of the Foreign Service Act of 1946 (22 U.S.C. 1136 (1), (2), (7), (9), (10), and (11), 1137, 1138a, 1148, 1156, 1157, and 1160).

"(b) Notwithstanding the provisions of section 322 of the Act of June 30, 1932 (40 U.S.C. 278a), section 2675 of title 10, United States Code, or section 5536 of title 5, United States Code, the Director of the National Security Agency may—

"(1) rent or lease, for periods not exceeding ten years, such buildings and grounds outside the United States as may be necessary for the use of the National Security Agency; and

"(2) use such buildings and grounds to furnish personnel of such agency with living quarters, heat, light, and household equipment, without cost to such personnel, whenever the Director of the National Security Agency determines such action is in the public interest.

The Director of the National Security Agency may exercise the authority provided under this subsection only to the extent that funds have been appropriated for such purpose.

"SEC. 10. (a) In addition to the benefits provided in subsection 4109(a)(2)(B) of title 5, United States Code, the Director of the National Security Agency may provide allowances and other benefits to personnel assigned to training overseas for one year or longer to the same extent and for the same purposes for which such allowances and other benefits are provided employees of an agency under chapter 57 of title 5, United States Code.

"(b) In any case in which an employee of the National Security Agency received payment for training expenses under section 4109(a)(2)(B) of title 5, United States Code, before the date of enactment of this subsection and such payment was subsequently determined to have been improperly made as the result of an erroneous interpretation of such section, the Director of the National Security Agency may waive the collection of such erroneous payment, except that not more than a total of $50,000 in erroneous payments may be waived under this subsection.".

(b) The amendment made by subsection (a) shall become effective October 1, 1980.

SEC. 405. Section 3 of the Act of June 1, 1948 (40 U.S.C. 318), is amended by inserting "(a)" before "Upon" at the beginning of such section and by adding at the end of such section the following new subsection:

"(b) Upon request of the Director of the National Security Agency, the Administrator of General Services may detail special policemen appointed under the first section of this Act to provide protection for installations and grounds used by or under the control of the National Security Agency without regard to whether the United States has exclusive or concurrent criminal jurisdiction over such installations and grounds. Special policemen detailed to protect such installations or buildings shall have the same powers as special policemen appointed under the first section of this Act. The Administrator of General Services may extend the applicability of any regulation issued under section 2 to installations and grounds described in the first sentence of this subsection and to provide for the appropriate enforcement of such regulation.

SEC. 406. (a) The Director of Central Intelligence and the Director of the National Security Agency are authorized to pay a gratuity to the surviving dependent or dependents of any officer or employee of their respective agencies who dies as a result of injuries (excluding disease) sustained outside the United States. The amount of the gratuity in the case of any such officer or employee shall be an amount equal to one year's compensation at the rate such officer or employee was entitled to receive at the time of death. Such a payment shall be made only upon a determination of the Director of Central Intelligence in the case of an officer or employee of the Central Intelligence Agency, or of the Director of the National Security Agency, that the death of such officer or employee (1) resulted from hostile or terrorist activities, or (2) occurred in connection with an intelligence activity having a substantial element of risk. Any payment made under this subsection shall be considered a gift and shall be in addition to any other benefit payable from any source.

(b) A death gratuity payment made under subsection (a) shall be made to the person or persons within the following classes and in the order named:

(1) To the widow or widower, if living.

(2) If no widow or widower, to the child or children in equal shares, if living.

(3) If no widow, widower, child or children, to the dependent parent or dependent parents in equal shares who last bore that relationship, if living.

(c) As used in this section—

(1) The terms "widow", "widower", "child", and "parent" shall have the same meaning given to such terms by sections 8101 of title 5, United States Code.

(2) The term "United States" means the several States and the District of Columbia.

(d) The provisions of this section shall apply with respect to deaths occurring after June 30, 1974.

SEC. 407. (a) Part III of subtitle A of title 10, United States Code, is amended by adding at the end thereof the following new chapter:

"CHAPTER 107.—GRANTING OF ADVANCED DEGREES AT DEPARTMENT OF DEFENSE SCHOOLS

"Sec.

"2151. Defense Intelligence School: degree.

"§ 2151. Defense Intelligence School: degree

"Under regulations prescribed by the Secretary of Defense, the Commandant of the Defense Intelligence School may, upon recommendation by the faculty of such school, confer the degree of master of science of strategic intelligence upon graduates of the school who have fulfilled the requirements for that degree.".

(b) The table of chapters at the beginning of subtitle A and of part III of subtitle A of such title are each amended by adding at the end thereof the following:

"107. Granting of Advanced Degrees
at Department of Defense
Schools ------------------ 2151.".

SEC. 408. A new section, section 407, is added to the Intelligence Authorization Act for Fiscal Year 1981.

"SEC. 407. PRESIDENTIAL FINDINGS AND CONGRESSIONAL OVERSIGHT FOR INTELLIGENCE ACTIVITIES.—(a) No funds appropriated under the authority of this or any other Act may be expended by or on behalf of the Central Intelligence Agency for operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, unless and until the President finds that each such operation is important to the national security of the United States. Each such operation shall be considered a significant anticipated intelligence activity for the purposes of subsections (b) through (e) of this section.

"(b) To the extent consistent with all applicable authority and duties, including those conferred by the Constitution upon the executive and legislative branches of the Government, and to the extent consistent with due regard for the protection from unauthorized disclosure of classified information and information relating to intelligence sources and methods, the Director of Central Intelligence and the heads of all departments, agencies, and other entities of the United States involved in intelligence activities shall—

"(1) keep the Select Committee on Intelligence of the Senate and Permanent Select Committee on Intelligence of the House of Representatives (hereinafter in this section referred to as the 'Select Committees') fully and currently informed of al lintelligence activities which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States, including any significant anticipated intelligence activity, except that (A) the foregoing provision shall not require approval of the Select Committees as a condition precedent to the initiation of any such anticipated intelligence activity, and (B) if the President determines it is essential to limit prior notice to meet extraordinary circumstances affecting vital interests of the United States, such notice shall be limited to the chairman and ranking minority members of the Select Committee, the Speaker and minority leader of the House of Representatives, and the majority and minority leaders of the Senate;

"(2) furnish any information or material concerning intelligence activities which is in the possession, custody or control of any department, agency, or entity of the United States and which is requested by either of the Select Committees in order to carry out its authorized responsibilities; and

"(3) report in a timely fashion to the Select Committee any illegal intelligence activity or significant intelligence failure and any corrective action that has been taken or is planned to be taken in connection with such illegal activity or failure.

"(c) The President shall fully inform the Select Committee in a timely fashion of intelligence operations in foreign countries other than activities intended solely for obtaining necessary intelligence, for which prior notice was not given under subsection (b) and shall provide a statement of the reasons for not giving prior notice.

"(d) The President and the Select Committees shall each establish such procedures as may be necessary to carry out the provisions of subsections (b) and (c).

"(e) The House of Representatives and the Senate, in consultation with the Director of Central Intelligence, shall each establish by rule or resolution of such House, procedures to protect from unauthorized disclosure all classified information and all information relating to intelligence sources and methods furnished to the Select Committees or to Members of the Congress under this section. In accordance with such procedures, each of the Select Committees shall promptly call to the attention of its respective House, or to any appropriate committee or committees of its respective House, any matter relating to intelligence activities requiring the attention of such House or such committee or committees."

Mr. PROXMIRE. Mr. President, I want to make sure, although this was passed without objection, that I am recorded as voting against the amendment.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar Orders Nos. 836, 902, and 903.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, once again the reservation is for the purpose of advising the majority leader that all three calendar items identified by him are cleared on our side.

It is my understanding that committee technical amendments are contained in Calendar Order 836 and I have an amendment that I wish to offer on behalf of the Senator from Kansas (Mrs. KASSEBAUM) and otherwise we have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

EMPLOYEE PROTECTION AND RAILROAD FINANCING MODIFICATION ACT OF 1980

The Senate proceeded to consider the bill (S. 2530) to improve the fairness and equity of the protection provided to railroad employees under title V of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.), which had been reported from the Committee on Commerce, Science, and Transportation with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Employee Protection and Railroad Financing Modification Act of 1980".

TITLE I—EMPLOYEE PROTECTION

FINDINGS AND PURPOSE

SEC. 101. (a) The Congress finds that the original provisions designed to protect railroad employees under title V of the Reigonal Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) against deprivation of employment and reductions in railroad-related compensation contain inequities; that these inequities hinder the Consolidated Rail Corporation from achieving improved management of certain protected employees in its work force; and that elimination of these inequities would help reduce the cost levels of the Consolidated Rail Corporation, and thereby improve the Corporation's ability to provide carriage of goods in interstate commerce.

(b) It is declared to be the purpose of the Congress in this title to foster fair and equitable labor protection for certain railroad employees; to foster improvements in the ability of the Consolidated Rail Corporation to manage productively such employees in its work force; and to help reduce the cost levels of the Consolidated Rail Corporation by eliminating the inequities of the labor protection provisions, thereby improving the Corporation's ability to provide carriage of goods in interstate commerce by—

(1) revising the cash allowances for protected employees under title V of the Regional Rail Reorganization Act of 1973 to ensure that the employees receive a reasonable level of protection; and

(2) improving the ability of the Consolidated Rail Corporation to train or retrain certain protected employees for bona fide job vacancies.

(c) Nothing in this title is intended to affect any law, regulation, court order, or obligation pertaining to equal employment opportunity.

MONTHLY DISPLACEMENT ALLOWANCE

SEC. 102. Section 505(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(b)) is amended to read as follows:

"(b) MONTHLY DISPLACEMENT ALLOWANCE.—A protected employee shall be paid a monthly displacement allowance for any calendar month within the period identified in subsection (c) of this section in which the employee is deprived of employment or adversely affected with respect to his or her compensation, in accordance with the following:

"(1) PROTECTED EMPLOYEES OCCUPYING POSITIONS IN THE NONOPERATING CRAFTS.—Effective on and after the first day of the month immediately following the date of enactment of the Employee Protection and Railroad Financing Modification Act of 1980, the protected rate of pay of a protected nonoperating employee (other than a maintenance-of-way employee) who has been deprived of employment or adversely affected with respect to his or her compensation shall be based on the rate of pay of the position held by the employee on September 1, 1979, or if the employee held no position on that date, the rate of pay of the last position held by the employee prior to that date. A guaranteed hourly rate of pay will be computed for each protected employee, based on the aforesaid rate, and will be the actual hourly rate for hourly rated employees; the daily rate divided by 8 for daily rated employees; and the monthly rate divided by the working days in the claim month, further divided by 8 in the case of monthly rated employees. For employees occupying relief positions, the guarantee shall be computed on the basis of the weighted average daily rate of the position relieved. Extra list employees will be guaranteed the extra list rate.

"(A) In the event a protected employee's position is abolished or he or she is displaced, and the employee is thereby required to occupy a position paying a lesser hourly rate than the employee's guaranteed hourly rate, the protected employee shall be paid the difference between the hourly rate of pay of the position the employee is occupying and his or her guaranteed hourly rate for all hours included in the straight-time work schedule of the employee's position for the month of claim, less any time lost on account of voluntary absences other than vacations. Hours worked in excess of the straight-time work schedule shall be paid in addition to the guarantee at the rate applicable to the position occupied, as provided for in the applicable collective bargaining agreement.

"(B) For any month or portion thereof in which a protected employee is deprived of employment, the protected employee shall be paid his or her guaranteed hourly rate for the number of hours the employee would have worked in the straight-time work schedule of his or her previously held position.

"(C) Notwithstanding the provision that the protected rate shall be the rate of the position held on or immediately preceding September 1, 1979, if a protected employee becomes the permanent incumbent of a higher rated position and is not disqualified from the higher rate shall become his or her protected rate.

"(2) PROTECTED EMPLOYEES OCCUPYING POSITIONS IN THE MAINTENANCE-OF-WAY CRAFTS.—Notwithstanding subsection (b)(1), effective on and after the first day of the month immediately following the date of enactment of the Employee Protection and Railroad Financing Modification Act of 1980, a protected maintenance-of-way employee shall be afforded his or her average monthly compensation computed in accordance with section 505(b) prior to such date (as used in this subsection (b), 'average monthly compensation'), but subject to a 'maximum', which maximum is defined as the employee's average monthly compensation divided by his or her average monthly time paid for, and further multiplied by 174 hours, or by his or her average monthly time paid for, whichever is less. If the average monthly compensation of a protected maintenance-of-way employee exceeds the maximum, the average monthly compensation of the employee will be reduced to the maximum for purposes of computing the employee's monthly displacement allowance, if any. If a protected employee is deprived of employment or if the employee's compensation in his or her current position is less in any month than the employee's average monthly compensation or the maximum, whichever is smaller, the employee shall be paid 75 percent of the difference between his or her earnings if any and the smaller figure, less any time lost on account of voluntary absences other than vacations. If, at the close of the calendar year, the sum of the protected employee's annual compensation (excluding overtime compensation earned by virtue of actually working in excess of 2 hours at the punitive rate of pay on any given day), monthly displacement allowance payments, and offsets applicable pursuant to this title is less than the employee's average monthly compensation subject to the maximum and multiplied by 12, the employee shall receive an additional payment representing the difference. In the computation of the monthly and the annual displacement allowance payments, earnings shall not include compensation received for overtime actually worked in excess of 2 hours at the punitive rate of pay on any given day. If in the previous calendar year an employee has received displacement allowance payments in excess of his or her annual entitlement, the excess payments shall be recovered from any current or future entitlement to monetary benefits afforded by this title, exclusive of benefits afforded by section 505 (g) of this title.

"(3) PROTECTED EMPLOYEES OCCUPYING POSITIONS IN THE OPERATING CRAFTS.—Effective on and after the first day of the month immediately following the date of enactment of the Employee Protection and Railroad Financing Modification Act of 1980, a protected operating employee (defined as any protected employee in ICC classifications 107 through 128) who has been deprived of employment or adversely affected with respect to his or her compensation shall be afforded his or her average monthly compensation computed in accordance with section 505(b) prior to such date, but subject to a 'maximum', which maximum is defined as one-twelfth of the average annual earnings per employee, computed by cumulating the employee earnings reported to the Interstate Commerce Commission by the Corporation on a monthly basis for calendar year 1977 for the ICC classification of operating service in which the employee performed the preponderance of his or her work in calendar year 1974, increased by applicable general wage increases. If the employee performed no operating service in 1974, the ICC classification will be determined by the preponderance of the employee's operating service in an immediately preceding calendar year. If the average monthly compensation of a protected operating employee exceeds the maximum, the average monthly compensation of the employee will be reduced to the maximum for purposes of computing his or her monthly displacement allowance, if any. If the average monthly compensation of a protected operating employee is less than the maximum, the average monthly compensation of the employee will be used to compute his or her monthly displacement allowance, if any. If a protected employee is deprived of employment, or if the employee is adversely affected with respect to his or her compensation such that the compensation in his or her current position is less in any month than the average monthly compensation of the employee or the maximum, whichever is smaller, the employee shall be paid 75 percent of the difference between his or her earnings, if any, and the smaller figure, less any time lost on account of voluntary absences other than vacations. If, at the close of the calendar year, the sum of the protected employee's annual earnings, monthly displacement allowance payments, and offsets applicable pursuant to this title is less than his or her average monthly compensation subject to the maximum and multiplied by 12, the employee shall receive an additional payment representing the difference. In the computation of the annual payment, if during the calendar year an employee has been force assigned to, or has been required to exercise seniority to, a position in an ICC classification with a lesser maximum than the maximum applicable to that employee's 1974 ICC classification, the employee shall be paid the difference without credit being taken for compensation earned by virtue of actually working hours in the calendar year in excess of the number of hours paid for in the employee's average monthly compensation multiplied by 12 or his or her annual 1977 maximum, whichever is smaller. An employee's compensation for purposes of his subsection will not include savings sharing productivity payments received pursuant to paragraph (t) of the Crew Consist Agreement between the Corporation and the United Transportation Union dated September 8, 1978. If in the previous calendar year an employee has received displacement allowance payments in excess of his or her annual entitlement, the excess payments shall be recovered from any current or future entitlement to monetary benefits afforded by this title, exclusive of benefits afforded by section 505(g) of this title.

"(4) Protected employees occupying noncontract positions.—Effective on and after the first day of the month immediately following the date of enactment of the Employee Protection and Railroad Financing Modification Act of 1980, a protected noncontract employee who has been deprived of employment or adversely affected with respect to his or her compensation shall retain his or her average monthly compensation and monthly displacement allowance computed in accordance with section 505(b) prior to such date. In the event such noncontract employee exercises or has exercised seniority in a craft or class of operating employees, the employee's entitlement to a monthly displacement allowance and fringe benefits, and his or her eligibility for transfer, will be the same as the entitlement and eligibility of other protected employees in the craft or class in which seniority is exercised. In the event such noncontract employee exercises or has exercised seniority in a craft or class of nonoperating employees, the entitlement of the employee to a monthly displacement allowance and fringe benefits, and his or her eligibility for transfer, will be consistent with the entitlement and eligibility of other protected employees in the craft or class in which seniority is exercised, except that the protected rate of pay shall be based on the rate of pay of the position first obtained through the exercise of seniority, rather than the rate of any position held on or prior to September 1, 1979.

"(5) Notwithstanding the preceding provisions of this subsection, employees who, prior to September 1, 1979, accepted transfer to positions requiring a change of residence pursuant to section 505(d) of the Act, shall retain their average monthly compensation and monthly displacement allowance computed in accordance with section 505(b) prior to the date of enactment of the Employee Protection and Railroad Financing Modification Act of 1980.

"(6) In determining compensation in his or her current employment, the protected employee shall be treated as occupying the position producing the highest rate of pay to which his or her qualifications and seniority entitle the employee under the applicable collective bargaining agreement and which does not require a change in residence. A protected operating employee will be considered to be occupying the position producing the highest rate of pay if the employee occupies a position producing compensation equal to his or her average monthly compensation subject to the maximum.

"(7) With respect to a protected employee who has been deprived of employment, the monthly displacement allowance shall be reduced by the full amount of any unemployment compensation benefits received by the protected employee and shall be reduced by an amount equivalent to any outside earnings of the employee.

"(8) A protected employee's average monthly compensation or protected rate of pay shall be adjusted from time to time thereafter to reflect subsequent general wage increases.

"(9) The average monthly compensation or protected rate of pay provided by this section shall in no event exceed $2,500 in any month, except that such amount shall be adjusted to reflect general wage increases subsequent to April 1, 1976.

"(10) A protected employee and the employee's representative shall be furnished with the protected employee's protected rate of pay, or average monthly compensation and average monthly time paid for, subject to the maximum, computed in accordance with the terms of this subsection. Each protected employee who has been deprived of employment, or his or her representative, and the employer shall agree upon a procedure by which the employee shall keep the employer currently informed of the unemployment compensation benefits received by the employee and the earnings of such employee in employment other than with the employer.".

DURATION OF MONTHLY DISPLACEMENT ALLOWANCE

Sec. 103. Section 505(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(c)) is amended to read as follows:

"(c) Duration of Monthly Displacement Allowance.—The monthly displacement allowance provided for in subsection (b) of this section shall continue until the attainment of age 65 by a protected employee with 5 or more years of service on the effective date of this Act and, in the case of a protected employee who has less than 5 years of service on such date, shall continue for a period equal to the employee's total prior years of service: *Provided*, That such monthly displacement allowance shall terminate upon the protected employee's death, retirement, resignation, or dismissal for cause; shall not be paid with respect to any period of disciplinary suspension for cause, failure to work due to illness or disability, voluntary furlough, or failure to retain or obtain a position available to the employee by the exercise of the employee's seniority rights in accordance with the provisions of this section; shall not be paid to a protected employee deprived of employment with respect to any period of failure to work due to strike, fire, flood, snowstorm, hurricane, earthquake, tornado, or other similar natural occurrence that causes a suspension of operations in whole or in part and precludes performance of the work which would be performed by the incumbents of the positions to be abolished or the work which would be performed by the employees involved in the force reductions (provided that the payment of monthly displacement allowances shall be resumed upon termination of the emergency); shall not be paid with respect to any month that commences after the effective date of the Railroad Employee Protection Modification Act of 1980 for which the employee has failed to make a claim for such allowance within 3 full calendar months (unless otherwise agreed upon by the employee, or his or her representative, and the employer) after the last day of the month for which such allowance is sought, except that such 3-month limit shall not be applicable to claims which are the subject of or based upon arbitration decisions issued pursuant to section 507 and unless otherwise agreed upon by the employee, or his representative and the employer, the entitlement of an employee to an allowance shall be approved or denied within 150 days after the claim therefor is made for the first year following the date of enactment of the Railroad Employee Protection Modification Act of 1980 and within 90 days thereafter. Claims not approved or denied at the expiration of the time limits set forth in this subsection shall be deemed approved."

TRAINING AND TRANSFER

Sec. 104. (a) Section 505(d)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(d)(4)) is amended to read as follows:

"(4) Transfers to vacancies requiring a change in residence shall be subject to the following:

"(A) The vacancy shall be first offered to the junior qualified protected employee or employees deprived of employment in the seniority district where the vacancy exists, and each such employee shall have 20 days to elect one of the options set forth in paragraph (1) of this subsection. The Corporation or other employers with employees protected under this section shall determine the number of junior qualified protected employees deprived of employment (not to exceed four employees per offer) who will be included in the offer of transfer. The vacancy will be awarded to the most junior qualified protected employee who accepts transfer. Other qualified protected employees who have accepted the transfer will retain their status as employees deprived of employment. Employees junior to the acceptor who have elected one of the options set forth in paragraph (1) of this subsection shall retain the option. If the vacancy is not filled, it may be again offered in inverse seniority order to remaining qualified protected employee(s) deprived of employment (not to exceed four employees per offer) in the seniority district.

"(B) If there are no qualified protected employees deprived of employment in the seniority district where the vacancy exists, the vacancy may be offered in inverse seniority order to qualified protected employee(s) deprived of employment (not to exceed four employees per offer) on the system, in accordance with the procedure in paragraph (4) (A) of this subsection. Employees offered transfer pursuant to this paragraph (4) (B) will be afforded 30 days to elect one of the options set forth in paragraph (1) of this subsection.

"(C) The provisions of this paragraph shall not prevent the adoption of other procedures pursuant to an agreement made by the Corporation or other employers with employees protected under this section and representatives of the class or craft of employees involved.

"(D) When no bona fide vacancies exist in a marine craft or class on the Corporation's system or the system of other employers with employees protected under this section, or in the craft or class of a Penn Truck Lines, Incorporated, employee, the Corporation or other employers with employees protected under this section may offer such employee comparable employment for which the employee is qualified, or for which the employee can be trained, in another craft or class. The Corporation or other employers with employees protected under this section shall first attempt to locate a comparable position in a seniority district which encompasses the employee's last work location, and if successful, a transfer notice may be tendered pursuant to paragraph (4) (A) of this subsection. If no such position exists, the Corporation or other employers with employees protected under this section may tender the employee a transfer notice involving a position elsewhere on the system pursuant to paragraph (4) (B) of this subsection. In the event it is necessary to train an employee after his or her acceptance of a position pursuant to this subsection, such training shall be provided by the Corporation or other employers with employees protected under this section at no cost to the employee.".

(b) Section 505(i) (1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775 (i) (1)) is amended by adding the following immediately before the last sentence: "The Corporation may simultaneously offer a position to not more than four protected noncontract employees. The position will be given to the protected employee accepting transfer whom the Corporation considers to be best qualified for the particular position involved. Other protected employees who have accepted the transfer will retain their previous status. Employees who have elected a voluntary suspension of employment at their home location in lieu of protective benefits or a severance of employment shall retain the option elected.".

PAYMENT, PROGRAM AUDIT AND REPORT

Sec. 105. Section 509 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 779) is amended to read as follows:

PAYMENT PROGRAM AUDIT AND REPORT

"Sec. 509. (a) Payment.—The Corporation, the Association (where applicable), replacement operators, and acquiring railroads, as the case may be, shall be responsible for the actual payment of all allowances, expenses, and costs provided protected employees pursuant to the provisions of this title. The Corporation, the Association (where applicable), replacement operators. and acquiring railroads shall then be reimbursed for the actual amounts paid to, or for the benefit of, protected employees, pursuant to the provisions of this title (including such amounts paid by the employer prior to the effective date of the Railroad Employee Protection Modification Act of 1980 and training costs incurred by the Corporation pursuant to section 505(d) (4) (D) of this title), other than provisions with respect to employee pension benefits, not to exceed an aggregate sum of $485,000,000, by the Railroad Retirement Board, upon certification to such Board in such detail as the Board may reasonably require, by the Corporation, the Association (where applicable), replacement operators, and acquiring railroads, of the amount paid such employees: *Provided*, That the aggregate amount of reimbursements made by the Board for the payment of monthly displacement allowances in the period after enactment of the Railroad Employee Protection Modification Act of 1980 shall not exceed $180,000,000. There is authorized to be appropriated to the Secretary annually such sums as may be required to meet the obligations payable hereunder, not to exceed the aggregate sum of $485,000,000. Upon the exhaustion of such authorization, the Corporation, the Association (where applicable), replacement operators, and acquiring railroads shall retain responsibility for the payment of benefits otherwise reimbursable under this title, but they shall not be reimbursed therefor. There is further authorized to be appropriated to the Secretary such sums as may be necessary to provide for additional administrative expenses to be incurred by the Railroad Retirement Board in the performance of their functions under this section. Appropriations authorized under this section may be allocated by the Secretary to the Railroad Retirement Board.

"(b) Program Audit.—Commencing October 1, 1980, the Association is authorized and directed to audit the payment of benefits pursuant to this title and to evaluate the effectiveness of the provisions of this title in improving the Corporation's management of certain protected employees in its work force who are entitled to receive monthly displacement allowances, including the manner in which the Corporation manages the overtime worked by maintenance-of-way employees. Such program audits and evaluations shall be conducted in accordance with such rules and regulations as the Association may prescribe. The representatives of the Association shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to, or in use by or in connection with the Corporation, replacement operators, acquiring railroads, or the Railroad Retirement Board which pertain to the benefits provided protected employees pursuant to this title and which are necessary to facilitate such program audit and evaluation.

"(c) Report.—The Association shall transmit to the Congress and the President, not later than 90 days after the end of each fiscal year, a comprehensive and detailed report on the payment of benefits under this title and the effectiveness of the provisions of this title in improving the Corporation's management of certain protected employees in its work force who are entitled to receive monthly displacement allowances.".

TECHNICAL AMENDMENTS

Sec. 106. (a) The table of contents of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) is amended by revising the caption

"Sec. 509. Payment of benefits."

to read

"Sec. 509. Payment, audit and report.".

(b) Section 102(16) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702 (16)) is amended to read as follows:

"(16) 'Secretary' means the Secretary of Transportation or the designated representative of the Secretary;".

(c) Section 201 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 711) is amended by—

(1) revising subsection (a) (2) to read as follows:

"(2) three Government members, who shall be (A) the Secretary, acting directly or at any time through the Deputy Secretary of Transportation, the General Counsel of the Department of Transportation, the Federal Railroad Administrator, or the Deputy Administrator of the Federal Railroad Administration, (B) the Secretary of the Treasury, acting directly or at any time through an officer of the Department of the Treasury who has been appointed with the advice and consent of the Senate, and (C) the Chairman of the Commission, acting directly or at any time through the Vice Chairman of the Commission; and";

(2) striking "through their respective Deputy Secretaries" from the first sentence of subsection (i) and inserting in lieu thereof "in the case of the Secretary, through the Deputy Secretary of Transportation, the General Counsel of the Department of Transportation, the Federal Railroad Administrator, or the Deputy Administrator of the Federal Railroad Administration, and, in the case of the Secretary of the Treasury, through an officer of the Department of the Treasury who has been appointed with the advice and consent of the Senate"; and

(3) striking the first sentence from subsection (j) (4).

(d) Section 501 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771) is amended by—

(1) adding to paragraph (6) after "disability," in the last sentence "failure to work due to strike, fire, flood, snowstorm, hurricane, earthquake, tornado, or other similar natural occurrence that causes a suspension of operations in whole or in part and precludes performance of the work which would be performed by the incumbents of the positions to be abolished or the work which would be performed by the employees involved in the force reductions,"; and

(2) striking "and" after the semicolon in paragraph (10), striking the period after paragraph (11) and inserting in its place "; and", and adding the following new paragraph:

"(12) 'compensation' means earnings in employment subject to the Railroad Retirement Act.".

(e) Section 507 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 777) is amended by adding after "section 504(d)" the phrase ", section 509(b), section 509(c)".

SINGLE COLLECTIVE-BARGAINING AGREEMENT

Sec. 107. Section 504(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 774(d)) is amended to read as follows:

"(d) New Collective-Bargaining Agreements.—Not later than 60 days after the effective date of any conveyance pursuant to the provisions of this Act, the representatives of the various classes of crafts of the employess of a railroad in reorganization involved in a conveyance and representatives of the Corporation shall commence negotiation of a new single collective-bargaining agreement for each class and craft of employees covering the rate of pay, rules, and working conditions of employees who are employees of the Corporation, which collective-bargaining agreement shall include appropriate provisions concerning rates of pay, rules and working conditions but shall not include any provisions for job stabilization resulting from any transaction effected pursuant to this Act which may exceed or conflict with those established herein.".

TITLE II

EXTENSION OF REDEEMABLE PREFERENCE SHARE FINANCING

Sec. 201. Sections 505(e), 507(a), 507(d), and 509 of the Railroad Revitalization and

Regulatory Reform Act of 1976 (45 U.S.C. 825(e), 827(a), 827(d), and 829) are each amended by striking "September 30, 1980" wherever it appears and inserting in lieu thereof "September 30, 1982" in each such place.

Sec. 202 (a) Section 505(d)(3) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(d)(3)) is amended by striking "$700,000,000" and inserting in lieu thereof "$1,100,000,000".

(b) Sections 507(a) and 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 827(a) and 829) are each amended by striking "$600,000,000" and inserting in lieu thereof "$1,100,000,000".

Sec. 203. (a) Section 505(b) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(b)) is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding any other provision of law, the Secretary may approve applications to provide financial assistance to any employee or employee/shipper ownership group formed pursuant to a plan for the purchase and/or rehabilitation of a line or lines of railroad and/or rail facilities which are considered to be in the public interest. The Secretary shall not authorize funds which exceed 20 percent of such total funds available under this section. In considering the allocation of available funds and priority of eligible projects under this subsection, the Secretary shall consider the availability of viable alternatives to the ownership and/or rehabilitation by the eligible employee/shipper group for the continuation of rail service. Projects with no such alternative shall receive highest priority.".

(b) Sections 506 through 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 826 through 829) are amended by—

(1) inserting "employee or employee/shipper group" immediately after the word "railroad" wherever it appears;

(2) inserting "employee or employee/shipper groups" immediately after the word "railroads" wherever it appears; and

(3) inserting "employee or employee/shipper group's" immediately after the word "railroad's" wherever it appears.

Sec. 204. (a) Title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended by inserting the following new section immediately after section 505 thereof:

"EMPLOYMENT EFFECTIVENESS IMPROVEMENT ASSISTANCE

"Sec. 505A. (a) The Secretary is authorized under such terms and conditions as the Secretary shall prescribe to provide financial assistance to any class I railroad, not to exceed 10 percent of the funds available for the rehabilitation and improvement financing program pursuant to section 505 of this title, to cover up to 100 percent of the railroad's payments to any eligible employee or former employee to whom the railroad is obligated to make payments under a labor-management agreement which results in a significant change in railroad operating practices or work rules and which the Secretary determines will significantly improve manpower effectiveness. In making such determination, the Secretary shall consider the relationship of the railroad's labor costs to its revenues and any evidence of efficiency gains that the railroad and labor organizations may demonstrate.

"(b) Before providing any financial assistance under this section, the Secretary shall require the railroad receiving assistance to agree to such terms and conditions as are sufficient in the Secretary's judgment to assure that the railroad has, through a long-term change in operating practices or work rules, improved its manpower effectiveness.

"(c) Whenever a railroad receiving assistance under this section defaults on any provision of a financing agreement or security purchased pursuant to the section, the Secretary shall be entitled to exercise all remedies in law or equity and may request the Attorney General of the United States to commence a civil action for damages, specific performance or any other available remedy in any appropriate court.".

(b) The table of contents of such Act is amended by inserting the following new item immediately following the item referring to section 505:

"Sec. 505A. Employment effectiveness improvement assistance.".

RESTRUCTURING AMENDMENTS

Sec. 205. Section 501 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821), as amended, is further amended by—

(1) striking "and" at the end of paragraph (7);

(2) inserting "extension of rail lines, acquisition or sale of assets or securities," immediately after "merger," in paragraph (8);

(3) striking the period at the end of paragraph (8) and inserting in lieu thereof a semicolon; and

(4) adding at the end thereof the following new paragraphs:

"(9) 'consolidation' means the combination of separate rail facilities and the abandonment of the excess facilities, except that 'consolidation' does not include the combination by a single railroad of multiple tracks into fewer tracks where the tracks do not constitute separate physical and operating lines of railroad; and

"(10) 'coordination' means the combination of rail freight traffic flows through the use of joint facilities arrangements or internally that result in a reduction of service on at least one facility and includes (but is not limited to) arrangements for joint use of tracks or other facilities and the acquisition or sale of assets.".

UP AMENDMENTS NOS. 1362 AND 1363

(Purpose: To clarify effective date of authorizations provided for employee protection provisions)

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment by Mr. Cannon and Mr. McGovern, and I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

Mr. BAKER. Mr. President, before the clerk reports——

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments read as follows:

UP Amendment No. 1362

On page 43, immediately after line 5, insert the following new subsection:

"(b) Notwithstanding any other provision of law, the authority of the Federal Railroad Retirement Board to make reimbursements provided under subsection (a) of this section shall not be effective until October 1, 1980. On and after such date, the Consolidated Rail Corporation and other employers with employees protected under title V of the Regional Rail Reorganization Act of 1973 may be reimbursed, from funds available pursuant to section 509 of such title, by the Federal Railroad Retirement Board for the amount of such payments, previously not reimbursed, as were made by the Corporation and other employers pursuant to the provisions of such title.".

On page 40, line 13, insert "(a)" immediately after "105.".

UP Amendment No. 1363

Page 50, line 6, Section 205(2) is amended by striking "extension of rail lines".

UP AMENDMENT NO. 1364

Mr. BAKER. Mr. President, I send to the desk an amendment by the Senator from Kansas (Mrs. Kassebaum) and I ask unanimous consent that it be considered en bloc with the previous two amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

At page —, line — of S. 2530, insert the following new section:

"Sec. . Section 505(h)(4) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended to read as follows:

"(4) This subsection shall apply to purchase offers submitted to the Trustee of the Rock Island Railroad Estate and filed with the Commission prior to September 15, 1980 or purchase applications filed with the Commission prior to September 15, 1980, and approved by the court having jurisdiction over the reorganization of the Rock Island Railroad or the Milwaukee Railroad, as the case may be, and by the Commission."

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a statement by Chairman Cannon be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement by Senator Cannon

I propose an amendment to S. 2530 which would make the effective date of funding under this legislation October 1, 1980.

The bill as reported from Committee makes the effective date for the new employee guarantees the first day of the month after enactment. Since enactment could occur prior to the beginning of the fiscal year the Budget Committee has indicated to me that the bill as reported could violate section 401(b)(1) of the Budget Act. This amendment will eliminate any question of compliance with the Budget Act but will make it clear that the employers of employees protected under the bill will be entitled to reimbursement of funds spent for labor protection between the time the original authorized account was depleted and the new fiscal year.

Under existing law, protected rail employees are provided a monthly displacement allowance which would be modified by the bill as reported by Committee. As each month in 1980 passes, certain employees become entitled to specific allowances under existing law and up until early 1980 were paid those allowances out of an original $250 million authorization. This fund established by title V of the Regional Rail Reorganization Act of 1973 has now expired. Conrail, Amtrak, and other affected employers, however, have the continuing legal obligation to meet the legitimate claims of protected employees notwithstanding the availability of federal reimbursement funds. Since the depletion of the fund, Conrail has made payments to protected employees out of its operating account at an approximate cost of $5.5 million per month with the expectation that it will be reimbursed after enactment of this legislation.

At this rate of expenditure, Conrail will have paid out of its revenues or operating account more than $50 million by October of this year to meet the unfunded labor protection costs. With the downturn in the economy and associated costs, Conrail's already threatened recovery plan might not be able to withstand the financial impact that would accompany a refusal to provide for reimbursement of these labor payments. Amtrak is also impacted by this provision and anticipates that, absent reimbursement, it would be necessary to divert almost $4 million from operating funds to title V expenditures.

In conclusion, it should be stressed that S. 2530 will result in savings of $501 million to $1,456 billion over the costs which would be incurred by continuing the existing program. By delaying the effective date for authority to make payments, the amendment eliminates Budget Act problems. Reimbursement is authorized, however, and cost savings from the more economic and equitable labor protection provisions will be realized almost immediately, since the new formula takes effect on the first day of the month following date of enactment.

I ask that letters I have received from Conrail and Amtrak outlining the potential adverse financial impact they would suffer without the reimbursement as provided by this amendment be printed in the RECORD at this point.

The letters follow:

JUNE 6, 1980.

Hon. HOWARD W. CANNON,
Chairman, Committee on Commerce, Science and Transportation, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR CANNON: A question has been raised about the present status of Conrail's Title V obligations and the funds available to reimburse Conrail when it has met those obligations. Under present legislative requirements, Conrail's average monthly Title V expenditures are about $5.5 million a month. The original $250 million which Congress authorized in 1974 was exhausted in approximately mid-December of 1979. As a result, Conrail has spent out of other corporate resources approximately $27 million to date to meet its obligations to its employees.

Those expenditures have covered virtually all claims arising through February of 1980 as well as some claims which have arisen during the months of March, April and May.

Additional exposure to Conrail between now and October 1, 1980 will be approximately another $30 million.

Conrail has made the necessary arrangements with the United States Railway Association to meet these obligations by expanded drawdowns of Sec. 216 loan money. Therefore, it will not have a severe cash flow problem until the beginning of the first quarter of fiscal 1981 (which happens to be Conrail's fourth fiscal year quarter).

Our present budget anticipates this continuing cash strain. But that budget is premised on the essential fact that reimbursement funds will become available on October 1, 1980. Were that not to be the case, our financial position for the remainder of 1980 and for the next calendar year would be extremely difficult.

It is important to note that whenever reduction in benefits occur, as a result of the passage of S. 2530 and H.R. 7235, they will not show up in claims payments until three months after enactment. That three months is the average processing time between the filing of a claim and cutting a check to honor the claim.

Sincerely,

JOHN L. SWEENEY.

JUNE 9, 1980.

HON. HOWARD CANNON,
Chairman, Commerce, Science, and Transportation Committee, U.S. Senate, Washington, D.C.

DEAR CHAIRMAN CANNON: During the first seven months of this fiscal year, Amtrak has paid $1.9 million to personnel covered under Title V—Employee Protection of the Regional Rail Reorganization Act of 1973.

This averages to $270 thousand per month. Because of seasonal changes in earnings rates, we expect that the rate per month will increase somewhat over the summer months and result in an annual Title V expenditure of $3.9 million for FY 80. In addition, there is $700 thousand of FY 79 expense that had not been reimbursed when the Title V account ran out of money.

Lacking reimbursement from the Title V fund, Amtrak must divert current operating funds to this purpose. This could result in a $4.6 million budget overrun by year-end.

Sincerely,

LAWRENCE D. GILSON,
Vice President, Government Affairs.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a statement by Mr. MCGOVERN and a statement by Mr. CANNON be printed in the RECORD at this point.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR MCGOVERN

I propose an amendment to S. 2530, the Employee Protection and Railroad Financing Modification Act of 1980.

The amendment I propose is technical in nature, and I hope the Committee will accept it. This legislation contains a provision amending the definition of rail restructuring as it pertains to financial assistance expenditures authorized by the Milwaukee Railroad Restructuring Act of 1979.

In essence, this provision redefines restructuring to recognize that rail facilities may be restructured through the "extension" of exisitng rail lines. The provision was originally suggested to clarify the intent of the Milwaukee Act amendments to the Title V assistance programs. However, I find nothing in Congress' intent during consideration of the Milwaukee Railroad Restructuring Assistance Act to support inclusion of this provision.

In point of fact, the inclusion of this provision may well be contrary to the intent of Congress. At this time Federal assistance for the restructuring of our nation's rail service, particularly for the bankrupt Rock Island and Milwaukee Roads, is extremely limited. The Title V programs which were designed to facilitate such restructuring efforts must be utilized for thousands of miles of railroad, particularly in the Midwest, if we are to preserve essential rail service.

Frankly, the present level of funding is totally inadequate to accomplish our rail restructuring goals. Consequently, I cannot support any broadening of the definition which could make additional lines—or extensions of rail lines—eligible for financial assistance.

The Senate Commerce Committee, under the distinguished leadership of its Chairman, Senator Cannon, has given thoughtful consideration to the problems and needs of the Rock Island and Milwaukee Railroads. The efforts of this Committee in the past has resulted in giving the Milwaukee a chance to survive as well as providing for an equitable liquidation of the Rock Island given our budget constraints.

I am deeply concerned that if this provision remains in the bill, all of our efforts could, in part, be jeopardized. My amendment would simply delete the words "extension of rail lines" from the definition of restructuring. The deletion of this provision does not represent a substantial or controversial change in the bill. I urge my colleagues to support this amendment and hope that the Committee will accept the amendment.

STATEMENT BY SENATOR CANNON

Section 205 of this bill was intended to clarify specific actions which would be considered a form of restructuring for the purposes to the section 506 program, as amended by section 24 of the Milwaukee Railroad Restructuring Act. From the questions and discussion which has ensued since S. 2530 was reported, it is apparent that inclusion of "extension of lines" in the definition of "restructuring" has not served its intended purpose of clarification.

Accordingly, I have no objection to the technical amendment proposed by my colleague from South Dakota which simply deletes "extension of rail lines" from the language proposed to be added to section 501 by section 205 of the bill. In agreeing to this amendment, however, I would stress that, as noted in the report, this legislation does not affect the government loan program under section 511 of the 4R Act but relates only to the redeemable preference program under section 505. Thus, whether "extension of lines" is included or deleted from section 205 of S. 2530 has no impact on the type of transaction or proposal which is eligible for consideration under section 511 relating to guarantee of obligations.

The PRESIDING OFFICER. The question is on agreeing to the amendments, en bloc.

The amendments (UP amendments Nos. 1362, 1363, and 1364) were agreed to en bloc.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2530

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Employee Protection and Railroad Financing Modification Act of 1980".

TITLE I—EMPLOYEE PROTECTION

FINDINGS AND PURPOSE

SEC. 101. (a) The Congress finds that the original provisions designed to protect railroad employees under title V of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) against deprivation of employment and reductions in railroad-related compensation contain inequities; that these inequities hinder the Consolidated Rail Corporation from achieving improved management of certain protected employees in its work force; and that elimination of these inequities would help reduce the cost levels of the Consolidated Rail Corporation, and thereby improve the Corporation's ability to provide carriage of goods in interstate commerce.

(b) It is declared to be the purpose of the Congress in this title to foster fair and equitable labor protection for certain railroad employees; to foster improvements in the ability of the Consolidated Rail Corporation to manage productively such employees in its work force; and to help reduce the cost levels of the Consolidated Rail Corporation by eliminating the inequities of the labor protection provisions, thereby improving the

Corporation's ability to provide carriage of goods in interstate commerce by—

(1) revising the cash allowances for protected employees under title V of the Regional Rail Reorganization Act of 1973 to ensure that the employees receive a reasonable level of protection; and

(2) improving the ability of the Consolidated Rail Corporation to train or retrain certain protected employees for bona fide job vacancies.

(c) Nothing in this title is intended to affect any law, regulation, court order, or obligation pertaining to equal employment opportunity.

MONTHLY DISPLACEMENT ALLOWANCE

SEC. 102. Section 505(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(b)) is amended to read as follows:

"(b) MONTHLY DISPLACEMENT ALLOWANCE.—A protected employee shall be paid a monthly displacement allowance for any calendar month within the period identified in subsection (c) of this section in which the employee is deprived of employment or adversely affected with respect to his or her compensation, in accordance with the following:

"(1) PROTECTED EMPLOYEES OCCUPYING POSITIONS IN THE NONOPERATING CRAFTS.—Effective on or after the first day of the month immediately following the date of enactment of the Employee Protection and Railroad Financing Modification Act of 1980, the protected rate of pay of a protected nonoperating employee (other than a maintenance-of-way employee) who has been deprived of employment or adversely affected with respect to his or her compensation shall be based on the rate of pay of the position held by the employee on September 1, 1979, or if the employee held no position on that date, the rate of pay of the last position held by the employee prior to that date. A guaranteed hourly rate of pay will be computed for each protected employee, based on the aforesaid rate, and will be the actual hourly rate for hourly rated employees; the daily rate divided by 8 for daily rated employees; and the monthly rate divided by the working days in the claim month, further divided by 8 in the case of monthly rated employees. For employees occupying relief positions, the guarantee shall be computed on the basis of the weighted average daily rate of the positions relieved. Extra list employees will be guaranteed the extra list rate.

"(A) In the event a protected employee's position is abolished or he or she is displaced, and the employee is thereby required to accupy a position paying a lesser hourly rate than the employee's guaranteed hourly rate, the protected employee shall be paid the difference between the hourly rate of pay of the position the employee is occupying and his or her guaranteed hourly rate for all hours included in the straight-time work schedule of the employee's position for the month of claim. less any time lost on account of voluntary absences other than vacations. Hours worked in excess of the straight-time work schedule shall be paid in addition to the guarantee at the rate applicable to the position occupied as provided for in the applicable collective bargaining agreement.

"(B) For any month or portion thereof in which a protected employee is deprived of employment, the protected employee shall be paid his or her guaranteed hourly rate for the number of hours the employee would have worked in the straight-time work schedule of his or her previously held position.

"(C) Notwithstanding the provision that the protected rate shall be the rate of the position held on or immediately preceding September 1, 1979, if a protected employee becomes the permanent incumbent of a higher rated position and is not disqualified therefrom, the higher rate shall become his or her protected rate.

"(2) PROTECTED EMPLOYEES OCCUPYING POSITIONS IN THE MAINTENANCE-OF-WAY CRAFTS.—Notwithstanding subsection (b)(1), effective on and after the first day of the month immediately following the date of enactment of the Employee Protection and Railroad Financing Modification Act of 1980, a protected maintenance-of-way employee shall be afforded his or her average monthly compensation computed in accordance with section 505(b) prior to such date (as used in this subsection (b), 'average monthly compensation'), but subject to a 'maximum', which maximum is defined as the employee's average monthly compensation divided by his or her average monthly time paid for, and further multiplied by 174 hours, or by his or her average monthly time paid for, whichever is less. If the average monthly compensation of a protected maintenance-of-way employee exceeds the maximum, the average monthly compensation of the employee will be reduced to the maximum for purposes of computing the employee's monthly displacement allowance, if any. If a protected employee is deprived of employment or if the employee's compensation in his or her current position is less in any month than the employee's average monthly compensation or the maximum, whichever is smaller, the employee shall be paid 75 percent of the difference between his or her earnings if any and the smaller figure, less any time lost on account of voluntary absences other than vacations. If, at the close of the calendar year, the sum of the protected employee's annual compensation (excluding overtime compensation earned by virtue of actually working in excess of 2 hours at the punitive rate of pay on any given day), monthly displacement allowance payments, and offsets applicable pursuant to this title is less than the employee's average monthly compensation subject to the maximum and multiplied by 12, the employee shall receive an additional payment representing the difference. In the computation of the monthly and the annual displacement allowance payments, earnings shall not include compensation received for overtime actually worked in excess of 2 hours at the punitive rate of pay on any given day. If in the previous calendar year an employee has received displacement allowance payments in excess of his or her annual entitlement, the excess payments shall be recovered from any current or future entitlement to monetary benefits afforded by this title, exclusive of benefits afforded by section 505 (g) of this title.

"(3) PROTECTED EMPLOYEES OCCUPYING POSITIONS IN THE OPERATING CRAFTS.—Effective on and after the first day of the month immediately following the date of enactment of the Employee Protection and Railroad Financing Modification Act of 1980, a protected operating employee (defined as any protected employee in ICC classifications 107 through 128) who has been deprived of employment or adversely affected with respect to his or her compensation shall be afforded his or her average monthly compensation computed in accordance with section 505(b) prior to such date, but subject to a 'maximum', which maximum is defined as one-twelfth of the average annual earnings per employee, computed by cumulating the employee earnings reported to the Interstate Commerce Commission by the Corporation on a monthly basis for calendar year 1977 for the ICC classification of operating service in which the employee performed the preponderance of his or her work in calendar year 1974, increased by applicable general wage increases. If the employee performed no operating service in 1974, the ICC classification will be determined by the preponderance of the employee's operating service in an immediately preceding calendar year. If the average monthly compensation of a protected operating employee exceeds the maximum, the average monthly compensation of the employee will be reduced to the maximum for purposes of computing his or her monthly displacement allowance, if any. If the average monthly compensation of a protected operating employee is less than the maximum, the average monthly compensation of the employee will be used to compute his or her monthly displacement allowance, if any. If a protected employee is deprived of employment, or if the employee is adversely affected with respect to his or her compensation such that the compensation in his or her current position is less in any month than the average monthly compensation of the employee or the maximum, whichever is smaller, the employee shall be paid 75 percent of the difference between his or her earnings, if any, and the smaller figure, less any time lost on account of voluntary absences other than vacations. If, at the close of the calendar year, the sum of the protected employee's annual earnings, monthly displacement allowance payments, and offsets applicable pursuant to this title is less than his or her average monthly compensation subject to the maximum and multiplied by 12, the employee shall receive an additional payment representing the difference. In the computation of the annual payment, if during the calendar year an employee has been force assigned to, or has been required to exercise seniority to, a position in an ICC classification with a lesser maximum than the maximum applicable to that employee's 1974 ICC classification, the employee shall be paid the difference without credit being taken for compensation earned by virtue of actually working hours in the calendar year in excess of the number of hours paid for in the employee's average monthly compensation multiplied by 12 or his or her annual 1977 maximum, whichever is smaller. An employee's compensation for purposes of this subsection will not include savings sharing productivity payments received pursuant to paragraph (t) of the Crew Consist Agreement between the Corporation and the United Transportation Union dated September 8, 1978. If in the previous calendar year an employee has received displacement allowance payments in excess of his or her annual entitlement, the excess payments shall be recovered from any current or future entitlement to monetary benefits afforded by this title, exclusive of benefits afforded by section 505(g) of this title.

"(4) PROTECTED EMPLOYEES OCCUPYING NONCONTRACT POSITIONS.—Effective on and after the first day of the month immediately following the date of enactment of the Employee Protection and Railroad Financing Modification Act of 1980, a protected noncontract employee who has been deprived of employment or adversely affected with respect to his or her compensation shall retain his or her average monthly compensation and monthly displacement allowance computed in accordance with section 505(b) prior to such date. In the event such noncontract employee exercises or has exercised seniority in a craft or class of operating employees, the employee's entitlement to a monthly displacement allowance and fringe benefits, and his or her eligibility for transfer, will be the same as the entitlement and eligibility of other protected employees in the craft or class in which seniority is exercised. In the event such noncontract employee exercises or has exercised seniority in a craft or class of nonoperating employees, the entitlement of the employee to a monthly displacement allowance and fringe benefits, and his or her eligibility for transfer, will be consistent with the entitlement and eligibility of other protected employees in the craft or class in which seniority is exercised, except that the protected rate of pay shall be based on the rate of pay of the position first obtained through the exercise of seniority, rather than the rate of any position held on or prior to September 1, 1979,

"(5) Notwithstanding the preceding provisions of this subsection, employees who, prior to September 1, 1979, accepted transfer to positions requiring a change of residence pursuant to section 505(d) of the Act, shall retain their average monthly compensation and monthly displacement allowance computed in accordance with section 505(b) prior to the date of enactment of the Employee Protection and Railroad Financing Modification Act of 1980.

"(6) In determining compensation in his or her current employment, the protected employee shall be treated as occupying the position producing the highest rate of pay to which his or her qualifications and seniority entitle the employee under the applicable collective bargaining agreement and which does not require a change in residence. A protected operating employee will be considered to be occupying the position producing the highest rate of pay if the employee occupies a position producing compensation equal to his or her average monthly compensation subject to the maximum.

"(7) With respect to a protected employee who has been deprived of employment, the monthly displacement allowance shall be reduced by the full amount of any unemployment compensation benefits received by the protected employee and shall be reduced by an amount equivalent to any outside earnings of the employee.

"(8) A protected employee's average monthly compensation or protected rate of pay shall be adjusted from time to time thereafter to reflect subsequent general wage increases.

"(9) The average monthly compensation or protected rate of pay provided by this section shall in no event exceed $2,500 in any month, except that such amount shall be adjusted to reflect general wage increases subsequent to April 1, 1976.

"(10) A protected employee and the employee's representative shall be furnished with the protected employee's protected rate of pay, or average monthly compensation and average monthly time paid for, subject to the maximum, computed in accordance with the terms of this subsection. Each protected employee who has been deprived of employment, or his or her representative, and the employer shall agree upon a procedure by which the employee shall keep the employer currently informed of the unemployment compensation benefits received by the employee and the earnings of such employee in employment other than with the employer.".

DURATION OF MONTHLY DISPLACEMENT ALLOWANCE

SEC. 103. Section 505(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(c)) is amended to read as follows:

"(c) DURATION OF MONTHLY DISPLACEMENT ALLOWANCE.—The monthly displacement allowance provided for in subsection (b) of this section shall continue until the attainment of age 65 by a protected employee with 5 or more years of service on the effective date of this Act and, in the case of a protected employee who has less than 5 years of service on such date, shall continue for a period equal to the employee's total prior years of service: *Provided*, That such monthly displacement allowance shall terminate upon the protected employee's death, retirement, resignation, or dismissal for cause; shall not be paid with respect to any period of disciplinary suspension for cause, failure to work due to illness or disability, voluntary furlough, or failure to retain or obtain a position available to the employee by the exercise of the employee's seniority rights in accordance with the provisions of this section; shall not be paid to a protected employee deprived of employment with respect to any period of failure to work due to strike, fire, flood, snowstorm, hurricane, earthquake, tornado, or other similar natural occurrence that causes a suspension of operations in whole or in part and precludes performance of the work which would be performed by the incumbents of the positions to be abolished or the work which would be performed by the employees involved in the force reductions (provided that the payment of monthly displacement allowances shall be resumed upon termination of the emergency); shall not be paid with respect to any month that commences after the effective date of the Railroad Employee Protection Modification Act of 1980 for which the employee has failed to make a claim for such allowance within 3 full calendar months (unless otherwise agreed upon by the employee, or his or her representative, and the employer) after the last day of the month for which such allowance is sought, except that such 3-month limit shall not be applicable to claims which are the subject of or based upon arbitration decisions issued pursuant to section 507 and unless otherwise agreed upon by the employee, or his representative and the employer, the entitlement of an employee to an allowance shall be approved or denied within 150 days after the claim therefor is made for the first year following the date of enactment of the Railroad Employee Protection Modification Act of 1980 and within 90 days thereafter. Claims not approved or denied at the expiration of the time limits set forth in this subsection shall be deemed approved.

TRAINING AND TRANSFER

SEC. 104. (a) Section 505(d)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(d)(4)) is amended to read as follows:

"(4) Transfers to vacancies requiring a change in residence shall be subject to the following:

"(A) The vacancy shall be first offered to the junior qualified protected employee or employees deprived of employment in the seniority district where the vacancy exists, and each such employee shall have 20 days to elect one of the options set forth in paragraph (1) of this subsection. The Corporation or other employers with employees protected under this section shall determine the number of junior qualified protected employees deprived of employment (not to exceed four employees per offer) who will be included in the offer of transfer. The vacancy will be awarded to the most junior qualified protected employee who accepts transfer. Other qualified protected employees who have accepted the transfer will retain their status as employees deprived of employment. Employees junior to the acceptor who have elected one of the options set forth in paragraph (1) of this subsection shall retain the option. If the vacancy is not filled, it may be again offered in inverse seniority order to remaining qualified protected employee(s) deprived of employment (not to exceed four employees per offer) in the seniority district.

"(B) If there are no qualified protected employees deprived of employment in the seniority district where the vacancy exists, the vacancy may be offered in inverse seniority order to qualified protected employee(s) deprived of employment (not to exceed four employees per offer) on the system, in accordance with the procedure in paragraph (4)(A) of this subsection. Employees offered transfer pursuant to this paragraph (4)(B) will be afforded 30 days to elect one of the options set forth in paragraph (1) of this subsection.

"(C) The provisions of this paragraph shall not prevent the adoption of other procedures pursuant to an agreement made by the Corporation or other employers with employees protected under this section and representatives of the class or craft of employees involved.

"(D) When no bona fide vacancies exist in a marine craft or class on the Corporation's system or the system of other employers with employees protected under this section, or in the craft or class of a Penn Truck Lines, Incorporated, employee, the Corporation or other employers with employees protected under this section may offer such employee comparable employment for which the employee is qualified, or for which the employee can be trained, in another craft or class. The Corporation or other employers with employees protected under this section shall first attempt to locate a comparable position in a seniority district which encompasses the employee's last work location, and if successful, a transfer notice may be tendered pursuant to paragraph (4)(A) of this subsection. If no such position exists, the Corporation or other employers with employees protected under this section may tender the employee a transfer notice involving a position elsewhere on the system pursuant to paragraph (4)(B) of this subsection. In the event it is necessary to train an employee after his or her acceptance of a position pursuant to this subsection, such training shall be provided by the Corporation or other employers with employees protected under this section at no cost to the employee.".

(b) Section 505(i)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(i)(1)) is amended by adding the following immediately before the last sentence: "The Corporation may simultaneously offer a position to not more than four protected noncontract employees. The position will be given to the protected employee accepting transfer whom the Corporation considers to be best qualified for the particular position involved. Other protected employees who have accepted the transfer will retain their previous status. Employees who have elected a voluntary suspension of employment at their home location in lieu of protective benefits or a severance of employment shall retain the option elected.".

PAYMENT, PROGRAM AUDIT AND REPORT

SEC. 105. (a) Section 509 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 779) is amended to read as follows:

"PAYMENT, PROGRAM AUDIT AND REPORT

"SEC. 509. (a) PAYMENT.—The Corporation, the Association (where applicable), replacement operators, and acquiring railroads, as the case may be, shall be responsible for the actual payment of all allowances, expenses, and costs provided protected employees pursuant to the provisions of this title. The Corporation, the Association (where applicable), replacement operators, and acquiring railroads shall then be reimbursed for the actual amounts paid to, or for the benefit of, protected employees, pursuant to the provisions of this title (including such amounts paid by the employer prior to the effective date of the Railroad Employee Protection Modification Act of 1980 and training costs incurred by the Corporation pursuant to section 505(d)(4)(D) of this title), other than provisions with respect to employee pension benefits, not to exceed an aggregate sum of $485,000,000, by the Railroad Retirement Board, upon certification to such Board in such detail as the Board may reasonably require, by the Corporation, the Association (where applicable), replacement operators, and acquiring railroads, of the amount paid such employees: *Provided*, That the aggregate amount of reimbursements made by the Board for the payment of monthly displacement allowances in the period after enactment of the Railroad Employee Protection

Modification Act of 1980 shall not exceed $180,000,000. There is authorized to be appropriated to the Secretary annually such sums as may be required to meet the obligations payable hereunder, not to exceed the aggregate sum of $485,000,000. Upon the exhaustion of such authorization, the Corporation, the Association (where applicable), replacement operators, and acquiring railroads shall retain responsibility for the payment of benefits otherwise reimbursable under this title, but they shall not be reimbursed therefor. There is further authorized to be appropriated to the Secretary such sums as may be necessary to provide for additional administrative expenses to be incurred by the Railroad Retirement Board in the performance of their functions under this section. Appropriations authorized under this section may be allocated by the Secretary to the Railroad Retirement Board.

"(b) PROGRAM AUDIT.—Commencing October 1, 1980, the Association is authorized and directed to audit the payment of benefits pursuant to this title and to evaluate the effectiveness of the provisions of this title in improving the Corporation's management of certain protected employees in its work force who are entitled to receive monthly displacement allowances, including the manner in which the Corporation manages the overtime worked by maintenance-of-way employees. Such program audits and evaluations shall be conducted in accordance with such rules and regulations as the Association may prescribe. The representatives of the Association shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to, or in use by or in connection with the Corporation, replacement operators, acquiring railroads, or the Railroad Retirement Board which pertain to the benefits provided protected employees pursuant to this title and which are necessary to facilitate such program audit and evaluation.

"(c) REPORT.—The Association shall transmit to the Congress and the President, not later than 90 days after the end of each fiscal year, a comprehensive and detailed report on the payment of benefits under this title and the effectiveness of the provisions of this title in improving the Corporation's management of certain protected employees in its work force who are entitled to receive monthly displacement allowances.".

(b) Notwithstanding any other provision of law, the authority of the Federal Railroad Retirement Board to make reimbursements provided under subsection (a) of this section shall not be effective until October 1, 1980. On and after such date, the Consolidated Rail Corporation and other employers with employees protected under title V of the Regional Rail Reorganization Act of 1973 may be reimbursed, from funds available pursuant to section 509 of such title, by the Federal Railroad Retirement Board for the amount of such payments, previously not reimbursed, as were made by the Corporation and other employers pursuant to the provisions of such title.

TECHNICAL AMENDMENTS

SEC. 106. (a) The table of contents of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) is amended by revising the caption

"Sec. 509. Payment of benefits."

to read

"Sec. 509. Payment, audit and report.".

(b) Section 102(16) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702(16)) is amended to read as follows:

"(16) 'Secretary' means the Secretary of Transportation or the designated representative of the Secretary;".

(c) Section 201 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 711) is amended by—

(1) revising subsection (d)(2) to read as follows:

"(2) three Government members, who shall be (A) the Secretary, acting directly or at any time through the Deputy Secretary of Transportation, the General Counsel of the Department of Transportation, the Federal Railroad Administrator, the Deputy Administrator of the Federal Railroad Administration, (B) the Secretary of the Treasury, acting directly or at any time through an officer of the Department of the Treasury who has been appointed with the advice and consent of the Senate, and (C) the Chairman of the Commission, acting directly or at any time through the Vice Chairman of the Commission; and";

(2) striking "through their respective Deputy Secretaries" from the first sentence of subsection (i) and inserting in lieu thereof "in the case of the Secretary, through the Deputy Secretary of Transportation, the General Counsel of the Department of Transportation, the Federal Railroad Administrator, or the Deputy Administrator of the Federal Railroad Administration, and, in the case of the Secretary of the Treasury, through an officer of the Department of the Treasury who has been appointed with the advice and consent of the Senate"; and

(3) striking the first sentence from subsection (j)(4).

(d) Section 501 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771) is amended by—

(1) adding to paragraph (6) after "disability," in the last sentence "failure to work due to strike, fire, flood, snowstorm, hurricane, earthquake, tornado, or other similar natural occurrence that causes a suspension of operations in whole or in part and precludes performance of the work which would be performed by the incumbents of the positions to be abolished or the work which would be performed by the employees involved in the force reductions,"; and

(2) striking "and" after the semicolon in paragraph (10), striking the period after paragraph (11) and inserting in its place "; and", and adding the following new paragraph:

"(12) 'compensation' means earnings in employment subject to the Railroad Retirement Act.".

(e) Section 507 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 777) is amended by adding after "section 504(d)" the phrase ", section 509(b), section 509(c)".

SINGLE COLLECTIVE-BARGAINING AGREEMENT

SEC. 107. Section 504(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 774(d)) is amended to read as follows:

"(d) NEW COLLECTIVE-BARGAINING AGREEMENTS.—Not later than 60 days after the effective date of any conveyance pursuant to the provisions of this Act, the representatives of the various classes of crafts of the employees of a railroad in reorganization involved in a conveyance and representatives of the Corporation shall commence negotiation of a new single collective-bargaining agreement for each class and craft of employees covering the rate of pay, rules, and working conditions of employees who are employees of the Corporation, which collective-bargaining agreement shall include appropriate provisions concerning rates of pay, rules and working conditions but shall not include any provisions for job stabilization resulting from any transaction effected pursuant to this Act which may exceed or conflict with those established herein.".

TITLE II

EXTENSION OF REDEEMABLE PREFERENCE SHARE FINANCING

SEC. 201. Sections 505(e), 507(a), 507(d), and 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(e), 827(a), 827(d), and 829) are each amended by striking "September 30, 1980" wherever it appears and inserting in lieu thereof "September 30, 1982" in each such place.

SEC. 202. (a) Section 505(d)(3) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(d)(3)) is amended by striking "$700,000,000" and inserting in lieu thereof "$1,100,000,000".

(b) Sections 507(a) and 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 827(a) and 829) are each amended by striking "$600,000,000" and inserting in lieu thereof "$1,100,000,000".

SEC. 203. (a) Section 505(b) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(b)) is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding any other provision of law, the Secretary may approve applications to provide financial assistance to any employee or employee/shipper ownership group formed pursuant to a plan for the purchase and/or rehabilitation of a line or lines of railroad and/or rail facilities which are considered to be in the public interest. The Secretary shall not authorize funds which exceed 20 percent of such total funds available under this section. In considering the allocation of available funds and priority of eligible projects under this subsection, the Secretary shall consider the availability of viable alternatives to the ownership and/or rehabilitation by the eligible employee/shipper group for the continuation of rail service. Projects with no such alternative shall receive highest priority.".

(b) Sections 506 through 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 826 through 829) are amended by—

(1) inserting "employee or employee/shipper group" immediately after the word "railroad" wherever it appears;

(2) inserting "employee or employee/shipper groups" immediately after the word "railroads" wherever it appears; and

(3) inserting "employee or employee/shipper group's" immediately after the word "railroad's" wherever it appears.

SEC. 204. (a) Title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended by inserting the following new section immediately after section 505 thereof:

"EMPLOYMENT EFFECTIVENESS IMPROVEMENT ASSISTANCE

"SEC. 505A. (a) The Secretary is authorized under such terms and conditions as the Secretary shall prescribe to provide financial assistance to any class I railroad, not to exceed 10 percent of the funds available for the rehabilitation and improvement financing program pursuant to section 505 of this title, to cover up to 100 percent of the railroad's payments to any eligible employee or former employee to whom the railroad is obligated to make payments under a labor-management agreement which results in a significant change in railroad operating practices or work rules and which the Secretary determines will significantly improve manpower effectiveness. In making such determination, the Secretary shall consider the relationship of the railroad's labor costs to its revenues and any evidence of efficiency gains that the railroad and labor organizations may demonstrate.

"(b) Before providing any financial assistance under this section, the Secretary shall require the railroad receiving assistance to agree to such terms and conditions as are sufficient in the Secretary's judgment to assure that the railroad has, through a long-term change in operating practices or work rules, improved its manpower effectiveness.

"(c) Wherever a railroad receiving assistance under this section, defaults on any provision of a financing agreement or security purchased pursuant to the section, the Secretary shall be entitled to exercise all remedies in law or equity and may request the Attorney General of the United States to commence a civil action for damages, specific performance or any other available remedy in any appropriate court.".

(b) The table of contents of such Act is amended by inserting the following new item immediately following the item referring to section 505:

"Sec. 505A. Employment effectiveness improvement assistance.".

RESTRUCTURING AMENDMENTS

Sec. 205. Section 501 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821), as amended, is further amended by—

(1) striking "and" at the end of paragraph (7);

(2) inserting "acquisition or sale of assets or securities," immediately after "merger," in paragraph (8);

(3) striking the period at the end of paragraph (8) and inserting in lieu thereof a semicolon; and

(4) adding at the end thereof the following new paragraphs:

"(9) 'consolidation' means the combination of separate rail facilities and the abandonment of the excess facilities, except that 'consolidation' does not include the combination by a single railroad of multiple tracks into fewer tracks where the tracks do not constitute separate physical and operating lines of railroad; and

"(10) 'coordination' means the combination of rail freight traffic flows through the use of joint facilities arrangements or internally that result in a reduction of service on at least one facility and includes (but is not limited to) arrangements for joint use of tracks or other facilities and the acquisition or sale of assets.".

Sec. 206. Section 505(h)(4) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended to read as follows:

"(4) This subsection shall apply to purchase offers submitted to the Trustee of the Rock Island Railroad Estate and filed with the Commission prior to September 15, 1980 or purchase applications filed with the Commission prior to September 15, 1980, and approved by the court having jurisdiction over the reorganization of the Rock Island Railroad or the Milwaukee Railroad, as the case may be, and by the Commission.".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

OCEAN THERMAL ENERGY CONVERSION RESEARCH AND DEVELOPMENT ACT

The PRESIDING OFFICER. The clerk will state the next bill by title.

The legislative clerk read as follows:

Calendar 902, H.R. 7474, a bill to provide for an accelerated research and development program to achieve early application of ocean thermal energy conversion systems, and for other purposes.

The Senate proceeded to consider the bill.

Mr. MATSUNAGA. Mr. President, I am extremely pleased that the Senate is today considering H.R. 7474, a bill providing for a research, development, and demonstration program to achieve early technology applications for ocean thermal energy conversion systems. To be candid, I would have preferred to see the Senate acting on a House-approved Senate bill, S. 1830, the very first bill on OTEC ever to be introduced in the Congress.

That Senate bill which I introduced last fall with 27 cosponsors, and which this body passed in January of this year by unanimous vote, was sent to the House 5 months ago, but not acted upon by that other body. There appears to be a serious violation of the usual courtesy accorded one body of the Congress by the other, and I was, at first blush, tempted to move that the Senate insist that the House act on and return the Senate bill, S. 1830, instead of the House bill which was introduced after the Senate bill had been sent to the House.

Because of my fondness for Members of the House—having served in that body for 14 years before coming to the Senate—and in the interest of expeditious passage of an important and much needed piece of legislation, I am rising instead to urge my colleagues to support passage of the counterpart House bill, H.R. 7474, now before us.

Mr. President, my decision to support the House measure was reached after extensive negotiations off the floor to arrive at a compromise acceptable to both the House and the Senate. I am happy to report that the greater part of S. 1830 has been incorporated into H.R. 7474, to my complete satisfaction, in the agreed compromise; and I now offer it as an amendment to H.R. 7474 and ask for its immediate consideration.

UP AMENDMENT NO. 1365

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Hawaii (Mr. Matsunaga) proposes an unprinted amendment numbered 1365.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

UP Amendment No. 1365

On page 1, strike the entire text of the bill after the enacting clause and insert in lieu thereof the following: That this Act may be cited as the "Ocean Thermal Energy Conversion Research, Development, and Demonstration Act".

FINDINGS AND PURPOSES

Sec. 2. (a) The Congress finds that—

(1) the supply of nonrenewable fuels in the United States is slowly being depleted;

(2) alternative sources of energy must be developed;

(3) ocean thermal energy is a renewable energy resource that can make a significant contribution to the energy needs of the United States;

(4) the technology base for ocean thermal energy conversion has improved over the past two years, and has consequently lowered the technical risk involved in constructing moderate-sized pilot plants with an electrical generating capacity of about ten to forty megawatts;

(5) while the Federal ocean thermal energy conversion program has grown in size and scope over the past several years, it is in the national interest to accelerate efforts to commercialize ocean thermal energy conversion by building pilot and demonstration facilities and to begin planning for the commercial demonstration of ocean thermal energy conversion technology;

(6) a strong and innovative domestic industry committed to the commercialization of ocean thermal energy conversion must be established, and many competent domestic industrial groups are already involved in ocean thermal energy conversion research and development activity; and

(7) consistent with the findings of the Domestic Policy Review on Solar Energy, ocean thermal energy conversion energy can potentially contribute at least one-tenth of quad of energy per year by the year 2000.

(b) Therefore, the purpose of this Act is to accelerate ocean thermal energy conversion technology development to provide a technical base for meeting the following goals:

(1) demonstration by 1986 of at least one hundred megawatts of electrical capacity or energy product equivalent from ocean thermal energy conversion systems;

(2) demonstration by 1989 of at least five hundred megawatts of electrical capacity or energy product equivalent from ocean thermal energy conversion systems;

(3) achievement in the mid-1990's, for the gulf coast region of the continental United States and for islands in the United States, its possessions and its territories, an average cost of electricity or energy product equivalent produced by installed ocean thermal energy conversion systems that is competitive with conventional energy sources; and

(4) establish as a national goal ten thousand megawatts of electrical capacity or energy product equivalent from ocean thermal energy conversion systems by the year 1999.

COMPREHENSIVE PROGRAM MANAGEMENT PLAN

Sec. 3. (a)(1) The Secretary is authorized and directed to prepare a comprehensive program management plan for the conduct under this Act of research, development, and demonstation activities consistent with the provisions of sections 4, 5, and 6.

(2) In the preparation of such plan, the Secretary shall consult with the Administrator of the National Oceanic and Atmospheric Administration, the Administrator of the Martime Administration, the Administrator of the National Aeronautics and Space Administration, and the heads of such other Federal agencies and such public and private organizations as he deems appropriate.

(b) The Secretary shall transmit the comprehensive program management plan to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate within nine months after the date of the enactment of this Act.

(c) The detailed description of the comprehensive plan under this section shall include, but need not be limited to—

(1) the anticipated research, development, and demonstration objectives to be achieved by the program;

(2) the program strategies and technology application and market development plans, including detailed milestone goals to be achieved during the next fiscal year for all major activities and projects;

(3) a five-year implementation schedule

for program elements with associated budget and program management resources requirements;

(4) a detailed description of the functional organization of the program management including identification of permanent test facilities and of a lead center responsibilities for technology support and project management;

(5) the estimated relative financial contributions of the Federal Government and non-Federal participants in the pilot and demonstration projects;

(6) supporting research needed to solve problems which may inhibit or limit development of ocean thermal energy conversion systems; and

(7) an analysis of the environmental, economic and societal impacts of ocean thermal energy conversion facilities.

(d)(1) Concurrently with the submission of the President's annual budget for each subsequent year, the Secretary shall transmit to the Congress a detailed description of modifications which may be necessary to revise appropriately the comprehensive plan as then in effect, setting forth any changes in circumstances which may have occurred since the plan or the last previous modification thereof was transmitted in accordance with this section.

(2) Such description shall also include a detailed justification of any such changes, a detailed description of the progress made toward achieving the goals of this Act, a statement on the status of interagency cooperation in meeting such goals, any comments on and recommendations for improvements in the comprehensive program management plan made by the Technical Panel established under section 8, and any legislative or other recommendations which the Secretary may have to help attain such goals.

RESEARCH AND DEVELOPMENT

SEC. 4. (a) The Secretary shall initiate research or accelerate existing research in areas in which the lack of knowledge limits development of ocean thermal energy conversion systems in order to achieve the purposes of this Act.

(b) The Secretary shall conduct evaluations, arrange for tests, and disseminate to developers information, data, and materials necessary to support the design efforts undertaken pursuant to section 5. Specific technical areas to be addressed shall include, but not be limited to—

(1) interface requirements between the platform and cold water pipe;

(2) cold water pipe deployment techniques;

(3) heat exchangers;

(4) control system simulation;

(5) stationkeeping requirements; and

(6) energy delivery systems, such as electric cable or energy product transport.

(c) The Secretary shall, for the purpose of performing his responsibilities pursuant to this Act, solicit proposals and evaluate any reasonable new or improved technology, a description of which is submitted to the Secretary in writing, which could lead or contribute to the development of ocean thermal energy conversion system technology.

PILOT AND DEMONSTRATION PLANTS

SEC. 5. (a) The Secretary is authorized to initiate a program to design, construct, and operate well instrumented ocean thermal energy conversion facilities of sufficient size to demonstrate the technical feasibility and potential economic feasibility of utilizing the various forms of ocean thermal energy conversion to displace nonrenewable fuels. To achieve the goals of this section and to facilitate development of a strong industrial basis for the application of ocean thermal energy conversion system technology, at least two independent parallel demonstration projects shall be competitively selected.

(b) The specific goals of the demonstration program shall include at a minimum—

(1) the demonstration of ocean thermal energy conversion technical feasibility through multiple pilot and demonstration plants with a combined capacity of at least one hundred megawatts of electrical capacity of energy product equivalent by the year 1986;

(2) the delivery of baseload electricity to utilities located on land or the production of commercially attractive quantities of energy products; and

(3) the continuous operation of each pilot and demonstration facility for a sufficient period of time to collect and analyze system performance and reliability data.

(c) In providing any financial assistance under this section, the Secretary shall (1) give full consideration to those projects which will provide energy to United States offshore States, its territories, and its possessions and (2) seek satisfactory cost-sharing arrangements when he deems such arrangements to be appropriate.

TECHNOLOGY APPLICATION

SEC. 6. (a) The Secretary shall, in consultation with the Administrator of the National Oceanic and Atmospheric Administration, the Administrator of the Maritime Administration, the Administrator of the National Aeronautics and Space Administration, and the Technical Panel established under section 8, prepare a comprehensive technology application and market development plan that will permit realization of the ten-thousand-megawatt national goal by the year 1999. Such plan shall include at a minimum—

(1) an assessment of those Government actions required to achieve a two-hundred to four-hundred-megawatt electrical-commercial demonstration of ocean thermal energy conversion systems in time to have industry meet the goal contained in section 2(b)(2) including a listing of those financial, property, and patent right packages most likely to lead to early commercial demonstration at minimum cost to the Federal Government;

(2) an assessment of further Government actions required to permit expansion of the domestic ocean thermal energy conversion industry to meet the goal contained in section 2(b)(3);

(3) an analysis of further Government actions necessary to aid the industry in minimizing and removing any legal and institutional barriers such as the designation of a lead agency; and

(4) an assessment of the necessary Government actions to assist in eliminating economic uncertainties through financial incentives, such as loan guarantees, price supports, or other inducements.

(b) The Secretary shall transmit such comprehensive technology application and market development plan to the Congress within three years after the date of enactment of this Act, and update the plan on an annual basis thereafter.

(c) As part of the competitive procurement initiative for design and construction of the pilot and demonstration projects authorized in section 10(c), each respondent shall include in its proposal (1) a plan leading to a full-scale, first-of-a-kind facility based on the proposed demonstration system; and (2) the financial and other contributions the respondent will make toward meeting the national goals.

PROGRAM SELECTION CRITERIA

SEC. 7. The Secretary shall, in fulfilling his responsibilities under this Act, select program activities and set priorities which are consistent with the following criteria:

(1) realization of energy production costs for ocean thermal energy conversion systems that are competitive with costs from conventional energy production systems;

(2) encouragement of projects for which contributions to project costs are forthcoming from private, industrial, utility, or governmental entities for the purpose of sharing with the Federal Government the costs of purchasing and installing ocean thermal energy conversion systems;

(3) promotion of ocean thermal energy conversion facilities for coastal areas, islands, and isolated military institutions which are vulnerable to interruption in the fossil fuel supply;

(4) preference for and priority to persons and domestic firms whose base of operations is in the United States as will assure that the program under this Act promotes the development of a United States domestic technology for ocean thermal energy conversion; and

(5) preference for proposals for pilot and demonstration projects in which the respondents certify their intent to become an integral part of the industrial infrastructure necessary to meet the goals of this Act.

TECHNICAL PANEL

SEC. 8. (a) A Technical Panel of the Energy Research Advisory Board shall be established to advise the Board on the conduct of the ocean thermal energy conversion program.

(b)(1) The Technical Panel shall be comprised of such representatives from domestic industry, universities, government laboratories, financial, environmental and other organizations as the Chairman of the Energy Research Advisory Board deems appropriate based on his assessment of the technical and other qualifications of such representative.

(2) Members of the Technical Panel need not be members of the full Energy Research Advisory Board.

(c) The activities of the Technical Panel shall be in compliance with any laws and regulations guiding the activities of technical and fact-finding groups reporting to the Energy Research Advisory Board.

(d) The Technical Panel shall review and may make recommendations on the following items, among others:

(1) implementation and conduct of the programs established by this Act;

(2) definition of ocean thermal energy conversion system performance requirements for various user applications; and

(3) economic, technological, and environmental consequences of the deployment of ocean thermal energy conversion systems.

(e) The Technical Panel shall submit to the Energy Research Advisory Board on at least an annual basis a written report of its findings and recommendations with regard to the program. Such report, shall include at a minimum—

(1) a summary of the Panel's activities for the preceding year;

(2) an assessment and evaluation of the status of the programs mandated by this Act; and

(3) comments on and recommendations for improvements in the comprehensive program management plan required under section 3.

(f) After consideration of the Technical Panel report, the Energy Research Advisory Board shall submit such report, together with any comments such Board deems appropriate, to the Secretary.

(g) The heads of the departments, agencies, and instrumentalities of the executive branch of the Federal Government shall cooperate with the Technical Panel in carrying out the requirements of this section and shall furnish to the Technical Panel such information as the Technical Panel deems necessary to carry out this section.

(h) The Secretary shall provide sufficient staff, funds, and other support as necessary to enable the Technical Panel to carry out the functions described in this section.

DEFINITIONS

SEC. 9. As used in this Act, the term—

(1) "ocean thermal energy conversion" means a method of converting part of the heat from the Sun which is stored in the surface layers of a body of water into electrical energy or energy product equivalent;

(2) "energy product equivalent" means an energy carrier including, but not limited to, ammonia, hydrogen, or molten salts or an energy-intensive commodity, including, but not limited to, electrometals, fresh water, or nutrients for aquaculture; and

(3) "Secretary" means the Secretary of Energy.

AUTHORIZATION FOR APPROPRIATION

SEC. 10. (a) There is hereby authorized to be appropriated to carry out the purposes of this Act the sum of $25,000,000 for operating expenses for the fiscal year ending September 30, 1981, in addition to any amounts authorized to be appropriated in the fiscal year 1981 Authorization Act pursuant to section 660 of Public Law 95–91.

(b) There is hereby authorized to be appropriated to carry out the purposes of this Act the sum of $30,000,000 for operating expenses for the fiscal year ending September 30, 1982.

(c) Funds are hereby authorized to be appropriated for fiscal years 1981 and 1982 to carry out the purposes of section 5 of this Act for plant and capital equipment as follows:

Project 81–ES–1, ocean thermal energy conversion demonstration plants with a combined capacity of at least one hundred megawatts electrical or the energy product equivalent, sites to be determined, conceptual and preliminary design activities only, $30,000,000.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MATSUNAGA. I yield.

Mr. ROBERT C. BYRD. I wish to verify for the record the difficult experience that I went through in dealing with the distinguished Senator from Hawaii on this measure. I thought Lyndon Johnson had put me through the wringer once or twice, but I had not seen anything.

I had to talk and plead with the distinguished Senator from Hawaii not to take action to hold up the House bill. I could understand his anger and chagrin and frustration, but I do appreciate his having considered my request that he forego taking action as he has stated.

The Senator showed a great consideration to the joint leadership in this matter and I am sure Mr. BAKER is here to attest to that.

I personally want to thank the Senator from Hawaii, who is always most cooperative with the leadership and was especially so in this instance. I again thank him.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, I join the majority leader in paying my respects to the Senator from Hawaii and thanking him once more for his understanding, courtesy, and cooperation in this matter. It is an important matter of great interest not only today of enormous interest in the future.

I wish to express my appreciation for his good work.

Mr. MATSUNAGA. Mr. President, I thank both the majority leader and the minority leader for their kind words.

Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Hawaii (Mr. MATSUNAGA).

The amendment was agreed to.

Mr. MATSUNAGA. Mr. President, H.R. 7474, as amended, sets forth three goals:

First, it commits the Nation to demonstrate by 1986 at least 100 megawatts of electrical capacity or energy product equivalent from OTEC systems and at least 500 megawatts by 1989.

Second, to achieve in the mid-1990's, for the gulf coast region of the continental United States and for islands in the United States, its possessions and its territories, an average cost of electricity or energy product equivalent produced by installed OTEC systems that is competitive with conventional energy sources.

Third, establish as a national goal 10,000 megawatts of electrical capacity or energy product equivalent from OTEC system by the year 1999.

The bill provides for a comprehensive program management plan involving the required research and development to meet the objectives, pilot and demonstration plants, technology applications, and the establishment of an Ocean Thermal Energy Conversion Technical Panel to advise the Secretary of Energy, Administrator of the National Oceanic and Atmospheric Administration, the Administrator of the Maritime Administration, and the Administrator of the National Aeronautics and Space Administration in carrying out the provisions of this act.

The bill authorizes $25 million for operating expenses for fiscal year 1981, in addition to any amounts authorized in the Department of Energy Authorization Act, and $60 million for operating expenses for fiscal year 1982. A sum of $30 million is authorized for fiscal years 1981 and 1982 for site selection and conceptual and preliminary design activities for OTEC demonstration plants with a combined capacity of at least one hundred megawatts electrical or energy product equivalent.

Mr. President, in the past few years, a series of events have combined to create a fertile environment for the birth of a new industry. As from the chaos created by continually escalating energy prices and severely more rigorous environmental constraints, OTEC technology has emerged to provide a promising new source of abundant baseload energy. Although the basic concept has been extant for more than a century, it was not until August of last year on the sparkling midnight blue waters off Keahole Point in my home State of Hawaii that the concept was proved beyond any reasonable doubt to be technically feasible. "Mini-OTEC," a joint project of the State of Hawaii and private industry, successfully produced usable electricity by use of the difference in temperature of the surface water and bottom water.

A month later, in September, 1979, I introduced S. 1830 to promote the early commercialization of the technology, and in November, 1979, Congressman DON FUQUA introduced a similar OTEC research and development bill in the House. The Senate passed S. 1830 in January of this year and the House passed its version, H.R. 7474, only last week.

Industry very strongly supports the bill under consideration; labor stands behind the development of this technology; and environmental groups have expressed enthusiasm for the relatively gained from OTEC: The cold. cold water fact, there is a bonus byproduct to be gained from OTFC: The cold, cold water which is raised to the surface in the process is rich in nutrients and enhances the biological cycle. According to expert fishermen, fishing flourished in the vicinity of mini-OTEC during its operation. Schools of fish were being attracted to the nutrients raised with the water raised from the depths of the sea.

Mr. President, we have before us an excellent bill, favored by everyone. It is with enthusiasm that I look forward to its quick enactment and early implementation, so that we can attain energy independence in the earliest time frame possible.

Mr. MATSUNAGA. I move the passage of the bill.

The PRESIDING OFFICER. If there be no further amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 7474) was ordered to a third reading, was read the third time, and passed.

Mr. MATSUNAGA. I move to reconsider the vote by which the bill was passed.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

An act to provide for a research, development, and demonstration program to achieve early technology applications for ocean thermal energy conversion systems, and for other purposes.

FEDERAL QUESTION JURISDICTION AMENDMENTS ACT OF 1980

The PRESIDING OFFICER. The clerk will state the next bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2357) to eliminate the amount in controversy requirement for the Federal question jurisdiction.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Judiciary with amendments as follows:

On page 2, beginning with line 10, insert the following:

SEC. 3. (a) Section 23(a) of the Consumer Product Safety Act (15 U.S.C. 2072(a)) is amended—

(1) by striking out "subject to the provisions of section 1331 of title 28, United States Code, as to the amount in controversy,"; and

(2) by striking out the period at the end thereof and inserting in lieu thereof ": *Provided*, That the matter in controversy exceeds

the sum or value of $10,000, exclusive of interest and costs, unless such action is brought against the United States, any agency thereof, or any officer or employee thereof in his official capacity.".

(b) Section 23 of the Consumer Product Safety Act (15 U.S.C. 2072) is amended by redesignating subsection (b) as subsection (c) and by inserting immediately after subsection (a) the following new subsection:

"(b) Except when express provision is made in a statute of the United States, in any case in which the plaintiff is finally adjudged to be entitled to recover less than the sum or value of $10,000, computed without regard to any setoff or counterclaim to which the defendant may be adjudged to be entitled, and exclusive of interests and costs, the district court may deny costs to the plaintiff and, in addition, may impose costs on the plaintiff.".

On page 3, line 9, strike "3" and insert "4";

So as to make the bill raid:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Question Jurisdictional Amendments Act of 1980".

SEC. 2. (a) Section 1331 of title 28, United States Code, is amended to read as follows:

"§ 1331. Federal question

"The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.".

(b) The item relating to section 1331 in the table of sections for chapter 85 of title 28, United States Code, is amended by striking out "; amount in controversy; costs.".

SEC. 3. (a) Section 23(a) of the Consumer Product Safety Act (15 U.S.C. 2072(a)) is amended—

(1) by striking out "subject to the provisions of section 1331 of title 28, United States Code, as to the amount in controversy,"; and

(2) by striking out the period at the end thereof and inserting in lieu thereof ": *Provided,* That the matter in controversy exceeds the sum or value of $10,000, exclusive of interest and costs, unless such action is brought against the United States, any agency thereof, or any officer or employee thereof in his official capacity.".

(b) Section 23 of the Consumer Product Safety Act (15 U.S.C. 2072) is amended by redesignating subsection (b) as subsection (c) and by inserting immediately after subsection (a) the following new subsection:

"(b) Except when express provision is made in a statute of the United States, in any case in which the plaintiff is finally adjudged to be entitled to recover less than the sum or value of $10,000, computed without regard to any setoff or counterclaim to which the defendant may be adjudged to be entitled, and exclusive of interests and costs, the district court may deny costs to the plaintiff and, in addition, may impose costs on the plaintiff.".

The motion to lay on the table was agreed to.

SOFT DRINK INTERBRAND COMPETITION ACT

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 598.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 598) entitled "An Act to clarify the circumstances under which territorial provisions in licenses to manufacture, distribute, and sell trademarked soft drink products are lawful under the antitrust laws", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. This Act may be cited as the "Soft Drink Interbrand Competition Act".

SEC. 2. Nothing contained in any antitrust law shall render unlawful the inclusion and enforcement in any trademark licensing contract or agreement, pursuant to which the licensee engages in the manufacture (including manufacture by a sublicensee, agent, or subcontractor), distribution, and sale of a trademarked soft drink product, of provisions granting the licensee the sole and exclusive right to manufacture, distribute, and sell such product in a defined geographic area or limiting the licensee, directly or indirectly, to the manufacture, distribution, and sale of such product only for ultimate resale to consumers within a defined geographic area: *Provided,* That such product is in substantial and effective competition with other products of the same general class in the relevant market or markets.

SEC. 3. Nothing in this Act shall be construed to legalize the enforcement of provisions described in section 2 of this Act in trademark licensing contracts or agreements described in that section by means of price fixing agreements, horizontal restraints of trade, or group boycotts, if such agreements, restraints, or boycotts would otherwise be unlawful.

SEC. 4. In the case of any proceeding instituted by the United States described in subsection (i) of section 5 of the Clayton Act (relating to suspension of the statute of limitations on the institution of proceedings by the United States) (15 U.S.C. 16(i)) which is pending on the date of the enactment of this Act, that subsection shall not apply with respect to any right of action referred to in that subsection based in whole or in part on any matter complained of in that proceeding consisting of the existence or enforcement of any provision described in section 2 of this Act in any trademark licensing contract or agreement described in that section.

SEC. 5. As used in this Act, the term "anti-

my desire and hope that the full record regarding this important matter will be recognized and given due consideration. Briefly, the territorial franchise system for soft drinks has been in effect for over 78 years, with over 2,000 large and small bottlers making capital investments of billions of dollars in reliance on such territorial agreements.

Mr. President, in 1971, the Federal Trade Commission initiated a number of cases challenging the territorial provisions in bottlers' trademark licenses as unfair methods of competition in violation of section 5 of the Federal Trade Commission Act. A decision by the administrative law judge held that the franchise system was lawful. The Federal Trade Commission, however, overruled that decision. This created an issue of such importance to many Senators that they felt it imperative to introduce a bill to clarify the conflicting issues of contract obligations among the various interests affected by that FTC decision.

The territorial limitations have provided incentives to bottlers to make investments for production, distribution, and marketing, which have resulted in substantial and effective interbrand competition. At the same time, the territorial system has not prevented adaptation in the public interest to changing economic and demographic factors.

Mr. President, without territorial restrictions, without corrective legislation, there would be a tendency for the large bottlers with greater capital availability and flexibility to capture much of the smaller firms' business and, at the same time, we would see the remaining small independent bottlers pressed toward submarginal profits. With concentration achieved by the large bottlers, competition would truly be diminished in this field.

Mr. President, the proposed legislation, S. 598, as amended, directs the attention of the enforcement agencies in the proper direction and it would, in my opinion, be an appropriate and important addition to the antitrust laws.

I am pleased that we now have the opportunity to pass this legislation that many have worked so hard for over the years. I would particularly like to commend Senator COCHRAN on this side of the aisle for his diligent and highly effective work on this legislation.

I urge my colleagues to join with me in support of this important measure.

Mr. BAYH. Mr. President, I move that the Senate concur in the House amend-

Mr. President, I know this was a difficult measure for certain Members of the House, particularly the distinguished chairman of the Judiciary Committee, Chairman RODINO. But he was willing to work with the other supporters of this measure in the House. We now have a bill which I think will go a long way to making it possible for us to have a secure and financially solid softdrink bottling industry in this country.

I am glad that we are here tonight, after a long torturous trail, to finally pass this measure.

NATIONAL SNOWMOBILING MONTH

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, on behalf of Mr. LEAHY, that the Committee on the Judiciary be discharged from further consideration of Senate Concurrent Resolution 80, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated.

The assistant legislative clerk read as [illegible]

[illegible] the Senate will proceed to its consideration.

● Mr. LEAHY. Mr. President, the concurrent resolution now before the Senate requests the President to proclaim the month of February as "National Snowmobiling Month."

It may seem incongruous to be here at [illegible]

[illegible] nize the important role and contributions of this Nation's many snowmobilers. For too long snowmobilers have been ignored, or, worse, called a public menace. The recreational needs of snowmobilers often have been overlooked in national public lands and energy policies. Very little has been said about the positive aspects of snowmobiling or about the many good things snowmobilers have done over the years.

Only a short time ago, winter was a time of hibernation, for bundling up indoors near a roaring woodstove rather than braving snow drifts and cold winds. However, all that is changing with the perfection and availability of the modern snowmobile.

Snowmobiling has opened the eyes of many Americans to the beauty of winter and to many outdoor activities. The snowmobile has greatly expanded the winter recreation opportunities for some 20 million Americans. More importantly, the snowmobile has become a primary means of transportation in many rural areas, often providing the necessary link to neighbors and work, and in times of emergency, to essential food, fuel and medical supplies for snowbound residents.

Snowmobile tourism has quite literally rejuvenated the economy of many small communities across the country. In my own State of Vermont, almost $30 million are generated each year through snow machine sales and related jobs.

Vermonters are also very much aware of the positive aspect of snowmobiling and, like snowmobilers in other northern States, have a real concern for protecting the environment and natural resources. These people have proven that snowmobiling and natural resource protection are not incompatible goals. Nor is the snowmobiler's use of winter trails inconsistent with other recreational activities, such as cross-country skiing. An alliance of partnership and cooperation among winter recreation groups has emerged to help all those who enjoy the winter outdoors find the quality of recreation experience they seek.

Mr. President, for these reasons I am proud to be here offering this resolution and urge my colleagues to support it and proclaim February as "National Snowmobiling Month."●

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

[illegible]

[illegible] of recreation for millions of Americans;

Whereas snowmobiling has contributed significantly to the quality of life of snowbelt residents;

Whereas snowmobile clubs and many individual snowmobilers have often volunteered their skills and services in emergency situations, performing rescue operations for [illegible]

Whereas snowmobile clubs and many individual snowmobilers have fostered an understanding of and appreciation for our environment and natural resources by working with forestry officials in marking and managing trails, through developing and conducting winter nature tours and environment awareness programs;

Whereas snowmobiling permits, in many cases for the very first time, many handicapped persons to actively participate in outdoor recreation, alongside their relatives, friends, and neighbors;

Whereas Federal, State, and local governments and programs should foster and encourage cooperation in providing adequate opportunities for winter activities, such as snowmobiling and cross country skiing, which contribute to the quality of life of the snowbelt residents and visitors: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the President of the United States is hereby authorized and requested to issue a proclamation designating the month of February as "National Snowmobiling Month".

ORDER TO PRINT S. 2720

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. WILLIAMS, I ask unanimous consent that S. 2720, the Urban Mass Transportation Act, be printed as passed by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

AFGHAN DIPLOMACY

Mr. THURMOND. Mr. President, the Soviet incursion into Afghanistan last December demonstrated the bolder expansionism we can expect from the U.S.S.R. in the 1980's. This brutal invasion ended the policy of using only proxy troops in the Soviet goal of subjugating weaker nations.

As the Soviets initiated the new decade by demonstrating to the world their ruthlessness and total disregard for human life and liberty, the Carter administration began its attempt to rally world opinion behind a foreign policy which, to say the least, is unsound.

[illegible] ington Post offers us insight into the fallacious reasoning behind the administration's policy toward Afghanistan.

Mr. President, in order to share this interesting editorial with my colleagues, I ask unanimous consent that it appear in the RECORD at the conclusion of my remarks.

[illegible] ghanistan than the Carter administration announced that if the Soviet Union will remove them all, the United States will help it out the door by supporting arrangements that protest its "legitimate security interest." This display of solicitude has its gratuitous and curious sides: gratuitous in that the United States always has been ready to facilitate a Soviet withdrawal and curious in that any discussion of modes of withdrawal tends to credit Moscow's highly dubious pullback announcement. But no matter: the West's need is not to keep the issue of Soviet aggression alive for purposes of alliance mobilization and propaganda but to end it—the "it" being the aggression.

Is this likely, or even possible? One point has to be kept front and center in any discussion of rolling the clock back to, say, 1978 and restoring Afghanistan as a neutral buffer state. The thrust of the American proposal is that at the end of whatever "face-saving" process is set in motion to cover a Soviet withdrawal, the Afghan people will have a government of their own choice. This has to be seen against the unlikelihood that the Afghan people would choose the government currently being imposed on them by Soviet tanks. The thrust of the Soviet Union's countering proposal, however, is that Soviet troops will go home only in a context of foreign acceptance of and foreign guarantees for a regime like the one now sitting, uneasily, in Kabul. One does not have to believe that the Kremlin knew exactly what it was doing when it invaded—that it intended either to stabilize a border region, expand the socialist camp or march a step closer to the Persian Gulf—to understand that it has a heavy investment in making its invasion stick. Certainly there should be no sanguine expectations that its considerable losses, in casualties and in diplomatic consequences, are inducing it to reverse field. The safest bet is that Moscow, like Washington, wants to see what the traffic will bear.

A prediction: it will not be long before some, in Europe and elsewhere, will start murmuring, and then saying aloud, that since Moscow has accepted the principle of withdrawal, the West should relax its pressures in order to "let diplomacy work." But, of course, this is the way to let diplomacy down. Moscow should not be paid off for its opening feint. This is a time to keep the heat on and, meanwhile, to make it clear that the crisis lingers only because the Soviet Union refuses to explore the "decent and constructive" solution that the United States now proposes—one providing the Afghans with a government of their choice and the Soviet Union with security on its border.

JAPANESE AUTO IMPORTS

Mr. NELSON. Mr. President, no industry is more important to the health of the American economy than the automobile industry. This sector provides 1,750,000 jobs—or 1 of every 12 manufacturing jobs in the country—and supports hundreds of thousands of other jobs in related industries like steel, rubber, and glass. The automobile industry is a major customer for 50,000 small and medium-sized businesses, and a supplier to 28,000 auto dealers throughout the Nation. The industry uses 25 percent of all the steel consumed in the United States, 50 percent of the malleable iron, 60 percent of the synthetic rubber, and 33 percent of the zinc.

The staggering economic difficulties suffered by the auto industry over the course of the past year are well documented: Over 20,000 workers have been laid off indefinitely, together with 52,000 temporarily out of work, and more than 850 auto and truck dealerships have gone out of business. The auto industry's dislocations have reverberated through many other supporting industries.

The causes of the industry's problems are many and, of course, include the shift in consumer demand from large cars to smaller, more fuel-efficient vehicles. There is no question but that the auto industry should have heeded the signals of this shift, which were apparent at least 10 years ago. However, the fact remains that, as a result of the industry's short-term inability to produce sufficient quantities of fuel-efficient cars, it is experiencing serious problems which deserve the urgent attention of the President and the Congress.

IMPORT PENETRATION OF U.S. AUTO MARKET

Sales of foreign cars in the United States have increased dramatically over the past several years, and now pose a major threat to the continued vitality of the American auto industry. From an average U.S. market share of 15.1 percent in 1970–76, foreign cars increased to 17.8 percent of the market in 1977, and accounted for a whopping 21 percent of all new car sales in this country last year. During the first quarter of this year, the imports' share of our market soared to a shocking 27 percent.

Of particular concern are auto imports from Japan, which in 1979 accounted for more than 76 percent of all import sales. Since 1974, Japan's auto exports to the United States have more than tripled, from 791,000 vehicles a year to more than 2,250,000 vehicles a year. In 1978, Japanese cars alone accounted for 12 percent of all U.S. car sales. That figure shot up to 16.6 percent in 1979.

The United States stands virtually alone among the world's major auto-producing countries in the ease of access it allows foreign—and particularly Japanese—auto imports. Our major trading partners all have tough restrictions on the number of Japanese cars and trucks they import each year. In contrast to our low 2.9 ad valorem tariff on foreign car imports—which is scheduled to drop to 2.5 percent in 1987—France, Great Britain, and Italy all impose stiff 14 percent duties on Japanese auto imports, together with absolute quotas. Germany, too, imposes a 14-percent tariff. A number of other countries combine high tariffs with stiff local content requirements. I ask unanimous consent to insert in the RECORD at the end of my statement a chart listing the extensive barriers raised against Japanese auto imports by other countries.

JAPANESE NONTARIFF BARRIERS TO U.S. EXPORTS

While we maintain an open market to the Japanese, Japan has thrown up an array of nontariff barriers to cut down on the number of American vehicles we can sell there. These barriers include discriminatory commodity taxes and inspection systems, and restrictions on marketing networks which unfairly burden the sales of American-made vehicles in Japan. These nontariff barriers can almost double the price of American cars sold in Japan, and have contributed to an alarming United States-Japanese trade deficit in autos of $9 billion in 1979. I will include in the RECORD a chart listing Japanese nontariff trade barriers to foreign car sales at the end of my statement.

In fact, Japan has long had in place a comprehensive system of import regulations which effectively prevent significant foreign market penetration in a broad range of commodities. Along with other factors, these import barriers have contributed to an overall U.S. trade deficit with Japan of $8.6 billion in 1979.

For years, the United States has attempted to negotiate with the Japanese a substantial lowering of their nontariff barriers to trade. We have met with only limited success. Not until 1979, for example, were we able to persuade the Japanese to open even slightly their beef and citrus markets to U.S. exports. And years of talks have not yet produced an equitable agreement on U.S. exports of telecommunications equipment to Japan.

In my 18 years in the Senate, I have consistently supported the principles of free trade. However, as a matter of principle and equity, the United States can no longer accept widespread nontariff barriers to its exports while the Japanese enjoy virtually free access to our market. And we simply cannot afford to allow the American auto industry, which employs so many workers and is so vital to our Nation's economy, to be destroyed.

The critical economic role played by the industry demands policies that insure its economic health. I am confident that, given the chance, U.S. automobiles will again establish their competitiveness in the marketplace. The auto industry is right now engaged in a massive, $80 billion effort to retool its plants and equipment for the production of the small, gas-efficient cars the consumer demands. This effort will take several years, however. It is absolutely imperative that we give the industry some breathing room to make the required changes.

PROPOSED REMEDIES

In my judgment, the Carter administration has not been tough enough on the Japanese. We must take strong measures to reverse the adverse trends in United States-Japanese trade, if the American auto industry is to survive and prosper again. The time has come for action. Two steps in particular are essential.

First, the Carter administration should insist that the Japanese do away with their discriminatory nontariff trade barriers against imports of American cars. In an effort to prod Japan in this direction, I recently joined five other Senators in introducing legislation to begin to right the serious trade imbalance in autos between the United States and Japan. This measure is designed to equalize the conditions under which Japan and the United States sell cars and trucks in each other's markets. It directs the Secretary of the Treasury to compute the value of all Japanese trade policies and practices which unreasonably restrict the sale of American cars and trucks in Japan, and then impose an offsetting "equalization tax" on Japan's auto exports to the United States.

It is important to emphasize that this legislation does not violate the recently concluded multilateral trade agreement by which the United States and 98 other countries agreed to liberalize international trade. This legislation gives the President explicit authority to waive the "equalization tax" if he finds that Japan is in substantial compliance with its bilateral and international trade agreements affecting trade in autos.

In fact, this bill is designed ultimately to give the United States and Japan freer access to each other's market. Obviously, the Japanese will respond to our initiative by lowering or removing their nontariff barriers to American automobile imports because it is overwhelmingly in their interest to do so.

Second, the administration should insist that Japan temporarily limit the number of cars it exports to the United States. Specifically, the President should direct the U.S. Trade Representative to negotiate with the Japanese an orderly marketing agreement (OMA) by which the Japanese would agree voluntarily to limit their U.S. sales to 1977 or 1978 levels for a period of 18 to 24 months.

This proposal is strong medicine, to be sure. However, it is proposed only as a temporary exception to our strong free trade practices. It is of limited duration, and would result from a negotiated agreement, not from the unilateral imposition of import quotas by the United States. In addition, the OMA is a well-recognized and accepted device under international trade law to regulate commerce between countries. In the current situation, it would provide effective short-term relief, while causing only minimal disruption in our other political and economic relations with Japan.

Administration officials at the highest levels have assured me that they are willing to institute such meaningful restraints on Japanese auto imports if the Congress is resolute in its support. We must now consolidate that support, and move on. Already, 69 Senators, including myself, representing all regions of the country, have introduced a Senate resolution calling for a comprehensive national policy to meet and solve the urgent problems facing the auto industry. In addition, I wrote the President on May 13 urging him to place the question of Japanese auto imports at the top of the agenda of the allied economic summit meeting scheduled for June 22–23 in Venice.

In the meantime, I support the recent self-help measures recently taken by the industry. Pursuant to the Trade Act of 1974, the United Auto Workers on June 12 filed a petition for import relief with the U.S. Interantional Trade Commission, which can grant temporary relief if it finds that a surge of imports threatens the industry with serious injury. Clearly, however, the industry's overall problems require a more comprehensive solution.

The United States is one of the great proponents of free trade in the world. With my strong support, we have led the international fight against artificial and arbitrary barriers to the free flow of goods between nations. It is quite clear, however, that real free trade depends on fairness and equality in trading relationships. The lowering of trade barriers and restrictions cannot take place without comity and trust among nations. The initiatives I have outlined today encourage fairness and equity in the trading relationship between this country and Japan.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONS WITH MAJOR DOMESTIC AUTO PRODUCTION (EXCLUDING JAPAN)

Country	1979 car industry sales (thousands)	1979 Japanese car import market share (percent)	Protection of domestic car industry
Brazil	830	(1)	95 percent local content or 185–205 percent duty.
Mexico	268	(1)	50 percent local content.
Venezuela	94	(1)	51 percent local content or 120 percent duty.
South Africa	213	(1)	66 percent local content or 95 percent duty.
Spain	588	(1)	63 percent local content and import quota of about $500,000 in car value per country.
Italy	1,329	(1)	11 percent duty[2] and bilateral import quota restricting Japanese imports to 2,000 cars a year.
Argentina	196	1.2	96 percent local content or 95 percent duty.
France	1,976	2.2	11 percent duty[2] and informal limit on Japanese car share to 3 percent or less.
Germany	2,567	5.7	11 percent duty.[2]
Canada	1,005	8.2	14 percent duty.
United Kingdom	1,716	10.8	11 percent duty[2] and agreement with Japanese to restrict car market share to 10–11 percent or less.
Australia	458	15.2	85 percent local content or 58 percent duty (quota limits import share to 20 percent of market).
United States	10,510	16.6	3 percent duty.

[1] Less than 0.1 percent.

[2] Effective rate is about 14 percent because of c.i.f. basis (f.o.b. cost plus insurance and freight) and value-added taxes.

LOCAL CONTENT LAWS REGARDING AUTO TRADE

Algeria, 25–40 percent depending on model.

Argentina, 90 percent for cars, 85–95 percent commercial vehicles.

Australia, 85 percent with a variety of small percent decreases in special cases.

Bolivia, considering 80 percent.

Brazil, 85–100 percent depending on model.

Chile, 15–30 percent plus stiff tariffs, depending on model.

Colombia, 30–45 percent depending on model.

Egypt, announced goal of 100 percent.

India, 40–45 percent, goal is 100 percent.

Indonesia, 25 percent.

Kenya, 45 percent (100 percent of the engine).

Malaysia, 8 percent cars, 17 percent commercial vehicles.

Mexico, 70 percent cars, 80 percent trucks.

New Zealand, 30–40 percent depending on model.

Nigeria, 15 percent.

Pakistan, depends on model, must use pistons, tires from local producers.

Peru, 30 percent.

Philippines, 62.5 percent cars, 30–60 percent commercial vehicles.

Portugal, 25 percent.

Singapore, 13 percent.

South Africa, 66 percent of weight for cars.

South Korea, 100 percent goal, not enforced.

Spain, 50 percent.

Taiwan, 60 percent cars, 32–46 percent trucks.

Thailand, 40 percent.

Tunisia, 20–26 percent cars, 40–44 percent trucks.

Turkey, 80 percent cars, 65 percent trucks.

Uruguay, 20–25 percent cars, 5 commercial vehicles.

Venezuela, 70–75 percent depending on model.

Yugoslavia, 50 percent.

SOURCE.—USTR, Loc Law Library, House Ways and Means Committee, MVMA.

JUNE DAIRY MONTH

Mr. NELSON. Mr. President, as we observe the 44th annual celebration of June Dairy Month, it is an excellent time to pay tribute to the Nation's dairy farmers and their families. They can take considerable pride in their multibillion-dollar industry that is so vital to our Nation's health.

At a time when productivity has become an important national concern, we should all be aware of the fact that America's dairy farmers have experienced a dramatic increase in productivity over the past several decades. For example, milk production in 1979 totaled approximately 123.6 billion pounds, up 1.3 percent from 1978. At the same time, the average number of milk cows in the United States, at 10,767,000 in 1979, was down 0.7 percent from 1978. Increased production per cow explains the increase in output. Production per cow was up about 234 pounds in 1979. This represents a 2-percent increase. Each cow in the United States produced an average of 11,474 pounds of milk. Put in terms of consumers, that is 1,334 gallons, or a year's supply of fluid milk and cream for 40 Americans.

The number of milk cows dropped every year during the 1970's. By 1979 the number of cows was down 12.5 percent, or 1.5 million from the 12.3 million cows in 1969. However, milk production per cow increased dramatically over this time period, up a whopping 21.6 percent, or an average of 2,040 pounds for each cow in the Nation.

States with the largest milk production last year were: Wisconsin, 21,950 million pounds; California, 12,549 million pounds; New York, 10,679 million pounds; Minnesota, 9,145 million pounds; and Pennsylvania, 8,084 million pounds.

Mr. President, that dairy industry is efficient and productive because of the dedication and hard work of thousands of dairy farm families. The family works together in good times and bad, on holidays, and on every day of the week to milk the herd twice a day. The family sacrifices the ordinary return it should receive for its manual labor, not to mention the return it could otherwise expect in the marketplace for the money it has invested in its venture. Other than our Nation's farmers, I know of no other economic groups in America that frequently work for less than the minimum wage.

The availability of nutritious dairy products at a reasonable price to consumers is the result of the hard work of the dairy farmer. But it is important that the public recognize that the health of the dairy industry is also the result of a sensible dairy policy based on the minimum 80 percent of parity price support program and the Federal milk market order system. Therefore, recent suggestions that these programs be changed are of great concern to those of us committed to the future of dairy farming.

Milk production has been increasing more rapidly than consumption for several months. Dairy production during the first 4 months of this year was 3 percent above last year's level. This added production is largely surplus that must be purchased by the Federal Treasury. Consequently, some Government officials have suggested that we make changes in the support program in order to reduce the cost of the program.

There can be no doubt that the current situation warrants concern. Clearly, individual dairy farmers are going to have to act responsibly in the months ahead to insure that the current surplus does not continue to grow. For example, dairy farmers must maintain reasonable culling programs for their herds. All sectors of the industry must act responsibly if the coalition of support for dairy policy in the Congress is to be maintained.

Mr. President, I would also note that I have been in close contact with representatives of the industry on this matter. They are hard at work studying the problem and considering various ways of reducing the surplus. In my judgment, the dairy industry must be integrally involved in any plans to control production and expand the market for dairy products.

But while we recognize that we have a surplus of milk at this time, it would be incorrect to conclude that the dairy farmer is to blame for this situation. It would be tragic if the public were to support ill-conceived changes in the current programs that only serve to further squeeze farmers on the promise of short-term cost savings. The public must be informed that the support program and the marketing system benefit not only the dairy farmer but the consumer as well. Above all, it must be said that the current programs have worked very well.

By any standard, dairy products remain one of the best food bargains for the consumer. The price of dairy products has increased much more slowly than the overall price of food over the past several years. This is not the result of luck or accident—it is the result of a policy that enables the family dairy farmer to stay in the business by being assured of a fair return for his investment in time, labor, and money.

Mr. President, the current law providing 80 percent of parity with semiannual adjustments to offset inflation is based on legislation that I introduced and fought for over many years. It is a prudent public policy, and I would not be inclined to support any changes at this time. The bill was intentionally structured so that Congress and not the administration would have to evaluate the program and approve any changes to it.

And while we evaluate the 80-percent support level, it is imperative that we take note of the fact that the current surplus of dairy products is largely the result of U.S. trade policy. Last year, imports of dairy products exceeded exports by more than 1.9 billion pounds of milk equivalent—almost the same amount of dairy products as was purchased by the Federal Government under the support program. And, if we include the milk equivalent of imported casein used in food products, there would have been a shortage of milk rather than a small surplus. In short, price support purchases primarily reflect imports—not surplus production by our farmers. Take away these imports, and supply would be roughly in balance with demand this year.

For this reason, it is absolutely imperative that any examination of the price support program include a careful study of the effect of casein imports on the support program and the domestic dairy industry.

Finally, a discussion of our dairy policy would not be complete without mentioning the recent proposals to change the pricing provisions for reconstituted milk.

Mr. President, I filed comments with the Agriculture Department flatly opposing these changes and joined 40 other Senators in strongly recommending to President Carter that no hearings on this matter be held. Under current law the status of reconsituted milk is a matter for Congress to decide. However, putting the legal question aside, we must recognize that the proposed change would completely undermine the classified pricing system, leading to reduced farm family income and, as farmers went broke, higher consumer costs.

In the final analysis, when we talk about dairy policy in the 1980's, we are talking about the survival of a system of food production based on the independent dairy farmer. Maintaining a vital and aggressive dairy industry composed of thousands of small family farmers is in the national interest.

Any policy that puts family farmers out of business and opens the door to large-scale, factory farming does not serve the interest of farmers, consumers, or the Nation as a whole. Our dairy industry is efficient and productive because of the dedication and hard work of thousands of dairy farmers and their families. Our national policy should be to strengthen these family farmers as much as we can. As we develop public policy in this area, let us not forget what is at stake here.

CHRYSLER AND PRODUCTIVITY

Mr. PERCY. Mr. President, last fall when the Senate had under consideration the Chrysler loan guarantee legislation, I offered an amendment requiring that the Chrysler Corp. submit a productivity improvement plan to the Chrysler Loan Guarantee Board as a prerequisite to obtaining Federal assistance. The second part of my amendment directed the Secretary of Labor to join with the Secretary of Transportation to report to Congress on the long-range productivity plans of the automobile industry. My amendment was adopted.

Last year, productivity in the United States declined for only the second time since 1947. Whereas in the 1950's and 1960's, productivity rose at annual rates of 2, 3, or even 4 percent, we have seen a marked decline in productivity growth since 1976. It is a serious problem that has a strong influence on the inflation rate and the standard of living of all Americans. Productivity growth permits real wage increases while keeping prices low. It is essential that we understand the underlying causes of the productivity slowdown and fashion policies to deal with them.

Mr. President, because of the great concern over rising imports of automobiles and the health of the domestic auto industry, it is important to look at the industry's—and Chrysler's—plans in this regard. I have recently obtained the Chrysler Corp.'s productivity improvement plan, as reqiured by Public Law 96–185. I note with interest and approved the establishment of such activities as a national attendance committee, an employee morale program, and establishment of an employee stock ownership plan. I would, however, be interested in knowing whether Chrysler has a management-employee council to stimulate employee suggestions for improvements in productivity.

I have also just heard from the Secretary of Labor, Ray Marshall, about the Labor Department's monitoring of auto industry productivity.

Mr. President, I ask unanimous consent that the Chrysler productivity plan and the letter from Secretary Marshall be placed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHRYSLER CORPORATION: 1980–1983 PRODUCTIVITY IMPROVEMENT PLAN

INTRODUCTION AND SUMMARY

During the period 1970 to 1979, productivity in the United States manufacturing sector increased by an average of 2.5% per year. Recently, this trend has deteriorated; during 1979, manufacturing productivity increased by only 1.8%. Economists attribute this recent decline in the productivity growth rate to a number of factors, including:

A shift in the composition of the labor force to younger, less experienced workers.

The dramatic increases in energy prices since 1973, which have caused a shift from energy intensive to labor intensive methods of production.

The decline in business spending on research and development and fixed investment.

The diversion of capital to meet the escalating requirements of government regulation. This factor is particularly burdensome to Chrysler Corporation.

Since these limiting factors are not expected to improve significantly over the near term, increases in manufacturing productivity will not be easily attainable.

In spite of an economic environment not currently conducive to productivity improvement and significant strains on Company resources, Chrysler Corporation is committed to increase the productivity of its employees. From 1980 to 1983, the Company plans to make capital expenditures totaling $422 million (see Exhibit I) on programs and actions which will result in improved productivity. As a result of these expenditures and other programs, Chrysler Corporation's overall employee productivity, measured in terms of output shipped in relation to total hours worked, is projected to increase by over 21% during the current planning period as shown below. Note that the Company's plan to hold fixed and non-variable manpower generally constant while volumes rise contributes significantly to the gain.

SUMMARY OF RESULTS NORTH AMERICAN OPERATIONS

	1979	1980	1981	1982	1983
Vehicles shipped (thousands)	1,578	1,526	1,863	2,068	1,998
Hours worked (thousands):					
Variable	126,338	114,668	139,778	151,282	143,640
Fixed and nonvariable	71,892	64,454	63,840	64,257	62,983
Total hours	198,230	179,122	203,618	215,539	206,623
Shipments (per thousand hours)	8.0	8.5	9.1	9.6	9.7
Productivity index	100.0	106.3	113.8	120.0	121.3

These results will be achieved through three basic types of actions.

Manufacturing productivity programs, designed to decrease the amount of variable hours required for vehicle production.

Manpower reduction and control actions which will decrease the amount of hours required to support vehicle production and sale.

Staff support programs, designed to increase the work capacity and efficiency of the Company's staffs.

Each type of action will be discussed in the ensuing sections. The productivity gains shown in the Plan assume that adequate funding will be available to meet productivity program expenditures (see Exhibit I), and that the pattern of future sales will not result in significant plant downtime. The Company's International and Defense operations have been excluded from this presentation.

MANUFACTURING PRODUCTIVITY PROGRAMS

The Company projects that its North American manufacturing productivity (defined as variable hours worked per vehicle produced, at constant production mix) will improve by approximately 17 percent during the 1980–1984 model years (see Exhibit II). This represents an average annual gain of approximately 3.2 percent, a 28 percent improvement over the result achieved by the United States manufacturing sector during 1970 to 1979. Increases in Chrysler Corporation's manufacturing productivity will be achieved through the following programs:

New model process improvements.—As the Company retools and reequips its production facilities under new model or expansion programs, the latest manufacturing processes will be utilized. Examples of these technological improvements include:

New automatic body framing equipment, automatic sub-assembly welding systems and computer controlled body storage systems will be installed at various assembly plants.

New four cylinder engine manufacturing processes, including electronic sizing of bores, automatic gauging of cam shafts and computer controlled hot test stands will be installed as the Company's engine plants are refacilitized.

Automatic storage and handling systems will be utilized in car assembly plants and between major transfer lines. All new transfer lines will incorporate mechanical speeds and feeds.

All production line functions will continue to be stimulated to maximize net production capability.

Industrial engineering improvements.—The Company's industrial engineers will help achieve productivity gains through the following actions:

Existing direct labor and floor standards are continually audited against actual results to locate and control production deficiencies.

All operating patterns, manufacturing methods, processing and tooling are undergoing thorough review and analysis for possible productivity improvements.

The latest manufacturing technology will continue to be analyzed for productivity improvement potential as well as return on investment.

Plant rehabilitation process.—As Chrysler Corporation's plants are re-equipped for new model production, older, worn-out facilities, tools and equipment will be rehabilitated or replaced. As a result, production equipment downtime and lost employee time will be reduced, improving productivity.

Design cost reduction programs.—Design cost reductions represent engineering changes, to existing products, which generate savings in manufacturing labor employed. Examples of such changes include weight reductions in parts and components which permit more efficient storage and handling and relocation of components within the vehicle which results in greater ease of assembly.

Overall manufacturing productivity will be measured by tracking the relationship between total variable labor hours worked and resultant vehicles produced, by model year, against the 1979 model year base. Measurement by model year is necessary to conform to the manufacturing planning and budget process, from which productivity data is derived. Performance will be tracked by plant to ensure identification of specific problem areas. The effects of product actions (e.g., vehicle downsizing which results in reduced manufacturing complexity), changes in product or component sourcing and changes in production mix will be eliminated from the raw data to provide a clearer indication of employee productivity gains. The Company currently does not have systems capable of measuring the actual results achieved by individual manufacturing productivity programs. Since different programs will impact the same manufacturing locations concurrently, such measurement has been deemed to be both difficult and of limited usefulness.

MANPOWER REDUCTION AND CONTROL

During 1979, Chrysler Corporation instituted a three-phase program which reduced its fixed and nonvariable (staff) manpower by 8,500 people (2,000 in January, 700 in April and 5,800 in August). Although staff support has been reduced in certain areas, the overall level of service has generally been maintained. Clearly, significant staff productivity gains have been achieved through the 1979 program. Further gains will be realized primarily through:

Consolidation of facilities and functions.

Management profit recovery actions.

Changes in the Product Plan.

Staff support programs (described in the following section).

Control of fixed and nonvariable manpower levels will be achieved by monitoring performance in each location and placing strict accountability for budget variances on each manager responsible. Control systems are currently in place which report such variances on a monthly basis.

The Company has found that measurement of actual staff productivity by department is of limited usefulness, due to the dissimilarity and complexity of functions that must be covered. However, the ratio of vehicle sales to total fixed manpower employed, when trended over the 1980–1983 planning period, should yield a general indication of staff productivity gains. Chrysler Corporation projects that this ratio will increase by over forty percent during 1980 to 1983, primarily as the result of higher vehicle sales (see Exhibit III). While this result should not be construed as equivalent to a forty percent increase in actual staff productivity, significant gains are indicated.

STAFF SUPPORT PROGRAMS

Due to demands from the marketplace and the continued onslaught of government regulation, the workload of the Company's staffs has increased dramatically. However, as previously indicated, management profit recovery actions have significantly reduced staff manpower levels (total North American fixed and nonvariable manpower was reduced by over 15% during 1979). In order to meet these increasing workloads with less human resources, Chrysler Corporation has initiated a variety of staff support programs designed to improve staff efficiency and productivity. In addition, the Company has established programs to improve overall employee motivation and morale. A discussion of the Company's major staff support and employee motivation programs follows:

Purchasing systems improvement.—Chrysler Corporation's Procurement and Supply Department made purchases aggregating over $5.5 billion during 1979. In order to handle such large volumes more efficiently and effectively, the Company plans to improve its purchasing systems through increased use of computer applications. The majority of these improvements should be in place by 1982 and include:

On-line purchase orders.—Prior to 1979, purchase order input was prepared manually and then fed into a computer based printing system which prepared the finished purchase order. This manual approach is currently being replaced by an on-line system, which permits direct input, modification and retrieval of purchase order data. The system will reduce purchase order turnaround time and the clerical workload of company buyers, freeing more time for analysis.

Supplier data base.—In order to organize the large amounts of data pertaining to Chrysler Corporation's suppliers, and provide for efficient retrieval of such information, an on-line supplier data base is targeted for development during 1980. The system will maintain records of each supplier's financial condition, reliability and performance, labor affiliations, process approvals, capacity and other relevant data. As a result, buyers will be able to spend more time on information gathering.

Mechanical price change system.—Will determine what effect a change in price of certain raw materials will have on the price of end-products purchased. The system is designed to place Chrysler purchasing agents in a more favorable negotiating position with the supplier body when price increases are requested.

Cost target tracking system.—A system

which establishes target prices for certain purchased parts is under development. By comparing actual results with the targets, management will be able to better evaluate both buyer performance and the effect of engineering changes on the price of purchased parts. In addition, the targets will serve as guidelines during price negotiation.

Standard cost audit and tracking system (SCAT).—One of Chrsyler's majority objectives for 1980–1983 is to control its product costs. The SCAT system will help the Company achieve this objective through the integration of the Controller's department cost development process with other corporate organizations such as Procurement and Supply, Engineering and Manufacturing. SCAT will provide the Corporation with:

A common cost bill of material for both cars and trucks, including components manufactured at Company plants.

Improved and expanded current cost tracking and on-line reporting capabilities.

Timely, accurate variance explanations between standard and current costs. Certain phases of SCAT will be in place by the 1981 model year, and completion of the entire system is targeted for 1983.

Personnel Reporting and Absentee Control and the cost of personnel reporting, Chrysler Corporation is in the process of computerizing its hourly personnel and attendance records at 17 plants.

This system provides each line supervisor with accurate and timely attendance information for each employee and provides the appropriate discipline for each unexcused absence. As a result, absenteeism is projected to decline by over ten percent after the initial "launch" period. Currently, 12 plants have been fully converted to the new system with computerization of all automotive manufacturing plants targeted by the end of 1981. Absenteeism is currently monitored monthly to identify problem areas and measure progress toward program goals.

Centralization of sickness and accident claim processing.—Prior to 1979, each plant processed its own sickness and accident claims. This function is currently being centralized to ensure uniform application of proven processing and control procedures. As a result of this program, sickness and accident claims are projected to decline by 6 percent, chiefly through more efficient claim analysis. Progress toward this goal will be measured through monthly analysis of each plant's claim submissions.

Formation of national attendance committee.—As part of the recent labor agreement, the United Auto Workers and Chrysler Corporation have agreed to form a National Attendance Committee to develop solutions to reduce excessive or unwarranted absenteeism.

Employee morale program.—In order to build employee confidence in Chrysler Corporation and thereby increase morale, senior management has initiated a major communication program, directed to all employees, which will explain the basic goals and objectives of Chrysler Corporation and emphasize the importance of each employee in the Company's return to profitability.

Establishment of employee stock ownership plan.—Chrysler Corporation will spend, during the period 1980–1984, a total of $162.500.000 to establish an employee stock ownership plan. The plan will cover a minimum of 90 percent of all employees (except those who have not satisfied Company minimum wage and service requirements). The Company believes that formation of a stock ownership plan may tend to increase employee motivation and hence, productivity.

EXHIBIT I

NORTH AMERICAN OPERATIONS—PRODUCTIVITY IMPROVEMENT EXPENDITURES

[In millions of dollars]

	Calendar year—				Total 1980–83
	1980	1981	1982	1983	
Process improvements	20	6	18	20	64
Plant modernization/rehabilitation	42	37	33	33	145
Staff facilities modernization/rehabilitation	14	27	20	25	86
Profit improvement and other	22	38	28	39	127
Total	98	108	99	117	422

EXHIBIT IA

NORTH AMERICAN OPERATIONS—PRODUCTIVITY IMPROVEMENT EXPENDITURES DETAIL OF PROCESS IMPROVEMENTS

[In millions of dollars]

	Calendar year—			
	1980	1981	1982	1983
1981 "K" body auto framing and respot—Jefferson	9			
1981 "K" body auto framing—Newark	7			
1981 T-101 machine welders—Warren	4			
1983 "K" body auto framing— St. Louis		3	5	
1983 T-110 auto framing—Lynch		3	6	
1984 "D" body auto framing and respot—Windsor			7	13
1985 T-115 auto framing and respot—Pillette				7
Total, process improvements	20	6	18	20

EXHIBIT IB

NORTH AMERICAN OPERATIONS—PRODUCTIVITY IMPROVEMENT EXPENDITURES, DETAIL OF PLANT MODERNIZATION/REHABILITATION

[In millions of dollars]

	Calendar year—			
	1980	1981	1982	1983
Conversion of Jefferson to passenger car assembly	22			
Replace color booths oven—Jefferson	12			
Roof program—Lynch	1	5		
Elevator replacement—Jefferson		2	1	
Industrial truck replacement program		2	2	2
Pressroom rearrangement—Mack		1	1	2
Press replacement program		4	4	4
Container replacement program	1	3	3	3
Kokomo transmission rehabilitation		9	6	4
General manufacture division rehabilitation				5
All other	6	11	16	13
Total, plant modernization/rehabilitation	42	37	33	33

EXHIBIT II

NORTH AMERICAN OPERATIONS—VARIABLE HOURS PER VEHICLE PRODUCED

	Model years					
	1979 actual	1980	1981	1982	1983	1984
Stamping and assembly division:						
Assembly	36.43	34.87	34.00	32.81	31.83	31.19
Stamping	12.49	12.09	11.79	11.38	11.04	10.82
Trim	3.34	3.82	3.72	3.59	3.48	3.41
Total stamping and assembly	52.26	50.78	49.51	47.78	46.35	45.42
General manufacturing division	23.61	22.01	21.46	20.71	20.09	19.69
Engine and casting division	11.07	10.27	10.01	9.66	9.37	9.18
Diversified products group	5.26	5.06	4.96	4.87	4.78	4.68
Total before design	92.20	88.12	85.94	83.02	80.59	78.97
Design cost reductions [1]			(.01)	(.40)	(.11)	(.12)
Total variable hours	92.20	88.12	85.93	82.62	80.48	78.85
Productivity index, vehicles per hour	100.0	104.6	107.3	111.6	114.6	116.9

[1] Design cost reductions included in "total before design" in 1979 and 1980.

EXHIBIT III

NORTH AMERICAN OPERATIONS—FIXED AND NONVARIABLE MANPOWER

	Dec. 31, 1978 actual	Dec. 31, 1979 actual	Calendar years			
			1980	1981	1982	1983
Sales and marketing	5, 539	4, 923	4, 912	5, 129	5, 329	5, 529
Engineering	7, 067	6, 541	6, 122	6, 380	6, 987	6, 402
Manufacturing	17, 868	14, 495	13, 881	13, 784	13, 137	12, 996
Procurement and supply	1, 262	1, 053	1, 036	1, 021	1, 022	1, 023
Diversified products	1, 947	1, 572	1, 653	1, 570	1, 570	1, 570
Corporate staffs	4, 017	3, 109	2, 917	2, 927	2, 967	2, 877
Total, North America	37, 700	31, 693	30, 521	30, 811	31, 012	30, 397
Average North America	36, 900	34, 697	31, 107	30, 811	31, 012	30, 397
North American shipments (thousands)	1, 989	1, 578	1, 526	1, 863	2, 068	1, 998
Shipments per man (average)	53.9	45.5	49.1	60.5	66.7	65.7
Productivity index, fixed and nonvariable manpower	118.5	100.0	107.9	133.0	146.6	144.4

U.S. DEPARTMENT OF LABOR,
Washington, D.C., May 28, 1980.
Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: I am responding to your letter of April 30 in which you inquired about the issue of productivity in the automobile industry. I fully share your concern over the serious problem the recent decline in productivity is having on our economy.

While data on productivity in the automobile industry for 1979 are not yet available, a look at the years 1976–78 is revealing. Output per employee hour increased by 7.0 percent in 1976, 6.4 percent in 1977, and then declined by 1.6 percent in 1978.

Regarding the issue of what plans the automobile industry has to reverse this downward trend in productivity, Chrysler Corporation was required under the Chrysler Corporation Loan Guarantee Act of 1979 to submit in their operating plan a productivity improvement plan. The principal areas of improvement in the plan include:

(1) Manufacturing improvements.—To reduce the number of direct labor hours required to build a vehicle;

(2) Manpower reduction and control.—To reduce the level of fixed costs for nonvariable personnel; and

(3) Staff support system.—To improve the

flow of information at the staff level while increasing employee morale.

Initiatives to improve manufacturing productivity include new model process changes, industrial engineering analysis, plant rehabilitation programs and design cost reductions. Actions for increasing staff efficiency include purchasing systems refinements, a standard cost audit and tracking system, plans for absenteeism control procedures, centralization of health and accident plan processing, and steps to improve employee morale The morale programs include a communications system to improve grievance procedures and an Employee Stock Ownership Plan which provides the employee with a greater interest in the company's future.

I might add that the productivity plan submitted to the Chrysler Corporation Loan Guarantee Board was accepted by the Board as meeting the requirements of the Act. It is obvious that all of the major automobile manufacturers will need to make similar productivity-enhancing improvements to meet the difficulty challenges currently facing the industry.

I trust that this information is useful to you.

Sincerely yours,

RAY MARSHALL,
Secretary of Labor.

CLIFFORD EVANS

Mr. BAKER. Mr. President, during my career in the U.S. Senate, I have come in contact with many members of the media. It has been my pleasure to know Clifford Evans, who serves as head of the Washington bureau for RKO General Broadcasting.

Mr. Evans has diligently covered my activities on Capitol Hill, reporting to the people of Memphis, Tenn., through radio and television stations WHBQ.

His efforts were recently recognized when he was named the recipient of the Barnet Nover Award for Excellence in Broadcast Journalism at the White House Correspondents Association annual dinner. This marked the first time in the history of the association that a broadcaster has received a journalism award.

The presentation was made to Mr. Evans for his March 12 reports from Jerusalem on positive changes in the stalled Middle East peace talks.

The award is representative of the type of in-depth work that has marked the career of Mr. Evans. He has been able to go past the headlines of the days and provide valuable insight into their development.

I would like to take this opportunity to congratulate Mr. Evans for this special recognition that he so deservedly received.

ROSA ROBOTA—AN INDIVIDUAL STRUGGLE AGAINST GENOCIDE

Mr. PROXMIRE. Mr. President, 21-year-old Rosa Robota became the heroine of Auschwitz underground. After witnessing her family and hundreds of other Polish Jews march to the gas chambers. Rosa became involved in plans to destroy the horrible instruments of death.

The Polish underground's plan involved blowing up the gas chambers and crematoriums in addition to staging a general uprising. Rosa served as the intermediary between the women munitions workers and the underground. The underground had hoped Rosa would not be suspected because of her position as merely a clothing supply worker.

Rosa helped smuggle small amounts of dynamite to the underground as an important part of an elaborate network. Sometimes she hid the explosives on her body, sometimes in a pocket sewn into the hem of her dress. Because the Nazis became suspicious, the plan to destroy the entire installation had to be carried out immediately. There was no time to lose. On October 6, 1944 an explosion shook the prison complex. Flames burst from one of the four crematoriums. The 600 Polish Jews who escaped were later hunted down and shot.

A thorough investigation of the source of explosives led to Rosa. From a distance those involved in the underground movement would watch Rosa dragged daily to "Block Eleven" for interrogation—matted hair, torn clothes, bruised beyond recognition. Through the endless sadistic torture Rosa betrayed no one.

Two weeks later the prisoners were summoned to witness the hanging of Rosa. In her dying breath, Rosa whispered in Hebrew, "Be strong and brave."

History must not repeat itself. Rosa Robota undertook positive steps to combat the annihilation of her people. It is time for the United States to take positive steps in reaffirming our position to the heinous crime of genocide. Mr. President, the United States must act now in outlawing the crime of genocide.

Mr. President, I yield the floor.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on the Budget, without amendment:

S. Res. 468. A resolution waiving section 402(a) of the Congressional Budget Act with respect to the consideration of S. 1280.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

Mr. WARNER. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the following nominations: Col. John A. Collins, U.S. Air Force, to be brigadier general; Vice Adm. Willard P. Arentzen, Medical Corps, U.S. Navy (age 58), for appointment to the grade of vice admiral on the retired list. Vice Adm. Samuel L. Gravely, Jr., U.S. Navy (age 57), for appointment to the grade of vice admiral on the retired list, Rear Adm. Lando W. Zech, Jr., U.S. Navy, for appointment as Chief of Naval Personnel in the Department of the Navy for a term of 4 years and to be vice admiral, Rear Adm. Edward S. Briggs, U.S. Navy, to be vice admiral, Rear Adm. William P. Lawrence, U.S. Navy, to be vice admiral, Rear Adm. William H. Rowden, U.S. Navy, to be vice admiral and Lt. Gen. Philip D. Shutler, U.S. Marine Corps, (age 53), for appointment to the grade of lieutenant general on the retired list. I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. The nomination will be placed on the Executive Calendar.

Mr. WARNER. In addition, Mr. President, in the Regular Air Force, there are 798 appointments to the grade of captain and below (list beginning with Thomas M. Adams); and, in the Marine Corps Reserve, there are 69 permanent appointments to the grade of colonel (list beginning with Ray A. Alberigi). Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk appeared in the RECORD on June 13 and 17, 1980, at the end of the Senate proceedings.)

VICE ADM. SAMUEL L. GRAVELY, JR.

Mr. WARNER. Mr. President, today it is my privilege to inform the Senate that the Armed Services Committee has acted favorably upon the nomination of Vice Adm. Samuel L. Gravely, Jr., U.S. Navy for appointment to the permanent grade of vice admiral on the retired list. Admiral Gravely has requested that this retirement becomes effective during August 1980.

This distinguished American, a native Virginian, seeks this well-earned retirement following more than 34 years of service to his country. Throughout this long career he earned the respect and admiration of the officers and men with whom he sailed the oceans of the world. It was my privilege to serve with him and, as Secretary of Navy, to recommend his promotion to the rank of admiral on July 1, 1972.

He is the first black individual, in the over-200-year history of the U.S. Navy, to earn the promotion to the rank of admiral.

Virginians look upon his accomplishments with great pride and welcome the desire of Admiral and Mrs. Gravely to retire to a home in Virginia.

Indeed, Admiral Gravely is worthy of the gratitude of all Americans.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MATHIAS:

S. 2900. A bill to amend the Internal Revenue Code of 1954 to exempt officers and crew members of fishing vessels up to 15 tons from the provisions of the Federal Unemployment Tax Act: to the Committee on Finance.

By Mr. CHURCH:

S. 2901. A bill to amend title XVI of the Social Security Act to clarify the definition of a public institution; to the Committee on Finance.

By Mr. MATHIAS (for himself and Mr. SARBANES):

S. 2902. A bill to amend the Internal Revenue Code of 1954 with respect to exemption from income taxation of certain mutual deposit guaranty funds; to the Committee on Finance.

By Mr. RANDOLPH:

S. 2903. A bill for the relief of Alfonso Y. Amores, M.D.; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MATHIAS:

S. 2900. A bill to amend the Internal Revenue Code of 1954 to exempt officers and crew members of fishing vessels up to 15 tons from the provisions of the Federal Unemployment Tax Act; to the Committee on Finance.

FISHERMEN'S UNEMPLOYMENT BILL

● Mr. MATHIAS. Mr. President, Maryland's watermen have complained to me about an anomaly in the Federal Unemployment Tax Act which gives rise to an unfair tax on many commercial fishing operations on the Chesapeake Bay. Fishermen from all over the country share the same unreasonable burden—from Oregon to Florida. Today I am introducing a bill that will correct the problem without undermining the intent of the original statute.

The current law (26 U.S.C. 3306c) exempts crew members on fishing vessels of 10 tons or less from having to pay unemployment insurance taxes. Many commerical fishermen on the Chesapeake criticize this threshold figure as being arbitrary and unrelated to the reality of the seafood industry. Approximately 40 percent of Maryland's fishing fleet falls within the 10- to 15-ton range, and the boats in this category are all subject to the same catch restrictions under the fisheries management laws as the lighter boats. These fishermen have no advantage in other respects over the smaller vessels. Why, then, should their profits be assailed by an additional tax? Boats in the 10- to 15-ton range should be entitled to the benefit that congress intended when it passed the exemption.

My bill would simply raise the maximum tonnage limitation by 5 tons for vessels exempted from the unemployment tax. The bill has the endorsement of the Maryland Watermen's Association and would affect roughly 5,000 oyster boats, 200 clamming boats, and numerous fishing and crabbing vessels in Maryland.

I urge all my colleagues to give the bill their closest scrutiny, especially those with a sizable commercial fishing industry.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2900

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 3306(c) (17) (B) of the Internal Revenue Code of 1954 (relating to definition of employment under the Federal Unemployment Tax Act) is amended by inserting after "10 net tons", the following: ", or more than 15 net tons if the area in which such vessel operates has fishing management regulations and catch limitations for vessels from 10 to 15 net tons which are the same as those regulations and limitations for fishing vessels under 10 net tons,".

(b) The amendment made by this Act shall be effective with respect to service performed after the date of the enactment of this Act.●

By Mr. CHURCH:

S. 2901. A bill to amend title XVI of the Social Security Act to clarify the definition of a public institution; to the Committee on Finance.

DEFINITION OF A PUBLIC INSTITUTION

● Mr. CHURCH. Mr. President, today I am introducing legislation to clarify the definition of "public institution" under the supplemental security income (SSI) program by qualifying that the facility must be receiving a substantial portion of its operating funds from public sources to be classified as a "public institution."

For 4 years, the lives of residents of a group care facility in Boundary County, Idaho, have been significantly disturbed by a declaration from the Social Security Administration that they were "inmates of a public institution" and, therefore, no longer eligible for the SSI they had been receiving. In 1976, these people moved into the Restorium, a nonmedical group care home which had just been constructed by the county. The county intended the home to be a decent and high standard alternative place of residence for those elderly who could no longer afford or maintain the upkeep of their own homes.

The residents challenged the social security's decision in the courts on the grounds they were not "inmates of a public institution." The matter has yet to be resolved. In the meantime, several similar cases in other U.S. district courts have also challenged the ambiguity of the law on this point.

Mr. President, the original intent behind the SSI program was to provide a Federal guaranteed minimum income to the most needy blind, disabled, and aged persons. The intent behind prohibiting SSI to persons in public institutions was that they were receiving some subsidy from a local or State governmental unit and, therefore, not considered as needy as persons without such support. In addition, the Finance Committee staff report on SSI states that the "original intent of the bar against payment to persons in public institutions is generally believed to have represented a judgment that a federally funded cash income support program should serve the purpose of enabling aged and disabled persons to live as independently as possible."

I still believe that these intents are sound and equitable. However, there are some residences which have fallen between the crack which divides a public home from a private one. The Restorium is such a residence. This facility receives no operational funds from the county which paid for its construction. The funds for operating the facility come chiefly from the residents and their families. The community people also assist at times with raffles and bake sales.

The Finance Committee staff report points out that the distinction of what constitutes a public institution "is not nearly as clear-cut as it once was. Moreover, in some cases it appears that the absence of any specific Federal statutory criteria on what constitutes a public institution had led to situations in which similar operations may be found to be public institutions in one State and nonpublic in another."

Mr. President, my bill is intended to clarify what is a public institution by defining it in the statute as "an institution which derives its operational funds in whole, or substantial part, from public sources." This distinction will diminish the ambiguity which has troubled residents, administrators and the courts. In reviewing the legislative history of SSI, I found that the meaning of public institution is never discussed in any of the committee reports. The history is as vague as the law.

Today's public institutions are not all the poorhouses and old folk homes of the thirties. More and more innovative types of homes for the elderly are being developed in an effort to prevent our elderly from being prematurely institutionalized. The Restorium in a fine example of this high quality of home. We should recognize this positive change in the history of the so-called "public institution" and provide incentives for such humane care, not disincentives.

Mr. President, equity is on the side of the residents of such homes. If such residences receive little operational support from a city, county or State, the residents should be eligible for SSI. That is the purpose of my legislation.

I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2901

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1611 (e) (1) (C) of the Social Security Act is amended—

(1) by inserting after ' "public institution' " the following: "means an institution which derives its operational funds in whole, or substantial part, from public sources, but"; and

(2) by adding at the end thereof the following sentence: "Payments made to an institution by residents thereof shall be considered to be from public sources to the extent that such payments represent income of such residents from public sources other than income in the form of a compensation for employment (including a pension based on prior employment), in the form of payments from Federal funds, or in the form of State supplementary payments made pursuant to this title which are made at a level not in excess of the levels of State supplementary payments which would be available to such residents if they were living in their own home.".

(b) The amendments made by this Act shall be effective with respect to supplemental security income benefits payable under title XVI of the Social Security Act for months beginning after the date of the enactment of this Act.●

By Mr. MATHIAS (for himself and Mr. SARBANES):

S. 2902. A bill to amend the Internal Revenue Code of 1954 with respect to exemption from income taxation of certain mutual deposit guaranty funds; to the Committee on Finance.

● Mr. MATHIAS. Mr. President, today I am introducing a measure which is long overdue. My proposal is to amend section 501(c)(14)(B) of the Internal Revenue Code of 1954 to grant tax exempt status to the Maryland Savings Share Insurance Corp., a designation already accorded to similar corporations in both Massachusetts and Ohio.

As a result of savings and loan associations problems in Maryland in the late 1950's and early 1960's, the Maryland General Assembly chartered the Maryland Savings Share Insurance Corp.—MSSIC—as a nonstock, nonprofit corporation to insure deposits in State chartered savings and loan institutions that were unable to qualify for Federal Savings and Loan Insurance Corp. coverage. MSSIC insures savings accounts on deposit in member associations through a central reserve fund. Its earnings must be accumulated and no part of these earnings may be returned to any member savings and loan association. MSSIC currently insures over 135 savings and loan associations in Maryland and has never suffered a single loss.

The confidence inspired by MSSIC's insurance program has caused depositors to increase the amounts of their deposits from $108 million in 1962 to approximately $1.7 billion in 1980. The associations covered by MSSIC are primarily small and medium size urban and rural neighborhood institutions which fill the gap left by the larger State and Federal savings and loan associations. They provide vital services for thousands of people in Maryland.

Massachusetts and Ohio have similar nonprofit corporations, enjoying an exemption from Federal income tax under section 501(c)(14)(B) of the Internal Revenue Code of 1954. That section requires the nonprofit corporation to have been organized before September 1, 1957, in order to qualify for the tax exempt status. MSSIC performs the same functions as the Cooperative Central Bank of Massachusetts and the Ohio Deposit and Guaranty which are covered by the Internal Revenue Code exemption. The legislation I am introducing today would amend section 501(c)(14)(B) to advance the organization cutoff date to January 1, 1963, so that the MSSIC fund would receive similar treatment.

Tax exemption for MSSIC is necessary to enable it to accumulate assets so that, in the event a member cannot meet its obligations, the corporation will not be exhausted by suffering the loss. Depositors in savings and loan associations are entitled to maximum protection of their accounts and to the highest possible return on their investment in the form of interest. Both of these objectives are accomplished by the accumulation of assets in State guaranteed funds. On the basis of the performance and the services it renders, MSSIC should be accorded equal treatment with the Massachusetts and Ohio funds under section 501(c)(15(B).

Mr. President, the Senate passed the measure during the last Congress in a slightly broader scope, but the House did not act on it and it was dropped in conference. I urge that my colleagues support this equitable legislation and work for its prompt passage again this year.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2902

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subparagraph (B) of section 501(c)(14) of the Internal Revenue Code of 1954 (relating to certain mutual deposit guaranty funds) is amended by striking out "organized before September 1, 1957," and inserting in lieu thereof "organized before January 1, 1963,".

SEC. 2. The amendments made by this Act shall apply to taxable years ending after December 31, 1967.●

ADDITIONAL COSPONSORS

S. 2681

At the request of Mr. DOLE, the Senator from Utah (Mr. GARN) was added as a cosponsor of S. 2681, a bill to amend the State and Local Fiscal Assistance Act of 1972 to provide a 5-year extension of the general revenue sharing program and to provide that each State make an annual election to receive its State government allocation or the equivalent amount in specific categorical grant programs, but not both.

AMENDMENT NO. 1935

At the request of Mr. HELMS, the Senator from Iowa (Mr. JEPSEN) was added as a cosponsor of amendment No. 1928 proposed to H.R. 7542, a bill making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes.

AMENDMENTS SUBMITTED FOR PRINTING

DEFENSE AUTHORIZATIONS, 1981—H.R. 6974

AMENDMENTS NO. 1935

(Ordered to be printed and to lie on the table.)

Mr. WARNER submitted an amendment intended to be proposed by him to H.R. 6974, an act to authorize appropriations for fiscal year 1981 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for fiscal year 1981 for civil defense, and for other purposes.

ADDITIONAL STATEMENTS

IMPACT OF NEW FINANCIAL INSTRUMENTS

● Mr. MORGAN. Mr. President, during the last few years, there has been growing public attention about the new financial instruments available at banks and thrift institutions.

Everyone has seen the ads for money market funds, 6-month certificates of deposits, 30-month certificates and for ready asset funds offered by brokerage houses.

To many of us here in Washington, it seems that all the complex financial concepts with which we deal are beyond the understanding of the public. Often we act on the assumption that only the sophisticated will utilize new powers which we give to banks and S. & L.'s.

The reality is that the American people are very aware of money—its costs and uses. They have acted forcefully and swiftly to take advantage of higher interest accounts.

I have urged many times in the Banking Committee and on the floor of the Senate that we act with caution and restraint in the creation of new financial instruments which can alter the shape of investment in the United States. Too often, an instrument created to encourage investment does just that, but other areas of investment may be injured.

We have seen a great flow of savings leave thrift institutions to take advantage of investments which produce higher interest but no more home. Even the thrifts themselves are forced to invest in higher yield portfolios.

A recent article in the Wall Street Journal by Mr. Richard F. Janssen gives a brief and succinct overview of this problem. As Mr. Janssen notes in his conclusion, there is no inherent wrong in creating new instruments, but we must act with more caution and deliberation. I would commend this article to the Senate for its brevity and simple statement of a complex problem.

I ask that the article by Mr. Janssen be printed in the RECORD.

The article follows:

[From the Wall Street Journal, June 23, 1980]

ADVANCES IN FINANCE ARE BACKFIRING

(By Richard F. Janssen)

NEW YORK.—Sophistication. Innovation. Flexibility. Those words are heard a lot lately in the field of finance, and they all have favorable connotations. Yet, in one of those ironies abounding in economics, they sometimes combine in ways which exacerbate our economic problems.

Money market funds, for instance, are an imaginative way for the average person to get in on interest rates hitherto available only to the big-money set. Instead of settling for a little more than 5% interest on savings accounts, folks with only $1,000 or so can share in pools of large bank certificates which have been paying two to four times as much.

Who'd have thought they'd jeopardize the next harvest? That's one effect that an unexpectedly-rapid advance in grassroots sophistication had, the Federal Reserve Board found. The funds proved a channel for moving money out of local banks, which make loans to farmers and Main Street merchants, and on into the world's biggest banks, which don't.

Many small-town banks were so strapped that the Fed had to sprinkle parched rural areas with newly-created funds from a special spigot. At least partly as a political quid-pro-quo to bankers, the Fed also applied reserve rules which make doing business a shade costlier for the super-efficient funds.

In a similar by-pass of the Fed regulations, the bigger banks have taken to doing much of their business abroad. The mass of Eurodollars, and other currencies on deposit outside their home country, has passed a trillion dollars' worth. Without this enterprising feat, it's widely recognized that the surplus cash of oil states couldn't have been "recycled" without much more trauma among importing countries.

But what's a boom to borrowers from Argentina to Zaire has been less than benign inside the U.S. with the Euromarket expanding credit at a 25% clip, the "restraint at home has to be somewhat greater" to make the same dent in inflation, contends Henry Wallich, a Fed governor. This, he notes, is "painful" for those "who do not have access" to the sophisticated offshore money market.

As interest rates ratcheted up, we outsmarted ourselves even more thoroughly through the six-month, $10,000 money market certificates. In the two years since Washington allowed banks and thrift institutions to let people keep abreast this way, individuals diverted many billions from regular accounts into the higher-yielding certificates. Officials admit they never dreamed so many people would be that sophisticated.

But in the process, the thrifts' profitability was squeezed so severely that many feared for their survival unless they, too, could earn the highest rates available. That meant investing in short-term securities instead of making home mortgage loans. Now, they want to get away from the standard mortgage carrying a fixed rate for decades, and many future home buyers will face the constant uncertainty of "variable rate" mortgages, on which monthly payments may change at possibly-inconvenient moments.

Moreover, a case can be made that the sheer success of the six-month certificate has a lot to do with the sheerness of the drop in the economy. An initial intent in Washington was that it would help permit a "soft landing" (remember that one?); by averting a big outflow from thrifts, it would for once spare the housing industry its usual sacrificial role, more fairly, evenly and gently spreading the burden of slowdown throughout the economy.

The certificates did prop the economy, for long enough to let inflation reach a record virulence, and for interest rates to reach peaks that were alluring, and finally, too frightening. Housing collapsed anyway, with starts last month down 49% from a year before. By postponing the recession to this time of maximum inconvenience for President Carter, "the certificates may cost him the White House," conjectures Jonathan Gray, an analyst at Sanford C. Bernstein & Co.

However that turns out for him, yet another popular financial innovation may haunt us all much longer. That's the plastic charge card. In contrast to cash or checks, "it created a big time gap" between the decision to spend and the reckoning a month or so later, and thus "destroyed the original reality of money" in peoples' minds, figures Jacqueline Brandvwynne, strategic planning consultant at Citibank.

While relentless inflation is what created the attitude that spending is smarter than saving, the convenience of credit cards must have abetted the practice, and swollen its worrisome legacy of debt. The same technology of plastic and electronics could soon boomerang directly against the consumer, too; inflation makes bankers want to apply it to "debit cards," through which funds are automatically switched out of a customer's account right after a purchase.

Verdicts vary, of course, but a good many other financial bright ideas might be ranked anywhere from disappointing-to-date to downright destabilizing: Floating the dollar, downgrading gold's world monetary role, the Fed's acceptance of interest rate volatility, its selective credit controls, Congress' belated budget-balancing act, and maybe those pyramid schemes, too.

Even so, sophistication, innovation and flexibility in financial matters aren't to be disparaged. Someday, with a little less cynicism and a little more discipline, they might help channel enough capital into productive investment again.

LOVE CANAL

● Mr. HELMS. Mr. President, it is obvious the Love Canal disaster may not be resolved for years—and, just as obvious, the debate as to ultimate responsibility for the injury to the environment and area residents will run for years. In all of this, we must take care to maintain objectivity in our review of the facts.

There are charges that Hooker Chemical Co. deliberately concealed the presence of the chemicals from the people of the area, even after it knew of the potential dangers. Others have attempted to exonerate the company completely. It may be that truth lies somewhere between these two versions.

The Wall Street Journal, in its June 19 edition, addressed this issue. In an editorial, the Journal pointed out that, contrary to EPA allegations, Hooker Chemical did in fact warn the local residents—on two occasions in 1957—that danger existed in the canal because of the buried chemicals. I commend this editorial to my colleagues as well as the accompanying articles which spells out the nature and timeliness of these warnings. Very clearly, there appear to be two sides to this story. I shall submit the full text of the editorial and an accompanying article for the Record at the conclusion of my remarks.

Mr. President, much has been said about the plight of the citizens forced from their homes because of the dangers at the canal. While I am sympathetic to the situation they face, we must consider the possibilities of State and local government participation in any solution before the Federal Government acts alone. It must be made abundantly clear that the Federal Government cannot bear all the financial burden caused by the displacement and injury to the people, and to the environment at Love Canal.

The material follows:

[From the Wall Street Journal, June 19, 1980]

Love Canal Warnings

In November 1957, at the nearby school board minutes and news accounts reveal, a lawyer for what was then the Hooker Electrochemical Company twice issued strong public warnings about potential health hazards at Love Canal. These warnings don't necessarily absolve Hooker of all responsibility for the misfortunes that have subsequently afflicted families living near the Niagara Falls, N.Y., dump site. But they do put in perspective various efforts to use the Love Canal mess as an opportunity to defame both Hooker in particular and profitmaking corporations in general.

The warnings came at a time when the Niagara Falls Board of Education was thinking of selling part of the Love Canal property to private developers. Hooker had used excavations from the abandoned Love Canal as a chemical dump site from 1942 to 1953, in which year, under threat of seizure by eminent domain, it had sold the canal and surrounding property to the school board for $1. Shortly afterwards, the school board built an elementary school on the central portion of the property, with part of the building being over the dump site itself. As the minutes make clear, Hooker accepted use of the property as a school and playground. But the company vigorously protested a proposed sale that might lead to subsoil construction and disturbance of the "dangerous chemicals down there."

What's most interesting about these protests is how seldom they have been reported. They are never once mentioned in "Laying Waste: The Poisoning of America by Toxic Chemicals," a popular book by Michael Brown that excoriates Hooker for failing to warn the school board and local residents of the dangers lurking in the dump site. They never once appear in the tirades of Ralph Nader, who has said that "Michael Brown's 'Laying Waste' takes the reader on a macabre journey from the notorious Hooker Chemical Company waste dump at Niagara Falls to other cancerous, toxic cesspools left by callous corporations around the country for present and future generations of Americans to suffer by."

The facts aren't all in yet on Love Canal, and it's possible that regardless of its warnings Hooker still bears some responsibility for the seepage of toxic chemicals into the basements of nearby homes. The Environmental Protection Agency, which is suing Hooker for the costs of cleanup and relocation, charges that Hooker failed to place an "adequate clay cap or other appropriate seal" over the dump site when it gave the landfill to the school board. Hooker argues that its clay cap was sufficient but was disturbed by construction. Though no houses were ever built over the canal, two city streets and a state expressway were built across the dump site, and Hooker also contends that the property was dug into as a source of landfill.

The EPA's lawsuit charges that Hooker "did not warn anyone living in the Canal vicinity that contact with material at the Canal could be injurious," even though as early as 1958 some children playing above the dump site had to be treated for chemical burns; and that in 1968 the company failed to warn the state Department of Transportation of possible hazards associated with construction of an expressway across the southern tip of the dump site. The courts will decide how often a company that no longer owns a dump site property should be legally responsible for monitoring and protesting its misuse

But whatever Hooker's legal responsibility, it is clear that on at least two occasions the company did go out of its way to alert the public to possible dangers. The unfortunate history of Love Canal should teach us the urgency of cleaning up and monitoring the nation's chemical dump sites more carefully. But contrary to the half-truths and innuendoes dealt in by professional corporate baiters, the story does not provide an object lesson in unbridled corporate callousness or villainy. It is perhaps understandable that the EPA has not sought to correct this impression—public officials tend to stick together when faced with acute political embarrassment. On the other hand, it is a bit much for the agency to use narrow legal language in an effort to imply, contrary to an easily accessible public record, that Hooker provided no warnings.

[From the Wall Street Journal, June 19, 1980]

What Hooker Told Whom, When About Love Canal

From a complaint filed in U.S. District Court in Buffalo last December by the U.S.

Environmental Protection Agency against Hooker Chemical, the city of Niagara Falls and the Niagara Falls Board of Education:

1. As explained in more detail below, from about 1942 until 1953 Hooker Chemical Corporation and its predecessors in interest disposed of its chemical wastes at the Love Canal landfill in Niagara County, New York. The migration of these hazardous wastes from the landfill site has resulted in the entry of these wastes into the soil outside the Canal, the sewers running through the Canal area, waters of the United States, ambient air at the Canal and air in homes in the Canal area; as a result, these wastes have been consumed by human, animal and plant life. The migration of these wastes and their consumption by human, animal and plant life gives rise to this action.

. . . 44. Hooker neither warned residents and developers in the vicinity that contact with materials at the Canal could be injurious, nor did it take any action to prevent future injuries due to exposure of the wastes.

From the Regular Meeting Official Record of the Board of Education, Niagara Falls, N.Y., November 7, 1957:

Mr. Arthur Chambers appeared as a representative of the Legal Department of Hooker Electrochemical Company regarding the piece of property on Ninety-ninth Street on the north side of Buffalo Avenue which was deeded to the Board of Education by his company around 1953. He reminded the Board that, due to chemical waste having been dumped in that area, the land was not suitable for construction where underground facilities would be necessary. He stated that his company could not prevent the Board from selling the land or from doing anything they wanted to with it but, however, it was their intent that this property be used for a school and for parking. He further stated that they feel the property should not be divided for the purpose of building homes and hoped that no one will be injured. He referred to a moral obligation on the part of the Board of Education in the event the property is sold.

Mrs. Runals moved, seconded by Mrs. Bialecki, that a letter be forwarded to the Hooker Electrochemical Company expressing appreciation for sending their representative here tonight to explain the conditions of the soil near the Ninety-ninth Street School when there was no legal obligation on their part to do so.

From the Niagara Gazette, Nov. 8, 1957:

The Board of Education has a certain moral responsibility in the disposition of land in 99th street near Buffalo avenue which the Hooker Electrochemical Co. deeded to it in 1953, in the opinion of a member of the company's legal firm.

He is Arthur Chambers, who discussed the situation at last night's board meeting.

The board built a school on part of the land and now is entertaining the idea of selling a section of the land.

Mr. Chambers reviewed the company's transactions involving the land. He said Hooker bought the 200 by 2,400-to-3,000 feet area running north and south, a section of the old Love Canal, to bury chemical waste. He said this use made the land unsuitable for construction in which basements, water lines, sewers and such underground facilities would be necessary.

The company in disposing of the land sought protection lest some party might dig into the chemicals and incur personal or property damages, he said. It gave the school a deed absolute in form but drawn up with a restriction that no claims for damage shall ever be made against Hooker.

Mr. Chambers said definitely that the company did not think the land should be subdivided. "You're apt to hit something we buried there," he explained.

From the Board of Education official record, Nov. 21, 1957:

Mr. Arthur Chambers of the Hooker Electrochemical Company's Legal Department presented a communication from Mr. Ansley Wilcox 2nd, Vice President and General Counsel of that Company, amplifying the remarks made by Mr. Chambers at the Board meeting held November 7th opposing the sale of property, owned by this Board, located near the Ninety-ninth Street School. The letter gave a detailed account of the transaction at the time the property . . . was donated by the Hooker Electrochemical Company to this School System. It was pointed out that, although it was not so stated in the deed, there was a mutual understanding that the property would be used only for the construction of a new school and the maintenance of a park.

Also that, at the request of the Board of Education, this provision was not included in the deed due to the fact that actual maintenance of a park could probably only be carried out by the City and some agreement would have to be made with the City to do this. A copy of a communication from the Hooker Electrochemical Company to the Superintendent of Schools, dated October 16, 1952, and one to that company from the Clerk of this Board under date of October 17, 1952 were presented indicating that the Administrative Officers and the members of the Board of Education knew of this restriction. Mr. Wilcox stated they feel very strongly that subsoil conditions make any excavation undesirable and possibly hazardous; he urged that arrangements be made to use the property for the purpose intended since additional park or recreation facilities in this area are desirable.

From the Buffalo Courier-Express, Nov. 22, 1957:

The Niagara Falls Board of Education is back where it started in its attempt to purchase land in the east end of the city for a school building.

The Hooker Electrochemical Co., from whom the Board received the property in 99th St., said it was the company's understanding that if at any time the Board decided it did not want to use the land, it was to be returned to Hooker.

Arthur Chambers, an attorney for the company, emphasized that tonight. He added that Hooker had buried, "willynilly," chemicals which would be injurious to developers who had to put pipe or other materials underground.

From a Niagara Gazette article Nov. 22, 1957, explaining that the Board of Education voted not to sell two parts of its Love Canal property:

. . . Under the recommendation, approximately 10 acres of land in parcels north and south of the 99th Street School would have been sold to Mr. Infantino and Mr. Cubello for $16,000.

This land is used as a chemical dump. It was given to the board by Hooker Electrochemical Co. in 1953 along with the site for the 99th Street School.

Arthur Chambers, of the Hooker legal department, who appeared at the Nov. 7 meeting, was back again Thursday night to reiterate the company's opposition to the sale of the two parcels.

He said there had been an unwritten understanding at the time of the gift that the board would not dispose of the land in any way that might lead to digging or construction work.

"There are dangerous chemicals buried there in drums, in loose form, in solids and liquids. It was understood the land would be used for a park or some surface activity if it was developed," he said.

He said there was four to five feet of fill over the chemicals which made use of the land as a park or playground not dangerous.

TRIBUTE TO NATIONAL PORCELAIN PAINTING ART MONTH

● Mr. RIEGLE. Mr. President, it is a great pleasure and honor to recognize the passage of Senate Joint Resolution 115 that designates the month of July as "National Porcelain Painting Art Month." This delicate and exacting art form has been an important contribution to the fulfillment and enjoyment of thousands of American citizens. With the convoking of the International Convention of Porcelain Art Teachers in Detroit on July 1, it is only fitting and proper that we take time to recognize this intricate artwork, and its important place in American artistic life.

Like all great artwork, porcelain painting demands the very best of its artists—a resilient hand, a sharp eye and a keen esthetic sense—are all vital to the accomplished masters. Mr. President, at this time, I would like to highlight the artistic achievements of Gladys Galloway of Caro, Mich., who worked extremely hard for the passage of Senate Joint Resolution 115. Mrs. Galloway is a brilliant artist in her own right, and she is presently completing a 2-year term as president of the International Procelain Art Teachers Association. Through the untiring efforts of dedicated artists like Gladys Galloway, porcelain painting has begun to receive the recognition and public acceptance that it so rightfully deserves.●

THE DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

● Mr. MORGAN. Mr. President, on March 31 of this year, the Congress passed and sent to the President, H.R. 4986, the Depository Institutions Deregulation and Monetary Control Act.

I opposed this legislation on the floor of the Senate and expressed even greater opposition to the agreement reached by the conference.

Part of the Deregulation Act provided for the establishment of a Deregulation Committee composed of the heads of the Treasury Department, the Federal Reserve Board, the Federal Deposit Insurance Corporation, the Home Loan Bank Board, and the National Credit Union Administration.

The committee was charged under section 204 with regulating the "orderly phaseout and the ultimate elimination of the limitations on the maximum rates of interest and dividends which may be paid on deposits and accounts as rapidly as economic conditions warrant." The law provided for a 6-year period of orderly deregulation.

Mr. President, I have heard from many financial institutions in my State about the actions already taken by the Deregulation Committee in its first 3 months of existence. Frankly, the committee's decisions have caused me as great a concern as it has my constituents.

In its first meeting on May 7, 1980, the committee proposed among other things a ban on the use of premiums by financial institutions to attract deposits. Presently, premiums or gifts are limited to $5 for deposits under $5,000 and to $10 for deposits over that amount.

In addition, the committee proposed to limit finders fees to cash payments and to consider such fees as interest to the depositor and thus subject to rate ceilings. Finders fees are currently paid for bringing a new depositor to the bank.

Other actions were taken regarding the payment of interest on matured certificates of deposit and the interest penalties for early withdrawal of certain certificates of deposit.

On May 28, in its second public meeting, the committee undertook some major changes, which to my mind, go far to threaten not only certain financial institutions, but our entire national efforts to bring inflation under control and to encourage homebuilding.

First, the committee set a minimum ceiling on interest offered on time accounts. On 30-month certificates, the committee tied the interest rate to Treasury bills, but provided that if the T-bill rate fell below 9 percent, S. & L.'s and banks could continue to pay up to 9.5 or 9.25 percent in interest.

In regards to money market certificates, the Deregulation Committee removed the one-quarter percent differential between S. & L.'s and banks except in a narrow interest range where Treasury bills are paying 7½ to 8½ percent.

Taken collectively and individually, these actions by the Deregulatory Committee will tend to injure our drive to encourage savings, lower interest rates, and more homebuilding. Additionally, these actions place in jeopardy the image and reputation of the newly formed Deregulation Committee.

Although, I, too, have concerns about finder fees and the exorbitant level to which they have been taken in certain instances, I cannot understand a total ban on premiums which are in the permissible range at a time when we need to increase personal savings.

As everyone in this Congress knows, we just acted to exempt the first $200 in interest and dividends earned by a taxpayer. Our savings rate last year dipped below 3.5 percent of disposable income, lowest in the industrialized world. The factors contributing to that decline remain in place at this time.

I can tell those who wish to cut Federal spending that the best way to end increased Federal programs for homebuilding and other capital intensive areas is to encourage private savings in the financial institutions of this country. I cannot believe that regulation of the simple devices of premiums totaling no more than $10 in value has become so difficult that a total ban is in order. Among the alternatives used to secure savings—advertising, premiums or borrowing from the Federal Reserve—a recent study showed that premiums are the cheapest.

But more important than the decisions relating to encouraging savings are the decisions relating to the interest ceilings and the differential.

Just 1 week before the committee took its action, Home Loan Bank Board Chairman Jay Janis told the Senate Banking Committee that if mortgage rates were to fall—

> It is essential that thrifts keep the differential when Money Market Certificate rates are below 9 percent, at least for the rest of the year.

To my mind, the new rules go against the spirit of the Deregulation Act, which contemplated a gradual phase out of the differential, and against the letter of the act, which called for rate ceilings to be tied to money market rates not some artificial index.

So concerned is the savings and loan industry by these actions that the U.S. League of Savings Associations has filed suit against the committee. The league urges that the new rate ceilings, the differential changes, and the permission for commercial banks to offer thrift rates when money market certificates are "rolled over" will keep "mortgages high, reduce the availability of mortgage money and prolong the housing depression."

Let me give just one example of what is likely to occur under present circumstances. At present, the ceiling set by the Deregulation Committee is at 9.50 for 30-month certificates at thrift institutions. Treasury bill rates are now around 8.4 percent. So S. & L.'s are having to pay higher rates of interest than the market conditions require. A saver may secure some benefits, but the homebuyer faces double-digit mortgage rates.

In previous postwar recessions, homebuilding has been the force leading us out of the economic slowdown. This time, however, following the actions of the Deregulation Committee, there is no guarantee that we can count on the housing sector for its strong upward drawing power.

Not only do I question the actions by the committee, I also am concerned about its determinations in light of the composition of the Deregulation Committee. Only one member of the committee, Jay Janis, of the Home Loan Bank Board, represents a clear voice for savings and loans and for homebuilding.

It appears that his voice is in a very distinct minority.

It is ironic that credit unions are represented by a voting member on the committee when their interest rates are not subject to committee-set rate ceilings. Indeed, 3 days following the Deregulation Committee's actions on eliminating the differential, the National Credit Union Administration moved to increase the differential and to separate 6-month certificate rates from the market rates. The result is that while other financial institutions are paying 7¾ percent on 6-month certificates, Credit unions may pay 9½ percent.

In short, the Deregulation Committee's actions do not seem to comport with the intent of Congress. They have not acted in an orderly or gradual fashion and the committee has ignored the fact that savings and loans have not caught up with commercial banks in developing the new powers afforded them under Public Law 96–221. S. & L.'s are still suffering from high interest money costs and this year alone will see a $40 billion decline in mortgage lending.

I believe that the time for congressional oversight has come. Just as quickly as the Deregulation Committee has moved to change the status quo, the Senate and House Banking Committees should move to review these actions. I hope that the Financial Institutions Subcommittee of the Banking Committee will look into the entire situation as soon as possible.

Such oversight will benefit not only the savings and loans, small banks and certain savers, but will benefit the housing industry and our entire country.●

THE 100TH ANNIVERSARY OF KENTUCKY DISTILLERS' ASSOCIATION

● Mr. FORD. Mr. President, I join with my colleague, Senator HUDDLESTON, in recognition of the 100th anniversary of the Kentucky Distillers' Association. This organization has been an important force in the economic life of Kentucky. And I must note that the distilling industry in my State just last year contributed almost $600 million to the Treasury of the United States in payment of the Federal excise tax on distilled spirits alone.

The Kentucky Distillers Association takes no narrow view of its purpose. It promotes and defends the economic interests of its members, but the organization and its individual members also eagerly participate in a wide range of community efforts to improve the quality of life for the people of Kentucky. Senator HUDDLESTON has noted an example in the recent generous gift of the association to the independent colleges of the Commonwealth. I want also to commend this organization for its program of institutional advertising urging moderation in the use of its products.

I submit for the RECORD a list of the officers and directors of the Kentucky Distillers' Association and the companies which comprise its membership.

The list follows:

ONE-HUNDREDTH ANNIVERSARY OF KENTUCKY DISTILLERS' ASSOCIATION

MEMBER COMPANIES, KENTUCKY DISTILLERS ASSOCIATION

Austin, Nichols & Company, Inc.; Barton Brands, Ltd; James B. Beam Distilling Company; Brown-Forman Distillers Corporation; The Fleischmann Distilling Corporation; Glenmore Distilleries Company, Inc.; Heublein, Inc.; Maker's Mark Distillery, Inc.; Medley Distilling Company; National Distillers Products Company; Old Fitzgerald Distillery, Inc.; Schenley Industries, Inc.; Joseph E. Seagram & Sons, Inc.; The Willett Distilling Company.

OFFICERS OF KENTUCKY DISTILLERS ASSOCIATION

Gerald B. Kuntz, Chairman; Frank M. Dailey, President, T. W. Samuels, Jr., Vice-Chairman; Phillip B. Newman III, Secretary-Treasurer.

DIRECTORS OF KENTUCKY DISTILLERS ASSOCIATION

C. J. Brauch; Walter J. Devlin; Paul R. Dohl; Norman L. Hayden; Elmer T. Lee; Thomas R. McCarthy; Benjamin H. Morris; Frank W. Noppert; Alexander Stevenson; Thompson Willett; Joseph J. Winkler.●

S. 2009—THE CENTRAL IDAHO WILDERNESS ACT OF 1980

● Mr. HATFIELD. Mr. President, the conference report on S. 2009 designates a River of No Return Wilderness of some 2.2 million acres within the Boise, Challis, Payette, Salmon, Bitteroot, and Nez Perce National Forests in Idaho. It also adds some 105,600 acres in the so-called Magruder corridor of the Bitteroot National Forest to the existing sellway Bitteroot wilderness area. In addition, the proposal designates 125 miles of the Salmon River as a component of the National Wild and Scenic Rivers System. The bill also includes important provisions establishing a procedure for expedited administrative and judicial review of certain land management plans within the central Idaho area.

I am in full agreement with these provisions and the addition of over 2 million acres of land to the wilderness system in central Idaho. The heart of this area, the central Idaho Primitive Area and the Salmon River Breaks Primitive Area, were designated by the Forest Service in response to a request from the Governor of Idaho 45 years ago. I agree with this administrative land allocation of primitive areas and also the addition through this bill of several roadless areas which are outside of the primitive area boundaries.

Although I generally support the bill, there are major shortcomings in the conference report which make the proposal unacceptable.

One of the most important issues which was debated on the floor of the Senate and in conference concerned the Clear Creek Cobalt Area, which lies on the eastern side of the proposed wilderness. The Senate bill included the area in wilderness as a special underground mining area. On the other hand, the House adopted Congressman SANTINI's amendment to the potentially rich mineralized area from the proposed wilderness. In an effort to reach a compromise on this controversial issue, the conference committee adopted a provision which prescribes that cobalt mining is to be a dominant use in the wilderness. The dominant use language is followed by a section which allows the Secretary to take measures to protect the habitat of the bighorn sheep in the area. Cast in the best light, these conflicting provisions will be difficult, if not impossible, to administer. But beyond that, I believe the so-called cobalt section is an extremely bad provision which flies in the face of established congressional principles for national forest management.

First, the dominant use section is generally contrary to the principle of multiple use which has guided land management policy on the National Forest System for years. Under this provision, cobalt mining is given higher priority than it would enjoy in the general forest under multiple use policy. Mining companies are assured continued access and assured the right to explore, mine, and process cobalt apparently without consideration for other multiple-use values.

In addition to this dominant use provision which may be appropriate in some nonwilderness area, the conferees designate the area as a component of the National Wilderness Preservation System. We have an area preserved in its natural state with cobalt mining as a dominant use. To endorse and prescribe this type of potential large scale development in a wilderness area, in my view, is totally inconsistent with the spirit and letter of the 1964 Wilderness Act.

The major flaw in this conference report, however, is the absence of any legislative provision which will insure that the areas not designated for wilderness will be available for multiple use. This proposal does not include so-called statutory release language for nonwilderness lands. In my view, a proposal which designates 2.3 million acres of additional wilderness for central Idaho, the largest wilderness area in the "lower 48," must also assure the multiple use status for some 1 million acres outside the proposed wilderness. A balanced land allocation decision must provide that contiguous roadless lands will be available for multiple use under the land planning process.

The central Idaho proposal is primarily a primitive area bill. Most of the area designated as wilderness has been protected for years as administratively designated primitive areas. There has been wilderness legislation on this area before Congress since 1974 which is before the RARE II process was proposed.

Nevertheless, this proposal does contain a number of RARE II areas. And the fundamental problem of handling RARE II nonwilderness areas applies to this bill as well as other national forest wilderness legislation.

In this proposal, the conferees attempt to address the problem of "releasing" the nonwilderness land for multiple uses through the use of report language. Language has been proposed to address the dual problems of administrative inaction and court decisions, both of which could overturn the land allocation decisions made by Congress. The conference report itself refers to making a comprehensive land allocation decision for central Idaho. The statement of managers discusses in some detail the California against Bergland lawsuit and its application to the RARE II lands. With these statements, there is an acknowledgment of the problem and an effort to address these legitimate concerns in the absence of statutory language. Admittedly, the managers statement does clearly express the congressional intent with respect to nonwilderness lands. Unfortunately, statutory language is the only way to adequately address this problem. To further illustrate the need for statutory release language, let me briefly outline the history of RARE I and RARE II.

In the latter part of the 1960's, the Forest Service announced RARE I, the first comprehensive roadless area review and evaluation. During the RARE I process, an inventory of roadless areas was completed, public comment was gathered, and a list of areas was proposed for inclusion in the wilderness system. The process resulted in the selection in 1973 of 274 wilderness study areas of about 12.3 million acres. The other roadless areas in the RARE I inventory, about 44 million acres, having been considered and rejected for possible wilderness designation, were not protected and remained in their full multiple-use status.

Toward the end of 1972, however, as the RARE I process was nearing a conclusion, a lawsuit was filed against the Forest Service. It charged that before the Forest Service took any action to disturb the natural condition of RARE I areas that supportedly were returned to full multiple-use status, the agency must go through the process outlined in the New Natioinal Environmental Policy Act of 1970. In essence, the court agreed with the plaintiffs and all activities on the roadless areas were stopped.

As a result of the RARE I lawsuit, almost every western national forest had to start a revamping of existing land use plans. But with only minor exceptions, the new planning process was moving at a relatively slow pace. Due to the delays in the issuance of plans and coupled with a desire to reevaluate the roadless area, the Forest Service announced their second roadless area review—RARE II.

In June 1977 the Forest Service instituted the RARE II process. The program was intended to again survey the roadless and undeveloped areas within the National Forest System and to distinguish areas with wilderness potential from those most appropriate for other uses. The areas recommended for wilderness would be candidates for addition to the wilderness system by congressional action. The remaining roadless lands were designated for nonwilderness uses under the multiple-use planning process or were allocated to further study.

In April of 1979, the President made final recommendations that wilderness designation be given approximately 15.4 million acres of the 62 million acre roadless inventory. Another 10.8 million acres were determined to require further study. The balance of the areas—about 35 million acres—were recommended for nonwilderness, multiple-use management.

The RARE II process was formulated to expedite the planning process for roadless areas. Based on our experience with both RARE I and RARE II, it may simply prolong the process because of the very real potential for administrative appeals and lawsuits.

The California against Bergland lawsuit is illustrative of the problems inherent in implementing the nonwilderness portion of RARE II. In that case, the Federal district court in California issued its opinion in January 1980 which in effect halted all activities in 46 nonwilderness areas in northern California. This lawsuit has stopped activities in nearly half of the nonwilderness areas in California, some 991,000 acres, which were supposedly released for multiple use. All development activities on these nonwilderness areas are delayed until another EIS is prepared on each individual area to assess its wilderness potential. Similar lawsuits could be filed in Idaho or Oregon or other States to block implementation of the RARE II recommendations on nonwilderness areas.

Recognizing the problems of implementing RARE II, the Senate approved statutory release language in the Oregon Wilderness Act, S. 2031. The Oregon bill contained several provisions intended to prevent delaying lawsuits and appeals based on alleged lack of wilderness review. Language in S. 2031 was specifically designed to prevent California style lawsuits or actions based on other requirements if the allegation was insufficient wilderness review.

The accompanying report on S. 2031 clearly states the Senate committee's belief that—

> The allocation of Federal lands for wilderness and nonwilderness uses is a decision most appropriately made by the Congress, not the courts. Therefore, the committee bill includes language preventing the courts from overturning land allocation decisions in the State of Oregon. . . .

One of the key issues in the RARE II controversy has been whether "release language" will be in the bill or only in the committee report or statement of managers. Every legal expert familiar with this problem agrees that report language will have no effect in insulating the Forest Service from lawsuits, not even one similar to the California case and based on that precedent. In no way can report language, even if it is clear and strong, be used to overcome an appeal or lawsuit based on statutory law. The California case is based on statutory law, and report language will not protect the Forest Service from delaying lawsuits even after Congress has painstakenly evaluated the lands for wilderness potential.

In the Idaho bill before us today, I believe the Congress has thoroughly and extensively examined the proposed wilderness and contiguous roadless lands. Due to the amount of wilderness acreage in the bill, the chances of any appeals or lawsuits have been lessened in this particular area. But the threat of court action and appeals remains, and the uncertainty remains.

Without legislative release language, the courts will continue to make land allocation decisions for the roadless areas within the National Forest System. Clarifying the intent of Congress through nonbinding report language will not preclude a court from blocking activities on nonwilderness land. Clear evidence of the administration's intent to manage the nonwilderness areas will not preclude court review—this we have seen from the California decision. The only way to preclude court review is to enact legislation which releases the land for multiple uses other than wilderness.

Mr. President, I ask that a copy of a letter from Secretary Bergland to Congressmen JOHNSON and CLAUSEN regarding certain nonwilderness lands in California be placed in the RECORD.

The letter follows:

DEPARTMENT OF AGRICULTURE,
Washington, D.C., March 7, 1980.

Hon. JAMES P. JOHNSON,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN JOHNSON: This is in response to your letter of February 6, which was also signed by Representative Don H. Clausen, requesting information about the impact of Judge Lawrence Karlton's decision regarding the 47 nonwilderness areas in California as they relate to pending legislation. We would like to comment first on your question about our action on Judge Karlton's decision. We believe the Roadless Area Review and Evaluation was sound and provided the Congress and the Administration with the information needed to work toward a resolution of the wilderness and nonwilderness allocation question. We have recommended to the Department of Justice that Judge Karlton's decision be appealed. Pending resolution of an appeal, action by the Congress would be necessary to overcome Judge Karlton's decision. We will respond to your specific questions in the order listed in your February 6 letter.

1. What would be the status of all the subject areas if any or all of them were not to be designated as wilderness by the Congress?

Response. In any of the 46 areas not designated as wilderness by the Congress, the Forest Service is enjoined from taking or permitting any action that would change the wilderness character of the area until an additional site specific evaluation of the area's wilderness potential is made in compliance with the National Environmental Policy Act. (Note: a detailed review of the areas affected by Judge Karlton's decision indicates that 46 rather than 47 areas are affected.)

2. If any of the 47 subject areas were not to be designated as wilderness by Congress, would statutory "release language" be necessary to overturn Judge Karlton's decision so as to allow multiple use management and development to proceed?

Response. Yes, statutory language would be necessary to overcome Judge Karlton's decision if Congress desired that management activities which could change the wilderness character of the areas are to be undertaken prior to completion of an additional site specific evaluation of the wilderness potential of each area.

3. For any of the 47 subject areas not designated as wilderness by Congress, would "release language" in the Committee Report only be sufficient to release these areas to multiple use management and development?

Response. No, specific language in the Committee Report, indicating that all or any one of the areas no longer needed to be considered for wilderness designation, would not be sufficient to release these areas for management activities which might alter their wilderness character. We believe statutory language would be necessary to overcome Judge Karlton's decision.

4 (a). If just a portion of any given one of these 47 subject areas were to be designated as wilderness by the Congress, would the remaining portion be considered open for multiple use management and development?

Response. No, it is our opinion that any portions of the 46 areas not designated as wilderness by the Congress would not be available for management activities, that would change the wilderness character of the area, until the area is specifically evaluated for its wilderness potential.

(b) Would the portion of such an area not designated as wilderness need statutory "release language" to return that portion to multiple use management and development or would "release language" in the Committee Report only be sufficient to return the land to multiple use management and development?

Response. No, we believe statutory language would be necessary to enable us to proceed with management activities that would alter the wilderness character of any part of the 46 areas not designated as wilderness.

5. If any of these 47 subject areas were to be designated by the Congress as a restrictive management area short of wilderness, would such a congressional designation overturn Judge Karlton's order and allow the defined restrictive management plan to determine the ultimate use of such areas?

Response. Yes, we believe an affirmative determination by Congress designating any of the 46 areas as wilderness, or some other designation, would overcome Judge Karlton's decision and permit us to develop a plan or proceed with management in accordance with congressional direction as described in statute.

The specific statutory direction described above could be accomplished on an area-by-area basis or with general statutory direction.

We hope this information will be helpful in your deliberations. We would be happy to discuss this matter in more detail with you, or your staff.

Sincerely,

BOB BERGLAND.

Q. What is the Department's policy on release language?

A. The Secretary of Agriculture has authority under existing law to manage areas allocated to nonwilderness uses and undertake planning for those areas identified for further planning under existing law. Our proceeding, under existing law and related regulations, does not remove the uncertainty that could arise from administrative appeals, lawsuits, or other challenges which seek to halt activities on lands allocated to nonwilderness uses.

A recent court decision affecting 46 nonwilderness areas in California has prompted a reevaluation of our position on this matter. We believe our Roadless Area Review and Evaluation was sound and provided the Congress and Administration with the information needed to work toward a resolution of the wilderness and nonwilderness allocation question. We have recommended that the Department of Justice appeal Judge Karlton's decision.

Since the Congress has been considering roadless areas in a State-by-State basis, we believe it desirable to incorporate appropriate language into individual State or regional bills which would designate wilderness and confirm actions on further planning and nonwilderness areas. We would be happy to work with the committee in developing appropriate language.●

DR. GOFMAN'S "SIZZLING" TESTIMONY

● Mr. GRAVEL. Mr. President, one week after the accident began at the Three Mile Island nuclear powerplant in Pennsylvania, a committee of the California State Senate heard what one reporter described as "sizzling" testimony from Dr. John W. Gofman.

I wish every American could have heard him because he addressed some central issues in the nuclear power controversy. They include:

First, the myth that nuclear power can ever be "safe";

Second, the reason Government and industry "experts" are "thinkalikes," and why their pronouncements should not be believed; and

Third, the number of deaths that were caused by the Three Mile Island accident (on this point Dr. Gofman's figures are too low because the radiation dose estimated at the time of his testimony was later doubled, and even the doubled estimate is highly suspect because of the nearly nonexistent monitoring at the time of the accident.

Mr. President, I am pleased that Dr. Gofman's testimony is now available in two forms: First, as a cassette tape which also includes an interview on National Public Radio, during which Gofman demolishes the myth that nuclear power is "needed." The tape is $6 from the Committee for Nuclear Responsibility, Box 11207, San Francisco, Calif., 94101.

Second, the testimony was recently reprinted by the Independent Citizens Research Foundation.

For the benefit of my colleagues, I ask that the testimony from the ICRF newsletter be printed in the RECORD.

The newsletter follows:

[From the Independent Citizens Research Foundation, P.O. Box 97, Ardsley, N.Y.]

JOHN W. GOFMAN, M.D., PH. D.: TESTIMONY ON NUCLEAR POWER BEFORE THE CALIFORNIA SENATE, APRIL 4, 1979

Senator GARAMENDI. The next witness is Dr. John Gofman, Professor Emeritus, Medical Physics, University of California, Berkeley.

IT'S MORAL DEPRAVITY OF THE WORST SORT NOT ONLY TO RUIN OUR GENES IN THIS GENERATION AND PASS THE GENETIC DETERIORATION ON TO OUR OFFSPRING BUT TO LEAVE A CONTAMINATED EARTH

I'm proud to be antinuclear. It's not fashionable. You're supposed to say, "Let's wait until we make it safe," which is pure rot. I'm antinuclear because I know enough about this problem to know that it's never going to be safe, that we're going to pay a high price and that it's moral depravity of the worst sort not only to ruin our genes in this generation and to pass the genetic deterioration on to our offspring but to leave a contaminated Earth. We are not only deteriorating our genes right now from the Nuclear Power Industry in place but by spreading nuclear waste around the biosphere we are guaranteeing that our offspring will have further deterioration. No lower form of human behavior has yet been conceived.

Now—I'm the co-discoverer of Uranium-233. If you follow the nuclear scene at all, you know that President Carter says the hope for the future of nuclear breeders is Uranium-233. I have everything to gain in fame if my discovery of the fissionability of U–233 becomes a power source. *But I hope that my discovery is shelved and NEVER used because the health impact will be very—very intolerable.*

YOU DON'T SURVIVE AS AN EXPERT WITH A SALARY CHECK UNLESS YOU THINK ALIKE

Now you wonder why so many thinkalikes exist among the experts. The answer is simple. You don't survive as an expert with a salary check unless you think alike. Anyone who comes out with anything that disagrees with established policy soon does not have a salary. The rest of the people working within the Nuclear Establishment know that happens to experts who disagree with established policy. So they simply do not talk.

I don't get this from speculation. I get it from direct experience and I think your Committee needs to hear this more than some of the details, though I will treat the Harrisburg numbers for you. In 1969 after six years of having been appointed by the Atomic Energy Commission to head a new division at the Livermore Laboratory (I cut down some of my teaching during that period), Dr. Arthur Tamplin and I concluded that the so-called "safe dose" for the population was an absolute fraud; . . . that medical radiation and the so-called "safe dose" of radiation are simply legalized permits to commit murder. Our estimates were that if everybody got the then allowed "safe dose" for the public we would have 32,000 cancer deaths extra per year.

The Atomic Energy Commission went wild and the members of the Atomic Energy Commission vied with each other as to who could say that we were wrong by the largest factor. Some said that we were wrong by a hundredfold. Some said we were wrong by a thousandfold. And some very, very brave ones said we were wrong by 10,000-fold. It turns out our estimate was too low. The true risk is even greater than we said.

But you realize the Atomic Energy Commission no longer exists. The reason it doesn't exist is that their credibility sank so low on the health effects problem and on the safety of emergency core cooling systems that the Government realized that the only thing they could do was at least destroy the name AEC. The same hats were put on other people and put into new agencies and we have only to wait for death to help us get rid of those people who think as the AEC did.

I don't look for much better now from the Department of Energy or the Nuclear Regulatory Commission though I am terribly encouraged by Peter Bradford and encouraged by the Health Director and Health Standards Director of the Nuclear Regulatory Commission, Dr. Robert Minogue and his colleague, Dr. Karl Goller, who have said, Senator Campbell, the myth that there is a "safe threshold" or "tolerance" or "permissible amount of radiation" is a myth and nothing else. I'll quote his exact words: "By God, there ain't no such thing." (Dr. Minogue's statement).

HOLIFIELD: "LISTEN, THERE HAVE BEEN OTHER PEOPLE WHO HAVE TRIED TO CROSS THE ATOMIC ENERGY COMMITTEE BEFORE. WE GOT THEM AND WE'LL GET YOU"

You have to know what happens to people who object to the poisoning of Americans with radiation. I testified before Senator Muskie in 1969 to present these numbers. I'd given it as a very straightforward scientific paper a few weeks before for the engineers. I was called in that afternoon by Representative Chet Holifield, then Chairman of the Joint Committee on Atomic Energy. He called Dr. Tamplin and me in. He ranted at us and said, "I've been told by the Atomic Energy Commission that 100 time this dose would have no effect." I said, "You've been misinformed." Then he turned to me and said, "Listen, there have been other people who tried to cross the Atomic Energy Committee before. *We got them and we'll get you.*"

Next—shortly thereafter Dr. Michael May of the Livermore Laboratory said the AEC wanted to see in advance every paper that we put out so that they could cope with the publicity aspects. I said I wouldn't tolerate censorship. He said, "Jack, I wouldn't consider censorship."

The first paper was one of Dr. Tamplin's for the American Association for the Advancement of the Sciences. I gave the paper to Michael May. It came back and what was left were a few prepositions and a few conjunctions and that was all. Dr. Tamplin was told if he wanted to give his paper in the unaltered form he could pay his own way, not identify himself as a member of the Livermore Laboratory and pay for his own travel and secretarial help in typing. I told Michael May if he did that, I would write to the American Association for the Advancement of Science and have them read a letter from me that the Livermore Laboratory was a laboratory of scientific prostitution and that I regretted that Dr. Tamplin could not come. That frightened Dr. May. He backed off and Dr. Tamplin got to give his talk.

The harassment continued. Dr. Tamplin lost 12 of his 13 people. He was a fair-haired boy until he found that radiation was harmful. This goes on over and over and it's going on today.

A little later Dr. Tamplin was chosen by the American Cancer Society to come and lecture to an annual meeting they hold for press and media on the most important advances in cancer research. Ordinarily a brass band would have sent Dr. Tamplin off to the cancer meeting. Instead Mr. William Harford, Business Manager of the Laboratory, docked Dr. Tamplin's pay for four days. I looked at the docking and said, "Bill, you can act like an absolute ass if you want to, but you can't dock Tamplin for Saturday and Sunday because we don't work Saturday. So he had to give him back those two days.

WHY SO MANY "EXPERTS" ARE ON THE PRO-NUCLEAR SIDE. THEY GET THEIR SALARY CHECK FROM IT AND THEY ARE FRIGHTENED

The fear of these individuals of in any way interferring with the Establishment is something to behold. I brought all 150 people in my division at Livermore to that Laboratory. They were in and out of my office—major scientists—almost every day with personal problems, scientific things they wanted to discuss. The moment we criticized the standards, nobody dared walk into my office. They were frightened. A couple of scientists—about 6:30 at night when no one was around—individually walked in and said, "I agree with what you are saying." I said, "Why won't you help us? We have a lot of work to do on this." They said, "Look, Jack, you've got a lot of prestige as a scientist. They can't do anything to you but I have a wife and two children and I have just put a down payment on a house and they'll slice my throat."

That explains to you why so many "experts" are on the pro-nuclear side. They get their salary check from it and they are frightened.

There has never been any evidence whatsoever of a safe amount of radiation. That is simply a fabrication for the convenience of the nuclear industry. By the way, I have no compunction about saying that Medicine is very guilty of killing people. And I want you to know, Senator Campbell, that the dose of 100 millirems per year that we're getting from natural is causing approximately 20,000 to 40,000 fatalities in the United States from cancer and leukemia. I don't know of a plant you can go to where there isn't radiation. And we don't have the ships to get there. So we live with that as part of our 400,000 cancer deaths per year.

Furthermore, it is true that if you move up to Denver, you are going to have about 1½ times the cancer rate from natural radiation. And it is further true that medical radiation causes cancer—100 millirems is 100 millirems—it doesn't matter whether it comes from an X-ray machine or anything else.

U.S. CONSTITUTION: YOU SHALL NOT TAKE AWAY LIFE WITHOUT DUE PROCESS OF LAW. THE RIGHT TO LIFE IS A NATURAL RIGHT OF HUMANS

I don't know where anybody got the idea that the nuclear industry is legal because we have a Constitution in the United States and that Constitution says that you shall not take away life without due process of law. The right to life is a natural right of humans. It has never been given to the Nuclear Regulatory Commission, to the Department of Energy or to any other Commission to take away. So that any standards that have been set as permissible doses, tolerable doses, allowable doses are simply legalized permits to commit random murder upon the population. There is no other way to describe it.

This is right now in the Federal Court. I've testified in that case. There's a case to shut down the entire nuclear industry and abolish the Nuclear Regulatory Commission except for the best cleanup for whatever mess they have already made. That case is known as Honicker vs Hendrie. At the District Court level, the Judge declared that he did not have jurisdiction. There's been much evidence put on the record already. There's a book called Shut Down which describes the testimony. It's moved up into the Appeals Court.

I HOPE THERE'S A GREAT DEAL OF ANGER AMONG THE AMERICAN PEOPLE . . . ABOUT THE FACT THEY ARE BEING MADE GUINEA PIGS IN THE MOST MONSTROUS EXPERIMENT

I truly don't believe there's a judge on the Federal Bench courageous enough to do what he should do and uphold the Constitution which says you cannot take away a person's life without due process of law. But the coverup is breaking and in contrast to your statement, Senator, that we hope there won't be the anger, I hope there's great deal of anger among the American people about the way they have been treated, about the fact they are being made guinea pigs in the most monstrous experiment—an experiment of containment. One burp at Harrisburg upsets thousands and thousands of days of normal operations and it is impossible to believe that the required degree of containment of nuclear wastes at all steps along the way—either with Harrisburg-type accidents, little spills, big spills—is ever going to approach the required degree of containment. That required degree of containment has to be good to one part to 100,000 and if we don't achieve that in a nuclear industry, we are going to have a cancer and leukemia epidemic and genetic injuries that will move public health back 100 years at least in terms of the effect on our population.

IF THERE IS A BEARER OF BAD TIDINGS AND YOU DON'T LIKE THE BAD TIDINGS . . . GET RID OF THE BEARER

I said the coverup continues until today. You know the old saying, "If there is a bearer of bad tidings and you don't like the bad tidings, the thing to do is get rid of the bearer." That's just what is done.

Recently Dr. Alice Stewart, George Kneale and Dr. Thomas Mancuso did a study of the workers at the Hanford nuclear plant. They concluded that cancer was being produced in the workers at the so-called safe or tolerance dose. We of course expected that that would be the case because there was no reason to believe there is any safe dose. There never has been any evidence for a threshold. That's pure nonsense and rot, as I say, for the convenience of the industry.

Their publication came out and guess what the Department of Energy did. They took away Dr. Mancuso's funds.

I asked for Dr. Mancuso's data. The prime data. Not his analysis of them. But the prime data to do my own research studies. He immediately agreed to give them to me. So I have all the computer printouts of those data myself. I spent about nine months analyzing the data. I recently sent my conculsions to the journal Health Physics and it is in publication. (Nov. 1979) It confirmed that Drs. Stewart, Kneale and Mancuso are correct, that cancer is being produced in the workers at the safe dose. The workers are being lied to regularly by Pacific Gas and Electric. I know that directly from participating in the hearings where Pacific Gas and Electric lied in my presence about the workers' doses. I find that the numbers are just about the numbers that Drs. Mancuso, Stewart and Kneale got. I disagree on some secondary issues. But I want to point out: Here is a man who devoted from 1964 to 1978—I've never in my life—and I've done an awful lot of scientific research in 32 years—I have never seen a better set of data than he accumulated on the Hanford workers. To have Dr. James Liverman of the Department of Energy insult the American public by taking Mancuso's funds away is simply the latest in the scandals of the Nuclear Maffia and I certainly hope people become angry. Just the opposite of your statement about anger.

HARRISBURG—AND NO ADEQUATE MONITORS IN PLACE

Now, let's talk about Harrisburg. On Wednesday of last week, the first evidence came out that something had happened. The first thing that occurred to me was, what about the women and children there? Because in my researches on this problem, I have found that the infant in utero is approximately 30 to 50 times as sensitive as a 25-year-old to the cancer and leukemia effects of X-rays or any other nuclear radiation. The child at 0 to 5 years of age is approximately 15 to 20 times as sensitive as a 25-year-old.

So if there were any radiation releases to the area, I wanted to know if it were such that we ought to get the children and pregnant women out of Harrisburg. I attempted to get information from the Nuclear Regulatory Commission. I got nothing. I attempted other ways. I worked with Bill Shechner of KPIX, where he was on the phone for six hours trying to get information. We could get no information on the doses to people in the Harrisburg area—that whole region around Three Mile Island.

Bill said to me, "John, can you believe that they didn't have monitors in place in that whole region before an accident so that they would be able to know in the event of an accident what people in the various populated centers were getting? I said, "Of course it's impossible, Bill. They had the monitors there. They are just not giving us the numbers."

Friday night Dr. Harold Denten got on the air and started to waffle around about the dose that was being given to Harrisburg. He talked about one monitor here, an airplane there and I began to wonder if they had those numbers. Finally on Monday I got in touch with the House Commerce Committee and asked, "What are you getting in the way of numbers from Harrisburg" and they said, "powerfully little. We'll mail you everything we've got." I have those in my briefcase in your office and they are a scandalous disgrace of the first order. There were no adequate monitors in place. They have just a few scattered readings. They would move an airplane around and take a reading every once in a while. So an intelligent decision on what to do about women and children can hardly be made. This is all if there isn't a massive increase in the accident, which is still possible. I don't have any confidence that they really know what they are doing, anyway, in the Harrisburg area and I don't think there is any reason for any confidence.

That they didn't have monitors in place is so unbelievable that it's just amazing. But that is the truth. I understand that by Sunday a whole slew of monitors were flown in. So that now that the worst part of the episode is over when the people received the maximum part of their dose—unless the accident goes further—we're not going to know what the number of fatal cancers is that have been induced.

NUCLEAR INDUSTRY OPERATES ON THIS PRINCIPLE: NO DEATHS UNLESS SOMEONE WHO IS VERTICAL AT THIS MOMENT FIVE MINUTES LATER ASSUMES THE HORIZONTAL POSITION AND IS NO LONGER BREATHING

Of course the nuclear industry operates on this principle: There are no deaths unless someone who is vertical at this moment five minutes later assumes the horizontal position and is no longer breathing. That is their idea of death. Otherwise they have nuclear doubletalk. It's called a "latent health effect." Isn't that a lovely thing, a "latent health effect?" It sounds like the sort of thing everybody ought to have.

Well, "latent health effects" are murder, cancer, death. What these people need is to work in a cancer hospital, to take care of these people in the last six months of their life. They ought to take care of some child victims with leukemia. That would give them a little pause when they talk about numbers of "latent health effects." But these people I told you are morally depraved.

Dr. Denton said that by Friday night they had—if you multiply the key number you want—and I can give it to you very simply—; and, Senator Watson, it doesn't matter whether you get the radiation rapidly or slowly—I disagree heartily with Dr. Heslip on this—you just add the total up—100 millirems is 100 millirems for leukemia purposes. The key number you really want is to multiply the number of people by the number of rems. What we call those is the "man-rems." That's the number. The reason for that is this:

If you want to know how many fatalities you've induced, what you need to know is that it's the same effect if I give 300 people one rem or 150 people two rems or 75 people four rems or 3,000 people 1/10 of a rem. You multiply the two numbers together—the people and the rems—and you get man-rems.

Dr. Denton announced on Friday night from their fragmentary measurements and those may be ten or 100 times too low for all I know. I do not know because nobody did the job. I cannot believe they were not prepared to do the job but they weren't. And I wonder tonight, how many monitors are in Sacramento.

Senator **Garamendi**. We're going to find out.

Gofman. I imagine someone got off his duff and got some in here, if they didn't have them before last Wednesday. They're very quick at learning that sort of thing. Then they will say, "Why, we've had them here all the time."

SIX PEOPLE HAVE BEEN GIVEN THEIR PASSPORTS TO ETERNITY FROM THE HARRISBURG EPISODE

Dr. Denton's number was 1,000 man-rems by Friday night. It is my statement—and I have extensive scientific evidence to back it—that I disagree with the Nuclear Mafia answer that Dr. Heslip quoted and that I say for every 300 man-rems for people of an average age of 25 years you guarantee a death warrant from one case of cancer and leukemia. It's much less than it takes for children, much more for people of 60. Three hundred is the number for an average population 25 years of age. So you take the 1,000 that Dr. Denton said, divide it by 300. That's 3.3. Call it three deaths at least were guaranteed by Friday night. Today at some hearings in Washington, the new number is 1800 man-rems. So if you divide that by 300, six people have been given their passport to eternity from the Harrisburg episode. They won't be dead right away. It will be between two and 25 years. Whether or not you can see which ones they are, has nothing to do with it. We know these numbers and they are not just statistical probabilities. They're living and breathing humans like all of you sitting up there who are going to die a miserable death because of this industry.

Whether that 1800 man-rems should be multiplied by ten or a hundredfold we'll never know. It is continuing, Senator Watson. That was one of your questions. The releases are continuing. I don't know if they are as high as they were last Wed. or Thurs. but as they continue, the people are accumlating more and my six deaths will become bigger. Remember, that's fragmentary monitoring. Whether my six deaths should be 60 or 600, I do not know. That's without a major further accident.

TO FIND EARTHQUAKE FAULTS IN CALIFORNIA, ASK WHERE IS PG AND E PLANNING ITS NEXT PLANT

Now I'd like to say something more. The Pacific Gas and Electric Company wants to put on line two reactors at Diablo Canyon. There's one remarkable thing about Pacific

Gas and Electric Company. If you wanted to know how to find earthquake faults in California, you ask where is PG & E planning its next plant. That's the best way—far better than any geologist. All the geologists do is come in and confirm it after PG & E has chosen the site. They've chosen Bodega, they've chosen Humboldt. They're shut down at Humboldt for seismic reasons and I think you all know the story about Diablo Canyon.

I think Governor Brown has had a singularly good position on nuclear power. He has said he wants this information on Rancho Saco and I would like to see Governor Brown call for never opening the Diablo Canyon reactors. But more than that, whether you in the Senate or the Assembly of California Legislators act or whether the Governor acts, I certainly hope that 10 to 15 million Californians let Pacific Gas and Electric know in no uncertain terms that there are ways they can deal with Pacific Gas and Electric economically, if they persist in opening these two monstrous plants at Diablo Canyon. Thank you.

UNLESS YOU CAN CONTAIN 99.999 PERCENT (RADIOACTIVITY) PERFECTLY YOU ARE GOING TO HAVE TROUBLE

Senator WATSON. Dr. Gofman, you mentioned the required degree of containment. I did not hear what that was.

GOFMAN. That relates to all aspects of the whole fuel cycle—building and operating a reactor, taking the fuel rods out, handling them if you do or don't separate out the Plutonium for further use, finally getting it to some ultimate burial place. Lots of people talk about the importance of the burial of the radioactive wastes. That's not where the problem is. It's all those losses on the way to the bank. That's what counts. I've gone through that and I've figured out that for a fully developed nuclear industry unless you can contain that 99.999 percent perfectly, you're going to have trouble. You're going to have a cancer and leukemia epidemic that will make our current cancer and leukemia look small. One part in 100,000 you can't afford to lose in all steps along the way.

Senator WATSON. What is the required degree of containment?

GOFMAN. I'm saying if you lost one one thousandth of the radioactivity you make, you're going to have a disaster. What I call the required degree of containment has to be better than that if you want to avert a disaster. It's not a legal requirement. A legal requirement is anything they ever do. All they have to do whenever something goes wrong is to apply to the regulatory bodies for—you know these terms—they apply for a variance. And they get it. That means they can give you any dose they damn please.

Senator LEVINE. I have three areas of inquiry. The first I think is a followup to Senator Watson's questions. With regard to the nuclear plants that are currently operational in California—is the level of radiation that the workers experience in those plants similar in your opinions to that that the workers would have experienced in the Hanford plant?

GOFMAN. I think they're getting much more in the nuclear plants than they got in the Hanford plants.

Senator LEVINE. Why would that be?

GOFMAN. Partly it's the nature of the jobs they have to do versus the average person at Hanford. You know some of the Hanford workers are security guards and don't walk anywhere near a radiation area. I am including secretaries, business people when I talk about the average dose at Hanford. These are workers. I attended a hearing of a Pacific Gas and Electric arbitration thing and I saw a list of the exposures. They are devastating. They have a lot of workers getting right up to the legal tolerance. That legal tolerance is such that if those workers work there for eight years at that level, they will double their cancer risk.

Incidentally, what about the story that there haven't been any deaths? The nuclear industry has been killing people every day for years—in the form of cancer and leukemia deaths for the workers and because we haven't declared the workers to be lepers, we let them procreate. Thus they spread their radiation damage into the population at large. You can get just as much genetic deterioration from having all the dose in the workers if they intermarry with the rest of the public. And that little thing is overlooked by the Nuclear Mafia.

Senator LEVINE. What about people who are not workers but who are in the vicinity of these plants? Is there any danger——

GOFMAN. There is danger. When everything is working well in a nuclear plant that level in the vicinity of the plant can be low, exceedingly low. It's when everything isn't working perfectly. At Harrisburg everything isn't working perfectly.

Senator LEVINE. Let's take a plant where everything appears to be working well. I'm not sure what examples to use. Take a plant where there haven't been many reported leakages. In that type of plant, are the people in the surrounding area in any type of danger of radiation exposure that would create genetic problems or other problems?

GOFMAN. You know who tells you what the exposure is? They do. The people who operate the plant. *This is the fox telling the hens how well he is protecting them.*

Let me give you an illustration. In 1969 there was a fire in the Rocky Flats plant. It is not a nuclear power plant but it manufactures and handles Plutonium for weapons work. Somebody asked, "How much Plutonium have you released to the offsite around Rocky Flats?"

Answer from the AEC and Dow Chemical: "One milligram."

Dr. Edward Martell went out and measured the Plutonium. He said it was 100 to 200 grams. In other words, the AEC was off 100,000 to 200,000 times in what they said was released.

The AEC said, "Dr. Martell is absurd. We'll put our scientists to work on it." They did. And they got the same answers as Dr. Martell.

So when they are off by 100,000 in what they tell you they're releasing, I honestly don't know how to answer your question about the safety of people in the vicinity, because I know they lie like carpets about their releases.

Senator LEVINE. That leads me to one of the other areas that I wanted to get into. Your testimony is extremely disturbing—

GOFMAN. I hope it is.

Senator LEVINE. With regard to harassment of the scientists that come up with independent information in this area—

GOFMAN. I'm amazed that you haven't heard of it before. It's a well-known phenomenon. I even wrote two books about it.

Senator LEVINE. What I'd like to get into for just a moment or two. Because of what I consider to be the extraordinary importance of this aspect of your testimony, I'd appreciate it if you'd spend a moment or two speculating as to why this happens.

GOFMAN. Part of it is a bureaucracy like would say, "Look, we made a mistake. It was AEC, now the Department of Energy, that gets up to $3,000,000,000, has made promises—the great promise of the atom. They've gone out so far they don't know how to turn back. The other thing is—you know if you keep lying long enough, you begin to believe your own lies. I wouldn't be surprised if some of the people in the atomic Establishment even believe what they are saying. I mean that's possible. I know a lot of them don't believe it. They are just saying it. But once you have your bureaucracy established with momentum—Can you imagine what would happen if the Department of Energy a foolish decision. We've been deceiving the Congress all along about the health and safety aspects. Let's quit." That bureaucracy isn't going to do that. That's one of the things. The other is there's $50 billion on the line in various plants. Incidentally—terrible for our economy. The worst thing for jobs. But when $50 billion are on the line, they'll fight till your last breath to earn a profit on it.

Senator LEVINE. With regard to the number of cancer deaths at the level of 100 millirems a year, I thought you testified that there would be 20 to 40 thousand cancer deaths—

GOFMAN. You are correct.

Senator LEVINE. How does one arrive at that figure.

GOFMAN. Unfortunately, we have the corpses.

Senator LEVINE. How do you attribute the number of deaths to the number of millirems?

GOFMAN. I say we have the corpses from a variety of studies. One of them is of some British people who were irradiated. Another is of some women who were given fluoroscopy radiation when they were being treated for tuberculosis. There are some children who were irradiated in the head for ringworm in the scalp and got a dose to their thyroid. We have the people of Hiroshima and Nagasaki. Now we have the Hanford workers. We can get a number of so many cancers per rem from those data. Now the statement that that doesn't hold down at low doses is hogwash. The reason it is hogwash is that Dr. Alice Stewart showed 20 years ago that down at those lowers doses—from 3/10 of a rem to 1½ rems—there's direct proportionality between cancer and leukemia in children and the dose in the mother. So it isn't true that we don't have evidence of low doses and I think that reports which deny our low dose knowledge are just ridiculous.

Senator CAMPBELL. Are there any nuclear critics in the scientific community who are still being supported by Federal funds, who are allowed to express freely this nuclear criticism that they've arrived at through their own research?

GOFMAN. It's a little better. Now you don't get your head chopped off if you mention the word cancer. You could probably say cancer and you wouldn't lose your job, if you are being supported. But the record is very, very bad right up through the Mancuso fiasco. And I expect it to continue: You just don't tell the truth.

You know, I really was in love with my cancer research at the Lawrence Livermore Laboratory. I put seven years of my life into it. It was just getting to a point—this was a lab program—when the AEC said we've got to punish Gofman. Either the Lawrence Lab takes away his $250,000 a year for his cancer program or we'll take $250,000 away from the Laboratory.

The reason was—to their credit—at the Livermore Lab they said, "Because John Gofman criticizes the radiation standards does not mean his cancer work is bad and we're not going to cut off his cancer funds." I credit Dr. May and Dr. Batzel for a very forthright stand at that time on that issue.

Then the AEC said, "Well if you don't take his money away, we'll take $250,000 away from the Laboratory." So I personally cancelled my research program. I would much prefer to be in the laboratory working on the cancer but there is no way to get funds and be honest.

Senator CAMPBELL. Doctor, we are not going to accuse you of being wishywashy on the issue.

GOFMAN. Thank you. I think it is much better to call a spade a spade. I use Gina Lollabriggida's advice; "Never lie; it's too hard to remember."

Senator CAMPBELL. That's a good point. Dr.

Gofman, you were at Livermore Laboratory. Right?

GOFMAN. Yes.

Senator CAMPBELL. Do you honestly, do you personally believe—and I'm sure your credentials are impeccable and I commend you for them—Are there other people at Livermore who have your background and credentials who not for economic considerations but for philosophical considerations, scientific considerations, would disagree with you?

GOFMAN. I am not aware of anyone currently on the Staff of the Livermore Laboratory who challenges any of my values concerning the cancer hazard of radiation. By the way, I happen to be a supporter of the Livermore Laboratory because, though I oppose nuclear power, until and unless all countries get rid of nuclear weapons, I support the United States nuclear weapons effort.

Senator CAMPBELL. You're concerned mostly with radiation and its relation and incidence to cancer.

GOFMAN. Cancer, leukemia and genetic injury to future generations and acute deaths from large doses of radiation—You see, pretty soon we're going to have the large dose problem because the nuclear industry says, "Look, we haven't knocked over a major city yet. But wait, give us another chance." When they really get Philadelphia or Sacramento or San Francisco then we'll see the deaths in the immediate period.

Senator CAMPBELL. Let's talk about a 20-year-old person who lives in Sacramento versus a 20-year-old person who lives in Denver. That person in Denver has over that 20-year period accumulated 2,000 more millirems than the person in Sacramento. Is the potential for him to have or pass on genetic problems in Denver greater than the one who lives in Sacramento?

GOFMAN. Absolutely.

Senator CAMPBELL. Should we allow intermarriage between the cities?

GOFMAN. I think you ought to think about it. But how about personal choice? If people want to live in Denver, the one thing that is more important to me than nuclear power is liberty and justice. If people want to live in Denver, that's their privilege. But if Big Brother wants to ram nuclear power down our throats, that's different.

Senator CAMPBELL. I have a sister that's a stewardess with an airline. Obviously, she's receiving higher doses of radiation—is there a higher incidence of cancer in the airline industry than in other industries?

GOFMAN. I do not know of a study that has been done. It will be hard to see because those are such low doses that you'd need an enormous population. That's the problem for the direct measurement. We have every reason to go down along the lines of the conversation between you and Dr. Heslip along that straight line. If anything, the evidence suggests it may get even worse at the low dose than the straight line would predict.

THE REAL PROBLEM OF MEDICAL EXPOSURE RESTS WITH YOU AND THE LEGISLATURE

Senator CAMPBELL. I gather some of your concern about the medical community as it relates to some of the things they do. Do you oppose or are you concerned about the utilization of X-rays——

GOFMAN. I give scathing talks to the medical community and I write scathing things about my colleagues for their overuse of X-rays, for their unconcern for taking the steps in the form of changing development time and fast film which could get the same diagnostic information with 1/10 the dose. But the medical community is waking up. There is now the Physicians for Social Responsibility—highly infiltrated of all places in Harvard University. I think they are going to do a good job of waking up the medical community.

But let me tell you something, Senator. The real problem of medical exposure rests with you and the Legislature. You may not realize it but it does. I talked to the orthodontists once about the radiation hazards. One of the men said at the end, "That's an interesting talk but useless," he said, "That's an interesting comment. Tell me why."

He said, "When I have a patient, I'm going to take every X-ray I can think of, whether I need it or not, because every patient is a potential malpractice case. If I walk into a courtroom, the opposing attorney is going to say, 'Show me the X-rays.' If I say I didn't take them because I didn't think I needed them and therefore wanted to protect the patient, it will be a *res ipsa loquitor* decision against me."

You've got to deal with that in the Legislature to stop that nonsense of malpractice suits because that is why doctors are taking more X-rays. It's defensive medicine against malpractice.

Senator CAMPBELL. I certainly agree with you on that.

Senator KEENE. Last year we heard from reputable scientists that the prospects of harm from nuclear were so minute as to be insignificant: Tonight we're hearing from you that the continued operation of existing plants is probably disastrous. Why are you more credible than they?

GOFMAN. I don't get any pay for what I do. Let me tell you that.

Senator KEENE. How many books have you sold?

GOFMAN. How many books have I sold? Let's talk about that. My total income over nine years from books I wrote has been $7,000. I probably got approximately $1.50 an hour for my work on my books.

Senator KEENE. You deserve more than that.

GOFMAN. I'm not a bad consultant and I get $50 an hour for being an expert witness in lawsuits. So writing books against nuclear power is the worst conceivable way I can spend my time. But I don't think I ought to be trying to convince you about whom to believe after Harrisburg. After all those assurances that Harrisburgs couldn't happen but did happen, and to have that parade of Metropolitan Edison and Nuclear Regulatory Commission official is contradicting themselves every day on what the findings were, I think it's absurd to ask whom to believe.

Senator KEENE. I'm impressed by your credentials and also some of your theatrics. I want you to know that I agree with you and I agree with your conclusions. I'm not sure I agree with how you get there and how you present your case. It troubles me a little bit and troubles some of the other people.

GOFMAN. Why don't you invite me back here and get all those scientists on the other side and keep us here for five days to put the evidence on the table and argue it out?

Let me say something further about my theatrics. You know, I'm not a cold fish. I have some feeling for humans and as a scientist concerned with public health matters, I don't apologize one bit for my theatrics of concern over the public health.

Senator KEENE. But let me ask you a question. You enjoy the phrase "Nuclear Mafia."

GOFMAN. I do because it's a correct description.

Senator KEENE. You enjoy the phrase Nuclear Mafia. We have a high incidence of risk with other activities which are commercially exploited. We have people who die in automobiles, who die in airplanes. We don't talk about an Airline Mafia, an Automobile Mafia—

GOFMAN. Well, we ought to talk about the Automotive Mafia but that's a different question—

Senator KEENE. Maybe we should—

GOFMAN. And for you to give me a clean bill of health for the oil industry is the surprise of my life.

Senator KEENE. That's not what I'm saying. Everybody who came here tonight drove here. Nobody took public transportation.

RISK V. BENEFIT

GOFMAN. I would like to say that I have had grave difficulty the past six months trying to think through the Risk vs. Benefit situation. I don't have an answer for you because I'm having trouble thinking it through. Some of the things I'm clear on, if you're going to talk about risks vs. benefit, first of all Big Brother shouldn't make the decision. The Nuclear Regulatory Commission has got no right to issue licenses to commit murder. They have no right. Therefore they shouldn't be making that risk-benefit decision and they are making it.

Now I think if you're going to go the Risk-Benefit way, you've got to understand something. Do you know the song, "Short People?"—You don't listen to the rock scene.—Well, supposing somebody decided about short people. We ought to get rid of them. We could say that the benefit is that the rest of us wouldn't be troubled with short people. Let's execute all short people. Where does this stop when you apply the Risk-Benefit equation beyond the first person that you say you'll put at risk? It could stop anywhere. Nazi Germany taught us about using the Risk-Benefit thing. It was regarded for the good of the State to exterminate certain people. You know where that ended.

So this is of the gravest decisions. But I still say I do not see any reason why any Governmental Agency can violate the Constitution of the United States which declares You shall not take the life of anyone without due process of law.●

The PRESIDING OFFICER. The Senator from Hawaii.

IN MEMORY OF A DEAR FRIEND AND GREAT AMERICAN, COL. JUNICHI BUTO, U.S. ARMY (RETIRED)

Mr. MATSUNAGA. Mr. President, earlier today, a colleague asked me, "SPARKY, why are you looking so sad?" Although I had not fully realized that the sadness in my heart was apparently showing on my face, I responded. "It's because I am sad—very sad—over the loss of a dear friend."

Mr. President, that dear friend of mine died unexpectedly of a heart attack last Tuesday evening at about 8:30 o'clock. He was Junichi Buto, a retired U.S. Army colonel and a great American. I say "Great American" because he gave so much of himself toward making this country of ours greater. Moreover, "Jun", as he was popularly called, loved his country with a passion, and on a number of occasions made the unsolicited remark to me and others that he owed this country so much that he wished he could do more to show his gratitude.

It was in this spirit of thanksgiving that Jun Buto, as a retired Army colonel, volunteered to do whatever work he could perform in my Senate office—without any compensation whatsoever. After accepting his offer and observing the excellence of his work, which he performed on a part-time basis. I offered to put Jun on the Senate payroll. While expressing his appreciation, he absolutely refused to accept any payment in wages or compensation in any shape or form. Instead, he thanked me for providing him the opportunity to continue to express his appreciation for what this country has meant to him. There in the person of Jun Buto was a great American, the likes of whom made this Nation the greatest on the face of this Earth.

Mr. President, Jun Buto was an American patriot of the highest order. As a career Army officer, he served his country in three wars. As a young man, commissioned a reserve officer through the University of Hawaii ROTC program, Jun volunteered for active military service in World War II and was assigned to the famed "Go for Broke" 442d regimental combat team, the most decorated unit of its size in American military history. As a combat experienced officer, he served in the Korean and Vietnam conflicts. Jun enjoyed the extra distinction of being one of the select few chosen for service in the Office of Strategic Services (OSS) and was assigned to the China-India-Burma (CBI) theater.

Mr. President, Jun Buto was retired on September 9, 1974, as a full colonel in the Regular Army after more than 35 years of service. In recognition of his gallantry and selfless service, he was highly decorated. Among his many awards were: The Presidential Unit Citation (442d regimental combat team); the Legion of Merit with three oak leaf clusters; the Bronze Star Medal; the Army Commendation Medal; the Presidential Unit Emblem; the Merit Unit Emblem; the American Campaign Medal; the Asiatic/Pacific Campaign Medal; the World War II Victory Medal; the Army of Occupation Medal (Japan); the National Defense Service Medal; the Korean Service Medal; the Vietnam Service Medal, and the Armed Forces Reserve Medal.

He was also the recipient of the United Nations Service Medal; the Republic of Vietnam Campaign Ribbon with Device (1960); and the Republic of Vietnam Gallantry Cross with Palm.

Jun Buto was born on March 5, 1917, in Honolulu, Hawaii. He attended Hawaii's public schools and was graduated from the University of Hawaii in 1940 with a bachelor's degree in business and economics. As a 1941 graduate of the University of Hawaii, I had the great privilege knowing and befriending Jun when we were students and ROTC cadets at the university. Our friendship continued during World War II as we served as comrades-in-arms in the same regimental combat team and in the Military Intelligence Service.

In his private life, Jun was a devoted husband and dedicated father. He is survived by his wife, Ann Asako, who is an indispensable member of my staff, and his four children: daughter, Kathleen; sons, David (captain, U.S. Army), Arthur and Robby, all of whom live in the Washington area. Clearly, Mr. President, Jun Buto has bequeathed to his children his deep love of and unshakable faith in our country, and they and his widow Ann, can be truly proud of his achievements. I wish to take this opportunity to extend to my dear friend Ann and to her children my deepest sympathy and heartfelt condolences.

CONCLUSION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

RECESS UNTIL MONDAY, JUNE 30, 1980, AT 9:45 A.M.

Mr. MATSUNAGA. Mr. President, in accordance with the order previously entered, I move that the Senate now recess until the hour of 9:45 a.m., Monday next.

The motion was agreed to, and at 9:52 p.m., the Senate recessed until Monday, June 30, 1980, at 9:45 a.m.

HOUSE OF REPRESENTATIVES—*Monday, June 30, 1980*

The House met at 12 o'clock noon.

The Chaplain, Reverend James David Ford, D.D., offered the following prayer:

Trust in the Lord forever, for the Lord God is an everlasting rock.—Isaiah 26: 4.

Gracious Lord, whose glory has been revealed through the generations, renew within us a true understanding of Your purpose for our lives and for our world. O Lord, amid the frustration and tension of the present time, we turn to You to lift our spirits, encourage our minds, and give peace to troubled souls. We pray for the forgotten who lack hope, for the homeless who lack care, for the hostages whose freedom is denied and for all people who seek Your presence. May our trust in Your word sustain us with confidence every day of our lives. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 7685. An act to amend title IV of the Employee Retirement Income Security Act of 1974 to postpone for 1 month the date on which the corporation must pay benefits under terminated multiemployer plans.

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 598. An act to clarify the circumstances under which territorial provisions in licenses to manufacture, distribute, and sell trademarked soft drink products are lawful under the antitrust laws.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 7542. An act making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 7542) entitled "An act making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MAGNUSON, Mr. STENNIS, Mr. ROBERT C. BYRD, Mr. PROXMIRE, Mr. INOUYE, Mr. HOLLINGS, Mr. BAYH, Mr. EAGLETON, Mr. CHILES, Mr. JOHNSTON, Mr. HUDDLESTON, Mr. LEAHY, Mr. SASSER, Mr. YOUNG, Mr. HATFIELD, Mr. STEVENS, Mr. MATHIAS, Mr. SCHWEIKER, Mr. BELLMON, Mr. WEICKER, Mr. MCCLURE, Mr. LAXALT, Mr. GARN, and Mr. SCHMITT to be the conferees on the part of the Senate.

The message also announced that the Senate had passed concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. Con. Res. 80. Concurrent resolution to proclaim February as "National Snowmobiling Month"; and

S. Con. Res. 104. Concurrent resolution expressing the Sense of Congress Regarding the Importance of the Alaska Natural Gas Transportation System.

REQUEST TO APPOINT CONFEREES ON H.R. 7542, SUPPLEMENTAL APPROPRIATIONS, 1980

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7542) making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, the gentleman from Maryland only obtained a copy of the other body's version of H.R. 7542 within the last 15 minutes. Just a cursory examination of the bill that was passed by the other body late Saturday indicates a number of questions that I have in my mind, including why the other body sought to add the entire 1980 foreign aid appropriation bill conference report to this supplemental as part of what is essentially an emergency bill.

I am informed by staff this could mean that the foreign aid spending would be increased about $1 billion simply by that one act.

I just say this to the gentleman before he responds, with such a short time to look at this bill, I must object if the gentleman presses his request simply because I think some Members of the House might wish to have a chance to offer a motion to instruct the conferees. I am sure the conferees could proceed informally without the permission to go into conference now, but this is a rush job, and the other body's action on this bill in an emergency situation, I think, is highly unacceptable.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Mississippi.

Mr. WHITTEN. May I say to my colleague from Maryland (Mr. BAUMON) that sometimes I have as much trouble understanding the actions of our colleagues on the other side of the Capitol as he does, but that has always been true. I disagree with a number of actions taken by the Senate on the bill, as compared with what I think is sound, and I am sure they feel the same about some of the House actions. I certainly have in mind the same question the gentleman does, not only about that item, but some other items in the bill.

But I do think the place to try to work those things out is in the conference. I think I should call attention to the fact that the Appropriations Committee recognized the importance of acting on this bill at an early date. We voted out a supplemental bill on May 8. We finally got this bill through the House on June 19, I believe, but the fact that we go to conference does not change our attitude toward the House passed bill. We go there with the House bill uppermost in our minds. There are some 400 to 500 accounts in the bill and about 344 Senate amendments are involved. You can see we have our work cutout for us when we go to conference representing the House viewpoint.

Mr. BAUMAN. Further reserving the right to object, Mr. Speaker, if permission to go to conference is not granted at this point, nothing prevents an informal discussion among the potential conferees in both Houses as to the amounts; but it does prevent, if we allow the bill to go to conference now, any motion to instruct. That I think might be helpful to the gentleman and his conferees, and we will be in session probably for an hour or two today, and perhaps permission could be obtained before we adjourn.

Mr. WHITTEN. The big problem would be that a bill of this size, involving 344 Senate amendments and between 400 and 500 accounts, it will take a long time to reach a settlement. I would, of course, have to resist instructions because I do not think the House conferees should be denied the needed flexibility. We have the staff working now as they have been over the weekend to keep up with the Senate actions on the bill. I would have to strongly oppose any specific instructions when all the 13 individual appropriations subcommittees are involved and we have 400 or 500 accounts affected. We have to operate under the present budget resolution limitations as the gentleman knows. I hope he would give us a free hand and trust us to represent the views that many of us share and that is to stick to the House position in conference, to the degree we can.

I would hope the gentleman would cooperate with us in view of the magnitude of the problem and the many, many items and amendments that have to be ironed out. The staff is preparing for that conference at this very moment.

Mr. BAUMAN. Further reserving the right to object, I have no great fear about the gentleman from Mississippi or his intentions regarding the bill. It is just that the gentleman from Mississippi is only one of the many people involved, and I would like some chance to look at this bill with a possibility of a motion to instruct in mind.

Mr. WHITTEN. Well, may I say that I will be one of the 19 suggested conferees, which is up to the Speaker to appoint as the gentleman knows. But the gentleman from Mississippi intends to be an active confereee, to say the least. We want to be cautious of the very thing I know the gentleman has in mind. We will be lucky to complete this conference in a couple of days. I would hope we can get to conference late this afternoon or tonight. I expect to go to work on it immediately, but we will go there again reflecting the views of the House.

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO HAVE UNTIL MIDNIGHT TO FILE REPORT ON H.R. 4370, COAL PIPELINE ACT OF 1980

Mr. BREAUX. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation may have until midnight tonight, June 30, 1980, to file the report on H.R. 4370, the Coal Pipeline Act of 1980.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

PERMISSION FOR COMMITTEE ON JUDICIARY TO MEET TUESDAY, JULY 1, AND WEDNESDAY, JULY 2, 1980, DURING 5-MINUTE RULE

Mr. DRINAN. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be permitted to sit while the House is meeting under the 5-minute rule on July 1, and July 2, 1980.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

MAKING IN ORDER CONSIDERATION OF SENATE CONCURRENT RESOLUTION 104, ON TOMORROW, OR ANY DAY THEREAFTER

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that it may be in order to consider in the House on Tuesday, July 1, 1980, or any day thereafter, Senate Concurrent Resolution 104, expressing the sense of Congress regarding the importance of the Alaska natural gas transportation system.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 3(b) of rule XXVII and clause 5(b)(1) of rule I, the Chair announces he will postpone further proceedings today on each motion to suspend the rules and on each question of agreeing to conference reports on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4, rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, July 1.

OLYMPIC GOLD MEDAL

Mr. ANNUNZIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7482) to authorize the President of the United States to present on behalf of Congress a specially struck gold-plated medal to the U.S. Summer Olympic Team of 1980, as amended.

The Clerk read as follows:

H.R. 7482

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President of the United States is authorized to present a gold-plated medal of appropriate design, on behalf of the Congress, to those athletes selected through the Olympic trial process to represent the United States in the summer Olympics of 1980, in recognition of their outstanding athletic achievements and of their determination in the pursuit of excellence. For such purpose, the Secretary of the Treasury is authorized and directed to cause to be stricken six hundred and fifty gold-plated medals and suitable emblems, devices, and inscriptions to be determined by the Secretary of the Treasury.

(b) The medals provided for in this Act are national medals for the purpose of section 3551 of the Revised Statutes (31 U.S.C. 368).

(c) Funds to carry out the provisions of this Act, which shall not exceed $50,000, shall be available from amounts currently appropriated for the operation of the Bureau of the Mint. Such funds shall be fully reimbursed from funds appropriated under the Amateur Sports Act of 1978.

The SPEAKER. Is a second demanded?

Mr. SHUMWAY. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Illinois (Mr. ANNUNZIO) will be recognized for 20 minutes, and the gentleman from California (Mr. SHUMWAY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ANNUNZIO).

☐ 1210

Mr. ANNUNZIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 7482, is legislation to authorize the President of the United States to present on behalf of the Congress a specially struck gold-plated medal to the U.S. Summer Olympic Team of 1980.

This is a unique bill in many ways. The 650 medals would be the largest number ever authorized by Congress, and in addition, the legislation has been cosponsored by 228 Members. The legislation was introduced on June 4, and in roughly 20 days a majority of House Members cosponsored the bill. I recall very few bills that ever received a majority of cosponsors in such a short period of time. This certainly indicates the eagerness with which the House supports our Olympic efforts. And I would add, that support has a broad bipartisan basis.

Although we will be considering H.R. 7482 today, I would also like to point out that there were three other Olympic medal bills. The first was introduced on February 25, by our distinguished colleague Mr. VENTO. On May 9, the gentleman from Michigan (Mr. SAWYER) introduced an Olympic medal bill. And, the gentleman from Montana (Mr. WILLIAMS) also has introduced an Olympic medal bill. I commend these gentlemen for their contributions to the legislation, and for their cooperation in helping the efforts of H.R. 7482.

This is the first medal bill that has been acted on by the Consumer Affairs Subcommittee since I imposed a requirement that all medal bills must be cosponsored by at least 218 Members of the House. The policy was instituted to assure that no medal bill was taken up unless it was considered significant and important by a majority of the Members.

Although the U.S. Olympic team will not participate in the Moscow games, I do not want to leave the impression that H.R. 7482 is designed to recognize athletes for their participation in the boycott. Rather, this legislation is designed to recognize the special athletic abilities of young men and women who have trained long and hard in order to make the U.S. Olympic team. It is designed to recognize the thousands of hours of training that every athlete has put into his or her sport. It is designed to recognize the pain and frustration, and in many cases, the boredom of practice which must be faced and conquered in order to reach the level of excellence required to represent one's country on the Olympic team.

There are literally millions of amateur athletes in this country, but only a few of those are good enough to make our Olympic team. It is for those few great athletes that we meet here today to discuss this legislation.

I firmly believe that making the Olympic team is reason enough to earn a medal. Stop and consider, that in each Olympic event only three medals are awarded. Only a fraction of those athletes who compete in Olympic games win medals, and in some cases the margin for winning or losing a medal can be as little as one one-hundredth of a second or a hundredth of a point.

I am proud to have served in the House with two former Olympic team members, Bob Mathias of California and Ralph Metcalfe of my own State of Illinois.

I have been equally impressed with the quality of those members already selected for this year's Olympic team. They talk not of a boycott, but of the honor of being selected for the Olympic team. It is just as difficult to make an Olympic team that is staying home as it is to make one that is participating.

We are here today for one purpose—to honor dedication, sacrifice and, most of all, athletic achievement.

Mr. Speaker, I now yield to the distinguished gentleman from California (Mr. SHUMWAY), a member of the committee.

I want to state that the gentleman from Delaware (Mr. EVANS), the ranking minority member of the committee, is not here, but I want to express my appreciation to him, to the gentleman from California (Mr. SHUMWAY), and to all the other members of the minority as well as the majority, for their outstanding cooperation in getting this bill to the floor of the House.

Mr. SHUMWAY. Mr. Speaker, will the gentleman yield for just a couple basic questions?

Mr. ANNUNZIO. I am delighted to yield to my distinguished friend.

Mr. SHUMWAY. Mr. Speaker, there has been some concern expressed on this side of the aisle, at least, about the timing of the presentation of these medals. Would the gentleman comment on that particular issue?

Mr. ANNUNZIO. Mr. Speaker, will the gentleman yield?

Mr. SHUMWAY. Yes, I yield.

Mr. ANNUNZIO. Mr. Speaker, I want to say to my distinguished friend that it is my understanding and it is anticipated that the medals will be presented during a special ceremony on the 30th of July and that this ceremony will be held on the west steps of the Capitol.

Mr. SHUMWAY. I appreciate that.

With reference to the gentleman's amendment, it is my understanding that the basic amount remains the same, $50,000. The amendment does not increase or otherwise change the amount of this legislation.

Mr. ANNUNZIO. That is correct.

Mr. SHUMWAY. It is simply a means of providing a way for the rapid striking of these medals; is that correct?

Mr. ANNUNZIO. That is correct. The bill has a technical amendment that does not change any of the fund amounts in the bill. The supplemental appropriation is currently in conference and that legislation contains the funding for the Amateur Sports Act. In order to make certain that work on the medals continues while the supplemental is being considered, this amendment would allow the Bureau of the Mint to spend money already appropriated for its operations to produce the medals and then to be reimbursed from funds available under the Amateur Sports Act when the supplemental is passed.

The SPEAKER pro tempore (Mr. DINGELL). The time of the gentleman from Illinois (Mr. ANNUNZIO) has expired.

The Chair recognizes the gentleman from California (Mr. SHUMWAY).

Mr. SHUMWAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend Chairman ANNUNZIO for moving so quickly on this legislation to insure prompt passage so that these bronze, gold-plated medals will be struck in time for the presentation, which I understand is to take place in the latter part of July.

At the outset, I would like to express my strong dissatisfaction that in mid-January the International Olympic Committee chose not to accept this country's proposal for a site change. Had the Olympic games been withdrawn from Moscow, U.S. athletes would still have been able to participate in the 1980 summer games and the site change would have been viewed as a sharp rebuke to the Soviet Government by a broad segment of the international community.

There is still much more that the United States can do to counter Soviet aggression. But in the meantime, our boycott of the Olympic games should help get the point across to the Soviets. U.S. citizens are united on this issue. Republicans and Democrats alike are all concerned that we let Russia know that we will not sanction the Soviet's aggression in Afghanistan.

Six hundred and fifty athletes who have earned places on the 1980 Olympic team will not be able to participate in the summer Olympics because of our Nation's boycott of the Moscow games. These men and women exemplify the very best that our country has to offer. They have dedicated many years to the challenge of athletic competition and have given tremendous time and energy in their continual struggle to achieve a level of excellence that very few people ever obtain.

These American athletes deserve our Nation's recognition, not only for their talent, but for their great personal dedication and sacrifice as well. This legislation would provide for the President of the United States to present, on behalf of the Congress, 650 special gold-plated medals to the American athletes who have made the 1980 U.S. Summer Olympic team. These medals would be paid for out of appropriations already made to the U.S. Olympic Committee at a cost not to exceed $50,000.

We as a nation are quite aware of the tremendous sacrifice our athletes are making. However, we cannot allow them to be exploited. Any free world athletes who might choose to participate in the Moscow games would most likely be exploited by the Soviets to show that such athletes were actually expressing the true feelings of the people whose nations they represented with respect to Soviet policy.

The congressional medals that we will be voting on today can never take the place of a genuine, gold Olympic medal. However, it is one small way for our Nation to express gratitude to our Olympic athletes. The 1980 summer Olympics will best be remembered, not by who competed, but rather by who did not. The Congressional Gold Medal will serve to remind us and future generations as well, that we as a nation will never forsake our principles of freedom—not even for the cherished, Olympic gold, silver, and bronze medals.

Mr. Speaker, I now yield 1 minute to the gentleman from California (Mr. LAGOMARSINO).

☐ 1220

Mr. LAGOMARSINO. Mr. Speaker, I rise in strong support of this measure. I submit that the boycott of the Olympic games in Moscow is far more than a symbolic gesture, as some have described it in the past.

The Olympics in Moscow are very important to the Soviet Union. They are using them to try to build their prestige around the world. I think our boycott of those Olympics is going to bring home to the Soviets, as well as to the rest of the world, that we do disapprove, and disapprove very strongly, of their aggressive activities around the world.

Had we gone to the Olympics, they certainly would have said that we approved of their system and activities and our presence there would have lent some credence to such statements.

I would like to ask the chairman of the committee a couple of questions, if I might. Has the design been decided on for the gold medals?

Mr. ANNUNZIO. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the chairman of the subcommittee.

Mr. ANNUNZIO. The medal will be a gold-plated bronze, 3 inches in diameter. It will contain a representation of the Olympic insignia with five interlocking rings and a torch with appropriate inscription.

Mr. LAGOMARSINO. The gentleman is saying, in effect, the design has been decided on?

Mr. ANNUNZIO. Yes.

Mr. LAGOMARSINO. I thank the gentleman.

I had asked the Treasury Department to consider a design suggested by my constituent, Mr. Wayne Saari, and am disappointed that his suggestion has not been accepted.

Mr. SHUMWAY. Mr. Speaker, we have no further requests for time.

Mr. ANNUNZIO. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Speaker, I rise in support of House Resolution 7482. I am one of three initial principal cosponsors. We have 228 authors today on this measure, which is really a credit to our subcommittee chairman Congressman ANNUNZIO. I was pleased that in initially introducing this legislation I had Mr. ANNUNZIO's encouragement, his support, and prompt action on this particular legislation today.

I really had hoped in a way that the day would never come when we would be in a final position of nonparticipation and therefore act on legislation dealing with the congressional gold medal to be conferred on those that qualified for the Olympics, and would not be participants. I had hoped eventually it would be possible for American olympians to participate in the world competition and games in Moscow. But obviously the initial actions of the Soviet Union in Afghanistan and their inaction in addressing the world concerns brought about by their flagrant aggression has brought finally resulted in the implementation of U.S. policy of not participating in the Olympics.

These congressional gold medals represent really a sacrifice, a tremendous sacrifice on the part of these Olympic athletes in support of their Government. Other actions are shared more evenly in our society such as the grain embargo or the curtailment of specific trade. It is possible to share these particular burdens and the responsibility with all citizens.

I know many who differ as to how that burden should be shared but, nevertheless, I think it is possible to achieve a degree of equity. This is not possible in the Olympic boycott to achieve that degree of equity. Certainly, these medals should not be interpreted as a political gesture to take the place of the Olympic gold, silver, or bronze medals because, indeed, that is not the purpose. The purpose is not to compensate or take the place of the awards that are given out in that historic and renowned athletic event which has been characterized through history from the times of its earliest Greek participants.

Rather this congressional gold medal simply tries to recognize a significant sacrifice from one segment of our society. This weekend in observing the qualifying events for the summer Olympics many Americans observed the tremendous spirit, dedication and ability of the American athletes that have qualified to participate in the 1980 Olympics. The American people appreciate their skills, talents, and achievement. I think the Members of Congress especially recognize the athletes sacrifice. I hope we can move forward with this legislation merely as a token of our esteem and recognition of this sacrifice by a very special group of Americans.

●Mr. BIAGGI. Mr. Speaker, as a cosponsor, I rise in support of the bill H.R. 7482, which will provide gold medals for those of our athletes who, through the Olympic trial process, were selected to participate in the Moscow 1980 summer Olympics.

The President and Congress, in ordering a boycott of U.S. athletes from the Moscow games, did in fact agonize over the ramifications on our athletes. The many hours which go into training simply to be named to an Olympic team constitutes a major individual commitment. I was one of many who had called for an alternate Olympics but logistics never were able to be worked out.

H.R. 7482 pays an appropriate tribute to the Americans who would have represented us at the summer Olympics. The gold medals we are providing are in recognition of their outstanding athletic achievements. However, I feel that the individual acts of patriotism should also be noted.

The Soviet invasion of Afghanistan was an act of aggression and arrogance which could not go unresponded to. If we are going to accept Soviet adventurism or worse intervention in the internal affairs of nations—then there is something fundamentally wrong with this Nation. Our decision to boycott the Olympics was a significant statement of opposition to Soviet policies. The fact that we have been joined by a host of nations in a boycott is a testimony to the soundness of our position.

American athletes of Olympic caliber should be given recognition by this Congress and the American people. I fervently hope that these athletes will be able to compete in future Olympics and give this Nation the kind of thrills that were so much a part of the Lake Placid games.

I salute my colleague and friend from Illinois (Mr. ANNUNZIO) for taking this important legislative initiative. I urge passage.●

Mr. ANNUNZIO. Mr. Speaker, I have no further requests for time, and I move the previous question.

The SPEAKER pro tempore (Mr. DINGELL). The question is on the motion offered by the gentleman from Illinois (Mr. ANNUNZIO) that the House suspend the rules and pass the bill, H.R. 7482, as amended.

The question was taken.

Mr. COLLINS of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

NATIONAL TOURISM POLICY ACT

Mr. FLORIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7321) to establish a national tourism policy, a Cabinet-level coordinating council, and a board to develop and formulate a marketing and implementing plan to carry out the national tourism policy and a promotional program to further enhance travel to the United States by foreign visitors, as amended.

The Clerk read as follows:

H.R. 7321

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Tourism Policy Act".

DEFINITIONS

SEC. 2. As used in this Act, the term—

(1) "Board means the United States Tourism Planning and Implementation Board established under title III of this Act;

(2) "Council" means the National Tourism Policy Council established under title II of this Act; and

(3) "State" means the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

TITLE I—NATIONAL TOURISM POLICY

FINDINGS AND PURPOSE

SEC. 101. (a) FINDINGS.—The Congress finds that—

(1) it is in the national interest to encourage the orderly growth and development of tourism to and within the United States;

(2) the tourism and recreation industries are important to the United States, not only because of the numbers of people they serve and the vast human, financial, and physical resources they employ, but because of the great benefits tourism, recreation, and related activities confer on individuals and on society as a whole;

(3) the tourism and recreational industries have become increasingly important to the economic growth of the United States and generate revenues which are important in reducing the balance-of-payments deficit;

(4) the Federal Government for many years has encouraged tourism and recreation implicitly in its statutory commitments to a shorter workyear and to a national passenger transportation system, and explicitly in a number of legislative enactments to promote tourism and support development of outdoor recreation, cultural attractions, and heritage conservation;

(5) incomes and leisure time continue to increase and as our economic and political systems create more complex global relationships, tourism and recreation become ever more important aspects of our daily lives and our growing leisure time;

(6) the existing extensive Federal Government involvement in tourism, recreation, and other related activities needs to be better coordinated to respond effectively to the national interests in tourism and recreation and, where appropriate, to meet the needs of State and local governments and the private sector;

(7) orderly growth and development of tourism is an important concern for regional, State, local, and private entities;

(8) orderly growth and development of tourism depends on the efforts of the public and private sectors of that industry to assure that the objectives of the national tourism policy are implemented to the maximum extent consistent with other public policy objectives;

(9) in view of the importance of travel and tourism to the economy of the United States and the pervasive Federal policy and program involvement in tourism, it is necessary and appropriate for the Federal Government to complement, assist, and support mechanisms that will most effectively assure implementation of the national tourism policy;

(10) it is necessary to assure that the extensive Federal policy and program involvement in tourism is responsive to the national interests;

(11) it is in the best interest of the Nation and the tourism and recreation industries to proceed in an orderly fashion toward the development of a promotional program for advancing and enhancing tourism in and to the United States.

(b) PURPOSE.—It is the purpose of this title to establish the framework for a cooperative effort between the Federal Government, States, regions, and local governments and other concerned public and private organizations, to use all practicable means, including financial and technical assistance, to implement a national tourism policy that will—

(1) optimize the contribution of the tourism and recreation industries to economic prosperity, full employment, and the international balance of payments of the United States;

(2) enhance the promotional aspects of tourism through an improved, cooperative effort between the Federal Government and the tourism industry, maximizing the private sector involvement to the greatest extent possible;

(3) promote the continued development and availability of alternative personal payment mechanisms which facilitate national and international travel;

(4) assist in the collection, analysis, and dissemination of data which accurately measure the economic and social impact of tourism to and in the United States, in order to facilitate planning in the public and private sector;

(5) harmonize, to the maximum extent possible, all Federal activities in support of tourism and recreation with the needs of the general public and the States, regions, local governments, and the private and public sectors of the tourism and recreation industry, and give leadership to all organizations and individuals concerned with tourism, recreation, and national heritage conservation in the United States;

(6) insure the compatibility of tourism and recreation with other national interests in energy development and conservation, environmental protection, and the judicious use of natural resources;

(7) preserve the historical and cultural foundations of the Nation as a living part of community life and development, and insure future generations an opportunity to appreciate and enjoy the rich heritage of the Nation;

(8) contribute to personal growth, health, education, and intercultural appreciation of the geography, history, and ethnicity of the United States;

(9) make the opportunity for and benefits of tourism and recreation in the United States universally accessible to residents of the United States and foreign countries and insure that present and future generations are afforded adequate tourism and recreation resources;

(10) promote quality, integrity, and reliability in all tourism and tourism-related services offered to visitors to the United States;

(11) encourage the free and welcome entry of individuals traveling to the United States, in order to enhance international understanding and goodwill, consistent with the immigration laws, the laws protecting the public health, and the laws governing the importation of goods into the United States; and

(12) encourage competition in the tourism industry and maximum consumer choice through the continued viability of the retail travel agent industry and the independent tour operator industry.

TITLE II—NATIONAL TOURISM POLICY COUNCIL

ESTABLISHMENT OF THE COUNCIL

SEC. 201. (a) ESTABLISHMENT.—There is hereby established, as an independent entity in the executive branch of the Federal Government, a National Tourism Policy Council. The Council shall be the principal coordinating body for policies, programs, and issues relating to tourism, recreation, or national heritage conservation involving Federal departments, agencies, or instrumentalities.

(b) MEMBERSHIP.—The Council shall consist of—

(1) one person designated by the President from the Executive Office of the President, who shall serve as Chairman of the Council;

(2) the Secretary of Commerce, or the person designated by such Secretary from the Industry and Trade Administration of the Department of Commerce;

(3) the Secretary of Energy, or the person designated by such Secretary from the Department of Energy;

(4) the Secretary of State, or the person designated by such Secretary from the Department of State;

(5) the Secretary of the Interior, or the person designated by such Secretary from the National Park Service or the Heritage Conservation and Recreation Service of the Department of the Interior;

(6) the Secretary of Labor, or the person designated by such Secretary from the Department of Labor;

(7) The Secretary of Transportation, or the person designated by such Secretary from the Department of Transportation; and

(8) the Chairman of the Board established under title III of this Act.

(c) CHAIRMAN AND VICE-CHAIRMAN.—(1) The Chairman of the Council shall serve in that capacity until such time as a new Chairman is appointed by the President. Each successive Chairman shall be appointed from the Executive Office of the President.

(2) Each member of the Council (other than the Chairman) shall serve a one-year term as Vice-Chairman. The position of Vice-Chairman shall rotate in the order set forth in subsection (b)(2)-(7) of this section.

(d) ALTERNATES.—(1) Each member of the Council, other than the Chairman and the Vice-Chairman, may designate an alternate, who shall serve as a member of the Council whenever the regular member is unable to attend a meeting of the Council or any committee of the Council. Any member designating an alternate shall, to the maximum extent practicable, designate the same individual to serve as alternate on each occasion such member is unable to be in attendance.

(2) Any person designated as an alternate under this subsection shall be selected from those individuals who exercise significant decisionmaking authority in the Federal department involved and shall be authorized to make decisions on behalf of the member.

(e) REPRESENTATIVE FROM THE BOARD.—The Chairman of the Board created under title III of this Act shall participate in all meetings of the Council, and shall serve as liaison to the Council as a nonvoting member.

(f) MEETINGS.—(1) The Council shall conduct its first meeting not later than ninety days after the date of enactment of this Act. Thereafter, the Council shall meet not less than once every ninety days, but may meet more frequently, at the call of the Chairman, in any case of any emergency.

(2) All meetings of the Council, including any committee of the Council, shall be open to the public.

(3) A majority of the voting members of the Council shall constitute a quorum for purposes of transacting any business of the Council.

(g) EXPENSES.—Members of the Council shall serve without additional compensation, but shall be reimbused for actual and necessary expenses, including travel expenses, incurred by them in carrying out the duties of the Council.

EXECUTIVE DIRECTOR OF THE COUNCIL

SEC. 202. (a) APPOINTMENT.—The Chairman, with the approval of the Council, shall appoint an Executive Director who shall serve in a full-time capacity as the chief executive officer of the Council. The Executive Director—

(1) shall be an individual who, by virtue of training, experience, and attainments, is well-qualified to appraise programs and activities of the Federal Government in light of the policies set forth in title I of this Act and to formulate recommendations for the improvement of such programs and activities;

(2) shall be appointed without regard to title 5 of the United States Code governing appointments in the competitive service;

(3) shall be compensated at the rate of pay in effect from time to time for level V of the Executive Schedule under section 5316 of title 5 of the United States Code; and

(4) shall not concurrently hold any other office or position of employment with the Federal Government.

(b) AUTHORITY.—The Executive Director, with the approval of the Council, may utilize such secretarial, clerical, and other assistance from the Department of Commerce as the Executive Director considers necessary to carry out the functions of the Council under this title. The Secretary of Commerce shall, upon the request of the Executive Director, make such assistance available to the Council.

(c) FEDERAL DEPARTMENT AND AGENCY ASSISTANCE.—(1) Each Federal department or agency shall furnish the Council with such information, services, and facilities as the Executive Director may request, to the extent permitted by law and within the limits of available funds.

(2) Federal agencies and departments may, in their discertion, detail to temporary duty with the Council such personnel as the Executive Director may request for carrying out the functions of the Council. Any such detail shall be without loss of seniority, pay, or other employee status.

FUNCTIONS OF THE COUNCIL

SEC. 203. The Council shall be the principal coordinating body for policies, programs, and issues relating to tourism, recreation, or national heritage conservation involving Federal departments, agencies, or instrumentalities. Among other things, the Council shall—

(1) monitor the policies and programs of Federal departments, agencies, and instrumentalities that have a significant effect on tourism, recreation, or national heritage conservation;

(2) develop methods for resolving interagency policy conflicts that relate to tourism, recreation, or national heritage conservation;

(3) organize forums for purposes of coordinating interagency programs and discussing major policy decisions that significantly affect tourism;

(4) prepare and submit comments to Federal departments, agencies, and instrumentalities regarding policies and programs in that department, agency, or instrumentality which significantly affect tourism;

(5) seek and receive concerns and views of State and local governments and the private sector with respect to Federal programs and policies deemed to conflict with the orderly growth and development of tourism; and

(6) direct Council staff activities, including but not limited to the study of appropriate issues and the preparation of reports.

COORDINATION WITH FEDERAL DEPARTMENTS, AGENCIES, AND INSTRUMENTALITIES

SEC. 204. (a) COUNCIL CONSIDERATIONS.—Whenever the Council considers any matter that significantly affects the interests of a Federal department, agency, or instrumentality that is not represented on the Council, the Chairman, may invite the head of such department, agency, or instrumentality (or a designated representative of such person) to participate in the deliberations of the Council.

(b) NOTIFICATION.—Whenever any Federal department, agency, or instrumentality is engaged or is about to engage in any activity significantly affecting travel, tourism, recreation, or national heritage conservation, it shall so notify the Council.

(c) Agency Activities.—Whenever the Council determines that any Federal department, agency, or instrumentality is engaged or is about to engage in any activity significantly affecting tourism, recreation, or national heritage conservation in the United States, the Council shall request the head of such department, agency, or instrumentality to afford the Council a reasonable period of time (except in cases of emergency) to provide comments and recommendations with respect to such activtiy.

(d) Review and Consideration.—Each Federal department, agency, and instrumentality engaged in developing policies and programs (including the promulgation of rules and regulations) that significantly affect tourism shall review and consider the comments and recommendations of the Council made pursuant to this title.

POLICY COMMITTEES

Sec. 205. (a) Establishment.—The Council shall establish such policy committees as it considers necessary and appropriate, each of which shall be comprised of any or all of the members of the Council and representatives from Federal departments, agencies, and instrumentalities not represented on the Council. Each such policy committee shall be designed—

(1) to monitor a specific area of Federal Government activity, such as transportation, energy and natural resources, economic development, or other such activities related to tourism; and

(2) to review and evaluate the relation of the policies and activities of the Federal Government in that specific area to tourism, recreation, and national heritage conservation in the United States.

(b) Responsibilities.—Each policy committee established under subsection (a) of this section shall review and comment on Federal agency program and planning documents that will have a substantial effect on tourism, recreation, and national heritage conservation and that are appropriate to such committee's functional responsibilities and agency representation. Each policy committee may also initiate its own agenda and discuss tourism, recreation, and national heritage conservation related issues, and problems referred to it by the tourism and recreation industry through the Council.

ADMINISTRATIVE PROVISIONS

Sec. 206. (a) Procedures.—In order to carry out the provisions of this title, the Council may establish such procedures as it considers necessary and appropriate to govern its activities under this title.

(b) GSA Services.—The General Services Administration shall provide administrative services for the Council on a reimbursable basis.

ANNUAL REPORTS

Sec. 207. Beginning with the first complete fiscal year following the date of enactment of this Act, the Council shall, no later than December 31 of each year, submit an annual report for the preceding fiscal year to the President and to the Congress. Each such report shall include—

(1) a comprehensive and detailed report of the activities and accomplishments of the Council and its policy committees;

(2) the results of Council efforts to (A) coordinate the policies and programs of Federal departments, agencies, and instrumentalities that have a significant effect on tourism, recreation, and heritage conservation, and (B) resolve interagency conflicts;

(3) an analysis of problems referred to the Council by State and local governments, the Board created under title III of this Act (or its successor), the tourism industry, or any of the Council's policy committees, together with a detailed statement of any actions taken or anticipated to be taken to resolve such problems; and

(4) recommendations for such legislative or administrative action as the Council considers appropriate.

AUTHORIZATIONS OF APPROPRIATIONS

Sec. 208. There is hereby authorized to be appropriated to carry out the provisions of this title $250,000 for the fiscal year ending September 30, 1981.

TITLE III—THE UNITED STATES TOURISM AND PLANNING IMPLEMENTATION BOARD

ESTABLISHMENT OF THE BOARD

Sec. 301. (a) Establishment.—(1) There is established, as an independent entity in the executive branch of the Federal Government, the United States Tourism Planning and Implementation Board (hereinafter in this title referred to as the "Board"). The Board shall consist of—

(A) seventeen voting members appointed in accordance with this section by the President, by and with the advice and consent of the Senate; and

(B) one nonvoting member, who shall be the Chairman of the National Tourism Policy Council established under title II of this Act.

(2) Not more than nine of the voting members of the Board may be members of the same political party.

(3) The initial voting members of the Board shall be appointed by the President within sixty days after the date of enactment of this Act.

(b) Membership.—(1) The voting members of the Board shall be appointed as follows:

(A) The members shall be selected for appointment so as to provide as nearly as practicable a broad representation of different geographical regions within the United States and of the diverse and varied segments of the tourism industry.

(B) Fourteen of the members shall be appointed from among citizens of the United States who are senior executive officers of organizations engaged in the travel and tourism industry and who are not regular full-time employees of the United States. Of such members—

(i) at least one shall be a senior representative from a labor organization representing employees of the tourism industry; and

(ii) at least one shall be a representative of the States who is knowledgeable of tourism promotion.

(C) Of the remaining three members of the Board—

(i) one member shall be a consumer advocate or ombudsman from the organized public interest community;

(ii) one member shall be an economist, statistician, or accountant; and

(iii) one member shall be an individual from the academic community who is knowledgeable in tourism, recreation, or national heritage conservation.

(c) Expenses.—Members of the Board shall serve without compensation, but shall be reimbursed for actual and necessary expenses, including travel expenses, incurred by them in carrying out the duties of the Board.

(d) Staff.—The Board may appoint and fix the pay of such staff personnel as it considers appropriate. Such personnel may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

PURPOSE OF THE BOARD

Sec. 302. (a) Plan.—The Board shall develop a comprehensive and detailed marketing and implementation plan to stimulate and promote tourism to the United States by residents of foreign countries.

(b) Development.—(1) In developing the plan required under subsection (a), the Board shall evaluate alternative means to stimulate and promote tourism to the United States by residents of foreign countries.

(2) The Board shall consider the creation of a private corporation, federally chartered corporation, or other entity for the promotion of tourism and shall consider the appropriateness of authorizing such an entity to exercise the following powers:

(A) The establishment of branch offices in foreign countries and offices to facilitate services at United States ports-of-entry.

(B) Consultation with foreign countries on travel and tourism matters and, in accordance with applicable law, representing United States travel and tourism interests in international meetings, conferences, and expositions.

(C) Participation as a party in interest in proceedings before Federal agencies when such participation is necessary to implement or further the national tourism policy set forth in title I of this Act.

(D) Monitoring the existing and proposed policies and programs of Federal departments and agencies that significantly affect tourism—

(i) for purposes of ascertaining whether, insofar as consistent with other public policy objectives, such policies and programs are in furtherance of the objectives of the national tourism policy, and

(ii) for purposes of ascertaining instances of interagency and intraagency duplication or contradiction; and

reporting the results of its monitoring activities semiannually (or more frequently if necessary) to the appropriate departments and agencies and the Congress.

(E) Developing and administering a comprehensive program relating to consumer information, protection, and education; and

(F) Encouraging, to the maximum extent feasible, travel to and from the United States on United States carriers.

(3) The Board shall consider the development of new or expanded Federal programs for the promotion of tourism.

(c) Plan Requirements.—The plan required to be developed by the Board shall include the following:

(1) A promotional program for enhancing and improving travel for tourism purposes to the United States by foreign visitors.

(2) The funding levels required to effectively implement such a program.

(3) If the plan provides for the creation of a private corporation, federally chartered corporation, or other entity—

(A) provision for the most fair and practical means of providing funding from private as well as public sources for purposes of financing the activities of the entity;

(B) a statement of the administrative cost and budget projections for the first five-year period of operation of the entity; and

(C) provision for personnel for the entity; In formulating the provisions under paragraph (3) respecting funding such an entity, the Board shall consider alternative means of funding the entity, including the feasibility of funding by means of an industry assessment, based on a percentage of gross revenues, on private business organizations engaged in the tourism and recreation industry. In formulating the provisions respecting personnel of the entity, the Board shall consider the appropriateness of transferring present employees of the United States Travel Service to the entity. The Board shall also consider the various laws which would apply to the entity and its activities, including tax and travel laws.

(d) Report and Congressional Approval.—(1) No later than October 1, 1981, the Board shall submit the plan required by subsection (a) to both Houses of the Congress, and to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(2) (A) The plan submitted under paragraph (1) of this subsection shall not take effect unless within sixty days of continuous session after the date of such submission, both Houses of the Congress adopt a concurrent resolution stating in substance that they approve such plan.

(B) For purposes of subparagraph (A)—

(i) continuity of session is broken only by an adjournment sine die; and

(ii) the days on which either House is not in session because of an adjournment of more than five days to a day certain are excluded in the computation of the sixty-day period.

(C) The procedures set forth in section 552 of the Energy Policy and Conservation Act (42 U.S.C. 6422) shall apply to any concurrent resolution of approval of a plan submitted to the Congress under this subsection.

(3) If a plan submitted to Congress is not approved in accordance with this subsection, the Board shall revise and resubmit another plan to the Congress not later than the expiration of six months after the date the previous plan was not approved.

ADMINISTRATIVE POWERS AND MISCELLANEOUS PROVISIONS

Sec. 303. (a) In General.—Any federally chartered entity created pursuant to a plan of the Board approved under section 302 shall be subject to the requirements of this section.

(b) General Powers.—The federally chartered entity shall have the usual powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act, to the extent that such powers are not inconsistent with this title. In addition, the federally chartered entity is authorized to—

(1) enter into such contracts, agreements, or other transactions as the entity considers appropriate, relying on competitive bidding to the maximum extent practicable;

(2) accept in the name of the entity, and employ or dispose of in furtherance of the purposes of this title, any money, or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise;

(3) appoint such officers and employees as the entity considers necessary, and fix their compensation without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code, except that no officer or employee of the federally chartered entity may be compensated in excess of the rate of pay in effect from time to time for level I of the Executive Schedule under section 5312 of title 5 of the United States Code;

(4) obtain the services of experts and consultants without regard to section 3109 of title 5 of the United States Code, except that no such expert or consultant may be compensated at a rate of pay which exceeds the daily equivalent of rates in effect from time to time for positions in grade GS–18 of the General Schedule under section 5332 of title 5 of the United States Code;

(5) accept voluntary and uncompensated services of attorneys, consultants, and experts, notwithstanding any other provision of law;

(6) appoint, without compensation, such advisory committees as the entity considers appropriate; and

(7) accept and use with their consent, with or without reimbursement, such personnel, services, equipment, and facilities of departments and agencies of the Federal Government, State governments, or local political subdivisions thereof, as are necessary to conduct the activities of the entity efficiently.

(c) Federal Department and Agency Assistance.—Upon request of the chief executive officer of the federally chartered entity, each Federal department and agency shall—

(1) make its services, personnel, and facilities available, to the maximum extent practicable, to assist the federally chartered entity in the performance of its functions; and

(2) furnish the entity, subject to the provisions of applicable law, such information, suggestions, estimates, and statistics as the chief executive officer of the entity may request.

(d) Prohibited Activities.—The federally chartered entity may not—

(1) provide or arrange for transportation or accommodations for persons traveling between other countries and the United States, or between points within the United States, in competition with businesses engaged in providing or arranging for such transportation or accommodations;

(2) operate industry trade shows or related activities within the United States or provide personnel or financial assistance for such trade shows or activities;

(3) engage in any activity in competition with any State or local government or any private entity;

(4) lend money to employees; or

(5) own stock in another corporation.

(e) Stock.—The entity shall have no power to issue any shares of stock or to declare or pay any dividends.

(f) Income and Assets.—The income and assets of the federally chartered entity shall not be used for any purpose other than carrying out the purposes of the entity, and no part of such income or assets shall insure to the benefit of any director, officer, employee, or any other individual except as salary or reasonable compensation for services.

(g) Political Contributions.—The federally chartered entity may not contribute to or otherwise support any political party or candidate for elective public office.

(h) Report.—The federally chartered entity shall, no later than ninety days after the end of each fiscal year, submit an annual report for that fiscal year to the President and to the Congress. Each such report shall include a comprehensive and detailed report of the entity's operations, activities, financial condition, and accomplishments, and may include recommendations for such legislative and administrative action as the entity considers appropriate.

RECORDS AND AUDIT

Sec. 304. (a) In General.—Any entity created pursuant to a plan of the Board approved under section 302 shall be subject to the requirements of this section.

(b) Audits.—The accounts of the entity shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State. The audits shall be conducted at the place or places where accounts of the entity are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the entity and necessary to facilitate the audits shall be made available to the person conducting the audits, and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person.

(c) Reports.—The report of each such independent audit shall set forth the scope of the audit and shall include such statements as are necessary to present fairly the entity's assets and liabilities and surplus or deficit, with an analysis of the changes therein during the year, supplemented in reasonable detail by a statement of the sources and application of funds, together with the independent auditor's opinion of those statements.

(d) GAO Audit.—(1) The financial transactions of the entity for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the Comptroller General of the United States in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as the Comptroller General may prescribe. Any such audit shall be conducted at the place or places where accounts of the entity are normally kept. The representatives of the Comptroller General shall have access to all books, accounts, records, reports, files, and all other papers, things, or property belonging to or in use by the entity pertaining to its financial transactions and necessary to facilitate the audit, and shall be afforded full facilities for verifying transactions with the balances of securities held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of the entity shall remain in the possession and custody of the entity.

(2) A report of each audit shall be made by the Comptroller General to the Congress. The report to the Congress shall contain such comments and information as the Comptroller General considers necessary to inform the Congress of the financial operations and condition of the entity, together with such recommendations with respect thereto as he considers appropriate. The report shall also show specifically any program, expenditure, or other financial transaction or undertaking observed in the course of the audit which, in the opinion of the Comptroller General, has been carried on or made without authority of law. A copy of each report shall be furnished to the President and to the entity at the time it is submitted to the Congress.

AUTHORIZATION OF APPROPRIATIONS

Sec. 305. (a) Authorization.—There is authorized to be appropriated for the expenses of the Board under this title $450,000 for the fiscal year ending September 30, 1981.

(b) Limitation.—Nothing contained in this title shall be construed to commit the Federal Government to provide any sums for the payment of any obligation of the Board which exceeds amounts provided in advance in appropriation Acts.

TITLE IV—AMENDMENTS TO THE INTERNATIONAL TRAVEL ACT

REPORTING REQUIREMENTS

Sec. 401. The first sentence of section 4 of the International Travel Act of 1961 (22 U.S.C. 2124) is amended by inserting "on all matters concerning tourism and shall report to the Under Secretary for International Trade on those matters which involve both tourism and trade" immediately before the period.

AUTHORIZATION OF APPROPRIATIONS

SEC. 402. The first sentence of section 6 of the International Travel Act of 1961 (22 U.S.C. 2126) is amended—

(1) by striking out "and" immediately before "(8)"; and

(2) by inserting immediately before the period at the end thereof the following: "; and (9) $8,600,000 for the fiscal year ending September 30, 1981, of which not more than $100,000 shall be available to carry out section 5A of this Act".

FEDERAL ASSISTANCE FOR REGIONAL PROMOTION OF TOURISM

SEC. 403. The International Travel Act of 1961 (22 U.S.C. 2121 et seq.) is amended by inserting after section 5 the following new section:

"SEC. 5A. (a) The Secretary is authorized to provide financial assistance to a region of not less than two States or portions of two States to assist in the implementation of a regional tourism promotional and marketing program. Such assistance shall include, but need not be limited to (1) technical assistance for advancing the promotion of travel to such region by foreign visitors, (2) expert consultants, and (3) marketing and promotional assistance.

"(b) Any program carried out under this section shall serve as a demonstration project for future program development for regional tourism promotion.

"(c) An applicant for financial assistance under this section for a particular region must demonstrate to the Secretary that—

"(1) such region has in the past been an area that has attracted foreign visitors, but such visits have significantly decreased;

"(2) facilities are being developed or improved to reattract such foreign visitors;

"(3) a joint venture in such region will increase the travel to such region by foreign visitors;

"(4) such regional program will contribute to the economic well-being of the region;

"(5) such region is developing or has developed a regional transportation system that will enhance travel to the facilities and attractions within such region; and

"(6) a correlation exists between increased tourism to such region and the lowering of the unemployment rate in such region.".

TIME PERIOD FOR PERSONNEL REDUCTION

SEC. 404. Section 9 of the International Travel Act of 1961 (22 U.S.C. 2128) is amended by striking out "as of September 1, 1979, and thereafter," and inserting in lieu thereof "during the period beginning October 1, 1980, and ending September 30, 1981,".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New Jersey (Mr. FLORIO) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. MADIGAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. FLORIO).

Mr. FLORIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we are dealing with a very important piece of legislation that services an area that for too long has been overlooked.

For too long the enormous economic and social benefits of international tourism have failed to be recognized.

Successive administrations have ignored its potential and relegated tourism activities to a minor status in a small office of the Department of Commerce (USTS).

This small office has had some success in encouraging foreign travelers to visit the United States through its overseas offices, and collects and distributes valuable data, but it has neither the resources nor the mandate to conduct what is needed—a vigorous and creative program to stimulate travel to the United States.

Mr. Speaker, international tourism is one of the world's major growth industries, yet the growth in the number of foreign travelers to the United States has been slower than the world's international tourism growth. Presently the United States receives only 6.7 to 8 percent of the world's tourists. We have a land of abundant scenic and cultural attractions there is no reason why the United States should not receive its fair share of the travelers.

In this time of high unemployment we simply cannot afford to ignore the significant impact that tourism has on jobs. The industry is made up of diverse component parts related to transportation, lodging, food and recreation all of which are highly labor intensive and tend to employ a high proportion of persons in the "hard to employ" category who have limited skills, thus it is of vital assistance in a critical employment segment.

Let me explain how this bill will help.

H.R. 7321 sets the United States on a new and vigorous course to encourage foreign tourists to visit the United States and it does so for a very small amount of money. The total sum authorized is $9.3 million. Of this amount $8.6 million is simply reauthorization for the United States travel service to continue its ongoing operations, in its overseas offices and its important monitoring and data gathering functions.

The remaining money is targeted at two crucial functions. First, establishment of a coordinating council charged with the responsibility of monitoring the various policies and programs of the Federal Government that have a significant impact on tourism, in order to develop methods of avoiding conflicts and to insure consistency of Federal programs related to tourism. The need for this type of council was evident as the committee discovered that in 1973 there was over 115 programs in over 50 agencies that that directly concerns tourism, yet, these programs are often conflicting, contradictory or inconsistent. The committee believes the council will provide the necessary coordination to avoid this in the future; $250,000 is authorized to operate the council.

Second, Clearly the most significant provision of the legislation is the establishment of a U.S. Tourism and Planning Implementation Board which is charged with the mission of developing a comprehensive and detailed marketing and implementing plan to stimulate and promote tourism to the United States. The Board is to submit the plan to the committee within a year. The committee expects this marketing plan to be the basis for a new partnership between the Government and the private sector in a comprehensive program to promote tournism to the United States. We are relying on the Board to develop a creative, practical program, to suggest the appropriate entity to carry it out, and to recommend how the private sector can best participate in its financing. The Congress can then proceed to enact those statutory changes necessary to implement the plan; $450,000 is authorized to the Board to develop the plan—a bargain considering the benefits the United States has to gain from increasing tourism.

This title of the bill also provides for a concurrent resolution for the purpose of approving of the recommendations contained in the plan. The amendment I am offering today clarifies the fact that this concurrent resolution is intended only to express the sense of the Congress that it approves of the plan. The Committee is fully cognizant of the fact that any statutory changes needed to implement the plan will require new legislation, and the signature of the President, in order to become law. The administration has informed me that this amendment remedies the only difficulty they had with the bill and that they are now fully supportive.

Mr. Speaker, this bill was reported out of the subcommittee by a unanimous vote. It has achieved the bipartisan support of members who are seeking to stimulate international travel to the United States and actively encourage the growth and development of the tourism and travel industries.

□ 1230

Mr. Speaker, I reserve the remainder of my time.

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to support H.R. 7321, the National Tourism Policy Act. Last year, when the Congress considered the reauthorization of the U.S. Travel Service, several of us indicated that we were not satisfied with the present effort of the USTS and we expressed the hope that this Congress would be able to definitively outline our national tourism policy and determine what the Federal role should be.

We agreed that the travel and tourism industry has not received adequate policy support or guidance from the Federal Government.

Members of the subcommittee have worked closely with administration and with representatives of the tourism and travel industry in an effort to formulate an effective Federal policy.

Under the able leadership of the gentleman from Nevada (Mr. SANTINI), the House Tourism Caucus has played an important and impressive role in the efforts to aid that policy formulation.

We intend to work closely with our colleagues in the Senate, because this Congress must insure that the third largest industry in this Nation, the tourism industry, receives proper consideration when policies are made that impact on that industry.

Many of us expressed concern about the creation of a federally funded quasi-public corporation that would replace the USTS. We were equally concerned with the suggestion that the Federal Government finance an advertising and promotion effort without really knowing beforehand what that marketing plan would be, how it would be implemented, and who would pay for it.

Mr. Speaker, I have been fortunate enough in recent years to visit several foreign countries. Whenever I travel abroad, what always astonishes me is the number of people whose lifelong ambition it is to travel to the United States.

And I must admit that whenever I see Robert Morley urging U.S. travel to Great Britain and see television ads telling me that "it is better in the Bahamas," I wonder if we are not missing the boat by not doing a better job of promoting travel to this great country of ours.

This bill provides an authorization of $8.6 million for the U.S. Travel Service and assures the placement of USTS at its proper level within the Department of Commerce. In addition, this bill establishes the National Tourism Policy Council. This Council will monitor activities within the Federal Government that affect tourism and will fully evaluate those activities as to the impact such policies will have on tourism.

This bill also establishes the U.S. Tourism Planning and Implementing Board. The purpose of this Board is to develop marketing and promotion plans that will promote travel to the United States by foreign visitors. This Board will report back to us so that next year, prior to developing authorizations for fiscal year 1982, we will be able to make the judgment as to what role, if any, the Federal Government should have in the financing of an advertising and marketing effort. Before we can properly make those judgments, we need to have a plan outlined for us. Before we should make any long-term commitments, we must have a better idea of how much an effective advertising campaign will cost and how much industry is willing to participate in paying its share of that cost.

Mr. Speaker, tourism is a vital segment of our economy. At a time when we are all concerned about Federal expenditures and we are equally concerned about the state of our economy, I think this bill is a responsible step in the right direction. I urge the support of the House for this important legislation.

Mr. Speaker, I reserve the remainder of my time.

● Mr. BROOKS. Mr. Speaker, at a time when Congress and the American people are concerned about the growth of Government, about the intrusion of Government in private industry, and about the influence of special interests on our Government, it is hard to understand why we are being asked to pass a bill like H.R. 7321, the National Tourism Policy Act of 1980.

Here is a bill that will create two independent entities within the executive branch, with the likelihood that there will be a third entity—a federally chartered nonprofit corporation—established down the line. Even more disturbing is the makeup of one of these groups and the duties and responsibilities assigned to it.

The bill creates a U.S. Tourism Planning and Implementing Board within the executive branch that will be dominated by representatives of the tourism industry. The bill specifically provides that 14 of the 17 voting members of the Board must be "senior executive officers of organizations engaged in the travel and tourism industry." The Board's primary duty will be to make recommendations to Congress for legislation that will promote tourism in the United States, very probably including the creation of a nonprofit corporation for that purpose. In other words, the Federal Government will subsidize a special interest lobby so it can develop and recommend legislation to promote its own interests. It is hard to imagine a clearer example of a conflict of interest in a Government-appointed body.

I find it particularly objectionable that this bill, even as amended on the floor, provides for a procedure whereby Congress commits itself at this time to take an up or down vote 1 year from now on the recommendations of this industry-dominated Board.

It might be understandable that Congress would be willing to surrender its legislative prerogatives to an industry-dominated group if we were dealing with a matter of great urgency or of special expertise. But the promotion of tourism hardly qualifies on either count. We already have numerous programs and policies to promote foreign trade, of which foreign tourism is a part. Our airlines and resorts are busily and capably engaged in attracting customers from all over the world. Our States that fancy themselves as tourist attractions have energetic and effective promotion programs to call attention to themselves.

There not only is no need for this costly and cumbersome involvement of the U.S. Government in the tourist industry, there is a positive requirement that we avoid it in the interest of trying to bring the Federal Government under control.●

● Mr. PEPPER. Mr. Speaker, honored colleagues, distinguished ladies and gentlemen present, I would like to commend this body of the Congress today, for passing a bill in which I have been most interested, almost from its inception at the beginning of this Congress when I called for the establishment of a national tourism policy, explaining its importance for my area, Dade County, through which annually pass over 13 million tourists, generating over $5 billion for Dade County's economy in jobs, services, and goods. This bill, H.R. 7321, named the National Tourism Policy Act, would continue to keep alive the U.S. Travel Service in the Commerce Department, allowing it to keep up its vigorous promotion of U.S. attractions abroad and at home, reaping foreign exchange dollars for our economy, jobs for our people, and bringing the United States closer to its allies on other shores. In addition, I have long supported the establishment of a council to bring forward ideas on improving our tourism industry, heritage, and attractions to expand this enormous area of American industry, which accounts for about $100 billion of the GNP, and to enlarge everyone's sliver of this gigantic beneficial sector of our economy.

I would like to commend my colleagues on the Committee on Interstate and Foreign Commerce and in the congressional tourism caucus we formed last year, for their hard and diligent work on this proposal, which became reality today, and which, if it bears full fruit, as it should, might well encourage tourism to such an extent, that Americans will add extra guest rooms to their scenic homes all over the Nation and especially in Florida, gateway to the Carribbean and South America, as well as Western Europe.

Let us hope, now, that this good concept, embodied in the National Tourism Policy Act, can be expanded upon, that the recommendations of the council can be fully implemented, inasmuch as they will benefit our tourism industry, our resorts, our people and our cities, let us hope that in the next Congress, after the President has made this bill law, we can pass another law, pursuing vigorously this great market overseas and on the American continent, waiting to come here for a reason, knowing where to go in a short time, how to get there, and so forth. Let us continue to put resources behind advertising stations abroad, spread information on our land in other lands and generally pave the way for tourists that they can in safety, reliably and eagerly enjoy this beautiful country of ours and our beautiful people, old or young, in Florida, north and south, or wherever visitors could wish to go.●

● Mr. ABDNOR. Mr. Speaker, I rise in strong support of H.R. 7321, the National Tourism Policy Act. Passage of this legislation is extremely important if we are to be successful in establishing a strong Federal commitment for the promotion of tourism in America.

For too long, the Federal Government has been lacking in the enthusiasm with which it has supported travel and recreation. This has occurred despite the fact that tourism is a leading industry in virtually every State in the Nation. The tourism industry provides hundreds of thousands of jobs, generates subtsantial tax contributions, and is a principal employer of our Nation's youth. It behooves Congress to recognize these positive attributes and do our share to promote travel and tourism on the Federal level.

One of the most positive aspects of this legislation is that it establishes a national policy and a board to implement programs designed to encourage foreign travelers to visit America. Our European neighbors have successfully employed this strategy for many years.

This measure is also important in that it cements a new bond between Congress and the tourism industry. The first step began with the advent of the Congressional Tourism Caucus. The goals and hard work of the caucus are a primary reason why we have the opportunity to consider the legislation now before us. With the passage of the National Tourism Policy Act we will have laid the cornerstone for a bright future for travel and tourism in America.

I would urge my colleagues to strongly support the adoption of H.R. 7321.●

●Mr. JENRETTE. Mr. Speaker, realizing the important role travel and tourism plays in South Carolina, I rise to encourage support for H.R. 7321, the National Tourism Policy Act. In my State alone, it employs close to 100,000 employees and generates close to $2 billion in business receipts. It also generates well over $200 million in taxes to help support the cost of government in our society.

Since my district encompasses the great tourist area, the "Grand Strand" of South Carolina, of which Myrtle Beach is the principal city, I can personally attest to the important role travel and tourism plays in our economy. H.R. 7321 will help the residents, not only in my district but throughout my home State, to insure a strong and viable role in our economy. There is no question in my mind that travel and tourism will continue to grow in importance in our country, due to the many fine facilities, attractions, and ideal climates. We can either encourage this process through proper policies, programs, and support or retard it through lack of support, lack of attention, and simple disregard. The choice is ours, and I intend to make the one that makes the most sense: to support H.R. 7321. I hope that each of you will do the same.●

Mr. FLORIO. Mr. Speaker, I ask unanimous consent to modify my motion to suspend the rules to include in the text of the bill certain clarifying amendments to which I made reference.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jeresy?

There was no objection.

The bill, as modified, is as follows:

H.R. 7321

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Tourism Policy Act"

DEFINITIONS

SEC. 2. As used in this Act, the term—

(1) "Board" means the United States Tourism Planning and Implementation Board established under title III of this Act;

(2) "Council" means the National Tourism Policy Council established under title II of this Act; and

(3) "State" means the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

TITLE I—NATIONAL TOURISM POLICY

FINDINGS AND PURPOSE

SEC. 101. (a) FINDINGS.—The Congress finds that—

(1) it is in the national interest to encourage the orderly growth and development of tourism to and within the United States;

(2) the tourism and recreation industries are important to the United States, not only because of the numbers of people they serve and the vast human, financial, and physical resources they employ, but because of the great benefits tourism, recreation, and related activities confer on individuals and on society as a whole;

(3) the tourism and recreation industries have become increasingly important to the economic growth of the United States and generate revenues which are important in reducing the balance-of-payments deficit;

(4) the Federal Government for many years has encouraged tourism and recreation implicitly in its statutory commitments to a shorter workyear and to a national passenger transportation system, and explicitly in a number of legislative enactments to promote tourism and support development of outdoor recreation, cultural attractions, and heritage conservation;

(5) incomes and leisure time continue to increase and as our economic and political systems create more complex global relationships, tourism and recreation become ever more important aspects of our daily lives and our growing leisure time;

(6) the existing extensive Federal Government involvement in tourism, recreation, and other related activities needs to be better coordinated to respond effectively to the national interests in tourism and recreation and, where appropriate, to meet the needs of State and local governments and the private sector;

(7) orderly growth and development of tourism is an important concern for regional, State, local, and private entities;

(8) orderly growth and development of tourism depends on the efforts of the public and private sectors of that industry to assure that the objectives of the national tourism policy are implemented to the maximum extent consistent with other public policy objectives;

(9) in view of the importance of travel and tourism to the economy of the United States and the pervasive Federal policy and program involement in tourism, it is necessary and appropriate for the Federal Government to complement, assist, and support mechanisms that will most effectively assure implementation of the national tourism policy;

(10) it is necessary to assure that the extensive Federal policy and program involvement in tourism is responsive to the national interests; and

(11) it is in the best interest of the Nation and the tourism and recreation industries to proceed in an orderly fashion toward the development of a promotional program for advancing and enhancing tourism in and to the United States.

(b) PURPOSE.—It is the purpose of this title to establish the framework for a cooperative effort between the Federal Government, States, region, and local governments and other concerned public and private organizations, to use all practicable means, including financial and technical assistance, to implement a national tourism policy that will—

(1) optimize the contribution of the tourism and recreation industries to economic prosperity, full employment, and the international balance of payments of the United States;

(2) enhance the promotional aspects of tourism through an improved, cooperative effort between the Federal Government and the tourism industry, maximizing the private sector involvement to the greatest extent possible.

(3) promote the continued development and availability of alternative personal payment mechanisms which facilitate national and international travel;

(4) assist in the collection, analysis, and dissemination of data which accurately measure the economic and social impact of tourism to and in the United States, in order to facilitate planning in the public and private sector;

(5) harmonize, to the maximum extent possible, all Federal activities in support of tourism and recreation with the needs of the general public and the States, regions, local governments, and the private and public sectors of the tourism and recreation industry, and give leadership to all organizations and individuals concerned with tourism, recreation, and national heritage conservation in the United States;

(6) insure the compatibility of tourism and recreation with other national interests in energy development and conservation, environmental protection, and the judicious use of natural resources;

(7) preserve the historical and cultural foundations of the Nation as a living part of community life and development, and insure future generations an opportunity to appreciate and enjoy the rich heritage of the Nation;

(8) contribute to personal growth, health, education, and intercultural appreciation of the geography, history, and ethnicity of the United States;

(9) make the opportunity for and benefits of tourism and recreation in the United States universally accessible to residents of the United States and foreign countries and insure that present and future generations are afforded adequate tourism and recreation resources;

(10) promote quality, integrity, and reliability in all tourism and tourism-related services offered to visitors to the United States;

(11) encourage the free and welcome entry of individuals traveling to the United States, in order to enhance international understanding and goodwill, consistent with the immigration laws, the laws protecting the public health, and the laws governing the importation of goods into the United States; and

(12) encourage competition in the tourism industry and maximum consumer choice through the continued viability of the retail travel agent industry and the independent tour operator industry.

TITLE II—NATIONAL TOURISM POLICY COUNCIL

ESTABLISHMENT OF THE COUNCIL

SEC. 201. (a) ESTABLISHMENT.—There is hereby established, as an independent entity in the executive branch of the Federal Government, a National Tourism Policy Council. The Council shall be the principal coordinating body for policies, programs, and issues relating to tourism, recreation, or national heritage conservation involving Federal departments, agencies, or instrumentalities.

(b) MEMBERSHIP.—The Council shall consist of—

(1) one person designated by the President from the Executive Office of the President, who shall serve as Chairman of the Council;

(2) the Secretary of Commerce, or the person designated by such Secretary from the Industry and Trade Administration of the Department of Commerce;

(3) the Secretary of Energy, or the person designated by such Secretary from the Department of Energy;

(4) the Secretary of State, or the person designated by such Secretary from the Department of State;

(5) the Secretary of the Interior, or the person designated by such Secretary from the National Park Service or the Heritage Conservation and Recreation Service of the Department of the Interior;

(6) the Secretary of Labor, or the person designated by such Secretary from the Department of Labor;

(7) the Secretary of Transportation, or the person designated by such Secretary from the Department of Transportation; and

(8) the Chairman of the Board established under title III of this Act.

(c) Chairman and Vice-Chairman.—(1) The Chairman of the Council shall serve in that capacity until such time as a new Chairman is appointed by the President. Each successive Chairman shall be appointed from the Executive Office of the President.

(2) Each member of the Council (other than the Chairman) shall serve a one-year term as Vice-Chairman. The position of Vice-Chairman shall rotate in the order set forth in subsection (b)(2)-(7) of this section.

(d) Alternates.—Each member of the Council, other than the Chairman and the Vice-Chairman, may designate an alternate, who shall serve as a member of the Council whenever the regular member is unable to attend a meeting of the Council or any committee of the Council. Any member designating an alternate shall, to the maximum extent practicable, designate the same individual to serve as alternate on each occasion such member is unable to be in attendance.

(2) Any person designated as an alternate under this subsection shall be selected from those individuals who exercise significant decisionmaking authority in the Federal department involved and shall be authorized to make decisions on behalf of the member.

(e) Representative From the Board.—The Chairman of the Board created under title III of this Act shall participate in all meetings of the Council, and shall serve as liaison to the Council as a nonvoting member.

(f) Meetings.—(1) The Council shall conduct its first meeting not later than ninety days after the date of enactment of this Act. Thereafter, the Council shall meet not less than once every ninety days, but may meet more frequently, at the call of the Chairman, in any case of any emergency.

(2) All meetings of the Council, including any committee of the Council, shall be open to the public.

(3) A majority of the voting members of the Council shall constitute a quorum for purposes of transacting any business of the Council.

(g) Expenses.—Members of the Council shall serve without additional compensation, but shall be reimbursed for actual and necessary expenses, including travel expenses, incurred by them in carrying out the duties of the Council.

EXECUTIVE DIRECTOR OF THE COUNCIL

Sec. 202. (a) Appointment.—The Chairman, with the approval of the Council, shall appoint an Executive Director who shall serve in a full-time capacity as the chief executive officer of the Council. The Executive Director—

(1) shall be an individual who, by virtue of training, experience, and attainments, is well-qualified to appraise programs and activities of the Federal Government in light of the policies set forth in title I of this Act and to formulate recommendations for the improvement of such programs and activities;

(2) shall be appointed without regard to title 5 of the United States Code governing appointments in the competitive service;

(3) shall be compensated at the rate of pay in effect from time to time for level V of the Executive Schedule under section 5316 of title 5 of the United States Code; and

(4) shall not concurrently hold any other office or position of employment with the Federal Government.

(b) Authority.—The Executive Director, with the approval of the Council, may utilize such secretarial, clerical, and other assistance from the Department of Commerce as the Executive Director considers necessary to carry out the functions of the Council under this title. The Secretary of Commerce shall, upon the request of the Executive Director, make such assistance available to the Council.

(c) Federal Department and Agency Assistance.—(1) Each Federal department or agency shall furnish the Council with such information, services, and facilities as the Executive Director may request, to the extent permitted by law and within the limits of available funds.

(2) Federal agencies and departments may, in their discretion, detail to temporary duty with the Council such personnel as the Executive Director may request for carrying out the functions of the Council. Any such detail shall be without loss of seniority, pay, or other employee status.

FUNCTIONS OF THE COUNCIL

Sec. 203. The Council shall be the principal coordinating body for policies, programs, and issues relating to tourism, recreation, or national heritage conservation involving Federal departments, agencies, or instrumentalities. Among other things, the Council shall—

(1) monitor the policies and programs of Federal departments, agencies, and instrumentalities that have a significant effect on tourism, recreation, or national heritage conservation;

(2) develop methods for resolving interagency policy conflicts that relate to tourism, recreation, or national heritage conservation;

(3) organize forums for purposes of coordinating interagency programs and discussing major policy decisions that significantly affect tourism;

(4) prepare and submit comments to Federal departments, agencies, and instrumentalities regarding policies and programs in that department, agency, or instrumentality which significantly affect tourism;

(5) seek and receive concerns and views of State and local governments and the private sector with respect to Federal programs and policies deemed to conflict with the orderly growth and development of tourism; and

(6) direct Council staff activities, including but not limited to the study of appropriate issues and the preparation of reports.

COORDINATION WITH FEDERAL DEPARTMENTS, AGENCIES, AND INSTRUMENTALITIES

Sec. 204. (a) Council Considerations.—Whenever the Council considers any matter that significantly affects the interests of a Federal department, agency, or instrumentality that is not represented on the Council, the Chairman may invite the head of such department, agency, or instrumentality (or a designated representative of such person) to participate in the deliberations of the Council.

(b) Notification.—Whenever any Federal department, agency or instrumentality is enengaged or is about to engage in any activity significantly affecting travel, tourism, recreation, or national heritage conservation, it shall so notify the Council.

(c) Agency Activities.—Whenever the Council determines that any Federal department, agency, or instrumentality is engaged or is about to engage in any activity significantly affecting tourism, recreation, or national heritage conservation in the United States, the Council shall request the head of such department, agency, or instrumentality to afford the Council a reasonable period of time (except in cases of emergency) to provide comments and recommendations with respect to such activity.

(d) Review and Consideration.—Each Federal department, agency, and instrumentality engaged in developing policies and programs (including the promulgation of rules and regulations) that significantly affect tourism shall review and consider the comments and recommendations of the Council made pursuant to this title.

POLICY COMMITTEES

Sec. 205. (a) Establishment.—The Council shall establish such policy committees as it considers necessary and appropriate, each of which shall be comprised of any or all of the members of the Council and representatives from Federal departments, agencies, and instrumentalities not represented on the Council. Each such policy committee shall be designed—

(1) to monitor a specific area of Federal Government activity, such as transportation, energy and natural resources, economic development, or other such activities related to tourism; and

(2) to review and evaluate the relation of the policies and activities of the Federal Government in that specific area to tourism, recreation, and national heritage conservation in the United States.

(b) Responsibilities.—Each policy committee established under subsection (a) of this section shall review and comment on Federal agency program and planning documents that will have a substantial effect on tourism, recreation, and national heritage conservation and that are appropriate to such committee's functional responsibilities and agency representation. Each policy committee may also initiate its own agenda and discuss tourism, recreation, and national heritage conservation related issues, and problems referred to it by the tourism and recreation industry through the Council.

ADMINISTRATIVE PROVISIONS

Sec. 206. (a) Procedures.—In order to carry out the provisions of this title, the Council may establish such procedures as it considers necessary and appropriate to govern its activities under this title.

(b) GSA Services.—The General Services Administration shall provide administrative services for the Council on a reimbursable basis.

ANNUAL REPORTS

Sec. 207. Beginning with the first complete fiscal year following the date of enactment of this Act, the Council shall, no later than December 31 of each year, submit an annual report for the preceding fiscal year to the President and to the Congress. Each such report shall include—

(1) a comprehensive and detailed report of the activities and accomplishments of the Council and its policy committees;

(2) the results of Council efforts to (A) coordinate the policies and programs of Federal departments, agencies, and instrumentalities that have a significant effect on tourism, recreation, and heritage conservation, and (B) resolve interagency conflicts;

(3) an analysis of problems referred to the Council by State and local governments, the Board created under title III of this Act (or its successor), the tourism industry, or any of the Council's policy committees, together with a detailed statement of any actions taken or anticipated to be taken to resolve such problems; and

(4) recommendations for such legislative or administrative action as the Council considers appropriate.

AUTHORIZATIONS OF APPROPRIATIONS

Sec. 208. There is hereby authorized to be appropriated to carry out the provisions of this title $250,000 for the fiscal year ending September 30, 1981.

TITLE III—THE UNITED STATES TOURISM AND PLANNING IMPLEMENTATION BOARD

ESTABLISHMENT OF THE BOARD

Sec. 301. (a) Establishment.—(1) There is established, as an independent entity in the executive branch of the Federal Government, the United States Tourism Planning and Implementation Board (hereinafter in this title referred to as the "Board"). The Board shall consist of—

(A) seventeen voting members appointed in accordance with this section by the President, by and with the advice and consent of the Senate; and

(B) one nonvoting member, who shall be the Chairman of the National Tourism Policy Council established under title II of this Act.

(2) Not more than nine of the voting mem-

bers of the Board may be members of the same political party.

(3) The initial voting members of the Board shall be appointed by the President within sixty days after the date of enactment of this Act.

(b) MEMBERSHIP.—(1) The voting members of the Board shall be appointed as follows:

(A) The members shall be selected for appointment so as to provide as nearly as practicable a broad representation of different geographical regions within the United States and of the diverse and varied segments of the tourism industry.

(B) Fourteen of the members shall be appointed from among citizens of the United States who are senior executive officers of organizations engaged in the travel and tourism industry and who are not regular full-time employees of the United States. Of such members—

(i) at least one shall be a senior representative from a labor organization representing employees of the tourism industry; and

(ii) at least one shall be a representative of the States who is knowledgable of tourism promotion.

(C) Of the remaining three members of the Board—

(i) one member shall be a consumer advocate or ombudsman from the organized public interest community;

(ii) one member shall be an economist, statistician, or accountant; and

(iii) one member shall be an individual from the academic community who is knowledgeable in tourism, recreation, or national heritage conservation.

(c) EXPENSES.—Members of the Board shall serve without compensation, but shall be reimbursed for actual and necessary expenses, including travel expenses, incurred by them in carrying out the duties of the Board.

(d) STAFF.—The Board may appoint and fix the pay of such staff personnel as it considers appropriate. Such personnel may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

PURPOSE OF THE BOARD

SEC. 302. (a) PLAN.—The Board shall develop a comprehensive and detailed marketing and implementation plan to stimulate and promote tourism to the United States by residents of foreign countries.

(b) DEVELOPMENT.—(1) In developing the plan required under subsection (a), the Board shall evaluate alternative means to stimulate and promote tourism to the United States by residents of foreign countries.

(2) The Board shall consider the creation of a private corporation, federally chartered corporation, or other entity for the promotion of tourism and shall consider the appropriateness of authorizing such an entity to exercise the following powers:

(A) The establishment of branch offices in foreign countries and offices to facilitate services at United States ports-of-entry.

(B) Consultation with foreign countries on travel and tourism matters and, in accordance with applicable law, representing United States travel and tourism interests in international meetings, conferences, and expositions.

(C) Participation as a party in interest in proceedings before Federal agencies when such participation is necessary to implement or further the national tourism policy set forth in title I of this Act.

(D) Monitoring the existing and proposed policies and programs of Federal departments and agencies that significantly affect tourism—

(i) for purposes of ascertaining whether, insofar as consistent with other public policy objectives, such policies and programs are in furtherance of the objectives of the national tourism policy, and

(ii) for purposes of ascertaining instances of interagency and intra-agency duplication or contradiction; and

reporting the results of its monitoring activities semiannually (or more frequently if necessary) to the appropriate departments and agencies and the Congress.

(E) Developing and administering a comprehensive program relating to consumer information, protection, and education; and

(F) Encouraging, to the maximum extent feasible, travel to and from the United States on United States carriers.

(3) The Board shall consider the development of new or expanded Federal programs for the promotion of tourism.

(c) PLAN REQUIREMENTS.—The plan required to be developed by the Board shall include recommendations for the following:

(1) A promotional program for enhancing and improving travel for tourism purposes to the United States by foreign visitors.

(2) The funding levels required to effectively implement such a program.

(3) If the plan recommends the creation of a private corporation, federally chartered corporation, or other entity—

(A) Recommendations for the most fair and practical means of providing funding from private as well as public sources for purposes of financing the activities of the entity;

(B) a statement of the administrative cost and budget projections for the first five-year period of operation of the entity; and

(C) Recommendations for personnel for the entity;

In formulating the recommendations under paragraph (3) respecting funding such an entity, the Board shall consider alternative means of funding the entity, including the feasibility of funding by means of an industry assessment, based on a percentage of gross revenues on private business organizations engaged in the tourism and recreation industry. In formulating the recommendations respecting personnel of the entity the Board shall consider the appropriateness of transferring present employees of the United States Travel Service to the entity. The Board shall also consider the various laws which would apply to the entity and its activities including tax and travel laws.

(d) REPORT AND CONGRESSIONAL APPROVAL.—(1) No later than October 1, 1981 the Board shall submit the plan required by subsection (a) to both Houses of the Congress and to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Commerce Science and Transportation of the Senate.

(2)(A) Recommendations for legislation contained in the plan submitted under paragraph (1) of this subsection shall not be approved unless within sixty days of continuous session after the date of such submissions both Houses of the Congress adopt a concurrent resolution stating in substance that they approve such recommendations (in whole or in part) and stating an intent to consider legislation to implement such recommedations.

(B) For purposes of subparagraph (A)—

(i) continuity of session is broken only by an adjournment sine die; and

(ii) the days on which either House is not in session because of an adjournment of more than five days to a day certain are excluded in the computation of the sixty-day period.

(C) The procedures set forth in section 552 of the Energy Policy and Conservation Act (42 U.S.C. 6422) shall apply to any concurrent resolution of approval of a plan submitted to the Congress under this subsection.

(3) If recommendations contained in a plan submitted to Congress are not approved in accordance with this subsection the Board shall revise and resubmit another plan to the Congress not later than the expiration of six months after the date the recommendations in the previous plan were not approved.

ADMINISTRATIVE POWERS AND MISCELLANEOUS PROVISIONS

SEC. 303. (a) IN GENERAL.—Any federally chartered entity created pursuant to a plan of the Board approved under section 302 shall be subject to the requirements of this section.

(b) GENERAL POWERS.—The federally chartered entity shall have the usual powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act to the extent that such powers are not inconsistent with this title. In addition, the federally chartered entity is authorized to—

(1) enter into such contracts, agreements, or other transactions as the entity considers appropriate, relying on competitive bidding to the maximum extent practicable;

(2) accept in the name of the entity, and employ or dispose of in furtherance of the purposes of this title, any money, or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise;

(3) appoint such officers and employees as the entity considers necessary, and fix their compensation without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code, except that no officer or employee of the federally chartered entity may be compensated in excess of the rate of pay in effect from time to time for level I of the Executive Schedule under section 5312 of title 5 of the United States Code;

(4) obtain the services of experts and consultants without regard to section 3109 of title 5 of the United States Code, except that no such expert or consultant may be compensated at a rate of pay which exceeds the daily equivalent of rates in effect from time to time for positions in grade GS-18 of the General Schedule under section 5332 of title 5 of the United States Code;

(5) accept voluntary and uncompensated services of attorneys, consultants, and experts, notwithstanding any other provision of law;

(6) appoint, without compensation, such advisory committees as the entity considers appropriate; and

(7) accept and use with their consent, with or without reimbursement, such personnel, services, equipment, and facilities of departments and agencies of the Federal Government, State governments, or local political subdivisions thereof, as are necessary to conduct the activities of the entity efficiently.

(c) FEDERAL DEPARTMENT AND AGENCY ASSISTANCE.—Upon request of the chief executive officer of the federally chartered entity, each Federal department and agency shall—

(1) make its services, personnel, and facilities available, to the maximum extent practicable, to assist the federally chartered entity in the performance of its functions; and

(2) furnish the entity, subject to the provisions of applicable law, such information, suggestions, estimates, and statistics as the chief executive officer of the entity may request.

(d) PROHIBITED ACTIVITIES.—The federally chartered entity may not—

(1) provide or arrange for transportation or accommodations for persons traveling between other countries and the United States, or between points within the United States, in competition with business engaged in providing or arranging for such transportation or accommodations;

(2) operate industry trade shows or related activities within the United States or provide personnel or financial assistance for such trade shows or activities;

(3) engage in any activity in competition with any State or local government or any private entity;

(4) lend money to employees; or

(5) own stock in another corporation.

(e) Stock.—The entity shall have no power to issue any shares of stock or to declare or pay any dividends.

(f) Income and Assets.—The income and assets of the federally chartered entity shall not be used for any purpose other than carrying out the purposes of the entity, and no part of such income or assets shall inure to the benefit of any director, officer, employee, or any other individual except as salary or reasonable compensation for services.

(g) Political Contributions.—The federally chartered entity may not contribute to or otherwise support any political party or candidate for elective public office.

(h) Report.—The federally chartered entity shall, no later than ninety days after the end of each fiscal year, submit an annual report for that fiscal year to the President and to the Congress. Each such report shall include a comprehensive and detailed report of the entity's operations, activities, financial condition, and accomplishments, and may include recommendations for such legislative and administrative action as the entity considers appropriate.

RECORDS AND AUDIT

Sec. 304. (a) In General.—Any entity created pursuant to a plan of the Board approved under section 302 shall be subject to the requirements of this section.

(b) Audits.—The accounts of the entity shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State. The audits shall be conducted at the place or places where accounts of the entity are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the entity and necessary to facilitate the audits shall be made available to the person conducting the audits, and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person.

(c) Reports.—The report of each such independent audit shall set forth the scope of the audit and shall include such statements as are necessary to present fairly the entity's assets and liabilities and surplus or deficit, with an analysis of the changes therein during the year, supplemented in reasonable detail by a statement of the sources and application of funds, together with the independent auditor's opinion of those statements.

(d) GAO Audit.—(1) The financial transactions of the entity for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the Comptroller General of the United States in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as the Comptroller General may prescribe. Any such audit shall be conducted at the place or places where accounts of the entity are normally kept. The representatives of the Comptroller General shall have access to all books, accounts, records, reports, files, and all other papers, things, or property belonging to or in use by the entity pertaining to its financial transactions and necessary to facilitate the audit, and shall be afforded full facilities for verifying transactions with the balances of securities held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of the entity shall remain in the possession and custody of the entity.

(2) A report of each audit shall be made by the Comptroller General to the Congress. The report to the Congress shall contain such comments and information as the Comptroller General considers necessary to inform the Congress of the financial operations and condition of the entity, together with such recommendations with respect thereto as he considers appropriate. The report shall also show specifically any program, expenditure, or other financial transaction or undertaking observed in the course of the audit which, in the opinion of the Comptroller General, has been carried on or made without authority of law. A copy of each report shall be furnished to the President and to the entity at the time it is submitted to the Congress.

AUTHORIZATION OF APPROPRIATIONS

Sec. 305. (a) Authorization.—There is authorized to be appropriated for the expenses of the Board under this title $450,000 for the fiscal year ending September 30, 1981.

(b) Limitation.—Nothing contained in this title shall be construed to commit the Federal Government to provide any sums for the payment of any obligation of the Board which exceeds amounts provided in advance in appropriation Acts.

TITLE IV—AMENDMENTS TO THE INTERNATIONAL TRAVEL ACT

REPORTING REQUIREMENTS

Sec. 401. The first sentence of section 4 of the International Travel Act of 1961 (22 U.S.C. 2124) is amended by inserting "on all matters concerning tourism and shall report to the Under Secretary for International Trade on those matters which involve both tourism and trade" immediately before the period.

AUTHORIZATION OF APPROPRIATIONS

Sec. 402. The first sentence of section 6 of the International Travel Act of 1961 (22 U.S.C. 2126) is amended—

(1) by striking out "and" immediately above "(8)"; and

(2) by inserting immediately before the period at the end thereof the following: "; and (9) $8,600,000 for the fiscal year ending September 30, 1981, of which not more than $100,000 shall be available to carry out section 5A of this Act".

FEDERAL ASSISTANCE FOR REGIONAL PROMOTION OF TOURISM

Sec. 403. The International Travel Act of 1961 (22 U.S.C. 2121 et seq.) is amended by inserting after section 5 the following new section:

"Sec. 5A. (a) The Secretary is authorized to provide financial assistance to a region of not less than two States or portions of two States to assist in the implementation of a regional tourism promotional and marketing program. Such assistance shall include, but need not be limited to (1) technical assistance for advancing the promotion of travel to such region by foreign visitors, (2) expert consultants, and (3) marketing and promotional assistance.

"(b) Any program carried out under this section shall serve as a demonstration project for future program development for regional tourism promotion.

"(c) An applicant for financial assistance under this section for a particular region must demonstrate to the Secretary that—

"(1) such region has in the past been an area that has attracted foreign visitors, but such visits have significantly decreased;

"(2) facilities are being developed or improved to reattract such foreign visitors;

"(3) a joint venture in such region will increase the travel to such region by foreign visitors;

"(4) such regional program will contribute to the economic well-being of the region;

"(5) such region is developing or has developed a regional transportation system that will enhance travel to the facilities and attractions within such region; and

"(6) a correlation exists between increased tourism to such region and the lowering of the unemployment rate in such region.".

TIME PERIOD FOR PERSONNEL REDUCTION

Sec. 404. Section 9 of the International Travel Act of 1961 (22 U.S.C. 2128) is amended by striking out "as of September 1, 1979, and thereafter," and inserting in lieu thereof "during the period beginning October 1, 1980, and ending September 30, 1981,".

Mr. FLORIO. Mr. Speaker, I yield 5 minutes to the gentleman from Nevada (Mr. Santini).

Mr. SANTINI. Mr. Speaker, I wish to share with the Members of the House my enthusiastic endorsement of this legislative proposal in my capacity as chairman of the Tourism and Travel Caucus, and in addition as an enthusiastic personal supporter of the tourism and travel industry. This legislation is an important and constructive advance in an area that has been long neglected in the legislative and executive bodies.

The elements of this legislative proposal include, first of all, in title I a policy endorsement of the importance of tourism and travel and the importance of coordination and cooperation with the Federal Government in working with this vital industry.

Title II creates a coordinating counsel that will attempt to expedite and facilitate decisionmaking among the 30-plus Government agencies that are presently making Federal decisions that impact on the tourism and travel industry in this country.

Title III sets up a commission to examine the nature of a quasi-private or governmental entity that will be working with the private sector to facilitate transmission of information and advance the tourism and travel concerns through this possible entity. I stress it does not create an entity but rather it creates a mechanism that this next year will look at what type of organization it should be, and that will return to this House and to the U.S. Senate with its recommendations. The Board that will conduct that study will be appointed by the President of the United States.

Title IV perpetuates in substance the existence of the USTS and dovetails it to the recommendation activities of the Commission under title III. I would ask for consideration by my House colleagues of some graphic information. First, consider chart No. 1. It clearly indicates travel-generated expenditures have rapidly grown from $50 billion in 1970 to $128 billion in 1978.

□ 1240

This is a growth rate of approximately 157 percent. The total Federal, State, and local revenues generated by these activities is depicted in chart 2. Tax receipts have grown from $4.4 billion in 1970 to $17.1 billion in 1978, a 289-percent increase.

Employment, a vital question and subject matter of jobs associated with travel and tourism activities has skyrocketed. Chart 3 indicates it has increased from 3.5 million employed in 1970 to 6.3 million employed in 1978. Now at a time when our economy is staggered by the impact of recession, stagflation and whatever other kind of economic label wants to be tagged onto it, the jobs factor is perhaps one of the most critical contributions that is being made. In fact, I would invite the attention of the membership to chart 4 and the fact that in at least 40 States in the United States of America, tourism and travel is either the leading industry, is second or third. Most Members of this body will find their State and in many instances their congressional district identified as part of the important foundation of tourism and travel in this Nation.

Mr. Speaker, I think it is a revealing point of information about tourism and the travel industry, especially during a time of preoccupation or concern about the depraved old big corporations, that tournism and travel is 98 percent small business.

Mr. Speaker, I would observe on chart 5, one can clearly see Federal expenditures for promotion of travel and tourism in the United States of America with the United States as a travel destination for foreign travelers has decreased from 1979, from 13.5 million to 8.5 million. This is a significant expenditure decrease. I think it is most revealing that the United States of America on the comparison charts with other free world nations is at the tail end of the free world nations in executive recognition of the important contribution of foreign travelers to our U.S. shores and importance No. 2 of some participation, some contribution by the Federal Government in recognizing the enormous importance of this industry.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. FLORIO. Mr. Speaker, I yield the gentleman from Nevada 1 additional minute.

Mr. SANTINI. Mr. Speaker, I think when we see, in chart 6, countries like Belgium, Ireland, and Spain with far less resources than the United States of America spend greater amounts than we do to promote their countries as attractive destinations for foreign travelers. Canada, culturally and geographically our closest neighbor, has been spending over twice as much as have we to stimulate foreign travel to Canada and the interesting thing is most of that foreign travel to Canada comes from the United States of America and by illustrative comparison Canada has 18 governmental entities in the United States of America to promote American dollar flow to Canada. We have 2½. One office is open part time. We have 2½ in Canada trying to get some Canadian travel and some Canadian economic stimulus in our country.

Mr. Speaker, I believe the time has come for the Federal Government to recognize the important role our tourism plays in our economy. I believe that the masterful efforts of the gentleman from New Jersey and the gentleman from Illinois in putting together a coordinated legislative effort that will accomplish that goal, are to be commended.

Mr. Speaker, I will repeat these vital facts and figures because their message is resounding.

H.R. 7321, the National Tourism Policy Act, is the travel and tourism legislation of the decade. It has been long needed, long studied and long awaited. It is a major step toward achieving proper recognition of the economic significance of travel and tourism by the Federal Government. It will finally commence the process of shaping the complicated, often confused and uncoordinated Federal policy into a coherent, meaningful, and effective plan of action. Further, this legislation commences the long, arduous process of determining how we can improve our country's program of promoting the United States as a destination for foreign travelers. This particular effort will greatly enhance our capability of attracting visitors to our shores who will spend money, stimulate the economy, and reduce our balance-of-trade deficit, all of which are very critically needed.

The true economic potential of the travel and tourism industry is unlimited. In fact, economists are projecting that by the year 2000, travel and tourism will be the largest industry in the world. By reviewing the most recent statistical facts one can readily appreciate: First, the significant contribution this segment of the industrial community has made to our economy; second, the tremendous potential it holds for the future if properly nurtured; and third, how little the Federal Government has done to insure this massive economic potential is realized. For example, as chart 1 clearly indicates, travel-generated expenditures have rapidly grown from $50 billion in 1970 to $128.5 billion in 1978. This is a growth rate of 157-percent increase. Total Federal, State, and local tax revenue generated by these activities is depicted in chart 2. Tax receipts have grown from $4.4 billion in 1970 to $17.1 billion in 1978. This is a 289-percent increase. Employment associated with travel and tourism activities has skyrocketed. Chart 3 indicates it has increased from 3.5 million employed in 1970 to 6.3 million employed in 1978. At a time when our economy is staggering, these 2.8 million new jobs as well as the future growth potential are of strategic importance.

Even though, as these figures indicate, travel and tourism has made a significant contribution to our economy, it has not been properly recognized by the various levels of government, especially the Federal Government. Simply because of its diffuse nature and lack of a strong centralized voice in Washington, D.C., it has been extremely difficult to achieve the proper recognition it well deserves. This does not discount the fact, however, that every city, county, and State in our country has significant travel and tourism activities, and in many cases, it is the centrix of their economic well-being.

In fact, in at least 40 of the 50 States (see chart 4) travel and tourism is either the first, second, or third largest industry. This fact speaks for itself. Another very revealing point of information about the travel and tourism industry, especially during these times of the large corporation, is that 98 percent of all the businesses composing this third largest industry in the United States are small businesses.

This has made it exceptionally difficult to achieve the recognition it has deserved because of the difficulty or organizing its many diverse, multidimensional groups of small businesses. However, since it is one of the last bastions of the small businessman, it is even more important to insure it remains strong and viable. With all of these facts in mind, one automatically asks the rhetorical question: "What has the Federal Government done to strengthen travel and tourism in America?"

The reply is a feeble, "Not anywhere near enough attention has been provided." For example, by reviewing chart 5, one can clearly see that Federal expenditures for the promotion of the United States as a travel destination for foreign travelers has been decreased since 1979 from $13.5 million to $8.5 million. This is a significant decrease of 37 percent.

The United States has some of the best attractions, the best travel facilities and the friendliest, most hospitable residents in the world, and yet we are making little or no effort to inform the rest of the world of just how attractive a foreign visitor destination the United States is. This points out a serious weakness in the Federal Government's efforts in the foreign promotion arena. This weakness can best be pointed out by reviewing chart 6. Even countries like Belgium, Ireland, and Spain with far less resources than the United States spend greater amounts than we do to promote their countries as attractive destinations for foreign travelers. Canada, culturally and geographically our closest neighbor, has been spending over twice as much as we have to attract foreign tourism. H.R. 7321 provides for a detailed examination to determine exactly how we should improve our promotion efforts, what it would cost to improve our efforts and how these costs should be financed.

The time has come for the Federal Government to properly recognize the important role travel and tourism plays in our economy. The time has come to attempt to gain a better understanding of the role tourism plays in the life of our Nation. The time has come to develop a realistic, but ambitious, vision of the future role that it might play in the future of our economic well-being. H.R. 7321 will allow us to proceed with these activities, and I encourage each of my colleagues to join with me in supporting this key piece of legislation.

Nevada travel and tourism fact sheet

(1976 data most recent available from U.S. travel data center)

Domestic travel expenditures	$1,330,400,000
Business receipts	$1,238,400,000
Travel generated employment	45,000
Percentage of total employment	16.2%
Travel generated payroll	$347,700,000
Travel generated taxes	$172,700,000

I thank the gentleman from New Jersey for yielding me time.

Mr. MADIGAN. Mr. Speaker, I yield 10 minutes to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Speaker, for many years I have found myself to be the opposition on this bill. It has been a losing cause because the people in the tourist industry have done an amazing job of stirring up support throughout the country.

However, this year; Mr. Speaker, I think it would do us well, with the tremendous spending overrun we have in the budget, with the tremendous overstaff we have in bureaucracy, with all of the mistakes we have made in Washington, to look back and ask ourselves, is this bill really necessary.

I want to go back and remind you of some of the history of this bill. When this bill came up last year—this goes back to a 1961 act and every year we have worked on it and every year we looked at it with misgivings, but last year we really did wonder about it because President Carter last year said, "Get rid of that agency, we don't need it."

The Assistant Secretary of Commerce downtown, this good lady said, "Get rid of this agency; we do not need it."

Mr. Speaker, I will tell you why they said that. When we checked to see what this particular agency was doing we see that they maintained six travel offices around the world. They had one in Canada, one in Mexico, one in Japan, one in West Germany, France, and the United Kingdom, and it was pretty hard in spite of all of these statistics on how much travel is coming, to show what this group had done. You could not put your finger on anything that they had accomplished.

Now, Mr. Speaker, after hearing from travel agencies from one end of Texas to the other, I know what this office has been doing. They have been contacting travel agencies in America to sell them on supporting this bill. They really do have broad base support. But these poor people out here in the travel business have not thought this thing through. They are going to rue the day that we developed a Federal agency to be a big brother to them. We have heard many people who in their innocence and in their ignorance, have invited the Federal Government to join them as a brother. I have never seen anyone who, as they look back on it, said, "That was a great day," but I have surely heard a lot of them who said, "Why did you give me the government as a partner?"

Mr. Speaker, let us look at what we are doing this year. This year, in starting in, we had a bill and in the very first part of the bill they hit what the secret is. They realized no one has been particularly excited about this international travel act they had, so instead of asking for a big increase, they simply asked to go from $8 million up to $8,600,000. However, they have the joker section in this first 10 or 15 pages. They begin by saying they are going to establish a national tourism policy. They are only asking for $250,000 and they are going to set it up with a bunch of Federal bureaucrats. In fact, it is all a bureaucrat plan. They go back and name how they choose them. They get them out of every Federal agency. The President names one, the Secretary of Commerce names one, Energy names one, State names one, Interior names one, Labor names one, Transportation names one. All these bureaucrats are going to get together down there in a big office and here is what they are going to do. They have listed all these findings and finally down here in No. 11 you get to the whole heart of it. They said, "It is in the best interest of the Nation and the tourism and recreation industries to proceed in an orderly fashion toward the development of a promotional program for advancing and enhancing tourism in the United States."

Mr. Speaker, what that means in plain language is, the Federal Government is going to coordinate and develop this program.

I am sure we all remember when we had poverty in this country. The President came in and said, "I am going to solve poverty. We are going to appoint a big poverty program for America."

We were all interested in ending poverty. So we developed this big poverty program for America. We had it 7 years and what happened? After 7 years we found out that 82 percent of the money went for salaries to the bureaucrats. Eighty-two percent went to the bureaucrats and in every city in America where we established a poverty program, we had more poverty. Every poverty agency grew in size because the bigger their staff, the higher classification and higher paid job.

Now, we have not gotten rid of it incidentally. We would remember we tried to get rid of the poverty program. All we did was just give names to the new agencies and every one of them was continued.

What you are going to find in this program to help tourism, you are going to find that you have developed the biggest group of bureaucrats that ever got assembled to travel and once more they are going to get free travel tickets to see the world.

Mr. Speaker, this program does not accomplish anything. We have a great tourism industry. We have a great tourism industry. As I heard the gentleman from Nevada speak, I was out there recently visiting in Nevada and I will tell you that is the best place to visit if you do not gamble. It is the biggest bargain in America because they give you good shows, they give you good food, they give you good hotels and if you do not gamble you have really got a bargain. But I want to tell the gentleman this, if they get any of this Federal money involved in trying to spend money advertising for people to go out to Las Vegas and they start advertising, "Go to Las Vegas" and "Go to Reno and enjoy yourself at those casinos," and Federal money is advertising it, you will have preachers from Midland, Tex., to Columbus, Ga., rising up every Sunday to preach about the evils of gambling. They will object to Federal tax money advertising a city that bases its tourism on gambling.

Mr. SANTINI. Mr. Speaker, will the gentleman yield?

Mr. COLLINS of Texas. I will be glad to yield to the gentleman from Nevada.

Mr. SANTINI. Mr. Speaker, although I appreciate the endorsement as a travel and tourism vista, I think the gentleman is something less than totally candid or accurate when he suggests that one dime of this authorization appropriation will have anything to do with stimulating direct tourism and travel to Nevada.

☐ 1250

I know that my good friend sometimes gets rhetorically carried away with the enthusiasm of his argument and does not mean to mislead us, but the fact remains, the fact remains that this money is addressed to studying how—how we can deal as a government with the tourism and travel industry, as a $116 billion, $117 billion industry. It has nothing to do with promoting travel to Nevada or Las Vegas as it is presently written.

If the gentleman wishes to quarrel with the bill when it comes back to this House, at that point he should address it. I am absolutely convinced that Reno and Las Vegas will survive irrespective, and they have proved that. But, I think that there are many areas in this country, including some in Texas, which will not survive unless we as a government recognize the importance and contribution of that industry.

Mr. COLLINS of Texas. I might also remind the gentleman what the Government has done. He mentioned energy. When Congress started on our oil regulatory procedure on energy, the United States was importing $3 billion worth of oil per year. Thanks to the Government programs, the United States will be importing $80 billion worth of oil this year. If we want to see adverse results for tourism and travel, we have not experienced these yet, but what I am saying is, do not let that snake loose. Do not let Federal travel get started.

This Travel Council is the group that is supposed to plan how America is going to do it. I want to tell the Members what a great industry tourism is for America. I read where 19.8 million travelers came to the United States in 1978. This year, they expect nearly 22 million tourists to visit the United States. I have figures which say that we spent

$90 billion 2 years ago. I read—and I was just astounded—figures that say we are now spending $128 billion. This is big business, and it is good business.

I read where we are now involved in private industry, and I would just like to give the gentleman some examples. The last figures I had are for 1978. American Express spent $62 million; Greyhound spent $46 million; Eastern Airlines spent $35 million. They are really doing a job.

I met a gentleman from Florida. I think there is no more delightful place to visit than Florida, unless it is Las Vegas, which is the best bargain. In Florida, 32 million tourists visited Florida in one year. Tourism is good business. Why do we want to ruin it? Why do we want to get the Federal Government involved? Did you see the bill the other day for the Government to run hostels all over the country? We do not need Government hostels. Now travel agencies will spend their time filling out reports. You know how it is when the Federal Government gets involved. It takes six copies.

I just mentioned the oil business, and I will tell the Members what the Government requires in reports. I asked an oil company official how many reports they filled out. They filled out 456 different reports. Right now, they have not put this report plague on this private travel business. When we get bureaucrats involved, after we have formed this committee, they are not going to let this little agency die. They have $8 million, and 60 fellows paid to make a living. They want to keep it expanding. Think what they can do on advising. What have we got, 50 different departments of the Federal Government now in the travel business. They never coordinate, they always proliferate.

Remember when we started food stamps with just a little tiny amount of money? I mean a small amount of money, $30 million, I think. What are we up to now? We are up to $9 billion, with 20 million people on food stamps. When we turn the tiger loose in this deal, he never started out as a tiger; he comes in as a kitten. We have brought a little kitten in here and when we let it loose we are going to have a tiger.

In my city, we really do like conventions. We want tourists to come to our city, and if you will just give our city a chance to do it, we will bring them in. But, if you bring the Federal Government in with all its bureaucracy, duplication, paperwork and other confusion, you are going to ruin one of the greatest industries in America.

Congress is again interfering with our Nation's free enterprise system. This time we are calling on the overburdened taxpayer to subsidize the U.S. tourism industry. Tourism, the third largest industry in 46 States, has grown with the promotion of free enterprise, and will continue to do so. It is hard to believe that Congress would take more of the taxpayers' money to provide a service which the travel industry is so capably fulfilling.

In 1978, 19.8 million foreign travelers came to the United States which resulted in receipts of $8.4 billion. It has been estimated that 21.6 million people will visit our country in 1980, and will add $12 billion in receipts to our economy. This $12 billion represents receipts from only foreign visitors.

In 1977, the latest figures available for domestic travel expenditures, Americans spent $90.2 billion on domestic travel. This figure represents $35.9 billion spent for transportation; $13.1 billion for lodging; $26 billion for food; $7.5 billion for entertainment; and $7.5 billion for other incidental purposes. Included in this $35.9 billion for domestic transportation is $10.8 billion for automobile and truck transportation; $21 billion for airlines; $428 million for buses; $242 million for trains; and $3.4 billion for mixed mode and other transportation means.

It is estimated that Americans spent $130 billion on domestic travel in 1979. Domestic and foreign travel expenditure projections for 1979 represent 5.9 percent of the gross national product. This is ample proof of a thriving industry. In 1978, American Express spent $62 million of their annual budget on advertising; Greyhound Corp. spent $45.7 million on advertising and Eastern Airlines spent $34.8 million on advertising.

In 1978, over 32 million tourists visited Florida alone. They spent almost $13 billion which amounted to $399.60 per person. This represented a 10.9-percent increase over the number of tourists visiting Florida in 1977 and a 74-percent increase from 1970.

This act also creates two new Government bureaucracies and a Federal tourism policy to conduct an advertising program for the travel industry. The Senate version of this bill, S. 1097, would establish a federally chartered publicly funded corporation to promote tourism. Even though H.R. 7321 does not immediately establish this quasi-public corporation, it instructs a travel-industry controlled board to submit to Congress a plan of action that is heavily biased in favor of creating the corporation that is set forth in S. 1097.

We do not need Federal intervention into this healthy private industry. The tourism industry is fully capable of managing their own business. Free enterprise and competition, the founding principles of our Nation, has made the tourism industry strong. The Federal Government cannot promote competition nor a healthy economy. With 18 percent inflation and a $69 billion Federal deficit, Congress cannot give away the taxpayers' money to every private industry that asks for it. The American people are already paying 43 cents out of every dollar they earn in taxes. We cannot ask them to subsidize private business.

Mr. FLORIO. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. COELHO).

Mr. COELHO. Mr. Speaker, first I want to compliment the gentleman from New Jersey, the gentleman from Nevada, the gentleman from Illinois, for the tremendous job they have done in bringing this bill forward and recognizing the tremendous concern that most of us in the Congress have for making sure that the tourist business is kept strong in this country.

Mr. Speaker, tourism is among the top 3 industries in 43 of the 50 States. This industry is very labor-intensive and is unique because it offers significant employment opportunities to women, the youth, and minorities. Federal, State, and local government should officially recognize tourism's contribution to our social and economic welfare. The Federal Government should be legislatively committed to assist efforts at implementing a national tourism policy.

Recent studies have shown over 100 Federal programs, administered by over 50 agencies, have a significant impact on the industry. The Federal agencies dealing with tourism policies and programs need to be responsive in their dealings with the tourism segments of the economy. However, the many tourism programs suffer from gross inefficiency and counterproductive efforts. Therefore, Mr. Speaker, I urge the establishment of a framework of cooperation among all levels of government and public and private organizations which deal with this industry. I strongly recommend passage of H.R. 7321.

Mr FLORIO. Mr Speaker, I yield 1 minute to the gentleman from Tennessee (Mr. BONER).

Mr. BONER of Tennessee. Mr. Speaker, I rise in support of H.R. 7321, the National Tourism Policy Act, because I believe the Federal Government has consistently denied travel and tourism a place in public policy planning commensurate with its importance to this Nation. Recent actions by the Federal Government reveal a pattern of insensitivity and lack of understanding for an industry that employs over 4 million American citizens, making it 1 of the 3 largest industries in 46 of the 50 States.

In Nashville, Tenn., the country music capital of the world, over 11 million people visited our city in 1978 for business or pleasure purposes. These 11 million people spent over $73 million which greatly enhanced the business community of Nashville as well as adding to the tax revenues of that city and the surrounding area. Twenty-five thousand people in the Nashville area are employed in tourism related jobs. Most of these jobs are considered "entry level" positions. In these times of rising unemployment, the tourism industry provides many jobs for women, youths and minorities in our Nation's workforce.

H.R. 7321 would coordinate much of the fragmented bureaucracy of the Federal Government which relates to travel and tourism. Currently, there are over 100 Federal programs and 50 Federal agencies involved in some way with tourism. No one entity coordinates these programs impacting this dynamic industry, which includes many small businesses. In fact 98 percent of all travel and tourism businesses are considered small businesses. I believe this legislation is vitally needed as a practical way to bring cohesion to the extensive but fragmented, uncoordinated, and often inefficient Federal involvement in tourism.

Over the past 3½ decades tourism has become one of the fastest growing industries in the United States. Tourism now accounts for more than $115 billion annually in consumer expenditures. Yet, there continues to exist a need for a comprehensive national policy to promote tourism in the United States. I believe that it would be fully in the national interest for the Federal Government to do whatever it can to promote tourism in this country. A well coordinated tourism campaign would greatly improve our balance-of-payments deficit and create many new jobs for Americans who are currently out of work. It has never been any more economically beneficial for Europeans to travel to the United States as it is today.

The inflationary impact statement in the Commerce Committee report on this bill indicates that this legislation will not increase the impact of inflation on our Nation's economy. Rather, I believe this bill will be a great step in our efforts in fighting the rising rate of inflation by creating more jobs for the Nation's unemployed citizens. Increased expenditures by foreign and domestic tourists will also reduce the inflation which is hurting our economy today.

I am more concerned what will happen to the travel and tourism industry should this bill fail. Failure to pass this bill will result in the success of the Federal Government in sweeping the travel and tourism industry under the rug as it has done many times in the past. We cannot allow the Government to further turn its back on this important and vital American industry.

To remedy this denial by the Federal Government, our colleagues in the Senate have passed S. 1097 which is similar to the legislation that we have before us today. I firmly believe that H.R. 7321 would make the Government involvement in travel and tourism more effective and responsive to the needs of this important American industry. As a member of the steering committee of the Congressional Travel and Tourism Caucus, I encourage my colleageus to vote for this bill that incorporates a national statement of policy toward travel and tourism.

The question for us today is not what impact the passage of this bill will have on our Government, but rather what negative impact the failure to pass this legislation will have on our economy.

Mr. FLORIO. Mr. Speaker, I yield 1 minute to the gentlewoman from Maryland (Ms. MIKULSKI).

Ms. MIKULSKI. Mr. Speaker, I rise in support of the National Tourism Policy Act for several reasons. First, tourism is the fastest growing industry in the world, and it only makes sense that the United States of America be able to engage in tourism with a policy that is both comprehensive and effective. By endorsing this legislation, we lay the groundwork for generating more jobs in a new industrial area.

Bringing inbound tourists to the United States can only help with the balance of payments. But most of all our greatest tourist attraction is not only our big cities and our mountains of purple majesty, but it is our freedom. I feel that the more people who come to America and see what we are, what kind of people and country we are, it will only serve to help this country.

So, this legislation generates jobs, deals with the balance of payments, and makes friends for us around the world, and I cannot see how it can fail.

Mr. FLORIO. Mr. Speaker, I yield 1 minute to the gentleman from Hawaii (Mr. AKAKA).

Mr. AKAKA. Mr. Speaker, I rise in strong support of H.R. 7321, the National Tourism Policy Act. The importance of the tourism industry to our Nation and to Hawaii cannot be understated. Tourism is one of the largest industries in our Nation, yet the United States spends the least of any major nonsocialist country to promote foreign tourism—approximately 4 cents per capita. As a result of this limited spending, in 6 recent years the United States has run a balance-of-payments tourism deficit of $3 billion. This cannot and should not continue.

In my State of Hawaii, tourism is the largest industry, employing over 90,000 people and contributing over 30 percent of State and county tax revenues. The growth in the tourism industry since Hawaii's statehood has been tremendous. Since 1960, the annual rate of increase has averaged over 16 percent.

The Federal Government has been remiss in responding to the needs and concerns of the vital tourism industry. H.R. 7321 will insure that there is a coordinated Federal effort in dealing with tourism activities by developing a national tourism policy council. This council will be responsible for eliminating the policy conflicts and duplicative effort in the over 100 Federal programs and 50 Federal agencies which currently affect the tourism industry.

Mr. Speaker, H.R. 7321 is vital to the overall welfare and continued development of the tourism industry. I urge its immediate and overwhelming approval.

Mr. WEISS. Mr. Speaker, will the gentleman yield?

Mr. AKAKA. I yield to the gentleman from New York.

Mr. WEISS. Mr. Speaker, I appreciate the gentleman yielding to me, and I also want to associate myself with his remarks and commend this committee and its leadership for this really forward-looking legislation.

Mr. AKAKA. Mr. Speaker, I urge immediate passage of the bill.

□ 1300

Mr. FLORIO. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Speaker, I thank the distinguished subcommittee chairman, and I commend him for bringing this legislation out. I rise in strong support of the legislation.

I am delighted that the gentleman's amendments cleared up some of the reservations which had been expressed to me and which I might have had. As I understand it, the gentleman's amendments with respect to title III would eliminate any question that this legislation would mandate by action on a concurrent resolution the implementation of any plan which would be promulgated by the Board; am I correct?

Mr. FLORIO. Mr. Speaker, if the gentleman will yield, let me state that the gentleman is absolutely correct.

Mr. FASCELL. So if the Board would promulgate a plan, it would take additional legislation in order to implement it?

Mr. FLORIO. The gentleman is correct.

Mr. FASCELL. Mr. Speaker, I thank the gentleman very much. With those amendments, I do not see why any Member would vote against this bill.

Mr. MADIGAN. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, I take this time for the purpose of respectfully responding to my colleague, the gentleman from Texas (Mr. COLLINS), who is also my colleague on the Committee on Interstate and Foreign Commerce. I simply wish to point out that while the gentleman may think that the tourism industry is better off without this bill, the tourism industry certainly does not join him in thinking that. They are in fact unanimously advocates of the proposal that the House has before it this afternoon.

Everyone in the tourism industry, from the people in the various service unions all the way to the major hotel chains and the major airline companies are supporting the bill we have before us this afternoon. So apparently they do not think it will wreak havoc upon the industry, as the gentleman from Texas has suggested.

I would just point out to the House, if I may, that while we had these six offices around the country at the time that the value of the pound went up in Great Britain and the value of the dollar went down in the United States, which was an ideal time for the U.S. Travel Service to begin to encourage travel to the United States on the part of the English people, our State Department was going to respond to that change in currency values by closing the office that we have in the United Kingdom, in London. I think that is just exactly the opposite of the sort of thing that we should have been doing.

This bill is a transitional kind of thing. It keeps these offices in business, it keeps this agency in business, and it charges them with some new responsibilities. Next year I hope we will come back here with a much better organization than we are presenting to the House today.

But I do want to make the point that the industry about which the gentleman from Texas (Mr. COLLINS) has expressed concern is unanimous in its support of the bill that we have before us this afternoon.

Mr. COLLINS of Texas. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. I am happy to yield to the gentleman from Texas.

Mr. COLLINS. I thank the gentleman for yielding.

The gentleman named many industry

spokesmen. I note the opposition of the congressional "watchdog" which is a group that represents the American people. These representatives are concerned with the competitive economy and interested in lowering taxes and less regulation for the rest of the country. They are also interested in ending this 18-percent inflation. These are the groups that represent American people, and they came out very strongly against this new bureaucracy.

Mr. MADIGAN. Mr. Speaker, I appreciate the gentleman's kind remarks.

Mr. Speaker, we regard this as being an investment. We believe that the money that is spent this way yields the Federal Government additional revenues above and beyond what is spent by the travel service.

There are charts that will demonstrate that that is already going on. The Department of Commerce has testified that that is already going on.

Every State that promotes travel acknowledges that by virtue of the expenditures they make, they gain additional tax revenues. That can and does happen in the United States as well, and we think this will make it even better.

Mr. PEYSER. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. I am happy to yield to the gentleman from New York.

Mr. PEYSER. Mr. Speaker, I thank the gentleman for yielding.

First of all, I want to compliment the Members who have been so actively involved in really leading the tourism caucus and also in getting this type of legislation before the House.

As far as New York is concerned, as I am sure the Members know, tourism is the No. 1 industry in the State of New York. Some people may think of New York in different terms, but a lot of people "love New York," and they go there. What happens in this whole legislative process and in the programs dealing with tourism is of vital importance to us, and I am very supportive of the efforts that are underway at this time.

Mr. Speaker, I am most appreciative of the work that has been done on this matter.

Mr. FLORIO. Mr. Speaker, I yield 1 minute to the gentleman from Montana (Mr. Williams).

Mr. WILLIAMS of Montana. Mr. Speaker, I want to thank the gentleman from West Virginia (Mr. Staggers) for the fine work he and his committee did on the National Tourism Policy Act, and for the hard work of the gentleman from New Jersey (Mr. Florio). I appreciate their dedication to this important issue and their recognition of the importance of tourism to the economy of the entire country.

Mr. Speaker, if I may borrow the words of the gentleman from West Virginia, I believe we have a chance to do something here that is truly "good for America." The National Tourism Policy Act is significant because it establishes a concrete tourism policy and provides for the establishment of the vital mechanisms necessary to implement that policy. This bill is important to my home State of Montana, where tourism is the second largest employer, and to the country, where tourism is among the three largest industries in all but a few States.

In my home State of Montana, as elsewhere, the tourism industry is in a period of volatility and transition. Let me provide an example: Glacier National Park and Yellowstone National Park are located either within or partially within the First Congressional District, which I represent. Last year tourist travel to those two national parks was down between 20 and 30 percent over previous years. However, the length of stay for each tourist did not decrease. In coming years, we are likely to see the length of stay increasing as people try to conserve energy and money by staying longer in one area.

One of the provisions with which I am most pleased provides for the coordination of the many Federal programs that affect tourism. For years the tourism industry has had to work with more than 100 Federal programs within 50 Federal agencies, most of which do not coordinate their work with one another. This wasteful and sometimes counterproductive practice must stop, and I believe it will if we pass this bill.

I would strongly urge my colleagues to support our House version of the National Tourism Policy Act, especially where it addresses establishment of a Board to implement the policy. Such a Board is necessary, but it is unclear as yet how the Board should be constituted and what its authority and funding should be. This bill takes the prudent and responsible step of suggesting several possibilities and empowering a planning board to study those options and make a recommendation.

A version under consideration by the Senate would immediately establish a Board to implement the tourism policy, but it would do so without answering any of the serious questions about the Board's composition, financing, or power. Also, the vital questions about how the Board's international activities would relate to our foreign policy would be left untouched.

I believe the House version is the more responsible of the two, and I urge my colleagues—those who like me are members of the U.S. Congressional Travel and Tourism Caucus and those who are not—to support this bill.

Thank you.

Mr. FLORIO. Mr. Speaker, I will conclude the debate by yielding 2 minutes to the majority leader, the gentleman from Texas (Mr. Wright).

Mr. WRIGHT. Mr. Speaker, there is an old saying in Mexico: "Caminos traen riquezas, y caminos traen amigos." That means "Roads bring riches and roads bring friends."

There is not really any reason to think of tourism, as Americans so long thought of it, as a question primarily of outflow, because it is a question of income, as well. It ought to be a net gain to the United States rather than a net loss.

We do gain more for the small pittance we invest as a country to promote tourism than any other country on Earth. In the State of Texas alone tourism generates more than $6 billion in sales, and it employs more than 250,000 individuals. Many of these are individuals of semi-skilled or low-skilled attainments who very desperately need and can very greatly appreciate the work that tourism generates.

What is true in Texas is true throughout the Nation, of course. As has already been said, tourism represents the first, second, or third largest industry in 43 of our 50 States. Throughout the United States today it provides revenues exceeding some $128 billion, employing more than 6 million Americans.

Mr. SKELTON. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. Of course, I yield to my friend, the gentleman from Missouri.

Mr. SKELTON. Mr. Speaker, I wish to compliment the distinguished majority leader on his strong stand in favor of tourism.

As the gentleman knows, there are two ways by which we can directly affect the American dollar overseas. The one is by encouraging exports, and this is the second way, by encouraging tourism.

Mr. Speaker, whether people want to see the rolling hills of the Ozarks, that part of the country represented by the gentleman from Texas, New York, or Hawaii, this is an important bill for us, and it is an important source of income.

Mr. WRIGHT. Mr. Speaker, I thank the gentleman from Missouri (Mr. Skelton).

Let me simply say in conclusion that this is a modest but important step. It surely should mean more friends for the United States as well as an improvement in our balance-of-payments position.

● Mr. VANDER JAGT. Mr. Speaker, I rise in support of H.R. 7321, the National Tourism Policy Act. This legislation is an important step in establishing the framework for a cooperative effort between industry, public, private, and governmental organizations at all levels to develop and implement a comprehensive national tourism policy.

The area of western Michigan that I am privileged to represent has a very large tourism industry which represents a substantial segment of our area's economy. Many of us from Michigan have long recognized the important role travel and tourism play in our economy—an industry second only to the automotive industry in terms of employment and income—with over $4 billion generated annually in retail sales.

I fully realize that we must take steps to insure that this important segment of our economy is not only sustained, but stimulated. In Michigan, a healthy travel and tourism industry is particularly important to offset cyclical downturns in other segments of the economy. As successful as the travel and tourism industry has been in Michigan, I feel that it could be expanded with proper promotion to potential overseas visitors and with improved consideration to the needs of the industry by Government agencies.

H.R. 7321 is not a major step in terms of the magnitude of Federal dollars involved, but it is a significant start to formally recognize its importance and commence the process of coordinating over 100 Federal programs and 50 agency efforts which have an impact on travel and tourism in the United States.

Mr. Speaker, after 6 years of study as to how we should direct our efforts in this area, I am pleased that we have reached the final stretch and are about to do something constructive for the travel, tourism, and recreation industry.

Finally, in stating my support for this legislation, I want to commend my colleagues on the Congressional Travel and Tourism Caucus who have worked diligently to develop this declaration of national tourism policy. As one of the original members of the caucus, I particularly want to express my gratitude to Mr. SANTINI and Mr. BADHAM who, as chairman and vice chairman, respectively, have followed through on the top legislative priority of the caucus.

I urge my colleagues to support H.R. 7321.●

● Mr. NELSON. Mr. Speaker, the time seems right for a real recognition of the travel and tourism industry and of the impact of this vital industry on the social and economic fiber of the United States. Few people realize that this industry ranks as 1 of the top 3 in 43 of our States. Travel and tourism generate about $128 billion in revenue and about $16 billion in tax revenue to the various sectors of Government. The travel and tourism industry is a labor-intensive industry. Consequently, in this time of rising unemployment and declining productivity, it is important to construct a policy that would not negatively impact on those 6 million persons employed in this industry in the United States.

My own State of Florida is recognized as a major tourism State. Our travel businesses earned nearly $16 billion in 1979. In the same year, more than 533,000 people were employed in tourism-related industries to serve the 35 million visitors to Florida. In fact, Orlando, in my congressional district, is the No. 1 tourist destination in the United States.

As a member of the steering committee of the Congressional Travel and Tourism Caucus, I have been involved with the development of a national tourism policy. In March, we outlined the framework for a national policy and called for its implementation in this session of Congress.

On May 15, the House Interstate and Foreign Commerce Committee passed H.R. 7321, a bill which had the promotion of the United States as a travel destination for foreign visitors as its objective. A similar version of this has already passed the Senate. It is time for the House to pass this and to get on with the implementation.

There are four parts of this legislation. The first recognizes the importance of the travel and tourism industry to the economic welfare of the country and commits the Federal Government to assist and to encourage the industry's growth and development.

The second creates a Cabinet-level National Tourism Policy Council to coordinate the efforts of more than 100 Federal programs and 50 Federal agencies that impact on tourism-related activities.

The third title establishes the U.S. Tourism Planning and Implementation Board to develop a comprehensive, detailed marketing and implementation plan to stimulate and promote tourism to the United States by foreign visitors.

The fourth part of this bill extends the U.S. Travel Service through fiscal year 1981 and authorizes a regional tourism promotion and marketing program as a demonstration project for development of such programs in the future.

A national tourism policy is extremely important to the travel and tourism sector of our economy as well as to the economy as a whole. If the true economic potential of this sector is to be realized—and more importantly, if that economic potential is to be encouraged to assist our national economic structure—we must adopt a clear national policy. I wish to urge my colleagues to support this important legislation.●

● Mr. ROTH. Mr. Speaker, as a member of the House Tourism Caucus, I wish to add my strong support for the Tourism Policy Act which is before us today. I wish to commend my colleagues on the Interstate and Foreign Commerce Committee for their bipartisan support and especially to Congressman SANTINI and the other members of the House Tourism Caucus who are responsible for pushing this long overdue legislation to consideration by the full House.

The Tourism Policy Act is a result of many years of deliberation and study by the Congress. It is based on information and data received from numerous hearings and comprehensive studies. It is about time, Mr. Speaker, that the tourism industry be recognized for the significant role it plays in this Nation's economy. For example, most people do not realize that travel and tourism is this Nation's third largest industry, generating about 7 percent of this country's gross national product, and is directly responsible for providing approximately 6 million jobs.

It is also the third largest industry in my State of Wisconsin and our economy is largely dependent on it. Tourism generates almost $5 billion each year in sales through over 32,000 individual businesses in Wisconsin.

Over the past three and one-half decades the tourism industry has taken on many new dimensions. Largely as a result of the continuing growth of the U.S. economy; increased individual purchasing power, improved and more accessible transportation alternatives, and most importantly, an increase in available leisure time, it has become one of the fastest growing industries in the United States. It is long overdue that the documented importance of tourism to a healthy economy be recognized. Furthermore, the potential for additional jobs for the low- and under-skilled persons presently on unemployment rolls and for enlarging on the contribution of the tourism industry to the international balance of payments makes a joint and cooperative effort between the Federal Government and the private sector in the national interest.

This legislation will more clearly define the definitive partnership between the Federal Government and the private sector and result in an orderly, and effective tourism policy. Exensive Federal Government involvement can be found in all areas of tourism and tourism-related activities. That involvement, however, has been disjointed and continues to lack cohesiveness in the formulation of tourism policies by the various Federal departments or agencies. A clearly enunciated Federal tourism policy, defining goals of Government in advancing and promoting tourism is noticeably absent. For example, in 1970, 89 programs in 10 executive departments and 46 programs in 36 independent agencies were involved in tourism related activities. In 1973, another inventory described 115 programs in over 50 agencies that directly concerned tourism. Although the number varies, the fact remains that little or no communication or coordinating efforts took place among the various departments or agencies. As a result, programs aimed at enhancing tourism to the United States ranged from ineffective to moderately effective in terms of meeting appropriate national interests in tourism, and the needs of both the public and private sectors of the industry. Furthermore, little effort has been advanced on the part of the Federal Government to maximize the contributions that can be realized from a fully endorsed and supported tourism program based on adequate and sound market research.

This legislation articulates a national policy to promote tourism to the United States. It establishes an interagency council to monitor and coordinate Federal Government policy and programs that impact on tourism. The bill also establishes the U.S. Tourism Planning and Implementation Board to carry out the national tourism policy and a marketing program to further promote travel to this country to foreign visitors. The United States needs to set a new and vigorous course to encourage foreign tourists to visit this country and this bill does that for a very small amount of money. Of the total sums authorized in this bill, approximately $8 million is for the reauthorization for the U.S. Travel Service, a branch of the Department of Commerce which operates overseas offices to provide information to foreign travelers. The Department of Commerce has said that for every budget dollar invested in encouraging travel to the United States, we receive $18.6 million in foreign exchange earnings. This is certainly one of the best bargains available at the present time.

Again, Mr. Speaker, I am pleased that this legislation is before the House of Representatives today and encourage my colleagues to support it.●

● Mr. STAGGERS. Mr. Speaker, I am glad to support H.R. 7321, the National Tourism Policy Act. For many years our committee has given strong bipartisan support to the promotion of travel by foreign residents in the United States. This international travel strengthens cultural understanding between different nations. Equally important, inbound tourists bring needed foreign exchange earnings to the United States. These help reduce our balance-of-payment deficit in the travel account. Moreover, a strong U.S. tourism industry provides essential jobs, over 6 million jobs, for the unskilled, the minorities, women, and youth.

However, our committee has also been disappointed with the lack of support given the tourism program by both Democratic and Republican administrations, since the program was enacted in 1961. Funding has been low; the U.S. Travel Service in the Department of Commerce has not always used these funds wisely. The program has been poorly administered.

The bill before us, H.R. 7321, addresses these problems. First, a new statement of our national tourism policy is set forth. Second, a Cabinet-level coordinating council, including the Departments of Energy, Labor, Commerce, and Transportation, is directed to monitor tourism programs scattered in almost 50 agencies. The council's goals are to coordinate these policies and to prevent conflicts whenever possible. Third, a U.S. Travel and Tourism Planning and Implementing Board is established. This Board will report to Congress, no later than October 1981, on the most efficient means to bring foreign visitors to this great country of ours. The Board will also recommend an entity to carry out a new tourism program. The entity may be a private corporation, a federally chartered corporation, or another type of entity. Meanwhile, the U.S. Travel Service is authorized to continue its activities, emphasizing the activities of the overseas offices which work with the travel trade groups in other countries to encourage foreign residents to visit the United States. The Washington, D.C., staff will continue at the reduced level established last year.

I commend the subcommittee chairman, JAMES J. FLORIO, and all the subcommittee members for their fine work on this bill.

Our committee has also had jurisdiction of our Nation's energy policies. As an example of the existing lack of policy coordination between departments, I am going to detail the inability of any administration since 1973 to reconcile our energy needs with the essential needs of the tourism industry. The tourism industry uses very little energy, employs over 6 million people, and provides an $18.60 return in foreign exchange earnings for every Federal dollar spent.

Lack of a national tourism policy is largely responsible for the Federal Government's myopic attitude toward an industry which contributes over $130 billion to the economy and employs over 6 million people. The Government has not only ignored the industry, it has taken several ill-advised actions which have threatened to cripple it, and have, in fact, caused severe economic dislocation. The most serious case in point is energy. Briefly I would like to recount how the Federal Government has reacted toward the travel industry in the 1973 energy crisis and the present one.

Gasoline shortages in various sections of the Nation during the summer of 1973 and the Arab oil embargo later that year prompted discussion of the possible necessity of rationing gasoline. While the administration did not implement rationing, it did call for voluntary conservation measures; that is, turning down thermostats during the winter season and Sunday closing of gasoline stations.

A gasoline rationing plan was initially developed in late 1973, and early 1974, by the Federal Energy Administration (FEA). As part of that plan, a substantial segment of the travel industry was initially categorized as "nonessential" for allocation purposes.

At congressional hearings, Discover America travel organizations testified that during the 4-month period from November 15, 1973, to March 15, 1974, because the energy crisis caused a reduction in the number of automobile tourists, an estimated $716.8 million in tourism expenditures was not realized; 179,000 jobs were placed in jeopardy; and 90,000 people were dropped from industry payrolls. Furthermore, those figures did not include losses of employment in air transport and other intercity passenger service segments of the industry.

The Air Line Pilots Association testified that between the time the fuel crisis was announced and the hearings, 2,000 pilots had been furloughed.

The Recreation Vehicle Council estimated the payroll cutbacks throughout its industry attributable to the energy crisis at $415 million.

Expert testimony also estimated that had Sunday closings remained in effect, had the actual gasoline shortages due to reduced allocation of fuel for automobile use continued, and if the fear and uncertainty concerning the availability of fuel and services along the highways continued, loss of tourism expenditures in excess of $2.8 billion would have occurred, and the employment of 716,000 people would have been affected.

Mr. Speaker, the following shows specifically what effect Sunday closings of gasoline stations had on one of our Nation's largest motel chains—Quality Inns—during the 1973-74 crisis.

QUALITY INNS-COLONY, WILLIAMSBURG, VA. (59 ROOMS)

Not open in January. Open one less day in February 1973 than in February 1974.

February 1973—gross room revenues—$5,744.

February 1974—gross room revenues—$1,990.

The gas situation has had a devastating effect on weekend business at this property. During the weekend of February 8-9, 1973, they rented 24 rooms. This same weekend in 1974, they rented nine rooms. During the Washington Birthday 3-day weekend 1973 (February 15-17) they rented 114 rooms. During this same weekend in 1974 they rented 23 rooms. During the weekend February 22-23, 1973, they rented 45 rooms. During this same weekend in 1974, they rented nine rooms. During the weekend of March 1-2, 1973, they rented 45 rooms. During the weekend of March 4-5, 1974, they rented seven rooms. As of March 3, 1973, they had already booked 33 rooms for Good Friday (Easter weekend). As of March 4, 1974, they have booked three rooms for Good Friday (Easter weekend).

QUALITY INN, CAVE CITY, KY. (101 ROOMS)

This motel historically is 85 percent transient business and 15 percent commercial.

January 1974—gross room revenues—26 percent less than January 1973.

February 1974—gross room revenues—41 percent less than February 1973.

Occupancy is off similarly. The Saturday-Sunday weekend business during the December 1973 to February 1974 time period had an occupancy of 11 percent, whereas the December 1972 to February 1973 time period had an occupancy of 45 percent. The dropoff in business here can be pinpointed directly to the gas shortage. The December 1973 to December 1972 time period was off by 24 percent.

RESTAURANT

December 1974 to December 1973—gross room revenues—off 18 percent.

January 1974 to January 1973—gross revenues—off 20 percent.

February 1974 to February 1973—gross room revenues—off 20 percent.

WORK FORCE

Previously employed six or seven maids—now employ three; previously employed laundry workers on a 6-day week, now they work a 3-day week; previously employed two front desk clerks in the morning and two in the evening. Now employ only one in the morning and one in the evening.

MAINTENANCE

Previously employed one full-time maintenance worker plus a helper. Now employ one part-time maintenance worker.

WAITRESSES

Previously based on three shifts, employed 18. Now employ 13.

KITCHEN ASSISTANTS

Previously employed three kitchen assistants. Now employ one.

MANAGERIAL TRAINEE

Previously employed a managerial trainee. This position has been eliminated.

QUALITY INN, HALL ORRS, ROCKY MOUNT, N.C. (52 ROOMS)

January 1973—gross room revenues—$20,776.

January 1974—gross room revenues—$14,372.

February 1973—gross room revenues—$20,274.

February 1974—gross room revenues—$10,962.

1973 calendar year room revenues—$240,000.

Projecting on the basis of the first two months of this year, the 1974 gross is $140,000. The voluntary Sunday closing of gas stations has effectively harmed their Friday, Saturday, and Sunday business. Before the closings, this motel's theory was that weekends would be off but that weekdays would be up, thereby having a normal effect.

On Friday, Saturday, and Sunday, this motel is averaging 10 rooms per night. Saturday was previously a 100-percent occupancy day. This was because Rocky Mount, North Carolina, is a natural midpoint. This is where I-95 terminates for people traveling from the metropolitan Washington, D.C., area to Florida. People would leave on Friday and would stop in Rocky Mount for their first night en route to Florida. Similarly, with people who were winding up their vacations in Florida and driving North, the same reasoning would apply.

WORK FORCE

Previously employed 13 hourly people on the motel payroll. They have had to terminate five; three maids, one housekeeper, and one laundry operator. Of the four maids remaining, whereas they used to be on a 40-hour week, they are now on a 35-hour week.

RESTAURANT

In the restaurant in this particular motel, their business is off 40 percent for January-February 1974, or $25,000. The restaurant was normally open, and had been for the last 20 years, 7 days a week for 6 a.m. to 9 p.m. Now the restaurant is closed each day from 2 p.m. to 5:30 p.m. They used to employ 17 full- and part-time people in the restaurant. They now employ seven.

KITCHEN STAFF

Previously employed eight employees. Now it totals three.

WAITRESSES

Previously employed 8 to 10, some part-time. They now have three full time.

Because of this situation, they have already applied for and have received a 6-month moratorium on mortgage payments from their local bank. All of their corporate assets—owned by a family corporation—which are readily converted to cash have been exhausted.

QUALITY INN, FLORENCE, S.C.

Approximately 90 percent of their business is transient tourist. This is an I-95 property.

January 1973—gross room revenues—$31,715.

January 1974—gross room revenues—$17,323.

February 1973—gross room revenues—$36,803.

February 1974—gross room revenues—$16,674.

January 1973—occupancy—64.6 percent.

January 1974—occupancy—39.2 percent.

February 1973—occupancy—85.8 percent.

February 1974—occupancy—42.7 percent.

December 1972—Saturday occupancy—75 percent.

December 1972—Sunday occupancy—46 percent.

December 1972—Monday occupancy—43 percent.

December 1973—Saturday occupancy—18 percent.

December 1973—Sunday occupancy—12 percent.

December 1973—Monday occupancy—22 percent.

January 1973—Saturday occupancy—79 percent.

January 1973—Sunday occupancy—54 percent.

January 1973—Monday occupancy—71 percent.

January 1974—Saturday occupancy—17 percent.

January 1974—Sunday occupancy—11 percent.

January 1974—Monday occupancy—44 percent.

February 1973—Saturady occupancy—98 percent.

February 1973—Sunday occupancy—76 percent.

February 1973—Monday occupancy—72 percent.

February 1974—Saturday occupancy—13 percent.

February 1974—Sunday occupancy—9 percent.

February 1974—Monday occupancy—37 percent.

One would think the Federal Government would have learned from the disastrous consequences during the 1973-74 crisis. Obviously it did not, as subsequent events demonstrated.

In December of 1975, Congress enacted the Energy Policy and Conservation Act. That act established broad authority for the President to submit contingency plans to Congress for energy conservation and gasoline rationing. It also prohibited the submission of any plan which imposed "an unreasonably disproportionate share of such burden on any specific class of industry, business, or commercial enterprise, or on any individual segment thereof." (42 U.S.C. 6391(b).)

In 1976 the FEA held hearings on a standby rationing plan. Among other things, those hearings addressed themselves to restrictions on weekend sales of gasoline as a conservation measure. Witnesses from various segments of the travel industry strongly opposed this measure.

On July 5, 1977, the President ordered his then special energy advisor James Schlesinger to prepare a comprehensive standby rationing plan.

A few months thereafter the Department of Energy (DOE) was created, and on January 17, 1978, the Journal of Commerce reported that the Department had drafted an emergency standby plan that was being circulated.

On June 28, 1978, a proposed rulemaking and notice of public hearings on the contingency standby gasoline rationing plan appeared in the Federal Register. Included in this plan was a conservation measure to restrict weekend sales of gasoline. The Economic Regulatory Administration within DOE held 3 days of public hearings on the proposed rationing plan in Washington on August 22, 23, and 24. Other hearings were also held throughout the United States. According to a spokesman for DOE no testimony was taken at these hearings on the issue of weekend closings because the 1976 hearing record was sufficient.

According to information furnished Congress by DOE, an interagency review of DOE's proposed rationing plan and conservation measures was conducted by the Office of Management and Budget (OMB) during the period of February 5-16, 1979. Toward the end of that period, OMB conducted a series of "decision meetings" with the affected agencies, and then submitted "decision memos" to the President.

On February 23, 1979, Research Planning Associates, Inc., of Cambridge, Mass., submitted a report DOE had requested on "possible means of regulating the retailing of motor gasoline to limit the length of queues during a shortage." That report concluded that "Reduced hours of station operation—including weekend closings—are counterproductive."

On March 1, however, the final rule for a standby gasoline rationing plan was submitted to Congress, and it included a restriction on weekend sales.

On April 12, 1979, at congressional hearings, 18 witnesses representing diverse segments of the travel and tourism industry testified on how contingency plan numbered one would impact the industry. All witnesses unequivocably opposed the plan. Testimony in support of the opposition showed that the plan would cost industry $17.34 billion in lost sales, 463,000 jobs in restaurant employment alone, and likely cause a decrease in the GNP of approximately $18 billion. That testimony showed that the DOE estimate of the economic dislocation plan numbered one would cause, was grossly underestimated, and in some cases in error.

In recommending plan numbered one, many members of Congress wondered how DOE could ignore the disastrous consequences to the travel industry of weekend closings in 1973-74; the prohibitions against discriminatory treatment in the Energy Policy and Conservation Act of 1975; the testimony at the DOE hearings in 1976; and finally the report of Research Planning Associates, Inc.

One also wonders about the precise role of OMB. To what extent did it influence the final plan, for example? Did OMB seek outside views before adopting its position? Further, what is the basis of OMB's expertise?

Concern should not be limited to the recommendation for weekend closings. It is far more fundamental, and goes to the decisional process which made such a recommendation possible.

I believe the following explanation may suggest the answer.

In the proces of preparing its final report on the National Tourism Policy Study, the Arthur D. Little study team met and interviewed Federal officials in the then FEA during the summer of 1977.

ADL rated the Energy Administration's programmatic impact on the tourism industry as "high"; the officials in the agency, however, assessed their agency's impact as "low." Both ADL and the agency officials agreed that travel and tourism was assigned a very "low" priority within the Energy Administration. The officials interviewed felt that the agency's program mandate neither included nor supported travel and tourism goals and needs.

ADL found that the agency had a "poor" degree of coordination with other agencies on travel and tourism. The ADL report also found that the agency programs were "ineffective" in terms of meeting appropriate national interests in travel and tourism, and the needs of the industry. Finally and perhaps most discouraging, is that on the basis of its interviews the ADL study team found that officials in the Energy Administration were "unreceptive" to increased support for the goals and objectives of travel.

It should not therefore have come as a surprise that the DOE proposed weekend closings as a mandatory conservation measure without adequately considering the impact on the travel industry and even though these measures discriminate against the industry to the serious detriment of the Nation's economy.

Mr. Speaker, this is a case history of just one of numerous instances where the Federal Government has and continues to overlook the interests of an industry which is so vital to our economy.

This is why we need a national tourism policy.

Mr. Speaker, we do not need any increased Government regulation or interference. Nor do we need any substantially increased Federal expenditures. What we need is to make sense out of what we are now doing. In other words, a national tourism policy.

In my judgment, such a policy should be enacted into law so that the agencies of Government would be required to refletct its goals in their programs and policies.

Specifically, I believe such a policy should direct the Federal Government to:

First. Optimize the contribution of the travel, tourism and recreation industries to economic prosperity, full employment, and the international balance of payments of the Nation;

Second. Make the opportunity for and benefits of travel, tourism and recreation in the United States universally accessible to residents of the United States and foreign countries to insure that present and future generations be afforded adequate travel, tourism and recreation resources;

Third. Contribute to personal growth, health, education and intercultural appreciation of the geography, history and ethnicity of the United States;

Fourth. Encourage the free and welcome entry of individuals traveling to the United States in order to enhance international understanding and goodwill, consistent with immigration laws, the laws protecting the public health and laws governing the importation of goods into the United States;

Fifth. Eliminate unnecessary trade barriers to the United States travel and tourism industry operating throughout the world;

Sixth. Encourage competition in the travel and tourism industry and maximum consumer choice through the continued viability of the retail travel agent industry and the independent tour operator industry;

Seventh. Promote the continued development and availability of alternative personal payment mechanisms which facilitate national and international travel;

Eighth. Promote quality, integrity and reliability in all tourism and tourism-related services offered to visitors to the United States;

Ninth. Preserve the historical and cultural foundations of the Nation as a living part of community life and development and to insure future generations an opportunity to appreciate and enjoy the rich heritage of the Nation;

Tenth. Insure the compatibility of tourism and recreation with other national interests in energy development and conservation, environmental protection and the judicious use of natural resources;

Eleventh. Assist in the collection, analysis and dissemination of data which accurately measure the economic and social impact of tourism to and in the United States, in order to facilitate planning in the public and private sector; and

Twelfth. Harmonize, to the maximum extent possible, all Federal activities in support of travel, tourism and recreation with the needs of the general public and the States, territories, local governments, and the private and public sectors of the travel, tourism and recreation industry, and to give leadership to all concerned with travl, tourism, recreation and national heritage preservation in the United States.●

● Mr. HARRIS. Mr. Speaker, I rise in support of H.R. 7321, the National Tourism Policy Act. Tourism bears a significant impact on the national economy. In Virginia, tourism is the second largest industry. In 1979, travelers spent an estimated $2.6 billion; 84,200 jobs were directly generated by travelers' spending. State and local governments in Virginia collected $152 million in taxes from travelers.

Certainly Virginia is not alone in the success and achievement of its travel and tourism industry. In almost every State, tourism has proven itself as a most vital industry. Yet historically, the Federal Government has failed to recognize the needs of tourism and travel. Our commitment to the needs and promotion of tourism has been half-hearted, disorganized, and sporadic. The Federal Government has yet to establish a clear-cut definition of the Government's role in promoting tourism in the United States.

In many nations, tourism is aggressively promoted by the government, and it shows in the percentage of the international tourism trade these countries receive. The U.S. share of international tourism dollars has consistently decreased over recent years.

Tourism deserves across-the-board support as a vital concern to all corners of the country. The National Tourism Policy Act strengthens our commitment to tourism and travel. H.R. 7321 would establish a National Tourism Policy Council to coordinate and monitor the various tourism-related programs and policies. It would create a U.S. Tourism Planning and Implementation Board to develop an extensive marketing and implementation plan for encouraging and promoting travel to the United States. It provides for the reauthorization of the U.S. Travel Service, a branch of the Department of Commerce which has demonstrated its effectiveness in promoting inbound travel.

We have waited too long for a creative effort in producing a national tourism policy. It is time to recognize the importance of the travel and tourism industry to every State, to every city, to every community. Our responsibility lies in its promotion through positive action.●

● Mr. HEFTEL. Mr. Speaker, I rise in support of H.R. 7321, the National Tourism Policy Act.

Travel and tourism is the Nation's third largest industry, accounting for $115 billion annually in consumer expenditures. The International Travel Act, enacted in 1961, was created to promote U.S. tourism. One year later, the U.S. Travel Service was created. Even with these efforts, we are, almost 20 years later, without a sufficient national tourism policy.

The purpose of this legislation before us today is to develop a coordinated Federal policy on tourism, and to encourage cooperation between the Federal Government and the private sector in the promotion of tourism. It is especially important that we note the economic significance of this proposal. If a plan is developed and implemented to help tourism, we, as a nation, stand to improve our balance of payments as the number of foreign travelers to the United States increases. This is not to mention the improvement of the overall strength of our economy, as jobs, including low-skilled jobs, increase substantially.

Over 98 percent of all travel and tourism businesses are small businesses, employing over 6 million people. It is in our national interest to promote tourism and a national tourism policy, and I urge my colleagues to vote in support of this measure.●

● Mr. RUSSO. Mr. Speaker, I would like to express my strong support for H.R. 7321, the National Tourism Policy Act. Many, including myself, have long held the view that the Nation's tourism industry is among the most significant economic and social forces in the United States. Yet, up to now, the Federal Government's record in responding to this vital industry has been woefully inadequate and incoherent.

Perhaps few realize that tourism generates about 7 percent of the country's gross national product, making it the third largest industry behind food and construction, and the fourth largest export industry. In 1976, in Illinois alone, travel generated $954 million in salaries and $539 million in taxes. Nationwide, in 1976, the industry generated over $8 billion in Federal taxes, surpassing Federal outlays for revenue sharing and general fiscal assistance programs for State and local governments.

As our Nation's unemployment rate continues to climb, and as the health of certain industries, particularly steel and automotive, further erodes, tourism stands out as being one of the fastest growing industries. Between 1972 and 1976, it expanded by 58 percent and this trend continues. Today, the tourism industry accounts for the employment of over 6 million people.

Many of us are convinced that the tourism industry can make an even greater contribution to the Nation's economy if its potential is recognized and appropriately supported by the Federal Government. There are now over 100 Federal programs and 50 Federal agencies involved in some way with tourism. But no one entity coordinates their complex and often overlapping efforts. We need to develop and implement a coherent national tourism policy. H.R. 7321 provides a framework by which this can be done.

Mr. Speaker, this legislation does not call for increased Government regulation or interference. Nor does it require substantially increased Federal expenditures. Actually, the money spent on this legislation will be returned to the Federal Treasury many times over. Last year, during Commerce Committee hearings, I asked a Commerce Department spokesperson about the rate of return on the funds spent by the U.S. Travel Service for overseas promotion of the tourism industry. I was surprised to learn that this rate of return was as great as 18.6 to 1. Imagine, for a tiny fraction of what it costs to produce one B-1 bomber, we can generate millions of dollars in Federal revenues and at the same time boost international appreciation of the United States, increase productivity and promote millions of jobs.

By passing H.R. 7321, we can optimize the contribution made by the tourism industry to the economic prosperity, full employment and international balance of payments of the Nation. This is an opportunity we cannot afford to overlook. I therefore urge my colleagues to cast their vote in favor of this highly important legislation.●

● Mr. MARKS. Mr. Speaker, I rise to support a valuable legislative initiative—H.R. 7321—which for the first time would establish a national tourism policy. The bill would also allow for a Cabinet-level coordinating council, and a board to formulate and implement a marketing plan to promote travel to the United States by foreign visitors.

The significance of this legislation is long term and particularly important to the continued economic growth and well-being of our country, to the State of Pennsylvania, and northwestern Pennsylvania. I believe the issue of tourism in America requires substantial attention by Congress, not only because leisure time and travel are important to all Americans, but because the tourism and travel industry represents a highly labor-intensive source of employment for more than 6 million Americans.

The tourism industry is presently the third largest industry in the United States and is responsible for generating more than 7 percent of our country's gross national product. The industry also provides numerous alternatives for diversifying the economic base of any State or community. Tourism provides additional tax revenues; has the ability to enable areas to improve their overall economy through a noncapital intensive industry; and provides additional less identifiable benefits, such as work opportunities for American youth, and the creation of better communities in which to live and work. For these reasons, Mr. Speaker, I believe there is a pressing need to establish a coherent tourism policy in order to promote throughout the world the benefits of traveling to the United States. The international marketing potential of American tourism is yet to be fully realized.

As a charter member of the recently formed Congressional Tourism Caucus, I have become acutely aware of the views expressed by members of this important industry. I believe their comments reflect an earnest desire to cooperate with the Congress and the administration in the areas of energy conservation, inflation control, and the development of foreign trade in our country.

The caucus has already been instrumental in improving the avenues of communication concerning tourism vis-a-vis the administration, the Department of Commerce, and the Department of Energy. The caucus urged that the Department of Energy appoint an individual to serve as a liaison between the Department and the caucus. Secretary Duncan has recognized the need for the Department of Energy to work closely with the caucus and tourism industry in order to help provide oil dependent business sectors, such as the tourism industry, with adequate fuel supplies.

In addition, the Secretary of Commerce informed the caucus and members of the tourism industry that the Department would be increasing its international promotion program for tourism in America. Secretary Klutznick emphasized that the proposed move of the U.S. Travel Service to the Office of International Trade Administration would represent a promotion of tourism affairs by the administration. This clearly shows that the Federal Government is becoming increasingly aware of how policy activities are affecting the tourism industry.

It is obvious, Mr. Speaker, that the formation of a Cabinet-level council would place the tourism industry even more squarely in the middle of Federal policymaking than has already been achieved. Just as other industries have been recognized by the administration for their role in promoting America's economic growth, so should the activities and potential tourism be recognized.

I urge my colleagues to keep in mind that tourism is a highly marketable trade. Title III of the legislation calls for the formulation of a marketing plan as a major step toward increasing our Nation's role in world trade. The Tourism Planning and Implementation Board would be appointed by the President, and would be composed of members of the tourism industry and the Federal Government. The Board would seek to move as rapidly as possible in taking advantage of America's competitive nature with other countries. There is a pressing need to involve experts in the field of tourism who can establish a successful foreign promotion plan. The bill calls for a permanent mechanism to carry out this plan. America cannot afford to sit back and neglect the promotion of our most marketable resource—the American people and the beauty of America's natural splendor.

Mr. Speaker, I am convinced that this legislation is a major step toward new avenues of trade and economic growth, not only for our country but for the communities which have much to offer in the way of leisure and travel opportunities. I believe that the 24th District of Pennsylvania—as well as the entire Commonwealth—will be among the areas to benefit from an increased tourist trade. Congress should see this legislation as a formal invitation to the world to visit and travel in the country which I believe has as much to offer international travelers as any country in the world: the United States. Congress must also be willing to commit itself to move aggressively toward promoting American tourism and travel, and this bill provides that vehicle. I urge my colleagues to support it.●

● Mr. LEE. Mr. Speaker, H.R. 7321 represents America's first comprehensive approach to serving the tourism industry. Tourism has in the past often been ignored, and at times seriously harmed by decisions in other policy areas, as in energy policy. It was to a large extent the energy shortages of the summer of 1979 that devastated the tourist industry in our Finger Lakes resort area of upstate New York. We think this bill will not only give tourism a higher profile in times of emergency, but will begin fitting it into each and every related policy coming from Congress and the executive branch.

It is easy to consider the many aspects of tourism separately: hotels and motels, transportation, right down to souvenir shops. But the simple fact is that each of these enterprises is undeniably linked to one another, and tied to national energy and economic policies by an often-fragile thread. Taken as a whole, the tourism industry in America is surpassed in the size of consumer expenditures it creates only by grocery and automotive sales. Tourism accounted for $128 billion in our economy last year. The tourism industry generated some $16.8 billion in taxes and provided well over 65 million jobs in this country. In my own State of New York alone, for 1977—the last year for which we have statistics—sales for hotel and motel accommodations and campground reservations were at $1.295 billion; sales for eating and drinking were at $4.953 billion; and total sales for amusement and recreation services were at $1.854 billion.

One of the most dramatic innovations in the National Tourism Policy Act before us today is the creation of an independent unit within the executive branch of the Government, the National Tourism Policy Council. The Council and its staff will be made responsible for monitoring virtually every major governmental policy initiative for potential impact on tourism. The Council is, to my way of thinking, an alltime bargain, considering the returns.

The bill also establishes the U.S. Tourism Planning and Implementing Board with a mandate to develop a comprehensive and detailed marketing and implementation plan to stimulate and promote tourism to the United States by residents of foreign countries. I consider this a positive action in today's environment where our balance of payments is so greatly in need of a positive cash flow. It is about time we move to recapture some of the vast amount of money American tourists have spent abroad in years past. The Commerce Department has said that for every dollar invested in encouraging travel to the United States, we receive $18.6 million in foreign exchange earnings. That would be a healthy stimulus to the economy in these rather difficult times.

I urge the adoption of this bill.●

● Mr. FITHIAN. Mr. Speaker, I strongly support H.R. 7321, the National Tourism Policy Act.

As 1 of the top 3 industries in 43 of our 50 States, I believe it is time we consider seriously the effects of tourism on our employment and overall economic situation.

Currently there are over 100 Federal programs and 50 Federal agencies involved in some way with tourism. But there exists no comprehensive governmental unit to effectively handle and coordinate tourism on the national level. This bill creates a council to do this.

H.R. 7321 unites several executive-level departments including Commerce, Energy, State, Interior, Labor, and Transportation in a cooperative effort with local governments to formulate and implement a national tourism policy. It would promote a program to further enhance travel to the United States by foreign visitors. The Tourism Council would monitor the policies and program efforts of Federal agencies having an impact on tourism, recreation, and national heritage. and develop methods of resolving interagency policy conflicts. The Council would also organize forums to encourage interagency programs and discussions, and identify conflicts that might retard the orderly growth and development of tourism.

The tourism industry annually produces over $128 billion in revenue, $16 billion in taxes, and provides employment for 6 million Americans. We should not pass up the opportunity to take advantage of this great resource.

As a great nation endowed with a number of natural wonders, we have a lot to offer. Our national and State park systems boast some of the world's finest beauty and grandeur. Within my congressional district I am fortunate enough to represent one of these fine areas. the Indiana Dunes National Lakeshore Park. The dunes includes some of the finest white sand beaches along Lake Michigan. There are miles of hiking trails and picnic, fishing, and boating facilities. Last year over 1½ million people visited the park. This year visitation is expected to almost double—and yet there is more potential.

International tourism is one of the world's major growth industries, yet the United States currently attracts less than 8 percent of the international tourist market. Good consolidation and coordination of these programs would assist in the promotion of the United States as a popular tourist destination for travelers from overseas and here in our country. This legislation does just that, by stimulating the tourism industry and more efficiently utilizing our Nation's network of parks, campgrounds, hotels, and the like.

I urge your support of H.R. 7321 because it will benefit our current economic situation and relieve unemployment. The net result will put America back on top as the country everyone in the world will want to visit.●

● Mr. LOTT. Mr. Speaker, I rise today in support of H.R. 7321 because it addresses an area which I believe has for too long been neglected or at least poorly coordinated by the Federal Government. The United States does less than any other major nonsocialist nation to attract foreign tourists. As a result of this failure on the part of our Government, we have run huge deficits in our tourism balance of payments in recent years.

The tourism industry is one of the major employers in the United States, involving some 7 percent of the total work force. Increased foreign travel to America will help create jobs, particularly for those underskilled persons who presently comprise a large segment of the unemployed. This will of course have the additional effect of reducing welfare expenditures while increasing tax receipts.

The question today is not whether the Government is going to embark on a new course of involvement in the tourism business. Through an excess of Federal programs—some 115 in 50 different agencies in 1973—the Government is already involved in activities of the type provided for in this bill. The real issue before us is whether there is going to be any coordination of these programs in order to bring a degree of order and efficiency to our efforts.

There is an additional aspect to this legislation which I find encouraging. The agency envisioned in the act will be financed in part through contributions from the private sector. While I believe this program will prove beneficial to the Nation as a whole, I think it is only fair that the cost be shared by the tourism industry, which stands to gain the most from its implementation.

In summary, Mr. Speaker, with its positive results in terms of jobs creation, improved balance of payments, and economic development, this program should pay for itself many times over.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. FLORIO) that the House suspend the rules and pass the bill, H.R. 7321, as amended.

The question was taken.

Mr. COLLINS of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3 of rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1310

EARTHQUAKE HAZARD REDUCTION ACT AMENDMENTS

Mr. BROWN of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7114) to amend the Earthquake Hazards Reduction Act of 1977 and the Federal Fire Prevention and Control Act of 1974 to authorize the appropriation of funds to the Director of the Federal Emergency Management Agency to carry out the earthquake hazards reduction program and the fire prevention and control program, and for other purposes.

The Clerk read as follows:

H.R. 7114

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—EARTHQUAKE HAZARDS REDUCTION PROGRAM

Sec. 101. (a) Paragraphs (1) through (3) of section 5(a) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(a)) are amended to read as follows:

"(1) be designed and administered to achieve the objectives set forth in subsection (c);

"(2) involve, where appropriate, each of the agencies listed in subsection (d) and the non-Federal participation specified in subsection (h); and

"(3) include each of the elements described in subsections (e) and (f) and the assistance to the States specified in subsection (g).".

(b) Section 5(b) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704 (b)) is amended to read as follows:

"(b) Duties.—

"(1) The President shall—

"(A) assign and specify the role and responsibility of each appropriate Federal department, agency, and entity with respect to each object and element of the program; and

"(B) establish goals, priorities, budgets, and target dates for implementation of the program.

"(2) The Federal Emergency Management Agency (hereinafter referred to as the 'Agency') is designated as the agency with the primary responsibilities to conduct and coordinate the National Earthquake Hazards Reduction Program. The Director of the Agency (hereinafter referred to as the 'Director') shall—

"(A) recommend to the President the role and responsibility of each appropriate Federal department, agency, and entity with respect to each object and element of the program;

"(B) recommend to the President goals, priorities, budgets, and target dates for implementation of the program;

"(C) provide a method for cooperation and coordination with, and assistance (to the extent of available resources) to, interested governmental entities in all States, particularly those containing areas of high or moderate seismic risk;

"(D) provide for qualified and sufficient staffing for the program and its components;

"(E) compile and maintain a written program plan for the program specified in subsections (a), (e), (f), and (g), which plan will recommend base and incremental budget options for the agencies to carry out the elements and programs specified through at least 1985, and which plan shall be completed by September 30, 1981, and transmitted to the Congress and shall be updated annually; and

"(F) recommend appropriate roles for State and local units of government, individuals, and private organizations.".

(c) Section 5(d) of such Act is amended by striking out "(3) (B)" and inserting in lieu thereof "(1) (A)", by striking out "National Bureau of Standards" and inserting in lieu thereof "Department of Commerce", and by striking out "National Fire Prevention and Control Administration" and inserting in lieu thereof "Federal Emergency Management Agency".

(d) Section 5(e) (6) of such Act is amended by striking out "political" and by inserting in lieu thereof "potential".

(e) (1) That portion of section 5(f) of such Act which precedes paragraph (1) thereof is amended to read as follows:

"(f) MITIGATION ELEMENTS.—The mitigation of elements of the program shall provide for—".

(2) Paragraph (1) of section 5(f) of such Act is amended to read as follows:

"(1) ISSUANCE OF EARTHQUAKE PREDICTIONS.—The Director of the United States Geological Survey is hereby given the authority, after notification of the Director, to issue an earthquake prediction or other earthquake advisory as he deems necessary. For the purposes of evaluating a prediction, the National Earthquake Prediction Evaluation Council shall be exempt from the requirements of section 10(a) (2) of the Federal Advisory Committee Act. The Director shall have responsibility to provide State and local officials and residents of an area for which a prediction has been made with recommendations of actions to be taken;".

(3) (A) Section 5(f) of such Act is amended by striking out "and" at the end of paragraph (5), by striking out the period at the end of paragraph (6) and inserting in lieu thereof a semicolon, and by inserting after paragraph (6) the following:

"(7) transmittal to Congress by the Director of an intraagency coordination plan for earthquake hazard mitigation and response within thirty days after enactment of this paragraph, which plan shall coordinate all of the directorates of the Agency; and

"(8) the development and implementation by the Director of a preparedness plan for response to earthquake predictions which includes the following items:

"(A) A prototype plan to be in place in one major metropolitan area by September 30, 1981.

"(B) An action plan to be completed for specific adaptations of the prototype plan to other high risk metropolitan areas by September 30, 1981.

"(C) These prediction response plans are to be integrated with preparedness response plans.

"(D) The plans shall include coordination with State and local governmental companion efforts.

"(E) The plans shall be updated as new, relevant information becomes available.".

(B) The last sentence of section 5(f) of such Act is repealed.

(f) Section 5 of such Act is amended by inserting at the end thereof the following:

"(i) STUDY.—Within one year after the date of enactment of this subsection, the Director shall conduct a study and prepare and transmit recommendations to Congress to amend the Disaster Relief Act of 1974 (42 U.S.C. 5121, et seq.) to include provisions for funding for the period of time following a validated earthquake prediction.".

SEC. 102. (a) Section 6 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7705) is amended to read as follows:

"SEC. 6. ANNUAL REPORT.

"The President shall within ninety days after the end of each fiscal year, submit an annual report to the appropriate authorizing committees in the Congress describing the status of the program, and describing and evaluating progress achieved during the preceding fiscal year in reducing the risks of earthquake hazards. Each such report shall include a copy of the program plan described in section 5(b) (2) (E) and any recommendations for legislation and other action the President deems necessary and appropriate.".

SEC. 103. (a) Section 7(a) of such Act is amended by inserting "(1)" after "(a)" and by inserting at the end thereof the following:

"(2) There are authorized to be appropriated to the Director to carry out the provisions of sections 5 and 6 of this Act or the fiscal year ending September 30, 1981—

"(A) $1,000,000 for continuation of the Interagency Committee for Seismic Safety in Construction and the Building Seismic Safety Council programs,

"(B) $1,500,000 for plans and preparedness for earthquake disasters,

"(C) $500,000 for prediction response planning,

"(D) $600,000 for architectural and engineering planning and practice programs,

"(E) $1,000,000 for development and application of a public education program,

"(F) $3,000,000 for use by the National Science Foundation in addition to the amount authorized to be appropriated under subsection (c), which amount includes $2,400,000 for earthquake policy research and $600,000 or the strong ground motion element of the siting program, and

"(G) $1,000,000 for use by the Center for Building Technology, National Bureau of Standards in addition to the amount authorized to be appropriated under subsection (d) for earthquake activities in the Center.".

(b) Section 7(b) of such Act is amended by striking out "and" after "1979;" and by inserting "; and $32,484,000 for the fiscal year ending September 30, 1981" before the period at the end thereof.

(c) Section 7(c) of such Act is amended by striking out "and" after "1979;" and by inserting "; and $26,600,000 or the fiscal year ending September 30, 1981" before the period at the end thereof.

(d) Section 7 of such Act is amended by inserting at the end thereof the following:

"(d) NATIONAL BUREAU OF STANDARDS.—To enable the Bureau to carry out responsibilities that may be assigned to it under this Act, there are authorized to be appropriated $425,000 for the fiscal year ending September 30, 1981.".

SEC. 104. Funds may be transferred among the line items listed in the amendment made by section 103(a), but neither the total funds transferred from any line item nor the total funds transferred to any line item may exceed 10 per centum of the amount authorized for that line item in the amendment made by section 103(a) unless—

(1) thirty calendar days have passed after the Director or his designee has transmitted to the Speaker of the House of Representatives, to the President of the Senate, to the chairman of the Committee on Science and Technology of the House of Representatives, and to the chairman of the Committee on Commerce, Science, and Transportation of the Senate a written report containing a full and complete explanation of the transfer involved and the reason for it, or

(2) before the expiration of thirty calendar days both chairmen of the Committee on Science and Technology of the House and the Committee on Commerce, Science, and Transportation of the Senate have written to the Director to the effect that they have no objection to the proposed transfer.

TITLE II—FIRE PREVENTION AND CONTROL

SEC. 201. Section 17 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216) is amended by inserting at the end thereof the following:

"(c) There are authorized to be appropriated to carry out this Act, except as otherwise specifically provided with respect to the payment of claims under section 11 of this Act, an amount not to exceed $23,814,000 for the fiscal year ending September 30, 1981, which amount includes—

"(1) not less than $1,100,000 for the first year of a three-year concentrated demonstration program of fire prevention and control in two States with high fire death rates;

"(2) not less than $2,575,000 for rural fire prevention and control; and

"(3) not less than $4,255,000 for research and development for the activities under section 18 of this Act at the Fire Research Center of the National Bureau of Standards, of which not less than $250,000 shall be available for adjustments required by law in salaries, pay, retirement, and employee benefits.

The funds authorized in paragraph (3) shall be in addition to funds authorized in any other law for research and development at the Fire Research Center.".

SEC. 202. Section 16 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2215) is amended by deleting the words: "June 30 of the year following the date of enactment of this Act and each year thereafter" from the first sentence and inserting in lieu thereof "ninety calendar days following the year ending September 30, 1980 and similarly each year thereafter"

TITLE III—MULTIHAZARD RESEARCH, PLANNING, AND MITIGATION

SEC. 301. It is recognized that natural and manmade hazards may not be independent of one another in any given disaster. Furthermore, planning for and responding to different hazards have certain common elements. To make maximum use of these commonalities, the Director of the Federal Emergency Management Agency (hereinafter referred to as the "Director") is authorized and directed to:

(1) initiate, within one year after the date of enactment of this Act, studies with the objective of defining and developing a multihazard research, planning, and implementation process within the Agency;

(2) develop, within one year after the date of enactment of this Act, in cooperation with State and local governments, prototypical multihazard mitigation projects which can be used to evaluate several approaches to the varying hazard mitigation needs of State and local governments and to assess the applicability of these prototypes to other jurisdictions with similar needs:

(3) investigate and evaluate, within one year after the date of enactment of this Act, the effectiveness of a range of incentives for hazard reductions that can be applied at the State and local government levels;

(4) prepare recommendations as to the need for legislation that will limit the legal liability of those third party persons or groups which are called upon to provide technical assistance and advice to public employees, including policemen, firemen, and transportation employees, who are generally the first to respond to a hazardous incident; which recommendations shall be provided to the appropriate committees of Congress within one hundred and eighty days after the date of enactment of this Act;

(5) prepare, within one hundred and eighty days after the date of enactment of this Act, a report on the status of the Agency's emergency information and communications systems which will provide recommendations on—

(A) the advisability of developing a single unified emergency information and communication system for use by the Agency in carrying out is emergency management activities;

(B) the potential for using communication and remote sensing satellites as part of the Agency's emergency information and communication system; and

(C) the type of system to be developed, if needed, including the relationship of the proposed system and its needs to the existing and emerging information and communication systems in other Federal agencies; and

(6) conduct a program of multihazard research, planning, and mitigation in coordination with those studies and evaluations authorized in paragraphs (1) through (5), as well as other hazard research, planning, and mitigation deemed necessary by the Director.

SEC. 302. For the fiscal year ending September 30, 1981, there are authorized to be appropriated to the Director $1,000,000 to carry out paragraphs (1) through (5) of section 301 and such sums as may be necessary to carry out paragraph (6) of such section.

TITLE IV—GENERAL PROVISIONS

SEC. 401. If the total amount the appropriations made by any Act for program activities included section 103(a) of title I and titles II and III is less than the total amount authorized to be appropriated for those activities by section 103(a) of title I and titles II and III, the amount available from such appropriations for any particular program activity shall bear the same ratio to the amount authorized to be appropriated for that activity by section 103(a) of title I and titles II and III as the total amount of the appropriations made by such appropriation Act for all included program activities bears to the total amount authorized to be appropriated for those activities by section 103(a) of title I and titles II and III (with each ceiling and floor set forth in section 103(a) of title I and titles II and III being reduced in the same ratio for purposes of determining the amounts so available), except to the extent specifically otherwise provided in the text of the Act making the appropriations for the program activities involved.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California (Mr. BROWN) will be recognized for 20 minutes, and the gentleman from New Mexico (Mr. LUJAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. BROWN)

GENERAL LEAVE

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 7114.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BROWN of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I should like to thank the gentleman from Florida (Mr. FUQUA), chairman of the Science and Technology Committee, and the committee's ranking minority member, the gentleman from New York (Mr. WYDLER), for their leadership and assistance during the Committee's considerations of H.R. 7114—a bill to amend the Earthquake Hazards Reduction Act of 1977 and the Fire Prevention Control Act of 1974.

I would also like to thank members of the Subcommittee on Science, Research and Technology and in particular, the ranking minority member, Mr. HOLLENBECK, for their assistance in preparing the bill.

Mr. Speaker, this is the first time that the Earthquake Hazards Reduction Act of 1977 has been reauthorized. In addition, this year marks a "first" for both the Earthquake and Fire Acts in that the responsibility for implementing them now resides with the newly created Federal Emergency Management Agency (FEMA). Since both of these programs are now part of FEMA, our subcommittee decided it would be appropriate to authorize both of them in a single bill.

The subcommittee spent considerable hearing time reviewing the needs of the Earthquake and Fire Act programs. Consequently, I believe, that the resultant bill, H.R. 7114, is a carefully balanced one.

I would like to briefly summarize the major provisions of the bill.

The administration's original and revised requests totaled $82,873,000, of which $60,984,000 was for the earthquake program and $21,889,000 was for the fire program. The committee authorized $92,923,000 of which $68,109,000 is for the earthquake program, $23,814,000 is for the fire program, and $1,000,000 is for the multihazard research, planning and mitigation program. Further breakdowns are given on pages 3, 13, and 21 of the committee report.

EARTHQUAKE PROGRAM (TITLE I)

[In thousands of dollars]

Agency program	Administration request	Committee action	Change
FEMA			
1. Public education; National, State and local levels		1,000	+1,000
2. Prediction response planning		500	+500
3. Disaster plans and preparedness	975	1,500	+525
4. Architectural and engineering planning and practice		600	+600
5. Interagency Committee on Seismic Safety in Construction and Building Seismic Safety Council	500	1,000	+500
6. Pass-through funding program:			
(a) NSF policy research		2,400	+2,400
(b) NSF strong motion research		600	+600
(c) NBS building research on codes and standards		1,000	+1,000
NSF			
7. Fundamental studies	7,200	7,200	
8. Engineering (siting and design, including strong motion research)	17,600	[1]17,600	
9. Research for utilization (societal research)	1,800	[1]1,800	
NBS			
10. Model seismic design and construction program	425	[1]425	
USGS			
11. Fundamental studies	3,700	3,700	
12. Prediction research	15,600	15,600	
13. Induced seismicity	1,200	1,200	
14. Hazard assessment	11,100	11,100	
15. Salary adjustment	884	884	
Subtotal	60,984	68,109	+7,125

[1] See FEMA passthrough programs.

FIRE PROGRAM (TITLE II)

[In thousands of dollars]

	President's request	Committee action	Change
USFA:			
1. Planning and education	3,191	3,766	+575
2. National fire data center	5,885	5,885	
3. Research and development	4,005	4,225	+250
4. Fire academy	8,808	8,808	
5. Concentrated demonstration in fire prevention and control		1,100	+1,100
Subtotal	21,889	23,814	+1,925

MULTIHAZARD RESEARCH, PLANNING AND IMPLEMENTATION (TITLE III)

PLANNING, RESEARCH AND IMPLEMENTATION STUDIES AND PLANS

[In thousands of dollars]

	Amount
Administration request	
Committee action	1,000
Change	1,000
Total	92,923

The total amounts authorized for this bill differ from the administration's request by $10,050,000. These changes are based on the extensive oversight review conducted by the Science, Research and Technology Subcommittee. It is our conviction, that, if these programs are to be successful, the additional amounts, though not large, are necessary to meet the goals of the programs.

Mr. Speaker, title I of the bill deals with the earthquake hazard reduction program. This program, for which FEMA has primary responsibility for coordination, consists of two parts: research, and mitigation and implementation programs. The research components are to be carried out by the National Science Foundation, the U.S. Geological Survey, and the National Bureau of Standards. These agencies are responsible for fundamental geophysical research, earthquake prediction and hazard assessment research, and basic and applied seismic engineering research.

Equally as important as the above research areas, is policy research. This research provides the basis upon which public officials, private institutions, and citizens can devise realistic approaches for planning and mitigation efforts in the social, economic, and governmental areas.

These research programs, which are authorized in the individual agency bills are also authorized in H.R. 7114 for the following amounts: $32,484,000 for the U.S. Geological Survey, $26,600,000 for the National Science Foundation, and $425,000 for the Center for Building Technology, National Bureau of Standards.

The mitigation and implementation part of the earthquake program rests squarely with FEMA. Without an effective effort here, all of the valuable and necessary research is for naught, and the goals of the act—that is, to reduce earthquake hazards—will not be met. In order to insure that these goals are met, this committee recommended that FEMA's research and mitigation directorate undertake a number of new programs, and authorized sufficient funds to carry them out. These programs are:

(1) INTERAGENCY COMMITTEE ON SEISMIC SAFETY IN CONSTRUCTION AND BUILDING SEISMIC SAFETY COUNCIL PROGRAMS, $1,000,000

These two programs aim at developing seismic design and construction standards for Federal projects and guidelines for insuring serviceability of vital Federal (or Federal financed) facilities (ICSSC), and developing through a representative body of the entire building community, acceptable new codes and standards (BSSC).

(2) PLANS AND PREPAREDNESS FOR EARTHQUAKE DISASTERS, $1,500,000

This program is aimed at development of loss estimates and vulnerability studies for seismic sensitive populated areas. It will use the results of these studies to develop a coordinated plan for dealing with the numerous problems that are present in an earthquake disaster.

(3) PREDICTION RESPONSE PLANNING, $500,000

With the establishment of the National Earthquake Prediction Council, any validated prediction made by the Council and issued by the Director of USGS will then be transmitted to the Director of FEMA and the Governor of the State. There is no Federal plan on how to respond to such a prediction. Unlike other natural hazards, there is a very strong need to develop one, as there are many social, economic, and financial consequences of issuing a prediction. There must be necessary coordination between FEMA and the State and local governments.

(4) ARCHITECTURAL AND ENGINEERING PLANNING AND PRACTICE, $600,000

There is a distinct need to reach out to the architectural and engineering community to educate them about the needs for incorporation of seismic considerations in design and construction. There is also a need for an education process on what type of data is available and will become available. This is an important prerequisite in utilization of the National Bureau of Standards work on new building techniques for mitigation.

(5) PUBLIC EDUCATION PROGRAMS ON A STATE, LOCAL AND NATIONAL LEVEL, $1,000,000

At this particular time, there is almost no public or locally initiated education program to provide for information on hazards, and types of mitigation and response measures developed by FEMA. Testimony from outside witnesses indicated a pressing need to develop such programs. This amount should just provide for minimal development for fiscal year 1981. The program should be carried out by State and local organizations.

In addition, the committee recognized that there is need for additional funding in other parts of the program which reside in the National Science Foundation and the National Bureau of Standards, above and beyond their own authorizations, if the entire program is to succeed. Most important, as emphasized by both the second annual earthquake hazards program report, and many of the representatives of State and local governments at our authorization hearings, is the policy research aspect.

The failure of this program would materially effect the overall success of the entire program. The results of this research are needed to prepare realistic preparedness, mitigation and response plans. The public officials responsible for those plans acknowledged this at our hearings and at other meetings. Therefore, an extra $2.4 million has been added to the authorization to bring this part back in line with the rest of the program.

For similar reasons, we found it necessary to include an extra $600,000 for the strong motion element of the siting program. The data generated by it is the basis for almost all seismic engineering research. In addition, we found it necessary to supplement the National Bureau of Standards budget with $1 million so that it could carry out its program in developing, testing, and improving seismic design and instruction codes and standards.

The administration's request for this part of the program was only $1,450,000, an amount which represents only 3 percent of the total program budget. It does not allow FEMA to really address the above issues. In authorizing the FEMA budget at $8,600,000, we are using the "ounce of prevention" approach. Without any real planning, a major earthquake could cause over $50 billion in damage to a major population center. This could have a devastating effect on both the civilian sector and also the defense sector which have many major production facilities in earthquake prone areas. By striving toward the goals of this program, we can substantially reduce both life and property loss.

Mr. Speaker, title II of H.R. 7114 authorizes funds for the U.S. Fire Administration and the National Bureau of Standards Center for Fire Research. Fires, as the House has often heard, are responsible for over 8,000 deaths in the country and many billions of dollars of property losses. It is essential that the United States seek to reduce its fire losses. The rate of fire deaths in other industrial nations averages half of ours—a shocking difference.

Under the bill, planning and education at the U.S. Fire Administration would be authorized in the amount of $3,766,000. This is an increase of $575,000 over the administration's request for special efforts in rural fire prevention and control. Mr. Speaker, on a per capita basis fire losses are greater in rural areas than they are in urban areas; at the same time the rural fire companies do not have the same degree of the training and management expertise to undertake comprehensive fire prevention and control, planning and management. This small addition by the committee, for which there was great support by the part of witnesses and Members, would seek to correct that deficiency slightly. Let me note that it is the committee's intent that these efforts will be coordinated with the concentrated demonstration program on fire prevention and control which I discuss later.

The Fire Administration also contains a $5,885,000 program to support the National Fire Data Center. The Data Center is responsible for collecting national fire statistics so that we can come to a better understanding of how and where the Nation's fire losses are occurring. Currently, there are 36 States participating in this system which was one of the primary recommendations of the National Commission on Fire Prevention and Control. The committee recommendation is the same as the administration's request.

The committee also approved $4,255,000 for research and development at the Center for Fire Research at the National Bureau of Standards. This represents an increment of $250,000 above that requested by the President for the Center for Fire Research. The committee added this small amount to provide allowance for mandated salary increases at the Research Center. Without it, the Fire Research Center would be required to absorb mandated pay increases by cutting back its research efforts.

Because this research and development is supported by funds transferred through the U.S. Fire Administration and Federal Emergency Management Agency to the National Bureau of Standards, under the administration's request, the Bureau of Standards would not have received compensation for mandated salary increases on this portion of its program. Mr. Speaker, the Center for Fire Research studies primarily the physical and chemical properties of combustion as well as the responses of material to combustion situations. It will give us greater understanding of "flash-out" which occurs when a small smoldering fire becomes a raging inferno within seconds. This phenomenon was responsible for the deaths which occurred at the Beverly Hills Supper Club fire which killed approximately 100 people several year back.

The bill would also authorize $8,808,000 to operate the National Academy for Fire Prevention and Control for its second year. The National Academy, I am pleased to report, is finally operating after approximately 5 years in planning and preparations. It is now accepting its first students and has an ongoing student body of about 300. There are plans also to base civil defense training programs on the same physical facility at Emittsburg, Md. While I support greater coordination and merging of fire programs with civil defense training, I do not want this to cut into the Fire Academy funds because I am pleased to report that the Fire Administration is operating the Academy at the original projected funding levels which were provided to the Committee at the time of the purchase of the Emittsburg, Md., site 2 years ago. To stay within the budget in spite of inflation is to be commended this day and would be impossible if USFA funds also supported civil defense training.

Finally, Mr. Speaker, the authorization in this bill includes a $1,100,000 line item for a concentrated demonstration program and fire prevention and control. The committee view points out that Southeastern States of the country have extraordinary high fire losses—almost double those of the Nation at large. In all likelihood these could be reduced, but we must develop practical experience on how to tackle this problem. In order to best determine how a major commitment of resources should be undertaken effectively on a regional or a nationwide basis, the Fire Administration recommended a concentrated program which could marshal substantial resources on a limited area within two States. The goal is to achieve a demonstrable decrease in fire loses over a period of 3 years.

The data which the experience would gather from such a program would be highly beneficial to designing a larger, more comprehensive program if it proved worthwhile. The committee concurred in the wisdom of this move and wishes to emphasize that it is most important that the Fire Administration seek to achieve a real decrease in fire losses over the lifetime of this proposed program.

Thus, it is far more important that resources be concentrated and focused, rather than trying to cover all bases within a given State. I commend the Fire Administration's initiative in this regard, and I look forward to hearing the results of this project over the coming years.

Mr. Speaker, if the programs of the Fire Administration are successful, they will more than pay for themselves many times over. Even more important, in human terms, we might reduce the incredible number of needless fire deaths as well as the enormous suffering. Tens of thousands of people are permanently and hideously maimed with severe burns. I strongly urge my colleagues to approve these programs we authorize today for the U.S. Fire Administration.

The committee also recognized that many of the research findings and knowledge gained in developing comprehensive mitigation and response plans for earthquakes may be applicable to other manmade and natural disasters as well. We therefore developed title III of H.R. 7114, entitled: "Multihazard Research, Planning and Mitigation." This title would mandate FEMA's Mitigation and Research Directorate to undertake studies to define and develop a program of multihazard research mitigation and planning. This program would be based on the common elements of many of these hazards, and would help ways of dealing with these related problems in a way which most efficiently utilizes resources. The initial areas to be addressed by this program are:

Development, in cooperation with State and local governments of prototypical multihazard mitigation projects which would allow for experimentation and evaluation of different approaches to various disaster needs. Results could lead to programs applicable to most sections of the country. In addition, FEMA would be required to investigate various incentives that would increase the effectiveness of hazards reduction programs on the State and local level, and to develop ways of putting these incentives into practice.

Another area that the committee would like FEMA to address is the status of emergency communication networks. FEMA is expected to make recommendations as to improvements in such systems, utilizing the rapidly emerging new techniques in information transmission and handling.

To get this program started, the committee has authorized $1 million. We feel that using this approach of advanced integrated planning for different hazards will have large paybacks later in terms of reduction of life and property damage.

This multihazard planning and mitigation title is the most important section of the bill. It is the key to whether we simply put up with repeated loss of life and property from the many natural and manmade disasters we face, or whether we move to more effectively prevent them, and to more efficiently use our resources to control and recover from them.

Mr. Speaker, this concludes my description of the major emphasis of the programs in this bill. I think it is a good bill, and its goals are well worth supporting. I urge favorable consideration and adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. LUJAN. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. RITTER).

Mr. RITTER. Mr. Speaker, I join my colleagues of the Science Committee and rise in support of H.R. 7114 authorizing appropriations for the Earthquake Hazards Reduction Act of 1977 and the Federal Fire Prevention and Control Act of 1974.

The bill would authorize $68 million in title I for earthquake hazards reduction and places a strong emphasis on the need for policy research, and for research on building codes and standards, as well as planning for a public response to a prediction of an earthquake. I might add that much of what we learn as a result of the programs authorized by this section of the act will be applicable to other disasters. Thus, efforts to mitigate floods, which are a particular problem in Pennsylvania, may well learn much in an attempt to plan for large-scale disasters such as earthquakes, which are a problem in the West. However, I would also add that no State is completely immune from earthquakes.

This interest in multihazard planning was a theme for our subcommittee hearings and is reflected in the authorization of $1 million for multihazard planning, research and development contained in title III.

Title II authorizes $23,814,000 for the programs of the U.S. Fire Administration and the Center for Fire Research.

Mr. Speaker, my colleagues on the Science Committee have mentioned the shockingly high fire death rates and property loss rates which this country experiences by comparison with all other industrialized nations. Only Canada rivals us.

Throughout these last several years, it has become apparent that given the relatively small appropriation available to it, the Fire Administration could never match national needs in the area of fire prevention and control. Fire prevention and control is and must remain predominantly a State and local initiative; however, the Federal Government can contribute greatly by marshaling technical resources, by developing new fire department management techniques, and by collecting fire data and disseminating research results, by community master planning, and by providing advanced training in thousands of communities, big and small, throughout the Nation. Given its small budget, it is important to know how to best allocate limited Federal resources. Thus, the Fire Administration, with the committee's approval, will begin plans to embark on a concentrated demonstration program in fire prevention and control in two States with high fire death rates. The experimental program will last for 3 years, and we believe it will produce a measurable rollback of fire death rates and property loss rates in the affected communities. The lessons we may learn for the Nation at large could be bountiful and could show us how to achieve the goal, advocated by the National Commission on Fire Prevention and Control, of reducing fire losses by one half over the next generation.

Mr. Speaker, I urge my colleagues to join me in supporting H.R. 7114. Thank you, Mr. Speaker.

□ 1320

Mr. LUJAN. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, as a member of both the Committee on Science and Technology and the Interior and Insular Affairs Committee, I rise in support of H.R. 7114, a bill to extend the authorization for appropriations for the Earthquake Hazard Reduction Act of 1977. We held hours of hearings on this bill. The testimony from the Department was favorable and emphasized the need for this authorization in order that the research work that has taken place over the past 3 years under this act might continue. It would be well at this point to emphasize the objectives of that act and the goals which the administration has sought to achieve:

Earthquake resistant construction;

Earthquake prediction;

Development of model code;

Earthquake-related issue comprehension;

Public education;

Earthquake hazards mitigation research; and

Seismic phenomena research.

In June 1979 President Carter issued an Executive order naming the Federal Emergency Management Agency (FEMA) as the lead agency for this earthquake hazards program. Previously the Office of Science and Technology Policy had been the lead agency. It is the belief of the administration that this reorganization will add substantially to the accomplishment of the goals enumerated under this act.

In 1977 this program was authorized for a period of 3 years. However, under this legislation the program is authorized for but a single year to assure effective continuing legislative oversight regarding the use of these funds and the success of this important program.

Mr. Speaker, I support the adoption of this bill.

Mr. BROWN of California. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Nevada (Mr. Santini).

Mr. SANTINI. Mr. Speaker, I rise in support of the earthquake hazards reduction program in H.R. 7114. This program is obviously in the national interest as can be evidenced by the tremendous activity in the West over the past few months. Reauthorization of this program will provide the continued research and data collection necessary to reduce the disastrous effects of earthquakes.

Several objectives were enumerated in the 1977 act to accomplish the ultimate goal of reducing the loss of lives and property from earthquakes: Earthquake resistant construction; earthquake prediction; development of model code; earthquake-related issue comprehension; public education; earthquake hazards mitigation research; and seismic research. Progress has been made since the program was first funded in fiscal year 1978, but much work remains to be done to better understand this phenomenon.

The research plan for the next 5 years calls for preparation of maps showing earthquake hazards and risk evaluation; improved delineation of earthquake-source zones—nationwide and regionally; development of improved methods for making earthquake hazards and risk maps; preparation of a series of regional seismic hazards and risk maps; and investigation of damaging earthquakes in the world and publication of the resulting data and information.

The U.S. Geological Survey carries out scientific research and engineering studies that contribute to a better understanding of earthquake hazards. Results of USGS research are communicated to others for use in construction designs for hospitals, Government buildings, houses, dams, nuclear powerplant sitings, and oil pipelines, to name a few uses.

I, too, wish to commend the chairman and members of the Committee on Science and Technology for their efficiency and cooperation to extend authorizations for the earthquake hazards reduction program.

Mr. Speaker, I urge my colleagues to support passage of H.R. 7114.

● Mr. FUQUA. Mr. Speaker, today we are considering authorizations for appropriations for the Earthquake Hazards Reduction Act of 1977, the Federal Fire Prevention and Control Act of 1974, and a multihazards research, planning, and mitigation program for fiscal year 1981 (H.R. 7114). The Committee on Science and Technology is authorizing these programs in a single bill, H.R. 7114, since the responsibility for administration of both acts has been conveyed by Executive order to the Federal Emergency Management Agency. The committee has done an extensive oversight review of these programs in the course of this authorization process, and has reported out the bill favorably by a 36-to-1 vote.

As with almost all of the bills from this committee, this is a bipartisan effort, and I want to express my appreciation to Members on both sides of the aisle, particularly Mr. Wydler, the ranking minority member of the Committee on Science and Technology, and Mr. Hollenbeck, the ranking minority member of the Subcommittee on Science, Research, and Technology, for their support and guidance.

I particularly want to commend Mr. Brown, chairman of the Subcommittee on Science, Research, and Technology, for his excellent job of handling the new concepts presented by this comprehensive approach to emergency management.

Two and a half full days of hearings were held on this bill, with witnesses from the agencies involved, including FEMA, the National Science Foundation, the National Bureau of Standards, and the U.S. Geological Survey. Outside witnesses from academia and State and local governments also participated. In addition, other oversight activities involving both the fire and earthquake programs aided us in our considerations of H.R. 7114.

Title I of the committee bill amends the Earthquake Hazards Reduction Act of 1977 by legislatively recognizing that FEMA now has the responsibility for conducting and coordinating this program. Previously, this responsibility had been delegated to FEMA by the President's Reorganization Plan No. 3 of 1978. The bill also clarifies certain issues of responsibility for both the Director of FEMA and the Director of the U.S. Geological Survey. The bill authorizes $68,109,000 to carry out the earthquake program. This is an increase of $7,125,000 over the administration request. The increase in funding stems from the recognition that there is need for more emphasis to be placed in the implementation of mitigation and response plans necessary to carry out new programs in FEMA to meet the goals of the act. Without such plans, many of the findings arising out of earthquake research would not be effectively put into practice.

Title II, which addresses the Federal Fire Prevention and Control Act, is an attempt to try to augment State and local efforts to reduce fire losses. Combating fires only after they have already started is reminiscent of closing the barn door after the horse is out. Therefore, the act stresses the importance of fire prevention as a principal concern. I wish to recognize, as Chairman Brown does, that fire losses in my area of the country are unfortunately far too high. My fellow citizens have suffered too long, and I am pleased that the Fire Administration is attacking this problem by focusing sufficient new resources on one or two States in the Southeast. By so doing, we believe that there will be a measurable reduction in fire losses in these demonstration States within 3 to 4 years. That should give us the necessary experience to enable us to move on a regional basis to reduce the truly tragic losses in property, lives, and personal suffering. To fully support these programs, the committee has authorized an additional $1,675,000 above the administration's request, for a total of $23,814,000.

In addition to reauthorization of the Earthquake and Fire Act programs, the committee recognizes that the research findings and knowledge gained in the development of comprehensive mitigation and planning efforts in the earthquake area are applicable to other man-made and natural hazards as well. For this reason, title III—multihazard research, planning, and mitigation—was developed to address these areas. FEMA, in cooperation with State and local governments is required by title III to study a number of areas in which multihazard planning may be applicable, and to devise ways to implement these plans. The committee has authorized $1,000,000 for title III.

Mr. Speaker, the committee has worked hard to create a bill which will realistically address the problems of earthquake, fire, and other hazards. We realize that this is a tight budget year, but given the very real potential to mitigate these disasters and the resultant life and property losses, we urge favorable consideration and passage of H.R. 7114.●

● Mr. HOLLENBECK. Mr. Speaker, I join my colleagues, Chairman Fuqua, Chairman Brown of our subcommittee, Jack Wydler, the ranking minority member of our committee, and rise in support of H.R. 7114. The bill authorizes appropriations for the Earthquake Hazards Reduction Act of 1977 and for the Federal Fire Prevention and Control Act of 1974 for fiscal year 1981.

Mr. Speaker, as a general point, I would note that we have seen what devastation Mount St. Helens has caused in the Pacific Northwest. There we see the effects of a large-scale disaster. Can you imagine what this would have looked like had it taken place in the middle of Los Angeles? Or San Francisco? How well prepared do you think we would be? Although California is the prime site, no area of the country is completely immune from earthquakes. Some of the greatest earthquakes in the country's history took place in what are called "mid-plate" locations, that is, in the middle of the great continental plates which make up the Earth's surface. It is very important that these important programs are continued to meet the possible threat of earthquakes.

Our lack of preparedness and even our lack of planning to cope with earthquakes and volcanoes applies equally to other large-scale disasters, such as major floods or hurricanes, and tornadoes. Much of what we learn through the programs which are authorized by this bill will be equally applicable to other disasters. It is for this reason that I am particularly pleased to see that our committee singled out public education programs, the development of planning for public response to an earthquake or disaster prediction, architectural and engineering studies, policy research, and research on building codes and standards. These will be funded through the National Science Foundation and the National Bureau of Standards.

I am also pleased to see that under title III, the committee has addressed the issue of multihazard research planning and mitigation.

Mr. Speaker, the other major programs authorized by this bill are those in fire prevention and control performed by the U.S. Fire Administration and by the Center for Fire Research at the National Bureau of Standards. The committee authorized $23,814,000, which represents an increase of about $2 million over the President's budget. I should note, however, that this figure is approximately $8 million below last year's authorization level of about $31 million. The committee took this approach because we believe that one should only authorize programs which have a reasonable chance of obtaining funding.

The programs recommended are so important that they must be funded even under our current tight budget circumstances. In that context, Mr. Speaker, I strongly support the initiative that the Fire Administration will undertake on a concentrated demonstration program in fire prevention and control. That program will concentrate resources on public education, improved management training for fire service personnel, technical assistance, fire data systems to analyze fire problems, and special courses at the National Fire Academy in order to produce a measurable decrease in fire death rates in two Southeastern States where death rates are high.

Mr. Speaker, the National Commission on Fire Prevention and Control called for a 50-percent reduction over a generation in fire losses by this country. This certainly is possible, for we know that our fire losses, which amount to over 8,000 persons a year plus tens of thousands who are horribly maimed and burned, are far higher than need be. Other industrial nations average only half the rate of fire losses this Nation suffers. Still, no one quite knows what the most fruitful line of attack on this serious problem would be. The Fire Administration's programs by and large are excellent, but they are by no means sufficient to solve this problem on their own, even with the substantial leveraging of State and local money. Let me say, in supporting the request for the focused 3-year demonstration program in fire prevention and control, we really do expect an improvement in fire statistics to result. We strongly urge the Fire Administration to allocate its resources and to design its programs so that there are sufficient resources at each site to achieve measurable improvements. Only in that way can the Congress decide whether to undertake the expanded program originally advocated by the National Commission for Fire Prevention and Control.

Mr. Speaker, let me conclude by saying that I strongly support this bill and urge the House to join me.●

● Mr. UDALL. Mr. Speaker, I rise in support of H.R. 7114 title I to reauthorize appropriations for the earthquake hazards reduction program. In 1977, Congress established this program to provide for participation in a national program by Federal, State, and local governments, and the business, industry, and academia community.

This authorization extension would allow the continuation of efforts already being undertaken by the U.S. Geological Survey, National Science Foundation, Bureau of Standards, and numerous State and local governments, and universities. While extensive research remains to be performed, much has been accomplished over the past 3 years. Substantial new networks of instrumentation and surveys have been initiated and are gathering information to understand the processes leading to large earthquakes. Data gained from these networks will be useful in predicting earthquakes. Regional studies are underway to evaluate and delinate earthquake hazards in the major urban centers of the country most susceptible to earthquakes. These are only a few examples of the excellent scientific work being performed to achieve our ultimate goal of reducing the loss of lives and property from earthquake disasters.

Eruption of Mount St. Helens and the numerous earthquakes which have shaken the Western States illustrate the urgency and wisdom of continuing research to mitigate the effects of natural disasters. Eventually, we hope to predict with accuracy such occurrences.

The Committee on Interior and Insular Affairs' legislative responsibility for funding level authorization of the earthquake program is limited to that of the U.S. Geological Survey, and we recommend $32,484,000 for fiscal year 1981. This represents the amount requested by the administration. However, I would like to commend the chairman and members of the Committee on Science and Technology for their diligence in recommending authorization levels for the Federal Emergency Management Agency, National Science Foundation, and Bureau of Standards. Title I of H.R. 7114 reflects a realistic and conscientious effort by our two committees.

I urge my colleagues to support passage of H.R. 7114.●

● Mr. WYDLER. Mr Speaker, I will be very brief. I rise in support of H.R. 7114 which authorizes funds for fiscal year 1981 for the Earthquake Hazards Reduction Act and the Federal Fire Prevention and Control Act. I commend my colleagues, Chairman FUQUA, Subcommittee Chairman BROWN, and ranking minority member, "CAP" HOLLENBECK, for the excellent job they have done in preparing this bill for our consideration today.

Mr. Speaker, as my colleague "CAP" HOLLENBECK notes in his remarks, the Mount St. Helens explosion certainly illustrates the degree to which we would be utterly incapable of coping with a large-scale disaster such as might occur were an earthquake to strike Los Angeles or San Francisco. Research, and particularly the policy research supported by this bill, would be of great use in meeting such disasters.

Mr. Speaker, I think that the bill's initiatives in developing a multihazard research effort to combine the resources of civil defense programs with programs to meet other hazards is an excellent conception.

The fire program, which I have supported consistently in the past, is an absolute necessity when we confront the shocking fire statistics of this Nation. I am pleased to note, however, that in this year of fiscal stringency, the recommended authorization is some $8 million or nearly 25 percent below last year's authorization. I am glad to see the committee has decided to authorize only programs for which there is a reasonable chance of obtaining funds.

I do support the committee's recommendation in this context for a concentrated demonstration program on fire prevention and control. I believe it is important that a program such as the U.S. Fire Administration's programs seek to produce a measurable movement toward the achievement of its goals, in this case the reduction of fire losses. We do not know how the general problem should be attacked, but perhaps by focusing resources narrowly in an area of high fire losses, we can begin to get a better idea. At the same time, we will in this way be insisting upon a greater degree of accountability for programs undertaken by the Federal Government to produce results.

Mr. Speaker, I conclude by urging my colleagues to join me in supporting H.R. 7114.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. BROWN) that the House suspend the rules and pass the bill, H.R. 7114.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1393) to amend section 7 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706) to extend authorizations for appropriations, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1393

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706) is amended to read as follows:

"SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

"(a) FEDERAL EMERGENCY MANAGEMENT AGENCY.—There are authorized to be appropriated to the Federal Emergency Management Agency to carry out the provisions of this Act (in addition to the authorization set forth in subsections (b) and (c) of this section) not to exceed $5,000,000 for the fiscal year ending September 30, 1981; not to exceed $10,000,000 for the fiscal year ending September 30, 1982; and not to exceed $10,000,000 for the fiscal year ending September 30, 1983.

"(b) GEOLOGICAL SURVEY.—There are authorized to be appropriated to the Secretary of the Interior for purposes of carrying out, through the Director of the United States Geological Survey, the responsibilities that may be assigned to the Director under this Act not to exceed $27,500,000 for the fiscal year ending September 30, 1978; not to exceed $35,000,000 for the fiscal year ending September 30, 1979; not to exceed $40,000,000 for the fiscal year ending September 30, 1980; not to exceed $32,500,000 for the fiscal year ending September 30, 1981; not to exceed $40,900,000 for the fiscal year ending September 30, 1982; and not to exceed $45,600,000 for the fiscal year ending September 30, 1983.

"(c) NATIONAL SCIENCE FOUNDATION.—To enable the Foundation to carry out responsibilities that may be assigned to it under this Act, there are authorized to be appropriated to the Foundation not to exceed $27,500,000 for the fiscal year ending September 30, 1978; not to exceed $35,000,000 for the fiscal year ending September 30, 1979; not to exceed $40,000,000 for the fiscal year ending September 30, 1980; not to exceed $26,600,000 for the fiscal year ending September 30, 1981; not to exceed $35,200,000 for the fiscal year ending September 30, 1982; and not to exceed $37,000,000 for the fiscal year ending September 30, 1983.".

MOTION OFFERED BY MR. BROWN OF CALIFORNIA

Mr. BROWN of California. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BROWN of California moves to strike all after the enacting clause of the Senate bill (S. 1393) and to insert in lieu thereof the provisions of H.R. 7114, as passed by the House.

The motion was agreed to

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to amend the Earthquake Hazards Reduction Act of 1977 and the Federal Fire Prevention and Control Act of 1974 to authorize the appropriation of funds to the Director of the Federal Emergency Management Agency to carry out the earthquake hazards reduction program and fire prevention and control program, and for other purposes.".

A motion to reconsider was laid on the table.

A similar House bill, H.R. 7114, was laid on the table.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mrs. SPELLMAN. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule shall be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

MILITARY LEAVE

Mrs. SPELLMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6065) to amend title 5, United States Code, to provide that military leave be made available for Federal employees on a fiscal year rather than a calendar year basis, as amended.

The Clerk read as follows:

H.R. 6065

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6323(a) of title 5, United States Code, is amended—

(1) by striking out "An employee" and inserting in lieu thereof "(1) Subject to paragraph (2) of this subsection, an employee";

(2) by striking out "for each day, not in excess of 15 days in a calendar year, in which he is on active duty or is engaged in field or coast defense training" and inserting in lieu thereof the following: "for active duty or engaging in field or coast defense training";

(3) by adding at the end thereof the following new sentence: "Leave under this subsection accrues for an employee or individual at the rate of 15 days per fiscal year and, to the extent that it is not used in a fiscal year, accumulates for use in the succeeding fiscal year until it totals 15 days at the beginning of a fiscal year."; and

(4) by adding at the end thereof the following new paragraph:

"(2) In the case of an employee or individual employed on a part-time career employment basis (as defined in section 3401(2) of this title), the rate at which leave accrues under this subsection shall be a percentage of the rate prescribed under paragraph (1) which is determined by dividing 40 into the number of hours in the regularly scheduled workweek of that employee or individual during that fiscal year.".

SEC. 2. The amendments made by the first section of this Act shall take effect October 1, 1980.

☐ 1330

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentlewoman from Maryland (Mrs. SPELLMAN) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. CORCORAN) will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Maryland (Mrs. SPELLMAN).

Mrs. SPELLMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the legendary lawyer, Clarence Darrow, liked to say, "To differ is to think." But I doubt that even the combative Mr. Darrow would favor the kind of mindless "difference" in Federal Government policies that prompted the introduction of H.R. 6065.

The sad truth is, that this particular "difference"—a needless inconsistency in law and Defense Department practice—penalizes thousands of Federal employees each year who serve in our military Reserves or National Guard. It penalizes them by requiring that they either use vacation days or lose pay in order to fulfill their annual military training obligation.

Obviously, such a penalty is a considerable disincentive to continuing in the Reserve or Guard for these "citizen soldiers." It adversely affects an estimated 7,500 civil servants annually.

Mr. Speaker, this problem exists solely because Federal law requires that military leave for Government workers be granted on a calendar year basis while Reserve and National Guard training is scheduled to a fiscal year basis.

There is no penalty when an employee is scheduled for annual training in successive calendar years. However, often, Federal employees find they must attend two training sessions that, although they take place in different fiscal years, fall within the same calendar year. When this happens, these employees have no choice but to supplement their 15 days' annual military leave with either regular annual leave or leave without pay.

H.R. 6065 would make three changes in existing law in an effort to solve this problem. First, it would provide that military leave be made available on a fiscal year basis rather than a calendar year basis. Second, it would allow Federal employees to carry over all or a portion of their 15 days of military leave to the next fiscal year.

The second provision was added to the bill at the suggestion of General Greenlief of the National Guard Association.

The Defense Department subsequently said this amendment "would provide more administrative flexibility in scheduling training and should permit most Federal employees to attend annual training without loss of the military leave benefit." Defense termed this "a reasonable thing to do" in light of the problem at hand.

Third, the bill grants permanent part-time employees a prorated share of the regular military leave benefit for which provision is necessary to make H.R. 6065 consistent with the intent of the Federal Employees Part-Time Career Employment Act of 1978 (Public Law 95-347).

Mr. Speaker, I feel the intent of Congress was clear when, in 1947, it provided for 15 days of military leave each year for Federal employees who also serve in the Military Reserves or National Guard. Congress was saying that these "citizen soldiers" should not have to sacrifice either pay or benefits to serve in the Armed Forces. And yet, this is exactly what is happening today because of the problem I have outlined.

Mr. Speaker, Government workers make up only 3 percent of our Nation's total labor force. But they comprise fully one-fifth of the membership in our Military Reserves and National Guard. At a time when we all are extremely concerned about military manpower levels—particularly in the Reserves—I think this is a most appropriate and timely piece of legislation. It is a way to strengthen our Armed Forces at virtually no cost while also eliminating a pointless inconsistency in Government policies that penalizes individuals playing an important role in our national defense.

The committee urges passage of this bill and I strongly urge my colleagues to support it.

Mr. CORCORAN. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, H.R. 6065, sponsored by

Congresswoman SPELLMAN, attempts to resolve a problem faced by Federal employees who are also reservists in our Armed Forces or members of the National Guard. Federal employees are entitled to 15 days of paid military leave each calendar year to enable them to fulfill their obligation to maintain readiness to protect our Nation in times of trouble. This bill would provide for military leave on a fiscal rather than annual leave basis.

However, military training periods are often scheduled without regard for the 2-week per year leave time provided for Federal employees. The result is that Federal employees may be scheduled for more than 2 weeks of military training in 1 year. Employees then must take the second military leave as leave without pay or as vacation time. This is an unfortunate situation which penalizes employees for their dedication to our Nation, and it would not be resolved simply by a switch to a fiscal year basis. Congresswoman SPELLMAN'S bill addresses this problem by providing that an employee can carry over leave time on a biannual basis. Thus, an employee can accrue up to 2 years of paid leave time for military training. In addition, the bill would provide that permanent part-time employees would receive paid military leave for an amount of time proportional to the number of hours worked per week.

The National Guard Association of the United States supports this legislation and the Department of Defense finds such a biannual adjustment reasonable. In addition, the bill is expected to have no budgetary impact, and I believe that at this time in our Nation's history, any action we can take to encourage participation in voluntary defense programs should be supported by Members of Congress. Therefore, I urge my colleagues to support this bill.

Mr. Speaker, I yield back the balance of my time.

● Mr. HARRIS. Mr. Speaker, today the House is considering H.R. 6065, introduced by my colleague, Mrs. SPELLMAN, to provide that military leave be made available for Federal employees on a fiscal year rather than a calendar year basis. The inconsistency between "fiscal year" and "calendar year" often forces Federal employees to use their annual leave or take leave without pay whenever two training sessions fall within 1 calendar year. I am in full support of this legislation which will help strengthen our Armed Forces by eliminating a disincentive for Federal employees, who comprise one-fifth of the membership in our military Reserves and National Guard, to retain their membership.

During full committee consideration, I successfully offered an amendment to H.R. 6065, which would provide permanent part-time employees in the Federal Government a prorated share of the 15-day maximum military leave time based on the portion of the 40-hour week worked. The amendment would bring the regular benefits for part-time Federal employees in line with the benefits of full-time personnel, and is consistent with the intent of the Part-Time Career Opportunity Act passed by Congress 2 years ago.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Maryland (Mrs. SPELLMAN) that the House suspend the rules and pass the bill (H.R. 6055), as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend title 5, United States Code, to provide that military leave be made available for Federal employees on a fiscal year rather than a calendar year basis, to allow certain unused leave to accumulate for subsequent use, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. SPELLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

SMALL VESSEL INSPECTION AND MANNING

Mr. BIAGGI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5164) to amend certain inspection and manning laws applicable to small vessels carrying passengers or freight for hire, and for other purposes, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 4426 of the Revised Statutes (46 U.S.C. 404), is amended so that the first portion of the section, commencing with the words "4426. The hulls and boilers of every ferryboat," and ending with the words "after December 31, 1953: *Provided further,*" reads as follows:

"SEC. 4426. The hulls and boilers of every ferryboat, canal boat, yacht, or other small craft of like character propelled by steam, shall be inspected under the provisions of this title. All mechanically propelled vessels of one hundred gross tons or over, except those vessels propelled by machinery other than steam and engaged in fishing as a regular business, which carry freight or passengers for hire shall likewise be inspected under the provisions of this title. The Secretary of the department in which the Coast Guard is operating shall issue regulations as may be necessary to carry out the provisions of this section for the inspection of hulls, machinery, and equipment; for the manning of these vessels; and for the duties and qualifications of the personnel thereof. Other applicable provisions of law and the regulations issued hereunder shall be complied with before a certificate of inspection may be issued: *Provided,* That no such vessel of three hundred gross tons or over may be navigated without a licensed engineer and a licensed deck officer: *Provided further,* That, for any violation of the provisions of this title or of the regulations issued thereunder, these vessels, their masters, officers, and owners shall be subject to the provisions of sections 4496, 4497, 4498, 4499, and 4500 of this title, relating to the imposition of penalties and the enforcement of law: *Provided further,*".

(b) Title 52 of the Revised Statutes is amended by adding the following new section after section 4426:

"SEC. 4426a. (1) An offshore supply vessel is a vessel that—

"(i) is propelled by machinery other than steam,

"(ii) is not within the description of passenger carrying vessels in section 1 of the Act of May 10, 1956 (70 Stat. 151), as amended (46 U.S.C. 390),

"(iii) is of more than fifteen and less than five hundred gross tons, and

"(iv) regularly carries goods, supplies, or equipment in support of exploration, exploitation, or production of offshore mineral or energy resources.

"(2) An existing offshore supply vessel is one that was operating as such on or before January 1, 1979, or that, if not in service of any kind on or before that date, was contracted for on or before that date and entered service as such before the effective date of this section.

"(3) A new offshore supply vessel is one that is not an existing offshore supply vessel.

"(4) In the application of section 4417 or 4426 of this title or the Act of May 10, 1956 (70 Stat. 151), as amended (46 U.S.C. 390–390g), to an offshore supply vessel, the term 'passenger' means any person carried on board the vessel other than—

"(i) the owner;

"(ii) a representative of the owner;

"(iii) the master;

"(iv) a bona fide member of the crew engaged in the business of the vessel who has contributed no consideration for carriage on board and is paid for services on board;

"(v) an employee of the owner, or of a subcontractor to the owner, employed in the business of the owner;

"(vi) a charterer of the vessel;

"(vii) a person with the same relationship to a charterer as a person in (ii) or (v) above has to an owner;

"(viii) a person employed in some phase of exploration, exploitation, or production of offshore mineral or energy resources served by the vessel; or

"(ix) a bona fide guest who has contributed no consideration for carriage on board.

"(5) The terms 'freight for hire' in section 4426 of this title and 'freight carrying vessel' in the Act of May 10, 1956 (70 Stat. 151), as amended (46 U.S.C. 390–390g), have no application to an offshore supply vessel.

"(6) Each new offshore supply vessel is subject to inspection as follows:

"(i) a vessel of above fifteen and less than one hundred gross tons is subject to inspection to the same extent as a freight carrying vessel as defined in the Act of May 10, 1956 (70 Stat. 151), as amended (46 U.S.C. 390–390g).

"(ii) a vessel of one hundred gross tons and less than five hundred gross tons is subject to inspection under this title to the same extent as a vessel propelled in whole or in part by steam.

In issuing regulations for the inspection of these vessels, the Secretary of the department in which the Coast Guard is operating shall take into consideration the characteristics of these vessels, their method of operations, and the service in which they are engaged.

"(7) Each existing offshore supply vessel is likewise subject to inspection under this title or under the Act of May 10, 1956 (70 Stat. 151), as amended (46 U.S.C. 390–390g), as applicable. Such a vessel, however, shall not be subject to rules, regulations, or standards for major structural or major equipment requirements unless compliance therewith is necessary in order to remove an especially hazardous condition. Each existing offshore supply vessel that does not possess a valid certificate of inspection issued by the Secretary shall be registered by its owner with the Secretary within three months of the date of enactment of this section. The Secretary shall cause the initial inspection of each such vessel to be made within two years of its registration date. Upon registration each existing offshore supply vessel shall be held to be in compliance with all applicable vessel inspection laws pending verification by actual inspection. The Secretary shall establish a reasonable time schedule to bring vessels subject to this subsection into compliance with applicable requirements. For the interim period, between registration and initial inspection, the Secretary shall prescribe a manning level for each such vessel in accordance with applicable law. On or after January 1, 1989, each existing offshore supply vessel that is twenty years or older shall be subject to inspection under subsection (6) of this section.

"(8) No offshore supply vessel may be navigated without a licensed deck officer and, if over two hundred gross tons, without a licensed engineer.

"(9) No offshore supply vessel operating on January 1, 1979, under a certificate of inspection issued by the Secretary shall be subjected to any higher standards or new inspection requirements as a result of the enactment of this section.

"(10) No offshore supply vessel may carry passengers except in an emergency. An offshore supply vessel that takes aboard one or more passengers in an emergency does not alter its character as an offshore supply vessel under this section.".

SEC. 2. Section 4438 of the Revised Statutes (46 U.S.C. 224), is amended to read as follows:

"SEC. 4438. The Secretary of the department in which the Coast Guard is operating shall license and classify the masters, chief mates, and second and third mates, engineers and pilots of all vessels subject to the vessel inspection or manning laws of the United States. In classifying licensed officers under this section, the Secretary shall, where possible, establish suitable career patterns, and service and other qualifying requirements, appropriate to the particular service or industry in which the offices are engaged. It shall be unlawful to employ any person or for any person to serve as a master, mate, engineer, or pilot of any such vessel, when required to be licensed by the laws of the United States, or the regulations issued in implementation thereof, who is not licensed by the Secretary. Anyone violating this section is liable to a civil penalty of not more than $500 for each offense. Each day of a continuing violation shall constitute a separate offense.".

SEC. 3. The Act of May 10, 1956 (70 Stat. 151), as amended (46 U.S.C. 390–390g), is amended as follows:

(1) Section 1(a) is amended by striking the words "passenger-carrying".

(2) Section 1(b) is amended to read as follows:

"(b) The term 'passenger-carrying vessel' means any vessel which carries more than six passengers, and which is (1) propelled in whole or in part by steam or by any form of mechanical or electrical power and is of less than one hundred gross tons; (2) propelled by sail and is of seven hundred gross tons or less; or (3) non-self-propelled and is of one hundred gross tons or less; except any public vessel of the United States or of any foreign state, or any lifeboat forming part of a vessels' lifesaving equipment. The term includes (1) a domestic vessel operating on the navigable waters of the United States, or on the high seas outside of those waters and within the normal operating range of the vessel, and (2) a foreign vessel departing from a port of the United States.".

(3) Section 1 is amended by adding a new subsection as follows:

"(e) The term 'freight-carrying vessel' means a vessel which carries freight for hire, is propelled by machinery, and is above fifteen gross tons and less than one hundred gross tons. The term does not include (1) vessels propelled by machinery other than steam and engaged in fishing as a regular business, or (2) vessels of foreign registry.".

(4) Section 2(a) is amended by striking the words "passenger-carrying vessel," and inserting in lieu thereof the words "passenger-carrying vessel and each freight-carrying vessel,".

(5) Section 3 is amended by striking the words "passenger-carrying vessels" and inserting in lieu thereof the words "passenger-carrying vessels and freight-carrying vessels".

(6) Sections 4 and 5 are amended by striking in four places the words "passenger-carrying vessel" and inserting in lieu thereof the words "passenger-carrying vessel or freight-carrying vessel".

SEC. 4. Section 13 of the Act of March 4, 1915 (38 Stat. 1169), as amended (46 U.S.C. 672), is amended to read as follows:

"SEC. 13. (a) All vessels of one hundred gross tons or over shall meet the requirements of this section and the regulations issued hereunder by the Secretary of the department in which the Coast Guard is operating, hereinafter referred to as 'Secretary', except—

"(1) vessels navigating exclusively on the rivers and smaller inland lakes of the United States; and

"(2) non-self-propelled vessels, other than barges subject to section 10 of the Act of May 28, 1908 (35 Stat. 428), as amended (46 U.S.C. 395), or section 4417(a) of the Revised Statutes (46 U.S.C. 391a).

"(b) Every person may be rated an able seaman and qualified to serve as such who is eighteen years of age or older; meets the regulatory requirements with respect to sight, hearing, and physical condition; meets the applicable professional knowledge examination or educational requirements; and meets the following applicable service requirements:

"(1) 'Able seaman' qualified for unlimited service on any vessel and on any waters shall have at least three years' service on deck on vessels operating on the oceans or the Great Lakes.

"(2) 'Able seaman-limited' qualified for limited service on any vessel on any waters shall have at least eighteen months' service on deck on vessels subject to this section operating on the oceans or the navigable waters of the United States including the Great Lakes.

"(3) 'Able seaman-special' qualified for special service on any vessel on any waters shall have at least twelve months' service on deck on vessels operating on the oceans or the navigable waters of the United States including the Great Lakes.

"(c) 'Service on deck' means service in the deck department in work related to the work usually performed aboard vessels by able seamen and may include service on decked fishing vessels and on public vessels of the United States. Three hundred and sixty days shall be equal to one year's service, and a day shall be equal to eight hours of labor or duty. A graduate of a school ship approved by the Secretary may be rated as able seaman upon satisfactory completion of the course of instruction. The satisfactory completion of other relevant training programs approved by the Secretary may be substituted for not more than one-third of the required service on deck in accordance with applicable regulations. These regulations may not allow substitution for time spent in these training programs for the required service on deck in a ratio greater than three to one.

"(d) No person below the rating of able seaman shall be permitted at the wheel in ports, harbors, and other waters subject to congested vessel traffic; or under conditions of reduced visibility, adverse weather, or other hazardous circumstances.

"(e) No vessel subject to this section may depart from any port of the United States unless the following provisions are complied with:

"(1) Not less than 75 per centum of the crew in each department are able to understand any order given by the officers of the vessel.

"(2) At least 65 per centum of the deck crew, exclusive of licensed officers, are of a rating not less than able seaman. This percentage may be reduced to 50 per centum on vessels that are permitted by the Act of March 4, 1915 (38 Stat. 1164), as amended (46 U.S.C. 673), to maintain a two watch system. Able seamen shall not be required on tugs and towboats operating on the bays and sounds connected directly with the ocean.

"(f) Employment of persons rated as able seaman under subsection (b) of this section shall be in accordance with the following scale:

"(1) Persons qualified as able seaman may constitute the entire complement of able seamen required on any vessel.

"(2) Persons qualified as able seaman-limited may constitute the entire complement of able seamen required on a vessel of less than one thousand six hundred gross tons or on a vessel operating on the Great Lakes and the Saint Lawrence River as far east as Sept Iles; persons qualified as able seaman-limited may constitute up to 50 per centum of the complement of able seamen required aboard other vessels.

"(3) Persons qualified as able seaman-special may constitute the entire complement of able seamen required on a vessel of five hundred gross tons or less, or on a seagoing barge, tug, or towboat and may constitute up to 50 per centum of the complement of able seamen required aboard other vessels.

"(4) In no case in which the service of able seaman-special is authorized for only a part of the required complement of able seaman aboard a vessel may be the combined percentage of persons so qualified be greater than 50 per centum of the required complement.

"(g) No vessel may be navigated unless all of the complement in her engine department above the rating of coal passer or wiper and below licensed officer shall be the holders of a certificate of service, attesting to proficiency as a qualified member of the engine department. An applicant for this rating shall have six months' service at sea in a rating at least equal to that of coal passer or wiper. A graduate of a school ship approved by the Secretary may be rated as a qualified member of the engine department upon satisfactory completion of the course of instruction. The satisfactory completion of other courses of instruction approved by the Secretary may be substituted for not more than one-half of the required service at sea in accordance with applicable regulations.

"(h) It is unlawful to employ any person, or for any person to serve aboard a vessel to which this section applies, other than a licensed officer, if that person does not have a certificate of service attesting to proficiency issued by the Secretary.

"(i) The Secretary shall issue regulations as may be necessary to carry out the provisions of this section. These regulations shall, among other things, establish procedures for the processing, verification, examination, and retention of records and affidavits related to the issuance of certificates of service attesting to proficiency.

"(j) Every master, person in charge, owner, or operator who violates a provision of this section or of the regulations issued hereunder, and every vessel that is navigated in violation of this section or of the regulations issued hereunder is equally and severally liable to a civil penalty of not more than $500 for each offense.".

Sec. 5. The provisions of section 4 of the Act of June 25, 1936 (49 Stat. 1935), as amended (46 U.S.C. 660a), with respect to crew quarters; and section 4551 of the Revised Statutes of the United States (46 U.S.C. 643), shall not apply to non-self-propelled vessels, other than barges subject to section 10 of the Act of May 28, 1908 (35 Stat. 428), as amended (46 U.S.C. 395), or section 4417 (a) of the Revised Statutes (46 U.S.C. 391a).

Sec. 6. Section 2 of the Act of May 11, 1918 (40 Stat. 549; 46 U.S.C. 223), is further amended: (1) by adding immediately before the last clause, the following: "That an offshore supply vessel, as defined in section 4426a of the Revised Statutes shall, when on a voyage of less than six hundred miles, have on board and in her service one licensed mate, but if any such vessel is engaged on a voyage of six hundred miles or more, then such vessel shall have two licensed mates."; and (2) by striking in the last clause the reference "the Act of June Ninth, Nineteen Hundred and Ten," and inserting in lieu thereof "the Act of April 25, 1940, c. 155, 54 Stat. 163,".

Sec. 7. Section 2 of the Act of March 4, 1915 (38 Stat. 1164), as amended (46 U.S.C. 673), is amended by deleting from the last provisio the words "tugs and barges" and inserting in lieu thereof the following: "tugs, barges, and offshore supply vessels as defined in section 4426a of the Revised Statutes,".

Sec. 8. Section 4399 of the Revised Statutes (46 U.S.C. 361), is amended to read as follows:

"Sec. 4399. Every vessel propelled in whole or in part by steam and every vessel subject to inspection propelled by machinery other than steam is a steam vessel within the meaning of this title.".

Sec. 9. Section 1 of the Act of April 25, 1940 (54 Stat. 163; 46 U.S.C. 526–526t), is amended to read as follows: "That the word 'motorboat' where used in this Act includes every vessel propelled by machinery and not more than sixty-five feet in length except tugboats and towboats propelled by steam. The length shall be measured from end to end over the deck, excluding sheer.".

Sec. 10. The Secretary of the department in which the Coast Guard is operating may, for a period of two years after the effective date of this Act, issue a temporary license as master, mate, or engineer, or certificate of service as able seaman or qualified member of the engine department to any person who on or before January 1, 1979, was serving in such a capacity on board an offshore supply vessel as defined in section 4426a of the Revised Statutes. This license or certificate may be for a term no longer than three years. It may not be renewed nor may more than one such license or certificate be issued to any person, except for replacements occasioned by loss of a license or certificate. A person holding such a license or certificate may not serve under it on any vessel other than an offshore supply vessel. To qualify for a temporary license or certificate the person must apply to the Secretary within three months of the date of enactment of this Act. The Secretary shall acknowledge receipt of that application and advise the person of those positions in which he may serve pending issuance of a temporary license or certificate. Upon receipt of that acknowledgement the person shall be deemed to be in compliance with the appropriate statutes dealing with licensing or certification of merchant marine personnel pending issuance of the temporary license or certificate. Before issuing such a license or certificate, the Secretary shall satisfy himself that the applicant has sufficient qualifications and experience as to warrant the belief that the applicant's continued service in the position for which he is being licensed or certificated will be consistent with the safety of the vessel. Any temporary license, certificate, or acknowledgement of application issued under this subsection is subject to suspension and revocation on the same grounds and with like procedure as provided in section 4450 of the Revised Statutes.

Sec. 11. The following laws are repealed, except with respect to rights and duties that matured, penalties that were incurred, and proceedings that were begun before the date of enactment of this Act:

(a) the Acts of July 8, 1941, chapters 279 and 280 (55 Stat. 579), (46 U.S.C. 672–2 and 672–1, respectively);

(b) the Act of September 25, 1941 (55 Stat. 732); (46 U.S.C. 672b–1);

(c) the Act of June 16, 1938 (52 Stat. 753; 46 U.S.C. 672b, 660b, 643a, and 672c); and

(d) section 18 of the Act of April 25, 1940 (54 Stat. 166; 46 U.S.C. 526q).

The SPEAKER pro tempore. Is a second demanded?

Mr. McCLOSKEY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. Biaggi) will be recognized for 20 minutes, and the gentleman from California (Mr. McCloskey) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. Biaggi).

Mr. BIAGGI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5164 is a multipurpose bill that deals with various facets of the laws governing the inspection and manning of merchant vessels. While certain provisions of the bill apply generally to the merchant marine and merchant marine personnel, H.R. 5164 primarily affects the smaller commercial vessels and especially those in the offshore mineral and oil exploration support industry.

The offshore mineral and oil support industry is an important segment of our merchant marine. It operates over 3,000 vessels and employs some 30,000 persons in support of offshore oil and energy exploration and production. The vessels used by this industry carry the supplies and personnel needed to service and operate the offshore oil and mineral exploration and production facilities. These vessels are diesel propelled and of less than 500 gross tons. They are generally engaged in short runs from their bases onshore to an offshore platform or between platforms. The bulk of the industry is centered in the Gulf of Mexico.

Several sections of the bill are directed at modifying the inspection and manning requirements applicable to the vessels used by this industry. These inspection and manning requirements, which are administered by the Coast Guard, have been a subject of controversy for several years as this industry has grown in size—and the Coast Guard has attempted to enforce the laws and regulations governing the vessels it operates.

Within the past 2 years, the difficulties the Coast Guard was having in enforcing the inspection and manning laws on offshore supply vessels were brought to our attention. At the same time, the industry asserted that it was suffering severe shortages of the qualified people needed to operate its vessels and that these shortages were in large part due to the inspection and manning laws and regulations administered by the Coast Guard. H.R. 5164 responds to both of those problems.

The chief thrust of H.R. 5164 is to eliminate those problems that made Coast Guard enforcement difficult—and to tailor the laws applicable to the vessels operated by the offshore industry to the particular conditions and operating characteristics of that industry.

In brief, the bill eliminates the passenger or freight for hire criteria in present law—which was a prime source of controversy—and subjects all offshore supply vessels to Coast Guard inspection and manning requirements. At the same time, the bill reduces some of the existing manning requirements for the vessels used in that industry. The bill also contains some transition provisions for existing vessels that are not now being inspected but that will be required to be inspected under the bill.

The net result will be to give the Coast Guard a statute to operate under that is clear and enforceable and that will make all offshore supply vessels subject to Coast Guard inspection. It will, in my opinion, result in improved safety standards for these vessels.

In addition to the provisions in the bill that are designed to maintain the viability of the offshore oil industry, the bill contains a general rewrite of the laws pertaining to able seamen.

This rewrite lowers the minimum age for able seamen—modifies and clarifies the classes of able seamen—and changes the experience and service requirements. The purpose of these changes is to establish a system that will result in a reasonable ladder for advancement of seagoing personnel based on experience levels. The changes made by this section are especially vital to the offshore oil supply industry and should materially aid in reducing the personnel shortages in that industry.

H.R. 5164 also modifies two other parts of the existing law governing small commercial vessels. One of these relates to the law applicable to vessels of under 100 gross tons. The bill clarifies the present law on the subject by establishing a uniform 100-gross-ton cutoff point. Vessels under that tonnage—carrying freight or more than six passengers for hire—would be inspected by the Coast Guard under the Small Passenger Carrying Vessel Act.

Vessels of 100 gross tons or over would be inspected under the general marine inspection statutes. In either case, the Coast Guard would continue to have broad authority to regulate these vessels for safety purposes.

The other modification is to the requirements for licensed engineers and deck officers on smaller vessels. At present, there is a statutory floor of 15 gross tons for vessels carrying freight for hire.

and a 15-gross-ton and over-65-feet-in-length criteria for vessels carrying passengers for hire. For vessels above these floors, the Coast Guard's general authority to prescribe manning is overridden—and a licensed engineer and deck officer are required.

In the bill as reported, the statutory floor is raised to 300 gross tons in both cases, thus giving the Coast Guard discretion—as to vessels up to that size—to decide whether the vessel needs a licensed engineer or deck officer. The Coast Guard will make that decision on a vessel-by-vessel basis after considering factors such as the size of the vessel, design, route, number of passengers, equipment on the vessel, hours of operation, and type of propulsion.

Above 300 gross tons, the flat requirement for a licensed engineer and licensed deck officer remains. The net result is to give the Coast Guard discretion as to those vessels between 100 and 300 gross tons. For the offshore mineral and oil support industry, there is an additional requirement that all offshore supply vessels of over 100 gross tons have a licensed deck officer and, if over 200 gross tons, a licensed engineer.

H.R. 5164 was developed after extensive hearings during which witnesses from all facets of the affected industries were heard.

The shortage of qualified personnel in the offshore industry was attested to by the Maritime Administration. The Coast Guard concurred in the existence of the shortage and testified that it was caused in part by the laws and regulations applicable to the industry. The Coast Guard aided the committee in developing this bill and in modernizing and clarifying the complicated statutes it amends.

In developing this bill, the committee has kept the goal of safety at sea firmly in mind. While the bill is a deregulation proposal to the extent that it removes some unnecessary requirements of present law and gives the Coast Guard greater administrative flexibility, I am convinced that its enactment will enhance safety at sea. When the laws are simpler and easier to enforce, they are more effective. That is the case here. H.R. 5164 modernizes the law and more closely tailors it to today's vessels and their operations.

The motion to suspend includes technical corrections and changes to the bill that were found to be necessary after the committee reported the bill out. These are on pages 15, 18, and 19 of the bill.

Mr. Speaker, H.R. 5164 is strongly supported by the administration. It was also supported by all the witnesses who testified, with the single exception of those representing organized maritime labor. While they agree with much of the bill, they are opposed to several of its provisions—especially those applicable to the offshore industry. We have carefully considered their problems with the bill—and, during its development, the bill was significantly modified to alleviate some of their objections to it.

For the information of the Members, after the bill was reported, it was found necessary to amend section 4 of the bill. The amendment would insure that vessels in the mineral and oil industry are manned by experienced seamen. It accomplishes this by deleting the special authorization that authorizes rating a person as an able seaman with 6 months' service for duty on offshore supply vessels. This amendment has been cleared with majority and minority committee members and is included in the bill under consideration.

In these days of potential oil cutoffs and energy shortages, I do not believe I have to remind Members of the necessity of maintaining the health of an industry that contributes significantly to our oil supplies. H.R. 5164 will help to do that. I urge its enactment.

□ 1340

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the passage of H.R. 5164, in the form unanimously reported by the Merchant Marine and Fisheries Committee on March 19, 1980. The bill is designed to clarify and improve inspection and manning laws applicable to small commercial vessels, primarily those serving the offshore-supply industry.

Due to excessive manning and licensing requirements of existing laws which were drafted long ago for large oceangoing vessels, there is a severe shortage of personnel on these small vessels. The rigorous length of service and manning levels required for deep sea vessels engaged in foreign commerce are not necessary for safety on small vessels that primarily serve offshore rigs less than 50 miles from the coast.

The bill modifies the minimal requirements for licensed officers, engineers, and able seamen to make them in line with the particular vessel's type of service. For example, law now requires all seamen to have 3 years sea service before they may be rated as able-bodied seamen. The bill modifies that requirement to 18 months or 12 months, and, as originally enacted by the committee, to 6 months for vessels of less than 500 gross tons engaged in support of offshore mineral or energy exploration or production.

Under current law, some 3,000 small vessels are required to be inspected by the Coast Guard and others are not, largely depending on the legal fiction of whether or not they are "for hire"; that is, serving as common carriers. H.R. 5164 brings all small commercial vessels over 15 gross tons under Coast Guard inspection, but again the inspections standards are to take into consideration the characteristics of the vessels, their method of operations, and the service in which they engage.

Unless the Coast Guard determines it would be unsafe, existing vessels and personnel would be given a temporary "grandfathering" until they can be brought into compliance with the new standards.

This bill is supported strongly by the Coast Guard and the National Transportation Safety Board, two organizations specifically charged with overseeing marine safety. Under pressure from maritime labor, the chairman has agreed to delete the second sentence of section 13(b)(3) as originally reported out by the committee on March 19.

As the chairman of the full committee, the gentleman from New York (Mr. MURPHY), stated in his additional views in the report on H.R. 5164, he felt the 6-month service of ablebodied seamen on offshore oil supply vessels to be "inimical to the progressive positions pursued by organized labor." In the chairman's view, "They established an ominous precedent." I do not believe very many Members share this view, and I believe we could obtain the necessary two-thirds vote on the original bill.

The desire of organized maritime labor to preserve the ancient practice of featherbedding has twice been defeated in the full House, in recent years.

I suppose that we should not abandon 26½ pages of a good bill—one that at long last reforms an antiquated law over 100 years old—in order to insist on one sentence, however meritorious.

I regret, however, that maritime labor still feels it can muster one-third of the House merely by sounding the alarm.

I suspect that even if the maritime unions pulled out all the stops and brought maximum pressure to bear on the House, we would still be able to get a two-thirds majority in favor of suspending the rules and passing this bill as originally reported by the committee. The full Merchant Marine and Fisheries Committee, not exactly an enemy of maritime unions, was able to agree by much more than a two-thirds majority after hearing the evidence on both sides of this issue. I think the full House would do likewise.

Mr. Speaker, I reserve the remainder of my time.

Mr. BIAGGI. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. BREAUX), a very important member of the committee who has contributed substantially and who is thoroughly familiar with the needs of the merchant marine industry in the gulf.

Mr. BREAUX. I thank the gentleman from New York for yielding. If I have any time left, I will say that the bill that the committee has reported comes to the floor by unanimous vote of the full committee. I would like particularly to thank the chairman of the full committee, the gentleman from New York (Mr. MURPHY), and particularly the chairman of the subcommittee, the gentleman from New York (Mr. BIAGGI), for the work that they have done in negotiating and trying to bring to the floor today a fair package which solves the problem and yet still maintains the stability that this industry is known for.

Mr. Speaker, the bill which we are considering today has undergone an extensive series of hearings, drafting sessions, and compromises over the past year. It is a bill which enjoys broad consensus as reflected by the unanimous vote of 16 to 0 in subcommittee and another unanimous vote in the full Merchant Marine and Fisheries Committee.

The reason for this overwhelming support and unanimous agreement is simple—the bill corrects serious problems in a clear, pragmatic manner. The problems were well understood and the solutions were obvious. The problem which I am referring to relates to a severe shortage of personnel available for the offshore oil and gas industry. The reasons for these severe shortages are related to antiquated and excessive licensing, inspection, and manning requirements which were designed for large oceangoing vessels built earlier in the century. Small vessels servicing the offshore industry in the Gulf of Mexico and other areas were never intended to have such restrictive standards applied to them, and this bill will clarify that once and for all.

The U.S. Coast Guard clearly realizes that existing standards are not reasonable if applied to the offshore industry. As a matter of fact, they have not chosen to apply these standards to the industry and have relaxed the standards and entered into a number of "understandings" with the industry to liberally apply the law. While some of these understandings have worked, the members of our committee and the Coast Guard realize that this is no way to properly implement laws which the Congress adopts.

If the Coast Guard worked to apply existing law rigidly to the offshore industry, the Maritime Administration has indicated that 36 percent, or 1,038 offshore vessels would be put out of service. This would have a devastating impact on the energy production of our Nation.

The bill under consideration today would, for the first time, bring all small commercial vessels over 15 gross tons under Coast Guard inspection, licensing, and manning requirements. However, the small commercial vessels will no longer be automatically subject to the same requirements as supertankers and large oceangoing freighters. In other words, the bill would change existing law to apply more realistic standards to offshore vessels and legalize certain "understandings" between the Coast Guard and the industry.

I would like to take this opportunity to express my sincere appreciation to Chairman MURPHY and Chairman BIAGGI of the commitee for their unstinting effort in bringing this bill to this point in the legislative process. Very seldom have I seen Members work so hard to resolve issues and draft a bill which meets so many concerns expressed during public hearings. I want to especially thank Mr. BIAGGI for the fair and equitable manner in which he conducted hearings and markup on this piece of legislation. I believe we have a final product which all segments of the administration, the industry, and the maritime unions can live with.

The changes in the manning and inspection laws pragmatically change existing law to apply to the actual day-to-day operations of the offshore industry, while maintaining safety as a primary objective.

The Coast Guard will have complete discretion to determine specific requirements with respect to inspection, manning, and licensing. They will be able to take into consideration the characteristics of the vessel, their method of operation, and the service in which they are engaged in application of inspection laws. The alteration of certain manning and licensing requirements for personnel aboard the vessels will establish suitable career patterns appropriate to the particular service, or industry, in which the crew and officers are engaged.

While I agree wholeheartedly with the changes made in the bill, there is one aspect of the legislation with which I have reservations. The committee is increasing the seatime necessary for seamen to qualify as able-bodied seamen and I do not agree with the change. Essentially, the change would increase the seatime requirement from 6 months to 12 months on an offshore service vessel. I believe, and the Coast Guard agrees, that 6-months time is more than adequate to train these individuals. I am only agreeing today to accept this provision in order that the bill may be expeditiously considered by the House.

I believe that this particular provision is the keystone to this legislation since the offshore industry has been experiencing some of its most severe shortages with able-bodied seamen. Through the Coast Guard understandings, which have liberally applied existing law, a 12-month seatime is now presently applied. Therefore, I believe that an increase from 6 to 12 months, as is being proposed today in this bill, will not solve this aspect of the problem with the offshore industry.

With the exception of that one difference of opinion, I believe the bill is a worthy piece of legislation and one which will change and clarify existing law to the benefit of all concerned.

During the hearings some witnesses questioned whether any of the changes proposed in the bill would affect the safety of the crew aboard these offshore vessels. The committee felt that safety would actually be enhanced because of the pragmatic way in which standards would be applied. Since the committee adopted this position, correspondence has been received from the Chairman of the National Transportation Safety Board. Mr. James B. King, Chairman of the Safety Board stated to the committee in a letter that:

> We believe that your Committee's efforts in respect to the matter of small passenger and freight carrying vessels is highly timely and appropriate . . . to the degree that the proposed legislation is successful in unequivocally subjecting vessels engaged in the offshore marine service industry to Coast Guard regulations, an important safety need will have been met. It is clear that seeking this end has involved some tradeoffs which can be fairly characterized as a relaxation of existing statutory standards. As to these, a compelling case can be made that some existing standards no longer serve a useful purpose. As to others, we believe that regulatory action by the Coast Guard can provide substantially equivalent, if not superior, standards.

I believe that this statement by this esteemed group should finally put to rest any claims that this bill will relax the safety standards in an adverse manner. This is clearly not the case, and this should be part of the legislative history of this bill.

I urge Members to strongly support this corrective legislation.

Mr. BIAGGI. Mr. Speaker, I yield as much time as the gentleman may consume to the gentleman from Louisiana (Mr. LONG) who has evidenced substantial and lengthy interest in this issue.

Mr. LONG of Louisiana. Mr. Speaker, I rise in support of H.R. 5164, to amend small vessel inspection and manning laws.

This bill is the result of lengthy hearings and represents a reasonable compromise of a serious problem: The orderly growth of the support services of the offshore energy exploration and production industry, to which the safe operation and proper manning of small offshore vessels is vital. At issue are over 3,000 vessels and 30,000 employees, many of whom reside in south Louisiana.

As the growth of the offshore industry has boomed, the inspection and manning requirements applicable to these small vessels have become increasingly burdensome to meet. Under present law, the small commercial vessels are subject to the same requirements as supertankers and large ocean-going freighters. Adequate personnel have not been available to meet these requirements.

The law has simply not kept pace with the innovations of this new offshore maritime industry. The result has been an imprecise application of antiquated and outmoded inspection and manning laws so that the industry could continue to operate. Otherwise, because of shortages of personnel, the offshore vessels in operation would not be adequate to serve the needs of the offshore drilling platforms. The Martime Administration has indicated that more than one-third of the small-vessel offshore fleet would have to be laid up if the Coast Guard were to enforce the letter of the law.

Therefore, certain understandings have evolved between the Coast Guard and the industry. But new legislation tailored to the needs of what is really a new wrinkle in the maritime industry is the rational approach to the problem.

The keystone of the bill before us is flexibility for the Coast Guard in their application of the inspection and manning requirements. The emphasis of congressional intent is evenhandedness and a concentration on safety. H.R. 5164 brings all small commercial vessels over 15 gross tons under the inspection of the Coast Guard and subjects them to licensing and manning requirements. But under this legislation the requirements for small vessels will be distinguished from those requirements for supertankers. The bill is a reasonable and realistic approach that will encourage safe and efficient operation of our offshore fleet. The discretion of the Coast Guard in applying the new standards will be an improvement to both the safety practices and the economic health of the industry.

I support the efforts of my colleagues to bring this matter to a vote in the most expeditious way. Under the suspension procedure, however, no amendments are possible. To bring the bill to the floor this afternoon, I understand that a change was made on the time in training for qualification as ablebodied seaman-special. I prefer the earlier version of the legislation which would reduce the time required for this A.B. certification. I would hope that efforts will be made to return the earlier language on this point to H.R. 5164 before it is finally enacted into law.

Mr. Speaker, I salute my colleagues for the masterful way in which they have brought all parties together in resolving a complex issue. H.R. 5164 is a proud testament to the efficacy of the legislative process. The bill before us is an essential step to improve the viability of our offshore energy industry and in the direction of our national goal of enhanced domestic energy production.

Mr. McCLOSKEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Speaker, I rise in strong support of H.R. 5164. I want to compliment my chairman of this committee. I think this is a bill that will relieve many of the problems we have in the inspection of small vessels. Recognizing the concerns of the gentleman from Louisiana (Mr. LONG), I will be working with this gentleman and the chairman of the committee to see if we cannot solve some of these problems in the future.

○ Mr. ASHLEY. Mr. Speaker, H.R. 5164 amends several statutes administered by the Coast Guard that relate to the inspection and manning of small commercial vessels. These statutes, in general, state what types and classes of vessels are required to be inspected by the Coast Guard to insure their safety. They also provide for the licensing and certificating of the crews of vessels, and describe the numbers and qualifications of personnel that are required on various types and classes of vessels.

The marine safety statutes that H.R. 5164 amends are complicated and interrelated. Many of them originated in the early 1800's and in the mid-1930's. Their age and complexity have created difficult problems of interpretation and administration—especially as our merchant marine changes its character and the types of vessels it operates. H.R. 5164 addresses some of those problems.

During the past few years the Coast Guard has experienced difficulty with the enforcement of laws pertaining to the inspection and manning of offshore supply vessels. The offshore mineral and oil support industry has asserted that it has experienced serious shortages of qualified personnel needed to operate its vessels. The industry states that these shortages are due in part to the outdated inspection and manning laws and regulations administered by the Coast Guard.

The bill does address the various problems of the offshore mineral and oil industry, which is an important segment of our merchant marine. The industry operates over 3,000 vessels and employs 30,000 persons. Vessels used by this industry are diesel-propelled, are less than 500 gross tons, and are used for transportation of supplies and personnel.

H.R. 5164 also would make several changes in the laws governing able seamen and thus would affect the entire maritime industry. The bill will clarify and simplify existing statutes in this regard, while establishing a ladder for advancement based on experience levels.

H.R. 5164 will clarify the laws pertaining to both the inspection and manning of vessels under 100 gross tons. The bill will also modify the requirements for licensed engineers and deck officers. The present statute requires inspection only if the vessel is carrying freight or passengers for hire. H.R. 5164 will require that all offshore supply vessels be inspected by the Coast Guard.

The motion to suspend includes technical corrections and changes to the bill that were found to be necessary after the committee reported the bill out. These are on pages 15, 18, and 19 of the bill.

This bill was developed by the Subcommittee on Coast Guard and Navigation under the able chairmanship of my good friend. MARIO BIAGGI. I will yield to him at this time to present the bill more fully to the House.●

● Mr. MURPHY of New York. Mr. Speaker, H.R. 5164 is a bill to amend several statutes relating to inspection and manning requirements of small commercial vessels carrying passengers or freight for hire. The bill was the subject of extensive hearings before the Subcommittee on Coast Guard and Navigation and numerous consultations with members of the offshore mineral and oil support industry and representatives of the maritime labor unions. Major effort has been made to come to specific terms with these two groups and provide a bill that addresses the problems of the interests involved and offers viable solutions without sacrificing maritime safety.

H.R. 5164 addresses a number of problems in the inspection and manning of small commercial vessels that are less than 300 tons in size with particular emphasis on the offshore mineral and oil support industry. It modifies the requirements for licensed engineers and deck officers on these smaller vessels and makes a number of changes governing able seamen for all size vessels. The bill attempts to create a balance between the need for specific detailed requirements while allowing for Coast Guard discretion as to the regulation of these requirements.

The chief impact of H.R. 5164 will be on the offshore mineral and oil support industry, which is a growing segment of the merchant marine. Several sections of the bill are directed at modifying the inspection and manning requirements applicable to vessels used in this industry. As the industry has grown in size, these requirements have been a subject of controversy and have become increasingly difficult for the Coast Guard to enforce. The industry has asserted that it was suffering shortages of qualified people due to these laws. H.R. 5164 has attempted to respond to this problem and provide statutory language that is clear and enforceable, thus resulting in improved safety standards.

I must express concern about those provisions that amend the inspection and manning requirements of existing law so as to create, in effect, a special exception for the marine and oil support industry. In the first place, the bill raises the limit that vessels may operate without licensed officers from 15 to 300 gross tons without regard to the number of passengers, value of freight, or size of vessel. Second, the bill permits special licensing provisions for the mineral and oil support industry. Third, the bill changes the present requirements for able-bodied seamen aboard small vessels. Fourth, the proposal permits offshore supply vessels, regardless of size, to employ a two-watch system instead of the existing three-watch requirement. The provisions are inimical to the positions taken by organized labor and make it increasingly difficult to better working conditions and wages in the marine and oil supply industry. This, in my view, establishes a troublesome precedent.

I originally suggested a temporary 1-year moratorium on enforcement of existing laws with respect to the mineral and oil support industry in order to resolve the conflict between the views of the industry and organized labor. It can be argued that the reason for the manpower shortages in the Gulf of Mexico portion of the industry is the reluctance of the industry in that region to raise the level of wages and working conditions. The industry in the Northeastern United States has no such difficulty because the wages and conditions are superior to those in the gulf. It appears that the problem is not an inherent shortage of labor because of high standards but stems from conditions that are not on a level with the nonmaritime industries in the gulf coast area.

The insistence on a permanent exemption from these laws in the Gulf of Mexico mineral and oil support industry is a cause of concern. This legislation is seen by some as authorizing offshore supply vessels to navigate coastal waters with fatigued, undertrained, underexperienced, poorly qualified personnel working for substandard wages under difficult conditions.

I continue to believe that the 1-year moratorium on enforcement of existing laws is the preferred course of action. Nonetheless, the Committee on Merchant Marine and Fisheries has reported a bill that would change applicable law to ameliorate problems experienced by the Coast Guard and the offshore minerals and oil industry. I am sure that the committee will vigilantly follow the implementation of the provisions of H.R. 5164 so as to assure that maritime safety is not degraded thereby.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BIAGGI) that the House suspend the rules and pass the bill, H.R. 5164, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

House Resolution 700 was laid on the table.

GENERAL LEAVE

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, H.R. 5164.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

MARITIME EDUCATION AND TRAINING ACT OF 1980

Mr. AuCOIN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5451) to provide for education and training in maritime subjects, as amended.

The Clerk read as follows:

H.R. 5451

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Maritime Education and Training Act of 1980".

SEC. 2. The Merchant Marine Act, 1936 (46 U.S.C. 1101, et seq.), is amended by adding after title XII the following new title:

"TITLE XIII—MARITIME EDUCATION AND TRAINING

"SEC. 1301. It is the policy of the United States that merchant marine vessels of the United States should be operated by highly trained and efficient citizens of the United States and that the United States Navy and the merchant marine of the United States should work closely together to promote the maximum integration of the total seapower forces of the United States. In furtherance of this policy—

"(1) the Secretary of Commerce is authorized to take the steps necessary to provide for the education and training of citizens of the United States who are capable of providing for the safe and efficient operation of the merchant marine of the United States at all times and as a naval and military auxiliary in time of war or national emergency; and

"(2) the Secretary of Navy, in cooperation with the Assistant Secretary of Commerce for Maritime Affairs and the head of each State maritime academy, shall assure that the training of future merchant marine officers at the United States Merchant Marine Academy and at the State maritime academies includes programs for naval science training in the operation of merchant marine vessels as a naval and military auxiliary and that naval officer training programs for the training of future officers, insofar as possible, be maintained at designated maritime academies consistent with United States Navy standards and needs.

"SEC. 1302. For purposes of this title—

"(1) the term 'Secretary' means the Secretary of Commerce;

"(2) the term 'Academy' means the United States Merchant Marine Academy located at Kings Point, New York which is maintained under section 1303;

"(3) the term 'State maritime academy' means any maritime academy or college which is assisted under section 1304 and which is sponsored by any State or territory of the United States or, in the case of a regional maritime academy or college, sponsored by any group of States or territories of the United States, or both; and

"(4) the term 'merchant marine officer' means any person who holds a license issued by the United States Coast Guard which authorizes service—

"(A) as a master, mate, or pilot on board any vessel of 1,000 gross tons or more which is documented under the laws of the United States and which operates on the oceans or on the Great Lakes; or

"(B) as an engineer officer on board any vessel propelled by machinery of 4,000 horsepower or more which is documented under the laws of the United States.

"SEC. 1303. (a) The Secretary shall maintain the Academy for providing instruction to individuals to prepare them for service in the merchant marine of the United States.

"(b)(1) Each Senator and Member of the House of Representatives, the Panama Canal Commission, the Governor of the Northern Mariana Islands, and the Governor of American Samoa (until a delegate to the House of Representatives from American Samoa takes office) may nominate for appointment as a cadet at the Academy any individual who is—

"(A) a citizen of the United States or a national of the United States; and

"(B) a resident of the State represented by such Senator if the individual is nominated by a Senator, a resident of the State in which the congressional district represented by such Member of the House of Representatives is located if the individual is nominated by a Member of the House of Representatives (or a resident of Guam, the Virgin Islands, the District of Columbia, the Commonwealth of Puerto Rico, or American Samoa if the individual is nominated by a Member of the House of Representatives repsenting such area), a resident of the area or installation described in paragraph (3)(A)(ii), or a son or daughter of the personnel described in such paragraph, if the individual is nominated by the Panama Canal Commission, a resident of the Northern Mariana Islands if the individual is nominated by the Governor of the Northern Mariana Islands, or a resident of American Samoa if the individual is nominated by the Governor of American Samoa.

"(2)(A) The Secretary shall establish minimum requirements for the individuals nominated pursuant to paragraph (1) and shall establish a system of competition for the selection of individuals qualified for appointment as cadets at the Academy.

"(B) Such system of competition shall determine the relative merit of appointing each such individual to the Academy through the use of competitive examinations, an assessment of the academic background of the individual, and such other factors as are considered effective indicators of motivation and the probability of successful completion of training at the Academy.

"(3)(A) Qualified individuals nominated pursuant to paragraph (1) shall be selected each year for appointments as cadets at the Academy to fill positions allocated as follows:

"(i) Positions shall be allocated each year for individuals who are residents of each State and are nominated by the Members of the Congress from such State in proportion to the representation in Congress from that State.

"(ii) Two positions shall be allocated each year for individuals nominated by the Panama Canal Commission who are sons or daughters of residents of any area or installation located in the Republic of Panama which is made available to the United States pursuant to the Panama Canal Treaty of 1977, the agreements relating to and implementing that Treaty, signed September 7, 1977, and the Agreement Between the United States of America and the Republic of Panama Concerning Air Traffic Control and Related Services, concluded January 8, 1979, and sons or daughters of personnel of the United States Government and the Panama Canal Commission residing in the Republic of Panama, nominated by the Panama Canal Commission.

"(iii) One position shall be allocated each year for an individual who is a resident of Guam and is nominated by the Delegate to the House of Representatives from Guam.

"(iv) One position shall be allocated each year for an individual who is a resident of the Virgin Islands and is nominated by the Delegate to the House of Representatives from the Virgin Islands.

"(v) One position shall be allocated each year for an individual who is a resident of the Northern Mariana Islands and is nominated by the Governor of the Northern Mariana Islands.

"(vi) One position shall be allocated each year for an individual who is a resident of American Samoa and is nominated by the Governor of American Samoa (until a delegate to the House of Representatives from American Samoa takes office).

"(vii) Four positions shall be allocated each year for individuals who are residents of the District of Columbia and are nominated by the Delegate to the House of Representatives from the District of Columbia.

"(viii) One position shall be allocated each year for an individual who is a resident of the Commonwealth of Puerto Rico and is nominated by the Resident Commissioner to the United States from Puerto Rico.

"(B) The Secretary shall make appointments of qualified individuals to fill the positions allocated pursuant to subparagraph (A) (from among the individuals nominated pursuant to paragraph (1)) in the order of merit determined pursuant to paragraph (2)(B) among residents of each State, Guam, the Virgin Islands, the Northern Mariana Islands, American Samoa, the District of Columbia, and the Commonwealth of Puerto Rico and among individuals nominated by the Panama Canal Commission.

"(C) If positions are not filled after the appointments are made pursuant to subparagraph (B), the Secretary shall make appointments of qualified individuals to fill such positions from among all individuals nominated pursuant to paragraph (1) in the order of merit determined pursuant to paragraph (2)(B) among all such individuals.

"(D) In addition, the Secretary may each year appoint without competition as cadets at the Academy not more than 40 qualified individuals possessing qualities deemed to be of special value to the Academy. In making such appointments the Secretary shall attempt to achieve a national demographic balance at the Academy.

"(E) No preference shall be granted in selecting individuals for appointment as cadets at the Academy because one or more members of the immediate family of any such individual are alumni of the Academy.

"(F) Any citizen of the United States selected for appointment pursuant to this paragraph must agree to apply for midshipman status in the United States Naval Reserve (including the Merchant Marine Reserve, United States Naval Reserve) before being appointed as a cadet at the Academy.

"(G) For purposes of this paragraph, the term 'State' means the several States.

"(4)(A) In addition to paragraph (3), the Secretary may permit, upon designation by the Secretary of the Interior, individuals from the Trust Territory of the Pacific Islands to receive instruction at the Academy.

"(B) Not more than 4 individuals may receive instruction under this paragraph at any one time.

"(C) Any individual receiving instruction under the authority of this paragraph shall receive the same allowances and shall be subject to the same rules and regulations governing admission, attendance, discipline, resignation, discharge, dismissal, and graduation as cadets at the Academy appointed from the United States, subject to such exceptions as shall be jointly agreed upon by the Secretary and the Secretary of the Interior.

"(5) (A) In addition to paragraphs (3) and (4), the President may designate individuals from nations located in the Western Hemisphere other than the United States to receive instruction at the Academy.

"(B) Not more than 12 individuals may receive instruction under this paragraph at any one time, and not more than 2 individuals receiving instruction under this paragraph at any one time may be from the same nation.

"(C) Any individual receiving instruction under this subparagraph is entitled to the same allowances and shall be subject to the same rules and regulations governing admission, attendance, discipline, resignation, discharge, dismissal, and graduation as cadets at the Academy appointed from the United States.

"(6) (A) In addition to paragraphs (3), (4), and (5), the Secretary may permit, upon approval of the Secretary of State, individuals from nations other than the United States to receive instruction at the Academy.

"(B) Not more than 30 individuals may receive instruction under this paragraph at any one time.

"(C) The Secretary shall insure that each nation from which an individual comes to receive instruction under this paragraph shall reimburse the Secretary for the cost of such instruction (including the same allowances as received by cadets at the Academy appointed from the United States) as determined by the Secretary.

"(D) Any individual receiving instruction at the Academy under this paragraph shall be subject to the same rules and regulations governing admission, attendance, discipline, resignation, discharge, dismissal, and graduation as cadets at the Academy appointed from the United States.

"(7) Any individual appointed as a cadet to the Academy under paragraph (3), or receiving instruction at the Academy under paragraph (4), (5), or (6), is not entitled to hold any license authorizing service on any merchant marine vessel of the United States solely by reason of graduation from the Academy.

"(c) Any citizen of the United States who is appointed as a cadet at the Academy may be appointed by the Secretary of the Navy as a midshipman in the United States Naval Reserve (including the Merchant Marine Reserve, United States Naval Reserve).

"(d) The Secretary shall provide to any cadet at the Academy all required uniforms and textbooks and allowances for transportation (including reimbursement of traveling expenses) while traveling under orders as a cadet of the Academy.

"(e) (1) Each individual appointed as a cadet at the Academy after the date occurring 6 months after the effective date of the Maritime Education and Training Act of 1980, who is a citizen of the United States, shall as a condition of appointment to the Academy sign an agreement committing such individual—

"(A) to complete the course of instruction at the Academy, unless the individual is separated by the Academy;

"(B) to fulfill the requirements for a license as an officer in the merchant marine of the United States on or before the date of graduation from the Academy of such individual;

"(C) to maintain a license as an officer in the merchant marine of the United States for at least 6 years following the date of graduation from the Academy of such individual;

"(D) to apply for an appointment as, to accept if tendered an appointment as, and to serve as a commissioned officer in the United States Naval Reserve (including the Merchant Marine Reserve, United States Naval Reserve), the United States Coast Guard Reserve, or any other reserve unit of an armed force of the United States, for at least 6 years following the date of graduation from the Academy of such individual;

"(E) to serve the foreign and domestic commerce and the national defense of the United States for at least 5 years following the date of graduation from the Academy—

"(i) as a merchant marine officer serving on vessels documented under the laws of the United States or on vessels owned and operated by the United States or by any State or territory of the United States;

"(ii) as an employee in a United States maritime-related industry, profession, or marine science (as determined by the Secretary), if the Secretary determines that service under clause (i) is not available to such individual;

"(iii) as a commissioned officer on active duty in an armed force of the United States or in the National Oceanic and Atmospheric Administration; or

"(iv) by combining the services specified in clauses (i), (ii), and (iii); and

"(F) to report to the Secretary on the compliance by the individual to this paragraph.

"(2) If the Secretary determines that any individual who has attended the Academy for not less than 2 years has failed to fulfill the part of the agreement (required by paragraph (1)) described in paragraph (1) (A), such individual may be ordered by the Secretary of the Navy to active duty in the United States Navy to serve for a period of time not to exceed 2 years. In case of hardship as determined by the Secretary, the Secretary may waive this paragraph.

"(3) If the Secretary determines that any individual has failed to fulfill any part of the agreement (required by paragraph (1)) described in subparagraphs (B), (C), (D), (E), or (F) of paragraph (1), such individual may be ordered to active duty to serve a period of time not less than 3 years and not more than the unexpired portion (as determined by the Secretary) of the service required by subparagraph (E) of such paragraph. The Secretary, in consultation with the Secretary of Defense and the Secretary of Transportation, shall determine in which service the individual shall be ordered to active duty to serve such period of time. In cases of hardship as determined by the Secretary, the Secretary may waive this paragraph.

"(4) The Secretary may defer the service commitment of any individual pursuant to subparagraph (E) of paragraph (1) (as specified in the agreement required by such paragraph) for a period of not more than 2 years if such individual is engaged in a graduate course of study approved by the Secretary, except that any deferment of service as a commissioned officer pursuant to paragraph (1) (E) must be approved by the Secretary of the military department (including the Secretary of the department in which the United States Coast Guard is operating with respect to the United States Coast Guard and the Secretary of Commerce with respect to the National Oceanic and Atmospheric Administration) which has jurisdiction over such service.

"(f) The Secretary may provide for the training of cadets at the Academy—

"(1) on vessels owned or subsidized by the United States;

"(2) on other vessels documented under the laws of the United States if the owner of any such vessel cooperates in such use; and

"(3) in shipyards or plants and with any industrial or educational organizations.

"(g) The Superintendent of the Academy may confer the degree of bachelor of science upon any individual who has met the conditions prescribed by the Secretary and who, if a citizen of the United States, has passed the examination for a merchant marine officer's license. No individual may be denied a degree under this subsection because the individual is not permitted to take such examination solely because of physicial disqualification.

"(h) (1) A Board of Visitors to the Academy shall be established to visit the Academy annually on a date determined by the Secretary and to make recommendations on the operation of the Academy.

"(2) The Board shall be composed of—

"(A) 2 Senators appointed by the Chairman of the Commerce, Science, and Transportation Committee of the Senate;

"(B) 3 Members of the House of Representatives appointed by the chairman of the Merchant Marine and Fisheries Committee of the House of Representatives;

"(C) 1 Senator appointed by the Vice President;

"(D) 1 Member of the House of Representatives appointed by the Speaker of the House of Representatives; and

"(E) the chairman of the Commerce, Science, and Transportation Committee of the Senate and the chairman of the Merchant Marine and Fisheries Committee of the House of Representatives, as ex officio members.

"(3) Whenever a member of the Board is unable to attend the annual meeting provided in paragraph (1), another individual may be appointed in the manner provided by paragraph (2) as a substitute for such member.

"(4) The Chairman of the Commerce, Science, and Transportation Committee of the Senate and the Merchant Marine and Fisheries Committee of the House of Representatives may designate staff members of such committees to serve without reimbursement as staff for the Board.

"(5) While away from their homes or regular places of business in the performance of services for the Board, members of the Board and any staff members designated under paragraph (4) shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

"(i) (1) An Advisory Board to the Academy shall be established to visit the Academy at least once during each academic year, for the purpose of examining the course of instruction and management of the Academy and advising the Assistant Secretary of Commerce for Maritime Affairs and the Superintendent of the Academy.

"(2) The Advisory Board shall be composed of not more than 7 persons of distinction in education and other fields relating to the Academy who shall be appointed by the Secretary for terms not to exceed 3 years and may be reappointed.

"(3) The Secretary shall appoint a chairman from among the members of the Advisory Board.

"(4) While away from their homes or regular places of business in the performance of service for the Advisory Board, members of the Advisory Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

"(5) The Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.) shall not apply to the Advisory Board established pursuant to this subsection.

"SEC. 1304. (a) The Secretary shall cooperate with and assist any State maritime academy in providing instruction to individuals to prepare them for service in the merchant marine of the United States.

"(b) The Governors of all States or territories of the United States, or both, cooperating to sponsor a regional maritime academy shall designate in writing one State or territory of the United States, from among the sponsoring States or territories, or both, to conduct the affairs of such regional maritime academy. Any regional maritime academy shall be eligible for assistance from the Federal Government on the same basis as any State maritime academy sponsored by a single State or territory of the United States.

"(c) (1) (A) The Secretary may furnish for training purposes any suitable vessel under the control of the Secretary or provided under subparagraph (B), or construct and furnish a suitable vessel if such a vessel is not available, to any State maritime academy meeting the requirements of subsection (f) (1). Any such vessel—

"(i) shall be repaired, reconditioned, and equipped (including supplying all apparel, charts, books, and instruments of navigation) as necessary for use as a training ship;

"(ii) shall be furnished to such State maritime academy only after application for such vessel is made in writing by the Governor of the State or territory sponsoring such State maritime academy or, with respect to a regional maritime academy the Governor of the State or territory designated pursuant to subsection (b);

"(iii) shall be furnished to such State maritime academy only if a suitable port for the safe mooring of such vessel is available while it is being used by such academy;

"(iv) shall be maintained in good repair by the Secretary; and

"(v) shall remain the property of the United States.

"(B) Any department or agency of the United States may provide to the Secretary to be furnished to any State maritime academy any vessel (including equipment) which is suitable for the purposes of this paragraph and which can be provided without detriment to the service to which such vessel is assigned.

"(2) The Secretary may pay to any State maritime academy the amount of the costs of all fuel consumed by any vessel furnished under paragraph (1) while such vessel is being used for training purposes by such academy.

"(3) (A) The Secretary may provide for the training of individuals attending a State maritime academy—

"(i) on vessels owned or subsidized by the United States;

"(ii) on other vessels documented under the laws of the United States if the owner of any such vessel cooperates in such use; and

"(iii) in shipyards or plants and with any industrial or educational organizations.

"(B) While traveling under orders for purposes of receiving training under this paragraph, any individual who is attending a State maritime academy shall receive from the Secretary allowances for transportation (including reimbursement of traveling expenses) in accordance with any regulations promulgated by the Secretary.

"(d) (1) The Secretary may enter into an agreement, which shall be effective for not more than 4 years, with one State maritime academy (not including regional maritime academies) located in each State or territory of the United States which meets the requirements of subsection (f) (1), and with each regional maritime academy which meets the requirements of subsection (f) (1), to make annual payments to each such academy for the maintenance and support of such academy. The amount of each such annual payment shall be not less than the amount furnished to such academy for its maintenance and support by the State or territory in which such academy is located or, in the case of a regional maritime academy an amount equal to the amount furnished to such academy for its maintenance and support by all States or territories, or both, cooperating to support such academy, but shall not exceed $25,000, or $100,000 if such academy meets the requirements of subsection (f) (2).

"(2) The Secretary shall provide to each State maritime academy guidance and assistance in developing courses on the operation and maintenance of new vessels, on equipment, and on innovations being introduced to the merchant marine of the United States.

"(e) Upon the request of the Governor of any State or territory, the President may detail, without reimbursement, any of the personnel of the United States Navy, the United States Coast Guard, or the United States Maritime Service to any State maritime academy to serve as superintendents, professors, lecturers, or instructors at such academy.

"(f) (1) As a condition to receiving any payment or the use of any vessel under this section, any State maritime academy shall—

"(A) provide courses of instruction on navigation, marine engineering (including steam and diesel propulsion), the operation and maintenance of new vessels and equipment, and innovations being introduced to the merchant marine of the United States; and

"(B) agree in writing to conform to such standards for courses, training facilities, admissions, and instruction as are established by the Secretary after consultation with the superintendents of the State maritime academies.

"(2) As a condition to receiving an annual payment of any amount in excess of $25,000 under subsection (d), a State maritime academy shall agree to admit to such academy each year a number of individuals who meet the admission requirements of such academy and who are citizens of the United States residing in States and territories of the United States other than the States or territories, or both, supporting such academy. The Secretary shall determine the number of individuals under this paragraph for each State maritime academy so that such number does not exceed one-third of the total number of individuals attending such academy at any time.

"(g) (1) The Secretary may enter into an agreement, which shall be effective for not more than 4 academic years, with any individual, who is a citizen of the United States and is attending a State maritime academy which entered into an agreement with the Secretary under subsection (d) (1), to make student incentive payments to such individual, which payments shall be in amounts equaling $1,200 for each academic year and which payments shall be—

"(A) allocated among the various State maritime academies in a fair and equitable manner;

"(B) used to assist the individual in paying the cost of uniforms, books, and subsistence; and

"(C) paid by the Secretary to the individual in such payments as the Secretary shall prescribe while such individual is attending such academy.

"(2) Each agreement entered into under paragraph (1) shall require the individual to apply for midshipman status in the United States Naval Reserve (including the Merchant Marine Reserve, United States Naval Reserve) before receiving any student incentive payments under this subsection.

"(3) Each agreement entered into under paragraph (1) shall obligate the individual receiving student incentive payments under the agreement—

"(A) to complete the course of instruction at the State maritime academy which the individual is attending, unless the individual is separated by such academy;

"(B) to take the examination for a license as an officer in the merchant marine of the United States on or before the date of graduation from such State maritime academy of such individual and to fulfill the requirements for such license not later than 3 months after such graduation date;

"(C) to maintain a license as an officer in the merchant marine of the United States for at least 6 years following the date of graduation from such State maritime academy of such individual;

"(D) to apply for an appointment as, to accept if tendered an appointment as, and to serve as a commissioned officer in the United States Naval Reserve (including the Merchant Marine Reserve, United States Naval Reserve), the United States Coast Guard Reserve, or any other reserve unit of an armed force of the United States, for at least 6 years following the date of graduation from such State maritime academy of such individual;

"(E) to serve the foreign and domestic commerce and the national defense of the United States for at least 3 years following the date of graduation from the Academy—

"(i) as a merchant marine officer serving on vessels documented under the laws of the United States or on vessels owned and operated by the United States or by any State or territory of the United States;

"(ii) as an employee in a United States maritime-related industry, profession, or marine science (as determined by the Secretary), if the Secretary determines that service under clause (i) is not available to such individual;

"(iii) as a commissioned officer on active duty in an armed force of the United States or in the National Oceanic and Atmospheric Administration; or

"(iv) by combining the services specified in clauses (i), (ii), and (iii); and

"(F) to report to the Secretary on the compliance by the individual to this paragraph.

"(4) If the Secretary determines that any individual who has attended a State maritime academy for not less than 2 years has failed to fulfill the part of the agreement (required by paragraph (1)) described in paragraph (3) (A), such individual may be ordered by the Secretary of the Navy to active duty in the United States Navy to serve for a period of time not to exceed 2 years. In cases of hardship as determined by the Secretary, the Secretary may waive this paragraph.

"(5) If the Secretary determines that any individual has failed to fulfill any part of the agreement (required by paragraph (1)) described in subparagraphs (B), (C), (D), (E), or (F) of paragraph (3), such individual may be ordered to active duty to serve a period of time not less than 2 years and not more than the unexpired portion (as determined by the Secretary) of the service required by subparagraph (E) of such paragraph. The Secretary, in consultation with the Secretary of Defense and the Secretary of Transportation, shall determine in which service the individual shall be ordered to active duty to serve such period of time. In cases of hardship as determined by the Secretary, the Secretary may waive this paragraph.

"(6) The Secretary may defer the service commitment of any individual pursuant to subparagraph (E) of paragraph (3) (as specified in the agreement required by such paragraph) for a period of not more than 2 years if such individual is engaged in a graduate course of study approved by the Secretary, except that any deferment of service as a commissioned officer pursuant to subparagraph (E) of such paragraph must be approved by the Secretary of the military department (including the Secretary of the department in which the United States Coast Guard is operating with respect to the United States Coast Guard and the Secretary of Commerce with respect to the National Oceanic and Atmospheric Administration) which has jurisdiction over such service.

"(7) This subsection shall apply only to individuals first entering a State maritime academy after the date occurring 6 months after the effective date of the Maritime Education and Training Act of 1980.

"(h) Any citizen of the United States attending a State maritime academy may be appointed by the Secretary of the Navy as a midshipman in the United States Naval Reserve (including the Merchant Marine Reserve, United States Naval Reserve).

"Sec. 1305. (a) The Secretary may provide additional training on maritime subjects, as the Secretary deems necessary, to supplement other training opportunities and may make any such training available to the personnel of the merchant marine of the United States and to individuals preparing for a career in the merchant marine of the United States.

"(b) The Secretary may prepare or purchase any equipment or supplies required for any training provided under subsection (a) and may contract with any person, partnership, firm, association, or corporation (without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5)) for the performance of any services deemed necessary by the Secretary in the preparation of any such equipment or supplies and in the supervision and administration of any such training.

"Sec. 1306. (a) The Secretary may establish and maintain a voluntary organization for the training of citizens of the United States to serve on merchant marine vessels of the United States to be known as the United States Maritime Service.

"(b) The Secretary may determine the number of individuals to be enrolled for training and reserve purposes in such service, to fix the rates of pay and allowances of such individuals without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code (relating to classification and General Schedule pay rates), to prescribe the course of study and the periods of training in such service, and to prescribe the uniform of such service and the rules governing the wearing and furnishing of such uniform.

"(c) The ranks, grades, and ratings for personnel of the United States Maritime Service shall be the same as are then prescribed for the personnel of the United States Coast Guard.

"Sec. 1307. (a) As used in this section, the term 'civilian nautical school' means any school operated and conducted in the United States (except the Academy maintained under section 1303, any State maritime academy assisted under section 1304, and any other school operated by the United States or any agency of the United States) which offers instruction to individuals quartered on board any vessel for the primary purpose of training them for service in the merchant marine.

"(b) Each civilian nautical school shall be subject to examination and inspection by the Secretary, and the Secretary may (under such rules and regulations as the Secretary may prescribe) provide for the rating and certification of such schools as to the adequacy of the course of instruction, the competency of the instructors, and the suitability of the equipment used by, or in connection with, such school.

"(c)(1) Any vessel or other floating equipment, other than a vessel of the United States Navy or the United States Coast Guard, used by or in connection with any civilian nautical school (whether such vessel or other floating equipment is being navigated or not) shall be subject to the vessel inspection laws of the United States under the same terms as is a passenger carrying vessel or a vessel carrying passengers for hire.

"(2) The Secretary of the department in which the United States Coast Guard is operating shall issue regulations to carry out the inspection of such vessels and floating equipment.

"(d) Whoever—

"(1) violates this section or any regulations promulgated to implement this section;

"(2) is an owner of a vessel or floating equipment which is in violation of the requirements of this section;

"(3) is an officer or member of the Board of Directors of a school, organization, association, partnership, or corporation which owns a vessel or floating equipment which is used in violation of the requirements of this section or which uses such a vessel or floating equipment in violation of this section,

shall be fined not more than $10,000 or imprisoned for not more than one year, or both, for each offense.

"Sec. 1308. (a) The Secretary shall establish such rules and regulations as may be necesary to carry out this title.

"(b) The Secretary may cooperate with and assist the Academy, any State maritime academy, and any nonprofit training institution which has been jointly approved by the Secretary and the Secretary of the department in which the United States Coast Guard is operating as offering training courses which meet Federal regulations for maritime training, by making vessels, shipboard equipment, and other marine equipment, owned by the United States which have been determined to be excess or surplus, available by gift, loan, sale, lease, or charter to such institution for instructional purposes on such terms as the Secretary deems appropriate.

"(c)(1) The Secretary may secure directly from any department or agency of the United States any information, facilities, or equipment, on a reimbursable basis, necessary to carry out this title.

"(2) Upon the request of the Secretary, the head of any department or agency of the United States (including any military department of the United States) may detail, on a reimbursable basis, any of the personnel of such department or agency to the Secretary to assist in carrying out this title.

"(d) To carry out this title, the Secretary may employ at the Academy any individual as a professor, lecturer, or instructor, without regard to the provisions of title 5, United States Code (governing appointments in the competitive service), and may pay such individual without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates).

"(e)(1) The Secretary of the department in which the United States Coast Guard is operating shall inspect, and prescribe regulations for the inspection of, any vessel of more than 15 gross tons, other than a vessel of the United States Navy or the United States Coast Guard, which is used primarily for training or instruction provided by the Academy under section 1303 or by a State maritime academy assisted under section 1304. Any such vessel shall not be subject to inspection under any other law or regulation requiring the inspection of such vessel by the United States Coast Guard.

"(2) Any inspection under paragraph (1) shall include inspections of lifesaving and firefighting equipment, structure and arrangement generally, safe loading, and living and working conditions.

"(3) Any regulations prescribed under paragraph (1) shall take into account the function, purpose, and use of such vessels, the routes of such vessels, and the number of individuals who may be carried on such vessels.

"(4) Any vessel which is described in paragraph (1) may not be used in connection with any training or instruction provided by the Academy under section 1303 or by a State maritime academy assisted under section 1304 as long as such vessel is in violation of any regulations prescribed pursuant to this subsection or does not pass any inspection conducted pursuant to this subsection.

"(5) Whoever—

"(A) refuses to allow, or impedes or interferes with any inspection required by this subsection; or

"(B) violates any regulations prescribed under this subsection,

shall be fined not more than $10,000 or imprisoned for not more than one year, or both, for each offense.".

Sec. 3. (a) Section 209(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1119(b)) is amended—

(1) by striking out "State Marine Schools" in clause (7) and inserting in lieu thereof "State maritime academies under section 1304 of this Act";

(2) by striking out "extension and correspondence courses authorized under section 216(c) of this Act; and" in clause (9) and inserting in lieu thereof "additional training provided under section 1305 of this Act;";

(3) by redesignating clause (10) as clause (11); and

(4) by inserting after clause (9) the following new clause:

"(10) expenses necessary to carry out title XIII of this Act; and".

(b) Section 905 of the Merchant Marine Act, 1936 (46 U.S.C. 1244), is amended by adding after subsection (e) the following new subsections:

"(f) The terms 'Representative' and 'Member of the Congress' include Delegates to the House of Representatives from the District of Columbia, Guam, and the Virgin Islands, and the Resident Commissioner to the House of Representatives from the Commonwealth of Puerto Rico.

"(g) The term 'United States' includes the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, the Virgin Islands, and the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977, the agreements relating to and implementing that Treaty, signed September 7, 1977, and the Agreement Between the United States of America and the Republic of Panama Concerning Air Traffic Control and Related Services, concluded January 8, 1979.".

(c) The Act entitled "An Act to encourage the establishment of Public Marine Schools", approved June 20, 1874 (18 Stat. 121), is repealed.

(d) Section 216 of the Merchant Marine Act, 1936 (46 U.S.C. 1126) is repealed.

(e) The Act entitled "An Act to provide for the examination of civilian nautical schools and for the inspection of vessels used in connection therewith, and for other purposes", approved June 12, 1940 (46 U.S.C. 1331–1334, commonly known as the Civilian Nautical School Act), is repealed.

(f) The joint resolution entitled "Joint resolution to establish a Board of Visitors for the United States Merchant Marine Academy", approved May 11, 1944 (46 U.S.C. 1126c), is repealed.

(g) The Act entitled "An Act to authorize the course of instruction at the United States Merchant Marine Academy to be given to not exceeding twelve persons at a time from the American republics, other than the United States", approved August 9, 1946 (46 U.S.C. 1126b), is repealed.

(h) The Act entitled "An Act to create an Academic Advisory Board for the United States Merchant Marine Academy", approved July 22, 1947 (46 U.S.C. 1126d), is repealed.

(i) Section 34 of the Act entitled "An Act to revise, codify, and enact into law, title 10 of the United States Code entitled 'Armed Forces', and title 32 of the United States Code, entitled 'National Guard'," approved August 10, 1956 (46 U.S.C. 1126a-1), is repealed.

(j) The Maritime Academy Act of 1958 (46 U.S.C. 1381-1388) is repealed, except as provided in section 1304(g)(5) of title XIII of the Merchant Marine Act, 1936 (as added by section 2 of this Act).

(k) The Act entitled "An Act to authorize the Secretary of Interior to nominate citizens of the Trust Territory of the Pacific Islands to be cadets at the United States Merchant Marine Academy", approved September 14, 1961 (46 U.S.C. 1126b-1), is repealed.

Sec. 4. This Act shall take effect on October 1, 1981.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Oregon (Mr. AuCoin) will be recognized for 20 minutes, and the gentleman from California (Mr. McCloskey) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oregon (Mr. AuCoin).

Mr. AuCOIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there have been longstanding problems associated with the Federal role in maritime education and training. The significance of this is that our U.S.-flag merchant vessels can never be better than the professional men and women who operate them.

The Federal Government operates the U.S. Merchant Marine Academy. It also provides assistance to the six State maritime academies. Students at these academies are trained to become licensed officers in the U.S.-flag merchant marine. The Federal Government also provides supplementary training and other assistance in the training of such personnel. The authority for these programs is currently set forth in various statutes passed piecemeal over the years, with little attention to maritime education in an overall sense. As a consequence, there have been problems with maritime education in the United States.

One of the most persistent criticisms is that the recipients of this Federal educational aid have no legal obligation to go to sea and perform the duties for which they have been trained at the expense of the taxpayers.

It was for reasons of this kind that the gentleman from New York, Mr. Murphy, the chairman of the Merchant Marine Committee, appointed a special subcommittee in 1976 under the chairmanship of Congressman Studds of Massachusetts, to study these problems and make recommendations. Over a 2-year period, the Studds committee made an exhaustive study and issued a landmark report. I'm very pleased to have been able to continue this work in the 96th Congress as chairman of the Ad Hoc Select Committee on Maritime Education and Training.

Mr. Speaker, the bill before the House today is the culmination of almost 4 years of effort, and is the most comprehensive legislation concerning maritime education and training ever reported by the Merchant Marine and Fisheries Committee. H.R. 5451 enjoys the support of both the majority and minority members of the Merchant Marine and Fisheries Committee.

The bill would recodify the existing provisions of law concerning maritime education and training that are currently set forth in the Merchant Marine Act of 1936, the Maritime Academy Act of 1958, the Civilian Nautical School Act, and numerous other provisions of law scattered through title 46 of the United States Code. Additionally, certain new improvements have been made that are based upon our 4-year hearing record. Finally, the entire recodification has been set forth in the Merchant Marine Act of 1936 as a new title—title XIII.

Mr. Speaker, I will comment briefly on what I consider to be the major improvements that this bill will produce.

For the first time, recipients of Federal educational assistance at the U.S. Merchant Marine Academy and the State maritime academies will incur legal obligations for the support they have received. These obligations include the following:

First, to fulfill the requirements for a merchant marine officer's license, and to maintain this license for at least 6 years. This recognizes that the purpose of these schools is to train merchant marine offficers, and insures that the graduates obtain and maintain such a license.

Second, there is an obligation to serve the United States as an officer in the U.S.-flag merchant marine or as a commissioned officer on active duty in the Armed Forces of the United States. This requirement will insure that the graduates of these schools go to sea at a time when there is a shortage of such officers. In recognition of the different amounts of Government assistance involved, graduates of the U.S. Merchant Marine Academy will serve for at least 5 years, whereas the graduates of the State maritime academies will serve for at least 3 years.

Finally, there is an obligation to apply for midshipman status in the U.S. Naval Reserve, and upon graduation to apply for a commission in the U.S. Naval Reserve, or other Armed Force Reserve, and to remain in such reserve for at least 6 years.

Other improvements in the bill include recognition of the recently instituted Merchant Marine Reserve, U.S. Naval Reserve; as well as tighter structuring of noncompetitive admissions at the U.S. Merchant Marine Academy; as well as provision for regional maritime academies; as well as the establishment of a separate category for the inspection of training vessels.

Mr. Speaker, the development of this bill has been a joint effort of both the majority and minority members of the committee. I particularly wish to thank the ranking minority member of the subcommittee, the gentleman from Maine (Mr. Emery), who cooperated effectively and thoroughly all the way. This is a sound piece of legislation, and I urge the House to support H.R. 5451.

Mr. Speaker, there are Members on both sides of the aisle who wish to speak in support of H.R. 5451.

□ 1350

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support H.R. 5451, the Maritime Education and Training Act of 1980. This bill is the product of almost 4 years of effort by the Ad Hoc Subcommittee on Maritime Education and Training.

In the 95th Congress, under the leadership of Chairman Gerry Studds, the subcommittee conducted extensive oversight of the laws, regulations, and system for the training of officers for service in the U.S. merchant marine. The product of those hearings was a comprehensive report containing numerous recommendations for improvement.

In the 96th Congress, Chairman Les AuCoin reviewed those recommendations and put together H.R. 5451, a recodification, revision, and update of the laws for maritime education and training.

After extensive hearings, H.R. 5451, as introduced was rewritten and further hearings held. Finally, several drafting sessions were held with redrafts of the bill circulated for comment. The bill before us today is the product of this careful process.

I commend Congressman Studds for laying the foundation and Congressman AuCoin for following through to produce this bill. I believe it should be enacted into law.

Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. Forsythe).

Mr. FORSYTHE. Mr. Speaker, it is a genuine pleasure for me to rise in support of H.R. 5451, the Maritime Education and Training Act of 1980.

As pointed out in the committee report, there have been longstanding problems associated with Federal involvement in the area of maritime education and training. I am personally aware of this situation, for I was a member of a select subcommittee that grappled with these problems in the 92d Congress. For a variety of reasons, we were unable to resolve these problems at that time.

Because of my experience on that subcommittee, I especially appreciate the professional work produced by the Studds committee in the 95th Congress and the AuCoin committee in this Congress. For almost 4 years, the majority and minority members have worked in close harmony to produce the landmark legislation before the House at this time.

I wish to take this opportunity to commend all the Members of the Merchant Marine and Fisheries Committee for reporting the most comprehensive legislation on maritime education and training in the history of our committee.

Mr. Speaker, H.R. 5451, the Maritime Education and Training Act of 1980, is a sound piece of legislation. It goes a long way toward resolving the problems associated with Federal involvement in the area of maritime education and training, and I strongly urge my colleagues in the House to support it.

● Mr. MURPHY of New York. Mr. Speaker, I rise to urge the House to pass the most comprehensive legislation on maritime education and training ever reported by the Merchant Marine and Fisheries Committee.

There have been longstanding problems associated with the Federal role in maritime education and training. When I was elected chairman of the Merchant Marine and Fisheries Committee in the 95th Congress, I therefore appointed an Ad Hoc Select Subcommittee on Maritime Education and Training, with the Honorable GERRY STUDDS as chairman. Over a 2-year period, the Studds committee made an exhaustive study of these problems and issued a landmark report. I want to take this opportunity to thank Mr. STUDDS and the members of his subcommittee for their outstanding work.

Mr. Speaker, the Studds committee report recommended that the Federal laws on maritime education and training be recodified and that certain changes be made. Thus, in this Congress, I again appointed this special subcommittee, with the Honorable LES AUCOIN as chairman. The AuCoin committee implemented the recommendations of the Studds committee, held extensive hearings on the bill I introduced, and on June 12, 1980, the Merchant Marine and Fisheries Committee reported out the legislation that is before the House. I want to commend my good friend from Oregon for his outstanding work on this legislation. The AuCoin committee has done a first-rate job on some very complex legislation.

Mr. Speaker, H.R. 5451 is a bipartisan effort of the Merchant Marine and Fisheries Committee. The bill seeks to overhaul the Federal laws on maritime education and training—and it does just that. H.R. 5451 is a sound piece of legislation, long overdue, and I strongly urge my colleagues in the House to support it.●

● Mr. EMERY. Mr. Speaker, the bill we have before us, H.R. 5451, represents much hard work by many individuals. The Maritime Education and Training Subcommittee, the National and State academies, and the Maritime Administration have engaged in exhaustive hearings and consultations to produce a bill which will be truly beneficial for the maritime industry as a whole.

The fact that the ad hoc subcommittee has translated the knowledge and recommendations of the Studds committee in the last Congress into legislative language reflects well on the entire Merchant Marine Committee. This demonstrates a spirit of continuity and cooperation that is essential if a committee is to find solutions to complex issues.

I would like to take a moment to emphasize that this legislation strengthens the Federal commitment to the State maritime academies. Those sections that address the fuel problems these schools have encountered and their need for equipment and vessels are more than rhetorical and symbolic; they are an essential response to real problems and represent a commitment on our part to meaningful assistance.

I am proud to have had the opportunity to participate in these efforts and urge my colleagues to support the legislation we have presented. The importance of a viable maritime education system cannot be underestimated, and without this legislation our maritime academies' futures will be left in doubt.●

GENERAL LEAVE

Mr. McCLOSKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation now being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

□ 1400

Mr. McCLOSKEY. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore (Mr. LONG of Louisiana). The question is on the motion offered by the gentleman from Oregon (Mr. AUCOIN) that the House suspend the rules and pass the bill, H.R. 5451, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend the Merchant Marine Act, 1936, to revise and reenact the laws pertaining to the United States Merchant Marine Academy and to State maritime academies and for other maritime education and training purposes.".

A motion to reconsider was laid on the table.

EXTENDING FILING DEADLINE FOR FINAL REPORT ON HOUSE RESOLUTION 53, SELECT COMMITTEE ON OUTER CONTINENTAL SHELF

Mr. MURPHY of New York. Mr. Speaker, today, the Select Committee on the Outer Continental Shelf expires, having compiled a comprehensive investigative and oversight record relating to offshore oil and gas development. To assure that the 1978 amendments to the Outer Continental Shelf Lands Act were properly implemented, the committee held 22 days of hearings—both in Washington, D.C., and around the country. Furthermore, committee staff prepared a report on the 5-year leasing plan proposed by the Department of the Interior that was extremely influential in the development of the final schedule. In addition, the committee has prepared a final report on the OCSLAA which includes recommendations for legislative change. These recommendations are based on the committee's hearing record, and include several technical changes that will promote truly accelerated development in an environmentally sound manner.

Pursuant to House Resolution 53, the committee's final report in draft form is presently being circulated among the Members, but to assure that it receives full consideration, I would ask for unanimous consent to extend the filing deadline for the final report for 1 month, until July 31, 1980.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

CONFERENCE REPORT ON S. 2009, CENTRAL IDAHO WILDERNESS ACT OF 1980

Mr. SEIBERLING. Mr. Speaker, I call up the conference report on the Senate bill (S. 2009) to designate certain public lands in central Idaho as the River of No Return Wilderness, to designate a segment of the Salmon River as a component of the National Wild and Scenic Rivers System, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of June 24, 1980.)

The SPEAKER pro tempore. The gentleman from Ohio (Mr. SEIBERLING) will be recognized for 30 minutes, and the gentleman from Idaho (Mr. SYMMS) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is with great pleasure that I rise in support of the conference report on S. 2009, the Central Idaho Wilderness Act. This important legislation will provide permanent wilderness protection for the largest national forest roadless area in the lower 48 States, an area greater in size than Yellowstone National Park, and with wildlife and fisheries values of equal importance. It will also assure that much of the Salmon River remains free from dams, dredge mining or other development activities for the benefit of future generations.

S. 2009 is, with few exceptions, the same bill which passed the Senate by a vote of 69 to 18 on November 20, 1979, and the House by a vote of 301 to 93 on April 16 of this year. It is a long overdue response to citizen demands and administrative recommendations for the protection of the area. However, rather than consume excessive time with a long list of the superlatives of this area, I will limit my presentation to a few high points.

Wilderness designation for this area is not a novel concept. Administrative recommendations for a River of No Return Wilderness have been pending in

Congress since 1974, whereas conservationist wilderness proposals for the area go back several decades. Thus, it cannot be said that S. 2009 has in any way been rushed through Congress without adequate public input or time for comment. Quite the opposite is true. The Forest Service has recognized the area's outstanding wild values since the 1930's, when it acted to protect roughly two-thirds of the current wilderness proposal with "primitive area" classification. The net effect of this action is that the core of the proposed wilderness has been off limits to development for almost 50 years. S. 2009 would add certainty to this administrative protection through permanent wilderness designation.

The proposed wilderness contains the finest major year-round undisturbed elk habitat in the Nation, and perhaps the largest elk herd outside of, possibly, Yellowstone itself. One hundred and ninety species of wildlife inhabit the area, including large populations of mountain goat, bear, moose, and Idaho's most prolific bighorn sheep herd. Additions of several key areas surrounding the existing primitive areas will insure that key wildlife habitat is preserved in its natural state.

The Salmon River drainage, much of which is protected in S. 2009 by either wilderness or wild and scenic river designation, is the most important in the entire Columbia River Basin for chinook salmon and steelhead. The importance of the river cannot be overemphasized, and is best summarized by testimony presented by the Idaho Game and Fish Commission during last December's Public Lands Subcommittee hearings on S. 2009, and I quote from their testimony:

> The Salmon River drainage provides spawning and rearing areas for more spring and summer migrating chinook salmon than any other drainage in the Columbia River Basin. The Salmon River produced 98 percent of the annual chinook harvest (all sport fishing) in Idaho when the chinook were being fished. It produces more than one-half of the Columbia River steelhead.

Still quoting:

> In the case of the Salmon River, the chinook salmon and steelhead trout must have access to the upstream spawning and rearing habitat. The survival of these fish is inextricably tied to the Salmon River remaining a free-flowing stream. This stretch of the river has three potential hydro dam sites, any of which, if a dam were constructed, would foreclose anadromous fish management. Please remember the fish must negotiate eight dams now, and another would create an insurmountable problem. Considering the enormous equity the American people have accumulated over time in perpetuating these fish runs (multimillions of dollars for passage facilities, hatcheries, and countless man-hours of fisheries research expertise from numerous fisheries agencies), this would be a national tragedy.

In addition, both the main Salmon River and the wild Middle Fork are among the most popular whitewater rivers in the Nation. Members may recall that the Middle Fork was floated by President Carter in the summer of 1978.

Because much of the area is sparsely timbered or has been off limits to logging since the 1930's, enactment of S. 2009 is expected to have no adverse impact on national forest timber supplies: Indeed, data supplied by the Forest Service indicates S. 2009 will slightly increase timber availability from the national forests in central Idaho. This is due to the fact that certain lands previously deferred from timber harvest by the Forest Service will be available for inclusion in national forest harvest bases upon enactment of S. 2009.

The permanent wilderness protection of S. 2009 will be a great boon to Idaho's guides and outfitters, who strongly endorse the bill. I might say that when we were out in this area last summer, some of the guides and outfitters met with us and personally reiterated their strong support.

In 1978, this fast-growing sector of the Idaho economy directly brought in over $23 million, not counting the multiplier effect. Many areas of known or suspected mineral potential have been excluded from the bill. The mineral cobalt has received the most attention, and I can state with confidence that the conference report contains provisions that will insure that cobalt can be mined within the wilderness in the event commercial quantities of cobalt are discovered. I believe the chairman of the Mines and Mining Subcommittee shares my confidence in this regard, and is a cosigner of the conference report.

The proposed wilderness occupies the east central part of the so-called Idaho Batholith. This is an area of largely unproductive, fragile and highly-erosive soils. As a result, developments such as road building, timber harvest and mining could have extreme adverse impacts on fisheries resources. In short, much of the area is geologically unsuited to major development.

In summary, Mr. Speaker, I believe it is clear that the provisions of S. 2009 deal with lands whose primary value is in their continued preservation in their natural state.

□ 1410

Development is entirely inappropriate in the proposed wilderness, and if it occurred, would likely involve substantial adverse impacts on the environment or subsidies by the taxpayers of this Nation, or probably both.

I, therefore, urge Members to support the conference report on S. 2009 as the best way of insuring that this magnificent area of central Idaho is preserved for the benefit of future generations.

Mr. Speaker, when the other body debated this conference report, the senior Senator from Idaho, Mr. CHURCH, pointed out on page 17184 of the CONGRESSIONAL RECORD that there was a minor error in the joint statement of managers contained on page 18 of the House Report 96–1126. The first full sentence at the top of that page should simply read: "The House version excludes this area from the wilderness."

Mr. Speaker, I join in making that correction, which I believe is agreed to by all concerned on this side.

Let me also say that in the debate in the other body the senior Senator from Idaho included excerpts from the statement on the part of the managers as an exhibit to the debate, and one of the things that that statement points out is this—starting on page 13 and continues through pages 14 and 15: It deals with the opinion of the court in the case of California against Bergland, in which the U.S. District Court in California found that the environmental impact statement that was prepared by the Forest Service with respect to the proposed RARE III areas—more precisely those that were not recommended for wilderness—in California, was deficient.

The conference report points out that that decision does not apply to the areas covered by this bill, the Central Idaho National Forest. Whatever may be the merits of the environmental impact statement, the conference report points out that—and I am now quoting—

> . . . through numerous public hearings, field inspection trips, fact-finding missions, and informal discussion sessions, Congressional decision-makers have carefully and exhaustively examined the wilderness qualities of the lands designated as wilderness by this Act and the wilderness attributes of the lands which have had their "non-wilderness," multiple-use status affirmed by this legislative decision. Therefore, any allegations that the RARE II final EIS does not fulfill the requirement that the Forest Service closely examine the wilderness attributes of the roadless areas in central Idaho before they are opened for development, are moot. That close examination has been accomplished by the Congress, acting upon the recommendations and information supplied by the Administration, as supplemented by the data and testimony gathered by congressional investigations.

Mr. Speaker, I emphasize that the kind of investigation that was conducted by the other body, as well as by the House, certainly did supplement that process, and for that reason the conferees felt that, whether or not there were any deficiencies in the EIS with respect to the Central Idaho National Forest that were not included in the recommended wilderness—and we take no position on that—they have been adequately remedied by the kind of legislative consideration that was given to this bill.

Mr. Speaker, I reserve the balance of my time.

GENERAL LEAVE

Mr. SYMMS. Mr. Speaker, I yield myself 14 minutes.

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the conference report presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Idaho?

There was no objection.

Mr. SYMMS. Mr. Speaker, this conference report on S. 2009, the Central Idaho Wilderness bill, will be voted on by the House tomorrow, although we are debating it today. It has many provisions in it that those of us from Idaho all agree on, including protection of the central part of Idaho, in the Salmon River drainage and Salmon River breaks, as wilderness. That is the central core of it.

Mr. Speaker, from there on, though, there is a great deal of disagreement in Idaho on this bill and what it does to the country. Unfortunately, the extreme pressure groups won this fight.

Mr. Speaker, the Members will remember that on the floor of the House the gentleman from Idaho offered a substitute for this bill that got 179 votes. Now, in Idaho, the AFL–CIO has made an estimate on the conference report that this bill will cost 10,000 jobs in the State of Idaho in the ensuing months and years ahead. Most of those jobs, of course, will come out of the timber industry.

Three-fourths of the Idaho congressional delegation has opposed this conference report and there was not a single Member of the minority who signed it.

I would just like to go on for a moment, Mr. Speaker, and talk about some of the failures of this legislation. I think it is unfortunate that we could not have had a balanced bill, on which the Members of Congress could vote, that would have still enacted in Idaho, the largest contiguous wilderness in the Continental 48 States and still have taken care of those concerns of the working men and women in Idaho. The members of the AFL–CIO, the Idaho Farm Bureau, the Idaho Grange, the Idaho Chamber of Commerce, and other groups opposed this legislation because of the threat it posed to our economy.

No. 1, this legislation lacks statutory release language, which is important to the future of our resource-dependent communities in Idaho. While the current economic situation, I would agree, has resulted in timber mill closures in Idaho, the lack of statutory release language will probably affect the ability of those mills to reopen in better economic times.

For example, the Elk Creek area that is in wilderness in this bill had some pending timber sales being worked on which will now cause our Idaho economy a potential loss of 26 million board feet of timber.

So what we are really talking about here is a bill that makes this country less able to produce the resources of the new wealth that comes from the forests, the mines, and the agricultural potential, including grazing, in the State of Idaho. It affects the whole country.

The second point that I am concerned with in the bill is the "so-called" compromise language in the conference report regarding the cobalt-rich region of West Panther Creek. The agreement reached in conference regarding the West Panther Creek area was an attempt to insure that the strategic and critical cobalt there will be mined. This new language was as a result of the failure of section 4(d)(3) of the Wilderness Act of 1964. If we are going to try to have any of that cobalt mined, we must have either a new approach to 4(d)(3) or we must exclude the area from wilderness.

That is what the gentleman from Nevada (Mr. SANTINI) and I thought we should do. The House, as a result of the efforts of the gentleman from Nevada (Mr. SANTINI) and myself, chose to exclude that area from wilderness so it would be multiple-use and there would be no question that the cobalt, a strategic mineral, would be able to be mined.

However, in conference, as a result of the approach of the Senate, the House conferees fashioned a compromise which placed the cobalt area in wilderness, but which indicated that only multiple-use, nonwildenress concepts would apply.

□ 1420

Thus, we say, in the House version, "let cobalt be mined," and this time we really mean it. The conferees also say that we can let cobalt be mined but, that—

> Consistent with the other provisions of this subsection the Secretary may take all reasonable measures to see that the mining or process of cobalt and associates minerals within the Special Management Zone does not significantly impair the overall habitat of the bighorn sheep located within, or adjacent to, such zone.

I think it is worth mentioning at this point that there is nothing so far in mining that is incompatible with bighorn sheep except one fact. It takes miners to actually operate a mine, which requires the very strict enforcement of game laws, and poaching, et cetera.

I, for one, am frankly unwilling to trust the executive branch to read what, and only what, we have written into this bill, and to apply our intentions without discrimination.

Now I fear that the administration will disregard the clear legislative intent of West Panther Creek language and prevent the mining of cobalt.

The only way to insure cobalt will be mined is to exclude the area from wilderness. That is what the Committee on Interior and Insular Affairs did. That is what the House did. That is what the conference failed to do. The House Members in the conference did not stand up to the House position. The four Members of the minority did, but the Members of the majority did not.

Lest my colleagues believe I am paranoid about my concern for cobalt, allow me to call their attention to the Wall Street Journal article of June 10, 1980, where a Forest Service official stated that the cobalt compromise language would be in conflict in and out of court for years. That is my fear regarding the strategic and critical mineral of cobalt—that we not act unwisely today in regard to this resource.

Mr. Speaker, I think it is very important that I just insert into the RECORD by reading off a list of some of the people who are opposed to this legislation. It is no compromise. It is imbalanced legislation. It is one sided in favor of the environmental extreme position, and these people who are backing me up to emphasize this imbalance are as follows:

The Idaho AFL–CIO, International Brotherhood of Carpenters and Joiners, the Chamber of Commerce, the NAM, the National Association of Counties, Inland Forest Resource Council, Northwest Mining Association, National Cattlemen Association, Idaho Lumber & Timber, just to name a few.

So let us not have the Members of this House think for 1 minute that they are passing legislation that the State of Idaho wants. We in Idaho most certainly are proud of our pristine waters and beautiful mountains and the clean air. We want to preserve that. But we would like to do it with balance so our children can live and work in our State and not have it all put off limits. It is unfortunate that this legislation is so imbalanced and not the kind of legislation that we could have had. I think it is unfortunate that we were unable to have a fair piece of legislation to pass the House. That view is shared by three-fourths of the Idaho delegation. One Senator from Idaho, the junior Senator, opposed the legislation, and both Congressmen in our State opposed the legislation, along with the vast overwhelming majority of the Idaho people who live and work and recreate, I might say, in those forests which this legislation withdraws.

That is not to say that we do not think that the committee is partly right in the central core part of it, but we could have had a more moderate bill that would still protect that which we all agree should be protected. It is the extremities around the edge, the withdrawal of the strategic mineral of cobalt, and the timber resources, that prompts such fervor in Idaho.

Mr. Speaker, in summing up my comments, I would just say that since the time the bill passed the House, there have been some articles in the Wall Street Journal.

I refer to the Wall Street Journal articles of Thursday, June 26, and Wednesday, June 25 and immediately following my remarks, I will place two articles in the CONGRESSIONAL RECORD for the readership of our Members when they come in to vote on this tomorrow.

This is about unrest in Zaire. These articles appear in the RECORD. They talk about the political instability that exists in Zaire, where the United States obtains about 55 percent of our cobalt. In fact, a great percentage of the cobalt of the free world comes out of the Shaba province in Zaire.

Since, Mr. Speaker, the House passed this Idaho bill in spite of the substantial opposition to it and a great deal of support for the more moderate position of my amendment, this Congress has seen in its wisdom to pass registration of 19- and 20-year-old male Americans. I would just say to the Members of this House that it would be very easy to have to send those young men to fight a war over resources we have in our own country. I would ask Members to vote down this conference report and remember that this Congress could come back in a very short time and pass a more moderate bill, that would leave the cobalt out, that would not cost 10,000 jobs in Idaho as the AFL–CIO is predicting and not put us in the position with the implementation of draft registration that we will end up drafting our young men for an unnecessary conflict over resources in Africa.

This bill is not in the best interest of national security. It is not in the best interest of sound environment. It is not in the best interest of the men and women who live and work in my State.

I would ask for all Members of this House to vote down this conference report.

I reserve the balance of my time, Mr. Speaker.

The articles referred to follow:

UNREST IN ZAIRE: ANTI-MOBUTU FEELING SWELLS AMONG MASSES LIVING IN DESTITUTION

(By Jonathan Kwitny)

KINSHASA, ZAIRE.—Mingi, a 21-year-old engineering student at the national university here, has two things in common with millions of other Zairians: poverty and anger.

There is much to fuel his anger. In a nation rich with diamonds, cobalt and copper, a privileged elite siphons off the benefits. President Mobutu Sese Seko is a multimillionaire. The bureaucrats, military officers and others in his favor also prosper. The politically connected class of merchants known as *commercants* can be seen jouncing along Kinshasa's dirt roads in $20,000 Mercedes-Benzes.

Mingi lives in a four-room mud house with a sister, her baby and six other people. There is no electricity or running water. His government allowance as a student is $25 a month. It isn't enough in a country where rampaging inflation has driven the cost of a paperback textbook to $10. In a country that could be a garden of agricultural abundance, he can afford only one meal a day, usually of starchy manioc root.

Mingi, of course, can't supplement his allowance as some female students have taken to doing—by selectively prostituting themselves. Mingi's intended bride is such a student. He is bitter about sharing her with two older and richer men, who pay her $4 to $7 a night when she stays with them.

ECONOMIC REALITIES

She recently has become pregnant—with his baby, Mingi informs matter-of-factly, as though no other possibility existed. But he complains that he can't afford to support her, or to pay the $300 or so that her family would demand as a marriage price.

Mingi and several thousand fellow students have been on strike since April, or say they have; President Mobutu says he forestalled the strike by swiftly closing the university and dispersing students around the country by force. But the students, who have been demanding increases in their grants, say they will walk out again when the university reopens in October.

And student leaders say they will try to bring working people into the streets with them, particularly the 32,000 miners in Kolwezi, the copper-cobalt center. There, most miners interviewed said they expect a student strike in October and plan to join it. Those plans will take pluck; a year ago army troops violently broke up a student strike, causing many injuries and reportedly two deaths. Leaders of the students or the mine workers take care to meet clandestinely, knowing that political dissenters in the past have met with police beatings, imprisonment or death.

"If you have a problem with security, your embassy will help you," Mingi says to an American visitor. "If we have a problem, there is no one who will do anything to make us free." In Kolwezi, the mining center, a miner confides, "You make a strike, they will kill you. All the people, they talk about a strike, but they are afraid."

MANY COMPLAINTS

Interviews around Zaire with students, workers, farmers, women in their homes, frustrated job seekers and others disclose a rising tide of resentment in this nation of 28 million or so—resentment at the near-absence of government services, at the corruption and favoritism that surround the authoritarian Mobutu government, and at the Western nations, mainly the U.S., France and Belgium, that are seen as propping up the Mobutu regime.

"It's you (the U.S.) who are keeping him in power," says a Zairian regional administrator who has begun to criticize government policies—anonymously. "If the Americans put pressure on him to leave, cut off all aid, he'd be gone today. If America set the pattern, Belgium, France and the other countries would follow." (Repeated efforts by a reporter to obtain interviews with Mr. Mobutu or other government officials for this story met with failure.)

And who would replace Mr. Mobutu? The people don't know. Many emphasized that they don't want a Communist-style revolution. "We just want honest leaders," says a student strike organizer in Kinshasa. In fact, there are potential leaders at home and abroad, but there is no single visible challenger to the man who has survived handily since he seized power 15 years ago. For Western diplomats and bankers, it is an awkward matter: Mr. Mobutu represents a counter-on alliance and a huge economic stake.

Zairians sometimes use the example of Iran, and the shah, in talking about their hopes for an upheaval. "We read and we make the comparison," says one student leader.

Mr. Mobutu, for his part, portrays himself as a bastion of anti-communism. Zaire's cobalt, some 50 to 60 percent of the world's supply, is crucial to the American aviation and defense industries. Its copper and diamonds are crucial, too. Not least, this technically bankrupt nation is in hock to Western governments, international organizations and Western banks to the tune of a staggering $6 billion or so.

VANISHING RICHES

Zaire ships some $1.5 billion of copper and cobalt yearly from Kolwezi, but the miners know that little of it comes back to them. One recent evening a group of them gathered at dusk on a grassy hillside overlooking a vast open-pit copper mine, and talked about their grievances. (Unions are outlawed, and Kolwezi officials deny that one exists in the mines, but the workers, operating by word of mouth, apparently have established a representational system with an overall leader.)

Wages are a bitter subject. They range from $12 a month for menials to about $35 a month for a veteran miner, not enough to support the big families that are common. The cheapest protein, beans, costs about 35 cents a pound, and most foodstuffs are out of the miners' reach. They know that many of their children are suffering from malnutrition.

Whom to blame? "Les superieurs de ches nous" (the leaders of our country), said one miner. "The corruption is everything," a second asserted, and a third man added bluntly, "The president of the republic puts it in his pocket."

It's hard to say; the bureaucratic apparatus is labyrinthine. The state took over Gecamines, the principal mining company, from its European owners in 1972 (though Europeans still largely manage it). Under law, Gecamines turns over its production—worth about $120 million a month—to a state sales board called Sozacom, which is controlled by a Mobutu appointee.

After deducting the costs of freight and sales commissions, Sozacom is supposed to return an average 45 percent of its revenues to Gecamines. Gecamines says that in the month ended May 3, a typical month, Sozacom netted $102.3 million and turned over $40.5 million to Gecamines. But expatriate sources in Kolwezi say that only about $20 million a month actually comes back to Gecamines. The other $20 million or more, they assert, is skimmed off in graft.

John Castiaux, expatriate chief of Gecamines' computer operations in Lubumbashi, confirms that only about $20 million a month is returned. But he wouldn't say where the rest goes or comment further except to say, "It's politics. Umba Kyamitala, a Zairian and executive director of Gecamines, sticks by the official accounting. "The guy in the computer section cannot give you the exact figures," he asserts.

Even if Mr. Umba is right, some $60 million of Sozacom's monthly intake is going into the central banking system, which is believed also to be a conduit for corruption. And these manipulations may be only part of the picture; commodities-market authorities in the U.S. last year pointed to strange fluctuations in world cobalt prices and said they probably were due to off-the-book sales from Zaire.

So it is too with diamonds. The national diamond monopoly is MIBA, seized from the Belgians in 1973 (in 1978, 20 percent was returned to them, to pay for spare parts). Lequeux Norbert, MIBA's expatriate chief engineer, estimates that $30 million to $40 million of diamonds is smuggled onto the black market each year in addition to the $90 million worth produced officially (Zaire has an estimated 25 percent of the world supply, though most are industrial rather than jewelry quality).

ACROSS THE CONGO RIVER

Many people in Mbuji-Mayi, Zaire's diamond capital, think the black market takes an even larger share than is estimated by Mr. Norbert. They note that the adjacent Republic of Congo, a nation with no known diamond deposits, has become a major international exporter of the gems.

Much of Zaire's coffee production also leaves the country off the books. Suitcase loads of cash gleaned from various skims also are discreetly exported. Since Zaire's roads are too poor for long-distance travel, the Congo River is a major thoroughfare, and boats from the interior with cargo bound for the Atlantic seaport of Matadi easily can stop at villages on the Congo Republic side of the Congo River to unload illegally.

The International Monetary Fund, as the chief international guarantor and creditor of Zaire, has been increasingly anxious about establishing controls over Zairian national finances and ensuring that earned foreign exchange is used to pay the hugh foreign debt. In fact, an IMF team was brought in two years ago to monitor Bairian finances.

But Manoudou Toure, the Senegalese economist who heads the IMF team, bluntly admits that he "can't control" the outflow—or even say how much Sozacom really pays to Gecamines of the nation's mining revenues.

"We are under the supervision of the Zairian authorities," he says. "I have to take for granted what they tell me. The people who are powerful here, the people who export coffee and diamonds and so forth, are very shrewd, very full of technical resources to bypass the law." Earlier this year, Belgian customs officials were brought in to supervise baggage checks at the bribery-riddled Kinshasa airport, but the scene is chaotic and, says a Belgian, the job is "very, very difficult."

Most of the smuggling is done by the wealthy class of commercants. Many travel regularly to Europe, where they keep their money. It is commonly thought that they are allowed to continue because they give a large cut of their proceeds to Mr. Mobutu's ruling elite.

Graft often is funneled through the regional commissioners, who are approximately equivalent to American governors. They are appointed by President Mobutu, always from outside the region they govern, and often from his own home region. David J. Gould, a University of Pittsburgh professor who did a 1977 field study here, says he interviewed businessmen large and small who were paying a total of $100,000 a month in bribes to the regional commissioner of Shaba Province. The man's salary was $2,000 a month.

So the commissioners stay loyal. High-ranking officers in the military are said to have their arrangements too. At the lower levels of the military, soldiers, are more or less licensed to steal. Thus the "checkpoints" on highways where "beer money" is collected from commercial vehicles—including even women with market baskets on their heads. The fee varies according to the value of the cargo.

So, among those with power or connections, the money flows. The masses of the Zairian citizenry are pauperized. "On the radio everybody hears that the U.S. just gave us a bunch of money," says a resident of Mbuji-Mayi. "Nobody sees the money. Why do children go to school in this town without shoes on?"

The level of development is dismally low. The entire national public health budget is less than $10 million; of that, four-fifths goes to Kinshasa, most of it to a hospital named after Mr. Mobutu's mother. Ellen Leddy, a U.S. Peace Corps volunteer, is finishing a survey in which she found that 34 percent of children between birth and age five are suffering from the lethal protein deficiency called kwashiorkor.

FOR WANT OF BEANS

"But you can't talk about statistics," she says. "I just saw seven kids who will die—I look at them and I know they're dying. They could be cured with some mashed beans every day. But beans cost one zaire (the national currency, now worth about 35 cents), and one zaire is a lot."

Many Zairians now have a lot fewer zaires than they had last year. On Christmas night, a Mobutu-ordered currency exchange all but wiped out most people's savings. Mr. Mobutu announced that the existing currency was invalid; citizens were given three days to visit a bank and exchange up to $1,000 of old money for the new currency.

Any sum over $1,000 was worthless. The president said the move was to strengthen the currency. Those who could get to banks found crushing lines, demands for bribes from banking officials—and sometimes that the new banknotes had run out. Commercants and other members of the elite seem to have retained their fortunes, however, and it is commonly believed that they got to change all the money they wanted to, by making payments in the proper places.

"Yeah," says a teacher in Kinshasa, "There was a limit, but for the bosses there was no limit."

Yet only in Mbuji-Mayi—where there are two banks to serve the four million residents of Eastern Kasai Province—was a single bank window broken, and that apparently was an accident. "I can't understand it," says a U.S. diplomat. "These people are so hopeless they'll take anything. You can call it Bantu passivity if you want to be racist about it."

A similar observation comes from an American missionary who says his group, the Communite Presbyterian du Zaire, lost more than $350,000 in the money exchange—funds it had raised to run schools, hospitals and rural dispensaries. (Banking officials, he says, have promised "to see what we can do," but nothing has happened yet.)

THE OTHER CHEEK

He recalls 13 hours of "pushing and shoving like everybody else" to change $350 of his own money, and marveling that people didn't revolt. "There are missionaries who have been here 20 or 30 years and seen it time and time again," he says. "The people get screwed to the wall and just turn the other cheek."

The students think they represent a new and more outspoken generation. But there is fear—of the government, of the army that remains loyal to Mr. Mobutu, and of violence itself; the bloody 1960s left almost every family here with grisly memories of murdered relatives, friends hiding in the bush and the atrocities of roving death squads.

There is a vivid consciousness of the Western role in Zaire. "Of course you killed Lumumba," says the "brigadier" for striking architectural students in Kinshasa. Patrice Lumumba, the country's first premier after independence from Belgium in 1960, was murdered in 1961 and has become the national hero. Many look to his exiled sons for eventual leadership.

The Senate Intelligence Committee, in 1975, did in fact report an abortive plot by the Central Intelligence Agency to kill Mr. Lumumba—to the extent of having delivered poison for the plot to Kinshasa. The committee also uncovered ties between the CIA and the Zairians who actually did murder Mr. Lumumba, though it was never proved that the murder resulted from an American plot.

There is evidence also that the CIA helped put Mr. Mobutu in office in 1965 (and had him on its payroll before that), and students here say they have seen American troops training the Zairian army (the Pentagon says the U.S. military presence is limited to two dozen U.S. soldiers).

When Zairian exiles invaded mineral-rich Shaba Province in 1978, it was French Legionnaires and Belgian paratroopers who came to the rescue and retook Kolwezi, transported in American planes. Western troops staged a similar "rescue" in Kisangani in 1964, while, according to Senate-committee evidence, U.S. planes manned by anti-Castro Cubans helped put down a revolt against Mr. Mobutu's group.

AFRICAN TRAGEDY: ZAIRE'S RICH SOIL FEEDS FEW BECAUSE FARMING ROADS ARE PRIMITIVE

(By Jonathan Kwitny)

KISANGANI, ZAIRE.—A recent Friday morning: Mama Singa, who is short but hefty—at least 180 pounds of grim determination—is lurching and rumbling out of town in a big, bright-red diesel truck she has leased for a moneymaking trip to the hinterlands.

Mama and some other entrepreneurs do for Zaire more or less what Continental Grain, A&P, railroads and other corporate giants do for the U.S.: get food to the people. As a one-woman enterprise, Mama is impressive; as a national food-distribution system, she's a mess.

One of Mama's destinations on this trip is Yalifoka, 90 miles to the southwest, a farm village that stirs each day around 6 a.m., when several small children emerge from their mud homes and thump a big drum in the center of the village.

That noise awakens Afana Ongia and his three wives, who head immediately into the bush toward their fields—a hectare (some 2½ acres) that they have cleared with a month of backbreaking labor and planted with rice, plantain and manioc. Mama Singa is buying some of that produce (at bargain-basement prices) for resale back in the city.

CAUSE FOR DESPAIR

Mama and Mr. Afana: They are characteristic figures in an agricultural system that has reduced development experts to despair and has embittered this nation, mostly made up of farmers, against the American-backed government of Mobutu Sese Seko.

Zaire's growing conditions range from good to ideal. In much of the nation fruit and vegetables issue from the earth almost unbidden. Zaire, in other words, could feed much of the rest of Africa as well as itself. It doesn't. Protein deficiency kills hundreds of thousands of Zairian children, and chronic malnutrition impairs millions of adults—while the nation spends precious foreign exchange importing food.

So Zaire's food shortage might seem hard to understand—but not after a few days on the road, or what passes for road, with Mama Singa. Her plan is to go about 100 miles into the interior, to some of the prime cropland on the African continent, load up with produce, and get back within four or five days.

Her truck, with 700 cubic feet of space within its slatted wooden sides, is leased from a wealthy *commercant*, or trader, who owns five such vehicles. She picks it up, with driver, on the Congo River's "right bank," the pretty, tree-lined and modern section of Kisangani inhabited by commercants, government officials, military officers, expatriates and others of the privileged.

ON THE ROAD

After a 45-minute wait, a ferry takes the truck across the river a few miles below Stanley Falls to the "left bank," a place of unpainted dirt houses and dirt footpaths and no electricity, where the bulk of the population lives and where women carry water on their heads from outlets up to half a mile away. The lucky ones have jobs on the right bank that pay $50 to $75 a month.

There are two "roads" on the left bank, unpaved and gooey with mud. Mama takes the right fork, heading southwest toward a string of farming villages. Within 200 yards, the clutch gives out. It takes the driver and a mechanic four hours to fix it. Mama isn't starting the trip empty; in the back of the truck are about 50 market women with baskets. They have paid $3.50 each for a ride to Yatolema, 58 miles distant. They plan to buy whatever their heads can carry to sell in Kisangani.

If they come back with Mama Singa, and they may have little choice, they will pay extra for their cargo. Mama intends to pick up some produce of her own in the villages—manioc, corn or plantain, whichever looks profitable.

A bunch of plantain (the large starchy banana usually eaten cooked) worth $1 in the bush sells in town for $3.50. An 88-pound bag of manioc (the root also called cassava) brings $1.75 to the farmer who grew it, and $7 to $10 in town. Corn kernels are marked up from under $12 for a 132-pound bag to $25 or more. The market women in Kisangani who buy the bags from Mama naturally will raise the prices even higher when they sell to customers by the cupful.

The price soars because the journey to market is so tough. The farmer sells when he can, and consumers buy when they can. The fresh bounty of the Kisangani interior isn't going to reach malnourished masses of Kinshasa, Lubumbashi or Kananga, the three big cities. No other Third World nation displays such a combination of agricultural richness and logistical poverty.

PALACES COME FIRST

The government of President Mobutu Sese Seko has spent $233 million on a "People's Palace" in the capital and billions more on other prestige projects, but precious little on agriculture. "If you just invested a little in imported fertilizer and worked on the attitude of the people to farm, you could easily double the production," says Hassan Nabhan, an Egyptian completing his third year in Zaire with the United Nations Food and Agricultural Organization. "If you put a big investment in roads, transportation and storage facilities, Zaire could support the Sahel countries."

Mama doesn't care about the logistical overview. She is haggling about the price of dried fish she wants to sell, or arguing with the driver, or just shouting. She speaks Lingala and Swahili, and those chiefly to bawl people out. Mama has the vocabulary and demeanor of a drill sergeant; not until the third day out is she seen to smile.

There isn't a whole lot to smile about, as the truck begins its journey rolling treacherously over a narrow and mud-slicked bridge across a raging brown stream; and roars up a muddy hill out of Kisangani.

According to the Michelin map, this is the road you would take to drive from Kisangani, the major eastern city, to Kinshasa, the capital, 720 miles distant. This traveler estimates that you would be lucky to complete that drive in two months, if at all. The map shows that Mama is traveling on the good part of the road; her truck moves at about 10 miles an hour, when it moves.

Every 50 yards or so, if the road is dry, there are craggy chasms, some a foot or two deep, requiring a near stop to navigate around them or bounce over them. When there is water, a driver never knows if it is a shallow puddle or a pothole deep enough to overturn a truck (which happens). In mud, Mama's driver drops to first gear and roars through, praying he won't stall.

Every few miles is a village, where the driver stops to pick up market women and to pick up and deliver mail. Every few miles is a stream, where he stops to refill the badly leaking radiator. The clutch goes out again; fixing it only takes an hour this time. Then comes a confrontation with four soldiers who demand the driver's papers. Mama unwraps the pile of bills she has been collecting from the market women and hands a fistful to the soldiers.

"For beer," the driver explains as he roars off.

Then comes a river crossing. The ferry, consisting of about eight old metal boats with planks lashed on top, is said to be the same one used by Belgian colonialists 50 years ago. It has a motor of slightly more recent vintage. A dozen men struggle to guide the truck onto the ferry, which tips alarmingly from the weight. The crossing takes an hour.

Then mud. Deep mud. The driver and helpers dig out in an hour. Mama even takes up a shovel herself. The 58 miles to Yatolema has taken a total of 15 hours. Over a period of several days, Mama's truck encounters only three other vehicles—a pickup truck jammed with people, a Land Rover driven by missionaries and another big truck, whose cargo can't be seen. The Kisangani-Kinshasa road obviously isn't a bustling artery of commerce.

DOWN ON THE FARM

If Mama Singa is doing her part for Zairian agriculture, so are Afana Ongia and his three wives. But, compared with their hardscrabble existence, her life is a minor trader is privileged. Clearing land, they recently have been hacking down dense jungle with machetes, then setting fire to the branches and stumps to burn the land clear.

This is the traditional process. It wastes many potential soil nutrients, but without mechanized equipment it is about the only way to plant. Since less than 2 percent of Zaire's potential farmland has been put to use, nobody seems to mind the waste.

Many charred branches and stumps are left, but among them Mr. Afana and his wives have planted, in about equal quantities, rice to sell, manioc to eat, and plantain for both purposes. The wives actually do most of the work while Mr. Afana supervises, and they are showing the strain.

Mr. Afana's first two wives are in their 20s, but they already look old, with wrinkles and sagging breasts. (Mr. Afana is in his early 30s.) The new wife looks fresh and young, as does Mr. Afana; here energy for laboring in the field doubtless played a part in the marriage. His eight children all are too young for the fields.

Like most farm families in the area, the Afanas bring in $200 to $400 a year for their crops. Traders like Mama Singa come by so rarely that the farmers usually sell for whatever price is offered. You don't see radios or bicycles in villages like Yalifoka, and rarely even soda or beer. There are lamps, but kerosene costs 70 cents for a beer-bottle full, so the usual source of light at night is wood fires. Water is carried on women's heads from streams that often are a mile distant.

Mr. Afana's neighbor Tikelake has switched his crop to coffee under the tutelage of a government extension agent, in an effort to raise his income. (Coffee is an export crop, little known as a beverage. The Western visitor is left every morning much in the condition of the Ancient Mariner, with coffee, coffee everywhere, nor any drop to drink.)

THE GOING PRICE

The government has fixed a minimum price of $40 for a 176-pound bag of coffee, but traders dealing in coffee only get to Yalifoka a couple of times a year, so Mr. Tikelake accepts their illegally low offers of $27 to $33 a bag. He and his wife grow between five and 10 sacks a year. The extension agent says they could double their output if there was a reliable market for it.

Conditions are similar elsewhere. "Agriculture is very difficult," says Katumba Mpoyi, who has been farming for most of his 58 years in Bipemba, a little village in south-central Zaire. He is sweating profusely in the noon sun between the corn patch and the peanut patch.

Mr. Katumba keeps a detailed list of his income and expenses, and expenses are coming out on top. His wife approaches with a load on her head, and he observes that each time she takes a load to town to sell, she has to pay a precious dollar or two to soldiers at a local roadblock for "beer."

He and his wife have had 14 children; of the eight who survived childhood none farms. One, however, is considering farming; he is 19, in his third year at secondary school (where Mr. Katumba has to pay $31 a year per child, $11 tuition and $20 in bribes; so sometimes a child has to take a year off).

"With the hoe each day, each day, each day, each day," says Mr. Katumba wearily. "The children won't accept the farm." Mr. Katumba never considered any other occupation. "It's not very good, but there isn't any other work to do," he says.

Many thousands of Zairians work on plantations owned by giant European firms such as Unilever, raising coffee, palm oil, sugar or rubber trees. For this they get paid $10 to $13 a month and must promise that they won't raise cash crops on the side, a promise that is almost universally broken.

LOOKING TO THE FUTURE

Mr. Nabham, the Egyptian FAO aide, thinks the future is with the small farmers. He has convinced about 9,000 of the 300,000 farmers in Eastern Kasai province that an expenditure of about $100 a year for fertilizer will more than pay for itself. (This is demonstrated by raising adjacent fields of corn, one fertilized and the other not. The difference is shocking.)

Mr. Nabham gradually built up a $1 million revolving fund from UN money and farmers' contributions to finance the fertilizer payments. But recently the government announced new monetary restrictions that prevent Mr. Nabham from converting the fund to dollars to buy fertilizer from abroad. The program is stalled, and he is discouraged.

His projects, he says, have demonstrated that Zaire's land can yield 4.5 tons of corn per hectare. The current average yield: 0.6 ton per hectare. "In most countries," he says, "you can only increase production horizontally, by increasing the amount of land, but in Zaire you can increase both vertically and horizontally, because you haven't reached maximum productivity."

He argues that if running water, electricity, schools, hospitals and recreational facilities were brought to farming villages, more people would farm. But, like others, he sees movement in the opposite direction. The government has invested almost all of its development billions in urban-oriented projects.

"Everybody is moving into town," Mr. Nabham says. "The sons aren't working on the farm now. The ones working are the old men. They are tired. When they go, I don't know who will cultivate."

Mr. SEIBERLING. Mr. Speaker, I yield 5 minutes to the gentleman from Nevada (Mr. SANTINI).

Mr. SANTINI. Mr. Speaker, I rise in support of the conference report regarding S. 2009. I rise in support because, as a member of the Committee on the Interior and Insular Affairs and the conference report from the House, we have engaged in one of the most arduous and protracted discussions of an amendment and a map that I have had the good or bad fortune to share with my colleagues of both the majority and minority since I commenced my interesting journey 5½ years ago in the House of Representatives.

I rise in support because I believe that what was done with the specific issue of cobalt and its treatment by both the conferees and the majority of this House of Representatives reflects that this House and that conference committee was willing to recognize that in the context of a balance, a trade off, a recognition that cobalt is critical to the survival of this Nation because of the vital role that it plays in the manufacturing of strategic weapons, in the manufacturing of commercial airliners, and the manufacturing of oil and gas, drill bits, and a multitude of other high-technology commitments that we in the United States of America are willing to say cobalt, you are a priority in terms of our national needs and in terms of our national security, and we will recognize it accordingly in this legislation.

☐ 1430

Now, my good friend and soon departing colleague, the gentleman from Idaho, and I have engaged in our share of battles side by side with the issue of an unresponsive or an alientated bureaucracy attempting to implement through their own desires and designs, schemes and plans, legislative intent.

I am confident that in the context of this bill we have hammered out an unequivocal expression of legislative intent that cannot be subject to the distorted distortions and conflicts that the gentleman and I have done battle with in the past in other legislative contests.

I draw some solace from the fact that the junior Senator of the State of the gentleman from Idaho, a long-time supporter of cobalt and friend of the gentleman from Idaho, offered an amendment on the Senate side that he felt was productive of cobalt interests, but which is much less explicit, much less protective and much less able in my mind to respond to the objections and understandable concerns of the gentleman from Idaho that possibly distorts the legislative intent of the executive agency later on.

As a matter of fact, the legislation contained in the conference commitment was in my judgment an unprecedented recognition of the fact that cobalt is the dominant use, and in this context every other use will be subordinated to it.

I know of no precedent since 1964, since the institution of the Wilderness Act, that gave similar legislative recognition to the importance of a contrasting natural resource use.

Now, if the junior Senator from Idaho, a good friend of the gentleman from Idaho (Mr. SYMMS), felt that a much more expansive, much vaguer, much more ill-defined kind of amendment on the Senate side would have sufficed for the protection of the cobalt interest on the Senate side, I think that in reason and judgment, and in particular an analysis of the cobalt problem, the gentleman must agree that this language is much more significant in protection of the cobalt resource than was the legislation offered by the junior Senator on the Senate side.

Mr. Speaker, I rise in support of the conference report regarding S. 2009, the Central Idaho Wilderness Act of 1980. As my friends and colleagues know, my single interest regarding S. 2009 was the adoption of provisions which would assure the location, discovery, development and mining of cobalt which geologic experts have concluded lies in central Idaho. As a result of the debate regarding S. 2009 the criticality of cobalt is now a matter of wide concern not only within the Interior and Insular Affairs Committee but within the House of Representatives as well. If we of the Congress have accomplished only that dissemination of knowledge regarding this strategic and critical mineral, we have achieved much.

I would only advise my colleagues, however, that this is but one of many such minerals regarding which the United States is dependent on foreign, and hence, uncertain sources. It is my fervent hope that in the days, weeks, and years ahead as new wilderness proposals and as new statutory matters come before this body that we might view such changes as we have viewed the matter of the Idaho wilderness and cobalt—with an attitude of concern regarding the need to develop America's domestic mineral resources.

I must admit to great pleasure and satisfaction regarding the provision adopted in West Panther Creek, the location of the so-called cobalt trend. It is my belief that the language we have adopted is a brandnew approach regarding the mining of minerals in wilderness. For over 16 years the executive branch has ignored clear congressional intent and statutory instruction with regard to section 4(d)(3) of the Wilderness Act of 1964.

It was within that section that the Congress indicated that mining was to take place within wilderness areas and that wilderness areas were to be maintained "consistent" with that mining activity. It was clear from the statutory language of that section that the Congress desired that mining and mineral leasing was to be the first among equals and was in fact to supersede the concern regarding the wilderness. The conference clearly addressed this question of executive ignorance of 4(d)(3) and the matter of the dismal failure of that provision in light of America's increasing vulnerability as a result of dependence on foreign sources for strategic and critical minerals. It was the intent of the conferees to create brandnew language which clearly and unequivocally stated that the mining of cobalt was to take place within the West Panther Creek area, that access was to be guaranteed, that unreasonable, inhibiting, economically prohibitive regulations were not to be permitted in an effort to prevent mining. Time and time again the conferees reiterated that the mining of the cobalt was to go on. I believe it will go on. I believe that the statutory language we have created will insure only one interpretation by the executive branch, that interpretation is "let the mining take place."

There is no dispute that cobalt is a vital, indispensable component of America's increasingly sophisticated national defense system and the industrial base on which it depends. Vital as an engine component for high speed, high performance aircraft—each F-100 engine in the United States, F-15 and F-16 fighter planes, contains 900 pounds of cobalt, essential in missile controls, tank precision rollers, armor-piercing shells and conventional and nuclear propulsion systems, tool steels and high speed bits and cutters, as well as numerous other military and nonmilitary applications.

The role cobalt plays in national defense is best seen in the dramatic increase in usage that has taken place during periods of defense mobilization: doubling during World War II, doubling during the Korean war, increasing 39 percent during the 1963-69 escalation period of the Vietnam conflict. What is little recognized, however, is the integral role of cobalt in the production of steel. Cobalt is used in a number of specialty steels from the superalloys to a wide variety of alloys, such as high speed tool steels, abrasion-resistant plate, and tool and die steels. Cobalt is vital in much of what the American steel industry does or produces for nonmilitary as well as military consumption.

The United States now imports nearly 100 percent of its cobalt requirements. Of that, 55 percent comes from Zaire, a nation of well known internal uncertainty and external vulnerability, and 18 percent from Zambia, a nation whose long-term stability may be questioned. There is, therefore, little assurance that a reliable or steady supply of cobalt will be available in the future. Compounding the critical nature of this supply picture is the fact that the U.S. strategic and critical materials stockpile goal of 85.4 million pounds is only 48 percent complete. Furthermore, there are no known readily available substitutes for cobalt in essential components of the Nation's present and projected weapons system.

In order to provide for access to and development of cobalt and associated minerals within the special management zone, statutory language has been adopted insuring that the prospecting and exploration for, and the development or mining of cobalt and associated minerals is to be considered a dominant use. These activities shall be subject only to such laws and regulations as are generally applicable to National Forests System lands not designated as wilderness or included in other special management areas which are managed under special management prescriptions. In addition, the conferees adopted certain provisions relating solely to the acquisition of title and the taking of timber, as well as the nonmineral use of access roads but not affecting the ability or right of claim holders to the prospecting, exploration, development, and mining of cobalt and associated minerals.

These latter activities are thus totally exempt from rule and regulation under the Wilderness Act of 1964, but are governed instead by the law as applicable to Forest Service lands not designated wilderness. Thus the language of 5(d)(1) carries with it no authority which would allow the Forest Service to restrict, under any provision of the Wilderness Act, the manner in which access to the area and prospecting, exploration, development, and mining of cobalt and associated minerals is to be carried out. There is, for example, no presumption that mining must be conducted by underground mining methods since all references to such requirements or similar limitations were deleted from the conference agreement. As well, it was the objective and goal of the conferees that the Secretary was not to be capable, by regulation, of preventing or rendering uneconomic the mining of the cobalt in the West Panther Creek area.

The language that the conferees approved with regard to the establishment of a "special mining management zone" within a wilderness area is precedent setting and was not taken lightly. Because of its present and future implications on the management of land within wilderness areas and mining within those areas, a further word of explanation appears appropriate.

Notwithstanding a clear mandate in the Wilderness Act of 1964 (section 4(d)(1) through (6)) that certain established uses, such as the use of aircraft, motor boats, control of fires, insects and diseases, may continue, subject only to such restrictions as the Secretary of Agriculture deems desirable, there has been a very strong administration trend to either totally preclude such use or to make them essentially unattainable. An even more marked preoccupation with the total preservation of wilderness values at the expense of any mineral prospecting, exploration and development in wilderness areas has been clearly evident.

The Wilderness Act very clearly states that the mining laws and all laws pertaining to mineral leasing shall, to the same extent as applicable prior to the effective date of this act (Wilderness Act of 1964), extend to national forest wilderness lands; subject, however, to such reasonable regulations governing ingress and egress as may be prescribed by the Secretary of Agriculture consistent with the use of the land for mineral location and development and exploration, drilling and production and use of land for transmission lines, water lanes, telephone lines, or facilities necessary in exploring, drilling, producing, mining, and processing operations, including where essential the use of mechanized ground or air equipment and restoration as near as practicable of the surface of the land disturbed in performing prospecting, location, and in oil and gas leasing, discovery work, exploration, drilling and production, as soon as they have served their purpose.

Clearly, the intent of the framers of the Wilderness Act was not to prohibit mining—nor was wilderness preservation to be an absolute mandate to the total exclusion of all other resource uses. Unfortunately, this appears to be what has happened. Preoccupation with total preservation of wilderness values has, as a practical matter, precluded all other resource development uses. Sixteen years of experience with the administration of the Wilderness Act indicates that little if any mineral prospecting, exploration or development has taken place within the millions of acres designated as wilderness since 1964. Further, based upon information available, not one significant mining operation has been developed within a wilderness area.

It might well be argued that had a more balanced and less prohibitive approach to mining been taken during the last 16 years the present amendment would have been unnecessary. However, the conferees were faced with a history of nonmining use in wilderness areas and chose to adopt an amendment which assures that the mining of cobalt and associated minerals in this area shall be totally exempt from restriction placed upon mining in wilderness areas and will be governed only by those statutes, rules and regulations that apply to nonwilderness Forest Service lands. There should be no doubt that the intent of the conferees in adopting this amendment was to remove any wilderness restriction on the mining of cobalt and associated minerals, notwithstanding the fact that the special mining management zone is within the exterior boundaries of a wilderness area.

It is the belief of the conferees that this new approach is to and will succeed where 4(d)(3) and the Wilderness Act have failed.

The SPEAKER pro tempore. The time of the gentleman from Nevada (Mr. SANTINI) has expired.

Mr. SYMMS. Mr. Speaker, I yield 3 additional minutes to the gentleman from Nevada.

Mr. Speaker, will the gentleman yield?

Mr. SANTINI. I am happy to yield to my friend.

Mr. SYMMS. I thank the gentleman very much for yielding.

Maybe I had a different impression, and I hope my good friend, the gentleman from Nevada, is right and I hope that he is not handed this issue again; but I would predict that my good friend, the gentleman from Nevada, will yet have to face this issue again down the road, because the legislative intent that the gentleman has and that we hope the conferees had to allow cobalt to be mined because of the fact it is in a wilderness area as opposed to a conservation unit that the junior Senator from Idaho had offered, that we will have more legal catches, have more lawyers to be able to block the mining in the future of cobalt in this wilderness area.

Mr. SANTINI. Mr. Speaker, I ask the gentleman to yield so I might specifically respond to the conservation unit expression.

Mr. SYMMS. I yield.

Mr. SANTINI. Can the gentleman cite for me one example since 1964 where a conservation unit for the purpose of providing for mineral exploration and extraction have succeeded?

Mr. SYMMS. No, I cannot.

Mr. SANTINI. Well, I rest my case.

Mr. SYMMS. I would say to my friend, the gentleman from Nevada, I have not seen any place in a wilderness area yet where any mineral extraction has been successful. I hope this may end up being the first.

Mr. SANTINI. At least the gentleman gets a better chance with this one than we had in the past.

Mr. SYMMS. Well, I hope so; but I think the problem will be, how will we get risk capital and take so long to get a mine going?

It just seems to me this should be classified for multiple use, and it would not harm what the basic intent of the bill would be if this was actually classified multiple use. Maybe we will have a Congress with more wisdom in the future and we will not have these fights and the gentleman and I will be able to see the day come when there will be an overall recognition in this country that we have a bigger problem in this country on nonfuel minerals than we do on the energy situation, where we depend on half the oil we import from out of the country.

I know the gentleman is a leader in this. I appreciate his efforts and the gentleman can be assured he will have my continued support to be sure that his intention is put into effect by the administration.

I yield back to the gentleman.

Mr. SANTINI. Well, I guess it was my time and I am happy to have this deference; but if the gentleman will proceed with me further, we also excluded the properties that were on the fringes of the proposed wilderness area. That included the Anaconda molybdenum-tungsten mining area. Again, the gentleman and I have fought many battles side by side to try to get some recognition of the importance of strategic materials, of which tungsten certainly is a critical one. The House position excluded that section. The position today is one of exclusion. The conference adopted that position.

Again, I think that both our experience with respect to the involvement of the trend area encompassed in the Wilderness Committee report and the property that included the molybdenum-tungsten mineral resources represent again unprecedented recognitions.

I would suggest balancing consideration of the critical importance of strategic materials and minerals and the survival of both the industrial base and the military security concerns of this Nation.

The SPEAKER pro tempore. The time of the gentleman from Nevada has again expired.

Mr. SYMMS. Mr. Speaker, I yield 2 additional minutes to the gentleman from Nevada.

Will the gentleman yield to me for a moment?

Mr. SANTINI. Mr. Speaker, if I might complete my observation on the gentleman's time this time.

Therefore, I think we have made significant and important progress. I appreciate the fact that the conversions have come hard, that the realizations have been arduous ones to extract about the importance of mineral resources in the survival of this Nation; but this bill, I would suggest to the gentleman, is an important landmark or turning point in that fundamental recognition.

The gentleman has labored and pushed as hard and as long as I have, as mining chairman, on this vital issue. I think inasmuch as this bill represents that kind of turning point, I hope that the gentleman would fall to his knees, recognize that on the road to Damascus he has been converted and endorse and support this legislation. Is that conversion forthcoming?

Mr. SYMMS. Mr. Speaker, I thank the gentleman very much.

I would only say that it would be my fondest hope that the gentleman's best wishes would be realized and would come true that this is a turning point; however, it would have been so simple just to exclude it from the wilderness area. That, then, would be a very clear indication of congressional intent that cobalt would have a priority.

As I said earlier, the Wall Street Journal article quotes a high-ranking official in the U.S. Forest Service saying that this is going to be tied up in and out of court for many years to come.

The basis that they will have will be the fact that as long as it does not significantly impair the overall habitat of the Big Horn Sheep located within and adjacent to such zone.

There, for the edification of miners, they make lamb stew out of Big Horn Sheep. That is the problem. That is the problem we are facing.

Mr. SANTINI. Mr. Speaker, if the gentleman will yield further. I think the gentleman read that out of context. If the gentleman took the entire language together, there is hardly anyone that could reasonably suggest that even a babbling bureaucrat who volunteered that statement in an obvious attempt to denigrate the gentleman's efforts and mine, would be able to overturn that legislative expression, because the statement the gentleman read is preceded by a statement, "subject to the above provisions of this statute," and this language. I think that is obviously compelling and controlling and it is the first time we have had that kind of expression in legislative language.

The SPEAKER pro tempore. The time of the gentleman from Nevada has again expired.

Mr. SYMMS. Mr. Speaker, I yield myself 1 additional minute.

Mr. Speaker, I would just say to my

friend, the gentleman from Nevada, that we do need to make it absolutely clear for the future Members of this body and for the other body that there is an interest in the future to further expand into that cobalt belt, that this Congress insists that it is the intent of Congress that cobalt shall be extracted.

☐ 1440

I would share the concern of the gentleman from Nevada, but our past experience leads me to the conclusion that it will not happen. As the gentleman said, there is no conservation unit where there have been successful mining operations. But there is no wilderness area where they have been successful either.

I hope this is the first. But I have less confidence in the Government processes and the ability because of the bias which our land managers might have in the future to twist this law against our congressional intentions.

Mr. Speaker, I reserve the balance of my time.

Mr. SEIBERLING. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I just would like to add a couple of comments here. I do not think there is any argument on either side of the aisle in the Committee on Interior and Insular Affairs or in the House, or probably in the other body either, that to the extent cobalt is located in this area, in mineable quantities, it must be developed. There is no question but what cobalt is almost a unique material in the sense that it is in scarce supply in the United States and is absolutely vital to our national defense.

I concur, certainly, with that conclusion and I think from our hearings that was established beyond any doubt.

I would like to point out a couple of other things. First, in all versions of the bill the existing cobalt mine, the so-called Blackbird Mine, was excluded from wilderness and a substantial buffer area placed around it so that that mine could resume operating any time it saw fit without any hindrance whatsoever from the Wilderness Act.

Second, I think we all agreed that as far as the existing cobalt trends are concerned, which are the probable extensions of the deposit from where the existing mine is located running roughly northwest from that area, they must be explored and if cobalt is found in mineable quantities, commercially mineable quantities, it must be mined. For that reason the conference report makes it absolutely explicit that that shall be the dominant use, if cobalt and associated minerals are found in that area.

So I do not see how there could be any possible question about it. Lest there be any doubt, while we had some disagreements as to the best method of insuring that, I personally subscribe to that, as I am sure do all of the other members of the conference.

I would also like to add a couple of other things. The Governor of Idaho supports this legislation. The Idaho Game and Fish Department supports this legislation. The people of Elk City, Idaho, where there is an existing sawmill, not only came and testified in support of it but personally gave me a beautiful cake in thanks for my support of Senator CHURCH's efforts to help protect their industry there.

As I pointed out in my remarks, this bill will actually release more timber and allow an increase in the amount of timber available for logging in Idaho.

So I do feel that there has been careful attention paid to the needs of both the local forest products industry and the mining industry.

Mr. Speaker, I now yield 5 minutes to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. I thank the gentleman from Ohio, the manager of the bill, for yielding time to me on this particular issue. We spent considerable time in subcommittee on hearings on this matter and in full committee. I was privileged to be appointed to the conference, and had had a number of meetings with participants on the subject.

I do want to rise in support of this measure. I have been interested to note the language. I paid close attention to the language before I agreed to the conference because I knew that it was a point in issue, and the issues surrounding cobalt were very important.

I think it is also important for all of us to recognize that time and again we look at charts and statistics indicating the amount of the various minerals that we import in this country. That is not to say we do not have the minerals here, but we just find it easier, we find it cheaper and more convenient to import those minerals. Whether the lands are in public ownership or private ownership, whether they are wilderness or not; whether they are managed from a multiple standpoint or a single-purpose standpoint; that is not the only criteria governing whether or not we produce or manufacture or mine those minerals and resources that we use.

One of the most important facts to keep in mind about American consumption is that we consume far more than what our proportionate share is according to the world population, whether we are talking about energy or hard rock minerals.

The second point we have to look at is the various types of land classification that we get involved in at the national level with regard to public lands. Indeed, one of the hallmarks in terms of land use classification was the 1964 Wilderness Act.

I think very often the act's flexibility and application are misunderstood. Very often it is very narrowly defined as to what can and cannot be done on land that is designated "wilderness."

One thing that is true is that it is a classification that has not been with us for long, that has not been the subject of adjudication, and that is not always understood for what it does. Within the context of the Wilderness Act, there are a variety of uses that can take place.

I was pleased to note in this instance that the conferees, with myself agreeing, decided to go an extra step in terms of trying to deal with the issue regarding cobalt. In looking at the statement of the managers on page 19 of the report, it leaves no doubt as to the fact that underground mining of cobalt can occur and it can be mined in conjunction, if it is found with other types of minerals. Of course, that is the primary use.

On the bottom of that page it states "the provisions of section 4(b)(3) of that act, closing wilderness areas to the general mining laws at the end of 1983, do not apply to cobalt and associated material-related activities within the Zone."

It also continues to state:

> Notwithstanding the fact that the Zone is within the exterior boundary of the wilderness. The conferees adopted provisions because of the 16-year history of restrictions on mining within the National Wilderness System and the unique circumstances surrounding the mineral cobalt.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. VENTO. I am happy to yield to the gentleman.

Mr. SYMMS. Mr. Speaker, did I understand the gentleman to make some reference to underground mining?

Mr. VENTO. I referred to underground mining on page 19 of the committee report.

Mr. SYMMS. If the gentleman will continue to yield, I would like to ask the chairman of the Subcommittee on Mines and Mining if that was his understanding, that limitation.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. VENTO. I am happy to yield to the gentleman.

Mr. SEIBERLING. The original Senate bill limited mining to underground mining, but the conference report makes it absolutely clear that mining, both ground and underground, can take place. The only limitation is that more land than is necessary not to be required for such purposes.

Mr. VENTO. I thank the chairman for that clarification and the gentleman from Idaho for that question.

I think the point I am trying to make is clear with regard to the fact that this is treated uniquely with the context of a wilderness area. In other words, wilderness areas are not a single use, necessarily, but but there are variations or modifications with regards to water, with regards to timber cutting in various types of wilderness, not necessarily in this. I do rise in support of this conference report.

☐ 1450

Mr. SYMMS. Mr. Speaker, I yield myself 2 additional minutes.

Mr. Speaker, I appreciate the remarks that the gentleman from Minnesota (Mr. VENTO) made, but I just think that we ought to pay considerable attention to the implications of his remarks. We have a tremendous balance-of-payments deficit with respect to minerals and nonfuel minerals. I think it is somewhere in the neighborhood of $8 billion a year at the present time. It has been predicted my many experts in this field in our own Government that if we continue on the course we are going, by the year 2000 it may be a $100 billion deficit. What we are doing by saying that we would prefer to buy those minerals overseas instead of mining them here is we are exporting jobs from the men and women who live and work in this country. We are exporting revenues. Lead processing, for example, has dropped in half from what it used to be. It has gone out of the country. In the last 10 years, copper imports are up 300 percent, and we are a country that has adequate supplies of copper.

But the reason we are not getting the mining done is because we are making it so difficult for those people who try to produce minerals and new wealth out of the soil in extraction industries. I think the Members of this House need to recognize in this wilderness and many others we do not know what else is in the cobalt belt. Until someone digs for it, we really never know what is underground or behind the next face of rock so they can estimate our resources. But we are talking about spending millions of dollars and risking in great part the savings of the American people, and if it gets too difficult, mining companies simply will not go into wilderness looking for minerals. That is in the long run what is weakening our industrial base in this country.

Of course, you can always say the Congress can come back and reverse its decision, but, Mr. Speaker, it will be too late by the time we recognize it because our adversaries in the world have a timetable for when they want to absolutely control the resources in the world. So the clock of history is running. You cannot just go out here and get Congress to move and take wilderness areas and put them in multiuse areas and encourage mining to take place and have it happen overnight. I think this bill goes way too far. It is going to cost 10,000 jobs in Idaho, by the AFL–CIO estimate. I urge defeat of this conference report in the name of jobs in Idaho, recreational values, and all in the name of national security.

Mr. SEIBERLING. Mr. Speaker, I yield myself 1 additional minute.

Let me simply say that, as best we can determine, this bill will eliminate no existing jobs in the State of Idaho and in fact will protect some of them.

Let me take this opportunity also to express my appreciation and thanks to the gentleman from Nevada (Mr. SANTINI) who, despite some misunderstandings and some differences between us as to detail, has kept his eye on the ball and worked out provisions that will insure the development of the vital strategic resources of this area. I think that we are all grateful to him for his interest in substance and not mere form.

I want to thank the chairman of the committee, the gentleman from Arizona (Mr. UDALL), as well as many of the other members of the committee on both sides of the aisle who approached this with a view to the big picture. They helped us work out a very reasonable and balanced bill.

Finally, Mr. Speaker, I wish to express my personal commendation and the thanks that I believe we all owe to Senator FRANK CHURCH for the long, thoughtful and painstaking efforts he made to evaluate all of the many complex factors that affected this legislation. Without these efforts, it would not have been possible to write this bill, which protects both local and national interests and both natural and economic values. The people of the Nation will be indebted to him for all the years to come, but particularly the people of Idaho, who will be the prime beneficiaries of this truly magnificent achievement.

Mr. Speaker, I yield back the balance of my time.

• Mr. KOSTMAYER. Mr. Speaker, I rise in strong support of the conference report on S. 2009, the bill designating the River of No Return Wilderness in central Idaho.

Others have discussed the general provisions of the bill and the many ways in which it would add to the protection of one of the greatest unspoiled areas still within the ownership of the American people. I want to address the provisions of the conference report which deal with the protection of the Salmon River.

As passed by the Senate, S. 2009 designated 125 miles of the Salmon River as a component of the National Wild and Scenic Rivers System. The 46-mile portion of the river from the confluence of the North Fork of the Salmon downstream to Corn Creek would be managed as a recreational river and the 79-mile segment from Corn Creek to Long Tom Bar as a wild river. Both segments would be administered in accordance with the provisions of the Wild and Scenic Rivers Act even though portions of both stretches run through the new River of No Return Wilderness and the Gospel-Hump Wilderness.

The Senate bill also insured that existing jetboat use of these segments would be permitted to continue at not less than the level of use which occurred during calendar year 1978. The House version contained identical provisions, but added the 53-mile segment of the river from Hammer Creek to the confluence of the Snake River as a component of the system and banned dredge and placer mining in the wild and scenic stretches of the Salmon River and on the Middle Fork of the Salmon and its tributaries in their entirety.

When the bill was being considered in the House I offered an amendment which would have expanded the portions of the river to be covered by the Wild and Scenic Rivers Act's protective provisions. While that amendment was not adopted, the conferees did agree to apply the provision of the Wild and Scenic Rivers Act precluding impoundments to the Hammer Creek-Snake River segment of the river, and also to adopt the House ban on dredge mining within the three segments of the main Salmon River and within the entire Middle Fork and its tributaries. I strongly support these steps to protect the free-flowing nature and the purity of the waters of the Salmon River.

Fisheries experts from throughout the Pacific Northwest have emphatically stated that the construction of even one dam on this river would effectively nullify the massive Federal-State commitment to the restoration of the Columbia River salmon and steelhead trout populations to the historic levels. Since the Salmon River drainage is by far the most important single portion of the Columbia River Basin for the production of salmon and steelhead, one dam on this river could lead to the extinction of several species of anadromous fish. That would indeed be a national tragedy.

Based on recently available evidence, the conferees were convinced that dredge and placer mining in the Salmon River drainage is incompatible with the preservation of the anadromous fish runs. For the fish, there is no safe time of year for dredging. In the spawning season the fish are wary and easily diverted by human activities in the middle of their migratory streams. After the eggs are laid, they are especially susceptible to the silting and streambed disturbance that occurs when dredging takes place. The newly hatched fry which hold in the headwaters for a time can be killed outright by silt or exposed to predators by instream turbulence. In short, dredge mining can have a severe and irreparable effect on fish spawning, hatching, and survival.

Some knowledgeable fisheries experts believe that every salmon and steelhead now running within the Columbia River Basin is a member of either a threatened or endangered species. The 1979 runs of spring and summer chinook salmon were the lowest on record. Combined with the disturbance of the runs caused by the recent eruption of Mount St. Helens in western Washington State, dredge mining could definitely threaten the survival of one or more species.

Records of dredge mining in some parts of Idaho indicate that it can take many years for streams to recover from dredge mining activities, if they recover at all. For example, experience in the 1950's with Bear Valley Creek—which together with Marsh Creek forms the headwaters of the Middle Fork of the Salmon River—indicates that dredging results in dramatic increases in sedimentation, which disrupts the spawning beds. Even though it has been more than 20 years since the last dredge mining took place in Bear Valley Creek, the stream is still contributing more than twice its normal silt load to the Middle Fork. Applications to resume commercial dredging are pending on Bear Valley Creek at present.

Mr. Speaker, the dramatic increase in world gold prices in the past months has led to a wave of permit applications—both commercial and "recreational" applications—for other portions of the Salmon River drainage. In the opinion of many, the recreational dredge miners pose the greatest single threat to the water quality of this basin. If allowed to continue, these operations will destroy the gravel beds that are the spawning areas of the steelhead and salmon. That cannot be allowed to happen.

Adoption of the conference report will be a major step to protect the enormous public investment which the Nation and the Northwest have made in the perpetuation and enhancement of the fish runs of the Columbia River system, which is of economic significance for the entire country. I believe that in the future—I hope, the near future—Congress may decide to take other careful and conservative steps, such as those which are in the conference report, to protect and enhance these resources. In the meantime, I urge my colleagues to join me in voting for passage of the conference report on S. 2009.●

● Mr. JOHNSON of Colorado. Mr. Speaker, this conference report really offers a mixed bag of important issues. The resolutions presented here do not satisfy all of the interest groups, Members of Congress, and other citizens who are very much interested in the outcome of this legislation.

On the positive side, the bill which is sent to us from the conference committee, provides substantial additions to the National Wilderness Preservation System. While at times we may differ regarding the total amount and the location of specific wilderness proposals, we do agree that there are areas of our Nation which should be protected and preserved in their nearly natural state so they may contribute to our national treasure. That is a valid and appropriate goal which we share. The problems arise when we get down to specifics, and begin to look at the economic and social impact of such actions on the local communities and citizens involved. That is also an important and valid concern.

The conference report on S. 2009 designates as wilderness, 2.3 million additional acres of national forest lands in the State of Idaho. The result is the creation in central Idaho of the largest contiguous wilderness area in the Lower 48 States. In addition, the bill as formulated in the conference committee, adds 125 miles of the main Salmon River to the National Wild and Scenic Rivers System, and restricts certain types of development on other parts of the river not officially designated as wild, scenic, or recreational in the statute.

Another positive aspect of the conference committee product is the statutory accelerated review, administratively and judicially, of two major land management plans which have been the subject of controversy and delay for many years. The language agreed to in the conference committee will result in a more timely final decision regarding these land management plans, while leaving the substantive decisions with the proper administrative agency, subject to timely judicial review if necessary.

From my point of view, the legislation worked out in the conference committee has two major failings which are of national significance as well as being of direct concern to the residents of the State of Idaho.

The first concerns the area which was the most controversial during the lengthy deliberations over this legislation—the West Panther Creek area. In this particular area of the River of No Return Wilderness proposal, there lies a very likely potential for the discovery and development of significant deposits of cobalt. As we have heard documented here on prior occasions, the U.S. imports come from countries such as Zaire and Zambia, and thus are not secure sources of supply. We simply must, for our national security needs, develop the available cobalt resources in our own country.

The House-passed version of S. 2009 excluded this particular area from the proposed wilderness. The Senate version of the bill put this potential cobalt area in wilderness, but made provisions for underground mining of the area. A majority of the House-Senate conferees, without much of a fight from a majority of the House conferees to uphold the House position, voted to put the area into the proposed wilderness, but to treat this particular area essentially as if it were part of any other forest, for purposes of mining cobalt and associated minerals.

The area, although in the wilderness, is designated as a "special management zone," with the language asserting that prospecting and exploration for, and the development or mining of cobalt and associated minerals is to be dominant use within the wilderness. Let me repeat that, for this is a rather unique precedent we are setting here. The prospecting, exploration, development or mining of cobalt and associated minerals is to be a dominant activity within this part of the River of No Return Wilderness area. This activity, within the wilderness area, will be subject only, for the most part, to the routine laws and regulations regarding mineral development in any national forest not designated as wilderness.

My concern is that either one of two things will happen. If indeed it turns out that development and mining of cobalt does in fact take place in this area—and I am not entirely convinced even this language will ultimately result in such activity—but if it does, then it will result in a severe and disastrous denigration of the meaning and intent of a national wilderness area. If this activity does take place in this part of the wilderness area, it will hardly present an enjoyable wilderness experience or provide an opportunity for solitude and communing with nature as described and promoted in the Wilderness Act of 1964.

If, on the other hand, this statutory language turns out to be unworkable and does not result in the development and mining of the cobalt within the wilderness, then we have locked away this valuable resource. To unlock it will require another act of Congress, and will put a future Congress through the agony and confrontation which has burdened this Congress in developing this legislation.

We should have addressed the issue directly, by leaving out of wilderness at the very least, as Congressman SYMMS proposed in conference, the 39,000 acres identified as the area of most significant cobalt potential. A majority of the conferees rejected this approach. So the area remains in wilderness, and we will just have to wait to see if we end up denigrating the wilderness area, or locking up this strategically important mineral resource.

The other major issue concerns the future treatment of the areas not designated wilderness by this legislation, those so-called "nonwilderness" areas allocated by the RARE II process. We have not addressed that issue in the language of the bill. An attempt is made to speak to the issue in the statement of the managers. Many of us believe that effort is not sufficient to ward off future delays in the planning process regarding the multiple-use management of these areas for the development of the several other resources on and under these forest lands.

There is not statutory language in this bill to guard against the type of lawsuit which was filed and ruled on in California, the California against Bergland suit. That resulted in the U.S. district court requiring additional site-specific environmental statements on each of the 46 nonwilderness areas which were the subject of that suit. Such a lawsuit could happen again in other areas of California, as well as in Idaho, Washington, Arizona, North Carolina, Pennsylvania, or in about 30 some other States where RARE II lands are located.

There is no language in this bill to release the nonwilderness lands back to the national forest management planning process. Although an attempt is made to address this issue in the "report language" of the conference committee, there are serious doubts that such a vehicle will withstand challenges in court. Unless and until such provisions are written into future statutes which will be forthcoming to designate RARE III wilderness areas in all these other States, there will be no assurance as to exactly what forest lands will be available for multiple-use management for purposes other than wilderness. There will always be the cloud brought by lawsuits regarding wilderness considerations for these lands. We missed—rather, we neglected—our responsibility in that regard in this legislation.

We can be proud of the positive aspects of this conference report, but in my view we did not complete the job. I hope my colleagues will give serious consideration to these additional statutory needs as we continue to develop RARE III wilderness bills pertaining to most of the rest of the States represented by the Members of this House.●

● Mr. VENTO. Mr. Speaker, I rise in strong support of this conference report on S. 2009, the Central Idaho Wilderness Act. In particular, I wish to stress the great importance which protection of this magnificent area has for fish and wildlife habitat and values.

The area involved, which would be designated as the "River of No Return Wilderness" is within the Columbia River basin in central Idaho approximately 80 miles northeast of Boise. Most of the area is within the drainage of the Salmon River and its tributaries. The Middle Fork of the Salmon River, a unit of the Wild and Scenic River System, passes through the area for a distance of about 104 miles. Elevations range from 2,200 feet near Mackey Bar to over 10,000 feet in the Bighorn Crags. These crags and the canyons of the Middle Fork and main Salmon Rivers are the dominant land features.

These undeveloped areas of central Idaho encompass vast, rugged, scenic, and mountainous lands, with towering peaks and deep canyons. They embrace the Salmon River with a gorge that is the second largest in the continental United States. The area offers habitat for large herds of deer and elk. Bighorn sheep are a common sight along the rivers.

The anadromous fishery is composed of chinook salmon and steelhead trout. Both migrate nearly 1,000 miles from the ocean to spawn. The resident fishery is found in both the lake and stream environments. Native game fish include cutthroat, dolly varden, rainbow, whitefish, steelhead trout, and sturgeon, plus kokanee, and chinook salmon.

Among over 190 wildlife species are mule and whitetail deer, elk, moose, bighorn sheep, mountain lion, black bear, and mountain goat. Less common species are the fisher, wolverine, lynx, peregrine falcon, bald eagle, osprey, and river otter.

The proposed wilderness contains the finest major year-round undisturbed elk habitat in the Nation, and perhaps the largest elk herd. It is home to Idaho's most prolific bighorn sheep herd. Additions of several key areas surrounding the existing primitive areas will insure that key wildlife wintering habitat is preserved in its natural state.

The Salmon River drainage, much of which is protected in S. 2009 by either wilderness or wild and scenic river designation, is the most important in the entire Columbia River basin for chinook salmon and steelhead. The importance of the river was highlighted in the testimony of the Idaho Game and Fish Commission during the Public Lands Subcommittee hearings on S. 2009:

> The Salmon River drainage provides spawning and rearing areas for more spring and summer migrating chinook salmon than any other drainage in the Columbia River Basin. The Salmon River produced 98 percent of the annual chinook harvest (all sport fishing) in Idaho when the chinook were being fished. It produces more than one-half of the Columbia River steelhead.

In addition, both the main Salmon River and the wild Middle Fork are among the most popular whitewater rivers in the Nation.

The permanent wilderness protection of S. 2009 is supported by Idaho's guides and outfitters, who make up a fast-growing sector of the Idaho economy which directly brought in over $23 million to the State in 1978.

Mr. Speaker, enactment of this legislation will mark a major step for continued protection of some of the finest fish and wildlife values in the Nation. It will be a boon to all those who use and enjoy those values. I note that according to Forest Service figures included in the original report of the Senate committee, these values have supported more than 147,000 visitor-days for hunters, and more than 33,000 visitor-days for fishermen.

As one with a particular concern for fish and wildlife and for those who are supportive of their scientific, educational, recreational, and economic purposes, I urge all Members to endorse this conference report and vote for designation of the River of No Return Wilderness.●

● Mr. HANSEN. Mr. Speaker, today we will be voting on the conference report on S. 2009, the Central Idaho Wilderness Act of 1980. This conference report has been referred to as a "compromise." In my opinion, it is a concession to certain interests.

Without reviewing in detail the specific provisions of the bill which has already been done at length, I would like to refer to the most controversial compromise called the West Panther Creek cobalt area. The House-passed version excluded 50,000 acres from wilderness. The compromise placed 63,000 acres in wilderness in a "special mining management zone" with cobalt and associated minerals to be considered a dominant use but subject to "such laws and regulations as are generally applicable to national forest system lands not designated as wilderness." That last statement is one that causes me great concern, bureaucrats will decide the regulations that are applicable.

Several years ago, when the Gospel Hump Wilderness was created, in Idaho, there was a great compromise which guaranteed certain uses such as grazing. The administrative realities are such that regulations are actually restricting uses which Congress had no intention to restrict such as "requiring a permanent rider with 100 head of cattle at least 3 days per week." In a recent letter from the Idaho Cattlemen's Association the situation was described such that "Current wilderness regulations allow grazing within these areas, but regulations like these render economical use impractical." Will the currently proposed compromise bring the same results in the central Idaho wilderness?

Although very few people will argue against wilderness concepts, excessive removal of large areas for single use begins to be objectionable. In a recent survey of Idaho residents by Boise State University student researchers during a period of April 16 through May 9, 1980, it was determined that the majority do not want any more wilderness. In this survey, 47 percent did not want further wilderness, 38 percent wanted more wilderness, and 14 percent had no opinion.

The implications of wilderness withdrawal go beyond what the local impact may be to an individual community. When a specific strategic mineral has clearly been identified, such as cobalt, the impact becomes even more apparent. In 1960, America imported 52 percent of its nonferrous metal needs. In 1978, the dependence rose to 64 percent. We import only 47 percent of our oil and gas and we consider it to be an energy crisis. I submit that we have a disaster on our hands regarding mineral dependence. We are locking up our public lands at an unprecedented pace and the implications are indeed ominous. Can we afford this degree of withdrawal?

The people of this country are not now being given the clear choice which reflects these larger issues. Hopefully the Congress will provide that information and be willing to make these difficult choices in a balanced and reasoned approach. I ask my colleagues to defeat this conference report as it is not representative of the interests of Idahoans in particular and the Nation in general.●

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SYMMS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this question will be postponed.

RAIL ACT OF 1980

Mr. FLORIO. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7235) to reform the economic regulation of railroads, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. Florio).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 7235, with Mr. AuCoin in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from New Jersey (Mr. Florio) will be recognized for 1 hour and 30 minutes, and the gentleman from Illinois (Mr. Madigan) will be recognized for 1 hour and 30 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. Florio).

Mr. FLORIO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, reform of the regulatory structure governing the railroad industry is essential not only to the economic health of the rail industry, but also to the economy of this country. Although railroads carry over one-third of the Nation's freight and most of its bulk rail oriented commodities such as coal, grain, and chemicals, the industry is in dire financial straits. Over the years the railroad's market share has declined, profits have fallen, and costs have soared.

The pervasive regulatory system that developed over the past century is, in large part, responsible for the failing financial condition of the industry today. A change in the regulatory structure is needed to require railroads to make sound economic decisions and to require them to begin competing in the marketplace.

If we do not do something to make the railroads more competitive, we inevitably will be faced with more railroad bankruptcies and Federal subsidies. This Congress has passed legislation dealing with two railroad bankruptcies in the past year, at a cost to the taxpayer of millions of dollars and the loss of over 10,000 miles of rail service. Over $11 billion in Federal subsidies has been spent on the rail system in the last 5 years.

We can avoid a continual drain on the Federal budget by providing regulatory relief for the industry. If we reduce Federal regulation and allow railroads to compete with their largely unregulated competitors, the industry will be able to generate the financing necessary to maintain their facilities in order to continue essential services.

If we allow the present rigid regulatory structure to continue, the railroad industry will inevitably need billions of dollars in Federal assistance to survive. I would warn you about amendments to be offered, that will effectively preserve the regulatory status quo.

H.R. 7235 protects large and small shippers from the potential abuse of market power by a railroad. The bill retains the Interstate Commerce Commission's jurisdiction over rail rates when the shipper has no practical alternative means of transportation, and the Interstate Commerce Commission retains its present ability to require that rates be reasonable.

The provisions governing maximum rate regulation place the burden of proof on the railroad to demonstrate two things—that alternative transportation is available and that the rate charged results in revenues greater than that needed for the industry to cover costs. The availability of alternative transportation is a sound economic test which exists in present law. Although the formula for determining the "cost recovery percentage" or revenue level needed for the industry to cover its costs is a complex one, the theory is simple. All businesses must cover their costs if they are to stay in business.

I believe this provision will provide the carriers sufficient maximum rate freedom to respond to the marketplace, while protecting those shippers who have no competitive alternative.

Since this approach will allow the carriers significant rate freedom, there will no longer be a need for general rate increases which are annual across-the-board percentage rate increases on all traffic. Substantial price freedom must carry with it the requirement that railroads begin looking at the competitive situation of each rate instead of across-the-board increases. Rates have gone up 143 percent via general rate increases since. The shipping public should be and is pleased with this program.

The legislation offers new rate and service options to shippers, which should be particularly beneficial to those shippers that are dependent upon rail. The bill makes it easier for railroads to raise rates for noncompensatory traffic so that some shippers will no longer have to subsidize others that are not paying enough to cover the railroads' variable costs of providing the service.

This bill will allow and encourage contract ratemaking, but under the supervision of the Interstate Commerce Commission to insure that a railroad does not impair the ability it has today to fulfill its common carrier obligation. Once the Commission has approved a contract, it would be enforceable and a breach would open the parties to normal contract law remedies.

Seventy percent of our Nation's rail traffic travels over two or more railroads to get to its final destination. The bill includes an essential but modest provision that modifies the manner in which carriers split joint revenues among themselves. Simply, it allows a carrier to at least cover costs on its share of any rate.

Without this provision many railroads, including Conrail, will be forced to continue to carry traffic where they are not even covering their costs. When Conrail is carrying the traffic at a loss, the Federal Government ends up footing the bill, with taxpayer dollars. Neither Conrail nor any other railroad should be required to perform a service and lose money.

Provision provides for elimination of collective rate setting. Competing railroads being able to legally fix prices is incompatible with spirit of bill which relies on marketplace.

One of the most important features of this bill is the cost determination section which insures that railroads will develop the costing and accounting capability necessary to provide accurate cost data. In the course of hearings and other investigations into the rail system, it became apparent that the industry is years behind other industries in establishing accurate cost information. Not only does this cause a serious problem for shippers and others, but it causes an even more serious problem for the railroads themselves. The railroads are unaware of their actual costs.

They are unable to determine when they are making money and when they can adjust a rate up or down to maintain existing traffic or seek additional traffic.

The bill takes an innovative and bold approach to the costing issue by establishing a railroad accounting standards board under the direction of the Comptroller General. Within 2 years, the board shall promulgate cost accounting standards that shall be applicable to the entire railroad industry. The standards shall insure that, to the maximum extent possible, railroads accumulate costs which identify the cost of individual commodity movements on specific segments of railroad property.

These are the major provisions of H.R. 7235. I believe it provides a regulatory structure which will allow our railroad system to grow, and more importantly, to begin operating with maximum efficiency. Uneconomic decisions which waste shippers' dollars and consumers' dollars can and will be avoided. I do not believe there can be any question that greater competition and the establishment of an atmosphere where the market forces will require rational economic decisions, not government regulation, will result in the lowest possible rail rates. A healthy railroad network as an important part of our transportation system.

In concluding, I will insert in the RECORD at this point a letter from the Chairman of the Interstate Commerce Commission with regard to an amendment which is to be offered by the gentleman from Texas.

INTERSTATE COMMERCE COMMISSION,
Washington, D.C., June 27, 1980.

HON. JAMES J. FLORIO,
Chairman, Subcommittee on Transportation and Commerce, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR CHAIRMAN FLORIO: This is in response to a request from your staff for my comments on a series of amendments which may be offered to H.R. 7235, the "Rail Act of 1980." In the interest of time, I am submitting my personal views on this matter rather than those of the entire Commission. Also, I will follow the order of the amendments as set forth in the "Summary of Coalition Railroad Ratemaking Amendment to H.R. 7235." Attached please find my comments.

Sincerely yours,
DARIUS W. GASKINS, Jr.,
Chairman.

Attachment.

I. In determining if a rate is reasonable, this amendment would require the Commission to consider the impact of a proposed rate on the attainment of national energy goals. This amendment would appear to shift the emphasis now contained in the bill that efficient rail carriers shall earn adequate revenues. I believe such a shift is ill-advised.

The Commission is sensitive to the problems confronted by coal users in recent years, and of the increasing need to utilize coal to help solve the Nation's energy problems. Nonetheless, we must also be sensitive to the needs of the railroads to earn adequate revenues in order to be able to provide the expanded level of service that will be necessary in order to move the large volumes of coal which are projected to move. As you know, the railroad industry in general is currently in poor shape financially, and, simply put, needs the flexibility to adjust its rates more readily in order to earn the revenues necessary to raise the capital it will need. The alternative is for the Federal government to finance these needs and I don't find that desirable. I think the bill strikes the proper balance between competing goals by emphasizing the need for adequate revenues.

II. These amendments would modify the two separate ways in which a rail carrier could establish that there is effective competition with respect to the transportation to which a challenged rate applies. The effect would be to make it much more difficult for a carrier to establish that there is effective competition and thus no Commission jurisdiction over the rate. The summary states that this will result in a reduction of the threshold test for the Commission's jurisdiction from around 200 percent of variable cost to around 160 percent of variable cost.

Our rough estimates indicate that the predicted reduction from 200 percent to 160 percent is probably accurate. This figure approximates the jurisdictional threshold currently used by the Commission under the market dominance standards, and thus likely would not modify the existing situation significantly. The major problem with this is that, in my opinion, it does not give the rail carriers the necessary flexibility to respond quickly to different market conditions. It thus cuts against the general goal of the bill to accord carriers greater flexibility and management discretion. Furthermore, since rail carriers need a 150 percent revenue-to-variable cost ratio on all commodities to achieve an adequate return, a 160 percent threshold does not give sufficient recognition to the fact that many commodities must move at rates below 150 percent (but still above variable costs) because of the presence of competition. The amendment would therefore tend to perpetuate the industry's chonically low rates of return.

I believe greater ratemaking latitude is necessary, especially in light of other provisions of the bill. The curtailment of permissible rate bureau activity, for example. will create a more balanced marketplace where carriers are forced to compete with respect to rates.

With regard to the determination of actual or potential transportation alternatives, I do not believe, contrary to the thrust of the amendments, that the mere existence of a contractual obligation to ship between specified points should be determinative as to whether competition exists. First, contracts are optional, and shippers enter them only if they see an advantage (price, service, or both) to doing so. Second, contracts frequently have clauses allowing the shipper to lower the amount of a commodity shipped from a certain origin, thus allowing the shipper to negotiate for other sources of supply for at least a portion of its needs. These clauses may give shippers the leverage to obtain lower rates via a renegotiated agreement. Finally, some of the agreements now in effect are nearing their expiration date, again giving the shipper leverage to renegotiate or negotiate with other sources of supply.

In sum, the mere existence of a contractual obligation does not necessarily mean that a shipper is locked in to a single source of supply and is without bargaining power. I admit that in some instances this could be the case, but it must be remembered that in such a case the shipper, in essence, has voluntarily agreed to be locked in, and ought not be rescued by the government from the effects of its own poor business decisions.

With regard to the 70 percent market share provision, the Commission's experience with using a market share concept has not been satisfactory. Not only is it difficult to determine the relevant transportation markets, one must also then look at the product market and make a subjective judgement about what constitutes a practical, economical transportation or market alternative. These assessments are expensive, time-consuming, and controversial. If a market share test is to be used at all, I think it should merely be a rebuttable presumption—a sort of flag to indicate that there may be problems, not a final determination as to the issue.

III. This amendment would eliminate a rail carrier's right to impose surcharges on joint rates, and instead would require the ICC to resolve divisions disputes expeditiously. I would first note that the 4R Act contained very similar language and accomplished very little, since divisions cases are inherently long and expensive, and even once the Commission has decided them, are subject to appeal.

More fundamentally, however, I am opposed to the Commission getting involved in these matters which are better handled through private negotiations between the parties. This is not an an issue as to which the Commission can balance competing interests better than the parties can. If the negotiations break down, the ability of a carrier to cancel a joint rate easily should provide the necessary incentive for negotiations to begin again in earnest. In addition, past efforts by the Commission to resolve these disputes have left at least one of the parties feeling short-changed. The usual reaction to such a decision is for the aggrieved railroad to short-change the shipper by offering poor service. Thus everyone suffers. I believe it is preferable to leave the surcharge provision as it is.

IV. This amendment deletes the provision that would give the ICC exclusive jurisdiction over intrastate rates. Although I do not believe it is essential that the Commission be given this jurisdiction, I believe it is important to realize that without it, interstate rail shippers are frequently forced to subsidize intrastate shippers.

Intrastate traffic potentially comes under a different regulatory regime than interstate traffic. For example, requests for rate increases may be denied by intrastate commissions operating under different standards and rules than this Commission. While these requests may eventually be granted by the ICC, the time lag involved still results in a loss in revenues to the railroads which must be made up in higher interstate rates if the carrier is to earn a reasonable rate of return. This disparate treatment of intrastate and interstate traffic is reflected in the difference between the average revenue/variable cost ratios for each type of traffic. These ratios were 1.20 for intrastate traffic, and 1.36 for interstate traffic in 1977.

It should be cautioned, however, that part of the above difference in the revenue/variable cost ratios may be associated with other non-regulatory differences between intrastate and interstate traffic. For example, intrastate traffic involves shorter hauls which generally have lower revenue/variable cost ratios. These lower ratios are perhaps due to the greater degree of truck competition for shorter hauls.

V. This amendment would shift from 40,000 tons to 20,000 tons the cut-off point at which railroads must offer contracts to similarly situated shippers. This would have the result of making more shippers eligible for these contracts, and I, therefore, do not object to it. However, I question whether such a provision is necessary since it seems logical that a railroad would voluntarily offer similar contracts to similarly-situated shippers.

VI. This provision excludes grain and cotton from the demand sensitive rates provision of H.R. 7235. I do not believe there is any justification for such an exclusion. One of the goals of demand sensitive rates is to even out the peaks and valleys of demand so as to assure maximum utilization of cars. Currently, we face chronic car shortages for some commodities or at some periods of the year, while at other times many cars are underutilized. The combination of higher rates at peak periods and lower rates at non-peak periods will encourage some shipments at non-peak periods, thus improving car utilization. Those who wish to get service at peak period, and are willing to pay for it, will be able to get it. Similarly, those who can change their shipping patterns to take advantage of off-peak rates will reap a double advantage of lower rates and greater availability of cars.

The fact that there may be no peak periods for grain and cotton, as some contend, is irrelevant to the issue. The question is whether the railroads have an overall excess of demand for certain cars at certain times. When that happens, it is impossible to decide which shippers caused the problem. But it is necessary to realize that it is expensive for the railroads to maintain the freight car capacity necessary to provide service at such times and that a fair method must be found to allocate such costs. Peak load pricing is the most fair and efficient way to allocate the scarce cars and greater expenses. Thus, I do not believe there is any need to exempt these commodities from the demand sensitive rate provision, and am, in fact, concerned that doing so will exacerbate existing car supply and utilization problems.

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Nevada.

Mr. SANTINI. I thank the gentleman for yielding.

Let me just contribute my initial endorsement of the gentleman's extraordinary legislative labors in this regard. I think the gentleman and the gentleman from Illinois have managed to craft a legislative product that has been so successful, in trying to walk the middle ground of legislative recognition of both sides of this issue, but at the same time not caving in to any one segment of the multitude of interest entities involved in this legislation.

The gentleman has managed to gain both endorsement and support of almost everyone of balanced judgment in every organization of responsible action. Those few entities who remain as detractors are simply those who could not get everything their own way on all things.

I know the gentleman and I had a point or two of disagreement here or there but as we worked to this legislative project, the gentleman as the chairman was remarkable in trying to maintain that balance and that responsible legislative attitude that has characterized almost all of the gentleman's legislative leadership in this Congress. I think it deserves to be said to the five or six of us who are participating in this debate. I commend the gentleman.

Mr. MADIGAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the Rail Act of 1980, H.R. 7235. At the outset, I would like to point out that at the appropriate time Mr. FLORIO will be offering an amendment which changes the title of the act to the "Staggers Rail Act of 1980." I know that all of my colleagues on the floor join with me in looking forward to this tribute to a man who has, for so many years, shaped railroad legislation in this country.

The Rail Act of 1980 is a step toward deregulation of the railroad industry. It is not, by any means, complete deregulation. Under existing law, 100 percent of the railroad business is regulated by the Interstate Commerce Commission. This degree of regulation contrasts sharply with existing regulation for trucks or barges—the railroads' principal competitors. Over 60 percent of truck traffic is not subject to rate regulation. Over 90 percent of barge traffic is not subject to rate regulation. One of the reasons our national railroad system is in such poor condition is the fact that regulation has prevented aggressive competition. Adoption of H.R. 7235 will go a long way toward equalizing the regulatory imbalance between railroads and their competitors.

Railroad entry, operations, and pricing have been subject to regulation by the Interstate Commerce Commission ever since 1887. One of the effects of this pervasive regulation has been to create a system of railroad service and railroad pricing which has virtually no flexibility. This lack of flexibility has contributed to the problem now facing this country with respect to railroad service. Since 1950 railroads have lost nearly half of their share of the intercity freight business. In 1950 railroads accounted for over 70 percent of the intercity freight business on a ton mile basis. Today they have less than 35 percent of that business. This decline in market share, coupled with the changing nature of our national economy, has placed railroads in a precarious financial position. In the last 10 years we have witnessed nearly a dozen major railroads in bankruptcy. During this Congress we have had to deal with both the Milwaukee and Rock Island bankruptcies. Those bankruptcies are but symptoms of a system that is not working well. H.R. 7235 represents a comprehensive approach for changing the economic environment in which railroads must do business.

In effect, Mr. Chairman, H.R. 7235 is a modernization of regulation. It represents an attempt to have regulation where it is needed but to discourage regulation where it is not needed.

Title I of the bill sets the tone for future regulation of railroads. It establishes a separate railroad policy to guide the Interstate Commerce Commission in its future action. That policy is a simple one. It requires regulation where it is necessary to prevent an abuse of monopoly power. It discourages needless regulation by relying on the competitive forces of the marketplace. Where there is regulation, it encourages the Commission to place a primary emphasis on the adequacy of railroad revenues and the financial needs of the industry. It seeks to encourage a rebuilding of the American railroad system. It seeks to assure that this Nation will have fast, reliable, and efficient railroad service now and into the next century.

To accomplish those goals it becomes necessary to modernize existing regulation. The first area for regulatory modernization relates to railroad rates. Title II of the bill sets forth the proposition that there should be regulation of railroad rates only where there is an absence of effective competition. The bill establishes two workable tests for determining where there is effective competition. The first test is the availability of alternate transportation or market competition. In many ways this test is a refinement of the existing market dominance test. The second test simply uses a number which reflects that point at which railroads recover their costs. It is termed the "cost recovery percentage." The cost recovery percentage is a number which will vary depending upon the financial health of the railroad industry. It is a number which the Commission must determine on an annual basis from a statistically reliable sample. It is a number which takes into account the fact that different railroad movements make different contributions to railroad fixed costs.

Whenever there is a rate increase for a particular movement of traffic, the burden will be on the railroad to demonstrate that there is effective competition. If there is effective competition, the Commission will have no jurisdiction over the reasonableness of the rate. On the other hand, if there is an absence of effective competition, the Commission will have the same power it has today to determine whether or not a rate is reasonable. This, then, is an absolute guarantee against abuse of monopoly power by the railroads. It is, Mr. Chairman, true protection for the rail dependent or captive shipper.

Let us take a minute, Mr. Chairman, to consider what happens when a captive shipper is affected by a rate increase. Once the railroad has published the rate increase affecting a captive shipper, the shipper may file a complaint with the Interstate Commerce Commission. The railroad then has the burden of showing that there is effective competition. The railroad must either show that alternate transportation or an alternate source of supply is available, providing competition, or that the rate charged will be a lower revenue to variable cost figure than the cost recovery percentage. If the railroad fails to carry this burden, then the Commission will investigate the rate to determine whether or not it is reasonable. The guidelines the Commission will use in determining the reasonableness of the rate are exactly the same guidelines used under existing law.

During the investigation the shipper is protected from losing any money if the rate is determined to be unreasonable because the rail carrier must keep a separate accounting of the money collected from the increased rate and return it to the shipper if the rate increase is denied. In the exceptional case where a shipper would suffer irreparable harm from the increase, the Commission may require that the increase be suspended during the period of investigation.

Rate regulation in the railroad industry has not only caused inflexibility because of the price change, but has also forced the railroad industry to rely on general rate increases. Between 1970 and 1979, for example, general railroad increases have amounted to 143.6 percent. All shippers are opposed to the general rate increase mechanism, and rightfully so. The general rate increase has become the meat ax approach used by the railroad to stay in business. It discourages effective marketing and efficiency by the railroads. With general rate increases, railroads do not have to pay attention to individual shippers or individual movements. They, in effect, have a guarantee against losses, no matter what they do.

H.R. 7235 would abolish general rate increases. General rate increases would be prohibited for single-line rates upon enactment, for joint line by the end of 1982. Single-line rates account for 30 percent of railroad business, and joint-line rates account for 70 percent of railroad business. The fact that general rate increases are prohibited by H.R. 7235 is a tremendous benefit to the shippers. On the other hand, the abolition of general rate increases requires that realistic levels of price freedom be set for individual rate adjustments. The Rail Act of 1980 establishes a careful balance between jurisdiction of the Commission over the reasonableness of railroad rates and the abolition of general rate increases.

Price regulation has not been the only impediment to the development of a sound and competitive railroad industry. Over the years, a number of restrictions were written into the Interstate Commerce Act to protect competitors or certain shippers. Those restrictions set forth under the guise of antidiscrimination have discouraged railroads from instituting innovative service agreements. For example, under present law, railroads find it virtually impossible to enter into contracts. Section 204 of the bill establishes the right for shippers and railroads to enter into contracts. In committee I had an amendment adopted which makes certain that small shippers, as well as large shippers, will benefit from this contract provision. Through the use of contracts, railroads can provide better service to shippers and recapture some of the business lost to other modes of transportation.

Shippers will also be given additional service options under the bill. For example, for those shippers who would like a lower rate in exchange for different liability requirements, that possibility becomes a reality. All shippers will find that by permitting railroads to earn an adequate level of revenue, service will be improved. As you know, Mr. Chairman, the Department of Transportation has estimated that the railroad industry has a capital shortfall between now and 1985 of between $16 and $20 billion—and that is exclusive of Conrail, Amtrak, and the Long Island Railroad.

Of course, some shippers now receive good service on single line movements if they are located on the lines of a profitable railroad. Unfortunately over 70 percent of the railroad business is interlined between two or more railroads. As a result, no shipper benefits from having financially weak railroads responsible for the movement of their goods. The disparity of resources between railroads arises in part because of division of revenue accruing from joint rates. Once a joint rate is set, it cannot be changed unless all the parties to the joint rate agree. Likewise, once the division of revenue is agreed upon, the division cannot be changed unless all parties agree. This inflexibility caused by regulation means that some railroads are forced to carry traffic at less than their cost. The purpose of section 301 in the bill is to permit those carriers to apply a surcharge.

Let me take a minute to discuss the surcharge and route cancellation provision. The purpose of the provision is to provide relief from the existing unrealistic division of railroad revenue. It is a simple provision in that it permts a railroad to add a surcharge if the traffic in question is being carried by the railroad at a loss. Any carrier carrying such traffic may apply a surcharge or cancel a route provided that its share of the revenue from the traffic is less than 110 percent of variable cost. In dollar terms this will mean an additional $100 to $150 million for Conrail. It may also mean additional revenue for a number of other railroads.

In committee we gave special consideration to the effect of this provision on short line railroads. One of the major purposes of this bill is to encourage the development of short line and feeder line railroads. Therefore we were particularly careful not to do anything which would cause economic hardship to existing short line railroads. Following committee action, Mr. LEE, Mr. BROYHILL, Mr. FLORIO, and I spent considerable time with short line railroads to further improve the protection afforded short lines with respect to the surcharge provision. As I pointed out during the debate on the rule for this bill, the Short Line Association supports this bill with the adoption of an amendment which will be offered by Mr. LEE. I appreciate the time and effort put into that agreement by representatives of the short line railroads. They fully recognize the need for this legislation and strongly support its passage.

Inflexibility caused by regulation is not limited to the level of rates charged by the railroads. Under existing law rates are collectively made in rate bureaus. The existing practice guarantees a lack of price competition between competing routes. Let me give you an example. There are more than 24 ways to route traffic between New York and St. Louis. For specific goods or an individual commodity, the rail rate will be identical over each of those 24 or more routes. A shipper is given no price competition whatsoever.

Let me give you another example. Let us assume that there are three routes between the city of origination and the city of destination. One route is exclusively on one railroad. The second route is a joint movement by two railroads. A third route is a joint movement by five railroads. The charge for shipping the goods or the commodity between those two cities would be identical even though handling and interchange costs would be considerably different among the three routes.

Under H.R. 7235 single line rates would have to be made independent of joint line rates immediately. By 1984, joint line rates could be collectively made only with agreements between carriers who actually participate in the movement. Under the example I gave a minute ago, the two railroads which did not participate in two of the three routes would have a voice in setting the rates over those routes under existing law. Neither the railroads nor shippers would benefit from that type of collusion. Enactment of this bill will, for the first time in nearly a hundred years, give rail shippers the benefit of price competition. I can think of no better way for encouraging efficiency in railroad operations than through the encouragement of price competition.

Another form of competition which is precluded under existing law is market entry. H.R. 7235 opens up market entry for the first time since the Transportation Act of 1920. It does so in two different sections. First, section 304 premits railroad entry through new construction of railroad lines either by railroads or shippers. In some cases, new construction will permit shippers to reach out to competing railroads or railroads to extend their territorial operations by reaching out to shippers.

Section 306, dealing with reciprocal switching, will have the same effect. I do not expect either of these provisions to dramatically change the railroad map of the United States. However, I do expect that these provisions will create a potential for competition which will provide many shippers with better railroad service.

Title IV of the bill faces up to the fact that railroad cost data leaves much to be desired. A blue ribbon panel is established, headed by the Comptroller General, for the purpose of establishing a framework for obtaining meaningful railroad cost data. There is no desire to require railroads to produce all kinds of facts and figures for the gratification of Government bureaucrats. There is a desire for railroads to stop keeping an extra set of books for regulatory purposes. Recordkeeping by railroads should be honest and meaningful for Government regulatory purposes. In other words, captive shippers deserve to have the reasonableness of their rates determined with reliable cost and economic data.

The blue ribbon panel will have 2 years to develop a simplified and meaningful set of accounting principles for the railroad industry. Once developed, the Commission will require railroads to submit their internal accounting systems to the Commission for certification. The certification will be made if the principles and guidelines established by the Cost Accounting Standards Board are met. For the railroads this will mean less redtape and special recordkeeping. For shippers, the public, and the Government this will mean a greater reliability of cost data and economic data necessary for fairness in applying remaining regulations over rates, abandonments, and mergers.

The pervasiveness of regulation of the railroad industry has become so great that slow motion abandonment has become the only option for a carrier to get out of a market it does not want. In other words, a carrier stops maintaining a light-density line and provides poorer and poorer service. Finally, the service gets so bad that most of the shippers on that line are driven away. Once most of the shippers are driven away, the railroad petitions the Interstate Commerce Commission for an abandonment. By the time the railroad has petitioned the Commission for abandonment, the line is in such bad shape and the shippers are so few, that the Commission approves the abandonment.

Section 502 of the bill establishes the feeder railroad development program. In my judgment, the feeder railroad development program represents a constructive alternative to slow motion or actual railroad abandonment. Under the feeder railroad development program, the Commission is given the machinery to assist State, local governments, cooperatives, or private entrepreneurs to purchase railroad lines that a carrier either does not want or is not able to provide good service on. Whenever a line is listed for potential abandonment, or whenever a petition is submitted for abandonment, the rail carrier must seek out prospective purchasers. Whenever service becomes very poor, prospective purchasers may petition the Commission. In either case, the Commission is empowered to permit the sale of the line and to prescribe a sale price at net liquidation value or the constitutional minimum necessary to avoid a constitutional problem of taking property without just compensation.

In my own State of Illinois there are already a number of short-line railroads which have begun as a result of State rail assistance programs. I am certain that there are a number of other areas where new feeder rail lines can be established. The bill earmarks money for the rehabilitation of such lines and establishes the legal machinery for such transactions to take place.

Railroads do have a common carrier responsibility to serve all shippers. However, that common carrier responsibility is not worth much if service is so poor that shippers cannot be served. The new feeder rail development program will provide a great benefit for rural areas having light density rail traffic. I intend to strengthen this provision with an amendment I shall offer tomorrow which establishes standards for the Commission to use in determining when there is a de facto abandonment. In addition, my amendment will make certain that class I railroads provide joint rates within a reasonable time so that a new short-line railroad is given every opportunity to provide through service at reasonable cost to the shippers.

Title V of the bill also contains two provisions which will permit funding for railroad rehabilitation. As I have pointed out, there is a significant shortfall in the railroad industry. Therefore, the committee extended the redeemable preference share program for another 2 years. That program permits low cost equity financing for railroad rehabilitation. In addition, a new program is established to assist where there is railroad restructuring. The new program will permit the Secretary of Transportation to give repayable credits to railroads which in effect will be a low-interest, 20-year loan; $1.475 billion is provided for this purpose.

Title VI of the bill revamps the labor protection program afforded employees of the bankrupt railroads which preceded Conrail. As you know, some of those railroads had labor protection agreements which could not be abrogated in the reorganization of those railroads into Conrail. Unfortunately, the labor protection provisions of the 4–R Act were not tightly drafted, and a number of employees got benefits far beyond those which were contemplated by the Congress. The General Accounting Office study indicated that continuation of the 4–R Act provisions would cost the Federal Government up to $1.7 billion. The $250 million appropriated for labor protection was exhausted earlier this year. Since that time, labor protection payments have come out of Conrail's operating budget.

The labor protection provisions contained in title VI represents a tightening of the requirements for labor protection payments under the 4–R Act. This will represent a considerable cost saving to the Government. It is estimated that under the new rules for payment contained in this provision, the total cost to the Government will be $235 million rather than another $1.5 billion.

Title VII of the bill relates to the procedures used for supplemental transactions involving continued restructuring of Conrail.

Mr. Chairman, as you know, H.R. 7235 represents a considerable amount of careful work by the committee. It is not an easy task to undo nearly 100 years of regulation. I believe that this bill represents a delicate balance between financial health for the railroad industry and the protection of captive rail shippers. The committee shared my belief when they adopted this bill by a vote of 36 to 5. Nevertheless, there have been some special interest groups which have criticized certain parts of the bill. We have continued to work with all parties in an effort to solve any problems that they have had with the bill, while at the same time protecting the delicate balance of the bill. I am happy to report that the concerns of the short-line railroads have been met. Mr. Lee will be offering an amendment which makes changes in section 301 of the bill which will resolve the problems expressed by that group.

Last Thursday when the rule for this bill was adopted. I included in the Record letters from the short line railroads and the Short Line Railroad Association strongly endorsing the bill.

A second group which has expressed concerns about the bill is a group which is very important to me—agricultural interests. As a member of the Agriculture Committee, and as a member coming from a rural district, I have spent many months on this bill trying to make certain that the rural communities in general and agricultural shippers in particular, are afforded better rail service. I have continued those efforts even after it was reported from committee. I intend to offer an amendment on the floor which will further strengthen this bill in that regard. I have talked to Senator Kassebaum, Congressman Sebelius, my colleagues on the Agriculture Committee, the Department of Agriculture, and numerous groups representing agriculture in order to benefit from their ideas for ways to strengthen this legislation. I believe that the amendment which I will offer will accomplish their goals.

I ask unanimous consent, Mr. Chairman, that an explanation of my agricultural amendment to title II of the bill and of my feeder railroad amendment to title V of the bill be printed in the Record immediately following my remarks.

Congressman Lee and I have developed our amendments in order to meet the needs of short-line railroads and rail shippers of agricultural commodities. I urge my colleagues to vote for these amendments instead of the more limited provisions contained in the so-called coalition amendment. I hope that many of the original supporters of the coalition amendment will join forces with us so that the Rail Act of 1980 can truly benefit the shippers they want to help.

We have also spent many hours discussing the problems expressed by some utility companies concerning rail rates on coal. As of this time we have been unable to reach an agreement with those who are concerned about our limitation of rate regulations to where there is an absence of effective competition. We shall continue our discussions with Mr. Eckhardt and others concerning the appropriate level for rate regulation. It may well be that the coal rate issue cannot be resolved until conference. If that is the case, I hope that our colleagues in the House will support H.R. 7235 as reported by our committee so that the House will be in a position to work out with the Senate a meaningful compromise.

Railroad regulation evolved over a period of 93 years. It became inflexible and very complex. This bill addresses many complicated issues. It was not hastily put together, but rather represents the work of nearly 2 years. It is supported by the administration, the Association of American Railroads, the railroad brotherhoods, the Short Line Association, and many others. I have prepared some questions and answers based upon questions I have received from my colleagues in the House. I include them in the Record following my remarks:

SUMMARY OF MADIGAN AGRICULTURE AMENDMENT TO THE RAIL ACT OF 1980

The Madigan Amendment adopts the following provisions:

1. Reduces the threshold limitation for equal contract treatment from 40,000 tons to 20,000 tons.

2. Strikes the provision contained in the bill relating to "Demand Sensitive Rates".

3. Adds a new section to the bill for "Assured Agricultural Rail Transportation Agreements". Under this provision rail carriers may publish tariffs having maximum and minimum levels whereby shippers will be given the opportunity to request and obtain quotes from railroads for specific movements scheduled up to 12 months in advance. Whenever a rail carrier quotes a charge and a shipper agrees to such charge, the party shall be considered to have entered into a binding contract. The contract is enforceable in any court. Rail carriers may not change the maximum and minimum levels in the tariffs for at least six months after a tariff has been published. This provision will make it possible for shippers of agricultural commodities to have greater certainty by, in effect, creating a "futures" market for rail transportation. In addition, shippers will be assured of an adequate car supply because failure of a railroad to supply the cars will result in breach of contract actions.

4. Rail Shippers Needs Board; Other Shippers Assistance.

This provision creates a Shippers Needs Board made up of the Secretary of Transportation, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Labor, and a Chairman of the Interstate Commerce Commission. The primary purpose of the Board will be to review the effect of the Rail Act of 1980 on transportation in both urban and rural areas.

5. The Secretary of Agriculture is given a specific role with respect to any aspect of any restructuring plan that impacts upon the provision of transportation services to agricultural and rural areas.

6. The Secetary of Agriculture, in cooperation with the Secretary of Transportation, may establish regional agricultural transportation representatives to assist shippers in securing railroad or alternative transportation services on a most favorable terms.

7. The Secetary is given authority to study the technical feasibility of using a conveyor system to transport agricultural commodities on abandoned railroad right of ways.

In addition to the above amendments, Mr. Madigan will offer an amendment to Title V which strengthens the railroad feeder development program by establishing specific criteria for the creation of railroad feeder lines where the existing railroad carrier is providing very poor service. The Madigan amendment to Title V will also make certain that joint rate agreements between railroad feeder lines and Class I railroads can be considered on an expedited basis by the Commission (30 days).

H.R. 7235—RAIL ACT OF 1980—QUESTIONS AND ANSWERS

Q. What is the need for a separate "rail transportation policy" as part of the Interstate Commerce Act?

A. The existing Interstate Commerce Act has a general transportation policy applying to all modes of transportation. This new rail transportation policy provision provides to the Commission a clarification of how various provisions of the law should be applied to further rail transportation.

Q. How does the new rail transportation policy differ from existing law?

A. There are a number of differences, but the principal ones are that (1) competition should determine rate reasonableness, (2) railroads should be permitted to earn adequate revenues, (3) where there is an absence of competition, regulations should protect against abuse in ratemaking by rail carriers, (4) rail pricing should be done on a specific rather than general basis, and (5) clear principles should be established for determining economic railroad costs for regulatory purposes.

Q. What is the effect of a rail transportation policy statement as a part of the Interstate Commerce Act?

A. The primary effect of such a policy statement is to assist the Commission in its deliberations and interpretations of specific provisions of the law. Whenever there is any ambiguity in a specific provision, the Commission should resolve the ambiguity by carefully following the policy considerations set forth by Congress in the new rail transportation policy.

Q. Does the Rail Act of 1980, H.R. 7235, remove rail rates from regulation?

A. No. The Rail Act of 1980 establishes an objective basis for providing the Interstate Commerce Commission with jurisdiction in order to determine the reasonableness of railroad rates. In fact, whenever there is an absence of effective competition, a shipper may protest a new rate or a rate increase and the Commission may find the new rate or rate increase unlawful if it is not reasonable.

Q. What does a shipper have to show in order for the Commission to investigate the reasonableness of a rate?

A. The shipper merely has to file a complaint with the Commission. If the Commission has jurisdiction it will investigate the reasonableness of a rate. The burden is on the rail carrier to show that there is effective competition.

Q. What constitutes "effective competition"?

A. There is a two-fold test for determining effective competition. One test is that the rate charged must be more than the "cost recovery percentage". The cost recovery percentage is a number determined by the Commission on an annual basis which reflects the revenue to variable costs level at which the rail industry recovers its costs. The other test for effective competition is based upon the availability of alternate transportation. In other words, if a shipper has the ability to ship his goods by truck or barge at substantially the same cost, there is competition and no need for Commission regulation. Likewise, if a consignee (receiving goods from a shipper) is able to receive similar goods or commodities from another source, there is market competition and no need for rate regulation.

Q. What is the justification for the "cost recovery percentage"?

A. If everything shipped on the railroad were charged a rate equal to 150 percent of revenue to variable cost, the railroad industry would make a 10 percent profit according to a recent analysis by the Interstate Commerce Commission. The 150 percent is known as "fully allocated costs". The fully allocated costs concept makes an assumption that all traffic could pay the same rate. This assumption is a theoretical one because a lot of traffic on the railroad would move by some other mode if the rate were as high as 150 percent.

The cost recovery percentage developed by the Committee is based upon the fact that rail rates, on an actual basis, fall within a wide range of revenue to variable costs. The cost recovery percentage is the level at which the rail industry recovers its costs (not any profit) based on the most recent annual data available to the Commission.

Q. What is the level of the "cost recovery percentage"?

A. The level of the cost recovery percentage will vary depending upon the point at which the railroad industry recovers its costs. Based on 1977 data, the level would be 197.6. The level becomes lower as the industry receives more revenue from traffic which it carries.

Q. How much would the cost recovery percentage decrease from additional revenue?

A. If all coal rates were increased 10 percent (which is the maximum permissible annual increase under the bill), the industry would receive an additional $450 million. If that additional revenue was paid out as dividends or invested in some enterprise outside the railroad industry, the cost recovery percentage would drop 13½ percent. The rule of thumb is a drop of approximately 3 percent for each $100 million of additional revenue which is not offset by an additional expense.

Q. Does the "cost recovery percentage" encourage reinvestment by the railroads in railroad property?

A. Yes. The cost recovery percentage will decline unless the railroads reinvest the additional revenue in the railroad industry as an expense item.

Q. Will there still be regulation of maximum railroad rates?

A. Yes. The Commission will be able to regulate rates whenever there is an absence of competition.

Q. What constitutes an absence of competition?

A. An absence of competition exists where there is not an alternate means of transportation available to the shipper or where the proposed rate or rate increase does not exceed the cost recovery percentage.

Q. What is the "cost recovery percentage"?

A. Cost recovery percentage is the revenue to variable cost percentage level at which the industry recovers its fixed and variable costs. That figure is established by the Commission on an annual basis based upon a valid statistical sample of specific transportation movements.

Q. How often will the Commission revise the "cost recovery percentage"?

A. On an annual basis, the Commission will use the latest available data which will generally be based upon the next prior year to the year the estimate is made. At present, the Commission has available the 1% way bill sample for 1977. In the future, it is anticipated that the 1981 figure would be based upon 1979 data; 1982 figure upon 1980 data and so on.

Q. What is the difference between "cost recovery percentage" and "fully allocated cost"?

A. The "fully allocated cost" is a theoretical assumption based upon the premise that if all traffic on a railroad paid an equal share of cost there would be a "full allocation of cost" to all traffic. The fully allocated cost concept is a theoretical one because all traffic cannot pay an equal share of fixed cost. For example, a shipment of canned goods paying 112% revenue to variable cost might move by rail at that level, but if its rate were increased to 115% it would move by truck thereby eliminating the 10% contribution to fixed cost. Consequently, differential pricing is necessary in order to maximize the benefits for all shippers on a railroad.

Q. What is differential pricing?

A. Differential pricing utilizes the concept of using a value of service rate—a rate based upon demand—in order to spread the cost of a system over as wide a group of users of service or purchasers of goods as possible. The effect of differential pricing is to make the price of the service or goods as low as possible to those who are most dependent upon such goods or services by attracting less dependent customers by charging lower prices in order to spread the fixed cost of the system over a larger number of users.

Q. What would happen to coal prices if all shippers on the railroad had to pay an equal share of fixed cost?

A. Coal prices would substantially increase because great amounts of traffic now making a contribution to the cost of the rail system would be driven off to competing modes of transportation.

Q. What is the present array of railroad rates on a revenue to variable cost basis?

A. Based upon the 1977 waybill data, two-thirds of the revenue received by the railroads comes from revenue to variable cost percentages of less than 150. One third of the revenue comes from revenue to variable cost percentages above 150. The average revenue to variable cost ratio paid by all traffic on the railroad is at 127.

Q. What should the "average" revenue to variable cost percentage be for the industry to earn a 10% profit?

A. The Commission has estimated 150%, but including the current cost of capital in those figures, raises the percentage to slightly over 160%.

Q. Does the difference between the average revenue to variable cost percentage being received by the railroad industry and the amount that would need to be received for a 10% profit account for deferred maintenance and poor railroad service?

A. In part, that difference accounts for a lack of investment in maintaining the railroad industry. The Department of Transportation has estimated that the railroad industry has a capital shortfall between now and 1985 of between $16 and $20 billion, excluding needs of Conrail, Amtrak, and the Long Island Railroad.

MECHANICS OF RATE REGULATION

Q. Under the bill, when may shippers challenge the reasonableness of a railroad rate?

A. A shipper may challenge the reasonableness of a railroad rate at any time, however, the Commission will have jurisdiction over that complaint only when there is an absence of effective competition.

Q. Who has the burden of showing that there is competition?

A. The railroad carrier has the burden of showing that there is effective competition, either by (A) demonstration that there is an alternate means of transportation available to the shipper, or (B) the shipper is paying a rate which is less than the cost recovery percentage.

Q. When the Commission has jurisdiction over the rate, must it investigate the reasonableness of the rate?

A. Yes.

Q. Will the Commission suspend a proposed rate increase during its investigation?

A. The Commission will still have the power to suspend the rate increase, but only under circumstances which will show that the failure to suspend will result in irreparable harm to the shipper.

CONTRACTS

Q. Will railroads and shippers be able to enter into contracts under the bill?

A. Yes. Under present law, it is nearly impossible for railroads and shippers to enter into contracts because of the provisions of law prohibiting any discrimination. Under the bill, shippers and railroads are encouraged to enter into contracts.

Q. Are there safeguards to protect smaller shippers from losing all service because larger shippers have contracts?

A. Yes. The Commission is given 60 days to approve contracts between shippers and railroads. The Commission shall not approve the contract if it "unduly impairs" the railroad's ability to carry out its common carrier responsibilities.

Q. How can a contract be enforced?

A. Once the Commission has approved the contract, it can be enforced in court just like any other business contract.

Q. Is there any provision in the bill which requires railroads to give contracts to small shippers as well as large shippers?

A. Yes. For example, if a railroad enters into a contract with a large shipper of wheat, it must give a similar contract to other shippers of wheat, who want such a contract, if they are located within a 50-mile radius of the first shipper. Shippers are given a 12-month option for requesting a similar contract from the railroad. Of course, subsequent contracts would have a different price which reflected differences in cost and preservation of a similar profit margin.

Q. Are there any other provisions in the bill which encourage contracts?

A. Yes. The Madigan amendment for "assured agricultural commodity prices" would permit shippers to request a price quote from a railroad for up to 12 months in advance of the shipment. If the railroad has published a tariff listing a minimum and maximum rate for the movement, it must give a quote to the shipper who then has the opportunity to accept or reject the contract for that price on that date. In effect, this is a futures market for transportation of agricultural commodities. Among other things, this provision will assure shippers who use it of a car supply and certainty of price.

LIMITED LIABILITY RATES

Q. May a railroad now enter into an agreement with a shipper which limits the railroad's liability?

A. No. Many shippers would accept limited liability by the rairoad in exchange for lower rates. Under present laws that option is not available. Section 207 of the bill makes it possible for shippers and railroads to agree to limited railroad liability, thereby providing the shipper with another option for gaining better railroad service at less cost.

RATE DISCRIMINATION

Q. Will rate preference or differences in service be permitted under the new law?

A. Yes. Certain provisions such as contracts will not be subject to the discrimination or preference requirements of the Interstate Commerce Act. In addition, flexibility of pricing is encouraged so as to permit railroads to attract and keep a bigger share of the inter-city freight business. There continue to be restrictions against predatory pricing or other anti-competitive practices which would be protected under the antitrust laws.

Q. Are railroads subject to the antitrust laws?

A. Yes, except in those well-defined areas which permit certain practices not generally permitted under the antitrust laws. For example, the interdependent nature of the railroad industry necessitates collective actions under rate bureau agreements. In addition, H.R. 7235 makes clear that parallel pricing per se cannot be used as evidence of an antitrust violation. This protection is needed in order to carry out the transition from ratemaking which was 100% collective in nature to a system based upon competitive ratemaking.

RATE BUREAUS

Q. Are rate bureaus eliminated under the bill?

A. No, but certain restrictions are placed upon rate bureau activity. For example, upon enactment railroads will not be able to include single line rates (30% of rail revenue) in general rate increases. Also, single line rates must be set independently of joint line rates on competing routes.

Q. Are general rate increases permitted under H.R. 7235?

A. Under H.R. 7235, general rate increases on single line rates (30% of rail revenue) are prohibited upon date of enatcment. Joint line rates are excluded from general rate increases by the end of 1982 (70% of rail revenue). The Commission is given standby authority to prescribe inflationary pass-through—either as an across-the-board percentage increase or on the basis of an index permitting an inflationary pass-through using a range of percentage increases—whenever it finds such action is necessary in order to assure adequate revenue for the rail industry.

Q. How does this differ from the existing law?

A. Under the existing law, the entire emphasis during the last decade has been on the use of general rate increases. Between 1970 and 1979, general rate increases totalled 143.6%. Under the new law, general rate increases are phased out and will be used only as a last resort by the Commission as a means for assuring that railroad revenue keeps pace with inflation. The effect of the House bill will be to phase out general rate increases very quickly in order to force railroads to a system of competitive pricing for specific movements.

Q. Can railroads continue to use rate bureaus for establishing joint rates?

A. Rate bureaus will continue to exist, but single line rates must be made independent of joint line rates immediately. Joint line rates must be made only by carriers who actually participate in the movements over the routes to which the rates apply effective in 1984, unless the Commission reports to Congress prior to that date that such a shift in practice from the present system is not possible.

Q. Will rate bureaus continue to publish rates so that shippers will be able to know how much it costs to ship goods between points?

A. Yes. The rate publishing service of rate bureaus is not affected by this legislation.

INTRASTATE RATES

Q. States now have jurisdiction over intrastate rates; will that continue?

A. No. H.R. 7235 establishes federal preemption for jurisdiction over intrastate rates. The reason for the federal preemption is that most railroad rates are interstate rates and in order to have a system which assures railroads of adequate revenues, it is necessary that any maximum rate regulation be undertaken by the Federal Government through the Interstate Commerce Commission. Under present law, states have been slow to respond to revenue needs of railroads, thereby causing a cross-subsidy by interstate shippers of intrastate shippers.

LIMIT ON RATE INCREASES

Q. When this bill is enacted is there any limit on rate increases?

A. Of course rate increases where there is an absence of competition will continue to be within the jurisdiction of the Commission and subject to the reasonable rate test. In addition, H.R. 7235 limits rate increases to 10% a year above inflation for the first three years.

CUSTOMER SOLICITATION EXPENSES

Q. What does the provision on customer solicitation expenses do?

A. This provision amends the Elkins Act so as to permit railroads to utilize any normal business entertainment expense in order to solicit customers and attract business to the railroads. The existing law, as interpreted by the Commission, placed an absolute chilling effect on customer solicitation by railroads.

SAFE RAILROAD INVESTMENT

Q. Will railroads reinvest additional revenues in railroad operations in order to improve service?

A. There are two provisions in the bill which encourage reinvestment of revenues in railroad property. The first provision is the cost recovery percentage which establishes a jurisdictional test for maximum rate regulations. As a rule of thumb, each $100 million in new revenue will decrease the cost recovery percentage by 3 percentage points, unless it is reinvested in the railroad and can be offset as an expense. The second provision is Section 213 which gives the Secretary of Transportation the authority to inspect railroad facilities and report to the Commission if the railroad facilities do not meet safety requirements of applicable federal laws, and are not maintained and operated in a manner which protects the public. Whenever the Secretary makes such a report, the Commission may use its existing authority to place restrictions upon the railroad's activities. Both of these provisions should encourage greater reinvestment in railroad property.

SURCHARGES AND CANCELLATIONS

Q. When is a railroad permitted to surcharge or cancel a route?

A. Under Section 301 of the bill, a railroad is permitted to surcharge or cancel a route whenever its share of the joint rate is less than 110% of its variable cost using unadjusted rail Form A cost data.

Q. Why does a railroad presently carry traffic at less than its costs for carrying the traffic?

A. The existing joint rate system requires a railroad to carry traffic delivered to it by another railroad. Often the existing division of revenue from the joint rate is such that one or more carriers participating in the joint rate loses money on the movement.

Q. If a railroad loses money on a movement, why does it not just change its division of revenue or increase the rate?

A. A railroad cannot change its division of revenue or change the rate unless all of the other railroads participating in the movement agree to the change. This creates an inflexible situation which has not worked in eliminating below cost traffic.

Q. How does the surcharge and cancellation division work?

A. The surcharging carrier publishes a tariff which becomes effective 45 days after publication. The tariff may either impose a surcharge or cancell a route. Once published, other participating carriers may take counter action to the surcharge by demonstating that the surcharging carrier already receives 110% revenue to variable cost or would receive that percentage under a new division or different rate. Once challenged, the surcharging carrier must always demonstrate that the movement involved is under 110% revenue to variable cost.

Q. Can shippers or other interested parties protest?

A. Shippers or other interested parties can require the carrier to demonstrate that the movement is in fact less than the threshold. A shipper can protest the rate increase only to the extent of the surcharge for the surcharging carrier.

Q. Are short-line railroads protected?

A. Short-line railroads (class 3 carriers) are given special protection under this provision under the Lee amendment. If they are affected by a surcharge or cancellation, they may protest to the Commission if the surcharge is anti-competitive or if affects their last remaining route. The Commission is then given broad powers to change the rate or the divisions in order to afford the short lines protection whenever it is in the public interest to do so.

Q. Once a surcharge has been applied, must it be applied to all the routes between the origin and destination points?

A. Yes, although actions taken by other carriers may result in rates being different on various routes. For example, one participating carrier might agree to absorb the surcharge out of his divisions, thereby keeping that rate as it was prior to the surcharge even though the surcharge would continue to apply to other routes.

Q. If the carrier which absorbs the surcharge on one route participates in another route, must he also absorb that surcharge?

A. Yes. If other participating carriers request him to do so, he must absorb a pro rata share of the surcharge on the second route.

Q. Why would it not have been better to simply have expedited the division of revenue remedy rather than using a surcharge or cancellation method?

A. The division of revenue remedy—even on an expedited basis—is too cumbersome when one considers the thousands of rates that are involved in interline movements. The surcharge method represents the simplest way for adjusting revenues so that no carrier is forced to carry a movement below cost.

Q. If the goal was to avoid carrying movements of traffic cost, why is the figure 110 percent revenue to variable cost rather than 100 percent

A. Again, for purposes of simplicity, unadjusted rail Form A data is used in order to determine the 110 percent figure. Unadjusted rail Form A data is but an approximates estimate of actual cost. The Committee believes that rail Form A data reflects costs which are lower than actual costs and, therefore, compensates for this fact by using 110 percent instead of 100 percent.

Q. Why should route cancellations be permitted?

A. Everyone—railroads, shippers, and the public—loses from circuitous routing of railroad traffic. Circuitous routes are far more costly than non-circuitous routes. Therefore, any method which eliminates circuitous routing represents a benefit for everyone.

Q. If a class II or class III carrier has a route cancelled, can it insist upon and get a new joint rate?

A. Yes. The bill provides for a fast track for the Commission to prescribe new joint rates whenever a route has been cancelled for a class II or class III carrier. The fast track is one in which a compensatory throughrate must be prescribed within 30 days. That will make it possible for the joint rate to be in effect prior to the effective date of the route cancellation which must be published 45 days in advance.

Q. Which railroads will benefit from the surcharge and cancellation provision?

A. All railroads. Any railroad, whether a class I, II, or III, may put on a surcharge or request a route cancellation if their share of the revenue is less than 110 percent revenue to variable cost.

RECIPROCAL SWITCHING AND ENTRY

Q. What do the provisions for reciprocal switching or entry mean?

A. Simply stated, both provisions will introduce additional competition between railroads. Under reciprocal switching, one railroad is given the opportunity to have access to another railroad's operating territory, thereby providing many shippers with competition in rail service which they do not presently enjoy. The entry provision is limited to new construction of rail line. It is anticipated that some shippers and some railroads may enter into new construction but on a fairly limited basis.

RAILROAD COST DETERMINATIONS

Q. What is the general purpose of Title IV "Rail Cost Determinations?"

A. The general purpose of this title is to modernize railroad recordkeeping and cost data so that it will have a high level of confidence for use in regulatory purposes.

Q. What is wrong with the present Commission power to establish a uniform cost accounting system?

A. By and large the existing system is made up of figures which constitute averages, which are of limited use when considering specific movements of traffic. Moreover, the proposed rules for railroad cost data are so comprehensive that the government would be in the business of collecting all sorts of meaningless data.

Q. How will the situation be helped by Title IV?

A. Title IV establishes a "blue ribbon panel," headed up by the Comptroller General, which will have the responsibility for developing principles or guidelines necessary for achieving economic data essential for regulatory purposes. That panel will complete its work within two years and really has a two-fold goal—(1) the development of principles or guidelines for obtaining reliable data, and (2) limiting the data required to those areas which are necessary for regulatory purposes, i.e., maximum rate regulation, abandonments, and perhaps mergers.

Q. "Rail Form A" now appears to be the basic data source for railroad revenue and costs. Will Rail Form A be changed?

A. In all likelihood, the data base for Rail Form A will be modernized. Rail Form A was developed by the Commission in 1934 and represents averages which can be greatly refined through the use of new accounting guidelines and principles.

Q. Does the bill contain authorizations for new money for railroad industry?

A. Yes. Section 503 establishes a new federal program for financial assistance to rehabilitate railroad lines. The new program will use a "repayable credit" method of financing which in essence is a low-interest loan repayable after 20 years. Five percent of the money in the new program is earmarked for the development of railroad feeder lines and all of the money in the program is tied to projects which facilitate restructuring.

Q. How much money is authorized for the new program?

A. $1.475 billion.

Q. Is the existing redeemable preference share program (Section 505 of the 4R Act) continued?

A. Yes. That program is extended for two years and has remaining in it about $147 million.

Q. What is the new "railroad feeder line development program?"

A. The new railroad feeder line development program is an alternative to abandonment of light density and rural rail lines. It establishes a procedure whereby states, local governments, cooperatives or private entrepreneurs can readily purchase railroad lines which are scheduled for abandonment by rail carriers or rail lines on which the carriers have allowed service deterioration, i.e., a de facto abandonment. In either case, purchasers of those lines can request the ICC to fix a purchase price if the carrier refuses to do so. The purchase price shall be net liquidation value or the constitutional minimum required in order to avoid a taking of property without just compensation.

Q. Once a new group has purchased lines to start a new feeder railroad system, is there any federal assistance for rehabilitation?

A. Yes. There is financial assistance available under the existing branch line subsidy program (Title VIII of the 4R Act) as well as new money available under the restructuring assistance program.

Q. Once a railroad feeder line has been developed, is it assured of connecting service with the rest of the railroad system?

A. Yes. The bill requires that other railroads make joint rates available to the feeder railroad.

Q. What if the main railroads make the rate so high that no one will use the feeder line?

A. The Commission is given jurisdiction to prescribe the joint rates if the parties cannot agree, therefore, there is protection against unreasonable rates for shippers on feeder lines or unreasonable divisions to feeder lines.

Q. What incentives are there for the success of rail feeder lines?

A. A bill contains a number of incentives for the success of feeder lines. First of all, 5% of the $1.4 billion made available for railroad rehabilitation is earmarked for rehabilitation of feeder railroads. Second, feeder railroads are exempt from all ICC regulation until they earn adequate revenues (currently set by the Commission at 11%).

Q. Will feeder lines have all of the work rules which now affect class I railroads?

A. No. Employees working for the class I railroad which sells its lines to a rail feeder line are protected under normal labor protection which is paid for by the selling railroad—not the feeder line. In addition, the feeder line is not required to acecpt the work rules or labor contract which is maintained by the selling railroad.

CONRAIL LABOR PROTECTION

Q. What are the effects of the amendments contained in Title VI of the bill which changed the labor protection afforded Conrail employees under the 4R Act?

A. Title VI of this bill completely rewrites the "Title V Labor Protection" contained in the 4R Act. Under the 4R Act, $250 million was authorized to pay for labor protection. That $250 million was exhausted early this year. The new rewrite of Title V contained in the Rail Act of 1980 tightens up the requirement for receiving benefits.

Q. Why are the benefit requirements tightened up?

A. The original Title V program was loosely drafted and created the opportunity for some employees to receive greater benefits than were originally anticipated. Under existing law, the Government Accounting Office has estimated that nearly $1.7 billion would be needed to pay benefits. Under the provision in this bill—with its tighter provisions—only $235 million additional dollars are needed to fund the program. In other words, this represents a saving of well over $1 billion.

Q. Why is there a need for any new federal money to be authorized?

A. If federal money is not used for paying benefits under the Title V program, then Conrail must pay those benefits. Only by changing the law can the level of benefits be reduced. The obligation to pay the benefits would exist even under present law, and would be far more expensive.

□ 1510

Mr. FLORIO. Mr. Chairman, I yield 10 minutes to the gentlewoman from Maryland (Ms. Mikulski), a very valuable member of the subcommittee.

Ms. MIKULSKI. Mr. Chairman, I would like to speak briefly in support of this bill. I have worked hard with the chairman of the full committee, Mr. Staggers, and the chairman of the subcommittee, Mr. Florio, and other members of the committee on this legislation. I believe it represents a fair and equitable resolution of difficult regulatory problems.

It balances the need for rate freedom with the need to protect shippers who are dependent on transportation by rail. It provides needed new authority for railroads and shippers to contract for rail services while protecting small shippers from loss of service.

Importantly, it provides some flexibility in the joint rates area so that railroads are not required to carry traffic at an absolute loss. This is important to the Northeast where Conrail loses tens of millions of dollars each year because it must carry traffic below its viariable costs. Other railroads, particularly the poorer ones, will also benefit from this provision.

In this area, too, the bill achieves an equitable balance between the interests of large railroads, small railroads, shippers and others. Although carriers will be free to charge rates that cover variable costs, shippers will have the right to challenge a surcharge if it brings a carrier above the level needed to cover its costs, that is 110 percent of variable costs. Small railroads have special protections against the economic power of the large railroads through special remedies provided in the bill. Mr. Lee intends to offer an amendment providing further protections to the smaller railroads, which I will support. I will offer an amendment to insure appropriate participation by ports.

There will be an effort made to eliminate the parts of this bill which provide freedom to raise joint rates to the level where a railroad covers its variable costs. The argument will be made that this will allow carriers to discriminate against shippers by charging different rates to different points. I believe this amendment is a destructive one which would destroy many of the benefits of this bill to my part of the country.

If costs are different to different areas or over different routes, there must be a difference in the rate reflecting the difference in cost. Otherwise we will have railroads forced to carry traffic at a loss as we do now. Simply because a particular shipper may have to pay more because it costs more to serve that shipper is not a reason to enact a Federal statute prohibiting that charge.

If we are to have a sound rail transportation system, we must allow railroads to price at least at the level of covering the different costs of different operations.

Similarly I understand there may be an amendment offered to equalize the rates between ports. This amendment has been offered and defeated many times. It has been defeated because it has no justification in logic or economics. The port of Baltimore happens to be closer to many markets than the port of New York. As a result it is cheaper to serve the port of Baltimore and the rail rates to Baltimore are lower. To equalize those rates with the New York area would mean that the rates to Baltimore would have to go up. Shippers and ultimately consumers would end up paying more.

There is no reason in economics or logic to equalize rates betweens ports. I use the example of Baltimore and New York, but the same thing would be true for other ports, Philadelphia, Wilmington, and even ports like New Orleans and Seattle.

I believe this bill is sound transportation policy which will benefit the entire economy of this country. I believe the crippling amendments which I have mentioned should be opposed, and I urge the support of my colleagues for this bill and those amendments only offered by Messrs. Florio, Madigan, Lee, and myself.

□ 1520

Mr. MADIGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. Lee).

Mr. LEE. Mr. Chairman, there are three or four significant points which need to be made as this landmark legislation is presented and soon will be amended, legislation to be known as the Staggers Rail Act of 1980, under the leadership of the subcommittee chairman, the gentleman from New Jersey (Mr. Florio).

I commend the gentleman from New Jersey (Mr. Florio) and the gentleman from Illinois (Mr. Madigan) for the initiative and creativity that they have demonstrated as we move in attempting to put forward a positive remedy in helping the railroad system to cope with the pressures and challenges they have in this day.

Mr. Chairman, H.R. 7235, the Rail Act of 1980, may be the most important Federal legislation concerning the railroads since the enactment of the Interstate Commerce Act in 1887. Within the last year and a half the Transportation and Commerce Subcommittee, of which I am a member, spent countless hours in hearings and meetings concerning the problems facing America's railroads.

We in the Northeast know firsthand about the problems facing railroads. It was but a few years ago that the six major railroads in the Northeast were bankrupt. With the establishment of Conrail, Congress provided some relief for shippers in the Northeast. However, it also became apparent that overregulation of railroads continues to make it very difficult for shippers to get good service.

During this Congress we have seen that the problems experienced in the Northeast have also been experienced in the Midwest. We have had to enact the special legislation because of the Milwaukee bankruptcy and the Rock Island bankruptcy. The situation will continue to be bleak unless there is change in railroad regulation.

This legislation frees up the regulation of railroads. It will permit them to provide service tailormade to the shipper needs. It will permit railroads to use the marketplace rather than a hearing room for pricing decisions. Above all, it will permit railroads to earn an adequate return on investments, so as to put some money back into the railroad industry.

The present system of rate regulation for the railroad industry creates inflexibility in pricing. It also causes some railroads to have to carry traffic below cost. That is the reason for section 301 of the bill, which permits surcharges and route cancellations.

As you know, Mr. Chairman, that section caused great concern for short line railroads. I had an amendment adopted in committee which partially solved the problem. In addition, Mr. Madigan, Mr. Florio, Mr. Broyhill, Mr. Staggers, and I have worked with the short line railroads since that time. As a result of our meetings with them, I have agreed to offer an amendment on the floor to further protect short line railroads. With the adoption of that amendment, the Short Line Association wholeheartedly endorses this bill. Mr. Chairman, it is important that this legislation be enacted as soon as possible. I hope that the House will be able to consider the bill for amendments tomorrow and send it to the Senate for its quick approval.

Mr. FLORIO. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. Coelho).

Mr. COELHO. Mr. Chairman, I would like to ask the gentleman from New Jersey (Mr. Florio) some questions.

As the distinguished subcommittee chairman knows, I am interested in seeing that passenger train service gets a fair chance to prove its worthiness and I have actively worked toward that end.

I am also concerned about the possibilities of mergers between railroads and a resulting lack of competition which might cause problems with both passenger service and shippers of freight.

For example, in the San Joaquin Valley of California, we have a passenger train line which runs from Bakersfield in the south to Oakland in the north. Presently the train misses the city of Modesto, a major metropolitan area, because Southern Pacific has decided it does not want the passenger train on their tracks through the city.

Is there a provision in this legislation which might restrict Amtrak's ability to negotiate for the best possible routing of its passenger trains, or which might otherwise impair Amtrak operations?

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. COELHO. Yes, I am happy to yield to the subcommittee chairman.

Mr. FLORIO. Mr. Chairman, there is no provision in this legislation which restricts Amtrak's ability to negotiate for the best possible routing of its passenger trains. The Amtrak-private carrier relationship is not addressed in any fashion by this legislation.

I would point out, however, that there is a direct relationship between this legislation and improved passenger service. An improved financial position for the industry will mean greater investment in track and other facilities which will benefit passenger service.

In addition, and perhaps most importantly, greater regulatory freedom under this legislation carries with it a greater responsibility, reducing Federal regulation and improving the railroads' ability to earn adequate revenues means that the carriers have a greater responsibility to provide passenger service that is modern, efficient and reliable.

I for one will not hesitate, as the position of the industry improves, to work for greater commitments from them in providing passenger service to the people in this country.

Mr. COELHO. Mr. Chairman, I thank the gentleman for his response. Let me ask this question:

Then, what about mergers? Southern Pacific and Santa Fe have announced they intend to merge, and although it is probably years away and may not even take place, how does this legislation deal with mergers? Will ICC retain some control over merged lines so that shippers and passenger train service are not abandoned because the newly merged line is not willing to provide service at reasonable rates?

Mr. FLORIO. Mr. Chairman, will the gentleman yield further?

Mr. COELHO. I am happy to yield to the subcommittee chairman.

Mr. FLORIO. Mr. Chairman, this legislation does not affect the merger provisions of the present Interstate Commerce Act. The Commission retains its jurisdiction to approve mergers, and competition is a factor which they must consider.

The gentleman probably saw that the Commission recently held a public conference on mergers, and it was clear that the role of competition would continue to be of paramount importance in the Commission's decision whether to approve a merger.

Mr. COELHO. Mr. Chairman, I thank the gentleman, and I appreciate his kind remarks.

Mr. MADIGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. Shuster), the ranking minority member of the subcommittee of the Committee on Public Works and Transportation.

Mr. SHUSTER. Mr. Chairman, I thank my distinguished friend, the gentleman from Illinois (Mr. Madigan), for yielding me this time.

Mr. Chairman, I rise for two reasons. The first is to indicate strong bipartisan support for the legislation which is before us today. The Republican Policy Committee, which I have the privilege to chair, took a position last week endorsing the Railroad Regulatory Reform bill before us. The Republican Policy Committee believes that this legislation will help make the rail industry once again a healthy, efficient part of our Nation's economy. We urge strong support for this legislation.

Mr. Chairman, the second reason I rise is to deal with a concern which has been developing more and more over the months, as I have witnessed the railroad industry and particularly Conrail. As my friend, the gentleman from Illinois, has indicated, I serve as the ranking minority member of the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation.

I also have had the privilege to serve as Chairman of the National Transportation Policy Commission, which was deeply concerned with and interested in all modes of transportation, and particularly the railroad industry and the health of the railroad industry in America.

While I should first emphasize that from information that I have, it seems clear that there has been steady improvement in Conrail, and further, while I am informed by independent sources as recently as last week that the equipment today is good, it is solid, and it is reliable, I nevertheless must take this time to express the very great concern I have over what I believe are storm warnings with regard to Conrail and particularly with regard to the top management of Conrail.

I should say, Mr. Chairman, that prior to coming to Congress and becoming immersed in transportation matters, for 17 years I worked in the electronic computer industry and for most of those years served as a line manager, first as a vice president of RCA and then as chairman of the board of a smaller computer company in which I was deeply involved in the whole question of the revitalization of companies. So I speak with at least some small knowledge and firsthand experience with management and the managerial problems facing companies which are in trouble.

☐ 1530

I must say, Mr. Chairman, that I believe there are storm signals on the horizon with regard to the top management of Conrail.

Let me cite some specific top management situations of the recent past with regard to Conrail. The first is that the distinguished and able Chairman of the Board, Edward Jordan, has announced he will not renew his contract, and he will be leaving somewhere in the next several months, leaving as Chairman of Conrail.

I recognize legally he has no commitment beyond the expiration of his present contract. Nevertheless, I find this very jolting that the man who really developed the final system plan within USRA and then has been at the helm of Conrail is choosing to leave rather than stay and see the job through.

Beyond that, Mr. Reed, who is now the President of Conrail, I am told, is a very able executive. He is a man who comes from the American Motors Corp., a man who does not have railroad experience. I say this in no way to denigrate Mr. Reed. The signals I have are that he is a very capable executive, but the point to be made is that he does not have experience in the railroad industry. I might add nor did Mr. Jordan prior to his association with USRA.

What we see for the moment are the two top executives in Conrail, neither of them having a depth of experience running a railroad. I think that in itself is very serious.

Now I would be the first to say that it is probably smart that one of the top executives not be from the railroad industry. I am not here arguing at all that all of the top management of Conrail or any other railroad company should be limited to a career in the railroad industry. But I am here saying that if you are going to have somebody trying to run a railroad, somebody at the top better have indepth experience in running a railroad and particularly so if you are looking at a massive corporation such as Conrail and a corporation which indeed was put together out of bankrupt companies and which is faced and beset with so many problems that it would tax the ability of the best executive in this land to be able to make this new corporation succeed. So these signals by themselves are of great concern to me.

Beyond that, Mr. Spence, who previously was the President of Conrail, came to Conrail with a very distinguished record as an executive working for the Southern Pacific Railroad Co.

For whatever reason, and I understand there were some disagreements, Mr. Spence did not remain, albeit that he was a top railroader, did not remain in the position of President, left and moved to the L. & N. Railroad, where I understand he again has establishesd a record of outstanding performance as a railroad man.

Now when you see somebody come from a railroad company with an excellent record of performance, come to Conrail and then leave under whatever the murky facts might be, move to another railroad and there establish a record of outstanding performance, it must raise, it seems to me, in the mind of any objective observer some serious questions about what is happening at Conrail as far as their top management is concerned.

Beyond that, Mr. Chairman, the problem it seems to me does not even stop there. Mr. Carl Taylor, an outstanding Vice President of Conrail, resigned on his own, voluntarily, leaving Conrail to become president of ITEL, another distinguished, able executive who chose for whatever reason to leave the top management of Conrail.

So I would be derelict in my duties, Mr. Chairman, as one who has been deeply interested and concerned about transportation in America and particularly concerned and interested about Conrail, as one who has been a vocal advocate of Conrail, a supporter of Conrail from the very days in which it was created on the floor of this Congress, I would be derelict in my duty if I did not today express my very deep concern about what I see happening at the top management level of Conrail.

Although Edward Jordan is indeed an outstanding man, perhaps his leaving is a blessing in disguise. I say that in no way to put down Mr. Jordan, but to rather focus on the opportunity which this presents for the Board of Directors of Conrail to identify, to seek out and to find a very first-class, outstanding railroad man to put in one of those two top jobs in Conrail, either as Chairman of the Board or as President. Indeed, if Mr. Reed is moved up to Chairman of the Board, I think that is less significant if that were to happen than is the decision which is going to be made by the Board of Directors of Conrail in the coming weeks or months to fill the vacancy of either the Chairman or the Presidency of Conrail.

The man who moves into that top management job must be an outstanding railroad man, and if indeed the Board of Directors of Conrail, for whatever reason, chooses not to or is unable to find an outstanding railroad man to put at the helm of Conrail, I believe this could be such a serious decision that it could in fact directly affect the question of whether or not Conrail is going to be a success, for while there have been steady improvements in Conrail, which I noted previously, it seems very clear to this Member of Congress, who has been deeply immersed in transportation, that there must be further improvements in Conrail, and if there are not further improvements in Conrail, the very success or failure of Conrail is in serious question.

Without further improvements, Conrail shall fail, and for those of us who are deeply committed to a sound transportation system in America, for those of us who are deeply committed to a sound railroad system in America, for those of us who are deeply committed to the success of Conrail, we cannot let this happen.

I, therefore, implore the Board of Directors of Conrail, I implore the Members of this body and the other body and the members of the executive branch down at the U.S. Department of Transportation, the members of the ICC and the members of USRA, all those key people who are involved and will be involved in the basic question of finding a new man to replace Ed Jordan at the helm either as Chairman or in the Presidency, I implore these individuals to exercise their utmost capability in seeking out and finding a first-class railroad executive to head up this company.

Now, I understand that of the many candidates under consideration there are some good men but whose strength is more in their political ties to Washington than their background in the railroad industry.

I think that if the Board of Directors of Conrail selects someone to fill Jordan's chair and makes that decision based more on their political connections in Washington, than on their depth of experience and capability in knowing how to run a railroad, this could well be the kiss of death for Conrail, because further improvements must be made. There are serious soft spots in Conrail today.

□ 1540

It is going to take an outstanding railroad executive to come in and to hit the ground running in order to make the kind of necessary managerial decisions required to assure Conrail's success. So I urgently call upon the Board of Directors of Conrail and all those involved in public policy relative to Conrail to exert every effort so that the right kind of a person is put at the helm so that Conrail is given every opportunity to succeed, because if Conrail fails, we will be faced with one of the most serious transportation problems in America; indeed, particularly in the Northeast and the Midwest. We simply cannot let that happen. We must see to it that Conrail succeeds so America has a sound national transportation system.

● Mr. REUSS. Mr. Chairman, earlier this year I submitted some supplementary views to the annual report of the Joint Economic Committee, on which I am pleased to serve.

In commenting upon the rather obvious need to restore the competitiveness of U.S. manufacturing and other major economic sectors in both the domestic and world markets, as well as the increasingly urgent, specific need to rebuild American industry, I said, in part:

> We must end the adversary relationship that now exists between government and business . . . (and) adopt the cooperative approach that has been tried and proven by several of our major allies and rivals, notably Germany and Japan . . . (adding that) conventional measures, such as regulatory reform and revision of tax and depreciation schedules are also necessary, but they are not enough.

Then, in the transportation field particularly, I further said:

> We need to rationalize and rebuild our railroads before they (quite literally) crumble away. The once-great mid-western roads are in imminent danger of complete collapse. (However), so long as the rights-of-way exist, there is hope for a comprehensive rescue operation—but if government inaction allows the rights-of-way to disappear, our transportation base will be irreplaceably lost.

In my opinion, Mr. Chairman, the thrust of this legislation—the Rail Act of 1980—is consistent with the thoughts I have now reexpressed concerning the need to "rescue" what remains of our essential, national railroad system, and I intend to support this bill and urge my colleagues to do likewise.

In further developing my reasons for such support, I would like to refer to the June 15th column of Henry Fairlie—that perceptive British observer of the American scene—in the Washington Post, to whose editorial pages he is a regular contributor.

Fairlie's column is entitled "Bring Back the Railroads," and he says he is indulging in neither a "lament nor an exercise in nostalgia," since—in his view—the "* * * story of the neglect and continuing decline of America's railroads is a subject for outrage."

In any event, Fairlie goes on to make a case for nationalization of our remaining railroad systems, pointing out that only in America—among industrialized nations—are railroads still not generally regarded as a responsibility that must be undertaken by the State. He then turns to the Economist of London—a source that cannot be accused of tenderness to socialist ideas—to find a quote suggesting we, of the United States, go instead "* * * to ludicrous lengths to disguise nationalization * * * (while using) regulation for not very different purposes," in order to draw his conclusion that this means American railroads get the worst of both worlds.

To carry out this theme, Fairlie suggests it may be considered "seditious" in America to say that a railroad like Conrail—with whose history we are all familiar—is "nationalized," but he then points out that Conrail's every effort to make itself more efficient is constantly frustrated by the Interstate Commerce Commission, through which "* * * regulation takes the place but does not offer the benefits of outright nationalization."

Finally, he quotes the present chairman of the nationalized British Rail system to the effect that it has much greater freedom to make its own commercial decisions than the unnationalized Conrail, supposedly operating "for profit".

I am not prepared, Mr. Chairman—at least not yet—to join Henry Fairlie or anyone else in embracing the concept of nationalized railroads for this Nation. Nevertheless, I am of the opinion that deregulation of the railroads, in a manner as developed in this legislation which I welcome, may be our last, best hope against that eventual possibility

So, I strongly support this bill, even as I wonder if—standing by itself—it goes far enough.

That concern on my part led to my interest—when the companion bill to this legislation was before the other body—in the so-called McGovern-Durenberger amendment, as called up there, and then withdrawn, by its two cosponsors, which would have provided for a refundable investment tax-credit of substantial benefit to those of our railroads, and unfortunately there are more of those than of the other kind, who are in a loss or marginally profitable situation.

Because of the unique economics of the rail industry, when weak railroads must cut back on expenditures they inevitably begin with deferring railbed maintenance; and, as a consequence, the great bulk of the estimated $4.1 billion in accumulated deferred right-of-way maintenance is concentrated in our weakest railroads—such as the Penn-Central system before it, and other bankrupts, became Conrail, or such as the Rock Island and the Milwaukee Road.

So we have, here, a problem that will remain with us even after this legislation is enacted—a problem that will still be crying for solution even after the full benefits of deregulation have begun to be realized. Without further study, Mr. Chairman, I am not sure that the McGovern-Durenberger approach would provide the best possible answer. But, if we are to avoid future Rock Island-Milwaukee Road disasters—and the ultimate costs involved in trying to resurrect such failing systems—perhaps we ought to be thinking in such terms as McGovern-Durenberger when, as now seems inevitable, we begin to concentrate on comprehensive changes in present tax policy aimed at providing a more favorable governmental climate for the planning and coordination of necessary investment decision either by the railroads or by other equally-important sectors of our troubled economy.●

● Mr. STAGGERS. Mr. Chairman, today the House is considering one of the more important pieces of legislation in this 96th Congress. The exceptional efforts of Mr. FLORIO and Mr. MADIGAN and all the members of the transportation subcommittee have brought a balanced legislative package to the House floor. Having dealt with the Milwaukee Road and Rock Island Railroads, I am convinced of the need for legislation that will permit the railroads to have greater flexibility so as to insure their ability to raise the capital necessary for investment in plant and equipment to provide transportation, to especially carry out our Nation's commitment to convert to coal. H.R. 7235 provides continued ICC protection for those shippers who do not have an alternative to rail transportation and do not have rail competition. The legislation limits rate increases over rates which the ICC does not have jurisdiction to 10 percent, plus inflation, per year until January 1, 1983, and provides broad contract authority by which both railroads and shippers can achieve greater asset employment and greater rate stability.

The legislation will provide substantial relief to those railroads which are moving traffic at less than 110 percent of their variable costs. The ICC has previously found that the imposition of surcharges under subchapter IV of title 49 is unlawful. Through the efforts of the American Short Line Association, a compromise amendment which will be offered by Congressman LEE, is being added to provide short line railroads protection in certain circumstances from the imposition of surcharge and cancellation.

A feeder line program is authorized to provide incentives for purchasers of lines that are proposed to be abandoned. This provision will assure that alternatives are explored where communities are confronted with the potential loss of rail service. It is important to note that the feeder program is not applicable to railroads in reorganization, although clearly it is the intent of Congress that such railroads should seek purchasers of lines they propose to abandon and Government assistance would be available to such purchasers.

The legislation is the product of extensive hearings and input from interested parties. It has been carefully crafted and deserves the support of the Members.●

● Mr. GONZALEZ. Mr. Chairman, the objective of H.R. 7235 is commendable, but section 202 of the bill imposes dreadful penalties on the biggest shippers of all, the captive shippers. What section 202 does is to allow the railroads to use their monopoly power over captive shippers to exact huge profits, and then use that money to reduce rates in areas where the railroads face competition. Alternatively, the railroads could use their monopoly profits for other purposes.

Those who believe the railroads will be satisfied with this bill, and all its potential for enhancing their profits, are sadly mistaken. The Burlington Northern is by any description one of the richest and strongest railroads in the Nation. Because the Burlington carries vast amounts of coal and grain, it enjoys the biggest monopolies in the business. No railroad would benefit more than the Burlington from the generosity of section 202, which permits the legalized rape of captive shippers. Yet, the president of the Burlington says that this legislation is not good enough. The Burlington does not want any, not even the slightest, regulation of its monopoly.

The Interstate Commerce Commission today allows railroads to make a 42 percent pretax profit on traffic hauled for captive shippers. This bill would double that. It would allow the railroads to earn better than 30 percent after-tax return on equity, at the expense of captive shippers.

Who are these captive shippers? They are the organizations that have such a vast traffic that it cannot be moved except by rail. Coal and grain are the most obvious of these. Who would pay the exorbitant profits allowed by section 202? The users of coal and grain, and that means every last citizen of this land. Section 202 allows the railroads to reach into each and every pocketbook and bank account, to exact whatever tax they want. Section 202 allows a redistribution of income, from the pockets of already oppressively burdened citizens, to the pockets of handsomely rich railroads.

I have always believed that a monopoly is granted only in exchange for public regulation. There are some businesses that are monopolistic by nature, and large-scale freight hauling is one of these. There is no way, save by rail, that millions of tons of coal can be moved, or that millions of tons of grain can be moved from the places of production to the points of ultimate use. Railroads enjoy certain monopolies. Historically, they have abused those monopolies, and that is why railroads were subjected to regulation in the first place. This bill does not give the railroads a completely free hand to charge anything they wish; it merely ties the hands of captive shippers and gives the railroads the key to the bank.

There are those who say that captive shippers and other large shippers could contract for rates, and so negotiate a better deal for themselves. But the railroads will negotiate only where there is credible competition. An automobile manufacturer might contract for a better rate, because his product can move by means other than railroads. But no coal shipper is ever going to find any advantage in contracting with the only shipper in town.

If anyone doubts what section 202 of this bill will allow, consider the case of San Antonio. My city was tricked into making an irrevocable commitment for what was then the biggest freight movement of all time, the shipment of coal from Gillette County, Wyo., to fire a new 860-megawatt generating plant in San Antonio. This shipment involves the movement of 50 million tons of coal a year over a distance of 1,300 miles. It takes 700 railcars, and occupies three 100-car-unit trains. Once San Antonio was inextricably committed, the railroads refused to publish any rate at all, let alone the one they had represented would be available. The ICC finally had to prescribe a rate, and then it allowed the railroads to jack that rate up to the point where today the Burlington makes a full 7-percent profit over variable costs—a rate that the courts have held is clearly unreasonable and without any basis in logic. Yet this is far less than section 202 of this bill permits. The railroad wanted even more than the unreasonably generous ICC allowed.

It is plain what will happen if this bill passes with section 202 intact. The citizens of my city, previously assaulted by a tenfold increase in natural gas costs, victimized by huge overruns on a nuclear powerplant, robbed by the railroads, would be left completely exposed to the endless demands of the railroads stripped even of the dubious protection of the ICC. We already pay so much for coal transportation that San Antonio could as cheaply use coal from Australia as it can from Wyoming. This bill makes coal use an expensive and very bad joke.

We, in Texas, are expected to switch over most of our generating capacity from gas to coal during the next decade. There is no way that this is going to happen unless rail rates are somewhere within reason. There is no way rail rates are going to be reasonable if section 202 stays in this bill.

A monopoly has to be subject to reasonable regulation. Captive shippers are the victims of monopoly, and they can only be protected by reasonable regulation. This bill takes away even the possibility of reasonable regulation. It is an unwise and wholly unwarranted abandonment of the public interest, a wholesale abrogation of responsibility, and it must not be approved as it stands. Section 202 of this bill is a clear and present danger to the consumers of this country, and even to the national energy policy. In the name of a good principle, the bill abandons a very basic principle. It may be sound to deregulate the railroads in areas where they have effective competition. It is another thing to give them untrammeled power and license where they do not. The heart of a monopolist is constructed of greed, powered by economic muscle, and inspired by the weakness of those who must pay whatever is demanded. The railroads, as far as this country is concerned, embody the heart and soul of classic monopoly, and it is a monstrous error to give to them the powers granted by section 202 of this bill.●

● Mr. MURPHY of New York. Mr. Chairman, I ask unanimous consent to revise and extend my remarks.

I rise to urge my colleagues to stop, look, and listen before acting on this so-called rail deregulation bill.

"Deregulation" is a fashionable phrase these days, but it is no panacea for the transportation industry. Deregulation should be tailored to the nature and circumstances of each particular mode.

Airplanes and trucks, for example, can move when and where they will, so if rates are artificially high or service is poor on a given route, new competitors can enter the market once regulatory barriers are removed. Rail cars, however, can move only where there are tracks to carry them, and since 70 percent of all rail traffic is interlined, railroads are uniquely interdependent and must cooperate if we are to have an efficient national rail network in the private sector which it is the stated purpose of this bill to foster.

Members should realize that this bill is unprecedented. For the first time since the Interstate Commerce Act was enacted, it would: First, relieve railroads of the burden of proving that their rates are reasonable; second, permit railroads to act unilaterally in imposing surcharges on joint rates and in canceling joint rates on through routes, affecting 70 percent of all rail freight traffic; and third, permit such surcharges to be unreasonably discriminatory—a wholly novel departure from the scheme of the Interstate Commerce Act.

I do not believe that the regulatory structure which was erected by the Interstate Commerce Act of 1887 should be dismantled except in those areas where the discipline of competition will protect the public against unreasonably high or discriminatory rates, poor service and predatory practices. As the distinguished chairman of the Committee on the Judiciary and of its Subcommittee on Monopolies and Commercial Law has written to me with respect to this bill:

> The railroad industry was regulated before the Sherman Act was created and has never effectively been subject to the full impact of the antitrust laws.

Chairman RODINO added:

> As Chairman of the Subcommittee on Monopolies and Commercial Law, I certainly agree with you that in our economic system the alternative to regulation must be competition.

I wish the Committee on the Judiciary had been as vigilant with respect to the absence of any provisions to safeguard competition in this bill as it was in the case of the omnibus shipping bill.

This bill, for instance, does not require the Commission to consider the anticompetitive aspects of rail mergers although as a result of proposed and pending mergers of major line-haul carriers, the Wall Street Journal forecast (June 3, 1980):

> The U.S. is clearly headed toward five big and profitable rail systems within about three years. The federally financed Consolidated Rail Corp., which operates at a deficit, is a sixth.

In short, our national rail system will soon consist of a few regional monopolies, largely free of regulation to protect the public interest if this bill is enacted in its present form.*

Under the Robin Hood-in-reverse approach of this bill, the rich railroads will get richer and the poor will become poorer. Indeed, Commissioner Stafford of the ICC predicts (Washington Star, June 21, 1980) that the 1980's will mark "the beginning of the end" for smaller railroads. Commissioner Stafford said:

> I believe through the rate-making changes and the merger of the large roads, service to communities of smaller roads will evaporate.

This bill, then, threatens many communities with the loss of rail service at the very time when we can least afford it in view of the far greater fuel efficiency of rail over other modes of transportation.

Moreover, rail-to-rail competition will soon become only a memory as a result of the mergers of big profitable railroads which are pending or proposed, with serious consequences for captive customers and communities, like the city and port of New York, which I have the honor to represent, who will have no practical transportation alternative, especially in the case of bulk materials—grain, cotton, coal, steel, lumber, paper, and chemicals—which are peculiarly suited to shipment by rail.

Under section 201 of this bill "a rail carrier * * * may establish any rate for transportation or other service"—except in the "absence of effective competition" which, in turn, is so narrowly defined by section 202 of the bill as to provide only limited protection to captive customers and communities.

For good measure, section 301 of the bill, for the first time, would allow a railroad to impose unilaterally a surcharge on joint rates and to cancel joint rates on through routes. Worse, section 208, also for the first time, would permit these unilateral surcharges and cancellations to be unreasonably discriminatory, leaving shippers, receivers, communities, and ports without recourse.

It is said that such unilateral surcharges and joint rate cancellations are needed to avert yet another application by Conrail to the Congress for further Federal funding. But Mr. Jordan, Conrail's outgoing Chairman, recently stated publicly (Journal of Commerce,

---

*Section 201 of the Senate bill does deal with rail mergers, but ironically, it would require the ICC to apply antitrust standards only in a case "which does *not* involve the merger or control of at least two Class I railroads * * *." (Emphasis added.) Thus the Senate bill would impose anticompetitive considerations only where they are *least* likely to arise and would ignore them where they are *most* likely to create monopolies and suppress competition, i.e., mergers of big line-haul carriers. Even if the inadequate Senate provision were adopted in conference, Section 802 of this bill would render it inapplicable to merger applications pending "on the effective date of this Act," which is to say all, or almost all, of the mergers proposed by the big railroads.

June 4, 1980) that he "doubts very much" that even with this so-called "deregulation" bill, Conrail could continue without additional Federal aid.

Moreover, section 301 proposes the wrong remedy, because it provides no incentive whatever for Conrail to deal with the inflated costs it inherited from its bankrupt predecessors which are the crux of Conrail's problem.

Indeed, as Mr. Fishwick, the president of the Norfolk & Western, pointed out at the hearings on this bill, the effect of section 301, as it relates to Conrail, will be to foist Conrail's inflated costs on the rest of the rail industry—which is said to be already depressed—and on captive customers and communities who have no practical transportation alternative, especially in the case of bulk materials which are peculiarly suited to shipment by rail.

Furthermore, the authority to impose unilateral surcharges and to cancel joint rates on through routes unilaterally would be given by section 301 not only to Conrail but also to the big, profitable line-haul carriers in the South and West which could charge whatever the traffic will bear in many near-monopoly situations.

Where they interchange with Conrail, those big line-haul carriers will be able to decide what traffic to and from the Northwest and Midwest they want to keep by absorbing some of Conrail's excessive costs via more generous divisions to Conrail or by raising the level of joint rates.

Small and midsize carriers, however, lack the resources to do this; with shorter hauls and greater terminal costs they are far more vulnerable to truck competition and they stand to be badly hurt, as Commissioner Stafford predicts, along with the customers and communities they serve.

Section 301, therefore, would empower the big Western and Southern carriers to determine the shape and size of our national rail network in the Northeast and Midwest by remote control, so to speak, as their self-interest may dictate.

Finally, I believe there is a better solution to Conrail's problem than the unilateral surcharges and rate increases which section 301 proposes. A few facts and figures will shed light on Conrail's problem and the appropriate remedy. I am informed that Conrail handled 5 million cars last year and reported a net loss of $192 million. An increase of $40 per car handled, therefore, would have brought Conrail above the break-even point with a modest profit for the year. I further understand that 60 percent of Conrail's traffic originated and terminated on its own lines so that Conrail could have raised rates on this traffic without the concurrence of connecting carriers. As to the remaining 40 percent of Conrail's traffic which is interchanged with other carriers, where section 301 of this bill would apply, Conrail has had a remedy at hand all along via a divisions case seeking a larger division of its joint rates under existing law, 49 U.S.C. 10705 (b).

Accordingly, to alleviate Conrail's problems, I plan to offer an amendment at the proper time to substitute for the unilateral surcharges on joint rates and unilateral cancellations of joint rates on through routes which section 301 of this bill would authorize, the provisions for "Expeditious Divisions of Revenue" contained in section 107 of the Senate bill, S. 1946.

Under my amendment, the Interstate Commerce Commission would have to complete evidentiary proceedings to adjust the division of joint rates between the participating carriers within 9 months after a complaint is filed, and where the proceeding involves a railroad in reorganization or a contention that the divisions at issue do not cover the variable costs of handling the traffic involved, the Commission must give the proceeding preference over all other proceedings and take final action within 100 days after the evidentiary proceedings have been completed.

Conrail could thus obtain compensatory joint rate relief where it is justified within 1 year, under my amendment for the 40 percent of its traffic which is interlined. If Conrail cannot obtain adequate relief within 1 year under this expeditious divisions procedure, then the next Congress can deal with Conrail's remaining problems on the concrete factual record compiled before the Commission, rather than giving Conrail and the other big, profitable line-haul carriers a blank check to raise rates at will, regardless of their discriminatory effects.

I believe this approach is far preferable to the unprecedented, unilateral self-help, which section 301 of the bill would authorize in its present form.

It is said in defense of the unilateral joint rate provision, section 301, that a railroad should not be required to carry traffic at rates below its break-even point. Section 301, however, would authorize surcharges far beyond that level 110 percent of variable costs is a floor. but not a ceiling, on the level of joint rate surcharges and cancellations. In any case, as I have already pointed out. section 301 provides no incentive for Conrail to cut its inflated costs which are the crux of its problem. Instead, section 301 would permit Conrail and other carriers to resort to unilateral self-help to increase its share of limited revenues at the expense of its connections. Section 301, therefore, in my view proposes the wrong remedy for the problem to which it is addressed.

Since this bill would lift the restraints of regulation upon unreasonable rail rates and unreasonably discriminatory rail rates without substituting the discipline of competition, I plan to offer an antitrust amendment giving civil relief to injured parties where the purpose or effect of a unilateral surcharge or cancellation of joint rates may be substantially to lessen competition or to tend to create a monopoly in any line of commerce, in any section of the country, to borrow the familiar language of the Clayton Act.

In addition, I plan to offer an amendment to section 208 of the bill so that unilateral surcharges of joint rates will be subject to the long-standing prohibition against unreasonable discrimination. I cannot believe that this House seriously intends to legalize unreasonably discriminatory rail rates for the first time since the Interstate Commerce Act was enacted in 1887.

Finally, I plan to offer an amendment to guarantee rail rate parity within a port in order to give effect to an amendment for that purpose which I sponsored and Congress adopted as section 202(f) (4) of the "4R" Act of 1976, only 4 short years ago. I emphasize that this amendment is limited to preserving only the intraport parity which has prevailed in the Port of New York since the dawn of rail service.

In conclusion, Mr. Chairman, I include material I have quoted in the RECORD at the end of these remarks:

COMMITTEE ON THE JUDICIARY,
Washington, D.C., June 12, 1980.
Hon. JOHN M. MURPHY,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of June 6, 1980, regarding the "rail de-regulation" bill, H.R. 7235. I am not familiar with the specifics of the bill but, as Chairman of the Subcommittee on Monopolies and Commercial Law, I certainly agree with you that in our economic system the alternative to regulation must be competition.

As you know, the railroad industry was regulated before the Sherman Act was created and has never effectively been subject to the full impact of the antitrust laws. I am, therefore, reluctant to comment on specific proposals relating to deregulation without further inquiry.

I appreciate your concern and the fact that you have called this matter to my attention. I am having my staff look over the material you sent and will see if the Antitrust Division has any comments on the bill.

With every good wish, I am,
Sincerely,
PETER W. RODINO, Jr.,
Chairman.

[From the Wall Street Journal, June 3, 1980]

N. & W. AND SOUTHERN ROADS PROPOSE $2 BILLION MERGER TO MEET COMPETITION FROM OTHER BIG COMBINATIONS

(By John D. Williams)

NEW YORK.—The on-off romance of the Norfolk & Western and Southern railways is on again. Competition is forcing them to the altar for a merger totaling $2 billion in stock.

If their North-South union comes off this time, it would likely mark the last giant rail merger for many years. Two other big rail mergers, involving Western lines, were announced earlier this year. The U.S. is clearly headed toward five big and profitable rail systems within about three years. The federally financed Consolidated Rail Corp., which operates at a deficit, is a sixth.

N&W and Southern Railway considered a merger for seven months in 1979, but the talks broke down when personality differences and the question of which road would name the chief executive officer couldn't be resolved. Both L. Stanley Crane, Southern's chairman, and John P. Fishwick, N&W's president, will have reached retirement age before the merger can be completed in three years.

The terms call for creation of a company that would acquire the two railroads through a stock swap. Southern holders would receive 1.9 of the new company's shares for each Southern share; N&W holders would receive one new company share for each N&W share.

"They would come up with a strong company," says John Pincavage, an analyst with Paine, Webber, Jackson & Curtis Inc., "but shareholders of both companies should be disappointed." N&W is a big coal carrier, and there's been world-wide publicity lately on coal's emergence as a substitute for high-priced oil, he explained. Southern's holders likely might want more shares in the new company, reflecting the efficiency and profit record of the Southern, he added.

The prior time N&W and Southern talked merger outsiders felt Southern was in the taking-over role. This time it appears to be a merger of equals, one analyst says. Each company will name eight members to the new company's board. Then, under a system neither would explain, a chief executive would be picked.

Neither N&W nor Southern would say which company initiated the renewal of merger talks that were aborted Oct. 26. But a source said a week of negotiations was concluded late Friday in the offices of Southern's Mr. Crane in Washington. Mr. Crane then departed for China, where he has been invited to tour the rail system.

One point was clear to all who follow the tangled affairs of railroads: The N&W-Southern merger is a defensive response to other big rail mergers announced since January. "The changing competitive situation was the principal factor leading to the agreement," the two companies announced jointly yesterday.

They obviously were referring to the pending proposal of Union Pacific Corp. to acquire Missouri Pacific Corp. with a $1 billion package of Union Pacific securities and to Santa Fe Industries' plan to buy Southern Pacific Co. with $1.2 bilion of Santa Fe securities.

Three forces are affecting railroads. They're expecting federal decontrol, so the roads seek the longest runs of freight they can make without sharing revenue with other railroads. They want to cut costs by slashing away at duplicate spending for equipment. And they want to lengthen their routes so big systems don't take business from them.

Anthony Low-Beer, an analyst with L. F. Rothschild, Unterberg, Towbin, feels protection against freight loss is the biggest reason for the rail merger vogue. "The sad thing about this latest merger is it creates a very strong railroad" in competition with a weak one, he said.

Mr. Low-Beer explained that a more balanced rail merger picture would join N&W with Seaboard Coast Line Industries, and Southern Railway with Chessie System. Instead, Chessie and Seaboard have a pending merger that's expected to win Interstate Commerce Commission approval this year. N&W-Southern will be a "very strong company financially with substantial cash flow in contrast of Chessie-Seaboard," which generally will be operating in the same North-South region, he said.

A merged Chessie-Seaboard would have more than a two-year head start on N&W-Southern, but that wouldn't be enough time to overcome the strong N&W-Southern competition, he says. In fact, he says, N&W-Southern could expand by buying pieces of track from Chicago, Rock Island & Pacific, in liquidation proceedings, and from Conrail if any tracks are sold.

The N&W-Southern plan, like other rail mergers or acquisitions, requires shareholder approval and ICC authorization. ICC proceedings can take as long as 31 months. Rail mergers also are often delayed by various court tests, as is the one of Burlington Northern with St. Louis-San Francisco Railway.

Darius Gaskins, ICC chairman, said in an interview that although the proposed merger doesn't involve the joining of parallel railroads, it nevertheless may hurt competition.

The merger would join two end-to-end roads, something the ICC has been favoring, but this one has the handicap of involving two railroads serving Eastern coalfields, Mr. Gaskins said.

Chessie System is already moving to merge with Seaboard, he noted, so a Southern-N&W consolidation would trim a second major road serving those coalfields: The number of such lines is "potentially shrinking pretty fast," an issue that the ICC will look at and that might cause problems, Mr. Gaskins said.

The basic lines of N&W's system are in 14 states from New York to Virginia and west to Nebraska. Southern has operations in 13 states from Virginia and Florida to Tennessee and Louisiana. Together, they run trains on 17,679 route miles, which would make about the fifth-longest system in the U.S.

Here's how the two rail systems compared in 1979:

	Southern	North and west
Revenues (billions)	$1.47	$1.45
Net income (millions)	$160.6	$198.6
Properties (billions)	$2.3	$2.1
Work force	21,605	24,433
Common shares	15,337,000	31,194,000
Shareholders	31,453	76,062

In terms of assets, the new company would be in the top three in the industry. In railroad income (many Western roads derive profits from oil and other natural resources), a N&W-Southern combination would be No. 1.

The market greeted the merger news as a "ho hummer," an analyst says. There's been some strong buying of N&W for the past few weeks, based presumably on a bullish world coal survey. But yesterday in New York Stock Exchange composite trading it closed at $30.625, off 50 cents. Southern, also on the Big Board, closed at $59.75, up 25 cents.

"The announcement didn't bowl anyone over," said Dennis Enright of Bache Halsey Stuart Shields Inc. "The stock prices reflect the terms of the merger that is three years away."

He and other analysts wonder what will happen next to smaller railroads that haven't yet found a merger home. Included in their lists are the Illinois Central Gulf, Missouri-Kansas-Texas, Chicago & North Western, Kansas City Southern and Denver & Rio Grande Western railroads.

DEADLINE SET ON RAIL MERGER

WASHINGTON.—July 11 is the deadline for competing railroads to reach settlement agreements in the Chessie-Seaboard merger case, the Interstate Commerce Commission announced this week.

The purpose of the agency is to give railroads an opportunity to purchase portions of the Chessie and Seaboard systems.

Cited as an example was the Southern Railroad's interest in the Louisville & Nashville line between Louisville, Ky., and Chicago, Ill.

"There may be other examples where parties have been unable to agree on specific terms such as price of properties and operational arrangements because of a failure to communicate adequately," the agency said.

ICC Administrative Law Judge David H. Allard was named as the agency's liaison in any possible settlement negotiations.

The deadline for a decision by the agency is Oct. 24.

The Chessie-Seaboard merger, if approved, will create a 27,500-mile system blanketing the Northeast and the South.

APPROVAL SOUGHT FOR TAKEOVERS

(United Press International)

Union Pacific Corp. Tuesday said it plans to request approval for the takeovers of the Missouri Pacific and Western Pacific railroads around Sept. 15. after which a regulatory decision is required within 31 months.

Union Pacific filed notices with the Interstate Commerce Commission that its merger plans, first announced in January, will be submitted in formal applications by fall. ICC deliberations on rail mergers are limited to 31 months.

Union Pacific's filings followed announcement Monday of a proposed merger between the Southern and Norfolk and Western railways, another in a series of rail combinations that is expected to leave the nation with five private railroad giants plus Conrail, the federally supported system.

Burlington Northern's acquisition of the Frisco already has been approved. Pending are consolidations of Seaboard Coast Line and the Chessie System and the Santa Fe with Southern Pacific.

Union Pacific plans to buy the Missouri Pacific for $1 billion in securities. It already has acquired 87 percent of the common stock of the much smaller Western Pacific and is holding that stock in a trust until it receives ICC takeover approvals.

[From the Journal of Commerce, June 4, 1980]

MERGER POLICIES TO BE DISCUSSED

WASHINGTON.—A special conference on railroad merger policies will be held by the Interstate Commerce Commission next Tuesday.

Meanwhile, a leading railroad merger expert said it is easier to apply for a merger than it is to oppose one.

The meeting will be held in Hearing Room B at the ICC's Washington offices.

It will begin at 9:30 a.m.

The current commission probably will approve any merger applications unless it is obvious something horrendous will happen to competing lines, John E. Haley of Sidney & Austin told the Transportation Research Forum here Wednesday.

But parallel mergers such as the proposed Southern Pacific-Santa Fe combination could create some problems.

"All in all it's a great climate for applicants," he commented, "but not very good for protestants."

[From the Journal of Commerce, June 4, 1980]

SMALLER MARKET SEEN ONLY HOPE FOR CONRAIL

Conrail originally was given $1.8 billion in federal funds, with the expectation that it would become profitable in five years. But, ultimately, Conrail ran out of money and had to get an additional $1.5 billion in aid.

"I am embarrassed by how much money that is," Mr. Jordan said, "every time I think about it." He said he believed the money was well spent on rebuilding the core of the Conrail system. But he said it was foolish to have believed pouring in Federal dollars would solve all the railroad's problems.

With hopes for quick profitability from increased traffic extinguished, Mr. Jordan said, it is up to Congress to determine the future course of the railroad. He said Conrail would submit a report to the USRA this summer, laying out options for the future.

"The prospects for growth are not what I would like," Mr. Jordan said. "We have to seriously examine the amount of rail service we want in the Northeast, and how much we want to pay for it."

For Conrail to have a chance at future profitable operations, he said, current regulations limiting the railroad's ability to set freight rates must be eliminated.

Mr. Jordan has been in the forefront of the battle for rate deregulation, arguing that current tight limits on pricing have forced Conrail to carry a large percentage of its traffic at a loss.

Increasing transportation costs on currently unprofitable freight would eliminate much of the traffic and thus effectively shrink the scope of the railroad's operations. Conrail could then concentrate its efforts on developing business on a smaller number of more profitable lines, he said.

Mr. Jordan said that Conrail—the nation's largest railroad, covering 17,000 miles in 16 states and Canada—is too big to be profitable. "The railroad industry has got the problem," he said. "We've just got it in spades."

VERGE OF APPROVAL?

The announcement of Mr. Jordan's departure comes as Congress seems to be on the verge of approving the deregulatory measures that Mr. Jordan has been fighting for.

Rep. James J. Florio, D–N.J., chairman of the House Transportation subcommittee, repeatedly has said that he doubts there are enough votes to give Conrail any more federal aid, and he has said he hopes deregulation will diminish the need for more support.

But Mr. Jordan said that he "doubts very much" that even with deregulation Conrail could operate without additional aid.

He noted the example of the Canadian National Railroad, which took about five years to produce a profit after deregulation. Asked when he thought Conrail could become profitable, Mr. Jordan said, "I just don't think I can speculate on that."

Mr. Jordan said that alternatives to continue aid that Congress might consider, such as quick sweeping cutbacks in the railroad's operations, might have an even higher economic cost in terms of lost jobs on the railroad and in the businesses it serves.

"Everybody is looking for magic answers out there," said Mr. Jordan, who is stepping down to become dean of Cornell University's Graduate School of Business and Public Administration. "It turns out there aren't any magic answers."

Among the problems facing railroads, Mr. Jordan said, are the higher costs of maintaining their track systems, and labor agreements that require overstaffing of some trains.

[From the Washington Star, June 21, 1980]

ICC's STAFFORD PREDICTING DEMISE OF SMALL RAILROADS IN THE 1980s

Interstate Commerce Commissioner George Stafford said yesterday he believes the 1980s will mark "the beginning of the end" for scores of smaller railroads.

The former ICC chairman said he believes the short lines will not be able to cope with changes in ratemaking regulations and pending mergers of some of the nation's big railroads into even larger systems.

"I recently told the short line people I felt this was the beginning of the end," said the Kansas Republican, who headed the ICC for seven years but, as a proponent of continued regulation, now often finds himself the lone dissenter in decisions since President Carter took office.

"I believe through the rate-making changes and the merger of the large roads, service to communities of smaller roads will evaporate," with the result that shippers will have to truck goods to major rail points, he said.

Stafford spoke at a luncheon with reporters and representatives of the transportation industry.

The commission has moved gradually toward less regulation and greater competition among railroads. Major legislation to push those goals even further is expected to pass Congress in the next few weeks.

Stafford said when he was first appointed by President Lyndon Johnson in 1967, he opposed any regulation at all, but he changed his position once he learned how the nation's transportation system operated.

"I don't hear much talk about service at the commission now," he said. "We're talking about competition."

The recent rash of merger proposals, combined with "the policy of the commission majority that we do not believe in any protective conditions" to help railroads that will lose business as a result of a merger, will speed the demise of the short lines, Stafford said.

Stafford cited the recent approval of Southern Pacific's application to buy the bankrupt Rock Island's 965-mile "Tucumcari line" from Kansas to New Mexico, which was approved by the ICC without conditions.

He said he felt the Missouri-Kansas-Texas (Katy) railroad needed some protection from that acquisition, which will shorten Southern Pacific's Los Angeles-St. Louis run by 400 miles.

"I won't be fatal to them, but when the Union Pacific-Missouri Pacific merger comes before us, and if we approve it, Katy's loss is going to be tremendous," he said.

Asked if he would consider an appointment as chairman again should a Republican win the White House in November, he said, "No, sir, I've had seven years of that."

But asked whether he will seek reappointment when his second term expires Dec. 31, he said, "Why don't we wait and talk about that some other time?"

[From the Journal of Commerce, June 23, 1980]

PROBLEMS SEEN FOR SHORT LINES

WASHINGTON.—Drastic railroad deregulation coupled with the ongoing wave of mergers within the industry will create major problems for short line railroads and some carriers left out in the cold, Interstate Commerce Commissioner George M. Stafford predicted at the weekend.

Massive deregulation eliminating joint rate requirements could spell the beginning of the end for short line railroads, Commissioner Stafford told a group of reporters here Friday.

He also questioned the wisdom of recent ICC decisions not to impose protective conditions as part of its approval of the Burlington Northern-St. Louis San Francisco merger and the Southern Pacific's purchase of the Tucumcari Line from the Chicago, Rock Island & Pacific Railroad.

Detroit, Toledo & Ironton conditions should have attached to protect the Katy in the Tucumcari case, he added.

The Katy is expected to take the ICC to court over the matter and the Supreme Court last week upheld another order the Katy received blocking the BN-Frisco merger from going into effect until a court rules on the conditions question.

Though the ICC's decision not to impose conditions in these two cases probably won't prove fatal to the Katy, Commissioner Stafford said, major problems will arise if a similar position is adopted in the Union Pacific-Missouri Pacific merger.

The UP's application to take over the Mo-Pac and the Western Pacific Railroads is expected to be filed at the agency this fall.

Another carrier—the Denver & Rio Grande Western—thinks it could lose 40 percent of its freight because of the merger, Commissioner Stafford added.

Short line railroads must have good relations with large lines if they are going to survive in a deregulated market, he concluded.●

Mr. MADIGAN. Mr. Chairman, I have no further requests for time. I yield back the balance of my time.

Mr. FLORIO. Mr. Chairman, I have no further requests for time. I yield back the balance of my time.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. COELHO) having assumed the chair, Mr. AUCOIN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7235) to reform the economic regulation of railroads, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. MADIGAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days during which to revise and extend their remarks on the bill, H.R. 7321.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

GENERAL LEAVE

Mr. AuCOIN. Mr. Speaker, I ask unanimous consent that all Members be permitted to have 5 legislative days in which to extend their remarks and to include therein extraneous material on the bill, H.R. 7235.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

□ 1500

CLIFFORD EVANS

(Mr. ADDABBO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ADDABBO. Mr. Speaker, I would like to take this opportunity to pay tribute and call to the attention of my distinguished colleagues, the significant journalistic achievements of a great journalist and dear friend of mine, Clifford Evans, vice president of the Washington news bureau for RKO General Broadcasting. I am proud to say that on May 3, 1980, at the annual White House Correspondents Association Dinner, he was installed as vice president. More importantly, he was the recipient of an award "for excellence in broadcast journalism" for his March 12 reports from Jerusalem on positive changes in the stalled Middle East peace talks. What makes this award so special is that this is the first time a broadcaster has received a Journalism Award at the dinner.

Its been a tremendous pleasure to have known Clifford in the years I have served in the House. I can honestly say that I am not surprised his peers have sought to honor the work he takes much pride in, and loves so much. If anyone ever exemplified what a good, hard working, reliable journalist is, that person would be Clifford Evans. Being a member of the media is a tough profession. The hours are long, the responsibilities great, and the deadlines always too short. A good jounalist just does not report what happened, he reports why and whom it will affect. Cliff Evans has always seen to that, and that is why he has earned the respect and admiration of his colleagues, and will continue to do so.

Clifford Evans is to be commended for

his contributions to the Washington media. He has taken a tough job in a news bureau and handled it with an expertise and aplomb worthy of admiration of his peers. It goes without saying that I am confident he will continue to bring his unique style of professionalism to a most demanding, time consuming position. I wish him the best of luck and good health in the future.

POLITICAL AND ECONOMIC SITUATION IN NICARAGUA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 10 minutes.

● Mr. ALEXANDER. Mr. Speaker, in view of the impending consideration of the fiscal year 1980 supplemental appropriations bill which may contain provisions for a $75 million reconstruction loan, I recommend to my colleagues this third in a five-part series of articles by Will Steif on the political and economic situation in Nicaragua.

The article follows:

CAMERICA

A week after the 1972 earthquake flattened Managua, the number two man in the U.S. Embassy here—James Cheek, now deputy assistant secretary for Latin America—told the State Department the quake would speed up the Nicaraguan revolution. No one in the Nixon administration listened, because the U.S. ambassador in those days was Turner Shelton, a Foreign Service officer who'd ingratiated himself with Richard Nixon in the 1960s and was close to Somoza.

The U.S. ambassador's residence in Managua, perched on a hill above the city, is the fourth largest U.S. ambassadorial residence in the world—bigger, for example, than the U.S. ambassador's residence in France.

Following the quake, Shelton refused to use his undamaged residence to aid victims. Instead, he complained of electrical outages.

Homeless Managuans haven't forgotten Shelton's callousness. The residence, more than a dozen huge bedrooms, swimming pool, cabana, spacious grounds, became a symbol. When Lawrence Pezzullo became ambassador last year he refused to live in the mansion. He wants to turn it into needed offices.

Somoza's former home is similar. Long, low, with thick carpets, paintings, tennis court, big pool and cabana. It's now headquarters of the Ministry of Culture and Sport, and that's where I found Mercedes Dreyfus, the ministry's director of international relations.

She is an exquisite brunette from a wealthy family. She went to Holy Cross High School in Washington, D.C., college at Lausanne, Switzerland, married and later divorced Enrique Dreyfus, head of the leading private-sector group negotiating with the Sandinistas. She is a passionate believer in the revolution.

"Many of us come from the bourgeoisie and the rich," she says.

There are probably 3,000 Cubans in Nicaragua, 1,200 of them teachers, several hundred doctors and paramedics, the rest technicians of various kinds.

At Fsteli, a city northeast of Managua, Cubans and Spaniards have set up hospitals. Long lines form at the Spanish hospital daily, but none form at the Cuban hospital. Reason: The Spanish brought drugs and equipment, the Cubans brought none—and word gets around quickly.

"There is a kind of backlash against the Cubans," a Nicaraguan says. "Many are not practicing Catholics. We are. They are not civil. They give offense when they say, 'This is the way we do it in Cuba.' "

Downtown Managua recalls Gertrude Stein's crack about Oakland, Calif.: "There is no there there."

The center of this city of 500,000 is mostly weedy vacant lots and a few skeletal buildings. The Palacio Nacional, on what is now the Plaza de la Revolution, survived the 1972 quake, as did the Central Bank building, now the Casa de Gobierno, government headquarters.

The rest of the city is spread in clusters of tin-roofed shacks, often on unpaved streets. The factories that used to lead to the Intercontinental are gone, but a few remain on the road to the airport. In the free trade zone Nicaraguans still transform fabrics shipped from the States into blue jeans and bras, which are shipped right back for sale in U.S. chain stores.

Nicaragua was a wealthy country by Central American standards until the revolution. It had a small population, loads of land and a varied economy, with coffee, cotton, beef, shellfish, sugar and bananas all contributing, in that order, to export earnings. The profits wound up in the hands of the Somoza family and his henchmen in the hated Guardia Civil.

Unlike the capital, the country bounced back quickly from the 1972 quake and by 1977 per capita income was $966—misdistributed. The revolution left 1979 income at $516. Unemployment today is 30 to 40 percent of the work force and inflation 40 percent yearly. The cordoba, devalued 43 percent in April 1979, is officially worth 10 to $1, but 18 to $1 can be had easily.

The junta, the nine-member Sandinista directorate and the 47-member State Council, a quasi-legislative group, admit free enterprise is needed to get the country on its feet.

William Baez, a Cornell-trained businessman, says, "It's most important for the private sector to be part of this game." Some Sandinistas "are Marxists, but some are very pragmatic," he says, and recognize private business is the best way to revive the economy.

Baez, 32, runs the Nicaraguan Development Foundation, which has created dozens of growers' and marketing cooperatives around the country.

"We now have the possibility of high growth with good distribution," he says. "Things must change here, but we can't copy the disastrous Cuban model. The problem is all the talk about the revolution. Lots has to be delivered because so much has been promised."

The big campaign now is "alphabetizacion," to teach the illiterate half of the populace how to read and write. College and high schools were closed in January and 100,000 youngsters sent to the countryside to teach. There are 23 lessons, and the campesinos—peasants—are about halfway through them. Progress in each province is recorded on a giant scoreboard on the Plaza de la Revolucion.

I'm at a cocktail party and notice a striking woman sitting alone on a patio step. Her name is Maritza B.; she's a secretary and mother of four.

"Is your husband in business?" I ask.

"No," she says, "he's in jail."

Her husband went to medical school, was entranced with Marxism, went to Moscow, returned and took part in the revolution. He was jailed last fall. He was too far left. Maritza says her husband will be freed in two months, and wants to go immediately to Mexico or Venezuela.

"I am not a Marxist," she says. "I am a Social Democrat. I believe in social justice, not Marxism."

She is on the verge of tears. "My husband is very domineering," she says. "I do not know if I can go on with him."

Politics and Machismo live side by side here.●

PLANNED SALUTE TO THE VA 50TH ANNIVERSARY, JULY 21

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. ROBERTS) is recognized for 5 minutes.

● Mr. ROBERTS. Mr. Speaker, as chairman of the House Committee on Veterans' Affairs, I would like to bring to the attention of my colleagues that Monday, July 21, 1980, marks the 50th anniversary of the Veterans' Administration as the sole Federal agency responsible for caring for the needs of the American veteran.

The ceremonies planned for that day in Washington and around the country will climax a year-long celebration recognizing a half century of dedicated service and humanitarian achievement by the VA.

To mark this occasion on Capitol Hill, Senator ALAN CRANSTON, chairman of the Senate Veterans' Affairs Committee, and I will sponsor an exhibit of photographs and displays detailing the history of veterans' programs in the United States, the development of the Veterans' Administration, and the present role of the agency in serving over 30 million veterans in our country today. The exhibit will be displayed in the rotunda of the Cannon House Office Building and will be on view for the general public, Members, and congressional staff from July 14 to July 25.

Also, on the 50th anniversary day itself, the House of Representatives closed-circuit television broadcasting system will air three films produced by the Veterans' Administration: "Foundation for Caring," "A Grateful Nation Remembers," and "Wherever We Find Them." The films, detailing the role and commitment of the Veterans' Administration will be aired on the House closed-circuit television system on channel 6 at 10 a.m., July 21.

I urge my colleagues to make note of these observances honoring this very significant milestone in public service. I would also like to submit for the RECORD a list of other activities marking the VA 50th anniversary in Washington during July and throughout the summer.

VETERANS' ADMINISTRATION 50TH ANNIVERSARY ACTIVITY SCHEDULE JULY 1980

1. Tuesday, July 15—8:00–9:15 P.M. Jefferson Memorial. U.S. Army Band Military Concert.

2. Sunday, July 20—9:15–9:45 A.M. Constitution Gardens on Constitution Avenue, N.W., Religious Service.

3. Monday, July 21—9:30–10:00 A.M. St. John's Episcopal Church, 1525 H Street, N.W. Commemorative Stamp Ceremony.

4. Monday, July 21—9:00 A.M.–4:00 P.M. VA Central Office, 810 Vermont Avenue, N.W., Commemorative Stamp First Day Issue Program.

5. Monday, July 21—10:30–11:45 A.M. Lafayette Park. Living Memorial Tree Dedication.

6. Tuesday, July 22—Labor Day. Pension Building, 440 G Street, N.W. VA Architectural Exhibit. "Building for Veterans."●

IMPROVE AIR TRAFFIC SAFETY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 15 minutes.

● Mr. GONZALEZ. The Subcommittee on Government Activities and Transportation, chaired by my good and able friend JOHN BURTON, has undertaken an important investigation of the Nation's air traffic control system. I hope that my colleagues will pay close attention to this investigation, for it reveals that our air traffic control system stands in the need of improvement. The number of controllers we have is not adequate, because there has not been enough staff added in the past few years. The vital computer equipment that makes the system function is all too often susceptible to breakdowns of varying lengths of time.

I believe that among other things, all near-misses involving aircraft should be independently reviewed and analyzed. Presently these incidents are reviewed by the FAA itself, and while those studies may be fine, it is assuredly likely that recommendations based on independent review are more likely to lead to action. If the National Transportation Safety Board were to conduct reviews of all near-misses and then to make public recommendations, we would have a better assurance that the FAA would take timely and effective action to improve its operations. I offered this suggestion to the subcommittee at its hearing today, and offer my statement for the RECORD.

STATEMENT OF U.S. REPRESENTATIVE HENRY B. GONZALEZ BEFORE THE SUBCOMMITTEE ON GOVERNMENT ACTIVITIES AND TRANSPORTATION, JUNE 30, 1980

I would be remiss if I did not begin by complimenting the Committee and the Chairman for your diligent interest in the question of air safety. It is true that air travel is relatively safe, but it is also true that nothing can be taken for granted. Where safety becomes a matter of luck, we are in trouble. In my judgment, air safety is now altogether too much a matter of luck.

Last week the National Academy of Science expressed great concern about the ability of the Federal Aviation Administration to keep up with aircraft technology. There is reason for this concern. The failure of an aircraft cargo door in Paris, several years ago, led to a tremendous loss of life. The failure of an engine mounting in our own country last year led to a similar tragedy costing 273 lives. This should have been ample warning that the FAA type certification program could have been, and may well be, less than adequate. The report of the distinguished technical panel last week ought to be warning enough: the FAA needs to seriously examine its own competence.

Your concern is with air traffic control, and for very good reason. This has been a matter of the greatest concern to me throughout all my years in Congress.

The worst accidents in aviation involve mid-air collisions. The only way to avoid these catastrophes is to have the most perfect traffic control system the mind of man can devise. The system we now have may not be up to its task. You are already well aware of near-misses on the ground, as aircraft land and take off on intersecting runways. There are more of these than most people think, and it is more a matter of providence than anything else that the Tenerife crash has not been repeated in our own country. You are well aware also of the increasing and unacceptable risk of collisions in the congested airspace near airports. Unless the traffic control system is improved there is no doubt whatever that catastrophic accidents will occur.

I want to emphasize at this point that I do not believe the growing risk of collisions is going to be eased by additional and more elaborate traffic rules. The FAA, in response to the San Diego tragedy, issued rules that tighten the control of airspace around all major airports. The creation of additional terminal control areas (or TCA does not address, let alone solve, the basic issue, which is the adequacy of the traffic control system—the hardware—rather than the adequacy of the rulebook. If the radars and computers are not adequate, the rulebook means nothing.

My personal concern about the adequacy of the FAA system dates back to 1962, when the then-Administrator, Najeeb Halaby, suddenly decided to relocate the almost and brand new San Antonio Air Route Traffic Control Center (ARTCC) to Houston. It was clear at the very outset that this move was made for political reasons: Houston happened to be the district of the newly elevated Chairman of the Appropriations Subcommittee that had jurisdiction over the FAA's appropriations. When I challenged the move and gave voluminous technical arguments to suport my case, Administrator Halaby dismissed me as merely "a freshman Congressman acting like a freshman."

I was persuaded, and still am, that the relocations of an ARTCC for political reasons is a dangerous business. I became alarmed that the whole traffic control system was subject to modification on political rather than purely technical grounds. I learned the hard way that safety is not always the thing uppermost in the minds of FAA administrators.

Today we have a situation in which the technical competence of the FAA is being questioned. We have a situation in which the adequacy of the traffic control system is also under question and subject to growing doubt. In this situation I am disappointed (but, regrettably, not surprised) to see that the FAA responds with either silence or denials. In my case, it is silence: I have tried without success since April to get substantive replies to questions I addressed to the present Administrator, Mr. Bond. My original inquiry was not answered, nor have my subsequent letters been answered. My last two letters have not, in fact, even been acknowledged. If you have no objection, Mr. Chairman, I offer these for the record.

I know that your immediate concern is the effectiveness of the ARTC radar and computer system. Let me review for the Committee an incident that shows your concern is very well warranted.

Last May 19, at approximately 12:55 P.M., there was a near-miss between a Braniff airliner and a privately-owned Cessna near San Antonio. The details of this incident are worth reviewing closely.

The weather was fair: about a 60% overcast. The ceiling that day was about 3200 feet. Since the time was about Noon, traffic near San Antonio was relatively light. The Cessna had taken off a few minutes earlier, made a turn and was climbing out. The Cessna was on visual flight rules and had declined Stage 3 service, as do about half the private pilots at San Antonio. Meanwhile, the Braniff was on final approach. The tower instructed the airliner to descend to 3000 feet. When the aircraft broke through the cloud cover, the flight engineer saw the Cessna directly in his flight path. He warned the pilot, who immediately took evasive action (a 30° left turn) and missed the Cessna by about 500 yards. There is no sign that the pilot of the private plane ever saw the Braniff aircraft.

The FAA has claimed that this near-miss would probably have been avoided if San Antonio were a terminal control area (TCA). In a TCA, all aircraft must be under positive control, which means that the Cessna pilot would not have been able to decline Stage 3 service, and so would have been on instrument rules instead of visual rules at the time of the incident.

The FAA also says that in this case the private plane was not observed on radar, which is why the Braniff pilot was not told that the Cessna was in his way.

In short, the FAA contradicts itself. Let me explain.

When a pilot declines Stage 3 service, it only means that the traffic controller has no obligation to warn that individual of traffic around him. It is up to that pilot to see and avoid other aircraft. But the FAA does have the duty to let IFR traffic know about all traffic in the area. Since the commercial plane was on IFR, as all such aircraft must be, the FAA had the clear obligation to tell the Braniff pilot where the Cessna was. This did not happen, and the FAA says that it did not happen because the private plane was not observed on radar. In short, the problem here was not, as the FAA put it, the absence of a TCA in San Antonio. The local rules did not have anything to do with the case. The real problem was that the FAA did not know, or did not report, the position of the Cessna to the pilot of the Braniff plane. Now how could this happen?

The FAA offers the speculation that the Cessna was obscured on its radar screens. They say that the target might have been covered up by alphanumerics (the designators that identify different aircraft on the screen). But if that was the case, the whole radar system is open to grave question. Alphanumerics are not supposed to be able to obscure radar targets; if they do, the whole usefulness of the radar is void. Therefore, if the target was covered up by the designators, we could have a first-class crisis on our hands, since blind radars are no radars at all.

Another possibility is that the operator simply did not see the target, and made a mistake. No one knows, and the FAA does not suggest that this happened.

A third possibility also not mentioned by the FAA is that the local radar was out at the time. I know for a fact that the San Antonio computers have been out at least twice in the last two weeks, so it is certainly a possibility that the system was not working at all on that particular day, or at that particular time. When you get computer failure, which is what we've been seeing in San Antonio, the radars can see targets but are not able to track them. This could very well have been the situation on May 19.

The question is, how to get to the bottom of this.

One way is to gain access to the records of the incident and have those records analyzed. Sadly, an analysis of the computer records would not reveal whether or not the Cessna was obscured by alphanumerics on the radar screen, because that is not part of the record. Neither will the computer tapes or voice tapes answer whether or not there was a mistake by the traffic controller; they might or might not answer that question. But the tapes would definitely show whether or not the system was working at the time of the incident, and that is a matter of the greatest moment.

In air traffic control, the rulebook is important. The rulebook means nothing, however, if there is not a working radar and computer system behind it all. How well that system works, and how often it is down, are questions that absolutely must be answered.

There are many incidents like the one I have just described to you. The question is how many, and how often do they happen, and why do they happen.

I do not believe that the FAA would willingly come to you and say that they've had frequent failures in their traffic control hardware. After all, to admit that would be to shed doubt on the safety of the system. The FAA is torn between two desires: to keep accidents from happening, and to keep public doubt from rising. But the only way to keep accident rates from building up is to admit system failures and be aggressive about correcting those problems.

I do not yet know exactly what happened in San Antonio on May 19. I am trying to get access to the voice and computer tapes that cover the incident, so that independent analyses can be done. An analysis of this type is more likely than anything else to show exactly what went wrong and what should be done about it.

I would recommend to you that as a matter of policy there should be an independent analysis done not just of air accidents, but near-misses as well. We all know that a postmortem of an accident can provide valuable lessons on what happened and why. I argue that a clear and independent analysis of a near-miss can also give us valuable, even crucial lessons. There is no need to wait until after the funeral to seek out problem areas and address them.

The National Transportation Safety Board performs an independent study of aircraft accidents. No one questions its competence nor its objectivity. I believe that as a matter of course the National Transportation Safety Board should analyze near-misses and provide, when it is appropriate, necessary safety recommendations.

I suggest this not because I don't trust the FAA, but because it needs the benefit of independent thinking. I do not see why the National Transportation Safety Board should have to wait until an accident happens to start doing its analytical work. What is really needed, to the extent we can get it done, is anticipatory analysis. This type of work can easily be done in the FAA traffic control system. Whenever there is a near-miss there is available a complete set of voice tapes that show what every involved party was saying at the time, which in turn shows with reasonable clarity what was happening at the time. In addition to that, there are computer records that show what the traffic control system was—or was not—doing at the time. These records are reliable and what is more important they can be subjected to a whole array of examinations and tests.

Independent and routine analyses of records covering near-misses would beyond any doubt shed great light on the adequacy of the FAA's traffic control system. It would beyond any doubt point clearly to weaknesses that need to be addressed. It would help the FAA do its job, help the Congress evaluate that job, and assure us all that weaknesses in the system are discovered and corrected before, and not after, accidents happen. Where we have the means—the Transportation Safety Board—and the capability—the records and analytical tools necessary, I am confident that we can greatly enhance the reliability of the traffic control system.

I also believe that this Committee should press its case. I believe that you are doing a genuine service by asking the questions that need to be raised. This is the only way to assure that we actually do have the best traffic control system that can be devised. In the realm of safety, it is not enough to rely on luck and hope. It is not enough to think that everything is as well as it can be. The only way to be certain of safety is to ask the hard questions and then act on the basis of your findings.

I commend you for your effort. I thank you for the opportunity to present my views.●

CZECHOSLOVAK NATIONAL COUNCIL OF AMERICA ENDORSES INCREASED MILITARY PREPAREDNESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, in Chicago recently for their biannual convention, the members of the Czechoslovak National Council of America approved a foreign policy statement which endorses "increasing, as soon as possible, the military strength and preparedness of the United States."

Not only in Afghanistan, but also in many other countries throughout the world, the Soviet Communists have made serious inroads, and I join the Czechoslovak National Council of America in their desire to keep us the strongest democracy on the face of the Earth in determined opposition to Russian totalitarianism wherever it rears its ugly head.

The full text of the foreign policy statement of the Czechoslovak National Council of America follows:

Czechoslovak National Council of America Foreign Policy Statement

1. The present-day situation in the world is defined by relations between two superpowers—the United States and the Soviet Union. In this encounter, the United States represents the positive values of liberty, human rights, peace, national self-determination, and economic progress.

Therefore, the United States must avoid anything which would hinder it from carrying out these ideals or would bind it to a morally-wrong toleration of national oppression or suppression of human rights. The United States must clearly proclaim these principles and disseminate them especially by means of modern mass media/radio, etc./. In its foreign policy the United States must distinguish between forciby imposed political leaders and the real will of the people.

2. We repudiate a foreign policy based on the continued recognition of the power sphere of interests of the Soviet Union in central and eastern Europe. This area is also a sphere of legitimate interests of the United States and western Europe.

3. In its relations with the Soviet Union, the United States has the moral obligation to uphold its ideals and to enforce the realization of human rights and the self-determination of the nations of central and eastern Europe. These human and national rights will be secured only through free elections which must be preceded by a withdrawal of the armies of occupation of the Soviet Union.

Central and eastern Europe is an area the nations of which are, culturally and historically, an organic part of the democratic world.

A free and integral Czechoslovakia is one of the foundation stones of such an organization of a future Europe.

4. The U.S. relations with the Soviet Union, whether called "détente" or by any other name, should not mean only concessions on our part to the Soviet Union. The Soviet Union should not be allowed to commit oppression and aggression, and to enjoy, at the same time, all the advantages of cooperation with the West. The United States must not permit the Soviet Union to take advantage of so-called "peaceful coexistence" to destroy the free world, as planned by communist ideology.

5. Economic strength by itself is not sufficient for the conduct of a foreign policy which the United States ought to follow. That requires unconditionally also military strength. We are, therefore, above all supporters of increasing, as soon as possible, the military strength and preparedness of the United States.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 5 minutes.

● Mr. DRINAN. Mr. Speaker, during the session of Thursday, June 26, 1980, I was necessarily absent from the House for a brief period during consideration of the Bauman amendment to the State, Justice, Commerce, judiciary, and related agencies appropriations bill for fiscal year 1981, H.R. 7584. Had I been present for rollcall No. 377, on approval of a 5-percent across-the-board appropriations reduction for the State Department, I would have voted "no."●

EXPLANATION AS TO VOTE

(Mr. DANIELSON asked and was given permission to extend his remarks at this point in the RECORD.)

● Mr. DANIELSON. Mr. Speaker, I was unable to be present on the floor of the House of Representatives for a number of rollcall votes on Wednesday, June 18; Thursday, June 19; and Friday, June 20, 1980. Had I been present, I would have voted as follows:

On rollcall No. 340, when the House approved the Journal of Tuesday, June 17, 1980, I would have voted "yea."

On rollcall No. 344, when the House agreed to an amendment to H.R. 7542, making supplemental appropriations for the fiscal year ending September 30, 1980, and rescinding certain budget authority, that provides up to $100 million for the President to provide assistance in the resettlement of foreign nationals who do not qualify for assistance under any other provision of law, but prohibits the use of funds to provide assistance to Cubans paroled into the United States after April 1, 1980, who have been found by an immigration officer to have been convicted felons or to be prostitutes or have engaged in prostitution, I would have voted "yea."

On rollcall No. 345, when the House passed H.R. 7542, making supplemental appropriations for the fiscal year ending September 30, 1980, and rescinding certain budget authority, I would have voted "yea."

On rollcall No. 346, when the House agreed to the conference report on S. 2698, to provide authorizations for the Small Business Administration, I would have voted "yea."

On rollcall No. 347, when the House rejected an amendment to H.R. 6418, to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of property, that sought to exempt from ICC regulation food or edible products or byproducts (except alcoholic beverages and drugs) intended for human consumption, I would have noted "nay."

On rollcall No. 348, when the House rejected an amendment to H.R. 6418 that sought to strike section 8 from the bill, I would have voted "nay."

On rollcall No. 349, when the House rejected an amendment to H.R. 6418 that sought to provide for a congressional veto of rules related to motor carriers of property promulgated by the ICC or the Department of Transportation, I would have voted "nay."

On rollcall No. 350, when the House passed H.R. 6418, to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of property, I would have voted "yea."

On rollcall No. 351, when the House approved the Journal of Thursday, June 19, 1980, I would have voted "yea."

On rollcall No. 352, when the House agreed to House Resolution 702, providing for the consideration of H.R. 6711, to extend the authorization of youth training and employment programs and improve such programs, to extend the authorization of the private sector initiative program, and to authorize intensive and remedial education programs for youths, I would have voted "yea."

On rollcall No. 353, when the House agreed to House Resolution 715, the rule waiving certain points of order against H.R. 7584, making appropriations for the Departments of States, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1981, I would have voted "yea."

On rollcall No. 354, when the House agreed to resolve itself into the Committee of the Whole for the consideration of H.R. 7584, I would have voted "yea."

On rollcall No. 356, when the House rejected an amendment to H.R. 7584 that sought to provide that not more than $1,000 of State Department funds for operating buildings abroad may be used to operate or maintain an embassy in Israel which is not located in the city of Jerusalem, I would have voted "nay."

On rollcall No. 358, when the House rejected an amendment to H.R. 7584 that sought to provide that no more than 90 percent of funds appropriated for the State Department shall be expended, except for any sums appropriated for the payment to the American Institute in Taiwan, "nay." ●

EDDIE ALBERT POINTS TO CRITICAL PROBLEM

(Mr. SIMON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. SIMON. Mr. Speaker, this Nation is blessed with a great many citizens who are not full-time in the work of their Government, but who are concerned about public policy.

One of those I have had the chance to work with in recent years is well known to the American public as an actor. He is Eddie Albert. He is less well known as someone who has deep concerns about what we are doing for food for this Nation and for the world for the next century. It is in that connection that I got to know Eddie Albert.

About a year ago he sent me a speech that he had delivered at a tree planting ceremony. I read it at the time and was impressed, and I have just reread it and I am taking the liberty of inserting it in the RECORD today, hoping that some of my colleagues in the House and Senate and others who read the CONGRESSIONAL RECORD will take the time to read this thoughtful analysis. It makes as much sense today as it did a year ago.

One of the things he suggests is that we should be planting trees. It is a very simple way of preserving our topsoil, keeping our air clean, making sure we have moisture, and improving the appearance of our countryside.

I hope to have some more specific suggestions to my colleagues in the House and Senate along that line in the near future.

I know that the CONGRESSIONAL RECORD gets loaded with a variety of articles of greater or lesser merit. This particular item, authored by Eddie Albert about an area of concern in which he has spent a great deal of time, merits your attention:

FROM A SPEECH AT A TREE PLANTING CEREMONY, JUNE 6, 1979

You'll be surprised when I tell you what I'm talking about. It's dirt, or what some people refer to as dirt. I call it topsoil. It's that precious razor-thin skin of earth that covers our earth in most places. It averages around eight inches in depth, on which the life, the health and the happiness of every human being on earth depends. Even you and me. Every morsel of food we eat; bread, meat, cereals, oatmeal, Big Macs, Alpo, Twinkies, carrots, peas, beans, fish, Kentucky Fried, Hersheys, bubblegum, tacos, popcorn; all of our clothes, cotton, wool, silk, nylon, buttons, shoes, cowboy boots, galoshes, ballet slippers, Adidas, joggers; our houses, timber, bricks, wallpaper, furniture, bedding, rugs, curtains, ropes, strings; records, files, books, magazines, newspapers, Bibles, ballots for voting, blueprints for building, books of medicine, agriculture, laws, science; marriage licenses, birth and death certificates, passports, divorce papers, paper money, stocks and bonds; fuel for transportation, getting us to work, to school, to church, to the grocery, to visit, to vacation, to find each other; to keep us warm or cool, and to cook our food; coal, oil, gas, kerosene, charcoal, kindling, the very oxygen we breathe, they all come from plants, trees and—that eight inches of topsoil!

When we arrived on this continent a few years back, our topsoil averaged around 18 inches in depth. With our intensive agricultural practices we have eroded it down to around eight inches. Eight inches of topsoil are left between us, starvation, and world disaster. When that eight inches goes, you and I go.

There are innumerable examples of civilizations which have already travelled this route. For thousands of years, rich, powerful empires, their kings and governments have sold off the sources of their wealth and power, their oil, trees, land, metals, other precious resources, in order to extract for themselves, dollars, votes and security. They didn't know any better. We do! Or—we had better learn it—fast!

Trees were the first to go. It always started with the trees. As the local populations grew, wood was needed for warmth and cooking, wood for lime burning, timber for housing. Solomon cut the famous Cedars of Lebanon for his great temples. Alexander and the others cut trees to build their warships. They sold trees for money for their treasuries. Rome deforested southern Europe from Spain to Palestine. The whole north of Africa was ripped off to plant more wheat for the expanding Roman population. Replanting was unheard of. When the trees were gone, the topsoil exposed to the rain and wind and sun lost its organic matter, its humus, its soil life, the spongy quality that gives the soil its ability to hold water through droughts. The soil dried out, became dead dust, and the next wind blew it away, or the next rain washed it down the river, and the land died.

The plants and trees could not survive the climate changed as the rain cycle slowed down with the deforestation, and the remaining trees expired. The wild grass that came was soon demolished by goats, who ate roots and all, and the once glorious lands of trees, lakes, rivers, cities, palaces, universities, families, artists, millions upon millions of healthy, working, creating, achieving people quietly blew away. Splendid civilizations collapsed, and are now visible only as footnotes in the history books, or a few fragments of pots on a museum shelf.

The cycle was always the same. Man comes, the trees go, the topsoil goes, the civilization goes, the desert comes.

Herodotus records, "One could walk across the north of Africa from the Atlantic to the Indian Ocean, always in the shade of trees." Today, desert sands, no trees, and famine stretch from the Atlantic to the Indian Ocean.

As I said, Egypt, Tunisia, Ethiopia, Algeria were once rich nations, granaries of wheat, cities, fine trees. No more. The rich, unprotected soil of Ethiopia has gone down the river and is now sliting up the Aswan Dam in Egypt. Egypt is 96% desert.

A few summers ago a quarter of a million people starved to death in Ethiopia. Four percent of the trees remain and the chainsaws are working on those, accelerating the dying of this once great country.

Plato lamented the loss of the topsoil of ancient Greece. "Our land, compared with what it was, is like the skeleton of a body wasted by disease, the soft parts are gone. All that remains is the bare carcass." Greece never recovered.

Homer, 3,500 years ago, said "There is an island called Crete. A fair, rich land, begirt with water, in the midst of the wine-dark sea. And in it are ninety cities, and many men, past counting." Not any more.

In Asia I looked down on an area that had once supported half a million people. Years ago it was covered with trees, houses, people, and today you see only coarse sand, gravel, and gullies. Thousands of gullies, caused by water erosion and deforestation, a wide, sickening expanse of gullies, stretching to the horizon, gashing and cutting the once rich farmland, their only harvest—dust and endless desert. Even the goats are gone. It was not a climate change that doomed these ancient civilizations, it was mismanagement of the land. I repeat, mismanagement of the land. We are following that path.

It takes centuries of the weathering of rocks to grow an inch of topsoil, and thousands, even millions of years to create a deep, fertile layer. On shallow sloping hillsides one great rainstorm can gash and guilly a slope down to bare rock in an hour. When nature's protective cover of plants and trees is cut down, or the carpet of grass with interlocking roots is cut open by the plow the destroying power of rain or wind is multiplied a thousand times.

In our western lands there are now over 200 million gullies advancing through the countryside like the long arms of an octopus. As these gullies eat their way across the fields, farmers, already desperate for land, continue to till what's left, right up to the very edge of the gully, feeding its progress across the countryside.

Even good land between the gullies is often lost because you can't get the big machinery in over the gullies. Some of these gullies today are miles long. One of them is pointing right at the heart of Tucson. We Americans are destroying our land a thousand times faster than any people who ever lived. Man, deforestation, soil erosion, abandonment is the cycle. Another word follows inevitably after "erosion". The word is "famine".

In Central Africa one group of parents recently implored a U.S. official not to send drugs when an epidemic of diphtheria broke out. It was better, they explained, for their children to die straight off than to suffer further from hunger, or to grow up with their minds stunted, and their spirit crippled by lingering malnutrition.

In India the trees have been stripped of leaves and twigs for food and charcoal. Newspapers carry nightmarish stories of entire families that have committed suicide to end the agony of slow death by starvation. The India press relates stories of distraught fathers drowning young children in the river to prevent the anguish of their starving.

Fifteen thousand children go blind each year from malnutrition.

Not long ago I remarked to my wife that a lot of people would be drowned in Bangladesh in five or six days. A week later she looked at me strangely and asked, "How did you know? The radio just announced that hundreds of people were drowned by floods in Bangladesh." I explained that a week before I had read that there were heavy monsoon rains in Nepal. Nepal is mountain country, and on the slopes the soil is very thin. When the trees which anchor that soil are cut down by the growing population, the unprotected soil can be washed down the hill in one storm. It takes about a week for the floods and silt to make the trip down the river to Bangladesh.

Millions of tons of eroded silt are carried down the rivers of the world and as the river slows down, the silt falls to the bottom, clogs up the center channel, the river floods over its banks, spreads out over the countryside, creating deep gullies, washing away farms, herds, villages, fathers, mothers and children.

A typical clipping: "One Thousand People Die in Monsoon Hit India." The Luni River overflowed its banks, 400,000 head of cattle gone, thousands of people and their houses gone, 100,000 acres of rice destroyed, etc."

Here's another clipping a little closer to home. "May 12, 1979, Grand Forks, N.D., Los Angeles Times. The flood of the century . . . Red River of the North . . . Thousands of acres of prime farmland destroyed . . . hundreds of homes in dozens of towns . . . Losses in No. Dakota, Canada, Minnesota, exceed 72 million . . . There is a small but growing number who suggest that this region may be contributing to its own destruction by developing and cultivating too much marginal land, and cutting too much forest."

Secretary Bergland of Agriculture states, "We are headed for disaster."

We have hundreds more of the Red River type of disaster standing by in our own country . . . the Atchafalaya River Basin, Louisiana, one of the most beautiful areas in America is drying up because of erosion and siltation. Like many other rivers the channel is clogged with eroded topsoil, the result of tree cutting and over-farming in the north. Unfortunately, the Basin is the key floodway for the Mississippi River. In case of heavy floods it must divert the dangerous floodwaters away from the populated centers of Baton Rouge, Lafayette and New Orleans to prevent the loss of life and property. With the silting up of the main channel, the river cannot be controlled. It seeks a way out by overflowing its banks, spreading over the countryside, digging gullies destroying thousands of acres, and spreading destruction.

Our population explosion is at the heart of our problem. We can't increase our food production as fast as our world population increases. Three new mouths to feed each second, 230,000 new mouths to feed each day. But with each passing day we have less land to work with. To meet this growing demand farmers are forced to put unbearable pressure on the soil, pressures our soil is unable to sustain.

Rotation of crops, wheat, soybeans, alfalfa, has been replaced by monoculture, (one-crop) corn, corn, corn, or wheat, wheat, wheat. Everyone knows this method will exhaust the organic matter, the life in the soil, and increase pest infestation, but people are hungry and the cash register is jingling. For every bushel of corn we harvest, we lost two bushels of topsoil. Topsoil is crucial to crop production, because it contains most of the organic matter, and the major share of nutrients required by the plants.

Terracing, and contour plowing, both water-holding and erosion-preventing practices are being dropped. The big new machines are too wide for terracing.

The use of large, heavy machines causes soil compaction. The pressure of the wheels hardens the soil so that air and water cannot penetrate and maintain the soil's organic health, which prevents erosion. In addition, this harder soil creates the need for larger, heavier tractors to pull the plows, resulting in more compaction, and more erosion. Compaction wastes water when the soil's hard surface permits the rainwater to rush off the hard surface into the soil by the vegetable cover. A 4-inch rain on organic, humus-rich topsoil causes little or no runoffs. One-half an inch of rain on humus-poor land can cause runoff, flooding and heavy erosion.

Allowing the soil to lie fallow for a season, to rest, to restore the erosion-slowing organic matter is disappearing. The need for food is increasing, the market is high, the bank loan is due, and the farmer finally has a chance to get even with the bank.

Because of the current high price for grain, there has been an appalling rush to put under cultivation millions of acres of the wrong land, marginal land we call it, and farm it in the worst, non-conservation way. By marginal we mean grassland, for example, meant only for grazing stock, or sloping land, or land with too little rainfall, requiring heavy irrigation. For example, ask any farmer how many crops he can get off steep land before he has to abandon it because of erosion, and he will reply, five or ten, perhaps twenty at the outside, and the topsoil is finished.

Three or four years ago we added around 9 million of such acres of marginal land, but less than half was put under good conservation practices. The following year we lost, through the resulting erosion, sixty million tons of rich, vital topsoil; gone forever—sixty million tons. Can you calculate how many starving children could live off that?

In the past thirty or forty years the heavy use of synthetic fertilizers, anhydrous ammonia, nitrates, pesticides and herbicides, DDT, etc. have doubled and tripled the yield of grain per acre, but at the expense of the organic matter in the soil.

After the Oklahoma Dust Bowl disaster in the thirties, a disaster that occurred because of cultivating "marginal" land, the government ordered trees to be planted, green belts that would slow down the eroding wind and protect the topsoil. Millions of trees were planted and for forty years the trees did their job of protection. However, when the high grain prices hit in 1973, the Secretary of Agriculture ordered the green belt trees cut down. "Plant fencerow to fencerow," he said, and down crashed the green belts.

"It was a short-sighted thing they did," said Professor Timmons of Iowa State, "but we got an exhortation from Washington to increase yields, so farmers went out and plowed up everything."

"Between '73 and '74, fifty-one million acres were taken out of the federally subsidized soil bank program and converted into cropland without soil preparation or good conservation practices. Soil losses from 50 to 200 tons per acre resulted." Now it's even ruined for grazing cattle. How many families will go hungry because of that loss? It will take twenty-five years to restore the green belts. In many areas all the topsoil will be blown away in that time.

When the marginal land lacks sufficient rainfall, the farmer must resort to irrigation. He often pumps up the ancient water from the underground pools. It took nature millions of years to fill these pools and we are emptying some of them in an eye-blink of time, faster than they can be recharged.

The Ogallala aquifer irrigates million of acres in Texas and neighboring states. Heavy pumping, I am told, has lowered the water table as much as 700 feet. Some of the wells around Lubbock have gone dry and land has been abandoned, left as potential desert. California has 6,000 new wells this year and the water table is dropping at the rate of 6 feet per month. In other words, the water pools are being mined, like coal. Eventually, they will be empty. It should be remembered that mining always ends in abandonment, and more desert.

Land between Phoenix and Tucson has dropped seven to twelve feet in some areas. In the Trans-Pecos area of Texas, water must be raised as much as 300 feet. Texans are consuming their children's water. Irrigation makes rich fathers but poor sons.

Los Angeles Times, November 3, 1979, "U.S. Water Crisis Seen in Five Years."

The cost is prohibitive. In Nebraska irrigation requires ten times the amount of fuel that is needed to till, plant, cultivate and harvest a crop. What will happen to this irrigated land when oil reaches $60 a barrel? It will be abandoned eventually as cropland and ruined as grazing land, because of salinization.

Irrigation often brings salinization (salt). In some irrigated areas a few feet below the surface, there is hard pan a layer of clay which prevents normal underground draining. Water, unable to trickle downward, soon builds up and waterlogs the soil, impairing root growth and settling in pools on the surface where it evaporates, leaving a layer of soil-destroying salt. The organic matter and humus die, the soil dies, the land is abandoned, useless, lost for centuries as a food producer of any kind. The whole middle-east has millions of acres of salt deserts covering what was once the land that gave birth to the human race, the Garden of Eden. The ruins of the once-great cities and palaces are still to be seen dotting the empty desert.

The U.S. Soil Conservation Service reports that the soil washed out and blown out of the fields of the U.S. each year would load a modern freight train long enough to reach around the world eighteen times. If it ran twenty miles an hour, continuously, it would take three years to pass your station. That amount is now being lost each year. How long? How long can you write your checks if you deposit nothing in the account?

Put it another way. Each day we are losing thirty one-hundred acre farms down the river, ten thousand farms a year, 15 tons of topsoil a second, a yearly loss of one ton for each person on earth.

Good flat farmland is also lost, being taken over for city development. We in the U.S. lose another two million acres yearly with the building of dams, oil refineries, strip mining, housing development, shopping centers, highways, parking lots, freeways, airfields, military uses, etc., etc., all good arable flatlands, necessary for food production, two million acres yearly.

Even recreational lands are suffering painfully. Armies of dune-buggies, ski-mobiles, motorcycles, by the tens of thousands, four-wheel drive vehicles, campers, motorhomes, and trailers, regularly descend on the desert areas, devastating the vegetation, compacting the soil, littering the streams, stirring up clouds of dust, setting fires, frightening and killing wildlife, killing the shrubs that hold the topsoil, and starting more soil erosion.

We are a wasting people. In 1970, I was in the midwest studying the corn blight. In a group of farmers I asked a man I hadn't met, "Are you a farmer?" He answered proudly, "I'll say. I've used up three farms." He spoke with pride that his energy, his hard work, and his yields had exhausted the soil of three farms. His friends nodded respectfully at his strength. We still think there is always more land to the west.

The United Nations estimates that it will take forty years and twenty billion dollars just to reclaim land lost to desert in the past 25 years.

We in America have lost about one third of our arable land since we arrived here. At the rate we are going we will lose another third in the next dozen or so years, while the population almost doubles. Today each acre feeds barely one person. At the turn of the century, twenty years from now, with the loss of acreage, and our increased population, not one, but three people will be trying to eat off each acre that's left. Our children are going to be very hungry.

When we haven't got quite enough food to go around, this is what happens. Out in Minnesota, Gary Paulsen puts it this way, "There is no surplus left. What that really means is that if a farmer loses his wheat crop, or even if his yield is just down slightly, or if he has to plow under his corn, or disease wipes out his cattle, or coyotes take a chunk out of his sheep—if any of those things happens—somebody, somewhere in the world will die; not just get sick, or feel a little lean after dinner, or have to cut back on supper—but die! It is that critical, that vital, that all-important."

In the recent weeks I have been in Peru, Colombia, Hong Kong, Mexico City, Manila, Malaysia, Kenya, and in each city I've seen tens of thousands of acres of shacks made from flattened kerosene cans and cardboard, millions of families with little food, water, no jobs, no sewage disposal, no medical care and no hope. In twenty years Mexico City and Tokyo will each have thirty million people. How will they get water? Where will the food be grown. How will it be delivered through the crowded streets? These people will not be mere numbers, statistics. They will be suffering babies, screaming children, weakened gasping mothers and fathers with no hope for the end of pain, but death. And each day, 230,000 more hungry mouths.

By 1930, the great topsoils of America which had enriched and sustained our American people had been thrashed, poisoned, pounded, over-grazed, over-cut, irrigated, waterlogged, salted, over-farmed, and overpopulated. The land was now ready for the great dust storms.

Here is a quote from the Oklahoma Extension News, January, 1928: "Five years ago there was not a gully on the place . . . now it is badly cut by gullies . . . all the soil washed away, leaving nothing but clay . . . if not terraced the gullies will cut deeper until the rocks are touched, or until all the clay soil is gone . . ."

Nature finally rebelled. In May, 1934, she made her first move. At that time I had left the wheatfields of Minnesota to become an actor in New York. One day New York awoke to find the city in darkness. Car headlights were on at noon. The town was choking with dust, wondering what had happened. The New York Times "cleared the air"; partly.

"New York obscured, Washington and East coast overhung with thick clouds of dust." That "dust" turned out to be the hard-won, family farms of Oklahoma, blowing through the high air all the way to the East coast to drown somewhere out in the Atlantic Ocean.

On May 11, 1934, 350 million tons of Oklahoma's tired topsoil, hit by a duster, exploded in huge clouds up into the transcontinental jet stream. Ships 300 miles out at sea were covered with Oklahoma. Twelve million tons hit Chicago alone. In Washington, D.C. dust particles seeped in through the windows and settled on the Congressional desks. Senator Gore observed, "The most tragic, the most impressive lobbyists ever to come to this capitol."

The big wind of May 11, 1934 carried away an estimated 350 million tons of topsoil from Oklahoma, Kansas and neighboring states. This one duster in one day took the equivalent of 3,500 one-hundred acre farms out of food production. The real victims were, as usual, the farmers, their wives, their children. They had spent 30 years trying to build a good life for themselves on land which should never have been cropped. Now they watched their lives blow away with their soil's fertility. Thirty years, but thousands of lifetimes down the drain. They pulled themselves together, shook the dust of their dead soil out of their hair, spit the dust of their dead farms out of their teeth, piled their kids into their old jalopies, and headed for California to pick fruit. Thousands of Okies from the Dust Bowl. When the soil goes—we go.

History records that this was responsible for the Soil Conservation Service being taken seriously, and the planting of the green belts. Incidentally, the first survey of the SCS showed already over 100,000,000 acres of our best cropland had been ruined for cultivation.

My father used to say, "We learn from history that we learn nothing from history." We are devout in pursuing the same suicidal behavior of exploitation of the land, deforestation, refusal to study the needs of our precious topsoil, and indifference to the health, the survival of our grandchildren, and our future generations.

What can we do? Fortunately, the road ahead, if we wish to travel it, is well charted. It is difficult, but well charted.

We can slow down the birth rate. You're all familiar with that problem. No need to repeat. We can stop our habit of waste and over-consumption. We can stop our waste of food. The food we throw away daily could feed over 100 million hungry people. We in the U.S. are about 6 percent of the world's population but we use up 38 percent of the world's energy and food.

When we look at that photo of our little earth, taken from the moon, the earth looks small and beautiful. It is, but it also looks lonely. It is. The nearest neighbor is light years away. We are all by ourselves, and there is only so much land, only so much water, oxygen, space, and that's it. There isn't ever going to be any more, and there is no place next door where we can go to borrow. We must learn to love and respect this beautiful earth, and learn to protect and conserve what we have left.

There isn't a whole lot of time. The eminent historian, Toynbee, who has spent a lifetime studying the birth and death of civilizations, puts it this way. He says, "I am not sure whether it is my daughter, or my grand daughter who will witness the death of this civilization."

Now, what can we do? What can ordinary folks, students, families, individuals do, who want to help; how can we contribute to the solution of a world problem that has been building up for centuries? That's not an easy question to answer. It's a job for nations working together. But let me make a small suggestion.

What about trees? Almost any of us can plant a tree. Your class and your school could plant hundreds of them, maybe thousands. What about your churches, your clubs, your scout troops? If we could start the ball rolling and publicize it well, we might start a real movement, vitally necessary, of tree planting. What about families planting a tree on anniversaries? Could we recycle our old tree-planting holiday?

What about fruit trees and nut trees to provide food for us, and pod trees, like the honey-locust, food for both man and beast; avocado, palm or coconut, to grow on poor agricultural land or sloping land, to hold the hillsides?

Let me tell you a little about a tree. First, the roots put a halt to that terrible problem of wind and rain erosion. And, did you know that three-fourths of the rain comes from the moisture exhaled by trees? By planting trees we could bring back rain in dry desert areas, turning them once again into fertile agricultural soil. Israel turned one of the worst deserts in the world into a land of milk and honey. Using water from the Sea of Galilee, they now grow roses for the Amsterdam market, and oranges, apricots and avocados and winter vegetables for Europe. Their greenhouses are plastic domes that use 1/20 of the water and 1/10 of the area. They also use plastic as a covering, a mulch, to protect the soil. With powerful hoses they spray the desert sand with a light film of oil which forms a thin crust that holds the soil and in which they plant their trees. Where there was once a desert, six years later they have a forest of tamarisk trees. Where their water is too salty, they breed salt-tolerant crops.

And if you are into solar energy, the tree is, far and away, the most efficient solar engine ever devised, and the leaf is the most efficient photovoltaic cell, and the finest storage battery.

Cattle have a hard time in the deserts, camels love it. So they are trying to breed a good-tasting camel. They have already crossed a goat with a desert-loving Ibex. They call it a goabex. Deserts can be reclaimed. It can be done.

There are moments in the history of the world when a new time begins. Usually it's at a time of desperate crises. We are at such a moment of great change in our history, and we must be aware of it. We have a choice. We can stand off and let history repeat itself and watch the death of our hard-earned country; or we can pull ourselves together, go into action and solve the problems of food and soil. We have the know-how, the technology. We need discipline and courage, both good American words, but we also need a new awareness and greater vision.

There is a specific moment which we can look to as the beginning of this new Age of Awareness. Do you remember the first time you saw the photograph of the earth from space? That was the moment, the Apollo shot. We can never be the same. That photograph showed us that this earth is our home, that we are indeed one family, that we are in this together and we have a fight on our hands. We know that there is enough for everyone's needs, but not for everyone's greed. We must use our knowledge now for the survival of the human family.

Our task is—to rebuild the earth.●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. AuCoin) to revise and extend their remarks and include extraneous material:)

Mr. Alexander, for 10 minutes, today.

Mr. Roberts, for 5 minutes, today.

Mr. Gonzalez, for 15 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Drinan, for 5 minutes, today.

Mr. Stratton, for 60 minutes, on July 23.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Simon, and to include extraneous material notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $1,179.

Mr. Florio, to insert a letter directed to him from the chairman of the Interstate and Foreign Commerce Committee.

(The following Members (at the request of Mr. Lee) and to include extraneous matter:)

Mr. Gradison.

Mr. Kemp in two instances.

Mr. Roth.

Mr. Kindness.

Mr. Gilman.

Mr. Frenzel.

Mr. Coughlin.

Mr. Findley.

Mr. Collins of Texas in two instances.

(The following Members (at the request of Mr. AuCoin) and to include extraneous matter:)

Mr. Vento.

Mr. Corrada in 10 instances.

Mr. Anderson of California in 10 instances.

Mr. Gonzalez in 10 instances.

Mr. Rosenthal in 10 instances.

Mr. Brown of California in 10 instances.

Mr. Annunzio in six instances.

Ms. Holtzman in 10 instances.

Mr. Jones of Tennessee in 10 instances.

Mr. Boner of Tennessee in five instances.

Mr. Aspin.

Ms. Schroeder.

Mr. Nelson.

Mr. Ertel.

Mr. Stark.

Mr. Fascell.

Mr. Skelton.

Mr. Applegate.

Mr. AuCoin in two instances.

Mr. Hall of Texas.

Mr. Swift.

Mr. Yatron.

Mr. Heftel.

Mr. Dingell.

SENATE CONCURRENT RESOLUTION REFERRED

A concurrent resolution of the Senate of the following titles was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 80. Concurrent resolution to proclaim February as "National Snowmobiling Month"; to the Committee on Post Office and Civil Service.

SENATE ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled bills and joint resolutions of the Senate of the following titles:

S. 598. An act to clarify the circumstances under which territorial provisions in licenses to manufacture, distribute, and sell trademarked soft drink products are lawful under the antitrust laws;

S. 2546. An act to authorize the Secretary of the Interior to design and construct a gunite lining on certain reaches of the Bessemer Ditch in the vicinity of Pueblo, Colo., to prevent or reduce seepage damage on adjacent properties, and for other purposes;

S.J. Res. 115. Joint resolution designating July 1980 as "National Porcelain Art Month"; and

S.J. Res. 188. Joint resolution extending the reporting date of the National Commission on Air Quality.

ENROLLED BILLS SIGNED

Mr. NEDZI, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 7685. An act to amend title IV of the Employee Retirement Income Security Act of 1974 to postpone for one month the date on which the corporation must pay benefits under terminated multiemployer plans.

ADJOURNMENT

Mr. AuCOIN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 45 minutes p.m.), the House adjourned until tomorrow, Tuesday, July 1, 1980, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4722. A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting a report that the appropriations to the Department of Justice, Immigration and Naturalization Service and the U.S. attorneys and marshals for fiscal year 1980 have been reapportioned on a basis which indicates a need for further supplemental appropriations, pursuant to section 3679(e)(2) of the Revised Statutes, as amended; to the Committee on Appropriations.

4723. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on loan, guarantee, and insurance transactions supported by Eximbank during May 1980 to Communist countries; to the Committee on Banking, Finance and Urban Affairs.

4724. A letter from the Acting Comptroller General of the United States, transmitting a report on the impact of eliminating the States from the general revenue sharing program (GGD–80–63, June 27, 1980); to the Committee on Government Operations.

4725. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting a quarterly report for the period January through March 1980 on imports of crude oil, residual fuel oil, refined petroleum products, natural gas, and coal; reserves and production of crude oil, natural gas, and coal; refinery activities; and inventories; together with data on exploratory activity, exports, nuclear energy, and electric power, pursuant to section 11(c)(2) of the Energy Supply and Environmental Coordination Act of 1974; to the Committee on Interstate and Foreign Commerce.

4726. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend the Fishery Conservation and Management Act of 1976 to provide for representation of the Northern Mariana Islands, and for other purposes; to the Committee on Merchant Marine and Fisheries.

4727. A letter from the Secretary of the Interior, transmitting a report on financial disclosures for calendar year 1979 by employees performing functions under the Energy Policy and Conservation Act, the Mining in the Parks Act, the Federal Land Policy and Management Act of 1976, and the Outer Continental Shelf Lands Act Amendments of 1978, pursuant to sections 522(b)(2), 13(b)(2), 313(b)(2), and 605(b)(2) of the respective acts; to the Committee on Post Office and Civil Service.

4728. A letter from the Acting Comptroller General of the United States, transmitting an evaluation of Defense Department and Vendor comments on the GAO report on the worldwide military command and control system (LCD–80–22A, June 30, 1980); jointly, to the Committees on Government Operations, and Armed Services.

4729. A letter from the Acting Comptroller General of the United States, transmitting a report on Federal assistant to rehabilitate railroads (CED–80–90, June 27, 1980); jointly, to the Committees on Government Operations and Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FOLEY: Committee on Agriculture. H.R. 5341. A bill to provide for the wilderness designation of certain lands within the Ocala National Forest, the Osceola National Forest, and the Apalachicola National Forest, and for other purposes; with amendments (Rept. No. 96–1088, pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. H.R. 7664. A bill to amend the National School Lunch Act and the Child Nutrition Act of 1966 to extend the authorizations of appropriations contained in such acts, and for other purposes (Rept. No. 96–1143). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HEFNER (by request):

H.R. 7696. A bill to amend the Post-Vietnam Era Veterans' Educational Assistance Act of 1977 to improve participation; to the Committee on Veterans' Affairs.

By Mr. KINDNESS:

H.R. 7697. A bill to amend the State and Local Fiscal Assistance Act of 1972 and the Internal Revenue Code of 1954 to replace the general revenue sharing program with individual income tax credits for State and local taxes; jointly, to the Committees on Government Operations and Ways and Means.

By Mr. FASCELL:

H. Con. Res. 377. Concurrent resolution stating that the Committee on Post Office and Civil Service of the House of Representatives and the Committee on Governmental Affairs of the Senate should make every effort to develop legislative proposals which maintain the cost-of-living adjustment for Federal retirees; to the Committee on Post Office and Civil Service.

By Mr. HEFTEL (for himself, Mr. Blanchard, Mr. Brodhead, and Mr. Traxler):

H.J. Res. 580. Joint resolution directing the President to enter into a marketing agreement to restrain imports of Japanese automobiles and trucks; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolution were introduced and severally referred as follows:

Mr. SANTINI presented a bill (H.R. 7698) for the relief of two mining claimants, which was referred to the Committee on Interior and Insular Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 154: Mr. Sebelius.

H.R. 1180: Mr. Dickinson, Mr. Hinson, Mr. Goldwater, Mr. Dougherty, Mr. Lent, Mr. Taylor, Mr. Hansen, and Mr. Burgener.

H.R. 5060: Mr. Hutto and Mr. Downey.

H.R. 7287: Mr. Marks.

H.R. 7307: Mr. Hansen.

H.R. 7482: Mrs. Smith of Nebraska.

H.R. 7625: Mr. Bowen, Mr. Montgomery, Mr. Jenkins, Mr. Lott, Mr. Mathis, Mr. Ginn, Mr. Levitas, Mr. Gramm, Mr. Evans of Georgia, Mr. Fascell, Mr. Gibbons, Mr. Pepper, Mr. Butler, Mr. Chappell, Mr. Hinson, Mr. Tauzin, Mr. Gonzalez, Mr. Hutto, Mr. Leach of Louisiana, and Mr. Ireland.

H. Res. 689: Mr. Bailey, Mr. Beard of Rhode Island, Mr. Bowen, Mr. Brodhead, Mr. Buchanan, Mr. Burgener, Mr. John L. Burton, Mr. Carr, Mrs. Chisholm, Mr. Coelho, Mr. Coleman, Mr. Conyers, Mr. Dodd, Mr. Dougherty, Mr. Erdahl, Mr. Ertel, Mr. Fauntroy, Mr. Ford of Michigan, Mr. Frenzel, Mr. Goodling, Mr. Gray, Mr. Hance, Mr. Hawkins, Mr. Hinson, Mr. Hollenbeck, Mr. Hyde, Mr. Jenkins, Mr. Johnson of California, Mr. Kogovsek, Mr. Leach of Iowa, Mr. Lewis, Mr. Long of Maryland, Mr. Lott, Mr. Lowry, Mr. Maguire, Mr. Markey, Mr. Marriott, Ms. Mikulski, Mr. Mineta, Mr. Minish, Mr. Moakley, Mr. Mollohan, Mr. Murphy of Pennsylvania, Mr. Patten, Mr. Pepper, Mr. Perkins, Mr. Price, Mr. Pursell, Mr. Quayle, Mr. Richmond, Mr. Rodino, Mr. Royer, Mr. Sabo, Mr. Santini, Mrs. Spellman, Mr. Snyder, Mr. Stump, Mr. Weaver, Mr. Weiss, Mr. Whitehurst, Mr. Williams of Montana, Mr. Wirth, Mr. Young of Alaska, and Mr. Young of Missouri.

H. Res. 709: Mr. Conte.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 7235

By Mr. LONG of Louisiana:

—On page 118, line 22, strike the words "is not necessary to carry out" and insert in lieu thereof the following: "is contrary to or otherwise conflicts with".

—On page 119, line 1, strike the words "is not needed to protect" and insert in lieu thereof the following: "makes no contribution to the protection of".

—On page 122, line 21, strike the word "Commission." and insert in lieu thereof the following: "Commission, and so long as the business solicitation or entertainment expense incurred bears a reasonable relation to the value of the business sought to be obtained by means of such expenditure.".

H.R. 7584

By Mr. HARRIS:

—Page 43, after line 5, insert the following:

Sec. 605. No more than an amount equal to 20 percent of the total funds appropriated under this Act for any agency for any fiscal year and apportioned to such agency pursuant to section 3679 of the Revised Statutes of the United States (31 U.S.C. 665) may be obligated during the last two months of such fiscal year.

H.R. 7591

By Mr. HARRIS:

—Page 51, after line 26 add the following:

Sec. 612. No more than an amount equal to 20 percent of the total funds appropriated under this Act for any agency for any fiscal year and apportioned to such agency pursuant to section 3679 of the Revised Statutes of the United States (31 U.S.C. 665) may be obligated during the last two months of such fiscal year.

H.R. 7631

By Mr. HARRIS:

—Page 45, after line 23, insert the following:

Sec. 411. No more than an amount equal to 20 percent of the total funds appropriated under this Act for any agency for any fiscal year and apportioned to such agency pursuant to section 3679 of the Revised Statutes of the United States (31 U.S.C. 665) may be obligated during the last two months of such fiscal year.

SENATE—*Monday, June 30, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by Hon. HOWELL HEFLIN, a Senator from the State of Alabama.

PRAYER

The Reverend Dr. James David Ford, Chaplain, U.S. House of Representatives, offered the following prayer:

Let us pray.

O Lord, we come into Thy presence with expectant hearts, knowing of the power that belongs to Thy spirit, and the transforming grace that can make a difference in our lives. We thank Thee that we can be lifted up and strengthened for our daily tasks and we praise Thee for the way our minds are illumined and our courage challenged. We would renew ourselves in loyalty to Thee in this hour, and grant that we may so receive Thy blessing that we may be given greater enthusiasm for Thy kingdom and so serve the people with justice and truth. This we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 30, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HOWELL HEFLIN, a Senator from the State of Alabama, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. HEFLIN thereupon assumed the chair as Acting President pro tempore.

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized for not to exceed 5 minutes.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I yield 2 minutes to Mr. PROXMIRE.

SYMBOL OF RESISTANCE

Mr. PROXMIRE. Mr. President, the crematoria were only the last brutal stage of Nazi Germany's genocide policy. Before the massive slaughters began, the Third Reich humiliated and disgraced the Jewish people.

It was March 4, 1942. The Third Reich was searching for a way to identify Jews for scorn and abuse. Adolph Eichmann, Hitler's henchman, issued an order. All Jews in occupied countries would wear the Star of David.

But his vicious plan backfired. In France, Parisians exchanged kisses with the wearers of the Star, and offered them seats in public vehicles. In Czechoslovakia, Jews were treated as heroes. Hubert Ripka announced over the BBC:

> Today the Germans have designated you publicly by a mark of shame. The yellow star is a mark of honor which all decent people will respect. Jewish friends, do not hide your identity: Be proud of it.

Intended to be a badge of derision, it became a symbol of endurance.

Intended to break Jewish spirits, it became a symbol of resistance.

Mr. President, the Star of David was intended by the Nazis to be a negative sign. Instead it became a positive sign.

The Genocide Convention is intended to be more than a sign. It is a working document to outlaw and to punish the crime of genocide.

The United States should be a leader in the formulation of international human rights. Instead we are behind 83 other countries on this important matter.

I urge the ratification of this treaty.

SENATOR McGOVERN PINPOINTS OPERATION AND MAINTENANCE PROBLEMS IN U.S. MILITARY—OFFERS SOLUTIONS

Mr. PROXMIRE. Mr. President, recently, the Senator from South Dakota (Mr. MCGOVERN) published a thoughtful and well-received article in the New York Times dealing with the military budget. The article was so perceptive that Walter Cronkite prepared a special commentary on it for the CBS radio network.

What Senator MCGOVERN pointed out was that the current readiness problems facing the U.S. military machine are caused in large measure by the political choices made in the budget process. The more glamorous high-visibility items, such as aircraft and ships, dominate over the less graphic but equally important operation and maintenance issues.

Few have been perceptive enough to argue this position. It is easy to support a new tactical fighter procurement or even a pay raise for military personnel. It is more difficult and less rewarding politically to spend time examining the operation and maintenance accounts, as has the Senator from South Dakota.

An army does not move without fuel. It does not move far without proper maintenance. It will not operate long without a logistics base properly funded and at the highest level of readiness.

We all need to pay heed to the warnings of Senator MCGOVERN if we want an effective fighting force at a price we can afford to pay. The path he recommends may be less glamorous, but it is the only wise policy to follow in a time of harsh international realities.

Mr. President, I ask unanimous consent that the Walter Cronkite report and the New York Times article by the Senator from South Dakota be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WALTER CRONKITE REPORTING

WALTER CRONKITE. This is Walter Cronkite reporting, with news and commentary, on the CBS Radio Network.

As it often has in the past, defense spending has become one of the hotter items in the battle of the budget, but in this political year there is a growing sense that more than just the number of defense dollars needs to be debated, that perhaps it is time for a serious look at the philosophy behind our military appropriations and the way the money is spent. Two prominent Democrats have touched on the principal themes for such a debate, appropriately, just as their party prepares to hold its 1980 platform hearings.

In an article in todays New York Times, Senator George McGovern of South Dakota asks why a trillion dollars spent for defense since the end of World War II has left us with a military force in serious disrepair. The short answer, says McGovern, is that new expenditures always seem to go for buying more sophisticated and expensive weapons, and very little goes for maintaining what we already have bought. The results are helicopters that break down, aircraft grounded for lack of spare parts, and pilots and technicians leaving for better pay in civilian life. But McGovern finds a deeper cause. It lies, he says, in the politicizing of the military budget, treating it as a symbol of our national resolve. Higher military spending is urged, he says, not to carry out specific missions, but to send diplomatic signals to friends and adversaries that we intend to remain an assertive global power.

McGovern argues that buying another aircraft carrier is a satisfying way to send a signal; buying spare parts is not. Another result of budget symbolism, says McGovern, is that it leads to inflated expectations of the capacity of military force to shape decisions and influence conflicts in the world. We end up, he argues, with the worst of both worlds, an inoperable military force of which we have unrealistic political expectations.

Last week, former Secretary of State Cyrus Vance struck similar chords, addressing the graduating class at Harvard. He warned of

---

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

what he called the dangerous fallacy of the military solution to non-military problems, a fallacy, said Vance, which arises in particularly acute form at times of frustration. He warned that military power is a basis, not a substitute, for diplomacy. Vance was less worried about spare parts than he was about the tendency of defense increases to displace foreign assistance programs, which can be of crucial importance to diplomacy. Both Democrats are concerned about the impact of a rising defense budget on domestic programs and on efforts to rebuild the national economy. But, again, the argument made by the senator and the diplomat is not simply directed at the size of military expenditures, but at the why and the how of the spending, as well.

McGovern and Vance have raised the question whether America's total power, diplomatic and economic, as well as military, might not, in fact, be weakened in an emotional rush to find more money for the Pentagon. There can't be many questions the answers to which are more important, as we pick the nation's leadership for another four years.

This is Walter Cronkite reporting for CBS News.

[From the New York Times, June 10, 1980]

ON THE MILITARY BUDGET

(By GEORGE MCGOVERN)

WASHINGTON.—The failure of the United States rescue mission in Iran highlighted shortcomings in the country's military operational capabilities. Yet the recent military-budget debate in the Congress has shed little light on the underlying reasons why spending over $1 trillion on defense since the end of World War II has left us with helicopters that break down, fighter aircraft grounded for lack of spare parts, and experienced military technicians leaving for more rewarding jobs in civilian industry.

The military-readiness problem is real. The commander of the Atlantic Fleet Naval Air Force, Vice Admiral George Kinnear II, admits that 47 percent of his first-line F-14 fighters are not certified to fly peacetime missions because they are awaiting repairs.

In a recent visit to Ellsworth Air Force Base in South Dakota, one of the most important Strategic Air Command bases in the country, I saw crumbling taxiways, poor housing, obsolete service vehicles, and uninsulated hangers so cold in winter that the mechanics must repair America's most advanced strategic weapons with numbed hands.

There is a growing consensus that readiness problems exist not because we spend too little on defense but because we don't spend the existing huge budget wisely. Instead of stressing a lean and ready defense structure, the defense budget overemphasizes procurement of highly complicated new weapon systems. For example, in 1983, the Air Force will spend twice as much as it did in 1975 to purchase new tactical aircraft, but the operating account for repairing the planes in 1983 will be the same in inflation-adjusted dollars as it was in 1975.

Why haven't we spent enough to maintain our existing hardware or to retain qualified military personnel? Is it because, as Gen. David C. Jones, Chairman of the Joint Chiefs of Staff, and Senator John Culver have suggested, there is no constituency for military readiness? These basic questions must be addressed or else we will spend the $1 trillion budgeted for defense for the next five years and end up where we are now.

The readiness dilemma is caused largely by the politicizing of the military budget that has occurred since the end of the Vietnam War. The military budget has evolved into a barometer of our post-Vietnam intentions in the world. Higher and higher military spending is proposed not to carry out specific missions or to buy particular weapons but rather to send diplomatic signals to friends and adversaries that we intend to remain an assertive global power: If 3 percent real growth isn't sufficient to prove this point, then 5 percent must be!

Treating the military budget as a symbol of our foreign policy causes two distortions.

First, it divorces spending decisions from realistic military planning. Voting to buy another aircraft carrier or a World War II battleship is a satisfying way to send a signal, but no new capability is added if there are not enough spare parts and mechanics to keep it running. Conversely, the type of spending that improves readiness in the short run—overhauls, training, spare parts—is considered too "mundane" to exert any influence on foreign policy. Who wants to "send a signal to the Russians" by buying more spare parts? Budget symbolism thus ignores the axiom that more dollars do not automatically buy more defense.

The second danger is that symbolic budgeting leads to inflated expectations of the capacity of military force to shape decisions and influence conflicts in the world. Once the military budget is viewed as the barometer of our world standing, then every frustration we face—whether Iran, the Organization of Petroleum Exporting Countries, Afghanistan, allied solidarity—is erroneously traced back to military causation. As a result, the military budget is expected to deter not just a finite set of hostile military threats but also a broad range of political and economic decisions by other countries as well.

Our political power in the world is changing and our frustrations are growing, but not because of insufficient military power. Political events have political and economic causes as well as military ones. Many of the political upheavals and tensions of our time stem from the breakup of colonialism and the emergence of scores of new nations since World War II. These new nations are seeking their own place in the world—not subordination to the superpowers. Yet these forces are ignored in the rush to buy new weapons to influence perceptions even as we leave the old weapons sitting dead in their hangars.

By using the military budget as the primary instrument for sending diplomatic signals, we end up with the worst of both worlds: an inoperable military force and an unrealistic view of the ability of military power to deter political events. Our readiness problems, therefore, are the logical outcome of the way we have been approaching the budget.

I offer two recommendations to solve the readiness problem.

First and most obviously, the readiness-budget accounts should be increased. Weapons maintenance and military pay must receive a greater share of the defense assets to extract the greatest potential from the existing force structure even if this means foregoing the latest Star Wars gadgetry. The second change is most difficult: We must discard our faulty conception of the military budget as a barometer of intentions and return to a more finite concept of military deterrence as the military's primary mission. This requires foregoing the empty symbolic debate on abstract budget increases and turning instead to utilizing the military budget to strengthen actual military capability while we look to a more realistic mix of military, diplomatic and economic policies to secure our vital interests in the world.

THE MILITARY PROCUREMENT AUTHORIZATION BILL

Mr. PROXMIRE. Mr. President, today, we take up one of the most important measures we shall consider all year, the military procurement authorization bill. It is one which I think is essential for the safety of our country. It is one which I think is much too high, although in some respects, I think it ought to be higher. At any rate, I hope that Senators will recognize that this is just as important as, in fact more important, as far as fiscal responsibility, balancing the budget, fighting inflation, than any measure that comes before the Senate. There is a tendency for many of us to suspend judgment when it comes to defense. We criticize housing, mass transit, education, food stamps, we criticize many domestic programs on the grounds that they are inflationary, cost too much, or unbalance the budget. And we should. When it comes to national defense, however, that is something else, forget it; we do not talk about the effect on the economy.

Mr. President, the fact is we do need a strong military force. The fact is also, however, that defense expenditures provide fewer jobs for the money that is required than any other expenditure we have and they are the most inflationary, because they provide for no economic want, unlike most all the other programs—housing programs or other programs of the Federal Government. For that reason, Mr. President, I hope we are very careful and critical to see that we authorize all the funds required but not one nickel more.

For that reason, Mr. President, I expect to be on the floor as much as possible to ask for rollcalls on all measures affecting spending. I hope we can end up with a product which is considerably more moderate as far as spending is concerned and more effective as far as defense is concerned than the bill that came before the committee.

Mr. President, I yield the floor.

ORDER TO RESERVE MINORITY LEADER'S TIME

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the acting minority leader's time be reserved until after the special order.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the remainder of my time be utilized for routine morning business; and I ask that Senators may speak therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. PROXMIRE). Is there further morning business? If not, morning business is closed.

RECOGNITION OF SENATOR HEFLIN

The PRESIDING OFFICER. Under the previous order, the Senator from Alabama (Mr. HEFLIN) is recognized for not to exceed 15 minutes.

THE RUSSIAN CHEMICAL WARFARE MENACE

Mr. HEFLIN. Mr. President, on a recent trip to my home State of Alabama, I went to Fort McClellan at Anniston, Ala., which serves as the free world's "think tank" for chemical warfare. While I was there, I received a classified briefing on the present situation concerning our chemical warfare capabilities and those capabilities of other countries throughout the world.

I was particularly concerned with the status of our chemical warfare capabilities as compared to that of the Soviet Union. Although my remarks contain no classified information, I wish to inform my colleagues of the present Soviet threat and incite them to take the actions necessary to counter that threat. I strongly suggest that each Member obtain a classified briefing by someone at DOD to fill in the gaps I leave.

The threat of the Soviet Union's capability and propensity to use chemical weapons is being confirmed by the recent allegations and growing evidence that the Soviet Union and its allies have used chemical warfare against the peoples of Yemen, Laos, Cambodia, and most recently, Afghanistan.

Although the Soviet Union is a signatory to the Geneva Protocol of 1925, which prohibits wartime use of "asphyxiating, poisonous or other gases, and all other analogous liquids, materials, or devices," the Soviet Union included a reservation that declared the protocol would not apply to countries which had not ratified the protocol. Presumably, to keep the Soviets from further using their abhorrent chemical weapons in Yemen, the Yemen Government finally ratified the Geneva Protocol on March 17, 1971.

As Laos, Cambodia, and Afghanistan all failed to ratify the Geneva Protocol, the Soviets seem to have found it convenient to continue using lethal chemical agents on insurgents in those three countries who have been fighting to keep from being overrun by Communist government forces. Reports of the Soviet's use of chemical weapons prove to me, and I hope to the rest of the Senate, that the Soviet Union does not share the aversion of the rest of the civilized world to the use of chemical warfare.

Although we have not yet obtained pure chemical samples, evidence mounts that the Soviets have developed new compounds of lethal chemical killing agents. These new agents of death known as "supertoxins" are being used to exterminate pockets of resistance in Afghanistan, as well as Laos and Cambodia. We have known for a long time that Soviet chemical warfare stockpiles contained large quantities of the nerve gas called Soman, or agent GO, which causes violent convulsions followed by quick death.

The U.S. arsenal includes diminishing quantities of a similar nerve gas agent called Sarin, or agent GB. However, the effects of the Soviet's chemical agents being used in Indochina and Afghanistan are dramatically different from those produced by Soman nerve gas, or any other known chemical warfare agent.

Pentagon and State Department sources have confirmed that the widespread reports of extraordinary chemically induced deaths in Afghanistan have the same medical characteristics as the reports from the remote parts of Indochina. Dr. Charles W. Lewis of the Brooke Army Medical Center at Fort Sam Houston in San Antonio, Tex., extensively interviewed many Laotian refugees who claimed that they had escaped from areas which had been sprayed with chemicals from Soviet-backed Vietnamese and Laotian air force planes.

In his report which has now been declassified, Dr. Lewis stated that the refugees accurately described the symptoms of nonlethal incapacitants and riot control agents which were dropped on their villages. They also gave medically accurate descriptions of deaths caused by lethal agents. The descriptions included convulsions, massive hemorrhaging, external blistering, and other symptoms which Dr. Lewis called "extreme medical rarities."

One refugee testified that he and other survivors of a chemical warfare attack were captured by Communist troops wearing gas masks and protective suits (clothing). Their captors then gave them various injections which they thought to be antidotes. Instead of recovering, one of the captives turned black. His body was consumed with blisters, and he died. The others suffered different effects, but they eventually recovered and were released.

Dr. Lewis concluded that Soman might have caused the convulsion, but he believed that the other fatal symtoms were caused by some form of sophisticated internal hemorrhaging agent and blistering agent known medically as "supertoxins." Refugees from Cambodia and Afghanistan have rendered medically identical reports to those from Laos. The Soviet Union seems to have developed an entirely new "super poison" which they are cruelly testing on the peoples of Afghanistan, Laos, and Cambodia. They may even be using some of the people they have poisoned as guinea pigs to test their antidotes.

These Soviet supertoxins are probably synthetic laboratory products which can be produced and deployed on a massive scale. If the Soviets have such capabilities, then our security position is critical. Yet, even if the Soviets have no such supertoxin, the known chemical warfare capacity of the Soviet Union still poses an ominous threat to the United States and our allies.

Gen. David C. Jones, the Chairman of our Joint Chiefs of Staff, officially admitted in his U.S. military posture for fiscal year 1980 that—and I quote:

> The Soviets have the world's most fully trained and equipped chemical warfare (CW) force, which is prepared to operate in a chemical, bacteriological, and radiological (CBR) environment. Their offensive and defensive chemical operations capabilities continue to improve.

While the United States and the rest of the civilized world put much faith in treaties which have the goal of prohibiting chemical weapons, the Soviet Union apparently has no faith in treaties whatsoever. Since August 1976, we have been engaged in bilateral talks with the Soviet Union in Geneva on the subject of chemical warfare disarmament. The main reason that these talks have failed to produce a chemical warfare treaty which is acceptable to both sides is the problem of verifying compliance with the terms of a treaty.

Unlike nuclear treaties such as Salt II which at least arguably can be monitored using technical means, it is clear a chemical warfare treaty could only be verified through actual on-site observation and inspection. From the outside, and at a distance, a Soviet plant which produces chemical weapons is identical to Soviet plants which produce fertilizers or agricultural chemical toxins. Because of the vital importance of verification to any treaty, the United States has insisted on on-site verification to which the Soviets completely refuse. I fully support this position, and I hope it will not be negotiated away.

Apparently, for 4 years we have been shadow-boxing with the Soviets. During these talks, the Soviets have continually blamed the United States for failing to reach a chemical disarmament agreement; while, at the same time, they have made massive efforts to maintain and to improve their superiority in the use of chemical warfare. The Soviets have established chemical warfare as an integral part of their armed forces. They have the military doctrine, organization, training, and equipment necessary to conduct sustained chemical warfare in conjunction with either conventional or nuclear warfare.

The degree to which the Soviets have developed and integrated chemical warfare into all phases of their armed forces illustrates the important role that chemical warfare would play in any future Soviet military action. The Soviets see many advantages in the use of chemical weapons. Chemical weapons can be used either strategically against civilan populations or tactically against conventionally armed forces. The Soviets are acutely aware of the element of surprise associated with chemical weapons, especially since our forces and those of the rest of NATO are so terribly unprepared to deal with the chemical threat. The Soviet Union, however, is completely prepared to fight on a battlefield that they themselves would contaminate.

Soviet preparations for chemical warfare are extensive. They have an entirely separate branch of chemical troops which consists of some 80,000 to 100,000 specialists who are responsible for chemical defense and for decontamination and deactivation of personnel, weapons, equipment, structures and terrain exposed to chemical agents.

Today, in the U.S. Armed Forces, there are only about 3,500 officers and enlisted men involved with chemical warfare, and most of these men have other duties also. The Soviet Union has many general officers whose sole responsibilities fall under chemical warfare. In our country we only have one brigader general responsible for our chemical warfare capacity and that only occupies 50 percent of his duties. We only have four colonels assigned full time to chemical warfare.

According to the article entitled "Is USAF Ready for Chemical Warfare?" which appeared in the November 1979 issue of Air Force Magazine, the United States does not even have enough equipment to provide completely thorough training. On the other hand, all Soviet and Warsaw Pact forces are extensively trained to operate in a chemically poisoned environment. They often undergo training in simulated chemical environments which are sometimes poisoned with actual nerve gases. The Soviets have actually lost troops in training. These extreme exercises emphasize the point that the Soviet Union is serious about the use of chemical weapons on the battlefield.

The Soviet Union has expended large amounts of money and valuable resources to provide sophisticated defense and offensive equipment related to chemical warfare. All Soviet and Warsaw Pact troops carry extensive protective equipment which they often have to use. Personal protective equipment consists of indicator devices for the detection and identification of chemical agents, full coverage gas masks, and multipurpose protective suits. Should the protective measures not be completely effective, each soldier carries a decontamination kit with a complete range of antidotes. Most of this protective equipment is standard equipment on Soviet vehicles.

The Soviets have extensive equipment for large-scale decontamination of tanks, trucks, support vehicles, planes, ships or anything else for that matter. Their latest decontamination device called the TMS-65, which really is a modified jet engine mounted on a turntable on the back of a truck which trailers its own tank of decontamination solution. To decontaminate the exterior of a vehicle, the Soviets simply aim the jet engine at the intended vehicle and blast away chemical agents with the hot exhaust impregnated with a decontamination solution.

With this new technique, the Soviets can decontaminate the exterior of a vehicle in under 4 minutes. Using a pair of these devices positioned on opposite sides of a column of tanks, the Soviets can decontaminate almost a complete division of tanks in the same amount of time it would take our Army to decontaminate two tanks. All Soviet equipment is designed and deployed to maximize the effectiveness of the Warsaw Pact on a chemically contaminated battlefield. Even their tanks and armored personnel carriers are protectively sealed to allow their occupants to operate in and across contaminated zones.

By no means have the Soviet Union's preparations been limited to defensive capabilities. The Soviets are just as prepared to contaminate a battlefield as they are to operate in a contaminated one. Approximately 50 percent of all filled munitions for missiles and bombs stockpiled by the Soviet and Warsaw Pact forces in East-Central Europe are chemical weapons. These Soviet chemical munitions can be delivered by aircraft, artillery, multiple-rocket launchers, tactical missiles, and land mines. The Soviets have modernized their munitions to use liquid agents instead of actual gas. When accurately air bursted over a desired target, these new liquid munitions produce a deadly rain which falls directly on the intended target area. All of these chemical weapons present an unlimited number of wartime applications.

The use of chemical weapons is the sole responsibility of the Soviet field general. Most likely, the Soviets would use chemical weapons to provide a breakthrough in our defenses or to seal off important areas such as NATO airfields, command centers, and nuclear weapons sites. The chemical agents used would depend upon the desired effect. For crucial tactical breakthroughs, highly toxic nonpersistent blood agents and nerve agents could be used to eliminate and/or incapacitate elements of defense. Persistent agents could be used to neutralize areas in the rear. Right now, Soviet generals are prepared to use chemical weapons against us in the field.

The Soviet and Warsaw Pact forces can survive and fight on a chemically contaminated battlefield. The question that faces us, Mr. President, is "Can we, along with the rest of NATO, survive a surprise chemical attack in Europe and fight on to win—retaliating in kind?"

Many scenarios have been developed to describe the horrors that might occur in free Europe should the Soviet Union and the Warsaw Pact stage an attack on NATO. Most scenarios include gruesome scenes of impressive American military hardware surrounded by dead soldiers scattered all across Europe: Tanks with dead crews and planes with dead pilots. In these scenarios, the only living people to observe this macabre scene are the gas masked Soviets moving quickly over the quiet battlefield of Europe.

Although most scenarios are probably a little extreme, they serve to emphasize the inadequacy of the United States and NATO chemical defense posture. Gen. David C. Jones—our top ranking general—himself, rated our current ability to survive a surprise Soviet chemical attack as marginal, mainly because of insufficient supplies of protective equipment, decontaminating equipment, lack of training and inadequate area warning systems. Members of the Senate, marginal is not worth a hoot in anything, much less in warfare. Marginal is not good enough.

Since the hearings before the House Committee on Science and Astronautics during 1959, the United States has been aware of the strong and increasing chemical warfare capabilities of the Soviet Union. Intelligence analysis of Soviet equipment captured during the two wars between Egypt and Israel further proved the importance of chemical warfare to the Soviet Union. For the past two decades, the U.S. military's main response to the Soviet chemical warfare threat was the massive stockpiling of nerve gases which are now obsolete and environmentally unsound. The other action taken by the military was a very extensive research and development program. Although this program has developed some of the most sophisticated and impressive offensive and defensive equipment in the world, little has actually been put into full-scale production. In the case of the binary weapon, the fault lies with the Congress.

In the mid-1970's when Congress began specifically demanding that the Armed Forces procure defensive equipment over offensive equipment, our Armed Forces requested exceptions to our offshore procurement regulations to buy in Western Europe because our sophisticated designs were not in production. It is an intolerable situation when we have to look outside the borders of our country to buy military hardware that is vital to our security.

Mr. President, the present intolerable state of our chemical warfare capabilities is the responsibility of Congress. We must be prepared to meet and counter any threat the Soviets might have. Even though the Armed Forces have made some credible advances in our chemical warfare capabilities, such remains to be done. We must deter the Soviet Union from ever seeing an advantage in the use of chemical warfare by strengthening both our defensive and our offensive capacities.

(Mr. LONG assumed the chair.)

Mr. HEFLIN. Mr. President, defensively, we must develop a defensive posture which is superior to that of the Soviet Union. To accomplish this end, we must increase, and in some cases initiate, production of protection and decontamination equipment. Yet, production is not enough. We must deploy this equipment throughout our Armed Forces and then train all of our personnel to be proficient and even comfortable using this equipment. Because the Soviets have the benefit of initiating any use of chemical warfare, the U.S. and NATO forces must be even more prepared than Soviet and Warsaw Pact forces to survive on the contaminated battlefields.

To deter the Soviets from ever initiating chemical warfare, we must also reserve the offensive capacity to retaliate in kind. Right now, the United States has very few offensive chemical weapons positioned in Western Europe. Most of our chemical weapons are stockpiled in the western United States where they have remained for years because of the environmental controversy surrounding their movement. The logistical problems of shipping these weapons to a European battlefield are difficult enough alone, even excluding environmental consideration. The present logistical, stockpiling, and environmental problems could all be solved with the Army's proposed binary munitions which are completely safe and nontoxic until actually fired. The only problem concerning binary munitions, and most defensive measures as well, is the simple fact that production facilities are not now available. Even if action was taken right this minute, actual production of binary weapons would begin 2 years from now.

Mr. President, we, the members of the Congress, must act quickly to remove the dangerous disparity between United States and Soviet chemical warfare capacities. We must provide the necessary money and force the Department of Defense to use it both to provide a defensive posture superior to that of the Soviets and to present a substantial chemical warfare deterrent through the production and deployment of binary weapons.

CONCLUSION

The United States must never forget that the ultimate goal of the Soviet Union is world domination through victory over the West. We are the West. We are their enemy. Almost everything they do is directed toward achieving their ultimate goal. Their weapons are many—be they propaganda, treaty negotiations or military might. The Soviets will use whatever suits their purpose—be it subtle or blatent. Anyone who believes that the Soviet Union has good intentions is in grave error. In a decisive wartime situation, the Soviet Union would not hesitate to use any weapon that they feel is necessary to win. Put simply, the Russians will play dirty.

We must be totally prepared to survive any weapons the Soviets might use, and we must deter their use of anything against us by maintaining the ability to retaliate in kind. We must always be prepared because they have the benefit of surprise. Presently, the threat facing us is chemical warfare in the hands of the Soviet Union. We—the Members of Congress—must act quickly to neutralize that threat, and insure the security of the free world.

DEPARTMENT OF DEFENSE AUTHORIZATIONS, 1981

The PRESIDING OFFICER. Under the previous order, the Senate will new resume consideration of the pending business, H.R. 6974, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (H.R. 6974) to authorize appropriations for fiscal year 1981 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for fiscal year 1981 for civil defense, and for other purposes.

The Senate resumed consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I hope Senators who have amendments now to the military procurement authorization bill will come forward and be prepared to call up those amendments. I have asked the Democratic cloakroom to ascertain the names of Senators who have amendments to the bill and as to the content of such amendments, and also to inquire as to how much time those Senators would want on such amendments.

At the present time a list is being compiled of such Senators. I hope both sides will be able and willing to enter into time agreements on amendments and, hopefully, on the overall time on the bill so as to expedite action on this measure.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. It is the intention of the leadership to complete action on this bill before the Senate goes out prior to the July Fourth recess.

Yes, I yield.

Mr. STEVENS. I will say to my good friend that with the approval of the distinguished Senator from Texas we have requested all Members on this side to notify us if they have amendments they intend to offer and what time limitations they are prepared to accept on the DOD bill. We have shared the Senator's concern about the DOD bill, and we will do everything we can to assure rapid consideration of any amendments.

Mr. STENNIS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi.

Mr. STENNIS. Mr. President, if the Senator from West Virginia will yield to me, it certainly is encouraging to me to hear this strong statement of support for moving this bill along with proper consideration, of course, to its importance and the content of many of the different items.

It has been very thoroughly prepared after extensive hearings, at least twice as many hearings as we ordinarily have, because the different budget amounts as recommended kept shifting, and then finally the budget figure of our own, the legislative budget figure, was still another figure amount, and we had to wait for that for the final markup of the bill, which explains why it had not been reported earlier. However, by ordinary standards it is really not late.

We can pass this bill, I am sure, if we will concentrate on it. I believe every Member wants to concentrate on it, including those who have amendments to propose. But my observation is that it will be impossible to finish it unless we can get some time-limitation agreements on a major part of the different items, these different amendments. I think it will help both sides to have the time limitations. There is a quickening interest in amendments when the membership has an idea as to when they are coming up and when they are going to be voted on, and without time limitations everything is loose, everything is uncertain.

Therefore, so far as Members can, I wish them to agree to time limitations. The committee is going to be ready to agree on all items, I hope, with time limitations. We have lots of items in this bill in which the vote was 17 members of our committee to nothing. Some items the vote was 16 to 1, and the bill as an entirety was voted out by a vote of 16 to 1.

I mention these things again to show that there has been indepth consideration and weighing and seeking something that represents the thought of the membership.

We have one amendment that is going to affect a ship overhaul, I call it, an important contract, and the Senators who have the amendment are going to be heard and are going to ask that it be called up first, if possible. Of course, it is up to the mover. The floor managers of the bill do not determine when amendments will come up. We want to determine that sometimes, but it is a cooperative matter.

So I am going to greatly abbreviate the opening statement that I make, Mr. President, because I can bring out those points in which I am interested later in another way.

I see the Senator from Texas is here, and if he has any overall comments, why, I would be glad for him to say a few words now, and then we will proceed to the two of us making our general overall first statements and move from there.

I want to thank him again for his cooperation, very effective cooperation, and diligence in preparing this bill.

Mr. TOWER. I want to thank my distinguished colleague and chairman and reciprocate by saying that his work on this bill has been characterized by a superlative feat of leadership.

We have reported out a very fine bill. I concur in wanting to treat this matter expeditiously, get all of the amendments in as early as possible. I hope by the end of the day we will know of every intended amendment to the bill and make an effort to dispose of them.

I will follow the distinguished chairman with my opening statement, and express my desire to cooperate with him in moving the bill expeditiously.

At this point I yield to the distinguished majority leader for the purpose of propounding a unanimous-consent request.

Mr. ROBERT C. BYRD. Mr. President, it is not my intention to shut anyone off in the offering of amendments, but I do intend to complete action on this bill before the Senate recesses for the holiday.

I am not attempting to get any time on amendments now. I hope we can do that later.

UNANIMOUS-CONSENT AGREEMENT

Mr. President, I ask unanimous consent that action be completed on this bill, with paragraph 4, rule XII, being waived, no later than 12 o'clock noon on Wednesday of this week.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. TOWER. Mr. President, reserving the right to object—and I do not intend to object—would the distinguished majority leader withhold that request? It is my intention to join with him in that request, but I feel under obligation to contact one or two interested Members before I agree to his request, with which I heartily concur, by the way.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I change the time from 12 on Wednesday to 3 p.m. on Wednesday.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. STEVENS. May I be sure that I

understand, Mr. President, that this is the time for final passage of DOD?

Mr. ROBERT C. BYRD. No later than 3 o'clock.

Mr. STEVENS. And there is no understanding that it is on record concerning any other bill? There are two privileged matters. Does the Senator want to make certain that we have a right to set those aside before that time?

Mr. ROBERT C. BYRD. Any privileged matter could still be brought up, such as the conference report on the supplementals for example.

Mr. STEVENS. That is understood during the consideration of DOD?

Mr. ROBERT C. BYRD. Yes.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. TOWER. Mr. President, reserving the right to object, any amendments that are pending at that time could be voted on, is that not correct?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. TOWER. I do not object.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STENNIS addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President. I propose now to make a few remarks on the bill itself, the pending matter.

Mr. President, I have several overall points to make about this bill, but I am going to greatly abbreviate them for the time being. I do want to say, with emphasis, that this bill unquestionably presents what I call a new start—a new start—in the extensive buildup of our military services, all four of them, on a rather broad front. That applies, first, to the planning of additional weaponry within proven field. It applies to an extension of additional planning and the final procurement of additional types of weaponry.

For instance, in the field of carriers, our committee is virtually unanimous in the belief that we must have more carriers, but that it actually ought to be with smaller types, not altogether for financial reasons, but that the large type, more expensive type carriers, we perhaps have enough of those. And to be able to go more places and have most of the effectiveness of the large carriers, we are going to need and we are starting more of the smaller types.

In the field of Marine preparation, cargo and landing craft and other items, we are recommending expansions in that field, cargo planes, as well as cargo ships for a more rapid deployment by water and by air. There is a stepup of the program there and I think you can say that it has the unanimous support of our committee of 17.

There is particular emphasis on the MX, which is a program that, in this bill alone, there is, in round numbers, a billion and a half dollars, which will not carry into what we call production. but it certainly carries here the definite start to production and deployment.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate while the Senator is speaking? May we have order in the Senate?

Mr. STENNIS. And that billion and a half dollars, Mr. President—this is after 2 or 3 years of consideration—that figure passed by a unanimous vote; the money figure now. There is some argument about the deployment pattern, but the money figure passed our committee by a unanimous vote. And that is a very significant situation.

I emphasize that because there may be an amendment, honestly offered, that would attempt to strike all that money out, or half of it. So I hope that these remarks will tend to bring a quicker study by all the membership to those points that I make like that and that they will be passed, with explanations, of course, by any who wish to make explanations.

We feel—and I think it is felt by all—that there is a certain time urgency in this whole matter; that programs that have been considered heretofore but postponed have come to a head and their beginnings are authorized in this bill which, of course, has to be backed up by an appropriations bill.

Most of the committee think we have some highly important and absolutely necessary amendments here that go to the manpower strength, particularly of the Army. Let me quickly say, as one who feels very friendly towards the Army and its problems—and if I have a leaning as between the services, it is in favor of the Army—but under conditions now as to the quality, the quality of the manpower, it just absolutely must be improved from the quality standpoint. Numbers have become incidental. Quantity in numbers have become secondary to quality. We believe that we will unmistakably prove that right here on the floor of the Senate, as has already been outlined by the Senator from Georgia and most members of the subcommittee that he heads. It is a bad situation. I can testify as to that situation, in part by personal observation and personal trips that I have made, and will outline it.

I warn now that this is not just a matter to boost up the Army or any other service. We need not worry about what a slight reduction in figures to start with, what message that will carry to the Soviets.

The Soviets already know more about our conditions and our manpower than many of us know. How can I say that? Because I know they have regular attendees at our open sessions, at sessions of this body. They have a right to be there, under our rules, when we have open sessions.

That is a matter that makes it so urgent with me that we must do something now about this quality. Our recommendation is important. You might say it is a question of quality as against mere numbers alone. I believe that will come out as clear as a bell.

There is all of this talk about, "You must stick to the Army. Otherwise, we might have to move an Army installation from your State." Mr. President, that is pure bunk and we will prove it is bunk right here on the floor. It is not a legitimate argument for anyone to make.

If we are building programs here based upon arguments of that kind, then we will fail and we ought to fail, if we do not put more purpose into it than those kinds of arguments represent.

Mr. President, the Senator from Georgia (Mr. NUNN) and other members of that subcommittee will bring in the facts. I am anticipating some modest disagreement about it.

I am not quick to bring in other people but I have tried to lay these facts and this responsibility at the doorsteps of the Assistant Secretaries, the Secretaries, to a degree, the Chief of Staff—and we have a man who is a very fine Chief of Staff—and the Budget Bureau, and I am going to see that they are laid at the steps of the President of the United States. I have found him to be a man who is anxious to get the real facts with reference to these matters.

I will also be heard on that subject later. That indicates the importance of it, as I see it.

Mr. President, as the Senate today begins consideration of the fiscal year 1981 defense authorization bill, H.R. 6974, I want to emphasize that this is a massive, complex, and highly important bill. It covers all phases of worldwide American military posture and preparedness. The bill touches on substantial portions of U.S. weaponry, including missiles, ships, aircraft, and tanks; makes a survey of the new weaponry that is being developed; and sets personnel end strengths. The complexity and magnitude of this bill are demonstrated by the large number of items it covers: Over 1,300 line items in all with 225 in procurement, 708 in research and development, and 342 in various personnel accounts.

In light of the uncertain world situation and the rapid pace of Soviet military modernization, the Armed Services Committee has recommended increased spending in this bill for military procurement and research and development for fiscal year 1981. The recommended programs and funding level would give a new, powerful, and necessary momentum and direction to America's defense efforts.

Four different subcommittees worked on various aspects of the bill and other parts were addressed by the committee as a whole. A total of 45 hearings were held by both the subcommittees and the full committee on this bill alone. Twelve markup sessions were held by the full committee this year—more than double the number of sessions held last year. Many issues were vigorously debated by the committee membership, and the entire bill was carefully and thoroughly examined.

Each of the subcommittee chairmen will report in detail on the program recommendations within their jurisdiction. I would like to especially recognize the hard and dedicated work of the subcommittee chairmen—Senator HARRY F. BYRD, JR., of the General Procurement Subcommittee, Senator NUNN of the Manpower and Personnel Subcommittee, Senator CULVER of the Research and Development Subcommittee, and Senator MORGAN of the Procurement Policy and Reprogramming Subcommittee. In addition, Senator CANNON greatly assisted the committee's consideration of tactical air programs, and Senator EXON made a special effort on programs related to the rapid deployment force. The ranking minority member of the committee, Senator TOWER, also contributed greatly to the work on this bill, and I would like to especially thank him for his valuable assistance and counsel.

BILL ADDS $5.9 BILLION TO THE BUDGET REQUEST

The funding authorization recommended by the bill totals $51.9 billion in budget authority for military procurement and research and development for fiscal year 1981. This amount is $5.0 billion more than President Carter requested for these programs in his amended budget submission in March.

In addition, the committee provided military pay and benefit raises in the bill which, after offsetting reductions, would increase defense spending by $900 million in fiscal year 1981.

In sum, the net impact of the funding authorization recommended in this bill is to add about $5.9 billion to the President's budget request for the Department of Defense. This level of increase is consistent with the first concurrent budget resolution for fiscal year 1981.

COMMITTEE RECOMMENDED MORE FUNDS FOR NAVY SHIPBUILDING

Once again this year, the committee spent many long hours reviewing the Navy shipbuilding program. The committee is particularly concerned about the numerical strength and rate of modernization of the U.S. Navy, especially in light of the growing worldwide demands for American maritime capability and of the continuing buildup and reach of Soviet naval capabilities.

Today, the U.S. Navy is stretched too thin. The substantial augmentation of U.S. naval ships in the Indian Ocean—at times totaling 40 percent of forward deployed U.S. naval forces—has caused drawdowns in U.S. naval units deployed in traditional and important alliance areas.

At the same time, the Soviet Union has continued in the past year to improve the operating radius, staying power, and warfighting capabilities of its naval forces. The committee is firmly committed to maintaining a Navy which has a clear margin of superiority over Soviet maritime forces.

For these reasons, the committee added $2.2 billion—about a 35-percent increase—to the President's request for the naval shipbuilding program. The committee approved without change the administration's program for 16 new ships and two ship conversions. Part of the increased funding added by the committee is for the construction of three more ships: an additional SSN-688 nuclear attack submarine and two more FFG-7 frigates for a total of 19 new ships authorized in fiscal year 1981.

REACTIVATION OF THE "NEW JERSEY" AND "ORISKANY" ADDED

The committee also recommended the addition of about $600 million to reactivate two ships: the *New Jersey* battleship and the *Oriskany* aircraft carrier. We are fortunate that our prior caution led us to put aside for another day these older ships which have years of useful service remaining. These currently mothballed ships represent a tremendous resource at this time of need. They provide a chance to get real additional power at sea soon and at relatively low cost. The great demands on available defense dollars require that we "make do" with available equipment where possible. Using these off-the-shelf combatants fits this need, would be an efficient and effective use of scarce dollars, and would visibly increase our naval capabilities in the near term.

DEVELOPMENT OF A NEW CLASS OF LIGHT CARRIERS RECOMMENDED

The committee has also recommended another important shipbuilding initiative to develop a new class of several light aircraft carriers. The committee added $30 million in research and development for this effort.

Aircraft carriers are the heart of the U.S. Navy. They are—for today and tomorrow—the single most powerful and formidable force sailing the world's oceans. Fortunately, we will have a deployable force of 12 large-deck carriers through the year 2000. But we need more carriers. We do not, however, need to buy additional large-deck carriers with their high unit cost. Our large carriers provide the framework for developing other air-capable ships of lesser capability and cost which can effectively complement their might.

For years now, the Navy has been studying lesser alternatives to the large-deck carriers. These studies have identified the value and future potential of smaller air-capable ships operating with V/STOL aircraft. In the committee's view, a smaller less costly aircraft carrier appears feasible at this time and would provide an essential addition to our naval force posture. The guidelines established by the committee for this light carrier effort include a size of 40,000 tons and a follower-cost of $1.0 billion or less.

Other important committee funding additions relating to shipbuilding include: $131 million in long-lead funds for the CG-47 AEGIS cruiser; $47 million in long-lead funds for an LSD-41 amphibious ship; $42 million in long-lead funds for an air-cushion landing craft; and $18 million for development of a new type of air-capable amphibious ship.

COMMITTEE APPROVED MX REQUEST OF $1.55 BILLION

Concerned over the increasing vulnerability of the U.S. land-based ICBM force, the committee approved the President's request of $1.55 billion for the MX missile program and called for deployment of 200 missiles and 4,600 hardened shelters.

The committee recommended, however, that the initial phase of construction be limited to 2,300 protective shelters in the initial deployment area of the Great Basin of Nevada and Utah. In addition, the bill calls for the Secretary of Defense to submit a plan for minimizing the adverse economic, environmental, and social effects in the deployment areas and to conduct a study to identify locations in addition to the initial deployment area suitable for construction of the remaining shelters.

OTHER STRATEGIC PROGRAM INITIATIVES APPROVED

In light of the determined Soviet strategic program, the committee believes that the United States must continue to vigorously pursue modernization of the other two legs of the triad. To this end, the bill increases funding by $61 million for a total of $97 million for research and development of the Trident II missile and adds $91 million to begin conversion of 155 FB-111's for strategic missions.

To improve the deterrent value of the existing land-based ICBM force prior to deployment of the MX, the bill authorizes $10.4 million for the Air Force to deploy 100 Minuteman III missiles, currently in storage, in existing Minuteman II silos.

RAPID DEPLOYMENT CAPABILITIES STRENGTHENED

The committee held extensive hearings on the current and projected capabilities of U.S. airlift and sealift forces to project military power throughout the world to protect American national interests. The ability to rapidly deploy forces to all regions of the globe continues to be a basic requirement of U.S. national defense. Of particular concern is the ability to deploy forces to the Persian Gulf region.

Ongoing mobility programs—such as the KC-10 advanced tanker cargo aircraft and modification of C-5 and C-141 strategic airlift aircraft—are authorized in the defense authorization bill. In addition, four important initiatives—two of which were developed by the committee—are authorized.

First, the maritime pre-positioning ships proposed in the President's budget were approved at a total funding of $207 million which will procure one ship and provide long-lead funding for a second. The committee supported these ships, the first of which will become operational in the mid-1980's, because of their ability to quickly provide high-tonnage lift to distant world areas.

Second, the committee conditionally approved $50 million—$31 million less than the requested funding—for the development of the C-X aircraft. This funding is contingent upon certification by the Secretary of Defense that the military cargo to be transported by air to the Indian Ocean area in an emergency is sufficiently well-defined to provide clear aircraft design parameters and that aircraft plans are sufficiently well-developed to make full-scale engineering development both economical and technically feasible. In addition, no more than $10 million of the approved funds can be expended for the C-X until 90 days after transmittal from the Secretary of Defense to the Congress of a mandated study of overall mobility requirements.

The first committee-developed initiative for the rapid deployment force was the purchase and modification of eight SL-7 commercial containerships to provide near-term, high-speed sealift. A total of $285 million was added for this program. The availability, cost, speed, and capacity of these SL–7's are compelling arguments for their inclusion in the fiscal year 1981 budget.

The second committee initiative was the addition of $50 million for procurement of lightweight armored vehicles for the Marine Corps. Equipping a rapidly deployable Marine unit with these vehicles would provide improved armor protection and combat effectiveness for a force that would remain easily transportable by air.

PROCUREMENT FUNDING INCREASED BY 15 PERCENT

The defense authorization bill reported by the committee contains $34.9 billion for military procurement including shipbuilding. This is a $4.6 billion—or 15 percent—increase to the requested funding.

The additional funding provides for procurement of 111 more aircraft and helicopters—a 24 percent increase—over the request. Included in these additions are 12 more F–18's, 6 more F–14's, and 18 more F–15's.

Also included in the funding additions for tactical air programs are $243 million for research and development and $90 million in procurement for the AV-8B V/STOL aircraft for the Marine Corps.

To improve the readiness of military aircraft, the committee added $136 million for replenishment spares for the Navy and $20 million for replenishment spares and $181 million for war reserve spares for the Air Forces.

The committee also approved the administration's request of $946 million for 569 XM–1 tanks and $469 million for 400 fighting vehicle systems while mandating a second source of procurement for the fighting vehicle system.

$16.9 BILLION AUTHORIZED FOR R. & D.

Senator CULVER will present the details of the committee's actions on research and development programs. As an overview, the committee added $375 million to the President's request for a total authorization of $16.9 billion. In that the President's request was an increase of $3.5 billion over that appropriated for fiscal year 1980, the bill as reported provides for a significantly strengthened research program.

Of particular note, the committee deleted the $15.5 million requested for the cruise missile carrier program which terminates that program. The committee concluded that the B–52 would serve as an effective cruise missile carrier well into the 1990's and that there was no need at this time to pursue an alternative aircraft.

ACTIVE DUTY END STRENGTHS AUTHORIZED

The committee recommended that the Air Force's and Marine Corps' active duty end strengths be authorized as requested. The Navy's reouest was increased by 2,500 to provide personnel to man the *New Jersey* and *Oriskany* and associated air crews as well as related support and training.

INCREASES IN ARMY ACTIVE STRENGTH LIMITED TO QUALITY

The fiscal year 1981 request for Army active duty end strength is an increase of more than 19,000 personnel over the average actual strength during calendar year 1979. While the Army has been able in the past several months to slightly increase its active duty strength, this increase has been achieved by plummeting quality in first-term personnel. During fiscal year 1979, the Army recruited 59 percent high school graduates among its male recruits compared to only 37 percent for the last 8 months. Over the same 8-month period, high school graduates were the following percentage of total male recruits in the other services: Air Force, 79 percent; Marine Corps, 63 percent; and Navy, 61 percent. On a national basis, about 78 percent of the 18–24 age group are high school graduates.

The poor performance of lower quality first-term personnel has been documented in testimony before the committee and in Army studies and tests. The requested end strength increase for the Army for fiscal year 1981 should not be accomplished by large numbers of personnel who will fail to complete training or will be unable to perform required tasks.

Because of its serious concern as to the need to maintain manpower quality standards, the committee authorized the full Army active duty end strength request of 775,300 but made the last 25,000 subject to improvements in quality. The committee recommended an end strength of 750,300 and an automatic increase of 1,250 in the Army end strength, up to a maximum of 25,000, for every percentage increase above 52 percent in the proportion of Army non-prior-service male recruits who are high school graduates. If the Army achieved its recruiting goal of 72-percent male high school graduates, its requested end strength would be achieved.

Two additional items should be noted. First, the committee action is not a cut below what the actual strength of the Army has been during the last year. The actual on-board strength of the Army during 1979 averaged only 756,700 and dipped below 750,000 during the year.

Second, the best signal America can send its allies and potential adversaries is that it plans to build up its Army with quality. The Army proposed a buildup in fiscal year to 775,300 active duty personnel with new male recruits of which 72 percent would be high school graduates under the Army's own plans. The committee action would permit the full buildup to 775,300 if the Army fulfills its plans. This full strength can be met with intense recruiting, but quality standards must be maintained.

In essence, the committee has limited increases in Army active strength to increases in quality personnel. If the Army does not achieve its planned number of male high school graduate recruits, it will also probably continue to fail in its efforts to improve combat manpower.

Also related to manpower quality, the committee recommended that new recruits rated category IV mental ability group be restricted to 20 percent or less of all new recruits of each service.

The committee authorized the average strength levels of the Selected Reserve Forces without change and reduced the requested civilian end strength by 8,950 personnel. It is the intent of the committee that these civilian reductions can be accomplished through attrition.

INCREASED MILITARY COMPENSATION AND BENEFITS RECOMMENDED

In an effort to redress the serious personnel problems of the services, the committee recommended a number of provisions relating to military compensation and benefits which would have a cost of about $1.6 billion in fiscal year 1981.

Key among these provisions are a 1-year suspension of the current pay raise mechanism and an 11.7-percent increase in basic pay, subsistence, and quarters allowance for military personnel effective October 1, 1980 and a test of new and expanded educational assistance programs.

A separate provision provides authority for the President to reallocate up to 25 percent of the basic pay raise by grade and years of service, with a limitation that such a reallocation cannot be used to increase the basic pay raise above 11.7 percent for personnel with 4 years or less of service. In essence, all military personnel would be guaranteed a raise of at least 8.8 percent in fiscal year 1981. Junior military personnel could receive as much as 11.7-percent raise and senior personnel—those with more than 4 years of service—could receive more.

The All-Volunteer Force is not working. The educational assistance programs should help attract more qualified people, but increases in pay and benefits are not a substitute for a new system of selective service.

Other compensation provisions, which will be addressed in detail by Senator NUNN, include:

Authorization of $45 million for a 1-year test of certain increased and new educational assistance benefits for military personnel including extension of benefits to spouses and dependents.

An increase in the maximum enlistment bonus from $3,000 to $5,000 for certain skills.

An increase in the maximum reenlistment bonus from $15,000 to $20,000 for certain skills.

Authorization of a new continuation bonus of up to 4 months of basic pay for pilots in all branches with 6 to 18 years of service.

A change in the basis for computation of military retired pay to the highest average pay over 3 years for persons with less than 10 years of service.

An increase in the per diem reimbursement rates from $35 to $50 for military personnel on temporary duty travel and an increase from $50 to $75 in maximum reimbursement for high cost areas.

An increase in the reimbursement paid for moving a mobile home or trailer.

Extension of family separation allowances to personnel in grades E–1 through E–4 with 4 years or less of service.

An increase in CHAMPUS benefits by adding coverage for routine medical care for infants.

An increase in CHAMPUS maximum coverage for handicapped dependents from $350 to $1,000 per month.

Once yearly cost-of-living adjustments for military retired pay contingent upon a similar change in current law for Federal civilian retirees.

A 1-year test for enlistment and reenlistment bonuses for the individual Ready Reserve.

A 1-year test of a new selective affiliation bonus to encourage skilled prior active service personnel to affiliate early with Selected Reserve units.

A 5-year extension of enlistment and reenlistment bonuses and educational assistance programs currently due to expire for the Selected Reserve.

A 2-year extension of the Marine Corps platoon leaders class program.

OTHER IMPORTANT PROVISIONS INCLUDED IN THE BILL

The bill, as reported by the committee, contains several other important programs and provisions.

Among these is an authorization of $115 million—a $5 million reduction from the budget request—for the war-related civil defense activities of the Federal Emergency Management Agency for fiscal year 1981.

The committee adopted a provision that denies veterans' benefits to individuals who fail to complete 24 months of service. The committee has previously expressed serious concern about the high level of attrition in first term personnel. Current eligibility for benefits at the 6-month service point provides an incentive for attrition and may contribute to the continuation of too high levels of attrition of first term personnel.

The committee also included in the bill a provision that the profit limitations of the Vinson-Trammell Act will not apply to any contract or subcontract otherwise subject to the act if performance of the contract or subcontract was completed during the period from October 1, 1976, until October 1, 1981.

CONCLUSION

During the past year, the world security situation has changed dramatically, posing serious challenges to U.S. military strength. International instability has been increasing in important world regions that are outside traditional U.S. alliance areas. The Soviet buildup of military might continues in both strategic and conventional forces and is accompanied by a new adventurism as exampled by the invasion of Afghanistan. In response to some of these changes in the security situation, the United States has assumed a far-reaching commitment to protect the oil-rich Persian Gulf region from outside force.

Meeting these new challenges today has taxed American Armed Forces. The challenges of tomorrow may be even greater. We must start on a comprehensive military modernization program that provides the forces and capabilities necessary for the challenges of tomorrow. The programs contained in the defense authorization bill now before the Senate begin this modernization program. This program has been shaped by exhaustive study by the committee. It seeks to correct our military weaknesses and exploit our strengths.

I urge my colleagues to support the programs and funding recommended by the Armed Services Committee.

Mr. President, I yield the floor.

Mr. TOWER. Mr. President, I join the distinguished chairman of the Committee on Armed Services in calling for the Senate's support of the fiscal year 1981 Department of Defense authorization bill, H.R. 6974, as reported out by our committee. The chairman has led the committee in a determined effort to assess our Nation's defense needs and to recommend to the Senate defense initiatives it has determined as required to meet those needs. We open today our deliberations on this authorization bill which is the result of the committee's effort.

This bill is one of the most compelling legislative matters to come before the Senate this year—indeed, urgent, in my view—and perhaps this decade. This bill offers the Senate the opportunity to begin to reorder national priorities and to recommit this Nation to pursuing a defense program designed to build the forces necessary to protect our national security interests.

There is no rational substitute to this approach.

The context in which this bill is considered has been shaped by some of the most shattering events and disclosures of the postwar period.

Less than a year ago, we were informed by the Joint Chiefs of Staff that the United States will lose "essential equivalence" with the Soviet Union in strategic forces and, hence, overall military power within 2 years. The chilling implications of this dramatic shift in the military balance were made inescapably clear last Christmas Eve when the Soviet Union launched its naked aggression against Afghanistan. Since that time, our vulnerability to further Soviet efforts to expand its influence has become agonizingly clear. Our forces, once the preeminent deterrent of war and the ultimate arbiter of conflict, are stretched so thin as to be incapable of protecting United States and allied interests in many parts of the world today.

In sum, we stand today at a threshold. By our actions in the days ahead, we may signal the reemergence of the United States into a new era of responsible leadership. We can make clear that we intend to pull up our socks, to reestablish our strength, and once more to play a positive role in international affairs. Or we may turn away, refusing to carry the mantle of leadership that is ours and failing to vindicate the trust of preserving freedom and human liberty in the non-Communist world. The choice is ours.

Over the course of the past year, our committee has taken on perhaps the most exhaustive analysis of U.S. military requirements to be conducted in 10 years. As a result of these deliberations, we bring before you today a bill that enables us to make a beginning in what will be a long and difficult process of recovery. The proposals we make are modest when viewed in relation to the need, but it is a start.

This DOD bill recommends $51.9 billion for military procurement and research and development—$5 billion above the President's March amended request.

In addition, the committee is recommending legislation to increase compensation and benefits for the military by almost $1.5 billion, including a proposal to provide a military pay increase of 11.7 percent, or 3.4 percent above that provided in the administration's budget request. It has become increasingly apparent that this action is absolutely essential to stem what has been characterized to the committee as a "hemorrhage" of highly trained mid-level military talent. The committee's proposal allows the President the flexibility of judiciously reallocating the pay raise to provide senior personnel in mid-level, critical skill grades a higher pay raise, in lieu of a general, across-the-board increase for all personnel.

Estimates of the net budgetary implications of this bill taken alone range from $5.4 billion to $5.9 billion above the March amended defense request, depending on the pay absorption assumed for appropriation of funds for the DOD pay supplemental to be submitted prior to the start of the fiscal year. This assessment assumes the total authorization recommended will be fully appropriated.

The committee's recommendations stem not only from the testimony received during Armed Services Committee hearings which began in January, but also from an intensive analysis and assessment of U.S. defense requirements and plans which began almost 1 year ago in the context of the SALT debate. Because of our concerns about apparent deficiencies in our defense posture, the committee requested and received an unprecedented preview of the fiscal year 1981 budget and 5-year plan in December 1979. Furthermore, in October and November 1979, highlights of the budget during the ongoing formulation were given to several individual members and staff.

Conclusions based on this detailed and extensive assessment were contained in a March 25, 1980, letter to the Senate Committee on the Budget outlining three alternatives aimed at addressing critical deficiencies in our defense posture and inadequacies in the fiscal year 1981 budget and 5-year defense plan.

I ask unanimous consent that this letter to Senator BELLMON, along with attachments, be placed in the RECORD following this statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. TOWER. These three alternatives required $15 billion to $32 billion more for fiscal year 1981 than the President's January request, or about $12 billion to $29 billion above the March amended request.

As previously mentioned, the committee's fiscal year 1981 DOD authorization bill contains recommendations including manpower legislation which would require a net of about $6 billion above the March request. My personal assessment—and one that I believe is shared by a majority of the committee and, in fact, the Senate—is that we should be doing more and that doing more is both justified and required. Nonetheless, this recommended increase is substantial and constitutes a start. It represents a balanced allocation of scarce resources and is a result of a bipartisan effort. It reflects the Armed Services Committee respect for and participation in the Senate and congressional budget process. It is the result of cooperation and compromise between Members and committees.

At the same time, it is understood that the second concurrent budget resolution ceiling for the national defense function may have to accommodate unbudgeted fuel cost growth and inflation, unprogramed costs for Indian Ocean-related operations, congressional denial of an unacceptably high absorption of pay raises as proposed by the President, and so forth. The second concurrent resolution on the budget represents the proper mechanism to deal with this.

The committee recommended fiscal year 1981 DOD authorization bill is, thus only a beginning. It is the start of what must be a persistent and continuing effort to provide for critical defense requirements, for fiscal year 1981 and for the foreseeable future. The Senate Budget Committee's 5-year defense projections calling for substantial increases in defense spending above the administration projections reflect the intention and necessity of continuing this beginning.

Our committee authorization recommendation, with its proposed increase, evidences the extent to which the President's defense request was found to be grossly inadequate. It is noteworthy to examine some of the major deficiencies in the fiscal year 1981 defense request and to indicate the extent to which the committee has attempted to address them.

First, the fiscal year 1981 DOD request provided 173 fewer aircraft for the services than planned for fiscal year 1981 in last year's budget request—81 fewer aircraft for the Air Force, 9 fewer aircraft for the Navy, and 83 fewer aircraft for the Army than projected as required for fiscal year 1981 in last year's request. Over $1.5 billion would be required simply to restore aircraft procurement to the administration's own previous plan which itself was inadequate, based on testimony received by the committee. The committee recommendation adds $1.2 billion for 111 additional aircraft, 52 of which are noncombat trainers—restoring 18 of the 81 deleted aircraft for the Air Force, restoring 16 of the 83 deleted aircraft for the Army, and adding 77 aircraft for the Navy including the 52 noncombat trainers.

Second, the fiscal year 1981 DOD request for the Air Force showed a $300 million deficit for aircraft initial spares, a $300 million deficit for peacetime operations replenishment spares required for aircraft readiness, and a $500 million deficit for a minimum level—one-sixth of DOD guidance—of war reserves for aircraft combat sustainability—a total deficit of $1.1 billion for the Air Force alone. Within budget constraints, the committee has added a total of about $700 million for critically needed aircraft spares for all three services, with slightly over $500 million for the Air Force.

Third, the fiscal year 1981 DOD shipbuilding request called for $6.2 billion in funding or about $900 million less than the administration's projection for fiscal year 1981 contained in last year's budget request. On the other hand, the CNO testified during last year's hearings, on March 28, 1979—prior to Iran, prior to Afghanistan, prior to the Indian Ocean commitment, and prior to the rapid deployment force maritime prepositioning ships—that the minimum 5-year shipbuilding program required to insure a thin margin of maritime superiority in the mid-1980's would require about $8.1 billion for fiscal year 1981, after adjustment for inflation, without a permanent Indian Ocean presence, and without maritime pre-positioning ships for the rapid deployment force. The committee's recommendation for shipbuilding calls for about $8.4 billion in funding, but a total of almost $1.1 billion of this is a direct consequence of added requirements due to our new commitment to provide a permanent Indian Ocean naval presence and to provide sealift and maritime pre-positioning for the rapid deployment force—$200 million for maritime pre-positioning ships (TAK-X), $300 million for fast sealift ships (SL–7), $300 million for reactivating the *Oriskany* aircraft carrier, and $300 million for reactivating the *New Jersey* battleship. Excluding these initiatives, the committee recommendation for shipbuilding provides about $7.3 billion of the $8.1 billion the CNO indicated over 1 year ago was required to meet the existing commitments compared to the $6 billion provided by the administration.

Fourth, the fiscal year 1981 DOD request perpetuated the critical shortfall in aircraft missile inventories, especially air-to-air combat missiles. The request for procurement of Sparrow radar-guided air-to-air missiles still corresponded to an annual inventory shortfall of over 5,000 missiles through 1985. It must be realized that service inventory requirements for aircraft missiles simply reflect projected "mission-oriented" war reserve requirements, and even achieving 100 percent of inventory requirements—which we are far short of—would not allow adequate missile firings for training. Again, within budget constraints and with competing priorities, the committee has recommended an addition of 330 Sparrow missiles, still leaving a significant shortfall.

Finally, for strategic forces, the committee authorization does provide funding for some—but not all—of the strategic program initiatives recommended by the Joint Chiefs of Staff to address "serious deficiencies in our strategic posture." Consistent with the recommendations of the Joint Chiefs—but yet not contained in the President's defense request—the committee added funds to avoid slowdown in development of the Navstar global positioning satellite system, to prepare for production to reengine the KC–135 strategic tanker fleet, and to initiate advanced development of the Trident II sea-launched ballistic missile. Notably, the committee-recommended authorization does not contain funding for initial procurement of one wing—112 aircraft—of dedicated F–15 interceptors for strategic air defense, as called for by the Joint Chiefs of Staff but not included in the defense request.

The committee recommendation does contain initial funding for modification of FB–111A and F–111D aircraft to increase their payload and range so that they may provide a near-term augmentation to our aging B–52 force of strategic bombers.

Also, a proposal by Senator HUMPHREY to begin replacing 100 single-warhead Minuteman II missiles with Minuteman III missiles having three warheads each was adopted and is being recommended by the committee in this bill. This action, when complete, will increase the U.S. ICBM hard target kill capability and the number of surviving ICBM warheads in case of a Soviet first strike.

In addition, due to the efforts of Senator WALLOP and others in helping to inform the committee, $20 million was added to accelerate basic technology necessary for a space laser weapon in view of reports of Soviet efforts and high potential payoff of such a system.

The recommended authorization contained in this fiscal year 1981 DOD bill will not redress the imbalance in United States/Soviet conventional forces, theater nuclear forces, or the pending imbalance in strategic forces—nor, for that matter, will the increased defense spending projected by the Senate Budget Committee for the next 5 years. It will take longer. In fact, even with the increased 5-year defense spending called for by the Senate, which is substantially higher than the President's 5-year projection, the Soviet Union will still be outspending the United States in 1985 by over $40 billion.

Again, it is only a beginning. It does address some of the glaring deficiencies in the President's defense plan.

In summary, the authorzation recommendation and manpower initiatives contained in this fiscal year 1981 DOD authorization bill represents a balanced allocation of constrained resources across competing defense needs. The committee-recommended increase provides $2.5 billion more for critically needed improvements in combat readiness, about $1.0 billion more for initiatives to enhance our rapid response force capability and to sustain our new Indian Ocean naval commitment and $2.5 billion more for near-term force modernization.

Thus, the committee-recommended increase for defense is balanced. It will increase warfighting capability. It is not the total solution, it is a start and deserves the full support of the Senate.

COMMITTEE ON ARMED SERVICES,
Washington, D.C., March 25, 1980.

Hon. HENRY BELLMON,
Committee on the Budget,
U.S. Senate,
Washington, D.C.

DEAR HENRY: This is to present to the Committee on the Budget my views on the national defense function (050) of the federal budget for fiscal years 1980 through 1983.

It is my judgment that the defense budget at present, viewed in conjunction with realistic economic assumptions for the next fiscal year, is not adequate to carry out existing commitments of the United States to its allies or to achieve the level of military readiness and operations essential to deterring further Soviet aggression.

The analysis to support this judgment has evolved out of a rigorous review the last few months to define the leanest military posture that would enable us to fulfill our overseas commitments. Your leadership in the Senate in calling for a definition of these foreign policy commitments in order to be able to identify the military resources required to carry them out has been a guide to us in conducting this critical review.

The leading conclusion is that the President's FY 1981 budget and five-year plan assure the continuation of alarming deficiencies in our armed forces that will not be addressed—let alone corrected—unless substantial additional funds are provided.

Among these deficiencies are: a program of strategic force modernization which does not, in a timely fashion, offset the growing, if not already present, vulnerability of our land-based ICBM force and the concomitant impact on our ability to avoid coercion during crises; a shipbuilding program which does not allow us to attain the capability to present a credible naval presence in the Indian Ocean without seriously degrading our vital support to NATO and Asian allies; a reduced aircraft procurement program, especially tactical aircraft, which does not even provide sufficient procurement to allow a one-for-one replacement of the aircraft lost through attrition and retirement, much less procure aircraft at the most economical rates of production; and a wholly inadequate program to deal with the problem of an unacceptably low retention rate of the highly trained personnel needed to maintain and lead our modern Army, Navy, Air Force, and Marine Corps.

These deficiencies, if not addressed, will prolong and exacerbate weakness in our defense posture which are the result of the low priority defense has been accorded in the United States over the past quarter century. This relative decline in defense spending as a percentage of federal outlays was brought into focus by Secretary Brown who, during his presentation to the Committee on Armed Services on December 13, 1979, stated:

"In the twenty-five years since 1955, federal non-defense spending has more than tripled, while defense spending today is still about what it was then. Defense spending then took about half the federal budget; today it takes in less than a quarter. There is no need for us to return to the balance of 1955, but we must begin to give greater priority to defense. After all is said and done, our greatest social need is still to assure peace and the nation's security."

The inevitable shift in the military balance in favor of the Soviet Union is starkly portrayed by a comparison of defense spending between the two countries. The following is extracted from a recent study prepared for the Air Force by the RAND Corporation:

"The magnitude of the disparity in many of the mission areas is impressively large: a three-to-one advantage to the Soviet Union in strategic forces spending over the past half decade; about 75 percent more than U.S. spending for general purpose forces over the same period; and near parity with the United States in support forces spending. . . . In military investment—procurement and construction—the Soviet margin has been 50–80% above the United States over the last half decade. The aggregate margin since 1973 in this category is about $100 billion."

To begin to address these deficiencies, I have set out below three alternatives which provide incremental improvements in programs that are all justifiable in terms of past and current Service or OSD recommendations. These will provide the Committee with valid choices as a basis for arriving at responsible budget ceilings for FY 1980–1983.

These alternatives are grounded in the belief that the American people must be told in clear and unambiguous language that current national policy cannot be supported unless substantial increases in the defense budget are appropriated. If economic circumstances dictate that these increases are to be deferred or put off altogether, then the leaders of this country have the responsibility to state in clear fashion what commitments we are no longer going to keep.

I also will recommend what I consider to be the preferred alternative to sustain our national security. However, before presenting these alternatives, I must address the economic adjustments that are necessary to make the President's request for national security programs "whole".

The FY 1981 defense budget presented to the Congress was portrayed as containing a real increase in total obligational authority of nearly 5.5 percent after inflation. Outlays for that same fiscal year were predicted to increase nearly 3.3 percent after inflation above the estimate for 1980. Over the next five years, the defense program increases would purportedly equate to five annual increases averaging about 4.5 percent above inflation. Carrying out these increases fully and completely was characterized by Secretary Brown as a matter of fundamental importance to the security of the nation.

Real growth expressed in percentage increases is a misleading measure by which to judge improvements in our national security. A more realistic approach is to define program requirements and accept the financial imperatives as they are. However, commitments to percentages, once made, should be fulfilled.

The President, in December, 1979, embraced a 5.5 percent growth figure for FY 1981, but three months later, he has fallen back to a lesser commitment of 3 percent. Increases in inflation cannot be the sole reason for President Carter's retreat since, when he committed to 5.5 percent, he accompanied that promise with a pledge that ". . .(i)f inflation exceeds the projected rates, I intend to adjust the defense budget as needed. . . ."

Congressional and allied interest in percentages of real growth is very great. My own estimate of percentage growth in the defense budget in FY 1981 over the fiscal year 1980 budget reflects not 5 percent or even as much as 3 percent real growth in budget authority, but the more likely result is about 1 percent growth or less, unless "fact-of-life" increases are fully funded. Moreover, the 3 percent goal for FY 1980 will also likely be less than 1 percent.

Stated another way, if it is decided not to increase the Carter defense budget presented to us in January of this year, this would mean accepting at least a $6.4 billion cut in defense due to unfunded "fact-of-life" increases other than manpower. For example, the underestimate of fuel costs for FY 1981 was 100 percent, i.e., projected to be about $4.3 billion but, in fact, will be approximately $8.6 billion.

Secretary Brown specifically stated to the Committee on Armed Services on December 13, 1979, that ". . . should our assumptions as to future inflation, on which the program is based, later prove to have been underestimated, the Administration will take appropriate action to preserve the integrity of this program." President Carter the previous day, as cited above, made a similar commitment.

It is now clear to all that the FY 1981 Department of Defense programs cannot be carried out with the funds requested. Based on the Administration's assumed inflation rates for FY 1979 to FY 1980 and from FY 1980 to FY 1981, at the time of the budget submission, the DOD request of $158.7 billion in total obligational authority corresponded to $135.3 billion in FY 1979 dollars. It is now evident that the inflation rates were not realistic. With the Congressional Budget Office revised inflation estimates for FY 1979 to FY 1980 and from FY 1980 to FY 1981, the DOD FY 1981 program (requiring $135.3 billion in FY 1979 dollars) will require $160.5 billion in total obligational authority, an increase of $1.8 billion to provide for the programs requested.

In addition, as noted by DOD, fuel growth was not accurately reflected in the FY 1981 request. The Congressional Budget Office indicates unfunded fuel cost growth, above that included in their revised inflation estimates, amounts to $3.3 billion.

Therefore, simply to restore the FY 1981 request to the program promised by the Administration would require a minimum of an additional $5.1 billion for fuel and inflation alone.

Furthremore, the FY 1981 request assumes that 40 percent of the allotted pay raise, or $1.3 billion, will be absorbed through efficiencies or, more likely, at the expense of other programs.

To make "whole" the FY 1981 DOD budget request without requiring any pay absorption will require $6.4 billion, not including manpower initiatives.

Similarly, to carry out the FY 1980 program will require an additional $2.5 billion to account for unprogrammed fuel cost growth. Moreover, the increased tempo of operations in the Indian Ocean, especially naval operations, will require $260 million more than budgeted. In sum, to make "whole" the FY 1980 program, a supplemental appropriation of at least $2.76 billion will be required, exclusive of revised (non-fuel) inflation estimates.

Obviously, if the above fact-of-life actions are not taken for FY 1980 and FY 1981 but are absorbed at the expense of planned defense programs, operations, and readiness, the strength of the U.S. deterrent, as well as foreign perceptions of that deterrent, will be severely damaged.

In order to remove the pay cap for military personnel ($1.2 billion) and fund other Congressional manpower initiatives, such as the Nunn-Warner bill adopted by the Senate ($0.8 billion), additional funding of $2.0 billion is required. This $2.0 billion is absolutely the minimum that is essential to retain sufficient mid-level managers and to provide for equitable treatment of armed forces personnel. The Service Secretaries and the Service Chiefs have all emphasized the criticality of manpower shortages. Manpower is, without exception, their highest priority. Thus, to fund fully the FY 1981 programs, including these manpower initiatives, will require at least $8.4 billion.

Beyond the simple "fact-of-life" requirements of keeping the FY 1980 and FY 1981 programs intact, several other key factors, which impose demands for increased defense programs, must be examined.

1. Critical unfunded requirements exist for FY 1980 and FY 1981 to cope with near-term readiness and sustainability problems, the need for which has been accentuated by recent events in Afghanistan. These include replenishment spares, war reserve munitions, and missiles.

2. The pre-Afghanistan decisions reflected in the FY 1981 budget intended to address, to some extent, deficiencies in readiness and sustainability and past underfunding in O&M accounts have, in part, been at the expense of planned modernization programs, specifically, reduced procurement of tactical aircraft.

3. The FY 1981 budget request does not adequately fund programs identified one year ago as required to carry out stated defense commitments. Specifically, the five-year shipbuilding program is short at least ten ships.

4. The FY 1981 budget request does not fund program initiatives sufficient to carry out the Administration's announced com-

mitment to protect U.S. interests in the Persian Gulf area. Admiral Long, Commander-in-Chief of Pacific forces, has stated that at least two additional battle groups are required.

5. Finally, the FY 1981 budget does not fund initiatives to begin to increase force structure to provide the full capability required to implement national strategy, which calls for the ability to cope with "one and one-half wars". In this regard, Army force shortages represent the greatest need.

Analysis of the program shortfalls identified above leads logically to the development of incremental program budget options structured to provide the capability to meet commitments and reduce risk. Attached are a series of tables that depict the budget alternatives I request be considered by the Committee on the Budget. These tables include the economic adjustments and manpower initiatives discussed above and the respective programs options described below.

Program Option 1 would provide funding to address critical readiness and sustanability requirements (1 above); to restore previously planned modernization programs (2 above); and to address unprogrammed requirements to carry out stated commitments as they existed one year ago (a portion of 3 above).

Program Option 2 would fund all of Option 1 plus the remainder of identified but unprogrammed requirements to carry out previously existing commitments (remaining portion of 3 above) and would fund a portion of the other initiatives required to execute the new Administration policy to secure U.S. interests in the Persian Gulf (4 above).

Program Option 3 would fund Option 2 plus begin to fund increases in force structure to build toward a capability to implement accepted national security strategy. Specifically, the first funding increment toward adding a seventeenth active division for the Army, another active wing for the Air Force, and another carrier battle group with associated air wing for the Navy would be provided.

A thorough assessment of the FY 1981 budget has been made and requirements to achieve the above program options identified. The program options as presented below do not include the $8.4 billion required due to economic adjustments to make the FY 1981 budget "whole" and to fund recommended manpower initiatives. Also not included in these figures presented to you are offsets for cuts to the defense budget made by the Congress during the authorization and appropriation process. However, based upon past experience, it is not expected such cuts could exceed 2.5 percent of the request from the departments.

Program Option 1 requires additional funding of $7.15 billion for procurement, RDT&E, and O&M programs, excluding any manpower pay, or legislative initiatives.

Program Option 2 requires funding of $13.1 billion, excluding manpower initiatives.

Program Option 3 requires funding of $22.85 billion, excluding manpower initiatives.

The absolute minimum which can conceivably be accepted is Option 1, and even here, it must be restated, no provision would be made for supporting the President's new commitment for Persian Gulf security. Option 2 is the minimum required to provide a modest capability to support U.S. security interests in the wake of the invasion of Afghanistan and rising tension in the Persian Gulf area. Option 3 is my recommended choice and must ultimately be pursued as U.S. force posture is redefined to be consistent with U.S. national strategy.

It is noteworthy that, although not by design, approximately one-half the identified funding of each option goes toward modernization and one-half toward readiness and sustainability.

It should be pointed out that included within the national security (050) function are programs of the Department of Energy in support of the strategic mission of the Department of Defense. It appears that the national security programs of DOE are significantly underfunded. Approximately $400 million in additional atuhority will be necessary to insure that important defense programs are not impaired.

Also included in function 050 is the ceiling for intelligence activities which, it is my belief, require an additional $100 million in the FY 1981 budget.

Independent of the assessment which produced the above options, the Service Chiefs recently responded to a question from Senator Jackson as to what new funding is required to address force deficiencies and the new environment created by the Soviet invasion of Afghanistan. The Service Chiefs identified program requirements of $3.5 billion for FY 1980, exclusive of inflation and fuel cost increases. In addition, for FY 1981, the Services identified deficiencies of $10.6 billion, again exclusive of fuel cost increases or manpower pay initiatives. These funding requirements lie between Alternatives 1 and 2. This separate analysis serves as an independent Service validation of both the requirements and the priorities. The specific program requirements, though not identical, are remarkably similar with total funding apportionment between modernization and readiness and sustainability quite similar.

In summary, these three alternatives, which I firmly believe warrant serious consideration by the Budget Committee, would embody the respective program options specified above plus the required economic adjustments and recommended manpower initiatives. The alternatives require funding of $15.6 billion (Alternative 1), $21.5 billion (Alternative 2), and $31.8 billion (Alternative 3).

Secretary Brown, in citing a new consensus on the need for more military capability—reinforced by events in Iran, but now even more greatly reinforced by the Soviet invasion of Afghanistan—made the specific point that the United States may well be at a critical point in its history and that we have deferred too long the decision to remain the strongest nation in the world. The alternative is to allow ourselves to slip into inferiority and weakness where principles unsupported by power are victimized, and we will become a nation with more of a past than a future.

Sincerely,

JOHN TOWER.

Tower alternatives

	Fiscal year 1981 requirement
Alternative 1:	
Economic adjustments (fuel, inflation, no pay absorption)	6.4
Manpower initiatives (No military pay cap, Congressional legislation)	2.0
Program budget option 1	7.183
Total	15.583
Alternative 2:	
Economic adjustments (fuel, inflation, no pay absorption)	6.4
Manpower initiatives (no military pay cap, Congressional legislation)	2.0
Program budget option 2 (includes program option 1)	13.065
Total	21.465
Alternative 3:	
Economic adjustments (fuel, inflation, no pay absorption)	6.4
Manpower initiatives (no military pay cap, Congressional legislation	2.0
Program budget option 3 (includes program option 2)	23.441
Total	31.841

DISCUSSION POINTS ON ECONOMIC ADJUSTMENTS

An additional $5.1 billion is required for FY 1981 due to unbudgeted fuel cost growth and underestimates in inflation. $1.8 billion is required based on revised inflation estimates ($.8 billion of this is associated with fuel cost).

$3.3 billion is unbudgeted fuel cost growth not accounted for in the revised inflation estimates.

The FY 1981 budget request assumes 40%, or $1.3 billion of allocated pay raise for military and civilian personnel will be absorbed from other programs.

An additional $1.3 billion is thus required for no pay absorption from other programs.

The total additional funding required due to economic adjustments alone is therefore $6.4 billion.

Economic adjustments required for fiscal year 1981

	Billion
Fuel cost growth	$3.3
Low inflation estimates	1.8
No pay absorption (40% now used)	1.3
Total	6.4

Manpower initiatives

No pay cap for military	+1.2
Nunn-Warner legislation	+0.8
Total	+2.0
Alternative for comparison:	
10% military vice 7.4%	+0.7
Nunn-Warner legislation	+0.8
Total	+1.5

MAJOR ADDITIVE INITIATIVES OF PROGRAM OPTION 1

Aircraft Procurement.—Restores aircraft procurement, especially Air Force, consistent with previous plan of one year ago: $1.6 B.

Shipbuilding.—Funds shipbuilding plan CNO indicated one year ago was required to maintain maritime superiority: $1.7 B.

War Reserve Stocks.—Funds aircraft spares ($1 billion); funds air-to-air missile procurement ($0.25 billion); and funds Army ammunition ($0.6 billion); addresses critical inventory shortfall in war reserve stocks of aircraft spares and ammunition by funding to one-sixth of requirements by FY 1981: $1.85 B.

Operations and Maintenance.—Funds ship operations and air operations to actual projected levels for FY 1981; funds depot maintenance of critical system components, especially aircraft; provides for increase in Army training: $1.4 B.

Strategic.—Funds strategic programs consistent with JCS recommendation including initiation of Trident II missile development and procurement of F–15 interceptors for air defense. $0.25 B.

The total amounts to $7.15 billion.

MAJOR ADDITIVE INITIATIVES OF PROGRAM OPTION 2 (ADDITIVE TO OPTION 1)

Strategic.—Initiates funding for interim bomber development: $0.4 B.

Aircraft Procurement.—Funds aircraft procurement consistent with requirements testified to one year ago, especially Navy: $1.25 B.

Shipbuilding.—Funds increased shipbuilding to provide resources to support Indian Ocean/Persian Gulf commitment and to increase amphibious lift: $1.6 B.

War Reserve Stocks.—Funds aircraft spares ($0.35 billion); funds missile procurement ($0.35 billion); funds Army ammunition procurement ($0.3 billion); increases war reserve inventory of aircraft spares and ammunition to one-third requirement by FY 1985: $1.0 B.

Operations and Maintenance.—Funds increased flying hours and addresses backlog in depot maintenance and real property maintenance for base operations: $1.0 B.

The total amounts to $13.10 billion.

Major additive initiatives of program option 3 (additive to option 2)

Strategic.—Accelerates interim bomber program ($1 billion). accelerates procurement of E-4 and KC-10 aircraft (.650 billion), accelerates SAL development (.700 billion). $2.35 B.

Aircraft Procurement.—Funds initial procurement toward two additional Air Force air wings and one Navy carrier air wing to increase force structure for non-NATO contingencies. $1.1 B.

Shipbuilding.—Funds additional shipbuilding toward added carrier battle group to address deficiencies in West Pac and Atlantic Commands, and funds additional amphibious shipping toward eventual two-MAF capability. $1.6 B.

Ground Forces.—Funds new active mechanized division (17th) with prepositioning equipment and full support logistic slice for European reinforcement and to reduce impact of RDF commitments. $1.7 B.

War Reserve Stocks.—Funds aircraft spares ($0.4 billion); funds air-to-ground missile procurement ($0.25 billion); funds ammunition and air-to-ground ordnance ($1.1 billion); increases inventory to one-half requirement by FY 1985. $1.75 B.

The total amounts of $23.45 billion.

ADDITIONAL FISCAL YEAR 1981 FUNDING REQUIREMENTS FOR PROGRAM OPTIONS

	Option 1		Option 2		Option 3	
	Amount	Item	Amount	Item	Amount	Item
			7.20	Option 1	13.10	Options 1 and 2.
			PLUS		PLUS	
Strategic	0.25	Enhance some programs (ALCS, SSS, KC-135 reengining); initiate Trident II; procure air defense a/c.	.40	Interim bomber	2.35	Accelerate interim bomber; accelerate strategic a/c procurement; procure SAL.
Theater nuclear					.25	Accelerate GLCM.
General purpose forces:						
Aircraft	2.60	Restore a/c procurement; WRM + spares.	1.60	Cong direc/testimony; WRM spares.	15.0	Increase air forces; WRM spares.
Missiles	.25	Inventory shortfall	.35	Inventory shortfall	.25	Inventory shortfall.
Shipbuilding (SCN)	1.65	Maintain thin margin of superiority.	1.60	West Pac/IO; amphibious assault	1.60	Increase naval forces; amphibious assault.
Ground forces (NON A/C)	.20	Near-term air defense; light armor initiatives.	.30	Restore air defense	1.70	New mechanized division (17th)
Theater facilities improvement (Milcon)	.25	IO facilities upgrade	.30	2d increment upgrade	.60	3d increment upgrade.
Other procurement	.60	Ammo WRM	.30	Ammo WRM	1.10	Ammo WRM.
Operations and maintenance	1.40	Fund air and ship ops to proj; reduce depot backlog, increase Army training.	1.00	Increase flying hours; reduce depot backlog, real property backlog.	1.00	Increase air and ship ops; reduce depot backlog, real property backlog.
Subtotal (each option)	7.20		5.85		10.35	
Total	7.20		13.05		23.45	

SUMMARY—PROGRAM OPTION 1

	Fiscal year—				
	1981	1982	1983	1984	1985
Strategic forces	247	1,131	2,529	4,271	4,192
Theater nuclear forces					
General purpose forces:					
Aircraft	1,595	567	1,157	1,258	1,255
Aircraft replenishment spares	1,000	100	100	100	100
Missiles	241	127	89	90	90
Shipbuilding	1,650	1,820	2,100	400	−440
Ground forces (non-a/c)	200	250	200		
Other procurement (WRM)	600				
Theater facilities improvement (Milcon)	250	150	200	150	150
Operations and maintenance	1,400	1,000	1,000	1,000	1,000
Total	7,183	5,145	7,375	7,269	6,347

SUMMARY—PROGRAM OPTION 2 ADD-ON

	Fiscal year—				
	1981	1982	1983	1984	1985
Strategic forces	415	1,538	2,160	2,200	1,578
Theater nuclear forces					
General purpose forces:					
Aircraft	1,257	1,053	1,100	2,850	2,562
Aircraft replenishment spares	350	350	350	350	350
Missiles	355	445	249	229	271
Shipbuilding	1,580	1,405	2,260	3,920	1,950
Ground forces (non-a/c)	325	103	178	250	194
Other procurement (WRM)	300	300	300	300	300
Theater facilities improvement (Milcon)	300	50	250	100	100
Operations and maintenance	1,000	400	400	400	400
Total	5,882	5,644	7,247	10,599	7,705

SUMMARY—PROGRAM OPTION 2

	Fiscal year—				
	1981	1982	1983	1984	1985
Strategic forces:					
Option 1	247	1,131	2,529	4,271	4,192
Option 2 add	+415	1,538	2,160	2,200	1,578
Total	662	2,669	4,689	6,471	5,770
Theater nuclear forces:					
Option 1					
Option 2 add					
Total					
General purpose forces:					
Aircraft:					
Option 1	1,595	567	1,157	1,258	1,255
Option 2 add	+1,257	1,053	1,100	2,850	2,562
Total	2,852	1,620	2,257	4,108	3,817
Aircraft replenishment spares:					
Option 1	1,000	100	100	100	100
Option 2 add	+350	350	350	350	350
Total	1,350	450	450	450	450
Missiles:					
Option 1	241	127	89	90	90
Option 2 add	+355	445	249	229	271
Total	596	572	338	319	361
Shipbuilding:					
Option 1	1,650	1,820	2,100	400	−440
Option 2 add	+1,580	1,405	2,260	3,920	1,950
Total	3,230	3,225	4,360	4,320	1,510
Ground forces (non-a/c):					
Option 1	200	250	200		
Option 2 add	+325	103	178	250	194
Total	525	353	378	250	194
Other procurement (WRM):					
Option 1	600				
Option 2 add	+300	300	300	300	300
Total	900	300	300	300	300

	Fiscal year—				
	1981	1982	1983	1984	1985
Theater facilities improvement (milcon):					
Option 1	250	150	200	150	150
Option 2 add	+300	50	250	100	100
Total	550	200	450	250	250
Operations and maintenance:					
Option 1	1, 400	1, 000	1, 000	1, 000	1, 000
Option 2 add	+1, 000	400	400	400	400
Total	2, 400	1, 400	1, 400	1, 400	1, 400
Total, option 2	13, 065	10, 789	14, 622	17, 368	14, 052

SUMMARY—PROGRAM OPTION 3 ADD-ON

	Fiscal year—				
	1981	1982	1983	1984	1985
Strategic forces	2, 346	3, 754	5, 308	3, 584	−703
Theater nuclear forces	258	391	358	303	289
General purpose forces:					
Aircraft	1, 122	2, 058	3, 722	1, 672	3, 819
Aircraft replenishment spares	400	400	400	400	400
Missiles	250	350	415	409	513
Shipbuilding	1, 600	1, 400	2, 300	3, 900	2, 000
Ground forces (non-a/c)	1, 700	1, 300	1, 900	1, 000	1, 000
Other procurement (WRM)	1, 100	1, 100	1, 100	1, 100	1, 100
Theater facilities improvement (Milcon)	600	300	500	200	200
Operations and maintenance	1, 000	600	600	600	600
Total	10, 376	11, 653	16, 603	13, 168	9, 218

SUMMARY—PROGRAM OPTION 3

	Fiscal year—				
	1981	1982	1983	1984	1985
Strategic forces:					
Option 2	662	2, 669	4, 689	6, 471	5, 770
Option 3 add	+2, 346	3, 754	5, 308	3, 584	−703
Total	3, 008	6, 423	9, 997	10, 055	5, 067
Theater nuclear forces:					
Option 2					
Option 3 add	+258	391	358	303	289
Total	258	391	358	303	289
General purpose forces:					
Aircraft:					
Option 2	2, 852	1, 620	2, 257	4, 108	3, 817
Option 3 add	+1, 122	2, 058	3, 722	1, 672	3, 819
Total	3, 974	3, 678	5, 979	5, 780	7, 636
Aircraft replenishment spares:					
Option 2	1, 350	450	450	450	450
Option 3 add	+400	400	400	400	400
Total	1, 750	850	850	850	850
Missiles:					
Option 2	596	572	338	319	361
Option 3 add	+250	350	415	409	513
Total	846	922	753	728	874
Shipbuilding:					
Option 2	3, 230	3, 225	4, 360	4, 320	1, 510
Option 3 add	+1, 600	1, 400	2, 300	3, 900	2, 000
Total	4, 830	4, 625	6, 660	8, 220	3, 510
Ground forces (non-a/c):					
Option 2	525	353	378	250	194
Option 3 add	+1, 700	1, 300	1, 900	1, 000	1, 000
Total	2, 225	1, 653	2, 278	1, 250	1, 194
Other procurement (WRM):					
Option 2	900	300	300	300	300
Option 3 add	+1, 100	1, 100	1, 100	1, 100	1, 100
Total	2, 000	1, 400	1, 400	1, 400	1, 400
Theater facilities improvement (Milcon):					
Option 2	550	200	450	250	250
Option 3 add	+600	300	500	200	200
Total	1, 150	500	950	450	450
Operations and maintenance:					
Option 2	2, 400	1, 400	1, 400	1, 400	1, 400
Option 3 add	+1, 000	600	600	600	600
Total	3, 400	2, 000	2, 000	2, 000	2, 000
Total, option 3	23, 441	22, 442	31, 225	31, 036	23, 270

Mr. TOWER. Mr. President, I will yield to the distinguished Senator from Virginia (Mr. WARNER) when he returns to the floor.

First, let me say that I know a number of amendments will be addressed to this bill. I hope that Members of the Senate will be thoughtful and judicious in offering amendments. They will all be seriously considered by the chairman, I am sure, and myself. But we believe we have prepared a very good bill here, one that should engage widespread support of Members of the Senate, and, therefore, we hope that this product of the committee will be accepted as we deliberate these matters.

Mr. President, at this point I am prepared to yield the floor. I see my distinguished colleague from Colorado is seeking to give his opening statement. While he is on his feet. I want to say that he has certainly been cooperative with us in getting this bill out. He has made some very useful input into it.

The PRESIDING OFFICER (Mr. DECONCINI). The Senator from Colorado.

Mr. HART. Mr. President, I thank the Senator from Texas for yielding.

Mr. President, a consensus is emerging that we must improve our defense capabilities. This bill, as reported by the Senate Armed Services Committee, reflects this consensus. It takes a number of actions, especially in regard to the Navy, which will materially improve our defenses. I support the bill strongly, and urge my colleagues to do the same.

However, the new defense consensus brings with it a certain danger. There seems to be a tendency in some quarters to focus our renewed defense efforts not on the product—a more effective defense—but instead on one, and only one, part of the process leading to that product: Increased defense spending.

This bill does increase spending, and I support it. There are a number of areas where we need to spend more money: Operations and maintenance, naval shipbuilding, compensation for our military personnel, and development and procurement of innovative weapons systems.

However, spending is only one component of increased military effectiveness. More spending will only provide a better defense if the money is spent for the right things.

It is quite possible to spend for defense, and achieve nothing. History suggests it is possible to spend great sums and actually weaken one's defense. The French spent billions of francs on the maginot line, yet all they bought was a false sense of security and inattention to changes in the art of war, changes which resulted in France's defeat and occupation in 1940. Britain spent 60 million pounds on the pre-war defenses of Singapore, but the defenders expected an attack from the sea, and the attack which took Singapore came from the land. The Kaiser's Germany spent enormous sums before World War I on a high seas fleet, but the only result was insuring the enmity of England.

The point is quite simple: A defense debate which resolves solely around the size of the budget is a false debate. Unless matters which go beyond budget size are also considered, there is a serious risk that additional spending will not result in a stronger defense. As I have said repeatedly in the past, we cannot responsibly debate whether more is better or less is better. On the battlefield, only better is better. The task facing us is to determine what better really is, and what factors beyond spending we must consider if we are to have a better defense.

I believe the Armed Services Committee has begun to look more critically at the programs requested by the Department of Defense, and equally at options rejected by the Department, to determine which meet the test of battlefield effectiveness. Initiatives proposed by the committee, such as light carriers, the AV-8B V/STOL aircraft, lightweight armored vehicles, and conventional attack submarines, evidence a "better is better" approach. However, I believe it would be helpful to the Senate to look beyond the specifics of this bill, to the basic concepts which we must rely on to determine what is better in defense.

The first such factor is the nature of conflict itself. If we do not have a theory of conflict, we have little against which to measure our proposed actions. We have nothing with which to relate the separate elements of our defense program to one another.

The annual report of the Secretary of Defense for fiscal year 1981 discusses theory of conflict, but only in relation to nuclear forces. In relation to conventional forces, it is not clear the Pentagon has an explicit theory of conflict.

However, one is implied in its approach to defense planning and programing: The theory that war is largely an inventory exchange between the contestants, with the outcome determined by the quantities and qualities of weapon systems. This reflects the traditional American "firepower/attrition" style of war, in which we have overwhelmed opponents with masses of manpower and, especially, materiel.

We have not out-thought our opponents—with some notable exceptions, such as the island-hopping strategy in the Pacific in World War II—so much as rolled over them with ships, planes, and tanks in vast numbers.

The Pentagon's theory of conflict can be questioned on at least two counts. First, it does not seem appropriate to our current situation, where the Soviet Union is the main threat.

In World War II a firepower/attrition strategy was workable. Japan had an economy about one-tenth the size of ours. Germany was powerful in manpower and industry, but she faced not only the United States, but also the Soviet Union—which bore the brunt of the land war—and Britain, which was then a significant power. In Korea, the opponent had large manpower resources, at least after China entered the conflict, but we had vast superiority in materiel.

But how can we hope to engage successfully in a firepower/attrition contest with the Soviet Union? Her GNP is smaller than ours, but her allocation of resources to heavy industry and related technology, rather than consumer goods, gives her ample capacity to produce war materiel.

Her population is larger than ours. Her deployed forces are significantly larger in most categories. So are her reserves of military equipment. Can we hope for success in an attrition contest with the Soviet Union? It hardly seems so.

An alternative theory of conflict, known in its most recent and highly developed form as the "Boyd Theory," seems much more appropriate to our current situation. This theory embraces the "maneuver" style of warfare, which has historically often permitted the numerically inferior side to win and which has worked dramatically for the relatively small Israeli armed forces.

The current theory has been developed by Col. John Boyd, USAF (ret.), the inventor of energy management air-to-air tactics. Briefly, Mr. Boyd has observed that in any conflict situation—not just warfare—all parties go through repeated cycles of observation-orientation-decision-action.

The potentially victorious party is the one with an observation-orientation-decision-action cycle consistently quicker than his opponent's. As the faster party repeatedly cycles inside his opponent, the opponent finds he is losing control of the situation.

Because of his longer cycle time, his reaction is facing a later action by the faster party than that which it was intended to oppose. Instead of achieving convergence with the first party's action, he finds himself facing ever-widening divergence. Suddenly, he realizes there is nothing he can do to control the situation, or turn it to his advantage. At that point, he has lost. Often, he suffers mental breakdown in the form of panic and is defeated before he is destroyed physically.

Our current defense posture is not very promising in terms of the Boyd theory. Current policy does not focus on rapidity of change. Such change as it seeks tends to be at the margin, rather than basic, yet change at the margin seldom cuts inside the opponent's observation-orientation-decision-action cycle. We pay little attention to how to use equipment in new and different ways, which can often cut inside our opponent's cycle at small cost to ourselves.

One observer recently said we no longer have a Department of Defense, but a Department of Systems Development and Acquisition. And even in relation to weapon systems, our R. & D. and procurement process—including the congressional element of that process—generally requires many years to put a new weapon into service. Is higher defense spending likely to give us an effective defense under these conditions?

If we look beyond the issue of theory of conflict, we come next to the question of strategy. Basically, we have adopted a continental strategy. According to Secretary Brown's annual report, in two of the last 3 years, our focus was on NATO; in the remaining year, the focus was on strategic systems. At no time was the focus primarily on naval forces.

However, many factors argue in favor of a maritime strategy instead of the continental strategy. By geography, the United States is an island. The imported resources on which our economy depends come by sea.

Although the security of Europe is important to us, our vital interests are scattered throughout the world, not centered in Europe. Our largest overseas trading partner is Japan, and we trade more with Asia than with Europe. Our world-wide interests and our seaborne commerce receive little protection from Army troops stationed in central Europe. Rather, they depend upon the Navy and the Marine Corps.

Given our continental strategy, it is not surprising the Navy program recommended by the administration was inadequate. The 5-year shipbuilding program presented by President Carter in 1977 showed 37 ships in the fiscal year 1981 program, including 2 attack submarines, 1 aircraft carrier, 4 Aegis ships, 2 LSD-class amphibious ships, and 6 mine countermeasures ships, among others. However, the fiscal year 1981 budget presented by Secretary Brown called for less than half of that; 17 ships, including only 1 attack submarine, no carriers, 2 Aegis ships, 1 LSD, and no mine countermeasures ships.

The current 5-year program includes 97 ships, but 44 of these are in the last 2 years. How much credit should be given to such a plan, when the fiscal year 1981 ship construction program presented 3 years ago by the same administration was cut in half? The promise for fiscal year 1985—four attack submarines, four Aegis ships, a new type of destroyer, an amphibious ship, and four mine countermeasures ships—sounds rather like the promise for fiscal year 1981 made in 1977.

In recognition of the inadequacy of the proposed fiscal year 1981 program, the committee has recommended the addition of an additional attack submarine, two frigates, and eight fast logistics ships. Further, the bill as reported would recommission two major warships, the carrier *Oriskany* and the battleship *New Jersey*. These measures, coupled with the committee's initiatives to develop new types of ships, such as light carriers and diesel-electric attack submarines, will help materially to increase our naval strength.

Numbers of ships are part of the problem, but only part. As this bill recognizes, ships must be of the right kinds if the Navy is to be effective.

A principal error in the Department of Defense view of naval requirements is identifying the main problem as the air threat, the Backfire bomber, rather than the submarine. Not surprisingly, the administration's naval program reflects this view. It allocates the largest single block of funding in the 5-year plan to Aegis cruisers, the prime anti-Backfire system.

Two arguments can be offered that the submarine threat remains and is likely to remain primary. The first relates to tactics. The Backfire is not a very flexible weapon. Its tactic—its one tactic—is well known: launching antiship missiles. Unless an American task force were very near Soviet territory, the Backfire would have to attack from a known direction. In contrast, the submarine has great tactical flexibility. It can operate in almost all ocean areas. It succeeds through stealth, and is difficult to detect. It can have the great advantage of tactical surprise.

Second, submarines' capabilities vis-a-vis antisubmarine forces, especially surface ships, continue to improve. The new Soviet *Alfa*-class submarine is very fast and deep-diving, and may have other advantages over its predecessors. Modern diesel-electric boats can be extremely difficult to detect, due to their quietness on battery and their small size.

Such conventional submarines serve not only with the Soviet Navy, but also with the forces of a growing number of Third World nations. The next 10 years are likely to see a number of new technology submarines which perform like nuclear submarines, but do not use expensive and inherently noisy nuclear powerplants to obtain the performance.

A number of appropriate technologies are available, the most promising of which is probably fuel cells. Such submarines would seldom be vulnerable to detection by the passive antisubmarine systems in which we are now investing, such as the towed array, because they would have the same quietness as diesel-electric boats operating on battery.

Omissions in the proposed Defense Department shipbuilding budget and 5-year plan compounded their deficiencies. There were no new aircraft platforms of any type. The absence of big carriers is appropriate; we need significantly larger numbers of aircraft carriers, and the big carriers, whether nuclear or conventional, are too expensive to be acquired in the number needed.

But we do need carriers. The carrier can be a very effective antisubmarine ship, through its aircraft. It is vital for effective support of diplomacy, since unlike the submarine or the surface ship, it can effectively project power ashore.

The increasing problems facing us in the Third World suggest we will need a sizable force of light carriers, and we need them soon; indeed, we need them today.

Recognizing this need, the committee took three light carrier initiatives: Recommissioning the *Oriskany*, providing $30 million for design of a 40,000 ton light carrier class, and providing $18 million for design of an LH–X (VSS), a combined amphibious assault ship and V/STOL carrier.

Another key omission in the administration budget was attack submarines. The request was for only one attack submarine, a boat of the very expensive SSN–688 class. Merely sustaining a 90-submarine force level—the current goal—will require building approximately 3.6 attack submarines annually, at a cost of approximately $1.8 billion in fiscal year 1981 dollars. The Defense Department's 5-year program, even with its lavish promises for fiscal 1985, builds an average of only 2.5 attack boats per year, well under the required minimum. Such a program cannot sustain a 90-boat force, much less raise the force level.

If the force level is to be raised significantly, we cannot build only nuclear boats. No one would argue we should stop construction of nuclear-powered attack submarines; there are some missions only they can perform.

But this is clearly a case where a high-low mix is appropriate. Diesel-electric submarines can perform some missions as well as or better than nuclear submarines.

According to the CBO fiscal year 1981 naval issues paper, conventional submarines are more cost-effective than nuclear submarines for the barrier mission. They are also highly suitable for operations in the Mediterranean and in a number of shallow water areas. They are useful for antisurface warfare as well as ASW. And they are affordable: A modern German type 2000 ocean-going submarine costs only $80 million, compared to $500 million for a SSN–688.

It has a crew of only 30, compared to over 100 for the nuclear boat. And it requires no expensive nuclear-trained technicians.

Conventional submarines, as a complement to nuclear submarines, have a useful place in the U.S. Navy. Unfortunately, the current Defense Department program includes none.

Therefore, this bill directs the Navy to study the concept of a mixed force of nuclear and diesel attack submarines, and to examine existing diesel submarine designs, United States and foreign, to see which would best meet U.S. needs. If the United States were to complement its nuclear attack submarines with diesel boats, we could substantially increase the size of our submarine force at an affordable cost. A mixed force, which means a larger submarine force, would be the best possible answer to the Soviet submarine threat. The committee has also directed the Navy to look into new submarine propulsion technologies, in the hope we may be able to drive, rather than just respond to, this prospective change.

Thus, the committee has, in my view, substantially improved the Defense authorization bill as it relates to the Navy. Unfortunately, the committee has had less opportunity to examine our NATO policies with a critical eye.

Some serious questions could be raised regarding the Defense Department's NATO policies. Current planning is focused on improvements in NATO's conventional capability.

However, improvements in the conventional defenses of Europe require more than marginal changes in existing practices. NATO has some fundamental weaknesses which must be addressed if an effective conventional defense is to be possible. The most serious weakness is the current NATO conventional strategy, forward defense.

The forward defense strategy stipulates that NATO try to defend as near the inter-German border as possible, thus minimizing Warsaw Pact penetration into West Germany. There is no question it is desirable to prevent such penetration.

Forward defense may, in fact, be a political requirement for the West Germans, who seek to avoid combat on their own soil, and who may see the weakness of a forward defense as deterrence-enhancing, in that it lowers the strategic nuclear threshold.

The weakness is real, for forward defense has produced a NATO defense structure in which almost all NATO units in West Germany have battle positions close to the frontier in what is essentially a shallow, linear defense—a new Maginot Line. As the French learned in 1940, a linear defense, once breached, greatly favors the attacker, since the defender has committed almost all of his forces to the line and has little or no operational reserve to engage the breakthrough force.

The Germans learned the same lesson when fighting the Soviets in World War II, suffering repeated debacles when Hitler insisted on a terrain-holding defense concentrated in a shallow line. In contrast, when maneuver-oriented German generals ran the battle, they often had great success against heavy numerical odds by putting a relatively small portion of their force forward, then counterattacking with a strong reserve once the attack had unfolded.

Today, NATO has almost no operational reserve, thanks to the present style of forward defense. Once the Soviets break through one part of the defensive line, they have almost a free ride to the English Channel. It is highly unlikely NATO can quickly pull forces from other parts of the line and shift them laterally to engage the Soviet breakthrough force. Claims for NATO of an "active defense" are little more than slogans, especially given the "layer cake" NATO front, with separate national sectors largely incapable of mutual logistics support.

Additional expenditures for anti-tank weapons and other firepower systems, such as those emphasized in the administration's NATO long-term defense program, will not give NATO a credible conventional defense capability unless NATO also changes the current concept of forward defense. Such weapons are needed, but they cannot alone prevent a major breakthrough, which without adequate NATO reserves will quickly become decisive.

We also lack mobile operational reserves—and mobile warfare capability—in South Korea. We are preparing for a war in which the North Koreans would launch their main attack in western Korea, directly at Seoul. Secretary Brown's annual report concludes that such an attack would not be easy:

> North Korea would not have an easy time of it trying to reach Seoul. Its forces would have to break through or otherwise circumvent extensive fortifications.

My fear is that "otherwise circumvent" may be a feasible, even attractive, approach for the North Koreans. One way to do that would be to make the main attack in the east with light infantry, instead of in the west with mechanized forces. We have a forward defense in Korea, as in Europe, and, again, we lack mobile operational reserves.

Nor are the South Koreans adequately trained in mobile warfare. An attack in the east would take maximum advantage of these weaknesses. It would tend to offset some of the United States-South Korean advantages in attack aviation, since high-speed attack aircraft have difficulty acquiring targets in the rugged terrain of eastern Korea.

Finally, such an attack would give North Korea some political-military options. An attack in the west would be all-or-nothing. In the east, if either the military or the diplomatic situation changed for the worse, the North could call for a cease-fire in place. Such an offer might be attractive to the United Nations, faced with the prospect of a lengthy and difficult mountain campaign. Yet its acceptance would seriously destabilize the Republic of Korea.

I raised the issue of the possibility of an attack in the east, along with several other matters, in my "Additional Views" to the report on Korea of the "Pacific Study Group" of the Senate Armed Services Committee, issued in January of 1979. I have seen no adequate response from the Defense Department to the questions I raised then, which I believe are at least as serious now.

The situations in NATO and Korea are classic examples of problems which cannot be effectively addressed by pouring more resources into the current strategies. The need is not just to do more, but to do things differently. Adding 3 or 5 or 10 percent to the defense budget will not help. The shortage is not of defense dollars, but of intelligent attention to the art of war. I fear these are only two of many cases in this category.

Another area of concern, one where the committee expended a great deal of time and effort, is the rapid deployment force. One aspect of the plan for the RDF deserves the full support of the Senate; Maritime prepositioning. Only by prepositioning the heavy equipment of mechanized units overseas on ships can we hope to be able to respond quickly in a crisis with combat-effective forces. I suggested this approach in the white paper I issued in 1978, in cooperation with former Senator Robert Taft, Jr., of Ohio. The committee has fully supported the maritime prepositioning program, and has provided additional logistics capability for the prepositioned forces with the recommendation to purchase eight SL–7 container ships.

However, several aspects of the Defense Department's approach to the RDF raise some questions. Why have we chosen to create a new rapid deployment force when we already have one—the U.S. Marine Corps? Third World crises are a traditional and appropriate Marine Corps mission, and it would seem the three divisions and three air wings of the Marine Corps should be adequate for most Third World situations. Indeed, with over 180,000 men, the Marine Corps is larger than the RDF, which is usually spoken of as a 110,000-man force.

Some changes are needed in the Marine Corps before it can effectively take on the rapid deployment/Third World mission. A significant portion of the corps must be mechanized. Many Third World countries possess sizable and modern armored and mechanized forces, and if foot infantry Marine—or Army—units engage those forces in open terrain, they are not likely to succeed.

Marine Corps mechanization should not be on the Army model, with heavy tracked vehicles; the goal is tactical mobility, not weight, and light, wheeled combat vehicles seem more appropriate for the Marines.

In support of this, the committee has added $50 million to enable the Marines to acquire some light combat vehicles. This is a very important initiative, and I strongly urge the Senate to support it.

Some may argue a joint service force, such as the planned RDF, is better than a single service. In theory, the joint force has some advantages. But in practice, the friction in any joint operation is a telling drawback. Each service has its own ways of doing things, and resists changing, especially when directed to do so by another service.

Crisis response requires a highly cohesive force, capable of taking rapid decisions and adjusting smoothly to rapidly changing circumstances. Joint forces are seldom cohesive and tend to lose the ability to decide and act rapidly in their own internal friction. Reality, as distinct from theory, suggests the rapid deployment mission be given to one service. Again, the Marine Corps is the logical choice.

Another aspect of the Defense Department's rapid deployment program which is open to question is the CX. While strategic airlift is necessary for rapid deployment, it is important that we not lose sight of the inherent limitations of airlift. There is a tendency in some quarters to suggest we can—or could with the CX move and support large mechanized units over strategic distances, entirely by airlift, which is questionable. The Defense Department's request for funding for the CX was not supported by an adequate analysis of the relative capabilities and limitations of sealift and airlift.

The matter demanded a compromise which would mandate the Department of Defense to demonstrate the requirement for a new strategic cargo aircraft in an integrated strategic lift mix; which would withhold congressional authority to proceed until such a rationale had been judged by the Congress; and which would permit the Department of Defense to proceed immediately if Congress felt the burden of proof had been met.

Unfortunately, despite efforts by myself and others in the committee, such a compromise was not found. I therefore voted "present" on the final vote on this issue in the committee.

All these issues—continental or maritime strategy, size and composition of naval forces, strategy in Europe and Korea, and structure of the rapid deployment force—are key budget matters.

However, there are a number of issues equally key for military effectiveness which are not budget issues. They do not relate to spending money. Changes in the authorization or appropriations bills will not affect them.

But unless they are addressed, and unless changes are made in our current practices, we will not have adequate effectiveness on the battlefield.

A major issue in this category is style of warfare. I have already mentioned the Boyd theory, and its relation to the "firepower/attrition" and "maneuver" styles of warfare. I believe we should apply the Boyd theory to many defense decisions, asking ourselves in each case whether a proposed action or weapon system will cut inside the enemy's observation-orientation-decision-action cycle, or whether it will merely force him to make a minor adjustment in his current way of doing things. The high payoff lies in actions which cut inside the enemy's cycle, and makes his current approach irrelevant.

While the Boyd theory applies across the board, it is particularly applicable to the question of style of land warfare.

Today, the U.S. Army acknowledges its inferiority in resources, compared to the Soviet Army. It states explicitly that its task is to "fight outnumbered and win." But it ignores the lesson that you must use maneuver to fight outnumbered and win, and instead it proclaims a firepower/attrition doctrine. This doctrine is explicit in the Army's basic field manual, FM 100–5, and it is the basis of the tactics taught in the Army's schools.

Because the Air Force must support the Army, it finds itself also caught in firepower/attrition. An air force has been most successful historically when it has been used to create opportunities for maneuver by the ground forces. But if the ground forces do not maneuver, the air force has little choice but to play an attrition game. An increasing number of Air Force officers question their attrition orientation, but unless the Army changes its style of warfare, the Air Force cannot.

The Marine Corps appears to be moving toward a maneuver doctrine. One recent Marine Corps doctrinal publication, OH 9–3, emphasizes on its first page "the principle that maneuver, not firepower, is the basis of mechanized warfare."

The Marines are leading the way in the doctrinal changes we require if the billions of dollars we invest in ground forces are to produce military effectiveness.

But how long must we wait, and how many more billions must we spend, before the Army and the Air Force make the long overdue change to a maneuver style of warfare?

Another nonbudget issue of importance, again, especially for the ground forces, is small unit cohesion. Virtually every study ever done of men in battle suggests men fight not for king and country, but because of the complex, nonrational, psychosocial relationships between them and their companions in their fire team, squad and platoon. Cohesion sometimes extends as high as the division level in the case of elite units, but it is usually most important on the small unit level.

Without small unit cohesion, troops are not likely to fight effectively. Indeed, in many cases they will not fight at all. At best, units lacking cohesion can be used in static defense positions. They will not be capable of enduring the strain of complex tactical evolutions under fire, such as are required both in maneuver war and in the Army's current "active defense" tactics.

Serious questions can be raised about small unit cohesion in our ground forces, especially the Army. The Marines have made some moves toward unit rotation, which permits the small units to retain the same people. But the Army relies on individual rotation, and it rotates people at a high rate. One study found that in the average individual tank crew, a small unit of four men, after 6 months, only one man was doing the same job in the same crew.

With such rapid rotation, how can cohesion have a chance to develop? Many believe it does not develop, and that small-unit cohesion in the Army today is lacking. The results on the battlefield could be catastrophic.

Again, this is not a budget issue. Spending more money will not improve small unit cohesion. And more spending will not buy a better defense unless small unit cohesion is adequate.

A third key nonbudget issue is officer education. A healthy military service needs three types of ability in its officer corps: leadership, management, and military theory.

Today, our military schools, from the service academies through the National War College, concentrate on management, give some attention—at least in the junior level schools—to leadership, and largely ignore theory. Military history, which is the basis of military theory, receives little emphasis. A cadet can today graduate from any of the service academies with only one semester of military history. The higher level schools tend to be "trade schools" providing training rather than education, and emphasizing management skills. As a result, the services lack the officers skilled in theory they require for military effectiveness.

The education problem is compounded by the absence of a career path for the officer inclined toward theory. As in education, the preference is given to the manager. The leader is tolerated, at least at the junior level, but the theorist has nowhere to go.

Unless we create a proper path for the theorist, we will not only be outspent by the Soviets, we will be outthought, which may be even more dangerous.

What does this review of the defense budget indicate? Above all else, it indicates the need to focus not just on the defense answers, but on the questions. What are the right questions, if our goal is military effectiveness? What should the terms of debate be? There seem to be three basic categories of questions:

First, how large a defense effort do we need for an effective defense? This applies not only to the size of the defense budget as a whole, but to the allocation of that budget between the services. It may be that a reevaluation of our strategy would lead to allocating substantially more to some services and less to others. Just considering the defense budget total is not enough.

Second, what should we spend the money for? Big aircraft carriers and cruisers, and more forces north of Seoul, among many examples do not seem very useful ways to spend the money, if the goal is military effectiveness. Other systems, such as V/STOL carriers and aircraft, sealift, and strategically mobile Marine Corps mechanized units seem to need more funding than recommended by the Defense Department. Spending more across the board is not enough; we must focus the money where it will do the most good.

Finally, we face a number of critical areas where the needed changes do not relate to spending. We cannot improve doctrine, small unit cohesion, military education, or the theorist's career path by raising the overall military budget. We cannot deal with these matters through budget line items. But unless they are addressed, and unless fundamental changes in current practices are made, the defense budget is not likely to buy us an effective defense.

I hope my colleagues will join with me not just in debating the defense budget, but in considering how to debate it—in looking for the right questions, not just the right, much less the easy, answers. There appears to be a welcome and growing national consensus in favor of a better defense. We have a responsibility, shared with the services and the Defense Department, to translate that consensus into reality.

But we will not succeed in doing so if we just increase the size of the defense budget and let it go at that. We must remember our goal: Not just more spending, but a better defense. More is not automatically better; less is not automatically better. Only better is better. It is time the Senate focused its efforts on determining what better really means.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, we are beginning to debate one of the most significant issues of this year. That is the amount of money and the type of weapons we shall procure for our defenses.

Part of the reason we are focusing so much attention on this issue this year, of course, has to do with the circumstances in which this country finds itself with regard to the importation of foreign oil and the political instability of the area of the world from which we import so much of that oil, the Middle East.

Mr. President, I call the attention of my colleagues to an extremely valuable analysis of that dependence contained in the current edition of Foreign Affairs, published for the summer of 1980. I specifically refer to an article offered by Walter J. Levy, who is known to many to be one of the experts in this country on the issue of oil supply, price, and availability.

I have said on many occasions in recent weeks, Mr. President, that I think the greatest area of vulnerability for the United States is our reliance on Persian Gulf oil. If I may, I should like to cite two or three paragraphs from that very, very important article.

Mr. Levy, an acknowledged expert in that area, describes the degree to which we are vulnerable in that region. He discusses the turmoil accompanied by intraregional conflicts among the various countries with continuously shifting alliances and hostilities. Also, he said, there are the on-and-off relations between several of them and the Soviet Union, ranging from treaties of friendship and massive supplies of Soviet arms to complete elimination of Soviet influence.

Then, Mr. President, he continues in that article to say as follows:

> Finally, we face the problem of the internal stability of most of the Middle East regimes. There is very little doubt about the antiquated nature of many of them, and the inadequacy of the existing governmental structures to cope with modern economic problems and cultural stresses to which the oil-producing countries and sheikdoms are now inevitably exposed. Rapid modernization backed by Western governments—in part, at least, because it helps to solve the petrodollar recycling problem—and supported by Western industry through the establishment of huge and sometimes excessive industrial and infrastructure projects is bound to have an explosive effect on Middle East societies.
>
> Nobody can predict when and how the governmental, social and cultural systems in the various countries will change so that they can cope effectively with the problems that confront them; but change they will, and, more likely than not, by convulsions or revolutions rather than through a process of gradual evalution. In the meantime, these countries remain exposed to the often destructive forces of rapid economic development; of foreign education; of huge unearned wealth coupled with immense corruption that enriches a small group of rulers, their relatives and hangers-on; of a massive influx of foreign labor which will do much of the work and may well become a restless and dissatisfied underclass. And waiting at the gates are, on the one hand, the forces of Muslim orthodoxy as manifested already in Iran and in the attack on the Mosque in Mecca; and on the other hand, the subversive forces of Marxism as they attempt to spread their philosophy throughout the area through the Soviet footholds in Afghanistan, Aden and the Horn of Africa.
>
> There are, on all sides, many parties who benefit from the maintenance of the present situation. It is difficult to prepare an objective analysis of this problem, and even more so to have it accepted or even considered by the policymakers of the oil-producing and importing countries—as the Iranian debacle so tragically and vividly demonstrated.
>
> Minor or cosmetic reforms as they are now being planned in Iraq, Saudi Arabia, Kuwait and North Yemen are unlikely to stem this tide of internal and external instability and corrosion. Without going into details, the pervasive strength of all these forces is illustrated by the fact that 13 of the present Arab heads of state, or more than half of them, have reached power by forcibly removing their predecessors in one way or another; and in the past 15 years Arabs have fought Arabs in 12 fierce wars. This is the area on

which, for better or for worse, we depend for stable oil supplies.

Mr. President, unless the United States and its industrialized allies awake to the extremely serious problem which Mr. Levy brings to our attention in this very important article, I fear for the future of this country and the stability of our economy and our national security. I hope that, more and more, the Senate will come to grips with the serious nature of this problem of reliance on unstable sources of petroleum and begin to take the necessary steps to get us off this addiction. Until we do, I fear we are weakening our economy and becoming less stable, in spite of the billions of dollars we are spending for our defense, rather than more stable and more secure.

Mr. President, I yield to my colleague from Ohio.

Mr. President, I ask unanimous consent to have printed in the Record the article to which I have referred entitled "Oil and the Decline of the West" by Walter J. Levy.

There being no objection, the article was ordered to be printed in the Record, as follows:

Oil and the Decline of the West

The year 1979 was one of grievous setbacks for the future security of the oil supply of the Western world, its economic and financial prospects, its strategic capabilities, and its political stability.

To begin with, we were completely unprepared for the collapse of the Shah's regime in Iran, even though there were many early warning signals. And our government and business community share a substantial measure of responsibility for shortsighted policies which contributed to the destabilization of the Shah's regime.

What followed in terms of oil alone should now be a familiar story. During the course of 1979, the decline in Iranian oil production was more than made up by other producing countries. And taking account of a virtually unchanged world oil demand, importing countries were able to increase their oil stocks during the year by well over one million barrels a day, more than has been achieved during recent periods. Nevertheless, a temporary decline in world oil production led to apprehensions by importing countries and their oil companies that they might be unable to cover their future needs. Accordingly, importers tried to obtain added supplies and to increase stocks at almost any cost. This, in turn, resulted in panic buying at largely uncontrolled and escalating spot oil prices.

Obviously, the Organization of Petroleum Exporting Countries (OPEC) would not maintain its official quotations at a lower level if an increasing proportion of its oil was purchased on the spot market by importing countries or companies at much higher prices. In due course, OPEC increased its official prices to more than double their previous levels. Also, OPEC countries would naturally try to sell more and more of their oil directly or through intermediaries at the higher spot prices. This would mean that the established customers for OPEC oil could only obtain smaller quantities of the oil they had previously been able to acquire directly from the producing countries. Accordingly, more and more companies and countries were unable to purchase oil from their former regular major oil company suppliers; instead, they were forced to turn to producing countries or trading companies to assure themselves of supplies, and they showed themselves willing to pay them practically any price that they asked for.

As early as February 1979 it was painfully clear that this state of affairs posed a massive danger for the world oil economy and that it required coordination and cooperation among importing countries and among their companies if this buying panic were to be stopped. As a minimum, the major importing countries would have had to establish a firm policy for themselves and their companies not to buy oil at above OPEC price levels; at the same time they had to be willing to establish an international and national allocation system that would assure all countries and companies an equitable share in the oil that was available at OPEC prices. Without such arrangements, higher spot prices would sooner or later be incorporated into higher official OPEC prices. This would be especially damaging because OPEC prices are not freely fluctuating market prices. Once raised, they are unlikely to come down again because any future softness in prices would be countered by a cutback of OPEC production.

The governments of the major importing countries were, of course, aware of this problem. But either they did not really comprehend its importance or they lacked the will and leadership qualities to act. The relevant international institutions, such as the Organization for Economic Cooperation and Development (OECD) or the International Energy Agency (IEA) either felt that they did not have the constitutional power to deal with this issue, or that they would not have the support of their member governments. Industry generally opposed any course that might involve national or international official controls or interference.

While it is, of course, not certain whether any national or international arrangements, had they been made, would have succeeded, in actual fact nothing was even attempted to stem the tide of upward-spiralling prices. It would appear that most of the wounds of 1979 have been self-inflicted.

So we lived through 1979 with Iran in disarray, with the oil economy in turmoil (even though there was no overall sustained shortage), and with the Soviets invading Afghanistan. It was indeed a year illustrating the impotence of Western power and the failure of national and international leadership.

While 1979 has passed, the problems it created or aggravated are going to stay with us, probably for the indefinite future. Let us first review the medium term to 1985.

With a recession accompanied by a substantial retardation in world economic growth, and with continued conservation and sustained development of energy from all available non-OPEC sources including coal and nuclear energy, it now appears that world energy requirements *could* be met *if* OPEC production, after a decline during 1980 (as compared with 1979), would then increase again and reach about the 1979 level by 1985. This would require, in effect, that political and economic conditions in the major oil-producing areas, notably the Persian Gulf, be such as to lead to sustained and increased production to such levels. It would also require the adherence by the Western nations grouped in IEA to the oil import limitation targets for 1985 and intervening years, which in turn would require greatly increased conservation and further development of indigenous energy sources.

But this is only the statistical supply and demand part of the story, and even this much depends on the doubtful and difficult conditions just stated. Moreover, even under these conditions, the financial problems of recycling petrodollars and particularly meeting the needs of the less developed countries (LDCS) are sure to take on a much more serious dimension than in the 1974–78 period. This is a conclusion universally shared today by those in positions of public or private responsibility, including members of the banking community who assessed the situation in the earlier period and believed that the private banking community could to a very great extent handle the problem. Today, however, there is solid agreement that the omens are far darker.

Specifically, at current OPEC prices and assuming future increases at even somewhat *less* than the anticipated rate of inflation (the most favorable possible assumption), OPEC countries might accumulate a surplus of about $115 billion during 1980 and of some $350 to $450 billion between 1980 and 1985. This would imply that the importing countries would suffer a corresponding balance-of-payments deficit during this period, which would have to be financed somehow by the recycling of the petrodollar surplus.

For the year 1980, the deficit of developed countries has been estimated at about $50 billion and that of less developed countries at nearly $70 billion. The foreign debt of LDCS might reach about $440 billion in 1981, compared with about $385 billion in 1980 and $150 billion in 1975. And with petrodollar surpluses continuing to accumulate, the financial and balance-of-payments position of oil-importing countries would deteriorate at an accelerating rate. It is most unlikely that our national and international financial system can cope with this problem without risking sustained recessions, a slow rate—if any—of economic growth, high rates of inflation, widespread unemployment, industrial and national bankruptcies, and political upheaval.

The debt problem could, of course, be solved if the values of the currencies in which the debts are incurred decline in their purchasing power to such an extent that the repayment of debts, when due, can be done at a fraction of their original value. All of this did in fact occur between 1974 and 1978, a period which has been portrayed by some as the "golden age" of petrodollar recycling.

But it seems now that the jig is up. The recycling "success" in the past was predicated on some confidence in the value of the currencies involved, on the willingness of oil-producing countries to spend ever-increasing amounts of petrodollars for national development and military purchases, and on their readiness to suffer substantial declines in the real price of oil and to accept between 1974 and 1978 the virtual disappearance of their annual petrodollar surplus.

Now the producing countries are trying to establish a policy under which oil prices will not only go up regularly in step with the rate of inflation, but also will increase on a regular basis at rates exceeding the rate of inflation by an additional amount depending on the increase in the Gross National Product (GNP) of the OECD. In short, they are seeking a regular advance in the real price of their oil. Many of them have also cut back their earlier economic development programs so that the former wild increases in annual import expenditures have recently been coming down substantially.

Furthermore, the producers are now placing even greater emphasis on increasing the value of their oil exports by adding refining, petrochemical and transport operations to their national programs. This would of course further add to the foreign-exchange burden of oil purchased by the importing countries and would thus increase the petrodollar surplus even more.

More important, perhaps, the question arises whether the producing countries would really be prepared to continue to produce oil at a rate that would continuously generate surplus petrodollars for them. As they are well aware, they would in effect be exchanging oil in the ground, whose value will certainly advance at least with inflation, for monetary assets whose value would tend to decline with inflation.

If, alternatively, they were to reduce their production, they would not only stretch the life of their oil reserves, but as real prices in tight oil markets are likely to increase, their revenues would go up. It is true that the world economy would suffer very badly by any resulting oil shortage, but the producing countries might argue that, at least to some extent, their loss from the world's depressed economic activity would be less than the erosion in the value of their surplus financial assets that they would suffer through inflation.

The minimum protection the producing countries could be expected to demand, if they were to continue to produce oil at levels needed by the importing countries, would be an indexation of their petrodollar accumulations in line with inflation. To take care of this problem, I have recently suggested that this might be done by making available to them inflation-indexed energy bonds that would be issued by an international agency. As any additional cost that could result from such indexation would have to be underwritten by the oil-importing countries, the financial burden on the latter might, obviously, increase.

Let us now turn to some of the other major problems that affect the security and availability of oil supplies.

The producing countries, having full control over their national oil operations, in fact do not recognize as binding supply or price arrangements even if freely concluded by them. Recently they have gone so far as to change agreed-upon prices retroactively. This, they argue, they are entitled to do under the doctrine of sovereign control by producing countries over their natural resources. Because the contracting party in the producing country is also a government-owned oil company, they contend that any change the government requests in the terms and conditions affecting crude oil production and sales would in fact constitute a sovereign act, so that the government oil company that had entered into a contract would be entitled to claim *force majeure* vis-à-vis its customers.

But, undoubtedly, the increasing unilateral application of this doctrine is also related to the ease with which the host countries have been able to apply it, and to the lack of opposition by the affected private or public interested parties against unilateral expropriation or the cancellation of legal and contractual rights. Because of the fear of being arbitrarily cut off from supplies, Western nations and their companies now accept within a wide range practically any economic or political terms that a producing country may impose on them. This subservience, however, rather than safeguarding the remaining rights and position of the companies, in fact encourages the host countries to continue to proceed as they see fit. We have thus entered a period in international oil of near "lawlessness" in the relationship between producing countries, the oil companies and the importing countries.

The issues are not only supply and price stability. They also include exploration and development efforts that are now exclusively dependent on policies of producing countries, which obviously are not interested in creating any surplus of supplies that might endanger OPEC prices.

Moreover, especially since 1979, producing countries have cut back the oil they supply to the major international oil companies, frequently below the level of their direct requirements. The "International," therefore, can no longer provide oil supplies to third parties as in the past. More and more of the oil is sold directly (or sometimes through trading companies) by producing to importing countries. As a matter of fact, the share of the Internationals in world oil trade has declined from 78 percent in 1974 to about 44 percent in 1979, and is declining even further.

At the same time, the terms imposed by producing countries for oil supplies include more and more political and other extraneous conditions, related, for instance, to the interest of the producing countries in the Palestinian problem, or in their nuclear capabilities or in the political postures of their government customers.

Thus, oil companies no longer perform an effective independent role as a buffer in the relationship between oil-producing and oil-importing countries. They have practically no bargaining leverage with regard to any decisions affecting their operations in producing countries. Moreover, any action by OPEC on supplies or prices that would lead to a higher cost of its oil would, as OPEC is fully aware, also tend to benefit the oil companies, as their own non-OPEC production would also become more valuable.

This is at best a messy situation all around, where the producing countries can have it nearly all their way, because there are no countervailing powers they have to consider. The only question they face is whether, because of their own interest in the economic and political well-being of their customers, it would be prudent for them to exercise self-restraint.

This interdependence is indeed a very weak reed to lean on. It is unlikely to become a controlling factor in the decision-making process of OPEC countries as long as the various importing countries and their oil companies, in the spirit of *sauve qui peut*, are willing to go to practically any length in order to secure their individual oil supplies.

Ideally, one might perhaps have hoped that the major importing countries would have formulated an effective energy policy, and also established a coordinated approach to OPEC with regard to supply and financial problems caused by its actions. Instead, what has dominated international oil relations has been the fear of importing countries and their companies that OPEC may cut off their supplies, or impose even stiffer conditions at the slightest sign of resistance or of a common policy approach by the importing countries. The latter have acted as if they were in such a weak position that in order to obtain continued supplies they must act separately and try to gain favors by ingratiating themselves with OPEC countries by any means feasible.

This policy has been a failure. And the experience of 1979, previously described, has demonstrated how ineffectiveness resulting from fear and lack of common purpose has badly hurt the West, and in fact accelerated the disintegration and Balkanization of the world oil economy. Now again individual importing countries move in various directions, each one suspicious of the other, while pretending on the surface some desire for a unified approach.

The International Energy Agency (IEA), which was specifically established to deal with emergency supply situations, operates under terms of reference which do not allow it to deal with the actual situations as posed now or for that matter in 1979. And when its terms of reference did in fact permit it to intervene, the Agency apparently tried its utmost to avoid any actions, perhaps out of fear that OPEC might not like it.

Without going into details, it would appear that in order to cope with current problems where oil importers might be confronted by OPEC countries with extraneous or detrimental terms on supply or on pricing, the importing countries should agree among themselves on a common policy, backed up by an allocation scheme—as we had earlier suggested as the appropriate response to the problems of 1979.[1] Interestingly enough, Saudi Oil Minister Zaki Yamani recently suggested that the developed and developing countries should jointly adopt a scheme for the equitable distribution of world energy consumption.

Under such a scheme, all the quanitities available on regular terms should be shared equitably among the various countries. It would at least reduce the fears of some countries or companies of being left out of the supply stream unless they were prepared to make special deals on basically unreasonable terms—which, when once accepted, might set the pattern for all later OPEC transactions.

However, it is clear that as a result of recent developments affecting the international oil trade, it has now become much more difficult for importing countries and their oil companies to participate in an international oil allocation program. Any allocation scheme would require some redistribution of the flow of world oil; it is predicated on a substantial degree of flexibility in the world oil supply system that had previously been assured by the dominant role of the international oil companies in controlling and directing most of the movements of oil in world trade. As mentioned earlier, this role has now been greatly reduced.

Instead, restrictions on destinations in many recent OPEC export contracts and the proliferation of direct oil supply deals between the governments of importing countries and OPEC national oil companies might deprive the importers of the necessary flexibility for the diversions of oil shipments. Moreover, the importers might well fear that if they arrange any such diversion, the producing country might cancel their oil supply arrangements. And in those cases where the consuming country has obtained oil supplies only by granting the OPEC country special political or economic advantages, it would, in any case, most likely be reluctant to make such oil available for reallocation to other countries.

There is thus a clear and present danger that recent developments in the structure of world oil trade may have undermined the basis for the emergency reallocation system of the IEA and for a self-defense program of the importing countries as suggested here.

This is a matter for urgent consideration by the governments of the importing countries. They are now confronted with a challenge to their ability to try to cope as a group with major oil supply shortages or with a continued deterioration of the terms under which OPEC oil is made available to them.

The importing countries might well be unable to agree on a joint policy. But if they should fail to take a common stand on protecting their freedom to reallocate purchased oil among themselves, they would in fact endanger their capacity for an effective self-defense against a loss of vital oil supplies and hence seriously jeopardize their future economic, political and strategic viability.

We have discussed until now mainly the supply, financial and structural threats that are confronting world oil operations. The year 1979 also brought into the open the geopolitical and internal revolutionary dangers threatening oil-producing countries. The collapse of the Shah's regime and Soviet aggression in Afghanistan illustrate the vulnerability of practically every one of the producing countries. Moreover, the Iranian revolution has brought to power an extreme orthodox Muslim movement with grave anti-Western and xenophobic policies that might, if unchecked, spread far into the whole Muslim world.

All of this turmoil is accompanied by intraregional conflicts among the various countries, with continuously shifting alliances and hostilities. There are also the on-and-off relations between several of them and the Soviet Union, ranging from treaties of friendship and massive supplies of Soviet arms to complete elimination of Soviet influence.

---

[1] See Walter J. Levy, "A Warning to the Oil-Importing Nations," Fortune, May 21, 1979, p. 48.

There is also the perennial Arab-Israeli conflict, apparently eased by the Israeli-Egyptian peace treaty, but now ominously threatened by the possible failure of the Palestinian autonomy discussions. While a resolution of these issues will not solve the problem of oil relations between the importing countries and the Middle East, the lack of a solution—or even of visible progress—might at any time lead to a conflict which could jeopardize directly or indirectly the uninterrupted flow of oil, or its terms of trade. Needless to say, so long as this problem remains a festering sore the stability of the Sadat regime and of the peace treaty with Israel might also themselves be at stake.

Finally, we face the problem of the internal stability of most of the Middle East regimes. There is very little doubt about the antiquated nature of many of them, and the inadequacy of the existing governmental structures to cope with modern economic problems and cultural stresses to which the oil-producing countries and sheikdoms are now inevitably exposed. Rapid modernization backed by Western governments—in part, at least, because it helps to solve the petrodollar recycling problem—and supported by Western industry through the establishment of huge and sometimes excessive industrial and infrastructure projects is bound to have an explosive effect on Middle East societies.[2]

Nobody can predict when and how the governmental, social and cultural systems in the various countries will change so that they can cope effectively with the problems that confront them; but change they will, and, more likely than not, by convulsions or revolutions rather than through a process of gradual evolution. In the meantime, these countries remain exposed to the often destructive forces of rapid economic development; of foreign education; of huge unearned wealth coupled with immense corruption that enriches a small group of rulers, their relatives and hangers-on; of a massive influx of foreign labor which will do much of the work and may well become a restless and dissatisfied underclass. And waiting at the gates are, on the one hand, the forces of Muslim orthodoxy as manifested already in Iran and in the attack on the Mosque in Mecca; and on the other hand, the subversive forces of Marxism as they attempt to spread their philosophy throughout the area through the Soviet footholds in Afghanistan, Aden, and the Horn of Africa.

There are, on all sides, many parties who benefit from the maintenance of the present situation. It is difficult to prepare an objective analysis of this problem, and even more so to have it accepted or even considered by the policymakers of the oil-producing and importing countries—as the Iranian debacle so tragically and vividly demonstrated.

Minor or cosmetic reforms as they are now being planned in Iraq, Saudi Arabia, Kuwait and North Yemen are unlikely to stem this tide of internal and external instability and corrosion. Without going into details, the pervasive strength of all these forces is illustrated by the fact that 13 of the present Arab heads of state, or more than half of them, have reached power by forcibly removing their predecessors in one way or another; and in the past 15 years Arabs have fought Arabs in 12 fierce wars. This is the area on which, for better or for worse, we depend for stable oil supplies.

Following the Soviet invasion of Afghanistan, President Carter announced that an attempt by any outside force to gain control of the Persian Gulf region would be regarded as an assault on the vital interests of the United States, and repelled by the use of any means necessary, including military force. This has now become the so-called Carter Doctrine.

It would appear that it was absolutely necessary to state clearly our overwhelming interest in Persian Gulf oil, on which we depend for over 30 percent of our oil imports, Western Europe for over 60 percent, and Japan for over 70 percent—and will continue to do so for many years to come. To have remained silent would certainly have been held against us by the producing countries and our Western allies—even though neither our allies nor the Persian Gulf countries have really given us their unqualified and open support once we spoke out.

But of course the Soviet threat to the area is of much longer standing: in Afghanistan the communist radicals seized power in April 1978; in the Arabian Peninsula the Soviets made earlier arrangements with communist South Yemen; and in the Horn of Africa the Soviets some time ago cooperated first with Somalia and then switched their support to Ethiopia.

To give some credibility to the Carter Doctrine, we have moved a substantial number of ships from the Sixth and Seventh Fleets into the area, denuding greatly our forces in the Mediterranean and in the Pacific. We are building up a Rapid Deployment Force and will provide in due course supporting services in terms of ships and airplanes through new supply stations in Kenya, Somalia and Oman—in addition to enlarging the base on Diego Garcia in the Indian Ocean.

With the countries in the area that are directly affected—such as Saudi Arabia, Kuwait, Iraq and Iran—our military relationship remains, however, somewhat tenuous and ambiguous. As a matter of fact, their official attitude toward the Soviet Union and the United States is more that of "a plague on both your houses." It is reflected in the Iraqi proposal or a charter for Arab neutrality in an East-West conflict, which has received support from many Arab countries.

There is also the Saudi opposition to the use of their oil production for increasing woefully inadequate strategic stockpile, and the somewhat ambiguous statement by Crown Prince Fahd that if U.S. forces should ever invade Saudi Arabia to prevent an interruption of oil supplies, the most that can be done is to blow up the oilfields.

Furthermore, there are serious doubts as to how safely we can depend on those countries where we intend to establish supply stations, such as Somalia with its hostile attitude toward Ethiopia and Kenya, and Oman where everything hinges on the policy of the ruler, who has already played a very lonely game because of his support for the Camp David agreements. We know how these rulers come and go, or may change their minds. The disappointing experience with Pakistan when the Carter Administration tried to establish an effective cooperative relationship in early 1980 is indicative of the kind of problems U.S. efforts are facing nearly everywhere else.

Moreover, with the intraregional conflicts which have been rampant, and above all with the grave internal political instabilities of almost every country in the area, a polical upheaval, or a foreign or locally inspired attack on regimes or oil facilities could occur at any time even without Soviet overt or covert interference. In most instances, we will probably never know whether or not there was any Soviet direct or indirect involvement.

In actual practice, the Carter Doctrine may thus more likely than not involve us in an attempt to protect the status quo against internal upheavals or intraregional attacks. This would be a most difficult and probably impossible assignment for U.S. military forces.

Accordingly, the basis of cooperation with many of these countries with their frequently wavering loyalties and alliances, and their often dubious or unclear motivations, may well prove to rest on feet of clay. In addition, our ability to project sufficient power into the area over distances of 6,000 miles or more against a nearby land-based superpower is limited. In any case, even if all should go well, it will take several years before the military buildup of our forces and the adequate preparation of new supply stations can be completed.

The one thing that seems to be certain is that if fighting in the Persian Gulf should erupt, the first targets that will be destroyed, either by foreign or local forces, are the vital oil facilities. Some 60 percent of Persian Gulf exports pass through three ports, with eight critical pump sites controlling the flow of oil. While the United States itself might be able to handle a sustained interruption in Gulf oil supplies through drastic belt tightening, this is emphatically not the case for Western Europe or Japan, and the very possibility of such an event is one of the major factors inhibiting the support of these nations for U.S. policy.

In short, it would appear that the Carter Doctrine, if it were ever to be tested, would of necessity mean that the United States would react against Soviet moves to control the Persian Gulf by military or other actions at times and places of its own choosing, but not necessarily in the Persian Gulf itself. The immediate importance of the Doctrine rests perhaps mainly in the assurance to the countries in the area that the United States is actively concerned about their fate, if the Soviets should ever attack them. Its real value is based on the hope that the Doctrine will be accepted as credible and prove to be a deterrent to the Soviet Union—and will thus never be tested.

But the Doctrine creates many more problems than those mentioned up to now. Not only are the Persian Gulf countries trying to keep any U.S. military effort at some distance, but it is also not at all certain how much support, if any, many of our NATO allies and Japan are prepared to give us—even though the loss of Persian Gulf oil would hit them much harder than us. Instead, some of them, especially the French, seem to prefer to work out for themselves and perhaps for Europe a new special political and economic relationship with the Persian Gulf oil producers. They try to obtain oil supply assurances on economic terms acceptable to them by agreeing to political and other conditions—such as on the Palestinian problem and on military and nuclear supplies—that would appeal to the producing countries.

At the same time they hope that the policy of détente can be maintained, and in due course include some understanding between Western countries and the U.S.S.R. on some kind of accommodation concerning the Persian Gulf area—even though the U.S.S.R., which is and probably will remain much less dependent on foreign oil than the Western countries, might well choose to have it all its own way.

In the light of all these factors, the effectiveness of the Carter Doctrine as a deterrent to the Soviet Union is at best uncertain. The people in the area already tend to look at it partly as a selfish attempt of the United States to protect its oil supplies, and partly as a means to keep conservative governments in power against internal or external regional opposition. And our allies, as mentioned, seem to be tempted to try to go their own way. In terms of achieving U.S. policy objections, the Carter Doctrine might in the end prove to be as ineffective as was the

---

[2] See also Walter J. Levy, "The Years That the Locust Hath Eaten: Oil Policy and OPEC Development Prospects," *Foreign Affairs*, Winter 1978/79.

Nixon Doctrine policy of the 1970s, which sought to establish regional security through a local national surrogate government such as Iran.

The medium-term prospects for the security and availability of oil and for the economic and political stability and strategic security of the Western world are indeed disturbing. If we now consider the longer term outlook, the picture looks equally forbidding. Not only are all the economic and political problems to which we have already referred likely to remain with us; but in addition, even by the year 2000, the massive challenge of moving from a mostly oil-based energy economy worldwide to one that can largely draw on other more amply available energy resources will probably still remain largely unresolved.

A comprehensive and authoritative projection of the overall energy picture up to the year 2000 that is currently available is the Exxon publication, *World Energy Outlook*, released in early 1980. This study postulates a very high rate of expansion of energy production from non-oil sources during this period. Specifically, it forecasts a nearly 120 percent increase over 1980 in the non-communist world's use of coal; a more than quintupling of nuclear power; a more than doubling of hydro-power including solar, geothermal, etc.; and a buildup of synthetic fuel production from coal, tar sands, and oil shale, from virtually zero to seven million barrels per day.

In addition, the Exxon projections reflect a highly successful effort in improving the efficiency of energy use. Between 1980 and 2000, the average annual growth of non-communist world Gross National Product, adjusted for inflation, is estimated at about 3.5 percent, while energy consumption is projected to grow at only 2.5 percent per annum. This reflects a substantially expanded conservation effort from the past. For example, according to Exxon statistics, between 1965 and 1973 energy use in the non-communist world grew more rapidly (5.5 percent per annum) than economic output (5.0 percent per annum).[3]

Even on such assumptions, however, the Exxon study concludes that there would remain in the year 2000 a demand for oil of 60 million barrels daily, which would be 15 percent above the 1978 demand level. Oil and gas combined would by the year 2000 contribute 86 million barrels daily oil equivalent, or 52 percent of total non-communist world energy demand as compared with 72 percent in 1978. Exxon also assumed that:

The combined net oil exports from the Soviet Union, Eastern Europe, and the People's Republic of China to the rest of the world would remain roughly constant during the period, at 1.0 million barrels daily, with declines in availability from the Soviet Union offset by increasing amounts from China; total non-communist world oil production outside OPEC would increase by some 7 million barrels per day to 26 million barrels daily by the year 2000; and production (including natural gas liquids) still required from OPEC countries would, at 33 million barrels daily, be 10 percent above its 1978 level and amount to 55 percent of total non-communist world oil supply in the year 2000.

The average annual addition to oil reserves through new discoveries in the non-communist world, between 1980 and 2000, was projected by Exxon to range between 9 and 15 billion barrels. To assess the reserve-to-production ratio for the year 2000, let us use the figure of 12 billion barrels, the midpoint of this range. Accordingly, the reserve-to-production ratio would decline from 31 years in 1980 to roughly 20 years by the year 2000. For most of the producing countries, except for a few of the oil-rich countries, the reserve-to-production ratio by the year 2000 would be 10 years or less.

In the meantime, with a continued decline in the reserve-to-production ratio during the 20-year period, it is almost inevitable that real prices for oil would take off. The ensuing financial and economic problems could far exceed those which would be incurred between 1980 and 1985 and would—within the framework of our society and institutions—appear to be beyond our current capacity to cope. Moreover, many of the producing countries would certainly, for reasons of economic or political policy or because of physical limits set by productive capacity, reduce their production when their reserve-to-production ratio declines below a certain minimum. There is thus a "self-destruct" element in the relationship between the projected size of oil production and the economic and political consequences that it could entail.

The question thus arises: If indeed the problems can be kept manageable, what must the importing countries do to assure their future political, economic, and strategic viability?

From all that has been said so far, it would appear that the oil importers would probably need 30 years or more to create an energy economy based overwhelmingly on sources other than oil—and even this goal might not be achievable if we wished to sustain a viable rate of economic progress. During the 30 years-plus when we must surely still very much rely on oil, a large part of that oil must be obtained from the oil-rich countries of the Persian Gulf. Even in the unlikely case that within the next 10 to 15 years massive new discoveries should be made, comparable to those of the Middle East, it would take perhaps some 10 additional years before they could be fully developed.

It is thus imperative—during the period when the importing countries must procure each year more than 25 million barrels a day from OPEC producers and some additional substantial quantities from non-OPEC sources such as Mexico—that the real price of oil be kept at a manageable level. This may well mean that for some time to come prices should not increase at a much higher rate than that of inflation. The underlying concept would have to be that oil must be conceived in terms of a "common heritage of mankind" that must serve both the welfare of the producing countries and that of the importing countries.

That might well be considered to be an unrealistic utopian fantasy, especially as it would have to be based on an accommodation between oil producers and oil importers where both parties take full account of each other's vital interests. Above all it presupposes that the United States, the Soviet Union and possibly China agree on common principles that would apply to their policies affecting the area, and thus would be willing to abstain from any actions that might interfere with the maintenance or establishment of peace and tranquillity in the Middle East.

Specifically, it would require the conclusion of effective arrangements between oil-importing and producing countries on the size of needed oil exports, on a sustainable level of prices, on the planning and implementation of development programs for producing countries and on many other areas of concern to all the parties involved.

It would also imply that the threat of instability within producing countries and that of intraregional quarrels in the Middle East would be contained and neutralized. Within the Middle East, the Arab-Israeli conflict must be concluded, which in fact means that the autonomy issue and the Palestinian problem must be equitably resolved. But there are many other potentially explosive quarrels affecting the region—such as those centering around Lebanon; or the relationship between Iran, Iraq, and other Arab countries; that of South versus North Yemen; the isolation of Egypt within the Arab world; the problems that are posed by the Libyan attitude towards its neighbors; and so on.

Within the various Middle East countries, the modernization of their political systems and of their economies must proceed without upsetting their traditional values. The new Orthodox Muslim movement, as it might be spreading from Iran, might otherwise engulf all those forces in the area that are seeking to achieve reasonable political and economic progress.

If all this were possible, we could probably solve the major problems that are related to the world's long-term dependence on Middle East oil. However, this kind of scenario does not reflect the world as it is now and is likely to be in the future; and we have not much reason to hope that the various producing countries, the importing countries, and the superpowers will ever agree on such a rational course of conduct—especially as the immediate dependence of the Soviet Union on Middle East oil is less than that of the United States and of most other Western nations.

Instead, we will probably be confronted by a series of major oil crises which might take any or all of several forms: fighting for control over oil resources among importing countries or between the superpowers; an economic-financial crisis in importing countries; regional conflicts affecting the oil-producing area; or internal revolutions or other upheavals in the Middle East. At best, it would appear that a series of future emergencies centering around oil will set back world progress for many, many years. And the world, as we know it now, will probably not be able to maintain its cohesion, nor be able to provide for the continued economic progress of its people against the onslaught of future oil shocks—with all that this might imply for the political stability of the West, its free institutions, and its internal and external security.

Mr. GLENN. Mr. President, first, before making an opening statement on the national defense in the 1981 budget, I wish to have printed in the Record an article in yesterday's Parade magazine regarding "Admiral James B. Stockdale: A Man Who Lost and Regained Freedom—For Him, Every Day Is the Fourth of July." That is the title. It is an article by Admiral Stockdale regarding his own experiences and his title is "Freedom: Our Most Precious National Treasure."

It is an essay written to be released just before the Fourth of July, which comes this week, obviously. To use a trite phrase, that freedom is not free, can hardly be news on the U.S. Senate floor.

---

[3] In the case of the United States, the change is even more dramatic. For the period between 1978 and 1990, the economic growth rate in the United States is projected at about 2.5 to 3 percent per year, while the growth in total energy demand is projected at a rate of only 0.8 percent per year. This of course reflects the high consumption of energy in the United States and the resulting possibilities for a greater degree of conservation than is possible in other industrialized countries. In the same period, for example, energy demand in Europe is projected to rise by 2 percent annually, and in Japan by 2.9 percent. For other nations than the United States, Canada, Europe and Japan, the projected growth in energy demand up to 1990 is 5.8 percent per year. The result, naturally, is a substantial progressive change in the percentages of total world energy demand by various countries and areas—with the United States dropping from 41 percent to 33 percent, and Europe from 27 percent to 26 percent, while the "other" countries increase their share from 19 percent to 28 percent. Exxon, *World Energy Outlook*, pp. 6–7, 26–31.

Mr. President, I have been able to call Jim Stockdale a close friend of mine since we went through test pilot training together in a small class back in 1954. We have kept in touch since that time, with the exception of the nearly 8 years that he spent in prison in North Vietnam. Jim came back. He lasted through those 8 years. He did not break. He was the senior military officer at what became known as the Hanoi Hilton. He was able, by tapping out codes on the walls and by his own personal dedication and belief in the rightness of what he was doing, to keep a number of people organized in those very unfavorable circumstances.

He does not indicate in his article, but at one time the North Vietnamese were absolutely dedicated to the proposition that they were going to make him take part in some of their TV propaganda broadcasts and their filming that was going to be released throughout the world, stating things in favor of North Vietnam.

When it came time to come to him that day and take him out of that cell, he had used the stool that was in that cell to beat himself in the face, to disfigure himself sufficiently so that they would not want to take pictures of him.

That is exactly what happened.

That is the kind of dedication this man had to his country, to the Navy, to what he felt was right in representing the United States of America in the situation he was in.

I have put things in the Record on Admiral Stockdale and about Admiral Stockdale at the time he was awarded the Congressional Medal of Honor when he came back.

Admiral Stockdale is now president of the Citadel, the military college in South Carolina. He still walks with a limp as a result of beatings in prison, and he received no medical treatment. He broke his leg when he parachuted out of his airplane over North Vietnam.

He very proudly wears the Medal of Honor, added to his many other decorations.

But perhaps the most important legacy he gained from his experiences was the knowledge of what true liberty is and what it means to him.

That is a legacy he shares with us all as we approach this Fourth of July, 1980.

I am proud to call Jim Stockdale and Sybil, his wife, my very close friends.

I am very proud to put this essay in the Record which appeared yesterday in Parade magazine across this country.

Mr. President, I ask unanimous consent it be printed in the Record.

There being no objection, the essay was ordered to be printed in the Record, as follows:

Freedom: Our Most Precious National Treasure

(By Vice Adm. James B. Stockdale)

Before the big iron gates slammed behind me as I entered the Hanoi prison, I found it hard to think of freedom as something other than an abstraction that's used in songs, Supreme Court debates and political speeches. In this respect I was like many Americans today who take freedom for granted. By the time I was released to come home nearly eight years later, freedom had long since ceased to be an abstraction to me.

To those of us who have served time in Communist jails, freedom has a delicious, tangible meaning. It has become something we can figuratively reach out and touch. Such feelings are likely understandable in men who have spent years shackled and manacled in isolation. But my love of freedom is not just a reaction to cruelty; my appreciation of its preciousness stems from a first-hand understanding of its rarity. The void of freedom in other parts of the world—and particularly the passivity with which this lack is accepted—is staggering to a man who is born and raised free. In my Hanoi cell, I found myself daily picking up shocking signals in that milieu of deadened sensitivities. Like these:

The routine feedlot attitude of the simple peasant guards who delivered daily food rations down the line to cooped-up humans, fowl and livestock, with expressionless unconcern for the continual darkness, suffocating closeness, and isolation in which the chickens, pigs and men were confined.

The continuous barking of loudspeakers on the street telling the people of Hanoi what to think.

The pathetic ignorance behind the outburst of a prominent political cadre who shouted to me in a moment of exasperation: "We may not have freedom, but after 400 years we have order, and we will settle for that."

These and countless other impressions drive home to me the fact that human freedom is not the way of the world. To be free to come and go, to choose your life's work, to go for the big bucks or selfless service, or to hit the road as a drifter—these are not open choices to most of the 4.5 billion souls on this planet. Human freedom as we Americans know it is available only to a steadily shrinking minority of people.

You don't know what freedom is until, for a starter, you live for several years in a box-cell 10 feet long and 4 feet wide. I was crouched in the corner of that cell when my guards caught me writing a note to one of my fellow POWs. They were very mad about that note, so they took me from the box-cell to an even smaller, low-ceilinged outbuilding, a place we called "Calcutta," and laid me on the floor in squeeze irons.

Fetters and jail take away your external freedom; you can't get up and go. But what about the freedom of your will and spirit? Our captors wanted to get at that more than anything. Not by brainwashing—I don't believe there is any such thing—it's a journalist's word. The real answer is simpler: it's pain. They tied your arms behind your back with ropes, shutting off circulation, and then violently and methodically tightened those ropes further, forcing your head down between your legs to produce claustrophobia. Death was not an option; there was only one way to stop it, and that was to say, "I submit."

In his *Nicomachean Ethics*, Aristotle points out the difference between acts done voluntarily and those under compulsion. But he adds that a measure of free choice may remain even in the severest extortion situations. We had many ways of clinging to that tiny residue of freedom in Hanoi. One way was the tap code. Although we were in solitary confinement we could surreptitiously communicate with one another, set up a chain of command, encourage the doubtful, console the depressed, comfort the hurt.

We figured out ways to prevent our captors from manipulating us into making photo and television propaganda for them. One way was to assume a character like an actor—a personality of unpredictability. Our captors did not hold with unpredectability. When they put an American pilot before the cameras they wanted to be sure of his total submission. For that they had to be sure that his behavior was predictable. To sabotage that, when put under stress you could stage random scenes of emitional instability. You could throw chairs around and yell, "To hell with the torture." You had to be a good actor. If they thought you had not lost control of yourself but were putting them on, within minutes you could be back in the ropes sobbing like a baby. When you pulled off the act convincingly, they didn't like it. For then you were not useful as propaganda. They'd say, "This guy is not what we want to take downtown."

People have said to me, "I couldn't take a prison experience like you guys. You all must have had a tremendously high threshold of pain." But it was not a question of a high or low threshold of pain; it was a question of endurance. It didn't matter so much if you submitted under pain one day so long as you made them start all over again the next day. They didn't like to do that. So the thing was to cling to that tiny vestige of freedom it was in your power to hold.

That word freedom is crucial. Freedom does not exist because our Constitution says it should. Over the course of our country's history, people have constantly labored to keep freedom and have paid dearly for it.

Our Declaration of Independence of 204 years ago this week remains one of the most stirring documents in history, signaling a commitment to bear the responsibilities of protecting a way of life. After our bitter struggle for independence, brave and earnest men stepped forward to write our Constitution and formally frame the reasons for which we had fought that unpopular war against the British. No one had to remind our Founding Fathers of the cost. Fifty-six of them knowingly laid their lives, liberty and honor on the line when they signed that Declaration of Independence. And they paid their dues. In the ensuing war, nine were killed in action, five died as prisoners of war, 12 had their homes burned, several lost sons, one man's wife died in prison, and 17 (including Thomas Jefferson) went broke. The legacy of these men was summed up very simply by Tom Paine: "Those who expect to reap the blessings of freedom must, like men, undergo the fatigue of supporting it."

This nation has come a long way since the drafting of the Constitution, and the milestones are littered with human sacrifice. We've fought wars around the globe in freedom's name and have paid a terrible price for our most fundamental national belief. Today, there are men and women who may lay down their lives for this country and the freedom for which it stands.

We all bear the painful costs of freedom. As we formally celebrate the commitment to break from England and to protect our natural rights, let's hug to our breasts our freedom—our most precious national treasure—knowing that it, like a child, is imperfect and demanding but undeniably good. Let's keep our centuries-old habit of protecting that child of America, that freedom. She's getting more rare and precious every day.

Mr. GLENN. Mr. President, we are here today to consider the national defense 1981 budget.

Mr. President, recent aggression by the Soviet Union and her allies, coupled with the disturbing decline in American military strength, has convinced me that we must immediately begin to shore up our national defense. Indeed, I believe we have been woefully remiss in allowing our military preparedness to erode to its present unhappy state. History teaches us that if we permit that erosion to continue, we will effectively invite our adversaries to foment further international unrest and conflict.

The past several years have provided ample evidence of an alarming shift in Soviet military and foreign policy. In Africa, the Soviet proclivity toward proxy warfare has turned Cuba into a nation of Marxist mercenaries, plying their trade in Angola, Zaire, Somalia, Ethiopia, South Yemen, and Soviet doubling their presence in the Indian Ocean. Indeed, Cuba itself remains an outpost for Red Army combat units. In Afghanistan, we have witnessed a new Soviet willingness to use Russian troops outside of Eastern Europe. The savage invasion and shameless occupation of Afghanistan have been universally condemned as brazen acts of neo-Imperialism, and makes the Soviet Union into a class of colonial powers, and expanding colonial powers. Nor can we ignor the growing number of Soviet troops on the disputed islands north of Japan, the Soviet-backed Vietnamese offensives against Kampuchea and Thailand, or the increased Soviet naval preserve in the Indian Ocean.

Since the close of World War II, it has often been argued that if the United States restrained its military spending, the Soviets would reciprocate. The record, however, reveals otherwise. We have reduced our arms procurements for some years now. The Soviet Union has responded by an arms buildup unparalleled since Hitler's Germany. Current U.S. defense spending of about 5 percent of gross national product is lower than it has been since just prior to the Korean war. The Soviets, by contrast, have been devoting some 11 to 12 percent of their GNP to military spending for the past 10 years. Throughout the 1970's, Soviet spending for such vital equipment as planes, tanks and naval vessels remained about 55 percent higher than that of the United States.

I repeat that, throughout the 1970's, Soviet spending for such vital equipment as planes, tanks and naval vessels remained about 55 percent higher than that of the United States.

The result is that we now find ourselves at a quantitative and qualitative disadvantage vis-a-vis the Soviets in many categories of armaments. There are also distributing indications that Soviet military technology is gaining ground in areas such as antisubmarine warfare, communications, and early warning systems—areas in which we historically had enjoyed superiority.

Mr. President, where the national security is concerned, there is simply no substitute for an adequate defense—and no bargain basement way of achieving it.

Regrettably, the administration's various defense budget proposals do not improve our military strength quickly enough or in a sufficiently systematic and coherent way. The Nation's defense spending for 1981 must better take into account the impact of increased fuel costs and the corrosive effects of inflation. Unless rising fuel costs and inflation are properly estimated, they will nullify any real growth in the 1981 defense budget. In addition to insisting on more realistic cost estimates in these areas, personnel, conventional weapons, and war reserve stockage levels.

The 1981 budget must move toward eliminating the gross inequities that have made virtual paupers of many of our service people. The armed services are facing potentially devastating problems in attracting volunteers and in retaining experienced midlevel personnel. Last year, the services fell about 24,000 persons short of recruiting targets. And the growing loss of service people with hard-to-replace technical skills is causing a severe reduction in our combat readiness. The Navy alone is short some 20,000 petty officers and the services have not been able to replace the more than 5,000 pilots who have opted to return to civilian life.

The costs run over $1 million per pilot, per training. That is lost down the drain because we do not make service life attractive in comparable pay and benefit terms to civilian industry life.

Obviously, no single action will cure all our manpower ills. But the place to start—and start we must—is with restoring real comparability between military pay and salaries in the civilian sector. We spend millions in training technicians to program computers, repair radars, or operate nuclear propulsion plants. Inexplicably, we then sometimes pay them even less than minimum wage. Since 1973, increases in military pay have lagged behind the cost of living by more than 25 percent. Private sector wages, on the other hand, have better kept up with inflation. It is, therefore, hardly surprising that the more lucrative private sector has been successfully luring away our experienced military personnel. The loss of our military professionals convinces me that we are beyond the point where we can expect that patriotism and job dedication alone will sufficiently compensate our soldiers, sailors and airmen. We cannot expect endless sacrifice in the absence of just reward.

Turning to armaments, our procurement of new ships, aircraft, tanks and missiles should take advantage of the most efficient production capacity. This, in turn, will insure that we pay the lowest possible unit prices. This is not our present practice. We now tend to buy at uneconomic rates, sometimes even when we have spent Federal funds to gain a higher production capacity.

To offset Soviet advances in tank design, we decided to add 7,000 XM-1 tanks to our inventory by 1987. To accomplish this, we spent $161 million to update factory production capacity so 150 of those tanks could be built monthly. Incredibly, the procurement plan presented to Congress this year does not take advantage of the production capacity for which the $161 million was spent.

We invested over $100 million so that the F-16 aircraft could be built at a rate of 180 per year. But stretchouts in the procurement program could lower the production rate to 120 per year. That will result in an additional $1.6 billion in extra costs, plus a 22-month delay in getting this modern fighter into our Air Force.

It is flim-flammery to suggest that stretching out our purchase rates will save money. We will have to spend today's "savings"—and then some—to meet higher production costs in the future. So instead of saving money, we increase our costs and actually end up paying more than we had earlier planned.

In other words, we have a full load for the submarines going to sea in the event of war; and when they come back, if they have fired all their torpedoes, we will have only 10 percent of what we need to provide them a return to sea—only 10 percent reload capacity.

Thus, our attack submarine fleet—built and maintained at such great expense—will not be able to rearm itself fully in a future war. That is preposterous.

Moreover, had we in Congress not acted to overturn a shortsighted Department of Defense budget cut, the Navy could today be facing a complete cut-off of MK-48 torpedoes. Seemingly oblivious to the low stockage levels of the MK-48, DOD wanted to stop purchases—and would thereby have shut down this country's only production line for that torpedo. Once closed, the taxpayer would then have to pay about $50 million in startup costs in the likely event that we later realized more torpedoes were needed.

Mr. President, I strongly support the action of the House of Representatives to add funds in fiscal year 1981 for a modern manned bomber. Our present fleet of B-52's is aging, increasingly unsafe, and rapidly becoming uneconomical to maintain.

Although we have developed highly effective ammunition and missiles, our stockpiles are now so precariously low that they would last but a few days in the event of war. The MK-48 torpedo, for example, is the only modern submarine-launched torpedo we possess. It is also the only torpedo that would be effective against the new Soviet *Alfa* submarine. Yet, our procurement planning has been so abysmal that once our attack submarines fire the torpedoes they carry onboard, there would be available onshore only about one-tenth as many torpedoes for a second mission. The last B-52 that was delivered to the U.S. Government was delivered some 19 years ago. We all have heard stories about sons now flying the identical aircraft their fathers flew decades before them.

Moreover, I seriously question the ability of the B-52 to survive even moderately effective air defenses. What we need is a multirole bomber, one that can be based on some of the technology of the B-1, in which we already have invested millions of dollars.

By multirole bomber, I mean one we can use in conventional warfare, which is the way, most likely, future wars will start, not with some great nuclear holocaust. We need a plane capable of performing three missions: the regular, old-fashioned iron bomb, smart bomb-type delivery system; one that can launch cruise missiles; and, in the event it is needed, one that can perform the nuclear delivery role, also. Such a bomber could replace the B-52 on a one-for-two basis because of the newer plane's ability to carry twice the B-52 payload. Moreover, such a bomber would be more effective than the B-52 in conventional roles, as well as in the delivery of nuclear weapons. It would also be more survivable than the B-52, since it would be faster, have a smaller radar profile, and would possess more advanced electronics.

I am firmly convinced that the work done thus far by Congress on the defense budget has resulted in prudent and necessary additions which will strengthen our national security. Equally important, I believe that these legislative initiatives also serve as a clear and unambiguous signal to allies and adversaries alike that our Nation intends to maintain a military posture which is truly second to none.

Mr. President, as we approach the Fourth of July, the 204th anniversary of our independence as a nation, I believe we are all well aware that we absolutely must have a defense establishment second to none.

Mr. THURMOND. Mr. President, I rise in support of H.R. 6974, the fiscal year 1981 defense authorization bill, as amended, which provides $51.8 billion in budget authority for the approaching fiscal year.

This legislation represents a significant step toward increased defense spending, an action which is essential in view of the national security challenges facing our country.

BILL INCREASED $5 BILLION

Of special note is the fact that the committee increased the President's request by approximately $5 billion, with $1.5 billion of this addition being applied toward increased personnel pay and benefits.

Mr. President, as a whole I commend the committee for its work on this bill. However, several actions were taken with which I strongly disagree. Before addressing these issues, I would like to review our current military situation.

DEFENSE SPENDING DOWN

Since the Vietnam war, our country's military preparedness has dropped sharply. For instance, defense spending as a percent of the gross national product has dropped from 9.3 percent in fiscal year 1968 to 5.2 percent in fiscal year 1981. Our Armed Forces are now undermanned, the quality of recruits is low and badly needed new weapons have been canceled or delayed. All of these actions have been taken over my active opposition.

During this same period, the Soviet Union has been spending an astronomical amount strengthening its military forces and spreading its influence. The Soviet intention is to gain dominance over the entire world, and America must be prepared to meet and turn back this challenge.

SOVIETS HOLD CLEAR LEAD

In almost all military areas, the Soviet Union now has a clear superiority over the United States.

The Soviets have recently gained an advantage in strategic nuclear systems, an advantage that our military leaders now admit cannot be overcome by the United States until the middle or late 1980's. The Soviet Navy outnumbers the U.S. Navy 3 to 1. Soviet ground troops outnumber American ground troops 3 to 1. The Soviet Air Force outnumbers the American Air Force in every category except the number of bombers.

WE MUST REBUILD PROMPTLY

In my opinion, it is imperative that the United States undertake to increase defense spending at an annual rate of 10 to 20 percent in order that we restore our strength in the earliest possible time frame.

This bill moves decisively in that direction. The committee attempted to place the bulk of the additional funding in strengthening the regular forces by adding additional ships and increasing the rate of procurement of aircraft and other weapons already in production. By increasing procurement rates the Nation is able to procure items at lower unit costs based simply on the premise that when you buy more, the cost is less.

LACKS GUARD, RESERVE SUPPORT

This bill, however, is lacking in that little was done to procure weapon systems and take other steps to upgrade the Guard and Reserve Forces. Under the total force concept, the Guard and Reserve will be called to active duty immediately in the event of a national emergency. Further, the Guard and Reserve have been charged with the responsibility for large portions of our military posture.

For instance, in the Army the Guard has responsibility for providing 30 percent of division forces, 72 percent of the separate brigades and regiments, and 67 percent of the logistical support to augment active units.

The Air Guard and Air Reserve have been assigned responsibility to provide for immediate deployment of 32 percent of our tactical fighters, 50 percent of our strategic airlift capability, 60 percent of our air defense assets, 64 percent of our tactical airlift assets, and 21 percent of our air refueling assets.

The Marines, under the three-division Marine Force, look to the Reserve to provide one division while the Active Forces maintain the other two divisions.

In the Navy sector, the Reserve has responsibility for 20 percent of the tactical and mobility forces, 10 percent of the support forces, and 15 percent of the auxiliary forces.

HEAVY RESERVE RESPONSIBILITY

In the sum total, one-half of the Nation's combat power and two-thirds of its support capability are maintained in the Reserve Forces. Yet they receive only 5 percent of the total defense outlays.

Despite this heavy responsibility, the Guard and Reserve lack much of the modern equipment they need to mobilize and deploy as required.

Changing these conditions is not only desirable, it is essential. We must keep these forces strong if our Nation's ability to deter aggression is to be maintained.

Therefore, I regret that our committee did not authorize procurement of any aircraft or other weapon systems for the Guard and Reserve. Although we added $5 billion in weapon systems for a total procurement of $51.8 billion, no substantial new items were procured for the Guard or Reserve. While I understand the committee's view that we must give priority to our Active Forces, I believe a balance should be achieved in view of the great responsibility we have placed on the Guard and Reserve.

ARMY REDUCTION UNWISE

Another action taken by the committee which I found troubling was the decision to reduce the personnel strength of the Army by about 25,000. This was done in recognition of the Army's inability to attract a higher quality recruit. The majority of the committee believed that if we could not obtain a higher percentage of high school graduates, then we should move to a smaller sized force. If this reduction actually takes place, it could lower our Army strength by two divisions.

My position on this issue would be to leave the Army strength at the requested number but require that the Army recruit a higher percentage of high school graduates or equivalent personnel.

By taking this approach, we would encourage a higher quality force yet avoid creating undue turbulence and sending a misleading signal to the Soviets.

Also, this approach gives the Army the flexibility of achieving a worthy goal without the organizational problems caused by such a high reduction in end-strength.

AIR FORCE A-10 AIRCRAFT

In some areas the committee took actions which I believe disregarded the emphasis on priority procurement.

For example, the committee added about $50 million to procure two-seat trainers for the Air Force A-10 fleet and provided research and development money for a night/all-weather version of the A-10.

This was done despite the fact that the Air Force stated repeatedly they had no requirement for either type aircraft. Besides the additional cost of $2.3 million per trainer, another $30 million would be added to A-10 costs for each squadron of two-seat planes. The A-10 is a simple aircraft and the Air Force position is that two-seat trainers are needed only for training pilots in more complex aircraft.

As for the night/all-weather plane, I believe we need a capability of this type in close-support missions. However, the A-10 is already underpowered and adding the two-seat plus the avionics suite will increase the weight to such an extent that the weapons-carrying capability of this particular plane will be reduced to an unacceptable level.

NAVY SHIPBUILDING PROGRAM

On the whole, however, I believe the committee has written a good bill this year. I am especially pleased about the 35-percent increase in the Navy's shipbuilding program. The Navy's position today is precarious. Today's Navy is only one-tenth of its size during World War II and only one-half of its size during Korea or Vietnam. Meanwhile, the Soviets have emerged as a maritime superpower and outnumber the United States 3 to 1 in major ships. The Soviets currently have under construction four cruisers, five subs, and two aircraft carriers.

Our own Navy, which numbered 5,700 ships during World War II, has a requirement for 550 ships yet has only 462 active ships. We have halved our number of aircraft carriers, amphibious lift capability, auxiliary and support ships.

Mr. President, just to maintain our current fleet level we need to procure 17 new ships per year. Yet over the past 10 years we have averaged only 15 ships per year. Over the past 4 years of the Carter administration, the number of new ship procurements has been well below average. Naval planes and weapons are in a similar position. So today, our Navy has a shortfall of $5 billion per year in ships, planes and weapons.

Mr. President, the Navy needs ships and they need them now. One of the most cost-effective decisions the committee made was the approval of my amendment No. 1691 to reactivate the battleship *New Jersey* and carrier *Oriskany* by a 2 to 1 margin. The *New Jersey* is one of the most formidable and survivable ships in the world. Yet this ship has over 15 years of design life left and can be back in service in 12 months. This is the kind of initiative the Navy needs. Instead of waiting 4 years and spending six times as much money for a new ship, we can have the *New Jersey* in 12 months. This is a significant addition to our fleet. It gives Admiral Train the number of battle-carrier task forces he needs to carry out his mission. It will free up a carrier in the Indian Ocean. Within the Navy, hundreds of personnel are volunteering to serve on this ship. A surprising number are reenlisting to serve on this ship.

MILITARY PAY

Before concluding, I wish to especially commend the committee for the actions taken in the area of military compensation. When Congress directed the services to go to an all-volunteer service, they had a responsibility and an obligation to get quality people in the service and to keep them in the service. We have reneged on this over the past few years. The committee is now recommending an increase of 11.7 percent in basic pay, subsistence and quarters allowance. This is a step in the right direction. Also approved were various increases in bonus pay to help the military maintain quality personnel. I hope that before the end of this session the Congress can also act on a sorely needed GI bill for educational assistance to further improve the recruiting and retention of high quality personnel.

RECOMMENDATIONS FOR APPROVAL

In summary, this bill is a decisive step towards redressing our declining military strength. It recognizes the President's recommendation as inadequate and takes steps not only to bolster our forces but to procure needed items at a lower unit price.

Therefore, I urge that the Senate act promptly and favorably in endorsing the effort by the committee to begin the lengthy and necessarily costly job of rebuilding our defense forces.

Mr. DECONCINI. Mr. President, a few months ago, I would have characterized American foreign policy as standing at a crossroads. I would have been thinking about the implications of the SALT II treaty which was about to come before the Senate for consideration.

Today, however, I am forced to concede that it appears as if events are moving beyond our ability to control them. Past policies are catching up with us, leaving us essentially stranded in an increasingly hostile international environment. Apprehensions bred by the Vietnam experience have been reinforced by a decade of complacency. The net result is a United States that is relatively weaker and relatively less influential than any time since the Second World War.

I am not convinced, as some commentators appear to be, that we are merely witnessing the inevitable fall of the American empire. According to this view, every major society has its heyday that is inevitably followed by decline and decay. But the future is not preordained, and the belief that it is relieves us of the responsibility for our actions. No, America's hard times are largely of her own making. We reap what we sow. During the last decade we have sown the seeds of appeasement in our relations with the Soviet Union; today, we reap the chaos that must inevitably follow upon such a course.

The problem began during the middle years of the 1960's when the expense of the Vietnam war led the Pentagon to strain for a strategic doctrine that cost less and promised more. We found this "free lunch" in the mutual assured destruction doctrine, known by the acronym, MAD. MAD said simply that a few nuclear weapons that were immune from a Soviet first strike, like those on a nuclear submarine, were all that were necessary to deter the Soviets. By this logic, we could pretty much let the strategic level take care of itself, freeing tremendous resources for the great society at home and the Vietnam war abroad.

Although the SALT process embodies this bankrupt doctrine which has allowed the Soviet Union to develop a significant strategic superiority over the United States, our willingness to allow Soviet strategic superiority was complemented by an equivalent reluctance to oppose the expansion of Soviet conventional power and influence in Africa, Asia, and South America. The trauma of Vietnam appears to have caused us to unlearn the bitter lesson of history that the Western Powers never seem to remember: That sooner or later appeasement leads to war.

An analogy of a previous "unlearning" of this lesson with current American policy is particularly disturbing. Chamberlain consistently underestimated the innate expansionism of Hitlerian Germany. Indeed, he eventually convinced himself and his government that by thwarting the demands which Hitler portrayed as legitimate, the Western Powers were responsible for the unrest in Central Europe. Without drawing too sharp a parallel, the similarities between those unfortunate attitudes and some of the debate that has surrounded American foreign and defense policies is disconcerting. For example, a dominant school of strategic thought whose spokesman, Paul Warnke, who was one of the chief architects of SALT II, believes that the Soviets had a right not only to a military establishment equal to ours, but greater due to supposedly more complex Soviet defense needs.

We see at work today essentially the same syndrome of intellectual and moral attitudes that led to the outbreak of the Second World War. To some extent, these attitudes are the curse of a liberal Democratic, civilized society. The lesson of appeasement is unlearned because we find it intellectually difficult to admit that other societies and other political systems are not motivated in essentially the same manner as we. We transfer onto other peoples and systems our basic satisfaction with the status quo and our fundamentally peaceable intention. The more sophisticated we become, the more difficult we find it to draw sharp moral distinctions. Thus, Americans find it hard to condemn Soviet society—or any other society, for that matter.

We are inclined to believe that the Soviets are basically like us. When we find facts that seem to contradict that proposition, we invent excuses. Usually, the excuses are at our own expense. The most common of these is that Soviet behavior can be explained as fear of the aggressiveness or the power of the United States.

I believe that large numbers of State Department and Pentagon officials felt a collective sense of guilt following the Cuban missile crisis in which President Kennedy forced the Soviets to back down. In the decade following that confrontation, key elements in the defense and foreign policy establishments used supposed Soviet anxieties about American power and American aggressiveness to justify a massive Russian military buildup. The expansion of Russian power was rationalized as a positive step toward world peace. Once the Soviets reached parity—or exceeded parity because of their supposedly more complex defense needs—a plateau of peace based upon mutual respect and the absence of destabilizing fear would exist.

Today, the Soviet Union has moved beyond parity and is quickly becoming superior to the United States in many types of military capacities. And where is the peace and harmony that Mr. Warnke and others promised? The plateau of peace has, in fact, become a launching platform for Soviet expansion into Africa, Asia and the Middle East. Cubans acting as Soviet surrogates have fought for Marxist revolution in Africa. Russian combat troops have been stationed 90 miles off our coast in Cuba. Afghanistan has been devoured. And our Russian "friends" now give aid and comfort to the largely Marxist terrorists who hold American hostages in Iran.

At this very moment, the Soviet Union is deploying massive military forces in Afghanistan; many times more men and equipment than would be needed to quell the ill-equipped tribesmen who still cling to their freedom. I believe they are poised and ready to grab the prize that has eluded them for centuries—a warm water port. A Russian presence on the Persian Gulf has implications for the future of the free world more ominous than anything since Stalin first exploded the hydrogen bomb.

If the Soviets are allowed to gain a foothold on the Persian Gulf, they will inevitably put pressure on Western oil supplies. The economies of Europe and Japan—in other words, the free world—are almost wholly dependent on that oil. This will give them undreamed of political leverage to be used to insure the collapse of NATO and the growing influence of indigenous Communist parties.

Europe will slowly be weaned from the United States and will become increasingly neutral or nonalined. The final chapter of that scenario is not hard to imagine. Just as no man is an island unto himself, no nation can ultimately survive in isolation, and that is precisely what the Soviets will seek to do—isolate the United States diplomatically, militarly, politically, and economically.

During the last 3 years, American foreign policy has been characterized by words devoid of action. Our leaders have been unable to grasp the nature of the threat we face. More significantly, they have been unable or unwilling to use American power to foster American interests. Quite frankly, I question whether they have even come to grips with the nature of American interests in the world.

America needs to substitute some clear thinking for the muddled vision of the world that has led to the present predicament. We should not be afraid to make moral and intellectual distinctions between our democratic system of government and way of Liversus the totalitarian system that communism inevitably spawns. Democracy is morally superior to the repression and degradation of communism.

More importantly, we must recognize the very simple fact that the Soviet Union is an expansionist state. It has a Marxist-Leninist philosophy whose goal is to spread their brand of the faith throughout the world. Their ideal is not peace and harmony based upon mutual respect and a safe balance of forces—that is our goal. The Soviets will leave in peace only if they are forced to. Their aggressiveness mounts in direct proportion to our weakness and their strength.

Our performance during the current Iranian crisis is unprecedented in its ineptness. Not only have we failed to secure the release of those Americans being held, but we have undermined American foreign policy and American credibility in every corner of the world. Regardless of the outcome, it will take many years for the United States to recover.

The free world countries of the world, from Asia to Africa to Europe to South America, depend upon the United States for their ultimate defense against the incursions of the Soviet Union. The knowledge that we will assist them gives them the necessary strength to resist Soviet demands and Soviet political pressure. When the United States refuses to take significant action to free its own diplomats after what is under international law an act of war, those countries must necessarily begin to wonder whether their mutual defense treaties with us are worth the paper they are written on.

We must reestablish American power to the point where it can deny Soviet expansion. Today, we lack the capacity—even if we had the will—to thwart Soviet ambitions in Afghanistan. We may well lack the capacity to stop a real Soviet move into the Persian Gulf. Our only weapons seem to be empty symbols—boycotting the Olympics, refusing to turn on the national Christmas tree, and minor economic sanctions.

I would rather expend America's wealth helping needy citizens by expanding services and reducing taxes. But governments are established for the primary purpose of providing citizens with protection—and that includes protecting a way of life that cannot exist in isolation. Thus, we must devote a growing proportion of our resources to our Military Establishment.

The greatest need at the moment is to reconstitute our conventional forces to give them the capability to deter various Soviet incursions in other parts of the world, and to insure the security of Western Europe. We must be able to move our forces effectively and quickly. We must stop the flight of technicians from the services, the technicians who operate the complex machinery of a modern military force. The failure of the recent rescue mission certainly underscores the types of capabilities that will be increasingly important. And we must upgrade the quality of the military enlistee. There is much evidence that the All-Volunteer Army is a failure.

We must, likewise, upgrade our naval and strategic forces. Navies are the main instrument whereby modern states project their power beyond their borders. The Soviets realize this and now outclass the United States in almost every type of vessel. I believe that the Persian Gulf area will become the center of the Soviet-American competition over the next decade. To win that encounter, we will need to deploy superior naval forces. If we allow the Persian Gulf to fall under Russian control, the Russians will, indeed, bury us.

There is great trouble brewing at the strategic level as well. Soviet technology has moved rapidly compared to our expectations. They have developed a massive ICBM capability and an effective civilian defense program. This dramatically increases the risks of nuclear war and almost insures that the Soviets will attempt nuclear blackmail. We have an obligation to future generations to deprive the Soviets of these temptations and that can only be accomplished by matching the quantity and quality of their missiles. The MX program will be expensive, but it is essential.

By enacting a strong Department of Defense authorization bill we can demonstrate to the world the depth of our commitment to review America's traditional role as protector of democracy. We can show the world—a world of both friends and foes—that we will reverse present military trends. Therefore, I urge my colleagues to resist the temptation to weaken this bill; I urge them to support the Armed Services Committee position which is a responsible one.

Unfortunately, the only sure road to peace is through military strength. That may have the sound of illogic to those of us who would rather beat our swords into plowshares, but the history of our relations with the Soviet Union make that the only plausible policy to pursue. One thing is certain: With every act of appeasement, the Soviet appetite grows.

Mr. STENNIS. Mr. President, an amendment is to be offered which relates to an item in the bill which includes the overhaul of one of our carriers. The Senators from Virginia, the Senators from New Jersey, and the Senators from adjoining States want to be heard on it.

As I understand it, an hour has been agreed upon as suitable time for each side. I am certain I have authority from the majority leader to make that unanimous-consent request.

Mr. WARNER. That is correct. That is predicated on the opposition accepting the amendment which is at the desk, No. 1935.

Mr. BIDEN. Mr. President, the opposition, as it is referred to, is prepared to do that.

I ask unnanimous consent that the modification of the Warner language that is at the desk, submitted by Senator WARNER, and then the substitute language of the Biden-Heinz-Bradley-Schweiker—and so forth amendment—that the entire timeframe take, if the Senator is willing, 2 hours and 5 minutes.

The reason I say "5 minutes" is that Senator HEINZ, who has a deep interest in this matter, says he will not be able to be here until a quarter after, and I just want to make sure of that 5 minutes extra. We may not need it. I ask unanimous consent for 2 hours and 5 minutes.

Mr. WARNER. Mr. President, I am not pressing for a specific time. We can do this later today.

Mr. BIDEN. We are prepared to go ahead now.

I ask unanimous consent that the entire time taken with Senator WARNER's modification of his language and the Biden substitute take 2 hours and 5 minutes, with the assurance from our side that we will accept the language of the Senator from Virginia and that there be no amendments to the Biden and others amendment.

Mr. STENNIS. Mr. President, are there any parliamentary objections to the form of that unanimous-consent request?

The PRESIDING OFFICER (Mr. BOREN). Is there objection?

Mr. STENNIS. Mr. President, I join in the request for unanimous consent.

Mr. SCHWEIKER. I support this request. I believe it is a fair approach.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. STENNIS. I thank the Chair, and I thank the Senators for their cooperation. The senior Senator from Virginia had to change his plans. This is the amendment which has been promised to come first.

Mr. President, I ask unanimous consent that the members of the Armed Services Committee staff who are authorized access to the Senate floor be granted privilege of the floor as needed during the consideration of H.R. 6974, with the assurance that all of them will not be here at the same time. Also, I make the same request for two members of my staff—Mr. Rex Buffington and Mr. Steve Grafton.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Virginia.

AMENDMENT NO. 1935

(Purpose: To amend section 105)

Mr. WARNER. Mr. President, I call up amendment No. 1935 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Virginia (Mr. WARNER) proposes an amendment numbered 1935:
>
> On page 45, line 8, after "and" insert "until the earlier of (A) October 1, 1981, or (B) the date on which".

Mr. WARNER. Mr. President, during consideration of the fiscal year 1981 defense authorization bill (H.R. 6974), the Senate Armed Services Committee adopted without objection section 105 including one provision relating to the annual authorization of Navy overhauls on ships in excess of 3,000 tons and costing $10 million or more and a specific provision relating only to the planned overhaul of the aircraft carrier *Forrestal*.

Neither of these provisions determine shipyard assignments in any way. They do require the Navy to provide to the Congress information and analysis necessary for proper congressional oversight of the expenditure of billions of dollars of taxpayers' funds. Section 105 would provide an important and necessary management tool to the Congress.

The provision relating to the U.S.S. *Forrestal* was adopted to insure that the Congress next year will have an opportunity to review and make a judgment on the cost, manpower, fleet readiness, and other factors involved in the choice of a shipyard for overhaul and conversion of this ship. It is the second of a four-ship, 10-year, $2 billion program.

Several Members of the Senate have expressed opposition to the *Forrestal* provision charging, mistakenly, that it would cause delay and disruption to the planned overhaul of the U.S.S. *Forrestal*. Those Members cite a June 24 letter from the Secretary of Defense which contends that section 105(b) would not permit a shipyard designation for the *Forrestal* overhaul until the fiscal year 1983 authorization bill is enacted.

This contention is not supported by the text of the amendment or its legislative history. Under the language of section 105(b), the Secretary would be permitted to make a shipyard assignment in 1981 after Congress has acted on funds for the *Forrestal*—funds which will be requested in the fiscal year 1982 budget under the current 5-year shipbuilding plan.

In summary, section 105(b) contemplates and intends that a shipyard designation be made in calendar year 1981. Thus, this section will not cause any delay or disruption in the *Forrestal* overhaul program. A period of at least 17 months will be available after shipyard selection prior to drydock entry in early 1983. This length of time following shipyard assignment has been more than adequate for the *Saratoga* which, according to the Navy, is "on schedule." The 17-month period is more than adequate to preclude the disruptive effects of concern to Secretary Brown.

I have no doubt as to the meaning and intent of section 105(b) and the committee had no doubt as to the meaning when it voted to attach section 105(b) to the bill. Nevertheless in order to remove any doubt that any Member of the Senate might have, I am offering a clarifying amendment which will make it clear that a shipyard designation may be made no later than October 1 of next year.

I urge you to judge this matter on the merits of the committee's language and not on the arguments which flow from a mistaken interpretation of section 105 (b).

Mr. President, I understand that this amendment is acceptable to the opposition.

Mr. BIDEN. Mr. President, we are prepared to accept that amendment.

The PRESIDING OFFICER. The question is an agreeing to the amendment of the Senator from Virginia.

The amendment (No. 1935) was agreed to.

UP AMENDMENT NO. 1366

Mr. BIDEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Delaware (Mr. BIDEN), for himself, Mr. HEINZ, Mr. BRADLEY, Mr. SCHWEIKER, Mr. WILLIAMS, and Mr. ROTH, proposes an unprinted amendment numbered 1366.

Mr. BIDEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 44, strike lines 7 through 25 and on page 45 strike lines 1 through 10 and insert in lieu thereof the following:
>
> (b) (1) "No funds authorized to be appropriated by this or any other Act may be obligated or expended for the purpose of carrying out the Service Life Extension Program (SLEP) for the aircraft carrier *Forrestal* unless such program is conducted on the basis of cost and such other factors, including national security, as the Secretary of Defense considers appropriate in the exercise of his authority over this program, including but not limited to his authority to make industrial site assignments. The Secretary of Defense shall inform the Congress in writing of the reasons for any decision pursuant to this subsection to obligate or expend funds for carrying out the Service Life Extension Program."

Mr. BIDEN. Mr. President, I propose this amendment on behalf of the Senators from Pennsylvania, New Jersey and Delaware: Senator HEINZ, Senator SCHWEIKER, Senator BRADLEY, Senator WILLIAMS, Senator ROTH, and myself.

Mr. President, I emphasize that although the amendment bears my name at the outset, there is no pride in authorship of the amendment. This is equally the work of Senator HEINZ, Senator BRADLEY, Senator SCHWEIKER, and other members of the delegation.

Mr. President, for the second time in as many years, the Senate is being asked to decide whether the Defense Department should retain its authority to proceed unencumbered with the Navy's service life extension program, a major overhaul of our fleet of four conventionally powered aircraft carriers intended to extend the useful lives of those ships by 15 years.

The fundamental issue before the Senate today is not where the USS *Forrestal* should undergo its major conversion, but rather how and when that decision should be made.

The amendment which my colleagues and I offer today as a substitute to the language offered in committee by Senator WARNER and that has now been perfected by Senator WARNER, insures that the Secretary of Defense retains the authority not only to decide the location of the *Forrestal*'s SLEP, but also to set forth the criteria and the timing for that decision.

I would like to make it clear from the start of today's debate that our amendment addresses Senator WARNER's language, which would, if enacted, in our opinion, prevent the Navy from announcing the location for the *Forrestal*'s SLEP as it planned to do some time this summer, but also and more importantly would disrupt the Navy's entire overhaul schedule and increase the possibility of encountering a major problem in planning and conducting the *Forrestal* work. A letter from the Assistant Deputy Chief of Naval Operations, Rear Adm. A. J. Monger, last December expressed the Navy's serious concern about the problems such a delay can spawn.

Admiral Monger wrote:

> The issue regarding the industrial assignment of *Forrestal* SLEP is one which must be resolved early in calendar year 1980 in order to preclude the type of advance planning disruptions experienced in conjunction with *Saratoga* SLEP.

Mr. President, it is just such disruptions we hope to avoid by the substitute amendment we offer today. A delay now in the orderly progress of the *Forrestal* SLEP would only further delay the entire service life extension program, for which the Navy is trying to keep to a tightly framed timetable. Senator WARNER's amendment would exact the same type of costly delays which similar delaying tactics did last year in impeding progress on the *Saratoga* SLEP.

Mr. President, the legislation before us today, the 1981 Defense authorization, authorizes the appropriation of $95 million for long-lead planning and materiel acquisition by the Navy in preparation for the *Forrestal* SLEP schedule to begin in January 1983. These funds are also included in the bill passed by the House of Representatives.

The language to which we are offering a substitute amendment was adopted on a motion made by Senator WARNER during the Armed Services Committee markup and here further amended in the Chamber today. The Warner language, if enacted, would prohibit the Secretary of the Navy from designating the site of the *Forrestal* SLEP until three steps have been taken:

First. The Navy has prepared a comprehensive study comparing the overall cost and work force composition of performing this SLEP at both a private and a public shipyard, along with other factors the Secretary of the Navy considers significant.

Second. The Secretary has reported his findings to the Congress.

Third. And, most importantly, Congress has enacted additional legislation authorizing funds for the performance of the *Forrestal* SLEP.

My colleagues and I oppose this language, just as we and a majority of the Senate opposed last year's Warner amendment to the 1979 Defense supplemental authorization. We opposed it then and we oppose it today because it restricts the legitimate authority of the Defense Department from proceedings as planned with the service life extension program.

We oppose it because it fails to take due account of the ability of the Defense Department to adequately weigh all pertinent factors before designating the site of a shipyard for SLEP.

And, most of all, we oppose Senator WARNER's amendment because of the very serious delaying effect it would have on the entire SLEP timetable, which in turn has a direct and significant impact on our Nation's naval readiness.

Not only do the sponsors of this substitute amendment oppose the Warner language, but so also does the Secretary of Defense. Secretary Brown has expressed his opposition in a June 24 letter addressed to me. Copies of the Secretary's letter have been distributed to all Senators.

I shall read the letter:

THE SECRETARY OF DEFENSE,
Washington, D.C., June 24, 1980.

Hon. JOSEPH R. BIDEN, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BIDEN: I am responding to your letter of June 9, 1980 concerning the possible delay in industrial assignment of *Forrestal* SLEP. The amendment proposed by the SASC contains three major provisions.

(1) Funds authorized for advance procurement are restricted to those procurements which will not result in selection or designation of a particular shipyard for performance of SLEP-related work.

(2) A comprehensive study shall be conducted after enactment of the authorization bill to:

Compare service life extension program (SLEP)—execution costs at public versus private shipyards,

Compare the number of Federal civilian personnel, armed forces personnel, and private industry personnel that will be utilized in performing the work at public versus private shipyards,

Evaluate other factors considered significant in selecting an execution site.

(3) The Secretary of the Navy may not designate the execution site until the above study is submitted to Congress and, "Congress has enacted after the date of the enactment of this act, legislation authorizing funds for performance of such work."

Such provisions as these would prevent the Secretary of the Navy from designating the *Forrestal* SLEP execution site until the fiscal year 1983 authorization bill (authorizing funds for the completion of the *Forrestal* SLEP) is enacted. This would require delaying designation of the *Forrestal* SLEP industrial activity until a few months before SLEP commencement, far beyond the date necessary to support orderly advance planning for an availability of this size. This action would have the following impact:

(1) The start date of *Forrestal* SLEP would slip significantly past January 1983 and would thus create severe perturbations to fleet operations and maintenance schedules.

(2) Parallel advance planning by all industrial activities under consideration would be required to help minimize the extent of the slip in start date. Such parallel advance planning would require additional fiscal year 1981 authorization of approximately $10 million for design work and $3 million for shipchecks. Additional increases in advance planning funds would be required in fiscal year 1982 as parallel planning proceeded. Parallel shipchecks by two shipyards also creates additional ship's force support workload.

(3) Ship's force plans for transfers of families from homeport to the SLEP execution site would be held in limbo until the eleventh hour. This would have an adverse impact on morale and retention.

In selecting industrial activity assignments for major ship availabilities (such as the CV SLEPs), the Navy evaluates many factors, not the least of which is a thorough review of shipyard workload impact, both public and private. This is done so that the Navy's decision maximizes both the proper and expeditious accomplishment of work and maintenance of a strong national ship repair mobilization base. Exhaustive review of these factors is in process now in preparation for a decision on *Forrestal's* SLEP assignment.

Accordingly, we oppose the amendment proposed by the SASC. Identical letters are being sent to Senators BRADLEY, HEINZ, ROTH, SCHWEIKER, and WILLIAMS.

Sincerely,

HAROLD BROWN.

Those are the main points made by the Secretary of Defense. The Senator from Virginia was gracious enough to tell me that he was going to change the effective date of his amendment prior to Friday.

In light of the anticipated change in the Warner language, as just adopted by the Senate, I contacted the Secretary of the Navy, Secretary Hidalgo, to ascertain the Navy's position on the Warner modification. I explained to Secretary Hidalgo that Senator WARNER was expected to offer an amendment to section 105(b) in the bill and claim that this change—would cause the Navy less problem than the original Warner language. The modified Warner language would permit a *Forrestal* shipyard designation by October 1981, instead of the original delay provided until fiscal year 1983. I asked if such a modification altered the Navy's position. The Secretary of the Navy said that the fiscal year 1983 delay would be intolerable, and that a delay until fiscal year 1982 continues to be difficult for the Navy. Therefore, the Secretary explained that the Navy opposes the Warner language even as modified earlier this morning. The Secretary of the Navy much prefers the position that is being offered by me and my colleagues from Pennsylvania, New Jersey, and Delaware.

The second question I asked the Secretary of the Navy was since the Navy has all along maintained it will make the *Forrestal* SLEP industrial site assignment announcement sometime midsummer, would the adoption of the language by the Senator from Virginia change the timing of that anticipated decision. Secretary Hidalgo said the Warner language would prevent the Navy from making the *Forrestal* SLEP site assignment.

I asked further, assuming the language that was going to be introduced on behalf of the Delaware Valley delegation were to prevail, would that enable them to move forward soon. The Secretary of the Navy said that the Navy expected to move forward with the site selection by late summer.

Now, Mr. President, before discussing in detail why I and my colleagues oppose Senator WARNER's amendment and explaining in detail our substitute for it, I want to briefly review the history of the service life extension program up to this point.

The service life extension program, or SLEP, was designed in the spring of 1976 to extend by 15 years the estimated 30-year service life of the four *Forrestal*-class aircraft carriers: The *Saratoga, Forrestal, Independence,* and *Ranger*. The program is necessary to insure that the Navy has a minimum of 12 deployable carriers to at least the year 2000.

To prevent any major delay in SLEP, the Navy has calculated that it needs 30 months of lead time between the designation of a shipyard and the actual arrival of a carrier at that shipyard. This minimum period is necessary to provide the assigned shipyard adequate time to prepare for the program. That time is devoted to planning, design, training, development and procurement before the carrier arrives. Obviously, the shorter the lead time, the more likely are unforeseen problems that may not only delay the overhaul but also may increase the program's overall cost. If the lead time is shortened too much, the whole SLEP schedule is delayed day for day.

It is important to note that the Navy's entire overhaul schedule has been built around the SLEP schedule. Any delays either in designating shipyards or in performing the work will both disrupt the Navy's overhaul assignment schedule and increase the costs to the Navy.

After the Navy decided to proceed with SLEP in 1976, the Department identified the public and private yards capable of performing the work. Since three out of the four *Forrestal*-class carriers are assigned to the Atlantic Fleet it was decided to perform the work on the east coast.

The Navy narrowed its shipyard selection to the Philadelphia Naval Shipyard, a public yard, and the Newport News (Va.) Shipbuilding and Drydock Co., a private yard.

A variety of factors are pertinent to designating a shipyard for SLEP:

First. The yard's capacity and equipment;

Second. The yard's previous experience with carrier construction or overhaul;

Third. The yard's projected workload aside from SLEP;

Fourth. The availability of skilled or trainable labor;

Fifth. Differences among yards in the estimated cost of performing the overhaul, and

Sixth. The yard's record for timely and within-budget completion of work.

The first carrier scheduled to undergo SLEP is the U.S.S. *Saratoga*, which will arrive at the Philadelphia Naval Shipyard in October, 1980. The decision on where the *Saratoga* should be overhauled was protracted by efforts of the Virginia delegation in Congress to interfere with the Defense Department's judgment and authority.

In April, 1978, the Navy designated Philadelphia as the site for the *Saratoga's* SLEP—30 months prior to the scheduled arrival of the carrier at the shipyard.

That decision to do the *Saratoga* SLEP in Philadelphia was the final step in a carefully conceived decisionmaking process which began early in 1976 during the Ford administration—not, as some have claimed, a last-minute political decision by the Carter administration. Philadelphia, in fact, was designated in 1976 as the shipyard for initial SLEP planning. During the next 2 years, the Navy supported both Philadelphia and Newport News at different times for different reasons. On April 14, 1978, however, the Secretary of the Navy announced that Philadelphia would be the site for the *Saratoga* SLEP.

Ordinarily, that decision by the Navy Department would have ended the competition between the two shipyards. It did not.

Just 10 days later, Virginia Congressman Paul Trible, who represents the Newport News area, offered an amendment to the 1979 Defense authorization bill then in markup in the House Armed Services Committee. Adopted by the committee, that amendment sought to prohibit the Secretary of the Navy from taking "any action with respect to the use of either public shipyards or private shipyards for conversion, overhaul, or repair work" under the service life extension program until completion of a "least-cost" study comparing the two yards, an evaluation of such other factors the Secretary might deem appropriate, and a 60-day waiting period following his report to Congress, before the Navy could take any further action with regard to SLEP.

Sound familiar? It should. This year's Warner amendment is very similar. The major difference is that this year, it has been offered a few days before, rather than a few days after, the Navy has announced its shipyard decision for the *Forrestal*.

The Trible amendment became entangled along with the entire 1979 Defense authorization in a dispute between the President and the Congress over the proposed new Navy aircraft carrier, a dispute which resulted in President Carter's veto of the initial authorization bill. Meanwhile, Congressman Trible asked the Navy to submit its reasoning for selecting the Philadelphia yard, and the Navy complied. Thereupon, Congressman Trible and Virginia Senator Harry Byrd asked the General Accounting Office to analyze the Navy's cost estimates for both yards. The GAO's conclusion, reported in September 1978, was that a revalidation of the site-selection decision was in order.

A month later, the second version of the 1979 Defense authorization was signed into law, including the Trible amendment as section 811. The Navy complied with the amendment's directive, submitting the study to Congress in January 1979. In an accompanying letter, Deputy Secretary of Defense Charles Duncan declared that:

> The work to be performed in a SLEP is difficult to plan and project; the exact scope cannot be determined until actual systems are removed and examined during the overhaul. For this reason, projected SLEP costs would have to be considered "soft" estimates. In my judgment the cost differences should not be controlling.

In the same letter, the Deputy Secretary cited several specific problems with the cost analysis, and added:

> We also considered issues of potential shipyard congestion, availability of facilities, serious pending labor controversies at Newport News, and the advantage of maintaining an additional East Coast yard with carrier SLEP and overhaul capability.

He concluded his letter with the statement that:

> We continue to feel that the Philadelphia Naval Shipyard is the logical place to perform the *Saratoga* SLEP.

The Navy then awaited the expiration of the 60-legislative-day waiting period required by the Trible amendment. Then the expiration date itself became a point of contention. That dispute was finally settled in the U.S. district court in Richmond, where Congressman Trible had asked for a temporary restraining order prohibiting the Navy from proceeding with its SLEP site designation. The court determined that the waiting had begun on March 13, 1979, and the countdown of the 60 legislative days began from that date.

Meanwhile, Senator Warner succeeded in amending the 1979 defense supplemental authorization during Armed Services Committee markup with language that directed the *Saratoga* SLEP to be "conducted on the basis of least cost as confirmed by the Comptroller General of the United States in his report to the Congress on September 22, 1978." The committee's adoption of that amendment set in motion the events which culminated in the Senate's rejection of the Warner language and the adoption of a substitute amendment offered by Senators Bradley, Heinz, Schweiker, Williams, Roth, and myself which restored to the Secretary of Defense the authority to consider all critical factors, including cost, in deciding SLEP site designations.

On May 25, 1979, then Secretary of the Navy Graham Claytor confirmed the Philadelphia Naval Shipyard as the site for the *Saratoga* SLEP—13 months after the Navy's original designation of Philadelphia and only 17 months before its scheduled arrival at the shipyard.

Because of the site-designation restrictions imposed after the initial April 1978, designation of Philadelphia—announced, as the SLEP schedule required, 30 months before the carrier was to arrive at the shipyard—the Navy was obliged to begin planning at both shipyards, to minimize as much as possible problem which might arise as a consequence of the shorter-than-expected planning time. This redundancy in the planning process, necessitated by legislative meddling with the site selection, imposed an added quarter of a million dollars per month in planning charges on the overall cost of the *Saratoga* SLEP.

Meanwhile, the University of Pennsylvania's Wharton School of Business and the national accounting firm of Price Waterhouse & Co. both prepared reviews of the Navy studies and the General Accounting Office report. Both reviews examined in great deail the methodologies used by both the Navy and the GAO and identified certain assumptions and accounting practices which the reviews concluded should have been either included in or omitted from the original studies—and the inclusion or deletion of which would have significantly affected the findings of the earlier reports.

There is no need to take the Senate's time now to rehearse in detail these studies and reviews and their findings. They were more than adequately discussed in last year's debate. And the fact is that the issue before us today is not what site should be designated for *Forrestal* SLEP, but rather whether the Secretary of Defense should retain his existing authority to make the decisions he deems appropriate in conducting SLEP, consistent with all relevant factors including cost, shipyard performance and national security.

Last year the Senate, on three consecutive votes, affirmed that the Secretary does, in fact, have that authority.

This year, we ask the Senate to do nothing more and nothing less.

The language for which we offer a substitute was adopted as an amendment by Senator Warner during the Armed Services Committee markup. There is no corresponding provision in the House-passed version of this legislation.

It is important to realize that the most significant effect of the Warner language, if enacted, would be, once again, to prevent the Navy from proceeding with SLEP on schedule.

It is important to remember, too, that we are not discussing the scheduling of the *Forrestal* alone. The service life extension program for these four aircraft carriers was carefully planned not only to extend the useful life of these four ships, but also to carry out the work in such fashion as to maintain the fleet as a whole in the highest possible state of readiness. Delays in keeping to the SLEP schedule, therefore, can seriously disrupt operations and maintenance schedules for the whole Navy.

Let us examine for a moment the implications of such delay in greater detail.

The SLEP schedule calls for the work on each carrier to be completed within 28 months of the time the ship enters the yard. The first of the carriers to undergo SLEP will be the *Saratoga*, which will arrive at the Philadelphia Naval Shipyard in October of this year. The *Saratoga* is scheduled to return to active service in February 1983. The second carrier, the *Forrestal*, is scheduled to arrive at its SLEP shipyard 1 month earlier, in January 1983, and remain there for 28 months. The *Independence* and the *Ranger* will follow at similar intervals.

Any delay in completing the SLEP of any of these carriers will accordingly either delay the SLEP of those to follow and thus delay the modernization of some of our most important ships, or will result in loss to the Navy of yet another deployable carrier for a period corresponding to the length of the delay. From the point of view of national security and the efficient, economical deployment of the carriers, either alternative is obviously unacceptable.

Moreover, the Navy's entire overhaul program has been built around the service life extension program. Any change in the SLEP timetable will require readjusting the overhaul schedule of other ships. Such juggling of schedules increases the costs of overhaul, needlessly disrupts the lives of Navy personnel and their families, and adversely affects the Navy's ability to fulfill its national security responsibilities.

The 30-month leadtime included in the SLEP schedule for each carrier is not arbitrary. It is not meaningless. Rather, it represents a considered and realistic professional judgment by the Navy of the time needed for a designated shipyard to prepare for SLEP before a carrier arrives at the yard. After all, we are dealing with four large, complex, and aging vessels that are to be reconstructed to extend their service lives by 15 years, or 50 percent of their original design lifespan.

Work of such magnitude and complexity cannot be rushed or telescoped—that is why the Navy last year undertook the inefficiency and added expense of dual-track planning for two shipyards while Congress was impeding the first SLEP site designation.

That redundant work was necessary to maintain the 30-month timeframe needed to prepare for the SLEP of the *Saratoga*. The SLEP site designation for the *Forrestal* is due next month, 30 months ahead of the expected arrival of the *Forrestal* at the shipyard. Because of the threatened impediment we hope to remove today, the Navy is again faced with the added expense and waste of what it calls "parallel advance planning"—in other words, the unnecessary duplication of having to do the same job twice, instead of once because Congress has, most inappropriately, interfered with the orderly progress of the service life extension program.

What the Navy cannot do is risk the shortening of that much-needed 30-month leadtime. Under Secretary of the Navy Robert J. Murray made that clear last month in a letter to Congressman JAMES FLORIO:

> It is planned to make the decision on the shipyard assignment of *Forrestal* SLEP by July 1980, in order to permit the yard selected to proceed with advance planning and material procurement in support of the January 4, 1983, start date.

But the Warner language prohibits the Navy from making that site designation until Congress enacts "legislation, authorizing funds for the performance" of the *Forrestal* SLEP—after the Navy submits still another comparative cost study. In other words, after still another delay in a program of vital importance to our national security.

Secretary of Defense Brown spelled out the effects of such a delay in a letter earlier this week, after we asked for the Defense Department analysis of the Warner language.

The Secretary wrote:

> Such provisions as these would prevent the Secretary of the Navy from designating the *Forrestal* SLEP execution site until the fiscal year 1983 authorization bill (authorizing funds for the completion of the *Forrestal* SLEP) is enacted. This would require delaying designation of the *Forrestal* SLEP industrial activity until a few months before the SLEP commencement, far beyond the date necessary to support orderly advance planning for an availability of this size.

Secretary Brown went on to detail the impact of such a delay.

> (1) The start date of *Forrestal* SLEP would slip significantly past January 1983 and would thus create severe perturbations to fleet operations and maintenance schedules.
>
> (2) Parallel advance planning by all industrial activities under consideration would be required to help minimize the extent of the slip in start date. Such parallel advance planning would require approximately $10 million for design work and $3 million for shipchecks. Additional increases in advance planning funds would be required in fiscal 1982 as parallel planning proceeded. Parallel shipchecks by two shipyards also creates additional ship's force support workload.
>
> (3) Ship's force plans for transfers of families from homeport to the SLEP execution yard would be held in limbo until the eleventh hour. This would have an adverse impact on morale and retention.

Secretary Brown's pointed comments require little amplification, but it is fair to add that stretching out the SLEP schedule with delays will, among other adverse consequences, materially add to the costs of the program through inflation, which none of us believes will abate entirely during the overall SLEP period. Every day of delay adds dollars to the SLEP bill.

The Secretary's letter also addressed the requirement of the Warner amendment for another "comprehensive study" comparing the cost and projected manpower required for *Forrestal* SLEP at both a public and a private shipyard, along with "such other factors" as the Secretary of the Navy may deem pertinent to site selection.

Such a requirement seems reasonable, and indeed it is—not only reasonable, but superfluous, since the Navy regularly factors such considerations into its SLEP decisionmaking. Secretary Brown makes the point in his letter:

> In selecting industrial activity assignments for major ship availabilities (such as CV SLEPS), the Navy evaluates many factors, not the least of which is a thorough review of shipyard workload impact, both public and private. This is done so that the Navy's decision maximizes both the proper and expeditious accomplishment of work and maintenance of a strong national ship repair mobilization base. Exhaustive review of these factors is in process now in preparation for a decision on *Forrestal's* SLEP assignment.

Congress is, of course, entitled to know the reasons for the Navy's designation of a particular shipyard for SLEP. That is why our substitute amendment this year—as did the language adopted by the Senate last year—instructs the Secretary of the Navy to "inform in writing the Congress of the reasons for any decision pursuant to this section to obligate or expend funds for carrying out the service life extension program" with respect to the *Forrestal*.

Mr. President, we seek to strike the Warner language because it needlessly delays the Navy from proceeding with the service life extension program according to its long-established and carefully conceived schedule.

We seek to strike the Warner language because this delay could adversely affect the *Forrestal's* completion and significantly increase its cost. The Warner language—in Secretary Brown's judgment—would signficantly delay the scheduled start date for the *Forrestal* SLEP and could disrupt the Navy's entire overhaul schedule.

Our substitute amendment is consistent with the language adopted by the Senate last year.

Our amendment affirms the authority of the Defense Department to make the decisions it deems appropriate to accomplish SLEP in a manner consistent with all pertinent factors, including cost and national security.

Our amendment requires the Secretary of Defense to report to the Congress in writing the reasons for the Department's decision on which shipyard to designate for the *Forrestal* SLEP.

Mr. President, our amendment is a reasonable alternative to the Warner language. The Senate resoundingly supported an almost identical substitute amendment last year. I urge my colleagues to again support our substitute for the Warner language and to restore to the Secretary of Defense the authority, consistent with his responsibilities, to manage the affairs of his department in such a way as to promote economy, efficiency, and the national security.

Mr. President, in light of the fact that we only have an hour's time on each side, I would at this point like to yield to my colleague from Pennsylvania (Mr.

SCHWEIKER) who wishes to speak to this subject.

Mr. SCHWEIKER. Mr. President, the deteriorating military balance between the United States and the Soviet Union is a stark reality of alarming significance.

Naval forces, in particular aircraft carriers, have long been key for the visible and effective projection of U.S. military strength. For purposes of both "showing the flag" and conducting multiple tactical military operations, carrier-led battle groups signify U.S. resolve to protect vital strategic interests and influence the outcome of crises or armed conflicts in our interests. And there is strategic importance of various other missions, such as sustained reconnaissance and surveillance, for which aircraft carriers provide suitable platforms.

Paradoxically, however, our naval capabilities are diminishing even as our economic and military dependence on secure maritime transit increases. Indeed efforts to bolster our power in the Indian Ocean/Persian Gulf region have necessitated carrier transfers from the Pacific theater, thereby creating a dangerous strategic vacuum in a critical area. What makes this development even more disturbing is that it coincides with the emergence of a "blue water" Soviet Navy with unmistakable sea-denial potential.

According to Secretary of Defense Brown:

> Construction of the aircraft carrier approved in the fiscal year 1980 budget and the carrier service life extension program (SLEP) will permit the United States to maintain an inventory of 12 active, routinely deployable carriers through the turn of the century.

Routine deployability is, however, largely dependent on the timely overhaul of those carriers designated for SLEP work. In approving the SLEP program and recognizing its crucial relation to our national security requirements the Senate, last year, affirmed the discretionary authority of the Secretary of Defense to assign carrier overhaul work on the basis of cost, strategic considerations, and other pertinent information available to him.

Based on the issues presented during last year's debate, the Senate asserted the Secretary of Defense's prerogative to designate a shipyard for SLEP work. The Secretary of Defense then selected Philadelphia as the best site to do the work. Overhaul of the first such carrier, the U.S.S. *Saratoga*, is scheduled to commence in October 1980. An impending decision on shipyard site selection for the second SLEP carrier, the U.S.S. *Forrestal*, would be needlessly and dangerously delayed by the amendment to the fiscal year 1981 defense authorization bill of the Senator from Virginia. In proposing yet additional Navy analyses of the relative advantages of public against private shipyards for the conduct of SLEP work, this amendment reopens a question resolved last year. Moreover, the amendment would prohibit appropriations directly tied to shipyard site selection for the *Forrestal* until the Navy completed its study and Congress reviewed the findings. As Secretary Brown informed me and other Senators in a June 24 letter.

> Such provisions as these—

Meaning those in the amendment offered by the distinguished Senator from Virginia——

> Such provisions as these would prevent the Secretary of the Navy from designating the *Forrestal* SLEP execution site until the fiscal year 1983 authorization bill (authorizing funds for the completion of the *Forrestal* SLEP) is enacted. This would require delaying designation of the *Forrestal* SLEP industrial activity until a few months before SLEP commencement, far beyond the date necessary to support orderly advance planning for an availability of this size. This action would have the following impact:
>
> (1) The start date of *Forrestal* SLEP would slip significantly past January 1983 and would thus create severe perturbations to fleet operations and maintenance schedules.
>
> (2) Parallel advance planning by all industrial activities under consideration would be required to help minimize the extent of the slip in start date. Such parallel advance planning would require additional fiscal year 1981 authorization of approximately $10 million for design work and $3 million for shipchecks. Additional increases in advance planning funds would be required in fiscal year 1982 as parallel planning proceeded. Parallel shipchecks by two shipyards also creates additional ship's force support workload.
>
> (3) Ship's force plans for transfers of families from homeport to the SLEP execution site would be held in limbo until the eleventh hour. This would have an adverse impact on morale and retention.
>
> Accordingly, we oppose the amendment proposed by the Senate Armed Services Committee.

For both economic and strategic reasons, therefore, such delay is clearly intolerable. Additional costs would be incurred by enactment of this amendment, including immediate initiation by the Navy of dual-site planning. Even more important, we simply cannot afford further slippage in our "routinely deployable" carrier strength. The present inadequacies in our naval force posture would be magnified by an ill-considered delay in *Forrestal* site designation, and our ability to meet our maritime requirements would be further eroded.

Congressional oversight of the SLEP program was properly established last year. The amendment by the Senator from Virginia is unnecessarily redundant; the Armed Services Committee, of course, retains its prerogative to request timely studies on projects—the funds for which it must authorize. The critical state of our fleet readiness is ill-served, however, by subjecting the Senate to time-consuming wrangling over each SLEP site designation. Delay on the *Forrestal* invariably compromises the Navy's long leadtime schedule for follow-on SLEP work on the *Independence* and *Ranger*, the carriers coming on after the *Forrestal*.

Moreover, passage of this amendment would place the Senate in the curious position of weakening the very authority of the Secretary of Defense so clearly affirmed in this Chamber 1 year ago.

As I noted at the outset, Mr. President, the military balance is worsening, and the hour for rectifying it is already late. Our long-term strategic interests require prompt action on the *Forrestal* SLEP. Failure to move forward now will incur costs we cannot responsibly accept. As world events since last year's debate clearly show, we delay at our peril.

Mr. President, I think the issue is very clear. The issue is, shall the Secretary of Defense have the right and the prerogative to decide where and when these major overhauls occur? I think we are getting on very dangerous ground when we, as a congressional body, decide that every time there is a shipyard designation or a major overhaul envisioned, we are going to get into a floor debate, we are going to further entail a study of the problem and then, after the study is completed, bring it back to the Senate floor for further action. I cannot think of a worse way to run a procurement situation than to have the kind of situation I just described take place for all four ships.

We debated that issue last year. The issue is, shall the Secretary of Defense have the prerogative to determine where and when the procurement proceeds? He made that decision. He selected Philadelphia last year. Now he is about to consider the same situation for the ensuing SLEP jobs that are scheduled for the *Forrestal*, the *Independence*, and the *Ranger*.

If we are going to subject each one of them to another Senate debate, to another General Accounting Office study, to another restudy of the old issue, we, obviously, are going to delay, we are going to put our own task forces at risk because of the shortage of the very kind of equipment that is needed.

We all know that our Navy is out in the Persian Gulf right now, because we are in such short supply. We all know that they have been working overtime, beyond their normal leaves, to put a fleet in the Persian Gulf. We all know the Navy is strained to its limit right now. We all know that we have just about every available manpower source and specialist and piece of equipment that we can use operating now because of the crises in Afghanistan and Iran.

To come in and say that, in view of the fact that we know all of this, we are still going to subject each one of these major overhauls to a congressional decision and review, is to simply delay and amplify a problem that is already severe, a problem that is already straining the naval forces of this country.

So, Mr. President, I hope we continue to do just what we did last year, which is to let the Secretary of Defense decide where and when these SLEP overhauls are made.

Obviously, we do have an oversight function and that is perfectly proper. The Senator from Mississippi has put some language in this bill that exercises that function, and well it should when you are talking about multibillion dollar repairs.

But to go beyond that oversight function and say that we are going to inject ourselves into the procurement process, to say that we are going to, in essence, make a decision that most of us believe the Secretary of Defense and Secretary of the Navy should make, is, I believe, invoking too much of Congress, confussion the roles of the legislative branch and the executive branch, with respect to defense procurement activities.

I hope that we will take the same position this year that we took last year.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, this debate on site decisionmaking concerning the service life extension program, commonly known as SLEP, is a repeat performance of a debate that the Senate had every reason to believe it had decisively resolved last year. Unfortunately, the distinguished junior Senator from Virginia has chosen to reopen the issue this year and thereby require the Senate to reaffirm its position during the limited time that the Senate has to complete its work on this defense authorization bill. Mr. President, in consideration of the need to assure a proper airing of views on critical defense issues which the Senate has not already thoroughly debated, and decisively resolved, the Senators who oppose the Warner SLEP amendment will speak briefly today. We will then ask the Senate to restate the position that it adopted last year after lengthy debate by substituting the same language the Senate agreed to last year for the Warner amendment that seeks to overturn its effect this year.

Mr. President, again this year, the junior Senator from Virginia has put language into the defense authorization bill that aims at ultimately biasing the industrial site assignment for SLEP work, this time on the U.S.S. *Forrestal*, in favor of one of the two shipyards which are the major competitors for the SLEP work. Mr. President, as you know, SLEP work is undertaken to extend the service lives of *Forrestal* class aircraft carriers so that a maximum number of large carriers are available and ready to defend the Nation.

Last year, the Senator from Virginia brought to the Senate floor in the DOD authorization bill a biased amendment. It would have told the Secretary of Defense where to make the industrial site assignment for the SLEP of the U.S.S. *Saratoga*. The Senator's amendment effectively predetermined the decision of the Secretary of Defense. The Senator chose the factor most favorable to his result, and then the single study most favorable to that factor. Then he told the Secretary to base his decision on that result. It was clearly an effort to send the ship where the Senator wanted it to go. Thus, the Warner amendment last year aimed at making the Secretary's shipyard choice for him.

Fortunately, the Senate objected to this effort to distort the SLEP decisionmaking process. By three overwhelming votes on the Senate floor, the Senate reaffirmed the right of the Secretary of Defense to make industrial site assignments for SLEP work based on an array of factors, including cost and national security factors, and based on a balanced set of studies and analyses, as the Secretary considered relevant.

Mr. President, the Senate thereby not only reaffirmed the statutory authority of the Secretary of Defense in SLEP matters, but also the neutrality of the site selection process.

Mr. President, the new amendment inserted by the Senator from Virginia again this year seeks to violate that neutrality and usurp the authority of the Secretary in SLEP matters. And once again, Mr. President, his amendment drags the competition between the two shipyards into the Senate arena—despite the fact that the Senate clearly and decisively disposed of the issue last year.

Mr. President, last year in the Biden amendment endorsed by the Senate by a vote of 59 to 33, the Senate established the Secretary of Defense's authority to make SLEP site assignments on the basis of cost, national security and other relevant factors. It thereby identified a sound course of decisionmaking, assuring due analysis and consideration of important factors, and through conference language reflecting the Senate's position, directed the Secretary to proceed along this course.

The Secretary did proceed along this course in making the site selection for the U.S.S. *Saratoga*, and had begun to proceed along this course, consistent with the Senate's direction, in making the site assignment for the U.S.S. *Forrestal*.

Now, the Warner amendment comes along, and threatens to direct the Secretary from this sound course onto another one, which deliberately moves toward disposing the choice in favor of one shipyard, disrupts Navy operations and maintenance planning, and most seriously, delays the start-up of SLEP work on the *Forrestal*, work that is vital to assuring fleet readiness.

Mr. President, Secretary Brown has voiced his concern over, and opposition to, the Warner amendment in letters to me and my Senate colleagues from New Jersey, Pennsylvania, and Delaware. He explains that the original Warner amendment would have prevented the Secretary from designating the *Forrestal* SLEP execution site until the fiscal year 1983 authorization bill had become law. Now, the fiscal year 1983 authorization bill would become law only a few months before the scheduled *Forrestal* SLEP start-up date. The revised Warner amendment persists in delaying the vital SLEP work, only now until the fiscal year 1982 authorization bill. This would give the Navy 15 months, rather than 3-months leadtime. Unfortunately, the Navy needs 30 months for an orderly SLEP preparation at least cost. The Secretary said that under the first Warner amendment, site selection would be delayed "far beyond the date necessary to support orderly advance planning for an availability of this size." Under the second amendment disruptive delay would still pertain.

Secretary Brown goes on to tell of delay's adverse impact on the Navy:

> (1) The start date of *FORRESTAL* SLEP would slip significantly past January 1983 and would thus create severe preturbations to fleet operations and maintenance schedules.
>
> (2) Parallel advance planning by all industrial activities under consideration would be required to help minimize the extent of the slip in start date. Such parallel advance planning would require additional FY 81 authorization of approximately $10 million for design work and $3 million for shipchecks. Additional increases in advance planning funds would be required in FY 82 as parallel planning proceeded. Parallel shipchecks by two shipyards also creates additional ship's force support workload.
>
> (3) Ship's force plans for transfers of families from homeport to the SLEP execution site would be held in limbo until the eleventh hour. This would have an adverse impact on morale and retention.

Finally, Secretary Brown makes clear that the Warner amendment—and this is equally true of his modified amendment—is not a question of assuring adequate factor assessment and consideration. In this respect, it adds nothing, because such assessments are already being done by the Navy and taken into consideration in its decisionmaking. As the Senator from Virginia, who is a distinguished member of the Armed Services Committee, knows, he and any other Senator can request reports and briefings on Navy assessments and considerations concerning the SLEP program. Analyses such as the ones his amendment require are already in the works. I read from Secretary Brown's letter.

> In selecting industrial activity assignments for major ship availabilities (such as the CV SLEPs), the Navy evaluates many factors, not the least of which is a thorough review of shipyard workload impact, both public and private. This is done so that the Navy's decision maximizes both the proper and expeditious accomplishment of work and maintenance of a strong national ship repair mobilization base. Exhaustive review of these factors is in process now in preparation for a decision on *FORRESTAL's* SLEP assignment.

Exhaustive review of these factors is in progress now—without a Warner amendment. Accordingly, the Warner amendment would add nothing in the way of information, analysis, understanding, et cetera, that is not already available subject to his request, or the request of the committee or the request of any other Senator.

In sum, more information on, or fuller consideration of, important factors is not what the Warner amendment is about. What then is it about?

Very simply, it is about delay of the vital SLEP program. It is about delay resulting from an effort to deny the Secretary the right to make site selection in a timely fashion and to send him a message that his decision should reflect not ony the factors which the Senator from Virginia considers determining, but also the judgment as to site which the Senator prefers. This is what the Warner amendment is about:

Delay—of the SLEP program;

Denial—of the Secretary's right to make a timely site assignment; and

Designation—of the shipyard which the Senator from Virginia prefers.

First, it delays SLEP work on the *Forrestal* by blocking the Secretary from choosing a shipyard to carry it out until some 15 months—this is the modified amendment—before work is scheduled to begin. The Navy has insisted that it needs at least 30 months. Realistically, this would mean either postponement of the startup date or greatly increased costs because of the need for dual planning to prepare for work in two shipyards. Most likely, it would mean both delay and increased costs. Delay would jeopardize SLEP work and the sufficiency of carrier fleet. It would also disrupt Navy operations and maintenance schedules generally. Most likely, a great deal of other repairs and maintenance work would be delayed and reassigned.

Second, the Warner amendment denies the Secretary the right to make a site selection in timely fashion under the conditions set last year by the Senate and reflected in the conference report. It withholds that right by setting new conditions which must now be met before that right is restored.

And third, it aims at designating the shipyard by setting "new" rules knowing that the Secretary has begun already to make a SLEP site determination under old rules—rules which the Senate affirmed last year. In this way, the amendment clearly signals to the Secretary that a decision based on the old rules is the "wrong" decision and that unless the Secretary indicates he will make a different decision, he must be less confident that the SLEP program will be authorized. In sum, it has a chilling effect on any decision that does not favor the shipyard which the Senator from Virginia prefers.

In addition, the Warner amendment will cost the taxpayer more money. It will cost at least an additional $13 million just in fiscal year 1981 for dual planning, and probably with inflation, a good deal more. Then there are lost economies of scale, should the Warner amendment succeed in sending the *Forrestal* to a shipyard other than the one at which the *Saratoga* is being SLEPed. Follow-on economies of scale in facilities, experience, work plans, and so forth, could be considerable. For example, shipyard facilities improvements, based on *Saratoga* SLEP estimates, would cost $3 million for the Virginia shipyard. And, of course, there would be the "loss" of $2 million in shipyard improvements already made in the Philadelphia shipyard, the yard where the *Saratoga* is being SLEPed. Thus, shifting SLEP work from one shipyard to another would entail costs of $5 million just for shipyard improvements alone.

To sum up, the Warner amendment adds no benefits to the SLEP decision-making process and entails serious risks and costs.

It does not add better management;

It does not improve congressional oversight;

It does not add more full consideration of important factors; and

It does not enhance attention to, or actually contribute to, U.S. Navy fleet readiness.

The Warner amendment adds nothing but delay and disruption of Navy schedules and Navy procedures. It does nothing but overturn the sound judgment of the Senate on conditions the Secretary of Defense must meet in carrying out his authority over the SLEP program.

Our amendment restores the Senate position. It restates the same terms and same conditions which the Senate adopted last year. Therefore, I ask my colleagues to join with us in reaffirming our work last year and allowing the Navy to get on with the important work of preparing our carrier fleet for the defense of the Nation.

By once more adopting the Biden amendment, the Senate will for the second year in a row state clearly its intent that the SLEP program be governed by cost, national security, and other considerations as determined relevant by the Secretary of Defense, and that authority over the SLEP program, including authority to make industrial site assignments, rests firmly with the Secretary of Defense and should not be prey to annual authorization language aimed at predisposing his decision in favor of a certain site.

In conclusion, I will summarize the damage that would be done by the pending Warner "modified" amendment:

It still delays the site selection by 15 months. The Navy needs 30 months lead time for orderly planning.

Dual planning costs are incurred, $13 million for fiscal year 1981 alone, probably more.

It still disrupts Navy operations and maintenance schedules.

It still denies the Secretary the right to make a timely site selection.

It still sets conditions for biasing decisions in favor of Virginia by sending the Navy the signal that Philadelphia was the wrong choice.

It still repeals the position which the Senate established last year in three overwhelming votes.

I hope that today the Senate will reaffirm its position of last year and allow the Navy to continue the SLEP program in Philadelphia.

I am pleased to yield to my distinguished colleague from New Jersey (Mr. WILLIAMS).

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. WILLIAMS. Mr. President, I wish to offer my strong support for the amendment offered by the Senator from Delaware. He has marshaled our approaches this year as he did last year.

The issue under consideration is the Navy's service life extension program (SLEP), and the authority of the Secretary of Defense to make decisions regarding the location of work to be performed under this program. The Senate exhausted debate on this very same subject last year during consideration of S. 429, the Defense Authorization Act of 1979. The action taken by the Senate then was the climax of ongoing debate concerning the authority of the Department of Defense to select a site for the performance of SLEP work, and the criteria by which such a selection should be made.

After three rollcall votes, the Senate's position on this matter appeared to be quite clear. The Senate affirmed the authority of the Secretary of Defense to make these decisions based on his evaluation of all relevant factors, including considerations of cost and national security. Nevertheless, the 1981 defense authorization bill, H.R. 6974, contains a provision which will undermine the conclusive action which the Senate has already taken on this issue. The amendment is designed to preserve the Senate's expressed sentiment on the SLEP program, and will also protect work scheduled under this program from unnecessary interruption.

I mention the need to protect the scheduled SLEP work from unnecessary interruption, because, if left unamended, part (b) of section (105) of this act will severely disrupt the present schedule of SLEP work and will seriously hinder the Navy's capability to maintain its carrier fleet. I believe last year's debate made each Member well aware of the strategic and technical complexities involved in SLEP work, and the planning which must occur to prepare for it.

The Navy has repeatedly stated that a minimum 30-month leadtime is required to prepare a site for performing SLEP work. Accordingly, site designation for the *Forrestal* SLEP was scheduled to occur next month, July 1980, with actual work to begin in January 1983. However, under the present language of this bill, planning along this timetable would not be possible, and the scheduled completion of remaining SLEP work would be jeopardized.

Mr. President, my concern might be best understood if the membership would refer to the letter from Secretary of Defense Brown that is before them. In this letter, Secretary Brown enumerates his reasons for opposing the provisions of part (b) of section (105) of this act. He states that:

> Such provisions as these would prevent the Secretary of the Navy from designating the Forrestal SLEP Execution site until the fiscal year 1983 authorization bill is enacted. This would require delaying designation of the Forrestal SLEP industrial activity until a few months before SLEP commencement, far beyond the date necessary to support orderly advance planning for an availability of this size. This action would have the following impact:
>
> The start date of the Forrestal SLEP would slip significantly past January 1983 and would thus create severe perturbations to fleet operations and maintenance schedules.
>
> Parallel advance planning by all industrial activities under consideration would be required to help minimize the extent of the slip in start date. Such parallel advance planning would require additional fiscal year 1981 authorization of approximately $10 million for design work and $3 million for shipchecks. Additional increases in advance planning funds would be required in fiscal year 1982 as parallel planning proceeded. Parallel shipchecks by two shipyards also creates additional ship's force support workload.
>
> Ship's force plans for transfers of families from homeport to the SLEP execution site would be held in limbo until the eleventh hour. This would have an adverse impact on morale and retention.

The history of last year has been thoroughly reviewed. The Department of Defense position has been fully described, and the letter from the Secretary of Defense has been read into the RECORD. They each oppose what was added to the bill in committee by the distinguished

Senator from Virginia (Mr. WARNER), and uphold the approaches of last year, which are the approaches that Mr. BIDEN and all of us have introduced.

Certainly we think that Members should consider the opinions of those who are charged with defense: the Secretary of Defense and the Secretary of the Navy.

It was well said by the Secretary of Defense that Mr. WARNER's approach would force the start date of the *Forrestal* SLEP significantly past January 1983 and would thus create severe perturbations to fleet operations and maintenance schedules. The Secretary uses the strongest kind of language to describe the confusion in naval service, which will result unless this bill is amended. If there is anything we do not need it is our Department of Defense to be in disarray, and not able to maintain an efficient schedule of preparing the Navy, through SLEP for outyears of effective carrier operations. For this reason, I support the amendment offered by Mr. BIDEN and I urge my colleagues to join with him to preserve the authority of the Secretary of Defense in this matter and insure the uninterrupted progress of the service life extension program.

Mr. McGOVERN addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. McGOVERN. Mr. President, before I propound a unanimous-consent request, I want to say I have cleared it with Senator WARNER, Senator BIDEN, Senator STENNIS, and others.

Mr. President, I ask unanimous consent that the pending amendment be briefly laid aside for the purpose of considering printed amendment No. 1920.

The PRESIDING OFFICER. Is there objection?

Mr. STENNIS. Mr. President, may I say by explanation it seems that only about 3 minutes will be required, as I understand, for this amendment. If it is entirely agreeable with all, I think we could take a break here on this pending amendment. I have to be away for a few minutes. If it does not work out, we can call time on it.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1920

(Purpose: To increase the amount authorized for education assistance program for enlisted members of the Selected Reserve of the Ready Reserve)

Mr. McGOVERN. Mr. President, I call up my amendment No. 1920 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. McGOVERN), for himself, Mr. PROXMIRE, Mr. HATFIELD, and Mr. NELSON, proposes an amendment numbered 1920.

Mr. McGOVERN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title IV, page 86, add the following new section:

SEC. 403. (a) Section 2131(c) of title 10, United States Code, relating to educational assistance for enlisted members of the Selected Reserve of the Ready Reserve, is amended by striking out "$500" and "$2,000" and inserting in lieu thereof "$1,000" and "$4,000," respectively.

(b) The amendments made by subsection (a) shall take effect on October 1, 1980.

Mr. McGOVERN. Mr. President, joining me as cosponsors are Senators PROXMIRE, HATFIELD, and NELSON.

The amendment, Mr. President, is an effort to recognize the growing concern about the readiness of our Armed Forces.

Mr. President, there is a growing consensus that military readiness should receive a higher priority on the national security agenda of the United States. The failure of the helicopter rescue mission in Iran highlighted the need for weapon system readiness and the recent draft registration debate highlighted the need for readiness attention on military personnel issues.

The purpose of my amendment is to improve the readiness posture of the National Guard and Reserve forces by raising the educational assistance incentive currently authorized to a higher—and more effective—level for enlistments in the Selected Reserve of the Ready Reserve.

The strategic necessity of improving Guard and Reserve readiness and recruitment is based on the total force concept which was adopted when conscription ended and the All-Volunteer Force was adopted. The Guard and Reserves bear a heavier burden because, in the absence of a conscripted force, they will be called on to fill out existing units and to replace the earliest battlefield casualties of the active force structure.

Under the total force concept, for example, the Army Guard and Army Reserve will provide for the active force 30 percent of the division forces, 72 percent of the separate brigade and regiments and 67 percent of the logistical support, while the Air Guard and Air Reserve will provide 32 percent of tactical fighters, 50 percent of strategic airlift capability and 64 percent of tactical airlift assets. Overall, one-half of the Nation's combat power and two-thirds of the support capability are maintained in the Reserve and Guard Forces.

I think it critically important, therefore, to move to beef-up the National Guard and Reserve forces to enable them to play the role assigned to them by our current military planning. Improving the Reserves is not just an alternative to peacetime registration and the draft—it is also a national necessity to maintain a strong defense posture.

In recent months, there has been a new momentum toward improving the pay and benefits for the Active Forces, and I have supported such measures as the Armstrong-Matsunaga amendment and, as an alternative, the Nunn-Warner amendment, to make sure the All-Volunteer Force is able to attract qualified new recruits and retain the experienced personnel necessary for an effective volunteer army.

At the same time, however, we must expand the range of compensation and educational benefits available to our Reserve and Guard elements to make sure that they also receive adequate resources to carry out their missions.

Although a number of the Guard and Reserve components have been very successful in meeting their authorized peacetime levels, it is clear that, in particular, the Army National Guard and the Army Reserve need additional help through incentives and bonuses. The Army National Guard, as of March 31, 1980, was at 84 percent of its authorized peacetime strength while the U.S. Army Reserve had achieved 78 percent of its authorized peacetime strength.

Mr. President, I submit for the RECORD at this point a table provided by the Department of Defense showing the authorized peacetime strengths of the various Guard and Reserve Components:

The table follows:

PEACETIME OBJECTIVES OF THE NATIONAL GUARD AND RESERVES AS OF MAR. 31, 1980

[In thousands]

Component	Objective	Actual	Actual as percent of objective
Army National Guard	418.0	353.1	84
U.S. Army Reserve	252.4	197.0	78
U.S. Naval Reserve	85.8	86.9	101
Marine Corps Reserve	33.8	33.5	99
Air National Guard	92.3	94.2	102
U.S. Air Force Reserve	57.5	57.5	100

Mr. McGOVERN. The subject matter of this amendment is the recruitment effort for the Selected Reserves of the Ready Reserves portion of the Reserve structure. The Selected Reserves are composed of the Army National Guard, the Air National Guard, the U.S. Army Reserve, the U.S. Air Force Reserve, the Marine Corps Reserve and the Navy Reserve. People who enlist directly into these units will be eligible for the new educational benefits I am proposing.

Under current law, there are two primary bonus programs offered to people who enlist directly into the Selected Reserve. One is a cash bonus of $1,500, payable at the rate of $750 at the completion of basic training, $200 on the second anniversary of enlistment, $200 on the third anniversary and $200 on the fourth anniversary.

The second program is an educational enlistment bonus which, under current law, may not exceed $500 for any 12-month period, nor a total of $2,000 overall for any enlistee.

The amendment I am offering today would raise the ceilings on the educational bonus by changing existing law such that the bonus could not exceed $1,000 for any 12-month period, nor a total of $4,000 overall for any enlistee.

Why is this amendment necessary? I think there are two primary reasons. First, an enlistment bonus must be realistic if it is going to be effective. Educational costs have been rising rapidly, especially for the accredited institutions such as colleges, universities, trade, technical, and vocational institutions which enlistees may attend to become eligible for the bonus program. It seems that $500 per year is just too small to bring an otherwise out-of-reach education into the financial means of students today.

Proof of the necessity of raising the ceilings comes from the enlistment rates of the cash versus the education benefits. The Defense Department's figures suggest that the education benefit is showing a low rate of utilization. During the period between December 1, 1978 and March 31, 1980, 7,931 enlistees used the cash bonus but only 1,657 used the educational bonus—despite the fact that, in many instances, the educational benefit of $2,000 maximum would exceed the size of the $1,500 cash bonus. These comparative utilization rates suggest that the size of the educational bonus is not sufficiently high vis-a-vis the cost of education to make it attractive.

Mr. President, I ask unanimous consent to have printed at this point in my remarks a table supplied by the Department of Defense showing the relative utilization rates of the two bonus programs by selected Reserve component:

There being no objection, the table was ordered to be printed in the Record, as follows:

COMPARATIVE UTILIZATION RATES FOR CASH VERSUS EDUCATIONAL ASSISTANCE BONUS BY SELECTED RESERVE COMPONENT, DEC. 1, 1978 TO MAR. 31, 1980

	Cash enlistment bonus	Education assistance bonus
Army Guard	5,578	814
Army Reserve	1,884	826
Marine Corps Reserve	100	11
Air Guard	189	2
Air Force Reserve	180	4
Total	7,931	1,657

Mr. McGOVERN. Mr. President, the second reason why the ceilings on educational benefits for Selected Reserve enlistees should be raised is that it will motivate a higher number of college-bound young people to join the Guard and Reserve components. There is research to show that a purely economic program of incentives does not motivate high school graduates to enlist as much as it does the high school dropouts and students with lower grades. But supplementing the economic package with an educational package offers a new incentive to the college-bound enlistees and therefore raises the proportion of high school graduates joining the Reserve.

The impact of raising the proportion of high school graduates will be felt throughout the Reserves, not only for the intrinsic improvement in intelligence levels, but also because this higher proportion makes training easier, makes the Reserves a more representative institution of American life and improves discipline, performance, and retention. These are the reasons why I have been supporting the new GI bill concept for the Active Forces as proposed by Senator Armstrong, and I think we should extend the concept of balancing the economic model with educational incentives to the Selected Reserves as well.

The ultimate cost of raising the educational benefits ceilings is difficult to calculate or predict because it depends on a number of separate executive decisions by the Secretary of Defense and on the financial decisions of the Appropriations Committee. The legislation we are considering today does not authorize dollar amounts for the incentives programs; indeed, the incentives accounts combine the cash enlistment, the cash reenlistment and the educational assistance benefits together into one account. The Secretary of Defense is then given the discretion to allocate from this total account the subtotals for each of the incentives programs based on need, likely impact on each component and so on.

The purpose of this amendment, therefore, is not to set a final dollar amount for educational bonuses but rather to make sure that the Secretary of Defense has a realistic incentive—an effective incentive—to offer.

It can be stated with some certainty that, as a minimum, the current dollar costs of the educational incentive program would be doubled by doubling the ceilings. At the present time, the Defense Department has scheduled approximately $536,000 for educational assistance to begin October 1, 1980, which is also the effective date for implementation of my amendment. Of course, there would be a later-year anniversary costs as a result of the new enlistees who take advantage of this program.

However, it may not be accurate to say that there would be an automatic doubling because a certain number of enlistees may decide to use the educational benefits in lieu of the cash bonus, which would mean that the Government would not be paying out the $1,500 cash bonus.

Let it be clear, however, that this amendment is intended to increase the number of high school graduates in the Guard and Reserves, and therefore I would hope that the Secretary of Defense makes a substantial amount of funds available for this program. Whether he does this as a substitute for the cash bonus in certain geographical areas or as an addition to the cash bonus program is a matter for his discretion, and that is the reason why it is very difficult to provide a final cost figure.

Mr. President, I ask unanimous consent to have printed at this point in my remarks a table showing the current costs and the number of individuals taking advantage of the educational assistance benefits by reserve component:

There being no objection, the table was ordered to be printed in the Record, as follows:

ADMINISTRATION REQUEST FOR FISCAL YEAR 1981 EDUCATION ASSISTANCE

Component	New payments requested	Anniversary payments	New enlistees	Anniversary enlistees
U.S. Army Reserve	$327,000	$326,000	753	652
Army National Guard	145,000	436,000	290	871
Marine Corps Reserves	44,000	25,000	88	49
Air Force National Guard	20,000	22,000	40	44
U.S. Navy Reserve				
U.S. Air Force Reserve				
Total	536,000	809,000	1,171	1,616

Source: Departments of Defense.

Mr. McGOVERN. Mr. President, this proposal will make sense to many of us and to many Americans because of our own personal experience. I took advantage of the GI bill after completing my tour of duty as a combat bomber pilot in World War II. I used the GI bill to complete my college education and to enter graduate school in American history. My generation was drawn to the educational opportunities available and the GI bill was the key which opened the door to higher learning. The yearning for higher education is still present in today's generation, but the escalating costs of college and the economic downturn may put educational opportunities out of reach for many young people today.

In my view, the educational bonus program I am proposing will provide an effective incentive for our young people to join the Reserves and the National Guard—and it will provide a bonus for America as well.

I would like to add that the educational ceilings for the Selected Reserve enlistment program were raised in the House during its consideration of the defense authorization bill. The adoption of my amendment would bring the Senate recommendations in line with those of the House, which recognized the wisdom of matching educational incentives more closely to educational costs.

Mr. President, the Armed Services Committee wisely extended the authority in law for this educational assistance program for 5 years until September 30, 1985. I support the committee's action. This decision highlights the valuable role which educational incentives can play in the military recruitment effort. But instead of extending the old incentives for 5 more years, it would be preferable to establish a more effective incentive for the next 5 years. Therefore, I regard this amendment as a reasonable proposal to take the committee's decision one additional step forward.

Finally, Mr. President, I note that this amendment is strongly supported by the National Guard Association of the United States. I ask unanimous consent to have printed at this point in my remarks the letter to all Senators from

Major General Greenlief, the executive vice president of the National Guard Association.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL GUARD ASSOCIATION
OF THE UNITED STATES,
Washington, D.C., June 26, 1980.

Hon. MEMBERS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: When the 1981 Department of Defense Authorization Bill is brought to the floor of the Senate for consideration, Senator McGovern plans to introduce an an amendment, the purpose of which is to increase the educational level of the Selected Reserve of the Armed Forces.

Senator McGovern's amendment would increase the educational assistance incentive available to specified members of the Selected Reserve. Currently, that incentive provides reimbursement for up to $500.00 per year, $2,000.00 maximum, for tuition, fees and books at accredited post-secondary educational institutions. Senator McGovern's amendment would increase the reimbursement to up to $1,000.00 per year, $4,000.00 maximum. This provision is contained in the White Amendment to the 1981 Department of Defense Authorization Bill, which was adopted in the House of Representatives.

The current educational assistance incentive has had little acceptance by those enlisting in the Selected Reserve. In the Army National Guard alone, only 814 of 6,392 enlistees eligible to receive some type of enlistment incentive have opted for the educational assistance incentive.

The McGovern Amendment would make the educational assistance incentive far more attractive to the higher mental category high school graduates needed by Selected Reserve units to operate and maintain the sophisticated weapons systems now available in those units.

The National Guard Association urges you to vote for the McGovern Amendment to the 1981 Department of Defense Authorization Bill.

Sincerely,
FRANCIS S. GREENLIEF,
Major General, NGUS (Ret.),
Executive Vice President.

Mr. McGOVERN. Mr. President, as I have said, the amendment is aimed directly at improving the capabilities of the National Guard and the military reserves. It does that by a modest improvement in the educational benefits that are offered to young people joining the Guard and the Reserves. Under the present system, they are allowed an educational benefit of $500 a year, a maximum of $2,000 total. Obviously, Mr. President, given today's educational costs, that has not proved a sufficient incentive to attract the kind of people that we want to go into the Guard and the Reserves on the scale that they are needed.

This amendment, which conforms with action already taken in the other body, would increase that educational benefit to a maximum of $1,000 a year and to a total of $4,000 for any one person in the Guard or the Reserves.

Mr. President, I think that, very clearly, would have the effect of attracting some of the college-bound young people who now do not find the Guard or the Reserve a sufficient attraction to join.

In recent months, there has been a new momentum toward improving the benefits and the pay for the active forces. I have supported such measures as the Armstrong-Matsunaga amendment and, as an alternative, the Nunn-Warner amendment, to make sure that the Volunteer Force is able to attract qualified new recruits. But, at the same time, we must expand the range of compensation and educational benefits available to our Reserve and Guard elements to make sure that they also receive adequate resources to carry out their missions.

Mr. President, I am very hopeful that this amendment will be acceptable to the members of the Committee on Armed Services and to others who are concerned about the quality and the readiness of our Guard and Reserve.

Mr. WARNER. Mr. President, I congratulate my distinguished colleague from South Dakota. I think his amendment is a good measure and I wish to indicate acceptance for this side of the aisle.

Mr. McGOVERN. I thank the Senator.

Mr. NUNN. Mr. President, I also want to express my appreciation to the Senator from South Dakota for his efforts in this respect. I think he has put his finger on a very key element in trying to attract people.

Mr. President, we know that bonuses, money and pay, certainly have some attractiveness for getting people into military service. There is no doubt about that. But our critical problem today is not just getting people into the Armed Forces—whether it is Reserve Forces, Guard Forces, or other forces. It is getting quality people, and I use that word in the very broad term, because quality means many things. I do not confine that to an intelligence level, nor do I confine it to the question of high school graduates. We need to attract people into the Guard and into the Reserve who aspire to higher education, who have that kind of goal in life. The committee itself has several provisions in our bill this year along that line.

Mr. President, we have $46 million, which will allow a pilot project in the Active Forces to try to experiment with the various ways of attracting quality people into the Active Forces, with various educational benefits. We do not know at this stage which one is going to work. It is because we do not know that we have had such a huge growth in college-age people around the country and we do not know whether or not they are going into the military. We are trying to find something that will blend into the law on that, and providing a maximum incentive is a factor.

We have a program for the Guard and Reserve. We do not, frankly, think it is working very well. Maybe one of the reasons is that it is not funded high enough. Maybe we do not have a high enough incentive in here for people to go into the Guard and Reserve. We have a cash bonus which is also for the Guard and Reserve. I think it is $1,500. We see more people opting for that cash bonus than for the educational benefit. What the Senator from South Dakota is proposing will make the educational benefit more attractive than the cash bonus for the Guard and Reserve. I think that is a step in the right direction.

Mr. President, we also have a provision in our bill that will allow, at the discretion of the Secretary, a forgiveness for a certain portion of student loans for Guard and Reserve. This will appeal to students who are already in college and have incurred some financial obligation to the Government. I think what the Senator is doing will complement that approach, because his comes nearer to attracting some people who have not made the decision to go to college, but who aspire to go to college and who might be interested in joining the Guard or Reserve.

Mr. President, I recommend to my colleagues on the committee, to the chairman, to the ranking Republican member now handling the bill for the Republicans, the Senator from Virginia, that we accept this amendment and that we take this step as advocated by the Senator from South Dakota and the Senator from Oregon to see if we can make this program work and get the high level of intelligence and quality of people going into the Guard and Reserve that we need.

Mr. McGOVERN. Mr. President, knowing how carefully the Senator from Georgia has studied this whole matter of military personnel and readiness of the Armed Forces, I appreciate his support for this amendment.

Mr. STENNIS. Mr. President, I highly commend the Senator from South Dakota. He has built up added strength in a very vital factor, appealing to the very type of men that we are looking for, particularly for these excellent Reserve units. I am glad to support his amendment, Mr. President, and hope that we can dispose of it now by a voice vote.

● Mr. HATFIELD. Mr. President, I commend my colleague from South Dakota for his leadership in sponsoring this important amendment.

It is intended to increase the number of high school graduates in the Army Guard and Army Reserve. The additional incentive will bring into reach opportunities that are presently beyond the reach of many young people today.

There are two options now available as bonus programs to enlistees; a cash benefit program of $1,500 divided over 4 years or an educational program for a total of $2,000, not exceeding $500 over a 12-month period. Today's rising educational costs make $500 a year an unrealistic figure for an educational incentive plan.

Defense Department figures show a low rate of education benefit utilization because the $1,500 cash bonus is more appealing than the $2,000 educational bonus to present enlistees. This cash bonus is a motivation to the high school dropout or lesser achiever but the $2,000 educational bonus is not highly motivating to a high school graduate who is college bound. A $4,000 educational program, however, would be a significant aid to the high school graduate who needs assistance to attend institutions of higher learning. The monetary educational assistance of the National Guard and Reserve will motivate these high school graduates to enlist in the Selected Reserve.

The amendment's proposed benefits for those who enlist directly in the Selected Reserves would affect the Army National Guard, Air National Guard, U.S. Army Reserve, U.S. Air Force Reserve, Marine Corps Reserve, and Navy Reserve. The National Guard Association of the United States supports this amendment and states that today only 814 of those 6,392 enlistees eligible to receive educational benefits accept the educational assistance.

There is no more important component of this Nation's defense than its reserve capability. We are vitally dependent on the efforts of the men and women who choose to serve their country through participation in selected reserves. There are those who advocate a draft into the reserves to increase the quality level. There is enough patriotism in this Nation to sustain a formidable reserve component. Talk of a draft into the reserves indicates doubt among the Nation's leadership in the spirit of volunteerism help by our young people. I urge the Senate to approve this important measure.●

Mr. PROXMIRE. Mr. President, to a significant degree, the defense philosophy of the United States is based on a myth. That myth, or perhaps distortion or overstatement would be equally appropriate terms, is called the "total force" concept.

Simply put, beginning in 1970, our national defense posture was to be calculated on the basis of a force structure that included, as full partners, the National Guard and Reserves. Missions and roles were redefined. Deployment schedules were reestablished. Guard and Reserve units were incorporated into the war plans as front line troops rather than distant, untrained fillers.

The emphasis was well placed. The Guard and Reserves are the heart of the U.S. Military Establishment. I do not say this to degrade or in any way downplay the regular services. But without the Guard and Reserves, the regular Active Forces cannot accomplish their stated objectives.

How important are the Guard and Reserves? Well, just consider the following: The Army National Guard provides 33 percent of total Army combat divisions; 57 percent of the armored cavalry requirements; 41 percent of the mechanized infantry battalions; 42 percent of the tank battalions; 48 percent of the field artillery battalions and 63 percent—63 percent of the infantry battalions.

The story for the Air National Guard is equally startling. While the Army Guard supplies 27 percent of all total Army personnel strength, the Air National Guard supplies over 13 percent of the total Air Force and 60 percent of the air defense interceptors; 57 percent of the tactical reconnaissance aircraft; 30 percent of the tactical airlift aircraft; 25 percent of tactical fighter aircraft and 17 percent of strategic tanker support. I give credit to Maj. Gen. Francis S. Greenlief (Retired), executive vice president of the National Guard Association for bringing these facts to the attention of the Congress.

This contribution, as great as it is, has been accomplished with little formal support. The Guard and Reserves continue to be the hand-me-down children of the Armed Forces. They have been given a mission. They're dedicated to their jobs. They are highly trained. They have some of the best units of any military force in the world and in fact are the best in many categories. And yet they have been virtually ignored over the years.

Some of that has begun to change. Bonuses and incentives are beginning to be applied with equal justice to the Guard and Reserves as well as the Regular Forces. But there is so much to be done to bring the Guard and Reserves in as full partners in the total force concept. They need better and more equipment. They need improved and new facilities in which to train. They need better training equipment and supervision.

In short, they need to be treated as the full partners they are designed to be on paper. And that is the purpose of the McGovern/Proxmire amendment—to create an incentive package for Guard and Reserve personnel that will encourage them to stay in the military, to reenlist; to improve their education and thus to contribute more to our defense effort.

Under current law, educational assistance to Guard and Reserve personnel may not exceed $500 for any 12-month period or $2,000 total. Our amendment would raise the ceilings to $1,000 for any 12-month period and $4,000 overall. This is the same position that has already been accepted unanimously by the House.

Why do we need to raise the educational incentive? Because as the parents of any college age student will quickly tell you, educational costs have skyrocketed. Five hundred dollars a year with the kind of inflation-tuition we suffer is no incentive at all. But $1,000 a year for 4 years means a very real possibility of returning to school for many college age students and former students. And they can do this while contributing to our national defense.

In fact, these are just the type of people we want in the military—educated, intelligent, motivated, dedicated to their units and to their missions.

The money could not be better spent. We need the manpower. We need trained manpower with technical experience. We need personnel seeking to improve themselves through education. And this amendment will help attract them.

Mr. President, in my opinion, the best Air Force in the world may not be the Active U.S. Air Force. It might just be the Air Force Guard and Reserves. Certainly they have the dedication, the expertise, the training and the advanced skills to merit this distinction. But they do not have the equipment.

The Army National Guard and Reserves have struggled to obtain the same plateau of excellence. Many units have made great strides in upgrading their combat readiness. I am proud, for example, of the record the Wisconsin Guard and Reserves. Under the leadership of Gen. Ray Matera, adjutant general of the Wisconsin National Guard, the emphasis has been placed on improving the readiness and strength of the Army Guard to match the excellent record of the Air Guard and Air Force Reserve forces in the State. I know other States have shown similar improvements.

While the personnel in the field have done their work, we in the Congress should do ours. A full package of incentives for the Guard and Reserves should be passed by the Congress. This bill goes some way in expanding the bonus system to all units and all skills.

What we need now is to improve the educational incentives for Guard and Reserve personnel—to keep them up with inflation at a minimum. We also need more recruiters, specialized medical recruiters, increased end strength for the Air National Guard and training officers for local units. I will be presenting these concepts later. But for now, it is important that the educational incentives be liberalized to a practical and useful level.

INCREASE IN EDUCATIONAL ASSISTANCE BENEFITS FOR THE RESERVE FORCES

● Mr. NELSON. I am pleased to join with Senators McGovern and Proxmire in introducing an amendment to the Defense Department authorization bill which would increase the educational assistance benefits for people who enlist in the Selected Reserves.

This amendment represents one step in our ongoing efforts to make service in the Reserves and the National Guard more attractive. It will bring the educational assistance incentive more in line with actual college or university costs. Under this measure, the ceilings on these benefits would be raised from $500 every 12-month period and $2,000 overall, to $1,000 every 12-month period and $4,000 overall.

It is imperative that we give the Guard and the Reserves the tools to attract and retain highly qualified, highly skilled, and highly motivated men and women. Our Reserves currently are nearly 200,000 men and women short of their authorized strength. Given our heavy dependence on the Reserves, we must ensure their vitality and strength. In time of war, we would look to the Reserves for fully one-half of the country's combat power and two-thirds of its support capability.

We are confident that this amendment will draw more recruits into the Selected Reserves. In addition, we believe this proposal will provide indirect benefits to our manpower retention efforts. For example, States like Wisconsin, which has a tuition assistance incentive program of its own, may now find it possible to shift the State money thus saved to Reserve reenlistment bonuses instead.

I commend the Armed Services Committee for taking a series of important steps to beef up the recruitment and retention programs of our Active and Reserve Forces. These steps include authorizing an 11.7-percent increase in basic pay, subsistence and quarters allowances for military personnel, as well as increases in enlistment and reenlistment bonuses, and in per diem travel allowances.

I believe, however, that further incentives to service in the Reserves are necessary. I urge support for the amendment.●

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota.

The amendment (No. 1920) was agreed to.

Mr. STENNIS. I move to reconsider the vote, Mr. President.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1366

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Delaware (Mr. BIDEN).

Mr. WARNER. Mr. President, may we have consent for the Senator from Delaware to speak—

The PRESIDING OFFICER. The time is not controlled.

The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, it is with a certain sense of deja vu that I am again compelled to rise to support the Secretary of Defense——

Mr. STENNIS. Mr. President, I hate to interrupt the Senator but time is controlled.

The PRESIDING OFFICER. The Chair states that the time is limited, the vote to occur no later than 1:15, but the time has never been equally divided and controlled.

Mr. BIDEN. Mr. President, I ask unanimous consent that the time be equally divided and controlled, that the Senator from Delaware (Mr. BIDEN) control the time on this side and the Senator from Virginia the time on the other side, and that the time used by all of those who have spoken in opposition to the Warner language be counted against an hour's time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I yield 5 minutes to the senior Senator from Delaware.

Mr. ROTH. I thank my colleague.

The PRESIDING OFFICER. The Senator may proceed.

RENOVATION OF AIRCRAFT CARRIER U.S.S. "FORRESTAL"

Mr. ROTH. Mr. President, it is with a certain sense of deja vu that I am again compelled to rise to support the Secretary of Defense's authority to decide a matter when I had thought we had firmly established his authority to make such a decision last year. Congressional history is perhaps doomed like that of other institutions to repeat itself, but it does seem a tragic waste of the Senate's time to be obliged to annually restore the legitimate authority of the Secretary of Defense. Last May, in three successive rollcall votes, the Senate rejected an attempt to force the Navy to rescind its decision to overhaul the U.S.S. *Saratoga* in Philadelphia Navy Shipyard, a decision made originally in 1976.

Now, again, my distinguished colleagues from Pennsylvania, Delaware, and New Jersey and I find in section 105 (b) of H.R. 6974 a narrowly conceived amendment which strips the Secretary of his authority to decide on schedule where a second aircraft carrier, the U.S.S. *Forrestal*, will be overhauled. As it did last year, this amendment comes cloaked in the guise of good intentions. But, since only the two sites are being considered for this project, it is, in essense, designed for the parochial purpose of denying the project to Philadelphia and prejudicing the Navy's ultimate decision in favor of Virginia's Newport News Shipyard.

Last year, the language employed would have forced the Navy to disregard other studies and accept the findings of a single GAO report which favored Newport News. This year, the tactic used is to impound the Defense Department's decision on a site location and to force the Navy to await the pleasure of Congress. I am a strong advocate of aggressive congressional oversight, and I congratulate the members of the Armed Services Committee, and particularly its distinguished chairman, for their diligence in discharging this function. In this case, however, I must consider it an abuse of oversight to postpone a critical decision which could seriously delay completion of the *Forrestal* renovation.

Secretary Harold Brown has written me and my colleagues from Pennsylvania, Delaware and New Jersey that the language originally contained in H.R. 6974 concerning the *Forrestal* would severely disrupt fleet operations and maintenance schedules by delaying an industrial site decision until the fiscal year 1983 authorization bill is enacted. Apparently recognizing the damage such a condition would impose on the *Forrestal* renovation, Senator WARNER has since clarified that language to dictate a still unacceptable delay until October 1981.

Each aircraft carrier renovation under this program is a massive, complicated task which requires a maximum leadtime for adequate planning and preparation of facilities. To insure the timely completion of each carrier project, the Navy needs to decide 30 months in advance where the project will be located. To meet this deadline, decision on the site for the U.S.S. *Forrestal* overhaul should be made this year, as early as next month. By requiring prior authorization, section 105 (b), as originally written, would have delayed the final decision until October 1982, 2 months before the *Forrestal* is scheduled to begin its overhaul. Even as revised by Senator WARNER on Saturday, the amendment postpones a decision until October 1981.

Putting the *Forrestal* site decision in limbo is going to cost the American taxpayer dearly. As always in Government operations, and indeed in the private sector as well, failure to make a timely decision costs money. The meter keeps running while we dally with more studies. Without a timely decision that gives the Navy the necessary leadtime, it will have to plan for both contingencies—Philadelphia and Newport News. In effect, section 105 legislates parallel prepartion of Newport News for an aircraft carrier renovation when Philadelphia has already been geared up for these projects. Parallel planning is expensive; $2 million has already been spent in Philadelphia for facilities for the first aircraft carrier overhaul, the U.S.S. *Saratoga*, which will begin October 1980.

In order to prepare for the possibility that Newport News will have to handle such a project, another $3 million will have to be spent for facilities there. If Congress forces the *Forrestal* decision into limbo, the Secretary of Defense states that the Navy will have to spend an additional $13 million on planning and shipchecks for the contingency that the project will go to Newport News. All this is not even to mention the fact that experience gained in Philadelphia with the *Saratoga*, which could mean millions (an estimated $43 million) in savings from economies of scale, will be lost by switching horses in mid-stream.

Updating and equipping our aircraft carriers with the latest technology of modern warfare is of crucial national security concern. The Navy has been planning this work for many years. The decision on where to renovate the U.S.S. *Saratoga* was originally taken in 1976; the site chosen was Philadelphia. After elaborate preparation of the shipyard and extensive planning, the U.S.S. *Saratoga* will finally pull into Philadelphia Naval Shipyard in October, 1980. At that time, it will begin its 28-month service life extension program (SLEP) overhaul and systems modernization improvements. This work will extend its effective service life by 15 years.

The *Saratoga* is the first of four "*Forrestal*-class" carriers that are sequentially scheduled to undergo SLEP throughout the 1980's. Given the Philadelphia Naval Shipyard's excellent record for on-time completion, we can be confident that the *Saratoga* will complete its SLEP work on time. If the language presently contained in section 105 (b) is retained, there is no such assurance that the U.S.S. *Forrestal* will likewise be overhauled on schedule and expeditiously returned to sea to fulfill its vital fleet mission.

Our action here will therefore have important consequences for our Nation's security. I only regret that we must take the Senate's time to redo what we did last year. In May 1979, when we dispensed with a similar attempt to waylay Philadelphia as the *Saratoga*'s SLEP site, the Senate established all necessary guidelines for the decision on a site for the *Forrestal* SLEP. We established fair and competitive criteria for deciding on site location. The Navy has abided by those guidelines in formulating its decision on the *Forrestal*. At this point, I would like to quote from a letter from Secretary Brown:

> In selecting industrial activity assignments for major ship availabilities (such as the CV SLEP's), the Navy evaluates many factors, not the least of which is a thorough review of shipyard workload impact, both public and private. This is done so that the Navy's decision maximizes both the proper and expeditious accomplishment of work and maintenance of a strong national ship repair mobilization base. Exhaustive review of these factors is in process now in preparation for a decision on *Forrestal*'s SLEP assignment.

To tie the Secretary's hands on making a site decision for the *Forrestal* SLEP, at this point, is to legislate unnecessary delay, costly delay, which will potentially weaken our carrier fleet. I strongly urge my colleagues to join me in assuring that this vital defense decision is made in a timely fashion.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, it is indeed regrettable that this issue has been so characterized because what is being asked here is only that the Armed Services have a management tool, namely, a report from the Department of Defense prior to action by this body and the Congress as a whole on a project expenditure for one single ship totaling $600 million.

Again, this whole issue is: Will the Senate let the Armed Services Committee, as they have requested, have this management tool, so we, the committee, can properly exercise our oversight responsibilities and report back to our colleagues.

Listening to my colleagues in opposition rest their argument so heavily on a letter from Secretary Brown, brings back my memories of when I spent over 5½ years in the Department of Defense. I confess now to having written many letters like that, because the Department of Defense always wants the least amount of control exercised by the Congress over their dollars.

It is for that reason precisely that Secretary Brown has, in such an accommodating manner, provided the opposition with a letter. I will address that letter in considerable detail in just a moment.

When I saw the letter, I decided in fairness to my colleagues and in fairness to the Secretary of Defense, although I disagreed with what he said, that I would amend the language accepted by the committee as to make absolutely clear the dates on which the various reports and actions had to be achieved by the Department of Defense.

The effect of the amendment is to clarify the language which, in my judgment, was never in doubt, but which has generated some concern among my colleagues.

The opposition, my distinguished colleague from Delaware and my distinguished colleague from Pennsylvania, have accepted the amendment. I thought that would put the matter to rest. But here we are in a debate on a substituting amendment.

This amendment enables the Department of Defense to proceed on a schedule almost identical in timeframes to the schedule now being followed with respect to the first ship, the U.S.S. *Saratoga*.

So the first point, I wish to assure my colleagues, is that the Senate Armed Services Committee, of all committees, would not be seeking to interrupt or delay the orderly progress of the SLEP program—quite the contrary. It is the Armed Services Committee which has provided consistent support for the SLEP program and has, year after year, authorized hundreds of millions of dollars for the SLEP program.

Those who charge the committee language will cause delay are mistaken—and here is why.

The history of the *Saratoga*—which according to the Navy is on schedule—refutes this assertion.

The contention regarding delay is that the shipyard assignment for the *Forrestal* must necessarily be made at the present time—almost 33 months before drydock entry in March 1983.

This extended period of time has not been necessary for the *Saratoga* and no case whatever has been made that the *Forrestal* requires a more extended period than the *Saratoga*. If anything, the period of time after the *Forrestal* assignment should be shorter, not more lengthy. The *Forrestal* advance funds, even with this amendment, will be available without restriction on shipyard assignment over a longer period of time than the advance funds for the *Saratoga*.

A major portion of the *Saratoga* advance funds—$44 million—will have been available prior to October 1, 1980, for only about 9 months—that is, since December 21, 1979, when the fiscal year 1980 Appropriations Act was signed into law. The other portion of the *Saratoga* advance funds—about $62 million—will have been available without regard to shipyard assignment during a 17-month period—from May 3, 1979, to October 1, 1980.

The advance funds for the *Forrestal* can be expected to be available after shipyard assignment for 17 months prior to drydock entry since approval of the full funding for this program can be anticipated by October 1981. A shipyard assignment at the present time, almost 33 months before drydock entry, is an excessive period of time that was not necessary for the *Saratoga*.

The record should also reflect that there is no limitation whatever imposed on the advance funds under this section so long as their use does not relate to a particular shipyard. The Navy is free to utilize these funds for planning and long-lead-material purposes. Long-lead components will be identical for the *Forrestal* regardless of shipyard assignment. The lack of an immediate shipyard assignment is no excuse for delaying the procurement of long-lead components.

Mr. President, those who charge the committee language will cause disruption are mistaken—and here is why.

The contention is that disruption will result if the shipyard to which the *Forrestal* is assigned does not also have the planning, design, and long-lead procurement responsibility 30 to 33 months in advance of the drydock entry.

The experience of the *Saratoga* clearly demonstrates that such a lengthy period is not required. Much of the very preliminary planning is done by the Navy itself. In the case of Philadelphia, the *Saratoga* design effort was contracted to a private organization.

The procurement agent for the long-lead components could be any yard or the Navy itself since it will be the same regardless of the shipyard assignment. It is true that at some point in time the various efforts must be merged with the shipyard itself, but the *Saratoga* clearly demonstrated that 33 months is not required. No case has been made that disruption will result if the shipyard decision is delayed until next year which will still be 17 months prior to March 1983.

It should be emphasized that there is no restriction at any time on the use of advanced funds so long as they do not relate to a particular shipyard.

The Senate must make its choice of whether it wishes to proceed without any information or assessment on the serious issues of cost, manpower and fleet readiness or approve the amendment in order to possess next year the information needed for a judgment on the full funding request for the *Forrestal*.

The second major point is that of military readiness.

My colleagues repeatedly say that it is regrettable that I bring up this language again this year. This is not a fight between Virginia and other States to the north. This is a controversy between the committee that wants a management tool and the Senators who wish to have the authority resting in the Secretary of Defense to proceed with this program without further oversight being exercised by the Senate and having in its possession the facts with which to properly exercise that oversight.

The Senate can only get those facts through a timely report, and that is all that this language asks, that the Department of Defense in a timely manner submit to the Senate a report before we authorize further moneys on this program.

On the question of the manning, I will have in my hand, in the well, as my colleagues come in the Chamber to vote, a classified memorandum dated June of this year, from the Secretary of the Navy to the Secretary of Defense, giving in detail the status of a number of naval ships and the precarious status with respect to personnel. This memorandum clearly states that the Navy is on the brink of requiring that further ships be withdrawn from active fleet participation because of the lack of trained personnel aboard those ships.

Just a few weeks ago, the United States was astonished—indeed, the whole world was astonished—to learn that the N.S. Navy, the proudest and most capable Navy in the world, the Navy we want to be No. 1, had to tie up a ship alongside a dock in Norfolk because of the absence of trained personnel to take that ship to sea.

In my hand is a memorandum by the

Secretary of the Navy to the Secretary of Defense stating that we are on the brink of a comparable situation with reference to other ships. Yet, my colleagues are coming to the Senate and asking that the Secretary of Defense, in his discretion, may proceed and possibly designate a second carrier to Philadelphia, which would require anywhere from 1,000 to 1,200 sailors to be taken out of the active fleet and stationed in Philadelphia and work on the overhaul for a period in excess of 2 years.

When the *Saratoga* sails up the Delaware River to that shipyard, it will take 1,100 extra sailors out of the active fleet, to remain there for the period of the overhaul, sailors who are desperately needed elsewhere in the fleet today, sailors who might well make the difference between ships sailing and ships being tied up, as explained by the Secretary of the Navy in this memorandum I hold in my hand.

I urge my colleagues, as they come into the Chamber, to pause momentarily—Mr. HARRY F. BYRD, JR., will have a copy and I will have a copy—and to read this memorandum before they cast a vote, should it be their desire at this time to cast it in favor of the substitute amendment.

Now I should like to go into a detailed explanation, having finished my summary of the situation that is before the Senate.

During the consideration of fiscal year 1981 defense authorization bill, the Senate Armed Services Committee adopted, without objection, section 105, including one provision relating to the annual authorization of Navy overhauls on ships in excess of 3,000 tons and costing $10 million or more, and a specific provision relating only to the planned overhaul of the aircraft carrier *Forrestal*.

Neither of these provisions—I repeat, neither of these provisions—determines shipyard assignments in any way. They do, however, require the Navy to provide Congress with information and analysis necessary for the proper congressional oversight of the expenditure of billions of dollars of taxpayers' funds.

Section 105 would provide an important and necessary management tool for Congress.

The provision relating to the U.S.S. *Forrestal* was adopted to assure that Congress next year will have an opportunity to review and make a judgment on the cost of naval manpower involved—that is, active duty sailors as well as civilian personnel—fleet readiness, and other factors involved in the choice of a shipyard for overhaul and conversion. It is the second ship of a four-ship, 10-year, $2 billion program.

Several Members of the Senate have expressed opposition to the *Forrestal* provision, charging—and I say this with respect—mistakenly that it would cause delay and disruption to the planned overhaul of the U.S.S. *Forrestal*. Those Members cite a June 24 letter from the Secretary of Defense which contends that section 105(b) would not permit a shipyard designation for the *Forrestal* until the fiscal year 1983 authorization bill is enacted.

This contention is not supported by the text of the amendment as it was written originally. Under the language of section 105(b), the Secretary would be permitted to make a shipyard assignment in 1981, after Congress has acted on the funds for the *Forrestal*—funds which will be requested in the fiscal year 1981 budget under the current 5-year shipbuilding program.

Section 105(b) contemplates and intends that a shipyard designation be made in calendar year 1981. Thus, this section will not cause any delay or disruption in the *Forrestal* overhaul program. A period of at least 17 months will be available after shipyard selection prior to drydock entry in early 1983. This length of time following shipyard assignment has been more than adequate for the first ship, the *Saratoga*, which, according to the Navy, is on schedule. The 17-month period is more than adequate to preclude the disruptive effects of concern as expressed by Secretary Brown.

I have no doubt as to the meaning and intent, as I said, of the original language. Nevertheless, in order to remove any doubt that any Member of the Senate may have, I have offered—and the Senate now has accepted—an amendment which explicitly permits a shipyard assignment by not later than October 1, 1981.

Therefore, I urge my colleagues to judge this matter on the merits of the committee's language and not on the arguments which flow from the mistaken interpretation of section 105(b) by the Secretary of Defense.

The ill-conceived conclusions cited in the "Dear Colleague" letter written by Senator EIDEN, that the committee language on the *Forrestal* SLEP will seriously delay the program and disrupt fleet operations, cost $13 million in fiscal year 1981, and harm morale, are all based on the June 24, 1980, letter to Senator BIDEN from Secretary Brown, and Secretary Brown's letter is wrong. Secretary Brown's letter has been negated by the amendment accepted by the Senate.

The fact is that the fundamental premise of Secretary Brown's letter, from which all the "Dear Colleague" conclusions are derived, is invalid. The Secretary drew his conclusions from the premise that the Senate Armed Services Committee proposed bill language on the *Forrestal* SLEP which would prevent the Secretary of the Navy from designating the *Forrestal* SLEP until the 1983 authorization bill. That is clearly wrong, and now the amendment has taken care of it for certain. The bill language simply precludes designation of the site until the results of a site selection study are submitted to Congress and have been examined by Congress. That is the first step of the advanced procurement funding for the *Forrestal* SLEP, and our amendment now clarifies this.

The bill language fully authorizes the advance procurement request, allows expenditure for the long-lead items, as long as a site is not designated, which is neither necessary nor required in connection with the expenditure of the long-lead funding.

For comparison, the shipyard's selection for the *Saratoga* SLEP was not made until late in the second year of advanced procurement funding for the *Saratoga*. The bill allows the *Forrestal* site decision to be made in the first year with advanced procurement.

I, therefore, urge my colleagues to recognize that the Armed Services Committee unanimously asked for this management tool so that we can properly exercise our oversight.

I ask that my colleagues not draw a parallel between this request and the one a year ago in connection with the *Saratoga* because the facts have changed. Principally the facts have changed relating to Navy personnel as we debated this matter last year. Had the Navy tied up a ship as they have done in the ensuing 12 months with the U.S.S. *Cannisteo*, I am of the opinion a number of my colleagues who supported Senators BIDEN and BRADLEY last year would not have done so. It is for that reason that I urge Senators as they come into the Chamber to pause for a moment to look at this classified memorandum which gives the up-to-date situation of the U.S. Navy as of June 1980. We cannot go on record today as allowing the Secretary of Defense to go forward with a site designation for the overhaul of this ship until we, the Senate, have carefully examined the Navy's personnel situation. That is all that this amendment asks, a report such as we can properly exercise our oversight.

How can the Senate exercise its oversight function if it does not even seek the information for determining whether the *Forrestal* assignment will have an impact on fleet readiness.

Mind you now, another 1,000-plus sailors will sail up the Philadelphia River to that shipyard making a total of 2,000.

Mr. BIDEN. Mr. President, if the Senator will yield, Delaware has two rivers and one of them is the Delaware River.

Mr. WARNER. I just remembered that.

Mr. BIDEN. I thank the Senator very much. As small as we are we take great pride in them.

Mr. WARNER. I apologize to my distinguished colleague and I am so glad he has corrected the record because it bears out he is listening carefully to everything I have to say.

As the Senate well knows the Chief of Naval Operations has indicated that manpower is the Navy's No. 1 problem. For instance, we know that some of the shortages of the skilled petty officers are now reaching crisis proportions. It is for that reason that I understand an amendment will soon be brought to the floor to strike from the committee's bill the bringing of the *Oriskany* out of mothballs. As I understand there are certain of my colleagues who are opposed to that action because the Navy cannot make a clear case with respect to the availability of personnel to man the *Oriskany* and to man the U.S.S. *New Jersey*, a second ship that is proposed by the committee to be brought out of mothballs.

So those Senators contemplating supporting those amendments should certainly be persuaded to the committee recommended course of action with respect to this SLEP program; namely, that we do not give the Secretary of Defense the blanket authority to pick a site until the Senate has carefully looked at the Navy personnel situation.

Thirty-eight percent of the European forward deployed ships are so short of experienced petty officers today that ships are arriving in the lowest category of military readiness in the recent history of the U.S. Navy—and that low state of readiness is because of shortages of skilled manpower.

Last year there were reenlistment shortages in 61 percent of the 85 major enlisted skill areas. Less than one-half of the Navy petty officers completing their second term are reenlisting and remaining in the U.S. Navy.

When the nuclear carrier *Eisenhower* recently left for a long-term Indian Ocean deployment, as my distinguished colleague from Virginia pointed out, almost one of every seven billets was vacant due to a personnel shortage of 735 men.

Mr. President, I yield the floor to my distinguished colleague from Virginia (Mr. HARRY F. BYRD, JR.).

The PRESIDING OFFICER. The distinguished Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, the provision in the bill as reported by the Committee on Armed Services mandates a study. It does not determine a shipyard assignment for the U.S.S. *Forrestal* and has no impact at all on the overhaul work of the U.S.S. *Saratoga* which will undergo service life extension in Philadelphia.

The U.S.S. *Forrestal* will not enter drydock until about March of 1983. Assignment of the *Forrestal* to a particular shipyard at this time would be premature.

As a result, the amendment specifically forbids the designation of a particular shipyard for the *Forrestal* service life extension until the study has been completed and specific legislation has been enacted authorizing full funds for the *Forrestal* work but not later than October 1, 1981.

Mr. President, that October 1, 1981, date was written into the legislation this morning. It was presented by my colleague from Virginia, and it was unanimously approved by the Senate. That was the intent all along.

As Senator WARNER's letter to Secretary Brown makes clear, the legislative history, as well as the author of the amendment and the intent of the Armed Services Committee, clearly shows that the fiscal 1982 authorization is the one which governs the committee amendment.

I think it is unfortunate that Secretary Brown chose to interpret that to mean the 1983 authorization.

In any case, Secretary Brown was in error and the modification which the Senate agreed to just this morning makes clear the intent of the committee.

There are no limitations on the discretion the Navy can exercise in preparing the mandated study. But the Navy is directed to consider in its analysis certain enumerated factors including cost and personnel impact. The provision in the bill is a prudent effort to obtain information for Congress regarding the service life extension of the U.S.S. *Forrestal*.

Mr. President, the service life extension program for the aircraft carriers is a very expensive one. I think it is important that Congress have the necessary information about the cost of these programs prior to authorizing the work.

I shall read into the RECORD what would be required in the way of a comprehensive study as approved by the Committee on Armed Services. I read No. 2 of section 105 of the pending bill.

> The Secretary of the Navy shall conduct a comprehensive study after the date of the enactment of this Act (1) comparing the cost of performing the Service Life Extension Program work described in subsection (a) at public shipyards with the cost of performing such work at private shipyards, (2) comparing the number of Federal civilian personnel, armed forces personnel, and private industry personnel that will be utilized in performing such work at public shipyards with the number of such personnel that will be utilized in performing such work at private shipyards, and (3) evaluating such other factors—

And I say this again for emphasis—

> evaluating such other factors as the Secretary of the Navy considers significant in selecting a shipyard at which such work should be performed.

Mr. President, it seems to me this is a very reasonable proposal. It seeks to give Congress information which I feel is important for the Congress to have. I say again this does not mandate the selection of any shipyard. It merely seeks full information from the Secretary of Defense on the cost of the work to be done, the various evaluations that need to take place in considering the overall aspect of the SLEP program. I think it is appropriate that the language contained in the bill gives to the Secretary of Defense the authority to evaluate such other factors other than those listed in the bill as the Secretary shall deem advisable.

It is a reasonable approach and I hope the Senate will approve the committee position.

The PRESIDING OFFICER (Mr. EXON). Who yields time?

Mr. WARNER. Mr. President, would the Chair inform me of the remaining time of my side?

The PRESIDING OFFICER. The Senator from Virginia has 35 minutes and the other side has 17 minutes remaining.

Mr. WARNER. Mr. President, I yield the floor to the distinguished Senator from New Jersey.

Mr. BRADLEY. I do not wish the floor at this time. I was standing in order to clarify what the Senator had asked. He asked how much time was remaining. I thought he was yielding his time back.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I would like to summarize the position of the Armed Services Committee. It is coming to its colleagues unanimously asking for a management tool, asking for a study which will enable the committee properly to evaluate all the facts with relation to the SLEP program before we authorize, and presumably the Congress acts upon, the successive amounts of money for this projected $600 million service life extension program of a single ship.

I repeat it is a program that in the aggregate will reach $2 billion, and it is for that reason that the Armed Services Committee wants to make very clear that we feel we have a responsibility to look at all the facts before the Secretary of Defense designates the shipyard in which the work will be performed. That is all we are asking.

We have met, in my judgment, and we have come forth and met, in good faith the principal question raised by those proposing the substitute amendment; namely, that there was an ambiguity with respect to the dates.

I waited here late into the night Saturday. My recollection is it was about 10:30, and at which time I placed on the desk and asked to be printed an amendment to change the dates to remove any doubts. I did not do it in secrecy; I did not slip in here this morning to try to seize the floor as a surprise. I did it in good faith, openly.

My colleagues, recognizing the importance of this, have accepted that date and that change and, therefore, I urge my colleagues to show their support for the Armed Services Committee and to give that committee the tool it needs to properly exercise its responsibility to the Senate as a whole, to the Congress, and to the American public.

Mr. BRADLEY. Mr. President, will the Senator yield for a question?

Mr. WARNER. Yes.

Mr. BRADLEY. I commend the Senator for his approach and his openness in this process. I think the Senator has been quite fair and has sought to do things in a way that kept the opposition informed.

What I would like to know from the Senator from Virginia who, as a Senator, serves on the Armed Services Committee, is can you not request reports and briefings on Navy assessments and considerations of the SLEP program that would make such a study as the Senator is requesting repetitive? Cannot the Senator gets that information now?

Mr. WARNER. It is a very good question. The answer is, no. Regrettably our committee has time and time again asked for reports from the Department of Defense and failed to receive them. As a matter of fact, we are going to witness in this Chamber, I believe today, one of the most interesting debates in connection with this bill, namely, Senator NUNN's proposal that the Army be cut 25,000 in terms of its ceiling. Why? Because we, as a committee, have not been able to get the information, the validated information, from the Department of Defense with respect to the personnel situation so that we can properly establish such a ceiling of personnel.

There is a clear example of where we failed.

Again I could speak from my experience of over 5 years in that Department of the U.S. Navy. Again at every turn we would try to see that we had the maximum amount of authority reposed in the Secretary of Defense and the service secretaries such that we could go forward with our programs unmolested and, therefore, not come so often before Congress.

Does that answer the distinguished colleague?

Mr. BRADLEY. Well, the desire for proper congressional oversight I think is commendable. I would like to simply read into the RECORD what Secretary Brown said about the evaluation process that is presently underway on the SLEP program. I quote from the letter wherein he says:

> In selecting industrial activity assignments for major ship availabilities (such as the CV SLEPs), the Navy evaluates many factors, not the least of which is a thorough review of shipyard workload impact, both public and private.

The information the Senator wants is available. My question is why must you block the Secretary's ability to make a timely decision by linking it to the submission of a formal report? I would suggest that such a report need not be linked to the Secretary's ability to make a site decision, but the reason that it is linked is because it is indeed related directly to the situation between Philadelphia and Virginia. It is a delaying tactic that will prevent the natural flow of funds consistent with the assignment of the U.S.S. *Forrestal* to Philadelphia following the assignment of the U.S.S. *Forrestal* there.

The Navy says that it needs about 30 months lead time from site selection to start-up in order to have an orderly SLEP preparation process. This amendment would give it no more than 15 months. So even though your interest in getting a report is generally commendable, I would suggest that the terms of your request makes clear that your real interest is in making sure that the U.S.S. *Forrestal* is prevented from going to Philadelphia.

Mr. WARNER. I wish to reply to my distinguished colleague from New Jersey by saying when we use the word "Navy" we had better pause for a moment and analyze what we mean. Does the Senator recollect that last year the uniformed side of the Department of the Navy, namely, the Chief of Naval Operations, and his managers strongly recommended against the U.S.S. *Saratoga* going to Philadelphia? Why? Because he was so desperately worried about the situation with respect to personnel, 1,100 sailors, and he was overruled by the Secretary of the Navy acting on direct instructions from the Secretary of Defense, and I somehow believe that the Secretary of Defense may well have gotten his instructions from a higher echelon. But I will not bring that somewhat disappointing background into this question. The political trail is there for those who wish to look for it.

Mr. BRADLEY. Mr. President, will the Senator yield there so I might have an opportunity to correct the manpower numbers you have been using? In fact, we are not talking about a difference of 1,100 Navy personnel. between Philadelphia and Virginia but really at best only 800 Navy personnel because at least 300 are required in Virginia for such SLEP work. The Senators facts are outdated. Philadelphia will use no more than 1,100 Navy personnel, total on the *Saratoga*. Moreover, Philadelphia also could do the work with only 300. It doesn't have to have all 1,100.

But even if Philadelphia uses all 1,100, still Philadelphia and Virginia would use a much closer number of personnel, in critical ratings. Of the 1,100 Navy personnel to be used on the *Saratoga* in Philadelphia, only 165 have critical ratings. Newport News would use at least 81, maybe more. So the difference in critical manpower and in skilled personnel generally is much smaller than the Senator suggests and that this is a vote that will determine the naval preparedness of the United States for the next 15 years I think clearly is not a correct analysis.

The critically rated Navy personnel would not be significantly different. I see my colleague from Delaware (Mr. BIDEN) in the Chamber. I know he is anxious to address this issue, as well.

I just could not allow the Senator to continue to make these kinds of accusations about the great difference in critical categories of naval personnel without setting the record straight.

Mr. WARNER. I appreciate my colleague bringing this point up. But let us get the record very clear. Your facts are incorrect. There is a net difference of almost 1,200 sailors. I now have before me the record of the hearings last year when the Chief of Naval Operations testified on this subject.

For the benefit of those who may not understand shipyard overhaul in every detail, let me say that each time a naval ship goes into a shipyard, be it a public or private yard, a certain small percentage of the ship's company must remain on board that ship during a ship overhaul. They must stand the fire-watch and protect the ship. In some shipyard work represented by this overhaul work. The problem here is that the Philadelphia yard did not have a sufficient number of skilled civilian workers to accept the huge increase in shipyard work represented by this overhaul. So, the Department of Navy, therefore, had to leave more sailors on this ship—that is, the first SLEP, the *Saratoga*—than the Navy would have left on had the ship gone to another shipyard, namely, Newport News, in this particular case.

Now, reading from last year's testimony of Admiral Hayward:

> Of the total 1.474 scheduled to remain in Saratoga with the Philadelphia option, a significant number (50 percent) will be from engineering ratings, the ratings most critical to the readiness at this time. The reassignment of senior engineering personnel to operating units would provide an immediate payback.

I should add at this point that the loss of these sailors to the fleet was the primary reason the uniformed Navy recommended strongly against the Philadelphia assignment.

Mr. President, I insert at this point in the RECORD portions of a fact sheet I have prepared which addresses in detail the issue of fleet readiness:

FACT SHEET

EFFECT OF SARATOGA SHIPYARD CREW ASSIGNMENT ON FLEET READINESS

Over 1,100 skilled and experienced crew members of the SARATOGA, SLEP No. 1, will be assigned as part of the Philadelphia Shipyard industrial work force. This assignment can only further diminish the present critical state of fleet readiness since these men will no longer be available for fleet service or essential shore positions during the 28-month drydock period.

Numerically, the 20,000 shortage in skilled Naval personnel will be increased by about 5% as a result of the SARATOGA assignment action alone. In real terms, the impact could be greater since small numbers of skilled petty officers, as in the recent case of the USS CANISTO, meet skilled personnel needs of many ships.

PRESENT DISTURBING STATE OF FLEET READINESS

Legislative judgments having a future impact should not overlook existing Naval manpower and readiness problems which, over the past several months, have received wide attention in the Congress and the media.

The Chief of Naval Operations has recently stated that manpower problems are now approaching crisis proportions. Shortages of skilled career petty officers are now so severe that ships are being tied up at the pier. Other ships are being deployed so short of skilled personnel that the ships must be rated as "not combat ready" or "marginally combat ready" due to personnel.

Some disturbing facts reflecting present fleet readiness are:

38% of the Navy's European forward deployed ships are so short of experienced petty officers that the ships are arriving in the lowest category of military readiness (C3 or C4 personnel).

The Navy overall is short 20,000 experienced petty officers.

Ship and aircraft squadron manning is at only 85% of combat readiness levels.

In 1979, there were reenlistment shortages of 59 (61%) of that 85 major enlisted skill areas of the Navy. Moreover, last year less than one-half of the Navy petty officers completing their second reenlistment were retained.

The nuclear carrier EISENHOWER recently left for a long-term deployment to the Indian Ocean with an overall personnel shortage of 735 personnel, or almost one out of every seven billets. (Congressional Record, May 28, 1980, p. S. 5902).

In the past 4 months the number of Navy ships rated "not combat ready" because of personnel shortages has tripled according to Navy officials.

Only weeks ago the lack of 14 skilled petty officers' prevented the 36,000 ton Navy supply ship the USS CANISTO from returning with fuel and other supplies to the Mediterranean fleet. This ship had only 2 of its required 9 boiler tenders and only 6 of its needed 13 machinist's mates. This ship is an example of how the lack of only a small number of experienced petty officers will critically reduce readiness.

It is for that reason that the Chief of Naval Operations pleaded with the Secretary of the Navy and the Secretary of

Defense not to send this ship to Philadelphia. All we are asking is that the facts be made known to the U.S. Senate before the Secretary of Defense exercises the authority to site designate the second SLEP.

I cannot understand why my colleagues are so fearful of this report. The delay argument is fallacious, so it must be the facts that some are afraid of. There must be some facts that will be in this report, facts that I am unaware of that they do not want to come before the Senate.

Mr. BIDEN. Will the Senator yield for a question?

Mr. WARNER. Yes.

Mr. BIDEN. Is it not true that under our language the Secretary "shall inform the Congress in writing of the reasons for any decision pursuant to this subsection to obligate or expend funds for carrying out the service life extension program?"

Now, the Secretary of Defense, as I understand—and I really would appreciate being corrected if I am wrong—the Secretary of Defense will have to do just what the Senator from Virginia is requesting he would have to do. He will have to report as to why he made his decision. And if, in fact, there is this great concern about qualified personnel, I doubt whether the Secretary of Defense, the Secretary of the Navy, or the Chief of Naval Operations would let the decision be made for Philadelphia, for example, without being able to justify it in this report that he must submit to the Congress. So it is not a question of no report or the Senator's report, is it?

Mr. WARNER. To reply to my distinguished colleague from Delaware, the answer is very short. That report would come after the decision has been made by the Secretary of Defense, thus making any reversal of that decision more difficult and more expensive. All I ask, on behalf of the Armed Services Committee, is that we have the report before the decision is made.

Mr. BIDEN. I have a further question of the Senator. Obviously, the Secretary of Defense and the Secretary of the Navy would not make the decision unless they had facts that warranted them making the decision for Philadelphia, or wherever. So the report to which we refer is a report which is a compilation of the rationale for the decision in the first place. Obviously, if the decision is made to send the ship to Philadelphia, for example, and a report follows pointing out why that has been done, it is because the Navy and the Defense Department thought that is where it should go in our national interest. Is that not right?

Mr. WARNER. I continue to point out to my distinguished colleague that the report after the fact is of considerably less value to the Senate. Second, we can preclude, hopefully, the battle in the Pentagon last year when the Chief of Naval Operations, the man who actually sends the sailors to sea, who is responsible for the sailors, was in dead opposition to Philadelphia. That is what we want to head off again this year. We do not want political appointees overruling the considered judgments of the Chief of Naval Operations.

Mr. BIDEN. I have a further question for the Senator. Is it not true that the reason the report would be less valuable to the Senate after the decision was made is because the Senate Armed Services Committee, of which the Senators from Virginia are among the two most illustrious members, would not be in a position to do much about it? And, although this decision is in the interest of America, there is a slight parochial issue that we have at stake here, and that is Philadelphia versus Virginia.

And so, obviously, I can understand the Senator's point. I compliment him on his tenacity. Obviously, a report based upon the rationale of the Secretary of Defense for sending the ship to Philadelphia is of less value to the Senator after the decision is made, because it would preclude the Senator from being able to further delay the project as he has attempted to do thus far. So is not that really the reason why the report after is of less value to the Senator than the report before?

Mr. WARNER. The quick reply to that is that there are 17 members of the Senate Armed Services Committee. We are but two. The other 15 could have overruled us. As a matter of fact, the committee supported this language.

Mr. BIDEN. I say to the Senator that I am on the Judiciary Committee. I see the distinguished Senator from South Carolina (Mr. THURMOND), the ranking member of the Judiciary Committee, is in the Chamber. By way of analysis, if I want a judge in my State it is highly unlikely that the members of the Judiciary Committee are going to take issue with that if it is remotely a close call—because they work with me every day. I work with them every day. There is comity. That is the way committees work. It is the way they should work.

The Senator from New Jersey (Mr. BRADLEY) and I have no illusions about that. None at all. And we compliment the Senator for his ability to have such sway on the committee.

But, let us face it. If it is close, a Senator is not going to get a member of a committee to vote "agin" him, as they say in parts of my State. I very seldom have someone take opposition to me on such matters in the Judiciary Committee.

Mr. WARNER. Will the Senator yield for an observation?

Mr. BIDEN. Certainly.

Mr. WARNER. I am trying to follow the Senator's argument. But the Senator is not trying to impugn the integrity of the Members of the Senate, that they just sit idly on these committees?

Mr. BIDEN. No; I am just trying to compliment them on their good graces and comity.

Mr. WARNER. We are talking about $600 million of taxpayers' money. We are not talking about good graces. We are not talking about decorum. We are talking hard-earned tax dollars.

Mr. BIDEN. That is exactly what we are talking about. And we are talking about whether those hard-earned tax dollars are spent in Philadelphia or Virginia. I am glad the Senator lays it on the table. That is what we are talking about, where the money is spent, not all this talk about manpower.

The fact of the matter is that there are 165 of those criticially rated sailors we are so concerned about, those E-5's through E-9's, that go with the ship. The fact of the matter is the Senator needs 80 of them, anyway, down his way, 81, to be precise, out of a crew of nearly 400 that would be required. So we are talking about 0.007 percent difference in rated critical personnel. We acknowledge that. You have us by 0.007 percent. So the Senator wins on that point.

But the real fight here is where we spend the money. And I compliment the Senator on his tenacity.

But let us talk about it. We are talking about $700 million. And when $700 million is being spent and you have two colleagues on that committee and it is even arguably a close call, it is not a park I want to fight in.

When I was a kid, I used to go to a Catholic high school and the nuns would never let us fight. But what would happen is you would say to the fellow, "Look, Harry, you and me after school." And Harry would say, "That is right." Then the question was at whose bus stop you got off.

Well, the Armed Services Committee is the Senator's bus stop. I am not arguing that. That is as it should be. I am not impugning anybody's integrity. If the Senator has me getting off at his bus stop, chances are I would get whipped.

Mr. WARNER. Will the Senator please let the clock run on his time? This is not a question.

Mr. BIDEN. I withdraw the question.

The PRESIDING OFFICER. The Senator from Virginia has the floor.

Mr. WARNER. I thank the Chair.

I indeed hope my colleagues are listening because I fear that my distinguished colleague from Delaware in his remarks has indicated less than full confidence in the manner in which the Senate Armed Services Committee functions and the manner in which the individual members of that committee discharge their duties.

That may be reflected, but if that is the case it will be an astonishing vote.

All we have asked, and I say this in very quiet, explicit language, is give us the tools with which we can do our job.

I see the distinguished chairman of the Armed Services Committee nodding his head. Perhaps I will yield the floor and he may wish to comment about his committee with respect to this matter and how it functions. The chairman was there at the time the language was brought up. As a matter of fact, my recollection is I submitted the first draft and the distinguished chairman (Mr. STENNIS) revised it and added some language of his own, recognizing the need for this management tool.

Mr. STENNIS. If the Senator will yield, I will have a statement to make later. But first let us concern ourselves with the time. I will save some time for myself. We have 21 minutes remaining.

Mr. WARNER. I thank the Senator.

Mr. BIDEN. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. BIDEN. How much time remains under the control of the Senator from Delaware?

The PRESIDING OFFICER. The Senator from Delaware has 15 minutes remaining and the Senator from Virginia has 20 minutes remaining.

Mr. BIDEN. Mr. President, with regard to my comments on the critically rated personnel. I ask unanimous consent to have printed in the Record at this point the questions submitted to Navy liaison along with their answers.

The first question is: How many Navy personnel are assigned to the U.S.S. *Saratoga* for SLEP?

The answer was 1,411 enlisted and 63 officer personnel comprise the U.S.S. *Saratoga* SLEP nucleus crew.

Then the second question is: How many are mid-grade petty officers in critical ratings and what are those ratings?

The answer was 165 of the 1,411 enlisted personnel are mid-grade petty officers in critical ratings. He cites them all. The total number of E–5 to E–9 persons is 165.

There being no objection, the information was ordered to be printed in the Record, as follows:

Question. How many Navy personnel are assigned to U.S.S. *Saratoga* for SLEP?

Answer. 1411 enlisted and 63 officer personnel will comprise the U.S.S. *Saratoga* SLEP Nucleus Crew.

Question. Of these, how many are mid-grade petty officers in critical ratings and what are the ratings?

Answer. 165 of the 1411 enlisted personnel are mid-grade petty officers in critical ratings. The ratings included in this category are:

Rating:	*No. of E5–E9 pers.*
BT	32
DS	4
EM	31
FTM	2
GMM	1
GMT	6
HT	25
IC	11
MM	39
OS	10
QM	2
SM	2
Total	165

Mr. BIDEN. Mr. President, as a further point of clarification with regard to the *Saratoga*, it will require 165 critically rated personnel out of a crew of 1,474, while the Newport News shipyard would require 81 such critically rated personnel out of a similar crew of nearly 400 men. Thus, the net difference amounts to only 84 men or 0.007 percent of the critical ratings shortage. This difference moreover would be even more insignificant since the *Forrestal* overall crew would be smaller. The *Forrestal* would probably have a total crew of 800, and likewise its need for critically rated personnel will be proportionately smaller.

Without using too much of the remaining time, I want to make something clear on the point of manpower personnel. It is the decision of the U.S. Navy with regard to the U.S.S. *Forrestal* to decide how much Navy personnel remain with the ship. The Philadelphia Navy Yard personnel inform us that by the time the carrier would be in place for purposes of its overhaul it would not need any more Navy personnel than the Virginia Navy Yard would need. That is a decision for the Navy to make.

Lastly, the idea that the letter that Secretary Brown wrote to me and the points he raised in opposition to the Warner language are cured by changing the date by 1 year is erroneous. Secretary Brown's objections would still stand. If it is acknowledged that there was any validity to Secretary Brown's letter to me on this matter, which letter is in the record, then it should be pointed out that changing the date would not solve the Department of Defense's problems at all. The modified Warner language is less onerous, but it is still opposed by the Department, and still not supported by the Navy. I previously cited my conversations as recently as Friday afternoon with the Secretary of the Navy on this point.

There are other matters relating to fleet readiness and the ability of the Philadelphia Navy Yard to handle this project that I will not go into now. I will reserve the remainder of my time.

I see my colleague from Pennsylvania on his feet. Does the Senator wish to speak?

Mr. SCHWEIKER. Will the Senator yield 2 minutes?

Mr. BIDEN. I yield.

Mr. SCHWEIKER. I thank my good friend from Delaware for yielding.

Mr. President, I want to make it very clear that our side of the case has no concern about reports but I think we have to put them in perspective. For example, the annual report of the Office of the Coordinator of Shipbuilding Conversion and Repair says that Government experience shows cost estimates from the private sector for Navy repairs have been off by as much as 60 percent.

It is great to have a report, but the fact is the Government cost estimates have been off, as of the February 1979 estimate, by approximately 60 percent over initial cost agreements entered into between the Government and private yards, such as Newport News. To file a report means little if you are off 60 percent. That is exactly what the Navy's batting average is in this regard, a 60 percent misestimate of the costs of repairing these ships in private yards.

If we look specifically at Newport News in terms of reports and their cost-estimate procedures, we find that, throughout the 1970's Newport News has filed cost overrun claims averaging 38 percent above their original contract on building aircraft carriers, submarines, and guided missile cruisers. They have come back, after all the reports, and said, "We need an additional 38 percent in funds."

So, it is fine to say, "Let us have a report." What does a report tell you if you are 38 percent off on your own estimate, which Newport News has obviously been, or if you are off 60 percent when the Government estimates what a private yard can do?

In fact, the 38-percent overruns have been arbitrated to the point where they have actually settled 24 cents of every dollar. So all this discussion of reports and bids shows that when you deal in this sector, that is private yards, you have a 60-percent misfiring. To reiterate at Newport News, which is the case at issue here, they have come in at 38 percent above the initial cost agreement, filed these cost overruns, and the Government came back and acknowledged they were entitled to at least 24 cents or every dollar.

The question must be raised "How many reports will be authorized before the Secretary of Defense is permitted to make his decision on this issue?" We can delay carriers to get reports. We can hold up the whole Navy to get reports. But what does a report mean when we have estimates that are so far off?

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I yield to the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I thank my good friend from Delaware for yielding. I am pleased to join with him and Senator Schweiker, Senator Bradley, Senator Roth, and Senator Williams in offering this amendment.

Mr. STENNIS. May we have order, Mr. President? This debate is about concluded and the Senator from Pennsylvania has made a special effort to be here.

The PRESIDING OFFICER. The Senate will be in order.

Mr. HEINZ. Mr. President, this is a watershed vote. It is a watershed vote because, among other things, we will decide whether we are going to allow the Department of Defense to have any say in running the Department of Defense. Were we to be unsuccessful in striking the Warner language and substituting our amendment, we in Congress would, in effect, be saying that we want to vote on every single boat, ship, and airplane and where it is to be constructed.

Just 1 year ago, in three successive votes, the Senate reaffirmed the authority of the Secretary of Defense over the Navy's aircraft carrier service life extension program. These votes followed an extensive and thorough debate in the Senate and climaxed an issue that had been contested for years. Due to the Warner provision now before the Senate, we are forced to contest that issue all over again.

Since the Senate spoke so clearly on the issue last year, we have every reason to expect that the question of decision authority and criteria concerning SLEP work location has been finally resolved. Last year we conclusively determined that these decisions were properly and effectively made within the Department of Defense.

Unfortunately, this year's authorization bill, H.R. 6974, contains a provision designed to reopen the matter of decision authority and to overturn the thoroughly considered decision that the Senate made last year.

It is little more than a year since we concluded this matter, and here we are again, debating the same issue, delaying other important Senate business, and throwing into doubt the orderly continuation of the entire Navy overhaul program. If this is an indication of future events, we can expect to be here again next year debating this same issue, and the year after that, and so on until the SLEP program is completed. The Senate has more valuable matters to attend to in its limited time.

In addition to the problems I have mentioned, the Warner provision would have a number of detrimental effects on military preparedness, national security and taxpayer costs. In a letter I received this week from Secretary of Defense Harold Brown, he stated categorically that he opposes this provision. The Navy has repeatedly stated that it must designate the SLEP site 30 months prior to the actual commencement of SLEP work in order to allow for advance planning and site preparation. Based on that 30-month lead-time requirement, the Navy plans to designate the *Forrestal* SLEP site next month. However, under the bill before us, the Navy will be prohibited from making the site designation until long after next month's deadline—indeed, probably until October of next year. This is far beyond the date necessary to support orderly advance planning.

Secretary Brown noted that this action would have several harmful effects. It would insure the postponement of the commencement of the *Forrestal* SLEP significantly past January 1983. This would disrupt fleet operations and maintenance schedules. The entire Navy overhaul schedule could be thrown into disarray.

In order to minimize the delays caused by this provision, the Navy would be forced to plan for a SLEP at two locations. This dual site planning would cost the taxpayers an additional $13 million in fiscal year 1981—over and above normal planning costs.

No doubt all of us, whether we are from Virginia or Pennsylvania, have a great interest in where the service life extension program is carried out, but it is fundamentally wrong for Congress to second-guess the Secretary of Defense on every single assignment of a shipyard or an airbase or any kind of overall plan.

There is just no doubt, Mr. President, based on what the Secretary of Defense has written, that unless we are successful with our amendment, the service life extension program is going to be delayed and it is going to be subject to additional costs and it is going to be subject to uncertainties. That is the last signal that we ought to send. We should be accelerating our military preparedness.

We should also be telling the Soviet Union and all those who wish to expand their imperialistic intentions that we are serious about improving our military preparedness, that we are not going to countenance unnecessary costs or additional delays.

In this instance, Mr. President, we have an opportunity to do not only what is good for my State and for Delaware and New Jersey, something that is going to mean more jobs—but we are going to have the opportunity to do something that is also right for our national defense. That, it seems to me, is the issue.

Mr. President, section 105(b) of the defense authorization bill will seriously delay the *Forrestal* SLEP, cost the American taxpayers a minimum $13 million next year, and disrupt fleet operations and maintenance. The Senate decided a year ago that detailed decisions on SLEP matters should be made within the Department of Defense, and I believe that we should allow that decision to stand.

I conclude by saying that it is the same issue we voted on last year. The only difference is that it is another year later and it is another bill. I hope and I expect, Mr. President, that this year, for once and for all, we shall put this issue to rest, we shall stop second-guessing, and we shall insure that the service life extension program is continued and completed expeditiously and at the lowest overall cost to our Nation's taxpayers and our national defense.

Mr. WARNER. Will the Senator yield for a question?

Mr. HEINZ. The time is Senator BIDEN's time.

Mr. WARNER. He can yield it on my time, just for the purpose of asking the question.

Mr. HEINZ. The Senator may yield on his time.

Mr. WARNER. For asking the question. The Senator will answer on his, I hope.

Mr. President, I was much impressed by the Senator's saying that we ought to get Congress out of this and let the Department of Defense run its own business. In that case, why are we not striking the whole section which covers overhauls—in other words, the first part of this section?

Mr. BRADLEY. Mr. President, does the Senator assert that his amendment deals only with the service life extension program?

Mr. WARNER. This particular amendment deals with this particular program.

Mr. BRADLEY. I see. The amendment of the Senator from Virginia is the one that covers the SLEP program.

Mr. WARNER. The preceding language in the bill covers overhauls in excess of a $10 million amount, right here. Why is the Senator not striking that if he wants to get us out of the business?

Mr. HEINZ. Mr. President, this Senator is concerned about the attempt, which the Senator knows very well about, to, in fact, influence the decision of the Navy. When the Senator from Virginia writes into the appropriations bill the following language: "Say, Department of Navy, we are not terribly satisfied with your decision last year on the *Saratoga*" he is actually saying, "give us a report on what you are going to do with the *Forrestal* or we are going to deauthorize your funds."

That is what the Senator's language says. It says, "We are going to deauthorize your funds until you give us the answer that we want."

Let me say to the Senator from Virginia that that is putting a gun at the Navy's head and telling them to come back with an answer or the Senator is going to pull the trigger on the authorization.

Mr. WARNER. Will the Senator yield on that?

Mr. HEINZ. This Senator does not want to be a part of that effort, because I think it is wrong.

I yield back my time to the Senator from Delaware.

Mr. WARNER. Mr. President, I would like to have time to get things straight here.

Mr. BRADLEY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. STEWART). The Senator will state it.

Mr. BRADLEY. Whose time is the Senator using?

Mr. WARNER. I shall use my own time, Mr. President.

Will the Chair advise me of the time remaining?

The PRESIDING OFFICER. There are 12½ minutes remaining.

Mr. STENNIS. Mr. President, how much time is there on the other side?

The PRESIDENT OFFICER. The time is controlled by the Senator from Virginia and the Senator from Delaware. The Senator from Delaware has 4 minutes and 55 seconds.

Mr. WARNER. Mr. President, my distinguished colleague from Pennsylvania, I appreciate, made a special effort to get back here to be on the floor and join in this colloquy, but he was under the disadvantage of not having heard my earlier remarks, namely, that the committee is simply asking for a management tool. The Senator rose to the point and said he wants to strike out just the language referring to the SLEP program. I ask my colleague, why would he not want to strike out the balance of section 105, which requires the Secretary of Defense to submit to Congress written reports not later than February 15 of each fiscal year, recommending the number of ships over 3,000 tons the Navy desires to work on, which cost in excess of $10 million? That is the other half of the management tool. There is silence on that. His comments are just directed to this one little paragraph, because it involves one ship, but it affects the Senator's shipyard.

Mr. BIDEN. Mr. President, since I——

Mr. WARNER. Why not broaden the substitute amendment to take the whole section out, if he wants to take away the management tool?

Mr. BIDEN. If the Senator will yield, there are two simple reasons, to be very blunt about it.

One is that this program is already underway and it would be the single most disruptive thing that could occur.

Second, it is regarded by us, and I believe by others, as a tool by the Senator to attempt to move a program that is already underway, a great consequence to our military preparedness, to a different shipyard. We have fought this specific battle before. We are not out to reform the whole world.

We are aware that the Senator's amendment, as he stated, applies only to the SLEP program that we directed our language to. We are being very specific, as he was being very specific in his language. That is the rationale for our amendment.

Mr. HEINZ. Will the Senator yield me 30 seconds to answer?

Mr. BIDEN. Yes.

Mr. HEINZ. Mr. President, there was one other response which I gave the Senator a minute ago, which is this: The Senator's language says—and I do not have it before me, so I speak from what I hope is accurate reflection.

Mr. WARNER. I do not want the Senator to be under any handicap. Here is the amendment.

Mr. HEINZ. I thank the Senator. I have it right here.

The Senator's language says that there will be, in effect, no authorization of SLEP until the report is received.

What the Senator's amendment does is deauthorize the entire program, unlike the first part of the so-called Stennis amendment. That is the difference.

Senator STENNIS does not seek to deauthorize everything. The only thing being deauthorized is SLEP.

I thank the Senator.

Mr. WARNER. If the Senator will yield for clarification on my time, let us be accurate with our colleagues. Section 105, which relates only to *Forrestal*, provides that the $95 million advance funds requested in the bill may not be used for a particular shipyard but it specifically allows expenditure of the long-lead funds. The shipyard assignment for the *Forrestal* may not be designated until the Secretary of the Navy submits to the Congress a study on the respective shipyard costs, types of manpower to be utilized, fleet readiness, and other relevant data, but it does allow the SLEP program to proceed and does permit the expenditure of the long-lead funds contained in this bill.

It does not slow the program down, it does not stop the flow of funds. It simply says that before we designate an order we want all the facts.

I, frankly, think we, the U.S. Congress, should make important decisions like this, rather than relegate it to political appointees. That is the sole purpose. We have a responsibility to the taxpayers.

Mr. BIDEN. Mr. President, I yield myself 1 minute.

Mr. President, the Senators from Virginia will have a classified document in the well which they will be showing our colleagues.

I want to clarify that this document does not mention, has nothing to do with, was not written to and does not address the SLEP program.

If the Senator wants classified documents, I will hustle over to the Intelligence Committee and grab five or six that I will hold on the floor and suggest that Senators read.

It will go to the question of our military preparedness and the state of readiness of our U.S. Armed Forces generally.

That is about the extent to which the classified document of which Senator WARNER speaks has a relevence. Its relevance, and the Senator was kind enough to let me see it, relates not to the *Forrestal*, not to the SLEP program, not to the *Saratoga*. It relates to the manpower question, of which we are all fully aware.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WARNER. Mr. President, I yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I can understand the desire of Northeastern Senators, of course, to have the work done at Philadelphia. I can understand the desire of the Senators from Virginia to have this work done at Norfolk.

But I think what the Senate is interested in, the rest of us, is where this work can be done in a quality manner at the cheapest price. For that reason, I see no objection to the amendment by the Armed Services Committee.

All the amendment does is to mandate a study to determine this fact. Who can object to a study to determine where the work can be done in the cheapest manner, whether in a public yard or a private yard, and whether it is by Federal civilians, or a private shipyard?

That is the reason, Mr. President, that I would favor the amendment of the Senate Armed Services Committee.

Now, the comparative cost of performing this work, I think, is a matter of great concern to the public. The public wants to know, can it be done cheaper in a public yard or a private yard? The public wants to know, I think, the categories of manpower resources that would be utilized. That is, whether Federal civilian, military, or private industry. I think the public wants to know, too, any factors the Secretary feels are significant and should be called to the attention of the Congress.

Mr. President, the need for the amendment I think can be illustrated by the fact that, after all, the Congress does have congressional oversight. This is a management tool that will assist the Congress in this congressional oversight.

For instance, as to comparative shipyard costs, to make certain that even with increased naval appropriations, shipbuilding funds are used efficiently and economically, in a manner more likely to result in maximum combat capability.

Who can object to that?

As to the impact of the modernization on fleet readiness, that is important because we need to get the facts on this particular category.

I say, Mr. President, that this is a 10-year, 4-carrier program.

It seems to me the Congress ought to get the facts on these ships.

The first ship, the *Saratoga*, has gone to Philadelphia. What is the objection of getting the facts on the other ships?

If it turns out Philadelphia can do the quality work, can do it the cheapest, I imagine the Department of Defense would send it there, or they ought to, anyway. If it turns out Norfolk can do it the cheapest, I imagine the Department of Defense ought to send it there.

But it does not hurt for the Congress to have this supervision, to have the oversight, to get the facts, because this is a very expensive program.

It is a 10-year program. It is a $2 billion program. It involves a long time to overhaul these ships and to get them in the shape we need them. It is important that we do get the facts.

Mr. President, for those reasons, I favor the amendment of the Armed Services Committee because I, as one Senator in this body, and as a member of the Senate Armed Services Committee, want to know the facts.

I want to know what the Department of Defense is doing and why they are doing it. How can we get the facts if we do not mandate this study?

Mr. WARNER. I thank my distinguished colleague. I yield to the distinguished chairman of the Armed Services Committee (Mr. STENNIS).

Mr. STENNIS. Mr. President, I thank the Senator and ask that I be notified when 2 minutes have expired.

Mr. President and Members of this body, the cost of overhaul and repair has grown rapidly from 1975, say, to 1979—127 percent—with all signs of its growing more and more, overhaul and repair and update, the updating of these ships that are still very fine ships.

I have seen this come up many times in our committee and many times in the Appropriation Committees. We often lack enough real facts, and it is too late to get them then.

We finally settled on some language here that requires the Navy to submit to the Armed Services Committee for authorization so far as numbers of overhauls are concerned, overhauls and updating.

We would just authorize the numbers. But in doing so, we would have facts and figures at our hearings showing the prospects for the expenditures on each of the proposed ships.

In that way, we would get an idea about the manpower and related matters and could withhold or grant the authorization according to numbers.

In that way, there would be more facts available for the Members of this body and for the Appropriation Committees, particularly, of the Senate and the House.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STENNIS. If I may have a half-minute more—therefore, we concluded these authorizations would cover the matter.

The case already in point, it would be covered by our recommendations if we followed the committee's recommendations, that they would have to bring a report back to our committee before the Navy could finalize on this particular ship.

But if we follow the amendment, that reporting back would not be necessary, but they could finalize.

I support the committee's position. That was my original position. I think the matter has been well presented.

Mr. WARNER. I think the distinguished chairman of the Armed Services Committee.

Mr. President, after that eloquent statement by the chairman, simply asking for the management tool, I yield back the remainder of my time.

Mr. BIDEN. Mr. President, how much time do we have?

The PRESIDING OFFICER. Two minutes.

Mr. BIDEN. I yield 30 seconds to the distinguished Senator from New Jersey (Mr. BRADLEY).

Mr. BRADLEY. Mr. President, the other side has argued that this is just a report. How can we deny a report?

In my former profession, I was in many situations in which we were ahead by a sizable margin, and the other side called timeout, to regroup; and after they regrouped, they came out and defeated us.

Mr. President, that is what this report is: It is a timeout, during which the other side hopes to move the location for the SLEP program from Philadelphia to Newport News, Va., and I urge the Senate to reject it.

Mr. BIDEN. Mr. President, I will use the remaining minutes to make the following points:

The classified report that will be in the well has no direct relevance to the *Forrestal* SLEP.

The Secretary of Defense is required to report. He will be required to report under the Biden-Heinz-et al. language.

A Philadelphia *Forrestal* SLEP would be cheaper because of economies of scale and performance capabilities for such work to be done in Philadelphia. To minimize the impact of the Warner language upon this program is to make a mistake. The Warner language would delay the process of getting the *Forrestal* overhaul underway.

The Navy needs 30 months to get prepared for this work. The Warner language would delay this work 13 months. Such delay costs money, about $1 million a month. The Warner language would cause us to have to spend $13 million more than we would have spent otherwise.

The Navy has determined that it needs a minimum of 30 months to be prepared. We must not allow a delay of this important program.

I yield the floor.

Mr. WARNER. I know the distinguished Senator has closed, but it is not the Warner language; it is the language of the Senate Armed Services Committee.

Mr. BRADLEY. Mr. President, will the Senator yield?

Mr. WARNER. I yielded back the 1½ minutes I have remaining, but I wanted to correct that.

Mr. President, I would also like to respond to the tired old argument put forth by the senior Senator from Pennsylvania (Mr. SCHWEIKER) that previous shipbuilding claims by Newport News on new ship construction have a relevance to this matter.

Senator SCHWEIKER mentioned a Navy report that states that the Navy's own estimates of overhaul costs in private yards were off by about 60 percent, that is, 60 percent too low.

I would emphasize that there is no justification for an official report being incorrect to this degree by the Navy and it should be investigated further. Furthermore, such a report should also include the findings as to the degree to which estimates of costs in the government shipyards proved to be too low.

There was a second statement regarding claims of Newport News for new ship construction being 38 percent above estimates and that this matter had a bearing on the SLEP issue.

In this connection, I would emphasize: First, that the official Navy study of last year, confirmed by the GAO, estimated that the added cost of performing the SLEP work at Philadelphia would be an additional $80 to $10 million; second, Navy-sponsored studies have determined that the cost of ship conversions in Government-owned yards have been from 17 to 45 percent greater than the cost in private yards; and third, with respect to the Newport News claims, the record should reflect the fact that last year the Newport News cost overrun issue was referred to by Secretary Claytor as a phony issue. The claims were settled in 1978 for $165 million, representing the Navy's admitted liability on the 14 nuclear-powered vessels representing about $2.2 billion worth of ships—all constructed over a 12-year period involving over 22.000 design and construction changes. I would further emphasize that Philadelphia never has and never will have a cost overrun due to the simple fact that since it is a Government shipyard with no binding contract, there is nothing to overrun. The Navy itself must pay whatever costs are incurred from its operating funds.

I urge my colleagues who are now coming to discharge their duty, their public responsibility, to look at this classified memorandum, which covers the state of readiness of the U.S. Navy today, before they might be persuaded to cast a vote on behalf of those wishing to substitute their language for that of the Armed Services Committee.

Mr. President, since Senators have referred further to political interests in this matter, I would like to submit for printing in the RECORD a brief summary of the history of the *Saratoga* decision which demonstrates categorically the intervention of the White House and the overruling of the Navy's best judgment in this matter.

The summary follows:

CHRONOLOGICAL SEQUENCE OF "SARATOGA" SERVICE LIFE EXTENSION PROGRAM

Significant Events: 1977 and 1978:

May 1977: Congressional emphasis on least cost approach:

The Senate Armed Services Committee in its report "was not convinced that the Navy's current plans represent the least cost approach" and noted the inconsistency of projecting "serious declines in future private yard forces and at the same time plan[ing] to increase Naval shipyard work forces. . . ."

July 1977: Letter of the President to then Congressman Eilberg stating that with respect to the Philadelphia Naval Yard, "another 2.000 positions are expected to be created at that installation in 1980."

Uniformed Naval documents of November 8, 1977, Captain G. E. Fink; November 10, 1977, Admiral C. R. Bryan; November 23, 1977, Admiral L. H. Michaelis, recommending Newport News assignment for the *Saratoga*.

April 1978: Announcement of the Vice President linking the transfer of the USS *Saratoga* to the Philadelphia Naval Yard with an unsuccessful campaign pledge to keep open Frankford Arsenal in Philadelphia.

May 1978: The two Armed Services Committees adopted language freezing the assignment of SLEP and mandating the Navy to complete a least cost analysis for both the SLEP and DDG-2 modernization program.

June 1978: Secretary Claytor stated the comparative *Saratoga* cost to be $15–$30 million less at Newport News but supported the Philadelphia assignment on other grounds.

September 1978: The GAO, after adjusting for Navy errors, reported that the *Saratoga* cost would be $105.2 million less at Newport News based on existing law.

Significant Events: 1979:

January 3, 1979: Admiral Hayward memorandum. The Committees received from the Navy the legally mandated least cost study in which Admiral Hayward recommends the Newport News location based on:

An $80 million cost difference favoring Newport News based on the application of existing blue collar wage law and OMB regulation, and

A number of non-cost factors including the need elsewhere in the fleet for the 1,100 skilled naval personnel that would be required for SLEP at Philadelphia, the difficulty of increasing by 1.600 the Navy civilian jobs within present ceilings, and the potential dilution of the SLEP effort due to other high priority Navy work at Philadelphia.

January 25, 1979: Memorandum from Secretary of the Navy for the Secretary of Defense.

Secretary Claytor endorsed the Haywood report and recommendation along with statement that if civilian ceiling relief is obtained, Philadelphia would be an "acceptable alternative".

January 25, 1979: Letter from Deputy Secretary Duncan to Chairman Stennis.

In letter transmitting Navy study to Congress, Deputy Secretary Duncan, without repudiating Navy study or offering any justification on the merits, overruled Navy position favoring Newport News.

April 6, 1979: Committee on Armed Services recommended, in the FY 79 Defense supplemental authorization, language which precluded the obligation of funds for the *Saratoga* SLEP program unless the program was conducted on the basis of least cost as confirmed in the Comptroller General's report to the Congress.

May 3, 1979: The Senate voted additional language which in effect permitted the Secretary of Defense to determine the *Saratoga* shipyard assignment.

Subsequently, in conference with the House, all language was dropped with respect to the *Saratoga*.

Significant Events: 1980:

The President on May 9, 1980 made the following statement regarding the compensation for closing the Frankford Arsenal:

"We have worked as hard as possible, because of that move and because of other reasons, to bring one of our major aircraft carriers here to the Navy Yard, as you know, for an overhaul. This will be a multi-hundred million dollar project that will keep intact between 8.500 and 9.000 jobs that were threatened and add at least 2.500 more new jobs in the repair or overhaul of the *Saratoga*."

Source.—May 9, 1980, White House Press Release, p. 5.

Mr. BIDEN. Mr. President, I ask for the yeas and nays on the Biden amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STENNIS. Mr. President, what is the pending matter before the Senate?

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Delaware (Mr. Biden). On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. Baucus), the Senator from Texas (Mr. Bentsen), the Senator from Iowa (Mr. Culver), the Senator from New Hampshire (Mr. Durkin), the Senator from Kentucky (Mr. Huddleston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Hawaii (Mr. Matsunaga), and the Senator from Connecticut (Mr. Ribicoff) are necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii (Mr. Matsunaga) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Oklahoma (Mr. Bellmon), the Senator from Maryland (Mr. Mathias), the Senator from Oregon (Mr. Packwood), the Senator from South Dakota (Mr. Pressler), and the Senator from New Mexico (Mr. Schmitt) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent due to illness.

Mr. BIDEN. Mr. President, regular order.

Mr. HEINZ. Regular order.

The PRESIDING OFFICER. Is there any Senator in the Chamber who desires to vote who has not done so?

The result was announced—yeas 57, nays 28, as follows:

[Rollcall Vote No. 278 Leg.]

YEAS—57

Armstrong
Bayh
Biden
Boren
Bradley
Burdick
Byrd, Robert C.
Chafee
Church
Cochran
Cranston
Danforth
DeConcini
Dole
Domenici
Durenberger
Eagleton
Ford
Gravel
Hart
Hatch
Hatfield
Heinz
Inouye
Javits
Laxalt
Leahy
Levin
Lugar
Magnuson
McClure
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Pell
Percy
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Schweiker
Simpson
Stafford
Stevenson
Stewart
Talmadge
Tsongas
Weicker
Williams
Young
Zorinsky

NAYS—28

Boschwitz
Bumpers
Byrd,
  Harry F., Jr.
Cannon
Chiles
Cohen
Exon
Garn
Glenn
Hayakawa
Heflin
Helms
Hollings
Humphrey
Jackson
Jensen
Johnston
Kassebaum
Long
Nunn
Sasser
Stennis
Stevens
Stone
Thurmond
Tower
Wallop
Warner

NOT VOTING—15

Baker
Baucus
Bellmon
Bentsen
Culver
Durkin
Goldwater
Huddleston
Kennedy
Mathias
Matsunaga
Packwood
Pressler
Ribicoff
Schmitt

So Mr. Biden's amendment (UP No. 1366) was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I want to say that the Senate has spoken decisively and, in my judgment, correctly on this issue. I do want to thank all those who helped us make this such a decisive vote, and I want to compliment the Senator from Virginia, my good friend and colleague, John Warner, for having fought a very good fight and having presented the very best arguments he could muster, and having been, as always, a complete gentleman.

I think this particular decision of the Senate should in no way reflect on the ability of the Senator whom I know for a fact to be one of the most knowledgeable and expert people in the entire area of defense preparedness.

I would also like to say, Mr. President, that in my judgment this victory was a bipartisan victory, and speaking for our side of the aisle I am proud that the vast majority of my Republican colleagues supported Senator Roth, Senator Schweiker, and me by a margin of nearly 2 to 1, and I would like to express my thanks to them for their strong support on this issue.

I hope that the people back in my home State keep that in mind when the election takes place later this year.

[Laughter.]

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. STENNIS. Mr. President, if the leader will yield to me for just half a minute——

Mr. ROBERT C. BYRD. I yield.

Mr. STENNIS. We have many amendments to this bill and I think a good number of them are ready to go. It will take considerable time to get through with the bill, although we are moving rapidly, and I hope we will proceed with other amendments.

Mr. ROBERT C. BYRD. Yes. I was wondering if we could have an indication from a Senator who will call up the next amendment.

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. Mr. Levin.

Mr. BIDEN. Mr. President, will the majority leader yield? I would like to compliment the staffs of all Senators involved, and I ask unanimous consent that their names be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

STAFF WHO WORKED ON U.S.S. "FORRESTAL" ISSUE

Senator Biden: Paul Laudicina, Richard Nugent, Mary Jane Volk.

Senator Bradley: Larry Baskir, Ava Feiner.

Senator Williams: Tom Delaney.

Senator Heinz: Jack Bonner, Jerry McAndrews.

Senator Schweiker: Jay Behuncik, Paul Schreiber.

Senator Roth: Ron Goddard.

Mr. BRADLEY. Mr. President, with regard to the last vote, I would just like to compliment Senator Biden for his leadership on this issue and also all the Senators for their support.

Mr. ROBERT C. BYRD. Mr. President, I yield to Mr. Warner.

Mr. WARNER. Mr. President, I just wish to acknowledge the courtesies the opposition has tendered me on this recent debate. It was a well-debated issue, and it was fairly debated. I hope in the deepest recesses of my heart that the decision of the Senate will be proven correct in years to come.

I just wish to thank the members of the staff of the Armed Services Committee and my personal staff for their valuable assistance.

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. Mr. President, I hope to get a time agreement with respect to the airport and airways trust fund tax but, for the moment, I ask the distinguished Senator from South Carolina (Mr. Hollings) what kind of time agreement he would have in mind so that the distinguished acting Republican leader can be working in that direction for the reconciliation measure.

Mr. HOLLINGS. I think the principal section of the reconcilitation bill is the distinguished Senator from Louisiana's Finance Committee portion. That would take, and we would agree to, 4 hours. We have 20 hours overall. If we have 4 hours allocated to it, we could work out an overall agreement that would limit it to the 10-hour period unless we see other amendments and further difficulties. But I think the main consideration of the bill is under the section of the Finance Committee.

Mr. ROBERT C. BYRD. That is title V, is it not?

Mr. HOLLINGS. That is right.

Mr. ROBERT C. BYRD. Mr. President, I wonder if the distinguished assistant Republican leader would be willing and could at this time enter into a time agreement with respect to title V of the Reconciliation Act. Mr. Long wants to deal with this title today, and if we could agree, it would be for not to exceed 4 hours on title V which would then take care of Mr. Long's section.

Mr. JAVITS. Mr. Leader, what is title V?

Mr. ROBERT C. BYRD. I yield to the Senator from Louisiana.

Mr. LONG. Title V is the part of the reconciliation bill that came out of the Finance Committee. Title V contains provisions involving changes in the areas, handled by the Finance Committee, to try to save some money in these programs.

Mr. JAVITS. Relating to permanent law, unemployment compensation? Are you not dealing with that?

Mr. LONG. As I recall, we have provisions relating to unemployment compensation.

Mr. JAVITS. What are the provisions that the Finance Committee is in charge of?

Mr. LONG. Well, we have some dealing with medicare and medicaid, and we have some unemployment insurance cost savings items. We have some things that have been recommended by the committee on earlier occasions, to meet our part of the budget resolution.

Mr. JAVITS. Senator, you want a time agreement now and you are not telling me anything except it is Finance Committee business.

Mr. LONG. I assumed that the Senate knew what was in that budget reconciliation bill. Do you have title V of the bill? I can get it for you.

Mr. HOLLINGS. I do not have one right at my desk.

Mr. JAVITS. I will wait and hear the time agreement and then decide.

Mr. STEVENS. I might state, if the Senator from West Virginia will yield to me, we are not at the stage yet where we can have a time agreement on the reconciliation resolution as a whole, but we are talking about an agreement to put aside the DOD bill solely for the purpose of this title that pertains to the Finance Committee's jurisdiction. Unless there is an objection from the Senator from New York I know of no objection. It was our understanding when we took up this DOD bill that it would be put aside to accommodate the wishes of the Finance Committee to take up that portion of the reconciliation measure that would be before us today as far as it pertains to the Finance Committee portion, their jurisdiction.

Mr. JAVITS. Will the Senator yield?

Mr. ROBERT C. BYRD. I am happy to yield to the Senator from New York.

Mr. JAVITS. Mr. President, I wish to accommodate Senator Long. I asked what I did only because I was not here Saturday and was unaware that this application would be made. I respectfully suggest that if I may have 10 minutes to see what it is all about, I am sure I will be more than happy to accommodate Senator Long.

Mr. ROBERT C. BYRD. Mr. President, I withdraw the request.

Mr. STENNIS. Mr. President, reserving the right to object, and I do not expect to object, it is very clear now, unless we made a special effort, that we are not going to get through or be able to finish this Department of Defense procurement bill, even though everyone wants to go just as far as we possibly can. We are in motion now. We are disposing of business. I think we have another amendment here that is going to be offered that will present an important issue.

But there are many of them—the MX is involved and long-range bombers are involved and other weaponry, and it is going to take time.

Unless we get some kind of an agreement now about how much time is necessary on these other items that have preference, we should just as well say to the membership that we cannot finish the Department of Defense procurement bill in these 2½ days, even though we have agreed to vote finally on it on Wednesday at noon.

I am willing to go night sessions, any endurance contest, or anything else. But we do have to consider each other and the subject matter and see if we cannot apportion this time out.

I ask the indulgence of every Senator to that end consistent with his other obligations.

Mr. ROBERT C. BYRD. Mr. President, may I say to my distinguished friend that the intention was not to go at this time on the reconciliation bill, but merely to try to get an agreement on title 5, which we hope to dispose of sometime during the day.

Mr. STENNIS. All right. We can go on with the debate, then.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor. I hope the distinguished Senator from Michigan will allow me, once he offers an amendment, to interrupt him, if need be, in order to get time agreements on these other measures. Discussions are presently going on now and I will not hold up the Senate.

Mr. LEVIN. Of course.

The PRESIDING OFFICER. The Senator from Michigan.

UP AMENDMENT NO. 1367

(Purpose: To restore the Army's Authorized End-Strength in Fiscal 1981 by 23,700)

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. Levin), for himself, Mr. Hollings, Mr. Dole, Mr. Armstrong, Mr. Cranston, Mr. Thurmond, Mr. Bellmon, Mr. Hatch, Mr. Bumpers, Mr. Javits, Mr. Hayakawa, Mr. Bradley, Mrs. Kassebaum, Mr. Pell, Mr. Glenn, Mr. Eagleton, Mr. Chafee, Mr. Durenberger, Mr. Humphrey, Mr. Hatfield, Mr. Leahy, Mr. Durkin, Mr. Matsunaga, Mr. Boren, Mr. Ford, Mr. Pryor, Mr. Lugar, Mr. Riegle, Jr., Mr. Sasser, Mr. Nelson, Mr. Melcher, Mr. Metzenbaum, Mr. Baucus, Mr. Bentsen, Mr. Simpson, Mr. Williams, Jr., and Mr. DeConcini proposes an unprinted amendment numbered 1367.

Mr. LEVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 52, strike out lines 1 through 15, and insert in lieu thereof the following:

(1) The Army, 774,000.
(2) The Navy, 536,100.
(3) The Marine Corps, 185,200.
(4) The Air Force, 564,500.

Mr. LEVIN. Mr. President, I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Senator cannot amend his own amendment, while he still has a right to modify.

Mr. LEVIN. I am sending a substitute amendment. Is that not in order?

The PRESIDING OFFICER. The amendment by way of a substitute is not in order, because the Senator has a right to modify his first amendment.

Does the Senator ask for the yeas and nays on his amendment?

Mr. LEVIN. Mr. President, I do ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

UP AMENDMENT NO. 1368

(Purpose: To restore the Army's Authorized End-Strength in Fiscal 1981 by 25,000)

Mr. LEVIN. Mr. President, I now send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the substitute amendment.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. Levin), for himself, Mr. Hollings, Mr. Dole, Mr. Armstrong, Mr. Cranston, Mr. Thurmond, Mr. Bellmon, Mr. Hatch, Mr. Bumpers, Mr. Javits, Mr. Hayakawa, Mr. Bradley, Mrs. Kassebaum, Mr. Pell, Mr. Glenn, Mr. Eagleton, Mr. Chafee, Mr. Durenberger, Mr. Humphrey, Mr. Hatfield, Mr. Leahy, Mr. Durkin, Mr. Matsunaga, Mr. Boren, Mr. Ford. Mr. Pryor Mr. Lugar, Mr. Riegle, Mr. Sasser, Mr. Nelson, Mr. Melcher, Mr. Metzenbaum, Mr. Baucus, Mr. Bentsen, Mr. Simpson, Mr. Williams, and Mr. DeConcini proposes an unprinted amendment numbered 1368 in the nature of a substitute to unprinted amendment numbered 1367.

Mr. LEVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On Page 52, strike out lines 1 through 15, and insert in lieu thereof the following:

(1) The Army, 775,300.
(2) The Navy, 536,100.
(3) The Marine Corps, 185,200.
(4) The Air Force, 564,500.

Mr. LEVIN. Mr. President, I ask for the yeas and nays on the substitute amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LEVIN. Mr. President, let me begin by indicating how pleased I am to be joined in this amendment by such distinguished members of this body as Senator Hollings, Senator Dole, and the other 34 original cosponsors of this amendment from both sides of the aisle. That kind of support shows a great deal of genuine concern about the action which has been taken by the Armed Services Committee in regard to the authorized strength of the U.S. Army.

Let me first take a moment to make clear that the action here is to increase the strength of the Army as authorized in the substitute amendment by 23,000 people.

There has been some question as to whether or not the committee reduced the Army's end strength. In order to clarify that question, let me quote from the legislation before us in the committee amendment. It relates:

> For fiscal year 1981, each component of the armed forces is authorized in end strength for active duty personnel as follows:
>
> (1) the Army, 750,300.

Now, that is what the bill authorizes as the end strength to the Army, and that is a reduction of 25,000 from the Army request and about 23,000 from their currently authorized 1980 strength.

The committee does hold out the hope that the Army could increase its strength by meeting certain high school graduate recruitment goals. It makes the ultimate authorized end strength——

The PRESIDING OFFICER. The Senator will suspend. Let us have order in the Senate while the Senator is speaking.

The Senator may proceed.

Mr. LEVIN. I thank the Chair.

It makes the ultimate authorized end strength dependent on the percent of high school graduates recruited by the end of the year.

I will suggest later in my remarks, Mr. President, that because of severe administrative and programing problems, there is no practical way, no matter how many high school graduates are recruited, that the Army could fulfill that hope.

The legislation before us cuts the Army's strength in theory and in reality and this amendment restores that strength.

In offering this amendment with all the other cosponsors, I certainly share, and I know that the cosponsors share, a number of assumptions which were made by the Armed Services Committee on which I serve. It is not the goal that the committee seeks to achieve through their reduction that we dispute; rather, it is the mechanism which they use to achieve this goal which we reject.

I believe there were two assumptions which were essential in the committee's deliberations and decision to recommend a reduction in the Army's authorized strength of 25,000 people.

First, the committee wants a strong national defense. So do I. So does Senator HOLLINGS. So does Senator DOLE. So do all of the cosponsors of this amendment. I do not believe that anyone is casting doubt on the commitment of any Member of this body to a strong national defense. We all accept that assumption. We also accept a second assumption that seems to have motivated the committee: Our efforts to strengthen our defense would be assisted if we improved the quality of our military forces.

This is not a debate about whether we want a quality army.

This is a debate about whether the way to get a quality army is to reduce the number of people authorized to serve in the Army. This is a debate about the relationship between quantity and quality. And it is ultimately a debate about whether we can retain our current force levels while we seek to improve quality or whether we need to become numerically weaker in order to become qualitatively stronger.

I do not believe we need to sacrifice our numerical strength in order to get improvements in quality. That course is simply unnecessary and too risky in these times of renewed challenge to the United States and to the security of the free world. Yet that is precisely what the committee amendment compels us to do. The committee amendment provides us with no guarantee of quality improvements—but it guarantees that we will have to pay a heavy price in overall combat strength. Finally, I believe the reduction proposal asks us to pay that price prematurely—before we have tested and explored the new pay/benefits approaches offered by other sections of this bill and before the Army's increasing attention to quality issues has had a fair opportunity to show its full potential.

Let me begin, then, by looking at the ability of the reduction proposal to address the issue of quality even assuming we can measure quality by reference to the number of high school graduates joining the Army. There are a number of reasons to believe that the reduction approach is not a necessary or sufficient method to resolve this problem.

To begin with, it is very clear that the Army is making a real effort to increase the number and percentage of high school graduates it recruits. It is simply not correct to suggest that the Army is not concerned about the quality of its people and will not work to improve it unless and until they are hit where it hurts—in their authorized strength. The assumptions that argument makes about our military leaders are just too outlandish to receive a good deal of support in this body. To accept that argument is to accept the notion that General Myers, the Chief of Staff of the Army, was not being sincere when he told us that he supports efforts to increase the number of high school graduates in the service and has instituted programs to achieve that result. It means that General Jones, head of the Joint Chiefs, was not being sincere when he said the same thing. And it means that the testimony provided by the Army this year indicating that they have taken a series of steps to correct the problem was not sincere either.

I ask unanimous consent that a list of the 35 or so actions taken by the Army to increase the number of high school graduates be included in the RECORD at this point. And also a letter from Lt. Gen. Yerks, Army Chief of Personnel, spelling out their commitment be included.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ACTIONS TAKEN

a. Resources:

(1) $315.9M requested in FY 81 President's Budget, up $21.9M from FY 80 request.

(2) Dedicated college recruiting program.

(3) More and better located recruiting stations.

(4) More vehicles for recruiters.

(5) Expanded enlistment bonus to more skills and selectively raised level for critical skills.

(6) Requested legislation to increase maximum enlistment bonus from $3,000 to $5,000.

(7) Proposed new G. Bill.

(8) Veterans' Educational Assistance Act (VEAP) incentives increased to $6,000 maximum. Test of $12,000 requested.

(9) Total Army support continues including General Officer speakers and recruiter aides.

b. Policies:

(1) 2 Year enlistment option test, shorter term of service attractive to HSDGs.

(2) Stripes for education expanded to include less than 2 years of college.

c. Management:

(1) Specific HSDG objectives negotiated with and assigned to recruiters.

(2) Recruiter award system with HSDG credit 6 times that for NHSDG.

(3) Programmed accession flow to maximize production; i.e., high density in summer.

(4) Advertising program emphasizing HSDG market.

(5) State Governors, Adjutants General and local officials involved in improving access to high schools.

Implemented 2 year enlistment option for 18 month European Tour.

Expanded eligibility for 2 year enlistment option test from 67 to 92 percent of the CONUS population (53 of 57 District Recruiting Commands).

Assigned specific HSDG objectives to recruiters to better involve them in strength goals.

Instituted a dedicated college recruiting program with supporting advertising.

Develop buddy European enlistment option.

Added stripes for education (College level).

Implemented "Pull Unit" concept.

Established "Management by contracts" to signal problem areas earlier.

Increased Veterans' Administration Education Assistance Program (VEAP) Kicker to maximum of $6.000.

Expanded use of enlistment bonus.

Increased recruiters by 570.

Expanded USAREC market analysis capability.

Increased FY 80 advertising budget by $11 million. Reprogramed advertising expenditures to permit their impact earlier in the FY.

Dedicated Total Army to support USAREC effort.

Involved state governors in the recruiting effort with emphasis on high school access for recruiters.

Implemented a general officer speaking program and general officer visits to recruiting stations.

Increased hometown recruiter aides.

Instituted the Division Recruiter Aide Program.

Publicized Veterans' Educational Assistance Program (VEAP).

DEPARTMENT OF THE ARMY, OFFICE
OF THE DEPUTY CHIEF OF STAFF
FOR PERSONNEL,
Washington, D.C., June 23, 1980.

Hon. CARL LEVIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR LEVIN: As the Army Chief of Personnel I am obliged to speak my heartfelt concern in a matter currently before the Congress.

The Senate Armed Services Committee has made a change in the FY 81 Defense Budget which will devastate a 2-year "get-well" plan in which my staff and many in Congress have invested great time, talent, and energy. The committee action reduces FY 81 Army end strength by 25,500 and allows an incremental recouping based on percentage of male non-prior service high school graduates recruited. I would just like to highlight a few of the salient features which I believe argue convincingly against this proposal.

First, if the purpose of this action is to convince the Army to "try harder" in recruiting high school graduates, it will not succeed. We are, I assure you, as interested as the Congress in improving our high school graduate content. The Army is, and I am personally, fully committed to do so, and publicly on record to that effect. The problem is not desire. The problem is resources and market access. We are seeking both with diligence and determination. We expect to exceed the 52 percent figure mandated in the amendment in the coming year, thus qualifying for the incremental added authorizations. But we do not believe we could possibly reach our requested end strength even though we might "qualify" for it by terms of the proposal. It would be so late in the year before we know with certainty the extent of our success that it would be too late to complete the justification and appropriation process that translates that success into trained soldiers. So, even in success, we would fail.

A second salient feature is the immense difficulty my personnel managers are going to face in implementing this proposal. An unknown end strength—or as we call it, a floating end strength—impels great uncertainty in the force as to which units are to be up to strength, which units are to be zeroed out, and which units are to receive priority. This uncertainty, added to an already complex endeavor, augurs poorly for our soldiers, whose lives and careers are to be managed in the presence of such uncertainty.

A third salient feature is the turbulence this measure creates in the lives of our men and women in uniform and their families. About 42 percent of our service members are overseas, and are sustained by rotation from the CONUS base and by new soldiers recruited into the Army. Reduce the number of new soldiers recruited, and the burden of sustaining the overseas rotation obviously falls more heavily on our career soldiers and their families. Add restrictions on dependents overseas, high cost of living in overseas areas, forced family separations, and you have derived a near-perfect formula for career disincentive, at a time when we are already significantly short in our noncommissioned ranks.

A fourth salient feature is that the shortfall in new soldiers and career personnel, which is surely going to occur if this measure is passed, is a lasting shortfall. Once it occurs, it remains in the personnel system not only until a decision to restore strength is made, but for a period of about 3 years thereafter.

In sum, the proposed amendment will fail to have the intended effect of inducing more high school content in the Army. What it will do is create a management nightmare, cause great turbulence in the lives of service families, act as a disincentive in our retention efforts, and require a lengthy recovery time once terminated. In my judgment, adoption of this amendment would be a serious mistake.

Respectfully,

ROBERT G. YERKS,
Lieutenant General, GS,
Deputy Chief of Staff for Personnel.

(Mr. BUMPERS assumed the chair.)

Mr. LEVIN. So the Army is addressing this problem and I do not buy the committee's logic in suggesting that quality, again even assuming that can be measured by the percentage of high school graduates, can only be improved by socking the Army in the jaw. Let me suggest further that, if we accept the committee's reasoning, it leads us inevitably to different and even more dangerous policy options. If we seek to hold out the carrot and stick of authorized strength to motivate quality improvements, why does the same logic not compel us to accept the carrot and stick of equipment denial? If our concern is that members of the Army are not competent to fire their weapons, does not the committee's logic suggest we ought to deny the Army weapons until they get people who can fire them?

If our concern is that members of the Army cannot drive tanks, ought we not tell the Army they cannot have any more tanks until they get better people? And why have we stopped with the Army? Other branches of the services have declined in their percentage of high school graduates. The Air Force, for example, saw a decline. And, as the committee report itself notes:

> The Navy has also announced that it will lower its recruiting goals for high school graduates. . . .

Why did not the committee recommend reductions in their authorized strength? I simply cannot accept the rationale the committee has given us.

I also cannot accept the implications the committee's action has in terms of their own priorities. Clearly the committee agrees that the Army should be at an authorized strength of 775,000. Otherwise they would have made the reduction absolute rather than floating. It is then a desirable—some would say even necessary—goal to have the Army at a 775,000 end strength. But, having recognized the desirability of achieving this goal, the committee then goes on to make it administratively impossible to achieve it. They say, in essence, that they want both quality and quantity. But, if you cannot give us quality, then we are not going to let you have quantity either—so there. That is the same sort of reasoning we resented and rejected in grade school when the teacher made the whole class stay after because some unidentified person whispered too loudly. It is really an attempt to bleed the Nation back to health, to cut off an arm to divert attention from a pain in the neck, to pay a great price for a product you could get for far less.

There is simply no logical reason to require the Army to cut its authorized strength in order to achieve gains in the numbers of high school graduates who enlist. The Army and the Congress can get both of these desirable goals at the same time if we simply use the right tools—tools which are now being put in place and tools which are proposed in other sections of this bill. The committee has simply never explained, to my satisfaction at least, why in the world one must precede the other rather than moving on both fronts at the same time.

But, even if one accepts the logic of the committee position, there is a real question about our ability to translate logical validity into practical performance. The key provision of the committee plan which it hopes will make it even marginally acceptable is the provision allowing for increases in end strength if the Army meets certain goals for high school graduates.

That may appear to some to be an attractive proposal. But it turns out to be nothing more than an illusionary proposition. There is no practical way that the promises of increases can be achieved. And the evidence on this point is, I think, overwhelming.

Let me just read a few of the conclusions which support that claim. General Myers suggests that—

> The management aspects of the proposal concerning high school graduates—that is a floating end strength—would be nigh on impossible to execute. There would be great uncertainty in the force on a month-to-month basis as to what units are to be up in strength, which units are to be zeroed out and which units are to receive priority.

Continuing with General Meyer, the Chief of Staff of the Army—

> The Army is just in the process of attempting to attack the most critical problem we face, instability. We are taking significant management initiatives to increase the amount of time individuals stay within units, thus improving unit teamwork and cohesion. The proposal suggested by the Armed Services Committee would completely destroy all of our hopes for policy changes directed towards improving stability within the Army, decisions which have been long overdue, which are essential if we are to create increased combat readiness in the force today.

Lieutenant General Yerks argues that—

> We do not believe we could possibly reach our requested end strength even though we might "qualify" for it in terms of the proposal. It would be so late in the year before we knew with certainty the extent of our success that . . . even in success we would fail.

We have to remember, Mr. President, that 40 percent of the high school graduates, or thereabouts, enlist in the fourth quarter of each year.

General Rogers of our NATO command indicated that the floating end strength holds no real promise of allowing the Army to reach the desired end strength of 775,000. He reasoned that given "the cyclical nature of HSDG accessions, the cut will almost certainly become self-fulfilling."

The point is, I believe, clear. No matter what its motive, the effect of the proposal advanced by the committee is to reduce the Army's authorized strength even if the Army succeeds in meeting the goals for high school grads set for it by the language of the bill.

Additionally, we ultimately need to address the central issue the committee proposes. That issue is simply this: Is the measure of quality selected and emphasized by the committee, the possession of a high school diploma, the best or most meaningful or complete measure of quality? That is obviously a debatable question. Before I begin to debate it, I think it should be clear that the burden of proof on this article rests with the proponents of the committee position. If they cannot demonstrate that a high school graduate is a better soldier, I do not think they can justify, even within their own logical frame, the quantitative reduction that the search for quality would impose upon us.

In this context, Mr. President, we can begin by noting, as the committee report did, that "No single measure, such as high school diploma * * * can actually measure the quality of individual military personnel." Yet that appears to be the single criterion the committee has used in measuring the quality and determining the size of the Army.

Mr. NUNN. Will the Senator yield on that point, just very briefly?

Mr. LEVIN. I shall be happy to yield.

Mr. NUNN. As the Senator knows, we have a provision in this bill that limits the number of category IV's quotas. Just so this debate can be put in the proper framework, the Subcommittee on Manpower does not contend, nor does the committee contend, that high school graduates indicate the be-all and end-all of quality. Quality is a term that includes many different features, as far as the Senator from Georgia is concerned.

One of those, of course, is intelligence; another is aptitude; another is dedication; another is overall patriotism. Another is the "stickability" quotient. That, perhaps, is the most important as far as this particular debate is concerned, because it is what everyone would agree to, and I think the Senator from Michigan would agree with me on this, so that we do have certain points of agreement.

The statistics are overwhelming from the Army and from other services that what the high school diploma does indicate is the stickability. That is indicated by the fact that statistics in the Army and the other services show that non-high school graduates drop out of the service at a rate of about twice that of high school graduates. That is, they "attrite" during the first term.

Of course, one of the most severe problems the Army has is the attrition rate. I believe the Army has stated that on numerous occasions and General Meyer has stated frequently that the turmoil because of attrition is one of their most critical problems.

So, as to the amendment of the committee, I certainly would not contend that this amendment alone on high school graduates is going to assure that we meet the broad definition of quality, but I do believe it will go a long way in meeting the major problem of the Army in terms of attrition.

I wonder if the Senator would agree with my description of what a high school diploma does and does not indicate, according to the statistics.

Mr. LEVIN. I am happy to acknowledge that there is a correlation between "stickability," as the Senator from Georgia puts it, and a high school diploma. That is about the only correlation that is indicated.

I wonder if the Senator from Georgia would agree with me that there is no correlation, or that he has shown no correlation between the test scores which he has cited here, on this floor, last week and whether or not somebody has a high school diploma.

Mr. NUNN. I would say that the test scores here go to the overall question of quality. The test scores certainly indicate whether a particular soldier can do a particular job that that soldier is charged with doing.

The test scores go to the broader definition of quality and do not go directly and traceably to the question of whether a high school diploma is there or is not there. It does go to the overall question of quality.

Of course, the committee approach was not to look strictly to the high school diploma, but also to put a restriction on category IV's of 20 percent, which I believe—I may be wrong on this, but I believe the Senator from Michigan supported that particular provision.

So, yes, the test scores relate directly to quality, but the quality definition as applied to the test scores is the broader definition of quality and not simply the question of stickability.

Mr. LEVIN. Do I understand the Senator, that there is no correlation, as he has alleged, between all these test scores and whether or not the people tested have a high school diploma?

Mr. NUNN. There is no direct correlation between the test scores and the narrow definition of high school diploma. There is a definite correlation between the test scores and the overall question of quality. The overall question of quality is very broad and that definition includes, as General Meyer has said, on the question of turnover, the fact that we have so much turnover in the units, the fact that people do not stay in their jobs for a very long time, the fact that so many do not complete their first term in service—it gets down to the question of whether or not there is capability to do the job.

So, indirectly, the attrition rate directly relates to this skill qualification test and the high school diploma relates to the attrition rate. Therefore, I would say there is a direct or indirect relationship between the skill qualification test and the high school diploma—not a direct correlation.

Mr. LEVIN. I thank the Senator from Georgia for clarifying that, because I do not think that clarification was present at the time these statistics were put into the RECORD. I think that is an important clarification on his part.

I wonder if the Senator from Georgia would agree that the only test in the committee bill, whether or not the Army's strength is 750 or 775,000—the only test is whether or not the Army meets certain high school graduate goals?

Mr. NUNN. The tests that are set up in the committee version relate to the high school diplomas, as to the size of the Army—that is correct. That is also the only test that the Army itself contends is any meaningful criterion. Unfortunately, any time a test demonstrates that there is an employment quality in the Army, the Secretary of the Army says the test is no longer valid. So, the Secretary of the Army having his own recommendations invalidated, the committee is not left many tests to deal with. The only test we are left to deal with is the high school diploma.

Mr. President, I do not want anyone to believe that the Senator from Georgia has the view that the high school diploma is the be-all and end-all of tests.

I believe the category IV test has to be looked on as a critical test. That indicates that the Army has gone from what they have been claiming for the last 4 years was a very low number of category IV's to a number that could be up to 44 percent. That means that the Army statistics on category IV's, that we have been hearing for 4 years, are obviously erroneous.

Unfortunately, at this point, the Army itself will not agree to that. They are continuing to put out press releases saying they have only 10 percent of category IV's. At the same time, the Assistant Secretary for Manpower, Mr. Pirie, has testified on the House and the Senate side that the Army is dead wrong, that these scores are inflated.

Mr. LEVIN. This amendment is not aimed at the category IV's.

Mr. NUNN. Does the Senator from Michigan agree on the category IV's?

Mr. LEVIN. I certainly do not.

Mr. NUNN. Did the Senator from Michigan vote with us in committee? I honestly do not remember.

Mr. LEVIN. I suggested that the committee strike that. I have 45 cosponsors on high school graduates, but I do not have any on category IV, so I do not intend to speak on that.

Mr. President, in World War II, 30 percent of all our personnel were category IV. In the Korean war, 44 percent of our personnel were category IV's; in the Vietnam war, it ranged from 19 to 28 percent of our personnel that were category IV's. I wonder whether or not the Senator from Georgia would agree to those figures?

Mr. NUNN. I would only say if we did, these figures are too high and the amount was too great. Of course, we did not have the sophisticated weapons in those instances and what you might have in an infantry unit might be different from other units. The Senator from Michigan may have statistics the Senator from Georgia does not have on that point.

Mr. President, I have asked the Army for several different sets of statistics and, as recently as this morning, they tell me we no longer qualify to be able to receive certain statistics, even if they are unclassified.

I do not know what the rationale is on that. But I am sure the Senator from Michigan, given his view on this particular amendment, is getting more up-to-date information from the Army than the Senator from Georgia is getting.

Mr. LEVIN. I hope not. I hope we have the same information because I would like to debate on common facts with the Senator from Georgia. I think it is very critical to the nature of the debate.

But it seems to me the Senator from Georgia would acknowledge on this point that the only criteria for the size of the Army is the number of high school graduates. Yet, the Senator from Georgia has agreed that is not a measure, not the be all and end all of measure. Yet, it solely, exclusively, determines whether or not the size of the Army is 750,000, 751,000, 760,000, 765,000, or 775,000. It is the only criteria in that committee which

Mr. NUNN. I say to the Senator from Michigan that is the most single important determinant of what the Army's combat strength will be because, as the Senator knows, the statistics show, and there certainly exceptions, but clearly show that non-high-school graduates, nongraduates, are at about 2½ times the rate of graduates.

That means we do not have people out in the field, even though they are in the Army, and the Army has blown up the numbers, they are not getting them in combat units. They are blowing up the training basis, the support basis, running them through a revolving door and not getting them in the field.

If you "attrite" twice as many, the crucial question is not the overall number of the Army, but how many people the Army put in units, trained to do their job.

That is a situation, I say to the Senator, if the Army goes to 72 percent high school graduates, as opposed to the current plan of 38 percent, we will have more people in the combat units, even if there is a smaller Army.

The CBO did a whole study on that in 1977 and they showed, general speaking, and I will go into this in detail, if we have a lower category IV's and higher high school graduates, even if we have a substantially reduced end strength, we will have more people in the combat units.

If we talk about how many warm bodies we will have in the Army, then they ought to vote the Levin amendment, because that will assure us we are getting a lot of warm bodies. But the Levin amendment will not assure of people in combat units, because most people will be non-high-school graduates under the Levin amendment, and about 50 percent of them will never get in a combat unit.

So if we want more people in the Army, vote for the Levin amendment, and in combat units we better think a long time before we vote for the Levin amendment.

Mr. LEVIN. I thank the Senator for some of his clarification. Now, let us see if we get more clarification.

Last week, the Senator from Georgia gave some statistics, that 86 percent of artillery crewmen failed a certain test; and 82 percent of Hawk missile crews failed a certain test; and on and on, we get percentages of failure. I will get into that later on.

But I think it is quite clear that the Senator from Georgia now agrees there is not one showing of a relationship——

Mr. NUNN addressed the Chair.

Mr. LEVIN. If I can finish—not any showing of a relationship between those test scores which were put in the RECORD last week and whether or not the people have high school diplomas.

We do not know whether there is a disproportion of artillery crewmen tested who have high school diplomas, or who do not.

All we do know, by the way, is that over 85 percent of the Army has high school diplomas. At the very moment the Senator from Georgia is quoting these high failures, 85 percent of the Army has high school diplomas. Yet the Senator from Georgia is telling us that 86 percent of the artillery crewmen failed, and I will challenge that figure later, and 82 percent of the Hawk missile crews failed, and I will challenge that later.

But for the moment, my point is, certainly, that the Senator from Georgia has shown not one linkage, not one bit of evidence of linkage, between those test scores which he spread around the Senate last week and the percentage of high school graduates that fail compared to the non-high-school graduates that fail.

I am more than willing to accept the attrition. I do not have any problem with that. That is why they are trying to increase their graduates.

Mr. NUNN. If they are trying, they are doing a poor job.

Mr. LEVIN. We just put in the RECORD about 34 things they are trying to do. The Armed Services Committee added $1.1 billion to increase the pay for the Army. I think it is clear that will help in terms of the amount of people they have to recruit.

We have done a lot in this Congress, and the Army has, to try to correct the decline in the number of high school graduates.

By the way, the worst year for high school graduates was not this year, or last year, or the year before. The percentage of high school graduates has been going up until last year. The worst year was 1974 when they were far below the last year in the Army.

Mr. NUNN. I do not say the Army has a sudden manpower problem that never existed before. But the Senator from Michigan, the U.S. Senate, or someone, will have to say that enough is enough and we are going for quality, not quantity.

Mr. LEVIN. I think we ought to go for quality, and the Army can get it without cutting off numbers, not reduce the size of the Army to get quality. We have to give them decent pay, decent working conditions. We have to give them decent incentives for promotion.

I say that the Senator from Georgia has been the leader of that fight. I think the Senator from Georgia, the Senator from Virginia, the Senator from Mississippi, have been in the lead of the fight to improve the conditions in the Army, and the pay in the Army, to give it a chance to work before we cut off their end strength, because we are not satisfied with the number of high school graduates, particularly when there has not been any relationship shown between whether or not someone has a high school diploma and whether or not someone is likley to pass the tests.

I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

I say to the distinguished Senator from Georgia that I had an understanding with Senator LEVIN that he would allow me to interrupt the colloquy, or his statement, at any point, and that time has come.

UNANIMOUS-CONSENT AGREEMENT—H.R. 7477

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 7477, and that there be the following time agreement thereon: 20 minutes on the bill, equally divided between Mr. LONG and Mr. DOLE; 40 minutes on an amendment by Mr. DOLE, equally divided between Mr. DOLE and Mr. LONG; 20 minutes on an amendment by Mr. HATCH, equally divided between Mr. HATCH and Mr. LONG; that no other amendments be in order; and, of course, this does not waive the right of the Member to move to table.

Mr. STEVENS. Reserving the right to object—is the majority leader finished?

Mr. ROBERT C. BYRD. Provided further, that no other amendments be in order, first or second degree; that no motions to table, except the motion to reconsider, may be in order, without time for debate thereon—motions to table will be in order—and any appeals or points of order would have to come out of the overall time on the bill.

Mr. STEVENS. Reserving the right to object, Mr. President, and I shall not object to the time agreement, I am happy to work with my good friend in putting it together, but I would like to inquire whether it would be possible—I have not mentioned this to the distinguished chairman yet, or the majority leader—could it be possible to have these votes commence when the group comes back from the signing ceremony at the White House?

Mr. LONG. I hope it would be before that, but, if not, I believe it would.

Mr. STEVENS. We have a whole group going down there on both sides, and they will be down there, as I understand it, from about 4:45 and be back by 5. We could have all votes on this commence at 5, I think.

Mr. LONG. I hope that most could be done prior to the time they go down. So, why do we not just say that if we have not voted by a certain hour, the votes will be withheld and voted without further debate at whatever time we want.

Mr. ROBERT C. BYRD. I ask unanimous consent that no rollcall votes occur between 3:45 p.m. and 5 p.m.

Mr. NUNN. Mr. President, reserving the right to object, the Senator from Mississippi is not on the floor. I ask the majority leader: What is the unanimous-consent agreement on this military procurement bill? How would this request relate to that?

Mr. ROBERT C. BYRD. There is no relationship. The only agreement is that final passage will occur no later than 3 p.m. on Wednesday.

Mr. NUNN. Does that mean that any time that now comes out for other measures reduces the time for the military procurement bill?

Mr. ROBERT C. BYRD. There is no agreement on the military procurement bill. The measure I am calling up now has to be done today. The deadline is midnight tonight, I believe.

Mr. NUNN. The only question I have is as to the statement that there is no time agreement on the military procurement bill. It seems to me that there is a time agreement that we have to vote by 3 o'clock on Wednesday. If we were to take, say, 3 or 4 hours on this bill and 3 or 4 hours tomorrow, we will be locked into a situation where we have a final vote on a bill on which we have not even debated the major amendments.

Mr. ROBERT C. BYRD. Mr. STENNIS is aware that I intend to bring up this measure, and it does have to be done today.

Mr. NUNN. I am not going to object to that. I just want to explain.

I believe that the Levin amendment will take the remainder of the day, and perhaps into the evening; and if the Levin amendment is agreed to, I have at least eight more amendments on this subject, each of which would take a couple of hours.

In addition, we have the debate on the MX amendment, the Minuteman amendment, the procurement amendments, and the FB-11/B-1 debate. We may be pushed against the 3 o'clock deadline on Wednesday, without even having debated some of the critical and crucial amendments on this bill.

Had the Senator from Georgia been notified about the unanimous-consent request to bring this bill to a conclusion at 3 o'clock on Wednesday, I believe I would have proposed that we think about that before entering into it, because I can see Senators with important amendments that may not have a chance to be debated.

Mr. GLENN. Mr. President, if the Senator will yield, I add my voice to that, also.

We are involved here in some things that are going to lock this country into our military purchases that will have to last us for the next generation. It is that important. What we decide on the MX, aircraft, and several other areas will determine much of the foreign policy of this country, not the other way around. The way we are moving, the buys we make are going to determine foreign policy for this country. I have spoken about this in the Foreign Relations Committee.

We have had some hearings on this. We had Cy Vance over to try to outline our foreign policy.

We are discussing military purchases, and rather than try to hit a deadline of getting out of here for the 4th of July recess, I would far rather see this debate be open-ended and thorough this year, even if it means coming back after the 4th of July. It is far too important for us to be hitting any artificial deadlines.

Mr. ROBERT C. BYRD. Mr. President, what I say is not in denigration of the importance of this bill; but when we come back from the Fourth of July break, we will have our platter full.

So it will be my intention to stay in as late tonight and as late tomorrow night as possible, and come in as early in the morning as Senators desire.

I also hope we can get time agreements on the amendments and get them lined up, so that we can have an orderly debate and not be caught at 3 o'clock on Wednesday, as the Senator indicated, without some time limit on the amendments.

I will be happy to make myself available to Senators in the effort to try to arrive at time agreements on amendments.

I assure the Senator from Georgia that we will go as late into the evening as necessary. I also assure him that Mr. STENNIS was aware that we were trying to get agreements on this measure and the reconciliation measure earlier today that we hoped to get them up today, and at least get Mr. LONG's title, the Finance Committee title, in the reconciliation measure up today.

Mr. NUNN. I recognize that this is a very important matter, and I do not intend to interpose an objection.

However, I inquire further as to how long this will take and when we will get back to the military procurement bill, particularly the Levin amendment?

Mr. ROBERT C. BYRD. Mr. LONG feels that the Senate will be able to dispose of the airline tax bill by 3:45, or at least the Dole amendment thereto, and that any votes that otherwise would occur between 3:45 and 5 will be put over until 5. So it is not going to take a long time.

Mr. NUNN. Would we go back to the Levin amendment at 3:45 or after the vote shortly after 3:45? Would we go back to this bill and the Levin amendment after 3:45 p.m.?

Mr. ROBERT C. BYRD. We would like to get the airline tax bill up now, and we might be able to dispose of it by 3:45. But if we do not dispose of it by 3:45, the Senator from Louisiana will proceed with the debate and then hold up the last vote until 5. In the meantime, the Senate could proceed with the military procurement bill.

Mr. NUNN. Between 3:45 and 5 o'clock?

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, reserving the right to object——

Mr. STENNIS. Mr. President, I left the Chamber for a moment to get something to eat. May I ask what the agreement was?

Mr. ROBERT C. BYRD. I say to my friend from Mississippi that the majority leader sought to get consent to bring up the airline tax extension bill, which has to be done today because of a deadline of midnight tonight, with a short time agreement thereon, and to proceed with it at this time.

Mr. STENNIS. I thank the majority leader.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, reserving the right to object, will the Senator from Michigan finish his statement before we take up the bill, or will we proceed immediately to the bill?

The PRESIDING OFFICER. We will go immediately to the bill.

Mr. LEVIN. Will I have the floor as soon as we return to the military procurement bill?

Mr. ROBERT C. BYRD. Yes. I make that request.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

AIRPORT AND AIRWAY TRUST FUND TRANSFER EXTENSION

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 7477) to amend the Internal Revenue Code of 1954 to provide a three-month extension of the taxes which are transferred to the Airport and Airway Trust Fund.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. LONG. I yield myself 3 minutes.

Mr. President, under present law, the aviation-related excise taxes that go into the Airport and Airway Trust Fund are scheduled either to expire or be reduced on July 1, 1980. For example, the 8-percent air passenger ticket tax would decline to 5 percent, and the 5-percent air freight tax would expire. The trust fund was established in 1970 for a 10-year period.

H.R. 7477 was passed by the House of Representatives on June 17. It provides for a 3-month extension of the present aviation excise taxes that are transferred to the Airport and Airway Trust Fund, or from July 1, 1980 through September 30, 1980. In addition, the bill provides that the due date for filing a return for payment of the aircraft use tax for the 3-month period will not be earlier than October 31, 1980. The revenues from the 3-month extension of the present aviation taxes, $111 million, are assumed in the fiscal year 1980 budget resolution as approved by Congress.

This 3-month extension of the existing aviation taxes at present law rates is needed in order to provide additional time for the Congress to complete its consideration of the pending airport and airway trust fund extension legislation—S. 1648 and H.R. 6721. S. 1648, which has passed the Senate, and H.R. 6721, which has been reported in the House, provide airport and airway program authorizations from the trust fund for the fiscal years 1981–85.

The House Committee on Ways and Means has approved a committee amendment, to be offered as a separate title II to H.R. 6721, which will extend the airport and airway trust fund through the fiscal year 1985, and will generally extend the present aviation excise taxes through September 30, 1985, with certain modifications. For example, the Ways and Means Committee amendment to H.R. 6721 would reduce the 8-percent passenger ticket tax to 5 percent on October 1, 1982.

Since the aviation tax and trust fund provisions have not yet passed the House, the Finance Committee has not considered the proposed 5-year extension contained in H.R. 6721. When that bill is passed by the House, the Finance Committee will review the tax and trust fund provisions in view of the previous Senate action on the trust fund authorization levels contained in S. 1648.

Mr. President, I urge adoption of H.R. 7477, without amendment. Expeditious action on this is needed so that there may be certainty as to the applicable aviation excise tax rates for the remaining 3 months of the current fiscal year while Congress completes its consideration of the trust fund authorization legislation.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, for the moment I suggest the absence of a quorum and ask unanimous consent that the time be equally charged against the two sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, with reference to the bill itself, the aviation excise taxes which are transferred to the Airport and Airway Trust Fund are intended to serve an important and worthwhile goal. Few would question that the development of our airport and airway system to improve commerce with added safety is very desirable.

Unfortunately, the trust fund amounts have been retained recently as an artificial means of balancing the budget, rather than expended for the intended purposes.

At the same time, the administration has proposed increased taxes on general aviation. These additional taxes come at a time when economic conditions resulting from administration policies have severely impacted the general aviation segment of the air transportation industry.

In recent months many general aviation manufacturers have been forced to close or curtail production causing thousands of employees to lose their jobs, at least temporarily. I can speak with some authority because this has been widespread in the State of Kansas. In fact it looks like the industry figures for June will be the worst in a decade, both in units produced and in sales volume.

General aviation is an extremely important segment of the air transport system. It includes all flying except the scheduled airlines and the military and amounts to nearly one-third of the total passengers that are carried intercity by air.

Any tax package which may adversely affect such a large segment of the air transport industry must be carefully considered. This is especialy true, given the impact of the current economic downturn on general aviation operations and manufacturers and the refusal of the current administration to release trust funds for their intended purposes.

The extension of the current tax structure may not be the best of all solutions, but it is without question that further time is required for a comprehensive review of the airport and airway trust fund and the excise taxes imposed to support the program. So the Senator from Kansas supports the extension.

Mr. President, it is my understanding that the distinguished Senator from Utah (Mr. HATCH) had intended to offer an amendment, the purpose of which would be to cap the rate under an income of 50 percent.

Now my understanding of the distinguished Senator from Utah is that he does not desire to offer the amendment to this legislation but will defer to a later time, perhaps sometime after we come back in session in July. But since I have not been able to receive that assurance from Senator HATCH himself I will move on to the amendment I will offer.

UP AMENDMENT NO. 1369

(Purpose: To provide for permanent tax rate reductions for individuals and incentives for new plant and equipment)

I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 1369.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

TITLE I—INDIVIDUAL TAX RATES

SEC. REDUCTION IN RATES.

(a) IN GENERAL.—Section 1 (relating to tax imposed) is amended by striking out subsections (a), (b), (c), and (d) and inserting in lieu thereof the following:

"(a) GENERAL RULE.—There is hereby imposed on the taxable income, for the taxable years beginning in the calendar years specified in subsection (b)(2), of every—

"(1) married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and every surviving spouse (as defined in section 2(a)), a tax determined under the applicable schedule for the taxable year,

"(2) head of a household (as defined in section 2(b)), a tax determined under the applicable schedule for the taxable year,

"(3) individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 143) a tax determined under the applicable schedule for the taxable year, and

"(4) a married individual (as defined in section 143) who does not make a single return jointly with his spouse under section 6013 a tax equal to one-half the tax which would be determined for an individual described in paragraph (1) with the same taxable income.

"(b) APPLICABLE SCHEDULES.—

"(1) APPLICATION OF SCHEDULES TO INDIVIDUALS.—For purposes of subsection (a) the applicable schedule for—

"(A) individuals described in subsection (a)(1) is schedule 2,

"(B) individuals described in subsection (a)(2) is schedule 3, and

"(C) individuals described in subsection (a)(3) is schedule 1.

"(2) APPLICATION OF SCHEDULES TO TAXABLE YEARS.—

"(A) CALENDAR YEAR 1981.—The schedules in effect for taxable years beginning in 1981 are as follows:

"Schedule 1

"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:	The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:	
$0-$2,300	$0+0%	$0
$2,300-$3,400	$0+12%	$2,300
$3,400-$4,400	$132+14%	$3,400
$4,400-$6,500	$272+16%	$4,400
$6,500-$8,500	$608+17%	$6,500
$8,500-$10,800	$948+19%	$8,500
$10,800-$12,900	$1,385+21%	$10,800
$12,900-$15,000	$1,826+23%	$12,900
$15,000-$18,200	$2,309+27%	$15,000
$18,200-$23,500	$3,173+30%	$18,200
$23,500-$28,800	$4,763+35%	$23,500
$28,800-$34,100	$6,618+39%	$28,800
$34,100-$41,500	$8,685+44%	$34,100
$41,500-$55,300	$11,941+50%	$41,500
$55,300-$81,800	$18,841+57%	$55,300
$81,800-$108,300	$33,946+61%	$81,800
$108,300	$50,111+63%	$108,300

"Schedule 2

"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:	The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:	
$0-$3,400	$0+0%	$0
$3,400-$5,500	$0+12%	$3,400
$5,500-$7,600	$242+14%	$5,500
$7,600-$11,900	$546+16%	$7,600
$11,900-$16,000	$1,234+19%	$11,900
$16,000-$20,200	$2,013+22%	$16,000
$20,200-$24,600	$2,937+25%	$20,200
$24,600-$29,900	$4,037+28%	$24,600
$29,900-$35,200	$5,521+33%	$29,900
$35,200-$45,800	$7,270+39%	$35,200
$45,800-$60,000	$11,404+44%	$45,800
$60,000-$85,600	$47,652+49%	$60,000
$85,600-$109,400	$30,196+53%	$85,600
$109,400-$162,400	$42,810+58%	$109,400
$612,400-$215,400	$73,550+61%	$162,400
$215,400	$105,880+63%	$215,400

"Schedule 3

"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:	The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:	
$0-$2,300	$0+0%	$0
$2,300-$4,400	$0+12%	$2,300

"Schedule 3

'If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:	The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:	
$4,400-$6,500	$252+14%	$4,400
$6,500-$8,700	$546+16%	$6,500
$8,700-$11,800	$828+20%	$8,700
$11,800-$15,000	$1,518+22%	$11,800
$15,000-$18,200	$2,222+23%	$15,000
$18,200-$23,500	$2,958+28%	$18,200
$23,500-$28,800	$4,442+32%	$23,500
$28,800-$34,100	$6,138+38%	$28,800
$34,100-$44,700	$8,152+41%	$34,100
$44,700-$60,600	$12,498+49%	$44,700
$60,600-$81,800	$20,287+54%	$60,600
$81,800-$108,300	$31,737+57%	$81,800
$108,300-$161,300	$46,842+61%	$108,300
$161,300	$79,172+63%	$161,300

TITLE II—INCENTIVES FOR NEW PLANT AND EQUIPMENT

SEC. CAPITAL COST RECOVERY DEDUCTION.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 167 the following new section:

"SEC. CAPITAL COST RECOVERY DEDUCTION.

"(a) ALLOWANCE OF DEDUCTION.—In the case of recovery property, there shall be allowed the recovery deduction provided by this section.

"(b) AMOUNT OF DEDUCTION.—

"(1) IN GENERAL.—The recovery deduction for the taxable year shall be the aggregate amount determined by applying to the capital cost of recovery property the applicable percentage determined in accordance with the following table:

"CAPITAL COST RECOVERY TABLE

	The applicable percentage for the class of property is—		
	Class 1	Class 2	Class 3
"If the recovery year is—			
1	10	20	33
2	18	32	45
3	16	24	22
4	14	16	
5	12	8	
6	10		
7	8		
8	6		
9	4		
10	2		

"(2) TRANSITIONAL APPLICABLE PERCENTAGES.—

"(A) For transitional applicable percentages for additions to capital account of class 1 property before 1985, see subsection (h)(2).

"(B) For transitional applicable percentages for additions to capital account of certain class 2 property before 1985, see subsection (h)(3).

"(c) RECOVERY PROPERTY.—For purposes of this title—

"(1) RECOVERY PROPERTY DEFINED.—Except as otherwise provided in subsection (g), the term 'recovery property' means tangible property (other than land)—

"(A) used in a trade or business, or

"(B) held for the production of income.

"(2) CLASSES OF RECOVERY PROPERTY.—

"(A) CLASSIFICATION TABLE.—The classification of recovery property shall be determined in accordance with following table:

"CLASSIFICATION OF RECOVERY PROPERTY

"Class 1	Class 2	Class 3
Buildings and structural components of buildings.	Recovery property not taken into account under class 1 or class 3.	Automobiles, taxis, and light-duty trucks.

"(B) $100,000 LIMIT FOR CLASS 3.—In the case of any taxpayer for any taxable year, the capital cost (for which such year is recovery year 1) taken into account under class 3 shall not exceed $100,000.

"(C) SPECIAL RULES FOR APPLYING THE $100,000 LIMIT.—

"For special rules relating to the $100,000 limit, see subsection (i)(2).

"(d) CAPITAL COST.—

"(1) IN GENERAL.—For purposes of this section, the term 'capital cost' means, with respect to any property, the net addition to capital account for the taxable year (determined without regard to the section 1016(a)(2) adjustment for such year).

"(2) SPECIAL RULES FOR PROPERTY NOT YET PLACED IN SERVICE.—In the case of property which has not been placed in service before the close of the taxable year—

"(A) PAYMENT RULE.—Except as provided in subparagraph (B), the addition to capital account shall be treated as made when payment of an amount is made.

"(B) SELF-CONSTRUCTED PROPERTY.—If the property is constructed (in whole or in part) by the taxpayer, capital cost shall be determined under paragraph (1) without regard to subparagraph (A) of this paragraph.

"(3) AMOUNTS MUST BE FOR PERIOD AFTER 1980.—For purposes of this section, capital cost does not include any amount paid or properly charged to capital account for any period before January 1, 1981.

"(4) SPECIAL RULES.—

"(A) PUBLIC UTILITY PROPERTY ELECTION.—For election to determine capital cost of public utility property by treating advance payments as made when property is placed in service, see subsection (i)(3).

"(B) TRANSITIONAL RULE FOR FISCAL YEAR TAXPAYERS.—For special transitional rule for determining capital cost of fiscal year taxpayers, see subsection (i)(5).

"(e) TAXPAYER MAY DEDUCT LESS THAN FULL ALLOWANCE.—

"(1) IN GENERAL.—For any taxable year the taxpayer may deduct all or any portion of the amount allowable under subsection (a). The deduction for any taxable year may be increased or decreased at any time before the expiration of the period prescribed for making a claim for refund of the tax imposed by this chapter for such taxable year.

"(2) CARRYOVER OF UNUSED DEDUCTIONS.—Any amount allowable for the taxable year by subsection (a) but not deducted for such taxable year shall be carried forward and may be claimed as a deduction for any succeeding taxable year. Any deduction so claimed shall be treated as an addition to the capital cost recovery deduction allowable under subsection (a) for such succeeding taxable year.

"(3) ALLOCATION OF DEDUCTIONS.—If by reason of paragraph (1) the taxpayer deducts less than the amount allowable for any taxable year, the amount deducted shall be apportioned among the taxpayer's recovery property in the same proportion as the amount allowable in respect of the recovery property bears to the total amount allowable in respect of recovery property. A similar rule shall be applied in the case of the allowance of a deduction in a succeeding taxable year under paragraph (2).

"(4) ADJUSTMENTS TO BASIS.—For purposes of section 1016(a)(2), in the case of recovery property the amount allowable under this subtitle for exhaustion, wear and tear, and obsolescence shall be the amount allowable by subsection (a) of this section.

"(f) RECOGNITION OF GAIN OR LOSS AND ADJUSTMENT TO CAPITAL COSTS ON RETIREMENT OR OTHER DISPOSITION.—

"(1) GENERAL RULE.—Gain or loss shall be recognized on the disposition of recovery property, unless nonrecognition is specifically required or permitted by another provision of this chapter.

"(2) MASS ASSET ACCOUNT.—In lieu of recognizing gain or loss, a taxpayer who maintains mass asset accounts of recovery property may, under regulations prescribed by the Secretary, elect to include in income all proceeds realized on the disposition of such property.

"(3) ADJUSTMENT TO CAPITAL COST.—For purposes of this section, if gain or loss is recognized on the disposition of recovery property, the capital cost of such property shall cease to be capital cost as of the beginning of the taxable year in which such disposition occurs.

"(4) DISPOSITION INCLUDES RETIREMENT.—For purposes of this subsection, the term 'disposition' includes retirement.

"(g) PROPERTY EXCLUDED FROM APPLICATION OF SECTION.—

"(1) CERTAIN PROPERTY EXCLUDED.—The term 'recovery property' does not include—

"(A) property placed in service by the taxpayer before January 1, 1981,

"(B) residential rental property (within the meaning of section 167(j)); and

"(C) property with respect to which the taxpayer—

"(i) is entitled to elect amortization (in lieu of depreciation), and

"(ii) elects such amortization.

"(2) CERTAIN METHODS OF DEPRECIATION.—The term 'recovery property' does not include property if—

"(A) the taxpayer elects to exclude such property from the application of this section, and

"(B) for the first taxable year for which a deduction would be allowable under this section with respect to such property—

"(i) the property is properly depreciated under the unit-of-production method, the retirement-replacement method, or any other method of depreciation not expressed in a term of years, or

"(ii) the property is a leasehold improvement which is properly depreciated over the term of the leasehold.

"(3) SPECIAL RULE FOR CERTAIN PUBLIC UTILITY PROPERTY.—

"(A) IN GENERAL.—In the case of public utility property (within the meaning of section 167(l)(3)(A)), such property shall be treated as recovery property only if the taxpayer uses a normalization method of accounting.

"(B) USE OF NORMALIZATION METHOD DEFINED.—For purposes of subparagraph (A), a taxpayer uses a normalization method of accounting with respect to any public utility property if both the taxpayer's rates and its operating results on its regulated books of account reflect a tax expense determined by—

"(i) a method of depreciation on the property which is the same as, and

"(ii) a depreciation period for the property which is no shorter than,

the method and period used to determine its depreciation expense on the property for purposes of establishing its cost of service for ratemaking purposes.

"(C) SECRETARY TO PRESCRIBE REGULATIONS.—The Secretary shall provide such regulations as may be necessary or appropriate to prevent the reflection (directly or indirectly) in rates or operating results of an amount of tax expense which is inconsistent with either the depreciation method described in subparagraph (B)(i) or the depreciation period described in subparagraph (B)(ii).

"(4) CERTAIN SALES, LEASES, AND OTHER TRANSACTIONS IN PROPERTY PLACED IN SERVICE BEFORE 1981.—The term 'recovery property' does not include property acquired directly or indirectly from a person who used such property before January 1, 1981, if—

"(A) within 1 year after the property is so acquired, the property is leased back to such person, or

"(B) the person so acquiring the property bears a relationship specified in section 267 (b) to the person using such property before January 1, 1981.

"(h) Transitional Applicable Percentages for Class 1 Property and Class 2 Property.—

"(1) In general.—The Secretary shall prescribe tables setting forth transitional applicable percentages—

"(A) for additions to capital account of class 1 property before January 1, 1985, and

"(B) for additions to capital account of class 2 property before January 1, 1985.

If for any taxable year for any property there is a transitional applicable percentage, such transitional percentage shall be substituted for the applicable percentage set forth in subsection (b).

"(2) Transitional applicable percentages for class 1 property.—The transitional applicable percentages for class 1 property shall be determined in accordance with the following assigned recovery periods:

"TRANSITIONAL RECOVERY PERIODS FOR CLASS 1 PROPERTY

"For additions to capital account in—	The transitional applicable percentage shall be based on a capital cost recovery period of the following number of years:
1981	18
1982	16
1983	14
1984	12

"(3) Transitional applicable percentages for certain class 2 property.—The transitional applicable percentages for class 2 property shall be determined in accordance with the following assigned recovery periods:

"TRANSITIONAL RECOVERY PERIODS FOR CERTAIN CLASS 2 PROPERTY

"For additions to capital account in—	The transitional applicable percentage shall be based on a capital cost recovery period of the following number of years:
1981	ADR lower limit.
1982	ADR lower limit minus 1 year.
1983	ADR lower limit minus 2 years.
1984	ADR lower limit minus 3 years.

The capital cost recovery period determined under this paragraph shall in no case be less than 5 years.

"(4) ADR Lower Limit Defined.—For purposes of paragraph (3), the ADR lower limit for any class of property is the lower limit of the asset depreciation range in effect on June 27, 1979, for such class of property under section 167(m). For purposes of the preceding sentence, lower limits in excess of 9 years shall be treated as equal to 9 years, and any lower limit which is not a whole number of years shall be rounded down to the next lower whole number of years.

"(5) Tables to be similiar to subsection (b) table.—The tables prescribed under paragraph (1) for any class of property for any assigned recovery period shall be based on principles similar to those used in the construction of the table under subsection (b) for that class of property.

"(i) Definitions and special rules.—For purposes of this section—

"(1) Recovery year 1, etc.—The term 'recovery year 1' means, with respect to any capital cost, the first taxable year for which a deduction with respect to such cost is allowable under subsection (a). The immediately following taxable year shall be recovery year 2, and the taxable years which follow shall be numbered accordingly.

"(2) Special rules for applying the $100,000 limit for class 3 property.—

"(A) In general.—If for any taxable year the capital cost (for which such year is recovery year 1) of automobiles, taxis, and light-duty trucks exceeds $100,000, the taxpayer shall select the items to be treated as class 3 property, but only to the extent of an aggregate capital cost of $100,000. Such a selection, once made, may be changed only in the manner, and to the extent, provided by such regulations.

"(B) Married individuals.—In the case of a husband or wife who files a separate return, the limitation under subparagraph (A) and under subsection (c)(2)(B) shall be $50,000 in lieu of $100,000. This subparagraph shall not apply if the spouse of the taxpayer has no property which may be taken into account as class 3 property (for which this is recovery year 1) for the taxable year of such spouse which ends within or with the taxpayer's taxable year.

"(C) Controlled groups.—In the case of a controlled group, the $100,000 amount specified under subparagraph (A) and under subsection (c)(2)(B) shall be reduced for each component member of the group by apportioning $100,000 among the component members of such group in accordance with their respective amounts of capital cost of automobiles, taxis, and light-duty trucks.

"(D) Partnerships.—In the case of a partnership, the limitation contained in subparagraph (A) and in subsection (c)(2)(B) shall apply with respect to the partnership and with respect to each partner.

"(E) Controlled group.—For purposes of this paragraph, the term 'controlled group' has the meaning assigned to such term by section 1563(a), except that the phrase 'more than 50 percent' shall be substituted for the phrase 'at least 80 percent' each place it appears in section 1563(a)(1).

"(3) Public utility may elect not to take into account advance payments.—

"(A) In general.—In the case of public utility property (within the meaning of section 167(l)(3)), the taxpayer may elect to treat all additions to capital account for the period before property is placed in service as made during the taxable year in which the property is placed in service.

"(E) Effect of election.—An election under subparagraph (A) shall apply to all public utility property of the taxpayer for the taxable year for which the election is made and all subsequent taxable years unless the Secretary consents to a revocation of such election.

"(4) Making of elections.—Any election (or selection) under this section shall be made at such time and in such manner as the Secretary may by regulations prescribe.

"(5) Transitional rule for determining capital cost of fiscal year taxpayers.—If—

"(A) the taxpayer's taxable year is a period other than the calendar year, and

"(B) a transitional applicable percentage applies to additions to capital account in any portion of the taxable year.

then the capital cost for such taxable year shall be separately computed for each portion of a calendar year included within the taxable year.

"(j) Cross Reference.—

"For special rule with respect to certain gain derived from disposition of property the adjusted basis of which is determined with regard to this section, see section 1245."

Sec. Changes in Investment Tax Credit.

(a) Applicable Percentage.—Subsection (c) of section 46 (relating to qualified investment) is amended by adding at the end thereof the following new paragraph:

"(7) Applicable percentage for recovery property.—Notwithstanding paragraph (2), the applicable percentage for purposes of paragraph (1) shall be—

"(A) in the case of class 1 or class 2 recovery property (within the meaning of section 168), 100 percent, or

"(B) in the case of class 3 recovery property (within the meaning of section 168), 60 percent."

(b) Credit for Expenditures Before Property Is Placed in Service.—Subsection (d) of section 46 is amended to read as follows:

"(d) Qualified Progress Expenditures.—

"(1) In general.—The amount of the qualified investment of any taxpayer for the taxable year (determined under subsection (c) without regard to this subsection) shall be increased by the aggregate of the applicable percentage of each qualified capital cost of the taxpayer for the taxable year.

"(2) Qualified capital cost.—For purposes of paragraph (2), the term 'qualified capital cost' means the capital cost described in section 168(d)(1) for the taxable year with respect to any property which has not been placed in service before the close of such taxable year if such property, when placed in service, can reasonably be expected to be recovery property which is section 38 property.

"(3) Applicable percentage.—For purposes of paragraph (1), the term 'applicable percentage' has the meaning given to such term by subsection (c)(7).

"(4) No qualified progress expenditures for property for year of recapture.—In the case of any property, no qualified progress expenditures shall be taken into account under this subsection for the first taxable year for which recapture is required under section 47(a)(3) with respect to such property, or for any taxable year thereafter."

(c) Amendment of Recapture Rules.—

(1) In general.—Subsection (a) of section 47 (relating to certain dispositions, etc., of section 38 property) is amended by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) Special rules for recovery property.—

"(A) General rule.—If during any taxable year section 38 recovery property is disposed of, or otherwise ceases to be section 38 property with respect to the taxpayer, before the close of the recapture period, then the tax under this chapter for such taxable year shall be increased by the recapture percentage of the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from reducing to zero the qualified investment taken into account with respect to such property.

"(B) Recapture percentage.—For purposes of subparagraph (A), the recapture percentage shall be determined in accordance with the following table:

"If the taxable year in which the recovery property ceases to be section 38 property is—	The recovery percentage for each class of property is—	
	Class 1 and class 2	Class 3
The taxable year in which placed in service	100	100
The first taxable year after the year in which placed in service	80	66
The second taxable year after the year in which placed in service	60	33
The third taxable year after the year in which placed in service	40	0
The fourth taxable year after the year in which placed in service	20	0

"(C) Definitions and special rules.—

"(i) Section 38 recovery property.—For purposes of this paragraph, the term 'section 38 recovery property' means any section 38 property which is recovery property (within the meaning of section 168).

"(ii) RECAPTURE PERIOD.—For purposes of this paragraph, the term 'recapture period' means, with respect to any property, the period consisting of the taxable year in which such property is placed in service and the 4 succeeding taxable years (the 2 succeeding taxable years in the case of class 3 property).

"(iii) CLASSIFICATION OF PROPERTY.—For purposes of this paragraph, property shall be classified as provided in section 168.

"(iv) PARAGRAPH (1) NOT TO APPLY.—Paragraph (1) shall not apply with respect to any recovered property."

(2) TECHNICAL AMENDMENTS.—

(A) Subparagraph (D) of section 47(a) (3) is amended—

(i) by striking out "paragraph (1), paragraph (1)" and inserting in lieu thereof "paragraph (1) or (5), as the case may be, such paragraph", and

(ii) by striking out "PARAGRAPH (1)" in the subparagraph heading and inserting in lieu thereof "PARAGRAPH (1) OR (5)".

(B) Paragraph (6) of section 47(a) (as redesignated by paragraph (1)) is amended by striking out "paragraph (1) or (3)" and inserting in lieu thereof "paragraph (1), (3), or (5)".

(C) Subparagraph (B) of section 47(a)(7) (as redesignated by paragraph (1)) is amended by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (6)".

(d) AMENDMENT OF SECTION 48.—The last sentence of section 48(a)(1) (defining section 38 property) is amended by striking out "includes only property" and inserting in lieu thereof "includes only recovery property and any other property".

SEC. AMENDMENTS RELATED TO DEPRECIATION.

(a) RECOVERY DEDUCTION TREATED AS DEPRECIATION.—Subsection (a) of section 167 (relating to depreciation) is amended by adding at the end thereof the following new sentence: "In the case of recovery property (within the meaning of section 168), the recovery deduction allowable under section 168 shall be deemed to constitute the reasonable allowance provided by this section, and such property shall be considered for purposes of this title as property of a character subject to the allowance provided under this section."

(b) NO ADDITIONAL FIRST-YEAR DEPRECIATION FOR RECOVERY PROPERTY.—Paragraph (1) of section 179(d) (defining section 179 property) is amended by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(D) which is not recovery property (within the meaning of section 168)."

(c) TERMINATION OF CLASS LIFE SYSTEM.—Subsection (m) of section 167 (relating to class lives) is amended by adding at the end thereof the following new paragraph:

"(4) TERMINATION.—This subsection shall not apply with respect to property placed in service after December 31, 1979."

SEC. DISPOSITION OF RECOVERY PROPERTY SUBJECT TO RECAPTURE UNDER SECTION 1245.

Paragraph (3) of section 1245(a) (defining section 1245 property) is amended by striking out "or" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph:

"(E) recovery property (within the meaning of section 168)."

SEC. MINIMUM TAX AMENDMENTS.

Subsection (a) of section 57 (defining items of tax preference) is amended by inserting after paragraph (11) the following new paragraph:

"(12) CAPITAL COST RECOVERY DEDUCTION.—

"(A) IN GENERAL.—With respect to each property which is class 1 and class 2 recovery property (as determined under section 168) and which is subject to a lease, the amount (if any) by which the recovery deduction allowed for the taxable year is greater than the straight-line capital cost recovery amount determined in accordance with subparagraph (B).

"(B) STRAIGHT-LINE CAPITAL COST RECOVERY AMOUNT.—For purposes of this paragraph, the straight-line capital cost recovery amount shall be the amount of the depreciation deduction which would have been allowed for the taxable year had the taxpayer depreciated the property, beginning with the middle of the taxable year in which placed in service, under the straight-line method for each year of its useful life assuming—

"(i) a useful life of 10 years in the case of class 1 recovery property, and

"(ii) a useful life of 5 years in the case of class 2 recovery property,

"(C) LIMITATIONS.—

"(i) CORPORATIONS.—This paragraph shall not apply to any taxpayer which is a corporation (other than an electing small business corporation as defined in section 1371(b)) and a personal holding company (as defined in section 542).

"(ii) PROPERTY MANUFACTURED OR PRODUCED BY TAXPAYER.—This paragraph shall not apply with respect to any property which is manufactured or produced by the taxpayer.

"(D) PARAGRAPHS (2) AND (3) DO NOT APPLY TO RECOVERY PROPERTY.—Paragraphs (2) and (3) shall not apply to recovery property (within the meaning of section 168)."

SEC. TECHNICAL AMENDMENTS.

(a) EARNINGS AND PROFITS.—

(1) Subsection (k) of section 312 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) EXCEPTION FOR RECOVERY DEDUCTION.—If for any taxable year a recovery deduction is allowable under section 168 with respect to any recovery property, then the adjustment to earnings and profits for depreciation of such property for such year shall be the amount so allowable (but not in excess of the straight-line capital cost recovery amount determined under section 57(a)(12)(B))."

(2) The paragraph heading of paragraph (2) of section 312(k) is amended to read as follows:

"(2) EXCEPTION FOR CERTAIN METHODS OF DEPRECIATION.—".

(b) AMENDMENT OF SECTION 381.—Subsection (c) of section 381 is amended by adding at the end thereof the following new paragraph:

"(27) UNUSED DEDUCTIONS UNDER SECTION 168.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 168, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of section 168 in respect of the distributor or transferor corporation."

(c) AMENDMENT OF SECTION 383.—Section 383 (relating to special limitations on certain carryovers) is amended by striking out "and to any net capital loss" and inserting in lieu thereof "to any unused deductions under section 168(e), and to any net capital loss".

SEC. EFFECTIVE DATE.

The amendment made by this title shall apply to taxable years ending after December 31, 1980.

SEC. Notwithstanding Section 10 of the First Concurrent Resolution on the Budget for Fiscal Year 1981, this resolution shall be enrolled without delay upon passage of both Houses in the same form, even if it has the effect of reducing revenues in excess of $100,000,000.

Mr. DOLE. The amendment has the following cosponsors:

Mr. DOLE, Mr. ROTH, Mr. BAKER, Mr. ARMSTRONG, Mr. BOSCHWITZ, Mr. CHAFEE, Mr. COCHRAN, Mr. COHEN, Mr. DANFORTH, Mr. DOMENICI, Mr. DURENBERGER, Mr. GARN, Mr. GOLDWATER, Mr. HATCH, Mr. HAYAKAWA, Mr. HEINZ, Mr. HELMS, Mr. HUMPHREY, Mr. JAVITS, Mr. JEPSEN, Mrs. KASSEBAUM, Mr. LAXALT, Mr. LUGAR, Mr. MATHIAS, Mr. MCCLURE, Mr. PERCY, Mr. PRESSLER, Mr. SCHMITT, Mr. SCHWEIKER, Mr. SIMPSON, Mr. STAFFORD, Mr. STEVENS, Mr. THURMOND, Mr. TOWER, Mr. WALLOP, Mr. WARNER, and Mr. YOUNG.

Mr. President, today we have another opportunity in the Senate to approve a balanced tax cut program for 1981. The Republican or Reagan or however bipartisan tax cut program was introduced in bill form last Wednesday with the full support of the Republican Party's likely presidential nominee, Governor Reagan.

Since at that time President Carter was not in the country it seemed fitting to offer it again today when he is back because I would not want the President to think we were taking advantage of his absence.

I also suggest that after what I thought was a good discussion the amendment was predictably defeated, along an almost straight party-line vote with one Republican defection, by a vote of 58 to 38.

Since that package was unveiled there has been substantial progress toward approval of a major tax cut for 1981. The Democrats in the Senate have been committed to reporting a tax cut by September 3, and we are still getting mixed signals from the various parts of the administration and House Democrats likewise who seem not to have found a steady course.

I watched with some interest yesterday as Secretary Miller on one of the Sunday talk shows indicated that while we were in agreement that there would be no tax cut in 1980, and he mentioned that a number of times, and I certainly concur with that statement because I do not believe any Republican or Democrat has suggested, at least to this point, or any group of Democrats or Republicans, that we have a tax cut that would take effect in the year 1980, I do suggest that there is a lot of discussion about a tax cut that might take effect in 1981. And it seems to me the only question now is whether or not it can be accomplished before Congress adjourns this year.

So it just seems to me that nothing is changed as far as the amendment is concerned since last Wednesday. The big change has come in the reaction to the amendment, the reaction across the country, the reaction in editorial pages, the reaction by members of the administration, the reaction by leaders of the Democratic Party, and it has been referred to by some as a "Simple Simon" approach; it has been referred to by some as "the actions of little minds" and my only answer is a little mind is better than no mind at all; but, in any event, there have been some who would characterize it that way and criticize the effort.

But I really believe it served a purpose. It served a purpose in highlighting what should be a very important issue in any year, whether it is an even numbered year or an odd numbered year or a presidential year or any year, and I certainly do not fault the Democrats and my colleagues. It has been called "the Republican approach," it has been called a "Barnum and Bailey approach." I do not know either Barnum or Bailey, but if they are for it there would be two more reasons to adopt the Republican package.

But it would seem to this Senator that it does make a lot of sense. Part of that package is the handiwork of the distinguished Senator from Delaware (Mr. Roth) and others who have been working on it for years. The other part of the package, the accelerated depreciation, is cosponsored by 53 Members of the Senates, 30 Democrats and 23 Republicans.

And so I suggest that there is a great deal of support for a tax cut beginning in 1981.

This tax cut would properly offset the increase in social security. But, as I read yesterday, nobody should be under any illusion that this is going to be putting much money in anyone's pocket, because of inflation and because of new taxes that would be imposed starting in fiscal year 1981, suggested by some to be about $104 billion—and we can take from that $104 billion the $12.5 billion that will not be added because the Congress, in its wisdom, repealed the import fee.

But, in any event, tax increases next year will be substantial. Inflation will eat up just what we propose. So it might not be a tax cut in the sense that it is going to be a big, big refund to anyone, but at least it might keep some Americans up with inflation.

I suggest that we do not need extended debate on this issue. We do not want to have overkill in offering the amendment every day. But it seems that this is a chance before the recess, a chance for those who support a tax cut.

Maybe this is not the perfect package. Maybe we will end up with neither a Carter cut nor a Reagan cut, but a congressional cut. Because it seems to this Senator that the action will be right in Congress and it will be dependent on what we can get done on the Senate side and on the House side. So it seems to this Senator that we are making progress.

I yield 5 minutes to the Senator from Delaware (Mr. Roth).

Mr. ROTH. Mr. President, I congratulate my distinguished colleague from Kansas for offering this amendment. I think it is an important one and one that deserves to be acted upon now. I would like to point out that, for a change, it is Congress that is beginning to set policy. That, of course, was the basic intention of the framers of our Constitution.

I, frankly, am delighted the Democratic majority in the Senate is joining hands with the Republicans in calling for a tax cut in 1981. As I said last week, the time for action is now, not right before the election.

The Joint Economic Committee, as early as January, called for a supply-side tax cut in 1981. We have had hearings in the Joint Economic Committee for several months, as well as in the Finance Committee, on taxes. So it is my hope that we act sooner, rather than later.

Our amendment provides for a reduction in individual income tax rates of 10 percent and would adjust depreciation schedules to modernize our factories and equipment.

The fiscal 1981 revenue impact of the amendment will be $22.3 billion. On a full calendar year basis, it would amount to $36 billion.

As I pointed out, our amendment is not new. As a matter of fact, I offered an amendment to reduce personal income tax rates by 10 percent as an alternative to the administration's $50 rebate scheme in 1977.

Our argument today is the same one we had 3 years ago. We need a major, long-term program of lower tax rates.

We are not talking about some Simple Simon tinker toy amendment. In my view, the other side—with their $50 rebates and one-shot election-year tax cuts—has cornered the market on Simple Simon tinker tax cuts.

We are proposing a fundamental shift in tax policy—a policy based on lower marginal tax rates to stimulate the supply side of the economy.

As economists have testified before the Joint Economic Committee, a reduction in individual tax rates increase the incentive to save, work, and invest. As a result, lower tax rates increase labor supply and productivity, expand production in the economy, and reduce the rate of inflation.

According to a Study by Data Resources, Inc., and presented to the Joint Economic Committee by Dr. Otto Eckstein, the first year—I want to emphasize that—the first year of our individual tax rate reductions would increase personal savings by $25 billion in 1981.

This $25 billion in additional savings is urgently needed to modernize our plants and equipment to increase productivity.

Mr. President, I wish to point out that Japan with half——

The PRESIDING OFFICER (Mr. Pryor). The Senator's 5 minutes have expired.

Mr. ROTH. May I have 3 more minutes?

Mr. DOLE. Yes, I yield 3 additional minutes to the Senator from Delaware.

Mr. ROTH. Japan, with half the population, is already spending as much on plant and equipment as we are, and it is time that we catch up.

According to two studies presented to the Joint Economic Committee last month, our proposal would reduce both inflation and unemployment, which are the most critical problems our Nation faces.

Dr. Michael Evans presented a study which said that a 10-percent reduction in income tax rates for 3 years in a row combined with restraints on Federal spending would by 1985 reduce inflation by 5.1 percent and reduce the unemployment rate to 4.3 percent.

Dr. Eckstein's study also found that the same proposal would reduce inflation and reduce unemployment.

The only way we can turn the economy around is to embark now on a long-term plan of lower tax rates and a slower rate of growth of Federal spending.

A 1-year tinker tax cut will not do the job. We have to reduce the high marginal tax rates which are inhibiting work, savings, investments, productivity, and economic growth.

These tax cuts are needed now, and I urge all my colleagues to support this amendment.

I yield back the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. LONG. Yes.

Mr. ROBERT C. BYRD. Mr. President, I will not refer to this amendment as the Dole amendment. If it were a Dole amendment, it would be a better amendment. It would be a high-class, blue ribbon amendment.

This is the Reagan amendment, the Reagan trickle-down, make-the-rich-richer amendment.

And, really, I am delighted that Mr. Reagan is going to be stuck with this amendment now. It is an across-the-board 10 percent cut; that is, 10 percent for the moderate income family of four, earning $15,000 a year, that family gets the magnificent sum of $151 from the Reagan trickle-down, make-the-rich-richer amendment.

A family of four making $50,000 a year would get $1,000.

A family of four making $100,000 a year would get $2,190.

So, the more income the family gets, of course, the more that family will be benefited by this Reagan trickle-down, make-the-rich-richer amendment, but the family of four that only makes $15,000 annually, they get a measly $151.

Mr. LONG. Will the Senator yield at that point?

Mr. ROBERT C. BYRD. Yes.

Mr. LONG. Has the Senator included in that calculation what changing accelerated depreciation to "10–5–3" would mean after about 6 years, when it grows to maturity and costs about $55 billion a year? Is that included in what that millionaire gets?

Mr. ROBERT C. BYRD. No, I was not including that.

Mr. LONG. Because, if the Senator is not counting that, he is excluding the big end of what the very successful people in this country would get.

I am told that provision would cost the Treasury about $55 billion 6 years down the road. It is sort of like a mustard seed. It is very small, but it grows into a mighty tree.

So if one would look at what the upper taxpaying group, let us say the one-tenth of 1 percent, would get from that, which they could attribute to their income compared to now, I think he would find that a mere $1,000 or $2,000 would be peanuts, to coin a phrase, compared to what they would get under that part.

That provision could mean tens of thousands of dollars in tax benefits to them on an annual basis.

Mr. PROXMIRE. Will the Senator yield.

Mr. ROBERT C. BYRD. What the Reagan trickle-down, make-the-rich-richer amendment does, is to dump bushel baskets of money into the economy without any thought of structuring the tax cut so that it would deal with the problems of the country, increase the productive capacity of the country, and at the same time not fuel the fires of inflation.

Mr. PROXMIRE. Will the Senator yield?

Mr. ROBERT C. BYRD. On this side of the aisle, however, we have proposed that the Finance Committee—I will yield in a moment—bring out a tax cut proposal no later than September 3—which allows for the time frame the date in which the second concurrent budget resolution will have to be in place. The Finance Committee, which is a bipartisan committee made up of Republicans and Democrats who have expertise in this field, will take 2 months, conduct hearings, and carefully apply the expertise that is within that committee—Democrats and Republicans— to the development of a proposal by no later than September 3.

That does not ignore the committee process as the Reagan amendment ignores it. The Reagan amendment, here it is, is brought to the floor by one of the most distinguished Members of this Senate, one who is on the Finance Committee, Mr. DOLE. I would as I say, not refer to this as the Dole amendment, because it would be a much better amendment if it were authored by the distinguished Senator from Kansas, Mr. DOLE. If it were Mr. DOLE's amendment, it would be an equitable amendment. I would treat everybody fairly. It would not be a 10 percent across-the-board tax. But it is not a Dole amendment. It is the Reagan trickle-down, make-the-rich-richer amendment.

But we Democrats, on the contrary, are suggesting that, when we devise a tax cut, it be devised after the midyear review is available so that we can see what the new data show.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LONG. I yield an additional 5 minutes.

Mr. ROBERT C. BYRD. And then the Senate would have available the new data on unemployment, inflation, whatever information is needed in order to devise a wise, equitable, and effective tax cut that will improve the productive capacity of the country and will not be inflationary.

But here we are being asked by Mr. Reagan to revise the tax code, as it were, right here on the Senate floor after only 40 minutes of debate and pass a tax cut, 10 percent across the board, that will give to the moderate income family of this country, the family that really needs help, a measly little $151.

Mr. President, I hope that we will reject the amendment again, and I say this without any disrespect for the Senator from Kansas (Mr. DOLE). I do not denigrate that Senator. He is one of the wisest Senators in this body. He has great expertise in the tax field. I will glady sit at his feet all day long, all night long, and listen to him lecture and teach on taxes. But here today he has again—out of deference to the will-be nominee of the Republican Party, Mr. Reagan—offered again this across-the-board 10 percent tax cut.

As Mr. LONG points out also, the 10–5–3 will amount to $50 billion or $55 billion a year within 5 years. Just take bushel baskets of money and dump them into the economy.

It will just explode the fires of inflation.

But here Mr. LONG and others of us are saying go slow. Let us look, let us listen, let us see what the midyear review indicates and then, in a bipartisan way, through the committee process, let us fashion a tax cut that will be wise, that will be equitable, and that will improve the productive capacity of this country without fueling the fires of inflation.

What I say I say with the utmost respect to my friend Mr. DOLE. Again I say that if it were his amendment, I might at least consider voting for it. But I recognize the situation that he is in. He is offering the amendment for the next Presidential nominee of the Republican Party. I am glad Mr. Reagan is stuck with this amendment now. This is the second time that his amendment has been offered. Now Mr. Reagan cannot let loose of this amendment. He is stuck with it; 10 percent across the board. The Reagan make-the-ricker-richer, trickle-down amendment. I hope the motion of the Senator from Louisiana to table will be adopted.

Mr. DOLE. Mr. President, I yield myself 2 minutes. I want to say at the outset I appreciate very much the kind words of the distinguished majority leader concerning the Senator from Kansas. I will pass that on to Governor Reagan. He has not yet made his choice. [Laughter.]

I would also say that this is probably a trickle down. It is only a trickle but it will help the taxpayers of this country. I do not know what we call the Carter program because it has all been going the other way. It has not been going down to the people. It has been taken from the people. Maybe it is a trickle up. It has gone so fast that it really is, I think, a matter that deserves consideration.

Governor Reagan is not stuck with anything. The American people now have an option. The American people now have someone who happens to be a Republican speaking to their interests, the overburdened taxpayers.

This is not a tax cut for the rich. I will cite one statistic. The 10-percent rate reduction is nearly perfectly progressive. For example, those who earn between $10,000 and $30,000 per year pay 38 percent of all individual income taxes. Under the rate reduction this same group would receive 41 percent of the tax cut benefits. Rather than helping the rich, this tax cut returns taxes to the taxpayers in the same proportion that they pay taxes. To me, that is a program that deserves consideration. But for the time being we will put down the distinguished majority leader as undecided.

I would again remind my colleague, the chairman of my committee, who could be the chairman even next year, that 71 Senators—I was wrong, I said 53—71 Senators in one bill or another have endorsed the 10–5–3 approach; 306 House Members have endorsed the 10–5–3 approach. It may be wrong, but if it is, 71 percent of the Senate and almost 75 percent of the House are totally wrong.

No one suggests we cannot modify certain provisions. I share the distinguished majority leader's concern. This bill will be written in the Congress. It will be, I hope, a bipartisan effort. It may turn out to be a congressional tax cut rather than a Reagan tax cut or a Carter tax cut. But at least Governor Reagan has given it the impetus.

I have never seen so much talk about tax cut and so much written about a tax cut as I have in the past few days.

There is this support. It is across the board, across party lines, and across philosophical lines.

I would hope that when the time comes it will be sound and constructive, that it will be much like the proposal we are talking about today. I yield 3 minutes to the Senator from Missouri.

Mr. DANFORTH. Mr. President, as I understand it the principal objection of the Secretary of the Treasury and other administration officials to the Republican tax cut initiative is that this is novel and that we are proceeding too quickly.

With respect to the 10–5–3 portion of the Republican package, I would point out that this same concept has been repeatedly endorsed by Mr. William Miller while he was chairman of the Federal Reserve Board.

I would like to read some quotes into the RECORD.

On September 6, 1978, testifying before the Senate Finance Committee, Mr. Miller said:

> Ideally, I would like to see us work over a number of years to a point where the depreciation life for machinery and equipment would be 5 years. Perhaps a 1-year writeoff could be allowed for mandated pollution control equipment, but a 5-year writeoff for production equipment, and a 10-year writeoff for structures.

Before the American Productivity Center on October 3, 1978, Mr. Miller said:

> The nation's tax policies have not offered adequate incentives for new capital incentives. In particular, depreciation allowances are not adequate to provide cash flows sufficient to encourage increased fixed investments in today's conditions, nor to offset the substantial risk of obsolescence.

On January 30, 1979, before the Joint Economic Committee, Mr. Miller said:

> The poor performance of productivity has retarded the rise in living standards and aggravated the inflation problem. There are many causes of this retarded growth, some of which hopefully reflect temporary developments, but tax policies that pay insufficient attention to investment incentives and government over regulation must rank high among contributing factors.

On July 19, 1979, before the Commonwealth Club of California, shortly before his nomination as Secretary of the Treasury, Mr. Miller said:

> My personal preference, when the time is right, is for reductions in payroll taxes to aid individuals while at the same time reducing costs that go into prices, and for reductions for businesses which are tied directly to expenditures for new plant and equipment.

Again before the Finance Committee last July, in connection with his confirmation hearings, Mr. Miller testified:

> I believe deeply everything I said and I believe it is critical that we address this problem. My 1-5-10 formula shows up now as 3-5-10. I think those are nuances of the fundamental.
>
> I have always said and in fact I said quite recently that we were coming to a time where we would need to act upon this and I thought getting everyone's attention, study and understanding of this was critical during this year so we could move as promptly as possible in this direction.
>
> I will indeed pursue this course. I will indeed as soon as I have an opportunity to suggest the time table for such action which I think might be appropriately consistent with our objectives of fiscal discipline and consistent with our objectives of winning the war against inflation.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. DOLE. Does the Senator from Louisiana wish to use some of his time?

Mr. LONG. I yield the Senator 2 minutes.

Mr. DANFORTH. I thank the Senator.

Mr. President, my point is simply this: The time has come to act. These are not novel ideas and it is not a matter of drafting something in a hurried fashion on the floor of the U.S. Senate. These are concepts which have been repeatedly analyzed.

The Secretary of the Treasury himself, over a period of more than 2 years, has testified on behalf of the concept of 10-5-3. The Joint Economic Committee, on the basis of a very expensive study by Otto Eckstein, came out with a report earlier this year, a very comprehensive report, stating the need for greater attention to the supply side of our economy. There is no doubt whatever that America needs to rebuild its economic strengths, its base for the future. There is no doubt whatever that we have to modernize our industrial plant. The time has come now to act.

Mr. President, this is a matter that almost everybody agrees on. In fact, the statement that was made by the Democratic Members of the Senate last year indicated quite clearly that greater investment in the economy is needed. Therefore, Mr. President, everybody seems to be in step with the exception of the President of the United States. If we have a vacuum in leadership, let Congress act now to fill that vacuum.

Mr. DOLE. Mr. President, I yield 2 minutes of the remainder of the time to the Senator from Delaware.

Mr. ROTH. Mr. President, I am shocked that, at this late time, just before the July 4 recess, the majority side would admit that they have no economic policy, but that is the fact of the matter. Here we are, with 1.7 million Americans thrown out of work in the last 2 months. Here we are with double-digit inflation, double-digit interest rates, and we have no economic package from the Carter administration.

In the last several weeks, Mr. President, we have had trial balloons tossed out by the administration as to the possibility of a tax cut. We have heard the Democrats in the Senate finally come out and endorse a tax cut by no later than September. But, at the very same time, the Speaker of the House and the chairman of the House Ways and Means Committee have said there will be no tax cut.

Mr. President, that is the problem with the economy of this country. This administration has no economic policy. It is a void. And that is what the Republicans have been trying to supply. That is what Governor Reagan is endorsing, a package to get this country turned around.

I point out to my distinguished friends on the other side who would attack this package that it is very similar to what President Jack Kennedy did in the 1960's. He likewise proposed across-the-board reductions in individual tax rates because, as he said in a very eloquent statement, this was the way to get the economy moving again. It is very interesting that this President, Jimmy Carter, has followed the pattern of Mr. Hoover and has tried to fight inflation by throwing Americans out of work, whereas the Republicans are adopting supply-side tax cuts much like Mr. Kennedy did in the 1960's by giving tax relief across the board.

Mr. President, I just want to reemphasize that this is not a Tinker Toy tax cut. It has been carefully studied. Mr. Eckstein, who was the chief economist for President Johnson, has testified that this year, the first year, this 10-percent cut will lower inflation. I point out that Mr. Eckstein, as well as the other economists, has testified before the Joint Economic Committee and says that it will create jobs for the American people. Governor Reagan is not just proposing a temporary tax change. He has a long-term program that promises to attack both the problems of inflation and unemployment.

The PRESIDING OFFICER. All time belonging to the Senator from Kansas has expired. The Senator from Louisiana has 7 minutes remaining.

Mr. LONG. Mr. President, I yield 3 minutes to the Senator from Kansas.

Mr. DOLE. Mr. President, I think we are about ready to vote. As I indicated last Wednesday, there will be no surprise on the outcome of the vote, but I do believe we are on the way to a tax cut in 1981. Someone asked me if there are any politics in this. I said I do not know of any politics involved in this vote but I do suggest that there may be politics in the right sense.

This is a very important issue, Mr. President. This is a Presidential year. We are, as the distinguished Senator from Delaware indicated, approaching the Fourth of July. There has been a lot of talk about the economy in this country and what ought to be done. I am not certain anybody has the perfect answer, but, at least now, we are addressing one of the real problems in the Congress of the United States. Whether you agree or disagree with Governor Reagan's proposal, I believe nearly everyone would agree that at least he started the dialog and he speeded up the process, and the American people will benefit by whatever name may be appended to the final package that passes Congress.

Mr. JAVITS. Will the Senator yield to me?

Mr. DOLE. Yes.

Mr. JAVITS. I hope my party will not allow itself to be discouraged by any talk trickling down, the rich and poor, and bushels of money.

Let us keep our eye on the ball. The American industrial machine is growing obsolescent. So far, nothing has been done to really buck it up.

Second, as far as the taxpayer is concerned, Americans are not envious of wealth provided they get a fair break.

This is probably not a final judgment of what will be a tax package, but it is beginning to get there by keeping our eye on the ball, of investments and savings and the redemption of the American industrial machine.

I hope we will not be discouraged, whatever this vote, or by any effort to oppose this issue as some kind of class issue of the rich against poor, or vice versa.

Mr. DOLE. I thank the distinguished Senator.

Mr. President, I conclude by suggesting that that is the way it should be, certainly, the Members on this side of the aisle, as our Democratic colleagues know, working together, in an effort to come up with whatever might be characterized or described as a package that can pass the Congress, hopefully pass the Congress yet this year, to take effect in January.

It can be done by the Congress. The majority leader indicated there will be a position on that side. The minority leader (Mr. BAKER) indicated there would be a position on this side.

So, as far as the Senate is concerned, the American people should understand we will try to make it happen this year, to be effective next year.

I agree with the distinguished Senator from New York, if it is fair, if it is directed toward the American taxpayer, based on taxes paid by the taxpayers, if it revives the economy, the industrial sector, it will be a step in the right direction.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LONG. Mr. President, I yield back the remainder of my time.

Mr. President, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table UP amendment No. 1369. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. HATFIELD (after having voted in the affirmative). On this vote I have a pair with the distinguished Senator from Arizona (Mr. GOLDWATER). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I therefore withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from New Jersey (Mr. BRADLEY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from South Dakota (Mr. McGOVERN), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Oregon (Mr. PACKWOOD), the Senator from South Dakota (Mr. PRESSLER), the Senator from New Mexico (Mr. SCHMITT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 52, nays 33, as follows:

[Rollcall Vote No. 279 Leg.]

YEAS—52

Bayh
Bentsen
Biden
Boren
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cranston
Culver
DeConcini
Durkin
Eagleton
Exon
Ford
Glenn
Gravel
Hart
Heflin
Hollings
Inouye
Jackson
Johnston
Leahy
Levin
Long
Magnuson
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Pell
Proxmire
Pryor
Randolph
Riegle
Sarbanes
Sasser
Stennis
Stevenson
Stewart
Stone
Tsongas
Weicker
Williams
Zorinsky

NAYS—33

Armstrong
Baker
Boschwitz
Chafee
Cochran
Cohen
Danforth
Dole
Domenici
Durenberger
Garn
Hatch
Hayakawa
Heinz
Helms
Humphrey
Javits
Jepsen
Kassebaum
Laxalt
Lugar
Mathias
McClure
Percy
Roth
Schweiker
Simpson
Stafford
Stevens
Thurmond
Tower
Wallop
Warner

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Hatfield, for.

NOT VOTING—14

Baucus
Bellmon
Bradley
Goldwater
Huddleston
Kennedy
Matsunaga
McGovern
Packwood
Pressler
Ribicoff
Schmitt
Talmadge
Young

So the motion to lay on the table UP amendment No. 1369 was agreed to.

Mr. DOLE. Mr. President, what was the vote?

The PRESIDING OFFICER. The sum of 52 yeas and 33 nays.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion to lay on the table UP amendment No. 1369 was agreed to.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, let the record show that there are some absentees on each side which will probably end up pretty much the same vote, but we are making progress. In the last vote we had a 20-vote spread and now we are down to 19.

The PRESIDING OFFICER. If there are no further amendments, the question is on the third reading of the bill.

The bill was ordered to be read a third time, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. MITCHELL). Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed now to the consideration of a privileged matter, S. 2885. This is with the understanding that Mr. LEVIN, who had the floor at the time the military procurement bill was last being debated, would, when the Senate resumes consideration of that measure, again have the floor.

I ask unanimous consent also that the time on title V—I ask unanimous consent that the cap of 20 hours be reduced to 12, with 7 hours of that to be on title V, to be equally divided in accordance with the law.

Mr. JAVITS. Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. I believe the time can be reduced by nondebatable motion; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I yield.

Mr. MATHIAS. Mr. President, reserving the right to object, and I certainly shall not object—and I hesitate to trespass even close to the leader's responsibility—but since I see my good friend the Senator from Arkansas (Mr. BUMPERS) is here, I am wondering if the leader could schedule the 30 seconds it would take to pass Senate Joint Resolution 119. The President has scheduled a signing ceremony at 2 o'clock tomorrow afternoon. If we do not do it very shortly, we may have a problem.

Mr. ROBERT C. BYRD. Mr. President, if we could get the request now pending.

Mr. STENNIS. Mr. President, we could not hear the Senator from Maryland.

Mr. MATHIAS. Mr. President, I merely inquired whether the majority leader could find 30 seconds to pass the conference report on Senate Joint Resolution 119, the Vietnam Veterans Memorial bill.

Mr. ROBERT C. BYRD. Mr. President, may we have the request acted on that was pending with respect to the reconciliation, the pending measure?

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Reserving the right to object.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, I realize the time could be shortened, and I also realize the majority leader does not want to shut off appropriate debate.

I have a possibility—I have to say that, as this has been rather short notice—of three amendments; two amendments on unemployment insurance, one is to section 601, elimination of the national trigger, and the other is section 607, benefits not payable on less than 20 weeks of employment, and the third is to section 663, access to and purchase of medicaid services.

I can tell the leader what time I require. Senator LONG can then decide what time he requires. I may not have all three. As I say, I am in a position of still looking into it. But I would require 30 minutes on the medicaid and I would require 40 minutes each on the unemployment insurance amendments. That is what my time would be and those who might support it. As to Senator LONG, I must leave that up to him.

Mr. ROBERT C. BYRD. Mr. President, Senator LONG indicates that is agreeable and I include that in my request.

Mr. JAVITS. One last thing. I ask Senator LONG if there are other amendments that he knows of, so that I could have about an hour to get ready? As I say, it is very short notice. I just walked in here after 1 o'clock.

Mr. LONG. Mr. President, I would say to the Senator that if other Senators do not want to offer their amendments, we can certainly use the time accommodating other Senators' statements or whatever while the Senator is getting ready.

Mr. JAVITS. I thank the Senator.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

VIETNAM VETERANS MEMORIAL—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, in conformity with the promise to Senator MATHIAS and Senator BUMPERS, I ask unanimous consent that Mr. BUMPERS and Mr. MATHIAS may proceed for not to exceed 1 minute to call up a conference report on the Vietnam Veterans Memorial.

Mr. STENNIS. Mr. President, reserving the right to object—and I shall not object—I do want to make clear and restate the situation in which the leader got consent means that we will dispose of all these matters tonight on the reconciliation.

Mr. ROBERT C. BYRD. Yes, we will stay on reconciliation until we finish it tonight.

Mr. STENNIS. I have no objection.

The PRESIDING OFFICER. Without objection, the report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill joint resolution (S.J. Res. 119) to authorize the Vietnam Veterans Fund, Inc., to establish a memorial, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

THE PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of June 25, 1980.)

Mr. BUMPERS. Mr. President, this is conference on what is popularly known as the Vietnam Veterans Memorial bill. I think all but one Senator cosponsored it. It is noncontroversial.

Mr. President, I am pleased to bring this matter before my colleagues today. This legislation, if enacted, would authorize the establishment of a memorial to those men and women who served in the Vietnam war. The memorial would be located here in the District of Columbia in an area of West Potomac Park known as Constitution Gardens. It would be paid for by contributions raised through a nonprofit organization, the Vietnam Veterans Memorial Fund, Inc., established specifically for this purpose. No Federal funds would be used for the memorial.

Mr. President, I, like many of my colleagues, have mixed emotions about the Vietnam war. On balance, I am convinced that the war was a costly and tragic mistake. Had I lost a son or loved one in that war, I know that I would die a bitter and resentful man.

Nevertheless, those Americans who did serve their country—those American men and women who fought and died in this war—deserve a fitting memorial. This legislation will insure that such a memorial is established.

I yield to my good friend from Maryland.

Mr. MATHIAS. Mr. President, today we take the last legislative step toward a symbolic reconciliation of the Nation in the wake of the Vietnam war. Tomorrow the President's signature on Senate Joint Resolution 119 will complete a year-long effort to achieve passage of the resolution authorizing the Vietnam Veterans Memorial Fund, Inc., to establish a memorial in Constitution Gardens in honor of those who served in Vietnam.

Last week Senator WARNER and I held a reception to congratulate the members of the Memorial Fund who worked so successfully with Members of the U.S. Congress to achieve passage of this resolution. At this reception, we sought to pay tribute to all Vietnam veterans but especially to the members of the Memorial Fund who conceived of the idea of offering this memorial to the Nation and who are working so hard to make it a reality.

We were honored to have in our company the chairman of the Joint Chiefs of Staff, Gen. David C. Jones; Senator DALE BUMPERS, who appreciated the importance of the proposal and expedited hearings on the measure, as chairman of the Senate Subcommittee on Parks, Recreation and Renewable Resources, to insure speedy Senate action; Max Cleland, Administrator of Veterans' Affairs; and Robert Doubek, executive director of the fund, who conveyed the good news that the fund has raised over a quarter of a million dollars since its fundraising effort began.

The fact that this amount has been raised at such an early date is due in a large part to the efforts of our colleague, Senator JOHN WARNER, who raised the seed money which enabled the national campaign to be launched. Jan Scruggs, founder of the Memorial Fund, paid tribute to Senator WARNER when he said:

This time last year the CBS National News reported that some Vietnam veterans were trying to build a memorial as a recognition of Vietnam veterans and as a symbol of reconciliation after Vietnam, but has only collected $144 in two months. It was at that time that I wrote the former Secretary of the Navy, Senator Warner, and reminded him that he served in WWII and Korea, but that he was also a Vietnam veteran as well. I bluntly asked him to help us raise the money needed to begin our national campaign. I wasn't confident of even receiving a reply to the letter since I am from Maryland as well as being a Democrat. But within a couple of months Senator Warner had not only taken dollars from his own pocket, but also got enough corporate contributions in to begin our national fundraising drive. Perhaps if more people involved with the Vietnam War had the character and compassion of Warner things may have been a lot different for Viet Vets.

Mr. Scruggs concluded the ceremony by reading a very moving passage from the book "Rumors of War" written by Philip Caputo, a Vietnam veteran, which I would like to share with my colleagues and request that it be inserted in the RECORD. The text reads as follows:

We never left our wounded on the battlefield. We brought them off, out of danger and into safety, even if we had to risk our lives to do it. That was one of the standards we were expected to uphold. But I knew I could not have done what Levy had done. Pulling himself up on his wounded legs, he had tried to save the corpsman. He did it the way he had done everything else—naturally and because he thought it was the right thing to do.

So much was lost with you, Levy, so much talent and intelligence and decency. You were the first from our class to die. There were others, but you were the first and more: You embodied the best that was in us. You were a part of us, and a part of us died with you—the small part that was still young, that had not yet grown cynical and bitter and old wih death. Your courage was an example to us and whatever the rights or wrongs of the war, nothing can diminish the rightness of what you tried to do. Yours was the greater love, for you died for the man you tried to save.

You were faithful. Your country is not. As I write this, eleven years after your death, the country for which you died wishes to forget the war in which you died. Its very name is a curse. There are no monuments to its heroes, no statues in small town squares, no plaques, nor public wreaths, nor memorials. For plaques and wreaths and memorials are reminders and they would make it harder for your country to sink into the amnesia for which it longs.

Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BUMPERS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. MATHIAS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, on behalf of principally Senator MATHIAS from Maryland, we wish to thank Senator BUMPERS for his leadership on this matter in helping to expedite this joint resolution.

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

Mr. President, I withhold that request.

Mr. HOLLINGS. Mr. President, what is the present status of the reconciliation bill?

RECONCILIATION ACT OF 1980

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 2885) to provide for reconciliation as provided by section 310 of the Congressional Budget Act of 1974.

The Senate proceeded to consider the bill.

Mr. HOLLINGS. Mr. President, 6 years ago, Congress made a historic decision to build a new structure of sound fiscal policy-making. The Budget Act was a carefully drafted plan for enhancing and better managing the power of the purse.

But in 1974, the Budget Act was only a blueprint. In 1980, the budget process works. We have made it work. In 6 years of legislative practice, we have converted an untested theory into a functioning system of fiscal control.

Today, we will take another step in the practical application of the Budget Act's design. The reconciliation procedure has never before been employed. The action we take today will set an important precedent for making the budget stick.

The Budget Act provides that committees may be instructed to reduce spending within their jurisdictions whenever that is required to meet the budget ceilings. This year, Congress issued such instructions for the first time.

On June 12, Congress adopted the first concurrent resolution on the budget for fiscal year 1981. That resolution called upon 10 Senate committees to make spending cuts of $4.95 billion in budget authority and $6.4 billion in outlays.

It was confidently predicted in some

quarters that the committees would never comply. Many of these same skeptics predicted 6 years ago that the Budget Act would not survive, let alone change the spending habits of Congress.

Mr. President, the skeptics were wrong. To the great credit of all concerned, the instructed committees have promptly reported reconciliation savings. In some instances, committees have gone beyond their instructions and reported somewhat larger savings than the budget resolution required.

This is not the Budget Committee's accomplishment, but the Senate's. It is the product of many committees working together. Many committees share the credit as well as the responsibility for making reconciliation work. The taxpayer will reap the rewards.

On June 26, the Budget Committee reported the reconciliation bill to the Senate. At this point, I would refer Senators to pages S8227 through S8364 of the CONGRESSIONAL RECORD for Thursday, June 26. The Budget Committee's compilation, contained in those pages, gives a title-by-title analysis of the reconciliation bill, all provided in a craftsmanlike manner by each of the instructed committees.

The total savings amount to more than $4.8 billion in budget authority and $6.4 billion in outlays. Savings yet to be made in the Postal Service through the appropriations process will bring the total to more than $5.3 billion in budget authority and $6.9 billion in outlays.

Mr. President, these are truly enormous savings. We know that they are necessary. We know that it is popular to describe ourselves as fiscal disciplinarians. But we also know how unpopular it is to impose the tangible sacrifices which alone can make that discipline stick.

Mark Twain once said, "I'm opposed to millionaires, but it would be dangerous to offer me the position."

Opposing Federal extravagance is a safe political position. But voting for actual cuts can be dangerous indeed. In meeting the reconciliation instructions, committees were called upon to make tough and unpopular decisions. Many committees and many Senators have made those tough decisions.

There is no economic argument against making these savings. The savings contained in the reconciliation bill will not depress the economy to any measurable degree. But failure to achieve those savings will perpetuate Federal deficits, fuel inflation, and exert upward pressure on interest rates.

The savings contained in the reconciliation bill will not impair our ability to meet essential priorities. But failure to achieve those savings will undermine prospects for a 1981 tax cut, and make it even harder to substantially reduce the tax burden in future fiscal years.

The savings contained in the reconciliation bill will not impose unreasonable sacrifices on any of our constituents. But failure to accept responsible cuts in existing programs will amount to a confession that Congress lacks the will to cut where cuts are needed.

Never before has Congress attempted to cut back existing programs to the extent mapped out in the reconciliation bill. Much talk is heard about "uncontrollable spending." It is almost as if some mystical power had bound our hands and revoked our power to control the Federal purse.

But every Senator knows that we can begin to control the "uncontrollables" any time we choose to do so. Let us choose to do so now.

The arithmetic is simple. We will not eliminate deficit spending—we will not reverse the growth of Federal outlays—we will not gain full control over the size and shape of the budget until we control the size and shape of entitlements. The reconciliation bill will make a necessary beginning.

The first budget resolution calls for $6 billion in savings over the coming 5-year period through permanent annualization of cost-of-living benefits in four programs which now feature twice-annual adjustments.

The permanent change in the food stamp program has already been enacted into law.

Permanent changes in child nutrition benefits are included in the reconciliation bill.

So is a permanent shift from twice-annual to once-annual adjustments in military retirement benefits.

But in the last of these four programs—the retirement program for Federal civilian employees—the Governmental Affairs Committee unfortunately did not meet the full measure of the reconciliation instructions. In a very close vote, that committee became the only instructed committee which failed to make a major cut permanent.

Under the reconciliation proposal submitted by Governmental Affairs, civilian Federal retirees would receive only one cost-of-living adjustment in 1981.

But under the Governmental Affairs proposal, twice-a-year increases would come right back after 1981.

Mr. President, that plan would fall far short of what every Senator knows to be the assumptions in our budget resolution. A permanent reform of the civil service retirement program is clearly documented in the legislative history.

The Governmental Affairs approach would save $523 million in 1981. But it would fail to save the additional $1.8 billion through 1985 which permanent reform would bring.

But the consequences are even more enormous than that. The Armed Services Committee fully complied with its reconciliation instruction. That committee made permanent the once-annual adjustment in benefits paid to military retirees. But in accepting that discipline, Armed Services added a contingent provision. Military retirees will only be asked to accept a permanent revision if their civilian counterparts bear the same restraint.

Combined, full and permanent authorizations of civilian and military retirement benefits will save the taxpayers $3.9 billion over the next 5 years. But if the Governmental Affairs proposal is accepted by the Senate, that savings will be cut by a full $3 billion.

I will have much more to say about this matter when the Senate turns to consideration of the Budget Committee amendment to the reconciliation bill. That amendment will make the civilian retirement savings permanent, just as the Armed Services Committee has made the comparable military retirement savings permanent.

I want to make a few notes about how this reconciliation bill will be handled here on the floor of the Senate and in conference.

Just as the Budget Act provides the reconciliation procedure itself, it provides in sections 310(e) and 305 special rules for the consideration of reconciliation bills.

Amendments to the bill must be germane to the provisions of the legislation.

The Budget Committee, of course, does not claim expertise on all the many savings contained in this reconciliation bill. The entire Senate is indebted to the outstanding work of its committees in reporting these reconciliation savings. And we will rely heavily on those committees for help in explaining these various savings proposals to the Senate.

At this moment, we are aware of only a couple of amendments to this reconciliation bill, and Senators should be on notice that we need to finish it promptly.

I now yield whatever time he may require to the distinguished Senator from Louisiana, chairman of the Finance Committee, who will manage the Finance Committee's portion of this legislation.

Incidentally, I want to commend the outstanding work the Finance Committee did on the portion of its savings recommendations to the Senate. Available since last Wednesday and on every Senator's desk is the lengthy and detailed Finance Committee print which explains their portion of the reconciliation savings.

Also on every Senator's desk and available in the CONGRESSIONAL RECORD since last Thursday is the explanation of the entire reconciliation bill as it was reprinted in the RECORD on that day.

I thank the distinguished Senator from Louisiana for his willingness to take over.

I yield at this time to the distinguished chairman of the Finance Committee.

Mr. LONG. Mr. President, the first concurrent resolution on the budget for fiscal year 1981 was passed by the Congress on June 12. That resolution directed the Committee on Finance to recommend legislation to reduce the cost of programs under its jurisdiction by $2.2 billion.

The reconciliation process was mandated because of the need to achieve a balanced budget in fiscal year 1981. I have strongly supported the attempt to reach a balanced budget, and the Finance Committee has done its best to meet that goal by complying with the reconciliation instructions of the budget resolution.

In looking for ways to come up with the required $2.2 billion in savings, the committee found that it had already taken action to achieve a substantial portion of this total. In its ongoing review of programs under its jurisdiction, the Finance Committee had acted in the regular legislative process to modify the social security disability program, the welfare and social services programs, the unemployment compensation program, and the medicare and medicaid programs. The committee had recommended changes to improve the operations of those programs while at the same time eliminating inappropriate or low-priority features in such a way as to achieve substantial budgetary savings.

The reconciliation instruction required the committee to achieve even more in the way of savings, and the committee responded to this directive from the Congress by examining all of the spending programs within its jurisdiction to find those areas where the required savings could be achieved. Some of the decisions were difficult, but the mandate was clear and the committee has met its obligations. It tried to do so by recommending those savings provisions which seemed most likely to improve the operations of these programs and least likely to undermine the fundamental purposes of the programs.

I ask unanimous consent that a more detailed description of the Finance Committee provisions in the reconciliation bill and a summary table be printed at the end of my statement.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

(See exhibit 1.)

Mr. **LONG**. I hope, Mr. President, that the Senate will approve and agree with the recommendations that we have made. Some of these were somewhat painful, because it is not any pleasant chore to have the job of cutting down on Federal spending, particularly in areas where people have come to depend upon it. Nevertheless, Mr. President, we believe that, in terms of trying to balance the budget and trying to achieve fiscal responsibility, the reductions that have been made are the best way that the $2.2 billion reduction in spending can be achieved in areas of jurisdiction of the Senate Committee on Finance.

EXHIBIT 1

SUMMARY OF FINANCE COMMITTEE RECOMMENDATIONS IN BUDGET RECONCILIATION BILL

LEGISLATION ALREADY ENACTED INTO LAW

At the time the Budget Resolution was under consideration in the Senate, two Finance Committee bills were awaiting final action—H.R. 3236, the Social Security Disability Amendments of 1980, and H.R. 3434, the Adoption Assistance and Child Welfare Act of 1980. Both of these measures have now been enacted into law. The $225 million of savings in these two new laws is creditable towards the $2.2 billion required under the reconciliation instructions.

UNEMPLOYMENT COMPENSATION PROVISIONS

Elimination of national trigger.—Under present law States generally pay unemployment benefits for a maximum of 26 weeks. In times of high unemployment, however, the Federal-State extended unemployment compensation program becomes effective. Under the extended benefits program an additional 13 weeks of benefits are payable. Half the cost of these extended benefits is borne by the Federal unemployment tax and half is borne by State unemployment taxes. The extended benefits program goes into effect on a State-by-State basis if the State insured unemployment rate reaches a level of 4 percent and is also 20 percent higher than the rate during the comparable period of the 2 previous years. At State option, the program can also become effective whenever the State insured unemployment rate is 5 percent or higher regardless of how it compares with the rate in the 2 prior years.

In addition to these "State triggers," the program becomes effective in all States whenever the national insured unemployment rate reaches a level of 4.5 percent. (For both State and national triggers, the rate is measured over a moving period of 13 consecutive weeks.) The committee provision would eliminate the national trigger so that the program would go into effect only in those States where one of the State triggers applies. No savings are now estimated for this item for fiscal year 1981 because the national trigger would not have been reached this year under the CBO assumptions which were used to develop the budget resolution. In fact, however, it now seems likely that CBO reestimates later this year will indicate that the national trigger level will be reached. At that time, the provision will represent a savings of several hundred million dollars for fiscal year 1981. This provision was previously approved by the committee and passed by the Senate as an amendment to H.R. 4612.

Waiting period for benefits.—Under present law some States pay unemployment benefits starting with the first week of unemployment while other States provide that benefits will become available only after the unemployed individual has served a "waiting week." (In some cases, States which have a waiting-week provision pay benefits retroactively for the waiting week after the individual has experienced a specified duration of unemployment.) The committee amendment would eliminate the Federal 50 percent matching share for the first week of extended unemployment compensation in any State which does not have a waiting week for regular benefits. (The elimination of Federal matching for the first week of extended benefits would also apply to States which have a waiting week which is subject to retroactive payment when the worker completes a certain duration of unemployment.) This provision is also included in H.R. 4612, as previously approved by the committee and the Senate. The provision is estimated to save $25 million in fiscal year 1981.

Optional State trigger.—Under present law, States must implement the extended benefit program when the State insured unemployment rate is both 4 percent or higher and 20 percent above the level prevailing in the State in the 2 prior years. When the "20 percent higher" factor is not met, States may at their option provide for the program to become effective when the State insured unemployment rate is at least 5 percent. If States choose this option, the trigger point for the program must be set at 5 percent. In other words, States may not provide that the program will become effective only if the rate is at least 5½ percent or 6 percent. The committee amendment would modify the optional State trigger provision so that States could specify any rate of insured unemployment which is 5 percent or higher as the optional trigger point (that is, the point at which the extended benefit program would become effective in the absence of the "20 percent higher" factor). This provision is also included in H.R. 4612. It would reduce program costs in fiscal 1981 by $30 million.

Unemployment benefits for ex-servicemen.—Under present law federally funded unemployment benefits are provided to former servicemen upon their separation from military service. To qualify, an individual is required to have served on active duty for a period of at least 90 days and to be separated under other than dishonorable or bad-conduct circumstances. The 90-day requirement does not apply where separation results from a service-incurred injury or disability. The committee amendment would require that, except in cases of service-incurred disability or injury, individuals must have served a minimum of 1 year before unemployment benefits would be payable. This provision is also in H.R. 4612. It would save $43 million in fiscal 1981.

Unemployment benefits for Federal employees.—Under present law, a Federal employee who suffers unemployment may vailing in the State in the 2 prior years. under the same rules as apply to employees of private businesses in the State in which he was last employed. The costs of benefit payments to former Federal employees are reimbursed to the State paying benefits by the Federal Government. At present, all such costs are funded through a single appropriation account within the budget of the Department of Labor rather than being charged to the appropriations of the employing agencies. The committee amendment would establish a special account within the Unemployment Trust Fund from which States would be reimbursed for the costs of unemployment benefits based on Federal employment. Each agency would be required to reimburse that account from its appropriations for the costs attributable to its employees. This provision was also included in H.R. 4612. It is estimated to reduce Federal expenditures in fiscal year 1981 by $11 million.

Limitation on extended benefits for nonresidents.—Under present law, States are required to pay unemployment benefits to individuals who meet the State qualifying requirements even if they are or become residents of another State. If an individual works and qualifies for benefits in a State in which the extended unemployment program is in effect, that State will be required to pay him such benefits (so long as he meets the requirements for them) even if he has changed his residence to a State in which the extended program is not in operation (because the new State of residence has a lower rate of insured unemployment). The committee amendment would limit benefits in the case of persons who change their State of residence. If an individual changes his State of residence after the beginning of a period of unemployment during which he would otherwise qualify for extended benefits, no extended benefits will be payable if the new State of residence is one in which the extended benefit program is not triggered on. This limitation would not apply to the first 2 weeks after the individual takes up residence in the new State. This same provision was included in H.R. 4612. It is estimated to reduce expenditures in fiscal 1981 by $46 million.

Extended benefits not payable on the basis of less than 20 weeks of employment.—Under existing law, most States pay regular unemployment benefits for a maximum of 26 weeks. In times of high unemployment, benefits are payable for an additional period of up to 13 weeks under the extended benefits program. The committee amendment would require that benefits not be paid under the extended benefit program to any individual who has less than 20 weeks of qualifying employment in the base period. It is estimated that this provision will reduce benefit costs by $120 million in fiscal 1981.

Extended benefits not payable to persons who leave jobs voluntarily or for misconduct.—When an unemployed worker has voluntarily left his job without good cause, has been discharged for misconduct, or has refused what the State agency considers a suitable job offer for him, he becomes ineligible for benefits. However, in many States the disqualification is lifted after a period of time. Other States continue the disqualification for the duration of unemployment. The committee has included a provision under which an individual who had been disqualified for one of these reasons could not be paid extended benefits (even though he may have been reinstated to regular State benefit status because his State provides for only a limited period of disqualification). This provision will result in benefit savings of $32 million in fiscal year 1981.

Extended benefits not payable to persons refusing any reasonable job offer.—Generally, a worker qualifies for up to 26 weeks of benefits if he was laid off from work for reasons other than his own misconduct or his own voluntary decision to quit and if he remains ready, willing, and able to accept new employment. Newly unemployed workers are not required to take any available job but are permitted to seek a job which matches their previous experience, training, and earnings level. After seeking such work unsuccessfully for a reasonable period of time, however, individuals may be required to seek jobs not meeting their full qualifications as a condition of continued benefit eligibility. The committee amendment would establish a requirement that, as a condition of eligibility for extended unemployment benefits, the unemployed individual must be willing at that point to accept any job which meets minimum standards of acceptability (such as basic health and safety standards, compliance with the Federal minimum wage, and other existing Federal standards). This provision will reduce program costs by $94 million in fiscal year 1981.

SUPPLEMENTAL SECURITY INCOME (SSI) PROVISION

Limit SSI eligibility for individuals who dipose of resources.—Under current law, the disposal or transfer of a resource prior to the filing of an SSI application does not preclude eligibility, even though the individual would be ineligible if he retained the resource. This is true with respect to cash and real or personal property although the resource may have been sold for less than its market value. The committee provision would delay SSI eligibility in the case of applicants who dispose of resources for less than current market value if retaining such resources would make them ineligible for benefits. The provision would make an individual ineligible to the extent that within the two years prior to application he disposed of assets for substantially less than their fair market value. This amendment would result in estimated savings of $15 million in fiscal year 1981.

SOCIAL SERVICES PROVISION

Federal day care regulations.—When the Social Security Act was amended in 1974 to establish a new title XX social services program, a provision was included requiring that day care services provided under State social services plans must meet the 1968 Federal Interagency Day Care Requirements, with some modifications. However, because of the controversial nature of those requirements, the Congress also included a provision requiring the Secretary of Health and Human Services to make a study of the appropriateness of the standards imposed by the legislation, and to submit a report of his findings together with recommendations to the Congress prior to July 1, 1977.

In response to the concern expressed by a number of States that they could not meet certain staffing requirements, which were to become effective October 1, 1975, the Congress enacted temporary legislation delaying their implementation and providing, instead, that day care provided with Federal funds must meet the staffing standards of the State. This temporary legislation was extended several times.

On March 19, 1980, the Department of Health and Human Services issued final rules for day care, to become effective September 19, 1980. These regulations are to apply to services funded under title XX and title IV (WIN and child welfare services). A number of States have expressed concern about the cost and effect of implementing the new standards. In view of this concern, the committee has included a provision to defer implementation of the new regulations for purposes of Social Security Act programs until October 1, 1981, providing instead that child care provided prior to that date would be subject to State standards. Savings are estimated at $20 million in fiscal year 1981.

TERRITORIAL PROVISION

Public assistance payments to territorial jurisdictions.—Under the Social Security Act there is a dollar ceiling on Federal matching for costs of cash assistance, administration and social services provided under the programs of aid to families with dependent children and aid to the aged, blind and disabled in the jurisdictions of Puerto Rico, Guam and the Virgin Islands. The permanent ceiling under prior law was $24 million for Puerto Rico, $1.1 million for Guam, and $0.8 million for the Virgin Islands. The jurisdictions were limited to 50 percent Federal matching. For fiscal year 1979, under temporary legislation enacted in November 1978, the ceiling on Federal funds for the jurisdictions was tripled, from $26 million to $78 million, and the Federal matching percentage was raised from 50 percent to 75 percent.

H.R. 3434, as recently enacted, includes a provision which would make permanent, beginning with 1980, the increases provided for the jurisdictions in the earlier temporary legislation, that is, a tripling of dollar ceiling amounts. The committee amendment would defer the implementation of the full amount of these increases. Under the amendment, the amount of the increase would be limited to one-fourth of the total for fiscal year 1980 ($13 million rather than $52 million, to allow some increase in the last quarter of 1980) and to one-half the total for fiscal year 1981 ($26 million rather than $52 million). The full amount of the increased funding would thus become effective beginning with October 1, 1981. Estimated savings would be $39 million in 1980 and $26 million in 1981.

SOCIAL SECURITY PROVISIONS

Three-month limit on retroactive benefits.—Individuals who apply for benefits under the social security program are now allowed to backdate their applications by as much as 1 year to claim benefits for months prior to the actual date of application. The committee amendment would limit retroactivity of applications to a period of 3 months. The 3-month period (as is the case with the present 12-month period) would run from the date the application is filed and not from the date on which a decision is made on the claim. It is estimated to reduce fiscal year 1981 Federal expenditures by $150 million.

Social security benefits for prisoners.—Under present law individuals who are inmates of penal institutions or other incarcerated persons, such as the criminally insane who are confined to mental institutions, may become entitled to social security benefits if they can meet the several conditions required for benefits. The committee amendment would restrict the payment of benefits to persons convicted of crimes. Under the provision, benefits would not be payable to convicted felons except as specifically provided for by a court of law during their participation in an approved program of rehabilitation which is expected to result in their return to productive employment. The amendment would also provide that a person may not be considered a full-time student for purposes of student benefits while he is incarcerated. Moreover, any disabling condition arising in the commission of a crime would not be considered in determining whether an individual was under a disability for benefit purposes. A disabling condition which arises while an individual is imprisoned could not qualify him for disability benefits for so long as he remains in prison. This proposal is estimated to reduce benefit costs by $16 million in fiscal year 1981.

Reallocation of OASDI taxes between OASI and DI trust funds.—The optimum level of reserve in the social security trust funds has generally been considered to be an amount equal to approximately 1-year's benefit payments. Because of high inflation and other factors, the funds in recent years have fallen far below these optimum levels. The old-age and survivors insurance fund in particular has fallen to a level at which possible cash-flow problems could occur sometime in 1981. However, under current estimates, sufficient funds can be made available to assure continuing cash flow capability for the cash benefit trust funds through the end of 1981 and into 1982 from the existing cash benefit tax rate. To accomplish this, however, it is necessary to reallocate the distribution of that tax rate for 1980 and 1981 between the two cash benefit trust funds. While a reallocation of the social security cash benefit tax rate does not have any direct budgetary impact, the absence of such action would necessitate some other means of providing adequate financing to maintain cash flow in the OASI trust fund. Regardless of what funding source was used, any such alternative method of meeting the cash flow requirements (e.g. a general fund appropriation or an additional social security tax) would result in an increase in budget authority at a time when the committee is under reconciliation instructions to reduce budget authority. On this basis, the committee has included an amendment to reallocate the OASDI tax.

PROVISIONS RELATING TO MEDICARE AND MEDICAID

Hospital routine cost limits.—The bill would establish a new method of reimbursement for routine operating costs for hospitals under the medicare and medicaid programs. The new mechanism, to be effective July 1, 1980, would provide for incentive reimbursement rewarding hospitals whose routine operating costs are below average, and penalizing hospitals whose routine operating costs are substantially above average. The bill requires the Secretary to appoint a Health Facilities Costs Commission to recommend refinements in medicare and medicaid hospitals reimbursements.

Closure and conversion of underutilized facilities.—The bill would provide for including in short-term hospitals, reimbursement payments for increased operating costs, and, in the case of nonprofit institutions, for increased capital costs, associated with the closing down or conversion to approved use of underutilized bed capacity or services.

Coordinated audits.—The bill would provide for medicare, medicaid, and the maternal and child health programs to share findings from a single audit where these programs reimburse the same entity on the basis of its reasonable costs.

Apportionment of provider costs.—The bill provides that medicare would not reimburse any institution for a disproportionately high share of costs until evidence is produced which justifies a specific adjustment under given circumstances for given facilities. The effect of this amendment would be to make such modifications, effective April 1, 1980, in the 8½ percent routine nursing cost differential that medicare now pays to hospitals the modification will be determined on the bases of a study to be carried out by GAO and will represent a more equitable method of reimbursing for routine nursing costs.

Inappropriate hospital services.—The bill would provide that in certain cases medicare and medicaid payments to hospitals be made at the average skilled nursing facility, intermediate care facility or detoxification facility payment rate (as appropriate), rather than the higher hospital rate, for patients medically determined by PSRO reviewers to need the lower level of care rather than acute hospital care. The bill would also authorize that benefits be provided and payment be made under medicare to qualified nonhospital inpatient detoxification facilities.

PSRO review of hospital admissions routine tests and preoperative stays.—The bill would direct PSRO's to review areas of frequent overutilization (such as diagnostic tests routinely provided on admission without a physician's order and weekend elective admissions and preoperative stays for elective procedures in excess of 1 day) to assure that payment is made under medicare and medicaid only where such services are medically appropriate.

Ambulatory surgery.—The bill would permit medicare reimbursement to be made to free-standing ambulatory surgical centers and physicians performing surgery in their offices for the use of surgical facilities needed to perform a listed group of surgical procedures. Such procedures include those which are often provided on an inpatient basis but can, consistent with sound medical practice, be performed on an ambulatory basis. Financial incentives to provide and use this type of services are included.

Criteria for determining reasonable charge for physician services.—The bill would modify existing medicare criteria for determining reasonable charges for physician services. It would require calculation of statewide median charges (in any State with more than one locality) in addition to the local prevailing charges. To the extent that any prevailing charge in a locality was more than one-third higher than the statewide median charge for a given service, it would not be automatically increased each year.

Procedures for determining reasonable cost and charge (hospital-based physician services and business services).—The bill would provide, except under certain specified circumstances, that compensation paid to contractors, employees or related organizations, consultants, or subcontractors at any tier would not be recognized for medicare-medicaid reimbursement purposes where the payments (in whole or part, in cash or kind) are based upon percentage arrangements. Percentage arrangements involving payment to hospital based physicians would nevertheless be recognized if the amount of reimbursement does not exceed an amount that would reasonably have been paid under an approved relative value schedule which takes into consideration the physician's time and effort.

Outpatient services charge limit.—The bill would require the newly established Health Facilities Cost Commission to give priority to the development of limitations on reimbursement for hospital outpatient service costs. Further, the Secretary would be required to issue regulations providing for the establishment of such limitations.

Medicare liability in accident cases.—The bill would provide that medicare not be the payor of first resort in cases where the patient was involved in an accident and his care could be paid for under liability coverage of the individual who was at fault or under no fault insurance.

Access to and purchase of medicaid services.—The bill gives the States greater discretion in arranging for care and services for medicaid recipients through cost-effective arrangements. Provision would be made to assure that beneficiaries have reasonable access to services (including emergency and elective services) that fully meet program standards of quality. In addition, provision would be made to avoid having an adverse effect on appropriate and necessary use of hospitals with graduate medical education programs.

Medicare hospital reimbursement: periodic interim payments (PIP).—The bill amends the medicare periodic interim payment (PIP) procedure for hospitals so that payment would be withheld during September 1981, in order to increase the lag between rendition of a service and payment for it to about six weeks, the delay experienced by hospitals that use the standard billing method. The deferred payments would be paid to the hospitals in October 1981.

Disallowance of State claims for Federal medicaid funds.—At present, when a State's claim for medicaid matching funds is disallowed by the Federal Government, the State may appeal the decision and retain the funds that are in dispute until a final determination is made. The bill authorizes the Secretary of HHS to offset amounts in dispute from other medicaid funds due the State until the appeals process has been exhausted. If the final decision is in the State's favor, the Federal Government would repay the money to the State with interest.

Reimbursement under medicaid for skilled nursing facilities and intermediate care facilities.—The bill amends section 249 of the Social Security Amendments of 1972, which requires States to pay skilled nursing facilities (SNF's) and intermediate care facilities (ICF's) on a reasonable cost-related basis. This provision would be amended to permit States, effective October 1, 1980, to develop their own payment systems for skilled nursing facility and intermediate care facility services. The State would have to assure the Secretary of HHS that its rates are reasonable and adequate to meet the costs incurred by efficiently and economically operated facilities in providing care and services in conformity with applicable State and Federal laws and regulations. A State, at its option, could include as part of its rate reasonable allowances in the form of incentive payments related to efficient performance and to attract investments necessary to assure the reasonable availability of services.

Home health agency reimbursement limits.—The bill limits allowable costs for home health agency services under medicare to amounts not in excess of the 75th percentile of weighted average audited costs. These limits would be applied separately to each type of visit, rather than on an aggregate basis, when revisions in the existing cost reporting procedures make this possible. The allowable cost of skilled nursing visits and home health aide visits may not exceed medicaid skilled nursing facility per diem rates hospital-based facility rates in the case of hospital-based home health agencies and other skilled nursing facility rates in the case of nonhospital-related agencies.

Calculating medicare reasonable charges.—Medicare reasonable charges are updated in July of each year to keep pace with economic changes. All bills that the medicare carrier receives after the charges are updated are paid at the higher rate. In effect, the amount of the medicare payment often depends on how long the claimant delays billing rather than on the charge levels in effect when the medical service was provided. To eliminate this inequity, the bill contains a provision under which the medicare reasonable charges that are payable would depend on the date the medical service was rendered rather than the date the medicare claim was processed.

FUND TRANSFER PROVISION

Transfer from general funds to trust funds.—The social security and medicare programs are funded through earmarked payroll taxes paid into the Treasury. Amounts exactly equal to the tax collections are appropriated out of the General Treasury and into the social security and medicare trust funds under a permanent standing appropriation in the Social Security Act. Under the accounting system used for purposes of the Budget Act, budget authority for trust fund programs is considered to arise at the moment when the tax receipts are appropriated into the trust funds. As a result, the various savings provisions approved by the committee in trust fund programs will not result in a reduction in the 1981 budget authority for those programs although they do result in 1981 outlay reductions and do reduce the amount of budget authority that will ultimately be needed to operate the programs. In order to meet the reconciliation requirements for fiscal 1981 budget authority reductions, the committee agreed to a provision under which $0.6 billion in social security and medicare tax receipts which would otherwise be transferred to the trust funds at the end of September 1981 will instead be transferred to the trust funds after the end of that month. This will reduce budget authority for fiscal 1981 by that same amount.

SPENDING REDUCTIONS UNDER FINANCE COMMITTEE PROPOSALS FOR RECONCILIATION PROCESS FOR FISCAL YEAR 1981 BUDGET RESOLUTION

[In millions]

	Budget authority	Outlay
Legislation already enacted:		
Social security disability amendments (H.R. 3236)	−$12	−$133
Social services amendments (H.R. 3434)	−92	−92
A. Unemployment compensation provisions:		
Sec. 501—Elimination of national trigger		([1])
Sec. 502—Waiting period for benefits		−25
Sec. 503—Optional State trigger		−30
Sec. 504—Unemployment benefits for ex-servicemen	−43	−43
Sec. 505—Unemployment benefits for Federal employees	−11	−11
Sec. 506—Limit on extended benefits for nonresidents		−46
Sec. 507—Extended benefits:		
Not payable on the basis of less than 20 weeks of employment		−120
Not payable to persons who leave jobs voluntarily or for misconduct		−32
Not payable to persons refusing any reasonable job		−94
B. Sec. 511—Limit SSI eligibility for individuals who dispose of resources	−15	−15
C. Sec. 521—Temporary suspension of Federal day care regulations	−20	−20
D. Sec. 531—Public assistance payments to territorial jurisdictions	−26	−26
E. Social security provisions:		
Sec. 541—Reallocation of OASDI taxes between OASI and DI	([2])	
Sec. 542—3-mo limit on retroactive benefits	+5	−150
Sec. 543—Social security benefits for prisoners	+1	−16
F. Health provisions		
Sec. 551—Hospital routine cost limits	−$10	−$70
Sec. 552—Closure/conversion of underutilized facilities		−2
Sec. 553—Coordinated audits	−4	−4
Sec. 554—Apportionment of provider costs	+3	−75
Sec. 555—Inappropriate hospital services	−33	−151
Sec. 566—PSRO review of hospital admissions routine tests and preoperative stays	−1	−25
Sec. 557—Ambulatory surgery		−5
Sec. 558—Criteria for determining reasonable charge for physician services	+1	−15
Sec. 559—Procedures for determining reasonable cost/charge (hospital-based physician and business services)	−3	−25
Sec. 560—Outpatient services charge limit	−2	−23
Sec. 561—Medicare liability in accident cases	+1	−14
Sec. 563—Access to and purchase of medicaid services	−91	−91
Sec. 564—Medicare hospital reimbursement: periodic interim payments (PIP)	+2	−675
Sec. 565—Disallowance of certain State medicaid claims		−147
Sec. 566—Reimbursement under medicaid for skilled nursing and intermediate care facilities	−2	−2
Sec. 567—Home health agency reimbursement limits	+3	−73
Sec. 568—Calculating Medicare reasonable charges	+6	−147
G. Sec. 571—Transfer of funds to trust funds	−600	
Total	−943	−2,397

[1] Based on economic assumptions used in First Budget Resolution; anticipated reestimates will result in savings.

[2] Without reallocation, increase in budget authority would be required.

Source: Congressional Budget Office.

Mr. LONG. Mr. President, while we are waiting for some Senators to arrive on the scene, I shall just briefly cover the views of the committee with regard to the national trigger proposal, which is one of the savings or reductions the committee recommended. They are as follows:

The national trigger requires the payment of unnecessary benefits.

Under present law, when the national rate of insured unemployment goes above 4.5 percent, the maximum duration of benefits in all States is increased to 9 months (compared to the 6-month maximum generally applicable to regular State benefits). In those States where the State insured unemployment level remains relatively low, this represents a mandatory payment of unnecessary benefits. When the State insured unemployment rate is below the State trigger level (4 or 5 percent depending upon State law), 6 months of unemployment benefits should be enough for workers in that State to find new employment. Individuals who are still unemployed at the end of 6 months in a State where unemployment is not excessively high need something other than extended benefits.

The elimination of the national trigger does not adversely affect workers in high unemployment States.

The national trigger is not needed to bring the extended benefits program into operation in States with high unemployment. Under mandatory Federal legislation, States are required to implement the additional 3 months of benefits (bringing the overall maximum to 9 months) whenever the State insured unemployment rate has increased by 20 percent over a period of 2 years and has reached an absolute level of 4 percent or more. On an optional basis, States are permitted to implement the extended benefits program if the State insured unemployment rate is at least 5 percent whether or not that represents an increase over the 2 prior years. The provision in the committee amendment would therefore serve only to eliminate extended benefits in States where they are not needed and would not deny the benefits in those States where employment opportunities are scarce.

The national trigger is an obsolete provision.

Prior to the 1976 unemployment amendments, the national trigger was needed because States with high levels of unemployment could not come into the extended program unless they could show that their unemployment was not only high but was also at least 20 percent higher than in the 2 prior years. When that rule was in effect, a prolonged national recession could leave some States unable to meet the "20 percent higher" requirement even though they had an absolute insured unemployment rate of 6 or 7 percent. The 1976 amendments eliminated this anomaly by allowing States to opt into the program without meeting the "20 percent higher" whenever the absolute rate reaches 5 percent.

The amendment will save $1 billion in unnecessary costs.

It is generally recognized that the balancing of the fiscal 1980 budget will be very difficult when the impact of the present economic slowdown is factored into the revised budgetary estimates in July. This provision will help offset that situation by eliminating the payment of extended benefits in States where they are not needed. Under the current budget estimates—which are based on economic assumptions that are now unrealistic—this provision has no savings in fiscal 1980. However, CBO estimates made earlier this year indicate that it could have savings of the magnitude of $1 billion under more realistic projections.

Mr. DOLE. Mr. President, the Senator from Kansas has long supported a balanced Federal budget, and, although the reconciliation process we are engaged in at this moment is not a painless process, it is a necessary one if we are serious about controlling Federal spending. I am serious about controlling Federal spending, and I believe the efforts of the Finance Committee represented in title V of the reconciliation bill indicate that the other members of the Finance Committee are serious about this as well.

The spending programs under the jurisdiction of the Finance Committee are among the most sensitive in the budget. These programs are designed to help people meet their basic needs when they become unemployed or otherwise fall on bad times; to augment other sources of income in retirement; to provide services to keep people healthy when they might otherwise be unable to afford health care. These programs are popular and they are necessary. However, as a Nation, we have come to realize that there are limits to our ability—even our desire—to meet all needs. During this reconciliation process, it will be important for all of us to remember that no program is sacrosanct or "uncuttable".

The Finance Committee considered a number of proposals to meet the $2.2 billion spending reduction figure we were directed to achieve under House Concurrent Resolution 307, the fiscal year 1981 first concurrent budget resolution. There were differences of opinion on where these cuts should be made, but, by and large, we chose the ones which we believe to be most appropriate and least painful—both to constituents and Members.

DECISIONS BASED ON PAST ACTIONS

We did not make our decisions lightly or in the hurried atmosphere of tight deadlines. Our recommendations come largely from provisions in bills which we, as a committee, considered some time ago and which have either already passed the Senate or whose descriptions have been available to the public long enough for objections to have been registered, considered and overcome.

UNEMPLOYMENT COMPENSATION

The Senate has already agreed to the first six recommendations concerning unemployment compensation which the Finance Committee took from H.R. 4612. That bill passed the Senate by a vote of 89 yeas to 3 nays last March. The other unemployment compensation recommendation we are making is designed to target the extended benefit program to those with the most legitimate needs for additional unemployment assistance. Some people will argue that because we are faced with a recession and increasing unemployment, we should not tighten up on the eligibility requirements for the unemployment compensation program or restrict the triggering of the extended benefits program.

On the contrary, however, this is precisely the time to insure that this program is limited to those who need it most. Otherwise, we shall have another experience similar to the 1974–76 recession, when many State unemployment trust funds, as well as the Federal trust fund, went bankrupt. We are obligated more than ever to cut the fat from this program, and I believe the provisions we have recommended here do that in the most equitable and efficient way.

INCOME SECURITY

Two of the income security provisions we are recommending respond to public outrage over current abuses in the SSI and social security programs. One will limit an individual's ability to dispose of assets in order to become eligible for SSI benefits; the other will limit the eligibility of convicted felons for social security benefits. A third provision, to postpone the "Federal Day Care" regulations, will give Congress additional time to study this issue which has also angered a large segment of the public.

The provision to phase in additional Federal public assistance payments to the territories is designed to insure that the territories have ample time to establish a procedure for using the money effectively rather than simply providing huge temporary lump-sum increases to public assistance recipients as occurred in 1979. The provision to limit retroactive social security benefits also reflects an effort to trim excesses in this program without denying people benefits to which they have a right.

MEDICARE AND MEDICAID REFORM

Mr. President, perhaps two of the most difficult areas in which to make cuts are the medicare and medicaid programs. As the Senator from Kansas noted earlier, these programs serve a vitally important function, in assisting individuals in obtaining health care services. So in considering ways in which spending could be reduced, we naturally, and I believe appropriately, turned to program reimbursement reform, rather than actual cuts in benefits.

REFORM: A LONG TIME COMING

The Senator from Kansas is sure that his colleagues will recall the 1978 floor action on H.R. 5285. That bill, which contained many of the provisions before us today, passed the Senate, but did not receive final consideration by the Congress. We now have the opportunity to complete our work.

REIMBURSEMENT REFORMS

Current governmental efforts to control hospital costs are threefold: Supply control, utilization controls, and reimbursement reforms. The objective of the bill which is pending before us today, Mr. President, is to make a fundamental change in the method of reimbursement for hospital services under the medicare and medicaid programs. Our proposal would reimburse for hospital services in a fundamentally different way. Similar hospitals would be grouped together and each group's average daily routine costs calculated. The reimbursement rate for the hospitals in each group would then be based on the group's average costs. Hospitals with per-day costs below the average would be rewarded. Those that performed significantly worse than average would not be fully reimbursed. These reimbursement restrictions and incentives apply to medicare and medicaid payments only.

The advantage of this method for determining reasonable costs of hospital services under our proposal is its flexibility. Under the proposal, similar hospitals would be compared with one another, not with an absolute standard. As a result, there is less danger that limits on the revenue of hospitals in unusual circumstances would prove to be unnecessarily harsh. The proposal would also provide us the opportunity to recognize the efficient and separate out the inefficient, an accomplishment that the administration proposal cannot duplicate.

There are those, Mr. President, who have criticized our efforts as an ineffective approach to cost containment. But again, Mr. President, I must remind my colleagues that this legislation provides for a long-term, more rational system of reimbursement. It is not a cost-containment proposal such as those proposed in the past by other Members of the Congress.

Our legislation attempts to make the Federal Government a prudent buyer of services. It is not our intention to overhaul and control the entire hospital industry.

Certainly there are improvements which could be made in the system we have proposed. For example, at the present time, the legislation attempts only to address the routine costs of hospitals rather than the more expensive ancillary costs. I am hopeful that as the state of the art develops, and we are better able to examine, compare, and contrast ancillary costs, we will be able to provide some incentives and disincentives to the efficient and inefficient hospitals in relation to these costs.

This effort, along with the voluntary effort of hospitals to control their costs, will certainly help moderate the average costs of hospitals as they are recalculated each year. We can anticipate that over time, the savings in medicare and medicaid expenditures will increase.

OTHER IMPORTANT REFORMS

Attention should also be given to some of the other important medicare and medicaid provisions included. Some of these provisions reform physician reimbursement, providing incentives for physicians to practice in rural areas; others expand the types of locations in which medicare recipients receive care, adding ambulatory surgical centers and freestanding detoxification centers.

SPENDING PROVISIONS SET ASIDE TEMPORARILY

In addition to the cost-saving provisions that were originally included in H.R. 5285, and more recently in H.R. 934, there were a number of spending proposals which expanded certain services under either or both the medicare and medicaid programs.

These provisions, though not included in this budget reconciliation, are still a priority for many of us on the committee. The Senator from Kansas is hopeful that they too will soon see Senate action. These proposals which we will consider today, provides the Federal Government an opportunity to clean up its own house, to reform the Government-financed programs, medicare and medicaid. We do not intend to solve all the problems or provide all the answers. The citizens of this country have a right to look to our efforts to improve and make more efficient the utilization of their tax dollars.

I believe our efforts to reform medicare and medicaid will accomplish this purpose. And during the first few years, save billions of dollars.

REALLOCATION OF TRUST FUNDS

The provisions concerning reallocation of the social security trust funds do not affect benefits. They are simply bookkeeping measures to allow the Finance Committee to meet its reconiliation instruction on budget authority. The reallocation provision is extremely important, however, because it will insure that the Old Age and Survivors Trust Fund will be adequate to meet benefit payout needs during the coming year.

CONCLUSION

Finally, Mr. President, doubtless there are Members who object to some of the provisions we have recommended, and they may have other ideas which they believe are sound. However. careful thought and a certain amount of horse-trading have gone into these recommendations, and I hope the Senate will accept them in the spirit in which they are offered. The Finance Committee has made an honest effort to minimize the adverse effects of these spending reductions on individuals in need, and I believe we have succeeded in coming up with a balanced package. I urge my colleagues to support the provisions in title V.

● Mr. TALMADGE. Mr. President, in accordance with the reconciliation instructions in the first concurrent resolution on the budget for fiscal year 1981 (H. Con. Res. 307) the Committee on Agriculture, Nutrition, and Forestry has submitted its recommendations for reducing spending under laws under its jurisdiction, which are contained in title I of S. 2885.

According to the Congressional Budget Office, our recommended changes in law will reduce both budget authority and outlays for the child nutrition programs in fiscal year 1981 by over $520 million.

The recommendations of the Committee on Agriculture, Nutrition, and Forestry would—

First, reduce the general cash reimbursement rate for all categories of school lunches (free, reduced price, and paid) by 2½ cents, except in school districts where 60 percent or more of the lunches served were served free or at reduced price during the second preceding school year;

Second, reduce the rate of commodity assistance for the school lunch program by 2 cents;

Third, change the eligibility standards for free and reduced-price school meals to 125 percent of the poverty level plus a standard deduction and 185 percent of the poverty level plus a standard deduction, respectively;

Fourth, lower the income poverty guideline used in the child nutrition programs by removing the provision in existing law that updates the guideline by more current CPI data;

Fifth, remove the incentive for schools to offer reduced-price lunches at less than 20 cents per lunch;

Sixth, provide for adjustments in school lunch and breakfast reimbursement rates on an annual rather than semiannual basis;

Seventh, exclude Job Corps Centers funded by the Department of Labor from participation in the school lunch and breakfast programs;

Eighth, limit the eligibility of private nonprofit institutions in the summer program, other than private nonprofit school food authorities, camps and those serving meals primarily to migrant children, that acquire meals from vendors to those that daily serve no more than 2,000 children at no more than 20 sites;

Ninth, limit meal service in the summer program to two meals (lunch and either breakfast or a supplement) daily, except in camps and service institutions serving meals primarily to migrant children;

Tenth, extend the summer program through fiscal year 1984;

Eleventh, provide for adjustments in the child-care food program reimbursement rates for supplements on an annual rather than semiannual basis;

Twelfth, reduce equipment assistance in the child-care program from $6 million to $4 million annually;

Thirteenth, reduce the reimbursement rate for supplements served in the child-care food program by 3 cents; and

Fourteenth, reduce and freeze the reimbursement rate for milk served in the special milk program to paying children in schools, institutions, or camps that participate in one of the other child nutrition programs to 5 cents per half-pint.

We remain committed to the child nutrition programs, and the reductions in spending authority contained in our recommendations would not impair the basic structure of the programs. The importance of the programs in helping to assure that no child or adult is deprived of his or her opportunities for development due to a lack of a proper diet cannot be overemphasized.

The Committee on Agriculture, Nutrition, and Forestry has separately reported S. 2675, the Child Nutrition Amendments of 1980. That bill, in addition to the reductions in spending authority that we are considering today, contains provisions to improve the effectiveness and operation of the child nutrition programs and extend all nonpermanently authorized child nutrition programs through fiscal year 1984.

I urge my colleagues to join me in supporting the recommendations of the Committee on Agriculture, Nutrition, and Forestry contained in the reconciliation bill. ●

Mr. DOMENICI. Mr. President, I rise today to support the reconciliation bill that is now before the Senate.

This is an historic moment, both for the institution and for the budget process that this institution devised for itself in 1974. The first attempt to use the reconciliation provisions in the Budget Act was made last fall on the second budget resolution for fiscal year 1980. The Senate overwhelmingly supported reconciliation then, but the House balked and the reconciliation provisions had to be dropped. This year, we not only have endorsement by both Chambers of reconciliation provisions cutting money from already enacted appropriations for fiscal year 1980, but we actually have a "pre-fiscal year" form of reconciliation aimed at saving money in fiscal year 1981. The fiscal year 1980 rescissions were dealt with in the supplemental appropriation bill approved by the Senate last Saturday. The bill now before the Senate will make legislative changes to achieve fiscal year 1981 savings directed by the budget resolution.

I believe that the form of reconciliation now before the Senate in the pending bill—which is completely valid under the Budget Act of 1974—will prove less disruptive and more workable than reconciliation after the start of a fiscal year as we attempted last fall. I further believe that the House and Senate will adapt to this process so easily that reconciliation will soon be routinely used in the future.

Reviewing the legislative history of the Budget Act, I came across a passage in which then-chairman of the Committee on Government Operations, Senator Sam Ervin, said that the Budget Act was, and I quote:

> The single most important piece of legislation enacted during my service in the Senate, which has spanned more than 20 years.

It took more than 18 months of deliberation to devise a final form of the bill, after it was reported by the committee, November 20, 1973. But, in every form of the bill it was recognized that some process would have to be devised in order to give the Congress the power it needed to enforce the budgetary decisions it made when it approved a budget resolution. Reconciliation became that process in the final form of the act.

The importance of reconciliation was acknowledged by those who worked on the bill. When it passed in final form on the Senate floor, Senators PERCY and Muskie noted that reconciliation was a key part of the Budget Act's fiscal restraint and this was noted on the front page of the Washington Post of that day.

Despite the clear record that reconciliation was supposed to be a rather routine part of the fiscal discipline of the Congress, it had never before been invoked until the second concurrent budget resolution for fiscal year 1980. The Senate approved the reconciliation instruction for the resolution last fall, but the House failed to agree, as I noted earlier. Failures to keep within the 1980 budget ceilings, however, persuaded the House Budget Committee that reconciliation was a necessity and they enthusiastically joined with the Senate Budget Committee in a wide-ranging reconciliation instruction in this year's fiscal year 1981 first concurrent budget resolution.

Now, it was predicted, based upon last year's experience, that reconciliation would prove unworkable, because the committee's involved would balk. Like many predictions, this one proved false. In very short order, working under extremely tight deadlines, almost every committee in the Senate that has been given a reconciliation mandate has fulfilled that mandate. This enormous task, called impossible by some, was finished in less than a month. This action, taken under the difficult cloud of an election year, is a credit to the institution and a credit to the process. I believe that all of the complying committees involved in this process, and the Senate itself, should be commended.

We are, of course, charting new territory as we invoke and implement reconciliation. What we do in the next few weeks in this area will set precedent for how reconciliation is implemented by future Congresses. I wish I could say with certainty that I know how the process should occur, but I do not. I believe this is the time for cooperation among the committees of the Senate and the House as we make the legislative record of reconciliation and its application.

So far, I believe we have steered a proper and prudent course. Many questions remain unanswered about this process, and I know from the comments that I and my staff have heard, great confusion exists about this process. I hope that the experience of this year will remove the confusion and that this important tool, a tool that Congress simply must have in order to exercise fiscal restraint, will become an accepted part of our budget process in the future.

UP AMENDMENT NO. 1370

(Purpose: To strike sec. 562(a))

Mr. JAVITS. Mr. President, I claim the time on the amendment on which I gave myself 30 minutes, which is an amendment to what I thought was section 662, but it relates to medicaid and is actually section 562 in this reprinted version of the bill.

I send the amendment to the desk, Mr. President.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) proposes an unprinted amendment numbered 1370.

Mr. JAVITS. Mr. President, I ask unanimous consent that futher reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 88, line 1, strike all through line 15 on page 89.

On page 90, strike lines 22 and 23.

Mr. JAVITS. Mr. President, I state that I intend to keep the floor until the end of my time. I will explain why.

We are very curious about this amendment. Apparently, it came very suddenly at the end of the Finance Committee's markup.

I have inquired from members of the Finance Committee, and I do not wish to quote any of them—that would be highly unfair—but I have been unable to get an exact description of what this is all about. On its face, it seems to be violative of some of the very basic aspects of medicaid.

I have before me a memorandum from the Department of Health and Human Services which points out a great many deficiencies in this amendment.

I would like to raise all those questions. I hope very much that the Senator from Louisiana, or whoever is responsible for this particular amendment, may see fit to reply to them. Then I would be able to judge whether or not to draw the issue upon this amendment.

Mr. President, on this proposal, my amendment would simply strike out subsection (a) of the proposal. It would strike out only that part of it which deals with hospitals and similar providers. It does not deal with laboratory services, which are also an element of the amendment, because there there is a paralleling of previous discussion on laboratory legislation I have sponsored. So I do know something about that.

Mr. President, the committee proposal would allow States to limit the freedom of choice of providers by medicaid recipients. The restriction would apply only to institutional providers.

In short, we are dealing essentially with hospitals, and the committee proposal would, in my judgment, have an adverse impact on beneficiaries.

Let us understand, first, that medicaid was established to provide the poor with access to medical care without discrimination, and we made a big thing of this. I joined in this years ago, and certainly was in on the origins of it. It was participated in by other distinguished Members here, and by President Kennedy when he was a Senator. Senator Clinton Anderson, of New Mexico, was an important participant, as was Senator LONG. Senator Lyndon Johnson, who later became President of the United States, and others had a hand in the beginnings of medicaid.

We had an idea that we wanted to bring the poor into the main medicare system and not have just charity medicine. That was the general concept. So the idea was that the amount of money a person had or the fees that person could afford to pay would not determine—to put it in a very vivid way—whether that person would live or die, how long that person would live, and in what state of health.

As to the proposal which is reported to us, let us remember that this is a proposition that was supposed to cut down cost, and there is an estimated saving here of $91 million. We have no way of ascertaining how that saving is arrived at, except an essertion by the Congressional Budget Office that that is what they estimate.

In addition, the amount of money which the Finance Committee proposes to save is $200 million in excess of what it is required to save under the budget resolution. So that this particular proposal is not absolutely indispensable to effectuating the total savings which are to be effectuated by rescission.

Therefore, I believe it is fair to say that this change in the law is not necessary. That is why I believe it is required to be questioned seriously.

The first point that affects me—and I draw this from the memorandum of objections of the Department of Health and Human Resources—is the restriction of choice of hospitals. This has a very grave effect upon the beneficiaries, because the State, under this amendment, would be given authority to contract with certain hospitals within the State for services to the individual person who is entitled to medicaid.

That immediately gives us a two-tier system—one tier for the poor; the other for everybody else.

It seems to me that this is very invidious to the whole concept of medicaid itself, in that it immediately exposes the individual beneficiary to a lower quality of hospital care, since the lowest cost institution does not necessarily provide services of similar quality to a higher cost one.

Some hospitals may appear to have lower costs because they have aging physical plants or fewer nurses or unpaid staff. So it would be impossible to assure the beneficiary of access to quality care.

The legislative language which is contained in this section, if Members will examine it, speaks of preserving "proper quality." That is found at page 88, lines 12 and 13. That is a term which this Government agency says, and which certainly appears clear to me, is virtually impossible to define. It would be difficult to prevent a State from limiting provider participation to any institution licensed in the State, whatever might be the quality of care it would give. There are other anomalous aspects of this amendment.

For example, the State "must assure"—this is found at page 89, lines 1 and 2—"that such recipients shall have reasonable access to services, taking into account geographic location and reasonable travel time."

That is as wide open as a barn door. What is reasonable access, and what is reasonable travel time? The end result is that it would be absolutely impossible for the State to monitor, and it may very gravely prejudice the poor who have to take advantage of medicare.

The State could choose to contract with hospitals not in the immediate vicinity of the beneficiary, and that would encourage very great hardship.

In addition, it could encourage contracting with medicaid mills and other institutional providers which attempt to enroll numerous patients and then treat them in assembly line fashion. We have had enough scandals in that regard, Mr. President, so that we should not encourage any more. Also, it would have a very discouraging effect on the health system itself.

The lowest cost provided is not necessarily the most cost efficient one, and this proposal could actually discourage use of cost efficient providers.

For example, research indicates that both Government health centers and health maintenance organizations have lower costs of hospitalization than the traditional delivery system; but this proposal could limit access of beneficiaries to these more cost-effective providers.

In addition, hospitals which have made an effort to serve the poor and have large volumes of medicaid patients could be affected adversely if a State chose not to contract with those particular hospitals for medicaid services. Hospitals which provide free care to the poor in a community, in response to Hill-Burton requirements—that is, the Federal provision for the building of new hospital beds—or in response to community need could be affected adversely.

The provision of free care results in somewhat higher costs to other patients, and the proposal, therefore, could penalize the very institutions which have been most responsible in serving the needy, who need the most help.

The proposal could also have a major impact on public hospitals. Many of these hospitals depend heavily on medicaid. While some may be considered cost efficient others have higher costs and may even be financially distressed.

If the State sets its medicaid rates extremely low and only pays or contracts with institutions willing to accept that rate the public hospitals are likely to experience a significant increase in patient demand services which would be paid for at low rates.

Some public hospitals have apparently high costs because of the complexity of the case mix of the patients they serve and hence they might not be able to serve beneficiaries of medicaid at all at the rates established by the State, or they might not be selected by the State, and this could be very, very damaging to public hospitals which are already having a very difficult time today.

Another factor which is a problem is that hospitals which do not receive much of their revenue from medicaid could have little incentive to reduce costs and obtain a State contract. Yet for the patient living in that particular community, such a hospital may be the most accessible facility.

Finally, the proposal could reduce incentives for institutions to change their current delivery pattern. For example, it costs money to reorganize an outpatient department into a more comprehensive ambulatory center and money which would not necessarily be included in the State's rates.

So, Mr. President, for all of those reasons, many of which seem to me to be quite persuasive, I thought that an inquiry would be a service to the Senate and to the proceeding which is before us. It seemed to me, under the circumstances, that it was proper to raise this question, and I have no question of the good faith involved. I thought, under the circumstances, it would be desirable and I hope very much that the Senator may on my time answer. If I consider the amendment to be not advisable to press it, if I believe that perhaps it may better be handled in conference with more details available, with the Government departments having their say and have the feeling that the committee is open-minded about it, I may very well withdraw the amendment. But I did feel that under the circumstances considering this report it was desirable to have my worries about it and the explanation of the committee.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. I had reserved half an hour for myself on this amendment. What is the time? Is there any time under the statute, or what is there on this amendment?

The PRESIDING OFFICER. The statute does provide for 2 hours on first degree amendments evenly divided.

Mr. JAVITS. I do not know that we will need it. But which would be therefore the time on this amendment?

The PRESIDING OFFICER. The Senator is entitled to 2 hours evenly divided if he wishes to use it.

Mr. JAVITS. On this amendment.

Mr. President, I have used I think 20 minutes or so, and as I do not necessarily mean to seek a vote on this amendment—I have no idea whether I will or not—I wonder if Senator Long will cooperate by giving us some explanation of the amendment on my time.

I yield for the purpose.

Mr. LONG. Mr. President, let me explain this much about the amendment. This amendment is strongly supported by the National Governors Association.

I have a letter here, for example, from Gov. Edmund Brown, Jr., of California, saying:

> I have just learned that the Senate Finance Committee has recommended an amendment to title XIX of the social security act that would permit State medical assistance programs flexibility in the application of the "free choice" provisions, subject to the assurances of access to quality health services. This kind of amendment would support proposals we are anxious to implement in California, which would permit the State to be a more prudent buyer, particularly of hospital care.

Furthermore, this amendment is also strongly supported by the National Conference of State Legislators, the National Association of Counties, and the National Council of Welfare Administrators.

We put this unqualified freedom of choice provision in the law at a time when medicaid was only costing the States perhaps $1 billion a year. Now it is costing them $12 billion a year and the States are concerned that it prevents them from making the best use of their money.

Under this proposal, any hospital that would be in the program has to meet Federal standards, and also has to meet State standards. But the problem we have today is that we are paying premium prices for second-class care in many cases already. The States have limited flexibility to try to get a better return on their money.

If the State has the privilege of saying that one should go to this hospital—perhaps the hospital nearest him—which they believe to be an efficient hospital and an adequate hospital for all purposes, that gives them more flexibility in negotiating a better deal and a better contract with the hospitals. They do not have that now.

So it is felt that insisting as we do that all Federal and State standards would have to be met, the States would have more flexibility and more ability to negotiate and to obtain a better deal for the people whom they are trying to serve.

In addition, they could avoid making so much use of those hospitals that are inefficient, with very high costs, where they believe that neither the State nor the patients are getting a good return for their money.

Let me just read a letter here from Mr. Harold A. Cohen, executive director of the Health Services Cost Review Commission of Maryland:

Health Services Cost
Review Commission,
Baltimore, Md., June 24, 1980.

Mr. John Kern,
Senate Finance Committee, Dirksen Senate Office Building Washington, D.C.

Dear Mr. Kern: The Commission is in strong support of the idea that the "freedom of choice" provision in current Medicaid and Medicare law be altered to allow payors to either direct patients to less costly providers or to give patients incentives to select more efficient providers. We are strong supporters of Government agencies being able to selectively contract with efficient health care providers. Most government agencies have to select other services on the basis of competitive bids. Such market place discipline is clearly needed in the health sector.

For your information, I am enclosing a table which provides the range of average charge for selected services at hospitals in Baltimore city to both Title XVIII and XIX patients. The high and low hospitals for each diagnosis for each of the two classes of patients are identified. The data covers the year ending June 30, 1979.

The particular diagnoses were chosen largely on the basis of heavy Medicaid use. If you have any questions, please feel free to call me at the above number.

Yours truly,

Harold A. Cohen,
Executive Director.

Mr. President, I ask unanimous consent to have printed in the Record the table to which Mr. Cohen makes reference.

There being no objection, the table was ordered to be printed in the Record, as follows:

SENATE REPORT FOR SELECTED DIAGNOSIS—MEDICAID

	Major diagnostic category	Diagnostic codes included	Low charge		High charge	
			Hospital	Charge	Hospital	Charge
1	Pneumonia	480–486	St. Agnes	1, 362	Good Samaritan	6, 281
2	Diabetes	250	Mercy	1, 604	Lutheran	4, 616
3	Alcoholic mental disorders and addiction	291, 303	St. Agnes	1, 195	Good Samaritan	6, 437
4	Acute myocardial infarction	410	Mercy	3, 191	University	7, 199
5	Other mental disorders	290, 292–294	Mercy	692	Provident	3, 533
6	Appendicitis	540–543	South Baltimore General	1, 365	Provident	3, 447
7	Acute URI and influenza	460–465, 470–474	Bon Secours	645	Johns Hopkins	2, 259
8	Malignant neoplasm of breast	174	Good Samaritan	762	Maryland General	6, 381
9	Normal delivery	650	St. Agnes	679	Maryland General	1, 532
10	Hypertrophy of tonsil and adenoid	500	St. Agnes	554	Lutheran	1, 632

Hospital	(1)		(2)		(3)		(4)		(5)		(6)		(7)		(8)		(9)		(10)	
	Disc.	Ave. chg.	Disc.	Ave. chg.	Disc.	Ave. chg.	Disc.	Ave. chg.	Disc.	Ave. chg.	Disc.	Ave. chg.	Disc.	Ave. chg.	Disc.	Ave. chg.	Disc.	Ave. chg.	Disc.	Ave. chg
Baltimore City	42	1, 837	42	2, 539	19	2, 495	55	3, 589	15	2, 352	9	1, 735	19	1, 250	9	3, 135	181	1, 153	17	716
Bon Secours	48	2, 316	60	4, 169	30	2, 524	6	5, 338	4	2, 279	14	2, 167	8	645	3	4, 690			31	866
Childrens									1	716										
Church	17	2, 284	22	2, 276	22	1, 734	8	4, 304	2	1, 079	7	2, 151	8	865	3	3, 149			19	766
Good Samaritan	2	6, 281	2	1, 748	1	6, 437									9	762			1	752
Johns Hopkins	124	2, 887	83	3, 367	80	2, 010	29	5, 368	54	2, 957	15	2, 616	17	2, 259	14	3, 718	785	1, 034	40	1, 186
Lutheran	21	3, 415	45	4, 616	18	2, 632	5	6, 115			7	2, 178	6	1, 188	1	3, 750			34	1, 632
Maryland General	22	4, 792	25	2, 922	19	2, 487	9	4, 860	1	2, 331	8	1, 812	1	1, 403	2	6, 381	125	1, 532	202	737
Mercy	35	1, 880	26	1, 604	7	2, 445	6	3, 291	3	692	6	3, 166	8	2, 004	4	3, 172	134	713	26	622
North Charles General			27	2, 148	11	2, 159			11	1, 571									18	735
Provident	67	3, 972	74	3, 155	44	2, 088	31	3, 626	34	3, 533	10	3, 447	16	1, 668	11	3, 708	283	1, 192	87	1, 297
Sinai	20	1, 700	37	2, 900	21	2, 393	6	6, 385	10	2, 861	11	2, 609	8	746	6	2, 707	137	1, 120	14	853
South Baltimore General	50	1, 585	32	1, 817	13	1, 535	12	3, 809	1	1, 566	12	1, 365	9	1, 624	2	3, 689	101	38	32	668
St. Agnes	40	1, 362	8	1, 789	9	1, 195	13	4, 194	1	1, 064	9	1, 532	12	874	2	2, 653	83	679	7	554
Union Memorial	25	2, 653	25	3, 262	22	2, 137	13	4, 845	2	2, 138	6	2, 135	6	1, 194	1	1, 297	160	1, 111	14	904
University	65	2, 851	49	2, 755	31	1, 789	11	7, 199			18	2, 948			21	4, 248	374	1, 105		

Note: James L. Kernan had no discharges in these major diagnostic categories.

Source: HSCRC charge report for fiscal 1979.

Mr. LONG. Mr. President, so the States have been asking for this type of flexibility for years. They feel that they can make better use of their money if they are allowed this discretion. By giving States the flexibility that we think they deserve, we would save about $100 million. I think we should keep in mind that these State governments and these Governors are not seeking to provide less service to their citizens. They are seeking to provide a more efficient system for their citizens and they are seeking more flexibility and that which goes with it, the ability of getting a better contract and arranging a better deal on behalf of those whom they represent.

I hope that with the support of the State legislatures that agree with this position, as well as the Governors and the county officials, we will find enough sympathy for those who try to do a job at the State and local level to accord them this flexibility and in doing so this will contribute to the reasonable economy that we hope to achieve in government.

Mr. JAVITS. May I ask a question?

Mr. LONG. Yes.

Mr. JAVITS. What troubles me is that we are giving the States the power to do this in a measure which is not a substantive measure. We are trying to reconcile our budget resolution with costs, and yet we are passing permanent law. That is one thing that troubles me.

Another thing, which is even more serious in terms of the substantive question, is how do we avoid this two-tier system? Take my State of New York. We have cost containment legislation which gives the State an ability to move in for everyone, whether you are rich or poor. Under this proposal a State could have a two-tier system in that it would have contracted with certain providers for the beneficiaries of medicare, to wit, the poor.

Everybody else would be unaffected. How do we deal with that, in your judgment?

Mr. LONG. As I understand it, most of the eligible older people who have medicaid also have medicare so that this provision would not affect their right to go to the medicare participating hospital, of the physician's choice.

For those who only have medicaid they would be subject to the State's right for the State to say, "We think you ought to use this hospital here. There is a hospital reasonably close to you. It meets all of our State's standards and all of the Federal standards."

In many cases there may be only one or two hospitals in an area. It is not contemplated, and it would not be permitted, that the State require people to travel many miles away from where they live.

Mr. JAVITS. Of course, we had to preempt by the Federal Establishment because often the States did not do their job, and the way this thing is now left, it is really not even a monitoring possibility in the Federal Establishment.

If so, could the Senator suggest to us how the Federal Establishment could monitor this situation if it were being abused in a State? For example, one of the objections of the Department of Health and Human Resources to this provision is the possibility of dealing with medicaid bills by agreement with the State.

Mr. LONG. In the report it is stated that the Secretary is to monitor very carefully this provision and that a State could be held out of compliance.

Mr. JAVITS. What number is that, the monitoring?

Mr. LONG. Just a moment. It is in the report. This is on page 43 of the committee report.

Mr. JAVITS. Of the committee report.

Mr. LONG. Yes; this is reading from the Committee on Finance report:

> Provision would be made to assure that beneficiaries have reasonable access to services (including emergency services) that fully meet program standards of quality. In addition, provision would be made to avoid having a substantially adverse effect on appropriate and necessary use of hospitals with graduate medical education programs.
>
> The Secretary is expected to carefully monitor the effects, if any, of operation of this section upon appropriate and necessary graduate medical education. If a pattern is found indicating serious impairment of such graduate education the Secretary is expected to require appropriate corrective modification by a State.

Mr. JAVITS. May I ask the Senator, as two men with comparable responsibilities—and I think you know me well enough to know that I am not interested in storing up anxieties for people if we do not need to—could we make legislative history here that the words "The Secretary is expected to carefully monitor," shall apply not only to that paragraph where it is confined to graduate medical education, teaching hospitals, but to the preceding two paragraphs as well where the committee places certain responsibilities upon the State?

One, that the State would monitor what it did so that it could not pay less, for example, for inpatient hospital services. And the State would also monitor, as provided in the next paragraph, "The beneficiaries have reasonable access," whatever that means, but at least we would have it monitored by the Secretary, as well as to insure arrangements "that fully meet program standards of quality and avoid having a substantial adverse effect upon appropriate and necessary use of hospitals with graduate medical education programs."

Would the Senator agree with that?

Mr. LONG. Yes, I would agree with that.

Mr. JAVITS. We would expect the Secretary to monitor all three.

Mr. LONG. Yes.

Mr. JAVITS. If this was reported to us and we were dissatisfied, we could raise the point. It is a very distinct point, and I am glad you feel about that the way you do because it gives a greater sense of assurance.

Now, the last question, which I would like to ask is this: Your committee has savings of $2.4 billion, and it is only required to have savings of $2.2 billion. Under those circumstances, why did you feel it necessary to include this item which simply gilds the lily; in other words, it raises an issue, it makes a change really in the law, when it was not necessary in terms of the savings which the committee was called upon to make.

Mr. LONG. When we made our estimates, they were at about $2.2 billion. After we sent these recommendations over to the Congressional Budget Office and they did further study on it, they concluded that the savings would be $2.4 billion.

We really were not trying to save a great deal more than was required of us, and we thought we had done all that we thought we were required to do under the resolution.

It was just when the Congressional Budget Office did their final summing up they concluded that these savings would be greater than our staff was able to estimate, based on what we had available to us at the time we acted.

Mr. JAVITS. Did you feel under the circumstances, in view of criticism of the Department of Health and Human Resources, that this should be persisted in, in view of the fact that it does save more than you need to save?

Mr. LONG. Well, it has significant savings in subsequent years. We have to worry about next year and the year after that in seeking to balance the budget in future years. This is apparently something that would have perhaps even greater savings in years ahead and, therefore, we thought the burden was on us to try to avoid needless spending and also to economize where we could. We therefore felt that this was justified.

Mr. JAVITS. Mr. President, I would like to propound a parliamentary inquiry to the Chair.

The PRESIDING OFFICER (Mr. TSONGAS). The Senator will state it.

Mr. JAVITS. On my own time, we find some problems with this resolution in that there is no estimate in this resolution of global savings as required, I think, by the law. In other words, this resolution does not tell you how much saving is required in order to deal with the proposition which we have before us, which is reconciliation. We do not have a figure as to what is required or as to what savings are made in this particular bill, and whether it meets the law that there has to be mathematical equivalency.

So in considering whether or not to amend, I had no idea as to what to say about money because there is no clue here as to what money you have to reconcile or what you are reconciling by this bill.

So I ask the Chair whether a point of order would lie against the bill or any section thereof on the ground that it fails to meet the test required by the Budget Act?

The PRESIDING OFFICER. The Chair will state that the requirement of the Budget Committee is to report a reconciliation bill that contains the recommendations made to the Budget Committee by the various legislative committees.

Mr. JAVITS. I am sorry, Mr. President, I may not have heard that. Would the Chair mind repeating it?

The PRESIDING OFFICER. The obligation of the Budget Committee is to report a reconciliation bill that contains the recommendations submitted to the Budget Committee by the various legislative committees and that is the mandate of the Budget Committee.

Mr. JAVITS. And it has no reference to what reconciliation we require because of the resolution, the budget resolution, which we adopted?

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. Mr. President, I have another parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. So that that issue may only be raised within the context of amendments or excissions or comparable action?

The PRESIDING OFFICER. The Chair will state that it is the reconciliation process itself which is part of the process of deciding those figures, so that, therefore, no point of order would lie on the figures.

Mr. JAVITS. Mr. President, I might state to the Senator from Louisiana (Mr. LONG), that under the circumstances of my concern and those of the Department, and his explanation, and knowing him as well as I do—if he were really wildly passionate about this thing, I would know about it—I am going to withdraw the amendment. I do not yet, but I will withdraw it and trust to the conference process—I think there are also concerns in the minds of other members of the committee and in the minds of members of the Ways and Means Committee—to work it out in an equitable way if there is a reason to. And I hope very much, too, that the spirit of the discussion will translate into a real desire to be nondiscriminatory as to medicaid beneficiaries, rather than in any way to put them in some kind of a second class or segregated status that they are going to have a list of hospitals different from what everybody has. I am going to trust that to the Senator and withdraw my amendment.

Mr. LONG. I thank the Senator.

Let me assure the Senator that we will keep his thoughts in mind about this. We do not intend to deny adequate service and service that meets the program requirements of both the Federal law and the State law to any citizens who qualify for it. Because this is intended to help the poor and we want to be sure that it does.

I thank the Senator. If there is a problem, I hope that it can be corrected in conference.

Mr. JAVITS. I thank my colleagues. I yield to the Senator from Minnesota (Mr. DURENBERGER).

Mr. DURENBERGER. I thank the Senator from New York for raising the issue and also for concluding by raising his trust in my leader on the Finance Committee to see that justice is done on this issue.

I will speak only briefly to the issue, because both of the Senators who have spoken to it have clearly pointed out the pros and cons.

I will begin on the issue of the need to make policy as part of the reconciliation process. I guess I can confirm what the chairman of the Finance Committee has pointed out here today, that at the time this decision was taken by the committee—and I, unfortunately, was not present at that time—that the proposed savings were more substantial than they now appear to be. I think they were somewhere in the neighborhood of $110 million. At the same time, the overall combination of savings that the committee was coming up with was less than we now find that it is. So, whoever was present at the committee meeting that particular day, I believe intended that this would be an appropriate step to take, if it was necessary to take it, as part of the reconciliation process.

However, as the Senator from New York (Mr. JAVITS) has pointed out, the committee has approved a total of approximately $2.4 billion in savings. This proposal is estimated to save $91 million, and that leaves something over the $2.2 billion that we were required to save. So the issue here today and the issue in the conference committee becomes one simply of good public policy.

I raise that as an issue, as I have endeavored to raise it in committees since this action was taken. We spent many weeks—in fact, a number of months—in the Finance Committee and particularly in Senator TALMADGE's subcommittee dealing with the medicare problems and the medicaid problems. I think we made some very good changes in public health policy, particularly as it relates to medicare.

This is a change in the medicaid area that I think deserves much more consideration than we were able to give it in the Finance Committee.

I do not know, as I stand here, whether it is good or bad public policy. But, given the choice of taking it on its face value—because some of the States in this country, not all of them, think it is a good idea—I stand here to oppose it.

It takes down one of the pillars, if you will, of the medicaid program and it substitutes for it some very general language that I have some real concerns about and may not provide quality service to the poor in this country.

I sat through several weeks and several months of hearings and efforts to mark up a bill on medicare and became somewhat frustrated by the process and came up with my own version of reforming the health care system in this country. It is now in the form of a bill called S. 1968. I think that kind of approach, in the long run, serves the people of this country, the poor and the nonpoor, much better than the kinds of restrictions on access that a policy change like this might accomplish.

Obviously, in the interim between here and the tomorrow that I hope for, such changes ought to take place. This one, in my opinion, is not a good change.

I will not try to elaborate all the reasons why, except to say that I could point out a number of adverse impacts on the health care system, a number of impacts on the recipients of health care in this country, and a number of moves that I think would come about at the State and local level that would really be adverse to the kind of competition that we would like to see in the health care system.

I agree that Senator JAVITS has made a substantial contribution by raising the issue. I think the committee has made a contribution by proposing the amendment. But I strongly hope that, as this issue goes to the conference committee, given the fact that we have other items on which there was much more substantial agreement within the Finance Committee than this, the conferees from the Senate side would see it clear to drop this proposal and bring it back to the Finance Committee next year so that it can be considered more adequately than it was this year.

I thank each Senator for the opportunity to speak on this issue.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Who yields time?

Mr. LONG. Mr. President, I suggest the absence of a quorum and ask that it be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Mr. President, I yield 1 minute off the time for the Finance Committee proposal to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, I appreciate the yielding of time by my distinguished colleague from Oklahoma.

Mr. President, I should like to draw my colleagues attention to section 565 of the legislation reported out of the Finance Committee as part of the reconciliation package now before us.

This amendment replaces section 249 of Public Law 92-603, which requires that State medicaid reimbursement plans provide for payments to skilled and intermediate care nursing facilities on a reasonable, cost-related basis, and that these plans be approved by the Secretary. I am troubled about the possible impact of this amendment to remove Federal oversight in the development of State medicaid reimbursement plans for nursing homes.

The abuse in nursing homes documented by the Senate Committee on Aging and by recent media exposés underscores the need for a vigilant effort by the Federal Government to clean up the nursing home mess. While, as a former Governor, I strongly support the rights of States to develop flexible programs to meet the needs of their citizens, I believe these documented abuses in nursing homes can only be overcome by the force of Federal actions.

Implementation of the current law has been a trying exercise. My own State experienced many months of frustration in developing our reimbursement plan. It took 6 years to bring most States into compliance, some only very recently. As a result, however, States have been forced to focus on their payment mechanisms and to upgrade the resources made available for nursing home services. They have also been forced to link their payment procedures to audits and cost reports, providing a basic accountability. I fear a loss of these important advances if a strong Federal presence is withdrawn.

Mr. President, I personally do not believe that any change in the law is wise, especially when it has only been implemented so recently. Even if my fears of a loss of Federal oversight are not realized, it is very difficult to predict how many States may become involved in legal challenges to their existing reimbursement systems in response to a change in the law.

I must say, Mr. President, as a member of the Committee on Aging, I shall certainly closely monitor States responses to this change in law. Members of the Finance Committee have been aware of my misgivings and the concerns of a number of consumer organizations, including the American Association of Retired Persons, the National Council of Senior Citizens, the National Citizens Coalition of Nursing Home Reform, and the American Association of Homes for the Aging. I know the committee took these misgiving into consideration before issuing its final report.

I wish to clear up some further questions, however, with my good friend and colleague, Senator Boren, who originally offered this amendment, and with the chairman of the committee.

I am fearful that this amendment will, in effect, remove current requirements that States develop a payment system designed to pay on a "reasonable, cost-related" basis. Even though the amendment says payments should meet the costs of "an efficiently and economically run" facility, what assurances do we have that a State might not set reimbursement levels so low that the services offered in a nursing home amount to nothing more than warehousing the elderly?

Does the Senator see this amendment as abrogating the decision of the Fifth Circuit Court on June 5, 1980, that the Department of Health and Human Services should develop regulations defining "efficiently and economically operated facilities?"

The committee report indicates that a State could provide incentive allowances for "efficient performance," and to "attract investment." Is it the Senator's intent that a State would also be able to include in its reimbursement methodology incentive allowances for superior services and a higher quality of care?

Is it the Senator's intent that the Federal Government will continue to have a responsibility, by law, to insure that State reimbursement systems are, in fact, capable of meeting the costs of quality care? Will the Federal Government continue to have authority to approve State reimbursement plans?

Mr. BOREN. Mr. President, I thank my good friend from Arkansas for allowing me the opportunity to discuss this amendment as it relates to the concerns he has expressed. I know of no one who has worked harder or with more dedication to maintain high quality of care standards for nursing homes than my colleague (Mr. Pryor). I compliment him on being an effective spokesman for the recipients of nursing home care, and I want to assure him of my personal support for his continued efforts in this regard.

The present law imposes a complex, inefficient reimbursement system on the States. My amendment, which has been offered previously by my senior colleague from Oklahoma and adopted by the Senate, achieves the present law's objective of assuring high-quality care. At the same time, it differs from the present law with respect to the methods States may employ in determining reasonable and adequate rates for nursing home care.

I remember very well the frustrating experience my friend from Arkansas and I went through as Governors of our respective States in attempting to deal with the complexities of the present law. In Oklahoma, we found ourselves forced by the Federal Government to adopt cost-based methods of reimbursement which were inherently inflationary, overly complex, and vulnerable to fraud, abuse and error.

In contrast, this amendment permits and encourages States to develop simpler more efficient ways of paying for nursing home care, including budget-based and negotiated rates. While it provides for the continuation of cost-reporting and auditing requirements for accountability, the amendment will not require States to rely exclusively on provider cost data in determining rates. Other independent measures of what services ought to cost could be used.

With respect to the recent decision by the Fifth Circuit, the court held that the Department of Health and Human Services had completely failed to perform the essential task of determining whether the rates paid were adequate to fully reimburse efficiently and economically operated facilities. This decision illustrates quite clearly the point that there is not necessarily a correlation between the amount of administrative requirements and the quality of care provided. This amendment addresses that problem by focusing the Department's attention where it belongs, on evaluating the end result, the quality of care.

The language of the amendment, which was worked out with the assistance of the administration and representatives of many of the organizations my colleagues referred to, makes it clear that reimbursement plans will continue to be subject to approval by the Secretary.

Mr. President, I ask unanimous consent to have printed in the Record copies of letters I have received from the Secretary of HHS and the Director of OMB which underscore this point.

There being no objection, the letters were ordered to be printed in the Record, as follows:

The Secretary of Health,
Education and Welfare,
Washington, D.C., March 26, 1980.

Hon. David L. Boren,
U.S. Senate,
Washington, D.C.

Dear Senator Boren: On September 6, 1979, you wrote to this Department concerning section 227 of H.R. 934, an amendment to the bill offered by yourself to amend section 249 of P.L. 92-603, regarding reimbursement by States for skilled nursing facility and intermediate care facility services under Medicaid.

As you know, since that time members of your staff and staff of this Department have been engaged in a number of discussions in order to arrive at a common understanding of the concerns of the Federal and State governments, the nursing home industry, and the individuals receiving nursing home care covered under Medicaid. We are confident that the amended version of section 227, contained in H.R. 934 as reported by the Senate Finance Committee on December 10 (legislative day November 29), 1979, represents a resolution of these issues which meets our shared concerns for administrative efficiency, cost containment, and provisions of quality care.

This letter confirms our earlier understanding that section 227 as reported by the Committee has the endorsement of this Department and of the Administration.

The Office of Management and Budget has advised us that there is no objection to the content of this letter from the standpoint of the Administration's program.

Sincerely yours,

PATRICIA ROBERTS HARRIS.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., April 18, 1980.

Hon. DAVID L. BOREN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BOREN: This is in further response to your letter of September 6, 1979, concerning an amendment added to H.R. 934 by the Senate Finance Committee relating to reimbursements to nursing homes under the Medicaid program.

We recently were advised by the Department of Health, Education and Welfare that, following discussions between your staff and HEW, an understanding has been reached that your amendment would not diminish in any way the Department's authority with respect to assuring administrative efficiency and the provision of quality care in long-term care facilities that are reimbursed under Medicaid. A letter providing the Department's views on this matter was sent to you on March 26, 1980.

We concur in the views expressed in the Department's letter and we appreciate your bringing this matter to our attention.

Sincerely,

JAMES T. MCINTYRE, Jr.,
Director.

Mr. BOREN. Also, Mr. President, I call my colleague's attention to the Finance Committee's report, which expresses the expectation that payment methods adopted by the States will carry a presumption of compliance in the absence of a formal finding to the contrary by the Secretary.

Finally, in response to the Senator's question of whether a State would be able to include incentive allowances in its reimbursement plan, the answer is very definitely yes. In fact, one of the purposes of the amendment is to encourage this kind of innovation by the States.

I thank my colleague and hope this answers the concerns he has expressed.

Mr. PRYOR. Mr. President, I thank my distinguished colleague from my neighboring State of Oklahoma. I appreciate his cooperation and assistance in clarifying his amendment and in answering some of my concerns.

I would just add, Mr. President, that I am considering the possibility of convening a hearing on this issue later this year. I believe this may be necessary in order to assess the possible impact this change in the law and its implementation by the Department of Health and Human Services might have on the States' programs.

Again, Mr. President, I thank my colleague and friend for yielding.

Mr. BOREN. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1371

(Purpose: Elimination of provisions suspending standards for title XX and title IV funded day care programs)

Mr. CRANSTON. Mr. President, I send an amendment to the desk and ask unanimous consent that it be immediately considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON), for himself and Mr. MOYNIHAN proposes an unprinted amendment numbered 1371.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 27, beginning on line 13, strike out all through line 2 on page 28.

On page 28, line 3, redesignate Part D as Part C.

On page 29, line 20, redesignate Part E as Part D.

On page 34, line 1, redesignate Part F as Part E.

On page 96, line 9, redesignate Part G as Part F.

Mr. CRANSTON. Mr. President, I question the appropriateness of the inclusion in the recommendations from the Finance Committee of a provision suspending implementation of the new day care standards for child care programs funded under title XX and title IV of the Social Security Act. This is part C of title V of the bill.

As my colleagues know, these new standards have arisen out of an exhaustive, 5-year review of child care programs funded by the Federal Government. A 4-year, $8 million study of child care programs, followed by a congressionally mandated report on the appropriateness of Federal standards for federally funded day care programs, preceded issuance of proposed standards last year. Then the new standards were subjected to almost a full year of public comment—including 10 regional hearings, to which over 150,000 individuals were invited; over 200 State and local meetings, and a 2-day hearing in Washington, D.C.

Nearly 1,000 people testified at the hearings, and an additional 4,000 written comments were received by HHS. The vast majority of the comments and testimony indicated strong support for promulgation of Federal standards for federally funded day care and supported the range of options in the proposed regulations.

Mr. President, I do not wish to engage the floor manager in an extensive debate on the contents of the new standards, but I seriously question whether such a major policy issue as suspension of these new standards should be dealt with in the reconciliation process without any congressional hearings, without any congressional debate or without any congressional review.

The proposed suspension basically has no budgetary impact for fiscal year 1981.

I stress that, there is no fiscal budgetary impact for 1981. The new regulations provide that any State may seek a 2-year waiver of the staffing standards.

Thus, any State or Federal fiscal impact resulting from the staffing standards should not accrue in fiscal year 1981. Accordingly, Mr. President, I think it is fair to say—particularly in light of the authority to waive the staffing requirements for 2 years—that any Federal or State cost savings alleged to result from this suspension for fiscal year 1981 is purely speculative.

CBO's analysis of this provision confirms this. CBO states that—

> Since much of the final language of the bill was not available at the time this estimate was prepared, the attached section-by-section cost analysis is based on CBO's understanding of the provisions of the bill from press releases and conversations with committee staff.

Obviously, that is not the normal basis of research on the implications of a measure alleged to have cost-savings impact.

With respect to this specific provision, CBO's analysis basically suggests that some States believe that the new standards might result in some AFDC families being denied services at title XX-funded child care centers and that these families would be eligible for additional AFDC moneys to purchase day care elsewhere and that these expenditures "might"—I stress "might"—be expected to rise about $20 million.

Mr. President, there simply are no data to support this conclusion. Indeed, the available data indicate that 75 percent of the title XX child care centers are already in compliance with the staffing standards of the new regulations. Many of the remaining centers enroll less than 20 percent title XX children and are thus eligible for a waiver of the staffing requirements. It may be that the bulk of the centers that are not in compliance may be located in a few States, but the regulations provide for a 2-year waiver of the staffing standards for States that seek waivers. There simply is no factual basis for the claim that there will be a $20 million or any other Federal cost-savings from a suspension of the standards.

Indeed, Mr. President, Secretary Harris has notified me that the administration strongly opposes the committee's proposed postponement and that any savings from such a postponement would be minimal. I ask unanimous consent that a letter from Secretary Harris, opposing the suspension appear in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CRANSTON. Mr. President, I also want to note that although the 1968 staffing standards were suspended, never before has Congress suspended all Federal day care standards. The Finance

Committee's proposal would eliminate requirements for health, safety, sanitation, and nutrition standards for federally funded day care programs.

Finally, Mr. President, there is clearly no reason to deal with this issue in the budget reconciliation process. The finance Committee's recommendations are already $200 million over the amount required by the budget resolution.

It was believed at the time the Finance Committee marked up its reconciliation recommendations that a cost savings from this proposal was needed to carry out the committee's responsibilities under the first budget resolution. This is not, in fact, the case. Therefore, this major policy issue should be dealt with in the regular congressional process and not in haste—under extraordinary procedures—in this reconciliation bill.

Let us give proponents and opponents of the committee position a fair chance to decide this important question on its merits—not under the false guise of cost savings measure.

Thus, I have sent to the desk an amendment to delete section 521, all of part C, from the bill.

I hope my colleagues will support it.

Exhibit 1

The Secretary of Health, and
Human Services,
Washington, D.C., June 30, 1980.

Hon. Alan Cranston,
U.S. Senate,
Washington, D.C.

Dear Mr. Cranston: As Secretary of Health and Human Services, I strongly oppose the Senate Finance Committee recommendation deferring, until October 1, 1981, the implementation of new day care regulations for Social Security Act programs. Such an across-the-board deferral cannot be justified either as a means of saving significant amounts of Federal funds in fiscal year 1981, or as necessary to alleviate undue hardship on the States from the regulations. We understand the concerns of the Committee, but believe that the regulations themselves were designed with provisions more effective than the recommended postponement for minimizing potential disruptions in State day care programs.

In developing the new regulations, I acknowledged and took into account not only the increased Federal costs they might require, but also the additional costs to the States which their enforcement might entail.

I recognized that the additional resources needed to meet the regulations, particularly the staffing requirements, would vary from State to State. Those States already enforcing staffing standards comparable to the new Federal requirements would have little or no problem complying.

Those States with staffing standards substantially less stringent than Federal requirements would need more time and more resources to meet the higher Federal standards. We therefore built in a mechanism for tailoring responses to the needs of the particular State.

The regulations provide a mechanism for addressing each State's particular situation in an individualized and orderly manner. Under the regulations, the effective date of the staffing requirements could be postponed for up to two years, rather than the one year recommended by the Finance Committee.

The length of the delay would depend on the particular circumstances in each State. Two States have already taken advantage of the delayed effective date provision and have applied to the Department for a postponement. All other States have until October 1, 1980, to request a postponement.

There are two other mechanisms built into the regulations which were deliberately designed to provide flexibility to States and providers while at the same time encouraging them to work toward higher quality in their day care programs.

First, Federal money will be available to noncomplying States and facilities for a reasonable period of time during which they work to correct any deficiencies. States will have the discretion to determine the amount of time within which a noncomplying day care facility must meet Federal requirements.

Second, States will be allowed to waive the application of staffing requirements for facilities serving a small percentage of federally funded children as a means of maintaining and expanding the supply of day care opportunities for these children. The waiver provision gives States the flexibility to place federally funded children in centers not meeting Federal staffing rules where day care services would otherwise not be available.

The new HHS day care regulations reflect painstaking consideration of the needs and interests of low income children and families relying on federally funded day care, and of the costs which the new requirements will impose. The balance struck in the regulations between these often competing concerns is reasonable.

The Office of Management and Budget advises that deferral of the implementation of the day care regulations would not be consistent with the Administration's objectives.

Sincerely yours,
Patricia Roberts Harris.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, with all due respect, I must differ with my good friend and colleague from California in regard to this amendment.

CBO has estimated it will save $20 million. It becomes, therefore, an important part of the reconciliation process.

I think all of us realize that we have a heavy responsibility which we are trying to meet to bring our expenditures in balance with our revenues. We have looked into many different ways of saving money, some of them are extremely painful.

I suggest to my colleagues that while weighing this particular change against others, I feel that they will come to the conclusion that not only is this not a painful way of saving money, but, indeed, it will be a helpful way to save money because it will benefit the very people these standards are aimed at helping.

Our concern is to provide wholesome, healthy, and safe day care facilities for the children of this country. I do not think there is a Member of this Senate who would oppose the provision of quality day care for our children, who would not want to see the children of the country taken care of in a safe manner.

I am very proud of the fact that my own home State of Oklahoma was one of the pioneer States, in fact, one of the first two States, to establish State standards for the operation of day care centers, going to staff, going to fire protection, going to other standards which realized public health and sound care.

Virtually every State in this country has now adopted State and local standards for the operation of day care centers. Under this amendment adopted by the Finance Committee, those State and local standards would have to be met before any reimbursement could be made from Federal funds.

So I have to differ with my colleague from California when he says we are doing away with day care standards. Indeed, we are not.

The applicable State and local standards will have to be met before Federal reimbursement funds can be paid.

Let us think for a minute about the implications of the standards which were set forth by HHS in March of this year. Again, I point out that after 3 years of study, these regulations were not issued; 3 years the agency was given in terms of time to issue regulations. They waited until March of this year. Certainly, it did not seem to be too urgent for them to issue these regulations, having waited for 3 years to take action.

I certainly do not think it would be inappropriate for the Congress of the United States to spend an additional year in hearings, examining these regulations, before putting them into effect.

Many issues have been raised. It has been estimated by HHS itself that these standards may cost significantly more—significantly more—than just the $20 million in savings estimated by CBO.

While CBO estimates a 1-year deferral of these regulations would save the taxpayers $20 million, this being based on the increased cost of the AFDC program as a result of shifting costs to the AFDC earnings disregard, the Department of HHS has estimated $29 million of additional funding will be needed in fiscal 1981, simply to provide the added training required by the new regulations.

They further estimate that when fully implemented, the new regulations will result in increased costs of $112 million per year.

So the estimates of HHS itself would indicate the cost may well be far greater than the $20 million estimated by CBO.

Again, I go back to the standards themselves and will try to indicate to my colleagues why there is such concern on the part of the vast majority of the States and localities across the country about these regulations as they are now written.

It has been estimated that these regulations, by intensifying the staff requirements, would extend—by the way, they require one member of staff for every child up to a certain age—that the saving standards, by being so intense, will increase the cost of day care, on the average, from the present $6 per child per day, the present average prevailing cost, up to $12 per child per day, doubling the cost of day care to working mothers.

That, obviously, is going to have the effect of forcing many who are now attempting to support themselves, who are working, and who have gone through the WIN program, and are endeavoring to get off welfare and support their families, to go back on welfare, because they will not be able to pay the additional costs involved in meeting these regulations.

So when we talk about costs, we are

not only talking about cost to the Federal Government itself. We are talking about cost to the parents, the working parents, of these children.

There is a second and additional problem with these standards. As already has been alluded to by the Senator from California, if fewer than 20 percent of the children in the center are receiving some form of public assistance or income supplement from the Federal Government—in other words, if fewer than 20 percent of the children in the centers are not what we would call from poverty families who are receiving Government assistance—then the day care center does not have to meet the Federal standards. It is exempt from the Federal standards.

I can tell Senators what is going to happen in smaller communities. We have done a survey in my own State, where it is estimated that 600 centers can be so affected. What will happen is this: The center will simply say—let us remember that 20 percent or 25 percent of its children are receiving Federal assistance—"We can't afford to meet those standards, because if we do, we are going to increase the costs to all our clients, to all the parents who have children here. We are going to double their costs, and we can't do that. The parents won't keep their children here any more. So we will have to say we are not going to be able to take 19 percent of the children from lower income families which are receiving some public assistance. We will have to say that we close our doors to those children, and they will have to go elsewhere."

While the aim of the standards is to provide quality day care, what will happen is that low-income children who are receiving Federal assistance are going to be turned away from day care centers by the hundreds and thousands across this country, so that these centers can gain exemption from these Federal standards.

A good aim, yes. A worthy objective, yes. But the practical effect of the standards as written, by applying them to centers in which 20 percent or more of the children are receiving Federal assistance, will be that those children will be denied quality day care.

Obviously, another element is going to be that while some will be forced back on welfare, others will continue to try to work but will begin to place their children not in qualified centers, where the costs are going to run as high as $12 a day, but will begin to leave them with neighbors or in less wholesome environments than would prevail in the day care centers, which are now being regulated and licensed through State and local facilities.

The end result is going to be fewer children being kept in safe, wholesome day care centers now being supervised by the States; more working mothers being forced back on welfare, defeating the objectives of the WIN program and other programs that Congress has worked hard to put in place, and fewer day care centers being willing to offer services for low-income children.

I must say that while these problems, serious problems, have been exposed in the last few months, in the comments that come from State after State across the country—and the State and local agencies are charged with the responsibility of carrying forward this program, carrying out these regulations—I say it makes good sense, irrespective of savings, to say, as the Finance Committee has said, that we want to conduct hearings on these regulations as they are now written. I remind my colleagues that this particular set of regulations has been written only since March of this year. Let us conduct hearings on them this year, try to come forward with some reasonable standards that will not result in worse day care for the children of this country, as the present standards would; and, in the meantime, let us save $20 million of public funds, as estimated by the CBO. Let us do our work responsibly, under the reconciliation process.

So I urge my colleagues, with all due respect, to reject the amendment of the Senator from California and to accept the recommendation by the Finance Committee in regard to a 1-year suspension—again, not a revocation, not a permanent suspension—a 1-year suspension of these day care regulations.

Mr. HAYAKAWA and Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HAYAKAWA. Mr. President, will the distinguished Senator from Oklahoma yield me about 5 minutes?

Mr. BOREN. I am happy to yield to my colleague.

Mr. HAYAKAWA. I ask a question of the senior Senator from California. I did not know the subject was coming up this afternoon, so I come somewhat unprepared.

As Senator CRANSTON knows, I have attended some of the hearings he has held, both here and in California, on the subject of day care centers. Therefore, I should like to understand the thrust of his amendment and his suggestions.

According to Senator BOREN, he would like to have an additional year in which to formulate better Federal regulations having to do with day care centers. Am I correct?

Mr. BOREN. The Senator is correct. The Finance Committee, as part of its cost-saving responsibility and as part of the reconciliation bill, has added a provision that suspends the operation of these regulations for 1 year, for 1 calendar year.

Mr. HAYAKAWA. That is what the Finance Committee recommends?

Mr. BOREN. That is correct. The bill now before the Senate provides a 1-year suspension, and the amendment of the Senator from California (Mr. CRANSTON) would delete that provision and allow the regulations to take effect immediately.

Mr. HAYAKAWA. And if those regulations were to take effect immediately, this would add to the cost of the day care centers?

Mr. BOREN. It is estimated by CBO that it would add, in terms of public money, an additional cost of $20 million this year.

As I said, HHS estimates that when the regulations are fully implemented, the increased cost could go as high as $112 million, when we consider the costs to States, localities, and other units of government, as well as the Federal Government.

Mr. HAYAKAWA. As I understand it, some regulations beyond what now exist at the State and local level——

Mr. BOREN. There are existing regulations at the State and local level at the present time.

Mr. HAYAKAWA. I ask this of the senior Senator from California: Exactly what does he have in mind in rescinding the postponement and further investigation into the nature and wisdom of these regulations?

Mr. CRANSTON. This is a matter that has been going on for 5 years.

The issue is not really a 1-year delay. The issue is how much flexibility there is in the regulations which are now being proposed. In many areas, the new standards are more flexible than the 1968 standards they replace.

For example, the 1968 standards required the establishment of a parent policy committee to assist in actually operating day care programs, including the hiring and firing of employees. The new standards simply provide that federally-funded programs must provide parents meaningful opportunities to participate in policymaking.

The 1968 standards required day care programs to actually provide health treatment with its own funds when other resources are unavailable; the new standards require centers to refer parents to health services available in the community.

The 1968 standards required centers to provide social services to families using the centers; the new standards require only that centers provide information and referral to appropriate social services programs in the community.

Generally, the new standards focus upon assuring safe and sound child care for low-income children; they are considerably less ambitious than the 1968 standards and represent minimum safeguards for the healthy development of these children from low-income families.

Mr. President, so the Senator is aware of the Secretary's position on this matter, I received a letter from Secretary Harris dated today which reads:

> As Secretary of Health and Human Services, I strongly oppose the Senate Finance Committee recommendation deferring, until October 1, 1981, the implementation of new day care regulations for Social Security Act programs. Such an across-the-board deferral cannot be justified either as a means of saving significant amounts of Federal funds in fiscal year 1981, or as necessary to alleviate undue hardship on the States from the regulations. We understand the concerns of the Committee, but believe that the regulations themselves were designed with provisions more effective than the recommended postponement for minimizing potential disruptions in State day care programs.
>
> In developing the new regulations, I acknowledged and took into account not only the increased Federal costs they might require, but also the additional costs to the States which their enforcement might en-

tail. I recognized that the additional resources needed to meet the regulations, particularly the staffing requirements, would vary from State to State. Those States already enforcing staffing standards comparable to the new Federal requirements would have little or no problem complying. Those States with staffing standards substantially less stringent than Federal requirements would need more time and more resources to meet the higher Federal standards. We therefore built in a mechanism for tailoring responses to the needs of the particular State. The regulations provide a mechanism for addressing each State's particular situation in an individualized and orderly manner. Under the regulations, the effective date of the staffing requirements could be postponed for up to two years, rather than the one year recommended by the Finance Committee. The length of the delay would depend on the particular circumstances in each State. Two States have already taken advantage of the delayed effective date provision and have applied to the Department for a postponement. All other States have until October 1, 1980, to request a postponement.

There are two other mechanisms built into the regulations which were deliberately designed to provide flexibility to States and providers while at the same time encouraging them to work toward higher quality in their day care programs.

First, Federal money will be available to noncomplying States and facilities for a reasonable period of time during which they work to correct any deficiencies. States will have the discretion to determine the amount of time within which a noncomplying day care facility must meet Federal requirements.

Second, States will be allowed to waive the application of staffing requirements for facilities serving a small percentage of federally funded children as a means of maintaining and expanding the supply of day care opportunities for these children. The waiver provision gives States the flexibility to place federally funded children in centers not meeting Federal staffing rules where day care services would otherwise not be available.

The new HHS day care regulations reflect painstaking consideration of the needs and interests of low income children and families relying on federally funded day care, and of the costs which the new requirements will impose. The balance struck in the regulations between these often competing concerns is reasonable.

The Office of Management and Budget advises that deferral of the implementation of the day care regulations would not be consistent with the Administration's objectives.

Sincerely yours,

Patricia Roberts Harris.

Mr. HAYAKAWA. Mr. President, I am grateful to the Senator from California for his long and painstaking reply which he read at such a breakneck speed that I did not understand.

Mr. CRANSTON. A copy is on the Senator's desk and on every Senator's desk.

Mr. HAYAKAWA. Very simply put, the Finance Committee recommended, am I right, not applying these standards for a year; whereas, the Senator wants to apply these standards right away? And there is a difference in outlay in these two positions. The Finance Committee hopes to save some money as well as to improve the standards and study the situation more carefully; whereas, according to the Senator's position this will cost $20 million in the coming year. Is that correct? Do I understand the Senator correctly?

Mr. CRANSTON. We do not accept, and I do not think the Secretary believes, that $20 billion would be saved.

Mr. HAYAKAWA. Mr. President, did the Senator say $20 million or $20 billion.

Mr. CRANSTON. The proposed suspension has no budgetary impact for 1981.

Mr. HAYAKAWA. The Senator confuses me and confuses this body. Did he say $20 million or $20 billion?

Mr. CRANSTON. $20 million would not be save by this suspension. It would not be saved.

The Secretary states that there would be minimal, if any, saving. The CBO statement, that there might be $20 million saved, indicates its analysis was based upon press reports and apparently conversations with staff—not a real analysis. The basic point I wish to make is that the 1968 standards, other than the staffing aspects, are now in effect; they have been there since 1968 except they have not been enforced.

Mr. MOYNIHAN. Mr. President, will the Senator yield on this point?

Mr. CRANSTON. Yes.

Mr. MOYNIHAN. Mr. President, will the Senator from California yield?

Mr. HAYAKAWA. I am happy to yield to the Senator from New York.

Mr. MOYNIHAN. Mr. President, in joining my colleague and friend, the senior Senator from California, I wish to make particular reference to the point he has just made.

Five years ago Congress ordered the Department of HEW, now the Department of Health and Human Services, to establish standards for day care. Each year, the Congress has postponed the implementation of those standards.

This year we are on the verge of eliminating those standards. We are eliminating the health standards, the safety standards, the sanitation standards, and the nutrition standards. They are being wiped out. It seems to me that "distress" is not a strong enough word to express my concern. I am a member of the Finance Committee. I was engaged in the Democratic platform hearings at the time this occurred. I am appalled that we should resort to the budget process as a means to avoid our elementary legislative responsibility—which is to say on the merits do we think these standards are valid or do we not?

We ordered them. Now we are using the budgetary process to avoid our responsibility to determine whether we want them or we do not want them.

We can hold hearings. We can make a decision. But the idea of eliminating all these requirements without hearings alarms me.

Mr. BOREN. Mr. President, will the Senator yield?

Mr. MOYNIHAN. The Senator from California controls the time and I am sure he will yield, and I am happy to respond to my friend from Oklahoma.

Mr. HAYAKAWA. I yield.

Mr. BOREN. Mr. President, I am wondering if the Senator could tell me: Since we are applying the applicable standards of State and local law and saying they have to be met before a day care center could receive any Federal reimbursement, does he know of any State or any locality which does not have standards on such things as fire protection, for example, of day care centers?

Mr. MOYNIHAN. I do not know the negative, but I do know that if we by this act choose to eliminate those standards after 5 years of insisting on them without hearings, without consideration, it would be unfortunate.

Mr. BOREN. Mr. President, will the Senator yield again?

Mr. CRANSTON. Mr. President, I wish to reply to the Senator's question.

Mr. BOREN. Yes.

Mr. CRANSTON. Mr. President, there are quite a few rather shocking examples of the areas where there are gaps in State protection for children today in day care:

Fifteen States do not require initial TB examinations for child care workers;

Only 19 States have any provisions for the protection of parental rights;

Only 20 States have statutes or regulations relating to transportation safety for children in day care;

A number of States do not have any requirements for rubella vaccinations for children in day care—thus exposing both pregnant caregivers and other adults to possible transmission of this disease. Six States have no requirements for immunization of children in day care programs.

It would be a serious mistake for us to eliminate—in the haste of this legislation—basic protections for low-income children.

Mr. President, these are only a few of the examples of areas where there are major voids in State protection for children in day care. I have not pointed out the lack of protections in the area of staffing and group size—34 States have no standards at all for group size for children in care under the age of 3.

Mr. BOREN. Mr. President, I wonder if my colleague would yield for one follow-on question?

Mr. CRANSTON. Certainly.

Mr BOREN. Just a moment ago we were doing away with all rules and regulations. For example, they have no fire protection, health protection was mentioned, sanitation, and I just wondered if my colleague is aware of the fact that these Federal day-care standards about which we are talking postponing for 1 year so we can give these other aspects study, the standards they adopt for health, fire, sanitation, building safety, transportation, swimming and equipment safety, are exactly the State and local codes relating to these matters. In other words——

Mr. MOYNIHAN. I am not aware of that.

Mr. BOREN. The only standards being set are the State and local standards. The other part of the bill says that we will not reimburse any center which does not meet State and local standards. So we are not wiping out the health, fire, and sanitation provisions because these, under the very regulations you are talking about, the standards set forth, are the State and local standards in effect.

They are in effect now, and the fact that we do not have a Federal law saying that we hereby adopt the State and local standards does not certainly wipe them off the books. Is my colleague aware, just looking at those standards——

Mr. MOYNIHAN. I would have to say that I am not aware of that. We have not held any hearings on it. We have not addressed this question to the Secretary of Health and Human Services. In the past we have put off the staffing requirements. We have never put off these elemental requirements. Now we are doing both without hearings, without consideration, and using the budget process as an excuse to avoid responsibility of the Committee on Finance.

Mr. BOREN. Mr. President, my colleague will yield——

Mr. MOYNIHAN. I would be happy to yield but I do not have the floor.

Mr. BOREN. Mr. President, if my colleague from California will yield, I will respond on my own time.

Mr. President, for the information of all, the statements I was making a minute ago are not my own conclusions, and I do not think we have to have any hearings to know what the present regulations themselves are.

I would like to read to those who are arguing about the regulations, here is what they say. Let us look at the Federal Register, volume 45, No. 55, Wednesday, March 19, 1980, when these regulations were issued. Look under section 71.18. It reads:

§ 71.18 Physical environment.

(a) Day Care Center. A day care center shall meet:

(1) State and local requirements for licensing or approval;

(2) State and local codes relating to health, sanitation, and building and fire safety; and

(3) State day care center standards for transportation, swimming, and equipment safety.

(b) State Agency. The State agency shall ensure that standards for day care centers that specifically address sanitation, and transportation, swimming, and equipment safety exist in the State.

So we adopt these State standards and we say that, in the Finance Committee bill, we will allow reimbursement to, even while suspending for 1 year these standards, those day care centers which meet, and I quote, "applicable standards of State and local law," on page 27 of the bill.

Mr. MOYNIHAN. Is it not the case, if I may ask, that the modest role of the Federal standards in this regard is to require that the States have such standards? Many States now do not.

Mr. BOREN. Well, all States that I know of have standards relating to the basics such as fire, health, and safety.

Mr. MOYNIHAN. I would simply have to say to my friend that I do not know of all States, and that is why we have the hearing process in the Finance Committee.

Mr. BOREN. We never heard of a State that does not have fire codes.

Mr. MOYNIHAN. One hears the strangest things as one goes through life.

Mr. BOREN. All I can say to my good friend from New York is the standards he is advocating do not add one bit of protection in terms of fire, in terms of building safety, because they adopt the State standards.

Mr. MOYNIHAN. They mandate a wide variety of standards, both in this realm and with regard to staffing and educational matters.

Mr. BOREN. No, they do not.

Mr. MOYNIHAN. There are a wide array of essential standards contained in these regulations. Some, no doubt, would add to the cost of day care services.

Mr. CRANSTON. In the interest of mediation and saving the time of the Senate I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. LEVIN). On whose time?

Mr. CRANSTON. I withdraw my request.

Mr. MOYNIHAN. You are not going to put a tax cut on this bill, are you? [Laughter.]

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. I would just like to say that HHS has requested $29 million for implementation of these standards, which would indicate that, perhaps, the estimated savings in fiscal 1981 are at least $20 million as we suggest.

The PRESIDING OFFICER. The Chair would have to interrupt for a moment. Who yields time to the Senator from Kansas?

Mr. DOLE. Mr. President, will the Senator yield?

Mr. BOREN. I yield to the Senator from Kansas such time as he requires.

Mr. DOLE. Mr. President, I will not take but just a few moments. I would like to read a letter from the Executive Office of the President, Council on Wage and Price Stability, dated November 19, 1979. This was a letter written by Mr. R. Robert Russell, the Director, concerning correspondence with respect to the extra costs day care providers would be forced to incur if they served children whose day-care fees are paid by Federal funds. I quote:

Because the Council is also concerned about those costs, we conducted an analysis of HEW's regulations and the related studies. We found that HEW has not established a clear need for the regulations and that the burden of compliance would be felt by working parents, who would find fewer day-care homes available. We concluded that HEW has probably underestimated the increased costs that day-care centers would face as a result of new staffing requirements imposed by HEW when Federally assisted children are served. Finally, it appears that HEW has not fully taken into account the extra funds that States will have to spend in order to administer and enforce the new rules.

As you perhaps know, the Council has no power to force any Federal agency to change its regulations or issue new ones that reflect our concerns. However, in this instance, we have urged HEW to reconsider portions of its proposed day-care requirements in light of the costs they would impose on day-care homes and centers and on working parents.

Thank you for your interest and concern.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COUNCIL ON WAGE
AND PRICE STABILITY,
Washington, D.C., November 19, 1979.

MS. ELLEN HAINSTOCK,
Tucson, Ariz.

DEAR MS. HAINSTOCK: This is in response to your correspondence to Alfred Kahn concerning the proposed Department of Health, Education and Welfare (HEW) day-care regulations.

I appreciate the issues you raised with respect to the extra costs that day-care providers will be forced to incur if they serve children whose day-care fees are paid by Federal funds. Because the Council is also concerned about those costs, we conducted analysis of HEW's regulations and the related studies. We found that HEW has not established a clear need for the regulations and that the burden of compliance would be left by working parents, who would find fewer day-care homes available. We concluded that HEW has probably underestimated the increased costs that day-care centers would face as a result of new staffing requirements imposed by HEW when federally assisted children are served. Finally, it appears that HEW has not fully taken into account the extra funds that States will have to spend in order to administer and enforce the new rules.

As you perhaps know, the Council has no power to force any Federal agency to change its regulations or issue new ones that reflect our concerns. However, in this instance, we have urged HEW to reconsider portions of its proposed day-care requirements in light of the costs they would impose on day-care homes and centers and on working parents.

Thank you for your interest and concern.

Sincerely,

R. ROBERT RUSSELL,
Director.

Mr. DOLE. That letter comes from another Federal agency, the Council on Wage and Price Stability, which indicates there ought to be more time to study the matter and that the costs are underestimated. It is now estimated that the latest regulations are going to make the average costs for care per child equal to $3,500 a year which we are heaping on working parents because of increased regulations.

All we suggest in this rather modest approach is to defer the implementation of the Federal interagency day care requirements which are scheduled to become effective September 19, 1980 until October 1, 1981. I just suggest that this letter by Mr. Russell in itself ought to be proof that the costs are underestimated. It is going to impose a hardship on working parents, and in light of these findings it just seems to me that we have no alternative but to delay implementation.

Mr. RANDOLPH. Mr. President, will my colleague from Kansas yield?

Mr. DOLE. Yes, I would be glad to yield.

Mr. RANDOLPH. I inquire just to understand the costs, and I was not able to hear what the costs were.

Mr. DOLE. HHS, Health and Human

Services, requested $29 million for the implementation of these new standards. We estimate the cost savings at $20 million.

Mr. RANDOLPH. I thank the Senator.

Mr. DOLE. It is in that neighborhood.

Again I suggest that all we are going to do is to defer implementation for 1 year. It just seems to me that there is every reason to do that. I would like to vote on it.

Mr. LONG. Mr. President, will the Senator yield to me at this point?

Mr. DOLE. I yield.

Mr. LONG. I recall when we were conducting hearings on this matter on previous occasions with relation to H.R. 1, the big welfare bill: It was my hope at that point that we might be able to drastically reduce welfare costs by finding a way to get some children in the day care centers so that the mothers would be free to take a job.

When we explored the costs, once one goes for the kind of standards where the statute required so much staff and also so much so-called educational components——

Mr. DOLE. There are about three staff for every child now.

Mr. LONG. Well, by the time they get the numbers reduced down to the point they would like and cranking all this so-called education—they tell us that a child learns more during his first year than he does in any 5 years thereafter, or some such thing, in his life. He learns to find his foot with his hand and vice versa, and he learns he has an ear up here and he learns he has a body and he learns that he is a living human being. He learns to crawl. He might even learn to walk during the first year. So it is true that a child does learn more during his first year than he does during any other year.

But if you did not have any educational components, the child would learn all of that anyway. He would learn that just in the living process.

I discover that if you are going to run the cost of the day care up to $3,000, that you can just forget about trying to get the mothers off of welfare by using the day care centers. It would be a lot cheaper to leave the children home with mama and pay them to stay there rather than try to do the day care bit.

One of the best secretaries I ever knew working in this building lost her husband and brought her children up. And they became very useful citizens. While we were talking about $3,000 per child for day care, she said, "Senator, it doesn't cost $3,000 a child. I can show you right out here in Montgomery County where they get no more than about $100 a month or $1,200 a year, and I would be glad to take you to that day care center and show it to you."

That is when day care was not being provided at that time and I assume she might have used it for her own children.

Well, Mr. President, these regulations can run the day care up so high that that is not an answer at all. Then you run into another anomaly. Here is one with a very nice day care center and people would like to put the children of low income families there. They are told, "I'm sorry. We can't take but 20 percent of the children from disadvantaged families or low income families, because, if we do, we have to comply with the HHS standards." And so the little children cannot go to private day care centers with families that are in the middle income brackets because they will not be able to take them because they run the cost up; that is, only in the case where the taxpayer is paying for it can you provide the service at all.

Mr. President, I am perfectly content to study this, hold hearing, and look at it and all of that. But if you are trying to save money somewhere, you ought to save it by at least postponing something like this until somebody can make the case for it.

Mr. President, I am sorry that the Senator from California does not agree with it, but I have discussed this matter with Mr. Reagan, who will be the Republican standard bearer. Having discussed this sort of thing with him, my impression of his view is that this cost of day care centers is getting very much out of line by insisting on all sorts of educational components and various other things that run up the cost to where it is unreasonable and impractical.

I would think, Mr. President, that here is an area where a substantial savings can be made and I believe no harm would be done to anyone. To try to provide these types of standards is going to require a lot of day care centers to shut down and it is going to increase the costs and it seems to me that it is an area that can be deferred for a while. I hope very much Senators will agree to the committee amendment.

Mr. MOYNIHAN. Will the Senator yield?

Mr. LONG. I yield to the Senator from New York.

Mr. MOYNIHAN. Mr. President, time after time since I have come to the Senate, the Congress has delayed the implementation of Federal day care standards that the Congress mandated 5 full years ago. The reconciliation bill now before us would delay them yet again.

The amount of Federal money saved by this delay is insignificant. Indeed, it is derisory. It is not a savings that has to be made to comply with the provisions of the first concurrent resolution on the budget.

Hence this action cannot be justified on budgetary grounds, and the question must be asked whether it is justified on public policy grounds.

I submit that the burden rests with those who do not want these standards to go into effect to persuade the Congress that a substantive change in title XX of the Social Security Act is warranted. Hearings should be held, and full consideration given to the arguments that would presumably be advanced on both sides of this issue. It is simply irresponsible to avoid the real question—whether there should be Federal day care standards, and if so what their content should be—by invoking the budget as an excuse for putting off yet again something that the Congress decided half a decade ago should happen.

I happen to think that the day care standards that were promulgated by the Department of Health, Education and Welfare in final form on March 19, 1980—and that, under present law, would take effect 6 months thereafter—are reasonable. I concede that some of my colleagues disagree, and I would be happy to see this issue resolved through the normal legislative process. But it is not properly resolved as a budget issue, and it does not need to be resolved as a budget issue at this time, and I accordingly urge the adoption of the amendment offered by the senior Senator from California.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, will the Senator yield me a minute or two?

Mr. LONG. Yes; I yield 2 minutes to the Senator.

Mr. DOLE. Mr. President, in the letter I read from the Executive Office of the President's Council on Wage and Price Stability they recommend that HEW probably underestimated the costs the day care centers would face. It appears they had not taken into account the extra funds and that we ought to have a chance to reconsider this.

I think that is all we are suggesting. Certainly, this Senator does not want to do anything that might be viewed as a vote against children. But I do believe that we have made a case and that if there is a case to be made in the other direction, we will have some time now to consider that.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator from California indicate to the Chair on whose time the quorum call is to be charged?

Mr. CRANSTON. Mr. President, I withdraw that request.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. Mr. President, I will just take a moment.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, the real issue that has been raised most of the time is the staffing and group size ratios.

Although I believe that the Finance Committee ought to deal with those issues openly and in an appropriate forum, rather than including them in the budget reconciliation process, I have suggested a compromise that we suspend only the group size and staffing ratios for 1 year. That is the only part of the 1968 standards which Congress suspended in the past, and I see no reason for eliminating entirely all Federal standards for federally supported child care programs.

I think this compromise would take care of most of what the Senator is really concerned about and will not put us in the position of totally abdicating Federal responsibility to set standards for federally supported day care centers.

UP AMENDMENT NO. 1371 (AS MODIFIED)

(Purpose: To limit suspension of Federal day care standards to group size and staffing ratios)

Mr. CRANSTON. Mr. President, I send to the desk a modification of my amendment.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from California (Mr. Cranston), for himself and Mr. Moynihan, proposes an unprinted amendment numbered 1371 as modified.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 27, lines 20 and 25, insert after "shall" in each place it appears a comma and "with respect to group size and staffing ratios,".

Mr. CRANSTON. Mr. President, I yield to the Senator from New York.

Mr. MOYNIHAN. Mr. President, the Senator from California has made a reasonable and stateman-like proposal of a compromise. I hope we can agree to it. If we do, I will, as chairman of the Subcommittee on Public Assistance of the Finance Committee, certainly undertake to hold hearings on this matter to resolve the disputed points that come up and cannot be resolved, say, by orderly inquiry, and that we would be in a position in the next Congress to bring a judgment of the committee on the merits of the care of children and not on the issue of saving $20 million.

I thank the Senator from California.

Mr. CRANSTON. I thank the Senator very much.

Mr. President, I am prepared, in the interest of expediting this action, to yield back my time and proceed to a vote.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I yield myself 3 minutes.

Mr. President, the Senator would, nevertheless, put in the most expensive parts of the proposed regulations. His proposal would, nevertheless, put in the provision that requires the training of child care personnel to meet certain Federal standards; the nutrition requirements, the Federal standard there; a referral to social and health services, another Federal standard; a provision of health care, another Federal standard; and all those. That would be more than half the cost.

So, in fact, that is the great bulk and we might not save any of the $20 million if we accept that amendment. Therefore, I hope the amendment will not be agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Is there a time agreement?

The PRESIDING OFFICER. There is a time agreement.

Mr. DOLE. Mr. President, can we yield back the time and vote?

Mr. CRANSTON. Mr. President, could I ask if the Senator could indicate where the Federal funds are in each category under the jurisdiction of the committee that will be expended under this proposal, under the compromise?

Mr. HAYAKAWA addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. Mr. President, my inquiry was as to Federal funds under the jurisdiction of the committee that would be expended under the compromise for fiscal year 1981.

Mr. LONG. The estimate is that if you have the onerous requirements we have been discussing, the States will shift a lot of the children over to the AFDC program because they will not be able to keep them in day care and you will still have about a $20 million cost by the time you do that.

Mr. CRANSTON. Could I ask what requirement would require the shift?

Mr. LONG. Because of the requirements as a whole is what we are talking about, the requirements that are still left. The States would feel they cannot afford the day care so they would shift them over to the AFDC and take them out of day care.

Mr. CRANSTON. I think staffing is alleged to be the largest component of any additional cost and I have eliminated the staffing requirement.

Mr. LONG. The estimates are that not more than a quarter of the increased cost has been eliminated by the modification.

Mr. DOLE. Will the Senator yield?

Mr. LONG. I yield

Mr. DOLE. I understand that some States do not use all of their title XX which would increase the matching requirement as another cost. It seems to me that we want to accommodate the Senator from California and we can do that by having hearings in this next year.

Mr. LONG. I am willing to hold hearings on the matter. That is not the problem.

Mr. BOREN. Is it true that, with these additional costs these requirements would cause, some of the States would not pay for them and it would force these women back on to welfare and greatly increased the AFDC costs?

Mr. LONG. That is correct. That is where the costs come from.

Mr. CRANSTON. As I understand it, the floor manager of the bill, the distinguished Senator from Louisiana, has stated that if this amendment would carry it would reduce savings by only $5 million?

Mr. LONG. It is the other way around.

Mr. CRANSTON. I did not hear the Senator.

Mr. LONG. It is the other way around. The most we could hope for would be about $5 million in savings if the modification were agreed to.

Mr. CRANSTON. That is my understanding, $5 million.

Mr. LONG. We would be losing $15 million of the savings and you would be retaining $5 million of the savings with the Senator's amendment.

Mr. CRANSTON. I yield back the remainder of my time, Mr. President.

Mr. LONG. I yield back the remainder of my time.

Mr. HAYAKAWA. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. Baucus), the Senator from Ohio (Mr. Glenn), the Senator from Kentucky (Mr. Huddleston), the Senator from Massachusetts (Mr. Kennedy), the Senator from South Dakota (Mr. McGovern) and the Senator from Connecticut (Mr. Ribicoff) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from Oregon (Mr. Packwood), the Senator from South Dakota (Mr. Pressler) and the Senator from New Mexico (Mr. Schmitt) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent due to illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 17, nays 72, as follows:

[Rollcall Vote No. 280 Leg.]

YEAS—17

Bayh
Biden
Bradley
Burdick
Cranston
Culver
Durenberger
Inouye
Javits
Magnuson
Mathias
Metzenbaum
Moynihan
Sarbanes
Stevenson
Tsongas
Williams

NAYS—72

Armstrong
Baker
Bentsen
Boren
Boschwitz
Bumpers
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Danforth
DeConcini
Dole
Domenici
Durkin
Eagleton
Exon
Ford
Garn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Humphrey
Jackson
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
Matsunaga
McClure
Melcher
Mitchell
Morgan
Nelson
Nunn
Pell
Percy
Proxmire
Pryor
Randolph
Riegle
Roth
Sasser
Schweiker
Simpson
Stafford
Stennis
Stevens
Stewart
Stone
Talmadge
Thurmond
Tower
Wallop
Warner
Weicker
Young
Zorinsky

NOT VOTING—11

Baucus
Bellmon
Glenn
Goldwater
Huddleston
Kennedy
McGovern
Packwood
Pressler
Ribicoff
Schmitt

So Mr. Cranston's amendment (UP No. 1371), as modified, was rejected.

Mr. BOREN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. Mr. President, I will send an amendment to the desk for consideration by the Senate which relates to the unemployment compensation aspects of this bill. But before Members drift away, Mr. President, I say that I hope Members realize what is being done in this reconciliation bill because I think it is very important as the Senate can change it if it wants to.

We are enacting permanent law in this bill.

The PRESIDING OFFICER (Mr. Williams). If the Senator will yield, we are under controlled time.

Mr. JAVITS. Mr. President, I get an hour for my amendment and I am speaking to my amendment.

The PRESIDING OFFICER. First, the amendment must be called up, I am advised.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1372

Mr. JAVITS. Mr. President, for myself, Mr. Williams, and Mr. Riegle, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. Javits), for himself, Mr. Williams, and Mr. Riegle, proposes an unprinted amendment numbered 1372.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On pages 22 through 25, Sec. 507(a) is amended to read as follows:

"Sec. 507(a) Section 202(a) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new paragraph:

'(4) (A) Notwithstanding the provisions of paragraph (2), payment of extended compensation under this Act shall not be made to any individual for any week of unemployment in his eligibility period—

'(i) if such employee had less than 20 weeks of covered employment during his base period;

'(ii) if such individual is unemployed because he voluntarily left employment, was discharged for misconduct, or refused suitable employment as determined under State law;

'(iii) during which he fails to actively engage in seeking work.

'(B) If any individual is ineligible for extended compensation for any week by reason of a failure described in clause (iii) of subparagraph (A), the individual shall be ineligible to receive extended compensation for any week which begins during a period which—

'(i) begins with the week following the week in which such failure occurs, and

'(ii) does not end until such individual has been employed during at least 4 weeks which begin after such failure and the total remuneration earned by the individual for being so employed is not less than the product of 4 multiplied by the individual's average weekly benefit amount (as determined for purposes of subsection (b) (1) (C) for his benefit year.

'(C) For purposes of this paragraph, an individual shall be treated as actively engaged in seeking work during any week if—

'(i) the individual has engaged in a systematic and sustained effort to obtain work during such week, and

'(ii) the individual provides tangible evidence to the State agency that he has engaged in such an effort during such week'."

Mr. JAVITS. Mr. President, the Senate is, by this bill, making serious and substantial changes to permanent law. For example, it is changing the law concerning extended unemployment compensation the subject of this amendment. The extended benefits program is financed 50 percent by Federal payments and 50 percent by State payments. It is a part of the Federal-State Unemployment Compensation System.

That is the program we are dealing with here. This amendment seeks to strike out this change in law the provision that requires a worker who is unemployed, once he gets on these extended benefits, after the first 26 weeks of unemployment compensation which is fully State funded, must take any job they offer to him even if it is just at the minimum wage, no matter how skilled he is or how much his unemployment compensation.

I think that is dead wrong, Mr. President.

Mr. President, I point out to the Senate that here is a new procedure in which permanent law is being changed and can be changed for all time.

I doubt very much this is very prudent on the part of the Senate. Many of these things have not had a hearing. Here we are, just zipping through this bill and changing a variety of important statutes permanently.

Mr. President, under this scheme, anything will go. Forget about sunset, we will have a sunset every year.

I think this is a very serious policy decision the Senate is taking right now by enacting these permanent legislative changes.

Mr. President, I yield to the Senator from Michigan.

Mr. RIEGLE. I thank the Senator for yielding.

Mr. President, I strongly agree with what the Senator said. I want to underscore and emphasize the importance of this matter, because the reconciliation bill before us would require jobless workers, as a condition of receiving extended unemployment insurance benefits, to accept any job offer which meets minimum wage, health and safety standards and which offers a salary at least equal to the individual's weekly unemployment insurance check. Very basically, this proposal strikes at the very heart of our Nation's unemployment insurance system and would undermine its most basic purpose—to tide unemployed workers through periods of joblessness until they can secure work commensurate with their skills and experience.

If we accept this provision of the reconciliation bill, we will be departing from the basic philosophy which has supported the unemployment insurance system from its inception. Instead of insuring the individual against unemployment, we will be turning the extended benefits program into a simple welfare program, whose benefits are conditional upon the individual accepting practically the first minimum wage job which comes along.

And we will make it infinitely more difficult for that individual to eventually return to employment suitable to his or her experience, skills, and past earnings history. For once employed at a minimum wage job, the worker cannot devote his full time and efforts to securing more appropriate employment at his basic skill and level.

The Nation's unemployment insurance system has served this country well since its creation, by stabilizing both the economy as a whole and the individual worker against the impact of prolonged joblessness. Unemployment insurance touches the lives of millions of Americans. We should not change its basic provisions or goals without the most serious and careful consideration. In all due respect to the Finance Committee, I am not convinced that the reconciliation bill before us can meet this test.

To make this kind of fundamental change at this point makes no sense at all.

In just 1 month, the National Commission on Unemployment Compensation will submit its final report to the Congress. The Commission was established by an act of Congress and charged with a comprehensive and thorough review of the entire unemployment insurance program—its benefits, its financing, and the question of Federal standards. The Commission is comprised of an impressive and highly qualified group of experts, who represent industry, labor, and the academic world. They have labored for several years now. They have held hearings across the country and heard from expert witnesses. I do not believe that we should act to change basic precepts of the unemployment insurance system before the Commission's report is before us.

That will put us in a position to take a long-range check as to whatever kinds of changes we might want to think about making.

I also draw my colleagues' attention to the fact that the "suitable work" requirement in the reconciliation bill will require action by State legislatures to amend State unemployment insurance laws before its savings could be effected; 39 State legislatures have now adjourned for the year; four more will adjourn this week. Unless these State legislatures return in emergency sessions before the fiscal year is out, the savings in this bill will not be realized. Furthermore, the Secretary of Labor could then certify that State's unemployment insurance laws out of compliance with Federal statute. And if that happens, the 2.7 percent Federal tax credit against the unemployment insurance payroll tax will be canceled for employers in noncomplying States. I am sure my colleagues will agree that this is no time to increase payroll taxes by 2.7 percent.

I would remind my colleagues that unemployment in the Nation has now reached 7.8 percent. Some 18 States have unemployment levels high enough to have triggered the payment of 13 weeks of extended unemployment insurance benefits. In Michigan, more than 600,000 people are out of work. Nearly half a million jobless workers are collecting unemployment insurance benefits. Nearly 90,000 of these unemployed have exhausted even their extended unemployment insurance benefits.

The jobless workers in Michigan and other States of this country need our help to tide them through this recession. This is no time to cut benefits, this is no time to withdraw support. I urge my colleagues to join me in voting for Senator JAVITS' amendment.

Again, I say that I strongly support the action of the Senator from New York. I hope the Senate will see fit to support this position.

I thank the Senator for yielding.

Mr. BOREN. I yield to the Senator from Kansas as much time as he needs.

Mr. DOLE. Mr. President, I ask unanimous consent that privilege of the floor be granted to Ken Ackerman and Hannah Sistare, of Senator PERCY's staff, during the pendency of S. 2885.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, this is another very difficult decision we have to make. We certainly looked for a number of areas that were painless. There were not any. Then we had to look at some areas that we felt ought to have or had justification.

I just say, very quickly, that the purpose of this proposal is to limit access to the extended benefit program—we are talking about the extended benefits—to individuals who have demonstrated a reasonable attachment to the work force, lost their jobs involuntarily, and have made every effort to return to work.

This Finance Committee proposal really does three things:

It prohibits payment of unemployment benefits under the extended benefit program to someone who has less than 20 weeks of qualifying employment in the base period, to those who have voluntarily left their jobs without good cause, have been discharged for misconduct, or refused a suitable job offer. The third category are those who refuse to accept any job which meets minimum standards of acceptability, such as basic health and safety standards and compliance with the Federal minimum wage.

Since 1970, there has been a permanent program to pay extended benefits during periods of high unemployment to workers who exhaust their regular State unemployment insurance benefits.

Under this program, the States and the Federal Government each pay 50 percent of the cost of benefits.

The State unemployment insurance eligibility criteria are used in determining eligibilty for extended benefits.

As to the 20-week provision, all States require that an individual must have earned a specified amount of wages or worked a certain number of weeks, or both, to be eligible for benefits; but some States allow individuals to qualify on the basis of a minimal period of employment.

As to the so-called "voluntary quits" section, all States disqualify an unemployed worker for benefits for some period of time if he voluntarily left his job without good cause, has been discharged for misconduct, or has refused what the State agency considers a suitable job offer for him.

In the final category are those who refuse to accept any job which meets minimum standards.

The estimated savings on the so-called 20-week portion is $120 million. On the so-called "voluntary quits," it is $32 million. On the any-reasonable-job-offer portion, it would save $94 million.

So we are talking about a very substantial saving.

Mr. JAVITS. Mr. President, will the Senator yield, so that we can get this straight?

Mr. DOLE. I yield.

Mr. JAVITS. I am only contesting that provision which relates to a suitable job, so $94 million in savings is all that is at stake. I do not want to see this puffed beyond what it is. Those are the savings alleged by the CBO.

Mr. DOLE. The Senator from Kansas stands corrected.

The Senator from New York is looking at the $94 million provision with respect to any job requirements. I will address myself to that, and anything else with reference to this amendment should be disregarded.

The unemployment compensation program exists to provide protection against income loss, while preserving the situation with respect to workers during temporary periods of involuntary unemployment. Twenty-six weeks should be a sufficient amount of time for a skilled worker to find employment, commensurate with his skills, training, previous experience, and earnings.

As we learned in the last recession, we cannot expect the unemployment compensation program to carry the entire burden of the economic downturn. Perhaps other things should be done. After we have been implored by the Budget Committee, after we have looked at all the possible savings, and we are told by the Senate to go back and try to come up with $2.2 billion, I believe everyone on the Senate Finance Committee, Republican and Democrat alike, looked at it very carefully, and we made this choice.

The Senator from New York is right: The Senate can change it, if it wishes to change it; if so, we will have to find something to substitute for it.

I make the case that we looked at it carefully, that it was some action that was zipped through the committee.

If the senior Senator from New York can find some provision that is not painless and does not impact on anyone, this Senator would be happy to accept it.

Mr. JAVITS. I yield such time as I may use.

Mr. President, I suggest that Senator DOLE stay for a moment, if I may have his attention. I am going to make him a proposition and I hope he will be around to hear it.

I am very worried about what the Senate is up to, and I believe we are going to live to regret it terribly.

This is the first time we reconcile, and instead of reconciling, we are passing big bodies of law in little sentences like this one.

My proposition is this: If the committee feels that it needs this saving—and I am going to point out in a moment that it does not—but if it feels it does, even if it does, then the right saving is 1 year, because that is all we are reconciling and that is all we are balancing.

But this is permanent law—permanent law. No hearings; no committee deliberation, except for what come in the reconciliation. Permanent law—that is what is being passed. In my judgment, we are passing it with our eyes shut.

Mr. President, we are doing something in the name of balancing the budget that is going to haunt us for a long time, if we let this stand, unless we wake up to what is at stake here. We are authorizing committees to make vast changes in permanent law in the name of reconciling the budget.

This is an excellent example, for this reason: The Finance Committee was told that it needed $2.2 billion to reconcile. The Finance Committee has cut $2.4 billion right now. It does not need the extra $200 million to reconcile, and it could take out the $94 million which is involved in this amendment and still be fully reconciled.

I make the committee a proposal: I will change my amendment to apply only to out-years and accept the committee's proposition for the year 1981, if that is really all the committee wants to do. This is permanent law, and I believe that the working people of the United States will be a lot better off if this is not on the books as permanent law, for reasons which I will explain.

Mr. DOLE. In other words, the Senator from New York is willing to accept a provision for fiscal year 1981, period.

Mr. JAVITS. Period, right.

Mr. President, I will state why this is unwise. This is a very good example of what is going on.

In the first place, unemployment compensation is not a gift of the U.S. Government. This is essentially an insurance scheme; and the extended unemployment compensation program has to be triggered by a national trigger or a State trigger before it goes into effect. Some 18 States are on it now. Even then, the State has to pay 50 percent of this tab from its unemployment insurance fund.

What is proposed to be done now, with 40 legislatures in adjournment, is to change all the ground rules. Senator RIEGLE is right: The Senate would force many States to incur a penalty, which is mandatory by law, of 2.7 percent of payroll tax if the States do not qualify, and indeed the States will not be able to qualify if we are going to change the requirements of permanent law—as I said a moment ago. For what the committee's proposal does is to alter the conditions under which States may qualify their unemployment compensation programs. This will require the legislatures to meet and conform their State laws before October.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. JAVITS. I yield, of course.

Mr. MAGNUSON. This proposal is encroaching upon the State's right to make rules and regulations on unemployment insurance.

Mr. JAVITS. Exactly.

Mr. MAGNUSON. They have to furnish 50 percent. I think the Senator from New York is completely right. There have been no full hearings on this matter at all. It just becomes sort of a whim of the Budget Committee. The States set regulations on unemployment insurance because they pay 50 percent technically.

Mr. JAVITS. Exactly.

Mr. MAGNUSON. I think that this would be a bad amendment. I mean the amendment of the Senator from New York is a good amendment, but the amendment as proposed is a bad amendment.

Mr. JAVITS. Mr. President, the States now can change, as Senator MAGNUSON has said, from his vast experience, and make a more stringent standard dealing with unemployment. They can do so administratively, or they can do so by their State legislatures and let the people in that State fight it out if that is the rule they want to make. But the normal rule, the rule which we have been following in respect to unemployment compensation requires only that an unemployed worker accept a job which is consistent with his or her abilities and prior work experience. That is a very good rule because it is very hard to train a man and it is no light matter that we have a trained person, and so to debase his skills by compelling him to sweep floors is not in the interest of our Nation. Remember, that we are dealing with a period in which there are now almost 8 million unemployed and it looks like we are going to go higher.

Every worker in this country, and there are almost 100 million of them, should consider the adage, "There but for the grace of God go I."

I have no illusions about this body and we just saw what happened to the last amendment, but I hope that Members will rub their eyes and see what is happening here and not let it happen. We can control it. There is no law that says even that we have to have all these savings for this budget, but I am for it. I am not contesting it. But I point out that this committee has saved more than is required and in a way which I think is highly invidious to the American worker.

For all of those reasons, Mr. President, I hope as I say that Members will take a good hard look at this and defeat it. It would be a very, very salutary proposition, and would indicate that we are not automatons and just because I cover this with all that glamor about the fact that we are going to cut, we are going to cut what? The unemployed who have paid their tab and who have worked.

I have not changed the 20-week work requirement which means 20 weeks, roughly speaking, the preceding year. I have not touched that. I would not amend that. And some States do not now require that much work for an unemployed worker to qualify. By the way, but I did not touch it, but this seems to me to be wrong and should be corrected.

Mr. LEVIN. Mr. President, will the Senator yield 1 minute?

Mr. JAVITS. I yield for 3 minutes.

Mr. LEVIN. The Senator from New York has made the managers the offer which I guess they could refuse but I hope they will not.

The Senator is making a change in this law which is fundamental to literally hundreds of thousands of people who are unemployed and perhaps soon even millions of people will become unemployed. This kind of basic change in permanent law should not be made this way. I hope the managers of the bill will accept the offer of Senator JAVITS so that before it is made permanent after this year, there will be greater opportunity for hearings to be held and limiting the change just to the 1 year as proposed by Senator JAVITS.

Mr. BOREN. Mr. President, I yield myself such time as I might require and I say to my colleague from Michigan that I have asked the Budget Committee to respond to the point which he has just made and they will be responding in a minute.

I will go back to the proposition itself and discuss it.

First of all, it has been said there have not been hearings on this proposal. That is absolutely incorrect. We held hearings in the Subcommittee on Unemployment and Related Problems of the Finance Committee on this issue for the first time several months ago during this past calendar year. I was present at those hearings. In fact I chaired those hearings, and we went into detailed consideration of the various cost saving proposals in the area of unemployment compensation insurance. So we have had hearings. There has been a discussion of this matter in the Finance Committee.

It is not true that it has just been tacked on recently in the reconciliation process.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. BOREN. I yield.

Mr. MAGNUSON. But the subcommittee made no recommendation. The subcommittee held hearings and made no recommendations. It is letting the Budget Committee take over the subcommittee's responsibility to make recommendations.

Mr. BOREN. With all due respect——

Mr. MAGNUSON. The subcommittee had hearings and made no recommendations, did it? It made no recommendations. It did not pass any legislation or suggest legislation or anything else. The subcommittee let the Budget Committee take over its responsibility.

Mr. BOREN. I say to my colleague that, after the hearings were held in the Subcommittee on Unemployment and Related Problems, the Finance Committee did adopt a series of amendments and recommendations that were earlier considered under H.R. 4612 and included under that provision, and then there was the Finance Committee on the reconciliation process itself, drawing upon the information brought out in the hearings, the staff work that was done at that time, and we still have the staff bluebook analyzing these savings at the time of those original hearings. We then did decide to followup our recommendation on H.R. 4612 and add this recommendation on the current bill.

So I do not believe that it is fair really on balance to say that we have just now been making this recommendation, tacking it on, without thought or without hearing or without consideration by the committee, to the reconciliation resolution. We have been giving it a lot of thought, and I say this: Also, I have to feel that we are not invading the area of the States here. I am very sensitive to the rights of States and I have been in this Chamber several times arguing that there are certain areas that should be left to the States to decide themselves.

I point out that we are not affecting the base period benefits. The first 6 months of unemployment benefits which are funded through the State fund are not being affected here. This particular proposal does not go to those benefits. We are not saying that an unemployed person has to accept an offer of suitable employment to draw unemployment during the 6-month base period during the first 26 weeks. We are simply saying that to draw the Federal share of extended benefits for the additional 13 weeks, the additional 3 months beyond the first 6 months of unemployment insurance there should be a requirement that suitable employment be accepted for the Federal share of the extended benefits to be paid.

Mr. President, I think no one in this body would want to cut off benefits to those who are truly unemployed, who are making every effort to obtain a job and are having a difficult time feeding their families and meeting their other financial responsibilities. There is no one here who would want to do that, and I know that my distinguished colleague from Washington, my colleague from the State of New York, the distinguished Presiding Officer and others in this body have worked long and hard for many years to try to assure that fair standard of benefits should be paid to those who through no fault of their own, through changes in the economic climate, through the cyclical nature of certain kinds of industries, should receive benefits on which they can feed their families. I salute them for that.

I know we have terrible economic problems in certain parts of our country today, in the automobile industry, the steel industry, and other areas where those people who are hard workers, who are meeting their responsibilities as citizens, through no fault of their own have been unemployed and laid off.

I certainly have great sympathy with those people. One of the things that I want to make sure is that the integrity of those reserve funds is preserved so they can be paid to those people who are truly unemployed through no fault of their own.

What is being required here by the Finance Committee amendment which saves $94 million? The Senator from Kansas has said there are a lot of painful things that have been done. When we look at this reconciliation bill, not just the Finance Committee sections but other sections and we look at titles like child care, food programs, special milk programs, school breakfast programs, and we look at all the areas in which funds are being cut and which programs are being held back in an attempt to balance the budget and to bring the budget resolution into proper balance, I think we realize that some tremendous sacrifices are being made here.

We talk about being able to find some money somewhere. I suggest there are a lot of painful cuts in this bill that should be considered. But I do not think that that is an argument in favor of holding back $94 million of savings which can be made here and perhaps make it even easier in the conference committee for some of these other items to be taken care of where we are talking about direct benefits to children and to others.

Here is what we are talking about in this amendment. After a person has been unemployed for 6 months and has been drawing unemployment benefits for 6 months already, let us remember that already the person has been drawing unemployment benefits for 6 months, we simply say that to continue for another 3 months to draw unemployment benefits, the extended benefit program, that person should have to accept a suitable job if it is offered.

Now again notice that it says "suitable," and if we look at the bill, the bill defines what "suitable" is. It does not just leave this to the discretion of those who are implementing the law to decide what a suitable job is. If it did open it wide open, if it just said he will have to take any job that comes along, the Senator from Oklahoma would not support this proposal. If it said that you have to go out and take a job whether it applies to the minimum wage or not, I would not be in favor of enforcing that. If it said that you are going to have to go out and take a job even if you are going to get less money on this job than you were able to draw in unemployment benefits, and that man is trying to feed his family and is barely getting along with unemployment benefits, and we are asking him to take a cut in order to take a job, I would not be in favor of that.

But that is not what the bill says. It says it does have to at least meet the minimum wage, does have to pay him, in order to be a suitable job, at least as much as he is getting in unemployment benefits; it does have to be a job of a nature that has to be advertised through the employment service; it does have to be a bona fide offer in writing and at least meet the minimum standards of health and safety. In other words, we are not saying a person should have to take a job and go into a situation which is dangerous or unhealthy.

Page 23 of the bill goes into great detail in examining just exactly what suitable employment means so we do not leave it up to the whim and the discretion of those who would be administering the law.

I would just say that I think it is fair on balance; that what we are saying is, "Give the person 6 months of unemployment benefits, take care of him, preserve the funds for those who are truly unemployed, but after a person has already been drawing unemployment benefits for 6 months, if a bona fide offer of suitable employment is made under the standards, which define what 'suitable' is, then he should take that job."

If he is not willing to take that job at that point, I do not think it is really fair to say he is unemployed. I think we there have to say he has chosen not to be employed at that point. There is a difference between providing benefits for the unemployed and those who are drawing benefits because they choose not to work or they choose not to draw benefits.

The definition of "suitable" is even so broad, I would say to my colleague from Michigan, who is now on his feet, that I think this would apply specifically to one of the industries in his own State that, if he has reasonable basis for believing that he is going to have an opportunity in the near future to go back to his original job, even though it has not been offered to him at that point, he can turn down another job that is offered. So it is very broad to protect him.

Mr. LEVIN. Mr. President, will the Senator yield?

Mr. BOREN. I would be happy to yield.

Mr. LEVIN. My question is this: Under existing law, as I understand it, States have the right to require that unemployed people take what you call a suitable job. It does not have to be a comparable job; is that right under existing law?

Mr. BOREN. That is right. Under existing law a State could decide under its first 6 months of benefits, which are State funds——

Mr. LEVIN. Or extended.

Mr. BOREN. That is right, they could impose this requirement.

Mr. LEVIN. Is it not true the proposal you are espousing now, and which the Senator from New York objects to, would take away the rights from that State and require the States to follow the Federal-mandated standard of suitable job, instead of comparable job?

Mr. BOREN. I would have to say to my friend from Michigan I think he is trying to lead me peacefully along the primrose path.

Mr. LEVIN. I would not do that.

Mr. BOREN. I am sure he would not intentionally lead me along that path.

Mr. LEVIN. Never peacefully.

Mr. BOREN. It is a path along which I do not want to travel.

I would have to say that the first 6 months of benefits, which are the benefits that the State pays out of the State fund, would remain totally a matter of State discretion. They would not be required to impose this requirement.

Now, on the extended benefits after we have already given unemployment for 6 months, 26 weeks, then on the extended portion of the benefits that part that the Federal Government pays for with Federal money, yes, we would say to the States, "If you want to get the Federal money for which we are responsible and accountable, if you want to get the Federal money—you do not have to take it, but if you want it—yes, you should meet those requirements."

Mr. LEVIN. Is it not true that States are paying half of these extended benefits?

Mr. BOREN. That is correct.

Mr. LEVIN. Under existing law the States have the right if they want to to move to the tougher standards of a suitable job, and is it not true—and this is the primrose path you are afraid of, but also the path of accuracy—your proposal would remove from the States the option they now have of requiring a comparable job instead of a suitable, and the rationale for this is because the Feds are paying half the bucks?

Mr. BOREN. My colleague is factually correct as to the last part of his statement as to the extended benefits only. But I think it would be incorrect, however, for him to imply that we are here taking all State discretion away, that we are taking State discretion away from that portion of the program funded with State funds. I think that would be incorrect.

I would say this: A number of States, by the way, have moved to enact this proposal.

Mr. LEVIN. I would defend that right.

Mr. BOREN. I am glad the Senator from Michigan defends that right. The fact is that they have moved to adopt this.

Mr. LEVIN. I wonder if my friend from Oklahoma would defend the right of a State not to move to this proposal?

Mr. BOREN. I would say this: When it comes to Federal dollars, and we are finding ways to save Federal dollars, I think on that portion that we fund at the Federal level, we should have the right to make those requirements that the State come along on and that we be accountable to the taxpayers.

You know, we could split hairs here, but we are talking about the people's money. It all comes out of the people's pockets originally.

Let me say this: One of the great things about the Federal system is that the States have an opportunity to experiment, and that they be laboratories for experimentation.

When programs are found to work at the State level and to really bring about great savings, then Congress is free to adopt those programs and apply them on a national level when they work. If we go back into history, of course, we see what some of the great leaders at the turn of the century, like Governor LaFollette and others who later came to this body, through experimentation at the State level instituted programs when those programs were begun, programs like this one, and which were then later adopted at the Federal level.

I can speak from personal experience as to what happened when we changed and we adopted this provision. It is now a provision which has drawn considerable support from all elements of the economy, considerable support from those who are working on the assembly lines, and those who are managers of the companies both.

We found 3 years ago that our unemployment fund was broke, our reserves had fallen to virtually zero, and we adopted a package of reforms. Among these reforms were two that are included in this current bill: One involves voluntary quits, and the one we are now talking about, the requirement to take suitable employment.

Within a year and a half under virtually the same economic conditions that were prevailing at the time of the enactment, our reserves went up to $154 million, and again I would say these reserves are there for the protection of people who are genuinely unemployed.

We found great enthusiasm for what happened in our State, and I am very proud that it has been accomplished, and I think we did it, we have implemented it, in a way that does not take away benefits from those who are truly unemployed.

Mr. LEVIN. Mr. President would the Senator yield for a question at that point?

Mr. BOREN. I would be glad to yield.

Mr. LEVIN. I agree with you in your assessment that the States should be laboratories before we impose these kinds of changes. I wonder if you know how many States have adopted these standards?

Mr. BOREN. I could find that figure for you, but there are a substantial number of States that have moved to adopt these requirements, a substantial number have.

Mr. LEVIN. I would welcome that information.

Mr. BOREN. I will attempt to find that figure for you.

Mr. LEVIN. Before we do move to this on a permanent basis, I would again urge the managers of the bill to consider the offer of the Senator from New York that this kind of affirmative change in a reconciliation process, which we are doing for the first time, is something we ought to be awfully cautious about, and while I understand what the Senator from Oklahoma is saying, and I appreciate it, I hope he and the minority manager would give real consideration to the offer of the Senator from New York. I think it is a fair approach to this, and would avoid making permanent changes when we really do not know the implications of them.

Mr. BOREN. I will say—I will yield in just a minute to my colleague from South Carolina and also to my colleague from New Mexico from the Budget Committee, who was earlier on the floor—it is my understanding that we are attempting to deal in the budget, of course, most immediately with this year, but we are also attempting to deal with a 3-year program down the road. It would be, I think, much more beneficial to try to have some certainty as to where we are going.

I would also point out, as we have heard in talking about the States coming into compliance, I think it becomes very confusing to say to the States, "Try to bring the law into compliance this year, because there is a transfer of funds that is going to change back again and change back again the next."

Of course, I happen to be one that believes this is a sound policy, apart from the immediate savings and immediate problems we are facing. But I think also it would create problems and I think it might create problems for the Budget Committee.

I am happy to yield to the distinguished chairman of the Budget Committee, who is on the floor at this time, for any comment he might have on the subject.

Mr. HOLLINGS. I thank the distinguished Senator from Oklahoma. He is doing an outstanding job. Let me emphasize that the Finance Committee has done an outstanding job.

A comment was made a moment ago to the effect that, "Don't let the Budget Committee do your job or tell you what to do."

I continue to remind my colleagues that this is the Senate's budget. This is not the Budget Committee's budget. The fact of the matter is, on reconciliation we went to the various committees themselves—the Senators working within the Budget Committee, Senator BYRD, Senator BAKER, the leadership, and everybody else—and said, "Where can you find savings?"

We learned and continue to learn. It is an educational process of learning the budget procedure and the function is to educate, it is not to force.

We have learned, by looking forward 5 years on all the appropriations, so that we get a better perspective of the budgetary impact, the actual cost of Government. Particularly, this is true of what they characterize as the uncontrollables, for we find if we make minor adjustments to achieve savings, then we can control the uncontrollables over a period of 5 years.

This particular proposal saves $94 million in 1981 and $356 million over a 5-year period. The Finance Committee's fiscal year 1981 savings is a modest $2.2 billion but this turns into a very important $14.3 billion over 5 years.

So what we are considering in table 5 of reconciliation is really a $14 billion savings by the Finance Committee over this 5-year period. In this way we begin to control runaway Federal spending.

The intent is for permanent savings, not temporary. We are not doing a temporary patchwork job.

After we got through approving the conference report on June 12, then the committees met in quorum to debate these proposals for savings.

And you can see this title 5—this big, thick book of just Finance Committee savings—is a package that would ordinarily take weeks to consider. The Finance Committee reported out permanent savings—not temporary—permanent. Not just two or three instances but the Finance Committee has more than two dozen items—some little, short-term ones—but generally they are provisions for permanent savings.

The Veterans' Affairs, Environment and Public Works, Agriculture, Nutrition and Forestry, Small Business, Commerce, Science and Transportation, all of these committees made permanent savings.

Now, that is why this is so important to us in trying to arrest inflation, control the budget, and have some ultimate say about the allocation of funds to our priorities.

We must not look at it in the minuscule, as a 1-year proposition, we must look at savings over the long haul.

Our friend Hubert Humphrey said that democracy and the road to freedom was not the hundred yard dash, but the endurance contest. If we can only endure and change this attitude about saying, "Don't let the Budget Committee tell you what to do."

The Budget Committee has been quietly sitting in the corner minding its own business. The chairman of the Finance Committee has been leading the way and the ranking member, the distinguished Senator from Kansas, Senator DOLE. We have been enjoying it.

Mr. MAGNUSON. Wait a minute. Will the Senator yield?

Mr. HOLLINGS. I yield to the Senator.

Mr. MAGNUSON. The Budget Committee has been minding everybody's business, right or wrong.

Mr. HOLLINGS. Well, it is the Senate's budget.

Mr. MAGNUSON. It has not been quietly sitting in the corner minding its own business.

Mr. HOLLINGS. Well, we quietly worked on Saturday to assist the Appropriations Committee so we could stay within the budget.

Mr. MAGNUSON. Maybe it should not be minding everybody's business but, let us get this straight, it is minding everybody's business in reconciliation.

Mr. HOLLINGS. Well, it is the taxpayers' business.

But getting to the one exception to permanent savings—that involves the Governmental Affairs Committee. I might emphasize to my colleagues that we will get to the Governmental Affairs Committee tonight—either before midnight or after midnight under the present schedule.

We do a grand job on permanent savings achieved by nine committees. We get permanent savings until we get to what? Until we get to our own pension, that is subsidized by the taxpayers to the tune of $8.8 billion.

No other pension in America is recomputed twice a year. None; zero; zilch. Who are we going to save? You and me, the club, the Federal employees. The retired Congressman back home, due to that twice-a-year cost of living, is making more than Senator THURMOND and Senator HOLLINGS. We have a couple of

Congressmen there. We can show exactly what the impact of that twice-a-year cost of living is. People are retired and getting paid more under that financial windfall than the people here who are here working Saturday nights and late again on Monday night.

But not making the change to annual cost-of-living permanent, what does that do? That affects not just the civil service retirees, but also the military, where the Armed Services Committee had voted to make it a permanent change, conditioned, however, on the same change for civilian retirees. So if that happens you have to go back to the permanent law we passed on food stamps; then to child nutrition, and then, if that is what you want to do, to social security, veterans' compensation, and on down the line.

And where are you? Without even social security and veterans, we are talking about a 5-year savings of $5.879 billion that goes out the window. That is the importance of this temporary-permanent argument.

We can control increases for the needy under food stamps, but we cannot control the greedy.

Incidentally, I notice here, if you study the Finance Committee report, that a similar requirement was previously enacted with respect to benefits under the Emergency Unemployment Compensation Act of 1974. It was the same provisions. So this approach is not new to Congress.

The approach is not new. But the fact that it is in reconciliation and the fact that it is permanent is the all-important factor.

Mr. BOREN. Mr. President, I yield 3 minutes to my colleague from New Mexico.

Mr. DOMENICI. Mr. President, the notion that reconciliation savings are only needed for a single year misses the mark. The Senate had 5-year numbers before it when it decided to approve its version of the budget resolution and the reconciliation instructions. Likewise, the final version of the budget resolution the Senate approved contains 3-year numbers which assume that the savings from reconciliation will continue in the out-years.

This bill as it now stands will save $27.3 billion over the next 5 years. The Finance Committee portion accounts for $14.3 billion of this savings.

These out-year savings are vitally important. We cannot control the Federal budget if we focus on only a single year. We have been moving steadily toward setting longer range budget targets. Let us not reverse that by placing provisions such as that now before us on a single-year basis.

Mr. President, I rise to commend not the Budget Committee but the Finance Committee of the Senate. If there is anyone who thinks that this particular issue is an issue that the Budget Committee raised, they are mistaken. The Budget Committee of both Houses voted on a date 17 days ago by both bodies in the Senate and the House, to ask the committees of the Senate and House to save some money in the out-years, based upon existing laws that had to be changed. That is what reconciliation is.

In the Senate they have done a marvelous job. They have complied in every respect.

We did not, in the reconciliation, request of the Finance Committee, tell them to take this issue. They have been debating this issue for years. It took the Congress and the Senate to say to them, "Unless we reconcile, we will never begin to cut the uncontrollables in this budget to the extent required. No. 1, to meet the budget for 1981, and, second, in the out years to bring savings in the uncontrollable area so that we can begin to add some prioritizing and some sense to the budget."

They, the Finance Committee, decided in their wisdom to take this issue and they recommended, in this Senator's opinion, absolutely properly to take this emergency funding for unemployment compensation and say it will end. That is their prerogative as a committee which was charged with this responsibility. To say it is not consistent with what this Senate asked them to do is totally missing the mark.

If Senators want to know how these out years will be affected by the Finance Committee's activities, let me just give you a figure.

The entire reconciliation bill before us will save in the out years $27.3 billion, I say to my good friend, Senator HOLLINGS. This big reconciliation will save $27.3 billion. I ask, if we want to make everyone of those items 1 year, where are we going to get $27.3 billion? We will be here every year looking at a little piece of the $27.3 billion that this reconciliation is going to save in the out years.

As to the Finance Committee itself, their savings in the outyears from this bill will be $14.3 billion.

So no one will think it is the Budget Committee, it was the Congress that gave these instructions and if you want to undo it what you will be doing is saying, "We do not want to save $14.3 billion over the next 5 years. We want Congress to come back and face each one of these issues each year."

If you want to reconcile 1 year at a time and bring these kinds of issues each year, you can do that, Mr. President, and you are setting the pace for that if you go along with this amendment.

What will happen is that every committee will get the message that they ought to reconcile for 1 year. We can come back here every year and say, "OK, technically they have complied. Instead of $14.3 billion over the next 5 years it is a few hundred million in 1981." Then you would vote "aye." You better be prepared as a Senate to come back next year and vote another reconciliation because 1 year will not do the job except for that 1 technical year within the extreme narrow limits of 1 year.

Somebody argued that they think it does not apply. We are making a policy decision. If we agreed that this program should stop, I would go the other way. If the Senate wants to put it back in someday, they are perfectly at liberty to put it back in the same as they started. The year after next they can pass another law to put this emergency kind of extra pay in and we will vote on it again. But for now I urge that the excellent work of the Finance Committee, which takes care of outyears and not just the 1 year, be affirmed so that we will know that reconciliation is going to really mean something. It is not going to bring us back to this floor every year to vote 1 year effective cuts in entitlement programs.

Mr. BOREN. Mr. President, I yield 4 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of the Finance Committee action regarding changes in unemployment compensation. I commend the Finance Committee for taking this position.

To me, it just does not make sense for the Senate not to accept the position of the Finance Committee. It is very clear that under these recommendations with respect to extended unemployment benefits, these benefits would no longer be payable on the basis of less than 20 weeks of employment. That is one recommendation. It is a good recommendation.

Another recommendation is that these extended benefits would be payable only after a mandatory 1-week waiting period. That is a good recommendation.

Another recommendation is that the national trigger for extended benefits be eliminated. That is a good recommendation.

Another recommendation, and the one being propounded here by the distinguished Senator from New York, is that these benefits would no longer be payable to persons refusing any job which met minimum standards for work conditions, such as those for safety, health, and the minimum wage law. Mr. President, that is a good recommendation.

How can you justify paying extended unemployment benefits after the employee has already received benefits for 6 months and, when a job becomes available, he does not take it, but refuses the job? How can we justifiably say then that he should be paid benefits further? That just does not make sense to this Senator, and I do not believe it makes sense to the American people. Furthermore, the worker is not forced to accept any kind of a job. The job has to meet the standards for working conditions, for safety, health, and the minimum wage law.

If a man is offered a job which meets those conditions, why should he not take it? Why should he live on the Federal Government for 13 more weeks? That will cost the Federal Government $94 million.

That is the reason I commend the Finance Committee for what they have done. It not only will save the Federal Government $94 million, but it will save the State governments many millions of dollars if they choose to adopt the same guidelines. That will be a great help to the States. I feel that this is a good action. I feel it is a fair action. I am very pleased the Finance Committee took this position and I hope the Senate will confirm it.

Mr. JAVITS. Mr. President, I yield myself as much time as I may require.

Mr. President, partially I had to pinch myself to know what amendment was being debated.

My amendment strikes this one provision out. It is not a 1-year amendment. It strikes it out precisely because it is the wrong way to go.

Mr. President, I love hearing the friends of the worker.

Mr. President, a man is an engineer. He is earning $24,000 a year. He is unemployed for 26 weeks and he goes on extended unemployment. According to the friends of the worker, the next job that comes along, to sweep floors, he has to take or he loses his unemployment compensation, because it pays the minimum wage. Mr. President, let us look at the record. This amendment says so, there is no question about it. It says, on page 24, lines 20 and 21:

> If the position pays wages less than the higher of—
>
> "(1) the minimum wage provided by section 6(a)(1) of the Fair Labor Standards Act. . . .
>
> "Any applicable State or local minimum wage."

That is what we are being asked to consider—friendship, solicitude for the skill, ability, and dignity of the worker.

The second point. I raised the permanent law question, because this involves a very deep matter of policy. That is why I raised it. And here we are, kissing it off, under a reconciliation, for one balanced budget.

Mr. President, there is no such thing as permanence in the Congress of the United States. What we are doing tonight can be wiped out in January of 1981, when there is a new Congress. As a matter of fact, it could be wiped out next week, by us. But let us assume we do not do it. One Congress cannot bind another.

And, what is this Budget Committee all about? Is it supposed to take over the work of every committee of the Congress? And is every committee of the Congress able—should it be able, by bringing in legislation, permanent legislation, to make major policy alterations on a reconciliation—to carry out all its own pet projects under the guise of a saving for 1 year?

There is nothing in this law and there is nothing in this bill that saves one plugged nickel beyond the fiscal year to which it refers—nothing. All this talk about $28 billion and $14 billion and x billion dollars is meaningless. We are dealing with 1 year's budget, and we are dealing with major issues of policy on the basis of that kind of debate, which is now limited. Even if it were unlimited, and we would—and shall—live to rue the day we did this. The whole Code of the United States—penal, antitrust, commercial, anything—is ripe for alteration if this is the way in which we are going to deal with budget matters.

Sure, Members have various ideas and feelings about their aspirations as to what they want to see happen, Mr. President. But that does not mean the Budget Act is the carrier for everything they want to do. There are lots of things I would like to see happen, too, but I cannot use the budget bill as a carrier for that.

So, Mr. President, I think it is a grave mistake which we are making, to change basic law, especially in a matter which deeply affects the unfortunate individual who is unemployed and debases and demeans his skill in order to enable him to draw an extra 13 weeks' unemployment compensation, especially as his own State system is paying half of it from its State unemployment insurance fund.

Second, Mr. President, we are going to put all of these State systems in a terrible mess to try to comply with these changes. It is not going to be easy, with 40 of those legislatures out of business for the year. For all of those reasons, Mr. President, I believe this is highly improper.

Lastly, I remind my colleagues that the only thing that I am seeking to strike is this minimum-wage work concept. That is demeaning and humiliating and shameful to the individual. I cannot even see how we could begin to think about that.

The assertion has been made that this should be done because it was in the previous bill related to the Federal supplemental benefits program, which provided benefits after an individual had already had 39 weeks of unemployment compensation. We have no such thing here. The FSB program was fully federally financed. This is the 13-week shared Federal-State program, which should be left to the States to regulate. If my colleague's State wishes to set more stringent standards than Federal law mandates that is OK. I have no objection to that. But for the United States to write it in here as permanent law in a budget reconciliation bill is a great mistake. As I say, we shall live to rue the day we did it. Senator Magnuson, the chairman of the Appropriations Committee, has put his finger on the right spot. We are doing it to ourselves right now.

I hope, Mr. President, that this amendment will be accepted and that this iniquitous provision will be stricken.

Mr. WILLIAMS subsequently said:

Mr. President, I rise to speak as a cosponsor in support of the amendment of the Senator from New York (Mr. Javits).

Our amendment would strike certain onerous provisions from the bill, particularly the provisions that would require a recipient of extended benefits to apply for, and to accept, any job that pays at least the applicable minimum wage.

Mr. President, this requirement runs counter to the underlying principles of the unemployment insurance system and conflicts with longstanding practice under the unemployment compensation laws of virtually all—if not all—of the States.

For more than 45 years, workers have had the right to unemployment compensation for as long as they are seeking work at the same or relatively similar skill and earnings levels, up to a maximum number of weeks.

Through most of that history, the maximum time allowed under States laws was the customary 26 weeks. However, as the Nation entered the great recessions of the 1970's, a number of States increased the time allowed to search for work, and the Congress enacted the Federal-State Extended Unemployment Compensation Act, which provided for up to 13 additional weeks of benefits during periods of high unemployment and scarcity of jobs.

The Congress enacted that program in 1970 with the specific view in mind that unemployed workers need, and deserve, more time to look for work that is commensurate with their skills and earning capacity, during recessions.

An at that time, we were moving into a mild recession—mild compared with the sad experience of the recession of 1974 to 1976, when we recognized that 39 weeks of benefits did not provide enough time, in many of the Nation's depressed labor markets, for most workers to find suitable work, and we added two increments of 13 additional weeks of benefits for a maximum of 65 weeks.

Today, Mr. President, we are on the verge of another recession of the gravity of the last one, but we are not considering proposals to extend the time allowed for unemployed workers to find a suitable job.

Instead, we are considering a proposal from the Committee on Finance to drive in the other direction—a proposal that says to unemployment compensation recipients:

> If you cannot find work that meets your skill and earning experience in 26 weeks—not 39 or 52 as we allowed in the last recession—then we expect you to take any job that pays at least the minimum wage.

A standard of this kind, established by Federal law for recipients of extended benefits, conflicts with State law and practice in the regular 26-week program.

So some measure of administrative chaos is in prospect, as unemployment offices in the States try to apply and enforce their customary rules during the first 26 weeks and this new Federal rule in connection with any additional weeks of extended benefits.

Many States may prefer to avoid that confusion, and if the Congress enacts this provision, the only route open to them would be to apply this unfair Federal rule to their regular State program as well.

To the extent that occurs, the Congress justifiably would bear the blame of sewing the seeds for abrogating a basic, humane, logical and constructive principle of unemployment insurance.

It is worth noting, Mr. President, that the Senate is on the verge of taking this significant step without benefit of careful study.

Hearings on this far-reaching proposal have not been held by the Finance Committee or by the Committee on Ways and Means of the other body, so far as I know.

Granted that similar provisions were adopted by the Congress in 1977 for the

Federal Supplemental Benefits (FSB) program, which at that time provided up to 52 weeks of unemployment compensation benefits. But that precedent is of little value in this case.

At that time, we were coming out of a recession, not heading into a serious one.

That provision applied the new suitable work rule after 39 weeks of benefits, not 26 weeks as provided in the new Finance Committee provision.

The States had no experience administering that 1977 provision, since the FSB program expired within a few weeks thereafter and before the States could complete the revision of their administrative procedures.

It is important to realize, Mr. President, that changes in the extended benefit program cannot be implemented without State legislative action.

It is my understanding that, by midnight, legislatures in 42 of the States will have adjourned sine die for this year.

Passage of these proposals would require them to meet in special or emergency session almost immediately, because this bill allows them only until October 1 of this year for amending their State laws to conform.

In the event that the State legislatures refuse to meet—or for constitutional reasons find it impossible to do so—there are severe penalties for being out of compliance with the Federal law. For example:

Suspension of the 2.7 percent credit against the Federal unemployment tax that is levied on all taxable employers in the State, which would have the effect of quintupling the Federal tax on employers.

Suspension of the Federal grants for administration of the unemployment compensation program, which runs to tens of millions of dollars in the larger States.

These monumental penalties could come down abruptly. Under the terms of section 508 of the pending bill, the Secretary of Labor is required to determine by October 31 of this year whether the States have amended their laws in order to comply with these new requirements. If he finds that they have not, he must apply the penalties after exhaustion of due process procedures.

These conditions argue for study and careful consideration of this provision, not a pell-mell rush to enact them into law.

Mr. President, I have focused these remarks on only one of seven provisions recommended by the Finance Committee for reducing expenditures in the unemployment insurance program of the Nation.

However, I wish to make the record clear: I oppose most of the proposals advanced by the committee in sections 601 through 607 of the pending bill, and if the opportunity were available for the Senate to vote on them as a group, my vote would be in the negative.

This is no time, as the Nation moves into an unquestionably serious and possibly long-duration recession, to be undermining the unemployment insurance system, which has been our first line of defense against joblessness for more than four decades.

This system played a major role in stopping the swift descent into recession that we experienced in late 1974 and early 1975.

This system is one of the Federal program options available to quickly inject new purchasing power into the hands of consumers, if that is found to be necessary in the weeks and months ahead.

This system—and other anti-recession authority now in place—should not be destabilized at this critical time with complex adjustments in its administrative provisions and operating procedures.

We will regret adopting these provisions if joblessness gets further out of hand.

So I hope my colleagues will join in adopting the amendment of the Senator from New York.

Mr. BOREN. Mr. President, if my colleague from New York is ready to yield back his time, I am prepared to yield back my time.

Mr. JAVITS. I yield back my time, Mr. President.

Mr. BOREN. I yield back my time, Mr. President.

Mr. JAVITS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time has been yielded back. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER (Mr. BURDICK). The Senate is not in order.

Mr. WALLOP. Mr. President, would the Chair let us know as to what would satisfy him, or continue?

The PRESIDING OFFICER. According to the customs of this body, Senators will be in their seats during the rollcall. If Senators want to change the rule, let me know about it.

Mr. STEVENS. I know of no such rule.

The PRESIDING OFFICER. The clerk will continue to call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from Ohio (Mr. GLENN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Michigan (Mr. RIEGLE), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

On this vote, the Senator from Michigan (Mr. RIEGLE) is paired with the Senator from Louisiana (Mr. LONG). If present and voting, the Senator from Michigan would vote "yea" and the Senator from Louisiana would vote "nay."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Oregon (Mr. PACKWOOD), the Senator from North Dakota (Mr. PRESSLER), and the Senator from New Mexico (Mr. SCHMITT) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.)

The PRESIDING OFFICER (Mr. BURDICK). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 27, nays 60, as follows:

[Rollcall Vote No. 281 Leg.]

YEAS—27

Bayh
Biden
Bradley
Burdick
Chafee
Cranston
Culver
Durkin
Eagleton
Ford
Gravel
Heinz
Huddleston
Jackson
Javits
Levin
Mathias
Melcher
Metzenbaum
Moynihan
Nelson
Pell
Randolph
Sarbanes
Stevens
Weicker
Williams

NAYS—60

Armstrong
Baker
Bentsen
Boren
Boschwitz
Bumpers
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cochran
Cohen
Danforth
DeConcini
Dole
Domenici
Durenberger
Exon
Garn
Hart
Hatch
Hatfield
Hayakawa
Heflin
Helms
Hollings
Humphrey
Inouye
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Lugar
Magnuson
Matsunaga
McClure
Mitchell
Morgan
Nunn
Percy
Proxmire
Pryor
Roth
Sasser
Schweiker
Simpson
Stafford
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Young
Zorinsky

NOT VOTING—13

Baucus
Bellmon
Glenn
Goldwater
Kennedy
Long
McGovern
Packwood
Pressler
Ribicoff
Riegle
Schmitt
Stennis

So the amendment of the Senator from New York (UP No. 1372) was rejected.

Mr. BOREN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

UP AMENDMENT NO. 1373

(Purpose: to strike part D, title V, relating to reducing public assistance payments to territorial jurisdictions)

Mr. MATSUNAGA. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Hawaii (Mr. MATSUNAGA) proposes an unprinted amendment numbered 1373.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 28, line 5 through line 25 and on page 29, line 1 through 19, strike out all of the provisions.

Mr. MATSUNAGA. Mr. President, my amendment is offered as an expression of my strong opposition to the recommendation made by the Finance Committee in the pending legislation to phase-in the permanent public assistance benefit ceiling increases for Puerto Rico, Guam, and the Virgin Islands, that is mandated by Public Law 96–272, the Adoption Assistance and Child Welfare Act of 1980, just signed into law by the President earlier this month.

The Finance Committee adopted this phased-in approach to implement the permanent public assistance ceiling increases for the U.S. territorial areas because the temporary ceiling increase, which I and a number of other members of this and the other body strongly supported in 1978, did not result in an expansion of the beneficiary population in these areas. The Finance Committee's proposal would presumably allow the jurisdictions in these areas sufficient time to enroll new beneficiaries instead of permitting increased payments to the current beneficiary population as occurred under the temporary ceiling increase.

I would simply like to point out to my colleagues that these public assistance ceiling increases were made permanent, even through insufficient to meet the needs for such assistance in these areas, as a step toward providing equity to the territories. Thousands of residents in these areas receive no public assistance benefits in spite of their need, due to insufficient funds in the public assistance programs for these areas. A great number of residents in these areas would unfortunately be unserved even with the full implementation of the permanent ceiling increases. However, other residents would receive assistance for the first time if the permanent ceiling were implemented in full during fiscal year 1981.

In Puerto Rico, for example, the aid to families with dependent children (AFDC) program benefit authorized by Public Law 96–272 would increase average monthly payments from $14 to $30 per family.

Mind you, that is an increase from $14 a month to only $30 per month per family.

This AFDC payment has not been permanently increased since 1972; 60 percent of the residents of Puerto Rico live below the Federal poverty guideline. The cost of living there is, however, 12 percent higher than in the District of Columbia. Moreover, the residents of Puerto Rico are not eligible for supplemental security income payments. Therefore, those residents in need who do not receive food stamps or payments from the AFDC or aged, blind, and disabled programs receive no public assistance at all.

It will interest my colleagues to know that a recently conducted survey in Puerto Rico revealed that about 62,000 families, or about 7 percent of the total population in Puerto Rico, currently have no income at all. Moreover, the Federal share of the average monthly AFDC payment in Puerto Rico today is $4.73, while in the 50 States, the Federal share on an average monthly AFDC check is $39.

Mr. President, I am entirely sympathetic to the interests of the Senate to comply with the budget reconciliation process. However, I do not believe that reducing lawfully authorized and greatly needed public assistance benefit payments to U.S. citizens is a desirable or an appropriate method of reducing expenditures in order to comply with the reconciliation process.

There are a number of other areas from which the Senate could develop the necessary savings under its version of the reconciliation legislation without having to reduce public assistance payment ceilings to Puerto Rico, Guam, and the Virgin Islands. I might point out to my colleagues that the other body did not include such reductions in its version of the reconciliation legislation.

The Senate Finance Committee proposal would only save an estimated $39 million in fiscal year 1980 and $26 million in fiscal year 1981. Mr. President, I urge my colleagues to reject this permanent public assistance benefit ceiling phase-in proposal and accept instead the full and expeditious funding of this most important increase to our territorial possessions. I wish to remind my colleagues, Mr. President, we are here dealing with American citizens. We have just approved the expenditure of $300,000,000 to care for non-American political refugees. Why can we not spend $39,000,000 in 1980 and $26,000,000 in 1981, to save our own countrymen, citizens of the United States, from abject poverty and suffering?

Mr. President, I ask of the floor manager assurances that this matter which, as I understand, will be in the House measure, will be given full consideration in conference.

Mr. BOREN. I say to my good friend from Hawaii that since there is a difference, since this does not appear in the House bill as it appears in the Senate bill, that it will be, of course, then considered in conference and very serious consideration will be given to the feelings which the Senator from Hawaii has so eloquently expressed.

Mr. MATSUNAGA. I appreciate the expressions of the floor manager, the Senator from Oklahoma (Mr. BOREN) and in the light of his assurance I am willing to withdraw my amendment.

Mr. BOREN. I yield to my colleague from Kansas.

Mr. MATSUNAGA. Unless the Senator from Kansas wishes to make a statement before, I do intend to withdraw my amendment.

Mr. DOLE. I wanted to add about a minute before the Senator withdraws the amendment because I am sympathetic.

Mr. MATSUNAGA. I yield to the Senator.

Mr. DOLE. I am sympathetic to the purposes of the amendment. I think it is another area of another case where we are under certain constraints in the Finance Committee, and it seems to me that the phase-in approach is an orderly procedure.

We have some evidence in Puerto Rico, for example, that special payments were made in each of the 2 months giving individuals in some cases a temporary increase in their benefit payments of nearly 2,000 percent. As a result of this practice, in some cases probably the money was not spent wisely.

But I do not quarrel with the efforts of the distingiushed Senator from Hawaii. The Senator from Kansas has been helpful in the past and in fact I understand in some of the checks that went out in Spanish they were thanking certain Senators for their help in the check that was mailed. The Senator from Kansas was mentioned as I assume the Senator from Hawaii, the Senator from New York, Senator MOYNIHAN, and others, on the Finance Committee.

But as the Senator from Georgia knows in addition to this program I think the food stamp bill in Puerto Rico is about $600 million and so I think in most programs Puerto Rico is treated very fairly. But I certainly will cooperate where I can in the conference in trying to find some reasonable solution.

Mr. MATSUNAGA. There were two instances where under the temporary extension of the ceiling there were inordinate payments made, but we must realize, Mr. President, that on the average the Puerto Rican family receives only about $47 per month as compared to $204 per month for the average family in the 50 States.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a letter addressed to me written by Congressman BALTASAR CORRADA, Resident Commissioner of Puerto Rico, and also a letter written to me by Congressman MELVIN H. EVANS of the Virgin Islands.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., June 23, 1980.

Hon. SPARK M. MATSUNAGA,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR MATSUNAGA: As you know, the Senate Committee on Finance is presently considering various deferral options in order to comply with the 1980 Budget Resolution.

Among the deferrals being considered is one that would reduce the ceilings placed on the AFDC Program in Puerto Rico, Guam, and the Virgin Islands. An increase in these ceilings for Puerto Rico from $24 to $72 millions for FY 1979 was enacted as part of the Tax Reform Act of 1978 and the increase was made permanent when President Carter signed H.R. 3434 into law.

These ceilings had not been increased since 1972 and, at present, an AFDC recipient in Puerto Rico, including the aged, blind, and disabled receive an average of $14 per month.

I urge you to defeat any motion made in the Committee to defer these increases.

Thank you for you cooperation on this matter, I am

Cordially,

BALTASAR CORRADA,
Resident Commissioner, Puerto Rico.

House of Representatives,
Washington, D.C., June 23, 1980.
Hon. Spark M. Matsunaga,
Senate Finance Committee,
Washington, D.C.

Dear Senator Matsunaga: I am writing to you today to express my total opposition to those spending cuts proposed by the Senate Finance Committee which would affect the public assistance programs in the United States, Virgin Islands, Puerto Rico, and Guam, as contained in the Public Resolution Reconciliation.

Late last week, the Committee agreed to consider deferring the implementation of the full amount of the increases authorized by H.R. 3434, P.L. 96-272. Such increases would have corrected a grossly unfair, hardship working, and discriminatory practice which previously existed by tripling the permanent ceiling, increasing the federal percentage, and providing for the prepayment of Title 20 social services funds. These several measures had long been awaited by the Virgin Islands, Puerto Rico, and Guam in order to avoid unfair and severe hardships for low income persons. The Virgin Islands Government, in anticipation of this long awaited corrective measure, increased welfare benefits from the pitifully inadequate amount of $52, to $78 per month per individual, commencing at the beginning of FY 1980. It is now faced with the prospect of reducing benefits due to insufficient local funds, should the action of the Senate Finance Committee prevail.

Although the Virgin Islands stand ready to make their share of sacrifices, the benefits to the budgetary process by this measure would be so minuscule and the adverse effect on the poor welfare recipients in the Virgin Islands so harsh as to make this an impracticable way of balancing the budget. To use the frequently heard expression, this would be literally "balancing the budget on the backs of the poor".

Thank you very, very much for your help.
Sincerely,
Melvin H. Evans,
Member of Congress.

Mr. MATSUNAGA. I ask unanimous consent that I may withdraw my amendment at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Mr. President, as far as I know, there are no other amendments. No other Senator has requested to make an amendment to title V.

Mr. President, I ask if there are any others who might possibly have amendments to let me know and while we are discussing this matter I will suggest the absence of a quorum.

Mr. STEVENS. Will the Senator withhold that?

Mr. BOREN. I withhold.

Mr. STEVENS. It is my understanding that the Senator from South Carolina was going to raise the committee amendment now if it is possible. Is that correct?

Mr. BOREN. It is a different title. We want to close out this title.

UP AMENDMENT NO. 1374

(Purpose: To provide that the requirement for a waiting period shall not apply to a State until after the legislature has met)

Mr. HUDDLESTON. I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. Huddleston) proposes an unprinted amendment numbered 1374.

Mr. HUDDLESTON. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 16, line 6, strike out "The" and insert "(1) Except as provided in paragraph (2), the".

On page 16, between lines 9 and 10, insert the following:

(2) In the case of a State with respect to which the Secretary of Labor has determined that State legislation is required in order to eliminate its current policy of paying regular compensation to an individual for his first week of otherwise compensable unemployment, the amendments made by this section shall be applicable in the case of extended compensation paid to individuals during eligibility periods beginning after the end of the first regularly scheduled session of the State legislature ending more than 30 days after the date of the enactment of this Act.

Mr. HUDDLESTON. Mr. President, as now written this amendment eliminates the participation by the Federal Government of reimbursement for the first week of unemployment. If a State pays unemployment benefits beginning with the first week that a person is unemployed, the bill as it now stands would not allow Federal participation for that first week. My amendment would, in the case of those States which do in fact pay from the first day of unemployment, waive the imposition of this restriction to such time as that State had an opportunity for its legislature to meet to change its particular laws to conform with, if it so desires, the requirements of this bill.

I believe this has been checked on both sides of the aisle, and I do not believe there is any particular objection.

Mr. BOREN. Mr. President, I have discussed this amendment with staff. We are dealing here with only a very, very few States. The vast majority of the States already have this provision in the State law, and I think to give those few States which would be impacted time for their legislatures to consider it would have a negligible impact on the total budget. We are dealing here with total savings under this amendment of $25 million. As I said, we are dealing with very, very few States that would be involved.

That being the case so as not to cause undue disruption in those few States that would be affected, it is certainly acceptable on this side for this amendment to be adopted.

Mr. HUDDLESTON. I thank the distinguished Senator from Oklahoma.

Mr. DOLE. I concur in the statements of the Senator from Oklahoma. I think it is a reasonable amendment and I am prepared to accept it for this side of the aisle.

Mr. HUDDLESTON. I thank the distinguished Senator.

The PRESIDING OFFICER. Is all time yielded back?

Mr. BOREN. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Kentucky.

The amendment (UP No. 1374) was agreed to.

Mr. HUDDLESTON. I move to reconsider the vote by which the amendment was agreed to.

Mr. BOREN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOREN. Mr. President, no one else has come to me with regard to an amendment to this particular title, title V, of the bill which applies only to the spending savings attributable to the Finance Committee areas of jurisdiction, and there being no other amendments in order on this section, I now yield back all time on this side of the aisle in regard to title V.

Mr. DOLE. Mr. President, the Senator from Kansas yields back all the time on this side and, if necessary, I am also authorized to yield back any time that Senator Javits might have remaining.

The PRESIDING OFFICER. The question recurs on the bill.

Mr. BOREN. Mr. President, to clarify the situation now that all time on title V has been yielded back, I think this is already the decision of the Senate, but to clarify the situation, I ask unanimous consent that no further amendments to title V be in order since all time has been yielded back.

Mr. STEVENS. Mr. President, reserving the right to object, this will close title V and not take the bill to third reading.

Mr. DOLE. This just closes title V.

Mr. BOREN. This just closes title V, no further amendments, the Senator is correct.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 1375

(Modification of Amendment No. 1933)

Mr. HOLLINGS. Mr. President, on behalf of the Committee on the Budget I send to the desk an amendment and ask the clerk to report.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. Hollings) proposes an unprinted amendment numbered 1375.

Mr. STEVENS. I beg the Senator's pardon. Is that amendment modified from the printed form?

Mr. HOLLINGS. Yes, I can answer the Senator from Alaska. We have modified the amendment to conform.

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. For this Senator's edification, I would like to know what the modifications are.

The PRESIDING OFFICER. The clerk will report the modifications:

The assistant legislative clerk read as follows:

On page 97, strike lines 4 through 15, strike sections 601 and 602, and insert in lieu thereof the following:

SEC. 601. Section 8340 (b) of title 5, United States Code, is amended to read as follows:

(b) (1) The Office shall on January 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for December of the preceding year over the price index published for December of the second preceding year.

"(2) Except as provided in subsection (c) (1), if in any year the percent change determined under paragraph (1) of this subsection indicates a rise in the price index, then, effective March 1 of such year, each annuity payable from the Fund having a commencing date not later than such March 1 shall be increased by the percent change computed under paragraph (1) of this subsection, adjusted to the nearest 1/10 of 1 percent.".

EFFECTIVE DATE

SEC. 602. The amendments made by this Act shall—

(1) take effect on the date of the enactment of this Act, and

(2) apply to any annuity increase that takes effect on or after such date.

Mr. HOLLINGS. Mr. President, in some important respects, the debate regarding the size and scope of entitlement programs resembles the plot of a science fiction novel. It is said that "uncontrollaable" spending has taken over the budget. It is said that Federal entitlement programs have a life and power of their own. It is as if they have turned on their makers with a will to grow and an urge to expand which no mere Senator can master or restrain.

But we need no supernatural power to regain control of these Federal spending programs. We need only muster the will and determination to cut back on programs that have grown beyond responsible limitations. The first resolution on the 1981 budget provides for that beginning.

It calls for $6 billion in entitlement program savings over the coming 5 year period through permanent annualization of cost-of-living benefits in four entitlement programs which now feature twice annual adjustment.

One of these changes—annualization of food stamp adjustments—has already been enacted into law.

Two of the others—annualization of child nutrition benefits and of military retirement benefits—are included in the reconciliation bill.

But the one remaining program—civil service retirement—has not been subjected to the same permanent change to once-a-year adjustment.

The Budget Committee has drafted an amendment to rectify that shortcoming, and in accordance with the budget resolution adopted by the U.S. Senate. At this particular point, Mr. President, for those who are listening through their squawk boxes or otherwise, I caution that we are carrying out the responsibility as assigned.

The function of the Budget Committee is not to force but to educate, to correlate, to show in an understandable fashion the entire impact of the Federal budget, the entire impact of the Federal expenditures, and thereby the priorities of the Congress itself that can be enacted in an orderly and comprehensible form.

So what we are doing here is not just what the Budget Committee passed but what the Senate itself passed, and what the conferees agreed to as a No. 1 priority among the several agreements that we made for savings, particularly in reconciliation. We sent back reconciliation instructions to nine committees.

Once again I emphasize that every one of the nine committees, save in this particular instance, responded on the basis of permanent legislation.

The Governmental Affairs Committee had some close votes. The distinguished Senator from Alaska will be able to touch on this. He is a member of that outstanding committee, and Senator RIBICOFF and the committee, generally speaking, have been doing an outstanding job. But they had a very close vote on this one. Some of their members and some members within the Budget Committee thought the permanent change should be presented as an amendment.

So I emphasize that all of the savings from Armed Services; Finance; Labor and Human Resources; Veterans' Affairs; Environment and Public Works; Agriculture, Nutrition and Forestry; Small Business; Commerce, Science and Transportation took the instructions in the good light and the clear intention of the Congress when they confronted their particular responsibility.

While the reconciliation calls for $6.4 billion in savings for the year 1981, in 5 years these are the kinds of savings that grow and grow.

The cumulative effect of all the 5-year savings is $273 billion. We wondered back in 1975 how we could get control of the Federal budget. Now, we go through an exercise here on the floor, and we chastise each other; we get to the debt limit bill, and we try to draw a line as to who is for fiscal responsibility and who is not. We all are or we all are not. However, the case may be, if we did not pass a debt limit bill we could not pay the retirement benefits, the pensions, the social security, the cost of Government, and everything else, so we have to do it.

Rather than just pulling for headlines as to where we stand, this amendment is a realistic, commonsense, reasonable approach to the responsibility, to the discipline that is developing—which, I think, is very salutary—within the National Congress. So we call for permanent savings.

The budget resolution contemplates a savings of $2.3 billion over the next 5 years through permanent annualization of cost-of-living benefits for Federal civilian retirees. As it now stands, the reconciliation bill would impose that reform for 1981 only, a one-time savings of $523 million. The other $1.8 billion contemplated by the budget resolution would simply be lost. But that enormous taxpayer burden is only part of the picture.

In keeping with its reconciliation instruction, and with the assumptions implicit in the budget resolution, the Armed Services Committee reported a permanent cost-of-living annualization for military retirees that would save $1.6 billion over the next 5 years.

So now we get down to the wire, we go through reconciliation, and many, particularly friends in media, would constantly say, "Ah, the Finance Committee, Senator, will never go through with it. Senator Muskie had difficulty; you are going to have difficulty. It is a jurisdictional jealousy and you are not going to get it."

That has not happened. The Finance Committee afforded the leadership on the floor and carried through its title and beat down several amendments, and I commend them for it. They have led the way. We have come through all the other committees—eight other committees—but when we get here there is a rift in the reconciliation fabric that will rip, then tear, then pull completely apart. Now, is that extreme rhetoric or is that actual fact? When the civil service retirees' savings of some $523 million are made for 1 year only, then automatically the same holds true for military retirees under the conditional language in the reconciliation language reported by the Armed Services Committee. The Armed Services Savings are reduced to $400 million—a temporary rather than a permanent change.

Then, of course, there is the matter of food stamps.

The Senator from Utah said:

> Wait a minute. We debated the food stamp bill and we said there is a need to cut back, to take those in college off of food stamps, to take those on strikes off of food stamps, and to get better administration of the program.

And we look at food stamps and it had a twice a year cost-of-living adjustment. We are making a once-a-year adjustment for the needy, if you please. We made that change to a once-a-year adjustment on a permanent basis, and similarly with the child nutrition program.

The four programs—food stamps, child nutrition, military retirement, civilian retirement—would involve permanent savings of $5,879,000,000 over 5 years. The 1981 savings are $1,252,000,000. If we do not get the permanent change, the $4,627,000,000 in future year savings would be lost.

Mr. STEVENS. Will the Senator yield?

Mr. HOLLINGS. I yield to the Senator for a question.

Mr. STEVENS. Mr. President, I would inquire, I know other people are involved here, whether we could set some reduction of the 2-hour time frame.

Mr. HOLLINGS. Yes.

Mr. STEVENS. Subject to my good friend from Illinois and the chairman of our subcommittee. But I would like to see the vote take place no later than a quarter of 10.

Mr. HOLLINGS. Well, the Senator said 2 hours. I was wondering about that.

Mr. STEVENS. The Senator has 2 hours under the statute.

Mr. HOLLINGS. We have 2 hours under the statute, but the Senator wanted to divide the time?

Mr. STEVENS. Well, the Senator had about 5 minutes. If we made it an hour and ended up about a quarter of 10, that would be about an hour and the Senator could take 25 minutes, which would be the balance of a half an hour.

Mr. HOLLINGS. I am just getting warm to the subject.

Mr. STEVENS. I know. That is what worried me.

Mr. HOLLINGS. I have to fully explain it. We have come down too long a road to cut this discussion short. I do not mind splitting the next hour. We can have a half an hour a side and vote no later than 10 o'clock.

Mr. STEVENS. The Senator wants to vote at 10 o'clock and split the time between now and then.

Mr. HOLLINGS. Yes.

Mr. PERCY. That is fine.

Mr. HOLLINGS. If we get through before then, we can yield the time back.

Mr. STEVENS. We would vote no later than 10 o'clock?

Mr. HOLLINGS. Very well.

Mr. President, I make that unanimous-consent request.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? The Chair hears none. It is so ordered.

Mr. HOLLINGS. I thank the distinguished Senator from Alaska.

So there we are on those particular four items. But they are not the only ones involved, Mr. President, because we have also social security and veterans compensation. Certainly those two also would come into the picture if we are going to twice a year and be fair across the board.

Mr. STEVENS. Mr. President, on our time, would the Senator yield for a question?

Mr. HOLLINGS. Yes.

Mr. STEVENS. Why does the chairman of the Budget Committee want to cover more time than the reconciliation resolution covers? It covers only 1 year. We complied with the Senator's request for 1 year. Why cannot our legislative jurisdiction of the Governmental Affairs Committee be exercised wisely? We voted on this in a total period of 25 minutes. Why can we not have some time? Why does the chairman of the Budget Committee want to force us to go beyond 1 year.

Mr. HOLLINGS. Because the budget resolution itself calls for more than 1 year.

Mr. STEVENS. But your jurisdiction only extends for 1 year.

Mr. HOLLINGS. No; the budget resolution on this particular reconciliation calls for more than 1 year. We are not trying to get into a jurisdiction fight.

Mr. STEVENS. A budget act deals with 1 year at a time. We complied with it. Ask the Chair if we complied with the budget resolution.

Mr. HOLLINGS. The 1979 Debt Limit Act says we are supposed to write our budgets 3 years at a time. We have been doing 3-year budget resolutions ever since. The first budget resolution for fiscal 1981 is a 3-year budget, and we discussed that in the debate.

The Senator from Alaska is very clever. I am just getting to the peroration here. I am beginning to make this important point so it can be understood, can be appreciated, and can be realized. Then the Senator runs me off into a jurisdictional fight.

The Budget Committee has no desire or intent to infringe upon the jurisdiction of the Governmental Affairs Committee. The Governmental Affairs Committee could write us back and say, "Hooey, go jump in the lake. We are not going to do anything." And it would be up to Congress.

But you gave us the authority for a distasteful task. I say to the Senator from Alaska, that we are talking about my pension. Does the Senator think that I want to cut my pension and his pension and all the Senators' pensions?

We know what this encompasses. Yes, we can do it for military people, we can do it for veterans, we can do it for social security, we can do it for poor people on food stamps, we can do it for nutrition programs, we can do it for all the rest, but when it comes to ourselves, all of a sudden we want to talk about committee jurisdiction. Oh, no, we will not go down that primrose path. We are doing this exactly the correct way.

The Presiding Officer had the jurisdiction with respect to the 1-percent kicker. The committee would not even let the subcommittee meet on that particular score. I say, advisedly, I served for many, many years on that particular committee, along with the Senator from Alaska. We were not even allowed to meet, much less report it out.

So, at that particular time, to get it before the Senate, we not only had to have the constitutional question raised on the legislative appropriation bill, but we had to raise the germaneness question. When we finally got it, it was overwhelmingly voted in. It has been a substantial annual savings to the Federal Government ever since.

So let us not talk about committee jurisdiction. We respect the Senator and we respect every member of the Governmental Affairs Committee, and particularly Chairman RIBICOFF. But this is not a jurisdictional fight.

The budget ceilings that are set in the first budget resolution, adopted by the U.S. Senate, are for 1981, 1982, and 1983.

Mr. STEVENS. Will the Senator yield? That is not so. It sets it for this year and sets goals for 1982 and 1983. The Senator does not have a resolution for 1982 and 1983.

Mr. HOLLINGS. I refer the distinguished Senator to the RECORD of June 12. He will see the resolution there.

Mr. STEVENS. Does the Senator intend to hold budget meetings in 1982 and 1983?

Mr. HOLLINGS. Yes.

Mr. STEVENS. Does the Senator intend to bring back another resolution for 1982?

Mr. HOLLINGS. We are going to have another Congress.

Mr. STEVENS. That is why you did not do it for 1982.

Mr. HOLLINGS. Are we going to have another Senate in 1982 or 1983? That is not the question. The question is how are we going to effectuate the savings? How are we going to control the uncontrollables?

Mr. President, let us talk about Federal retirees. Perhaps some day we will be one. Maybe sooner than we think. My election comes up in November and this is not a very popular position to take. I can tell you that right now. I have not received any letters telling me, "Thank you for balancing the budget."

If we fail to amend the reconciliation bill to make the civilian reform a permanent one, we will lose not only that $1.8 billion in 5-year civil service retirement outlays, but an additional $1.2 billion in 5-year military pension spending.

Instead of saving $3.9 billion over the coming 5 years, we will succeed in cutting only $900 million for 1981 only.

Mr. President, the Senate cannot allow that enormous loss of taxpayer dollars.

Federal retirees have performed vital services for the American people and their Government. They deserve an ample and reliable level of retirement income.

But at a time when the average American family is hard put to make ends meet—at a time when the typical senior citizen is particularly victimized by inflation—at a time when social security recipients, railroad retirees, veterans, and military retirees are receiving or about to receive cost-of-living adjustments only once a year—and at a time when many who live on private pension benefits get no adjustment at all, there is simply no justice in singling out the civilian Federal retiree for a special and unmatched privilege.

What we are saying here tonight is everybody will have to suffer inflation, all except me and my crowd. Have you ever read Clarence Darrow's autobiography, "Our Kind," he calls it.

We have a limited time period here and many others want to address this particular subject.

What we are saying is that everybody should feel inflation equally. It is unfortunate to say one group in our society is our crowd. That is what the Senator from Alaska is trying to tell us.

The fact is that the current civil service retirement plan is unequaled anywhere for the scope and quality of benefits.

Social security benefits are adjusted once a year. Only 3 percent of private pension plans provide for any automatic cost-of-living adjustment at all. No private pension plan calls for automatic twice-a-year revisions. Sixty percent of the private plans call only for ad hoc adjustments. Thirty-seven percent provide no adjustments of any kind.

The unique advantage of twice-a-year adjustment is not the only special privilege enjoyed by Federal retirees.

Civil service workers can choose to retire at age 55 with full benefits after 30 years of service.

Those who are looking for consultant costs and want to save money ought to look at this one hard. We want to do away with all consultants except when we are the consultants, the Senators and the Congressmen, and their pensions. When we are the consultants, we do not want to talk about that particular pay benefit, that particular consultant.

Under social security, the earliest retirement age is 62, and benefits are reduced if they are taken before age 65.

The average Federal retiree receives $849 a month. Retired workers on social security get an average of only $295 a month.

Now they are going to talk about the taxability. They pay a tax.

It is true that civil service benefits are taxable, while social security benefits are not. But social security benefits are so much lower that most recipients without other income fall well below the taxable income line. They would pay no tax at all, even if their benefits were taxable.

I remind you further, in 1979 $8.8 billion is the subsidy for Federal civil service retirement.

The system has not paid its way.

We have social security paying its way. We are not dipping into the general fund. We are very assiduous about that. In January, we will have a social security tax increase.

We balanced the social security budget because we did not want to dip into general revenues. But for ours, we are dipping in $8.8 billion, and that is not enough. We want a twice-a-year inflation adjustment, too. But we do not want to talk about it.

It will be argued that some retired civil servants receive considerably less than the average. But in most instances, that is true because they have also worked in private industry and receive social security or private pension funds on top of their civil service annuity. About half of those receiving civil service benefits who are 65 or older are also getting social security.

A 1975 study looked at retirees receiving both kinds of benefits. Of those with 10 to 19 years of civil service employment, 30 percent had 11 to 18 years of social security employment. Twenty-two percent had 19 or more years of social security employment. Double-dipping is not a rare phenomenon.

Various other features of the civil service plan are unrivaled by any other pension program—public or private. "Early-out" provisions for premature retirement are generous. A civil service worker is eligible for disability benefits if he is merely unable to do his prior job. Under social security, disability benefits are only payable to workers unable to do any job in the public or private economy for which they would be qualified.

We have seen many of the high ranks in the military on disability. If that were social security, they would have to take any other job for which they would qualify. If you are in the Congress, you can retire and become disabled. If you are high in the military, you can go retire and get disability benefits.

Mr. President, the civil service retiree is very well provided for. The taxpayer, of course, is presented with the bill.

The civil service retirement program falls very far short of paying for itself. The program's unfunded liability is $136 billion. Each cost-of-living increase adds to that enormous total.

In 1980, these retirement costs will represent 37 percent of the entire Federal payroll. Federal employees contribute only 7 percent. The taxpayer foots the bill for the entire remaining 30 percent.

In 1979, the taxpayer subsidy totaled $8.8 billion—44 percent of the civil service fund's income for that year.

Federal retirees deserve fair compensation for their past services. But the taxpayer deserves a break.

And let it not be argued that Congress ability to make changes is limited by any legal restrictions. Federal retirees have no legal right—contractual or otherwise—to any annuity at all. In fact, they only began receiving this twice-a-year adjustment under 1976 legislation. They were receiving a once-a-year adjustment. The twice-a-year increase was only put in as an amendment when we eliminated the 1-percent kicker. But it was not promised permanently. They have not contributed for that twice-a-year increase. They act like it is a contractual thing and Congress is trying to cheat them out of it. That is not it at all.

We are trying to hold the line on inflation. They are going to get a once-a-year cost-of-living increase, which the majority of the American public will never even get.

A long line of Supreme Court holdings has established without reservation or exception that Government employees have no vested right to a pension. Congress has the discretion to change or revoke those benefits entirely and at any time it chooses.

Another sort of justice demands that Federal retirees be given their fair due—but not to the point where generous benefits become extravagant ones at the expense of every other American.

At this point in the RECORD, Mr. President, I ask unanimous consent to include an article from Business Week by William D. Howard, which relates to the indexing that feeds inflation.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE INDEX THAT FEEDS INFLATION

DEAR MRS. NORWOOD: According to the Jan. 2, 1980, issue of The Wall Street Journal, you spoke to the National Association of Government Labor Officials and defended the BLS consumer price index against claims that it exaggerates the inflation rate. . . . I submit to you than an honest analysis of my own personal financial status reveals more about the impact of the BLS's actions than can be derived from opinions of economists.

Let's start with my 43rd birthday, July 1, 1968, when as a middle-management federal accountant, Grade 15, Step 8, I was earning $22,000. Federal workers then became subject to the "Comparability Pay" law. My salary would have changed little had the "average" pay of the private sector surveyed been used, but it wasn't. The BLS used special weighting curves and other refinements they felt necessary to achieve "comparability," and instead of my pay increasing 22 percent in the next 4½ years, it spurted 54 percent to $34,971 by January, 1973, without any promotions. It would be $50,112 a year today if I had not retired on my 50th birthday, July 1, 1975

During the 4½ years since my retirement from federal employment, my Civil Service annuity (#1 810 115), which started at $1,922 a month, will reach $3,075 based on the CPI-W. [The index that applies to wage earners and clerical workers] of 230.0 at December, 1979. Thus, I now receive 63 percent more retired than I did working in mid-1968, primarily due to the impact of the BLS's determination of "comparability pay" and calculation of CPI-based cost-of-living allowances.

In your speech, which I referred to at the outset, you stated:

"We have one official consumer price index, and we will continue to have one official consumer price index."

"The CPI is the best measure of purchasing power we have."

"The purpose of CPI cost-of-living adjustment has been to permit people to purchase in today's prices the bundle of goods and services they purchased in the base period, thereby leaving them at least as well off as they were then."

This means that I do not have to switch to pork, chicken, or even pasta, as others do, because the cost of beef and veal has gone up more in the last eight years than meat substitutes. I am entitled according to you, to eat the same quantity and quality of beef and veal as I did in 1972–73, when it was cheap.

I still get to drive gas-guzzling cars at 6 to 8 mi. a gal., just like people did when the CPI was "based" and gasoline cost 41¢ instead of the $1.20 now. When the government urges conservation, it is at variance with your contention that we (CPI-based COLA recipients) should be left at least as well off as before. Heating oil was 19¢ a gal. at the CPI base, plentiful too. I can ignore the government's urging that I insulate my home, roll back the thermostat, etc., and heat with the same amount of oil as before at today's prices.

As to my home, I live in a new house acquired just before I retired in 1975, and although the value has doubled and I can take $100,000 tax-free profit, and the monthly payments are not a bit more, the housing components of my CPI increases of more than 50% have handsomely increased my income. Is it true that the CPI assumes that I can only sell my house for the equity I have paid into it and assumes that I repurchase and refinance a portion of my house every year?

My radial tires for my cars get 40,000 mi. these days, but my cost-of-living allowances based on the CPI assume that I still get only 15,000 because quality improvements (except for new automobiles) are ignored.

Medical care costs have risen dramatically in the last eight years, and my CPI-based income has been raised accordingly, yet my former employer continues to pay a large portion of my health insurance, and my costs are about the same.

I know that I am very fortunate to have your CPI income protection, as are 50 million other people who are similar beneficiaries. But don't you think, honestly, that it is unjust enrichment? Frankly, it scares me to contemplate what this transfer of payments from one group of citizens to another means. For myself, I am busily engaged in a second career in the private sector, but not everyone is—due to the influence on incentives.

For example: A local fellow who used to work for the same government bureau I did, retired 1½ years ago. I called him last week about a job opening similar to the one I got after retirement. He is a CPA and figured that from the $24,000 salary to start, on top of his CPI-based federal annuity, federal, state, city, and FICA taxes, and commuting expenses would leave him only $9,000 for working, and he therefore was not interested. Why should he support the system?

I understand that BLS's *Monthly Labor Review* welcomes communications that are factual and analytical, not polemical in tone.

Although this one is a bit embarrassing to me personally, it is a story that needs to be told, even if it ultimately results in less unjust enrichment to CPI cost-of-living benefit recipients.

Sincerely,

WILLIAM D. HOWARD.

Mr. HOLLINGS. I also ask unanimous consent to have printed in the RECORD an article from the Reader's Digest, by Congressman Hastings Keith, entitled "Let's Throttle Back the Federal Pension Gravy Train."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LET'S THROTTLE BACK THE FEDERAL-PENSION GRAVY TRAIN

(By Hastings Keith)

In 1973, after serving 14 years in Congress and 6 in the military, I retired and began collecting pension checks of $1560 per month. Today, just three years later, those checks have increased to $2206 per month. If you assume a realistic annual U.S. inflation rate of six percent—it's now between five and seven percent—I'll receive $5000 a month by 1990, the end of my life expectancy. If, however, inflation resumes at the double-digit rate of 1974, by 1990 I could be collecting as much as $17,000 a month.

To the millions of retired Americans who have to subsist on fixed incomes and who see their purchasing power shrinking every day, such largess to 2.7 million retired civil-service and military employes must seem irresponsible—even scandalous. In a 1972 survey of 1800 major U.S. companies, it was found that only four percent of the pension plans studied provided for pensions to vary with an increase of cost-of-living prices. And none of these companies provided benefits to exceed the living-cost hikes. Yet that's precisely what Congress does for retired federal-government workers.

One result of this staggering Congressional practice is that taxpayers will have had to cough up an extra $300 billion by 1990—assuming a six percent annual inflation rate—just to cover unanticipated retirement costs of federal workers. Because these employees can earn almost as much and, in some cases, more money in retirement than when they were working full-time, they will continue to retire at an early age. (Many then land jobs in private industry, and collect a salary along with their pension.) And private-sector employees will have to spend more years on the job to support with their tax dollars the longer retirement periods of public pensioners.

Annual pension costs have soared from $3.8 billion in 1967 to a projected $18.9 billion in 1977. That's a jump of 397 percent in a decade. But worse is still to come. Over the next 25 years, the known costs of federal retirement plans not counting any further inflation, will quadruple to more than $73 billion a year.

How did federal pension programs get so horrendously out of hand? Compared with private plans, they have been especially generous—the original idea being that the government needed to offer higher benefits to attract career employees. At the beginning, military retirees were not eligible for Social Security. In 1956, however, Congress took them into the fold. In 1962, Congress decided to sweeten that pot again. The first major addition was a cost-of-living escalator clause, which tied pensions to hikes in the Consumer Price Index. Pay raises followed that. (In 1960, the average salary of a white-collar government employee was $4,940. In March 1976, it was $15,336.)

Finally, a civil-service pension used to be based on the average salary that a federal worker earned during his final five years of service. By shortening that period to three years, Congress increased the amount that each pensioner could expect. Since people who legislate benefits are seldom the ones who have to pay for them, Congress—willing to let future generations do the worrying—simply appropriated enough money to pay each year's bill.

By 1969, the civil-service retirement program's unfunded liability—meaning benefits which had already been promised to federal workers, but for which no money had been set aside—was a frightening $56 billion and climbing rapidly. To stabilize the program, my colleagues and I voted to increase the amount that federal employes had to kick in to their pension plan from 6½ percent of salary to 7 percent. We required matching contributions from federal agencies. We also began setting aside funds to cover future obligations. Then, almost as an afterthought, we adopted an amendment which, in effect, undermined all these reforms.

Because there had been a substantial lag between upsurges in the costs of living and the time that those increases were reflected in pensioners' checks, we decided to give federal retirees a one-percent "kicker" to compensate. So, in 1969, we decreed that every time the cost of living shot up three percent over the previous month's index, and remained at that higher level for three consecutive months, pension checks would be increased by the amount of the increase in the Consumer Price Index plus an additional one percent. Since the annual inflation rate in 1969 was a meager three percent, the additional one percent didn't seem to pose a significant threat.

Then double-digit inflation set in. Since the beginning of fiscal 1974, there have been six cost-of-living adjustments, and the kicker—which was intended only to help retirees stay even—has actually given them $1.6 billion more than they needed to catch up. Whereas the cost of living over the past six years has risen 56 percent, federal pensions have been increased by 72 percent. Congress simply failed to realize that each one-percent add-on would be compounded and would thus become part of the base for succeeding computations.

Consider the following examples of what the increases can come to. A State Department secretary retired in July 1972 after 42 years' service. Her average salary for her final three years was $15,000, and her annuity at the time of retirement was $12,000.* Today, because of adjustments and add-ons, she collects an annual pension of $17,785. Or take the Commerce Department executive with a 44-year record, whose last three years' salary averaged $36,000. When he retired in 1972, he began receiving an annuity of $28,000. Today he receives $42,687 a year—or nearly $6700 more than he did when he was working. As recently as 1971, the average enlisted man who retired at age 41 at a pay-scale of $12,000 per year could expect a pension check of $350 per month. Currently, he collects about $500 per month.

A friend of mine in Maine, a former government employe, has seen his pension checks jump from $1900 to $2700 per month since his retirement several years ago. "I feel guilty," he says. In my own case, I served on active duty in the Army and then remained in the Army reserve. Last November, when I retired from the military, I began to collect $551 per month beyond my Congressional pension. In March of this year, that increased to $581. In 1978, when I'm 62 and eligible for Social Security, my bank balance will swell again.

Clearly, this upward spiral must stop. Fortunately, I'm not the only one who is spreading the alarm. Rep. Brock Adams (D., Wash.), chairman of the House Budget Committee, and Rep. Paul Findley (R., Ill.) have expressed their concern. Also, on two occasions recently, President Ford has asked Congress to repeal the one-percent kicker and bring federal pensions into line with those in the private sector. Unfortunately, perhaps because at least 38 members of Congress are themselves current recipients of federal pension-program adjustments and add-ons, little has been done.

Yet the country can't afford to wait much longer. Agreement on a new budget must be reached before October 1. Here's what Congress must do:

Abolish that one-percent kicker. This step alone would save at least $1.5 billion per year by 1981. Already, the kicker has cost taxpayers $11.2 billion. If it's left unchecked, its total cost could eventually exceed $150 billion.

Declare a moratorium on further automatic cost-of-living adjustments until future increases in the costs of living fully offset expenditures required by the kicker in the past. Under such a stipulation, federal retirees would not be eligible for another pension increase until the Consumer Price Index moves up another 16 percentage points and equals the 72-percent increase in pension payments since 1969.

Amend the pension law to require current funding of all cost-of-living adjustments. (Unfunded liabilities today total $100 billion for the civil-service retirement program, nearly $200 billion for the military.)

Eliminate the provision in the pension law which allows military service to be counted toward both civil-service and military retirement payments until the age of 62. The present statute allowing duplication of benefits is fiscally inexcusable. Similarly, Congress should recognize the role that Social Security plays and the duplication of benefits it provides millions of retired federal employes.

I don't blame federal workers and pensioners for taking advantage of present retirement plans. But the purpose of those programs was to provide retirees with an adequate income. It was not to give them preferred status, make them rich, or induce them to leave federal service early.

In this election year, federal pension reform should be a major campaign issue. Thinking voters will take pains to determine where candidates stand.

(Mr. ZORINSKY assumed the chair.)

Mr. HOLLINGS. Mr. President, Congress has changed the benefit practice several times over the past few years. The automatic cost-of-living increase was provided for the first time in 1962. Prior to that year, no retiree was entitled to an automatic increase at all. Such increases had only been granted on an intermittent basis.

Today, the Budget Committee is proposing not that automatic increases be eliminated, but only that they be granted on a more reasonable schedule.

Mr. President, in light of the fiscal challenge we confront at this time, that is hardly an enormous sacrifice to impose on retired civil servants.

But there is another, even more persuasive reason to change the existing reconciliation provision for civil service retirement. It would cost more than it would save.

The look-back feature of the present civil service retirement system will allow a civil service worker to retire in August 1981 and get an annuity computed as if he retired in time to receive the March 1981 cost-of-living increase. Under the Governmental Affairs Committee proposal to make the cost-of-living saving on a one-time-only basis, the Office of Personnel Management estimates that as many as 40,000 additional civil service workers would retire ahead of schedule, by August 31, 1981, in order to take advantage of the look-back feature.

---

*Federal employees with 30 years of service receive, on retirement, 56 percent of their last three years' average salary. Longer service can raise the rate as high as 80 percent.

The taxpayers would lose $35 million in fiscal year 1981 savings under the one-time-only proposal and another $500 million in additional fiscal year 1982 outlays because 40,000 workers will retire prematurely to take advantage of this so-called look-back feature which amounts to a windfall under the one-time-only proposal.

Since the one-time-only COLA change would save $523 million in 1981, but would cost $535 million by the end of the next year, because of these premature retirements, the one-time-only change will cost more than it will save.

The Budget Committee amendment would rectify that problem by making the annualization permanent and thus eliminating the retirement surge that would otherwise occur.

Mr. President, we cannot allow this bill to pass without the Budget Committee amendment. The public will judge the seriousness of our intentions to cut the budget by our votes on this amendment.

A few weeks ago, we passed a budget resolution that calls for $3.9 billion in 5-year savings in Federal retirement programs. How can we vote today to let $3 billion of that savings slip through our fingers? And that amount is on top of the implications that will flow from repeal of the look-back provision.

We are imposing severe restraints on many Federal programs. There is no sound argument for exempting past and present Members of Congress, congressional staff, Federal executives, and Federal employees from a fair share of the burden.

None of us are enthusiastic about asking any constituent to accept a share of that burden. But we know, and I think they know, that real cuts cannot be made without discomfort. Real progress cannot be made in our part of the fight against inflation unless we cut where cuts can most reasonably be made.

In the end, all of our senior citizens, whether they are retired from Government or from the private sector, will benefit more than most from the progress we make in that endeavor.

Mr. President, I reserve the remainder of my time.

Mr. STEVENS. Will the Senator tell me what was that last publication?

Mr. HOLLINGS. The last publication is the Reader's Digest, DeWitt and Lila Wallace, famous supporters of the Senator's side of the aisle. Delightful people. I wish I had their support. A great article.

"In 1978," says Mr. Hastings Keith "after serving 14 years in Congress"—I want Senator STEVENS to listen to this—

> and 6 in the military, I retired and began collecting pension checks of $1560 per month. Today, just three years later, those checks have increased to $2206 per month. If you assume a realistic annual U.S. inflation rate of six percent—

That is just a 6-percent inflation rate; not the 20 percent we got to a few months ago. The inflation rate now is right at 11 or 12 percent. Mr. Keith said:

> It's now between five and seven percent—I'll receive $5000 a month by 1990, the end of my life expectancy. If, however, inflation resumes at the double-digit rate of 1974, by 1990 I could be collecting as much as $17,000 a month.

I reserve my time, Mr. President.

Mr. PERCY. Mr. President, I think that what we are really going to have to address, very quickly, is the basic question raised by the distinguished Senator from Alaska. That question is whether or not the Governmental Affairs Committee is in compliance with the reconciliation instruction.

The PRESIDING OFFICER. Who yields time to the Senator from Illinois?

Mr. STEVENS. Mr. President, who controls the time on this side?

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I yield to the ranking member of our committee such time as he desires.

Well, wait a minute. We had better not do that.

Mr. PERCY. I ask for 5 minutes.

Mr. STEVENS. I yield 5 minutes, Mr. President, to the Senator from Illinois.

Mr. PERCY. Mr. President, I think the basic question we must return to is whether the Governmental Affairs Committee has complied. I think Chairman RIBICOFF of Governmental Affairs should be here tonight and wanted to be here, but he is necessarily absent. I am speaking, really, for both of us on this matter. We shall certainly look to the chairman and the ranking member of the pertinent subcommittee to carry the substantive point of the argument.

The whole Committee on Governmental Affairs was directed in the first concurrent resolution on the budget in fiscal year 1981 as follows, in paragraph 17:

> The Senate Committee on Governmental Affairs shall recommend changes in laws within its jurisdiction which provide spending authority described in section 401(c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $500,000,000 in budget authority and $500,000,000 in outlays;

The Committee on Governmental Affairs was directed, if I may have the attention of the chairman of the Budget Committee (Mr. HOLLINGS).

Mr. HOLLINGS. Very good, Mr. President.

Mr. PERCY. I just read the direction of the budget resolution to the Governmental Affairs Committee. We were instructed to reduce spending in fiscal year 1981 by $500 million in budget authority and $500 million in outlays. That was directed by the budget resolution. I can recall indicating that the Governmental Affairs Committee which created the Budget Act, of all committees, should certainly comply. There is no question but that the committee wanted to comply and intended to comply.

After all, Senator Sam Ervin, myself, and Senator Muskie worked for several years on this budget bill. We thought it was a monumental piece of legislation. We did not anticipate the full impact it would have, but in general terms, everyone on the Governmental Affairs Committee feels that this budget process is working, that we should stand behind it and help the Budget Committee in seeing that it becomes the powerful instrument to bring this budget into balance.

We are sympathetic with all the problems of the chairman of that committee and the ranking minority member. But our question was, Did we or did we not comply?

We had one difficulty. The reconciliation instruction mandated us to report legislation saving half a billion dollars in fiscal 1981. However, under "crosswalks" developed by the CBO staff, Governmental Affairs was limited to a single legislative area to achieve savings; that is, civil service retirement. Other areas of legislative jurisdiction—such as the Postal Service, GSA, OMB, Census Bureau, Civil Service and other systemic reforms and D.C.—are credited to other committees, mostly Appropriations. We literally were left with one account that we could work on.

There were 6 record votes taken in Governmental Affairs on this issue. As a matter of fact, the budget resolution envisioned the Governmental Affairs $500 million savings to accrue from limiting cost-of-living adjustments (COLA) for Federal retirees from twice to once a year. On the Senate floor, actually, a Stevens motion to avoid this reduction in 1981 was tabled by a vote of 50 to 43. The Governmental Affairs Committee then went to work to respond to the direction of the budget resolution and its reconciliation instruction by limiting COLA to once a year, but only for 1981, not permanently.

There were votes taken on whether or not the change should be permanent. But those votes were taken up or down and the advocate of permanent change lost. The Governmental Affairs Committee voted that proposal down.

Therefore, in the judgment of our committee which authored the Budget Reform Act, we were complying specifically with the letter of the direction of the budget resolution. We have sought since then the advice and counsel of the Parliamentarian. The Senator from Alaska indicated on the floor, earlier tonight, that the Parliamentarian has advised us that we have complied. I, therefore, direct a question to the Chair for the advice and counsel of the Parliamentarian as to whether, in the judgment of the Parliamentarian, the Governmental Affairs Committee is in compliance with the budget reconciliation instruction for the year 1981.

Mr. HOLLINGS. Will the distinguished Senator yield?

Mr. PERCY. I am happy to yield for a question.

Mr. HOLLINGS. I know he is a member of the Governmental Affairs Committee and he is a Senator but this is not a parliamentary matter. It is not a matter of compliance. It is a matter of acting in good faith with the instructions to save $3.9 billion. That was the instruction. Does the Senator want a parliamentary ruling?

Mr. PERCY. Let me read again to the chairman the directions given to the Governmental Affairs Committee.

Mr. HOLLINGS. The Senator wants a ruling.

Mr. PERCY. This is from the concurrent resolution on the budget.

Mr. HOLLINGS. Did not the distinguished Senator move that it be permanent and vote——

Mr. PERCY. These are the directions we received:

> The Senate Committee on Governmental Affairs shall recommend the changes in laws within its jurisdiction which provide spending authority described in section 401(c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $500,000,000 in budget authority and $500,000,000 in outlays;

Mr. President, I simply again direct a question to the Chair as to whether, in the judgment of the Parliamentarian, the Governmental Affairs Committee has complied.

Mr. HOLLINGS. Also ask the Parliamentarian at the same time whether the budget is balanced.

The PRESIDING OFFICER. There is no indication as to how much money is involved in the savings. Just that the Committee on Governmental Affairs does recommend change in the cost-of-living adjustment. Dollar figures are not ascribed.

Mr. STEVENS. Will the Senator yield?

Mr. PERCY. I am happy to yield.

Mr. STEVENS. Is the Chair stating the dollar figures in the Governmental Affairs Committee action, not being stated on the record, it is impossible for the Chair to determine whether the action taken by the Governmental Affairs Committee complies with the budget resolution?

The PRESIDING OFFICER. The Chair has not stated that.

The Chair realizes that the CBO and the Budget Committee do have figures available, but they are not available to us at this moment.

Mr. PERCY. Could I read to the Chair the report given us by CBO, which we included in our committee report, submitted by Senator Ribicoff and myself:

> Congressional Budget Office estimates provided to the committee indicate $523 million in fiscal year 1981 savings associated with elements of the September 1980 cost of living increase.

The direction of the resolution is to reduce by $500 million. The committee has reduced by $523 million. That seems to the Senator from Illinois compliance.

Mr. President, I ask unanimous consent that the letter from Alice Rivlin, Director of the CBO, dated June 18, addressed to Chairman Ribicoff, be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Congressional Budget Office,
Washington, D.C., June 18, 1980.

Hon. Abraham A. Ribicoff,
Chairman, Committee on Governmental Affairs, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: My staff has prepared the enclosed material in response to your request of June 16 concerning the potential budgetary impact of several alternatives to the semi-annual cost-of-living adjustments now received by federal annuitants. The budgetary savings of each alternative represents the difference between its annual cost in fiscal years 1981–1983 and the cost of current law projections, based on the estimates prepared by the Congressional Budget Office for the Senate Budget Committee.

You also requested information concerning: elimination of the September 1980 cost-of-living adjustment for civil service annuitants, and limitations on 1981 pay increases for federal civilian employees. Civil Service retirement benefits are currently adjusted for inflation every six months based on changes in the Consumer Price Index. Elimination of the September 1980 increase, while retaining the six-month cycle for subsequent adjustments, would permanently affect the size of the civil service benefits for existing annuitants and thus reduce 1981 outlays by approximately $520 million.

Current law projections for fiscal year 1981 assume an average federal pay increase for both white collar and blue collar employees of 6.2 percent. If federal civilian pay increases averaged 5 percent, rather than 6.2 percent, additional savings in 1981 would be approximately $500 million.

Should the Committee so desire, we would be pleased to provide further details on these estimates.

Sincerely,

Alice M. Rivlin,
Director.

Enclosure.

CONGRESSIONAL BUDGET OFFICE ESTIMATES OF OUTLAY SAVINGS UNDER ALTERNATIVES TO CURRENT SEMI-ANNUAL COST-OF-LIVING ADJUSTMENTS RECEIVED BY CIVIL SERVICE ANNUITANTS

[In millions of dollars]

	Fiscal year—		
	1981	1982	1983
1. Administration's draft legislation (Apr. 10, 1980)	[1] 553	NA	NA
2. Annual September adjustments	356	464	386
2(a). Annual September adjustments with a 6.2 percent limit on the 1980 increase	459	875	944
3. Annual March adjustments	523	391	456
4. 6.2 percent increase for those annuitants having monthly benefits above $500 with no reduction for those below for fiscal year 1981 only	592	721	778
5. 7.5 percent maximum increase across the board to all annuitants for fiscal year 1981 only (2 adjustments of 3.68 percent)	549	658	709
6. Adjustments based upon 70 percent of the cost-of-living adjustments computed under current law	429	959	1,584
6(b). Adjustments based upon 65 percent of the cost-of-living adjustments computed under current law	500	1,115	1,838
7. Elimination of the annual compounding effect between the 1st and 2d increases computed under current law	21	62	103

[1] Preliminary.

The PRESIDING OFFICER. The Chair states, compliance is not for the Chair to resolve, but for the Senate to resolve.

Mr. HOLLINGS. Exactly.

Mr. PERCY. But is it not proper to ask for the judgment of the Parliamentarian, which the committee informally sought, and which opinion was given to the committee that there was, in essence, compliance?

The PRESIDING OFFICER. No point of order would lie, anyway, for not complying.

Mr. STEVENS. Will the Senator from Illinois yield?

Mr. PERCY. I am happy to.

Mr. STEVENS. The simple matter is that the reason the Budget Committee does not have this in the committee bill they reported out is the Budget Act does not give them the authority to do what they are doing.

It is very clear. It says that they are supposed to report back this carrying out on such recommendations with all new substantive revision.

The chairman purports to speak for the Budget Committee. If he speaks for the Budget Committee, it is subject to a point of order.

If he is speaking as the Senator from South Carolina, he has a right to offer this amendment.

The Budget Committee has no right to recommend any substantive revision of this bill.

The PRESIDING OFFICER. When they report this measure.

Mr. STEVENS. When they report this measure. Correct.

The PRESIDING OFFICER. An amendment can be offered on the floor on behalf of the committee, as has been done.

Mr. STEVENS. Well, now, is the Chair telling me the committee can do indirectly what it cannot do directly?

This is not any way as the committee bill. They have the burden of carrying this and proving that we have not complied with the budget resolution. The point of the Senator from Illinois is that we complied.

I will not take any more of the Senator's time, but when the time comes I intend to tell the Senate why we cannot have the Budget Committee telling us to do in 20 minutes what ought to take at least 6 months of investigation to determine what is fair in this adjustment.

We did it for this 1 year because we lost the amendment I offered on the floor, which, if the Senator will remember, would have changed it for 1 year. He defeated that because he did not want it done for 1 year.

My amendment only deleted the provision of the budget resolution for 1 year, fiscal year 1981.

The Senate has not voted yet on anything beyond 1981. He is trying to piggyback this thing through to permanent legislation by virtue of what he is suggesting.

Mr. PERCY. Mr. President, I think that possibly I can complete my comments in about a minute so that the respective chairmen and ranking minority member of the respective subcommittee can complete their argument.

Speaking on behalf of the full committee, Governmental Affairs simply was reluctant to change the COLA system permanently under circumstances where such a controversial policy choice was being dictated by the budget process without full and careful deliberation.

The committee markup session was under a Senate floor objection creating a 10:30 a.m. deadline for a final vote. The committee that morning took six rollcall votes to reach a decision, including two 7-to-7 tie votes.

At issue, really, is whether the budget process itself, created by the Governmental Affairs Committee in 1974, ever was intended to strip legislative committees of the de facto power to make policy choices within their own area of expertise, as has been the effect this year.

For that reason, in our judgment, and I trust the judgment of the Senate, the Governmental Affairs Committee has been in compliance with the 1981 direction, and this committee would be the last committee ever to try to go around the budget process.

We want to adhere to it and see it work. We respect the reconciliation process which we developed. So we want to comply.

But the year that we are talking about is 1981. Certainly, the Governmental Affairs Committee has the responsibility. We had taken the vote on 1981. The committee will, in due time, face up to this issue for subsequent years.

But this legislative committee should address the issue with a deliberative process, and not under the gun. When under the gun, we met and complied with the 1981 budget reconciliation process. That, I think, should stand up. That is the basis of the committee, argument. We have complied. The Budget Committee should not try to legislate this for the next 4 years without the deliberative process of the legislative committee involved.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STEVENS. How much time does the chairman desire?

Mr. PRYOR. Five minutes.

Mr. STEVENS. I yield 5 minutes to the Senator.

Mr. PRYOR. Mr. President, first, I say that I oppose very strongly the amendment offered by the Budget Committee because, basically, what we are talking about here, Mr. President, is not a difference in dollars, as the very distinguished Senator from Illinois and the very distinguished Senator from Alaska have talked about.

We are talking about $523 million in savings. We are talking about the very simple fact that on June 25 last week, the Governmental Affairs Committee of the U.S. Senate did exactly $23 million-plus more than the Budget Committee ordered us to do. The Senator from Illinois has very adequately pointed out this fact.

Mr. President, I read from the committee report on the first concurrent budget resolution on this particular matter. I quote:

> Under the Budget Act, each committee that receives a reconciliation instruction is free to make the required savings in any manner it sees fit.

The Governmental Affairs Committee last week on June 25 saw fit to make our reconciliation come into being by taking some $523 million and providing for a 1-year period a cost of living adjustment change that the Senate Budget Committee asked us to do.

So we are not talking about breaking the budget. We are not talking about who is the big spender and who is not the big spender.

But, more importantly, Mr. President, we are not talking about 341 retired Senators and Congressmen out in this country. We are talking about 1.6 million retired Federal employees, and we are talking about the survivors of those employees, who are actually going to get cut on the average of $300 to $400 a year if the Budget Committee amendment is adopted by the U.S. Senate, and ultimately the Congress.

I oppose this amendment on the grounds that such action by the Budget Committee infringes upon the jurisdiction and the integrity of the Governmental Affairs Committee and every other authorizing committee.

I also oppose it on the ground that a permanent change in the cost-of-living adjustment formula for Federal retirees is totally unwarranted. It is totally unjust at this time, and it is going to prove harmful to literally thousands and thousands of elderly Americans who already are feeling the full force of the inflationary impact upon what is really a meager, paltry income to begin with.

Mr. President, there is no way we can honestly compare the social security system and the benefits derived from the social security program with the benefits derived from this program by the Federal employees.

Mr. President, I express my strong objection to the action by the Budget Committee which in effect changes the recommendations of the Governmental Affairs Committee on how to comply with the reconciliation instructions which it received. The purpose of this action as we all know is to make a statutory change in the civil service retirement system, which is under the direct jurisdiction of the Governmental Affairs Committee. On June 12, 1980, the Senate adopted the conference agreement to the first concurrent budget resolution on the budget for fiscal year 1981. Contained in that agreement are reconciliation instructions to the Senate Governmental Affairs Committee.

According to the instructions "(T)he Senate Committee on Governmental Affairs shall recommend changes in laws within its jurisdiction which provide spending authority described in section 401(c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $500,000,000 in budget authority and $500,000,000 in outlays." Practically identical instructions were contained in Senate Concurrent Resolution 86, The first concurrent resolution on the budget which was approved by the Senate on May 8, 1980.

According to the reports of both the House and Senate Budget Committees, the recommended savings could be achieved through annualization of the semiannual cost-of-living adjustment for retired Federal workers. However, also according to the Senate report (No. 96-654): "Under the Budget Act, each committee that receives a reconciliation instruction is free to make the required savings in any maner it sees fit. The itemization considered by the Budget Committee does not have to be observed so long as each committee reports savings in an amount equal to the reconciliation instruction."

As we all know, the process of balancing the budget is, indeed, painful to each and everyone of us. It is most certainly no easy task to make reductions in programs and expenditures which people have come to depend upon. On more than one occasion I have applauded the efforts of the distinguished chairman of the Budget Committee and I sympathize with his good intentions. The Governmental Affairs Committee, acted in good faith on Wednesday when it reluctantly took action to reduce spending by $500 million for fiscal year 1981 through the elimination of one of the twice a year cost-of-living adjustments for Federal retirees during fiscal year 1981.

The fact that the action taken by the Governmental Affairs Committee does, in fact, comply with the budget instructions is quite obvious, from a reading of the instructions received from the Budget Committee. In fact, I believe that a ruling of the presiding officer would confirm the fact that the Governmental Affairs Committee action is in compliance. Still further, I understand that the only specific written instructions received by the Governmental Affairs Committee prior to its June 25 action also reaffirm what was written in the Budget Committee report, specifically that each committee is free to make the required savings in any manner it sees fit, so long as each committee reports savings in an amount equal to the reconciliation instructions. According to my reading of the instructions, the Governmental Affairs Committee was instructed to save $500 million in budget authority and outlays in fiscal year 1981 and according to the Congressional Budget Office, the action taken by the Governmental Affairs Committee on June 15 will save an estimated $523 million—$23 million more than that required by the reconciliation instructions.

Nowhere in the instructions received by the Governmental Affairs Committee, or in the budget resolution, in its accompanying report, or in the conference agreement on the budget are there any instructions for the Governmental Affairs Committee or any other committee for that matter to make any changes in any of its programs beyond fiscal year 1981, nor does it give power to the Budget Committee in the Budget Act, or in any act or rule of the Senate to instruct permanent authorizing committees of the Senate to make changes in its jurisdiction beyond the fiscal year for which the budget is intended to apply.

I, however, would like to make it clear that I am opposed to the action taken by the Budget Committee for two reasons: First, on the grounds that such action by the Budget Committee infringes upon the jurisdiction and integrity of the Governmental Affairs Committee and every other authorizing committee of the Senate for the reasons which I have briefly discussed, and second, on the grounds that a permanent change in the cost-of-living adjustment formula for Federal retirees is an unwarranted and unjust action which will prove harmful to thousands of elderly Americans who are already feeling the full force of rampant inflation.

I agree, as I have stated previously, that controlling inflation is a national priority and Federal retirees, like other Americans, are more than willing to share in such efforts to tightening their belts. They are, however, already being adversely impacted by paying higher gasoline prices, credit controls and other significant spending cuts proposed by the Congress. They do not, however, want to be singled out time and time again for cuts in income benefits in the name of balancing the budget when those efforts may have little effect on the rate of inflation.

Congress, in 1976, repealed what was known at that time as the 1 percent "kicker," because it was believed that it was overly generous to Federal retirees and has acted to overcompensate them for rising inflation. When the Congress did away with the so-called kicker, it stated that the twice a year adjustment process which we now have would be a fair and equitable compromise which was supported by those who acted to repeal the kicker.

In fact, if we review the cost-of-living adjustments granted since 1976, after the repeal of the kicker, we can see that retirees have received nothing more than what the Consumer Price Index has called for, and in fact, the formula has acted just the way it was intended to act by the Congress. For these reasons it is not fair to state that Congress has the right to withdraw granted benefits whenever it chooses, but instead the committees which have been charged with monitoring the civil service retirement system should be left free to objectively review the operation of the system and make a just decision when and how changes should be accomplished, and not be forced to act in an arbitrary and capricious manner to reduce benefits.

Another point of contention which has been offered by the Budget Committee in favor of reducing the cost-of-living adjustment formula for Federal retirees is the argument that Federal benefits need to be made consistent with social security benefits, which grants cost-of-living adjustments only once a year. Again, in my opinion, this is a false argument. The fact of the matter is that Federal retirement cannot be objectively compared to the social security system. The two systems were created at different times for totally different reasons. The social security system was intended to be an economic security system and the civil service retirement system an employer-employee retirement system. It is true that the social security system only offers anti-inflation benefits only once a year, but the President's Advisory Committee on Social Security has suggested that social security should be increased to twice a year. Additionally, those who compare the two systems continuously fail to mention one simple fact, the fact that Federal retirees pay taxes on their benefits while social security recipients do not pay any taxes.

It has also been suggested that Federal retirement benefits are overly generous when compared to private sector pension plans. I would suggest, however, that this is simply not true. I would suggest that it is also never mentioned that such private employers often do not require their employees to contribute into their pensions while Federal employees contribute 7 percent of their salary into their retirement. In addition, private sector employees, in addition to most generous retirement systems also receive social security benefits and automatic cost-of-living adjustments under that system on a yearly basis.

An additional point which has been raised is the allegation that the civil service retirement system does not pay for itself. I would suggest however that it was never intended to pay for itself. It is a shared pension system between the Government and its employees and the 7 percent of salary contribution from the employee and the employer were only intended to pay for the normal cost of operating the retirement system. The so-called "subsidy" which is contributed by the Federal Government is called for under law and is in fact no subsidy as it pays for interest on money borrowed from the system and interest paid on liabilities against the system imposed by statutory liberalizations in the benefit structure.

In fact, last year the receipts to the retirement fund were $20.5 billion while disbursements were only $12.6 billion. Furthermore, an independent board of actuaries has indicated that the fund is sufficiently sound and adequately financed to meet all obligations for the foreseeable future.

In my opinion, such arguments raised by opponents of the twice-a-year, cost-of-living adjustment process beg the real issues here today. While the average Federal annuitant receives less than $800 a month and a great many annuitants are far below that figure, the fact remains that a reduction in their benefit formula will have a severe adverse impact which can never be recouped. According to the latest benefit information published by the Office of Personnel Management, as of September 30, 1979, more than 700,000 Federal annuitants and survivors receive less than $500 in monthly annuity benefits. Furthermore, approximately 240,000 receive under $200 in monthly annuity benefits.

From the thousands of letters which I have received and I am sure all of my colleagues are receiving, it is clear that these are not what anyone would call the fat of this country or by any means rich individuals. Mr. President, these are people who are barely getting by on very meager benefits, who cannot withstand the slightest reductions in already modest benefits without causing them to seek Federal assistance in the form of welfare. I would urge my colleagues to carefully consider this issue and weigh its merits objectively.

As I have also stated on previous occasions, we would have preferred to have flexibility to decide exactly where this reduction of $500 million should be made, however, as has been discussed, the Budget Committee has effectively tied the hands of the Governmental Affairs Committee and forced it to make changes in the system which it does not want to make. The Budget Committee is now attempting to flagrantly expand its authority at the expense of the Governmental Affairs Committee by making a substantive revision in the reconciliation resolution, before us today, without the consent or approval of the Governmental Affairs Committee. I believe such action is serious infringement on the Governmental Affairs Committee and, indeed, the integrity of every authorizing committee of the Congress. I urge my colleagues to oppose this action.

Mr. President, I know that there are many other colleagues tonight, at this late hour, who want to speak on this subject.

I conclude by saying that in 1976, the Congress of the United States repealed the 1 percent kicker. That was 4 years ago. But this year, under the Budget Committee approach, the Federal employees are going to know about a different kind of kicker that is being reinstated: Congress will be the "kickor" and the Federal retirees will be the "kickees" in this battle. The Federal retirees will be the ones to suffer, and we will be the ones who caused them to suffer.

I say to my colleagues that I hope this amendment will not be adopted and that the Senate will support the good faith effort of the Governmental Affairs Committee. I hope the Senate will support the commonsense approach that the Governmental Affairs Committee took in trying to arrive at a proper, just, and equitable solution.

Mr. President, I yield back the remainder of my time to the distinguished Senator from Alaska. I understand that both Senators from Maryland have a statement, as do other Senators. The Senator from Alaska is in control of the time, and I yield to him the remainder of my time.

Mr. STEVENS. Does the Senator from South Carolina want some time now?

Mr. HOLLINGS. Mr. President, would the senior Senator from South Carolina like 4 minutes?

Mr. THURMOND. Yes.

Mr. HOLLINGS. I yield.

Mr. THURMOND. Mr. President, I support the Budget Committee amendment which makes permanent the annual cost-of-living adjustment for Federal civilian and military retirees. This amendment is in response to the recommendations of the Governmental Affairs Committee which eliminate only the September, 1980, cost-of-living adjustment and call for restoring the semiannual adjustment thereafter. During the debate over the first concurrent budget resolution for fiscal year 1981, I favored action which would provide for once-a-year cost-of-living adjustments, instead of the current twice-a-year adjustments. I continue to support this action because I see it as a step which will reduce Federal spending and thereby aid in the effort to balance the budget.

Mr. President, I have always examined carefully any legislation which would affect the well-being of retired persons. I recognize that many retired persons have a difficult time coping with inflation. I believe, however, that the fair approach is to treat all retired persons who receive Federal benefits the same with regard to the frequency of inflation adjustments. As my colleagues are aware, social security recipients now receive only annual adjustments in their benefits.

In reaching the conclusion to support the permanent, annual cost-of-living adjustment, I was most persuaded by the argument that the Federal retirement systems must treat all recipients in an equitable manner.

Mr. President, I wish to make my colleagues aware that the average civil service annuity is presently around $849 a month, while the average social security benefit is only $288 per month. It is true that social security was never intended to be a complete retirement pension, as was the Federal retirement system, and that social security benefits are nontaxable. However, the fact is that many social security beneficiaries have no additional income to supplement their monthly benefits. Certainly these people do not consider it fair for Federal retirees to receive more frequent cost-of-living adjustments than themselves.

Also, it is important to point out that the fiscal year 1981 budget resolution calls for the permanent annualization of cost-of-living increases in four programs. The permanent change in the food stamp program has already been enacted into law. Permanent changes in child nutrition benefits are included in this reconciliation bill, as is the permanent change to annualize cost-of-living adjustments for military retiree pay—contingent on a similar change for civilian Federal retirees. Mr. President, it is simply unjust to annualize cost-of-living increases in other programs on a permanent basis and not do the same for civil service retirement benefits.

In the final analysis, Mr. President, I am convinced that the most important step Congress can take to help Federal retirees is to balance the budget in order to bring inflation under control. Reductions in Federal spending are necessary to break the momentum of inflation. It is my understanding that the annual cost-of-living adjustment would achieve a $2.3 billion savings over the next 5 years in the cost of the Federal civil service retirement programs. From the time I began to represent the State of South Carolina in the Senate, I have been committed to achieving the goal of a balanced budget. I think the annual cost-of-living adjustment for Federal retirees is a sensible step toward reaching this goal.

Mr. HOLLINGS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Nine minutes and 50 seconds.

Mr. HOLLINGS. How much time does the other side have?

The PRESIDING OFFICER. Twelve minutes and 43 seconds.

Who yields time?

Mr. STEVENS. Mr. President, I yield 4 minutes to the senior Senator from Maryland (Mr. MATHIAS), who is on the committee, and up to 4 minutes to the other Senator from Maryland (Mr. SARBANES).

The PRESIDING OFFICER. The senior Senator from Maryland is recognized.

Mr. PERCY. Mr. President, will the Senator yield me 30 seconds?

Mr. MATHIAS. I yield.

Mr. PERCY. Mr. President, I commend the Senator from Alaska and the Senator from Maryland for the ways they have gone about trying to solve this problem.

This has been an extraordinarily difficult problem. It involves millions of people. I know that the Senators from Alaska and Maryland and the distinguished chairman of the subcommittee are not going to be rushed into a decision. They are going to answer this problem. But we cannot find it under the gun of time. It should and will be found by the Governmental Affairs Committee, but not by the budget resolution as in this case.

Mr. MATHIAS. Mr. President, I agree totally with the Senator from Illinois, and I appreciate the role he has played in explaining to the Senate what a thorough process was undertaken in the Governmental Affairs Committee.

This was no easy job in the Governmental Affairs Committee. The ball bounced back and forth as members really weighed the issues. There were tie votes. There were reconsiderations. And the final result of all that deliberation was to produce a plan which saved $523 million, which was more than the requirement of the Committee budget. So we have gone further than was absolutely necessary.

But there is an element that I think has been missing in the dialogue that has been conducted in this matter, and the missing element is the simple question of equity. This is not the first chapter in this story. We previously provided by law for a 1-percent automatic adjustment. That was wiped out and the substitution therefor was the cost-of-living adjustment procedure which would not provide an automatic increase or decrease in pensions but would provide simply that there would be an adjustment as required by the state of inflation. When we knocked out one we substituted the other.

This procedure which is being advocated by the Budget Committee simply ignores these equities and ignores the long history of this program. It ignores the fact that the Governmental Affairs Committee has met the mandate of the Budget Committee in dollar savings. At the expense of a very small group of Americans we load on a sacrifice which can be substantial.

Mr. President. may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Senators will return to their seats and refrain from conversations, please.

Mr. MATHIAS. I think that given the very harsh impact this reduction will have on pensioners, the question mark about the economy, whether we are going to have a high inflationary rate or whether we are going to go into a tailspin of a recession, questions that no one has the answer to tonight, the Governmental Affairs Committee acted wisely in making a 1-year only recommendation and this will give to the entire Congress, to the full Senate, to the other body, an opportunity to review the decision next year and to make the kind of decision based on the economic conditions as they unfold, the facts as they will be.

So I hope that the amendment will be defeated.

The PRESIDING OFFICER. The Senator's 4 minutes have expired.

The junior Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, in the earlier debate we went into the substance of this proposition very thoroughly. It was my view then and continues to be my view now that the proposed change in instructions given does not comport with fairness or equity and that the Federal retirees have a very strong case for the twice-a-year cost-of-living adjustment. They gave up the 1-percent kicker. The analogy which is made was social security breaks down as one recognizes that social security benefits are not taxable and these retirement benefits are taxable. We are breaking in effect a contract with people which we have made.

But as I see the issue that is on the floor of the Senate tonight, it goes well beyond the substance of that question, although I think as my colleague from Maryland has pointed out very carefully, we need to bear that in mind, because the equities should enter into and influence this decision. But, as I understand, the Governmental Affairs Committee has complied with the instructions they were given with respect to what they had to report back for reconciliation.

What is now occurring with this amendment is an effort to take the instruction a very far step beyond what is provided for in the budget process and every member of the authorizing committee should recognize that what is now at work is the ability in the guise of complying with the budget to change permanent law indefinitely into the future.

The Governmental Affairs Committee took the instruction and came back with a proposition which met the requirements for the coming fiscal year.

Now it is being contended with the amendment that this must be put on a permanent basis and that therefore we should in effect change the underlying law permanently in the course of considering the reconciliation.

It is my view that that is not to be found as a mandatory requirement anywhere in the Budget Act or in the budget procedure.

If we take this far-reaching step, we are establishing a precedent with respect to using the budget resolution and the reconciliation process to bring about very far-reaching changes in the underlying permanent law.

I do not think that that should be imposed upon the authorizing committees.

I have the additional argument with respect to the fairness and the equity of this adjustment to begin with. But at the moment I simply address this particular amendment which seeks to go beyond the adjustment which the Governmental Affairs Committee made which complies with their budget instructions to the proposition that is now pending, the amendment which would in effect place this into permanent law indefinitely. I do not think the Senate should take that far-reaching step and establish that precedent with respect to any and all authorizing legislation and any and all authorizing committees.

I, therefore, very much hope that when the vote comes on the pending amendment that it will be defeated.

I thank the Senator from Alaska for yielding time.

Mr. STEVENS. Mr. President, how much time remains now?

The PRESIDING OFFICER. Three minutes and 54 seconds remain to the Senator from Alaska.

Mr. STEVENS. And the Senator from South Carolina?

Mr. HOLLINGS. How much time?

The PRESIDING OFFICER. Nine minutes and 50 seconds.

Mr. HOLLINGS. I yield 5 minutes to the distinguished Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I yield myself 4 minutes.

Mr. President, on behalf of the distinguished Senator from Oklahoma, Senator BELLMON, I ask unanimous consent to have printed in the RECORD a statement of his in which he indicates he strongly supports the amendment offered by Senator HOLLINGS.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR BELLMON

I strongly support the amendment offered by Senator HOLLINGS to make permanent the shift from twice-a-year to once-a-year cost of living adjustments for Federal civilian and military retirement benefits. Now is the time to make this change permanent, rather than doing it on a one-year basis as the Governmental Affairs Committee proposes.

I am not going to comment on all of the reasons this change makes sense. Senator HOLLINGS put a very complete compendium of those arguments in the RECORD last Thursday (pages S. 8228–9, RECORD for June 26, 1980), and I endorse the points he made. I do want to comment briefly on some of the main reasons I favor this amendment:

One of the points that is most persuasive to me on this whole subject is that we are in the process of getting nearly all benefit programs onto once-a-year cost of living adjustments. Social security, supplemental security income, railroad retirement, black lung benefits, and Veterans Pensions have been on the once-a-year-adjustment basis for some time. The food stamp program was recently put on that basis by legislation enacted this year. The bill before us will move the school lunch and other child nutrition programs onto a once-a-year-adjustment basis. I see no reason to exempt Federal retirement programs from this policy.

Indeed, there are persuasive arguments against such an exemption, including the fact that the consumer price index, to which cost of living adjustments are tied, is generally recognized as having overstated inflation in the last couple years, because of the way it treats home purchase and mortgage interest costs. By moving to once a year adjustments, we will eliminate some of the windfalls that occur from overindexing for inflation, although that will remain a serious problem for all of the indexed programs which I feel the next Congress must address.

Another reason I feel this change makes sense is that it will abate somewhat the extent to which retirement benefits are growing at a faster rate than salaries paid to people who are still working in the Federal Government or serving in the armed services. The Congressional Budget Office some time ago prepared an analysis showing that within a very few years after retiring, some Federal retirees can receive retirement benefits exceeding the amount they would have earned had they remained employed for that time. This is, to me, an unacceptable situation. Retired people do not have work expenses and other costs that employed people have. Also, many retired people have other sources of income in addition to their retirement check. The result is to favor retired people over people still working and to create incentives for early retirement, causing the loss of highly-qualified personnel from the Federal Government. This simply makes no sense from a personnel management standpoint.

In concluding, Mr. President, I would point out that if this amendment succeeds, the only program that would be left on a once-a-year basis, as far as I know, would be the milk support program. I think that we should quickly change that too.

I urge adoption of the amendment.

Mr. DOMENICI. Mr. President, I have a great deal of respect for my good friend from Alaska and he knows that. But I do not think the issue before us is entirely a technical one at all. I am prepared to say that, technically, the Government Operations Committee complied with what the U.S. Congress—not the Budget Committee—but the Congress, which told the Governmental Affairs Committee to do. There is no question that they provided for a savings at least equal to the amount that Congress told them they should do.

This Senator has opposed on the floor of the Senate the permanent elimination of COLA, when it was brought here. Yet, I reluctantly agree that it is the Senate's hard responsibility tonight to respond by considering to vote affirmatively for Senator HOLLING's amendment. It is totally within the Senate's responsibility and prerogatives. And again as much as I respect the Senator from Alaska, it is just as much the prerogative of the Senate tonight to say make it permanent, as it was for the Senate to turn down the Senator from New York, who wanted to make one of the permanent changes a 1-year change.

When the Senator from New York offered the emergency unemployment compensation amendment, he said make it 1 year.

The Finance Committee had made it permanent. The Senate made a choice. In that instance it chose to go with the Finance Committee.

Tonight they have an opportunity of whether they want to go with the committee of jurisdiction, which technically complied, within the letter of the law; but within the spirit of the law, I believe they did not.

If we do not go with Senator HOLLINGS tonight we will have every indexed program of the United States—we will have military people who have been wounded serving their country, social security recipients, and others, who are going to get once-a-year indexing because the Armed Services Committee and other committees, recommended that. But here tonight we are going to say not so for Governmental Affairs, because they want to study this some more.

The issue is patently, absolutely clear. Every indexed program of this country, excepting milk subsidies, will be indexed once a year. This budget this year indexes food stamps from 2 to 1, military from 2 to 1, but not this one, because the committee wants to do it for 1 year.

I repeat, I was not for eliminating twice-a-year adjustment when we brought it to the floor, but tonight we are talking about whether we are going to make this Budget Act work or not, and the committee of jurisdiction would like to kind of sit on this issue for a while longer, 3 or 4 years, and Congress has been asked by the committee to look at it—despite the fact that social security is now once a year indexed.

But, no, they want to do it just for 1 year and look some more.

I believe they are complying now; but Senator HOLLINGS is asking not for the law literally, but with the spirit of the law. The spirit of the law is quite clear. You cannot force it on anyone, and Senator STEVENS will get up here and say, "Nobody ought to tell us what to do," and I agree with him. No one is, except the Senate of the United States. The Budget Committee cannot tell Governmental Affairs what to do; Senator HOLLINGS cannot tell them what to do. That is what the vote is all about. If the Senate wants to tell them what to do, that is why we vote; and, remember, the committee chose to vote six or seven times and could not quite make up their minds. But, tonight it is strictly within the prerogative of this body to vote, and I hope it will consider the spirit of the resolution.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Mr. President, I yield myself such time as I may use.

Mr. DOLE. Mr. President, will the Senator from Alaska yield?

Mr. STEVENS. For a short question. I only have 3 minutes.

Mr. DOLE. Will the Governmental Operations Committee do anything next year?

Mr. STEVENS. Yes. That is what I am going to try to say. We did it this year reluctantly, but we did it.

Let me backtrack a little bit so that the Senate knows what we are talking about here. We are talking about 250,000 survivors of annuitants whose average annuity is $380 a month, whose average age is 72.

We are talking about 156,000 survivors of deceased employees whose average annuity is $380 a month, whose average age age is 64.

I ask unanimous consent that these facts be printed in the RECORD because I do not have a lot of time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FACTS

Two hundred and fifty thousand survivors of annuitants average annuity is $380 per month, average age, 72; average service of deceased, 25 years.

One hundred and fifty-six thousand survivors of deceased employees average annuity is $350 per month; average age, 64.

Three hundred and fifty thousand retirees receive less than $500 per month.

Approximately one-half of those on the retirement roles (retired or survivors) receive under $500 per month.

Assuming a loss of 7.5 percent September increase, retirees receiving under $500 per month will lose $40 per month until March.

On the average, Federal retirement income amounts to 70 percent of retirees total income.

Over 240,000 retirees and survivors receive under $200 per month.

About 200,000 retirees with an average of 20 years service and an average age of 78, receive under $500 per month.

Average annuity is $800 per month.

The loss to the average annuitant will be $375 per year.

Mr. STEVENS. What we want to do, and I have served 12 years on this committee, not this but this or its predecessor, we want to use our expertise to determine how this saving could be effected.

One of the suggestions is that we could take and say that no employee gets any recomputations for 5 years after they retire. After that if it is more than a 3-percent change in the 6-month period then they get a recomputation every 6 months. We can spread that out if we would only be given some time to let us use our technology to determine how to make this equitable.

We have not—since the Senate told us to save money, they told us to save $500 million, we have saved $525 million. But I will ask you why should I serve on that committee if the Budget Committee can direct us to within 20 minutes, in 20 minutes' time, in our committee to do something that ought to take at least a year's study, to find out how to make that change a permanent thing and make it equitable as far as the people who are involved are concerned?

Now the people are retiring right now and getting their retirement based upon the high three salaries, the 3-year salaries, in this current period.

Those who retired 20 and 25 years ago—and my friend from Rhode Island does not believe they are there apparently from the conversation we had before—let me tell you there are a great number of people who either retired 20 or 25 years ago or are the survivors or the annuitants, based upon the deceased employees' eligibility of those who retired 20, 25 years ago. Computing their salary now on a cost-of-living basis of twice a year is the only equitable thing to do. Incidentally, 70 percent of them live only on their retired income from this program, and are not eligible for social security.

This is a serious matter, and I am surprised at my friend. I lost on the floor on the amendment as to 1 year. I said "No, make it for 1981, continue it for 2 years," and he said, "No, no." He defeated the amendment. Now he is telling us, he is telling the Senate, that the Senate instructed the committee for 3 years, and I will tell you it did not. It instructed us to make a $500 million savings for this year, and we made it. Do we have the right to use our jurisdiction, our technology, our computers, the people who serve on our committee, who have been there for years, who can tell us, give us their advice in a calm deliberation during the next session, the first session of the next Congress or are you going to tell us, and my friend from New Mexico is right, the Senate can tell us:

> No, you cannot use all that expertise, you cannot use technology, you cannot visit with the representatives of these people. What you must do is you must do what the Senator from South Carolina tells us because they are testing the budget process.

Now, there are a lot of small people out around this place—I mean small income people, they are not small people. I am a small person compared to my friend from South Carolina. If height counts tonight you win, but if loud counts I hope I win. [Laughter.] Because I know I am right on this one, my friend.

The PRESIDING OFFICER (Mr. GRAVEL). The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, how many minutes do I have remaining?

Thhe PRESIDING OFFICER. Four and three-quarter minutes.

Mr. HOLLINGS. Mr. President, right to the point, the distinguished Senator from Alaska's argument is one which we have heard before. In 1976, on September 8, the Senator from Alaska said:

> Let the computers work. Let us study this thing. We have the expertise and we have to study it.

On April 25, 1979, the same Senator STEVENS said:

> Let us study the thing. We have jurisdiction. We have not had hearings.

On May 8, 1980, the Senator from Alaska again said:

> Let us study it, let us look at it, let us go slow. It is serious. There are small people involved.

We have heard this so many years he has to smile at himself. I am getting used to it.

Then it is said that Senator HOLLINGS is telling the committees what to do, and other jurisdiction questions are raised, and the parliamentarian is consulted. But everyone of the other eight committees complied—go down the line, see what the Finance Committee did—RUSSELL LONG did not ask whether it had to be permanent or not.

He put out a whole booklet of permanent changes, and the Senate just adopted it. It took us several hours, but there is none of this parliamentary stuff, "am I in compliance?"

Mr. STEVENS. Will the Senator yield?

Mr. HOLLINGS. No.

Mr. STEVENS. Will the Senator yield?

Mr. HOLLINGS. No, I do not.

The Committee on Armed Services has this provision in the law:

> The amendment made by subsection (a) shall not become effective unless legislation is enacted which provides for a one-a-year adjustment of annuities paid under Chapter 83 of Title 5, United States Code.

So the Armed Services Committee knew what the charge was. They made it permanent. But they knew this monkeyshines was going to happen again because it happens every time.

They said, "We are not going to make it permanent unless they make it permanent for the civilians." Everyone else understood, every one of these particular titles contains permanent changes.

There was not any breach of contract with civil service retirees. Semi-annual increases were provided only since 1976. They did not pay in to provide for an increase in their annuity twice a year. We are subsidizing Federal retirees, including Senators, by $8.8 billion a year. The total cost of all Federal civilians and military retirement right now is a little over $30 billion. By 1990 it will be $100 billion assuming twice-a-year increases.

The taxpayers do not want to know about jurisdiction, Mr. President. They want to know about savings, tax savings to balance the budget. So when we get down to the wire, when all the other eight committees comply, when they all make permanent changes, do not now raise the jurisdictional argument and say "let us study it again." We say across the board—social security, veterans, child nutrition, food stamps, military, and now we Senators—let us make it once a year. That is what the vote is about—permanent policy.

I yield back the remainder of my time and I ask for the yeas and nays.

Mr. STEVENS. Mr. President——

Mr. HOLLINGS. I do not yield back my time unless his time has expired.

The PRESIDING OFFICER. His time has expired.

Mr. HOLLINGS. He used his time.

Mr. STEVENS. The Senator from Tennessee has asked for 1 minute, and I had mistaken my allocation of time. I would ask unanimous consent that 1 minute on each side be yielded so that he might speak.

Mr. HOLLINGS. I withhold for a minute.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SASSER. Mr. President, I rise to speak against the Budget Committee amendment. I am reluctant to oppose the distinguished chairman of the committee on the matter of reconciliation, because I believe this is a matter of great importance to the budget process and to the Congress. However, I oppose this amendment to the Governmental Affairs' reconciliation title on several grounds, which I will discuss in a moment.

I support the reconciliation process. It proves that the budget discipline envisioned in the Budget Act can, and does, work. If we are to succeed in achieving and maintaining a balanced Federal budget, we must be able to act to reduce spending in existing programs. Over three-quarters of the Federal budget is termed uncontrollable because of spending commitments already in the laws. This large and growing part of the budget will remain uncontrollable without workable legislative processes that will allow the Congress to review, and if necessary, reduce programs already in existence.

Mr. President, the Governmental Affairs Committee has recently reported out a very important measure, the sunset bill. The present action by Senate committees in this reconciliation exercise offers hope that sunset, too, will succeed in improving congressional power of the Federal budget. I hope the Senate will soon have the opportunity to consider that legislation.

The reconciliation process, however, places unique and unfair constraints upon the Governmental Affairs Committee. As the Budget Committee chairman knows, there is only one program over which the Governmental Affairs Committee has direct legislative jurisdiction, that being the Civil Service Retirement System.

The reconciliation process was not designed to give the Budget Committee line-item authority over the budget. Yet that is what the Governmental Affairs Committee faced in this matter. Other committees were able to make independent judgments in meeting the reconciliation instructions of the budget resolution. Our committee had no choice but to swallow the Budget Committee's specific, line-item assumption.

Mr. President, let me point out that the committee did comply, to the very letter, with the reconciliation instruction. Let me read for the record exactly what it requires:

> The Senate Committee on Governmental Affairs shall recommend changes in laws within its jurisdiction which provide spending authority described in Section 401 (c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $500,000,000 in budget authority and $500,000,000.

The instruction only applies to fiscal year 1981, as I read this. The committee considered this language, and in fact overcomplied by $23 million.

Furthermore, the committee was given only a matter of weeks to contemplate this requirement. Although there could be other reforms in the Federal retirement system that could result in the necessary savings to meet the instructions, the committee could not make changes that would have provided sufficient savings. Moreover, there are other areas of Federal spending, such as in procurement, which are shared by the Governmental Affairs Committee with the Appropriations Committee. With more time, the committee might find some accommodation to allow more flexibility under the reconciliation instructions, as enjoyed by all other committees of the Senate.

Mr. President, I do not think it is unreasonable for the Senate to accept a 1-year change in the cost-of-living adjustment in fiscal year 1981 and allow the coming year for the Governmental Affairs Committee to consider other spending reforms to save the required amount in future years, if that is the will of the Senate.

Finally, Mr. President, let me turn to the merits of this change in the Federal retirement system. We are talking about the credibility of the Congress. We are going back on a commitment we made several years ago, Mr. President; let us remember that. At that time, we took away the 1-percent kicker on Federal annuities, and made a solemn agreement to provide cost-of-living adjustments every 6 months.

What is worse, we are doing this at a time of unusually high inflation, and we are doing it to people who are on fixed incomes and have no means of protecting themselves against inflation.

Presently the average Federal retiree receives an average monthly benefit of about $709 a month. Many Federal retirees draw little or no social security or private pension benefits to supplement this income. Indeed, 36 percent of all Federal retirees receive less than $500 a month in retirement benefits. To change the cost-of-living adjustment formula may reduce effective retirement benefit increases next year by as much as 30 percent.

I urge my colleagues to defeat the Budget Committee amendment for the reasons I have stated.

Mr. DURENBERGER. Mr. President, the amendment offered today by the Budget Committee keeps us on a course that has only one destination: disaster. For the past several weeks, this body has dealt with one brush fire after another. We never put out the fires, though; we just keep pushing them to another area, leaving a charred path in our wake.

The Federal budget is more than a series of unconnected items, even though that is what our actions of the past month would have an observer believe. The budget is an integrated and complex plan. The parts do affect the whole.

Yet, in our effort to delude the public into believing that we will have a balanced budget for fiscal 1981, we keep looking for areas to cut. They may not be the wisest areas, they may not effect the greatest savings, they may not have the most benefit to the public. Those considerations do not seems to be our concern.

Here we are today, again seeking the political attraction of a spending cut, with little apparent regard for the 1.6 million lives we are affecting. If we vote today to make a permanent change in the COLA, we will be voting to decrease the income of retired civil servants without judging the long-range costs to the individuals affected or the benefits to the Government.

Mr. President, the only serious consideration given to this issue by a committee of the Senate was in the Governmental Affairs Committee. Even in our brief examination of this issue, the difficulty of finding an equitable solution was obvious. It took six votes to reach a tentative consensus. Our decision, made in response to the charge to the Governmental Affairs Committee that we reduce spending to agreed-upon levels, was that this issue should not be decided on a permanent basis with only the cursory study we could give it.

The temporary COLA adjustment will accomplish our immediate goal of reducing Federal spending by $500 million in fiscal year 1981. It will not lock us into a decision whose consequences are unknown.

The Budget Committee contends that the Governmental Affairs Committee did not follow the budget instructions. I disagree. The Governmental Affairs Committee was instructed to reduce spending in fiscal year 1981, and the committee took the necessary action.

The Budget Committee may have wanted the Governmental Affairs Committee to change the twice-a-year COLA permanently, but that was not our mandate.

Mr. President, I voted for the one-time change in the COLA because our economy and our Federal budget are in a state of crisis. Every person must carry a share of the burden of our solutions.

I will not, however, abdicate my duty to responsibly judge the pros and cons of an issue, to evaluate all sides, to take the time to listen to constituents representing all points of views and, finally, to make a reasoned decision based on the facts rather than on political expediency.

The persons who pursued a career in the public service, who deserve and expect retirement income, also deserve a Congress that will make changes, if changes are needed, only after thoughtful study.

I urge my colleagues to put their duty as representatives of the people ahead of their desires as politicians seeking a balanced budget.

● Mr. LEVIN. Mr. President, I rise in opposition to the Budget Committee amendment which would enact annual cost-of-living adjustments on a permanent basis for civil service retirees. The Budget Committee claims that the Governmental Affairs Committee failed in meeting its mandate to report savings of $500 million. The fact is the Governmental Affairs Committee did meet its obligation. Simply stated, the committee called on Federal retirees to forego their September 1, 1980, cost-of-living adjustment.

The budget instructions to the Governmental Affairs Committee presented few choices. In fact, the only options were further reducing the comparability pay cap of Federal workers or annualizing the cost-of-living adjustment for civil service retirees. The Governmental Affairs Committee exercised its prerogative wisely, enacting an annual adjustment for 1 year only.

The Budget Committee could not afford us the time to properly consider enacting such sweeping changes permanently. Considering the limitations placed on the Governmental Affairs Committee, the temporary change in the cost of living formula was appropriate. For these reasons, I oppose the Budget Committee amendment making a permanent change in the COLA for civil service retirees.

I also believe comprehensive review of the entire Federal retirement system is in order, including public hearings, before this body institutes a permanent change in law. Such a review should analyze the differences between the civil service retirement program, social security, and private pension plans. The review should also consider those inflation adjustment schedules adopted recently for certain Federal programs.

I hope the Senate will accept the decision of the Governmental Affairs Committee and defeat the Budget Committee amendment.●

Mr. MATSUNAGA. Mr. President, I rise in opposition to the amendment offered by the distinguished chairman of the Budget Committee, the Senator from South Carolina (Mr. HOLLINGS), which would make permanent the proposal to reduce the twice a year cost-of-living allowance for Federal retirees to a once-a-year adjustment.

Mr. President, for the second consecutive year, the Budget Committee has recommended in the first concurrent budget resolution that the twice a year cost-of-living adjustment on Federal retirement income be changed to a once-a-year adjustment. This year, the reconciliation process has forced the Senate Governmental Affairs Committee to achieve $500 million in cost savings through cutting the only sizable Government program under its budgetary jurisdiction—Federal retirement benefits. I am very concerned, as are other Senators, about the fact that the Governmental Affairs Committee has not been able to consider an alternative to this proposal which will, without a doubt, have a far reaching, adverse effect on the standard of living of Federal retirement beneficiaries.

I am more concerned, however, about the intent of the Hollings amendment, which, if adopted, will make the annual cost-of-living allowance a permanent program, rather than a single fiscal year cost-savings measure, as it has been proposed by the Governmental Affairs Committee in its reconciliation report. In taking this action, it seems to me that the Budget Committee is trespassing on the important legislative jurisdiction of the Governmental Affairs Committee. I simply do not believe that it is the intent of the Budget Act to allow such legislative policymaking by means of the reconciliation process.

Mr. President, the Governmental Affairs Subcommittee on Civil Service and General Services conducted an oversight hearing on the civil service retirement system last June. A great deal of testimony was received concerning the potential impact on Federal retirees of a once a year cost-of-living adjustment and whether or not any savings could be achieved by such a proposal in a reasonable and responsible manner.

It is my judgment, after reviewing the testimony, that the change from a semiannual cost-of-living increase to an annual cost-of-living adjustment would have a substantial and adverse impact upon those retired individuals who are least able to cope with the skyrocketing inflation we are experiencing today. For example, the average Federal retiree who receives approximately $8,500 per year under the current system would, under the proposed annual cost-of-living increase, receive $318 less per year in retirement income. And the average survivor annuitant who now receives $3,600 would receive $132 less in survivor's income under the once a year increase system. Based on these figures alone, I would think that Senators should have grave reservations about approving the Budget Committee's proposal.

However, Mr. President, there is an equally compelling reason for the Congress to question the desirability of the proposed once a year cost-of-living increase, that is, that in reducing retirement income of Federal annuitants, the Congress is turning its back on the firm commitment it made to them only 4 years ago.

My colleagues will recall that in 1976 the Congress acted to eliminate the "1-percent kicker" which enabled Federal retirement income to keep pace with, or even ahead of inflation. As a Member of the House of Representatives at that time, I strongly opposed this initiative, but accepted a compromise offered in the Senate by the distinguished Senator from Florida (Mr. CHILES), which authorized the present system of twice-annual cost-of-living adjustments.

It was Senator CHILES' view, and, subsequently, that of the Congress, that if we were going to eliminate the 1-percent kicker, we must provide in its place a cost-of-living adjustment mechanism which would continue to keep Federal retirees from falling behind in real income due to inflation. Because increases in inflation were occurring every 8 months, the Congress decided upon the twice-annual adjustment system and, as I have said, made a firm commitment to Federal retirees to retain this twice a year protection against inflation.

Mr. President, it should be emphasized that this commitment by the Congress to the twice-annual adjustment is very important to Federal retirees, particularly in view of the fact that the Congress, since 1976, has seen fit to steadily erode the benefits received by Federal retirees. For example, shortly after eliminating the 1-percent kicker, the Congress moved to eliminate retirement income credit in an effort to increase revenues. In the following year, 1977, the Congress acted to reduce social security benefits to public employees.

Mr. President, the administration and the Budget Committee have indicated that Federal retirement income should be adjusted on the same basis as social security, which is adjusted only annually. Unfortunately, this argument overlooks the fact that social security benefits are tax-free, while Federal retirement income is fully taxable. The fact is that the tax-free nature of social security creates, in effect, an additional benefit to protect social security recipients against inflation. The twice-a-year cost-of-living increase for Federal retirement income is, I believe, a comparable benefit for Federal retirees and its elimination would strip away a necessary protection against inflation.

Mr. President, I am fully confident that retired Federal employees are more than willing to take an active role in the fight against inflation. Indeed, as a part of the larger group of retirement-aged and elderly Americans living on fixed incomes, it is in their own best interest that inflation be brought under control. However, I find it unconscionable to ask Federal retirees who have worked long and hard to earn the benefits promised to them by their Government to bear a disproportionate share of the burden in the war on inflation. I am convinced that we can balance the Federal budget and begin to curb inflation without breaking faith with Federal retirees by further eroding their retirement benefits.

For these reasons, Mr. President, I strongly oppose the Hollings amendment which would make the proposed annual cost-of-living adjustment for Federal retirees a permanent program.

The PRESIDING OFFICER. The yeas and nays have been ordered and the clerk will call the roll.

Mr. ARMSTRONG. Mr. President, will the Chair state the question?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina (Mr. HOLLINGS).

Mr. ROBERT C. BYRD. Mr. President, will the Chair say that a little louder?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina (Mr. HOLLINGS).

The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Illinois (Mr. STEVENSON), and the Senator from Louisiana (Mr. LONG) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Oregon (Mr. PACKWOOD), the Senator from South Dakota (Mr. PRESSLER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 30, nays 59, as follows:

[Rollcall Vote No. 282 Leg.]

YEAS—30

Armstrong
Baker
Biden
Boschwitz
Byrd, Robert C.
Chafee
Cohen
Danforth
Eagleton
Exon
Glenn
Helms
Hollings
Huddleston
Humphrey
Jepsen
Laxalt
Lugar
Mitchell
Nunn
Proxmire
Roth
Schweiker
Simpson
Stafford
Stennis
Thurmond
Tower
Wallop
Zorinsky

NAYS—59

Bayh
Bentsen
Boren
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Cannon
Chiles
Church
Cochran
Cranston
Culver
DeConcini
Dole
Durenberger
Domenici
Durkin
Ford
Garn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Inouye
Jackson
Javits
Johnston
Kassebaum
Leahy
Levin
Magnuson
Mathias
Matsunaga
McClure
Melcher
Metzenbaum
Morgan
Moynihan
Nelson
Pell
Percy
Pryor
Randolph
Riegle
Sarbanes
Sasser
Schmitt
Stevens
Stewart
Stone
Talmadge
Tsongas
Warner
Weicker
Williams

NOT VOTING—11

Baucus
Bellmon
Goldwater
Kennedy
Long
McGovern
Packwood
Pressler
Ribicoff
Stevenson
Young

So Mr. HOLLINGS' amendment (UP No. 1375) was rejected.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, we have some technical amendments and I think then we shall have passage of the bill. I ask for the yeas and nays on passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

UP AMENDMENT 1376

(Purpose: To make technical corrections)

Mr. HOLLINGS. Mr. President, I send these technical amendments to the desk and ask unanimous consent for their immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS) proposes an unprinted amendment numbered 1376:

On page 2, line 22, strike out "alternatives" and insert in lieu thereof "alternates".

On page 4, strike out lines 10 through 14.

On page 4, line 15, strike out "(b)" and insert in lieu thereof "Sec. 103. (a)".

On page 5, line 3, strike out "(c)" and insert in lieu thereof "(b)".

On page 8, line 4, strike out "operation. Any" and insert in lieu thereon "operation, and any".

On page 8, line 7, insert a comma after "operation".

Beginning on page 172, line 10, strike out all through line 6 on page 176, and insert in lieu thereof the following:

"SEC. 801. (a) In the enrollment of the bill (H.R. 5288) to amend title 38, United States Code, to improve and modernize the vocational rehabilitation program provided veterans under chapter 31 of such title, to improve the veterans' educational assistance program, and for other purposes, the Clerk of the House of Representatives shall, in any provision amending chapter 34, 35, or 36 of title 38, United States Code, strike out any dollar amount which is greater than the corresponding dollar amount set forth below and insert in lieu thereof the appropriate dollar amount as set forth below:

In the last sentence of section 1677(b)—$317;

In the table contained in paragraph (1) of section 1682(a)—

Column I Type of program	Column II No dependents	Column III One dependent	Column IV Two dependents	Column V More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$342	$407	$464	$29
Three-quarter time	256	305	349	21
Half-time	172	204	232	14
Cooperative	276	323	367	21;

In section 1682(b)—$342;

In the table contained in paragraph (2) of section 1682(c)—

Column I Basis	Column II No dependents	Column III One dependent	Column IV Two dependents	Column V More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Full-time	$276	$323	$367	$21
Three-quarter time	207	243	276	17
Half-time	139	162	184	11;

In section 1692(b), the first dollar amount—$76;

In section 1692(b), the second dollar amount—$911;

In section 1732(b)—$276;

In the first sentence of section 1742(a)—$342;

In the second sentence of section 1742(a), the first two dollar amounts—$108;

In the second sentence of section 1742(a), the third dollar amount—$11.40;

In section 1786(a)(2)—$342;

In the table contained in paragraph (1) of section 1787(b)—

"Column I Periods of training	Column II No dependents	Column III One dependent	Column IV Two dependents	Column V More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
First 6 months	$249	$279	$305	$13
Second 6 months	186	217	243	13
Third 6 months	124	155	180	13
Fourth and any succeeding 6-month periods	62	92	119	13; and

In section 1798(b)(3)—$342.

(b) In the enrollment of such bill, the Clerk shall also strike out any effective date earlier than January 1, 1981, for any amendment to chapter 34, 35, or 36 providing for any increase in dollar amounts and insert in lieu thereof an effective date of January 1, 1981.".

Mr. HOLLINGS. Mr. President, these amendments are technical in nature. They were prepared by the Committee on Agriculture, Nutrition and Forestry and the Committee on Veterans' Affairs. They will not change the substance in any way. They have been checked with both sides of the aisle.

I move adoption of the amendments.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

VETERANS' PROGRAMS

Mr. CRANSTON. Mr. President, I wish to comment on the reconciliation provisions in title VIII of the bill pertaining to veterans' programs. On June 25, the Veterans' Affairs Committee met and voted unanimously—10 to 0—to report our committee's reconciliation recommendations to the Budget Committee. The committee reconciliation resolution contains recommendations for changes in existing laws providing for entitlements and equivalent savings legislation, designed, in conformance with the joint explanatory statement accompanying the budget resolution conference report, to enable our committee "to remain within * * * [our] spending limits contemplated in the resolution."

Our committee's recommendations are as follows:

First, reduce to 10 percent the 15-percent GI bill cost-of-living increase approved by the Senate, 78 to 14, on January 24 as an amendment to H.R. 5288, and postpone from September 1, 1980, to January 1, 1981, the effective date for such increase. These changes would result in reductions in fiscal year 1981 requirements of $262 million in budget authority and $268 million in outlays.

Second, modify flight and correspondence training provisions, as approved in the Senate amendment to H.R. 5288. This would achieve reductions in fiscal year 1981 requirements of $35.4 million in budget authority and outlays.

Third, repeal the authority for predischarge education program training, as approved in the Senate amendment to H.R. 5288. This would achieve reductions in fiscal year 1981 requirements of $1 million in budget authority and outlays.

Fourth, modify vocational-objective course approval criteria, as approved in the Senate amendment to H.R. 5288. This would achieve reductions in fiscal year 1981 requirements of $4.1 million in budget authority and outlays.

Fifth, improve substantially the VA's ability to collect delinquent debts owed by individuals to the Federal Government by virtue of participation in Veterans' Administration benefits programs. This would achieve reductions in fiscal year 1981 requirements of $139 million in budget authority and outlays.

Mr. President, the provisions of the bill pertaining to veterans' programs are fully described and explained in our committee report accompanying our recommendations. That report is set forth on pages 17066–17095 of the RECORD for June 26, 1980.

Mr. President, I recommended a postponement of the GI bill cost-of-living increase with the utmost reluctance. In my view, there is now—as there was on January 24—overwhelming evidence of the present necessity for a 15-percent cost-of-living increase in GI bill benefits. In fact, I believe that, in view of inflation, exceeding 20 percent already and projected to approximate 30 percent by 1981, since the most recent increase in the fall of 1977, there is ample justification for a greater increase. Yet, in order to carry out our committee's commitment to our Nation's service-connected disabled veterans and the survivors of those who have died in the service of our country, we have not only cut the GI bill increase but also postponed its effective date by 4 months.

During the consideration of the resolution on the floor of the Senate, we urged and moved for higher levels for veterans' benefits and services. As agreed to by the Senate, those levels still would have been less than what is adequate and fair for the funding of veterans' programs in fiscal year 1981. Yet they were higher than the House-passed levels to which the Senate budget conferees agreed and which Congress approved.

Mr. President, in my view, the budget levels for veterans' programs are too low this year to be fair and to deal with the critical, high-priority needs that should be addressed. I would like to emphasize that the needs of veterans should be regarded by Congress as among the highest national priorities and take this opportunity to reiterate our committee's deeply held belief that a nation which has been so well served by the millions of men and women who have served in its Armed Forces should never break its commitments to them.

● Mr. SIMPSON. Mr. President, I want to take this opportunity to comment on the Veterans' Affairs Committee efforts to achieve reconciliation. In my opinion the budget process undertaken by the Senate this year has been extremely useful, in encouraging all committees and the Veterans' Affairs Committee to effect a careful review of the numerous programs they oversee. For the first time, in its almost 8-year existence, the Senate Veterans' Affairs Committee has been required to trim some of the overindulgences that have been occasioned by the excessive spending habits of past Congresses.

I realize that my esteemed chairman, who I respect so very much, may not agree with my outlook. But if one looks at the cost savings effected by the committee under reconciliation, one can only conclude that some of the savings are indeed overdue. Specifically the provisions in the bill providing for improved collection efforts of delinquent debts owed by individuals to the Federal Government by virtue of participation in veterans' benefit programs is an excellent example of an effort that should have been undertaken long ago. Modification of flight and correspondence training provisions to remedy longstanding abuses is an equally compelling example.

Such legislation should be the result of a continuous oversight process and not the consequence of an externally imposed budget limitation on the Veterans' Affairs Committee. I have no doubt that if such rigorous oversight were practiced in each and every year, the reconciliation process would be unnecessary.

Neither do I wish to imply that I agree entirely with the severe actions that the committee was forced to take. Indeed, I believe it was unfortunate that it was necessary to effect a 4-month delay in granting the 10 percent GI bill cost-of-living increase. I believe that such a sacrifice could have been avoided if the committee and Congress had exercised a bit more restraint in effecting new and more costly legislative programs and if we had exercised a more rigorous oversight of existing veterans' programs. I take a share of the responsibility for those failures.

Mr. President, I am committed—as is the chairman of this committee—to insuring that the veterans of this Nation are afforded the full and complete care and benefit of programs they require. But I am of the opinion that this highest of national priorities can be achieved responsibly with even more attention to priorities within the purview of the committee.●

STATEMENT ON MR. JAVITS' AMENDMENT (UP NO. 1370) RELATING TO MEDICARE/MEDICAID

Mr. MATHIAS. Mr. President, I do not need to tell anyone about spiraling hospital costs. Since the enactment of medicare and medicaid in 1965, the annual expenditures for hospital care in the United States have multiplied by over five times.

Maryland, I am proud to say, has done something to curtail hospital costs. Back in 1971, long before hospital cost containment became a national issue, the Maryland General Assembly established a Health Services Cost Review Commission.

That commission is one of only a handful in the country with full authority to review hospital finances and to set mandatory rates. It has had stunning impact. Over the past 3 years, hospital costs per inpatient day in Maryland have risen about 30 percent less than in the United States as a whole. That is quite a remarkable achievement.

It is good news for the patient. And it is good news for the third-party payers who finance most of the care given in community hospitals.

Medicare and medicaid account for 40 to 45 percent of Maryland's hospital revenues and the rate review program has meant substantial saving for these programs and ultimately for the taxpayer.

HEW's Health Care Financing Administration agreed in 1977 to reimburse Maryland hospitals at the Health Services Cost Review Commission rates. The Commission has used the Health Care Financing Administration's methodology to calculate the savings to the Federal Government: In 1978 the Federal Government paid Maryland hospitals $23 million less than it would have paid under the old reimbursement system, and in 1979 the Federal Government paid Maryland hospitals $30 million less than it would have paid under the old system.

The provisions of the Social Security Act of 1977 which allow such experiments regrettably provide no mechanism to continue on a permanent basis those that have proven their effectiveness. Every year Maryland has had to seek an annual waiver from the Secretary of Health, Education, and Welfare in order to continue saving Federal health care money.

Under the bill before us Maryland's reimbursement system could continue to provide substantial savings of medicare and medicaid funds. Maryland will no longer be required to seek an annual reimbursement waiver from the Secretary. Under the bill Maryland's successful experiment becomes a permanent program as long as the total medicare and medicaid reimbursement costs for hospitals in Maryland are no greater than the costs which would otherwise be met by the Federal Government.

In Maryland the Health Services Cost Review Commission is doing a good job, and this bill will help put its Medicare-Medicaid reimbursement system on a long-term basis.

Mr. GRAVEL. Mr. President, I add my congratulations to the Senator from South Carolina who has done such a valued job all day long and the work that has been done by the Budget Committee with respect to this very new process called reconciliation.

But more particularly I congratulate my colleague, the senior Senator from Alaska (Mr. STEVENS) for the valiant fight he put forward in leading the committee action to try and hang on to the twice-a-year computation of cost of living.

This is something that is very vital to a large constituency in my State. It is something we are very sensitive to because of the high cost of living, and I think that the Senate was extremely responsive in backing up his efforts with a very good vote.

I congratulate Senator STEVENS for this effort and the Senate for making a wise judgment in this regard.

I yield the floor.

The PRESIDING OFFICER. Are there further amendments? If there be no further amendments to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Did all Senators yield back all time on the bill?

Mr. HOLLINGS. I yield back all my time, Mr. President.

The PRESIDING OFFICER. All time is yielded back.

The bill having been read the third time, the question is, Shall it pass?

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Connecticut (Mr. RIBICOFF) and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) and the Senator from Louisiana (Mr. LONG) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Oregon (Mr. PACKWOOD), the Senator from South Dakota (Mr. PRESSLER) and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The result was announced—yeas 89, nays 0, as follows:

[Rollcall Vote No. 283 Leg.]

YEAS—89

Armstrong
Baker
Bayh
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Lugar
Magnuson
Mathias
Matsunaga
McClure
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Pell
Percy
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Zorinsky

NOT VOTING—11

Baucus
Bellmon
Goldwater
Kennedy
Long
McGovern
Packwood
Pressler
Ribicoff
Stevenson
Young

So the bill (S. 2885) as amended, was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that S. 2885, as passed by the Senate, be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, the legislation that the Senate has just passed amends existing Federal programs in order to save $6.4 billion in fiscal year 1981.

In many ways, this bill is among the most important legislation which the Congress will consider this year. It is important because it demonstrates, in a tangible fashion, congressional commitment to cutting nonessential Federal spending.

It is also important because this is the first time in the history of the budget process that "reconciliation," a tool envisioned by the 1974 Budget Act, has been effected.

This reconciliation effort is a direct result of the protracted meetings with the administration and House and Senate leadership. It is a direct result of congressional commitment to a balanced budget. Fiscal restraint will continue to be the lasting product of this effort.

I commend all the committees which have responded to the requirements of reconciliation. They have proven that the budget process is alive and well, and that the Senate is not about to embark on a major spending spree in order to pump up the economy.

I commend the chairman of the Budget Committee, Senator HOLLINGS, and the ranking minority Member, Senator BELLMON, for their fine work in coordinating this effort.

Reconciliation instructions contained in the first budget resolution require the Congress to raise $2.4 billion in revenues as well as to achieve the savings included in the legislation before us now.

The Finance Committee has agreed to raise these revenues, and this part of the reconciliation process will be considered on our return from the recess. The Senate did not consider the revenue half of reconciliation because the House felt that the revenue-related portion of reconciliation should originate in the House.

Cutting programs which many of us have long supported is a difficult task. However, this bill demonstrates that spending can be cut.

This is not an irresponsible across-the-board cut, such as those propounded so often on the Senate floor. Rather, through reconciliation, Congress has proved that it can, and will, make the hard choices necessary to hold Federal spending to a reasonable level.

ORDER FOR RECESS TO 8:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 8:45 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR HATCH AND TO RESUME THE MILITARY PROCUREMENT BILL ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that immediately following the prayer and the disposition of the approval of the Journal, Mr. HATCH be recognized for not to exceed 15 minutes, after which the Senate then resume consideration of the military procurement bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTELLIGENCE AUTHORIZATIONS ACT, 1981—CORRECTION OF ENGROSSMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that in the engrossment of the Senate amendment to S. 2597, the Intelligence Authorizations Act for Fiscal Year 1981, the Senate be deemed to have agreed to the amendment which I send to the desk in lieu of Unprinted Amendment No. 1361.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

At the end of the bill insert the following:

SEC. 408. Section 662 of the Foreign Assistance Act of 1961 (22 U.S.C. 2422) is amended by striking out in subsection (a) "and reports, in a timely fashion" and all that follows down through the period in subsection (b) and inserting in lieu thereof a period and the following: "Each such operation shall be considered a significant anticipated intelligence activity for the purposes of section 501 of the National Security Act of 1947.".

SEC. 409. The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by adding at the end thereof the following new title:

"TITLE V—ACCOUNTABILITY FOR INTELLIGENCE ACTIVITIES

"CONGRESSIONAL OVERSIGHT

"SEC. 501. (a) To the extent consistent with all applicable authorities and duties, including those conferred by the Constitution upon the executive and legislative branches of the Government, and to the extent consistent with due regard for the protection from unauthorized disclosure of classified information and information relating to intelligence sources and methods, the Director of Central Intelligence and the heads of all departments, agencies, and other entities of the United States involved in intelligence activities shall—

"(1) keep the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives (hereinafter in this section referred to as the 'Select Committees') fully and currently informed of all intelligence activities which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States, including any significant anticipated intelligence activity, except that (A) the foregoing provision shall not require approval of the Select Committees as a condition precedent to the initiation of any such anticipated intelligence activity, and (B) if the President determines it is essential to limit prior notice to meet extraordinary circumstances affecting vital interests of the United States, such notice shall be limited to the chairman and ranking minority members of the Select Committees, the Speaker and minority leader of the House of Representatives, and the majority and minority leaders of the Senate;

"(2) furnish any information or material concerning intelligence activities which is in the possession, custody, or control of any department, agency, or entity of the United States and which is requested by either of the Select Committees in order to carry out its authorized responsibilities; and

"(3) report in a timely fashion to the Select Committees any illegal intelligence activity or significant intelligence failure and any corrective action that has been taken or is planned to be taken in connection with such illegal activity or failure.

"(b) The President shall fully inform the Select Committees in a timely fashion of intelligence operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, for which prior notice was not given under subsection (a) and shall provide a statement of the reasons for not giving prior notice.

"(c) The President and the Select Committees shall each establish such procedures as may be necessary to carry out the provisions of subsections (a) and (b).

"(d) The House of Representatives and the Senate, in consultation with the Director of Central Intelligence, shall each establish, by rule or resolution of such House, procedures to protect from unauthorized disclosure all classified information and all information relating to intelligence sources and methods furnished to the Select Committees or to Members of the Congress under this section. In accordance with such procedures, each of the Select Committees shall promptly call to the attention of its respective House, or to any appropriate committee or committees of its respective House, any matter relating to intelligence activities requiring the attention of such House or such committee or committees.".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the action which the Senate has taken.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

YOUNG ADULT CONSERVATION CORPS BUDGET DEFERRAL DISAPPROVAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 906.

The PRESIDING OFFICER. Without objection, it is so ordered. The resolution will be stated by title.

The assistant legislative clerk read as follows:

> Resolution (S. Res. 449) disapproving the deferral of certain budget authority relating to the Young Adult Conservation Corps.

The Senate proceeded to consider the bill.

Mr. MAGNUSON. Mr. President, on June 23, 1980, the Appropriations Committee favorably reported Senate Resolution 449, which I introduced on May 29, with several cosponsors, including my colleague from Washington State, Senator JACKSON.

This resolution prevents the planned 40-percent cutback in Young Adult Conservation Corps enrollees, in favor of a more gradual reduction of about 10 percent. Instead of massive layoffs, this more modest reduction can be accomplished by simply not filling vacancies until enrollments decline from their current level of 21,900 to 19,110. Without this resolution, 8,370 jobs would have been eliminated by September 1980, leaving only 13,530 enrollees.

In my home State of Washington, there are currently 901 enrollees in projects run by the Forest Service, the Park Service, and the Fish and Wildlife Service, as well as by the State itself, receiving Federal grants. The biggest program is Camp Cascade in Sedro Woolley, Wash., located at the site of the old Northern State Hospital.

Enrollees are all unemployed youth, age 16 through 23, performing such tasks as building trails, installing campgrounds, shoring up streams, constructing fences, planting trees, and improving animal habitats. Crews of young people throughout the country have done a lot of hard, physical work, helping out in the aftermath of natural disasters, such as the Mount St. Helens volcanic eruption.

Accomplishments of the Young Adult Conservation Corps have stood the test of vigorous inspections. For each dollar expended, the value returned to the Federal Government for work performed is $1.25; clearly, the program more than pays for itself.

Of all enrollees served, 75 percent go on to permanent, unsubsidized jobs, or further schooling. Although half of the enrollees are high school dropouts, many are able to get the equivalent of a high school diploma, the GED, while enrolled. While 35 percent of all enrollees are disadvantaged youth, this is the only Comprehensive Employment and Training Act program permitting enrollment of the near-poor. By providing a good mixture of youth from various backgrounds, experience shows everyone benefits.

Of course, no program is ever perfect—there is always the potential for trouble and always some people who will try to take advantage, particularly working with unemployed youth with multiple problems. Strong and immediate action should be taken to eliminate abuses wherever they surface, but should not be used as an excuse to eliminate valuable services. I will do everything I can to further strengthen supervision and monitoring of the Young Adult Conservation Corps—these youth deserve the highest quality of services, and nothing less should be tolerated.

Mr. President, I urge the Senate to adopt Senate Resolution 449.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

The resolution (S. Res. 449) is as follows:

> *Resolved*, That the Senate disapproves $27,500,000 of the proposed deferral, D80–57, of budget authority relating to the Young Adult Conservation Corps, as set forth in the message transmitted by the President to the Congress on April 16, 1980, under section 1013 of the Impoundment Control Act of 1974.

DEPARTMENT OF DEFENSE AUTHORIZATIONS, 1981

The Senate continued with the consideration of H.R. 6974.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, the Senator from New Mexico has an amendment which I believe is very important and which I believe the distinguished chairman of the committee is amenable to considering at this time. He will have to speak for himself. I am amenable to the amendment and support it.

At this point, I will yield the floor, so that the Senator from New Mexico can bring up his amendment, and then we can address ourselves to it.

The PRESIDING OFFICER. The Senator from New Mexico.

UP AMENDMENT NO. 1377

(Purpose: To add funds for acceleration of the LoADS ballistic missile defense development program, increase funding for the exoatmospheric ballistic missile defense intercept development program, and to direct the Secretary of Defense to conduct a comprehensive study of the potential contributions of strategic ballistic missile defense technologies)

Mr. DOMENICI. Mr. President, I send to the desk an unprinted amendment on behalf of myself and Senator HEFLIN, Senator GARN, Senator LAXALT, Senator STEWART, Senator HUMPHREY, and Senator SCHMITT.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from New Mexico (Mr. DOMENICI), on behalf of himself and others, proposes an unprinted amendment numbered 1377.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 45, line 18, strike out "3,233,614,000" and insert in lieu thereof "3,273,614,000".
>
> At the appropriate place in the bill, insert a new section as follows:
>
> SEC. . The Secretary of Defense shall prepare a comprehensive study of: (1) contributions to the increased survivability and reduced force requirements of present and planned land-based intercontinental ballistic missile systems of the United States which would be possible through a planned exploitation of strategic defensive technologies, to include endoatmospheric and exoatmospheric intercept missiles and space-based systems and, (2) the implications of Soviet BMD activities for U.S. strategic force requirements. The results of such study shall be submitted to the Congress no later than February 1, 1981.

The PRESIDING OFFICER. Without objection, the amendment will be in order, without prejudice to the amendment of the Senator from Michigan (Mr. LEVIN).

Mr. DOMENICI. So that once action on this amendment is completed, we will return to the previously pending business, the amendment of the Senator from Michigan. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. DOMENICI. Mr. President, this amendment proposes increasing Army R. & D. funding for ballistic missile defense (BMD) programs by $40 million and directing the Secretary of Defense to conduct a comprehensive study of the potential for ballistic missile defense concepts to promote increased survivability and reduced force requirements of present and planned U.S. land-based ICBM systems and submit the results of such study to the Congress no later than February 1, 1981.

Of this $40-million increase, $25 million would support acceleration of the low-altitude defense system (LoADS). This is the antiballistic missile (ABM) program intended to complement the mobile-based MX system in the event that the Soviet threat to the survivability of U.S. land-based ICBM's continues to grow. Consequently, it is important that the option to deploy such a system be available at roughly the same time period as the mobile-based MX. The Senate Armed Services Committee, endorsing this viewpoint, recommends in its report accompanying the fiscal year 1981 DOD authorization bill that the BMD program for fiscal year 1981 and future years be structured to recognize the high priority for the LoADS and protect the option of conducting a preprototype demonstration of LoADS in 1986. However, the Armed Services Committee did not provide any additional funding to support such an acceleration of the LoADS program—raising the prospect that funding for other important technology activities in the BMD program would have to be severely reduced or even canceled in order to support LoADS acceleration.

The BMD program office has testified that an additional $25 million in BMD funding is required in order to adhere to the SASC recommendation to accelerate LoADS without diverting funds away from other BMD programs. In the absence of such additional funding, certain promising BMD advanced technology programs dealing with strategic attack assessment, endoatmospheric warhead homing and fusing concepts, and hardening ABM components against nuclear effects, which have already been reduced to minimal funding levels, could not be effectively conducted or might even face cancellation. Furthermore, the network of contractors working on these programs would be severely affected, expertise could be eroded, and reestablishment of the contractor base at a later time would be much more expensive. I do not believe this was the committee's intention. Therefore, $25 million of this increase is intended to support acceleration of LoADS, as the SASC recommends, thereby insuring that the BMD program office will not divert funds from other ABM programs to accomplish this acceleration.

The remaining $15 million increase would be available to support enhanced research and development of advanced technology BMD programs which may hold the greatest long-term promise for giving the United States a very effective ABM option. In particular, I am referring to R. & D. programs related to the so-called overlay ABM concept which would detect, discriminate, and delegate threats for exoatmospheric interception by nonnuclear kill weapons. Programs which are of special interest in this regard include sensor/optics development, nonnuclear kill concepts, and sofware improvements. Enhancement of these programs would help maintain the overlay ABM concept as a credible ABM option.

Mr. President, the second part of this proposed amendment involves language directing the Secretary of Defense to report to the Congress by February 1, 1981, regarding the contributions which a planned exploitation of BMD technology, including endoatmospheric, exoatmospheric, and space-based systems, could make to the increased survivability and reduced force requirements of present and planned U.S. land-based ICBM's. This study should identify the level of funding required and the probable IOC associated with a planned exploitation of these BMD concepts. In addition to identifying the contribution that ABM systems could make to the survivability of nondeceptively based hard targets, this study should focus particularly upon the contribution that BMD systems could make as an adjunct to 4,600 deployed MX shelters in the event of an expanded Soviet strategic offensive threat.

Mr. President, this amendment does not propose that the United States move to deploy an ABM system or abrogate the ABM Treaty. All of the activities mentioned here can occur within the terms of the ABM Treaty. Any decision to abrogate the ABM Treaty or proceed with an ABM deployment would require an extended and detailed examination of strategic trends. However, it is clear to me, as an assessment of BMD technology conducted for me by the Los Alamos Scientific Laboratory concludes, that remarkable advances in BMD technology since 1972 can now give ballistic missile defense a cost exchange advantage over an attacker. This is another point the study being proposed here would need to address.

Given the uncertainty which currently plagues U.S. strategic force planning and modernization and the doubt which exists regarding the future of the SALT process, I believe it is essential that the United States take all steps to maintain its technological options in regard to BMD. We do not know what the strategic situation will be in the future, although our highest defense officials have acknowledged that within 20 years any land-based or sea-based ballistic missile could be vulnerable to Soviet detection methods. High priority should be given to keeping our technological BMD options alive. An active BMD research and development program alone provides useful leverage in deterring further Soviet offensive threat growth if the prospect of a U.S. BMD does not make such actions cost-effective for the Soviet Union. The LoADS program has real significance for the mobile-based MX. Acceleration of the program to achieve preprototype demonstration by 1986—via more "front-end" emphasis—will result in smaller total cost because of optimized program scheduling. However, the United States should keep other BMD options—such as exoatmospheric intercept—alive until MX is fully deployed. ABM-related programs, especially in the area of long-range sensors and attack assessment, have promise for alleviating the consequences of the false-attack syndrome and providing the national command authority the luxury of more time and information to assess a possible strategic threat situation.

As a final matter, Mr. President, it is important to remember that the next United States/Soviet review of the ABM Treaty will occur in 1982. It is none too early to begin directing the DOD to supply Congress with information regarding the potential of BMD technologies which would serve as the basis for a congressional reexamination of the merits of the ABM Treaty in a changing strategic environment. The study proposed in this amendment would be a first step in this reexamination.

Mr. President, the essence of this amendment is a desire to maintain U.S. technological options in the area of BMD in the face of a rapidly changing strategic threat situation. I support the SASC recommendation that LoADS be accelerated, but I believe it is essential that this action not prejudice funding of other less developed but equally promising BMD-related activities. I believe that BMD is an issue which will be discussed increasingly as a U.S. strategic force planning issue in the future. The objective of this amendment is to insure that the Congress and the Nation will have the option to consider all BMD options and that none are precluded in advance by action taken this year. The funding increase proposed in this amendment is valid given the significance of the issue. The study language is an important step in initiating congressional reexamination of BMD and the ABM Treaty.

I hope the Senate will support this amendment.

Mr. President, I yield to the distinguished Senator from Alabama (Mr. HEFLIN), who has shown a significant interest in this issue in months past, and I am delighted that he is one of the principal cosponsors of this amendment.

Mr. HEFLIN. Mr. President, I am pleased to be a sponsor of the amendment of the Senator from New Mexico to increase the authorization for the ballistic missile defense program. I am glad that Senator DOMENICI is taking the lead in pursuing this amendment, since often Senators who sponsor amendments dealing with Army commands or installations in their home State are often given skeptical looks by their colleagues because of a feeling that parochialism may play a part in the Senator's motivation. I have to admit that since the headquarters of the Ballistic Missile Defense Command is located at Huntsville, Ala., I do have a certain parochial interest, but I can assure my colleagues that my interest in the security of our country far exceeds any parochial interest I have in this program.

Mr. President, I have been briefed many times by the senior officials of the Ballistic Missile Defense Command about the mission of that organization, and I am convinced that ballistic missile defense can work effectively in defense of our intercontinental ballistic missile sites. Progress in research and development efforts made in the 1970's has substantiated beyond reasonable doubt that ballistic missile defense can provide cost effective protection of our land-based ICBM forces. It was convincingly demonstrated in Spartan and Sprint interceptor firings during the safeguard program that lethal intercepts were possible based on the use of nuclear warheads. For example, 33 Sprint firings resulted in an extremely high success rate and an average miss distance considerably smaller than expected. This interceptor performance, when combined with the estimated lethality of the Sprint nuclear warhead, translated into an extremely high probability of killing reentry vehicles. The remaining questions on ballistic missile defense viability following the successful safeguard interceptor firings centered on traffic-handling capability, vulnerability, the cost of ballistic missile defense radars, and the discrimination capability of the system—that is, the ability to differentiate between reentry vehicles and decoys.

Since the safeguard program, the ballistic missile defense research and development program has provided answers to key feasibility questions and has greatly extended the technical capability of ballistic missile defense across the board. Even with the greatly expanded threat levels now projected for the 1980's, BMD systems now in research and development phase can competently protect ICBM sites to an acceptable level of survivability.

Mr. President, there is a strong relationship between the cost effectiveness of a BMD system and an ICBM defense and the way in which the ICBM and BMD systems are based. Deceptive basing of one or both systems could contribute substantially to overall cost effectiveness. A ballistic missile defense system, integrated with deceptively based MX for example, provides the greatest leverage and lowest cost ballistic missile defense role that has ever been analyzed.

Mr. President, the option to employ ballistic missile defense with the MX missile is, in my judgment, critical. The BMD system is an attractive option because of the leverage it provides. Leverage means that the number of BMD units employed are equivalent to the addition of much larger numbers of shelters for the MX system, or stated another way, each ballistic missile defense unit negates the destructive effect of a large number of attacking reentry vehicles. For example, 1 BMD defense unit—which would be 1 radar with 2 or 3 interceptors—added to 1 MX missile and 23 shelters is in effect equivalent to doubling the number of shelters.

Mr. President, the low-altitude defense (LoAD) BMD system being developed by the Army for potential use of the MX can be deployed within the existing MX basing system. The LoAD defense unit will be designed to be installed within the shelter without modification. Therefore, the deployment of LoAD can be very rapid, without the necessity of additional real estate construction or site preparation. The LoAD units are simply in place in existing shelters in close proximity to the shelters containing the MX missiles and plugged into existing power and communication command and control systems.

Mr. President, in order to insure our capability, the LoAD system needs to be demonstrated earlier than the present BMD budget allows. In an ideal situation, the LoAD demonstration should be completed at the same time as the MX initial operating capability, which is mid-1986. This requires an addition of at least $25 million in the fiscal year 1981 budget and corresponding increases in the 1982 to 1986 period, but a net decrease in the total cost of the demonstration program. The original Army fiscal year 1981 budget summation included the money which we are trying to add today, but it was cut out in the budget process.

The additional $15 million over and above the $25 million for LoAD which we are trying to add to this program today would be to accelerate the so-called overlay exoatmospheric ABM program.

Mr. President, this segment of the ballistic missile defense program uses two innovations. First, small high resolution detectors and space probes and interceptors to replace ground based radars and central computers, and second, a homing longwave length infrared guidance system which allows the use of multiple vehicle nonnuclear kill interceptors to interdict and destroy reentry vehicles. This program greatly needs the injection of an additional $15 million to prove that the system can be made into a workable, dependable system for nonnuclear reentry vehicle kills in space.

Mr. President, we have allowed the defenses of this country to deteriorate for long enough. It is time we turned the corner, and I think by and large the bill reported by the Armed Services Committee reflects these concerns. In my judgment, however, Mr. President, we are not moving fast enough in the area of ballistic missile defense. I urge each of my colleagues to support the amendment and vote for its adoption.

Mr. DOMENICI. Mr. President, it is my understanding that the distinguished chairman of the Armed Services Committee and the distinguished minority floor leader are agreeable to add on for this important function.

The amendment would add $40 million. It is my understanding that they have some concern about the level and that they would be willing to accept an amendment that is, for all intents, the same as the amendment of Senator HEFLIN and myself, except that they would like to reduce the amount to $25 million. If that is correct, the Senator from New Mexico is willing to reduce the amount.

Is the Senator from Alabama so disposed?

Mr. HEFLIN. Yes.

Mr. STENNIS. Mr. President, I will make a brief statement as to our reasons.

The committee that passed on this matter for us wanted these steps—at least some of them—to be taken. But it was their judgment that the $267 million to support BMD would accelerate this matter enough.

It may be a close question. The House has considered the add on but they rejected it. I am willing for us to take the amendment of the Senator from New Mexico at the level of $25 million and take it to conference and see what we can do. We will do our best of course.

There is unanimity about the need for the program. It is a question of judgment as to the amount. We are glad to try to handle this sum and believe it will be better than to have it as high as $40 million.

For that reason representing the full committee I recommend that the Senate adopt the amendment at $25 million.

I thank the Senators for their work on the matter.

Mr. TOWER. Mr. President, I join the distinguished chairman of the committee in his willingness to accept the proposal as offered by the Senator from New Mexico.

The matter will be in conference because the committee added no funds. This would be a conference issue. I believe that the additional funding will help insure the very much desired acceleration of LoADS. In fact, it will be consistent with the intent of the committee in terms of this particular program.

Therefore, I join the distinguished chairman of the committee in expressing my support for the amendment of the distinguished Senator from New Mexico and thank him for his initiative in this respect.

I urge the Senate to accept the amendment.

Mr. DOMENICI. Mr. President, I send to the desk a modification of my amendment, wherein the adjustments have been made so that the total will now be $25 million on page 45, line 18—$25 million higher than that reported by the committee and in lieu of the $40 million in my original amendment.

The PRESIDING OFFICER. The modified amendment will be stated.

Mr. DOMENICI. Mr. President, I ask unanimous consent to dispense with the reading of the amendment.

Mr. TOWER. Mr. President, I suggest that the Senator from New Mexico simply modify his amendment.

Mr. DOMENICI. I did. The only modification is the reduction of the total amount on that line by $15 million.

The PRESIDING OFFICER. The Senator has a right to modify his amendment. The amendment is so modified.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the reading of the modification be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The modified amendment is as follows:

On page 45, line 18, strike out "3,233,614,000" and insert in lieu thereof "3,258,614,000."

At the appropriate place in the bill, insert a new section as follows:

SEC. . The Secretary of Defense shall prepare a comprehensive study of: (1) contributions to the increased survivability and reduced force requirements of present and planned land-based intercontinental ballistic missile systems of the United States which would be possible through a planned exploitation of strategic defensive technologies, to include endoatmospheric and exoatmospheric intercept missiles and space-based systems and, (2) the implications of Soviet BMD activities for U.S. strategic force requirements. The results of such study shall be submitted to the Congress no later than February 1, 1981.

Mr. DOMENICI. Mr. President, I thank the chairman of the committee and the distinguished ranking minority member and the Senator from Alabama for their support.

Mr. STENNIS. We support the amendment, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. TOWER. Mr. President, the funding in the amendment as now formulated is for $25 million rather than $40 million. Is that correct?

The PRESIDING OFFICER. The clerk will state the new figures.

The assistant legislative clerk read as follows:

On page 45, line 18, strike out "3,233,614,000," and insert in lieu thereof "3,258,614,000."

Mr. TOWER. Mr. President, I believe that, mathematically, that works out to $25 million.

Mr. DOMENICI. That is correct.

Mr. STENNIS. We think that is correct also. That is adding $25 million.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from New Mexico.

The amendment (UP No. 1377), as modified, was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. Mr. President, I move to lay the motion on the table.

The motion to lay on the table was agreed to.

Mr. HEFLIN. Mr. President, I wish to thank the Senator from New Mexico for his innovative approach in this and his interest for the betterment of the defense of this country.

I wish to thank the distinguished chairman of the Armed Services Committee and the distinguished Senator from Texas in his capacity as the ranking minority member of the Armed Services Committee, and I appreciate their consideration in this matter.

Mr. STENNIS. We thank Senators. They have done good work and we thank them for it.

Mr. DOMENICI. I thank the Senator very much.

The ACTING PRESIDENT pro tempore. What is the will of the Senate?

Mr. STENNIS. Mr. President, is this all on the bill? Is this all the consideration that the Senate will give to this bill tonight?

Do we have anything further?

Mr. MATSUNAGA. No, nothing further.

Mr. STENNIS. Mr. President, the leader has nothing further.

Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. STENNIS. Mr. President, is this the pending matter tomorrow morning when we open the Senate?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. STENNIS. I thank the Chair and I thank the leader.

Mr. MATSUNAGA. Very well.

Mr. STENNIS. I thank my colleague.

THE POWERPLANT FUELS CONSERVATION ACT

Mr. LEAHY. Mr. President, last week the Senate approved the Powerplant Fuels Conservation Act, S. 2470. The bill authorizes $3.6 billion for loans and grants to assist in the conversion to coal of 80 oil-burning powerplants.

Mr. President, I voted for the Powerplant fuels Conservation Act as I have supported other coal conversion proposals in the past. But I must hasten to add that I did so with great reservation and regret. Great reservation because the Senate failed to adopt an amendment offered by the senior Senator from Vermont which would have insured that the coal conversions were carried out without needlessly threatening both the environment and the economy of the New England region, and ultimately the entire Nation.

Mr. President, through the foresight and determination of the senior Senator from Vermont, former Senator Muskie, and the distinguished chairman of the Environment and Public Works Committee (Mr. Randolph), the Senate can boast of an outstanding record of environmental legislative achievements over the past decade. It is with increasing alarm that I view a growing tendency to overlook and stampede that environmental legislation in the name of the pressing issues of the day, whether they be increased unemployment, the goal of energy independence, or whatever.

Few would question the wisdom of mandating powerplant coal conversions, particularly in my region of New England where more than 50 percent of our electricity is generated inefficiently through the burning of foreign oil. But if we are going to mandate conversions to coal, as I believe we should, we need not at the same time run roughshod over the rights of individual States to preserve their environments and maintain flexibility for future economic growth.

And yet, Mr. President, when last week the Senate failed to adopt the amendments offered by the senior Senator from Vermont, the junior Senator from Massachusetts, and myself, that is precisely what we did. As a result of the legislation we passed earlier this week, New England and upstate New York can count on upwards of 15-percent increases in acid rain precipitation in the immediate future. The increased sulfur and nitrogen oxide emissions we will suffer will also preclude much needed and planned for industrial expansion in our region.

Mr. President, the seriousness of the acid rain problem is not yet fully documented. It is known to have killed fishlife, and evidence is mounting that it poses grave threats to our region's agricultural productivity. Senator Stafford was entirely correct when he warned that, while New England and New York may be the first victims of acid rain, actions like those taken this week by the Senate will insure that the rest of the country need not wait long to experience similar threats to their environments.

Mr. President, the Senate acted in haste and in poor judgment in defeating the Stafford/Tsongas proposal. But the battle is not yet lost. Nor do I believe it will be.

I have little doubt that the Senate will soon embrace the environmental protections offered by my senior colleague from Vermont. In hindsight and in the face of mounting evidence of the ravages of acid rain, I am confident the Senate will reverse itself on this important issue.

In the end, there will be but one loser—the American taxpayer. For in foregoing a modest yet essential expenditure this week, we have locked ourselves into far greater expenditures in the future.

Political expediency, and lack of foresight never pays, not even in the name of energy independence.

FREEDOM: OUR MOST PRECIOUS NATIONAL TREASURE

Mr. THURMOND. Mr. President, as we approach another anniversary in celebration of the independence of this greatest Nation on the face of the Earth, it is with the tremendous pride that I recognize one of the Nation's living heroes—one who served his country in a unique and outstanding manner in combat and who continues to serve our country's traditions of freedom and independence through his actions and thoughts.

I am referring, Mr. President, to Vice Adm. James B. Stockdale, who, as the editors of Parade magazine recently stated, is a man who understands the meaning of freedom as well as anyone who ever lived. Admiral Stockdale spent nearly 8 years as a POW in Vietnam—most of the time in solitary confinement. He steadfastly refused to break under pressure and torture, he helped to sustain the spirit of his fellow captives by his leadership and example, and he lived to return to the plaudits of the Nation and the embraces of his family.

Amiral Stockdale is now president of the Citadel, the Military College of South Carolina. At 56, he still walks with a limp as a result of the beatings he underwent in prison. He also wears proudly the Medal of Honor he was awarded on his return, adding to his many other decorations. But perhaps the most important legacy he gained from his experiences was the knowledge of what true liberty is.

Mr. President, an essay titled "Freedom: Our Most Precious National Treasure," by Admiral Stockdale, was published in the June 29, 1980, issue of Parade magazine. The article is a truly moving account of the real meaning of freedom, expressed as only can be done by one who has had the experiences of Admiral Stockdale.

He concludes his essay, Mr. President, with these words which can serve well as a timely reminder to all Americans today:

> This nation has come a long way since the drafting of the Constitution, and the milestones are littered with human sacrifice. We've fought wars around the globe in freedom's name and have paid a terrible price for our most fundamental national belief. Today, there are men and women who may lay down their lives for this country and the freedom for which it stands.
>
> We all bear the painful costs of freedom. As we formally celebrate the commitment to break from England and to protect our national rights, let's hug to our breasts our freedom—our most precious national treasure—knowing that it, like a child, is imperfect and demanding but undeniably good. Let's keep our centuries-old habit of protecting that child of America, that freedom. She's getitng more rare and precious every day.

Mr. President, in order to share this outstanding essay by Admiral Stockdale with my colleagues, I ask unanimous consent that it be printed in the Record.

There being no objection, the essay was ordered to be printed in the Record, as follows:

FREEDOM: OUR MOST PRECIOUS NATIONAL TREASURE

(By Vice Adm. James B. Stockdale)

Before the big iron gates slammed behind me as I entered the Hanoi prison, I found it hard to think of freedom as something other than an abstraction that's used in songs, Supreme Court debates and political speeches. In this respect I was like many Americans today who take freedom for granted. By the time I was released to come home nearly eight years later, freedom had long since ceased to be an abstraction to me.

To those of us who have served time in Communist jails, freedom has a delicious, tangible meaning. It has become something we can figuratively reach out and touch. Such feelings are likely understandable in men who have spent years shackled and manacled in isolation. But my love of freedom is not just a reaction to cruelty; my appreciation of its preciousness stems from a first-hand understanding of its rarity. The void of freedom in other parts of the world—and particularly the passivity with which this lack is accepted—is staggering to a man who is born and raised free. In my Hanoi cell, I found myself daily picking up shocking signals in that milieu of deadened sensitivities. Like these:

The routine feedlot attitude of the simple peasant guards who delivered daily food rations down the line to cooped-up humans, fowl and livestock, with expressionless unconcern for the continual darkness, suffocating closeness, and isolation in which the chickens, pigs and men were confined.

The continuous barking of loudspeakers on the street telling the people of Hanoi what to think.

The pathetic ignorance behind the outburst of a prominent political cadre who shouted to me in a moment of exasperation: "We may not have freedom, but after 400 years we have order, and we will settle for that."

These and countless other impressions drive home to me the fact that human freedom is not the way of the world. To be free to come and go, to choose your life's work, to go for the big bucks or selfless service, or to hit the road as a drifter—these are not open choices to most of the 4.5 billion souls on this planet. Human freedom as we Americans know it is available only to a steadily shrinking minority of people.

You don't know what freedom is until, for a starter, you live for several years in a box-cell 10 feet long and 4 feet wide. I was crouched in the corner of that cell when my guards caught me writing a note to one of my fellow POWs. They were very mad about that note, so they took me from that box-cell to an even smaller, low-ceilinged outbuilding, a place we called "Calcutta," and laid me on the floor in squeeze irons.

Fetters and jail take away your external freedom; you can't get up and go. But what about the freedom of your will and spirit? Our captors wanted to get at that more than anything. Not by brainwashing—I don't believe there is any such thing—it's a journalist's word. The real answer is simpler: it's pain. They tied your arms behind your back with ropes, shutting off circulation, and then violently and methodically tightened those ropes further, forcing your head down between your legs to produce claustrophobia. Death was not an option; there was only one way to stop it, and that was to say, "I submit."

In his "Nicomachean Ethics," Aristotle points out the difference between acts done voluntarily and those under compulsion. But he adds that a measure of free choice may remain even in the severest extortion situations. We had many ways of clinging to that tiny residue of freedom in Hanoi. One way was the tap code. Although we were in solitary confinement we could surreptitiously communicate with one another, set up a chain of command, encourage the doubtful, console the depressed, comfort the hurt.

We figured out ways to prevent our captors from manipulating us into making photo and television propaganda for them. One way was to assume a character like an actor—a personality of unpredictability. Our captors did not hold with unpredictability. When they put an American pilot before the cameras they wanted to be sure of his total submission. For that they had to be sure that his behavior was predictable. To sabotage that, when put under stress you could stage random scenes of emotional instability. You could throw chairs around and yell, "To hell with the torture." You had to be a good actor. If they thought you had not lost control of yourself but were putting them on, within minutes you could be back in the ropes sobbing like a baby. When you pulled off the act convincingly, they didn't like it. For then you were not useful as propaganda. They'd say, "This guy is not what we want to take downtown."

People have said to me, "I couldn't take a prison experience like you guys. You all must have had a tremendously high threshold of pain." But it was not a question of a high or low threshold of pain; it was a question of endurance. It didn't matter so much if you submitted under pain one day so long as you made them start all over again the next day. They didn't like to do that. So the thing was to cling to that tiny vestige of freedom it was in your power to hold.

That word freedom is crucial. Freedom does not exist because our Constitution says it should. Over the course of our country's history, people have constantly labored to keep freedom and have paid dearly for it.

Our Declaration of Independence of 204 years ago this week remains one of the most stirring documents in history, signaling a commitment to bear the responsibilities of protecting a way of life. After our bitter struggle for independence, brave and earnest men stepped forward to write our Constitution and formally frame the reasons for which we had fought that unpopular war against the British. No one had to remind our Founding Fathers of the cost. Fifty-six of them knowingly laid their lives, liberty and honor on the line when they signed the Declaration of Independence. And they paid their dues. In the ensuing war, nine were killed in action, five died as prisoners of war, 12 had their homes burned, several lost sons, one man's wife died in prison, and 17 (including Thomas Jefferson) went broke. The legacy of these men was summed up very simply by Tom Paine: "Those who expect to reap the blessings of freedom must, like men, undergo the fatigue of supporting it."

This nation has come a long way since the drafting of the Constitution, and the milestones are littered with human sacrifice. We've fought wars around the globe in freedom's name and have paid a terrible price for our most fundamental national belief. Today, there are men and women who may lay down their lives for this country and the freedom for which it stands.

We all bear the painful costs of freedom. As we formally celebrate the commitment to break from England and to protect our natural rights, let's hug to our breasts our freedom—our most precious national treasure—knowing that it, like a child, is imperfect and demanding but undeniably good. Let's keep our centuries-old habit of protecting that child of America, that freedom. She's getting more rare and precious every day.

CHIEF JUSTICE BURGER'S ADDRESS BEFORE THE AMERICAN LAW INSTITUTE

Mr. THURMOND. Mr. President, recently, Chief Justice Warren E. Burger, in his welcoming remarks to the American Law Institute, touched on a drift toward blurring jurisdiction between the State and Federal courts.

Our Constitution provides a role of limited jurisdiction for the Federal courts. The framers of this great document clearly envisioned such a Federal judiciary. Slowly initially, but in recent years with all due speed, Federal jurisdiction has been enlarged by Congress. Allocation of Federal jurisdiction should not just happen piecemeal without rhyme or reason. To preserve the concept of federalism in this Nation, we should not continue to haphazardly legislate Federal jurisdiction into those areas reserved for the courts of the States.

The question raised by the Chief Justice is timely and wise. My answer to his concerns is clear. The time has come for a broad reappraisal of the allocation of jurisdiction to State and Federal courts. We should determine where we are now and where the Congress should go. A careful overall plan to address this issue is needed.

Mr. President, I request unanimous consent that the remarks of Chief Justice Warren E. Burger to the American Law Institute on June 10, 1980, be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

WELCOMING REMARKS OF WARREN E. BURGER, CHIEF JUSTICE OF THE UNITED STATES

This is the eleventh year you have allowed me access to this unique forum of our profession and on this occasion I will not detain you unduly long. What I hope to do is what Judge Charles Clark suggested in his Cardozo Lecture, that is, I will try, in his words, ". . . to suggest problems and raise doubts rather than resolve confusion; to disturb thought, rather than dispense legal or moral truth."

I come not as an advocate, as I have done in some prior years, but rather—with Charlie Clark—simply "to raise doubts."

In a sense, it may be symbolic that for the first time in many, many years you meet in June and at the modern Hyatt Regency Hotel rather than in mid-May at the grand old Mayflower. This should remind us that things do change. We know that changes in our society often go virtually unnoticed until they have become a fixed part of the structure and changes in the law exhibit this same characteristic. But changes in the law and litigation patterns do not burst forth like that volcano which recently caused billions of dollars in damage and the loss of many lives. Changes in the law come silently, and, like a glacier, the movement is almost imperceptible, often first emerging in an obscure case that goes unnoticed. We need only recall how long it took for lawyers and scholars to see the meaning of *Erie* v. *Tompkins* to remind us that changes are not always perceived immediately.

Fortunately for all of us, scholars, with more time to scan the whole panorama, and more time for reflection than is allowed to lawyers and judges, may discern a new trend or a new concept—and it is sometimes a new trend that was not intended.

In recent years we have read news reports of what some see as "bizarre cases": a son suing his parents for damages for their negligence in his upbringing; another son suing his parents for a "divorce"—which I suspect a court might construe as an application for a declaratory judgment of emancipation; students suing teachers demanding judicial review of grades received. Another headline novel case was brought by a lady seeking a division of community property from a gentleman for whom she had been what we lawyers might call a *de facto* wife, although she made no claim to a common-law marriage. We read of women employees suing their employers for unwelcome attentions, but that is probably an improvement over the self-help of earlier times when ladies used hat pins to deal with such problems.

I am not suggesting by any means that all novel or even bizarre cases are necessarily "bad". Some may be aberrations but others may contain the seeds of future change. The first time someone sued a king, for example, it no doubt provoked gales of mirth in the alehouses or wherever lawyers congregated in those days. And we recall that Lord Coke literally put his head on the block when he told his king that the law was superior to the monarch. Of course, Coke shrewdly softened the blow by adding "just as I am beneath your majesty." Yet Coke's daring statement was probably one of the first breaches in the doctrine of sovereign immunity, even if it was not so perceived at the time. So *new* is not bad, and we must be prepared to deal with change—and, if possible, anticipate it.

At the St. Paul Conference in 1976, which has come to be known as "The Pound Revisited Conference", more than 300 representative leaders of the legal profession—and other disciplines as well—tried to inquire into the problems that will confront courts in the final quarter of this century. At best, I suspect, we did no more than scratch the surface, but after all that is what Roscoe Pound did in 1906. One of the speakers was Simon Rifkind, who has been an active participant in the law for a half century, on the bench, at the counsel table and as a counselor. His theme was that the federal courts are victims of their own success. I took him to mean that federal courts were thought more likely to provide remedies which could not be achieved by the political processes or in the state courts.

This morning I will try to present a very tentative perception about federal and state jurisdiction, a subject which the Institute has addressed on prior occasions. I can cite no empirical data acceptable to the scientific mind, but numerous conversations with colleagues of the state and federal bench, along with published articles and lectures, suggest that significant changes are taking place in patterns of litigation in both the federal and state courts.

I think I perceive, in dim outline—but I am not certain—signs that state court dockets and federal dockets are becoming more and more alike.

It is surely plain by now that both federal and state courts share the burdens of what has been called "the litigation explosion." Some thoughtful observers tell us that this enormous expansion of litigation is a result of the failure of the political processes to meet the peoples' expectations. This is not the time or place to explore the source or scope of those expectations. But it is reasonably clear that in the past two decades peoples' expectations have indeed been fanned to new heights—heights which some social scientists, and others, see as beyond what our society can provide. I leave that to the political scientists and economists.

My point this morning is far narrower than these cosmic political and philosophical questions.

What I ask is whether the signs some discern mean that the federal system may be on its way to a *de facto* merger with the state court systems, with litigants free in most, if not all, cases to choose a federal court or a state court, depending on the condition of the dockets and depending upon what they perceive as to the quality of relief they may obtain? I put that as a question.

In the past decade Congress has enacted not less than 70 new statutes enlarging the jurisdiction of federal courts. Many of these statutes expand federal jurisdiction to cover relief already available in state courts. It is fair to say that the federal courts, and ultimately the Supreme Court, have tended to give expansive, rather than restricted, interpretation to these statutes, along with a narrowing of the scope of immunity of government officials. A number of thoughtful observers, including our colleague Carl McGowan, have noted, for example, that the federal courts have given new and expanded meaning to the requirements of standing. Writing in The American Bar Journal four years ago, Judge McGowan pointed to another, but related, development:

"Progressive relaxation of judicially created requirements of standing have enabled almost any person to get into [federal] courts to complain about almost any act, or omission to act, in the whole spectrum of federal activities. But the capacity of the courts to reverse that relaxation is now being impaired by a spectacularly increasing tendency on the part of Congress to provide explicitly for federal court remedies and judicial review . . ."

This is confirmed by my own discovery only a few days ago that New York City is second only to the United States as a litigant in the southern district of New York. And you may be sure New York City is not the plaintiff in very many of those cases.

Judge McGowan concluded with these words:

"The current congressional love affair with federal jurisdiction is heating up rather than cooling."

We have made an effort, but not with extraordinary success, to have the Congress require its committees, in reporting out legislation, to provide the full Congress with an impact statement predicting, or at least making an estimate—an informed guess—as to the possible or likely impact of new legislation on the federal courts.

Another colleague, former Attorney General Griffin Bell, stated in a recent interview that he had insisted that the Department of Justice, in sponsoring legislation, provide the Congress with an impact statement. There has been no stampede to emulate Griffin Bell.

I hasten to acknowledge, of course, that it is the Congress under the constitution that defines the jurisdiction of the federal courts.

We know that 50, or 100, or 150 years ago, there was a very marked difference between the litigation in state and federal courts. What I am pointing to is the perception of some that there are signs of a merging of the two judicial systems. We might say these are early warning signals. This perception may be wrong. These observers may be in the position of a small boy looking down a stretch of straight railroad tracks when, by optical illusion, the rails seem to converge. But this perception is not frivolous. Like symptoms of illness, we ignore them at our peril.

For more than a half century The American Law Institute has taken the long view of problems and has contributed immeasurably to the improvement of the law with its model codes, restatements of law and other studies, along with programs of legal education. Certainly one of the most monumental contributions was the 1969 study of allocation of jurisdiction.

That report focused on allocation of jurisdiction between the state and federal courts as to specific and relatively narrow jurisdictional, venue and procedural problems. The introductory statement of that report, you recall, tells the reader that:

"The Institute accepted the thesis that there are basic principles of federalism and that it is essential to allocate judicial business between state and federal courts in the light of those principles."

It goes on:

"A reappraisal from time to time of the structure of our judicial system is appropriate. but the present inquiry has a special urgency because of the continually expanded workload of the federal courts and the delay of justice resulting therefrom."

The draftsman of that introductory statement must be appalled at what has happened since the day when this statement was drafted.

Progress in implementing the Institute's 1969 recommendation has not been spectacular, but neither has it been static. The Congress substantially eliminated the three-judge district courts, but it has not eliminated diversity jurisdiction, as it has not eliminated the Supreme Court's mandatory appellate jurisdiction, which the Judicial Conference has urged. The latter has met with no objections or opposition, and although unopposed, the corrective legislation is "hostage" to the prayer amendment, whose subject matter relevance eludes even those "professors in New England" Alex Bickel spoke of.

Yet even this minimum progress is not to be disparaged for we remember that Chief Justice Jay advocated the creation of separate federal courts of appeals in 1791 and John Marshall pressed that subject for the entire 34 years of his tenure. Congress finally responded—in 1891!—A century of progress no less!

If these perceptions as to a possible merger are accurate, there are at least two consequences, both of which may be upon us before we even discern them fully so as to be able to grapple with them.

First, we may see an irreversible erosion of what the Institute in 1969 called "basic principles of federalism". Federal courts were created to provide a forum for certain, narrow, identifiable disputes involving rights and obligations. Under the genius of our system of federalism, such special and limited cases were thought more likely to receive full protection and review from a national court system. To assert this is in no sense to disparage state courts, where the overwhelming bulk of cases are litigated.

A second consequence of this almost imperceptible trend toward merger of state and federal jurisdiction—if indeed such a trend is a reality—is that the bar may lose interest in its obligation to work for the improvement of state courts and those courts may well atrophy. There are now ten times as many state trial judges of general jurisdiction as there are federal trial judges. Those who wish to open the federal courts for every cause of action, merely out of the self-interest of their clients, may be unwittingly laying foundations for a vast increase in the number of federal judges—numbers never before contemplated.

If we are disposed to enlarge the federal court system to provide a total, or almost total, concurrence of jurisdiction, the trend, unchecked, is the way to achieve that result. For my part, I would greatly prefer to maintain the federal courts as tribunals of special and limited jurisdiction as the founding fathers contemplated in 1787 and as the Institute confirmed in its seminal 1969 report.

I remind you again of the introductory statement of the 1969 report that: "A reappraisal from time to time of the structure of our [whole] judicial system is appropriate . . . " What I now raise for your consideration is whether the time has come for a broader reappraisal of the allocation of jurisdiction, with special focus on the developments that have emerged since the study was begun two decades ago. It will do us no good in 1999 to look back and conclude that a trend indeed began in the 1950's or 1960's to assimilate the two judicial systems, and that nearly two centuries of tested concepts of allocation of jurisdiction were abandoned without conscious intent.

I have been discussing—in a serious vein—differences in jurisdiction which may be disappearing. And now, less seriously, if these random observations have not reminded you of one of Paul Freund's stories they have done so for me. Paul tells of the lady who asked an Anglican bishop about the differences between Cherubim and Seraphim. The Anglican Bishop replied, "Madam, at one time there were indeed differences but the differences have been composed and all is well."

PARENTS GUIDING THEIR CHILDREN

Mr. THURMOND. Mr. President, recently, Dr. Carolyn Bauknight, director of the special services with the Lancaster area schools, chaired a panel discussion and workshop entitled, "Parents Guiding Their Children." This informative program was cosponsored by the Lancaster, S.C., Women's Club and the Child Development Center at the University of South Carolina at Lancaster, where it was held. In addition to my wife, Nancy, who spoke on strengthening the American family, the other panelists included: Dr. Gladys Robinson, assistant superintendent of the Lancaster area schools: Dr. Richard M. Gannaway, publisher of the Lancaster News and Press of Tri-County Publishing Co.; Saundra Ground, child development specialist, Appalachian Health Council, Greenville; Mrs. Miriam Lewis, teacher of the learning disabled in the Lancaster area schools; and Mrs. Rosa Cherry, mother of four.

Along with the symposium panelists, a welcome was given by Dean James D. Camp of the University of South Carolina at Lancaster and a devotion by Mrs. Elsie Boyce, past principal of the Lancaster area school system.

This program was a unique example of community cooperation between parents, educators, and concerned citizens who are dedicated to strengthening the family unit. I want to congratulate those who participated in this pilot program which may well serve as a blueprint for other timely parent-child discussions throughout the United States. It is through the sharing of ideas, that we can demonstrate a caring attitude toward our most valuable commodity—the children of our country who are our hope for the future.

I ask unanimous consent that the format questions and answers of the panelists, as well as the program and workshop notes celebrating the just completed "International Year of the Child," be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PARENTS GUIDING THEIR CHILDREN

WORKSHOP NOTES

This workshop is co-sponsored by the USC-L Child Development Center and the Lancaster Woman's Club in observance of the International Year of the Child.

The United Nations declared 1979 (extended through April 1980) as the International Year of the Child, with attention focused on the care of children from the pre-natal stage through age eight. More than 100 of the 151 member nations of the United Nations are participating in this special observance.

President Carter appointed twenty-five governors to the International Year of the Child Committee for the United States, and designated Mrs. Jean Young, wife of the former U.S. Ambassador to the United Nations, to chair the committee. Governor Riley appointed Parker Everette, member of the South Carolina legislature, chairman of the state committee. Mrs. Carolyn Holderman, wife of the President of the University of South Carolina legislature, chairman of the Year of the Child Committee for the nine campuses in the USC system.

This workshop was a project of the Civic Improvement Committee of the Lancaster Woman's Club, Mrs. Brenda Brown, Chairman. Mrs. Benita Miller is the club president for 1978–80.

PROGRAM

Welcome, James D. Camp, Dean USC at Lancaster.

Invocation, Mrs. Elsie Boyce, Principal (Ret.), Lancaster Area Schools System.

Introduction of Speaker, Mrs. Betsy Rushing, Chairman, Home Life Committee, Lancaster Woman's Club.

Address, Mrs. Nancy Thurmond.

Introduction of Symposium, Dr. Carolyn Bauknight, Moderator; Director of Special Services, Lancaster Area Schools System.

SYMPOSIUM PARTICIPANTS

Mrs. Saundra Ground, Appalachian Health Council.

Richard M. Gannaway, Tri-County Publishing Company.

Dr. Gladys Robinson, Lancaster Area Schools System.

Mrs. Rosa Cherry, Lancaster Woman's Club.

Mrs. Miriam Lewis, Teacher of Learning Disabled in the Lancaster Area Schools.

Remarks, Dr. Bauknight.

Reception, Lobby, Hubbard Hall.

DEVOTION FOR PARENT-TEACHER WORKSHOP

"How gently must I lead with one who has to learn of God through me."

If you are an atheist, it would be best for you to leave the room for the next few minutes, because you will not like what will be said.

I firmly believe in the separation of Church and State, but the one person I would not want to deal with my child is Madeline Murray O'Hair or any of her fellow atheists. They are as cold as a steel blade.

Our most precious natural resource today is not oil, not silver, not gold. It is our children.

When Jacob and Esau met for the first time after their family feud, and it was years later, children served as a buffer between love and hate. Genesis 33:1–5 records this:

"Jacob saw Esau coming with his four hundred men, so he divided the children among Leah, Rachel, and the two concubines. He put the concubines and their children first, then Leah, and her children, and finally Rachel and Joseph at the rear.

"Jacob went ahead of them and bowed down to the ground seven times as he reached his brother. But Esau ran to meet him. Both were weeping.

"When Esau looked around and saw the women and the children, he asked, 'Who are these people with you?'

'These Sir, are the children whom God has been good enough to give me,' Jacob answered."

Those of us here today, I hope, make no distinction between the children of the concubines and those of Rachel. All are God's children.

From the time of Jacob and Esau even down to the early years of this century, children were looked upon as an economic asset. In the affluent society today with its narcissistic MEISM, children are a drain on the family budget. As they become scarcer and scarcer, they become more and more precious.

I had a long distance telephone call last week from a former teacher who was aching for a recommendation for a job at John De la Howe. She was a very intelligent woman who had taught higher math to college bound students in another city before she moved here and filled a sixth grade vacancy. She was a master teacher, but most of all a master humanitarian. She absorbed the many heartaches of troubled children.

In her interview with officials of John De la Howe, she said, they emphasized that they were more interested in her personal warmth toward students than in her academic level and her educational qualifications.

It might be well for all job dispensers to look into the human qualifications of applicants who are to deal intimately with the young.

Just a touch can reveal to a child whether we are cold or warm. Helen Keller said some people have "frosty fingers" while others have hands that warm the heart . . . Are your fingers "Frosty"?

We pose an important question: Does a child have an instinctive knowledge of God, or does he get it from us?

Helen Keller, you remember, was locked inside herself. When her teacher, Annie Sullivan, broke the lock and spelled in the child's hand that there is a force beyond ourselves, Helen answered: "I already knew about that."

Do you remember the story of The Great Stone Face by Nathaniel Hawthorne? A child looked at it day after day, and finally realized his face had become a replica of it.

Children look into our faces each day. They are deeply perceptive. They learn much more from us than the three R's.

Dr. Archibald Rutledge, our revered S.C. poet Laureate, who, like Enoch, walked with God, has left us a simple little poem with a challenge for all who deal with small children. It is entitled Baby's Debut and was written at the birth of his first granddaughter. (It is especially meaningful to me because this child was an early preschool playmate of my own first child.)

Life is so very great, and she so small,
Tenderly must I tell her of it all;
For she must learn of life from little things;
Listen to the robin when he softly sings.
Amid the dogwood blossoms on the knoll
Before she hears the awful ocean roll;
Not suddenly must she behold the dark,
Or the vast wide-winged tanny daybreak mark;
But see in the pin a tiny twilight looming,
And in the rose a fairy daydawn blooming.
O baby hands that clutch and cling their need!
O elfin steps, how gently must I lead!
How loving, wise, and patient I must be
With one who has to learn of God through me.

Like me, many of you educators have dealt with children whose only knowledge of the word GOD was in its use in profanity.

There is a black hole in the lives of such children.

Louis Pasteur, the scientist who gave us pasteurized milk and thus saved the lives of many children, left a statement for us to ponder as we deal with the young:

"When I approach a child, he inspires in me two sentiments:

1. Tenderness for what he is.
2. Respect for what he may become."

And again from Dr. Rutledge:

"How gently must I lead.
How loving, wise and patient I must be
With one who has to learn of God
through me."

PRAYER

We give thanks for those people in our lives who have reflected the face of God.

We thank you for the process of procreation that continues to resupply the human race.

May we accept our young as divine gifts, and we ask for divine guidance in all our dealings with them.

Reward the efforts of those who day in and day out plan and labor to promote and enrich the preservation of our most precious natural resource, our children, amen.

A CHANCE TO FOCUS ON CHILDREN

The mastery of parenting (teaching) is partly techniques—the mastery of one's own behavior, a set of educational materials—and partly self-discovery.

We must be willing to probe the depths and sources of our own feelings if we are even to get in touch with the needs of our children.

That's why we are here today. We are concerned with the problems for children, the concerns of adults who care for and about them as we enter a new decade.

Our panel will be discussing problems, issues, etc. related to concerns that are taking place among our children as we as parents, teachers, community leaders strive to help find solutions and offer guidance.

Panelist introduction: Credentials

1. Dr. Gladys Robinson—Assistant Superintendent, Lancaster Area Schools Guidance Counselor.
2. Dr. Richard M. Gannaway—Publisher, Tri County News.
3. Saundra Ground—Child Development Specialist—Appalachian Health Council, Greenville.
4. Mrs. Miriam Lewis—Teacher, Learning Disabled, Lancaster Area Schools.
5. Rosa Cherry—Mother of 4, Member of Lancaster Women's Club.

Answers to Questions Concerning "Parents Guiding Their Children".

Question 1. Why do children seem more likely to defy their parents/teachers?

Answer. It is most probably because of a need to be recognized and be cared for and loved. The need for this recognition has not been met.

Society is changing. More demands are being made on children as well as parents. More mothers are required to work. But families can still raise successful offspring by remaining cohesive and harmonious, even one-parent families.

The amount of time a mother spends with her children is less important than how she uses their time together; therefore, the quality of child-parent-interactions is apparently more important than the quantity.

In a research survey fifty prominent American mothers were surveyed as to how they were brought up and techniques for successful child rearing. Such prominent Americans were—N.Y. Senator Daniel P. Moynihan; Barbara Newell, President, Wesley College; Floyd Bloom, biochemist, Salk Institute; John Updike, best selling author; Faye Dunaway, Dionne Warwicke, Burt Bacharach.

The most successful were from robust, stable families. Most were well adjusted and comes from the fact they almost all got along with their peers. Over half the mothers worked. Most mothers were there when they were needed. These mothers seemed to have been more than just fond of their children. Nearly half the mothers expected their children to put away their own things by age of five. Two thirds expected their children to meet obligations such as they were expected to do their own homework by the time they were seven years of age. As far as independence concerning religious and moral values. They stressed independence and encouraged the children to accept society's ideas about right and wrong. They instilled a sense of ethics or morality. Some stressed importance of contributing to the community. They emphasized responsibility, independence, autonomy.

To them being a parent meant helping the child grow into a self-reliant, responsible adult. To encourage initiative and responsibility, they relied heavily on praise; and when children were young, hugs and kisses. Emphasis was on the positive, rewarding, desirable, responsible behavior.

The mothers provided a rich, educational environment. The children took part in social activities. They had high expectations of children—expected their best.

Question 2. Do we see changing attitudes a result of societal changes?

Definitely so. For example, one in ten of the seventeen year old girls in this country is a mother. Last year, more than 250,000 girls aged seventeen or younger gave birth—15 percent of them for the second or third time.

These teenage pregnancies present a significant health risk to mothers and children. Babies born to teenagers are likely to be premature, underweight, and have congenital birth defects. These mothers highly vulnerable to complications during pregnancy, labor, and or delivery. Mortality rates run 30 percent higher than mother, over 20. In addition, these children are more likely to encounter later developmental problems.

With few exceptions adolescents are emotionally, educationally, socially, and economically unsuited for parenthood. Its more of a strain than teenagers can handle. Still children themselves, they tend to think childishly about having a baby.

Almost inevitably, reality gets lost in a whirl of drama, fantasy, and wish fulfillment. For some, it is a way out, for the moment, an intolerable home situation.

For others, parenthood represents proof one has "Grown up." And becoming a parent becomes the fulfillment of a wish to be needed, wanted, loved, and most dangerously more powerful than someone else.

A recent study surveying attitudes of adolescent parents found them to be "intolerant, impatient, insensitive, and irritable." The study underlined unrealistic expectations these parents have of their children and that children of adolescent marriages stand a much higher chance of becoming abused and neglected.

Teenagers are by no means the only people who experience tremendous difficulty raising children. Many new parents and "old" find themselves inadequately prepared to deal with their roles and responsibilities.

Parenthood is still regarded by most as instinctive. Unfortunately we don't get much help from mother nature when it comes to rearing a child, and we haven't since our instincts book a back seat to the cerebral cortex several million years ago.

Furthermore, when the extended family went the way of the streetcar, so did the natural family supports once available to nurse young married through first years of parenthood. Nevertheless, the vast majority of children will grow up to be parents.

The continued stability of the family is essential to the continued stability of society. It seems obvious that public education for parenthood must become a national priority.

Our public schools still provide the ideal settings. They could begin in junior high to shape, mold atttiudes and skills of the nation's future parents.

Every high school could have a four-year education for parenthood program built into its curriculum. This program should be required and be given full academic status. Every high school could have a demonstration child-care center where students could be given first-hand experience with real, live tots.

Vice President Walter Mondale said, "The easiest people to ignore in American Society are children. They usually accept being cheated with equanimity. They don't strike. They're just there." Millions of tax dollars are spent teaching driving cars, is it then any wonder so their teenage parents do better jobs taking care of their cars than they do their children?

Question 3. Are we making our children responsible?

I hope so. Some children will become responsible, others will not. It depends on how and what we as parents feel and do.

We as parents tend to forget how important it is for children to learn to care for others, and the best place to do this is in the home. A responsive parent who instills in a child a sense of responsible, loving concern for others makes a valuable imprint on a young personality. The personal satisfaction it can give your child when he or she helps you, a brother or sister of a friend or neighbor is one of life's greatest rewards.

A key factor is the parent's attitude and the appreciation they express to their children.

Sharing responsibilities within a family unit leads to a greater sense of self-esteem, reinforces family ties, and provides children with a positive model for dealing with responsibilities and close human interaction for the rest of their lives.

Responsibility helps develop self-reliance and autonomy.

But from one perspective, our collective preoccupation with children is an offspring of our infatuation with youthfulness in general. From another, it is an extension of the "My children are going to have better than I did. Whatever the roots of the problem one fact emerges—we have created for our children a position of preeminence within the family. We have placed "The Child" on a pedestal and adopted a self-sacrificing reverence toward his "potential."

There is one proper place for children within the family, the back seat. Exclusive possession of the front seat belongs to the marriage.

The marriage is the bedrock of the family. It is the foundation upon which the family is built and upon which every one in the family depends.

balerina; but a number of experiences do

The marriage is the nucleus of the family. It creates, defines and sustains the family. It transcends the identities of the two people who created it.

A child's needs are met if the needs of the marriage are met. A child who experiences his parents' relationship as an ever-present core of stability at the center of the family will feel as secure as he can possibly feel.

From their example, he learns how to share, how to disagree in ways which endanger neither his nor the other person's dignity, the human art of caring.

He will learn to respect his parents' authority because he will see the respect they have for each another.

The child discovers who he is by first having it defined for him who they are. He discovers his own place by first being told where it is.

It is this clear sense of "separateness" which enables the growth of autonomy and pushes the child toward the fulfillment of his or her own promise.

QUESTION 4. What are some activities for three and four olds?

Children need to develop alertness and skills before they start to school. And of course, the best teacher is the parent. Home is the most important educational institution of all. A good deal of research is saying that one half of everything we learn is learned before we ever go to school.

Materials around the house can be used. From parents preschoolers can learn that learning is fun. Cake tins, pie pans, and coffee cans can be used to stack, learning about proportion and how things fit together.

Sorting laundry, classifying buttons, explaining to your child exactly what you are doing to turn those white chunky things into applesauce. It is important to talk to your baby from the moment you first hold him.

Children learn through sensory experiences.

The nursery rhyme goes like this:

Mary had a preschool class
That was as good as gold
And every time that Mary spoke
They did as they were told.
They followed her at school each day
And never broke a rule
They watched the others laugh and play
But they were there for school.

Poor Mary!! Her concept of school is children sitting in desks, following the rules, not laughing, not playing, not speaking unless spoken to. Mary's real problem is that she doesn't understand how children learn.

The principle of learning through sensory experiences forms the basis for a second important principle of how children learn—and that is through concrete experiences. This means: let the children have the most basic, most concrete experience possible, and they will learn the most.

Example: Christopher went to the easel and began to paint with red paint. Then he picked up a brush with white paint and slowly wiped it across the red area on his paper. As a pink area suddenly appeared Christopher stood and stared for fully two minutes before he turned and shouted, "I made pink!"

How much richer and more lasting was his learning when the learning environment had been set up so that Christopher himself could discover how to make pink.

When we look at how children really learn—through their senses, through concrete experiences, through their own discoveries, we have a preschool class much different from Mary's.

QUESTION. Is Discipline very crucial to our happiness?

Discipline is very crucial to our happiness. Without it we become disoriented, confused, distrustful, angry, and develop emotional loneliness.

Parents need to take a stand and let children know their limits. Effective parents are kind but firm.

Most parents would say they have no trouble telling their children "no," but they do. In the short term, it's easier to say "yes." Saying "no" can hurt at the present but can in the long run bring emotional security and happiness.

"The whole issue of permissiveness . . . is partly cyclical. Your parents were rough on you so you tend to loosen up, saying, "well, I remember how tough it was. And parents are afraid their children won't love them if they don't give them what they want.

Saying no should be used in instances where it may simply save their lives, to build character, give a challenge, or because it's simply not convenient. The no's that are not allowed are: "No; I don't love you, no, you're not capable, or no, I won't listen."

Parents need to become committed to a task or decision. Commitment is the backbone of whatever you do. Commitment is the energy of change.

When you are only "giving it a try," your children will sense your ambivalence and your lack of determination and they will not cooperate with you because you will have given them no substantial reason to cooperate.

Loving a child doesn't mean letting him walk all over you. The well-adjusted child meets standards, lives up to his potential, and doesn't just "get by."

It is important as parents to remember that children need our intellectual and emotional supportiveness to achieve themselves as a whole.

Are you a Potter, believing a child comes to you much like a lump of clay that must be shaped through your authority, rewards, and punishment?

Are you a Gardener, who believes your child has within him the seed of all that he can become and that your job is to nurture the natural development of that seed?

Or perhaps you're a Maestro, who believes a child has some innate talents and tendancies but is most strongly influenced by his environment and experience. You must arrange and blend the elements of his environment and experience to best promote his growth and learning.

Or maybe the Consultant is your style. You believe a child has limitations, potential unfolding and expanding as he grows naturally and creates experiences to focus on building a relationship where you can share your knowledge and experience with your child to help him examine options and make his own careful choices.

There is no right way to raise a child. But the parent whose goal is to have his child law obiding and obedient needs to use different techniques from the parents whose goal is to raise an independent thinker.

Rearing a child is not as simple as baking a cake; we won't tell you've we've discovered a recipe for rearing a future president, a brilliant scientist, a painter or a ballerina; but a number of experiences do seem to be common among very successful people.

1. Recognize that you can make a difference, that how you raise your children will help shape their personalities and their future.
2. Make the home as stable as possible.
3. Get close to the child.
4. Set reasonable standards.
5. Accentuate the positive.
6. Make the home a learning place.
7. Provide room for growth.
8. It's the quality of time, not the quantity.
9. Encourage a healthy respect for high ideals and the rights of others.
10. Pay attention to your own development as an individual.

As one person put it: The best simple formula for parents to survive the "teen-years" is:

1. Keep your cool;
2. Hang in there; and
3. Stay United.

PANEL MODERATOR INTRODUCTION

The family is the most significant influence on the development of the individual. Our values, attitudes and perceptions of life are influenced by the quality of our relationships with our parents, by the training procedures our parents used, and by our position in our family constellation.

We are here today as concerned parents, teachers and community leaders. Concerned about the problems our children will be facing as we enter a new decade.

SUMMARY

Are you a potter, believing a child comes to you much like a lump of clay that must be shaped through your authority, rewards, and punishment?

Are you a gardener, who believes your child has within him the seed of all that he can become and that your job is to nurture the natural development of the self.

Or perhaps you're a maestro, who believes a child has some innate talents and tendencies and is most strongly influenced by his environment and experience. You must arrange and blend the elements of his environment and experience to best promote his growth and learning.

Or maybe the consultant is your style. You believe a child has limitations, but also has the potential for unfolding and expanding upon his capability as he grows naturally. You focus on building a relationship with the child in which you can share your knowledge and experiences and help him examine options and make his own careful choices.

Whatever your approach, here are four basic ingredients to building positive relations with your children:

(1) Mutual Respect. To establish mutual respect, we must be willing to begin by demonstrating respect for our children. A good way to start is to minimize your negative talk. Talk with your children when the atmosphere is friendly.

(2) Taking Time for Fun. The important ingredient of time together in quality, not quantity. An hour of positive relationship is worth more than several hours of conflict. Spend some time each day with each one of your children doing something you both enjoy.

(3) Encouragement. We must believe in our children if they are to believe in themselves. To feel adequate, children need frequent encouragement. A cooperative relationship depends upon how children feel about themselves and how they feel about you.

(4) Communicating Love. How often do you tell your children, by words and actions, that you love them? To feel secure each child must have at least one significant person to love and to be loved by. Telling your children that you love them, especially when they are not anticipating such a comment, and nonverbal signs such as pats, hugs, kisses, and tousling hair are extremely important.

Love is also communicated by the way you relate to your children in general-allowing your children to develop responsibility and independence.

Panelist, Dr. Gladys Robinson: I assume that all of us would agree that there has been many societal changes within recent years. There is the so-called "new morality." In reality this is nothing but the "old immorality." There are such things as co-habitation—that is living together without the benefit of marriage; teenage pregnancies, use of drugs, general breakdown of families, the whole economic picture, which have caused these changes in society.

Because of the status of the present economy, in most cases, both parents have to work. This means that children have less supervision and in some cases don't see their parents except on weekends. This does not provide the stability for the children. This real implications in our working with students in our schools.

Another contributing factor to these societal changes is the number of teenaged pregnancies. This is a change in attitudes toward unwed mothers. When I first began my counseling experience and I would have to deal with this problem. I remember how embarrassed parents would be to even discuss it. While there is some of that attitude yet, I see a different approach. Now they want the girls to stay in school as long as possible and then go on homebound instructions. Statistics indicate that one in 10 of the seventeen year old girls in the US is a mother. Last year, more than 250,000 girls aged 17 or younger gave birth. 15 percent of them for the second and third time.

This can certainly have an adverse effect on society since these young girls are not mature enough to assume the responsibility of parenthood. They lack the education and skills in training children.

The lack of cohesiveness of the family unit is also evident. With both parents working, there is not time enough for the family to be together. When the older teenager gets old enough to work, they too seek employment. So there is not any time for family life. Also we see more students coming from a one parent home. So he too contributes to the lack of stability in the home.

We are all aware of the misuse of drugs. We see changes in attitude toward school on the part of young people who become involved with drugs. I am including alcohol in this too.

I feel that these are a few of the things that have really hit at the moral fiber of our nation. In some cases the schools are the only hope children have to secure help in establishing priorities and building a system of values.

Of the severe discipline cases with which I deal, I find that better than 95% of these do not attend church. If there is an insecure home life, no religious or moral training, then the schools must be prepared to help such children. This requires teachers who have a deep commitment to the child and a real desire to help him.

Activities for 3–4 year olds, Sandra Ground:

Children learn to enjoy reading in the arms and laps of those they love. Children learn from those they love.

Many simple materials around the home provide a variety of opportunities for learning. For example, everyone, as a child spent some time playing with mud. I bet you didn't think there was any value in mud play but there is. Some of these values are:

Satisfaction in exploring, experimenting and controlling.

A way to release emotions, such as aggression, and hostility.

A chance to destroy safely and without guilt.

Provides a sense of power.

Provides a chance to live in fantasy.

Provides an opportunity to create something.

Develops a sense of touch, muscles, and sight.

Provides a chance to be in a group, but work individually (this is important for a shy or timid child).

Another simple natural element, rich in opportunities to develop necessary skills, is water play.

Water play meets the basic needs of:

1. Sensory pleasure; chance to feel; chance to experiment and explore.

2. Intellectual development; make changes in things; used with things which float/don't float; used with measuring things such as cups, bottle, spoons.

3. Releasing emotions; release for the aggressive, overly active child; non-threatening; puts no demands or pressure on the child—no special skills or results are expected.

Before we discuss activities for 3 and 4 year olds, we need to discuss how children learn. Children learn through play. A child's work is play. Through play the child learns by:

Testing and exercising his body;

Handling, tasting, smelling, observing;

Hearing language tied to his own experience;

Acting things out, living things over;

Sharing materials and people; and

Being accepted; solving problems in his own way.

A young child needs to:

Use his changing body;

Explore the world around him;

Grow in language;

Organize his learnings;

Learn to work with others; and

Think of himself as a capable person.

We use to think that children learned by quietly listening.

But now we know—Children learn to express ideas with words by using them. They learn to talk and listen by many opportunities to talk and listen.

We use to think that children learned by sitting still and listening.

But now we know—Children learn in many different ways. Listening, seeing, hearing, touching and doing are all ways that children learn.

We use to think that education takes place only when the children are actively involved in an experience on their level and interest.

An old proverb says:

> "I hear and I forget;
> I see and I remember,
> I do and I understand."

Children learn by doing—they learn when they are actively involved. Young children need many concrete experiences.

A child's first teachers are his parents; his first school is his home. Much of what a child learns is acquired prior to entry into formal education. The adult is the facilitator of the child's learning. He or she provides many activities through which the child acquires knowledge.

Materials found around the house provide excellent sources for learning. Opportunities for language development are abundant in the home.

Sorting laundry, preparing dinner, constantly talking to your child and explaining exactly what you are doing is important in developing receptive and expressive language skills.

Is discipline crucial? Rosa Cherry:

Discipline is very crucial to our happiness. Without it we become disoriented, confused, distrustful, angry, and develop emotional loneliness.

Parents need to take a stand and let children know their limits—kindly but firmly. The thing to remember in setting limits is the goal.

To summarize: Help child develop safe ways to vent anger.

Set limits.

Be consistent.

Allow some decisionmaking.

Be a good example.

Listen to your child.

Let him know you like him.

Listen to your child. Know how he feels. Let T.V. be a tool for learning. Discuss topics generated by television.

Ex-teenage mothers: Ask your child how he or she feels about it. Tell him how you feel. Don't talk at your child, but to your child.

Let your child know you like him. not just because he's an extension of yourself, but because he's his own unique person, with imperfections, yes, but interesting to talk to, fun to do things with, and just fun to be with.

Allow the child to make some decisions. When you allow the child to make some decisions, you are telling the child. "I trust you. I respect you." When you show your child that you trust him and respect him. he will reciprocate.

Allow your child to make some mistakes. Don't try to do all the thinking for him. He'll learn from those mistakes more than all the telling you could do.

Be a good example. There's an old saying, what you do speaks so loudly, I can't hear what you say." Don't expect the child to do as you say and not as you do.

SET LIMITS

It is the adult's responsibility to set limits for the child with definite consequences when those limits are breeched. Setting limits gives the child a secure environment. He knows the adults care about him and expect him to act in a manner which will not hurt him or others.

A few limits which must not be breeched are easier to cope with than a lot of rules which are frustrating for you and the child. When those limits are set, then you must be consistent with your reaction to the misbehavior. Inconsistency often results in the child's pushing against those limits, striving for more freedom than he is prepared to handle, often causing the child to defy your authority, thinking perhaps he can get you to change your mind. When you key in on the misbehavior, make sure that he understands it is the behavior that is not acceptable, not that the child is bad.

Mrs. Miriam Lewis: Why do children seem more likely to defy adults (parents, teachers)?

In developing their own personality, often children will defy the adult's perception of what's acceptable behavior. This is normal. In fact, in some ways, this is good. This is the child's way of determining limits, identifying his own set of values, securing his independence, striving for adulthood and sense of self.

It is up to the adults to help the child find suitable ways to vent his anger in safe ways. Let him know that it's okay to be angry. His world won't come apart when he shows anger. But, some ways of showing anger are okay, and some are not.

All natural elements such as sand, mud, and water provide many experiences with which the young child can learn. These are elements that he enjoys and to which he is naturally attracted. Because these elements are readily available to every parent, all parents can provide many valuable play activities to help his or her child develop many skills which will enable him to build foundations for reading and writing.

REFERENCES

Our Schools Are Changing, Why? Columbia, South Carolina State Department of Education.

"The Values of Play". Columbia, South Carolina State Department of Education.

MEMO FROM JIM CHERRY

Helping the child learn to control his own behavior. Thus discipline is actually a guide, not a punishment for transgressions.

One important area of self-discipline is a schedule for good home use. Help your child achieve this by naming a specific time for doing things. He needs a time for chores, time for homework, time for bed, time for daydreaming, thinking, being alone and being himself.

Things to remember:

(1) Have ideals, as a family and high standards (pride).

(2) Don't give commands all day. Reduce directions to those things you really mean and stick to what you said.

(3) Husband and wife must stick together and back each other up. (If there's disagreement about behavior, discuss in private.)

(4) Family devotion and prayers help goals to be achieved.

With all these ideas the goal is a self-disciplined, well-behaved, independent child who respects the rights of others and has respect for his family and himself.

"PARENTS GUIDING CHILDREN"

The USC-L Child Development Center and The Lancaster's Woman's Club will sponsor a workshop: "Parents Guiding Their Children" on Thursday, May 1, at 3:30 p.m. at Stevens Auditorium at USC-L.

Nancy Thurmond, wife of Sen. Strom Thurmond, will speak on the importance of children and will use ideas from her latest book, "Mother's Medicine."

A brief panel discussion on problems at home and school will follow.

Participating on the panel will be Dr. Gladys Robinson, assistant superintendent of the Lancaster Area Schools; Sandra Ground, child development consultant with Appalachian Health Council in Greenville; Robert Caffey, child development division of the State Department of Social Services; Dr. Richard Ganaway, publisher of the Lancaster News; and Rosa Sherry, woman's club representative.

"We think this is an excellent way for us to celebrate the International Year of the Child," Claudia Haithcock, director of the Child Development Center, said. This program will contain issues very helpful to improve personal guidelines for parents and teachers in working with children at school and at home.

The meeting will be open to the public. Anyone who plans to attend should call the Child Development Center.

PANEL TO DISCUSS PARENTS, CHILDREN

Dr. Carolyn Bauknight, Director of Special Services with the Lancaster Area Schools, will chair a panel discussion at the workshop on "Parents Guiding Their Children" at USC-Lancaster on Thursday, May 1, at 3:30 p.m.

The discussion will follow the main address by Mrs. Nancy Thurmond, based on her book, Mother's Medicine. Mrs. Thurmond, the wife of South Carolina Senator Strom Thurmond, wrote a bi-monthly column for several years concerning the importance and care of children. Proceeds from the sale of her book are donated to charities for the benefit of children, including a grant for leukemia research at the Children's Hospital in Washington, D.C., in memory of Mrs. Marvella Bayh. Senator and Mrs. Thurmond are the parents of four children.

The workshop, which is co-sponsored by the USC-L Child Development Center and the Lancaster Woman's Club, will be held in Stevens Auditorium at USC-L. It is open to the public without cost.

A reception, hosted by the Woman's Club, will be held in the lobby of Hubbard Hall following the workshop.

WESTERNS' READERS LOVE L'AMOUR

Mr. YOUNG. Mr. President, the New York Times in its June 26 edition paid well-deserved tribute to one of our country's greatest writers, Louis L'Amour. The value and popularity of his authentic novels on the history of the Old West could have no stronger evidence of acceptance than by the recent occasion of the printing of the 100 millionth copy of the 76 books he has published.

Mr. President, these historical novels are not only interesting reading, as proven by their wide popularity, but are as accurate or even more accurate than many historic books on the Old West. The substance of his stories has always been based on accurate historical facts such as records and diaries kept by many of the pioneers who ventured westward.

Mr. President, several Senators including myself have introduced legislation to authorize a specially struck gold medal to Louis L'Amour. I am hopeful this very special recognition by one of America's greatest newspapers will be helpful in getting congressional approval of this significant award to Louis L'Amour. I ask unanimous consent to have inserted in the RECORD as a part of my remarks the article that appeared in the New York Times on Thursday, June 26.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WESTERNS' READERS LOVE L'AMOUR

(By Wendell Rawls Jr.)

NASHVILLE.—The pot-bellied truck driver from Marston, Mo., pushed the brim of his straw cowboy hat back from his eyes and then stepped forward with one of the more than 100 million copies of books Louis L'Amour has in print.

Bill Campbell had been standing in the long line at Truck Stops of America's answer to the old stagecoach way station to have the book autographed "for my son" by the premier frontier storyteller.

"I'll tell you why I like his books," said Mr. Campbell. "If he says Gus the Bartender tended bar in someplace in 1876, you can believe that there was such a town and that there was a bar there and that a man named Gas was for truth the bartender."

Walter Jones, a driver for Mrs. Smith's Pies of Pottstown, Pa., gave a different reason for being a L'Amour fanatic, and the predominance of cowboy hats and boots in the place seemed to validate it. "I guess all truck drivers are frustrated cowboys," he said.

STRONG MEN, STRONG WOMEN, STRONG SALES

And Mr. L'Amour, on a two-week autograph tour in the South and Southwest to celebrate the printing of the 100 millionth copy of his books, said, "I write about men with hair on their chest, strong men in a rough, hard world. And the women I write about are strong women, too."

For whatever reasons, Louis L'Amour's Western and frontier novels are more popular than girlie magazines or roadmaps among America's truck drivers. It is thought by his publisher, Bantam Books, that the drivers are the biggest buyers of his books and the racks at truck stops across the country are crammed with his titles. But his appeal is not limited to the modern-day, high plains drifters riding 18-wheelers.

Mr. L'Amour has published 76 books. His latest, 13 short stories about the seas, the Orient, war and the West in the "yondering" days before he became a writer, opened with a first printing of 800,000 copies, to which 50,000 were added before it reached the bookstands.

Of his 76 books, almost all in soft-cover, 65 have sold in excess of one million copies. In 1979, Bantam alone shipped out 7.8 million copies of his books.

He predicted that within five years each new book that he wrote—and he writes three a year—would begin with printings of five million. "There are at least 25 million people out there that I've never touched at all, and I want them," he said. "I want every damned one of them."

His works have been published in 10 foreign languages, and 33 of his novels and stories have been bought for films or television. Perhaps the most easily recognized movie was "Hondo," which starred John Wayne. But there have been such others as "Heller in Pink Tights," which was from a book entitled "Heller with a Gun" and starred Anthony Quinn and Sophia Loren.

In recent years, Mr. L'Amour has been writing a continuing saga of the "Sackett family," which follows three families spanning three continents over three centuries. The 15th book in the nonchronological sequence has just been published under the title "The Warrior's Path."

SAGA OF 40 VOLUMES

In the saga, which he expects to comprise 40 volumes when completed, Mr. L'Amour is writing what he said "is a valuable history, a very accurate tracing of 300 years in the development and in the settlement of this nation."

He said he had begun writing the family saga after readers of his Western novels repeatedly asked him how the West had come to be settled. Because schools concentrate on the political history of America, he said, many students don't really know how this country was settled, what really happened in the Westward migration. So, he went back to Europe to begin his research and his story.

Mr. L'Amour is meticulous, even scholarly, in his attention to detail. In most of his books, he said, 90 percent of the material is true except for the names of characters. Sometimes even they are the same, he said.

He works from his home in Los Angeles, where he and 8,000 volumes of a personal library share an office. He seems to have an insatiable intellectual curiosity and is an ardent geologist, cartographer, gunsmith, ecologist, genealogist and "always fascinated by the broad panorama of history."

He has an almost encyclopedic knowledge of Indian cultures and of Western legends and geography.

As a child in Jamestown, N.D., he said, he hung around bookstores, read Stevenson and de Maupassant and listened for hours as his grandfather, a Civil War veteran, told stories of war and of men.

He left school at 15 and went west, seeking his fortune as a longshoreman, lumberjack, elephant handler, hay shocker, flume builder and fruit picker. By the time he was 17, he had in his own words: "Skinned dead cattle in west Texas, worked on a ranch in New Mexico, done assessment work on mining claims in Arizona, worked a few weeks with a circus and had ridden freight trains from El Paso to the Gulf."

From there he went to sea, to the West Indies and Europe, and "had fought in the ring 11 times and outside the ring twice as often."

He spent long days with men who had ridden with such outlaws as Billy the Kid and long, hungry nights sleeping in lumber piles or abandoned buildings. But he was always reading, always listening, always learning.

"There were a lot of hard times, and I missed a lot of meals," he said. "But I had a valuable asset. I always believed I would make it."

MESSAGES FROM THE HOUSE

At 1:54 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 5997) to provide for the display of the Code of Ethics for Government Service.

The message also announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 7573. An act to provide an extension of the time frame for nomination of a selection pool under the Cook Inlet land exchange;

H.R. 7592. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1981, and for other purposes; and

H.J. Res. 507. Joint resolution designating July 18, 1980, as "National POW-MIA Recognition Day".

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 598. An act to clarify the circumstances under which territorial provisions in licenses to manufacture, distribute, and sell trademarked soft drink products are lawful under the antitrust laws;

S. 2546. An act to authorize the Secretary of the Interior to design and construct a gunite lining on certain reaches of the Bessemer Ditch in the vicinity of Pueblo, Colorado, to prevent or reduce seepage damage on adjacent properties, and for other purposes;

S.J. Res. 115. Joint resolution designating July 1980 as "National Porcelain Art Month";

S.J. Res. 188. Joint resoution extending the reporting date of the National Commission on Air Quality; and

H.R. 7685. An act to amend title IV of the Employee Retirement Income Security Act of 1974 to postpone for one month the date on which the corporation must pay benefits under terminated multiemployer plans.

The enrolled bills and joint resolutions were subsequently signed by the President pro tempore (Mr. MAGNUSON).

HOUSE BILL REFERRED

The following bill was read twice by title, and referred as indicated:

H.R. 7592. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1981, and for other purposes; to the Committee on Appropriations.

HOUSE MEASURES PLACED ON THE CALENDAR

The following bill and joint resolution were read twice by their titles and placed on the calendar:

H.R. 7573. An act to provide an extension of the time frame for nomination of a selection pool under the Cook Inlet land exchange; and

H.J. Res. 507. Joint resoution designating July 18, 1980, as National POW-MIA Recognition Day".

ENROLLED BILLS AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, June 30, 1980, he had presented to the President of the United States the following enrolled bills and joint resolutions:

S. 598. An act to clarify the circumstances under which territorial provisions in licenses to manufacture, distribute, and sell trademarked soft drink products are lawful under the antitrust laws;

S. 2546. An act to authorize the Secretary of the Interior to design and construct a gunite lining on certain reaches of the Bessemer Ditch in the vicinity of Peublo, Colorado, to prevent or reduce seepage damage on adjacent properties, and for other purposes;

S.J. Res. 115. Joint resolution designating July 1980 as "National Porcelain Art Month"; and

S.J. Res. 188. Joint resolution extending the reporting date of the National Commission on Air Quality.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4112. A communication from the Principal Deputy Assistant Secretary of Defense (Comptroller), reporting, pursuant to law, on the intent to obligate $1.6 million in the Army Stock Fund for war reserve stocks; to the Committee on Appropriations.

EC-4113. A communication from the Director, Defense Communications Agency, reporting, pursuant to law, that a study has been conducted with respect to converting the guard service function at the Defense Communications Engineering Center, Reston, Virginia, and a decision has been made that performance under contract is the most cost-effective method of accomplishing it; to the Committee on Armed Services.

EC-4114. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report on Ocean Dumping Monitoring and Research, January through December 1978; to the Committee on Commerce, Science and Transportation.

EC-4115. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to amend the Fishery Conservation and Management Act of 1976 to provide for representation of the Northern Mariana Islands, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC-4116. A communication from the Secretary, Interstate Commerce Commission, reporting, pursuant to law, that the Commission is unable to render a final decision in Docket No. 37350, Soda Ash, Wyoming to Illinois, Iowa and Missouri; to the Committee on Commerce, Science, and Transportation.

EC-4117. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Federal Assistance to Rehabilitate Railroads Should Be Reassessed," June 27, 1980; to the Committee on Commerce, Science, and Transportation.

EC-4118. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, (1) Petroleum Market Shares: Report on Sales of Refined Petroleum Products—March 1980, and (2) Petroleum Market Shares: Report on Retail Sales of Gasoline—March 1980; to the Committee on Energy and Natural Resources.

EC-4119. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Impact of Eliminating the States From the General Revenue Sharing Program—A Nine-State Assessment," June 27, 1980; to the Committee on Finance.

EC-4120. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within sixty days after the execution thereof; to the Committee on Foreign Relations.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and referred as indicated:

POM-780. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Armed Services:

"HOUSE CONCURRENT RESOLUTION NO. 23

"Whereas, due to the uncertain and potentially explosive situation the United States faces in the Middle East, the Legislature of the State of Louisiana is deeply concerned with maintaining our armed forces in a superior position of military preparedness; and

"Whereas, it has come to the attention of the Legislature of Louisiana that a first line ship of the United States Navy, the U.S.S. Canister, is unable to supply the 6th Fleet warships in the Mediterranean because there are not sufficient available skilled sailors to put her to sea; and

"Whereas, an internal study by the United States Navy reveals that the navy is now short 20,000 petty officers, the most skilled enlisted personnel; and

"Whereas, Admiral Thomas B. Hayward, chief of naval operations has stated that a national draft will not solve the man-power shortage situation, due to the fact there is not sufficient incentive to encourage draftees and volunteers to become career military men and women; and

"Whereas, public opinion among young people seems to indicate that a draft of young persons at this time may be met with resistance due to the belligerence on the part of many young persons who are not in favor of registering for the draft if it becomes the law; and

"Whereas, Admiral Hayward further believes the only expeditious solution to the skilled man-power shortage problem is through providing higher military pay that will serve as an incentive to keep skilled young men and women in the service of the United States.

"Therefore, be it resolved by the House of Representatives, of the Louisiana Legislature, the Senate thereof concurring, that the President of the United States and the Congress of the United States is hereby urged and requested to take all necessary steps to place great emphasis on providing additional pay, and especially re-enlistment bonuses for all military personnel.

"Be it further resolved that the Louisiana Delegation to Congress is urged and requested to support this Resolution in Congress.

"Be it further resolved that a copy of this Resolution be sent to President Jimmy Carter, the Speaker of the United States House of Representatives, the President of the United States Senate and the members of the Louisiana Delegation to Congress."

POM-781. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance:

"ASSEMBLY JOINT RESOLUTION NO. 71

"Whereas, One of every 11 Americans aged 65 or older live in California, making it the leading state residence of older Americans, with 2,296,400 senior citizens; and

"Whereas, It is projected that the number of senior citizens residing in California will increase to 3,135,440 by the year 2000; and

"Whereas, In the normal aging process some of these older persons will have chronic health functional disabilities which will either eliminate or limit the amount or kind of major activity; and

"Whereas, The federal government and the State of California originally addressed the long-term illness or disability among older Americans by reliance on institutional forms of care so that there are now more persons in nursing homes than in hospitals; and

"Whereas, National and state-sponsored health care research and demonstration projects have shown that many older persons have been prematurely and unnecessarily institutionalized at great economic, physical, and emotional cost to older persons, their families, and the state; and

"Whereas, The cost of health care is significantly contributing to the increase in the cost of living; and

"Whereas, Older persons spend a disproportionate amount of their incomes on health care; and

"Whereas, The federal and the state government are in a period of limited public resources; and

"Whereas, This public concern about the needless institutionalization of older impaired persons is demanding the development of alternatives; and

"Whereas, the adult day health care program has demonstrated the humane and cost-effective value of this mode of health care as an alternative to institutionalization of impaired older persons and as one option in a much needed system of long-term care for impaired older persons; and

"Whereas, Medicare Title XVIII of the Social Security Act was enacted to provide basic health insurance coverage to older Americans; now, therefore, be it

"*Resolved by the Assembly and the Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to amend Title XVIII of the Social Security Act to expand the definition of provider of services to include any 'adult day health care center' and to amend Title XIX of the Social Security Act to include adult day health care as a mandated Medicaid service; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-782. A resolution adopted by the Municipal Council of the City of Jersey City, New Jersey, supporting legislation providing for a $600 million super fund to be used for the removal of toxic or hazardous waste from illegal dumping sites; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CRANSTON, from the Committee on Veterans' Affairs:

Special report pursuant to Section 302(b) of the Congressional Budget Act of 1974 (Rept. No. 96-841).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. TALMADGE:

S. 2904. A bill to amend the Internal Revenue Code of 1954 to adjust the excise tax on tires, and for other purposes; to the Committee on Finance.

By Mr. DOMENICI:

S. 2905. A bill to amend the Federal Election Campaign Act of 1971 to include the value of services provided by professional entertainers within the definition of "contribution"; to the Committee on Rules and Administration.

By Mr. DANFORTH (for himself and Mr. BRADLEY):

S. 2906. A bill to amend the Internal Revenue Code of 1954 to provide a credit against tax for certain research and experimental expenditures, and for other purposes; to the Committee on Finance.

By Mr. INOUYE:

S. 2907. A bill for the relief of John K. Karaya, Mary W. Karaya, Martin M. Z. Karaya, Peter D. Karaya, and Andrew M. Karaya; to the Committee on the Judiciary.

By Mr. EXON:

S. 2908. A bill to authorize the Administrator of Veterans' Affairs to pay the face value of United States Government life insurance to veterans of World War I under certain circumstances; to the Committee on Veterans' Affairs.

By Mr. LONG (for himself, Mr. TALMADGE, and Mr. DOLE):

S. 2909. A bill to amend title XI of the Social Security Act with respect to nonprofit health care philanthropy; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI:

S. 2905. A bill to amend the Federal Election Campaign Act of 1971 to include the value of services provided by professional entertainers within the definition of "contribution"; to the Committee on Rules and Administration.

• Mr. DOMENICI. Mr. President, the number of unintended consequences of the Federal Election Commission legislation needing to be adjusted becomes more evident every day. It is becoming apparent to all that the law is motivated by good intentions, but lacks in foresight. It is like an itch in the middle of your back—you know where to scratch, but it is tough to get at.

One of the ambiguities or loopholes I am concerned about is the omission which allows professional entertainers and artists to donate works and proceedings from performances to political campaigns without any limit.

This means that a performer or artist may raise hundreds of thousands of dollars for individual candidates, far surpassing the maximum present law allows any individual to contribute. Is there any question that without the performer directing the money to a candidate it would not wind up in his campaign coffers? And likewise, what is to prevent a contributor who has already given the maximum allowed, under present law from purchasing blocks of tickets to a performance or a work of art knowing the proceeds will accrue to his favorite candidate.

Mr. President, "Star Wars" no longer only refers to the popular science fiction movie, but also to political campaigns vying to attract the support of performers and artists.

It is my hope that generic legislation will be forthcoming from the Rules Committee reforming the Federal Election Commission. In the meantime, this legislation is another patch on a leaky law.•

By Mr. DANFORTH (for himself and Mr. BRADLEY):

S. 2906. A bill to amend the Internal Revenue Code of 1954 to provide a credit against tax for certain research and experimental expenditures, and for other purposes; to the Committee on Finance.

RESEARCH AND DEVELOPMENT ACT OF 1980

• Mr. DANFORTH. Mr. President, scientific knowledge has always been the cutting edge of American economic strength. The drive to know more, to improve on current methods, to master new fields is an integral part of our history.

As a result, the United States has become the most advanced country in the world. Scientific achievements have provided us with a superior defense system, unparalleled agricultural production, a communications network which is the envy of the world, and so on. Science has helped to give Americans the highest standard of living anywhere—modern housing, transportation, health, education, and work facilities.

None of these would have been possible without research and development. And recognizing the value of R. & D., the United States has traditionally promoted it with enthusiasm.

Therefore, America stands to suffer from the decline in research and development spending during the past decade. As a percentage of the gross national product, R. & D. spending has declined each year since 1964 from 3 percent to a projected 2 percent by 1985. The number of scientists and engineers employed in research and development is growing only half as fast as it was 10 years ago.

These facts spell trouble for America, both at home and abroad. For R. & D. translates directly into domestic productivity. Our current rate of productivity is unacceptably low, and is a major factor in inflation, growing unemployment, and our adverse balance of foreign trade.

On March 21, 1979, I introduced legislation designed to stimulate research and development in our country. That proposal, S. 700, is one of several legislative initiatives I have introduced or cosponsored in an effort to keep America competitive in the international marketplace. Our annual balance-of-trade deficit of nearly $30 billion makes it crucial that we do everything possible to make sure that American products are competitive abroad as well as at home.

The legislation which I introduced last year would have provided a tax credit equal to 10 percent of a taxpayer's expenditure for research and development. On June 18, 1979, the Subcommittee on Taxation and Debt Management of the Senate Finance Committee held hearings on S. 700. The Treasury Department testified in opposition to the proposal, stating that:

> The specific tax incentives being considered by this committee would raise a number of difficult administrative and definitional issues. Moreover, the increment to R. & D. effort that they might produce would be small relative to the size of subsidy provided. Most of the budget cost would be used to reward activities that would have occurred without the incentive. These proposals would also add substantive administrative complexity to the Internal Revenue Code.
>
> S. 700 calls for a 10-percent investment tax credit for R. & D. expenditures. Eligible expenditures are defined in the bill by reference to section 174. However, this section, in fact, serves exactly the opposite purpose. Its effect is specifically to avoid the need to define costs allocable to "research and development" in most cases. A taxpayer is not obligated to identify the expenses that are allocable to R. & D. since they may be currently deducted whether properly allocable to R. & D. or to activities generating current income. Under the proposed tax credit, the aforementioned problems of identifying

costs allocable to research and development would be introduced.

The legislation I am introducing today is designed to answer the Treasury Department's objections. First, the amount of allowable credit has been changed from a 10-percent across-the-board amount to 25 percent of the increase in research and experimental expenditures in the current year over the average of the 3 preceding years. Consequently, most of the budget cost would not be used "to reward activities that would have occurred without the incentive." In order to get any credit, a taxpayer must increase his spending for R. & D. over the average of the 3 preceding taxable years.

Second, the bill defines "research and experimental expenditures" in the same way that the term is used by accountants in preparing financial statements. Accountants have used this definition since 1975, and generally speaking, it has worked very well. I do not expect that the definition I am proposing in this legislation will produce crystal clear answers in every conceivable situation; however, it is a definition which is familiar to the commercial sector, and which is central to an accumulated body of knowledge.

During last year's hearings, Mr. Mark Shepard, chairman and chief executive officer of Texas Instruments, Inc., presented the results of a study which Texas Instruments sponsored and which was prepared by Andrew Brimmer in cooperation with Data Resources, Inc. The results of that study are encouraging. It was estimated that a 25-percent tax credit on R. & D. spending started in 1966 would have added 0.2 percentage points to annual productivity gains from 1966 to 1977; 0.3 percentage points per year from 1978 to 1987; and 0.4 percentage points per year from 1988 to 1997. In view of the fact that the total productivity increase in 1978 was 0.4 percent, and that in 1979, it actually decreased, I believe the study's estimates are significant. Mr. President, I ask unanimous consent that Mr. Shepard's testimony be printed in the Record.

In summary, Mr. President, I believe that it is vitally important to stimulate additional research and development in the United States. I look forward to timely hearings on this legislation toward that end. I ask unanimous consent that this legislation be printed in the Record.

There being no objection, the bill and testimony were ordered to be printed in the Record, as follows:

S. 2906

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Tax Credit Allowed.

(a) Subpart A of part IV of subchapter A of Chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting before section 45 the following new section:

"Sec. 44F. Credit for Research and Experimental Expenditures.

"(a) In general.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 25 percent of the qualified research and experimental expenditures paid or incurred by the taxpayer during the taxable year in connection with his trade or business.

"(b) Definitions.—For purposes of this section—

"(1) Qualified research and experimental expenditures.—The term 'qualified research and experimental expenditures' means the research and experimental expenditures of the taxpayer for the taxable year which exceed 100 percent of the annual average of the research and experimental expenditures of the taxpayer during the period of the taxpayer's three immediately preceding taxable years. If the taxpayer or a member of a controlled group (within the meaning of Section 993(a)(3)) which includes the taxpayer did not have a taxable year in any year during this period, the taxpayer, for purposes of this paragraph, is deemed to have a taxable year or years with research and experimental expenditures of zero for that year or years. The Secretary shall prescribe such regulations as he deems necessary with respect to a short taxable year, for purposes of computing the annual average of research and experimental expenditures, including the circumstances under which the short taxable year shall be annualized, and the proper method of annualization.

"(2) Research and experimental expenditures.—The term 'research and experimental expenditures' means expenditures made in the United States with respect to which a deduction is allowable under section 174(a)(1).

"(c) Application With Other Credits.—The credit allowed by subsection (a) for any taxable year shall not exceed the amount of the tax imposed by this chapter reduced by the sum of the credits allowable under a section of this part have a lower number or letter designation than this section, other than the credits allowable by sections 38, 39, and 43.

"(d) Carryback and Carryover of Unused Credit.—

"(1) Allowance of credit.—If the amount of the credit determined under this section for any taxable year exceeds the limitation provided by subsection (c) for such taxable year (hereinafter in this subsection referred to as the 'unused credit year'), such excess shall be—

"(A) a research and experimental credit carryback to each of the 3 taxable years preceding the unused credit year, and

"(B) a research and experimental credit carryover to each of the 7 taxable years following the unused credit year, and shall be added to the amount allowable as a credit by this section for such years. If any portion of such excess is a carryback to a taxable year beginning before January 1, 1980, this section shall be deemed to have been in effect for such taxable year for purposes of allowing such carryback as a credit under this section. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 10 taxable years to which (by reason of subparagraphs (A) and (B) such credit may be carried, and then to each of the other 9 taxable years to the extent that, because of the limitation contained in paragraph (2), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

"(2) Limitation.—The amount of the unused credit which may be added under paragraph (1) for any preceding or succeeding taxable year shall not exceed the amount by which the limitation provided by subsection (c) for such taxable year exceeds the sum of—

"(A) the credit allowable under this section for such taxable year, and

"(B) the amounts which, by reason of this subsection, are added to the amount allowable for such taxable year and which are attributable to taxable years preceding the unused credit year."

(b) The table of sections for such subpart is amended by inserting before the item relating to section 45 the following new item:

"Sec. 44F. Credit for Research and Experimental Expenditures."

(c) Section 6096(b) of such Code (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44E" and inserting in lieu thereof ", 44E and 44F".

(d)(1)(A) Section 383 of such Code (relating to special limitations on unused investments credits, work incentive program credits, foreign taxes, and capital losses), as in effect for taxable years beginning after June 30, 1980, is amended by inserting "to any unused research and experimental credit of the corporation under section 44F(D)," before "to any unused investment credit".

(B) The heading of section 383 is amended to read as follows:

"Sec. 383. Special Limitations on Certain Unused Credits".

(2)(A) Section 383 of such Code (as in effect on the day before the date of the enactment of the Tax Reform Act of 1976) is amended by inserting "to any research and experimental credit of the corporation which could otherwise be carried forward under section 44F," before "to any unused investment credit".

(B) The heading of section 393 (as so in effect) is amended to read as follows:

"Sec. 383. Special Limitations on Certain Unused Credits".

(3) The table of sections for part V of subchapter C of chapter 1 of such Code is amended by striking out the item relating to section 383 and inserting in lieu thereof the following:

"Sec. 383. Special Limitations on Certain Unused Credits".

(e)(1) Section 6511(d)(4)(C) of such Code (relating to limitations on credit or refund) is amended by inserting "research and experimental credit carryback, "before "and new employee".

(A) by striking out "or unused new employee credit" each place it appears in such section and inserting in lieu thereof "unused new employee credit, or unused research and experimental credit",

(B) by inserting after "section 172(b)," in the first sentence of subsection (a) "by a research and experimental credit carryback provided in section 44D(d),",

(C) by striking out "of a new employee credit carryback from" in the second sentence of subsection (a) and inserting in lieu thereof ", a new employee credit carryback from, or a research and experimental credit carryback from", and

(D) by striking out "work incentive program carryback)" in the second sentence of subsection (a) and inserting in lieu thereof "work incentive program carryback, or, in the case of a research and experimental credit carryback, to an investment credit carryback, a work incentive program carryback, or a new employee credit carryback)".

(3) Section 6501(m) of such Code (relating to tentative carryback adjustment assessment period) is amended by striking out "or a new employee credit carryback" and inserting in lieu thereof "a new employee credit carryback, or a research and experimental credit carryback".

(4) Paragraph (3) of section 55(c) of such Code (relating to credits against alternative minimum tax for taxpayers other than corporations) is amended by redesignating subparagraph (D) as (E) and inserting after subparagraph (C) the following new subparagraph:

"(D) Research and Experimental Credit.—For purposes of determining under section

44F(d) the amount of any research and experimental credit carrybacks or carryover to any other taxable year, the amount of the limitation under section 44F(d)(2) for the current taxable year shall be deemed to be—

"(i) the amount of the credit allowable under section 44F for the current taxable year without regard to this subparagraph, reduced by

"(ii) the amount equal to the lesser of (I) the amount of the credit allowable under section 44F for the current taxable year without regard to this subparagraph, or (II) the net tax imposed by this section for the current taxable year reduced by the sum of the amounts of reduction described in clause (ii) of subparagraphs (A), (B), and (C).".

Sec. 2. Research and Experimental Expenditures Defined.

Section 174 of the Internal Revenue Code of 1954 is amended by redesignating subsection (e) as subsection (f), and inserting before subsection (f) the following new subsection:

"(e) Research and Experimental Expenditures Defined.—

"(1) In general.—For the purpose of subsection (a), the term 'research or experimental expenditures' means all costs or expenditures paid or incurred incident to the

"(A) planned search or critical investigation aimed at discovery of new knowledge with the intent that such knowledge will be useful in developing a new product or service or a new process or technique or in bringing about a significant improvement to an existing product or process, or

"(B) the translation of research findings or other knowledge into a plan or design for a new products or process or for a significant improvement to an existing product or process meets specific functional and economic requirements and is ready for manufacture, sale or use.

"(2) Exclusions.—The term 'research or experimental expenditures' does not include expenditures related to research or experimentation

"(A) in the social sciences or the humanities;

"(B) to the extent that such expenditures are funded by a grant, contract or subcontract for research and development with any agency or instrumentality of Federal, State or local government; or

"(C) carried on in the taxpayer's behalf by another person unless the taxpayer (at such time, in such manner, and subject to such conditions as are provided by regulations prescribed by the Secretary) elects to treat such expenditure as qualified research and experimental expenditures of the taxpayer.".

Sec. 3. Effective Date.

The amendments made by this Act shall apply to taxable years beginning after December 31, 1979.

Statement of Mark Shepherd, Jr.

A MEANINGFUL EXPORT POLICY

Mr. Chairman and members of the Subcommittee, I am Mark Shepherd, Jr., Chairman of the Board and Chief Executive Officer of Texas Instruments Incorporated. We, at Texas Instruments, have been enthusiastic supporters of efforts, such as those under consideration today, to provide investment incentives for business, to boost productivity and to stimulate research and development. Legislation such as that formulated by Senator Bentsen and others, is critically needed to re-vitalize economic growth.

Texas Instruments has recently sponsored a study on tax credits for R&D spending. In view of time constraints, today I would like to focus my discussion on those tax incentives that relate, in particular, to Senate Bill 700, introduced by Senator Danforth. S. 700 recognizes the relationship between research and development and exports. Increasing R&D expenditures is one way to stimulate exports but other ways should be and are being considered by this Subcommittee.

To demonstrate the need for stimulation we must first examine the reasons for our export problem.

In 1978, the U.S. suffered a negative trade balance of $34.1 billion. Although moderating somewhat, the trade deficit will remain between $20–$30 billion this year.

It is easy to place the blame for the U.S. imbalance on our trading partners and some of it belongs there. But even if they did everything we could ask, we still would suffer a massive deficit. Our basic problems are right here at home, and they are easy to identify:

High rates of inflation
A low rate of productivity improvement
Lack of an aggressive export policy, and
Lack of an effective energy policy

Measures to control inflation

A successful anti-inflation program is a necessary prerequisite for a meaningful export program. The rise in consumer prices for 1978 was nearly 8%, and inflation has continued to accelerate, from a rate of 8.8% in the third quarter of 1978 to 9.1% in the fourth and to 11.1% in the first quarter of 1979.

Inflation can be brought under control. But to accomplish that goal without serious disruptions of employment and output requires a gradual unwinding of inflationary expectations. It is a long-term process, requiring patience by all and the resolute maintenance of a course to that end by the Federal Government.

To stabilize prices in the long run, we should put a ceiling on Federal Government spending as a percentage of GNP and require balanced budgets on a rolling three-to-five-year basis.

Wide fluctuations in the growth of the money stock must be avoided. We should gradually bring the growth of the money stock down to a steady rate about equal to the long-term average real growth of GNP.

Our government must provide the proper environment for growth and profitability by redirecting tax policy to encourage more investment and less consumption. Interest paid is tax deductible, interest earned is taxed and usually at the highest applicable marginal rate. A blueprint for basic tax reform should include the elimination of double taxation of dividends, still lower tax rates on capital gains, higher investment tax credits, accelerated depreciation of equipment and facilities and the introduction of tax credits for R&D spending and exports.

And we must strive continuously to make industry and government at all levels aware that productivity gains are absolutely essential to our efforts to remain competitive in the world marketplace, as well as to reduce inflationary pressures at home.

TAX CREDITS FOR R&D SPENDING

Despite recent problems, the U.S. still maintains a formidable international competitive position. We have abundant natural resources, an exceptional food-producing capability and absolute unit labor costs that last year were still 20 percent lower than Germany's and 25 percent lower than Japan's.

The U.S. advantage is based on the accumulation of a large stock of productivity gains between 1870 and 1950. But in order to maintain this margin, the U.S. economy will have to reverse the dismal productivity performance of this decade. In 1950, one American produced as much as seven Japanese or three Germans. Those ratios are now down to 2:1 for Japan and 1.3:1 for Germany. Current estimates are that Germany will outproduce us by 1985.

Sources of U.S. productivity problems often cited are a decline in the work ethic, lack of worker motivation and general moral decay. Undoubtedly, there is something to such concerns. But changed worker attitudes cannot explain the dramatic deceleration in annual productivity growth from about 3 percent in the 1950s and 1960s to less than 1 percent in the mid-1970s. One must search elsewhere for the major reasons for poor productivity performance.

Findings by Edward Denison, at the Brookings Institution and John Kendrick, of George Washington University, indicate that the U.S. drop in productivity growth has been caused primarily by slowdowns in the rate of technological progress, the proliferation of government regulation and the low level of investment.

Gains in productivity follow increase in capital investment. However, in order to obtain step-function increases in productivity, the accumulation of capital in the form of facilities and equipment must be accompanied by more research and development to increase the effectiveness of capital investment, generating more efficient manufacturing processes and creating new products.

Professor Solow, at the Massachusetts Institute of Technology, has reached the conclusion that, "more than half of the increase in productivity is a residual that seems to be attributable to technical change; to scientific and engineering advance, to industrial improvement and to knowhow of management methods." Edward Denison has reached similar conclusions. According to his findings, about one half of the U.S. increases in productivity can be attributed to advances in technological/managerial knowledge and some residual sources. By contrast, only 15% is attributable to capital usage.

This does not diminish the importance of capital outlays. They create the new capacity essential to a growing economy, and it is through new equipment and facilities that more advanced technology is injected into the production and distribution streams of the economy. Denison's studies do imply, however, that the impact on productivity of a dollar spent for R&D is several times greater than that of a dollar invested in conventional fixed capital. It is those countries with higher rates of growth in R&D expenditures that also have higher productivity gains. In Japan, annual increases in R&D spending close to 18% have contributed to yearly productivity improvements of about 8%. Conversely, the U.S., with an R&D growth rate of 6.8%, has experienced the lowest productivity improvements among the major industrialized countries.

The flow of inventions and the translation of discoveries into commercially feasible innovations have by no means ceased in this country. Yet, nearly every measure demonstrates that the level of capital formation and the pace of R&D activity have slowed markedly in recent years. Total industrial R&D spending in constant dollars has declined sharply from 2.15% of GNP in 1963 to less than 1.6% in 1977. If these trends continue, the U.S. will lose its standing as one of the world's most innovative countries and one of the largest exporters of high-technology goods.

It follows that, if the U.S. intends to remain competitive, Congress and the Administration should examine seriously a tax credit for research and development expenditures similar to the investment tax credit.

Texas Instruments has sponsored a study

that brings into focus the effects of a tax credit on R&D spending. The results of the analysis, prepared by Andrew Brimmer in cooperation with Data Resources, Inc., demonstrate the positive impact of a tax credit on R&D spending, productivity and real GNP growth (see attachment 6).

For example, a 25 percent tax credit on R&D spending starting in 1966 would have added 0.2 percentage points to annual productivity gains during 1966–77, 0.3 percentage points per year in 1978–87 and 0.4 percentage per year in 1988–97. To put these numbers in perspective we only need to recall that the total productivity increase in 1978 was 0.4 percent.

The annual boosts to productivity would have reduced the consumer price index by 0.1 percentage points per year during the first decade, 0.4 percentage points per year in the second decade and 0.6 percentage points per year in the third decade.

The study also examined the impact of tax credits of 10 percent and 50 percent. The comparison indicates that the results are not linear but exhibit larger than proportionate gains. For example, in the period 1988–97 when we double the tax credit from 25 percent to 50 percent, the R&D outlays increase by a factor of 3.5 and the real GNP delta would increase by a factor of 3.2 to about $326 billion, an amount larger than the United Kingdom's present GNP. Moreover, the 50 precent tax credit would add one percentage point to productivity and reduce inflation by 1.3 percentage points per year.

An interesting by-product of the analysis reveals the beneficial impact on exports of increased R&D spending. At first the impact is small but it grows progressively larger through time. For instance, a 50 percent R&D tax credit would add $26.5 billion per year to real exports during 1988–97. This represents a 12 percent increase over the projected level of real exports during that time frame.

We estimate that the tax cost of this program would average a net loss of $2.3 billion annually for the first ten years. However, in subsequent time periods, the cumulative impact of R&D begins to pay large dividends. Faster economic growth produces larger tax gains and the net tax impact becomes a positive $6.1 billion per year in the second decade, more than offsetting the tax losses in the previous period (see attachment 7). This result, together with the larger gains to be realized in future years, indicates that the R&D tax credit yields positive returns to society as well as to private firms.

As noted earlier, total industrial R&D as a percentage of GNP has dropped from 2.15 percent in 1963 to less than 1.6 percent in 1977, creating a gap of about 0.6 percentage points. A tax credit on private industrial R&D would provide the means for closing this gap. A 10 percent R&D tax credit doesn't have enough punch to accomplish this task within our lifetimes, but a 25 percent tax credit would fill the gap shortly after the end of the century. A 50 percent R&D tax credit would push R&D spending back to its previous peak in less than eight years.

Tax credits for exports

Increasing capital formation, R&D and productivity gains, as well as controlling the budget deficit and monetary growth, will improve the environment for exports, but this is still not enough. The U.S. share of the world export market is in a serious long-term decline—dropping from 18.0 percent in 1960 to 11.8 percent in 1977.

The U.S. Export Policy must have as its objective to end this loss of market share and increase exports sufficiently to bring about equilibrium in our trade balance. To reach that objective we must move on two fronts: the elimination of disincentives to export generated by government regulations and the creation of incentives to export. Some examples of disincentives are:

The imposition of U.S. environmental, health and safety standards on exports to countries that don't share those standards,

An unclear Foreign Corrupt Practices Act with criminal sanctions for the unwary,

Overlapping and inconsistent anti-boycott regulations,

Human rights embargoes,

Cargo preference laws, and

Changes in the Internal Revenue Service Code that increase the cost of maintaining Americans abroad.

Perhaps the most important target for correction is the confusing and frustrating export licensing procedure administered by the Department of Commerce. We must change our control efforts to focus on critical technologies rather than on products, which will permit us to protect our national security without strangling exports.

In countries like Germany and Japan, survival depends on export trade. But our market is so large, U.S. businesses aren't compeled to export. We need to jar our economy into awareness of the national need to export.

We can't expect to solve this problem in 1979, but it is clear that we must have dramatic incentives for all U.S. businesses to export. We must put money in the exporters' pockets now in response to good performance. The simplest mechanism is a straight export tax credit. An alternate approach could be to eliminate taxation on the 50 percent of export income classified as foreign source income.

A more subtle approach would be to modify the Investment Tax Credit to permit a credit of up to 15 percent of investment in qualified assets* for firms that increase their exports by up to 25 percent above a base period. The impact of this charge would be to stimulate investment and exports—both highly beneficial to the U.S. economy.

The main result of two simulations on export tax credits performed with the DRI model are shown in attachment 11. Simulation No. 1 assumes a 5 percent export tax credit enacted in 1980. Two-thirds of that credit are given to business in the form of a credit on business equipment and one-third is passed on in reductions of export prices. Real investment would increase by $8.4 billion per year (roughly 5 percent per year) while the volume of exports would rise by $2.2 billion (about 2 percent per year). Simulation No. 2 assumes that two-thirds of the export tax credit are translated into lower export prices and one-third is retained in the form of an investment tax credit. Both exports and investment would increase by 3 percent per year.

Still another approach would be to improve DISC to permit deferral of U.S. income tax on an increased portion of export profits. Or, we could accomplish this deferral by repealing the provisions of the Revenue Act of 1962 relating to foreign base company sales income.

Less controversial, but less effective, incentives should also be implemented.

The tax code should be amended to provide tax credits for export promotion. These would be credits against Federal Income Tax for incremental international market expenses, such as sales trips, new sales offices and costs of trade shows. A ceiling of $50,000 or $100,000 per year would concentrate the benefit of the credit on smaller firms.

The ExIm Bank should be permitted to purchase loans from domestic banks with a wider spread for smaller loans to assist small and medium-size firms in exporting.

The maximum percentage of a loan that the ExIm Bank can guarantee should be increased from 85 percent, because the fundamental concern of any exporter is whether he will get paid for his goods.

Some of these proposals will be challenged under the General Agreement in Tariffs and Trade (GATT) or the Multilateral Trade Negotiations (MN) agreements. These incentives are not, however, substantially different from incentives provided by our major trading partners, particularly if we refuse to accept the strained distinction between the remission or rebate of value added and consumption taxes on exports versus the reduction of income taxes on exports.

Finally, to help our trade deficit, we should encourage domestic energy production by quickly removing all price controls. This would provide strong incentives for oil and gas exploration.

Mexico represents a vast potential supplier of traditional fuels to the U.S. We should improve relations with Mexico by adopting a program which would allow Mexicans to work in the U.S. for extended periods and return to their home country after the work is done. By greatly improving their domestic economy, Mexico's recent oil discoveries could be the long term solution to the illegal alien problem while at the same time helping the U.S. in meeting its energy requirements.

Greater emphasis must be placed on the use of coal, and U.S. laws and regulations should facilitate, and not impede, the conversion from oil and gas to coal.

Nuclear energy must play a greater role in the future of all countries. Though highly controversial, present nuclear technology provides energy at competitive prices, and someday, nuclear fusion could provide the earth with a nearly limitless supply of electrical energy.

While nuclear and fossil fuels will continue to be the major sources of energy for the rest of this century, we should take steps now to develop supplemental sources. To this end, research and development on exotic sources of energy must be expanded to provide for the longer term.

The objective we have set to reach equilibrium in our trade balance is ambitious. To achieve it, we must resolve fundamental problems of inflation, reduced productivity and insufficient R&D. We must eliminate disincentives to exports and create incentives which will encourage all U.S. business to attack the export market, aggressively.

These same problems have caused the decline of the dollar, which has eroded business confidence in the U.S., and will eventually encourage exchange controls by foreign central banks and the creation of trading blocs based on other currencies. Solving these fundamental problems of inflation, productivity improvement and export stimulation will reverse the slide of the dollar.

The challenge then is to achieve as a nation the discipline and innovation required to reverse the decline of the U.S. position in world trade. To accomplish this will take a coordinated effort by U.S. industry and U.S. government at all levels, especially the Federal government. The stakes are high. The future health of the U.S. economy—vital to continued gains in our living standards and to our ability for self-defense—depends in large measure on our success.

---

*Machinery, office equipment, removable fixtures, etc., and some expenditure for rehabilitation expenditures of older buildings.

ATTACHMENT 6

IMPACT OF ALTERNATIVE R. & D. TAX CREDITS

[Average annual change from DRI baseline forecast]

	1966-77			1978-87			1988-97		
	10 percent	25 percent	50 percent	10 percent	25 percent	50 percent	10 percent	25 percent	50 percent
Productivity gains (percentage points)	0.07	0.21	0.63	0.10	0.28	0.78	0.12	0.36	1.01
CPI (percentage points)	−.03	−.13	−.42	−.16	−.42	−1.08	−.23	−.63	−1.30
Billions of 1972 dollars:									
R. & D.	0.7	2.1	6.4	1.7	5.2	16.8	3.4	10.6	36.7
GNP	1.4	3.7	11.6	12.3	36.2	105.6	33.7	101.7	325.9
Exports	.1	.2	.6	.1	1.7	6.5	.3	6.3	26.5

Source: Data Resources, Inc.

ATTACHMENT 7

TAX COSTS/BENEFITS OF ALTERNATIVE R. & D. TAX CREDITS

[In billion 1972 dollars, average annual change]

	1966-77			1978-87			1988-97		
	10 percent	25 percent	50 percent	10 percent	25 percent	50 percent	10 percent	25 percent	50 percent
Cost per year	−1.2	−3.4	−8.9	−1.8	−5.5	−16.8	−2.7	−8.6	−30.2
Gain per year	.4	1.1	3.6	3.9	11.6	33.8	10.8	32.5	104.3
Net impact	−.8	−2.3	−5.3	2.1	6.1	17.0	8.1	23.9	74.1

Source: Texas Instruments Inc.

ATTACHMENT 11

IMPACT OF ALTERNATIVE 5-PERCENT EXPORT TAX CREDITS, 1980-84

[Average annual change from DRI baseline forecast]

	Simulation 1	Simulation 2
Billions of 1972 dollars:		
GNP	10.1	7.0
Inves tment	8.4	4.4
Exports	2.2	4.2

Note: Simulation 1, assumes ⅔ retained as an investment tax credit and ⅓ passed on through a reduction in export prices. Simulation 2, assumes ⅓ retained as an investment tax credit and ⅔ passed on through a reduction in export prices.

Source: Data Resources, Inc.

By Mr. LONG (for himself, Mr. TALMADGE, and Mr. DOLE):

S. 2909. A bill to amend title XI of the Social Security Act with respect to nonprofit health care philanthropy; to the Committee on Finance.

NONPROFIT HEALTH CARE PHILANTHROPY

● Mr. LONG. Mr. President, Senators TALMADGE and DOLE join with me today in introducing legislation intended to preserve and enhance philanthropic support of our Nation's voluntary nonprofit health care facilities.

The bill is designed to assure that the efforts of those willing to make certain charitable contributions to our voluntary nonprofit facilities are not negated by a consequent reduction in Federal reimbursement under our medicare, medicaid, and maternal and child health programs.

The bill is a further elaboration of provisions approved by the Finance Committee as part of H.R. 934, and a provision passed by the Senate in the 95th Congress as part of H.R. 5285.

Many of our voluntary hospitals and health facilities would not exist today had it not been for the farsighted philanthropy of community leaders and generous contributions by those who have been patients, or their families, grateful for the excellent care they received.

Philanthropic gifts have replaced worn-out and obsolete facilities, assisted in medical research, provided the basis for creativity and flexibility in our health care system, and have raised the general quality of care.

In my own State of Louisiana, many hospitals came into being because of philanthropic gifts. They continue to be supported by philanthropic gifts, and without those gifts the hospitals could not continue to render the level and quality of care currently provided.

Americans contributed over $38 billion last year to charitable organizations, of which about $5.4 billion went to hospitals, health research and health care. More than 45 million Americans gave their time as volunteer workers in all sorts of community enterprises, and hospitals benefited greatly from their work.

Our proposal is designed to preserve and enhance philanthropic giving under our Federal health care financing programs. It does not deal in any way with State policy in regard to philanthropy. However, it is my hope that States, when developing ratemaking programs, other regulatory programs or reimbursement programs of any kind, treat grants, gifts, and endowments in a similar way as they are treated in the legislation we propose today.

While all of us, I am sure, are concerned about the costs of health care in the country, we should be concerned about proposed solutions to the problem which would adversely affect philanthropy and voluntarism.

We believe that it is important to preserve and encourage the sense of community pride and accomplishment which has been one of the great strengths of our voluntary health care system.●

ADDITIONAL COSPONSORS

S. 1953

At the request of Mr. YOUNG, the Senator from South Dakota (Mr. MCGOVERN) was added as a cosponsor of S. 1953, a bill to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Louis L'Amour.

S. 2176

At the request of Mr. INOUYE, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 2176, a bill to amend titles XVIII and XIX of the Social Security Act to provide for the coverage of clinical social work services under the supplementary medical insurance benefits program and the medicaid program.

S. 2722

At the request of Mr. WALLOP, the Senator from Delaware (Mr. ROTH) was added as a cosponsor of S. 2722, a bill to amend title II of the Social Security Act to provide that disability insurance benefits may not be paid to inmates of penal institutions or facilities for the criminally insane.

S. 2745

At the request of Mr. DOLE, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 2745, a bill to amend the Internal Revenue Code of 1954 to provide for the establishment of, and deduction of contributions to, education savings accounts and housing savings accounts.

S. 2773

At the request of Mr. ROTH, the Senator from Wyoming (Mr. SIMPSON), and the Senator from New Hampshire (Mr. DURKIN) were added as cosponsors of S. 2773, a bill to establish a national export policy for the United States.

S. 2783

At the request of Mr. WALLOP, the Senator from Colorado (Mr. HART) was added as a cosponsor of S. 2783, a bill to amend the Internal Revenue Code of 1954 with respect to the treatment of certain shale oil property as energy property for purposes of the energy investment credit.

S. 2874

At the request of Mr. Durkin, the Senator from Maine (Mr. Mitchell), and the Senator from Massachusetts (Mr. Tsongas) were added as cosponsors of S. 2874, a bill to amend the Bank Holding Company Act of 1956 to limit the property and casualty and life insurance activities of bank holding companies and their subsidiaries.

S. 2880

At the request of Mr. Pryor, the Senator from Wisconsin (Mr. Proxmire), the Senator from South Dakota (Mr. McGovern), and the Senator from Wyoming (Mr. Simpson) were added as cosponsors of S. 2880, a bill to amend section 3109 of title 5, United States Code, to clarify the authority for appointment and compensation of experts and consultants, to provide statutory guidelines concerning the award of contracts for the procurement of goods and services from consultants and contractors, and for other purposes.

SENATE RESOLUTION 401

At the request of Mr. Tower, the Senator from Idaho (Mr. McClure) was was added as a cosponsor of Senate Resolution 401, a resolution expressing disapproval of the Senate of certain aspects of the proposed model adoption legislation and procedures.

SENATE RESOLUTION 460

At the request of Mr. Domenici, the Senator from California (Mr. Hayakawa), and the Senator from Idaho (Mr. McClure) were added as cosponsors of Senate Resolution 460, a resolution express the sense of the Senate that the Secretary of Energy should take all necessary actions to promote energy efficient cooling.

SENATE CONCURRENT RESOLUTION 105—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO THE 75TH ANNIVERSARY OF THE FOREST SERVICE

Mr. MELCHER submitted the following concurrent resolution, which was referred to the Committee on the Judiciary:

S. Con. Res. 105

Whereas the forest resources of the United States are one of the Nation's most important assets; and

Whereas the management of those resources for the sustained production of goods and services for the benefit of the public is a declared policy of the Congress; and

Whereas the Forest Service, U.S. Department of Agriculture, is charged with providing national leadership in forestry and carries out this responsibility through the management of the National Forest System, by cooperation with States and private landowners, and by conducting forestry research; and

Whereas the public interest has been well served by the Forest Service, U.S. Department of Agriculture, since its founding in 1905: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress recognizes the year 1980 as the 75th Anniversary of the founding of the Forest Service, U.S. Department of Agriculture, and hereby extends to that agency its appreciation for service effectively rendered to the public over the past 75 years.

FOREST SERVICE'S 75TH ANNIVERSARY

Mr. MELCHER. Mr. President, today I bring to the attention of the Senate a milestone event in the Nation's efforts to conserve its forests. The year 1980 marks the 75th anniversary of the creation of the Forest Service, the Department of Agriculture agency that provides national leadership in the conservation and management of forest resources on public and private lands.

The creation of the Forest Service in 1905, and the installation of Gifford Pinchot as its first chief, marked the beginning of a long history of service to the public through protection and management of the Nation's forest lands and related resources. This great heritage and source of vast environmental and economic wealth, is essential to our Nation's strength and well-being. Its management, shaped by the conservation philosophy, first set forth in 1905 and based upon 75 years of experience, assures us that these resources will be available for future generations to use and enjoy.

Because of my own knowledge of that agency and its people, I take personal pride in acknowledging this 75th anniversary of the Forest Service. I am pleased to introduce a resolution in recognition of this long period of excellent leadership and performance by a Federal agency.

SENATE RESOLUTION 482—SUBMISSION OF A RESOLUTION TO DESIGNATE "AMERICAN BUFFALO WEEK"

Mr. EXON submitted the following resolution, which was referred to the Committee on the Judiciary:

S. Res. 482

Whereas the buffalo provided a source of food and clothing vital to expansion into the western United States;

Whereas by providing such necessities the buffalo played an integral part in American history;

Whereas the American Buffalo Association and the National Buffalo Association have organized to save the buffalo from extinction as well as to preserve the history of the role of the buffalo;

Whereas these organizations are attempting to educate the American people regarding the significance of these peaceful yet magnificent animals; and

Whereas the consumption of buffalo meat is increasing and the buffalo is once again becoming an important food source: Now, therefore be it

Resolved that the Senate of the United States of America in Congress assembled, designates the third week of September of each year as "American Buffalo Week" and urges Federal, State and local government agencies, and urges the people of the United States, to observe such week with appropriate programs, ceremonies and activities.

● Mr. EXON. Mr. President, today I am submitting a resolution which would declare "American Buffalo Week," the third week of September each year.

The buffalo played a major role in the history of the United States by providing food and clothing vital to Western expansion.

According to an American Buffalo Association estimate, there are now only 60,000 of these animals in existence.

At one time in our history, the buffalo was near extinction, but fortunately, a few were saved and raised in captivity.

The consumption of buffalo meat is also increasing and is becoming an important food source to many Americans.

The American Buffalo Association and the National Buffalo Association have united to honor and preserve the buffalo's role in American history and are supporting this resolution.

I believe it would be appropriate to set aside 1 week a year to recognize this peaceful, yet magnificent animal, which has played such an important role in the history of our Great Plains area.●

AMENDMENTS SUBMITTED FOR PRINTING

CRIMINAL CODE REFORM ACT—S. 1722

AMENDMENT NO. 1936

(Ordered to be printed and to lie on the table.)

Mr. COCHRAN submitted an amendment intended to be proposed by him to S. 1722, a bill to codify, revise, and reform title 18 of the United States Code, and for other purposes.

Mr. COCHRAN. Mr. President, historically the enactment, enforcement, and prosecution of criminal statutes has been a function of the States absent a demonstration of a substantial Federal interest. Each step in the development of a Federal role with respect to crime involved consideration of the historic deference to State responsibility in this area. The first Federal Penal Code of 1970 proscribed only that conduct which infringed on clearly stated Federal interests such as treason, serious felonies in Federal forts, piracy, felonies on the high seas and other such related crimes.

However, over a period of time as our society became modern and more mobile, changes have been made granting the Federal Government exclusive or concurrent jurisdiction over conduct previously within the sole domain of State and local governments. The policy has been that in certain limited circumstances Federal jurisdiction is appropriate and that the Federal Government has the primary responsibility for regulating certain conduct.

For example, subjects of Federal criminal jurisdiction include conduct occurring on Federal enclaves, conduct in areas that a single State is often not statutorily or otherwise equipped—handle—that is interstate commerce, organized crime—or conduct involving the integrity of some Federal function, such as rights guaranteed under the Constitution. These specific grants of Federal jurisdiction do not add up to plenary Federal jurisdiction should be confined they. The fundamental principle that the basic responsibility for maintaining the order of our society on a daily basis remains with the several States under our system of government should be preserved.

When the Senate considers the Criminal Code legislation (S. 1722) it should begin with the historical presumption favoring State action in the enforcement and prosecution of criminal activity. Federal jursidiction should be confined to its traditional parameters unless an expansion is warranted because of a substantial Federal interest. The Criminal Code reform legislation we will be considering, however, expands the Federal jurisdiction without adequate guidelines on the exercise of that jurisdiction. Therefore, I will offer an amendment which sets up a standard for the exercise of Federal prosecution in concurrent jurisdiction cases.

Under present circumstances 90 percent of all cases presented to the Federal prosecutors are cases where States also have jurisdiction. This broad grant of power involves a great responsibility for Federal prosecutors to exercise judgment to decide which cases should be pursued. It is clear that we do not ask Federal prosecutors to handle all cases, nor do we give them the resources to do it. It is precisely because of limited resources that the Attorney General announced that it is a priority of the Department of Justice to transfer lesser cases to the States and that Federal law enforcement should focus its limited resources on organized crime, white collar crime, political corruption, drug trafficking, and terrorism.

The Department's response to this issue of expansive jurisdiction in S. 1722 is that Federal prosecutors will not exercise the increased powers given them by the bill. I submit that it makes little sense to define jurisdiction more broadly than appropriate in reliance on the ability of prosecutors to determine and adopt limiting standards. The development, drafting and definition of our criminal law is a legislative function. Congress is fully within its domain to establish statutory standards on Federal jurisdiction.

In a recent address to the American Law Institute, the Chief Justice of the United States expressed his concerns over the issue of ever-expanding Federal jurisdiction in both civil and criminal areas. He stated that:

> In the past decade Congress has enacted not less than 70 new statutes enlarging the jurisdiction of Federal courts. Many of these statutes expand Federal jurisdiction to cover relief already available in State courts.

He stated his alarm over the increasing trend toward almost total concurrence of Federal and State jurisdiction and expressed his belief in the "basic principles of federalism" and the maintenance of the "Federal courts as tribunals of special and limited jurisdiction as the Founding Fathers contemplated in 1787."

I believe that the concerns expressed by the Chief Justice could be applied to the Criminal Code reform legislation pending before this body.

I also believe, Mr. President, that Congress should follow the recommendation of the National Commission on Reform of Federal Criminal Laws, known as the Brown Commission, which recommended a statutory standard for concurrent jurisdiction. That standard makes "a substantial Federal interest" the sole prerequisite for the exercise of Federal prosecution where both State and Federal jurisdiction exist.

It is interesting to note that the Department of Justice has agreed with the Brown Commission concept that a statutory command to Federal prosecutors to satisfy the existence of a substantial Federal interest "could serve as a useful reminder that in some situations the broad scope of Federal jurisdiction has been legislated for the unusual, not the routine, case and that routine violations should normally be left to State and local authorities." Despite the Department's endorsement of this principle in 1978, the current section 205 does not adopt the substantial Federal interest test.

The bill's provision on concurrent jurisdiction provides no real limiting factor. The issue of a Federal interest or questions relating to the exercise of concurrent jurisdiction is exclusively committed to the discretion of Federal prosecuting authorities.

The bill uses the term "relative Federal interest" which in effect adopts a balancing test for considering whether Federal or State prosecution should be pursued instead of recognizing the primary role of the States except where a substantial Federal interest exists.

The current provision is simply inadequate because it does not answer questions such as: How can broad Federal criminal jurisdiction be intelligently limited in practice? What factors justify involvement on a Federal level? What mechanisms can be utilized to insure that the proper factors are considered? My amendment does answer these questions.

My amendment employs the concept of a "substantial Federal interest" as the sole test to determine whether Federal prosecution should be considered, and recognizes a philosophy of restraint in the exercise of concurrent jurisdiction. The amendment contains an explicit authorization to Federal law enforcement to decline or discontinue the exercise of Federal jurisdiction whenever an offense can effectively be prosecuted by the States, and it appears that there is no substantial Federal interest in the prosecution. The term "substantial Federal interest" is defined by seven factors. These factors take into consideration civil rights, organized crime, public corruption, inadequate State resources, and gravity of the offense in the Federal/State system.

The amendment contains a provision which requires the Attorney General to promulgate guidelines to Federal law enforcement officers concerning the appropriate exercise of Federal jurisdiction. It also requires the Attorney General to consult periodically with State and local governments concurrent jurisdiction, and it requires an annual report to the Congress concerning the extent of the exercise of concurrent Federal jurisdiction in the preceding fiscal year.

The amendment includes a provision as to the nonlitigability of the substantial Federal interest test identical to the language drafted by the Department of Justice. This possibility of litigation has concerned the Department and I have included it as my amendment is not intended to establish a jurisdictional base, but rather a guideline or standard for cases where Federal and State jurisdiction exist concurrently.

My amendment has the endorsement and support of the American Bar Association which has been concerned and actively involved in limiting the expansion of Federal criminal jurisdiction. I submit for the RECORD the ABA policy statement adopted at the February 1979 meeting of the House of Delegates which states:

> Concurrent Federal/State Jurisdiction. The Association expresses concern about the expansion of Federal criminal jurisdiction over subjects within the traditional police power of the States. Accordingly, the Association:
>
> (i) recommends that codification legislation refrain from creating new Federal offenses in situations now covered under State penal statutes absent a clear showing in the particular instance of a compelling Federal interest;
>
> (ii) supports the proposal in the Brown Commission Report relating to publication of criteria for exercise of Federal enforcement authority in cases of concurrent Federal and State jurisdiction; and
>
> (iii) supports the proposal in that Report for the application of double jeopardy provisions to prosecutions in different jurisdictions.

We need this amendment to maintain the balance of Federal/State relations, marshall our limited investigative and prosecutorial resources and develop a sense of fairness and uniformity in Federal law. I ask unanimous consent that my amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1936

On page 30, beginning on line 30, strike out all through line 3 on page 31, and insert the following:

"§ 205. EXERCISE OF CONCURRENT FEDERAL JURISDICTION

"(a) IN GENERAL.—In a case in which federal jurisdiction over an offense exists concurrently with State or local jurisdiction, federal law enforcement officers are authorized to decline jurisdiction or discontinue the exercise of federal jurisdiction. In such a case, federal jurisdiction shall not be exercised unless the Attorney General or his designee determines under the criteria of subsection (b) that there exists a substantial federal interest in the prosecution or investigation. Any such determination shall be made in writing and forwarded to the Attorney General to assist in the performance of the duties under subsection (c).

"(b) Substantial Federal Interest in Prosecution.—A substantial federal interest exists if one or more of the following circumstances are present:

"(1) State or local law enforcement is impeded by the interstate aspects of the case.

"(2) Federal enforcement is believed to be necessary to vindicate federally protected civil rights.

"(3) The offense is closely related to another offense committed by the accused over which there exists federal jurisdiction and in which there is a substantial federal interest.

"(4) The offense, although apparently limited to intrastate activity, is believed to be a part of organized criminal activities extending beyond State lines.

"(5) State or local law enforcement has been so corrupted as to substantially undermine its effectiveness.

"(6) The resources available to the State or local authorities are inadequate to pursue the prosecution or investigation.

"(7) The gravity of the federal offense is significantly greater than the gravity of the State or local offense.

"(c) Attorney General Consultation, Direction, and Reports.—The Attorney General shall—

"(1) consult periodically with representatives of State and local governments concerning the exercise of jurisdiction in cases in which federal jurisdiction exists or may exist concurrently with State or local jurisdiction;

"(2) provide guidelines to federal law enforcement officers concerning the appropriate exercise of such federal jurisdiction, consistent with the provisions of subsection (b); and

"(3) report annually to Congress, in the course of the reports required by section 522 of title 28, United States Code, concerning the extent of the exercise of such federal jurisdiction during the preceding fiscal year.

"(d) Sharing of Material Obtained in Exercise of Federal Jurisdiction.—Except as otherwise prohibited by law, information or material obtained pursuant to the exercise of federal jurisdiction may be made available to State or local law enforcement officers having concurrent jurisdiction, and to State or local authorities otherwise assigned responsibility with regard to the conduct constituting the offense.

"(e) Nonlitigability of Exercise of Federal Jurisdiction.—An issue relating to the propriety of the exercise of, or of the failure to exercise, federal jurisdiction over an offense, or otherwise relating to the compliance, or to the failure to comply, with this section, may not be litigated, and a court may not entertain or resolve such an issue except as may be necessary in the course of granting leave to file a dismissal of an indictment, an information, or a complaint.".

NOTICES OF HEARINGS

SUBCOMMITTEE ON CIVIL SERVICE AND GENERAL SERVICES AND THE SUBCOMMITTEE ON HUMAN RESOURCES

● Mr. PRYOR. Mr. President, I wish to announce that the joint hearing of the Civil Service and General Services Subcommittee of the Governmental Affairs Committee and the House Post Office and Civil Service Subcommittee on Human Resources, which had been scheduled for July 1, 1980, is being rescheduled to July 22, 1980. Further information and the place and time of the hearing will be announced later. For further information, please call the subcommittee office at, 224-4551.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. BOREN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate today to hear administration and non-Government individuals on various treaties.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. BOREN. Mr. President, I ask unanimous consent that the Select Committee on Small Business be authorized to meet during the session of the Senate today to hold an oversight hearing on the Small Business Administration's surity bond guarantee program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. BOREN. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet during the session of the Senate today to hold a hearing on the Indian Child Welfare Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. BOREN. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate today to hold an executive session on an investigation and the issuance of subpenas.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE NEED FOR FEDERAL CRIMINAL JURISDICTION OVER NARCOTIC ROBBERIES OF PHARMACIES

● Mr. DOMENICI. Mr. President, as sponsor of S. 2439, a bill to confer Federal criminal jurisdiction over narcotic robberies of pharmacies, the following article in today's Wall Street Journal appeared to me a concise statement of why this legislation is needed. I ask it be printed in the Record.

The article follows:

Drug Crimes Shooting Up At Pharmacies

(By Kate Pound)

Pharmacists have always lived with the threat of being held up at gunpoint in their stores by addicts looking for a fix or by narcotics dealers seeking a fresh supply of drugs. Nowadays, the threat is rapidly becoming a fact of business life.

Druggists across the country are being robbed and burgled in record numbers. Industry figures show the crime problem worsening in the past two or three years. Drugstore crime in Oklahoma City doubled last year, the state pharmacists' association says. Stanley Swain, a local pharmacist, says he's been held up seven times and his store ransacked five times since 1977.

In Pennsylvania, pharmacists had a 60% chance of being victimized at least once in the past five years. The average druggist was struck twice in that period.

A TEMPTING TARGET

Ironically, it's the success that law enforcement agencies have had against illegal drug traffic that has made the inventory of the neighborhood drugstore a more tempting target for criminals. As a result, lots of once-friendly pharmacies have adopted the security trappings of a branch bank. Armed druggists dispense prescriptions from behind bulletproof glass. Hired guards and alarm systems are more in evidence.

One Oklahoma druggist reportedly has started banking certain drugs each night with his cash deposits. Others are refusing to stock them altogether, a move that is stirring debate over whether some patients are being deprived of needed prescriptions.

"It almost totally changes your personality," says Lester Hosto of Little Rock, who recalls vividly how two gunmen filtered through his drugstore's stock, selected the drugs they wanted, then ordered him and his 16-year-old clerk to the floor. He remembers wondering whether he was about to be shot. "Once you're robbed, you want to say, 'To hell with the public,'" he says.

Nationwide, four pharmacists were killed in holdups last year and one has been killed so far in 1980. In April, a Kansas City, Kans., pharmacist shot and killed a robber.

Narcotics and amphetamines, among the most addictive of all drugs, are what criminals want most. The federal government's Drug Enforcement Administration calls these "Schedule II" drugs.

In the street trade, these drugs yield enormous profits. A pharmacist may pay $10 for a 30-cubic-centimeter bottle of Demerol, a morphine synthetic pain killer (the contents would fill a whisky shot glass). An illegal dealer can get $5.000 for the same amount. At that price, Demerol has a street value about seven times that of gold.

SOME RESTRICT INVENTORY

It isn't surprising that some druggists have decided to fight the problem by removing the temptation. "I try not to carry anything they want," says Pat Voight of Kansas City. "People after drugs aren't always in a reasonable state of mind."

Leroy Gregg, an Oklahoma City pharmacist, believes four out of five drugstores in his city have stopped carrying Schedule II drugs. These include Demerol; such amphetamines as Benzedrine, often prescribed for diet control, and such barbiturates as Seconol, a powerful sedative used in treating the mentally ill.

But the trend to remove Schedule II drugs from pharmacy shelves dismays national and local pharmacy organizations. They warn that patients who need this medication won't be able to find it. Discontinuing drugs isn't the answer, says Tom Arthur, executive director of the Colorado Pharmacal Association. "Although the drugs are seldom used, they ought to be available."

Trade groups are encouraging members to stock small supplies of Schedule II drugs and to make their stores more secure. They also want theft of controlled substances made a federal offense. In Washington, the drug enforcement administration says it has its hands full coping with drug dealers without investigating thefts as well.

Without a change in the law or a safer system for dispensing drugs, pharmacists feel they are stuck with a worsening crime problem. Says Oklahoma druggist Dave McMillan: "I'm resigned to the fact that it isn't the last time I'll be robbed. It's just a matter of when it happens."●

IN MEMORY OF HELEN GAHAGAN DOUGLAS

● Mr. METZENBAUM. Mr. President, on Saturday, June 28, America lost a rare and wonderful person when Helen Gahagan Douglas died at the age of 79.

Helen Gahagan Douglas was a brilliant artistic talent—a Broadway star at the age of 22, a classical singer who performed in the world's great opera houses and a contemporary in the film industry of legendary actresses like Greta Garbo and Marlene Dietrich.

But she was more than a brilliant artistic talent, more than an outstanding Member of Congress. Helen Gahagan Douglas was a brilliant human being who stood up bravely all her life for what she knew to be right and decent.

After seeing at first hand the terrible human cost to the Great Depression, she began her lifelong commitment to building a fairer and juster society in America.

In the late 1930's, after witnessing at first hand the vicious Nazi regime in Germany, she canceled her contract to sing in that country and devoted herself to organizing aid for the growing flood of Jewish and other anti-Nazi refugees who were desperately fleeing from the malignancy called "National Socialism."

In the 1940's, she served three distinguished terms in the House of Representatives, only to lose a Senate bid in 1950 after a campaign that is still notorious for the tactics of smear and innuendo employed by her opponent. Those tactics, which included casting doubt upon her loyalty to the country and that of her husband—himself a volunteer in both world wars—brought prematurely to an end, her career in public office. But let us remember now that her career was marked by the kind of compassion, by the sense of decency and by a large and generous vision of America that to me constitutes patriotism in its highest form.

Mr. President, Helen Gahagan Douglas was a brave and beautiful human being. I honor her memory and I extend on behalf of the METZENBAUM family our deepest sympathy and most profound condolences to Melvyn Douglas, her husband of more than 50 years, and to her family.

Mr. President, I ask that an article on Mrs. Douglas by Edith Evans Asbury that appeared in the June 29, 1980 edition in the New York Times be printed in the RECORD.

The article follows:

HELEN GAHAGAN DOUGLAS, 79, ACTRESS AND NIXON FOE, DIES

(By Edith Evans Asbury)

Helen Gahagan Douglas, the actress and former United States Representative whose defeat in 1950 for a Senate seat from California launched Richard M. Nixon into national prominence, died early yesterday at Memorial Sloan-Kettering Cancer Center. She was 79 years old and lived on Riverside Drive in Manhattan.

At her bedside were her husband, Melvyn Douglas, the actor, and their daughter, Mary Helen. Mrs. Douglas, who underwent surgery for cancer seven years ago, suffered a recurrence of the illness three years ago and entered the hospital a week before her death.

Mrs. Douglas' life was marked by sudden, unpredictable changes, usually the result of her own firm choice, always followed through with courage.

The child of affluent parents, she was born on Nov. 25, 1900, in Boonton, N.J., where her parents happened to be briefly. She grew up in Brooklyn in a closely knit family that included a sister and three brothers at a time when Brooklyn had a Driving and Riding Club and private schools for its own elite.

Her father, Walter M. Gahagan, an Ohio-born engineer, had a large construction business in Brooklyn and a shipyard in Arverne, Queens. Her mother had been a schoolteacher before marriage.

BROADWAY STAR AT 22

At 22, Helen Gahagan was a Broadway star, hailed as one of the 10 most beautiful women in the world. She went to Europe to sing in opera, went back to Broadway stardom again, married her leading man, Melvyn Douglas, and moved with him to California. There Mr. Douglas went on to co-star with Greta Garbo, Gloria Swanson, Marlene Dietrich and other movie queens of the 1930's.

Mrs. Douglas began championing liberal causes in California and, after having a son, Peter, in 1934, and a daughter, Mary Helen, in 1938, she plunged into politics. She became a Democratic national committeewoman in 1940 and was elected, with labor support, to represent California's 14th Congressional District in 1944. The district included Los Angeles.

After three terms in the House, Mrs. Douglas ran for the Senate in 1950. Her defeat in that contest was probably the first serious setback of her life. It also brought her a kind of dubious lasting fame.

Her successful opponent, Mr. Nixon, without actually stating that she was a Communist, stressed her liberalism in a way that made her appear to be one. The tactics were often later attacked—but not by Mrs. Douglas. Whenever she was invited to criticize Mr. Nixon's conduct in the campaign, she refused. "One must always look to the future, not the past," she would insist.

To run for the Senate, Mrs. Douglas had given up her House seat. Her defeat by Mr. Nixon left her out of public office, and she never ran for one again. She returned to the theater and concert stage occasionally during the 1950's and continued to be active as a private citizen in behalf of liberal causes and Democratic candidates who espoused them.

The sheltered Brooklyn girl—"I was chaperoned practically all the time until I was married," she told an interviewer in 1971—became an actress through sheer determination in the face of explicit opposition from her parents.

At Barnard College, where her parents had enrolled her to keep an eye on their daughter in a futile attempt to dissuade her from her acting career, Helen Gahagan coached the Wig and Cues Dramatic club, wrote plays in her English course and acted in them.

Harry Wagstaff Gribble, a playwright and director, saw her in one of these amateur productions and offered her the leading role in his play "Shoot." She was the only nonprofessional in the cast, and the only one singled out for praise by the critics.

Ten days later, she appeared in another play, in a minor part, which was seen by William A. Brady, a producer. He announced that she was "the coming Ethel Barrymore," signed her to a five-year contract and put her in the leading role of "Dreams for Sale." It opened to rave reviews in September 1922 at the Playhouse Theater, and overnight Helen Gahagan was a Broadway star.

SANG IN OPERA IN EUROPE

As the play opened, the new semester was beginning at Barnard. After reading the reviews, Miss Gahagan saw no reason why she should go back for a third and fourth year. The play lasted only a week, but she went on to other starring roles, and other laudatory reviews. She began to study singing and went to Europe to appear in opera. But then word came that her father was seriously ill and she abandoned her tour, rushing home in October 1930.

A month later, she returned to Broadway in a singing role, in David Belasco's production of "Tonight or Never." Her leading man was Mr. Douglas, a newcomer to Broadway who had polished his acting in stock companies in the Middle West. While the play was still running, they were married on April 5, 1931, at the Gahagan family home at 17 Prospect Park West, Brooklyn, a few months after her father died.

Mrs. Douglas's life changed in many directions after her marriage. The couple drove across the country to take up residence in California and new careers in motion pictures.

On the way, they encountered migratory workers searching for jobs after the economic collapse of 1929 and were profoundly affected. Mrs. Douglas took up the study of economic and social problems, began organizing relief campaigns and to take an interest in politics.

In 1937, Mrs. Douglas returned from a concert tour through Central Europe with her political education further enhanced. Her accompanist, who was Jewish, like her husband, had not been invited to the parties given for her, and she had been forbidden to sing "Jewish" music. She canceled her contract to sing there the following year and began working for organizations opposed to the Nazis, as well as for the migrants, whose numbers had soared.

Mr. Douglas, who like his wife was accused of being a Communist sympathizer, served in the Army in the Burma-China theater in World War II (he was also in the armed forces in World War I, enlisting by exaggerating his age) and was discharged a major. He resumed acting and directing in Hollywood, but after Mrs. Douglas's political career ended, they moved back to New York, where they remained.

One of Mrs. Douglas's final public pleas was an appeal to Congress for Federal funds for cancer research. On June 19, 1979, she spoke to a Congressional hearing in Washington by telephone from the bedroom of her Riverside Drive apartment, a frail but determined figure braced by pillows and cushions.

She had "learned a lot about terminal cancer" since her Congressional days, she told the hearing, in a voice amplified for the audience there. "My father, a brother and my only sister died of it."

Dr. William Cahan, a cancer specialist and her physician, was in the room as she spoke. At a bridge table against the wall, plide high with files, clippings and books, a young actor doing research for her was typing notes she had dictated for the autobiography she was determined to finish.

Mrs. Douglas was persuaded to write the autobiography by a literary agent who had suggested that it would be a good way to take her mind off her illness.

"Later, I discovered she had cancer and she died," Mrs. Douglas said of the agent during an interview in the summer of 1979. "It's as if I have a commitment to her to finish the books, before I pass on."

"When they wanted to give me drugs to ease the pain I wouldn't let them," she said. "I want to keep my mind as clear as I can as long as I can. I never wrote a book before, but I used to write my own speeches."

Nan Stevens, the Douglases' secretary, said yesterday that most of the manuscript had been delivered to her publisher, Doubleday's, but that Mrs. Douglas was still finishing the final chapter she was planning to write. It was to cover her 1950 Senate race in California.

Mrs. Douglas also wanted to add an epilogue, Mrs. Stevens reported. She said that Mrs. Douglas's editors should be able to complete the book with the materials she was putting together for the final part.

Besides her husband and daughter, Mrs. Douglas is survived by a son, Peter; a stepson, Gregory Hesselberg; a brother, Walter H. Gahagan; and several grandchildren.

The family said there would be no funeral, and contributions in lieu of flowers should be made to the Memorial Sloan-Kettering Cancer Center. A memorial service was to be held later at an as yet undetermined time and place in New York or Vermont.●

THE CLASSIFIED INFORMATION PROCEDURES ACT—S. 1482

● Mr. DOLE. Mr. President, the Senator from Kansas is pleased to speak in support of S. 1482, the Classified Information Procedures Act. At the outset, the work of the distinguished Senator from Delaware (Mr. Biden), the sponsor of this bill and chairman of the Criminal Justice Subcommittee, must be acknowledged. Legislation in this area has been sorely needed for sometime. Senator Biden ably took the lead in proposing a bill. holding hearings, and refining the bill through amendments which are intended to protect the various interests affected by this measure.

This bill has been popularly known as the "graymail" bill. That name, "Graymail," is suggestive of blackmail because this legislation deals with a problem similiar to blackmail. S. 1482 addresses the threatened use of classified information as evidence by a criminal defendant which in turn induces the Government to drop the prosecution in order to protect the classified information from public disclosure.

Several important interests are at loggerheads in this problem. Obviously, if evidence vital to a criminal defense happens also to be classified information, the right of a criminal defendant to a full and fair trial is involved. In contrast, the vital concerns of national security compel the Government to avoid the disclosure or compromise of classified information at all costs. A final and distinct interest is that of society generally in seeing criminals brought to trial and punished.

The testimony during the Criminal Justice Subcommittee's hearing on S. 1482 made it clear that two problems plague the practical resolution of these conflicting interests. First, there is presently no procedure by which questions concerning the evidentiary use of classified information can be resolved by a trial judge. Second, no interlocutory appeal of a ruling by the judge on this question is available.

Assistant Attorney General Heymann aptly described the Government's predicament at the hearing as follows:

> In advance of trial, the Government often must guess whether the defendant will seek to disclose certain classified information and speculate whether it will be found admissible if objected to at trial. In addition, there is a question whether material will be disclosed at trial and the damage inflicted, before a ruling on the use of the information can be obtained. The situation is further complicated in cases where the Government expects to disclose some classified items in presenting its case. Without a procedure for pretrial rulings on the disclosure of classified information, the deck is stacked against proceeding with these casts because all of the sensitive items that might be disclosed at trial must be weighed in assessing whether the prosecution is sufficiently important to incur the national security risks.

S. 1482 attempts to directly remedy this dilemma by establishing a pretrial hearing procedure through which a court can evaluate both the classified status of information and its admissibility and value as evidence for the defendant. The bill then gives the court various alternative courses to reconcile these conflicting interests, including deleting parts of documents, substituting summaries, or, in the extreme cases, dismissing counts or striking testimony. If the court makes a decision adverse to the Government, it is given the opportunity of taking an interlocutory appeal on the issue.

In the view of the Senator from Kansas, this is a workable mechanism for effectively reconciling the complex and contradictory interests tied up in the use of classified information as evidence in criminal trials. Thus, S. 1482 responsibly addresses a critical need in our criminal justice system and merits the support of every Senator.●

AMTRAK'S ON-TIME PERFORMANCE

● Mr. STONE. Mr. President, on June 25, the Washington Post carried a short article about Amtrak's gains in on-time performance. For the third month in a row, Amtrak surpassed the airlines in punctuality.

Critics of rail passenger service in this country often point to unreliability as a major problem. This article shows not only that, in comparison to its major competitor, unreliability is not a problem, but that Amtrak service is getting better and better. With continued congressional support of rail passenger service, the prospect of new equipment on a number of trains (including the New York to Florida run), and the closer cooperation of the freight railroads over which Amtrak must operate, I believe Amtrak can look forward to carrying an increased number of passengers and to continued service improvements. Hats off to Amtrak as they strive to fulfill this country's need for fuel efficient transportation.

Mr. President, I ask that the text of the Post article be printed in the Record.

The article follows:

Amtrak Gains in Punctuality

Amtrak pasenger trains were on time for 73.3 percent of their runs in March, setting a better record than domestic airlines for the third straight month. Civil Aeronautics Board statistics showed scheduled airlines on time for 70.7 percent of their runs during the same period.

Amtrak's figures are system-wide and include trains with many intermediate stops, whereas the airline data is compiled from only the nonstop service of 27 major carriers in top national markets.

Compared to March 1979, Amtrak's overall on-time performance registered a 10.8 percent improvement. Amtrak trains traveling short routes improved their times by 8 percent over last year, and long-distance trains scored a 17.9 percent improvement over the same period last year.●

NATIONAL FAMILY WEEK

● Mr. DOLE. Mr. President, the Senator from Kansas is pleased to lend his support to Senate Joint Resolution 156, to designate the week of November 23, 1980, as "National Family Week."

As the Congress prepares for a summer of campaigns, conventions, and heated conversations, it may appear that there is more important legislation to act on. This Senator, however, considers the concept behind Senate Joint Resolution 156 to be of special importance at this time.

The American family has gone through some significant changes in the past few generations. Economic and cultural changes have led to a dramatic increase in two income households, and a more balanced partnership between spouses. Young men and women are marrying later, many are not marrying at all, and more households have but one parent.

The family unit has changed with America, but the kind of love felt between the family members is forever intact. It is a unique relationship that will never fade as long as the human race survives. This special relationship is most obvious when it is most needed. The Senator from Kansas senses that we are experiencing such a period right now.

Let us face it, times are rough in our world and country, and when times are rough we look to the family for strength. My guess would be that the family bonds in about 50 American families are stronger this year than they have ever been before. Let us pray that these 50 families will not be missing a member as they sit down for Thanksgiving dinner on November 27. Let us hope that each member of each family will be together, and that they can, at least for a moment, turn their minds away from the turmoil of the previous months. Let us expect that there will not be 50 American families sitting down for Thanksgiving dinner with a place at the table unset, and with each member attending in body only; their minds and their hearts thousands of miles away.

Mr. President, the love that binds these families together survives. In terms of the anguish that these Americans have known, this resolution may seem relatively insignificant. but the Senator from Kansas is pleased to join with the distinguished Senator from North Dakota (Mr. BURDICK) in supporting "National Family Week."●

WORKING ON WELFARE

● Mr. TALMADGE. Mr. President, I call to the attention of my colleagues an article written by Mr. William Raspberry that appeared in today's editions of the Washington Post. In his column, Mr. Raspberry points out the need of putting able-bodied welfare recipients into productive, gainful employment.

This is not a new idea, but it is one that I have advocated for many years. In fact, the only real welfare reform that I have seen in my more than 23 years in the U.S. Senate has been the Talmadge work incentive program which has taken some 1 million people off the welfare rolls at a savings to the taxpayer of more than $4 billion.

Mr. President, I commend Mr. Raspberry on his excellent article and his support for true welfare reform. I ask that the text of Mr. Raspberry's column, "Working on Welfare," be printed in the RECORD.

The article follows:

WORKING ON WELFARE

I'm disappointed. When I devoted a recent column to the notion that welfare grants ought to be tied to a requirement that able-bodied recipients go to work—going so far as to say nice things about such a program initiated by Ronald Reagan when he was governor of California—I anticipated an outraged reaction from liberals and advocates of the poor.

It hasn't come.

What I have had instead is an amazing degree of support for the idea; some of it, predictably, from people who describe themselves as "taxpayers," but much of it from people whose sympathies are with poor families.

What is happening, I think, is that a lot of us are beginning to question the assumption, implicit in many of our social welfare programs, that poor people are essentially beyond salvation and that the only humane thing to do is to take care of them. We are learning, at last, that the better care we take of people, the more helpless they become. And we are starting to think less about how best to take care of people and more about ways to move them toward self-sufficiency.

The message is delivered in a variety of forms. Willie J. Hardy, a member of the D.C. city council, made the point in her testimony last week before the House Committee on the District of Columbia.

Hardy, who represents one of the poorer sections of the city with a disproportionate amount of the city's public housing, called for an end to public housing construction "in its present form."

Instead of housing that entraps poor people in public-housing ghettos—"government-owned slave quarters," she called it—she called for programs designed to foster upward mobility. And not just housing programs.

"I just feel that all government [welfare] programs should have the common goal of rendering themselves [unnecessary] by giving individuals the opportunity to ultimately stand on their own," she told a hearing on the problems of the cities.

A colleague at the Washington Post said much the same thing in another way: "I've seen a young Vietnamese refugee cleaning the ashtrays in the elevators here, and I ask myself if a pretty good job opens up in the maintenance department here, will the department head look at some guy on welfare or will he look at this Vietnamese who has been showing up for work every day, demonstrating his willingness and ability to work? You know the answer."

Blacks of unmistakably liberal politics are telling me that they are starting to see our best-intentioned welfare programs as a snare that traps people in their poverty. "Even mothers of several children ought to be required to work," one of them said. "If they can't find anything better, they could at least work as aides at day-care centers so other people can go to work."

If this attitude is as widespread as it appears to be, why has the civil rights leadership been so slow to join in?

One reason may be the punitive implications of some of the legislative efforts to substitute work programs for welfare.

A member of the Pennsylvania legislature, for instance, has introduced a bill to eliminate welfare payments to able-bodied recipients when work is available.

The problem with his proposal is that he assumes that the recipients could land these jobs if they really wanted them.

"Oh, they will show up for the interviews as the [present] law requires," he told me, "but they show by their attitudes and the way they present themselves that they don't really want to work."

He would simply assume they weren't truly interested in working and cut them off.

But the fact that people don't land the jobs they apply for does not necessarily mean that they don't want to work, as any number of pavement-pounding college graduates could tell you.

But my mail tells me that there would be enthusiastic endorsement, right across the political spectrum, of a program that said to welfare recipients: here's a job; take it or lose your benefits.

Taxpayers would be better off, and so would the people who went to work.●

A BROADCASTING FIRST FOR A TOP BROADCASTER

● Mr. WILLIAMS. Mr. President, a bit of history was made recently when the White House Correspondents Association gathered for its annual dinner.

For the first time ever, a broadcast journalist received special recognition for excellence and I think the Senate should note this special occasion.

Clifford Evans, vice president of RKO General's Washington News Bureau, received the prestigious Barnet Nover Award for Excellence in Brodacast Journalism for his reports from Jerusalem on progress in the stalled Mideast peace talks.

And, during the same dinner, Cliff was made vice president of the White House Correspondents Association, thus making his evening doubly pleasant.

Mr. President, I have known Cliff Evans for years and it strikes me that he has many award-winning qualities. The most important of these, I think is his ability to pursue a story aggressively with the proper blend of enthusiasm, objectively, knowledge and persistence.

I do not think it would be possible to add up all of his journalistic "scoops" but I am sure the list would fill pages and pages in the RECORD.

At the same time, Cliff is a sensitive reporter with a good sense of fairness and I think that is what makes him university respected by his colleagues, his sources, his company and, most of all, his audience.

Mr. President, given Cliff's abilities and talents, it is no surprise that his latest award is not his first. He has been honored by organizations as diverse as the U.N. Association, Variety magazine, and the Newspaper Guild and he has received numerous prizes including the highly-coveted Lasker Award.

Mr. President, I know the Senate will join me in extending heartiest congratulations to Clifford Evans—a top journalist in every respect and a man whose accurate reporting is surpassed only by his deeply felt commitments to the highest principles.●

THE COAL GOAL: HOW?

● Mr. MOYNIHAN. Mr. President, I wish to call to the attention of my colleagues the most recent editorial in the New York Times of June 29, 1980 on the subject of coal. As chairman of the Water Resources Subcommittee of the Environment and Public Works Committee, I was particularly pleased to note the recognition given to the importance of water in the development and transportation of our coal resources. "A rational water allocation plan is sorely needed to respond to our coal needs" states the editorial, and I could not agree more.

I might add that a broader, rational water program is also sorely needed, a program which effectively identifies national and regional needs and directs our financial resources to meet those needs. Nowhere is this approach as necessary as in our water and land transportation system for coal and other bulk commodities. Now is the time for a new and creative effort in water resources development.

I ask for the Times editorial to be printed in the RECORD.

The editorial follows:

The Coal Goal: How?

The seven summit leaders made a portentous commitment in Venice last week. They vowed to break out of the oil noose that is strangling Western economies—and to do so within this decade. Their chief weapon will be coal; its use and production are to double by 1990. That ambitious goal is consistent with last month's bullish World Coal Study, which called for tripling coal use by the year 2000. But do the summit leaders understand the size and complexity of the task they are undertaking?

Their declaration fails to explain why coal use should be doubled when no other energy goals are quantified. Still, some sizeable coal expansion is clearly justified. Conservation is the quickest, cleanest and cheapest way to reduce oil dependence, but it can only accomplish so much. Nuclear power is meeting political resistance for reasons of safety and weapons proliferation. Solar and other renewable energy sources will take time to develop. So coal is the best transition fuel to power the world through the next two decades.

But many coal experts in the United States and Europe are skeptical that the use of coal can be accelerated so quickly. After all, Presidents Nixon, Ford and Carter had all previously called for major expansions in the fuel's exploration, with minimal results.

The most pressing problem is to persuade electric utilities and other industries to switch from oil to coal. As oil prices soar, that is already happening to some extent in this country, but the pace is slow. Laws requiring utilities to switch away from oil as a boiler fuel have been regularly flouted, and the latest coal conversion bill for utilities remains bogged down in the House. Small wonder that the American coal industry operates below capacity and that 20,000 miners are out of work. Unless more people are persuaded, quickly to burn coal, there will be no incentive to invest heavily in expanded production.

Consider what a formidable task it will be to build an infrastructure for a coal-based economy in the United States:

Hundreds of new mines will have to be opened, and thousands of new workers trained, without scarring the landscape or maiming the miners . . . Decrepit railroads will have to be reviewed and frequent, mile-long, 100-car "unit" trains must somehow be routed through communities without effectively cutting them in half . . . Slurry pipelines, often cheaper and less bothersome, will have to be built over the opposition of the competing railroads . . . Port facilities will have to be created. America has no West Coast coal port; there are only minimal facilities on the Gulf Coast, and Hampton Roads, the chief Eastern port, is backed up trying to meet current demand . . . Finally, a whole new generation of coal-carrying ships, perhaps 50 a year for the next 20 years, will be required.

Even if enormous investments are made, environmental constraints may eventually limit the use of coal. For the short term, water is probably the biggest problem. It is used for cooling power plants, producing synthetic fuels from coal and propelling coal through slurry pipelines. Yet in many areas it is already in short supply and required for irrigation or municipal drinking supplies. A rational water allocation plan is sorely needed.

For the long term, the burning of coal may have to be limited if the carbon dioxide it produces is found to threaten a climatic disaster. That would confront many nations with a dilemma. After investing heavily in a coal infrastructure, would they then have the political will to turn it all off?

The new enthusiasm for coal is due largely to changed economic conditions. Oil has become so expensive that coal is now competitive, even after vast sums are spent to handle it cleanly and safely. President Carter and other Western leaders are right to seize the opportunity to urge a major shift to coal. But now they have a duty to explain in detail just how they expect to accomplish this formidable task.●

THE INEFFECTIVENESS OF CREDIT CONTROLS

● Mr. HAYAKAWA. Mr. President, President Carter's credit controls are a harsh and ineffective means of fighting inflation. I spoke against credit controls when they were just a proposal and now, after we have all been given the opportunity to see their effect on inflation and the economy, I am more convinced that credit controls are not the answer to our inflation problems. Credit controls cannot directly reduce inflation because they deal with a product of inflation, not its cause.

Consumer credit has become an instrument by which consumers can keep up with inflation. By making purchases with credit, the consumer acquires goods and services at today's price, while paying for it with tomorrow's deflated dollar. In this way, the effect of inflation on consumer buying power is lessened. Credit controls have confronted the consumer with the full impact of inflation—without any hope of reducing that burden. This has caused the savings rate to drop, since the American people cannot afford to save their money in an account which has an interest rate less than the rate of inflation. The lower savings rate has in turn made it impossible for the consumer and businesses alike to obtain loans; for homes, cars, family and business needs. Capital formation is foundering, and productivity is declining.

While the Federal Reserve Board has been tightening credit in the private sector, we have been presented with a budget which fails to account for $60.7 billion in Federal credit activity hidden off-budget. If, as the Wall Street Journal suggests, the purpose of balancing the budget was to get the Federal Government out of the credit market, off-budget loans and credit controls defeat that purpose.

The administration must recognize that cutting the Federal budget, not instituting credit controls, will ease inflation, or we will be saddled with high interest rates, skyrocketing inflation, and low productivity. Definite action is needed to stop these controls before they cause further harm to our economy. For these reasons I am a cosponsor, and fully support, Senate Resolution 477 introduced by my distinguished colleague, Senator Byrd. This resolution will urge the Federal Reserve System to proceed with the dismantling of controls on consumer credit.

Congress does not have the authority to demand the repeal of credit controls, however, as the representatives of our constituents we have an obligation to make our views and their views known, and do all in our power to have the credit controls rescinded.●

THE SMALL BUSINESS TAX REDUCTION ACT OF 1979

● Mr. DURKIN. Mr. President, small business is the backbone of our economy in New Hampshire and throughout the Nation. I am pleased that over the last 5 years Congress has made important progress in attending to the special legislative needs of the small business community. I applaud the Senate Select Committee on Small Business and its chairman, Senator Nelson, for their untiring efforts, and I look forward to continuing my work with them in our commitment to revitalize small business in America.

Less than 6 months ago the White House Conference on Small Business came to a close. By any standard the conference was a success. Equally important, however, has been the speedy congressional response to the recommendations set forth by the conference. Specific actions include:

Senate passage of the University and Small Business Patents Procedure Act, S. 414, which allows small firms to obtain patents on inventions generated as a part of a Government contract.

Committee approval of the Small Business Innovation Act, S. 1860, to increase small business' share of the Federal research and development budget.

Agreement by the Department of Energy to double the small business share of solar energy research to about $100 million.

In addition, with my strong support, the Senate voted for a balanced Federal budget for the first time in 12 years, and just this month S. 2, sunset legislation, was reported out of committee.

The fastest, most efficient way to eliminate wasteful Federal spending is to enact S. 2, the Sunset Act of 1979. I am an original cosponsor of this sunset legislation which will automatically terminate most Federal programs every 10 years unless legislation specifically recreating the program is passed by both Houses of Congress and signed into law by the President. Notable exceptions to sunset include such programs as medicare, social security, Federal retirement, and veterans benefits.

I have also cosponsored S. 445 which will sunset costly and unnecessary Federal regulatory agencies. Every 10 years the President must submit to Congress plans to reform the regulatory activities of specified Federal agencies. This comprehensive regulatory sunset bill coupled with my earlier legislation to reduce and reform the regulatory network will go a long way to cut down the size of big government and eliminate needless Federal spending.

Even with these legislative accomplishments we still have miles to go and many challenges to meet to direct our national economic policy back to the concerns of small business. The contributions of small business to our economic growth cannot be emphasized enough. Small business creates almost 90 percent of the new jobs in the United States and employs over half of the private sector work force. Well over half of our new inventions and technologies emerge from the small business community. And, perhaps most impressively of all, the aggregate output of small business accounts for almost 50 percent of the gross national product. Simply stated, small business is good business.

Mr. President, I am committed to protecting and promoting small business. I have sponsored and supported a series of bills which cut income and estate taxes, reduce costly Federal paperwork and unnecessary regulations, encourage capital formation and spur our Nation's lagging productivity.

Since 1975, taxes for small business have been cut by over $2 million. The following table clearly shows this dramatic reduction:

Corporate income	1974 tax rate (percent)	New tax rate (percent)	Maximum yearly dollar saving	Total saved in 1979[1] (millions)
Up to $25,000	22	17	$1,250	$371
$25,000 to $50,000	48	20	8,250	616
$50,000 to $75,000	48	30	12,750	592
$75,000 to $100,000	48	40	14,750	449
Total				[2] 2,028

[1] Compared to taxes at pre-1975 rates.

[2] Savings are expected to increase by about 10 percent per year.

However, further tax reform is needed. To this end I am pleased to be an original cosponsor of the Small Business Tax Reduction Act of 1979 (S. 2136). This measure expands upon the reforms initiated over the past several years by providing a much more equitable tax structure for small business. It will reduce the corporate income tax rate for a business earning under $25,000 from 17 to 15 percent. That will provide immediate relief for our 1½ million smallest enterprises.

The measure would also increase the boundaries of the 30-percent tax bracket to include corporations earnings between $50,000 and $100,000. Last, it would expand the 40-percent bracket to include small businesses earnings between $100,000 and $150,000.

This past year the first and only estate tax revision since 1942 was enacted. This measure tripled the amount of property exempt from estate taxes to $175,000 for children and $425,000 for spouses. This long overdue action is a tremendous boost to family-owned establishments which are so common in New Hampshire.

I am also cosponsoring Senator NELSON's bill S. 2220, the National Family Business Preservation Act of 1980. This would exempt from estate taxes one-half the value of a family-owned business up to a maximum of $500,000. This substantial tax break would help to offset the effect of double-digit inflation which has pushed small businesses into artificially high tax brackets. Under the new bill it will be far easier for family businesses to be passed on to the next generation, contributing employment, goods, and services to the community.

I am also working to provide incentives for expansion and capital formation. These measures include:

First. S. 1435, the National Capital Cost Recovery Act, or the 10-5-3 bill which gives businesses a wide range of investment tax deductions covering cars, trucks, equipment, machinery, and plant facilities.

Second, S. 110, the Small Business Depreciation Reform Act, which is designed to encourage the modernization and expansion of small business by allowing a 3-year straight line depreciation for the first $25,000 of equipment purchased annually, and

Third, S. 655 and S. 653, both amendments to the IRS Code, and S. 487, the Small Business Private Investment Act of 1979, which provide incentives for stock investments in small companies. These and other measures will encourage sorely needed capital formation which in turn will lead to increased productivity in the manufacturing sector.

Tax reform and tax relief is only a first step in improving the business climate for the small enterprise. Cutting through costly Federal paperwork and eliminating the seemingly endless web of strangling redtape and regulations is also essential.

Last year I introduced a bill which establishes a $5 Federal income tax credit for each federally required form a small business must fill out in the course of normal business compliance procedures. The purpose of this bill is twofold: First, it would provide some much needed economic relief to small business by compensating them in part for the time and money spent complying with Federal paperwork requirements. Second, it would send a clear message to every Federal agency; unnecessary forms will result in a loss of revenue. This legislation is needed to drive home the reality that regulations and needless paperwork cost money. In fact, it costs small businesses $10 billion a year to comply with Federal paperwork requirements, at an annual average expense of over $1,200 per business. We can and we must cut through that waste now.

The Federal Administrative Improvements in Reports Act, S. 391, mandates a 50-percent reduction within 3 years in the number of forms required of small businesses. The bill also requires the Government to obtain suggestions and criticisms from the small business community before issuing any new forms this simple screening procedure will be a tremendous step in streamlining the compliance process.

The Emergency Paperwork Reduction Act of 1979, S. 259, in a similar measure with slightly more modest goals. It seeks to reduce Federal paperwork by 25 percent over a 2-year period. It is vital that in this session the Senate pass one of these bills. And I am here today to pledge my support to work for that passage.

I am cosponsoring three pieces of legislation which will reduce and coordinate the regulations arena.

S. 93. Regulatory Procedures Improvements Act of 1979, will apply my "sunset" concept to regulations. It would periodically review and eliminate outdated or duplicative rules. For the small business this will mean a reduction in regulations and paperwork.

S. 262. Reform of Federal Regulation Act of 1979, would create an office for regulatory management within each agency. This office in turn would analyze its agency's rules, establish deadlines for regulations, and report to Congress on its regulatory activity. This, too, will be a coordinated, cost-saving measure.

S. 299. The Regulatory Flexibility Act, will apply some sound commonsense to the regulation arena. This bill is designed to create a more realistic and streamlined regulatory system for small business, which will tailor regulations to the size of a particular business. The act recognizes that a small business should comply with a much simpler set of rules than a large multinational corporation. This bill also provides for public participation to streamline regulations.

For too long the Federal Government has failed abysmally in granting research and development and procurement contracts to small firms. As a cosponsor of S. 1860, the Small Business Innovation Act of 1980, I am working to redirect the misguided policy. This bill will go a long way in encouraging the Government to tap the highly inventive and extremely cost-effective resources of small research and development firms in New Hampshire and throughout the Nation.

It is a widely known fact that the light bulb was invented by Thomas Edison and not General Electric. I mention this simply to highlight the lesser known fact that over 50 percent of the inventions in this country emerge from the small business community. It will be the modern day Edisons who will help lead us into a bright, productive, energy-independent future. And I believe the Federal Government should do everything possible to spur the resurgence of small business.

Not only are small firms more innovative than large firms, they are also more economical. The cost of employing research scientists from small firms is half as much as it is in employing large-firm scientists. Despite these hard facts, the Government awards less than 4 percent of its research and development money to small firms. This is clearly not the most productive-cost-effective approach.

The bill I am cosponsoring today will change this misguided Government policy and the small business community of New Hampshire will be better off for it.

The Small Business Innovation Act has four main components which will spur the expansion of small research and development firms and small business in general.

It would insure small business of receiving at least 20 percent of Federal research and development money.

It would protect small firms from patent infringement by large multinational conglomerates.

It would provide tax incentives to spur the expansion of small business, and

It would create a more realistic and streamlined regulatory system for small business, which will tailor the regulations to the size of the firm.

Finally, I am sponsoring S. 533, the Buy American Act. This bill establishes a preference for domestic products and materials procured by Government. It includes provisions for small business set asides, mandating the Government to purchase goods from American small business.

While these bills are not a panacea for all the problems faced by small business today, they do provide a vitally needed start in redirecting Federal policy back to the needs of small business.

I urge my Senate colleagues to join me in working for prompt passage of this legislation.●

HEALTH CARE REIMBURSEMENT SYSTEMS

● Mr. INOUYE. Mr. President, it would seem that the major dilemma associated with the 8½-percent differential is the lack of concrete data regarding the actual cost of nursing care for the medicare patient. We have traditionally assumed that medicare patients require a higher level of nursing care, yet no concrete evidence currently exists to support such an assertion.

Our current system of reimbursement does not encourage ready identification of many costs and revenues. Costs, as well as revenues generated by nursing services are obscured by attribution of such costs and revenues under the amorphous rubric of routine care, room and board charges and non-revenue-producing cost centers.

I therefore urge the Secretary to investigate this critical area, in association with appropriate groups, in order to determine the true costs of nursing services, that is, those services by or under the supervision of a registered nurse, and the incomes generated by such services.

This information would not only provide needed answers in regard to the 8½-percent differential, but would be invaluable to all federally funded health programs utilizing nursing services.

I ask that a fact sheet on "Health Care Reimbursement Systems" prepared by the American Nurses Association be printed in the RECORD.

The fact sheet follows:

FACT SHEET ON HEALTH CARE REIMBURSEMENT SYSTEMS

The present federal reporting system creates inefficient cost analysis for dealing with indirect costs of patient care.

Current systems for reimbursing hospitals and other organizations for costs of providing health care services do not encourage ready identification of many costs and revenues.

Costs of nursing services are included under the rubric of routine care costs. Non-revenue-producing cost centers are allocated to nursing services. Revenues generated by nursing services costs are obscured by attribution of revenues to room and board charge.

At present, a great deal of flexibility is allowed among statistical bases used for the calculation of the unit-cost multiplier. These bases may range from simple proportions of square footage to well developed time studies. Health facilities with nursing shortages can charge third-party payers the same room rate even though patients are receiving only minimum nursing care.

Health facilities with adequate staffing can charge the same amount for nursing care whether the patient receives one hour of care or ten. The exception is the delivery of specialty care, for example, cardiac intensive care. The higher amount of revenue obtained from special care services encourages high levels of occupancy in these units and discourages appropriate utilization.

Nursing service budgets are frequently reported as part of routine care costs. The reimbursement of routine care costs is limited by the routine care costs limitation applied to patient days. This essentially creates a reimbursement or revenue cap on nursing service costs. Restrictive reimbursement practices have limited the contribution that nursing can make.

The present federal reporting system tends to shape the internal management system within the local health care facility.

In order to comply with requirements for reimbursements, health care facilities collect and report specified information. There is no incentive to design and maintain an accounting system which will permit refined managerial control. Since the nursing service department has the highest payroll in the facility, the ability to monitor costs and services would seem a necessary managerial tool.

Reclassification of cost centers, a shift from responsibility accounting to functional accounting, as proposed in the System for Hospital Uniform Reporting manual would have three major drawbacks.

1. Such a charge would not be cost effective; the change of accounting and reporting systems would be costly and minimal benefit.
2. The cost history based on responsibility accounting would not be useful in projecting trends based on functioning accounting.
3. Cost centers would be much less specific leading to diminished managerial control.

Should the federal reporting system continue to use responsibility accounting some changes must be made in the system:

1. There must be a meaningful allocation basis—not simple square footage—as recommended by provider groups.
2. The development of the unit cost multiplier must be refined.
3. Designation of cost centers must be refined.●

IMPROVING THE INTELLIGENCE SYSTEM

● Mr. PELL. Mr. President, I have long believed that the responsibilities for intelligence collection and evaluation should be separated from covert operations. Assigning both of these responsibilities to the Central Intelligence Agency entails the risk that intelligence judgments will be tailored to support covert operations.

In this connection, I recall that when I first came to the Senate in 1961, I met with CIA Director Allen Dulles and advised him against any attempt to overthrow Fidel Castro. Although I was no intelligence expert, I visited Cuba shortly after my election in 1960; and it was clear to me that Castro was not only popular but that anyone who might have joined in an effort to overthrow Castro had either fled the country, was in jail, or dead. The conditions, as I saw them, were just not favorable for a successful effort to get rid of Castro.

Mr. Dulles listened politely to what I had to say, but he gave no indication that he took my advice seriously. I did not know it at the time but the Bay of Pigs operation had already been approved and would take place 2 days after my meeting with Mr. Dulles. I have often thought that if our intelligence gathering and evaluation apparatus had not been under the same management as the Bay of Pigs operation, President Kennedy might have gotten the kind of information and advice that would have enabled him to avoid the debacle that ensued.

Mr. President, Mr. Charles Maechling, Jr., who was the Director of the State Department Office on Counter-Insurgency during the Kennedy and Johnson administrations, wrote a very perceptive article on how to improve the intelligence system that appeared in the June edition of the Foreign Service Journal. Mr. Maechling makes a very persuasive case for separating intelligence and operations, just as the British have done. I commend the article to my colleagues, particularly those on the Intelligence Committee, and ask that the text of the article be printed at this point in the RECORD.

The article follows:

IMPROVING THE INTELLIGENCE SYSTEM

(By Charles Maechling, Jr.)

The Iranian crisis raises anew the issue of US intelligence capabilities, or rather the lack of them. The failure of US diplomatic and intelligence reporting to alert the White House and State Department to the strength and dynamism of the Islamic revolutionary movement, the inability of the shah's vast panoply of modern armament and repressive police apparatus to contain it, and the likelihood of a violent reaction in Iran to admittance of the shah to the United States, are only the latest miscalculations in the collection and evaluation of political intelligence.

Whether US political intelligence and reporting is as feeble as both its critics and supporters, for different reasons, say is a matter of debate. What is clear is that the conditions of the next decade would make overhaul of the system imperative in any case. This will not take place so long as the formula for its renewal includes the same ingredients that precipitated the failures of the past.

Unfortunately, blind repetition of old policies seems to be the course advocated by the CIA's congressional supporters and the increasingly vocal lobby of retired intelligence professionals. In recent articles, and in congressional testimony on the proposed CIA "charter," they put exclusive blame on the post-Watergate, post-Vietnam climate of national guilt and self-exposure, coupled with savage media criticism and crippling legislation, for disastrously weakening US intelligence capabilities. Their remedy is to remove legislative restrictions and go back to the good old days.

The current proposals would, if implemented, indeed rebuild the US intelligence system, but not in a way calculated to purge it of its weaknesses and improve its performance. None of the pending proposals would terminate the dangerous connection between intelligence collection and covert operations—a union of missions and a scrambling of techniques so dissimilar and incompatible that uniting them within the same CIA directorate has periodically compromised the functions of both. Each of them in one way or another perpetuates centralized control by the CIA over the analysis of intelligence information and the production of intelligence estimates by a specialized corps of academically-oriented career analysts. Nor would the proposed reforms have any impact on the present self-limiting, security-conscious pattern of intelligence gathering which in the political field excludes or downgrades information from the most crucial sectors of the developing world—labor, youth, intellectuals, the press and the working clergy.

The debate over the future of the CIA has already been muddied by diversionary currents. Outside the intelligence community public discussion has been monopolized by legislators and lawyers whose principal focus has been on forging a complex network of restrictions and chains of accountability, a negative approach at best. Within the intelligence community, a lobby of retired professionals has drowned out the voices of the foreign policy makers who actually use the intelligence product. Some of the arguments mask a power struggle over the proper role and power base of the director of central intelligence—whether or not he should continue also to head the CIA. Throughout, the level of the debate has been degraded by the demagogic tactic of CIA supporters in and out of government in accusing critics of seeking to dismantle the whole US intelligence establishment, when in fact the occasional target is covert operations—which are not intelligence operations at all!

Basic to an effective national security establishment should be a covert operations capability that is separate and distinct from the intelligence system. Within the CIA this demarcation has always existed in the form of separate directorates of intelligence and operations (formerly plans). But the ostensible separation applies to intelligence evaluation and analysis only—secret intelligence collection is the responsibility of the operations directorate, a combination unknown in other western countries. (Great Britain's foreign intelligence and counter-espionage organizations [MI–6 and MI–5] have never been organizationally linked to clandestine warfare organizations like the special operations executive [SOE] and the special air services [SAS] unit.)

Indeed, much of the present confusion is a legacy of the CIA's wartime origins in the Office of Strategic Services (OSS), which in the beginning was not so much an intelligence organization as a clandestine warfare organization recruited and trained for paramilitary operations behind enemy lines. What should have been two separate, small, tightly-controlled and totally separate agencies grew into a single monstrous bureaucracy created in a wartime image and staffed by OSS carryovers, many of whom, whatever their talents as underground fighters, were poorly attuned to peacetime intelligence work, or indeed to civilian life in general.

Intelligence operations are so markedly different from covert operations that the distinction deserves further elaboration. Intelligence collection is information-gathering focused on particular operational or policy needs. It involves a longterm, laborious, multifaceted process of acquiring facts and data from a wide variety of sources and subjecting this heterogeneous material to painstaking evaluation, cross-checking, and analysis. The analytical process is (or ought to be) a compound of scientific investigation and art, combining a multitude of special technical and analytical skills with area knowledge and a high degree of empathy with the personal and collective motivations of others. If departments and agencies like state, commerce, defense and treasury did a satisfactory job of reporting on foreign areas it has been estimated that only 10 percent or less of the information collected from open societies, and 20 percent or less from closed societies, need come from clandestine sources. As it is, according to 1976 congressional testimony from the CIA, about 30 percent of significant information comes from clandestine sources.

Covert action is utterly different. It should not be confused with paramilitary operations like abortive hostage rescue mission, though sometimes forming part of them. Its object is to change the policy of foreign governments, perhaps even to influence whole societies. Unlike intelligence gathering, which is quiet, dispersed, and equipped with built-in mechanisms and checking devices to correct error or repair breaks in the system, covert action is usually a risky gamble in which victories may be more apparent than real, and exposure can spell political disaster. Even the more benign aspects of covert action, such as subsidizing friendly political parties to offset political expenditures by the other side—as in Italy in the late '40s—need to be handled with maximum discretion or they can be counterproductive.

As practiced in the past, the more sinister aspects of the CIA covert operations—destabilization, bribery of foreign leaders, support of foreign secret police organizations—have almost invariably proved to be a two-edged sword. This history of CIA covert operations is an albatross around the neck of every legitimate business and government enterprise overseas. It is the covert action side of the CIA, not the intelligence side, whose highly publicized interventions in Cuba, Iran, Guatemala and Chile, to name only a few, have so dramatized the name of the CIA abroad that its own intelligence operations have been crippled and US foreign policy in the Third World exposed to compromise and vilification. Sooner or later the role of the United States in supporting a despotic ruler or overthrowing a legally constituted regime either precipitates a violent reaction or opens the United States to perennial charges of conspiracy and corruption, in many cases wildly exaggerated.

Moreover, entrusting underground operations to a bureaucracy with a vested interest in "success" regardless of cost, diminishes personal responsibility for the methods employed or the character of local allies. The United States not only becomes identified with foreign secret police forces, but tarnished with their atrocities. Any civilized nation that presumes to establish collaborative arrangements with the thoroughly vicious security establishments of certain nations of Latin America bears a heavy responsibility for the train of mutilated corpses left in their wake.

Nevertheless, covert action has been part of the arsenal of weapons of the sovereign state since the days of the Trojan horse. The Athenians were adept both in the arts of "destabilization" and in creating "factions" favorable to their interests in other Greek city states. Louis XIV kept King Charles II on his payroll, and tried to foment internal rebellion in Britain on behalf of the exiled Stuart pretenders. During the first phase of the wars against Napoleon, William Pitt almost bankrupted the British treasury with overt and covert subsidies to the German principalities. A classic example of covert action in modern times was the despatch of Lenin in a sealed train from Switzerland to Russia by the German general staff in 1918. A more recent example was the clandestine mission sent by Britain and the United States to Yugoslavia in March 1940, which resulted in a fake *coup* that sent the regent, Prince Paul, into exile and swung Yugoslavia into a posture of resistance against the transit of Hitler's forces to attack Greece.

The differences between traditional covert action as practiced by the European monarchies and the covert operations of the United States after World War II are largely one of scale—but that is the vital difference! Once escalated to global dimensions and institutionalized in a large bureaucracy the very term covert action becomes a misnomer. If a secret intelligence operation is blown, the cell can be sealed off and a new start made with only minor damage to the whole apparatus. A blown covert operation may compromise the whole spectrum of foreign relations for an indefinite period.

By their nature, covert operations in peacetime are so tricky, so liable to exposure or backfire, that to bring them off with even a remote chance of long-term secrecy requires delicate handling of the highest order. In earlier times, the chosen instruments of such operations have been agents unconnected with government, recruited on the basis of special qualifications for that operation alone. The practice of entrusting politically sensitive secret missions to all-purpose bureaucrats, with no particular cultural or ethnic affinity with the area involved, supervised by even more unqualified superiors, is absurd on its face.

The Achilles' heel of all covert operations is their personnel. When kept in tight military harness in wartime their abilities can be turned to good account. Unfortunately, dedication to a lifetime of clandestine activity produces a conspiratorial mentality that, if not criminal in nature, is uncomfortably well-adapted to leading an underground life that is illegal in most foreign countries. What emerges from recent literature, not to mention the personal experience of many Foreign Service officers, is an unacceptably high proportion of covert action operatives who are alcoholic, violent, and inhabitants of a paranoiac dream world. Howard Hunt adjusting his red wig in the White House basement, the rogue operation conducted by Cuban mercenaries in the Watergate and bizarre assassination schemes were fully to be expected. Equally embarrassing have been the revelations of ex-CIA agents about every major covert operation from Iran in 1953 to Angola in 1975. Sensationalized to generate maximum sales appeal, they depict a pack of exuberant amateurs playing lethal games along the fringes of U.S. foreign policy.

In the White House years (p. 658) Henry Kissinger notes that the national temperament and tradition is unsuited to covert operations. This view may be too pessimistic. Nevertheless, a media-saturated constitutional democracy like the United States should be wary of institutionalizing a foreign policy tool that is alien to its values, incompatible with domestic political conditions and, in the long run, more likely to harm the wielder than the adversary.

The problems of the intelligence system proper are quite different. The claim that recent lapses like the failure of the CIA to predict the collapses of the shah or the takeover of the U.S. embassy in Tehran are attributable to self-destruction of the system in the post-Watergate climate ignoring similar failures in the days when CIA effectiveness was supposedly at its peak. In any case the recent wave of CIA dismissals was largely confined to covert action personnel: the intelligence directorate still has the largest collection of political and economic analysts in the business—1,700 political analysts alone. Moreover, the total U.S. intelligence capability includes the attache network of the Defense Intelligence Agency; the political and ecoonmic reporting functions of U.S. embassies and consular posts overseas; the satellite surveillance system; and the code-breaking and telemetering functions of the National Security Agency—a formidable collection of assets with a budget of nearly $5 billion and personnel approaching 30,000.

In February of 1978, well before the fall of the shah, the White House signified its dissatisfaction with the poor quality of CIA and State Department political and intelligence coverage of the Iranian revolution in a letter from the president's national security adviser to the director of central intelligence. In mid-August of 1978, the CIA produced its notorious 23-page assessment of Iran that included such sentences as "Iran is not in a revolutionary or even pre-revolutionary situation" and "there is dissatisfaction with the shah's tight control of the political process, but this does not threaten the government." On November 11, 1978, President Carter sent Secretary of State Vance, CIA Director Stansfield Turner, and Brzezinski a three-sentence handwritten memorandum bluntly stating: "I am not satisfied with the quality of political intelligence."

The roots of US intelligence weakness are too deeply embedded to be eradicated by cosmetic organizational change. Well-adapted to assessing developments and framing scenarios for the advanced societies of the West, the average American political analyst is ill-prepared to appreciate the self-abnegation and dynamism of non-Western religions and ideologies, not to mention the charisma of primitive political personalities. He is equally ill-equipped to understand the private financial motivations that lurk behind public rhetoric the world over. At both ends of the spectrum a wide range of indicators is closed to him.

As civil servants with a social science background, the majority of intelligence analysts have a subconscious antipathy to the emotional and irrational factors that dominate mass movements. As a result they tend to downgrade political fervor and ideological conviction as factors to be reckoned with. Nothing is more pathetic than the perennial delusion of American diplomats and intelligence experts that sooner or later in the course of a raging revolution such "rational" goals as political democracy, economic development and improved living standards will reassert themselves. Another delusion is that the leaders of mass movements can be brought to heel by attachment of national assets or economic sanctions.

The empty abstractions that analysts use exemplify their flight from the passions that bring mobs out into the streets. Anodyne terms like "power centers," "repression," "safety valves" and "orchestrated demonstrations" and the fatuous "responsible elements" comfortably insulate both writer and reader from the harsh realities of Third World conditions, including the corruption, brutality and social injustice that fuel revolutionary movements. There can be no real knowledge of other societies without some degree of empathy. Neither the policymaking bureaucrat nor the analyst can accept that once a regime tortures and kills students and non-violent political activists the relatives of the victims will never rest until they have obtained retribution, regardless of the material cost to themselves or their country.

The insulated, suburban values of the intelligence specialist extend to his sources. The predisposition of American officials overseas to restrict their social contacts to the local "establishment" is well known. They even confine their journalistic contacts to Americans, despite the foreign language illiteracy and cultural insularity of American media personnel that make them useless as evaluators and give them little entree to inside sources. Intelligence professionals often compound this disability by cultivating only the power structure of the moment and confining their underground contacts to those approved by the security services of the host country. This erects a wall of mistrust between U.S. intelligence services and the radical and Marxist groups that form the core of political dissidence—and the future leadership—in most of the Third World. The scanty contacts of U.S. intelligence with the students and clergy of Iran are now a painful reality. The same holds true in South Korea where embassy contacts with disaffected students and city dwellers are minimal and the strongest official links are with the Korean army.

At the other end of the scale the civil service intelligence professional is such an innocent about private financial motivation that he makes no attempt to penetrate the world of exchange speculation, capital movements, currency transactions, insider stock trading, and contract kickbacks, which are often crucial indicators of political allegiance and impending change. The details of these transactions are not as systematically recorded in foreign countries as they are here but, since business deals cannot be consummated without some form of paperwork, there are always disaffected sources to reveal them.

Intelligence professionals profess to adhere to a cult of scientific objectivity which is supposed to render their cerebrations immune to irrational hunch or diversionary emotion. In fact, most of them are quite unconscious of the extent to which cultural biases distort their reasoning. As authorities like Karl Popper (*The Logic of Scientific Discovery*) and Thomas Kuhn (*The Structure of Scientific Revolutions*) repeatedly point out, fields of inquiry are always structured: the assumptions of the investigator in selecting his data and assigning it weight predetermine his conclusions. Whenever the intelligence analyst unconsciously allows his cultural biases or the policy preferences of his superiors to exclude or downgrade unpalatable realities, he builds what William James called "a closed and completed system of truth" in which "phenomena unclassifiable within the system are . . . paradoxical absurdities and must be held untrue."

Ideally, the US intelligence analyst should feel as remote from his country's policies as a gnome of Zurich. To be of optimum use to the policy-maker, assessments should be denationalized and value-free, avoiding like the plague the sin of ethnocentrism approaching the problem from the standpoint of US interests and exaggerating the role of one's own nation in its interaction with others. If as an experiment President Carter were to scrap for one week the political intelligence served up by the State Department and the CIA in favor of the reports of the international banking community he would obtain a better picture of the prospects for his battered foreign policy than he does today.

The worst feature of the present system is the pressure for conformity and the absence of any institutional means of correcting error. Once "facts" are arranged in symmetrical patterns they become difficult to challenge. The location of a national foreign assessment center within the CIA, and the requirement for a consensus on important strategic and political issues, stifles dissent, eliminates competition, and makes the estimate system a captive of its own weaknesses. During the period 1975–78 the policy of détente put a premium on an optimistic evaluation of the US nuclear deterrent and corresponding depreciation of Soviet nuclear capabilities. There was no way for dissenting agency voices to register their alarm over the massive build-up of Soviet strategic missiles except by introducing hedges and qualifiers into the consolidated estimates. Similarly, dissenting viewpoints as to the durability of the shah were submerged in qualifiers or relegated to footnotes.

The lesson of World War II is already forgotten. The insistence of Hitler on centralized analysis and streamlined consensus was the greatest infirmity of an otherwise excellent German intelligence system—in contrast to the decentralized, less orderly, structure of the British and American intelligence services, which produced competing estimates of greater coverage. As General Daniel Graham pointed out in a recent symposium, whenever the conventional wisdom of the analysts becomes congealed as official doctrine, failure is inevitable.

What are the solutions for our intelligence dilemma? The United States cannot retreat from its vital interests, which owing to energy dependence and a network of shaky alliances still extend around the globe in both directions. The president needs a limited covert action capability, and the government the best political intelligence it can obtain. New departures will not, however, be easy so long as intelligence is treated as an arcane field for specialists.

As a first step, the present covert action organization should be pruned of its older personnel, removed from the CIA, and transferred to the executive offices of the president. It should be named the special operations branch of the National Security Council, and gradually reconstituted along different lines and under different leadership.

Under the new concept, the special operations branch would be basically a high-level planning staff, housed in the NSC structure because of its proximity to the president and high-level interdepartmental policy formation, and to keep covert action missions under tight control. Covert operations themselves would no longer be entrusted to a large, autonomous corps of CIA bureaucrats. Except for a small permanent core of specialists, routine political action programs, such as subsidizing foreign organizations or channeling arms to guerrilla movements, would be entrusted to specially trained personnel seconded from the various departments and agencies of the national security establishment—state, defense, CIA, the International Communications Agency, AID, and even treasury. Sensitive, high-level covert missions would henceforth be entrusted to hand-picked government personnel and civilians with legitimate credentials appropriate for the mission in question.

The objective would be to create a small, highly secret capability to execute a limited range of missions not overtly performable by any other part of the national security establishment. A covert action office of this kind would, by its secret and high-level character, be more responsible and self-limiting than the present massive, though compartmentalized, bureaucracy. Assignments would be entrusted to qualified persons with well-established covers, not to a corps of easily-identified, multi-purpose clandestine operations. Because of their reliance on non-government personnel, the projects of the special operations branch would have to be kept under the strictest secrecy. Project clearances and reports should be restricted to two congressional committees, with severe legal penalties prescribed for unauthorized disclosure. There should be no repetition of the incredible public exposure of the methods, equipment and use of local agents that emanated from Pentagon briefings immediately after the Iranian rescue debacle.

Improvement in the coverage and product of the US intelligence system would require quite a different approach. The ideal solution—admittedly not achievable—would be to take the bureaucratic components responsible for political and economic estimates out of the system completely and unite them in a new and completely autonomous organization, staffed by a diversified, international corps of political and economic specialists, charged with preparing reports and estimates for the national security establishment similar to what *The Economist Intelligence Unit*, or the *Petroleum Intelligence Weekly*, furnishes to private subscribers. A more achievable goal would be gradually to contract and diversify the intelligence side of CIA, by rotating personnel—bringing more in from the field, giving two four-year assignments to area specialists from other agencies and universities under the Intergovernmental Personnel Act, and recruiting from a broader spectrum of business, journalism and the professions than is now the case. In the case of estimates involving remote areas and unfamiliar non-western cultures, the analytical process should be farmed out of businesses or academic specialists, or at least subjected to a rigorous critique by such specialists before taking final form. On crucial questions, other departments and agencies with expertise or special insights should be encouraged to submit competing estimates or given the opportunity to file informed and well-substantiated dissents.

The collection process should be broadened. All countries should be regarded as being in a permanent state of societal evolution. Their social, economic and political structures, as well as the forces opposed to them, should be viewed in a detached and impersonal way as transitory phenomena. Contact should be made with levels of the private business and financial sectors not heretofore systematically covered. An even greater effort should be made to develop sympathetic contacts in youth and student circles, and with dissident groups. There should be no hesitation about obtaining information from any source, domestic or foreign. To the extent that clandestine sources are relied on, the material should be processed as rapidly as possible since in an age of mass effects most sensitive information usually has the value life of a fruit fly. Classification of political and economic intelligence should be correspondingly downgraded for rapid handling.

In the analytical process, the objective would be to transform intelligence estimates into products that the policy-maker can actually use, instead of being scanned for trends and then discarded. Language and syntax should be pruned of jargon and abstractions. Estimates should be oriented to foreign actions and capabilities, not speculative intangibles, and substantiated by supporting evidence. Neatly packaged conclusions aimed at giving the policy-maker a comfortable sense of control over events should be avoided. Above all, estimates should keep events in their proper cultural and hisorical perspective, free alike from policy bias and the hysteria of the moment.

One other organizational change should be considered. If the director of central intelligence were liberated from his dual role as head of the CIA, and moved to the White House as supreme chief of all intelligence activities, it would have the beneficial effect of giving the State Department's bureau of intelligence and research, and the Defense Intelligence Agency equal bureaucratic status with the CIA, thereby enhancing diversity of approach, and stimulating competition in the preparation of estimates. Of itself, this would not work any fundamental change in the mind-set of intelligence professionals, but might at least free the system from the straitjacket of consensus.

As regards the recent debate in Congress over the CIA "charter" the emphasis has been misplaced. Clearly, the Hughes-Ryan amendment should be repealed and congressional oversight of covert operations limited to two committees. But the objective should be to assure presidential accountability, not more agency accountability to Congress. The law should require prior disclosure of the full details of prospective covert operations to the president, and disclosure to Congress made under controlled conditions well after the fact. It should be made statutorily impossible for the chief executive or national security adviser to escape responsibility for the consequences of their blunders by pleading ignorance of the details of covert operations that backfire.

Beyond this there is little that organizational change or legislation can do. There is no way of mandating improved performance or better judgment by enacting laws or drafting regulations. Any more congressional oversight would only multiply the chances of ignorant or malicious interference in a sorely beset system whose ills are internal and not susceptible to legislative remedy. The responsibility is the president's and he should not be permitted to evade it.●

EDWARD JORDAN

● Mr. SCHWEIKER. Mr. President, Ed Jordan, chairman and chief executive officer of Conrail, has announced his intention to resign to take a position in the academic world. While I have had a few disagreements with Mr. Jordan on Pennsylvania matters, I believe he has been an effective manager of Conrail and an innovative leader in the rail industry.

In 1974, Mr. Jordan, an insurance executive, was appointed president of the United States Railway Association. He ably directed the USRA staff in the development of the final system plan, a plan to restructure the bankrupt Northeastern railroads which was the basis for the creation of Conrail. Following his assignment with USRA, Mr. Jordan assumed the helm of Conrail.

To create a profitable railroad from the wreck of the Penn Central and other Northeastern railroads represented a substantial challenge, even beyond what was anticipated in the final system plan. In the first few years of Conrail's existence, natural disasters, such as the 1977 Johnstown flood and severe winter weather, hampered Conrail operations, while strikes in other industries reduced revenue-producing traffic. The physical plant was in worse shape at takeover than initially realized and the number of cars and serviceable locomotives less than anticipated. The severe economic problems of the Northeast also adversely affected Conrail.

Under these extenuating circumstances, Mr. Jordan has worked effectively to push Conrail towards solvency. Under his leadership, thousands of miles of track have been rehabilitated, and locomotive and car fleets markedly improved. While many shippers are still displeased with Conrail service, I sense some improvement. In addition, Conrail has attracted talented new management to run the railroad. For example, Conrail's marketing department is quickly becoming one of the best in the country. Costs have been cut and new labor agreements forged which should enhance productivity.

Mr. Jordan has also been a leader in working to change external conditions affecting Conrail and the rail industry. His strong advocacy for rail deregulation was a major impetus to the passage of recent legislation by the Senate. In addition, he has argued for a more equitable distribution of revenues between railroad companies where two or more railroads carry a freight load. Historically, the northeastern railroads have not received their fair share of the revenues. By these and other actions, Mr. Jordan has demonstrated a broad awareness of the problems facing the rail industry nationwide and in the Northeast and a willingness to innovate and challenge the status quo.

Mr. Jordan will not have solved all of Conrail's problems during his tenure. In fact, I know he is pessimistic over its future. Controversy over plans to defer maintenance, the rationalization of Conrail's system, the question of additional Federal funding, and various proposals for restructuring Conrail all cloud its future. Furthermore, the positive effects of rail deregulation will not be felt for a long time to come. It will take a singular person to confront the challenges facing Conrail and to do the kind of job Ed Jordan has done.

When Mr. Jordan first assumed his post with the USRA in 1974, many observers felt his inexperience in the rail industry would handicap him, but Mr. Jordan has proved his critics wrong. In 6 years, he has developed as profound a knowledge of railroading as most railroad executives have, and he has laid the groundwork for putting Conrail back on the track. Once again, I want to commend him for his work and wish him success as he winds up his work as chairman and chief executive officer on Conrail and moves on to future endeavors.

I ask that an article recently published entitled "Conrail, A Mighty Fine Hope, Disappoints Backers Again" be printed in the RECORD.

The article follows:

CONRAIL, A MIGHTY FINE HOPE, DISAPPOINTS BACKERS AGAIN

(By Frederic N. Tulsky)

Conrail was founded on a series of unrealistic assumptions and never will become the massive, successful northeastern railroad originally planned, according to its outgoing chairman.

Instead, the giant government-subsidized railroad must become significantly smaller and fight for traffic in a declining economic market if it is ever to become profitable, said Edward Jordan, who announced last week that he is leaving the railroad.

Jordan said he expects Conrail to need continuing federal aid to survive. He said the supplemental revenues would be necessary until Conrail reaches profitability, and he said he could not say when that would be.

Jordan, 50, said earlier projections that increased coal and other freight traffic would quickly make a rebuilt Conrail system profitable were wrong. The projections, he said, also understated the bad condition of track and equipment that Conrail inherited from older railroads.

The projections were at the heart of a U.S. Railway Administration (USRA) study directed by Jordan that led to the creation of Conrail in 1976 from Penn Central and five other major bankrupt railroads.

Four years and $3.3 billion in federal aid later, Jordan said, the expectations of increased traffic were unrealistic because they overestimated the benefits to the railroad from rising energy costs and failed to deal realistically with the fact that the northeast market served by Conrail is in economic decline.

The higher energy costs were expected to substantially increase the volume of highly profitable coal traffic on the Conrail system and make the railroad more competitive with other less fuel-efficient forms of transportation.

But increased coal traffic failed to materialize quickly, and, Jordan said, even with recent sharp increases in alternative fuel costs he does not see the railroad growing as originally envisioned.

NO BIG SHIFT TO TRUCKS

"I don't see a major shift from trucking to rail," Jordan said, adding that Conrail's problems are symptomatic of the problems facing the railroad industry as a whole.

Conrail originally was given $1.8 billion in federal funds, with the expectation that it would become profitable in five years. But, ultimately, Conrail ran out of money and had to get an additional $1.5 billion in aid.

"I am embarrassed by how much money that is," Jordan said, "every time I think about it." He said he believed the money was well spent on rebuilding the core of the Conrail system. But he said it was foolish to have believed pouring in federal dollars would solve all the railroad's problems.

With hopes for quick profitability from increased traffic extinguished, Jordan said, it is up to Congress to determine the future course of the railroad. He said Conrail would submit a report to the USRA this summer, laying out options for the future.

"The prospects for growth are not what I would like," Jordan said. "We have to seriously examine the amount of rail service we want in the Northeast, and how much we want to pay for it."

For Conrail to have a chance at future profitable operations, he said, current regulations limiting the railroad's ability to set freight rates must be eliminated.

Jordan has been in the forefront of the battle for rate deregulation, arguing that current tight limits on pricing have forced Conrail to carry a large percentage of its traffic at a loss.

Increasing transportation costs on currently unprofitable freight would eliminate much of the traffic and thus effectively shrink the scope of the railroad's operations. Conrail could then concentrate its efforts on developing business on a smaller number of more profitable lines, he said.

TOO BIG TO PROFIT

Jordan said Conrail—the nation's largest railroad, covering 17,000 miles in 16 states and Canada—is too big to be profitable. "The railroad industry has got the problem," he said. "We've just got it in spades."

The announcement of Jordan's departure comes as Congress seems to be on the verge of approving the deregulatory measures that Jordan has been fighting for.

Rep. James J. Florio (D., N.J.), chairman of the House transportation subcommittee, repeatedly has said that he doubts there are enough votes to give Conrail any more federal aid, and he has said he hopes deregulation will diminish the need for more support.

But Jordan said that he "doubts very much" that even with deregulation Conrail could operate without additional aid. He noted the example of the Canadian National Railroad, which took about five years to produce a profit after deregulation. Asked when he thought Conrail could become profitable, Jordan said, "I just don't think I can speculate on that."

Jordan said alternatives to continued aid that Congress might consider, such as quick sweeping cutbacks in the railroad's operations, might have an even higher economic cost in terms of lost jobs on the railroad and in the businesses it serves.

MAGIC ANSWERS

"Every body is looking for magic answers out there," Jordan said. "It turns out there aren't any magic answers."

His comments were made shortly after the announcement that he planned to step down as chairman to become dean of Cornell University's Graduate School of Business and Public Administration.

Among the problems facing railroads, Jordan said, are the high costs of maintaining their track systems, and labor agreements that require overstaffing of some trains.

Jordan said he felt a "sense of disappointment" that the railroad is "not sufficiently close to self-sustaining to believe that we have succeeded." Despite that lack of success, Jordan said, he took "great pride" in what has been achieved at the railroad under his tenure. Conrail's losses have been cut from $413 million in its first year of operation to $138 million last year.

He said the railroad had achieved great success, both in rebuilding the track after years of neglect and in organizing a management team that "changed things for the better." He said the railroad had significantly cut losses—"not on volume, because volume has always been slipping away"—but in getting increasing productivity out of the workers.

Indeed, Jordan asserted that Conrail's inability to succeed, for the most part, was due to factors over which he had no control.

Other board members last week spoke highly of Jordan's efforts, and said the railroad would not change its direction with his departure.

"I think the board is very impressed with the movement to make the company profitable," said Ann Friedlaender, economics professor at Massachusetts Institute of Technology. "It is not a management problem; it is a political problem."

Wiley A Branton, dean of Howard University Law School, agreed: "The board has been actively involved in setting policy. I assume there would be no appreciable change unless we hired somebody who convinced us a change is needed."

A $200,000 SALARY

Jordan, who earned a $200,000 annual salary plus bonuses, has agreed to remain as chairman until mid-1981, if necessary, and as a consultant beyond then.

He will be on a five-member committee of the board of directors searching for a replacement.

Asked about why he was leaving, Jordan spoke of the economic problems facing the country's industrial base, and he said he sees an opportunity at Cornell to work on the problem. "What is going to be the relation of government policies to the private sector?" he said, adding that government should work to "sustain, enhance and improve" industry "rather than see it deteriorate."

He said he thought Cornell would provide him with the opportunity to help examine those issues.

Congressional officials said Jordan's departure would have little immediate impact on their efforts to reform railroad laws, but they said the long-term effects remain to be seen. "What this does," said Florio, "is to just raise questions of the adequacy and stability of Conrail's management, on top of all the other questions that we have had." ●

ALYCE D. CANADAY—NCCW WOMAN OF THE YEAR

● Mr. CANNON. Mr. President, I was pleased to learn that the National Council of Career Women recently selected a former Senate staff member, Alyce D. Canaday, to receive its 1980 Woman of the Year Award.

Alyce is now the legislative representative for Pacific Power and Light Co. of Portland, Oreg., and is working on several legislative issues now before the Congress. I think this award given by the NCCW represents the esteem in which Alyce is held by her colleagues and recognizes the effectiveness of her work here on the Hill.

I congratulate Alyce Canaday on this award and the National Council of Career Women for the important work it is doing.

I ask that the release by NCCW announcing the award be inserted in the RECORD.

The release follows:

ALYCE D. CANADAY—NCCW WOMAN OF THE YEAR AWARD

On June 5, 1980, the National Council of Career Women (NCCW) met in their Annual Meeting at the Mayflower Hotel, Washington, D.C. and selected Alyce D. Canaday, Legislative Representative in Washington for Pacific Power and Light Company (of Portland, Oregon), and former Administrative Assistant on Capitol Hill, as their 1980 Woman of the Year.

Ms. Canaday has served as President of the National Council of Career Women for the last year, demonstrating the highest degree of leadership and dedication to the continuing effectiveness of NCCW. When she was presented the award, the citation from the Board of Directors read, in part:

"Under Alyce Canaday's guidance this past year, NCCW's membership has soared to the 450 mark; she has initiated and implemented a Career Register for our Corporate Sponsors; plans are in progress for new NCCW chapters to be established in New York and Washington; our financial future has been secured by careful management; and finally, Alyce is regarded as a true role model of today's successful—but concerned—Washington businesswoman."

NCCW is a national professional organization with a membership of over four hundred women, headquartered in Washington, D.C., and dedicated to the goals of educating today's career woman to strive for perfection and professionalism within her own business and personal life. The goals of the group are realized through programs of career motivation and support seminars held by NCCW—scheduled after the business day, or on weekends. NCCW is listed on the White House roster of women's organizations.

Alyce Canaday is a native New Yorker, graduate of Hunter College, and has resided in Washington for a number of years. She came to Washington to join the professional staff of several distinguished Senators and Representatives, Senator Styles Bridges, Senator Kenneth B. Keating, Congressman Richard White and Congressman Peter N. Kyros, and after 28 years on Capitol Hill, she turned to private industry in Government Affairs. In this area, in 1975 she became Pacific Power and Light Company's Legislative Representative in Washington, and continues in that capacity at present.

In addition to her membership in the National Council of Career Women, Ms. Canaday is a member of the Army-Navy Club, Salvation Army Auxiliary, Board Member of Capitol Hill First Friday Club, Women in Government Relations and other organizations.●

COMPETITION FOR PUBLICLY FINANCED HEALTH CARE?

● Mr. SCHWEIKER. Mr. President, the Insurance Co. of North America (INA) recently published a discussion paper and economic analysis on financing Federal health care programs through the application of market-oriented economics. Undertaken by INA's health care group, the paper offers an approach for reforming the current medicare and medicaid programs using the principles of consumer choice and cost sharing. The proposal would restructure Federal participation in the purchasing of health care services to foster competition among alternative health care plans competing for Federal beneficiaries.

The model being proposed by INA is patterned after the "procompetitive" plans which I and others in the Senate and House have introduced in the 96th Congress. These proposals seek to reform the private health care system through changes in the Tax Code. They provide incentives for employers to offer their employees a choice of health plans. This concept is extended to the public sector by the INA approach.

INA hired Harvard University economist Dr. William Hsaio to perform an actuarial analysis of the proposed program. His analysis projects substantial savings to the Federal Government through enactment of such a program. Dr. Hsaio predicates these savings on the basis of cost sharing of premiums and copayments for health services by eligible beneficiaries. Besides the potential for saving Federal dollars, the model offers another important feature. It affords our Nation's elderly, poor, and medically indigent citizens the same access to health care benefits and providers that individuals with private coverage enjoy.

The INA proposal is a timely contribution to the debate on future directions of American health care policy. The approach adopted involves many considerations, but should be of interest to health care policymakers. Application of competitive principles to the public sector merits our careful scrutiny. I ask that a synopsis of the INA proposal be printed in the Record.

Financing Federal Health Care Programs Through the Application of Market-Oriented Economics

The United States health care system is the world's finest. Nonetheless, the health care system faces two serious problem: (1) health care costs have risen rapidly over the past decade, and (2) nearly ten percent of the population do not have adequate access to health care coverage.

The introduction of market-oriented economic incentives in the delivery of health care services, through the restructuring of federal health care financing programs, is a positive, responsible way for Congress to address these imperfections in our health system. Such incentives would help contain costs, foster efficiency, and free limited governmental resources for the expansion of truly needed health care benefits.

To demonstrate how these economic principles can be applied to the health care system, the INA Health Care Group ("INA") has designed a model federal financing program called Healthcare Options Plan Entitlement ("HOPE"). This program, which would supersede and expand Medicare and Medicaid, would provide each eligible beneficiary with a credit with which to purchase his or her health care coverage. Various kinds of qualified private health benefit plans, offering as a minimum a federally guaranteed benefit package, would be encouraged to compete to serve these beneficiaries. HOPE would replace the existing federal financing system of retroactive cost-plus reimbursement for hospital and medical care—a system that fuels spiraling inflation and generates excess spending and utilization. Instead the government would pay a major portion of fixed premiums to qualified plans that reflect competitive pricing in the marketplace. Participating health benefit plans—including insurers and health maintenance organizations—would assume the risks and absorb any costs in excess of premium revenues.

Under HOPE, consumers would choose among these alternative plans, contributing, on the average, about 20 percent of the premium cost. Additionally, consumers would share on a first dollar basis in the costs of actual services rendered. Such first dollar cost-sharing would make patients more efficient health care consumers, deterring unnecessary utilization of hospital and medical services. This factor, in turn, would encourage insurers, physicians and providers to price competitively.

The efficiencies generated by these improvements would result in a substantial reduction in federal health care budget expenditures—cost savings that under HOPE would be rechanneled into improved benefits and expanded coverage for poor and older Americans.

To determine how much coverage could be expanded and benefits improved within existing federal and state budget levels, INA commissioned Harvard Associate Professor William Hsiao to undertake an economic and actuarial analysis of HOPE. Dr. Hsiao conducted a computer simulation study, based on the health care practices of 150,000 families. The current state of the art does not permit quantification of all the efficiencies that HOPE would achieve. Thus, Dr. Hsiao's study tends to underestimate the actual savings that would be realized from the application of these principles of market-oriented economics. His analysis demonstrates that HOPE would generate savings of $2.5 billion from reduced utilization and an additional $2.7 billion from the reduced government share of expenditures for health care. These measurable cost savings would make it possible within existing governmental funding levels to:

(a) expand the total population of poor and older Americans served by federal health financing programs from the 48 million covered today to 60 million, thereby reaching many persons who presently are without any health care coverage;

(b) offer a nationwide, standardized benefit package for all eligible beneficiaries, comparable to the hospital and medical services now provided by Medicare;

(c) provide full credits for all Americans over age 65 and the eligible poor whose income for a family of four is less than $6,000 and partial credits for persons whose family income is less than $8,000; and

(d) ensure a minimum level of catastrophic protection for all beneficiaries.

The HOPE proposal demonstrates that the principles of competition, fixed-premium financing, consumer choice, and cost sharing can be applied effectively to federal financing programs. While the HOPE model is certainly not the only way to infuse market-oriented principles into the health care system, it does indicate that, in these times of fiscal constraint and rapid inflation, there are ways in which federal health care dollars can be used to contain rising health care costs and stimulate more efficient and comprehensive health care for all older Americans and the poor.●

IS THE ADMINISTRATION TRYING TO KILL REGULATORY REFORM?

● Mr. LAXALT. Mr. President, the Judiciary Committee and the Governmental Affairs Committee have both reported comprehensive regulatory reform bills, and the two committees are presently in the process of trying to resolve the issues between those two bills in order to prepare a single bill for floor action.

I know of no other issue which is of greater concern to that segment of the American population which feels the direct impact of the regulatory process than meaningful regulatory reform, and those of us on both sides of the aisle who have worked diligently on this project over the past year and a half look forward with anticipation to the day when the Congress can present a bill to the President for his signature.

In the past several weeks there has been an apparent decrease in enthusiasm for meaningful regulatory reform on the part of the administration, and I suspect that the administration may have changed its position on regulatory reform; rather than pushing for legislation it is actually trying to kill it. That impression has been confirmed by a recent article in the National Journal which outlines administration opposition to regulatory reform, which I wish to call to the attention of my colleagues. I ask that the article, entitled "Regulatory Reform May Lose Regulatory Revolution Advocates," be printed in the Record.

The article follows:

Regulatory "Reform" May Lose to Regulatory "Revolution" Advocates

(By Timothy B. Clark)

Labor unions, consumer groups and environmentalists have unsheathed their shovels and begun digging a grave for one of business's top goals this year, legislation to "reform" federal procedures for writing regulations.

With the Business Roundtable, the National Association of Manufacturers and others trying to breathe life into the bill, it's a little early to play taps. But it's no exaggeration to say that the patient's condition is serious, if not critical.

Ironically, the measure is in trouble because its proponents fear that Congress may go too far in trying to clean up what is commonly decried as the regulatory "mess." The Carter Administration, the Senate Governmental Affairs Committee and leaders of the House Judiciary Committee believe that their approach—a complicated measure to make moderate, not radical, changes in agency procedures—constitutes as large a step as can responsibly be taken.

But that approach is not strong enough for reform zealots in Congress. Doubting the willingness of the agencies to control regulation, many Members of the House and Senate want to put obstacles in their way.

Sen. Dale Bumpers, D-Ark., is pushing a proposal to give the courts more power to overrule agency regulation. And the House is on record in favor of giving Congress the power to veto agency rules before they take effect.

Although President Carter would probably veto a bill containing either provision, the two amendments have been attached to the regulatory reform bills making their way toward the House and Senate floors. Unless they are amputated soon, the legislation is likely to suffer a lingering death.

That outcome would be disappointing to business, which has found in the regulatory reform legislation a rare issue on which it could work in harmony with the Administration. And it would disappoint Carter, who would like to cap his regulatory record by signing the reform bill he proposed.

But if the bill cannot be stripped of amendments Carter opposes, the White House is prepared to "inter it," according to a memo drafted early last month by Simon Lazarus, an associate director of the Domestic Policy Staff, and Wayne C. Granquist, associate director of the Office of Management and Budget (OMB) for management and regulatory policy. In early June, the Administration seemed to be following the strategy outlined in the draft memorandum: seeking to block the legislation from the House floor. Burying the measure in committee would avoid confronting Carter with a potentially awkward decision, as the memo said: "Obviously we do not want to put the President in the position of having to choose between vetoing his own regulatory reform bill and signing unacceptable legislation."

This posture irritates the Business Roundtable and other business groups, which have devoted much time and effort to the legislation. That probably is not of great concern to the White House, however, since business is more likely to support Republican Ronald Reagan than Carter in this fall's election.

BEHIND THE BILL

In each of his anti-inflation speeches, Carter has railed against unnecessary regulatory costs and called for substituting competition for regulation in specific industries: airlines, banking, trucking, railroads and telecommunications.

Carter has not made such a direct assault on "social" regulation, which is designed to advance such causes as cleaner air and safer workplaces. In response to complaints that government has gone too far in this area, the Administration has tried to institute more efficient regulations and better management of the regulatory agencies.

In March 1978, Carter issued Executive Order 12044, requiring executive branch regulatory agencies (but not the independent regulatory commissions) to:

Analyze the costs and benefits of major proposed regulations and provide good reasons if they choose options other than the least expensive;

Ensure that their top officials supervise the regulation-writing process;

Provide increased opportunity for public participation in the process;

Review existing regulations regularly and weed out those that are outdated:

Write their regulations in plain English.

At about the same time, Carter established the Regulatory Analysis Review Group, a White House body headed by the Council of Economic Advisers, to make sure that the agencies were following the mandates of the executive order. And in October 1978, he set up the U.S. Regulatory Council, composed of 36 regulatory agencies, to coordinate regulatory policy.

Legislation to give Congress's seal of approval to the executive order and extend it to the independent regulatory commissions was introduced in January 1979 by Senate Governmental Affairs Committee chairman Abraham Ribicoff, D-Conn., and ranking Republican Charles H. Percy of Illinois. Their bill (S 262), which included elements not found in the executive order, also drew upon the conclusions of a six-volume study of regulations the committee had published in 1977 and 1978.

The Administration in March 1979 sent Congress its own reform legislation (S 755, H.R. 3623), modeled after Ribicoff-Percy.

And in June 1979, a third significant entry in the field was offered by Senate Judiciary Committee chairman Edward M. Kennedy, D-Mass. His bill (S 1261), like the others, included provisions modeled after the executive order but also contained other features, including a "high noon" provision to force periodic review of regulatory laws.

The bills sponsored by the Administration and the Governmental Affairs Committee were quickly identified as conservative, hold-the-line measures that contrasted starkly with more radical measures offered by other critics of the regulators. That did not surprise the White House, which had hoped to head off pressures for harsher strictures on the agencies.

The rising tide of congressional sentiment against regulation in 1979 manifested itself in a Senate vote to void Interior Department strip mining rules, and attacks in both chambers on a variety of Federal Trade Commission (FTC) rule-making proceedings, including those aimed at funeral homes, used car dealers and sponsors of television commercials appealing to children.

More threatening than these guerrilla sorties against individual regulatory endeavors were division-size maneuvers to shift power to Congress or the courts.

Led by Rep. Elliot H. Levitas, D-Ga., the House supported a legislative veto on several occasions in 1978 and 1979. Last year, for example, Carter was forced to accept a legislative veto provision as the price for House passage of legislation establishing the Education Department. But when Congress vetoed four of the new department's regulations, the Justice Department instructed the agency to ignore the vetoes.

Carter also reluctantly accepted an FTC authorization bill this year that includes a legislative veto.

While the House has sought to give Congress item-veto power over agency rules, the Senate has advocated a greater role for the courts. Bumpers, recalling in particular his frustration with the Health, Education and Welfare Department's treatment of a southern Arkansas school district while he was governor, introduced his amendment in 1976. Although it went nowhere for more than two years. Bumpers last August obtained the endorsement of the American Bar Association's House of Delegates. A month later, the Senate added Bumper's measure to a minor bill that has not been enacted. Despite protests by Ribicoff, Kennedy and other Senate leaders, a motion to table the amendment was defeated 27–51.

PROTEST AND ACTION

Last November, 25 labor, consumer, environmental and other "public interest" groups warned Carter that they would oppose the legislation if it contained a legislative veto or the Bumpers amendment, among other objectionable provisions.

These groups had never been enthusiastic about regulatory reform. Labor had opposed Carter's March 1978 executive order, partly out of fear that its economic analysis requirement was a step toward cost-benefit analysis. In labor's view, cost-benefit analysis is inherently biased against regulation because costs can be easily assessed but benefits are nearly impossible to quantify.

It had not escaped labor's attention that the Occupational Safety and Health Administration (OSHA), which was ill-prepared to conduct complicated economic studies, failed to issue any regulations in 1979.

"We recognize that the regulatory process should be reformed," said Howard Marlowe, associate director of the AFL–CIO's department of legislation. "But it is also true that forces opposed to our interests are the ones crying out for reforms, and that the agencies of government most likely to be affected are those that look out for the welfare of the consumer, the worker and the environment."

Members of the Governmental Affairs Committee and other supporters of modest regulatory reform considered burying the bill lest it become a vehicle for radical anti-regulatory proposals. But momentum was building in the Judiciary Committee.

Sen. John C. Culver, D-Iowa, chairman of the Judiciary Subcommittee on Administrative Practice and Procedure, was particularly eager, believing that action on a pro-business bill would help him in what promises to be a close reelection campaign this fall. Culver's chief interest was in his "regulatory flexibility" bill (S. 299), which is intended to ease the regulatory burden on small businesses, but he also wanted action on a more general reform measure along the lines of the Administration proposal.

During the fall, subcommittee counsel James H. Davidson and Alfred S. Regnery, counsel to Paul Laxalt of Nevada, the panel's ranking Republican, had worked out the details of a comprehensive bill (S. 2147), which the subcommittee approved on Dec. 19. It also reported Culver's bill.

The subcommittee, and later the full committee, ducked three controversial issues: the legislative veto, tougher requirements for economic analysis and public financing for participation in rulemaking proceedings by groups that could not otherwise afford it. Democrats agreed not to raise the third issue if Republicans would not raise the first two.

Instead, the measure contained requirements similar to those in Carter's executive order. It also established a nine-member Regulatory Policy Board that would assume the regulatory management functions of OMB and the Regulatory Council. That the measure was not very controversial was reflected in the reaction of Mark Green, then director of Ralph Nader's Congress Watch, who called it "a good faith effort" by the subcommittee.

The Governmental Affairs Committee, which shared jurisdiction with the Judiciary Committee, approved its bill (S. 262) by 11–0 on April 3. It followed the outlines of the executive order, and Lazarus, the Domestic Policy Staff's regulatory specialist, termed it a "very good bill." Unlike the Judiciary Committee, Governmental Affairs included an Administration-supported provision to authorize $70 million over the next four years to finance participation in regulatory proceedings.

GETTING OUT OF HAND

From the Administration's viewpoint, the situation deteriorated rapidly in May. The first sign came on May 7, when the Senate Judiciary Committee met to consider its subcommittee's bill.

In an action that came as an unpleasant surprise to the Administration, the committee approved, 9–1, move by Sen. Dennis DeConcini, D-Ariz., to add the latest version of the Bumpers amendment to the bill. As modified by Bumpers, who had consulted with the American Bar Association, the amendment would remove the presumption that agency rules are valid, putting the agency and its challengers on an equal footing in court. The challengers would have to prove only that the agency had acted without "substantial evidence," not that its action had been "arbitrary and capricious." If challenged, the agency would have to show that it had the authority by statute or by the "clear implication" of other legal materials.

The committee also accepted an amendment by DeConcini and Laxalt to transfer many legal challenges of environmental regulations to courts outside the District of Columbia. They argued that many environmental cases brought in the District affect other areas of the country. Environmental groups, most of which are headquartered in Washington, oppose amendment.

The bill would establish a Regulatory Policy Board, which could order agencies to subject proposed rules to economic analysis and would periodically review regulatory programs, making recommendations for reforms. At first, the Domestic Policy Staff told the committee this was acceptable, while OMB lobbied against it. Ultimately, the Administration announced its opposition to the legislation.

One day after the Judiciary Committee acted, the Governmental Affairs Committee approved a bill (S 1945) establishing procedures under which Congress could veto proposed agency rules. Proposed by Sens. Carl Levin, D-Mich., and David Boren, D–Okla., the measure was approved by an 11–4 vote.

The bill would require agencies to notify Congress of major proposed regulations and it would give committees 20 days in which to report a resolution disapproving of the agency proposal. The House and Senate would then have 60 days to pass the resolution, which the President could veto. Ribicoff, who supported the Levin-Boren bill, hinted that he would accept it as a floor amendment to the regulatory reform bill.

The White House, which had hoped to be able to head off a House-backed legislative veto provision in the Senate, was horrified. It began to fear that its regulatory reform bill would emerge from conference with a legislative veto provision it could not accept.

In mid-May, the Administration made a concerted effort to block amendments it opposed in the House Judiciary Committee, which had spent weeks working on its version of the bill (HR 3263). In a May 12 letter to Judiciary chairman Peter W. Rodino, Jr., D-N.J., Stuart E. Eizenstat, assistant to the President for domestic affairs and policy, and James T. McIntyre, Jr., director of OMB, wrote that these amendments would "transform this from a bill to tighten regulatory management and streamline procedure into a vehicle for further fragmenting authority and compounding the already intolerable complexity of the regulatory process. Such a bill would not be, in the judgment of the Administration, true regulatory reform."

The legislative veto, Eizenstat and McIntyre wrote, raised constitutional problems and would make the regulatory process "less predictable, less uniform, less responsive to the general interest, as distinguished from particular interests. To enforce government-wide legislative veto, Congress will either have to expand radically its own staff bureaucracy or else become responsible for thousands of minutely detailed regulatory decisions without adequate capacity to monitor or evaluate them."

The Bumpers amendment, Eizenstat and McIntyre said, would "transfer regulatory policy-making authority from regulatory officials and the President to the federal courts. As with legislative veto, this measure will undercut the overall aim of the regulatory reform bill to get a handle on the regulatory problem. The amendment will also impair the ability not only of the President but of Congress to assure that regulatory decision makers are accountable and faithful to statutory mandates."

Within the Administration, opposition to Bumpers is centered in the Justice Department. On May 13, assistant attorney general Alan A. Parker, who heads the department's Office of Legislative Affairs, sent Rodino an eight-page letter detailing Justice's complaints. To underline those objections, Attorney General Benjamin R. Civiletti the next day wrote Rodino of his own "strong opposition" to Bumpers, saying that the amendment "would encourage interested parties to re-litigate in federal court the multitude of factual issues involved in a rule making" and "create incessant uncertainty about the law, fostering more and more complex litigation challenging agency action."

Those protests were before the committee as it met on May 14. The first test came on the legislative veto, when Rep. Thomas N. Kindness, R-Ohio, offered an amendment to allow either the House or the Senate to void an agency rule by majority vote. In an attempt to soften this most objectionable form of the veto, the Administration, with the help of ranking committee Democrats, backed a move by Rep. Dan Glickman, D-Kan., to substitute a measure requiring both chambers to veto a rule, though the President would have no opportunity to veto the veto. It passed, 16–15.

The Bumpers amendment was next on the agenda, and Republican head counts indicated it would pass, 16–15. But Rodino, smarting from the setback on the legislative veto, adjourned the meeting and has refused to schedule another.

THE FUTURE

In early June, the staffs of the Senate Judiciary and Governmental Affairs Committees began a long and tedious series of meetings to discuss a list of some 100 items on which their bills diverged. In the early meetings, they discussed such relatively uncontroversial items as what the agencies should be required to include in their regulatory analyses. Kennedy's staff, for example, insisted that agencies should weight the "anticompetitive" effects of proposed rules, while Percy's staff insisted that the cost-effectiveness of proposed rules should be weighed. More hotly contested matters were being left until later, with Bumpers at the end of the list.

With prominent Senators interested in seeing progress on the regulatory reform bills they had introduced, prospects are reasonably good that the staffs will devise a measure that can be sent to the Senate floor this summer. If that bill does not include a legislative veto provision or the Bumpers proposal, chances are good that both would be added on the floor.

Eizenstat, Lazarus and other Administration officials have been trying to persuade business groups to join them in opposition to cluttering the bill with these amendments, thus endangering its future. But while the Business Roundtable, the National Association of Manufacturers and the Chamber of Commerce of the United States would rather see the legislative veto issue dealt with in separate legislation, they are not willing to lobby Congress on a matter that they regard as essentially a fight for power between the executive and legislative branches. And Bumpers has strong support from the Roundtable, as well as the American Bar Association.

The Administration, labor and the "public interest" groups are also worried that other amendments they oppose might be added to a regulatory reform bill on the Senate floor. That they have cause for concern was demonstrated on May 7, when Sen. Lawton Chiles, D-Fla., offered an amendment to the fiscal 1981 budget requiring that the executive branch implement a "zero net inflation impact" policy for federal regulations issued during 1980 and 1981. If an agency issued a regulation imposing a substantial cost on the economy, the President would have to require that an existing regulation be changed to reduce costs by at least an equal amount. Although Ribicoff argued that the measure was unworkable, it was adopted, 53–34; it was later deleted in conference with the House.

The vote on the Chiles amendment was encouraging to Sen. Robert Dole, R-Kan., who plans to offer a proposal to require detailed cost-benefit analysis by the regulators if the reform bill reaches the floor. Dole would require agencies to describe not only who benefits from a proposed rule, but also who is burdened by it. And he would require them to reach a formal conclusion that the benefits of each rule outweighs the costs, though neither side of the equation would have to be stated entirely in quantitative terms.

Another amendment that could be offered on the Senate floor is Percy's regulatory "sunset" proposal (S 445), which would force Congress to reexamine regulatory agency charters by providing that their programs cease to exist if not granted new statutory authority.

Labor and public interest groups, opposed not only to these amendments but also to other provisions of the committees' bills, argued in a letter to the committees in May that the legislation "will debilitate the regulatory process rather than strengthen it, or . . . will paralyze the process rather than make it operate more efficiently. We are convinced that many of those now lobbying so strenuously for 'regulatory reform' are in fact fundamentally opposed to the underlying legislation which has created the current regulatory system. The position of these interests is based not on a belief that the regulatory process should be more efficient, but rather on a more fundamental belief that regulations of business and industry is simply not necessary, and that the health, safety, environmental, civil rights and consumer statutes of the last 15 years are undesirable."

The letter was signed by the United Steelworkers of America, American Civil Liberties Union, National Consumers League, Consumers Union of the U.S. Inc., Sierra Club, Institute for Public Representation and Congress Watch.

The AFL–CIO is openly trying to kill the legislation. "This bill is disastrous and can only become worse if it gets to the floor," says a fact sheet that the federation is circulating among its members and on Capitol Hill. "We are hoping that the bill will die a quick and peaceful death," said Marlowe.

The AFL–CIO's strategy is to keep the bill from the House floor by bottling it up in the Judiciary Committee. In the past month, it has worked to that end with the Administration and Rodino. Unless the votes can be found to reverse the committee's position on the legislative veto and to defeat the Bumpers amendment, the Administration apparently prefers to let the legislation wither in the committee. So far, Rodino is going along.

Thus the Administration seems to be following the course outlined by Lazarus and Granquist in their memo of early May. Lazarus and Granquist said the House manager of the reform legislation, Rep. George E. Danielson, D-Calif., chairman of the Judiciary Subcommittee on Administrative Law and Government Relations, "wants to charge ahead and report the bill regardless of what its content turns out to be after the full committee is through with it. So we will need the help of Rodino, [second-ranking committee Democrat Jack] Brooks [of Texas] or perhaps the Speaker [Thomas P. O'Neill Jr., D-Mass] to keep it from the floor."

The Lazarus-Granquist memo added that Senate Majority Leader Robert C. Byrd, D-W.Va., "presumably can be counted on to refuse to bring the bill up."

The Business Roundtable and other business lobbies that have put much time and effort into the legislation would view that as a betrayal, and their spokesmen say they would spread the word of the White House perfidy to businessmen around the country. The Administration, they say, should have realized at the outset that it would be very difficult to get a regulatory reform bill through Congress without a legislative veto provision, and they argue that Carter, at a minimum, should be willing to accept something akin to the Levin-Boren proposal. The Bumpers amendment, they argue, merely codifies existing federal court practice and should not be considered an obstacle to the measure's enactment.

Whether or not it decides to bury the bill, the Administration will continue to emphasize what it considers to be its good record in regulatory reform. On April 28, Regulatory Council chairman Douglas M. Costle, who also is administrator of the Environmental Protection Agency, released a lengthy volume detailing "innovative" steps agencies have taken in their regulatory tasks during the Carter Administration. A month later, the council released the third edition of the council's regulatory calendar, which the Administration touts as an important means of disciplining the agencies and informing the private sector of the forthcoming regulatory proposals. On June 13, the council released yet another report on accomplishments in innovative regulation, and Carter issued a directive to the agencies encouraging them to continue looking for ways to reduce the economic burdens of their rules.

A fourth such event is soon to come, when OMB releases its second report on the agencies' progress under the executive order. The report will say that some 200 regulatory analyses have been completed, are under way or are planned, and that the analyses have resulted in more efficient regulations. It will reveal new regulatory management steps the Administration is considering, including a requirement for some form of "regulatory flexibility" by the agencies, a "regulatory cost accounting" requirement that would move a bit closer to cost-benefit analysis and computers for analyzing new and existing regulations.

Press coverage of such events, the Administration hopes, will convince the public that Carter is committed to regulatory reform even if his agents are working to kill the legislative centerpiece of his efforts to control the social regulatory agencies.●

DR. RICHARD D. WEIGLE, PRESIDENT OF ST. JOHN'S

● Mr. MATHIAS. Mr. President, St. John's College in Annapolis, Md., is senior in service to every other college and university in America except Harvard College and William and Mary College. It was founded in the year 1696 and has been contributing to the academic and cultural life of Maryland ever since.

Successful leadership on the college campus has proven to be one of the most difficult and challenging jobs of the current generation. It is hard enough in a modern college with only the future to worry about. It is even more complex when a college president must preserve the institutional values inherited from a long, historic, and distinguished past while transmitting the positive assets of the present to the future. At St. John's Dr. Richard D. Weigle has been able to succeed in every aspect of his job as president since 1949.

St. John's ranks among the oldest and best of American colleges is more secure today than at any time within memory. The reach of the college has been extended by a second campus at Santa Fe, N. Mex. More students than ever want to study at St. John's—the best assurance of collegiate longevity.

Dr. Weigle has been president for three decades so these achievements bear his imprimatur. He deserves much credit and many thanks. In his work he has been supported and ably assisted by Mrs. Weigle who has made her own important independent contribution to campus life.

The editors of the Baltimore Sun salute Dr. Weigle in today's paper and I ask that a copy of the editorial "Champion of Liberal Arts" be printed in the Record.

The editorial follows:

Champion of Liberal Arts

College presidents come and go, academic styles change, institutions rise and fall, but little St. John's College in Annapolis has remained uncompromisingly dedicated under the 31-year presidency of Richard D. Weigle to its own rigorous liberal-arts curriculum, yielding neither to permissiveness nor to the demands of career training. The third oldest college in the United States, St. John's since 1937 has had a compulsory four-year program, taught by the seminar-tutorial method, with no electives or majors, no lecture classes or textbooks, no escape from the correlative emphasis upon the humanities and upon mathematics and the laboratory sciences.

Despite the intensity of its demands on young minds, and the absence of intercollegiate sports and fraternities and sororities, St. John's still has many more applicants than it can enroll, and its future appears secure. This was not so true in 1949, when Dr. Weigle, previously an executive officer in the State Department, assumed the presidency. Then, the college was in financial trouble, and its land was eyed covetously by its big neighbor, the Naval Academy. In his 31 years Dr. Weigle has doubled the student body from 196 to nearly 400, increased endowments 40-fold and started a second campus in New Mexico, where 270 students are enrolled. He stoutly defended the admission of black students and later, women students, and also served in public capacities as head of the Anne Arundel school board and as an active Annapolis preservationist.

In stepping down now, Dr. Weigle has well earned his national recognition as the champion of a classical education. While other institutions in Maryland and elsewhere have swung with the academic tides, pushing business administration one decade, engineering the next, Dr. Weigle has stuck with the basic requirements for a traditionally well-educated man and woman. "To those who would say they're interested in learning something practical," he remarked last year, "we would say a liberal education is the most practical because it is useful to learn how to use your head."

While a given set of job skills in our society may become obsolete, Dr. Weigle has inculcated the virtues of versatility over specialization and found a small but responsive body of young people willing to accept the mental discipline. He leaves St. John's in much better shape to carry forward the Great Books tradition.●

GOVERNMENT CONSULTANTS

● Mr. PRYOR. Mr. President, I want to bring to the attention of my colleagues an excellent article in the June 29, 1980, Washington Post by Jonathan Neumann and Ted Gup. This article described the efforts by Adm. Hyman Rickover to cancel a party given by a consulting firm in the same office building where many Navy officials work and featuring Washington Redskins and several Redskin cheerleaders.

Admiral Rickover should be commended for his efforts. This type of party is indicative of the "cozy" relationship that too often exists between employees of our departments and agencies and the consulting industry.

This most recent effort by Admiral Rickover is only one of several actions he has taken during the course of his illustrious career to stop consultant abuses in our federal system. On numerous other occasions he has brought to light the millions of dollars that the Navy wastes each year on frivolous, unnecessary consulting contracts. In this respect, Admiral Rickover has been a pioneer in shining some light on a covert consulting industry of unknown proportions. I would hope that my colleagues join me in commending Admiral Rickover for his continuing efforts in this area.

Mr. President, at this point, I ask that the complete text of the Washington Post article be printed in the Congressional Record.

The article follows:

Rickover Makes Waves About Party by Navy Contractor in Virginia

(By Ted Gup and Jonathan Neumann)

A Navy contractor held a party Friday afternoon in the same Arlington office building that houses a key military installation, the Naval Sea Systems Command. It was billed as a "Toast to the Redskins," and star quarterback Joe Theismann was there, along with two linebackers and a group of Redskinettes.

No less a figure than Adm. Hyman G. Rickover tried to stop it, pointing out in a hard-edged memo that the party at the offices of Columbia Research Corp.—a consulting firm with $4 million in government contracts, most of them with the Navy—represented the type of conflict and favor-giving that plagues the field of government contracting.

"Make every effort to get Columbia Research Corp. to cancel the party," wrote Rickover. "The purpose is to gain favor with customers responsible for spending government money . . . (It is) intended to influence Navy officials to award business to them."

Rickover's entreaty was of little avail.

The consulting firm ignored him, saying the party was just business as usual. And when the party was in full swing on the 13th floor of the National Center Building, there, among the 200 or so guests, were several Navy personnel.

Rickover said the party and ties between the Navy and the consulting firm raises serious questions. He noted that:

The consulting firm is headed by a retired vice admiral [Robert C. Gooding] who used to head the Naval Sea Systems Command (NAVSEA).

The firm leases office space in the same office.

The party "will be distracting government employes from their business and placing them in positions in which conflicts of interest may arise."

Attendance at the party could violate Defense Department and Navy policy.

Thomas J. Jira, a vice president in the consulting firm, said yesterday that he saw nothing improper about the reception. He said that it was open to the public, and he pointed out that many CRC contracts are with private firms, not with government.

The reception was planned about two months ago, Jira said, as part of the company's routine marketing efforts to advertise and win new business.

Invitations to the reception were placed on car windshields in the garage of the NAVSEA building last week. The party was scheduled from 11:15 a.m. to 12:45 p.m. Friday—so that government officials could attend on their lunch hour, Jira said.

The Redskinettes, attired in scanty outfits, stood in a cafeteria next to the building, inviting people to come upstairs to meet the Redskins and share in the free champagne.

In interviews, Redskins linebacker Pete Wysocki and Theismann, who were paid to attend along with linebacker Brad Dusek, said they were unaware beforehand of the purpose of the reception.

"All we did was sign autographs and say hello," Wysocki said. "What happens when I'm not around, that's their business."

Said Theismann: "I looked at it like any other banquet. It was really just an autograph session."

Last week, The Washington Post published a five-part series on problems in federal consulting and research contracting. The series examined the "revolving door"—with government officials taking posts as federally-funded consultants—and government officials accepting favors from contractors.

The series ended last Thursday. That morning, the day before the party, NAVSEA officials decided to instruct their employes that it would be "inappropriate for them to attend the function," said NAVSEA Cmdr. Paul Carpenter.

In a letter dated Thursday from Adm. James Webber to CRC president Norman Witbeck, he urged the firm to cancel the party and cautioned them against inviting government employes to future functions of this sort.

The consulting firm's Jira said he received a telephone call from a Navy official before the party.

"He suggested we were doing something

wrong, something illegal, and he asked us to cancel it . . . I knew we weren't doing anything wrong and I tried to be as diplomatic as possible."

Columbia Research president Witbeck acknowledged in an interview during the party that Navy personnel were in attendance, but said most of the guests were not federal employees. "I doubt there's more than a handful" of Navy personnel at the party, he said.

In a Thursday memo sent to the NAVSEA commander and to the Secretary of Navy, Adm. Rickover wrote:

"There is no relationship that I know of between the Washington Redskins football team, its cheerleaders, and the work of the Naval Sea Systems Command. If, in fulfilling its responsibility for acquiring and maintaining ships and weapons, the Navy needs assistance from the Redskins, and cheerleaders, the Navy is in worse shape than I had thought."

Rickover also wrote:

"If the judgment exercised by Columbia Research Corporation in sponsoring and promoting the proposed party is indicative of the judgment the company applies under Navy contracts, this incident underscores the waste that is so often associated with consulting contracts . . .

"To the extent consulting contracts are necessary—and I believe that in nearly all cases the Navy would be better off without them—the determination of who gets what contract should depend strictly on the bonafide needs of the Navy and the capability of the firm.

"There should be no room in the process for a consulting firm to enhance its business based on personal contracts or social activities."

A member of Rickover's staff said yesterday that the admiral would have no comment on his memo.

Kenneth Hannah, a CRC vice president, said in an interview yesterday that he felt his firm did nothing improper. He said nothing of value was given to government officials, that all the costs of the reception were paid out of company profits, and not from federal funds.

Department of the Navy,
Naval Sea Systems Command,
Washington, D.C., June 26, 1980.

Memorandum for the Commander, Naval Sea Systems Command

Subj: Consultants, Washington Redskins and the Naval Sea Systems Command.
Encl: (1) Columbia Research Corporation Invitation to "A Toast to the Redskins—1980."

1. Enclosure (1) is an announcement that appeared last night on the windshields of cars parked in the basement of the buildings primarily occupied by the Naval Sea Systems Command. It consists of an open invitation by the Columbia Research Corporation to attend "A Toast to the Redskins—1980" to be held between 11:15 and 12:45, June 27, 1980, on the 13th floor of National Center Building 3. According to the announcement, the affair will feature as special guests Washington Redskins players Joe Theismann, Pete Wysocki and Brad Dusek, together with "The Redskinettes". I do not know the extent to which this announcement was distributed in other parking lots or office spaces occupied by Navy personnel.

2. As you aware, the Washington Post has been publishing a series of articles regarding consulting abuses. Yesterday's article specifically mentioned a NAVSEA contract. In my opinion, the Columbia Research Corporation's open invitation to entertain Navy personnel is inappropriate and unless prompt action is taken will result in further unfavorable publicity for the Naval Sea Systems Command. Specifically:

a. The Columbia Research Corporation has consulting contracts with the Naval Sea Systems Command and presumably with other segments of the Navy.

b. The Columbia Research Corporation is headed by a retired Vice Admiral who was one of your predecessors as Commander of the Naval Sea Systems Command.

c. The Columbia Research Corporation is one of only a few consulting firms which have arranged to lease office space in National Center Building 3 which is otherwise occupied by Naval Sea Systems Command offices.

d. There is no relationship that I know of between the Washington Redskins football team, its cheerleaders, and the work of the Naval Sea Systems Command. If, in fulfilling its responsibility for acquiring and maintaining ships and weapons, the Navy needs assistance from the Redskins, and cheerleaders, the Navy is in worse shape than I had thought.

e. By scheduling a one and a half hour office party during working hours, the Columbia Research Corporation in fostering additional Navy business will be distracting Government employees from their business and placing them in positions in which conflicts of interest may arise. If the consulting firm simply wished to promote the Washington Redskins rather than solicit additional business from the Navy, it would hold its parties on the weekend and at the football stadium.

3. I realize there are other distractions available in the area to entice NAVSEA employees away from their jobs for extended lunch breaks. I understand that the entertainers at a restaurant across the street are more scantily attired than the Redskinettes; however, in that case the proprietor is trying to encourage his customers to spend their own money. In the case of entertainment provided by consulting firms, such as Columbia Research Corporation, the purpose is to gain favor with customers responsible for spending Government money.

4. I strongly recommend that you take steps to disassociate the Navy from the proposed party sponsored by the Columbia Research Corporation. Specifically, I recommend you do the following:

a. Make every effort to get Columbia Research Corporation to cancel the party. Retired naval officials frequently contact senior Navy officers for favors. I see no reason why active duty Navy officers cannot attempt to influence former Navy officers and their associates who are not acting in the best interest of the Navy.

b. Ensure that costs associated with the proposed party are not reimbursed to Columbia Research Corporation under any Government contract, directly or indirectly.

c. If Columbia Research Corporation insists on going ahead with this party, request Naval Sea Systems Command employees not to attend on the basis that their attendance would be inappropriate and would reflect adversely on the Navy. I have already instructed my own personnel not to attend.

d. Remind NAVSEA employees of the prohibitions against Government employees accepting gratuities offered by Government contractors. In this regard, the Deputy Secretary of Defense and the Chief of Naval Operations have recently issued memoranda to senior Navy officials reiterating the importance of Defense Department personnel maintaining the highest standards of professional and personal integrity, particularly with respect to acceptance of entertainment or meals paid for by those who have or seek business with the Department of Defense.

5. If the judgment exercised by Columbia Research Corporation in sponsoring and promoting the proposed party is indicative of the judgment the company applies under Navy contracts, this incident underscores the waste that is so often associated with consulting contracts.

6. To preclude future problems of this sort, I recommend that, in future contracts with this firm and with other consulting firms, the Naval Sea Systems Command obtain the contractor's specific agreement that he will not offer or give entertainment or gratuities, nor sponsor promotional activities for Government employees. To this extent consulting contracts are necessary—and I believe that in nearly all cases the Navy would be better off without them—the determination of who gets what contracts should depend strictly on the bonafide needs of the Navy and the capability of the firm. There should be no room in the process for a consulting firm to enhance its business based on personal contacts or social activities such as that described in Enclosure (1). These, of course, are intended to influence Navy officials to award business to them.

7. I would appreciate being informed of the action you take with respect to the above.

H. G. Rickover.●

FEDERAL ELECTION COMMISSION REGULATIONS ON THE PUBLIC FINANCING OF PRESIDENTIAL GENERAL ELECTIONS

● Mr. PELL. Mr. President, on June 16, 1980, the Federal Election Commission transmitted proposed regulations concerning the public financing of Presidential general election campaigns. The proposals generally incorporate some of the changes made in the 1979 amendments to the Federal Election Campaign Act, and comments which were submitted in response to the Commission's notices of proposed rulesmaking on this topic.

Under the act, the Senate has 30 legislative days in which to take action on this matter. For purposes of these proposals, a legislative day is any day in which both the Senate and the House are in session. Through Monday, June 30, 1980, 10 legislative days have transpired.

Copies of the proposals and a summary are available from the Federal Election Commission, 1325 K Street NW., Washington, D.C. 20463, telephone 202–523–4143, and information may be obtained from the Committee on Rules and Administration, Elections Section, 310 Russell Senate Office Building, Washington, D.C. 20510, telephone 202–224–5647. Members of the Senate are requested to direct questions and comments to the committee.●

SUPREME COURT UPHOLDS CONSTITUTIONALITY OF HYDE AMENDMENT

● Mr. GARN. Mr. President, today, the Supreme Court ruled on the constitutionality of the Hyde amendment. By a vote of 5 to 4, the Court upheld the Hyde amendment, and permitted the States to set their own rules for abortion funding.

The decisions turned on one vote. I have not seen the opinions, but the press reports are now widely available. The five members in the majority have earned the respect of the Nation, for they have stood by the express language of the Constitution although faced with enormous pressure. Justices Stewart, Powell, Rehnquist, White, and Chief Justice Burger have earned the respect of every person devoted to the principles of the U.S. Constitution.

Mr. President, the issue in today's cases was not so much abortion as separation of powers. For this reason, many Members of Congress who have voted against the Hyde amendment joined an amicus curiae brief urging the Court to upheld the amendment. Abortion was not the issue: The issue was "Who is going to decide how taxpayers' money is spent?"

Abortion activists had taken some comfort from the fact that Judge John Dooling of the Eastern District of New York thought that he and other Federal judges had the right to say how the Treasury should disburse its funds. I am deeply grateful that a majority of the Supreme Court does not share Judge Dooling's arrogance.

As many in this body know, 238 Members of this Congress joined the brief urging the High Court to reverse Dooling. And today, five members of the Supreme Court joined with those 238 elected Members in reaffirming what the founders wrote into the Constitution: "No Money shall be drawn from the Treasury but in Consequence of Appropriations made by Law." U.S. Constitution, article I, section 9, clause 7. Although I am pleased with the result, I am troubled by the fact that four members of the Court thought that someone other than Congress should determine the spending priorities for the country. I am anxious to see the dissenting opinions so that I can learn just who it is who is to be making appropriations decisions if not Congress and the State legislatures.

The decisions of todays majority were correct. They were constitutional, and this is the only standard to which they must adhere.

Pro-abortion people and pro-life people are free to pursue their own visions of America, and now it must be done in the appropriate forums—the elected national Congress and the elected State legislatures. The Court has not decreed that the Constitution requires funding or prohibits it. It has merely said that such decisions are to be made by the political branches. This is as it should be. If the pro-abortionists continue to insist upon tax paid abortions, let them carry their arguments to the legislative arena and let them prevail on the merits of their arguments. After all, legislative bodies are designed to make these kinds of policies.

I plan to continue to support the abortion policies which I have supported in the past. I trust that coming years will see a continuing realization within this body and within the other body of the need to protect and defend innocent human life.

Mr. President, I shall submit for the RECORD an article by Basile J. Uddo to be inserted in the RECORD. Mr. Uddo is a professor of law at Loyola University. His article appears in the latest Human Life Review, an excellent quarterly published by the Human Life Foundation, 150 East 35th Street, New York, N.Y. 10016.

In addition to Mr. Uddo's article on the congressional power of the purse, I refer readers of the RECORD to another article I inserted. That article also appeared in the Human Life Review, and was written by Prof. John T. Noonan, Jr., of the University of California-Berkeley Law School. The Noonan article is found at page 18761 of the RECORD of June 23, 1978.

The article follows:

PERVERTING THE POWER OF THE PURSE

(By Basile J. Uddo)

When the framers of our Constitution gathered in Philadelphia in 1787 there was nothing close to total agreement among the delegates to the Constitutional Convention on most issues that would face them. At a minimum it was accepted that the Articles of Confederation were in many ways deficient; improvement was the basic work and long-term hope of the Convention. Beyond that, opinions were as varied as the attendants themselves. But for all of the disagreements, large and small, the debates reflect one point of consistency—no one thought that the purse strings of the government should be in the hands of anyone other than the people's direct representatives.

Just how strongly that view was held is demonstrated in several passages in which delegates argued the merits of limiting the *origination* of "money" bills to the House of Representatives. The debate was particularly intense because at the time it was thought that the Senators would not be elected directly by the people of the states, but by the state legislatures.[1] That extra step—once removed from direct election—caused great concern over the degree of power the less-representative Senators should have over the purse.

James Madison's notes on the debate reflect the concern of Elbridge Gerry, a delegate from Massachusetts who "moved to restrain the Senatorial branch from originating money bills. The other branch was more immediately the representatives of the people and it was a *maxim that the people ought to hold the purse strings.*" None other than Benjamin Franklin endorsed the motion and again Madison's notes explain why:

"But as it had been asked what would be the use of restraining the second branch from meddling with money bills, he could not but remark that it was always of importance that the people should know who had disposed of their money, and how it had been disposed of. It was a maxim that those who feel can best judge. This end would, he thought, be best attained if money affairs were to be confined to the immediate representatives of the people."[3]

Statements of support were many and on point. Gerry again: "Taxation and representation are strongly associated in the minds of the people, and they will not agree that any but their immediate representatives shall meddle with their purses."[4] Some others went so far as to suggest that the Senate should not be allowed even to "alter or amend" money bills, but that seemed a less pervasive concern.

To be sure several delegates thought that the Senate would be representative "enough" to allow them to originate money bills and wield powers indistinguishable from the House, but even they saw the critical need for responsiveness to the people as indispensable. As James Wilson of Pennsylvania put it: "Where is the difference, in which branch it begins, if both must concur, in the end?"[5] Finally, the protectors of the purse prevailed and the House became the official originator of all revenue bills,[6] and the consistent customary originator of all money bills.[7] Imagine, then, the surprise those delegates would experience at learning that their hard-fought protection of the purse from all but the most directly-responsive body has been ignored by a single federal judge in Brooklyn. How shocked would they be to learn that the money power has not been usurped by a *less* representative legislative body, but by a non-representative, life-tenured judge? The answer, of course, is quite shocked, perhaps outraged. And, yet, that is precisely what has happened.

When Judge John Dooling declared the Hyde Amendment unconstitutional, he did more than exercise the power of judicial review: in addition, he "brushed aside"—as the New York Times approvingly said—the clear constitutional mandate that only Congress can appropriate funds. He did this by ignoring not only the text of the Constitution, but the rules and procedures of Congress. Also, he misunderstood two cases that he felt supported his unprecedented action. The net result is that Judge Dooling has laid the ground-work for the most serious constitutional crisis since the much-celebrated Nixon days.

To understand what has happened the proper starting point is the Constitution: Article I, section 9, clause 7, states in clear and unambiguous terms that "No money shall be drawn from the Treasury but in Consequence of Appropriations made by Law." An appropriation is made by law only when it originates in the House and is duly enacted by both houses and signed by the President. Has there been such an appropriation to pay for most elective abortions under the Medicaid Act? Quite the contrary. No bill appropriating such funds ever originated in the House, nor has such a bill been passed by both houses, nor has such a bill been sent to the President much less signed by him. Yet, the government is paying for such abortions under Judge Dooling's order.

What, in fact, Congress did do with the Hyde Amendment was to say that of all the money appropriated for the Medicaid program "None of the funds contained in [that] act shall be used to perform abortions" with certain specific exceptions. The Hyde Amendment, then, is an often-used type of rider, by which Congress has frequently refused to appropriate money for certain purposes.

Congressional understanding of the effect of such riders is clear in its own rules. Rule XXI of the Rules of the House of Representatives, the Holman Rule, says that such an amendment is accepted as "being germane to the subject matter of the bill" and as "retrench[ing] expenditures by . . . the reduction of amounts of money covered by the [appropriation] bill."[8] The precedents of the House make it equally clear that the effect of such an amendment so received is to constitute a decision not to appropriate funds for the specied purpose.[9] Simply put, there are no funds appropriated for the proscribed purpose, and none can become available unless Congress appropriates them anew.

Judge Dooling's ruling simply ignores these points, and, consequently, the nature of the appropriation power. His order assumes that an appropriation act contains a general sum of money with certain conditions attached, which federal judges are free to ignore if they think them constitutionally impermissible. But such a view eliminates the entire policy role of Congress in deciding whether or not to appropriate in the first instance. Such a power assumed by federal judges, or the President for that matter, would be tantamount to a "line item" veto, which would make Congress a mere bookkeeper for the other branches of government. The people's most immediate representatives simply could not represent! A negative policy decision by Congress, becomes, by judicial sleight of hand, its opposite.

Quite realistically, such a subversion of the Constitution would do serious damage to our whole system. The effects would be felt far beyond abortion. It has been observed that riders similar to the one Judge Dooling rejected have been applied to appropriations as diverse as controlling water projects to ending the "police activities" in Vietnam.[10] Once ignored in abortion funding it is no

---

Footnotes at end of article.

great leap to ignore such restrictions in all appropriation acts. Consequently, any group which has been frustrated on the Congressional level, by not receiving funding of its project, will certainly turn to the federal courts to obtain injunctions requiring the expenditure of funds Congress explicitly refused to spend. Surely, there are judges in our system who would find credence in virtually every such claim. In the end the feared fusion of distinct branches of government would become complete.

How, then, did Judge Dooling make such a mistake and set the stage for such a result. The reasons are two: a misreading of precedent, and an apparent assumption that federal courts certainly *must* be able to so act. On the precedent Judge Dooling thought he found support in two cases: *Lovett* v. *United States*[11] and *Califano* v. *Westcott*.[12] Contrary to Judge Dooling's opinion, *Lovett*, in fact, supports the opposite position and *Westcott* is inapplicable.

In *Lovett* three individuals challenged an act of Congress that prohibited payment of their salaries unless Congress confirmed their continued government employment. Despite the act the three individuals continued to work and sued in the Court of Claims for back salary. That court decided that the claimants had a right to the money, but never suggested that it could order Congress to appropriate, or the Treasury to pay, such funds. "Judgments, recovered here," said the court, "may be satisfied by an appropriation out of which the judgments may be by Act of Congress, payable."[13] No attempt was made to order payment; an appropriation act would be necessary for that.

In time the Supreme Court affirmed the Court of Claims, calling the salary exclusion an unconstitutional bill of attainder. But again, no order was made to appropriate or pay the funds. In fact, the plaintiffs would never have recovered their salaries had not the House, after much debate, voted 99–98 to appropriate the funds[14] Consequently, one of the major building blocks of Judge Dooling's order crumbles under analysis.

So too is *Wescott* no precedent for judicial appropriation. In *Wescott* the Court was examining a Congressional scheme that provided certain unemployment benefits for fathers. The act was challenged as gender-based discrimination. The Supreme Court found the challenge meritorious and held that the program would have to extend to unemployed mothers as well. The critical differences between *Wescott* and the abortion funding cases are obvious. First, *Wescott* did not involve an exercise of the appropriation power by Congress. Second, and understandably, no appropriation conflict was argued to, or properly before, the Court. Consequently, *Wescott* is simply not concerned with the crucial appropriation conflict inherent in the Dooling order.

That leaves the Dooling order with the dubious support of an unarticulated and amorphous feeling that judges simply must be able to do this to make remedies real and protect certain basic principles. The problem with such an analysis is that it ignores the separation of powers by failing to distinguish between judicial review and the legislative act of appropriating money, and fails to realize that there really are some things judges are not supposed to do.

The separation of powers is clear in the Constitution. While no one disputes the judiciary's right to determine the constitutionality of Congressional acts, it does not follow that such a declaration brings with it the right to exercise a power textually committed to another governmental branch. In fact, the opposite is true. The Court might declare an appropriation limitation unconstitutional, but the Congress must be left free to choose between not funding the whole scheme in question or adhering to the Court's criteria on the offending limitation. Presumably, the pulling and tugging of the democratic political processes will have their intended effect upon which option the Congress chooses.

What it comes down to is dependence upon the intended scheme of mutual respect among the branches of government. When the Court addresses itself to those powers explicitly committed to other branches, e.g. appropriations, decisions to tax or make war, etc., the Court may speak but not compel. Enforcement comes from a respect for the well-reasoned teaching of the co-equal Court.

But in addition to the separation of powers there is the important institutional concern which must be respected. Simply put, a court is not a good place for making appropriation decisions.

An appropriation bill must travel a most elaborate legislative process from its original introduction to its final signing by the President. This process includes a House appropriations committee which is equipped to gather a maximum amount of information about the appropriation request. Unfettered by the more technical rules of procedure and evidence that prevail in a court, this committee may develop a fuller sense of the need for the programs and funds.

After the appropriations committee the bill receives additional examination and debate in the House. Once passed in the House a similar route is followed in the Senate. Amendments may be attached in the Senate, which then must be acted on by the House. Eventually, differences may exist that will require a joint House/Senate conference committee wherein the pulling and tugging of the process will reach eventual compromise.

Through it all the people's most immediate representatives are gathering information, setting priorities, integrating the instant bill with the overall budget and making decisions on what is essential and what is superficial. Just now, too, legislators must also consider what is consistent with anti-inflation budget cuts. Finally, the process produces a result for which elected representatives must answer at the polling booths.

Obviously, a court lacks most of these mechanisms and is presented with a very narrow view of a very limited question that simply cannot provide the data for making complex funding decisions. When a court orders the funding of A it cannot possibly know if that means X, Y, or Z will go unfunded. Of course, under the Dooling approach, X, Y, and Z too will eventually lay their claims before the courts and ask for some further judicial surgery on the federal fisc. The courts will become lost in something they do poorly, and their mistakes will be nearly impossible to remedy. The courthouse is simply no match for the statehouse when it comes to spending the people's money.

This rule that in some areas a court can go so far and no further, and that some things are not meant for judges, is not newly discovered, nor would it have shocked most people who have lived under our Constitution. In fact Judge Dooling, and those who influenced his thinking in the abortion funding case, are the first to suggest otherwise.

The most influential contemporaries of the Constitution—James Madison and Alexander Hamilton—did not hesitate over the suggestion that only Congress controls the purse strings. Both used their Federalist Papers to drive home the point.

Madison said in his Federalist Paper No. 58:

"The House of Representatives cannot only refuse, but they alone can propose the supplies requisite for the support of the government. They, in a word, hold the purse—that powerful instrument by which we behold, in the history of the British Constitution an infant and humble representation of the people gradually enlarging the sphere of its activity and importance and finally reducing, as far as it seems to have wished, all the overgrown prerogatives of the other branches of the government. This power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance and for carrying into effect every just and salutary measure."[15]

Hamilton was as firm in his Federalist Paper No. 78:

"The legislature not only commands the purse but prescribes the rules by which the duties and rights of every citizen are to be regulated. The judiciary, on the contrary, has no influence over the sword or the purse; no direction either of the strength or of the wealth of the society, and can take no active resolution whatever. It may truly be said to have neither *Force* nor *Will* but merely judgment; and must ultimately depend upon the aid of the executive arm even for the efficacy of its judgment."[16]

This clear and unambiguous exclusion of the judiciary from the public purse was not, however, a proposition limited to the idealistic framers of the Constitution, nor to the great defenders of its principles. Courts, and more detached commentators, have not stumbled over the obvious.

Writing in 1833, then Professor (later Justice) Joseph Story confronted the question directly in his famous *Commentaries on the Constitution of the United States*. Speaking of the appropriation of power he said:

"The object is apparent upon the slightest examination. It is to secure regularity, punctuality, and fidelity, in the disbursements of the public money. As all the taxes raised from the people, as well as the revenues arising from other sources, are to be applied to the discharge of the expenses, and debts, and other engagements of the government, it is highly proper, that congress should possess the power to decide, how and when any money should be applied for these purposes.

* * * * *

"It is wise to interpose, in a republic, every restraint, by which the public treasure, the common fund of all, should be applied, with unshrinking honesty to such objects, as legitimately belong to the common defense, and the general welfare. Congress is made the guardian of this treasure; and to make their responsibility complete and perfect, a regular account of the receipts and expenditures is required to be published, that the people may know, what money is expended, for what purpose, and by what authority."[17]

Story went on to speak more specifically to the relationship between Congress and the judiciary with respect to moneys due and the appropriation power.

"A learned commentator has, however, thought, that the provision, though generally excellent, is defective in not having enabled the creditors of the government, and other persons having vested claims against it, to recover, and to be paid the amount judicially ascertained to be due to them out of the public treasury, without any appropriation. Perhaps it is a defect. And yet it is by no means certain, that evils of an opposite nature might not arise, if the debts, judicially ascertained to be due to an individual by a regular judgment, were to be paid, of course, out of the public treasury. It might give an opportunity for collusion and corruption in the management of suits between the claimant, and the officers of the government, entrusted with the performance of this duty. . . . But still, the known fact, that the subject must pass in review before congress, induces a caution and integrity in making and

---

Footnotes at end of article.

substantiating claims, which would in a great measure be done away, if the claim were subject to no restraint, and no revision.[18]

Joseph Story knew well that a court could not do what Judge Dooling has done, but saw clearly the wisdom of putting some things beyond the control of the non-representative, life-tenured federal judge.

Similarly, every court, until now, has understood the problem and respected the constitutional division. After the Civil War several cases arose in which Rebels whose property had been confiscated by the Union government sought its return or money value when, in time, they were pardoned for their part in the Rebellion. Each case respected the exclusive power of Congress over appropriations.

In one example, *Knote* v. *United States*,[19] the Supreme Court's reply was clear ". . . if the proceeds [of confiscate property] have been paid into the treasury, the right to them has so far become vested in the United States that they can only be secured to the former owner of the property through an act of Congress. Moneys once in the treasury can only be withdrawn by an appropriation by law.[20]

Earlier in *Reeside* v. *Walker*[21] the Supreme Court was specific and firm. "No officer, however high, not even the President, much less the Secretary of the treasury or treasurer is empowered to pay debts of the United States generally, when presented to them. . . . The difficulty in the way is the want of an appropriation by Congress to pay this claim. . . . However much money may be in the treasury at any one time, not a dollar of it can be used in the payment of any thing not thus previously sanctioned."[22]

Finally, in more modern times, this unblemished principle was followed, in addition to *Lovett*, in a case dealing with the exact facts before Judge Dooling—the constitutionality *vel non* of the Hyde Amendment. In *Doe* v. *Matthews*[23] Judge Buinno went to the heart of the issue: "Neither the complaint, the moving papers nor the initial brief discusses [the appropriation question]. Yet it cannot be avoided because, on the record before the Court, the Congress simply has not appropriated any moneys . . . to reimburse Medicaid States with a federal share for elective abortions."[24]

The chain is unbroken. The framers of the constitution saw the power of the purse as exclusively within Congressional control. The contemporaneous commentators saw the judiciary as the branch without "purse or sword," and fully approved. The later commentators, with some years of experience under the Constitution, were similarly certain of the scheme, and impressed with its wisdom. Finally, in the courts themselves every judge who ever faced the question, before Judge Dooling, respected and affirmed the basic separation of powers.

Now, a single, federal judge has threatened this clearest of all constitutional principles. His way leaves a dim prospect known throughout our history, that is, the development of a kind of aristocracy within a system that knows no such concept.

George Mason, a convention delegate from Virginia, saw the prospect in the money-power debates. His concern over even the less-representative Senate's power in money matters is reflected in Madison's convention notes:

> "His idea of an aristocracy was that it was the government of the few over the many. An aristocratic body, like the screw in mechanics, working its way by slow degrees, and holding fast whatever it gains, should ever be suspected of an encroaching tendency. The purse strings should never be put into its hands."[25]

How much more would he have feared such an inexorable result were it ever to have been suggested to the Convention that the judiciary might have a power over appropriations.

Professor Story echoed a similar concern. "In arbitrary governments the prince levies what money he pleases from his subjects, disposes of it, as he thinks proper, and is beyond responsibility or reproof."[26] Princes and federal judges are not directly answerable to the people, Congress is. If for no other reason, Judge Dooling's order should be reversed.

But there is another reason. The Constitution requires reversal. What is brewing is a direct conflict between Congress and the Court. If Judge Dooling is affirmed the judiciary will have taken something, which in law, it has no right to possess: the power of the purse. Congress will not be able to tolerate this usurpation and will certainly need to reassert its exclusive appropriation power. The damage to both branches could be significant, and the orderly development of constitutional law based upon a mutual respect among co-equal branches will have been set back immeasurably. This need not happen. The mistake must be admitted; the order reversed, and the balance restored.

FOOTNOTES

[1] This was in fact how Senators were elected until the passage of the Seventeenth Amendment in 1913, which initiated the present method.

[2] A. Prescott, *Drafting the Federal Constitution* 433 (1968) (Hereinafter *Prescott*.)

[3] *Id.* at 437.

[4] *Id.* at 444.

[5] *Id.* at 436.

[6] U.S. Const. art. I, sec. 7, cl. 1.

[7] "The Constitution definitely states that all revenue measures must arise in the House of Representatives and practice has extended this to appropriation measures . . . The House is very jealous of its right and prerogatives and frequently discloses this attitude." F. Riddick, *The United States Congress Organization and Procedure* 282 (1949).

[8] *Constitution, Jefferson's Manual and Rules of the House of Representatives*, Sec. 835 (ed. Deschler, 1967).

[9] Cannon, *Precedents of the House of Representatives*, 7.

[10] Democratic Study Group of the United States, House of Representatives, "The Appropriations Rider Controversy," Special Report No. 95–12, February 14, 1978.

[11] 66 F. Supp. 142 (Ct. Cl. 1945) *aff'd on other grounds, United States* v. *Lovett*, 328 U.S. 303 (1946).

[12] ——— U.S. ——— 61 L. Ed. 2d 382 (1979).

[13] 66 F. Supp. at 147 (emphasis added).

[14] 93 *Cong. Rec.* 2973–75, 2977, 2987–91 (1947). Many statements during those debates indicate that the Congressmen understood they had the power to refuse to appropriate the funds.

[15] *The Federalist* No. 58 at 380 (Modern Library ed.) (J. Madison).

[14] *Id.* at 504 (A. Hamilton).

[17] 3 J. Story, *Commentaries on the Constitution of the United States*, 213–214 (1833) (Hereinafter *Commentaries*).

[18] *Id.* at 214–15.

[19] 95 U.S. 149 (1877).

[20] 95 U.S. at 154 (emphasis added).

[21] 52 U.S. (11 How) 632 (1850).

[22] 52 U.S. (11 How) at 626–628.

[23] 420 F. Supp. 865 (D.N.J. 1976).

[24] 420 F. Supp. at 870.

[25] *Prescott supra*, at 438.

[26] *Commentaries, supra*, at 214.●

H.R. 2255—LIMITING INSURANCE ACTIVITIES OF BANK HOLDING COMPANIES

● Mr. MITCHELL. Mr. President, I am pleased and honored to join my colleague from New Hampshire (Mr. Durkin) in cosponsoring H.R. 2255, legislation to limit the insurance activities of bank holding companies. I believe this legislation represents a long needed reform in the Bank Holding Company Act. If enacted, this measure will protect consumers and small businesses by ensuring that bank holding companies do not gain a monopoly on the banking resources and insurance transactions of this Nation.

This legislation prohibits bank holding companies and their subsidiaries from providing property and casualty insurance except when closely related to the banking activities of the bank holding company. Presently, control by bank holding companies of capital and credit gives them an unfair influence over the purchase of insurance. Consumers in this captive market are limited in their choices of where they can buy insurance, small insurance agents may be forced out of business because they cannot compete with the financial resources of large bank holding companies. If enacted, H.R. 2255 will be a meaningful step toward alleviating this problem.

Maine consumers are already protected under State law which prohibits such activities by bank holding companies. This legislation will extend that protection to consumers in those States which do not have laws similar to Maine's.●

COLORADO NATIONAL FOREST WILDERNESS

● Mr. HART. Mr. President, Senator William L. Armstrong and I are today jointly recommending to the Energy Committee a compromise Colorado wilderness bill.

Our agreement will make possible passage of a bill giving permanent protection to Colorado's most magnificent mountain areas, and resolving other RARE II issues. Without this agreement, it would have been very difficult for a Colorado wilderness bill to receive final congressional approval in 1980.

We have worked hard for more than 3 months to resolve initial differences on this subject. The compromise bill answers to our mutual satisfaction all RARE II issues. Besides settling the amount of wilderness and the boundaries of the wilderness areas, the compromise bill also includes creative solutions to important policy issues related to wilderness designation. I believe the people of Colorado will support this package as a responsible and balanced measure.

Senator Armstrong and I wrote today to Senator Jackson, chairman of the Energy Committee, and Senator Hatfield, ranking minority member of the committee, urging consideration of our compromise bill at the earliest possible opportunity. We understand that the members of the committee must judge independently all legislation before them. Still, we believe our joint position will enable them to act quickly and favorably on a Colorado wilderness bill. We are confident that the committee members, after reviewing our proposal, will agree it serves both the Nation and Colorado well.

Our agreement may have significance

far beyond Colorado. Public and congressional differences over the question of release of the RARE II lands have made it difficult to get approval of many wilderness bills, not just the Colorado bill. Senator ARMSTRONG and I have reached agreement on a formula that addresses the most serious concerns of those who favor statutory provisions releasing to a nonwilderness category the studied but rejected lands, but does not interfere with the regular management of the national forests. I am confident that we can secure enactment of a bill containing this formula. This may serve as a precedent, making possible successful passage of other wilderness bills which are now blocked because of this issue.

WILDERNESS AREAS

The most important part of the bill is the designation of 14 new wilderness areas and the expansion of 6 existing wilderness areas.

These areas include the most magnificent parts of Colorado's Rocky Mountains—the very best of what is so special about our State. The grandeur of these mountains has been important to Americans as long as people have lived upon this continent. We cannot create these mountains, we can only refrain from destroying them. This legislation will do that, by adding them to the National Wilderness Preservation System. We owe this to our children and to the generations who will follow them.

Inevitably, most attention will be focused on the overall acreage of the wilderness designations. The Hart/Armstrong compromise will designate as wilderness 1,418,100 acres. This total is based on an assumption that the acreage calculations in the House-passed wilderness bill are accurate. The differences between our compromise bill and the House bill have been precisely calculated to represent the actual difference between the two measures.

Using this same method of calculation, the actual acreage of the wilderness areas included in S. 2123, the bill I introduced last December, is 1,481,900 acres. Our compromise bill reduces the wilderness total of my measure by 63,800 acres. Since the compromise bill will also designate as congressionally protected wilderness study areas 46,100 acres originally included in S. 2123, the effect of the compromise bill is to remove from a congressionally mandated protected status only a net of 17,700 acres included in my original bill.

However, the most important question is not how many acres are protected, but which areas are protected. The compromise bill includes protection for the most important areas included in my original bill.

SOUTH SAN JUANS

The most controversial wilderness proposal has been the eastern portion of the South San Juans. The compromise bill puts this entire area in the wilderness system. Senator ARMSTRONG's original bill would have left most of this area as nonwilderness.

The entire South San Juans area has, among people throughout most of Colorado, strong and widespread support for wilderness designation. During the Forest Service's RARE II evaluation, wilderness designation for this area was supported by 92 percent of the Coloradans who commented on the area. After conducting his own review of the Forest Service's recommendation, Governor Lamm identified the South San Juans as one of the most important wilderness areas in the State and strongly urged the expansion of the administration's recommendation. When the area was not included in the original House bill, as it was introduced, more Coloradans asked for the addition of this area than for the addition of any other possible wilderness area in the State. During committee consideration, the South San Juans area—using essentially the administration's proposed boundaries—was added to the House bill.

Since passage of the House bill, however, strong local opposition has developed to the designation of the portion of the area east of the Continental Divide. Most of this opposition is based on a desire to keep the area open for snowmobiling and trailbiking.

The eastern portion of the South San Juans contains some of Colorado's most important wild lands, and clearly deserves wilderness designation. This was underscored last fall, when experts at the Smithsonian Institute confirmed that a bear killed in the heart of the proposed wilderness was a grizzly. This is the first confirmed presence of a grizzly in Colorado for 40 years, during which the species was believed to be extinct in the State. There have been numerous unconfirmed reports of grizzlies in the area, and the Colorado Division of Wildlife has undertaken a major study to determine the population and range of grizzlies in the South San Juans. Although we do not yet know how many other grizzlies there may be, or what their habitat requirements are, the likely presence of additional grizzlies is a strong argument for designation of the area as a wilderness. Grizzlies now have only the most precarious of footholds in the Lower 48 of the United States, because they—even more than other wildlife—require vast expanses of undisturbed land for their survival.

There are other reasons why wilderness designation of the eastern portion of the South San Juans is essential. The area is a high plateau which receives almost 100 inches of rainfall a year, more than any other area in Colorado, and is one of the lushest parts of the Rocky Mountains. The area abounds in elk and other wilderness-dependent wildlife and offers some of the best hunting in Colorado.

The compromise bill includes the same proposed boundaries for the South San Juans as included in the House bill. Upon Senate passage of the compromise bill, this wilderness designation would be assured, since the conference committee would be unable to change an area that is identical in both the House and Senate bills.

My original bill also proposed wilderness designation for 32,800 additional acres, which Governor Lamm recommended as an expansion of the administration's proposal. As part of our compromise bill, Senator ARMSTRONG and I have agreed that these two possible expansions—the Montezuma Peak Area and the V-Rock Trail Area—will be a wilderness study area. One of the conditions of this study is a congressional directive that the Forest Service manage the area to preserve its wilderness suitability until Congress determines otherwise. This will assure ample congressional opportunity to expand the South San Juans wilderness.

COLLEGIATE PEAKS

Another major difference between the wilderness proposals in the original Hart bill and the original Armstrong bill involves the Collegiate Peaks (sometimes called the Elk Mountain-Collegiate Area). The original Armstrong bill, like the House bill, proposed to delete about 27,000 acres in the northeastern part of this area. Senator ARMSTRONG and I have agreed to split our acreage difference on this area, but to leave in the wilderness the most important part of the disputed area, including La Plata Peak. This mountain is the fifth highest mountain in the State, at 14,361 feet in elevation. Although mining companies are interested in possible development of molybdenum ore in the area, the importance of La Plata Peak for mountain-climbing and bighorn sheep habitat makes its essential that this mountain be included in the wilderness area.

HOLY CROSS

The original Hart bill and the original Armstrong bill included major differences on the size of the proposed Holy Cross wilderness area. The original Hart bill proposed an area of 131,500 acres and the original Armstrong bill an area of 97,000 acres. Senator ARMSTRONG and I have agreed to an area slightly larger than my original proposal, containing 134,000 acres.

This agreement will preserve the entire Holy Cross area, one of the most important currently unprotected areas in the State. This truly spectacular area is only 2½ hours away from Denver metropolitan region, and is a popular backcountry recreation area. In both RARE I and RARE II, the Forest Service gave Holy Cross very high wilderness attribute ratings, among the highest in the Nation. The 37,000 acres included in the compromise bill but not in the original Armstrong bill are the biologically richest areas of meadowlands and timbered slopes on the edges of the proposed wilderness.

MAROON BELLS-SNOWMASS ADDITIONS

The compromise bill proposes the addition of 100,000 acres to the existing Maroon Bells-Snowmass wilderness area. This involves a deletion of 1,500 acres from the original Hart proposal and the addition of 15,000 acres to the original Armstrong proposal. The 16,500 acres of difference includes areas of high mineral value, but Senator ARMSTRONG and I have agreed to leave virtually all of this disputed area in the wilderness.

RAGGEDS

Senator ARMSTRONG and I have agreed to a wilderness proposal of 68,300 acres for this area, northwest of Crested Butte.

Our agreement deletes from my original proposal the O-B-Joyful watershed, containing 5,400 acres. Although the residents of Crested Butte strongly support wilderness designation of this area, to protect the town's secondary water rights, the area has important mineral values. Most of the area is covered by patented and unpatented mining claims. More importantly, a Denver-based oil and gas company is actively exploring the entire O-B-Joyful area for natural gas. Unaware of the natural gas potential of this area last fall, I proposed including O-B-Joyful in the wilderness area even though I otherwise carefully drew the wilderness boundaries to avoid inhibiting development of any petroleum, natural gas, coal, or oil shale resources.

The compromise bill leaves in the wilderness proposal the Treasure Mountain Dome, included in the original Hart bill but not in the Armstrong or House bills or the administration's recommendation. Also, the compromise bill includes a new expansion of the southern boundary of the Raggeds wilderness, bringing the boundary close to the Kebler Pass road. This addition was requested by the town of Crested Butte.

MOUNT ZIRKEL ADDITIONS

The compromise bill includes the proposed addition of 68,000 acres to the existing Mount Zirkel wilderness, north of Steamboat Springs. By contrast, the original Hart bill proposed an area of 86,600 acres and the original Armstrong bill proposed an area of 42,500 acres. The largest deletion from the original Hart boundaries is the 13,000-acre Soda Creek watershed, the likely site of future water development by the city of Steamboat Springs. The compromise bill retains from the original Hart boundaries an area of 5,000 acres just east of the Soda Creek watershed and just north of Buffalo Pass. This area includes the Continental Divide and 30 small high country lakes. The compromise bill also adds to the original Hart and Armstrong boundaries the 900-acre Newcomb Park, an important elk calving and wildlife habitat area.

To the southwest of the existing wilderness area, the original Hart and Armstrong bills differed over 15,000 acres on the northern end of the administration's proposed Mad Creek area. These 15,000 acres were included in the Hart bill but deleted in the Armstrong bill. As part of our compromise bill, Senator ARMSTRONG and I have agreed to leave in the wilderness two-thirds of this disputed area, deleting the northernmost 5,000 acres.

The original Hart and Armstrong bills differed over the boundaries of the administration's proposed Davis Peak addition to the northwest of the current wilderness area. The Armstrong bill proposed to delete slightly more than half of the administration's proposal, which was included in the original Hart bill. Senator ARMSTRONG and I have agreed to this deletion, but have also agreed to add 10,500 acres of nearby roadless area to the wilderness.

The compromise bill also includes several minor boundary adjustments to eliminate grazing and mining conflicts.

WEST ELK ADDITIONS

The original Hart proposal for this area included 133,500 acres and the original Armstrong proposal included 119,000 acres. The largest difference was over a deletion of slightly more than 10,000 acres in the Armstrong bill to allow molybdenum mining at Sheep Mountain, in the heart of the western addition to the current wilderness area. Senator ARMSTRONG and I have agreed on boundaries for this area very similar to the original Hart boundaries, including the entire Sheep Mountain area in the wilderness. The area in the compromise bill includes 131,500 acres.

COMANCHE PEAK

The original Hart proposal for this area included 73,300 acres and the original Armstrong proposal included 59,500 acres. The largest difference between the two proposals involves the part of the administration's recommendation east of Rocky Mountain National Park, which the Armstrong bill proposed to delete for a possible highway connecting the Cache La Poudre and Big Thompson canyons. Senator ARMSTRONG and I have agreed to boundaries which include this area in the wilderness, and make only minor adjustments elsewhere. The area in the compromise bill includes 71,400 acres.

LOST CREEK

The original Hart and Armstrong bills both included the 71,000 acre area recommended by the administration. Senator ARMSTRONG and I have agreed to add to this area 35,000 acres from the adjacent roadless area designated by the Forest Service for further planning. This addition virtually completes the entire Lost Creek area, which received more public support for wilderness designation than any other area in the country during RARE I. Located on the Front Range near the Denver metropolitan area, this large wilderness area will help to satisfy the strong local support for additional wilderness and outdoor recreation.

NEVER SUMMER

The original Hart bill proposed an area of 25,300 acres and the original Armstrong bill proposed an area of 10,000 acres. The Hart proposal would have added slightly more than 12,000 acres to the area recommended by the administration, while the Armstrong bill would have deleted almost 5,000 acres recommended by the administration. Senator ARMSTRONG and I have agreed to boundaries virtually identical to the original administration proposal. This agreement leaves extensive snowmobile trails out of the wilderness, while protecting the most important area. The area in the compromise bill includes 14,300 acres.

VASQUEZ PEAK

The original Hart bill proposed the administration's boundaries, including 13,300 acres, for this area (also known as St. Louis Peak). The original Armstrong bill proposed to delete most of the eastern portion of this area, reducing the acreage to 9,500 acres. Senator ARMSTRONG and I have agreed to not propose wilderness designation for this area now, but instead to designate the entire area for further review, with congressionally-mandated protection of its wilderness suitability.

For the other areas in the bill—Cache La Poudre, La Garita additions, Lizard Head (or Wilson Mountain), Mt. Evans, Mt. Massive, Mt. Sneffels, Neota, Rawah additions, Uncompaghre, and Weminuche additions—the original Hart and Armstrong bills did not have substantial boundary differences.

WILDERNESS STUDY AREAS

Senator ARMSTRONG and I have agreed to designate for further study 10 separate areas totaling 498,900 acres.

The primary purpose of this section is to provide congressionally mandated protection to seven areas recommended for wilderness by the administration but not included in the bill or released in the committee report. These are areas which have not yet undergone sufficient congressional review for a determination to be made on whether they should be wilderness. If these areas were not designated as wilderness by the bill, nor released in the accompanying committee report, they would be left as wilderness recommendations under review by Congress. When an administration has recommended an area for wilderness designation, it manages that area to preserve its wilderness qualities. However, this administration, or a future administration, could withdraw the recommendations at any time, ending the current protective management of the areas. Because these seven areas deserve to be protected, pending future decisions by Congress on their designation as wilderness, Senator ARMSTRONG and I have agreed to legislative provisions which insure that protection. Under the provisions of the compromise bill, these areas are to be managed to protect their wilderness qualities until Congress determines otherwise. The only exceptions from this strict standard will be for livestock grazing and mining, which could continue under the laws generally applying to national forests.

Without these provisions it is possible that the executive branch could return these areas to nonwilderness uses, destroying their wilderness suitability before Congress makes final decisions on the areas.

To help Congress make those final decisions, the Forest Service is directed to conduct an additional review of the areas, to the extent necessary, and submit additional information to Congress within 2 years.

The wilderness study provisions of the compromise bill also include two areas not recommended by the administration for wilderness. One area, of 54,700 acres, is the Fossil Ridge area near Gunnison which the State government recommended for wilderness. This area was included in the original Hart bill, but not the original Armstrong bill, as a wilderness study area. The other area, of 32,800 acres, includes the possible Monezuma Peak and V-Rock Trail additions to the South San Juans wilderness. These additions, if accepted by Congress following the wilderness study, would complete the 162,800 acre South San Juans wilderness recommended by the

State government and included in the original Hart bill.

RELEASE

The greatest initial difference between Senator ARMSTRONG and myself was the method of releasing the RARE II lands which are not being designated as wilderness. We have agreed to limited statutory provisions addressing—but not releasing—these areas. These provisions will provide greater certainty that the Forest Service's release last year of most of the RARE II lands will not be overturned by the courts. We have also reached agreement on which remaining areas recommended for wilderness designation by the administration will be listed in committee reports, with a directive to the administration to manage these areas as nonwilderness.

This package of statutory provisions and committee report directives will insure the release of areas which should not be wilderness. This package should not jeopardize passage of the Colorado wilderness bill, as statutory release provisions would.

The statutory provisions contained in the compromise bill are not statutory release. The statutory provisions do not allocate any lands to nonwilderness, which the committee report directive will do. The statutory provisions do not prohibit future wilderness consideration. The statutory provisions do not restrict the Forest Service's management discretion.

The most important part of our compromise on this issue is to preclude two specific lawsuits which could tie up the lands which have already been released.

First, the compromise bill includes a finding that the RARE II environmental impact statement is adequate with respect to the Colorado lands. This provision will preclude a lawsuit in Colorado comparable to the court decision in California against Bergland, which has tied up the RARE II lands in California. In that decision the judge ruled that the RARE II environmental impact statement did not comply with the National Environment Policy Act, and froze the California RARE II lands until new environmental studies are done.

I support the National Environmental Policy Act and the concept of environmental review. I also believe that the decision in California against Bergland is legally correct. However, even if the Forest Service's official documents do not reflect it, the extensive congressional and public review of the RARE II decision has produced adequate consideration of the environmental effects of these decisions. It would be unacceptable to bring the RARE II process to a halt now, freezing all the roadless areas in Colorado until new studies are done.

The second statutory provision would preclude another possible lawsuit which would have a similar effect. Under the requirements of recent laws, the Forest Service is now preparing land management plans for all national forests. Under the law those plans are to consider all management options for each national forest.

However, the Forest Service in the preparation of those plans is not considering new possible wilderness recommendations, having decided that the RARE II study removed the need for another immediate round of wilderness reviews.

The Forest Service decision on this point is on questionable legal ground. It is likely that if a lawsuit were brought questioning this Forest Service decision, the court would rule that the laws requiring the land management plans mandate wilderness reviews as part of those plans.

The effect of such a court decision would be to tie up the lands until new plans could be completed that include a wilderness review.

To preclude this lawsuit, the compromise bill includes a legislative declaration that the RARE II study in Colorado serves the purpose of the wilderness review which otherwise would have been included in the first round of land management plans.

This provision only applies to the first round of plans. When the Forest Service revises the plans, as they are required to every 5 to 15 years, they will still be required to consider possible wilderness recommendations, as one of the options for the revised plans covering lands still qualifying for wilderness.

The compromise bill also includes two other statutory provisions, of less significance than the first two.

The third provision prohibits an additional RARE-type study of national forest lands in Colorado. The RARE I and RARE II studies served a purpose by generally identifying and comparing the wilderness qualities of national forest roadless areas. This information will continue to be useful in the future, but there is no need to go through a similar process again. Nobody wants a RARE III.

This provision will not prohibit future wilderness reviews, which would continue to be required as part of the regular land management planning process.

The fourth provision directs the Forest Service to plan and administer according to the multiple use principle, under existing laws and regulations, the national forest lands which Congress has not designated as wilderness. While this may sound like statutory release, it is not. Statutory release would direct the management of these lands for multiple uses other than wilderness.

The fourth provision is essentially just a directive to the Forest Service to follow existing law in the planning and management of these lands. This provision was drafted to address the concern that the Forest Service might attempt to manage lands as de facto wilderness, according to a hidden agenda not expressed in the land management plans.

The directive to manage lands for multiple uses does not change or limit current Forest Service authority. The multiple uses for which lands can be managed include wildlife habitat preservation, watershed protection, and backpacking, and other uses compatible with wilderness designation, as well as timbering and other development uses. With the enactment of this fourth provision, the Forest Service would still be free to manage lands as backcountry or de facto wilderness, or to recommend them for wilderness and preserve the recommended areas, so long as this was done according to the established planning process.

This fourth provision does not change the status of any areas already recommended for wilderness designation, or any areas now undergoing further planning. These areas are now available for multiple uses under existing laws and regulations, so their status would be unaffected. This provision does not apply to wilderness areas, because Congress has decided how these areas should be managed, so the Forest Service does not plan these areas.

The committee reports accompanying the Colorado wilderness bill will release the remaining areas which were recommended by the administration for wildernes designation but which Congress has decided should not be designated as wilderness. This directive need not be included in the statute since the only question is whether these lands are to be administered under the Wilderness Act or under the other multiple use laws applying to the forest system. Only Congress can designate lands as wilderness. This decision is a statutory decision. All other national forest management decisions are made by the Forest Service within the general framework of the existing multiple use laws.

By clearly stating in committee reports its intent to not accept the administration's recommendation for certain areas, Congress will be giving the Forest Service an unambiguous directive to manage these lands under the other laws besides the Wilderness Act.

The Secretary of Agriculture in a letter to me last May indicated that the committee report directive will be sufficient to signal the congressional decision to return these lands to the regular planning process. Upon passage of a Colorado bill with a release directive in the committee report, the Forest Service will release the listed areas from their current status as wilderness recommendations will no longer manage them in a manner intended to preserve their wilderness suitability.

Senator ARMSTRONG and I have agreed on which remaining administration recommendations we will propose to be released through the committee report directive. These are six areas, totaling 143,600 acres. The areas to be released include Hermosa, 76,000 acres; Kannah Creek, 30,200 acres; Pawnee, 12,800 acres; Platte River, 800 acres; Roubideau, 16,000 acres; and Tabegauche, 7,800 acres. These areas—by virtue of their other resources values, their small size, or public opposition to wilderness designation—are better left in the regular National Forest System and not included in the wilderness system.

MINING

The second major policy difference—following release—between the original Hart approach and the original Armstrong approach was over the deadline for establishing mining claims in wilderness areas.

Under the Wilderness Act of 1964, mining is allowed in wilderness areas on claims established by the beginning of 1984. I have not favored an extension of this deadline, because mining should not be encouraged within wilderness areas.

The wilderness is better protected if mining does not occur within the boundaries of the wilderness area, and mineral development is better served if areas of especially high mineral value are left outside of wilderness boundaries.

Senator ARMSTRONG's original bill proposed an extension of the mining deadline for both existing and new wilderness areas in Colorado. Under his bill, the deadline would be extended 10 years for existing wilderness areas, and 20 years for the new wilderness areas.

In the compromise bill, there is no extension of the mining deadline.

GRAZING

The third major difference between the original Hart approach and the original Armstrong approach is over grazing in wilderness areas.

The original Armstrong bill would have amended the Wilderness Act by spelling out new, detailed provisions on grazing in Colorado wilderness areas. These provisions explicitly allow the use of motor vehicles and the rebuilding of fences and other structures related to grazing in wilderness areas.

The original Hart approach was to leave intact the current general provisions of the Wilderness Act relating to grazing and to exert congressional pressure on the Forest Service to comply with the guidelines in the committee report accompanying the House bill. These guidelines include explicit directives on how the Forest Service should relax its policies on the management of grazing in wilderness areas.

The compromise bill includes a statutory provision, applying only to Colorado wilderness areas, stating that the provisions of the Wilderness Act relating to grazing shall be interpreted and administered in accordance with the House committee report guidelines.

This provision does not itself amend the basic framework of the Wilderness Act but it will insure that the Forest Service complies with the committee report guidelines.

Those guidelines were developed under the leadership of Chairman JOHN SEIBERLING of the House Public Lands Subcommittee, and were agreed to by both environmental groups and ranchers' associations. The guidelines include directives on how the Forest Service should consistently and fairly exercise its current discretion under the Wilderness Act in allowing emergency use of motor vehicles for grazing, and where appropriate, the retention and rebuilding of existing fences, stock ponds, and other grazing structures.

OTHER POLICY ISSUES

The compromise bill includes three other relatively minor policy provisions based on the original Armstrong bill. The original Hart bill did not include any comparable provisions.

The first provision insures that owners of private land within wilderness areas in Colorado can have access to that land, to the extent the Forest Service deems reasonable. This essentially restates a provision already in the general Wilderness Act.

The second provision directs the Forest Service to review its policies on control of fire, insects, and disease in Colorado wilderness areas to insure adequate protection of adjacent property owners. Again, this is essentially a restatement of a general provision in the Wilderness Act.

The third provision prohibits the Forest Service from using the creation of wilderness areas in Colorado to restrict activities within) "buffer zones" around the wilderness areas. This is a legislative ratification of Forest Service regulations.

Mr. President, I ask to include in the RECORD at this point a comparative table showing the different proposals for Colorado national forest wilderness, the text of the proposed substitute to the House-passed bill, and a description of the boundaries agreed to for each area.

The material follows:

COMPARISON OF COLORADO WILDERNESS DESIGNATION PROPOSALS

	Hart/Armstrong substitute amendment	Johnson/Kogovsek H.R. 5487	Hart S. 2123[1]	Armstrong S. 2741	Administration	State
Big Blue[2]	83,100	100,000	83,100	96,000	59,500	59,500
Cache La Poudre	9,400	9,400	9,400	9,400	9,400	9,400
Collegiate Peaks[3]	168,000	155,000	184,200	154,000	193,500	193,500
Comanche Peak	71,400	59,500	73,300	59,500	74,000	74,000
Holy Cross	134,000	101,400	131,500	97,000	121,400	132,900
La Garita additions	[4]60,000	[4]60,000	[4]60,000	[4]60,000	122,000	[4]72,800
Lizard Head[5]	34,200	40,000	34,400	40,000	19,000	19,000
Lost Creek	106,000	0	71,000	71,000	71,000	71,000
Maroon Bells-Snowmass additions	100,000	101,500	101,500	85,000	109,100	109,100
Mount Evans	73,000	74,000	74,000	74,000	74,000	74,000
Mount Massive[6]	26,000	26,000	26,000	26,000	26,700	26,700
Mount Sneffels	16,200	16,200	16,200	16,200	16,200	16,200
Mount Zirkel additions	68,000	68,000	86,600	42,500	113,000	76,600
Neota	9,900	9,900	9,900	9,900	9,900	9,900
Never Summer	14,300	14,900	25,300	10,000	14,900	14,900
Raggeds	68,300	67,000	70,600	61,100	61,100	61,100
Rawah additions	48,800	48,900	48,900	48,900	49,200	49,200
South San Juans[7]	[8]130,000	130,000	163,200	75,000	134,000	159,900
Weminuche additions	66,000	66,000	66,000	66,000	66,000	66,000
West Elk additions	131,500	130,000	133,500	119,000	150,000	131,500
Buffalo Peaks	(56,900)	0	0	0	56,900	56,900
Fossil Ridge	(54,700)	0	(54,700)	0	0	54,700
Greenhorn Mountain	(22,300)	0	0	0	22,300	22,300
Montezuma Peak-V Rock Trail	(32,800)	0	0	0	0	0
Piedra	(41,500)	0	0	0	41,500	41,500
Sangre de Cristo	(221,000)	0	0	0	221,000	221,000
Spanish Peaks[9]	(19,600)	0	0	0	19,600	19,600
Vasquez Peak[10]	(13,300)	0	13,300	9,500	13,300	13,300
West Needle	(15,800)	0	0	0	15,800	15,800
Wheeler geologic area	(21,000)	11,000	33,000	11,000	0	(58,900)
Hermosa	0	0	0	0	75,600	75,600
Kannah Creek	0	0	0	0	30,200	30,200
Pawnee	0	0	0	0	12,800	0
Platte River	0	0	0	0	800	800
San Miguel	0	0	0	0	0	30,200
Service Creek	0	0	0	0	0	46,900
Tabeguache	0	0	0	0	7,800	7,800
Total	1,418,100	1,278,500	1,481,900	1,228,000	2,028,600	2,082,900

[1] These figures have been recalculated since S. 2123 was introduced and in some instances differ slightly from the figures used in the bill.

[2] Name used in S. 2123 and S. 2741 for this area is Uncompahgre. This area includes the administration's recommendations for 2 separate wilderness areas: Big Blue and Courthouse Mountain.

[3] Name used in S. 2123 and S. 2741 for this area is Collegiate Mountains. Name used in H.R. 5487 and in the administration and State government recommendations is Elk Mountain-Collegiate.

[4] See related entry for Wheeler geologic study area.

[5] Name used in S. 2123 for this area is Wilson Mountains. This area includes the administration's and State government recommendations for 2 separate wilderness areas: Dolores Peak and Mount Wilson.

[6] Name used in H.R. 5487 for this area is Hunter-Fryingpan additions.

[7] Name used by the administration for this area is Gunsight Pass.

[8] See related entry for Montezuma Peak-V Rock Trail wilderness study area.

[9] Name used by the administration for this area is Wahatoya.

[10] Name used by the administration and State government and S. 2123 for this area is St. Louis Peak.

Note: All acreages are approximate. Figures in parentheses indicate study areas.

SUBSTITUTE AMENDMENT TO H.R. 5487, COLORADO NATIONAL FOREST WILDERNESS ACT

Delete all after the enactment clause, and insert in lieu thereof the following:

"That this Act may be cited as the 'Colorado National Forest Wilderness Act of 1980.'

"Sec. 2. (a) The Congress finds that—

"(1) many areas of undeveloped National Forest System lands in the State of Colorado possess outstanding natural characteristics which give them high values as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

"(2) the Department of Agriculture's second Roadless Area Review and Evaluation (RARE II) of National Forest System lands in the State of Colorado and the related Congressional review of such lands have identified areas which, on the basis of their landform, ecosystem, associated wildlife and location, will help to fulfill the National Forest System's share of a quality National Wilderness Preservation System; and

"(3) the Department of Agriculture's second Roadless Area Review and Evaluation of National Forest System lands in the State of Colorado and the related Congressional review of such lands have also identified areas which do not possess outstanding wilderness attributes or which possess outstanding energy, mineral, timber, grazing, dispersed recreation and other values and which should not now be designated as components of the National Wilderness Preservation System but should be available for multiple uses under the land management for planning process and other applicable laws.

(b) The purposes of this Act are to—

"(1) designate certain National Forest System lands in the State of Colorado as components of the National Wilderness Preservation System, in order to promote, perpetuate and preserve the wilderness character of the land, protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all the American people, to a greater extent than is possible in the absence of wilderness designation; and

"(2) ensure that certain other National Forest System lands in the State of Colorado be available for multiple uses, including, but not limited to, campground and other recreation site development, timber harvesting, intensive range management, dispersed recreation, energy and mineral exploration and production, preservation of wildlife and wildlife habitat, and watershed and vegetative protection and manipulation, in accordance with the general land use and environmental laws and regulations of the United States and the State of Colorado, so that nonwilderness options are not foreclosed and that the Nation's needs for energy, minerals, timber, wildlife, national security, watershed, nonwilderness recreation, employment and a sound economy will be addressed in a timely and environmentally sound manner.

"SEC. 3. (a) In accordance with subsection 3(c) of the Wilderness Act of 1964 (78 Stat. 892), the following National Forest System lands in the State of Colorado are designated as additions to the National Wilderness Preservation System:

"(1) the Big Blue Wilderness, consisting of approximately eighty three thousand one hundred acres in the Uncompaghre National Forest, as generally depicted on a map entitled "Big Blue Wilderness Proposal", dated June 1980;

"(2) the Cache La Poudre Wilderness, consisting of approximately nine thousand four hundred acres in the Roosevelt National Forest, as generally depicted on a map entitled "Cache La Poudre Wilderness Proposal", dated October 1979:

"(3) the Collegiate Peaks Wilderness, consisting of approximately one hundred sixty eight thousand acres in the Gunnison, San Isabel, and White River National Forests, as generally depicted on a map entitled "Collegiate Peaks Wilderness Proposal", dated June 1980;

"(4) the Comanche Peak Wilderness, consisting of approximately seventy one thousand four hundred acres in the Roosevelt National Forest, as generally depicted on a map entitled "Comanche Peak Wilderness Proposal", dated June 1980;

"(5) the Holy Cross Wilderness, consisting of approximately one hundred thirty four thousand acres in the San Isabel and White River National Forests, as generally depicted on a map entitled "Holy Cross Wilderness Proposal", dated June 1980:

Provided, That no right, or claim of right, to the diversion and use of existing conditional water rights for the Homestake Water Development project by the cities of Aurora and Colorado Springs, shall be prejudiced, expanded, diminished, altered, or affected by this Act; and that nothing in this Act shall be construed to expand, abate, impair, impede, or interfere with the construction, maintenance, or repair of said project, nor the operation thereof, or any exchange or modification of the same agreed to by the cities and the United States, acting through any appropriate agency thereof;

"(6) the La Garita Wilderness Additions, consisting of approximately sixty thousand acres in the Gunnison and Rio Grande National Forests, as generally depicted on a map entitled "La Garita Additions—Proposed", dated October 1979, which are incorporated in and shall be a part of the La Garita Wilderness as designated by Public Law 88–577;

"(7) the Lizard Head Wilderness, consisting of approximately thirty four thousand two hundred acres in the San Juan and Uncompaghre National Forests, as generally depicited on a map entitled "Lizard Head Wilderness Proposal", dated June 1980.

"(8) the Lost Creek Wilderness, consisting of approximately one hundred six thousand acres in the Pike National Forest, as generally depicted on a map entitled "Lost Creek Wilderness Proposal", dated June 1980: *Provided*, That the Secretary of Agriculture shall permit access by the Board of Water Commissioners of the City and County of Denver to the property owned by such City and County within such wilderness area, in the same manner and to the same extent as such access was exercised before the date of enactment of this Act;

"(9) the Maroon Bells-Snowmass Wildernes Additions, consisting of approximately one hundred thousand acres in the Gunnison and White River National Forests, as generally depicted on a map entitled "Maroon Bells-Snowmass Wilderness Additions—Proposal", dated June 1980, which are incorporated in and shall be a part of the Maroon Bells-Snowmass Wilderness as designated by Public Law 88–577;

"(10) the Mount Evans Wilderness, consisting of approximately seventy three thousand acres in the Pike National Forest, as generally depicted on a map entitled "Mount Evans Wilderness Proposal", dated June 1980;

"(11) the Mount Massive Wilderness, consisting of (A) approximately twenty six thousand acres in the San Isabel National Forest, as generally depicted on a map entitled "Hunter-Fryingpan Wilderness Additions—Proposed," dated October 1979; and (B) of the Hunter-Fryingpan Wilderness as designated by Public Law 95–237, which shall be incorporated in and shall be a part of the Mount Massive Wilderness; and any law, map, regulation, record, or document of the United States which refers to the Hunter-Fryingpan Wilderness shall be held to refer to the Mount Massive Wilderness;

"(12) the Mount Sneffels Wilderness, consisting of approximately sixteen thousand two hundred acres in the Uncompahgre National Forest, as generally depicted on a map entitled "Mount Sneffels Wilderness Proposal," dated October 1979;

"(13) the Mount Zirkel Wilderness Additions, consisting of approximately sixty eight thousand acres in the Routt National Forest, as generally depicted on a map entitled "Mount Zirkel Wilderness Additions—Proposal, dated June 1980, which are incorporated in and shall be a part of the Mount Zirkel Wilderness as designated by Public Law 88–577;

"(14) the Neota Wilderness, consisting of approximately one thousand nine hundred acres in the Roosevelt National Forest, as generally depicted on a map entitled "Neota Wilderness Proposal", dated October 1979;

"(15) the Never Summer Wilderness, consisting of approximately fourteen thousand three hundred acres in the Arapaho National Forest, as generally depicted on a map entitled 'Never Summer Wilderness Proposal', dated June 1980;

"(16) the Raggeds Wilderness, consisting of approximately sixty eight thousand three hundred acres in the Gunnison and White River National Forests, as generally depicted on a map entitled "Raggeds Wilderness Proposal", dated June 1980;

"(17) the Rawah Wilderness Additions, consisting of approximately forty eight thousand eight hundred acres in the Roosevelt and Routt National Forests, as generally depicted on a map entitled "Rawah Wilderness Additions—Proposal", dated June 1980, which are incorporated in and shall be a part of the Rawah Wilderness as designated by Public Law 88–577;

"(18) the South San Juans Wilderness, consisting of approximately one hundred thirty thousand acres in the San Juan National Forest, as generally depicted on a map entitled "South San Juans Wilderness Proposed", dated October 1979;

"(19) the Weminuche Wilderness Additions, consisting of approximately sixty six thousand acres in the Rio Grande and San Juan National Forests, as generally depicted on a map entitled "Weminuche Wilderness Additions—Proposed", dated October 1979, which are incorporated in and shall be a part of the Weminuche Wilderness as designated by Public Law 93–632;

"(20) the West Elk Wilderness Additions, consisting of approximately one hundred thirty one thousand five hundred acres in the Gunnison National Forest, as generally depicted on a map entitled "West Elk Wilderness Additions—Proposal", dated June 1980, which are incorporated in and shall be a part of the West Elk Wilderness as designated by Public Law 88–577; and

"(b) As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file the maps referred to in this Act and legal descriptions of each wilderness area designated by this Act with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided, however*, That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

"(c) Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964 (78 Stat. 892) governing areas designated by that Act as wilderness areas, except that, with respect to any area designated in this Act, any reference in such provisions to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act.

"(d) The previous classifications of the Uncompahgre Primitive Area and the Wilson Mountains Primitive Area are repealed.

"Sec. 4. (a) The Secretary of Agriculture shall review and within two years after the date of enactment of this Act, shall report to the President and the Congress in accordance with subsections 3(c) and 3(d) of the Wilderness Act of 1964 (78 Stat. 892), his recommendations on the suitability or unsuitability for inclusion in the National Wilderness Preservation System of the following lands:

"(1) the Buffalo Peaks Wilderness Study Area, consisting of approximately fifty-six thousand nine hundred acres in the San Isabel National Forest, as generally depicted on a map entitled "Buffalo Peaks Wilderness Study Area Proposal", dated June 1980;

"(2) the Fossil Ridge Wilderness Study Area, consisting of approximately fifty-four thousand seven hundred acres in the Gunnison National Forest, as generally depicted on a map entitled "Fossil Ridge Wilderness Study Area Proposal", dated December 1979;

"(3) the Greenhorn Mountain Wilderness Study Area, consisting of approximately twenty-two thousand three hundred acres in the San Isabel National Forest, as generally depicted on a map entitled "Greenhorn Mountain Wilderness Study Area Proposal", dated June 1980;

"(4) the Montezuma Peak-V Rock Trail Wilderness Study Area, consisting of approximately thirty two thousand eight hundred acres in the San Juan National Forest, as generally depicted on a map entitled "Montezuma Peak-V Rocky Trail Wilderness Study Area", dated June 1980;

"(5) the Piedra Wilderness Study Area, consisting of approximately forty one thousand five hundred acres in the San Juan National Forest, as generally depicted on a map entitled "Piedra Wilderness Study Area Proposal", dated June 1980;

"(6) the Sangre de Cristo Wilderness Study Area, consisting of approximately two hundred twenty one thousand acres in the Rio Grande and San Isabel National Forests, as generally depicted on a map entitled "Sangre de Cristo Wilderness Study Area Proposal", dated June 1980;

"(7) the Spanish Peaks Wilderness Study Area, consisting of approximately fifteen thousand six hundred acres in the San Isabel National Forest, as generally depicted on a map entitled "Spanish Peaks Wilderness Study Area Proposal", dated June 1980;

"(8) the Vasquez Peak Wilderness Study Area, consisting of approximately thirteen thousand three hundred acres in the Arapaho National Forest, as generally depicted on a map entitled "Vasquez Peak Wilderness Study Area Proposal", dated June 1980; and

"(9) the West Needle Wilderness Study Area, consisiting of approximately fifteen thousand eight hundred acres in the San Juan National Forest, as generally depicted on a map entitled "West Needle Wilderness Study Area Proposal", dated June 1980.

"(b) The Secretary of the Interior and the Secretary of Agriculture shall review jointly the Wheeler Geologic Study Area, consisting of approximately twenty-one thousand acres in the Gunnison National Forest, as generally depicted on a map entitled "Wheeler Geologic Study Area Proposal", dated December 1979, and within two years following the date of enactment of this Act shall report to the President and to Congress their recommendations for management of the lands in such study area. In making such review and report, such Secretaries shall consider—

"(1) the natural, historical, cultural, scenic, economic, educational, scientific, energy, mineral, and geologic values of the study area;

"(2) the management and protection of fragile geologic resources within the area;

"(3) possible land management options or designations including national park, national monument, or national recreation area designation; addition to the National Wilderness Preservation System; special administrative designations; and management under the general laws and regulations applicable to the National Forest System;

"(4) the effect of possible land management options on consumers, national security, and national, State and local economies, including timber harvest, tourism, grazing, energy, water, mineral, and other commercial activities;

"(5) the need for additional mineral exploration in such area; and

"(6) the suitability and desirability of permanent or temporary road or other mechanized access into the study area, with special attention to access by the elderly and the handicapped.

"(c) Subject to valid existing rights, the study areas designated by subsections (a) and (b) of this section shall, until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System: *Provided*, That with respect to grazing of livestock and oil, gas, or mineral exploration and development activities, such study areas shall be administered according to the laws generally applicable to the National Forest System.

"Sec. 5. (a) The enactment of this legislation shall be conclusive as to the legal and factual sufficiency of the Department of Agriculture's final environmental impact statement, dated January 1979, prepared for the second Roadless Area Review and Evaluation (RARE II) of National Forest System lands in the State of Colorado.

"(b) The Department of Agriculture's second Roadless Area Review and Evaluation (RARE II) of the National Forest System lands in the State of Colorado shall be deemed for the purposes of the initial land management plans required by the Forest and Rangeland Renewable Resources Planning Act of 1974 (Public Law 93-378, 88 Stat. 476), as amended, to have fulfilled the requirements of that Act for consideration of the suitability for inclusion in the National Wilderness Preservation System of such lands, except those lands identified for further planning in Executive Communication 1504, 96th Congress.

"(c) No department or agency of the United States shall conduct an additional State-wide roadless area review and evaluation of National Forest System lands in the State of Colorado for the single purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

"(d) The Secretary of Agriculture shall plan and administer for multiple uses under the laws and regulations applying to the National Forest System those National Forest System lands in the State of Colorado which Congress has not designated as components of the National Wilderness Preservation System. As provided in the Wilderness Act of 1964 (78 Stat. 592), only Congress can designate federally-owned lands as components of the National Wilderness Preservation System.

"Sec. 6. The Congress hereby declares that, with respect to National Forest System components of the National Wilderness Preservation System in the State of Colorado, the provisions of the Wilderness Act relating to grazing shall be interpreted and administered in accordance with the guidelines contained under the heading "Grazing in National Forest Wilderness Areas" in Report No. 96-617 of the House of Representatives which accompanied H.R. 5487 of the Ninety-Sixth Congress, First Session.

"Sec. 7. Subject to such terms and conditions as the Secretary of Agriculture may prescribe, the Secretary shall provide such access to nonfederally owned lands within the boundaries of National Forest System components of the National Wilderness Preservation System in the State of Colorado as the Secretary deems adequate to secure to the owner the reasonable use and enjoyment thereof: *Provided*, That such owner shall comply with rules and regulations applicable to access across the National Forest System.

"Sec. 8. The Secretary of Agriculture is directed to review all policies, practices, and regulations of the Department of Agriculture regarding disease of insect outbreaks, forest fires, and the use of modern suppression methods and equipment in National Forest System components of the National Wilderness Preservation System in the State of Colorado, to ensure that—

"(a) such policies, practices, and regulations fully conform with and implement the intent of Congress regarding forest fire, disease and insect control, as such intent is expressed in the Wilderness Act and this Act; and

"(b) policies, practices and regulations are developed that will allow timely, efficient, and cost-effective fire, insect, and disease control, to provide, to the extent reasonably practicable, adequate protection of adjacent Federal, State and private nonwilderness lands from forest fires and disease or insect infestations.

"Sec. 9. Congress does not intend that designation of wilderness areas in the State of Colorado lead to the creation of "protective perimeters" or "buffer zones" around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

HART-ARMSTRONG COMPROMISE AGREEMENT ON COLORADO NATIONAL FOREST WILDERNESS ACT OF 1980

DESCRIPTION OF WILDERNESS AREAS

Wilderness area name

1. Big Blue (formerly Uncompaghre) (approx. acreage: 83,100).

Comments

Follow original Hart boundaries, but change name from Uncompaghre to "Big Blue Wilderness" and adjust boundary to allow access to Andy Creek area.

Wilderness area name

2. Cache La Poudre (approx. acreage: 9,400).

Comments

House, Hart and Armstrong boundaries identical.

Wilderness area name

3. Collegiate Peaks (approx. acreage: 168,000).

Comments

Generally follow original Hart lines, with the following exceptions:

(a) Delete Pine Creek Trail area (Springer ditch) on northeast;

(b) Add Tellurium Creek "cherry stem" sufficiently to the north to protect mining claims;

(c) Delete short road and small mining claims area west of Independence Pass.

(d) On the critical northcentral portion of the Collegiates, split the acreage difference between the House and Hart versions, putting some land in wilderness and some back into multiple use management, but:

(i) includes the LaPlata Peak area in wilderness;

(ii) re-connect the present Independence

Mtn-Grizzly Peak "island" to the main part of the Collegiates on the south;

(iii) draw remaining boundaries in way that excludes most critical mineralized and patented claim areas.

Wilderness area name

4. Comanche Peak (approx. acreage: 71,400).

Comments

(a) Generally follow original Armstrong lines, but modify boundary along Cache La Poudre River, to protect water project option.

(b) Add area east of Rocky Mountain National Park, except delete private property in central portion.

Wilderness area name

5. Holy Cross (approx. acreage: 134,000)

Comments

(a) Generally follow original Hart boundaries, with the following exceptions and notes:

(i) Delete northernmost additions, to avoid conflict with Beaver Creek Ski Area:

(ii) Add elk habitat area on northwest and expand areas near Lime Creek and Tellurium Park on west;

(iii) Adjust southern boundary to exclude active mining claims and road near Timberline Lake;

(iv) Delete acreage west of Holy Cross City to eliminate conflict with active mineral exploration;

(v) Retain area on northeast along Grouse Creek;

(vi) Retain area on east along Homestake Creek (Whitney Peak);

(vii) Retain original Administration boundaries south of Homestake Creek.

(b) Adopt House/WLA language on Homestake Water Project.

Wilderness area name

6. La Garita (approx. acreage: 60,000).

Comments

(a) Follow original House, Hart, and Armstrong boundaries.

(b) See comments at Item 2 under "Special Areas" for Wheeler Geologic Study Area.

Wilderness area name

7. Lizard Head (Wilson Mtns) (approx. acreage: 34,200).

Comments

Follow original Hart boundaries (with acreage re-estimate), but (a) add small access route near Lizard Head and (b) delete two reservoirs near Bilk Creek.

Wilderness area name

8. Lost Creek (approx. acreage: 106,000).

Comments

(a) Follow original Hart and Armstrong bills' boundaries for "core" area.

(b) Add language to protect access rights to Denver Water Board property.

(c) Add portions of what is now further planning area A2-252 on northwestern corner of "core" area, as recommended by Hart, but delete 2,700 acres at extreme northwest, to avoid conflicts with new mines.

Wilderness area name

9. Maroon Bells (approx. acreage: 100,000).

Comments

Follow original Hart boundaries, with these exceptions:

(a) Modify northwestern boundary slightly, to allow access to mine on Bulldog Creek;

(b) Delete approximately 1,000 acres along Copper Creek Road, to provide access to Sylvanite Mine and other mining claims (silver-lead-zinc).

(c) Add approximately 600 acres on southwest (Mineral Point).

(d) Delete area on southeast to avoid grazing conflicts, using Teocalli Mountain as the boundary.

Wilderness area name

10. Mt. Evans (approx. acreage: 73,000).

Comments

Generally follow original House, Hart, and Armstrong lines, but delete approximately 1,000 acres on eastern side, to lessen forest fire dangers and address concerns of Evergreen Fire Department.

Wilderness area name

11. Mt. Massive (approx. acreage: 26,000).

Comments

(a) Boundaries and acreage in Armstrong, Hart and House bills are identical.

(b) Change name of existing Hunter-Fryingpan Wildernesss Area to Mt. Masssive Wilderness Area (incorporating former into latter).

Wilderness area name

12. Mt. Sneffels (approx. acreage: 16,200).

Comments

Hart, House and Armstrong acreage and boundaries are identical.

Wilderness area name

13. Mt. Zirkel (approx. acreage: 68,000).

Comments

(a) Generally follow the Armstrong boundaries, with the following exceptions:

(i) Add approximately 4,000 acres between the two forks of the Encampment River on the northwest, and 2,000 acres near the Sanchez Lake immediately south of this.

(ii) Add approximately 4,500 acres on the north of the existing wilderness area, northeast of Davis Peak.

(iii) Adjust the boundaries of the area near Raspberry Creek to assure access to operating mines (deleting roughly 1,000 acres) and move boundary of Rainbow Lakes addition 100′ above trail (deleting 900 acres);

(iv) Add approximately 900 acres in the Newcomb Park area on the southeast;

(v) Add approximately 5,000 acres on the southeast end, avoiding conflicts with potential Steamboat Springs (Soda Creek) water project and geothermal areas;

(vi) Add approximately 10,000 acres immediately north of Swamp Park, on the western side;

(vii) Delete small area (700 acres) near Swamp Park on the west, to avoid conflicts with grazing facilities;

(viii) Delete area (200 acres) near Lookout Ditch and headgate, to protect access rights.

(ix) Move eastern boundary 100′ above Rainbow Lake Trail, deleting 200 acres;

(b) Delete access provision currently in House bill (relates to item viii above).

Wilderness area name

14. Neota (approx. acreage: 9,900).

Comments

Hart, Armstrong and House acreage and boundaries are the same.

Wilderness area name

15. Never Summer (approx. acreage: 14,300).

Comments

Generally follow the original House boundaries, but delete the narrow strip on the north along the northwestern side of Rocky Mountain National Park; this land may be addressed later in a land exchange.

Wilderness area name

16. Raggeds (approx. acreage: 68,300).

Comments

Generally follow the original House boundaries, but with the following changes:

(a) Drop Oh Be Joyful 5,400 acres);

(b) Modify the western boundary along the Munsey-Ruby Stock Driveway, to eliminate known grazing conflicts (800 acres);

(c) Add approximately 3,600 acres on the southern side, along the Kebler Pass Road, to protect the largest aspen stand in Colorado (leaving a 1,500-foot corridor on the northern side of the road excluded).

Wilderness area name

17. Rawah (approx. acreage: 48,800).

Comments

Boundaries follow Hart, Armstrong and House bills, except that slight modification is made to access McGuire Water Transmission Line Ditch.

Wilderness area name

18. South San Juans (approx. acreage: 130,000).

Comments

(a) Follow original House boundaries.

(b) See item 2 under "Miscellaneous Areas" for Montezuma Peak/V Rock Trial Wilderness Study Area.

Wilderness area name

19. Weminuche (approx. acreage: 66,000).

Comments

House, Hart and Armstrong boundaries identical.

Wilderness area name

20. West Elk (approx. acreage: 131,500).

Comments

Generally follow the original Hart boundaries but make the following changes:

(a) Delete southeasternmost tip, to avoid conflicts with grazing interests and to make boundary conform more closely with natural terrain features;

(b) Provide access corridor over Minnesota Pass and southward along Smith Fork, to permit access to cattle camp;

(c) Add approximately 1,000 acres at the bottom of the southern panhandle, so that this boundary conforms with the Gunnison National Forest boundaries.

Total new wilderness acreage: approx. 1,418,100 acres.

Total existing wilderness acreage: 1,199,158 acres.

Total Colorado wilderness acreage (existing plus new): approx. 2,617,258 acres.

MISCELLANEOUS AREAS

1. Special Study Area:

Wheeler Geologic Study Area (approx. acreage: 21,000).

(a) Follow original Hart boundaries, but delete area west of House study area, to avoid conflicts with important Creede Mining District.

(b) Include special language providing that grazing activities and oil, gas and mineral exploration and development activities can take place.

2. Further Review Areas:

i. Buffalo Peaks (A2–250) (approx. acreage: 56,900).

ii. Fossil Ridge (2–204) (approx. acreage: 54,700).

iii. Greenhorn Mtn. (A2–270) (approx. acreage: 22,300).

iv. Montezuma Peak/V Rock Trail (D2) (approx. acreage: 32,800) E2–284).

v. Piedra (A2–292) (approx. acreage: 41,500).

vi. Sangre de Cristo (A2–266) (approx. acreage: 221,000) .

vii. Spanish Peaks (Wahatoya, A2–271) (approx. acreage: 19,600).

viii. Vasquez Peak (St. Louis Peak, A2–361) (approx. acreage: 13,300).

ix. West Needle (A2–302, 303) (approx. acreage: 15,800).

Total further review and special study acreage: 498,900 acres.

These areas will be subject, pursuant to statutory language, to further administrative review, with a report to Congress to be submitted within two years. Grazing activities and oil, gas, and mineral exploration and development will be allowed to continue.

3. Multiple Use Areas:

i. Hermosa (A2–306) (approx. acreage: 76,000).

ii. Kannah Creek (02–195) (approx. acreage: 30,200).

iii. Pawnee Grasslands (A2-309) (approx. acreage: 12,800).

iv. Platte River (A2-080) (approx. acreage: 800).

v. Roubideau (02-241) (approx. acreage: 16,000).

vi. Tabeguache (02-242) approx. average: 7,800).

Total administrative wilderness recommendations returned to multiple use management: 143,600 acres.

These areas, recommended for wilderness by the Administration, are to be listed in committee report, with a directive that the Secretary of Agriculture withdraw his recommendation for wilderness designation.

COLORADO SUMMARY

Total reviewed under RARE II: 6.5 million acres.

Total designated wilderness: 1.4 million acres.

Total subject to further administrative review: 0.7 million acres*.

Total returned to multiple use management: 4.4 million acres.

Total Colorado wilderness, new and existing: 2.6 million acres.●

---

*includes "special study," "further review" and Forest Service "further planning" areas.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will resume consideration of the military procurement authorization bill tomorrow morning at 9 o'clock. The Senate will be coming in at 8:45 and will resume consideration of the military procurement bill around 9 o'clock and will go late tomorrow—possibly very late.

There will be several rollcall votes. If the Senate does not complete action on the bill tomorrow, it will resume action on the bill Wednesday.

Mr. STENNIS. Mr. President, if the Senator will yield, I want to say that I like his attitude, to press tomorrow in every way we reasonably can. We might be able to finish this bill tomorrow. If not, we have Wednesday morning.

RECESS UNTIL 8:45 A.M. TOMORROW

Mr. MATSUNAGA. Mr. President, under the previous order of the Senate I move that the Senate do now stand in recess until 8:45 a.m. tomorrow morning.

The ACTING PRESIDENT pro tempore. Having opened the Senate I now close the Senate.

The motion was agreed to; and the Senate at 10:53 p.m. recessed until tomorrow, Tuesday, July 1, 1980, at 8:45 a.m.

EXTENSIONS OF REMARKS

WAS EPIDEMIC OF ANTHRAX A RESULT OF NATURAL CAUSES

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 30, 1980

● Mr. ASPIN. Mr. Speaker, the Soviet Union is not telling the whole truth about the outbreak of an epidemic of inhalation anthrax in Sverdlovsk last April, an outbreak that infected and killed many people. Our Government, on the other hand, has been acting in a manner that smells to many of too much politics and too little diplomacy. The interaction of Soviet disingenuousness and off balance U.S. diplomacy seriously threatens the viability not only of one particular treaty—the Biological Weapons Convention—but of all arms control.

In 1970, while the United States was unilaterally dismantling its biological warfare (BW) capability, we also began negotiating an international agreement to ban such weapons. By 1972, work on what is now known as the Biological Weapons Convention was completed and the convention was signed in Washington, London, and Moscow. President Ford signed the instruments of ratification in 1975, and the treaty became binding on the United States. More than 100 other countries are now parties to the convention.

From the start, we knew that the Biological Weapons Convention was essentially unverifiable. It is the nature of biological weapons that production facilities do not have to be large or conspicuous. Even if the United States began with full and exact knowledge of the total Soviet BW picture, and even if we could establish without doubt that all these sites had been closed down, and all existing BW stocks destroyed, there would still be the possibility that covert plants had been set up elsewhere and stocks secretly manufactured.

The United States reasoned, however, that the Soviets were unlikely to violate the agreement because: First, we believed that BW weapons were too unreliable and uncertain to be of use to a major power—which, by the way, was the reason we were willing to get rid of our own; and, second, we thought that Soviet leaders would weigh the possible gain from violating this treaty against the political and other costs of getting caught cheating and would be deterred.

So here we have a situation where the United States renounces a weapons system, and then works out an agreement with the Soviets to outlaw that system internationally, based not on close verification, but on a balancing of risk against gain. It is by far the most adventurous, and some would say risky, piece of arms control this country has ever agreed to. Only the provisions that require parties to consult with each other and to help resolve doubts about compliance offer any contribution to verification.

Over the years, the U.S. intelligence community has been keeping watch over sites in the Soviet Union that are believed to be associated with biological warfare. The convention does not say that you cannot have BW facilities; it only says that you cannot have biological warfare agents except for the purposes of and in quantities appropriate for peaceful or defensive research purposes, and that you cannot produce or stockpile BW weapons for military purposes. Since there was no way to know whether the Soviets were making BW agents, it was naturally a source of suspicion when we saw them building facilities that could be used to make or store those prohibited materials.

The watch kept on the Soviet BW sites produced misgivings, but no proof that the convention had been violated. Then came the Sverdlovsk incident. The subcommittee report that I am releasing today confirms that there is little doubt that an epidemic of inhalation anthrax took place in that city last April.

Inhalation anthrax hardly ever occurs as the result of natural causes. The only natural mechanism I know of, in fact, is when workers shearing sheep dislodge the spores from the animals' wool and someone inhales them. So when you have information that confirms numerous deaths in an urban area from inhalation anthrax, you know that somewhere along the line there was a manmade concentration of the spores that got into the air—or else the Soviets have a well-camouflaged sheep-shearing operation.

Now this much information by itself would raise some concern about Sverdlovsk, but there was more. First of all, a military facility in Sverdlovsk for years has attracted the interest of our intelligence services in connection with biological weapons. Second, after the outbreak in Sverdlovsk, our intelligence services began picking up other bits and pieces which eventually fit into a picture.

I cannot go into the details of the intelligence community's evidence, but let me say this: We had a Soviet emigre testify before an open session of the House Intelligence Oversight Subcommittee about what his sources inside the U.S.S.R. had to say about Sverdlovsk. Those sources say that there was a leak of anthrax out of a military installation rumored to be involved in BW; that there were hundreds of fatalities owing to inhalation anthrax; and that the Soviets had to mount an all-out—but unsuccessful—effort to immunize the populace and prevent panic. Nothing the subcommittee has seen in the intelligence files substantially contradicts the testimony of that witness.

On March 20, in response to a question from the United States, the Soviet Union acknowledged that there had been an outbreak of anthrax in Sverdlovsk. But the Soviet Union said the outbreak was of the gastric variety that came from tainted meat. At the very best, this is only part of the truth—and the smallest part at that. At the worst, it is a Soviet effort to brazen out the situation.

The Oversight Subcommittee's report says that, for now, it is not possible to state with certainty that the Soviets are violating the Biological Weapons Convention. But we do know enough to say that the Soviet story is not full and correct.

What makes it puzzling, in fact, is that the Soviets might have told a story that would have been much harder for us to fault. Namely, they might have said that there was indeed an outbreak of inhalation anthrax which came from supplies of the disease intended for peaceful research, legal under the convention. This story would have been very difficult to disprove and very tough for the United States to grapple with under the terms of the Biological Weapons Convention.

For whatever reason, they chose not to go with that explanation. We cannot accept the tainted meat story as fulfillment of their obligation under the convention to consult with us to help resolve this issue. In fact, if they continue to adhere to this line, I believe we will have to conclude that the Soviets have violated the consultative provisions of the convention.

A serious situation is developing. We know from bitter experience that the Soviets tend to push their arms control agreement to the limit. You do not talk to the Soviets about the spirit of agreements; you talk about the letter. Their credo is what any good international lawyer will tell you: What is not forbidden is permitted. So if you imagine the most benign explanation consistent with the facts, it will be that the Soviets pushed this agreement right to the wall and then fell victim to Murphy's law. Many would conclude on viewing the evidence, however, that the Soviets have flatly violated the convention, and the tainted meat story does a lot to feed that belief.

We expected the Soviets to be as scrupulous about the Biological Weapons Convention as we are. They appear not to have been. Much of the logic behind the convention is undermined by this simple observation. Only a very full Soviet response under the consultative provisions can possibly restore some measure of confidence.

A great deal, therefore, depends on the success of U.S. efforts to get the Soviets to come clean with us. But there are, Mr. Speaker, some problems with that effort that have more to do with us than with the Soviets.

I have in mind, of course, the charge that the United States has been playing politics with the compliance issue. There are really two distinct questions involved: Whether the U.S. Government played politics with the intelligence process; and whether the Government has played the public and diplomatic side of the problem for political purposes, rather than in the best interests of effective diplomacy.

The suspicion that the Government played politics with intelligence arises from the simple fact that there were elements of the story available to the intelligence community not long after the Sverdlovsk incident, but that the U.S. Government did not move on the issue until almost 1 year later.

Seen from the outside, and without benefit of any exposure to the kinds of information on hand, the rate at which this information was acquired, and the manner in which it was sorted and analyzed, one might well be suspicious. Did the U.S. Government sit on the BW story for as long as hope remained that SALT II might be ratified, and then did the Government go public once getting even with the Soviets for Afghanistan had become priority No. 1?

Mr. Speaker, in my opinion, the subcommittee report is correct where it concludes that there was no tampering with the intelligence process for political reasons. As the report makes clear, the lag from the time the first bits and pieces of information came in after the event in Sverdlovsk, to the moment when the picture came into focus, can be convincingly explained in terms of understandable problems of intelligence analysis: a process which sometimes depends on one last decisive bit of information, as it did in this case.

The subcommittee report leaves off, however, at the threshold of what may be a more important question: Namely, whether the U.S. Government devised the best possible diplomatic strategy to get satisfaction from the Soviet Union—or whether the administration instead played it for the galleries, regardless of the impact on the chances for diplomatic success.

That is where the record gets murky. The fact is that the United States first approached the Soviets privately through our Embassy in Moscow on March 17. Then, 1 day later and before the Soviets had a chance to respond, we went public with the issue in a formal comment by the Department of State. We went public, moreover, in the middle of an international conference in Geneva, where all the states party to the convention had gathered to review its progress at the 5-year mark, in keeping with a provision of the convention itself.

To say the least, this looks like we intended to embarrass the Soviets and to make political capital out of the incident rather than to resolve it. As far as I know, Mr. Speaker, this procedure is in stark contrast to the behavior of our Government on virtually all other occasions when there has been reason for concern about Soviet compliance with an arms control agreement. We have always, to my knowledge, tried to keep a tight lip in public in order to give the private consultative process a chance to work, and we did this no matter how much gory detail got out into the press.

So the charge of playing politics with an important diplomatic problem is not one that can be instantly dismissed. Offícals at State and ACDA who were responsible for the treatment of this issue have told me that they were under no pressure to go public for the purpose of getting even with the Soviets. They say, rather, that a wave of leaks to the press—which the press, it should be noted, attributed to administration sources—came just as the review conference was about to begin. In their view, the public statement was needed in order to fend off charges of a whitewash.

I can believe these assertions, Mr. Speaker—but once again, as in the case of the Iranian rescue mission, we have a case where information politically beneficial to the administration is told to the press regardless of the costs to national policy objectives.

Between the Soviets pushing an arms control agreement to the limits or beyond, and the U.S. Government, taunted by press leaks into forms of diplomacy that may only extend deadlock, there is a major threat to the arms control process.

Why the whole process and not just this particular agreement? Because, Mr. Speaker, there are few forms of arms control that offer totally assured forms of verifiability, and more importantly, because as we look into the future of arms control the verification problems become greater, not smaller.

There is, for example, a rather large verification problem with the Threshold Test Ban Treaty and its counterpart, the Peaceful Nuclear Explosion Treaty, which prohibit signers from detonating underground nuclear explosions with yields exceeding 150 kilotons.

There is a verification problem with the SALT II constraint limiting the kinds of modification that either side can make to existing ICBM types to plus or minus 5 percent in any dimension. According to public testimony given by Secretary Brown, our confidence in being able to monitor changes in these dimensions diminishes as the size of the changes get closer to plus or minus 5 percent.

Again in SALT II, there is a provision that says there will be no deployment of air-launched cruise missiles with a range in excess of 600 kilometers. And this is a provision that is very hard for us to verify.

What is more, the future of arms control—assuming there is a future for arms control—will be dealing with even more difficult verification issues.

Suppose, for example, we finally negotiate an MBFR agreement calling for the withdrawal of substantial numbers of U.S. and Soviet ground forces from central Europe? How precise will be our ability to verify that withdrawal and, afterward, to keep track of troop levels?

Suppose we get a comprehensive test ban, and each time we get a little quiver on the seismic system, someone accuses the Soviets of testing portions of nuclear weapons systems under cover of an earthquake, or some such scenario? How confident will we be that we really know what is going on?

Suppose we reach intricate limits on missile technology, which depend on elaborate analysis of Soviet test data—but the Soviets begin to encode the data right up to the limit of what their lawyers, who are very good, tell them they can get away with?

In all these cases, and more, the logic up to now for accepting less than perfectly verifiable provisions in a treaty is a political argument: That the Soviets must know that Murphy's law applies to them as well as to us—that, if they cheat, sooner or later something will escape their control and be picked up by us, and that the costs will then outweigh the benefit.

Sverdlovsk challenges that logic. Sverdlovsk tells us that perhaps the Soviets are undeterred by such thinking. Sverdlovsk tells us there may be no political cost to the Soviets for violations. Witnesses told our subcommittee that world response to the incident has dislodged no plaster in the Kremlin. The other signers of the convention have reacted minimally, if at all.

As I said before, Mr. Speaker, between the Soviets pushing arms control agreements to the limits or beyond, and the U.S. Government, taunted by press leaks into forms of diplomacy that may only extend deadlock, there is a major threat to the arms control process.

The Soviet Union's unacceptable response to our inquiry means that our doubts become deeper, the worst explanations become more plausible, and the possibility of repairing the damage becomes less likely.

The early U.S. announcements leave the impression that we care more about scoring political points than substance and that we are not really serious about resolving hazy verification issues.

The results, Mr. Speaker, cover the arms control field with question marks.

It may be that arms control agreements that rely on theories about Soviet risk/benefit calculations to keep the Soviets in line need to be reassessed.

It may be that the Soviets have a higher tolerance for risk than we thought. It may also be that they have measured the consequences of getting caught and feel they are not so bad after all.

It may be that our political system is unable to respond to incidents like Sverdlovsk in a way that the Soviets take seriously. It may be that we and our allies will be unable to convince the Soviets that the costs of violation outweigh the benefits.

If all this is so, Mr. Speaker, it may be that in the future only those arms control agreements that are verifiable in the narrowest of terms can be seriously considered.

The consequences of this would be grave. Not only would some of the most interesting elements of major negotiations, including SALT, have to be redone, but the agenda of future arms control negotiations would have to be shortened dramatically.

That, I believe, would be a loss to both sides. It may already be a loss that cannot be retrieved. It all depends on what the Soviets perceive as being in their best interests, and whether the U.S. Government is able to chart and hold to effective diplomacy to get at the truth and to restore confidence in the arms control enterprise.●

RETIREMENT OF STATE SENATOR JOHN C. RYAN

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, June 30, 1980

● Mr. SKELTON. Mr. Speaker, recently Hon. John C. Ryan, State Senator from Missouri's 21st District, announced his retirement as a member of the Missouri Senate.

During his career in the Missouri Senate, as well as throughout his political life, he constantly displayed his dedication and efforts to the State of Missouri and to his constituents. He distinguished himself as a member of several committees in the Senate: local government, fees and salaries, labor and management relations, roads, banking and financial institutions, highways and transportation, ways and means, municipal corporations, railroads and private corporations, and agriculture, conservation, parks, and tourism.

In addition to being responsive to the people that he served, over his 12 years in the State senate, John Ryan made many friends and will be remembered as a person of high integrity. I wish to bring his distinguished career to the attention of this body and wish Senator Ryan and his lovely wife much happiness and good health during the years of retirement.●

FLORIDA'S ARVIDA CORP. COMMITTED TO HOUSING DEVELOPMENT IN SPITE OF ECONOMIC SETBACKS

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 30, 1980

● Mr. FASCELL. Mr. Speaker, I would like to call to the attention of our colleagues a major new community development project being undertaken in south Florida by the Arvida Corp.

The recent erratic fluctuation in interest rates, going as high as 20 percent, has kept our economy in an unstable condition for many months. Statistics indicate that the housing market has suffered most of all, with new housing starts and permits down as much as 50 percent from the same period last year. Nevertheless, the Arvida Corp. has remained firm in its commitment to the continued development of the housing market in south Florida in spite of these uncertainties.

This month, Arvida opened its third major community development project in south Florida, called Country Walk. The moderately priced homes in this planned community will contribute to the easing of the area's critically short housing market.

Furthermore, the construction of the proposed 1,800 new homes, shopping area, school, and recreation area will provide badly needed jobs in the beleaguered building industry.

Mr. Speaker, it is heartening to know that there are elements of the private sector that are willing to take risks and keep their commitments in order to help in our Nation's economic recovery. The Arvida Corp. is such a company and must be commended for its ultimate faith in the community and in our Nation.●

AUTOMOTIVE IMPORT RESOLUTION

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, June 30, 1980

● Mr. HEFTEL. Mr. Speaker, I rise today to introduce a joint resolution directing the President to enter into a marketing agreement to voluntarily restrain imports of Japanese automobiles and trucks.

The American motor vehicle industry is a strategic national industry, important to our Nation's economic well-being and stability. It provides 1,750,000 jobs and supports hundreds of thousands of other jobs in related industries, such a steel, rubber, and glass. Today, however, this industry is experiencing tremendous difficulties: With sales sagging, U.S. auto and truck production is 4 million units below the level of 2 years ago and 36 percent of the American auto industry work force is now on indefinite layoff. Predictably, the auto industry's slump is taking its toll on the national economy, increasing unemployment and inflation, and worsening our already deteriorating balance of trade.

We are all familiar with the causes of the auto industry's difficulties. There is no question that there is ample culpability for all concerned in government, industry, and labor. Recriminations, however, will not ameliorate this increasingly serious problem. Concrete action on the part of all concerned is the only answer.

While American auto and truck plants are being idled and shut down, Japanese plants are running on overtime, producing more and more cars for export to the United States. The Japanese did not directly cause the U.S. industry's current slump, but, undoubtedly, their excessive exports are now doing much to exacerbate the problem. By aggressively exporting increasing numbers of autos and trucks, and capturing a growing U.S. market share, the Japanese manufacturers have made a recovery by the U.S. auto industry difficult. It has, thus, become imperative that we provide a 2- or 3-year transition period during which the Japanese place a voluntary limitation on the export of their automobiles and trucks to America. This critical period of time would provide our domestic industry with the breathing room necessary to regain its strong, competitive position in both domestic and international markets.

As a Congressman from Hawaii, with no clear constituency in the auto industry, some may wonder how and why I became involved with this issue. It is, quite simply, because the viability of the auto and truck industry cuts across geographic, political, and economic lines. The health of an industry which accounts for 1 out of every 12 jobs in manufacturing must be the concern of all of us, whether we are from Hawaii, Illinois, or Maine. It is time to get this Nation's economy back on its feet; this can only be accomplished through the revitalization of basic industries, such as automobiles.

In the weeks to come, this body must go beyond this resolution and address the root-cause of the auto industry's decline. I look forward to working with my colleagues in addressing these complex and interrelated problems.●

AID GROWS TOO FAST

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 30, 1980

● Mr. COLLINS of Texas. Mr. Speaker, why does Federal aid grow at such a rapid pace? This question comes from the hard-pressed taxpayer who is paying in taxes 43 cents out of each dollar.

The difficulty starts out small and the project has merit. It is amazing to see how large these programs have become. U.S. News made an interesting analysis showing when the agencies were started back in the Johnson "Great Society" years of 1964-67. Then it looked at their giant budgets in 1980.

Let is compare the growth in million dollars as shown by Chaze and Cole of U.S. News:

[Dollars in millions]

	1964-67	1980	Percentage
Agency:			
Head Start	$96	$735	665
Mass transit	19	2,661	13,905
Aid colleges	383	5,474	1,329
Aid schools	538	7,330	1,262
Food stamps	33	8,678	26,197
Medicaid	770	14,220	1,746
Medicare	3,400	33,540	886

Congress must stop these tremendous escalating appropriations. We must give help to the sick and needy. But it is time the able bodied get by on their own two feet. Take deadheads off of welfare. Working their way through college is the best training possible. Taking 6 years instead of 4 to complete college while working will give us smarter and better adjusted young men and women.

Let us vote "no" to these appropriation bills and send them back to committee for reductions in spending. In 1980 the national debt will go up $69 billion which means 18-percent inflation. Congress caused the overspending.●

FIPSE WORKS

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, June 30, 1980

● Mr. SWIFT. Mr. Speaker, the world is filled with bad news. And too often it is only the bad news that gets reported. That is the reason I was very pleased to have a constituent who has a long and dedicated interest in higher education call to my attention a recent article published in the Seattle Post-Intelligencer.

It tells some good news. It reports on a Federal Government bureaucracy that works. With thanks to Jack Turley of Mount Vernon, Wash., for pointing it out, I insert that article in the RECORD. Even we in Congress need to hear good news about effective government.

(FIPSE could be described as both an acronym and an anachronism. It's an acronym for the Fund for the Improvement of Postsecondary Education. And many feel it's an anachronism because it's a federal agency that works—and on a small budget, too.)

(By Christopher Connell)

WASHINGTON.—In the annals of bumbling, heavy-handed, smother-'em-with-red-tape, bloated bureaucracy, FIPSE emerges as a man-bites-dog story.

FIPSE—the Fund for the Improvement of Postsecondary Education—is a bite-sized federal agency that everybody seems to love.

It has been crowned with laurels lately from Congress, from colleges and community groups and even from some skeptical social scientists paid to give it a critical eye.

The fund provides seed money for ideas to improve educational institutions and opportunities, on campuses, in museums and in the workplace as well.

Its $13 million budget is strictly small potatoes in the bureaucracy's scheme of things, but its relatively modest grants (average $75,000) are coveted among the institutions that compete for them. The fund gets 1,750 proposals each year and makes fewer than 100 new grants.

Since its creation seven years ago, FIPSE has been a patron for such projects as helping women overcome "math anxiety"; taking the blarney out of college catalogs; improving the communications of the New York City Police Department, and providing new pathways to college for minorities and women.

Educators who often moan about the strings attached to federal dollars sing FIPSE's praises.

Joel Olah, a gerontologist who is preparing courses on a "blue-collar approach to retirement planning" for the United Auto Workers with $200,000 from FIPSE, says "they deal with you as adults. They don't inundate you with paper. It's not a bureaucratic, paper-shuffling sort of agency."

FIPSE's reputation rests not on its popularity, but in the unusually high "adoption rate" for the projects it nurtures.

A $450,000 evaluation of FIPSE by NTS Research Corp. of North Carolina found that fully 70 percent of the programs were still going after the federal grant expired, and that 56 percent were alive and institutionalized two years later.

That is in sharp contrast to the 5 percent to 15 percent survival rate the Rand Corp. found in some billion-dollar federal programs to improve bilingual and vocational education and other areas.

Sol Pelavin, vice president of NTS, says he began the study with the impression that the fund was just "an off-the-wall, freaky organization." But close scrutiny led him to the verdict that it has been "an unqualified success" and "a rare and pleasant surprise" among federal agencies.

Charles I. Bunting, the fund's acting director, jokes: "Whatever success we have attained is probably due to the kinetic electrochemical response triggered in the cortex upon hearing the acronym, FIPSE."

Admirers attribute the fund's success to its unusual process of reviewing proposals and to a small staff—12 professionals, seven clerical—with a knack for funding projects at critical moments.

"We have viewed ourselves as sort of an experimental program," says Bunting, a former teacher. He has been with the fund from its inception.

The first applications are limited to five pages each. The 350 that pass this first cut are invited to submit more detailed proposals that are winnowed by the staff, 150 outside readers and an unpaid board of advisers.

Former Rep. James W. Symington, the board chairman, who once headed the House committee charged with oversight of the $947 million National Science Foundation, says, "Dollar for dollar, FIPSE probably has a much higher provable rate of success than the NSF."

Sheila Tobias, a historian and feminist who started a "math anxiety" clinic at Wesleyan College in 1974 with help from FIPSE, says: "They have engaged the practitioners—the teachers and administrators—in education innovation. Before FIPSE, it was in the hands of researchers with Ph.D.'s. FIPSE chose to fund people on the job with ears to the ground."

The kernel of Ms. Tobias' idea was that an aversion to math was keeping women from pursuing science and medicine, and blocking them from management in other careers.

The clinic at Wesleyan was a hit with both sexes, and she went on to write a book, "Overcoming Math Anxiety."

"There are now 90 full-fledged math anxiety programs around the country under the generic name of re-entry mathematics," says Ms. Tobias, who has another grant from FIPSE to develop a directory of these clinics and kits for teachers and students.

One of FIPSE's better-known projects was a competition it ran in 1975 to improve the information in college catalogs, which former FIPSE Director Ernest Bartell called "the greatest piece of creative fiction on campus."

A small college for women, Barat College in Lake Forest, Ill., drew nationwide attention for the tell-all prospectus it produced. It included details on class sizes, job offers to Barat's alumnae, and both barbs and bouquets from an accreditation report.

Bartell, who led FIPSE from 1977 to 1979, says the catalog campaign "produced a lot of good ideas, but the colleges haven't jumped on the bandwagon."

But Theodore J. Marchese, Barat's vice president, says while no colleges have copied the prospectus exactly, truth has been seeping into catalogs. Prodded by government regulations, more schools are giving out information on graduation rates and job offers, he says, and make more accurate statements about course offerings.

Barat, which has 733 students and is Chicago Mayor Jane Byrne's alma mater, has drawn dividends from disclosure. Freshman applications initially dropped, but transfers increased and the attrition rate by the end of the sophomore year fell from 35 percent to 24 percent.

None of FIPSE's projects has changed the face of higher education on a sweeping scale. Pelavin, the evaluator, comments, "When you think about the size of the fund, it is incredible it has had any impact at all."

Marchese says, "If you look at the changed agenda in higher education today, you find FIPSE's footsteps everywhere. "There's not much money available now for innovation," he adds. "The fund really is indispensable in keeping people thinking about new ways of doing things instead of just talking about retrenching."

Eighty percent of FIPSE's grants go to colleges and universities, the rest to community organizations, museums, unions and other groups. Most provide direct services to learners, and two-thirds are directed at "nontraditional clienteles—minorities, older students and others," Bunting says.

One of the catchiest descriptions in FIPSE's project guide is this from the New York City Police Foundation: "Writing is the least heralded police function. Kojak and Baretta wield every weapon but a pen. In reality, what keeps a large police department running is the voluminous flow of documents."

Arther S. Pfeffer, an English professor at the John Jay College of Criminal Justice in

New York City, and other writing experts are conducting a top-to-bottom review of the regulations, bulletins, and paperwork that dictate how New York's finest write.

Pfeffer's goal is not to convert individual cops to clarity, but to design a course that New York and other big police departments can use to improve communications. FIPSE is providing $175,000 over two years.

FIPSE's first budget in 1973 was $10 million. Although Congress originally authorized $75 million for 1975, the actual appropriations never went past $13 million.

Bunting says the fund eschewed rapid growth, but "growing this slowly was not what we had in mind."

Now the fund is trying to raise its profile in the federal bureaucracy and persuade Congress to send more dollars its way.

The fund recently moved from the old HEW into the new Department of Education. Secretary of Education Shirley M. Hufstedler has taken a shine to it already. She says that all her programs to improve schooling should "meet the high standards set by FIPSE," The administration is seeking $17 million for FIPSE in 1981.

But some of FIPSE's fans are hoping it doesn't get too big.

"I don't know if it would work in a big bucks program," say Father Bartell. "Part of the openness to new ideas is that informal structure. The truth is, if they get too large, it's apt to get bureaucratic."●

GENERAL REVENUE SHARING PROGRAM

HON. THOMAS N. KINDNESS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 30, 1980

● Mr. KINDNESS. Mr. Speaker, we are continuing to struggle with spending and taxing decisions this year. One such decision we face is whether to continue the general revenue sharing program and, if so, under what conditions.

More and more Members have come to realize that the Federal Government plays too large a role in our economy and, accordingly, that both Federal taxes and expenditures must be reduced significantly. It is my belief that we can take a step in that direction by phasing out the revenue sharing program and replacing it with an income tax credit for State and local taxes.

History has not borne out the assumptions on which the revenue sharing program was based. In the past 8 years, we have continued to pile up the number of categorical grant programs which revenue sharing was intended to replace. Furthermore, the basic concept of revenue sharing is flawed in that it separates the decision to spend revenue from the responsibility to raise that revenue.

However, the Nation did not come upon its economic difficulties overnight and many State and local governments have come to plan and depend upon their revenue sharing entitlement.

Accordingly, I am today reintroducing legislation that would provide for the reauthorization of general revenue sharing for a 3-year period during which time the amount authorized would be evenly reduced until the expiration of the program on September 30, 1983. The bill would eliminate the State share of revenue sharing but would maintain the amount currently available to local governments, $4.56 billion, in fiscal 1981. That figure would be reduced by one-third, to $3.04 billion, for fiscal 1982, and by another one-third, to $1.52 billion, for fiscal 1983.

The bill contains a second title which would provide an optional Federal income tax credit for State and local income, property, and sales taxes. This 25-percent credit would provide a specific benefit for those who do not itemize and an option for those who do.

Providing a credit for State and local taxes was one of the alternatives considered but rejected by the Nixon administration when it first proposed the program which we now have as revenue sharing. Then Treasury Secretary John Connally, in rejecting the tax credit alternative, said:

> Tax credits are, in the first instance, tax relief to taxpayers, not to needy local governments.

The need today is to provide tax relief to needy taxpayers. And, we cannot afford to continue to send Federal revenues back to State and local governments—because we do not have the revenue to send.

By providing a credit for State and local taxes against an individual's Federal income tax, we may also provide some incentive for those individuals to look a bit more favorably upon voting for local school funding issues, for example. It will take time certainly. But, this year's expiration of revenue sharing gives us an opportunity to start, and I hope that the Government Operations and Ways and Means Committees will find this bill a suitable vehicle with which to make that start.

A section-by-section analysis follows:

SECTION-BY-SECTION SUMMARY

TITLE I—AMENDMENTS TO THE STATE AND LOCAL FISCAL ASSISTANCE ACT OF 1972

Title I would reauthorize the general revenue sharing program for local governments only for three fiscal years. The level of funding currently available to local governments, $4.56 billion annually, would be continued for fiscal 1981. In fiscal 1982, that level would be reduced by ⅓ (to $3.04 billion), and would be further reduced by ⅓ (to $1.52 billion) for fiscal 1983. The program would then expire on September 30, 1983.

The bill would eliminate the state share of revenue sharing funds provided in current law. Otherwise, the bill would make no changes in the current distribution formulae or other provisions or limitations of the current program.

TITLE II—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954

Section 201 would provide individuals a federal income tax credit for 25% of the taxes they pay to State and local governments, which are currently deductible by those who itemize deductions pursuant to section 164 of the Internal Revenue Code of 1954 (IRC).

The credit created by this section would not be refundable; that is, it could not exceed a taxpayer's federal income tax liability before subtraction of the credit.

The taxpayer would not be allowed the credit if he or she takes a deduction for State and local taxes under sec. 164 of the IRC. The taxpayer can elect either the deduction under section 164 or the credit under new section 44F.

The definitions and rules contained in subsections (d) through (h) are taken directly from current law, IRC, section 164 (b) through (f). Thus, the same State and local taxes, including sales, property, and income, would be eligible for the 25% credit election.

Sections 202 and 203 make necessary technical, conforming amendments to sections 275 and 1451 of the IRC.

Section 204 provides that the effective date for Title II will be January 1, 1982.●

ENERGY SECURITY ACT OF 1980

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Monday, June 30, 1980

● Mr. EVANS of Delaware. Mr. Speaker, I am pleased that the House has passed the Energy Security Act of 1980.

It is no secret to every American that our excessive and dangerous addiction to foreign oil has reached almost catastrophic proportions. Our country's $95 billion annual fuel bill for foreign oil is bankrupting every sector of our economy. Our reliance on foreign oil suppliers to meet over 40 percent of our oil needs is seriously compromising our foreign policy objectives. The failure of this Congress to take decisive action in the face of this clear threat to our country's national security would have been a serious mistake.

While I do not mean to overstate the value of this legislation, I believe the passage of the Energy Security Act indicates that the United States is finally ready in 1980 to take the essential steps to free itself from its unacceptable dependence on foreign petroleum. The passage of the windfall profits tax on the unearned wealth of the major oil companies, which I supported, will provide the Federal Government with the revenues to finance the ambitious projects which will be developed under this omnibus legislation. Without this tax, we could not proceed with this bill and a whole range of promising alternative technologies—many of which have the potential to provide direct liquid fuel alternatives to foreign oil—would continue to have been neglected.

The purpose of the Energy Security Act, S. 932, is to develop the capability to produce additional sources of energy which can be employed as an alternative to imported oil. The various elements of this legislation will guarantee the credibility—to both OPEC and the rest of the world—of our Nation's commitment to develop energy independence. There are three essential features to this proposal: A synthetic fuels corporation, an aggressive gasohol program, and the solar and energy conservation bank.

The U.S. Synthetic Fuels Corporation will serve as a special purpose Federal entity to carry out the national synthetic fuel development program established in title I of the bill. The Corporation will provide financial assistance to the private sector for the commercial production of gas and liquid fuels from our country's abundant reserves of coal, shale oil, tar sands, and heavy oil. However, I must admit that I have several reservations about the establishment of such a massively funded Government Corporation and the possibility that the Federal Government may ultimately become directly involved in the development and production of snythetic fuels. I generally believe the Government should recognize the highly successful track record of the private sector and stay away from the type of projects which have been traditionally developed by private enterprise. Nevertheless, I believe there are sufficient safeguards in the bill to restrain the intrusion of the Federal Government into the energy production and supply arena.

The development of our vast supplies of shale oil and coal is of such critical importance to the future of this country that I support the establishment of this special purpose Federal agency to hasten the commercialization of synfuels. The synthetic fuels policy which will be carried out under this bill will permit the initiation of a diverse group of commercial-scale synfuels projects. With $20 billion and a production target of 500,000 barrels a day by 1987, the Corporation will have the resources to move forward with a number of alternative types of synfuels' technologies and it will not have to exclusively rely on the participation of the international oil companies. We as a nation no longer can afford to wait for others to develop the technology. I believe our country's pressing need for additional domestically produced liquid supplies of energy for our transportation network requires us to move forward with synfuels as soon as possible.

Mr. Speaker, title II of the bill establishes an aggressive and well-balanced gasohol and biomass program in the Department of Energy and the Department of Agriculture. The combined $1.2 billion program will provide the necessary assistance and incentives to support a near-term multiplication of the Nation's gasohol and biomass energy production. The programs and policies which will be developed will move us swiftly toward a 1990 goal of 10 percent of gasoline consumption using gasohol. Title II includes a number of provisions such as acreage set-asides, natural gas priorities, special gasoline allocation, mandatory time limits, and solicitations and a $500 million minimum authorization for DOE's gasohol program. These provisions will insure an aggressive, near-term gasohol program which will also spread numerous benefits thoughout the agricultural sector of the Nation. I believe the gasohol and biomass programs will serve to establish new frontiers in both energy production and a stabilized agricultural economy for America.

Mr. Speaker, I believe title V of the bill is the most important and far-reaching section because of its heavy emphasis on conservation programs. In title V, we will literally be buying barrels of oil through conservation. Congress is recognizing that energy conservation and renewable energy resources are critical components of the overall solution to our energy problems. There is no cheaper source of new oil, gas, coal, oil, or electricity other than conservation. We have a great deal of potential for conservation because it has been estimated that we waste up to 40 percent of our energy. Clearly, conservation is a quick, affordable, permanent, and necessary response to the looming shortage of energy in the 1980's.

I am pleased the conference committee adopted a number of the provisions for the solar energy and conservation bank which were developed by the House Banking Committee, on which I am privileged to serve. The bank will provide subsidies to local financial institutions that offer below-market-rate loans or principal-reduced loans for conservation or solar improvements in existing homes. The bill provides $2.5 billion for conservation loan subsidies during the first 4 years, and $525 million for solar loan subsidies during the first 3 years.

The interest subsidy mechanism is a highly effective one that overcomes the high initial costs and high carrying costs of solar energy equipment. The subsidy levels are adjusted to give moderate- and low-income individuals higher subsidies—up to 50 percent for conservation and 60 percent for solar. For low-income individuals, the 50-percent conservation subsidy can be in the form of a grant. The bank also will provide subsidies for commercial and multifamily buildings. Unlike current tax credits, this subsidy mechanism can benefit nonprofit organizations that incur no tax liability. Unlike existing tax credits, the bank includes passive solar as an eligible activity.

There are also other important conservation measures. These include an innovative residential conservation program utilizing private energy companies; a program to train energy auditors; modifications to the weatherization program to make it more effective; and modifications to the utility conservation program to encourage utilities to take a more active role in delivering conservation. The bill requires the Federal Government to use life cycle costing in evaluating conservation and solar improvements in Federal buildings, and to use gasohol in Government fleets.

Mr. Speaker, however much we talk about building a synthetic fuels program and the need for energy conservation, we cannot escape the fact that the United States will be dangerously dependent on foreign oil. As long as this situation continues, commonsense requires us to develop a viable strategic petroleum reserve. We need this cushion in the event of an oil embargo or a disruption in the supply routes. If we are to maintain any semblance of independence from the two-bit countries that are currently kicking us around, we must get on with the necessary job of filling the strategic petroleum reserve. The reserve will serve as an effective insurance policy for the energy needs of this country and will lessen the linkage between the OPEC oil weapon and our foreign policy objectives. For all of these reasons, I am pleased that the Congress has overruled President Carter and once again directed the administration to resume filling the reserve at a rate of 100,000 barrels per day.

In summary, I believe the Energy Security Act is a comprehensive national energy independence proposal. The major provisions of the bill complement and reinforce each other. While no single section of the bill will completely eliminate our dependence on foreign oil suppliers, the combination of all the provisions in this legislation will over time establish an effective national energy program. With the passage of the Energy Security Act, the United States has finally turned the corner and established the types of programs which will carry us a long way in our fight for energy independence.●

SILENCE ON SOUTH AFRICA?

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 30, 1980

● Mr. STARK. Mr. Speaker, we responded with loud voices to the Soviet Union's recent incursion into Afghanistan—and I joined in that chorus, as well. But, as the following article by former Congressman and former Ambassador Andrew Young points out—Washington Post, June 30, 1980, editorial section:

> * * * South Africa also boasted that its recent military venture into Angola against Namibian liberation camps was its greatest feat since World War II, but the response from the West is silence. There were no urgent calls for meetings of the U.N. Security Council as in the Vietnamese invasion of Cambodia or the Soviet invasion of Afghanistan. The righteous indignation of months past does not apply to the Republic of South Africa.

Where are the human rights voices of the West in the wake of 42 dead and 200 injured in recent weeks?

Mr. Speaker, I have—along with my colleagues—cried out against human rights violations in Argentina, Chile, Indonesia, and Taiwan. I ask you now to read Andy Young's article, and I'm sure that you—like I—will certainly be speaking out against South Africa's inhumanities against mankind.

[From the Washington Post, June 30, 1980]

AN END TO "CARTE BLANCHE" IN SOUTH AFRICA

(By Andrew Young)

South Africans are intelligent people. They are even a devoutly religious people. But South Africa's assault on its non-white population ignores the lessons of chaos in Iran and civil war in Rhodesia.

The death toll in South Africa builds daily as the colored (mixed blood) black and Asian populations cry out in desperation for basic changes in the government's racialist apartheid policies. Apartheid divides the citizens into black, colored, Asian and white groups, the whites being the only group with any voting or property rights.

A simple request to study in English rather than in Afrikaans, a language used only in South Africa, sparked the Soweto massacre of hundreds of schoolchildren by police in June 1976.

The present indignation and upheaval are related to the simple quest by the colored students for an end to the country's racially segregated education system—a quest that the entire world community must approve.

One must ask: what gives the South African government the confidence that it can proceed to abrogate the rights of 18 million of its citizens and still maintain business and cultural ties to the West?

Is it possible that they view white skin color as an indivisible tie to the West that gained them carte blanche to trample on the rights of the citizenry?

Is the supposed strategic importance of the Cape sea route such a key link in the Western defense network that the lessons of past totalitarian societies are muted?

The recent elections in Zimbabwe would indicate to normal, rational people that majority rule under democratic auspices is the only way to ensure stability and security in that region. But the government of South Africa instead becomes more oppressive and violent.

South Africa has banned nearly everything but breathing. Shortly before midnight on June 13, the government issued a special "gazette" banning any political gathering of more than 10 persons. The banning order applies to meetings where "any form of state, or any principle or policy or action of a government of a state, or of a political party or political group, is propagated, defended, attacked, criticized or discussed, or at which any protest or boycott or strike is encouraged or discussed, or which is held in protest against or in support of or in commemoration of anything. . . ."

Whew!

South Africa also boasted that its recent military venture into Angola against Namibian liberation camps was its greatest feat since World War II, but the response from the West is silence. There were no urgent calls for meetings of the U.N. Security Council as in the Vietnamese invasion of Cambodia or the Soviet invasion of Afghanistan. The righteous indignation of months past does not apply to the Republic of South Africa.

Where are the human rights voices of the West in the wake of 42 dead and 200 injured in recent weeks?

The presidents of Africa's 50 nations, gathering in Sierra Leone, West Africa, starting tomorrow, for the annual meeting of the Organization of African Unity, will discuss the situation in southern Africa. Let there be no doubt that these heads of state will speak to the discrepancy and Western policies.

Likewise, those who hope to escape a U.N. Security Council demand for sanctions against the last bastion of racial oppression only deceive themselves.

The scenario is unfolding from a dim outline to stark reality, just as events progressed in Iran and other nations built on sheer military authority. First it is a few, and the response is brute force; then come the many, and brute force is inadequate.

Totalitarian societies unfortunately don't reform. They suddenly disintegrate in the face of a national will to be free. Strong pressure from Western governments can give support to the more reasonable forces in South Africa, and the situation could evolve, limiting the bloodshed and turmoil.

External pressures made the difference in Zimbabwe; they were too little and too late in Iran. The choice is still open in South Africa—chaos or a community of peace and justice.●

COMMENTS FROM WALL STREET JOURNAL

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 30, 1980

● Mr. FRENZEL. Mr. Speaker, today the Wall Street Journal carried an article on a report recently published by Japan's Ministry of Industry and Trade (MITI). The report is titled, "The Vision of MITI Policies in the 1980's."

The article and the report furnish a number of good lessons for the United States. The first, as indicated by WSJ, is that Japan has an industrial policy and the United States has none. Parenthetically, I would add that Japan has a trade policy and the United States has none.

Another lesson is that Japan has a Trade Ministry and the United States has none. As we struggle to implement the executive reorganization of the trade function, we can never forget that the long-term goal is a department of trade.

But there is another lesson that scares me more because the United States has not learned it, and, in fact, seems to resist it strongly. That is the MITI policy of increasing the ration of technology spending to GNP. Japan expects to far exceed our performance in spending for research and technology in the 1980's.

In the United States, we favor old industries whose growth is behind them. In our desire to protect jobs in these old production industries, we protect obsolescence and noncompetitiveness.

Instead of granting tax credits for research and development to stimulate growth of the industries of the future, we make loans to dying giants like Chrysler, or protect other industries which are no longer able to compete in world markets.

The WSJ article, sadly, tells as much about ourselves as it does about Japan.●

MOTOROLA SUPPORTS SHORT-TIME COMPENSATION BILL

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 30, 1980

● Mrs. SCHROEDER. Mr. Speaker, on June 26 the Ways and Means Subcommittee on Public Assistance and Unemployment Compensation held a hearing on H.R. 7529, the Short-Time Compensation Act of 1980.

My bill would encourage voluntary State programs to permit unemployment compensation for workers who are partially laid off, so that they can work 4 days and be compensated by the unemployment insurance system for the fifth day. It would also establish a demonstration project which would have controlled experiments in several sites. Finally the bill requires an evaluation of both the voluntary State programs and the demonstration project and a report to Congress and the President after 3 years.

I am putting into the RECORD today the testimony of C. F. Koxiol, corporate director of personnel administration of Motorola Inc., who testified in behalf of the bill. I urge my colleagues to read his testimony. Layoffs are devastating to business as well as to the workers who are laid off. Mr. Koziol recommends short-time compensation as an alternative that his company wholeheartedly supports.

The testimony follows:

TESTIMONY OF C. F. KOZIOL, CORPORATE DIRECTOR OF PERSONNEL ADMINISTRATION, MOTOROLA INC., ON H.R. 7529

Mr. Chairman and members of the subcommittee, my name is C. F. Koziol. I'm Corporate Director of Personnel Administration for Motorola Inc., headquartered in Schaumburg, Illinois.

I am grateful for the opportunity to appear before you today to express Motorola's support for Representative Schroeder's H.R. 7529—The Short-Time Unemployment Compensation Act of 1980. We do have two modifications to propose which we will discuss later. In general, though, we think the bill represents an idea whose time is long overdue.

To acquaint you with Motorola, the company was founded in 1928. We are primarily engaged in the design, manufacture and sale of two-way radios and other forms of electronic communications systems, semiconductors, electronic equipment for military and aerospace use and data communications products. We employ over 75,000 people. Inasmuch as our products are used in capital goods, we are a company that is very much impacted by fluctuations in the economy.

We have frequently been asked, "Why is Motorola so supportive of Short-Time Unemployment Compensation?"

Our concern and motivation center on three affected groups. First, it centers on the welfare of all Motorola employees and their families, including minorities, females and other protected classes. Secondly, it centers on the welfare of the communities where our facilities are located. And finally, it centers on the welfare of the corporation which depends upon the retention of a fully trained and productive work force to compete effectively.

At the risk of repeating testimony offered by previous witnesses, I would like to amplify briefly on some of the advantages and disadvantages of Short-Time Unemployment Compensation to each of these groups.

We are well aware of the traumatic effects of layoffs on employees. The shock, the grief, the concern, the embarrassment that overcomes the individual. The stigma of facing the family and friends; the financial sacrifices that become necessary; the shattered dreams of providing the necessities of life—in short, the dignity of the individual is destroyed.

Under the concept of Short-Time Unemployment Compensation, workers would maintain their skills and advancement opportunities; those most recently hired would suffer less financially and psychologically; they would have fewer work-related expenses; but most importantly workers would maintain fringe benefits which otherwise they could not obtain or could not afford, primarily health and life insurance and pensions. It is true that senior employees would suffer a reduction in hours and income; however, the experience of several companies has demonstrated a willingness on the part of those employees to make that temporary sacrifice for their co-workers.

With regard to the community, Short-Time Unemployment Compensation would result in a more equitable distribution of the impact of an economic downturn. The need for public assistance expenditures would be lessened and a smaller retrenchment in consumer spending would probably occur. Most importantly, Short-Time Unemployment Compensation would preserve the integrity of affirmative action programs. It may limit the mobility of workers which can result in a misallocation of resources, but it may also provide the stability desired by workers and their families.

And finally, there are numerous benefits to the employer. First and foremost, Short-Time Unemployment Compensation enables an employer to maintain and improve existing levels of productivity and quality which are essential to the survival of the business enterprise.

Significant costs are avoided by not having to recruit, train and retrain workers. Additional costs associated with employee transfers, downgrading and bumping between jobs are also avoided, since the work force remains intact. Finally, the employer would have the capability to expand rapidly when the economy recovers.

We feel that these advantages far outweigh the disadvantages of higher fringe benefit costs that would accrue to the employer and the increased risk of losing valuable employees whose skills would enable them to locate full time employment elsewhere.

The recession of 1974-1975 had a devastating effect upon American Industry. At Motorola, employment fell by almost 30%. In one community alone over 2,000 Motorola employees placed their homes on the market. Had Short-Time Unemployment Compensation been available to us at that time, almost 60% of the employees laid off could have been retained on the payroll.

We witnessed the benefits of work sharing during that recession in European countries where we have major operations, and we avoided layoffs. We recognize that their social system and methods of funding vary from our approaches and would require further analysis.

We have arrived at a position of supporting Short-Time Unemployment Compensation only after thorough study. In brief, our study included meetings with Lillian Poses, a New York Labor Attorney, whose Poses Plan was the first major effort to provide Short-Time Unemployment Compensation legislation in this country. We have also met with State Senator William Greene of California and officials administering the California program. Meetings have been conducted with such employer organizations as the Texas Association of Business, Associated Industries of Florida, and the Arizona Association of Industries. In addition, a study is presently being conducted by the Arizona Department of Security and is supported by Motorola to determine interest in Short-Time Unemployment Compensation in that State.

We have further committed Motorola's total support to the Department of Labor in conducting demonstration programs on Short-Time Unemployment Compensation. Evidence of this commitment is contained in a letter (attached) which was sent to the Department on July 25, 1979 by Robert W. Galvin, Chairman of the Board, Motorola Inc. The letter in part reads:

"We believe that Short-Time Compensation should be promoted as an alternative to layoffs and we are willing to cooperate with the Department of Labor in demonstrating its soundness and feasibility. Toward this end, we will provide data relating to productivity, absenteeism and turnover; we would establish a control group within Motorola to test the concept; and we would structure our internal procedures to meet Department of Labor specifications in support of the program."

We wholeheartedly agree with Wilbur Cohen, Chairman of the National Commission in Unemployment Compensation, who, during our meeting with him and his staff, termed Short-Time Unemployment Compensation as the most innovative proposal to change the Unemployment Insurance System since its inception over 40 years ago.

At the outset we referred to two modifications which should be made to H.R. 7529. First to protect against employer abuses, negative reserve employers should be required to make installment payments into the trust fund to cover all of the costs associated with their participation in Short-Time Unemployment Compensation programs. Secondly, while we agree that fixed fringe benefits such as health insurance should not be reduced, variable fringe benefits, that is, those tied to earnings or hours of work should be pro-rated. Otherwise, employer costs would increase significantly and support for Short-Time Unemployment Compensation as an alternative to layoffs would diminish. Since most proponents of Short-Time Unemployment Compensation agree that it should be utilized for a relatively short duration of time, for example, 3-6 months, the potential consequences upon variable fringe benefits should be minimal.

One other concern has been expressed by some segments of labor, namely, that Short-Time Unemployment Compensation is bad because it runs counter to a part of the seniority system—the principle of last hired, first fired. Let me respond to that concern.

I agree that Short-Time Unemployment Compensation runs counter to the last hired, first fired principle. But that doesn't necessarily mean it is bad. Let's examine the purpose of the seniority system.

The seniority system was intended to prevent employer actions that were arbitrary or unfair. Seniority was chosen for two reasons. First, it is objective and easily quantifiable. Second, there is some relationship between seniority and the employer's legitimate goal of keeping the best workers in times of layoffs. One can expect, in general, that the more experience or seniority someone has, the more valuable worker he or she will be.

Short-Time Unemployment Compensation does not in any respect permit arbitrary employer action. To the contrary, it requires employers to treat all employees involved in the program alike. Hence, we believe that Short-Time Unemployment Compensation serves precisely the same purpose as the seniority system was intended to serve.

In conclusion, Motorola does not believe that Short-Time Unemployment Compensation or any form of work sharing should be a substitute for prudent and efficient management which can minimize the necessity for layoffs or reduced wages and hours. Short-Time Unemployment Compensation should only be utilized as a last resort, after all other reasonable efforts to turn down the business have been exhausted and it should be employed only for a short duration.

Thank you for permitting me to present this testimony.

MOTOROLA INC.,
July 25, 1979.

Dr. ROBERT CROSSLIN,
Deputy Director of Research and Evaluation, National Commission on Unemployment Compensation, Arlington, Va.
Dr. STEPHEN A. WANDNER,
Deputy Director, Department of Labor, Employment and Training Administration, Office of Research, Legislation and Program Policies, Washington, D.C.

GENTLEMEN: Thank you for providing me with the opportunity of discussing the concept of Short Time Compensation during your visit to our corporate headquarters.

I understand that you and representatives of Mathematica will be conducting a site evaluation survey in Phoenix on Monday, July 30, and I want to reaffirm the commitment and support of Motorola to the Demonstration Project, should Phoenix be selected.

For several years it has been Motorola's long standing objective to achieve job security for its employees. Our management philosophy respects the value and dignity of the individual and recognizes the responsibilities that a corporation assumes for continuity of employment. We have seen the severe consequences that a recession and resultant unemployment have upon employees, their families and the community.

Our interest in Work Sharing goes back to the 1975 recession when European countries where we have facilities, clearly demonstrated that Work Sharing can indeed reduce unemployment, sustain employee morale, maintain productivity levels and accelerate economic recovery. As a result, for the past two and one-half years we have expended considerable time and effort in promoting Short Time Compensation, especially in Arizona where Motorola has sizable operations.

We believe that Short Time Compensation should be promoted as an alternative to layoffs and we are willing to cooperate with the Department of Labor in demonstrating its soundness and feasibility. Toward this end, we will provide data relating to productivity, absenteeism and turnover; we would establish a control group within Motorola to test the concept; and we would structure our internal procedures to meet the Department of Labor specifications in support of the Program.

We have recently completed meetings on Short Time Compensation with officials in Texas, Florida and Illinois where key Motorola facilities exist. The initial reaction has been positive; however, the ongoing participation by Motorola in a Demonstration Program in Phoenix would provide us with invaluable information which could make Short Time Compensation a reality in those states.

I hope that you favorably consider Phoenix as your Demonstration city.

Regards,

ROBERT W. GALVIN,
Chairman of the Board.●

LUMBER PRICES TO GO UP

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, June 30, 1980

● Mr. AuCOIN. Mr. Speaker, in my home State of Oregon, timber-related industries are responsible directly or indirectly for employing more than 40 percent of the population.

In the Southern States, too, the lumber industry is a major employer. Although the current recession has caused demand for lumber products to fall drastically, it is important that the industry remain prepared to meet a renewed lumber demand when the market regains strength.

I would like to call the attention of my colleagues to an article from Portland's Daily Journal of Commerce which concisely addresses this subject. Following is the text of the article which appeared June 3, 1980.

STEEP CLIMB IN LUMBER PRICES FORECAST BY INDUSTRY LEADER

VANCOUVER, BRITISH COLUMBIA (BW).—The outlook for U.S. timber supplies includes steadily rising demand and prices, a continuing shift of focus to the South and new products that more efficiently use the available supply of wood fiber, and executive of Georgia-Pacific Corp. predicted to a financial analysts seminar in Vancouver Monday.

John E. Wishart, G-P's vice president of timber and timberlands, told the Financial Analysts Federation, "Forecasters are unanimous in predicting that timber prices will escalate more steeply in future years than they have in the past."

"And historically," he said, "stumpage prices (the prices for timber in the forest prior to harvest) have outpaced the general level of inflation, particularly in recent years.

"The U.S. Forest Service predicts a 2.7 percent annual growth rate in softwood demand through 1990. The South is becoming more important in fulfilling this demand and will expand its importance in future years."

Wishart attributed this increasing importance of the South to its timber supplies and growing markets and to rising freight rates that have regionalized wood products markets.

Canadian exports to help meet demand may not be as available as current predictions assume, he added.

Wishart observed that timber supplies in the U.S. Northwest, where the government owns most of the timber, are predicted to decline over the next 50 years, while supplies from the South where most forest land belongs to private, non-industrial owners, will almost double.

"The challenge in the future will be to increase productivity on these private lands, where economics can still stimulate productive forest management," he said.

SPECIAL DIFFICULTIES

"There are, however, some special difficulties in motivating these non-industrial landowners to manage their lands for timber production."

These include tax laws that do not take into account the long term, high-risk nature of the tree crop and a maze of regulations, he explained.

On the other hand, timber management is encouraged by rising stumpage prices for Southern pine, a growing awareness of the investment qualities of forest land by private landowners and the development of special programs by forest products companies to encourage and aid timber management by non-industrial owners, Wishart said.

TECHNOLOGICAL ADVANCES

In addition to increased timber supplies, future forest products output will benefit from advances in production technology that result in more efficient use of wood fiber, the forest executive commented.

Products like plywood, which use timber more efficiently than lumber, and the integration of the pulp and paper and building products industries already have enhanced use of wood fiber, he said.

"A new generation of structural panels now coming on line will further intensify the use of wood fiber by allowing greater use of each harvested tree," he said.●

IEEE SUPPORTS ERTEL AMENDMENT TO HUD-INDEPENDENT AGENCIES APPROPRIATIONS

HON. ALLEN E. ERTEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 30, 1980

● Mr. ERTEL. Mr. Speaker, when the HUD-Independent Agencies Appropriations is brought to the floor I will offer an amendment to the National Science Foundation section of the bill. My amendment is a modest one and would provide a 10-percent increase over the fiscal year 1980 level of funding for the Engineering and Applied Science Directorate of the NSF. Under the bill as reported by the Appropriations Committee, this part of the Foundation most involved in improving innovation and productivity in the Nation would receive only a 2.5-percent increase over fiscal year 1980.

I have just received a letter from the Institute of Electrical and Electronics Engineers, Inc. (IEEE), the largest professional engineering society in the United States, expressing support for my amendment and discussing the importance of reversing the present downward trends in productivity. I call my colleagues attention to this thoughtful letter and urge their support for my amendment:

THE INSTITUTE OF ELECTRICAL AND
ELECTRONICS ENGINEERS, INC.,
UNITED STATES ACTIVITIES BOARD,
Washington, D.C., June 27, 1980.

Mr. ALLEN E. ERTEL,
Longworth House Office Building,
Washington, D.C.

DEAR CONGRESSMAN ERTEL: I am particularly pleased to have this opportunity to comment on your effort to increase appropriations for the National Science Foundation Engineering and Applied Science Directorate and to remove the restriction on use of such funds to support the establishment of a Center for Innovation Development.

The Institute of Electrical and Electronics Engineers, the world's largest professional engineering society with over 160,000 U.S. members and over 215,000 members worldwide, has been viewing with considerable concern the trends in productivity growth, utilization of our technical manpower resources, and the loss of our competitive position in the manufacture of an increasing variety of products. This concern has prompted the Board of Directors of the IEEE unanimously to support a measure stating, in part, that "there is an urgent need for the United States to adopt a national technology policy." We need to recognize that it is through the *application of technology* that we provide the goods and services upon which our national economy is based, and that increasingly we are being challenged and occasionally overshadowed by other nations in applying this technology. We must give special attention to the revitalization of our productive capacity, and to the professional community that translates the work of scientists into the products we use and on which we depend for our quality of life, that is, the engineers and technicians of America.

Today the U.S. stands preeminent in scientific research by many objective measures. This position is not a fortuitous coincidence, but rather the result of a number of Federal policies, not the least of which is the continuing direct Federal support of basic research going back to the establishment of the office of Naval Research in 1946 and the National Science Foundation in 1950. These policies in support of basic science have served us well, yet today we are experiencing serious declines in productivity, and there is growing evidence of a drop in innovation; that is, the rate at which we commercialize new products and services. These problems, like many others that face us today, do not stem from a single source, nor will they be cured by a single new thrust in national policy. But we who are close to these problems and who have considered their dimensions can identify a few major characteristics and measures that can make a start toward more permanent solutions, and we have been speaking out on these points.

An important element in this effort to refocus attention on technology and technological policy needs relates to the role of the National Science Foundation. As part of the longer-term strategy for addressing these needs, and in recognition of the crucial role that engineering plays in our nation's technological growth, our Board of Directors has called for the reorganization of the National Science Foundation into the National Engineering and Science Foundation. This action was subsequently endorsed by the Public Affairs Council of the American Association of Engineering Societies representing the entire engineering profession in the United States. We also recognize the value of concepts included in H.R. 6910, introduced by Democratic Congressman George Brown of California, which calls for the creation of a National Technology Foundation. These are steps that will take time and require careful deliberation by the Congress. In the interim, we have noted with alarm the reductions from the proposed 1981 budget for the Engineering and Applied Sciences programs of the NSF, reductions which fall more heavily on this directorate than any other in the NSF. We believe there are valuable initiatives in support of small business stimulation of innovation, industrial technology and support for areas where unemployment is particularly high that would profit from additional funds in FY 1981. We strongly support your proposal to add approximately $8.5 million to the NSF for work in these areas.

This is a modest step, considering the complex and highly interrelated problems we face as a nation. Yet, it is a positive and extremely important step to take. It will be an important signal to engineers and to the nation that we are beginning to take active measures to turn around the trends that threaten us with technological mediocrity.

I would be pleased to discuss these points with you at your convenience. It is particularly encouraging to us in the IEEE to see this active concern being expressed in the Congress, and we are pleased to support your leadership in bringing this matter before the full House.

Sincerely,

RICHARD GOWEN,
Vice President,
Professional Activities.●

INDEXING

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 30, 1980

● Mr. GRADISON. Mr. Speaker, the Tax Foundation, a highly respected tax research group, has recently issued a report detailing the effect of taxflation on the average family's income. According to the study, even if a family of four earning $10,000 a year received a 14.5-percent pay raise this year, they would lose $155, or 1.7 percent of purchasing power, due to taxflation.

As inflation continues to battle the American wage earner, I want to share this information with my colleagues:

TAXFLATION WOULD KO 14.5 PERCENT PAY RAISE

WASHINGTON, D.C., June 30, 1980—Even a 14.5-percent cost-of-living pay raise won't help an American worker keep the wolf of inflation at bay, Tax Foundation economists report. Those lucky enough to get a pay hike that exactly matches the projected 14.5 percent inflation rate for 1980 will lose money because of the effect "taxflation" has on any increase in earnings.

"Taxflation" is a term coined to describe what happens as inflationary pressures push workers into higher salary brackets which are, in turn, subjected to higher tax rates. Among other effects, this process brings the federal government an unlegislated revenue boost each year, the Foundation's researchers explain. But while inflation may be filling the government's pockets, it is emptying the taxpayer's, according to analysis just released by the Tax Foundation.

Anyone who received a 14.5 percent pay boost for calendar year 1980 would, at first blush, seem to be at least staying even. Not so, say Foundation economists. True, the $10,000-a-year family (married couple, one earner, two children) would have an annual salary of $11,450, a net "paper" gain of $1,450 going into 1980. But his federal income tax would go up by $224 and his Social Security tax by $89, leaving him with only $10,202, a rise of $1,137 in after-tax income. At a 14.5 percent inflation rate, the 1980 dollar would be worth only 87 cents as compared to the 1979 dollar. In 87-cent dollars, the $10,202 in 1980 would have the purchasing power of only $8,910 in 1979 dollars—a loss to inflation of $1,292. In sum, the losses due to higher taxes and inflation exceed this worker's salary increase by $155. His apparent gain of 14.5 percent translates to a net loss in purchasing power of 1.7 percent, according to Foundation calculations.

Those earnings at a comparatively high level fare no better, the Foundation says. The $35,000-a-year family (married couple, one earner, two children) would be making $40,075 before taxes with a 14.5 percent pay hike, an increase of $5,075 per year. After taxes, in current dollars, this would shrink to $3,317, and in 1979 constant dollars it would actually represent a $668 decline in after-tax income, a loss of 2.4 percent in purchasing power. Inflation would induce a decline in purchasing power of $3,985—while Social Security payroll deductions claimed another $184 and federal income taxes took $1,574.

None of the above calculations, Foundation economists say, includes the extra bite taken from earnings by state and local taxes. Also, the 14.5 percent pay boost is admittedly unrealistic. According to a recent report from the Bureau of Labor Statistics, "median family weekly earnings from wage and salary employment rose by 8 percent between the first quarter of 1979 and 1980." Indeed, any such increase would violate the suggested limit of between 7.5 and 7.9 percent a year set forth by the President's Council on Wage and Price Stability.

The accompanying table gives income data for selected levels and the effect of a 14.5 percent increase on those earnings.

EFFECT OF A 14.5-PERCENT INCREASE IN INCOME AT SELECTED LEVELS; 1979 TO 1980[1]

[Married couple, one earner, two children]

Adjusted gross income		Change, 1979 to 1980			Loss in 1980 purchasing power due to—		
1979	1980	Before tax income	After-tax income[2] Current dollars	After-tax income[2] 1979 dollars	Federal income tax	Social security tax	Inflation
$10,000	$11,450	+$1,450	+$1,137	−$155	−$224	−$89	−$1,292
15,000	17,175	+2,175	+1,677	−173	−365	−133	−1,850
20,000	22,900	+2,900	+2,120	−270	−602	−178	−2,390
25,000	28,625	+3,625	+2,585	−343	−856	−184	−2,928
30,000	34,350	+4,350	+3,051	−432	−1,115	−184	−3,483
35,000	40,075	+5,075	+3,317	−668	−1,574	−184	−3,985
50,000	57,250	+7,250	+4,209	−1,150	−2,857	−184	−5,359

[1] 14.5 percent is the currently projected rate of inflation in 1980.

[2] Deductions are made for Federal individual income tax and social security tax only.

Source: Tax Foundation computations based on Treasury Department data.●

THE WEST AFTER AFGHANISTAN

HON. SAM B. HALL, JR.

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 30, 1980

● Mr. HALL of Texas. Mr. Speaker, in the spring issue of Policy Review, a publication of the Heritage Foundation, the Honorable Franz Josef Strauss contributed an excellent and timely article about the role of the United States and Western Europe in the search for true and meaningful détente with the Soviet Union. There is no question that the Kremlin has given its highest priority in the next decade to splintering Western Europe from its traditional alliance with the United States. Franz Josef Strauss gives strong insight into the perils for Western civilization inherent in this Soviet ploy, and I commend his article to my colleagues and the Nation as follows:

THE WEST AFTER AFGHANISTAN

(By Franz Josef Strauss)

The reckless invasion of Afghanistan by Soviet troops made cruelly clear how fast the general political situation in the world can change; how quickly the danger of war can arise from a peace which had been declared more and more secure; how for a third time this century, much that has been taken for granted is at risk.

An appropriate response can only be found when the free world dismisses all illusions and self-deceptions and returns to a realistic policy of detente. Real detente, however, is only possible when three conditions are fulfilled. First, what detente is and is not must not be defined or dictated only by the Soviet rulers. It is politically and morally unacceptable that speaking up for the rights of man or for the entire German people's desire for unity, peace, and freedom should be denounced by the East as a plot against detente or a relapse into the Cold War. Secondly, detente postulates an approximately equal military balance. It must not lead to the minimization, or even denial, of the military danger, to the dismantling of defensive readiness, to political and psychological neutralization, or to undermining the European community or the North Atlantic Alliance. Thirdly, detente must be geographically indivisible. Those who in Europe speak of peace, who wage wars by proxy in Africa, who move their troops into Afghanistan, who stimulate the outbreak of civil wars by the export of revolutionary ideology and modern weapons, who pursue a strategy compounded of world-revolutionary propaganda and imperialistic aims; those men do not further detente, they abuse it. Therefore the issue is not detente—yes or no; but, what kind of detente?

Few wars were started with deliberate intention. Most of them arose from neglecting the lessons of history, from underestimating the risks, and from carelessly crossing the border of the point of no return. This is the point the Soviet Union has reached in invading Afghanistan—"reached," not "transgressed."

Behind the smoke screen of detente the Soviet Union has decisively changed the military balance in its favor by superarmaments which bear no sensible relation to its economic efficiency. The offensive components of army, air force and navy have been developed in an extremely powerful and rapid way. This potential enables Moscow to prepare for all military possibilities of any size and to be present all over the world. As far as these offensive systems—as, for example, the medium-range SS-20 missile—endanger western Europe, they should be evaluated more as political than as military weapons. They are a means to exert political and psychological pressure, to intimidate western Europe and thus to prevent Europe from defending its vital interests together with America.

Supported by this military potential of pressure and threat, the Soviet Union pursues its expansive and aggressive policy from north Afghanistan to the south of Africa. It tries to control the sources of energy and raw materials, as well as the sea routes to the Western industrialized countries. Important to America, these resources are vital to Europe. Almost 70 percent of western Europe's crude oil imports, compared with 30 percent of America's crude oil imports, are transported by sea around the Cape of Good Hope. So are 70 percent of western Europe's imports of strategic raw materials and 20 percent of its food imports. The power whose hand is on these energy supplies, raw materials, and seaways is the real master in central Europe. Simply to close one's eyes in the face of those geo-strategic menaces to the free world, because of political weakness in domestic affairs or party-political considerations, is a flight from political responsibility.

Faced with this global menace we must refrain from those petty considerations so that the undeniable process of growing alienation between America and Europe does not end in America backsliding into isolationism. Neither America nor Europe can afford that. On the contrary, it is necessary that, in these days of humiliation and provocation by the events in Iran and Afghanistan, Europe should be on the side of the United States without "ifs" and "buts." On the other hand, this solidarity requires that the superpower U.S.A. not treat Europe as a second class partner. Information and consultation with Europe must be early and comprehensive. In turn, the European partners should be ready to take global joint responsibility instead of passing the role of the policeman of the world to America and watching the action from the box seat of world history with helpful advice and occasionally sharp criticism.

It will be of decisive importance to find more than merely a military answer so that peace will no longer be threatened by the tempting weakness of the free world. Full transatlantic solidarity on the basis of mutual coordination of political, economic, psychological, military, and technological measures is the only conceivable and historically possible way to cope with the problems of the eighties. It would certainly not be sensible to discuss these inevitable and common strategies based on division of labor in the open market. After all, Europe cannot expect America to take any risk in Europe's favor, while Europe itself shirks political joint responsibility for domestic weakness and misses no opportunity to jostle and offend its most important ally.

Western Europe—above all the Federal Republic of Germany in its particularly dangerous situation at the dividing line between east and west—must know that, after the experiences of the past, America is no longer ready to force Europe to look after its security. Thus, when the budget of the Federal Republic for 1980 was discussed, my political friends and I urgently requested the federal government to fulfill the three percent increase in the defense budget which had previously been agreed upon by NATO. We failed because of the majority in Parliament. Since we know very well that forthcoming tasks cannot be accomplished by mere shifting of budgetary means, we signaled the federal government that we are ready—even in an election year—to postpone our sociopolitical demands in favor of the policy of security. If the federal government takes the initiative in this direction we are also ready to delay—completely or partly—our proposals regarding tax relief (which, after all, for 1981 amount to no less than approximately $9 billion).

All these strategies can only be effective if the Soviet Union does not succeed in splitting the unity of the West. It can easily be foretold that after the icy east wind following the Afghan crisis, there will be very soon a strong campaign of detente towards Western Europe. Even now the direction of this offensive can be seen in the Soviet media: America is being blamed for a frantic, careless, and imperialistic policy from which Europe should be detached in order to be able to enjoy the fruits of detente. Not a few comments of European politicians, even after the Soviet invasion of Afghanistan, show that such an attempt by Moscow is not entirely futile. In the face of the historical challenge of this decade, it should be the first task of western policy to ensure that Western and Third World awareness, stirred up by the shock of Afghanistan, will not once more be dazed and lulled to destruction in the Muscovite manner.●

ENERGY OUTLOOK FOR THE FUTURE

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 30, 1980

● Mr. APPLEGATE. Mr. Speaker, last week, the House of Representatives took a bittersweet step in attempting to improve our energy outlook for the future. As to what the net result of these steps will be, no one knows. One thing for sure, however, is that we have yet to realize the tremendous need for energy self-reliance.

The sweet part of the action last week was the approval of the Synfuels Development and Energy Security Act which President Carter will sign into law today. With this action, there is increased optimism in our chances of achieving energy independence. We will now be able to pursue further production of our alternate energy sources that will ultimately loosen the stranglehold of OPEC that not only threatens our national security but fuels the fires of inflation as well.

The synfuels bill represents a commitment on our part to refine current technology and develop other technologies that will more extensively utilize our natural energy resources, and in particular, that of coal. Our Nation's abundance of this mineral must be recovered and utilized to its maximum potential.

As much of a commitment as this may have, however, the main thrust of it was withdrawn with the bitter experiences of the defeat of S. 1308, the Energy Mobilization Board, sometimes referred to as the "fast-track" bill. I am extremely disappointed that this bill failed to pass and was recommitted to the conference committee. The passage of S. 1308 is absolutely essential to the implementation of the synfuels bill and, in turn, the future of the Nation.

If we are to achieve energy independence from the OPEC cartel where power increases with each barrel of oil sold to the United States—if we are to fully and expeditiously utilize the newly passed Synfuels Development and Energy Security Act—if we are to fully explore all development of new energy sources and further develop and utilize those we are now using—then the fast-track legislation is vital to accomplish this through power to expedite decisionmaking on major energy projects by modifying or suspending Federal, State, and local laws and regulations.

It goes against my grain, as I am sure it does many of my colleagues and constituents, to create another bureaucracy run by more nonelected bureaucrats, but, my friends, I see no alternative if this Nation is to finally get off its duff and start to move and provide its citizens with energy to clothe, feed, house, and mobilize themselves. Hence, if we do not pass this legislation, just as sure as this Earth will turn, we will eventually run short one day.

A classic example of how this legislation could have provided this Nation with an additional 500,000 barrels of oil per day was SOHIO's proposal to build a terminal in San Diego, Calif. and a pipeline to Texas for the purpose of delivering more and cheaper oil from the Alaskan oilfields to the United States. This project was stopped, however, by the EPA because of excessively and unwarranted air standards. Many Americans are now paying for that unfortunate action.

Yes, there are the arguments that this may usurp some States rights. No one is as much of a defender of States rights as I am, but energy is not a State problem, it is a national problem and as such needs national direction.

The energy future of this country is going to rely on how we utilize America's vast coal resources through synthenization processes to develop methane gas and oil; but we cannot develop these new fuels unless we construct the plants to do so. The environmental opposition to all energy development in this Nation has been devastating and damaging and while Japan, Germany, Russia, and other nations of the world are moving forward, this great country stands still.

The reason this Nation is falling behind in energy development, in spite of its vast scientific and technological knowledge in the energy field is simply because there are too many special interest groups with vast powers of influence in Congress and who for one reason or another impede energy development. Among those groups is Environmental Action, Environmental Defense Fund, Environmental Policy Center, Friends of the Earth, Sierra Club, Solar Lobby, Wilderness Society, ACLU, and Congress Watch.

Now is the time we can do something productive, efficient, cleaner, and more cheaply for the American people. Let us get America moving and get this bill back and passed.●

A TRIBUTE TO FATHER DRINAN

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 30, 1980

● Mr. COUGHLIN. Mr. Speaker, Congressman ROBERT DRINAN will be ending his congressional career at the close of the 96th Congress.

Congressman DRINAN's integrity and diligence are well known to us all. Since his election to the 92d Congress, Father DRINAN has been a leader in the struggle for human rights around the world and for racial equality at home.

I know personally of Father DRINAN's skill as a legislator in serving briefly with him on the House Judiciary Committee. As chairman of the Subcommittee on Criminal Justice, Father DRINAN took the lead in authoring a revision of the U.S. Criminal Code and in composing legislation to protect freedom of the press, as well as coauthoring a revision of the Federal copyright, patent, and bankruptcy laws.

Congressman DRINAN also distinguished himself as a member of the Government Operations Committee and of the Select Committee on Aging. He helped to abolish mandatory retirement of the elderly through the Drinan-Edwards amendment and also acted to strengthen the Voting Rights Act of 1975 and to bolster the Fair Housing Act.

In addition to his work on a national and international scale, Father DRINAN never neglected those of the Fourth District of Massachusetts, whom he represented so tirelessly and effectively as when he successfully saved 6,000 jobs at Fort Devens.

The achievements I have cited here in no way summarize all that Congressman DRINAN has accomplished while in Congress. Rather they serve merely as a reminder to his colleagues of his exemplary record in the House and serve as an inspiration to us all. I would like to personally extend my gratitude and best wishes to him. I know that despite his absence from Congress, his voice will continue to be heard on the issues to which he devoted so much of his time.●

PRODUCTIVITY BY McKNIGHT

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 30, 1980

● Mr. COLLINS of Texas. Mr. Speaker, when I picked up the Sunday Times-Herald in Dallas, I read an excellent editorial by Felix McKnight. Felix believes in basic economics, which means hard, solid work.

He wrote about a report from W. A. Kistler, who is president of Hughes Tool Co.'s Drilling Tools and Equipment Group. Today we hear so much about "consumerism" and how to make consumers happy. It was so refreshing to see Felix's article on "producerism." I found everyone is happier when they have a job and when we have more goods to meet the current needs.

Kistler's basic thrust is the fact that today 40 percent of the people are producers and 60 percent of the people live on the producers. And what is discouraging is that the producer ratio is dropping and they soon expect only 35 percent of the population working to be producing with 65 percent riding as unproductive. McKnight has his feet on the ground. Kistler knows what it is all about. When will all of America wake up?

Read McKnight on Kistler about producerism:

PRODUCERISM

Productivity, or the mounting lack of it, is at the core of the inflationary spiral and government had better get at the problem or it will have a divided country on its hands.

In simple, straight words that get frightening as you read on, that is what W. A. Kistler Jr., president of Hughes Tool Company's Drilling Tools and Equipment Group, in saying.

Productivity is declining in a United States built on productivity and the solution is not a simple matter of dealing with coffee breaks, vacations or the installation of higher-speed machines.

In a thoughtful paper prepared for the American Institute of Management, Kistler observes that 60 per cent of the unproductive in America are now dependent on the other 40 per cent for their livelihood, goods and services. And that's heavy scrounging on your fellow man.

It is that dangerous imbalance, he says, that has produced "an intricate network of productive and unproductive efforts that burdens American people and divides them against each other in a vain effort to produce a better life.

"At the center of this network is a government system of taxing to support so-called benefits to the community and it has reached a point where hardly anyone seems satisfied—neither the recipients nor those taxed."

Over the past 40 years, Kistler notes, the balance of producer population has changed from 60 percent producers and 40 per cent dependent to today's 40-60 ratio.

"The rate of change currently taking place suggests that in one more four-year presidential term of current government policy, the ratio will be 35 per cent producers, 65 per cent non-producers. The system cannot support our current life-style at this ratio. If unchecked, it will go into rapid decay."

Kistler argues, along with a few million others, that we have to get people off the tax-supported payroll at all levels of government and put them into goods and service producing employment.

We cannot continue to violate the laws of nature and the basic economic facts of life. When a private or public company spends more than its income, it disappears. When animals become overpopulated for the natural provision of grass and water, they die.

Kistler's solution—long promised by campaigning politicians and being tried by Gov. Bill Clements with mild success and a lot of opposition—is to reduce government subsidies at all levels and reduce the incentive to settle down on tax-supported payrolls.

"Unemployment with unemployment pay, be it government paid or paid from some fund, is not a solution to inflation," Kistler says. "It only adds to inflation. A 10 to 20 per cent reduction in city, county, state and federal tax-supported payrolls is needed to stop inflation."

Kistler may be whistling into the bureaucratic winds, but his tune is right.

He warns that "the tax load and unwarranted demands of the tax-supported sector are becoming unbearable for the producing workers. Continued movement in this direction can only result in a producing workers' revolt."●

CORPS OF ENGINEERS KEEPS COLUMBIA RIVER OPEN

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, June 30, 1980

● Mr. AuCOIN. Mr. Speaker, when Mount St. Helens erupted on May 18, more than 40 million cubic yards of debris and volcanic ash were dumped into the Columbia River. The Nation, transfixed by this awesome phenomenon, anxiously followed the news reports of damage and destruction in the region. Rumors, too, spread across the land as to the effects of the volcano upon the ability of Columbia River ports to function. Word was out that the mighty Columbia was closed to shipping and the bustling, prosperous Port of Portland was shut down.

These early reports were true, but only for a short time. Today, thanks to the Army Corps of Engineers, the mighty Columbia is open, commerce continues to ply this great water course, and the Port of Portland is doing business as usual. Contrary to some media reports, the Columbia River seaports are not virtually closed; neither is the Portland harbor choked with mud and shut off from ocean traffic.

The May 18 eruption and the resulting flow of debris and sediment into the Columbia river did interrupt river commerce and pose a hazard to shipping. However, this condition was temporary.

The eruption caused a mud flow which partially blocked the Columbia by creating a shoal at the point where the Cowlitz River joins the Columbia. The 7-mile stretch of volcanic debris, in the worst spot, left only 15 feet of water in the Columbia channel that normally is 40 feet deep and 600 feet wide.

The response of the Army Corps of Engineers to this situation was immediate and effective. Within 2 days after the the shoal was discovered, the corps' hopper-dredge *Biddle* was at work on the problem. During the week, the corps summoned several additional dredges to assist in the work. Mount St. Helens erupted on Sunday. By Friday, ship traffic in the Columbia River had resumed.

In the aftermath of the eruption, the Corps of Engineers predicted that 22 million cubic yards of material had to be removed from the river at a cost of $44 million. Today, seven dredges are working around the clock on eliminating the shoal.

While the corps works on the river, it is business as usual in the Port of Portland. Already, liner service has resumed. Container and automobile ships regularly are moving into and out of the port. Since May 23, more than 200 vessels with drafts of more than 31 feet have crossed the shoaled area. Today, the dredging is on schedule and vessels with drafts up to 37 feet may safely navigate the river. I might note, Mr. Speaker, that 18 warships of the U.S. Navy as well as Canada and New Zealand recently steamed up the Columbia for Portland's annual Rose Festival.

The U.S. Coast Guard, in addition to arranging special navigational aids in the river, has established a plan to allow ships to transit the shoaled area only during a 2-hour-high-tide period each day in order to disrupt the dredging operation as little as possible.

The corps predicts that by this fall, the river channel will be restored to its 40-foot deep, 600-foot wide former dimensions. Geologists report that an earthen dam that has formed at Mt. St. Helens' Spirit Lake is a solid wall that appears stable. There is but a slim possibility of another mud flow large enough to effect the Columbia River.

The situation which exists now is being handled efficiently by a team effort on the part of many, including the Port of Portland and the Coast Guard. However, as a Port of Portland official pointed out, in large part the story of the clearing of the Columbia River ship channel is a testimonial to the quick action and unflagging efforts of the U.S. Army Corps of Engineers.

The Port of Portland has been among the fastest growing ports in the country. The American Association of Port Authorities, in its most recent reporting period, found that tonnage of goods transported through the port was up more than 34 percent, while the value of cargo shipped through Portland had increased almost 45 percent. The Port of Portland, as the largest export port on the west coast, and the Columbia River are vital links in our Nation's export chain. I am happy to report to my colleagues today that they are links which remain unbroken.●

JOHN C. HERSHOCK

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 30, 1980

● Mr. YATRON. Mr. Speaker, I have the pleasure today to bring to the attention of my distinguished colleagues the outstanding achievements of Mr. John C. Hershock of Hamburg, Pa.

On Sunday, June 29, 1980, Mr. Hershock culminated his 11 years in the Boy Scouts of America by becoming an Eagle Scout. John, who has earned the respect and admiration of his family, his friends, and his community, is greatly deserving of this recognition. To fulfill the community project requirements for this honor, John has spent many hours working with retarded children, helping them to cope with the complexities of life. He is a truly remarkable young man.

I know that my colleagues will join me in offering congratulations to John, and his family and in wishing him the very best in all his future endeavors.●

UPDATE: THE 96TH CONGRESS AND THE AMERICAN WORKER

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 30, 1980

● Mr. VENTO. Mr. Speaker, the 96th Congress continues to be involved with issues affecting the daily lives and the quality of life of American workers. Impressive and well-deserved gains have been made, but the agenda is far from finished. At this time, I would like to review some of the major issues for working men and women, and the steps Congress has taken which impact upon these Americans.

INFLATION

There is growing support for use of a tax cut to stimulate the economy. Congress should use taxes as a tool to fight inflation. Our tax policy should be tailored to reward and encourage compliance with national economic policy and insure the financial health of American workers, small businesses, and marginally successful industries.

I have drafted legislation calling for a four-point tax cut designed to: provide credit for social security taxes; reward voluntary compliance with national wage, price, and profit guidelines; establish a progressive corporate tax structure which does not punish businesses for being small; and eliminate tax policies which encourage the dislocation of jobs and industries.

In addition to tax reforms, the President should be given standby authority to impose mandatory wage and price controls. Although wage-price controls are neither a popular nor desirable policy in most situations, they can be a useful tool in an economic crisis period.

A serious examination of national credit policies is also in order. This spring the Federal Reserve Board's tight money policies virtually choked important economic sectors such as agriculture, housing, and small business. Credit policies must be targeted to insure the continued health of key industries. It makes no sense to throw the burden of the fight against inflation onto the backs of those who can least afford it—workers and small business owners.

JOBS

To keep its pledge to the American worker, Congress must appropriate the necessary moneys to fund the countercyclical programs and other Federal measures specifically designed to provide additional assistance during times of great economic stress and high unemployment. I strongly support funding for the Comprehensive Employment and Training Act—CETA—which provides critical job training programs for millions of underemployed or unemployed Americans.

At the same time we must begin to initiate and support other programs that result in the creation of maximum employment opportunities. The urban development action grant—UDAG—is one example of the kind of program which is tailor made to help the physical and economic health of metropolitan areas. As a member of the Banking, Finance and Urban Affairs Committee and its Housing Subcommittee, I have strongly supported this important legislation. St. Paul has received $15.2 million in UDAG grants since 1978. This will save 5,500 existing jobs and create 4,300 new permanent jobs and 1,200 temporary construction jobs throughout our area. And it is not all public money. The Federal commitment provides leverage for contributions from the private sector. St. Paul's UDAG program will bring in $157 million in private investments in the city and add more than $2 million to the county tax rolls, reducing the burden on all local property owners in Ramsey County.

PRODUCTIVITY

American workers are the best and most productive workers in the world. But the American work force is evolving in response to shifting conditions in the marketplace. Growing numbers of young and inexperienced people are going to work, thus changing the composition and needs of the American work force. Workers today are also assuming more important production roles and performing increasingly complex and technical tasks. The Federal Government must respond to this evolution. We must expand training programs for new groups entering the work force and develop programs to train workers in the advanced skills American industry will need in the 1980's. The Federal Government must continue to do its part to meet the workers' changing needs.

ENERGY

Our energy situation is one of the most crucial issues facing our Nation today, affecting all aspects of American lifestyle. The 96th Congress has played an important role in the development of a comprehensive energy policy. As a member of the House-Senate conference committee which wrote the Omnibus Energy Act, I was pleased to be present when the President signed that act into law. The Omnibus Energy Act is long overdue. It represents a giant step toward reducing the Nation's dependence on foreign energy sources and providing our Nation with domestic sources of alternative energies. In this act, Federal assistance is authorized for the development of a private synthetic fuels industry. This industry will be able to tap domestic resources for use as energy. By 1992, American-made synthetic fuels will hopefully be able to take the place of over 2 million barrels of imported oil a day.

In addition, this act seeks to encourage the use of solar energy and a stronger conservation effort. The establishment of solar and conservation banks to provide American workers with low-interest loans will be a major step in helping them to install solar devices and to improve weatherization in their homes. This legislation will unleash American know-how to help resolve our energy problems and to free our country and the average working person from the foreign energy and economic stranglehold.

ENERGY COSTS

The rising cost for energy has dramatically impacted the budget of American workers. More and more money is taken from the family budget to pay for gas, heat, and electricity. Congress has voiced its concern about the impact of gasoline prices on American workers by prohibiting the 10-cent gas tax. I cosponsored and supported the resolution passed by Congress to disapprove this tax.

In addition, Congress must review and control the unconscionable profits of the big oil companies. Government control of energy prices is the only lever the American people have to shape energy policy. Congress cannot leave that responsibility to OPEC or multinational oil companies. I have opposed decontrol of old domestic oil and have sought to reimpose controls on heating oil.

DAVIS-BACON

Included within the Omnibus Energy Act is an essential protection for American construction workers. As a member of the conference committee, I worked with the AFL-CIO and the Carpenters Union to guarantee that the workers building synthetic fuel plants which utilize Federal loans or loan guarantees will be covered by the Davis-Bacon Act.

PLANT CLOSINGS

Sudden, unexpected plant closings have serious impacts on the workers laid off, and widespread repercussions on the local communities because of loss of business tax revenues and increased liability for unemployment compensation. To offset the trauma of such plant closings, Congress is now considering a bill which would require companies to give advance notice of any closings and to take a more responsible role in providing short-term assistance to workers and communities affected by shutdowns.

OSHA

Congress must remain stalwart against well financed and intensive efforts to weaken and undermine the standards set by the Occupational Safety and Health Administration Act. Every worker has a right to a job environment that is safe and healthy, and the only way to insure such protection is through a system of national OSHA standards. It is vitally important that we continue to reaffirm our belief in the basic principles of this law.

IMPORTS

Foreign imports represent a significant threat to important segments of American industry and jobs and our economy as a whole. The most visible of these problems is the American auto and trucking industry. Because of the veritable flood of imports, our domestic auto industry is facing a crisis with hundreds of thousands of American workers already unemployed.

Some of my colleagues and I have fought a 16-month battle to insure that our domestic truck industry compete on a fair basis with foreign truck imports by requiring the full truck duty as the Tariff Act intends rather than a reduced duty. This spring the battle was won when the U.S. Treasury recommended the full tariff. In addition, Congress has already passed a resolution to encourage the development of a national policy of fair competition for American auto manufacturers.

Congress and the administration must develop similar policies for other American industries. Domestic television, steel, leather goods, and clothing industries are negatively impacted by unfairly subsidized foreign imports. These jobs are important for American business and workers. Free trade is important but equally essential is fair trade. American workers and business need time and help in adjusting to the dramatic shifts in our economy. Until such industries are redeveloped, the commitment provided by the Trade Adjustment Assistance Act for those employees laid off because of foreign imports must be kept.

Our Nation faces new challenges in our economic development. The changing climate necessitates closer working relationships between business, labor, consumers, and public policymakers. Examples of changing attitudes and closer cooperation already exist. Under the Chrysler loan guarantee program, the president of the UAW was elected to the board of directors—a new partnership between business and labor. The Omnibus Energy Act reflects a close business, government, and labor partnership to develop alternative fuels. Congress must continue to encourage such cooperation and maintain its commitment to the well-being of the American worker.●

CHANGING OUR ATTITUDES TOWARD THE ELDERLY

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, June 30, 1980

● Mr. BAUMAN. Mr. Speaker, one of the true tragedies of our time is the lack of concern and lack of respect accorded to the older members of our society. It is a problem about which I feel strongly, and I am pleased to offer for the RECORD an editorial from the Cecil County, Md., Cecil Democrat which mirrors my sentiments.

The elderly, as this editorial entitled "Our Elderly Citizens: A Neglected Resource," accurately points out, are in fact one of the major building blocks in any culture. Unfortunately, social pressures and cultural mores have minimized the importance of older people in America, to the tragic point that many older Americans are truly second-class citizens by the fact of their age alone.

Economically, the elderly in America are pressed hard today by soaring food, energy, housing, and medical costs. Spiritually, too, the elderly are against the limits of their tolerance by a youth-oriented society which refuses to recognize the talents and benefits to be offered by those with a lifetime of experience.

This dismal situation must end, and it is up to all of us—legislators and citizens alike—to restructure the ways of thinking which have allowed the elderly to be ignored. Their assets are our assets; their accumulated knowledge is ours for the asking, if only we do ask. To accord the elderly an active and vital role in the United States in the 1980's is not mere politesse. It is an essential ingredient in the future of America's growth.

I include now for inclusion in the RECORD that cogent editorial by editor

Clark Samuel, on this subject, "Our Elderly Citizens: A Neglected Resource," from the June 18, 1980, Cecil Democrat.

Our Elderly Citizens: A Neglected Resource

The Western world's most neglected resource may be its oldest citizens. Old people fare badly in our society. They are looked down on, neglected, regarded as something of a nuisance.

In other societies and other times, old people have been treated as valuable citizens. Their experience of life has been regarded as wisdom. They have enjoyed a privileged position.

In his new book "The View In Winter," Ronald Blythe explores the current, unhappy fate of many old people.

"The old," he says, "unless they happen to have a spiritual life, aren't allowed a respectable language for what is happening to them, they are given a medical language, a sociological language."

The tragedy, Mr. Blythe says, "is that we don't want anything of anybody over 60. We don't want work for them, we don't want love from them, often we don't even want their friendship. Cowper Powys spoke of 'the revulsion in the faces of young people which the old sometimes glimpse.' There is a tendency to keep slightly away from old bodies."

Mr. Blythe is very discerning in his appraisal of this psychological reaction. Contempt for the old, mixed with an element of disgust, is very real. This is why old people are taken out of their jobs before their time, regarded as something of an embarrassment, and stuffed away in nursing homes—out of sight and out of mind.

This wasn't always so. In earlier times in our own civilization, old people were admired and accorded respect. The onset of the technological age produced a change in outlook and the condition of old people. It was assumed, unfairly, that old people couldn't adjust to new conditions and couldn't keep up with the knowledge revolution. Many institutions have sought to retire workers at an early age.

These attitudes and policies result in appalling waste of human capabilities. Even in the computer age, there is no substitute for experience and the judgment that is derived from it. The computer isn't a replacement for insights about life acquired over many decades.

During the Vietnam War, Secretary of Defense Robert S. McNamara thought that his computer-trained whizz kids knew more about warfare than the generals who had served 20 or 30 years. We know now that he was completely wrong. The whizz kids had no sense of history, no understanding of the psychology of the enemy.

So it is in many areas of life.

While older workers may not be able to move with the speed of younger employees, they often are more reliable and conscientious. The older skilled worker may have a greater degree of pride in his craft. The company that holds on to its loyal, skilled older workers is bound to benefit.

In our social relations in this country, we need to change and repair attitudes toward the old. We need to relearn respect for the aged. We need to improve our understanding of those whose eyesight may have dimmed somewhat and who may move very slowly, but who still have important human gifts to apply to tasks and to share with neighbors.

Every stage of life is important and meaningful. Every person has something to contribute to society. The young and the strong aren't the only contributors.●

WILLIAM RASPBERRY ON THE WELFARE TRAP

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 30, 1980

● Mr. KEMP. Mr. Speaker, I would like to put forward a proposition. The poor are motivated exactly the same as everyone else. They respond to incentives. They become discouraged when their efforts are not met with reward. They will take a chance on a better future—if they see a real possibility for success.

That may not sound like a radical proposition. Yet I often get the feeling that just because people are poor, policymakers think they are economically illiterate. America's poor may, in fact, understand more about economic disincentives and price theory than many of our most learned members of the Council of Economic Advisers. A person today who gives up welfare or employment benefits to take a job that provides scarcely, if any, more after-tax income just not being realistic. But that is exactly what we ask of the poor. And that is exactly why millions are caught in the Government's poverty trap.

This does not mean the situation is hopeless. When it comes to his or her own personal welfare, every individual is an entrepreneur. Everyone makes economic calculations. People who stay on relatively high-paying welfare instead of taking taxpaying jobs make an economic calculation. What we need is a fair program that encourages a change in that calculation.

I believe the most important part of such a program is accelerated job creation. We need strong, steady economic growth if America's poor—who live on the economic margin—are to climb onto the first rung of the opportunity ladder. We also need to restore economic growth in the most depressed areas of the Nation. The Urban Jobs and Enterprise Zone Act, which BOB GARCIA and I introduced earlier this month, is, I believe, an important step in this direction.

At any rate, any program of welfare reform must fail if it does not take into consideration the disincentives welfare recipients now face. As William Raspberry commented recently in the Wahington Post:

> The way welfare now works is that it removes the incentive for people to find jobs, and, as a result, it removes the opportunity for people to try to better themselves. "You can work hard on a bad job and try to impress somebody so you can get a promotion, or you can go find yourself something else," my friend contends. "But welfare just traps you." And the more generous the benefits, the stronger the trap.

In his column in today's Post, William Raspberry expressed surprise that his earlier article saying good things about Ronald Reagan's welfare policies received "an amazing degree of support." Yet he also rightly in my opinion explains why:

> What is happening, I think, is that a lot of us are beginning to question the assumption, implicit in many of our social welfare programs, that poor people are essentially beyond salvation and that the only human thing to do is to take care of them. We are learning, at last, that the better care we take of people, the more helpless they become. And we are starting to think less about how best to take care of people and more about ways to move them toward self-sufficiency.

Nothing could be more condescending, more wrongheaded—in many cases more racist—than to assume that poor Americans are somehow made of different, inferior stuff than the rest of us. Our Nation was populated, and built, by poor people striving to build a better future for themselves and their children. They worked hard because they knew there was a prospect of great reward. We must restore that prospect—restore incentives for employment, production, and economic growth—for all Americans.

I commend the attention of my colleagues to these two excellent, insightful articles by William Raspberry.

More Welfare Is Just a Stronger Trap

I have a friend, a successful black lawyer and political moderate, who is convinced that the way we do welfare is all wrong.

"I would make it a simple proposition," he says. "If you can't find a job, we'll help you find one—even make one if necessary. But if you don't want to work, that's it. No more welfare."

I thought about my friend the other day when Ronald Reagan came to lunch at The Washington Post. The lawyer would have trouble imagining the circumstances under which he would support Reagan's election. And yet on the question of welfare, the two speak as with one voice.

Reagan cites his two terms as governor of California as his principal qualification for the presidency, and his proudest boast as governor is that he was able to slash the state's welfare rolls.

One of his techniques involved an experiment in which 35 of California's 58 counties instituted a work requirement for able-bodied welfare recipients.

"We made counties, cities, towns, school districts—whatever level—submit to us the things that they would legitimately do, that they were not doing, if they had the manpower or the money. Then we screened them to make sure there were no boondoggles."

Once they had put together a list of useful tasks, they assigned welfare recipients to perform them on a half-time basis, the remainder of the time to be spent either looking for other work or in job training.

"We assigned what we called job agents to those people. Each one had a certain list of clients that he would observe in the work they were doing; his job was to set out as quickly as he could and get them out of those jobs and into private-enterprise jobs.

"This was in '73 and '74, with a recession coming on and with unemployment increasing all over the country. Well, in the first year, 54,000 people were funneled into private-enterprise jobs through that program."

But there was another interesting result:

"Thousands of welfare recipients just disappeared—never reported when they were ordered to report—never reported. And we shut off the money. They were never heard from again. There were no complaints; no one ever said 'I'm destitute' and so forth.

"The truth is, no one in the government knows how many people are on welfare. They only know how many checks they send out. These people who disappeared—I call them 'paper people'—knew they were caught, so they just went away."

The only surprise in this for my lawyer friend is that he would wind up agreeing with the Reagan approach—at least on this point.

It isn't that he is interested in punishing people for being poor, though he does believe that the welfare rolls include a lot of people who don't belong there.

The point, says my friend, is this: "If you have to get up every morning and go to some terrible job assigned by the government, you might find yourself saying, 'Hey, I don't have to do this junky stuff; I'll go out and find myself a better job since I have to work anyway.'"

The way welfare now works is that it removes the incentive for people to find jobs, and, as a result, it removes the opportunity for people to try to better themselves. "You can work hard on a bad job and try to impress somebody so you can get a promotion, or you can go find yourself something else," my friend contends. "But welfare just traps you." And the more generous the benefits, the stronger the trap.

You'd never know it to listen to the leaders of the major civil rights groups and the antipoverty advocates, but my lawyer friend's view is very close to that of the black American mainstream.

Reagan, partly because he is viewed as an ultraconservative and partly because his most ardent supporters are viewed as unsympathetic to minorities and poor people, hasn't a chance at attracting much of the black mainstream vote.

But any certified liberal who espoused such an approach—if that's not a contradiction in terms—might be surprised at the support he'd find in black America.

WORKING ON WELFARE

I'm disappointed. When I devoted a recent column to the notion that welfare grants ought to be tied to a requirement that able-bodied recipients go to work—going so far as to say nice things about such a program initiated by Ronald Reagan when he was governor of California—I anticipated an outraged reaction from liberals and advocates of the poor.

It hasn't come.

What I have had instead is an amazing degree of support for the idea; some of it, predictably, from people who describe themselves as "taxpayers," but much of it from people whose sympathies are with poor families.

What is happening, I think, is that a lot of us are beginning to question the assumption, implicit in many of our social welfare programs, that poor people are essentially beyond salvation and that the only humane thing to do is to take care of them. We are learning, at last, that the better care we take of people, the more helpless they become. And we are starting to think less about how best to take care of people and more about ways to move them toward self-sufficiency.

The message is delivered in a variety of forms. Willie J. Hardy, a member of the D.C. city council, made the point in her testimony last week before the House Committee on the District of Columbia.

Hardy, who represents one of the poorer sections of the city with a disproportionate amount of the city's public housing, called for an end to public housing construction "in its present form."

Instead of housing that entraps poor people in public-housing ghettos—"government-owned slave quarters," she called it—she called for programs designed to foster upward mobility. And not just housing programs.

"I just feel that all government [welfare] programs should have the common goal of rendering themselves [unnecessary] by giving individuals the opportunity to ultimately stand on their own," she told a hearing on the problems of the cities.

A colleague at The Washington Post said much the same thing in another way: "I've seen a young Vietnamese refugee cleaning the ashtrays in the elevators here, and I ask myself if a pretty good job opens up in the maintenance department here, will the department head look at some guy on welfare or will he look at this Vietnamese who has been showing up for work every day, demonstrating his willingness and ability to work? You know the answer."

Blacks of unmistakably liberal politics are telling me that they are starting to see our best-intentioned welfare programs as a snare that traps people in their poverty. "Even mothers of several children ought to be required to work," one of them said. "If they can't find anything better, they could at least work as aides at day-care centers so other people can go to work."

If this attitude is as widespread as it appears to be, why has the civil rights leadership been so slow to join in?

One reason may be the punitive implications of some of the legislative efforts to substitute work programs for welfare.

A member of the Pennsylvania legislature, for instance, has introduced a bill to eliminate welfare payments to able-bodied recipients when work is available.

The problem with his proposal is that he assumes that the recipients could land these jobs if they really wanted them.

"Oh, they will show up for the interviews as the (present) law requires," he told me, "but they show by their attitudes and the way they present themselves that they don't really want to work."

He would simply assume they weren't truly interested in working and cut them off.

But the fact that people don't land the jobs they apply for does not necessarily mean that they don't want to work, as any number of pavement-pounding college graduates could tell you.

But my mail tells me that there would be enthusiastic endorsement, right across the political spectrum, of a program that said to welfare recipients: here's a job; take it or lose your benefits.

Taxpayers would be better off, and so would the people who went to work.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, July 1, 1980, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 2

9:00 a.m.

Judiciary

To resume hearings on the nomination of Fred D. Gray, to be United States District Judge for the Middle District of Alabama.

2228 Dirksen Building

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To continue hearings on H.R. 2723, to provide for a national policy for materials research and development and to strengthen Federal and private programs of materials research and development, to insure national security and economic stability and growth.

235 Russell Building

Governmental Affairs

To hold hearings on the nomination of William C. Gardner, to be an Associate Judge for the Superior Court of the District of Columbia.

3302 Dirksen Building

Labor and Human Resources

*Health and Scientific Research Subcommittee

To hold hearings on S. 1424, authorizing funds for fiscal years 1981-84 for the advancement of international cooperation and assistance in health matters.

4232 Dirksen Building

10:00 a.m.

Governmental Affairs

Oversight of Government Management Subcommittee

To continue oversight hearings on certain activities of the Department of Housing and Urban Development relating to the relocation of persons from areas of a concentrated low-income level.

3302 Dirksen Building

Select on Indian Affairs

To continue hearings on S. 2829, authorizing funds for the purchase of lands in the State of Maine for the Passamaquoddy, Penobscot and Maliseet Indian tribes.

318 Russell Building

JULY 7

9:30 a.m.

Joint Economic

Energy Subcommittee

To hold hearings to study the impact of energy's inflationary rates on American families.

2228 Dirksen Building

JULY 15

10:00 a.m.

Appropriations

Labor, Health and Human Services, and Education Subcommittee

To hold joint hearings with the Labor and Human Services' Subcommittee on Aging on the impact of senile dementia on older Americans.

4232 Dirksen Building

Labor and Human Resources

Aging Subcommittee

To hold joint hearings with the Appropriations' Subcommittee on Labor, Health and Human Services, and Education on the impact of senile dementia on older Americans.

4232 Dirksen Building

JULY 21

9:30 a.m.

Commerce, Science, and Transportation

Consumer Subcommittee

To hold oversight hearings to examine the proposed Federal Trade Commission's rule on mobile home warranty service.

235 Russell Building

JULY 22

9:30 a.m.

Commerce, Science, and Transportation

Business meeting, to consider H.R. 2743, to provide for a national policy for materials research and development and to strengthen Federal and private programs of materials research and development to insure national security and economic stability and growth.

235 Russell Building

JULY 23

10:00 a.m.

Select on Small Business

To resume oversight hearings on the alleged mismanagement of the Small Business Administration's surety bond guarantee program.

424 Russell Building

JULY 24

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings on the administration's transition plans to develop an operational land remote sensing satellite system.

235 Russell Building

10:00 a.m.

Labor and Human Resources

Health and Scientific Research Subcommittee

To hold oversight hearings on the activities of the National Health Service Corps.

4232 Dirksen Building

Select on Indian Affairs

To hold oversight hearings on the implementation of Indian educational programs.

6226 Dirksen Building

JULY 29

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings to assess certain provisions relating to the use of space environment contained in the proposed Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (pending receipt by the Senate).

235 Russell Building

10:00 a.m.

Select on Indian Affairs

To hold hearings on S. 2166, to establish a National Institute of Native American Culture and Arts Development.

6226 Dirksen Building

2:00 p.m.

Office of Technology Assessment

The Board to hold a meeting on pending business items.

Room to be announced

JULY 30

9:30 a.m.

Veterans' Affairs

Business meeting, to consider S. 2649, to increase the rates of compensation for disabled veterans, and to increase the rates of dependency and indemnity compensation for their survivors, and amendment No. 1888, to provide for limited specially adapted housing benefits for certain severely disabled veterans to S. 2649, aforementioned.

412 Russell Building

JULY 31

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings to assess certain provisions relating to the use of space environment contained in the proposed Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (pending receipt by the Senate).

235 Russell Building

10:00 a.m.

Labor and Human Resources

Health and Scientific Research Subcommittee

To hold hearings to review the Food and Drug Administration's evaluation of the drug dimethyl sulfoxide (DMSO), to determine its application and effectiveness.

4232 Dirksen Building

AUGUST 6

10:00 a.m.

*Energy and Natural Resources

To hold hearings on S. 2695, to limit the severance tax percentage that a State may impose on coal shipped in interstate commerce.

3110 Dirksen Building

AUGUST 26

10:00 a.m.

*Veterans' Affairs

To hold oversight hearings on the implementation of small business loan programs for veterans recommended by the White House Conference on Small Business.

412 Russell Building

CANCELLATIONS

JULY 2

10:00 a.m.

Select on Small Business

Taxation, Financing, and Investment Subcommittee

To hold hearing on the procedural difficulties encountered by smaller business in dealing with the Internal Revenue Service.

424 Russell Building

HOUSE OF REPRESENTATIVES—*Tuesday, July 1, 1980*

The House met at 12 o'clock noon.

Rabbi Bennett M. Hermann, Temple Emanu-El of East Meadow, East Meadow, N.Y., offered the following prayer:

Our God and God of our fathers:

We are ever mindful that we are truly privileged to gather in this great cathedral of freedom, dedicated to the cause and perpetuation of justice in our own land and throughout the world, regardless of race, religion or color.

We are ever conscious of our country's great historical commitment to the laws and traditions of freedom, rooted in our colonial period, sharpened by the American Revolution, tempered by the Civil War, and ennobled by our involvement in the great world wars. On the eve of our glorious national holiday, celebrating our birth as a nation, we bend our knee before Thee in humble gratitute for Thy protection, and we rededicate ourselves to the sacred principles of our country, one nation under God, indivisible, with liberty and justice for all.

We also ask Thy blessing upon our good neighbor, the great nation of Canada, who this day observes Dominion Day. They share our dream for a free and better world, in which every man, woman and child will be able to dwell together in peace, safety and prosperity; secure in the knowledge that nation will not lift up sword against nation, and neither will people learn the skills of war anymore.

Finally we pray, pray from the bottom of our hearts for the peace and safety of those hostages in Iran. We pray that they may be permitted to return home to the circle of their family life and love and life in their community.

And let us say, "Amen."

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. ASHBROOK. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 362, nays 20, answered "present" 4, not voting 47, as follows:

[Roll No. 383]

YEAS—362

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Burgener
Burlison
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Chappell
Cheney
Clausen
Clay
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dicks
Dingell
Dixon
Dodd
Dornan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Grassley
Green
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harris
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Ichord
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leach, Tex.
Lederer
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Nedzi
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Ratchford
Regula
Reuss
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Santini
Satterfield
Sawyer
Scheuer
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—20

Burton, John
Coughlin
Derrick
Dickinson
Forsythe
Gingrich
Goodling
Harkin
Jacobs
Jones, Okla.
Lloyd
Luken
Miller, Ohio
Mitchell, Md.
Nolan
Quayle
Sabo
Schroeder
Walker
Wilson, Bob

ANSWERED "PRESENT"—4

Grisham
Lundine
Neal
Ottinger

NOT VOTING—47

Anderson, Ill.
Applegate
Ashley
Beard, R.I.
Brown, Ohio
Buchanan
Campbell
Cavanaugh
Chisholm
Cleveland
Collins, Ill.
Cotter
Daschle
Davis, S.C.
Dellums
Donnelly
Dougherty
Downey
Drinan
Erlenborn
Evans, Del.
Ford, Tenn.
Gray
Harsha
Hawkins
Holtzman
Hutchinson
Hyde
Ireland
Johnson, Colo.
Leland
McEwen
McKinney
Mathis
Myers, Pa.
Nelson
Patterson
Rangel
Rhodes
Richmond
Runnels
Stenholm
Taylor
Vander Jagt
Weaver
Wilson, C. H.
Wilson, Tex.

☐ 1220

So the Journal was approved.

The result of the vote was announced as above recorded.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Saunders, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 7477. An act to amend the Internal Revenue Code of 1954 to provide a 3-month extension of the taxes which are transferred to the airport and airway trust fund.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the joint resolution (S.J. Res. 119) entitled "Joint Resolution to authorize the Vietnam Veterans Memorial Fund, Inc., to establish a memorial."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 5192. An act to amend and extend the Higher Education Act of 1965, and for other purposes; and

H.R. 7474. An act to provide for an accelerated research and development program to achieve early applications of ocean thermal energy conversion systems, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5192) entitled "An act to amend and extend the Higher Education Act of 1965, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PELL, Mr. WILLIAMS, Mr. RANDOLPH, Mr. KENNEDY, Mr. EAGLETON, Mr. STAFFORD, Mr. JAVITS, and Mr. SCHWEIKER to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2357. An act to eliminate the amount in controversy requirement for Federal question jurisdiction; and

S. 2530. An act to improve the fairness and equity of the protection provided to railroad employees under title V of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.).

The message also announced that the Senate had passed the following resolution:

S. RES. 449

Resolved, That the Senate disapproves $27,500,000 of the proposed deferral, D80-57, of budget authority relating to the Young Adult Conservation Corps, as set forth in the message transmitted by the President to the Congress on April 16, 1980, under section 1013 of the Impoundment Control Act of 1974.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the bill on the Private Calendar.

FOUNDRY UNITED METHODIST CHURCH

The Clerk called the bill (H.R. 5829) for the relief of the Foundry United Methodist Church.

There being no objection, the Clerk read the bill as follows:

H.R. 5829

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury shall admit free of duty six bronze bells (including all accompanying parts and accessories) from the Reutschi Bell Foundry of Aarau, Switzerland, for the use of the Foundry United Methodist Church of Washington, District of Columbia.

SEC. 2. If the liquidation of the entry for consumption of any article subject to the provisions of the first section of this Act has become final, notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514), such entry shall be reliquidated and the appropriate refund of duty shall be made.

With the following committee amendment:

On page 2, line 5, strike "notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514),".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. This concludes the call of the Private Calendar.

APPOINTMENT OF CONFEREES ON H.R. 7542, SUPPLEMENTAL APPROPRIATIONS AND RESCISSION, 1980

Mr. WHITTEN. Mr. Speaker, in accordance with rule XX of the House Rules and by direction of the Committee on Appropriations, I move to take from the Speaker's table the bill (H.R. 7542), making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes, with the Senate amendments thereto, disagree to the Senate amendments and agree to the conference requested by the Senate.

The Clerk read the title of the bill.

● Mr CONTE. Mr. Speaker, I support the chairman's motion to take the supplemental bill from the Speaker's table, and to disagree with the Senate amendments, and agree to the conference asked for by the Senate.

The Appropriations Committee and this body has worked long and hard on the supplemental bill. It was May 8—more than 7 weeks ago—that the Appropriations Committee first reported out a supplemental bill for fiscal year 1980. Yet, due to delays beyond our control, we still do not have final passage. We dare not delay any longer.

We must all recognize that there are numerous critical issues and needy programs in this supplemental measure. In total, the House version contains $16.1 billion dollars in new budget authority. Included in that total are critical emergencies such as the Mount St. Helens disaster, disaster assistance for California mudslides and floods, Texas droughts, and black lung benefits, unemployment benefits.

The Senate version of the supplemental has included the fiscal year 1980 conference report on the foreign aid bill. The inclusion of that item is one of the key issues we must resolve. The inclusion of the fiscal year 1980 conference report on the foreign aid bill will not increase appropriations by $8,066,424,064 but only by approximately $563 million. This is the difference between what is currently in the continuing resolution and what is in the fiscal year 1980 foreign aid conference report.

Failure to pass the conference report will mean the virtual closing of the Export-Import Bank. As of last Thursday, all that remained for the remaining months of the fiscal year was $54 million. Already they have $2.5 billion in deferred commitments. The conference report which includes $5 billion in direct credit lending will enable the Export-Import Bank to continue in their important role of facilitating the export of U.S. goods.

In addition, we are in arrears on our obligations to the Multilateral Banks. Both the Asian and the Inter-American Development Bank have suspended lending. Not only have we antagonized the developing world nations, but our industrialized allies have increasingly lost confidence in the United States as we fail to meet our commitments year after year.

Even more important are the principles involved in a motion to instruct conferees—particularly when the conferees have not even met initially. I understand that such a motion may be offered.

We must allow the conferees to work their will on this important piece of legislation. This is a complex bill.

It is critical that we send this supplemental bill to conference today. There will be many tough battles to resolve before this conference will be complete. There are 344 amendments in the Senate amended version of this bill. A motion to instruct will only make the conference that much more difficult.

I can assure you that there will be a veritable Fourth of July fireworks display in conference. No need to get fireworks, there will be plenty there.●

The SPEAKER. The question is on the motion offered by the gentleman from Mississippi (Mr. WHITTEN).

The motion was agreed to.

MOTION TO INSTRUCT OFFERED BY MR. BAUMAN

Mr. BAUMAN. Mr. Speaker, I offer a motion to instruct.

The Clerk read as follows:

Mr. BAUMAN moves that the managers on the part of the House at the conference on the disagreeing vote of the two Houses on the bill H.R. 7542 be instructed to disagree to the Senate amendment numbered 95.

MOTION TO TABLE OFFERED BY MR. WRIGHT

Mr. WRIGHT. Mr. Speaker, I offer a motion to table the motion to instruct.

The Clerk read as follows:

Mr. WRIGHT moves to table the motion to instruct the managers on the part of the House.

The SPEAKER. The question is on the motion to table offered by the gentleman from Texas (Mr. WRIGHT).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. BAUMAN. Mr. Speaker, I demand a recorded vote.

A recorded vote was refused.

Mr. BAUMAN. Mr. Speaker, on that I demand a division.

On a division (demanded by Mr. BAUMAN) there were—ayes 145, noes 44.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 241, nays 163, not voting 29, as follows:

[Roll No. 384]

YEAS—241

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Anthony
Aspin
AuCoin
Bailey
Baldus
Barnes
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bowen
Brademas
Breaux
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Burlison
Burton, John
Burton, Phillip
Byron
Carr
Cavanaugh
Chisholm
Clausen
Clay
Coelho
Conte
Conyers
Corman
Cotter
Coughlin
D'Amours
Daniel, Dan
Danielson
Daschle
Davis, S.C.
Derrick
Derwinski
Dicks
Dingell
Dixon
Dodd
Donnelly
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
Ertel
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Frost
Fuqua
Garcia
Gephardt
Giaimo
Gilman
Ginn
Glickman
Gonzalez
Gore
Green
Guarini
Gudger
Hall, Ohio
Hamilton
Hance
Hanley
Harkin
Harris
Heckler
Hefner
Heftel
Hightower
Holland
Hollenbeck
Howard
Hubbard
Huckaby
Hughes
Hutto
Jeffords
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Lederer
Lehman
Lewis
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCloskey
McCormack
McDade
McHugh
McKay
McKinney
Maguire
Markey
Matsui
Mattox
Mavroules
Mazzoli
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Neal
Nedzi
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rinaldo
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Santini
Scheuer
Schroeder
Seiberling
Shannon
Simon
Skelton
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stanton
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauzin
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Watkins
Waxman
Weiss
White
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wolff
Wolpe
Wright
Wyatt
Yates
Young, Mo.
Zablocki
Zeferetti

NAYS—163

Abdnor
Andrews, N.C.
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bereuter
Bethune
Bouquard
Brinkley
Broomfield
Broyhill
Burgener
Butler
Carney
Carter
Chappell
Cheney
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Courter
Crane, Daniel
Crane, Philip
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Devine
Dickinson
Dornan
Dougherty
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Evans, Del.
Evans, Ga.
Findley
Fish
Forsythe
Fountain
Fowler
Gaydos
Gibbons
Gingrich
Goldwater
Goodling
Gradison
Gramm
Grassley
Grisham
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hansen
Harsha
Hillis
Hinson
Holt
Hopkins
Horton
Hyde
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Jenrette
Kazen
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lee
Lent
Levitas
Livingston
Loeffler
Lott
Lujan
Lungren
McClory
McDonald
Madigan
Marks
Marlenee
Marriott
Martin
Mica
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Natcher
Pashayan
Paul
Perkins
Petri
Pursell
Quayle
Quillen
Ritter
Roberts
Robinson
Roth
Rousselot
Royer
Rudd
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stenholm
Stockman
Stump
Symms
Tauke
Thomas
Trible
Vander Jagt
Walker
Wampler
Whitehurst
Whittaker
Winn
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.

NOT VOTING—29

Anderson, Ill.
Ashley
Beard, R.I.
Buchanan
Campbell
Collins, Ill.
Dellums
Erlenborn
Ford, Mich.
Ford, Tenn.
Frenzel
Gray
Hawkins
Holtzman
Hutchinson
Johnson, Colo.
Leland
McEwen
Mathis
Myers, Pa.
Nelson
Rhodes
Richmond
Runnels
Taylor
Weaver
Wilson, C. H.
Wilson, Tex.
Wirth

☐ 1240

The Clerk announced the following pairs:

On this vote:

Mr. Richmond for, with Mr. Campbell against.

Mr. Myers of Pennsylvania for, with Mr. Frenzel against.

Mr. Ford of Michigan for, with Mr. Rhodes against.

Mr. Buchanan for, with Mr. Taylor against.

Until further notice:

Mr. Ashley with Mr. Johnson of Colorado.

Mr. Charles H. Wilson of California with Mr. Beard of Rhode Island.

Mr. Hawkins with Mr. Erlenborn.

Mr. Wirth with Mr. McEwen.

Mr. Gray with Ms. Holtzman.

Mr. Dellums with Mr. Ford of Tennessee.

Mr. Mathis with Mrs. Collins of Illinois.

Mr. Charles Wilson of Texas with Mr. Lehman.

Mr. Hutchinson with Mr. Nelson.

Mr. EVANS of Georgia changed his vote from "yea" to "nay."

Mr. OBERSTAR changed his vote from "nay" to "yea."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. BROWN of California). Without objection, the Chair appoints the following conferees: Messrs. WHITTEN, BOLAND, NATCHER, STEED, SMITH of Iowa, ADDABBO, LONG of Maryland, YATES, MCKAY, BEVILL, DUNCAN of Oregon, BENJAMIN, DIXON, CONTE, MICHEL, MCDADE, ANDREWS of North Dakota, EDWARDS of Alabama, and MCEWEN.

There was no objection.

REQUEST TO MAKE IN ORDER ON TOMORROW OR ANY DAY THEREAFTER CONSIDERATION OF CONFERENCE REPORT AND AMENDMENTS IN DISAGREEMENT ON H.R. 7542, SUPPLEMENTAL APPROPRIATIONS AND RESCISSION, 1980

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that it may be in order on tomorrow or any day thereafter to consider the conference report and amendments in disagreement on the bill (H.R. 7542) making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wonder if the gentleman from Mississippi (Mr. WHITTEN) could tell us whether he has any reading on the prospects for the consideration of this matter by the House today or tomorrow.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Speaker, I do have the intention of seeking my counterpart on the Senate side and going into conference just as soon as possible. As the gentleman knows, there are about 344 Senate changes, and so far as getting to conference is concerned, we expect to do it just as expeditiously as possible.

What progress we will make, there is no way to tell at this time, but I recognize that time is of the essence so far as this session is concerned, so we will be working as quickly as we know how. We hope to go to conference shortly. We expect to be in conference as early as the Senate can agree, which would be within the hour.

Mr. BAUMAN. Mr. Speaker, did the gentleman say that it should be within hours?

Mr. WHITTEN. Within the hour.

Mr. BAUMAN. Within the hour.

Mr. Speaker, further reserving the right to object, the majority whip, the gentleman from Indiana (Mr. BRADEMAS), on Friday, when he announced the program, indicated that there is a possibility that because of this supplemental appropriation, we may come back in session next Monday.

Does the gentleman have any more optimistic view than the gentleman from Indiana expressed on that possibility?

Mr. WHITTEN. Mr. Speaker, may I say that the committee chairman will make every effort he can to work out some solution. The first effort would be to try to reconcile the differences between the House and Senate.

Should that not work out, we will look for some other solution in an effort to see if we can bring this matter to a head so we can get through tomorrow night or the next day. Whether that is possible, I have no idea, but certainly every effort will be made either to reconcile our differences or to find some other solution to the questions so we may carry out the schedule as it has been announced.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, does the Chair understand the request made that this conference report may be brought up tomorrow or any day thereafter?

Mr. WHITTEN. Mr. Speaker, the request is for tomorrow or any day thereafter.

The SPEAKER pro tempore. The Chair will state that that is the Chair's understanding.

Mr. BAUMAN. That would, then, Mr. Speaker, give permission to bring it up possibly on Monday if we were called back into session?

The SPEAKER pro tempore. If the House is in session, that is true.

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

□ 1250

RABBI BENNETT M. HERMANN

(Mr. LENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LENT. Mr. Speaker, it is indeed a great pleasure to welcome as our guest chaplain today, Rabbi Bennett M. Hermann, rabbi of Temple Emanu-El of East Meadow, Long Island, N.Y., who offered our opening prayer. On behalf of my colleagues, I want to thank Rabbi Hermann for his inspirational message.

Rabbi Hermann was born in Albany, N.Y., and graduated from Albany High School. He was ordained by the Hebrew Union College, Cincinnati, Ohio, in 1966, receiving his bachelor and master of Hebrew letters degrees from that institute. He is also a graduate of the Teachers' Institute, the Jewish Theological Seminary of America from which he received his bachelor of Jewish Education degree. Rabbi Hermann is also a graduate of Columbia Universsity.

Rabbi Hermann has been active in the fields of Jewish education, youth activities, social action, and interfaith activities. He was the first Jewish member of the Ohio Council of Churches, and served on the Religious Committee for Safety for the State of Ohio.

Currently, Rabbi Hermann is a member of the Reform Jewish Practices Committee of the Central Conference of American Rabbis, and the Joint Commission on Worship of the American Hebrew Congregation and the Central Conference of American Rabbis. He is chairman of the Jewish Family Council for Greater New York, sponsored by the Synagogue Commission of the Federation of Jewish Philanthropies of Greater New York. He also serves the federation as vice president of the Synagogue Commission and as a member of the board of directors. He is an associate member of the Zionist Organization of America.

Rabbi Hermann is very active in community affairs on Long Island, as a board member of the Long Island Rabbis, secretary of the Long Island Association of Reform Rabbis; a member of the East Meadow Clergy, and a member of the steering committee to establish value clarification courses in East Meadow schools.

The Fourth Congressional District of New York is most fortunate to have Rabbi Hermann as a vigorous and influential member of our Long Island community.

I am honored to welcome Rabbi Hermann, his wife Hayuta, and their four children, Debbie, Sivonne, Barak, and Leorah today to the House of Representatives.

NAVY SHIPS NOT READY FOR COMBAT

(Mr. TRIBLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRIBLE. Mr. Speaker, I want to bring to the attention of my colleagues the fact that three Navy ships judged "not ready for combat" are scheduled for active deployment with the 6th Fleet in the next month.

The ships—the carrier *Kennedy*, the cruiser *Daniels*, and the destroyer *Coontz*—are so short of required personnel that the Navy has placed them in category C–4. According to Navy criteria, C–4 is for ships not combat ready.

This is a national disgrace. It is an injustice to the dedicated sailors who crew these ships, and an affront to the American people who rely on the Navy for their security.

It is intolerable that the President, as Commander in Chief, could permit this to happen.

This distressing situation stems from serious shortages in skilled middle-level personnel. The only remedy for our current military retention problems is a substantial increase in pay and allowances. Qualified people are leaving the military in increased numbers, not because they dislike military service but because they cannot afford to stay.

I urge prompt congressional action on the Nunn-Warner proposals, and the National Defense Compensation Act which Representative CHARLES BENNETT and I have introduced in the House and Senator ARMSTRONG in the other body.

This legislation would repeal the President's authority to impose caps in military cost-of-living increases, provide catchup increases for loss of earnings to inflation because of prior caps on cost-of-living increases, and provide increases in the most critical speciality areas.

America cannot maintain a first rate national defense with a third rate system of military compensation.

VOTE "NO" ON CENTRAL IDAHO WILDERNESS CONFERENCE REPORT

(Mr. SYMMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SYMMS. Mr. Speaker, I call attention of the Members of the House to page H5889, to see the debate that took place yesterday on S. 2009. That is the conference report on the Central Idaho Wilderness bill. I would encourage the Members to read that debate and then vote no on the conference report.

The Idaho AFL–CIO estimates that this legislation will cost Idahoans 10,000 jobs. We will have valuable cobalt reserves put into wilderness classification in a rather clouded language. It will be debated in the future as to whether it will be mined. I think another negative part about the bill is that the bill lacks statutory release language to release those multiple-use lands surrounding this wilderness bill. So I would ask all Members to check page 17776, read it over, and if the Members agree with me I would encourage them to vote no on the conference report.

FREE SPEECH AND FOREIGN AID

(Mr. BAUMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAUMAN. Mr. Speaker, I was very honored a few minutes ago when the majority leader (Mr. WRIGHT) curbed my free speech by moving to table my motion to instruct the conferees on the supplemental appropriation. Had I been allowed to speak, as the rules normally permit, I would have explained to the Members that I was trying to instruct the conferees to delete 35 pages from the supplemental bill, 35 pages including the 1980 foreign aid appropriation bill, that adds approximately $1,300 million to the foreign aid program. Apparently the other body does not care about the victims of Mount St. Helens or the floods or the droughts that have hit this country. This bill is supposed to be an emergency supplemental, and yet the other body glued onto it more than $1 billion in new foreign aid spending. So that ought to give you an idea of their priorities. When you were voting on whether or not to let me explain this, maybe some of you did not understand that. You voted for more foreign aid. I will give you the benefit of the doubt. But that is the way this place operates. The House will face this issue in the next few days before we are through here. I hope the next time you will know a little more when you vote and at the same time I hope free speech will be permitted in this Chamber.

ANNUAL REPORT FOR 1979 OF FEDERAL COUNCIL ON AGING—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. MURTHA) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Education and Labor:

(For message, see proceedings of the Senate of today, July 1, 1980.)

THE FOURTH ANALYSIS AND EVALUATION OF FEDERAL JUVENILE DELINQUENCY PROGRAMS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, without objection, referred to the Committee on Education and Labor:

(For message, see proceedings of the Senate of today, July 1, 1980.)

☐ 1300

ANNUAL REPORT OF OFFICE OF ALIEN PROPERTY, DEPARTMENT OF JUSTICE, FOR FISCAL YEAR ENDED SEPTEMBER 30, 1978—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs:

(For message, see proceeding of the Senate of today, July 1, 1980.)

OCALA WILDERNESS

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5341) to provide for the wilderness designation of certain lands within the Ocala National Forest, the Osceola National Forest, and the Apalachicola National Forest, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5341

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

WILDERNESS DESIGNATIONS

That in furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.) the following lands are hereby designated as wilderness, and therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the Desoto National Forest, Mississippi, which comprise approximately four thousand five hundred and twenty acres, are generally depicted on a map entitled "Black Creek Wilderness—Proposed", dated February 1980, and shall be known as the Black Creek Wilderness;

(2) certain lands in the Mark Twain National Forest, Missouri, which comprise approximately eight thousand five hundred and thirty acres, are generally depicted on a map entitled "Bell Mountain Wilderness—Proposed", dated February 1980, and shall be known as the Bell Mountain Wilderness;

(3) certain lands in the Mark Twain National Forest, Missouri, which comprise approximately three thousand nine hundred and twenty acres, are generally depicted on a map entitled "Rockpile Mountain Wilderness—Proposed", dated February 1980, and shall be known as the Rockpile Mountain Wilderness;

(4) certain lands in the Mark Twain National Forest, Missouri, which comprise approximately eight thousand four hundred acres, are generally depicted on a map entitled "Piney Creek Wilderness—Proposed", dated February 1980, and shall be known as the Piney Creek Wilderness;

(5) certain lands in the Mark Twain National Forest, Missouri, which comprise approximately six thousand eight hundred acres, are generally depicted on a map entitled "Devils Backbone Wilderness—Proposed", dated February 1980, and shall be known as the Devils Backbone Wilderness;

(6) certain lands in the Apalachicola National Forest, Florida, which comprise approximately one thousand one hundred and seventy acres, are generally depicted on a map entitled "Bradwell Bay Wilderness Addition—Proposed", dated February 1980, and which are hereby incorporated in and shall be deemed a part of, the Bradwell Bay Wilderness as designated by Public Law 93-622;

(7) certain lands in the Apalachicola National Forest, Florida, which comprise approximately eight thousand two hundred and fifty acres, are generally depicted on a map entitled "Mud Swamp/New River Wilderness;

(8) certain lands in the Ocala National Forest, Florida, which comprise approximately thirteen thousand five hundred and fifty acres, are generally depicted on a map entitled "Juniper Prairie Wilderness—Proposed", dated March 1980, and shall be known as the Juniper Prairie Wilderness:

(9) certain lands in the Ocala National Forest, Florida, which comprise approximately three thousand one hundred and twenty acres, are generally depicted on a map entitled "Alexander Springs and Billies Bay Wildernesses—Proposed", dated March 1980, and shall be known as the Billies Bay Wilderness;

(10) certain lands in the Ocala National Forest, Florida, which comprise approximately seven thousand seven hundred acres, are generally depicted on a map entitled "Alexander Springs and Billies Bay Wildernesses—Proposed", dated March 1980, and shall be known as the Alexander Springs Wilderness: *Provided, however,* That the Secretary of Agriculture shall not restrict existing motorboat use on Alexander Springs Creek;

(11) certain lands in the Ocala National Forest, which comprise approximately two thousand five hundred acres, are generally depicted on a map entitled "Little Lake George Wilderness—Proposed", dated March 1980, and shall be known as the Little Lake George Wilderness;

(12) certain lands in the Osceola National Forest, Florida, which comprise approximately thirteen thousand six hundred acres, as generally depicted on a map entitled "Big Gum Swamp Wilderness—Proposed", dated March 1980, and shall be known as the Big Gum Swamp Wilderness;

(13) certain land in the Croatan National Forest, North Carolina, which comprise approximately eleven thousand acres, are generally depicted on a map entitled "Pocosin Wilderness—Proposed", dated February 1980, and shall be known as the Pocosin Wilderness;

(14) certain lands in the Croatan National Forest, North Carolina, which comprise approximately five thousand four hundred acres, are generally depicted on a map entitled "Sheep Ridge Wilderness—Proposed", dated February 1980, and shall be known as the Sheep Ridge Wilderness;

(15) certain lands in the Croatan National Forest, North Carolina, which comprise approximately seven thousand six hundred acres, are generally depicted on a map entitled "Catfish Lake South Wilderness—Proposed", dated February 1980, and shall be known as the Catfish Lake South Wilderness;

(16) certain lands in the Croatan National Forest, North Carolina, which comprise approximately one thousand eight hundred and sixty acres, are generally depicted on a map entitled "Pond Pine Wilderness—Proposed", dated February 1980, and shall be known as the Pond Pine Wilderness;

(17) certain lands in the Francis Marion National Forest, South Carolina, which comprise approximately five thousand one hundred acres, are generally depicted on a map entitled "Wambaw Swamp Wilderness—Proposed", dated May 1980, and shall be known as the Wambaw Swamp Wilderness;

(18) certain lands in the Francis Marion National Forest, South Carolina, which comprise approximately one thousand nine hundred and eighty acres, are generally depicted on a map entitled "Hell Hole Bay Wilderness—Proposed", dated May 1980, and shall be known as the Hell Hole Bay Wilderness;

(19) certain lands in the Francis Marion National Forest, South Carolina, which comprise approximately five thousand acres, are generally depicted on a map entitled "Little Wambaw Swamp Wilderness—Proposed", dated May 1980, and shall be known as the Wambaw Swamp Wilderness;

(20) certain lands in the Francis Marion National Forest, South Carolina, which comprise approximately one thousand six hundred and forty acres, are generally depicted on a map entitled "Wambaw Creek Wilderness—Proposed", dated May 1980, and shall be known as the Wambaw Creek Wilderness;

(21) certain lands in the Kisatchie National Forest, Louisiana, which comprise approximately eight thousand seven hundred acres, are generally depicted on a map entitled "Kisatchie Hill Wilderness—Proposed", dated May 1980, and shall be known as the Kisatchie Hills Wilderness.

MAPS AND DESCRIPTIONS

SEC. 2. As soon as practicable after the provisions of section 1 of this Act take effect, the Secretary of Agriculture shall file maps and legal descriptions of each wilderness area designated by such section with the Committee on Interior and Insular Affairs and the Committee on Agriculture, of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, and each such map and legal description shall have the same force and effect as if included in this Act: Provided, however, That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief, United States Forest Service, Department of Agriculture.

FLORIDA KEYS WILDERNESS BOUNDARY ADJUSTMENTS

SEC. 3. (a)(1) There are designated as wilderness and added to the area known as the Florida Keys Wilderness (as so designated by Public Law 93–632) certain lands referred to as North Cudjoe Key, located in Monroe County, Florida, and comprising about seventy-three acres, as generally depicted on a map entitled "Florida Keys Wilderness (North Cudjoe Key Addition)", dated March 1980, on file in the Office of the Director, United States Fish and Wildlife Service, Department of the Interior. The designation of such lands as wilderness shall be effective on the date such lands are included in the National Wildlife Refuge System.

(2) When the designation of additional wilderness under paragraph (1) of this subsection takes effect, such lands shall be administered by the Secretary of the Interior as part of the Florida Keys Wilderness pursuant to those provisions of the Wilderness Act which govern areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this section and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

(b) Notwithstanding any other provision of law, there are withdrawn from the Florida Keys Wilderness (as such area was so designated by Public Law 93–632) certain lands referred to as Raccoon Key, located in Florida, which lands comprise about twenty-five acres, and which are depicted on a map entitled "Florida Keys Wilderness (West Part)", dated July 1975, and on file in the Office of the Director, United States Fish and Wildlife Service, Department of the Interior. The withdrawal of such lands from the National Wilderness Preservation System shall be effective on the date such lands are withdrawn from the National Wildlife Refuge System.

(c) As soon as practicable after the designation of additional wilderness under subsection (a) of this section and the withdrawal of wilderness under subsection (b) of this section take effect, the Secretary of the Interior shall file with the Committee on Interior and Insular Affairs of the House of Representatives and with the Committee on Energy and Natural Resources of the Senate a map and legal description of the Florida Keys Wilderness, showing the changes in the boundary of such wilderness made by this Act. Such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such legal description and map may be made. Such map and description shall also be on file and available for public inspection in the Office of the Director, United States Fish and Wildlife Service, Department of the Interior.

(d)(1) At such time on or after the date of enactment of this Act as the United States, through purchase, donation, or otherwise, acquires any lands on Raccoon Key, Florida, the Secretary of the Interior shall publish a notice of such acquisition in the Federal Register and shall notify the appropriate committees of the Congress.

(2) Effective upon publication of an appropriate notice of acquisition pursuant to paragraph (1) of this subsection, all lands on Raccoon Key acquired by the United States on or after the date of enactment of this Act shall be added to and incorporated within the Great White Heron National Wildlife Refuge and the Florida Keys Wilderness, and shall be administered pursuant to appropriate provisions of law, including those provisions of the Wilderness Act which govern areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of publication of such notice, and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

ADMINISTRATION OF WILDERNESS

SEC. 4. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture or the Secretary of the Interior as appropriate in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness: *Provided*, That any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of the relevant provisions of this Act.

SEC. 5. (a) The Department of the Interior shall not issue phosphate leases in the Osceola National Forest, Florida, unless and until the United States by subsequent legislation shall determine that the mining of phosphate deposits in such leases would be necessary to the national interest of the United States.

(b) Within three years from the date of enactment of this Act, the Secretary of the Interior shall, with respect to those individuals or companies which have:

(1) applied for phosphate preference right leases by applications numbered BLM–A–080538, 080539, 080540, 080544, 080545, 080546, 080547, 080548, 080549, 080093, 080297, 080298, 080299, 080801, 080975, 079908, 079904, 079905, 079906, 079907, 079956, 079957, 079958, 079959, 079992, 080004, 080027, 080028, 080048, 080067, 080069, 080070, 080632, 080634, 080638; ES–0980, 0981, 0982, 0983, 3181, and 3208; and

(2) made, as found by the United States Geological Survey, a discovery or discoveries of valuable deposits,

exchange the preference right lease applications for leases covering other minerals subject to the Mineral Leasing Act without competitive bidding upon voluntary surrender and relinquishment by the applicant of such preference right lease applications and all right to lease the lands covered by such applications.

(c) The leases to be issued by the Secretary pursuant to subsection (b) of this section and the preference right lease applications to be exchanged therefor shall be of equal value. If such leases and rights to leases are not of equal value, the values shall be equalized by the payment of money to the Secretary or the applicant so long as the payment does not exceed 25 per centum of the value of the leases to be issued by the Secretary. Upon completion of each negotiation for an exchange, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate the details of such negotiation and exchange, and such exchange shall be deemed approved unless either of such committees shall specifically disapprove such exchange within sixty days of the date of the submission. The details of such negotiation and exchange shall also be submitted to the House Committee on Agriculture at the same time as they are submitted to the foregoing committees.

(d) Any exchange lease issued by the Secretary under the authority of this Act shall be consistent with section 7 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 207).

(e) Any Federal coal leases issued pursuant to this section must be consistent with tho existing land use planning requirements of the Department of the Interior or the Department of Agriculture, as applicable.

(f) The designation of the Big Gum Swamp wilderness shall in no way be construed to diminish, abate, impair, or modify any rights which may be vested in any person or persons in connection with any applications which are pending on the date of enactment of this Act for Federal phosphate preference right leases applicable to any lands within the Big Gum Swamp wilderness area designated by this Act. The market or exchange value of any such rights as may exist shall be determined without reference to any restrictions on access or use which may result from designation of the area as wilderness.

(g) If the Secretary is unable to effect an exchange governing any phosphate lease application covered by this Act he shall within four years of the date of enactment of this Act acquire the preference right to the leases by purchase or condemnation. Effective October 1, 1980, the Secretary is authorized to pay just compensation for the rights to leases to be acquired pursuant to this subsection.

(h) Any payments made pursuant to this section shall be effective only to such extent or in such amounts as are provided in advance in appropriation acts.

The SPEAKER pro tempore. Is a second demanded?

Mr. CLAUSEN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. SEIBERLING) will be recognized for 20 minutes, and the gentleman from California (Mr. CLAUSEN) will be recognized for 20 minutes.

Mr. SEIBERLING. Mr. Speaker, H.R. 5341 designates 20 new wilderness areas on Federal lands in the Southern and border States and adds acreage to one existing wilderness area. All told, the bill would thus place approximately 130,340 acres of Federal lands in the National Wilderness Preservation System, for management pursuant to the Wilderness Act.

This bill combines into a single legislative package wilderness proposals from five separate bills referred to the Committee on Interior and Insular Affairs, and also a number of recommendations for wilderness designations made by the President as a result of the RARE II process of evaluating national forest roadless areas nationally.

The areas which the bill would designate for inclusion in the National Wilderness Preservation System include National Forest lands in Mississippi, Missouri, Florida, North Carolina, South Carolina, and Louisiana. It also adjusts the boundaries of the Florida Keys Wilderness within the Great White Heron National Wildlife Refuge in Florida.

All of the wilderness areas in this bill, I might add, were included with the blessing and in most cases with the express request of the Congressman in whose district they are situated.

As regards the sections of the bill dealing with Florida there is one item which is somewhat unusual in terms of past bills designating wilderness areas on National Forest lands; namely, the inclusion of provisions intended to resolve a long-standing controversy over the question of issuance of phosphate leases in the Osceola National Forest.

The phosphate item arose from provisions of the Mineral Leasing Act of 1920 which authorize the Secretary of the Interior to issue exclusive 2-year prospecting permits to qualified applicants where prospecting or exploratory work is necessary to determine the existence or workability of phosphate deposits, and to renew such permits under certain circumstances. If the prospecting permittee discovers valuable deposits of phosphate within the permitted area, the law states that the permittee is entitled to a lease on all or part of the lands covered by the permit. Pursuant to these provisions the Secretary issued 42 prospecting permits, covering about 144,000 acres of the total 157,000 acres of the Osceola National Forest between 1965 and 1968.

I might add the proposed wilderness designation comprises only 13,600 acres. Based on the prospecting work, during the period from July 1969 through May 1972, 41 applications for preference-right phosphate leases covering about 52,000 acres of the permitted land—or some 33 percent of the entire Osceola National Forest—were filed by four companies. To date, none of these applications has been completely processed and no phosphate leases have been issued. Without legislation, there is every likelihood that the issue will drag on in administrative appeals and in the courts for many years.

In considering possible legislation to resolve the issue, the committee was mindful of two major points. First, equity would dictate that the lease applicants are entitled to a decision on their lease applications at the earliest possible date. If leases are not to be issued, the applicants should be compensated for such rights as may be vested in them under the provisions of the Mineral Leasing Act (as amended). In short, either the leases should be awarded to the extent mandated by law, or the applicants should be fairly compensated for such rights as they may have.

On the other hand, the committee also realizes that the leasing of approximately one-third of the Osceola National Forest for phosphate mining could severely impair the value of the forest for other multiple uses such as recreation, timber production, and wilderness. Objections to such mining have been expressed by numerous public officials at all levels of government in Florida, by members of the Florida congressional delegation, by the Departments of the Interior and Agriculture, and by the President. Indeed legislation has been introduced in this Congress and in the two preceding Congresses to ban any phosphate leasing or mining in the Osceola National Forest.

Given the sensitive environmental values of the lands under phosphate lease application, the committee agreed that no phosphate leases should be issued on the forest at this time, and added a section (section 5) to H.R. 5341 which contains the following major provisions:

Subsection 5(a) prohibits the Department of the Interior from issuing phosphate leases on the Osceola National Forest unless and until Congress determines otherwise. Any future determination to allow leasing would have to be accompanied by a finding that the mining of phosphate deposits in the national forest would be necessary to the national interest of the United States.

Subsection (5) gives the Secretary of the Interior 3 years to complete a determination of whether the phosphate lease applicants have made a discovery of "valuable deposits" of phosphate and, if they have, to exchange such rights as may be vested in the lease applicants for leases covering minerals outside the Osceola National Forest. These exchanges would be subject to a 60-day review by committees of the House and Senate before they could go into effect.

And, finally, the bill provides that if it proves impossible to work out a mutually agreeable exchange, or a phosphate-lease applicant prefers not to make an exchange, the United States will acquire the applicant's rights.

Mr. Speaker, this bill incorporates the legislative proposals of a considerable number of our colleagues and would represent a large step toward resolution of the present uncertainty over the status and management of Federal land in a widespread number of locations. I believe it deserves the endorsement of the House. I urge all Members to vote for its passage.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

I have had access to memoranda and other information containing some very serious allegations about this legislation. It involves the eventual possibility of acquisition by large corporations of the phosphate mining rights under the terms of this bill, particularly section 5. I really have no way of judging the validity of the claims that have been made to me, but they are sufficiently serious, and I am sure the gentleman from Ohio probably is familiar with them.

Could the gentleman enlighten the House as to whether or not this will in fact give a $2½-billion windfall eventually to a mining company that owns adjacent land and phosphate mining? Will it drive up the price of fertilizer for American farmers?

Mr. SEIBERLING. Under the Mineral Leasing Act, a 1920 law, any person can obtain the rights to explore for certain types of minerals in the national forests, by payment of a very small fee, 25 cents an acre, and if he finds the mineral, then he has some basis for claiming the right to mine the mineral.

Now, for over 10 years, the holders of mineral rights on some of the lands in the Osceola National Forest in Florida have been in a controversy with the Department of the Interior as to whether the Department of the Interior has to issue them preference leases to develop mineral rights to phosphate they found in that National Forest.

The exact extent of their rights and the extent of the minerals is not completely clear, but there is a legal question which, of course, they could take to court if they could not get satisfaction any other way.

This bill does not alter their right to go to court. It merely provides the Secretary of the Interior an alternative of resolving this dispute by offering to them an opportunity to receive leases for Federal coal in exchange for their rights, if any, to mine Federal phosphate in this Forest after an appraisal and on a value-for-value basis so that the Federal Government would neither gain nor lose if they entered into that. It furthermore provides that any such exchange could be vetoed by the House Committee on the Interior and Insular Affairs or the Senate Committee on Energy and National Resources. It was worked out with the ranking minority member of the Subcommittee on Public Lands. It passed through the full committee without a single dissenting vote. I understand there was one dissenting vote in the Committee on Agriculture. It seems to me to be consensus legislation; my position was all along that unless there was a consensus, I would not have even that provision in the bill, but there was a consensus.

● Mr. JOHNSON of Colorado. Mr. Speaker, as the chairman of the Public Lands Subcommittee has explained, H.R. 5341 is essentially a straightforward bill establishing 21 new national forest wilderness areas in 6 different States. All of these wilderness proposals are a result of the Forest Service RARE II process and came to the committee either in the form of legislation introduced by the respective Members directly involved, or by means of wilderness recommendations from the administration, which the committee chose to consider.

The bill designates as "wilderness," approximately 130,000 acres of national forest lands in the States of Florida, Missouri, Mississippi, North Carolina, Louisiana, and South Carolina. In addition, the legislation authorizes a boundary adjustment involving the removal of a 25-acre portion of the existing Florida Keys wilderness in exchange for inclusion in that same wilderness of 73 acres of presently private lands. Only one of these wilderness proposals created any significant concern.

That one area at issue was the Big Gum Swamp Area in the Osceola National Forest in Florida. This has been an issue for many years because of the existence of potentially valuable deposits of phosphate. To date, 4 different companies have applied for 41 preference right leases covering about 52,000 acres of forest. These leases date back to 1965 and none has been finalized by the Department of the Interior. Such proposed leasing in the forest has run into considerable difficulties over these many years and has resulted in the continual delaying of the decision of whether or not to proceed with leasing of phosphate within the forest.

In an effort to resolve the issue, H.R. 5341 contains a provision which prohibits issuance of any phosphate leases, unless and until authorized by a future Congress. However, in order to provide some degree of equity, the bill also directs the Secretary of the Interior to issue other mineral leases of equal value to the holders of phosphate mineral rights upon the voluntary surrender of any such rights as may exist. The bill requires the Secretary to make a determination of existence of a valuable deposit within 3 years, and to make an exchange within 4 years. However, if such an exchange is not completed or if the phosphate lease applicant does not want an exchange, the Secretary would be required to acquire any such rights as may exist and to pay just compensation.

While this may be a less than perfect resolution of this longstanding problem, the effort is made to provide a fairly equitable solution, generally agreeable to most of the parties involved. It is probably the most equitable accommodation we can make at this point, and still get started on the road to bringing the issue to a close.●

Mr. CLAUSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the chairman of the Subcommittee on Public Lands, the gentleman from Ohio (Mr. SEIBERLING), has outlined. H.R. 5341 is for the most part a package for proposed wilderness designation onn ational forest lands in six different States in the eastern part of the country.

The bill proposes to designate as wilderness some 130,000-odd acres of forest lands in 21 separate areas in the States of Florida, Missouri, Mississippi, North Carolina, South Carolina, and Louisiana. For the most part, these are noncontroversial wilderness proposals. However, as has already been discussed, the proposed designation of one wilderness area in the Osceola National Forest in Florida is accompanied by a statutory provision which has resulted in some controversy because it would prohibit the mining of phosphate in this particular forest.

I would like to have the attention, if I could, of the chairman, the gentleman from Ohio (Mr. SEIBERLING), for a moment, because there have been some questions raised as to whether or not the statutory language that we have in this bill would, in fact, provide an entitlement to the affected landowners, and I had conveyed the impression that first of all it does not really add anything other than what they now have; namely, access to the courts, and also there is a check and balance in that the two committees of the House and the Senate do have a veto power over it, plus the check and balance that come from the Appropriations Committee and the appropriations process.

Could the gentleman further elaborate on that.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. CLAUSEN. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Yes, the provision in the bill on page 16 would authorize the Secretary to pay just compensation for the rights to these leases in the event that a satisfactory settlement was no worked out, which of course is what the Secretary could do now in settlement of litigation.

So, it really did not add anything. In order to make it clear that there was no violation of our budget resolution this year, the bill was also amended to provide that this Secretarial authority would not take effect until next fiscal year.

Second, to make it clear that the bill would establish no entitlement, we added an additional paragraph which says that any payments made pursuant to that section would be effective only to the extent they were provided for in advance in an appropriation act. So no one could go to the Court of Claims or otherwise claim an entitlement under this bill.

☐ 1310

Mr. CLAUSEN. Mr. Speaker, I thank the gentleman for the clarification. While I still have some reservations on this provision, the remainder of the bill is without any known controversy so I intend to vote for the measure. However, I would urge our colleagues in the other body to examine the phosphate sections very carefully and if necessary adopt appropriate amendments so that this bill can go forward in an expeditious fashion.

Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I apologize for presuming on the House to raise this question at this late hour about this bill. I am sure that none of us have any objection to the sections that deal with wilderness in other parts of the country; but section 5 of the bill deals with the Osceola Forest and will designate certain component parts of this forest as wilderness and it has a much broader meaning.

I alluded to this partially in my earlier remarks which were addressed to the gentleman from Ohio.

I will just lay out what I have been told regarding this. I have been told, for instance, in a statement on June 24 by Lamar Beasley, Associate Deputy Chief of the U.S. Forest Service, that the administration does not support section 5 and, in fact, has not formulated a position on it and urge the committee to defer any action on section 5.

Now, I am the first to confess that the gentleman from Maryland, who used to serve on the Committee on the Interior, has not been close to this issue; but this bill provides for the exchange of certain phosphate preference right lease applications, as they are called, for coal leases in the Western United States.

According to the U.S. Geological Survey, there are at least 120 million tons of phosphate rock in the Osceola Forest, encompassed by 41 of these lease applications covering some 52,000 acres. While the bill provides for an exchange of phosphate for coal, the report of this bill on page 14, the second full paragraph, says that the exchanges are to be strictly voluntary and that any of the four holders of these leases may reject an exchange arrangement and, instead, demand compensation.

Now, here is where I think we had better pay some close attention. According to the Interior Department's secretarial document, dated May 12, 1980, the value of just one of the four holders of these leases, the value of the leases they hold totals $307,448,570. That encompasses only 5 of the 41 involved leases; so by extrapolation, we may be talking about a total value of leases to these mineral rights that could reach as much as $2.6 billion. I have no confirmation of that figure, but we do have the secretarial judgments on 5 of the 41 leases.

It has also been alleged to me that if, in fact, this area is now locked up from phosphate mining, it will possibly drive up the price of fertilizer in this country because of the shortage of phosphates. Additionally, at a time several years hence when the phosphate supplies in the United States are depleted, the lease rights could be exploited. At that time phosphates would sell at a very high price. That, I think, is a serious question that needs to be answered.

Lastly, I am told that if these leases are eventually offered on a competitive bidding basis, then a company that is directly adjacent to the Osceola Forest, which I have been told is owned by one of the world's wealthiest businessmen who has fertilizer contracts with the Soviet Union on the delivery of phosphates in the future, would be in the best competitive position to capitalize on the situation and could make a substantial profit.

Now, all these are serious questions and they raise the issue of whether or not this legislation ought to be brought up under suspension when we may be talking about billions of dollars in mineral rights, as well as the available supply of fertilizer and the price at which it will be available in this country; so it is not simply a wilderness bill as I see it. It is a bill with a number of other questions that need to be asked.

I do not make these charges in the sense of saying they are absolutely true. If in the brief time available to us they can be answered, I would be more than pleased to hear the answer; but as it stands now, I intend to vote against the bill as long as it is under suspension.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. Of course, I yield to the gentleman from Ohio.

Mr. SEIBERLING. Well, of course, if this phosphate provision were truly controversial, I would not have included it in the bill, because the rest of the provisions of the bill are entirely noncontroversial; but to the extent that the owners of the phosphate rights have a right to develop these, then they have it, and whatever the value of the phosphate is, that is the value which they own. To the extent that they do not, they have no rights and will not be able to obtain any compensation or any exchange of valuable Federal coal. This does not give them anything they do not have now.

Mr. BAUMAN. I understand that; but as I read the situation with my examination of the information I have available, by locking up the development of these mineral rights for the time being it would sit idle while the U.S. supply is depleted. The GAO has already told us that may occur within 10 years. Such a situation could preserve for these companies mineral rights that would be worth vastly more in a few years; so the Congress may be party to an arrangement to enrich a major company or companies unwittingly. We should know what is happening here.

The SPEAKER pro tempore. The time of the gentleman from Maryland has expired.

Mr. SEIBERLING. Mr. Speaker, I yield myself 1 minute, unless I can get some time from the gentleman from California.

Mr. CLAUSEN. I am running pretty short on time. I do not believe I can yield right now.

Mr. SEIBERLING. Mr. Speaker, I yield myself 1 minute, simply to say that at present the United States is exporting phosphate, so there is no shortage in this country. The act expressly provides that if this bill becomes law, further mining of phosphate in this national forest, which is only one factor of the total phosphase deposits in Florida, cannot take place without an act of Congress. Of course, if there is a shortage, Congress has it in its power to authorize mining. The total area of this national forest is 157,000 acres and the wilderness only covers 13,600 acres; so that even if we do not mine in the wilderness, the rest of it all can be available if, indeed, the Federal Government ever decides to authorize it.

Mr. Speaker, I now yield 1 minute to the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I thank the gentleman for yielding.

I rise in support of the bill. In addition to the comments made by the distinguished chairman of the subcommittee, the gentleman from Ohio (Mr. SEIBERLING), I think it should be noted that this bill provides that the Committee on Interior and Insular Affairs and the Committee on Agriculture are to be informed of any proposed mineral lease exchanges. The Committee on the Interior is given veto power over such exchanges. In the case of the Committee on Agriculture, while the bill does not give us veto authority, it does afford us prior notice for each lease exchange.

I can assure the House that the Committee on Agriculture will be concerned about the agricultural impact of any proposed mineral lease exchanges, particularly as to their effect on fertilizer supply and prices.

I agree with the gentleman from Ohio. I do not foresee any critical shortage of phosphates resulting from this bill; furthermore, there are provisions of the legislation to insure that individual exchanges will be carefully examined.

Finally, as has been pointed out in debate, any compensation for mineral rights is subject to prior appropriation action.

Mr. Speaker, H.R. 5341 was originally referred to the House Committee on Interior and Insular Affairs and sequentially referred to the House Committee on Agriculture because of its jurisdictional interest in the forests which were created from acquired lands.

This bill is an outgrowth of the President's wilderness recommendations which were forwarded to the Congress on April 16, 1979. These recommendations resulted from a nationwide inventory and study of the wilderness values of roadless lands in the National Forest System—familiarly known as RARE II.

H.R. 5341, as reported by the committee, would designate 20 new wildernesses and one wilderness addition from the national forests in the States of Mississippi Missouri, Florida, Louisiana, and eastern North and South Carolina—totaling approximately 130,000 acres.

The designations of wilderness areas in H.R. 5341 largely follow the recommendations of the President. In the few instances in which the bill departs from the administration's recommendations, the Committee on Agriculture has followed the lead of the Committee on Interior and Insular Affairs and agrees with its recommendations for the reasons set forth in the Interior Committee's report.

Unlike the forests of the West, which were created from large areas of public domain before the turn of the century, the national forests of the East, for the most part, have been purchased from private landowners over the past 65 years. The unavailability of large tracts of public land in the East often necessitated the piecemeal purchase of land from private owners. This has resulted in a fragmented ownership pattern, creating a patchwork of public and private lands. Many of these lands had been abused, poorly protected, or ignored before being acquired. Today, the same lands have healed and been rejuvenated. These Eastern national forests now provide a bountiful store of a complete range of resource values including wilderness and recreational resources. The increasing and frequently conflicting demands on these lands create a major challenge for management of the Eastern forests and, in part, prompted the second roadless area review and evaluation.

While the land ownership and proximity to metropolitan centers distinguish most eastern forests from those in the West, the real difference is the limited availability of public land in the East and its importance to the 175 million people who live and work within a day's drive of an eastern national forest.

The wilderness proposals in H.R. 5341 will provide additional ecosystem, landform, and wildlife habitat representations within the wilderness system, thereby adding to the diversity of the system. The distribution and accessibility of roadless areas recommended for wilderness will increase the opportunity for a wilderness experience within a day's travel time for much of the Nation's population.

In developing the wilderness recommendations contained in H.R. 5341, emphasis was given to adding areas with the highest wilderness attributes, but some such areas were excluded because of their high resource potential. In my view, H.R. 5341 strikes a reasonable balance among wilderness and other values.

Another major provision in the bill resolves a long-standing controversy involving the issuance of phosphate leases in the Osceola National Forest located in Florida. Here, too, the committee has followed the lead of the Interior and Insular Affairs Committee.

What the bill does is to prohibit the issuance of phosphate leases in the future in the Osceola National Forest but protects the rights of applicants for preference rights leases who have discovered valuable deposits. It directs exchanges to be made of these rights for leases covering other minerals subject to the Mineral Leasing Act without competitive bidding. If the Secretary is unable to effect an exchange governing phosphate lease applications, he is directed to acquire the preference right to the leases by purchase or condemnation within 4 years. The bill before you today makes the provisions for any payments by the Government in connection with an exchange or acquisition effective October 1, 1980, and to the extent provided for in prior appropriation acts.

In addition, as I stated earlier, H.R. 53341 contains an amendment that was added by the Committee on Agriculture requiring notification of the Committee on Agriculture along with the House Committee on Interior and Insular Affairs and the Senate Committee on Energy and Natural Resources of the details of each exchange effectuated under the bill. This will help assure that in making any exchanges affecting preference rights to phosphate leases the agricultural interests of the United States will be protected.

Mr. Speaker, I urge the Members to join me in supporting this bill.

Mr. SEIBERLING. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana (Mr. HUCKABY), a member of the committee.

Mr. HUCKABY. Mr. Speaker, I rise in support of H.R. 5341, which designates some 8,500 acres in my congressional district in the State of Louisiana as wilderness. I certainly want to commend the chairman of the subcommittee, the gentleman from Ohio (Mr. SEIBERLING) for the many hours of work he has put into this effort.

I would like to engage the chairman of the subcommittee in a brief colloquy, if I might.

It is my understanding and interpretation of the Clean Air Act that any wilderness designation that is 10,000 acres or less will remain classified as class 2.

Mr. SEIBERLING. I did not hear the gentleman.

Mr. HUCKABY. It is my understanding that any wilderness that incises 10,000 acres or less must remain designated as class 2; that is, the Secretary of the Interior does not have the ability to change that.

Mr. SEIBERLING. The answer is "Yes."

Mr. HUCKABY. And a class 2 area does permit orderly development of manufacturing, electric power generation, these type of things.

Mr. SEIBERLING. That is correct.

Mr. HUCKABY. My specific concern is that there are numerous lignite coal deposits in Louisiana located near this proposed wilderness. It is certainly our intention and I think the intention of the subcomimttee as we study this that these areas go ahead and be developed so that we could use this source for electricity, as well as have the wilderness also.

Mr. SEIBERLING. The wilderness designation would not interfere with that in any way.

Mr. HUCKABY. Mr. Speaker, I thank the gentleman. I yield back the balance of my time.

Mr. SEIBERLING. Mr. Speaker, I yield 5 minutes to the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Speaker, I want to thank the gentleman from Ohio and the gentleman from California for the work that they did in perfecting this legislation and address some concerns that have been raised by my good friend, the gentleman from Maryland.

Mr. Speaker, I rise in strong support of H.R. 5341, particularly those sections of the bill affecting the national forests in Florida. Two of three national forests in Florida are located entirely within the Second Congressional District, which I am privileged to represent, and I wholeheartedly endorse the wilderness designations.

Let me briefly state that the provisions creating the Mud Swamp/New River Wilderness and expanding the Bradwell Bay Wilderness within the Apalachicola National Forest are two excellent proposals which will improve the wilderness system within the United States.

The proposed Big Gum Swamp Wilderness lies within the Osceola National Forest. This particular provision has attracted a fair amount of attention and I would like to sketch for my collegues the history and nature of the problem.

The Osceola National Forest is composed of approximately 156,000 acres. This tract, by national standards, makes the Osceola a rather small national forest. Four companies have acquired preference lease rights affecting approximately 52,000 acres of the Osceola. The area established for designation as the Big Gum Swamp Wilderness is composed of 13,600 acres. Most of the wilderness area covers lands on which these four companies have acquired lease preference rights.

Right away, let me list the four companies involved so no one will wonder who is involved in the matter. They are: Monsanto, Kerr-McGee, Pittsburgh-Midway, and Global.

These companies during the 1960's acquired preference lease rights pursuant to the Mineral Leasing Act of 1920. No mining has been done in the Osceola. That point should be emphasized—no mining whatsoever has taken place as of this date.

A legal question has arisen as to whether or not, because of the preference rights, these companies are entitled to obtain their leases as a matter of right or whether it is within the discretion of the Secretary of the Interior. That controversy is still on-going and, while it would appear that the better case can be made for the existence of discretion by the Secretary, there are salient points to be made on either side. Enactment of H.R. 5341 would put an end to that squabble.

I have, in the 93d, 94th, 95th, and 96th Congresses, introduced legislation to terminate these lease rights. My action was predicated on my belief that we should not mine in this national forest. Hearings were held on my proposal in the 94th and 95th Congresses by the Subcommittee on Mines and Mining of the House Committee on Interior and Insular Affairs.

The administration, at that time, urged postponement of the enactment of legislation because they were trying to work with the companies involved to terminate their Osceola rights in exchange for lease rights on other Federal lands. I was made aware of the fact that such negotiations were taking place but I, at no time, sought to ascertain any of the particulars of the negotiations. It is now my understanding that, at least in the case of a few of the companies, the negotiations have proceeded to the stage where both parties believe a compromise can be worked out.

Let me digress for a moment to explain my personal position on phosphate mining. There is, at this time, a great deal of phosphate mining going on in Florida and in my congressional district. This mining is being done on private lands and the companies involved must comply with all local, State and Federal rules and regulations for the protection of the environment. Experts disagree as to the future need for phosphate.

Certainly supplies will begin to dwindle at some future point in time and, unless substitutes are found, phosphate will be in short supply. Currently, there are no existing shortages and other experts believe the next 5 years will demonstrate a glut in the world phosphate market. By the 1990's, however, the situation may change.

Strip mined land is not a particularly pretty sight. I do not condemn the phosphate industry for this situation. They are, in Florida, reclaiming the land and making lakes out of the giant craters. All of this is well and good, but I do not believe we should subject this small national forest to the ravages of strip mining. Two separate environmental impact statements have been made. There is a question as to the ultimate impact mining would have on the land and underground water system, but no question as to its immediate short-term effects. Use of the forest would be denied for years, until the phosphate rock was mined. Several endangered and threatened species of wildlife inhabit the Osceola National Forest and these would certainly be jeopardized.

Here I have reference to the Florida panther, the red-cockaded woodpecker, the Arctic peregrine falcon, and the Southern bald eagle. Other animals, such as the Florida alligator, will be adversely affected.

H.R. 5341's language, calling for the Secretary to negotiate lease trades is responsible and has been done in other instances. Additionally, H.R. 5341 terminates all lease rights held in the forest and calls for adjudication if all else fails. Frankly, I would prefer to keep this matter out of the courts, but it may be inevitable. The act also requires an act of Congress before any new leases could be issued. I would not oppose mining if it was proven that the phosphate was needed to meet our national needs.

The simple fact is, however, that the phosphate is not needed now and should remain in the ground in the Osceola as insurance against the time we have to mine and this, I want to emphasize, would only be true if the gloomiest predictions come true. Actually, I do not believe it will ever become necessary to mine in the Osceola.

I have wide support for my efforts from the people who live in that area of my district, as well as groups concerned with the environmental problems. Further, I have been given personal assurances of support by both of Florida's Senators, Senator CHILES and Senator STONE. Like me, they believe we should act to preserve the beauty and integrity of the Osceola and not permit mining to proceed.

Hunting, fishing, camping, and swimming are just a few of the recreational activities now enjoyed in the Osceola National Forest. Creation of the Big Gum Swamp Wilderness will enhance the efforts to preserve this national forest. I urge my colleagues to join me in support of this vital legislation.

Mr. Speaker, an issue has been raised about the potential costs of this legislation.

Any questions of cost are not new. Hearings on similar legislation were held in both the 94th and 95th Congresses and this administration had had ample time to review any cost estimates. Further, I call the attention of my colleagues to the letter to Chairman UDALL from Alice M. Rivlin, Director of the Congressional Budget Office indicating that, while cost estimates cannot be fully projected, they anticipate that the issue can be resolved through exchanges and that costs could be minimized.

We are dealing with companies who want to mine. They recognize that, with or without this bill, there is no chance of mining in the Osceola for years to come. I believe they will take the responsible approach and work out trades with the Interior Department.

To anyone who is worried about future litigation let me say that the matter has already been the subject of a protracted lawsuit over the issuance of the lease rights and without passage of H.R. 5341, I feel certain more lawsuits will follow. Not only at the Federal court level but also within the State court system over environmental concerns. I feel that H.R. 5341 is about the only way open to insure that litigation is contained and, ultimately, equity is reached.

□ 1320

The SPEAKER pro tempore. The time of the gentleman from Florida (Mr. FUQUA) has expired.

Mr. CLAUSEN. Mr. Speaker, I yield 1 minute to the gentleman from Florida.

Mr. Speaker, will the gentleman yield?

Mr. FUQUA. I am happy to yield to my friend from California.

Mr. CLAUSEN. Mr. Speaker, I regret that our ranking minority member, the gentleman fom Colorado (Mr. JOHNSON) is not here because he was involved more directly in the subcommittee activities. But it is my understanding that there are four companies that are now currently involved in the phosphate leases in the forest. They are Pittsburgh-Midway Coal, Monsanto Chemical Products, Global Exploration Co., and Kerr-McGee Corp.

Further, it is our understanding that of those four, three of them do believe that they will go forwad with an exchange arrangement between the phosphate leases and coal leases because they are in the energy-producing business. Is that correct?

Mr. FUQUA. This is my understanding.

Mr. CLAUSEN. Only one of the four, which is Global Exploration Co., which has some 7,693 acres, I believe, is the one that will probably be seeking out compensation. Further, if the estimates of the Interior Department are accurate, the maximum extent of that potential liability, if it went to court, would be somewhere in the vicinity of $308 million. Is that correct?

Mr. FUQUA. That is my understanding.

Mr. CLAUSEN. Mr. Speaker, I yield 1 minute to the gentleman from Mississippi (Mr. LOTT).

Mr. LOTT. Mr. Speaker, I want to thank the Committees on Interior and Insular Affairs and Agriculture for providing wilderness designation for the Black Creek Wilderness Area. This designation applies to 4,520 acres in the DeSoto National Forest, Miss., and lies along the Black Creek, a portion of which is now under study for inclusion in the National Wild and Scenic Rivers System.

It is my understanding that an old family cemetery lies within the boundaries outlined in this legislation for wilderness management. As the Forest Service develops its plan for complying with this designation, I would sincerely hope the proposal would include an arrangement to assure the family continued access to the cemetery. I understand that such arrangements have been worked out in similar situations in the past, and I do not see the access afforded this family to this site in any way conflicting with the management of this acreage in wilderness fashion.

Again, let me say that I appreciate the attention the two committees have given my interest in the Black Creek Wilderness Area.

Mr. CLAUSEN. Mr. Speaker, I yield 5 minutes to the distinguished ranking minority member of the Committee on Agriculture, the gentleman from Virginia (Mr. WAMPLER).

Mr. WAMPLER. Mr. Speaker, I rise to note my displeasure that this bill—which my colleague, Mr. SEBELIUS OF KANSAS, believes may well result in higher fertilizer prices for farmers in future years—is on the Suspension Calendar. I agree with Mr. SEBELIUS that the public interest and good legislative procedure would have dictated that this bill be taken up in regular order under an open rule.

Since my separate views to this bill as reported by the Committee on Agriculture are short, I will read them at this time:

I am torn between two conflicting concerns relating to this bill.

On one hand, I am committed to giving special consideration and weight to the position of state delegations—and more particularly the position of the Congressmen within those delegations in whose districts the national forests or wilderness designations are located that arise out of the RARE II study and recommendations—as it relates to legislation which would commit certain areas in the national forest system to wilderness. On the other hand, I must express concern for the national interest and national security when a RARE II bill such as H.R. 5341 "locks up" an apparently substantial mining deposit of phosphate in the Osceola National Forest in Florida.

I am informed, and the report accompanying H.R. 5341 as reported by the Committee on Interior on page 5 appears clearly to reflect, that the State delegations—and the Congressmen in whose districts the national forests affected by H.R. 5341 are located—generally favor this legislation.

This appears true of the Osceola National Forest as well, as noted in the Committee on Interior Report (pp. 9–10) where it is stated:

"As is discussed later under the 'Osceola National Forest' heading of this report, the fate of the Big Gum Swamp area, and the Osceola National Forest in general, has been a matter of controversy for many years. This is due to the fact that the Osceola National Forest, at 157,000 acres, is one of the smallest national forests in the nation and is underlain by deposits of phosphate. Those who wish to open these deposits to mining have applied for phosphate leases covering approximately one-third of the forest (and one-quarter of the proposed wilderness). Mining is strongly opposed by many Floridians (including state government officials) who believe that mining in the forest would be inconsistent with what they believe are more important scenic and recreational values. The Committee generally shares the latter views and believes the proposed wilderness will be a very valuable addition to the National Wilderness Preservation System. Nevertheless, the Committee recognized that valid rights to phosphate leases may exist within the proposed wilderness, and included a section in the bill (section 5) to address the problem."

Turning next to section 5 of the bill relating to the phosphate deposits in the Osceola National Forest that causes me some concern, the issue appears somewhat clouded by lack of information provided the House and seeming conflict on the part of agencies within the Administration.

J. Lamar Beasley, Associate Deputy Chief, Forest Service, U.S. Department of Agriculture, testified before the Subcommittee on Forests of the Committee on Agriculture, on June 24, 1980, with respect to H.R. 5341, and stated in pertinent part as follows:

H.R. 5341—PHOSPHATE LEASES

Section 5 of H.R. 5341 contains a provision which would generally prohibit phosphate leasing in the Osceola National Forest and would direct the Secretary of the Interior, within three years of the date of enactment of the bill, to exchange phosphate preference right lease applications on which discoveries of valuable deposits have been made for leases covering other minerals subject to the Mineral Leasing Act without competitive bidding. Exchanges would be on an equal value basis, subject to equalization by the payment to either party of up to 25 percent of the value of the leases to be issued by the Secretary. If the Secretary is unable to effect an exchange covering any phosphate lease application covered by the bill, section 5(g) requires him, within four years of the date of enactment, to acquire the rights to the lease by purchase or condemnation.

We defer to the Department of the Interior regarding the details of the section 5 provisions. While we note that Secretary of the Interior Cecil D. Andrus' letter to Chairman Udall on May 28, 1980, outlined his Department's views regarding the proposed section 5, the Administration has not had the opportunity to fully review this proposal with the Department of the Interior or other concerned Departments. Therefore, the Administration is not in a position to support the provisions of section 5 at this time. We urge the Committee to defer action on the provisions of section 5 as reported by the House Interior Committee until the Administration has an opportunity to evaluate the section 5 provisions.

At the same time, I recognize that Secretary of Interior Andrus in his letter of May 28, 1980, addressed to Chairman Udall (appearing on page 17 of the Committee on Interior's report) endorses section 5 of H.R. 5341 as amended by the Committee as follows:

"Our only objection to section 5 concerns the time allotted for the exchanges [of properties]." (Bracketed material supplied.)

I am also mindful of the Interior Committee's position, as noted in H.R. 5341, as amended, section 5(a), which contains some qualifying language on the phosphate deposits:

"SEC. 5(a) The Department of the Interior shall not issue phosphate leases in the Osceola National Forest, Florida, unless and until the United States by subsequent legislation shall determine that the mining of phosphate deposits in such leases would be necessary to the national interest of the United States."

However, the action of the Committee on Interior in providing for the purchase of "preference right lease applications" or the exchange of those rights for other mineral rights in the West (mainly coal rights I am told) constitutes a "precedent" which I understand my be costly to the taxpayers and inconsistent with prior policy on leasing rights. That the total potential liability of the United States may be extensive finds support even in the Committee on Interior report (page 14):

"The Committee also notes that subsection (b) does not require the lease applicants to enter into exchange negotiations, and that any exchange will be contingent on the voluntary surrender of such phosphate lease rights as may exist. This provision was inserted primarily at the request of the Global Exploration and Development Corporation which the Committee believes is the applicant lease likely to be satisfied with an exchange arrangement. Thus, if Global and/or any of the other three applicants feel that an exchange will not adequately compensate them for their interests, they will be free to ask the Secretary of the Interior to honor such rights as they possess."

The minimum figure is reported to be near $120 million; the highest figure is reported to be over $1 billion.

My concerns about this matter would be substantially reduced if this bill were taken up on the Floor other than on the Suspension Calendar.

Having voiced my concerns about the one provision of the bill, it seems to me that consideration of H.R. 5341 on the Floor, under a rule, would be preferred procedure for this bill. Consideration on the Suspension Calendar may permit discussion, but it permits no amendments. I would, therefore, favor "regular order" for House consideration of this bill based on the foregoing.

Mr. Speaker, those are my separate views as printed in the House Committee on Agriculture report filed yesterday.

Since that time a perfecting amendment has been added to H.R. 5341 which greatly improves the bill, I wish the sponsors could have improved it further and I am satisfied that if the bill was considered in regular order it may well have been improved more. The amendment which sets the date for any payments under section 5 after October 1, 1980 (fiscal year 1981) and it also provides that any payments made pursuant to section 5 shall be effective only to such extent or in such amounts as are provided in advance in appropriation acts.

I commend the sponsors of the bill for adding these amendments. They improve but do not in fact "cure" all the problems in the bill. I will support the bill based on some of the legislative history made here today that these phosphate deposits will be "unlocked" in the future if it is in the national interest. Further, while I will support the bill, I hope that the Committee on Interior in the future will not bring up such bills under suspension in the future.

□ 1330

Mr. FUQUA. Mr. Speaker, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from Florida.

Mr. FUQUA. I thank the gentleman for yielding.

Let me say I am very much concerned about what may be our phosphate future. There are only 52,000 acres in leases that exist. We are not even sure how much phosphate may or may not be in those leases, so I do not think it is going to affect the price of phosphate nor the supplier in the future of this country. If at some time we feel that this is in the national interest to have it provided for in the bill, Congress can send the bill back and reopen that up. So I think agriculture will be protected.

Mr. SEIBERLING. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. CHAPPELL).

Mr. CHAPPELL. Mr. Speaker, I thank the chairman of the committee for yielding and commend the committee and its leadership for bringing this bill to our attention. I rise in support of H.R. 5341, which includes a transfer of nearly 27,000 acres located in my district into the National Wilderness Preservation System.

I am grateful for the committee's careful and thorough consideration of the administration's recommendation of wilderness designation for various roadless areas within the Ocala National Forest. The final result is fully supported by all interests and represents a productive and reasonable compromise achieved through careful attention to all those with an interest in these areas and in their preservation.

The areas recommended by this bill for wilderness designation within the Ocala National Forest—Alexander Springs Creek, Juniper Prairie, and Little Lake George—are rich with natural vegetation and wildlife. In addition to alligators, panthers, deer, bear, and a great variety of birds, they are a major habitat for two endangered species, the Florida manatee and the southern bald eagle.

The committee has wisely excluded a small portion of the administration proposal which is inhabited and contains boat ramps and private homes. Additionally, the right of those living in adjacent areas to continue to utilize waterborne transportation on Alexander Springs Creek is fully respected. The Juniper Sweetwater Cabin Administration Site and Bear Creek in the Little Lake George Area, which represent rich educational and recreational resources, will continue to be utilized for the benefit of those who enjoy the wilderness experience.

Mr. Speaker, the recommendations within the Ocala National Forest have been thoroughly reviewed and are uniquely qualified for wilderness designation. I am pleased to lend my support to this bill.

Mr. CLAUSEN. Mr. Speaker, I yield 4 minutes to the gentleman from Kansas (Mr. SEBELIUS).

Mr. SEBELIUS. Mr. Speaker, I, like the gentleman from Virginia (Mr. WAMPLER), filed some views—mine are dissenting views—in the Agriculture Committee report. I am also a member of the Committee on Interior and Insular Affairs and was not present when we passed the bill out by voice vote. Anyhow, I would like to just cover these points. I am the only one on record at this moment as having voted against this bill, as the one dissenting vote in Agriculture. We have had quite a lot of conversation to get one dissenting vote from two committees. But there is a problem that has not been addressed.

While I have no objections to the wilderness provisions of this bill—in fact, one year I authored 40 wilderness bills—I am concerned about section 5 and what it will contribute to future phosphate shortages, thereby driving agricultural production costs higher. Furthermore, I am concerned with the precedent of locking up potentially valuable minerals, not only in the wilderness area designated by the bill but in the entire Osceola National Forest. I do not know of any studies which have been done to determine what the economic impact will be if the phosphates under lease applications in the Osceola National Forest are withdrawn from development. The decision to issue the phosphate preference right leases in the Osceola National Forest has been pending in the Department of the Interior since the early 1970's. I do not blame the gentleman from Florida for wanting some action. In spite of the Secretary of Interior's decision to support legislation which would preclude any mineral development in the Osceola National Forest—apparently made without internal analysis or OMB's approval—the Department of the Interior is continuing the administrative process of determining whether the preference right lease applications in the Osceola National Forest are entitled to leases. This administrative process will take at least 2 years to complete, according to the Department. The total potential liability posed by section 5 of this bill has already been touched upon.

It is really unknown. The estimates vary, and $120 million to over $1 billion could well be it. A firm figure is impossible without such additional information as drill cores to confirm the size and amount of the deposits. I am worried about the fact that we are locking up phosphate but we are swamped with coal. We have plenty of coal. We do not know about phosphate except the farmers are paying an awfully high price for it.

Finally, the Bureau of Mines forecasts a domestic phosphate shortage for the 1990's. I hope that the Committee on Agriculture can take some time to review the implications on domestic fertilizer prices. With the Department of the Interior in the midst of a review which will take 2 years, and with the impact on fertilizer prices and the potential cost, at best, unclear, I see no reason why section 5 cannot be deleted.

I urge you to vote "no," not because of all parts of the bill but because of this provision which should be dealt with separately. If you will just look back at wilderness places and the wilderness process, it is a lot easier to lock them up than to unlock them.

It is so much easier, I just do not like it. Throw it in the wilderness and make some exceptions. Why do we not work up the plan separately if it has problems rather than put it in wilderness and have to fight to bring it out. I have seen a lot of them put in, but I have been in this Congress 12 years and I have not seen one taken out.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

The phosphate provision deals with the entire national forest of 155,000 acres. Wilderness is only 13,600 acres. So the wilderness and phosphate are two separate issues.

I just want to say to the gentleman that I told the ranking minority member on the Subcommittee on Public Lands which I chair that if there was any problem at all with the phosphate provision, which I was doing as an accommodation to the various interests involved. I would take it out. After conferring with everyone, he said there were no problems. I am sorry the gentleman from Kansas was not there. I think we could have worked out any objections.

Mr. SEBELIUS. I appreciate that. I just do not think it should be there.

Mr. SEIBERLING. Mr. Speaker, I yield 2 minutes to the gentleman from Nevada (Mr. SANTINI).

Mr. SANTINI. I thank the Chairman for yielding.

I am a bit surprised at the tempest in a teapot that seems to have erupted here. If my recollection serves, when this bill passed the full Interior Committee, there was not even a request for a recorded vote, and to my recollection there was not one single opposition vote. We thought we were reconciling an issue that had been long in dispute and that we were bringing it to a head with the gentleman's bill from the Public Lands Subcommittee. I believe that we are still doing that.

Can it be suggested that this represents any additional expenditure of money if the fundamental premise recognizes that those four phosphate leases have a legal entitlement that cannot be ignored? One way or the other we have to deal with that. If it is to be settled in the court, if the interests of the four or five applicants are to be settled in the courts, that is going to result in compensation to those application holders. We are trying to get this matter settled without directly going to the Federal Treasury in order to reconcile it. It seemed like everybody was in accord, at least when the issue came before the full Interior Committee. Now there are these distractions and eruptions.

Mr. SEBELIUS. Mr. Speaker, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Kansas.

Mr. SEBELIUS. I thank the gentleman for yielding.

In the Agriculture Committee we insist that we have a rollcall when each bill comes out to absolutely establish that we have a quorum present. We do not do that in the Interior Committee. I am on both of them. That is the reason why when it came up there might have been only 4 or 5 present and still the bill was marked up for presentation.

Mr. SANTINI. Next to maybe Commerce, Interior, and the Select Committee on Aging, Agriculture is one of my favorite committees, but procedures differ from committee to committee. I believe the ranking minority member was seated there when the bill came before the committee.

□ 1340

We had discussion and examination of some of these issues and it seemed like it was solved. Now we have a little tempest in a teapot.

Mr. SEIBERLING. Mr. Speaker, I believe we have thrashed out this one issue as to which there seemed to be a consensus until this very hour. I think that all the questions that have been raised are actually answered in the bill. I do not really feel this is inappropriate to handle on suspension and, therefore, I would strongly recommend enactment.

Mr. Speaker, I yield back the balance of my time.

Mr. CLAUSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the bill, H.R. 5341, as amended.

The question was taken.

Mr. SEBELIUS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 324, nays 82, not voting 27, as follows:

[Roll No. 385]

YEAS—324

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Broyhill
Burgener
Burlison
Burton, John
Burton, Phillip
Byron
Campbell
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
D'Amours
Danielson
Daschle
Davis, S.C.
Deckard
Derrick
Derwinski
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Fountain
Fowler
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Gray
Green
Grisham
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hanley
Harkin
Harris
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Lederer
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Martin
Matsui
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rinaldo
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Royer
Russo
Sabo
Santini
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Spellman
Spence
St Germain
Stack
Staggers
Stanton
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weiss
White
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—82

Abdnor
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Badham
Bauman
Bethune
Broomfield
Brown, Ohio
Butler
Carney
Cheney
Collins, Tex.
Conable
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Devine
Dickinson
Edwards, Okla.
Evans, Ind.
Forsythe
Frenzel
Gramm
Guyer
Hagedorn
Hammerschmidt
Hance
Hansen
Harsha
Hopkins
Ichord
Jacobs
Jeffries
Kelly
Kemp
Kindness
Latta
Leath, Tex.
Lee
Livingston
Loeffler
Lungren
McDonald
McKay
Marlenee
Marriott
Mattox
Michel
Miller, Ohio
Myers, Ind.
O'Brien
Pashayan
Paul
Ritter
Robinson
Rousselot
Rudd
Satterfield
Sebelius
Shumway
Shuster
Snyder
Solomon
Stangeland
Stenholm
Stockman
Stump
Symms
Taylor
Thomas
Trible
Walker
Whitehurst
Whittaker
Young, Alaska

NOT VOTING—27

Anderson, Ill.
Beard, R.I.
Beard, Tenn.
Buchanan
Collins, Ill.
Dellums
Duncan, Oreg.
Erlenborn
Ford, Tenn.
Frost
Hawkins
Holt
Holtzman
Hutchinson
Johnson, Colo.
Mathis
Mineta
Murphy, N.Y.
Myers, Pa.
Nedzi
Rhodes
Richmond
Roth
Runnels
Weaver
Wilson, C. H.
Wirth

□ 1350

The Clerk announced the following pairs:

On this vote:

Mr. Roth and Mr. Beard of Tennessee for, with Mr. Rhodes against.

Until further notice:

Mr. Hawkins with Mr. Anderson of Illinois.
Mr. Nedzi with Mr. Johnson of Colorado.
Mr. Myers of Pennsylvania with Mr. Ford of Tennessee.
Mr. Mineta with Mr. Erlenborn.
Mr. Murphy of New York with Mr. Buchanan.
Mrs. Collins of Illinois with Mrs. Holt.
Mr. Charles H. Wilson of California, with Ms. Holtzman.
Mr. Dellums with Mr. Duncan of Oregon.
Mr. Mathis with Mr. Frost.
Mr. Hutchinson with Mr. Runnels.
Mr. Wirth with Mr. Weaver.

Mr. McKAY and Mr. KELLY changed their votes from "yea" to "nay."

Mrs. SMITH of Nebraska changed her vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to designate components of the National Wilderness Preservation System in the States of Florida, Missouri, Mississippi, North Carolina, South Carolina, and Louisiana, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed on Monday, June 30, 1980, in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 7482, by the yeas and nays;

H.R. 7321, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

□ 1400

OLYMPIC GOLD MEDAL

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 7482, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ANNUNZIO) that the House suspend the rules and pass the bill, H.R. 7482, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 375, nays 28, not voting 30, as follows:

[Roll No. 386]

YEAS—375

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Clinger
Coelho
Coleman
Collins, Tex.
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Royer
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Alaska
Young, Mo.
Zablocki
Zeferetti

NAYS—28

Brown, Ohio
Cleveland
Conable
Crane, Daniel
Crane, Philip
Dannemeyer
Devine
Edwards, Ala.
Fenwick
Frenzel
Gramm
Hansen
Ichord
Jeffries
Kelly
Latta
Leath, Tex.
McDonald
Martin
Michel
Paul
Rudd
Stenholm
Symms
Thomas
Wydler
Wylie
Young, Fla.

NOT VOTING—30

Addabbo
Anderson, Ill.
Beard, R.I.
Beard, Tenn.
Buchanan
Collins, Ill.
Conyers
Deckard
Dellums
Dodd
Erlenborn
Fountain
Frost
Hall, Tex.
Hawkins
Holt
Holtzman
Hutchinson
Johnson, Colo
Mathis
Mineta
Myers, Pa.
Nedzi
Rhodes
Richmond
Roth
Runnels
Weaver
Wilson, C. H.
Wirth

□ 1410

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Rhodes.
Mr. Mineta with Mr. Erlenborn.
Mr. Hawkins with Mrs. Holt.
Mr. Dellums with Mr. Buchanan.
Mr. Richmond with Mr. Johnson of Colorado.
Mr. Myers of Pennsylvania with Mr. Roth.
Mr. Charles H. Wilson of California with Mr. Beard of Tennessee.
Mr. Dodd with Mr. Beard of Rhode Island.
Mr. Conyers with Mr. Deckard.
Mr. Hall of Texas with Mr. Runnels.
Mr. Nedzi with Mr. Frost.
Mr. Fountain with Ms. Holtzman.
Mr. Hutchinson with Mr. Anderson of Illinois.
Mr. Weaver with Mr. Wirth.
Mr. Mathis with Mrs. Collins of Illinois.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b)(3) of rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motion to suspend the rules on which the Chair has postponed further proceedings.

NATIONAL TOURISM POLICY ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 7321, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. Florio) that the House suspend the rules and pass the bill, H.R. 7321, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 347, nays 55, not voting 31, as follows:

[Roll No. 387]

YEAS—347

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Bedell
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Chappell
Cheney
Chisholm
Clausen
Clay
Clinger
Coelho
Coleman
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fuqua
Garcia
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Gore
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hammerschmidt
Hance
Harkin
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Marks
Marlenee
Marriott
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Quillen
Rangel
Ratchford
Regula
Reuss
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schulze
Sebelius
Sensenbrenner
Shannon
Shelby
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzen
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weiss
White
Whitehurst
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—55

Archer
Beilenson
Benjamin
Bolling
Brooks
Cavanaugh
Cleveland
Collins, Tex.
Conable
Crane, Daniel
Crane, Philip
Danielson
Devine
Fenwick
Frenzel
Gephardt
Glickman
Goldwater
Gradison
Gramm
Grassley
Hagedorn
Hall, Ohio
Hamilton
Hansen
Ichord
Jones, Okla.
Kelly
Kindness
Latta
Leath, Tex.
Livingston
Lungren
McDonald
Markey
Martin
Michel
Miller, Ohio
Moffett
Myers, Ind.
Paul
Pease
Purcell
Quayle
Rahall
Schroeder
Seiberling
Sharp
Shumway
Stockman
Stump
Symms
Whittaker
Wylie
Yates

NOT VOTING—31

Anderson, Ill.
Beard, R.I.
Beard, Tenn.
Buchanan
Collins, Ill.
Conyers
Deckard
Dellums
Dodd
Erlenborn
Frost
Gingrich
Hall, Tex.
Hanley
Hawkins
Holt
Holtzman
Hutchinson
Johnson, Colo.
McDade
Mathis
Mineta
Myers, Pa.
Nedzi
Railsback
Rhodes
Richmond
Roth
Runnels
Weaver
Wilson, C. H.

□ 1420

The Clerk announced the following pairs:

Mr. Richmond with Mr. Railsback.

Mr. Myers of Pennsylvania with Mr. Roth.

Mr. Frost with Mr. Erlenborn.

Mr. Hutchinson with Mr. Johnson of Colorado.

Mr. Mathis with Mr. McDade.

Mr. Mineta with Mrs. Holt.

Mr. Hawkins with Mr. Gingrich.

Mr. Hanley with Mr. Rhodes.

Mr. Hall of Texas with Mr. Deckard.

Mr. Conyers with Mr. Buchanan.

Mr. Beard of Rhode Island with Mr. Anderson of Illinois.

Mr. Dellums with Mr. Runnels.

Mr. Charles H. Wilson of California with Mr. Weaver.

Mr. Nedzi with Ms. Holtzman.

Mr. Dodd with Mrs. Collins of Illinois.

Mr. MARKEY changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. FLORIO. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce be discharged from the further consideration of the Senate bill (S. 1097) to establish a national tourism policy, a Cabinet-level coordinating council and a nonprofit corporation as an implementing agency to carry out the national tourism policy, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, could the gentleman explain what he is doing.

Mr. FLORIO. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from New Jersey.

Mr. FLORIO. Yes. I have just asked that the Senate bill that deals with the comparable subject be considered by this House. It is now my intention, should this unanimous consent be approved, to strike all of the enacting clause and substitute the text of the bill that was just approved by this House for the Senate bill.

It is purely a procedural mechanism.

Mr. ROUSSELOT. I appreciate the gentleman's explanation.

We just could not hear him.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1097

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Tourism Policy Act".

TITLE I—NATIONAL TOURISM POLICY

SEC. 101. FINDINGS AND PURPOSE.

(a) The Congress finds that—

(1) the tourism and recreation industries are important to the United States, not only because of the numbers of people they serve and the vast human, financial, and physical resources they employ, but because of the great benefits tourism, recreation, and related activities confer on individuals and on society as a whole;

(2) the Federal Government for many years has encouraged tourism and recreation implicitly in its statutory commitments to the shorter workyear and to the national passenger transportation system, and explicitly in a number of legislative enactments to promote tourism, and support develop-

ment of outdoor recreation, cultural attractions, and historic and natural heritage resources;

(3) as incomes and leisure time continue to increase, and as our economic and political systems develop more complex global relationships, tourism and recreation will become ever more important aspects of our daily lives and our growing leisure time; and

(4) the existing extensive Federal Government involvement in tourism, recreation, and other related activities needs to be better coordinated to effectively respond to the national interests in tourism and recreation and where appropriate, to meet the needs of State and local governments and the private sector.

(b) It is the purpose of this Act to establish a cooperative effort between the Federal Government and State and local governments and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, to implement a national tourism policy that will—

(1) optimize the contribution of the tourism and recreation industries to economic prosperity, full employment, and the international balance of payments of the Nation;

(2) make the opportunity for and benefits of tourism and recreation in the United States universally accessible to residents of the United States and foreign countries and to insure that present and future generations be afforded adequate tourism and recreation resources;

(3) contribute to personal growth, health, education, and intercultural appreciation of the geography, history, and ethnicity of the United States;

(4) encourage the free and welcome entry of individuals traveling to the United States, in order to enhance international understanding and goodwill, consistent with immigration laws, the laws protecting the public health, and laws governing the importation of goods into the United States;

(5) eliminate unnecessary trade barriers to the United States tourism industry operating throughout the world;

(6) encourage competition in the tourism industry and maximum consumer choice through the continued viability of the retail travel agent industry and the independent tour operator industry;

(7) promote the continued development and availability of alternative personal payment mechanisms which facilitate national and international travel;

(8) promote quality, integrity, and reliability in all tourism and tourism-related services offered to visitors to the United States;

(9) preserve the historical and cultural foundations of the Nation as a living part of community life and development, and to insure future generations an opportunity to appreciate and enjoy the rich heritage of the Nation;

(10) insure the compatibility of tourism and recreation with other national interests in energy development and conservation, environmental protection, and the judicious use of natural resources;

(11) assist in the collection, analysis, and dissemination of data which accurately measure the economic and social impact of tourism to and in the United States, in order to facilitate planning in the public and private sector; and

(12) harmonize, to the maximum extent possible, all Federal activities in support of tourism and recreation with the needs of the general public and the States, territories, local governments, and the private and public sectors of the tourism and recreation industry, and to give leadership to all concerned with tourism, recreation, and national heritage preservation in the United States.

TITLE II—NATIONAL TOURISM POLICY COUNCIL

SEC. 201. ESTABLISHMENT OF COUNCIL.

(a) There is established as an independent entity in the executive branch a National Tourism Policy Council (hereinafter referred to as the "Council"). The Council shall be the principal coordinating body for policies, programs and issues relating to tourism, recreation, or national heritage resources involving Federal departments, agencies, or the entities.

(b) The Council shall consist of—

(1) the Assistant to the President for Domestic Affairs and Policy, who shall serve as the Chairman of the Council;

(2) the President of the United States Travel and Tourism Development Corporation (as created in title III of this Act), who shall serve as the Vice Chairman of the Council and who shall act as Chairman of the Council in the absence of the Chairman;

(3) the Secretaries of the Department of Transportation; the Department of the Interior; the Department of Commerce; the Department of State; the Department of Agriculture; the Department of Labor; the Department of Treasury; the Department of Health, Education, and Welfare; the Department of Energy; the Department of Defense; the Department of Housing and Urban Development;

(4) the Attorney General of the United States;

(5) the Chairman of the Civil Aeronautics Board; the Interstate Commerce Commission; and the Federal Trade Commission; and

(6) the Administrators of the International Communication Agency and the Environmental Protection Agency.

(c) Each member of the Council, other than the Chairman and the Vice Chairman may designate an alternate, who shall serve as a member of the Council whenever the regular member is unable to attend a meeting of the Council or any committee of the Council. A member of the Council who assigns an alternate to serve as a member of the Council on those occasions when the regular member is unable to attend a meeting shall make such assignment for the remainder of the member's term on the Council. Any such designated alternate shall be selected from individuals who exercise significant decisionmaking authority in the Federal agency involved and shall be authorized to make decisions on behalf of the member for whom he is serving.

(d) Whenever the Council, or a committee of the Council, considers matters that affect the interests of Federal agencies that are not represented on the Council or the committee, the Chairman may invite the heads of such agencies, or their alternates, to participate in the deliberations of the Council or committee.

(e) The Council shall conduct its first meeting not later than 90 days after the enactment of this Act. Thereafter the Council shall meet not less than once each 90 days.

(f) All meetings of the Council, including any committee of the Council, shall be open to the public.

(g) The Chairman, with the approval of the Council, shall appoint an Executive Director who shall serve in a fulltime capacity as the chief executive officer of the Council. The Executive Director—

(1) shall be an individual who by virtue of training, experience, and attainments is exceptionally well-qualified to appraise programs and activities of the Federal Government in light of the policies set forth in title I of this Act and to formulate recommendations for the improvement of such programs and activities;

(2) shall be appointed without regard to title 5 of the United States Code governing appointments in the competitive service;

(3) shall be compensated at the rate now or hereafter prescribed for level V of the Executive Schedule by section 5316 of title 5, United States Code; and

(4) shall not concurrently hold any office or position of employment with the United States.

(h) Members of the Council shall serve without additional compensation, but shall be reimbursed for actual and necessary expenses, including travel expenses, incurred by them in carrying out the duties of the Council.

SEC. 202. FUNCTIONS OF POLICY COUNCIL.

(a) The Council shall be the principal coordinating body for policies, programs, and issues relating to tourism, recreation, or national heritage resources involving Federal departments, agencies, or other entities. Among other things, the Council shall—

(1) direct Council staff activities, such as the study of appropriate issues and the preparation of reports;

(2) approve or disapprove the Council staff recommendations and reports;

(3) coordinate the policies and programs of member agencies that have a significant effect on tourism, recreation, and national heritage preservation;

(4) develop areas of cooperative program activity;

(5) resolve interagency program and policy conflicts;

(6) seek and receive concerns and views of State and local governments and the private sector with respect to Federal programs and policies deemed to conflict with the orderly growth and development of tourism; and

(7) refer problems to the Council's policy committees for study, recommendations, and resolution.

SEC. 203. ADMINISTRATIVE POWERS AND PROVISIONS.

In order to carry out the provisions of this title—

(1) the Council may promulgate, issue, rescind, and amend regulations governing the manner or operation of the Council;

(2) the Executive Director, with the approval of the Council, may appoint and fix the compensation of such employees, according to the provisions of title 5, United States Code, governing appointments in the competitive service, as may be necessary to carry out the functions of the Council: *Provided*, That no such employee (other than the Executive Director) shall be compensated at a rate exceeding the rate now or hereafter prescribed for positions under GS-15 of the General Schedule by section 5332 of title 5 of the United States Code;

(3) the Executive Director, with the approval of the Council, may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, at rates for individuals not to exceed the daily equivalent now or hereafter prescribed for positions under GS-18 of the General Schedule by section 5332 of title 5 of the United States Code;

(4) the Executive Director, with the approval of the Council, may request directly from any Federal department or agency such personnel, information, services, or facilities, on a compensated or uncompensated basis, as he deems necessary to carry out the functions of the Council;

(5) each Federal department or agency shall furnish the Council with such information, services, and facilities as it may request to the extent permitted by law and within the limits of available funds;

(6) Federal agencies and departments may, in their discretion, detail to temporary duty with the Council, such personnel as the Council may request for carrying out the functions of the Council, each such detail

to be without loss of seniority, pay, or other employee status; and

(7) the General Services Administration shall provide administrative services for the Council on a reimbursable basis.

SEC. 204. EXECUTIVE COMMITTEE.

The Council shall have an Executive Committee which shall be comprised of the Council Chairman, the Council Vice Chairman, and the Secretaries of the Department of Commerce, the Department of the Interior, the Department of Transportation, the Department of State, the Department of Agriculture, and the Department of Labor. The Executive Committee of the Council shall have such authority as the Council may from time to time delegate to it: *Provided*, That any such delegation shall be consistent with the other provisions of this title and shall not relieve the Council of full responsibility for the carrying out of its duties and functions.

SEC. 205. POLICY COMMITTEES.

(a) The Council shall have 4 Policy Committees as follows:

(1) The Transportation and Facilitation Policy Committee which shall consist of the heads of the following agencies or their designated representatives: the United States Travel and Tourism Development Corporation, the Federal Maritime Administration, the Federal Highway Administration, the Federal Aviation Administration, the Urban Mass Transportation Administration, the United States Coast Guard, the Bureau of Economic and Business Affairs, the Department of Energy, the Immigration and Naturalization Service, the Animal and Plant Health Inspection Service, the United States Customs Service, the Civil Aeronautics Board, the Interstate Commerce Commission, the Federal Trade Commission, the Bureau of Security and Counselor Affairs, and the National Railroad Passenger Corporation.

(2) The Economic Development Policy Committee which shall consist of the heads of the following agencies, or their designated representatives: the United States Travel and Tourism Development Corporation, the Economic Development Administration, the Industry and Trade Administration, the Bureau of the Census, the Rural Development Service, the Regional Commissions of the Department of Commerce, the Internal Revenue Service, the Occupational Safety and Health Administration, the Employment Standards Administration, the Bureau of Labor Statistics, the Bureau of Indian Affairs, the Economic Research Service, the Farmers Home Administration, the Cooperative State Research Service, the Department of Energy, the Office of Community Planning and Development of the Department of Housing and Urban Development, the Small Business Administration, and the Appalachian Regional Commission.

(3) The Energy and Natural Resources Policy Committee which shall consist of representatives of the following agencies, or their designated representatives: the United States Travel and Tourism Development Corporation, the Department of Energy, the National Oceanic and Atmospheric Administration, the Bureau of Reclamation, the Bureau of Land Management, the United States Forest Service, the National Park Service, the United States Fish and Wildlife Service, the Army Corps of Engineers, and the Environmental Protection Agency.

(4) The Health, Education, and Cultural Policy Committee which shall consist of heads of the following agencies, or their designated representatives: the United States Travel and Tourism Development Corporation, the National Institutes of Health, the National Institute of Mental Health, the Office of Education, the National Institute of Education, the Extension Service, the National Endowment for the Arts, the National Endowment for the Humanities, the International Communication Agency, and the Smithsonian Institution.

(b) Each of the Policy Committees shall review and comment on Federal agency program and planning documents that will have a substantial effect on tourism, recreation and heritage resource preservation and that are appropriate to the Committee's functional responsibilities and agency representation. Each Policy Committee may also initiate its own agenda and discuss tourism, recreation, and heritage resource preservation related issues, and problems referred to it by the tourism and recreation industry through the Council.

(c) The members of each of the Policy Committees shall from time to time elect one of its members to serve as Chairman of the Policy Committee and one or more of its members to serve as Vice Chairman or Vice Chairmen.

(d) Each head of an agency serving on a Policy Committee may designate an alternate to serve for him on the Policy Committee, so long as such alternate is designated permanently for the representative whom he replaces and is empowered to act fully for the agency or entity whom he represents.

(e) Each of the Policy Committees shall hold its initial meeting within 90 days of the enactment of this Act and thereafter shall meet at the call of the Chairman of the Policy Committee or the Chairman of the Council, but not less than six times a year.

(f) Members of a Policy Committee shall serve without additional compensation, but shall be reimbursed for actual and necessary expenses, including travel expenses, incurred by them in carrying out the duties of the Policy Committee.

SEC. 206. ANNUAL REPORT TO THE PRESIDENT AND CONGRESS.

The Council shall, beginning with the first complete fiscal year following the date of enactment of this Act, submit an annual report for the preceding fiscal year, to the President for transmittal to Congress on or before the 31st day of December of each year. The report shall include—

(1) a comprehensive and detailed report of the activities and accomplishments of the Council and its Policy Committees;

(2) the results of Council efforts to coordinate the policies and programs of member agencies that have a significant effect on tourism, recreation, and national heritage preservation, resolve interagency conflicts, and develop areas of cooperative program activity;

(3) an analysis of problems referred to the Council by State and local governments, the tourism industry, the United States Travel and Development Corporation, or any of the Council's Policy Committees along with a detailed statement of any actions taken or anticipated to be taken to resolve such problems; and

(4) such recommendations as the Council deems appropriate.

SEC. 207. AUTHORIZATIONS OF APPROPRIATIONS.

To carry out the provisions of title II of this Act, there is hereby authorized to be appropriated for each of the fiscal years ending on September 30, 1980, and 1981, the sum of $500,000.

TITLE III—THE UNITED STATES TRAVEL AND TOURISM DEVELOPMENT CORPORATION

SEC. 301. PURPOSE.

It is the purpose of this title to establish a nonprofit corporation, to be known as the "United States Travel and Tourism Development Corporation".

SEC. 302. CONGRESSIONAL DECLARATION OF POLICY.

The Congress finds and declares—

(1) that it is in the national interest to encourage the orderly growth and development of tourism to and within the United States;

(2) that orderly growth and development of tourism depends on the efforts of the public and private sectors of that industry to assure that the objectives of the national tourism policy are implemented to the maximum extent consistent with other public policy objectives;

(3) that orderly growth and development of tourism, while matters for regional, State, local, and private development, are also of appropriate and important concern to the Federal Government;

(4) that it furthers the national interests to assure that the extensive Federal policy and programmatic involvement in tourism is responsive to the needs and interests of the public and private sectors of that industry;

(5) that in view of the importance of travel and tourism to the economy of the United States, and the pervasive Federal policy and programmatic involvement in tourism, it is necessary and appropriate for the Federal Government to complement, assist and support mechanism that will most effectively assure implementation of the national tourism policy; and

(6) that a federally chartered, nonprofit corporation should be created to promote and facilitate the orderly growth and development of tourism and to assist in the implementation of the national tourism policy.

SEC. 303. CORPORATION ESTABLISHED.

There is established a nonprofit corporation, to be known as the "United States Travel and Tourism Development Corporation", which shall not be an agency or establishment of the United States Government. The Corporation shall be subject to the provisions of this Act, and, to the extent consistent with this Act, to the District of Columbia Nonprofit Corporation Act.

SEC. 304. BOARD OF DIRECTORS.

(a) The Corporation shall have a Board of Directors (hereinafter referred to as the "Board"), consisting of 15 members appointed by the President, by and with the advice and consent of the Senate. Not more than 8 members of the Board may be members of the same political party.

(b) The members of the Board (1) shall be appointed from among citizens of the United States (not regular full-time employees of the United States) who are senior executive officers of tourism corporations and other organizations representative of such segments of the tourism industry as, but not limited to, transportation, lodging, wholesale and retail travel sales, employee relations, attractions and outdoor amusement facilities, recreation, heritage resources, consumers, convention and visitor bureaus, travel trade associations and elected officials of cities and States; and (2) shall be selected so as to provide as nearly as practicable a broad representation of different geographical regions within the United States and of the diverse and varied segments of the tourism industry. At least one member of the Board shall be a consumer advocate/ombudsman from the nonprofit sector of the organized public interest community, and at least one member of the Board shall be a senior representative from a labor organization representing employees in the tourism industry.

(c) The members of the initial Board of Directors shall be appointed by the President within 120 days of the enactment of this Act and shall serve as incorporators and take whatever actions are necessary to establish the Corporation as expeditiously as possible under the District of Columbia Nonprofit Corporation Act.

(d) The term of office of each member of the Board shall be 3 years; except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and (2) the terms of office of members first taking office shall begin on the date of incorporation and shall expire, as designated at the time of their appointment, five at the end of the 1st year, five at the end of the 2d year, and five at the end of the 3d year. No member shall be eligible to serve in excess of 2 consecutive terms of 3 years each. A member who does not regularly attend meetings of the Board shall be replaced. Notwithstanding the preceding provisions of this paragraph, a member whose term has expired may serve until a successor has qualified.

(e) Any vacancy in the Board shall not affect its power, but shall be filled in the manner in which the original appointment was made.

(f) A majority of the directors shall constitute a quorum and action shall be taken only by a majority vote of those present.

Sec. 305. Election of Chairman: Compensation.

(a) The President shall designate one of the members first appointed to the Board as Chairman and thereafter the members of the Board shall annually elect one of their number as Chairman. The members of the Board shall also elect one or more of them as Vice Chairman or Vice Chairmen.

(b) The members of the Board shall not, by reason of such membership, be deemed to be employees of the United States. Members of the Board shall serve without compensation, but shall be reimbursed for actual and necessary expenses, including travel expenses, incurred by them in carrying out the duties of the Board.

Sec. 306. Officers and Employees.

(a) The Corporation shall have a President, and such other officers as may be named and appointed by the Board for terms and at rates of compensation fixed by the Board. No individual other than a citizen of the United States may be an officer of the Corporation. No officer who is an employee of the Corporation may receive any salary or other compensation from any source other than the Corporation during the period of his employment by the Corporation. All officers shall serve at the pleasure of the Board. The officers and employees of the Corporation shall not be deemed to be employees of the United States.

(b) Except as provided in the second sentence of section 304(a) of this Act, no political test or qualification shall be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, and employees of the Corporation.

Sec. 307. Nonprofit and Nonpolitical Nature of the Corporation.

(a) The Corporation shall have no power to issue any shares of stock, or to declare or pay any dividends.

(b) The income and assets of the Corporation shall not be used for any purpose other than carrying out the purposes of the Corporation as set in this title, and no part of such income or assets shall inure to the benefit of any director, officer, employee, or any other individual except as salary or reasonable compensation for services.

(c) The Corporation may not contribute to or otherwise support any political party or candidate for elective public office.

Sec. 308. Purposes and Activities of the Corporation.

(a) In order to achieve the objectives and to carry out the purposes of this title the Corporation is authorized to assist the Congress of the United States, the National Tourism Policy Council, all Federal agencies having policy and programmatic responsibilities affecting tourism, and the public and private sectors of the tourism industry.

(b) The primary purpose and activity of the Corporation shall be developing and administering a comprehensive tourism program designed to stimulate and encourage travel to the United States by residents of other countries for the purposes of study, culture, international congresses, recreation, business, and other activities. The Corporation's activities may not compete with activities of any State, city, or private agency.

(c) Included in the activities of the Corporation authorized for accomplishment of the purposes set forth in this title, are, among others not specifically named—

(1) establishing branch offices in foreign countries and facilitating services at United States ports-of-entry without, to the maximum extent feasible, consultation with the Secretary of State or other Government agencies;

(2) consulting with foreign countries on travel and tourism matters and, in accordance with applicable law, representing United States travel and tourism interests in international meetings, conferences, and expositions;

(3) participating as a party in interest in proceedings before Federal agencies when such initiation or intervention is necessary to implement or further the national tourism policy as set forth in title I of this Act;

(4) monitoring the existing and proposed policies and programs significantly affecting tourism of all Federal agencies to ascertain whether, insofar as consistent with other public policy objectives, they are in furtherance of the objectives of the national tourism policy, and reporting the results of its monitoring activities at least semiannually to the Congress and the National Tourism Policy Council, or more frequently if necessary;

(5) monitoring the policies and programs significantly affecting tourism of all Federal agencies for the purpose of ascertaining instances of intra-agency and interagency duplication or contradiction and reporting the results of its monitoring activities at least semiannually to the concerned agencies, the Congress, and the National Tourism Policy Council, or more frequently if necessary;

(6) developing and administering a comprehensive program relating to industry information, data service, training and education, and technical assistance;

(7) developing and administering a comprehensive program relating to consumer information, protection, and education;

(8) developing a program to seek and to receive information on a continuing basis from the tourism industry, including consumer and travel trade associations, regarding needs and interests which should be met by an agency or program, and directing that information to the appropriate agency; and

(9) encouraging to the maximum extent feasible travel to and from the United States on United States carriers.

Sec. 309. Administrative Powers and Provisions.

(a) To carry out the purposes and activities of the Corporation as set forth in section 308 of this Act, the Corporation shall have the usual powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act to the extent that such powers are not inconsistent with this Act. In addition the Corporation is authorized to—

(1) enter into such contracts, agreements, or other transactions as the Board of Directors deems appropriate: *Provided*, That in entering into any contract, agreement, or transaction the Corporation shall rely on competitive bidding to the maximum extent practicable;

(2) accept in the name of the Corporation and employ or dispose of in furtherance of the objectives of this title any money, or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise;

(3) appoint such officers and employees as the Board deems necessary, and fix their compensation without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, except that no officer or employee of the Corporation may be compensated in excess of the rates now or hereafter prescribed for level I of the Executive Schedule under section 5312 of title 5 of the United States Code;

(4) obtain the services of experts and consultants without regard to section 3109 of title 5 of the United States Code except that no such expert or consultant may be compensated at rates which exceed the daily equivalents of rates now or hereafter prescribed for GS–18 of the General Schedule by section 5332 of title 5 of the United States Code;

(5) accept voluntary and uncompensated services of attorneys, consultants, and experts notwithstanding any other provision of law;

(6) appoint without compensation, such advisory committees as the Board deems appropriate; and

(7) accept and use with their consent, with or without reimbursement, such personnel, services, equipment, and facilities of agencies of the Federal Government, State governments, or local political subdivisions thereof, as are necessary to conduct the activities of the Corporation efficiently.

(b) Upon request made by the President of the Corporation, each Federal agency is authorized and directed—

(1) to make its services, personnel, and facilities available to the greatest practicable extent to assist the Corporation in the performance of its functions; and

(2) to furnish to the Corporation, subject to the provisions of applicable law, such information, suggestions, estimates, and statistics as the President of the Corporation may request.

(c) The Corporation may not—

(1) provide or arrange for transportation or accommodations for persons traveling between other countries and the United States, or between points within the United States, in competition with businesses engaged in providing or arranging for such transportation or accommodations;

(2) operate industry trade shows or related activities within the United States or provide personnel or financial assistance for such trade shows or activities;

(3) promulgate any rules or regulations;

(4) solicit dues or memberships from any State, city, or private agency;

(5) lend money to employees; and

(6) own stock in another corporation.

Sec. 310. Report to Congress

The Corporation shall, beginning with the first complete fiscal year following the date of enactment of this Act, submit an annual report for the preceding fiscal year, to the President for transmittal to the Congress on or before the 31st day of December of each year. The report shall include a comprehensive and detailed report of the Corporation's operations, activities, financial condition, and accomplishments and may include such recommendations as the Corporation deems appropriate.

Sec. 311. Records and Audit.

(a) The accounts of the Corporation shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files and all other papers, things or property belonging to or in use by the Corporation and necessary to facilitate the audits shall be made available to the person or persons conducting the audits, and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(b) The report of each such independent audit shall be included in the annual report required by section 310. The audit report shall set forth the scope of the audit and include such statements as are necessary to present fairly the Corporation's assets and liabilities, surplus or deficit, with an analysis of the changes therein during the year, supplemented in reasonable detail by a statement of the sources and application of funds, together with the independent auditor's opinion of those statements.

(c) (1) The financial transactions of the Corporation for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States. Any such audit shall be conducted at the place or places where accounts of the Corporation are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation pertaining to its financial transactions and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances of securities held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of the Corporation shall remain in the possession and custody of the Corporation.

(2) A report of each such audit shall be made by the Comptroller General to the Congress. The report to the Congress shall contain such comments and information as the Comptroller General may deem necessary to inform Congress of the financial operations and condition of the Corporation, together with such recommendations with respect thereto as he may deem advisable. The report shall also show specifically any program, expenditure, or other financial transaction or undertaking observed in the course of the audit, which in the opinion of the Comptroller General, has been carried on or made without authority of law. A copy of each report shall be furnished to the President and to the Corporation at the time submitted to the Congress.

SEC. 312. FUNDING STUDY; AUTHORIZATION.

(a) The Corporation shall immediately undertake a comprehensive study of the funding levels required to effectively implement a comprehensive tourism development program and all alternative funding measures other than direct Treasury funding and report its findings and recommendations to the Congress and the President within 6 months of its incorporation.

(b) There is authorized to be appropriated for the expenses of the Corporation $9,500,000 for the fiscal year ending September 30, 1980. Funds appropriated for any fiscal year shall remain available for obligation until expended, but no more than 5 per centum of the funds appropriated in any fiscal year may be used for the general administrative costs of the Corporation, the salaries or related expenses of Corporation personnel and members of the Board, or for expenses of consultants and advisers to the Corporation.

(c) Nothing contained in this Act shall be construed to commit the Federal Government to provide any sums for the payment of any obligation of the Corporation which exceeds amounts provided in advance in appropriation Acts.

SEC. 313. TRANSFER OF FUNCTIONS.

(a) Within 180 days after the incorporation of the United States Travel and Tourism Corporation pursuant to this title, the Corporation and the United States Travel Service (hereinafter referred to as the Travel Service) shall take such steps as are necessary to transfer to the Corporation—

(1) the assets, funds, supplies, materials, equipment, and records of the Travel Service;

(2) the rights, privileges, powers, duties, and liabilities of the Travel Service in respect to any contract, agreement, loan, account, or other obligation: *Provided*, That, such transfer shall not limit or extend any period of limitation otherwise applicable to such contract, agreement, loan, account, or obligation; and

(3) any unexpended balances of funds appropriated or otherwise accruing to the Travel Service for expenditure by the Corporation for the payment of any expenses lawfully incurred by the Travel Service.

(b) One hundred and eighty-one days after the incorporation of the United States Travel and Tourism Development Corporation pursuant to this title, the International Travel Act of 1961 (22 U.S.C. 2121 through 2127) and the Act of July 19, 1940 (relating to the encouragement of travel) (16 U.S.C. 18 through 18d) are repealed and the United States Travel Service is abolished.

MOTION OFFERED BY MR. FLORIO

Mr. FLORIO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLORIO moves to strike out all after the enacting clause of the Senate bill, S. 1097, and insert in lieu thereof the provisions of the bill, H.R. 7321, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: A bill to establish a national tourism policy, a Cabinet-level coordinating council, and a board to develop and formulate a marketing and implementing plan to carry out the national tourism policy and a promotional program to further enhance travel to the United States by foreign visitors.

A motion to reconsider was laid on the table.

A similar House bill, H.R. 7321, was laid on the table.

□ 1430

GENERAL LEAVE

Mr. FLORIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 7321.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5, rule I, the Chair will now put the question on the conference report on the Senate bill, S. 2009, on which further proceedings were postponed on Monday, June 30, 1980.

CONFERENCE REPORT ON S. 2009, CENTRAL IDAHO WILDERNESS ACT OF 1980

The SPEAKER pro tempore. The unfinished business is the question of agreeing to the conference report on the Senate bill, S. 2009.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the conference report, on which the yeas and nays are ordered.

PARLIAMENTARY INQUIRY

Mr. YOUNG of Alaska. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. YOUNG of Alaska. Mr. Speaker, is this the same bill that through the adoption the conference committee sets aside the possibility of the cobalt that can be mined in this area that the Nation needs in a restrictive type area; is this the same bill?

The SPEAKER pro tempore. The Chair will advise the gentleman that he does not consider the gentleman's question a parliamentary inquiry.

The vote was taken by electronic device, and there were—yeas 272, nays 137, not voting 24, as follows:

[Roll No. 388]

YEAS—272

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnes
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Brademas
Brinkley
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Byron
Carr
Cavanaugh
Chisholm
Clay
Coelho
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
D'Amours
Danielson
Daschle
Davis, S.C.
Deckard
Derrick
Dicks
Dingell
Dixon
Dodd
Donnelly
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Calif.
Emery
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frenzel
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Gore
Gradison
Gray
Green
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hanley
Harkin
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Hollenbeck
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Leach, Iowa
Lederer
Lehman
Leland
Levitas
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McHugh
McKay
Maguire
Markey
Marks
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Minish
Mitchell, Md.

Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Natcher
Neal
Nelson
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell

Quillen
Rahall
Railsback
Rangel
Ratchford
Reuss
Rinaldo
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Santini
Sawyer
Scheuer
Schroeder
Seiberling
Sensenbrenner
Shannon
Sharp
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Spellman
St Germain
Stack
Staggers
Stark

Steed
Stewart
Stokes
Studds
Swift
Synar
Tauke
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weiss
White
Whitley
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—137

Abdnor
Applegate
Archer
Ashbrook
Badham
Bafalis
Barnard
Bauman
Bethune
Bouquard
Bowen
Breaux
Broomfield
Brown, Ohio
Broyhill
Burgener
Butler
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Derwinski
Devine
Dickinson
Dornan
Dougherty
Edwards, Ala.
Edwards, Okla.
English
Findley
Forsythe
Fountain

Goldwater
Goodling
Gramm
Grassley
Grisham
Guyer
Hagedorn
Hammerschmidt
Hance
Hansen
Hillis
Hinson
Holland
Hopkins
Ichord
Jacobs
Jeffries
Kelly
Kemp
Kindness
Kramer
Latta
Leach, La.
Leath, Tex.
Lee
Lent
Lewis
Livingston
Loeffler
Lott
Lujan
Lungren
McDonald
McEwen
McKinney
Madigan
Marlenee
Marriott
Martin
Michel
Miller, Ohio
Montgomery
Moorhead, Calif.
Myers, Ind.
Nichols

O'Brien
Pashayan
Paul
Quayle
Regula
Ritter
Roberts
Robinson
Roth
Rousselot
Royer
Rudd
Satterfield
Schulze
Sebelius
Shelby
Shumway
Shuster
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stratton
Stump
Symms
Tauzin
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Whitehurst
Whittaker
Whitten
Wilson, Bob
Winn
Wyatt
Wydler
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—24

Anderson, Ill.
Beard, R.I.
Beard, Tenn.
Buchanan
Dellums
Edgar
Erlenborn
Frost

Hawkins
Holt
Holtzman
Hutchinson
Johnson, Colo.
Mathis
Mineta
Myers, Pa.

Nedzi
Pease
Rhodes
Richmond
Runnels
Watkins
Weaver
Wilson, C. H.

☐ 1440

The Clerk announced the following pairs:

On this vote:

Mr. Richmond for, with Mr. Buchanan against.

Mr. Myers of Pennsylvania for, with Mrs. Holt against.

Mr. Nedzi for, with Mr. Rhodes against.

Until further notice:

Mr. Hawkins with Mr. Johnson of Colorado.

Mr. Beard of Rhode Island with Mr. Erlenborn.

Mr. Dellums with Mr. Beard of Tennessee.

Mr. Mineta with Mr. Anderson of Illinois.

Mr. Charles H. Wilson of California with Mr. Edgar.

Mr. Hutchinson with Mr. Frost.

Mr. Mathis with Ms. Holtzman.

Mr. Weaver with Mr. Watkins.

Mr. Pease with Mr. Runnels.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MAKING IN ORDER ON TOMORROW, OR ANY DAY THEREAFTER, CONSIDERATION OF THE CONFERENCE REPORT AND AMENDMENTS IN DISAGREEMENT ON H.R. 7542, SUPPLEMENTAL APPROPRIATIONS AND RESCISSION, 1980

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that it may be in order on tomorrow or any day thereafter to consider the conference report and amendments in disagreement on the bill (H.R. 7542), making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

EXPRESSING SENSE OF CONGRESS REGARDING IMPORTANCE OF ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Mr. DINGELL. Mr. Speaker, pursuant to the previous order of the House, I call up for immediate consideration the Senate concurrent resolution (S. Con. Res. 104) expressing the sense of Congress of the importance of the Alaska natural gas transportation system.

The Clerk read the Senate concurrent resolution, as follows:

S. Con. Res. 104

Whereas, the Alaska Natural Gas Transportation System is a critically important energy project that will tap Alaska's North Slope natural gas reserves which constitute more than 10 percent of this Nation's entire proven natural gas reserves;

Whereas, the System, when complete will supply the United States with 5 percent of its annual natural gas demand, displacing over four hundred thousand barrels of oil, thereby greatly reducing this Nation's excessive dependence on foreign oil;

Whereas, the Congress has already expressed its overwhelming support for the System in approving by joint resolution the President's 1977 Decision on the Alaska Natural Gas Transportation System;

Whereas, a portion of the System known as prebuild can be constructed by the end of 1981 to bring Canadian gas to this Nation until the entire System is complete in 1985;

Whereas, prebuild will contribute to completion of the entire System by spreading demand for capital, labor and materials over several years, and will enable this Nation to obtain Canadian natural gas to displace two hundred thousand barrels of foreign oil a day;

Whereas, the Federal Energy Regulatory Commission has issued decisions granting certificates for the prebuild facilities in the United States;

Whereas, the sponsors of the Alaskan segment of the System and the North Slope natural gas producers have entered into an agreement to fund and manage jointly the design, engineering and cost estimation for the Alaskan segment and have made a joint Statement of Intention to work to develop a financing plan for the Alaskan segment with the object of completing construction by the end of 1985: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the System remains an essential part of securing this Nation's energy future and, as such, enjoys the highest level of congressional support for its expeditious construction and completion by the end of 1985.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. DINGELL) is recognized for 1 hour.

Mr. DINGELL. Mr. Speaker, I yield myself 5 minutes.

☐ 1450

Mr. Speaker, the Alaska Natural Gas Transportation Act was passed by Congress on October 1, 1976. This act provided for an expedited decision by the President on a system to transport natural gas from Alaska to the lower 48 States. The natural gas in Alaska is of critical importance to our energy independence. The 26 trillion cubic feet of natural gas in Prudhoe Bay represents more than 10 percent of the U.S. proven reserves of natural gas. When completed, the system will supply the United States with 5 percent of our annual natural gas demand.

On September 22, 1977, the President chose the Alaskan Northwest consortium to construct the 4,800-mile natural gas pipeline system. The pipeline will deliver natural gas from Prudhoe Bay in Alaska, through Canada, to the lower 48 States. A Canadian consortium, called Foothills, will build the Canadian portion of the line. The Governments of Canada and the United States have completed several agreements relating to the construction and operation of the pipeline in the United States and Canada.

On November 2, 1977, the House passed a joint resolution approving the President's decision.

Since then, the parties designated to construct the pipeline project have been pursuing various regulatory matters in the United States and Canada which must be resolved before construction can begin.

Clearly, the Alaskan natural gas pipeline project is critically important to both the United States and Canada. This importance has been reflected in the cooperative efforts of both countries to facilitate the construction of the project.

The southernmost part of the system can be constructed early. This so-called prebuild portion of the system would deliver surplus gas from Alberta, Canada, to United States consumers beginning in late 1931, if the Canadian companies commence pipeline construction this summer. The prebuild portion of the system would carry over 1 billion cubic feet per day of Canadian gas to United States markets from 1981 until 1985.

In order to authorize the commencement of construction of prebuild, the Canadian Government has asked the United States for assurances that the entire system will be completed within a reasonable time. Canadian law currently requires that no pipeline construction begin in Canada until financing is secured for the whole line. However, Canada appears willing to proceed with the prebuild project based on a finding by Canada that the rest of the line can be built, if we will provide them with the appropriate assurances. I believe it is reasonable for Canada to want to be assured that the entire Alaskan pipeline project will go forward before it permits work to begin on the southern prebuild stage in Canada.

Accordingly, I endorse the congressional statement of support for the pipeline project contained in Senate Concurrent Resolution 104. I believe the concurrent resolution provides our Canadian friends with the assurances they need to proceed this summer with construction of their portion of the prebuild project in Canada. The construction of the Alaskan natural gas pipeline project is in our Nation's best interest, is important to our national security and will benefit both Canada and the United States.

Therefore, I urge your support of Senate Concurrent Resolution 104.

I would simply observe that the portion which is in question with regard to prebuild is on the large map that my colleagues will see from about the point at the southern and when the fork takes up just north of Calgary and goes on down to the U.S. border both southwest and southeast.

With that, I reserve the balance of my time.

Mr. Speaker, I yield 10 minutes to my good friend, the gentleman from Ohio (Mr. BROWN) for purposes of debate only.

Mr. BROWN of Ohio. Mr. Speaker, I think it is important to understand the purpose of this resolution. There are only about 3 months of building days left for this year in the so-called prebuild part of this system. The prebuild part is that which will separate from about Edmonton, Alberta, into two lines, one going into the upper U.S. Midwest and the other one going into the west coast of the United States. There is gas available in Alberta which can flow through this pipeline. However, the Canadians are naturally reluctant to build this part of the line without a commitment to the completion of the U.S. portion of the project.

For us to have access to the Alaskan natural gas, which is in association with the oil in Prudhoe Bay, it is important that the two links of line, part of it in the United States, in Alaska, and the bulk of it in Canada, be completed together, and as soon as they are completed together, that the gas be able to flow so that the cost of the pipeline can be amortized over a large volume of gas. So the issue that has our Canadian friends a little nervous is whether or not in some way the U.S. portion of the pipeline might be inhibited in its construction. If that occurred, the Canadians would go ahead and have their portion completed and not have any gas to move through that pipeline and, therefore, wind up with an investment that would cost them about $800 million a year in carrying charges until such time as the gas will flow from the Alaskan and the northern Canadian fields.

Unfortunately, we do not have time today to resolve all of the potential problems that may face this project. But we do have time to pass a concurrent resolution between the House and the Senate—the Senate has in fact already acted on it—indicating that it is our belief in the U.S. Congress that this method of getting the gas from Alaska and from northern Canada into the Midwest and the far West of the United States is still congressional policy and that we still support the Alaskan natural gas pipeline.

□ 1620

So it is for this reason that the resolution is before us and it is my hope that my colleagues will support the resolution. As many of us are aware, I was a supporter of the Alaska Natural Gas Transportation Act of 1976 and the President's decision in selecting this particular project.

Mr. Speaker, in the near term the 26 trillion cubic feet of Alaska natural gas reserve will make an extremely important contribution to our energy supplies. For this reason I think it is extremely important that the project go forward in a timely manner.

Mr. Speaker, the project is now entering a very critical stage concerning its financing. One proposal designed to help facilitate the financing of this project is to build the southern most part of the system early so that the currently surplus Canadian natural gas can be delivered to the United States until the entire system is completed and Alaska natural gas begins to flow through the pipeline to the lower 48 States.

Unfortunately, however, the Canadians are naturally reluctant to proceed with this so-called prebuilt section, the southern section where it splits south of Edmonton, until they receive assurances that the entire system will be completed within a reasonable time. Therefore, this resolution seeks to address those legitimate concerns of the Canadians. The resolution is very simple. It merely restates the commitment of Congress to the expeditious completion of the Alaska natural gas pipeline by the end of 1985. For that reason, I believe it is not controversial and fully comports with the previous Republican administration's attitude, the current Democratic administration's attitude, and I trust the attitude of all Members of Congress, House and Senate, Republican and Democrat alike.

Mr. Speaker, I urge the adoption of the resolution.

Mr. GAYDOS. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Speaker, I know of the gentlemen's interest in this matter. For the record, I would appreciate the gentleman's telling us if he has knowledge of a controversy as far as procurement is concerned. I am talking about American steel being used in the construction of this line.

Mr. BROWN of Ohio. Mr. Speaker, I know of no controversy on that issue.

Mr. GAYDOS. May I ask the gentleman a specific question: Does the gentleman know if any American made steel is going to be in inculcated and become a part of any of the lines approved to date or contemplated to be improved and extended?

Mr. BROWN of Ohio. Quite frankly, the line is not that far along at this point because the financing of both the Canadian and the United States portion—I would like to have the attention of the gentleman from Michigan—the financing has not been resolved at this point. It is still up in the air and until that financing issue is resolved, I would assume that the acquisition of materials is not finally resolved and the two segments, the United States and the Canadian segment will not be undertaken until the financing is resolved. Mr. Speaker, does that respond to the question of the gentleman?

Mr. GAYDOS. It does in part, Mr. Speaker, but I would like to reserve the right to ask the chairman to respond to a question, either at this time or a little later.

Mr. BROWN of Ohio. Mr. Speaker, I would be glad to yield to the gentleman from Michigan to comment on the American content in the American line, and also, I would assume, Canadian content in the Canadian line.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I will yield to the gentleman from Michigan, but first let me say that the gentleman from Michigan (Mr. DINGELL), the chairman of the Subcommittee on Energy and Power of the Committee on Interstate and Foreign Commerce, held specific hearings on the subject to see that the Canadian and United States portions would match up and there would not be any means used to prohibit this.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DINGELL. I yield the gentleman from Ohio 2 additional minutes for purposes of debate only.

Mr. BROWN of Ohio. There would not be any means to prohibit American participation in the appropriate parts of the pipeline.

Mr. Speaker, I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, no man in Congress has stood more loyally for the procurement of steel from U.S. producers for the pipeline than the gentleman from Ohio, and I am proud to say I have been able to stand by the gentleman's side. We have been working most diligently to assure that American suppliers have fair access to the bidding on this and, as the gentleman from Pennsylvania will well recall, we have just engaged in a controversy with the inspector over that procurement of steel. We have engaged in a controversy with our Canadian friends over the procurement of steel, and we intend to watch it and use every resource at our command to assure not only that American steelmakers are fairly treated but also to assure that to the greatest degree possible the content of steel in the U.S. portions of the pipeline is U.S.-produced steel.

Mr. BROWN of Ohio. I might say to the gentleman from Pennsylvania that one of the issues we took under consideration in these hearings was the question of design because while we can say that it ought to be U.S. content, if one is very clever in the way he designs a pipeline, the one could design some U.S. products out of the system. It is our ambition to see that the Canadians and U.S. designers of the system will make it a system by design that will be available to bid by U.S. suppliers not of just pipe but also fittings, valves, and the whole system.

Mr. GAYDOS. The gentleman has stated the pipeline has not progressed to the place whereby bids are being received. However, I believe the gentleman in the well is fully cognizant of the existing controversy or potential controversy as to the competitive status of American steel.

Mr. Speaker, the question I ask my friend in the well is, does the gentleman know if American steel will be given fair consideration with Canadian steel. Based upon information made available to myself and the Steel Caucus at this time it is not true.

Mr. DINGELL. Mr. Speaker, will the gentleman from Ohio yield?

Mr. BROWN of Ohio. I will be glad to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, let me read from the agreement between Canada and the United States on the principles applicable to Northern natural gas pipeline. It says having regard for the objective of this agreement, each government will endeavor to assure that the supply of goods and services to the pipeline project will be on generally competitive terms.

Mr. BROWN of Ohio. Mr. Speaker, I know of no prohibition, I know of no inhibition currently in this system or in the works that would relate to prohibition or an inhibition with regard to American products.

Mr. DINGELL. Mr. Speaker, if the gentleman will yield further, I would observe that the head of the U.S. consortium that is putting this pipeline together has assured me on several occasions that it is his intent to use American made steel in connection with all portions of the project under his hand.

Mr. BROWN of Ohio. The gentleman from Michigan and the gentleman from Ohio have jointly advised the people who will be involved in the project or the potential bidders in the project, that we will be on top of the issue trying to assure that it does have American content to the extent that is possible.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to my good friend, the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, I commend the gentleman from Michigan and the gentleman from Ohio as well as the others who have worked to bring this resolution before us today.

Mr. Speaker, we were seized in the grip of an energy crisis and Americans first began to recognize it, I suppose, in the fall of 1973 and the spring of 1974. Since that time these persistent energy shortages and all of the ramifications have dogged our lives and I think the story of the 1980's will also be how we wrestled with them.

Mr. Speaker, when you are in trouble, you generally find out who your friends are. I want to say a good word about our Canadian friends because of all of the dozens of nations with whom we had to deal in recent times in the course of this energy crisis, I think Canada would have to be rated the No. 1 friend of the United States.

Mr. Speaker, we had a hassle here last week about the fast track. We set up a fast track in connection with the Alaska gas pipeline and in less than 18 months in a situation requiring action by the Canadian Parliament, requiring a settlement with the native claims people in Canada, the situation being fraught with all other kinds of difficulties, we actually made a binding, completed decision on the route and the arrangement of this pipeline. It was due in large part to the fact that our Canadian allies were willing to move, willing to listen, and willing to do their part and in most aspects of this fast track we put on that bill, they were ahead of schedule.

□ 1510

Now, they are concerned. Now, we are asking them to go ahead with the prebuild portion of this pipeline, and there is a serious question raised in Canadian political circles: "Can you depend on the United States of America?"

Will we come through if they go ahead and expend millions of dollars and get the prebuild section of this pipeline underway? We ought to send a very loud signal today to our Canadian friends that tells them that we appreciate their help; that we value them as good neighbors, and when the time comes we are going to put our money where our mouth is.

We are going to build this pipeline, and the American portion of it will be built as soon as we complete arrangements. I think the Canadians are entitled to no less than this. We ought to give them a loud signal that we intend to go forward with our part of the project.

Mr. GAYDOS. Mr. Speaker, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Speaker, I just want to ask this: The gentleman used the term "allies." Does he base that upon past performance, or very recent performance by our Canadian allies, if I may use the term also, when they refused to even consider—reasonably consider—some kind of suspension on a differential between the tariffs in place.

Mr. UDALL. We are going to have differences with our Canadian friends, and I share the concerns my friend has.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yeld ?

Mr. UDALL. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I want to commend the gentleman from Arizona and the gentleman from Michigan for the leadership they have shown.

The SPEAKER pro tempore. The time of the gentleman from Arizona has expired.

Mr. DINGELL. Mr. Speaker, I yield 1 additional minute to the gentleman from Arizona.

Mr. SEIBERLING. Mr. Speaker, I would like to make two points. At the time we took this up in the Interior Committee, there were two matters of great concern to the part of the country I come from. One was that we use American steel to the maximum extent possible; and the other was that it bring the gas to the Middle West.

I would just like to ask the gentleman, is there any change in either of those two conditions that this resolution would outline?

Mr. UDALL. This resolution is not designed to effect any change. It is desgned to reaffirm our commitments to the Canadians with all the conditions, including the two that the gentleman referred to.

Mr. DINGELL. Mr. Speaker, I yield 4 minutes for purposes of debate only to the gentleman from California (Mr. CLAUSEN).

Mr. CLAUSEN. Mr. Speaker, I rise in support of Senate Concurrent Resolution 104, a resolution expressing the sense of Congress regarding the importance of the Alaskan natural gas transportation system (ANGTS), and to associate myself with the committee leadership of the House and Senate in their efforts to give assurances to the Canadian Government.

In originally supporting the ANGTS legislation, I expressed three main areas of interest: First, a provision for new facilities to assure direct gas deliveries to the western and eastern regions of the United States; and second, a need for one department, entity, or administrator to be responsible for approving preconstruction, construction, and initial operation of the gas system; and third, to recognize a need for coordination and cooperation toward achieving energy self-sufficiency here in this Western Hemisphere.

On November 2, 1977, I rose in favor of House Joint Resolution 621, a resolution approving the Presidential decision on the ANGTS. This resolution had been reported favorably on October 19 of that year by the Committee on Interior and Insular Affairs where I serve as the ranking minority member.

In supporting this concurrent resolution today, I do so within the same viewpoint as I stated on this floor in 1977. The ANGTS is in the national interest and I heartily support its approval. However, my support is premised upon the facts and language of President Carter's report which he submitted to Congress on September 22, 1977. In the financing section of President Carter's report the following sentence appears:

> Federal financing assistance is also found to be neither necessary or desirable, and any such approach is herewith explicitly rejected.

The Alaska natural gas transportation system should be constructed, and financed within the private capital markets. Federal moneys should not be involved.

Mr. Speaker, as our Nation moves toward energy independence, it is entirely appropriate for Congress to reiterate that the ANGTS is in the national interest and we remain committed to the expeditious construction and completion of the pipeline project by the end of 1985.

Our neighbors to the north desire a recommitment from us on this project. Senate Concurrent Resolution 104 addresses their request and by supporting the resolution we recognize the need for coordination and cooperation toward achieving energy self-sufficiency here in this Western Hemisphere.

Mr. GAYDOS. Mr. Speaker, will the gentleman yield?

Mr. CLAUSEN. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. What is the fundamental necessity of this resolution? Could the gentleman respond? Why pass the resolution?

Mr. CLAUSEN. The primary purpose of the resolution, as I understand it, is to give a commitment to the Canadians that we believe the entire pipeline system is in the national interest and should be built.

Mr. GAYDOS. The gentleman in the well is a very active and dedicated member of the Steel Caucus, and I have had the pleasure of working with him over the last 3 years. I know his sensitivity to the problem which we are now discussing. Does the gentleman have an opinion—I know he has expressed it, but will he restate his position for my benefit again, does he think this is good for the steel industry in this country, and that it has an affirmative rather than a negative aspect?

Mr. CLAUSEN. I am convinced that it has a plus. Furthermore, I will join with the gentleman, who is a very active member of the Steel Caucus, to commit ourselves to see that the American steel interests are protected.

Mr. GAYDOS. I thank the gentleman.

Mr. DINGELL. Mr. Speaker, I yield 5 minutes for purposes of debate only to my good friend and colleague from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Speaker, I thank the gentleman for yielding. I want to compliment him for bringing this resolution to the floor. I feel that it is past time that we get on with this project. It has been almost 3 years now since the Congress approved the President's initial decision that selected the northwest Alaska proposal, and we had thought, many of us who supported that proposal, that we would be far along the way toward the construction of this gas pipeline project.

A year ago, it was my privilege to be a part of the United States-Canadian interparliamentary group that went to Canada, and had indepth briefing not only in Calgary but also in White Horse, the capital of the Yukon Territory. We went to Anchorage, and then visited Prudhoe Bay. During those briefing, not only meeting with Canadian Members of Parliament, but also officials of the pipeline company, we heard then that they were ready to go in the Canadian sector of the pipeline. We went to Prudhoe Bay and found that they are pumping back into the ground millions of cubic feet a day of gas that could be flowing into a pipeline if it were in existence today.

We do know that every day of delay is adding millions of dollars to the cost of this project, which is already estimated at $20 billion, and every day's delay is going to probably add to that cost even more. What is involved here, as was pointed out by the chairman, is that the Canadians would like to start the southern section of this project in order at least to have some Canadian gas going through there until the Alaskan and northern Canada portion can be completed. This does make economic sense, and I think that we should give encouragement to the Canadians partner to this project to go ahead with this part of the pipeline.

□ 1520

The prebuild section, as it is called, will contribute to the completion of the entire system. They will be getting gas going through it early, this will spread the cost over a longer period of time, and, of course, it will enable us to obtain Canadian gas as a source of energy rather than have to depend upon other foreign sources for that energy.

Mr. GAYDOS. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Speaker, I would like to ask one practical question, hopefully to make some legislative history.

Does the gentleman believe completely that the American steel producers are in a comparable competitive position as far as the acquisition of steel in this project is concerned?

Mr. BROYHILL. Mr. Speaker, to my knowledge, there have been no bids put out. They are really not in that position to ask for bids from the producers.

I know there have been proposals put forward that perhaps the gentleman has seen, but as far as bids put out to producers in America or any other place are concerned, I am not aware that they have been in a position to do that.

They do not even have their financing arranged yet, and a lot of the regulations have not been written. The permits have still not been let so that they can get on with this project.

Mr. GAYDOS. Mr. Speaker, in all sincerity, I know that the gentleman from North Carolina (Mr. BROYHILL) is a well-known businessman, and I appreciate his friendship. I do know that his sensitivity to business principles have always been constant.

Let me ask my friend this question: Does the gentleman think we can remain competitive when we have all the steel going north of the border being subject to a 15-percent tariff while other steel companies shipping steel down here from Canada south of the border are being pegged at 2 percent?

That seems to me, for all practical purposes, regardless of the language of fair competitiveness, to be barring all reasonable American competitive positions in the matter.

Mr. BROYHILL. Mr. Speaker, it seems to me that what we should do is to see if the gentleman from Pennsylvania (Mr. GAYDOS) can be included in the next United States-Canadian interparliamentary meeting. Then we would let him have a chance to talk to these people directly about his concerns, and he would be able to deal with them in a direct way.

Mr. DINGELL. Mr. Speaker, I yield 5 minutes, for purposes of debate only, to my good friend, the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Speaker, first let me compliment my good friend, the gentleman from Michigan (Mr. DINGELL), for bringing this resolution to the floor, and let me compliment also the gentleman from Ohio (Mr. BROWN).

I think this is an important piece of legislation to show our strong support for the finalization of this great project which is so very critical. I believe, as one who did not previously support the concept of the Canadian route, that this is now the only game in the field, and it is one we should complete as fast as possible. I think it is important to the Nation as a whole and important to the State of Alaska.

Let me remind my colleagues of a few facts that have not yet been brought up in this debate. No. 1, we are not just talking about the Prudhoe Bay reserves of 26 trillion cubic feet; we are talking about the Beaufort Sea sales that have taken place in Alaska now which have an equivalent of 20 trillion or more or approximately 30 trillion cubic feet to add to the 26 trillion cubic feet.

And we have right here, on this map—although my good friend, the gentleman from Arizona (Mr. UDALL), is not here—the Alaskan uplands, where we have an area up to the Arctic Circle in which, according to the U.S. Geodetic Survey report, we have 47 billion barrels of oil, which adds up to over 100 trillion cubic feet of natural gas here.

We add all these up, and with PET 4 over here, we are talking, in round figures, of around 200 trillion cubic feet of gas that can be delivered to this market in the United States, primarily down in this area on the map which needs it badly and, of course, over on the west coast.

I am happy to say to my fellow colleagues that this is the first positive piece of legislation concerning the production of energy that has been brought forth in this Congress in many, many days.

We have already today locked up the phosphate down in Florida, and we took away the cobalt in Idaho. We continue to take away those resources that should be available to the general public.

This resolution, although small in numbers or small paperwise, is a resolution that will give, to my knowledge—because I helped participate in those conferences—to Canada the authority to go ahead with the prebuild section, and then we can propose other financing for the Alaskan section. We can get this on line, and then perhaps we can get out from under the umbrella of the Mideast countries.

It is important that we adopt this resolution and get on with the show. Then by 1985 we can see Alaskan gas delivered to the homes of the Midwest, the West, and the east coast, where it is needed to continue the economic base of this Nation of ours.

Mr. Speaker, I can only say to the gentleman from Michigan (Mr. DINGELL) and the gentleman from Ohio (Mr. BROWN) that I compliment them for bringing this resolution to us in such an expedited fashion. This passed the Senate very quickly, it is now before us today, and I am confident the House will see the wisdom of passing this legislation.

Mr. DINGELL. Mr. Speaker. I yield 5 minutes, for purposes of debate only, to my good friend, the gentleman from Pennsylvania (Mr. GAYDOS).

Mr. GAYDOS. Mr. Speaker, I wish to thank my very good friend, the chairman of the subcommittee. He has been most cooperative.

If I can go back 3 years ago, at that time the gentleman from Michigan (Mr. DINGELL) had no reservation about getting up and taking this floor and stating very clearly, crystal-clearly, that he expected in the future that the American steel industry would share in the benefits of this contract regardless of where the pipeline was, to the north or to the south. It is not his fault that there are some controversies now, and that there has been some reluctancy on the part of our good allies, the Canadians, to respond to us in our request for fairness.

We only want fairness in the circumstances. I do not think any reasonable person in or out of this Chamber, could, under any circumstances conclude differently, that this is a good thing. It is a good project, and we need it. It is an indication that two nations can cooperate with one another. All those things are accepted.

The problem raised by our steel industry, and specifically our steel leaders, without mentioning any names, and indirectly by the Steel Caucus whose prime concern is to at least give the American steel producer a fair chance, is that all these circles have raised this point: No. 1, why is it 54 inches? That is the requirement of the steel pipe. Why is it 54 inches? Why is it not 52 inches or 50 inches or what have you?

It appears to these individuals that this particular specification automatically cuts out American participation.

Let us forget about that one question or that aspect of it. Let us take on the second question which we raised. Why have we not enjoyed a response from our Canadian brethren, our friends and our allies? Why have we not had a response of at least some partial or temporary suspension on the obvious differential?

Again, if I may refer to the 15 percent on American pipe going above the line and 2 percent on Canadian pipe as tariff coming down below the line, these are the problems that seem to affect our leaders in the industry, our industrialists, and other people directly or indirectly connected with this problem.

At this time, with no equivocation at all, I want to make it again clear that as far as the gentleman from Michigan (Mr. DINGELL) is concerned, he was fair and he was responsive. He is on record in a letter written to the Federal Inspector on this line, Mr. John T. Rhett. That individual was told in no uncertain terms in this written communication that he had no business taking a position where American pipe from American Steel would be held in a less competitive situation. The letter is self-explanatory, and I will include it for the RECORD, because, first, I think it is right on the point, and second, I think it is most sensitive.

Mr. Speaker, I wish to repeat for the RECORD that the subcommittee chairman has always been responsive to our inquiries, that he has been fair, that he has been candid, and that he has been most cooperative. I think, perhaps working with him and with the Steel Caucus, that hopefully we can address ourselves to this problem in the future and salvage something from the situation. I hope we can salvage something out of what has now developed into a strictly favorable Canadian situation whereby they have a priority in all matters.

Mr. Speaker, the letter from the chairman of the subcommittee to Mr. John T. Rhett to which I referred is as follows:

SUBCOMMITTEE ON ENERGY AND POWER,
Washington, D.C., June 11, 1980.

Hon. JOHN T. RHETT,
Federal Inspector, Alaska Natural Gas Transportation System, Washington, D.C.

DEAR MR. RHETT: I am deeply disturbed and troubled by a report I have received that you recently acted to block the purchase of steel pipe from domestic steel companies for use in the construction of the western leg of the Alaskan natural gas pipeline project. It would appear that your actions to prevent such sale or to force a lower price from domestic steel companies are contrary to the authority vested in you by applicable law.

The Pacific Gas Transmission Company (PGT) let bids of approximately 80,000 tons of 42'' outside diameter steel pipe for the western leg of the Alaskan natural gas pipeline project earlier this year. Four companies bid on the contracts. Three were domestic companies and one was a Canadian steel company. PGT tentatively awarded the contract to the three domestic steel companies. Following these developments, I am informed that you told PGT that either the domestic steel companies would have to lower their bids or the contract would have to be awarded to the Canadian steel firm. I also understand that subsequent to your intervention, the domestic steel companies acquiesced to your bid reduction demands.

Your after-the-fact intervention on behalf of a foreign steel producer is unacceptable. The authority reposed in your office does not authorize or sanction this kind of activity on your part.

Your authority derives from several sources. The Alaska Natural Gas Transportation Act (ANGTA) authorizes you to establish a joint surveillance and monitoring agreement with the State of Alaska; monitor compliance with applicable law and the terms and conditions of any applicable certificate, right-of-way, permit, lease or other authorization; monitor actions taken to assure timely completion of construction schedules and the achievement of quality construction, cost control, safety and environmental protection objectives; subpoena information that is necessary to carry out your responsibilities; and keep the President and Congress currently informed on any significant departures from compliance and issue quarterly reports to the President and Congress.

The President's 1977 Decision and report to Congress on the Alaska Natural Gas Transportation System provided you with the following duties and responsibilities:

1. The overall management plan must be approved by the Federal Inspector;

2. The Federal Inspector may determine that special conditions warrant the use of cost plus type contracts;

3. The Federal Inspector must approve insurance, bonding, and prequalification requirements;

4. The Federal Inspector receives a detailed analysis and description of the proposed cost and schedule control techniques;

5. The Federal Inspector receives a final design, design cost estimate, and construction schedule which represents a construction design of at least 70 percent of the total system;

6. The Federal Inspector receives cost effective and feasible methods for supplying equipment, repair facilities and spare parts inventories to the execution contractors;

7. The Federal Inspector receives detailed information on labor relations procedures;

8. The Federal Inspector receives a detailed description of quality assurance and control procedures;

9. The Federal Inspector approves a plan for taking affirmative action;

10. The Federal Inspector must approve the design of any segment before construction of any segment may begin;

11. The Federal Inspector is briefed on a regular basis concerning the status of the project during design, construction, testing and startup phases;

12. The Federal Inspector has access to all project facilities;

13. The Federal Inspector approves plans for the applicant to conduct its own inspections of project facilities;

14. The Federal Inspector approves a seismic monitoring system;

15. The Federal Inspector receives a plan for implementation of specific environmental safeguards.

The President's Reorganization Plan No. 1 of 1979 authorizes the Federal Inspector to exercise supervisory authority over the enforcement of terms and conditions from Federal agencies having statutory responsibilities over various aspects of the gas transportation system.

In addition, I understand that you have assumed the role of the "senior official", contemplated in paragraph eight of the agreement on principles with Canada, whose obligation is to consult with Canada concerning implementation of the principles relating to the construction and operation of the pipeline.

Accordingly, it would appear that you lack the authority to inject yourself into private contractual negotiations concerning the supply of goods and services for the United States portion of the pipeline and to dictate the contractual terms between the parties with respect to the prices and quantities of goods to be ordered.

It is the obligation of the Federal Energy Regulatory Commission (FERC) to assure U.S. consumers that the costs incurred in constructing the Alaska natural gas pipeline have been reasonable and prudent. The FERC should and will eliminate from the pipeline's rate base any and all expenditures which the Commission finds have been prudently incurred. Your actions, therefore, constitute an unwarranted intrusion into the regulatory functions of an independent regulatory agency which is subject to the jurisdiction of this Committee.

During consideration of the joint resolution to approve the President's Decision on the Alaskan Natural Gas Transportation System on November 2, 1977, I assured my Colleagues that I had representations from the people who proposed to build the Alaskan natural gas pipeline that U.S.-made steel would be used. Your attempt to dictate purchasing criteria and to prevent or inhibit the ability of the Pacific Gas Transmission Company to purchase United States produced steel is contrary to representations that I had received at the time the Congress approved the President's Decision and is contrary to my representation to my Colleagues on the House Floor.

Accordingly, I strongly disapprove of your actions and I request that you provide me promptly with a complete and thorough explanation of all the facts and circumstances surrounding this matter.

Sincerely,

JOHN D. DINGELL,
Chairman.

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield?

Mr. GAYDOS. I yield to my good friend, the gentleman from Minnesota.

☐ 1530

Mr. OBERSTAR. I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of the resolution.

I want to commend the gentleman from Michigan (Mr. DINGELL) for his outstanding leadership in support of this project, and also the chairman of the Steel Caucus, the gentleman from Pennsylvania (Mr. GAYDOS), for consistent and persistent support of the construction of this natural gas pipeline.

Canada has some problems. If we can work those problems out through this resolution, make it facilitate the agreement for the financial backing that is necessary to build this pipeline, then the Congress ought to act expeditiously.

Alaska has 10 percent, the equivalent of 10 percent of the natural gas received in the lower 48 States.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania (Mr. GAYDOS) has expired.

Mr. DINGELL. Mr. Speaker, for the purpose of debate, I yield 1 additional minute to the gentleman from Pennsylvania.

Mr. OBERSTAR. If the gentleman will yield further, we vitally need, in both the steel industry and the iron ore mining industry in northern Minnesota, the natural gas reserves available in Alaska. Construction of this pipeline is vital. We hope, also, that it will be built with American steel produced in our country, and that through the means of this resolution we can achieve that goal.

Mr. GAYDOS. I thank my friend, who is a most active member on the executive committee of the Steel Caucus.

Mr. Speaker, I would like to conclude in urging the continued cooperation by the chairman, Chairman DINGELL. Hopefully he will reaffirm his past position in this matter, which is that he is going to continue fighting for American steel participation in this very meaningful contract.

With those words, if I have any time left, I yield back to the chairman.

Mr. DINGELL. I thank my friend, the gentleman from Pennsylvania.

Mr. Speaker, I am not aware of any further needs for time. I simply observe that this resolution passed the Senate by a voice vote, without controversy and, as you can observe, no controversy exists here.

Mr. Speaker, I move the previous question on the Senate concurrent resolution.

The previous question was ordered.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 7584, which we are about to consider further.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1981

Mr. SMITH of Iowa. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7584) making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending September 30, 1981, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa (Mr. SMITH)

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 7584, with Mr. BROWN of California in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Thursday, June 26, 1980, the Clerk had read through line 5 on page 13, and pending was an amendment offered by the gentleman from California (Mr. BURGENER).

AMENDMENT OFFERED BY MR. FISH TO THE AMENDMENT OFFERED BY MR. BURGENER

Mr. FISH. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. FISH to the amendment offered by Mr. BURGENER: Strike "$352,644,000" and substitute in lieu thereof "$370,073,000"

Mr. BROYHILL. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

☐ 1540

The CHAIRMAN. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 389]

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Anthony
Ashbrook
Ashley
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Burgener
Burlison
Burton, John
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Duncan, Tenn.
Early
Edgar
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee

Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Nedzi
Nelson
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Quayle
Quillen
Rahall
Railsback
Ratchford
Regula
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Stangeland
Stanton
Stark
Steed
Stenholm
Stockman
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wolff
Wolpe
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

☐ 1600

The CHAIRMAN. Three hundred and sixty-two Members have answered to their names, a quorum is present, and the Committee will resume its business.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair would like to note that despite the fact that the last quorum call occupied 25 minutes, there were still Members who had difficulty in reaching the floor. The Chair would like to ask that a reasonable number remain on the floor so that the business of the House can be expedited.

The gentleman from New York (Mr. FISH), is recognized for 5 minutes in support of his amendment.

Mr. FISH. Mr. Chairman, my amendment would add funds to the Immigration and Naturalization Service appropriations for an additional 311 border patrol positions and 91 inspectors, thereby funding the positions included in the Department of Justice authorization bill, as reported by the House Judiciary Committee (H. Rept. 96-873).

I am aware that the Appropriations Committee report indicates that committee decided to delay additional funding in these areas until the report of the Select Commission on Immigration and Refugee Policy is filed next calendar year. I serve on that Commission, and I must take issue with this decision to delay funding for such increases beyond fiscal year 1981.

I can say unequivocally a consensus is developing among members of the Commission, which include Members of both Houses of the Congress and four members of the Cabinet, that a basic element in any reform of immigration policy must be to reduce the flow of illegal aliens into this country. No new immigration policy can be implemented if there is a simple way to avoid the system by entering illegally into the United States. This position was inherent in the President's 1977 recommendations to the Congress. It is no less true today.

Nor should it come as a surprise. In fact, if there were no select commission, it is still the responsibility of the Congress to respond to the flow of illegal aliens entering our country. It is occurring every day. On what basis can we put off even trying to improve border control?

The U.S. border patrol and the Immigration Service inspectors who man various ports of entry are charged with the repsonsibility to maintain the integrity of our borders. Over the past several years, the numbers of illegal aliens apprehended have increased every year—topping 1 million last year. We also know that where personnel have been concentrated in one sector, experience shows the rate of apprehension has gone up.

In recent years, disturbing developments have diluted the effectiveness of existing border patrol manpower. Increases in violence along the border have resulted in doubling up patrols, replacing at night one patrolman per car with two per car. This reduces the actual number of units available at any one time, diminishing the visual deterrent effect of the patrol, and also its ability to respond to reports of illegal crossings.

Due to their fluency in the Spanish language, border patrol personnel were temporarily reassigned from the Southwestern part of the United States to Florida and to military bases around the country, to assist in processing Cuban arrivals. Reports indicate that the flow of illegal aliens across the Southwest border increased, once the fact became known and less patrol personnel were present along the border.

I am now advised south Florida is considered an area of vulnerability by the Immigration Service so further assignments of border patrol can be expected.

Mr. Chairman, how has our Government responded to these problems on our borders?

For the past 2 fiscal years, the Judiciary Committee has recommended and this Congress has supported increases in the Border Patrol. For fiscal year 1980, the Judiciary Committee authorized 495 additional border patrol positions, and funds for this number were appropriated. However, OMB refused to fill 194 of these positions. For fiscal year 1981, the Department of Justice requested of OMB 112 additional border patrol positions. OMB, however, rejected the Department's request totally, and unbelievably, recommended to the Congress not just a status quo but a reduction in the authorized level of 199. This posture I regret was accepted by your Appropriating Subcommittee.

The net effect of this is that the level of border patrol personnel today under the appropriation before us would be below the authorized 1979 level. Actually, Mr. Chairman, the number of border patrol on duty on June 13, 1980 was 143 people below the level authorized for fiscal year 1978.

What my amendment simply does is to bring Immigration and Naturalization Service personnel strength in two categories to the figure appropriated for by the Congress in fiscal year 1980, plus that recommended by the Department of Justice for fiscal year 1981.

May I remind the committee that experience has shown recruiting and training of border patrol personnel takes a considerable period of time. For example, once a person is recruited for the border patrol, he or she spends 4 months at the Immigration Service Training Center at Glynco, Ga. For the next 8 months, the patrolman is on duty only under the supervision of a more senior border patrol officer during completion of his training period.

My amendment also increases the number of inspection positions by 91. This figure is the total number of inspection positions the INS requested of the Department of Justice.

The favorable exchange of foreign currency to the dollar and airline deregulation have caused increased visitor arrivals at international airports. Expanded airport facilities are expected to be completed in 1981 at Los Angeles and Atlanta. Miami has a new enlarged facility. JFK airport conditions are overcrowded, with long waiting lines due to manpower shortages.

David Crossland, Acting Commissioner, Immigration and Naturalization Service, testified before our Subcommittee on Immigration, Refugees and International Law on February 27, 1980. He stated:

> An area in which a dramatic increase in workload has occurred without commensurate increase in staff is inspections.

Mr. Chairman, airline passenger arrivals have more than doubled since 1975. During this time, inspection staff has increased only 40 percent.

Commissioner Crossland continues:

> Last year, more than 274 million persons were inspected at ports of entry and nearly 1 million inadmissible applicants were refused entry—13 percent more than 1978.
>
> In addition, inspectors during non-peak times at airports and other ports of entry handled adjudication of 800,000 alien applications and petitions, a 20-percent increase over the previous year.

Yet, without my amendment, we would only add 15 new inspection positions, an increase of 1 percent.

Mr. Chairman, we should fund these positions for border patrol and inspectors now for fiscal year 1981 so that recruitment and training can go forward and another 2 years will not go by before we can gain control over our land borders and insure proper inspection at ports of entry.

☐ 1610

(At the request of Mr. Kazen, and by unanimous consent, Mr. Fish was allowed to proceed for 5 additional minutes.)

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. FISH. I am pleased to yield to the gentleman from Texas.

Mr. KAZEN. I thank the gentleman for yielding. The gentleman can also add a new international bridge at Laredo to those figures he just put out on the airports. There is an unprecedented exchange of passengers and vehicles and trade between the United States and Mexico. Down at the port of Laredo, which I am privileged to represent, we are now operating a new international bridge on a part-time basis, and we must have it open full time, but we do have the personnel. They are in the process of constructing a new racetrack complex at Nuevo Laredo in Mexico. When that is complete, the tourism down there is going to tax our border facilities to the utmost, and we need that bridge open 24 hours a day as is our old bridge. We do need this personnel, and I am particularly interested in the inspectors that the gentleman provides for in his amendment because these are first-line inspections and they must be had to process travelers. Otherwise, the entire crossing facility will be bottlenecked. The port at Laredo is the largest inland port in the United States, and we must have the personnel to man it.

I commend the gentleman for his amendment. I support it wholeheartedly, and I urge this Committee to support the gentleman's amendment.

Mr. FISH. I thank the gentleman.

Mr. WHITE. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Texas.

Mr. WHITE. I thank the gentleman for yielding. I commend the gentleman for an accurate portrayal of the current problem along the border. I think that the people in the rest of the country should realize that for every dollar we spend here on additional inspectors and border-patrol agents, we will save countless numbers of dollars of the American people by these people coming into this country without being screened.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. White, and by unanimous consent, Mr. Fish was allowed to proceed for 5 additional minutes.)

Mr. WHITE. If the gentleman will yield further, it is important in terms of pure economy that we do precisely what the gentleman has said to recommend and to enact that level at which the Appropriations Committee earlier had sought, or at least which had been recommended by the Commission and by the others who have studied the problem, because when the Cuban crisis arose and the border patrol agents were pulled off, as the gentleman has described, there was an influx, even greater than otherwise we have had along the border, to a point of a real crisis in this country. I thank the gentleman.

Mr. FISH. Does the gentleman agree with me also that it is far more humane to interdict crossings at the border than to find people here in an undocumented status once they have entered the country, going a considerable distance and having settled into a community?

Mr. WHITE. Absolutely, because when the people come in, the aliens come in in an illegal manner, they are exploited once they reach this country for fear that they will be exposed and deported. It is far better to process them under the concept of immigration that this country has proceeded under for many, many years.

Mr. FISH. The gentleman is from Texas, and I wish he would verify something that I have understood, that it is commonly understood that the rate of apprehensions at the border, whether it be Texas or Arizona or California, is the best yardstick we have of the flow of illegal entrants into the United States. The gentleman mentioned what happened in the Cuban program when border patrol agents were taken away from the Southwest and sent to Florida and Indiantown Gap, and other places. The apprehension rate of May 1980 was 14,900 compared to May 1979 of 27,900, which is just a fact. Once we put our border patrol back on the border, we can assume apprehensions will increase.

Mr. WHITE. And each one of those is a drain on our society year in and year out.

Mr. FISH. Yes.

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from New York.

Mr. SCHEUER. I thank the gentleman for yielding.

Mr. Chairman, I once again want to support my colleague Mr. Fish's position on the obviously undermanned border patrol of the United States.

It is a disgrace that we have so few members of the border patrol on duty. As the gentleman from New York pointed out on the floor last Thursday, the number of border patrol personnel on duty as of May 3, 1980, was 240 people below the number authorized in fiscal year 1978. The gentleman also pointed out that for fiscal 1980, the Judiciary Committee authorized 495 additional patrol positions, and funds for this number were appropriated. But OMB refused to fill 194 of these positions.

Mr. Chairman, it is obvious that this country must waste no more time in stemming the flow of immigrants and refugees into the United States. We must seriously entertain the idea that the United States can no longer be the haven for huge waves of these immigrants and refugees who seek to settle here to escape poverty or political oppression or both. They could destroy the very dream they sought as individuals.

World population is now 4.4 billion, and growing at a rate of 90 million a year, will reach nearly 7 billion by the year 2000—some 90 percent of the increase occuring in the developing world.

Moreover, in 1978, the number of legal immigrants entering this country totaled about 600,000. The estimates of illegal aliens now living here range from 4 to 6 million.

We may be "a nation of refugees and immigrants," but clearly there is a limit to the number of people the United States can accommodate, particularly in these depressing economic times which probably would not get better for a number of years. We in the United States must continue to be humanitarian regarding immigrants and refugees—but that cannot mean an unlimited refugee and immigration flow. And let us not forget what World Bank President Robert McNamara has said:

> Short of nuclear war itself, population growth is the gravest issue that the world faces over the decades immediately ahead.

We have an obligation to help provide a serene society for those of us already here. We must enforce existing refugee and immigration laws—and with special legislation we must plug those loopholes which obviously exist and which threaten the integrity of the entire process. We also must encourage other countries to help absorb this global tidal wave of refugees and immigrants. The United States cannot do it alone.

Increasing the size of the border patrol—and increasing it greatly—is certainly one way to make a positive start.

☐ 1620

Ninety percent of that increase which goes on at the rate of 90 million a year, taking place in the developing world.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Scheuer and by unanimous consent, Mr. Fish was allowed to proceed for 5 additional minutes.)

Mr. SCHEUER. Will the gentleman yield further?

Mr. FISH. I yield to the gentleman from New York.

Mr. SCHEUER. The developing world by the end of the century will have a job deficit of about 700 million to 800 million jobs, more than the entire employed population of the developed world now.

The gentleman's amendment is absolutely on target. We cannot wait. Pressures will get greater and unless we make our borders respectable and real, we are going to be subject to agonizing problems that the mind can hardly conjure up, can hardly imagine.

Mr. FISH. The gentleman from New York, who is an expert in this area, I am sure will agree that one part of the world that constitutes the greatest pressure on migration in the United States would be the Caribbean and Central America, is that not the case?

Mr. SCHEUER. There is no question about that.

Mr. FISH. The gentleman will recall in my main remarks I said that I had just been advised by the Department of

Justice that south Florida is now considered an area of vulnerability so we can expect border patrol personnel to be transferred there where they have not been before.

Mr. Chairman, I did a little geography study. We are all familiar with the extremely brave boat people from Vietnam who have ventured far across the South China Sea and other waters to Indonesia. The same distance from Vietnam to Indonesia will get you to Key West from Nicaragua, Honduras, Jamaica, Haiti, the Dominican Republic, and Guatemala. I think the gentleman will agree that within that area would be a great many other islands of the Caribbean where we can expect enormous pressures as a result of poverty.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Illinois.

Mr. HYDE. Once more, the gentleman is on the right side of a very important issue. The gentleman's amendment needs to be supported overwhelmingly. I hope we can find a way to get OMB to expend these moneys once they are appropriated.

Mr. Chairman, I strongly support the gentleman's amendment, and only wish that it could be for a greater amount. The Immigration and Naturalization Service is a seriously troubled agency—understaffed and poorly equipped to meet its increasingly important responsibilities. Morale is dangerously low and too many employees are poorly trained.

The border patrol problems constitute a tinder box ready to explode. Severely understaffed, many members of the patrol singly face as many as 20 illegal aliens in the dead of night. Can one person hold them back? Of course not. These people are desperate to cross the border, and serious violence in these confrontations is always possible.

Twice the Congress has appropriated additional funds for the border patrol. Twice the Carter administration has refused to use those funds to increase the border patrol. Yet it was President Carter who, when presenting his amnesty for illegal aliens plan, proposed increasing the border patrol by 2,000.

There are pitifully few INS inspectors, and the increase of 402 included in my colleague's amendment will help to a very small degree. Current INS inspectors have been burdened with mountains of paperwork in providing services to foreigners in the United States who are entitled to benefits of one sort or another, but they have not been apprehending many illegal aliens lately.

The Attorney General, chief legal officer of the United States, decided to suspend enforcement of the law, and on November 26, instructed the INS Commissioner that his agents were not to seek out illegal aliens in their places of residence. The only enforcement of the law was to be at places of employment. Consequently, illegal aliens not apprehended at the border faced little chance of apprehension once in the United States.

In March, the Attorney General further suspended the law's operation by instructing the INS Commissioner that his agents could not enter homes or workplaces without a search warrant, court order, or approval of a U.S. attorney. Included in the order were instructions not to act on anonymous tips unless the source would be willing to testify during legal proceedings. My colleagues will all recall a recent murder that took place in this city a few months ago—an INS informant was publicly named and promptly murdered.

We are faced with a situation where the administration has twice defied congressional increases for the border patrol, and the Attorney General, sworn to enforce the law, decides to suspend enforcing the law, in order to encourage illegal aliens to participate in the 1980 census. Even the First Lady lent her influence to this effort when, during a visit to California, she assured listeners to a Spanish radio station that they would not be arrested if they cooperate with the census takers.

Although the Attorney General's order may be lifted July 1, there are many who fear the suspension order will be continued in some manner, thereby putting into effect the Carter administration's amnesty for illegal aliens plan which has had no congressional action or attention at all.

I urge my colleagues to overwhelmingly adopt the gentleman's amendment. The situation is reaching crisis proportions. INS agents are depending on us to give them the additional manpower they need to carry out their responsibilities. Its obvious the Carter administration will not.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, I rise in support of the amendment by my colleague on the subcommittee, the gentleman from New York. Our subcommittee has conducted several oversight hearings on the operations of the Immigration and Naturalization Service. It seems obvious that the integrity of our borders cannot be maintained at the present time with the inadequate funding for border patrol and inspector positions contained in the bill under consideration.

I concur with Mr. FISH that any new immigration policy cannot be effectively implemented if there are ways to avoid the policy. We see some indication to that with respect to the current refugee crisis. The policy established by this Congress in the Refugee Act of 1980, is being circumvented by the administration in dealing with the Cuban refugees who have come to this country outside the structure set up by the Refugee Act.

The same rationale applies to overall immigration policy. If the borders of the United States cannot be controlled, then the best of immigration policies cannot be effectively implemented and the law becomes meaningless. I trust the Select Commission will submit a meaningful report with some viable suggestions for a new immigration policy. However, in the meantime I see no reason to postpone adequate funding for the border patrol and inspector positions. We must establish a system of border control which has some integrity.

At a time when unemployment in the United States is increasing we should act to prevent more people from entering this country illegally to take jobs that could be filled by Americans. This is not to say that all jobs filled by illegal aliens would be immediately taken by those currently unemployed. However, illegals certainly do compete for jobs in the marketplace with Americans. This is no time to take any action which would further the opportunity for such competition.

We add to the illegal alien population and make the solutions to this problem more difficult if we postpone action until the report of the Select Commission has been issued and its recommendations considered by the Congress. We must assume our responsibility and fund positions now to establish some control of the border. We should have a viable system in place before we implement any new immigration policy enacted following the report of that Commission.

I am pleased to support the amendment by my colleague of New York and I urge that you do likewise.

Mr. LAGOMARSINO. Mr. Chairman, the gentleman yield?

Mr. FISH. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of the gentleman's amendment which addresses the same problem as that of the amendment by the gentleman from California (Mr. BURGENER.)

Especially, considering the uproar caused by the, to be charitable, haphazard policy on Cuban refugees, and the economic impact which Americans fear this will cause, I believe it is a very bad move for the administration to reduce what little border patrol we now have. At present only 350 officers are on duty at any one time to guard the 5,000 miles of land borders of the United States with Canada and Mexico. Also, these forces are hindered by gasoline rationing and too few funds to repair and service automobiles and other equipment needed by them.

My California district is especially affected by those illegal aliens coming across the border from Mexico, but all Members' constituents are affected because as taxpayers they must support the illegals who go on welfare or other assistance programs after entering the United States. This could amount to a tidy sum considering approximately 1 million illegals crossed the border last year alone.

Also, considering the border patrol estimates that they stop only about one-third of the illegals who attempt to get into this country, any reduction in personnel would virtually be an invitation for illegals to cross our borders. The easiest, most efficient, most humane, and least intrusive control of immigration is at the borders, prior to entry. This is evidenced by the fact that the INS now estimates it could take 2 to 3 years to deport the first criminal refugee from Cuba.

If an officer in each of the positions proposed to be eliminated were to make just the average number of apprehensions, 44,320 more illegal immigrants would be apprehended next year alone, instead of successfully entering the United States.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, here we are again today with the same issue we have had for 5 or 10 years, the same speakers in the well, primarily from the Committee on the Judiciary, who have done nothing about changing the law. We have no authorization for one person for the border patrol. If this is so important, why did they not report the bill last October when it was due? Here we are 9 months later, we have not even had the bill on the floor. We would have no money in here had we not gone to the Committee on Rules and asked them, "In spite of the fact that the Justice authorization has not been enacted, we think we ought to put in at least what the administration asks."

We could just as well put all these speeches in the Record. They are the same speeches made last year, the year before and the year before.

"Oh yes, we are going to wait for some report" or "We do not have time to wait for some report."

We have been waiting for 20 years.

Why do these people come into this country? They are good, hardworking people. They want a job. A lot of them do not stay here, even. They make it across the border after trying two or three times. They get a job, they save some money, and a lot of them go back home and come back here the next year. They are good, hardworking people.

What do we do about the employer who pays their way from the border to Chicago to work in the sweatshop? Nothing. Not a thing.

Three truckloads were caught going through Iowa, every one of them bound for a sweatshop in Chicago. Their way was paid for by the owner of the sweatshop. Nothing was done. The Committee on the Judiciary had not even reported to the House floor a bill to take care of doing something about employers.

There are some things you cannot take care of with money alone and this is one of them. You just cannot throw money, money, money at something and cure it if it has a basic problem involved that we cannot take care of that way.

Let me point out, again, that this was not authorized. We put in every position authorized for 1980. There is not one position authorized now, so do not talk about the amount that is authorized. Nothing is authorized.

Mr. Chairman, we put in the full amount the administration asked for in the bill.

Mr. Chairman, we have already appropriated for 702 positions in 1980 that are not filled. You could have appropriated for 1,702 positions, they still would not be filled.

So here we are, Mr. Chairman, we are under a budget resolution, we have got to stay within the limitations of the budget. We have this choice: Should we appropriate some money we know is not going to be used and then not have the money to appropriate to one of these programs we need money for? Should we do the opposite? We thought we ought to do the opposite. We know the money is not going to be used. We have provided funds for 250 work years more than they now have on board. Putting more money in is not going to change that situation a bit. Putting more money in for INS, however, will mean we will have to take away from some of these other programs—programs that we want—in order to stay within the budget resolution.

So I say here, Mr. Chairman, this is one of those things you cannot solve by throwing more money at it or by making speeches on the House floor once a year. That is no substitute for doing something in committee and reporting out a bill.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from New Jersey.

Mr. RODINO. Mr. Chairman, I thank the gentleman for yielding. However, I think the gentleman in the well should set the record straight. I heard the gentleman say that the Committee on the Judiciary had not reported the bill. If the gentleman will check the record, he will find that the Committee on the Judiciary reported the Justice Department authorization legislation on April 14. If the authorization bill had been scheduled for floor action before the appropriation's bill, these increases would have been discussed and justified at that time. Regretably that did not happen.

Mr. SMITH of Iowa. The gentleman is quite correct about the date. It was reported in April.

Mr. RODINO. Mr. Chairman, I hope the rest of the gentleman's statement is correct.

Mr. SMITH of Iowa. The rest of the statement is correct. The measure should have been here last October.

The chairman should be advised that Immigration and Naturalization Service started making up their budget in October. A bill was not reported out until April. There is 6 months gone there. Their suggestion for their manpower needs, was based upon no authorization bill.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Rodino and by unanimous consent, Mr. Smith of Iowa was allowed to proceed for 2 additional minutes.)

Mr. RODINO. Will the gentleman yield further?

Mr. SMITH of Iowa. I do yield to the gentleman from New Jersey.

Mr. RODINO. I thank the gentleman for yielding. I take time only to point out that the Committee on the Judiciary did its job in a timely fashion and that as a result of its intensive study it determined that these additional personnel are needed.

Mr. SMITH of Iowa. As the gentleman knows, after the authorization was passed last year we helped to get them money for every position that was authorized. As of now we do not have an authorization. We can only cooperate so far. We have gone so far as to try to act as both an authorizing and an appropriations committee. Then we get on the floor and the members of the authorizing committee start attacking us because we did not do more.

Mr. Chairman, had we not put money in this bill for the number that is in here now, there would have been no problem on the floor because there would not have even been one position authorized. We would have gone to conference with the Senate and we could have cut it way down here below what is in here.

☐ 1630

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, I want to commend the gentleman for having brought the bill year after year, and having appropriated the money. However, this is one Member who is not a member of either the authorizing or the appropriation committee, and my only opportunity is here on the floor.

I dare say that the gentleman will be hearing more from me as these things come up here on the floor. I have no crack at them in the authorizing committee. I do not have a crack at them in the appropriating committee, so my only opportunity is on the floor. I resent the fact that the gentleman takes me to task for making this speech on the floor.

We need these personnel; we need them badly.

Mr. SMITH of Iowa. The gentleman can have any judgment he wants about the number of personnel, but nobody can deny that increasing the appropriations here by $22.3 million is not going to get one more border patrolman on the job down there.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

(By unanimous consent, Mr. Smith of Iowa was allowed to proceed for 3 additional minutes.)

Mr. SMITH of Iowa. OMB has already got a job ceiling on; they are holding back people. We have already provided money for more positions than they will fill. We have 250 work years in here more than they have now, and they are probably not going to fill them.

So, actually here is one of those cases where you have your choice. Do you want to appropriate more money for something that will not be solved anywhere, but you would like to do something about it; or, appropriate the money instead for one of these programs where we really need the money, and where it will be used?

Mr. KAZEN. Let me ask this question: How can we get OMB to do the will of the Congress?

Mr. SMITH of Iowa. All we can do is appropriate the money.

Mr. KAZEN. That is what we are doing now.

Mr. SMITH of Iowa. That is just another reason why just appropriations are not alone going to solve it.

Mr. WHITE. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Texas.

Mr. WHITE. Mr. Chairman, I thank the gentleman for yielding. The fact is, the crisis goes on regardless of what the committee has done here. If the OMB is holding us up, it behooves us to break this up, but it is a crisis that affects the entire country continuously. I think we can go ahead and provide these jobs because I assure the gentleman that there are plenty of people who will take the jobs. He can look at the mail in my office.

Mr. SMITH of Iowa. I have done my share of attacking OMB, but after all, OMB probably will get this and say that money is not going to solve this anyway.

Mr. WHITE. We can take them off the border entirely, but that is going to cost money for the taxpayers. Every dollar we spend here is going to be paid multiple in savings, and in many other programs.

Mr. SMITH of Iowa. It seems obvious, from all the hearings we have had, that what we need is some kind of a treaty with Mexico where they can regulate who comes into the country, and how many. They can take care of the problem; we cannot do it. If you put border patrolmen shoulder-to-shoulder, there is no way you can do it. These are good, hardworking people who come here because there is that gap that was mentioned here before. They want to get a job and save some money and go back.

We are not going to solve it just by putting more money into it. We need to do something about the employers that encourage them to come here, who pay their way to come here and work them under sweatshop conditions, and often not even give them the last 2 weeks wages.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding. I would like to point out that twice the House of Representatives has passed legislation which imposes sanctions against the employers of illegal aliens. We passed that bill twice in the House. We passed a bill with respect to immigration and refugees earlier this year, but when the administration, those that are charged with executing the law, do not follow the legislation we pass, then we are confronted with the kind of chaotic situation we have now with regard to illegal aliens and the so-called Cuban and Haitian entrants into this country, which number 120,000 people.

Mr. ALEXANDER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Fish amendment but in support of the Burgener amendment to provide funding for 160 border patrol positions to strengthen the enforcement of our immigration laws at our immediate borders. I do so in the clear recognition that adding border patrolmen not only will not solve our problem but may not even help if history repeats itself.

More patrol positions do not tighten up our borders if they go unfilled as they have in the past. True, our all-wise Office of Management and Budget told the Immigration and Naturalization Service that it could hire all the 495 new enforcement officers Congress provided for in this year's budget. Then, in its zest to cut costs next year, OMB told INS it would have to shrink the patrol by 160 positions in fiscal year 1981.

The OMB action was rationalized by saying that maybe more border patrol would not reduce the number of illegal aliens entering the United States, even though INS data show that more enforcement officers mean more apprehensions.

Of course, if the officers are limited, as they have been at least part of this year, to using 3 gallons of gas per shift per vehicle, enforcement is seriously hampered. There is obviously more than one way to cripple increased law enforcement. I agree with efforts to control and reduce Federal Government energy consumption. But, relief from general conservation rules ought to be granted activities where mobility is essential to successfully carrying out assigned responsibilities.

In proposing to cut border patrol positions, the administration said new resources which may increase arrests of illegal aliens do not address the cause of illegal immigration.

I agree.

So long as illegal aliens can come into the United States, take up good jobs earning enough to support themselves here, send home money amounting to an estimated $3 billion annually, and do so at the risk of only getting themselves sent home, with the United States paying the fare, we have not taken the profit out of illegal immigration.

So long as Americans in business, industry, and farming can repeatedly hire illegal aliens, get caught and receive little more than a slap on the wrist from law enforcement agencies we have not taken the profit out of illegal immigration.

Waiting for the recommendations of the Select Commission on Immigration and Refugee Policy, as the administration has recommended, before we increase our law enforcement resources is pennywise and pound foolish.

The Commission's report is needed.

True.

But, the hundreds of thousands of illegal aliens pouring across our borders while we wait for that report are not needed. Their action and our inaction simply encourages further lawbreaking.

Long, heated, emotional battles inside and outside Government have been waged every time we have attempted to change our immigration laws. Honesty forces us to admit that months, even years, could elapse before recommendations of the Commission or other proposals that have long been under consideration become law.

The need for the Commission's report in no way justifies our continued inaction. Our present knowledge, laws and resource potential give us the capability of doing something now.

I do not now and have never supported closing our borders to legal immigrants. I have insisted and will continue to insist that we do our best to close our borders to illegal aliens who first break our laws to get into our land and then demand the protection of our laws to support and keep themselves here.

I urge the administration to be done with muddling through the morrass of contradictions and conflicting actions encouraged by our lack of comprehensive enforceable immigration policy.

We have immigration laws and immigration control resources as well as other general laws which if fully used by the administration in a strict, fair and uncompromising manner would deter the hordes of illegal immigrants pouring into our country. We would have a breathing space in which to revise our laws free of the crisis atmosphere that is building in this Nation.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank my colleague for yielding.

I do not know what is going on in this Congress and in our Government. How is it the business of OMB to decide whether or not the laws we pass are sensible? They are supposed to execute the laws. Have we no right to impeach people? I thought impoundment was ended, that it was no longer legal. How is it that we have a department of the Government that simply defies Congress? What are we doing here? Have we not the right to pass laws and expect that they shall be obeyed?

Mr. ALEXANDER. I think, to answer the gentlewoman's questions, that representatives from OMB are in good conscience waiting on some recommendations which will result in a fundamental change in the law of the Nation.

Mrs. FENWICK. That is not their job. Their job is to execute the law. We appropriated the money for these border guards, and they refused to make the appointments.

Mr ALEXANDER. And in their haste to make recommendations which would balance the budget, they asked that 160 positions be reduced from INS. I think that was an ill-considered decision, and I think that we should support the amendment offered by the gentleman from California (Mr. BURGENER) and restore those positions.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding. I want to say, in support of the Judiciary Committee of which I am the ranking minority member, that we did hold extensive hearings with respect to the Department of Justice authorization. We did that in a timely way. As a matter of fact, the budget resolution, provides for the employment of additional border patrol in the same manner as does the amendment offered by my friend from New York (Mr. FISH). These provisions are included in the budget resolution even though they did not find their way into H.R. 7584 the appropriations bill.

We on the Judiciary Committee completed our work in time. However, we do not handle the scheduling of the debate on authorization legislation on the floor. That is the dilemma we find ourselves in.

I thank the gentleman for yielding.

Mr. RAILSBACK. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman and Members of the House, I want to speak in support of the Fish amendment, and in addition to the Burgener amendment if the Fish amendment should fail. I want to point out that the problem of illegal aliens goes back, I think, for a long, long time.

□ 1640

I have had an occasion to pull out a Chicago Tribune article written by Bob Wiedrich. He is a well-known columnist for the Chicago Tribune. The headline of the column is "Carter Double-Talking on Problem of Aliens," and it goes back to April 1, 1979. Here is what that particular column said:

> As recently as August, 1977, President Carter promised to increase the INS Border Patrol staff by 2,000 positions as he introduced his administration's proposals for curbing illegal immigration.
>
> At that time, the force numbered only 2,300. And its outnumbered ranks were under constant criticism.
>
> Then a few months ago, Mike Egan, the associate United States attorney general who supervises INS, repeated the Carter administration's vow to strengthen the Border Patrol so that taxpayers would not have the keep footing the bill for millions of illegal aliens.
>
> It all sounded good. The administration's words bore the promise of action. Even INS Commissioner Leonel Castillo thought the pronouncements were for real.
>
> Castillo naively asked the Justice Department—his agency's parent organization—to increase the INS budget by $192 million during fiscal 1980 so that 3,978 new positions could be created, more than half of them in the enforcement field.
>
> Of the new posts, 1,204 would have been allocated to the Border Patrol, the elite unit that prowls the lonely backwaters of the 1,946-mile U.S. boundary with Mexico in search of illegal aliens and contraband.
>
> Another 599 plainclothes investigators would have been hired to seek out illegals within the country's interior. And still another 307 inspectors would have been recruited to man ports of entry.

Now, Wiedrich pointed out that the problem was not just in having illegal aliens cross our borders, but, as he points out in his columns, that many of them were ripped off by marauders and by gangs. And then he pointed out in addition that there were employers in the United States who were taking advantage of the illegals.

To make a long story short, the article continues:

> When his requests reached the Justice Department, artisans there chopped the 3,978 new positions down to 261. Of that figure, they allocated only 202 to the Border Patrol, a number representing the only increase proposed for law enforcement personnel.

Then it went to OMB and it got chopped down even further until there was actually a negative impact.

Then more recently I came across an article that appeared in the TRB column of the New Republic dated May 24, 1980, which stated as follows:

> Today unwillingness to face up to a disagreeable choice is producing enormous numbers of illegal aliens, communities of cowed workers taking U.S. jobs as unemployment grows, an exploding bilingual ethnic minority (soon expected to surpass blacks in actual numbers), political pressures, an almost silent press, and international tensions like the current Cuban refugee crisis. And, once more, contempt for the Constitution. The unfortunate stepchild U.S. border patrol is so starved for funds that on any given eight-hour shift on the 2,000-mile Mexican border only about 350 patrolmen are on duty. There has been no U.S. immigration commissioner now for eight months. Patrol funds are so low that in certain areas vehicles are unofficially rationed to two gallons of gas for an eight-hour shift. Apprehension of illegals has dropped sharply, according to some observers. The American people have sent the lonely sentry to guard the pass and then forgotten about him.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. RAILSBACK) has expired.

(By unanimous consent, Mr. RAILSBACK was allowed to proceed for 1 additional minute.)

Mr. RAILSBACK. Mr. Chairman, I say to the Members of the House that I just think we are deluding ourselves if we really believe that we are going to deal in any kind of a meaningful way with stemming the tide that has been rising until we come up with some kind of policy, recognizing that we may not only be impacting on our own country but we also may be subjecting many unfortunates who are trying to cross into our country to all kinds of crimes that are committed against them.

Mr. Chairman, I think the Fish amendment is reasonable. Frankly, I do not think that it goes far enough, but at least it is a step in the right direction and I hope we adopt the Fish amendment.

Mr. RODINO. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I think the amendment has been debated adequately. I would like to restate what I said a while ago, that the Committee on the Judiciary has diligently followed this problem. It is a problem that we have studied closely for almost 10 years. Based on our extensive oversight activities I can state to this House without reservation that enforcement alone is not the complete solution. Were we to employ border patrol that would stretch shoulder to shoulder along the entire border, we would not be able to stop the illegal flow of aliens.

But, we cannot afford to await a total answer to this complex problem before taking some remedial action. In fact, the approach taken in this amendment is the most humane and reasonable short-term response to this problem.

I think that the gentleman from New York (Mr. FISH), who has taken the time to offer this amendment, has presented the problem accurately and has presented an effective response to this difficult problem.

It is regrettable that while the Committee on the Judiciary reported the Department of Justice authorization legislation on April 14, no subsequent action has been taken. That certainly is not the fault of the Judiciary Committee, and we now come to the House and present what we believe to be a reasonable proposal, recognizing the fact that this problem must be dealt with.

I believe for these reasons, Mr. Chairman, it is important that we adopt this amendment. I am sure that the gentleman from Iowa who presented the opposition view realizes that there is ample justification for the increased personnel embodied in this amendment.

Mr. O'BRIEN. Mr. Chairman, I move to strike the requisite number of words, and I rise in reluctant opposition to the amendment.

Mr. Chairman, I am inclined to think that my friend, the gentleman from New York (Mr. FISH), may find that my remarks remind him of that old Broadway tune: "Your lips tell me no, no, but there is yes, yes in your eyes."

There are a couple of points that have been raised that perhaps we should touch upon again. One is that the Burgener amendment, which I will support, is at least within the 1980 authorization, even if we do not have a 1981 authorization before us.

Second, I believe that the somewhat omnipotent OMB might merit a certain closer examination within the confines of the Treasury and Postal Service appropriation, and that such scrutiny might have a tendency to eliminate that haughty disdain OMB seems to exhibit toward us.

In a word, Mr. Chairman, I think under the current circumstances the Fish amendment goes too far, and the Burgener amendment is just right.

Ms. HOLTZMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I hope that this issue will not be decided on whether or not the authorization bill was brought to the floor at an appropriate time and what the sequence of events has been, because the issue here is much too important for that. We know, unfortunately, that the authorization process and the appropriations process in the House of Representatives do not always function as they are theoretically supposed to.

The fact of the matter is that the gentleman from New York (Mr. FISH) has offered a very important amendment. It is important to the country economically, and it is also important to the question of human rights.

☐ 1650

As Chair of the Subcommittee on Immigration, Refugees and International Law, I can tell my colleagues that we held 3 days of oversight hearings on the operation of the Immigration Service and border patrol, on the question of the entry of illegal aliens, and on the question of violence on the border, and we found two things. First, that you cannot completely solve the problem of entry of illegal aliens solely by increasing the number of border patrol personnel, but you can substantially limit the number of people coming; and, second and equally important, that the underfunding of the border patrol has led directly to an increased level of violence, violations of civil and human rights, and brutality on the border.

We heard testimony about instances in which there were injuries and deaths. Do we really need to have a repetition of such incidents? We had testimony from the U.S. attorney from San Diego, who spoke eloquently before the subcommittee about the problem of violence on the border. He noted that just having two-person patrols instead of one-person patrols could dramatically and drastically limit the level of violence on the border.

Although these two-person patrols have finally been set up, it has resulted in reducing the overall number of border patrol men and women on the border.

There is really no question that we do not have enough people patrolling the border right now, that OMB has improperly refused to fill the positions that Congress authorized and for which it appropriated funds, and that an increase such as the gentleman from New York has proposed would make an important difference in terms of effective, decent and humane enforcement of the law on the border.

I also strongly support the 91 position increase in the immigration inspection force contemplated by the amendment. According to the airline industry, since 1975 we have experienced an increase of 110 percent in international arrivals at our airports while in the same period the number of inspection personnel has only increased by less than 40 percent. In 1979 over 27 million people came into the United States through our airports, and all indications are that foreign air travel will continue to increase.

Favorable currency exchange rates for the dollar, deregulations of the airlines, and the comparatively lower prices in the United States have prompted foreigners to come to our shores in greater and greater numbers. The economic advantage to our country in promoting tourist travel is obvious, and it certainly will not help to have needed visitors waiting in lines and even on aircraft for hours awaiting immigration inspections.

The additional 91 positions called for in this amendment will help relieve congested airports in New York, Los Angeles, Dallas, Houston, El Paso, and Detroit and permit more expeditious processing upon arrival at our international air gateways.

Legislation is presently pending before both my subcommittee and the Senate Judiciary Committee which would waive visas for certain low-risk countries, thereby eliminating controls on nonimmigrants now exercised by U.S. consuls. One version of this legislation recently passed the other body and may shortly be the subject of conference committee deliberations. Such legislation would impact heavily on the immigration inspection activity since inspectors would be required to exercise greater precautions and conduct lengthier examinations to compensate for the elimination of the screening now done by the consuls. Without additional inspectors, the visa waiver legislation, which supporters claim would dramatically help our tourist industry and balance of payments, would clearly be impractical, counterproductive, and even dangerous. If we are serious about facilitating foreign travel to this country we must take steps today to provide for orderly, efficient, and thorough screening of all arrivals by appropriating funds for these desperately needed additional inspectors.

I urge adoption of this amendment.

Mr. GOLDWATER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, in these times of rising unemployment, one of the delicate issues which most of the California delegation, I think, faces when we go home is the question of why are we not doing something about the undocumented aliens in this country. And, of course, we are somewhat at a loss for an answer, inasmuch as this Congress and this administration, as well as previous ones, have failed to come up with a solution. It is not that we have not tried. In fact, I would commend the gentleman from New Jersey (Mr. Rodino) and his committee for making an effort. But nevertheless, we stand here today without a solution to this problem. The only solution which is readily at hand is to increase the enforcement capability of the laws that are on the books.

If there is ever a need to compliment and commend the agency empowered to enforce these laws, it is certainly the Immigration and Naturalization Service, who, underpowered, undermanned, understaffed, with bad equipment, lack of communications capability, is doing a capable and a very good job. They have the statutory obligation to enforce our immigration laws, yet they do not have the tools that are needed to do so. Until we come up with a different solution, then this is all we have, and it is up to us, I think, in our wisdom to support what they are empowered to do.

In supporting these amendments, let me just say that the problem is not just along the border between, say, Mexico and the United States; but there is the problem inland, and there are inland stations for the INS in which they send out their agents to try to apprehend the undocumented aliens. In my area of Camarillo, Calif., the station there is operating at less than half the manpower strength it had 5 years ago. There are now only five agents and two supervisors assigned to this Camarillo station, and that limited number of agents is expected to cover half of Ventura County and half of Santa Barbara County with an estimated 15,000 to 30,000 undocumented aliens in this area. They are trying to do this particular job with only five agents and two supervisors when they in fact should have twice that many. In essence, they are trying to hold back the tide of the ocean with a broom.

I am not here to minimize the desperate need of INS and their manpower shortage needs along the border, but I just want to point out that the problem is far greater than just between two countries, but certainly inland, at many of our INS stations, where manpower shortages, lack of communications, outdated and outmoded equipment are also plaguing our ability to enforce the law and to bring some kind of reasonableness to this question which so far the answers have escaped us.

So, therefore, Mr. Chairman, until we have a better answer, it seems to me that we must and we shall support the amendment of the gentleman from New York (Mr. Fish) and then, likewise, support the amendment offered by my colleague, the gentleman from California (Mr. Burgener), in passage of this increase in manpower capability. To do less, I think, is to do a disservice to the taxpayers of this country who are footing the bill for these undocumented workers. The need is great. The need is acute. The answer is at hand.

Mr. EARLY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment offered by the gentleman from New York (Mr. Fish) and the amendment offered by the gentleman from California (Mr. Burgener).

As members of this subcommittee, Mr. Chairman, we appreciate the frustration that the Members have who live in these districts. But we have listened to the testimony. The subcommittee has funded 100 percent of the request of Mr. Civiletti for the INS. Last year, Attorney General Bell, when he appeared before the committee, requested the Appropriations Committee to do this, and I quote:

> We are just doing nothing. I don't believe we ought to just keep adding people until I can find out what it is the American people want us to do.

Further, when he is talking about putting up a fence, he says:

> It doesn't do any good to hire more and more people if the border is too long. Not all these people come from Mexico. There is a large number coming from other areas, on the East Coast, for example.

And he goes on and on.

I want to ask the sponsors of the amendment, both amendments, who are two relatively conservative Members:

What is going to happen if we approve this amendment and the 311 border agents and the 91 inspectors are approved? What in the new law is going to improve the situation? From the testimony we have heard, all they are going to do is send the illegal aliens back, and we get them 2 days later.

In my opinion, what we are doing is recognizing a serious problem and merely adding money to give the appearance we are doing something about it. The improvement in the problem is what the chairman, the gentleman from Iowa, said. When you detect numerous illegal aliens in Iowa on their way to Illinois, all we do is put them on a bus and send them back and pay for the bus and pay for the expense, and then they return.

I think everyone in this Chamber appreciates the problem and wants to correct the problem, but does earlier detection and sending them back correct the problem? How does the situation improve?

Mr. FISH. Is the gentleman addressing that question to me?

Mr. EARLY. Yes, I am.

Mr. FISH. I guess the other side of it is that the situation would be far worse without a greater interdiction on the border. I could not agree more with the gentleman that we need a policy of action that will address the problem of illegal entrants, particularly in the Southwest.

□ 1700

I think the answer to the question of the gentleman is that it is a lot more humane to stop people as they cross the border and redirect them back across the border without involving any criminal prosecution or any undue expense.

Mr. EARLY. Does it end there? We have done that. Everyone who testifies before the subcommittee tells us, "If we catch them and send them back, they are just coming back across 2 days later." How is the situation improving?

Mr. FISH. The situation improves, I will answer the gentleman, by the proof that the more personnel we have at the border, the more apprehensions are made, and apprehension is the standard by which we judge how many crossings have been made.

Time after time as in operation shortstop when there was a concentration a couple of years ago of personnel in the Chula Vista sector, apprehensions increased substantially.

Take the reverse of that. In the month of May, apprehensions were cut in half because we took the border patrol off the border.

Mr. EARLY. Let me say, I think the subcommittee will acknowledge that.

Mr. FISH. That answers the gentleman's question.

Mr. EARLY. But that does not improve the situation. We have had testimony from California, where we send illegal aliens back in busloads, in busloads, but they will be coming back on the next van.

Mr. FISH. Would the gentleman prefer we did not send them back in bus vans?

Mr. EARLY. I would prefer that we address the problem, that we are going to spend $23 million more of the taxpayers' money, that we have a situation that improves the situation and does not merely delay it. The new increased personnel certainly will make for more apprehensions, we acknowledge that. But all it does is delay it. It sends them back. Then they come back on the next bus load.

I would like someone from the Committee on the Judiciary or some other committee to suggest what tsese added people are going to do.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. Early) has expired.

(By unanimous consent, Mr. Early was allowed to proceed for 2 additional minutes.)

Mr. EARLY. I would like someone to say rather than merely apprehensions, after the apprehensions, we are going to correct the problem.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. EARLY. I will if the gentleman will answer the question.

Mr. FISH. I cannot presume to talk for the committee, but let me remind the gentleman we have in front of us here an appropriation bill for the Department of Justice, which is a vehicle for increasing funding, through the amendment process, for what we are trying to accomplish.

What the gentleman is referring to, and I am totally sympathetic, is a whole range of legislative initiatives that would deal with the basic problem of the magnet that the U.S. economy provides. Such questions as the treatment of undocumented aliens, the status of undocumented aliens here today, reaching the question of the incentive to work here, perhaps through employer sanctions, a whole range of issues that are currently under intensive study by the Select Commission on Immigration and Refugee Policy, which will be making their decisions before the end of the year, reporting to the next Congress early in the next Congress. At that time, if I have anything to say about it as one of the Commissioners, we certainly will be presenting the Congress with a thoughtful package.

Mr. EARLY. If I can just reclaim my time and make one point, again, the frustration is these new inspectors will make more apprehensions. Again, to quote Attorney General Bell when he was asked the question of whether he needed more people, he said no. He said, and I quote:

> I have been unable to find out what our immigration policy is from the standpoint of illegal aliens. I was placed in charge of that by the President and I introduced a package that I thought would bring order out of chaos in the last Congress and it never got out of committee.

Regarding what Chairman Smith has suggested, I echo his sentiments. Until we get some reorganization of INS, to put more money into this very serious problem, an acknowledged problem, we are just not correcting it. I hope both amendments are defeated.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. Early) has again expired.

(At the request of Mr. Kazen and by unanimous consent, Mr. Early was allowed to proceed for 1 additional minute.)

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. EARLY. I yield to the gentleman from Texas.

Mr. KAZEN. I thank the gentleman for yielding.

I can see the point the gentleman is driving to, but the inspectors also have another duty, and that is to process the people entering this country illegally, and we are shorthanded in those inspector positions. This is one of the things that I am interested in.

Mr. EARLY. It is just that all the debate is addressing the aliens coming over—like it is going to correct this. I appreciate the problem. I would give the gentleman my vote toward more money, more inspectors, if I thought it would correct the problem of illegal aliens. You need a program before you need just moneys.

Mr. KAZEN. I understand, but I have a peculiar problem in my district, as others do, in airports and other places. I have a brand new international bridge that must be manned 24 hours a day because we have got this tremendous bottleneck.

Mr. EARLY. I appreciate that. I think, when the committee increases the demand for inspections, we acknowledge what the gentleman has said.

Mr. DANIELSON. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, first, I associate myself with the remarks of the gentleman from New York (Mr. Fish), with my chairwoman, the gentlewoman from New York (Ms. Holtzman), the gentleman from Texas (Mr. Kazen), the gentleman from Texas (Mr. White), and the others who have the understanding and vision to appreciate the problem with which we are confronted.

I want to state, first of all, that I think it makes absolutely no sense to argue that we should not do anything about this problem because we do not know the solution. If that is the kind of an attitude we are going to take on governmental problems, we might as well all resign and go home.

You know, we do not know the solution for cancer, but we are still spending money on it. We did not know the answer to infantile paralysis for a long time, during which I was alive and breathing and afraid of infantile paralysis, but we kept on spending money on it, and we did work out a solution.

We worry about unemployment. We do not know the solution to unemployment, I can tell my colleagues that. We have had boom and bust as long as I can remember, but that does not mean we should throw up our hands in despair because we do not know the ultimate answer, and walk away from it and let people suffer.

Mr. Chairman, we have just as big a problem here in the illegal alien problem. I think this is a very wholesome debate, because even though the Committee on Appropriations may not be too acutely aware of it, there are those of us who represent border districts and near-border districts who have been steeped in this problem for at least the last 10 years. It is an enormous problem. I am delighted to see that today, for the first time in my 10 years in this Congress, people other than border areas are beginning to recognize that there is some kind of a problem, but in despair they raise their arms and say, "We do not know the solution, so, therefore, we might just as well do nothing about it." Heaven forbid.

The way to tackle a problem is to see it, to try to understand it, to learn something about it and then to take a step forward, another step forward, and do something, and even if you cannot solve the problem, because I respectfully submit that even though many problems cannot be solved, at least one can learn to manage them. One can learn to live with them. One can learn to recognize the problem and do something about it to arrange one's society, to arrange one's economy, so that one can live with it.

I cannot help that the Committee on the Judiciary passed an authorization bill long ago and it is languishing in the Committee on Rules. Do not put that burden on my back, nor on the other members of the Committee on the Judiciary. We did pass the legislation, and it does languish. Some day it will come up.

I submit that it serves no purpose to say that one could have border patrol men shoulder to shoulder from Brownsville to San Diego and the flow could not be stopped.

Of course, one cannot stop the flow, but one is surely going to hold it down. One is going to hold it down substantially.

I would say this: It does no good to argue that one cannot solve a problem if one can do something about managing it.

Then I hear people say, "Well, these are good people, these illegals. All they want to do is work. They want to come in and work and they want to save a few bucks; and they want to go home."

□ 1710

Why should we worry about them? I will tell you why we ought to worry about them. I have a district which probably has more illegals than any other congressional district in the United States of America. I probably have a two for one basis; I mean, one illegal to every two legals.

I will tell you why we should worry about it. The jobs they get are the jobs that our American citizens and our American permanent residents would otherwise have. The letters which I receive in my office complaining about illegals are from people whose husbands have lost their jobs, or who themselves have lost their jobs, or whose children cannot get a job because illegals are being hired, hired all over the place.

We used to have a Treasurer of the United States, Romana Banuelos, who runs a food factory out in California. They raided her food factory while she was Treasurer of the United States about once every 6 weeks. They usually picked up 75 to 80 illegals there; you can see how much cooperation our immigration authorities were getting, the illegals are found in the same place.

There is a shoe factory in El Monte in my district which gets raided from time to time. They usually round up about 400 illegals.

Now, whose jobs are they taking? They are taking the jobs of American citizens and lawful permanent residents.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. DANIELSON was allowed to proceed for 5 additional minutes.)

Mr. DANIELSON. I thank the chairman.

Mr. Chairman, I say this. Let us worry about the illegals, because they are imposed upon. They are cheated. They are not given their wages the last week or two. They are compelled to live oftentimes in squalid surroundings. They are not given the benefits that most people get. Do not ever kid yourselves that they are not paid the minimum wage, because the wage and hour people come along and see about that.

But they cannot complain if conditions are not sanitary. They dare not complain if anything would happen which might prejudice their jobs.

I know that in some of my cities these very same illegals are victims of crime. They do not cause the crime, but they cause a crime wave because they are the victims of crime and many of them are robbed, are burglarized, are brutally attacked and assaulted, but they dare not complain to the police, because if they go into the police station to complain, then they are going to be identified as being here illegally and they are afraid of being deported.

I have run into that time after time.

Do they cost money? Of course, they cost money. In 1972 I obtained an accounting from the Los Angeles County Board of Education which told me that during the school year of 1971 the cost of educating illegal kids in the Los Angeles County School District was more than $100 million. I have not been able to get a comparable figure since that time. They are reluctant to tell me, because I did publicize it and they could not stand the heat of public reaction, but if you want to see it, I can still show you the original.

Mr. Chairman, I think it is wholesome to have this debate today, because maybe we will shake enough people down in the administration to wake them up to what is going on. I do not know what is wrong down there. I do not know if they are blind to the problem or if they have seen it, but do not understand it. I do not know what it is, but I detect one thing. There is a reluctance to do something about it. Perhaps it is based upon the fear of offending somebody, that may be the reason behind quitting calling them illegals and called them undocumented. You know, it does not sound quite so offensive. I do not know what it is, but we have to do something about it. We have to protect the people of America. We have to protect our own economy. We have to protect our own society and if we are going to do it, we had better jolly well get to work and do something about it and do it quickly.

I will tell you how far our Government, both Republican and Democratic administrations, has gone for a long time, how far they have missed this problem. They have not even identified it. In our immigration laws, we have provisions for student visas, for tourists, for immigrants. We have a category of people known as permanent residents. All this is well and good. We have refugees who are fleeing from the tyrants. We have also asylum seekers who can show that they are going to have their heads cut off if they do not get out of the country rather quickly; but do you know what we do not have? There is no provision for the illegals; so when they come into California or Florida, and how many came into Florida? As of this morning at 7 o'clock, 115,189 have come in since April, as of this morning at 7 o'clock. They are not refugees, so our refugee programs do not take care of them. They are not asylum seekers. They are not students. They are not tourists. They are not immigrants. What are they? They are nothing in the law. They are illegal immigrants, and as a result we have no program for them.

I will tell you who pays the bill. Uncle Sam welcomes them with open arms, but who pays the bill? The local taxpayer, the taxpayer in your county, sir, the taxpayer in your county, ma'am, the taxpayer in my county, they are the ones who pay the bill. Some people have told me that, well, these illegals from Florida do not get to California, that California gets the ones from Vietnam and, we do, incidentally. We have about 65 percent of all Southeast Asian refugees in southern California; but what happened to the ones coming in from Cuba? As of Thursday morning, last Thursday, 2,536 of them had applied for welfare in Los Angeles County, from which I would gather that at least double that number, more than 5,000, are presently in California.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. It is always a joy to yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank my colleague.

Mr. Chairman, I have wondered, we have listened now to talk of the workers coming across the border. I wonder why we do not do something that worked extremely well in New Jersey with the workers coming up from Puerto Rico. The Commonwealth of Puerto Rico arranged contracts with the farmers in my State. Those people came up. Everybody knew who was coming. The representatives of the Commonwealth of Puerto Rico inspected the places where they were living and working, checked on their wages and made sure they went home. It was a legal, lawful, proper system, which protected the workers and made sure that they were not victimized. Why do we not do that?

Mr. DANIELSON. I would recommend,

if the gentlewoman will yield back to me, that she talk this over with our own very distinguished gentlewoman, the chairwoman from New York (Ms. HOLTZMAN). She may have a wonderful idea.

The Immigration and Naturalization Service reports that as of this morning, July 1, 1980, 115,189 Cubans have entered the United States through Florida since the onslaught began in April 1980. All of these 115,189 have entered illegally—outside of our immigration laws and in defiance of those laws. They have entered without visas and without permission and despite our carefully drawn immigration laws which are designed to permit a reasonable and regular flow of immigrants to our shores. Ambassador Palmieri, who is in charge of our so-called refugee program, has himself described this invasion of illegals as being a form of warfare and that those who are arriving on our shores are in effect "human bullets" in the warfare. Those who come here do so not only in defiance of our laws but they are selected, chosen, by Fidel Castro and his government rather than our own Government as is the plan and practice of our immigration laws.

This situation aggravates the fact that throughout the world there are persons who are seeking regular and legal admission to the United States as immigrants in accordance with our immigration laws. Usually they are the family members of persons who are already U.S. citizens or who have been legally admitted to the United States as permanent residents and who are awaiting citizenship. Those prospective immigrants are compelled to wait in line until their turn comes so that they can enter the United States legally in accordance with our immigration laws. Some of them have to wait for several years for the opportunity. They are scattered throughout the world, in the Philippines, in Korea, in Japan, in Italy, in Greece, in the Middle East—literally throughout the world. Yet, as they wait their turns, they see hundreds of thousands of other persons breaking into the line ahead of them and entering the United States as refugees from Cambodia, Vietnam, Laos and Southeast Asia, and now another flood from Cuba and Haiti.

These illegal entrants are received on our shores ahead of and in preference to those who have applied for and who are awaiting an opportunity for legal entrance. The resentment that this causes among the U.S. citizen relatives of those who are seeking lawful immigration, as well as among the lawful prospective immigrants, is readily understandable.

There is another complication, a grievous result to this problem. As we all know the United States today is suffering from a high rate of unemployment which seems to be increasing. Throughout our country many manufacturing plants have closed down or gone on to a reduced quota of production. Jobs are scarce, inflation is high, taxes are high and the burden of absorbing additional waves of persons for whom jobs must be sought in competition with our own people, all of whom must be supported on welfare, is a prospect that is causing much resentment throughout our country.

Ever since the influx of illegal aliens from Cuba and Haiti began, I have been urging the President and the administration to enforce our laws strictly so as to hold down the number of persons entering in this manner. We already have sufficient laws on our books to make a material and effective barrier to this influx of illegal aliens. Our laws already provide for the seizure and forfeiture of vehicles used for the transportation of illegal aliens into the United States. I urge that our administration enforce that law strictly. If every boat, if every ship, if every vessel bringing illegal aliens into the United States is seized and forfeited it will have a tremendous impact on stopping this invasion. The vehicles which are seized and forfeited will no longer be used for that purpose and the example will provide a powerful deterrent to any who seek to continue the practice in the future.

A third serious result of this invasion is the burden on the taxpayers of our Nation. It is the Federal Government which is allowing, and in some cases encouraging, this illegal immigration. Yet they are not "refugees" within the meaning of our laws and the cost of welfare to support them is not borne by the Federal Government, but must be borne by local governments. That means that although the Federal Government is permitting, and in some cases inviting, these people to enter the United States, it is the local and State taxpayers of communities in which they are found who must pay the cost of assimilating them into our communities, providing them with welfare payments and medical care, the cost of education and of other incidental costs incurred on their behalf until such time as they become self-supporting.

It is true that the bulk of this new burden has fallen upon the taxpayers of Florida though we have all noted in recent weeks that the Federal Government has moved some of these illegal immigrants to military establishments in Arkansas, Pennsylvania, Maryland, and elsewhere. Many have been released from those temporary detention centers into the community and they are beginning to redistribute themselves through the United States. I am convinced that the bulk of the Cubans and Haitians will return to Florida since they tend to identify themselves with Florida. However, they do migrate to other parts of the country. In southern California, which I represent, we already are caring for about 100,000 of the refugees who have entered the United States from Southeast Asia. Today we are beginning to receive a rapidly increasing flow of new illegal aliens from Cuba.

Within Los Angeles County alone, 2,536 of these new illegal aliens had applied for welfare as of Thursday, June 26, 1980, and that number is increasing at the rate of about 100 applicants for welfare each day. Since that number is only those who have applied for welfare, it is reasonable to believe that the number who have moved to Los Angeles County is at least twice that number.

Again, I urge our administration to reconsider its policies toward this illegal immigration, that it enforce our laws relating to immigration strictly, and that it do what it can to stop the flow of illegal immigrants to our shores and that it sponsor legislation to shift the burden of caring for these illegal immigrants from the local taxpayers to the Federal tax roles.

Mr. LUNGREN. Mr. Chairman, I move to strike the requisite number of words. I rise to speak on behalf of the amendment.

I thank the chairman for the recognition.

Mr. Chairman, the statement has been made that this is not the total solution to the problem. I do not think anyone suggests that it is; but as a member of the Subcommittee on Immigration, I have heard a great number of experts talking about the various multifacets of the solution to this problem; yet there is universal agreement on one part, that is, that law enforcement has to be part of the total picture, whether we take other steps or whether we do not take other steps.

I, for myself, happen to think we need a guest worker program, that we need an enforcement card, that we need sanctions against employers, and combined with all that we need law enforcement. When we had the bracero program, with all the problems that it had, in its highest year we had a total apprehension in this country of 50,000. Last year apprehensions approached a million. We are going to continue to have people seeking employment as long as we have a Third World country abutting a first world country; but we have got to take some steps to attempt to regulate this flow and somehow enforce our laws.

So everyone agrees, at least those that have looked at the area, that enforcement is one of the parts of the solution.

Second, the question is, Why should we fund this if OMB is not going to spend it? Well, what is happening here? Is the tail wagging the dog? Are we not the legislators in this country?

We had people before our subcommittee from the Justice Department who come to us and say, "We don't know why these positions weren't funded. OMB told us they weren't going to be funded."

Finally, in answer to one of my questions in the subcommittee, they said, "This is the reason why we didn't fund all those positions. It is because next year the Carter administration will not authorize, will not support the authorization of this level of employees; so why hire them this year when we have to fire them next year after only 6 months?"

In other words, they are threatening us with future actions so that they will not now have to enforce what this Congress had said should be done.

Last year the Appropriations Committee did yeoman service on behalf of the concerns of those of us in the full Judiciary Committee. We had an agreement worked out in conference that did fund the requests that we made; but the fact of the matter is that OMB has jeopardized that attempt and if we do not put money back in here, OMB will have been successful in defeating the intent of the Congress as expressed by authorizations and expressed by appropriations.

Finally, the suggestion has been made that since we cannot solve the problem with this additional number of border patrol officers why have this addition to the border patrol?

Last year I took a tour of the entire border. I can tell you personally that violence has increased on that border. Violence has increased not only because the flow has increased, but because we do not have adequate law enforcement. We are now requiring officers to go out in one-man patrols instead of two-man patrols. When one man confronts 25, 50, or 100 illegal aliens and attempts to bring them in, the potential for violence is greater, because he does not have command of the situation. That is happening over and over again, where the border patrol officers are using their weapons more often because they are confronted with this situation.

We are finding more and more border bandits seeking to prey upon those people who are coming across and in some cases to prey on the border patrol officers who are there.

The morale of the border patrol is at an all-time low. And this existed in the Southwest sector of this country before we had the situation with the Cubans and the Haitians which required us to take 212 border patrol officers from the Southwest portion of the United States and temporarily assign them to Florida.

□ 1720

In view of that fact, we now have an even worse situation on the Southwest portion of the border. Those of us in the Southwest portion of the United States know what a serious problem this is. It is a problem that has been swept under the rug by, yes, successive administrations. But I suggest no administration has done more to sweep it under the rug than this one. We have a President who said 3 years ago that we should add 2,000 additional personnel to the border patrol, and has cut them back.

We had the former Commissioner of INS, Mr. Castillo, appear before our committee and say, "I thought the President was serious when he made this suggestion. I started to make plans to add these people, and then they cut me back." In essence, what happened to Mr. Castillo was that he was undercut by the administration. That is why we do not have funding by the administration. The administration wants to dodge this problem until some future date.

We cannot dodge this problem. We have to deal with the problem now. Even though this is only one part of a multifaceted solution to a very, very tough problem, this is the only opportunity we are going to have to address that part of the problem. I would suggest that we really must do this.

The CHAIRMAN. The time of the gentleman from California has expired.

(At the request of Mr. Fish and by unanimous consent, Mr. Lungren was allowed to proceed for 1 additional minute.)

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I am happy to yield.

Mr. FISH. Mr. Chairman, I want to thank the gentleman for responding to an argument that we have heard during this debate, that it is simply a useless act to appropriate money knowing that it will not be used. I believe that this brings up a very fundamental question of the abrogation of our responsibility as a coequal branch.

On the subject of the level of appropriations, I want to make very clear that everybody understands that the Judiciary Committee figures which form the basis for my amendment are within the House budget resolution. We talked to the Budget Committee and we are advised that my amendment does not violate the resolution, it merely conforms the appropriation figure to the House budget resolution.

Mr. LUNGREN. In conclusion let me just say one thing. It seems ridiculous for us to very carefully craft legislation dealing with the flow of immigration when it is from Southeast Asia, and yet ignore that portion of the country which has the greatest influx of immigration, albeit illegal; that is, the Southwest border of the United States.

Mr. BURGENER. Mr. Chairman, I move to strike the last word and rise in support of the Fish amendment to the Burgener amendment.

Mr. Chairman, the need for substantive law is clear. We need not plow over that ground again. I, too, think this debate is very, very healthy, although it is at least 15 years too late. But, nonetheless, it is desperately needed.

We do not know how many of them are here, 8 million, 12 million, 15 million. I do not know. They live in the shadow of the law. Their rights and responsibilities are ambiguous at best.

But we will address that at a later time. In the meantime, prior to that, we have serious moral problems as were outlined by the gentleman from California (Mr. Lungren) and the gentlewoman from New York, chairman of the subcommittee (Ms. Holtzman). It is safer and it is better to have more border patrol and more inspectors than it is not to have them. It is better and safer for the illegal alien. It is better and safer for the border patrolmen. Whether or not the administration fails to recognize this, we should adopt this amendment because it is right. That is why we should adopt it.

These amendments we hope, when adopted—and I support the Fish amendment to mine because it is stronger, better, and there is more of it—it will send a loud and clear signal, we hope, particularly with all of the history of debate that has gone on now for days on this subject.

So I think if we adopt the amendment, Mr. Chairman, we will be doing the right thing. We will be sending the right message. We will improve the situation.

Mr. GONZALEZ. Mr. Chairman, I move to strike the last word and rise in behalf of the amendment.

Mr. Chairman, I support the amendment to the amendment. As the last gentleman who spoke quite correctly said, it is the right thing to do. It is needed.

I cannot for the life of me understand how there would be this much debate in view of the reality of the occurrences of just the last few weeks where, as has been pointed out, the roster of available border patrol and Immigration and Naturalization employees has been taxed quite a bit beyond its legitimate ability to perform, plus the fact that the endemic situation which has existed for many months and years on the Southwest border does not abate any. To go into the collateral ramifications as to the causes and the short-range and long-range solutions I think is really not germane to this particular discussion.

However, I would like to say in connection thereto that in view of some of the things that have been said that this particular service has long been in need of infusion of more personnel and better trained personnel and selected from a wider spectrum of American society. The border patrol specifically, as well as the Immigration and Naturalization Service generally, like the FBI, have long been noted as racist organizations, highly prejudiced, most terrifying and unjust in the enforcement of the laws in the harsh, unprotected years of the 1930's, 1940's, 1950's, 25 years ago.

I am a witness to that. As a matter of fact, at this very moment I have received a series of allegations in which the group sending these allegations holds forth that the immigration and border patrol people have been guilty of brutal murders, even involving the death of 6-month-old infants, and are even threatening to go to the United Nations Human Rights Commission to ask for an investigation.

Now, I do not know the validity of the charges. I am looking into them now. But it is in line with the traditional experience that to this day the people of the Southwest will tell you they feel about this particular entity.

But at this time, when the pressures are so great on this particular branch of the service, it seems to me to be rather idle to seriously consider not voting for what I think the gentleman from New York (Mr. Fish) presents as a very realistic figure. I hope it will sort of break through and convince the administrators that the Congress does support this branch of service.

Mr. VAN DEERLIN. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I am happy to yield to the gentleman.

Mr. VAN DEERLIN. I thank the gentleman for yielding. The gentleman has put his finger on an aspect that I think no one else touched, and that is the sensitivity with which the job of the border patrolman must be performed.

Is the gentleman aware that the agents that were pulled out of the entire

Mexican-American border to do temporary duty in Miami have been chosen on a priority basis from among those who have the best Spanish-speaking language capability?

Mr. GONZALEZ. That is right.

Mr. VAN DEERLIN. Leaving to do the regular work of the patrol elsewhere those less prepared to do it with the sensitivity that the job needs?

Mr. GONZALEZ. Yes, sir, I was aware because of the fact of the similarity of culture and language experience with those particular patrolmen, which was needed as of the moment in the Miami area. But it also brings to mind that this has not happened until just the last few years. We have not really had an enlargement of the Service to recruit this kind of personnel until just the last few years. And in all due justice, again I must rise to the defense of Jimmy Carter. It just is not fair to stand here and let go unchallenged some of the things that have been said about this administration because it was Jimmy Carter that named the person from that particular group to be the Commissioner of Immigration and Naturalization.

● Mr. BIAGGI. Mr. Chairman, I wish to rise to lend support to the efforts being made here today to strengthen this Nation's capacity to stem the flow of illegal aliens into our Nation. The border patrol of the Immigration and Naturalization Service represents the frontline of defense in this effort and this Congress must provide them with the adequate resources to do the job.

Congress authorized 2,348 border patrol agents for fiscal year 1980. Presently the Service has only 2.130 positions to do their job. Yet the numbers of illegal aliens entering this Nation is not diminishing. Thus the foundation of a dilemma. We know from a 1975 Presidential Commission report that some 87 percent of illegals enter this Nation by illegal entries across the large and still porous Mexican border.

As we continue to deliberate our policies on how best to deal with those illegals who have made it to our Nation—let us not diminish our efforts to keep new illegals out. The impact of illegals on the economies of State and local governments has been devastating. My home city and State of New York count losses in the hundreds of millions in terms of nonreimbursed expenditures for the health and welfare of illegals. Our Governor, Hugh Carey, has recommended that those illegal aliens already here be granted legal status and the Federal Government provide reimbursements for expenses already incurred.

What is being proposed here today cannot be considered extravagant when one considers the cost-effective nature of the return on the expenditure. The border patrol just in California and Texas apprehended 918,00 illegals in 1979. This translates into roughly 2.500 every day. They did this with hardly an increase in their resources. It is a testimonial to hard work and should serve as an incentive to pass either of these amendments to increase their manpower.

I urge this body's approval of increased resources for our border patrol. Projections in the future point to large growth in the Latin American nations—the so-called source nations from where illegals come. We must apply the old adage, the best defense is a good offense let us make enforcement of our borders a primary budgetary priority.●

□ 1730

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. FISH) to the amendment offered by the gentleman from California (Mr. BURGENER).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SMITH of Iowa. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 337, noes 72, not voting 24, as follows:

[Roll No. 390]

AYES—337

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
AuCoin
Badham
Bafalis
Bailey
Barnes
Bedell
Beilenson
Bennett
Bereuter
Bethune
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Burgener
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Coelho
Coleman
Collins, Ill.
Conable
Conyers
Corcoran
Corman
Cotter
Courter
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derrick
Derwinski
Dickinson
Dicks
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Forsythe
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Heckler
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hutto
Hyde
Ireland
Jeffords
Jeffries
Jenrette
Johnson, Calif.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, Md.
Lott
Lowry
Lujan
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Musto
Nelson
Nolan
Oakar
Oberstar
Panetta
Pashayan
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Regula
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Nebr.
Snowe
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Walgren
Walker
Wampler
Watkins
Waxman
Weiss
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Alaska
Young, Fla.
Zablocki
Zeferetti

NOES—72

Alexander
Andrews, N.C.
Ashley
Atkinson
Baldus
Barnard
Bauman
Benjamin
Bevill
Bolling
Burlison
Clinger
Collins, Tex.
Conte
Coughlin
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daschle
Devine
Dingell
Early
Evans, Ind.
Fountain
Fowler
Garcia
Giaimo
Ginn
Glickman
Hall, Ohio
Hansen
Hefner
Hughes
Ichord
Jacobs
Jenkins
Jones, N.C.
Jones, Okla.
Latta
Long, La.
Luken
McHugh
Mavroules
Miller, Ohio
Mollohan
Murphy, Pa.
Myers, Ind.
Natcher
Neal
Nedzi
Nichols
O'Brien
Obey
Patten
Paul
Preyer
Ratchford
Reuss
Rose
Sabo
Shannon
Simon
Smith, Iowa
Snyder
Steed
Symms
Taylor
Volkmer
Winn
Wylie
Young, Mo.

NOT VOTING—24

Anderson, Ill.
Beard, R.I.
Beard, Tenn.
Buchanan
Cavanaugh
Dellums
Duncan, Oreg.
Erlenborn
Ford, Mich.
Hawkins
Hutchinson
Johnson, Colo.
Mathis
Myers, Pa.
Nowak
Ottinger
Rhodes
Richmond
Runnels
Stockman
Weaver
White
Wilson, C. H.
Wydler

□ 1740

Messrs. PHILIP M. CRANE, LATTA, and NEAL changed their votes from "aye" to "no."

Mr. HOWARD changed his vote from "no" to "aye."

So the amendment to the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1750

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. BURGENER), as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. FISH

Mr. FISH. Mr. Chairman, I offer a technical amendment.

The Clerk read as follows:

Amendment offered by Mr. FISH: On page 12, line 25, after the word "exceed" insert the following: "five hundred and eighty-six, of which".

Mr. FISH. Mr. Chairman, this amendment, technical in nature, would authorize the purchase of 156 additional passenger vehicles for use by the border patrol. These vehicles are necessary since the committee, by passage of my amendment, approved funds for an additional 311 border patrol positions. The Immigration Service purchases one passenger vehicle for each two border patrol officers it has on duty. Therefore, the appropriations bill must be amended to include the authority to purchase these vehicles. This amendment will in no way cost any additional funds; it merely authorizes the purchase of vehicles for the border patrol positions which we just funded.

A similar increase was inadvertently omitted from the 1980 appropriations bill and had to be corrected in the supplemental appropriations legislation. This amendment will avoid similar problems during fiscal year 1981.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. FISH. I am happy to yield to the chairman of the subcommittee.

Mr. SMITH of Iowa. Mr. Chairman, as I understand it, this would permit INS, if they were to hire the people, to buy the automobiles to go with the people; although we know that the Congress voted a personnel ceiling, the Leach amendment, which will not permit them to hire the people. If they are able to hire the additional people, this will permit them to purchase the automobiles.

It is just a technical amendment, and I have no objection to it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. FISH).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

OFFICE OF JUSTICE ASSISTANCE, RESEARCH, AND STATISTICS

LAW ENFORCEMENT ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by the Justice System Improvement Act of 1979 and title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and other expenses in connection therewith, $127,845,000, to remain available until expended: *Provided*, That $100,000,000 of said amount shall be available only for grants authorized by title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended.

AMENDMENT OFFERED BY MR. DIXON

Mr. DIXON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DIXON: Page 16, line 9, strike out "$127,845,000" and insert in lieu thereof "$137,845,000".

Page 16, line 12, strike out the period and insert in lieu thereof the following: "and $10,000,000 of said amount shall be available only for grants authorized by subsection (b) of section 103 of the Justice System Improvement Act of 1979.".

Mr. DIXON. Mr. Chairman, the purpose of this amendment is to provide $10 million for the community anticrime program of LEAA, which would continue the program at its present funding level. In January, the President asked that the funding level be $15 million for 1981, although presently there are no funds in the bill. The community anticrime program is our single visible commitment to helping neighborhoods and community organizations to fight crime. I believe it is important that we continue this commitment.

This program was created in 1977. Since that time, nearly 200 projects have been funded in urban and rural communities throughout the country, and between 100,000 and 200,000 citizens have been mobilized into anticrime activities.

A major problem existing in efforts to prevent crime is the lack of citizen involvement. We should be encouraging approaches to crime prevention which involve individuals and stimulate the interest and involvement of an entire neighborhood or community.

A wide range of important services have been provided through community anticrime projects, including—

Escort services for the elderly;

Block watch programs;

Tenant patrols, in housing projects as well as suburban communities;

Victim assistance programs;

Security education campaigns;

Youth crisis centers; and

Community based approaches to arson prevention.

The community anticrime program has been particularly responsive to the needs of the elderly, in providing services to prevent their victimization. This aspect should not be overlooked, because for the elderly, fear of crime is often the most serious problem, because of it, many older people virtually imprison themselves in their homes.

I think it is important to note that these projects are not limited to our major urban areas, just as the problem of crime knows no geographic boundary.

This small amount to continue the community anticrime program comes in the context of a bill which drastically reduces funding for the Law Enforcement Assistance Administration; $127 million is provided in this bill, which is $313 million less than the Agency's present level of funding.

This amendment restores one of its most positive programs of LEAA. The community anticrime program is helping to create lasting improvements in communities throughout this country. I believe it would be a serious mistake to send the message that Congress no longer cares about community participants in fighting crime.

I strongly urge that we maintain this small, but effective, sign that we care, and ask for the adoption of this amendment.

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. DIXON. I yield to the gentleman from New York.

Mr. PEYSER. Mr. Chairman, I thank the gentleman for yielding. First of all, I want to compliment the gentleman for what I think is a very excellent amendment. While the amount of money is $10 million, which in the light of the entire budget is insignificant, it is tremendously important for the success of this; and in fact, the anticrime community program will not survive without this money.

I think it is essential that this small amendment be passed, and be passed overwhelmingly to show this Congress concern for community crime, and at least addressing it in a little way.

Mr. Chairman, I thank the gentleman for his effort.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. DIXON. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman for yielding. I too would like to commend him for this amendment, and vigorously support it.

In so many communities—and mine is one—we simply do not have enough police. We do not have the funds to have enough police, and to have the community involved, to help in working with the law-enforcement authorities, makes so much difference in the spirit of the committee and the feeling that they are not just helpless.

This has worked beautifully in my community of Bronx County, N.Y. We have several organizations that have been mobilized and are helping to mobilize the community. They do not carry arms. They are not vigilantes. They are the eyes and ears of the police, and help the whole spirit of the community so that there is no part of the entire anticrime effort that I think is more worthy than getting citizens involved. That is what the gentleman's amendment is directed to, and I hope it will be adopted overwhelmingly.

Mr. GRAY. Mr. Chairman, will the gentleman yield?

Mr. DIXON. I yield to the gentleman from Philadelphia, Pa.

Mr. GRAY. Mr. Chairman, I also would like to commend the gentleman for his amendment. Particularly in many cities in America, we do need to have the community involved in crime prevention. Certainly, $10 million will go a long way in helping in that process.

☐ 1800

I know in my home city of many community organizations that have been very, very effective in helping to reduce crime, particularly juvenile crime and particularly those crimes perpetrated against the elderly.

Mr. Chairman, I certainly hope that the committee will overwhelmingly support the gentleman's amendment.

The CHAIRMAN. The time of the gentleman from California (Mr. DIXON) has expired.

(On request of Mr. PICKLE, and by unanimous consent, Mr. DIXON was allowed to proceed for 2 additional minutes.)

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. DIXON. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Chairman, I support the amendment by my colleague from California, Mr. Dixon, to restore $10 million to the community anticrime program within the Law Enforcement Assistance Administration.

LEAA spending for fiscal year 1981 is down drastically, and most of us have not quarreled with the committee's work in this area. In the last few years, LEAA has been criticized from right and left. Some have complained that Federal money ends up paying for fancy hardware that does not directly deter crime.

But this amendment would maintain a program that directly involves citizens in the fight against crime. This $10 million will not go for a single bulletproof vest or a hopped up patrol car. The amendment instead would continue the work that enables neighborhood groups to develop and implement programs which reduce crime. One of the best ways to have a crime-free neighborhood is to have neighbors who talk to each other, to have organized block watch programs, home security efforts, and other mechanisms.

At Southwest Texas State University in San Marcos, Tex., the National Center for Community Crime Prevention holds seminars for members of civic organizations to train and mobilize citizens groups in the crime fights. This program has trained hundreds of people who have gone back into their communities and made neighborhoods safer.

Mr. Chairman, this position of the LEAA budget is small but effective. It actually works. We should not reward this operation by canceling it.

Other programs besides the one in San Marcos are also making this contribution to the sense of security and safety. So I urge the adoption of this amendment.

Mr. DIXON. Mr. Chairman, I thank the gentleman from Texas (Mr. Pickle) for his remarks.

Mrs. BOGGS. Mr. Chairman, will the gentleman yield?

Mr. DIXON. I am glad to yield to the gentlewoman from Louisiana.

Mrs. BOGGS. Mr. Chairman, I commend the gentleman from California (Mr. Dixon) for offering this amendment, and I join with my colleagues in supporting it to the fullest.

We have a wonderful network of citizens who are out there participating in a program that really works, and it works on the community level. We cannot send a message to that group of citizens from this body that the Congress of the United States does not care about an effective crime control and prevention program that they are able to effect in their own neighborhoods.

Mr. Chairman, I thank the gentleman for allowing me to participate.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. DIXON. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I am very, very delighted that the gentleman has brought this matter to the attention of the Members of the House, because this community anticrime project, with the amendment I offered a number of years back, has more application than any other project in LEAA. It has been successful across Rhode Island, with the House of Umoja in Philadelphia, in North Carolina, and in East Harlem. The GAO has given it very high ratings, and I hope the leadership of my colleague, the gentleman from California (Mr. Dixon), will be followed in this respect.

Mr. Chairman, this is a very small amount that we are adding with this amendment, and it is very, very necessary.

Mr. EARLY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I oppose the amendment strictly in the mood of balancing the budget. Many Members have voted to balance the budget. I suggest to this Committee that if we cannot cut LEAA funds, we cannot cut anyplace. LEAA—there is an organization that has really done a great job.

Mr. Chairman, the subcommittee had a request from the President of $127 million for LEAA. We funded it 100 percent. In the budget resolution, the Committee on the Budget of the House had no money for LEAA. There was no money for LEAA, and it flew through the House.

We have now a request to add $10 million, a small amount, for a program which is called the community anticrime program. Whatever happened to volunteers? Let me speak here in response to the "Dear Colleague" letter of my good friend, the sponsor of this amendment. He cites the examples that are working well. According to this, down in Greenville, Miss., the project also provides for a multitude of social services and crime prevention, including a minibus transportation program to take the elderly to stores and on other errands. That is a very worthwhile program.

Mr. Chairman, this is $10 million. We added $22.3 million for INS, and now here is an addition for another $10 million.

The Committee is in opposition to this amendment merely on the basis that we are trying to balance the budget. We are trying to reduce funds, and we just do not see the need for this amendment.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. EARLY. I yield to my good friend, the gentleman from Detroit, Mich.

Mr. CONYERS. Mr. Chairman, I am sorry to find that we are in disagreement in this particular area. Notwithstanding the problems with LEAA, this is without doubt the most underfunded program and the most successful one. We cannot fight crime without involving the communities in their own individual ways.

The gentleman cited one project in one State, but what we are really doing is bringing the citizens into the fight against crime. This is the most inexpensive investment in crime fighting that could possibly be made.

Mr. Chairman, the gentleman must know that the budget is already out of balance anyway, so for him to make a big deal over $10 million on the basis that we are trying to balance the budget seems to me to come a little late.

Mr. EARLY. Mr. Chairman, I would like to say also that in funding this program in the past, LEAA has funded 170 grassroots programs. The funding for these anticrime community programs was from June to September of 1978, and we have not gotten any definitive results to show that they have been that good.

Mr. DIXON. Mr. Chairman, will the gentleman yield?

Mr. EARLY. I yield to the gentleman from California.

Mr. DIXON. Mr. Chairman, I do not know whether we have reports back to this House, but I know that Members of this body, including myself, have gotten reports back from communities. No. 1, the people are very pleased with the programs. They are pleased about them because the bus programs the gentleman cites has made it safer on the streets for elderly citizens.

I understand the dilemma the committee is in, but the gentleman cannot say to the Members on this floor that the programs do not work, because when they get the programs, we get responses. We have worked too long and too hard to try to get community organizations involved in participation in fighting crime.

It seems to me, Mr. Chairman, that the modest amount of $10 million is not unreasonable to continue to encourage what we all think is desirable, and that is that everyone must participate in the fight against crime.

Mr. EARLY. Mr. Chairman, I understand the amount of money, $10 million, is not excessive or too high, but I suggest that community involvement means we should have volunteers. We just cannot spend ourselves out of all our problems.

Mr. O'BRIEN. Mr. Chairman, will the gentleman yield?

Mr. EARLY. I yield to my good friend, the gentleman from Illinois.

Mr. O'BRIEN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I come from an urban area, and I know the importance of protection. At the same time, if there were any area in which the Federal Government has perhaps educated people into the notion that this is a good thing for the communities and if the communities support it, is it not about time that the communities and the States themselves got into it and took a little bit of the burden off the Federal Government?

Mr. EARLY. Mr. Chairman, let me say to my good friend that from my own personal observation, in talking about justice and fighting crime, if we think we can fight crime through LEAA, we are mistaken. We just cannot do everything. In my own opinion, LEAA is not a crimefighter.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. Early) has expired.

(On request of Mrs. Boggs, and by unanimous consent, Mr. Early was allowed to proceed for 1 additional minute.)

Mrs. BOGGS. Mr. Chairman, will the gentleman yield?

Mr. EARLY. I yield to the gentlewoman from Louisiana.

Mrs. BOGGS. Mr. Chairman, most of the projects are really just in their second year, and a preliminary evaluation by the National Institute of Justice has been extremely positive. New groups have been involved and innovative approaches have been brought to some of the toughest areas in the country. Citizen participation has truly occurred, they say, from planning to implementation.

They say that this is not just another funding source. The projects that are funded truly address their communities' crime problems and meet the objectives of the program and the community anticrime program by helping to create lasting improvements to the communities throughout this country.

So, Mr. Chairman, there has been some evaluation of these programs, I say to the gentleman.

Mr. EARLY. Mr. Chairman, let me just say to the gentlewoman from Louisiana (Mrs. BOGGS) that all the analyzers and assessors of our programs come back and say how good they are. However, I do not see crime going down anywhere; but we spend more money and the reports keep coming back saying what a good job they are doing.

Mrs. BOGGS. Mr. Chairman, I thank the gentleman for yielding.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, the gentleman from Massachusetts (Mr. EARLY) has answered the question about LEAA, but let me just point out to the members of the committee where we are.

☐ 1810

We are just trying to facilitate what the majority of the Members of Congress want. What has happened? Last year we voted—and the vast majority voted for it—personnel ceilings known as the Leach amendment. Under that amendment, you cannot possibly hire the new Immigration and Naturalization personnel you just voted overwhelmingly for.

Now, what do you want? Do you want personnel ceilings, or do you not? We came in here this year—I did not vote for it, but I am caught, because the majority voted for it—with a reconciliation. Under the reconciliation, anything you add you are going to have to make up for somewhere. If you put that $21 million in, you are going to come back here and you are going to take $21 million out of something else.

We went through this bill item by item, nickel by nickel, and finally got $209 million out of it, and you cannot just shove it back in here on every symbol that comes up and still meet reconciliation.

What we will do, we will end up going to conference and we will end up taking something out that you like a lot more than some of these things.

Mr. EARLY. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Massachusetts.

Mr. EARLY. I thank the gentleman for yielding.

Mr. Chairman, I just want to ask the gentleman this question: Did the committee reduce, 2 years ago, the LEAA budget from $845 million—by a considerable amount of money? And the Attorney General and everyone came in and said, "You reduced them, and they did a better job"? And then we reduced their budget further, and they came in and said that with less money they did a better job.

Some Judiciary Committee members are not asking for a $10 million amendment. They have another one for $100 million for LEAA. The Judiciary just helped in the last amendment, all balance-the-budgeters, but spend it when you have to spend it.

I would just like to congratulate the gentleman in the well because he has, over the objection of the Congress, reduced LEAA spending from $845 million just 2 years back, and the only testimony we got is that they are doing better each year.

Mr. SMITH of Iowa. The thing is this: We have tried to facilitate what you have already voted for.

Now, the budget resolution you all voted for and the reconciliation included zero for this program. We have reduced enough programs so we could put in $127 million for it. We earmarked $100 million for—I thought it was his principal program, and now I find out another one is more important to the gentleman from Michigan—juvenile justice. I know he has been very active in that. We earmarked $100 million for juvenile justice. That is over and above what was in the budget resolution we already voted for. We earmarked it in here. We earmarked another $12½ million to take care of the widows and orphans after the firemen and policemen are killed in some of your towns. And there is $127 million by the time you take care of administration.

Now, I do not care what you want to do. If you want to break the budget, okay. If you want to ignore reconciliation and tell us to come back and take things out of other things, we can do it. But I just want you to know when you vote what you are voting on.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentleman for yielding.

I did not offer the provision for juvenile justice, and I did for community anticrime.

I have heard complaints now about INS which went on before. I hear now complaints about major additions of LEAA which is oncoming. But the question before my colleagues now is one $10 million community anticrime add-on. Now, I think it ought to be examined in that light.

For the life of me. I am intrigued by all of the conversation about balancing the budget. We may be the only ones in the country who do not realize that the budget is going to be out of balance anyway. I hate to say that on the floor, with all of the balance-the-budgeters around, but we are talking about a community anticrime program that does not give grants out renewable year after year. Many of the neighborhood groups that benefit, I say to my colleague, the gentleman from Iowa, get a grant once for 1 year or maybe for the second year, and then they are on their own. So it is not a continuation.

Mr. GEPHARDT. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Missouri.

Mr. GEPHARDT. I thank the gentleman for yielding, and I want to make three very quick points.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. SMITH) has expired.

(On request of Mr. GEPHARDT and by unanimous consent, Mr. SMITH of Iowa was allowed to proceed for 3 additional minutes.)

Mr. GEPHARDT. First, I think we need to remember that LEAA was an experimental program that was designed to get innovation started in the field, in the States, in the localities, with regard to law enforcement. We have had 10 years of that innovation, and I think the Congress in this budget has made the decision that at least for now we want to bring the program to a close. And that is the reason we cut off the State grants in the local community grants.

Second, in my view, in St. Louis, I realize the gentleman who offered the amendment and many others have had good experiences in their areas with this program, and I am sure that has been the case. I am sure that we also know of programs under this specific $10 million program, or whatever it was last year, that have been very bad. In my area, the money for this program has been used to buy baseball tickets and hockey tickets, not even for young people, not even for the elderly, but for people who were employed, to go to the games under some kind of an LEAA grant.

Third, I am aware of a program in Texas where they fly people down for all expenses paid to learn how to apply for these programs. We are using Federal money to teach people how to apply for community grants. But I do not deny that the program has done some good.

The last thing I want to say is that if we are to maintain the theory of what we tried to do, to cut off the State grants, it seems to me we have to cut off the community grants, because if we do this, then I think we are clearly open to the charge that we should renew the State grant programs and we are going to be right back where we started from with a $500 or a $600 million program.

Mr. SMITH of Iowa. Mr. Chairman, I just want to say that I can make a good case for some of these LEAA programs. I really can. But the fact of the matter is that you have a budget restraint.

Now, talk about the kinds of programs, one of them, you know, there is a little punch that has numbers on the end of it, you stamp people's property with a number, and then if it is stolen, why, then they have got an identification number. Before we had this number, the 4-H boys used to hand those out and keep track of them. I do not know why you need Federal money to do that.

Mr. DIXON. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from California.

Mr. DIXON. The program the gentleman just described, is that the community anticrime program?

Mr. SMITH of Iowa. That is an active program; that is right. That is one of the projects.

Mr. DIXON. And it does what?

Mr. SMITH of Iowa. You have a stamp that has numbers on the end of it, and they have a community program where they hand that stamp around and get people to stamp their property with that so that if it is stolen, then it can be easily identified. That is a community anticrime program.

Mr. DIXON. Adding this program to communities so that burglars and people who steal property know that: First, it is marked and identifiable; and second, it relieves the the police department somewhat in tracing the stolen property.

Mr. SMITH of Iowa. Sure, it is great. But before we had this program, the 4-H boys did it. They thought that was a great project. And the Boy Scouts did it. And I do not know why you have to have Federal money to do that.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. Smith) has again expired.

(By unanimous consent, Mr. Smith of Iowa was allowed to proceed for 1 additional minute.)

Mr. SMITH of Iowa. I could make a good case for some of these programs, but I just want to point out to you that any time you add money to this bill you will eventually have to take it out of some other program. That is reconciliation. And whatever you want to do, OK. But we have brought you a bill that is within the budget requirements, and if you do not want to stay within them, why, we will take it out of something else.

Mr. McCLORY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as has been indicated, there will be an amendment offered which I propose to offer, together with my colleague, the gentleman from North Carolina (Mr. Gudger), with respect to reprograming funds in the Department of Justice appropriation for continuing parts of the LEAA program.

Let me say that this program, it was established in 1968 because we recognized that a national problem existed because of street crime in America. We regarded the local street crime, which is where the crimes were occurring, as being a national problem. And this is the only national program, this is the only Federal program directed at crime in America at the place where crime exists and where it occurs.

The neighborhood anticrime program is one that was developed in the last Congress. We just restructured this program. We took all of the objections that have been made to the program, completely restructured it. It was overwhelmingly approved here last year. And this is certainly not the way to dismantle a program. As a matter of fact, we never had an opportunity on the floor of this House to get the LEAA funds in the budget. We tried to do that, but the Rules Committee would not give us a rule to permit us to offer the amendment. So we are confronted with the situation that we find ourselves in now.

Let me say this: That as far as the community anticrime program is concerned, I supported it. It is where the crime exists. My experience with it, right here in Washington, D.C., just a few blocks from here, has demonstrated that it can be very, very helpful in helping to reduce crime. Now, we are not going to eliminate crime in America through this or any other program. But the mere fact that crime continues in America, notwithstanding that we have a program, does not mean that we should not have the program, any more than we should discontinue providing funds for education because we have not completed the educational cycle, or we are not going to provide funds for health because people are still sick.

□ 1820

I mean that is an absurd kind of argument. I hope that it will not be considered as serious in connection with this amendment. I think this amendment should be supported, and likewise I will be offering the other amendment, together with my colleague, the gentleman from North Carolina (Mr. Gudger), which will reprogram existing funds, will not raise the budget, but will provide for existing funds to be allocated to this purpose.

Mr. GUDGER. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from North Carolina.

Mr. GUDGER. I thank the gentleman for yielding.

I would like to ask one question: Is there anything inconsistent between adopting this amendment and adopting the amendment which the gentleman will offer later?

Mr. McCLORY. No, there is nothing inconsistent. I will say in the amendment that the gentleman and I will be offering there will also be funds which can be provided for community anticrime programs, and neighborhood anticrime programs as well.

Mr. GUDGER. If the gentleman will continue to yield, am I correct in understanding that the gentleman's amendment which will come later will not involve new funds?

Mr. McCLORY. The gentleman is precisely correct.

Mr. GUDGER. I thank the gentleman.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Michigan.

Mr. CONYERS. I would like to observe the gentleman from Illinois was a member of the subcommittee who helped develop the community anticrime program a number of years ago and always oversighted it very zealously. We have had good reports from GAO.

May I ask my colleague whether the Committee on the Judiciary is a rescission committee? It is my understanding that there have been some misunderstandings about the nature of the authority of the Committee on the Judiciary in this regard.

Mr. McCLORY. No. Our authorization was last year. It is not even up this year. We authorized funds which are far above anything that is in the appropriation bill. Actually, it cuts the funds by, I think, $314 million.

● Mrs. COLLINS of Illinois. Mr. Chairman, I rise in support of the amendment being introduced today by my colleague and good friend, Congressman Julian Dixon, whose amendment to H.R. 7584, State-Justice appropriations will add $10 million for the community anticrime program within the Law Enforcement Assistance Administration (LEAA).

A reduction in crime rates cannot be achieved solely through more Federal regulation, increased police technology and gadgetry, or by throwing juvenile offenders in jail with hardened criminals. A reduction in crime rates can be accomplished through Government working conjointly with involved citizens from individual neighborhoods. As Congressman Dixon has cited before, the National Commission on Causes and Prevention of Violence found that—

> Government programs for the control of crime are unlikely to succeed all alone. Informed private citizens, playing a variety of roles, can make a decisive difference in the prevention, detection and prosecution of crime . . .

The community anticrime program affords neighborhood groups the opportunity to organize strategies against crime. Services provided by the program require active participation by community members: Making them more alert to crime and more willing to look after each other. The result is a highly organized population working collectively in their own neighborhoods against crime. Financial and technical assistance is given to those nonprofit community groups to enable area residents to carry out self-help anticrime activities.

Current funding for LEAA is $440 million. The State justice bill proposes $127 million for fiscal year 1980, $313 million less than current funding. The $127 million funding level leaves no funds available for the community anticrime program to continue. The amendment proposed would provide $10 million to insure the continuation of this program.

Funding for the community anticrime programs must be provided to insure the continuation of efforts to make our neighborhoods safe. A few vital services offered are, escort services for the elderly, block watch programs, victim assistance service, home security efforts, and anti-arson programs.

Anticrime programs also serve as precursors to broader neighborhood revitalization efforts which address the social and economic causes of crime. The program has mobilized 100,000 to 200,000 citizens with 160 projects throughout the

Nation. Participation of communities in anticrime programs also helps to improve police-community relations.

In conclusion, I am particularly concerned about the effect a reduction in anticrime funding will have on these types of programs in the Chicago area. The Lakeview Citizens Council and the Northwest Community Organization are two very successful groups that provide vital services to all members of the community. Services include youth-gang counseling to arson prevention. Loss of funding would deprive citizens of the important services these programs provide.

The Dixon amendment to H.R. 7584 will add a $10 million appropriation for the community anticrime program. Therefore, Mr. Chairman, to make it safe for elderly citizens to venture outside their homes, to stop teenage violence, and to allow any American to walk down a city street without the fear of being mugged or raped, I urge my colleagues to support the Dixon amendment.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. DIXON).

The question was taken; and on a division (demanded by Mr. DIXON) there were—ayes 33, noes 35.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

RESEARCH AND STATISTICS

For research, development, demonstration, statistical and related efforts directed towards the improvement of civil, criminal and juvenile justice systems authorized by the Justice System Improvement Act of 1979, including salaries and other expenses, in connection therewith, $44,881,000, to remain available until expended.

Mr. GUDGER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have at the desk an amendment which perhaps will not be offered.

The purpose of the amendment when it was drawn was to restore a sum of $4,643,000 to the research and statistics element of this bill. I drew that amendment with the knowledge that it was the intent and purpose of the committee, as declared on page 21 of its report, to maintain programs in this field at their current level.

It was my fear that the national crime survey, which is a very valuable statistical survey, cost last year $6.3 million of which $4.6 million or thereabouts, was carry-forward funds.

I looked into this matter and concluded that this amount of funding would be necessary, this amount of increase, would be necessary in the line item to restore and maintain this program at current level.

Under the circumstances, I would like to engage in a brief colloquy with the chairman of the subcommittee and ask if his staff has confirmed that there has been perhaps a failure to take into consideration the fact that funds then in the pipeline at the beginning of 1980 will not be in the pipeline at the beginning of 1981 and therefore, something may be necessary to keep this program at its current level.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. GUDGER. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. As the gentleman indicated, on page 21 of our report we said we provided sufficient money so the program could be carried out at the current level. That was our intention. We have since found out that they did have some carryover funds which they will not have for 1981, and therefore, it would be necessary to increase the amount of money for research and statistics to have the same current program as we had indicated we intended them to have; and I assure the gentleman one way or another when we get to conference, we intend to make sure that they do have funding for the current level as we indicated in the report.

Mr. GUDGER. I thank the gentleman for his response.

I feel that it is altogether proper that this amendment not be offered, because it would ask for new money in addition to that which is within the appropriations package supported by this subcommittee report. In view of the gentleman's intimation, I will not offer the amendment.

Mr. Chairman, this amendment would increase funds for the programs of the Bureau of Justice Statistics by approximately $4.6 million.

The administration has requested $20.5 million for the Bureau's statistical programs in fiscal year 1981. Unfortunately, the Appropriations Committee reduced this figure, arguing that a reduction of $4.6 million from the request for fiscal year 1981 would be sufficient to permit the programs to be carried out at the current level (H. Rept. 96–1091).

Mr. Chairman, with all due respect for the fine work of the Appropriations Committee, I must disagree. If this reduction is allowed to stand, the Bureau's most widely respected statistical program, the national crime victimization survey, will be discontinued. This is the only survey of its kind that gathers crime data from a representative sample of 60,000 households.

From a strictly statistical point of view, the national crime survey is far superior to the existing FBI uniform crime reports since it gathers data on crimes both reported and not reported to the police, as well as information about the characteristics of offenders as well as victims. The NCS is also not subject to reporting differences among the 13,000 agencies that comprise the FBI reporting system.

A simple example will illustrate my point. From 1974 to 1978, the FBI reported a 6-percent decrease in robbery, a 19-percent increase in serious assault, and a 10-percent increase in larceny. The corresponding figures from the national crime survey were: A 13-percent decrease for robbery; a 7-percent decrease—not increase—for serious assaults; and no increase at all for larceny. I submit that it is extremely unwise to eliminate the better of two reporting systems—that is, the national crime survey—especially at a time when allegations are being made that crime is increasing. And Mr. Chairman, I am not alone in this judgment.

The National Academy of Sciences studied the survey and strongly recommended that it be continued and improved. The House Judiciary Committee held a hearing in 1977 on this very question and concluded that the survey was the single, most important statistical contribution developed by LEAA. The Government's own Office of Federal Statistical Policy and Standards has strongly endorsed the NCS. And a study of the benefits of the survey by Research Triangle Institute found it to be highly regarded among criminal justice professionals, and that use was increasing dramatically.

One of the Bureau's most recent studies using victimization data was a report on violence among friends and relatives. Surely, family violence is an important topic that Congress needs to address.

Mr. Chairman, this amendment has the support of the House Judiciary Committee, the Justice Department, and falls well within the guidelines of the First Concurrent Budget resolution just passed.

I might also point out that in fiscal year 1980, the national crime survey was supported by funds from prior year obligations. These funds will simply not be available in fiscal year 1981. We need the $4.6 million. It is not inflationary because this money allows for continuation of a statistical program started in 1973. This is not a brand new program.

Mr. Chairman, in view of the assurances of the chairman of the subcommittee, I will not offer the amendment but will look to the conference committee report to assure that this survey continues at its current level of funding.

I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 202. A total of not to exceed $25,000 from funds appropriated to the Department of Justice shall be available for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

AMENDMENT OFFERED BY MR. M'CLORY

Mr. McCLORY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLORY: On page 17, add the following after line 8:

"SEC. 203. Notwithstanding any provision of this title to the contrary, no less than $100,000,000 from the total funds appropriated to the Department of Justice under this title shall be available for those grants authorized by parts D, E, and F of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended."

Mr. McCLORY. Mr. Chairman, this amendment is offered jointly by my colleague, the gentleman from North Carolina (Mr. GUDGER) and myself, to insure that $100 million will be available for the LEAA grant programs in fiscal year 1981.

H.R. 7584, as reported by the Committee on Appropriations, would include only $127.8 million for the LEAA. This is a reduction of $314.85 million from the amount provided for in fiscal year 1980, and reflects the revised budget request of the administration. According to the committee report, of that meager $127 million, $100 million is set aside for grants authorized by the Juvenile Justice and Delinquency Prevention Act of 1974; $12.5 million is for survivor benefits for public safety officers; and $15.345 million is for executive direction and administrative services. Conspicuously absent is any funding for LEAA grant programs.

Our amendment would not threaten the balanced budget effort by appropriating additional funds to the Department of Justice. A provision would be added to require that at least $100 million of the total $2.2 billion appropriated to the Justice Department would be used for LEAA grants. This $100 million would be reprogramed from other divisions in the Department. This effectively would reverse the recent trend of that Department by transferring funds into the LEAA, rather than out of it.

If this amendment is adopted, appropriations for law enforcement assistance in fiscal year 1981 would be roughly half the appropriations made in fiscal year 1980. Surely a cut of this magnitude should be sufficient to satisfy even the most ardent foes of LEAA. Support for an increase of this nature and magnitude was evidenced in the other body when it adopted an amendment to the budget resolution.

Mr. Chairman, we have recently been witness to a persistent and unyielding effort by the opponents of the LEAA to destroy it. Most recently, this body passed a supplemental appropriations bill for fiscal year 1980 which transfers $10.7 million from the LEAA to other divisions of the Justice Department. Furthermore, that Department has, in recent months, made plans to reprogram $15 million from LEAA to other functions. These actions will apparently not cease until the LEAA, the sole Federal program to assist the States and localities in the fight against crime, lies dead before us. I submit that it is time to put a stop to the slow, but increasingly successful, attempt to murder the LEAA.

It has been a mere half-year since this body overwhelmingly passed the Justice System Improvement Act of 1979, which completely restructured, revitalized and made more efficient the Law Enforcement Assistance Administration. I am aware that in the past, and in some areas, the program has encountered some problems which generated warranted criticism. However, these problems have not been universal and will be corrected though the new arrangement if it is given a chance to work. In general, the LEAA has been a successful program, as evidenced in testimony before the Appropriations Committee on fiscal year 1981 funding. If LEAA appropriations evaporate, important accomplishments, such as the victim-witness, arson and corrections programs will vanish as well.

Many States and localities that desperately want and need these programs will be unable to assume financial responsibility for them no matter how successful they have proven. In my own district, for instance, programs establishing prosecutorial management information systems to expedite caseload processing, reforms in education and job training in correctional facilities, improvement in police communications systems, halfway houses, and computerization of court records would be threatened, despite their proven value.

In Elgin County alone, LEAA grants brought various community groups together to assist senior citizens, provide counseling on child abuse and rape, and to run a drug detention system. All of these programs may be jeopardized, if LEAA is terminated. Finally, programs which are in the planning stages, involving law student assistance for judges, arson investigation, and the upgrading of certain correctional facilities, will have to be abandoned.

The LEAA report on program effectiveness released in March of this year reveals a litany of solid and successful projects developed by LEAA or financed with LEAA funds over the past several years. It is an eloquent and specific rebuttal to those who rhetorically question the value of LEAA. If the opponents of LEAA feel that the LEAA should be terminated before its new structure has been given the opportunity to work, they should attempt to achieve their goal through the proper mechanism—the repeal of the Justice System Improvement Act of 1979. The incremental and haphazard approach which has been taken through the budgetary process circumvents the consideration of the Committee on the Judiciary and generally provides for less than the needed deliberation on this important step. Our amendment would allow the LEAA to continue its operations on a minimal basis until such time as we can see how the new arrangement works. Of course, considering the small amount which even this amendment would appropriate, the new and improved LEAA may never have a fighting chance.

Finally, this amendment will not have a disruptive effect on the operations of the Department. The Department's top three priorities, as I understand them, are police use of deadly force, white collar crime, and organized crime information systems. These have been, and will continue to be, top priorities of the LEAA grant programs. As a result, the transferred funds will be applied toward the same priorities.

In conclusion, I urge my colleagues to support the adoption of this amendment.

☐ 1830

Mr. Chairman, I am happy to yield to the gentleman from North Carolina at this point.

Mr. GUDGER. Mr. Chairman, I thank the gentleman from Illinois for yielding. I wish to associate myself with his remarks.

I would like to engage in a dialog with the gentleman if I may along these lines:

The Justice Improvement Act of 1979 I believe passed this House by a 3-to-1 vote.

Mr. McCLORY. Exactly.

Mr. GUDGER. I believe that provided a 3-year authorization for the continuation of the LEAA program.

Mr. McCLORY. The gentleman is correct.

Mr. GUDGER. I believe that the grants which were authorized under that program fell into three general classifications, parts D, E, and F.

Mr. McCLORY. Exactly.

Mr. GUDGER. So that there would be formula grants drawing about 70 or 80 percent of these funds, discretionary grants and national priority grants, all fully defined in that act, which had the 3-to-1 support in the House; is that correct?

Mr. McCLORY. The gentleman is right.

May I say that with regard to the formula grants, it allows as part of the formula grant application, to be used to establish and expand community and neighborhood programs which would enable citizens to undertake initiatives to deal with crime and delinquency.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(At the request of Mr. Gudger, and by unanimous consent, Mr. McClory was allowed to proceed for an additional 3 minutes.)

Mr. McCLORY. This is at the community and neighborhood levels; so in a part, at least, we could fulfill the goals that were expressed so eloquently by the gentleman from California (Mr. Dixon) in his amendment which failed by a narrow vote.

I am happy to yield further to the gentleman from North Carolina.

Mr. GUDGER. Mr. Chairman, I would like to make this observation. As I understand the gentleman's analysis of the $127 million contained in this bill this year, there would be a total drop, a total exclusion of all formula grants, all discretionary grants and all priority grants and we would keep on the line only juvenile justice and delinquency prevention and these public safety officers survivor benefits and administration costs; is that substantially correct?

Mr. McCLORY. That is correct, and the $100 million would be reapplied or reallocated to the formula grant program to the extent of about $80 million, $10 million for the national priority grant program and $10 million for the discretionary grant program.

Mr. GUDGER. As the gentleman analyzed the Department of Justice bill to determine whether or not it has cut out any substantial part of its own programs or just this passthrough program designed to go to the states and approved by the Congress last year?

Mr. McCLORY. Well, the gentleman is correct. We have cut out the pastoral programs; but let me point out, too, that this should not do any harm to the Department of Justice. I have from the Department of Justice the policy initiatives, which include the three top priorities of the Department—three programs which are funded from LEAA funds, so that the funds will remain in the Justice Department. They can be applied to those purposes which they regard as priority purposes, such as the police use of deadly force, the implementation of national standards on the use of deadly force by police officers, which is to be developed during 1980 and 1981; white collar crime priorities, and organized crime information systems, all of which are funded through LEAA funds.

It seems to me they should have no difficulty in reallocating the $100 million within the $2.2 billion appropriation.

The CHAIRMAN. The time of the gentleman from Illinois has again expired.

(At the request of Mr. PICKLE, and by unanimous consent, Mr. MCCLORY was allowed to proceed for 3 additional minutes.)

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Chairman, under the amendment that the gentleman offers, what assurance would programs such as the anticrime community program that we have just voted on have in receiving funds of a certain amount to carry on the work?

We just had an amendment now, offered by the gentleman from California (Mr. DIXON), which failed by only two votes, which shows a very strong support for that type of program.

Does the gentleman's formula grant that he offers give assurance to that program that they could get funded if it was recommended by the local community or by the State program?

Can the gentleman tell me how the gentleman's formula, the gentleman's amendment, would read and how it would operate?

Mr. McCLORY. I do not know that I have in the legislation before me the formula but the formula is based partly on population, partly on the incidence of crime in the area. In addition there is a minimum allocation to communities and a pass through program, so that it is not even involved as far as the State planning agencies are concerned when the community equals a certain population level.

Mr. PICKLE. Under the gentleman's amendment, who would make the determination whether this type of program we just voted on would receive funds to carry on?

Mr. McCLORY. That decision would be made at the local level.

Mr. PICKLE. Well, I think it ought to be shown in support of this amendment by colloquy that it is intended that the program we just voted on might receive a proportionate amount of money to carry on its work. Would that be one of the intents?

Mr. McCLORY. The neighborhood and community anticrime program is No. 1 on the list of priorities in the formula grant program, which is part D in the amendment.

Mr. DIXON. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from California.

Mr. DIXON. Mr. Chairman, it is my understanding from discussion with the gentleman that this would be in the form of block grants, that community anticrime and neighborhood crime programs would receive the first priority under this amendment.

Mr. McCLORY. They are block grants, but the decision as to the priority is going to be made at the local level.

Mr. EARLY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is a little more fiscally responsible. It does not add money. It reprograms. It is nice to spend money and say you are not appropriating any. I look at the Justice Department, here is a $2.2 billion account.

Now, do they want to reprogram the money out of the Antitrust Division that actually, with the funding that we have included in this bill, has less money than it had last year? That is funded just short of $50 million.

Do the sponsors of this amendment, prioritize LEAA higher than other programs? Do they want to take the $100 million out of the FBI that has $629 million?

□ 1840

In the FBI account there is a cut in domestic terrorism. We will not spend as much money as we spent last year. There is a reduction in the legal attachés program which the Director of the FBI says he did not want. He did not want to reduce that account at all.

Do the sponsors want to take the money out of that program? They certainly do not want to take it out of the $127 million that is already recommended for the LEAA. Do they want to take it out of the INS to which this committee has just added $22 million to the recommended $347 million figure. Do the sponsors of this amendment want to take it from the Drug Enforcement Administration that has $205 million?

Those agencies that I have cited make up over $1.3 billion of the entire $2.2 billion. I think the sponsors of the amendment, who are two responsible Members, should suggest where they want to take it from.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. EARLY. I yield to the gentleman.

Mr. VOLKMER. I would just like to ask a question. If this amendment were to be adopted and other amendments, adding spending amendments would be adopted, then the bill passes and goes over to the other body, the other body passes their version and it goes into conference, then we have the time when we have to worry about the second budget resolution; is that correct?

Mr. EARLY. If you worry about that, yes.

Mr. VOLKMER. If the second budget resolution only allows a certain amount, which means we have to come back and cut back, if that amount is less than what we have done in the House and in the other body——

Mr. EARLY. This amendment does not add anything to the bill. This amendment would reprogram, not add funds to the Department of Justice. To give the two sponsors their just due, they merely want to move funds. They suggest to the committee that more important than the FBI, more important than the INS, more important than the DEA, more important than the $100 million that we have recommended for juvenile justice, more important than the Antitrust Division, is the LEAA. I am suggesting that the committee does not think that the LEAA is as high a priority.

Mr. VOLKMER. Does the amendment itself reprogram?

Mr. EARLY. Yes, it does.

Mr. VOLKMER. Where does it take the money from?

Mr. EARLY. Maybe they are going to tell us from where they are going to take it in the Justice Department. Maybe they want to take it from the Antitrust Division. Maybe the sponsors want to take it from the FBI.

Mr. VOLKMER. Or drug abuse?

Mr. EARLY. Right. That is not identified.

Mr. VOLKMER. I see. They have not identified where they are going to take the money from, so the money is going to come from any one of these programs, but we do not know which ones?

Mr. EARLY. The sponsors of the amendment can correct me, but I think it would be left to the Attorney General, who has sent us the recommendations which we have presented for the LEAA. We have funded the President's request in its entirety.

Mr. VOLKMER. In other words, what we are doing here, we may be doing nothing, which also tells me, though, that the Attorney General may decide that even though we appropriate the money that they are not going to spend it, they are going to spend it where they said they are going to spend it.

Mr. EARLY. The amendment says they have to use at least $100 million more for the LEAA, I think.

Mr. VOLKMER. They would have to spend $100 million for LEAA, and then they would have to take $100 million from one of the other programs?

Mr. EARLY. The question on the amendment is going to be a very simple assessment from each Member as to whether he or she thinks LEAA is more important than the other programs.

Mr. VOLKMER. Like the FBI, for instance. I thank the gentleman.

Mr. GUDGER. Mr. Chairman, I move to strike the last word.

This budget for the Department of Justice is $2,247,000,000. We are asking that $100 million of that, roughly, somewhat less than 4 percent, continue a program which this House approved and authorized for 3 years last year.

I do not contend that we have carefully tried to review all of the work of this subcommittee. We have not. But let me point out to the Members that the salaries and expenses of district attorneys and marshals is raised by 20 percent. Let me point out to the Members that various other programs are raised by 10, 12, and 15 percent.

If I read correctly, $232 million last year for salaries and expenses of U.S. attorneys and marshals is raised to $274 million this year.

We can talk all we want to about the FBI and various other programs. We do not presume that we have the right as drafters of this amendment to do anything more than say that the Department of Justice should continue a passthrough program that the Congress of the United States authorized and mandated last year by a vote of 3 to 1.

My thought is this: All we have to do is cut this general overall appropriation by around 3 percent and remember, we restore a program that the Congress of the United States approved by a 3 to 1 majority a year ago. What the Department of Justice has done is cut out the passthrough program and increase every other element of its budget, virtually every other element of its own budget. In other words, if it was on salaries, they went up, but the programs that were to pass through to the States and to the local governments they wiped off the board. All of the work that was done here by this Congress in 3 days of deliberation in this House last year was also erased.

We contend that is and was not the sense of Congress and that the Department of Justice has not gotten clear the message that we want the LEAA program to remain in force and effect or we would not have reauthorized it last year.

Mr. EARLY. Mr. Chairman, will the gentleman yield?

Mr. GUDGER. I yield to the gentleman from Massachusetts.

Mr. EARLY. The gentleman is suggesting that he wants to reprogram from salaries and expenses of the U.S. attorneys and marshals for which we provide $271 million. Last year the judiciary reorganized the bankruptcy court system. We do not have nearly enough money to do half, not even to do a third of what the Judiciary Committee suggested that they should do.

The gentleman is certainly not suggesting that we are going to take money from the bankruptcy courts, which are totally inadequately funded in the first place?

Mr. GUDGER. Is the gentleman suggesting that the judges of the bankruptcy courts are U.S. attorneys or marshals? I refer to the line item for an increase from $232 million to $274 million.

Mr. EARLY. We get that addition in the U.S. trustees, the bankruptcy trustees, because there was a total reorganization. Is the gentleman suggesting that this is where we are going to reach up and pluck this $100 million? I just say to the gentleman that in my mind, the LEAA does not even come close in priority relative to that of the U.S. trustees.

Mr. GUDGER. My recollection was the gentleman supported the LEAA program in 1979.

Mr. EARLY. Let us correct that. There are few in this House that have been more critical of LEAA. In fact, when I served on the ways and means committee in my State, when the committee tried to fund it—and it was 75 percent Federal money—the State legislature voted that they did not want it, but we funded it anyway.

Mr. GUDGER. Now we get the chips out on the table. The gentleman is biased against the LEAA program and has been for the last year, although the House carried it by a 3 to 1 margin.

Mr. EARLY. Absolutely.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. GUDGER. I yield to the gentleman from Illinois.

Mr. McCLORY. I would just say to the gentleman that there is a way of repealing legislation, and this is not the way.

Mr. EARLY. If the gentleman will yield, I would suggest that you repeal it when you do not fund it.

Mr. GIAIMO. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I want to commend the gentlemen of the subcommittee for their stalwart effort to try to save some taxpayers' money here. Let me say to my friend from Illinois, who is the author of this amendment, and who I know constantly concerns himself on budget matters because of the fact that the deficit is too high, or we are spending too much money, but then when we try to touch an area of his particular interest on his committee, LEAA, oh, but we have got to put the money in for that.

□ 1850

I will say to you, Mr. Chairman, that if we are going to save any of the taxpayers' money, we have got to start looking in our own areas of jurisdiction and try to save that money there. You cannot save it on someone else's back. We are talking about $100 million here. Maybe it is not very much to some people, but it is one-tenth of a billion dollars. When we adopted a budget resolution in this House and in the Senate, we voted on certain things.

One of the principles we voted on was to try to find some areas of low priority so that we could make some savings, so that we could hold the line on Federal spending, and so that we would have some money left for higher priority items, for very important needs of our people.

I submit to you on all of those tests LEAA is a program that ought to be chopped, terminated, and killed. I am sorry that the committe put in as much money as they did for it, but so be it. That is the power of the Appropriations Committee, and it is their right to do that. But certainly we ought not to go above what that committee has done. This is a low-priority item.

We cut $16.5 billion in spending this year in the first budget resolution. In addition to that, we have a $6.4 billion reduction called reconciliation that we are asking the committees to propose. The other body passed it last night. It is $6.4 billion in high-priority items—pensions, cost-of-living adjustments, mail delivery services, school lunch programs, and many other programs and many other areas of high priority.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. GIAIMO. I will not yield at this time. You want to say that LEAA ranks high in priority with those other programs. The heck it does. The heck it does.

Mr. McCLORY. Will the gentleman yield?

Mr. GIAIMO. I will not yield until I finished with my statement, and then I will be delighted to yield if the gentleman gets me some time if I need it.

I say stay with the committee. We have got to hold the line on spending wherever we can. We are asking the committees to come up with $6.4 billion in real spending cuts. Do not take $100 million away from these high-priority items and put it in a low-priority-cut item which the committee evaluated as such.

Let me tell you something. When you adopted the first budget resolution, you also adopted section 302(b). Committee allocations and functional allocations were made to the Appropriations Committee, and the Appropriations Committee last week broke those down among its various subcommittees, giving them a piece of that total pie, if you will. If you give $100 million to A, you are going to have to take it from B, or they are going to come up short at the end, and the last bill to the trough is going to be the one that suffers. So it is not a simple situation or practice of just saying, oh, well, add $10 million or add $15 million, or add $100 million; we will just put it on the total. You cannot do that. You are going to take that $100 million away from a high-priority item.

This was a temporary program. At best it was questionable in its efficacy, and it is a program that we ought to cut down. It was as high as $800 million. It is getting down, and eventually I hope we get rid of it. But certainly it is not a program that can be justified, and I ask the Members to vote against this amendment.

Ms. OAKAR. Mr. Chairman, I move to strike the requisite number of words, and I rise in favor of the amendment.

Mr. Chairman, I will be brief. I could not help thinking while I was listening from the gallery what low priority is given to one of the No. 1 issues in this country that affects American people more crucially, and that is the issue of crime. I think it is really high time that we as the Congress not just pass it off to the local governments and say it is up to them to deal with such an issue that makes elderly people immobilized, that makes women frightened to go shopping, et cetera, et cetera, that makes our older people so often stay in their homes when they should be out in parks.

I cannot imagine cutting off LEAA in terms of stressing our concern about crime. What bothers me about all of this is that I saw the foreign aid bill and I saw how little we cut when it comes to billions of dollars. But when it comes to a simple amount like $100 million to address the issue of crime, we want to cut that. I say that this is wrong. I will bet if you ask the American people where they want their funds and tax dollars to go, it would be to address the issue of crime, not in the bills we get for foreign aid.

Mr. McCLORY. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentlewoman for yielding.

The gentlewoman certainly has hit the nail on the head in emphasizing that crime is a high-priority item. As a matter of fact, we are not seeking to add any funds. I think it has been misrepresented. And the charge is made against me—and I am sorry the gentleman from Connecticut (Mr. GIAIMO) would not yield because I am very much interested not only in providing a balanced budget but in meeting the high-priority needs of our country. While only 1 person in 10 is a victim of crime, and 9 people are not, so, therefore, it is regarded that only one-tenth of the population wants us to do this, nevertheless, it seems to me that we should attend to what certainly is a high-priority item. Certainly national security and our own internal security would be at the top of the list.

May I just point out that in the Department of Justice—in the Department of Justice itself—they are saying that their highest priority items are things which are funded from LEAA funds. How much higher a priority can you get with regard to the needs of a department than that? It seems to me that we have every reason to adopt this amendment and tell the Department of Justice to provide for these programs which are directed against crime in America which is taking place on the streets and in the communities of our Nation.

Ms. OAKAR. Let me just say that a vote for this amendment is a vote against crime in this country.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. McCLORY).

The question was taken; and on a division (demanded by Mr. McCLORY) there were—ayes 15, noes 37.

RECORDED VOTE

Mr. McCLORY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 182, noes 221, answered "present" 1, not voting 29, as follows:

[Roll No. 391]

AYES—182

Abdnor
Addabbo
Akaka
Albosta
Ambro
Andrews, N.C.
Anthony
Applegate
Bailey
Barnes
Bethune
Bevill
Bingham
Blanchard
Boggs
Boner
Bonior
Bouquard
Breaux
Brodhead
Broomfield
Brown, Calif.
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Chisholm
Clausen
Clay
Coleman
Collins, Ill.
Conable
Conyers
Corman
Courter
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Derwinski
Dickinson
Dixon
Dodd
Dougherty
Downey
Drinan
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Calif.
Erdahl
Evans, Ga.
Evans, Ind.
Ferraro
Findley
Fish
Fisher
Flippo
Florio
Ford, Tenn.
Frenzel
Garcia
Gaydos
Gilman
Grassley
Gray
Green
Grisham
Guarini
Gudger
Hall, Ohio
Hamilton
Hammerschmidt
Hance
Hanley
Harris
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Hubbard
Huckaby
Hyde
Jeffords
Jenrette
Johnson, Calif.
Kastenmeier
Kazen
Kemp
Kildee
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Lederer
Leland
Lent
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lujan
McClory
McCormack
Marks
Marlenee
Marriott
Matsui
Mavroules
Mazzoli
Mikulski
Minish
Mitchell, Md.
Mitchell, N.Y.
Moore
Mottl
Murphy, N.Y.
Musto
Myers, Pa.
Nichols
Oakar
Oberstar
Peyser
Pickle
Porter
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Rinaldo
Rodino
Roe
Roybal
Royer
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Shelby
Shumway
Shuster
Solarz
Solomon
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stewart
Stokes
Stratton
Swift
Tauke
Tauzin
Traxler
Udall
Vanik
Walgren
Wampler
Weiss
Whitehurst
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wolff
Wolpe
Wright
Wyatt
Wydler
Yatron
Young, Mo.
Zeferetti

NOES—221

Alexander
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Baldus
Barnard
Bauman
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Biaggi
Boland
Bolling
Brademas
Brinkley
Brooks
Brown, Ohio
Broyhill
Burgener
Burlison
Carter
Cavanaugh
Chappell
Cheney
Cleveland
Clinger
Coelho
Collins, Tex.
Conte
Corcoran
Cotter
Coughlin
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, S.C.
Derrick
Devine
Dicks
Dingell
Donnelly
Dornan
Duncan, Oreg.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Ertel
Evans, Del.
Fary
Fascell
Fazio
Fenwick
Fithian
Foley
Ford, Mich.
Forsythe
Fountain
Fowler
Frost
Gephardt
Giaimo
Gibbons
Gingrich
Ginn
Glickman
Goodling
Gore
Gradison
Gramm
Guyer
Hagedorn
Hall, Tex.
Hansen
Harkin
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Howard
Hughes
Hutto
Ireland
Jacobs
Jeffries
Jenkins
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kelly
Kogovsek
Kostmayer
Kramer
Latta
Leath, Tex.
Lee
Lehman
Levitas
Lloyd
Lott
Lowry
Luken
Lundine
Lungren
McCloskey
McDade
McDonald
McEwen
McHugh
McKinney
Madigan
Maguire
Markey
Martin
Mattox
Mica
Michel
Miller, Calif.
Miller, Ohio
Mineta
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
O'Brien
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Preyer
Price
Pritchard
Quayle
Regula
Reuss
Ritter
Roberts
Robinson
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Rudd
Russo
Sabo
Santini
Satterfield
Seiberling
Sensenbrenner
Shannon
Sharp
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Stack
Steed
Stenholm
Stockman
Studds
Stump
Symms
Synar
Taylor
Thomas
Thompson
Trible
Ullman
Van Deerlin
Vento
Volkmer
Walker
Watkins
Waxman
Whitley
Whittaker
Whitten
Wirth
Wylie
Yates
Young, Alaska
Young, Fla.
Zablocki

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—29

Anderson, Ill.
Beard, R.I.
Beard, Tenn.
Bonker
Bowen
Buchanan
Dellums
Erlenborn
Fuqua
Goldwater
Hawkins
Hutchinson
Ichord
Johnson, Colo.
Kindness
McKay
Mathis
Nolan
Nowak
Ottinger
Rhodes
Richmond
Runnels
Stark
Vander Jagt
Weaver
White
Wilson, Bob
Wilson, C. H.

☐ 1910

The Clerk announced the following pairs:

On this vote:

Mr. Bowen for, with Mr. Goldwater against.

Mr. Beard of Tennessee for, with Mr. Kindness against.

Mr. Buchanan for, with Mr. Rhodes against.

Mr. DERRICK and Mr. MARKEY changed their votes from "aye" to "no."

Messrs. BREAUX, STANGELAND, and TAUKE changed their votes, from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ROUSSELOT

Mr. ROUSSELOT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROUSSELOT: On page 17, after line 8, add a new section as follows:

"SEC. 203. Of the total appropriation in this Title, five per centum shall be withheld from obligation and expenditure: *Provided*, That this section shall not apply to $22,373,000 of the amount appropriated for "Immigration and Naturalization Service, Salaries and expenses."

Mr. ROUSSELOT. Mr. Chairman, this is the 5-percent amendment for just this title.

I note the applause for this amendment and I accept the Members' support. In the name of economy I yield back the balance of my time.

Mr. SMITH of Iowa. Mr. Chairman, I rise to oppose the amendment.

Mr. Chairman, I just simply want to say that we have gone through the bill one item at a time. The only thing I know of that could be cut would be the $22.3 million added for INS, and the gentleman's amendment exempts that increase from the reduction. So, let us just vote down the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. ROUSSELOT).

The question was taken; and on a division (demanded by Mr. ROUSSELOT) there were—ayes 75; noes 89.

So the amendment was rejected.

● Mr. BIAGGI. Mr. Chairman, I rise to lend support to the Dixon amendment which would provide a modest additional $10 million for the highly successful community anticrime program of the Law Enforcement Assistance Administration.

I support this amendment for two personally important reasons. The first is my home city of New York and more specifically, my congressional district, has benefited directly from programs funded by the community anticrime program. These programs have concentrated on providing crime victim assistance—a sorely overlooked area in our criminal justice system. The funds provided have had genuine impact upon my constituents and the termination of these programs would be a regressive step.

My second basis of support stems from this program's excellent record of providing service to the elderly. In programs such as home and neighborhood security escort services and general victim assistance, hundreds of older persons have benefited. This program is worthy of continuation and expansion such as is provided by the Dixon amendment.

I came to the Congress after 23 years in the New York City Police Department. I have seen a host of crime prevention programs conceived and funded. Among those, the community anticrime program of LEAA stands out as one of the best. The LEAA as an agency has not fared as well but we should extract from it those of its programs doing the best job. The community anticrime program is worthy of our support and I urge approval of the pending amendment.●

● Mrs. COLLINS of Illinois. Mr. Chairman, I rise to urge your support for the Committee on Appropriations' fiscal year 1981 funding recommendation for the Legal Services Corporation and your opposition to all attempts to reduce that recommendation. The Appropriations Committee has recommended a funding level of $321.3 million for legal services next year—a modest amount designed to maintain the current level of service in the face of inflation.

The Legal Services Corporation is charged with responsibility for the provision of civil legal assistance to low-income persons. A minimal level of services has been made available to persons with incomes at or below 125 percent of the Office of Management and Budget (OMB) poverty line—more than 30 million persons nationwide. The services are actuated through local private nonprofit organizations governed by boards of directors composed of attorneys from the service area.

To reduce the $321.3 million appropriation by any amount, in this instance approximately $8 to 9 million, will mean that additional low-income persons will be without the services of an attorney. When a civil legal problem arises, the proposed reduction would have to be absorbed by legal services officials throughout the country. It would reduce representation for the urban poor, the elderly, the handicapped, the native American, and the migrant farmworkers.

In 1980, the Legal Services Corporation allotted $8.2 million to 31 local legal services programs for civil legal assistance to low-income migrant farmworkers. These programs operate in 35 States and Puerto Rico to ensure that migrant farmworkers have some access to our system of justice when in need. Attorneys, expert in migrant problems who visit the camps, provide crucial advice about legal rights and responsibilities to the migrants and handle their legal problems.

It is crucially important that disadvantaged groups, especially low-income migrants who cannot afford to pay for legal assistance, continue to have the availability of free legal services. To suggest that this group of workers should not receive legal assistance, is to state that we in Congress are going to allow a group of workers, who may be the poorest of the working poor, to have no access to our system of justice.

The Nation's migratory workers are among the neediest and the most deserving of legal assistance.

First, simple access to an attorney is often an overwhelming problem for migrants who move with the crops, and are then confined to labor camps without adequate transportation or language abilities. Low-income migrants experience the important, yet mundane legal problems suffered by many poor persons—divorce, child custody, governmental benefits. In addition, they have numerous status-related legal problems that unfortunately create tension and controversy between growers and workers.

Second, migrant workers have been exploited by unscrupulous crew bosses and have been rejected by the very communities, which enjoy the fruits of the migrants labor. This sad history was well documented by the Committee on Education and Labor in its report on amendments to the Farm Labor Contractor Registration Act in 1974:

> Abuse of workers by the contractor/crew leader appears more the rule than the exception. The testimony revealed that in many cases the contractor tends to exaggerate conditions of employment when he recruits workers in their home base or that he fails to inform them of their working conditions at all; tends to transport them in unsafe vehicles; fails to furnish promised housing or else furnishes substandard and unsanitary housing; often operates a company store while making unitemized deductions from workers' paychecks for purchases, and usually pays the workers in cash without records of units worked or taxes withheld.

Third, migrant legal services attorneys represent farmworkers in suits for recovery of unpaid minimum wages pursuant to the Fair Labor Standards Act; recovery of civil damages from unregistered crewleaders for redress of fraudulent misrepresentations (pursuant to the Farm Labor Contractor Registration Act); development of special compensatory education programs under the provision of title I—Migrant of the Elementary and Secondary Education Act; representation of farmworkers at fair hearings in claims for disability benefits under the Social Security Administration Act.

Fourth, my Subcommittee on Manpower and Housing heard testimony last November from various staff attorneys working in legal services programs providing services to farmworkers in various parts of this country. Poor sanitary conditions and day to day violence under which farmworkers and their advocates labored were reported. I was appalled, as we all should be, at the conditions which they described farmworkers must suffer under as they labor to harvest our food in 1980.

Last, reducing the funding for the Legal Services Corporation is inconsistent with the basic congressional mandate to provide equal access to our system of justice for persons who are otherwise unable to afford an attorney.

Legal services must be continued. After a 5-year effort, we finally have legal service programs in place in all parts of the country. We are now trying to maintain these programs, and the $321.3 million appropriations will provide a modest 7 percent cost of living increase for them. To reduce the appropriation by $8 million will mean that no more than a 4-percent cost of living increase can be provided to legal services programs. With the current rate of inflation, service cannot be maintained at such a level, even after all savings have been attempted.

The proposal to reduce the appropriation to the Legal Services Corporation is terribly ill conceived and should be rejected unequivocally.

It reduces legal services available to low income groups;

It leaves the exploitation of migrant farmworkers unchecked; and

It is inconsistent with congressional mandate to provide equal access to our system of justice.●

□ 1920

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

> This title may be cited as the "Department of Justice Appropriations Act, 1981".

TITLE III—DEPARTMENT OF COMMERCE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

> For expenses necessary for the general administration of the Department of Commerce, including not to exceed $2,000 for official entertainment, $32,800,000, of which $1,000,000 shall be available for the Secretary's Special Initiatives Fund.

Mr. SMITH of Iowa. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the chair, Mr. BROWN of California, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7584) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1981, and for other purposes, had come to no resolution thereon.

LEGISLATIVE PROGRAM

(Mr. BAUMAN asked and was given permission to address the House for 1 minute.)

Mr. BAUMAN. Mr. Speaker, I take this time in order to determine, if we can, what the program might be for tomorrow.

The SPEAKER pro tempore. The gentleman is recognized for that purpose.

Mr. BAUMAN. Mr. Speaker, may I address that question to the Chair?

The SPEAKER pro tempore. The Chair will respond that upon our adjournment tonight we would adjourn to convene at 10 a.m. tomorrow.

At that time it is my understanding that it is the purpose of some in the leadership to bring forward the rail deregulation bill, for amendments and perhaps conclusion—perhaps not—followed by a resumption of the State-Justice appropriation bill if it gets to that point.

It is our purpose to adjourn at a reasonable hour tomorrow unless it appeared useful to stay in session to permit the completion of the conference on the supplemental appropriations bill. We should know toward the middle of the afternoon whether that is a likely possibility or not. If it seems altogether a forlorn hope that we can see the completion of that supplemental, then we would hope to adjourn by approximately 5 o'clock tomorrow so that Members can make their reservations, which many of them have had for weeks, in order to be in their districts during the Fourth of July district work period.

It might be necessary under those circumstances to reconvene on Monday next or on Tuesday next, whenever it would be necessary, to consider the supplemental appropriations bill conference report.

Mr. BAUMAN. Mr. Speaker, I thank the Chair for his candor, and I will only repeat my suggestion made last Friday to the majority leadership that if we could stay and complete the supplemental on Thursday, it would be much to the liking of most Members. But I understand the majority has requirements to be met. It seems not too terribly attractive to have to come back next week.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. If I have any time remaining, I yield to the gentleman from Texas.

The SPEAKER pro tempore. The gentleman from Maryland (Mr. BAUMAN) still has time.

Mr. KAZEN. Mr. Speaker, let me just make an inquiry.

If we do not go into the conference report this week. I understood the Chair to say that we would come back on either Monday or Tuesday. Can [illegible] inite estimate tomorrow before we adjourn, so that we can cancel some of our engagements in our districts?

The SPEAKER pro tempore. The Chair is fully aware of the real inconvenience that will be placed upon many Members by reason of an inability of the conferees to resolve their differences and bring us a bill.

As the gentleman from Texas (Mr. KAZEN) is fully aware, we were not able to get an agreement to go to conference until today, and there are 344 items of disagreement. So the conferees should not be scorned if they are unable to finish by tomorrow.

They, however, report that they have made heartening progress, and they are working diligently to complete it.

The Chair would hope that by midafternoon tomorrow we might have a reasonable expectation of when the conferees might finish. At that time we had better reassess the situation and try to make a clear-cut decision as to when Members would have to come back.

We will take under advisement the suggestion of the gentleman from Maryland (Mr. BAUMAN), as well as suggestions from other Members, but in the ultimate analysis, we are going to have to come back, if we are not able to finish that supplemental tomorrow, some day next week, and we do not want to bring Members back unless there is a vote upon it. We should not want to kill 2 days for Members if we can get by with one.

ANDERSON APPEALS TO LIBERAL ELITISTS

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ASHBROOK. Mr. Speaker, it is sometimes necessary for a politician to take actions which are not immediately popular with his constituents, but those times should be few and far between. Many in politics have strong egos, but we should never let those egos blind us to the fact that the positions we hold are the property of the people. In a democratic society, true political leadership consists of presenting programs we feel the people will approve. It does not mean using governmental power to order Americans to do things they do not want to do, for goals they do not share. That is an authoritarian attitude, and it has no place in our system.

Nothing more demonstrates the degeneration of the liberal establishment than its steady trend toward the arbitrary use of governmental power. "Leadership," to the liberal establishment, now means forcing liberal programs down the people's throats. It reflects the basic premise of all authoritarian ideology: That the elite in power knows what is right, and the people are merely so many obstacles to the ruling class.

In a fundraising letter, independent candidate JOHN ANDERSON makes a statement brilliantly calculated to appeal to the illogical mind of the liberal elitist. Says Mr. ANDERSON:

> I believe voters are hungry for political detachment, for a candidate who is willing to prescribe things without regard for his election. I'm willing to do the things that will make me a one-term President.

The people, in other words, are hungry for a President who will act in defiance of their will, and whose policies those same voters will reject as soon as they get their chance to do so in the next election. This is, to put it charitably, an odd interpretation of democratic principles and public aspirations. But it is a perfectly accurate reflection of what passes for thought among die-hard liberals today.

Right after the giveaway of the Panama Canal, Democratic Senate Leader ROBERT BYRD congratulated his colleagues for defying the will of the people in that episode. He praised especially the "courage" of those who had participated in the sellout despite the fact that they were facing reelection that year. In response, I asked, "Courage against whom, Mr. Speaker. The only thing one faces at election time is the electorate. Is Mr. BYRD praising his colleagues for defying the will of the people?" That, of course, was precisely what he was doing, and that is what Mr. ANDERSON, in no uncertain terms, is promising to do.

It is impossible to avoid thinking of George Orwell's book, "1984," as one listens to the rhetoric of today's liberal establishment heroes. Orwell's despotism used slogans like "Freedom is Slavery." The leader of the party which calls itself "Democratic" congratulates U.S. Senators on defying the will of the people. Candidate JOHN ANDERSON justifies his candidacy on the grounds that the people are dissatisfied with the choices offered, then promises to use the Presidency to pursue policies the people do not want, and which the people will reject 4 years hence.

It is hard to imagine how the liberal establishment could have made its position more clear. It simply does not believe that the people should have too much influence over what the U.S. Government does. History is crowded with ruling establishments who had that attitude, and the history of our country is a long chronicle of our fight against them. Our commitment is and always has been to rule by the people. In November, the voters will reconfirm that commitment.

PIECING THE DEMOCRATIC PLATFORM TOGETHER AGAIN

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LAGOMARSINO. Mr. Speaker, we are, all, of course, very anxious to wrap up business soon so that we can recess for our respective party nominating conventions in July and August; however I could not help but notice in last evening's Star that the majority party had a near brush with disaster in this regard last Tuesday.

I refer of course to the report of late-night revels at the Mayflower Hotel where somehow the only extant copy of the Democratic Party platform was lost on the way to the barroom.

I guess you could say it literally fell through the cracks in the platform.

I want to commend those stalwarts of the other party who despite their exhausted condition the next morning waded through mounds of rubbish and trash to retrieve this invaluable document—a true case of finding gold where it glitters, I am sure.

I only hope they managed to retrieve all the parts and in their proper order. I am sure the amendment of sawdust, spilled drinks and other debris to the Democratic platform will only enhance the flavor of its excellent planks.

THE EAR

Thrashing the platform and the secrecy syndrome . . . It looked like curtains for the Democratic Party's Platform last week, darlings. A hundred and 70 Party stalwarts had slaved and wrangled for four days at the Mayflower, thrashing out the details. Tuesday night, their long chore was over. The exhausted delegates streamed from the Colonial Room to the bar, for a few celebratory shooters. The hotel's clean-up team bustled in behind them. It swept up the usual banana skins, sandwich wrappers, coffee beakers, parking tickets and mustard packets—plus, darlings, several hundred loose, scribbled-on, agonized-over pages that made up the sole extant copy of the Democratic Party Platform. Whistling merrily, they chucked it in the Porto-o-bin, trundled it off, and dumped it in the hotel's huge trash compactor with the rest of the day's detritus. Hours later, wrathful, red-eyed Democrats clambered among the rubbish, fishing out likely-looking papers, picking through probable portions, and painstakingly piecing the Platform together again. And, of course, swearing the conventional shabby oath: *"Let's never tell The Ear."* Ear is saddened.

THE NATION'S FIRST ECONOMIC PRIORITY: STABILITY

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PANETTA. Mr. Speaker, one of the factors that underlies the economic problems of this Nation is that the American people and the business and financial community do not trust the will or courage of the Congress and the administration to set economic policy and to stick by it.

Instead, they view executive and legislative spokesmen as constantly swaying in the political wind, testing the most recent polls, and rationalizing one extreme or another of economic policy, depending on what happens to be popular that day. The result is usually chaos, and nobody, least of all the American public, is deceived into believing otherwise.

Witness the events of the last few months. The year began with the administration submitting an unbalanced 1981 budget with a deficit of over $16 billion. It was business as usual. When the inflation rate hit close to 20 percent, panic set in and it was determined that nothing short of massive surgery was required—a balanced budget was essential. Within days, there were high-level meetings among the leadership of Congress, key chairmen and members of committees, and economic planners in the administration. Lo and behold, a balanced budget was produced.

But no sooner was the balanced budget resolution adopted and interest and inflation rates began to diminish than the screams began to be heard of a desperate need to abandon the balanced budget resolution and stimulate the economy with tax cuts and economic stimulus programs. Those screams are now being used as excuses to avoid the tough savings decisions that remain to be made by the Congress. Today, within a period of just a few weeks, there is tremendous pressure to begin another loop in the economic roller coaster—from recession back to inflation.

Some may argue that this is all very popular with the American public. After all, it supposedly responds to their latest fears. But it makes for stupid economic planning, and the American people are smart enough to know that it makes no sense to switch economic gears based on a perception of what is popular. And whether it is Ronald Reagan or Jimmy Carter or the Congress leading the charge, the result is the same: More economic instability.

The purpose of the budget process is to insure some semblance of long-range economic planning. We know that inflation and recession are villains, but it makes no sense to kill one head of this two-headed hydra only to resurrect another. Economic policy must be stable—goals must be set, a plan established, and the Federal Government must stick to that plan.

The budget resolution recently adopted by the Congress is meant to reduce the Federal deficit and control spending. These remain essential and legitimate economic goals. We ought to stick to them. We ought to seek to maintain as close to a balanced budget as possible. We ought to implement reconciliation and legislative savings and reforms. In fact, the Congress is proceeding to do this, with both Senate and House committees reporting over $6.4 billion in legislative savings pursuant to the first concurrent budget resolution.

Obviously, there may be a need to make some adjustments or fine-tune the budget resolution based on economic developments. The more savings the Congress can achieve, the more room there will be for appropriate adjustments. But the resolution should be a solid foundation for guiding future economic forces within the Nation. Economic policies should be built on the principal goals of the resolution. If the foundation is constantly subject to change, we can never hope to build any kind of stable policy for this country.

But perhaps this is too much for a Congress or an administration—actually to stick by a budget resolution. It is much easier to push massive tax cuts and spending programs, and to forget about the need to control Federal expenditures. But that is nothing new; it's merely business as usual. Perhaps we should enjoy the ride and just say goodby to economic stability and the budget process. For now, it appears that huge tax cuts and substantial spending increases are almost a foregone conclusion. But perhaps when inflation is once again roaring out of control we will be wise enough to recognize that there is no escape from economic instability unless we commit ourselves to a budget aimed at final restraint and budgetary discipline.

FUNDING COMMITMENTS IN SUPPLEMENTAL APPROPRIATIONS BILL NECESSARY

(Mr. CLAUSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLAUSEN. Mr. Speaker, I want to reiterate my own concern over the fact that the Senate has slowed down the adoption of the supplemental appropriations bill.

There are many workers out in my own congressional district who are unemployed due to the expansion of Redwood National Park and are totally dependent on the funding commitment made to them in that legislation. It is, therefore, absolutely essential that the House and the Senate remain in session until they complete and adopt the supplemental appropriation bill which is now pending. I ask the Speaker and the leadership to keep the House in session until this is done.

The supplemental appropriations bill for fiscal year 1980 includes $1.1 billion in additional funding for the Federal unemployment benefits and allowances account under the Department of Labor's Employment and Training Administration.

The increase for this account is primarily due to the massive layoffs which have occurred in the automobile industry, particularly the Chrysler Corp. plants.

A special program of worker adjustment assistance established in 1962 and further expanded by the Trade Act of 1974 enables these workers to apply for special benefits if laid off due to increased competition from imports. In addition, the program provides for special opportunities for training, job search, and relocation.

The Department of Labor currently estimates the number of trade readjustment beneficiaries at 593,000 in 1980 as compared with the original estimate of 180,000.

As a result of these unforeseen layoffs, the unemployment account has recently been depleted. Unfortunately, other beneficiaries not directly related to the automobile industry have also suffered from this shortage of funds and have had their unemployment checks temporarily stopped or delayed.

Among those affected are the recipients of the Redwood employee protection program. Workers who lost their jobs as a result of the park expansion receive special unemployment benefits paid for out of this fund.

Included in the increase proposed by this legislation is approximately $6 million earmarked for them.

It is a sad commentary that the overall budgetary process and the unforeseen problems in the automobile industry have caused these people to suffer further.

It is my understanding, however, that once the supplemental is passed and signed into law these funds are immediately transferred to the California regional office of the Employment and Training Administration and that the State can immediately resume issuing checks.

I have called upon the State to continue to process the paperwork involved so that just as soon as the bill is signed, checks can go out.

PRESIDENT CARTER SHOULD HAVE VETOED THE U.N. RESOLUTION CONDEMNING ISRAEL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 60 minutes.

Mr. KEMP. Mr. Speaker, I rise to protest the failure of the administration to veto the resolution on Jerusalem adopted yesterday by the U.N. Security Council. This is but the latest instance in which the administration and State Department have failed to stand by Israel, failed to confront the radical drive to isolate Israel and failed to defend our own national interests and principles.

Abstention indicates a neutral stance on an issue, but there is no way the United States could be neutral about the resolution on Jerusalem. That pernicious document asserts that actions taken by Israel to alter the status of Jerusalem are "null and void," and that Israel must end its "occupation" of Arab territories "including Jerusalem." Does the administration's decision to abstain mean that it has no opinion on the Arab demand for the redivision of Jerusalem? Is the administration uncommitted on the idea, expressed specifically by Saudi leaders, that Jews should not be allowed in East Jerusalem? Is President Carter ambivalent about whether Israel's stewardship of Jerusalem—an era in which the religious rights of all have been respected—is no better than the previous 19 years of rule? From 1948 until 1967, officials controlling Jerusalem ordered the demolition of 34 of 35 synagogues, and the opening of open sewers on the site of the Western Wall, and the quarrying of Jewish gravestones.

Those nations which voted for yesterday's resolution said by their votes that a return to such a situation would not disturb them. Behind the talk of international law was a chilling indifference toward the years of desecration, and an awesome contempt for the importance a unified Jerusalem has for Israel and the Jewish people. And on this, the administration chose to be neutral.

What we see is an emerging pattern of appeasement, in which an administration intimidated by the specter of the oil weapon chooses acquiescence over the forceful defense of principle. Let no one be deluded: This pattern elicits escalating demands, not moderation. Ambiguity invites exploitation, not reasoning compromise.

I am concerned that during this year, we will see more of this behavior. Already, we have witnessed the administration's decision to reward a recalcitrant and uncooperative nation with 100 advanced M-60A3 main battle tanks. Similarly, the administration has moved toward selling offensive subsystems to another nation for use on its F-15's, subsystems which only 2 years ago the administration promised the Congress it would not sell. Neither country heeded our call to join negotiations with Israel. Both countries condemned the Egypt-Israel peace treaty, and broke relations with Egypt, and joined a campaign to boycott Egypt economically and politically. Both talk of tests of American's relationship with them, yet both have failed tests which the American people would have expected any supportive friend to meet easily.

We should not be lulled by administration protestations of innocence, or carefully crafted defenses of evenhandedness, or delayed decisions. If decisions on arms sales and on diplomatic issues—including the PLO—are put off now, we in the Congress have good reason to believe that what is presaged is an escalated pressure campaign against Israel, should the administration remain in office after January.

Mr. Speaker, the administration should be aware that it cannot stabilize an unstable Middle East, or blunt Soviet adventurism, or compensate for a weakened American naval presence, or secure steady oil supplies by turning our backs, even if only in ambiguity, on the State of Israel. In such a situation, we must identify our interests and our friends, and defend them. Our support for Israel is seen throughout the world as the litmus test of America's commitments abroad. We can abuse Israel only at severe risk to the peace process and to our reputation. We must hold out the hand of friendship to all, but not out of fear and intimidation.

America's own national interests, and the interests and principles of the West, require more than studied ambiguity, and more than abstention.

□ 1930

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. KEMP. I yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, I want to commend the gentleman from New York for raising the issue on the floor of the House and for focusing attention on the floor that the administration has stood by, vote after vote on the Security Council, and abstained from indicating its position on very important and critical matters, apparently bowing to the wishes of a very small self-seeking group within the United Nations.

I think it is a long time overdue that our administration stand by some of the things they promised in previous platforms and stood up for their alleged support for Israel rather than just to give lipservice to this issue.

I want to commend the gentleman for his long-standing support on this issue.

Mr. KEMP. I appreciate the comments of my friend, the gentleman from New York, as well as his leadership.

Mr. WOLFF. Mr. Speaker, will the gentleman yield?

Mr. KEMP. I will be happy to yield to my other friend from New York (Mr. WOLFF).

Mr. WOLFF. I thank the gentleman for yielding.

Mr. Chairman, I would like to join the gentleman in his remarks here. The fact is that the territory of East Jerusalem is unallocated territory. It has never been recognized as anything but this. The fate of that city is to be determined at a final peace agreement. The city was militarily occupied at the time of partition by the Jordanians.

We sanctioned the Jordanians coming in there and taking half of the city, and now we decry the idea of a city being unified.

I recall when I visited Jerusalem back in 1956 I had to look through a little hole in a wall at the holy places which were on the other side of that wall, only because if I had stuck my head up above that wall I would have had it shot off by the Arab Legion.

I thank the gentleman for his remarks.

Mr. KEMP. Mr. Speaker, I appreciate the gentleman's comments. I have been in Jerusalem twice, at the very same spot. So I can appreciate the fact that this is not only an issue of making sure that Jerusalem is not divided again, as it has been in the past, but that it be undivided. I know the gentleman agrees.

It is also a matter of survival. Those in the State Department who think that Israel could survive by allowing the border to go back to where it was or to allow that partition to take place are wrong. To do so is neither in the interest of Israel or the United States or even those states which have a stake in peace in the Middle East.

Mr. DOUGHERTY. Mr. Speaker, will the gentleman yield?

Mr. KEMP. I yield to my friend, the gentleman from Philadelphia.

Mr. DOUGHERTY. Mr. Speaker, I rise to compliment the gentleman for his comments and to be identified with his remarks condemning the administration's policy in the U.N. yesterday.

This is another step the Carter administration is taking in furthering the efforts to destroy the close relationship between the United States and Israel. I think it is entirely regrettable and, hopefully, later on in the day we will address it at greater length. I compliment the gentleman for taking this time, and I publicly want to be identified with the gentleman's comments and sentiments.

Mr. KEMP. I thank my friend.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. KEMP. I would be happy to yield to my friend, the gentleman from Idaho.

Mr. SYMMS. Mr. Speaker, I just want to ask the gentleman if at the present time Jerusalem is under the jurisdiction of the Israeli Government.

Mr. KEMP. It is, and it has a mayor by the name of Teddy Kollek, who has allowed all religions, all faiths, and all peoples access to the shrines, the religious sites, and the sacred ground that Jerusalem represents to the world's three great religions—Islam, Judaism, and Christianity.

Mr. SYMMS. What the gentleman is telling us here is that this is the first time in many years that it has been this way?

Mr. KEMP. Absolutely. And under the previous rule for those 19 years, the holy sites of both Christian and Jew were desecrated. I am not here to condemn anyone, but I am here to say that it was a wrong move by the administration to be silent in the face of what is for all practical purposes an outrageous rejection of Israel and its attempt to keep Jerusalem unified.

Mr. SYMMS. I would like to compliment the gentleman for making this information public and for bringing this to the Members of this body.

Mr. KEMP. I appreciate the comments of my friend, the gentleman from Idaho, who I know is a friend of Israel as well.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. KEMP. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate my colleague taking this time to express his outrage that many of us feel that our Nation did not oppose this resolution in the United Nations and did not vote against it. Even though we abstained so we could say we are not voting for it, I think that is every bit as weak as having voted for it. So I compliment my colleague for calling this to the attention of the House and our Nation. It needs to be said, and I am glad the gentleman has done it.

Mr. KEMP. I thank the gentleman.

□ 1940

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. KEMP. I yield to the gentleman from Idaho.

Mr. SYMMS. I want to thank the gentleman again for this fine statement and compliment him for this position, and I think I just would add one thing to it, that the problem with the Carter foreign policy is that they fail to support our friends. They fail to oppose our enemies and they fail to keep our commitments.

I think what the gentleman is saying is that what we should have is a foreign policy, and I think if we would pursue those very simple principles, we could have a much more safe and peaceful world.

Mr. KEMP. I thank the gentleman from Idaho for making that comment, and I thank my other colleagues for their comments.

Mr. WOLFF. Mr. Speaker, will the gentleman yield?

Mr. KEMP. I yield to the gentleman from New York.

Mr. WOLFF. I thank the gentleman for yielding.

I would hope and I am sure the gentleman has no intent to make this into a political issue; the situation is much too serious.

Mr. KEMP. I have no intent to make it a political issue. The situation goes far beyond politics in its seriousness. I rise in similar purpose of that of my colleague from Illinois (Mr. PHILIP M. CRANE), who recently had an honest desire to bring to the attention of this Congress an issue he felt very strongly about, moving the U.S. Embassy in Israel to Jerusalem. He is going to take the floor after me, and though I happened to vote against him on that particular issue, I appreciate the gentleman from Illinois' strong record of support for the interests of Israel. The recent attack on him in this Chamber was unseemly and regrettable.

I yield back the balance of my time, Mr. Speaker.

NATIONAL TOURISM POLICY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. HAMMERSCHMIDT) is recognized for 5 minutes.

● Mr. HAMMERSCHMIDT. Mr. Speaker, as a charter member of the Congressional Travel and Tourism Caucus, I rise to express my strong support for the National Tourism Policy Act.

One of the initial actions addressed by the caucus upon its formation was the development of a national tourism policy which will insure that travel and tourism receive proper consideration at the Federal level as their primary goal. In view of our pressing economic problems, it is vitally important to the travel and tourism sector of our economy that we adopt this Policy Act.

During the last decade a number of professionally conducted comprehensive studies were made to determine what the United States was doing to care for and strengthen travel and tourism. The studies also explored how the Federal Government's efforts could be improved. These reports revealed that although there were a multitude of programs and policies within the Federal Government which impacted travel and tourism, they appeared to be fragmented, diffused and conflicting. There are currently 100 Federal programs and some 50 Federal agencies involved in some way with tourism. No one entity coordinates the many factors surrounding this diversified industry, which includes transportation, restaurants, and lodging facilities. In the past, we have done very little to clarify what the Federal Government's role to expand this industry should be.

The facts are clear that the travel and tourism industry currently contributes more than $115 billion to the economy of the United States and supports approximately 6 million jobs, many of which are positions filled by women, youth, minority members, and hardcore unemployed.

In my judgment, travel and tourism in the United States of America have never been given proper recognition. The true potential of travel and tourism, as a source of new jobs, and as a means to reduce the balance-of-payments deficit has never been optimized. Moreover, the fact that a more aggressive and innovative travel campaign abroad could engender more harmonious relations with foreign countries has been totally ignored by the present administration. Despite the fact that international tourism is one of the world's major growth industries, the expansion in the number of foreign travelers to the United States has been very disappointiing and inadequate.

Furthermore, this industry promotion and growth has favorable implications since more and more foreigners are looking to the United States as an attractive vacation spot because of favorable exchange rates.

Last, I wish to commend the chairman and distinguished members of the Interstate and Foreign Commerce Committee who have labored to take this first step to stimulate international travel to the United States while encouraging the growth and development of the industry at home. I have no doubt that an aggressive approach to prompt tourism will provide immeasurable economic and social benefits in return for a relatively small investment. I urge my colleagues to approve this important bill without delay.●

JERUSALEM: CAPITAL OF ISRAEL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. PHILIP M. CRANE) is recognized for 60 minutes.

GENERAL LEAVE

Mr. PHILIP M. CRANE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to insert extraneous matter on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. PHILIP M. CRANE. Mr. Speaker, last week I offered an amendment to move the U.S. Embassy in Israel from Tel Aviv to Jerusalem. Both the effect and intent of that amendment were apparently misunderstood. This topic is too significant to U.S. relations with her allies to allow misunderstandings to persist. Perhaps by clarifying any misconceptions about the effect or intent of that amendment, I can best stress the importance of this issue with regard to this appropriation bill for State and Justice and other U.S. relations in the Middle East. My amendment stated simply:

> No more than $1,000 may be used to operate or maintain an embassy in Israel which is not located in the city of Jerusalem.

Many who voted against this language feared that it would, in effect, result in the closure of the U.S. Embassy in Israel. Only if the Carter administration chose to close the Embassy in Tel Aviv would that have been the effect. The language specifically provided for a U.S. Embassy in Israel's capital city, Jerusalem. The notion that this or any other administration would close its Embassy in Israel without provocation from abroad is preposterous. I know of no time in history when the United States so altered its diplomatic relations with an allied nation unless serious circumstances abroad provoked the action.

Moreover, this is a sensitive time for relations in the Middle East. Closing the Embassy in Israel is not a realistic alternative from the historical perspective or the logical perspective, especially when Congress, through this amendment, would have specifically directed the President to have an Embassy in Israel and told him, moreover, where it should be located. We would not have ignored Israel, but finally acknowledged Israel fully—the statehood of the nation and the location of its capital. We have long bragged of being first to acknowledge the state of Israel in 1948. Yet simultaneously we have refused to recognize the heart of that powerful ally, her capital Jerusalem. For too many years we have acknowledged Israel only in part. The effect of my amendment would not have been to close our Embassy and complicate United States-Israeli relations, but to finally open our Embassy in Israel's capital and pave the way to unrestrained, unconditioned and unqualified friendship with this great nation.

Many voted against my amendment under the mistaken belief that it would close our Embassy and strain United States-Israeli relations. I can only ask them: How could finally opening an Embassy in Jerusalem to recognize the true capital of Israel strain our relations with that faithful friend?

The effect of this amendment would have been to complete what we began in 1948. Simply stated, this was to relocate the United States Embassy in Israel in Jerusalem.

The intent of my effort was also misperceived. This language was merely designed to cement our ties to the nation most important to U.S. interests in the Middle East. Perhaps we should review the importance of Israel for stability and protection of U.S. interests in this vital region.

Our paramount interest in this area of turmoil is to prevent the Soviet Union or its surrogates from exploiting unrest to choke off the oil supplies upon which all of the industrialized Western World depends. Indeed our own inept policies of regulating energy prices have made us reliant on the Middle East for up to 40 percent of our petroleum imports. The Soviet Union appreciates this reliance and we cannot allow them to capitalize further on their massive military buildup by securing a stranglehold on the Middle East. Unquestionably, the Soviet Union is asserting its political and military power across this strategic region. Already the Soviets operate from embassies, bases, and naval facilities in Iraq, Syria, South Yemen, Ethiopia, and Libya.

Moreover, I need not remind this body that the invasion of Afghanistan places Soviet air and surface forces within easy striking distance of the Gulf of Oman and even the Strait of Hormuz. We stood by as our ally in Iran crumbled. We cannot afford to let our ties to Israel weaken. Instead we must strengthen our ties with that important friend, particularly at this time when outside pressures are testing the firmness of our commitment. Hence, I offered my amendment. Israel is the most powerful military deterrent to Soviet domination of the area. Other pro-Western nations in the region, Egypt, Saudi Arabia, and the smaller gulf states are vulnerable to Soviet might.

Due to Israel's democratic political system and a common Judeo-Christian heritage, we do not have to fear that radical political instability or anti-American sentiments will boil over in Israel as they did in Iran. Israel has continually provided us with insights and intelligence concerning Soviet designs and activity in the area. Israel's forces are equipped to maintain, service and repair U.S. military equipment, including the most sophisticated aircraft. Moreover, her naval bases and airfields could provide a secure point of access if ever required in an emergency. A strong Israel with close ties to the United States is our most important strategic asset in the Middle East.

In light of the importance of our commitment to Israel and the inconsistency of the State Department's refusal to acknowledge the capital of this vital ally, I was absolutely amazed when many of those who profess dedication to the State of Israel were instrumental in defeating this amendment to give proper recognition to Jerusalem. Immediately after the vote, I was compelled to leave Washington in order to attend a Presidential unity dinner in Chicago. I could catch no later flight and still attend the dinner. Unfortunately this schedule conflict made it impossible for me to remain for the heated discussions which followed the vote. I later read in the CONGRESSIONAL RECORD, however, that a lengthy chain of speakers paraded ceremoniously down into the "wailing well" of the House to bemoan the difficulty of their decision to vote against moving the U.S. Embassy to Jerusalem. To my surprise, they claimed to have had no advance notice of the amendment. The RECORD itself disclosed that the amendment was debated on the floor prior to the vote. If my colleagues had no notice of the vote, they must not have been present for that debate. Moreover, I would point out that I did consult with many of my colleagues about this sensitive question several days before I offered my amendment.

I hesitate to broach this next subject in the context of such an important discussion, but several of those in the "wailing well" raised the subject and we must dispose of it in order to clarify the sentiment of this body with respect to Israel. Several speakers during the discussion after the vote on my amendment last week suggested that I offered this language to gain some partisan advantage, to embarrass the President with his failure to recognize Israel's capital. This subject was then and is now too important to cheapen with allegations of political rivalry. We are discussing U.S. relations in the Middle East, source of much of the world's petroleum supplies. We are discussing U.S. relations with all her allies and friends, who watch how we honor our commitments to Israel to see if we can be trusted. The implications of this body's decisions are too great to be clouded with questions of partisan motives.

Moreover, I contend that this was not a partisan question. Republicans and Democrats alike voted for my language last week. The 1976 Democratic platform recognized the importance of Jerusalem with the following language:

> We recognize and support the established status of Jerusalem as the capital of Israel, with free access to all its holy places provided to all faiths. As a symbol of this stand, the United States Embassy should be moved from Tel Aviv to Jerusalem.

I understand from last week's debate that the 1980 Democratic platform currently contains similar language. The next Republican nominee for President has stated his sentiments as follows:

> It is foolhardy to risk weakening our most critical remaining regional strategic asset. Yet if administration policies should serve to weaken Israel . . . the tasks of Kremlin planners dealing with the Middle East would be enormously eased and a determined barrier to Soviet expansionism in the region would have been withdrawn.

Leaders and spokesmen from both parties have recognized the import of this issue. We are not dealing with politics but with proper U.S. relations with her close friend in the Middle East.

Finally, let me remind my colleagues that 13 nations currenly have embassies in Jerusalem. Yet despite our close ties to Israel, the State Department has never recognized Jerusalem as that country's seat of government. Instead, the U.S. Embassy remains in Tel Aviv thus complicating both communication and diplomacy, the primary functions of an embassy.

We have tarried too long without making a full commitment to Israel. We can no longer afford to recognize Israel in part. We must recognize her capital as well. We must relocate our embassy in Israel's capital, Jerusalem. Although the House rejected my amendment to effect that objective, I trust that in the near future all of us—on both sides of the aisle—can work together to achieve that goal.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. PHILIP M. CRANE. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Speaker, I want to compliment the gentleman for doing this special order and say to the gentleman that I was paired for his amendment. I was absent when it was offered last week. I want to compliment him for bringing it to the House. I do not view that it should be called a political issue either. I think it is one that ties right in with the preceding remarks of the gentleman from New York (Mr. KEMP). It is a matter of our having a foreign policy where we can be trusted by our allies so we can restore their confidence and then at the same time regain the respect of our adversaries.

I would say to the gentleman that I would have voted for it had I been here, but I appreciate the fact that I was paired for it.

Mr. PHILIP M. CRANE. I thank the gentleman for his remarks.

I quite agree that this amendment is part and parcel of a perception that we are projecting in the world with regard to who our friends, and particularly our most loyal and trusted and consistent friends, in the world have been. I think that requires our appropriate recognition of our allies and reciprocity of their commitment to us.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. PHILIP M. CRANE. I yield to the gentleman from New York.

(Mr. GILMAN asked and was given permission to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, I wish to commend the gentleman from Illinois

(Mr. PHILIP M. CRANE) for his longstanding and continuing support for the State of Israel, for his leadership on this issue and for holding this special order to fully discuss the important question of the recognition of Jerusalem as the capital of Israel.

It is indeed appropriate and timely that we discuss the question of U.S. recognition of Jerusalem. Just yesterday, the Security Council of the United Nations once again yielded to Arab pressure on Jerusalem and passed by a vote of 14 to 0 a one-sided resolution condemning Israel's policies on Jerusalem. While the administration did not support the resolution, it did not see fit to oppose it. Instead, the United States demonstrated the quality of its leadership in world affairs by abstaining once again. Yes, I think it certainly is appropriate and timely for this body to consider our Nation's policy with regard to this important issue.

The noble effort last week by the gentleman from Illinois (Mr. PHILIP M. CRANE) to focus this body's attention on this important issue is to be commended. Some of my colleagues alleged and objected to a lack of consultation on this issue. No individual Member of congressional committee has exclusive jurisdiction over U.S. foreign policy. As has been the tradition of this body from its conception all Members have equal rights to debate that policy. I know for a fact that the gentleman from Illinois discussed his resolution with Members on both sides of the aisle the day before it was offered. Moreover, it is not unusual for this body to consider resolutions or amendments having to do with foreign affairs with little or no notice or consultation.

I fully support U.S. recognition of Jerusalem as the capital of Israel and I believe that the time has come to demonstrate our support for this position by moving our Embassy from Tel Aviv to Jerusalem. At the same time, I fully recognize that ultimately this question will have to be resolved not by any congressional resolution but through negotiations. But I do think it is an extremely important issue that concerns not only Israel but the entire Middle East. We should not shrink from our responsibilities in examining this problem and giving a signal to the world how this deliberative body feels about this critical issue.

Historically, Jerusalem has always played a central role in Jewish life and religion. Many peoples including Assyrians, Egyptians, Babylonians, Ottomans, and Romans have ruled over Jerusalem, but nobody has ever made it their capital except the Jewish people. Jerusalem has always been the ancient capital of Israel. Beginning when King David, who made it his capital over 3,000 years ago, and until this day, Jews have continuously lived in Jerusalem. Since the 1840's they have constituted the largest single group of inhabitants.

Countless rites and symbols of Jewish life keep alive this historic linkage of identity and hope through generations of dispersal and persecution. Jewish people around the globe carry in their hearts the dream of returning to the Holy City of David. Jerusalem in Jewish prayer is synonymous with Israel.

Since 1967, Israel's administration of Jerusalem has shown that the holy places for all three major religious groups can be protected with access assured for all faiths. Never has Jerusalem been so fairly administered or made so accessable to followers of all three religions, as well as to the general tourist, sightseer or visitor, irregardless whether they are Christian, Moslem, or Jew.

In 1949 the first session of the Knesset was opened in Jerusalem and proclaimed Jerusalem as its capital. Since that time some 13 countries have recognized Jerusalem as Israel's capital and maintain embassies there. Included in that list are two countries, Venezuela and Ecuador, that are both members of OPEC and which have apparently suffered no ill effects from their Arab partners.

Accordingly, I commend the gentleman from Illinois (Mr. PHILIP M. CRANE) in fully supporting a policy that recognizes Jerusalem as the capital of Israel, with free and open access to all holy places by all faiths. It makes no sense to continue the present double standard in our U.S. policy of making our Ambassador maintain his embassy in Tel Aviv while the Government of Israel conducts most of its official business in Jerusalem.

☐ 1950

Mr. PHILIP M. CRANE. Mr. Speaker, I thank my colleague for those gracious remarks.

I thank him also for the kind remarks he made in my absence after the vote on my amendment when, unfortunately, I had to leave the floor.

Mr. WOLFF. Mr. Speaker, will the gentleman yield?

Mr. PHILIP M. CRANE. I am happy to yield to my good friend and colleague, the gentleman from New York.

Mr. WOLFF. Mr. Speaker, I thank the gentleman for yielding.

First, let me commend the gentleman in the well for the leadership he has taken on this question. There have been comments made that the gentleman did not discuss the amendment with those of us on this side of the aisle. Let me attest to the fact that the gentleman discussed this amendment with me the day prior to his offering the amendment.

I think that the question of politicizing these things is one that is highly objectionable to me. That is why I made the comment that I did during the last special order.

I think that the gentleman had no political motivation, but a sincere interest in seeing that justice was done in this particular case. Therefore, I strongly commend the gentleman for the action that he has taken; but, unfortunately, there are those who would capitalize on an emotional issue such as this and use this as a device for not republicanism or democracy or a democratic cause, but for actually a cause of demagoguery. I hate to see this happen.

Let me get to the issue involved here. The gentleman offered an amendment that was to move the capital from Tel Aviv to Jerusalem. As chairman of the mission to Jerusalem just recently, I experienced a situation that I had never experienced in all my 16 years in the Congress, where a political officer of the Embassy came in conflict with the Ambassador. I was told that the consulate reports directly to Washington. This is a bifurcation of the Embassy itself. In no other place in the world do we have a situation existing such as this where a consular official is in direct contact with the State Department in Washington. In every other Embassy throughout the world, the consular officers have to report directly to the Embassy. This is a situation I am going to try to adjust during the State Department and Justice appropriations by offering an amendment to see that no consulate throughout the world is given any funds unless they report directly through the Embassy involved.

Mr. PHILIP M. CRANE. Mr. Speaker, if the gentleman will yield for a moment, I understand that this bizarre situation—having our consulate located in Israel's capital and our Embassy in another city—often causes conflicting reports to be sent to the State Department from those two different sources. Is that correct, to the gentleman's understanding?

Mr. WOLFF. If the gentleman will yield further, that is entirely correct. There are any number of cases where this has occurred and, in fact, it occurred right directly in front of the delegation who was being briefed in Jerusalem.

Now, this causes a situation whereby the President or the State Department gets conflicting views as to the situation that they actually exist. More than trying to bring the peace accords to a final conclusion, this is acting as an impediment to the peace accords.

Therefore, I would say that a move in this direction would do much toward alleviating the problems that are created by this two-headed monster that we do have now in Israel.

Again, I want to thank the gentleman for his leadership in this connection.

Mr. PHILIP M. CRANE. Mr. Speaker, I thank the gentleman for those kind remarks.

Let me say that, as the gentleman indicated, we did discuss this the day before I introduced my amendment and the gentleman from New York indicated to me at that time that if the bill was taken up the next day he was, unfortunately, not going to be present for it. I have depended upon through many issues, and this is one more, the insight and the understanding of my distinguished colleague who, in his senior capacity, has travelled abroad probably as much as any Member in this body. I think he possesses as sophisticated an understanding of international affairs as any other Member of this body, and I respect and appreciate his guidance on all matters, particularly on matters as sensitive as this. Had that gentleman, in our discussion prior to my introduction of the amendment, offered powerful objections, I would have seriously reconsidered it. It was with the support of my good friend and colleague on the other side of the aisle, as well as with the input that I had received from both Israeli citizens and experts in Israeli affairs in my home district, all of whom had given me the exact same counsel, that I went forward with my amendment on that Friday.

Mr. WOLFF. Mr. Speaker, the time has come to address a facet of the foreign policy of the United States which has gone uncorrected for far too long. I am referring to the nonrecognition of Jerusalem as the capital of Israel and the maintenance of the American Embassy in its present location in Tel Aviv. I am told that the eastern half of the city of Jerusalem cannot be recognized as Israeli because it was occupied through military means. That has been true ever since partition, for Jordan militarily occupied the eastern part of the city.

The United States, in implementing the recognition of the government of foreign nations as sovereign and legitimate, has opened and operated an Embassy in the capital city of that state as a matter of policy. Yet the conduct of our international affairs with our closest and most vital ally in the seething Middle East is carried on through an American Embassy that is not located in that nation's capital. This discrimination in diplomatic protocol cannot be allowed to continue, particularly when the country we are actively insulting is an important trustworthy ally.

I have visited Israel and Jerusalem a number of times and have been committed to the preservation of peace in the Middle East and the security of Israel for all of my 16 years as a Member of Congress. I visited Jerusalem in 1956 when it was still a divided city, before the Seven Days War of 1967. At that time I felt the very real pain that envelopes an ancient city that is artificially split in two. I walked the narrow streets of the western half of the city and when I reached the wall that divided the city at that time I had to peer through a tiny hole in that wall to catch a glimpse of the holy places. I was barred from the eastern half of Jerusalem because I was an American Jew. Obviously, there was no freedom of visitation for members of all faiths in effect in the eastern section of Jerusalem. Today that right exists for all members of any faith throughout the Holy City under the jurisdiction of the constitutional democratic political system of Israel. The tragedy that still plagues Berlin no longer affects Jerusalem. The relocation of the U.S. Embassy to the Israeli capital of Jerusalem would help prevent this tragedy from happening again, and possibly prevent the creation of another flashpoint of emotional superpower confrontation. The city of Jerusalem must not be divided.

The Israeli position is that the question of Jerusalem should be discussed in negotiations aimed at solving the problems of the Arab-Israeli dispute. This is the position of the United States as well. Yet, the American Embassy remains in Tel Aviv and this issue produces another source of friction in our relations with our most loyal and important ally in the Middle East. The road to a just and lasting peace in the Middle East can only be traversed through intensive state-to-state negotiations that encompass all the specific points of contention.

The Camp David peace process is proving this point. A peace treaty has been ratified by Israel and Egypt. The Sinai has been returned to the Egyptians. The question of Palestinian autonomy is again being discussed. The negotiation process must not be abandoned and either must Israel. Jerusalem is the capital of a true ally that has earned that oft-heard title with blood and tears. It has come time that we recognize the capital of Israel, Jerusalem, for in these days of high international tension and every-man-for-himself foreign affairs a trusted and dependable ally is an indispensable commodity.

We must never permit this issue to become a political football. There have been injustices and mistakes visited upon Israel by both parties. This must cease if we are to be true to our principles. I must remind that if John Foster Dulles did not intercede and prevent the Israeli, British, and French retake possession of Suez Canal there might be no need for this debate. If Secretary of State Rogers plan had been implemented Israel would not exist today as a viable nation. It must be remembered too that during the October War Israel was faced with extinction before Mr. Kissinger and the administration in power at the time reequipped Israel with desperately needed material for its survival.

In the spirit of peace, a sense of justice and true friendship I call for the relocation of our Embassy from Tel Aviv to Jerusalem and an end of acrimony engendered by partisan politics.

Mr. WOLFF. Mr. Speaker, will the gentleman yield further?

Mr. PHILIP M. CRANE. I am happy to yield.

Mr. WOLFF. Mr. Speaker, I thank the gentleman. The gentleman is entirely correct when he says he not only talked with me, but we talked at length over this question.

The important element I think in all of this is that we are concerned not only for the welfare of the State of Israel, but we are concerned with American security interests as well. It is in the security interests of the United States that Israel continue as a viable entity in the Middle East.

Therefore, I think in the interest of all the Members here that we do everything possible in order to insure that security which is tied so closely to our own.

Mr. DOUGHERTY. Mr. Speaker, will the gentleman yield?

Mr. PHILIP M. CRANE. Yes; I am happy to yield to my colleague, the gentleman from Pennsylvania.

Mr. DOUGHERTY. Mr. Speaker, I rise to compliment the gentleman from Illinois for his efforts last week in introducing the resolution. Unfortunately, the Chair saw fit to cut off discussion on the issue at the time I felt was very critical.

I think it is unfortunate that certain Members last week felt it necessary to take the floor to condemn the efforts that were being made. The gentleman from Illinois introduced the resolution. I rose to go on record supporting the gentleman's amendment at that time.

I find it unfortunate that people would hide behind accusations and charges and politics and then say that any response we would give would be "political."

I think it is appropriate that I explain that the day prior to the gentleman's amendment, I was visited by a group of school children from my district who rode down on a school bus from Philadelphia to express to me personally their concerns as to where the Carter administration was going in its relationship to Israel. These youngsters asked some very moving questions, like why has the United States turned against Israel?

☐ 2000

Why do we not recognize the fact that Israel is America's closest ally in the very volatile area of the Middle East? Why has the Congress, and this is their question, why has the Congress become so pro-Arab? I think these young people, in fact, I know they reflect the attitude not only of youngsters but of people who live in my district. I think they reflect the concerns of all segments of American society that we are indeed abandoning a friend, our true ally.

In that sense I think it is appropriate we evaluate whether or not the Carter administration's policy in the Middle East is becoming more pro-Arab, less pro-Israel, and what is happening there.

I thought when the gentleman offered his resolution last week it was a chance for the Members of Congress to rally around an ally. It was an opportunity for us to take to the floor and say to the world, "Look, we in the Congress are behind Israel. We are not afraid to take a gutsy position. We are willing to take the flak in the papers. We are willing to say, in effect, that Israel is our ally." She has been our ally. We are going to support her. We are concerned about her security.

That would have been a sign of hope not only to those youngsters who came to see me, but to many other people in this country. I think we have to look at the Middle East policy of this Government.

I took a trip last summer to both Egypt and Israel as a member of the Armed Services Committee. We have a policy in the administration that says we are not supposed to negotiate with the PLO. I sat with the Consul General in Jerusalem, the representative of the State Department of the United States, and he said to me, "Oh, we don't negotiate with the PLO, I just have regular meetings with the mayors of the Palestinian towns on the West Bank." The gentleman knows and I know that they were put in power by the PLO. They tell me personally that they would never, never do anything the PLO did not want them to do, and if the PLO asked them to get out of politics or out of public office, they would get out. I said to the Consul General, "You are telling me you are not talking to the PLO when you are talking to the mayor of Nablus?" He said, "Well, ha ha, they are not card-carrying members of the PLO." I think he must think that the Members of Congress are idiots. It is obvious in fact, if that was the attitude of the Consul General of the United States in Jerusalem that the Carter administration has been negotiating with the PLO. I think it is very appropriate that we put this on the record and say that is, indeed, the case.

I came back and I wrote to the President and I said, "Why not joint military exercises with both Israel and Egypt?" I got a letter back recently from the Department of State, "We have agreed to carry on air training missions. We are sending some 16 American jet fighter planes and Air Force crews for joint air exercises with the Egyptian Air Force, but we are still talking about whether we may run some limited small naval exercise with Israel." That is not the way it is supposed to be. If we are supposed to treat Egypt and Israel as equals, then how can we condone conducting military exercises on the scale that we are going to do it with Egypt and to the total exclusion, for all intents and purposes, of Israel?

I think we can look at the settlements. Certainly the Carter administration has not gone on record as saying publicly that the solution to the problems of the refugees involved more than just an involvement by Israel. The refugee problem was created because the Arabs went to war with Israel in 1948. There could be no solution to the problems of the refugees that do not include participation by the Arab nations. Yet the Carter administration stands silent on that.

Why? We now talk about the F–15's. Why does Saudi Arabia need more advanced equipment for the F–15's? They were supposedly given to Saudi Arabia as defensive equipment.

Finally, concerning the gentleman's point on Jerusalem, I find it difficult to believe that we as a nation are going to tell another nation where they can locate their capital. In the sense of fair play, if the United States decides to move its capital to Atlanta, Ga., we would have the right to expect foreign embassies to be located in Atlanta, Ga., because that is where our capital is. If the Israeli Government chooses to locate their capital in Jerusalem or Tel Aviv or Haifa, we as a nation are obligated, in my mind, to put our Embassy where they say their capital is.

I think what I am saying to the gentleman from Illinois (Mr. PHILIP M. CRANE) is that I admire the fact he had the guts to take to the floor despite all of the apologists who took the floor after him and bring to the attention of this Congress and the Members of this body and people of the United States a very real issue.

Jerusalem is symbolic to a lot of people in this country of America's commitment to the survival and the freedom of Israel. For this Nation and its Presidency and its administration to slack off and hide behind phony issues and phony statements about politics, and for this Nation to try to buy friends and worry so much about being liked by the Arabs, and to worry so little about being respected I think is an indictment of a policy that has changed this Nation in the eyes of the world from being a nation committed to Israel to a nation that is willing to pay a price to get Arab oil. I think that is very regrettable and I thank the gentleman for having the courage to take to the floor and bring this issue to our attention.

Mr. PHILIP M. CRANE. I thank the gentleman for those remarks and concur totally.

I would agree, further, that one of the things that has probably hurt America's image the most in this uncertain world is a mounting perception in the eyes of our friends that we do not seem to understand where we are going. I think it is a situation that I can understand by relating it to grammar school days when the rich kid in school wanted to buy friends. We cannot buy friends. You win friends by earning respect, and that respect stems from, I think, a consistent adherence to some basic principles. You are honest. You are truthful. You have integrity. You have courage. And you do not doublecross buddies.

I think the United States in this particular instance is, in its effort to woo some new friends, ignoring some very important truths that I thought most of us understood before we got out of grammar school.

Mr. ROUSSELOT. Mr. Speaker, will my colleague yield?

Mr. PHILIP M. CRANE. I am happy to yield to my good friend and colleague from California.

Mr. ROUSSELOT. Mr. Speaker, I appreciate what the gentleman from Illinois (Mr. PHILIP M. CRANE) has done to bring to the attention of this body the highly questionable policy of "dual U.S. representation" in the State of Israel. The distinguished gentleman merely offered a solution to this situation, whereupon, a wrongheaded reaction soon developed among some of our colleagues.

The Members present are certainly aware that the U.S. consulate in Jerusalem reports directly to Washington, rather than to our Embassy in Tel Aviv. This is a procedure that is unparalleled in our diplomatic structure worldwide. Obviously, we are, and have been sending conflicting signals to all parties interested in the Mideast situation, for more than 30 years.

Many of us have long and legitimately believed that our Embassy should be in Jerusalem. The Crane amendment sought to implement this belief. The proposed relocation of our Embassy from Tel Aviv to Jerusalem is not a new idea, in fact, it is another of the broken and discarded planks in the 1976 Democratic platform. There was no need for sophomoric charges of partisanship by those who would portray themselves as the only "true friends" of Israel.

Such charges are ludicrous.

This is an international matter that relates to our country. Israel is an important ally, and a true reliable friend.

Let us remember: The value of an ally as strong and trustworthy as Israel is immeasurable.

□ 2010

Mr. PHILIP M. CRANE. Will the gentleman let me comment a moment on his observation of Israel as a consistent, faithful, loyal, and totally trustworthy ally? We have other allies about which one could say the same thing, yet few share the ideals and values of America so completely as Israel and her political system. When we have an ally with this kind of consistent loyalty and trustworthiness, it is frequently due to the leadership at the top and is not necessarily a reflection of the entire people. But Israel is a democratic nation. The loyalty, trustworthiness, and consistent support that Israel has demonstrated is a reflection of the entire nation. So I think that Israel is to be commended doubly on that score, and the people of the United States can rest easily in the absolute and certain knowledge that its ties shall never be broken.

Mr. ROUSSELOT. That is an excellent point. There is one other item I wish to mention and that is the strategic significance of Israel in this part of the world has never been questioned.

While we were the first Nation on Earth to recognize the State of Israel, and have been actively supporting her for over 30 years, we have also been the recipient of the benefits of friendship with her. She has proved to be an effective counterweight to Soviet influence in this region, she has guaranteed full access for all persons to the many holy shrines and places of worship in Jerusalem, and she has demonstrated an unwavering desire for peace. Should not we demonstrate our friendship and good faith by honoring her desire that nations recognize Jerusalem as her capital? Thirteen other nations have already done so, I think we should join them.

I thank the gentleman for taking the time to involve himself and others in this important issue.

Mr. PHILIP M. CRANE. I thank the gentleman also for rising in my defense in my absence on that occasion.

Let me comment on one other point, too. I on my last visit to the State of Israel a couple of years ago had the occasion to go up to the good fence. There was that historic expression from the Old Testament about beating swords into plowshares. I think one must recognize that the State of Israel is not a warlike state. The State of Israel desires peace certainly as much or more than any nation that exists anywhere in the world. But I think the State of Israel also has been realistic in recognizing, as George Washington counseled us in the infancy of the Republic, that those who desire peace should prepare for war and, further, that the greatest way to lead to uncertainties that can trigger conflict is to demonstrate a lack of consistent, faithful adherence to solemn treaty obligations and to historic ties based upon mutual respect and trust. The United States, I think, must reevaluate the perception of where we are coming from in the world today because it could, God forbid, lead to a renewal of hostilities not just in the Middle East, but elsewhere as well. We should make sure that friend and foe alike understand exactly where we are coming from and that we will remain strongly faithful and loyal in support of our trusted friends who share the common values and ideals that we hold.

Mr. Speaker, I am happy now to yield to my good friend and eloquent colleague, the gentleman from California (Mr. DORNAN).

Mr. DORNAN. I thank the gentleman for yielding. I want to emphasize again how very proud I was to have joined the distinguished gentleman in his quest last June 30 to recognize such an obvious factor of history that Jerusalem is the one and only capital city of our loyal ally Israel. I think that a quick, very brief recapitulation of the situation in all of the Arab countries, extending all the way to the Atlantic, is worth mentioning here.

How peculiar it is for a Member to come back from that area of the world—that Member is not present tonight so I will not mention his name—and say that now the Arab world is united. If he would only resolve in the sense of pragmatic politics the Palestinian problem in question, then the United Arab world would embrace us. If we start at the Atlantic and look at the continual guerrilla fighting activity inside Morocco, supported by Algeria, look at the sickening scene of Qaddafi of Libya assassinating his own people worldwide in European countries, if you look at the vicious things he said about President Sadat in his adjoining country, if you look at the bloodshed still continuing on the borders of Ethiopia and Somalia, if you look at the two Yemens still at one another's throat, if you go north of that fragile country and see Lebanon bathed in blood and sliced in five different sections like a pathetic loaf of bread, if you look at Iraq alternately fighting with Syria now, and attacks on and off on the Iranian border, if you look even inside of Iran and Iraq, at the Kurd people seeking independence down in the Persian Gulf area, the embryonic Baluchistan popular revolution, and if you look at the distrust of Pakistan, India, and vice versa, the uncharted areas there in the Kashmir Province that could provoke hostilities anytime, and follow you golden scimitar of Israel all around the Philippine Islands, you will still see unrest in forgotten countries, such as Sarawak, all along those Indonesia areas, and it is anything but a United Arab world.

I commend the eloquent remarks of the gentleman from New York (Mr. WOLFF), the gentleman from New York (Mr. GILMAN), the gentleman from California (Mr. ROUSSELOT), and the gentleman from Pennsylvania (Mr. DOUGHERTY). Here is an ally of consistent faithful loyalty. Not to recognize such a deep and significant problem to their very existence as to where they want their capital is really the worst kind of pragmatic politics in this House, particularly when it is combined with all the naysaying on the very day that the Democratic Platform Committee for the second time in 4 years has emphasized that we should recognize that capital move.

I was very proud to have joined the distinguished gentleman in the well of the House last June 20 in an attempt to move our Embassy in Israel to that nation's history.

Jerusalem is a symbol of the Jewish people. It is not only a symbol of the Jewish people; but it is the first city in the religious and cultural heritage of the West. When Saint Paul confronted the masters of Greece in his endeavors to go forth, as his own Master had commanded, to teach and baptize the nations of the world, he reminded his fellow Christians of the greatness of their Hebrew heritage.

Jerusalem was, even in the ancient world, special, unwordly. It was the center of a monotheistic tradition that held for a realm of divine existence beyond the mean preferences of anthropomorphic Greek and Roman deities. It was no wonder that the early Christians, following Saint Paul, could utter to sophisticated men of the Roman world; "what need have we of the wisdom of Athens when we possess the truth of Jerusalem."

Athens had become the center of the world of the mind and reason, but Jerusalem had become the center of the world of the spirit and faith. Athens had become, to borrow a phrase from Saint Augustine, the best representative of the city of man, but Jerusalem had become what I, and my jewish brethren truly believe, the city of God. Athens was the site of the unjust condemnation and death of Socrates, but Jerusalem was the abode of the law of Moses—the site of the life and death of Christ.

So, all of us in the West, are rooted to Jerusalem, the beautiful city for which Christ himself, out of an incomparable love for her inhabitants, wept. It is yet even today, though tragically divided by war and politics, still one of the worlds most beautiful cities, and its continued existence remains a mighty historical testimony to the greatness of our heritage, the heritage of every Jew and of every Christian.

No people but the Jewish people have ever laid claim to Jerusalem as their capital. No people have spilled more blood in its defense. No people have greater claim to it as a capital city. Jerusalem had first become the capital of the people of Israel under King David, between 1000 and 960 B.C. In spite of incessant invasions from the Babylonians, the Assyrians, the Egyptians and even the Greek forces of Alexander, the Jewish people held firm to this holy city as their capital, the center of their political and religious life.

To emphasize its religious importance, King David himself brought the tablets of the law into the city. So Jerusalem remained the capital of an independent Jewish political order until establishment of Roman authority in 63 B.C. And even under the Roman conquest, the city remained as the center of a constrained Jewish political life, and achieved even higher status as the center of Jewish religious life.

Jerusalem again and again became a symbol of Jewish freedom. How brave the struggle when the zealots of Israel seized the city and held it for 4 years from 66 to 70 A.D. Even after the devastating Roman assault on the city in 70 A.D., under Titus, Jerusalem remained an object of liberation and a vital symbol of Jewish freedom. Once again, against the rule of Hadrian in 132 A.D., portions of the city were once again retaken during the Bar-Kochba rebellion, a struggle against Roman suppression of Jewish political and religious rights.

Once again, Jerusalem is treasured as a capital city by the Jewish people and I repeat, once again only by the Jewish people, throughout all of history. Thousands of years. Never by the Philistines, or the Assyrians, or the Egyptians, the Babylonians, or the Romans or the Byzantines or the cruel, despotic and corrupt Ottoman Empire. No Arab nation, not even Jordan. No people has ever made Jerusalem a capital but the Jewish people, and it is now again their capital, since 1948, moving its history as a Jewish center into a third millennium. The Jewish people plead to have it recognized by their friends as their holy capital. On June 20, 1980, many of us took a stand. And as a matter of fact so did the Democratic Platform Committee that very day in the hours before dawn. We have at least one loyal ally with the guts to fight for something. A superbly trained defense force that is willing to back us up in the Middle East or anywhere else where we might need them. Let us stand shoulder to shoulder with our friends and firm ally.

As for the U.S. Embassy in Israel, I say with undying hope and firm conviction: Next year, in Jerusalem.

□ 2020

Mr. PHILIP M. CRANE. I thank the gentleman for his characteristically eloquent plea on behalf of the proposition I submitted before this body.

● Mr. SOLARZ. Mr. Speaker, I welcome this opportunity to reiterate my longstanding position on Jerusalem. I have always insisted in the past, I insist today on the floor of the House of Representatives, and I shall continue to insist in the future, that an undivided Jerusalem is the eternal capital of Israel. Furthermore, I want to make it absolutely clear that I yield to no Member in this body in my fervent desire to see the United States move its Embassy in Israel from Tel Aviv to Jerusalem.

Jerusalem has been the capital of Israel since the establishment of the state in 1948, and it is both unrealistic and counterproductive for the United States to refuse to recognize this fact. Thirteen other nations have recognized what to me is patently obvious—that Jerusalem is necessarily the only possible capital for a Jewish state—and have therefore properly established their embassies there. It is high time that the United States follows the lead of these 13 states.

I need not remind my colleagues of the importance of Jerusalem, not only to Israel but to the entire Jewish people. For more than 3,000 years, Jews all over the world have included in their prayers the well-known phrase "Next Year in

Jerusalem." The holy city of Jerusalem is part of the very essence of the Jewish faith, and Jerusalem has given everybody the aspiration of the Jewish people.

I would further point out to my colleagues that, despite the fact that the United Nations continues to viciously and disgracefully condemn Israel on an almost daily basis, it is clear to all objective persons that since Israel reunited Jerusalem in 1967, people of all faiths and religions have been free to worship there in their most holy shrines. Access to the city has been entirely unimpeded, a distinct change from the pre-1967 period, when Jews were denied access to the Old City. I know of no one in this body who would support a return to the deplorable pre-1967 conditions.

I can think of no more fitting symbol of the United States recognition of the meaning of Jerusalem to the Jewish people than to relocate our Embassy in Israel to Jerusalem. It is my sincere hope that this clear declaration of congressional support for such a move will put the administration on notice that the Congress will no longer support further inaction or delay on this urgent issue.●

☐ 2030

THE POLITICAL AND ECONOMIC SITUATIONS IN NATIONS OF CENTRAL AMERICA

The SPEAKER pro tempore (Mr. COELHO). Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 10 minutes.

● Mr. ALEXANDER. Mr. Speaker, I have reference to a five-part series of articles by Scripps-Howard News Service staff writer, Bill Steif, relating to the political and economic situations in the nations of Central America. The third of the series was entered in the CONGRESSIONAL RECORD on June 30, 1980, page 17802. The fourth of the series, dealing with Guatemala, follows:

CENTRAL AMERICA: CHANGE AND CHALLENGE

(By William Steif)

GUATEMALA CITY.—"Your State Department guys are either fellow travelers or absolute fools," says Mario Echeverria Trigueros, president of the Guatemalan Chamber of Commerce.

"There's a simple solution to subversives," says Roman Romero, a restaurant owner in the city of Quezaltenango. "Shoot them."

"I don't like to express my opinion of the United States," says Guatemalan Interior Minister Donaldo Alvarez Ruiz. "But, privately, I think North Americans should not meddle here."

A handsome divorcee, mother of two teenagers, says her first ancestor to come from Spain in the 16th century was a duke's son. She is asked what the U.S. posture here should be. "Don't mix in here," she says. "You're not wanted."

These are the same people who, with their families, applauded the CIA's key role in overthrowing reformist President Jacobo Arbenz 26 years ago. Off and on, since then, assassinations, coups and rightist and leftist terrorism have punctuated the politics of this Tennessee-sized nation, Central America's richest country. Guatemala's per capita income was $1,043 in 1979, double the 1974 figure.

But today the cycle of violence is growing fast. A Belgian priest is killed the same day a leader of the rightist National Liberation Movement is murdered. The nephew of Guatemala's vice president is kidnapped. Two university professors, husband and wife, are murdered. Campesinos—peasants—kill an army recruiter. A union leader is gunned down leaving a Coca Cola plant. A coffee company official is shot and butchered with a machete. Lawyers, students and an occasional journalist are murdered.

The terror is not random. The killings are pre-planned and average about 200 a month.

Since the Jan. 31 campesino invasion of the Spanish Embassy, which resulted in police slaughter of 39 persons, "the intensity of violence has risen enormously," a diplomat says.

The chaos in El Salvador and Nicaragua has captured most U.S. headlines. But serious people in Central America believe that in the long run Guatemala will be the worst problem.

But the Guatemala Establishment doesn't see it that way. Many criticize the United States for gingerly supporting revolutions in neighboring El Salvador and Nicaragua. Their message to Washington: hands off; do nothing, except (of course) buy our coffee, meat, sugar, cotton, bananas and oil. And keep sending tourists

The divorcee, who traces her genealogy to the 16th century, says:

"The Indians are happy the way they are; they are natural people."

But outside Totonicapan, an Indian town 125 miles north of here, Indian women wash clothes in a creek; a transistor radio is propped against a rock. The women listen to news.

There are 7 million people in Guatemala, and half are pure Indian, descendants of the fabulous Mayans. For centuries, they have been isolated in the mountains of the north. Now roads, radios, TV and airplanes are pushing the Indians into the nation's life. And it is among the Indians that leftist guerrillas are working hard.

Interior Minister Alvarez, Guatemala's top cop, is a black-haired, dour man who blames "extremist groups, right and left," for the tension here. "They are organized in combat teams and have been attacking each other," he says, in this spread-out city of 1.5 million.

Seated in his large corner office of the dirty-green Palacio Nacional, he says the extremists "rely on clandestineness and surprise."

Three main far-left groups, organized in units of 30 to 40 men, roam the countryside. Alvarez says. "There are indications of Cuban advisers, but we've been able to capture no one so far. We have information, unproved, the Nicaraguans (the new Sandinista government) have acted the same way. No Soviet weapons have been found. The left finances itself with kidnappings.

"The right doesn't need that. It has strong financial support from rich businessmen. The right is better organized. No one attacks indiscriminately. A potential victim's movements are studied. Sometimes he is warned, and is expected to leave the country."

This was United Fruit Co. country, starting in 1899. The big American company built roads, railways, ports, communications. It cultivated banana plantations, stifled labor unions, aborted agrarian reform and bribed politicians. Some believe it had a hand in the CIA's 1954 intervention.

United Fruit is long gone, merged into a bigger company, and in the last quarter-century a sophisticated Guatemalan middle class has grown up. It has used cheap labor to produce crops and mine nickel and barite; it has built factories to make textiles, plastics, bottles, electric motors.

And there is some oil in Guatemala. Five wells are producing 4,500 barrels a day and could produce four times that much except for cautious government policy. Texaco is already drilling for more oil near Guatemala's border with Mexico.

Guatemala City has glistening skyscrapers, broad avenues, homes that would fit in Beverly Hills, fine restaurants. It also has acres of favellas—cardboard-shack slums—and beggars sleeping on sidewalks. Its overcrowded, ramshackle buses mingle in traffic jams with the Volvos, Peugeots, Mercedes-Benzes and BMWs of the wealthy.

Until recently, the minimum wage was $1.20 a day. The government led by Gen. Fernando Romeo Lucas Garcia, elected president in 1978, raised that to $3.20 daily to undercut the leftists.

Plantation owners responded by firing workers, turning to mechanization and in some cases simply closing their fincas. There is no enforcement of the minimum wage. Unemployment runs between 20 and 24 percent of the work force. Although there are dozens of unions in the country, they have almost no toehold in industry or agriculture, and have become increasingly radicalized.

"Typically," a diplomat says, "when a union starts organizing, its leaders are shot, or shot at, to scare them out of the country. The big industrial and commercial operators are 18th century capitalists. The big farmers are feudal."

Indians and landless Ladiros are brought from the highlands three or four months of a year to work the coastal fincas, then sent back to the mountains. A recent study shows their real wages (adjusted for inflation) rose 1 percent between 1962 and 1980.

The government has started a substantial land reform program in the north. It has given out 86,000 land titles, averaging 25 acres per farm. It has begun cooperative villages in that area, too.

No country in Central America has spent more on public housing, and thousands of units speckle Guatemala City. But still the favellas form, as more and more campesinos flock here.

The government created an Agriculture Bank to finance small farmers. It approved funds for seed and fertilizer loans. But many small farmers' applications were never acted on: Finca owners feared that if the small farmers in the highlands got improved seed and fertilizer they could be self-sufficient, and wouldn't come to the coast to work for low wages. The finca owners blocked the loans.

Lucas, voted into office in an election that drew 20 percent of the potential electorate, is credited with "trying to do the right thing." But his government, largely military, is inept. Last year's education spending, 37 percent of the total $1.056 billion government budget, was increased a quarter from the previous year. But 42 percent of the education money was turned back to the treasury, unspent. Public health represented 29 percent of the total budget; of that, 47 percent went back to the treasury.

Yet 44 percent of the populace is illiterate, 80 percent in the rural areas. Three of four children under age 5 suffer from malnutrition. Life expectancy is 52 years. Infant mortality—the number of children who die before age 5—is 89 per 1,000, compared to the U.S. rate of 16 per 1,000. The population is growing at 3 percent a year, a high rate.

At his heavily guarded office in a residential neighborhood, the vice president, lawyer Francisco Villagran Kramer, acknowledges he has enemies. He says he joined Lucas' ticket in 1978 because agreements were reached for gradual change and he represents "the center-left."

In its first year, Lucas' regime recognized unions, began commercial relations with Yugoslavia, Romania and mainland China, set up the Agriculture Bank and accelerated land distribution.

Then the problems of Nicaragua's Anastasio Somoza appeared, and Somoza "persuaded the (Guatemalan) military that if you don't clear out the leftist agitators, they'll get you. Somoza's downfall created panic and persecution of unions and students. Leftist guerrillas cropped up. Our agreements for a transition to a civilian government (with the 1982 election) have disappeared."

Villagran Kramer is politically isolated. He says the social programs have been scrapped, the leftists guerrillas are winning over the Indians (they speak the Indian languages), labor is moving further left.

This tall, white-haired man says "the situation is not totally lost. Most of us are for private property, free enterprise, against dramatic change." But there must be some changes, and "the killing must stop."

His advice to the United States: meddle here by applying economic pressure because "this government responds to economic force."

He is a voice in the Guatemalan wilderness.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. SYNAR) is recognized for 5 minutes.

● Mr. SYNAR. Mr. Speaker, I was absent from the floor on Friday, June 27, 1980, and as a result missed several recorded votes. Had I been present on Friday, I would have voted as follows:

Rollcall No. 378. House Resolution 731, rule on S. 1308 conference report, "yea."

Rollcall No. 379. To recommit S. 1308 to conference committee, "yea."

Rollcall No. 380. House Resolution 720, rule on H.R. 7592, "yea."

Rollcall No. 381. Final passage of H.R. 7592, "yea."

Rollcall No. 382. House Resolution 721, rule on H.R. 7593, "yeas." ●

RELEASE OF OFFICE OF TECHNOLOGY ASSESSMENT REPORT ENTITLED "TECHNOLOGY AND STEEL INDUSTRY COMPETITIVENESS"

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

● Mr. VANIK. Mr. Speaker, today, the Office of Technology Assessment released its long-awaited, major study entitled, "Technology and Steel Industry Competitiveness."

I believe that this study, over 2 years in the making, is of exceptionally high quality and contains insights which are essential for understanding the plight of the industry and for developing public policy to insure the future health of this essential industry.

This study will be the subject of Trade Subcommittee hearings later this summer. The exact timing of the hearings will depend on the completion of other studies on the steel industry by the GAO and recommendations for a new steel industrial policy by the Tripartite Committee—of industry, labor, and executive branch leaders.

There are a number of exciting and challenging points in the study.

It contains clear warnings about the future of the industry and the level of imports if no changes in policy are made, predicting 40-percent import penetration by the end of the decade.

It includes excellent descriptions of the structural adjustments occurring within the industry, especially the dramatic growth of very creative and innovative mini-(non-integrated) specialty steel firms.

To me, the report's major contribution lies in its very clear discussion of a coordinated, comprehensive industrial policy in order to address effectively the problems of the industry. The debate on the pros and cons of developing a system for establishing sectoral industrial policies—and from there to a national industrial policy—has been gradually increasing. In my opinion, the OTA report will provide major, new documentation on the need for such a national policy. For an outstanding discussion of a coordinated, comprehensive policy for the steel industry—and logically for other industries—I refer readers to chapter 2.

This study, like other recent works, clearly points to the need for additional investment in the steel sector, if necessary modernizations and improvements are to be made. The most popular form of providing increased corporate cash flow is the Jones-Conable bill, which would provide new depreciation schedules of 10 years for structures, 5 years for capital equipment, and 3 years for vehicles. I believe that that legislation is incredibly wasteful and ineffective. It will not particularly improve the status of the steel industry relative to other industries. It has a 5-year cumulative cost to the Treasury of $122 billion and thus will contribute to inflation, it will provide only about $3.5 billion to the steel industry during that time period.

The increased cash flow from the program can be used to buy gold futures or for new casino slot machines or for diversification out of the steel industry—it may do precious little for providing a healthy American steel industry.

Yet clearly, some additional relief is needed if America's capital plant is to be improved. Therefore, I am drafting legislation, to be introduced late this month, which would target depreciation relief to key industries where there is a clearly demonstrated need for faster equipment write-offs. The decisions on which industries and which types of capital equipment should receive faster write-offs will be made by an industry-labor-academic advisory group, working in consultation with the Secretary of the Treasury.

This type of targeted tax relief can make a difference for the steel industry. It is the type of system which has been used to create the Japanese economic miracle. It is the type of bill which I hope America's most capital intensive indus- the renovated building will be a manu- tries will take a look at and will support.

In conclusion, Mr. Speaker, I recommend the study to all the Members of Congress. In a city filled with studies, this one stands out for its new ideas, insights, and thoroughness. The OTA and Project Director Joel Hirschhorn are to be commended for this work.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. EDGAR) is recognized for 5 minutes.

● Mr. EDGAR. Mr. Speaker, on Friday, June 27, I was absent from the House due to important business in my district. I was on hand there to dedicate an important new industrial center. In September, we secured a $3.17 million Federal grant to upgrade the abandoned Reynolds Metals plant in Chester and facturing center for several small industries. This effort, conducted with the help of the county, stands as one of the most successful parts of a new economic strategy developed for Delaware County.

Had I been present in the House on Friday, I would have voted in favor of the motion to recommit the conference report on the Energy Mobilization Board, S. 1308. While I agree with the need to expedite high priority energy projects, I was concerned about the Board's power to waive State and local laws.●

CAPITAL DISINVESTMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. PEASE) is recognized for 5 minutes.

● Mr. PEASE. Mr. Speaker, "reindustrialization" is the latest "buzz word" of American economic reform. Industry, labor, and the American public are all clamoring for positive policies to revitalize our industries.

A recently released report by Barry Bluestone* and Bennett Harrison entitled "Capital and Communities: The Causes and Consequences of Private Disinvestment" addresses the issue of capital disinvestment. It offers many thought-provoking ideas and provides some rather startling statistics.

I represent the people of the 13th District in Ohio, an area that has been touched by problems of capital flight. I have seen the serious impact on the people and communities. In my district as elsewhere, capital flight means slowdowns and shutdowns. Thousands of persons are thrown out of work as companies invest elsewhere.

The Bluestone/Harrison report lists some of the costs of capital flight. Many people are never able to regain steady post-termination employment. The loss of earnings in subsequent employment is particularly dramatic. In the first 2 years following displacement, the average annual earnings loss for prime age steel workers, for example, was 46.6 percent. After 6 years, it is still 12.6 percent.

Trade readjustment assistance payments provide necessary short term help for workers who lose their jobs or have their working hours reduced as a result of their firms competition with foreign manufacturers. I commend the Congress for its recent action to extend these benefits. However, TRA benefits alone cannot address the overwhelming long-run problem.

Capital flight involves many other costs as well: Loss of health insurance coverage; loss of pension benefits; decline in occupational status; exhausted family savings, mortgage foreclosure, and personal bankruptcy; reduced health maintenance; increased hypertension, heart disease, ulcers, and respiratory disease; increased suicide, alcoholism, homicide rates; increased acute depression, child and spouse abuse: and the loss of personal and community purpose.

---

*Bluestone, an economics professor at Boston College, is the son of retired UAW Vice-President Irving Bluestone. Harrison is an economics professor at MIT. The report was published and funded by the Progressive Alliance.

A proper role of Government is to encourage firms not to ignore these social costs of their actions.

The problem is capital disinvestment—the running down or liquidation of the net productive capacity of a business. The report seeks to empirically measure the extent of the problem.

The Northeast and the Midwest have been especially hardhit. With only 24 percent of the Nation's population in 1970, the Northeast suffered nearly 39 percent of the shutdowns of large manufacturing plants. The Northeast has the highest absolute number of shutdowns of large manufacturing plants and the highest frequency of closings relative to population.

Surprisingly, the actual rate at which large established manufacturing plants have shut down is actually higher in the South than in any other part of the country. It is a national problem requiring a national solution.

The report describes several ways in which capital is moving. The most dramatic and publicized moves are from the Frost belt to the Sun belt and from the United States to foreign countries. Yet, capital shift is often more subtle, and equally devastating.

Both large and small companies sometimes run down their older facilities by not replacing wornout machinery. The savings, in the form of depreciation allowances, are then used to reinvest in other branches of their own firms, in other businesses, or in municipal bonds.

Statistics from a recent United States Steel annual report substantiate the authors' observations. In 1979, for every dollar of capital depreciation in its nonsteel operations, United States Steel spent nearly $3 in new capital investment. But, for every dollar of capital depreciation in its steel-related operations, only $1.40 in new investment was undertaken. Also, between 1976 and 1979, the ratio of new capital spending to depreciation in steel operations fell from 2.9 to 1.4.

Physical deterioration sometimes leads to bankruptcy. The capital is sold, and the surplus from creditors is retained in new economic activity. This is especially true of smaller companies.

Profits from an older plant are often reallocated to newer facilities. Known as "milking" of a profitable plant, this increases the chance of plant closings.

The recent closing of the Seiberling tire plant in Barberton, Ohio is a case in point. A recent article in the Akron Beacon Journal states that the Barberton facility was among the three most productive of the company's 17 plants. Company statistics support the claim. The article quotes one of the workers who lost his job in the closing:

> They kept telling us, "Men, you're No. 1." You would go on break and the coffee and pop was free, whatever you wanted. The company would buy it for us because we set another record. Then they close the plant. That's how we're repaid.

Another employee said:

> I feel sorry for Firestone. They lost a money-making business.

The amount of personal tragedy that results from closings like this is somehow lost in corporate account books, but it can not be ignored by me or the people of the 13th district.

The report also explores the different explanations for this movement of capital, and makes some startling conclusions, conclusions worthy of further attention.

Labor costs and unionization, not the level of business taxes, is the single most important determinant of plant location. Labor costs are 20 times as large as State and local tax payments. A 2-percent wage differential is as important as a 40-percent tax differential. And, the tax differential is quite slight. In fact, Ohio's State and local business tax rate is the same as the rate in "booming Texas!"

Corporations first choose a site based on general economic conditions and then attempt to shape the political climate to fit their needs.

Large modern corporations and conglomerates in particular will and frequently do close profitable plants for a variety of reasons directly related to the nature of centralized management and control.

The study addresses the problems connected with the growth of conglomerates, and cites examples. Diversification of United States Steel, for example, has increased such that by 1978, 44 percent of the corporation's total worldwide assets were in businesses outside the steel industry. The share of that corporation's annual plant and equipment investment going into steel production fell from 69 percent in 1976 to just over half in 1979.

Industry cries out for added incentives for capital investment. Throughout the Nation, communities are fiercely competing with each other to attract industry by offering industrial development bonds, tax credits, tax abatements, direct loans, loan guarantees, and grants-in-aid.

The report addresses the high costs of providing these business subsidies. For one thing, local money spent on tax subsidies can not be spent on schools, police, and fire, and other essential public services. Also, industrial development bonds already cost the U.S. Government over $1 billion a year in lost revenue.

Where are the subsidies going? According to Moody's Municipal Manual, 53 percent of the bond money has been issued to companies with annual sales in excess of $1 billion, and 67 percent goes to those companies with 5,000 or more employees.

Capital disinvestment deeply affects the people in the 13th District of Ohio and in similar districts throughout the country. I hear the pleas for congressional action. I am distressed by the conclusions of this recently released study. In response, I challenge my colleagues to join me in attempting to devise a governmental policy to correct these injustices. Several recent proposals point in the right direction: legislation requiring prior notice of plant closings; incentives for worker-community buyouts in particular cases; tax code changes inhibiting the "milking" of older, profitable plants like those in my district; the elimination of unfair foreign competition; and the extension of the trade readjustment assistance program.

I urge my colleagues to move quickly and responsibly toward solving the pressing problems of capital disinvestment in our Nation.●

HARRY DOWNIE: BRINGING HISTORY TO LIFE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, it is with great pride that I bring to the attention of my colleagues the accomplishments of a friend and a remarkable man who resided in my district and who died recently.

California is known for the Spanish missions that dot its coastline. These missions exist today largely because of the dedication and work of Harry Downie. He was a man who used his great skills and knowledge to bring history to life. For some 50 years, Harry dedicated his considerable energy to the restoration of Spanish missions and other historical sites around the State of California. Beginning in 1926 with the restoration of Mission Santa Clara, Harry was either a participant in or responsible for the restoration of most of our beautiful historical sites. This list illustrates his extensive influence:

Mission Santa Clara, Carmel Mission, Mission San Luis Obispo, Mission San Antonio de Padua, Royal Presidio Chapel, Mission San Juan Bautista, Mission San Buenaventura, Mission Soledad.

In addition to these sites, Harry served as a consultant on a variety of other historical preservation projects, including the following:

Mission Santa Cruz, Mission La Purisima, Mission Sonoma, Mission Santa Inez, Mission San Gabriel, the Plaza Church, Los Angeles.

I would also mention that Harry was a consultant on the restoration of the Fremont House and Colton Hall in Monterey and several other historical sites in Salinas and San Juan Bautista in my district.

As any traveler around the State of California can readily see, Harry Downie made an incredible imprint on our culture and history. Without his work, many of the missions and other sites I have mentioned might have been left to decay and simply forgotten. But because of his dedication, we have a living connection to our past.

Harry Downie's work did not go unrecognized. He received numerous awards during his lifetime, from the Knight of St. Gregory, conferred by Pope Pius XII, to the Monterey Peninsula Chamber of Commerce's Man of the Year Award, from the California Historical Society's Award of Merit and award for Historical Preservation to the Knight of Castle Belvere, given by King Juan Carlos of Spain. Not only his fellow citizens but also kings and popes recognized Harry's accomplishments.

Mr. Speaker, I first came to know Harry Downie as a young boy attending Junipero Serra School at Carmel Mission. His presence was everywhere, working in the garden, repairing a door, designing an addition, researching history, helping the children or the nuns. On Sundays, he was usually at the rear of the mission making sure all was well.

I am proud to have known Harry Downie, and I know that the communities in which he worked and lived are grateful to him for his life's work. He is no longer with us, but the history he brought to life for us will always keep him alive in our memories.●

PERSONAL EXPLANATION

Mr. ROTH. Mr. Speaker, I was unavoidably detained at the White House ceremony for the Vietnam Memorial. I missed three votes. Had I been present, I would have voted as follows:

On rollcall 385, I would have voted "yea";

On rollcall 386, I would have voted "yea"; and

On rollcall 387, I would have voted "yea."

Mr. Speaker, I ask unanimous consent that these remarks be placed in the permanent Record following the rollcall votes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

THE VENICE ENERGY DECLARATION

(Mr. PRICE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. PRICE. Mr. Speaker, President Carter and leaders of Britain, France, Italy, Japan, and West Germany, after their meeting in Venice last week issued a very sound declaration on the path we must follow to obtain a semblance of control of our energy problem. In a few words, the declaration called for the expedited use of coal and nuclear energy. All of the professionals in the energy business have advocated this route. We, at one time, led the world in this field. But now because of ineptness in many sectors of our society, we have let this leadership slip away from us and the resources we had built up to take advantage of these technologies have been permitted to degenerate. Yes; a lot of finger pointing can be resorted to, but that is counterproductive. Our welfare and national security are in such a precarious state because of the nearly 50 percent dependence of the free world on insecure foreign supplies of petroleum, drastic steps are called for to break this bondage. We must build more coal and nuclear generating capacity on the highest priority basis to meet the nearly inevitable major interruptions of offshore supplies of fuel. Once we have this additional capacity, major shifts from dependence on petroleum fuels can be made by displacement of oil and gas generating capacity, home heating and cooling, and personal vehicle propulsion.

I highly commend to all of my colleagues two articles rewritten by eminent scientists which were published last night and this morning. Dr. Edward Teller in an article in last night's Washington Star entitled "From Energy Crisis to Catastrophe," presents an excellent analysis of the serious international situation which exists in the Mideast concerning petroleum supplies. I am including this article at the close of my remarks. The other article entitled "Fulfilling Energy Strategy" was prepared by Dr. Hans A. Bethe and was published in this morning's New York Times. Dr. Bethe summarizes the Venice declaration and calls on all citizens to press their Government leaders to carry out the objectives. I am also including this article at the close of my remarks.

Everyone interested in the energy problem and the security of this Nation will obtain value from the statements of these two outstanding scientists.

[From the Washington Star, June 30, 1980]

From Energy Crisis to Catastrophe?

(By Edward Teller)

It is a sad fact that we have been on notice for more than six years that we have an energy crisis.

Had the national policy been reasonable, we would not have an unprecedented inflation rate today, we would not face the great hazard which immediately affects our unfortunate hostages, and we would not have to consider a still graver disaster which may affect every one of us. The greatest danger is no longer an energy crisis—it is the possibility of an energy catastrophe.

Two scenarios are unfortunately more than mere possibilities. Soviet troops in Afghanistan are 400 miles from the Strait of Hormuz. Together with the many Soviet tanks in Yemen, they could, if the Kremlin chose, close off in a few hundred hours more than 50 percent of the oil on which the free world depends.

Furthermore, the political situation in Saudi Arabia may well be a more immediate danger than this. If Iran was not quite stable, Saudi Arabia is thoroughly unstable. It has five million truly tribal Bedouins and the thinnest possible crust of super-millionaires. King Khalid has had three heart attacks; the royal house is deeply split; social injustice is great. The workers in the Arabian oil fields do not appear less susceptible to influence than the Iranian workers were.

Should either of these catastrophes occur, what would the consequences be? The most severe depression that the free industrialized world has ever faced may result.

Furthermore, the Kremlin would have the possibility of withholding oil from individual countries in the Third World, where lack of oil may prevent the growth of the new abundant crops and may mean death by starvation for millions. The Soviets may use this lever to bring more than half the world under their domination. Japan and countries in Western Europe may find themselves in a relationship to Russia similar to Finland's.

Under these conditions, should we concentrate on Fortress America or should we try to save freedom elsewhere? This cannot be done except by exporting our own oil at a time when the shortage of imported oil would be creating seemingly intolerable sacrifices already!

One alternative that is being discussed today should be excluded. We cannot undertake military action in the Middle East. Thorough preparation and proximity both favor the Russians.

A war which we are bound to lose should surely be excluded. What we need is a contingency plan to allow us to fight an economic war for survival—with sweat and tears but without bloodshed.

It is obvious that the United States needs more energy resources, but it should be equally clear that the United States (and the free world) needs an economic plan that can be put into action immediately should Mideastern oil be cut off. No matter what course of energy development our nation takes, it cannot provide more than small quantities of relief in less than five years. Should an energy crash occur before then, only conservation will help. Such conservation will require sacrifice and privation at an awesome level—but it would be better than war.

Each month that we delay the development of our own resources creates more danger in an interdependent world, lengthens the period of suffering should an emergency arise and weakens our economy further. It is doubtful that we can avoid a cold war, but no matter how cold that war should be, it is incomparably better than a hot war. It is more justified, more profitable and, in the end, it would be successful.

But it requires planning, and it cannot be won unless we take it seriously.

The crime of omission of our current national leaders is so great that I can think of no justification for continuing them in office. We have a government that introduced taxation which makes it hardly more profitable for oil companies to drill wells than to invest in government bonds. We have a government which prevented realistic agreements for buying Mexican gas. We have a government where the president advocates coal, and the environmental agencies prevent its mining and use. We have a government afraid to oppose the hysteria caused by a vocal minority obstructing the cleanest, safest, most readily available form of electricity generation we have—nuclear power.

Yet this same government makes military noises under indefensible circumstances.

If we hope for the survival of our nation and the free world, if we hope for continued peace and freedom for ourselves and others, we must find a way to face and attack these problems. We must elect a government worthy of the name.

(Edward Teller, nuclear physicist, is a senior research fellow at the Hoover Institution, Stanford University.)

[From the New York Times, July 1, 1980]

Fulfilling Energy Strategy

(By Hans A. Bethe)

Washington.—A few days ago, in Venice, President Carter and the leaders of Britain, Canada, France, Italy, Japan and West Germany approved an economic charter designed to lead these countries out of their bondage to the oil-producing countries. Time will tell whether the remedies prescribed are realistic. The medicine is bitter, the doses large, the patients reluctant at best and completely negative at worst.

But most difficult of all is the reorientation required in the Carter Administration. The bureaucrats will be obliged to make 180-degree turns if they are to be faithful to the document approved by the President. Foot-dragging can no longer be tolerated; real problems will have to be solved quickly; red-tape bureaucrats and progress-blockers must be removed.

We should all be pleased with and applaud the tone and direction of the energy section of the seven-nation statement. It commits the West to break the linkage that has existed between oil consumption and economic growth—that is, it recognizes that the cost of oil today, and even more in the future, inhibits economic growth and contributes in a major way to the inflationary pressures from which we all suffer. I would also add that as long as these seven nations continue to rely very heavily on imported oil to drive their industrial complexes, their national security and independence will be greatly jeopardized.

Particularly worthy of note is the commitment that the seven made to the goal of oil-displacement, through twin reliance on both energy conservation and production of alternative sources. I believe that the Carter Administration has shown a bias toward reducing oil imports primarily through energy-conservation measures. I, on the other hand, have favored the balanced and pragmatic approach that utilizes both conservation and increased production, and hope that the Administration will now lend its considerable weight to both goals equally.

The United States and its allies specified an ambitious program in Venice that, if successful, promises to end a very difficult economic and political period for the West. We should, however, not underestimate the difficulties facing us, generated not only by outside forces but, what is perhaps even more serious, by forces within our own societies.

The Venice declaration seeks to replace 15 million to 20 million barrels of oil per day by doubling the production and consumption of coal and by an expansion of nuclear-power capacity. We welcome the Carter Administration to the multitudes who have recognized for a long time that nuclear power would not necessarily cause the end of the human race and that imported oil is a greater danger to the future of American society as we know it.

All of us should now monitor very closely the actions of the Administration, particularly how deeds match words. On the same day that President Carter signed the Venice statement, the platform committee of the Democratic Party, which he controlled, approved an antinuclear plank, albeit with some qualifications. Is the President really master of his household?

As for the doubling of coal production and consumption, it has been reported that the coal industry has an annual overcapacity of 100 million tons, not to mention 20,000 unemployed miners. The industry is facing a myriad of regulatory inhibitions, as well as environmental concerns, that may well have a dampening effect on coal demand. It will be very difficult to double coal production and demand unless both regulatory and environmental concerns are dealt with in a more reasonable fashion. The "all-or-nothing" approach is bound to bring disaster to all of us.

Despite all the potential problems, we should not denigrate the Venice statement. On the contrary, it is worthy of active support by all citizens. To the critics, I would say: "What better alternatives do you have?" Any policy in isolation can be criticized. All policy choices are those of the damned: One chooses the least unpalatable one. When viewed within that framework, it is clear that the leaders of the seven countries have formulated the correct goals and a coherent strategy to achieve those goals.

The time has arrived for the bureaucrats to translate the concepts into concrete programs. That has not been the case to date; in fact, Washington has been a major part of the problem. Most important of all, however: Now is the time for all citizens to insist that the Venice declaration become a reality by closely following the actions of the Carter Administration, as well as the promises of other candidates for President.

(Hans A. Bethe, emeritus professor of physics at Cornell University and winner of the Nobel Prize in physics in 1967, is chairman of the board of Americans for Energy Independence, a public-interest organization.) ●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CLINGER) to revise and extend their remarks and include extraneous material:)

Mr. BEREUTER, for 1 hour, July 22, 1980.

Mr. KEMP, for 60 minutes, today.

Mr. MCKINNEY, for 5 minutes, today.

Mr. HAMMERSCHMIDT, for 5 minutes, today.

Mr. PHILIP M. CRANE, for 60 minutes, today.

(The following Members (at the request of Mr. DONNELLY) to revise and extend their remarks and include extraneous material:)

Mr. ALEXANDER, for 10 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. SYNAR, for 5 minutes, today.

Mr. VANIK, for 5 minutes, today.

Mr. EDGAR, for 5 minutes, today.

Mr. PATTERSON, for 5 minutes, today.

Mr. PEASE, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. CONTE, immediately after motion of Mr. WHITTEN on H.R. 7542 today.

(The following Members (at the request of Mr. CLINGER) and to include extraneous matter:

Mr. YOUNG of Florida in five instances.

Mr. LENT.

Mr. MOORE.

Mr. ARCHER.

Mr. DORNAN in two instances.

Mr. LOTT in two instances.

Mr. COUGHLIN.

Mr. PAUL.

Mr. COLLINS of Texas in three instances.

Mr. ABDNOR.

Mr. SCHULZE.

Mr. THOMAS.

Mr. LIVINGSTON.

Mr. MOORHEAD of California.

Mr. DANNEMEYER.

Mr. MARKS.

Mr. GILMAN in two instances.

Mr. DERWINSKI in two instances.

Mr. BEREUTER.

Mr. ASHBROOK in three instances.

(The following Members (at the request of Mr. DONNELLY) and to include extraneous matter:)

Mr. MATSUI.

Mr. ROSENTHAL in 10 instances.

Mrs. BOUQUARD in 10 instances.

Mr. HAMILTON in 10 instances.

Mr. CAVANAUGH in five instances.

Mr. LEHMAN.

Mr. OTTINGER in six instances.

Mr. NOLAN.

Mr. BOLLING.

Mr. GUARINI.

Mr. GRAMM.

Mr. MAZZOLI in two instances.

Mr. JONES of Oklahoma.

Mr. MOAKLEY in two instances.

Mr. CARR.

Mr. MOFFETT.

Mr. WOLFF in three instances.

Mr. SCHEUER.

Mr. GAYDOS in two instances.

Mr. ROE.

Mr. VENTO.

Ms. MIKULSKI.

Mr. DRINAN.

Mr. EDGAR.

Mr. MURPHY of Illinois.

Mr. CONYERS.

Mr. KOGOVSEK.

Mr. FAUNTROY.

Mr. MCDONALD.

Mr. GEPHARDT in two instances.

Mr. SIMON.

Mrs. COLLINS of Illinois in two instances.

Mr. PICKLE.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2357. An act to eliminate the amount in controversy requirement for Federal question jurisdiction; to the Committee on the Judiciary.

SENATE ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled joint resolution of the Senate of the following title:

S.J. Res. 119. Joint resolution to authorize the Vietnam Veterans Memorial Fund, Inc., to establish a memorial.

ENROLLED BILLS SIGNED

Mr. NEDZI, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 5997. An act to provide for the display of the Code of Ethics for Government Service; and

H.R. 7477. An act to amend the Internal Revenue Code of 1954 to provide a 3-month extension of the taxes which are transferred to the airport and airway trust fund.

BILLS AND A JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. NEDZI, from the Committee on House Administration, reported that that committee did on the following days present to the President, for his approval, bills and a joint resolution of the House of the following titles:

On June 27, 1980:

H.R. 2148. An act for the relief of Col. (Dr.) Paul A. Kelly;

H.R. 2475. An act for the relief of Isaac David Cosson;

HR. 2759. An act to establish an interim procedure for the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto, and for other purposes;

H.R. 3818. An act for the relief of Clarence S. Lyons;

H.R. 5156. An act for the relief of certain employees of the Naval Ordnance Systems Command;

H.R. 5751. An act to more adequately protect archeological resources in southwestern Colorado; and

H.J. Res. 569. Joint resolution to provide a temporary increase in the debt limit.

On June 30, 1980:

H.R. 7685. An act to amend title IV of the Employee Retirement Income Security Act of 1974 to postpone for one month the date on which the corporation must pay benefits under terminated multiemployer plans.

On July 1, 1980:

H.R. 5997. An act to provide for the display of the Code of Ethics for Government Service; and

H.R. 7477. An act to amend the Internal Revenue Code of 1964 to provide a three-month extension of the taxes which are transferred to the airport and airway trust fund.

ADJOURNMENT

Mr. WOLFF. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 33 minutes p.m.) the House adjourned until tomorrow, Wednesday, July 2, 1980, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4730. A letter from the Deputy Secretary of the Treasury, transmitting the report of the Interagency Task Force on Thrift Institutions, pursuant to section 406(b) of Public Law 96-221; to the Committee on banking, Finance and Urban Affairs.

4731. A letter from the Assistant Attorney General (Antitrust Division), transmitting the annual report on studies of voluntary agreements between the Government and private industry developed under section 708 of the Defense Production Act of 1950, pursuant to section 708(k) of the act, as amended (89 Stat. 810); to the Committee on Banking, Finance and Urban Affairs.

4732. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of District of Columbia Act 3-204, to amend the law with respect to the conversion of rental housing, relocation and housing assistance payments, and tenant opportunity to purchase converted rental units, pursuant to section 602(c) of Public Law 93-198; to the Committee on District of Columbia.

4733. A letter from the Under Secretary for Security Assistance, Science and Technology, transmitting a report on the unauthorized transfer of certain U.S.-origin military equipment, pursuant to section 3(e) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4734. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by William Bodde, Jr., Ambassador-designate to Fiji, Tonga, and Tuvalu, and Minister-designate to the Republic of Kiribati, and by members of his family, pursuant to section 6 of Public Law 93-126; to the Committee on Foreign Affairs.

4735. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by John J. Crowley, Jr., Ambassador-designate to Surinam, and by members of his family, pursuant to section 6 of Public Law 93-126; to the Committee on Foreign Affairs.

4736. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Peter Adams Sutherland, Ambassador-designate to Bahrain, and by members of his family, pursuant to section 6 of Public Law 93-126; to the Committee on Foreign Affairs.

4737. A letter from the Assistant Secretary of State for Congressional Relations, transmitting reports on political contributions made by Career Ministers-designate Morton J. Abramowitz, Richard J. Bloomfield, Paul H. Boeker, Walter L. Cutler, William H. Gleysteen, Jr., Roger Kirk, Edward E. Masters, Robert B. Oakley, Robert M. Sayre, Talcott W. Seeyle, Nicholas A. Veliotes, Richard D. Vine, and John W. Shirley, and by members of their families, pursuant to section 6 of Public Law 93-126; to the Committee on Foreign Affairs.

4738. A letter from the Acting Comptroller General of the United States, transmitting a report on the examination of financial statements of the Pennsylvania Avenue Development Corporation for fiscal year 1979, pursuant to section 106 of the Government Corporation Control Act, as amended (CED-80-105, July 1, 1980) (H. Doc. No. 96-337); to the Committee on Government Operations and ordered to be printed.

4739. A letter from the Secretary of Health and Human Services, transmitting a quarterly report on State compliance with medicaid utilization control requirements, pursuant to section 1903(g)(6) of the Social Security Act, as amended; to the Committee on Interstate and Foreign Commerce.

4740. A letter from the General Counsel, National Council on Radiation Protection and Measurements, transmitting the audit report of the Council for calendar year 1979, pursuant to section 14(b) of Public Law 88-376; to the Committee on the Judiciary.

4741. A letter from the Counsel to the Pacific Tropical Botanical Garden, transmitting the audit report of the Garden for calendar year 1979, pursuant to section 10(b) of Public Law 88-449; to the Committee on the Judiciary.

4742. A letter from the director of finance, United Service Organizations, transmitting the audit report of the organization for calendar year 1980, pursuant to section 3 of Public Law 88-504, as amended; to the Committee on the Judiciary.

4743. A letter from the Chairman, U.S. International Trade Commission, transmitting the 22d quarterly report on trade between the United States and the non-market-economy countries, pursuant to section 410 of Public Law 93-618; to the Committee on Ways and Means.

4744. A letter from the Comptroller General of the United States, transmitting a report on cost sharing in NATO's airborne early warning and control program (ID-80-47, July 1, 1980); jointly, to the Committees on Government Operations and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 7212. A bill to ratify a settlement agreement in a land dispute between the Pamunkey Indian Tribe and the Southern Railway Co., and for other purposes; with amendment (Rept. No. 96-1144). Referred to the Committee of the Whole House on the State of the Union.

Mr. ZABLOCKI: Committee on Foreign Affairs. Allocation of budget totals under the First Concurrent Resolution on the Budget for Fiscal Year 1981 (Rept. No. 96-1145). Referred to the Committee of the Whole House on the State of the Union.

Mr. DANIELSON: Committee on the Judiciary. H.R. 5499. A bill to establish a commission to gather facts to determine whether any wrong was committed against those American citizens and permanent resident aliens affected by Executive Order No. 9066, and for other purposes; with amendment (Rept. No. 96-1146). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ARCHER:

H.R. 7699. A bill to amend the Internal Revenue Code of 1954 with respect to the penalty for failure to pay tax due to negligence or intentional disregard of rules and regulations; to the Committee on Ways and Means.

By Mr. BENNETT (for himself and Mr. LUKEN):

H.R. 7700. A bill to amend title 38, United States Code, to provide a new educational assistance program for persons who enlist, reenlist, or otherwise enter the Armed Forces after December 31, 1980, to provide for the cancellation of certain education loans in the case of individuals who perform service in the Selected Reserve of the Ready Reserve of an Armed Force, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BIAGGI:

H.R. 7701. A bill to amend section 133 of the Elementary and Secondary Education Act of 1965 to permit the Secretary of Education to waive the requirements of subsection (b)(7)(B) of such section, relating to matching funds for services provided under schoolwide projects to children who are not educationally deprived; to the Committee on Education and Labor.

Mr. PHILLIP BURTON:

H.R. 7702. A bill to designate certain public lands in the State of California as wilderness, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. PHILLIP BURTON (for himself and Mr. SEBELIUS):

H.R. 7703. A bill to revise the boundary of the Congaree Swamp National Monument in the State of South Carolina, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. CONABLE:

H.R 7704. A bill to provide that Revenue Ruling 80-60 shall not require a change in the taxpayer's method of accounting for taxable years beginning before 1980; to the Committee on Ways and Means.

By Mr. DANIELSON:

H.R. 7705. A bill to incorporate the organization known as Former Members of Congress; to the Committee on the Judiciary.

By Mr. DEVINE:

H.R. 7706. A bill to amend the Federal Claims Collection Act of 1966 to permit agencies to contract with commercial claims collection services for the collection of claims of the United States; to the Committee on the Judiciary.

By Mr. HUGHES (for himself, Mr. FORSYTHE, Mr. HOWARD, Mr. ROE, and Mr. THOMPSON):

H.R. 7707. A bill to amend the Atomic Energy Act of 1954 to extend certain provisions of the Price-Anderson Act to excess energy costs incurred following the closure of a nuclear powerplant due to a nuclear incident, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. JACOBS:

H.R. 7708. A bill to amend title II of the Social Security Act to provide that surviving divorced wives, as well as widows, may marry after attaining age 60 without affecting their entitlement to widow's insurance benefits; to the Committee on Ways and Means.

By Mr. JONES of Oklahoma (for himself and Mr. EVANS of the Virgin Islands):

H.R. 7709. A bill to amend the Tariff Schedules of the United States to increase the quantity of cigarettes that may be accorded duty-free treatment if acquired in the insular possessions and entered by returning U.S. residents; to the Committee on Ways and Means.

By Mr. McDONALD:

H.R. 7710. A bill to restrict the authority of the Secretary of Health and Human Services with respect to the regulation of vitamin and mineral products for over-the-counter use; to the Committee on Interstate and Foreign Commerce.

By Mr. MATSUI (for himself and Mr. Fazio):

H.R. 7711. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the American River in California as a component of the National Wild and Scenic Rivers System; to the Committee on Interior and Insular Affairs.

By Mr. MOORE:

H.R. 7712. A bill to amend the Employee Retirement Income Security Act of 1974 to clarify the effect of such act on certain State laws regulating insurance, and for other purposes; to the Committee on Education and Labor.

By Mr. OTTINGER:

H.R. 7713. A bill to reform the laws relating to former Presidents; jointly, to the Committees on Government Operations, House Administration, Post Office and Civil Service, and the Judiciary.

By Mr. PICKLE:

H.R. 7714. A bill to provide for the distribution within the United States of the International Communication Agency film entitled "The President's Country"; to the Committee on Foreign Affairs.

H.R. 7715. A bill to amend the Internal Revenue Code of 1954 to exclude from the gross estate of any individual benefits payable under certain State judicial plans, and for other purposes; to the Committee on Ways and Means.

H.R. 7716. A bill to amend title II of the Social Security Act to impose limitations with respect to the benefits otherwise payable to convicted felons thereunder; to the Committee on Ways and Means.

By Mr. AMBRO:

H.R. 7717. A bill to establish a national program of ground water environmental research; to the Committee on Science and Technology.

By Mr. GILMAN:

H.R. 7718. A bill to provide a penalty for the robbery or attempted robbery of any controlled substance; to the Committee on the Judiciary.

By Mr. PEASE:

H.R. 7719. A bill to amend title I of the Elementary and Secondary Education Act of 1965 to limit the authority of local educational agencies to use Federal funds received under title I for construction of a school facility to cases in which no reusable closed public school facility is within 3 miles of the proposed school facility; to the Committee on Education and Labor.

By Mr. WATKINS:

H.R. 7720. A bill conferring jurisdiction on the Court of Claims to hear, determine, and render judgment on a claim of the Seminole Nation of Oklahoma; jointly, to the Committees on Interior and Insular Affairs and the Judiciary.

By Mr. LEACH of Iowa:

H.J. Res. 581. Joint resolution proposing an amendment to the Constitution of the United States to provide that Representatives in Congress be apportioned on the basis of the number of U.S. citizens in each State; to the Committee on the Judiciary.

By Mr. STUDDS:

H.J. Res. 582. Joint resolution proposing an amendment to the Constitution of the United States to provide for single 6-year terms for the President and Vice President, and to repeal the 22d article of amendment to the Constitution; to the Committee on the Judiciary.

By Mr. BEREUTER (for himself and Mr. Wolff):

H. Res. 737. Resolution expressing the sense of the House of Representatives for a free and independent Afghanistan; to the Committee on Foreign Affairs.

By Mr. ZABLOCKI (for himself, Mr. Rosenthal, Mr. Bingham, Mr. Solarz, Mr. Bonker, Mr. Pease, Mr. Mica, Mr. Barnes, Mr. Gray, Mr. Hall of Ohio, Mr. Broomfield, Mr. Derwinski, Mr. Buchanan, Mr. Winn, Mr. Gilman, Mr. Goodling, Mr. Pritchard, Mrs. Fenwick, Mr. Maguire, and Mrs. Schroeder):

H. Res. 738. Resolution relating to the United Nations Mid-Decade Conference for Women; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII,

500. The SPEAKER presented a memorial of the Legislature of the State of Pennsylvania, relative to the establishment of the Legionville National Park, which was referred to the Committee on Interior and Insular Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CORRADA:

H.R. 7721. A bill for the relief of Newington Hinds; to the Committee on the Judiciary.

By Mr. WHITTAKER:

H.R. 7722. A bill for the relief of Divyakant Chaturbhai Patel, his wife, Shakuntala Divyakant Patel, and their children, Darsika Patel and Preete Patel; to the Committee on the Judiciary.

H.R. 7723. A bill for the relief of Indravadan Chaturbhai Patel, his wife, Anjana Indravadan Patel, and their son, Preeyesh I. Patel; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1918: Mr. Bevill and Mr. Mattox.

H.R. 4223: Mr. Anderson of Illinois, Mr. Bingham, Mr. Bonior of Michigan, Mr. Brodhead, Mr. Conyers, Mr. Downey, Mr. Edgar, Mrs. Fenwick, Mr. Jeffords, Mr. Kastenmeier, Mr. Long of Maryland, Mr. Maguire, Mr. Ottinger, Mr. Richmond, Mr. Rosenthal, Mr. Rangel, Mr. Simon, Mr. Charles H. Wilson of California, Mr. Lehman, Mr. Barnes, Mrs. Chisholm, Mr. Fish, and Mr. Rodino.

H.R. 5225: Mr. Glickman, Mr. Hutto and Mr. Lloyd.

H.R. 5371: Mr. Luken.

H.R. 5499: Mr. Anderson of Illinois.

H.R. 6215: Mr. Lederer.

H.R. 6300: Mr. Barnard, Mr. Kemp, Mr. Mitchell of New York, Mr. Evans of Georgia, Mr. Marriott, Mr. Winn, Mr. Dornan, Mr. Hubbard, Mr. Lewis, Mr. Hyde, and Mr. Rudd.

H.R. 6421: Mr. Skelton, Mrs. Spellman, Mr. Tauke, and Mr. Dornan.

H.R. 6637: Mr. Stangeland.

H.R. 7017: Mr. Gibbons.

H.R. 7023: Mr. Vento and Mr. Ratchford

H.R. 7156: Mr. Brodhead, Mr. Bonior of Michigan, Mr. Kildee, Mr. Wolpe, and Mr. Sawyer.

H.R. 7230: Mr. Findley, Mr. Gilman, and Mr. Bowen.

H.R. 7332: Mr. Ottinger and Mr. Mazzoli.

H.R. 7458: Mr. Roberts, Mr. Satterfield, Mr. Edwards of California, Mr. Montgomery, Mr. Mottl, Mr. Edgar, Mr. Hall of Texas, Mr. Boner of Tennessee, Mr. Shelby, Mr. Mica, Mr. Daschle, Mr. Wylie, Mr. Hillis, Mr. Guyer, Mr. Grisham, Mr. Albosta, Mr. Hammerschmidt, Mrs. Heckler, Mr. Sawyer, Mr. Deckard, Mr. Lee, Mr. Coelho, Mr. Hefner, Mr. Gramm, and Mr. Wolff.

H.R. 7472: Mr. Cotter.

H.R. 7505: Mr. Wolpe and Mr. Murphy of Pennsylvania.

H.R. 7531: Mr. Mica.

H.R. 7533: Mr. Archer, Mr. Badham, Mr. Beard of Tennessee, Mrs. Bouquard, Mr. Brown of Ohio, Mr. Broyhill, Mr. Clinger, Mr. Collins of Texas, Mr. Corcoran, Mr. Dan Daniel, Mr. Duncan of Tennessee, Mr. Edwards of Alabama, Mr. Emery, Mr. Hughes, Mr. Kemp, Mr. Lent, Mr. Lungren, Mr. McClory, Mr. McDade, Mr. Madigan, Mr. Moore, Mr. Preyer, Mr. Quillen, Mr. Railsback, Mr. Regula, Mr. Ritter, Mr. Sawyer, Mrs. Snowe, Mr. Stanton, Mr. Stockman, Mr. Whitehurst, and Mr. Andrews of North Carolina.

H.R. 7596: Mr. Kogovsek, Mr. Lagomarsino, Mr. Tauke, Mr. Simon, and Mr. Marlenee.

H.R. 7643: Mrs. Bouquard.

H.R. 7645: Mr. Leach of Louisiana.

H.J. Res. 300: Mr. Yatron.

H.J. Res. 511: Mr. Alexander.

H.J. Res. 560: Mr. Andrews of North Carolina, Mr. Annunzio, Mr. Archer, Mr. Barnard, Mr. Bennett, Mr. Bevill, Mr. Bonker, Mr. Brown of California, Mr. Broyhill, Mr. Butler, Mr. Clinger, Mr. Coleman, Mr. D'Amours, Mr. Dan Daniel, Mr. Robert W. Daniel, Jr., Mr. Derrick, Mr. Dickinson, Mr. Duncan of Tennessee, Mr. Edwards of Alabama, Mr. Evans of Georgia, Mr. Evans of the Virgin Islands, Mr. Fisher, Mr. Flippo, Mr. Fountain, Mr. Fowler, Mr. Gonzalez, Mr. Gramm, Mr. Grassley, Mr. Hammerschmidt, Mr. Harris, Mr. Hefner, Mr. Hinson, Mr. Kindness, Mr. Lederer, Mr. Leland, Mr. Levitas, Mr. Lott, Mr. Lujan, Mr. Moorhead of California, Mr. Murphy of Pennsylvania, Mr. Neal, Mr. Oberstar, Mr. Pickle, Mr. Preyer, Mr. Pritchard, Mr. Rose, Mr. Satterfield, Mr. Smith of Iowa, Mr. Staggers, Mr. Swift, Mr. Thomas, Mr. Trible, Mr. Vento, Mr. Volkmer, Mr. Walgren, Mr. Waxman, Mr. White, Mr. Whitehurst, Mr. Whitley, Mr. Whitten, Mr. Wright, and Mr. Scheuer.

H.J. Res. 580: Mr. Murphy of Illinois and Mr. Atkinson.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 7235

By Mr. ANDERSON of California:

—Page 101, line 8, immediately after "Government" insert the following: ", consistent with and subject to those obligations which the Constitution of the United States imposes on rail carriers having the power of eminent domain,".

—Page 117, line 23, strike out "subsections" and insert in lieu thereof "subsection".

Page 118, line 4, insert closing quotation marks and a period immediately after "carriers.".

Page 118, strike out lines 5 through 11.

—Page 125, strike out line 14 and all that follows through line 17 on page 138 and insert in lieu thereof the following:

EXPEDITIOUS DIVISIONS OF REVENUE

Sec. 301. Section 10705(e)(1) of title 49, United States Code, is amended to read as follows:

"(e)(1) The Commission may begin a proceeding under subsection (a) or (b) of this section on its own initiative or on complaint. The Commission must complete all evidentiary proceedings to adjust the division of joint rates for transportation by a rail carrier within 9 months after the complaint is filed if the proceeding is brought on complaint or within 18 months after the commencement of a proceeding on the initiative of the Commission. The Commission must take final action by the 180th day after completion of the evidentiary proceedings, except that—

"(A) when the proceeding involves a railroad in reorganization or a contention that the divisions at issue do not cover the variable costs of handling the traffic, the Commission shall give the proceedings preference over all other proceedings and shall take final action at the earliest practicable time, which in no event may exceed 100 days after the completion of the evidentiary proceedings; and

"(B) in all cases other than those specified in subparagraph (A) of this paragraph, the Commission may decide to extend such a proceeding to permit its fair and expeditious completion, but whenever the Commission decides to extend a proceeding pursuant to this subparagraph, it must report its reasons to Congress.".

Page 98, strike out the item relating to section 301 and insert in lieu thereof the following:

SEC. 301. Expeditious divisions of revenue.

By Mr. DAVIS of Michigan:

—Page 99, line 6, after the word "power" insert "over captive traffic".

—Page 99, line 9, strike "today" and insert in lieu thereof the words "until the recent mergers of large railroads".

Line 10, strike "is" and insert in lieu thereof the words "has been."

Page 99, line 9, strike the word "most" and insert the words "while much".

Line 10, place a comma after the word "competitive" and insert the words "a substantial amount of traffic is captive to rail."

By Mr. DODD:

—Page 192, strike out line 11 and all that follows through line 5 on page 200 and insert in lieu thereof the following:

SEC. 701. (a) Section 305 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 745) is amended by adding at the end thereof the following new subsection:

Page 200, line 6, strike out "(g)" and insert in lieu thereof "(f)".

Page 200, strike out lines 13 through 15 and insert in lieu thereof the following:

If the Secretary determines that—

"(1) the proposed transferee railroad is financially and operationally capable of assuming the freight operations and freight service obligations of the Corporation on a financially self-sustaining basis;

"(2) the proposed transfer would promote the establishment and retention of a financially self-sustaining rail system in the States of Connecticut and Rhode Island adequate to meet the needs of such States; and

"(3) the proposed transfer is consistent with the goals set forth in section 206(a)(8) of this Act,

the Secretary shall develop such a proposal and shall, after providing the Association and the Commission an opportunity to review and comment on such proposal, petition the special court for an order to carry out such proposal.".

Page 200, strike out lines 16 through 18 and the matter between lines 18 and 19.

Page 201, strike out lines 1 through 5.

By Mr. ECKHARDT:

—In Title I—Rail Transportation Policy, insert the following new section:

"TRANSPORTATION OF COMMODITIES MANUFACTURED OR PRODUCED BY A RAIL CARRIER

"With respect to the transportation of commodities that are manufactured or produced by a rail carrier, none of the amendments to Title 49, United States Code, made by the 'Rail Act of 1980' shall be construed to modify the application of existing law with respect to prohibiting a rail carrier from transporting an article or commodity that: (1) is manufactured, mined, or produced by the rail carrier or under its authority; or (2) is owned by the rail carrier or in which it has an interest."

—In Title I—Rail Transportation Policy, insert the following new section:

"RAILROAD AND WATERWAY TRANSPORTATION COORDINATION

"With respect to the relationship between rail carriers and water carriers, none of the amendments to Title 49, United States Code, made by the 'Rail Act of 1980' shall be construed to modify the application of existing law with respect to competition and coordination or to make lawful a competitive practice that is unfair, destructive, predatory, or otherwise undermines competition."

—On page 99, strike out ";" at the end of line 12 and add the following: ", requiring regulatory reform in ways that will assure equitable treatment of rail carriers as well as rail shippers;".

—On page 99, line 9, strike out all of subparagraph (3) and insert in lieu thereof the following:

"(3) today, while much transportation within the United States is competitive, there are many areas and commodities of which railroads are the only practicable mode of transportation with the result that shippers served by such carriers are captive;"

—On page 100, line 5, after the word "marketplace", insert the following: ", in the areas in which competition exists among transportation modes".

—On page 102, strike out ";" at the end of line 7, and add the following: ", particularly where shippers are heavily dependent upon rail transportation;".

—Page 104, line 20, immediately after "title" insert "and the impact of the proposed rate on the attainment of national energy goals".

Page 105, strike out lines 12 and 13, and insert in lieu the following: "including the imbedded cost of debt, but excluding any return on equity capital.".

Page 107, line 20, strike out "commodity; and" and insert in lieu thereof "commodity, except that the existence of alternative sources of supply for a commodity shall not be considered if the consignee is contractually obligated to purchase such commodity from the source of supply directly in question;".

Page 113, line 22, strike out "40,000" and insert in lieu thereof "5,000".

Page 114, line 12, strike out "40,000" and in lieu thereof insert "5,000".

Page 114, line 18, strike out "40,000" and in lieu thereof insert "5,000".

Page 116, strike out lines 1 through 10 and insert in lieu thereof the following:

"§ 10727. Demand-sensitive rates

"A rail carrier may establish a tariff, subject to section 10701 of this title and other provisions of this chapter, for any movement or group of movements, under which rates (except those rates involving the movement of grains, including soybeans and rice, or cotton) may be raised and lowered, between published maximum and minimum levels, in response to either expected or actual fluctuations in demand for rail service. The Interstate Commerce Commission shall facilitate the establishment of such demand-sensitive rates.".

Page 118, line 7, immediately after "contracts" insert "for the shipment of goods other than grains including soybeans and rice or cotton".

Page 120, strike out lines 3 through 12 and redesignate the following sections in title II accordingly.

Page 98, strike out the item relating to section 210 in the table of contents and redesignate the following items accordingly.

—Page 104, line 20, immediately after "title" insert "and the impact of the proposed rate on the attainment of national energy goals".

Page 105, strike out lines 12 and 13, and insert in lieu thereof the following: "including the imbedded cost of debt, but excluding any return on equity capital."

Page 106, after line 6, insert the following new paragraph:

"(4) 'market dominance' means the absence of effective competition from other carriers or modes of transportation for the transportation to which a rate applies."

Page 106, line 15, strike out "(c)(1)" and insert in lieu thereof "(c)".

Page 106, strike out line 22 and all that follows through line 5 on page 107 and insert in lieu thereof the following:

"(1) such carrier does not have market dominance over the transportation to which such rate applies; or"

Page 107, line 3, strike out "(B)" and insert in lieu thereof "(2)".

Page 107, strike out line 6 and all that follows through line 2 on page 108.

Page 113, line 22, strike out "40,000" and insert in lieu thereof "5,000".

Page 114, line 12, strike out "40,000" and in lieu thereof insert "5,000".

Page 114, line 18, strike out "40,000" and in lieu thereof insert "5,000".

Page 116, strike out lines 1 through 10 and insert in lieu thereof the following:

"§ 10727. Demand-sensitive rates

"A rail carrier may establish a tariff, subject to section 10701 of this title and other provisions of this chapter, for any movement or group of movements, under which rates (except those rates involving the movement of grains or cotton) may be raised and lowered, between published maximum and minimum levels, in response to either expected or actual fluctuations in demand for rail service. The Interstate Commerce Commission shall facilitate the establishment of such demand-sensitive rates.".

Page 117, line 21, insert "(a)" immediately after "Sec. 208.".

Page 118, beginning on line 5, strike out "(1) surcharges under section 10705a of this title," and redesignate the following clauses in subsection (f) accordingly.

Page 118, line 7, immediately after "contracts" insert "for the shipment of goods other than grains or cotton".

Page 118, after line 11, insert the following new subsection:

(b) Section 10711 of title 49, United States Code, is amended—

(1) by inserting "(a)" immediately before "Section"; and

(2) by adding at the end thereof the following new subsection:

"(b) Notwithstanding any other provision of law, the Commission shall have the duty, upon its own initiative or complaint of an interested party, to ensure that equal rail rates shall be maintained, without unreasonable discrimination, between ports in the same range, and to all points served by rail within the same port.".

Page 120, strike out lines 4 through 12 and insert in lieu thereof the following:

SEC. 210. Section 11501 of title 49, United States Code, is amended by redesignating subsection (c) as subsection (e) and by inserting after subsection (b) the following new subsections:

"(c) The appropriate State authority shall provide the Commission at least six months notice prior to the proposed effective date of—

"(1) any intrastate rate that is prescribed or approved by such State authority for transportation provided by a rail carrier subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title; or

"(2) any change in any classification, rule, or practice which has the effect of changing such an intrastate rate.

"(d) The Commission may, by rule, prescribe certain classes of intrastate rail rates, or classifications, rules, or practices which have the effect of changing such intrastate rates, which the Commission finds cause unreasonable discrimination against or impose an unreasonable burden on interstate or foreign commerce.".

—On page 104, line 20, add after "title", "and the impact of the proposed rate on the attainment of national energy goals."

On page 107, strike lines 3 through 5 and insert in lieu thereof the following:

B(i) for the first three years following enactment of the Rail Act of 1980, that the rate charged results in a revenue-variable-cost percentage for such transportation that is equal to or less than 160 percent, and

(ii) for periods subsequent to the first three years after enactment of the Rail Act of 1980, that the rate charged results in a revenue-variable-cost percentage equal to or less than the cost recovery percentage determined under subsection (e) of this section.

On page 107, line 20, add after "commodity", "*Provided, however,* That the existence of alternative sources of supply for a commodity shall not be considered if the shipper is contractually obligated to purchase such commodity from the source of supply directly in question.

On page 107, strike line 6 through line 25, and on page 108, strike line 1 through line 2.

—On page 107, at the end of line 5, add the following: "*Provided,* That after the end of 1984 the Commission may lower the jurisdictional point by no more than three (3) percentage points for any year that it finds that the average revenues of the Class I carriers equals or exceeds an adequate revenue level (including fair return on equity) as developed by the Commission in accordance with section 10704 of this title.".

—On page 109, line 2, strike out all after "Commission." and on line 3 insert the following new subparagraph:

"(3) After the promulgation of rules by the Commission under section 11163 of this title, the Commission shall reduce the amount of fixed and variable costs, for purposes of calculating the cost recovery percentage under this section, by the amount revenues are exceeded by the going concern value for any traffic transported at less than going concern value."

—Page 125, strike out line 14 and all that follows through line 17 on page 138 and insert in lieu thereof the following:

EXPEDITED DIVISION OF REVENUE PROCEEDINGS

Sec. 301. Section 10705(e)(1) of title 49, United States Code, is amended to read as follows:

"(e)(1) The Commission may begin a proceeding under subsection (a) or (b) of this section on its own initiative or on complaint. The Commission must complete all evidentiary proceedings to adjust the division of joint rates for transportation by a rail carrier within 9 months after the complaint is filed if the proceeding is brought on complaint or within 18 months after the commencement of a proceeding on the initiative of the Commission. The Commission must take final action by the 180th day after completion of the evidentiary proceedings, except that—

"(A) when the proceeding involves a railroad in reorganization or a contention that the divisions at issue do not cover the variable costs of handling the traffic, the Commission shall give the proceedings preference over all other proceedings and shall take final action at the earliest practicable time, which in no event may exceed 100 days after the completion of the evidentiary proceedings; and

"(B) in all cases other than those specified in subparagraph (A) of this paragraph, the Commission may decide to extend such a proceeding to permit its fair and expeditious completion, but whenever the Commission decides to extend a proceeding pursuant to this subparagraph, it must report its reasons to Congress.".

—Page 98, strike out the item relating to section 301 and insert in lieu thereof the following:

Sec. 301. Expedited division of revenue proceedings.

—On page 138, strike out all of subsection (a) of section 302 from line 19 through line 12 on page 139.

On page 139, line 13, strike out "(b)" and insert in lieu thereof "(a)".

On page 139, line 20, strike out "(c)" and insert in lieu thereof "(b)".

On page 140, line 10, strike out "(d)" and insert in lieu thereof "(c)".

On page 140, at the end of line 19 after the word "carrier" add the following: "*Provided,* That the citation of an existing singleline rate shall not constitute discussion of that rate;".

By Mr. GLICKMAN:

—On page 123, line 23, strike the word, "may", and insert in lieu thereof "shall"; and on page 124, after the period on line 8, insert the following new sentences: "The Secretary may include in his notification to the Commission that, for purposes of reviewing rate increases over which the Commission has jurisdiction, a rail carrier has excessively deferred its maintenance without good cause. For the purposes of this subsection, inspection of track shall be conducted at least once each year.".

By Mr. HANCE:

—Page 144, line 18, strike out "(a)" and all that follows through "(b)" in line 5 on page 145.

—Page 144, line 25, insert after "of this title" the following: "when such carrier is transporting grains or cotton or".

By Mr. SANTINI:

—Page 125, line 11, add the following new subsection:

"EFFICIENT MARKETING

"Sec. 214. Section 10762 of title 49, United States Code, is amended—

"(a) by striking the second sentence in subsection (c)(3) and inserting in lieu thereof the following:

'Except in the case of a rail carrier, a proposed rate change or a new or reduced rate may not become effective for 30 days after the notice is published, filed, and held open as required under subsections (a) and (b) of this section. In the case of a rail carrier, a proposed rate change resulting in an increased rate or a new rate shall not become effective for ten (10) days after the notice is published and a proposed rate change resulting in a reduced rate shall not become effective for five (5) days after the notice is published, except that a contract authorized under section 10712 of this title shall not become effective for 30 days.'

"(b) in subsection (d)(1), by striking '30-day' and inserting in lieu thereof 'notice'."

By Mr. SEBELIUS:

—Page 99, Line 9, strike the word "most" and insert in lieu thereof "much".

—Page 101, line 17, between "allowing" and "rail" insert the word "efficient".

—Page 102, after line 22, insert a new item (12) to read as follows: "to encourage and promote energy conservation and the reasonably priced rail transportation of coal in accordance with the nationally stated objectives of energy independence."

—On page 112, amend section 204 by adding a new subsection (d):

"(d) Any carrier may, without specific authorization from the Commission, enter into contracts involving utilization of carrier owned or leased equipment not in excess of 35 percent of the capacity of such carrier's owned or leased equipment by major car type (plain boxcars, covered hopper cars, gondolas and open top hoppers, coal cars, bulkhead flatcars, pulpwood rackcars, and flatbed equipment, including TOFC/COFC): *Provided, however,* That with regard to proposed contracts between Class I carriers and shippers originating an average of 1,000 cars or more per year during the past 3 years by major car type on a particular carrier, no more than 40 percent of carrier owned or leased equipment utilized on the average during the prior 3-year period may be used for such contracts without prior Commission authorization."

—On page 112, line 21, strike "unduly."

On page 113, line 6, strike "unduly."

On page 115, line 1, strike "unduly."

—On page 112, line 9, after "contract" and before "with", add "for the shipment of goods other than grains or cotton".

On page 113, strike lines 21 through 25, strike all on page 114, and on page 115, strike lines 1 through 17.

—On page 113, line 22, strike "40,000" and in lieu thereof insert "5,000".

On page 114, line 12, strike "40,000", and in lieu thereof insert "5,000".

On Page 114, line 18, strike "40,000", and in lieu thereof insert "5,000".

—On page 115, strike lines 22 through 24 and on page 116 strike lines 1 through 10 and insert in lieu thereof:

"DEMAND-SENSITIVE RATES

"A rail carrier may establish a tariff, subject to section 10701 of this title and other provisions of this chapter, for any movement or group of movements, under which rates, except those rates involving the movement of grains, including soybeans and rice, or cotton, may be raised and lowered, between published maximum and minimum levels, in response to either expected or actual fluctuations in demand for rail service. The Commission shall facilitate the establishment of such demand-sensitive rates."

—On page 118, line 7, after "contracts" and before "approved", add "for the shipment of goods other than grains or cotton".

—On page 146, strike lines 16 through 22 and renumber sections 306, 307, and 308 as 305, 306, and 307, respectively.

By Mr. STANGELAND:

—Page 101, line 13, after the word "system", insert the words "where competition exists".

—Page 101, line 19, insert "while maintaining reasonable rates" after "Commission".

—Page 101, line 22, strike out the closing quotation marks and the period.

Page 102, after line 22, insert:

(12) to encourage honest and efficient management of railroads and, in particular, the elimination of noncompensatory rates for rail transportation; and

---

H.R. 7591

By Mr. COLEMAN:

—Page 22, line 4, strike out "$11,195,000" and insert in lieu thereof the following: "$10,695,000".

—Page 22, line 4, strike out "$11,195,000" and insert in lieu thereof the following: $10,695,000: *Provided,* That no funds appropriated under this paragraph may be used to pay the salary of any employee who is not providing services to the Federal Crop Insurance Corporation commensurate with the compensation received.".

By Mr. DASCHLE:

—Page 51, after line 26, add the following new section:

Sec. 612. Of the funds appropriated by this Act for loans insured or guaranteed by the Farmers Home Administration for farm ownership or operating purposes, an amount equal to at least 25 percent of such funds must be used for such loans for low income limited resource borrowers.

By Mr. SKELTON:

—On page 51, insert the following new section after line 26:

"Sec. 612. None of the funds appropriated by this Act shall be used to publish or to distribute copies of the publication entitled "Nutrition and Your Health: Dietary Guidelines for Americans", or in any way to publicize or disseminate any information concerning that publication, until such time as there has been a complete review of all conclusions contained in the guidelines and they have been established as fact."

SENATE—*Tuesday, July 1, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 8:45 a.m., on the expiration of the recess, and was called to order by Hon. DONALD W. STEWART, a Senator from the State of Alabama.

PRAYER

The Reverend Dr. James David Ford, Chaplain, U.S. House of Representatives, offered the following prayer:

Eternal God, Father of mercies and Lord of life, we lift our hearts to Thee in prayer and praise. From things that can be seen we turn to Thee who must be inwardly experienced and spiritually known. Here in this place we lift our souls with joyfulness for the promises Thou hast given and for the encouragement of Thy eternal Word. Enable us to face the issues of life with courage and compassion and cause us to fight the good fight, to keep the faith, to finish the race and, at our last day, to receive everlasting life. May Thy spirit of truth and love be with all who see in their daily tasks the opportunity to serve Thee by serving others. In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 1, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable GARY HART, a Senator from the State of Colorado, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. HART thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

THE JOURNAL

Mr. STEWART. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR HATCH

The ACTING PRESIDENT pro tempore. Under the previous order the Senator from Utah (Mr. HATCH) is recognized for not to exceed 15 minutes.

Mr. BAKER. Mr. President, I observe that the time is now 8:47 a.m. While we convened at 8:45, it may be that the Senator from Utah was misinformed about the time and is not yet on the floor. In the meantime, and while I try to inform his office of the situation, I suggest the absence of a quorum which will be charged against the special order time.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER (Mr. EXON). The Chair recognizes the minority leader.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I am informed now that it will not be possible for the Senator from Utah to be present to utilize the time allotted him under the special order and, therefore, Mr. President, I ask unanimous consent first to yield 3 minutes of the time remaining under the Hatch special order to the distinguished Senator from Alabama, and then to reserve the remainder, which I will either yield back or allocate further after the remarks by the Senator from Alabama.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from Alabama.

Mr. STEWART. I thank the Senator from Tennessee.

ECONOMIC GROWTH

Mr. STEWART. Mr. President, there has been a good deal of conversation about the economy in this country recently, but with particular emphasis on productivity and particular emphasis on this country gaining back a portion of the market that it lost in the automobile industry and the steel industry.

In connection with that, the Senator from Wisconsin, Senator GAYLORD NELSON, and I have been holding hearings in the Senate Select Subcommittee on Small Business and we have had some very interesting testimony. We continue those hearings on economic growth today with two witnesses. One of those witnesses, Mr. President, is Mr. William C. Norris, who is chairman of the board and chief executive officer of Control Data Corp., which is one of this country's largest companies.

The question might be asked as to why this particular gentleman is testifying before the Small Business Committee. He has some rather interesting things to say, though, not only to that committee but, I think, to the Senate about small business and large-sized business concerns, the relationships and what benefits that could provide to this country of ours.

I ask unanimous consent that Mr. Norris' testimony be printed in the RECORD so that the other Members of this body might have the opportunity to review that testimony.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT OF WILLIAM C. NORRIS

Mr. Chairman and members of the Select Committee on Small Business, I appreciate this opportunity to testify on our declining productivity and innovation. Noting your expressed concern with these subjects, I shall address them first. After that, I shall explain how big business can help small business improve productivity and innovation. In the process big business not only would help itself but, of crucial importance to all of us, more jobs would be created. I believe that job creation must be addressed in any discussion of productivity because an unemployed worker obviously is an unproductive one.

First, a word of explanation of why I am championing a program to help small business. In helping to establish and manage several new companies, I have experienced most of the problems of small business. One of these companies, Control Data, founded 23 years ago, is now a large firm with nearly 60,000 employees and annual sales exceeding 3.5 billion dollars. My experiences, over these years, have taught me how important small business is to our national economic health, and especially to the employment of young people and the handicapped. I have also learned, firsthand, that small business has its own urgent needs and that Control Data can profit both the nation and its stockholders by helping to meet those needs. So the program I will be describing today is the result of many years of effort.

Reversing the continuing and dangerous decline in the rate of productivity growth in the United States is a gargantuan challenge. The myriad factors bearing on productivity, many of which are interrelated, make it a perplexing challenge as well. Experts have been unable to agree on a single, overriding explanation for the decline, nor have they been able to agree on the impact of individual factors.

However, there is a consensus that a number of factors are important, including lagging innovation, lagging capital investment, the increased cost of energy, underutilized resources (both human and physical), excessive government regulation, difficulty and inaccuracy of measuring productivity in many areas, and the decreasing contribution of small business.

Scores of actions have been recommended by the experts and hundreds of bills have been introduced in Congress—but adequate legislation has yet to be passed. There has also been a lot of talk about the need for a "National Productivity Improvement Policy," or a "National Commitment to Productivity Improvement," or a "Coordinated National Effort for Productivity Improvement." The various ways of saying it, and the ambiguity of the phrases are symptomatic not only of differing perceptions of the problem and the proper approach to solving it, but also of a fairly widespread abhorrence in our country of anything that even vaguely resembles national planning.

Given the degree of wheel spinning so far, what meaningful actions can be taken? I propose one action that would gain a consensus, be nationwide in scope and be profoundly beneficial. Simply put, it is that big business should help small business and in the process help itself.

To a considerable extent, the decreasing contributions of small business to our economy have been due to government regulations, tax measures and other policies that discriminate against small business, while favoring of big business. What we need instead are policies which are fair to both sectors and which encourage cooperation. Big businesses and small businesses are a natural fit—and cooperation between them can be highly successful and mutually rewarding. Consider some of the attributes of each:

Small businesses represent approximately 97 percent of the companies in the United States, produce approximately 40 percent of the nation's goods and services, and account for more than half of the jobs in the private sector. They also make a disproportionately large contribution to industrial innovation and consequently generate nearly 87 percent of the new jobs as well.

On the other hand, big businesses have the majority of the technological, management, professional and capital resources in this country, conduct most of the research and development in the private sector, and benefit from the advantages accruing from large-scale operations and advanced information systems.

At the same time, however, the resources of big business are under-utilized—and the environment in large companies is not conducive to innovation, primarily because of a corporate bureaucracy that avoids risks whenever possible, especially those associated with truly major innovative products or services. The emphasis today in large companies is on immediate payoffs from marginal improvements in existing products and services, and from reduced labor costs through mechanization and automation. The rising cost of innovation, investor pressure for immediate earnings, and greater uncertainty about the economy have created an environment in which the development of new products and services takes a back seat.

In contrast, in small, technologically oriented companies the management is entrepreneurial rather than bureaucratic. Here, developing ideas into useful products and services with the big risks associated with such development is a way of life. But the mortality rate of new firms is shocking—only about 20 percent of those started survive, and there are more than 400,000 failures each year. This social waste helps fuel inflation. Even worse is the loss of jobs, considering that small business accounts for more than half of all existing jobs and, as mentioned, most of the new jobs.

MASSIVE PROGRAM

What is needed is a massive and systematic program, one with surprisingly low cost, in which the innovative potential of small enterprise can be nurtured by the resources of big business. Such a program would help guarantee the profitable growth of existing small enterprises and would stimulate the creation of millions of new businesses and the millions of jobs that go with them.

The program that I am advocating is based on a number of premises. The first is that helping small enterprise is a major business opportunity for big companies.

Second, that a major thrust of the program is the better utilization of presently under-utilized big company resources. Third, that there are enormous business opportunities for large companies and small companies working together in conjunction with the government to address the major unmet needs of society. Such needs include developing alternative and less-costly domestic sources of energy, encouraging more energy conservation, and providing better environmental protection, lower cost food and housing, lower cost and more available education and training, urban revitalization, and rural development.

Large companies, working directly with small companies or through the formation of consortia with other organizations, can assemble the diverse resources to provide comprehensive approaches where required, such as in urban and rural development. Given adequate assistance, small enterprise can be an important part of urban revitalization: building, rebuilding and maintaining housing and commercial centers; helping to provide health care, education, training and other social services; as well as engaging in the production, processing and distribution of food and in waste recycling.

It is also evident today that with the proper selection and application of existing and emerging technologies, and with adequate ongoing research and development, small family farms and food processing operations can be a critical factor in rural development. They can reduce the cost of food, make a significant contribution to food production, do it in more environmentally protective ways and provide a decent living for the operators.

The consortium approach is also applicable to high risk projects or those with a long term payout, such as the development of less costly and more available sources of energy and the establishment of small business export trading companies to increase U.S. exports.

A perspective on the enormous potential benefits that can be realized from the better utilization of big company resources may be gained by looking at the major links in the chain of success for small business. These links are technology, financing, consulting, training and markets. Several of these elements are under-utilized in big companies.

More specifically, most large companies use only part of their huge stock of technology in their own commercial activities. Some of that unused technology can be sold to small companies. In the same way, managers and professionals in large companies are relatively unchallenged for a good part of the time. They cannot work productively on one type of problem continuously. As with technology, the services of these people can be sold to small businesses; and in the process, profits are earned by the companies and the individuals gain a broader base of experience. Of course, many other services can be offered by big business to small business, including training, data services and financial services.

The benefits of a stronger and larger small business sector would also accrue to society as a whole. For example, in recent years, prices for services and food have increased rapidly. Small businesses play a major role in the services sector and, through the application of big business technology and professional and management resources, they can become more productive and efficient, and price increases will be moderated. With respect to food, we live in a world of scarce and costly energy. An increase in the number of small family farms and small-scale food processors would promote a less energy-intensive agriculture, and would also lead to more moderate increases in food prices.

Small businesses can be found in every segment of our economy. If they can be increased in number and be made more efficient, they will put downward pressures on the overall rate of inflation and the entire country will benefit.

At this point, I should emphasize that the program that I am advocating is not a theoretical abstraction. My company, Control Data, is engaged in a large scale effort addressing the needs of small business as a business opportunity. In addition, Control Data is a participant in City Venture, Inc. which is a consortium of 13 companies and 2 religious organizations engaged in urban revitalization; and a participant in a second consortium, Rural Venture which plans and manages implementation of programs in rural development.

More information on these activities, along with a detailed description of a nationwide program and means of implementation, is contained in a paper entitled "Small Business: A Great Resource for a Country: A Great Opportunity for Big Business," which I have included in the record.

GOVERNMENT ACTIONS

Since the payoffs in many of the proposed actions are long term, government financial incentives will be necessary to stimulate the required cooperation between big and small business. This can be achieved through the use of tax credits with only a small and temporary reduction in tax revenues. Eventually, as output increased, there would be a huge net gain in revenues. Further, no increase in the present level of government funding for economic and human development would be required to support the cooperative programs I have described for addressing major unmet needs of our society.

Since big business-small business cooperation can provide a major source of new jobs, the program should be non-controversial. Not only would it create jobs, but it also would spur productivity improvements. These benefits can accrue while the debate drags on over the causes of lagging productivity and a climate develops for acceptance of a national productivity improvement plan.

Mr. STEWART. Mr. President, I encourage Members of the Senate to take a look at the testimony, because I think he offers some unique ideas about the relationship between small business concerns and large business concerns that would be helpful to us in getting out of our present economic difficulties. He is a man representing a fairly unique company, and I commend the testimony to the Members of the Senate.

I thank the Senator from Tennessee for allowing me this opportunity.

The PRESIDING OFFICER. The Chair recognizes the majority leader—I mean, the minority leader.

Mr. BAKER. Mr. President, I noted with great interest the remark of the Chair.

The PRESIDING OFFICER. The Chair corrected it quickly.

Mr. BAKER. Mr. President, I thank the Senator from Alabama. I am pleased to have the report that he has just given us.

CHANGING THE SAUDI F-15 AGREEMENT

Mr. BAKER. Mr. President, one of the most contentious arms sales debates that took place here in the Senate was in 1978—the decision of the Carter administration to sell F-15's to Saudi Arabia. I supported the President's decision at that time, and one of my principal reasons was that I was convinced that the planes—as configured under the terms of the sale—would not pose any serious offensive threat against Israel.

In connection with the Senate's consideration of this matter in 1978, the administration provided a number of specific assurances concerning the defensive and limited range capabilities that were to be configured into the Saudi F-15's. In particular, on May 9, 1978, Defense Secretary Harold Brown sent a letter to the chairman of the Foreign Relations Committee which included the following stipulations:

> The F-15 we plan to sell to Saudi Arabia will have the same configurations as the interceptor model approved for the United States Air Force.
>
> The plane requested by Saudi Arabia will not be equipped with the special features that could give it additional range. Specifically, the planes will not have conformal fuel tanks ("fast packs"), i.e., auxiliary fuel tanks that conform to the body of the plane, and Saudi Arabian KC-130 tankers do not have equipment for air refueling of the F-15.
>
> Saudi Arabia has not requested that the plane be outfitted with multiple ejection racks (MER 200) which would allow the plane to carry a substantial bomb load. The United States will not furnish such MER's.
>
> Saudi Arabia has not requested, nor do we intend to sell any other systems or armaments that could increase the range or enhance the ground attack capability of the F-15.

In addition, in testimony before the House Foreign Affairs Committee on May 9, 1980, Secretary of Defense Brown was asked whether the United States was planning to provide the Saudis with an aerial refueling capacity for the F-15's. In response, Secretary Brown said:

> The F-15 does have a receptacle, but the Saudis don't have an aerial refueling capability with a probe, so they will not be able to refuel the F-15.

Mr. President, according to recent press reports the administration has been asked by Saudi Arabia to supply the very items of equipment which would give its F-15's a potent offensive capability and which the administration assured the Senate in 1978 would not be provided so as to obviate the emergence of a potentially new offensive threat to Israel's security from yet another point on the compass.

Therefore, Mr. President, my purpose in speaking today is to join my colleague, the distinguished majority leader, in urging the administration not to pursue the sale of the additional items of armament requested by Saudi Arabia to augment the offensive striking power of its F-15's. Just 1 week ago today, in speaking on this very matter, the distinguished majority leader put the matter very aptly when he said:

> We value our relationship with Saudi Arabia and want to maintain that relationship. It is a relationship that should not rise or fall over a matter such as this proposal for the supplemental aircraft equipment.
>
> I can see no rationale that would now justify providing this kind of offensive capability for the F-15's.

For the reasons which I have stated, I urge the administration not to proceed with the sale of advanced supplemental equipment to Saudi Arabia for the F-15's it is purchasing.

Mr. President, I yield 2 minutes of Senator HATCH's remaining time to the Senator from Wisconsin (Mr. PROXMIRE).

CAUSE TO UNIFY

Mr. PROXMIRE. Mr. President, the history of Bulgaria's valiant resistance to Nazi Germany is inspirational. Of Bulgaria's 50,000 Jews, no more than 10 percent were deported to concentration camps. They certainly were not spared by Nazi sympathy or oversight. They were saved by the courage and mercy of the Bulgarian people.

Many groups—religious, political, and social—defied the Nazis in occupied Bulgaria. Many people acted individually to defend the Jews against intense Nazi hatred. But the most deeply moving of all rescue tactics were the widespread "mercy baptisms."

Few Jews, even in desperation, were willing to renounce Judaism. The upheaval of their lives caused by Nazi policies led most Jews to cling even more closely to their family and culture. Understanding and respecting the values of Judaism, many priests conducted mass-scale but temporary baptisms of Jews. By 1941, hundreds of Jews entered the immediate refuge of conversion. Both parties agreed that the convert would retract his vows after the war. Both agreed that the baptism was an act of mercy in line with Christian and Jewish doctrines.

But the Nazis soon caught on. A government order declared that only those Jews who had been baptized before publication of the Nazi racist laws could be spared by conversion. This restriction on the "mercy baptisms" would have sealed the fates of many Jews had not devoted priests and the Bulgarian people dared to defy the Nazis. They firmly claimed that many Jews had been baptized before the deadline. Even while facing possible removal from the church, the priests persisted in their acts of mercy.

Christians and Jews overcame their fundamental religious differences. In that time of division and hate, they found cause to unify and love. In that time of inhumanity and death, they struggled to preserve humanity and the sanctity of life. At a time when divisiveness and baseness prevailed, they worked together to serve the highest ideals of mankind.

Mr. President, we can do the same by overcoming our differences and ratifying the Genocide Convention now.

Mr. President, once again I thank the minority leader and I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the minority leader.

Mr. BAKER. Mr. President, I preferred the other configuration.

Mr. President, is there time remaining under the Hatch special order?

The PRESIDING OFFICER. There is 7 minutes remaining under the time of the Senator from Utah.

Mr. BAKER. Mr. President, for the moment, I suggest the absence of a quorum to be charged against that time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BRADLEY). Without objection, it is so ordered.

Mr. BAKER. Mr. President, is there time remaining under the leadership time?

The PRESIDING OFFICER. There is no time remaining.

DEPARTMENT OF DEFENSE AUTHORIZATION, 1981

The PRESIDING OFFICER. The Senate will now resume consideration of the pending business, which will be stated by title.

The legislative clerk read as follows:

> A bill (H.R. 6974) to authorize appropriations for fiscal year 1981 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for fiscal year 1981 for civil defense, and for other purposes.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I ask unanimous consent that I be allowed to yield to the Senator from Nebraska without losing my right to the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Nebraska.

THE CX AIRCRAFT

Mr. EXON. Mr. President, it is important that the Senate have a full appreciation of the extensive new program which the administration and the Armed Services Committee are recommending that we launch with the bill before us.

I am in support of this concept of a rapid deployment force because of the contingencies I am convinced we face in the troubled world in which we live. But like any new program, there are some unknowns and it is important that we chart our course thoughtfully and exercise restraint of concepts and costs as best we can in this deliberative body.

THE CX AND THE RAPID DEPLOYMENT FORCE

Mr. President, shortly after the fiscal year 1981 budget was submitted to the Congress, I was assigned responsibility for evaluating the administration's proposed initiatives for the Rapid Deployment Force (RDF).

In conjunction with this responsibility, I conducted two extensive hearings on the subject. The two principal new initiatives which were proposed in the budget request consisted of a start on a program of construction of maritime pre-positioning ships and research and development on the CX transport aircraft. From the very beginning, it was evident that these two new programs could not be evaluated in isolation. Therefore, the scope of the hearings as well as my analysis were expanded to include a review of our entire military mobility capability—especially in light of our requirements, which include enhancing U.S. ability to rapidly deploy our forces to areas where little logistics support exists.

Our efforts were aimed at evaluating our present capability to rapidly deploy to the Persian Gulf region. This region was chosen for two reasons: First, in light of the President's recent declaration that this region was one of vital importance to the United States and our allies; and, second, because it presented one of the most demanding scenarios for rapid deployment and constituted a good benchmark against which to judge U.S. ability to deploy elsewhere.

The hearings on this subject, as well as my subsequent investigation, brought several points into sharp focus. First, the difficulty in obtaining and maintaining access to land bases in the Persian Gulf region exacerbates the difficulties involved in rapidly deploying U.S. military forces to that or any similar area. Therefore, there is a need to establish a core capability to employ forces in this region because of the virtual lack of pre-positioned equipment and support—a situation totally different from the NATO theater where there is an extensive logistics network.

Given that assumption, the next step was to give priority to programs which would provide near-term additives to our current "lift" capacity as well as to continue or initiate programs to maintain or improve our existing mobility forces. Finally, initiatives to enhance our long-term ability for rapid deployment needed to be considered and begun, where appropriate.

For the near term, the United States will have a seven-ship maritime prepositioning force utilizing existing ships on station in the Indian Ocean area later this summer. In addition to that, the following is a catalog of military mobility assets which we have available today. Our current airlift capability consists of 77 C–5A aircraft and 271 C–141 A/B aircraft which are available for intertheater airlift. In a full mobilization scenario, an additional 111 cargo and 246 passenger aircraft from the private sector could be requisitioned for military use. Over 550 military C–130 aircraft could also be available for intratheater airlift. Under full mobilization, over 400 ships from our military sealift command, ready reserve fleet, national defense reserve fleet, and Merchant Marine could be made available as well.

The Senate Armed Services Committee took several important initiatives this year to enhance our ability to rapidly deploy forces to contingency areas. In addition to approving the administration's request for the beginning of the long-term, maritime pre-positioning ship program, the committee approved the ongoing program to increase the capability and life of our existing C–5 and C–141 transport aircraft. Additionally, the request for six more KC–10 tanker/cargo aircraft was approved. Another most important committee initiative is the proposed purchase of 100 off-the-shelf lightweight armored vehicles for the Marine Corps. It has become clear to me that the formation of a combat unit with a family of such vehicles as soon as possible will fill a void we currently find in our Armed Forces during the mid-1980's—until the Army and Marine Corps can jointly develop a family of high-technology lightweight armored vehicles for the late 1980's.

For the near-term improvement of our sealift capability, the committee approved the purchase of eight SL–7 cargo container ships which will be modified slightly for military use. These ships, with their fast 33-knot capability, will provide enough sealift to move an entire Army mechanized division to the Persian Gulf area from a standing start in a little over 2 weeks. These ships are already being operated by a commercial company and all eight can be purchased, modified, and ready for use between 1981 and 1984. This fast sealift capability will contribute heavily to increasing the tonnage which can be transported to a contingency area in a relatively rapid fashion.

There is an inherent trade-off between airlift and sealift. The former emphasizes speed of delivery while the latter emphasizes high-tonnage delivery. There needs to be a balance between the two, because too heavy a reliance on airlift will be prohibitively expensive, while an overreliance on sealift will not provide adequate forces at the scene of battle in time to make a significant difference—unless adequate warning time for mobilization is available.

Of our existing airlift force, only the 77 C–5A aircraft can carry so-called "outsize" cargo—one of our current M–60 main battle tanks, future XM–1 tanks, infantry fighting vehicles and certain other pieces of equipment too large to fit into the C–141, C–130 or civil Reserve air fleet aircraft.

As part of the fiscal year 1981 budget, the administration requested $81.3 million to begin research and development on a new CX cargo aircraft. This aircraft, as envisioned, would have a size and cubic-foot cargo capacity somewhere between the existing C–141 and C–5 aircraft. It would be able to carry the "outsize" cargo mentioned earlier—although only one tank such as the C–5 can now carry; however, it would be engineered to land at austere, shorter airfields and use less parking ramp and taxiway space than the C–5. This advertised capability would, in the Air Force's view, open up far more airfields worldwide for delivery of this cargo than can currently handle the C–5 aircraft—an effort to have main battle tanks and associated equipment delivered right up to the forward edge of battle, one at a time per aircraft.

However, the Air Force's presentation in support of the CX was deficient. The Congress this year was asked to approve a conceptual aircraft—one whose design is "notional" and ill-defined; one whose concept of employment is questionable; and, one whose cost is extremely high.

My sentiment, and that of the committee, is that additional "lift" is needed to insure that our already existing military forces can be moved wherever needed in a timely fashion. The necessary balance between airlift and sealift is recognized and appreciated. Airlift alone can never hope to deliver anywhere near the total amount of men and equipment to conduct a major deployment to an area where little support is already available. The great bulk of tonnage required for such a deployment simply must move by sea because of the overall requirement—even for a conflict of short duration. In addition to the placement of forces in a contingency area, those forces must be supported after they arrive.

While the exact figures are classified, the total tonnage required to deliver and support an envisioned major deployment to an area outside of NATO is staggeringly high. In short, it will do little good to deliver a large force to an objective area only to have it run out of fuel, ammunition, and food a few short days after it arrives. Again, a balance must be struck between the tonnage requirements of both manpower and equipment for both speed and sustainability—especially in areas of the world where the vital lines of communication for our potential enemies are shorter than our own.

It is not clear that a concept optimized for strategic airlift or heavy armor—essentially one tank per aircraft—into remote, austere airfields as envisioned in the Air Force plan is militarily valid nor should the concept be dismissed out of hand. The Air Force presentation went into great detail regarding the number of additional airfields into which this "notional" CX could land; however, it lacked a corresponding thorough analysis of how the aircraft would fit into the military transportation system we are attempting to enhance. In particular, it was shown how much additional cargo could be delivered rapidly by air, but lacked definition with respect to an operationally sound time sequence of delivery as well as the supportability of those forces. In short, the CX could deliver heavy armor to remote areas quite quickly, but "beans and bullets" to accompany that armor would have to come by different and less rapid means. The potential for military catastrophe stands out prominently in this regard.

My difficulty with the CX as proposed extends further. Because the Air Force has not decided on the exact size and other characteristics of the CX, it does not know how many aircraft it will need to procure to fulfill the stated requirements—requirements which are based on sketchy assumptions and less than clearly defined military tactics. Estimates range from a need for 100 to 150 aircraft. This variance can mean a minimum estimated 25-year life-cycle cost of between $16.9 billion and $21.1 billion. What we do know is that, should the program go forward as currently outlined, the first 5-year cost (1981–85) is conservatively estimated at $6.7 billion and at least $10 billion during this decade. Given the priority need to improve, as quickly as possible, our overall ability to move high volumes of tonnage to contingency areas, the relatively small incremental increase in tonnage provided by the CX is not a proven, prudent investment at this time especially in view of the "lift" shortages we face and the long corrective road ahead.

Mr. President, the United States currently has, by any measurement, the world's finest military airlift fleet. The Congress is being asked to approve further additions to it at this time when we are not even sure of the complete capabilities of what we currently have on hand. The Defense Department is going "full speed ahead" on the CX aircraft. Yet, at the same time they are conducting further tests of the C–5 to determine if its ability to land on shorter fields can be improved by various means. Earlier tests of this sort were conducted and seemingly showed that this cannot be done—yet the Deputy Secretary of Defense testified that those tests were deficient and new ones were needed. What happens if the results of these new tests show that a significant improvement can be made in C–5 short field compatibility? How can the CX realistically be supported now as a necessary priority improvement to an existing airlift fleet whose capabilities are not fully known?

The Air Force did not do an adequate job of examining derivatives of existing aircraft before plunging headlong into a brand new program which envisions, at a very minimum, $1.2 billion in research, development, testing, and evaluation alone. While the revised requests for proposals to industry mention that full consideration of such derivatives should be given, the parameters seem to indicate, as usual, a dominant preference for a new aircraft.

The CX, if procured according to Air Force plans, will not even begin to enter the inventory until 1986 and full programed deliveries would not occur until the end of the 1980's. Yet the most generally agreed, potentially dangerous period we face is during the decade of the eighties, until our military transportation system can be brought more into line with the total "lift" requirement. We simply need to do first things first. Furthermore, there are clear indications that the initial operating capability of the CX program may already be slipping in Air Force plans.

In my view, the appropriate action for the Congress this year would have been to approve limited funding to support a comprehensive study of our overall military mobility requirements to be conducted by the Secretary of Defense—outlining present capabilities and anticipated needs. However, the committee's final action went far beyond this proposal. I fear that we have, in effect, issued a "blank check" to the Secretary of Defense to continue his CX plans—although total funding for fiscal year 1981 was reduced somewhat from $81.3 million to $50 million. All that is now required of the Secretary is that he "certify" to Congress that what he has proposed is a "good idea" and well thought-out from his perspective. A second equally meaningless "restriction" is that the Secretary can expend no more than $10 million of the funds until "after the expiration of 90 days following the submission to Congress of the study required." Such language does not even authorize a one- or two-House veto or approval by the Armed Services Committees of either body. I feel that these conditions are cosmetic and ill-advised.

It is evident that the committee majority has attempted to saddle the Secretary with the responsibility for any future shortcoming of the new CX. The question remains as to whether the committee had abdicated its responsibility.

The Senate Armed Services Committee is responsible for oversight of the entire Military Establishment. At a time when increased defense expenditures are necessary in order to correct deficiencies in our defense posture, these added resources must simply be well used. With all of the unanswered questions and doubts—misgivings expressed by almost every member of the committee—I regard the actions taken with respect to the CX as being an abdication of the committee's responsibilities to protect the best interest of the military posture of the United States—to say nothing of our obligation to the taxpayers.

We never seem to learn, Mr. President. The parallels between the beginning of the CX program and the beginning of the C–5 program 15 years ago are illuminating. In 1965, then-Secretary of Defense McNamara and others testified that the CX–HLS (later called the C–5A) would be able to carry large, bulky pieces of Army equipment, not otherwise movable by air. This CX–HLS would have the ability to operate from short, low-strength airfields. The Congress was assured that, not only would the CX–HLS be a military bargain, but there would be considerable commercial interest in it as well—a development which could drive the unit price down. Congress was assured that the CX–HLS would provide virtually a "home base to fox hole" airlift capability and could utilize forward air bases as short as 4,000 feet. Unfortunately, while the C–5 has performed satisfactorily in certain roles, few of the promises for the ultimate in transport military aircraft and the assurances given Congress and the people have been fulfilled.

Had the C–5, which has turned out to be a "gold plated goose," not sprouted unsatisfactory wings and a weak landing gear, thereby restricting it to "international airport-type" facilities, we would not be involved in this debate a decade and a half later on a 1980 version of still another "CX" military transport.

Mr. President, perhaps the Air Force can learn from its C–5 experience, and possibly this CX program can be carried out with a minimum of difficulty and delay. As one Senator, I am very interested in allowing them to try. But we should proceed now only if it is clearly justified by the coming detailed study. The point is that any Senator reading the transcript of the closed committee meetings would be struck with the complete candor of the committee members' reservations with regard to the CX presentation; to say nothing of the Air Force's private admission that they had not done their homework. Still, a majority approved funding, evidently "to send a message to the Soviets."

This Senator would have hoped that the Congress would have learned more from the past, expensive C–5 mistakes, to say nothing of the corresponding shortfall in our defense preparedness, and provided the kind of stern guidance to the Pentagon as well as restrictions necessary to insure that the funds associated with the 1980 version of the CX are wisely employed.

Lest we forget, and repeat the mistakes of the past, the C–5 program experienced an 83-percent increase in cost per aircraft over the development estimate, while experiencing a 30-percent reduction in the number of aircraft to be purchased. Each of the 77 C–5 aircraft had an average cost of over $54 million back in the late 1960's—and we all know the effect which the inflation of the 1970's has had on that dollar amount.

I fear that the hasty approval of the current ill-defined CX program may possibly be inviting the same kind of difficulty. The present projected cost per CX is $45 to $55 million, exclusive of research and development, and the 25-year life-cycle cost of the program is $16.9 to $21.1 billion.

The House of Representatives has rejected the CX concept for the 1981 fiscal year. Much of this pressure to have the Senate take positive funding action was the oft-used argument that "we must do something" so that it can be resolved in the conference committee. While that concept has validity in some cases, the legitimate committee functions and responsibilities should not be short-circuited on such a massive new proposal. With respect to the CX, I respectively submit the Senate Armed Services Committee failed to carry out its responsibilities.

Mr. President, I support the overall committee report because of its many excellent initiatives aimed at enhancing our overall military posture. Nevertheless, whatever the final disposition of the CX matter during the entire congressional appropriations process, the U.S. Senate can be assured that this Senator will be maintaining a watchful eye over it.

Mr. President, let me say in conclusion that this Senator has grave doubts about the newest proposed CX transport aircraft as it was presented by the Air Force. My reservations have been well documented in detail in the closed considerations of the Armed Services Committee, herewith, and in detail in the report language accompanying H.R. 6974 beginning on page 212.

I hope we have not inadvertently launched another new and expensive

CX transport aircraft without the full discussion and deliberation necessary.

I hope that we are not creating another "C-5 fiasco" which most seem to agree was a tremendously expensive endeavor, the result of which has been an end product that has not lived up to the promises or potential on which it was sold.

The Senate Armed Services Committee was sharply divided on this issue, not so much on the possible need for improvement of our military transport capability, but upon how and when we should proceed.

The distinguished chairman of the Armed Services Committee has assured me of his similar concern and he will be in position to monitor the immediate future activities of the Pentagon in this matter, as will the Armed Services Committee as a whole.

I have further been assured by Members of the House of Representatives and members of the Armed Services Committee of that body who have already rejected the CX proposal for fiscal year 1981, that this project will be further considered in conference.

For these reasons, Mr. President, it is not my intention at this time to offer an amendment in this regard to the measure that we are now considering. Suffice it to say, Mr. President, it is not the opinion of this Senator that the majority of the Senate Armed Services Committee have correctly discharged their duties with regard to the CX, and I shall be monitoring this development closely.

Mr. STENNIS. Will the Senator yield for a half minute?

Mr. EXON. I yield.

Mr. STENNIS. I want to emphasize that I share in large degree the Senator's concern, and I think that is generally shared by our committee. Whatever I can do to follow up with him, his surveillance, interest, and oversight, I certainly want to do that and will do that. I thank the Senator again for his work on this matter. There is a problem, there is a need here. Experience has given us added information.

Mr. EXON. I thank the chairman of the committee.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

AMENDMENT NO. 1938

(Substitute for Amendment No. 1937)

Mr. LEVIN. Mr. President, yesterday I set forth some of the reasons why there is no logic behind the committee proposal to cut the end strength of the Army. It is possible to achieve both, the greater number of high school graduates in the Army and without cutting their end strength. If we can get both of those goals simultaneously, there is no need to cut off one to achieve the other.

I also read from a letter of General Meyer which stated that the management aspects of the committee proposal, a floating end strength, would be impossible to execute because there would be great uncertainty in the force on a month-to-month basis as to what units would be under strength, which units are to be zeroed out, and which units would receive priority.

He further wrote me that the Army is just in the process of attempting to attack the most critical problem we face, instability. "We are taking significant management initiatives," he writes, "to increase the amount of time individuals stay with a unit, thus improving unit teamwork and cohesion." The proposal suggested would completely destroy all of our hopes of policy changes directed toward improving stability within the Army, decisions which have been long overdue and which are essential if we are to create combat readiness in the force today.

In addition to the letter from the Chief of Staff of the Army, General Meyer, I quoted from a letter from Lieutenant General Yerks that we do not believe we can possibly reach our requested end strength, even though we might qualify for it in terms of the proposal. It will be so late in the year before we know with certainty the extent of our success that, even in success, we would fail.

General Rogers, head of our NATO Command, indicated that the floating end strength holds no promise of allowing the Army to reach the desired end strength of 775,000 people. He wrote that given "the cyclical nature of high school accessions, the cut would almost certainly become self-fulfilling."

Mr. President, it is very clear, and I think that most members of the committee would acknowledge, that no single measure—whether it is a high school diploma or any other measure—can absolutely measure the quality of individual personnel. Yet the committee took that one single factor, how many high school graduates the Army is going to enlist in the next year, and used that single factor to determine whether or not the authorized end strength would be 750,000 or 775,000, or some floating figure in between. Given the committee's statement that no single measure such as high school diploma can absolutely measure the quality of individual military personnel, it makes no sense then to go ahead and use that single factor as the sole determinant for the end strength of the Army's being either 750,000 or 775,000 or some in-between figure.

We have heard a lot about test scores. Senator NUNN has given to the Senate a list of test scores for 1979. He has given us a few examples of them in some instances, for some earlier years. I should like to address myself to that material that Senator NUNN has delivered to us.

Senator NUNN's figures on test scores, first of all, provide no basis for the conclusion that we must cut the Army until they increase the number of high school graduates. The test scores were not related to high school education. Those test scores were taken on a representative cross section of the Army population and, at the time the tests were conducted, the Army contained about 85-percent high school graduates. The tests do not prove that the failure rate was disproportionately related to non-high-school-degree soldiers. Because the study did not correlate test scores to high school education, there is no way to test the results as suggesting that the problems they disclose are a function of declining high school graduates in the Army. The proponents of this cut in the Army have simply shown no link between the test score data that they offer and the remedy they seek to impose, which is cutting the strength of the Army until the percentage of high school graduates is increased. There is no logic to their remedy. They are simply saying that the Army is a headache, and therefore, they want to cut off a foot.

Additionally, if we look at the totality of the tests, the figures are not as one-sided as Senator NUNN's presentation suggests. I want to give a few examples.

First, the most current data available, more current than that which was provided to us last week, indicates that some results have been significantly improved as more test results have become available.

In other words, many disturbing failure rates discussed by Senator NUNN and others last week were the result of incomplete test score results for 1979 and, as more test scores have become available, the failure rates have changed. A few examples: According to Senator NUNN's data, in field artillery personnel SQT's, 43 percent failed in 1979. According to more current data involving larger numbers of the 9,500 artillery crewmen tested, only 26 percent failed—not 43 percent.

According to Senator NUNN's data, in signal personnel SQT's, 46 percent failed in 1979. According to our data, which is newer data, of the 5,200 signal personnel tested, only 11 percent failed, not 46 percent.

According to Senator NUNN's data, in military intelligence SQT's, 51 percent failed in 1979. According to more current data based on a larger number of the 2,000 or so military intelligence personnel tested, 38 percent failed, not 51 percent.

In one important category, interrogators, fully 74 percent have passed the 1979 test so far.

The point is that more current data than that which was apparently available to Senator NUNN when he spoke last week often indicates that the failure rates, while striking in some categories, are not as striking as he claimed.

We have also received a letter from Maj. Gen. James C. Smith, who is the Director of Training for the Army.

General Smith's letter indicates in most cases the 1979 data is the first year's data. But we do have some categories where there is earlier data to compare. In fact, in three of the six cases cited by Senator NUNN, where we have pre-1979 results, we also have 1979 results, and in all three instances, there is improvement, not deterioration. Here are the three examples:

Senator NUNN's release indicated that 86 percent of the 1,574 field artillery crewmen tested in fiscal year 1978 failed their SQT.

In fact, 15,000 such soldiers were tested that year, not just 1,574, and of those, 52 percent, not 86 percent, failed.

In 1979, the failure rate dropped——

Mr. NUNN. Will the Senator yield for a brief question?

Mr. LEVIN. I am happy to yield.

Mr. NUNN. If the Senator would furnish the Armed Services Committee with this information, it would certainly be of benefit to us because the Army, unfortunately, since the committee passed this amendment, has decided it will not cooperate in giving us this kind of information. So the Senator is in a unique position, being the only one I know of who is able to get information from the Army. I think that puts the unique burden on him to share the information.

Mr. LEVIN. I do not view that as a burden, either. I would be very happy to share whatever information I have. Much of this information has already been made available to the Senator and his staff, or the committee. I will be happy to share whatever we have.

Mr. NUNN. Good. I thank the Senator. I will get the information from the Senator then.

Mr. LEVIN. We also printed up much of this information this morning, in a form the Senator will be able to have, in a printed, logical fashion.

Mr. President, going back now to the three cases cited by Senator NUNN where there is both pre-1979 and 1979 information.

In all three of those cases, 1979 shows improvement over the prior year, not deterioration, as indicated on the press release of Senator NUNN last week.

First, Senator NUNN's release indicated that 86 percent of the 1,574 artillery crewmen tested in 1978 failed their SQT.

As I indicated, in fact, over 15,000 such soldiers were tested that year, not just 1,500, and of those, 52 percent, not 86 percent, failed, and in 1979, the failure rate dropped to 26 percent.

Senator NUNN stated that 82 percent of the 1,095 Hawk missile crews failed the test in fiscal year 1977. But the final results of the 1977 tests show 1,639 Hawk missile crewmen were tested, and that a far lower proportion, 57 percent, failed, and in fiscal 1978 and 1979, only 34 percent of the crewmen each year failed their SQT.

That is a very dramatic difference from the figures already given us last week where there was an 82-percent failure rate claimed in 1977.

It also shows in the very years that the Army is having more difficulty getting high school graduates that the test scores are improving, and not getting worse.

Mr. NUNN. If the Senator will yield, does he have an update on the maintenance people for nuclear weapons?

Mr. LEVIN. We will be happy to look that up. I will get back to the Senator on that.

Mr. NUNN. It is an interesting thing, some in our critical skills like tank repairman and nuclear weapon repairman, either have not retested or they have not shown that information.

What we are getting now is only the information the Army considers favorable. They are withholding the information, I assume, that they do not consider so favorable.

So we are in a position of having only selected information being furnished by the Army and that, of course, is a very unfortunate basis on which to try to make a rational and objective decision.

Mr. LEVIN. I fully agree with the Senator, that selected information is an unfortunate basis on which to make a decision.

My point is not that every test score improves, but it is that in the analysis of the Senator's figures, in three of six cases there has been an improvement, and in the other three there is no basis for comparison.

Mr. NUNN. That is right.

Mr. LEVIN. Yet the Senator——

Mr. NUNN. What we do not know is whether the Army tested in those other three areas and is withholding the information.

Mr. LEVIN. We do know.

Mr. NUNN. Is it not strange that the people who maintain the nuclear weapons of this country in the U.S. Army, who failed by something like 90 percent in 1977 and 1978, and the Army has not retested them, would the Senator not say that shows either a great deal of negligence on the part of the Army or a failure to come up with information?

I cannot conceive the U.S. Army would test in 1977 and 1978 and have something like 90 percent of the people maintaining the nuclear weapons fail that test, and not retest them, and at the same time have the Secretary of the Army have the audacity to say the information is now shopworn, yet they have not retested.

Mr. LEVIN. That was the Senator's point.

Mr. NUNN. What the Senator is talking about gives me more concern because what they are showing is a few tests that may be improved. But the most crucial tests, they have not retested again, or they are in doubt, possibly withholding information.

Mr. LEVIN. This Senator will provide all the information, whether it is good or bad.

My point is that in the Senator's release of last week——

Mr. NUNN. The Army provides the Senator, I am confident of that.

Mr. LEVIN. And there is some bad information in it, too. But I will provide the good and the bad. I will show the comparisons, where there has been improvement and deterioration.

My point is, if I can finish, that in the Senator's release of last week, he said there was significant deterioration in the ability of the Army personnel, and the evidence the Senator used for that was six areas only out of hundreds where there was not deterioration at all, could not show deterioration. The Senator showed that there was a certain percentage failure in 1977 and 1978. He never compared it to more recent years.

My point is this, not that there are not lousy test scores, because there are, but that there are good ones. And the very ones the Senator used, in all cases where we have comparative scores, there is improvement.

If the Senator wants to argue they should retest, I will agree. But that was not his point last week.

Mr. NUNN. I say to the Senator, I gave all the information the Army made available to me. I cannot go out and test them myself.

So there was no selective release of information from me or the committee. What was revealed was the information that the Army had available, and that is all I could do.

I think one piece of encouraging information, I understand, four or five members of the Army band were tested, and they made 100. I think that is encouraging.

Mr. LEVIN. There is other encouraging information, too. A lot of other encouraging information.

I think if the Senator wants to be fair and give a more complete figure on the infantry, 91 percent passed this year. That is not the band.

In heavy antiarmor weapon crewmen, 90 percent passed. That is not the band.

Eighty-one percent of the cannon crewmen passed in 1979. That is not the band.

Of the Honest John missile operators in 1979, 93 percent passed. That is not the band.

Of the Honest John cannonfire direction specialists in 1979, 98 percent passed. That is not five members of the band.

Eighty-four percent of the Hawk missile crewmen passed in 1979. That is not five members of the band.

In the intelligence assistance air defense artillery operations, 84 percent. Short range missile crewmen in air defense artillery, 86 percent. Eighty-two percent of the electronics materiel specialists. Eighty-two percent of the Pershing. Ninety-six percent of the Vulcan assistance mechanics, and on and on and on.

There were more than 80 percent passed. That is not five members of the band.

My point to the Senator is this: I know there are some poor test scores. I do not think they ought to be hidden. But there are some good ones, too. I do not think they ought to be hidden.

I think we ought to get the full picture. That is not really as bad as the Senator's release of last week might indicate, where the Senator quotes nothing but failure after failure after failure, where the Senator says that there is deterioration and, in fact, makes no effort to prove comparisons from one year to another.

That is the point of this Senator, not that there are not problems in the Army.

As a matter of fact, the scores I just quoted, the high scores in the 1980's and 1970's were for Pershing, Lance, and Honest John personnel, and those are nuclear weapons delivery systems.

Mr. President, I indicated last night that I would be happy to yield to the Senator. I am happy to do this at any time, even though I have not completed my statement. I can come back.

Mr. President, continuing to look at Senator NUNN's release of last week, he claimed 81 percent of the cannonfire direction specialists tested in 1978 failed. In fact, in 1979, so far, that number has fallen to 57 percent.

In other words, where we have both 1979 and prior to 1979 information, in the six categories cited in Senator NUNN's release of last week, the scores have improved and not deteriorated.

In the other three categories in that section of his release, there was only data for 1 year. Also, the results were long ago declared invalid in those three tests because, in the words of General Smith, "We had specialties too broad to permit effective training and much less fair testing."

There has been a real improvement in a number of military occupational specialties which Senator NUNN did not discuss. I think these figures may also help give a more balanced and more positive and more accurate picture of the capability of our Army. Let me share them with the Senate.

In the infantry—the toughest, dirtiest, and most basic Army job—45,000 people were tested in fiscal year 1977 and 70 percent of them passed their SQT's. In fiscal year 1978, the pass rate grew to 84 percent. And now, in fiscal year 1979, with test scores still being compiled, over 17,000 have been tested and 82 percent have passed.

In mortar crews, the fiscal year 1977 results showed a pass rate of only 41 percent. In fiscal year 1978, that had grown to 72 percent and, in fiscal year 1979, current test results show a 68-percent rate.

In short range air defense missile crewmen, the fiscal year 1977 tests showed a pass rate of 77 percent. In fiscal year 1978, the rate stood at 74 percent. And in fiscal year 1979, 96 percent of all those tested and reported so far have passed the SQT.

These improved test scores—and there are many other examples—all took place precisely in the timeframe of reduced high school enlistment rates. If high school correlated with performance, we could expect the scores to decline. But they did not. That raises some doubts about the value of a high school diploma as a quality measure and it ought to dispel a few doubts about the state of our Army. It could be better. But the Army is not sick, it is not stupid, and it is not incompetent.

I recognize that high school graduation does correlate retention and reenlistment. That is one big reason to seek more and more high school grads and why Army is doing so. It is overly simplistic to suggest that a high school degree equates to quality. The key to quality is not a diploma—it is the ability to get one's job done. And a diploma simply is not an infallible predictor of performance. I have known a lot of high school graduates, a lot of college graduates, a lot of Ph. D.'s that I would not trust to drive a car, let alone a tank. And I have seen a lot of people who never finished grade school whom I would trust with my life—and with the task of defending our Nation's security.

No, the committee approach simply does not guarantee that we will increase the quality of our Army—all it guarantees as a practical matter with its floating end strength is that we will reduce its quantity and that, if I understand the committee properly, is something they themselves do not really want to see happen.

The committee proposal does not solve our problems. It creates some very real problems for us. Let me identify some of them.

First, it sends the wrong signal to our allies and our adversaries. Two weeks ago when we debated registration, everyone was concerned about the signal we would be sending to the Soviets. It was said that registration did not solve our basic problems of recruitment and retention, but that it was an important symbolic act. But now that we face this decision, we hear advocates claiming that the Soviets will know what motivates us and understand the real meaning of the committee's action. But really, what nation, in the face of the kind of threats we confront, reduces it military strength? I am sorry—I simply do not buy the argument that this reduction would not be seen as an important symbol. It will, I fear, be seen as evidence that we are not serious about responding to Afghanistan or Iran. And that is not the sort of signal we ought to be sending to anyone at this time.

Second, I think this reduction is inconsistent with other components of the bill. For example, the committee adopted language which I authored calling upon our Government to carefully examine our allies' behavior regarding their NATO commitments. We want them to do more. But, at the same time that we ask them to do more, this amendment will force us to do less. As General Rogers wrote:

> As SACEUR/CINCEUR I cannot understand the reduction in Army strength at such a critical time in the relative force capabilities between NATO and the Warsaw Pact. I need full strength in the relative small number of U.S. units assigned and the U.S. Army has done its best to keep them at that level, for which I am appreciative. However, it is clear to me that the loss of so many soldiers could not fail but to have a major impact here in Europe:
>
> In the manning levels of our units enforced-deployed, if not the number of units themselves.
>
> In the manning of the reinforcing forces from CONUS.
>
> In our already deficient support and sustainability posture.
>
> In the readiness of all our forces.

I ask unanimous consent that the full text of this message be printed at this point in the RECORD.

There being no objection, the message was ordered to be printed in the RECORD as follows:

ARMY END STRENGTH CUT

1. The action by the SASC recommending a cut in Army end strength by 25,000 causes me great concern on two counts: one, the impact on the Army as a whole, and two, more specifically, the impact it will have on my responsibilities as SACEUR/CINCEUR.

2. First, the impact on the Army. I share the SASC's desire to increase the number of high school graduates recruited by the Army. God knows that I am on record sufficient times in the past stating that in a choice between quantity and quality I would choose the latter every time. (As we all know, being a high school graduate is, of course, only a pre-enlistment indicator that the chances are twice as good as those of a non-grad that the HSDG will successfully complete his initial term of service. This in turn, implies that his performance in his unit is of sufficient quality to be retained.)

I would certainly like to think that the Army is trying its best to recruit as many HSDG as it possibly can. However, among the many lessons we have learned in managing the Volunteer Force is that the accession of HSDG is "resource sensitive." The more resources made available to recruiting command the greater percentage of HSDG recruited. If the SASC wants to help, I believe it should provide more resources and not adopt a course of action which appears to me as not only inappropriate and impractical to implement (I speak as an old DC SPER) but will prove to be counterproductive to the Army and not in the interests of national security. Because of the cyclical nature of HSDG accessions, the cut will almost certainly become self-fulfilling

The Army will then again face all the major difficulties and deficiencies in managing its manpower program and fulfilling its responsibilities which it faced in the early seventies when another SASC proposed cut of 50,000 end strength had to be implemented.

3. As SACEUR/CINCEUR I cannot understand the reduction of Army strength at such a critical time in the relative force capabilities between NATO and the Warsaw Pact. I need full strength in the relatively small number of U.S. units assigned and the U.S. Army has done its best to keep them at that level, for which I am appreciative.

However, it is clear to me that the loss of so many soldiers could not fail but have a major impact here in Europe:

In the manning levels of our units forward-deployed, if not in the number of units themselves.

In the manning of the reinforcing forces from the CONUS.

In our already deficient support and sustainability posture.

In the readiness of all forces.

4. Perhaps of even greater significance is the signal that we will give to our allies at the very time that we are urging them to boost their contribution to NATO's defense and to bear more of the load as the U.S. protects allied interests in the Middle East and Southwest Asia. Certainly, such a cut will impact unfavorably upon the efforts of those of us who are striving to keep some of our allies from reducing their defense budgets.

5. I hope you will be successful in getting the Senate or the subsequent conference committee to reinstate the end strength.

Mr. LEVIN. Mr. President, General Rogers is not alone in viewing of this amendment as potentially weakening our forces in Europe. General Meyer wrote that he would be forced to "consider the inactivation of up to two active divisions in CONUS. The impact of such action could include—reduction of forces available for commitment to NATO." I ask unanimous consent that the full text of his letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. ARMY,
THE CHIEF OF STAFF,
June 9, 1980.

Hon. CARL LEVIN,
U.S. Senate, Committee on Armed Services, Washington, D.C.

DEAR SENATOR LEVIN: This responds to your 6 and 9 June 1980 letters.

In an effort to maintain the Active Army at the 16 Division level within the present

774,000 end strength, we have already found it necessary to make substantial reductions in combat support and active combat service support structure. Currently, 66 percent of required combat service support units are in the Reserve Components. This percentage cannot be allowed to grow. Any large reduction in Army end strength must therefore result in division force reductions. Should the FY 81 end strength be reduced to about 750,000, I would be forced to consider the inactivation of up to two active divisions in CONUS. The impact of such an action could include:

a. An overall reduction of 13 percent of active division forces.

b. Reduction of forces available for commitment to NATO.

c. Reduction in flexibility to respond to non-NATO contingencies with the Rapid Deployment Force (RDF).

d. In all probability, a major CONUS base closure.

e. Adversely affecting manning the Army for at least three years even if the requested end strength should be restored in later years.

f. Curtailing programed Army initiatives associated with improving combat and combat support structure.

Though it might appear that there should be options less painful than inactivating divisions, the alternatives in my judgment are even more damaging to the Army. Incremental manning reductions in Europe and elsewhere, especially in the already seriously understructured combat service support area, make an unsatisfactory situation even worse. Additionally, although not examined in detail, the impact on career content of the force will be severe in later years. I am further concerned about the impact of such a significant reduction on morale. The challenges of manning the force are now well understood by the entire Army and the message that this decrement might send to our Army could be the most serious impact of all.

The Army has admittedly been undermanned in FY 79 and much of 1980. An end strength reduction of the proposed magnitude would be counterproductive to all the initiatives to man the force. Implementation of the cut would necessarily be accommodated by reduced accessions and thus the real impact would be predominantly accommodated by reducing the "fox hole" strength of the Army and the problem we are just beginning to overcome would be exacerbated.

The management aspects of the proposal concerning high school graduates—that is, a floating end strength—would be nigh onto impossible to execute. There would be great uncertainty in the force on a month-to-month basis as to which units are to be up to strength, which units are to be zeroed out and which units are to receive priority. The Army is just in the process of attempting to attack the most critical problem we face—instability. We are taking significant management initiatives to increase the amount of time individuals stay within units, thus improving unit teamwork and cohesion. The proposal suggested would completely destroy all of our hopes and policy changes directed toward improving stability within the Army—decisions which have been long overdue but which are essential if we are to create increased combat readiness in the force today.

Finally, I would like to wear my JCS hat and indicate that I believe the signal which we send to the rest of the world by lowering our Army strength in face of the Soviet invasion of Afghanistan would have an adverse impact on the deterrent value of the forces we currently possess. Whether we like it or not, other nations count the numbers of divisions and our end strength as indicators of our national resolve. In my view, the efforts to increase our high school content can be done in a positive rather than a negative manner. That is the approach which Congress and the Army should be taking.

Respectfully,

E. C. MEYER,
General, U.S. Army.

Mr. LEVIN. Mr. President, Lieutenant General Yerks properly points out that this is a long-term problem. He indicates that "the shortfall in new soldiers and career personnel, which is surely going to occur if this measure is passed, is a lasting shortfall. Once it occurs, it remains in the personnel system, not only until a decision to restore strength is made, but for a period of about 3 years thereafter."

Not only is this action inconsistent without NATO commitments; it is inconsistent with other commitments which we have made in this bill. The bill commits us to move toward a rapid deployment force—a force which most of us see as an essential crisis management tool. But the cut contained in the bill before us threatens our ability to man such a force according to Lieutenant General Kelly of the Marine Corps who serves as the commander of the Rapid Deployment Joint Task Force. In his letter to me, he commented that "if we are to maintain the capability to defend our vital interests, particularly in the Middle East/Persian Gulf region, the Army must have the capability to provide fully supported combat forces to the RDJTF. I fear that a 25,000-man reduction would directly impair the Army's capability to provide the forces necessary to support my mission." I ask unanimous consent that the full text of his letter be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE COMMANDER,
MACDILL AIR FORCE BASE, FLA.,
June 25, 1980.

Hon. CARL LEVIN,
U.S. Senate, Committee on Armed Services, Washington, D.C.

DEAR SENATOR LEVIN: Having recently read your comments on the 25,000 man reduction in the fiscal year 1981 end-strength of the U.S. Army, I would like to take the opportunity to add my views from the perspective of the Commander of the Rapid Deployment Joint Task Force (RDJTF).

With respect to General Meyer's assessment that the impact of such an action could reduce flexibility to respond to non-NATO contingencies with the Rapid Deployment Force (RDF), I would add my wholehearted support to his view. If we are to maintain the capability to defend our vital interests, particularly in the Middle East/Persian Gulf region, the Army must have the capability to provide fully supported combat forces to the RDJTF. I fear that a 25,000 man reduction would directly impair the Army's capability to provide the forces necessary to support my mission.

As you may be aware, I have gone on record as saying that the Presidential call-up authority should be increased to 100.000. This issue is directly related to the support structure that would be required to rapidly deploy and sustain an RDF. Any reduction in Army active duty end-strength, whether in divisional units or supporting strength, would obviously drive up the number required for call-up and would severely restrict rapid deployment capabilities if only active forces were used.

I appreciate and share your concern and hope that your efforts in the Army's behalf realize success.

Respectfully yours,

PAUL X. KELLEY,
Lieutenant General, U.S. Marine Corps.

Mr. LEVIN. Mr. President, finally, I see a major problem in this proposal in terms of the impact it is going to have on our own troops. A reduction in strength will create turbulence in the lives of the men and women stationed overseas since the length of their rotations would probably need to be extended. But beyond that, we send an undesirable message to the members of our Armed Forces. I frankly think that this notion that a high school degree is synonymous with military effectiveness is insulting to the thousands of decent soldiers who serve this country even though they have not finished high school. In the "additional views" I filed to the committee report on this bill, I quoted Maj. Gen. David Doyle whose comments I think sum up this issue very well. He was quoted as saying that:

> Our men and women are fed up with being told that they are . . . a bunch of dummies. If you keep telling people—in the Army or anywhere else—this long enough, they'll begin to believe you and to act accordingly. We don't believe it here and it isn't true. Overall, the Army is smart, and it's sharp.

To summarize, there is no logic and no necessity to link quality and quantity in the way proposed by the committee. At the same time, I see some very real disadvantages associated with this plan in terms of the message it sends our allies, our adversaries, and our soldiers. There is no reason for us to inflict this weakness upon ourselves.

But there is something intellectually unsatisfying in simply attacking the approach taken by the committee. The negative approach is not the only alternative before us. In this bill itself, we have provided for significant increases in pay and benefits—$1.1 billion in increases which I think we all agree should provide us with significant assistance in recruiting and retaining critically needed personnel. And that improved enlistment and retention should reduce the pressure on recruiters to get large numbers of new recruits. That means, according to the committee reasoning, that they ought to be able to focus additional attention on getting quality people. On top of the pay and benefit package we have put together here, we have the Army's internal efforts promising to produce some significant quality improvements.

I have already had printed in the RECORD a list of those efforts but I would emphasize again the conclusion the Army reached: "The Army expects to access some 10,000 more HSDG in fiscal year 1981 than in fiscal year 1980." We can, unfortunately, add to the Army's efforts and our efforts the cold reality of a recession which will make enlistment a more attractive option as more and more high school and college graduates face the prospects of extended unemployment.

My point is that we ought not throw up our hands in despair and say that there are no other options. There are other options and they are being used. And we have to look at more than 1 year's statistics before we reach any conclusions about the perilous plight of the Army—1979 was not our worst year for recruiting high school graduates. The worst recent year was 1974.

I also ask unanimous consent that a chart comparing the percentage of high school graduates joining the various branches over the past 5 years be printed in the Record at this point. I think my colleagues will see that it demonstrates no trends which justify the sort of drastic action proposed by the committee.

There being no objection, the chart was ordered to be printed in the Record, as follows:

Educational Attainment

The recruiting of high school diploma graduates has become increasingly difficult for all the Services since 1976. The overall DoD number and percent of high school graduate recruits were lower in FY 1979 than in FY 1978. This decline was most evident in the Army. However, with the exception of FY 1978, the overall high school graduate percent and that for the Army were still above that for any year since FY 1971. Table 5 shows the percentage of non-prior service accessions who were high school diploma graduates for the last six years.

TABLE 5.—HIGH SCHOOL DIPLOMA GRADUATES, PERCENTAGE OF NONPRIOR SERVICE ACCESSIONS

	Fiscal year—					
	1974	1975	1976	1977	1978	1979
Army	50	58	59	59	74	64
Navy	63	71	77	73	77	77
Marine Corps	50	53	62	70	75	75
Air Force	92	91	89	88	85	83
DOD	61	66	69	69	77	73

Mr. LEVIN. Mr. President, my point is simply this: We ought to see how the new policies we have in place will work before we wound our Army and weaken our Nation in the ways that the committee approach does.

Mr. President, I know that other members wish to speak. So let me close by saying only that this is not the time to cut the strength of the Army. That cut is not the best way to improve the quality of the Army. As General Jones of the Joint Chiefs said in a recent letter to me, the way to meet the goal of increased numbers of high school graduates "is not by a counterproductive indexing mechanism, but rather by providing positive incentives such as equitable compensation and a form of educational assistance that would be attractive to a high school graduate seeking to further his education."

Mr. President, the committee proposal does not solve our problems; it creates more problems for us, and it simply is not a positive way to address the issues associated with the quality of the Army. The amendment we have offered today recognizes that we can use other options and we have every reason to believe that those options will achieve a goal we all share without incurring the costs to national security we all seek to avoid.

Mr. STENNIS. Mr. President, will the Senator yield? I hate to interrupt.

Mr. LEVIN. I am happy to yield to my friend from Mississippi.

Mr. STENNIS. I need to ask some questions and make some observations for the membership generally with respect to our procedure today.

We had a very good start yesterday. Several important matters are well understood. If we can get some time limitations, I believe we have a good chance of finishing this bill today—a good chance. However, until we get these time limitations, we will not be able to dispose of anything.

The majority leader, the Senator from West Virginia, will be here soon. He and the minority leader like to work out these things in advance. I will list, for the information of the Members, various items that may be contested, with amendments—they may be, but not necessarily.

As soon as the leaders arrive in the Chamber, we will try to get some time limitations. The burden is on the committee, traditionally, to offer the Members a program—a general outline, at least—with respect to the matters that are up for consideration, as well as a suggestion as how to dispose of them.

With that in mind, if we do not get an agreement on the matter of the manpower for the Army, we will move to another subject and see if we can get an agreement on that, and then another and another, and come back to those on which we do not get agreements.

I hope we get an agreement for a time limitation on the matter of the manpower levels for the Army. We already have discussed that with the proponents, on changing the bill.

There is an item with respect to the carrier *Oriskany*, which the bill proposes to restore. There is a proposal to delete that item. I hope we can call that up, with respect to a time agreement, and move on then to the next one, the battleship *New Jersey*. There is a proposal to delete that from the bill. The committee will resist those proposed changes.

We have disposed of the Domenici ABM amendment, regarding the LoADS. We did that last night. We have the Wallop amendment, which relates to space laser weapons. I believe that will go to debate, and we will have to get a time limitation on that.

We have questions here about the MX. Even though it will be discussed, and that is fine, there probably will be no amendments to seriously alter the bill, in my judgment.

As to the FB-111 bomber and related matters, the bill has that bomber in it, and there will be some discussion on it. There may be an amendment—I do not know—but we will seek a time limitation on it as soon as we have firm knowledge about an amendment.

The F-18 will be up for discussion at least. I do not know whether there will be an amendment on it.

Senator Boren is interested in some language in connection with the Phoenix missiles, which pertain to the Iranian military materiel.

As to the war powers resolution, a sense of Congress proposal, I judge that it has merit. It is written in such a way as to be a sense of Congress, and we might reach a satisfactory disposal of that matter after an explanation.

On the matter of increased pay, there are certain strong proposals in the bill, as Members will recall. I do not believe there will be any proposal to add to what the bill already has done, but I have no firm information about it. If we should have a showing of a strong desire to offer an amendment, I would immediately put that among the major proposals and seek to get a time limitation.

I believe that rather well covers the major proposals of our bill, as I see it now.

I believe every Member knows fully how important the bill is, and what it contains is pretty well known. It is up to us now. We cannot blame anyone except ourselves if we do not get together with a plan that will move this bill along.

As soon as the leaders can be here, or someone representing them, I hope to get some definite proposals about time limitations. I call on the committee members to help in that respect in every way they can.

I thank the Senator from Michigan for yielding to me.

The majority leader is now in the Chamber.

I was in the process of stating to the Senate that we are at the point where it is up to the committee to offer a program with reference to time limitations. If we come to one subject and do not get a time limitation, I am going to ask the majority leader to go to the next one, until we accumulate two or three time limitations, and then we will go on from there.

Mr. ROBERT C. BYRD. I will be glad to cooperate and help in every way.

Mr. STENNIS. The first one will be the time limitation as to the question of personnel for the Army. We have discussed that somewhat since yesterday afternoon, but we do not have any definite proposal to make. I should like the Senator from West Virginia to start on that and call for Senator Nunn. Senator Levin and Senator Nunn are the main participants. Senator Levin is here.

Mr. ROBERT C. BYRD. Has Senator Nunn been here?

Mr. STENNIS. Yes; but he is not on the floor now. He knows we are going to ask the majority leader about this procedure.

Mr. ROBERT C. BYRD. Let me see if I can get the principals together and see if we can work it out.

Mr. WARNER. Mr. President, on this side of the aisle, we want to be most cooperative, so that colleagues can meet scheduled departures tomorrow. We will ask for a minimum amount of time.

Mr. STENNIS. We can help Members who want to make a few remarks on the bill without offering amendments. If they notify us, we can suggest times for them to do that during the day.

Mr. LEVIN. Mr. President, at this time I yield the floor with the note that the Senator from South Carolina is ready to speak.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, are we under a time limitation?

The PRESIDING OFFICER. There is no time limitation.

Mr. THURMOND. Mr. President, I rise in support of the pending amendment which would unconditionally restore the

Army's end strength by 25,000 to the 775,000 requested in this bill.

Mr. President, I support steps by our committee to improve the quality of Army accessions, but I do not believe it can be accomplished by the sledge hammer approach adopted by the committee's Personnel Subcommittee.

It is clear in the committee report that the committee "recommends an active duty end strength of 750,300 for the Army for fiscal year 1981." We should not be misled by the claims that the committee has granted authority for the full strength of 775,000, for although the authority may be there the intent is to reduce Army strength unless greater percentages of high school graduates can be inducted.

STRENGTH CUT CLEAR

The committee allows additional end strength above the 750,300 figure only if the Army can recruit high school diploma graduates above 52 percent.

The committee report also states that the "Army can plan on an authorized end strength of 775,300 as long as it adopts recruiting policies intended to achieve the Army's own goal of high school graduates * * *"

If the solution to the problem is that simple then I would suggest that the committee should have provided the authority to support such recruiting policies rather than cutting Army strength by a number which could translate to two combat divisions.

Mr. President, Army Chief of Staff E. C. Meyer has made it clear that under this type of direction he has no choice but to reduce Army forces by 25,000 personnel because he cannot predict when in the fiscal year the Army would begin to reach the 52 percent goal set by the committee. It is likely that such a goal would not be reached until late in the 1981 fiscal year because the majority of the high school graduates to be recruited in that period would not come until the summer of 1981 following high school graduation.

Then, the Army would be faced with either reprogramming requests or supplemental requests, both of which we all know are time consuming and do not lend themselves to cost-efficient planning and personnel management.

Lt. Gen. Robert Yerks, in a letter to me dated June 27, 1981, stated:

> If the proposed action becomes law, my personnel managers will be faced with uncertainties which impel them to a reactionary role rather than one of orderly planning and execution.

Mr. President, while we all agree with the objectives of this proposal, I believe the committee has chosen the wrong tool—a sledge hammer—with which to accomplish it. General Yerks further explains his problem as follows:

> Attempting to program personnel actions, each of which involves a human being, against an unknown end strength number, becomes particularly pertinent in the distribution aspect. Which units receive priority? Which units are zeroed out, and which are kept up to strength? How do we program overseas rotation against an unknown quantity in the number of personnel to support that rotation?

Mr. President, this Congress is constantly calling upon the military and other agencies to manage their resources efficiently. In this instance we are placing huge management problems on the Army we need for our own defense and security.

General Meyer, the Army's Chief of Staff, also finds the technique chosen by the committee one which is disruptive and unworkable. In a letter to me dated June 27, 1980, General Meyer states:

> This project, taken in the face of precipitant action to reduce our end strength, could represent such significant management problems as to negate any good we might hope to achieve.

ROGERS OPPOSES CUT

Mr. President, the present Commander in Chief in Europe, Gen. Bernard Rogers, a former Army Chief of Staff and Chief of Personnel, has sent a cablegram to express his concern relative to the approach chosen by our committee to force more high school graduates into the Army. He stated:

> If the Senate Armed Services Committee wants to help, I believe it should provide more resources and not adopt a course of action which appears to me as not only inappropriate and impractical to implement but counterproductive to the Army and not in the interests of national security.

Mr. President, the Secretary of Defense, Harold Brown, who often does not involve himself in service personnel problems has come out full force against the Army cut. The thrust of his statement can be summed up in one quote from this letter when he stated:

> I believe these proposals will impair rather than enhance our national security.

OTHER OBJECTIONS

Mr. President, this action, besides being unmanageable, has numerous other undesired impacts. I would like to list just a few:

First. It would precipitate continual revisions to the force structure of the Army.

Second. It would create adverse operational conditions for military commanders charged with meeting our regular commitments and contingencies.

Third. It sends the wrong signal to the Soviets and our allies that we are reducing substantially the strength of our Army.

Fourth. It is predicated on accession of individuals with high school degrees, an educational measurement which we all know varies from school to school and State to State.

Fifth. It will create personnel turbulence to a degree that may drive out experienced soldiers for whom in this very bill we are spending hundreds of millions to retain.

Sixth. It will force the Army to reduce its unit strength in the most dangerous period the United States has experienced since Vietnam.

Seventh. It will disrupt a carefully structured Army program to increase stability in the Army and make the service more attractive to present members and prospective recruits.

Eighth. It will mean longer or more often overseas tours for Army personnel due to lower manpower levels.

Ninth. It will force the Army to reprogram money from other sources to obtain funds in even a reasonable time in order to pay and support additional high school graduates who may be recruited late in the 1981 fiscal year.

Mr. President, I believe the goal of the committee has the support of the Senate, but the means chosen to achieve it represents a sledge hammer approach. It is like throwing out the baby with the bath water. If the committee wishes to promote more high school graduate accessions, and we all support that goal, I suggest a better means would have been to increase recruiting funds or urge other steps to give the Army a helping hand, rather than knock them off their feet.

Mr. President, I urge that the Senate accept the pending amendment as I feel sure the Army has received the message and will move forth vigorously to attempt to improve the quality of its personnel in an orderly manner.

Mr. President, I would like to read into the RECORD at this time a letter received by me to which I refer from Gen. E. C. Meyer, the Chief of Staff of the Army, which letter is dated June 27, 1980:

> DEAR SENATOR THURMOND: This responds to your request for my specific views on the unmanageable aspects of the Senate's proposed 25,500 space reduction to the Army's authorized end strength.
>
> Let me cover some of the more salient features of why the proposed reduction would present such a singly difficult management problem.
>
> First, the reduction would precipitate continual revisions to the force structure because of a floating end strength. In light of the current combat-to-support-force imbalance, these revisions would undoubtedly occur in our combat forces—probably a reduction of NATO forward deployed forces and/or CONUS units earmarked for Rapid Deployment Force missions. Without a precise knowledge of what our eventual FY 81 strength will be, this injects not only the difficulties associated with a normal "stand down," but also those associated with determining and managing the personnel and materiel replacement streams. With regard to the latter, an already tenuous situation would be exacerbated by creating even greater turbulence.
>
> Second, knowledge of an imminent reduction in combat forces would create adverse operational conditions for unified and specified commanders, and others, in devising and adjusting plans for commitments and contingencies—many would argue that we are already stretched too thin in Europe and our forces may be inadequate to respond to the wide range of other possible employments. Operational flexibility would certainly become even more constrained.
>
> Third, and last, I do not believe that our internal management systems would provide enough adequate and timely guidance to walk what would become a very thin line between compliance with the law and maintenance of a sufficiently ready deterrent force.
>
> As an adjunct, the Army is in the process of taking positive steps to improve one of our most serious shortcomings—the revamping of our peacetime replacement system to correct the damaging effects of excessive turbulence, a condition corrosive to the establishment of unit cohesion and teamwork. When implemented, our new system will provide more stability between tours, and as a side benefit, should pay significant dividends in redressing our middle-grade retention problem. As we set in motion the wheels to

accomplish this revolutionary way of doing business, I anticipate the normal transitional ups and downs associated with such enterprises any time you change the status quo.

This project, taken in the face of a precipitant action to reduce our end strength, could present such significant management problems as to negate any good we might hope to achieve. Indeed if the cut is actually forthcoming, I would be inclined to shelve our plans to improve cohesion, because the burden of two such actions simultaneously would, I fear, have a very detrimental effect on our readiness. I would hate to see that happen because fixing our replacement system is something we desperately need to do, and have needed to do for some time.

In sum, the notion of cutting the Army's end strength as an incentive to meet requisite educational profiles does not promote the cause we both seek. There are many problems which such a course would create. This letter lays out those which, in my judgment, would be management unique. I appreciate your efforts on the Army's behalf in this matter.

Very respectfully,

E. C. MEYER,
General, U.S. Army,
Chief of Staff.

Mr. President, I will also read into the RECORD at this point a letter to me from Lieutenant General Yerks, Deputy Chief of Staff for Personnel, dated June 27, 1980.

DEAR SENATOR THURMOND: Your interest in the Senate Armed Services Committee change to the FY 81 Defense Budget is greatly appreciated. The committee action, as you know, reduces FY 81 Army end strength by 25,500 and allows an incremental recouping based on percentage of male non-prior service high school graduates recruited.

While there is an obvious degradation of warfighting capability should we be obliged to absorb a cut of 25,500 in end strength, I will address myself here only to the unmanageability aspects—an area in which you have expressed specific concern. I share that concern for several reasons.

First, I foresee great difficulty in managing the justification and appropriation process with the Congress. High school graduates enlist relatively late in the fiscal year. For example, if we recruit high school diploma graduates in FY 81 at the same rate as FY 80, we would reach the mandated 52 percent level in September, the last month of the fiscal year. We hope to do better than that, but cannot predict with certainty either the level of success or the timing at which we will achieve the required 52 percent. The complexity remains, in any case, of year-end authorizations by increments, and a continuum of appropriations requests to support the induction, training, movement, and equipping of the increments thus authorized. Time and competing Congressional interests may both operate to impede an orderly process in this matter.

Second, if the proposed action becomes law, my personnel managers will be faced with uncertainties which impel them to a reactionary role rather than one of orderly planning and execution. Attempting to program personnel actions, each of which involves a human being, against an unknown end strength number, becomes particularly pertinent in the distribution aspect. Which units receive priority? Which units are zeroed out, and which are kept up to strength? How do we program overseas rotations against an unknown quantity in the number of personnel to support that rotation? Although such problems may be resolved with time, the near term prospects are highly undesirable. With units already short of needed personnel, turbulence already acting as a disincentive to retention of our career soldiers, and personnel planning already complicated by the prospect of a massive modernization effort, the added management problems inherent in this proposal can only add to an already complex situation. I believe that there are better, more positive solutions to our manning dilemma than this amendment offers.

Once again, thank you for your interest and support in this extremely important matter.

Respectfully,

ROBERT G. YERKS,
Lieutenant General, GS,
Deputy Chief of Staff for Personnel.

Mr. President, I ask unanimous consent at this time that I may yield to the distinguished acting minority leader without losing my right to the floor.

The PRESIDING OFFICER (Mr. HEFLIN). Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I thank the Senator from South Carolina. It is for the purpose of an agreement with the majority leader. I yield to the majority leader.

TIME-LIMITATION AGREEMENTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, on an amendment by Mr. EAGLETON on civil defense, there be a 20-minute time limitation, to be equally divided in accordance with the usual form.

Mr. STEVENS. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, on an amendment by Mr. GARN dealing with the space base laser, there be a 1-hour time limitation, to be equally divided in accordance with the usual form.

Mr. STEVENS. There is no objection. These have been cleared with the distinguished ranking Republican on the committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, on an amendment by Mr. BAYH dealing with the legal program, there be a 20-minute time limitation, to be equally divided in accordance with the usual form.

Mr. STENNIS. Which one was that?

Mr. ROBERT C. BYRD. The legal program.

Mr. CULVER. Reserving the right to object, what was the prior unanimous-consent agreement?

Mr. ROBERT C. BYRD. The prior one was on an amendment by Mr. GARN, 1 hour on space base laser.

Mr. CULVER. Mr. President, could I ask the distinguished Senator from Texas (Mr. TOWER) if that is the same as the Wallop amendment?

Mr. STEVENS. There is another one coming with Wallop.

Mr. TOWER. It could be offered as an amendment to Wallop or it could be offered independently if Wallop fails. We will ask for 2 hours on Wallop and those two amendments should be considered at the same time. I think that my sympathy lies pretty much with the Senator from Iowa and, hopefully, we can work something out on that.

Mr. CULVER. I thank the Senator.

Mr. STEVENS. The request was pertaining to the Senator from Indiana's 20 minutes equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, on an amendment by Mr. WALLOP on the space base laser, there be not to exceed 2 hours, in accordance with the usual form.

Mr. STEVENS. Without objection, based upon the statements of the Senator from Texas that the Garn amendment might be an amendment to the Wallop amendment.

Mr. STENNIS. Will the Senator repeat his statement?

Mr. STEVENS. I said that I had no objection. The Senator from Texas stated that the Senator from Wyoming's amendment may be the basic amendment and that Senator GARN's amendment may be an amendment to his amendment or may be brought up independently. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, that is all I have to propose at this time. I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. ROBERT C. BYRD. Mr. President, on an amendment by Mr. CHAFEE to delete the *Oriskany*, I ask unanimous consent that there be a 1-hour-30-minute time limitation, to be equally divided in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I would now like to read into the RECORD a cablegram from General Rogers, the NATO Commander and Commander in Chief in Europe, to General Meyer, the Chief of Staff. I think it is very significant because General Rogers was at one time Chief of Personnel in the Army and he was later Chief of Staff of the Army. I think his opinion on this matter is extremely important. He is the man on the firing line right over there next to the Warsaw Pact countries. It reads:

Subject: Army End Strength Cut.

1. The action by the Senate Armed Services Committee recommending a cut in Army end strength by 25,000 causes me great concern on two counts: one, the impact on the Army as a whole, and two, more specifically, the impact it will have on my responsibilities as Commander-in-Chief, Europe.

2. First, the impact on the Army. I share the Senate Armed Services Committee's desire to increase the number of high school graduates recruited by the Army. God knows that I am on record sufficient times in the past stating that in a choice between quantity and quality I would choose the latter every time. (As we all know, being a high school graduate is, of course, only a pre-enlistment indicator that the chances are twice as good as those of a non-grad that the high school degree graduate will successfully complete his initial term of service. This in turn, implies that his performance in his unit is of sufficient quality to be retained.) I would certainly like to think that the Army is trying its best to recruit as many high school degree graduates as it possibly can.

However, among the many lessons we have learned in managing the volunteer force is that the accession of high school degree graduates is "resource sensitive." The more resources made available to recruiting command the greater percentage of high school degree graduates recruited. If the Senate Armed Services Committee wants to help, I believe it should provide more resources and not adopt a course of action which appears to me as not only inappropriate and impractical to implement (I speak as an old Deputy Chief of Staff, Personnel) but will prove to be counterproductive to the Army and not in the interests of national security.

Because of the cyclical nature of high school degree graduate accessions, the cut will almost certainly become self-fulfilling. The Army will then again face all the major difficulties and deficiencies in managing its manpower program and fulfilling its responsibilities which it faced in the early seventies when another Senate Armed Services Committee proposed cut of 50,000 end strength had to be implemented.

3. As Commander-in-Chief, Europe, I cannot understand the reduction of Army strength at such a critical time in the relative force capabilities between NATO and the Warsaw Pact. I need full strength in the relatively small number of U.S. units assigned and the U.S. Army has done its best to keep them at that level, for which I am appreciative. However, it is clear to me that the loss of so many soldiers could not fail but have a major impact here in Europe:

In the manning levels of our units forward-deployed, if not in the number of units themselves.

In the manning of the reinforcing forces from the continental U.S.

In our already deficient support and sustainability posture.

In the readiness of all forces.

4. Perhaps of even greater significance is the signal that we will give to our allies at the very time that we are urging them to boost their contribution to NATO's defense and to bear more of the load as the U.S. protects allied interests in the Middle East and South West Asia. Certainly, such a cut will impact unfavorably upon the efforts of those of us who are striving to keep some of our allies from reducing their defense budgets.

5. I hope you will be successful in getting the Senate or the subsequent Conference Committee to reinstate the end strength.

Mr. President, as I stated, this cablegram was sent to the Army Chief of Staff by our top commander in Europe—in Europe facing the Warsaw Pact countries. Our NATO forces, which include U.S. forces and those of many other countries of our allies, are there ready to protect against an invasion by the Warsaw Pact countries. The commander of the NATO forces, a U.S. Army general, who is the Commander in Chief in Europe, and who, prior to that, was Chief of Personnel in the Army here in Washington, and was Chief of Staff of the U.S. Army, has sent this cablegram more or less in an emergency, feeling that this is a drastic step to take, feeling that it is a mistake to take this step, feeling that we are going to be unwise to take this step. I hope the Senate will consider General Rogers' opinion when they go to vote on this matter.

Mr. President, in closing, I again want to remind my colleagues here in the Senate that the Secretary of Defense, the highest defense official in this country, is recommending against this action. The Secretary of the Army is recommending against this action. The Chief of Staff of the Army is recommending against this action. The administration is recommending against this action. And now General Rogers, the NATO commander in Europe, our commander, the U.S. commander in Europe, is recommending against this action.

Is the opinion of these people worth anything to us? Is the opinion of these experienced military people worthwhile for this Senate to consider?

It seems to me, Mr. President, we better think long, hard, and fast before we take the step here that has been suggested by the majority in the Armed Services Committee.

Again I repeat that the goal of the majority of the Armed Services Committee is one thing, but the means—the means, I repeat—to attain the goal are unwise. They are against the wishes, the opinion, and the advice of all the top military people that we have in our Government.

I hope the Senate will not follow that course but will see fit to adopt the amendment by the distinguished Senator from Michigan (Mr. LEVIN). I am pleased to join with him as a cosponsor of this amendment.

Mr. President, I yield the floor.

Mr. HAYAKAWA addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. HAYAKAWA. Mr. President, I should like to express my support for the intent of the Senate Armed Services Committee action to reduce the Army's fiscal year 1981 manpower end strength by 25,000. However, I must temper it with serious reservations for what I see as probable results.

If the intent of the measure is to improve the overall quality of the soldiers we enlist, then I applaud that as a worthy intention, and one which merits our strongest support. We would all agree, I believe, that better quality soldiers can only lead to better training, better performance, and better readiness. Eventually, it would lead to better leadership at the junior enlisted levels, because the Army does not recruit noncommissioned officers (NCO's), it grows them. One hundred percent of the junior leadership is, in fact, developed by the Army from the young people they recruit.

This is, however, one of the areas in which I have reservations about probable results. I suppose that not every soldier who advances to the rank of sergeant is a high school graduate. If we reduce the Army strength by 25,000 such people, we reduce the number of soldiers the Army can teach leadership—we reduce the pool from which the Army can grow their junior leaders. This built-in shortage of junior combat leaders in the future will increase the workload on those remaining, increase discipline problems, which will lower morale among soldiers, and impair readiness.

Mr. President, it is at this point that I have a particular problem. At the same time we are in the process of passing registration for the draft, because we do not have enough soldiers for an emergency situation, we are reducing the active Army by 25,000. Not only is that an apparent contradiction, but at a time when the Army Secretary and the Army Chief of Staff have testified that we are several thousand NCOS short of current needs, we reduce by 25,000 the source of developing that leadership.

And that ignores the expanded requirement if we must mobilize and fight. Who is going to lead these young people we are registering if we do have to call them up? I hope we do not have to, but in the event that we do, who is going to lead them? You cannot develop these junior leaders overnight.

I also think we are in for some tough questions from the constituents we register and their parents. If we expect them to risk the perils of combat in the event of a national emergency, surely we owe them the best we can provide in leadership.

I have these reservations—they are serious—and although I applaud the intent of the committee's action, I cannot support it.

Therefore, I join with Senator THURMOND and others in supporting the amendment proposed by the distinguished Senator from Michigan (Mr. LEVIN).

I thank the Chair.

Mr. DURENBERGER. Mr. President, I agree that the Committee on Armed Services has done a major service in highlighting the current manpower situation in the Army. As Senator NUNN has noted in detail, aggregate indicators of the quality of our military personnel are sharply declining, and test scores indicate that we face a crisis of major proportions. When the military are required to use highly sophisticated equipment, it is alarming that fewer and fewer people of adequate intellectual caliber are willing to enlist or to remain in the military service. With first-term attrition rates growing, it is alarming that the Army is able to attract fewer and fewer high school graduates, who have been shown to be those people most likely to adapt successfully to the demands of Army life. This situation must be addressed, for, if allowed to continue, it will result in a form of Gresham's law. As the ability, dedication, morale, and esprit of our services decline through inadequate recruiting policies, the best troops will increasingly decide to leave the service rather than bear the frustrations of service in an organization characterized by mediocrity rather than excellence.

On this, there can be little disagreement. The remedy suggested by the committee, however, should be assessed thoughtfully. I am disturbed that we are being asked to take an action which addresses symptoms rather than causes and that is reminiscent of the practice of killing the messenger who brings bad news.

The proposal to limit the authorized strength of the Army will have a number of severe consequences which have already been addressed at some length. In particular, it will force the Army to stretch further an already overextended force posture, and its implementation will result only in a self-fulfilling prophecy. The committee is rightly concerned about the quality of our armed services, but its suggestion that we substitute quality for quantity will leave us, in my opinion, only worse off than we already are.

Given that we have frequently addressed the question of recruiting shortfalls during past debates over the military manpower situation, and given that there has been great concern expressed over the low numbers of persons choosing to enlist or reenlist, I find it difficult to understand why we are now being asked to legislate a further manpower shortage. The committee has correctly noted that the Army is already well below its authorized strength. However, I cannot accept that we should acquiesce in this situation by reducing force levels still further in an attempt at stimulating quality.

The justification for this proposal hinges on a crucial assumption: that the Army is unconcerned about the quality decline, and that its recruiting practices have been responsible for the diminished numbers of high school graduates now enlisting. We are all familiar with the recruiting scandals which have recently surfaced, Mr. President, and there are probably few in this body who would not be able to criticize the Army for occasionally emphasizing minimal standards rather than the challenge of excellence. But should we point a finger at the Army for what are largely the consequences of congressional and Presidential neglect? Does the Army suffer from a lack of support? Is the problem apathy or is the problem funding?

As a recent article in Armed Forces Journal International makes clear, Army recruiters are required to do their work under the worst rather than the best of circumstances. The typical recruiting NCO is a carefully selected professional who stands above his peers. He is the best. He has to be, for he must find 27 volunteers for a job that pays only 82 percent of the minimum wage, and that offers the prospect of hardship, separation from family, low wages, and a reliance on part-time jobs or food stamps in order to make ends meet. Under these circumstances, it is hardly surprising that high school graduates are not enlisting in large numbers. What is surprising is that the Army has done as well as it has. Thus, far from holding the Army's feet to the fire, I believe that we must begin to recognize that it is we in Congress and those in the executive branch who are the ultimate source of the military's manpower problems. Until we take the question of military compensation seriously, and until we provide the services with the means to compete in an increasingly tight market for scarce manpower, we will continue to see both a decline in quality and a shortfall in quantity. We can either deal with this problem as we should—by providing the necessary funds for a decent living wage—or we can continue to ratchet back the authorized levels of the service until we are left not with an Army but a memory.

I, therefore, ask unanimous consent, Mr. President, that the article to which I have referred be printed in the RECORD, and I urge my colleagues to vote to restore the Army's authorized strength to current levels and to consider the need for further raises in military compensation.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BUREAUCRATIC AND ADMINISTRATIVE HAMSTRINGS ARE HOBBLING THE ALL VOLUNTEER FORCE

(By Benjamin F. Schemmer)

The Pentagon plans to spend $614-million this year to recruit the 400,000 enlisted volunteers needed to replace the men and women who will be leaving our armed forces. But even with close to $1,600 per recruit available for this massive talent search, the nation's 14,536 military recruiters will not have an easy time of it, for they are snared by a web of bureaucratic and administrative hamstings from the educational, law enforcement and labor sectors of government that make it difficult to pursue their work rationally.

The typical recruiter is a 30 year old staff sergeant or Navy petty officer who has 10 years of military service behind him, two years of recruiting experience, a wife and one child (with another on the way or planned), and who earns $14,049 a year counting an allowance for food and housing. He is a hand-picked professional, a cut above the average career soldier, and his job in 1980 is to enlist about 27 volunteers for a job that pays 82 percent of the minimum wage. To meet the Pentagon's educational standards, he has to entice about one out of every three high school graduates into a profession in which one out of every three co-workers will be earning less than the minimum wage.

The challenge is unique—especially because the recruiter knows that 3 percent of his fellow recruiters, the cream of America's non-commissioned officer corps charged with "selling" military life to the youth of this country, are eligible for food stamps. And his job in 1980 will be harder than it was last year, when for the first time in the history of the All Volunteer Force, not one of the military Services met its recruiting goals. Only 93 of every 100 youngsters needed put on a uniform last year.

That's not surprising, given what the recruiters have to offer them: jobs paying seven to 20 percent less than entry level pay for comparable work in the civilian sector at a time when youth unemployment is declining, when the pool of 18-to-24 year old enlistment eligible Americans is diminishing, and when elimination of the GI Bill (worth about $7,000 now to soldiers who enlisted in 1977, before it was abolished) has removed a major enlistment incentive at the very time that government-funded educational opportunities are increasing for youngsters who shun military service.

As if those hurdles weren't enough, the Pentagon now has less to spend in real buying power per volunteer needed—for recruitment advertising, recruiter pay and support, and for enlistment bonuses—than at any time since before 1978.

At the same time he is being asked to produce more volunteers with fewer resources, the military recruiter is hamstrung by a hobble of bureaucratic, administrative, and legal proscriptions that severely impair his effectiveness. The social structure that insists on a quality armed force has erected a host of barriers that almost preclude achieving one.

The recruiter's most important tool is "access," a way to reach the soon-to-graduate high school student needed to man and operate or repair the increasingly complex hardware found in today's military units. But an Army survey of the nation's 23,000 high schools recently found out that:

Almost two percent of them prohibit recruiter access of any kind;

Another four percent limit recruiter access to "job fairs" or "career days" open to all prospective employers;

Forty-one percent refuse "directory information"—a simple list of students' names, home addresses, and telephone numbers.

State and local school boards increasingly protest that such information cannot be released because of the 1974 Federal Privacy Acts—even though the act specifically does not preclude the release of such "public information."

There are 1,259,000 unemployed 18-to-24 year old males in America today, but the recruiter gets even less help from state and local unemployment agencies because the US Department of Labor refuses to give "placement credit" (brownie points that mean more federal funds and promotions or merit increases to counseling personnel) for referring job seekers to military careers. The Labor Department decided in 1977—at a time when there were 1,371,000 unemployed 18-to-24 year old males—that referring them to military recruiters might be "construed as coercing persons to serve in the armed forces." Moreover, the Labor Department won't even let military job opportunities be listed in its computerized job bank system, while another Labor Department ruling prohibits local agencies from allocating desk space to military recruiters.

The Pentagon's skirts are not entirely clean on this issue. Five or so years ago, the Labor Department was willing to list military jobs in its job bank, but asked the Pentagon to pay the $60,000 a year it would cost. The Pentagon said it didn't have the money.

The Pentagon has appealed three times in as many years for the Labor Department to permit placement credit to state and local agencies when they refer a jobless youngster to the armed forces, but then Labor Secretary Ray Marshall turned down the most recent appeal in a letter telling the Pentagon that the Federal Employment Service would continue its policy of "full cooperation" (agencies are "encouraged" to let military recruiters display literature) while "maintaining a proper role for the employment service as a job placement agency in carrying out its responsibilities to the civilian economy" (emphasis added). The Bureau of Labor Statistics told AFJ it can't estimate what these 1,259,000 unemployed youngsters "cost" the economy.)

The Pentagon is now trying again to get Labor's cooperation—and will submit a new proposal in two to six weeks.

At a time when the Pentagon has to spend almost $1,600 per person to find people willing to enlist in the armed forces, roughly 10% of those who do volunteer end up having to be discharged or given waivers because of prior criminal records that recruiters cannot find out about until after the youngsters are in uniform. This has come about as a result of the 1975 Law Enforcement Administration Act, which restricts the release of information about an individual's criminal record to law enforcement agencies, and a subsequent Federal regulation which interprets the act to mean that the armed forces do not qualify as law enforcement agencies. (One has to wonder if the same regulation would now preclude using the National Guard from quelling civil disturbances, one of their principal state functions.) As a result, 38 states now deny recruiters access to police records, and the Pentagon wasted millions last year recruiting volunteers who later had to be discharged or given special waivers because of misdemeanors or felonies committed before they went into uniform. A Presidential executive order could allow recruiters and Defense investigative agencies access to such data while screening a new volunteer, but the Office of Management and Budget has consistently refused to ask the White House for one. It has asked the Pentagon for "hard, quantifiable data" before it will support such an executive order.

The problem is not insignificant. Last fall, for instance, the Marine Corps screened 13,000 recruits during boot camp and found that 848 of them or 6½% disclosed potentially disqualifying personal history information serious enough to warrant investigation for problems not made known to recruiters at the time of enlistment. Of those, 358 cases appeared to involve prior police records; but the Marine Corps could verify only 152 of them because law enforcement agencies involved in the others wouldn't respond to the queries.

The Catch-22 in all of this became clear in November, when the Marine Corps' Baltimore Recruiting Station enlisted a volunteer named George Kalomeris. As recruiting stations routinely try to do, Kalomeris' enlistment papers were quickly checked to verify his age, social security number, and high school education, and with the local law enforcement agency for a criminal record. In this case, the Marine Corps was lucky: the Maryland State Police are one of the few that still cooperate with military recruiters. When officials checked Kalomeris' record, they informed the Marine Corps that they held a warrant for Kalomeris' arrest. He was wanted for murder—and arrested at the recruiting station the next day when he reported for shipment to the boot camp at Parris Island. Had Kalomeris been recruited from New York, where state and local police refuse recruiters access to criminal records, George Kalomeris might be wearing the uniform of a U.S. Marine today, still wanted as a murder suspect.

The location of their recruiting stations is another curse that makes the recruiter's life difficult. Federal policy requires the utilization of space that is already leased on available and encourages the use of downtown facilities that will continue to the revitalization of our inner cities, a commendable social goal that has little to do with recruiting needs. Thus, many recruiting stations are located in shabby office space miles from the suburban high schools which recruiters need to cultivate. Many are in Federal buildings whose security rules require that doors be locked at five o'clock at the very hour the youngsters recruiters need to reach are getting off the basketball courts or finishing football practice. That leaves the recuiter on his own to establish contact with potential volunteers, and he gets up to $40 a month in "reimburseable allowances" to help him.

Even if they wanted to find their local recruiting station, interested youngsters often have a hard time doing so. The General Services Administration used to lease more recruiting station space, and its own rules plus the owner's often specified that only a building's "principal tenant" could erect a sign outside advertising his own presense. That leaves the recruiter with window signs or displays—if he is lucky enough to get outside space. Even so, the stations are seldom in the high traffic areas which command a rental premium the government can't afford. The problem is not insignificant. Try to find the headquarters of Navy Recruiting Command in Arlington: the only sign on the building says it's "Ballston Towers." It sounds like a condominium, and it looks like one. The recruiting command had a sign made up, but found that it didn't meet GSA specification; it is still negotiating to have one remade and get a permit to put it up.

But things are looking up. Fifteen years ago, the Marine Corps recruiting station in San Francisco was in the basement of a Federal office building; today it's in a 30-year old rehabilitated wooden barracks in what is euphemistically referred to as a "Federal center." The district headquarters there used to be in a warehouse; today it's in an office building on Treasure Island. A few months ago, the Army Corps of Engineers was given responsibility for finding office space for the military's 2,348 recruiting stations and recruiters are hopeful that under the Corps, the mal-location problem will improve. But some recruiters are gun shy about another move. Last year, when the GSA was wracked by one scandal after another and agreed to give up responsibility for recruiting station space, the agency sort of threw in the towel: leases weren't renewed, recruiters weren't notified, and a few recruiters found themselves summarily evicted by commercial landlords when the leases ran out, their desks literally put on the sidewalk. Hardly the kind of exposure recruiters have been hoping for.

If the All-Volunteer Force is not working, as many Congressmen tell us, one reason may be that today's military recruiter has fewer prospects to work with, fewer resources to attract them, and less to offer—at the very time that Federal, state and local bureaucracies shoot him in the foot every time he tries to step ahead of the traffic.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. GLENN. Mr. President, on the subject of the quality of people we need in our armed services, Congress, acting following the deliberations of the Gates Commission in 1970, proposed the idea that economic incentives to attract people into the military would replace the compulsion of a draft. Congress passed that and that has been the law of the land for the last 10 years. I think everyone that was in Congress at that time who voted in favor of the AVA, the All-Volunteer Army, or the All-Volunteer Service Forces, assumed, as did the Gates Commission, that pay would move upward to keep pace with civilian counterparts so that we could, in fact, attract more people into our military and be competitive with civilian pursuits as far as the attractiveness of the military service went.

Obviously, no one can pay enough to recompense those who go into combat, are shot at, many are killed, wounded, die. You cannot pay for something like that.

But at least we were supposed to, by the Gates Commission and the legislation passed in 1970, make a move toward at least assuring that those who are willing to assume that risk would at least not receive less than their civilian counterparts, even though what was required of them was far more.

In the early 1970's, I think this worked out very well. Military pay was kept somewhat compensatory or comparable with civilian counterparts. In fact, it was ahead a little bit. But that was all right, that attracted good people in. But military pay began lagging about 1972. It went below the cost price in Consumer Price Index increase at that time.

In 1973, it was not too bad in that new recruits still received about 110 percent of minimum wage at that time. That was for a new raw recruit. It is down now to about 80 percent of minimum wage.

At that time, also, there were many additional fringe benefits that would entice people into the military service besides just straight pay.

We had the GI bill benefits for educational assistance, and that was dropped in January of 1977, it is now a contributing system. I think that is a very important factor.

We now have pay of our enlisted people at about $500 or $600 a month. It is estimated that as many as 275,000 military families are eligible for welfare—275,000 of our military families are eligible for welfare.

PX privilege—post exchange privileges—have been trimmed. Forty percent of the people coming in now are married and they can hardly make it on that $500 to $600 a month.

We are short some 2,500 doctors in the military, so the medical care available for military and their families has gone down.

There is little or no enlisted housing compared to the numbers of people. We have some, of course, but not any amount of enlisted housing that even begins to keep up with the numbers involved.

So, we wind up with underpaid people living in what could best be termed enlisted ghettos off the bases.

Overseas, for long tours of duty, with increasingly unfavorable exchange rates over the last couple of years, has meant these people were even further restricted as far as the favorability of continuing their service in the military goes.

The reason I point this all out, Mr. President, is that I think we are missing the point, in some of the debate that has gone back and forth here, quite heated in the last couple of days, with regard to whether we should cut back on the overall numbers in the military until we get higher class people because, to me, this misses the point.

The point is that we are not giving the armed services the attractive package they used to have to sell the military, to get people in. Until we correct that—until we correct that—we are not going to attract people in the military.

So the fact that we could cut off 50 divisions, until we make a package attractive enough that people will want to serve their country and will be fairly dealt with in comparison with their civilian counterparts, cutting off any number of divisions, it seems to me, is not going to correct the deficiency we have developed over the years since the Gates Commission made their findings and since the Congress, in its wisdom in those days, passed the All-Volunteer Army as an experiment—as an experiment.

We are faced now with the proposition of not being able to get people in to man the skills needed, as has been put out by the distinguished Senator from Georgia with a couple of releases here that we have all had placed on our desks and we have seen reprinted in the papers.

But we are now in the process of cutting off divisions, supposedly to send the Pentagon a message that they have to upgrade the types of people into the military, and to send them a message that they better do this or we will cut down on the Armed Forces.

It seems to me that this is a little like cutting off our nose to spite our face. We are telling them they have to increase the potential, they have to increase the capability, and yet we in the Congress are the ones responsible for not giving them the tools to make the armed services attractive enough that they can go out and compete for the people we need, in competition with private industry that is willing to pay more than we are.

So we come down to a very tough choice here, it seems to me. We have two ways we can go, neither one of them attractive. The lesser of two evils.

We can either go back to those days of the Gates Commission, and what we have are the sins of omission since that time in not keeping up with civilian pay, not keeping up with PX privileges, the commissary, and all the fringe benefits that used to be a very substantial part of the military package, we can either go back and bring that up to snuff and make us truly competitive with private forces, to get the people to man the highly technologically oriented armed services in this country, or—and this is a big "or" nobody likes to face these days—or we can go back to a draft.

That is the flat choice that the United States has to face up to in the next year or so. We are going registration now. We have had some increases in enlistment, probably because of the downturn in business, in general. But that will not last too long after business starts turning up again.

But we have not yet come to grips with the fact that we either have to make a package attractive to the young people of this country in making a military career, or we have to go back to some form of the draft. It is that simple.

I am not proposing today that we go to the draft. I do not want to be misread here at all. But I am saying in the debate that has gone on so far, it seems to me we miss the point.

We are blaming the Pentagon, we are blaming Secretary Alexander, we are blaming people for not insisting on better manpower, womanpower, coming into our armed services, yet we are the ones in the Congress who have not kept up the promises of the Gates Commission.

The requirement that we are to have good people seems to be competitive in paying them and making the fringe benefits sufficiently substantial that we out-compete business and industry for people to go into our military.

No one questions, and I certainly do not stand here today and question in any shape or form, the dedication of those people in our armed services. They are just as dedicated as they have ever been. But study after study has shown that the capabilities we need in our armed services, in many respects, are lacking.

Once we get those people in and trained to do a certain job, we do not have the pay and fringe benefits to keep them in. So they leave after their required tour of duty is done.

We are the ones in the Congress who have not set up this attractive package so Secretary Alexander and the other heads of the services can go out and fairly compete with business and industry. We will continue to get the lesser capabilities than we would like until we make that kind of a package attractive.

Let me move up a bit from the enlisted ranks.

I spent 23 years in the Marine Corps as a pilot, so I know a little bit about piloting requirements these days.

We have pilots coming in, being trained, and going out to far better paying jobs in industry, in the airlines, in commercial flying.

It costs about $1 million to train each pilot that comes in. Yet we are short. I think we had something like 5,000 pilots that left the service, I forget the exact period of time, but it was like the last 2 years, or something like that. That is a tremendous waste of resources and trained personnel, tremendously expensive for the country. Had we taken the money it takes to train new pilots and applied it to increased pay, not only for pilots but also for mechanics, support personnel, and enlisted personnel, it seems to me that we would have gone a long way toward solving some of our problems.

Mr. President, I summarize my remarks by saying that while we berate the Pentagon, we cannot require them, just by passing a law here, to go out and get higher classs people. They can try; they can do their best. But unless Congress puts together a package they can use over there to be competitive, to get good people in the armed services, we are going to face this problem continually.

I do not see any answer to it, and it will continue to become worse and worse with respect to competition in private business and industry and other civilian pursuits people might want to go into. It will continue to get worse and worse by comparison until we are forced to go to the draft.

I say that those who do not want to go to the draft had better be thinking about this, because we are the ones, here in Congress, who provide the tools for the Pentagon to go out and make it attractive for people to enlist in the Armed Forces and to show their dedication to their country, which I do not question at all.

We here are the ones to blame. I am against just cutting back on the number of people we have without doing something else along with it. It does not seem to me that reorganizing the tables of organization, just to say that you will now be forced to get higher class people, does the job. We are not giving them the tools to do the job across the river, and until we do, we cannot just mandate that higher class people are going to come into the Armed Forces.

Mr. President, I may have some additional remarks to make later. I have a few closing remarks.

I believe it has been brought out that in this time period when we are trying to get people into the military, we are attracting blacks and other minorities into the armed services at roughly double their numbers in our society.

In combat units, those going to get shot at, who are going to get wounded, who are going to have the highest number killed, half of our front-line combat units are manned by minorities.

Some of us had a chance for a better education, grew up in homes where there were economic advantages which were not available to some other citizens; and because some of us had favored young lives, we are saying that because others did not have those advantages, they should go out and get shot at and get wounded, that they should die for the rest of us, because they perhaps did not have the advantages that some of the others of us were blessed enough to have. They do not have the educational opportunities some of us had in our communities, so they should go out and get shot and die for the rest of us.

That does not wash—not in a democratic society. We should have across-the-board representation in our Armed Forces of a cross-section of the socioeconomic spectrum of our country. We are not going to do that unless we make it attractive enough for people to serve in the Armed Forces; unless it is competitive, paywise and benefits wise, with respect to what they might expect in their civilian pursuits.

We find the Navy laying up ships, not putting out to sea. They did not have enough boiler tenders a few weeks ago, I believe. They do not have enough petty officers. They are robbing one ship to put another at sea temporarily. They are turning people around on a short shore-duty time. How can we justify that?

The President goes aboard the *Nimitz* because it was away beyond the normal tour duty in the Indian Ocean. Are we correcting that here in Congress? Hardly. Resolutions passed here commending the *Nimitz* do not make up for it, I can tell Senators, when people look at their kids and are trying to buy them new shoes or trying to set them up in a school for next fall. It will salve their ego and make them think people appreciate what they are doing, but only for a short time.

When we look back over 10 or 20 years, or even 3 or 4 years, in trying to do something that will keep people in the service, when we look at those in the NCO ranks, the petty officer ranks in the Navy, the pilots and the support personnel, those who are considering whether they are going to stay in at the end of their first term, unless we do some of the things which will make those years ahead far more attractive to them, other than just passing resolutions of commendation here for long tenures at sea and abroad someplace—often without families—then those resolutions have a rather hollow ring, when it comes time to reenlist. So we find people getting out in great numbers.

Mr. President, I will not vote for the cut in the numbers of people. It seems to me that we have a far different problem to address, and the different problem is how we make the armed services attractive enough so that people want to stay in, those who are proud to serve their country; that their country, in turn, shows its appreciation, not by resolutions and best wishes, but by something solid in terms of pay and benefits and the way we treat the military in our armed services.

Mr. President, I ask unanimous consent to have printed in the RECORD an article by William P. Snyder, entitled "Short-Changed Troops, Short-Handed

Military," which was published in the Washington Star of June 22, 1980. I believe it sheds a great deal of light on this subject.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SHORT-CHANGED TROOPS, SHORT-HANDED MILITARY

(By William P. Snyder)

As the all-volunteer force enters its eighth year, evidence of failure is increasingly abundant.

During fiscal year 1979, recruiting fell short of requirements by about 25,000 personnel. The Army experienced the greatest difficulty, missing its goals by 16,000. The Marine Corps met its objective, but only because it accepted a cut in authorized strength. Even the Air Force, which has enjoyed more recruiting success than the other services, fell short by 2,000.

High unemployment rates have temporarily improved recruiting. Still, many recruiters doubt this year's goals will be achieved unless quotas are reduced to provide a facade of success.

The quality of recent volunteers is a matter of concern in all the services except the Air Force. Overall quality, as measured by educational attainment, is about the same as that of draftees in the 1960–64 period: seven of 10 have high school diplomas; reading skills are about the same as the non-college segment of the general population.

These aggregate statistics, however, conceal sharp differences among the four services. While Air Force volunteers are of excellent quality, better even than the personnel that service obtained during the draft years, Army recruits are of decidedly lower quality. Half of recent Army volunteers have reading skills at eighth grade or lower levels, and the quality of Navy and Marine Corps volunteers isn't much better.

Thus, quality is lowest in those services that provide the nation's conventional military capabilities. The decline in educational levels takes place at a time when military operations and complex equipment demand greater skill and judgment on the part of individual servicemen.

The enlisted ranks are unrepresentative of the society they serve. Almost one-quarter of all new recruits are black, double their share of the general population. The number of other minorities, especially Hispanics, is growing. Minority soldiers are heavily overrepresented in low skill positions and in combat formations—tank, artillery and infantry outfits in most Army divisions are half black. Exposure to risk is greatest in these units, which raises the specter of disproportionate casualties among minorities in wartime.

Of equal concern to military leaders is the poor quality of white recruits. Most white enlistees come from the poorer and less educated segments of white society, with few middle-class youth from urban or suburban homes. Indeed, white recruits entering the Army have significantly lower educational attainment levels than black recruits.

These shortcomings in the junior enlisted ranks, particularly in the Army and Navy, are intensified by several other developments. First, for reasons of economy, there has been a sharp reduction in the amount of formal military training volunteers receive. Initial recruit training has been shortened; specialty and technical training courses have been curtailed. As a result, volunteers arriving in their units are inadequately trained for the jobs they are assigned. (A shortage of non-commissioned officers qualified to run training programs is exacerbated by the fact that 10,000 of the service's best young sergeants and petty officers are on recruiting duty.) Overall, training and job performance are below par, which contribute to low morale.

Second, about 40 percent of the young men and women now joining the services are married, a much higher share of the age group than in the general population. The pay of enlisted personnel ($500-$600 per month) is not sufficient to support one or more dependents. Estimates of the number of military families eligible for welfare vary from 100,000 to 275,000. Social services and medical care also are inadequate—the services now are short about 2,500 physicians. Since the armed forces cannot provide family housing to junior enlisted personnel, military ghettos grow in civilian communities near large military bases. (Unfavorable exchange rates and cultural isolation creates an even more serious situation in overseas areas such as Germany.) The family problems of young enlisted personnel intensify loss of morale and efficiency.

Third, as recruiting of men has become more difficult, the services have turned increasingly to women. There are now about 150,000 women in the armed forces, as compared to less than 20,000 a decade ago. Service women have high educational qualifications and are performing effectively in virtually all non-combat positions (they cannot be assigned to combat units or warships.) Yet these statistics conceal two problems; pregnancy and single-parent families. Both create great difficulties in small units. In the Army, for example, one of every nine women is pregnant at any one time; one in 11 heads a single-parent family. The armed forces are not prepared to handle these problems, and training and operational activities in support units are often compromised.

TURNOVER FAILS TO IMPROVE

The overall picture, then, is one of a young and not very talented junior enlisted force, composed mainly of minorities and lower-class whites. Since only two-thirds of all new recruits complete their enlistments, personnel turnover is exceptionally high, contrary to one of the key expectations of early advocates of the all-volunteer force. The situation is most severe in the Army and slightly less difficult in the Navy and Marine Corps. Only the Air Force has escaped the consequences of these trends in the all-volunteer force.

The problems in the junior enlisted ranks contribute significantly to another difficulty: retention of NCOs and junior officers. These young careerists are frustrated. Their reenlistment rate has dropped from over 80 per cent in the mid-1970s to 68 per cent in 1979. The loss is especially severe among technically trained personnel; the Navy is short 20,000 petty officers and the Army lacks over 50,000 mid-level sergeants. Retention of flying and submarine officers has become particularly difficult. The higher pay, shorter hours and better family life provided by most civilian jobs obviously matter in decisions not to reenlist; but the poor quality of the junior enlisted force plays a role in the decisions of many careerists to leave the service.

Perhaps the major cause of the crisis in the all-volunteer force involves military pay and benefits. The central premise underlying the Gates commission's recommendation in 1970 to move to an all-volunteer force was that economic incentives could, and should, replace the compulsion of a draft. The commission assumed that pay rates would be revised upward if enough quality volunteers were not attracted to military service.

The pay scales proposed by the commission, and adopted with little change by Congress, established recruit pay at a level slightly above the then-prevailing minimum wage. This level proved sufficient to attract volunteers in the early 1970s.

But the Ford and Carter administrations proceeded to tie military pay hikes to pay raises in the civil service, which suffers no shortage of applicants. Further, to hold down government spending and to control inflation, pay raises were "capped," i.e., kept below CPI increases. As a result, military pay has lagged badly behind civilian pay since 1972. When computed on an hourly basis, the pay of a new recruit is now about 80 per cent of the minimum wage as compared to 110 per cent in 1973. Mid-career NCOs and officers have suffered a 15 per cent loss of disposable income over this same period. It is hardly surprising that one of every five enlisted personnel now "moonlights" on a second job.

TRIMMING GI BENEFITS

The military pay system is so complicated that many service personnel do not really know how much they earn. The system also provides an exceptionally large share of total compensation in the form of fringe benefits. This has contributed to the belief among military personnel that total compensation has not kept pace. The single most visible benefit for junior enlisted personnel, educational assistance under the GI Bill, was dropped in January 1977, replaced by a less advantageous contributory scheme. As much as any single change, ending the GI Bill accounts for the failure to attract a representative segment of white youth into service.

Even if unemployment continues at current levels, the long-term prospects of the all-volunteer force are grim. When the transition to the all-volunteer force began in 1970, the general population contained about 9.5 million 17- to 21-year-old males, the cohort that provides most new recruits. That group increased slowly in size throughout the 1970s, reaching almost 11 million in 1978.

But the future is one of shrinking availability of military-age males. From its 1968 high, the 17- to 21-year-old male cohort will decline steadily in size until the mid-1990s when it will number only about eight million. Opening military service to women has helped, but the military services are now finding that women are nearly as difficult to recruit as men.

For the most part, military careerists do not accept the conclusions of Defense Department specialists and outside analysts that the all-volunteer force is working. These analysts point out, correctly, that the long-term trend is toward higher pay and benefits and that, in the aggregate, personnel quality is about the same as it was before Vietnam. For them, the glass is half full. But career NCOs and officers serve in units with many marginal soldiers and sailors. The glass is help empty. Their point of reference is the early 1970s, when pay and benefits were noticeably better than today.

Civilian specialists and active officers also have differing perceptions on what if anything can and should be done. Department of Defense civilians and political leaders concede that there are difficulties, but continue to argue that marginal changes in pay and benefits can provide the required number of quality volunteers. Many military careerists, however, have given up on that approach. For them, there is only one sensible solution—a return to the draft.

DOUBTFUL OF LEADERS

Meanwhile, the frustration of mid-career and senior officers only increases. Secretary Brown, otherwise well regarded by senior officers, has shown little interest in personnel matters. With some exceptions—Congressmen Robin Beard and Richard White and Senators Jackson, Nunn and Warner—Congress has not been especially interested and continues to concentrate on hardware over people.

But the greatest source of frustration has been President Jimmy Carter. In March 1980, the Air Force Times and its sister Army and Navy publications reported that the president had sent Secretary Brown a memo directing an end to "the constant drumfire of criticism from top military officials" about military pay, retention and combat readiness. "I want to provide assistance where I can . . . [but] you should assess other factors involved. "When I was in the Navy," the president is reported to have continued, "pay was not a major factor" in deciding whether to stay in service. The president's statement was widely reported throughout the services and taken as clear evidence of a poor understanding of the situation. His recent about-face in support of increased housing and travel allowances, incentive pay and bonuses (the Nunn-Warner bill), announced to the crew of the Nimitz, on its return from the Indian Ocean, consequently was greeted with skepticism. Skepticism turned to cynicism the following day with the president's vigorous intervention to force a cut in defense funds in the fiscal-year '81 budget resolution.

DANGERS OF CANDOR

Contrary to what many junior officers think, senior officers are aware of and deeply concerned about the junior enlisted ranks. But for the most part, they are reluctant to challenge openly a policy so strongly supported by civilian political leaders. Senior officers also believe that a forthright public assessment of the situation would hurt morale and effectiveness—like football coaches, they know that telling the team how bad it is will only make it worse. They are caught between critical subordinates and unresponsive superiors.

The reception accorded President Carter's selective service registration proposal, as well as recent opinion surveys, confirms the public's lack of enthusiasm for a return to the draft. Opposition is strongest, of course, among young Americans. Hence, improvements in the military manpower situation can be obtained only by sharply higher pay and benefits. These can be expected to ease service retention problems. They might also, if combined with a meaningful GI educational assistance plan, improve somewhat the quality and representativeness of the force. Finally, the crisis threatened by the shrinking military age population might be pushed a few years into the future.

A return to the draft is not necessarily the answer. But clearly the present approach is failing. A policy that, consciously or through neglect, places the principal risks and burdens of defense on segments of society that have enjoyed few of its benefits is morally indefensible. Moreover, the problem is urgent. As the late 1960s demonstrated, poorly conceived military manpower policies can tear apart a generation.

Mr. HOLLINGS. Mr. President, that is exactly what I wanted to hear. I have been trying to join in this debate because I wanted to hear the issues and I wanted to get a little feel, the exact feel I have had since picking up the Washington Post one morning and finding out that the Armed Services Committee had cut the end strength of the Army. I said, "That is a misprint."

We have been trying our dead level best to build back the forces. We have had a great debate. The distinguished Senator from Georgia has been of outstanding help in trying to get the 5-percent add-on to the defense budget that we passed in September, almost a year ago; the increases we had in our Budget Committee allocations under what we call the 050 function.

We seem to have come straight down the road here in reflecting our tremendous concern about the demise of our defenses. At this time, just when we are about to come forward with Nunn-Warner and pay increases and pay benefits, to come forward with the proper allocation within priorities of our budget for defense and everything else, my gracious, I look around and find what? Cut the end strength of the Army.

Mr. President, what the distinguished Senator from Ohio has stated is significant on two scores. No. 1, he has spoken as a former marine; he has spoken from experience.

We know that the Army, the Navy, the Air Force, and the Marine Corps favor high school graduates. Call General Bauer. In the Marine Corps he believes in trying to attract the high school graduate, due to "stickability," as they say, or less rate of attrition, or less "attriting."

It is quite obvious that a high school graduate has not dropped out of high school. If you look at one who has dropped out of high school, when he goes into the Marines, the Air Force, the Navy, or the Army, in a general sense, you have found one who has an environmental background or family background that somehow has not been quite the norm. There has been some trauma; there has been some division. There could have been a divorce in the family. There could have been lack of a home, lack of attention, or whatever. Whatever the case may be, we all know that.

The Marine Corps knows that. Yet we are not talking about the Marine Corps or the Air Force here, or the Marines cutting back their end strength.

The Army attrition rate for graduates is 23 percent and for nongraduates it is 43 percent. The Navy attrition rate for graduates is 22 percent and for nongraduates it is 44 percent. The Marines have an attrition rate for graduates of 23 percent and for nongraduates it is 44 percent. The Air Force's record for graduates is 23 percent and for nongraduates it is 44 percent.

But where is the provision to the Armed Services Committee for the Air Force, the Marines, and the Navy? They have almost practically dead on the head the same attrition rate, the same experience, but they do not provide for that.

The fact of the matter is there is a real notable observation here, one might say, by the GAO report. In February, the Armed Services Committee had it, and it said, according to a GAO report dated February 21:

> The services most notably the Army and the Marine Corps are reducing attrition.

Let me repeat that. I was tempted to get a live quorum to hear the distinguished Senator from Ohio because this is a most important thing. When we talk about fairness and what the problem is and how to get over the hurdle, the armed services knew this.

> Most notably the Army and the Marine Corps are reducing attrition.

But here we come in with an amendment that cuts the end strength of the Army.

As to the other point with respect to the Senator from Ohio, he is right on target about the attractive package, the things that need to be done, in order to do the same thing that the Senator from Georgia and the Senator from Mississippi want to do.

The opponents and proponents all agree. We want to build up the services and we want to build up the Army. If we want to do this one thing we should do is increase the pay. Who wants to graduate from high school and go to food stamps? Obviously not. We have over 200,000 in the services now, mostly in the Army, who are on food stamps.

So if you are going into the Army as a volunteer and you are immediately below the minimum wage is there some coverup? Is there some deception that some of these releases would indicate? Is there something insidious going on? It is right in front of our eyes. We are the Congress who provided for this pay. And to the armed services credit and to Senator NUNN's credit we not only are going forward with an 11.7-percent pay increase—we do not have it yet—but the Senator from Georgia has come forward with the Nunn-Warner package of benefits. I happen to be a cosponsor and believe in it very strongly. The Senator from Georgia led the way last fall over the opposition of the administration when we passed that in November 87 to 1, before the President got on the deck of the *Nimitz* here and finally joined ranks with the Armed Forces.

But where is the Nunn-Warner package? Where is the money for it?

If I am a recruiter for the Army or any of the services I cannot go out there and say and do and provide for it. I give well wishes, as the Senator from Ohio says. I pass resolutions. I tell them I am concerned and I will make a talk at the American Legion, but do not give any money.

Now let us give Nunn-Warner a chance to work, and let us give the 11.7-percent pay increase a chance to be passed and let us give access to the high school campuses.

Do Senators know that it is practically illegal for a recruiter to get on over half of the high school campuses in America? How do they recruit if they cannot get on the campuses?

We have that 1960 group that has all come along and graduated and become the high school principals, and the enemy is the Department of Defense. The enemy is the U.S. Army.

They can get on there if they are from Westinghouse and GE. They can get on there in most instances if they are from a nuclear industry. They can get on there if they come from other sectors of our society. But as soon as the recruiter for the U.S. Army shows up then immediately the door is slammed in his face.

And that is part of the amendment that we worked out at first and will bring it in later. We have some other amendments here and we did not want to confuse the end strength issue here. Part of the amendment here to be presented is an ability for the recruiter to get on that high school campus. That is something we can do. We can put a provision in this particular bill to allow for better liaison and communication among the high school principals, the recruiters, the Army and all involved. We can come later, if you please, in the elementary and secondary atmosphere and the veterans' bill. They said they were both under the jurisdiction of a GI bill of rights.

Here we not only let the pay get totally off the board, giving them less than the minimum wage that we all pontificate about if a labor bill comes up on the floor, but when a defense bill comes up we cannot find them. There is not any pay. There is not any minimum wage. Put them on food stamps.

So it is that what we do. We blend out the GI bill in 1976 and then find what? It is difficult to recruit; ergo, logically, do not cut the end strength. Put back in the GI bill, some sort of GI bill of education.

What we have in essence with some of the giveaway programs is we have just that. We have a GI bill without the GI. We passed a $4.5 billion to $5 billion BEOG, basic educational opportunity grant, for any and everyone to go to college except if they give some service to their country. So we just let the pendulum swing totally out of the way, doing away with the GI bill, but giving the GI bill to the non-GI.

Mr. NUNN. Mr. President, will the Senator from South Carolina yield for a moment on that point?

Mr. HOLLINGS. I yield.

Mr. NUNN. Before we reach points of disagreement, I wish to point out the areas where we do agree.

I commend the Senator from South Carolina for the long leadership position he has taken in getting the budget resolution at a sufficient level so we could begin to do some of the things that he is now advocating and has been advocating.

I agree with him, also, on the importance of access to high schools by recruiters. That is something that has been a problem for the military services for some time. I wish to assure the Senator, and I have not seen his amendment, I certainly will be receptive to it and certainly will plan to help on that amendment if it gives the recruiters of our country more access to high schools.

I also wish to say as to the educational assistance I think the Senator will be interested in the provision we have in the bill this year. We have $46 million for the military services to carry out a pilot project and we have given them broad authority. We have given them all the money we have been able to determine they can cause on a pilot project approach to determine what kind of educational benefits will be of the most assistance.

The great difficulty we are in right now in determining that, and the Senator has just put his finger on it, is that we have such a broad kind of student loan program now that covers virtually everyone that it is awfully hard to figure out what to do for the military people, to attract them in the service or to keep them in the service, that is not already available without serving the country.

That is what the Senator said when he said we have the GI bill, but we do not have the GI.

The other thing we have done is as to the technical people, the engineering people, the GI bill was to give help to people in the military. We had Sputnik come along in the late 1950's and we went into an expanded student loan program to attract engineers. Now we have everyone covered, but we do not have the engineers and the military people in terms of the original origin of the whole program.

So we are not going to agree on all the points the Senator makes. I wish to make it clear I absolutely agree with him on those points and I certainly look forward to working with him and others in trying to correct some of these deficiencies that are so apparent.

Mr. HOLLINGS. Mr. President, I thank the distinguished Senator from Georgia. We will be working together, irrespective of how this particular amendment comes out, because he is concerned as our foremost leader here on defense, along with the Senator from Mississippi, the distinguished chairman of our Armed Services Committee, who has been in the vanguard for 30 years or more. I respect it, I revere it, and I love it, and I want to follow them, but let me complete the thought about the things that need to be done.

Everyone can find a fault. We talk about the pay, and we have talked about the benefits of Nunn-Warner, we have talked about the matter of access to the high school campuses, we have talked about a GI bill, talking to the experts, and we see some that write about it.

Another thing, of course, is the quality point, the way they approach the particular job, and if I tried to discern a difference between the Marines and the Army, and the Marines have a good record on this score, we find that the Marine recruiter is given what we call six quality points. In other words, for every one high school graduate that counts for six otherwise. So we can start doing that in the Army.

I talked to them in the Army about that, and they said, "Well, it is a very good idea," and under the leadership—and that is another point—of General Thurman—it is not THURMOND. If he took over we would have an Army tomorrow afternoon, if the Senator took over, if my senior Senator, but this is T-H-U-R-M-A-N, I think, spelled slightly differently; but they tell me that General Thurman is a tremendous enthusiast, and he believes, mind you me—I never did support the Volunteer Army. I always supported—and that is the irony of this thing—the moneys and the processes to make it work, give it the good college try.

I have always supported that. But here we have General Thurman, who believes in it, and he wants everyone he can get in there, college graduate, high school graduate, skilled personnel, aptitude or otherwise, he wants them in that particular army, and he will work in that particular direction.

Of course, we need more recruiters and, as Senator NUNN and Senator STENNIS and the Armed Services Committee have provided—you see, that is the whole idea in the testimony and hearings before the Armed Services, which brought all this out. I am awfully sorry to see the charge of deception and coverup and bum's rush and closing bases, and all the other asides, because when it comes down to closing a base, let me emphasize this: I have been in a base closure fight for over 3 years—excuse me, we started to close Fort Dix 7 years ago, the Army tried to do it, and then in order to keep them from closing Dix they injected Fort Jackson. Now, quite obviously, if one is going to be closed, if they are going to cut the end strength of the Army, the Senator from South Carolina ought to be out here on the floor saying that is a good deal, at least we can go ahead and close it, and that will be the end of that particular competition. But in reality it would be seriously damaging to the Army.

What is good about the U.S. Army that we really know about it? We have trouble with the numbers; we have trouble, let us say, with the quality; we have trouble with not enough pay, we have trouble with the training, we have all of these things that require continuing improvement. If you have been in an outfit and getting them ready to go overseas and taking them through different campaigns, you know that you never get ready. There is always room for us on the sidelines in the Congress to find out how we can do it better.

I relate back to the 10-year period when we tried to run the war in Vietnam off the floor of the U.S. Senate by backing up aircraft carriers, putting in electronic Maginot lines, bombing, not bombing, search and destroy, hearts and minds, we had a new amendment, and we frittered all around.

So there is no lack of ideas. But with all the difficulties there is one thing, and I think this is the issue, and Senator LEVIN's amendment, on which I have been happy to work with him, with all the things wrong there is one thing right, and let me sort of describe it word for word in a personal letter from the Chief of Staff that he wrote just last week, and I quote:

> Back in 1974 on the porch of the quarters I now occupy at Fort Myer, two men, one a clever analyst, the other a capable soldier, came to an agreement that a viable army could be constructed out of the shambles of the post-Vietnam drawdowns only with some guarantee of stable end strength. To that point, those charged with the creation of our combat structure were forced to contend with continual revisions of our strength, revisions which seldom permitted completion of the full planning and execution cycle leading to capable combat organizations.
>
> Creighton Abrams, one of my predecessors, and James Schlesinger, then Secretary of Defense, recognized that as a consequence the country was not getting much capability from its investment. Of 13 divisions, only one could be rated combat-ready. Their decision to freeze the Army's end strength, a

> decision concurred in by the leadership of the Congress, has paid dividends. Today the Army has 16 field divisions drawn from essentially the same end strength. Virtually all of the forward divisions in Europe and Korea are at readiness conditions which mark them as fully prepared for war today.

They never could have done it, Mr. President, never could have accomplished this, without a fixing and a freezing of that end strength and have a reliability and not any kind of floating end strength of multiple choice if you do so, and so you qualified for so-and-so.

What does it mean? It means that this amendment, if carried here, you sit down and you say, and they describe it in every letter as best they know how, that you cannot tell, you do not know. I am recruiting and I want to entice the graduate, and I want to hold a slot for him. I have the pressure from Congress and I have the pressure from OMB in the executive branch, and the general pressure about the success of the Volunteer Army, a numbers pressure.

I am constantly reading in the news and the media is coming around and saying, "Mr. Army, what happened? You are still not up to strength. The Volunteer Army is not working." I know, and I have a slot and I think he is waiting, but wait he must and wait I must until he graduates.

So for the first three-quarters of the year I just cannot tell, I do not know. I am tempted to get the numbers, and yet I cannot get the high school graduate unless I hold a slot, and I cannot plan who is in supply and who is in the front area and who is in combat and who is in the support forces. It is a managerial nightmare.

I know now, for example, that the Army, while it got 38 percent high school graduates in the first three-quarters, they expect to get 80 percent here this summer, July, August, and September, and they expect to get up to the 52 percent, in fact nearer the 55 percent. Their hope is obviously enjoying some assist from the recession. There is no question about that. Obviously they are going to enjoy, if we pass it this summer, the assist of better pay; obviously going to enjoy, if we pass Nunn-Warner, better benefits and the assist there, knowing that we have now a new direction and commander in General Thurman with the fresh approach to it, and there is every reason to believe that we ought to be succeeding and to feel gung ho.

But of all things to do at this particular time is to just cut the ground out from under the one thing that allowed what? That allowed the Pentagon to respond to the U.S. Senate. We were all talking, you know, about we want to get more out of the tail and into the tooth, from tail to tooth. So it is, and we all wanted to cut down on civilian personnel. We have got to economize. I made those talks myself. So the Army started in 1976, and in 1976 they had 53 percent tooth and 40 percent tail; in other words, 53 percent in 1976—as you were. I think those are reversed. They come out now with more in the—well, that is true. I have to check these particular figures, but they were exactly reversed.

In other words, we had 53 percent in the tail and only 47 percent in the tooth in the combat area and 53 percent in the support forces.

Then, in 1977, that ratio changed 54 to 46. Then it came around and changed about and so by 1979 we have 55 percent in the combat area and in the front lines and cut to a minimum the tail or support and rely, in great measure, on the Reserves itself. And what have we done?

Sixty percent of that, incidentally, is counted upon by the Reserves and the Reserves are down.

Now, I am the Chief of Staff, and the Armed Services version is passed and they send it over to me. And I say, "Well, my Reserves are down. We have not given anything to attract anybody there. So with my Reserves down, I can't cut that any more. It sort of cut itself. We are 500,000 shy in the Guard and the Reserves."

I come around to the support forces and I say, "I have done what the Congress has asked and rather than reward me or recognize, at least, the good efforts of changing around that ratio and going from 13 to 16 divisions—and most of them at NATO and ready to fight—all due to a fixed end strength where I could plan, now I have to cut, and I do not know where except combat forces."

I cannot support any more. I have to go to the combat forces and I have to cut a couple of divisions there because my end strength is there.

When I go to the Appropriations Committee—as a Senator now, let me switch mentally—we do not have open-ended appropriations. I know exactly what the Defense Appropriations and the full Appropriations Committees had said: "We have an end strength so we can only appropriate in accordance with the authorization." We cannot appropriate an open-ended appropriation. A point of order and a point of merit would get that, also. So we are not going to do that.

So what we have done, in essence, then, is take the one stabilizing factor that allowed the Army to start building, start planning, and start acting like managers and start producing and start succeeding, the very thing we have succeeded upon, the Armed Services Committee, in a last minute frustration, have lashed out and, almost like Bossy the Cow, having been given a full pail, just promptly kicked it over.

Why do I say that, Mr. President? Mr. President, there has been a sort of running gun fight, as I best can tell, between Armed Services and the Personnel Manpower Subcommittee and the Secretary of the Army. I am not attuned to it and have not read all the record. But it has to be realized and appreciated from the charge of deception and coverup and defrauding the Congress and the characterization of warm bodies and ending up with a WPA or Job Corps to do our fighting and all those kinds of things.

I think those are a little out of order, but there they are. And you have dealt only with the Army, where I have shown that the same thing is persistent with respect to attrition and all other scores in the Navy and the Air Force and the Marine Corps. So, apparently, the Secretary had not responded.

Let me say this: The Secretary of the Army is an outstanding articulator for the Volunteer Army. I happen to be on the other side. I get a little frustrated myself. I know from trying law cases, and I have talked to Bo Callaway and I worked with Dr. Kilmark, and I can carry right on.

Long before some just started on this particular score, we said in the debate—practically in this same spot on the floor, years back, when Martin Luther King, at the time of his assassination, showed that in Vietnam the war was being fought by the black, the poor, and the disadvantaged—that we are going to end up with just exactly that, the black, the poor, and the disadvantaged. And I believe, in some measure, that is what has occurred.

That is why the Chief of Staff comes now and says that the Army is a hollow Army; that is why Gen. Bernie Rogers, our NATO Commander a year ago asked for the reinstitution of the draft; that is why the Chief of Naval Operations 2 weeks ago asked for the reinstitution of the draft. There are needs there. There are troubles there.

But it has not been, necessarily, the fault of lack of zeal on the part of the U.S. Army. The fact of the matter is that the Army has the toughest of all tasks. Where the Marine Corps, overall, has 180,000, the Army this year will be bringing in volunteers of 170,000. If you have a smaller group you can zero in. And you always have the gung-ho guy out there who is ready to fight and if he feels that way already in high school you are going to get him in the Marine Corps. We are proud of that. We are proud of Parris Island. We are proud of General Barrow. But I am equally proud of Gen. Shy Meyer.

We in politics have to understand the nature of things. We use rocket rhetoric from time to time, starting with me and many, many others. But, mind you me, the time a company captain stands before his company and says that "My company is unfit" or "My company is inadequate" or "I don't have a quality company," then, as company commander, I have lost my capacity to command. And that is the same for the major in his battalion, the colonel in his regiment, and General Meyer, the Chief of Staff of his Army, and the Secretary of the Army, Clifford Alexander.

You cannot expect to get the answer that we politicians want out of the Secretary of the Army. He has to say it is good and it is working. If he starts coming down saying, as Secretary of the Army, it is not working, it is not good, it is not quality, then he has almost lost his effectiveness as the Secretary of the Army and we have to understand and appreciate it and not get frustrated.

I know, in asking a witness, that I want a different answer, but I keep on getting these articulate answers. Secretary Alexander is a very articulate man. I have talked to him myself. I have tried to capture him and corner him on Fort Jackson. I knew the facts were otherwise. I got frustrated there. But that in no sense takes away from the facts of the situation. And the facts of the situation are that, like Pogo, we have met the enemy and it is us.

We are back now to just exactly what the Senator from Ohio, Senator GLENN, was emphasizing in his remarks about an attractive package. We should not get all confused now about attrition.

Remember, the Senator from Georgia selected, if you please, the ground for his change of end strength being quality. He comes—and this is interesting and I am sure he must be listening on the squawkbox or some of his staff, and then we will debate it later—he comes at the beginning of the debate on yesterday and he says:

> Just so this debate can be put in the proper framework, the Subcommittee on Manpower does not contend, nor does the committee contend, that high school graduates indicate the be-all and the end-all of quality.

Mr. President, if you please, that is exactly what the amendment says. The amendment does not talk about attrition. It talks about high school graduates. And the whole thrust of the debate and the conversation and the releases that are coming out faster than I can keep up with them—they do have an end with the media, I can tell you that, because they have a new article and a new editorial. But if you look at the law, it apportions it on the matter of high school male graduates with any prior military service. Now, that is what we are talking about.

The Senator himself, the distinguished Senator from Georgia, issued a release and it is on the top of everybody's desk. Here is one right here on the desk of the Senator from Kentucky. "Immediate Release, July 1." Well, that is a different one. We have another one? I had not seen that one yet. The first release the distinguished Senator put out is June 25, NUNN, and this is from the Senator's own office. "Deception campaign launched by Army on volunteers."

That is a stir up. Your staff can get you in trouble. Here is one case of it.

There is not any deception. The Army has been testifying about these things. They have been on the House side. I can give the House hearings.

They put in these tests. They are called skill qualification tests, SQT's. You have to learn the lingo to even get with this crowd and understand what they are trying to say.

The skill qualification tests started in 1976, and really were instituted to find out how they could improve training, not how they could improve recruiting. It was how they could improve training.

Many a person knows how to shoot a gun, strip down a machinegun, clean it and everything, and put it back together and start firing. Tell him to describe that in black and white on paper and he flunks.

I can get you many a country boy out of my backyard in South Carolina. I know as Governor we were attracting skilled industries. Quality is not measured by academic attainment in this particular case. Really, it is aptitude you are looking for.

We found where we had to educate the North. Every time I went for a new industry the chairman of the board or the president would say, "Governor, you don't have the skills, the quality." And I would say, "We never had the chance. You give us two or three of those punch machines."

I instituted the technical training program and, incidentally, I say in a fit of immodesty, that 34 Governors have tried to come and emulate it.

I said, "You give us the three punch machines and we will train them and give you 100 skilled workers within 100 days, and we will build the building, incidentally, in 100 days."

Now we have Digital, and we have four GE's, Dupont, Timpkin Roller Bearing. I will go right down the line.

On this quality proposition of testing, they would come around and give a test. That is what they used to do. The personnel manager from Boston, from Lowell, Mass., would come down and give tests.

What happened? They did not pass, and they said, "You cannot even operate and be productive as an industry."

On the contrary, without that high school diploma, we got in the quality.

I see the Senator. Let us talk about that high school diploma for a minute to get this out on top of the table.

The Senator from Georgia chose this. You will not find the word "attrition" in his release. If you look at the multipage thing here, you are not going to find "attrition" there. You have "quality" on the first page, "deterioration of quality," "armed WPA."

If that is not a broadside slap at those who do not have a high school education, I never heard of it. There is "quality deterioration" on page 2, quality is no problem. The letter quotes "decline in quality." On page 3, "soldier quality is diminished." You can go right on and he is focusing on quality on page 4. Go to page 5, "more recruits in the lower end of the scale," "higher quality" on page 5. On page 6, "mental ability," "deterioration in mental ability."

On page 7 you get down to "quality measures." On page 8, the "valid indices of quality," "individuals with lower mental abilities."

On pages 9, 10, and right on through the entire thing it talks about quality. Yet when we started yesterday, they said, "Wait a minute, let us not talk about that. Let us talk about attrition."

We will talk about attrition anytime. We all have the same attrition. If they want to do that, cut the end strength of the Marine Corps, of the Army, of the Air Force, of the Navy.

Mr. HATFIELD. Will the Senator yield?

Mr. HOLLINGS. Let me complete this one thought, please. I think it is important to talk about quality and a high school diploma.

It reminds me of the distinguished gentleman taking down this particular talk on the floor of the U.S. Senate. I do not know if you call him a reporter. We call it shorthand. I took Gregg shorthand one time. I never mastered it, by the way.

I was trying to emulate, in a way, James Francis Byrnes. He never graduated from high school. He became a U.S. Senator. He was a dropout from high school but trained himself, studied in a law office and got a degree and became a Supreme Court Justice in the U.S. Supreme Court. So give me a test and I am not quality as far as taking down or recording this. Jimmy Byrnes could do it. He went on to be assistant to the President, war mobilizer, Secretary of State, Governor, Supreme Court Justice, and not a high school graduate.

We are talking about aptitudes. We are talking about firing a gun. We are talking about doing all the other things that come into the computer here with a particular need.

We look, if you please, Mr. President, right on down, and you do not have to go just to the matter of Senators from long ago. What we do is only come up to the present day. We come up to the present day, and we find that we have the former majority leader, Senator Mansfield, a high school dropout.

Mike Mansfield is one of the most magnificent men I ever met. Intellectually, he is one of the most challenging. He quit that high school. I do not remember the particular seriatum, but he went first into the Army and then they found out he was too young.

Mr. GLENN. The Marine Corps.

Mr. HOLLINGS. Wait a minute. He ended up in the Marine Corps. But then the Marine Corps held him, they tell me, in the last instance. He is the only Member who served in the U.S. Senate who served successfully in the Marine Corps but unsuccessfully on account of age in the Army and the Navy.

His darling wife, Maureen, encouraged him that he could learn and he entered into the Montana College of Mines without a high school degree. He took that test and got into the particular college, studied, and became the majority leader. Now he is Ambassador to Japan.

So when we talk about this high school diploma, we say we do not want to get into it but that is what it all measures up to. We should remember, as Richard Lovelace said in To Althea: From Prison, "Stone walls do not a prison make, nor iron bars a cage" nor does a high school diploma mean everything.

We have now, in the matter of aptitude, coming right on up to date, Bjorn Borg, a high school dropout, going over and probably going to make his try and win Wimbledon for the fifth time.

Let us get right down to this overreaction about the high school graduate and what the Army is doing in quality and aptitude, because that is what we are trying to do, get the aptitudes that show up in our combat forces. If we go to the next page, we find a very interesting comment, and we shall debate this a little bit. That is why it takes a little time.

The Senator from Mississippi was trying to get a time agreement. Certainly, we are not trying to filibuster, but we are trying to be heard on this score.

Mr. HATFIELD. Will the Senator yield?

Mr. HOLLINGS. I yield to the distinguished Senator.

Mr. HATFIELD. Mr. President, I stand in opposition to this attempt to require the Army to reduce its end strength by 25,000 men unless it is able to significantly improve its quota of high school graduates. This is, as the Army has said, a self-fulfilling prophecy. This is not an incentive. It is an ill-conceived punishment. For the first time, the committee has authorized a significant package of military pay and educational incentives. While I commend the committee for having taken this step, I am all too well aware of the time we have lost through inaction. It is somewhat curious that the committee has suddenly decided to act on the same proposals which they so vehemently opposed in the past when Senators ARMSTRONG and MATSUNAGA attempted to insure that military pay would begin to come into line with the cost of living. I think it is safe to say that the Armed Services Committee knew full well that a pay increase amendment would pass this year.

In my opinion a stage is being set. After all these years of neglect, after abandonment of the principles upon which the All-Volunteer Force Was founded as outlined by the Gates Commission, the Senate has before it a respectable package of pay and education benefits. But next year when the Armed Services Committee comes before us and says, "we made the effort, we did everything we could, but the All-Volunteer Force is still not working—we must have a draft," let it be known for the record that this was too little, too late.

This slow twist of the dagger into the Army is further evidence of the foregone conclusion which marks everything the Armed Services Committee does with respect to manpower. The Army has stated unequivocally that this move will create havoc in the middle ranks. It will cause severe disruptions in the flow of Army activities. It promises to further aggravate the midlevel retention problem. If the Armed Services Committee was seriously committed to making the present arrangement work, it would not have gone this route. Seldom have I seen such a twisting of the facts as in the promotion of this "success through punishment" approach to the Army manpower problem. Let me say at the outset that there are very real problems in the Army, but it is nevertheless a formidable military unit. This proposal only adds fuel to the flames of conscription. It is a hatchet job. And conscription, my friends, will not cure any of the ills we face in the Armed Forces today.

But rather than accept the so-called "facts" which revolve around this issue of quality in the Army, let us look at the overall quality picture.

HIGH SCHOOL GRADUATES

The Armed Services Committee in its "Dear Colleague" letter states "that in 1980 the proportion of Army high school graduates is deteriorating." They go on to say that during fiscal year 1979 the Army recruited 59 percent male high school graduates but that during the last 8 months the Army recruited only 37 percent male high school graduates. The Armed Services Committee knows full well, perhaps better than anyone else in the Senate, that the services do not get the bulk of their high school graduates until well into the summer and the fall. The proportion of high school graduates having enlisted up until this point does not accurately reflect the percentage of high school graduates we can expect to have this year. In order to satisfy the Armed Services Committee, the Army must attain a percentage of non-prior-service enlisted accessions with a high school diploma almost equal to the percentage of high school diplomas held by the entire 18–24 population group. Yet, when the Senate considers its manpower levels in the spring we will not have an accurate picture of the high school diploma percentage for the entire fiscal year.

A high school diploma is a meaningful indicator of quality. There are a multitude of meaningful indicators of quality. Let me quote from Assistant Secretary of Defense Pirie with respect to this matter:

> If high school performance is a measure of staying power, it should not necessarily be thought to be a powerful indicator of on-the-job performance. A non-high-school graduate who stays in the service in general performs quite as well as the high school graduate.

Yes; the possession of a high school diploma can be correlated with a higher possibility of stick-to-it-iveness. And yet, the annual enlisted attrition loss reported by the Army has continually and substantially declined: In 1974, annual attrition losses numbered 113,789; in 1975, 100,549; in 1976, 109,000; in 1977, 96,651; in 1978, 66,719; and in 1979, 63,653. So, in this punitive effort to bring about higher quality levels in the Army, we will find the Army shying away from the non-high-school graduate. And as we do this, those who do not have a high school degree but who would stay in the service for a lengthy period of time will be turned back in significant numbers.

The exclusive focus on high school graduates as an instrument of quality control is ill conceived. Senator NUNN pointed out in a recent speech supporting this move that:

> Fully 25 percent of the Army's non-high-school graduates read at a 6th grade level or below.

The Senator knows as well as anyone that this is not a phenomenon unique to the Army or the Armed Forces, it is an educational problem applicable to our society as a whole. Indeed, let me quote from Mr. NUNN in the Armed Services Committee hearings March 10, when he said:

> I know the SAT scores over the last 10 years are worse—and if the tests are valid, we have a significant problem in our society as a whole, don't we?

What we are discussing today is part of a larger issue—the All-Volunteer Force peacetime conscription—a goal which the Senator from Georgia and others involved in the promotion of this idea have fully acknowledged.

Let me quote from Richard Cooper in the International Security Journal. Mr. Cooper was the director of the Rand Corp.'s recent study entitled "Military Manpower and the All-Volunteer Force".

> For the most part, concerns about declining quality under the all volunteer force are largely unfounded. In fact, the real question is whether the services have set quality standards that are too restrictive, not too lenient—especially with respect to mental aptitude. When quality standards are set too high, many personnel will be assigned to jobs for which they are overqualified. This, in turn, can create job dissatisfaction and can lead to higher personnel turnover.

Let me quote from another interesting piece of information which came in the form of a "Dear Colleague" letter from Congresman LES ASPIN who, as you know, is a member of the House Armed Services Committee and generally recognized as an expert in manpower affairs. He addresses the accusation which we often hear of how the All-Volunter Force is composed of "dummies" and "misfits", and that the All-Volunteer Army uses comic books as a training method in many cases. Mr. ASPIN says in his "Dear Colleague":

> As we hear of all the problems overwhelming the all volunteer system, it might help to recall a story of our late colleague, Bill Steiger. He described a series of visits to military bases. He spent days talking with servicemen and women at all levels and he listed the themes he heard repeated:
>
> Soldiers charged that recruiters misled them;
>
> Senior officers said discipline was atrocious;
>
> Top sergeants complained that the quality of troops was declining and that there were lots of dummies;
>
> Drug use was rampant;
>
> Crime rates had soared and one base was said to be controlled by the "criminal element" after dark.

Then-Congressman Steiger pointed out that he made this tour in 1971, 2 years before the all-volunteer system was born.

There is an active effort afoot to make the all-volunteer system carry the burden for every problem we see in the services today. In truth, many of those problems predate the all-volunteer system. Rarely is there a causal link between the All-Volunteer Force and the "problem." When comic books were used to train draftees, it was seen as an imaginative way to keep their attention. Why should it now be presented as an indication of failure to use comic books to keep the attention of volunteers?

SQT TESTS

Perhaps the most misleading effort to enact the 25,000-man troop cutback is Senator NUNN's most recent press release. At the top in bold letters, Senator NUNN announces, "Deception Campaign Launched by Army on Volunteer Force." Senator NUNN goes on to explain that new results of skill qualification tests show that there is significant deterioration in the ability of Army personnel to do the jobs they would have to do in combat. In this, Senator NUNN selectively chooses areas of testing in which there is a high failure rate. To take this information at its face value and interpret it, as Mr. NUNN defines it, as a "report card of combat skills," paints a most horrifying picture of the preparedness of our Armed Forces.

I contacted officials at the Army to determine the real story. They pointed out that many of the tests are invalid. Mr. NUNN also points this out in his press release but uses the figures anyway. Though the insinuation is that these tests were thrown out because they did not show the results that the Army would like to have seen, the reality is there are some very good reasons why these tests have been determined invalid.

For instance:

The skill qualification test used to gage the ability of the tank turret and artillery repairmen cited by Mr. NUNN shows that 98 percent failed. The test was thrown out because it is not item specific. In other words, there are many items on the test in which a tank turret or artillery repairman could not be expected to have any knowledge.

With respect to nuclear weapons maintenance specialists, the test was determined to be invalid because too much memorization of data from manuals was expected of those taking the test. In order to perform their job proficiently, these individuals need not memorize the data. They can turn to their manuals.

With respect to artillery crewmen tested, Mr. NUNN states that 86 percent failed. The Army states that in 1978, 52 percent failed and that in 1979, only 26 percent failed, giving this category a very high rating and showing a very positive trend.

Of the missile crews tested, Mr. NUNN cites an 82-percent failure rate. The Army shows that while in 1978, 86 percent did fail, in 1979, this was reduced substantially to 67 percent.

Among cannon fire direction specialists, Mr. NUNN has a citing of 81-percent failure. In reality, in 1978, 86 percent failed. But in 1979, 67 percent failed.

These tests are to be used to measure trends. Their purpose is for troop commanders and supervisors to see if there is a positive or a negative trend of performance in certain skills.

Let me point out the figures from this data which Senator NUNN did not use. I will also use pass rates rather than failure rates which I think everybody realizes have a more negative connotation.

In the infantry in 1977, 70 percent passed the test.

In 1978, 84 percent passed the test and in 1979, 82 percent passed the test. Again, we have a very high percentage of Army personnel passing these tests in this crucial category and a significant upward trend.

Among mortar crewmen in 1977, 41 percent passed the test. In 1978, 72 percent passed and in 1979, 68 percent passed. I want to point out that the Army considers a 70-percent passing rate to be an extremely positive indicator of proficiency.

Among artillery crewmen, in 1978, 48 percent passed. In 1979, 74 percent passed.

Among fire direction specialists, in 1978, only 14 percent passed. But in 1979, this was raised to 43 percent.

Among short-range air defense crewmen in 1977, 77 percent passed. In 1978, this went down slightly to 74 percent.

But in 1979, the passage rate was 96 percent.

And I could go on.

Let me add a few more comments about these tests. They are constructed with the most difficult tasks in mind. These tests were never intended for public consumption as a measure of military quality or preparedness. They are used as a training mechanism for troop commanders and others in a supervisory capacity to target areas in which improvement is needed and where praise is due.

The Army is in the process of making changes which will strengthen the validity and equitability of the system. The Army is also clear in its preference for emphasis on jobsite training rather than the written mode.

Anyone who has ever been in the service knows that a machinegunner or a tank driver cannot be judged on the basis of a lengthy written test but rather on his motor skills and on-the-job performance. Some tasks and skills can be evaluated using paper and pencil tests; some cannot. Another point about the test. Once an individual has taken the test and passed, he is not permitted to take it again. Therefore, as successive tests are performed, the individuals taking the test do not include the pool of those who excelled on the original test. Therefore, there is a built-in, downward bias in these tests. Again we have an example of how the proponents of this legislation selectively take information to make a point that has already been concluded in their minds. Namely, that the All-Volunteer Force is a failure, and hopelessly dependent on incorrigible "dummies" and "misfits".

AFQT

The final quality indicator which must be discussed involves the accuracy and the proper interpretation of results from the Armed Forces qualification test (AFQT). Again, I would like to turn back to Mr. NUNN's statement in the CONGRESSIONAL RECORD on June 25 with respect to this issue. Senator NUNN refers to the possible revision in these scores as though it were the gospel truth. Instead of prefacing his statement with such clauses as "If these potential miscalibrations are proved correct," Mr. NUNN makes statements which appear to be fact.

But they are not fact. The Department of Defense is now studying this matter. Recent studies suggest that the test results at the lower ability levels have been inflated because of imperfect calibration with previous tests. If these studies are correct, it indicates that we may be enlisting a substantially higher percentage of lower ability people than we had previously thought. We have heard that while we had come to believe that only 5 percent of our accessions were coming from the lowest acceptable ability category—category IV—we may perhaps now be getting between 14 and 28 percent of total DOD accessions from this category. This figure may be as high as 45 percent for the Army.

Over and over again, in testimony before the Armed Services Committee, officials from the Department of Defense emphasize that this data is extremely tentative. Let me quote from Assistant Secretary of Defense for Manpower Mr. Pirie:

> I must emphasize that we are exceedingly tentative about this data. Three different studies by testing experts have produced substantially different results.

What should be stressed is that even if these allegations prove entirely correct, intelligence levels of the overall Armed Forces still remain at least as high as they were during the peak strength years of the Vietnam war under the draft.

While there is absolutely no conclusive data, there are some obvious inconsistencies. Secretary Pirie notes, for instance, that no increase seems to have occurred in the proportion of applicants qualified for service. In fact, rejection rates for enlistments have increased substantially and have continued to be high. In fiscal year 1978, 25 percent of the applicants—over 100,000 people—were rejected for enlistment on the basis of low mental test scores.

The question is, if we have a higher number of category IV recruits, why do we not have a corresponding decrease in the number of those rejected? And why has retention been so high? Since 1974, the Army has increased its career content by 37,000 soldiers to a level where 39 percent of the force has over 4 years of service. This compares with 34.2 percent in 1965 and only 18 percent in the year the President created the Gates Commission. Supposedly, we are recruiting less intelligent and less able soldiers. Supposedly, less intelligent soldiers are less likely to stay in the Army. Again, I turn to Richard Cooper, author of the Rand Corp.'s comprehensive study of military manpower in the All-Volunteer Force:

> As a general proposition . . . mental aptitude is an important determinant of trainability and job performance, but it appears to be far less crucial for medium to low skill jobs than for high skill and more technical occupational assignments. In fact, for the less technical jobs, it appears that category 4 high school graduates do much better than higher mental aptitude non-high-school graduates. This suggests that category 4 high school graduates can be valuable members of the military, particularly in jobs that place less emphasis on cognitive skills. A sizable proportion of jobs in the military—indeed, a majority—could be broadly classified as medium to low skill. In other words, there are many jobs in the military for which category 4 personnel, particularly those with high school diplomas, are more than adequate and may even be preferred. Most analysis suggest the categories for a high school graduate are more productive on the job, pose fewer disciplinary problems, and have lower attrition rates than categories 1–3 high school dropouts.

The Armed Services Committee has imposed a 20-percent ceiling on the number of category IV recruits. The inconsistency of coupling the end strength cutback with a category IV ceiling is clear when one considers that no category IV without high school diplomas are allowed into the Army. If we limit the number of category IV, we are also going to decrease the number of high school graduates. For every category IV recruit we turn back, a high school graduate will be turned back. Again, the self-fulfilling prophecy emerges.

THE ARMY IS WORKING

Finally, let me turn to what is often not said about the Army—that it is working and working well.

A.W.O.L. AND DESERTION STATISTICS

[Annual rate per thousand]

	1974	1974	Percent change
A.W O.L	129.9	38.0	−71
Desertion	41.1	18.1	−56

DISCIPLINARY PROBLEMS

[Average quarterly rate per thousand]

	CY 1974	CY 1979	Percent change
Violence	2.06	1.54	−25
Property	22.44	18.53	−17
Marijuana	8.13	6.83	−16
Other drugs	2.06	1.62	−21
Courts martial	6.16	2.58	−58
Nonjudicial	52.90	48.33	−9
Separation other than honorable	7.11	4.17	−41
Adverse honorable and general separations	14.55	12.03	−17

I urge that the Senate reject this bill. This is no way to encourage the Army to increase its quality level. It is, as the Army has said, a self-fulfilling prophecy. It is unconstructive, and I know full well that it is designed so that next year, when the Army is struggling to deal with this situation, the Armed Services Committee can say, "we tried, but it just did not work. We are going to have to return to the draft." It is obviously a plan designed by those who have already given up on the All-Volunteer Force, who have already given up on the Army, and who will not be satisfied until we have returned to a Prussian system of compulsory military service. Our men and women in uniform deserve better than this.

Mr. President, I wanted to take my position with the Senator from South Carolina and his associates on this amendment. I think it is a very proper one and one that I shall support.

I believe that, as the Army has said, this is a self-fulfilling prophecy and this is not an incentive, this is an ill-conceived punishment.

I thank the Senator from South Carolina for yielding. I commend him and I might add as a further comment, what he has said of the high school diploma could just as easily be said of a college degree in terms of whether it should be considered as the union-card equivalent to recognition of knowledge and absorption of wisdom and so forth.

I think we have gotten ourselves into too much symbolism today in the field of education and we have not really struck at the heart of the matter; that is, the ability, the aptitude, the judgment, the wisdom that can come from native intelligence and cannot be accounted for in some kind of arbitrary examination or the awarding of a diploma. I have seen too many people who have been given diplomas merely to get them out of the babysitting activities that the high schools have become involved in.

Mr. HOLLINGS. I thank the Senator from Oregon. He is right on target with the testimony we have had from Dr. Moskos. We have had hearings, too, and the Senator from Georgia was participatory in those hearings when he was on the Budget Committee to improve our readiness.

The Senator from Georgia is to be commended. He traveled with our former colleague, the late Senator Bartlett, to get us up on readiness. We have mission control. Dr. Moskos said that of the 100,000 in the combat forces—I see some former colonels sitting around—of 100,000 in combat forces, only 25 are college graduates. Only 25 out of 100,000.

This is the point, because here it is. I am quoting the Senator from Georgia in the debate on yesterday:

> That means we do not have people out in the field, even though they are in the Army, and the Army has blown up the numbers, they are not getting them in combat units. They are blowing up the training basis, the support basis, running them through a revolving door and not getting them in the field.
>
> If you "attrit" twice as many, the crucial question is not the overall number of the Army, but how many people the Army put in units, trained to do their job.
>
> That is a situation, I say to the Senator, if the Army goes to 72 percent high school graduates, as opposed to the current plan of 38 percent, we will have more people in the combat units, even if there is a smaller Army.

Correction on two scores. One, the proposition that more people are going into the combat units if you get more high school graduates. That is the exact opposite of the experience. The high school graduates are going into the other fields of the services. We all know that. We all know that. The skills, the technicians and everything else are not in that frontline, necessarily, in the combat forces.

Correction two, to the current plan of 38 percent. Nothing could be farther from the truth. The Army at the present time is not planning for 38 percent. They testified before the Armed Services Committee, included this in the bill, that they hope to come on up to about 52 or nearer 55 percent in high school graduates.

They were unusually low last year. But 83 percent right now of the enlisted force of 670,000, 83 percent are high school graduates, and many of those are receiving those high school diplomas within the services. The U.S. Army is the best place to get a high school education. That has worked extremely well, and we ought to recognize that fact.

In fact, by the same token, in the same breath, we ought to recognize that we have all these flunked scores there, and there are a lot of high school graduates flunking. If you take 80 percent that flunked this, 90 percent that flunked that, so-and-so flunked this and so-and-so flunked that; you talk about warm bodies and you have warm bodies in an armed WPA—we are painting a devastating picture, painting a very false picture.

Mr. NUNN. If the Senator will yield for one comment, I have heard this word "dummies" used several times. The Senator from Georgia has never used that word. The opponents have used that over and over again and it is getting picked up in the field. I think that is tragic, because it is not being quoted on this side at all.

Somebody keeps saying that people are talking about "dummies." I have never used that word, I would never use that word. The terminology I have used is the Army's terminology. I have talked about middle categories. That is the Army's terminology.

I have talked about high school graduates. That is the Army's terminology.

If the Senator from South Carolina wants to create the impression that someone on this side of the issue is talking about "dummies," I would like him to find me that quote. I think if the word goes out that "dummies" are being talked about, it ought to be quoted directly from people using that term. I have not used that term. I will not use that term.

There are people who do not have high school degrees who are excellent in the U.S. Army; there is no doubt about that. There are people who are category IV's who are doing their job and risking their lives.

I do not want anyone on this floor to say the Senator from Georgia has used the word "dummies" to describe any of these people. We are talking about a difficult quality comparison, an overall statistical comparison. When you start throwing those terms around, just make it plain that you are speaking for yourself as the Senator from South Carolina and in no way speaking for the Senator from Georgia.

Mr. HOLLINGS. Mr. President, if you refer to them as an armed WPA, if you refer to them as an armed Job Corps, if as you refer—and I refer to the language of the Senator from Georgia quoted on S. 8904:

> If we talk about how many warm bodies we will have in the Army, then they ought to vote the Levin amendment, because that will assure us we are getting a lot of warm bodies.

We shall not call them dummies hereafter, we shall just call them warm bodies. That satisfies the Senator's point.

Mr. NUNN. If the Senator will look at the speech that was made, I said our military is not an armed WPA and we must not permit the Army to become a Job Corps equipped with tanks and nuclear missiles. If the Senator wants to quote, I wish he would quote accurately.

Mr. HOLLINGS. I do quote accurately. That is my intent.

Now, how many warm bodies are without a high school diploma—Sergeant York? We disqualify the Medal of Honor winner. In fact, I tried checking. We have 28 Medal of Honor winners—we have a museum at Fort Jackson—from South Carolina. We find over half of those would not qualify under this new Army that the Armed Services Committee is going to organize under their language, cutting the end strength and requiring, by law, an affirmative action policy, without the equipment to do it, of high school diplomas.

So, with respect to the warm bodies without a high school diploma, that to me—that is my quote about "dummies," because that is exactly the inference that we have heard discussed and everything else around. We have heard the language used before. We might put it in very careful language, but warm bodies without a high school diploma characterized as a Job Corps work group, and talking throughout, in all the releases and the statute itself, about high school diplomas and all of these flunking—to get people who pass, they are quality. They are the ones who are "A" students. They are smart. If you get people who flunk, and we are talking about flunking; let us call them flunkers. They always called them dummies in my school, where they brought us up in the public educational system, that if you could not pass, you were a dummy.

There you are. Let us look at these particular test scores that the distinguished Senator from Georgia uses, because they are greatly misleading.

I went and looked because I could not understand, with 83 percent high school graduates, how they were flunking that many. They were not passing. Then I found out that the thrust in the beginning of the test scores—and if I can find out here now, for example, of the 1,574 artillery crewmen tested, 86 failed. That was back in 1977.

They did not talk, incidentally, Mr. President, about the improvement because of that same figure used by the Senator from Georgia in 1978. It was 52 percent. In 1979 it was 26 percent.

We got no credit in this immediate update of the June 25 release.

They are the Manpower Committee and they could see what GAO said, that they were doing a better job, could look at the same statistics and not use the 1977 figure, but use the updated figure on the improvements.

Then look at the exact way in which we have come about, for example, of the 1,095 Hawk missile crews tested, 82 percent failed. We find now in 1979 only 28 percent failed.

I think this is what the average Senator like myself, coming new to this particular subject, should understand.

The Army and the skill qualification test is not carved in stone. It has not had enough experience and, in many instances, they did not necessarily respond.

Particularly, this is true, we could have hearings. I talked with one particular colonel, Lieutenant Colonel Spisak. He just come on liaison, I think most of my colleagues know him. He had an aviation battalion at Fort Carson. They flew every day. They met the flying requirements, and everything else.

They asked about the particular test they have here, about the number of failures, and they saw that a dramatic 91 percent of aviation maintenance failed.

I said to the colonel that that would be dangerous, that I would be scared to come out to his particular aviation battalion and get near one, much less fly one, if 91 percent failed.

He said that during the 18 months there were no accidents. The unit was up to snuff. The unit was doing a good job. This so-called special skill qualification test, was developed in late 1978 and early 1979. He said that from his personal experience, something was wrong with that test. He said that he knows differently. He just came from commanding that particular unit, and he knew what it could do.

So it is a sort of thing we have to all understand, the Army has to understand, how misleading it is when it is instituted, trying to improve the training practices, rather than the skill of the particular trainee.

We have to understand, on the other hand, that they do not necessarily respond properly in writing out all these things.

I know my mechanic would hate to get a test in writing and describe how to fix my automobile. But I can say now that I cannot fix it and I could probably answer some of the questions on the test.

Mr. President, the whole thing is that the skill qualification test talks about those who have been tested with respect to a training program. They found the training program, on the one hand, has been wanting, and, on the other hand, they needed further training, and this is a healthy thing.

This does not mean that what we get is a bunch of warm bodies without high school diplomas.

Finally, Mr. President, and I will retain some of the time here because we want to get in some other particular points, but the matter of categorizing on these tests, the tests go back to 1930. But they never gave this particular test until 1976.

It has not been a cover-up, but was instituted by the Army on its own volition during President Ford's administration. It has been carried out, and the tests adjusted.

So when the Secretary of the Army comes back and says, which looks to untrained minds and eyes in the U.S. Senate, that we have changed the test, that does not sound cricket unless we understand exactly why.

They found the test had not been responsive to the actual skills, the performance, and what they know on the ground to be the case, that they are far better.

So when the Secretary of the Army answers a question that we have discontinued that, or changed it, it is not a callousness and coldness, to say that we do not care about quality any more, and we will get an armed WPA and just a bunch of warm bodies without a high school diploma.

On the contrary, there has been so much pressure, Mr. President, that they actually have been caught cheating, with the pressure brought on the Army, the sergeants, the recruiters, and everything else.

It has really almost been a scandal in the other direction, that the Army brought too much pressure.

The assumption in this particular amendment is that the Army assumes it does not want or does not feel it is important to work on a high school graduate.

That is totally false.

The assumption of the provision in the armed services bill is that the Army is given a runaround, it does not care, that the Army is engaged in a massive campaign of deception launched by the Army.

That is not the case at all. We know the Chief of Staff, we know general officers, we know that pride they have in the Army, to come and say that we have the same problem, and the Air Force, on attrition, and the Navy on attrition, and we have the same problem in the Marine Corps on attrition that the Army has.

We know we do not want to talk about it. We know it is pay. We know it is benefits. We know the disaster we caused in canceling out the GI bill, and everything else.

But what we are going to say is "Army, you are engaged in deception."

That would be a bad impression to conclude from this particular provision in the armed services bill.

We have got to move forward on this particular amendment and hold the one thing that is stabilizing the Army and allowing it to succeed with those provisions required by Senator NUNN and the Armed Services Committee, namely, trying to get more in combat, and less into rear area support, and more into the military, and less into civilian employees.

Between 1976 and 1980, they have cut back 60,000. They have reversed the percentages. Instead of 12, we have 16 combat divisions ready now.

General Meyer says that is a result of the initiative with respect to the Army itself.

Remember that when we fought in World War I and won the war to end all wars, it was 30 percent. Not the 17 percent that are non-high-school graduates. It was 30 percent in category IV.

We fought that war and won it, and that was a pretty good Army.

In Korea, we fought that war, and if we had been allowed to win the way I wanted to, it was a good Army.

I do not know if we would win or draw still there now—still the DMZ. That was 40 percent category IV.

Let us not come here at the last minute, Mr. President, and say, after not having really corrected the things that are wrong, give them a fair chance, as the Senator from Ohio says, an adequate package and an attractive enough package to keep them there, and find there is some kind of deception going on that there is a wrong attitude in all these things. That is not the fact; that is not the case.

I see that the Senator from Kansas (Mr. DOLE) wants to speak, and I yield the floor at this time.

Mr. STENNIS. Mr. President, I believe the Senator from South Carolina has made a contribution.

I know that I do not control who is to be recognized by the Chair, but I hope that the Senator from Georgia, in representing the committee, will seek the floor now.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I should like Senators to know that it is now 10 minutes to 12, and we have been on this amendment for about 2 hours and 50 minutes today. The committee position has not been explained because we have not had the floor. That is certainly in accordance with the Senate rules.

We do not have a time agreement. People may say later in the day, "Why are you taking so long on your side of this presentation?" I do not know the precise time last night, but 30 minutes to an hour was taken on the Levin side of the argument. Today, we have had 2 hours and 15 minutes. So we have had about 3½ hours on the other side, and we have not made any presentation at all. I probably have taken 20 minutes of the time they have had by asking questions and making a couple of brief remarks.

Mr. President, I yield to the Senator from Nebraska so that he may be recognized.

Mr. EXON. I thank the Senator from Georgia.

Mr. President, the Senator from Nebraska has been on the floor since the Senate convened at 8:45 this morning. There seem to be some rather sharply divided opinions as to the recommendations of the Manpower Subcommittee of the Armed Services Committee, on which I serve, and the recommendation of the Armed Services Committee to this body with regard to strength and quality of the U.S. Army.

Mr. President, despite the statements pro and con, the rhetoric that has been brought forth on the floor of the Senate does not indicate that the Armed Services Committee has taken this recommendation lightly. In fact, we labored over it for a considerable period of time. What was the Armed Services Committee concerned about?

We can talk about all these side issues if we wish, and we might become overly concerned about what I understand—and I emphasize the word "understand"—are some threats by the star boys that they are going to close down all kinds of military establishments all over the United States, including the withdrawal of two or three divisions from Europe and elsewhere.

I simply say, Mr. President, let us try to stay away from all that, and let us try to focus back, if we can, on what was the reasoning of the Manpower Subcommittee and the Armed Services Committee in this regard.

We do not need to become sidetracked on test scores, although the test scores that have been entered into the record, I understand, are test scores of the armed services themselves. That is not anything that the Senator from Nebraska or the Senator from Georgia invented. Those have been entered as part of the record simply to try to set the overall tone that most of us on the Armed Services Committee feel that we must do something to bring the Army to task, if you will, on improving the quality of the people we are taking in.

I certainly have a high regard in general for the Army. What we are concerned about is the direction, if you will, with respect to the new people who are coming in and who have been coming in for the last 6 months.

The figure I should like to focus on right now is that the Army concedes that for the last 6 months, of the people they have been taking in, only 42 percent have a high school diploma. Of the people who have come into the U.S. Army in the last 6 months, only 42 percent have a high school diploma. I do not know whether that is all bad or all good, but I suggest that any rational discussion among rational people would have to indicate that that is probably not too good.

When we talk about statistics, let us remember that it might be a good idea if we were to apply a little common sense, a little reason, as to what confronts us. Let me put it this way: If any business or corporation or any other organization in the United States today had a recruitment policy or, to put it in broader terms, a personnel policy whereby they attracted people of whom only 42 percent who joined that organization had a high school diploma, I would think that we might raise a question as to whether or not they had a very good personnel selection process or program.

There probably are many things, including the plea that I endorse, made by many here today, that we need to pay these people more. However, I say that commonsense and reason should play a role here. Just paying people more is no guarantee that we are going to improve the ratio of high school graduates.

If you agree with the Senator from South Carolina that you join the Army to get a high school education, then I suppose that my theory in that regard goes out the window. But I do not believe that, generally speaking, people should be encouraged to go into the Army to get a high school education.

It seems to me that we have to focus on the fact that the Army is doing a job on recruitment, and there are many ways we are going to be able to improve that. Maybe we are going to pay more. Maybe we are going to take off some of the heat that has been clearly demonstrated on some of the recruiters to get warm bodies, cool bodies, hot bodies, whatever you want to call them, to meet the quotas we have.

I suggest that a part, and only a part, of the Manpower Subcommittee's recommendation is the fact that we have a record of accomplishment exactly on line with the route we have taken and recommended to the Senate, which says that we are going to reduce the Army's strength by 25,000 men only if the Army cannot come up to its established goals for the numbers of people going into the Army who have high school diplomas. If the Army can come up to their quotas—their goals, not ours—then we certainly will recognize that they should have the full strength, and we are for that.

Mr. President, I believe it is important that we send a clear signal to the Army that they have not been doing the job most of us thought was necessary in the past. We have a track record on this that I believe should be emphasized.

Mr. President, back in fiscal year 1976 the Marine Corps had a quite similar situation that came to the attention of the Armed Services Committee, and the Armed Services Committee did something about it. What the Armed Services Committee did back in 1976 is the same course, the same road that we are suggesting the Senate follow now, and it worked.

During consideration of the fiscal year 1976 defense authorization bill, the Senate reduced the Marine Corps end strength in an effort to stress quality rather than quantity. The following table shows how this reduction made its way through the congressional process:

Fiscal year 1976

Administration request	196,000
Senate reduction to	190,000
Conference result	192,000

In that year, fiscal 1976, the administration request of strength was 196,000 for the Marines, the Senate reduced that to 190,000, and as a result of the Senate-House conference it was established at 192,000, or 4,000 below what the administration had requested.

Again the idea of doing just that was the same message that we are trying to send to the Senate right now and to the Army, that we want an improvement in the quality of high school graduates.

The following table shows the percentage of high school graduates which the Marines had recruited before that action and what they recruited afterward.

The following table proves the case that it worked for the Marines.

	Percent
1972	50.8
1973	49.6
1974	50.2
1975	52.7
1976 (first year of stress on quality)	61.6
1977	70.0
1978	74.7
1979	75.0
1980 (projected)	75.0

In 1972 the Marines had a percentage of 50.8 percent of those entering that service with a high school diploma. In 1973 it was 49.6. In 1974 it was 50.2. In 1975 it was 52.7 In 1976, the first year that the pressure was put on the Marine Corps to improve their number of high school diploma people going into the service, it jumped to 61.6 percent. In 1977 it increased to 70 percent, in 1978 to 74.7 percent, in 1979 to 75 percent and held in 1980 to 75 percent.

In addition to the congressionally mandated Marine Corps end strength reduction of 4,000, the Marines released another 19,200 service members as unsuitable for further service in order to further move for quality.

The 1976 cut proposed by the Senate amounted to 4 percent. What finally resulted from the congressional process was a 2-percent reduction. Once again, what the Senate is recommending is a possible 4 percent Army reduction, in the worst case. This year, the Senate is proposing a recovery mechanism, which was not offered to the Marines in 1976.

So I think the issue basically, Mr. President, is whether or not the Senate is satisfied with 42 percent only of people coming into the Army with high school diplomas. If we are not concerned about that we can make all kind of excuses as to what causes it and how we might correct it in the future. The recommendations of the Armed Services Committee that is being attacked in the Chamber is, in my opinion, being attacked in many instances for the wrong reason. Some people have maintained that if we cut the strength of the Army we are sending the wrong signal to the Soviet Union.

Mr. President, if that is all we are doing here in the Chamber is sending signals then why do we not just send them a true signal "dit-dit-dit-dah" and claim victory over the Soviet Union and that way we will eliminate all wars?

The Soviet Union, I suggest, knows full well the lack of adequate strength of our Army and the lack of adequate quality in our Army. Therefore, Mr. President, I believe that common sense and reason should send the signal not to the Russians but to us that for whatever the reason the U.S. Army is not now attracting the quality of people that most of us would like to see on average.

In closing I simply emphasize that if the Senate will go along with the recommendation of its Armed Services Committee, all that we are saying to the U.S. Army is reach your goals, the goals that you have established for high school graduates and there will be no cut in the total strength.

I yield the floor, Mr. President.

Mr. HARRY F. BYRD, JR., and Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, the Senator from Nebraska has added a dimension to this debate which is important. He has discussed what the Armed Services Committee did 4 years ago in regard to the Marine Corps.

I remember that fight so very well, especially because the opposition was led by the predecessor of the distinguished occupant of the chair at the present time. The leader in the fight against reducing the end strength of the Marine Corps from 196,000 to 191,000 was the late Senator from Oklahoma, the beloved Dewey Bartlett.

I remember one day in committee when Senator Bartlett forced six or seven different votes, each vote trying to add to the 191,000 figure. He began with 4,500 and went down by units of 500 until he got to 91,500 and the committee in each case beat that down.

The purpose, of course, of what the committee advocated at that point in regard to the Marine Corps was the same as the purpose today. The purpose was to increase the quality of the Marine Corps personnel.

The action of the Armed Services Committee at that time was strongly opposed by the Commandant of the Marine Corps, Gen. Lewis Wilson, who I think is one of the finest, ablest, and best Commandants the Marine Corps has ever had. If we were to ask General Wilson and other key officers in the Marine Corps whether that action taken by the Armed Services Committee 4 years ago turned out to be beneficial to the Marine Corps, I think that the answer would be in the affirmative by an overwhelming majority of those who are familiar with the Marine Corps operations.

In regard to the present effort to increase the quality of personnel in the Army, I was impressed by the speech of the able Senator from South Carolina, one of the finest debaters in the Senate and one of the ablest Members of the Senate. The Senator from South Carolina in his comments pointed out that the Senate cannot expect the leadership of the Army to admit or to assert that there is a lack of quality in the Army.

The Senator from South Carolina pointed out that a platoon leader could not say it and still have control over his platoon. A captain of a company could not, and a major of the battalion could not, and that the Secretary of the Army cannot either. I think that is correct.

And that is why the Armed Services Committee under the leadership of the Senator from Georgia (Mr. NUNN) took the position it did 4 years ago in regard to the Marine Corps and that is why it is taking the position it is today in regard to the Army.

The Armed Services Committee is trying to help the Army. The Armed Services Committee is not attempting to do anything contrary to the best interests of the Army. It is trying to help the leadership of the Army in a problem which the leadership of the Army finds it very difficult if not impossible to combat on its own.

The Armed Services Committee feels that it has an obligation, an obligation to the Senate, an obligation to Congress, and an obligation to the American people to give its conscientious judgment as to the need to improve the quality of personnel being recruited in the Armed Forces today.

The committee is doing that with the purpose of helping invigorate and improve the Nation's national defense.

Now, Mr. President, for the fiscal year 1975 of every 100 persons who enlisted in the Army only 14 reenlisted. There is a tremendous attrition rate, and there is a very low reenlistment rate.

I queried the Secretary of the Army as well as the Secretaries of the other services when hearings were held on this matter in January and February of this year. At a later time, not at the moment, I will ask unanimous consent to put this transcript of these hearings in the RECORD. As a part of those hearings I asked the Army, the Secretary of the Army, to insert for the record, because he did not have the figures at his fingertips at the time, the reenlistment rate for the fiscal year 1974 and for the fiscal year 1975 for high school graduates and for non-high school graduates.

For the fiscal year 1974, according to the information submitted to the committee on page 195 of the committee hearing, of the transcript of the committee hearing, the Secretary reported that high school graduate reenlistments totaled 17 out of each 100 enlistments, while the non-high-school graduates 9 reenlisted.

For the fiscal year 1975, out of 100 high school graduates, 17 reenlisted, and out of the non-high-school graduates there were 10 who reenlisted. So there is a tremendous difference in reenlistment rates between the non-high-school graduate and the high school graduate.

1975 is the last full year, and that is why these figures are being used. There is a projected figure for 1976, but that reenlistment period is not completed until 1980 which, of course, has not yet occurred. We are only in the seventh month of the year.

The point I am making is that not only is the Army not getting the quality of individual who is needed, but beyond that the reenlistment rate is very, very low. The importance of the reenlistment rate is of much significance. The higher the reenlistment rate the less turmoil, the greater experience the Army has, but also from the point of view of the cost of operating the Army, the higher the reenlistment rate is the better off the Army is from a financial point and from the point of view of the taxpayers.

So I think it is extremely important to recognize the very high attrition rate and to recognize the very low reenlistment rate in the Army. What I say about the Army to a considerable degree, but not to the exact degree, applies to the Navy and to the Air Force.

I might also say that what is not generally recognized by the American people is that in order to recruit under the present system a series of enlistment bonuses, a number of enlistment bonuses are given to the enlistees, and those enlistment bonuses begin at $2,500 or $3,000, and there is another category at $2,500, another at $1,500, and another at $1,000. There are 36 categories that receive enlistment bonuses from the Army.

Incidentally, the present bill, an element of the present bill, which I oppose, would double the enlistment bonus level for each of these categories, the $3,000 award would go to $6,000, and so forth.

I might point out that these enlistment bonuses are paid to the recruits after they serve 12 weeks of training, so the recruiting officer goes into whatever area he is recruiting in, seeks out an 18- or 19-year old, sells him on the benefits of the military, and then offers him in these 36 categories, if he enlists for one of these 36 categories, a cash bonus to be paid to him in one lump sum at the end of a 12-week training period.

Mr. President, I ask unanimous consent at this point to have printed in the RECORD pages 166 and 167 of the committee hearings of January and February of 1980, and pages 193 through 195 of the committee hearings.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

Secretary ALEXANDER. Senator Byrd, the amount is over $315 million on the active side. When totaled with the Reserve and National Guard it approaches $500 million. I think it is something over $443 million.

Senator BYRD. You say roughly in round figures $500 million for recruiting?

Secretary ALEXANDER. That is correct, sir.

Senator BYRD. Do you happen to remember the figures for fiscal year 1980?

Secretary Alexander. I believe it would be in the range of $400 million.

Senator Byrd. But the new budget provides for approximately, in round figures, $500 million for recruiting?

Secretary Alexander. That is right.

ARMY REENLISTMENT

Senator Byrd. Secretary Alexander, out of each 100 persons who enlist in the Army, how many reenlist?

Secretary Alexander. About 48 percent of the total force is made up of people who have gone beyond the first term of service. That does not completely answer out of 100 people how many would reenlist. I can tell you the factors that go into it without attaching a number to it out of 100 people who come in for their first term of service, about 69 of them continue. Out of those 69, some percentage re-up, some are first-terms, and some are second-terms. So the number would be probably well less than half.

Senator Byrd. I am wondering whether we are talking about the same thing. Two years ago I asked you the same question. At that point, of the original 100, 13 soldiers reenlisted.

What I am trying to get is what the figures are today.

Secretary Alexander. I can provide an exact figure for the record. I can say to you definitely it is a higher number than 13.

Senator Byrd. I am speaking now of 100 persons who enlist, how many of that 100 would reenlist?

Secretary Alexander. Again, I can provide a precise figure for the record. I can say to you it is certainly more than 13 this year.

The factors that would go into determining that number include the 69 out of 100 who complete their first term of service.

Senator Byrd. Thirty-one percent don't even complete the first term of service?

Secretary Alexander. That is correct. However, a reasonable percentage of those 69 reenlist. For our overall career forces, the number is 48 percent. That is an overall figure—that is not just people who re-up after the first term. That number would be less than half of the 69 percent. I am certain it is more than 13 people.

Senator Byrd. Would you supply the exact figure for the record?

Secretary Alexander. Certainly.

[The information follows:]

REENLISTMENTS

Answer. From the fiscal year 1976 group of enlistees, 17 out of 100 are projected to reenlist as compared to 14 and 13 from the respective groups of fiscal year 1975 and fiscal year 1974 enlistees.

NAVY REENLISTMENTS

Senator Byrd. May I ask the Secretary of the Navy the same question: Of 100 men who enlist, men or women, who enlist, how many reenlist?

Secretary Hidalgo. First term, or retention in 1979 was 37.5. Thus far in 1980 it is 34.5 percent; second term, 45 percent and in fiscal year 1980 it is 50.5 percent; third term, our retention is 91.4 percent; in 1980 it was 92.2 percent.

So our total career retention rate is 65.9 percent, if you average that out.

Senator Byrd. I would like to get to the new enlistments. Of each 100 new individuals who enlist, how many of those reenlist?

Secretary Hidalgo. Sir, if I may break it down this way, I gave you the first-term retention percentages. On attrition, those that fall out, after 6 months the attrition is 11 percent; so, out of 100, 11 would quit within the first 6 months. After 12 months served, it is 15 percent attrition, so 15 would go out. After 24 months served, it is 26 percent, 26 would go out. After 36 months served, it is 32.4 percent, so we would lose 32 out of 100.

Senator Byrd. You lose a third to attrition?

Secretary Hidalgo. That is right, sir.

Senator Byrd. What is the reenlistment rate then? Of the 100 individuals, how many of those 100 would reenlist?

Secretary Hidalgo. From the percentage I gave you before on the first-term retention, we are only retaining in 1979, 37.5 percent. So 37.5 percent would continue into a second term. It did not improve in the Navy in 1980. It was 34.5 percent. The second term figures after 8 years of service, the figures go up, as I mentioned earlier to you.

Senator Byrd. So, would this be stated correctly, that two-thirds of the enlistees do not reenlist?

Secretary Hidalgo. Mr. Claytor tells me I am misleading you, Senator.

Secretary Claytor. Senator, we went into this last year. I think the figures are not too different from what they were then. We have to get them because we don't keep them that way.

The 36 percent first-term reenlistment rate, I believe, is those who are still in the Navy at the end of 4 years who decide to reenlist.

What he is talking about is, of 100 men who go to bootcamp, how many of those reenlist for a second term, I think it is 18 or 19 percent. We will have to run that out, because we just don't keep records that way.

Senator Byrd. The figures given to me this morning do not reflect the attrition rate?

Secretary Claytor. That is right.

Secretary Hidalgo. That is why I read two different figures.

Senator Byrd. It seems to me you ought to keep figures that way, because when you have this very high turnover that adds greatly to the retirement cost, for example, or benefits that are available to the personnel after they leave the service.

Secretary Alexander. Senator Byrd, the figures I gave you do include the attrition rate. The attrition rate would be the 31 out of 100 who leave after the first term. Your question addresses whether they re-up after they have completed the first term.

Senator Byrd. No, not after they have completed. The day after they go in, how many of those 100 reenlist?

Secretary Hidalgo. We will supply that for the record.

Questions Submitted by Senator Harry F. Byrd, Jr., Answers Supplied by Clifford Alexander, Secretary of the Army

SEPARATIONS

Senator Byrd. Of each 100 persons who enlist, how many are separated prior to 6 months; how many within 1 year; how many before the expiration of 2 years?

Answer. Of 100 persons enlisting in the Army this year we expect 13 to be lost during the first 6 months, an additional 6 during the next 6 months and an additional 10 during the second year. Attrition rates are very dependent upon the characteristics of the people we enlist. For instance non-high school diploma graduates are nearly twice as likely as high school diploma graduates to be lost through attrition. Those in the lower mental categories have higher attrition rates than those in the upper mental categories. Females experience higher attrition rates than males of equal education.

The following table shows historical and projected attrition rates as a percentage of those non-prior service personnel entering the Active Army from fiscal year 1974 to fiscal year 1980.

ACTIVE ARMY ATTRITION RATES BY FISCAL YEAR OF ENTRY

Period of service	Entry year— 1974	1975	1976	1977	1978	1979	1980
0 to 6	15.6	15.4	17.6	15.8	12.6	[1] 12.1	[1] 12.6
7 to 12	5.6	6.5	6.3	6.0	5.8	[1] 6.2	[1] 6.4
13 to 24	12.4	10.9	9.3	9.3	[1] 9.0	[1] 9.7	[1] 10.0

[1] Denotes projected data. Some who entered the Army in that year have not completed that period. For instance, the last person to enter the Army in fiscal year 1979 (Sept. 30, 1979) will not complete the 1st 6 mo of service until Mar. 30, 1980.

ENLISTMENT BONUS

Senator Byrd. Of every 100 persons who received an enlistment bonus, how many reenlisted?

Answer. Since an enlistment bonus recipient must serve for four years, fiscal year 1975 is the last year for which complete data is available. Of the 26,619 fiscal year 1975 enlistees who received a bonus, 4,032 or 15.1 percent have reenlisted. Therefore, about 15 out of every 100 fiscal year 1975 enlistees who received a bonus have reenlisted.

Senator Byrd. Of every 100 persons who received an enlistment bonus, how many were separated from the service prior to 1 year; prior to 2 years?

Answer. For every 100 persons who receive the enlistment bonus, approximately 5 are lost prior to completing the first year of service, and an additional 9 are lost during the second year.

Senator Byrd. What percentage of enlistees receive enlistment bonuses?

Answer. Since an enlistee does not receive the enlistment bonus until skill training has been successfully completed, fiscal year 1978 is the last year for which complete data is available. Of the 134,428 people who enlisted in the Army in fiscal year 1978, 14,323 or 10.6 percent were paid an enlistment bonus.

Senator Byrd. List each MOS for which an enlistment bonus is paid and the amount of the bonus.

Answer. As of 16 October 1979, the MOS listed below have been included in the Enlistment Bonus Program at the award level indicated:

(*a*) $3,000 award level:

05D—EW/SIGINT Emitter Identifier/Locator,

05H—EY/SIGINT Morse Interceptor,

05K—EW/SIGINT non-Morse Interceptor,

11B—Infantryman,

11H—Heavy Antiarmor Weapons Crewman,

13F—Fire Support Specialist,

19D—Cavalry Scout,

19E—M48-M60A1/A3 Armor Crewman,

19F—Tank Driver,

19J—M60A2 Armor Crewman,

98G—EW/SIGINT Voice Interceptor (Russian) Linguist.

98G—EW/SIGINT Voice Interceptor (Korean) Linguist.

(*b*) $2,500 award level:

05G—Signal Security Specialist,

11C—Indirect Fire Infantryman,

12B—Combat Engineer,

13B—Cannon Crewman,

15J—Lance/Honest John Operations/Fire Direction Specialist,

16D—Hawk Missile Crewman,

16E—Hawk Fire Control Crewman,

96C—Interrogator,

98G—EW/SIGINT Voice Interceptor (Chinese-Mandarin) Linguist,

98G—EW/SIGINT Voice Interceptor (Czechoslovakian) Linguist,

98G—EW/SIGINT Voice Interceptor (Arabic-Syrian) Linguist, 98G—EW/SIGINT Voice Interceptor (German) Linguist.

(*c*) $1,500 award level:

05B—Radio Operator,

05C—Radio Teletype Operator,

12E—Atomic Demolition Munitions Specialist,

12F—Engineer Track Vehicle Crewman,

15D—Lance Missile Crewman,

15E—Pershing Missile Crewman,

43E—Parachute Rigger,

54E—Chemical Operations Specialist,

82B—Construction Surveyor,

82D—Topographic Surveyor.

(*d*) $1,000 award level:

13E—Cannon Fire Direction Specialist.

REENLISTMENTS

Senator BYRD. Of 100 enlistees who did not complete high school, how many reenlist; of 100 enlistees who did complete high school, how many reenlist?

ANSWER. The number of soldiers who subsequently reenlist from groups of 100 high school graduate enlistees and groups of 100 nonhigh school graduate enlistees in fiscal year 1974, fiscal year 1975 and fiscal year 1976 are shown below:

Enlistment year	High school graduate reenlistments	Nonhigh school graduate reenlistments
Fiscal year 1974	17	9
Fiscal year 1975	17	10
Fiscal year 1976 (projected)	19	14

ENLISTMENTS AND REENLISTMENTS

Senator BYRD. Gentlemen, when answering my previous question concerning the percentage of 100 persons who enlist and then reenlist at the end of their terms, would you provide for the record of 100 high school graduates who enter the service how many subsequently reenlist and also provide the same figure for non-high school graduates?

ANSWER. The number of soldiers who subsequently reenlist from groups of 100 high school graduate enlistees and groups of 100 non-high school graduate enlistees in fiscal year 1974, fiscal year 1975 and fiscal year 1976 are shown below:

Enlistment year	High school graduate reenlistments	Nonhigh school graduate reenlistments
Fiscal year 1974	17	9
Fiscal year 1975	17	10
Fiscal year 1976 (projected)	19	14

QUESTIONS SUBMITTED BY SENATOR HARRY F. BYRD, JR., ANSWERS SUPPLIED BY EDWARD HIDALGO, SECRETARY OF THE NAVY

Senator BYRD. Gentlemen, when answering my previous question concerning the percentage of 100 persons who enlist and then reenlist at the end of their terms, would you provide for the record of 100 high school graduates who enter the service how many subsequently reenlist and also provide the same figure for non-high school graduates?

Senator HIDALGO. Assuming current attrition loss rates remain constant, of each 100 high school graduates who enter the Navy 27 attrite prior to the end of the first enlistment. Of the remaining 73, 7 are not eligible to reenlist (primarily due to inadequate performance), and 24 reenlist.

Of each 100 non-high school graduates who enter the Navy 47 attrite prior to the end of the first enlistment. Of the remaining 53, 5 are not eligible to reenlist (primarily due to inadequate performance), and 18 reenlist.

For every 100 high school graduates who enlisted in the Marine Corps during 1975, 14 have reenlisted. For every 100 non-high school graduates who enlisted in the Marine Corps during calendar year 1975, 7 have reenlisted.

REENLISTMENTS

Senator BYRD. Of each 100 persons who enlist, how many reenlist?

Secretary HIDALGO. Of each 100 persons who enlisted in the Marine Corps during calendar year 1975, 11 have reenlisted.

For the Navy, assuming current attrition loss rates remain constant, of each 100 enlistees 32 attrite prior to the end of the first enlistment. Of the remaining 68, 7 are not eligible to reenlist (primarily due to inadequate performance), and 22 reenlist.

SEPARATIONS

Senator BYRD. Of each 100 persons who enlist, how many are separated prior to 6 months; how many within 1 year; how many before the expiration of 2 years?

Secretary HIDALGO. Of each 100 persons who enlisted in the Marine Corps during calendar year 1975, 17 were separated prior to 6 months; 4 between 6 months and 1 year, and 11 during the second year of service. For comparison, of each 100 persons who enlisted during calendar year 1977, the latest accession group to complete 2 years of service, 14 were separated prior to 6 months; 3 between 6 months and 1 year; and 9 during the second year of service.

Of each 100 persons who enlist in the Navy, 12 are separated prior to 6 months, 16 are separated within 1 year, and 24 are separated prior to completing 2 years.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a request?

Mr. HOLLINGS. Yes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the amendment by Mr. BUMPERS to delete the funds for *New Jersey*, that there be a 1-hour time limitation to be equally divided in the usual form.

Mr. HOLLINGS. What is the request?

Mr. ROBERT C. BYRD. The request was on an amendment by Mr. BUMPERS.

Mr. HOLLINGS. All right.

The PRESIDING OFFICER (Mr. NUNN). Is there objection? The Chair hears none, and it is so ordered.

Mr. TOWER. Mr. President, I ask unanimous consent that the original time limitation on the Chafee amendment, which was an hour an a half, be reduced to 1 hour.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, that has not been cleared.

Mr. TOWER. It has been cleared with Senator STENNIS.

Mr. STENNIS. Yes.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Reserving the right to object——

Mr. TOWER. I withdraw my request.

The PRESIDING OFFICER. The request is withdrawn.

The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the Senator from Virginia made a very persuasive presentation. That was the one thing that disturbed me, the example about the Marines.

In going about this particular provision, I find that the Marine Corps did this in 1976 under General Wilson on its own, and I am convinced that if the Senator had hearings and if he called up the Commandant of the Marine Corps and those in the corps—I do not want to mislead, they are for the high school graduates just like the Chief of Staff of the U.S. Army, just like General Rogers, who is the commander of NATO, and, for example, just like the Secretary of Defense, Secretary Brown; everybody agrees.

If we had hearings. I am willing to make a wager that the Commandant of the Marine Corps would testify to not cut the end strength to go about doing this.

Now, this is the particular problem that we have been confronting. When we found out about it, I went back to the speech of the Senator from Mississippi. The Senator from Mississippi made a speech on April 21, entitled "The Matter of the Military Manpower Situation." I looked at his very comprehensive approach to this particular problem on manpower; coming from the chairman of the Armed Services Committee. And the chairman of the Armed Services Committee, in trying to solve this manpower problem says, first, we ought to consider changes in the structure of military pay; second, the chairman of the Armed Services Committee says the organization and callup procedures for the Reserve forces also needs review and change. The chairman of the Armed Services Committee says our training system and promotion system for enlisted men and officers needs to be redesigned. The chairman of the Armed Services Committee says the rethinking and changing of the laws and policies which govern and affect military discipline are also a part of this review. Finally, the chairman of the Armed Services Committee just said a brief time ago that the policies which affect military life also need rethinking, 24-hour duty for a 40-hour job.

The most senior military commanders have identified manpower deficiencies as their No. 1 problem.

(Mr. EXON assumed the chair.)

Mr. HOLLINGS. I think it is highly important that the chairman of the Armed Services Committee has made that statement. Here we are confronted with the change in this particular bill premised on deception.

Now, those are the releases—they do not want to talk about the releases now. They do look a little ridiculous running around here saying it is to deceive, when the chairman of the Armed Services Committee and most senior U.S. military commanders have identified manpower deficiencies as their No. 1 problem.

Now, he talks of all these matters in a very comprehensive review of the manpower problem and not once has he talked about cutting the end strength in this particular high school graduate approach.

So I went to our friends on the Armed Services Committee and asked, "Where are the hearings?" "We have not had any hearings." "Where does it come from?" "Well, I support Sam Nunn." I said, "Well, I support Sam Nunn, too, but where are the hearings on this? Where do we find this kind of Vietnam approach where you have to destroy it in order to save it? I never heard of cutting the end strength to build it up."

Mr. NUNN. Was the Senator here back in 1975, 1976, 1977, and 1978 when we were doing this with the Marine Corps? Where was the Senator then? The Senator did not object when we did the same thing to the Marine Corps. We cut them the same percentage and we got some results out of it. The Senator may not have known about it, but it was done over and over again. This is not new. We have been working with these end strengths for a long time. We change them every year, to some extent.

Mr. HOLLINGS. Mr. President, to complete my thought, I say to the Senator from Georgia, that the Marine Corps recruits about 42,000. We recruit in the Army an entire Marine Corps, 180,000; 170,000 to 180,000 is our charge here for the U.S. Army.

And I will say again, and I will make a wager, if you have that hearing—the Senator did not answer about that hearing. As the Senator from Virginia says, we are not trying to hurt the Army, we are trying to help the Army. And if they had a hearing and brought the Commandant of the Marine Corps, who believes in high school graduates—I do not want to mislead—but this end strength kind of approach to do it, ask him about that; ask those who they are trying to help. That is the whole proposal before us.

Really, do we think the Chief of Staff thinks he is helped?

He talks about the particular problem. General Meyer writes:

> Unquestionably, the objectives of higher numbers of high school graduates is important. I subscribe to that. But when the search involves uncertainties that place an already minimally acceptable force at risk, I object—particularly when other measures are at hand that offer the possibility of improving today's force through increased input of high school diploma graduates.

There is a way to go about this and we have kicked it off from the very beginning.

Mr. President, I ask unanimous consent that the entire letter from General Meyer be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Army,
The Chief of Staff,
June 25, 1980.

Hon. Ernest F. Hollings,
U.S. Senate,
Washington, D.C.

Dear Senator Hollings: Back in 1974, on the porch of the quarters I now occupy at Fort Myer, two men, one a clever analyst and the other a capable soldier, came to an agreement that a viable Army could be constructed out of the shambles of the post-Vietnam drawdowns only with some guarantee of stable end strength. To that point, those charged with creation of our combat structure were forced to contend with continual revisions of our strength—revisions which seldom permitted completion of the full planning and execution cycle leading to capable combat organizations. Creighton Abrams, one of my predecessors, and James Schlesinger, then the Secretary of Defense, recognized that, as a consequence, the country wasn't getting much capability from its investment. Of 13 divisions only one could be rated combat ready.

Their decision to freeze the Army's end strength, a decision concurred in by the leadership of the Congress, has paid dividends. Today, the Army has 16 fielded divisions, drawn from essentially the same end strength. Virtually all of the forward deployed divisions, in Europe and Korea, are at readiness conditions which mark them as fully prepared for war—today.

At the same time I have testified that the deployed force is inadequately supported: in the CONUS base, in the USAR, in the National Guard, and in the pool of individual replacements. At this point in history I would not want to undertake action which could seriously affect the healthy sector of our conventional ground force.

This background provides a useful preamble for laying out what I consider to be the unavoidable consequences of the proposed conditional reduction of 25,500 to the Army's authorized end strength.

I am convinced that the Army cannot manage itself through FY 81 under the conditions prescribed by the SASC. My rationale is laid out below.

Because of this, it is my conclusion that in the event of passage I would recommend to OSD a reduction of the Army's end strength from our requested level. I believe we can present a more viable deterrent by acting in concert toward a sure authorization, rather than by attempting to retain sufficient flexibility throughout the year to meet a floating end strength.

Let me now turn to the rationale which leads me to believe that the proposal represents an impossible management problem.

First, the reduction cannot be accommodated without revisions to our structure. With uncertainty as to what the eventual FY 81 strength may be, I must act to insure maintenance of as rational a structure as possible throughout the period. The current imbalance between combat and support forces suggests strongly that I would take immediate steps toward inactivation of combat units. This will inject hazard throughout a sizable portion of the Army: hazard as to the continued existence of specified units, hazard in the assignment of replacement personnel to those units, and hazard in the shipment of materiel, parts, and other components essential to a ready force.

Second, it is my belief that maintenance of a rational structure will dictate that some—perhaps most—of the reductions must ultimately occur within our deployed forces in NATO, or within CONUS units earmarked for Rapid Deployment Force missions. The same uncertainties that will plague our internal management will also infect the planning of our unified commanders to meet their wartime missions. They, too, will have no certainty about the available force structure throughout the period.

Third, there will be an exacerbation of one of the major afflictions of today's Army, turbulence. We will obviously seek to maintain units in a viable state until such time as it is clear that our strength authorization will no longer permit such support. Hence, replacements to those units earmarked for potential elimination will be increasingly subject to multiple moves. The burden of instability will fall most heavily on soldiers in CONUS as we feel our way through the year.

I had hoped to revamp our peacetime replacement system to correct the worst effects of turbulence, a condition corrosive to the establishment of close interpersonal bonds and unit cohesion. The latter is the quality which permits units to endure in conflict. It is not clear to me that I could effect any program in this regard while trying to cope with the conditions of this proposal.

Fourth, and last, I must say that I do not believe that our internal management systems are capable of providing adequate and timely guidance to walk the fine line between compliance with the law on the one hand, and excessive damage to the Army's readiness on the other.

These are the considerations which have led me to what I believe to be unavoidable consequences of the proposal now before the Congress, namely, a reduction in end strength and a weakening of our deterrent posture.

Unquestionably, the objective of higher numbers of high school graduates is important. I subscribe to that. But when the search involves uncertainties that place an already minimally acceptable force at risk, I object—particularly when other measures are at hand that offer the possibility of improving today's force through increased input of high school diploma graduates.

That alternative requires the availability of increased reenlistment bonuses, additional promotion opportunity for the career force or more NCO's, higher levels of enlistment bonuses, fewer constraints on recruiting and the approval of requested increases, improved educational opportunities more like the GI Bill, and the correction of pay inequities. These are the mechanisms, which coupled with improved controls on the qualifications of applicants, will help us to achieve the goals that both Congress and the Army seek.

In summary, the idea of cutting active end strength in order to provide the Army an incentive to raise our education profile is not helpful. This is especially true at a time when the other components of our force have evident weaknesses which only time can correct. In the meanwhile we can ill afford degradation of the deployed force, an unavoidable consequence of the proposal put forward by the SASC.

Very Respectfully,
E. C. Meyer,
General, U.S. Army,
Chief of Staff.

Mr. HOLLINGS. He talks about the cohesion, the interpersonal bond, the unit cohesion, rather than the turbulence of this end strength cut. And if you want to help him, and I am quoting him:

> In summary, the idea of cutting active end strength in order to provide the Army an incentive to raise our education profile is not helpful.

Now, that is what the Chief of Staff is saying. Do we have that in the Armed Services Committee record on this particular important change that they propose? That is not in there.

What does General Rogers say? These are not just Pavlovian responses.

Mr. NUNN. Will the Senator yield?

Mr. HOLLINGS. Let me complete this thought by General Rogers. Does he think he is being helped? We all respect him. I would take his testimony on it.

> The more resources made available to recruiting commands, the greater the percentage of high school graduates recruited. If the SASC wants to help.

If the Senate Armed Service Committee wants to help.

That is what General Rogers says. I believe it should provide more resources and not adopt a course of action inappropriate and impractical to implement or prove to be counterproductive to the Army and not in the interest of national security.

I ask unanimous consent that this cablegram from General Rogers to General Meyer be printed in the RECORD.

There being no objection, the cablegram was ordered to be printed in the RECORD, as follows:

1. The action by the SASC recommending a cut in Army end strength by 25,000 causes me great concern on two counts: one, the impact on the Army as a whole, and two, more specifically, the impact it will have on my responsibilities as saceur/cinceur,

2. First, the impact on the Army. I share the SASC's desire to increase the number of high school graduates recruited by the Army. God knows that I am on record sufficient times in the past stating that in a choice between quantity and quality I would choose the latter every time. (As we all know, being a high school graduate is, of course, only a pre-enlistment indicator that the chances are twice as good as those of a non-grad that the HSDG will successfully complete his initial term of service. This in turn, implies that his performance in his unit is of sufficient quality to be retained.) I would certainly like to think that the Army is trying its best to recruit as many HSDG as it possibly can. However, among the many lessons we have learned in managing the volunteer force is that the accession of HSDG is "resource sensitive." The more resources made available to recruiting command the greater percentage of HSDG recruited. If the SASC wants to help, I believe it should provide more resources and not adopt a course of action which appears to me as not only inappropriate and impractical to implement (I speak as an old DC SPER) but will prove to be counterproductive to the Army and not in the interests of national security. Because of the cyclical nature of HSDG accessions, the cut will almost certainly become self-fulfilling.

The Army will then again face all the major difficulties and deficiencies in managing its manpower program and fulfilling its responsibilities which it faced in the early seventies when another SASC proposed cut of 50,000 end strength had to be implemented.

3. As saceur/cinceur I cannot understand the reduction of Army strength at such a critical time in the relative force capabilities between NATO and the Warsaw pact. I need full strength in the relatively small number of U.S. units assigned and the U.S. Army has done its best to keep them at that level, for which I am appreciative.

However, it is clear to me that the loss of so many soldiers could not fail but have a major impact here in Europe:

In the manning levels of our units forward-deployed, if not in the number of units themselves.

In the manning of the reinforcing forces from the conus.

In our already deficient support and sustainability posture.

In the readiness of all forces.

4. Perhaps of even greater significance is the signal that we will give to our allies at the very time that we are urging them to boost their contribution to NATO's defense and to bear more of the load as the U.S. protects allied interests in the Middle East and SW Asia. Certainly, such a cut will impact unfavorably upon the efforts of those of us who are striving to keep some of our allies from reducing their defense budgets.

5. I hope you will be successful in getting the Senate or the subsequent conference committee to reinstate the end strength.

Mr. HOLLINGS. I yield to the distinguished Senator from Georgia.

Mr. NUNN. The Senator from South Carolina has done a remarkable job this year in restraining the domestic side of expenditures and in getting a much larger ceiling on the overall military side. But I would just like to ask the Senator one question. He is talking about the testimony of the Chief of Staff of the Army. I acknowledge that the Chief of Staff of the Army is certainly opposed to this position.

But has the Senator had any of the heads of the domestic agencies in the budget deliberations come over and volunteer to cut any of their programs or any of their personnel? Has the Senator had that when we have cut the various domestic agencies? Has the Secretary of Agriculture come over and said, "Senator, we don't need all these people. We don't need all these programs. Cut us."

Has the Secretary of HUD come over and done that? Has the Senator had any agency come over and say, "Senator, we have too many people. We have too many programs. We hope you cut us"?

Does the Senator have any record of that? If he has, I would like to know which ones they are, because they are certainly to be commended.

Mr. HOLLINGS. Mr. President, certainly the U.S. Army figures between combat and support cannot be compared with the Department of Agriculture, with the Department of Commerce, with the Department of HUD. When we talk about cutting, every Department wants as much as it can possibly get.

We are talking about just the military. Let us talk about the cuts in the Army. We save on that Budget Committee and have effectuated since 1976 over a 4-year period 60,000 cut from the civilian end strength. We did that in hearings. We found out it could be done and we found out that they could cooperate and they did cooperate. But this is not a Pavlovian reaction of a department head. This is the Chief of Staff of the U.S. Army that has to fight a battle and win it. This is the Chief of Staff of the U.S. Army who has gone along with the particular change and the particular change was to put more into the tooth and less into the tail and make a change in upgrading three additional combat divisions.

In 1973, let us go back.

We had, in 1973, 800,000. We had an end strength, as Senators will remember, of 790,000, in 1975.

If the logic of the Senator from Georgia was a good logic, why not build them back? Both the Senator from Georgia and the Senator from South Carolina know what we want to do is to get more troops. This is not an economy move where a department head says, "No, I want a bigger department."

Ask the Army Chief of Staff and everybody connected with it. They would like to have a bigger Army; they need a bigger Army. The Gates Commission wanted a bigger Army. We had 790,000 rather than an end strength of 775,000.

But if, we want to go back, like the Senator from Georgia wants to do and I want to do, and say, "All right, you have your end strength. You have your stability. If you get more high school graduates we will reward them and you can just pay them off." In the war we used to have the replacement depots, taking the talent from there and putting them in certain encampments. "As we get the budget for them we will finance them in an orderly way and you will build back your end strength."

If there was a numbers approach that the Senator from Georgia and the Senator from South Carolina would agree upon, that would be fine. But what happens? They do not help. The Senator from Virginia says he wants to help the Army.

Mr. President, I ask unanimous consent that this particular resolution from the enlisted men's organization, dated June 27, 1980, be printed in the RECORD. It expresses the views of that organization.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

Whereas, the provision of the Senate proposal is unworkable in a practical sense because it is not possible to predict with confidence the percentage of high school graduate accessions during the FY 1981 time frame; and

Whereas, execution of this proposal would force the Army to reduce combat structure resulting in a loss of a major portion of the Army's existing combat capability; and

Whereas, a reduction in combat capability signals a lack of resolve to discourage Soviet adventurism and signals to unaligned countries and Persian Gulf States that the United States is not capable of backing up commitments; and

Whereas, the strength reduction proposed would affect training base operations to the extent that together with the combat structure reduction, there would be a high probability of base closures; and

Whereas, the strength reduction would have a serious impact on the present and future career force of the enlisted strength resulting in a further shortage of non-commissioned officers and a reduction in discipline and morale among soldiers; now,

Therefore, be it resolved by the Non-Commissioned Officers Association, in convention at Las Vegas, Nevada, on 22 June 1980 that the Senate of the United States vote against the strength reduction proposal, support the Army's efforts to maintain its programmed strength of 776,500, provide the resources necessary to maintain an active all volunteer force, and increase the combat capability of the Army to defend this nation and the goals for which the Army has fought and supported for over 200 years.

Mr. HOLLINGS. Mr. President, do we want to go back once again to the 1975 end strength of, say, 784,000 or 785,000? In the executive branch, to the dismay of the Senator from Georgia and the Senator from South Carolina, every time OMB cuts back we get a smaller Army, and we keep fooling ourselves.

The Voluntary Army is not working. We know the Volunteer Army is not working. Heavens above, you can tell that from the language by General Rogers:

I share the Senate Armed Services Committee's desire to increase the number of

> high school graduates recruited by the Army. God knows I am on record sufficient times in the past stating that in a choice between quantity and quality I choose the latter every time.

There is the feel of those who are in the know, those that we can empathize with, those that we would listen to if we had a hearing on this particular provision. But without a hearing, without those who have to implement it, without those managers who have to manage being heard, they come in with a gimmickry idea of destroying it in order to save it, cutting the nose off to spite the face. They say, "Lose two divisions, cut them back, but if you come up and show a good enough effort, we may reward you later."

I say that is chaos. Those who do the job and have to understand it are not complaining just as the head of a department, as the Senator from Georgia would infer. These men are serious. They are in the frontlines. Read what General Rogers says it does to them. He says this damages the security of NATO.

I do not think he would be giving just an administration line. He is the man who said we needed the draft. That is not the administration line. He has shown the courage to stand by his guns and has given other than the administration or department head line.

That is the kind of testimony that we should be asked to act upon. If we had, if we had done this in an orderly way, that is the way. But to the dismay of everyone, we still cannot understand where the idea came from.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER (Mr. STONE). The Senator from Georgia.

Mr. NUNN. The Senator from South Carolina basically said a while ago that the committee did not have anything to do with the Marine Corps turnaround. I have to differ with the Senator. I believe the Marine Corps Commandant, General Wilson, did a marvelous job. He came in and was determined to turn around the severe problem the Marines had.

The Marine problem was not only an attrition problem but the Marine problem was that it was the smallest branch of the services and they had more discipline problems than all the branches combined. They had more AWOL's, more diversions and everything else than all the other services combined.

The committee, as I recall, and I cannot be precise about these dates but it was in the spring of 1975, made a 4-percent reduction in the Marine Corps. There were screams and hollers from the Marines. They were very much opposed to any kind of cut. But, nevertheless, the committee went ahead and made the cut. There was no one on the floor at that stage to object to it. It was not a period of time when everything for the military was well received, which it is now, thank God.

So we went ahead with the cut and we came back from conference with about 2 percent. We did the same thing the next year. The Marine Commandant came in and, instead of fighting the cut, which is what the Army is doing now, he decided he was going to do his best to improve quality. He took it and used this leverage and said, "Look, the Senate and the Congress of the United States say we ought to go for more quality, we ought not to go for just numbers. Therefore, we are going to do that."

He did it and he turned the Marine Corps around. General Wilson, if the Senator from South Carolina will give me his attention for a minute, thanked me personally for doing what we did in the committee.

As a matter of fact—and I did not have a better friend in the Senate or anywhere than the late Senator from Oklahoma, Senator Bartlett—the last year Senator Bartlett was here he proposed an amendment to go back up on the Marine Corps strength. Because the Marines had turned it around to a great extent, because the Marines had made clear they were going for quality rather than just numbers, the committee went along with the Senator from Oklahoma. We raised the end strength.

Lo and behold the next day General Wilson sent people over to talk to both the Senator from Georgia and the Senator from Oklahoma and said, "Please do not raise the end strength now. We are doing well with quality. We do not think we can recruit any more. This will restore the vicious cycle of putting the pressure back on for numbers. We will have recruiters out there trying their best to recruit people even if they do not come up to the standards we need."

I have been through that, day by day, month by month, and year by year with the Marine Corps. I have seen the Army going the same path as the Marine Corps.

The Senator asks if we have had hearings. Not only have we had hearings, but we have had years of hearings. We have had military people before us. If I have said it once I have said it 15 times to the Army, "Gentlemen, you are making the same basic mistake the Marines made."

I have asked them over and over again, will they go for quality or quantity. Every time when you get down to the numbers they give, it is apparent that they are going for numbers. Certainly, they want quality, there is no doubt about that. The Army would prefer to have high school graduates. Their record is clear on that. But if they have to choose between the two, they go for the numbers every time. What has happened is they have gotten into a revolving door. They are taking people in. They are pumping up the training pace.

The Senator quoted accurately from the RECORD on this matter. They are pumping up the training base. They have 43 or 44 percent of the non-high-school graduates that are dropping out. They are spending huge amounts of money on training. But they are not getting the people out in the combat units. That is absolutely correct.

You can give them any end strength you want, but if they do not turn around on the quality question, they are not only going to not get the people out in the combat units, but they are going to continue to have a very severe problem with retention. Why?

The reason is very clear. If you have been in many hearings and talked to many military people, not just the people who wear the stars, but people at every level, the reasons are very clear as to why they are losing so many people. They are losing them not only because of compensation; the Senator from South Carolina and I agree on that. They are losing them because they do not have the quality people to work with.

The sergeants are getting frustrated trying to train people who, in many cases, cannot retain that training. That is according to the testimony of General Rogers and General Wickham, the head of NATO and Korea. They testified before our subcommittee this year that in the field, the people they are training cannot retain their training. They are having to repeat the cycles much more frequently. Of course, that has enormous implications, both in terms of readiness and in terms of cost.

I know the Senator is correct that General Rogers does not agree with this cut. Nobody heading up the Army is going to agree with this cut. No one is ever going to agree with cutting the Army's strength. General Wilson could not go on record agreeing with the Marine cut. He never said he agreed with the Marine cut. He never said that except after it was all over. He had succeeded in turning around the Marine Corps; then he said so.

The Senator from South Carolina has to recognize that the end strength is the most sacred thing to any institution. It does not just relate to the military readiness, it relates to the pride of the institution. If we have to choose between the pride of the U.S. Army protecting its end strength and doing something on the floor of the Senate that is going to require them to place the question of overall quality above the question of numbers, we have to clearly speak, in my view.

The Secretary of Defense is not going to do anything about it, that is apparent. The Joint Chiefs are not going to do anything about it. They have delegated that to the Army. I think it is time we in Congress exercised our own responsibility in this respect.

Mr. President, I want to read from the testimony——

Mr. LEVIN. Will the Senator yield for a question before that?

Mr. NUNN. I will in a few minutes, but the Senator knows we have had about 30 minutes on our side and the Senator has had 3½ hours. There are three things I would like to say. Then I shall be glad to yield for a question.

Mr. President, I should like to read from the testimony before the Committee on Armed Services. This was a question that I posed to General Bronars of the Marine Corps, back in 1977, page 1659 of the committee report. He is Chief of Personnel, Marine Corps.

> Senator NUNN. Let me ask you this question. The Marines requested 196,000 last year. Of course, the subcommittee recommended, I believe 190,000. That was a Senate position. We went to conference and came back at 192,000.
>
> What has the Marine Corps done differently with the 192,000 ceiling than you would have done if you had gotten the requested strength of 196,000?

General BRONARS. We have done a lot of things, many of them at your suggestion. With the cooperation of the Chiefs of Naval Operations we have reduced the number of personnel assigned to Marine barracks. We have both consolidated and closed barracks. We have reduced our personnel assigned to ships detachments aboard ships in a minor way. We have delayed implementation of some of our training programs which we consider to be of relatively low priority. We have, where possible, consolidated and reduced various headquarters activities.

Senator NUNN. What I am saying is that I think these are all commendable. What I am asking you is, these were not done because you had a 192,000 ceiling rather than 196,000 ceiling, were they?

General BRONARS. Yes, sir, they were.

Senator NUNN. The reason I asked that is that you never reached your ceiling. If you had been at your requested ceiling of 196,000 would you have had more men onboard? Would you have recruited differently? That is what I am getting at.

General BRONARS. In programing our personnel, we identified substantial personnel savings that could be realized to satisfy a major portion of the 4,000 men reduction without affecting our operating forces.

As a result, reductions in manning levels that had to be applied to ground force and aviation units were minimal and did not seriously affect mission capabilities.

Senator NUNN. What I am really asking is have you gone to the lower manning level because of the congressional ceiling at 192, or have you gone to the lower manning because you haven't been able to recruit enough people based on quality?

General BRONARS. We haven't been able to reach 192,000 and we are at a lower manning level now because we have been unable to maintain our end strength.

Senator NUNN. The Congressional ceiling really has not had any impact on your——

General BONARS. No, sir, it is a fact of life.

Senator NUNN (continuing). On your force level.

General BRONARS. That is correct.

Senator NUNN. If we had 212,000 as your ceiling, wouldn't you still have approximately the same number of people onboard today?

General BRONARS. With General Wilson's emphasis on quality, we probably would still have 188,900 right now.

Now, that decision was correct. The Marine Corps made that decision. It caused a lot of problems in the institution. But the Army has not made that decision. If the Army had made that decision, there would have been no move by the subcommittee—if the Army had made that decision. But the Army is re-recruiting a lot fewer high school graduates now in June of 1980 than they were planning to recruit in 1979 and early 1980.

I want to read one letter that tells something about what I have heard from hundreds of people out there in the field. This letter was from an Army captain, whose name I certainly would not call out of respect for his own career. It says:

> I feel that you should hear part of the story from a 10-year middle-manager, someone at the grass roots level who will tell it like it is and won't let bias into the picture.
>
> My contemporaries are exiting the military at an increasing and alarming rate. Many officers separating are not doing so because of lucrative outside opportunities. A major factor in separation is low morale experience by these individuals because of the quality and inefficiency of our soldiers and our system. . . .
>
> Soldier quality has diminished markedly; I have witnessed this . . . Some recruits cannot comprehend how to operate present inventory equipment. Not only have we lowered induction standards, we have lowered school graduation standards at the intelligence School so that more recruits can graduate school specialty training. When soldiers arrive in an active army unit, many still are not trained . . .
>
> Professionals find it difficult to work with a large number of untrainable inductees. I personally attest that it is very, very frustrating. One high official has pointed the finger at military supervisors and until leaders to place blame for inefficiency. I have to return to a plea for common sense; is it the fault of the leaders and trainers when the materials with which they are working is partially or totally untrainable? If the American people are not alerted to all the conditions which presently exist, this may end up becoming one of the biggest cons described in history books of the future, should a powerful adversary ever test the might and professionalism of our ground forces.
>
> Many of us are aware of the problems, statistics validate them. Officers at the troop level know of and try to expose problems, yet the cover-up continues, everyone works for someone else and doesn't want to make waves. Complacency is a monster that may devour us.

I want to read one other letter. It is a letter dated April 1980 from a female noncommissioned officer, who was leaving the Army. I quote her:

> I would like to discuss a matter that disturbs me greatly. . . . During my three years on active duty, I notice a severe decline of the quality of the soldiers that were being recruited into our military forces. When speaking of a decline in quality, I speak of intelligence, attitude, and personal hygiene. Basic training is supposed to discipline and smooth out the rough edges but in some individuals this is impossible.
>
> The government is putting the defense of our country in jeopardy and is wasting money by keeping these persons in the armed forces. . . . (A) strict recruiting policy should begin immediately to ensure that future soldiers are capable in every way to defend our country.

Those are just two letters, Mr. President, but they go on and on in terms of the contact, the personal conversations. Anyone talking to Army troops out there in the field at the level below the general level will find very quickly, if you go to a few places, talk to a few of them, talk to them in an atmosphere so they know they are not going to be quoted, talk to them in an atmosphere so they know they are not going to be revealed as criticizing the Army to their officers, you will find out what is going on in the field.

Mr. President, I want to comment on a few of the points that the Army has made. I also want to point out that when we talk about the word "deception," that is a broad term and it is a strong term. That term was not taken lightly. The Army has been engaged in deception and the deception has not been just the question of certain test scores. The deception goes much deeper than that. I want to trace some of the things that have happened in terms of the Army in the last year and a half.

In February 1980, the Army presented its manpower request for fiscal year 1981. According to that request, the Army planned to recruit 113,600 men, of which 82,000—72 percent—would be high school graduates. According to the manpower requirements report for fiscal year 1981, issued in February of 1980—and I want to quote this. This is the Department of Defense manpower requirements report. This is not a subcommittee opinion. This is the report of the Defense Department:

> For FY 1980 and beyond, the end strength must be achieved and the downward trend in HSDG and MG I–IIIA accessions reversed. . . .
>
> "The probability that a soldier (male or female) who has completed high school will be lost from the Army before completion of his/her first term of enlistment is approximately one-half that of a non-high school graduate (NHSDG). As a group, male HSDG enlistees contribute 1.38 times as many man-years to the Army's strength as male NHSDG enlistees during the period of the first and second enlistments. This results from the reduced attrition and higher reenlistment rates of HSDGs over NHSDGs. Upper mental group accessions are required to ensure trainability of accessions. This need is especially important in light of increasing technology of new weapons systems anticipated in the 1980's. Therefore, the Army desires the highest HSDG and MG levels achieveable."

That is the official view of the Department of Defense. Yet, what happens? Just the opposite.

The Army at all costs is going after numbers and if they do not get but 38 percent high school graduates in 1980 as compared to 1979 when they had 55 percent in the first 6 months, they do not seem to care that much. Certainly not for an expression of any kind of change in policy.

The Army has gone down 20 percentage points, almost, in this 6 months period as compared to the last. So we are witnessing it before our eyes.

It is not the first of the Army's problems. They have had a lot of the problems. These problems go back several years. But we are seeing an Army that already has very serious problems, moving in a direction that, unless all of our experience in the military in recent years is invalid, unless all of it is invalid, they are moving in a direction whereby they will get a lot more serious.

We have two choices. We can go along with the Chief of Staff and do exactly what he wants. We can give him all the end strength and we can say nothing about the quality of their troops, or we can try to do something about it. That is the choice of the U.S. Senate.

Another couple of things that I think important in terms of looking at the word "deception" and what it means, when the Assistant Secretary of Defense for Manpower, Robert Pirie, testified that revised estimates of test scores indicated that up to 45 percent of new recruits may be in mental category IV, the Secretary of the Army replied that this was "just talk among the testers."

After the Army continued to testify that only 10 percent of its recruits were in number IV, Assistant Secretary of Defense Pirie and Army General Price cosigned a letter to Senator STENNIS only conceding that category IV personnel might be as high as Assitant Secretary of Defense Pirie had testified to on both the House side and the Senate side.

Army Assistant Secretary Peacock wrote Senator STENNIS, asking the statement be recalled, stating that "the Army will not take any position."

The Assistant Secretary of Defense for Manpower tries to write a letter to the chairman of the Armed Services Committee, and the assistant Secretary of the Army says that we want the letter back because we are not going to take any position on this issue. I call that deception.

The 45-percent figure of category IV results from a carefully done study, by the Army Research Institute, and is the middle result of three studies. All three show things much worse than previously indicated. One shows they will not get as bad as the 45 percent. One shows things are worse.

On June 11, before the House Armed Services Committee, the Secretary of the Army testified that the mental group categories are "fundamentally irrelevant."

Why is the committee concerned about the Army? Because nobody is over there saving the Army. This is not our priority job. There are a lot of other things we have to do.

But who are we going to rely on to do something about it?

The Secretary of the Army says these categories are "fundamentally irrelevant."

When the Army's recruiting results indicated that in the first 8 months of this year only 37 percent of its male recruits were high school graduates, in contrast to over 60 percent for all other services, and in contrast to over 52 percent for the Army in the same period the last year, the Secretary stated "The Army's enlisted ranks are made up of 86 percent high school graduates."

If this statement is meant to indicate the importance of a large number of high school graduates to the Army, I would agree with it, and it would be consistent with the Army's emphasis on the measure in the past. But if it is meant to say that because we have 86-percent graduates now, that we do not have to worry about taking in only 38 percent in the first 6 months of 1980, then I would fundamentally disagree.

When questions were raised about data supplied by the Department of Defense and the Army on new recruits, we were told we must look to the field to see how the people were actually performing their jobs. That has been testified over and over again. Do not look at the mental category of the high school graduates, look in the field, how they are performing their jobs.

Yet we take all the information, put it out in these scores, and there is a lot of scrambling to come up with additional information.

If nothing else comes out of this debate, I think the Senator from Michigan can be credited with getting more information from the Army than the Armed Services Committee did.

As a matter of fact, they brought two computer runs over here and said, "Here it is, figure it out."

That is the greatest of bureaucratic tricks.

We figured it out. We may not be 100 percent correct, but I think we are.

So the Senator from Michigan had the great advantage of having the U.S. Army do its own runs for him and giving him the results. We have not been able to get that.

As a matter of fact, we asked for information yesterday from the Army, which said, "No, we are sorry, we cannot give you that information."

"It is classified?"

"No, not classified."

"Why can we not get it?"

"Just cannot give it to you."

So when we talk about deception, there is a record full of it.

The Army training study which was conducted by the Army to review training programs and their relationship to combat effectiveness tested the performance in combat units. This study found 25 percent of the tank gunners did not know where to aim the battlesight when engaging a target.

This is not a study the Armed Services Committee made. I do not say it indicates the Army does not have anyone who cannot aim a tank gun. But it does reveal something. I think it ought to be part of the deliberations of this Senate in deciding the quality question.

In testing automotive mechanics at graduation on the six tasks which had been taught to them, the average completion ability was only two tasks. This study confirmed the extra time and large extra costs involved in training category IV personnel.

What was the Army's leadership response by its own generals? They labeled it "for official use only" to prevent public release.

We have to study that. The Army gave us that. But they do not talk about it much. In fact, they really do not even acknowledge it as an official Army document, as far as I know.

After dismissing the results of the Army training study, we are told we have to look at the actual job performance, not just performance in training. The Army released some results of its tests. According to the Army, these test "individual job proficiency."

That is the Army's term, not mine. The Army's.

The results indicated monumental problems among those tested in 1977, 1978, and 1979 in the ability of personnel in the field to perform their combat assignments.

Secretary Alexander states:

> Any fair reading of skill qualification test scores demonstrates beyond a shadow of a doubt that more and more soldiers each year are better able to perform their military mission.

Mr. President, there may be something wrong with these tests. I have not been out in the field and devised them. The Army did that.

All I can do is supply the information that the Army has given.

I put out a press release. I see Senator LEVIN has a similar press release. His numbers are different from ours. He has the Army doing his computer runs. We do not. That is an advantage he has.

But I say, I believe our statistics are accurate. These are all the scores I have. This is all we have.

If anybody wants to know whether we are putting it out on a selective basis, the answer is "No."

Here is what we are looking to in the field test as we have been admonished by the Army.

I understand these are the 1979 results:

Two hundred twenty-seven supply and service personnel tested, 94 percent failed; 1,811 petroleum personnel tested 92 percent failed; 8,137 aviation maintenance personnel tested, 81 percent failed; 17,191 transportation personnel tested, 79 percent failed; 697 general engineers tested, 78 percent failed; 43 percent auto data processing personnel tested, 72 percent failed; 11,620 food service personnel tested; 62 percent failed; 1,458 ammunition personnel tested, 59 percent failed; 3,184 military intelligence personnel tested, 55 percent failed; 24,534 medical personnel tested, 51 percent failed; 42,773 field artillery personnel tested, 50 percent failed; 11,613 combat engineers tested, 49 percent failed; 13,668 law enforcement personnel tested, 47 percent failed; 4,284 cryptologic operations personnel tested, 46 percent failed; 14,454 communication operators tested, 41 percent failed; 1,821 combat missile weapons systems maintenance personnel tested, 35 percent failed; 1,137 bandsmen tested, 30 percent failed; 9,807 air defense artillery personnel tested, 30 percent failed; 565 electronics warfare systems maintenance personnel tested, 23 percent failed; 27,254 infantry personnel tested, 21 percent failed; 173 air defense missile maintenance personnel tested, 18 percent failed.

Of all 196,451 personnel tested, 49 percent failed.

Mr. LEVIN. Mr. President, will the Senator yield?

Mr. NUNN. I will yield as soon as I finish this.

Mr. LEVIN. Will the Senator yield for a question?

Mr. NUNN. As soon as I finish reading this.

The career management fields are composed of a total of 391 individual skill/level classifications. For 10 of these skill/levels, less than 10 percent of those tested passed the test. Those skill/levels are as follows:

Of 1,725 petroleum supply specialists, 97 percent failed.

Of 323 watercraft engineers tested, 95 percent failed.

Of 358 hospital food service specialists tested, 95 percent failed.

Of 1,056 hospital patient administration specialists tested, 93 percent failed.

Of 1,471 observation/scout helicopter repairmen tested, 92 percent failed.

Of 512 terminal operator coordinators tested, 91 percent failed.

In three of the skills tested, all the personnel tested passed the test. Those three skills are as follows:

Of three bassoon players tested, none failed.

Of 11 special agents tested, none failed.

Of 16 Chaparral systems mechanics tested, none failed.

Secretary Alexander also indicated as shopworn and outdated the 1977–78 information which shows the following:

Ninety-eight percent of the tank turret and artillery repairmen tested failed.

Ninety percent of the nuclear weapons maintenance specialists failed.

Eighty-nine percent of the truck vehicle mechanics tested failed.

These figures may be "outdated," but unfortunately the Army has provided no more recent information on how well the nuclear specialists, track vehicle mechanics, and tank turret and artillery repairmen are doing in performing their crucial skills.

So if there is any more information on this, we would welcome it. I do think it is very unusual for the Committee on Armed Services not to be able to get the U.S. Army to furnish it with information that is updated on this kind of program.

We got it out of them bit by bit, piece by piece, day by day, and maybe we will get some more today. Maybe the Senator from Michigan can give it.

Mr. LEVIN. Mr. President, will the Senator yield?

Mr. NUNN. I yield.

Mr. LEVIN. The Army has assured me that you have the same data they gave me.

Mr. NUNN. Did they figure it for you?

Mr. LEVIN. I do not know.

Mr. NUNN. You would know if they did not figure it, because your staff would come in with red eyes. They would be up all night figuring it.

Mr. LEVIN. I suppose that maybe your staff has some red faces over some of the information that has been given to us in your releases. I have gone into that in prior statements, but I have a question of the Senator.

Are you suggesting that the Army has informed me that 91 percent of the infantry passed, that 90 percent of the heavy antiarmor weapon crewmen passed, that 92 percent of the administrative specialists passed, that 81 percent of the cannon crewmen passed, that 93 percent of the Lance/Honest John missile operators passed, that 98 percent of the Lance/Honest John fire direction specialists passed, that 84 percent of the Hawk missile crewmen passed, that 84 percent of the air defense artillery operations/intelligence assistants passed, and on and on—that they have given me all that material in all those classifications that I have enumerated in my release have passed, and these are about 80 percent, and that they have not provided it to you?

Mr. NUNN. They have refused every bit of information the Army has given you. We have the number tested. You do not have the number tested. I do not know if this is a small sample. I do not know what size sample you have.

Mr. LEVIN. In your first release, you did not give us the number tested. Let us go back to the June 25 release.

Mr. NUNN. I gave you the information on it. Is your 91 percent for infantry? I think infantry is doing pretty well by comparison, because we have 21 percent failed; and if my arithmetic is right, that means 75 percent. We have 27,254. Does your 91 percent include 27,254?

Mr. LEVIN. I do not have that figure in front of me.

Mr. NUNN. Maybe I have more figures than the Senator has.

Mr. LEVIN. My question is this: You are suggesting that the figures which we have, based on this material, which are very positive figures, which have been supplied to us by the Army, have not been supplied to you, that all they supplied to you were the 80-percent and 90-percent failures.

Mr. NUNN. There are some here that have not 80-percent and 90-percent failures. I do not know what the basis of the Senator's information is. I do not know where he gets the figures.

Mr. LEVIN. The same data base the Army tells me they gave you.

Mr. NUNN. I should like to be able to complete my statement, since I have the floor.

Is the Senator able to furnish us—if he can, we can reconcile these disparities—with the numbers of each of these categories?

Mr. LEVIN. We are going to furnish you everything we have from the Army, and you are going to furnish us every thing you have.

Mr. NUNN. Absolutely.

Mr. LEVIN. My next question: You made some allegations about failures based on material the Army has given you. I do not doubt the accuracy of the figures you have, and I hope you will not doubt the accuracy of the figures I have. I do not know whether either one is a representative sample. I think it is very complex. There will be classifications with large success rates and classifications with large failure rates.

Have you made any effort to correlate, or do you believe it is even possible to correlate, any of these test scores you have quoted with whether or not people have high school diplomas?

Are you suggesting, for example, that of the people who failed on all your quotations, a larger percentage of non-high-school graduates failed these tests than high school graduates?

Mr. NUNN. Unfortunately, we cannot make a direct correlation, but what we can do is say to the Senator what General Myers said in his letter and in his information, that the biggest problem the Army has is turbulence. Why do they have turbulence? They have turbulence because they have so many people going in who do not complete their first term.

That is precisely the opposite of what the Gates Commission assumed. The Gates Commission assumed that they were going to have a volunteer force with more stability; that we were going to save training costs and turnover costs and have less turbulence and a more effective force.

What these scores indicate to me is not simply a matter of whether a person is intelligent. I do not know whether that is a major part of it or a minor part. It does not indicate that they are high school graduates or are not. I do not know. The Army has not broken that down for me.

The point of it is that we have an Army out there, if their tests indicate anything, that cannot perform the job of defending the country.

Mr. LEVIN. What is the relevance of the scores to remedy the situation? The remedy is high school.

Mr. NUNN. I have not yielded.

If the Senator will let me continue, I have the floor and I have been rather patient this morning. The relevance is if we have a lot of turbulence, we do not have the training in the units and we get people turning over from one unit to the other and we are getting people attriting in basic training and going out of the units, attriting out, and they do not have the ability to train them anymore. Perhaps they do not have enough training time.

I venture to say we are going to see the Army come over within the next 2 or 3 months and say, "Look, we do not have enough training time. We want to go to another 2 weeks of training."

Maybe we should do that.

But the point is they do not perform their jobs. What are the reasons? I do not know what the reasons are. We have to ask the Army experts on that question.

But I do know that if the Army tests have any validity, they are cause for alarm. They are cause for the American people to start thinking about this issue, for Congress to start thinking about it, and there is only one thing that I wish to say to the Senator. If we get more people who are attriting more rapidly and we have more turbulence, in my view these test scores are going to be lower. If we have higher numbers of people who stay in and complete their first term, they can stick in the units longer, they can receive unit training longer, people can work with them longer, and even if they are of the same intelligence exactly, if we have them staying in the Army longer they are going to do a better performance job.

So in direct answer to the Senator's question, do we have any statistical information connecting high school graduates with this score or non-high-school graduates, the answer is no, but I have heard so much testimony that I am absolutely certain that the overall test results have some direct relationship to the turbulence, and the turbulence has a direct relationship, according to the Army statistics, to the number of non-high-school graduates.

I do not have any doubt that we have some non-high-school graduates in the U.S. Army who do a magnificent job. I do not have any doubt about that. We have a lot of them who should be in there. We have probably a lot more people who are non-high-school graduates who should be part of the military.

But this year, I say to the Senator from Michigan, in the United States we have something like 75 percent of 18- to 24-year-olds in this country who are high school graduates. Even the unemployment rank among youth is something like 60 percent—I am not sure of that latter figure—but about 75 percent of the young people in that age group in this country are high school graduates.

The Army is getting only about half that number. That means that we are getting not a representative group of non-high-school graduates; we are getting a much larger number of non-high-school graduates than the relevant age group.

We are not talking about cutting out non-high-school graduates from participating in the Army. We are talking about trying to bring about some sense of balance so we can keep people in the Army so they can be trained, so they can perform their job, and so that they can defend this country.

Mr. LEVIN. Mr. President, will the Senator yield for a question?

Mr. NUNN. I am glad to yield.

Mr. LEVIN. It is on the attrition question. I presume when the Senator says "turbulence," he is using that synonymously with attrition.

Mr. NUNN. It is two-fold. "Turbulence" is a broader term. "Attrition" I use as a term meaning getting out of the Army. "Turbulence" means more than that. It means getting out, but it also means shifting from one base to the other or from one unit to another. I use a broader term. But attrition definitely causes turbulence.

Mr. LEVIN. Going to the attrition question, I shall ask a two-part question of my friend from Georgia. Is he familiar with the GAO report of February 19 that says according to recent data the services, most notably the Army and the Marine Corps, are reducing attrition? Is he familiar with the attrition statistics which show that the Army rate of attrition for high school and nonhigh school graduates, and it is clearly higher for nonhigh school graduates than it is for high school graduates, but it is exactly the same proportion nationally as the Navy, the Marine Corps, and the Air Force? In all instances it is 43 or 44 percent attrition for nonhigh school graduates and 23 or 22 percent attrition for high school graduates.

Mr. NUNN. I certainly think it is all services, without any doubt, so there is a direct relationship between attrition and nonhigh school graduates. There is no doubt about that. The actual statistics in this field, in the Army in 1978 was 29.5—strike that. These are projections. These are not actually figures that I have here. These are projections.

The latest figure we have is 1976, and that is an actual figure and that is 37 percent attrition rate. The projected figures for the Army in 1977 are 34.1 percent; 1978, 29.5 percent; 1979, 31.8 percent; and 1980, 30.6 percent.

There is a delay in being able to get these actual figures because it goes first term and a person has to stay in a while before they can really figure these out.

Mr. LEVIN. Mr. President, could we print this document in the RECORD perhaps, a later document?

Mr. NUNN. Yes.

Mr. LEVIN. Mr. President, I ask unanimous consent to have printed in the RECORD this document dated February 19, 1980, showing the attrition rates for high school graduates and nonhigh school graduates in all four services.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

PERCENT ATTRITION DURING 1ST 3 YEARS OF SERVICE FOR MALE NON-PRIOR SERVICE ACCESSIONS—BY SERVICE, HIGH SCHOOL GRADUATE STATUS AND FISCAL YEAR OF ENTRY

Military service	Fiscal year of entry									
	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980
Army:										
NHS	37.4	40.6	44.7	50.3	50.1	49.5	46.5	43.7	43.1	43.1
HSG	15.2	18.8	20.3	25.0	24.9	26.6	24.7	23.4	23.0	23.0
Total	25.6	28.0	30.9	38.6	36.5	37.0	34.1	29.5	31.8	30.6
Navy:										
NHS	44.7	53.5	54.2	57.7	55.9	49.4	53.8	50.0	44.0	44.0
HSG	22.5	25.6	25.1	27.5	27.1	25.3	25.0	25.6	22.2	22.2
Total	28.3	32.3	34.1	37.7	35.3	31.2	33.2	31.4	27.5	27.5
Marine Corps:										
NHS	40.4	31.7	40.0	46.9	49.3	46.2	50.3	50.2	49.0	44.0
HSG	21.1	15.8	22.8	25.1	25.4	26.5	24.8	24.0	23.0	23.0
Total	31.2	24.3	32.4	37.0	38.0	35.0	32.7	30.9	29.5	28.3
Air Force:										
NHS	42.6	50.1	54.2	54.0	50.2	45.2	43.6	45.0	44.0	44.0
HSG	17.3	21.6	25.5	26.9	25.5	23.7	24.0	23.0	23.0	23.0
Total	21.3	26.4	30.2	31.1	28.9	26.1	26.4	26.8	26.8	26.9
Department of Defense:										
NHS	39.7	41.7	46.6	51.4	51.0	48.6	48.5	46.5	44.1	43.5
HSG	18.2	21.0	23.3	26.2	25.7	25.5	24.7	24.3	22.8	22.8
Total	25.9	28.1	31.7	36.8	35.1	33.5	32.3	29.6	29.5	28.9

Note: Fiscal years 1971–76 attrition rates are from actual data compiled by the Defense Manpower Data Center (DMDC) as of Sept. 30, 1979. Fiscal years 1977–80 rates are projections from the fiscal years 1981–85 POM.

Mr. LEVIN. I thank my friend.

Mr. NUNN. Mr. President, I wish to say one thing to the Senator from Michigan. The 1980 goal is 30.6 percent attrition, which would go down from 1979 attrition of 31.8 percent, and that was the projection also. So these are projected figures; these are not actual numbers. Yet we do not know—they may be right; they may not be right—30.6 percent is based on the Army's goal of recruiting 72 percent high school graduates.

Now if they recruit 45 percent of high school graduates this goal obviously, if any past experience is an indication, is going to not be met. I think it is important to recognize that the number of people the Army says they are going to have in units, the number of people they say they are going to have for combat, all of that is based on the planning of the Army, and their goal is 72 percent high school graduates. If they do not meet that goal, if they do not meet the goal that the committee is trying to drive them for, we are going to see a great deal of additional problems in the Army at least compared to their overall projections.

I think that the Members of the Senate should recognize the consequences in terms of cost of the current Army manpower policies.

The Army's manpower program, that is the number of people in training and the number of people in units, is based on recruiting 72 percent male high school graduates for fiscal year 1981.

The Army plans to recruit 113,600 men of which 82,000 or 72 percent are planned to be high school graduates. If they fail to meet that recruiting program, they will fail to meet the rest of the manpower program.

According to the Army, 43.1 percent of nonhigh school graduates recruited in fiscal year 1981 will fail to complete their first term compared to 23 percent of high school graduates.

So the Army plans on an attrition of 32,500 out of 113,600 men recruited. That 32,500 represents both the attrition from high school graduates as well as that from non-high school graduates.

But if the Army continues down the current path of 38 percent high school graduate attrition will be much higher. It will be 40,280 out of 113,600, which is about 25 percent more than is planned in the budget.

So the Army will miss its end strength, and this is what I think the Senator should recognize, and I wish the Senator from South Carolina were here. The debate he wanted to have take place cannot take place with him not here. But as to the 1981 end strength, if the Army continues along that path they are not going to have 7,780 people that they have planned to have because of their recruiting policy.

The Army plans to meet its end strength regardless of quality so if they miss the end strength I assume they will try to recruit more than the 113,600 that they are planning on now and the cycle starts again with even more attrition.

The Army recruiting and training statistics are based on recruiting only 113,600. As the Army recruits more personnel it will need more trainers and more people in support of training. Within a fixed end strength extra training and support personnel must come from nonsupport areas, that is, from combat.

In 1977 the Congressional Budget Office did a study on the cost of defense manpower. They projected, according to their analysis, that the Army would need an end strength of 64,000 greater if it continues to recruit 38 percent high school graduates. That is my computation based on the CBO computation done in 1977. My computation is that if they continue the 38 percent, and I hope they will not—I hope no matter what the outcome of this amendment it will go up—but if they continue for all the year the same rate that they did for the first 6 months instead of the 72 percent, they would need 64,000 more in end strength in order to be able to be at the same point they otherwise would have been by meeting their own goals.

I ask the question: Is this the policy the Senate wants to accept? This amounts to bringing in large numbers of unqualified people, increasing the size of the training establishment at the expense of combat, and then flushing huge numbers of people out and labeling them as failures.

What is this revolving door policy costing? According to the General Accounting Office military attrition cost the Government $5.2 billion between 1974 and 1977. Recruit and specialized training costs alone account for $2.7 billion of the cost for the Army which attributed more than all the other services combined and attrition cost the taxpayers $2.8 billion between 1974 and 1977.

So the conclusion of all of that again, taking the Congressional Budget Office analysis, projecting that overall analysis on today's figures, which was done by our staff, if you believe that the Army needs the troops it says it needs in combat units, and I do, and if you believe in condoning the Army's policy of 38 percent male high school graduates, and I do not, but if you agree with both of those things, which obviously some people on the floor do, you should be prepared to add 64,000 people to the Army end strength and add $1 billion per year to the Army budget just to accommodate the present recruiting policy.

This is the consequence of the continuation of the Army policy today. If they continue for the next 6 months of the fiscal year or 4 months as they did in the first 6 months, the additional cost to achieve the same strength in the field will be $1 billion.

We stayed around here late last night, very late—we have been around late a lot of nights—but we have been trying to save money. We had a long debate last night on the retirement program, and the question of whether we should compute retirement once or twice a year. I believe the savings involved there were $0.5 billion. We are talking about $1 billion which is what it costs the taxpayers of this country for the Army to continue its present recruiting policy.

I want to add to that, hopefully, the percent for the first 6 months is not an indicator of what the Army will be at the end of the year. Hopefully, even if this amendment passes, the Levin amendment, and the committee position is nullified, hopefully, they will be up around the 45, 50, 55 percent range. I do not know where they will be. All I know is that the Army is clearly putting their emphasis on numbers of people, and I am convinced as I stand here today that even if they continue at the 38-percent rate they would not cut back on the number of people because they cannot bring themselves to make the institutional decision that they are going to put quality above quantity.

Perhaps the Senate of the United States will endorse that position. Perhaps the majority will vote for the Levin amendment. But if our colleagues decide that question, at least, as the chairman of the Manpower Subcommittee, I feel I will have done my duty in pointing out what I consider to be a direction by the Army that will lead to disaster, a direction that will have less and less of our young people willing to go into the Army, and less and less of them who are already in willing to stay. That is the road the Army is traveling down.

No one whom I have seen in the Army at the high levels is willing or able—perhaps they are willing but so far they are not able—to change that policy. The institution is moving down the wrong path.

Mr. President, I see the Senator from Mississippi on the floor and I would be glad to yield to him for such comments as he may want to make. I have a lot of other things I have not gone into and I have not said, but I think the Senator from Mississippi certainly has some valuable comments to add.

Mr. **STENNIS.** Mr. President, I thank the Senator from Georgia. I do have some comments to make. The Senator from Georgia and the Senator from Iowa have been the chairman and the ranking minority member of this highly important subcommittee.

Mr. President, may I yield, if he wishes the floor, to the distinguished Senator from Iowa?

The **PRESIDING OFFICER.** The Senator from Iowa.

Mr. **JEPSEN.** Mr. President, we have heard a lot about military preparedness and national security in the last few months. Not too many weeks ago we debated at great length whether we should reinstitute the registration procedure as recommended by the administration.

Mr. President, the age of brute firepower, brute manpower in today's times is about as outdated as the Roman spear and the shield in this technological, nuclear age we live in. It is a must that we have quality as well as quantity that we are hearing so much about in this debate.

Whereas a high school diploma is an arbitrary standard or measure of ability, according to many knowledgeable people today it is questionable as to the level of ability to read and achieve and write, and so on, and the fact is that the committee adopted the principle that if an army, the Army, achieves its recruiting goal for high school graduates, it was felt that the quality level for trained retention and ability to master the technology and skills that are needed in today's Army would not only be met but we would also have statistics that indicate the retention of those who are high school graduates is much greater than those who are not.

The committee adopted the principle that if the Army achieves its recruiting goal for high school graduates it would get its requested end strength. So as one Senator as I listen to this, and as I have listened in the last couple of months to those who are opposing this, I sometimes think that the old saying of "I think thou protesteth too much" applies to some of the activities that have been carried on here. We have heard rumors at least of scare tactics such as the threat to deactivate two divisions, close down training bases, which grow out of the threats to take a 25,000-man cut, rather than plan on the add-backs, which are in our committee's formula. But that does not hold much water because if we were to deactivate two divisions and close down training bases on the ground of lacking the 775,000 members of the Army, we would have had to close those down and deactivate those two divisions some time ago in that the strength of the Army fell in 1979 below 750,000.

Clearly, if the Army goal for high school graduates is 72 percent—and that is what they say it is—then the Army must anticipate that it can do much better than the 52 percent which would result in this 25,000-man cut.

And what I hasten to point out here and remind the Senate is that this is not a 25,000 meat cleaver type of cut. It is but the end result of a formula that says that if the Army does what it says it is going to do it will not only have its end strength request, it will have 500 people more.

It makes one wonder what all the protesting and resistance of it is all about. The Army has indicated that their goal for high school graduates is 72 percent. And on the basis of the formula presented in the committee, the committee bill that is reported out here, it clearly provides for the total end strength plus 500 if the Army does what it says it is going to do.

The Army says:

> Yes, we have a quality problem. We are going to do something about it. We are optimistic about it. Our goal is 72 percent. We feel good about it.

Testimony was given on that. We said:

> OK. If you do all that, then you will have your end strength and then there is no problem. But we are concerned about the quality, you are concerned about the quality, everybody is concerned about the quality.

So, in the interest of keeping that focus on that quality, we are saying, "OK. You do what you say you are going to do and you will have your end strength. You will have the 775,000, because anything that you do above and beyond 52 percent you then would add 1,250 end strength for each additional 1 percent of nonprior service male high school graduates above 52 percent up to 72 percent." If the Army achieves its high school recruiting goal of 72 percent, the entire 25,000-man cut will be restored. In addition, the committee also made an additional net cut of 500 in Army end strength as part of other manpower adjustments.

Now, the House approved the entire Army requested end strength of 775,800, so this will be a matter of subject of compromise, in any case.

Mr. President, the best signal that America can send its allies and adversaries is that it plans to build up our Army with quality. For those who are dedicated to the volunteer force concept, it does seem to me that they would want to join with us to make sure that everything possible is done to make the voluntary army work.

While I support the committee's efforts to improve quality in the Army and I will defend the Senate's prerogative to tie end strength to quality, I am sure I share with all on the committee, and I believe, in reality, all Senators, that we can recognize that this year's debate may only be the first of many which addresses the problems of the quality and the composition of the Army.

I believe that the Armed Services Committee and the Senate as a whole should continue to work and will continue to work on additional methods, formulas, and procedures which will reflect our concerns for quality in the Armed Forces over the long haul.

What the committee has done here is to reinforce and put quotation marks around and underline the fact that we have great concern over the quality and the input. As the Senator from Nebraska earlier stated here today, about 42 percent, only—and that is up about 4 percent from several months ago when it was 38 percent—42 percent of the people entering the Army recruited today have high school diplomas.

Eighty percent of all the young people in the United States of America graduate from high school. Only 20 percent do not. Yet we are taking, up to this point, 58 percent of the people into the Army being recruited in the Army without a high school diploma. Constructively, we are concerned. The Armed Services Committee has addressed itself to this concern. They have done so in a very positive manner. They have not said, in any manner, shape, or form, which some would here like to have some believe, that they are in any way punishing, reprimanding, shaking a finger, or saying that you have not done as you are supposed to do, so we are going to meat-cleaver 25,000 off the end strength. That is not so.

We said, "We share with you the concern and the problems you are having. We all want to help. We want to help by giving a little incentive."

And the incentives are simply this: That if the Army recruiters and the recruitment program does what they, under testimony, have said and indicated in writing that they are going to do, then everybody is going to be pleased and our national security and our people in uniform in the Army will be all better off for it. We will have no problem.

But we want to keep the emphasis on. We want to do it constructively. This formula that is proposed, as presented by the Armed Services Committee, does do it constructively. I support that and I urge all my fellow Senators to support it also.

Mr. STENNIS addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, for our entire committee—and we all know the immense amount of work that this subcommittee has done—we want to commend them and thank them.

Mr. President, may we have quiet?

The PRESIDING OFFICER. The Senate will be in order.

Mr. STENNIS. I want to commend our subcommittee and thank them, too, for the immense amount of work they have done over a period of years in developing the facts, always with a constructive viewpoint, sympathetic, and this time with some definite, concrete proposal, not a penalty, but a proposal with an incentive tied to it, as the Senator from Iowa said.

It is tragic to me and to all of us who know the facts as we do about the Army. Instead of saying just give us a chance, continue to give us your support and we are going to try to remedy these things that you pointed out from our own record and we are going to do a better job. We have many now who have tried. We have many fine units in the Army. We have thousands and thousands of fine people, women and men.

But we are talking about this condition now. This is a miserable situation for an Army to be in. Talk about sending a message to the Soviets, you need not tell them about this. They already know it. They know more about it, on the average, than we know ourselves. They are here all the time. They attend our hearings. They attend our meetings. They are very skillful.

So what we think this amendment will do is send a message of a different kind to the Soviets, which says: We are not dealing now just in numbers, we are dealing in numbers and quality, a high quality. And we are going to make them run side by side and hand in hand.

That message means it is time to take notice. That message means that we are going back to the old fashioned standards of an American Army. You see the old army or the new army, these units that are not up to standard. We are going back to the old standards of the American Army.

That means business and that is a message they will understand, a message they will get.

I can understand the reaction as I have been here long enough. Instead of a response and a spirit of the utmost cooperation and effort, and renewal of efforts to try to do something about it to the utmost, we get the usual message coming in, "You better stand up and leave it where the Army wants it. Otherwise, we will be taking military installations out of your State."

Unmistakably, that message has come through on this matter. I have heard it come through time and time again in one form or another.

Always the message, and it is a contemptible thing—if it was as well understood by all Members as it is by those of us who are on the Armed Services Committee, it would be resented more than it is—but I do not think the Army does follow that. Those messages come in from other sources.

We will come back to that later. But that is the usual playback that we get from a constructive amendment based on years and years of testimony. A set of facts were presented to which no real exception has been taken, not one iota of proof has stated these statistics and records are wrong. There may be some misfigures here somewhere, but those things happen. However, no one comes in on the merits and say, "You are wrong with your records."

That just doubly proves it, of course. The committee got the records from the Army.

I have no complaint. The Army is my favorite. But I know how they avoid cooperating at times, all of them, to some extent. Some members do. It is not anything new to me and not something I personally resent. But I say America had better wake up. Those of us in the Congress, every one of us, have a special obligation to do the things whether they are popular or not to see that this Nation is really militarily prepared. We had better stand up and do the hard thing and change the direction of this matter. We can do it with this one little amendment.

Win or lose on this vote as to this amendment is not going to be a victory for the Army. It is not going to change the records. It is not going to change the problem. The only way to change the problem is to get at it in a convincing way and admit the wrong, that error is there. Direction has to be changed. Just a few simple changes can clear it up.

The Marine Corps was mentioned. Of course, we do not like to go back to something too much. I know something about what happened in the Marines when they came up short. There was a big contest here of whether or not their numbers or ceilings would be touched by this committee or were they Holy Scripture and untouchable. The committee decided to reduce them and it did.

Just about that time, or soon thereafter, a new commandant came in. Many in the Marine Corps appealed strongly to him to go back and fight for the figures at the level they had been. That is when he gave a famed remark, "Close ranks," talking to his fellow officers, "we are standing by quality."

There was not another word said or complaint about what the committee had done in bringing them to those new totals.

I know about this because I was told directly at the time by that commandant. He did the hard thing in the hard way. That was his command, though, "Close ranks." And they brought themselves back.

They had been operating under the hardest kinds of conditions all over the world. They brought themselves back and put it on their automobile tags—"We are looking for a few good men."

I say this with all due respect to anyone who cannot make the grade in the Army.

We have to have this quality. In that case it was demanded by the Congress, demanded by the commandant. Results paid, and it helped all the services. It spread from there. The Lord only knows how far we would have gone and what a fix we would have been in had not that one man, at the right time and in the right place, said, "Close ranks." That meant to quit talking and build the thing back up.

We have had this problem with us, and something is going to have to be done about it. We have this bill and it is a fine bill on military preparedness.

We will have an appropriation bill that will follow it, the largest appropriation bill for a 12-month period in the history of this Nation in wartime or peacetime. But the same thing will be lacking then as now if we go home and tell our constituents that we did a whole lot for military preparedness but we did not do the essential thing in demanding this quality content, quality performance to a degree, quality character, discipline, essential discipline, a minimum of simple discipline for a military unit. If we do not have it, we do not have a military unit. I do not know what else you would call the group but they are not a military unit unless they have the capacity for discipline to start with, and a willingness for discipline imposed on them, and a willingness to try to apply self-discipline. It makes no difference about what grade it is in school. They do not grade people by grades in school.

Those are the things that we are dropping by the wayside. I went around to our military institutions and installations soon after the All-Volunteer Force became law. It was passed and it became policy. I wanted to know how it was going to work.

I supported the effort to make it work, actively, by word of mouth, appropriations, and every other way. I did insist on meeting with these recruits, talking to them. I even talked to the PFC's, the corporals, and the sergeants at these military installations. I went to Fort Jackson, S.C.; Fort Lewis in the State of Washington, pride of the Army. I went to Louisville, Ky.—or in Kentucky; I have forgotten just where the installation was. I went to other ones.

I talked to those recruits that had just gotten there. I talked to those who had 90 days' training, and I talked to noncoms.

You are not going to learn about things unless you talk to that group. That is the Army. They know what is going on. And I would ask those sergeants.

Mr. President, I claim to know a little about human nature. I have lived among people all my life, practicing law, being an officer. I know human reactions.

When I first started talking to them, they would not talk to me much—these sergeants, we shall say. It got to where, out in the open, out on the lawn of the military installations, while I was in the company, say, of a major general, I would see a sergeant coming along. I would ask him to stop. I wanted to talk to this sergeant. He would follow me on out there so we could hear what this sergeant said. He did not hesitate to tell me, things were getting worse and worse.

They would not be frank with me to start with. I do not want to discredit the Army. It is not all bad, of course not. He would talk to me about the personnel, the lack of discipline, and the laxness of discipline. He would tell me about the difficulty of getting people to reenlist. This is just a grass roots comment.

I think the people who have worked so hard on it deserve a lot of credit for doing as well as they have. They try to fill those quotas as if it were a sin not to fill them. I do not think it is any reflection on them if they cannot get those who meet the quality. I know they draw down about $17,000—not the individual, but from the appropriations Committee, they get about $17,000 now—a loose figure there, the way it is figured—in allowance to the service for every man they have allotted. Of course, they have to account for that money, whether they use it on the men or not. But I think they have done a lot of good and we have learned a lot about it.

The only way in the world to avoid the reinstitution of selective service is to make this system work on the Volunteer Forces, make it work strictly on a quality basis. We cannot make up in numbers the lack of quality to start with. We never have been able to do it and never will, particularly in times like this.

As I say, they talk about the salaries being too low and this and that. I wish everyone had more salary. But there is a whole lot more in this bill. I think maybe we went too fast with it, without first correcting these deficiencies.

Well, it is mighty easy to talk too long, Mr. President, I shall not take up more time of the Senate now. I hope that, sometime soon, we can get a time agreement, a time limitation on this and on other matters.

We have gotten this bill down now to a few more issues. There is a fine chance to pass it tonight without going very late, that is my judgment. But this is a thorn and I believe we can reach an agreement now on a time limitation.

Mr. President, I wish there had been a chance to really get the facts as we found them to the membership of the fine body, whose common sense and courage is equal to the occasion. But these empty chairs do not vote. I know the membership has other duties.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, as this body knows, I am a strong supporter of the All-Volunteer Force and I was opposed to the President's registration proposal, because I thought it was being used, and still believe it is being used, as the wrong kind of signal to be sending to our adversaries about the United States finally getting tough again with its military capability.

But I do support the proposal of the Committee on Armed Services to cut the Army's end strength level—not in a spirit of vindictiveness or out of spite, but rather, because of a compelling sense of necessity.

Mr. President, we in the Senate cannot ignore the potential turbulence which Army Chief of Staff Meyer predicts will occur if the end-strength cut is allowed to stand. At the same time, however, I believe we have an obligation—an obligation to ourselves, the American people, and the defense establishment—to make it clear that we are unwilling to accept the sacrifice of quality simply to meet a specified end-strength goal.

I recognize that the Army has a difficult task in meeting its recruiting obligation for this fiscal year. It did not achieve its required numbers last year, and the requirements are higher this year.

But, the recruiting trends are disturbing. While a high school diploma may not be the best means of judging quality, that diploma has been shown to be a reflection of a soldier's likelihood to fulfill his or her service obligation and to do his or her job well. The Army is bringing in adequate numbers of people, but its own recruiting data indicate that the service has fallen far short of its goal in attracting high school graduates.

The Army's goal for high school graduates is 72 percent of recruits. Yet, only 43 percent of all recruits—and about 38 percent of male recruits—have a high school diploma.

This does not mean that the people joining the Army will not be good soldiers. But, the Army's own statistics indicate that a fair number of them will not. First-term attrition for nonhigh school graduates runs at about 43 percent. For those with high school diplomas, the level is about 23 percent—almost a 2-to-1 ratio.

Mr. President, I think these numbers are significant for a number of reasons. They reflect the disparity in cost of bringing in higher numbers of nonhigh school graduates. The General Accounting Office just last year did a study which pointed out the high cost of attrition.

Administrative, food, clothing, and, particularly, training costs relating to attrition are substantial.

Beyond that, the Armed Services Committee has received troubling information about the need for retraining individuals who have been unable to retain the information they need to do their jobs properly. In certain skills, the number of soldiers with passing test scores has been very low. These are skills critical to our Nation's ability to respond in time of mobilization.

Defense Department officials have told the committee over the past several months of their discovery that perhaps as many as 45 percent of all Army recruits have been in category IV, the lowest category eligible for military service. The reason for this was a faulty military qualification test, which Pentagon officials had failed to check adequately for validity. After denying reports of lower recruit quality in the past couple of years, Pentagon officials finally acknowledged that those reports may have been more valid than the test.

All of these factors contributed to my personal decision to support the cut in Army end-strength. The reduction is not arbitrary. The Army will be permitted to increase its numbers by 1,250 for every 1-percent increase in high school graduates. If it meets its target for high school graduates, the Army will face no cut whatsoever.

In supporting this approach, however, I recognize that it is not without flaws—and that Congress must be willing to shoulder the responsibility if the bleak consequences predicted by General Meyer are borne out.

Congress has not, in my view, acknowledged its share of the blame, if you will, for the position the Army finds itself in today. Decisions we have reached have had a direct, adverse impact on military recruiting and on the quality of today's force.

In the 94th Congress, two actions were taken which, in my view, have had a devastating effect on military recruiting. The first decision was to cut the military recruiting budget, particularly the advertising budget, because the services had been so successful in their recruiting efforts. In effect, Congress said, you are doing such a great job, we will give you fewer resources to do that job.

It said, you have done such a great job, you do not need this much money. We are going to slice the defense budget and you will have less next year.

A predictable consequence ensued.

The other blow to military recruiters was the decision to eliminate GI bill benefits. Educational incentives have consistently been cited as one of the most important reasons for joining the military. Studies concluded that as many as 25 to 30 percent of Army recruits joined because of the GI bill. The services had record numbers of volunteers in the last month of the GI bill. They also reported a precipitous decline in recruit quality in the initial month after the GI bill ended.

I voted for the termination of that bill and I made a mistake. Congress made a mistake. I think we have to rectify our errors and admit we have made errors.

The step we are recommending—the reduction in end-strength by 25,000—has been described as a negative means of dealing with the quality problem. I cannot disagree with that characterization. It is a negative means.

The only thing we were using was the stick to beat the horse or mule to achieve this result we are trying to do. That is the increase in the quality. We are also using carrots, long overdue, in my judgment.

I suggest that, in addition, we must look to positive approaches. That is why I have supported Senator Armstrong's strong efforts to boost military pay, Senator Tower's proposal to raise pay (included in this bill), and the Nunn-Warner special pay package. It is also the reason that I have worked for educational incentives for military service.

Included in this measure is a 1-year test package of educational benefits which I hope will serve as a model for future incentive programs. A key element of the package is the proposal I introduced in the Senate as S. 2071 and Representative Tom Petri won approval of in the House. That proposal provides forgiveness of student loans in return for military service.

The test provides forgiveness of 33⅓ percent or $1,500, whichever is greater, of outstanding or subsequent Federal student loans for each satisfactorily completed year of active service. For Reserve service, 15 percent or $500, whichever is greater, would be forgiven for each satisfactorily completed year of service.

The Secretary of Defense would have discretionary authority as to which components and specialties would be eligible for this benefit. Combat and critical skills would receive high priority.

The committee also recommends that the 1989 deadline be lifted for use of GI bill benefits. This deadline could cause the services to lose some good people, who will leave the service to use their benefits before they expire. We also call for a report by March 1, 1981 on contributory and noncontributory education programs, with an analysis of the costs and benefits of various educational incentives for improving enlistment and retention in the military services.

In my view, we should replace VEAP, the veterans' educational assistance program, when it expires next year with the kind of successful educational benefit program embodied by the Vietnam-era GI bill. Legislation I have introduced, S. 2020, could restore those benefits, with eligibility beginning after 2 years of service. This is the kind of positive approach which I feel is essential if the All-Volunteer Force is to be successful and strong.

As we debate the question of the quality of the AVF, and the Armed Services Committee's proposal to cut force strength for the Army, I think it appropriate that we be reminded of the all-too-accurate prophecy of Dr. Richard Cooper, then director of defense manpower studies for the Rand Corp., in his September 1977 report, "Military Manpower and the All-Volunteer Force." Dr. Cooper said:

> To summarize, the AVF can be made to fail. But it can also be made to work—and perhaps much better than its draft-dependent predecessor. Whether or not the potential of the AVF is realized will depend critically on the policies that the DoD and the Congress adopt during the next ten years, for the true test will occur in the 1980s. If this potential is not realized, society may not be willing to pay the escalating costs emanating from the current approach and, as a consequence, may simply cut forces.

Less than 3 years after Dr. Cooper reached that conclusion, the Senate is being asked to cut Army strength. I believe he correctly assessed the reason for the action—namely, the failure of the Pentagon and the Congress to provide the policies and direction needed to encourage top quality men and women to join the military and to consider a career in service to their country.

We need to turn that around. I think the process is beginning through the Armstrong and Tower initiatives and the new attention to educational incentives. But, we in Congress cannot shirk our responsibility to those in uniform and to those we hope to attract into our military services.

I would like to mention one other factor before I conclude my remarks. A great deal of lobbying has been taking place on this bill, much coming from the Pentagon.

My office, in fact, had received a call with a suggestion made that this proposal of the Armed Services Committee at some future time, if we adopt this, someone in the future might attack me or any Member who supported it as being racially motivated, that this particular measure was racially inspired, or had overtones that this was some sort of back-handed attempt to get at the problem of too many minorities coming into the service.

I want to say it is one of the most pernicious, one of the most insidious suggestions I have ever heard made to this particular Member of Congress.

The Senator from Georgia is not proposing this because he has concern about the composition of our armed services as far as their race or ethnic background. He is concerned about the quality we currently have in our military. I support him in his concern.

I would like to rebut, not only the suggestion, the implicit and malicious suggestion that this is racially motivated, by referring to a statement made by Charles C. Moskos, Jr., Department of Sociology, Northwestern University, Evanston, Ill.

It is a paper prepared for the Hoover-Rochester Conference on the All-Volunteer Force, Stanford, Calif., December 13–16, 1979.

I will quote a portion, and I ask unanimous consent the document in its entirety be printed in the Record.

There being no objection, the paper was ordered to be printed in the Record, as follows:

SERVING IN THE RANKS: CITIZENSHIP AND THE ALL-VOLUNTEER FORCE

The changing racial composition of the Army is shown in Table 3. Blacks made up 11.8 percent of enlisted personnel in 1964, 17.5 percent in 1972, and 31.3 percent in 1979. Even at senior noncom levels (E7–E9) blacks are considerably better represented in 1979 than at any earlier time. The proportion of black noncoms can be expected to increase further owing to black reenlistment rate being 1.6 times greater than that of whites. Blacks can be expected to play an increasingly positive role in the NCO corps. Blacks continue to be underrepresented at the officer corps at all levels although the direction of change is toward greater black participation. Army projections are for black officer entrants to reach 20 percent by the end of 1980. Whether this goal will be achieved remains to be seen, but there certainly has been a sharp rise in newly commissioned black officers since the start of the all-volunteer Army.

It is important to stress that the trend toward increasing black content in the Army predates the all-volunteer force. The rising percentage of blacks operates somewhat independently of the end of conscription and can be attributed in part to the dramatic increase in the proportion of blacks eligible for military service, specifically, the increasing number of black high school graduates and the larger percentage of blacks placing in the upper levels of the mental aptitude tests required for service entry.[5] There is also the combined push of the astoundingly high unemployment rate among black youth and the pull of an institution which has gone further than any other to attack racism.

Race and Education. It is a well recognized fact that the educational levels of blacks in America have trailed far behind that of whites. The trend, however, has been toward a narrowing of the gap. Looking at males 18–19 years in 1967, for example, 30.7 percent of blacks compared to 15.4 percent of whites had not completed high school. By 1977, the high school dropout rate for blacks had declined to 23.8 percent while the rate (for whites) increased to 17.0 percent.[6] Still even for the more recent period, black educational attainment falls below that of whites.

Contrary to national patterns, however, the intersect of race and education is quite different among male entrants in the all-Volunteer Army. Since the end of the draft, the proportion of black high school graduates entering the Army has exceeded that of whites, and this is a trend that is becoming more pronounced. In 1979, as shown in Table 4, high school graduates accounted for 65 percent of entering blacks compared to 54 percent of entering whites. In point of fact, today's Army enlisted ranks is the only major arena in American society where black educational levels surpass that of whites, and by quite a significant margin!

TABLE 4: *Percentage of high school graduates among Army enlistees by race (non-prior-service males)*

Fiscal year	Black	White
1975	59	53
1976	63	53
1977	65	53
1978	76	65
1979	65	54

Source: Department of Army statistics.

What may be happening in the all-volunteer Army, I suggest, is something like the following. Whereas the black soldier is fairly representative of the black community in terms of education and social background, white entrants of recent years are coming from the least educated sectors of the white community. My stays with Army line units also leave the distinct impression that many of our young enlisted white soldiers are coming from non-metropolitan areas. I am even more impressed by what I do not often find in line units—urban and suburban white soldiers of middle-class background. In other words, the all-volunteer Army is attracting not only a disproportionate number of minorities, but also an unrepresentative segment of white youth, who, if anything, are even more uncharacteristic of the broader social mix than are our minority soldiers.

Women. Perhaps no change in the makeup of the all-volunteer force has received as much media attention as the growing numbers and role of women soldiers. An argument could be made that it has been the sharp rise in female entrants (virtually all of whom through mid-1979 were high school graduates) which has been the margin of success in the all-volunteer Army. As given in Table 5, the proportion of women in the enlisted ranks has climbed from .9 percent in 1964 to 7.6 percent in 1979. Table 6 shows females account for about one in seven of all enlisted accessions in 1978 and 1979. Thus the Army seems well on its way toward the goal of a ten percent female enlisted force by the early 1980s.

The increasing utilization of women in the all-volunteer Army is an indisputable fact. Starting in the early 1970s virtually every occupational specialty has been opened up to women with the exception of those in the combat arms. There has also been a steady elimination of discriminatory practices: in 1971, the Army lifted its ban on the enlistment of married women; in 1973, a Supreme Court decision required that married women in the military get the same family allowances that married men have long received; in 1975, the Army dropped its policy of discharging women soldiers who became mothers; in 1976, the minimum 18-year-old enlistment age for women was lowered to 17, the same as that for men.

(At this point Mr. RIEGLE assumed the chair.)

Mr. COHEN. Mr. President, this particular section states:

> Race and Education. It is a well recognized fact that the educational levels of blacks in America have trailed far behind that of whites. The trend, however, has been toward a narrowing of the gap. Looking at males 18–19 years in 1967, for example, 30.7 percent of blacks compared to 15.4 percent of whites had not completed high school. By 1977, the high school dropout rate for blacks had declined to 23.8 percent while the rate for whites increased to 17.0 percent. Still even for the more recent period, black educational attainment falls below that of whites.
>
> Contrary to national patterns, however, the intersect of race and education is quite different among male entrants in the all-volunteer Army. Since the end of the draft, the proportion of the black high school graduates entering the Army has exceeded that of whites, and this is a trend that is becoming more pronounced.

It has exceeded that of whites.

So, Mr. President, I go on record announcing that the kind of malicious, pernicious, or insidious suggestion made, that somehow someone in the future will raise an issue to me or any other Member of Congress, and I would not take a back seat to anybody on my support for civil rights legislation, but to suggest to me that my vote on this particular matter, because I am concerned about the quality of the individuals coming into our service, is racially motivated should be denounced by every Member of this body.

The Senator from Georgia is concerned about quality, the distinguished chairman of the Armed Services Committee is concerned about quality, and not about race.

Mr. President, I simply conclude my remarks by saying that if this were only a negative approach, I would not support it. It has a negative aspect, but also coupled with the positive components which I believe will at least serve as a basis for turning our attitude around.

I want to see it work. I would not join the chairman or my friend from Georgia in supporting it if I thought it was a backhanded way of doing in the All-Volunteer Force, just cut down the end strength, and we will not have enough men and have to go back to the draft. If that were the motivation, I would stand in opposition to it.

A final word—there is going to be some challenge if we ever get to the subject—an effort will be made to take ships out of the committee's recommendations. It seems to me there is some parallel to be drawn to what is taking place in our force structure.

The committee has acted to put more ships in its inventory because we have been given an expanded commitment around the globe.

If this country is going to undertake to expand itself to a three-ocean commitment but only provide the ships to fight a 1½-ocean war, we are making a very serious mistake. By the same token, if we are going to undertake to expand our commitment around the globe but not provide our military with capable people in the service, then I think we are also making a serious mistake.

If we do not have the qualified manpower to do the job, perhaps we will have to cut back. Perhaps we should not extend ourselves into the Indian Ocean or the Persian Gulf. I think we are making the right decision, but if we do not have the ships to do it, we will have to cut back.

We are seeing initiatives undertaken by our NATO allies, for example, who are considering the possibility of having a separate détente with the Soviet Union. Perhaps we will have to give some consideration to cutting back so far as our manpower commitment is concerned and let them share a bigger responsibility for the defense of their countries.

I believe we are making a classic mistake to undertake a worldwide commitment with an ever-diminishing force structure, with less and less qualified individuals.

So, Mr. President, I support the committee's measure. I do not do so enthusiastically because I think it is the only way to achieve our result, but out of a deep sense of necessity for this, coupled with the other positive incentives recommended, so that the end result will be a better qualified Army for the defense of this country.

Mr. STENNIS. Mr. President, I thank the Senator for the very fine attention he has given this problem in the committee and for the splendid presentation of his thoughts here on this subject. His presentation is always of a high caliber and an intelligent degree. He has presented a splendid analysis for the benefit of the committee and of the Members.

Mr. President, I hope we can conclude this matter very soon. I do not see why we cannot vote on this amendment, after this notice has been given, and then proceed with other matters.

I yield the floor.

Mr. LEVIN. Mr. President, I ask unanimous consent that the names of Senator Schweiker and Senator Proxmire be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, we are trying to work on a time agreement, and a number of Senators are coming to the floor who wish to speak.

A number of comments have been made about quality. I believe it is clear that everybody wants quality.

One of the problems is that there has been no relationship shown between all the figures that have been given to us on test scores and high school graduates. The question of high school graduates is at issue in the action of the Armed Services Committee. That is the only connection relative to quality which they have made.

Yet, there has been no linkage, no nexus, shown between whether or not somebody has a high school diploma and whether or not somebody is going to score well on these SQT tests which have been quoted. So, while everybody wants quality, absolutely no relationship has been shown between the information given to us on such scores by the Senator from Georgia and whether or not somebody has a high school diploma.

In addition, I quote from the GAO report entitled "Overview of the Manpower Effectiveness of the All-Volunteer Force." This is dated April 14, 1980, and this is what the GAO says in this regard:

> According to official service records, about 22 percent of the services' (Active, Guard and Reserve) enlisted people are either unqualified for, or have different skill levels than required for the job to which they are assigned.
>
> More significantly, the Active Army had the lowest percentage of the four services of enlisted personnel who were not qualified for the jobs to which they were assigned.

The Marines, the Air Force, and the Navy all have a higher percentage than the Army has, of persons who are either qualified for, or have different skills than required for the job to which they were assigned.

I ask unanimous consent that that portion of the report from the GAO, dated April 14, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

> During the past two years, the General Accounting Office (GAO) has reached a number of conclusions about the quality of the manpower in our Armed Forces:
>
> "According to official service records, about 22 percent of the services' (Active, Guard and Reserve) enlisted people are either unqualified for, or have different skill levels than required for the job to which they are assigned." (This latter clause means either people were over or under qualified, or misranked, for their jobs.)
>
> More significantly, the Active Army had the lowest percentage of the four services of enlisted personnel who were not qualified for the jobs to which they were assigned.
>
> Active Army, classified but much lower than the following:
>
> Marines, 20 percent.
>
> Air Force, 37 percent.
>
> Navy, could not even estimate; Navy Reserve reported 34 percent for its personnel.
>
> (Source: Overview of the manpower effectiveness of the All-Volunteer Force, GAO report of April 14, 1980.)

Mr. LEVIN. In addition, Mr. President, we have heard quite a bit about turbulence. Since the proponents of the cut in the Army have been unable to show a linkage between test scores and high school diplomas, they are reduced to arguing that there is a connection between high school diplomas and whether or not somebody is going to stick through the third term in the Army. It is called stick-to-it-iveness.

Indeed, there is a relationship. It is exactly the same relationship in the Army as it is in the Navy, the Marines, and the Air Force. It is the same percentage. It is a little better for high school graduates than it is for non-high-school graduates. It is exactly the same proportion in all four services in terms of whether or not the people who enlist are going to serve out their first term.

Mr. President, the Senator from Kansas is in the Chamber, and I wonder whether he wishes to speak at this time. I will be happy to yield to him, if he wishes.

Mr. President, may I yield to the Senator from Kansas without losing my right to the floor?

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kansas is recognized.

Mr. DOLE. I will take just a moment or two, because I know there is an effort to reach a vote on this matter, and I do not like to delay a vote.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. ROBERT C. BYRD. Mr. President, I wonder whether we can agree to vote on this amendment no later than 3:30 p.m. today, with the time to be equally divided.

Mr. NUNN. Mr. President, reserving the right to object, I would be willing to enter into that agreement, despite the fact that we have had about half the time the proponents of the Levin amendment have had.

However, I have other amendments which, if the Levin amendment is agreed to, it will be essential for the Senate to vote on—most of them, perhaps not all of them. I would hope to vote on them in an orderly way, without delaying the Senate longer than possible.

It is impossible to know at this stage which of those amendments would be voted on. Therefore, I have to ask, before I agree to this unanimous-consent request, that these 13 amendments be placed under a time agreement and be given 1 hour on each amendment, equally divided.

Mr. LEVIN. Mr. President, the majority leader has asked the question about a time agreement on this amendment, and I have no objection to that.

The Senator from Georgia is now asking about a time agreement on his other amendments. On 12 of the 13 amendments, they raise basically the same issue all over again, and I have no objection to a 10-minute or 20-minute limitation on each of those.

However, on his 13th amendment, which raises a totally different question, about an investigation of the Army in this matter, I believe that raises an issue for the Armed Services Committee which would take a great deal of time to look into.

So on 12 of the 13 amendments dealing with the issue involved in the pending amendment, I have no objection, if the Senator from Georgia has none, to 20 minutes on each.

Mr. NUNN. I cannot agree to 20 minutes on each. It would be fine for the Senator from Michigan to have 20 minutes on each. He has taken 8 or 9 hours on his amendment. I would agree to an hour on each one, with the hope that most of them would be disposed of sooner.

Mr. HOLLINGS. We can definitely agree on this one, can we not?

Mr. NUNN. I object to any agreement unless it couples the other amendments.

Mr. HOLLINGS. The eight or nine amendments?

Mr. ROBERT C. BYRD. Mr. President, the agreement on this bill is that it will be finished no later than 3 o'clock tomorrow, and some other Senators have amendments. I hope we can move on. We now have been more than 5 hours on this amendment.

I say to the distinguished Senator from Georgia that he does not prejudice his position by at least letting the Senate vote on this one by 3:30.

Mr. NUNN. If the majority leader would think about that, I believe he would agree with me on it; because we have debated the Levin amendment for 6 or 7 hours, of which they have taken about two-thirds of the time. Several members of the subcommittee have not spoken, and there would be no assurance, under the unanimous-consent request, that I would get to vote on my amendments until 3 o'clock tomorrow afternoon, with no debate.

I would have no assurance that I would get the floor. I have no assurance I would be able to get a vote.

So I would just not be able to agree with that. I am willing to work out any kind of time agreement we can as long as all the amendments relating to this specific subject matter are considered in sequence and we can reach a conclusion once and for all on this particular matter and then go on to other things.

Mr. ROBERT C. BYRD. The Senator would have as much assurance that he could get the floor without the time agreement at this point on his other amendments as he would if he had a time agreement.

Mr. NUNN. Not if we propose a time agreement as I am sure the majority leader could propose it which would give us the right to deal with these amendments after the Levin amendment.

Mr. ROBERT C. BYRD. Why do we not proceed with it. Is that agreeable with Mr. Levin?

Mr. HOLLINGS. What is the proposal, please?

Mr. ROBERT C. BYRD. That we vote at no later than 3:30 p.m. on the pending amendment and that there be——

Mr. HOLLINGS. Time equally divided?

Mr. ROBERT C. BYRD. Yes, time to be equally divided, and that there be a time limitation on each of the remaining amendments by Mr. NUNN of not to exceed 1 hour, the time to be equally divided.

Mr. LEVIN. Except for that one amendment.

Mr. ROBERT C. BYRD. Except for the 13th amendment.

Mr. NUNN. I agree with the Senator on the 13th amendment. I do hope to get it up and get it considered, but I agree it does raise different questions than what we are debating here, although the amendment directs itself at the question of whether the Army is threatened to close bases around the country, and that is what we are talking about here. But I feel very strongly that there have been some implications, insinuations, and direct comments from various Senators that in my view are not the appropriate way to debate an issue certainly from an institution that is being funded by the taxpayers.

But I agree on not having that amendment as part of this, but I ask the majority leader to propound the request in a way that it would be assured that we would complete not only the Levin amendment but also all the Nunn amendments on this particular subject matter before going on to another.

Mr. ROBERT C. BYRD. I say to the distinguished Senator there are eleven other Senators who have entered into time agreements on their amendments earlier today. They have been willing to take their chances, and I think they need some protection likewise.

Mr. NUNN. I have not taken the time. I have been here all morning. I have been sitting here. We listened to the other side from 9 o'clock to 10 minutes to 12. I made a point at that stage to take a look at the time element. Yesterday afternoon the debate was taken by the side of the Levin amendment. The Senator from South Carolina would not agree for me to have certain time this morning without him having additional time.

So I have been willing to debate this issue in an orderly way, and I am willing now. I am willing to enter into a time agreement, but I am not willing to have the Levin amendment voted on and then have no other alternative before the Senate on this whole question of quality. I am not willing to do this, and I would object to any such request.

Mr. ROBERT C. BYRD. The Senator has as much right to recognition as any other Senator. He can get recognition.

Mr. NUNN. I know my rights under the rules, I say to the majority leader, and I understand what unanimous-consent requests can and cannot do. One thing they cannot do is give the Senator the right to the floor. It has been done here hundreds of times. It has been done in terms of the sequence of amendments, in terms of when they come up, and I object to any unanimous-consent request that does not give me the right to have other amendments voted on if the Levin amendment passes.

Mr. ROBERT C. BYRD. Without agreement on the amendment the Senator does not have any assurances there are going to be called up 13 amendments because this talk could go on on this one amendment until 3 o'clock tomorrow afternoon and he would not be assured of anything except a vote on this amendment at that time and calling up his amendments when the hour of 3 o'clock arrives with no debate.

Mr. NUNN. I am not going to try to prevent a vote on this amendment tomorrow afternoon. I have not tried to prevent a vote on it this morning.

Mr. ROBERT C. BYRD. I understand that.

Mr. NUNN. The Senators from South Carolina and Michigan say they have six more speakers they want, and that is their right. I am not trying to prevent a vote on that amendment and do not intend to.

Mr. HOLLINGS. Let the Senator from South Carolina speak for himself.

Mr. ROBERT C. BYRD. The Senator from South Carolina is willing to enter into an agreement to vote on this amendment at 3:30 p.m.

Mr. HOLLINGS. As to the inference we have not been letting him have the floor, the proposition made this morning was that we not be heard. I am the author of this particular amendment and the proposal was made, "You do not talk at all."

That is the only thing I was objecting to, and the contrary is true. I wanted the Senator from Georgia to speak. I do not have a prepared statement. I have not put out any releases. And I wanted to answer what he had to say because it is very difficult for me to understand the logic of his position. I will be glad to sit down and listen to him and then respond. He may have the floor. I will agree to a time agreement. We are not trying to filibuster, but I wanted to learn if there is something else new what is a cut in end strength that I did not know about.

Mr. NUNN. I say to the Senator, interestingly enough, after he got through making his speech, the Senator from Georgia started making his and the Senator from South Carolina left the Chamber. The Senator from Georgia talked about 30 or 40 minutes. The Senator from South Carolina was nowhere to be seen. So the debate the Senator from South Carolina had been looking for and the information he has been looking for ended after he got through making his speech. That is his privilege.

Mr. LEVIN. Except the Senator from Michigan was in the Chamber and we did have a fairly lively debate on a number of points.

Mr. NUNN. That is right.

Mr. ROBERT C. BYRD. Could we get an agreement?

Mr. HOLLINGS. When the Senator from Georgia went to his press releases that is when I left the Chamber to get lunch. I did that when he started reading.

Mr. ROBERT C. BYRD. He has the right to leave the Chamber or stay in the Chamber.

Mr. HOLLINGS. I have the right not to listen to releases when I read them twice.

Mr. ROBERT C. BYRD. I hope we could enter into an agreement here and quit talking about what has happened already today.

Mr. HOLLINGS. That is right.

Mr. ROBERT C. BYRD. And the fact that this Senator was not in the Chamber or that one was not.

The distinguished Senator from Georgia indicated to me earlier he would be willing to enter into a time agreement on this amendment provided there was a time agreement on each of his remaining amendments, and that is the proposal I have suggested here, that the Senate vote no later than 3:30 p.m. today with a time to be equally divided on this amendment and that on each of the remaining amendments of the Senator from Georgia there be a time limitation of 1 hour to be equally divided in accordance with the usual form, with the exception of the 13th amendment.

Mr. NUNN. Provided, I say to the Senator, if he had one proviso we could have a unanimous-consent agreement that provided I be recognized immediately on the disposition of the Levin amendment and at that time I be able to bring up my amendments and that I be able to dispose of all those amendments before we go to another subject matter, and I say to the Senator I do not intend to.

Mr. ROBERT C. BYRD. That is an entirely new factor that the Senator has injected into the equation.

Mr. NUNN. I have not agreed to anything. It is not new. I have not agreed to anything. I have been ready for a unanimous-consent agreement all morning.

Mr. ROBERT C. BYRD. I am trying to assist the Senator getting time on his amendment.

Mr. STENNIS. Mr. President, reserving the right to object, now they are going back to the Senator from Georgia and the subcommittee here and the Senator from Iowa. This amendment in question represents 5 or 6 years of work on this subject. I think most of the light on the subject has been brought out by this subcommittee, this detailed analysis and the record speaks for itself. It is certainly entitled to more debate than they have had—may I wait now as I wish the Senator from Georgia to hear what I say—I do not think he has had yet a chance really under the circumstances to fully present his matter.

It is a sad fact that the membership just has not been here either.

But we do have now part of an institution here and we have other parts of the bill that are highly important also.

If they be such so that we cannot dispose of them between now and the beginning of this recess, if that is the fact, we better just admit it now and go on.

But I think we perhaps could just leave this as it is now and go to some other parts of the bill. Later we could come back to this upon consideration and ask the Senators on both sides to look over their hands again. Here is Senator LEVIN, and he is also a valuable member of our committee who is very thorough. So I am interested in the bill as a whole. And we have an obligation to the bill as a whole.

I will not go over all the reasons. But I believe these Senators could consider further a chance to permit us to vote on these amendments and also others. I hope we could.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will indulge me just briefly, could we try for 4 o'clock to vote on this amendment?

Mr. NUNN. I will say to the majority leader the time is immaterial to me. If we would vote at 3 o'clock or 3:30 I would be glad to do it, but only if we have a chance to vote on these other amendments after this. I am not going to shorten the time after they have taken two-thirds of the time to debate, which is their privilege. We have not been able to have all of our subcommittee members talk who want to talk. We have not said all we have to say on this issue, but I will object to entering into any agreement that would give them that kind of a time but have no assurance of having any other time directly on this subject matter. It would make no sense to go off and talk about the B-1 and then come back at midnight tonight and talk about personnel. We can get through with this matter this afternoon if we talk about it in an orderly manner, but what is being suggested is not orderly. I would not agree to that because it would not give the Senator from Georgia the right to offer additional amendments on this or even after the disposition of the Levin amendment.

Mr. ROBERT C. BYRD. I will not carry on the conversation any longer except to say that this agreement I have asked for does not deprive the Senator from Georgia of any rights. He has the same right as any other Senator to seek recognition. I think he is assuming something that is not the case when he assumes that once this amendment is disposed of the Senate will immediately go to somebody else's amendment. He has a right to get recognized and call up his amendment.

Mr. NUNN. If the majority leader would put that in the unanimous-consent request. there would be no difficulty.

Mr. ROBERT C. BYRD. That he would be able to call up his amendment?

Mr. NUNN. That is right. I would so stipulate that the next amendment would take no more than 30 minutes following that. but I would like to have a chance to vote on that next amendment. I would also like to be able to vote not on all 10 of the amendments, because I do not know which ones I am going to call. but I would like to be protected on all 10 of them. I might not call them all. I might call two or I might call three amendments. We might be able to reach a conclusion on this at 4 o'clock or 4:30. But I cannot give up my right to have amendments called up.

Mr. ROBERT C. BYRD. The Senator is not giving up his right.

I ask unanimous consent that the time on this amendment run until 3:30 and that it be equally divided, and upon the disposition of this amendment Mr. Nunn be recognized to call up another amendment and that the time on each of his remaining amendments be limited to not to exceed 1 hour, the time to be equally divided in accordance with the usual form, with the exception of the 13th amendment.

Mr. HOLLINGS. The time is what?

Mr. ROBERT C. BYRD. Three-thirty.

Mr. HOLLINGS. One half hour to a side?

Mr. ROBERT C. BYRD. Yes.

Mr. HOLLINGS. Have you a long time? I have to answer in about 15 minutes.

Mr. ROBERT C. BYRD. Does that mean we have to stay all night if we have 13 amendments?

I hope the Senator will not call up all of his remaining amendments, and he indicated he probably would not.

Mr. LEVIN. Mr. President, would the majority leader clear that up? According to the agreement propounded he would be able to call up one amendment after disposition of this?

Mr. ROBERT C. BYRD. He would be assured of being recognized to call up his next amendment, and would have a time limit on the remaining amendments, except the one.

Mr. LEVIN. But no assurance of calling up the rest?

Mr. ROBERT C. BYRD. That is correct. He has the same opportunity to get the floor as anybody else.

Mr. NUNN. Mr. President, I reluctantly object.

Mr. DOLE. Mr. President, does the Senator from Kansas have the floor?

Mr. HOLLINGS. Yes.

The PRESIDING OFFICER. The Senator from Kansas had the floor.

Mr. TOWER. Mr. President, will the Senator from Kansas yield to me? Mr. President, there has been very little participation in this discussion by Members on this side of the aisle, certainly no participation on the question of the controlled-time agreement. There has been very little participation on this side of the aisle on the substance of this amendment. We are prepared, however, to forgo the privilege we are talking about if we can arrive at an agreement.

I would suggest that the Senate is going to be in session all night around the clock. I do not know what other alternative there is. If the distinguished majority leader can tell us what the alternative is, considering the fact that we have already agreed on time on about seven other amendments that have a total time of around 6 hours, it seems we will not finish. If people are going to be permitted to bring up amendments, we are going to have to more or less stay all night, and Members should be apprised that they should be prepared to bring up their amendments at any time, 11 p.m., 3 a.m., or whatever.

Mr. ROBERT C. BYRD. May I say respectfully to the distinguished Senator from Georgia that every other Senator has as much right to call up his amendment as does my friend from Georgia.

Mr. NUNN. May I say to the majority leader I asked specifically the other day that I be here on the floor; I left word before we entered into this agreement to vote tomorrow afternoon at 3 o'clock, I asked that I be notified, be allowed to be on the floor before any unanimous-consent agreement was entered into.

The majority staff did not alert me, and I am sure this was an oversight on their part. I was not here when it was entered into as to 3 o'clock. We are finding ourselves in an unfortunate position, but we are dealing with very important matters, and I, for one, am not willing to have the Senate, because of a time agreement to get out at 3 o'clock tomorrow afternoon, to be through with the bill, not come to grips with what I think is a very important national security matter. We have got other matters that are very important. The Senator from Ohio has a very important amendment. I recognize the importance of all amendments, but I also recognize the importance of the national security we are talking about.

Mr. ROBERT C. BYRD. Mr. President, the Senator does not have any monopoly on a concern about national security. We are all concerned about that, and each of us is concerned with our ability to have enough time to debate the pending amendment and to come to grips with it, to use the Senator's phrase. This is precisely what I am trying to get done. I am hoping we can get on with this amendment and get on with other amendments that the Senator from Georgia wishes to call up. But just refusing to enter into any agreement and continuing to talk on this amendment will not get the Senate past 3 o'clock tomorrow afternoon with votes on the other amendments the Senator intends to call up.

Mr. DOLE. Mr. President, the Senator from Kansas had hoped there would be some agreement. I note the importance of this issue, and I agree with the distinguished majority leader that no one has a monopoly on what may be best for this Nation.

Mr. STENNIS. Mr. President, before the Senator gets started, will the Senator yield to me?

Mr. President, if we are not going to vote on this amendment, we have this space laser weapon, the Wallop amendment, and there is interest in that subject matter; also the amendment by Senator GARN. He was here a minute ago. We might be able to take that up, because one supplements the other.

Mr. HOLLINGS. Mr. President, I object. Let us not start confusing the thing by drawing conclusions. Let us get rid of this amendment, and let us not start anything about space and about lasers.

Mr. STENNIS. I am trying to——

Mr. HOLLINGS. The Senator from Kansas has been trying to talk all day long. Let him talk about this matter.

Mr. DOLE. I was just sort of passing through the Chamber here and I thought I would say a few words without getting all tied up. [Laughter.]

I think it is fair to say that many of us, although we are not on the floor, have heard the distinguished chairman indicate that some Members were speaking to empty chairs. This Senator and other Senators are probably listening in their offices because we can do a couple of things, sign our mail and listen, and maybe even think of a few things ourselves, and then run to the floor to express our views.

In any event, there is a very serious matter here, and I am not certain who is correct. I have decided though that the distinguished Senator from South Carolina is the one I will support, and I am referring to Senator HOLLINGS.

It seems to me that his view is the correct one. I am not certain I agree that high school diplomas are desirable, but I find, and I have read somewhere, even some with high school diplomas have trouble in a lot of areas. It is not in itself the last requirement.

I understand the great service rendered by the distinguished Senator from Georgia. I know of his expertise and his hard work, and I can understand his desire to debate the issue to its fullest. All of us have that obligation. But, Mr. President, it may be one thing to criticize the Army, but I assume all of us in Congress, Republicans and Democrats alike, must also accept some of the blame if we are talking about an honest appraisal of the ability of our men and women in uniform.

There may be merit to some of the criticism, but if we are seeking to find fault then we have to look at perhaps some of the policies adopted by Congress or some of the policies we have not adopted, and there may be good reason for it because of budgetary constraints and because of other problems we face.

In the years since we began the effort to gain volunteers rather than draft soldiers, we have seen fit to reduce the Army's recruiting funding by approximately 28 percent in constant dollars. I strongly suggest that the design here was one of almost guaranteed failure.

During the same period we have attached budgeting restraints which disallowed the flexibility needed to exploit market conditions for recruiting. Reprograming actions pursued through long, laborious processes, which we ourselves have mandated mean that sorely needed funds, even when approved, are likely to be provided after the ideal conditions for recruiting are gone.

Mr. President, we have terminated the GI bill as an institutional benefit; we have allowed pay and compensation for our soldiers to fall far below the comparability levels—levels we knew were essential to make the volunteer concept work—that our young people sought opportunity elsewhere. And opportunity was available. We saw a decrease in unemployment levels among the young during those years which compounded the problem, and, in fact, led many who were in the service to leave for better jobs.

Mr. President, we consider action to flood the employment market with an additional 25,000 young people, with the hope that some portion of that number will be recouped, hopefully, those with a little better education.

Mr. President, I still find it difficult to see the logic in this proposed 25,000 cut in manpower.

At the very time last week when we were talking about registration, trying to find more manpower, then this story appeared in the paper where we are talking about a reduction in end strength of 25,000.

If those we want are better educated, surely they are bright enough to see that the benefits of soldiering do not measure up to what they can achieve in the civilian sector. Very simply, the ones that we want to join the Army will not and the others cannot.

It seems to this Senator—again, not as a member of the committee, not an expert in this area—that what we must do, without any further delay, is meet the obligations of providing the comparability standards which will make the volunteer force work.

We need to reinstitute a GI bill which will be recognized as an institutional benefit, by parents as well as potential recruits. We need to provide adequate pay and compensation for our soldiers at levels truly competitive with civilian jobs. It should never be said that anybody in the uniform of this country found it necessary to line up for food stamps in America.

We need to express confidence in our Army leadership, and assist them in gaining public support in such things as access to high schools for recruiting purposes. And I hope later, in an amendment offered by the distinguished Senator from South Carolina, the Senator from Michigan, and myself, it can be further considered.

We need to fund the recruiting effort in a manner which assures the same flexibility for expenditures that we would demand in our own business. We need to quit wringing our hands and pointing our finger, unless we stand before a mirror. The military cannot be allowed to accept total blame for how we find today's All-Volunteer Force. The Congress must share in that blame.

I do not suggest that Congress is at fault. But if we are going to start assigning the blame, I suggest then it is probably some that could come in all directions.

Finally, Mr. President, I would say, as an objective observer, that I have the highest regard for everyone who has spoken on this issue. The Senator from Kansas does not know which may be the most accurate report. There have been all sorts of reports referred to and statistics referred to of what will happen if we do not follow Senator NUNN and what may happen if we do.

As I said at the outset, it just seems to me that I have not been persuaded that it is in our interest to take this step proposed by the distinguished Senator from the State of Georgia, although I have the highest regard for his ability.

So I support the amendment offered by the distinguished Senator from Michigan, and the senior Senator from South Carolina, and others. I hope that, in cooperation with the majority leader, we could agree on a time for voting up or down and then perhaps that would resolve some of the doubts in the mind of the Senator from Georgia. It seems to me that the amendment will pass easily. Perhaps if we could have one vote, it would then set the stage for an agreement on the balance.

Mr. TOWER addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Michigan was to be recognized after the Senator from Kansas concluded.

The Senator from Michigan.

Mr. LEVIN. Mr. President, I ask unanimous consent to have printed in the RECORD the letter from General Yerks, pointing out the tremendous amount of turbulence which will be created if this amendment fails and if the cut of the Armed Services Committee is approved by the Senate.

I also ask unanimous consent to have printed in the RECORD the letter from General Meyer, dated June 25, which also states there will be an exacerbation of the major afflictions of today's Army's turbulence if the cut of the Armed Services Committee is approved.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE ARMY,
OFFICE OF THE DEPUTY CHIEF
OF STAFF FOR PERSONNEL,
Washington, D.C., June 23, 1980.

Hon. CARL LEVIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR LEVIN: As the Army Chief of Personnel I am obliged to speak my heartfelt concern in a matter currently before the Congress.

The Senate Armed Services Committee has made a change in the FY 81 Defense Budget which will devastate a 2-year "get-well" plan in which my staff and many in Congress have invested great time, talent, and energy. The committee action reduces FY 81 Army end strength by 25,500 and allows an incremental recouping based on percentage of male non-prior service high school graduates recruited. I would just like to highlight a few of the salient features which I believe argue convincingly against this proposal.

First, if the purpose of this action is to convince the Army to "try harder" in recruiting high school graduates, it will not succeed. We are, I assure you, as interested as the Congress in improving our high school graduate content. The Army is, and I am personally, fully committed to do so, and publicly on record to that effect. The problem is not desire. The problem is resources and market access. We are seeking both with diligence and determination. We expect to exceed the 52 percent figure mandated in the amendment in the coming year, thus qualifying for the incremental added authorizations. But we do not believe we could possibly reach our requested end strength even though we might "qualify" for it by terms of the proposal. It would be so late in the year before we know with certainty the extent of our success that it would be too late to complete the justification and appropriation process that translates that success into trained soldiers. So, even in success, we would fail.

A second salient feature is the immense difficulty my personnel managers are going to face in implementing this proposal. An unknown end strength—or as we call it, a floating end strength—impels great uncertainty in the force as to which units are to be up to strength, which units are to be zeroed out, and which units are to receive priority. This uncertainty, added to an already complex endeavor, augers poorly for our soldiers, whose lives and careers are to be managed in the presence of such uncertainty.

A third salient feature is the turbulence this measure creates in the lives of our men and women in uniform and their families. About 42 percent of our service members are overseas, and are sustained by rotation from the CONUS base and by new soldiers recruited into the Army. Reduce the number of new soldiers recruited, and the burden of sustaining the overseas rotation obviously falls more heavily on our career soldiers and their families. Add restrictions on dependents overseas, high cost of living in overseas areas, forced family separations, and you have derived a near-perfect formula for career disincentive, at a time when we are already significantly short in our noncommissioned ranks.

A fourth salient feature is that the shortfall in new soldiers and career personnel, which is surely going to occur if this measure is passed, is a lasting shortfall. Once it occurs, it remains in the personnel system not only until a decision to restore strength is made, but for a period of about 3 years thereafter.

In sum, the proposed amendment will fail to have the intended effect of inducing more high school content in the Army. What it will do is create a management nightmare, cause great turbulence in the lives of service families, act as a disincentive in our retention efforts, and require a lengthy recovery time once terminated. In my judgment, adoption of this amendment would be a serious mistake.

Respectfully,

Robert G. Yerks,
Lieutenant General,
GS. Deputy Chief of Staff for Personnel.

United States Army,
The Chief of Staff,
June 25, 1980.

Hon. Ernest F. Hollings,
U.S. Senate,
Washington, D.C.

Dear Senator Hollings: Back in 1974, on the porch of the quarters I now occupy at Fort Myer, two men, one a clever analyst and the other a capable soldier, came to an agreement that a viable Army could be constructed out of the shambles of the post-Vietnam drawdowns only with some guarantee of stable end strength. To that point, those charged with creation of our combat structure were forced to contend with continual revisions of our strength—revisions which seldom permitted completion of the full planning and execution cycle leading to capable combat organizations. Creighton Abrams, one of my predecessors, and James Schlesinger, then the Secretary of Defense, recognized that, as a consequence, the country wasn't getting much capability from its investment. Of 13 divisions, only one could be rated combat ready.

Their decision to freeze the Army's end strength, a decision concurred in by the leadership of the Congress, has paid dividends. Today, the Army has 16 fielded divisions, drawn from essentially the same end strength. Virtually all of the forward deployed divisions, in Europe and Korea, are at readiness conditions which mark them as fully prepared for war—today.

At the same time I have testified that the deployed force is inadequately supported: in the CONUS base, in the USAR, in the National Guard, and in the pool of individual replacements. At this point in history I would not want to undertake action which could seriously affect the healthy sector of our conventional ground force.

This background provides a useful preamble for laying out what I consider to be the unavoidable consequences of the proposed conditional reduction of 25,500 to the Army's authorized end strength.

I am convinced that the Army cannot manage itself through FY 81 under the conditions prescribed by the SASC. My rationale is laid out below.

Because of this, it is my conclusion that in the event of passage I would recommend to OSD a reduction of the Army's end strength from our requested level. I believed we can present a more viable deterrent by acting in concert toward a sure authorization, rather than by attempting to retain sufficient flexibility throughout the year to meet a floating end strength.

Let me now turn to the rationale which leads me to believe that the proposal represents an impossible management problem.

First, the reduction cannot be accommodated without revisions to our structure. With uncertainty as to what the eventual FY 81 strength may be, I must act to insure maintenance of as rational a structure as possible throughout the period. The current imbalance between combat and support forces suggests strongly that I would take immediate steps toward inactivation of combat units. This will inject hazard throughout a sizable portion of the Army: hazard as to the continued existence of specified units, hazard in the assignment of replacement personnel to those units, and hazard in the shipment of materiel, parts, and other components essential to a ready force.

Second, it is my belief that maintenance of a rational structure will dictate that some—perhaps most—of the reductions must ultimately occur within our deployed forces in NATO, or within CONUS units earmarked for Rapid Deployment Force missions. The same uncertainties that will plague our internal management will also infect the planning of our unified commanders to meet their wartime missions. They, too, will have no certainty about the available force structure throughout the period.

Third, there will be an exacerbation of one of the major afflictions of today's Army, turbulence. We will obviously seek to maintain units in a viable state until such time as it is clear that our strength authorization will no longer permit such support. Hence, replacements to those units earmarked for potential elimination will be increasingly subject to multiple moves. The burden of instability will fall most heavily on soldiers in CONUS as we feel our way through the year.

I had hoped to revamp our peacetime replacement system to correct the worst effects of turbulence, a condition corrosive to the establishment of close interpersonal bonds and units cohesion. The latter is the quality which permits units to endure in conflict. It is not clear to me that I could effect any program in this regard while trying to cope with the conditions of this proposal.

Fourth, and last, I must say that I do not believe that our internal management systems are capable of providing adequate and timely guidance to walk the fine line between compliance with the law on one hand, and excessive damage to the Army's readiness on the other.

These are the considerations which have led me to what I believe to be unavoidable consequences of the proposal now before the Congress, namely, a reduction in end strength and a weakening of our deterrent posture.

Unquestionably, the objective of higher numbers of high school graduates is important. I subscribe to that. But when the search involves uncertainties that place an already minimally acceptable force at risk, I object—particiularly when other measures are at hand that offer the possibility of improving today's force through increased input of high school diploma graduates.

That alternative requires the availability of increased reenlistment bonuses, additional promotion opportunity for the career force or more NCO's, higher levels of enlistment bonuses, fewer constraints on recruiting and the approval of requested increases, improved educational opportunities more like the GI Bill, and the correction of pay inequities. These are the mechanisms, which coupled with improved controls on the qualifications of applicants, will help us to achieve the goals that both Congress and the Army seek.

In summary, the idea of cutting active end strength in order to provide the Army an incentive to raise our education profile is not helpful. This is especially true at a time when the other components of our force have evident weaknesses which only time can correct. In the meanwhile we can ill afford degradation of the deployed force, an unavoidable consequence of the proposal put forward by the SASC.

Very respectfully,

E. C. Meyer,
General, U.S. Army, Chief of Staff.

Mr. LEVIN. Mr. President, I also ask unanimous consent that the paragraph appearing on page 9 of the GAO report, dated February 20, 1980, in which it is indicated that, according to recent data, the services, most notably the Army and the Marine Corps, are reducing attrition be printed in the Record.

There being no objection, the paragraph was ordered to be printed in the Record, as follows:

ATTRITION DECLINING

According to recent data, the services, most notably the Army and the Marine Corps, are reducing attrition. Attrition of men enlisting in fiscal year 1977 in their first year of enlistment declined from earlier cohorts for both the Army and the Marine Corps. (See the chart, p. 8.) All services generally experienced attrition reductions during the latter part of enlistment tours for earlier cohorts also. This could indicate the start of a trend toward further reductions.

Mr. LEVIN. Mr. President, I yield the floor.

Mr. TOWER addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, there has been a great deal of debate on this issue. My guess is that everybody's mind is pretty well made up.

It is unfortunate that the situation in the Army made it necessary to consider some kind of drastic measure to bring about the improvement in the quality of the people that are currently being recruited into the Army. None of us like to cut end strengths. I think perhaps over successive years we may have cut end strengths in our armed services too much.

In the committee, I voted against the measure offered by the Senator from Georgia, which became a part of the bill which was adopted by a majority of the committee, simply because I did have great concerns about cutting end strength and there may be a better way to achieve the objective than the one that has been proposed by the Senator from Georgia and has been incorporated into the bill.

But, so far, a better way is not forthcoming. There is no comparable measure in the House bill and, therefore, the whole matter is in conference. I think it is important that we go to that conference with some degree of leverage, if we are to accomplish anything.

The Secretary of the Army has been less than forthcoming. He has pretended that nothing is wrong when, indeed, a very great deal is wrong. If a high percentage of the Army are functional illiterates, are untrainable, something is wrong.

Rather than castigate the Senator from Georgia for suggesting a cut in end strength, we ought to be complimenting him on his courage for stepping forth to take a drastic step of this kind. None of us like it. We worry about the signal that it sends to the Soviet Union that we would cut end strength at a time when we are raising our defense budget and devising programs to meet the growing threat of Soviet military power, as manifested in the invasion of Afghanistan.

But we might be sending them a greater and more significant measure if we made it clear to them that we would improve the quality of our fighting men which, up until now, has been a dimension that we have on the Soviets, and that is the quality of the personnel that we have.

So I do not accept that this would be a bad signal, and it is not inevitable that the end strength would be cut.

As distasteful as I find it to vote for something that could result in a reduction in the end strength of the Army, I must say that at the moment I see no other way. Maybe some way can be worked out in conference. I hope that it can be. I am certain the House is not simply going to accept the Senate's position.

But if we adopt the amendment of the Senator from Michigan, we have lost our leverage. We will get nowhere. That is what this is all about.

The Senator from Michigan may put his head in the sand and pass an amendment that probably has the votes—because it is hard to vote against reduction against end strength—but nothing will be done about the issue. We will go to conference with no leverage at all to try to bring about some sort of effort to ameliorate this terrible problem that we have in the military these days.

Mr. President, the proponents of this amendment have had adequate time to talk about their amendment. The distinguished Senator from South Carolina held forth for over 2 hours. The distinguished Senator from Michigan has held forth for approximately that amount of time.

There has been very little argument on this side of the issue. I think the issue has been very well debated, and I think we have to bring things to a head.

Mr. President, I move that the amendment of the Senator from Michigan be laid upon the table and I ask for the yeas and nays.

The PRESIDING OFFICER. Is the Senator moving to table the first or second amendment?

Mr. TOWER. The amendment offered by the Senator from Michigan which is the pending business.

The PRESIDING OFFICER. The Chair will advise, the Senator from Michigan has offered a first degree amendment and a second degree amendment.

Mr. TOWER. I move to table the first degree amendment which would carry with it the second degree amendment.

The PRESIDING OFFICER. Is there a sufficient second? The Chair advises there is a sufficient second.

The yeas and nays were ordered.

RESTORE THE ARMY'S END STRENGTH

Mr. BRADLEY. Mr. President, the military procurement bill contains an amendment sponsored by the distinguished Senator from Georgia which purports to improve the quality of Active Army manpower by cutting the Army's end strength authorization by 25,000. The Senator's objective of improvement certainly is worthy, on this there can be no dispute, but the means he has chosen are odd and perplexing. For his proposal purports to improve this country's Volunteer Army by taking action which will have the effect of degrading and demoralizing it.

Mr. President, we all know that the Army has been undermanned in recent years. Yet rather than offering constructive proposals to increase Army accession, this amendment exacerbates the manpower problem by summarily reducing Army ranks. As U.S. Army Chief of Staff Meyer has written in a letter to the distinguished Senator from Michigan, the forced reductions would diminish predominantly the strength of combat division forces—the so-called "for hole" strength of the Army. In this way, the problem of manpower which the Army is now seeking to overcome, and which the Senate Armed Services Committee is seeking to overcome by proposing $1.5 billion for increased military pay and other benefits for all four services, instead would be exacerbated. As General Meyer has indicated, the reduction of Army end strength by 25,000 could:

First, reduce active division forces by 13 percent.

Second, reduce forces available for commitment to NATO.

Third, reduce flexibility in responding to non-NATO contingencies.

Fourth, result in a major CONOS base closure.

Fifth, adversely affect Army manning.

Sixth, curtail current Army initiatives to improve combat capabilities.

Mr. President, the manpower cut proposal clearly amounts to a self-defeating proposition.

It also is a self-defeating proposition in even a more serious respect—it defeats our efforts to demonstrate our political resolve and military power to the Soviet Union, to our allies and to nations of the nonaligned world. We have told the world that we will oppose Soviet incursions that jeopardize our vital interests, for example any Soviet efforts to penetrate the Persian Gulf or to envelope Central Europe. Yet the force of our words inevitably will be lost if at the same time we take concrete action to reduce the very capabilities we would rely on to enforce those words. For example, as indicated, the forced reductions could produce a shortfall in manpower available for NATO commitment. In sum, by disarming our Army through ill-advised force reductions, we would also be diminishing our credibility as a world military power.

In my view, the reduction of our fighting force at this critical time, and the sending of a weak signal to the Soviet Union at this time, are sufficient reasons to reject the force reduction provision. They are sufficient reasons, but they are not the only reasons.

For in addition, the provision imposes heavy administrative burdens on the Army, and imposes what is in my view an unfair test of military quality on American Army recruits.

The provision requires the Army to "reearn" each 1,250 of restored manpower strength with the recruitment of an additional 1 percent of high school graduates above the 52 percent mark. This is unworkable because the Army probably will not know how many percentage points above the 52-percent mark it will be until the latter part of this fiscal year. Since there usually is a lag between the end of the fiscal year and the availability of final recruiting statistics, the Army may not have proof of its "earnings" in time to recapture its lost manpower for fiscal year 1982. Also, the Army gains most of its high school graduates after June, the normal month for graduation.

Again, this means that statistics on the final numbers are likely to become available only toward the end of this fiscal year, and very possibly not in time to be "counted" for fiscal year 1982 manpower restoration. If normal difficulties with reprograming or gaining supplemental funds prevail, it would not be until late in fiscal year 1982 that the Army would be able to recover its necessary fighting force. And of course this would come only at serious cost to its operations, capability, and morale in the interim. Mr. President, could any gains in high school graduates achieved by such a disruptive and demoralizing process be worth the cost?

This answer of course is "no." And it is particularly so because the assumption which the Nunn provision makes about military quality is not warranted. It assumes that a high school education is the litmus test of military aptitude and that Americans without a high school education can not serve their country equally well. Mr. President, there is no sound basis for this assumption. Being a soldier requires a variety of qualities—patriotism, discipline, determination, technical skills, dependability and so on—none of which are obtained or can be obtained, with a high school diploma. Surely a formal education is valuable and desirable, but does this mean that Americans who do not have one should be discriminated against in the opportunity to serve their country?

Finally, Mr. President, we must also bear in mind that if there is a shortfall of high school graduates in the All-Volunteer Army, it is largely because Congress has not provided the Army with the resources to attract and retain graduate recruits. It also has not had sufficient resources to extend the education of those it has recruited. This year, the Armed Services Committee has recommended financial rewards and other benefits aimed at increasing the quality of military life.

For the first time, the Volunteer Force may be given a chance to work effectively. This is commendable and I wholeheartedly support the committee's action.

Therefore, I urge my colleagues not to thwart the improvement process by giving the Army a vote of no confidence. If the Congress tells its current and potential Army personnel that it has no faith in them, that they are somehow not "good enough," how can it expect the Army to attract personnel of high quality and high commitment in the future? If we show no confidence in our young defenders, how can we expect them to seek to earn that confidence? Mr. President I urge my colleagues to vote constructively to make the All-Volunteer Army better, not destructively to degrade and demoralize it in a way that acts to fulfill the prophesy of doom rendered by its critics.

Mr. DURKIN. Mr. President, I rise as a cosponsor of the amendment to delete the provision in the Department of Defense authorization bill which would reduce our Army manpower by 25,000. I would like to urge my colleagues instead, to insure that the Active Army's military personnel levels will be at full strength as the United States enters 1981, and that we take immediate steps to strengthen the manpower and equipment for our National Guard.

A troop cutback such as the one proposed in this bill can have only an adverse effect on our Army. Reducing the size of the Army means reducing the number of combat units in the field. It means reducing the size of the training base. It means reducing the support structure for our Army here in the United States. It means reducing our mobilization capacity at a time when world tensions have risen significantly. It means failure to meet responsibilities we have with our NATO allies. And it means indicating to our adversaries around the world that the United States is less able to back up its vital interests or foreign policy commitments.

Furthermore, our Army is already undermanned. More than ample evidence has been presented within this very Chamber that the U.S. Army has been short of the necessary soldiers and equipment to fulfill our national defense goals. To further dilute its strength by reducing its manpower flies in the face of commonsense, and is a threat to our national security, as well as our economic security.

I am strongly in favor of seeing the quality of today's Army improved, but a plan based on forced reductions is simply not the way to proceed. A much more sensible solution is to increase military pay so that it is comparable to civilian wages, and provides long-overdue reenlistment incentives. That is why I have consistently supported and cosponsored legislation to life the military pay cap, so as to be able, finally, to provide our military personnel with a decent pay. I am very pleased, therefore, to see that the Armed Services Committee has adopted this position, and in this same bill, recommended lifting the pay cap next year and providing an 11.7 percent military pay incerase.

Mr. President, the express purpose of lifting the military pay cap is to enable the Armed Forces to retain a larger number of its soldiers. I fail to understand, therefore, why the committee would undermine or negate the strengthening effect of the pay raise by simultaneously ordering a reduction of our Active Army force by 25,000.

I urge the Senate to continue to act responsibly to upgrade the quality of our Armed Forces, provide our military personnel with a decent wage, enhance our mobilization capacity, guarantee our defense posture and project a symbol of strength and stability around the world. I do not believe that drastically reducing our Army personnel or shortchanging our National Guard achieves this aim. I strongly hope that my colleagues will support this amendment to restore full strength levels for the Active Army in 1981.

Furthermore, it is time to increase our financial commitment to our hard-pressed National Guard. Much needs to be done to improve the equipment provided the Guard now.

Mr. BUMPERS. Mr. President, I am strongly opposed to the proposal of the Senate Armed Services Committee to slash the Army's personnel strength by 25,500 for two reasons: First, it would lead to serious problems in managing the present and future career force, and second, it would signal a lack of resolve toward the Soviet threat and would discredit us with our NATO allies. There are several other reasons I favor the retention of a 775,800-person Army, but let me expand on these two positions at this point in our colloquy.

First, a cut of 25,500 people in our Active Army would seriously damage the present and future career force. Such a cut would almost guarantee a shortage of junior combat leaders in the future, resulting in an increased workload on those remaining, and increased indiscipline and lowered morale among soldiers. General Meyer regards the likely significant reduction on morale as the "most serious impact" of this proposed decrement.

Additionally, he is extremely concerned about the management aspects of the proposal concerning high school graduates. He regards the floating end strength concept as virtually impossible to execute because of the great uncertainty in the force on a month-to-month basis. He foresees increased instability in regard to determining which units should be deactivated and which units should receive priority.

This imposed instability would hit the Army at a time when it is taking significant management initiatives to increase the amount of time individuals stay within units to improve unit teamwork and cohesion. I agree with General Meyer that the 25,500 cut would wreck hopes and policy actions directed toward improving stability within the Army—decisions which have been long overdue but which are essential if the United States is to increase combat readiness in our Active Army.

Second, a decrease in U.S. Army strength of 25,500 would send the wrong signal to Russia at a very critical time. Our Nation simply could not maintain an image of vigorously defending our allies against an unparalleled Soviet military buildup. Arrayed against our total force of 2,045,000 men and women under arms in all our services, the Soviet Union has an estimated 4 million men and women under arms, plus a half-million border guards trained as combat troops and equipped with tanks and warplanes.

The U.S.S.R. is capable of placing more than 45 divisions on the China frontier, and with its East European allies, still have enough power leftover to match the NATO nations in Europe in men, warplanes, and armor. Our land forces total 28 divisions on paper, but only 19 are active, of which 16 are Army, 3 Marine.

If the 25,500 troop cut proposal is enacted, such a reduction, particularly in the wake of the Soviet invasion of Afghanistan, would result in an adverse impact on the deterrent value of the forces we currently possess. I agree with General Meyer that whether we like it or not, other nations count our end strength as indicators of our national resolve.

Mr. President, I firmly believe we can increase the number of high school graduates in our Active Army in a positive rather than a negative manner, and that will be the approach I will support as strongly as I possibly can.

Mr. HOLLINGS. I ask unanimous consent to have printed in the RECORD an article by David Evans, several letters, and certain material.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RALPH DEPLOYMENT JOINT TASK FORCE,
MacDill, Air Force Base, Fla., June 25, 1980.
Hon. CARL LEVIN,
Committee on Armed Services,
Washington, D.C.

DEAR SENATOR LEVIN: Having recently read your comments on the 25,000 man reduction in the FY81 end-strength of the U.S. Army, I would like to take the opportunity to add my views from the perspective of the Commander of the Rapid Deployment Joint Task Force (RDJTF).

With respect to General Meyer's assessment that the impact of such an action could reduce flexibility to respond to non-NATO contingencies with the Rapid Deployment Force (RDF), I would add my wholehearted support to his view. If we are to maintain the capability to defend our vital interests, particularly in the Middle East/Persian Gulf region, the Army must have the capability to provide fully supported combat forces to the RDJTF. I fear that a 25,000 man reduction would directly impair the Army's capability to provide the forces necessary to support my mission.

As you may be aware, I have gone on record as saying that the Presidential call-up authority should be increased to 100,000. This issue is directly related to the support structure that would be required to rapidly deploy and sustain an RDF. Any reduction in Army active duty end-strength, whether in divisional units or supporting strength, would obviously drive up the number required for call-up and would severely restrict rapid deployment capabilities if only active forces were used.

I appreciate and share your concern and hope that your efforts in the Army's behalf realize success.

Respectfully Yours,
PAUL X. KELLEY,
Lieutenant General, U.S. Marine Corps.

[From the Washington Post, June 26, 1980]

ENLISTING TROUBLE

(By David Evans)

The All-Volunteer Force is foundering on the rocks of compromise: quantity versus quality. The Defense Department is encouraging recruiters to capitalize on the rising unemployment rate as a means of encouraging jobless volunteers to sign up. At the same time, the Senate Armed Services Committee is threatening to cut the size of the Army by 25,000 in fiscal year 1981 because the Army is not able to enlist enough high school graduates to maintain a quality force.

These separate initiatives, taken together, underscore the tremendous dilemma facing the services. Neither action provides the services real help with the manpower problem and may actually make the situation worse.

Consider the increased effort to recruit jobless youths. While it is true that there are more of them looking for work nowadays, it is by no means certain that these individuals are highly suitable for military service. There is a tremendous and growing demand in this country for skilled or trainable labor. Computer programmers, technicians and high school graduates with the drive to learn have little trouble getting work. It is the ones without alternatives who are knocking on the recruiter's door, with little education and few skills, they come to the armed forces as the choice of last resort—hardly a choice at all. The notion of volunteerism is based on the premise of choice. Many of those entering the All-Volunteer Force today are free-will refugees: they aren't really "volunteers" because they have no alternative.

The services happily enlist those who can't find work elsewhere. At least 42 percent of them will enter this year without a high school diploma. Their classification test scores will generally fall below those of their high school buddies who graduated. The result? The high school dropouts, the ones most in need (and hopeful) of technical skill training to get jobs following enlistment, do not meet the prerequisites for such training. They wind up sedimenting into the "soft" jobs at the bottom of the skill hierarchy: deadend jobs, such as the infantry, that offer no hope for employment following service. Thus, the frustrated jobless youth who joined the service as a way out of the ghetto finds himself four months later in a squad bay full of the wise-guy malcontents of his earlier days spent killing time on the street corner.

The realization comes hard: what had been advertised as an opportunity to learn a skill turns out to be a sham. The same barriers to meaningful civilian employment also apply in the military. There is a tremendous sense of disillusion. The frustrated recourse to drugs, barracks violence and desertion should come as no surprise.

The drive for numbers over quality creates a vicious circle. The least qualified are concentrated in the greatest numbers in the lowest skills. They happen to be the very skills that are the cutting edge of a modern army: infantry, armor, artillery. The individuals least capable of the "high-order thinking" required for success on the modern battlefield are the very ones most likely to be first thrown into the fray.

The highly visible front-line units are now the least representative of society, presenting an ethnic, educational and sociological mix hardly reflective of the country at large. Surely, if America is worth defending, the burden of fighting and dying should not be unduly borne by the undereducated, the minorities, the poor and the disadvantaged.

The concentration of the least adaptable people in the manpower-intensive combat units creates a veritable turbulence nightmare. Their average enlistment length of three years creates a faster turnover than in the four-year-populations more concentrated in the technical skills. Moreover, their lack of adaptability to military service is reflected in a disproportionately high dropout rate. In recent years over 42 percent of those entering the service have left before their first three-year term is up.

This creates a tremendous burden on the recruiters to provide replacements, and it increases the burden on the already taxed training establishments to qualify new enlistees. This is why the annual accession quotas have averaged about 400,000 a year, and not the 265,000 per year envisioned by the Gates Commission. In the desperate search for these thousands of enlistees, the Defense Department has opted for quantity. The cycle of high enlistment quotas, personnel turbulence, attrition and dashed hopes perpetuates itself.

Enter the Senate Armed Services Committee, decreeing a 25,000-man cut until the quality improves. The Army is placed in an untenable position. Where to make the cuts? Entire units? Shaving the manning levels? Or slicing out individual billets? If it makes cuts in the combat arms, it loses fighting power, the tooth-to-tail ratio goes down, and the Army faces criticism for not being "lean" enough. If cuts are made in technical and support skills, the Army loses the expertise to keep its high-technology gear working, and it loses its ability to sustain a drawn-out fight.

These cuts may not be in the national interest. The Army's missions won't change—it will just be expected to do more with fewer people. Further, the higher quality goals place the Army more directly in competition with the other services for the decreasing numbers of qualified high school graduates. They, too, have worsening quality problems. The Marine Corps' requirement for high school graduates, for example, is expected to increase by 25 percent in the next 10 years as new, more complex systems become operational. There is little prospect that the Army can successfully compete for the ever-decreasing numbers of high school graduates.

The root problem lies in the notion of a volunteer force. It has reduced patriotism to the level of self-interest. The rational volunteer's terminal value must be a satisfactory answer to the question, "What's in it for me?" For the high school graduate hungry for advancement, the checklist includes decent pay, challenging training, some adventure and the chance to serve with like-minded people. For the dropouts, the checklist is in the form of an escape route, job training, a search for self-esteem and the chance to make it in a civilian world.

The military may not be the institution best suited to answer these needs. We have not faced up to the implications of the defense manpower issue. The great number of complex weapons needed to fight a sophisticated war requires large numbers of high-quality people. It is a problem of quantity and quality. It's going to take a much more realistic assessment of how much a workable volunteer force will "cost." Until that reality is transformed into defense budgets, the All-Volunteer Force will continue to slide into the gutter of failure.

CONGRESSIONAL LOGIC

Q. Marine analogy—Why does it not apply to the Army in FY 81?

A. The short answer as to why the Congressional logic of the FY 77 Budget Review on Marine Corps quality does not apply to the Army is size. First, the Congress in the FY 77 Authorization Act reduced the Marine Corps 4,000 from its 196,000 request, or 2 percent. The SASC proposal for FY 81 reduces the Army 3.3 percent or 25,500. Also Congress simultaneously allowed Navy military manpower to increase by 600 in order to replace Marine Guards on ships. Thus, the true reduction to the Marines was 3,400, (1.7 percent) or almost one-half the SASC proposed 3.3 percent for the Army in FY 81. The SASC proposed no such off-setting action such as an increase in Army civilian manpower.

The size issue also applies to annual Non-prior Service (NPS) accessions and the number of high school diploma graduates (HSDG) recruited. For the past three fiscal years the Army has recruited 3 to 4 times as many NPS personnel and at the same time recruited 3 times as many HSDG's as the Marines, a significantly larger task and achievement in comparison to the Marine Corps problem. It is somewhat easier to recruit 75 percent HSDG when the total requirement is so small.

The FY 77 Congressional logic was a pure reduction in authorization. There was no "Catch 22" proposal as exists in the SASC proposition. Thus, the logic of the FY 77 reduction is not repeated in the FY 81 proposal, nor were the sizes of the cuts proportional.

The prior year actual strength, FY Transition Quarter, from which the Marine Corps started towards its "reduced authorization" of 192,000 was 189,800. The Marines had to manage an increase in strength. The Army, on the other hand, will be starting at 774,000 trying to manage down to some floating end strength of 750,300 to 770,000.

Finally, the Army has a substantial pretrained manpower shortfall today that the Marines do not or did not have. The Army must be viewed in its total military context—Active, Selected Reserve, Individual Ready Reserve, Standby Reserve and retiree manpower available against mobilization requirements. It is necessary that the Active Army acquire as much trainable and retainable manpower as is possible as long as the Selected Reserve is manned at less than its peacetime objectives, and the IRR does not have sufficient manpower to flesh out the Active, and Selected Reserve structure and provide for initial combat losses. There is no analogy.

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., June 25, 1980.

Hon. ERNEST F. HOLLINGS,
Chairman, Senate Budget Committee,
Washington, D.C.

DEAR MR. CHAIRMAN: You have asked my opinion of the Senate Armed Services Committee Amendment to the Fiscal Year 1981 Defense budget which would compel an Army end strength reduction to the extent that given targets of high school graduate accessions were not met and which would limit test Category IV accessions in all services. In my view these amendments would have adverse and unwarranted effects on the capabilities of our Armed Forces.

We in the Office of the Secretary of Defense and the Services are committed to recruiting people who offer real prospects of successful performance in service. When individuals do not offer that likelihood we reject them—as we rejected over 200,000 applicants even while experiencing a recruiting shortfall in FY 1979. Moreover, we do not hesitate to later filter out any pass through our admission screens but prove in practice to be unsuccessful in training or in performance. Enlistment is only the first of many screens that individuals must pass before becoming members of military units and, after that, remaining in service. These multiple gates screen to protect the capability of the force. Consequently, the force including career members contains a much smaller proportion of non-high school graduates and test Category IV personnel than are enlisted. For example in FY 1979, 86 percent of the Army personnel were at least high school graduates.

High School graduates and high test scorers are our most attractive accessions. But that is not to say that non-high school graduates or Category IV test scorers are not successful. To the contrary, most do successfully pass through Service screens that are designed to separate the poor performers. And once having passed through these screens, these soldiers, sailors and airmen perform as well as all others. The associated higher cost of sorting out the poor performers is a disadvantage, but we should not arbitrarily reduce the size of Army (and Marine Corps) to avoid this cost. Stressing optimum recruiting efficiency alone will not necessarily insure defense capability.

Linking Army strength to recruiting virtually dictates an unmanageable situation for Army manpower planners. Ironically, the test category constraint will work against Army's ability to recruit high school graduates. Even more seriously, it may be impossible to recoup strength and money during fiscal year 1981, as proposed by the SASC. This is because Army accessions are best in the summer months at fiscal year's end. At that point it will be too late in the year to demonstrate success in time to gain back strength even if the Army does very well in recruiting high school graduates.

We need and seek the positive assistance of the Congress in making military service an attractive and rewarding opportunity for our youth to serve this nation in the cause of defense. Much of what the SASC has proposed does just that. However, the SASC recruiting related constraints, as written, would not support this end. They would instead, reduce Army and possibly Marine Corps end strength in FY 81 by refusing recruits we ought to be admitting.

Sincerely,

ROBERT B. PIRIE, Jr.,
Assistant Secretary of Defense (MRA&L).

FLOOR STATEMENT BY SENATOR JOHN C. STENNIS

My remarks today are not a bill of complaint. Neither am I trying to assess blame. I want to state some facts to my colleagues and to the American people. For many years I have been on both the Senate Appropriations Committee and the Senate Armed Services Committee. For several years I have handled, with much splendid help, both the overall authorization bill and the appropriation bill that provides the money for the Defense Department.

MANPOWER IS THE WEAK LINK IN DEFENSE

After working on these two bills during several months for several years, at the hearings, the markups, the Floor Debates, the Conferences with fellow members, and with the House, you have a feel for the program and a knowledge of the facts. Each year as these bills go to the White House for final approval, I know that the weakest part of our entire military preparedness program is the fact of our total dependence on the volunteer system to supply the manpower. I know that the present system is inadequate to supply enough of the type of manpower we must have. This deficiency cannot be overcome by merely throwing in more money. What we are lacking are things that money cannot buy—discipline character, dedication, and many other personal qualities. Recruiting has become a grave contest, an ordeal—much of it is not in keeping with the dignity of the military services.

We have some spendid women and men in the services, but not enough to carry the load. Overall, the commissioned and enlisted officers in the services have worked hard to make the volunteer system work. The trouble is with the system. To supply our need of enough talent, we must go back to a modified form of a selective service system. Otherwise, our military preparedness will be inadequate and will finally collapse. Fortunately, there is time to provide the remedy by starting now with a registration plan for the male. We have enough females now to supply the needs of the military, so the need for registration does not apply to females.

We fully argue and contend among ourselves for more money for our military needs, especially weaponry. And I contend for these funds now and have done so for years—but more money is not any longer our first need. Our first need is more manpower with the talent and dedication and courage to do the hard assignments—we have some but we must have more.

ACTION IS NEEDED ON REGISTRATION AND A FULL SELECTIVE SERVICE PLAN

As a minimum, we should move forward promptly with a registration plan for the males, and then proceed with that registration.

We must have further in-depth hearings during the remainder of each calendar year to show the present conditions and the need.

These facts will be fully convincing. A full-scale plan for an added plan for manpower can be presented as soon after registration as is reasonably possible.

I am definitely not proposing a reenactment of the old selective service act and the administration thereof as we had in the war in Vietnam. I am talking about a selective service act that has absolute fairness and equality as the main guidelines with no full deferments except for clear major disability, with no exemptions except for actual religious beliefs, and limited numbers of scientific students, and in those cases a substitute service shall be required.

I am convinced that in most cases 18 months of actual service will be sufficient, and less in cases of these assigned to reserve units for limited further service over a 3 to 4 year period. I would match every month that a person was required to service in the military with government-paid educational training of a top order. Personally, I believe that those who render this military service will be better off in a personal way after having served, and would by all means be a more valuable citizen in every way, as well as trained to earn his own living and contribute to his community, to society and his country during the rest of his life.

I favor our giving our National Guard and our Reserves more of these men to fill out the unit, give the units more assignments and then give them the tools (weapons) to carry out their missions. Throughout the nation there are many men of talent in thousands of Guard and Reserve Units that score as high or higher than our regular units.

THERE IS NO MORE TIME TO SPARE

I feel that we are dragging our feet in tackling this problem. There is no more time to spare. The first step is to enact a registration requirement and follow up with a realistic but fair selective service plan.

Will the United States adopt a new selective service system for military manpower that is affordable, fair and reliable? Despite numerous military problems, this question is the most critical security issue facing America in the decade ahead. Our ability to correct our current manpower deficiencies is the single most important factor in developing the military capabilities to meet the security challenges of the future and to deter Soviet aggression.

The importance of manpower to our defense program is not new. Our military capabilities have historically rested on the quality of the individual soldier, sailor and airman and those who lead them. Ensuring a skilled American military manpower force of adequate strength in times of need has become a significantly greater challenge in today's world. Changes in four important factors have contributed to this growing challenge: the diminished role of geographic buffers and nuclear technology in American defense strategy; the expanded reach of Russian military power, reductions in the time available to mobilize; and the declining American population of potential military recruits.

WE CANNOT RELY SOLELY ON GEOGRAPHY AND TECHNOLOGY FOR DEFENSE

As the superpower of the Free World, we can no longer depend on geography or technology alone for our defense and protection of our interests. Prior to World War II, the United States could and did rely on the oceans for protection of its interests and deterrence of foreign enemies. The buffer that the oceans once provided is no longer available. World interdependence has grown to the extent that U.S. interests can be critically damaged in world areas and oceans at great distance from U.S. soil. The United States and the Free World depend extensively on the seas for the free movement of commerce and critical raw materials. Disruption of the flow of raw materials—especially oil—would devastate Western economies and way of life. The United States must now be prepared to protect the sea lanes and distant sources of raw materials.

After World War II, we largely relied on a dominance of nuclear weapons for overall protection and deterrence. However, Korea and Vietnam proved that nuclear technology could not be relied on to deter or win limited, regional conflicts. Moreover, because neither side could now survive a nuclear war undevastated, U.S. nuclear capabilities play a reduced role in our worldwide defense strategies. In sum, our military forces must continually be capable of projecting military might in critical overseas areas and must rely more on manpower-intensive conventional capabilities.

THE RUSSIANS HAVE BUILT UP MILITARY POWER AND ARE GIVING IT REACH

Over the past 15 years, the Russians have steadily built up their conventional forces—land, sea, and air. But what may be more significant, they are now greatly extending the reach of these forces by adding worldwide deployment capabilities. The Russians showed their new airlift ability by transporting large amounts of Cuban troops and equipment to Angola. Afghanistan is another demonstration of the Russian capacity to quickly move substantial conventional forces over long distances. Even though Afghanistan borders the USSR, some Russian units there came from as far away as East Germany. There is no sign that the Russians will stop improving their naval, airlift, and sealift capacities which now pose serious and numerous challenges to U.S. worldwide interests and increase the demands on U.S. forces.

THE TIME AVAILABLE TO MOBILIZE IS FORESHORTENED

The speed at which conventional warfare can develop is greatly increased from the past. It took months or even years for countries to mobilize in World War II, compared to days or weeks for mobilization now. The past luxury of time to gather, equip, and train our military men is long gone. We do not now have an adequate trained manpower supply that can respond as quickly as needed. Without that adequate manpower supply, in emergencies the United States could be faced with early and undesirable military choices. The choices could be limited to letting the Russians take by force whatever they may choose, or committing our available military units piecemeal without a real chance of fast and adequate reinforcement and relying on the early use of nuclear weapons backup.

FEWER YOUNG MEN WILL MAKE RECRUITING HARDER

The World War II baby boom has ended. More people turned 18 years old in 1975 than ever in the history of the country. Each year, fewer and fewer will turn 18, and the pattern will continue into the 1990's. Certainly for the next decade, recruiting under the volunteer approach will be more and more difficult and the U.S. military manpower situation will get worse and worse. Given these facts, something different is needed.

THE VOLUNTEER CONCEPT IS UNDEPENDABLE

In this dangerous decade, an undependable manpower supply greatly adds to the danger. The volunteer concept has been shown to be undependable because it cannot supply the manpower when it is needed the most—in wartime or emergencies. This fact has not been disputed. The Defense Department's own data show that 90 days after mobilization, the Army would only be able to fill 52 percent of its infantry, 73 percent of its artillery and 28 percent of its tank positions. The manpower situation would even be worse after 90 days.

Moreover, we are now witnessing the failure of the volunteer concept to supply adequate manpower even in peacetime. In simple terms, we have reached the point that the volunteer force is limiting what this nation can do to meet legitimate defense needs—and that's a dangerous situation for world peace. The Navy is threatening to tie up its ships because of lack of crews. There have been suggestions that our national security now requires an increase in the fleet and that some powerful battleships and an aircraft carrier should be taken out of mothballs and added to the active fleet. But the constraints raised in those discussions do not focus on money; rather, the point is made that the volunteer force cannot supply the manpower needed. All of the Army divisions in the United States are unprepared because they lack qualified personnel. In fact, we have Army units with no manpower assigned at all, where equipment sits unused. Such units hardly deserve the label "active" Army. The National Guard and Reserve are below a reduced authorized strength. The Commandant of the Marine Corps has declared the volunteer concept a failure. According to the Air Force Chief of Staff, General Allen:

> The United States needs to have, in being, a system, which will provide a continuous inventory of potential inductees for mobilization. That capability does not now exist. The national security risk associated with a weak Selective Service System is significant.

While technology has greatly increased the firepower, mobility and information capacity of U.S. forces, technology does not fight wars—people fight wars, and that means manpower. Who would say that the Russians with their growing conventional might can be deterred from further adventures if the United States has only its understrength active duty forces to rely upon, a weak reserve and no dependable source of military manpower?

THE VOLUNTEER CONCEPT IS UNFAIR

The volunteer concept has been shown to be unfair because it exempts the middle and upper classes of our society from military service. Only 1 percent of the new volunteers are college graduates and more than 25 percent are high school dropouts. In addition, some 30 percent of volunteers are from minority groups. The reading level has dropped greatly requiring the military services to rewrite their training manuals for sophisticated equipment to the 5th grade level and to spend large amounts of time and money on remedial education programs. Most disturbing are the recent revelations that test scores of recruits have been "adjusted" in the past to show far higher levels of mental aptitude than were the case among new recruits. There is concern now that about 50 percent of all Army recruits are in the lowest category of mental aptitude.

Despite these alarming trends in the quality of new recruits, the Army, which needs to expand recruiting by 25 percent to maintain its current strength, is now lowering its quality standards in an effort to get more numbers of people. The Army will lower the proportion of high school graduates it seeks, accept 17-year-old dropouts, eliminate minimum education criteria for recruits and now accept women high school dropouts and those women in the lowest mental group for the first time.

The volunteer concept, based on economics, may be suited to feudal, mercenary and very small armies. It is not suited for a country that stands for liberty and freedom in the world and where the citizens recognize their duty and agree to equitably share the burdens of protecting their freedom. A 19th Century British soldier and author, Sir William Francis Butler, put it well:

> The nation that will insist on drawing a broad line of demarcation between the fighting man and the thinking man is liable to find its fighting done by fools and its thinking done by cowards.

We cannot go back to the old selective service system because it was not fair. But we must adopt a new draft system that fairly spreads the burden of military service among all social and economic groups.

THE VOLUNTEER CONCEPT IS AFFORDABLE

The volunteer concept has proven itself unaffordable. Manpower funding has gone up from 44 percent to 56 percent of the overall defense budget. In the decade of the 1970's, the United States spent $100 billion more on manpower than if the proportion of the defense budget for manpower had remained at 44 percent. While this is not fully attributable to the volunteer concept, the drive for volunteers prevents taking action to save on manpower costs.

There are those who call for more indiscriminate increases in military pay. I would simply ask for the evidence that more pay would in any way solve our military manpower problems rather than continue to make them worse. We doubled recruit pay in 1972 and have added more bonuses and allowances since then. In this inflationary economy, there has been erosion in the buying power of many of our people, including military personnel since 1972. But in real buying power, after inflation, junior enlisted men today are paid about 125 percent more than in 1964 and senior enlisted, about 20 percent more in buying power. Will more across the board pay, costing billions, in this troubled economy, really help the worsening manpower situation? I think not.

More likely, public attitudes in this troubled economy could well shift against needed defense spending if pay is portrayed as the overriding military priority while the rest of the American people are tightening their belts.

In addition, with the tremendous and justifiable resource demands to modernize our forces to counter the unrelenting buildup and advances in weapons sophistication of Soviet forces, we cannot continue to allow our manpower spending to eat up such a large portion of the budget.

THE MILITARY PAY STRUCTURE MUST BE CHANGED

There are problems in military pay that should be remedied. But that cannot be fully done until the source and supply of manpower has been determined.

We must develop a concept of military pay that will work. We had one that worked for almost 200 years and abandoned it in 1972 in favor of "cash on the barrelhead" to buy military service. Since then, we have spent billions more than we would have under the old system and the problems get worse. Our problems can only be remedied by changes in the basic concept and structure of military pay. George Washington said in 1783, "a proper difference should be made between the pay of the non-commissioned officers (sergeants particularly) and privates, to give them that pride and consequence which is necessary to command." At the time he wrote, sergeants were paid 2½ times a private's compensation. We carried that idea and pay difference through the 1960's, but in an effort to get more volunteers, it was abandoned. Today a sergeant is paid only 60 percent more than a private, has far less chance for promotion than a private and must train and discipline privates of little talent and capacity to take discipline. This is a system to lose the best, most talented and skilled non-commissioned officers. Across the board pay raises will only perpetuate this problem.

THE MILITARY MANPOWER SYSTEM MUST BE IMPROVED

The time has come to put our military manpower system in order. There is danger and uncertainty ahead in the next decade; we cannot afford to take the risks of the current manpower system.

We must make a start leading back to the use of a fair form of the draft to supply our military manpower for the active and reserve forces. This means revitalizing the almost defunct Selective Service System so that it can efficiently and effectively do the job. It means beginning registration and all the steps needed to acquire the names and status of our young men. It also means a top to bottom review and rewrite of the whole body of law pertaining to the Selective Service with the elimination of all but the minimum required exemptions, so that our people can be assured that the new system is fair and reasonable and that the risks and burdens are shared. There must also be a full-scale effort to explain to the American people why the country must return to the draft.

NEED A COMPLETE REVIEW OF THE MANPOWER SYSTEM

Rather than confusing the need for the simple process of registration with the invasion of Afghanistan, what we really need is a complete and timely review of every aspect of the entire military manpower system—active and reserve—aimed at changing the current system to meet the challenges of the 1980's. There are many difficult questions that need to be addressed and answered in this review.

Part of this review should consider changes in the structure of military pay. Should sergeants have a substantial pay difference from privates? Should pay be the only means of rewarding personnel or should there be more emphasis on military benefits? Should all skills be paid the same or should there be some differential for highly skilled nuclear technicians? Should all personnel in a particular grade receive the same pay or should high quality personnel promoted early be recognized with higher pay? Should there be an expansion in the scope and use of warrant officers in highly technical skills or should all officers be in the same system?

Organization and callup procedures for the reserve forces also need review and change. Should reserve units be copies of active units or should more be tailored to fit into active units? Should there be more use of units manned by both active and reserve personnel?

Reduction in numbers and an improvement in quality of life for those who make a military career may also be needed. Should there be tight screening of personnel before they are given career status and their pay improved or should all who wish be allowed to stay on active duty?

Our training system and promotion system for enlisted men and officers needs to be redesigned. Do we promote too many people too fast and give them more pay with no more responsibility? Do we have too many people in the higher grades? Are schools and promotion the right of all who stay on active duty or should the selection be careful and more restricted?

A rethinking and change of the laws and policies which govern and affect military discipline are also a part of this review. Must a sergeant or commander consult a lawyer to deal with minor infractions of discipline?

The policies which affect military life also need rethinking and change—is military service to be a 24-hour duty or a 40-hour job? Is it a life in barracks or a morning commute? Is it large numbers of dependents overseas or is it shorter tours and dependents cared for at home?

America has sought many partial solutions to its manpower problems during the 1970's. They have failed. The most senior U.S. military commanders have identified manpower deficiencies as their number one problem. We must now have a comprehensive and innovative review of the entire military manpower system. New, effective, and durable programs are needed—not shortsighted, temporary fixes which have been popular. We need a toughening up and tightening down of our entire military personnel system. Without it, we will not have the preparedness nor the public acceptance to meet the security challenges ahead.

Mr. MATSUNAGA. Mr. President, I rise to join the Senator from Michigan (Mr. Levin), the Senator from South Carolina (Mr. Hollings), and other Senators in strong opposition to the Armed Services Committee amendment to the defense authorization bill which would reduce the fiscal year 1981 end strength of the U.S. Army by 25,000 troops.

Mr. President, in its report on the pending bill, the Armed Services Committee states that the ability of our Armed Forces to respond to threats to our national security and our vital interests is contingent upon our having military personnel who have the mental capacity to enable them to operate effectively the extremely complex weapons systems of the modern military.

That is a statement of fact which no one is going to dispute.

It is also a fact, Mr. President, that the military services are currently encountering serious problems in recruiting and retaining quality personnel to fill the ranks, that is, high school graduates with average, better than average, and high mental abilities.

According to the Armed Services Committee report, during fiscal year 1979, 70 percent of all men who enlisted for military service were high school graduates—a decline of 5 percent in the proportion of high school graduates from the preceding year. And thus far in fiscal year 1980, the Army has recruited only 38 percent high school graduates among its male enlistees, compared to 55 percent a year ago.

Of course, we must keep in mind that the peak season for recruiting high school graduates for military service begins after schools are let out for the summer. Nevertheless, these statistics are a clear indication that the All-Volunteer Force is having increasing difficulty in maintaining quality standards among those who enlist.

Mr. President, increasing the number of high school graduates recruited by the military services is, indeed, a desirable goal, one that we should consider vital to our national security and critical to the future viability of the All-Volunteer Force. I am sure that all Senators are in general agreement on that.

However, determining what exactly is the best way to achieve that important objective is another matter.

The Senate Committee on Armed Services, in this defense authorization bill, has chosen to address the military's "quality" accession problem by approving a 25,000 reduction in the end strength of the Active Army. My understanding is that it is the intent of the Armed Services Committee in this provision to "encourage" the Army, or, perhaps, to force the Army, to improve its "quality," as measured by the percentage of high school graduates among its inductees.

Mr. President, I have carefully reviewed the committee's explanation of why it decided to take this action. I have looked at this proposal from every possible perspective, from every possible angle. But no matter how I look at it, the proposal just does not make sense.

What does make sense is the testimony of Secretary of the Army Clifford Alexander and Army Chief of Staff Edward Meyer to the effect that cutting the end strength of the Army at this time and under the present circumstances would be militarily disruptive and dangerous, diplomatically unwise, and administratively unpractical. I believe, as they do, that this drastic, if not punitive, reduction in Army end strength is, without a doubt, the wrong way for the Congress to express its deep concern about the declining level of high school graduates being recruited for military service.

Mr. President, let us consider just what effect the committee's proposal will have on the Army and our overall military preparedness.

According to Army Chief of Staff Meyer, the end-strength reduction will degrade the Army's combat capabilities, its overall readiness, the morale of its personnel, and its operating efficiency. Specifically, General Meyer believes that the impact of this action will cause:

First. A reduction of up to 13 percent of active division forces, with the possible deactivation of two full combat divisions.

Second. A reduction of forces available for commitment to NATO.

Third. A reduction in the Army's flexibility to respond to non-NATO contingencies with the newly developed rapid deployment force.

Fourth. A possible closure of a major CONUS base.

Fifth. Problems in manning the Army for at least 3 years, even if the Army's end strength is restored in later years.

Sixth. The curtailment of programed Army initiatives designed to improve combat and combat support structure.

Mr. President, from the standpoint of American foreign policy, we will be risking far too much to gain a measure of improvement in the quality of our Armed Forces. Here we stand, Mr. President, facing a very serious threat to our vital interests in the Persian Gulf because of the Soviet invasion of Afghanistan, in the midst of a gut-wrenching crisis in Iran where American diplomats have been held hostage since last November with no early release yet in sight, and we are considering a proposed cut in the end-strength of the U.S. Army which will more than likely cause the deactivation of two full combat divisions. It does not make sense to this Senator from Hawaii. This is just not the time to be drastically reducing the combat capabilities of our conventional forces. The committee's proposal should be rejected for this reason alone.

With respect to our NATO commitment, the Army is concerned that the end-strength reduction may impact severely on our ability to meet specific NATO obligations. I am informed that it will take the Army more than 3 years to rebuild career combat levels even if authorized strength is restored later by the Congress. Military equipment assigned to NATO and programed for Europe will have to be left unattended or stored because of the manpower shortfall which will impact on our NATO forces—a very costly thing to do.

In a larger sense, the end-strength reduction and the impact it will have on the Army may well signal a lack of resolve on the part of the United States to both our adversaries in the Warsaw Pact and our NATO allies, and send a negative signal to nonalined countries and the Persian Gulf states.

Mr. President, it is also my understanding that associated with the inactivation of two combat divisions which would be caused by the end-strength reduction would be the loss of a significant portion of existing Army combat capability, more frequent tours of Army personnel in high cost overseas areas, and reduced team building and unit fighting ability as a result of frequent changes of station. In the long term, there is every indication that this situation will have a serious impact on morale of the troops and, in turn, a severe impact on retention of skilled personnel, particularly those in the career force. Indeed, this situation is precisely what we should be trying desperately to avoid as we attempt to correct the manpower problems of the All-Volunteer Force.

It seems to me, Mr. President, that slashing the Army's end strength will not only wreak havoc on our foreign policy, particularly our recently expanded commitment to the protection of the Persian Gulf area, and have a self-defeating effect on the combat preparedness of the Army, but it will also unfairly penalize the Army for what is, in reality, the failure of the President and the Congress over the past several years to maintain the Army's ability—and the ability of all of the service branches—to compete successfully with the private sector for qualified high school graduates.

Mr. President, as I said on this floor last November and again this past February during consideration of the Armstrong-Matsunaga amendments to increase military pay, the severe recruiting and retention problems now being experienced by the military services have not been caused by any conceptual failure in the All-Volunteer Force, but are directly attributable to what has been a steady erosion of military pay and benefits since the establishment of the All-Volunteer Force in 1973.

Let me remind my colleagues that the comprehensive study on the adequacy of military pay conducted by the Assistant Secretary of Defense for Manpower last November concluded, without reservation, that military personnel are not now adequately compensated, that the inadequacy is not evenly distributed across the force, and that this condition impacts significantly on the ability of the services to attract and retain personnel. The Pentagon study made it very clear that a general decline in military pay and benefits, relative to that offered by the civilian sector, will inevitably be evident in declining retention, increasingly tight recruiting markets, and shortages of quality military personnel.

To be sure, Mr. President, this is precisely the situation that we find the Armed Forces in at this very moment.

Mr. President, I would like to say, at this point, that the Armed Services Committee has finally recognized the pressing need for an immediate improvement in military compensation and has adopted, in this legislation, an increase in regular military compensation of 11.7 percent for the coming fiscal year. This decision to provide servicemen and women with a full comparability pay increase, which I fully support, coupled with likely enactment of the Nunn-Warner package of allowance increases passed by the Senate in February as a substitute to the Armstrong-Matsunaga military pay increase amendment, are major steps in the direction of reachieving and maintaining the compensation levels which are necessary to attract quality enlistees, particularly high school graduates, to military service.

Mr. President, in my judgment, it is these types of constructive measures, rather than drastic reductions in end strength, as proposed by the Armed Services Committee, which must be taken by the Congress to address the Army's problem of recruiting quality manpower. However, let me say that increasing pay and allowances alone will not, in my opinion, insure the success of the efforts of the All-Volunteer Force to recruit adequate numbers of personnel with high mental abilities. What appears to be necessary, in addition, is the replacement of the current program of educational benefits for servicemen with a modified version of the GI bill.

The Pentagon's pay adequacy study and another Defense Department study on educational incentives in the military concluded that the termination by the Congress of the Vietnam-era GI bill in 1976 was a contributing factor in subsequent declines in high quality accessions. The replacement of the GI bill with the less attractive, contributory veterans educational assistance program (VEAP) resulted, in the eyes of potential recruits, in the loss of a major incentive for enlistment in the military, especially those in relatively high mental groups. The pay adequacy study found that recruiting and retention of high quality personnel were most affected by the termination of the GI bill because these types of enlistees tend to value educational benefits more highly than other enlistees from lower mental categories.

Mr. President, in view of these circumstances, the question we must ask ourselves is this: How can we realistically expect the military services to attract adequate numbers of high school graduates when we have allowed pay and benefits fall to such dismally low levels and terminated one of the most important enlistment incentives for high school graduates—the GI bill?

The answer is, Mr. President we cannot.

The fact of the matter is that educational incentives will play a vitally important role in insuring the continued viability of the All-Volunteer Force, particularly when we are faced with the decline of the potential pool of quality young men and women over the next decade. I was pleased to learn that the Armed Services Committee, in this authorization bill, has initiated a pilot test program of various types of educational assistance, including loan forgiveness, a contribution to the VEAP program for certain servicemen, and an extension of education benefits to members' spouses and dependents.

However, as I will further explain at the appropriate time in this debate, I am concerned that these modifications in the educational incentives program do not go far enough and that a 1-year test program may possibly fail or, at best, not yield conclusive results.

As a member of the Senate Committee on Veterans' Affairs, I can say to my colleagues that it is the intention of this Senator from Hawaii, along with the chairman of the Veterans' Committee, Senator CRANSTON, to introduce a revised, permanent program of educational benefits for servicemen—possibly a new GI bill—designed to enable the All-Volunteer Force to successfully meet its present and future requirements for high quality accessions.

In conclusion, Mr. President, I would like to make the following observation.

This Senator from Hawaii has heard a great deal of debate on whether or not the Army has conducted a campaign of deception to cover up its quality manpower problems. I do not believe there has been such a cover up. It seems to me that the Army's problems in recruiting high school graduates are out in the open and are documented. There is no denying that the statistics show a sharp decline in the quality of Army enlistees.

What we should be debating here, Mr. President, is whether or not we can accept the argument made by the Armed Services Committee that the Army needs this drastic cut in end-strength in order to solve its quality manpower recruiting problem.

It is my judgment that we cannot and should not accept this argument. Reducing the Army's end-strength is just not the best way to accomplish the goal of recruiting more high school graduates.

There is every indication, Mr. President, that the end-strength reduction will not successfully increase the number of high school graduates recruited by the Army.

There is every indication that the committee's proposal will only exacerbate the Army's morale and retention problems by forcing the Army to stretch its available manpower to meet its expanding obligations.

There is every indication that this action will reduce the combat effectiveness and capabilities of the Army at a time when we should be strengthening our conventional forces in the face of mounting military threats and international tensions.

And there is strong indication, Mr. President, that there are other alternatives to cutting the Army's end-strength, such as improving pay and educational benefits, which will sufficiently increase the number of high school graduates enlisting for military service.

For these reasons, Mr. President, I urge my colleagues, in the strongest of terms, to reject the Armed Services Committee's proposal to reduce the end-strength of the U.S. Army.

● Mr. DECONCINI. Mr. President, I rise to commend the Senator from Georgia (Mr. NUNN), for his continuing and persistent efforts to upgrade the quality of the Armed Forces. Through his key position on the Senate Armed Services Committee he has come to recognize that in some respects the condition of our troops is deplorable. We must act expeditiously to upgrade the quality and strength of those forces as we approach an ominous decade that has already started on note of Soviet aggression.

The position of the committee—a position developed and espoused by the distinguished Senator from Georgia—is to cut back the authorized end strength of the Army pending increases in the number of high school graduate enlistees. The Senator's purpose is a noble one—force the Army to upgrade itself. According to his provision, the Army's end strength would be reduced by approximately 25,000 men or two divisions. However, the Army would be allowed to increase its end strength when the total percentage of new recruitee high school graduates exceeds 52 percent. The idea is to reward the Army for recruiting more high school graduates and to punish it for failing to upgrade its manpower.

I am in total support of the Senator from Georgia's goal. However, I am in complete disagreement over the method he has chosen to pursue that goal. We may be "cutting off our nose to spite our face" by reducing end strength during a period of growing national crisis. Frankly, we cannot afford to reduce the American fighting machine by two divisions. Such a decision would carry with it a number of undesirable consequences.

First, it would, in all probability, cause the Army to close a number of bases. Once closed, it is expensive to reactivate a facility. Each time a facility is closed, there are major costs incurred such as relocation of personnel and their families and maintaining security for a closed base, not to mention the cost to re-open the base later.

Second, and I believe more serious, is the adverse impact an end strength reduction of 25,000 men would have on our real military capability. One must question that sort of signal this approach will give to our friends and enemies alike. At a time when the Soviets are in Afghanistan and may have combat troops stationed in Cuba, the United States will be seen to be reducing its armed services still further. Surely, that will not be interpreted correctly; indeed, it is likely to be seen as a sign that America lacks the will to play a major role in the world. It may be taken as yet another indication that the idea of "fortress America" is gaining ground and that the neo-isolationism of the post-Vietnam era continues unabated.

For these reasons, then, I am pleased to join such distinguished Members of this Chamber as Senators Hollings and Levin in opposing the Nunn formula and restoring the original end strength of 775,300. However, I would also like to urge Senator Nunn to continue his efforts to increase the quality of our forces. Perhaps, he can work with the Army to devise a method that will not affect end strength. There is absolutely no question that Senator Nunn is correct in his basic contention that the overall quality of the Army is deteriorating, and that that deterioration must be reversed. I disagree only with the method he chose to implement that idea.●

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment in the first degree of the Senator from Michigan. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long) and the Senator from Connecticut (Mr. Ribicoff) are necessarily absent.

On this vote, the Senator from Connecticut (Mr. Ribicoff) is paired with the Senator from Louisiana (Mr. Long). If present and voting, the Senator from Connecticut would vote "yea" and the Senator from Louisiana would vote "nay."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from New Mexico (Mr. Domenici), the Senator from Oregon (Mr. Packwood), the Senator from Wyoming (Mr. Wallop), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent due to illness.

The PRESIDING OFFICER (Mr. Pryor). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 22, nays 69, as follows:

[Rollcall Vote No. 284 Leg.]

YEAS—22

Baker
Boschwitz
Byrd,
  Harry F., Jr.
Chiles
Cohen
Culver
Exon
Garn
Helms
Jackson
Jepsen
Johnston
Laxalt
Morgan
Nunn
Schmitt
Stennis
Talmadge
Tower
Warner
Young
Zorinsky

NAYS—69

Armstrong
Baucus
Bayh
Bentsen
Biden
Boren
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Church
Cochran
Cranston
Danforth
DeConcini
Dole
Durenberger
Durkin
Eagleton
Ford
Glenn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Hollings
Huddleston
Humphrey
Inouye
Javits
Kassebaum
Leahy
Levin
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Schweiker
Simpson
Stafford
Stevens
Stevenson
Stewart
Stone
Thurmond
Tsongas
Williams

NOT VOTING—9

Bellmon
Domenici
Goldwater
Kennedy
Long
Packwood
Ribicoff
Wallop
Weicker

So the motion to lay on the table Mr. Levin's amendment (No. 1937) was rejected.

Mr. LEVIN. I move to reconsider the vote by which the motion was rejected.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

IMPROVING THE ALL-VOLUNTEER MILITARY: BETTER PAY AND BENEFITS WILL HELP; PUNITIVE MANPOWER CUTBACKS WILL NOT

Mr. CRANSTON. Mr. President, I strongly support the amendment introduced by my distinguished colleagues, Senators Levin, Hollings, and Dole, to delete from the military procurement authorization bill for fiscal year 1981 the requirement that the Army reduce its active duty strength by 25,000.

The Armed Services Committee has proposed to reduce the Army's active duty strength by 25,000 in order to place a greater emphasis on recruiting high school graduates and in order to increase the quality of Army recruits. Under the committee's provision, the Army can restore the 25,000 people incrementally as it increases the proportion of high school graduates recruited.

I agree with the committee's premise that we need to attract more high school graduates into the Army. But I do not agree with the committee's means of achieving this goal. Cutting down the size of the Army in order to force the Army to recruit more high school graduates is like the old discredited medical practice of bleeding a sick patient in the belief it will make him well.

The proposal to cut Army personnel by 25,000 will detract attention from the task of attracting qualified people into the Armed Forces. It is a punitive measure. It will be difficult for the Army to administer and, as such, will be disruptive to the smooth and efficient operation of the Army at home and abroad. For example, the Army will not know until June—the latter part of the fiscal year—how many high school graduates it has recruited because, of course, the Army recruits most of its high school graduates right after their graduation. Meanwhile, for the first 7 to 8 months of the fiscal year—October to June—when fewer high school graduates enter the services, the Army will have to cut out personnel only to add them back as the high school graduates begin to join up in June.

The proposed reduction will only divert vital Army management efforts from the task it faces in the next year to increase its numbers of recruits who have finished high school.

There is no arguing about the necessity to have skilled, qualified people in the armed services. With today's technically sophisticated weaponry, the Armed Forces must recruit people who have the ability to use the equipment. Further, experience has shown that high school graduates are about twice as likely to complete their terms of service as are non-high-school graduates.

It has proven very difficult, however, to bring high school graduates into the armed services. The pool of young people from which the services must recruit is growing smaller. This problem will continue as the number of persons aged 17 to 19—the prime age for recruits—declines.

More importantly, over the past few years, inflation has eroded the pay and benefits which the Army and other military services have to offer as incentives to join up. The Congressional Budget Office (CBO) recently calculated that since 1977, military compensation has lagged behind white collar pay by 3.4 percent and behind manufacturing workers by 11 percent. CBO noted that the comparison between pay for military personnel and pay for manufacturing workers "may be more appropriate, particularly for enlisted personnel whose private sector opportunities are likely to lie mostly in manufacturing and other blue-collar pursuits."

Reduced numbers of high school graduate recruits in recent years have exacerbated the already serious recruiting problems of the Army. Fewer numbers of high school graduates have meant a higher number of personnel who do not complete their enlistments. Thus, the Army's recruiting burden has increased since it must meet not only its annual demand for new recruits, but it must also replace those who have dropped out prematurely.

Thus I agree that it is a desirable goal to have more high school graduates in the armed services. Though as Senator Nunn said yesterday a high school diploma is not the "be-all and end-all" of quality. The question is whether the committee's proposal is the best way to achieve this goal. I do not believe that it is. What the Armed Services Committee has proposed is an extreme measure. I do not believe that we are at a point where we need to take such a drastic step, particularly in light of the other proposals that the committee has made with respect to improving the pay and compensation system for military personnel.

In this bill, the committee has recommended a number of changes in the pay and benefits for armed services personnel. I believe that these proposals are necessary and will go a long way in addressing the recruiting and retention problems that the All-Volunteer Force is facing—particularly in the Army. I strongly support these changes. They are a continuation of the action taken in February when the Senate passed an amendment authored by Senators NUNN and WARNER to improve certain benefits and pay for military personnel. I vigorously supported the effort of Senators NUNN and WARNER then because I felt that this was the appropriate course for us to take—addressing problems with concrete actions rather than taking a meat-axe approach.

Among the changes the Nunn-Warner amendment made were: A provision for a 25-percent increase in flight pay; an increase in the amount of reimbursement for travel; a provision for a variable housing allowance for high-cost areas in the continental United States.

The committee has continued its steady progress of improving the pay and compensation of military personnel in this bill. Included in this measure is a provision to increase pay subsistence and quarters allowance by 11.7 percent. This brings the pay scale to a more realistic level, given our present rate of inflation. Recruiters and military personnel have stated that pay is a key element as far as recruitment and retention are concerned. Thus, I was pleased to note this pay increase.

The committee has also raised the maximum level for bonuses for certain skills and raised the maximum level for reenlistment bonuses.

Other improvements included in the bill deal with the CHAMPUS program, increased levels of reimbursement for moving mobile homes or trailers and a family separation allowance for junior personnel with 4 years or less of service.

Mr. President, I think the committee's actions to improve the pay and compensation system through these changes demonstrates a sincere effort to give military personnel fair and equitable compensation. We are on the right track in responding to the problems of the All-Volunteer Force with concrete action.

These actions should be given a chance to work—as I believe they will—before such a drastic measure as cutting the end-strength of the Army.

Therefore, Mr. President, I urge my colleagues to support the Levin-Hollings-Dole amendment.

Mr. ROBERT C. BYRD was recognized.

Mr. BUMPERS. Will the Senator from West Virginia yield for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. BUMPERS. Mr. President, I have an amendment and I am not sure there has been any kind of time agreement entered, or unanimous-consent request, for any of these amendments.

I had told the majority leader's staff I would be happy to take an hour on this amendment. If the Senator thinks it will take as long as an hour to work this out, I would be happy, for my part, to go ahead with my amendment with the understanding that amendment will be the first order of business as soon as mine is disposed of.

Mr. ROBERT C. BYRD. Mr. President, that time limit that was entered on the Senator's amendment, it is my understanding, talking with Senator NUNN, he hoped a vote would be reached on the pending Levin amendment shortly.

I hope I am not mistaken in stating that.

Mr. NUNN. I hope so.

Mr. ROBERT C. BYRD. I think he indicated it might be possible to get an agreement on a couple of amendments with the understanding he be recognized to call up those immediately in sequence.

Mr. NUNN. That is my hope.

Mr. ROBERT C. BYRD. Senator NUNN hopes to be able to achieve that.

In the meantime, as far as I am concerned——

Mr. HOLLINGS. Can we go ahead and vote? I just want put a few things in the record. If we have the yeas and nays——

Mr. NUNN. I am not prepared.

Mr. ROBERT C. BYRD. May I ask the Senator if he would be willing to temporarily lay aside this amendment and let Mr. BUMPERS call up his amendment on which there is a time limitation?

Mr. NUNN. Yes.

Mr. ROBERT C. BYRD. The Senator from Georgia is willing for that, also.

Mr. President, I would like to yield the floor, but let me ask unanimous consent first, if I might have the attention of Mr. LEVIN.

Mr. NUNN is agreeable that the pending amendment by Mr. LEVIN be temporarily laid aside until, hopefully, some arrangement can be worked out to deal with that amendment, and a couple of the amendments that the Senator from Georgia wishes to call up.

In the meantime, would the Senator be agreeable to temporarily laying outside this amendment, letting Mr. BUMPERS proceed with his amendment, on which there is a time limitation?

Mr. LEVIN. What is the time limitation?

Mr. ROBERT C. BYRD. Not to exceed 1 hour.

Mr. HOLLINGS. So the agreement would be to go back to this one? We are as anxious as the Senator to not be sitting around.

Mr. ROBERT C. BYRD. Yes.

Mr. LEVIN. Come back within an hour, no objection.

If the Senator from South Carolina is agreeable on this, I have no objection to coming back in 1 hour.

Mr. THURMOND. I would like to know the purpose of this, because this has to be settled, why not settle it now?

Mr. ROBERT C. BYRD. It is hoped the issues can be settled more expeditiously if we utilize this time for the 1 hour to dispose of the amendment by Mr. BUMPERS.

Mr. THURMOND. Does the Senator think it will save time in the end?

Mr. ROBERT C. BYRD. In the long run, I hope so.

Mr. THURMOND. I will not object, Mr. President.

Mr. ROBERT C. BYRD. I thank the Senator.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, for not to exceed 2 minutes, and that Senators may speak therein. Several Members want to put matters in the record.

The PRESIDING OFFICER. Without objection, it is so ordered.

D.C. METRO

Mr. EAGLETON. Mr. President, on December 20, 1979, the Senate voted 62 to 23 to authorize $1.7 billion of Federal funds to help complete construction of the 101-mile Metrorail system for the Washington, D.C., area.

I opposed the Senate action at the time. I believed that an additional $1.7 billion was too much money for a single subway system, especially since nearly $4 billion in Federal funds had already been put into Metro. I urged that Metro be taken off its financial pedestal—and made to compete with other cities for Federal mass transit dollars—rather than receive a special authorization. Finally, I questioned whether the $7.2 billion figure would be the final price tag, given the fact that the projected cost had already risen from $2.5 billion in about a decade, mainly due to inflation.

These views carried little weight in the Senate compared to Metro's unquestioned popularity. The House had passed the legislation in July of last year by a similarly one-sided margin (261 to 125) and the President signed the Metrorail authorization into law on January 3, 1980.

Since that time, events and newspaper reports have confirmed some of my fears—and created others. Last week, both the Washington Post and the Washington Star reported that four area legislators have introduced legislation seeking Federal funds for a study to determine whether an additional 47 miles should be added to the Metrorail system.

Frankly, it astonishes me that the area legislators would be talking about expanding the system to 148 miles—nearly a 50-percent increase—when only 33.6 miles, one-third of the authorized 101 miles, are now in operation. But the idea of expansion seems even more remarkable given the array of problems which stand between Metro and completion of the 101-mile system. These include:

COST

During the 2 days of hearings my Subcommittee on Governmental Efficiency held on Metro last fall, I questioned whether the system could be completed for the then-projected $7.2 billion figure. Representative HERB HARRIS of Virginia replied:

> Senator, I think the estimates, the cost analysis, the reanalysis . . . are about as tight . . . as I have ever seen in the history of my public life . . . I think it (the $7.2 billion final cost) is obtainable, and I think it will be obtained.

On January 18, 1980—15 days after President Carter signed the Metro authorization bill—Metro's General Manager Richard Page disclosed that inflation had driven final cost projections up to $7.65 billion.

On March 28, 1980 Metro sought a speed-up in its construction schedule and reported that the final cost projections would be $8 to $8.5 billion if inflation continued and a construction speed-up was prevented.

Then, on May 24, 1980, the Washington Post reported that inflation and bickering among local governments threatened to delay construction even further and the final price-tag could hit $10 billion, $2.5 billion more than is presently available to complete the 101-mile system.

LOCAL FUNDING

Despite the Federal Government's commitment to pick up 80 percent of the 101-mile system's cost, the 20 percent left to the local jurisdictions that make up the Washington Metropolitan Area Transit Authority WMATA is proving so onerous a financial burden that a fragile alliance of political entities is in danger of splintering.

For example, construction has been delayed for months while Maryland has sought legally binding guarantees that Virginia and the District of Columbia will continue to contribute to the cost of building uncompleted Maryland sections of the 101-mile system after the Virginia and the District of Columbia sections are finished. A compromise has hopefully alleviated this problem, but further feuds of this nature can be expected.

LABOR PROBLEMS

In late May, an arbitration panel ruled that Metro had to pay $7.6 million in cost-of-living increase to transit workers beginning July 1, thus averting the threat of a wildcat strike. The strike would have stemmed from contract negotiations between Metro and the transit union which represents 5,000 busdrivers, train operators, station attendants, mechanics, and clerks.

Under the present contract, which expired in April, Metro transit workers receive a cost-of-living increase based on the Consumer Price Index four times a year. In efforts to control wildly escalating wage costs, Metro hoped to forego the July cost-of-living increase until a new contract was signed. The arbitration panel ruled against Metro and the July increase will be paid. Metro hopes a less costly cost-of-living increase arrangement will be agreed to in a new contract, but contract negotiations are still continuing.

OPERATIONAL PROBLEMS

Despite millions spent on design and maintenance, Metro continues to be plaqued by mechanical and operational problems—fare card machines which fail to work; elevators and escalators that do not operate; water leaks and fires in tunnels; deteriorating rails, cars, and platforms. These problems face all mass transit systems, but they seem particularly serious for a system that is brand new.

Even allowing for Metro's great popularity and steadily increasing ridership, this is not the picture of a system which cries out for another 47 miles, or a federally funded study of whether that extra mileage is needed. Advocates of Metro would better serve their cause by helping to address the real problem, rather than by engaging in wishful thinking.

MOTOR CARRIER REFORM ACT OF 1980

Mr. HOLLINGS. Mr. President, on April 15, 1980, during the consideration of S. 2245, the Motor Carrier Reform Act of 1980, I offered an amendment to delete food and edible products from the expanded agricultural exemption. During the course of the debate, Senator CANNON, at page 7798 of the CONGRESSIONAL RECORD, stated that my amendment "imposes new regulations upon 300 commodities not now regulated." This serious misrepresentation was also repeated by Senator PACKWOOD at page 7799, Senator DOLE at page 7810, and Senator STEVENSON at page 7810. I specifically asked for an explanation of the effect of my amendment, but at no point in the debate did Senator CANNON or anyone else explain their conclusion that my amendment reregulated over 300 commodities. It is my belief that this misrepresentation had a determinable effect on the outcome of the vote of my amendment.

A number of publications including Traffic World, Journal of Commerce and Farm Bureau News have incorrectly reported the effect of my amendment. I would like to share with my colleagues a copy of a legal opinion that I received from Mr. Fritz R. Kahn, General Counsel of the Interstate Commerce Commission from 1970 to 1976. His legal opinion concludes that my amendment would not have reregulated over 300 commodities.

Mr. President, I ask unanimous consent that the legal opinion of Mr. Fritz R. Kahn concerning my amendment to delete food and edible products from the expanded agricultural exemption be printed in the RECORD.

There being no objection, the legal opinion was ordered to be printed in the RECORD, as follows:

VERNER, LIIPFERT, BERNARD
AND MCPHERSON,
Washington, D.C., April 23, 1980.

Hon. ERNEST F. HOLLINGS,
U.S. Senate,
Washington, D.C.

MY DEAR SENATOR HOLLINGS: There has come to my attention your amendment to the Motor Carrier Reform Act of 1980, as discussed beginning at page 7791 of the CONGRESSIONAL RECORD of April 15, 1980, and the debate that followed the reading of the amendment. I am totally dumbfounded that the amendment should have been characterized, as it was by Chairman Howard W. Cannon of the Commerce Committee, at page 7800, as reregulating agricultural commodities that are currently unregulated under existing law; the effect of the amendment, had it been approved, would have been altogether to the contrary and would have permitted the exempt truck transportation of certain unmanufactured agricultural commodities that currently are in the regulated category of foods.

You will recall that, as it was brought to the floor of the Senate, section 7 of S. 2245, beginning at line 18 of page 10 and continuing through line 9 of page 11, read, as follows:

Sec. 7. (a) Section 10526(a)(6) of title 49, United States Code, is amended to read as follows:

"(6) transportation by motor vehicle of property consisting of—

"(A) livestock;

"(B) agricultural, or horticultural or aquacultural [sic] commodities (other than manufactured products thereof except if otherwise exempt under this section);

"(C) food and edible products, whether processed or not, intended for human consumption, or byproducts thereof; or

"(D) animal feed, agricultural seeds and plants, agricultural limestone and other soil conditioners, or nonhazardous agricultural chemicals and fertilizers".

Your amendment, Amendment No. 1038, was as follows:

On page 11, line 2, insert "or" after the ;.

On page 11, strike lines 3 through 5.

On page 11, line 6, strike "(D)" and substitute "(C)."

As amended, section 7 of S. 2245 would have read, as follows:

Sec. 7. (a) Section 10526(a)(6) of title 49, United States Code, is amended to read as follows:

"(6) transportation by motor vehicle of property consisting of—

"(A) livestock;

"(B) agricultural, or horticultural or aquacultural [sic] commodities (other than manufactured products thereof except if otherwise exempt under this section); or

"(C) animal feed, agricultural seeds and plants, agricultural limestone and other soil conditioners, or nonhazardous agricultural chemicals and fertilizers.".

Before commenting on the implications of the change, a word of background might be appropriate. The Motor Carrier Act of 1935 subjected many aspects of interstate motor carriage—including entry of persons into the business of for-hire motor transportation and the oversight of motor carrier rates—to administrative controls, on the premise that the public interest in maintaining a stable transportation industry so required. *United States* v. *Drum*, 368 U.S. 360, 372–73 (1962). Exempt from such economic regulation by the Interstate Commerce Commission was the truck transportation of unmanufactured agricultural commodities. 49 U.S.C. § 203(b)(6); *Midwest Emery Freight System, Inc.* v. *United States*, 202 F. Supp. 229, 230 (N.D. Ill. 1961); *Milk Transport, Inc.* v. *Interstate Commerce Commission*, 190 F. Supp. 350, 351 (D. Minn. 1960), aff'd mem., 369 U.S. 5 (1961). The perfection of new food preservation techniques and the growth of intercity trucking during the post-World War II period gave rise to conflicts as to what agricultural commodities properly could be classified as exempt and hence transportable in vehicles not subject to franchise and rate regulation by the Commission. *East Texas Motor Freight Lines, Inc.* v. *Frozen Food Express*, 351 U.S. 49 (1956); *Frozen Food Express* v. *United States*, 148 F. Supp. 399, 401 (S.D. Tex. 1956), aff'd mem., *Akron, C. & Y. R. Co.* v. *Frozen Food Express*, 355 U.S. 6 (1957); *Home Trans-*

fer and Storage Co. v. *United States*, 141 F. Supp. 599 (W.D. Wash. 1956), aff'd mem., *Interstate Commerce Commission* v. *Home Transfer and Storage Co.*, 352 U.S. 884 (1956). Whatever the merits of these disputes may have been, by 1958 widespread sentiment had developed for amending the Act so as to remove the uncertainty as to the scope of the agricultural exemption.

At hearings held in 1958, representatives from the railroad and regulated trucking industry joined in testifying to the need for clarification of the agricultural commodities exemption. Hearings before the Subcommittee on Surface Transportation of the Senate Committee on Interstate and Foreign Commerce, 85th Cong., 2d Sess., 24, 25, 87, 354–59, 404–06, 432, 443–44, 552, 597–98, 647–48, 654, 675–77, 754, 771, 860–61, 864–885, 976–1004 and 1004–1009 (1958). Significantly, representatives of several of the major farm organizations endorsed the concept embodied in the bill introduced by Senator George A. Smathers that would have halted the further expansion of the list of exempt agricultural commodities. Hearings, at pages 1349–50, 1451–1529.

Shortly before the Senate hearings began, the Interstate Commerce Commission released its 71st Annual Report (1957), recommending to the Congress that section 203(b)(6) of the Act be amended, the Commission, at pages 138–39 said:

> The continued expansion of the so-called agricultural commodity exemptions through court interpretation represents one of the most alarming trends that has developed in the transportation field in recent years.
>
> We are open minded about the solution to this problem. Perhaps the principal objective could be accomplished by an enumeration of specific commodities or through more precise definitions of key terms used in this provision. The important thing is that some line of demarcation be drawn.

It was against this background of widespread concern that section 203(b)(6) of the Act be amended lest the scope of the agricultural exemption be further expanded, that the Bureau of Motor Carriers of the Interstate Commerce Commission on March 19, 1958, released its Administrative Ruling No. 107. Administrative Ruling No. 107 was a listing of hundreds of agricultural commodities in varying stages of process, each of which was identified as "Exempt" or "Not exempt" in accordance with the then current judicial and administrative interpretations. It was intended merely to be a compilation, in readily available form, of the decisions of the courts and the Commission, as well as of the opinions of the Bureau based upon such court and Commission decisions, relating to the status of the great variety of agricultural commodities, in the several stages of production in which they were transported by truck, under the partial exemption of section 203(b)(6) of the Act.

During the hearings before a subcommittee of the House Committee on Interstate and Foreign Commerce, 85th Cong., 2d Sess. on H.R. 5823, the Commission-drafted bill to amend section 203(b)(6) of the Act, held April 23–25, 1958, Administrative Ruling No. 107 was seized upon by a number of witnesses as properly marking the line beyond which the agricultural exemption should not be permitted to go, subject to minor adjustments. *Hearings*, pages 159–160, 183, 189.

By its enactment of the Transportation Act of 1958, the Congress sought to halt the further expansion of the scope of the agricultural commodities exemption by expressly ratifying the judicial and administrative construction of section 203(b)(6), as recapitulated in Administrative Ruling No. 107. By section 7(a) Congress defined the term "agricultural (including horticultural) commodities (not including manufactured products thereof)" as including "property shown as 'Exempt' in the 'Commodity List' incorporated in ruling numbered 107 (March 19, 1958), Bureau of Motor Carriers, Interstate Commerce Commission, but . . . not . . . property shown therein as 'Not exempt' ". However, Congress adopted a further proviso to section 203(b)(6), and by the second proviso Congress removed from the foregoing definition, incorporating the "Exempt" commodities of Administrative Ruling No. 107, "frozen fruits, frozen berries and frozen vegetables" and eight other categories of commodities.

Stated differently, the first proviso of section 203(b)(6) stabilized the agricultural commodities exemption in accordance with the listing of Administrative Ruling No. 107, and the second proviso subjected to economic regulation by the Commission the truck transportation of frozen fruits, frozen berries and frozen vegetables and eight other categories of commodities that otherwise would have been classified as unmanufactured or "Exempt." Only with respect to these commodities was there to be a departure from their status as found by the courts, the Commission and its Bureau of Motor Carriers, as recited in Administrative Ruling No. 107. Such construction finds complete support in the committee reports and debates of both Houses of Congress. H.R. Rep. No. 2274, 85th Cong., 2d Sess. 15 (1958); S. Rep. 1647, 85th Cong., 2d Sess. 4 (1958); H.R. Rep. No. 1922, 85th Cong., 2d Sess. 16–17 (1958). See also, 104 Cong. Rec. 12532, 15528 and 15646. Such construction of the 1958 amendment of the agricultural commodities exemption, moreover, has been sustained by the courts. *Milk Transport, Inc.* v. *Interstate Commerce Commission*, 190 F. Supp. 350 (D. Minn. 1960), aff'd mem. 368 U.S. 5; *Lester C. Newton Trucking Company* v. *United States*, 209 F. Supp. 600 (D. Del. 1967) aff'd mem. 372 U.S. 702; *Ballentine Produce* v. *United States*, 209 F. Supp. 679 (W.D. Ark. 1962).

Following enactment of the revision of section 203(b)(6) of the Act the Interstate Commerce, on September 26, 1958, issued Administrative Ruling No. 110 to revise its Administrative Ruling No. 107 to reflect the revisions affected by the Congressional amendment of section 203(b)(6). In April 1959 the Bureau issued General Information Bulletin No. 3, which consolidated the list of Administrative Ruling No. 107 and Administrative Ruling No. 110 to denote as "Exempt" or "Not exempt" a long list of agricultural commodities in their various stages of production. A more comprehensive listing, and the one currently effective, is Administrative Ruling No. 119, issued by the Commission's Bureau of Operations on April 26, 1972. It is this ruling that is reprinted in the I.C.C. pamphlet entitled, Can They Do That?, that was referred to during the course of the debate on your amendment, at page 7797.

The effect of your amendment, as I perceive it, would be to restore the pertinent language of the agricultural commodities exemption to what it was before the 1958 amendment. Prior to its amendment in 1958, the pertinent agricultural provisions of section 203(b)(6) of the Act referred to "agricultural (including horticultural) commodities (not including manufactured products thereof)". Had your amendment been approved, the pertinent language would have read "agricultural, or horticultural . . . commodities (other than manufactured products thereof except if otherwise exempted under this section)." Just as before the amendment there was a very long list of unmanufactured agricultural commodities, so after the amendment there would have remained a long list of unmanufactured agricultural commodities. Indeed, all of the processed agricultural commodities shown in Administrative Ruling No. 119, as "Exempt" would have continued to remain in that category, for they would remain unmanufactured agricultural commodities.

The only change that your amendment would have affected would have been to revise the characterization by the 1958 amendment of frozen fruits, frozen berries and frozen vegetables and the eight other categories of commodities as "Not exempt" commodities. These items, which previously had been listed as "Exempt" but were subject to regulated truck transportation in the interim, once again would be listed as "Exempt". In other words, frozen fruits, frozen berries and frozen vegetables and the eight other categories that now can be transported by truck only pursuant to Interstate Commerce Commission authorization would be restored to the group of processed but unmanufactured agricultural commodities that can be transported by truck, free from I.C.C. regulation.

Therefore, with all due respect, Chairman Cannon was totally in error in asserting, as he did at page 7798, that by reverting to the earlier case law, the effect would be to reregulate 300 commodities, including many milk products. This simply would not be the case. Buttermilk was exempt in Administrative Ruling No. 107; it remains exempt in Administrative Ruling No. 119, nothing in your amendment would have changed it. Frozen milk was exempt before; it is exempt now; nothing in your amendment would have changed it. Homogenized milk was exempt before; it is exempt now; nothing in your amendment would have changed it. Pasteurized milk was exempt before; it is exempt now; nothing in your amendment would have changed it. Powdered milk was exempt before; it is exempt now; nothing in your amendment would have changed it. I could go on and on, but I believe the point is made.

Senator CANNON also mentioned poultry and poultry products as among the commodities the regulatory status of which would be altered by your amendment. Again, his understanding of the change it would have affected is altogether flawed. Poultry, dressed, fresh or frozen; poultry, feathers; poultry, frozen; poultry, live; poultry, picked; and poultry, stuffed and frozen—these all were shown as "Exempt" in Administrative Ruling No. 107 before the enactment of the 1958 changes; they all remain "Exempt" in the current listing of Administrative Ruling No. 119.

Nothing in your amendment would have occasioned a change in a single one of these items. As for some of the additional poultry products in Administrative Ruling No. 119 categorized as being "Exempt" that were not listed in the earlier release, such items as poultry, carcasses, raw, in marbelsize chunks; poultry, cut, raw; poultry, rolled in batter but uncooked; and poultry, stuffing, in plastic bags, packed with but not in bird—they simply are an expanded list of agricultural commodities in the various stages of production in which they currently are transported by truck, and, since they remain unmanufactured now as would have been the situation if their status had been determined before 1958, your amendment very clearly would have retained them in the "Exempt" category.

Of course, the misapprehension of Chairman Cannon was then repeated by Senator Packwood at page 7797, Senator Dole, at page 7810, and Senator Stevenson at page 7810. I find it shocking that as distinguished Senators as these would be as poorly informed as they were on a subject of such great importance to the economy of the country.

In sum, I am of the firm view that your amendment, if it had been approved, would have had the effect of returning the language of the agricultural commodities exemption to what it was before the 1958 amendment. It would have continued the freeze legislated by the 1958 amendment but have allowed a "rollback" to "return" to exempt status of frozen fruits, frozen berries and frozen vegetables and eight other categories of commodities, which are unmanufactured commodities but had been deemed by Congress to require regulated truck transportation. The effect of the changes effected by your amendment would have been to enlarge the scope of the exempt truck transportation of foods that can be performed rather than narrow it. These items, for which I.C.C. authority now is required, following the adoption of your amendment, would have been capable transportation in exempt vehicles.

I feel quite comfortable rendering the foregoing opinion. As you may know, I served as counsel for the Interstate Commerce Commission in several of the cases during this critical transition period, culminating my career with the agency as its General Counsel from 1970–1976.

If you have any questions concerning the foregoing opinion or if I otherwise can be of assistance, please let me know.

Respectfully yours,

FRITZ R. KAHN.

P.S. Since dictating this letter I read the Daily Traffic World of April 21, 1980, and its report of the Senate debate further confuses the issues. Based on what source I do not know, it incorrectly attributes to your amendment a change in the exempt status of 300 items. Specifically included were dressed poultry, with which I already have dealt, and ginned cotton and shredded bark. These commodities were exempt commodities before 1958, remained exempt commodities after the law was changed and would have continued as exempt commodities had your amendment been adopted. The story also mentioned cream cheese, butter and railroad ties. These were regulated commodities before 1958, remained regulated commodities after the law was changed and would have continued as regulated commodities had your amendment been adopted. Had the reporter taken the trouble to look at Administrative Rulings Nos. 107 and 119 his errors might have been avoided.

FOOD EXEMPTION REMOVAL FROM TRUCK BILL FOILED BY LANGUAGE SLIP UP

(By Don Byrne)

In this day of omni-present lawyers and effective organized lobbying, it is hard to imagine a large, well-funded, organization losing a key vote on the Senate floor simply because somebody "goofed" on the language of the amendment.

Yet, indeed that is what happened to the American Trucking Associations and Senator Ernest F. Hollings (D-S.C.) while the Senate was debating passage of the Cannon-Packwood trucking deregulation bill (S. 2245), officially known as the Motor Carrier Reform Act of 1980, on April 15.

In the bill was a provision authorized by Senator Adlai Stevenson (D-Ill.) that exempts all food, processed or unprocessed, from ICC regulation. The ATA desperately wanted that provision out of the bill, noting that processed foods constitute 21 per cent of regulated truck tonnage and account for $4 billion in annual revenue—or almost 10 per cent of the regulated industry revenue.

Senator Hollings was to take to the floor and offer an amendment striking the Stevenson language from the bill, which he did. His amendment removed the Stevenson language from the bill then picked up remaining parts of section 10526 under (6)(C) of the Interstate Commerce Act. That paragraph of the act covers exemptions granted by the ICC in 1958.

But the amendment language was such that it not only eliminated the Stevenson language but also eliminated exemptions granted almost 25 years ago on such commodities as cooked fish, dressed poultry, frozen poultry, cream cheese, butter, ginned cotton, rail ties, shredded bark and 300 other items. In shifting the paragraphs around the drafters of the amendment—either Senator Hollings' staff or the ATA—didn't realize that the shift had removed the paragraph with the 1958 exemptions.

But Senators Stevenson, Cannon (D-Nev.), and Packwood (R-Ore.), among others, did and as soon as Senator Hollings had offered his amendment and then spoke in its favor, they pounced. Senator Cannon, for example, said he was "appalled to learn that this would actually lead to the regulation of commodities that are not now regulated; namely, fish and poultry. Thus, the amendment not only eliminates a reform, but would turn the clock back 25 years to when fish and poultry were last regulated."

Informed non-ATA sources say this gaping hole in the amendment forced a switch of at least four and probably five votes to the "nay" column, providing the margin for the amendment's 47-to-39 defeat. In the voting, 29 Democrats and 10 Republicans were for the amendment while 26 Republicans and 21 Democrats were against it.

It is interesting to note, too, that Senator Hollings must have felt much like the poet who wrote, "My heart is a lonely hunter that hunts on a lonely hill." Not once in the long debate (22 pages in the Congressional Record with inserted material) did another senator take to the floor to either speak in favor of the amendment or at least throw a few easy questions at Senator Hollings to allow him to expand his position.

Senator Daniel K. Inouye (D-Hawaii) did insert a prepared statement in the record in support of Senator Hollings' position just before the amendment came to a vote.

Senator Warren G. Magnuson (D-Wash.) also found the Senate floor to be a lonely place when he offered an amendment, also defeated, that would have shifted the burden of proof in entry cases back to the applicant instead of on the protestant as the bill does. Again, no one rose to support or even favorably question Senator Magnuson.

MOTOR CARRIER REGULATION

Mr. HOLLINGS. Mr. President, I have reviewed H.R. 6418 and compared it to the Senate-passed S. 2245. There are significant differences in the two bills, which allowed me to endorse H.R. 6418. As Senators know, I dissented strongly from the Senate bill and, only because of the numerous changes in such vital areas as entry controls, exemptions and collective ratemaking, I am now able to favor a bill to provide for changes in motor carrier economic regulation.

I caution the Interstate Commerce Commission to take heed of the statutory requirements of H.R. 6418. One of the main reasons I am pleased to endorse this bill is the specific direction it gives to the ICC. I sincerely hope that our directives are carried out in a reasonable and responsible way. It is not proper for individual Commissioners to act upon what they feel the law should be; rather it is the duty of each Commissioner to implement the statute which represents the will of Congress. If a Commissioner does not feel capable of so doing he should resign his position.

Let there be no mistake, entry controls are not eliminated and should be adjusted in accordance with the bill so that meaningful entry controls remain. Collective ratemaking is to continue in accordance with the bill and should not be restricted by the Commission. Only those limitations on collective ratemaking imposed by the bill may be implemented by the Commission and it will be up to the independent study commission to determine if further adjustments should be made.

As to the zone of pricing flexibility, the Commission should understand that Congress has gone as far as it intends. The Commission should not go further than the bill by considering a "no-notice" zone. If Congress had intended less public notice for tariff charges under the zone of pricing flexibility it would have enacted such a provision.

It is also important for the shipping public that the Commission not tinker with the general ratemaking process. By this bill Congress is permitting individual carriers to use a zone of pricing for certain transportation but Congress clearly contemplates that carriers should continue to file for general rate increases under the new rule of ratemaking provided in the bill.

In this manner the system will be maintained and shippers will continue to be able to rely on a system service. Motor carrier rates will continue to be reasonably related and such rates will tend to be nondiscriminatory nonpreferential and nonprejudicial. The Commission would be doing a great disservice to the public and would be contravening the intent of the bill to discourage general rate increases in favor of individual pricing.

Unlike other of my colleagues, I view H.R. 6418 as representing a clear change from the entry provisions previously adopted in S. 2245. That change is reflected both in the House's language in section 4, regarding the national transportation policy, and the regulatory approach to motor carrier entry contained in section 5.

It is my firm conviction that H.R. 6418 provides a more balanced approach to this significant area of regulatory policy, which offers a relaxed evidentiary burden to both new entrants to the industry and to motor carriers seeking to expand their operations, while at the same time strengthens the requirement for traditional administrative reliance by the Interstate Commerce Commission on a fair balancing of competing interests.

A workable interrelationship exists in H.R. 6418 between the new guidelines for regulating motor carriers of property and the new entry control provisions. The Commission must make specific findings under all applicable parts of the national transportation policy and the effect of issuance of the certificate on existing carriers. While diversion of traffic from competing motor carriers is not, in and of itself, contrary to the public convenience and necessity, the breadth of the balancing process retains some meaningful standard for protection of existing carriers and the services they offer the public.

H.R. 6418 removes the "preponderance of evidence" language contained in the Senate-passed S. 2245 and substitutes a test based upon "evidence presented by persons objecting." Thus, there is no presumption favoring grants of authority.

but rather a burden on objecting persons to come forward with evidence. I caution the Commission against ignoring or minimizing the burden upon applicants to demonstrate that proposed service will serve as useful public purpose, responsive to a public demand or need. This type of evidence, according to H.R. 6418, is to be "presented by persons supporting the issuance of the certificate."

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

DEPARTMENT OF DEFENSE AUTHORIZATIONS, 1981

The Senate continued with the consideration of H.R. 6974.

UP AMENDMENT NO. 1378

(Purpose: To prohibit the use of funds for reactivation of the battleship *New Jersey*)

Mr. BUMPERS. Mr. President, I send an amendment to the desk cosponsored by the distinguished Senator from Rhode Island (Mr. CHAFEE) and myself.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) for himself and Mr. CHAFEE, proposes an unprinted amendment numbered 1378:

On page 45, between lines 10 and 11, insert the following:

LIMITATION

SEC. 106. None of the funds authorized to be appropriated by this Act may be used for the reactivation of the battleship New Jersey.

Mr. BUMPERS. Mr. President, I wonder whether we can have order, so that we can debate this matter so that Senators will be informed at the conclusion of the debate as to what the amendment is about.

The PRESIDING OFFICER. The Senator's point is well taken. There is no order in the Chamber, and the Senate will not proceed until there is order.

Mr. STENNIS. Mr. President, will the Senator yield to me?

The PRESIDING OFFICER. Will the Senator from Mississippi suspend for a moment until we have order in the Chamber?

The Senator may proceed.

Mr. STENNIS. Mr. President, even though there are a good many items, there is a good chance to finish this bill even tonight.

This is an important matter. There is 1 hour, equally divided, and it can be explained in that time. I hope we will have order and that Senators will ask questions and that we can move on to a vote.

Mr. BUMPERS. Mr. President, this amendment is cosponsored by a former Secretary of the Navy, and I hope that fact alone will be enough to get the attention of my colleagues as to the magnitude and the validity of the amendment.

The House has approved $254 million to bring the battleship *New Jersey* out of mothballs and reactivate and retrofit it to carry certain types of cruise missiles and helicopters. The Senate Armed Services Committee one-upped the House committee and authorized $294 million for the same purpose.

I start off by using those figures from the House and the Senate committee to point up the fact that neither the House nor the Senate had the remotest idea of what the cost of retrofitting a 37-year-old battleship is going to be.

The battleship *New Jersey* was commissioned in 1943. It was taken out of service and put in mothballs in 1948. It was reactivated during the Korean war and stayed active until 1957. Again it was put into mothballs and was again taken out during the Vietnamese war for 1 year, 1968–69, during which time it sailed off the Vietnam coast and lobbed 16-inch shells into Vietnam, the effect of which nobody knows. The best guess is that the Vietnamese simply pulled their forces back from the shores of Vietnam, and those shells landed rather harmlessly.

There is no question, as one Senator suggested to me the other day, that this is a majestic, noble-looking battleship.

Mr. President, I may not always be unalterably opposed to the reactivation of the battleship *New Jersey;* it may make sense someday, somewhere. But I daresay there is not a Member of the U.S. Senate, there is not a Member of the U.S. House of Representatives, and I can promise you that there is nobody in the Pentagon—and I have checked from Harold Brown down—who can tell you whether or not this makes sense from a cost standpoint.

We have $294 million in this bill to reactivate this 37-year-old ship, and the true figure may run as high as $1 billion. The $294 million figure is what the Pentagon calls a "class F" estimate of costs. A "class F" estimate borders on three people having breakfast together and making a guess about what it might cost to retrofit this battleship.

I want to make another point at this juncture—that our amendment does not take away money from the Navy. This amendment says this—and I want to ingrain this indelibly on everybody's mind—this amendment says that "none of the funds authorized to be appropriated by this act may be used for the reactivation of the battleship *New Jersey.*"

Also, I want to ingrain indelibly on everybody's mind that if the Navy chooses, it can take $1 million or $2 million to do a very detailed, definitive cost study on what it will take to reactivate that battleship and what kind of role it would play once it was reactivated, and all the other questions which we asked the Defense Secretary to give us.

Mr. President, back to my two arguments.

I am going to defer to my distinguished colleague, Senator CHAFEE on this, but in a moment we may ask the majority leader to have a 5- to 10-minute executive session.

No. 1, and the most powerful argument, is that if you had that battleship reactivated and retrofitted today, a year from now, or 2 years from now, you do not have the 2,000 men to put on it. It is just that simple.

You can say that we should return to the draft, and we want to do a lot of things to build up the manpower in the services. That is a perfectly legitimate argument, and it is debatable, and we may find ourselves having a debate in a very serious way. But as of today, we have said that we are not going to draft men.

I can tell you that the Navy recently had to tie up an oiler, the *Canisteo,* for lack of manpower. They tied up a good, seaworthy ship that we needed, because they did not have the men to run it.

How many times have the people in this body, who know about and keep up with defense matters, especially naval matters, heard in the past year that we do not have the manpower to keep the ships we have combat ready because we do not have the trained personnel?

I hope the Senator from Georgia (Mr. NUNN) will support this amendment for a very simple reason.

He says that we have 25,000 men too many in the Army, not because we do not need the men but because it is costing too much to keep them trained, and he wants a leaner, tougher, combat ready army, and that is a very legitimate argument.

I am making the same argument here, that it is not a question of numbers. We should get away from the numbers game. What is important is not how many ships we have but how seaworthy are they, how well staffed are they with personnel, and how combat ready are they. I may come back to that in just a moment.

Mr. CHURCH. Mr. President, will the Senator yield?

Mr. BUMPERS. I yield.

Mr. CHURCH. For what reason does the committee recommend that we reactivate a 37-year-old battleship?

Mr. BUMPERS. The hearing records which we have scanned very carefully are virtually silent on the question. There is absolutely nothing here to show a solid recommendation.

Mr. CHURCH. Does the Senator share with me the feeling that we betray a nostalgic feeling toward battleships? I would have thought that the battleship had been proven obsolete after the First World War, when Billy Mitchell demonstrated that flimsy aircraft with flimsy bombs could sink the great dreadnoughts. Having proved this point, he was rewarded with a court-martial. Is that not correct?

Mr. BUMPERS. The Senator is dead right.

Mr. CHURCH. Then in the Second World War, if my memory serves me, the battleships of the Pacific Fleet were so badly demolished by attacking Japanese that they never played much of a role in the war afterward. Yet the Japanese Navy and merchant marine were, in the end, destroyed by our aircraft from carriers and our submarines, not by battleships. Is that not true?

Mr. BUMPERS. The Senator is absolutely correct.

Mr. CHURCH. So, by the end of the Second World War, we should have learned that the battleship was no longer the backbone of the Navy. Yet, in the wars that followed, our propensity to revert back to the dreadnought of yesteryear proved irresistible. Although the ships proved of practically no value, they cost us a great deal of money, in the Korean war and in the Vietnam war, and now we are preparing to do it again. I am at a loss to understand what motivates us, what kind of nostalgia for the early days of the century seems always to bring us back to the old battleship whenever we get nervous.

The Navy needs new ships, modernly designed to cope with the missile age. To reactivate a huge, slow, old battleship is folly, when the money is needed for maneuverable, hard-to-hit ships of the kind that could survive a naval engagement between modern fleets. If nostalgia is to reign supreme, why not go back to the old *Constitution* in Boston Harbor? Now, there was a proud battleship for 1812. Let us throw a line over her bow and cast her out to sea. As Oliver Wendell Holmes once suggested:

> Nail to her mast her tattered flag,
> Set every threadbare sail.
> And give her to the God of storms,
> The lightning and the gale.

Mr. President, such a gesture would scare the Russians about as much as reactivating the *New Jersey*.

Mr. BUMPERS. The Senator's point is so well taken.

When Harold Brown called me the other day and asked me to take on this chore I said, "Well, I need a lot of information."

Incidentally, to his and Graham Claytor's eternal credit they have supplied me with a lot more than I can use in 30 minutes.

No. 1, we may be doing 2,000 men a grave disservice by sending them into battle with a 37-year-old ship under them simply because someone had a misguided notion that we should have that battleship out on the ocean equipped with cruise missiles. No. 2, those 16-inch guns will fire 18 miles, and I think that the urge to get within 18 miles of the target might very well prove irresistible.

I can tell the Senator that if it does and they go up against a whole litany of Soviet missiles, the list of which I do not have time to list here, we are absolutely sending that many men to an almost certain death.

If there is anything we do owe the men in our armed services, if we do, it is to provide them with the very best equipment that we can give them to fight our battles for us.

Mr. CHURCH. I agree with the Senator. He is on limited time, so I will not presume to trespass further, except to say that the Soviet Navy is today equipped with missiles whose ranges are measured in the hundreds of miles and whose accuracy is undeniable. I cannot think of a greater waste of money than to recommission a battleship which is relevant only to the distant past.

Mr. BUMPERS. I thank the Senator very much for his comment and will continue so that my distinguished colleague from Rhode Island will have a few minutes. I just wish to make a couple of closing remarks.

Mr. CHAFEE. Mr. President, I reserve the remainder of my time if that is satisfactory with the Senator from Arkansas.

Mr. BUMPERS. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Arkansas has 16 minutes remaining.

Mr. BUMPERS. Sixteen minutes. I shall just take a couple additional minutes.

Mr. WARNER. Mr. President, will the Senator yield for a question?

Mr. BUMPERS. I will yield on the Senator's time. We are on a very tight time limitation.

Mr. WARNER. We are glad to take the question on this side's time.

Mr. BUMPERS. That is fine. I accept the question.

Mr. WARNER. I know this ship very well because I was Secretary of the Navy at the time we took the ship out of commission. I know the ship well and I know its capabilities, and I recognize full well what the Navy intends to do with this ship. The question I put to the Senator is that in his analysis it seems that he presumes that the only adversary against the United States is the Soviet Union. This ship could be used in many scenarios in which the Soviets are not involved, particularly their surrogates would be involved in which this particular 16-inch rifle, as we refer to it in the Navy, could be extremely effective for purposes of landing Marines, with naval gunfire and supporting activities.

So I hope that the distinguished Senator from Arkansas was not limiting the scenario only to the Soviet Union. Will he address those scenarios other than the Soviet Union?

Mr. BUMPERS. I will be happy to.

The time has come even when Third World nations have a capability to lay their hands on fairly sophisticated weapons.

I remind the Senator that in 1967 the Israelis had a destroyer *Eilat* out plying the Mediterranean Sea and the Egyptians had one Soviet SS-N-2 missile which they fired and blew that destroyer right out of the water.

I wish for the Senator to tell me which nations we are going to use to land Marines in that may not have a similar missile to sink this ship with?

Mr. WARNER. I hasten to add that in the deployment of the *New Jersey*, which would certainly be in the company of other U.S. naval vessels, we would have the defensive capability to return the fire of those missiles and she would be deployed in such a way so as to make full use of the 16-inch rifle as well. Further, the *New Jersey* would be accompanied by other ships with antimissile capability.

Mr. BUMPERS. Mr. President, I wish to ask the Senator from Virginia, and I will ask him on my time, when he was Secretary of the Navy did he ask Congress for money based on "class F" cost estimates which are just off of the top of the Senator's head?

Mr. WARNER. Will the Senator repeat the question? I did not hear.

Mr. BUMPERS. Does the Senator know what a "class F" cost estimate is?

Mr. WARNER. Yes.

Mr. BUMPERS. My question is, When the Senator was Secretary of the Navy, did he ask Congress to appropriate money based on "class F" cost estimates?

Mr. WARNER. I do not have any particular recollection of having done so.

Mr. BUMPERS. No. 2, let me ask the Senator this question. He is obviously very knowledgeable with naval affairs. Could he tell us what his best estimate is as to what they are going to do with this ship, how she is going to be equipped, and, No. 3, what the cost of that is going to be?

Mr. WARNER. I can only address the question of what they intend to do with it in terms of modification. They may take off the aft 16-inch rifles and put a place for vertical-launch cruise missiles, or perhaps a Harpoon, I should think.

But as far as the estimate, the Senator is correct; we do not have a hard, fixed figure.

Mr. BUMPERS. Mr. President, the Secretary of Defense in testimony and the Assistant Secretary of Defense, Mr. Claytor, tell us that they will be happy to do a definitive cost survey on what it will cost to retrofit this battleship, but to suggest that $294 million is a top figure is an absurdity.

In this very bill, the Armed Services Committee is to be congratulated because they say the Secretary will not retrofit any ship over 3,000 tons until the Secretary has reported to the Congress:

"(A) an estimate of the total cost of the work by appropriation category;

"(B) the estimated time for completing the work;

"(C) the number of military personnel, civilian employees of the Department of Defense, and private industry personnel planned for the work;

"(D) the estimated date of the next major repair work;

"(E) the amount of minor repair work expected to be performed in shipyards before the next major repair work;

"(F) a description of any improved or increased military capability which is expected to result from the work; and

"(G) the effect of the major repair work recommended in such report on the utilization of the peacetime capacity and capability of the United States and on the wartime mobilization capacity of private and public shipyards of the United States."

Now, Mr. President, it is not too much to ask the Defense Department to come here with all that information, give it to the House and Senate Armed Services Committees and say, "This is what we believe; this is accurate; this is the role that battleships will play, and here is what you could get; what might be even better for the same amount of money?"

Fifty percent—I want my colleagues to listen to this—of the top Navy aircraft, the F-14, sit on the ground today for lack of spare parts, for lack of spare parts and engines. Then we say, give them $294 million to bring out a 37-year-old battleship.

Admiral Kidd was asked down in Virginia 3 years ago when I was opposed to the *Nimitz* aircraft carrier:

> Admiral, if you had a choice between a *Nimitz* class carrier and a warehouse full of spare parts, which would you choose?

He said:

> There is no contest, I will take the spare parts.

Everybody is for cruise missiles; everybody is for the MX missile system; everybody is for the XM tank. The problem is we cannot get anybody interested in a few spare parts to make those airplanes fly, the tanks run, and the ships sail.

To come in here and say that we have got to have more ships and "let us spend $294 million"——

Mr. TOWER. We put in $700 million, and the administration did not ask for spare parts. The Senator is dead wrong on the spare parts issue.

Mr. BUMPERS. I can tell you what the Secretary of Defense told me the other day. There are two things this Senate ought to turn this down on at this point: No. 1, you do not know what it is going to cost; and, No. 2, we do not have the men to man it.

I yield to my distinguished colleague from Rhode Island.

Mr. CHAFEE. I reserve the remainder of our time.

The PRESIDING OFFICER. Who yields time?

Mr. TOWER. Mr. President, I yield to the distinguished chairman of the committee 2 minutes.

Mr. STENNIS. Mr. President, on this matter here there are others here who will speak, including the Senator from Virginia, the Senator from Texas, the Senator from South Carolina, and others.

This is a matter that the committee went into more than you might think. The manpower problem was a big item, but there is adequate manpower provided. These battleships have 12 inches of steel sides, even their long-barrel guns which were found to be in perfect condition and perfect order. It was thought they could be of service to helicopters—that will be developed in the facts later. The cost is relatively low as compared to the building of new ships now. It is a question largely of preference, largely a matter of judgment, as to what the money would be used for.

I am voting for keeping the ship in the bill.

I ask unanimous consent that the Senator from Texas be in control of the time for this item.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I yield 8 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, during the markup of the fiscal year 1981 defense authorization bill, the Senate Armed Services Committee voted by an over 2-to-1 (11-to-5) margin to reactivate the battleship *New Jersey*, and include it in this bill.

I wish to encourage the Senate to sustain this cost-effective recommendation of the Armed Services Committee.

Mr. President, the *New Jersey* can be reactivated for one-seventh of the cost of a comparable new ship.

Those who have expressed doubts about the wisdom of reactivating the *New Jersey* base their arguments on two points: First, can the Navy man a large ship which requires 1,500 personnel, and second, the *New Jersey* is an old ship which was commissioned in 1943.

Our investigations counter these points as follows:

MANPOWER ISSUE

> To help solve the military manpower problems, the current authorization bill contains an 11.7% pay increase. Previously the Senate approved the Warner-Nunn Military Pay Bill which also makes service life more rewarding.
>
> Pending legislation for a new GI Bill of Educational Benefits should enhance the recruiting situation.
>
> The current economic condition of the country and the unemployment rate have increased recent enlistments.

Admiral Hayward, the Chief of Naval Operations, and he is the top naval officer in this country, made this statement on April 25, 1980:

> Reactivation of the *New Jersey* was not included in the fiscal year 1981 budget request because at the time of submission, this option had not been reviewed by OSD; I support reactivating only *New Jersey* (as opposed to a commitment for all four battleships) because she is useful as a "visible, powerful naval combatant"; and I am confident we can man the battleship if we attend promptly and adequately to those aspects of military compensation which we know are driving excessive numbers of our most valuable people out of the Armed Forces today.

Mr. President, this is the Chief of Naval Operations, the top military man in the Navy in the country, and you see where he stands.

The Honorable Robert Komer, Under Secretary of Defense, made this statement:

> The battleship has been one of the most visible instruments of power ever to sail the oceans of the world. Its mere presence in a potential crisis area would be a significant enhancement to our credibility, particularly with the small nations-states of the Third World. In addition, the warfighting capabilities of the Rapid Deployment Force would be dramatically improved by the 16-inch and 5-inch guns aboard these vessels.

Admiral Train, the Commander of the Atlantic Fleet, had this to say:

> I think it is a good idea to reactivate the *New Jersey*. Arming it with cruise missiles will give it a formidable capability. This will free our carrier battle groups for operations where their unique capabilities are required. Such a program would be economical relative to the cost of new construction. It would provide a potent force in far less time than that required for construction of new ships.

Senator STENNIS, the chairman of the Armed Services Committee, on March 20, in announcing this program, said:

> The *New Jersey* represents a tremendous resource and will enable the United States to make do with available equipment.

Now, Mr. President, I just want to say, in answering the argument that the ship is too old, although commissioned in 1943, the *New Jersey* has seen only approximately 10 years of sea duty. There are over 15 years of design life left for the *New Jersey*. Many ships serve beyond design life with prudent overhaul.

The skill levels required to operate this ship are much lower than that required to operate more modern, sophisticated ships. With today's educational levels, this works to our advantage.

Electronics as well as command and control equipment were added during the Vietnam reactivation to upgrade the 1940's technology. This hardware is still on the ship.

The reactivation includes placement on the *New Jersey* of modern weapon systems and other equipment such as the cruise missile.

Mr. President, there is no question that this should be done.

I want to say as to the performance of the *New Jersey*, and by the way this ship can be reactivated in 1 year, while if we build a new ship it will cost seven times as much and will take 4 years, that is a big advantage. Right now we need ships. President Carter cut the ship program in half, and we are trying to get some ships and we need them, and we need them quickly.

As to performance, the *New Jersey* will perform the following vital functions:

Cruise missile platform.

Heavy firepower for Marine amphibious support.

Maintain a presence.

Potential flagship for rapid deployment force.

Refuel other ships.

Mr. President, I want to say that this ship has the greatest flexibility for the least dollars; it has the least time to return to service; it has a significant endurance, 15,000 nautical miles at 20 knots; it has many years of life left in it, 10 years of sea duty out of 30 years design; it requires less fuel, lower crew skills required, can fabricate all parts on board the ship; and the ship can do this. The ship has many advantages.

It has a low 5-year overhaul cost. It has a prudent public appeal. Two-thirds of the crew in Vietnam on this ship were volunteers. They wanted to get on the *New Jersey* because of its impressiveness and its prestigiousness. The naval computer simulation favored the *New Jersey* in all war game scenarios.

Mr. President, I might say that the Soviets have just completed a similar sized battleship. We will make a great mistake if we do not take advantage of this ship and reactivate it when we can do it at one-seventh the cost of a new ship, when we can do it in 1 year, when it takes 4 years to build a new one.

I hope the Senate will back the armed services on this. I hope they will back the Chief of Naval Operations on this. I hope they will back the Under Secretary of Defense's position on this and also the high regard expressed by Admiral Train, commander of the Atlantic Fleet. These are people who know what they are talking about and this is what we should do here in the Senate.

We should follow the Armed Services Committee on this important matter.

The PRESIDING OFFICER. Who yields time?

Mr. TOWER. Mr. President, I yield 5 minutes to the distinguished Senator from Washington.

Mr. JACKSON. Mr. President, I think it would be worthwhile if we could pause and reflect a moment on what the Armed Services Committee is doing by including the reactivation of the *New Jersey* in this bill. This particular item, as has already been mentioned, stems from a request from the members of the Armed Services Committee to the Joint Chiefs of Staff. We asked each of them to recommend to the committee things that we could be doing in this interim period of danger. The other Chiefs came up with their recommendations. Admiral Hayward, who I believe is an extremely competent Chief of Naval Operations, made various suggestions, including pulling out of mothballs an aircraft carrier and a battleship.

Now, it is easy to make fun of a battleship. But let us bear in mind the logic of what we are trying to do.

All ship platforms are vulnerable, Mr. President, in a general war. Even concrete missile silos are vulnerable in a general war. God forbid—but, if we ever get into that kind of situation, everything is going to be vulnerable.

But we are looking for platforms, Mr. President, to fill the gap that exists between the United States and the U.S.S.R. in strategic arms and in conventional arms. Thanks to modern technology, the platform provided by a battleship can fit neatly and usefully into today's Navy and can help fill that gap in the most economical way possible.

The battleship can be like an aircraft carrier in that it can launch airplane-like cruise missiles for land attacks and antiship operations. In addition, it has its powerful 16-inch guns.

This is a cost-effective program when married to modern weapons systems. It is not any more vulnerable than an aircraft carrier, not any more vulnerable than any other weapon system except our submarines force. Thanks to American technology, they are still survivable.

But, perhaps most importantly, this gives us a much needed platform in an area where we are grossly deficient.

What short memories some of us seem to have. After Afghanistan, we were wrestling around saying, "What are we going to do to fill this void?" Now, only a little over 6 months later, you would think there is no problem.

Mr. President, I mentioned at the time of the invasion of Afghanistan that the first move the Russians would make would be a peace offensive. Sure enough they have engaged in a clearly divisive peace offensive. Let us bear in mind one point: The only thing that counts with the Soviets at the bargaining table, the only thing that is useful in trying to get the Soviets out of Afghanistan, is the credibility of America's military might.

We better wake up around here and understand that we are in a long, protracted conflict and that America has a responsibility to meet the challenge that we face. Mr. President, this is a cost-effective interim weapons system. I defy any Member of this body to come up with a better platform to marry together with modern technology.

Oh, they talk about battleships being outmoded, outdated, obsolete. That is just sheer nonsense, when you put modern arms on those platforms. And that is what we are trying to do.

This is a cruise missile ship. This is America at its best—using its weapons technology to enhance our deterrent. Make no mistake about it.

So I hope, Mr. President, that those who want to knock this out tell us what they are going to do, what ships they are going to add to the Navy. What are they going to do to improve American credibility at a time when our naval power is challenged?

Oh, I know what happens. We get in another crisis and the born-again hawks will take over—they want war. They will come in saying, "It's war," as they did last January when high officials spoke out. And some of us said, "With what are we going to war?"

Mr. President, I think it is a time to be cool and sensible. Let us build the muscle and let us develop the fiber we need so that we can be credible militarily. This is crucial because what you are going to see in the gulf is a situation in which the Soviets will be able to bargain from strength with the Persian Gulf oil-producing states. Do not be surprised if you wake up one morning and find that a deal has been made by the producer states in the gulf to sell oil to the Soviets. Many will say then, "Oh, it's just a straight mercantile agreement," ignoring the fact that the Russians are 350 miles away from the gulf pointing a gun at their heads.

The Soviets are already engaged in this. They are going to be buying oil out of the Persian Gulf, mark my words, and that oil will not be used, all of it, in the Soviet Union. They are going to be selling it to Europe to divide Europe, in much the same way as we are seeing now in connection with those visits by heads of state in Europe meeting with Mr. Brezhnev.

I cannot think of a more effective way to divide the Western World than to buy the oil right out of the Persian Gulf while holding a gun to the producer's heads; then they will turn around and resell it to Europe. Thus, the Soviet Union becomes the supplier and the Western World becomes dependent on Soviet power to keep their economies going and to survive.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. JACKSON. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator from Arkansas (Mr. BUMPERS) has 11 minutes remaining and the Senator from Texas (Mr. TOWER) has 14½ minutes remaining.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, I yield such time as the Senator may desire.

Mr. CHAFEE. Mr. President, I yield myself 5 minutes.

Mr. President, I am not surprised at the Senator from Washington being enthusiastic about this vessel, since it is currently in Bremerton and there is an excellent chance it will be overhauled in Bremerton.

Mr. JACKSON. Will the Senator yield?

Mr. CHAFEE. Yes.

Mr. JACKSON. That is a pretty petty statement. I am unaware of any decision by the Navy as to where this work will be done. Furthermore, I might add that the work currently projected for Puget Sound Naval Shipyard is more than enough to keep the yard fully employed.

Mr. CHAFEE. So the Senator does not even want it there?

Mr. JACKSON. I did not offer this amendment. Admiral Hayward, the Chief of Naval——

Mr. CHAFEE. The Senator is on his time.

Mr. JACKSON. Well, I will take it on my time. But I just think that is a petty thing to say. I know what requests come from the Senator from Rhode Island when he wants something in his State.

Mr. CHAFEE. Right.

Mr. President, it is quite obvious that this system has not been thought through. The Senator from Washington said that on the *New Jersey* they will have cruise missiles. There is not a mention in the Senate report of cruise missiles.

The Senator from Virgina, speaking in support of this, says they will remove the aft turret. As a matter of fact, the report from his committee said the nine 16-inch guns will be retained.

Mr. President, the point I am making is that this is really a Rube Goldberg scheme. Nobody has thought this thing through. Somebody says, "Let us come up with a battleship. We will take off the rear turret."

Splendid.

Then somebody else came along and said, "If you remove the rear turret, it upsets the center of gravity on the vessel so we will not do that. We will keep the rear turret."

Mr. President, I served 3½ years as Secretary of the Navy. Never once in every scenario that we played was there any kind of discussion of using a battleship in this mode.

Mr. President, it seems to me that we must have some sense of priority. The Navy is in desperate shape for manpower.

Mr. President, I will read to you a memo from the very man who is being quoted here, the Chief of Naval Operations, Adm. Thomas B. Hayward. This memo is to the Secretary of Defense:

> You are aware of the Navy's continuing problem manning ships due to shortages of senior petty officers. In the Atlantic, upon deployment three ships are going out in C–4 condition.

That is not combat ready.

And then he mentions in the Pacific:

> Some of the ships will be very close to the C–4 margin. I am not comfortable with deploying ships with the marginal experience level that these figures represent but the alternatives are even less attractive.

He goes on to decry the problems they have with manpower.

If they take manpower from one ship

to beef up these ships, it is robbing Peter to pay Paul. Continuing:

> We have reached these limits. We could strengthen the manning by ripping people out of hard earned shore tours short of their nominal tour completion date, but such an action would destroy our best retention efforts.

Mr. TOWER. Will the Senator yield?

Mr. CHAFEE. No; not at this point.

Mr. President, the manpower shortage in the U.S. Navy is extremely serious. I do not yield to anybody in this Chamber in my support for the U.S. Navy. What we should do is to pay attention to the problems that exist. If there is $294 million available, put it into those priorities that the Chief of Naval Operations says are his top priorities: First, manpower retention and adequate pay; second, aircraft; and, third, ships.

To spend $294 million on this ship is like rearranging the deck chairs on the *Titanic*. The Navy, as I said, is in an extremely perilous situation as regards manpower, and all attention should be devoted to that, and, secondly, to the aircraft situation which the distinguished floor manager of this bill on the Republican side knows full well is one of the alarming facts facing the Navy at this time.

I reserve the remainder of my time.

Mr. JACKSON. Will the Senator yield for 1 minute?

The PRESIDING OFFICER. Who yields time?

Mr. TOWER. I yield 1 minute.

Mr. JACKSON. Mr. President, I am amazed that the Senator from Rhode Island would refer to the distinguished Chief of Naval Operations, if that is what he is doing, as being part of a Rube Goldberg operation.

The other thing is that I would encourage the Senator from Rhode Island to look at the Armed Services Committee's report. I am sure the Senator knows what a Tomahawk missile is. Is the Senator aware of what the Tomahawk missile is?

Mr. CHAFEE. I am aware.

Mr. JACKSON. It is a cruise missile, is it not?

If you will read on page 57 of the committee report in the passage concerning the reactivation of the *New Jersey*:

> The funding provides for the reactivation of the *New Jersey*.
>
> Further, the funding allows for installation of a modern electronic warfare suite (SLQ-32), a close-in weapon system (Phalanx radar-controlled gun), and a missile system consisting of Harpoon and Tomahawk missiles.

So, in fairness, it should be clear to every Senator that the committee did envision—and provide funds for—equipping the *New Jersey* with cruise missiles.

Mr. TOWER. Mr. President, I yield myself 3 minutes.

It is no surprise to see the famous Senator from Arkansas trying to cut down naval ships. When the administration was trying to find somebody to offer this amendment on the floor, they could not get anybody on the Armed Services Committee and they could not get anybody on the Defense Appropriations Subcommittee. So they turned to an old enemy of the Navy who last year offered an amendment to cut out an aircraft carrier because it cost $2 billion and was too expensive. He is now pushing an amendment to cut out a low-cost reactivation of a fine ship that will provide us with a greater capability than any battle cruiser the Soviet Union can build in the next decade.

I am amazed to hear the Senator from Rhode Island talk about manpower since he voted for the amendment the other day which requires them to use 1,100 naval personnel to chip paint. He would not let the committee exercise oversight over the use of manpower in that connection.

Might I note that all the priorities named by both the Senator from Arkansas and the Senator from Rhode Island have been met by the Armed Services Committee. Perhaps they have not read the bill.

The committee recommended $100.5 million for manpower compensation and benefits. We added over $900 million for Navy aircraft and spares. There is no higher Navy shipbuilding priority that has not already been addressed by the Armed Services Committee than reactivating the *New Jersey*. We addressed ourselves to every one of the priorities. There is no higher priority than the *New Jersey* that we have not addressed ourselves to.

The fact of the matter is the Senator from Arkansas does not appreciate the value of naval power. He thinks our ships all ought to be frigates. Last year he said, "Let us just build frigates with all this money."

The Senator from Idaho was presenting a little talk a while ago about battleships being nostalgia, from the turn of the century.

The frigate was a class of vessel popular in the 18th century. Of course, the frigates we are talking about today are modernized versions. This battleship will be a modern version. It will be less vulnerable than almost any vessel afloat by virtue of its armor. It will be a ship that I can assure Senators the United States will be glad to see because there is nothing that could provide naval support like the *New Jersey*.

Mr. President, I reserve the remainder of my time.

I yield 6 minutes to the distinguished Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I support the reactivation of the battleship *New Jersey*. I want to say frankly that when this matter first came up I viewed it with great skepticism. I had the feeling somewhat along the line expressed by the able Senator from Arkansas. It took me quite a while to reach a conclusion that the Chief of Naval Operations had a very good recommendation when he urged the Congress to approve the reactivation of this battleship.

The Chief of Naval Operations has asserted that the reactivation would provide "highly survivable multipurpose offensive weapons systems clearly the equal of any battle cruiser the Soviets deploy in the next decade."

Mr. President, as I indicated earlier, I was not enthusiastic about this proposal, but the more I learned of it, the more I read the testimony, the more I studied the recommendations, the more convinced I became that it is a logical thing to do.

If we had plenty of money, if we had plenty of time, then I do not think we would want to take this course. But we do not have plenty of money; we do not have plenty of time. The *New Jersey* was commissioned in 1943 and served throughout World War II, being decommissioned in 1948, and has been overhauled since then on two different occasions. It participated in the Korean war and in the Vietnam war. The service life of the *New Jersey*, as a result of that, is only 13 years and 6 months. The ship is estimated to have a remaining service life of at least 15 years.

The *New Jersey* is not an obsolete, World War II battleship. The *New Jersey* has been extensively reworked on each occasion of recommissioning. During its most recent recommissioning, the ship was extensively reworked, with major overhaul of all of its fire control equipment and armaments plus extensive additions of communications and electronics equipment. Moreover, the ship was equipped with a helicopter pad capable of handling the CH-53 Sea Stallion helicopter. Advanced computers were added for shore bombardment accuracy, boilers were repaired, and living quarters improved.

The fact is that the ship is not now a World War II vintage vessel but is, instead, a vessel with late-1960's features and a substantial remaining service life.

These facts do not suggest that work is not necessary to bring the *New Jersey* to standards needed for modern naval warfare. Obviously, the $294 million proposed to be spent in recommissioning the *New Jersey* will be used to do more than chip barnacles.

First, the ship will be given a complete new communications system. Second, the ship will be armed with the Harpoon antiship missile and, more importantly, with the Tomahawk cruise missile, thus giving it a potential strategic nuclear capability of great value.

The ship will also be equipped with modern electronic warfare devices and with the Phalanx advanced antiaircraft gun system which is capable of shooting down Soviet cruise missiles in flight. Obviously, too, basic overhaul will occur to insure that improvements in the ship made in 1968 are brought up to present standards.

In my own decision to support the reactivation of the *New Jersey*, a critical factor was the very short term needed to bring the ship to full combat readiness. The *New Jersey* can be at sea, on line in our fleet, within 15 to 18 months. That, to my way of thinking, was a very significant factor.

A new ship of comparable size, modern equipment, and firepower would require a minimum of 6 years to construct.

The U.S. Navy has now roughly half the surface vessels it had at a time as recent as 1970. It is essential that America retain a position of preeminence in seapower throughout the world.

Mr. President, I have only a moment left. I have other matters I should like to bring out in regard to this, but my time is so limited. I want to emphasize that this program does make a great deal of sense, it seems to me, because it takes a ship that has been overhauled twice, and has a relatively long service life yet coming to it. With the shortness of money and the shortness of time, we can put a major vessel at sea that will be tremendously helpful, according to testimony by the Chief of Naval Operations, as well as other high officials of our Defense Department.

The PRESIDING OFFICER (Mr. EXON). The Senator's 6 minutes have expired.

Mr. BUMPERS. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Arkansas has 6 minutes and 15 seconds. The Senator from Texas has 4 minutes and 37 seconds.

Mr. BUMPERS. Mr. President, I yield myself such time as I may use.

Mr. President, let me tell you what the hearings in the Committee on Armed Services show. Lieutenant General Kelley, who is commander of the Rapid Deployment Unit Task Force—he is a marine—was asked about it. He sort of likes the idea. But he did issue this caveat. He said:

> I believe we could take the *New Jersey* out of mothballs at a fairly economical cost. She came out, sir, for the Vietnam war, as you recall, and then we put her back in again; but I would not suggest an expensive modification until we evaluated it in much more detail to see if there are any significant problems.

Is that too much to ask? General Kelley is taking a very objective view.

Mr. President, let us assume that this "class F" estimate is correct, and I would stake my seat in the U.S. Senate that it is grossly understated. But assume for the moment and for the basis of argument that it is correct, that it is going to cost $294 million to retrofit this ship.

You can take a CG-47, one of those large ships, which has tremendous antisubmarine warfare capabilities, tremendous antiaircraft warfare capabilities, neither of which will be present on the *New Jersey* even after it is retrofitted. You can build that brand new ship, as modern as 25 years from now, for a little over twice the cost it will take to retrofit this battleship. Buy a new CG-47 and you will get a ship that is good for 30 years, that operates at less than almost a third of the cost of the battleship *New Jersey* on an annual basis. It just does not make any sense to reactivate the *New Jersey*.

The Senator from Washington has said that he has a high regard for Admiral Hayward, and I do, too. So we certainly agree on that. What did Admiral Hayward say in a memo to the Secretary of Defense on June 1980:

> I am not comfortable with deploying ships with the marginal experience level that these figures represent, but the alternatives are even less attractive in their impacts on our continuing struggle to turn around our unsatisfactory retention situation. We have given priority to these ships in the assignment of personnel coming from shore duty and have made some personnel shifts, called cross decking, from ships with deployment dates further downstream. Quite obviously these actions rob Peter to pay Paul and become counter-productive beyond certain limits. We have reached those limits.
>
> We could strengthen the manning by ripping people out of hard earned shore tours short of their nominal tour completion date (most of these tours are presently on a five years at sea, two years ashore rotation), but such an action in anything short of a national emergency situation would destroy our best retention efforts.

Mr. President, what Admiral Hayward is saying in this memo, which some of the Senators have seen and I invite all to look at, is that three of the ships in the Pacific right now are operating only with sufficient manpower to keep the ship floating. They have minimal combat readiness.

It is a terrible thing to admit here. "A careful review," he said, from the commander in chief of both fleets "in the Atlantic, three above surface ships in the *Kennedy* group are projected to be in a C-4 condition."

Mr. President, do you know what a C-4 condition is? Just what I said. It keeps the ship floating, but it has little combat capability.

Mr. President, Harold Brown says to us, "For Pete's sake, give us a chance to study it." The Navy has a long list of needs and I carefully crafted this amendment to leave the $294 million in the authorization and let the Navy decide. If they want to use a million or $2 million of this money to come back to us with a definitive cost study, let them, and we shall make that decision.

The Senators say I offered an amendment to scrub the nuclear-powered aircraft carrier item last year and argued against it. I was not even here. Senator PROXMIRE offered the amendment, and I was not even here to vote on it. And I am sorry, because I certainly would have offered the amendment, and I certainly would have voted against it.

We have 16 fleet oilers in our fleet, and we need 5 more desperately to keep a fleet in the Indian Ocean for months on end, and we just got through tying one oiler up for lack of manpower. We need 5 more. The Navy says they must have 21 oilers if we are going to support logistically a fleet in the Indian Ocean and all over the rest of the world. We have 16, and no more projected for lack of funds.

Let them build two or three of those oilers with this money. But do not put my two sons, who are the light of my life, on a 37-year-old battleship. And do not put your sons on it.

Mr. President, I reserve the remainder of my time.

Mr. TOWER. How much time is left, Mr. President?

The PRESIDING OFFICER. The Senator from Texas has 4 minutes and 37 seconds, the Senator from Arkansas has 1 minute and——

Mr. TOWER. I yield 1 minute to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I have just gotten some information that the Navy has just ranked the 19 new initiatives with which they are most concerned, and this was done 4 days ago, June 27. Mr. President, the reactivation of both the *Oriskany* and the *New Jersey* rank sixth and seventh on this list. They are in the top one-third of the Navy initiatives.

Mr. President, I just want to say that Admiral Hayward made the statement:

> I support reactivating only *New Jersey* because she is useful as a "visible, powerful, naval combatant."

Admiral Train said:

> I think it is a good idea to reactivate the *New Jersey*.
>
> It would provide a potent force in far less time than that required for construction of new ships.

How can we do otherwise? Again I say we can reactivate this ship, which is one-third the cost of a new ship, and do it in 1 year, when it would take 4 years to build a new ship.

There is no question that we need ships. It is just a question of whether we take advantage of this ship, which is a good ship, because the electronics and other equipment was put on just 10 years ago, and we can save a lot of money.

The Armed Services Committee has recommended that. I hope the Senate will follow the Armed Services Committee on this matter.

The PRESIDING OFFICER. Who yields time?

SEVERAL SENATORS. Vote!

Mr. BUMPERS. Mr. President, just one final point and then I will yield to my distinguished colleague from Rhode Island (Mr. CHAFEE).

I want to be very precise about one thing. This is not one of these disarmament amendments. This leaves the $294 million the Armed Services Committee gave the Navy with the Navy.

But on a scale of 1 to 50, retrofitting the battleship *New Jersey* ranks about 49.

Let them have the money. Let them reprogram it. Let them build a CG-47 with it. Let them build the oilers. Let them buy F-14 engines with it. But do not let them use it to discourage the Soviet Union from holding a gun at the heads of the Middle East. The battleship *New Jersey* out there would be only a presence. This argument—that the Soviets might not threaten the Middle East if we retrofit the *New Jersey*—is a paper tiger.

I yield to the Senator.

Mr. CHAFEE. How much time remains?

The PRESIDING OFFICER. Forty-five seconds.

Mr. CHAFEE. Mr. President, just a few short months ago, the Chief of Naval Operations said that we are approaching the point where we may have no realistic alternatives but to consider standing down some ships and aviation units. He is discussing the manpower situation. That is the No. 1 problem with the U.S. Navy.

Second is aircraft. Third is ships. He is not referring to a battleship, Mr. President, but to a ship the Navy can use for the next 30 years. He does not mean some fill-in, such as the reactivated U.S.S. *New Jersey*.

I do hope the majority of the Senate will support the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. TOWER. Mr. President, I yield myself such time as I may require.

We have heard all this talk about manpower. The Chief of Naval Operations testified that if Congress makes a clear commitment to additional military compensation, he is confident we can man these additional ships.

Well, Mr. President, the committee made that commitment to the tune of $1.5 billion and provided that the President would have discretion in the use of 25 percent of an increase we provided, just for the purpose of being able to use it to retain the personnel that we are in critical need of.

I am surprised the distinguished Senator from Arkansas has forgotten that he offered an amendment last year to delete the CVN from the budget. I distinctly remember our colloquy. He did withdraw it and said that we should not spend $2 billion for a carrier when we could buy eight frigates for that.

I tell him today that we can buy or reactivate this battleship, a 50,000-ton vessel, for about the cost of one frigate.

That is the kind of bargain he was talking about the last time.

He said he would not put his sons on a 40-year-old battleship. Its service life has only been 13 years. Perhaps he would rather put his son in that 37-year-old oiler, going for 37 years, which he referred to, that was retired because of a 37-year active service life.

Mr. President, I think if we are going to be serious about our responsibility in defending our sealanes and our vital interests in the Indian Ocean area, we are going to have to get some more naval power out there and will have to get it out there over a short term.

In a few minutes, the Senator from Arkansas will introduce another amendment to knock out another aircraft carrier. This time the *Oriskany*.

Of course, the committee considered these matters very carefully and, considering the fact that we do not now have the naval forces to meet our defense commitments in the Western Pacific, in the Atlantic, in the Mediterranean, and at once, defend our vital interest in the Indian Ocean, this is something that must be done.

They were high priorities on the part of the Chief of Naval Operations. I sincerely hope that the Senate will defeat the ill-advised amendment offered by the Senator from Arkansas, assisted by the Senator from Rhode Island.

Let me once again say that I would be prepared to reconsider the vote we took on the business of the SLEP in Philadelphia the other day, because that eats up 1,100 naval personnel, that the distinguished Senator from Rhode Island voted for, just chipping paint, not even give the committee the opportunity to monitor that kind of thing on a manpower basis.

So let us not talk about manpower or spare parts or F14's. We have increased the budget for aircraft in this bill. We have increased the budget for Navy aircraft. We have increased the budget for spare parts. We have increased the budget for manpower, and given the President discretionary power to spend 25 percent of the increase to make sure we retain the personnel necessary for the manning of our vessels.

Therefore, Mr. President, it is urgent we get this vital addition to our combat capability of the U.S. Navy, because right now our vital interests, indeed, our oil lifeline, is being sorely challenged in the Indian Ocean.

The PRESIDING OFFICER. All time has expired on both sides of the issue.

Mr. BUMPERS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), and the Senator from Connecticut (Mr. Ribicoff) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. Ribicoff) would vote "nay."

Mr. TOWER. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from New Mexico (Mr. Domenici), the Senator from Oregon (Mr. Packwood), the Senator from Alaska (Mr. Stevens), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent due to illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 41, nays 50, as follows:

[Rollcall Vote No. 285 Leg.]

YEAS—41

Baucus
Bayh
Biden
Boren
Bradley
Bumpers
Burdick
Cannon
Chafee
Chiles
Church
Cranston
Culver
Eagleton
Garn
Glenn
Gravel
Hart
Hatfield
Huddleston
Inouye
Leahy
Lugar
Matsunaga
McGovern
Metzenbaum
Mitchell
Nelson
Pell
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Stafford
Stevenson
Talmadge
Tsongas

NAYS—50

Armstrong
Baker
Bentsen
Boschwitz
Byrd, Harry F., Jr.
Byrd, Robert C.
Cochran
Cohen
Danforth
DeConcini
Dole
Durenberger
Durkin
Exon
Ford
Hatch
Hayakawa
Heflin
Heinz
Helms
Hollings
Humphrey
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Levin
Magnuson
Mathias
McClure
Melcher
Morgan
Moynihan
Nunn
Percy
Schmitt
Schweiker
Simpson
Stennis
Stewart
Stone
Thurmond
Tower
Wallop
Warner
Williams
Young
Zorinsky

NOT VOTING—9

Bellmon
Domenici
Goldwater
Kennedy
Long
Packwood
Ribicoff
Stevens
Weicker

So Mr. Bumpers' amendment (UP No. 1378) was rejected.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. THURMOND. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Michigan (Mr. Levin).

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. Will the Senator from West Virginia kindly suspend for a moment?

The Senate is not in order.

Will the majority leader kindly withhold, with my apologies?

The Senate is still not in order.

The Chair recognizes the majority leader.

Mr. ROBERT C. BYRD. I thank the Chair.

TIME-LIMITATION AGREEMENTS

Mr. President, this request has been cleared with the managers on both sides.

I ask unanimous consent that on an amendment by Mr. Jepsen dealing with manpower mobilization there be a 40-minute time limitation and the time to be equally divided in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on an amendment by Mr. Metzenbaum dealing with consultants for contracts there be a time limitation of 90 minutes, the time to be equally divided in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on an amendment by Mr. Boren dealing with the Phoenix missile there be a time limitation of 30 minutes, the time to be equally divided in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, may I inquire of Mr. Levin as to whether or not he wishes to proceed at this moment or as to whether or not he would like for another amendment to be called up, his amendment to be temporarily laid aside, with the understanding that it automatically comes back so that he and Mr. Nunn, and others, may proceed with the compromise they are working on.

Mr. LEVIN. It is acceptable. We automatically come back to it after this next amendment.

Mr. ROBERT C. BYRD. Yes.

Does Mr. Boren wish to call up his amendment?

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. GLENN addresed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, are we lining up the amendments now? Is that the idea? Those of us who have not had time agreements are not willing to go to time agreements and do not wish to be edged out by those who had. We have as much right to the floor as anyone else.

Mr. ROBERT C. BYRD. The Senator I am sure heard me ask Mr. LEVIN, who has the underlying amendment, if he will allow one amendment to be called up because there is a compromise being worked out.

Mr. GLENN. I would agree if there were a great amount of time. We need to have here time for some other things that are very important.

The PRESIDING OFFICER. Will the Senator from Ohio kindly suspend? He has my apologies. The Senate is not in order.

Mr. ROBERT C. BYRD. Mr. President, may I say there is not an agreement——

The PRESIDING OFFICER. The Chair will remind the majority leader that the Senate is not in order, and if he will suspend until the Senate is in order, then the Chair will be happy to recognize the majority leader.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. GLENN. Mr. President, if the distinguished majority leader will yield——

The PRESIDING OFFICER. The Chair would advise the Senator from Ohio that the Senate is not in order. When the Senate is in order the Chair will proceed with recognition.

The Chair recognizes the majority leader.

Mr. ROBERT C. BYRD. Mr. President, in response to the distinguished Senator from Ohio, there is no attempt at this moment to line up amendments in sequence. The amendment before the Senate, the underlying amendment before the Senate, is the amendment of Mr. LEVIN, but Senators are attempting to work out a compromise on that amendment. It was my understanding, and that of Mr. LEVIN and others, that if the amendment could be temporarily laid aside briefly, the Senate could expedite its work if we would proceed to another amendment, after which the Senate would automatically go back to the Levin amendment.

Mr. GLENN. I was getting concerned because every time we are ready to proceed to something, the Levin amendment gets set aside for another amendment of some type. We would be doing this at 3 o'clock in the morning and then wind up with a final vote. I have something on the MX I want to bring up, which will require some debate, and also the bomber modification, the FB-111. These are going to consume considerable time. If we went to those we could use up time between now and tomorrow afternoon, and I did not want to be aced out.

Mr. ROBERT C. BYRD. I do not want to see the Senator get aced out. If we do not get another amendment up we are stuck with the Levin amendment if a compromise cannot be worked out, and I do not know what will happen.

I am advised if an amendment of short duration can be called up, the package on the Levin amendment can be unveiled hopefully and agreed to.

Mr. BOREN's amendment will only take 30 minutes.

Mr. BOREN. That is correct.

Mr. ROBERT C. BYRD. I am not taking any action that will prejudice the distinguished Senator from Ohio.

The PRESIDING OFFICER. The Senator from Oklahoma.

UP AMENDMENT NO. 1379

(Purpose: To take possession of certain Phoenix missiles owned by the Government of Iran)

Mr. BOREN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BOREN) for himself, Mr. LEVIN, Mr. HELMS, and Mr. DECONCINI proposes an unprinted amendment numbered 1379.

Mr. BOREN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add at the end of the bill the following new section:

"SEC. . (a) None of the funds authorized to be appropriated in this Act shall be obligated or expended in a way that will result in payments either directly or indirectly to Iran or any instrumentality of the Government of Iran. If paid to any agency or instrumentality of the United States, or other person acting as trustee for Iran, none of the funds shall be transferred to Iran or an instrumentality of the Government of Iran prior to the release of the hostages without prior consent of the Congress.

(b) Pursuant to subsection (a), the Secretary of Defense is authorized to take possession of any Phoenix AIM-54A missiles, procured on behalf of Iran and found within the territorial jurisdiction of the United States: *Provided, however*, That any person, firm, or corporation (other than an agency or instrumentality of Iran) from whom possession of such military missiles is acquired shall be indemnified and held harmless by the United States from all claim of whatever type arising from the action of the Secretary of Defense as authorized by this section.

(c) The Secretary of Defense is authorized to direct the Armed Forces of the United States to utilize all such missiles, of which he has taken possession pursuant to this section, and he shall require the use of such missiles in the manner best suited to enhance the national security of the United States".

(d) The Secretary of Defense is directed to conduct an inventory of all military equipment, missiles or other military materiels which have been purchased in behalf of Iran and are found within the territorial jurisdiction of the United States.

The Secretary of Defense is further directed to report the results of that inventory to the appropriate Committees of the Congress by February 1, 1981, following the effective date of this Act, along with his recommendation as to the most effective disposition of such equipment, missiles and other military materiels consistent with the national security of the United States and the maximum effectiveness of the United States Armed Forces.

Mr. BOREN. Mr. President, on page 51 of the committee report, there is a section dealing with the AIM-54A Phoenix missile.

It is rightfully noted that the Phoenix is the Navy's most important air-to-air interceptor missile and it is argued that the Navy's inventory is in short supply.

The report then documents the committee's recommendation that $41 million be added to the bill to purchase 150 Phoenix missiles "that had already been manufactured and purchased by Iran and are in storage at the contractor's plant."

The PRESIDING OFFICER. With my apologies, I must interrupt the Senator from Oklahoma. The Senate is not in order. I have been asked to state that all Senators who have conversations please retire to the cloakrooms which are provided for that purpose. The proceedings of the Senate will not continue until we have order.

With the Chair's apologies, I recognize the Senator from Oklahoma once again.

Mr. STENNIS. Mr. President, if the Senator will yield to me, this is an important matter and there is a chance it can be settled with an explanation on the floor. But if we miss the explanation it will lead to misunderstanding and loss of time.

Mr. BOREN. I thank the chairman and I thank the Chair.

I urge my colleagues to listen closely, Mr. President—the committee recommends $41 million be spent to purchase 150 Phoenix missiles that are now owned by the Government of Iran—period, no qualification.

That means, Mr. President, that 41 million American taxpayers' dollars are to be transferred to a trust fund benefiting the Government of Iran to buy 150 missiles that are sitting in a warehouse in this country, while the same Iranian Government holds 53 American hostages and has held them for well over 200 days. To do so without placing further restrictions on the fund is unthinkable.

We must assure that we do not pay tribute to a regime that has completely flaunted international law and the basic tenets of civilized nations.

I understand, Mr. President, that this is a complex matter and that we in the Senate must weigh our actions very carefully as long as there is the slightest possibility that the negotiations for the release of the American hostages in Iran would somehow be compromised by our words or deeds. That is why I and many of my colleagues have been most judicious in our public statements on this matter.

I want to make it clear that I would do nothing, however well-intentioned, that I felt would jeopardize or delay the release of the hostages.

In addition, Mr. President, there are those who believe that the administration does not really want the use of these missiles and that the language of my amendment might be used as an excuse not to use them. I want to make it clear that this amendment is not meant in any way to impede the Navy in its effort to make use of these missiles. It is my strong belief that if the Navy has a need for these missiles that they should be able to use them.

I will say, Mr. President, that if any Senator wishes to suggest a modification to this amendment or offer a perfecting amendment which speaks to that point and does not remove the restrictions on the functioning of the trust fund as outlined in the amendment, I would be happy to consider it.

As it stands, my amendment does the following: None of the funds authorized to be appropriated in this act may be obligated or extended in such a way that will result in payments being made directly or indirectly to Iran, or any instrumentality of the Government of Iran.

If any funds are paid to any agency or instrumentality of the United States, such as a trust fund maintained by the Department of Defense, none of those funds could be transferred to Iran prior to the release of the hostages without prior approval of the Congress.

That is a most important point, Mr. President, and I want to emphasize it. My original concern was that American taxpayers' dollars were going to be used to pay the Government of Iran $41 million while they hold, in violation of international law, 53 American citizens hostage. This amendment will prohibit that from happening. No payments may be made to Iran prior to the release of the hostages without the prior approval of this Congress.

In addition, the Secretary of Defense is authorized to take possession of the missiles in question and is authorized to direct their use by the Armed Forces of the United States in the manner best suited to enhance the national security of the United States.

Finally, Mr. President, my amendment directs the Secretary of Defense to conduct an inventory of all military equipment which has been purchased on behalf of Iran and which is currently found within the territorial jurisdiction of the United States and the Secretary shall report the results of that inventory to the Congress by February 1 of next year, along with his recommendation as to the most effective disposition of such equipment consistent with the national security of the United States and the maximum effectiveness of the U.S. Armed Forces.

Mr. President, I urge adoption of this amendment.

SEVERAL SENATORS addressed the Chair.

Mr. BOREN. I would be happy to yield first to my colleague from Arizona and then to my colleague from Texas.

Mr. DECONCINI. Mr. President, I want to compliment the able Senator for his amendment. I think the Senator from Oklahoma has gone over this very carefully. I talked to him several days ago and I am very pleased to be a cosponsor.

Since then I understand he has worked with members of the Armed Services Committee. It seems to me it is a well thought-out amendment that delivers a message that is clear and consistent without jeopardizing the security or safety of the hostages.

It is also an amendment that I think is necessary in order to be sure that our Government does not make the foolish mistake—and sometimes we have been victims of those kinds of deeds—that we do not expend our military materiel that would enhance in any way the regime in Iran.

I compliment the Senator and I am pleased to be a cosponsor and I hope the Senator will ask for the yeas and nays on this amendment.

Mr. BOREN. I thank my colleague.

Mr. TOWER. Will the Senator yield for a question?

Mr. BOREN. I yield to the Senator from Texas.

Mr. TOWER. I appreciate what the Senator from Oklahoma is trying to do. Obviously, the Armed Services Committee has no particular interest in enriching the Iranians. This money is to go into the Iranian trust fund which is currently impounded and which will be used, I would suppose, to pay off American claims made against the Government of Iran.

My specific concern is that we not jeopardize the acquisition of these missiles. Is it the clear intent of the Senator from Oklahoma that we should acquire the missiles and he does support that and there is no legal impediment in terms of his own understanding of this in acquiring these missiles?

Mr. BOREN. The Senator from Texas is absolutely correct. I want the Navy to be able to acquire those missiles and I want the Navy to be able to use those missiles. This amendment is not meant in any way to give anyone any excuse by reference to any presumed legal impediment to delay in any way the effective use of these missiles by the Navy.

Mr. TOWER. I thank the Senator from Oklahoma. I think it is important that we make that legislative history for the benefit of anyone who might challenge our action later, and particularly for the benefit of the Appropriations Committee, that we want to impress the importance of these missiles.

Mr. BOREN. I appreciate the comments of the Senator from Texas. We have tried to frame this amendment in a way that would make that clear. We want the Navy to have the use of these missiles. We want to proceed ahead and yet to respect all the legal concerns of everyone involved and, of course, always keeping uppermost in our mind to act responsibly so as to in no way jeopardize any progress that might be made toward the release of our hostages.

Mr. STENNIS. Will the Senator yield?

The PRESIDING OFFICER. Who yields time?

Mr. BOREN. I am happy to yield to the distinguished chairman.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, as I understand it, the Senator from Oklahoma primarily wants to have these safeguards here, which his amendment reflects, that will continue Congress' control over this money after it goes into the so-called trust fund and Congress then can control when the money comes out and for what purpose; is that correct?

Mr. BOREN. The chairman is absolutely correct.

Mr. STENNIS. I understand that this procedure reflected by the Senator's proposal has been approved, in substance and in form, by the State Department and the Department of Defense.

Mr. BOREN. The chairman is correct. I met with representatives of both the State Department and the Department of Defense this morning. We worked together on the final language that has evolved.

Mr. STENNIS. I think that that is a very clear cut assurance that we have given the membership and the other sources say the same thing.

I think, under those circumstances, that we can certainly support the amendment.

I did not understand whether the Senator from Texas (Mr. TOWER) fully approved it or not.

Mr. TOWER. The Senator from Texas has no objection to the amendment.

Mr. STENNIS. All right.

Mr. BOREN. Mr. President, to assure that this matter remains in the bill, because I think it is a matter of importance in terms of making sure that the taxpayers are protected in this matter, I ask for the yeas and nays on this amendment.

Mr. STENNIS. Mr. President, I do not want to deny any yeas and nays. But if the Senator would consider that we are under a tremendous pressure timewise here. There is no one who has registered any objection to this language. He has worked it out so well. I do not believe it adds 10 cents to the value of it to have a rollcall.

Mr. BOREN. In view of the remarks of the chairman—and I have great respect for the distinguished chairman and appreciate the comments he has made—I will withdraw that request.

Mr. STENNIS. I certainly thank the Senator. This is a matter of adding control over these funds and the congressional control—which we are, the Congress. So I think we have worked it out. It is acceptable and safe. I hope we can adopt this amendment.

The PRESIDING OFFICER. Has all time been yielded back?

Mr. BOREN. I yield back my remaining time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma (Mr. BOREN).

The amendment (UP No. 1379) was agreed to.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BOREN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the Levin amendment.

Mr. WALLOP. Mr. President, will the distinguished chairman of the Armed Services Committee yield to me?

Mr. STENNIS. I think this is a good time, yes. I do not have the floor. If you want to bring up an amendment, you may.

Mr. WALLOP. Mr. President, I ask unanimous consent that the pending business be temporarily laid aside in order that I might offer an amendment.

The PRESIDING OFFICER. Is there an objection?

Mr. STENNIS. Mr. President, may I ask what is the time element here that has been agreed to? There are two amendments involved.

Mr. WALLOP. Mr. President, I would be happy to enter into an agreement.

Mr. TOWER. Mr. President, I might say that I agreed to 2 hours, with the understanding that I could get more than that, equally divided.

Mr. WALLOP. Mr. President, I can do mine, I am certain, in an hour. Senator GARN has an amendment to my amendment. I think the two of them, together, would probably take less than that. But I think we need that much for insurance sake.

Mr. GARN. Mr. President, I am willing, on my substitute amendment, to agree to a half an hour, equally divided.

Mr. STENNIS. Mr. President, I understand that these two amendments, one is going to be offered as a substitute for the other and the time has been agreed to. One hour equally divided on the Wallop amendment and 30 minutes equally divided on the Garn amendment, which we can really consider here altogether.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I understand the unanimous-consent agreement set aside my pending amendment for no more than an additional hour, plus the time it would take to vote for the Wallop and the Garn amendments combined in some way. Is that correct?

Mr. STENNIS. An hour and a half, a total amount of time of an hour and a half.

Does the Senator object to that?

Mr. LEVIN. No objection.

Mr STENNIS. Mr. President, I ask unanimous consent that the time be combined to that effect, an hour and a half for the two amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from Wyoming.

Mr. WALLOP. Mr. President, I call up my amendment.

Mr. STENNIS. Mr. President, this is a rather important amendment. It is not too involved. May we have quiet, please?

Mr. WALLOP. Mr. President, may I ask the clerk, I do not have the number of the printed amendment. It is No. 1784, Mr. President.

The PRESIDING OFFICER. The Chair advises the Senator from Wyoming that the amendment does not seem to be at the desk.

UP AMENDMENT NO. 1380

Mr. WALLOP. Mr. President, I send a copy of the amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. WALLOP) proposes an unprinted amendment numbered 1380.

Mr. WALLOP. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On Page 45 strike out lines 23 to 25 and lines 1 and 2 on page 46 and substitute in lieu thereof the following: "$7,195,300,000, of which $60,000,000 is authorized for design and development of a space-based laser antiballistic missile defense system; for the Defense Agencies, $1,481,600,000, of which $120,000,000 is authorized for the Defense Advanced Research Projects Agency for design and development of a space-based laser antiballistic missile defense system and $42,100,000 is authorized for the activities of the Director of Test and Evaluation, Defense, of which not more than $50,000,000 may be obligated or expended for the CX aircraft."

Mr. WALLOP. Mr. President, the Armed Services Committee has agreed to increase the budget for space lasers from the administration's request of $48.1 million to $68.1 million. I am asking my colleagues to increase the authorization for the Defense Advance Research Project Agency, DARPA, by another $100 million and to increase the Air Force's authorization by $60 million for the purpose of accelerating development of the space laser weapon.

The space based laser weapons systems I propose are by their nature purely defense weapons. They cannot harm anything on Earth and are fit only to destroy the weapons of mass destruction that travel in or on the edges of space. These are the rarest of weapons in that they do not kill but only save lives.

The PRESIDING OFFICER (Mr. STEWART). Will the Senator suspend? The Senate will be in order.

Mr. WALLOP. I thank the Chair. I earnestly ask the attention of those Senators who are present on the floor and those who may be listening in their offices. This is a debate well worth the time of the Senate.

However, if the Soviet Union were to have a monopoly on them they might very well become a shield behind which the Soviet Union could further pursue its aggressive designs.

It is technologically feasible for both ourselves and the Soviet Union to place a prototype space laser weapon into orbit by the middle of this decade. Even a single prototype weapon in orbit would allow us to protect some of our most important satellites from attack by Soviet antisatellite interceptors. Our whole Defense Establishment has become dependent on satellites for intelligence and communications. If we do not provide protection for them, much of the expensive equipment we are authorizing here would be worth very little in wartime. A single orbital laser weapon would provide a radius of 3,000 or so within which our vital satellites could be safe from interceptors. A few orbital laser weapons would be needed to guard most of them.

As few as four orbital laser weapons would be enough to safeguard the United States from all or nearly all the high-altitude aircraft that the Soviet Union could send against us. This is the official position of the Defense Advanced Research Projects Agency.

As we placed more laser weapons into orbit, we could begin to provide ourselves with a measure of protection against Soviet ICBM's and SLBM's. A total of 24 such weapons in orbit would be enough to frustrate a Soviet counterforce strike. As we improved the range and power of these weapons we could come closer and closer to complete protection against ballistic missiles.

Today the people who are familiar with the technology of space lasers—and they are few—no longer doubt that we can now build such weapons big and accurate enough to have a substantial impact on the strategic balance. Indeed, no one who knows the facts doubts that the Soviet Union can also do it and is trying very hard to do so. Last month the New York Times quoted this year's national intelligence estimate to the effect that the Soviet Union expected to test a space laser weapon in the mid-1980's. That is just 4 to 6 years away. On the other hand, as I look at the administration's program for space lasers, I see no actual plan to build a weapons system, and I see that the pace of development we are currently on would not allow us to test a space laser weapon until the early to mid-1990's.

Mr. President, this Nation cannot afford to leave to the Soviet Union a monopoly on space laser weapons during the mid to late 1980's. Let me explain what such a Soviet monopoly would mean. Of course, every one of our satellites would be vulnerable. With a single orbital laser weapon, they could take out our satellites without our even knowing what had happened. Since these weapons will work automatically, we would have to ask the Soviets to turn their weapons off every time we wished to flight test any missile or put any payload into space. If the Soviets had this weapon first, it is doubtful they would ever allow us to put one of ours into orbit.

Now, if the Soviets succeeded in placing into orbit just four of these laser weapons, even if they were relatively primitive devices, they could shoot down our entire fleet of high altitude bombers, every one of our B-52's, FB-111's, and most KC-135 tankers. That is because during a flight to the Soviet Union these aircraft would be instantly exposed to repeated passes by the orbiting lasers.

The increased vulnerability this part of our strategic triad would be particularly serious for the United States. That is because the United States has a far higher percentage of its strategic assets in air-breathing systems than does the Soviet Union. Our reliance on air-breathing systems is scheduled to increase through the mid-1980's. Air-launched bombs and cruise missiles will represent about one-half of our total megatonnage and over one-half of the counterforce warheads we will have deployed by 1986 or so.

Just four laser systems would also begin to threaten our submarine-launched ballistic missiles (SLBM's). Submarine-launched ballistic missiles are particularly vulnerable to lasers because of their slow rate of fire. As the Soviets deployed more and better laser systems, the threat to our SLBM's would grow more serious.

As soon as the Soviets can manage to deploy more than a dozen of these laser stations, they will be able to seriously reduce our ability to retaliate against the Soviet Union after a Soviet first strike. That strike would leave us with relatively few Minuteman and Titans. A small residual American force would be quite vulnerable even to such a small number of lasers.

Mr. President, if the Soviet Union does with space lasers what our national intelligence expects it to do, then in about a decade it will be able to protect itself rather substantially from our strategic forces. And, it will be able to deny us the opportunity to establish space-based laser systems ourselves.

The question might well be asked:

Is the Senator from Wyoming suggesting that we build space laser weapons before the Soviets and then prevent them from putting up any?

My answer is yes; I am suggesting that if we do not build them before the Soviets do, we will not have that choice. They will have it in their power to decide whether or not to let us join them.

The technology of space lasers is not just a promise. In large measure, it is already a palpable reality. Every one of my colleagues can go where I went, and see as I saw, the hardware that is going into multimegawatt lasers. They can see big lasers actually operating. They can see pointing and tracking machinery that already exceeds the accuracy required. They can see the key machines for adjusting the big optical systems working perfectly.

Of course, one can be misled by what one sees. A high official of the Office of the Secretary of Defense who has been critical of space lasers has claimed after seeing the massive laser test stands on the west coast that we could never put such huge facilities in space. The argument is either consciously specious or abysmally ignorant. Those huge facilities are there obviously to simulate the environment of space. There is no need to simulate space in space. The actual laser generators which will go into space are about 3 feet by 15 feet. The associated equipment will make such weapons bigger than that, but right in line with other larger spacecraft.

I want to stress that absolutely no scientific nor technological breakthroughs have to occur before we build laser weapons. A great deal of engineering work, some of it difficult, has yet to be done to build the big lasers in a configuration for space, to mate them with the large mirrors and accurate pointer trackers, to build the fuel pods so they fit into the spacecraft, and to design the complicated computer programs for communications command and control. A lot of work has to be done, and, as on every other occasion when something new is to be produced, there is some uncertainty. But this is not to say we do not know what will happen when we turn the final switch. The only question is whether the performance will be a little better or a little worse. We know enough to know it will be good.

With every week that passes, new engineering achievements reassure us that we are heading down the right track. In the last 3 months, engineers at two of the largest aerospace companies have figured out how to scale up the power of chemical lasers by a factor of four. Just since I was out in California last month, one of the pointer tracker machines I saw was improved by more than a factor of two. Mind you, that machine had already exceeded operational requirements.

This is the year to decide to accelerate the space laser program, because this year, according to the present program, the aerospace companies are to start building the hardware. The devices we would build for ground testing are physically different from those we would build for a weapons system. Thus, if we build hardware for ground testing this year and next year decide to accelerate the program, that hardware would be of little use, and some of it would have to be scrapped. We would have to start from the beginning to build hardware useful for a weapons system. We would have lost money, but, above all, we would have lost time. This year we are at a crossroads. We must decide whether to take the fast road or the slow road.

The cost of accelerating is relatively high in the first year. But, an accelerated program would cost no more overall. The history of fast-track programs demonstrates that they wind up costing less than slow ones, because they run over a relatively shorter time. This is no exception. The Director of the Defense Advanced Research Projects Agency has informed the Armed Services Committee that a slow program in this area would cost $2.3 billion and an accelerated program would cost $2.1 billion. Time is money. When we save one, we save the other. More important, the advantage of a fast-track program is that it would provide the bureaucracy with a decision and a goal. These are preconditions to getting any kind of product.

Mr. President, the fundamental reason why we should get space laser weapons as quickly as we can is that this country is now without strategic defensive weapons. We have spent a lot of money to build weapons designed to wreak destruction on the Soviet Union, but we have actually dismantled nearly all of what we once had to protect ourselves against Soviet missiles and aircraft. The Soviets are building the means to protect themselves against attack. Why should we leave ourselves naked?

The space laser weapon can bring to an end the fear-filled era in which we now live. As I said, just four first-generation orbital laser weapons will end the threat from long range bombers—unless they can hug the ground all the way, which would create great problems for them; 24 first-generation weapons will be able to destroy several hundred ICBMs and most submarine launched ballistic missiles. As we field better lasers, we will be able to gradually eliminate the Soviet Union's ability to do us harm in this way.

Our first-generation system would probably put out about five megawatts of power. Such a level of power would be quite adequate to destroy current Soviet missiles at ranges up to 3,000 miles. Missile boosters made of painted or anodyzed aluminum are very vulnerable to lasers. It has been suggested that the Soviet Union could make its missiles less vulnerable to lasers by polishing them to a very high degree, but such polishing is nearly impossible to maintain and would be of relatively little value.

It cannot be sufficiently stressed nor repeated often enough that space laser weapons are inherently defensive weapons, and that, even if one wanted to, one could not use them to harm anything on Earth. The thick lower atmosphere protects anything here from lasers. In space, however, lasers are lethal against weapons of mass destruction such as bombers and missiles. These weapons are very vulnerable because, in order to move fast, they have to be lightly built. These defensive lasers are weapons which cannot take lives. If used, they can only save lives. With other weapons, the best we can do is safeguard ourselves by harming others. With space laser weapons, we can safeguard ourselves without harming others. Moreover, unlike conventional ABM's, lasers do not involve either nuclear devices or even conventional explosives.

It is not superfluous to note that lasers are not prohibited by the SALT I Treaty. They are specifically alluded to in a clause which commits us only to discussing them with the Soviet Union. No law prohibits us from building these things just as fast as we can.

Earlier this year, a high official of the Defense Department tried to argue against these weapons on technical grounds. He made so many elementary mistakes that he discredited his argument and has not been heard from since. The main controversy now surrounding the proposal to accelerate this weapon is over whether or not the additional money can usefully be spent.

The Defense Department's official position is that we would not know how to spend the money I am proposing. Keep in mind that it is also the Secretary of Defense's position that by authorizing more money for defense than the President is asking for, the Congress is hurting the national defense.

But, the Armed Services Committee has testimony from the Director of DARPA, in answer to a question by Senator COHEN, that it would be reasonable to accelerate the space laser program. The same Director of DARPA, when pressed, sent a letter to the committee outlining an "option B" for accelerating the laser program to the tune of almost

$90 million additional. In conforming with administration policy, he recommended against the extra $90 million and proposed $30 million extra without acceleration.

When asked, the officials actually in charge of spending the money have outlined, as their personal views, some very sophisticated ways of spending not only $90 million extra, but $180 million extra. I can assure you that the aerospace companies whose job it is to actually deliver the goods know perfectly well how to spend the money efficiently, and that they are confident they can deliver the weapons on an accelerated schedule.

In summary, Mr. President, technology is now offering both to ourselves and to the Soviet Union the chance to begin to overcome the vulnerable condition in which we have lived for the last decade. Technology is offering us the chance to move from purely offensive weapons and strategy based on mass destruction to defensive weapons. The Soviet Union is trying to seize these opportunities. We should be trying even harder.

There is no technical nor managerial reason to put off accelerating the development of these weapons.

Although the top level of the Department of Defense professes not to know how to spend the extra funds, the people whose job it is to develop these weapons know very well how to use the money to bring closer the day when the American people will have a measure of real protection.

The opponents of accelerating this program claim that there is a technological risk here. Indeed, there is risk in doing anything new. Lately, we have been taking fewer risks and coming up with fewer innovations. If we take this risk and lose, we may spend a little more money than we had planned—or perhaps wind up with a weapon somewhat less capable than we had hoped to have. Recall that we took technological risks with the Polaris system and lost. Its initial range was 1,200 miles instead of the 1,500 we had planned.

However, by building it quickly, we gained a decade of peace. If we accelerate the space laser program, we might risk losing in similar ways, but if we do not accelerate, we can be sure, without risk of being wrong, that the Soviet Union will beat us in this vital field. If we do not accelerate the space laser program, we are all going to feel awfully irresponsible when the first Soviet space laser makes its first pass over our missile fields.

Which risk do we choose, I ask my colleagues? We know we can buy something extremely capable, and we know that if we fail to make this commitment, we will have saved money and exchanged the chance for real peace for generations of decline and subservience. This is not the ultimate weapon, but it will drive decisions for decades.

Mr. President, I reserve the remainder of my time.

Mr. CULVER addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi has control of the time.

Mr. STENNIS. Mr. President, I yield to the Senator from Iowa such time as he wishes.

Mr. CULVER. Mr. President, I thank the distinguished chairman for yielding at this time. I also want to express, as chairman of the Research and Development Subcommittee of the Armed Services Committee, the appreciation of our entire committee for the contributions that the distinguished Senator from Wyoming has made in terms of our deliberations on this very important aspect of the R. & D. budget.

He took the time to make a personal appearance before our committee, Mr. President. I think it was an extremely instructive visit. It resulted in the committee taking another very hard look at this whole cluster of issues implicit in the Senator's amendment and, as a result, we made some adjustments to our earlier recommendations. I think we have brought about a far greater appreciation within the Department of Defense as to the seriousness with which we view the importance of our development capabilities and our research activities in this crucial aspect of our military competition with the Soviet Union.

Mr. President, DARPA, the Defense Advance Research Project Agency, requested originally $74 million in this year's budget to work on the development of space laser weapons.

There are three parts of a space laser weapon. The first is a very powerful laser. The second component consists of large mirrors to focus and direct the beam. The third component consists of a pointing and tracking system to find the target, put the laser beam on the target and hold it there.

Mr. President, the DARPA program currently under development looks to the possibility of deploying a space-based laser system weapon in orbit within the next 10 to 12 years.

The first step, and this is important, the first step would be to demonstrate on the ground the three parts, that I have just described.

The distinguished Senator from Wyoming in his amendment proposes to skip the ground-based demonstrations and that phase of the R. & D. program and move to develop a space qualified system right away.

To do this, he proposes adding a total of $180 million to the R. & D. budget, $120 million to DARPA for developing the components of the system, and $60 million to the Air Force budget to start all systems integration.

Mr. President, as I mentioned at the outset, this issue was thoroughly considered by the Senate Armed Services Committee. It was given an additional scrub as a result of the Senator from Wyoming's appearance before our committee. As we marked up the bill, his arguments as well as those of the Department of Defense technical officials charged with the administration and development of this program were very carefully undertaken.

Mr. WARNER. If the Senator will yield for a question, as a matter of fact, my recollection is that he was so persuasive the committee then added the $20 million almost as a direct consequence of his proposal. Is that correct?

Mr. CULVER. That is correct. As a result of Senator WALLOP'S presentation the Senate Armed Services Committee voted 11 to nothing, unanimously, 11 to nothing, to adopt the following position on acceleration of the space laser weapon.

First, the committee concluded that at the present time there is insufficient data to justify a major acceleration of the program. The committee has asked for an analysis, and I think this goes to the concerns expressed by the Senator from Wyoming, of the technical schedule and cost risk of accelerating the development of space laser weapons to be submitted to us by March 1981.

As the Senator from Virginia has noted, the committee also added $20 million to the DARPA budget to accelerate the basic technology works.

Now, Mr. President, the Senators voting to support this position were the distinguished chairman (Mr. STENNIS), Senators JACKSON, CANNON, NUNN, HART, EXON, LEVIN, WARNER, HUMPHREY, JEPSEN, and myself.

The people responsible for developing these systems are of the strong opinion that the distinguished Senator from Wyoming's proposal is far too risky because the technology is not ready to be placed in space and needs to be worked out first in the ground tests that I have referred to.

Dr. Fossum, director of DARPA, has said:

> I do not recommend such an acceleration at this time since I believe it is neither technically, schedule, nor financially prudent.

Dr. Perry, Under Secretary of Defense for Research and Engineering, has said:

> Today we are far from fulfilling even the first level technological requirements for the use of space-based lasers for ABM.

Dr. Richard Airey, manager of all DOD high energy laser programs, has said:

> There are numerous technical risks involved in the program and the Department believes it is applying sufficient resources to resolving these risks in an orderly, prudent manner. Addition of $180 M would result in inefficient expenditure of funds because the necessary planning to support such an acceleration has not been accomplished. As an alternative to immediate acceleration, it is recommended that the Defense Department be allowed to accomplish the planning and evaluation necessary to identify development options and report back to Congress in time for a decision to be made affecting the 1982 Defense budget.

Mr. President, that is exactly the approach that the Senate Armed Services Committee has taken in providing for the report request that will be available in March 1981, in time for an appropriate determination and decision on the level of funding that is most desirable in terms of maximum opportunity for prudent and technologically sound development of this important weapon capability.

Mr. President, I reserve the remainder of my time.

Mr. WALLOP. Mr. President, how much time do I have on this amendment?

The PRESIDING OFFICER. The Senator from Wyoming has 12 minutes.

Mr. WALLOP. I thank the Chair.

Mr. President, I appreciate what Senator CULVER has said. But, in point of fact, the committee after I left did ask who we could recommend to them to get the technical briefing that I have had and make recommendations. Unfortunately, pressed for time, or otherwise, those people never came.

So it is not really accurate to say that there was a heavy study focused on this issue.

The Senator from Iowa is quite correct when he defines the three parts. But I do not understand what happened to the people that do not know what is going on in their own program in their own country.

I have seen these things within the last month. I have seen the laser experimentations. I have seen the equipment. I have seen the beam-focusing equipment. I have talked with people who told me directly there is no technological risk.

There are engineering difficulties to surmount, but just since I was out there, as I pointed out in my statement, two things have happened.

The pointing and tracking, which already exceeded the standards, has been increased by a factor of two, and they have discovered a means by which they could increase the power of the given laser of the same size by a factor of four.

We are on the threshold of a lot of very exciting technical capability.

The one problem that is there is that the DARPA does not have—I beg to differ slightly with the Senator—they do not have a program to flight test anything in 10 to 12 years.

Mr. CULVER. Will the Senator yield?

Mr. WALLOP. On the Senator's time. I am getting short, but I am happy to yield on the Senator's time.

Mr. CULVER. Will the Senator use his microphone?

Mr. WALLOP. I will be happy to yield on the time of the Senator from Iowa. I do not have much time remaining.

Mr. CULVER. Will the Senator use his microphone?

Mr. WALLOP. I have been using the microphone.

Mr. CULVER. I just could not hear.

Mr. WALLOP. I am sorry.

The fact is that DARPA does not have a flight program in mind. They have no systems integration program in mind. That is what the Senator from Wyoming is trying to achieve—systems integration. If we make the choice now to go on with the slow program, all we get is a lot of separate systems work, with no systems integration.

I do not quarrel with the committee's conclusion that there was insufficient information to justify an accelerated program, because the committee has been extraordinarily busy with the rest of the program for the rest of this year and the budget that is here. I happened not to have been so involved in that, and I have had the opportunity to go to these places and see.

It is not just one aerospace company; there are several at work on it. All of them are exceeding standards and all are well confident that they can deliver to this country what we are asking.

What I am saying is that there are two risks to it: One is that there is a little money risk—nobody denies that—although the director of DARPA says that we can save a substantial amount of money under an accelerated program, if it were successful.

The other risk is what happens if we are second because we choose the low road of leisurely development of something when we know the Soviet Union is undertaking the same kind of research; and we know that the Soviet Union, with four relatively modest and not truly competent machines, can deny us most of our air-breathing part of the Triad. We know that the Soviet Union does not need such a specific machine as we need, because we rely more on the air-breathing segment than they. They have more missiles.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CULVER. Mr. President, what we really are talking about here is an enormously complicated technical decision. What the Armed Services Committee is relying on in making the best and most informed judgment it can is the expert testimony available to us from the people who are directly involved in managing this program.

Certainly, it is hard to have more expert testimony than from Dr. Fossum, the Director of DARPA; Dr. Perry, one of the most distinguished scientists and able and experienced men in the whole area of defense research and engineering; and Dr. Richard Airey, the manager of all DOD high-energy laser programs.

I say to the Senator from Wyoming that there is a great deal of difference, we have been advised, as I am sure the Senator knows, between seeing the tests performed in a laboratory somewhere and having the facilities necessary to put into space laser weapons of this kind, which we anticipate will have to remain serviceable in space for 5 years.

The fact is that in the 1970's, we expended billions and billions of dollars on air defense weapons and because we prematurely accelerated it, it was very costly, a wasteful expenditure of taxpayers' dollars. This is one of the things we are trying to avoid with a very prudent but strong program in this whole area.

In the private sector, you can get an engineer or two who says, "We can build it; we can do it," but he does not have the same responsibility as those who are charged with the responsibility for the appropriate administration of these programs within DOD.

In my experience, I have found that subordinates often are more excited about their jobs than supervisors who have overreaching responsibilities and experience that leads them to be properly cautious.

Good R. & D. requires good building blocks and not trying to go into outer space before we have learned what we can with our feet on the ground. I think that is essentially what the issue is here.

Mr. STENNIS. Mr. President, I ask that the Senator from Virginia control the time on our side.

Mr. WARNER. I thank the chairman.

Mr. President, first, I thank my distinguished colleague, Senator WALLOP, for taking the initiative to bring to the attention of the Subcommittee on R. & D. the importance of this program and for having given of his time to travel and learn a great many of the details.

I participated in the hearing, and I have talked with my colleagues, and I associate myself with the remarks of the distinguished chairman of the subcommittee, the Senator from Iowa (Mr. CULVER).

I, too, feel that deferring the decision to commit the DARPA triad to in-space experiments rather than a ground-based experiment until next year will probably delay such a program only slightly, because planning for acceleration could be begun in fiscal year 1981, following the receipt of the report requested by the committee.

For that reason, regrettably, I will have to vote in opposition to my distinguished colleague. Again, I thank him for his initiative.

Mr. WALLOP. Mr. President, how much time does the Senator from Wyoming have?

The PRESIDING OFFICER. Eight minutes.

Mr. WALLOP. Mr. President, I should like the attention of the Senator from Virginia.

One of the reasons why I bring this to the attention of the Senate now is that we are at a crossroads in this program. We either commit ourselves to a long and slow Earth-based separate system process, which will require the costly construction of Earth-based space simulators—vacuum chambers and other things—or we go to designing things which are space qualified.

I have the greatest respect for the Armed Services Committee, and I never have challenged their judgment. As the Senator knows, I am extremely supportive of their work. I feel that here, in the press of time this year and the enormous responsibility they have undertaken, they have not had the opportunity to see what has taken place this year. If they could have had that opportunity, they would not have done such a good job on the other things.

However, I have seen it; and I bring it to the attention of the Senate in all seriousness, not because I want any credit for this, but because I think this is a crossroads that the Senate should face.

The fact is that DARPA does not have a plan to proceed ever to a space weapon. They may be thinking that some day they will go to that, but presently, on their drawing boards there is no such plan. Yet, according to the NIE, if you can believe the New York Times, which seems to get more information than the Intelligence Committee—I have not seen the NIE—but in reading the New York Times, they say that the Soviet Union plans to orbit a prototype in the mid to the late 1980's.

We are not talking about ABM's. We are talking about a system for the defense of our satellites. One could help defend most of our crucial satellites right now, and without it we have no satellite defense. I believe the Senator will agree with that.

We also have the capability of providing ourselves significant air defense capability because all their bombers have to fly high. They cannot fly them low, at the distances we are expecting. So we have the ability to provide ourselves significant help there. They get four of them in orbit, four primitive ones, not the kind we are talking about, and they can deny us about three-quarters of our air breathing segment of the triad.

So I am asking people not to take a look at the practical dollars and cents so much as the incredible risk this country is facing at this moment by being second. I will guarantee that, as the Soviet Union perfects the kind of space-based laser system that can deny one or two missiles entry into space, we will have to tell them in detail the payload of everything we send up from there on, or they will shoot it down, treaty or no treaty, and we may never get to deploy. That is the concern I have.

These are benign weapons. They are defensive weapons and they will provide us with a signal defense, even not the program I am talking about. If we could provide satellite defense we at least main intelligence and communications, and absent that if they deploy such a thing in space our satellite system, upon which almost all our defense relies for communication and intelligence, is virtually denied us, and that puts this country in one terrible spot, and I do not want to be responsible for it by not having brought this up.

What worries me is by committing to a long, slow ground program without ever the concept of orbiting a true space system we are in serious trouble.

That is what I am asking that we do, first, to accelerate it to space qualified material and second, to put in a substantial amount more money.

I understand Senator GARN is going to propose an amendment to mine which would reduce the amount of money that we are talking about and perhaps some compromise can be worked out here, but we need to address the serious situation that exists plus the exciting technical floor we are on right now.

Keep in mind we do not have to do any technological breakthrough. All we are faced with now are engineering problems, and we can orbit this thing, and the country is good in engineering, as the Senator well knows, and even maybe our President should know.

I reserve the remainder of our time.

The PRESIDING OFFICER. Who yields time?

Mr. GARN. Mr. President, will the Senator from Wyoming yield to me?

Mr. WALLOP. Mr. President, I yield the remainder of my time and the Senator will have some time on his own under the agreement. I yield back the remainder of my time to the Senator.

Mr. GARN. Mr. President, does the majority yield back their time? If so then I will be in a position to offer my amendment as a substitute.

Mr. STENNIS. That is perhaps the technical way to do it.

Mr. WARNER. We yield back the time. Will the Chair state the parliamentary situation?

The PRESIDING OFFICER. All time has been yielded back.

Mr. WALLOP. While Senators are in the Chamber, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time has been yielded back.

The Senator from Utah may offer an amendment in the second degree.

Mr. WARNER. Mr. President, will the Chair inform us as to his time allocation?

The PRESIDING OFFICER. Fifteen minutes to a side.

Mr. WARNER. I thank the Chair.

UP AMENDMENT NO. 1381

Mr. GARN. Mr. President, I send an unprinted amendment to the desk and ask that it be considered in the nature of a substitute to the Wallop amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah (Mr. GARN) proposes an unprinted amendment numbered 1381 as a substitute to unprinted amendment numbered 1380.

Mr. GARN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following: $7,145,197,000, of which $10,000,000 is authorized for design and development of a high energy laser; for the Defense Agencies, $1,418,600,000 of which $50,000,000 is authorized for the Defense Advanced Research Projects Agency for acceleration of the design and development of high energy laser programs; and $42,100,000 is authorized for the activities of the Director of Test and Evaluation, Defense, of which not more than $50,000,000 may be obligated or expended for the CX aircraft.

Mr. GARN. Mr. President, on behalf of myself, Senators HUMPHREY, SCHMITT, BOREN, GLENN, and HATCH, I am proposing an amendment as a substitute for Senator WALLOP's amendment, to the fiscal year 1981 defense authorization bill which would increase funding for space-based high energy laser R. & D. by $60 million—$50 million for the Defense Advanced Research Projects Agency and $10 million for the Air Force. Senator WALLOP, and others, have presented a compelling case that we need to do more in the development of high energy lasers, and that is why I am offering this amendment. My amendment would increase the funding a lesser amount in order to provide the Department of Defense time to study and restructure their management of this important area, while insuring that the most cost-effective momentum is maintained until next year.

The intent of this amendment is to allow the development and integration of the technologies associated with the development of a laser orbital weapons system so that there would be an option for the system to be flight tested and an evaluation of its capabilities accomplished. The proposed program is the minimum that is required to give this Nation the option for the development of this potentially revolutionary weapons system.

The objective of this proposal is to give the United States the capability to catch up to Soviet development of high energy lasers on a timely basis. The New York Times has quoted an intelligence estimate to the effect that the Soviets will probably test a space-based laser weapon in the middle of this decade. While I cannot go into any details concerning Soviet laser developments in an open session, I can say that I find them deeply disturbing. Moreover, the very nature of the closed Soviet society and the ease with which this type of research can be hidden suggests that our current intelligence understates the scope and magnitude of the Soviet program.

The United States must not be No. 2 in the development of space-based high energy lasers. The implications of a Soviet monopoly on these weapons is staggering. Quite simply put, space lasers can potentially destroy any missile which is launched into space or any high altitude aircraft. The impact is particularly intensified by President Carter's unfortunate decision to terminate the low-flying B-1 bomber which significantly reduced the effectiveness of the bomber leg of our deterrent. By 1990, our B-52 bombers originally designed for high altitude penetration, will be 30 years old.

High energy space-based lasers of the type now contemplated would have a number of important military missions. They could destroy satellites, high altitude bombers and ballistic missiles in flight. Since they would intercept ballistic missiles during the boost phase, they would destroy them before they could deploy multiple warheads. Unlike any other form of ballistic missile defense, a space-based laser system could intercept missiles launched from any place in the world against targets anywhere in the world. They could defend our allies as well as ourselves.

If these weapons prove successful, they could have a substantial impact on the strategic balance before the end of this decade, and by the 1990's, create a potentially impenetrable ballistic missile defense.

The core of the first orbital laser system would be a hydrogen fluoride chemical laser. This generates an intense focusable laser beam that is focused at a target by an optical system.

As far back as 1975, a comparatively primitive, low-powered chemical laser mated with a Navy pointer and tracker destroyed small tow antimissiles in flight—literally shooting them out of the air. This laser was an order of magnitude less powerful than the ones that are nearly built now, much less the lasers we could have by the late 1980's and early 1990's.

The Defense Advanced Research Projects Agency, recognizing the unique characteristics of the chemical laser technology for space applications, has supported a succession of technology programs that have laid a foundation for more comprehensive advanced development. Its current program involves the development of an advanced high-energy chemical laser for space applications, the technology for large-diameter mirror systems for focusing the laser beam, and a program for space testing of the laser aiming and tracking device. While the current DARPA funding, even with the additional $20 million added by the Senate Armed Services Committee, advances each of the component technologies of an orbital laser weapon, it does not integrate this subsystem technology or produce systems that can be tested in space or even rapidly integrated.

If we simply continue this program, we may find ourselves in a position 5 years from now in which we have proved that orbital laser weapons are feasible, but we are years away from even testing in space, much less the deployment of such a system. Such a situation is simply unacceptably dangerous.

It now appears technically possible to flight test by the mid to late 1980's a laser orbital weapon system sufficiently powerful for antisatellite defense, bomber defense at high altitudes and some ABM defense capability, particularly against existing types of Soviet ICBM's. Moreover, it appears possible to increase by at least a factor of four both the power of the laser and the size of the optics. This would result in an order of magnitude increase in the effectiveness of the system and give it a very good capability in ballistic missile defense.

The current DARPA program contains no substantial efforts toward these advanced lasers or optics. This is again an unacceptable situation.

The DARPA high energy laser program, in light of the particularly significant strategic applications of space-based high energy lasers, should be substantially enhanced. The proposed amendment provides the minimum level of funding that is required to give us a chance of matching what is probably the minimum likely Soviet threat. Indeed, the technology looks promising enough to support a substantially higher level of effort such as the level proposed by Senator Wallop. The level proposed by Senator Wallop would be required to assure we match the probable Soviet developments in this area.

High energy space-based laser weapons are not prohibited by the ABM Treaty, and it is unlikely that any such provision could be negotiated because of the verification requirements. This technology, if developed, offers a unique opportunity to increase the security of the United States and our allies by reducing our actual physical vulnerability to attack. This is a laudable objective and one that should be actively pursued.

In no event can we allow the Soviet Union to obtain a monopoly on the weapons. The strategic balance is rapidly becoming so precarious that any major breakthrough would tilt it irrevocably in the Soviet favor. These weapons in Soviet hands would be particularly effective against our submarine launched ballistic missiles, which will be the core of the U.S. deterrent until the late 1980's.

This country cannot afford to take the chance that it will be a poor second in the introduction of orbital laser weapons. This amendment will provide the funds required to test such systems in space and retain the option of deploying them if we need them. We can safely do no less.

Mr. President, I only add that we have discussed the need and the substance of this amendment, Senator Wallop from Wyoming has certainly done an adequate job of that and I see no need to take the time of the Senate to reiterate those arguments because my amendment simply is a change in the dollar amount, a much lesser amount but an amount that I think is the minimum to keep this program in being for another year so they would have the option of test flying and evaluating.

I do not think there is a necessity to take a great deal of time as the substance has already been discussed. It simply adds $60 million—$50 million for DARPA an $10 million for the Air Force to keep this vital program alive.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I yield time to the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, I followed this matter since it came to the full committee. I did not hear the testimony directly in the subcommitte, but it was presented at rather full length in the full committee on the question of whether or not the money in the budget was sufficient to carry out this program, and after hearing that proof, which included our friends here from Iowa and Virginia, the vote was 11 to 0 in the opinion of all the Members that that was sufficient funds to carry out the program at the rate that seemed to be possible.

Of course, now, we have additional statements about it from competent authorities.

This is just one of those matters where we have to make a judgment on it, but really the testimony came in from the scientists and from those who are responsible for carrying it out, and also Dr. Pirie, and that was figure that they thought was adequate. Dr. Pirie is Under Secretary of Defense on these scientific matters.

So I feel we should, under those circumstances, stay with the committee figure, even though I have great regard for these two Senators who have been helpful in presenting the matter.

Mr. GARN. Mr. President, I am prepared to yield back my time and prepared to go to a vote.

I ask for the yeas and nays on my substitute amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WALLOP. Mr. President, I wonder if the Senator will yield me 1 minute.

Mr. GARN. I withdraw yielding back my time and yield 1 minute to the Senator from Wyoming.

Mr. WALLOP. Mr. President, everything has been said, and I appreciate the courtesy as always of the chairman and Senator Culver. I just think that what we are faced with here now and people should recognize is the choice, that we are choosing to be behind if we choose not to accelerate this program and not to recognize the technical capability we have and the threat to this.

It is a hard choice. There are dollars and cents. There are Soviet threats on every other front. I grant you.

But in this one instance, the Senator from Wyoming fervently feels, and I do not question the integrity, the judgment, the loyalty, the patriotism, or anything else of anyone else, but in my opinion we are making a conscious choice to be behind if we do not accelerate this program.

Mr. GARN. Mr. President, I thank the distinguished Senator from Wyoming. He has taken the lead over many months on this issue.

I am prepared at this time to yield back the remainder of my time.

Mr. STENNIS. Mr. President, I wish to correct myself. We did vote to put in $20 million extra above what the budget recommended. I stated it the other way a minute ago. But the committee has already voted $20 million additional money.

Mr. WARNER. That is correct.

Mr. President, after the matter was brought to our attention by the distinguished Senator from Wyoming and the distinguished Senator from Utah, I think, if I might address a question to my colleague, the chairman of the subcommittee, the subcommittee would be willing to take this matter up as a very early item on its calendar for the next fiscal year. Is that a correct representation?

Mr. CULVER. Mr. President, I cannot make any promises like that.

Mr. WARNER. I recognize the reason. As long as I am there, this matter is going to be given top priority in the next fiscal year. I thank my colleague for bringing this to the attention of the subcommittee.

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. STENNIS. Yes, we yield back the time.

Mr. CULVER. Mr. President, I move to table the Wallop amendment.

Mr. WALLOP. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Iowa to lay on the table UP amendment No. 1380.

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from Connecticut (Mr. Ribicoff), and the Senator from Delaware (Mr. Biden) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from New Mexico (Mr. Domenici), the Senator from Oregon (Mr. Packwood), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent due to illness.

The PRESIDING OFFICER (Mr. Baucus). Are there any Senators in the Chamber wishing to vote who have not done so?

The result was announced—yeas 52, nays 39, as follows:

[Rollcall Vote No. 286 Leg.]

YEAS—52

Baucus
Bayh
Bentsen
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Church
Cohen
Cranston
Culver
DeConcini
Eagleton
Exon
Ford
Glenn
Gravel
Hart
Huddleston
Inouye
Jackson
Johnston
Leahy
Levin
Magnuson
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Pell
Proxmire
Pryor
Randolph
Riegle
Sarbanes
Sasser
Stennis
Stevenson
Stewart
Talmadge
Tower
Tsongas
Warner
Williams
Young

NAYS—39

Armstrong
Baker
Boren
Boschwitz
Chafee
Chiles
Cochran
Danforth
Dole
Durenberger
Durkin
Garn
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Humphrey
Javits
Jepsen
Kassebaum
Laxalt
Lugar
Mathias
McClure
Percy
Pressler
Roth
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stone
Thurmond
Wallop
Zorinsky

NOT VOTING—9

Bellmon
Biden
Domenici
Goldwater
Kennedy
Long
Packwood
Ribicoff
Weicker

So the motion to lay on the table UP amendment No. 1380 was agreed to.

Mr. CULVER. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The motion to table having been agreed to, the Garn amendment in the second degree falls with the first degree amendment.

The question recurs on the amendment offered by the Senator from Michigan (Mr. Levin).

Mr. ROBERT C. BYRD. Mr. President, is there a Senator who can offer an amendment while the Levin amendment will be temporarily laid aside? It would automatically come back.

Mr. METZENBAUM. Mr. President, I am ready to go forward.

Mr. ROBERT C. BYRD. Mr. President, Mr. Metzenbaum has an amendment.

Mr. President, I ask unanimous consent that Senator Kassebaum call up an amendment on which there be a 10-minute limitation, to be equally divided in the usual form, that she be followed by Mr. Metzenbaum, and that the Levin amendment be temporarily laid aside for that period of time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 1382

(Purpose: To amend title 37, United States Code, to entitle a woman officer of the Navy serving as a rear admiral to the basic pay of a rear admiral of the upper half under certain conditions)

Mrs. KASSEBAUM. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mrs. Kassebaum), for herself, Mr. Tower, and Mr. Heflin, proposes an unprinted amendment numbered 1382.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

Section 1. That section 202(k) of title 37, United States Code, is amended to read as follows:

"When initially appointed as a rear admiral under section 5767(c) of title 10, a woman officer of the Navy is entitled to the pay of a rear admiral of the lower half. An officer serving under such an appoinment or a subsequent appointment under that section is entitled to the basic pay of a rear admiral of the upper half when any officer who is junior to her is entitled to the basic pay of a rear admiral of the upper half as determined under subsection (a) of this section.".

Sec. 2. Notwithstanding any other provision of law, a woman officer of the Navy who, on the effective date of this Act, is serving under an appointment made under section 5767(c) of title 10, United States Code, and who would have been entitled to the basic pay of a rear admiral of the upper half of any date prior to the effective date of this Act had the amendment made by this Act been effective on such date shall be entitled to the pay of a rear admiral of the upper half from that date.

Mrs. KASSEBAUM. Mr. President, I am offering an amendment which is cosponsored by the Senator from Texas (Mr. Tower) and the Senator from Alabama (Mr. Heflin).

The PRESIDING OFFICER. Will the Senator suspend until the Senate is in order? The Senate is not in order.

Mr. STENNIS. Mr. President, I did not have a chance to hear the Senator because of the noise. Would she please repeat?

Mrs. KASSEBAUM. I am happy to repeat.

Today I am offering an amendment which is cosponsored by the Senator from Texas (Mr. Tower) and the Senator from Alabama (Mr. Heflin). This amendment would seek to remove an inequity which exists in the promotion system for Navy women flag officers.

Today, Navy women flag officers appointed under section 5767(c) of title 10 of the United States Code cannot be appointed to the position of rear admiral of the upper half without the change proposed by our amendment.

Flag officers in the Navy are entitled to the pay of a rear admiral of the upper half by a seniority system. The time for flag officers to attain the upper-half pay is 3.5 years. Men acquire this pay status merely by time in grade—women never acquire this status.

The purpose of our amendment is to allow the Navy for purposes of pay to treat flag officers equitably without regard to gender. Seniority still remains the criteria for advancement to upper-half status. The Navy supports this amendment.

The Senate, during this session, passed the Defense Officer Personnel Management Act, a comprehensive measure that is now stalled in the House. One small part of that bill will make a move to the upper-half rank a formal promotion step reviewable by a panel. We do not speak to the criteria issue in this amendment. Rather we merely provide for equity under the existing procedure. What can be done now, and what we agree should be done now should not be delayed while more complex issues are debated.

The reason for offering our amendment at ths time instead of waiting for the Defense Officer Personnel Management Act or a comparable bill to be enacted is that a woman admiral with sufficient time to be treated as upper half will be retiring at the end of the year. I think it important to remove this barrier to women's promotion in the Navy, particularly at this time when we have the first woman to be able to reach this high position.

I hope that the chairman will accept this amendment.

Mr. STENNIS. Mr. President, I yield to the Senator from Georgia for a reply.

Mr. NUNN. Mr. President, I would like to comment briefly on the Senator's amendment. We have talked about it.

This amendment, I think, is a step that should be taken by the Senate. The Armed Services Committee has approved this amendment in another bill. That bill is known as the DOPMA legislation.

That legislation has passed the Senate, but it has an enormous number of other provisions. It may be pending even at the end of this session. We do not have any assurances now that the House is going to act on that in time for us to have a conference.

Frankly, it is so complex, and the whole officer grade structure, that it is like trying to negotiate the Internal Revenue Code.

The Senator from Kansas is correct in her perception that that amendment, even though it has already passed, will probably not get through the Congress. I would recommend that we accept this amendment. I recommend that to my colleagues on both sides of the aisle.

Mr. STENNIS. Mr. President, I recommend that his amendment be agreed to. I yield to the Senator from Texas.

Mr. TOWER. Mr. President, I join my colleagues on the Democratic side in saying that we on the minority side are prepared to accept the amendment. Indeed, I am a cosponsor.

I would like to express my thanks to Senator KASSEBAUM for her initiative on this. I urge my colleagues to accept the amendment.

Mr. NUNN. Mr. President, I will add one other thing. I think the Senator from Kansas would be interested in looking at the provisions of DOPMA in detail because the Navy does have a lot of provisions by law which do make distinctions by sex. Most of those have been eliminated by the DOPMA legislation which has passed the Senate. This one is covered and a good many others are covered also.

Mrs. KASSEBAUM. I thank the Senator from Georgia. I appreciate the acceptance of this amendment.

Mr. HEFLIN. Mr. President, I rise in support of the amendment offered by this distinguished Senator from Kansas (Mrs. KASSEBAUM). Mr. President, this is the second speech I have made on the floor of the Senate calling for amendments to insure fairness and equity in the treatment and payment of our female general officers. As we know, because of certain legal barriers, women officers holding the rank of rear admiral are precluded from being moved to the grade of rear admiral of the upper half. Navy women flag officers appointed under section 5767(c) of title 10 of the United States Code are treated inequitably when compared to women serving in the Air Force and Army and when compared to men. Air Force and Army officers may under current law serve in the pay grade O-8. Navy women appointed under provisions of 10 U.S.C. 5767(c) are limited to the pay grade of O-7 because of section 202(k) of title 37 of the United States Code.

Mr. President, there are currently two Navy admirals appointed under the above mentioned statutes who are presently serving as rear admirals of the lower half (O-7). One of these, Rear Adm. Fran McKee, is a native of Florence, Ala. and thus I have a special interest in this matter. Admiral McKee is an unrestricted line officer. She has had a fine career as a Naval officer and we in Alabama, and especially those of us from her home area are extremely proud of her accomplishments. The other officer who will eventually qualify for advancement to O-7 is in the Nurse Corps.

Mr. President, flag officers in the Navy are entitled to the pay of a rear admiral in the upper half (O-8) by a seniority system defined in title VII as mentioned above. The time for flag officers to attain the pay grade of O-8 averages about 3½ years.

Mr. President, male officers, originally junior to Admiral McKee, have been appointed to rear admiral of the upper half, but Admiral McKee cannot be so appointed unless we take action to change these discriminatory laws. Based on advancements of her contemporaries, she would have been entitled to advancement to rear admiral of the upper half pay grade in February 1980.

Mr. President, the proposed amendment of the distinguished Senator of Kansas would allow Admiral McKee to be advanced along with her contemporaries, an advancement which she has undoubtedly earned. Further, it would eliminate the discriminatory effects of her not having been advanced by providing a retroactive pay increase. This measure would also entitle the other admiral, who is a member of the Nurse Corps, to receive pay in the grade of O-8 when she becomes eligible for it by reason of seniority. Likewise, it would entitle any future female flag officer to be advanced to pay grade O-8 when eligible.

Mr. President, Marine Corps general officers are selected for pay grade of O-8 by statutory selection boards. Current promotion law does not allow for the selection or promotion of a woman general officer of the Marine Corps to get pay grade grade O-8. Legislation correcting this situation would be complex and would deal with many chapters of title 10. Correcting the O-8 pay grade inequity for women in the Navy, however, requires only one change, and that is to title 37.

Mr. President, at this time a separate legislative proposal is being prepared for submission which changes the selection and promotion law for the Department of the Navy and, if enacted, this measure would provide equity and promotion for Navy and Marine Corps women of all pay grades.

Mr. President, because the Navy has an incumbent woman flag officer who could attain pay grade O-8 through the entitlements of this proposed amendment if it is enacted in this session of Congress, and because the change to the Navy law is less complex, a separate legislative proposal dealing only with the Navy has been offered by Senator KASSEBAUM. The Marine Corps restrictions will be rectified by future legislation. Thus, it is my recommendation to the Senate that we take this step to end this invidious discrimination that has been imposed on my good friend from Alabama and accept this amendment of the Senator from Kansas.

The PRESIDING OFFICER. Do Senators yield back their time?

Mrs. KASSEBAUM. I yield back the remainder of my time.

Mr. TOWER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1382) was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STENNIS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1383

(Purpose: To require advertising of procurements of consultants)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM), for himself, Mr. PROXMIRE, Mr. BAUCUS, Mr. PRYOR, and Mr. CHILES, proposes an unprinted amendment numbered 1383.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 96, after line 7, insert the following:

CONSULTANT CONTRACTS

SEC. 805. Notwithstanding any other provision of law, none of the funds, authorized by this Act may be used for the procurement of services by independent experts or consultants or organizations thereof unless notice of the proposed procurement action is publicized in the daily publication "United States Department of Commerce Synopsis of the United States Government Proposed, Procurement, Sales, and Contracts Awards," immediately after necessity for such procurement is established, but in no event less than 15 days prior to the closing date for submission of bids or proposals. This section does not apply to these procurements:

1. In which the anticipated total cost of the action is less than $10,000; or

2. which for security reasons are of a classified nature; or

3. for which the Secretary of the procuring department personally makes written determination that exigencies of such compelling nature exist so as to require that this section not apply.

Mr. METZENBAUM. Mr. President, this amendment has a time limitation. Am I correct?

The PRESIDING OFFICER. The Senator is correct. The time limitation is 1½ hours equally divided on this amendment.

Mr. STENNIS. Mr. President, I know this is an important amendment, but could the Senator take less time than that—perhaps 1 hour?

Mr. METZENBAUM. Mr. President, I think it is very likely we could take less time than that. It was Senator PROXMIRE who asked for the extended time. I thought we could do it in 1 hour. He asked for the extra half-hour. I would say to my good friend from Mississippi that I think it relates rather directly to the resolving of the question I had raised. I heard Senator MORGAN and others this afternoon say that the amendment would be accepted. If it would be accepted, it would certainly take less persuasion.

Mr. STENNIS. We are trying to locate

Senator Morgan now. Well, if the Senator does not want to lessen the time now, perhaps he can later lessen the time.

Mr. METZENBAUM. Mr. President, I have since requested Senator Morgan to come to the floor because we would like to work it out and eliminate some of the oratory.

Mr. STENNIS. I thank the Senator.

Mr. METZENBAUM. Mr. President, this amendment is intended to bring sunlight to the working world of the Department of Defense consulting contracts. I am joined in the amendment by Senators Proxmire, Baucus, Pryor, and Chiles.

It states merely that when the DOD decides to procure the services of an outside expert or consultant at a total cost of $10,000 or more, the Department must take the obvious, businesslike step of letting potential competitors know that a contract will be let for bid. That announcement must appear in the Commerce Business Daily immediately after the decision to procure personal or professional services has been made. At a minimum, the announcement must appear no less than 15 days prior to the closing date for the submission of bids or proposals.

The prior publication requirement will not apply to procurements that are classified for national security purposes, nor will the requirement tie the Department's hands in an emergency situation. The amendment specifiically permits the Secretary of the procuring department to ignore the requirement upon making a written determination "that exigencies of such compelling nature exist so as to require that this section not apply."

But what this amendment will do, Mr. President, is to open up to public scrutiny a process involving the expenditure of hundreds of million of taxpayer dollars every year.

It will provide an opportunity for companies to demand competition for contracts that have too often been the virtual property of one or another established firm. That, in turn, has the potential for saving the taxpayers a very large amount of money.

The amendment will also inhibit, at least to some degree, the kinds of questionable consulting contracts that have too often been awarded to former employees and future employers. The recent Washington Post series on this topic was extremely well done. But that series is by no means the first report we have had on questionable and anticompetitive procurement practices in the DOD and elsewhere in the Federal Government.

In 1967, Robert McNamara estimated that the failure of the Pentagon to use competitive bidding contributed to the waste of 25 cents on each procurement dollar.

On January 3, 1979 the New York Times published an interview with Defense Secretary Harold Brown, who said that his key disappointment so far was his inability to induce genuine cost efficiency within the Defense Department. Secretary Brown stated:

> I have found that efficiency with the taxpayers' dollars is deprivation of expected economic gains to somebody—whether it's people in a city near a base that efficiency says we should close, or the unhappiness of a civil servant who wants to have a bigger across-the-board rise in salary, or unhappiness of a military service which does not want to see some of its activities consolidated with another service.

In April 1979, OMB Director James McIntyre responded on behalf of President Carter to a December 1978 letter on DOD contract management and procurement practices signed by six members of this body—Senators Proxmire, Stafford, McGovern, Nelson, Hatfield and myself.

The views expressed in the letter, Mr. McIntyre wrote are completely shared and supported by the President, Secretary Brown and myself. He went on to point out that:

> The defense budget request was reduced $1 billion for the very reasons you cite: Expanded use of competition, contractor cost control and reliance on open market products can and will be put into effect to achieve these economies.

These problems, Mr. McIntyre wrote:

> Are all effectively addressed in the new policies now being put into effect.

But the fact is that those new policies have clearly not been fully implemented by the DOD.

In a September 25, 1979 report to the chairman of Budget Committee, the GAO reported that "the greatest noncompliance appears to be the services' reluctance to seek solutions to their weapon system needs through competition. Preconceived solutions are still being proposed as needs rather than seeking solutions through competitive proposals."

Year after year, the DOD spends fewer than 10 percent of its procurement dollars via competitive sealed bids. Just as consistently, over half the procurement dollars are spent through sole source contracts.

Mr. President, I call attention to the very distinguished work in this area that has been done by the Subcommittee on Federal Spending Practices and Open Government under the able chairmanship of the senior Senator from Florida. Notification requirements similar to those in the amendment now before us are among the many reforms in Federal procurement practices that the subcommittee has recommended.

Finally, Mr. President, I believe that there is another area—one that is not quite so obvious—in which a bit of sunlight could have a salutary effect on the DOD's spending practices.

It is no secret that the Defense Department, and virtually all other Federal agencies, for that matter, has a history of going on a spending spree at or near the end of each fiscal year in order to clear the accounts and protect future appropriations. We all know that goes on—and it is a great irony that, while we in the Congress constantly bemoan waste and inefficiency in the expenditure of Federal funds, we at the same time give to the bureaucracy enormous incentives to spend every available penny. I've never heard of a bureaucratic empire expanding by turning money back to the Treasury.

I am not so naive as to think that this amendment will prevent the annual hemorrhage of last-minute spending for consulting contracts. But I do believe that sunlight—a simple requirement to tell—will make it just a bit harder to spend at the end of the year with quite the abandon we have seen in the past.

I would be the first to say that this amendment is very modest. It is a very small step in the very large undertaking of bringing common business sense to the Federal procurement system.

But, Mr. President, this amendment is a step we can take—and take now—to add just a little more accountability to that sysem as it now exists.

As one who spent many years in the world of business before entering public life, this is a step that seems to me so elementary from a management point of view that we in the Senate should not have to be telling a department to do it—it ought to be standard practice.

Since it is not standard practice, Mr. President, just as so many other commonsense business methods are not standard practice in Federal procurement, I ask my colleagues to join me in requiring the Department of Defense to take this small step in the direction of sound management.

Mr. President, I ask unanimous consent that Senator Sasser be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, I suggest the absence of a quorum on my time, or Senator Stennis' time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I ask the distinguished Senator if he will yield me 3 minutes.

Mr. METZENBAUM. Yes.

Mr. PROXMIRE. Mr. President, I rise in support of Senator Metzenbaum's amendment to require notice of noncompetitive awards for contracts for personal and professional services. While nobody would argue that contracts for expert and consultant services should be eliminated, I believe most people would recognize the opportunity for waste and abuse in granting blanket permission to award such contracts on a completely noncompetitive basis.

The stated policy in law is that contracts should be awarded subject to competition, unless one of 17 exemptions is found to apply. The result of these 17 exemptions is that, each year, more than 90 percent of DOD contract awards are let without competition. Noncompetitive contracting is such an accepted way of doing business at the Department of Defense that they even have preprinted forms for a contracting officer's convenience, with the required determination and the general United States Code reference already printed. All the contracting officer has to do is to print in the number of the specific exemption and sign his name.

Mr. President, we know we save great amounts if we can have competitive bidding. The savings are from 10 percent to 25 percent.

It is time for the Congress to take a serious look at noncompetitive Government contracting, not just in the Department of Defense, but Governmentwide.

This amendment is a modest first step. It does not prohibit or restrict consultant contracting. It does not even prohibit noncompetitive consultant contracting. Instead, it merely requires 15-day notification in the Federal Register of any noncompetitive award for personal and professional services.

Notice, that is all, notice. This notice requirement will not impede award of useful and necessary contracts.

This is really a disclosure amendment, Mr. President. It permits contracts to go along as they have been, but simply requires they be printed in the Federal Register so that we can be aware of the contracts that are let without competition.

The requirement for a 15-day notice and layover of a pending noncompetitive award is a useful first step, and I congratulate the Senator from Ohio for bringing this matter to the attention of the Senate.

Mr. President, as all of us argue, we should have more of this bidding. I do not know of anybody who does not say that would be useful. All of us recognize how often that has reduced cost.

All the Senator from Ohio is doing is simply requiring notice when noncompetitive procurement with respect to consultant contracting goes ahead, so we understand and have a 15-day notice of it, and perhaps in some cases can protest it and have an opportunity for qualified competitors to have a chance to bid.

I thank my good friend from Ohio. I congratulate him on his amendment. I think it is a very good one.

Mr. METZENBAUM. I thank the Senator from Wisconsin.

Mr. MORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. MORGAN. Mr. President, the amendment offered by the distinguished Senator from Ohio, along with Senator PROXMIRE, and others, appears to me to be an appropriate procedure that should be followed and could be followed to protect the taxpayers and the public against some of the kinds of abuses that have been written about of late.

I think I should point out that, as far as I know, there have been no abuses in the Department of Defense, although if there had been in other agencies, it is a likelihood there may have been some. But as chairman of the Subcommittee on Procurement Policy, we have not looked into this matter because we have not had time since the matter came to light.

But I conferred with my chairman and staff. I think with a slight modification, which the Senator from Ohio tends to agree with, that the committee would be in a position to accept it.

Mr. METZENBAUM. Mr. President, the Senator from North Carolina has been very cooperative, very understanding of the problem, and we have, indeed, discussed it and worked out some language that we find acceptable as the authors of the amendment and are pleased that the managers of the bill are prepared to accept it.

I would like to inquire of my good friend, I have been on this floor before. I have battled for amendments of this kind, having to do with competitive bidding, only to find, having prevailed, that when it went to conference it got lost in the shuffle.

I know that no one can make a firm commitment that something will stay in a conference committee report. But I would like to have some reassurance that a strong effort will be made to keep it in, since I do believe it has to do with the Department of Defense spending and the way it affects economies without adversely impacting on the Department of Defense.

Mr. MORGAN. I say to the Senator, before I yield to my chairman, that I am pretty far down on the totem pole and it is not likely I would be on the conference committee. But knowing the chairman as I do, he is very democratic in our committee, and whenever the committee makes a decision he fights mighty hard for it on the floor, even sometimes when he did not vote for it.

I know he would do the same in the conference. But I will yield to my chairman to speak for himself.

Mr. STENNIS. I thank the Senator from North Carolina very much for his very fine words.

Mr. President, this is in a subject matter that is highly important, but it is certainly not one in which I am versed. It is not a field of application anywhere in my life that I have gotten into. Therefore, I am largely dependent upon what I am told.

I had hoped the Senator would bring an amendment like this to the committee. I am not trying to tell him what he should have done. But it is difficult, as has been said, it is a difficult matter, and these changes often need to be made, but if they are not buttressed by hearings and facts, it is hard to handle them, especially in a stubborn group of men that we have sometimes.

I certainly would not take it as a gesture and would do the best I could in conference, but what would the Senator's response be for not having asked for hearings, what is his response to that? He may have a good, solid answer.

Mr. METZENBAUM. I respond to my good friend from Mississippi, for whom I have the greatest respect, and I had the privilege as the Senator will recall of having served for about 10 weeks on that committee.

Mr. STENNIS. Yes. We want the Senator back.

Mr. METZENBAUM. I thank the Senator.

The Senator will recall that I had at that time indicated strong concerns about this very issue. As a matter of fact, the Senator from Arizona (Mr. GOLDWATER) had also indicated strong concerns about the issue of competitive bidding.

I know of the priorities, the concerns, the responsibilities, and the workload of the Armed Services Committee. I really believe the Department of Defense could and should take steps to effect economies and they really are all in the area of competitive bidding and cost overruns. I brought up some of those at that time. Of course, it was a short period of time, and it was at the beginning of the session.

I will bring to the Armed Services Committee additional amendments along this line that I believe could be very meaningful. This is a small step, a very small step, which can save money, which is nothing other than saying that we should have competitive bidding for the procuring of consultants' contracts, and we should put the matter into the light.

I would feel very good about it if the chairman of the committee would recognize that there is nothing harmful to the Defense Department in this, that there are no negatives; they are all positives. There might be a negative if one wants to give a contract to a friend who is in private industry, but that is not the concern of the Senator from Mississippi. He is concerned about the adequacy of the Defense Department.

In the last Congress, Senator CHILES introduced S. 1264, and this year he introduced it as S. 5. I gather that there have been many hours of hearings on that subject. Senator CHILES has cosponsored this, which is but a piece of his whole product.

I hope the Senator can give us those kinds of reassurances. I know that if he says it is to stay in, it will stay in, and I would feel comfortable about that.

Mr. STENNIS. I assure the Senator that I will do whatever I can.

I thank the Senator from South Carolina for the time he has put in on these matters. He is always willing to help. I know, too, of the longstanding interest of the Senator from Ohio in this matter.

I want the Defense Department to be treated fairly, of course, but just because it is the military, that is not a license to throw away money. I believe we have a special obligation. That is the way I see it.

I will do the best I can with it in conference.

I should like to hear from other Members, and I wish Senator THURMOND would express himself. He does not believe in throwing away money, either.

Mr. PRYOR. Mr. President, will the Senator yield me 30 seconds?

Mr. STENNIS. I yield.

Mr. PRYOR. I thank the distinguished chairman for yielding to me.

Mr. President, I am proud to be a cosponsor of the amendment submitted by Senator METZENBAUM today. It is similar to a provision in S. 2880, the consultant reform bill of 1980, which I introduced last week. Both that bill and this amendment are intended to bring some sunshine and openness into the procurement of Federal consulting services as well as other contracts.

I support this amendment because if

enacted, the result will be increased visibility for the private sector businesses desiring to compete for contract awards. Presently, such businesses are at a disadvantage due to the number of contracts which escape publication. The increase in competition should maximize the benefit which the Government receives and provide more opportunity for interested contractors.

I urge that the amendment be adopted.

Mr. THURMOND. Mr. President, I believe we can go along with this amendment. The amendment has certain safeguards in it. It does not apply when the action is less than $10,000, I believe or "which for security reasons are of a classified nature."

Then, too, I believe that the proponents of the amendment have agreed to accept a change in the third paragraph of the amendment. It would read this way:

> For which a civilian officer of the appropriate procurement activity, who was appointed with the advice and consent of the Senate, makes written determination that exigencies of such compelling nature exist so as to require that this section shall not apply.

Do the advocates of the amendment agree to accept that change?

Mr. METZENBAUM. The Senator from South Carolina is correct; and at the appropriate time, I will withdraw the pending amendment and substitute the one that has the new language in it.

Mr. THURMOND. So, in view of this, the Secretary would not have to act personally, but any civilian person whose nomination has been confirmed by the Senate could act in his place, such as an Assistant Secretary?

Mr. METZENBAUM. The Senator from South Carolina is correct.

Mr. THURMOND. Mr. President, with those safeguards in it, we have no objection to the amendment.

Mr. STENNIS. That is the position of our committee.

Mr. METZENBAUM. I thank the Senator from Mississippi.

I gather that the Senator from Wisconsin, who has been a leader in this area, is totally comfortable with this change.

Mr. PROXMIRE. Yes.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the amendment at the desk be withdrawn, and in lieu thereof, I submit the amendment I now send to the desk.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

The modified amendment is as follows:

> On page 96, after line 7, insert the following:
>
> CONSULTANT CONTRACTS
>
> SEC. 805. Notwithstanding any other provision of law, none of the funds, authorized by this Act may be used for the procurement of services by independent experts or consultants or organizations thereof unless notice of the proposed procurement action is publicized in the daily publication "United States Department of Commerce Synopsis of the United States Government Proposed, Procurement, Sales, and contracts Awards," immediately after necessity for such procurement is established, but in no event less than 15 days prior to the closing date for submission of bids or proposals. This section does not apply to these procurements:
>
> 1. In which the anticipated total cost of the action is less than $10,000; or
>
> 2. which for security reasons are of a classified nature; or
>
> 3. for which a civilian officer of the appropriate procuring activity who is appointed with the advice and consent of the Senate makes written determination that exigencies of such compelling nature exist so as to require that this section not apply.

Mr. METZENBAUM. Mr. President, I failed to include the name of Senator SASSER on the original amendment. I do so now.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I yield back the remainder of my time.

Mr. STENNIS. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment (No. 1383), as modified, was agreed to.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment by the Senator from Michigan.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

THE VINSON-TRAMMEL ACT

Mr. PROXMIRE. Mr. President, I wish to take a few minutes to discuss an important part of the bill with the distinguished Senator from North Carolina.

The authorization bill contains a provision which would suspend the application of the Vinson-Trammel Act until October 1, 1981.

Vinson-Trammel is an act we have had on the books for many years. It limits the profits the defense contractors enjoy. We can go all the way back to the Revolutionary War. Throughout our history, we have had problems with the public being concerned about excessive profits for military contracting. It is a suspicion which I think is justified to some extent.

The Vinson-Trammel Act came along some years ago to provide a limit. The Vinson-Trammel Act was effective until replaced by the Renegotiation Board. The act was held in abeyance while the Renegotiation Board was operational, but the abolition of the Board had the effect of reactivating Vinson-Trammel. Now we rely on the Vinson-Trammel Act, which has been outdated in some respects. This act would set aside the Vinson-Trammel Act for a limited period.

Several months ago, the distinguished Senator from North Carolina came to me and asked whether I would object to the suspension of Vinson-Trammel until the beginning of fiscal year 1982, in order to remove the uncertainty and to give Congress the time it needs to decide what should be done about the Vinson-Trammel Act.

Accordingly, I should like to ask a few questions of Senator MORGAN pertaining to this provision.

Is it correct that the effect of this provision is merely to suspend the application of Vinson-Trammel until October 1, 1981, and that, if Congress fails to act by then, the provisions of the act will come back into force?

Mr. MORGAN. The Senator is correct. If we fail to act, modify, or do anything, it will come back into effect in 1981.

Mr. PROXMIRE. So, would it be correct to say that the intention of the Senator from North Carolina in offering this amendment is merely to eliminate the uncertainty about this act while giving Congress the opportunity to decide how it wants to handle excess profits controls?

Mr. MORGAN. The Senator is correct. A number of bills were introduced—some to repeal it, some to modify [illegible]. But, mainly, the Internal Revenue Service and the Department of Defense just could not come up with regulations to enforce it effectively. Because of that, it was causing problems to many companies whose accountants were footnoting the stockholders' reports, saying "Subect to the liability under the Vinson-Trammel Act," and the Government was not in a position to provide this.

We thought we had to do something, and we were not in a position to modify it in such a short period of time.

Mr. PROXMIRE. Would there be any implication in this action that the Senate is prejudging the final outcome or determining that the act should be repealed?

Mr. MORGAN. None whatsoever, and it is not my intention.

Mr. PROXMIRE. While I do not wish to prejudice our determination the other way, I have a few ideas about how the Vinson-Trammel Act could be made to work. I ask the Senator if he agrees that a bill containing the following features might be a useful starting point for congressional consideration:

First, eliminating the arbitrary and outmoded categories of application and substituting, instead, equal application to all types of major procurement;

Second, eliminating the mechanical profit control formula, providing greater flexibility, and requiring a minimal reporting burden;

Third, providing appropriate exemptions for smaller firms, in order to focus compliance and recovery efforts on larger contractors.

Mr. MORGAN. I say to the Senator that I think those would be very reasonable and probably minimal requirements for a new bill.

I have no desire to try to remove all kinds of profit limitations.

As the Senator has pointed out, it has been a problem from time immemorial. Those are reasonable requirements or a reasonable starting point.

Mr. PROXMIRE. I thank the Senator from North Carolina, who is chairman of the procurement subcommittee.

I was a very strong supporter of the Renegotiation Board, because I felt it was the one vehicle we had to restrain excessive profits, to do something about overruns. However, the renegotiation board was killed by Congress.

I believe that the attitude that has been expressed today by the Senator from North Carolina is very helpful, indicating that he is working for a more constructive approach. I agree. The Renegotiation Board could be improved and it is certainly administered in a way that leaves a lot of room for criticism and improvement.

I am happy that the Senator has indicated to us that the Armed Services Committee is going to use this year to come up with legislation that will prevent excess profit to the greatest extent possible but not provide the inflexibility, rigidity, and discouragement that would obviously stand in the way of effective procurement.

Mr. MORGAN. I thank the distinguished Senator and I say to him that he taught me well during all of those days of hearings on the Renegotiation Act in the Banking Committee. I thank him very much.

Mr. President, I yield the floor.

UNANIMOUS-CONSENT REQUEST

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair informs the Senator there is pending an amendment at this time, namely, the amendment of the Senator from Michigan.

Mr. ARMSTRONG. Mr. President, if the Senator is ready to proceed, of course, that is all right, but then if the Senator from Michigan is not ready to proceed I ask unanimous consent that his amendment be temporarily laid aside and that I be permitted to call up my amendment.

The PRESIDING OFFICER. Is there objection?

Mr. GLENN. Mr. President, reserving the right to object.

Mr. STENNIS. Mr. President, what was the request?

The PRESIDING OFFICER. The Senator from Colorado proposes a unanimous-consent request to lay aside the amendment of the Senator from Michigan.

Mr. ARMSTRONG. Mr. President, if there is other business I am happy to withdraw my amendment if the Senator from Michigan is ready to proceed.

Mr. ROBERT C. BYRD. Mr. President, is it possible to get a time agreement on the amendment by Mr. Armstrong?

Mr. ARMSTRONG. Mr. President, I am glad to agree to a time agreement of not to exceed 3 minutes on my side, and I think I will not even take that long. I believe it is an amendment that will be readily accepted. It has been discussed with both sides.

Mr. ROBERT C. BYRD. What is the Senator's amendment?

Mr. ARMSTRONG. It is relative to parking fees paid by military personnel.

Mr. STENNIS. I do not see how the Senator can do it in 3 minutes.

Mr. GLENN. That is an offer one cannot refuse—3 minutes.

Mr. STENNIS. My assistant is away now. I have to get him to look at the amendment.

Mr. ROBERT C. BYRD. Mr. President, will the Senator withhold while the managers of the bill have a chance to look at the amendment? Perhaps we can reach an understanding on it.

Mr. ARMSTRONG. Mr. President, I am happy to do that.

Mr. STENNIS. I thank the Senator very much.

Mr. President, let me make the statement now that there are matters here, that the Senator from Nebraska has a matter in the nature of a resolve or resolution. We have a highly important matter here regarding long-range, large bombers. Then we have the Levin matter remaining.

But those two are the last major items that I mentioned. Those are all the major items that remain in this bill.

Mr. GLENN. Mr. President, if the Senator will yield for a comment, I have one other to be brought up on the MX that I think is a rather major discussion item also.

Mr. STENNIS. The Senator mentioned the MX. I believe there is not an amendment involved but he wanted to discuss the matter.

Mr. GLENN. There will be an amendment with it, but it is something we may require a little bit of time to debate.

Mr. STENNIS. All right. That is another item heard from because the MX is a tremendously big thing. But that is all right.

So, Mr. President, that is the situation here, and I hope that we, as expected, will finish this bill tonight. We have made enormous progress. To gear up for tomorrow it almost takes a half day to get started sometimes. The agreement was that this vote would be made disposing of the bill tomorrow not later than noon. Several have mentioned the afternoon. It is noon.

Mr. ROBERT C. BYRD. No. It is not later than 3 p.m.

Mr. STENNIS. No. We had it here at noon, did we not?

Mr. ROBERT C. BYRD. No. It is 3 o'clock.

Mr. President, I believe the agreement is the vote will occur no later than 3 p.m. tomorrow, is it not?

The PRESIDING OFFICER (Mr. Mitchell). The Senator is correct.

Mr. STENNIS. I did not know it was put at 3 o'clock. I thought it was noon. I am going to have to leave soon. I thought we had the agreement.

Mr. ROBERT C. BYRD. It really is.

Mr. STENNIS. Anyway, we can finish this bill tonight if we really try hard, I think, and I certainly wish to see us try to do that.

I do need a little time to confer here with two or three Members on one of these matters that I have mentioned, and I will be ready to start back.

Mr. ROBERT C. BYRD. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Colorado has the floor.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield without losing his right to the floor?

Mr. ARMSTRONG. Yes. I am happy to yield.

Mr. ROBERT C. BYRD. With that understanding, I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, at the moment Mr. Armstrong has the floor. Will he yield to me without losing his right to the floor?

Mr. ARMSTRONG. I would be pleased to do that.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

UNANIMOUS-CONSENT AGREEMENT

Mr. President, I will make a request now, and if I could have the attention of Mr. Nunn—I do not see Mr. Levin—this meets with the approval of Mr. Levin, I ask unanimous consent that no later than 8:30 p.m. today Mr. Levin be recognized, which means at any time prior to that moment he can be recognized, to withdraw his amendment, and that he be permitted to withdraw the amendment and offer an amendment in its stead, which would be cosponsored by himself, Mr. Jepsen, Mr. Hollings, Mr. Nunn, Mr. Thurmond, Mr. Dole, Mr. Exon, Mr. Morgan, Mr. Harry F. Byrd, Jr., Mr. Cohen, Mr. Culver, and others; that there be a 10-minute time limitation thereon to be equally divided between Mr. Levin and Mr. Nunn, and that the vote then occur on the amendment; that in the meantime the amendment may continue to be set aside temporarily while the Senate takes up other amendments.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on an amendment by Mr. Armstrong there be a 10-minute time limitation to be equally divided in accordance with the usual form.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will indulge for just 1 additional minute, I ask unanimous consent that there be a time limitation of 1 hour equally divided on the amendment by Mr. Exon.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it it so ordered.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will allow me just for the purpose of clarification, it is understood, is it not, and it is ordered, that at any time between this moment and 8:30 p.m. today Mr. Levin may have the floor, thus taking any other Senator off his feet, but upon the disposition of the amendment, which is being offered by Mr. LEVIN and other Senators, such Senator, if taken off his feet, would again be recognized.

The PRESIDING OFFICER The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair and I thank all Senators.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. I thank the majority leader.

UP AMENDMENT NO. 1384

(Purpose: To exempt members of the Armed Forces from any charges made for federally owned or operated parking facilities)

Mr. ARMSTRONG. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an unprinted amendment numbered 1384:

On page 79, between lines 9 and 10, insert the following new section:

EXEMPTION OF MEMBERS OF THE ARMED FORCES FROM OMB CIRCULAR A-118 (RELATING TO FEDERAL EMPLOYEE PARKING FACILITIES)

SEC. 319. Members of the armed forces of the United States who are serving on active duty shall be exempted from any charge for parking facilities imposed against Federal employees under Office of Management and Budget Circular A-118, dated August 13, 1979, and published in the Federal Register of August 17, 1979 (Vol. 44, No. 161, page 48638).

Mr. ARMSTRONG. Mr. President, this amendment addresses itself to injustices which I believe has been done to a relatively small number of military personnel.

In the greater scheme of things, in the overall defense picture, this is a small matter and yet, to the individuals involved, it is an important source of concern.

Let me just take a moment to explain it and I think it will not be controversial.

Military personnel in several metropolitan areas, including Washington, D.C., Los Angeles, San Diego, and Boston, are now required to pay monthly fees for parking ranging from $10 to $12.50 per month. These fees will climb up to the $15 to $35 a month range effective in October of next year.

This comes about because of a policy which was announced by the President a year ago in which he directed the General Services Administration to impose fees for parking at each Federal installation where the GSA determined the value of parking to be more than $10 a month. The OMB order applied to 130,000 to 140,000 parking spaces nationwide.

Mr. President, in my judgment, the concept of imposing parking fees is a sound policy, insofar as it applies to civilian employees of the Federal Government. But its extension to military personnel is a mistake.

Just on the basis of equity, military personnel should be exempted from this requirement because they are paid far less, both in pay and benefits, than their Federal civilian counterparts who are performing exactly the same work, sometimes at exactly the same location.

The fact that payment of parking fees applies only or at least primarily to servicemen and women stationed in high living cost areas is an additional argument against it. Servicemen stationed in these areas receive housing and subsistence allowances which are far below the actual cost of living. To add to them this burden, which many servicemen and women feel is unfair, is unfortunate and it is detrimental to morale.

It is for this purpose that I rise to offer this amendment.

Mr. President, I ask unanimous consent that my distinguished colleague, Senator THURMOND, be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, unless there are others who wish to be heard, I ask for the question on this amendment.

The PRESIDING OFFICER. Does the Senator from Mississippi (Mr. STENNIS) yield back his time in opposition?

Mr. STENNIS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment of the Senator from Colorado (Mr. ARMSTRONG).

The amendment (UP No. 1384) was agreed to.

Mr. ARMSTRONG. I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

"HI-3" AVERAGING

Mr. ARMSTRONG. Mr. President, I have one more matter that I would like to discuss briefly. I want to express my concerns over the so-called "Hi-3" averaging.

Mr. President, I rise to express my deep concern over the so-called "Hi-3" averaging provision in this authorization bill. This provision would change the computation of military retirement pay from a fixed percentage of basic pay at the time of retirement to the percentage of the average basic pay for the last 3 years of service.

While there is abstract merit in this retirement modification, its implementation at this time, especially in the form proposed by the commttee, is virtually certain to exacerbate already critical shortages of officers and noncommissioned officers at the mid-career level.

Worse, enactment of the "Hi-3" proposal at this time is likely to undo much of the good that otherwise would be done by lifting the military pay cap and funding the increases in miscellaneous allowances provided for in the Nunn-Warner bill.

Study after study has made it clear that the military retirement system is the single most important incentive for making service in the Armed Forces a career. But if the committee's "Hi-3" proposal is adopted, this important incentive would be reduced by 10 percent to 17 percent, depending on the individual. A change of this magnitude in lifetime retirement pay would make a military career substantially less attractive, particularly when one considers all the sacrifices a serviceman or woman must make before earning eligibility for retirement.

Furthermore, the committee's timing in offering its "Hi-3" proposal could not be more improvident. Servicemen and women are likely to be convinced that what little Congress offers in the form of increased compensation with one hand, it takes away with the other. This is certain to deepen the cynicism which itself has become a major factor in our abysmal rates of retention.

Service estimates indicate that enactment of the "Hi-3" proposal will bring about a further 4-percent decline in rates of retention which already are so low that the Navy is having to tie up ships for lack of skilled sailors to man them, and the Air Force is having difficulty keeping all of its airplanes in the air for lack of skilled mechanics to maintain them.

This 4-percent increase in turnover will require the Department of Defense to recruit an additional 40,000 young men and women each year to maintain current levels of force. Even in the unlikely event the services could recruit these additional young men and women, given the current lack of incentives for recruitment, the damage done to our defenses by this body blow to the career force could not be repaired for many years.

A raw recruit, however talented, has only a fraction of the value of the experienced service man or woman. There are some lessons that only experience can teach. And it takes about 5 years to get 5 years experience.

The committee's proposal, which delays implementation of the "Hi-3" plan for 10 years, is not as bad as it would have been if this purported "reform" were to have gone into effect immediately.

But the committee's half-hearted attempt at grandfathering is most maladroit. Our retention problem is most critical at the mid-career level—officers and noncommissioned officers with 7 to 10 years of experience. Many of these vitally needed, skilled people are on extensions of their original enlistments rather than reenlistments as they wait to see what Congress will do to make military service more attractive before they commit themselves to making the military their career. The 10-year cutoff date strikes them as if it were a slap in the face. For many, it will be the straw that breaks the camel's back, and we will lose skilled people we cannot replace.

Practicality aside, it is a breach of faith—in my judgment an unconscionable one—to change the rules in midstream for the 1.5 million service men and women with less than 10 years of service who entered the Armed Forces with the understanding that their retirement pay would be based on their pay grade at the time of retirement.

I share the concern of the committee that retirement annuities form too large a proportion of the overall cost of military compensation. But until Congress has taken concrete action to make compensation for active service more nearly comparable to earnings in the private sector, it would be most unwise, and most unfair, to tamper with the retirement formula.

It is my hope that the House of Representatives will strenuously resist this unwise and unjust retirement modification, and that it will be deleted from the authorization bill in conference. Failing that, the "grandfather" provision should be extended from 10 to 20 years, so that all who entered the service expecting their retirement pay to be based on their earnings at the time of retirement will not have what is due them unjustly stripped from them.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr President, I do not know whether it is the intent of the Senator from Colorado to ask for a vote or to carry this to a vote or not.

But, in effect, this cuts military retirement pay because, instead of retiring at the highest rank and the highest pay, this would mean that the people retiring would retire at the average of the last 3 years of their pay.

In effect, a cut in military retirement. And I disagree with that very strongly.

I believe it is imperative that we retain the military retirement system in its current form if we can somehow expect to attract and retain the kinds and numbers of people needed to meet national defense requirements, which we have spent a good part of today and a part of yesterday discussing. Any change to the current system will be viewed as a serious breach of contract and will exacerbate the loss of highly skilled personnel. The loss of such personnel will result in additional ships being tied up at the docks and planes grounded for a lack of qualified pilots.

Even with the current retirement system, the services are having a difficult time meeting personnel requirements. For example, approximately 78 percent of all enlisted personnel separate prior to attaining 5 years of service. Obviously, the conditions of military service which many critics are willing to blithely write off as inconsequential in compensation comparisons are actually considered unattractive as a way of life by a large majority of the civilian labor force.

Critics of the military retirement system usually find it convenient to make such sensational statements as "military retirement costs will be $30 billion or more in the year 2000." However such statements fail to point out that by using that same kind of inflationary logic and the same economic assumptions:

Today's median family income of nearly $20,000 would be almost $60,000;

Today's social security wage base of $25,900 would be more than $80,000:

Today's minimum wage of $3.10 per hour would be over $9.50 per hour yielding annual earnings of close to $20,000;

Today's $60,000 house would cost $131,000.

The retired pay budget is presently financed on a pay-as-you-go basis, with funds being appropriated when the costs come due rather than being set aside when the obligation is incurred.

This method of budgeting means that our current retired pay outlays reflect the national policy decisions of the past rather than those of the present.

In addition to the inflation factor, the recent dramatic growth in the military retired pay budget is primarily due to the increased number of retirements resulting from the large standing military forces maintained since World War II and the Korean war.

Another common misconception is that the retired pay costs will continue to increase at the same rate they have been increasing.

Contrary to this belief, estimates show that the retiree population will peak near the turn of the century with only 15 to 17 percent more retirees than we have presently.

Thereafter, the population will decline and stabilize at a level only slightly higher than we have today. As the population stabilizes, so will the associated retirement costs.

I also consider it fallacious to argue that since high three is in effect for Federal civilians, a similar mechanism is appropriate for the military. In the first place, the Federal civilian calculation is based on the full civilian salary; military retired pay is based on basic pay which represents only 70 to 78 percent of the military members regular military compensation, so we are already starting on a lower base when we talk about military retirement. More importantly, this concept erroneously implies that conditions of service are similar for both groups. As we well know, nothing could be farther from the truth. The military services are unique callings. The demands we place on our military men and women are unlike those of any other country.

Our worldwide interests and commitments place heavy burdens and responsibilities on their shoulders. They must be prepared to live anywhere, fight anywhere, and maintain high morale and combat efficiency under frequently adverse and uncomfortable conditions. They are asked to undergo frequent exposure to risk, long hours, periodic relocation and family separation. They accept abridgment of freedom of speech, political and organizational activity, and control over living and working conditions. These are all part of the very personal price our military people pay.

Yet all of this must be done in the light of—and in comparison to—a civilian way of life that is considerably different. We ask military people to be highly disciplined when society places a heavy premium on individual freedom, to maintain a steady and acute sense of purpose when some in society question the value of our institutions and debate our national goals. In short, we ask them to surrender elements of their freedom in order to serve and defend a society that has the highest degree of liberty and independence in the world. And, I might add, a society with the highest standard of living and an unmatched quality of life.

Implicit in this concept of military service must be long-term security and a system of institutional supports for the serviceman and his family which are beyond the level of compensation commonly offered in the private, industrial sector or elsewhere in the public sector.

The current military retirement system provides adequate recognition of these unique conditions of service and is the best compensation element available to secure long-term service commitments. I believe that it would be precipitous to modify the military retirement system without first conducting extensive hearings to determine the impact upon retention, recruiting, and readiness of our Active and Reserve Forces.

Mr. President, I would add only one thought for another minute or so. That is that in the 23 years I spent in the Marine Corps, during most of that period we had pay that was considerably below our civilian counterpart level. But that was all right because we thought that we were building up retirement pay, that our Government had a contract with us, and that it was a breach of faith if they would not honor that commitment once our retirement days had arrived.

After I had retired from the Marine Corps nothing came as a greater shock to me than to find out that there were many who did not consider that contract a valid contract and they were willing to play around with what I thought I had earned in all those years.

You get accused of being a double dipper; you get accused of all sorts of things for having put up with all those years with my family and my children having less than perhaps others in civilian life did, or dedicating yourself, always thinking you were going to have that retired pay when you got done with those active duty times.

Then you found there were those in the civilian halls of the Senate and of the Congress who wanted to somehow alter what I thought had been a contract with my Government all those years. I was willing to put up with less because I knew that when I had my retirement coming I had that contract with my Government that would be honored, that would pay me what I had earned in all those years, and had put up with less to earn in all those years.

For those reasons and those personal experiences, Mr. President, I think it is very unwise for us to move to any high three concept here for retirement pay purposes without first having very, very extensive hearings. I do not know whether the Senator from Colorado plans to ask for a vote on the amendment submitted or whether he plans to withdraw it, but I would oppose the high three concept as strongly as I know how. I yield the floor.

Mr. STONE. Mr. President, I wish to state in the strongest terms my opposition to the language in the defense authorization bill which changes the formula for computation of retired military pay. The bill provides for averaging the high 3 years of compensation and using this as a base rather than the current practice of using the pay rate at time of retirement.

I recognize the significant cost savings that this would represent to the Federal Government. And I have been supportive of any move in that direction. And possibly an overhaul of the military retirement system is required.

But it is unconscionable to me that the Congress would enact legislation of this kind that affects so vitally the very people we are trying to retain in our military services. The bill provides for "grandfathering" those service members with over 10 years of service. We will break a contract with close to 1.5 million of the 2.0 million people now on active duty who are not under that umbrella. The President, the Secretary of Defense, and all of the service chiefs have acknowledged the severe retention problems we have with our middle grade officers, NCO's and petty officers. This kind of signal from the Congress can do nothing but exacerbate that problem. The enactment of this provision would provide for an annual loss in retired pay to the individual of from 9.5 to 17 percent at present pay scales depending on grade and length of service.

The uncertainty and lack of confidence that this would generate in the military concerning the commitment this Nation has to its Defense Establishment is incalculable. If the perception that each benefit that has been voted into law by the Congress to enhance a military career is so tenuous is promoted by this action, the impact could be devastating.

Now is not the time to erode the confidence of our military. Now is not the time to send them a signal of non-support. Now is the time to gather our strength. for the danger is great.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

UP AMENDMENT NO. 1385

(Purpose: To express the sense of the Congress with respect to adherence to the War Powers Resolution)

Mr. EXON. Mr. President, recognizing the agreement which has been reached, and operating under that agreement, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Nebraska (Mr. Exon) proposes an unprinted amendment numbered 1385:

On page 96, line 8, insert the following:

ADHERENCE TO THE WAR POWERS RESOLUTION

Whereas, the National Command Authority must have the capability to carry out any military mission which is essential to the national security of the United States; and

Whereas, the Rapid Deployment Force places in the hands of the President an increased capability to extend the reach of our military power in an expedited manner; and

Whereas, without the significant safeguard of the War Powers Resolution (Public Law 93-148), U.S. foreign and defense policies could be subject to misinterpretation;

It is therefore the sense of the Congress that the provisions of the War Powers Resolution be strictly adhered to and that the Congressional consultation process specified by such Resolution be utilized in a meaningful manner.

Mr. EXON. Mr. President, while the Senate is debating the fiscal year 1981 defense budget and the numerous, much-needed enhancements to our military posture, there is one point which I would now like to raise with my colleagues. I refer my colleagues to my additional views, beginning on page 212 of the report on H.R. 6974.

As we are all aware, this authorization contains funds for substantial improvements in the ability of the United States to rapidly deploy our forces to any contingency area of the world. I believe these improvements are necessary and am working to tailor them to best fit our needs. However, we must insure that we as a nation act wisely in this regard. It is obvious that by its very terminology and description that we are about to authorize a highly-mobile and flexible strike force.

During the 1960's, the late Senator Richard Russell—the former chairman of the Senate Armed Services Committee for many years—once said with respect to the formation of an earlier rapid deployment force:

> If Americans find it easy to go anywhere and do anything, they will always be going somewhere and doing something.

I do not know of anyone who believes that Senator Russell did not want the United States to have the best military establishment in the world. I do, too. But his concerns are my concerns.

The President, as our Commander in Chief and directly responsible for the conduct of our foreign policy, must have the capability to carry out any military mission which is essential to the national security of the United States. Nevertheless, the rapid deployment force concept places in the hands of the President—any President—an enhanced capability to extend the reach of our military power in an expedited manner. This is awesome power we are discussing and its implications are far reaching. Unfortunately, the uncertain and dangerous world in which we live forces the necessity of maintaining such military capability. Yet it is not unAmerican nor is it a sign of weakness or lack of resolve to, from the beginning, emphasize the need for prudence in its deployment.

The war powers resolution of 1973 represents a significant safeguard against a potential misuse or inadvertent employment of our military which could lead to open hostilities.

Mr. President, enhancement of our rapid deployment capability will give the United States an unprecedented ability to move troops and equipment to any continent on the globe with a speed never witnessed before. The rapid deployment joint task force is formulating plans to be able to deploy up to 300,000 troops in this fashion. Authority is being requested to enable the President to call up 100,000 reservists on his own in an emergency rather than the 50,000 he can call up under current law. When we discuss these kinds of actions and numbers, I believe it wise that the Congress reemphasize the fact that such awesome war-making power is a joint responsibility of both the executive and legislative branches. Fortunately, such a safeguard is enshrined in our Constitution and was further refined in the war powers resolution of 1973, which contains appropriate guidelines for congressional consultation and involvement.

I do not propose reopening the debates of 1973. The war powers resolution of 1973 is the law of the land. All my amendment today represents is a reminder and a recommitment to all and for all, including friends and potential foes alike, that the military power of the United States will be employed properly and expeditiously for the purposes we intend. The prospect of prepositioned military equipment near or within international trouble spots and the speed with which a military buildup can be accomplished dictate to this Senator the need to reemphasize the joint role of the President and the Congress in such matters.

The commander of the rapid deployment joint task force, Lt. Gen. P. X. Kelley, recently acknowledged the requirement for congressional consultation in case of a deployment of his troops. The Chairman of the Joint Chiefs of Staff recently did likewise. All I am asking with my amendment is to state the sense of the Congress that the provisions of the war powers resolution be strictly adhered to and that the congressional consultation process contained therein be utilized in a meaningful manner, without any unreasonable or unconstitutional restraints upon the President as Commander in Chief.

I attempted to include such a provision in the Armed Services Committee report; however, a motion to delete such language succeeded in stripping out all references to the War Powers Resolution. This action, in my view, was ill advised and, frankly, I do not understand the reasoning used by those who opposed such a reaffirmation of what is already the law of the land. While it may be argued by some that this provision is superfluous, I submit that it is wise—during this first year of what will be a multiyear effort aimed at increasing the capability of our rapid deployment forces—to take this action so that the Congress will have been firmly on record from the very beginning in support of its legitimate role in such a fundamental function that has the potential of leading to war.

I believe that my colleagues know quite well that I am strongly in favor of immediate necessary improvements in our military capability. My amendment in no way diminishes the ability of the United States to protect and defend its interests. What my amendment will do is reassure our people and the world that our necessary military buildup does not repudiate our national policy of shared responsibility.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, to begin with, as the Senator said, his proposal is unnecessary and superfluous, I do not know why, at this time, we have to reiterate our support for the War Powers Act. It is on the books. It proscribes the President of the United States. What it really sounds like is that we are whining a little bit. "Yes, we have to develop a rapid deployment force, but don't worry, we probably will not use it."

The real concern over the world about the United States of America and the thing that emboldens the Soviets to act is the conviction that the United States will not use the power that it possesses. The War Powers Act was passed to institutionalize our frustration and disagreement with Presidents Johnson and Nixon over the Vietnam war. That is why.

What the Senator from Nebraska is proposing reflects the mentality that lost Angola, which lost Africa, ultimately; the mentality that says the United States will avoid involvement at all cost; a mentality that says we would like to defend our vital interests, but we probably will not, because we probably do not want to get involved.

I cannot think of a worse time to announce to the world that we are going to be inhibited about using our power than at a time when the Soviets are making maximum use of theirs.

Mr. President, why do we have to protest? Oh, we have authorized a few pitiful little ships, not enough amphibious carriers, no real military presence in the Indian Ocean. Such a pitiful thing we have authorized. Then we say we do not really think we shall use that and we admonish the President that he had better not do it before he comes to us. "Bring it down to us. We shall have a debate for 2 months over it and then tell you whether or not you can use it."

I cannot think of worse timing for anything and I cannot think of a more supine and cowardly signal to send to friend and foe alike than to say now, "We are authorizing a little bit for rapid deployment; we ought to tell the President, you had better not use it, we are watching you, you had better come talk to us." Let us be timorous and weak and the Soviets will run over us some more.

That is what will happen.

What is the useful purpose of this? We have a President already who will occasionally rattle the saber, then do nothing about it, a President whose response to the Afghanistan invasion was to come in with a lower defense request. Why do we have to admonish that President not to use what pitiful little additional power he did not want in the first place that we thrust on him?

Mr. President, I should like to remind the Senator of a very wise thing once said by Eric Severeid, who can hardly be regarded as reactionary in the Tower stripe. He said goodness without power is impotent and power itself is impotent without the willingness to use it if necessary.

The clear message here is that we are not willing to use it.

Mr. JAVITS. Mr. President.

Mr. TOWER. Mr. President, I yield to the Senator from New York such time as he may require.

Mr. JAVITS. I thank my colleague.

Mr. President, I had no idea that this particular matter would be up; I had no notice of it. I think it is quite well known that I am the author of the war powers resolution.

I regret very much that I was not here, either, and had no notice of the unanimous consent being arrived at. But I believe, Mr. President, that that will prove to be academic in the sense that I am sure both colleagues—Senator Exon and Senator Tower—will afford me such opportunity to discuss the matter as may be necessary.

Mr. President, I have to divine Senator Exon's purpose so I shall state it and hope he will correct me if I am wrong, because I come to the amendment as a first impression, just having read it. I presume that, because we have a national command authority which, in Senator Exon's view, "must have the capability to carry out any military mission which is essential to the national security of the United States" and because we are developing a rapid deployment force—which is a quick-striking force and, therefore, enhances the President's capability for getting us into what we called, when the war powers resolution was under debate, a Presidential war—therefor, he felt that this is a kind of milestone bill, because we are moving into a broader area of war preparation, necessarily, because of the dynamics of our relationship to a troubled world and the new exacerbations of Afghanistan and Iran and other grave problems which afflict the situation today.

They make it so dangerous that I assume the Senator felt it would be useful to say, in the light of the present strategic situation, we wish to reaffirm our fidelity to the war powers resolution.

May I ask the Senator to help me in this regard to understand his purpose? Then, perhaps, I can more intelligently discuss what I think we ought to do with it.

Mr. EXON. Mr. President, I am pleased to respond to my friend from New York and say he has very accurately stated, exactly on the point, what I am referring to. What we are doing is placing in the hands of a President—this one or a future one—and rightly so, a new strike force. We are going to extend the mechanism around the world. Therefore, it seems to me, in view of that, that it would be wise if we merely expressed once again the sense of the Senate in view of the act that is already on the books.

Mr. JAVITS. Now, one could do a little redrafting of this, which I shall be glad to try to help with, in that both the first and second "whereases" should really be telescoped. What I gather the Senator wishes to say is that the national command authority now has a new instrument—to wit, the rapid deployment force—rather than leaving the two separate as if the national command authority just got a capability or needs to get a capability. It has the capability.

It now had a new means to carry out its capability, to wit, the rapid deployment force. But we can get to that in a little while.

Mr. EXON. If the Senator will yield, I say that I have no pride in authorship. If the Senator can change it some way, I would be happy to work with him.

Mr. JAVITS. Now, let us discuss the need for it—and I ask Senator Tower to listen, knowing Senator Tower as I do, while he opposed the war powers resolution, which was very consistent for him because he did not have the same concerns about the vesting in the Commander in Chief of the power of really putting us in war, that many of the rest of us shared. He is very thoughtful about constitutionalism and about the defense of the country. So I would like to have his attention.

Strictly speaking, I say to the author of the amendment whenever there is a law on the books, an effective law, which I think the war powers resolution represents, normally speaking, we do not add anything by reiterating or by saying we mean, or by saying we expect it "to be strictly adhered to."

So that under normal circumstances, I think it would be fair to say that this amendment would be unnecessary, would be surplusage.

I do appreciate the feeling that the Senator from Nebraska has. If the language were correct, to be consistent with the war powers resolution, I would feel that there would be no great harm in taking to conference whether or not to include in this bill this, as it were, reiteration in the light of new means which are vested in the President.

I think that is really a rather close call and a close question, and I am not prepared to come down on it at this second. Perhaps as I discuss it I will come to a conclusion myself.

But the war powers resolution which the Senators should have before them, both Senator Tower and Senator Exon, does call for consultation generally. Section 3 says:

> SEC. 3. The President in every possible instance shall consult with Congress before introducing United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and after every such introduction shall consult regularly with the Congress until United States Armed Forces are no longer engaged in hostilities or have been removed from such situations.

That is pretty complete statement.

Now, we have just had a rather bad experience with the military operation in Iran. I believe that the President should have consulted us about that. I speak only personally. The Foreign Relations Committee has not acted on it. But I believe he should have, within the letter and spirit of the war powers resolution.

That secrecy, high secrecy, supersecrecy, unique secrecy, does not exceed the authority of the Congress, which is also as strong and as constitutional and as vital as the authority of the President of the United States.

There were, at least in my judgment, knowing a little bit about how these things move, there were at least 50 or 100 people who knew about the operation, no matter how secret, no matter how disguised in the orders, and even to those who carried it out. That certainly could have included whatever small number, 4 or 8, talking about the leadership here, the respective chairmen and ranking members of both foreign affairs committees. It would have been a very salutary and healthy thing if the President had recognized the war powers resolution to require it. But he did not. He excused it on the ground it was so supersecret that he could not do it.

Mr. President, I do not agree with that and I do not believe that Congress sought to agree with that, because this is a great safeguard for us. It was passed for that purpose, that something is not being done that gets us into war without our knowing it. It is a reflection of Vandenberg's epic statement on bipartisanship in foreign policy that if we are going to be in at the landings, in other words, take the rap if there is war, then we have to be in at the takeoffs.

So I would say as follows to my colleague from Nebraska, I would hope very much that if he wished to press the amendment that a modest change in the language would be very helpful because I am sure now, having divined his purpose, which he confirmed, that he would not in any way wish to adversely affect or depreciate from the war powers resolution.

I understand that the time limitations are such that the Levin amendment will supersede this debate at 8:30.

I would also wish to have an opportunity to consider, myself, whether or not this amendment is desirable on the books. Of course, the Senator does not have to go by my opinion. He has every right.

I would put it in two phases. One, that I would like the privilege of working with the Senator to his satisfaction in drafting his amendment so that it in no way depreciate the worth and the quality of the war powers resolution.

Second, to advise with him as to the desirability of including it in the bill.

Last, I say this to the Senator, I do not know whether he knows it or not, but I know it, and I will never forget it. This measure is on the books because of John Stennis.

I doubt very much if this measure would have survived President Nixon's veto and would have been overridden, but for unbelievable prestige which was given to the whole concept when John Stennis, in a tradition, a Southern tradition of deep feeling about the Constitution and the division of powers, joined me in putting it before the Senate and in putting it before the Congress.

I would also like to have the privilege, and I suggest it strongly to my colleague, of consulting Senator Stennis, who in this case I believe would not be bound, not feel bound, in his advice.

I say this unilaterally, but I think I know the man.

But the fact that this is his bill which is before this particular matter, he has shown extraordinary, and I think very gifted perception of what was needed, speaking as a Senator and a patriotic American, without any regard to his chairmanship of the Armed Services Committee.

So I suggest that strongly to the Senator, that we do a little bit more work and talk a little bit about this, as the time is available anyhow, and then come to a conclusion as to how to handle it.

Mr. EXON. Mr. President, I thank my friend from New York. I will be very pleased to work with him.

The chairman of the Armed Services Committee has seen the amendment I have offered. He may be willing to speak on it at some appropriate time. I am sure we could work out the language.

I should like to emphasize several points.

First, section 3 of the war powers resolution I have underlined, and I believe it is one of the key considerations I came to when reviewing it in the light of my responsibilities, when I was assigned to look into it in depth in connection with a rapid deployment force.

As I held those hearings and chaired them, I saw the potential this had for good and to strengthen the power of the United States of America when it is properly used. I also tried to walk in other people's shoes; and I suspect that there were some who walked in rather tough shoes in those days when the Senate—properly, in my opinion—reasserted the dual role between the legislative and executive branches, when we are doing something that could have the effect of the United States becoming involved in open hostilities.

This is not tied to Iran in any way, shape, or form, so far as this Senator is concerned. I was looking to the future.

However, I feel that with the trigger mechanism we are extending all around the world, it would not be improper, nor would it be a cowardly act in any fashion, to suggest that the President of the United States—this one or any future President—simply follow the law of the land.

Mr. President, I reserve the remainder of my time.

Mr. STENNIS. Mr. President, will the Senator yield me a few minutes?

Mr. EXON. I am pleased to yield to the chairman of the Armed Services Committee.

Mr. STENNIS. Mr. President, I am sorry that I was compelled to leave the Chamber on a matter pertaining to this bill, so I did not hear all of the Senator's remarks. He and I have talked about this matter a great deal, and I have been impressed with his concern and his deep thought on the subject.

It is a matter of concern to me in this way: One of my very earliest experiences here was when the Korean war started 2 or 3 years after I came here. I was not a constitutional lawyer, but I certainly did study it a great deal in law school. I was deeply aware of the clause that said that Congress shall have the power to declare war.

I knew something about the almost 200 years of court precedents, good cases, in which they had limited, in a way, the meaning of those words or left them uncertain and obscure.

I thought there should be a reenunciation by a modern law body of some kind about who did have the authority. That is the way I got into this matter. There was great argument and debate over certain words.

I believe that the main purpose of the act served as a reaffirmation of the old declaration of our forefathers that under this system of government, Congress has the authority to declare war. I believe that reaffimation will live and shine for decades. I hope that down the line somewhere, it will be reaffirmed again. The way to keep it bright is like the situation with the plow that becomes rusted if it is not used. If you plow the soil with it, it will become bright and shine.

We forget the clause in the Constitution that Congress shall have the power to declare war, meaning that only Congress does have the power to commit this Nation to war.

So the resolve of the Senator from Nebraska here is very good. It keeps the plow bright and shiny and up to date. We should be mighty careful with words and how we try to enlarge on it.

With respect to the attempt to rescue the hostages, I felt that that certainly was not a violation of the War Powers Act. The War Powers Act, as originally passed by the Senate, almost had those words spelled out—that a rescue party would not be considered an act of war.

Anyway, I am glad to support the Senator's measure. I appreciate the work the Senator from Nebraska has done on our committee. His contribution has been very great.

I yield the floor.

Mr. NUNN. Mr. President, I echo what the chairman has said about the Senator from Nebraska and his excellent work, not only on this amendment but also on the subcommittee I chair and on the full committee. He has done a tremendous job on research and development and in looking at the ramifications of the CX. His leadership in this respect is timely and necessary.

I commend the Senator from Nebraska for taking this step and making it clear to the American people that the War Powers Act as passed is still meaningful and relevant and has application in 1980 and the decade ahead, as we move into new concepts and perhaps as we move into new areas that concern our security.

Mr. EXON. I thank the Senator from Mississippi and the Senator from Georgia.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. Cannon). The Senator has 14 minutes and 22 seconds.

Mr. EXON. I reserve the remainder of of my time.

Does the Senator from Virginia wish time?

Mr. HARRY F. BYRD, JR. I should like

a few minutes. I do not know whom I should ask for time.

Mr. EXON. I will be glad to yield 2 or 3 minutes to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. I thank the Senator from Nebraska.

Mr. President, I was an enthusiastic supporter of the War Powers Act. I have frequently commended the able Senator from New York (Mr. JAVITS) for his leadership in this matter. I voted for the War Powers Act and enthusiastically supported it.

I certainly agree with the able Senator from Nebraska (Mr. EXON) that a President of the United States, whomever he may be, must obey the law. The problem is, how do you interpret the law?

This amendment says that the War Powers Act is to be strictly adhered to. What gives me pause as to whether to support this amendment is this: I gather from the author of the amendment, and I gather even more strongly from the chief sponsor of the War Powers Act, the senior Senator from New York, that they feel that President Carter should have consulted with Congress before embarking the rescue mission.

Mr. EXON. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. I yield.

Mr. EXON. Let us make that point very clear. I did not say that specifically. If the Senator from Virginia had been listening to me, he would have heard me say that this has nothing whatsoever to do, so far as this Senator is concerned, with the raid in Iran, and it should not be confused with this issue.

Mr. HARRY F. BYRD, JR. Very good. I withdraw any comment I made about the Senator from Nebraska in that regard.

The Senator from New York will correct me if I misstate his position. I thought that a few moments ago the Senator from New York stated that, in his view, the President should have consulted with Congress under the War Powers Act.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. I yield.

Mr. JAVITS. I did say that, and I said it for this reason. I believe it was a military operation which might have led directly into the problems which the war powers resolution seeks to meet, but I made it very plain that this was a personal opinion. I am a lawyer and that is the way I read the law. But I did not wish in any way to make that official. If that subject should ever arise and be debated in my committee, I might come out and vote some other way. But giving my opinion, reading the law, that is all I had in mind.

Mr. HARRY F. BYRD, JR. That is what I assumed. The Senator from New York has no power to make his view official.

Mr. JAVITS. Mr. President, I wish to support Senator EXON, and I did not get a syllable from him which in any way tied his amendment to my personal opinion as to what the law might call for. So he is absolutely right, but I did say that as a personal view.

Mr. HARRY F. BYRD, JR. That was my interpretation of the Senator from New York's views.

Mr. JAVITS. That is absolutely right.

Mr. HARRY F. BYRD, JR. Obviously the Senator cannot make an official declaration. He was expressing his own view as one of the principal architects of the War Powers Act.

That is what gives me hesitancy in supporting this amendment. I feel the President, whoever the President might be, and my enthusiasm for the incumbent is restrained, but I do think that any President whomever he might be, whatever party he represents, needs to have reasonable leeway in protecting the national interest and what he conceives as Commander in Chief to be essential in acting in an emergency situation.

The Senator from New York places one interpretation as to what the War Power Act required of President Carter in regard to the attempted rescue mission in Iran. The Senator from Virginia interpreted it differently. That is why I am reluctant to support the pending amendment which calls for a strict compliance. Would it tie the hands of the Commander in Chief?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HARRY F. BYRD, JR. That is my reason for hesitancy in supporting this amendment because I am not clear as to just how far it would go.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. EXON. Mr. President, if I could yield myself 2 minutes to respond and possibly answer the question from my friend from Virginia, section 3 of the act under "consultation" outlines what the Senate thought in its wisdom was the recommendations under the law. Therefore, let us not confuse the raid in Iran, right or wrong, whether it be aborted or not. The rapid deployment force is a force of men and machines that are going to be potentially moved to any place on this globe, and they are not going to be moving in the dead of night, obviously, in the manner in which we conducted our raid into Iran.

We should not have been talking about that because it has nothing to do with this.

All it says is that the President shall comply with the law of the land and whatever the proper interpretation of that is, is as far as the sense of the Senate resolution that I have introduced goes. It can go no further and it can go no less distance than that.

Mr. JAVITS. Mr. President, will the Senator yield to me? I think I can be helpful.

Mr. EXON. Yes, I am happy to yield.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 8 minutes and 31 seconds remaining.

Mr. JAVITS. Just yield 1 minute.

Mr. EXON. I yield 2 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, I wish to point out to my colleagues that section of the resolution says that the President in every possible instance—the word "possible" is the fulcrum of the question. The President really challenges whether or not it was possible, and I believe it was.

So we do have a difference upon which evidence has not been taken. It may even make a difference to me. I may very well come to a different conclusion when the evidence is analyzed, but as I get it, the essence essentially of the White House position is that "it was not." When we get to other sections of the law respecting the actual deployment of forces outside the periphery of, let us say, customary deployments, there we introduce other items which while the word "consultation" is not used, the word "report" is used, the report in writing, the President shall provide such other information, et cetera.

In other words, it is tantamount to a different kind of consultation of a much more mandatory character.

So there is a difference between section 3 and section 4 where we began to get into the operative part of the war powers resolution.

But I did wish to point out that easily the Senator from Virginia might feel even without the evidence which I would need to hear myself that it was not possible, while I might feel based upon just what we know that it was possible. So that it is entirely reconcilable in terms of the White House attitude or in terms of my present opinion about it.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. HARRY F. BYRD, JR. That points up the dilemma facing the Senator from Virginia, the interpretation of the War Powers Act.

Mr. JAVITS. I understand that. But like every human situation we have to take our choice one way or the other.

Mr. HARRY F. BYRD, JR. Two strong advocates of the War Powers Act, the senior Senator from New York, who is the principal architect, and the Senator from Virginia, who was an advocate and supporter, tend to disagree as to what the President should have done in this recent situation. That is what gives me the problem.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. EXON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes and 24 seconds remaining.

Mr. EXON. I thank the Chair.

Mr. President, we will be sending a slight correction on the amendment to the desk. In the meantime, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, is it in order to suggest the absence of a quorum?

The PRESIDING OFFICER. On whose time?

Mr. JAVITS. I am just trying to ascertain whether it is in order.

The PRESIDING OFFICER. It is in order if someone will yield the time for that purpose.

Mr. JAVITS. Mr. President, will the Senator yield time for that purpose?

Mr. EXON. I am happy to yield time for that purpose.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TSONGAS). Without objection, it is so ordered.

UP AMENDMENT 1385 (AS MODIFIED)

Mr. EXON. Mr. President, I am sending to the desk for reading by the clerk some minor changes in the amendment. I will just briefly outline them. In the first line strike "capability" and put in "capacity." In the third line strike "and" and insert "having in its hands in." Strike "Whereas" in line 5. In the fifth line strike "places in the hands of the President," and in the last line of the amendment as submitted strike "in a meaningful manner," and insert "strictly according to the terms of the War Powers Resolution."

Those are minor corrections, and I ask that they be accepted, and the original amendment that I proposed be corrected accordingly.

The PRESIDING OFFICER. Is there objection to the modification request? The Chair hears none, and it is so ordered.

The amendment, as modified, is as follows:

On page 96, line 8, insert the following:

ADHERENCE TO THE WAR POWERS RESOLUTION

Whereas, the National Command Authority must have the capacity to carry out any military mission which is essential to the national security of the United States, having in its hands in the Rapid Deployment Force an increased capability to extend the reach of our military power in an expedited manner; and

Whereas, without the significant safeguard of the War Powers Resolution (Public Law 93–148), U.S. foreign and defense policies could be subject to misinterpretation;

It is therefore the sense of the Congress that the provisions of the War Powers Resolution be strictly adhered to and that the Congressional consultation process specified by such Resolution be utilized strictly according to the terms of the War Powers Resolution.

Mr. EXON. Mr. President, I reserve the remainder of my time.

Mr. TOWER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TOWER. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered, but there has been no objection to the modification. Is there objection? The Chair hears none, and it is so ordered, and the amendment is so modified.

Who yields time?

Mr. EXON. I reserve the remainder of my time.

Mr. TOWER. Mr. President, how much time is remaining to both sides?

The PRESIDING OFFICER. The Senator from Texas has 13 minutes and 53 seconds; the Senator from Nebraska has 52 seconds.

Would the Senator from Nebraska like to yield his time?

Mr. EXON. If the Senator will give me just one moment, I will say we have completed the debate and I am about prepared to yield back my time. Is there anyone else on the floor who wishes to speak on my side of this matter? If not, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Does the Senator from Nebraska yield back his time?

Mr. EXON. If the other side is prepared to yield back the time.

Mr. TOWER. I am not prepared to yield back my time, Mr. President.

I would like to ask the Senator from Nebraska to explain, and on my time I will yield him 1 minute for this purpose, how the modification changes the proposal.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. EXON. I am sorry I was distracted. Will the Senator rephrase the question?

Mr. TOWER. To make a long story short, what is different about it now?

Mr. JAVITS. Will the Senator yield to me for that purpose?

Mr. EXON. I will be happy to yield to the Senator from New York.

Mr. JAVITS. Mr. President, the Senator has modified his amendment in accordance with some changes that I recommended, and it makes two differences: one, there is no implication by changing the first and second paragraphs as to any grant of authority to the national command authority, no implication is contained in the way it is redrafted. The purpose is accurately set forth, to wit, they are now getting an important addition under their command of a force which can strike very quickly which they did not have before, thus giving the reason why Senator EXON feels that this amendment is an appropriate one.

The important change to me was the change at the end of the resolve clause, which struck out the word "meaningful" which is a qualitative word, and nobody will know what that implies, and simply holding it strictly to the terms of the war powers resolution thereby, in my opinion, the modification makes it clear that this is a reiteration of the war powers resolution in the context of a new rapid deployment force.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The time allocated to the Senator from Nebraska by the Senator from Texas has expired.

The Senator from Texas.

Mr. TOWER. I reserve my time, Mr. President.

Mr. EXON. Mr. President, I am prepared to yield back the time on this side if that is acceptable to the Senator from Texas.

Mr. TOWER. The Senator from Texas would like to have one more word.

It appears that I have 10 minutes and the Senator from Nebraska has 52 seconds, although about 30 seconds transpired a while ago that were not charged against him.

Let me simply say that what we are doing here is to suggest that a man who has proven himself to be a timorous and indecisive President is too bold for the Senate of the United States and, therefore, we feel enjoined to remind him of the War Powers Act, and suggest that he must act with restraint.

We are conveying the worst kind of message to friend and foe alike. As I noted earlier, what we have authorized here in the way of a rapid deployment force is not some vast instrument of power that in the next year is going to enable us to fight our way ashore, forcible entry, any place in the world. Baloney. It is nothing. How many Marine amphibious forces do you think we could put ashore anywhere now, even in a permissive environment? And we have to tear our shirts and say, "Oh, we have a little authority here to do a little bit better, but we want everybody to understand we are not going to use it and we are warning the President he had better consult with us. We do not want him to use it either."

This comes at a time when the United States is viewed as the kind of country that will not live up to its commitments, when people all over the world are considering that it is more dangerous to be a friend of the United States than to be an enemy because we turn our backs on our friends with such readiness.

In my view, Mr. President, it really would be a demonstration to the world that we have no national will after all, that we do not see the real world as it is; that even though we build up a force that is only half credible we will not use that. So I think it is really a sad day.

I have no doubt this will pass. It has been accepted by the chairman. Everybody will vote for it because we do not want to appear to be hawkish and warlike. It will pass. The War Powers Act, that is like motherhood and Sunday school and apple pie, something you just cannot vote against.

The War Powers Act has never been tested in the courts. I question whether or not it is constitutional. I think some day it will be tested.

But the message this conveys is that we are timorous and we are indecisive and that we really want to be restrained in the use of our power. Even though our adversaries abuse the power that they possess, even though they are bolder to use that power, the message we send to the world is we are restrained. We have been acting with restraint ever since World War II.

And what has been the response to our restraint? We have been provoked many times over. We could have fought a preemptive war against the Soviet Union and wiped them out at one time when we were severely provoked, but we were restrained.

Our restraint, our failure to spend what is necessary to maintain a modern military force of the first rate, that restraint has been met by an unprecedented buildup in the military power by the Soviet Union and an expenditure of $240 billion, more than what we have spent over the last decade.

The PRESIDING OFFICER. The Chair must interrupt, the hour of 8:30 having arrived——

Mr. ROBERT C. BYRD. Mr. President, I have been asked by Mr. LEVIN to ask unanimous consent that that order be delayed for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Texas.

Mr. TOWER. Mr. President, we have acted in restraint. Why is it that we always want to profess that we are a people that act with restraint? The Russians know it, and that is why they are eating our lunch all over the world. That is why they have Africa now, that is why they have South America, because they know that we will be restrained, even when we possess superior power to wipe them out and did not use it. They know that. We are a patient people. We are a restrained people.

We are going to say, "Oh, you have invaded Afghanistan. Your clandestine infrastructures, your surrogates, your armies, and your moneys are taking over other parts of the world, but we want you to know that we are going to act with restraint; that we are going to insist that our President be bound by every possible inhibition against the use of military force."

Well, Mr. President, I am not prepared to send out that cowardly signal. Therefore, Mr. President, I yield back the remainder of my time and move to table the amendment of the Senator from Nebraska (Mr. EXON). I ask for the yeas and nays.

The PRESIDING OFFICER. The Chair will state that until the time of the Senator from Nebraska has expired, the motion is not in order.

Mr. TOWER. Let the Senator from Nebraska have his 52 seconds.

The PRESIDING OFFICER. The Senator from Nebraska has 47 seconds remaining.

Mr. EXON. Mr. President, let me close the 47 seconds by saying that obviously we have touched a raw nerve of the Senator from Texas with this amendment.

I did not intend to bring up the act itself all over again, because I know the war powers resolution was debated very heavily in this body. All I am saying in this resolution—if I am a coward or if this is a cowardly act, I so accept it. But I am not interested in those kinds of allegations for something that I have sincerely introduced that simply says, "Let's follow the law of the land."

If someone wants to repeal the war power resolution and the War Powers Act, let them do it.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. EXON. I yield back my time.

Mr. TOWER. Mr. President, why do we not reiterate the criminal statutes with crime running rampant through the country? Why do we not do that.

The PRESIDING OFFICER. The Senator will be in order.

Mr. TOWER. Mr. President, I move to table the amendment of the Senator from Nebraska and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Vermont (Mr. LEAHY), the Senator from Illinois (Mr. STEVENSON), and the Senator from New Jersey (Mr. BRADLEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "nay."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from New Mexico (Mr. DOMENICI), and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 39, nays 50, as follows:

[Rollcall Vote No. 287 Leg.]

YEAS—39

Baker
Boren
Boschwitz
Byrd, Harry F., Jr.
Cannon
Chafee
Cochran
Cohen
Danforth
Dole
Durenberger
Durkin
Garn
Glenn
Hatch
Hayakawa
Heflin
Helms
Humphrey
Jepsen
Kassebaum
Laxalt
Lugar
McClure
Percy
Pressler
Roth
Schmitt
Simpson
Stafford
Stevens
Stewart
Stone
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NAYS—50

Armstrong
Baucus
Bayh
Bentsen
Bumpers
Burdick
Byrd, Robert C.
Chiles
Church
Cranston
Culver
DeConcini
Eagleton
Exon
Ford
Gravel
Hart
Hatfield
Heinz
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Levin
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Pell
Proxmire
Pryor
Randolph
Riegle
Sarbanes
Sasser
Schweiker
Stennis
Talmadge
Tsongas
Weicker
Williams

NOT VOTING—11

Bellmon
Biden
Bradley
Domenici
Goldwater
Kennedy
Leahy
Long
Packwood
Ribicoff
Stevenson

So the motion to table Mr. EXON's amendment (UP No. 1385), as modified, was rejected.

The PRESIDING OFFICER. The vote now recurs on the amendment offered by the Senator from Nebraska. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. BRADLEY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Louisiana (Mr. LONG), the Senator from Connecticut (Mr. RIBICOFF) and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from New Mexico (Mr. DOMENICI) and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The PRESIDING OFFICER (Mr. MATSUNAGA). Are there any other Senators in the Chamber not having voted who wish to vote?

The result was announced—yeas 54, nays 35, as follows:

[Rollcall Vote No. 288 Leg.]

YEAS—54

Armstrong
Baucus
Bayh
Bentsen
Bumpers
Burdick
Byrd, Robert C.
Chiles
Church
Cochran
Cranston
Culver
DeConcini
Durenberger
Eagleton
Exon
Ford
Gravel
Hart
Hatfield
Heinz
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Levin
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Pell
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Schweiker
Stafford
Stennis
Talmadge
Tsongas
Weicker
Williams

NAYS—35

Baker
Boren
Boschwitz
Byrd, Harry F., Jr.
Cannon
Chafee
Cohen
Danforth
Dole
Durkin
Garn
Glenn
Hatch
Hayakawa
Heflin
Helms
Humphrey
Jepsen
Kassebaum
Laxalt
Lugar
McClure
Percy
Pressler
Schmitt
Simpson
Stevens
Stewart
Stone
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NOT VOTING—11

Bellmon
Biden
Bradley
Domenici
Goldwater
Kennedy
Leahy
Long
Packwood
Ribicoff
Stevenson

So the amendment of the Senator from Nebraska (UP No. 1385) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

● Mr. PERCY. Mr. President, I voted against the amendment offered by Senator EXON because I believe that it is unnecessary. As I understand the amendment, it reaffirms the war powers resolution within the context of the U.S. decision to deploy a rapid deployment force.

My view is that the war powers resolution stands as law, binding on the President, irrespective of the forces that the Congress and the President decide to deploy. I have not changed my mind on the war powers resolution. I supported it when it passed the Senate and I support it today. But I do not believe that it needs reaffirmation because of any decisions we are making on military procurement tonight.●

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. I thank the Chair and my colleagues from South Carolina and Georgia.

Mr. President, pursuant to the previous order, I withdraw my amendment in the first degree.

The PRESIDING OFFICER. The amendment is withdrawn.

The Chair will advise the Senator that if the amendment is withdrawn, it takes with it the amendment in the second degree, and that is the intent of the Senator from Michigan, I take it?

Mr. LEVIN. It is, indeed.

I thank the Chair.

UP AMENDMENT NO. 1386

Mr. President, I send a new amendment to the desk, and I ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN), for himself, and Mr. JEPSEN, Mr. HOLLINGS, Mr. NUNN, Mr. CULVER, Mr. HARRY F. BYRD, JR., Mr. COHEN, Mr. DURENBERGER, Mr. EXON, Mr. MORGAN, Mr. WARNER, Mr. THURMOND, Mr. DOLE, Mr. HUMPHREY, Mr. BRADLEY, Mr. MATSUNAGA, Mr. CHAFEE, Mr. HAYAKAWA, Mrs. KASSEBAUM, Mr. RIEGLE, Mr. SIMPSON, Mr. DOLE, and Mr. JAVITS, proposes an unprinted amendment numbered 1386.

Mr. LEVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 52, line 1, strike out "750,300" and insert in lieu thereof "775,300".

On page 52, strike out lines 5 through 15.

On page 52, strike out lines 19 through 24, and insert in lieu thereof the following:

SEC. 302. (a) The number of male individuals (with no prior military service) enlisted or inducted into the Army during the fiscal year beginning October 1, 1980, who are not high school graduates may not exceed, as of September 30, 1981, 32 percent of all male individuals (with no prior military service) enlisted or inducted into the Army during such fiscal year.

(b) The total number of individuals enlisted or inducted into all of the armed forces during the fiscal year beginning October 1, 1980, whose mental ability test results place them within the Mental Category Group IV, may not exceed a number equal to 25 percent of all individuals enlisted or inducted into the armed forces during such fiscal year. For any fiscal year beginning after September 30, 1981, the number of individuals enlisted or inducted into any armed force during such fiscal year whose mental ability test results place them within the Mental Category Group IV may not exceed a number equal to 20 percent of all individuals enlisted or inducted into such armed force during such fiscal year.

(c) The Secretary of Defense shall report to the Committees on Armed Services of the Senate and the House of Representatives at the end of each quarter of fiscal year 1981 whether the requirements of subsections (a) and (b) of this section negatively impact on combat readiness.

(d) It is the sense of the Congress that educational institutions in the United States and its territories should cooperate with the recruiting organizations of the armed services by allowing recruiting personnel to visit high schools and by releasing to the armed services, to the extent consistent with current law, directory information to include such data as names, addresses, and educational level of students, and that the release of such directory information be consistent with the provisions of the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g et seq.)."

The PRESIDING OFFICER. Under the previous order, debate will be limited to 10 minutes, 5 minutes on each side.

The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I yield myself 2 minutes.

I ask unanimous consent that Senator CRANSTON be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, this amendment is the result of a long series of discussions with a number of Senators. It does the following: It restores the Army to its full 775,300 end strength. That is not a floating end strength. That is not an end strength which is dependent on whether certain recruitment standards we have set forth in the bill and this amendment are met.

It is an end strength which the Army can rely on. It is a full restoration, and I think that reflects quite clearly the will of the Senate in a vote earlier this afternoon.

It is a positive amendment. It sets a number of standards. It sets one standard that the Army shall recruit 68 permenent high school graduates for this upcoming fiscal year, and further states that at the end of each quarter the Army will report to the Senate and House Armed Services Committees on any problems that creates for the Army in terms of its readiness.

Without this amendment, the bill sets a standard of 20-percent maximum of so-called category IV aptitude testees. This amendment changes that recruitment standard. Whereas the standard in the bill before this amendment said that each service could recruit no more than 20 percent of those so-called category IV's, this amendment changes that, so that DOD as a whole can recruit up to 25 percent of that aptitude category.

In addition to those recruitment standards, Mr. President, we do have a provision in here which sets forth the sense of Congress that educational institutions in the United States cooperate with recruiting organizations of the armed services.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. LEVIN. I thank the Chair.

I am happy to yield to my friend from South Carolina.

The PRESIDING OFFICER. Before the Senator from South Carolina proceeds, the Chair makes the inquiry as to whether or not this Senator from Hawaii is recorded as a copsonsor of the amendment.

Mr. LEVIN. The Senator from Hawaii is a cosponsor of the amendment.

I yield to the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, there is an old song: Accentuate the positive and eliminate the negative, and that is what we have done.

On the positive side, we have fixed the end strength just as it was. We have, in turn, come around with respect to the charge upon the Army in order to increase high school graduate enrollment, set a 32-percent limit that the nonhigh school graduate enrollment should not exceed, and ask that they report back to the Armed Services Committee of both the Senate and the House quarterly. So it does not negatively impact upon the combat readiness and expresses the sense of the Congress that the high schools grant access to the recruiting organizations of the armed services.

It is a compromise. The thrust of the Armed Services Committee in the original instance, particularly by the Senator from Georgia, to upgrade the quality with respect to high school graduates, is done in a positive fashion, and I support the amendment.

Mr. THURMOND. Will the Senator yield?

Mr. LEVIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFCER. One minute.

Mr. LEVIN. I yield to the Senator.

Mr. THURMOND. Mr. President, I have talked to representatives of the Defense Department and the Army, and they have no objection to this amendment, the way it is modified. I believe it will accomplish the purpose that those of us who opposed the provision of the Armed Services Committee had in mind originally. Therefore, I support the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. HAYAKAWA addressed the Chair.

Mr. NUNN. Mr. President, how much time does the Senator from California need? We have only 5 minutes. Does the Senator from Michigan have any other time?

Mr. HAYAKAWA. If the Senator from Michigan will yield, I need only 90 seconds.

The PRESIDING OFFICER. The Senator from Michigan has 27 seconds remaining.

Mr. NUNN. How much time does the Senator from California want?

Mr. HAYAKAWA. One minute will be plenty.

Mr. NUNN. I yield 30 seconds to the Senator.

The PRESIDING OFFICER. The Senator from California is recognized for 30 seconds.

Mr. HAYAKAWA. Mr. President, in my earlier remarks, in support of Senator LEVIN's amendment, I worried about the development of noncommissioned officers and the lack of those noncommissioned officers, that they were not permitted to come up through the enlisted ranks. That was why I was afraid of reducing the enlisted ranks.

This amendment takes care of that issue very well, and it does not send a mistaken signal to the Soviets as to where our strength is.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. NUNN. Mr. President, I agree with the Senator from Michigan and the Senator from South Carolina. This amendment reflects a compromise.

I believe that all of us in this body hope that the Army will be able to maintain both the quality and the quantity needed for our national security. That has been the hope of the Armed Services Committee. We felt that it was imperative that at this point in our history, we stress to the U.S. Army the intention of this body that they maintain quality standards.

What we have done is that we have restored the Army's end strength, and we hope they meet that end strength; but in meeting it, they will have to meet the standards set forth in this amendment on both high school graduates and the limitation on category IV's.

This amendment is not as strong as I would like it in terms of quality, but it reflects a legislative consensus. I thank particularly the ranking minority member, Senator JEPSEN, for his excellent work on the amendment and in this compromise, and I thank the other members of the subcommittee.

Mr. President, I ask unanimous consent that a statement that I intended to make earlier today, had I had sufficient time, be printed in the RECORD at this point. I believe that when Senators read it, if they have voted against this position, they will regret their vote.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

REBUTTAL TO ARMY ARGUMENTS TO SASC END STRENGTH PROPOSAL

The Senate Armed Services Committee position is designed to require the Army to reverse their present policy which is to sacrifice quality in order to achieve numbers at any cost.

The Army has disseminated several pieces of information regarding the Senate Armed Services Committee quality vs quantity recommendations contained in the procurement bill. The purpose of this paper is to offer comments on each of the major points the Army has raised:

I. ARMY ALLEGATION NUMBER 1—UNMANAGEABLE

"A floating end strength is impossible to manage."

Rebuttal. This is true only if the Army continues its policy of putting numbers over quality. If the Army reverses this position and sets a firm policy on high school graduates—its end strength will be certain.

The Army sets its recruiting policies at the beginning of the year. It is important to distinguish between end strength—a paper number which is set by Congress each year which serves as a ceiling—and actual strength—the actual number of persons in the Army. The actual strength can not exceed the authorized end strength at the end of the fiscal year but it can be below the end strength. For example, if the Army sets its 1981 recruiting policy at 72 percent high school graduates (its own goal) the Armed Services Committee formula permits the Army to be certain of its 1981 end strength at the beginning of fiscal year 1981. The actual number of people in the Army may be less than the authorized end strength if the Army does not recruit its numbers goal because it holds the percent of non-high school graduates at 28 percent or below.

This is the choice the Committee bill forces the Army to make—quality vs quantity.

The Army, by setting its recruiting policy at the same level as its goal (72 percent high school graduates) can set its end strength with absolute certainty. What it can not set with certainty is the actual number of recruits, if it maintains its quality standards. In the past the Army has moved in the opposite direction i.e., sacrificing quality in order to achieve numbers. This is a major cause of the turbulence problem, the retention problem, the high first term attrition, the high training costs, and the discipline problem.

The reason the Army says the Committee version is "a floating end strength" is because they are not willing to make a clear policy decision to let the numbers go down, if necessary, to achieve quality.

This attitude is wrecking the Army.

II. ARMY ALLEGATION NUMBER 2—UNCERTAINTIES

"Administrative Feasibility:"

According to the Levin dear colleague letter, "Since more high school graduates are recruited after June graduations, the Army will not know with any real certainty how far above the 52 percent trigger it will be until very late in the fiscal year, if then." According to General Meyer, "A floating end strength will be nigh onto impossible to execute."

Rebuttal. Again—the difficulty in executing the Committee position would be caused only by a continued Army refusal to go for quality rather than "warm bodies."

Army recruiting is much more than asking recruiters to be fishers of men and recruiting whoever they please. Rather, each recruiting district negotiates with the recruiting command on the precise number of people it will recruit in a variety of categories: males, females, high school graduates, Category IIIb's and Category IV's by sex, prior service personnel, reserve personnel, and many other detailed groups.

So, the Army can plan on an authorized strength of 775,300 from the first day of the fiscal year as long as it adopts recruiting policies intended to achieve the Army's own goal of high school graduates—a goal that the Army has emphasized as very important. Thus, there need be no uncertainty about the authorized end strength. Of course, if the Army does not achieve its planned number of high school graduates, it may fail to reach the actual number 775,300.

What the authors of the Levin amendment are saying is that they would like to fill that gap with lower quality individuals than the Army's own goal. The only thing that would make the authorized end strength uncertain is the Army's failure to establish firm policy standards for quality and to implement this policy.

III. ARMY ALLEGATION NUMBER 3—FUNDING PROBLEMS

The Appropriation Committee will not provide funding for the full end strength requested if the Armed Services Committee position is adopted.

Rebuttal. There is no prohibition in the Committee recommendations on the Appropriations Committee to provide funding for a strength of 775,300.

Six of the signers of the dear colleague letter opposing the Armed Services Committee position are members of the Appropriations Committee. If they want to fund 775,300 personnel for the Army, the way to do that is to vote to do so in the Appropriations Committee, not to amend the Authorization Bill to buildup the Army with lower quality personnel.

IV. ARMY ALLEGATION NUMBER 4—TURBULENCE

The Army's major problem is turbulence and the Senate proposal will increase turbulence and reduce readiness.

Rebuttal. The major factor in turbulence is not the end strength. It is the huge attrition that results from large numbers of lower quality recruits. Again, according to the Army Manpower Requirements Report (February 1980):

"The probability that a soldier who has completed high school will be lost from the Army before completion of his/her first term of enlistment is approximately ½ that of a non-high school graduate. As a group, male high school diploma graduates contribute 1.38 times as many manyears to the Army's strength as male non-high school graduates. This results from the reduced attrition and higher reenlistment rates of high school graduates over non-high school graduates."

So:

(1) The Army's FY 1981 budget is based on recruiting 72 percent male high school graduates.

(2) If this is not done, attrition will be higher than planned.

(3) If this is not done, reenlistments will be lower than planned.

Thus, it is the Army's new plan to recruit fewer high school graduates which will increase turbulence, not the Committee recommendation.

The Committee recommendation will result in less turbulence than the Army now calls for and thus improve on the Army's "major problem."

The Army's current revolving door policy grossly distorts the number in the Army because it inflates the training base but produces thousands of recruits who will not complete their first term.

V. ARMY ALLEGATION NUMBER 5—RESERVES SHORT SO DON'T CUT ACTIVE STRENGTH

Army shouldn't cut end strengths as the Marines did because Army Guard and Reserve and IRR are short people while the Marine Corps Reserve was not short.

Rebuttal. Is the Army really arguing that 25,000 more non-high school graduates should be brought into the active Army because the Reserves are short?

These non-high school graduates will attrit at high rates, and consume large amounts of money. There are more efficient ways to fill the Reserves than for the Active Army to bring in people, flush them out, label them failures, and then assume they will be available for a Reserve call up.

Here's what General McLennan, the Assistant Commandant and former Manpower Chief, said about Marine Corps experience:

"The record shows that in recent years the Corps has met its accession goals both in terms of quantity and quality. The Commandant was very explicit in his direction and if it came down to a choice, quantity was to be sacrificed for quality.

"Our commitment to manpower quality must be maintained to ensure ready, effective forces. This commitment to quality is measured by the increased accession of high school graduates including GED from 59.1 percent in Fiscal Year 1975 to . . . 76.8 percent" in 1978. ". . . We are proud of the improvement indicated in the following statistics which compare Fiscal Year 1975 and Fiscal Year 1978 experience.

"The unauthorized absence rate has been dramatically reduced, the desertion rate is down 60 percent and the average confined population is 54 percent lower. Major Command Special Courts Martial case loads have experienced a 60 percent decrease. Losses prior to the expiration of enlistment are down 28 percent. Additionally, this quality improvement has had a positive affect on our retention rate, which has increased our percentage points.

"The highest priority the USMC has is to maintain the quality level of the input of individuals—both officers and enlisted—to the Corps. We have not and will not back away from that particular priority."

Unfortunately, the Army has not learned from the Marine experience. In 1980 they accelerated their quest for numbers at all costs.

VI. ARMY ALLEGATION NUMBER 6—TWO DIVISIONS CUT

Two Divisions will be cut.

Rebuttal. First, to reach this position the Army is assuming they will not reach their goal of 72 percent high school graduates. This is tantamount to a confession that the Army's policy of recruiting does not follow the Army goal. Thus, the Army is stating in advance that it will continue to place numbers over quality.

Second, the Army has 16 Divisions and requests a FY 1981 end strength of 775,000. The Army says that if they lose 25,000 men from the end strength (750,000) they will lose two divisions. This is mathematics at its worst.

The Army's average actual strength during FY 1979 was 756,000. In May of 1979 the Army's actual strength was 749,000—1,000 below the strength at which the Army now says it would lose two divisions; reduce forces available for NATO; reduce Rapid Deployment forces; and "In all probability," cause "a major Army Base closure."

If this is true why did none of these events occur during FY 1979 when the Army average strength was 756,700?

Finally, the Army says that if they lose 3.2 percent of its numbers it will lose 12.5 percent of its Divisions. If this logic is correct it means that if we cut 200,000 from the Army end strength it would lose all of its Divisions. We would then be the only country in the world with 575,000 people in the Army and no divisions. The Army's mathematical logic is an insult to the intelligence of the Senate.

VII. ARMY ALLEGATION NUMBER 7—REDUCE FOX HOLE STRENGTH

The Levin "dear colleague" quotes General Meyer as saying the "fox hole" strengths of the Army would have to be reduced.

Rebuttal. The Relationship between High School Graduates, Mental Categories, Attrition, Costs and "Fox Hole Strength."

The Congressional Budget Office carefully examined different quality options in a 1977 paper on defense manpower. According to that study, a high quality force (defined by recruiting 68 percent male high school graduates and 10 percent male Category IV) when compared to a low quality force (defined as 46–48 percent male high school graduate recruits and 20 percent Category IV) for the Army would require an Army and strength of 78,000 less. In other words if the Army recruits more high school graduates and less Category IVs, they will achieve more fox hole strength within the same given end strength.

Combat troops, that is the troops in fox holes, would be the same under both sets of circumstances. Under the lower quality option, the end strength would have to be much higher because of the increased turnover, training failures, and the number of trainers and other support personnel needed to manage the large number of people flushing through the system.

C.B.O. estimated the difference in cost for all Services of a high quality and lower quality option as $600 million a year.

Although CBO in 1977 defined their low quality extreme as 20 percent Category IVs and 46–48 percent of male high school graduates, we are now faced with an Army that has recruited 38 percent male high school graduates and 45 percent Category IVs. Continuing these low quality trends requires higher end strengths and more people, not for combat, but for training and support of people who never make it to units.

ARMY TRAINING STUDY AND COSTS

According to the Battalion Training Survey for the Army Training Study, a unit with a majority of Category IV personnel in grades E–1 to E–4 compared to a unit with a majority of Category III or higher personnel, the training time necessary to maintain a fully combat-ready proficiency level would have to be increased by 42 percent and the frequency of training repetition by 54 percent.

This greater training requirement would increase the cost by 40 percent. If this increased cost applied to all of the Army's 169 maneuver battalions, the additional annual cost would be about $200 million in battalion training alone. Moreover, despite this increased training effort, these units would still fall approximately 10 percent short of completion of the training program.

The Army is wasting hundreds of millions of taxpayer dollars by pursuing its low quality path.

Mr. NUNN. Mr. President, I yield to the Senator from Mississippi.

Mr. STENNIS. Mr. President, as a member of the committee, I thank our Subcommittee on Manpower and others who have worked on this problem, including those on the other side. Great good has come from this. I think we are in the right direction.

Mr. NUNN. Mr. President, I yield to the Senator from Iowa.

Mr. JEPSEN. Mr. President, this is one Senator who is humble and proud today to be in this body and working with Senators such as Senator Levin, Senator Nunn, and Senator Hollings, who, as Senator Hollings said the other day, put the rubber to the road this afternoon, bit the bullet, and many other things.

They faced the issue squarely; and, in the interest of sending the right signals, both internally and throughout the world, today locked arms in the spirit of unity and in the interest of providing for the finest and the best military service and best level of defense of any country in the world. They joined to provide this agreement. I wholeheartedly endorse it and recommend its support, and I hope we have a unanimous "yea" vote.

The PRESIDING OFFICER. The Senator from Georgia has 30 seconds remaining.

Mr. NUNN. Mr. President, I ask the majority leader if he would like a 10-minute rollcall. We would like the yeas and nays on this amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the rollcall votes for the remainder of the day be limited to 10 minutes each.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. NUNN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LEVIN. Mr. President, lest I leave 27 seconds on the clock without thanking my colleagues from South Carolina, Iowa, and other States—but particularly Senator Hollings, who has been so instrumental in preparing this amendment—I do want to just say that one statement of "Thank you."

This amendment gives the Army the power it needs. It restores the Army's strength, and we hope it will give us the kind of defense we deserve.

The PRESIDING OFFICER. The time of the Senator has expired.

The question is on agreeing to the amendment of the Senator from Michigan. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. Biden), the Senator from New Jersey (Mr. Bradley), the Senator from Massachusetts (Mr. Kennedy), the Senator from Vermont (Mr. Leahy), the Senator from Louisiana (Mr. Long), the Senator from Connecticut (Mr. Ribicoff), and the Senator from New Jersey (Mr. Williams) are necessarily absent.

I further announce that, if present and voting, the Senator from Louisiana (Mr. Long) and the Senator from Connecticut (Mr. Ribicoff) would each vote "yea".

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from New Mexico (Mr. Domenici), and the Senator from Oregon (Mr. Packwood) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent due to illness.

The PRESIDING OFFICER. Are there any Senators not having voted wishing now to vote? The Chair hears none.

The result was announced—yeas 89, nays 0, as follows:

[Roll No. 289 Leg.]

YEAS—89

Armstrong
Baker
Baucus
Bayh
Bentsen
Boren
Boschwitz
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Levin
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Young
Zorinsky

NOT VOTING—11

Bellmon
Biden
Bradley
Domenici
Goldwater
Kennedy
Leahy
Long
Packwood
Ribicoff
Williams

So Mr. Levin's amendment (UP No. 1386) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JEPSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Ohio.

UP AMENDMENT NO. 1387

(Purpose: To delete $25,000,000 in Air Force aircraft procurement and $66,000,000 in Air Force Research Development, Test and Evaluation for the FB-111 program and to add $91,000,000 to Air Force Research, Development, Test and Evaluation for an advanced technology strategic bomber)

Mr. GLENN. I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN) proposes an unprinted amendment numbered 1387.

Mr. GLENN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 38, line 11, strike the figure "$9,541,943,000" and insert in lieu thereof: "$9,516,943,000."

SECTION 201, page 45, line 23, strike the figure "$7,135,197,000" and insert in lieu thereof "$7,160,197,000." On page 45, line 24, strike out the semicolon and insert in lieu thereof "and of which not more than $91,000,000 may be obligated or expended for the designs of a strategic bomber which can achieve an initial operation capability in the mid-1980's. Such designs shall include but not be limited to the FB-111B/C aircraft; a multirole bomber aircraft, a variant of the B-1 bomber aircraft; an advanced technology aircraft, or an appropriate mix of such aircraft, so long as such aircraft have the capability of performing the missions of conventional bomber, cruise missile launch platform, and nuclear weapons delivery system."

On page 51, line 21, insert the following:

"SEC. 206. The Secretary of Defense shall vigorously pursue the development of a strategic bomber which maximizes range, payload and ability to perform the missions of conventional bomber, cruise missile launch platform, and nuclear weapons delivery in both the tactical and strategic role. The Secretary of Defense shall submit a report on the results of this effort including comparisons of advanced technology aircraft with the B-1 and derivatives of the B-1 and the FB-111B/C in terms of cost and military effectiveness. This report shall be submitted to the Committees on Armed Services of the Senate and House by February 15, 1981."

Mr. STENNIS. Mr. President, will the Senator yield for a one-sentence statement? Mr. President, this is the last major amendment that I know about and it is an important one. It will take some time but not necessarily a long time for proper discussion.

The PRESIDING OFFICER. The Senator will suspend. The Senate will be in order. The Senator is making a very important announcement. He deserves to be heard. The Senate will be in order. Senators will cease conversations on the floor.

The Senator from Mississippi.

Mr. STENNIS. Well, I had finished my statement just for the information of the Senate and I thank the Senator for yielding to me.

Mr. GLENN. I thank the distinguished Senator.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. No one can precisely define how a future war might begin, but the likelihood is that combat would start with conventional weapons on land or sea or in the air and, hopefully, never progress to an all-out nuclear exchange.

I have long thought that we needed to dramatically upgrade our capability to project conventional air power. We have carrier aviation which is an invaluable, it is a highly flexible, force that can concentrate very devastating power in a particular geographical area for a critical period of time. But aircraft carriers, flexible though they are, cannot respond quickly everywhere they might be needed. We do not have that many carriers.

In recognition of the problem, an increasing theme in our defense deliberations this year has been America's need for a modern manned bomber, a long-range bomber, that can cover those other areas that cannot be covered by the concentrated power of carrier aviation.

Up until now we have had the B-52's, but the B-52 fleet is a very aging fleet, for the newest B-52, the very newest recently delivered B-52, was delivered some 19 years ago, and we have all heard stories of sons now flying the very same airplanes, the very same ones, not just the type but the same actual aircraft, that their fathers flew before them some decades ago.

In the last days of the Indochina war enemy air defenses took a very heavy toll of B-52s and, I might add, with no fighter opposition. It was all from surface-to-air missiles. We lost a total of 17 B-52s to surface-to-air missiles that were not the most modern surface-to-air missiles in the Soviet inventory.

I will not denigrate the B-52. It has been a great weapons system, but it can no longer adequately fulfill our defense needs. We need an aircraft that is able to support this Nation's requirements to be able to project power great distances from our shores, an ability found wanting so recently in the aftermath of events in Iran and Afghanistan.

I am not talking necessarily about just a penetration mission. We think of that quite often as the role of a conventional bomber penetrating through the air defenses into Moscow, for instance.

But I am thinking much more of a bomber that could be used over the wide open ocean areas of the world as well as overland to supplement our ability to project power.

There are three basic missions for a new aircraft, an aircraft that I would call a multi-role bomber, that is, the conventional iron bomb-smart bomb carrier, conventional weapon; number two is a cruise missile carrier for long-range and standoff operations; and, three, nuclear weapons delivery.

It is new in that it has a fuselage that is extended some 15 feet, new engines, new ducts, and electronics, and that engine ducting change is a very major change, and it should not be thought of as an inexpensive conversion of the F-111 as an economic quick fix.

I would add one other to this. Other bomber plans are obviously in the mill, as they are continually in the Pentagon, so I would not limit the choices just to the ones I have mentioned here.

With regard to flexibility, the swing wing MRB is vastly superior to the modified or stretched FB-111. The MRB is inherently more capable than the FB-111 of performing a variety of missions. I mentioned earlier those three missions that any plane we buy should be able to fill, conventional bomb carrier, conventional iron bomb-smart bomb carrier, cruise missile carrier for long-range and standoff operations, and nuclear weapons delivery.

While exact figures are classified, the MRB has a range considerably greater than the FB-111 while, at the same time, carrying a greater weapons load.

I enclosed with a Dear Colleague letter an unclassified table comparing the MRB and the FB-111 in this and other respects.

If we go a separate route for each one of those functions with a different type aircraft for each one we obviously will have tremendous expenditures beyond anything foreseen in this budget now.

We have already invested many millions in research and testing of an aircraft that can be adapted to do all three of the tasks above. This is the swing wing variant of the B-1 commonly referred to as SAL, swing wing strategic ALCM launcher. It was originally designed for nuclear weapons delivery, but with some additional work it can be adapted to the multirole bomber missions. This MRB, multirole bomber, would be a quantum improvement over the B-52. It can carry twice the payload of the B-52. Its smaller radar image, greater speed, and advanced electronics would provide for a higher survivability than the older B-52.

If we are to go to a new bomber, with what does the MRB compare? Well, the report of the committee mentions the FB-111. The FB-111 that is envisioned in the report is largely a new aircraft. It is not just a ready adaptation of the fighter version of the 111.

After this was distributed, I found that the newer version of the FB-111 will have more fuel as proposed and would give it a better capability than what was indicated on that sheet that we sent around. The figures are closer, but they still show the MRB to be a superior airplane in range and in load-carrying capability.

In sum, the MRB, because it is a true multirole aircraft, is superior to the B-52 and the stretched FB-111. It is capable of supersonic flight. The B-52 and fixed wing, the cruise missile carrier, is not. It is capable of carrying just cruise missiles. The new stretched FB-111, when it is produced, is not.

The great strength of the MRB is its conventional capability. We get its ability to carry cruise missiles or to drop nuclear weapons as an additional feature. The MRB is an aircraft that can certainly last us many years.

Now the Senate Armed Services Committee recommended $91 million for the stretched FB-111 program. I do not propose any dollar increase in anything being proposed in this amendment. It seems to me that this amount of $91 million should at least be directed toward procuring an aircraft that does give us a greater defense potential. So the amendment that I have submitted will say that we should extend the consideration of other possibilities beside just the FB–111.

I will read from the amendment. After substituting the proper dollar figures we would strike out a certain line and then:

> Insert in lieu thereof "and of which not more than $91 million"—

I repeat, that is the same figure that is in the bill now—

> may be obligated or extended for the designs of a strategic bomber which can achieve an initial operation capability in the mid-1980's. Such designs shall, include but not be limited to the FB–111B/C aircraft;"—

I do not eliminate it. We add to that the consideration of—

> a multi-role bomber aircraft, a variant of the B–1 bomber aircraft;—

And we add to that—

> an advanced technology aircraft, or an appropriate mix of such aircraft, so long as such aircraft have the capability of performing the missions of—

I repeat the three missions again, that of a conventional bomber, that of a cruise missile launch platform, and that of a nuclear weapons delivery system.

In section 206 of the bill, we would say:

> The Secretary of Defense shall vigorously pursue the development of a strategic bomber which maximizes range, payload and ability to perform the missions of conventional bomber, cruise missile launch platform, and nuclear weapons delivery in both the tactical and strategic role. The Secretary of Defense shall submit a report on the results of this effort including comparisons of advanced technology aircraft with the B–1 and derivatives of the B–1 and FB–111B/C in terms of cost and military effectiveness. This report shall be submitted to the Committees on Armed Services of the Senate and House by February 15, 1981.

That is a date that is a long way in the future. It should enable them to make all these evaluations quite adequately and report back.

But I just hate to see us spending $91 million starting out on an aircraft that will not perform the three roles that I have mentioned and will not perform as well as some other aircraft that can be designed around existing technology.

Mr. President, I know we are not on a time limit, but I believe Senator MORGAN wishes to respond, and I would be glad to respond to any questions or any comments anyone else might wish to make.

Mr. CRANSTON. Will the Senator yield?

Mr. GLENN. I yield to the Senator from California.

Mr. CRANSTON. Mr. President, I am delighted to cosponsor with Senator GLENN an amendment that will insure development of a follow-on strategic penetrating bomber after the B–52.

Let me first underscore my continuing support for modernization of the bomber force. Manned bombers continue to play an essential role in our strategic defense triad: Land-based missiles (ICBM's), submarine-launched missiles, and cruise missile and bomb-carrying aircraft. Our B–52 force now carries 26 percent of our strategic nuclear warheads and 42 percent of our throwweight.

A manned bomber is a safer peacekeeping weapon. If need be, it can be recalled once it takes off on its mission; a missile cannot. Once a missile is launched—even if by accident or by miscalculation—the die is forever cast: A terrifying rigidity in the nuclear age. Because manned bombers are so slow compared to missiles they cannot serve as first-strike weapons. Their production, therefore, is far less threatening and less potentially destabilizing to United States-Soviet relations.

Despite the obvious importance of our bomber force, and the fact that the B–52 is aging, we have encountered a tremendous reluctance on the part of the administration to plan a follow-on aircraft to the B–52 as a penetrating bomber.

Since cancellation of the B–1 by President Carter in 1977, the subject of the B–1 or any other strategic penetrating bomber has been unpopular and untouchable. Planning for a follow-on aircraft to the B–52 has not been seriously undertaken. Each and every year since the cancellation of the B–1, I have tried—through testimony before, and other contact with, the Senate Armed Services Committee and also through work with the Department of Defense—to insure that the Department of Defense studies the issue of a follow-on bomber to replace the B–52 in future years. There has been only token funding for such studies. And despite these studies, the Air Force has failed to define the requirements for a future manned bomber force and has failed to recommend a coherent program to Congress.

I am pleased, however, with the administration's and the Senate Armed Services Committee's continued support for the testing and evaluation of the four B–1 test aircraft which were built before cancellation of the B–1 program. This effort has provided technological and operational insights into the potential of advanced penetrating bomber technology. As President Carter stated at the time he announced the cancellation of the B–1:

> Continued efforts at the research and development state (of the B–1) will give us better answers about the cost and effectiveness of the bomber and support systems—including electronic countermeasure techniques.

Though this B–1 research and development effort has gone forward, the essential task of planning for the production of a future bomber has gone nowhere.

Now the Congress has become impatient and has taken the matter into its own hands. The House of Representatives has added $600 million this year to develop a fixed-wing strategic weapons launcher aircraft capable of carrying air-launched cruise missiles in a stand-off mode only. The Senate Armed Services Committee has recommended adding $91 million to start up a "stretched" version of the FB–111 aircraft which could serve only as a penetrating bomber. These actions forcefully demonstrate that Congress wants a follow-on bomber and will wait no longer for the executive branch to request that new bomber.

The question now is: What bomber should be built—what bomber would best meet the strategic threat of the future and serve the strategic interests of the United States? It could well be that advances have been made in aircraft technology, electronic countermeasures technology and in the other technical areas related to penetrating bomber aircraft that should be incorporated into a future bomber. In general, I would hold that Congress should provide funds for specific weapons whose designs are already established. In this case, however, the real task is to force, urge, cajole or otherwise insure that the Department of Defense defines the strategic environment of the future; defines the role of the strategic bomber in that environment; and defines its detailed requirements for the bomber which can fulfill that strategic role.

Mr. TOWER. Mr. President, will the Senator from California yield for a question?

Mr. CRANSTON. Certainly.

Mr. TOWER. Does the Senator from California believe that the amendment of the Senator from Ohio (Mr. GLENN) might result in the production of a variant of the B–1?

Mr. CRANSTON. I think it might.

Mr. TOWER. I think it probably will not. The amendment offered by the Senator from Ohio (Mr. GLENN) is an administration amendment, and it is rather vague. I think that probably the best prospect to get a B–1 would be to permit us to take the F–111 language we have in the committee bill to conference. I think what quite conceivably could emerge from that could be a B–1 penetrator; the House has a B–1 SWL.

But, given the administration's attitude on the B–1, let me say to the Senator from California that if he really is interested in a B–1 derivative, that the adoption of this language would jeopardize it in the extreme, in my view. So I thought he should be apprised of that, because I know of his interest in that splendid airplane that is made in his State.

Mr. CRANSTON. Will the Senator explain why the language of the Glenn-Cranston amendment, in his opinion, would do this?

Mr. TOWER. There is no production money. It is a $91 million design. Of course, it has a little hooker in there. It has the F–111B and the B–1, something for everybody. But then it has "an advanced technology aircraft, or an appropriate mix of such aircraft."

Now, I do not really think that we need to put all this money in R. & D.

I think there are some of us who voted for the F–111 in committee because we felt that by doing so we could get the matter in conference, that the House had a SWL, which I do not think is the right way to go, and we might end up with a B–1 derivative as a penetrator. I think there might be a strong tendency on the part of our committee to go in that direction on the part of individual members.

Let me say to the Senator from California that he should read between the lines of this administration language. Remember, the administration canceled the B–1. The administration has resisted efforts to revive the B–1. If we adopt this language, kiss the B–1 goodby.

Mr. CRANSTON. First, let me say that I do not consider this an administration amendment. It is a John Glenn-Alan Cranston amendment. I am interested in a new bomber, the best we can have, one that can take advantage of gains that have been presumably made in technology. If that turns out to be a derivative of the B–1, fine. If it turns out to be some other plane, fine. We want the best plane we can have.

Mr. TOWER. So the Senator from California is backing off the B–1?

Mr. CRANSTON. We would like very much to have a B–1 derivative become the plane. But in terms of the national interest we want the best possible plane, and we have devised an amendment that leaves open that option.

Mr. TOWER. That is what the Senator from Texas wants. I think a derivative from the B–1 is probably the way to go, but I do not think we will see it with this amendment.

Mr. CRANSTON. The House language is restricted to a B–1 standoff bomber and, therefore, in terms of that language, would not seem to meet the real needs of the sort of plane we want.

Mr. TOWER. That is the very point I am trying to make. We have a penetrator and they have a carrier. We are going to try to convert that carrier to the penetrator.

Mr. GLENN. Regarding the remarks of the Senator on production figures, that was done very deliberately because what we are calling for in section 206 is the Secretary of Defense to give us back a report including these comparisons of the three, and we do not want to commit production funds until we get that information. It would be premature to do so otherwise. That report will be submitted to the Committees on Armed Services of the Senate and House by February 15, 1981.

Mr. ZORINSKY. Will the Senator from Ohio yield?

Mr. CRANSTON. I would be glad to yield to the Senator from Nebraska.

Mr. ZORINSKY. I would like to ask about this section 204 of the amendment of the Senator from Ohio. Why would the Secretary of Defense want to undertake a comparison of the defense technology aircraft with the B–1, the FB–111B and C, or any other derivative aircraft, when every time he sees me at an event in the evening he runs down the FB–111 converted B and C, and says they have no use for it, that he will not consider it, and under no circumstances would he support it?

To spend money in that manner indicates to me that judgment has already been made by the Secretary of Defense. To me, a more valid judgment has already been made. That is by the commander of the Strategic Air Command who is going to have to be responsible for getting those planes up in the air and having that penetrating capability.

I am no expert in this type of business, but having been mayor of Omaha, Nebr., where SAC is located, I developed a close rapport with the Strategic Air Command, and as a Senator from Nebraska I feel I have close rapport. I have had numerous briefings by the man empowered to give the commands to the Strategic Air Command.

I am firmly convinced from the briefings I have had, which have been classified, that General Ellis has a very strong desire for a window in the 1981's and 1982's to have the FB–111B and C projects completed.

Mr. GLENN. If the Senator from California will permit me to respond, I will say that we did not try to make a judgment in this case. We are not saying it should be the 111, we are not saying it should be the B–1, we are not saying it should be the advanced technology bomber. What we are saying is right now to settle down on the 111 and make it the item right now is premature without considering these others. That is the reason we did this as we did.

I would say that there is also another factor here as far as cost goes. We do not provide money in this bill to replace all of the F–111's that would be taken away from TAC, the Tactical Air Command, to go through this conversion. That is an additional sum, I think over $2 billion to replace those fighters that would be taken out for this supposed conversion.

Then also with the ranges on the 111, it would need an additional tanker fleet that is not provided here to get the same ranges that the other aircraft would get. So we did not try and make judgments with the information we had available. All we say is that instead of looking in right now on the 111, let us keep this open until we can study this and make sure that the bomber needs are met by the study. Then we can make a decision to go ahead with the production whatever type is decided upon.

Mr. ZORINSKY. Will my friend yield further?

Mr. GLENN. The Senator from California has the floor.

Mr. CRANSTON. I will yield for one more question. I do want to finish my speech and yield the floor.

Mr. ZORINSKY. Then I will allow the Senator to finish his speech.

Mr. CRANSTON. I will just take a couple more minutes.

If the Congress at this time dictates that a specific bomber be produced—a bomber based on current airframes and technology—we may forego an important opportunity to build the bomber that will meet the strategic threat of the future. Therefore, this amendment will give the Defense Department a wide range of choices in making a sound decision about the role of a manned bomber in the U.S. defense posture. It would also give the Pentagon an opportunity to make full use of the technological and operational insights they have gained from the Armed Forces' continuing evaluation of the four B–1's now being tested. And, of course, it is possible that the Department of Defense will conclude that the current B–1 bomber, or a derivative of it, is what they need.

The Defense Department may find valuable assets of the FB–111 bomber which it will incorporate into a new bomber. But the critical goal will have been achieved. A realistic future bomber program with a definite and specific IOC—initial operating capability—will be funded for the first time since 1977. The amendment specifies that the new bomber program must reach an IOC by the mid-1980's.

Our amendment has another advantage over the situation in which Congress mandates a particular bomber. For too long, those who opposed the cancellation of the B–1 and have wanted an active bomber program have been divided by disagreements over what that new bomber should look like and what airframe, if any, it should be based on. If Senators who support modernization of the bomber force could set aside those disagreements for the time being and support this amendment, I believe a stronger Senate position in favor of this necessary modernization would result.

I am pleased that the Senator from Texas and I agree on the common goal. To force the development of a new bomber must be our common goal. By expanding the choices the conferees will have to choose from, and by directing DOD to define its requirements for a new bomber, the Glenn-Cranston amendment will facilitate this goal. And, regarding the Senator's suggestion that this is an administration amendment, I point out to him that I have been at odds with the administration on this issue ever since 1977. This amendment will force DOD to do what it has refused to do for 3 years.

That completes my statement on this matter.

Mr. STENNIS addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Senator MORGAN will make a statement on behalf of the subcommittee. I will yield to him, if I may, if Senator GLENN has finished.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. MORGAN. Mr. President, I am pleased that my distinguished colleague from Ohio feels, as I do, the need of a penetrating bomber. I am glad that my colleague from California (Mr. CRANSTON) does, as he did back in 1977, and my other colleagues. I think the fact that we need a new penetrating bomber to supplement and to follow on the B–52 bomber is something that has been known and debated in the Halls of Congress for more than a decade. The truth is, Mr. President, we are no nearer today to a solution, if we rely upon the Office of the Secretary of Defense, than we were in 1977.

If I thought for 1 minute that the amendment of the distinguished Senator from California would lead us to some kind of action, I would be the first to support it. But when you give them an alternative of coming back for a B–1 bomber, which they have already canceled, or FB–111, which the Air Force itself has recommended to the Secretary of Defense, I know, on two occasions, and has been turned down, and when they have consistently rejected the recommendations of the Chief of Staff of the Strategic Air Command, then I can tell you now that the recommendation will come back on February 15, 1981, that we need an advanced technology bomber and that is nowhere in sight. There is not a Member of this Senate or a member of the Committee on Armed Services that can tell you that there is any prospect of an advanced technology bomber any time until maybe in the nineties.

What is the urgent need now? Let me go back, Mr. President, to tell you that I am not a Johnny-come-lately on this matter. I was in the Senate in 1976, when our President, then candidate, Jimmy Carter, was campaigning. One of the things he promised to take a look at was the B-1 bomber. I was interested then in a strong defense. I was concerned about our defense. So the distinguished Senator from Arkansas (Mr. BUMPERS) and I went to California and we took a look at the B-1 bomber. We came back by the Strategic Air Command, where we received briefings by the Chief of Staff, and I do not know who he was at that time.

Based upon that trip and based upon my study of the issue, I became convinced that we should pursue the B-1 bomber, which was then beginning to get introduction.

But there were efforts made in the Senate to cancel that B-1 bomber. I remember very well my distinguished colleague from Iowa (Mr. CULVER) offered an amendment, if I recall it correctly—and if I do not, he can correct me—which would have either delayed the production of the bomber or ultimately given until the new President came into office. Be that as it may, that amendment failed.

Mr. CULVER. Will the Senator yield?

Mr. MORGAN. Not at this present time. I will in a moment.

That amendment failed, I voted against the amendment.

Another amendment was offered. Then, it is my recollection that somewhere along the way, in the appropriations bill, the House put an amendment into its bill which gave to the incumbent President the right to cancel the production of the B-1 bomber. That was adopted—here again, subject to my recollection, but I am in the ball park—by the Armed Services Subcommittee of Appropriations by one vote or so. Then it came to the floor of the Senate and when we adopted the appropriations bill, it was contained therein that the President has the right to cancel the production of the B-1 bomber.

I have the record of that vote and I know who voted for it and who voted against it.

In June or July, after President Carter was inaugurated, he canceled the production of the B-1 bomber. I remember so well that, immediately after that, my distinguished chairman offered an amendment to delete $1.4 billion from that budget, saying that there is no need to appropriate money for five more B-1 bombers when the President of the United States, acting under the authority given to him by this Congress, has already said he is not going to do it.

So what did we do? We did not wait until 1978. We did not wait until 1979. We did not wait until this bill came up. In the very next month—as a matter of fact, in the same month—the need was felt so strongly for a new penetrating bomber that the Committee on Armed Services began to hold hearings.

The Subcommittee on Research and Development, under Senator Tom McIntyre. In a report issued for July 27, 29, August 24 and 29, 1977—the same month that the B-1 bomber was canceled by the President —the record is replete with discussions of the alternatives, what are the alternatives? Testifying was Dr. Perry the Undersecretary of Defense, and General Slay, who was Deputy Chief of Staff for the Air Force for Research and Development. At that time, General Slay stated that the Air Force was recommending the FB-111 as a possible alternative to the B-1 bomber. And there are many other references throughout this book, but I do not want to encroach on everyone's time this evening. Let me refer to page 281:

> Senator MCINTYRE. Thank you.
>
> Would a FB-111 stretch prototype program provide a more reasonable, practical or economical penetrating bomber option than continuing the B-1 development effort?
>
> Dr. PERRY. I would like to defer that answer until we have completed our assessment of the Air Force proposal.

The Air Force had already proposed it:

> Senator MCINTYRE. If authorization was approved to initiate a new stretch FB-111 prototype program as a penetrating bomber system, would the Defense Department or the Air Force want to continue two programs for penetrating bomber option?
>
> General SLAY. I will answer for the Air Force, I think it is an either/or, Mr. Chairman, and I would like to reiterate what Dr. Perry has said previously. We think it is essential, absolutely essential that this decision on the B-1 and the FB-111 be made simultaneously. A decision to stop the B-1 R.D.T. & E. without a parallel decision to go with the FB-111H I think would put us in an untenable position.

This was the man who had been charged by the Air Force, speaking for the Air Force, who said it would put us in an untenable position to cancel the B-1 bomber without going forward with the FB-111.

Then Mr. Smith of the research and development staff questioned him:

> Mr. SMITH. General Slay, is it clearly the Air Force's recommendation that that money be used to support a FB-111H startup?
>
> General SLAY. It is clearly our recommendation that we have made just recently, as Dr. Perry stated to the Secretary of Defense, to cease the B-1 R.D.T. & E. program and pick up the FB-111H option.
>
> We think that that is a more viable option. It is a cheaper option by far and we think it is something that will provide the necessary R.D.T. & E. program for a manned penetrating force for the future.

I say to my colleagues, that was the same month, or at least the following month after the B-1 bomber was canceled. That is the Deputy Chief of Staff speaking for the Air Force saying:

> We have recommended to the Secretary of Defense that it is imperative that we go forward with the FB-111 stretch program if you are going to cancel the B-1 program.

But what did we do? That subcommittee reported to the full committee, and the full committee added $20 million for research and development, and on October 7, 1977, on the floor of this Senate, it was debated.

I spoke on it, the distinguished Senator from Texas (Mr. BENTSEN) spoke on it, along with others. That money was left in the bill, in the authorization bill. I cannot find any record whether the appropriation was ever made, or not. I certainly find no record of whether it was ever used.

But what I am trying to say is that this is not a new Johnny-come-lately program. We have been waiting now for more than 3 years, and the Air Force has been pleading and pleading and pleading with the Secretary of Defense to do something.

Mr. President, if I may disgress just a minute, I want to say that I have the greatest regard for Dr. Brown, the Secretary of Defense, and Dr. Pirie, the Deputy Secretary for Research. I think they probably are the best technicians to be found anywhere, and that may be just the trouble. It may be that they are involving themselves so much in detail as to how to get there that they are unwilling to listen to their experts in their own services.

I told a story the other day when I was riding——

Mr. CULVER. Will the Senator yield?

Mr. MORGAN. Not at the present time.

I was riding up the west coast the other day with the Chairman of the Home Loan Bank Board from San Francisco. It happened to be one of those days when our dear savings and loans were in trouble. We predicted that.

He was talking about having an amount of money and the problems of it. I asked if he were an economist. He said:

> Heavens, no, an economist could not be president of this bank because he would be so bogged down in how he got to this results, he would never get to the results.

He said:

> I am surrounded by some of the best economists I have found. I let them give me the results and I evaluate them.

Sometimes I think we might be in that same boat because, certainly, the Air Force has consistently recommended we move forward with something, only to be turned down by OSD.

I want to say now, the reason the B-1 bomber was canceled, or at least the reason we were told it was, one was the cost—and it was cost. Mr. President, one of those B-1 bombers costs more than the entire campus of East Carolina University that has 13,000 students.

I notice the Senator from Washington (Mr. JACKSON), and no one can call him a dove on defense, voted against the B-1 because of cost. But another reason was that the cruise missile was coming on. I am happy they were. I believe they will help us return to that strategic equivalence.

But the one thing they all agree on, that is, if we take 1977 as the strategic equivalence, which we all purported to do, and that is our balance line to start with, it is generally conceded that we are now losing that strategic equivalence for a number of reasons.

One, because of underestimates on the part of our Intelligence Committee. Second, the Soviet Union has increased the accuracy of its warheads. It is increasing the number of those warheads. The Trident submarine is behind schedule.

I hope the MX missile is on schedule and I hope it comes into the force in the early nineties. But I think that question is still to be answered.

We are still debating tonight, and we will be debating tonight, important issues with regard to the mobile missile.

So whatever it is, the beginning of the eighties, we are going to have a period, as the Strategic Air Command refers to it, as a bathtub effect, unless we do something to regain our strategic equivalence.

This FB–111 is not a quick fix. It is not going to solve the problem, but it will help it.

Let me read what Dr. Harold Brown said last October 23 in response to a question by the Senator from Texas (Mr. TOWER). Mr. Brown said:

> ANSWER. The early 1980's threat presented by General Ellis is entirely consistent with the view I presented in my Annual Report accompanying the fiscal year 1980 Budget Request. Both views show that the increasing vulnerability of our ICBM's means that by 1982 the balance calculated to result after a Soviet first strike and a U.S. retaliation would be less favorable than we would wish, though remaining U.S. forces would be enough to wreak enormous damage against a broad range of targets, not just cities. Thereafter improvements in our SLBM and bomber forces will, if resolutely pursued, reverse the adverse trend and deployment of a new survivable ICBM will further improve our position.

So there is no question but what, in the middle of the 1980's, if we are not already, we will begin to lose our strategic equivalence.

So what does the Strategic Air Command recommend? What does the Air Force recommend to the Secretary of Defense last fall in a letter signed by the Assistant Secretary of the Air Force, except that if the budget restraints will permit us, we want the FB–111 stretch.

I do not think there is any question. I do not need to go back and present Senators with all of the arguments as to why we now need the manned bomber.

We know that the B–52's are going to be converted to cruise missile-carrying aircraft. There are so many acronyms. We know they will be able to carry up to 5,000 cruise missiles, which is more than we would hope to have by the nineties.

So while it would be desirable to have Senator GLENN's multiple-purpose aircraft that would be a penetrating bomber with conventional bombs and nuclear weapons, and also be a cruise missile carrier, that is not exactly what we need right now.

We need something that will be able to penetrate and be able, as quickly as possible——

Mr. CULVER. Will the Senator yield?

Mr. MORGAN. No, I will not yield now. If the Senator will permit me to finish, while I have it on my mind, I will try to go through it.

What are we asking for? We are asking that we appropriate $91 million for the purpose of research and development in beginning the conversion of 155 FB–111's, A's and D's, so that they can be a penetrating bomber, so they can carry nuclear weapons, not only into the Soviet Union, but there is not a place in the world that they will not be able to reach if the B–52's can reach them. They will be able to use bases the B–52's can use.

How fast can we get them?

Based on a slightly early operational date, the Commander in Chief of the Strategic Air Command says that in a favorable cost factor of approximately 2½ to 1, with an equally capable force, the Strategic Air Command believes that the better alternative is the FB–111BC.

The Air Force also recommends the stretched 111 as the best near term fix.

To meet penetrating bomber needs and to reduce the unfavorable strategic imbalance, the Commander in Chief of the Strategic Air Command says there are two operations available, the stretch FB–111 and the B–1.

Again, our first concern is availability. Our second concern is cost. We need help now. We may need it later, but we need it now.

As I mentioned earlier, the Senator from Ohio said it will not carry cruise missiles. Well, it will if it is modified, but that is not the point.

The B–52 currently is a completely accepted cruise carrier and probably will be, according to the evaluations of the Air Force, well into the 1990s. If we need more cruise missile carriers, we can modify the B–52H models for that purpose. But the major purpose of the FB–111 modification program is not to have it carry cruise missiles. It is a penetrating bomber for the 1980's, which is what we need. It can survive as a penetrating bomber into the mid-1990's, according to the Strategic Air Command.

I want to give Senators some figures that have been prepared by the Strategic Air Command and were made available to the Armed Services Committee.

As to the comparison of the penetration capability, let us take the B–52, with a penetration speed of Mach 0.55 and say that that gives us a relative radar cross section of one. Let that be your guide.

The B–1, with a penetration speed of Mach 1.85, would give you a radar cross section of only 0.28, which is a lot better than the B–52.

But what kind of radar cross section would this FB–111 give us? A whole lot less than the B–1. At a penetrating speed of Mach 0.85, it would give us a radar cross section of 0.04, as compared to the B–1 of 0.28 and the B–52 of 1.0.

As we go into the 1990's and mid-1980's, considering the B–52 as one, the B–1 penetration ability would be 1.53, but the FB–111 would be much greater. It would be two.

This chart is available, and it was available to the Armed Services Committee, and it was prepared by the Strategic Air Command. If we cannot rely upon the Strategic Air Command, to whom can we turn?

What about the cost? It has been pretty well determined that 155 of these planes will equal 100 B–1 bombers. In 1980 dollars, 100 B–1's would cost $12.5 billion. If my computation is correct that is about $125 million per plane, and that is far more than the campus at East Carolina University, with a student body of 13,000, would cost.

The FB–111 would cost about $5.5 billion, and these are not my figures. These are the figures of the Strategic Air Command. That would be about $30 million, to give us some near capabilities that we need very badly.

The argument has been made that if we take the FB–111's out of our inventory, we are going to be short on tactical aircraft capability. The 111 conversion, in my opinion, is a more flexible aircraft. It increases weapons capabilities and range. The FB–111 as modified will be under the Strategic Air Command's direct control but will be available for tactical operations, just as the B–52's were in Vietnam and have been in other areas.

The FB–111's can operate out of fighter bases worldwide and will be more readily able to support theater commanders, much more so than the B–52's. That information is available, but it is classified, and I cannot give it in an open session.

Let me point out one other thing: The Secretary of Defense had already ordered that the 89 FB–111's assigned to the Tactical Air Command be phased out in 1981. Later, because of some pressure that was brought on them by people concerned, it now has been changed to 1984.

So these airplanes were going to be phased out because they said the avionics in that particular airplane was expensive to maintain. But that will not be a problem here, because we are talking about replacing and changing and putting in new avionics that will be necessary. So that is not one of the problems.

Mr. President, I could go on, but I will talk specifically about some comments that were made by the distinguished Senator from Ohio.

The Senator from Ohio says he is talking about perhaps a new multirole bomber which will rely heavily on the research and development from the B–1 program; that while the B–1 program was designed for nuclear weapons delivery, with some additional work it can be adopted to the multirole bomber.

The MRB is a new plane, quite different from the B–1. Some additional work to make it a multipurpose plane will most likely be expensive. He wants to provide money for a plane on which no hearings have been held and no testimony has been taken.

I invite the attention of my colleagues to these books which are replete with testimony in the Armed Services Committee. When the Commander in Chief of the Strategic Air Command testified on the SALT treaty, he ended up his testimony with a plea for the FB–111.

Look at pages 774 and 775, where he testified on the SALT treaty. He came back last October, at the invitation of the Armed Services Committee, at my request, and he testified specifically with regard to that. Look at pages 1392 and 1393.

I asked him how many FB–111's should be modified. General Ellis said:

> GENERAL ELLIS. Sixty-six FB–111's, and 89 of Tactical Air Command's F–111's. Those aircraft would be modified with new engines, the B–1 engine. They would be stretched so that we would double the payload and we would double the range. We would achieve a range equivalent of the B–52.
>
> The payload increase, as I indicated in my statement, would be roughly 1,500 weapons. That would be additive to our overall strategic capability. That is, what we are looking for is a real increase. It is approximately one-half of the size of the SS–18 force.
>
> Because of the capability of this weapon system, we believe that it would continue to be a viable penetrator throughout the 1980's, with a very high penetration probability. This will permit us to proceed at a reasonable pace in the development of a follow-on strategic penetrator to be available in the late 1980's.
>
> That proposal has been approved by both the Secretary and the Chief of Staff of the Air Force and has been forwarded to the Secretary of Defense for his decision.

We have had hearings on this. There have been no hearings held on the proposal of the Senator from Ohio for a multipurpose bomber.

The Senator says that because the FB–111 stretch is a new plane it should be not thought of in terms of an inexpensive quick fix. We have never said that it was.

He says his MRB has far superior range capability when compared to the FB–111. No statistics are provided on the multipurpose bomber but the FB–111 has a takeoff distance of 8,100 feet or about 2,000 feet less than the B–52, and in the FB–111 we have a strategic bomber that can utilize most fighter fields within the free world.

I could go on and give Senators other statistics also. But what I am saying to my colleagues and I think at this late hour that there are not many minds changed, this is something that has been in the planning stage with the Air Force since the very time the B–1 bomber was canceled.

It is something that the Strategic Air Command, those persons in our military to whom we must look for our strategic warfare have been pleading with the Secretary of Defense to do.

So I think, Mr. President, that if we adopt this $91 million and if during the coming year some advance technology comes up, this Senate can reconsider it.

But the testimony is that unless this is made available by October 1 of this year it will probably be too late to plead for a time for strategic or penetrating bombers to help us in this period of time when our strategic bombers are going down.

So I plead with Senators to support the recommendations of the Armed Services Committee that were made after hearings going all the way back to July 1977.

Mr. President, I yield the floor.

SEVERAL SENATORS addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, I endorse the Armed Services Committee's recommendation to develop a manned penetrating bomber force by converting existing FB–111 aircraft.

For the next several years, the central question in determining our strategic force posture will be, "How much is enough?" As the Soviet Union brings new and more accurate missiles into its nuclear arsenal, we are entering a period of vulnerability to a counterforce attack. Soon the Soviets will possess the capacity to wipe out most of our land-based Minuteman missiles and leave the President with few options to respond, other than capitulation to the enemy's demands or a massive retaliation of the kind that would mean the end of civilization as we know it. Our people want to have full confidence in America's ability to respond to any kind of attack. And I do not want the United States to have to blink first in a strategic showdown.

There are few ways to restore quickly the credibility of our nuclear deterrent. The Air Force's ultimate answer, the MX missile, could face delays in deployment, and could even be neutralized by a Soviet buildup of warheads in the absence of a SALT II agreement.

One thing we can do, Mr. President, is to acquire a new penetrating bomber. Such a weapon is the fastest way to restore the nuclear balance, to give the President more options in case of nuclear attack.

The proposal to stretch and modernize a force of existing FB–111 aircraft and to create a new FB–111 B/C is the fastest and most economical way to reach that goal. The FB–111 B/C will not overlap the standoff function of the B–52, but will serve alongside the B–52 while we design a bomber adequate for the 1990's. In addition, the stretched FB–111 will be flexible enough to serve as a long-range penetrating bomber in a theater nuclear or conventional role, even after it has fulfilled its role as a part of the strategic deterrent.

Gen. R. H. Ellis, the commander in chief of the Strategic Air Command—the man actually in charge of responding to threats on U.S. territory—deems the stretched FB–111 the best solution for the security problems he faces every day. He is the one individual who ought to know what the country needs for a manned penetrating bomber in the near term. The Armed Services Committee has followed his advice. I urge my colleagues to do the same.

Now aside from those who say we need to do nothing to enhance our strategic deterrent, others in this Chamber would have us spend more time and more money—possibly twice as much money—building a new bomber. The Senator from Ohio has proposed a multirole bomber which would do everything our B–52's would do as well as penetrate Soviet air space.

While I recognize my distinguished colleague's expertise in this area, I would suggest that his solution overwhelms the problem. We are talking about a "quick fix" for our slipping strategic deterrence. The country needs a penetrating bomber that will buy time until new weapons systems are deployed. We do not need a new standoff launcher for cruise missiles; our B–52's will serve that function well into the 1990's. What we need is a penetrating bomber to complement the B–52 force until these designs are replaced with new technology.

I also feel compelled at this time to set the record straight regarding some materials my friend from Ohio has distributed to other Senators. I refer to a brochure comparing an aircraft similar to the multirole bomber with the stretched FB–111. Gen. R. H. Ellis, the commander of SAC, had his experts at Wright-Patterson Air Force Base—also in Ohio, I believe—examine the figures in this brochure. They found its statistics slanted in several ways to favor the multirole bomber.

The report by General Ellis' Aeronautical Systems Division, which I would like to insert in the RECORD, says that the brochure understates the range of the FB–111 B/C, when compared to that of the multirole bomber, by 15 percent. It understates the number of multirole bombers necessary to equal a force of 155 stretched FB–111's. It understates the multirole bomber's cost by more than $1 billion.

Now, I recognize that there are many ways to slice a statistic. But it seems clear that the aircraft advocated by the Senator from Ohio will cost more and take more time to develop than the FB–111, and that its additional capacity—that of a standoff cruise missile carrier—is a capability we already have in our B–52's.

I urge my colleagues to vote to increase U.S. strategic air power—but to solve the problem at hand. The commander of SAC, in ample testimony before this Congress, has indicated that the best solution is the stretched FB–111, not some B–1 variant or a multirole bomber.

Mr. President, the hour is late, and I will only take a couple additional minutes.

The Senator from North Carolina has made a very good case for the position of the Armed Services Committee as has the senior Senator from Texas.

I rise to support that position. I recognize the expertise of my distinguished and able friend from Ohio but in this particular situation I believe he has brought forth a solution of such magnitude that it overwhelms the problem.

What we have been talking about is a window of vulnerability for the Minuteman and we are talking about a solution here that matches that window of vulnerability.

The questions facing us today are: How much is enough when we try to see a deteriorating strategic balance in our country? How much is enough to try to take care of that and try to restore it? How quickly can we do it?

Here is one of the ways that it can be accomplished.

If we talk about the MX, we know

that there may be some inordinate delays in its construction. We know that the Russians will come up with multiple warheads that will give us problems in the utilization of it.

But here we have a situation of stretching and modernizing a force of existing FB-111's to make them into the FB-117B/C.

I believe it to be the fastest and the most economical way to give us a flexible long-range bomber that can serve in the nuclear capacity or in a conventional capacity.

General Ellis, who is the commander in chief, as the Senator from Nebraska has stated, of SAC, of the Strategic Air Command, strongly supports this to meet the threat that he faces in protecting this Nation of ours.

He believes it is the best solution, and I support him in that regard.

My distinguished friend from Ohio has very graciously stated a moment ago that he was correcting some of the information that was sent out in his brochure that was distributed to each of us concerning the range of the FB-111, and in that situation I might add to the Record, if I may, the comments of the experts at Wright-Patterson Air Force Base that deal with a number of the other statistics which were somewhat slanted in the information that was given, and I know through no fault of the distinguished Senator from Ohio. That was the information that was provided him, and if there is no objection, I ask unanimous consent to have that printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Aeronautical Systems Division Assessment of "Strategic Aircraft Comparison" Data

1. The "Strategic Aircraft Comparison" brochure attempts to compare the B-1 with derivatives of the B-1, i.e., the B-1 Strategic ALCM Launcher (SAL) and the Strategic Weapons Launcher (SWL). The SWL is a fixed wing aircraft intended solely for the standoff mission. The B-1 SAL referred to in the brochure is different from the SAL variants previously studied by the Air Force. The B-1 SAL described in the brochure is a multi-role aircraft intended to perform a variety of missions including a penetration mission with SRAM or gravity weapons (nuclear or conventional) and/or a standoff mission with ALCMs.

2. In order to compare the range payload performance of the various aircraft discussed in the subject brochure, the definitions of a penetration mission and a standoff mission, as used in the brochure, are defined as follows:

a. Penetration Mission—Variable Penetration Leg. A mission designed to have the aircraft fly 3600 miles at high altitude, penetrate at low altitude flying as much low level as fuel allows, climb back to high altitude and recover 500 miles to the landing base. By standardizing the high altitude portion of the mission at 4100 miles, a true comparison of mission performance capability can be made by computing the difference in remaining low altitude capability. Two-thirds (⅔) of the low altitude mission is flown at .85 Mach and the remaining one-third (⅓) is flown at .55 Mach. Air refueling is normally required and performed during the 3600 NM portion of the mission.

b. Standoff Mission. The entire mission is flown at best cruise speed and altitude with weapon release occurring 500 NM before the end of the mission. No low altitude cruise is required.

3. The following comments relate to those items discussed in the brochure where there is disagreement with the brochure data. Where specific items are not commented on there is either no substantial disagreement or there is insufficient data upon which to comment. It must be noted that the B-1/SAL and the SWL are operating at gross weights above those anticipated in past studies or flight tests. The impact of this overweight condition must be evaluated as part of the SAL contract effort.

COMMENTS

a. Range Comparison. The table in the brochure relating the range performance of the B-1 Restart, the B-1/SAL and the Fixed Wing SWL are substantially correct; however, it should be noted that the B-1 Restart is performing a penetration mission including the higher fuel consuming low altitude leg whereas the B-1/SAL and SWL fly high altitude missions.

b. Comparison of Swing Wing SAL and FB-111B/C. The following table compares the evaluation of the aircraft included in the brochure vis a vis the entries in the brochure table.

The B-1/SAL Standoff Mission data below are included for comparison with the brochure data only and is not considered a valid comparison, i.e., a penetrating FB-111B/C flying a low altitude penetration mission should not be compared with a high altitude, B-1/SAL standoff mission. The B-1 SAL penetration shown here is a valid comparison.

AIRCRAFT PERFORMANCE—RANGE RATIO

B-1/SAL standoff mission

Tanker	ALCM	Brochure	ASD
No	30	1.00	0.85
No	16	1.60	1.15
Yes	30	1.45	1.25
Yes	16	2.00	1.55

B-1/SAL Penetration mission			FB-111B/C with 10 SRAMS refueled penetration mission (percent)	
Tanker	SRAM	ASD	Brochure	ASD
No	30	.80	[1] 100	[2] 100
No	16	.95		
Yes	30	1.05		
Yes	16	1.15		

[1] 5,100 NM.

[2] 6,000 NM.

Notes: Columns headed "brochure" are B-1/SAL ratios calculated using brochure estimates of FB-111B/C range as 100 percent. The brochure understates the ASD estimated range of the FB-111B/C by 15 percent. Columns headed ASD are B-1/SAL ratios calculated using ASD estimates of FB-111B/C range.

EQUIVALENT FORCE COMPARISON

	B-1 SAL		FB-111 B/C brochure
	ASD	Brochure	
Equivalent force size:			
SRAM	[1] 65	52	155
MK-82	37–o6	23	155

[1] 65 aircraft buy in fiscal year 1981 dollars correlates to $7.9 billions based on same cost ground rules used in par. c below.

The ASD SRAM Force Size Equivalent for the B-1 SAL is a conservative estimate using somewhat lower gross weights than used in the brochure at a representative refueled range and is based exclusively on the range/payload performance independent of operational considerations, such as, target assignments, distribution, etc.

The estimate of MK 82 equivalent force size is based only on the ratio of B-1/SAL internal carriage of 84 MW 82 when compared to either 20 or 36 MK 82 carriage externally on the FB-111B/C. If necessary, the FB-111B/C could carry as many as 52 MK 82 weapons. In this case, 96 B-1 SAL's would be an equivalent force size.

c. Comparison of Fixed Wing SWL, 3-1/SAL and B-1 Restart, Cost and Delivery.

COST

[Based on 100 aircraft buy and fiscal year 1981 dollars, in billions]

	Fixed wing SWL		B-1/SAL		B-1 restart	
	Brochure	ASD	Brochure	ASD	Brochure	ASD
R.D.T. & E	2.0	2.8	2.0	2.2	1.9	1.7
Prod	6.8	9.8	9.8	11.2	11.3	12.7
Total	8.8	12.6	11.9	13.4	13.2	14.4

Conditions:

1. B-1/SAL is a new excurison from a previous swing wing SAL derivative.

2. Incorporates April 1980 Inflation Rates.

3. All estimates are AFSC ASD 1VG (parametrically obtained).

Delivery:

ASD estimates dates for B-1/SAL and B-1 restart first aircraft delivery IOC and 100 aircraft delivery are 3-4 months later than the brochure. Dates for the fixed wing SWL are on the order of 10-12 months later than shown in the brochure.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. STENNIS. Mr. President, will the Senator from Texas yield to me for a minute?

Mr. TOWER. Mr. President, I yield to my distinguished colleague on the Armed Services Committee.

Mr. STENNIS. Mr. President, the Senator from North Carolina has presented the writeup of this bill by the committee. I must say he made an excellent presentation.

I especially thank him for his presentation, and I shall have some remarks, but I am glad the Chair recognized the Senator from Texas.

I thank the Senator for yielding to me.

Mr. TOWER. Mr. President, here we are with another study. This has been but a sham if I ever saw one. All we need is another study.

I submit that the Russians are not deterred by study and we cannot carry bombs on studies. We cannot deliver urgent hard target kill capability with studies.

What we need is an interim bomber to help close that window of vulnerability that we are going to be faced with through the decade of the eighties.

I know that the administration is very interested in this amendment because it really requires them to do nothing but study. I think that is all that they want.

If Senators vote for this amendment, it is not a vote for the B-1, it is not a vote for a near term bomber. Rather, it is a vote for another year's delay.

That is what it is a vote for, another year's delay in getting a bomber that will help us redress the enormous imbalance that is going to face us during the decade of the eighties, and it is a vote for $91 million worth of study at the end of which will be yet another year away.

Mr. President, I prefer the committee version.

UP AMENDMENT NO. 1388

(Purpose: To delete $25,000,000 in Air Force aircraft procurement and $66,000,000 in Air Force Research Development, Test and Evaluation for the FB-111 program and to add $91,000,000 to Air Force Research, Development, Test, and Evaluation for a near-term strategic bomber)

Mr. TOWER. Mr. President, I send to the desk an amendment in the nature of a substitute to the amendment offered by the Senator from Ohio.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. TOWER) proposes an unprinted amendment numbered 1388 in the nature of a substitute for the Glenn unprinted amendment numbered 1387.

In lieu of the language proposed to be inserted by amendment UP-1387, insert the following:

On page 38, line 11, insert the following: strike the figure "$9,541,943,000" and insert in lieu thereof: "$9,516,943,000."

Section 201, page 45, line 23, strike the figure "$7,135,197,000" and insert in lieu thereof "$7,160,197,000." On page 45, line 24, strike out the semi-colon and insert in lieu thereof "and of which not more than $91,000,000 may be obligated or expended for advanced development of a strategic bomber which can achieve an initial operational capability of 1985."

Mr. TOWER. Mr. President, what this amendment simply does is to provide that not more than $91 million may be obligated or expended for advanced development, not a study, but advanced development of a strategic bomber which can achieve an initial operating capability, IOC, by 1985. It gets specific. We know what is available that can achieve that initial operating capability. It is not something that is off in the designer-study phase. If they can come up with some sort of advanced technology that can meet that IOC fine, but what we are looking at here is, in effect, the option between a B-1 or B-1 derivative and an F-111, and these are the options that we should be looking at and looking at earnestly without any consideration of parochial interest.

So I offer that amendment in the nature of a substitute. At some point I trust that someone will move to table the amendment offered by the Senator from Ohio. If that is the case I will support it.

Mr. CANNON. Mr. President, will the Senator yield for a question?

Mr. GLENN addressed the Chair.

Mr. TOWER. Mr. President, I yield to the Senator from Nevada.

Mr. CANNON. Do I understand now from the Senator's amendment that the House, which has a provision in for the son of B-1, would not be precluded from considering it under this amendment?

Mr. TOWER. That is true. However, considering the fact that the House has got a SWL, which does not seem to be the best way to go right now, I would think we would go toward some other kind of derivative of B-1 rather than SWL.

Mr. CANNON. The FB-111 stretched would still be under consideration.

Mr. TOWER. It would be under consideration.

Mr. CANNON. And any other new development bomber that might come along that could meet that IOC would be considered.

Mr. TOWER. If something comes down to meet that IOC, it would be eligible. If you can get a high technology system in it by that time—I do not think you can realistically—but if you can, so be it.

Mr. CANNON. Let me say to my colleague this meets the test of one of the concerns of General Ellis which was the fact that we could have in an earlier point in time an FB-111 that could meet the requirements of SAC about which he is so concerned.

It seems to me that if we are fixing a time frame here and giving them the options of what could be brought on and let them make an executive decision in that time frame, it seems to me this is a better solution.

Mr. TOWER. That is what my amendment would do.

Of course, I think we can accomplish that anyway with the bill as it is because we have an F-111 penetrator, and they have a B-1 strategic weapons launcher, so what we could do is worry around to that and come up with something that may not be quite either one.

Mr. CANNON. At least in conference the whole issue would be in conference.

Mr. TOWER. The whole issue would be in conference and could be resolved in conference, and I think that was the original motivation of many members of the committee in the first place in voting to authorize the F-111 so that we could get the matter in conference and discuss it with our colleagues over there who are highly expert in these matters and very good at these things, and see what we could come up with.

Mr. CANNON. I am inclined to agree with the Senator from Texas that the issue would be in conference, the basic issue, whether we stuck with the FB-111, which the House provides for, or whether we took the Senator's amendment.

Mr. TOWER. That is right. I think we would be crippled in conference with the amendment of the Senator from Ohio.

Mr. CANNON. I think we would if we limit it to a study, and I support the Senator's amendment.

Mr. ROBERT C. BYRD. Mr. President, I yield to Mr. Stennis.

Mr. STENNIS. I thank the majority leader.

Mr. President, the presentation here made on this series of proposals—and I do not blame anyone for that—but the bill that the committee wrote up after taking this testimony, after 4 years of earnest effort by a great many on the committee and off, is the presentation made here by the Senator from North Carolina, and I repeat what I told him, that I thought it was an excellent presentation. I hope now that we will keep our eye on the ball and get a vote here on the committee's recommendation.

If it does not carry, I will have no grievance. But I do believe the committee's work on it is entitled to the utmost weighing tonight, and I hope that consideration will be given and that it will bring about this result which I indicated, which is the position that I am going to stick with. These matters will all go to conference finally, and after 4 years I hope we can reach a solid decision that will bear fruit.

I thank the distinguished majority leader. I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I rise to inquire as to how many amendments remain to be called up.

Mr. TOWER. Mr. President, if the distinguished majority leader will yield to me, we have an amendment by Senator BAYH and Senator THURMOND that I think will be accepted. I have not discussed it with Senator STENNIS. Then we have one by Senator ARMSTRONG.

Mr. ARMSTRONG. If the Senator will yield, Mr. President, Senator MATSUNAGA and I will call up an amendment relating to military pay.

Mr. TOWER. Will the Senator ask for a record vote on that?

Mr. ARMSTRONG. I will not.

Mr. STENNIS. Mr. President, if I may respond, along with Senator——

Mr. TOWER. Senator JEPSEN.

Mr. STENNIS. They have brought them to us, we have studied them, and I think they will be accepted. Not that last one.

Mr. ARMSTRONG. Do not prejudge it. You may like it better than you think.

Mr. ROBERT C. BYRD. Mr. JEPSEN has one and Mr. GLENN has another. Could we get time agreements on them?

There is already a time agreement on the amendment by Mr. BAYH which is 20 minutes, I believe, equally divided.

Mr. EAGLETON has an amendment on which there is already a 20-minute time limitation.

Mr. THURMOND suggests 5 minutes to the side—there is already an agreement on that amendment.

Mr. JEPSEN?

Mr. JEPSEN. Five minutes.

Mr. ROBERT C. BYRD. Is that agreeable? All right. On the amendment by Mr. JEPSEN that will be 5 minutes to a side. All right. I make that request.

The PRESIDING OFFICER (Mr. SARBANES). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Now, on the amendment by Mr. GLENN, the second amendment, on the MX.

Mr. GLENN. I do not know how many people may want to speak on it, and I would hate to set a time agreement on it.

Mr. TOWER. Mr. President, will the distinguished majority leader yield? I am sorry, there is one more remaining on this side. The Senator from Maryland (Mr. MATHIAS) has one. We cannot find him, and I am reasonably sure he would agree to a fairly short time period. But I cannot affirm it until we reach him.

Mr. ROBERT C. BYRD. Can we reach an agreement on the pending amendment?

Mr. STENNIS. I believe so. We have had a splendid discussion here by the principal ones. Others may want to discuss it, of course, if they want to discuss it some more, and I would hope that in view of the discussion we have had that we could——

Mr. ROBERT C. BYRD. On the second degree amendment and the first degree amendment.

All right, I thank Senators. That means we have no agreement on the pending amendments in the first and second degree; that we have no time limitation agreement on the amendment by Mr. ARMSTRONG.

Mr. ARMSTRONG. Mr. President, if the Senator will yield, I would be pleased to enter into an agreement. It is not my purpose to have a lengthy debate on the amendment Mr. MATSUNAGA and I would offer, and if he and I could have no more than 30 minutes, whatever the other side would like, we would have no disagreement.

Mr. STENNIS. May I inquire, you do not have here now what is ordinarily called the pay bill to offer?

Mr. ARMSTRONG. I beg the chairman's pardon?

Mr. STENNIS. I say you do not have a pay bill to offer now to be voted on, unless it is very slight?

Mr. NUNN. I would say to the chairman I have discussed this matter with Senator ARMSTRONG, and I believe it is the amendment we talked about, and I was planning to make a few comments on that amendment. But I believe our side could take 15 minutes. I believe 45 minutes total would be sufficient and maybe we could cut that time down in total.

Mr. STENNIS. All right, if you will handle it on that basis.

Mr. ARMSTRONG. Mr. President, if it is agreeable to the leader and others, that division of time would be acceptable to Mr. MATSUNAGA and to me, and we would attempt to dispose of it even more rapidly than that.

Mr. ROBERT C. BYRD. The Senator is suggesting 30 minutes under his control and 15 minutes under Mr. NUNN's.

Mr. ARMSTRONG. That is correct.

Mr. ROBERT C. BYRD. Is that the understanding, 15 minutes under Mr. NUNN's control and 30 minutes under Mr. ARMSTRONG's control? I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, reserving the right to object, I would like to ask the majority leader what is going to be the plan here. Are we going to get unanimous-consent agreements on some of these and leave some of the others wide open and try to finish tonight, because some of these are very important on which you do not have time agreements, and if we are going to go through this exercise until the middle of the morning, I do not know that I will agree to any agreements. I would like to know what the plan is, whether we are going to try to finish tonight or whether we are going to go over until tomorrow when we can get freshened up a bit, because the Senator from Ohio's MX amendment is one that I am sure is going to require some extended discussion if he is proposing to run that through the cities of this country with the nuclear weapon on the back, and that is something——

Mr. BOSCHWITZ. Would the Senator use his microphone, please?

Mr. STENNIS. Mr. President, you know I want everyone to have a chance to make a reasonable argument which is the reason I had not suggested any short time, but certainly we ought to have controlled time, as I see it, as to these others.

Now, I very much hope we can finish this bill tonight. I think I have good and valid reasons, apart from a personal reason. We have come right down to the end of it. These small amendments and on these major matters the issues have been well drawn, and if we could just have an agreement here, an agreement for time on it, if we go right on through with it——

Mr. TOWER. If the Senator will yield, Mr. President——

The PRESIDING OFFICER. Is there objection to the request on the time limit on the Armstrong amendment?

Mr. CULVER. Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. Well, I am told that the pending amendments in the first and second degree can be disposed of fairly quickly.

Mr. TOWER. I think so unless Senator GLENN wants to talk to it.

Mr. GLENN. I am willing to accept your change to it, and I think we can move on quite rapidly.

Mr. CULVER. Mr. Leader, reserving the right to object, I think we are talking about some increasingly important questions. It is 11 o'clock at night and I am not at all certain just what we are talking about as to the first and second degree amendment. I have been here conscientiously listening to every minute of the debate.

But I think this has very profound implications to this whole strategic nature of the American defense system. With all due respect, I think we ought to have an ample opportunity to discuss these questions and begin to give them the kind of consideration they merit.

So I think, unless and until I am satisfied as to just what we are doing here and what the implications are, in all due respect, I do not feel that I can in any way go along with an agreement.

Mr. STENNIS. Mr. President, may I respond to that briefly? These are important matters to be decided. You do not have to have me here. If we could have an agreement in the morning to meet here at a certain time to dispose of these small matters, meet here in the morning at a certain time with controlled time on these major points here about the bomber and the MX, those directly related, I think we can get at it, no doubt about it, and in 3 hours time total, if not, make it 4, and have a final vote then on final passage. I will try to come.

Mr. TOWER. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. TOWER. It occurs to me that we might be able to finish this bill tonight. There are some people who do not want time agreements. Senator GLENN has suggested we could perhaps dispose of the pending business fairly soon.

As I see it, the only thing that is really going to hold us up is the MX amendment, because that is the one that nobody seems to know anything about.

Perhaps once we get to it and find out about it, we can get a time agreement on it. We have gotten agreements on virtually everything else.

Mr. GLENN. Will the leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. GLENN. Mr. President, I associate myself with the remarks of Senator CULVER. I have been on this floor now for 13½ hours today waiting to bring this up. I have been very patient, as the leader knows. I have talked to him about it five or six different times.

Now I am supposed to agree to a very short time period here in the middle of the night in order to get this thing out.

What we are talking about involves the safety of the United States of America for perhaps the next generation, and I do not exaggerate that. Because, for the first time in many, many years we are setting out on new buys of military equipment that are going to last this Nation for probably the next generation. We are getting over an airplane that is probably darn near two generations old now. We are setting out on buying a new one of some kind. We are trying to wind this up in the middle of the night here, trying to discuss something that is of vital importance.

Another item is the MX. What we embark on is between a $33 and $50 billion outlay, the way we are going now. What I am going to propose I think gives us a better deterrent to the Soviets and costs somewhere between $20 and $26 billion and saves us a lot of money.

On the Foreign Relations Committee that I am a member of, we talked last fall and we have an understanding of what our foreign policy is and what the military buys should be to back up that well thought out foreign policy. We have not progressed very far on that. I see the Senator from Texas (Mr. TOWER) smiling and turning away as though we had nothing to do with what the military buys are. But, nevertheless, we are planning to study some of these things.

Mr. TOWER. It was the reference to well thought out foreign policy.

Mr. GLENN. If the Senator will let me finish, what we are proposing here are buys that are going to determine the military capability of this Nation for the next generation, while the Soviets are on a continual expanding policy.

To think that we are supposed to make these decisions here on short notice in the middle of the night, I think is preposterous. I just am not going to agree to any time limits on this basis.

I said before and I will say again that I am happy to come back tomorrow or, if this carries over, I think this is so important that if it has to be taken up after the break, it should. But it is that important. We are not talking about small matters here. And it is not small amendments that are just little alterations in our defense posture. What we are doing this year is embarking on the military buys that we are going to have to live with in this country and the free world will live with for the next generation.

This is too important for us to be taking up in the middle of the night when everybody is tired. I would propose we go home and bring this up tomorrow. If we do not get them debated out tomorrow, so be it. We will take them up after the break. But we deserve to give this the best of our attention and consideration.

Mr. ROBERT C. BYRD addressed the Chair.

Mr. STENNIS. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes, I will, shortly.

Let me say this: I think this will put the thing in focus. We already have a time agreement that provides for final disposition of the bill at 3 o'clock tomorrow afternoon, so it will not be carried over. And I am committed to bring up the Alaska lands bill upon the return of the Senate by an order of the Senate that was entered many weeks ago.

We have an amendment by Mr. BAYH on which there is already a 20-minute time limitation. We have an amendment by Mr. JEPSEN on which there is already a 10-minute time limitation. We have an amendment by Mr. EAGLETON on which there is a 20-minute time limitation.

That only leaves three amendments that I know about, other than the pending amendment, and I understand that can be disposed of quickly.

One amendment by Mr. ARMSTRONG, on which I proposed a 45-minute limitation; 30 minutes to be controlled by Mr. ARMSTRONG, 15 minutes by Mr. NUNN.

That only leaves two; one by Mr. MATHIAS. He is not on the floor, but I am told by Mr. TOWER that a very short time limit could be possibly agreed to there.

Mr. NUNN. I will agree to that on the Mathias amendment. It is not going to be a very long one.

Mr. TOWER. The Mathias amendment is going to be short. As a matter of fact, it could be incorporated in the Jepsen amendment.

Mr. ROBERT C. BYRD. That only leaves one amendment, and that is the amendment to which Mr. GLENN has addressed some remarks and which will probably take some time.

Mr. STENNIS. Mr. President, will the leader yield a moment on that point?

Mr. ROBERT C. BYRD. Yes.

Mr. STENNIS. The Senator from Ohio (Mr. GLENN) has been very busy here today. He conferred with me quite a bit on the amendment about the bomber. But he has forgotten that he has never said that he was going to offer for consideration an amendment on the MX. He said he wanted to discuss the MX some, but that he would not offer the amendment. Now, that was this morning, and, undoubtedly, he does not remember that. But he never did tell me any differently.

Mr. GLENN. I indicated that we wanted to have a considerable discussion on the MX. I do not recall any mention of the amendment or not. But it seems to me that it is rather immaterial.

Mr. STENNIS. Anyway, I have an obligation to the Senator and to all other Senators.

Mr. Leader, you go ahead and arrange this for tomorrow any way you see fit. I will do the best I can. That is the law I live under. We could take these so-called little matters up here tonight and get them out of the way.

Mr. ROBERT C. BYRD. I was just going to summarize by saying that, except for the MX amendment of Mr. GLENN, if the Senate agrees to the request that I have just made with respect to the Armstrong amendment, and if Mr. MATHIAS will agree to a time limitation on his amendment, and I understand that will not take very long, that will only leave one amendment, other than the pending amendment, and that would be the amendment by Mr. GLENN on which there evidently is going to be considerable debate.

Mr. GLENN. I do not know that there will be or not. I just do not want to limit it at this time, because I think it is so important.

Mr. ROBERT C. BYRD. If we could agree to the Armstrong amendment of 45 minutes, 30 under the control of Mr. ARMSTRONG and 15 under the control of Mr. NUNN.

Mr. STENNIS. Mr. President, which one is that? The pay amendment?

Mr. ARMSTRONG. If the Senator will yield, yes, the amendment the leader refers to that Senator MATSUNAGA and I will call up is an amendment related to a catchup pay increase of 3 percent for the military.

Mr. STENNIS. I had no knowledge about that. I suppose Senator NUNN is aware of that one.

The PRESIDING OFFICER. Is there objection?

Mr. MORGAN. Mr. President, I am willing to work with the leader in any way he chooses, but I think the leader advised us last night that we probably were going to have a very late session. The Senator from Ohio and I conferred earlier before dinner. We would really like, once we started this, to finish this. I would like to see us stay here and finish this amendment. Both of us and our colleagues are pretty much concerned about this. If we start tomorrow, Senators know how it is, we will have to repeat it all. I think we are pretty familiar with the issues. They have been debated for 3 or 4 years. I would hope we would stay here tonight and finish this amendment.

Mr. ROBERT C. BYRD. May I make this suggestion, if Senators will hear me, in response to the distinguished Senator from North Carolina, and I think he is absolutely correct. It is the intention of the leadership and the managers of the bill to complete action on the pending amendment tonight. There is no question about that. I would like to suggest, and I am not the Senator who has to stand here and manage the bill, that once we dispose of the pending Glenn amendment and the amendment thereto, that we proceed to complete action on the three or four amendments on which very little time is required—10 minutes on one, 20 minutes on another, 20 minutes on a third.

Mr. TOWER. And 20 minutes on yet another. Senator MATHIAS just agreed to 20 minutes equally divided.

Mr. ROBERT C. BYRD. That only leaves the one Glenn amendment then. If Senators would agree to carry that over and begin in the morning at 9 o'clock and dispose of it perhaps by noon——

Mr. CULVER. Will the majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. CULVER. Does the majority leader have any idea how much time he is talking about in totality, if it is all used, just the ones he has expressed the time agreements on, with the time for voting added in?

Mr. ROBERT C. BYRD. Twenty on BAYH, twenty on JEPSEN, twenty on MATHIAS——

Mr. CULVER. And 45 on ARMSTRONG.

Mr. ROBERT C. BYRD. Yes.

Mr. CULVER. Plus any vote time.

Mr. ROBERT C. BYRD. Plus any vote time.

Mr. CULVER. Mr. Leader, here is my concern: I have tried since 8 o'clock on several occasions to be afforded an opportunity to comment and to discuss the pending amendment. I very much want an opportunity to do that. There is no limitation on debate on that amendment. I think it proper that that be the case because it is both complicated and involved and very important.

I would anticipate using the opportunity to speak on that issue to the extent that I feel necessary. My thought would be that it might be possible to agree to take up these other matters and then leave for tomorrow morning the resolution of both the MX amendment and the pending amendment. I say that because I think we could also utilize well the time overnight to discuss and look at the implications of these amendments. I know the distinguished Senator from Texas has amendments. We would have the chance to discuss the full ramifications. I say that so that we can expedite. If it is necessary to go on tonight, I am afraid I would feel compelled to go on tonight.

Mr. DECONCINI. Will the majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. DECONCINI. Is it possible to set up a time tomorrow to commence voting on the pending amendment and these other amendments? I do not think many people will be changed by further debate. We will all have the record available. It might be wiser for us to go home, those who want to, and those who want to remain can remain.

Mr. ROBERT C. BYRD. Mr. President, if Senators will allow me, I think we would all save time if Senators would allow me to get the time limitations on the Armstrong amendment and the amendment of Mr. MATHIAS and let me sit down.

I will not ask for a time limitation on the pending amendment. I will not ask for a time limitation on the MX amendment by Mr. GLENN. But if we can get time limitations on these other two and let me sit down, the managers and Senators can stay as long as they wish and dispose of some of these smaller amendments. I am told they will not require rollcall votes. Then if we can have an understanding that there would be no more amendments other than the two Glenn amendments remaining—and one of them may be disposed of tonight, I do not know—if we could have the understanding there would be no more amendments in order because we already have the agreement that the bill will be disposed of by no later than 3 o'clock tomorrow—well, let me pose them one at a time, a little bit at a time. I ask unanimous consent that on the Mathias amendment there be a 20-minute time limitation equally divided.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I repeat my request on the Armstrong amendment, 45 minutes, 30 minutes under the control of Mr. ARMSTRONG and 15 minutes under the control of Mr. NUNN.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I as unanimous consent that other than the pending amendment and the MX, that no more amendments be in order.

Mr. BAKER. Mr. President, reserving the right to object, I assume we have enough people here to ascertain if that precludes any other amendments to be offered. I know of none.

Mr. JAVITS. Except for one point, amendments to amendments. There has been no provision for that.

Mr. THURMOND. Has provision been made for the amendment Senator BAYH and I expect to offer?

Mr. ROBERT C. BYRD. Yes.

I ask unanimous consent that no amendments be in order other than germane amendments to the Glenn amendments.

Mr. JAVITS. What about all these other amendments you have unanimous consent for?

Mr. ROBERT C. BYRD. I understand from talking with the managers, who apparently know what they are all about, they anticipate that most of them will be accepted. Mr. TOWER could respond to that.

Mr. TOWER. Yes. It is my understanding from my discussions with our distinguished chairman that these amendments will be accepted. There will be some disposition made of the pay amendment. The other amendments, the ones on which there is a short time, will probably be accepted and voice voted. It seems to me we could dispose of the pending issue right now but apparently the Senator from Iowa feels he wants to talk about it at great length.

Mr. CULVER. If the Senator will yield, I did not say necessarily great length. But I would like to talk about it. I have not been monopolizing the time. I have been listening to the Senator for days and it has been very edifying.

Mr. TOWER. Let me say the Senator from Iowa did want to speak on the issue, and he has a perfect right, and he has not spoken on it yet. Nobody is questioning that. We are just talking about time.

That leaves only the Glenn amendment that would, in effect, delete the present multiple protective system bases and put the MX on trucks and run it around all over on roads, I think. That would be the only thing left. That is all we have. I do not see why we do not proceed and do what we can do tonight. Everybody expected a late session. Three o'clock tomorrow afternoon will come very early.

Mr. JAVITS. Mr. President, it is always dangerous to lock the door on any amendment. I strongly suggest to the leader that he provide for amendments to the amendments with a 10-minute limitation, 5 minutes on each side.

Mr. ROBERT C. BYRD. Mr. President, I say to the distinguished Senator I have not asked for any time limitation on the two Glenn amendments. If the Senator wishes to have a 10-minute limitation on amendments to the amendments—Mr. BAYH'S, Mr. ARMSTRONG'S, Mr. JEPSEN'S, Mr. MATHIAS', Mr. EAGLETON'S—I should be glad to make that request.

Mr. JAVITS. I would like to do that.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on any amendment to any one of those five amendments, such amendment be germane to the amendment and that there be a time limitation on the amendment in the second degree of 10 minutes to be equally divided in accordance with the usual form.

Mr. BAKER. Reserving the right to object, Mr. President, I do not mean to object. I have no problem as far as I am personally concerned with precluding further amendments as prescribed by the majority leader. But that is a dangerous practice, and I want to make sure all the Members on this side understand fully what we are about, that there will be no amendments other than those identified and provided for. If there is objection to that, it should be voiced at this time.

Mr. JEPSEN. Will the Senator yield?

Mr. BAKER. Yes.

Mr. JEPSEN. Reserving the right to object, I might inform the Senator that Senator MATHIAS' amendment is close to an exact duplicate of the last paragraph of my amendment, and when I find Senator MATHIAS, I shall see if we cannot put the two of them together.

Mr. BAKER. Mr. President, I thank the Senator from Iowa. I thank the majority leader for bearing with me to make that inquiry. I ascertain no objection on this side of the aisle.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank all Senators.

Mr. STENNIS. Mr. President, will the Senator from West Virginia yield to me?

Mr. ROBERT C. BYRD. Yes.

Mr. STENNIS. We have these small amendments here now and we are very familiar with them. I suggest it will take just a few moments, unless it is the pay amendment, that might require some time. I would like to move right along on these small ones, so tomorrow we will not have them ahead of us.

Mr. CULVER. Mr. President, does that mean we shall take up the pending amendment tomorrow morning?

Mr. STENNIS. Yes.

Mr. MORGAN. Reserving my right to object, I would object to that.

Mr. ROBERT C. BYRD. Mr. President, may I say to my friend from Iowa that

I did state to the distinguished Senator from North Carolina (Mr. MORGAN) that we would complete action on the pending amendment tonight. I had understood that it would not take too long.

Mr. CULVER. Well, I guess we shall go ahead and take the time.

Mr. TOWER. Mr. President, what is the pending business?

The PRESIDING OFFICER. Let us have order in the Senate.

The pending business before the Senate is the amendment of the Senator from Texas to the amendment of the Senator from Ohio.

Mr. TOWER. Mr. President, let me yield to the Senator from Ohio, because he was about to speak on this matter when we got into the colloquy on the Senate request.

Mr. GLENN. I thank the minority manager of the bill.

Mr. President, the amendment proposed by the distinguished Senator from Texas, I find no objection to. I think we can accept that. I think any of the planes we are talking about will be considered under the expanded version of this bill as my amendment provides. I think maybe there would be one exception that we are all aware of, but it need not be debated out here on the floor. I think that may be available, too.

Mr. TOWER. Glory be, I hope it is.

Mr. GLENN. I think the Senator is right. I think if the IOC's are so indefinite, any new aircraft the Senator can see 5 years down the road I can accept and I hope that would make the amendment acceptable to the distinguished Senator and those on the other side of the aisle, also.

Mr. CULVER. Will the Senator yield?

Mr. GLENN. Yes.

Mr. CULVER. The concern, I think, in accepting this amendment is that the candidates we are talking about are threefold here. One is the B-1. The second is the FB-111 stretch; the third is some potential advanced technology manner bomber. Frankly, by the acceptance of the 1985 date, there are only two of those three potential candidates which could conceivably qualify with that IOC. That is the FB-111 and that is possibly the B-1, although unlikely. It clearly would exclude the most promising technology that is represented here in the whole amendment. There has been no estimation that, no matter how promising the pace of R. & D. with regard to this other potential capability is, it could ever satisfy a 1985 IOC. So I think the consequence and implication of the amendment of the Senator from Texas is really to preclude the option that is the most promising.

Mr. President, let me just say a word here now. It has been suggested by the distinguished Senator from North Carolina that we are confronting here once again a familiar subject. That is the question of having a manned bomber penetrating capability in our strategic weapon arsenal. Mr. President, we have such a manned bomber penetrating capability today. It is called the B-52. The B-52, before the Senate Committee on Armed Services, has been represented as being structurally sound into the 1990's. It is mission-confident into the late 1980's.

What is the importance of those dates? Well, Mr. President, we spent a lot of money a few years ago in anticipation of the B-70. We suddenly realized that at high-altitude flight, the Soviet radar capability permitted them to shoot it down.

We then went to the B-1 design in order to fly low, 200 feet off the deck, in order to evade Soviet radar capability and reach a target. This was the same capability that the B-52, after we spent billions and billions on it for modernization, also can do.

Mr. President, today, the United States of America has what is called a look down-shoot down radar. We have it in the AWACS.

What does that mean? It means that we now have a radar capability to get up high and look down at the ground clutter and distinguish and discern a penetrating military aircraft and shoot it down.

What is significant about that? The Soviet Union does not have it today. And because they do not have it today, it means that the B-52 can go over a target with confidence and it can continue to do it until when? Until the late 1980's. The late 1980's.

That is every bit of official testimony.

What is the significance of the late 1980's. It is that in about 1987, 1988—what is going to happen? The Soviet Union is then going to possess a look down-shoot down radar capability.

What will be the effect of that? It will mean they can shoot down the B-52.

Do you know what it also means? They can shoot down the B-1.

Do you know what it also means? They can shoot down the FB-111—in 1988, with confidence.

It was that consideration that resulted in the President of the United States, the Secretary of Defense, and his other top military advisers saying, "Wait a minute. It does not make sense for us to spend $30 billion on a B-1 bomber that will come off the assembly line and represent an initial operating capability just at the very time that the Soviet Union develops a look down-shoot down radar and can shoot it out of the sky."

So what had we better do about it? Well, we ought to take advantage of the manned penetrating bomber capability as long as we can.

How do we do that? With the existing B-52.

What else do we do? We equip that B-52 with a stand-off bomber capability that will permit it to shoot air-launched cruise missiles, 10 under each wing, 200 kilotons each, that land within 100 feet of the target.

The bomb on Hiroshima was 13 kilotons, it killed 100,000 people in a matter of minutes, it killed 150,000 people in a matter of weeks from radiation sickness.

Now, we are talking about a B-52 that can stand off, penetrate, until 1988, and in 1988 when it cannot confidently fly over the target with a guy with a blue scarf on, it can stand off and, literally, saturate the air defense capabilities of the Soviet Union, overwhelm them.

We are here to talk about the radar cross section of the FB-111 or the B-52 or the B-1. We ought to be looking at an air-launched cruise missile. That is one thing they cannot stop, and when they get a look down-shoot down radar, it is no defense against that air-launched cruise missile.

I am chairman of the Research and Development Subcommittee of the Senate Armed Services Committee, and for years we have been supporting in the Congress. since the 1977 decision on the B-1, research and development efforts continuing—on what? On a manned bomber. What kind of a manned bomber? A manned bomber that can confidently penetrate Soviet air defenses that are expected in 1988.

That is the only kind of bomber worth having.

All this talk about a penetrating bomber, the FB-111 or the B-1, is about a penetrating bomber that, frankly, cannot penetrate. Some penetrating bomber.

Now, Mr. President, it has been proposed that we go with the B-1 again. We take up the B-1.

General Ellis, the commander in chief of SAC, has testified the B-1 today is 1960's technology and that we should not go forward with the B-1.

It cost $30 billion when we decided not to go forward, wisely, in 1977. Put on your safety belts, it would now cost $60 billion and it would be obsolete even sooner.

Every bit of testimony before the committee says what? It says that the decision not to go forward with the B-1 because of the pace of Soviet air defense is stronger today than it was in June 1977, when it was made.

Why? Because the anticipated Soviet air defense capability has accelerated and it will be earlier, not later, earlier than 1988, if anything else.

Now, my distinguished friend from North Carolina has come forward with a suggestion. He kind of agrees we should not go with the B-1. But he is talking about having to have a manned penetrating bomber. Again, we have one. Your taxpayers and mine have spent plenty on the B-52; we are spending more on everything else, so it can confidently penetrate as long as Soviet air defenses permit it.

Now, the distinguished Senator from North Carolina comes along and says that the B-1 is no good. He did not mention the B-52. That is our penetrating bomber today. And he is proposing we do what? He is proposing we take 155 FB-111's out of their current mission role. And the great majority of this 155 tactical aircraft are where? They are in Europe. What are they doing in Europe? They are our most effective air defense interceptor tactical fighter. That is what they are doing in Europe.

So the proposal is to take them out of Europe, weaken our conventional force deterrent capability, and if there is a problem with the trend and the Soviet-United States balance, it is in the conventional threat in the European theater, but the proposal we will be voting on is going to be to degrade that capability by taking away these planes.

There is $91 million in this budget, but do you know what? That is the camel's nose under the tent. The estimated cost of that proposal in 1980 tax dollars is $8 billion—count them—$8 billion.

Now, it will take 4 years to convert them to the strategic role. They will get them ready about the 1985 to 1986 timeframe.

The Soviet air defense capability that will confidently shoot them out of the sky like ducks will be on line in 1988.

So what are you doing? I will tell you what, it means we will be dumb enough to spend $8 billion for 1 year's life as an effective penetrator at the same time we degrade the conventional force capability, at a time that is where the maximum threat is, and in 1 year's time they will be obsolete and will not be able to penetrate.

Mr. President, that is why the Secretary of Defense is opposed to this. That is why the head of research and development is opposed to this. That is why the top service officer of the U.S. Air Force, General Allen, is against this. That is why General Jones, the Chairman of the Joint Chiefs, whom we just reconfirmed as our top military officer, is against this.

Now, the Senator says, "Why do we not get some people other than these top civilians?"

He was riding the other day with somebody who said that they ought to get down and look at the operating people, ask what they think.

Well, let us do that. We have the Secretary of the Air Force testifying against this proposal in February 1980. We have the Chairman of the Joint Chiefs, February 1, 1980. The Chief of the Air Force, General Allen, as recently as April 30, 1980.

Mr. President, what should we do? What should we do? We have a B-52 that can penetrate in a manned bomber role competently up until the 1988 period when the Soviet air defense can stop it.

The B-1 could not get through after that. The FB-111 could not get through.

The cruise missile can. But, Mr. President, it is felt, and I agree with this feeling, that if we can have a technology with regard to a manned bomber that can be designed, that can confidently penetrate Soviet air defense capabilities, then that is very desirable—that is very desirable—because it complicates Soviet air defenses. It forces them to design defense capabilities that are far greater stress on their ability to do it.

But, Mr. President, we have to have a design. We have to have a technology that is of that description. The FB-111 is not of that description. The B-1 is not of that description. And after 1988 the B-52 will be of no value to us.

We have been working for several years in the Pentagon on R. & D. efforts to give us manned bomber capabilities that will confidently penetrate.

That is one of the options. That is one of the options that is contained in the amendment that has been offered by the distinguished Senator from Ohio and the Senator from California.

Mr. President, it seems to me that this amendment has a great deal to commend it, because unless we take action on an alternative, Congress is moving toward a very serious and a very costly mistake.

The House added $600 million to this bill to bring back the B-1, as the Senator from Texas has said, as a cruise missile carrier. We have the B-52 for a cruise missile carrier right now, and we are spending the money developing that capability, and it will be on line shortly.

The Senate Armed Services Committee has recommended this stretch FB-111—vigorously opposed, I might add, by the distinguished Senator from Arizona (Mr. GOLDWATER), who agrees with me and I believe with the Senator from Virginia (Mr. WARNER) and others that this is a very unwise thing to do in terms of the efficient, cost-effective use of our defense dollars.

This is the start of a $7 billion to $8 billion program, but neither of these planes would be effective penetrators of improved Soviet air defenses in the 1980's.

If we went down either the B-1 or the FB-111 road, we would spend billions and billions and have little military capability to show for it. However, there may be alternatives in bomber design work which I believe the Senate should consider. The Defense Department has been exploring some of these technologies at a rather slow and prudent pace; but if all goes well and if we choose to devote the resources to this task as suggested in the amendment of the Senator from Ohio, we could have advanced technology planes available by 1987.

This amendment, therefore, would direct the $91 million approved by the committee for the FB-111 toward an acceleration of efforts to develop this new technology, the strategic bomber, that would be a real, bona fide, manned penetrating bomber.

It also would direct the Secretary of Defense to report to Congress early next year in time for the next President, or the same President, to make a decision, with a comparison of the possible new designs with the B-1 and the stretch FB-111.

It is only prudent that we make that kind of considered, informed judgment and choice before we embark on an irresponsible expenditure of $8 billion for 1 year's life while we degrade our conventional force capabilities, where the threat is the most severe, and when we have a B-52 bomber that can already carry out this mission confidently.

With that information in hand, Mr. President, we could best decide how to proceed intelligently and responsibly—in what? The national security interests of the country.

This business of saying that the only way you can prove your military macho and your devotion to the flag behind the Presiding Officer is to throw money at a manned pentrating bomber that will not penetrate is the height of irresponsibility. It is about time we started to look realistically and honestly at what the cost-effective consequences are.

That does not strengthen America; it weakens it, if we waste $8 billion on this program.

As chairman of the R. & D. Subcommittee, I followed these efforts very closely. I believe these new concepts have promise, and that is why I am willing to support increased funding for these new efforts.

Any full-scale development or production of such an aircraft, however, will have to await and will have to depend upon the success of these research activities, careful studies of cost effectiveness and alternatives such as required by the amendment of the Senator from Ohio, and an assessment of the threats which might develop.

Finally, I respectfully remind my colleagues that we still do not need the B-1. We still do not need a stretch FB-111. But it would be extremely useful and perhaps critical and vital to our security interests to have this option for after 1988, after the exhausted life of the B-52 to confidently penetrate, and as a supplement to the standoff capability of the B-52 armed with the cruise missiles, which can flood Soviet air defenses, which can hit a target with incredible accuracy and blow city after city to smithereens. We may want to have the additional complementary force capability of a strategic bomber that will penetrate, and that is what is promised by a continuation of these research and development activities. It would provide us the option, by 1987, of maintaining a manned penetrating bomber force.

Frankly, the concern I have with the amendment as proposed by the distinguished Senator from Texas is the 1985 date. The only thing that could qualify for the 1985 date is the FB-111—it locks you right into that decision—or the B-1 bomber.

The kind of promise, the kind of hope, the kind of exciting development and breakthrough, in terms of our real security interests, represented in these new technologies now being advanced in our research and development efforts, would be precluded by the acceptance of that 1985 date.

It seems to me that if we want to give consideration to having the date read mid-1980's, something of that kind, I say to the Senator from Texas or the Senator from Ohio that that kind of thing might make some sense.

Mr. GLENN. It is in our original language.

Mr. CULVER. I did not know whether the Senator accepted that suggestion of the Senator from Texas. I will withhold further comment on that. Perhaps the Senator wants to speak to that point.

Mr. GLENN. Mr. President, it has been my impression, perhaps erroneously, that when the distinguished Senator from Texas proposed his amendment, it was a perfecting amendment to mine. I find that it is not. It is in the form of a substitute. I would not accept that.

I do not know whether we can work out something with respect to the mid-1980's, which was our original language in the amendment and makes it acceptable, as the distinguished Senator from Iowa has indicated.

We put that in here intentionally so that we did not tie ourselves to a hard and fast date, and left our technologies open, as the distinguished Senator from

Iowa has indicated, to give us the maximum flexibility for what we would need.

One of the difficulties is that if some of these new technologies that we hope will come through do not come through, we want some options available down the road so that we can come back with some decisions that will not lock us out in this field, where I believe we have to develop some capability.

We cannot depend on the old B-52 forever. We wanted to leave those doors open and not lock any doors. We wanted to leave the flexibility we felt we needed to go either route and not see $91 million pinned on something that will have a very limited life.

I yield the floor.

Mr. MORGAN. Mr. President, my colleague as always has made a very able and eloquent argument. It is essentially the same argument that I heard him make in 1976 with regard to the need for a penetrating bomber which argument, of course, led eventually to the cancellation of the B-1 bomber.

Mr. President, and Members of the Senate, everything that I have said to the Senate tonight to the very best of my knowledge has been documented by hearings and by statements from the Strategic Air Command, and lest any of the Senators get the impression that this is just a baby of General Ellis let me tell them that the statistics were checked out by the Systems Command in California.

So we are not talking about something that I just dreamed up or someone else just dreamed up. I hope that the Senator from Iowa is right, that we may never need another penetrating bomber. But the future and the security of this country is too great——

Mr. CULVER. Mr. President, will the Senator yield?

Mr. MORGAN. No.

Mr. CULVER. Mr. President, will the Senator yield? I wish to correct something.

Mr. MORGAN. I yield for just a question but not a speech.

Mr. CULVER. I do not think it is fair to suggest that the Senator from Iowa ever said or implied that we never need another manned penetrating bomber. If the Senator listened to what I said, I am supporting and have supported vigorously the current efforts to develop a manned penetrating bomber that can successfully defeat Soviet air defenses. I am not a very great enthusiast for a manned penetrating bomber that cannot penetrate.

Mr. MORGAN. I am sorry that I misunderstood the statements of my colleague, but I thought he said that in the 1990's the Russians would have a look down-shoot down capability.

Mr. CULVER. 1988.

Mr. MORGAN. 1988, whether we do or not. I hope and pray we will have a penetrating bomber that will be able to penetrate the Soviet air spaces in the 1990's and penetrate air spaces anywhere else in the world.

We are not just talking about the Soviet Union. But we are talking about now the best possibility that we have to try to help correct this strategic imbalance that has begun to develop since 1977.

With regard to how long it is going to last, let me repeat again the comparison of the penetrating capabilities prepared by the Strategic Air Command and checked out by the Systems Command in California.

Taking the penetration speed of the B-52 today at a speed of mach 0.55 and considering that its relative cross section is one, then the B-1 at a speed of 0.85 has a cross section of only 0.28. But the FB-111 at the same speed as the B-1 has a relative cross section of 0.4. Move into the 1990's and this is according to their own table, the relative penetration capability of the B-52 will be 0.80, the B-1 0.1, and the FB-111 would be 1.4.

So Senators can see it is not just a short-term proposition. It is a long-term proposition.

Mr. CULVER. Mr. President, will the Senator yield?

Mr. TOWER. Mr. President, will the Senator from North Carolina yield for a question?

Mr. MORGAN. I am glad to yield to the Senator from Texas.

Mr. TOWER. Mr. President, there has been a great deal of talk about the Soviet air defenses, about look down-shoot down capability. I think it should be noted that we do not expect that every aspect of Soviet air defense is going to be functioning when we attempt penetration. We will be using the means at our disposal to suppress Soviet air defenses in various ways, and they are multifarious. In fact, the look down-shoot down capability will require a more sophisticated AWACS system than the Soviets now have and even at that will be highly vulnerable.

So we are not going to simply let the Soviet air defense stand without any countermeasures at all and send penetrating bombers into that kind of environment.

I think we cannot proceed on the assumption that every aspect of the Soviet air defense will be working when we resort to the use of penetrating bombers.

Mr. CULVER. Mr. President, will the Senator yield?

Mr. MORGAN. Mr. President, let me respond momentarily.

I think the Senator will agree, without going into areas beyond which I can go, that it is generally conceded by the experts, the people in the business, that with the assistance, with the use of the cruise missile, even if Russia should be able to develop a look down-shoot down capability, we will be able to soften that capability to the point that our planes will have an 80-percent chance of penetration.

No one in this Senate, I am sure, would think for 1 minute that this country would sit back and say because Russia is going to develop a look down-shoot down capability we are not going to do anything about it.

Of course, we are doing something about it. Of course, we know it is going to be more difficult but with the use of the cruise missile to soften the targets and to soften the defense tactics, we can penetrate in the 1980's and according to the Strategic Air Command and the Systems Command the FB-111 will have a good chance of doing it.

Mr. CULVER. Mr. President, will the Senator yield?

Mr. MORGAN. For a question.

Mr. CULVER. I just wish to comment on the whole question. We are supposed to be the greatest deliberative body in the world and it is really difficult to fulfill that mission unless we can talk.

Mr. MORGAN. The Senator is an able lawyer, and I yield for a brief comment.

Mr. CULVER. Mr. President, I wish to make a brief comment on a very germane point the Senator made about the confidence with which we can penetrate with the FB-111.

We anticipated the threat, and that is why we went to the cruise missile, to make sure that after our confidence in the manned penetrating role of the B-52 in 1980 we would have something that would confidently penetrate the Soviet air defense, we have it, and we are accelerating that development, because the official testimony, I think, on this point of confidence with which the B-52, B-1, or the FB-111 can confidently penetrate the Soviet air defense I think is very abundant and consistent before our committee.

Let me just cite only this one statement by Dr. William Perry, who after all is one of the most distinguished scientists in America in the whole area of military weaponry, from private industry. His whole professional life is in this area, and he is probably the most distinguished and able member ever to be in this job. What does he say?

He says:

> I have considerable problems with that proposal for several reasons.

That is the FB-111. Continuing:

> The most fundamental reason of which is that the FB-111 I believe will have essentially the same difficulty in penetrating the Soviet strategic air defense in the latter half of the eighties as will the B-52.
>
> The best data that I have in terms of the availability of the FB-111 suggests that it could be available as a strategic bomber in its modified form beginning probably 1985, achieving full operational capability by about 1987.
>
> That is just about the time that the Soviet strategic air defense, the new generation, will be reaching its full deployment.

I have heard the Senator from Texas say repeatedly how we always underestimate the pace of Soviet military developments, rather than exaggerate them. Dr. Perry goes on:

> I do not believe that system will have a significant ability to penetrate. The speed of penetration is somewhat higher than the B-52 but not enough to make a difference. Its radar cross section while somewhat lower than the B-52 is 100 times the cross section of the cruise missile. Its ECM, its electronic countermeasure system, is no better—

Is no better. I say to the distinguished Senator from Texas—

> Than that in the B-52.

Dr. Perry continues:

> Even if we were to hypothesize the development of a new electronic countermeasure system it is not clear that there would be space and weight available on the airplane to put in a major improvement in ECM.

> All in all I think it is a very unattractive proposal. The cost of the program in fiscal '80 dollars will probably be approaching $8 billion, and that is not in then year dollars, it is in this year's dollars. So it is a very expensive proposal providing us with a very uncertain capability.

I might just add that does not even go to the question. After we take them out of your tactical inventory, are we going to buy them? The next day they are going to be in here saying we have to buy *x* number more FB–111's—155 to stick them back in at this year's dollar and more in order to make up for the hole we left in our conventional capability.

If you can walk out and tell your constituency that is a cost-effective way to spend their tax dollars at a time of budget constraint, you are a better magician than I am.

Mr. MORGAN. Mr. President, I have the utmost regard for Dr. Perry. He is one of the most eloquent, articulate scientists whom I have ever known. I just happen to disagree with him. I just happen to believe that because of his philosophy of how we should go about preparing for our defense we do not have a B–1 bomber today. We have not developed any plans.

Now, his statement that the radar cross section of the FB–111 would be many times that of the cruise missile—of course it would. But what he did not say was that it would be a lot less than the B–1 and the B–52.

Dr. Perry, as I said again, I do not question his sincerity, I do not question his integrity. He just simply disagreed with the Secretary of the Air Force on September 26, 1979, when the Secretary of the Air Force submitted his recommendations to him; he disagreed with Gen. David Jones, who is a loyal follower, a military man, who was Chief of Staff of the Air Force in 1977 when the Air Force recommended to the DOD the stretched FB–111.

He disagrees with General Ellis, who is the Commander in Chief of the Strategic Air Command. He disagrees with General Slay, who was the Deputy Chief of Staff for Research and Development in the 1977 period.

I do not question his integrity. All I am saying is we have here the possibility of a short-term fix, if you want to call it that, to a very severe diminishing strategic advance, and unless someone else has something else to say I propose shortly to move to table the amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I would add one other element to this discussion here. All the discussion so far has centered around penetrating to Moscow, going to Moscow, and Leningrad and penetrating the Soviet defenses.

I am also concerned about another area here which we have not discussed tonight, and that is the ability to project our airpower, conventional bomber, cruise missile, nuclear capability, to other far reaches of the world. What happens if we have a Mideast war? The Soviets are not there with their hardened, well-dug-in defenses. What happens if we have trouble in the Straits of Molucca, where all the tankers go from the Persian Gulf on their way to Japan?

What happens if we have trouble in many other parts of the world where we do not have a carrier task force handily available with their aircraft with somewhat more limited range? How do we project power into those other areas of the world? That is where these range capabilities and the tanker capabilities all come into play. There is where the difference between the B–1 derivative, the MRB multirole bomber, and the FB–111 really start becoming apparent.

All of the bomber runs are not going to be made to the Soviet Union. I would imagine if we get into that kind of a war we are going to be using other means to shoot at each other back and forth in our efforts to penetrate into the air defenses of the Soviet Union, and that may well be done by other means.

But I would say we still have the role we are performing around the world with our military power, projections in the need to project military power where ranges of the plane unrefueled and the ability to carry a heavier load do become very important.

We go back to the statement of the distinguished Senator from North Caroline in commenting as to why the B–1 was cancelled to begin with. It just flat got too expensive, there was not any question about that. It was not that anyone thought it was not a superior airplane to anything else, but the unit cost just had gone so high that the President felt we could not afford it and Congress went along with that.

Now we find in a time period of increasing inflation and with what has happened that the cost comparisons are very comparable between the two airplanes, almost identical, as a matter of fact, if you count in the costs of replacing those aircraft in TAC inventory and the cost of new tankers required to give the FB–111 its mission, which has not even been figured in this equation. There are no figures in this whole bill that cover anything to do with additional tankers required to let the FB–111 act in the role that it is supposed to perform. We have ranges of the FB–111 that are greater ranges with refueling, greater weight carrying capability in every weapons system, and those were at one time far more expensive. Now as it has developed they are not much more expensive.

So I would say that what I am getting back to is the fact that there are many other areas of the Earth where we have to provide some coverage with a bomber or a weapons system of some kind that is quite apart from just the ability to penetrate the air defenses around Moscow.

For those reasons, let me add one thing before I finish, and that is the reason why in the bottom of my amendment we see after the listing of the types of aircraft to be considered, "or an appropriate mix of such aircraft so long as such aircraft have the capability of performing the missions of conventional bomber, cruise missile, launch platforms, nuclear weapons delivery system."

That was put in very intentionally and very carefully to provide some coverage or the ability to provide some of the funds or at least to look into our ability with respect to other areas of the world than just penetrating into the Soviet Union.

Mr. HART. Mr. President, will the Senator yield for a question?

Mr. GLENN. Yes.

Mr. HART. For those of us who supported, however marginally, the committee's effort to keep the FB–111 option open, is the Senator from Colorado's understanding of the Glenn proposal as, perhaps, modified by the Senator from Texas, to keep together with that option the B–1 option as well and thereby in voting for the Glenn-Tower approach we are leaving open the question of going back to the B–1; is that correct?

Mr. CRANSTON. Let me say this: The Tower amendment is a substitute, not a perfecting amendment. It wipes out the Glenn amendment.

Mr. GLENN. Yes; so it is not acceptable. I said it one time I thought I accepted it. I had not understood it was in the nature of a substitute. It wipes out everything we are trying to do.

Mr. HART. It is a separate issue.

Mr. GLENN. What we are doing with the amendment is where the committee just says it will be the FB–111B or C, and that is it, what I do with this amendment is to branch it out so that more options could be considered where we could have that aircraft considered, the MRB, the multirole bomber, which could be the B–1. It has had a lot of testing or it could be the advanced technology aircraft that the Senator from Iowa had addressed or an appropriate mix. So we cover these different areas around the world that might need to be covered. That is the purpose of this amendment. It just broadens out the options open in using this $91 million, and tells them to report back to us in February in what direction they think we should go.

Mr. WARNER. Mr. President, will the Senator from Ohio yield for a question?

Mr. GLENN. Certainly.

Mr. WARNER. Will the Senator from Ohio consider modifying his amendment and replacing the words "with advanced development and engineering development" rather than just the design? I spoke to the Senator earlier about that, and the Senator indicated acceptance.

Mr. GLENN. I would accept that because we discussed that earlier, and I think, perhaps, you had some other language there that might broaden it even further.

Mr. WARNER. Yes. In the subsequent sentence, after the word "such" we again include "advanced development and engineering development."

Mr. GLENN. Advanced development and engineering development.

Mr. WARNER. In section 206 at the end of the first line after the word "the" again "advanced development and engineering development."

Mr. GLENN. I would accept that. It broadens out the use of what the $91 million could be used for. It makes it more practical. We should have had it in there to begin with, and I think the Senator has picked up on a good point and I am glad to accept it.

Mr. WARNER. The essence of the Senator's amendment is to preserve——

The PRESIDING OFFICER. Will the Senator send his modification to the desk?

Mr. WARNER. May I send it to the desk, Mr. President?

Mr. GLENN. I would accept the proposal as written by the Senator from Virginia.

The amendment, as modified, is as follows:

> On page 38, line 11, strike the figure "$9,541,943,000" and insert in lieu thereof: "$9,516,943,000."
>
> Section 201, page 45, line 23, strike the figure "$7,135,197,000" and insert in lieu thereof "$7,160,197,000." On page 45, line 24, strike out the semi-colon and insert in lieu thereof "and of which not more than $91,000,000 may be obligated or expended for the advanced development and engineering development of a strategic bomber which can achieve an initial operation capability in the mid-1980's. Such advanced development and engineering development shall include but not be limited to the FB-111B/C aircraft; a multi-role bomber aircraft, a variant of the B-1 bomber aircraft; an advanced technology aircraft, or an appropriate mix of such aircraft, so long as such aircraft have the capability of performing the missions of conventional bomber, cruise missile launch platform, and nuclear weapons delivery system."
>
> On page 51, line 21, insert the following;
>
> Section 206: The Secretary of Defense shall vigorously pursue the advanced development and engineering development of a strategic bomber which maximizes range, payload and ability to perform the missions of conventional bomber, cruise missile launch platform, and nuclear weapons delivery in both the tactical and strategic role. The Secretary of Defense shall submit a report on the results of this effort including comparisons of advanced technology aircraft with the B-1 and derivatives of the B-1 and the FB-111B/C in terms of cost and military effectiveness. This report shall be submitted to the Committees on Armed Services of the Senate and the House by February 15, 1981.

Mr. WARNER. Then the amendment, as it is now stands, of the Senator from Ohio and the Senator from California would embrace what the Senator from North Carolina wishes to do. It merely defers a final decision on the FB-111; is that not correct?

Mr. GLENN. That is correct. It just broadens out the options available.

Mr. WARNER. It leaves open the options of the F-111 for those who advocate it, and it also embraces the option as spoken to by Mr. CULVER here tonight, Senator CULVER, namely, the advanced design can be addressed.

Mr. GLENN. A very important part of this. That is exactly correct.

Mr. WARNER. The simple difference as I understand between what the Senator from Ohio proposes and the Senator from Texas is the interpretation of the phrase "mid-1980's." It is not acceptable to the Senator from Ohio to have the definition of 1985 as the mid-1950's, is that correct?

Mr. GLENN. Well, I think with IOC's being what they are, they are very, very flexible. It would be difficult to pin it down anyway even if I accepted that. It does not know that it would be that valid. I would have to leave it a little bit flexible. Obviously mid-1980 does not mean 1999½, but I think we would stick with the mid-1980's.

Mr. WARNER. I thank the Senator.

The PRESIDING OFFICER. The amendment of the Senator from Ohio (Mr. GLENN) has been modified in accordance with the modification.

Mr. MORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. TOWER. Mr. President, will the Senator from North Carolina yield to me without losing his right to the floor?

Mr. MORGAN. Yes, I yield.

Mr. TOWER. I just want to note that the modification proposed by the Senator from Virginia (Mr. WARNER) does not cure the flaws in this amendment, as I see them and, I think, as the Senator from North Carolina sees them. So I think it should be understood that the modification does not meet the concerns of the Senator from Texas.

Mr. GLENN. Will the Senator yield?

Mr. MORGAN. Yes.

Mr. GLENN. Just perhaps to clarify, the original language of my amendment had the words "for the designs of a strategic bomber." The Senator from Virginia (Mr. WARNER) very properly points out that, in the terminology used in the Pentagon, we go from designs to advanced development to engineering development and then to production. That is the terminology that is accepted and the reason that he very properly points this out. And he had had a lot of experience in the Pentagon in years past as a Secretary there. So he has gone through these procedures using this $91 million for everything that it could be used for planning these missions in these different roles and leaving these options open, except—and it is a very important except—except going into production. And that is the one step he stops short of and that is a very proper point to stop, because we say "Come back in February and then we will say what is going to go into production." And that is the decision we make after we get all this other information.

I think it is a good change.

Mr. WARNER. We then have the knowledge by which to assess the position of the distinguished Senator from North Carolina, assess the position of the distinguished Senator from Iowa, as well as those who may wish to once again promote the B-1.

● Mr. McGOVERN. Mr. President, the proposal by the Strategic Air Command to stretch the existing FB-111D/A models into a strategic penetrating bombers deserves support. I support the decision of the Armed Services Committee to commit $91 million to this program.

My first concern is that the B-52 models, especially the older B-52G models, are experiencing mechanical breakdowns and metal fatigue which cause serious concern to our SAC pilots. These problems lower the readiness of the SAC force. While I support the administration's proposal to spend $400 million for B-52 modifications in the 1979-82 period, we should take the additional prudent step of procuring a cost-effective penetrating capability to supplement the B-52 force. Of all the available options, the FB-111B/C model is the most cost-effective since it will provide us with 7 years of penetration capability at a cost of roughly $5.5 billion. The old B-1 bomber proposal, which I have opposed, would provide only 5 years of penetration capability for $12.5 billion.

A second consideration is the need to modernize and expand the sea-based and air-breathing legs of the strategic nuclear triad. I continue to oppose the MX ICBM because it is militarily destabilizing, overly-expensive, and too harmful in terms of its domestic environmental and economic consequences. In addition, it needs to be constantly reiterated that the so-called vulnerability of the Minuteman ICBM is not the same thing as concluding that our entire nuclear deterrent is vulnerable. No rational Soviet leader would dare attack our Minuteman missiles knowing that we would still have up to 7,000 nuclear weapons on our bombers and submarines.

Nonetheless, if we do begin to recognize that technology has rendered land-based missiles obsolete—largely because of the failure to apply strict arms control limits on MIRV's a decade ago—we should enlarge the capabilities of the sea and air legs of the triad. The FB-111B/C would be a good first step as an alternative to MX while research and development continue on a manned penetrating bomber for the 1990's if the technology can be found.

These are the two main reasons—to replace an aging B-52 fleet and to provide an alternative to the MX—that I oppose the effort to strike the funds for the FB-111B/C models.

I ask that a recent newsletter I have sent to my constituents on this subject be printed in the RECORD.

The newsletter follows:

THE STRATEGIC BOMBER—A KEY WEAPON IN AMERICA'S DEFENSE ARSENAL

Mr. McGOVERN. As one of the few combat bomber pilots in Congress, I always take special pride in visiting Ellsworth Air Force Base, near Rapid City, because I know from my personal experience how hard these pilots train and what risks they take to serve their country.

My recent visit to Ellsworth gave me the opportunity to talk with the base commander, his pilots and mechanics. We discussed the B-52, the B-1, the MX, the FB-111 and the whole range of military issues facing the country. When I left Ellsworth, I issued the following statement: "I think the decision to keep the B-52 in operation throughout the 1980's was sound. But we have now reached the point where we will have to begin production plans for the B-1 or some similar bomber."

I would like to explain my views in more detail.

The bomber leg of the strategic nuclear "triad" must be improved for two primary reasons. First, the B-52 workhorse will be wearing out in this decade. Second, the MX missile is an unnecessary waste of taxpayer funds, because it fails to resolve definitively the land-based missile vulnerability problem in a cost-effective manner. With land-based missiles more vulnerable, at least in a theoretical sense, the sea-based missiles and the bomber elements of our force must take up the slack.

The real issue becomes: what is the best way to go to improve the bomber forces?

As I review this issue, I remain convinced that the President's 1977 decision to select the Cruise Missile over the B–1 bomber was correct because the B–1 could not adequately penetrate Soviet air defenses through the next century. The development of a Soviet look-down, shoot-down capability will make the B–1 obsolete by the end of the 1980's. This remains true as we look to the future. As General Ellis, Commander in Chief of the Strategic Air Command, recently stated:

". . . opting for the B–1 at this time could preclude procuring a more advanced aircraft available by 1990. What makes this a legitimate concern is that B–1 technology is representative of the late 1960s, or maybe 1970, and that aircraft could become obsolete in the nineties as a strategic penetrator."

Before evaluating alternatives to the B–1, let me add a word about the President's decision to cancel the B–1. Many people believe it was an example of American "unilateral disarmament." But there was no arms control or disarmament policy involved at all. The only criterion was military effectiveness. The Cruise Missile is a more effective penetrator of Soviet air defenses than the B–1. Soviet air defenses will be practically useless against the Cruise Missile. With the Cruise Missile, we will be better able to stay ahead in the technological race between offense and defense.

While I agree with General Ellis that the old B–1 is not a realistic future alternative, we should continue advanced research and development to determine if an effective penetrating bomber for the 1990's is feasible.

But looking to the bomber of the future, whether strategic penetrator or Cruise Missile launcher, is not a substitute for short-term solutions. There are two main short-term alternatives.

The first is to use the basic B–1 frame and engines as a Strategic Weapons Launcher (SWL or "Swill") rather than as a manned penetrating bomber. It should be noted that the proposal for this new plane incorporates many changes which the critics of the old BX–1 pointed out in the debate. The new plane, for example, has fixed wings instead of swing wings, its engines are more fuel-efficient and its payload is greater.

A fleet of 100 fixed-wing B–1s to launch Cruise Missiles could be procured for $12.6 billion and be ready for initial operation by 1986.

Procurement funds for the B–1 Strategic Weapons Launcher have been added to the military budget by the House of Representatives. If it comes to a vote on the Senate floor, I could support this alternative because it preserves the long-term emphasis on the Cruise Missile as the basic element in the air-breathing leg of the nuclear triad.

But there is a second alternative which was described for me at Ellsworth and which I have studied since returning to Washington. This is the proposal of General Ellis of SAC to "stretch" the FB–111 bomber by adding B–1 engines and B–1 avionics to turn the FB–111 into a strategic-range penetrating bomber until 1990. A fleet of 155 "stretched" FB–111B and C models would achieve an equal capability to 100 B–1s but could be ready by 1983, or 2¼ years before the Strategic Weapons Launcher, and at less than one-half of the cost—$5.5 billion for the FB–111 instead of $12.5 billion for the B–1/SWL.

In addition, the FB–111 could perform night/all weather tactical missions as well as the strategic mission. The FB–111 can operate from shorter and thinner airstrips than either the BX1 or the B–1/SWL. By 1990, the modified FB–111s could be shifted to full-time tactical missions.

On the basis of General Ellis' testimony in Congress and the statements made to me last weekend at Ellsworth, I am convinced that FB–111B and C models could give us more capability, sooner and at substantially lower cost, than any other alternative.

The FB–111 alternative is also fully compatible with the SALT II ceilings as a non-MIRV strategic nuclear delivery vehicle.

The difference between the old B–1 and the "stretched" FB–111 is that although both are manned penetrating bombers, the FB–111 is intended as a penetrator only through 1990 when either a follow-on penetrating bomber or an advanced cruise missile will be available. The old B–1, however, was intended as the bomber until the next century—a role it could not perform at acceptable cost. By providing near-term real capability, the FB–111 gives us time to examine new bomber proposals, alternatives to MX and an advanced Cruise Missile.

The Senate Armed Services Committee is still marking-up the military procurement bill. I would support the FB–111 concept if it comes to the Senate floor. I prefer the FB–111 bomber option over the B–1/SWL option.

Regardless of the new alternative selected, the B–52 should be modernized as the Cruise Missile Carrier for the immediate future. The Administration has planned over $400 million for B–52 modifications for the 1979–82 period which should be supported.

A follow-on Cruise Missile Carrier Aircraft (CMCA) to replace the B–52 in the future will also be needed. Although studies are still being done, the preliminary research suggests that a hardened, medium wide-body commercial transport, such as the L–1011, is the best candidate considering such factors as ability to carry enlarged cruise missiles, acceleration, dispersability, nominal unit cost and cost risk.

In summary, I propose a strategic bomber program based on the following elements. First, a new strategic bomber for the next decade, either the FB–111B/C which I prefer or the B–1/SWL. Second, continued research for new strategic bomber concepts for the 1990's. Third, continued modernization of the B–52 to extend its useful life. Fourth, testing of advanced Cruise Missile Carrier Aircraft. Fifth, continued refinement of the Air-Launched Cruise Missile as the primary penetrator to Soviet air defenses.

This program is sufficient to meet our strategic bomber defense needs at an acceptable cost. It is based largely on the recommendations of the Commander of the Strategic Air Command. It is compatible with SALT. And it is entirely consistent with the positions I have advocated in the past in Congress.●

● Mr. LEVIN. Mr. President, I oppose the Tower substitute to the Glenn amendment because I believe it would prematurely and imprudently commit the taxpayers of this Nation to spending $8 billion in the future for an outdated bomber which will not be able to accomplish its mission.

The Glenn amendment is a prudent safeguard against such a commitment.

As a member of the Armed Services Committee, and of its Research and Development Subcommittee, I can assure my colleagues that there has been convincing expert testimony before both these bodies that improving Soviet air defenses will seriously degrade the capabilities of any, I repeat "any," bomber of present design to penetrate Soviet air space and accomplish the strategic mission in the late 1980's.

That conclusion applies to FB–111 bomber types, including the FB–111 B/C "stretch" version, and the B–1 and its many derivatives.

Let me quote an example of this testimony before our subcommittee. The futility and waste embodied in the FB–111 B/C "stretch" proposal was captured by the Pentagon's top scientist, Dr. William J. Perry, Under Secretary of Defense (Research and Engineering), who said on April 30, 1980:

> I have considerable problems with that proposal for several reasons. The most fundamental reason of which is that the FB–111, I believe, will have essentially the same difficulty in penetrating the Soviets' strategic air defense in the latter half of the 1980's as will the B–52. The best data that I have in terms of the availability of the FB–111 suggests it could be available as a strategic bomber in its modified form beginning probably 1985, achieving full operational capability by about 1987. That is just the time that the Soviets' strategic air defense, the new generation, will be reaching its full deployment.
>
> I do not believe that system will have a significant ability to penetrate. The speed of penetration is somewhat higher than the B–52 but not enough to make a difference. Its radar cross section, while somewhat lower than the B–52, is a hundred times the cross section of the cruise missile. Its ECM system is no better than that in the B–52. Even if we were to hypothesize the development of a new ECM system it is not clear that there would be space and weight available on the airplane to put in a major improvement in ECM.
>
> It has disadvantage relative to the B–52 of short range and low payload.
>
> All in all I think it is a very unattractive proposal. The cost of the program in fiscal 1980 dollars will probably be approaching $8 billion and that is not in then-year dollars, it is in this-year dollars. So it is a very expensive proposal providing us with a very uncertain capability.

I opposed in committee the addition of the $91 million in fiscal year 1981 for research and development and procurement to begin the FB–111 B/C "stretch" version program because of this testimony, as well as other testimony before our committee, that it was not a wise investment of scarce defense and taxpayer dollars.

What is a wise investment of these limited resources, Mr. President, is to use them to intensify our R. & D. on alternative designs for an advanced technology strategic bomber. There are clear indications that such a bomber can be developed within the time frame needed to modernize the air-breathing leg of our strategic triad. DOD already has some R. & D. underway in this area.

The Glenn amendment will permit such R. & D. to be intensified, and it will give Congress, the Air Force, and the Department of Defense the additional time and additional information needed to develop a new bomber which will be capable of accomplishing the strategic mission in the future.

This effort will enable the Congress to make the proper decision to obtain the most combat capability for our taxpayers investment. We should defeat the Tower substitute and pass the Glenn amendment. ●

Mr. MORGAN. Mr. President, I believe we have debated this long and hard. As someone has pointed out, there is something like $500 million or $600 million in the House budget for a SWL or a B–1 bomber version. If we leave this in the bill as reported out by the committee, after careful consideration, then the conferees will have some options.

There are many issues that I could answer and talk about, but the hour is late. I think all has been said that can be said.

I want to close by reading a letter dated March 28 from the Commander in Chief of the Strategic Air Command:

> You have asked for my professional judgment as to which program would best meet the needs of the Strategic Air Command—the B–1 derivative cruise missile carrier aircraft (SWL) or the FB–111B/C. As you know, my congressional testimony has emphasized that, compared to our 1977 capability, a strategic imbalance now exists and will continue to exist for some years. You will also recall that current national guidance establishes 1977 strategic capabilities as the level to be maintained.
>
> Simply stated, we need a weapons system that positively impacts the near-term imbalance. It has been determined that modernization programs in the other two legs of the TRIAD are being completed near maximum rate and cannot be further accelerated. Our recommendation focuses on a new or modified manned penetrating bomber to provide that fix. I know of no other solution to our strategic deficiency, nor has anyone suggested a better one. If the B–1 SWL is to be designed as a stand-off cruise missile carrier and would not have the capability to penetrate, then it would not correct the near-term imbalance.
>
> Two alternative programs, 155 FB–111B/Cs or 100 B–1s, ultimately achieve an equal capability. However, the FB–111B/C becomes available sooner—and our country needs the earliest possible relief. A second criterion is cost and, while there are many ways to measure this factor, a B–1 buy costs about 2.5 times that of an equivalent force of FB–111B/Cs ($12.5B to $5.5B in 1980 dollars). In view of other heavy concurrent defense needs, total cost must be an important consideration, although front-end investment cost is high in both programs.
>
> Another important consideration is the fact that when a new strategic penetrating system comes into the inventory in the nineties, the FB–111B/C can become the night/all-weather aircraft for force projection, contingency and tactical nuclear forces. The added contribution that aircraft could offer would be as significant in the 1990s as it would be today. Conversely, opting for the B–1 at this time could preclude procuring a more advanced aircraft available by 1990. What makes this a legitimate concern is that B–1 technology is representative of the late 1960s, or maybe 1970, and that aircraft could become obsolete in the nineties as a strategic penetrator.
>
> With respect to the cruise missile carrier role, by converting B–52G/H models to stand-off cruise missile carriers, we can defer deployment of the proposed cruise missile carrier aircraft until the B–52s no longer show utility in that mission—sometime beyond the 1980s. By making the changes SAC has recommended, U.S. strategic capability will be significantly enhanced and the "bow wave" of expenditures in the mid- to late 1980s will considerably be reduced through a more even distribution of funds. In short, we have an effective SWL for the eighties in the B–52. Our requirement is for a strategic penetrator for the eighties—not a new SWL.
>
> As I have stated to the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, the Chief of Staff of the Air Force, and to three congressional committees, my professional recommendation is to fix the near-term strategic nuclear "bathtub" with a force of 155 modified FB–111B/C aircraft.

Mr. President, I move to lay the amendment of the Senator from Ohio (Mr. Glenn) on the table and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. GLENN. Mr. President, I ask unanimous consent that Mr. Cranston, Mr. Culver, and Mr. Warner be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The yeas and nays have been ordered on the request of the motion to table the amendment of the Senator from Ohio (Mr. Glenn). The clerk will call the roll on the motion to table.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from Connecticut (Mr. Ribicoff) and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from Oregon (Mr. Packwood), the Senator from Vermont (Mr. Stafford) and the Senator from North Dakota (Mr. Young) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent due to illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 37, nays 53, as follows:

[Rollcall Vote No. 290 Leg.]

YEAS—37

Armstrong
Baker
Bayh
Boschwitz
Byrd, Robert C.
Cannon
Cochran
DeConcini
Dole
Domenici
Exon
Ford
Garn
Hatch
Hayakawa
Helms
Humphrey
Jepsen
Kassebaum
Laxalt
Lugar
Matsunaga
McClure
McGovern
Morgan
Nunn
Pressler
Roth
Schmitt
Simpson
Stennis
Stevens
Thurmond
Tower
Wallop
Weicker
Zorinsky

NAYS—53

Baucus
Biden
Boren
Bradley
Bumpers
Burdick
Byrd,
Harry F., Jr.
Chafee
Chiles
Church
Cohen
Cranston
Culver
Danforth
Durenberger
Durkin
Eagleton
Glenn
Gravel
Hart
Hatfield
Heflin
Heinz
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Leahy
Levin
Magnuson
Mathias
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Pell
Percy
Proxmire
Pryor
Randolph
Riegle
Sarbanes
Sasser
Schweiker
Stevenson
Stewart
Stone
Tsongas
Warner
Williams

NOT VOTING—10

Bellmon
Bentsen
Goldwater
Kennedy
Long
Packwood
Ribicoff
Stafford
Talmadge
Young

So the motion to lay on the table Mr. Glenn's amendment (No. 1387), as modified, was rejected.

Mr. CULVER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, what is the pending business?

Mr. GLENN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GLENN. Is the motion by the distinguished Senator from Texas the pending business?

The PRESIDING OFFICER. The pending question is the amendment of the Senator from Texas to the amendment of the Senator from Ohio.

Mr. GLENN. I move to lay the amendment of the Senator from Texas on the table. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Ohio to lay the amendment of the Senator from Texas on the table.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from Connecticut (Mr. Ribicoff) and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from Oregon (Mr. Packwood), the Senator from Vermont (Mr. Stafford) and the Senator from North Dakota (Mr. Young) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent due to illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 52, nays 38, as follows:

[Rollcall Vote No. 291 Leg.]

YEAS—52

Baucus
Bayh
Biden
Boren
Bradley
Bumpers
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Chafee
Chiles
Church
Cranston
Culver
DeConcini
Durkin
Eagleton
Exon
Glenn
Gravel
Hart
Heflin
Heinz
Hollings
Huddleston
Inouye
Johnston
Leahy
Levin
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Pell
Proxmire
Pryor
Randolph
Riegle
Sarbanes
Sasser
Schweiker
Stennis
Stevenson
Stewart
Stone
Tsongas
Warner
Williams

NAYS—38

Armstrong
Baker
Boschwitz
Cannon
Cochran
Cohen
Danforth
Dole
Domenici
Durenberger
Ford
Garn
Hatch
Hatfield
Hayakawa
Helms
Humphrey
Jackson
Javits
Jepsen
Kassebaum
Laxalt
Lugar
Magnuson
McClure
Morgan
Nunn
Percy
Pressler
Roth
Schmitt
Simpson
Stevens
Thurmond
Tower
Wallop
Weicker
Zorinsky

NOT VOTING—10

Bellmon
Bentsen
Goldwater
Kennedy
Long
Packwood
Ribicoff
Stafford
Talmadge
Young

So the motion to lay on the table was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. CULVER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, the Glenn amendment is open to further amendment, is it not?

The PRESIDING OFFICER. The Glenn amendment is a first degree amendment.

UP AMENDMENT NO. 1389

(Purpose: To delete $25,000,000 in Air Force aircraft procurement and $66,000,000 in Air Force Research Development, Test and Evaluation for the FB-111 program and to add $91,000,000 to Air Force Research, Development, Test and Evaluation for a strategic bomber)

Mr. TOWER. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. Tower) proposes an unprinted amendment numbered 1389.

The amendment is as follows:

On page 38, line 11, strike the figure "$9,541,943,000" and insert in lieu thereof: "$9,516,943,000."

Section 201, page 45, line 23, strike the figure "$7,135,197,000" and insert in lieu thereof "$7,160,197,000." On page 45, line 24, strike out the semicolon and insert in lieu thereof "and of which not more than $91,000,000 may be obligated or expended for the advanced development and engineering development of a strategic bomber which can achieve an initial operation capability in 1985. Such advanced development and engineering development shall include but not be limited to the FB-111B/C aircraft; a multi-role bomber aircraft, a variant of the B-1 bomber aircraft; an advanced technology aircraft, or an appropriate mix of such aircraft, so long as such aircraft have the capability of performing the missions of conventional bomber, cruise missile launch platform, and nuclear weapons delivery system."

On page 51, line 21, insert the following:

Section 206: The Secretary of Defense shall vigorously pursue the advanced development and engineering development of a strategic bomber which maximizes range, payload and ability to perform the missions of conventional bomber, cruise missile launch platform, and nuclear weapons delivery in both the tactical and strategic role. The Secretary of Defense shall submit a report on the results of this effort including comparisons of advanced technology aircraft with the B-1 and derivatives of the B-1 and the FB-111 B/C in terms of cost and military effectiveness. This report shall be submitted to the Committees on Armed Services of the Senate and House by February 15, 1981.

Mr. TOWER. Mr. President, the function of this amendment is to be more precise in the language.The amendment of the Senator from Ohio says mid-1980's. This specifies 1985, so we pinpoint a date.

In that the Glenn amendment was an amendment suggested by the administration in an effort, perhaps, to escape having to include systems that currently are professed as being for 1985, I think we ought to pin it down and specify 1985. That is mid-decade.

So I hope the Senator from Ohio will accept that amendment. If he will not, then I will ask for the yeas and nays.

Mr. GLENN. Mr. President, I cannot accept the amendment. We just voted on this issue.

I ask the opinion of the Chair, or ask for a parliamentary inquiry, as to whether this is in order since we just voted on this issue.

The PRESIDING OFFICER. The Chair would inform the Senator from Ohio that, as to form, the amendment is different and, therefore, is in order.

Mr. GLENN. Mr. President, this amendment does exactly the same thing that we just voted down by a substantial majority.

I think with the initial operating time periods being what they are, the Senator from Texas is obviously hoping to preclude any of these funds being used for the advanced technology aircraft.

Mr. TOWER. If the Senator will yield, the Senator from Texas is not.

Mr. GLENN. It is the only one that would be left out in this situation.

Mr. President, I move to table the amendment of the Senator from Texas and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Texas. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. Bentson), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from Connecticut (Mr. Ribicoff), and the Senator from Georgia (Mr. Talmadge), are necessarily absent.

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from Oregon (Mr. Packwood), the Senator from Vermont (Mr. Stafford), and the Senator from North Dakota (Mr. Young), are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater), is absent due to illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 53, nays 37, as follows:

[Rollcall Vote No. 292 Leg.]

YEAS—53

Baucus
Bayh
Biden
Boren
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chafee
Chiles
Church
Cranston
Culver
DeConcini
Durkin
Eagleton
Glenn
Gravel
Hart
Heflin
Hollings
Huddleston
Inouye
Jackson
Johnston
Leahy
Levin
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Pell
Proxmire
Pryor
Randolph
Riegle
Sarbanes
Sasser
Schweiker
Stennis
Stevenson
Stewart
Stone
Tsongas
Warner
Weicker
Williams

NAYS—37

Armstrong
Baker
Boschwitz
Cannon
Cochran
Cohen
Danforth
Dole
Domenici
Durenberger
Exon
Ford
Garn
Hatch
Hatfield
Hayakawa
Heinz
Helms
Humphrey
Javits
Jepsen
Kassebaum
Laxalt
Lugar
McClure
Morgan
Nunn
Percy
Pressler
Roth
Schmitt
Simpson
Stevens
Thurmond
Tower
Wallop
Zorinsky

NOT VOTING—10

Bellmon
Bentsen
Goldwater
Kennedy
Long
Packwood
Ribicoff
Stafford
Talmadge
Young

So the motion to lay on the table Mr. Tower's amendment (UP No. 1389) was agreed to.

Mr. CULVER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DeCONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TOWER and Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

UP AMENDMENT NO. 1390

(Purpose: To delete $25,000,000 in Air Force aircraft procurement and $66,000,000 in Air Force Research Development, Test and Evaluation for the FB-111 program and to add $91,000,000 to Air Force Research, Development, Test and Evaluation for a strategic bomber)

Mr. TOWER. Mr. President, I do not wish to be obstinate or dilatory. I do this for a purpose, because the amendment of the Senator from Ohio uses the term "the mid-1980's." I believe we are entitled to some definition of what is meant by the term "mid-1980's," because the definition of that term will determine whether or not we are serious about having an interim bomber in our inventory until the very high technology comes on stream, whether we will open ourselves to the vulnerability of a missing leg of the triad.

I believe this is enormously important; because if the IOC stated in the amendment goes beyond 1986, then we can conclude that it is the intent of the Senator from Ohio that we shall not have an interim bomber that performs the vital role of the third leg of the triad, that of the strategic bomber.

Therefore, I call up my amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. TOWER) proposes an unprinted amendment numbered 1390.

The amendment is as follows:

On page 38, line 11, strike the figure "$9,541,943,000" and insert in lieu thereof: "$9,516,943,000."

Section 201, page 45, line 23, strike the figure "$7,135,197,000" and insert in lieu thereof "$7,160,197,000." On page 45, line 24, strike out the semicolon and insert in lieu thereof "and of which not more than $91,000,000 may be obligated or expended for the advanced development and engineering development of a strategic bomber which can achieve an initial operation capability in 1986. Such advanced development and engineering development shall include but not be limited to the FB-111B/C aircraft; a multirole bomber aircraft, a variant of the B-1 bomber aircraft; an advanced technology aircraft, or an appropriate mix of such aircraft, so long as such aircraft have the capability of performing the missions of conventional bomber, cruise missile launch platform, and nuclear weapons delivery system."

On page 51, line 21, insert the following:

Section 206: The Secretary of Defense shall vigorously pursue the advanced development and engineering development of a strategic bomber which maximizes range, payload and ability to perform the missions of conventional bomber, cruise missile launch platform, and nuclear weapons delivery in both the tactical and strategic role. The Secretary of Defense shall submit a report on the results of this effort including comparisons of advanced technology aircraft with the B-1 and derivatives of the B-1 and the FB-111B/C in terms of cost and military effectiveness. This report shall be submitted to the Committees on Armed Services of the Senate and House by February 15, 1981.

Mr. TOWER. Mr. President, it specifies the year 1986. How far beyond 1986 or the mid-1980's—that is the specification in this amendment. I believe it is significant. It is not frivolous, because it is enormously important for us to know whether or not it is the intent of the Glenn amendment for us to have an interim bomber.

Mr. GLENN. Mr. President——

SEVERAL SENATORS. Vote! Vote!

THE PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. GLENN. Mr. President, the mid-1980's would be from 1983 to 1987. I believe that would be the mid-1980's.

Mr. TOWER. Why do we not say 1982 to 1988, 1981 to 1989?

Mr. GLENN. If the Senator from Texas will let me reply, I will be glad to reply to his comments.

The PRESIDING OFFICER. The Senator from Ohio has the floor.

Mr. GLENN. The distinguished Senator from Texas knows that he has put the 1985 time period in there, which would preclude any of the funds being used for any purpose for the advanced technology aircraft; 1986 is one step backward; 1987 is a more realistic date; and I believe it is not out of order or out of reason to say that the mid-1980's means 1983 to 1987. To step it up 1 year at a time, we already have voted twice on this effort to limit the funds going in that direction.

It should be apparent to everyone what is being tried with this amendment. I hope we can have a voice vote and not go to a rollcall vote.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. GLENN. I yield.

Mr. TOWER. He knows and I know that they are not going to get a high technology bomber before 1990. That would be the earliest, the absolute optimum time.

Mr. GLENN. I do not wish for the Senator from Texas to put words in my mouth.

Mr. TOWER. So what this amendment is, in my view, is to preclude any possibility of getting an interim penetrator. So that leg of the triad is going to be vulnerable.

I suspect I will be tabled by approximately the same vote by which I was tabled the last time, but let us be very clear about what we are doing. Let us understand what we are doing and let us not be flimflammed.

I have no more to say. I am prepared to vote on this.

Mr. GLENN. Mr. President, I would not accept at all that we do not have any chance of getting another aircraft before 1990. I do not know where that figure comes from, but it is no figure that I have been briefed on or been briefed by with any of the people in authority who have a much better grasp on these things.

I think the 1987 time period that I have defined here is a very realistic one, and I would let the legislative history show that 1983 to 1987 is what I meant by the mid-1980's.

I yield to the Senator from Iowa who wishes to make a comment.

Mr. CULVER. Mr. President, I reemphasize what the Senator from Ohio said. If we do not accept the 1987 date, which is the earliest date in the terms that I see the likelihood to have this on line, then we effectively preclude one of the most promising, most effective in terms of U.S. national security interest options that are included in the Glenn amendment.

Mr. TOWER. Mr. President, that is baloney now. Too many people have been privy to this and they know better. So let us make the legislative history.

Mr. CULVER. I say to the Senator——

Mr. TOWER. The Senator says it will be in the inventory by 1987. I say it will not be and history will judge us on this.

The PRESIDING OFFICER. The Senator from Ohio has the floor.

Mr. GLENN. Mr. President, I think it is late and I think tempers are getting short for a lot of good reasons. I think we should go ahead and vote.

Does the Senator wish to voice vote?

Mr. CULVER. I think a voice vote would be all right.

Mr. GLENN. We can voice vote and save time.

Mr. TOWER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GLENN. Mr. President, I move to table the amendment.

Mr. TOWER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Texas.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Connecticut (Mr. RIBICOFF) and the Senator from Georgia (Mr. TALMADGE), are necessarily absent.

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Oregon (Mr. PACKWOOD), the Senator from Vermont (Mr. STAFFORD) and the Senator from North Dakota (Mr. YOUNG), are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER), is absent due to illness.

The PRESIDING OFFICER (Mr. STONE). Is there any Senator in the Chamber wishing to vote?

The result was announced—yeas 54, nays 36, as follows:

[Rollcall Vote No. 293 Leg.]

YEAS—54

Baucus
Bayh
Biden
Boren
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Chafee
Chiles
Church
Cranston
Culver
DeConcini
Durkin
Eagleton
Exon
Ford
Glenn
Gravel
Hart
Heflin
Hollings
Huddleston
Inouye
Jackson
Johnston
Leahy
Levin
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Pell
Proxmire
Pryor
Randolph
Riegle
Sarbanes
Sasser
Schweiker
Stennis
Stevenson
Stewart
Stone
Tsongas
Warner
Williams

NAYS—36

Armstrong
Baker
Boschwitz
Cannon
Cochran
Cohen
Danforth
Dole
Domenici
Durenberger
Garn
Hatch
Hatfield
Hayakawa
Heinz
Helms
Humphrey
Javits
Jepsen
Kassebaum
Laxalt
Lugar
McClure
Morgan
Nunn
Percy
Pressler
Roth
Schmitt
Simpson
Stevens
Thurmond
Tower
Wallop
Weicker
Zorinsky

NOT VOTING—10

Bellmon
Bentsen
Goldwater
Kennedy
Long
Packwood
Ribicoff
Stafford
Talmadge
Young

So the motion to lay on the table Mr. TOWER's amendment (UP No. 1390) was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, I advise my colleagues not to get nervous. I do not intend to propose another amendment that will require the yeas and nays. Since the distinguished Senator from Ohio has made legislative history to the effect that by the term "mid-eighties" he considers that to be 1987, I wonder if he would agree to modify his amendment to change the words "the mid-1980's" to "1987"?

Mr. GLENN. Looking a gift Texas horse in the mouth—yes, I would accept that.

Mr. TOWER. Mr. President, that is very gracious of the distinguished Senator from Ohio. But I think it is worthwhile to take a little historical notice here that we would not have been involved in this debate had the B-1 not been canceled in the first place. We probably would be proceeding on an ALCM carrier derivative of the B-1 along with the B-1 penetrator.

It would have been a penetrator that would have served us into the 1990's or a much longer period than the B-52 can be expected to do so.

But let us understand that we are in effect doing something else here that will further delay, as did the cancellation of the B-1, the entry into the inventory of an aircraft that is capable of performing the role of delivering an air-launched cruise missile and also capable of performing a penetrator role.

Just as the cancellation of the B-1 has put us in the vulnerable position we are in now, what we are doing here tonight is going to further extend that period of vulnerability, and I think that this is worth noting, and I hope that a subsequent Congress will consider what has been done here and try to rectify the damage we have done to our strategic capability here tonight.

The PRESIDING OFFICER. Does the Senator from Ohio modify his amendment?

Mr. GLENN. I modify the amendment to 1387.

The amendment as further modified is as follows:

On page 38, line 11, strike the figure "$9,541,943,000" and insert in lieu thereof: "$9,516,943,000."

Section 201, page 45, line 23, strike the figure "$7,135,197,000" and insert in lieu thereof "$7,160,197,000." On page 45, line 24, strike out the semicolon and insert in lieu thereof "and of which not more than $91,000,000,000 may be obligated or expended for the advanced development and engineering development of a strategic bomber which can achieve an initial operation capability in 1987. Such advanced development and engineering development shall include but not be limited to the FB-111B/C aircraft; a multi-role bomber aircraft, a variant of the B-1 bomber aircraft; an advanced technology aircraft, or an appropriate mix of such aircraft, so long as such aircraft have the capability of performing the missions of conventional bomber, cruise missile launch platform, and nuclear weapons delivery system."

On page 51, line 21, insert the following:

Section 206: The Secretary of Defense shall vigorously pursue the advanced development and engineering development of a strategic bomber which maximizes range, payload and ability to perform the missions of conventional bomber, cruise missile launch platform, and nuclear weapons delivery in both the tactical and strategic role. The Secretary of Defense shall submit a report on the results of this effort including comparisons of advanced technology aircraft with the B-1 and derivatives of the B-1 and the FB-111B/C in terms of cost and military effectiveness. This report shall be submitted to the Committees on Armed Services of the Senate and House by February 15, 1981.

Mr. GLENN. Mr. President, I will not prolong the debate this evening except to say that all this amendment does—and I have stated it over and over again this evening—is to broaden out the possibility of options, and it in no way eliminates any of the things the distinguished Senator from Texas is talking about. We broaden the option to allow some of this money to be used for other purposes than just the FB-111, and that is all this amendment does and all we have been saying all evening.

I move the Glenn amendment.

Mr. MORGAN. Mr. President, if you will afford me an opportunity for just a moment, then I will let you vote. I think I have said about all that needs to be said. I do not think I am going to persuade anyone any other way. But just make no mistake about it, what we have done is we have eliminated the FB-111 and we have eliminated the B-1 and we have gone into some speculative realm of high technology which does not exist.

Mr. GLENN. Mr. President, will the Senator yield?

Mr. MORGAN. Let me finish and I will yield.

We will be studying this in 1987. We will be confronted with it again. I just want to make the record clear because I think that is where we are.

Mr. GLENN. Mr. President, this amendment does not do any of those things at all. It does not eliminate anything. We started out with the FB-111, and it is still in that amendment. We added to it, we did not detract from it. We did not subtract from anything. We added options, and any other connotation that is being placed on any remarks here tonight is being deliberately misrepresentative of what we have said on this floor tonight, and I think we have debated this over and over again, and I move the Glenn amendment.

Mr. MORGAN. Mr. President, I rise to a point of personal privilege.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. MORGAN. I have not deliberately misrepresented anything, and I am sorry the Senator from Ohio tends to think that I have.

Mr. GLENN. Mr. President, will the distinguished Senator yield?

Mr. MORGAN. Let me just finish, please. The Senator from Ohio has offered an amendment which, in my opinion, speaks of high technology which does not and cannot exist by 1987. If giving you my opinion, and you state it is a deliberate misrepresentation, then I apologize to the Senator. But it was certainly not my intent and I am sorry that he took it in that vein.

Mr. GLENN. If the Senator will yield, I would like to point out that there is nothing in there that says the $91 million will be spent on the advanced technology aircraft. It leaves that option there. Different portions might be put on that, and maybe no dollars would be spent on that as a result of the amendment. Maybe their decisions will be to go to the 111 as the committee originally reported out. Maybe some of it will go to a B-1 variant, maybe some will go to the advanced technology. We do not try to define that here. All we try to do is provide the options in case that is what will provide the best mix of aircraft to do the job.

I move the amendment.

SEVERAL SENATORS. Vote! Vote!

Mr. STEVENS. Mr. President, will the Senator answer just one question, the Senator from Ohio?

Mr. GLENN. Yes.

Mr. STEVENS. How many FB-111's will be stretched under your approach?

Mr. GLENN. How many F-111's?

Mr. STEVENS. How many do you envision may be stretched?

Mr. GLENN. I have no count on how many will be stretched or whether there will be 111's. We leave that open. We may have the full 155 the committee provided. We may have part of it taken off and some of it given to a different purpose. There is no way to pin that down at this point.

I move the amendment, Mr. President.

Mr. TOWER. Mr. President, I would simply join my colleague from North Carolina in saying I do not think there has been any attempt to deliberately misrepresent anything on the part of those who have opposed the Glenn amendment. I think there is far more vagueness and ambiguity in the Glenn amendment and far more probability that Senators will not understand really what has been done here than if we had followed the course recommended by the Senator from North Carolina and by myself.

My colleagues on this side of the aisle have been entreating me not to speak any longer. Therefore, I will not, and I am prepared to vote.

Mr. ZORINSKY. Mr. President, will the Senator from Texas yield for just 15 seconds?

Mr. TOWER. It depends on whether or not I will be lynched if you go beyond 15 seconds.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. ZORINSKY. Mr. President, I would like to associate myself with the remarks of the Senator from North Carolina. It is a fact the President has already denied the building of the B-1 bomber. It is a fact that Secretary Harold Brown, the Secretary of Defense, has denied already the building of the FB-111 B or C model. So the only alternative left is to study the high technology. The B-1 has been studied since 1960. That is 20 years, gentlemen and lady, and we have not got 20 years left.

I thank the Senator.

Mr. TOWER. I yield the floor, Mr. President.

Mr. GLENN. Mr. President, I would be happy to have a voice vote on this. I think we have made enough of a record on this tonight. I do not want a rollcall vote unless someone else does.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio. (Putting the question.)

The amendment (UP No. 1387) was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I wonder now if we could not proceed with the three or four amendments that I understand will be accepted by the managers and on which the debate would be very short. This would allow Members to go home.

If Mr. Armstrong would lay his amendment down, it would be the first amendment to be voted on in the morning. There is a 45-minute time limitation on that amendment. And then that would leave only the second amendment.

Mr. President, may we have order in the Senate?

Mr. TOWER. Mr. President, reserving the right to object, and I do not intend to object, I wonder if the Senator from Ohio (Mr. Glenn) would be prepared to agree to a controlled time on his amendment at this point.

Mr. GLENN. On the MX?

Mr. TOWER. Yes. So we could try to get some idea on a schedule tomorrow.

Mr. GLENN. I will not agree to that right now. I will try to keep it short.

Mr. BAKER. Mr. President, will the majority leader yield to me for a moment?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, I might inquire, if we do take up these other amendments and if rollcalls are asked for, would it be possible, in the view of the majority leader, to stack those votes tomorrow so we might announce there will be no more rollcalls tonight?

Mr. STENNIS. I do not think we will need rollcalls, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, although it appears that they will be accepted without requests for rollcalls, if there is a rollcall requested, it will be put over until tomorrow.

Mr. BAKER. I thank the majority leader.

Mr. ROBERT C. BYRD. Mr. President, before we go out, would Mr. Armstrong lay down his amendment at this time and we could get consent that it be temporarily laid aside or we could get consent that it be the pending amendment?

Mr. President, I ask unanimous consent that the amendment by Mr. Armstrong be the pending amendment when the Senate resumes consideration of this bill on tomorrow.

Mr. TOWER. Mr. President, reserving the right to object, I do not see Senator Armstrong in the Chamber.

Mr. BAKER. Senator Armstrong is agreeable.

Mr. TOWER. I withdraw my objection.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in—I am going to change the time to 10 o'clock. The Senate will come in at 10 o'clock.

If the leader on the other side of the aisle will yield his time, I will yield mine on tomorrow.

Mr. BAKER. Mr. President, I am happy to yield my time tomorrow.

Mr. ROBERT C. BYRD. Mr. President, the pending question will be on the amendment by Mr. Armstrong.

Mr. President, I am simply not going to proceed until there is order in the Senate.

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, the first vote will be on the amendment by Mr. Armstrong. There will be a 45-minute time limitation on that amendment, so that vote would occur around 10:45 to 11 o'clock. There is one special order, but some of the time on the amendment conceivably could be yielded back.

The next amendment would be Mr. Glenn's amendment, in the event the other four amendments on which there are time agreements are disposed of this evening by voice vote.

The conferees have completed their work on the supplemental appropriation bill. I want to compliment Mr. Magnuson, the chairman of the Appropriations Committee. They have been at work all afternoon and all evening, and just a few minutes ago the conference report was passed around for signature. So the House will dispose of that conference report on tomorrow, I assume.

Mr. LEAHY. Today.

Mr. ROBERT C. BYRD. And then the Senate will take up the conference report upon its arrival in the Chamber.

So on tomorrow the Senate will complete action on the military procurement authorization bill at no later than 3 o'clock p.m. and, presumably, earlier, I hope, and will complete action on the supplemental appropriation conference report if the House finishes its work, and I have reason to believe that it will.

So I would say that the first vote, again, will be around 10:45 to 11 o'clock a.m. tomorrow. I hope all Senators will have a good evening. But Mr. Stennis and Mr. Tower will remain to discuss the amendments and accept them if Senators will offer them, Senators Bayh, Jepsen, Mathias, and Eagleton.

The PRESIDING OFFICER. The Senator from Indiana.

UP AMENDMENT NO. 1391

(Purpose: to provide statutory recognition of the present military legal assistance program)

Mr. BAYH. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Indiana (Mr. Bayh), for himself, Mr. Thurmond, Mr. Williams, and Mr. Hart, proposes an unprinted amendment numbered 1391.

Mr. BAYH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill add the following new section:

Sec. 1. It is the intent of the Congress that members of the Armed Forces and their dependents have legal assistance made available to them in connection with their personal legal affairs.

Sec. 2(a) Chapter 53 of title 10, United States Code, is amended by adding at the end of such chapter the following new section.

"§ 1041. Legal assistance

"(a) Under such regulations and with such limitation as the Secretary concerned may prescribe, members of the armed forces on active duty and their dependents may be provided legal assistance in connection with their personal legal affairs.

"(b) The Judge Advocates General, as defined in section 801(1) of this title, are responsible for the establishment and supervision of legal assistance programs under such regulations as may be prescribed by the Secretary concerned.

"(c) Nothing contained in this section shall be construed as authority for specific increases above levels of legal assistance programs currently planned or the representation in court of persons described in subsection (a) who can otherwise afford legal fees for such representation without undue hardship.".

"(d) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1041. Legal assistance.".

Mr. BAYH. Mr. President, today I am offering on behalf of my self, Mr. Thurmond, Mr. Williams, and Mr. Hart an amendment which will provide a statutory recognition of the military legal assistance program. Last year, I was joined by Senators Thurmond, Jackson, Javits, McGovern, and Matsunaga in proposing S. 1130, a bill to do precisely what the amendment does today. That legislation was determined by the Congressional Budget Office to represent no additional cost and it was supported by the Department of Defense in amendment form.

As my colleagues are aware, the military legal assistance program provides counseling and other help to active duty military personnel and their dependents, reserve forces personnel on active duty, military retirees and dependents on matters such as landlord tenant relations, small claims, the preparation of wills and other matters. The existence of these services is of particular importance to younger members of the Armed Forces. The services are in agreement that such a program contributes to morale and discipline. Moreover, such counseling often heads off larger legal problems which demand the attention of greater numbers of military lawyers as is the case with court martials.

The legislation we are considering also has the endorsement and active support of the American Bar Association and Federal Bar Association. It is recognized that adequate legal services are generally not available to military personnel stationed overseas, deployed at sea or serving at remote installations. Even where civilian attorneys are available to military personnel and their dependents, considerable savings may be realized by providing legal services. An on-site approach to providing legal services can also be judged to contribute to the accomplishment of the primary objective of the armed forces—military readiness. I think this is a helpful step that we should take on behalf of the "nonproblem" soldier and others who have been designated eligible for such assistance and will continue to be.

At the same time that we are assuring that such requirements of our military personnel are met, the amendment which the Senate is considering does not establish an unqualified entitlement program which is of some concern to my colleagues on the Senate Subcommittee on Manpower and Personnel of the Armed Services Committee and I have incorporated this concern after consultation with the committee to clarify this point. I think we are all in agreement, however, that we ought to take every prudent step to reduce the difficulties which can arise from military service.

Indications are that as statutory requirements for the services have increased, pressures mount to reduce legal assistance and other programs which do not have a statutory basis. The statutory recognition which is provided by this amendment will help to assure that all necessary planning is given to fully meet legal assistance needs of our military personnel to the extent resources permit. To underline this point, the Department of Defense in a letter of support explained that present program as follows:

> The current policy of the Armed Forces is to provide legal assistance to members, their dependents, and certain other specified categories of personnel, to the extent that resources available to the particular service will permit. This policy is reflected in the regulatory provisions of the respective services which establish procedures relating to each legal assistance program. At the center of such programs are the preventive law activities designed to decrease the volume of personal legal problems confronting military personnel and their dependents. . . . In addition to saving countless man-hours which would otherwise be used in remedial counseling and guidance, legal assistance programs enhance morale and efficiency of the individual soldier and materially reduce disciplinary problems and criminal violations.

To the Department it is clear that the result of such programs which have been in existence for 35 years which help promote discipline and contribute to a more effective and efficient distribution of resources as is suggested by the observation that:

> . . . Preventive legal assistance may be provided by one attorney; if the member is court-martialed, a minimum of four attorneys are required.

I think we would all agree that the amendment which we are offering is entirely appropriate and supportable and I move that it be adopted.

I would just say that the thrust, the purpose and the intent of this legislation is to continue to provide the kind of legal services which are now provided for military personnel, their dependents, retirees, and that category of personnel that are now served by the judge advocate corps, to take those services which are now provided by the regulation and put them in the statutes. It has been working for about 35 years. The Pentagon and JAG says that this is a very important contribution to maintain morale. It actually saves money in the long run by providing preventative legal services early on so that you do not have to worry about more complicated legal questions.

Mr. STENNIS. Mr. President, will the Senator yield for a question?

Mr. BAYH. Yes.

Mr. STENNIS. In connection with the legal services that will be rendered under this provision changing over from a regulation to the law, will that require the employment of any more attorneys?

Mr. BAYH. The purpose is not to provide any additional personnel. There are no additional costs. The magic language contained in the amendment is to continue the level of service to that which is already planned. The legal services in the process of planning at the time this bill is enacted will be the level of services. We do not want to make this a bill that will go out and have to necessitate the employment of additional JAG personnel.

Mr. STENNIS. Mr. President, this is an established service here and it is going to be rendered without additional cost to the Government or employment of extra people or anything of that kind. We approve it as a valuable service. It is timely and for the benefit of the military.

Mr. THURMOND. Mr. President, I rise in support of the pending amendment which would provide a statutory basis for legal assistance for members of the Armed Forces and their dependents.

Mr. President, it is presently current policy of the Armed Forces to provide such assistance. To the extent that resources are available, this policy is provided for in the regulatory provisions of the respective services.

However, this authority needs to be strengthened by establishing it on a statutory basis. While even this step would not provide an unqualified entitlement to legal services, it would indicate the support of the Congress for this program in periods when various military benefits are being curtailed or eliminated.

Mr. President, at the center of this effort is the encouragement of the preventive legal services which can often result in an overall reduction in the need for military-supplied legal support. Whereas preventive legal service may be provided by one attorney, if the serviceperson is court-martialed then a minimum of four attorneys are required. The success of these programs is attested by the fact they have been in existence for over 35 years.

Mr. President, in conclusion, I wish to state this legislation is supported by the Defense Department and the budget impact has been determined to be zero, both by DOD and the Congressional Budget Office.

It is also widely supported by numerous military organizations, as well as the American Bar and the Federal Bar Associations.

I am pleased to join with the distinguished senior Senator from Indiana, Mr. BAYH, in presenting this amendment, and I urge its favorable consideration.

Mr. BAYH. Mr. President, I extend my deep appreciation to my friend from South Carolina for his continued support, to the chairman, Senator STENNIS, and to Senator NUNN for their support of this. I think it will be a significant contribution.

The PRESIDING OFFICER. Is all time yielded back?

Mr. BAYH. I yield back my time.

Mr. STENNIS. I yield back my time.

Mr. ROBERT C. BYRD. Mr. President, may we have order?

Mr. President, may we have order in the Senate? The Senate is still transacting business.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana (Mr. BAYH).

The amendment (UP No. 1391) was agreed to.

Mr. STENNIS. Mr. President, under the arrangement we have entered into, the next matter to be taken up is the civil defense matter by Mr. EAGLETON. Mr. EAGLETON is not in the Chamber at this time. Perhaps we could proceed with the Senator from Iowa (Mr. JEPSEN).

UP AMENDMENT NO. 1392

(Purpose: To provide for a defense manpower management plan and study)

Mr. JEPSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Iowa (Mr. JEPSEN) proposes an unprinted amendment numbered 1392.

Mr. JEPSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

COMPREHENSIVE MANPOWER MOBILIZATION PLAN

SEC. . (a) The Secretary of Defense, in conjunction with the Director of Selective Service shall prepare and submit to the Congress, not later than April 1, 1981, a comprehensive plan for the effective management during peacetime of the potential military manpower of the United States and for the effective mobilization during a war or national emergency of the potential military manpower and defense-related manpower of the United States. Such plan shall include—

(1) new and improved procedures for the registration and classifications of persons under the Military Selective Service Act, placing special emphasis on administrative and medical procedures that will result in more efficient and cost-effective screening of registrants;

(2) new categories and equitable standards for the deferment and exemption of persons from training and service under the Military Selective Service Act; and

(3) such other administrative changes deemed necessary or appropriate to manage effectively during peacetime the potential military manpower of the United States and to mobilize effectively during a war or national emergency the potential military manpower of the United States.

(b) The Secretary of Defense and the Director of Selective Service shall conduct a study of the impact of reinstating registration under the Military Selective Service Act, if any, and the impact of implementing the plan described in the preceding paragraph on the recruitment and retention of personnel for the active duty, National Guard and reserve forces of the United States. The Secretary shall submit the results of such study to the Congress not later than April 1, 1981, together with such recommendations as he deems appropriate for—

(1) such administrative and legislative changes to integrate and coordinate the plan described in the preceding paragraph with on-going programs to maintain and improve the all volunteer armed forces program;

(2) coordinating operations under such plan with recruiting and retention efforts of the reserve and National Guard forces of the United States; and

(3) establishing and maintaining a national inventory of civilian personnel who possess key or critical skills, in areas such as medicine, electronics, or engineering, or in any other comparable area, of which, in the event of mobilization, the Secretary determines the armed forces would face significant shortages.

Mr. JEPSEN. Mr. President, as ranking member on the Manpower and Personnel Subcommittee, I have followed the issues of selective service registration, classification, and the draft very closely for the past year.

During the Manpower Subcommittee hearings on selective service registration earlier this year, it was clear to me that the current manpower mobilization plan was in need of improvement. I, therefore, submitted an amendment to the selective service registration bill which recommended development of a comprehensive manpower mobilization plan. In addition, the amendment calls for a study of the impact of selective service registration and the mobilization plan, on the All-Volunteer Force.

Because of the parliamentary situation peculiar to the registration bill, I was compelled to withdraw the amendment. However, I announced my intention to attach this amendment to the defense authorization bill when it reached the Senate floor. I believe that this amendment is consistent with the findings of the subcommittee concerning classification in particular and manpower mobilization planning in general.

Having reviewed the issue of classification in 1979, the subcommittee concluded that manpower mobilization readiness would be best served by a strong system of registration and classification. The purpose of current law requiring registration and classification has been to provide the Selective Service System with accurate and timely information concerning the service eligibility of registered individuals. However, the administration's intent is to place registered males under a single broad classification category.

The committee concluded that the President's proposal for Selective Service revitalization had given insufficient attention to potential methods or procedures for classification which could be utilized at the time of registration. Specifically, I am convinced that the many classification categories that improve administration determinations and that could be accomplished without physical examinations could provide important information to both the Selective Service System and to the individual registrant.

The committee supported, in principle, a system wherein individuals present claims and appeals and are classified during peacetime rather than during mobilization as is provided for in the President's proposals. However, the committee recognized that categories and standards for exemption and deferment and the procedures under current law ought to be completely reviewed. The Selective Service System should be equitable and fair and the committee felt that deferment and exemption categories should be limited to conscientious objectors, those morally, mentally, or physically unfit, and only such other categories that the President believes are necessary in the national interest.

When the Senate took up consideration of selective service registration legislation, it was widely recognized that registration is only a part of the manpower problems associated with defense manpower mobilization. I believe that the Congress ought to have a broader perspective of these problems and the legislative tools which will be required to solve them. By requiring review and revision of registration and classification procedures, as well as current standards for deferment and exemption, this amendment seeks to improve the efficiency of the Selective Service System and to avoid the inequities of past practices.

This amendment also requires that the Department of Defense and the Selective Service study the impact of registration and the forthcoming mobilization plan on the All-Volunteer Force. A major objective of this amendment is to stimulate proposals from which we can take advantage of Selective Service registration to improve recruiting efforts for the reserves and the National Guard.

Another major objective of this amendment is to improve the coordination of Selective Service classification procedures with the mobilization plans of the Armed Forces. Thus, the amendment asks for recommendations concerning the development of a national inventory of defense-related manpower skills. The logic is quite simple: If the United States, in the event of mobilization, is going to be short of medical, electronic, or engineering specialists, then we ought to have an inventory of our national assets in these areas.

In summary, Mr. President, my amendment asks that the Department of Defense and the Selective Service look at the big picture of manpower mobilization planning, and that they coordinate their efforts in line with the manpower requirements, both of quantity and of a specialized nature, which we all know would exist in the event of a national emergency.

UP AMENDMENT NO. 1393

(Purpose: To require that a study be conducted by the Secretary of Defense of procedures necessary for locating experienced personnel for use in the Armed Services in time of emergency)

Mr. MATHIAS. Mr. President, I send an amendment to the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Has the Senator from Iowa yielded back his time?

Mr. JEPSEN. Mr. President, the Senator from Iowa yields to the Senator from Maryland.

The PRESIDING OFFICER. All time will have to be yielded back. Does the Senator from Mississippi yield back his time on the Jepsen amendment?

Mr. STENNIS. Mr. President, I thought the two amendments went together.

Mr. MATHIAS. Mr. President, I ask unanimous consent that I may have permission to offer an amendment to the amendment of the Senator from Iowa.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS) proposes an unprinted amendment numbered 1393 to Mr. JEPSEN's amendment UP No. 1392.

Mr. MATHIAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert at the end of the amendment of the Senator from Iowa: ": *Provided further*, That the Secretary of Defense, shall conduct a study to identify the number of military personnel in each of the several skill categories needed to respond effectively in situations in which a military conflict is most likely to occur and submit a report to the Congress not later than April 2, 1981, containing the results of such study, including (1) the estimated short-falls in each skill category in each of the situations in which a military conflict is most likely to occur, (2) recommendations for the procedures necessary for locating and securing such additional skilled personnel as may be needed by the armed forces to respond effectively in such situations, and (3) such recommendations for changes in existing law as may be necessary to facilitate the compilation and maintenance of a current list of personnel who possess the skills required by the armed forces to respond effectively in such situations".

Mr. MATHIAS. Mr. President, this is an amendment which falls appropriately in the realm of the amendment of the Senator from Iowa. It provides in a specific way for the development of the national inventory of manpower and sets some procedures and deadlines for the development of that inventory.

Mr. President, the recent congressional debate on Selective Service registration focused Senate attention on another, far more important, issue which some of us have been crying in the wilderness about now for too long. That issue is the severe manpower recruitment and retention problem that afflicts our armed forces at present. The only positive aspect of the registration debate, in fact, was that it turned the spotlight of public attention on the real manpower problems of our military services.

As I said at the time of the debate, draft registration is a totally inadequate response to these problems. In a national emergency, our most critical need will be for experienced individuals capable of quickly manning the sophisticated weapons of war 1980's style. Draft registration is targeted only at young, inexperienced Americans, who would require considerable training to be effective in a modern military situation.

I proposed an amendment to the Selective Service registration bill which would have moved us in the right direction. It would have enabled the services to call on experienced Americans in the event of emergency. The amendment was ruled nongermane to the question of draft registration.

I now offer substantially the same amendment to H.R. 6974, the Department of Defense authorization bill, and am glad to join with the Senator from Iowa in offering it at this time.

My amendment is simple. It requires the Secretary of Defense to conduct a study and present it to the Congress not later than September 30, 1981. This study would examine what positions we would have to fill quickly in the event of an emergency, make recommendations as to how experienced individuals might be located and called up, and finally, make recommendations for any changes in existing law which might be necessary to facilitate the compilation and maintenance of a current list of personnel who possess the skills required by the Armed Forces to respond effectively in a crisis situation.

What I am proposing, in short, is that we examine the feasibility of a "national inventory of talent." This inventory would be available to the Nation at a time of great national emergency.

Let me illustrate how this inventory might operate in practice.

An F-14 Tomcat pilot is a highly trained and technologically sophisticated officer of significant intellectual and physical attainments. When he leaves the Navy, he may provide a forwarding address so that his mail catches up with him, but thereafter the Navy pretty much loses touch with him. It has no way of locating him. Astonishing as it may seem, no workable system exists for keeping track of and finding—in a hurry, or at all—our experienced pilots in whom we have invested up to $1 million each in training and equipment for a national emergency.

Mr. President, we live today in an increasingly complex and difficult world. The days of the citizen-soldier are past. We cannot afford to waste the vast reservoir of talent and experience which exists in this country.

Every year thousands of highly trained Americans leave the Armed Forces and return to civilian life. I know that in the event that the survival of the Nation were in question these experienced individuals, would be ready, once again, to serve their country.

But could we find them in time to make a difference? To do that, we need the capability to locate these people quickly and to match them with the needs of our Armed Forces. My amendment would move us in the direction of retaining this capability. I urge its adoption.

Mr. STENNIS. Mr. President, the Senator has references to population or listings of different selective service laws. Will the Senator briefly outline that so as to give the Members a little outline?

Mr. JEPSEN. The amendment calls for a comprehensive mobilization manpower plan to be delivered not later than April 1, submitted to the Congress, to be prepared by the Secretary of Defense in conjunction with the Director of Selective Service.

It will include new and improved procedures for registration classification of persons under the Military Selective Service Act, new categories, and equitable standards for deferment and military training under the Military Service Act.

Mr. STENNIS. Mr. President, I think that identifies it for the RECORD sufficiently.

Mr. MATHIAS. Mr. President, I would say to the distinguished chairman of the Armed Services Committee that what I have proposed is essentially what we discussed during the debate on registration. It simply directs the Secretary of Defense to submit a report to the Congress not later than April 2, 1981, which would identify the shortfalls in skill categories in each of the situations in which military conflict is likely to occur, his recommendations for the procedures for locating and securing additional skilled personnel, and recommendations for changes in existing laws which may be necessary to facilitate the compilation and the maintenance of the current list of personnel.

Mr. STENNIS. Mr. President, we find the plan timely. It will give us sufficient time.

Mr. President, I yield back any remaining time.

Mr. MATHIAS. Mr. President, I yield back any remaining time.

The PRESIDING OFFICER (Mr. LEVIN). Does the Senator from Iowa yield back his time?

Mr. JEPSEN. Mr. President, I ask unanimous consent to modify the amendment I earlier sent to the desk, to have all the dates changed from April 1 to April 2.

The PRESIDING OFFICER. The Senator may modify his amendment. The amendment is so modified.

The amendment, as modified, is as follows:

At the appropriate place in the bill, insert the following:

COMPREHENSIVE MANPOWER MOBILIZATION PLAN

SEC. . (a) The Secretary of Defense, in conjunction with the Director of Selective Service, shall prepare and submit to the Congress, not later than April 2, 1981, a comprehensive plan for the effective management during peacetime of the potential military manpower of the United States and for the effective mobilization during a war or national emergency of the potential military manpower and defense-related manpower of the United States. Such plan shall include—

(1) new and improved procedures for the registration and classifications of persons under the Military Selective Service Act, placing special emphasis on administrative and medical procedures that will result in more efficient and cost-effective screening of registrants;

(2) new categories and equitable standards for the deferment and exemption of persons from training and service under the Military Selective Service Act; and

(3) such other administrative changes deemed necessary or appropriate to manage effectively during peacetime the potential military manpower of the United States and to mobilize effectively during a war or national emergency the potential military manpower of the United States.

(b) The Secretary of Defense and the Director of Selective Service shall conduct a study of the impact of reinstating registration under the Military Selective Service Act, if any, and the impact of implementing the plan described in the preceding paragraph on the recruitment and retention of personnel for the active duty, National Guard and reserve forces of the United States. The Secretary shall submit the results of such study to the Congress not later than April 2, 1981, together with such recommendations as he deems appropriate for—

(1) such administrative and legislative changes to integrate and coordinate the plan described in the preceding paragraph with on-going programs to maintain and improve the all volunteer armed forces program;

(2) coordinating operations under such plan with recruiting and retention efforts of the reserve and National Guard forces of the United States; and

(3) establishing and maintaining a national inventory of civilian personnel who possess key or critical skills, in areas such as medicine, electronics, or engineering, or in any other comparable area, of which, in the event of mobilization the Secretary determines the armed forces would face significant shortages.

The PRESIDING OFFICER. Does the Senator yield back the remainder of his time?

Mr. JEPSEN. Is that the procedure with his amendment to my amendment? We have not acted on his amendment yet.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maryland to the amendment of the Senator from Iowa.

The amendment (UP No. 1393) to the amendment (UP No. 1392), as modified, was agreed to.

The PRESIDING OFFICER. Is all time yielded back on the amendment of the Senator from Iowa, as modified?

Mr. JEPSEN. Mr. President, I yield back the remainder of my time.

Mr. STENNIS. Mr. President, we yield back the remainder of my time.

The PRESIDING OFFICER. Without objection, the modified amendment (UP 1392) as amended, is agreed to.

Mr. MATHIAS. Mr. President, I move to reconsider the vote by which the modified amendment, as amended, was agreed to.

Mr. JEPSEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, will the Senator yield 30 seconds?

Mr. EAGLETON. I yield.

Mr. NUNN. Mr. President, I would like to briefly say that I thank the Senator from Iowa and the Senator from Maryland for offering these amendments. I have looked at both of them and I believe they are both contributions to our military preparedness. I look forward to doing the best we can with those amendments in conference.

UP AMENDMENT NO. 1394

(Purpose: To amend H.R. 6974 to provide for a sense of the Congress statement regarding civil defense)

Mr. EAGLETON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. MATSUNAGA). The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) proposes an unprinted amendment numbered 1394.

Mr. EAGLETON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

The Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251 through 2297), is amended—

(1) by adding after title IV the following new title:

"TITLE V—ENHANCED CIVIL DEFENSE PROGRAM

"SENSE OF CONGRESS

"SEC. 501. (a) It is the sense of Congress that—

"(1) a civil defense program providing for relocating the population of risk areas including the larger United States cities during a period of strategic warning resulting from an international crisis, may be effective in protecting the population;

"(2) the present civil defense program should be improved;

"(3) an improved civil defense program can be developed and can enhance the civil defense capability of the United States.

"(b) It is the sense of Congress that an improved civil defense program should be implemented—

"(1) to enhance the survivability of the American people and its leadership in the event of nuclear war and thereby to improve the basis for eventual recovery and to reduce the vulnerability to a major attack;

"(2) to enhance deterrence and to contribute to perceptions of the overall United States-Soviet strategic balance and crisis stability, and to reduce the possibility that the United States might be susceptible to coercion by an enemy in times of increased tension;

"(3) to not suggest any change in the United States policy of relying on strategic nuclear forces as the preponderant factor in maintaining deterrence; and

"(4) to include planning for some population relocation during times of international crisis as well as be adaptable to help deal with natural disasters and other peacetime emergencies.

"PROGRAM ELEMENTS

"SEC. 502. (a) To carry out section 501, the President shall, to the extent practicable, develop and implement a civil defense program which includes—

"(1) a program element structure for the resources planned for war-related civil defense.

"(2) a program element structure for the resources planned for civil disaster civil defense.

"(3) a list of criteria and procedures under which resources of either program elements and structure (1) or (2) may be used for the other programs.

"(b) Consideration should be given to the following program elements:

"(1) nuclear civil protection planning for more rapid population relocation during times of international crisis;

"(2) nuclear civil protection planning for improved inplace protection should circumstances preclude crisis relocation;

"(3) a survey of the shelters inherent in existing facilities;

"(4) planning for the development of additional shelter for use during times of crisis, development of capabilities for shelter management, of the marking of shelters and development of ventilation kits for shelter;

"(5) the development of emergency evacuations plans in areas where nuclear powerplants are located;

"(6) the improvement of strategic warning systems;

"(7) the improvement of systems and capabilities for the direction and control of emergency operations by civil governments at all levels, including further development of a network of emergency operating centers;

"(8) the improvement of civilian radiological defense capabilities;

"(9) the improvement of emergency public information and training programs and capabilities;

"(10) the development of plans for post-attack and post-disaster provided that post-disaster economic recovery planning does not detract from post-attack economic recovery planning;

"(11) the improvement of and training in self-help nuclear survivor skills;

"(12) research and development; and

"(13) other appropriate systems to increase life-saving potential of the civil defense program.

"ADMINISTRATIVE PROVISIONS

"SEC. 503. The powers contained in titles II and IV of this Act shall be used in developing and implementing section 502."; and

(2) by adding at the end of the table of contents the following:

"TITLE V—ENHANCED CIVIL DEFENSE PROGRAM

"Sec. 501. Sense of Congress.
"Sec. 502. Program elements.
"Sec. 503. Administrative provisions."

Mr. EAGLETON. Mr. President, I would like to take just a moment to raise an issue pertaining to the bill we now consider—that of civil defense. This bill provides authorization for $114.5 million for civil defense related activities in the coming fiscal year, a reduction of $5.5 million from the amount requested by the President.

In recommending a reduction, the committee has pointed out several deficiencies in our current civil defense programming; $1.5 million of the funds pertain to a plan to "surge"—that is the term used in the committee report—a civil defense buildup during a period of increased tensions. The committee, noting the delays and difficulties in implementing the current civil defense program and policy, recommends against the funding. Mr. President, I agree with the sentiments expressed in the report—our current civil defense program does not convey the impression that it is capable of "surging."

Two hundred thousand dollars of the amount requested was intended for procurement of shelter stocks, including water containers and ventilation and sanitation kits. The committee correctly points out that with crisis relocation plans still in the early stages of development, such a procurement plan is premature. Their denial of funding highlights the problems we as a nation face in forging a comprehensive plan for dealing with civil defense needs. Finally, the committee recommends a reduction of $1 million requested to fund 31 new personnel positions identified as "exercise officers." Given the absence of a comprehensive civil defense plan the committee has rejected this program expansion.

Mr. President, for just these reasons, I would like to offer an amendment that would modify language in this bill. My amendment would not increase the scope of the fiscal year 1981 authorization. Indeed, it does not seek to restore the recommended reduction. What I offer for the consideration of my colleagues is modest language intended to express a sense of the Senate that the U.S. must undertake a comprehensive review of our current civil defense needs and begin detailed planning for the future of our civil defense program.

Mr. President, I do not profess to be an expert on matters of civil defense. My concern is that I do not believe our civil defense planners have developed a comprehensive plan for dealing with long-range needs. In its action on this bill, the committee has shown some displeasure with a piecemeal approach to developing a civil defense posture.

It occurs to me that "civil defense" is a much misunderstood concept. For myself, I am not quite sure we understand the full potential an effective civil defense program offers. While I followed the rapidly developing events that followed the initial eruption of Mount St. Helens, I could not help but wonder what a working knowledge of the dynamics of evacuating major urban areas during crisis would have meant to those who dealt with the enormous threat to human life that the activated volcano presented. I wonder: Would it be possible to utilize the same contingency planning necessary to deal with strategic attack to deal with a major natural disaster such as the earthquake that burned San Francisco in 1906? I simply do not know. I do know, however, it is in our best interests to find out.

Mr. President, I understand that the committee has had the opportunity to consider the proposed language and I am hopeful my colleagues will find it acceptable.

Mr. LEVIN. Mr. President, first I commend my friend from Missouri for offering this amendment. This amendment outlines the broad and comprehensive policy directions which Congress believes the executive branch should consider in proposing future civil defense programs.

It does not bind future Congresses to particular civil defense programs of any size or composition. It does recognize the possible contributions an appropriate, reasonable civil defense program could make to maintaining the strategic balance between the United States and the Soviet Union.

It recognizes the important "dual purpose" the national civil defense program fulfills in helping countless communities throughout the Nation cope with natural disasters.

Mr. President, I support the amendment of Senator EAGLETON. I chaired the hearings on civil defense at the request of Chairman Stennis. I support the Eagleton civil defense amendment and I commend Senator Eagleton on his extraordinary contribution to the civil defense of this country.

I yield the floor.

Mr. EAGLETON. I thank my colleague, Mr. President.

Mr. STENNIS. Mr. President, I am glad to join in the support of this proposal.

Mr. TOWER. Mr. President, there is no objection on this side.

Mr. EAGLETON. I yield back the remainder of my time, Mr. President.

Mr. STENNIS. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment (UP No. 1394) was agreed to.

Mr. EAGLETON. I move to reconsider the vote by which the amendment was agreed to.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1395

Mr. STENNIS. Mr. President, I believe that is all we are to take up tonight under the special order. There is a matter here about a correction. I send the amendment to the desk and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER (Mr. Levin). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Mississippi (Mr. Stennis), for the Committee on Armed Services, proposes an unprinted amendment numbered 1395:

On page 42, line 15, after the word "year" add the following:

"beginning after September 30, 1981"

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the amendment.

Mr. STENNIS. Mr. President, this is purely a technical amendment. It relates to the identification of a year, fiscal year 1982, and makes it conform to the language of the bill, which is a matter that has heretofore been overlooked.

I move adoption of the amendment, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1395) was agreed to.

Mr. STENNIS. I yield back my time, Mr. President.

STATEMENT ON MR. WALLOP'S AMENDMENT (UP NO. 1380)

Mr. THURMOND. Mr. President, the use of high energy lasers in space is an excellent new initiative. These lasers can be used in both an antisatellite and ballistic missile defense role.

Mr. President, technology development has been ongoing in this area since 1972. Both the Advanced Requirements Planning Agency and the U.S. Air Force have been pursuing this area with significant progress.

On a component basis—on a subsystem basis, the technology has been demonstrated, on the ground. What is required is some solid engineering to put the whole system together and to test it in space. The potential gains of a laser weapon in space, knowing full well that the Soviets are pursuing this area with great intensity, make me believe that this amendment is one which the Senate should support.

Mr. President, lasers work better in space than they do on the ground. In a vacuum, there is no atmosphere to distort or bend the beam. The problems are not with the laser. The problems are with long-range target acquisition. Once we select an optical sensor that can acquire a long-range target, we have the pointing and tracking technology, the fire control technology, the laser itself and all of the laser support subsystems. The R. & D. is there, the building blocks are there, the potential is there. I think it makes good commonsense to support this area as best we can and as fast as we can.

Mr. BAKER. Mr. President, I ask unanimous consent to have printed in the Record a statement by the Senator from Arizona (Mr. Goldwater).

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Senator Goldwater

My principle interest in the military procurement bill has to do with those parts which affect our capability in the air. And, while I believe there is fairly generous unanimity on the bill, there are parts that I believe could stand more debate than will result from the limited hours allotted.

One portion, which I believe deserves careful attention, has to do with the CX Transport, and I believe a case should be made for making some money available to the Air Force so that it can continue its study on the project. Without more airlift capacity, there is no way—I repeat, no way—that this country could deliver divisions to any theater of war in sufficient time to offset the demonstrated speed of which our potential enemy is capable. Since World War II, this country has always been two percent short in materiel airlift equipment and we will continue to be short until we attack the problem directly. We need adequately equipped and operated long range transport aircraft. I ask my colleagues in considering this viewpoint, to take into account my extensive background in the field of aviation.

Another point which I consider vital in this bill, concerns the money authorized to stretch the FB–111 into a strategic bomber for the purpose of launching cruise missiles.

The FB–111 was developed over many years as our great interdiction fighter bomber, and the weapon we can use to go 500 or 1,000 miles into enemy territory for the destruction of railyard assemblies, fuel dumps and similar targets. It makes absolutely no sense to disrupt this fleet just to be able to say that we have a strategic bomber, when the truth of the matter is that we won't have a strategic bomber, just a second hand airplane which the Air Force itself has never requested. I realize that General Ellis, commander of the Strategic Air Command, for whom I have the utmost respect, wants this airplane. But, I also realize that he wants any kind of new airplane that he can get, whether it be a fixed wing B–1, a mobile winged B–1, or the presently antiquated, B–52. What is more, there is no way that we can tell how much this new version of the FB–111 will cost. My own opinion is that it would cost at least as much as a new B–52.

While I do not have time to give all of my reasoning on this matter, I would like my colleagues to know that my experience in the field of aviation tells me that this is not a good deal. I would point out, Mr. President, that I am the only member of the Senate who has flown the B–52, the FB–111 and the B–1; and consequently, I feel I have a fairly good idea of what is involved in this whole matter. I will of course gladly accept whatever decision the Senate reaches and join the Senate in a conference with the House later this summer where I am certain that some things in controversy which make this a weak bill can be worked out.

EDUCATIONAL INCENTIVES

Mr. CRANSTON. Mr. President, I rise to express some serious reservations I have with respect to the provisions of H.R. 6974 as reported that would authorize the appropriation of $45 million for an educational assistance test program and provide certain new authorities in connection with the post-Vietnam era veterans' educational assistance program—VEAP—which is administered by the Veterans' Administration under chapter 32 of title 38, United States Code—specifically, sections 303, 304, and 305 of the bill.

Let me preface my statement by stressing my very deep commitment to and support for the All-Volunteer Military Force. Congress must continue to take the lead in insuring that military personnel and prospective recruits are offered appropriate pay and benefits. As chairman of the Committee on Veterans' Affairs, I believe that inservice and post-service educational incentives—properly designed to encourage recruitment and detention of high-caliber young men and women in military service—can play a very important role in assuring the continued success of the all-volunteer concept.

In this regard, I am pleased that there are many who share my beliefs, including the members of the armed Services Committee who have supported the provisions of the committee bill that would provide for a 1-year test of a variety of educational incentives.

Nevertheless, Mr. President, I am deeply concerned by these particular provisions of the committee bill, and, while I will not oppose them at this time, I do wish to take this opportunity to share my concerns with my colleagues.

My basic concern, Mr. President, centers on the fact that I believe a 1-year period is not sufficient time to test and evaluate an educational incentives program. In order to conceive, implement, conduct, and evaluate fully any incentives such as those proposed in the committee bill, much more time will be needed.

Mr. President, as Members may be aware, last week the Veterans' Affairs Committee held a hearing which I chaired focusing on the role of educational incentives in the All-Volunteer Force. The committee received considerable testimony from representatives of the Department of Defense, the Veterans' Administration, and a number of military service and veterans organizations. Much of that testimony substantiates my concerns about the lack of merit and feasibility in a 1-year test.

Consider for a moment the experience we have had with VEAP. This program was enacted in 1976 by Public Law 94-502 as what some might call a "5-year experiment" in developing an appropriate successor to the current Vietnam-era GI bill. Basically, VEAP is a contributory-matching program under which a servicemember's contributions are matched by the Veterans' Administration on a 2-for-1 basis.

In 1979, the Department of Defense began testing what has come to be known as the "VEAP kicker" under which a servicemember may receive, as a further incentive, an added contribution to his or her VEAP account. Mr. President, phase one of the test—which covered January 1, 1979, to December 31, 1979—was completed well over 5 months ago. Yet, representatives of the Army testified before the Armed Services Committee on March 12, and before the Veterans' Affairs Committee on June 19, that it is too soon to be able to make conclusions based on this test.

Mr. President, the provisions of section 304 of the committee bill are designed to provide for an educational assistance pilot program under which the Secretary of Defense may make contributions to the VEAP accounts of certain servicemembers who possess critical skills which are in short supply in the military. In addition, it would authorize the Secretary of Defense to permit certain servicemembers to transfer their entitlements under VEAP to their spouses or dependents.

These proposals sound, on the surface, quite simple, and this new flexibility may be a good approach. However, as our June 19 hearing amply illustrated, the issues are in reality quite complex and controversial. Why should we expect that they can be effectively tested and fully evaluated in 1 short year, actually far less than a year since the committee bill calls for a final report by March 31, 1981—especially when our experience with other such tests has only demonstrated that 1 year is not sufficient time in which to draw conclusions? It is really a ludicrous proposition, Mr. President.

On page 121 of the committee report, it is stated that:

> An effective educational assistance program may well be the last hope of the volunteer force to attract personnel of needed quality.

The Armed Services Committee is thus suggesting that the test of the approach presented in the committee bill is our last chance to preserve the Volunteer Army. I categorically reject that suggestion.

Mr. President, for the foregoing reasons I cannot subscribe to the belief that a 1-year test program is the only or even the proper means of proceeding at this point. Rather, I believe that we need to proceed together—with great care and thoroughness—to develop a permanent new program of educational assistance for service in the All-Volunteer Force. In this regard, the appropriate context in which such a new program should be considered is as part of our consideration of the expiration of the VEAP program at the end of the next fiscal year. The proposals of Senator COHEN, S. 2020, and Senator ARMSTRONG, S. 2596, both of whom testified before our committee last week, provide a good starting point for this effort, and I plan to work closely with them and others interested in this approach.

Mr. President, I believe the proposals made by the Armed Services Committee have been hastily formulated and ill-conceived. They have been developed and considered without input from or consultation with the Veterans' Affairs Committee which has extensive experience with programs of this nature and, indeed, has jurisdiction over the VEAP program. Nor has there been any consultation with the Veterans' Administration which administers VEAP. The tests will be required to be completed in a timeframe entirely too short to permit necessary implementation and evaluation. They are, in my opinion, designed—perhaps not intentionally, but nevertheless—designed and destined to fail.

Mr. President, as I previously indicated, I will not at this time oppose nor attempt to modify the provisions of H.R. 6974 in this regard. However, I do want to stress to my colleagues that this is not the last chance for the All-Volunteer Force. This issue will be addressed by the Veterans' Affairs Committee, and I intend to work diligently and carefully to develop an effective program of educational incentives, taking into account the views and concerns of all those who have an interest in the issue. I plan to introduce legislation later this year for a revised, permanent program of educational assistance for the All-Volunteer Force. Also, in the very near future, I plan to introduce legislation—in the form of an amendment to our pending measure, S. 1188—to correct certain inadequacies in the current structure of educational benefits available to those who are now in the military. In this latter respect, I will be working with the Senator from Virginia (Mr. WARNER) regarding the concerns addressed in his bill, S. 2846, just introduced on June 18.

In these efforts, Mr. President, I hope I will also have the benefit of consultation and cooperation with the Armed Services Committee and other distinguished Members of this body who share my goal.

Mr. MATSUNAGA. Mr. President, I rise to associate myself with the remarks of the distinguished chairman of the Veterans' Affairs Committee, the Senator from California (Mr. CRANSTON), concerning his reservations about provisions of the pending Defense authorization bill which would authorize an educational assistance test program and certain new authorities in connection with the veterans educational assistance program (VEAP), which is administered by the Veterans' Administration.

At the very outset, Mr. President, I want to say that I was encouraged by the fact that the Armed Services Committee chose to take initiatives in this bill designed to improve the military's educational assistance program. I know that the members of the Armed Services Committee believe, as the Senator from California and I do, that properly designed in-service and postservice educational incentives play a vital role, along with pay and benefits comparable to the private sector, in encouraging the enlistment into military of high quality young men and women and, in doing so, insuring the continued viability of the All-Volunteer Force.

It is clear to this Senator that the way to solve both the quantitative and qualitative manpower recruitment problems now facing the All-Volunteer Force is by our taking possible steps to reachieve and maintain pay comparability with the private sector for servicemen and provide potential recruits, as well as those already serving, with attractive educational benefits.

Mr. President, let us face the facts about the military's current program of educational incentives.

The VEAP program was enacted by the Congress in 1976 as a replacement for the Vietnam-era GI bill. It should be emphasized that the Congress intended this educational assistance program to be a 5-year experiment in developing an appropriate successor to the GI bill. By definition, VEAP is not a GI bill, whereby servicemen receive entitlement to free educational and other benefits, but is a contributory matching program under which a servicemember's contributions are matched by the VA on a 2 for 1 basis. The VEAP program will automatically terminate on December 31, 1981, unless the President sends to the Congress written recommendations to continue the program, to modify it, or to replace it with a different educational assistance program.

Mr. President, after 4 years under the VEAP program, I am afraid to say that serious problems exist in the program which are having an adverse effect on the men and women who are now serving and those individuals, particularly high school graduates, who are considering careers in the military.

In a report submitted to the Congress last month by the VA, statistics show that overall participation in the VEAP program by servicemen in calendar year 1979 stands at only 25.1 percent. Other figures show that while 201,773 individuals have participated in the program, 65,228—over 32 percent—have terminated their participation and, of that number, 32,822—17 percent—have requested refunds of their contributions. Moreover, through the end of 1979, only 470 individuals have received benefits under the VEAP program—some two-tenths of 1 percent of the total number of participants.

Mr. President, this report from the VA is, in my view, convincing evidence that something is very wrong with the VEAP program.

From the standpoint of educational benefits as a recruiting tool for the All-Volunteer Force, the VEAP program can only be considered a failure, which has contributed, to a significant degree, to the present difficulties being experienced by the All-Volunteer Force in recruiting high school graduates.

Mr. President, recent comprehensive studies on the adequacy of military pay and the effectiveness of present military educational incentives have concluded that the termination of the Vietnam-era GI bill in 1976 was a contributing factor in subsequent declines in high quality accessions. The replacement of the GI bill with the less attractive, contributory VEAP program resulted, in the eyes of potential recruits, especially those in relatively high mental groups, in the loss of a major incentive for enlistment in the military.

The Pentagon's Pay Adequacy Study, released last November, found that recruiting and retention of high quality personnel were most effected by the termination of the GI bill because these types of enlistees tend to value educational benefits more highly than other enlistees from lower mental categories.

Moreover, the Defense Department's Educational Incentives Study, which was released in February, identified a number of problems with the VEAP program which have made it extremely attractive to servicemen, the most important of which appears to be the cost of participation. The young, married servicemen whose pay may well be at or below the minimum wage simply cannot be expected to afford the minimum contribution of $50 required under the VEAP program.

Under these circumstances, Mr. President, can we realistically expect the military services to attract adequate numbers of high school graduates when we have allowed pay and benefits to fall to such dismally low levels and terminated one of the most important and effective enlistment incentives for high school graduates—the GI bill?

The answer is, Mr. President, we cannot.

The fact of the matter is that educational incentives will play a vitally important role in insuring the continued viability of the All-Volunteer Force, particularly when we are faced with the decline of the potential pool of quality young men and women available for military service over the next decade.

I was pleased to learn that the Armed Services Committee, in this authorization bill, has initiated a pilot test program of various types of educational assistance, including loan forgiveness, a contribution to the VEAP accounts of certain service members who possess critical skills, and an extension of educational benefits to members' spouses and dependents. However, as the Senator from California has indicated, I am concerned that these modifications in the educational incentives program do not go far enough and that a 1-year test program may possibly fail or, at best, not yield conclusive results.

I am primarily concerned, Mr. President, that the 1-year pilot test program may be too short in duration to test and evaluate adequately these modifications in the military's educational incentives policies. During a hearing on veterans' educational assistance conducted last week by the Veterans' Affairs Committee, representatives of the Veterans' Administration and the Department of Defense expressed concern about the feasibility and desirability of the 1-year test program proposed by the Armed Services Committee.

As the chairman of the Veterans' Affairs Committee has already pointed out, the Armed Services Committee's proposals to have the Defense Department make contributions to critical skills personnel and to permit certain service members to transfer their VEAP entitlements to their spouses or dependents are important and should be thoroughly considered by the Senate. However, the Veterans' Committee's hearing raised a number of complex and controversial issues related to these proposals which may not be properly addressed by the Armed Services Committee's proposed 1-year test program.

The fact is, Mr. President, that I share Chairman CRANSTON's belief that the proposals made by the Armed Services Committee have been hastily formulated and are ill-conceived. They were developed and incorporated in this bill by the Armed Services Committee without consultation with the Veterans' Affairs Committee, which has legislative jurisdiction over the VEAP program and has extensive experience with veterans' educational assistance programs, and the Veterans' Administration which administers VEAP. It is our judgment that the VEAP tests will be required to be completed in a time frame too short in duration to permit sufficient evaluation.

Mr. President, in a larger sense, we are very concerned that the VEAP tests are designed—perhaps not intentionally, but nevertheless effectively—to fail.

Mr. President, probably the most disturbing thing about the Armed Services Committee's educational incentives proposals is that they are being characterized as the "last hope" for the All-Volunteer Force to attract personnel of needed quality. Mr. President, I take strong exception to that statement.

Although I will not oppose the 1-year test program in this bill, I am firmly convinced that it does not represent the best way to proceed in this area at this time or under the present circumstances.

As the Senator from California has said, the Veterans' Affairs Committee is committed to working in a thorough and comprehensive manner, in close consultation with the Armed Services Committee, to develop a permanent form of educational assistance—possibly a new GI bill—designed to enable the All-Volunteer Force to successfully meet its present and future requirements for high quality personnel.

In the interim, Chairman CRANSTON plans to offer with my cosponsorship an amendment to a pending measure, S. 1188, the Disabled Veterans Rehabilitation Act of 1980, to correct a number of inadequacies in the structure of the VEAP program.

Mr. President, I join Chairman CRANSTON in the hope that the Veterans' Affairs Committee will have the full cooperation and support of the Armed Services Committee in these efforts which are vitally important to the future of the All-Volunteer Force.

Mr. CULVER. Mr. President, it has been my privilege to serve as chairman of the Subcommittee on Research and Development of the Armed Services Committee and in that capacity I would like to speak on behalf of H.R. 6974, a bill to authorize appropriations for research and development and procurement of the Department of Defense for fiscal year 1981. The Department of Defense request for research and development funds for fiscal year 1981 is $16.5 billion, an increase of $3 billion or 22 percent over that appropriated for fiscal year 1980. This bill recommends $16.9 billion, an increase of $375 million over that requested by the Department of Defense.

Mr. President, I think it is worth noting that the research and development request for fiscal year 1981 is about 50 percent greater than the fiscal year 1977 request, the last year prior to the inauguration of the Carter administration. Certainly the ravages of inflation have worked to keep the real growth at a more modest level but by any standard the funds requested and appropriated for research and development have increased dramatically over the past 4 years.

The strength of this country, both militarily and industrially, has to a large degree depended upon the creativity of our research and development community. At times it may seem as if that strength and vitality will continue as a matter of the natural order of things. We all know that is not the case. We must take steps to insure that our research and development community remains strong, has the resources to pursue their work and both the freedom and discipline to make the work useful in building a strong military force.

The bill we are considering today provides the resources to strengthen our research and development program. It is by far the largest amount ever authorized for research and development for the Department of Defense.

Mr. President, this bill authorizes $2.7 billion for the technology base programs. This is an increase of $400 million or 18 percent over that appropriated last year. This is our investment in the future. This is the part of the R. & D. budget that includes work on high energy laser and charged particle beam technology. It includes programs for the next generation of precision guided weapons, the so-called "smart bombs." It includes funds for the very high speed integrated circuits program as we take the revolution in computer microprocessors one step farther. This bill will strengthen our technology base consistent with the position taken by the Armed Services Committee for the past several years.

I would like to take a few minutes to review our strategic forces because we have heard so many conflicting claims over the past year as to their present health and their future expectations. I do not think it is fully appreciated that we are doing as much as we are to maintain the strength and effectiveness of our strategic forces. For the aircraft leg and the sea-launched ballistic missile leg we are in the midst of major modernizations that will improve their effectiveness and guarantee their ability to perform their missions for the next several decades.

Looking first to the bomber leg we are in the final stages of testing of the air-launched cruise missile and it will enter full-scale production in fiscal year 1981. The bill before you authorizes $118 million in research and development and $460 million for aircraft modification to equip the B–52 forces to carry the air-launched cruise missile. It also includes $109 million to complete the testing of the air-launched cruise missile and $550 million for production of 480 missiles. So by the end of fiscal year 1981 we will be at full production rate on the air-launched cruise missile of 40 per month and will have completed the necessary testing and development work to realize the initial operational capability of the summer of 1982.

Two points need to be made very clear. The cruise missile is our best weapon for penetrating Soviet air defenses that we expect in the late 1980's and beyond. A small radar cross section, the ability to fly close to the ground, and ability to saturate air defenses gives the cruise missile the ability to reach targets throughout the Soviet Union. There is overwhelming testimony from civilian scientists and military leaders that conventional aircraft such as the B–52, the FB–111 and the B–1 will be far less effective in the late 1980's than the cruise missiles. Fortunately, the cruise missile is cheaper to build and deploy than a force of B–1's or FB–111's but that is not the reason we have chosen to pursue cruise missiles as opposed to conventional manned penetrating bombers, we simply have no choice. The conventional penetrating bombers will not do the job that needs to be done. That fact is not fully appreciated by the public at large but records of hearings for the Armed Services Committee, both the full committee and the Research and Development Subcommittee, document without question that we made the proper choice and, again, not because of costs but because of military capability.

When the B–1 was canceled the Air Force started looking for another aircraft besides the B–52 to serve as a cruise missile carrier aircraft. Parallel with that effort the Air Force has made careful examination and tests of the B–52 to assess its physical condition as well as its ability to withstand the electromagnetic pulse that would accompany a nuclear blast. They have now reached the point where they are convinced that the B–52 can serve as the standoff cruise missile carrier aircraft well into the 1990's and that the development of a cruise missile carrier aircraft can be postponed for several years. Therefore, we have recommended the deletion of the $15 million requested this year by the Air Force for the cruise missile carrier aircraft and the termination of that program.

We will still need an airframe to replace the B–52 in the 1990's; therefore, the budget includes $15.3 million to look at the technology that is available and needed for an aircraft of the 1990's. In effect we are saying that since we do not need to deploy another aircraft to serve as a cruise missile carrier for at least 15 more years, we can afford to step back and reassess what might be available at that time. We are relying on the cruise missile to be sure we can penetrate the Soviet air defenses of the future. Our tests to date indicate that reliance is well placed. A competitive flyoff of the two candidate cruise missiles demonstrated that they are technically capable of performing the mission and that there are no unanswered questions regarding their performance. There are questions regarding the reliability of the missiles and for that reason the Department of Defense had added 19 additional tests in order to gain confidence that the manufactured missiles will have the necessary reliability.

Turning to the submarine-launched cruise missile program, we are now in the midst of deploying the Trident I missile first on Poseidon submarines and next on the new Trident submarine. The first Poseidon submarine equipped with Trident I missiles went to sea on combat patrol last October. The first Trident submarine carrying Trident missiles will deploy on its first combat patrol in 1982. The Trident I missile test program has been one of the most successful in the history of weapon systems and we are confident we have a good missile. The Trident I missile doubles the range and increases dramatically patrol area for both the Poseidon and Trident submarines over that which was possible with the Poseidon missile. This increased area enhances the survivability of the submarines. Certainly for the decade of the 1980s the submarine-launched ballistic missile force will be a major element of our strategic deterrence capability. This bill contains over $225 million to complete the testing of the Trident I missile and other improvements for our ballistic missile submarines.

In addition, this bill contains $98 million to start development of the Trident II missile. This is an increase of $61 million over that requested by the Department of Defense. The committee recommends these additional funds as being necessary to protect a 1989 initial operational capability for the Trident II missile.

While we are proceeding confidently on major improvements in the aircraft and submarine leg of the strategic Triad we face a more perplexing problem with regard to the ICBM leg. In response to the increase in the number and accuracy of Soviet ICBM warheads the Department of Defense has proposed deploying a multiple protective structure for the basing of the MX missile. The concept of the multiple protective structure system is very simple, we deploy more shelters than the Soviet Union has warheads to target against them. Following that approach the Department of Defense proposes to deploy 4,600 shelters and 200 missiles. Included in this bill is $1.55 billion to continue the full-scale development of the MX missile and its basing system. The estimated cost of the full system is about $34 billion expressed in fiscal year 1980 dollars.

As all the Members are aware, the MX is one of the most controversial programs that has been proposed in recent times. I have consistently supported the research and development of the MX recognizing that the decision on actual deployment is several years away yet. However, there are several points regarding the MX that should be made clear to the Senate. First, ultimate size of the MX program. In arriving at an estimate of 4,600 shelters the Department of Defense has made assumptions regarding the size of the Soviet ICBM threat. These assumptions may or may not turn out to be correct but I am concerned that the Senate be aware of what options might face us and the likelihood of them occurring.

If the Soviet Union were to deploy all the ICBM warheads allowed them by the SALT II Treaty, the 4,600 shelter program would be inadequate. As my colleagues are aware under the proposed SALT II Treaty each side is allowed to develop and deploy one new ICBM. The United States would use that new ICBM to deploy the MX with its 10 warheads. It is not clear what type of missile the Soviet Union would choose to deploy. In determining if 4,600 shelters were adequate the Department of Defense planners estimated that the Soviet Union would deploy a single warhead missile to replace some of their older SS–11's.

If, however, they were to deploy a missile of the same size and capacity as the MX and use it to replace SS–17's and SS–19's, then they would have significantly more warheads than our MX planners estimate. This has nothing to do with increasing the warheads carried by the giant SS–18. This is just a question of given a choice of being able to deploy one new missile would the Soviets use it to deploy a single warhead missile or a missile more like our MX. So, even if the SALT II Treaty were ratified we would be faced with the need for an MX program that is at a minimum 75 percent greater than the base program now proposed by the Department of Defense.

If the SALT II Treaty is not ratified and we return to an unconstrained arms race it is very difficult to predict how large the MX program would have to be to insure a reasonable number of surviving missiles. Some estimates have shown that we would at a minimum have to double the program and then go to some form of active defense, an ABM system.

There has been a great deal of discussion as to whether MX should be deployed in the absence of the ratification of the SALT II Treaty. There is no doubt that MX could be effective with or without the SALT Treaty. The issue is at what cost. Clearly a meaningful constraint on the size of Soviet ICBM force is in our best interest if we are to make the MX an effective program. Without these constraints we face not only an extremely expensive program but as we are beginning to see there are serious questions as to whether it can be deployed in the United States. If there is rising opposition to deploying this baseline program of 4,600 shelters, what would be the reaction to deploying 9,200 shelters?

In light of the uncertainty the ultimate size of the MX program I must point out the possible crippling impact of a section of this bill. Section 202 limits the deployment of the initial phase of construction to 2,300 protective shelters in the initial deployment area. This is the so-called "split basing concept". I feel that this amendment is either a cruel hoax or the death of the MX program. If it is an attempt to mollify the people of Nevada and Utah by giving them hope that they will only have to take 2,300 shelters and then come back later to say "Oops, we have to deploy all 4,600 shelters here," then it is a cruel hoax. If we are serious in saying that we will only deploy 2,300 shelters in Nevada and Utah, then I am concerned that the MX program will be permanently crippled. After we deploy the first 2,300 shelters it will be much more difficult to deploy the second half in Nevada and Utah and the likelihood of being able to deploy it in other States is even less. Section 202 of this bill is a serious compromise of long-term national security interests for short-term political gain. Any attempt to call it anything else is an exercise in subterfuge.

Mr. President, there are over 800 individual program elements in the Department of Defense research and development program. It is impossible for the Research and Development Subcommittee to review each one. We have made changes in close to 100 programs. Each change is described in the report accompanying the bill. With several exceptions, which I shall discuss in detail at a later time, I support this bill and recommend it to my colleagues.

SPLIT BASING ISSUE

Mr. DOMENICI. Mr. President, section 202 of H.R. 6974, the fiscal year 1981 DOD authorization bill, endorses the development and deployment of 200 MX missiles in 4,600 hardened shelters and directs the Secretary of Defense to proceed with full-scale development of the MX missile and a linear grid multiple protective structure system basing mode in order to achieve an initial operational capability in 1986. Additionally, the bill language provides for an initial phase of construction in an initial deployment area to be limited to 2,300 protective shelters for the MX missile. The Secretary of Defense is also directed to submit to Congress a general plan for minimizing the adverse economic, environmental, and social effects likely to result from construction of multiple protective structures in areas proposed for the deployment of the MX missile system. Additionally, the Secretary of Defense is ordered to conduct a study to identify locations, outside of Utah and Nevada, suitable for the second phase of MX shelter construction and evaluate related costs and military, environmental, and socioeconomic consequences of such construction.

This so-called MX "split basing" provision has been of some concern to me and I would like to address myself to the chairman and ranking member of the Armed Services Committee, Senator STENNIS and Senator TOWER, in order to clarify the meaning of section 202 of the committee's bill. I am particularly concerned that the Senate should not be viewed as predetermining the split basing issue and, in effect, directing construction planning for MX shelters to anticipate split basing.

Mr. President, one must assume that the present Air Force preference for basing all 4,600 MX protective shelters at one location represents the most militarily, technically, and economically desirable situation. It would seem that such a preference implicitly indicates that split basing has been rejected as a viable option. Based upon my own examination of the MX issue, it is clear to me that split basing is not practical on military, socioeconomic, and environmental grounds and that splitting of MX is bad strategic policy. It appears that split basing would inevitably complicate the already complex command and control and security tasks confronting effective MX operations. Overcoming these difficulties would require increasing the number of MX missiles required—thereby increasing the size of the basing areas—or deploying a larger and more complicated communications network to link the split basing areas. This would be costly, complex, and could increase the vulnerability of the MX communications network by creating more points to attack. I need not add that this would also increase the cost of the MX system by several billion dollars.

Mr. President, I think the Senate should keep in the back of its mind the question of where do we stop once we start devising variations on the original concept? The one deemed most technically and operationally desirable by the Air Force. Such variations will add more cost and more complexity, but who is to say—once we start slipping the criteria and requirements—what is too much? I have no doubt that, given enough money and planning, split basing could be made workable. The Air Force has already stated this. The question is still whether split basing is a good idea. I would not want the Senate to be seen prejudging this issue. Accordingly, I would like to address two questions to Senator STENNIS and Senator TOWER.

Is it correct that the MX "split basing" language does not mandate two different sites for the MX missile, but will allow merely for a phased-in construction of the system?

Mr. STENNIS. Section 202 of the bill regarding basing of the MX does not mandate two different basing sites. It divides the deployment of the MX into at least two phases and limits deployment during the first phase to 2,300 protective shelters in the initial deployment area. It also calls for a study of areas other than the Great Basin of Nevada and Utah that might be suitable for deployment of the MX and asks that the military, environmental and socioeconomic consequences of deploying MX in those areas be evaluated. It is not mandatory that the MX missiles be deployed at these additional locations. That decision will be made in the future.

Mr. DOMENICI. As I understand it, it is not the intent of the Senate to endorse the concept of, or commit the United States to, two separate MX sites and the language is not intended to direct the Air Force to plan on deploying MX in two separate sites. Is that your understanding?

Mr. STENNIS. That is correct. The language merely says that the MX missile system will be deployed in two phases and that the Air Force will study the feasibility on operational, technical, and economic grounds, of either a new site or continuing the second phase at the initial site.

Mr. TOWER. That is correct. The committee has said that the Defense Department should plan for no more than 2,300 shelters to be initially deployed in the Great Basin of Nevada and Utah. It has also asked the Defense Department to develop conceptual plans to split the system into segments to be placed in more than one deployment area but the final decision on the basing mode and location of the full MX system will ultimately be made by the Congress after recommendation of the executive branch.

Mr. DOMENICI. Mr. President, I thank the chairman and ranking member of the Armed Services Committee for their responses. They have satisfied my concern that it is not the intent of the committee to endorse or commit the United States to MX split basing. It is my belief that split basing is not desirable for the MX system. I am confident that the study directed by this bill language will show this—that one site is superior to splitting and that other locations are neither practical nor desirable. But, if this new study is necessary in order to reassure the citizens of Nevada and Utah that they are getting a fair shake, and that all alternatives have adequately been reviewed, then perhaps such reassurance will be good. However, I am quite sure the results will verify previous conclusions.

● Mr. BOSCHWITZ. Mr. President, recently there have been numerous articles published regarding the financial difficulties encountered by servicemen and their families; perhaps none has more eloquently expressed the nature and extent of this problem than the following account written by one of my constituents. Her husband, and many men and women like him, are the backbone of our defense forces—it is truly shameful that a country with our wealth and resources has not chosen to orient its priorities toward enabling the people who defend this country to lead lives unencumbered by the daily struggle merely to subsist. They are not asking to live in luxury, all they wish is to receive sufficient benefits to make ends meet. It is with both pride and distress that I ask that this letter be placed in the RECORD. I am proud to have constituents like the author of this letter, but I am most distressed that our military personnel and their families should have to write such letters.

I hope I can speak for many of my colleagues when I say that there is a great resolve on Capitol Hill to rectify this urgent matter as quickly as possible.

The letter follows:

As to my situation as a military wife, I can only give details of my personal experience. My husband is a TS3t with 14 years service presently serving in the Air Force Reserve on active duty. As far as his job goes, he enjoys it and has been quite successful.

The main problem we are encountering is from a financial aspect as are other military families I have talked with. At one time those military families living where military benefits were nonexistent received compensation to help cover some of the expenses. Through economy measures this has been eliminated.

It has been estimated that between the branches of service there are approximately 800 military men on active duty in the Minneapolis area. However, there is no military housing here, no commissary, no theater, no medical facility and a very small exchange with limited items.

As I stated in my previous letter, my husband searched for a home adequate to serve the needs of our family which includes 5 children at home. After several months he found a home about 30 miles from Minneapolis/St. Paul IAP for $350 per month. It is a modest rental home for this area where 3 and 4 bedroom homes run between $500–$600 per month. This winter our utilities averaged around $150 per month which brings our total housing expense to around $500 per month. Our housing allowance is only $228 per month which as you can see doesn't even cover half. If we lived closer in to the base, it would cover about one-third of the cost.

Also, when we rented this home a few months ago, gasoline was averaging around $1 per gallon. Since that time the price has increased 26 percent to around $1.26 per gallon. When you add the cost of transportation to work onto the cost of the housing we are paying almost $350 more per month to live than our counterparts who live in government quarters on a base. On top of this, we have no other benefits to augment our income.

In my personal case, I tried to work through a temporary clerical agency. I found after several months work that after taxes, transportation, babysitter and etc., my real income was only about $40–$50 per week. With my husband working late evenings and occasional TDY's I found that the income was not sufficient to overcome the problems at home by my absence.

I have applied for rental assistance through the Urban Renewal program. We are on the waiting list. I would imagine we could also qualify for food stamps if I applied. Our children utilize the reduced lunch program at school. But I resent having to go on public assistance programs when another branch of government is denying my husband an adequate salary and benefits.

In my dealings with CHAMPUS I have been disappointed. It seems that the kinds of medical treatment our family requires is not covered by CHAMPUS. My son requires orthotics which are worn in his shoes to correct a foot problem and also correct his posture so that in later years he will not have back problems. After submitting a request for payment to CHAMPUS I found that this type of procedure is not covered. When we were under a company medical insurance this type of procedure was covered. The bill is $179. Also, with a few other smaller problems also not covered and fulfilling the requirement for the deductible, this year we will be paying out at least $300 in medical bills before we can expect to receive anything back. At one time we were on welfare in Pennsylvania for a few months and I must admit that the medical coverage that welfare provides is far superior to the CHAMPUS program. My husband has the option to obtain additional medical coverage through the AF Sergeants Association at a cost of $38 per quarter. If we were located near a military installation, this would not be necessary and I wonder why we should have to pay this to receive the same medical care.

All of these problems we are facing in a time of extreme inflation where our dollars are stretched even more. Our buying power is reduced to providing only necessities and often not even those.

I would recommend that in areas where no military benefits exist that servicemen be given a cost of living allowance or variable housing allowance. I also feel that the subsistence part of the pay (BA, Rations, Clothing Allowance) be placed in the category of automatic cost of living raises directly related to the inflation rate.

A pay raise would also be welcome. In order to retain qualified men the pay must be raised so that serving in the military does not become a luxury that no one can afford.

Thank you for your time and consideration in this matter.●

● Mr. SCHMITT. Mr. President, I extend my congratulations to the Senate Armed Services Committee for their excellent work under difficult circumstances on this bill, H.R. 6974. The committee carefully reviewed all aspects of our defense posture and wisely concluded that additions to the administration's request were in order. With a shortfall in available weapons, including missiles, aircraft, ground vehicles, and ships, the tendency is to provide for additional procurement of equipment at the expense of R.D.T. & L. which is vital to future ability. The Armed Services Committee did not follow this course but provided additional funds for both procurement and research.

This Senator shares the concern of members of the committee about our military capabilities. There is no doubt that our troops in the field lack sufficient equipment for training much less for actual combat should that ever become necessary. By increasing procurement of missiles, aircraft of various types, ships, and other weapons systems, we are on the way to remedying that problem. It will, however, entail continued support for these programs in future years.

In the strategic area, the support for the MX missile program will address the ICBM vulnerability issue late in this decade and in the 1990's. I was especially pleased that the committee adopted two proposals which this Senator submitted addressing the vulnerability issue in the short-run, the early to late 1980's. The proposals are one, the deployment of 100 Minuteman III missiles as substitutes for 100 Minuteman II's, and two, the acceleration of the Minuteman extended survivable power program and the expansion of the air launched control system (ALCS) phase III.

These proposals will not remedy the vulnerability problem—it is too late for that—but they will improve our relative position and demonstrate to our allies and adversaries our commitment to improving our strategic posture. The ALCS phase III and the power program serve as force multipliers in that they provide for greater flexibility and more efficiency in the use of existing weapons system. These two programs are current Air Force programs and my proposals provided for acceleration and expansion of these programs.

The deployment of an additional 100 Minuteman III ICBM's will add 200 additional re-entry vehicles to our ICBM force and a booster with greater capability and reliability. While this provides only a marginal benefit, the program is relatively low-cost and highly cost-effective. The committee is to be congratulated for their support of these proposals.

In the area of manpower, the most critical problem facing our military today, the committee has taken the first steps in providing increased incentives for enlistment and re-enlistment. The suspension of the pay cap, the 11.7 percent pay raise, the educational assistance test program, and the increase in the reenlistment bonus are appropriate first steps in addressing the quantity and quality manpower problems in our military. Obviously, other initiatives are needed in this area. I am confident that the committee will continue to look at the various proposals, some of which this Senator has cosponsored, during the remainder of this year.

Mr. President, once again I extend my congratulations and my appreciation to the committee for their fine work and their cooperation on those proposals which I submitted for their review.●

THE NAVY'S PROPOSED EXTREMELY LOW FREQUENCY SUBMARINE COMMUNICATIONS SYSTEM

● Mr. NELSON. Mr. President, as reported by the Senate Armed Services Committee, H.R. 6974, the fiscal year 1981 Department of Defense authorization bill contains $12.7 million for research and development of the Navy's proposed submarine communications system, known variously over the years as Project Sanguine, Seafarer, and most recently, ELF. By the use of extremely low frequency (ELF) radio waves, this land-based system is designed to provide assured communications with our strategic and attack submarines at operational depths and speeds.

HISTORY

The ELF system has been beset by controversy ever since its inception more than a decade ago, over questions concerning its biomedical/ecological impact, physical placement, and necessity for national security.

The first exploratory ELF contract was awarded in 1966. In 1968, the Pentagon proposed the construction of Project Sanguine, a massive antenna grid to cover 6,000 square miles in Wisconsin. Sanguine was designed to survive a nuclear attack, so as to be able to command our ballistic missile submarines to fire their weapons after a nuclear first strike on the United States. The Navy constructed an ELF test facility in Clam Lake, Wis., that same year.

Controversy swirled around the proposed system almost immediately. There was widespread concern about the potential environmental and biological effects.

In response to opposition over Sanguine's size and safety, the Navy proposed in 1975 the development of Project Seafarer, a smaller system (4,000 square miles) not hardened against nuclear attack.

Opposition to the system continued, however. Finally, the Pentagon came up with a dramatically scaled-down antenna system, called Project ELF, in December 1978. This would consist of two transmitter sites—the first located at Clam Lake, Wis., and the second at the

K. I. Sawyer Air Force Base in Michigan's Upper Peninsula—connected by telephone cable. The Clam Lake site would retain its present configuration of two 14-mile cables, while the Michigan antenna would stretch over 130 square miles. This latest ELF proposal still awaits an affirmative Presidental deployment decision.

THREE CRITERIA FOR CONGRESSIONAL APPROVAL

I have closely monitored the ELF communications system in all its phases for the past 12 years. My position with respect to the construction of an ELF system has remained constant from the very beginning. It has been my view, that the Congress must have satisfactory answers to three questions before going ahead with deployment:

First. Is the system technically feasible? Does it work?

Second. Does the system create adverse environmental and biomedical impacts?

Third. Is the system vital to the Nation's defense?

As early as 1972, the Congress and the Navy agreed to these conditions as I proposed them at that time. I ask unanimous consent to insert in the Record at this time an exchange of letters in June 1972, between the then-Secretary of the Navy—and now distinguished Senator from Virginia—Mr. Warner, and myself, which laid the general foundation for congressional consideration of a full-scale development funding request.

The letters follow:

U.S. Senate,
Committee on Finance,
Washington, D.C., June 6, 1972.

Hon. John W. Warner,
Secretary of the Navy,
The Pentagon.

Dear Mr. Secretary: Congress will soon be making the decision on the Navy's proposal that, in fiscal year 1973, Project Sanguine be advanced to the "Validation" phase and that some $12 million be appropriated for this purpose. In a continuing effort to evaluate the program, there have recently been a series of Naval briefings as well as a productive meeting between Naval scientists working on Project Sanguine and distinguished scientists who have asked probing questions concerning the technical feasibility of the system.

This letter is being written, prior to Congressional action, based upon by interpretation of the series of conferences between myself, my staff, independent scientists, and Navy representatives over the past few months. It is for the purpose of reviewing the status of Project Sanguine and the FY 1973 proposals for it.

1. TECHNICAL FEASIBILITY

Scientists working on Project Sanguine are convinced that the practical feasibility of the communications system has been demonstrated. The Navy proposes, in FY 1973 to further test the practical aspects of the system during this test or development phase. Other eminent scientists, outside the program, express serious reservations concerning the technical feasibility of it.

Bearing importantly on this divergence of views is the need, raised both in the National Academy of Sciences report on Sanguine and by the distinguished scientists who have been critical of it, for a full-scale discussion in the national scientific community of the technical questions involved.

Sanguine obviously involves different theories and techniques of communication that have not had wide-spread, careful analysis by the scientific community. It is my understanding that the Navy agrees that the unclassified data respecting technical aspects of this system should be widely published in scientific journals so that it can be evaluated by experts in all of the scientific disciplines involved and the Navy agrees to make the unclassified data available.

In my opinion, the question of the practical feasibility of the system remains open until the scientific community has had ample opportunity to evaluate the data.

2. ENVIRONMENTAL IMPACT

In March 1971, the Navy said, in its draft environmental impact statement on Sanguine, that it could build such a system compatible with the environment. Among those critical of this report were the environmental subcommittee of the Governor's Ad Hoc Committee on Sanguine in Wisconsin; the U.S. Army Corps of Engineers; and the U.S. Forest Service, which questioned the entire test procedure because of the lack of previous information on the test sites prior to their development.

In addition, preliminary results of tests, conducted by the Hazelton Laboratories of Virginia under contract with the Navy, indicated seed growth retardation, avoidance of electrical fields by aquatic life, mutagenisis of fruit flies (at a rate "too important to be neglected . . ."), and other potentially serious acute and chronic effects from Project Sanguine.

Recently, in April, 1972, the Navy filed a second environmental impact statement, which, based on pilot projects, concludes essentially that Sanguine will not have a substantial adverse effect on the environment. While their evaluation of this document is not yet completed, I am informed that the environmental subcommittee of the Governor's Ad Hoc Committee is critical of this statement for much the same reasons raised with the first statement. The subcommittee expects to issue a critique on this environmental statement on June 15, 1972.

Of course, environmental research on Project Sanguine is continuing. There are now studies being conducted at nine colleges or unversities, some of which started as little as a month ago, and most of which will be completed in a year or so. Also, the Navy's FY 1973 proposed budget for Project Sanguine earmarks some $400,000 for continuing environmental study purposes.

Therefore, the question of the environmental impact remains unresolved for the time being.

I would like also to note that the Navy advises me that a final decision on the site for Project Sanguine has not been made. It is also the position of the Navy that continued testing at the existing site is essential to complete development and evaluation of Sanguine regardless of ultimate ite location.

In summary, it is my understanding in my discussions with the Navy that the FY 1973 appropriations on which the Congress is asked to act involve only continuation of research and development ("Validation" phase) and do not include any funds for the Final Development and Deployment phases. I would appreciate being advised if my interpretations of these conferences do in fact represent a correct view of the status of Project Sanguine and the purpose of the funds requested for FY 1973.

Sincerely yours,

Gaylord Nelson,
U.S. Senator.

Department of the Navy,
Office of the Secretary,
Washington, D.C., June 9, 1972.

Hon. Gaylord Nelson,
U.S. Senate,
Washington, D.C.

Dear Senator Nelson: In your letter of June 6, 1972 you requested Navy confirmation of your interpretation of recent events affecting the status of Sanguine and the purpose of the funds requested for FY 73.

I am pleased to advise you that your understanding of the efforts planned for Sanguine in FY 73 are correct. I have enclosed a copy of the letter recently sent to the Chairmen of the Committees on Appropriations and Armed Services which also discussed the Navy's plans for Sanguine in FY 73.

The technical feasibility of Sanguine has received considerable study and review for over ten years. This work has been supported by actual communications experiments with submerged submarines to test all aspects of the system. The recent National Academy of Sciences/National Academy of Engineering report supported the technical basis used by the Navy in developing the Sanguine concept.

As you correctly noted the Sanguine system involves concepts and theories that have not been extensively utilized in other systems. This is one of the reasons for the long and careful Navy research and development efforts since 1958. There are always some differing opinions on new scientific concepts. These can be best resolved by conducting actual experiments to test applicable theories while at the same time conducting scientific/technical discussions with all interested parties. The Navy has in the past and will continue in the future to encourage publication of unclassified technical material by the scientists working on the project. Considerable technical material was recently provided to Sanguine critics which should assist in their understanding and evaluation of Sanguine. The Navy will continue to cooperate in providing unclassified information regarding particular technical areas.

Several technical and professional societies will have sessions during the coming year specifically devoted to scientific papers on Sanguine. Several of the technical critics have indicated they will participate in these sessions which should provide a forum for meaningful technical exchange.

The Navy is not yet in a position to make a final assessment of the environmental impact of the *construction* and *operation* of an operational system. Environmental research is continuing and there has not been a decision on a final site or design. The recent Environmental Impact Statement (EIS) states there will be no adverse impact during the next four years of development. I must emphasize that this statement covers the remainder of Sanguine development only, and there is no intention that it be construed to be a statement of final impact, which as you know will be dependent upon results of this next phase as well as the exact location of the site. The present EIS does contain the current assessment of the potential impact from construction and operation of a Sanguine system. The final evaluation will be submitted in an updated EIS prior to requesting authorization for construction of an operational system.

The funds requested for Sanguine in FY 73 are for continuation of research and development as part of the Validation Phase of the major defense systems development and acquisition cycle. Approval of these funds, and the conduct of the Validation phase, do not constitute a commitment to full scale development or production of a Sanguine system. Development needs to proceed in order to insure that future decisions on full scale development are based on availability of all necessary factors, including environmental issues.

The FY 78 efforts for Sanguine do involve contracting with industry for competitive preliminary development tasks and continued testing at the existing Wisconsin Test Facility. The operation of the test facility will continue as in the past with only the addition of buried cable tests to provide additional data on cost, environment considerations and antenna radiation factors.

I believe the recent discussion and reports made available including the NAS/E report will do much to provide a basis for future consideration of the Sanguine program.

Sincerely,

ROBERT A. FROSCH,
Assistant Secretary of the Navy.

On the first point, the Navy has conclusively demonstrated that the ELF technology does in fact work.

With respect to the biomedical/ecological impact, I first raised these concerns with the Navy in 1968. At my request, the Navy has undertaken extensive studies and has made a comprehensive effort to resolve all issues in this area.

In 1977, the National Academy of Sciences released a major assessment of the possible biomedical and ecological effects of the ELF system. The Academy concluded that the system would present no unacceptable impacts, but recommended that certain studies be completed before construction of an ELF system.

These studies include, for example, the demonstration of a "reliable procedure for rapid detection of cable faults (insulation failure)," and "the development of final detailed specifications for ground-terminal design * * * that will alleviate shock hazards near the ground terminals."

The Navy has assured me it will comply with the Academy's recommendations.

Finally, with respect to the third question, the Congress has not yet debated the issue whether the national security requires ELF.

I have worked closely with the Armed Services Committee since ELF's inception in an effort to insure adequate and responsible congressional consideration of the system before it is deployed. In particular, Chairman STENNIS and the former and current chairmen of the Research and Development Subcommittee, Senators McIntyre and CULVER respectively, have been instrumental in this endeavor.

The committee and I have been in fundamental agreement over the years concerning the framework governing the pace of ELF's development. We have both consistently addressed the advisability of ELF in the context of its feasibility and safety, and our national security needs.

CONGRESSIONAL ACTION ON ELF: FISCAL YEAR 1977–FISCAL YEAR 1980

The experience of the last 4 years is especially instructive in this respect. During this period, ELF's progress has been carefully monitored and regulated by the Senate Armed Services Committee and by the Congress, under a formula painstakingly hammered out by both Houses in 1976, and refined in 1978. It is worthwhile at this point to recount briefly that history.

In its budget submission for fiscal year 1977, the Navy for the first time requested congressional approval to advance from the research and development phase of ELF to the full-scale development of the system, which is in fact the first stage of actual construction. At that time, ELF environmental studies had not been completed, and the President had not yet picked a site or declared that the system was in the national interest.

I opposed the requested funding for full-scale development, as did the Senate Armed Services Committee (Senate Report 94–878). The conference committee agreed to obligate these funds, but, at the urging of the Senate conferees and myself, forbade their use until the Pentagon met three conditions precedent; the conference report (94–1004) listed them as follows:

> (1) Completion of studies of the environmental and biological impact of the Seafarer system and the conclusion that the system poses no unacceptable environmental or biological hazards;
>
> (2) Selection by the Navy of a candidate site; and
>
> (3) A firm plan including a schedule to begin installation of the system at the selected site.

Only after the Pentagon satisfied these conditions would the Congress be in a position to discuss the national security need for the ELF system.

The Appropriations Committees, deleting full-scale development funds, concurred in the establishment of this framework for the consideration of ELF. As the House Appropriations Committee noted (House Report 94–1231):

> Approval of (Full Scale Development) could imply congressional acceptance of the Seafarer concept, and the Committee is not prepared to make that commitment until all of the environmental impact, site selection and cost questions are definitely resolved.

The Pentagon did not resolve these questions in fiscal year 1977, and so failed to meet the conditions agreed upon by the Congress in 1976.

Congress denied the Navy its request for full-scale development funds in fiscal year 1978, fiscal year 1979 and again in fiscal year 1980, drawing on the specific criteria fashioned by the Senate Armed Services Committee in 1976, and listed above.

The legislative history shows that the Senate has, until now, consistently adhered to this formula. After the Armed Services Committee deleted full-scale development funds from the Navy's fiscal year 1978 budget request, the former chairman of the Research and Development Subcommittee, Mr. McIntyre, and I engaged in the following colloquy on the Senate floor:

> Mr. NELSON. Last year's conference report on H.R. 12438, the fiscal year 1977 military authorization bill, contained very specific criteria governing the sequence of events that must be followed by the Navy before the Congress will authorize Full Scale Development. . . . Am I correct in assuming that when the Committee voted to delete the requested funding for Full Scale Development for fiscal year 1978 it was simply underscoring and re-emphasizing this procedure?
>
> Mr. MCINTYRE. The Senator from Wisconsin is quite correct. The Committee's position on that central point this year is identical to its reasoning last year.

The Navy came back to the Congress in 1978, again seeking funding—$6.3 million—to commence "engineering development," the new terminology for full-scale development in fiscal year 1979. Again, the Senate Armed Services Committee disapproved these funds on the basis of the prerequisites to approval Congress mandated in 1976.

The full Congress, in fact, inserted explicit language restricting the use of any and all ELF funds in H.R. 10929, the fiscal year 1979 Department of Defense authorization act. Section 202 of the bill prohibited the use of any funds until such time as the President provided written certification to the Congress that the use of funds for the development of the ELF system is in the national interest, that a site has been selected for the deployment of the system, and that the President has approved the selected site for system deployment. Furthermore, the Congress directed that its absolute ban on use of funds for full-scale development, in place since fiscal year 1977, be continued through fiscal year 1979. The language of section 202 is as follows:

> EXTREMELY LOW FREQUENCY (ELF)
> COMMUNICATION SYSTEM
>
> SEC. 202. None of the funds authorized to be appropriated by this Act for the development of the Extremely Low Frequency (ELF) communication system may be obligated or expended for the development of such system unless the President certifies to the Congress in writing that the use of funds for such purpose is in the national interest, that a site has been selected for the deployment of such system, and that the President has approved such site for the deployment of such system; and in no event may any of the funds authorized to be appropriated by this Act be used for full scale development or construction of another test-bed facility for an Extremely Low Frequency (ELF) communication system.

The President made no such certification. Because of this, Congress inserted the identical statutory language in S. 428, the fiscal year 1980 Department of Defense Authorization Act (section 203).

The President has to this day made no certification to the Congress that Project ELF is necessary to our national security.

Mr. President, I commend the wisdom of the Senate Armed Services Committee and the Congress for their responsible and consistent approach over the last 4 years to the resolution of Project ELF's future. The formula agreed to by the two Houses has proved workable and has assured responsible decisionmaking by the Congress.

PROJECT ELF IN FISCAL YEAR 1981 AND BEYOND

There has never been any dispute that at some stage we will have to improve our ability to communicate with our submarines. Today, the submarines comprising the underwater leg of our strategic nuclear deterrent are virtually undetectable and thus invulnerable. However, the Soviet Union is constantly researching ways to improve its antisubmarine warfare (ASW) capability. At some future point, it will be necessary to give our submarines the capacity to receive communications without having to rise to the surface, and thus increase the chances of their detection.

The only questions have concerned when this improvement in submarine communications is necessary to the national defense, and what technology will best achieve it. On these questions, reasonable men may differ.

With respect to when we must deploy a new submarine communications system, the Pentagon's top military and scientific experts have consistently testified that, while they support the eventual construction of ELF, our national security does not require it for at least the next several years. As Dr. Gerald P. Dineen, the principal Deputy Undersecretary of Defense for Research and Engineering, put it in a May 14, 1980, letter to Senator LEVIN:

> There is no presently known military, programmatic, or budgetary urgency which would require the President to select a deployment site for, or to decide to proceed with full scale engineering development of, the DOD proposed ELF communications system in Fiscal Year 1981.
>
> Specifically, neither the strategic nuclear balance between the United States and the Soviet Union, nor the near-term trend in Soviet anti-submarine warfare (ASW) capabilities require an ELF deployment decision in Fiscal Year 1981.

In addition, both Dr. William Perry, Undersecretary of Defense for Research and Engineering, and Dr. David Mann, Assistant Secretary of the Navy for Research and Development, testified this year that delaying ELF's deployment even for several years will not increase the vulnerability of our submarines.

And the General Accounting Office, in a study it made less than a year ago, recommended that the Defense Department terminate ELF. The GAO study states:

> GAO recommends that the Secretary of Defense terminate any plans to construct an extremely low frequency system transmitter and to install extremely low frequency receivers on strategic submarines, since the extremely low frequency communications system is not needed; enhances communications capability only marginally at best; and, at a price of $283 million, cannot be justified.

However, the judgment of the Senate Armed Services Committee differs. The committee believes that the time has come to move forward on Project ELF, and has authorized $10 million in fiscal year 1981 funds, and $2.7 million in fiscal year 1979 funds, to resume ELF's development. In addition, the committee has directed the President to choose a site for system deployment by April 1, 1981, and has instructed the Navy to reach initial operational capability (IOC) of ELF by 1985.

I disagree with the committee that we should take the deployment decision out of the President's hands and speed ELF's development. As I noted before, our military experts agree that we do not need ELF now. Moreover, the President, as Commander in Chief of the Armed Forces, has in hand all the technical, strategic, and military information necessary to reach a decision as directed by the Congress.

The Armed Services Committee was nearly unanimous in its action, however. Therefore, I will work with the conferees on this legislation, in an effort to persuade them of the wisdom of the House bill, which authorized only $453,000 to keep the ELF system in "caretaker" status until the President makes a deployment decision.

The second issue in dispute is what technology will give us the best submarine communications capability in the 1980's and beyond.

Because of the continuing controversy surrounding the ELF system and its inherent technological limitations, the Armed Services Committee has considered several alternatives to ELF over the past few years. In fact, the committee has requested $28.7 million in H.R. 6974 to develop a blue/green laser system for submarine communications, in contrast to the some $12 million it requested for ELF. The committee report (Senate Report 96–826) describes blue/green laser as a system which "ha(s) more capabilities than ELF and, ultimately would be much more survivable and impose fewer operating restrictions on our submarines than Project ELF." In addition, the committee stressed its desire "to encourage development of other promising technologies for improving communications with our submarines." I fully support the committee's intention to explore all reasonable alternatives to ELF.

If the Congress decides ultimately to authorize the construction of ELF, we should, of course, deploy the twin-site system, located both in Michigan and Wisconsin, as recommended to the President by the Secretary of Defense in December 1978.

In a June 13, 1980, letter to me, Secretary of the Navy Hidalgo has described this system as the "most cost-effective, militarily defensible and efficient" ELF system, and notes that it "can be deployed in the least amount of time at the least cost."

The system advocated by the Pentagon would effect no physical changes in the Wisconsin test facility (WTF) at Clam Lake, beyond turning its antenna back on, and connecting the WTF by telephone cable to the second transmitter at Michigan's K. I. Sawyer Air Force Base.●

THE TITAN II MISSILE

● Mr. DOLE. Mr. President, in recent years, the Titan II has become a problem missile. In 1978, for example, 2 airmen were killed and 29 were injured in Kansas and Arkansas in two accidents involving leaks of highly toxic liquid propellant used in Titan II's. Twenty more were sent to hospitals in smaller incidents at Titan silos going back to 1974.

Most recently, on April 22, 1980, another major leak occurred at the Potwin, Kans., missile site. A materiel failure in the Stage II oxidizer tank quick disconnect valve was allowing oxidizer to escape. Fortunately, no one was injured, however, 16 farm families were evacuated as a safety precaution.

Mr. President, the Nation's 54 Titan II missiles have been based in Kansas, Arkansas, and Arizona since 1963. Together they represent one-third of the total explosive nuclear power of the entire 1,054 missile land-based force.

This 150-ton Titan II is the largest ICBM in the U.S. arsenal and is capable of carrying a 24-megaton atomic warhead 18,000 miles an hour to targets 6,000 miles away. This missile system was designed for a life expectancy of 10 years—the missile is now going on its 18th year.

SENATE ARMED SERVICES COMMITTEE

Mr. President, in all fairness to my colleague and distinguished chairman of the committee, Mr. STENNIS, the Senator from Kansas would like to say that he has received numerous assurances from him that the committee will soon decide on the need to do an in-depth investigation of the Titan II.

INCIDENTS CONTINUE DESPITE ASSURANCES

Mr. President, Senator STENNIS shares my concern about the condition of the Titan II missiles. And because of the recurrence of this problem, the Chairman has instructed the committee staff to look into this matter more thoroughly, including a careful review of the recently completed Air Force study on the status and condition of the Titan II missile weapon system.

It is my understanding that the committee staff is currently reviewing the report. Upon completion of this staff report, the committee will later decide if hearings are appropriate.

Mr. President, while the assurances have been plentiful I am still very much concerned for the lives of Air Force personnel and resident of Southeast Kansas. In each instance, State and Federal elected officials have called for various investigations and studies, and have conducted meetings with air force officials. In each instance, we have been assured that procedures are being instituted which will insure the safety of the Titan II system. Nonetheless, the incidents continue to occur, and the safety of Kansas residents remains unsecured.

FIRST RESPONSIBILITY IS TO KANSAS

Mr. President, these unexplained incidents have raised significant questions about the adequacy of the Titan II system to defend our Nation's security. We are told by some that the biggest missile in our arsenal may have grown so old and tricky to handle that it may be more of a threat to its Air Force crews and the American people than the enemy.

Mr. President, those who concern themselves with the defense of our country know my record—I will have one second to none.

The point the Senator from Kansas wants to make with respect to the Titan II missile is simple: If the Titan II missile system is safe and reliable, there should be no reluctance on the part of authorities to convince the public and the Congress of its safety and reliability. The Senator from Kansas along with my distinguished colleagues, Senators KASSEBAUM, GOLDWATER, and PRYOR have requested hearings to settle this issue once and for all.

Mr. President, while we must unquestionably protect our national security we also have a responsibility to protect the safety of the American citizen. Holding hearings on this issue will address these two important considerations.

Mr. President, I look forward to hearing from my distinguished colleague, Senator STENNIS, on potential hearings on the Titan II. ●

RAPID DEPLOYMENT SEALIFT FORCES

● Mr. JOHNSTON. Some months ago, the President announced the formation of the rapid deployment joint task force. This force was established to better prepare our country to respond to threats to world peace, particularly in the critical Mideast region. Recent events in that area have underscored the importance of and immediate need for the rapid deployment force.

The RDF will be supported by the maritime prepositioning ship program. This program requires the construction of ships which will be prepositioned in critical areas of the world with military supplies and equipment for use in a time of crisis. The DOD Authorization Act we are considering today authorizes funds for the first maritime preposition ship, which will become operational in the mid–1980's, and also authorizes funds for long-lead procurement for a second ship.

The report of the Senate Armed Services Committee well summarizes this need for this program. It seems to me, however, that the situation in the world today demands a closer look at the feasibility of accelerating this program. The maritime prepositioning ship program can be accelerated by purchasing or obtaining through long-term charter commercial ships whose specifications either meet or are capable of being converted to meet the requirements of our sealift forces to project U.S. military power worldwide. There are several advantages of doing this: First, such ships can be put into service more quickly, significantly increasing our near-term sealift capacity. Second, significant program cost savings can accrue through avoiding out-year inflationary price increases. Third, a signal to the world will be sent that we are ready and able to protect our interests wherever a crisis may arise.

The conversion option is a practical alternative source for some of the ships we need. I have been informed, for example, that there are commercial ships now under construction which will be available for this purpose. Thus, I urge DOD to consider this acceleration option.●

WHO'S THE TRUE PATRIOT?

Mr. THURMOND. Mr. President, on July 4, 1980, there will be many—though I'm sure not nearly enough—speeches made all across America about independence, patriotism, and our great national traditions.

It is not my purpose to add to those speeches here today, Mr. President, but I do want to call attention to an excellent article titled "Who's the True Patriot" by Ervin S. Duggan in the July issue of the Washingtonian magazine. The theme of the article centers on the uncomplicated, unquestioning, simple patriotism of a young man, Robert Jackson, from Manning, S.C.

Robert Jackson, a medical doctor, died about 2 years ago as a civilian, piloting his own plane—but it was his life, and the way he lived it, that is so very important. He served with highest honor in the Vietnam-Laos conflict.

Mr. President, the author of the article, a very close friend of Robert Jackson, states that after Robert returned home from the war:

> Robert said enough to make it clear that he didn't hate this war. He saw it as right and necessary. He believed the Pathet Lao and the North Vietnamese were murderers who served a murderous system: people who set land mines to blow up in the faces of children and old women. He was glad to be home, but he was glad also to have done his part against his country's enemies.
>
> Stories of his Asian exploits—of midnight rescue missions, all-night surgical marathons, miraculous recoveries—followed him home, along with a hail of medals and citations. The Air Force Commendation Medal. The Airman's Medal for Heroism. The Air Medal. The Legion of Merit. The Bronze Star. He was named Tactical Air Command Flight Surgeon of the Year.
>
> And every week or two, he put on his uniform and drove to McEntire Air National Guard Base to fly and train with the pilots there. He could no more have given up his uniform than his white coat or his stethoscope . . .
>
> He died at 41, leaving a grieving town, a box full of medals, scrapbooks packed with press clippings and citations. And he left four children so deeply stamped with his values that they might have been tattooed. I went to his funeral in my Washington clothes and listened in wonderment as the chaplain described those values. Summed up, they sounded something like Mother, God, and flag.
>
> After the church service, we gathered at the gravesite. His wife stood at attention and they handed her a flag wrapped into a tight triangle.
>
> It was the purest, most ironic happenstance that Robert Jackson died as a civilian, piloting his own plane, rather than the way he would have preferred to die: for his country, wearing a uniform, flying a jet with a flag painted on the fuselage, or stitching up some wounded comrade in a field-hospital tent.
>
> I don't know why he died, I don't know how he and I came to be so different, or why, despite our widening differences, we kept on liking one another so much. I don't know the answers to any of the questions that a life like his, and a death like his, set boiling in my mind.
>
> I do know that his patriotism was the kind that, had I never known him, I would have labeled "blind" or "mindless."
>
> But I did know him. And I believe his patriotism, simple and unquestioning as it was, was morally superior to mine.

Mr. President, this is indeed an example of true patriotism. This American, Robert Jackson, was buried in his Air Force uniform. The eulogy was offered by an Air Force chaplain. The crowd overflowed the Baptist church and filled the school gymnasium next door. There were flags everywhere. And the word used most often, other than his name, was patriotism.

Mr. President, in order to share this article with my colleagues, I ask unanimous consent that it be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Who's the True Patriot?

(By Ervin S. Duggan)

The two roads of our lives diverged after high school. He, the farmer's son, one of thirteen children, went to Clemson, the state land-grant college. I went out of state, to Davidson in North Carolina, one of those small private colleges steeped in southern tradition, where the buildings wear ivy and the people wear blue oxford-cloth shirts.

After college, he went to medical school and I came to Washington. He served for a while in the Air Force, then returned to our little town of Manning, South Carolina, to deliver babies, suture wounds caused by chain saws and fishhooks, sit up all night with dying sharecroppers in their unpainted shanties. I did a stint in the Army, worked for a newspaper, a President, a senator, a couple of Cabinet officers, and wrote a novel.

The real link between us was his wife, who had been my next-door neighbor and childhood playmate in Manning. Now and then. Robert would come to Washington for a medical meeting or an Air Force gathering and he would stay with us. He would keep us up nights, regaling us with southern Gothic country-doctor stories—the four-hundred-pound woman, for example, who had to be transported to the hospital in the back of a pickup truck and gave birth to triplets on the way.

He would tease me about losing my southern accent, and I would deny it hotly. But he was right in a sense: Without trying, I had become urban, jaded, Washington, acquainted with finger bowls. His accent was so thick you could cut it. And he still walked as though he were stepping over furrows.

He was a southern-fried Republican who wore a flag pin in his lapel and—the last time I saw him—a bracelet bearing the name of a Vietnam POW. I was a liberal Democrat.

Suddenly, almost two years ago, he died. Flying his light plane to Houston to deliver a paper on the life of a country doctor, he encountered thunderstorms. He radioed that he was in trouble, then disappeared from the airwaves and the air. Days later, they found him in a Louisiana swamp.

I went home to his funeral. He had asked, in the careful instructions he left, to be buried in his Air Force uniform. The eulogy was offered by an Air Force chaplain. The crowd overflowed the Baptist church and filled the school gymnasium next door. There were flags everywhere. And the word used most often, other than his name, was patriotism.

I've been thinking about it ever since. Patriotism. My patriotism is a complicated, Washington thing full of subtleties and shadings, punctuated by question marks, not exclamation points. Knee-jerk patriotism, like fundamentalist religion, embarrasses me; embarrasses many of us in Washington. Glib about sex, we are curiously reticent about patriotism.

But we are patriots. We exhaust ourselves serving our country. We work long hours, write the budgets and the speeches, pass the laws, arrive late from the office at dinner parties where the most fascinating conversations take place: Why the Administration's MX missile program is a massive political blunder. What the Speaker said about Hamilton Jordan. Why the President really fired Mike Blumenthal.

Like theater critics, we survey the nation's latest performance—a rescue mission to Iran, Muskie's trip to the summit—and sit in judgment, often harsh judgment. But we are patriots. Doesn't the theater critic still love the theater? What would you have us be—blind patriots, mindless patriots?

Mine, I tell myself, is a higher sort of patriotism: a quiet, intelligent, furrowed-brow patriotism. My patriotism asks hard questions, holds the country to a rigorous standard of conduct, does not give unquestioning assent. In my mind, I am constantly tapping Uncle Sam on the shoulder and saying, "Excuse me. Are you sure you're doing the right thing? I'm not certain I can go along."

My friend Robert Jackson asked few such questions, or none. His was the kind of patriotism that simply snapped to attention and saluted.

I knew, when he was in the Air Force, that he had volunteered for medical duty in Vietnam. I pictured him safely behind the lines, on a hospital ship offshore perhaps, or giving penicillin shots and VD-control lectures to troopers in Saigon.

After he died, I learned how it had really been. His wife sent me his papers, a jumbled heap of letters, records, clippings, and reminiscences by friends.

Sifting through his letters, I learned that he hadn't been in Vietnam at all. He had been in Laos.

He was punctilious about security: Laos was a secret—not officially a part of our war. When it was necessary to refer to a place or a person in his letters home, he would simply leave a blank space—to be carefully filled in when he returned home. The place had been Sam Thong, an airstrip in a Laotian valley with a primitive hospital alongside, and a constant influx of patients: refugees, Americans with malaria, sick Laotian civilians, Laotian soldiers wounded in their war with the Pathet Lao, downed and wounded American flyers. He wrote home almost every day:

"When wounded are brought by aircraft to the hospital, the airplanes taxi up to the front door. The medics just push a stretcher up to the plane and offload the patient. . . ."

"I drained four gallons of fluid out of an old lady's abdominal cavity this morning. I have before-and-after pictures of her. . . . We were asked to discharge as many patients as possible today because a large number of casualties are expected to be in tomorrow. . . ."

"Late this afternoon, the two worst facial injuries I've ever seen came in. One woman was struck by fragments from a land mine. Both cheek areas, eyelids, and lower lip were laid open, plus the left maxilla was broken. Her right arm was fractured in three places. The other patient was a soldier who had been shot through the lower jaw. . . ."

And all the while, the war was going on in the jungle right outside:

"It was a little after dark when I left the operating room to walk to Air America [the CIA-funded air-transport operation] for supper. Suddenly I heard a shot ring out, but nothing happened. . . . At night, it is a precarious walk around."

Meanwhile, I was in Washington, working on health and education programs in Lyndon Johnson's White House. I had come there as a green young staff assistant in 1965, in the euphoric aftermath of Johnson's landslide the previous November. That spring and summer, there had been a torrent of domestic legislation. It seemed as though there were bill-signing ceremonies every day—in the Oval Office, in the Rose Garden, in the East Room—with the President doling out pens by the handful to eager, cheering supporters.

By mid-1966, the atmosphere in the White House had changed. A pervasive, Vietnam-colored grimness settled over the place like smoke. And I noticed a curious thing. Even the people who were running the war, whose responsibility it was to plan it, prosecute it, and defend it, seemed to hate it. It was an unhappy time, for those who admired the President—and I was one of them—who cared about his programs, who felt his more ungenerous critics were dead wrong about the man.

One day the telephone rang in my office and it was Robert, laughing. "I'm in the hospital at Andrews Air Base, but I'm okay. Come on out and see me."

I left the office and went to the hospital where I found him sitting with his long legs dangling over his bedside, clad in blue military pajamas that flapped around his ankles. He had contracted malaria in the jungle. His skinny frame was skinnier than ever.

We spent the afternoon laughing and talking. He told me a string of wild stories from the hospital that I thought was somewhere in Vietnam: country-doctor stories, chain-saw and fishhook stories, land-mine and bullet-wound stories.

Amid the anecdotes, Robert said enough to make it clear that he didn't hate this war. He saw it as right and necessary. He believed the Pathet Loa and the North Vietnamese were murderers who served a murderous system: people who set land mines to blow up in the faces of children and old women. He was glad to be home, but he was glad also to have done his part against his country's enemies. He had none of the ambivalence that I had seen in Washington and that I felt myself.

We shook hands warmly. I went back to the White House. The next day, they flew him home to South Carolina.

There, recovered, he plunged back into his doctoring. He built a gleaming family-practice clinic under some moss-hung trees in the town. He recruited nurses and paramedics and other physicians. He trained the local rescue squad, gave lessons in cardiopulmonary resuscitation, taught a Sunday-school seminar on death and dying. When a freak spring blizzard suddenly paralyzed the South Carolina low country, he organized a rescue mission by military helicopters and went swooping about the county, airlifting stranded motorists and delivering babies in snowed-in homes.

In his spare time he made speeches to civil clubs and medical societies, showing his slides from Laos—which he simply called "Southeast Asia." He would end with a little homily in defense of America and the war—the purest Fourth of July corn, all of which he believed.

Stories of his Asian exploits—of midnight rescue missions, all-night surgical marathons, miraculous recoveries—followed him home, along with a hail of medals and citations. The Air Force Commendation Medal. The Airman's Medal for Heroism. The Air Medal. The Legion of Merit, The Bronze Star. He was named Tactical Air Command Flight Surgeon of the Year.

And every week or two, he put on his uniform and drove to McEntire Air National Guard Base to fly and train with the pilots there. He could no more have given up his uniform than his white coat or his stethoscope.

He was an admirable man, but no plaster saint. He had a larger-than-normal ego. He was vain enough to love the publicity that his exploits gained him. He was a man whose lusty appetites sometimes got the better of him. He had a doctor's bottomless tolerance for human frailty, and he had his own frailties.

Once, just once, he let his flag-pin patriotism erupt into something other than tolerance. When an Army dermatologist at nearby Fort Jackson was tried for refusing to go to Vietnam, Robert exploded. He wrote a curt letter to the editor of the local paper, denouncing the man as a disgrace to his uniform and to medicine. He had trouble understanding such people, and he didn't like them.

I didn't like them either—from a distance. I found the war protesters strident and self-righteous, too quick to denounce their own country, too prone to ascribe the President's honest mistakes to evil motives. The trouble was that I kept bumping into my friends among the protesters—people who weren't strident or self-righteous at all, just deeply upset.

One day, walking to my office at the White House, I passed a little group of clergymen and seminarians keeping a peace vigil in Lafayette Park. One of them shouted my name and I stopped, caught short: It was a classmate of mine, a close friend. We talked awhile, and as I left, he called out: "If you weren't in there, you'd be out here, wouldn't you?"

I didn't reply. He was probably right, of course. But I was in there. and being there had changed the angle of my vision. Nothing would ever seem simple again.

Through it all, Robert Jackson and I kept in touch. I always saw him on my trips back to our little town. Always, we would argue about politics: He loved the flag, but he thought the federal government was evil incarnate.

Once, on one of his visits to Washington, we sat up late and argued about the war, the demonstrators, the resisters who had fled to Canada.

What about them? I asked. Isn't theirs a kind of patriotism? They care about their country, but they believe, deeply and honestly, that the war is wrong. They're taking risks, too, aren't they?

"Well," he finally said, "I guess they're entitled to their opinion."

At one point he raised his hand, then let it drop. "Your country is like your family," he said. "If somebody in your family gets in trouble, you help them. If your brother got in some kind of scrape, you'd help him, wouldn't you? You wouldn't just walk away."

It wasn't that simple for me, with my complicated, classically Washington, question-asking patriotism.

Years later, discussing the same questions with another friend, also a doctor, I made an analogy.

"Maybe people are patriotic the way they're religious. Some people practice their religion in a casual, half-involved way. Others are more thoroughgoing and radical. We call them saints."

"I'd put it a different way," my friend said. "There are born-again types, Jesus freaks who buttonhole people on the street shouting, 'Praise the Lord.' And there are the Jesuits—people like Father Drinan who are very intellectual, cerebral, but who still give themselves to their religion—who still obey it." A good way of putting it, I thought. But where are the Jesuits of patriotism? Where are the people who are full of questions but full of devotion, too? Was Robert E. Lee such a man? Or George Catlett Marshall? My friend Robert Jackson was much less complicated, and I find myself envying him.

He died at 41, leaving a grieving town, a box full of medals, scrapbooks packed with press clippings and citations. And he left four children so deeply stamped with his values that they might have been tattooed. I went to his funeral in my Washington clothes and listened in wonderment as the chaplain described those values. Summed up, they sounded something like Mother, God, and flag.

After the church service, we gathered at the gravesite. His wife stood at attention and they handed her a flag wrapped into a tight triangle.

It was the purest, most ironic happenstance that Robert Jackson died as a civilian, piloting his own plane, rather than the way he would have preferred to die: for his country, wearing a uniform, flying a jet with a flag painted on the fuselage, or stitching up some wounded comrade in a field-hospital tent.

I don't know why he died. I don't know how he and I came to be so different, or why, despite our widening differences, we kept on liking one another so much. I don't know the answers to any of the questions that a life like his, and a death like his, set boiling in my mind.

I do know that his patriotism was the kind that, had I never know him, I would have labeled "blind" or "mindless."

But I did know him. And I believe his patriotism, simple and unquestioning as it was, was morally superior to mine.

SUPREME COURT UPHOLDS HYDE AMENDMENT

Mr. HELMS. Mr. President, yesterday the U.S. Supreme Court announced its landmark decision upholding the constitutionality of the Hyde amendment limitation on the use of taxpayer's dollars to finance the performance of abortion. In its companion decision, Williams against Zbaraz, the Court also upheld the right of State legislatures to limit the use of public funds in a similar manner.

Mr. President, when suit was brought challenging the constitutionality of the Hyde amendment in 1976, then Senator James L. Buckley, Representative Henry J. Hyde, and myself entered the case as intervenor defendants to protect the decision of the Congress to restrict abortion funding. We believed that the case concerned the vital issue of whether the Congress would retain its constitutional mandates regarding the appropriation and expenditure of public funds. Earlier this year, 250 Members of both the Senate and the House of Representatives filed an amici curiae brief before the Supreme Court to protect the congressional power of the purse and the principle of separation of powers.

Mr. President, because of the importance of the Supreme Court's decision yesterday in regard to the ongoing work of the Congress concerning appropriations, I ask unanimous consent that the text of the Supreme Court's opinion in the case of Harris against McRae be printed in the Record at this point.

There being no objection, the opinion was ordered to be printed in the Record, as follows:

Harris, Secretary of Health and Human Services v. McRae et al.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

[No. 79–1268. Argued April 21, 1980—Decided June 30, 1980]

Title XIX of the Social Security Act established the Medicaid program in 1965 to provide federal financial assistance to States that choose to reimburse certain costs of medical treatment for needy persons. Since 1976, versions of the so-called Hyde Amendment have severely limited the use of any federal funds to reimburse the cost of abortions under the Medicaid program. Actions were brought in Federal District Court by appellees (including indigent pregnant women, who sued on behalf of all women similarly situated, the New York City Health and Hospitals Corp., which operates hospitals providing abortion services, officers of the Women's Division of the Board of Global Ministries of the United Methodist Church (Women's Division), and the Women's Division itself), seeking to enjoin enforcement of the Hyde Amendment on grounds that it violates, *inter alia*, the Due Process Clause of the Fifth Amendment and the Religion Clauses of the First Amendment, and that, despite the Hyde Amendment, a participating State remains obligated under Title XIX to fund all medically necessary abortions. Ultimately, the District Court, granting injunctive relief, held that the Hyde Amendment had substantively amended Title XIX to relieve a State of any obligation to fund those medically necessary abortions for which federal reimbursement is unavailable, but that the Amendment violates the equal protection component of the Fifth Amendment's Due Process Clause and the Free Exercise Clause of the First Amendment.

Held:

1. Title XIX does not require a participating State to pay for those medically necessary abortions for which federal reimbursement is unavailable under the Hyde Amendment. Pp. 7–11.

(a) The cornerstone of Medicaid is financial contribution by both the Federal Government and the participating State. Nothing in Title XIX as originally enacted or in its legislative history suggests that Congress intended to require a participating State to assume the full costs of providing any health services in its Medicaid plan. To the contrary, Congress' purpose in enacting Title XIX was to provide federal financial assistance for all legitimate state expenditures under an approved Medicaid plan. Pp. 8–10.

(b) Nor does the Hyde Amendment's legislative history contain any indication that Congress intended to shift the entire cost of some medically necessary abortions to the participating States, but rather suggests that Congress has always assumed that a participating State would not be required to fund such abortions once federal funding was withdrawn pursuant to the Hyde Amendment. Pp. 10–11.

2. The funding restrictions of the Hyde Amendment do not impinge on the "liberty" protected by the Due Process Clause of the Fifth Amendment held in *Roe* v. *Wade*, 410 U.S. 168, to include the freedom of a woman to decide whether to terminate a pregnancy. Pp. 12–19.

(a) The Hyde Amendment places no governmental obstacle in the path of a woman who chooses to terminate her pregnancy, but rather, by means of unequal subsidization of abortion and other medical services, encourages alternative activity deemed in the public interest. Cf. *Maher* v. *Roe*, 432 U.S. 464. Pp. 14–16.

(b) Regardless of whether the freedom of a woman to choose to terminate her pregnancy for health reasons lies at the core or the periphery of the due process liberty recognized in *Wade*, *supra*, it does not follow that a woman's freedom of choice carries with it a constitutional entitlement to the financial resources to avail herself of the full range of protected choices. Although government may not place obstacles in the path of a woman's exercise of her freedom of choice, it need not remove those not of its own creation, and indigency falls within the latter category. Although Congress has opted to subsidize medically necessary services generally, but not certain medically necessary abortions, the fact remains that the Hyde Amendment leaves an indigent woman with at least the same range of choice in deciding whether to obtain a medically necessary abortion as she would have had if Congress had chosen to subsidize no health care costs at all. Pp. 16–17.

(c) To translate the limitation on governmental power implicit in the Due Process Clause into an affirmative funding obligation would require Congress to subsidize the medically necessary abortion of an indigent woman even if Congress had not enacted a Medicaid program to subsidize other medically necessary services. Nothing in the Due Process Clause supports such an extraordinary result. P. 18.

3. Nor does the Hyde Amendment violate the Establishment Clause of the First Amendment. The fact that the funding restrictions in the Hyde Amendment may coincide with the religious tenets of the Roman Catholic Church does not, without more, contravene that Clause. Pp. 19–20.

4. Appellees lack standing to raise a challenge to the Hyde Amendment under the Free Exercise Clause of the First Amendment. The named appellees consisting of indigent pregnant women suing on behalf of other women similarly situated lack such standing because none alleged, much less proved, that she sought an abortion under compulsion of religious belief. The named appellees consisting of officers of the Women's Division, although they provided a detailed description of their religious beliefs, failed to allege either that they are or expect to be pregnant or that they are eligible to receive Medicaid, and they therefore lacked the personal stake in the controversy needed to confer standing to raise such a challenge to the Hyde Amendment. And the Women's Division does not satisfy the standing requirements for an organization to assert the rights of its membership, since the asserted claim is one that required participation of the individual members for a proper understanding and resolution of their free exercise claims. Pp. 20–22.

5. The Hyde Amendment does not violate the equal protection component of the Due Process Clause of the Fifth Amendment. Pp. 22–27.

(a) While the presumption of constitutional validity of a statutory classification that does not itself impinge on a right or liberty protected by the Constitution disappears if the classification is predicated on criteria that are "suspect," the Hyde Amendment is not predicated on criteria that are "suspect," the Hyde Amendment is not predicated on a constitutionally suspect classification. *Maher* v. *Roe*, *supra*. Although the impact of the Amendment falls on the indigent, that fact does not itself render the funding restrictions constitutionally invalid, for poverty, standing alone, is not a suspect classification. Pp. 22–24.

(b) Where, as here, Congress has neither invaded a substantive constitutional right or freedom, nor enacted legislation that purposefully operates to the detriment of a suspect class, the only requirement of equal protection is that congressional action be rationally related to a legitimate governmental interest. The Hyde Amendment satisfies that standard, since, by encouraging childbirth except in the most urgent circumstances, it is rationally related to the legitimate governmental objective of protecting potential life. Pp. 24–27.

Reversed and remanded.

Stewart, J., delivered the opinion of the Court, in which Burger, C.J., and White, Powell, and Rehnquist, JJ., joined, White, J., filed a concurring opinion, Brennan, J., filed a dissenting opinion, in which Marshall and Blackmun, JJ., joined. Marshall, Blackmun, and Stevens, JJ., filed dissenting opinions.

[Supreme Court of the United States, No. 79–1268, on Appeal from the United States District Court for the Eastern District of New York]

Patricia R. Harris, Secretary of Health and Human Services, Appellant, *v.* Cora McRae et al.

Mr. Justice Stewart delivered the opinion of the Court.

This case presents statutory and constitutional questions concerning the public funding of abortions under Title XIX of the Social Security Act, commonly known as the "Medicaid" Act, and recent annual appropriations acts containing the so-called "Hyde Amendment." The statutory question is whether Title XIX requires a State that participates in the Medicaid program to fund the cost of medically necessary abortions for which federal reimbursement is unavailable under the Hyde Amendment. The constitutional question, which arises only if Title XIX imposes no such requirement, is whether the Hyde Amendment, by denying public funding for certain medically necessary abortions, contravenes the liberty or equal protection guarantees of the Due Process Clause of the Fifth Amendment, or either of the Religion Clauses of the First Amendment.

I

The Medicaid program was created in 1965, when Congress added Title XIX to the Social Security Act, 79 Stat. 343, as amended, 42 U.S.C. § 1396 *et seq.* (1976 ed. and Supp. II), for the purpose of of providing federal financial assistance to States that choose to reimburse certain costs of medical treatment for needy persons. Although participation in the Medicaid program is entirely optional, once a State elects to participate, it must comply with the requirements of Title XIX.

One such requirement is that a participating State agree to provide financial assistance to the "categorically needy" [1] with respect to five general areas of medical treatment: (1) inpatient hospital services, (2) outpatient hospital services, (3) other laboratory and X-ray services, (4) skilled nursing facilities services, periodic screening and diagnosis of children, and family planning services, and (5) services of physicians. 42 U.S.C. §§ 1396a (a)(13)(B), 1396d(a)(1)-(5). Although a participating State need not "provide funding for all medical treatment falling within the five general categories, [Title XIX] does require that [a] state Medicaid plan establish 'reasonable standards . . . for determining . . . the extent of medical assistance under the plan which . . . are consistent with the objectives of [Title XIX].' 42 U.S.C. § 1396a(a)(17)." *Beal* v. *Doe*, 432 U.S. 438, 441.

Since September 1976, Congress has prohibited—either by an amendment to the annual appropriations bill for the Department of Health, Education, and Welfare [2] or by a joint resolution—the use of any federal funds to reimburse the cost of abortions under the Medicaid program except under certain specified circumstances. This funding restriction is commonly known as the "Hyde Amendment," after its original congressional sponsor, Representative Hyde. The current version of the Hyde Amendment, applicable for fiscal year 1980, provides:

"[N]one of the funds provided by this joint resolution shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest when such rape or incest has been reported promptly to a law enforcement agency or public health service." Public Law No. 96-123, § 109, 93 Stat. 926. See also Public Law No. 96-86, §118, 93 Stat. 662.

This version of the Hyde Amendment is broader than that applicable for fiscal year 1977, which did not include the "rape or incest" exception, Public Law No. 94-439, § 209, 90 Stat. 1434, but narrower than that applicable for most of fiscal year 1978,[3] and all of fiscal year 1979, which had an additional exception for "instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians," Public Law No. 95-205, § 101, 91 Stat. 1460; Public Law No. 95-480, § 210, 92 Stat. 1586.[4]

On September 30, 1976, the day on which Congress enacted the initial version of the Hyde Amendment, these consolidated cases were filed in the District Court for the Eastern District of New York. The plaintiffs—Cora McRae, a New York Medicaid recipient then in the first trimester of a pregnancy that she wished to terminate, the New York City Health and Hospitals Corp., a public benefit corporation that operates 16 hospitals, 12 of which provide abortion services, and others—sought to enjoin the enforcement of the funding restriction on abortions. They alleged that the Hyde Amendment violated the First, Fourth, Fifth, and Ninth Amendments of the Constitution insofar as it limited the funding of abortions to those necessary to save the life of the mother, while permitting the funding of costs associated with childbirth. Although the sole named defendant was the Secretary of Health, Education, and Welfare, the District Court permitted Senators James L. Buckley and Jesse A. Helms and Representative Henry J. Hyde to intervene as defendants.[5]

After a hearing, the District Court entered a preliminary injunction prohibiting the Secretary from enforcing the Hyde Amendment and requiring him to continue to provide federal reimbursement for abortions under the standards applicable before the funding restriction had been enacted. *McRae* v. *Mathews*, 421 F. Supp. 533. Although stating that it had not expressly held that the funding restriction was unconstitutional, since the preliminary injunction was not its final judgment, the District Court noted that such a holding was "implicit" in its decision granting the injunction. The District Court also certified the *McRae* case as a class action on behalf of all pregnant or potentially pregnant women in the State of New York eligible for Medicaid and who decide to have an abortion within the first 24 weeks of pregnancy, and of all authorized providers of abortion services to such women. *Id.*, at 543.

The Secretary then brought an appeal to this Court. After deciding *Beal* v. *Doe*, 432 U.S. 438, and *Maher* v. *Roe*, 432 U.S. 464, we vacated the injunction of the District Court and remanded the case for reconsideration in light of those decisions. *Califano* v. *McRae*, 433 U.S. 916.

On remand, the District Court permitted the intervention of several additional plaintiffs, including (1) four individual Medicaid recipients who wished to have abortions that allegedly were medically necessary but did not qualify for federal funds under the versions of the Hyde Amendment applicable in fiscal year 1977 and 1978, (2) several physicians who perform abortions for Medicaid recipients, (3) the Women's Division of the Board of Global Ministries of the United Methodist Church (Women's Division), and (4) two individual officers of the Women's Division.

An amended complaint was then filed, challenging the various versions of the Hyde Amendment on several grounds. At the outset, the plaintiffs asserted that the District Court need not address the constitutionality of the Hyde Amendment because, in their view, a participating State remains obligated under Title XIX to fund all medically necessary abortions, even if federal reimbursement is unavailable. With regard to the constitutionality of the Hyde Amendment, the plaintiff asserted, among other things, that the funding restrictions violate the Religion Clauses of the First Amendment and the Due Process Clause of the Fifth Amendment.

After a lengthy trial, which inquired into the medical reasons for abortions and the diverse religious views on the subject,[6] the District Court filed an opinion and entered a judgment invalidating all versions of the Hyde Amendment on constitutional grounds.[7] The District Court rejected the plaintiffs' statutory argument, concluding that even though Title XIX would otherwise have required a participating State to fund medically necessary abortions, the Hyde Amendment had substantively amended Title XIX to relieve a State of that funding obligation. Turning then to the constitutional issues, the District Court concluded that the Hyde Amendment, though valid under the Establishment Clause,[8] violates the equal protection component of the Fifth Amendment's Due Process Clause and the Free Exercise Clause of the First Amendment. With regard to the Fifth Amendment, the District Court noted that when an abortion is "medically necessary to safeguard the pregnant woman's health, . . . the disentitlement to [M]edicaid assistance impinges directly on the woman's right to decide, in consultation with her physician and in reliance on his judgment, to terminate her pregnancy in order to preserve her health." [9] The Court concluded that the Hyde Amendment violates the equal protection guarantee because, in its view, the decision of Congress to fund medically necessary services generally but only certain medically necessary abortions serves no legitimate governmental interest. As to the Free Exercise Clause of the First Amendment, the Court held that insofar as a woman's decision to seek a medically necessary abortion may be a product of her religious beliefs under certain Protestant and Jewish tenets, the funding restrictions of the Hyde Amendment violate the constitutional guarantee as well.

Accordingly, the District Court ordered the Secretary to "[c]ease to give effect" to the various versions of the Hyde Amendment insofar as they forbid payments for medically necessary abortions. It further directed the Secretary to "continue to authorize the expenditure of federal matching funds [for such abortions]." In addition, the Court recertified the *McRae* case as a nationwide class action on behalf of all pregnant and potentially pregnant women eligible for Medicaid who wish to have medically necessary abortions, and of all authorized providers of abortions for such women.[10]

The Secretary then applied to this Court for a stay of the judgment pending direct appeal of the District Court's decision. We denied the stay, but noted probable jurisdiction of this appeal. 444 U.S. ——.

II

It is well settled that if a case may be decided on either statutory or constitutional grounds, this Court, for sound jurisprudential reasons, will inquire first into the statutory question. This practice reflects the deeply rooted doctrine "that we ought not to pass on questions of constitutionality . . . unless such adjudication is unavoidable." *Spector Motor Co.* v. *McLaughlin*, 323 U.S. 101, 105. Accordingly, we turn first to the question whether Title XIX requires a State that participates in the Medicaid program to continue to fund those medically necessary abortions for which federal reimbursement is unavailable under the Hyde Amendment. If a participating State is under such an obligation, the constitutionally of the Hyde Amendment need not be drawn into question in the present case, for the availability of medically necessary abortions under Medicaid would continue, with the participating State shouldering the total cost of funding such abortions.

The appellees assert that a participating State has an independent funding obligation under Title XIX because (1) the Hyde Amendment is, by its own terms, only a limitation on federal reimbursement for certain medically necessary abortions, and (2) Title XIX does not permit a participating State to exclude from its Medicaid plan any medically necessary service solely on the basis of diagnosis or condition, even if federal reimbursement is unavailable for that service[11] It is thus the appellees' view that the effect of the Hyde Amendment is to withhold federal reimbursement for certain medically necessary abortions, but not to relieve a participating State of its duty under Title XIX to provide for such abortions in its Medicaid plan.

The District Court rejected this argument. It concluded that although Title XIX would otherwise have required a participating State to include medically necessary abortions in its Medicaid program, the Hyde Amendment substantively amended Title XIX so as to relieve a State of that obligation. This construction of the Hyde Amendment was said to find support in the decisions of two Courts of Appeals, *Preterm, Inc.* v. *Dukakis*, 591 F. 2d 121 (CA1 1979), and *Zbaraz* v. *Quern*, 596 F. 2d 196 (CA7 1970), and to be consistent with the understanding of the effect of the Hyde Amendment by the Department of Health, Education, and Welfare in the administration of the Medicaid program.

We agree with the District Court, but for somewhat different reasons. The Medicaid program created by Title XIX is a coopera-

---

Footnotes at end of article.

tive endeavor in which the Federal Government provides financial assistance to participating States to aid them in furnishing health care to needy persons. Under this system of "cooperative federalism," *King* v. *Smith*, 392 U.S. 309, 316, if a State agrees to establish a Medicaid plan that satisfies the requirements of Title XIX, which include several mandatory categories of health services, the Federal Government agrees to pay a specified percentage of "the total amount expended . . . as medical assistance under the State plan. . . ." 42 U.S.C. § 1396b (a)(1). The cornerstone of Medicaid is financial contribution by both the Federal Government and the participating States. Nothing in Title XIX as originally enacted, or in its legislative history, suggests that Congress intended to require a participating State to assume the full costs of providing any health services in its Medicaid plan. Quite the contrary, the purpose of Congress in enacting Title XIX was to provide federal financial assistance for all legitimate state expenditures under an approved Medicaid plan. See S. Rep. No. 404, 89th Cong., 1st Sess., 83–85 (1965); H.R. Rep. No. 213, 89th Cong., 1st Sess., 72–74 (1965).

Since the Congress that enacted Title XIX did not intend a participating State to assume a unilateral funding obligation for any health service in an approved Medicaid plan, it follows that Title XIX does not require a participating State to include in its plan any services for which a subsequent Congress has withheld federal funding.[12] Title XIX was designed as a cooperative program of shared financial responsibility, not as a device for the Federal Government to compel a State to provide services that Congress itself is unwilling to fund. Thus, if Congress chooses to withdraw federal funding for a particular service, a State is not obliged to continue to pay for that service as a condition of continued federal financial support of other services. This is not to say that Congress may not now depart from the original design of Title XIX under which the Federal Government shares the financial responsibility for expenses incurred under an approved Medicaid plan. It is only to say that, absent an indication of contrary legislative intent by a subsequent Congress, Title XIX does not obligate a participating State to pay for those medical services for which federal reimbursement is unavailable.[13]

Thus, by the normal operation of Title XIX, even if a State were otherwise required to include medically necessary abortions in its Medicaid plan, the withdrawal of federal funding under the Hyde Amendment would operate to relieve the State of that obligation for those abortions for which federal reimbursement is unavailable.[14] The legislative history of the Hyde Amendment contains no indication whatsoever that Congress intended to shift the entire cost of such services to the participating States. See *Zbaraz* v. *Quern*, *supra*, 596 F. 2d, at 200 ("no one, whether supporting or opposing the Hyde Amendment, ever suggested that state funding would be required"). Rather, the legislative history suggests that Congress has always assumed that a participating State would not be required to fund medically necessary abortions once federal funding was withdrawn pursuant to the Hyde Amendment.[15] See *Preterm, Inc.* v. *Dukakis*, *supra*, 591 F. 2d, at 130 ("[t]he universal assumption in debate was that if the Amendment passed there would be no requirement that states carry on the service"). Accord, *Zbaraz* v. *Quern*, *supra*, 596 F. 2d, at 200; *Hodgson* v. *Board of County Commissioners*, No. 79–1665, slip op., at 22 (CA8 1980); *Roe* v. *Casey*, No. 79–1108, slip op., at 12–17 (CA3 1980). Accordingly, we conclude that Title XIX does not require a participating State to pay for those medically necessary abortions for which federal reimbursement is unavailable under the Hyde Amendment.[16]

III

Having determined that Title XIX does not obligate a participating State to pay for those medically necessary abortions for which Congress has withheld federal funding, we must consider the constitutional validity of the Hyde Amendment. The appellees assert that the funding restrictions of the Hyde Amendment violate several rights secured by the Constitution—(1) the right of a woman, implicit in the Due Process Clause of the Fifth Amendment, to decide whether to terminate a pregnancy, (2) the prohibition under the Establishment Clause of the First Amendment against any "law respecting an establishment of religion," and (3) the right to freedom of religion protected by the Free Exercise Clause of the First Amendment. The appellees also contend that, quite apart from substantive constitutional rights, the Hyde Amendment violates the equal protection component of the Fifth Amendment.[17]

It is well settled that, quite apart from the guarantee of equal protection, if a law "impinges upon a fundamental right explicitly or implicitly secured by the Constitution [it] is presumptively unconstitutional." *Mobile* v. *Bolden*, 446 U.S. ——, —— (plurality opinion). Accordingly, before turning to the equal protection issue in this case, we examine whether the Hyde Amendment violates any substantive rights secured by the Constitution.

A

We address first the appellees' argument that the Hyde Amendment, by restricting the availability of certain medically necessary abortions under Medicaid, impinges on the "liberty" protected by the Due Process Clause as recognized in *Roe* v. *Wade*, 410 U.S. 113, and its progeny.

In the *Wade* case, this Court held unconstitutional a Texas statute making it a crime to procure or attempt an abortion except on medical advice for the purpose of saving the mother's life. The constitutional underpinning of *Wade* was a recognition that the "liberty" protected by the Due Process Clause of the Fourteenth Amendment includes not only the freedoms explicitly mentioned in the Bill of Rights, but also a freedom of personal choice in certain matters of marriage and family life.[18] This implicit constitutional liberty, the Court in *Wade* held, includes the freedom of a woman to decide whether to terminate a pregnancy.

But the Court in *Wade* also recognized that a State has legitimate interests during a pregnancy in both ensuring the health of the mother and protecting potential human life. These state interests, which were found to be "separate and distinct" and to "grow in substantiality as the woman approaches term," *id.*, at 162–163, pose a conflict with a woman's untrammeled freedom of choice. In resolving this conflict, the Court held that before the end of the first trimester of pregnancy, neither state interest is sufficiently substantial to justify any intrusion on the woman's freedom of choice. In the second trimester, the state interest in maternal health was found to be sufficiently substantial to justify regulation reasonably related to that concern. And, at viability, usually in the third trimester, the state interest in protecting the potential life of the fetus was found to justify a criminal prohibition against abortions, except where necessary for the preservation of the life or health of the mother. Thus, inasmuch as the Texas criminal statute allowed abortions only where necessary to save the life of the mother and without regard to the stage of the pregnancy, the Court held in *Wade* that the statute violated the Due Process Clause of the Fourteenth Amendment.

In *Maher* v. *Roe*, 432 U.S. 464, the Court was presented with the question whether the scope of personal constitutional freedom recognized in *Roe* v. *Wade* included an entitlement to Medicaid payments for abortions that are not medically necessary. At issue in *Maher* was a Connecticut welfare regulation under which Medicaid recipients received payments for medical services incident to childbirth, but not for medical services incident to nontherapeutic abortions. The District Court held that the regulation violated the Equal Protection Clause of the Fourteenth Amendment because the unequal subsidization of childbirth and abortion impinged on the "fundamental right to abortion" recognized in *Wade* and its progeny.

It was the view of this Court that "the District Court misconceived the nature and scope of the fundamental right recognized in *Roe*." 432 U.S., at 471. The doctrine of *Roe* v. *Wade*, the Court held in *Maher*, "protects the woman from unduly burdensome interference with her freedom to decide whether to terminate her pregnancy," *id.*, at 473–474, such as the severe criminal sanctions at issue in *Roe* v. *Wade*, *supra*, or the absolute requirement of spousal consent for an abortion challenged in *Planned Parenthood of Central Missouri* v. *Danforth*, 428 U.S. 52.

But the constitutional freedom recognized in *Wade* and its progeny, the *Maher* Court explained, did not prevent Connecticut from making "a value judgment favoring childbirth over abortion, and . . . implement[ing] that judgment by the allocation of public funds." *Id.*, at 474. As the Court elaborated:

"The Connecticut regulation before us is different in kind from the laws invalidated in our previous abortions decisions. The Connecticut regulation places no obstacles—absolute or otherwise—in the pregnant woman's path to an abortion. An indigent woman who desires an abortion suffers no disadvantage as a consequence of Connecticut's decision to fund childbirth; she continues as before to be dependent on private sources for the service she desires. The State may have made childbirth a more attractive alternative, thereby influencing the woman's decision, but it has imposed no restriction on access to abortions that was not already there. The indigency that may make it difficult—and in some cases, perhaps, impossible—for some women to have abortions is neither created nor in any way affected by the Connecticut regulation." *Id.*, at 474.

The Court in *Maher* noted that its description of the doctrine recognized in *Wade* and its progeny signaled "no retreat" from those decisions. In explaining why the constitutional principle recognized in *Wade* and later cases—protecting a woman's freedom of choice—did not translate into a constitutional obligation of Connecticut to subsidize abortions, the Court cited the "basic difference between direct state interference with a protected activity and state encouragement of an alternative activity consonant with legislative policy. Constitutional concerns are greatest when the State attempts to impose its will by force of law; the State's power to encourage actions deemed to be in the public interest is necessarily far broader." *Id.*, at 475–476. Thus, even though the Connecticut regulation favored childbirth over abortion by means of subsidization of one and not the other, the Court in *Maher* concluded that the regulation did not impinge on the constitutional freedom recognized in *Wade* because it imposed no governmental restriction on access to abortions.

The Hyde Amendment, like the Connecticut welfare regulation at issue in *Maher*, places no governmental obstacle in the path of a woman who chooses to terminate her pregnancy, but rather, by means of unequal subsidization of abortion and other medical

---

Footnotes at end of article.

services, encourages alternative activity deemed in the public interest. The present case does differ factually from *Maher* insofar as that case involved a failure to fund nontherapeutic abortions, whereas the Hyde Amendment withholds funding of certain medically necessary abortions. Accordingly, the appellees argue that because the Hyde Amendment affects a significant interest not present or asserted in *Maher*—the interest of a woman in protecting her health during pregnancy—and because that interest lies at the core of the personal constitutional freedom recognized in *Wade*, the present case is constitutionally different from *Maher*. It is the appellees' view that to the extent that the Hyde Amendment withholds funding for certain medically necessary abortions it clearly impinges on the constitutional principle recognized in *Wade*.

It is evident that a woman's interest in protecting her health was an important theme in *Wade*. In concluding that the freedom of a woman to decide whether to terminate her pregnancy falls within the personal liberty protected by the Due Process Clause, the Court in *Wade* emphasized the fact that the woman's decision carries with it significant personal health implications—both physical and psychological. 410 U.S., at 153. In fact, although the Court in *Wade* recognized that the state interest in protecting potential life becomes sufficiently compelling in the period after fetal viability to justify an absolute criminal prohibition of nontherapeutic abortions, the Court held that even after fetal viability a State may not prohibit abortions "necessary to preserve the life or health of the mother." *Id.*, at 164. Because even the compelling interest of the State in protecting potential life after fetal viability was held to be insufficient to outweigh a woman's decision to protect her life or health, it could be argued that the freedom of a woman to decide whether to terminate her pregnancy for health reasons does in fact lie at the core of the constitutional liberty identified in *Wade*.

But, regardless of whether the freedom of a woman to choose to terminate her pregnancy for health reasons lies at the core or the periphery of the due process liberty recognized in *Wade*, it simply does not follow that a woman's freedom of choice carries with it a constitutional entitlement to the financial resources to avail herself of the full range of protected choices. The reason why was explained in *Maher*: although government may not place obstacles in the path of a woman's exercise of her freedom of choice, it need not remove those not of its own creation. Indigency falls in the latter category. The financial constraints that restrict an indigent woman's ability to enjoy the full range of constitutionally protected freedom of choice are the product not of governmental restrictions on access to abortions, but rather of her indigency. Although Congress has opted to subsidize medically necessary services generally, but not certain medically necessary abortions, the fact remains that the Hyde Amendment leaves an indigent woman with at least the same range of choice in deciding whether to obtain a medically necessary abortion as she would have had if Congress had chosen to subsidize no health care costs at all. We are thus not persuaded that the Hyde Amendment impinges on the constitutionally protected freedom of choice recognized in *Wade*.[19]

Although the liberty protected by the Due Process Clause affords protection against unwarranted government interference with freedom of choice in the context of certain personal decisions, it does not confer an entitlement to such funds as may be necessary to realize all the advantages of that freedom. To hold otherwise would mark a drastic change in our understanding of the Constitution. It cannot be that because government may not prohibit the use of contraceptives, *Griswold* v. *Connecticut*, 381 U.S. 479, or prevent parents from sending their child to a private school, *Pierce* v. *Society of Sisters*, 268 U.S. 510, government, therefore, has an affirmative constitutional obligation to ensure that all persons have the financial resources to obtain contraceptives or send their children to private schools. To translate the limitation on governmental power implicit in the Due Process Clause into an affirmative funding obligation would require Congress to subsidize the medically necessary abortion of an indigent woman even if Congress had not enacted a Medicaid program to subsidize other medically necessary services. Nothing in the Due Process Clause supports such an extraordinary result.[20] Whether freedom of choice that is constitutionally protected warrants federal subsidization is a question for Congress to answer, not a matter of constitutional entitlement. Accordingly, we conclude that the Hyde Amendment does not impinge on the due process liberty recognized in *Wade*.[21]

B

The appellees also argue that the Hyde Amendment contravenes rights secured by the Religion Clauses of the First Amendment. It is the appellees' view that the Hyde Amendment violates the Establishment Clause because it incorporates into law the doctrines of the Roman Catholic Church concerning the sinfulness of abortion and the time at which life commences. Moreover, insofar as a woman's decision to seek a medically necessary abortion may be a product of her religious beliefs under certain Protestant and Jewish tenets, the appellees assert that the funding limitations of the Hyde Amendment impinge on the freedom of religion guaranteed by the Free Exercise Clause.

It is well settled that "a legislative enactment does not contravene the Establishment Clause if it has a secular legislative purpose, if its principal or primary effect neither advances nor inhibits religion, and if it does not foster an excessive governmental entanglement with religion." *Committee for Pub. Ed. & Rel. Lib.* v. *Regan*, 444 U.S. ——, ——. Applying this standard, the District Court properly concluded that the Hyde Amendment does not run afoul of the Establishment Clause. Although neither a State nor the Federal Government can constitutionally "pass laws which aid one religion, aid all religions, or prefer one religion over another," *Everson* v. *Board of Education*, 330 U.S. 1, 15, it does not follow that a statute violates the Establishment Clause because it "happens to coincide or harmonize with the tenets of some or all religions." *McGowan* v. *Maryland*, 366 U.S. 420, 442. That the Judaeo-Christian religions oppose stealing does not mean that a State or the Federal Government may not, consistent with the Establishment Clause, enact laws prohibiting larceny. *Ibid.* The Hyde Amendment, as the District Court noted, is as much a reflection of "traditionalist" values towards abortion, as it is an embodiment of the views of any particular religion. See also *Roe* v. *Wade*, *supra*, 410 U.S., at 138–141. In sum, we are convinced that the fact that the funding restrictions in the Hyde Amendment may coincide with the religious tenets of the Roman Catholic Church does not, without more, contravene the Establishment Clause.

2

We need not address the merits of the appellees' arguments concerning the Free Exercise Clause, because the appellees lack standing to raise a free exercise challenge to the Hyde Amendment. The named appellees fall into three categories: (1) the indigent pregnant women who sued on behalf of other women similarly situated, (2) the two officers of the Women's Division of the Board of Global Ministries of the United Methodist Church (Women's Division), and (3) the Women's Division itself.[22] The named appellees in the first category lack standing to challenge the Hyde Amendment on free exercise grounds because none alleged, much less proved, that she sought an abortion under compulsion of religious belief.[23] See *McGowan* v. *Maryland*, *supra*, 366 U.S., at 429. Although the named appellees in the second category did provide a detailed description of their religious beliefs, they failed to allege either that they are or expect to be pregnant or that they are eligible to receive Medicaid. These named appellees, therefore, lack the personal stake in the controversy needed to confer standing to raise such a challenge to the Hyde Amendment. See *Warth* v. *Seldin*, 422 U.S. 490, 498–499.

Finally, although the Women's Division alleged that its membership includes "pregnant Medicaid eligible women who, as a matter of religious practice and in accordance with their conscientious beliefs, would choose but are precluded or discouraged from obtaining abortions reimbursed by Medicaid because of the Hyde Amendment," the Women's Division does not satisfy the standing requirements for an organization to assert the rights of its membership. One of those requirements is that "neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit." *Hunt* v. *Washington Apple Advertising Comm'n*, 432 U.S. 333, 343. Since "it is necessary in a free exercise case for one to show the coercive effect of the enactment as it operates against him in the practice of his religion," *Abington School Dist.* v. *Schempp*, 374 U.S. 202, 223, the claim asserted here is one that ordinarily requires individual participation.[24] In the present case, the Women's Division concedes that "the permissibility, advisability and/or necessity of abortion according to circumstance is a matter about which there is diversity of view within . . . our membership, and is a determination which must be ultimately and absolutely entrusted to the conscience of the individual before God." It is thus clear that the participation of individual members of the Women's Division is essential to a proper understanding and resolution of their free exercise claims. Accordingly, we conclude that the Women's Division, along with the other named appellees, lack standing to challenge the Hyde Amendment under the Free Exercise Clause.

C

It remains to be determined whether the Hyde Amendment violates the equal protection component of the Fifth Amendment. This challenge is premised on the fact that, although federal reimbursement is available under Medicaid for medically necessary services generally, the Hyde Amendment does not permit federal reimbursement of all medically necessary abortions. The District Court held, and the appellees argue here, that this selective subsidization violates the constitutional guarantee of equal protection.

The guarantee of equal protection under the Fifth Amendment is not a source of substantive rights or liberties,[25] but rather a right to be free from invidious discrimination in statutory classifications and other governmental activity. It is well-settled that where a statutory classification does not itself impinge on a right or liberty protected by the Constitution, the validity of classification must be sustained unless "the classification rests on grounds wholly irrelevant to the achievement of [any legitimate governmental] objective." *McGowan* v. *Maryland*, *supra*, 366 U. S., at 425. This presumption of constitutional validity, however, disappears if a statutory classification is predi-

---

Footnotes at end of article.

cated on criteria that are, in a constitutional sense, "suspect," the principal example of which is a classification based on race, *e.g.*, *Brown* v. *Board of Education*, 347 U.S. 483.

1

For the reasons stated above, we have already concluded that the Hyde Amendment violates no constitutionally protected substantive rights. We now conclude as well that it is not predicated on a constitutionally suspect classification. In reaching this conclusion, we again draw guidance from the Court's decision in *Maher* v. *Roe*. As to whether the Connecticut welfare regulation providing funds for childbirth but not for nontherapeutic abortions discriminated against a suspect class, the Court in *Maher* observed:

"An indigent woman desiring an abortion does not come within the limited category of disadvantaged classes so recognized by our cases. Nor does the fact that the impact of the regulation falls upon those who cannot pay lead to a different conclusion. In a sense, every denial of welfare to an indigent creates a wealth classification as compared to nonindigents who are able to pay for the desired goods or services. But this Court has never held that financial need alone identifies a suspect class for purposes of equal protection analysis." 432 U.S., at 471, citing *San Antonio School Dist.* v. *Rodriguez*, 411 U.S. 1, 29; *Dandridge* v. *Williams*, 397 U.S. 471.

Thus, the Court in *Maher* found no basis for concluding that the Connecticut regulation was predicated on a suspect classification.

It is our view that the present case is indistinguishable from *Maher* in this respect. Here, as in *Maher*, the principal impact of the Hyde Amendment falls on the indigent. But that fact does not itself render the funding restriction constitutionally invalid, for this Court has held repeatedly that poverty, standing alone, is not a suspect classification. See, *e.g.*, *James* v. *Valtierra*, 402 U.S. 137. That *Maher* involved the refusal to fund nontherapeutic abortions, whereas the present case involves the refusal to fund medically necessary abortions, has no bearing on the factors that render a classification "suspect" within the meaning of the constitutional guarantee of equal protection.[26]

2

The remaining question then is whether the Hyde Amendment is rationally related to a legitimate governmental objective. It is the Government's position that the Hyde Amendment bears a rational relationship to its legitimate interest in protecting the potential life of the fetus. We agree.

In *Wade*, the Court recognized that the State has "an important and legitimate interest in protecting the potentiality of human life." 410 U.S., at 162. That interest was found to exist throughout a pregnancy, "grow[ing] in substantiality as the woman approaches term." *Id.*, at 162–163. See also *Beal* v. *Doe*, 432 U.S. 438, 445–446. Moreover, in *Maher*, the Court held that Connecticut's decision to fund the costs associated with childbirth but not those associated with nontherapeutic abortions was a rational means of advancing the legitimate state interest in protecting potential life by encouraging childbirth. 432 U.S., at 478–479. See also *Poelker* v. *Doe*, 432 U.S. 519, 520–521.

It follows that the Hyde Amendment, by encouraging childbirth except in the most urgent circumstances, is rationally related to the legitimate governmental objective of protecting potential life. By subsidizing the medical expenses of indigent women who carry their pregnancies to term while not subsidizing the comparable expenses of women who undergo abortions (except those whose lives are threatened),[27] Congress has established incentives that make childbirth a more attractive alternative than abortion for persons eligible for Medicaid. These incentives bear a direct relationship to the legitimate congressional interest in protecting potential life. Nor is it irrational that Congress has authorized federal reimbursement for medically necessary services generally, but not for certain medically necessary abortions.[28] Abortion is inherently different from other medical procedures, because no other procedure involves the purposeful termination of a potential life.

After conducting an extensive evidentiary hearing into issues surrounding the public funding of abortions, the District Court concluded that "[t]he interests of . . . the federal government . . . in the fetus and in preserving it are not sufficient, weighed in the balance with the woman's threatened health, to justify withdrawing medical assistance unless the woman consents . . . to carry the fetus to term." In making an independent appraisal of the competing interests involved here, the District Court went beyond the judicial function. Such decisions are entrusted under the Constitution to Congress, not the courts. It is the role of the courts only to ensure that congressional decisions comport with the Constitution.

Where, as here, the Congress has neither invaded a substantive constitutional right or freedom, nor enacted legislation that purposefully operates to the detriment of a suspect class, the only requirement of equal protection is that congressional action be rationally related to a legitimate governmental interest. The Hyde Amendment satisfies that standard. It is not the mission of this Court or any other to decide whether the balance of competing interests reflected in the Hyde Amendment is wise social policy. If that were our mission, not every Justice who has subscribed to the judgment of the Court today could have done so. But we cannot, in the name of the Constitution, overturn duly enacted statutes simply "because they may be unwise, improvident, or out of harmony with a particular school of thought." *Williamson* v. *Lee Optical Co.*, 348 U.S. 483, 488, quoted in *Dandridge* v. *Williams*, 397 U.S. 471, 484. Rather, "when an issue involves policy choices as sensitive as those implicated [here] . . . , the appropriate forum for their resolution in a democracy is the legislature." *Maher* v. *Roe*, *supra*, at 479.

IV

For the reasons stated in this opinion, we hold that a State that participates in the Medicaid program is not obligated under Title XIX to continue to fund those medically necessary abortions for which federal reimbursement is unavailable under the Hyde Amendment. We further hold that the funding restrictions of the Hyde Amendment violate neither the Fifth Amendment nor the Establishment Clause of the First Amendment. It is also our view that the appellees lack standing to raise a challenge to the Hyde Amendment under the Free Exercise Clause of the First Amendment. Accordingly, the judgment of the District Court is reversed, and the case is remanded to that court for further proceedings consistent with this opinion.

It is so ordered.

FOOTNOTES

[1] The "categorically needy" include families with dependent children eligible for public assistance under the Aid to Families with Dependent Children program, 42 U. S. C. § 601 *et seq.*, and the aged, blind, and disabled eligible for benefits under the Supplemental Security Income Program, 42 U. S. C. § 1381 *et seq.* See 42 U. S. C. § 1396a (a)(10)(A). Title XIX also permits a State to extend Medicaid benefits to other needy persons, termed "medically needy." See 42 U. S. C. § 1396a (a)(10)(C). If a State elects to include the medically needy in its Medicaid plan, it has the option of providing somewhat different coverage from that required for the categorically needy. See 42 U. S. C. § 1396a (a)(13)(C).

[2] The Department of Health, Education, and Welfare was recently renamed the Department of Health and Human Services. The original designation is retained for purposes of this opinion.

[3] The appropriations for HEW during October and November 1977, the first two months of fiscal year 1978, were provided by joint resolutions that continued in effect the version of the Hyde Amendment applicable during fiscal year 1977. Pub. L. No. 95–130, 91 Stat. 1153; Pub. L. No. 95–165, 91 Stat. 1323.

[4] In this opinion, the term, "Hyde Amendment," is used generically to refer to all three versions of the Hyde Amendment, except where indicated otherwise.

[5] Although the intervenor-defendants are appellees in the Secretary's direct appeal to this Court, see Sup. Ct. Rule 10(4), the term "appellees" is used in this opinion to refer only to the parties who were the plaintiffs in the District Court.

[6] The trial, which was conducted between August of 1977 and September of 1978, produced a record containing more than 400 documentary and film exhibits and a transcript exceeding 5,000 pages.

[7] The opinion of the District Court is as yet unreported.

[8] The District Court found no Establishment Clause infirmity because, in its view, the Hyde Amendment has a secular legislative purpose, its principal effect neither advances nor inhibits religion, and it does not foster an excessive governmental entanglement with religion.

[9] The District Court also apparently concluded that the Hyde Amendment operates to the disadvantage of a "suspect class," namely, teenage women desiring medically necessary abortions. See n. 26, *infra*.

[10] Although the original class included only those pregnant women in the first two trimesters of their pregnancy, the recertified class included all pregnant women regardless of the stage of their pregnancy.

[11] The appellees argue that their interpretation of Title XIX finds support in *Beal* v. *Doe*, 432 U.S. 438. There the Court considered the question whether Title XIX permits a participating State to exclude *non*-therapeutic abortions from its Medicaid plan. Although concluding that Title XIX does not preclude a State's refusal "to fund *unnecessary*—though perhaps desirable—medical services," the Court observed that "serious statutory questions might be presented if a state Medicaid plan excluded necessary medical treatment from its coverage." *Id.*, at 444–445 (emphasis in original). The Court in *Beal*, however, did not address the possible effect of the Hyde Amendment upon the operation of Title XIX.

[12] In *Preterm, Inc.* v. *Dukakis*, *supra*, 591 F. 2d, at 132, the opinion of the Court by Judge Coffin noted:

"The Medicaid program is one of federal and state cooperation in funding medical assistance; a complete withdrawal of the federal prop in the system with the intent to drop the total cost of providing the service upon the states, runs directly counter to the basic structure of the program and could seriously cripple a state's attempts to provide other necessary medical services embraced by its plan." (Footnote omitted.)

[13] When subsequent Congresses have deviated from the original structure of Title XIX by obligating a participating State to assume the full costs of a service as a prerequisite for continued federal funding of other services, they have always expressed their intent to do so in unambiguous terms. See *Zbaraz* v. *Quern*, *supra*, 596 F. 2d, at 200, n. 12.

[14] Since Title XIX itself provides for variations in the required coverage of state Medicaid plans depending on changes in the availability of federal reimbursement, we need not inquire, as the District Court did,

whether the Hyde Amendment is a substantive amendment to Title XIX. The present case is thus different from *TVA* v. *Hill*, 437 U.S. 153, 189–193, where the issue was whether continued appropriations for the Tellico Dam impliedly repealed the substantive requirements of the Endangered Species Act prohibiting the continued construction of the Dam because it threatened the natural habitat of an endangered species.

[15] Our conclusion that the Congress that enacted Title XIX did not intend a participating State to assume a unilateral funding obligation for any health service in an approved Medicaid plan is corroborated by the fact that subsequent Congresses simply assumed that the withdrawal of federal funding under the Hyde Amendment for certain medically necessary abortions would relieve a participating State of any obligation to provide for such services in its Medicaid plan. See the cases cited in the text, *supra*.

[16] A participating State is free, if it so chooses, to include in its Medicaid plan those medically necessary abortions for which federal reimbursement is unavailable. See *Beal* v. *Doe, supra*, 432 U.S., at 447; *Preterm, Inc.* v. *Dukakis, supra*, 591 F. 2d, at 134. We hold only that a State *need* not include such abortions in its Medicaid plan.

[17] The appellees also argue that the Hyde Amendment is unconstitutionally vague insofar as physicians are unable to understand or implement the exceptions to the Hyde Amendment under which abortions are reimbursable. It is our conclusion, however, that the Hyde Amendment is not void for vagueness because (1) the sanction provision in the Medicaid Act contains a clear scienter requirement under which good-faith errors are not penalized, see *Colautti* v. *Franklin*, 439 U.S. 379, 395, and, (2), in any event, the exceptions to the Hyde Amendment "are set out in terms that the ordinary person exercising ordinary common sense can sufficiently understand and comply with, without sacrifice to the public interest." *Broadrick* v. *Oklahoma*, 413 U.S. 601, 608.

[18] The Court in *Wade* observed that previous decisions of this Court had recognized that the liberty protected by the Due Process Clause "has some extension to activities relating to marriage, *Loving* v. *Virginia*, 388 U.S. 1, 12 (1967); procreation, *Skinner* v. *Oklahoma*, 316 U.S. 535, 541–542 (1942); contraception, *Eisenstadt* v. *Baird*, 405 U.S., at 453–454; *id.*, at 460, 463–465 (WHITE, J., concurring in result); family relationships, *Prince* v. *Massachusetts*, 321 U.S. 158, 166 (1944); and child rearing and education, *Pierce* v. *Society of Sisters*, 268 U.S. 510, 535 (1925); *Meyer* v. *Nebraska*, [262 U.S. 390, 399 (1923).]" 410 U.S., at 152–153.

[19] The appellees argue that the Hyde Amendment is unconstitutional because it "penalizes" the exercise of a woman's choice to terminate a pregnancy by abortion. See *Memorial Hospital* v. *Maricopa County*, 415 U.S. 250; *Shapiro* v. *Thompson*, 394 U.S. 618. This argument falls short of the mark. In *Maher*, the Court found only a "semantic difference" between the argument that Connecticut's refusal to subsidize nontherapeutic abortions "unduly interfere[d] with the exercise of the constitutional liberty recognized in *Wade* and the argument that it "penalized" the exercise of that liberty. 432 U.S., at 474, n. 8. And, regardless of how the claim was characterized, the *Maher* Court rejected the argument that Connecticut's refusal to subsidize protected conduct, without more, impinged on the constitutional freedom of choice. This reasoning is equally applicable in the present case. A substantial constitutional question would arise if Congress had attempted to withhold all Medicaid benefits from an otherwise eligible candidate simply because that candidate had exercised her constitutionally protected freedom to terminate her pregnancy by abortion. This would be analogous to *Sherbert* v. *Verner*, 374 U.S. 398, where this Court held that a State may not, consistent with the First and Fourteenth Amendments, withhold *all* unemployment compensation benefits from a claimant who would otherwise be eligible for such benefits but for the fact that she is unwilling to work one day per week on her Sabbath. But the Hyde Amendment, unlike the statute at issue in *Sherbert*, does not provide for such a broad disqualification from receipt of public benefits. Rather, the Hyde Amendment, like the Connecticut welfare provision at issue in *Maher*, represents simply a refusal to subsidize certain protected conduct. A refusal to fund protected activity, without more, cannot be equated with the imposition of a "penalty" on that activity.

[20] As this Court in *Maher* observed: "The Constitution imposes no obligation on the [Government] to pay the pregnancy-related medical expenses of indigent women, or indeed to pay any of the medical expenses of indigents." 432 U.S., at 469.

[21] Since the constitutional entitlement of a physician who administers medical care to an indigent woman is no broader than that of his patient, see *Whalen* v. *Roe*, 429 U.S. 589, 604, and n. 33, we also reject the appellee's claim that the funding restrictions of the Hyde Amendment violate the due process rights of the physician who advises a Medicaid recipient to obtain a medically necessary abortion.

[22] The remaining named appellees, including the individual physicians and the New York City Health and Hospital Corp., did not attack the Hyde Amendment on the basis of the Free Exercise Clause of the First Amendment.

[23] These named appellees sued on behalf of the class of "women of all religious and nonreligious persuasions and beliefs who have, in accordance with the teaching of their religion and/or the dictates of their conscience determined that an abortion is necessary." But since we conclude below that the named appellees have not established their own standing to sue, "[t]hey cannot represent a class of whom they are not a part." *Bailey* v. *Patterson*, 369 U.S. 31, 32–33. See also *O'Shea* v. *Littleton*, 414 U.S. 488, 494–495.

[24] For example, in *Board of Education* v. *Allen*, 392 U.S. 236, 249, the Court found no free exercise violation since the plaintiffs had "not contended that the [statute in question] coerce[d] them as *individuals* in the practice of their religion." (Emphasis added.)

[25] An exception to this statement is to be found in *Reynolds* v. *Sims*, 377 U.S. 533, and its progeny. Although the Constitution of the United States does not confer the right to vote in state elections, see *Minor* v. *Happersett*, 21 Wall. 162, 178, *Reynolds* held that if a State adopts an electoral system, the Equal Protection Clause of the Fourteenth Amendment confers upon a qualified voter a substantive right to participate in the electoral process equally with other qualified voters. See, *e.g.*, *Dunn* v. *Blumstein*, 405 U.S. 330, 336.

[26] Although the matter is not free from doubt, the District Court seems to have concluded that teenage women desiring medically necessary abortions constitute a "suspect class" for purposes of triggering a heightened level of equal protection scrutiny. In this regard, the District Court observed that the Hyde Amendment "clearly operate[s] to the disadvantage of one suspect class, that is to the disadvantage of the statutory class of adolescents at a high risk of pregnancy . . . . and particularly those seventeen and under." The "statutory" class to which the District Court was referring is derived from the Adolescent Health Services and Pregnancy Prevention and Care Act, 42 U. S. C. § 300a–21 *et seq.* (Supp. II 1979). It was apparently the view of the District Court that since statistics indicate that women under 21 years of age are disproportionately represented among those for whom an abortion is medically necessary, the Hyde Amendment invidiously discriminates against teenage women.

But the Hyde Amendment is facially neutral as to age, restricting funding for abortions for women of all ages. The District Court, therefore, in relying solely on the disparate impact of the Hyde Amendment in concluding that it discriminated on the basis of age. The equal protection component of the Fifth Amendment prohibits only purposeful discrimination, *Washington* v. *Davis*, 426 U.S. 229, and when a facially neutral federal statute is challenged on equal protection grounds, it is incumbent upon the challenger to prove that Congress "selected or reaffirmed a particular course of action at least in part 'because of,' not merely 'in spite of,' its adverse effects on an identifiable group." *Personnel Administrator of Mass.* v. *Feeney*, 442 U. S. 256, 279. There is no evidence to support such a finding of intent in the present case.

[27] We address here the constiutionality of the most restrictive version of the Hyde Amendment, namely, that applicable in fiscal year 1976 under which federal funds were unavailable for abortions "except where the life of the mother would be endangered if the fetus were carried to term." Three versions of the Hyde Amendment are at issue in this case. If the most restrictive version is constitutionally valid, so too are the others.

[28] In fact, abortion is not the only "medically necessary" service for which federal funds under Medicaid are sometimes unavailable to otherwise eligible claimants. See 42 U.S.C. § 1396d(a)(17)(B) (inpatient hospital care of patients between 21 and 65 in institutions for tuberculosis or mental disease not covered by Title XIX).

CLIFFORD EVANS

Mr. STONE. Mr. President, I would like to take a moment to recognize the excellent work of Clifford Evans, Washington Bureau Chief of RKO General Broadcasting. He has served many years with distinction covering the White House and Washington. This year, he became the first broadcaster ever to win the Barnet Nover Award for excellence in journalism. The award was presented to him at the annual dinner of the White House Correspondents Association, for his March 12 reports from Jerusalem about the Middle East peace negotiations prospects.

GASOHOL: THE FREE ENTERPRISE ALTERNATIVE

Mr. HELMS. Mr. President, the tremendous success we can have in satisfying the energy needs of the decade ahead is nowhere more emphasized than in the development of renewable energy resources. The term that has captured the public attention which best describes the potential for using renewable resources—such as farm and forest products and wastes—for our energy independence in gasohol.

Just last week the Senate took an important step in assuring that thousands of small-scale entrepreneurs will take a good hard look at the economies of producing alcohol and other forms of biomass energy when an amendment I offered was included in the appropriations measure for the Synthetic Fuels Act of 1980.

The debate on that subject was lengthy but fruitful—despite the opposition of a number of Senators to the prospect of farmers and other small rural entrepreneurs participating in the incentives package. I will not belabor that subject further. But I do want to share with Senators my conviction that the energy future for America can be bright if we will just allow the free enterprise system to function. If we do that, the tremendous creative energy of our people will meet our fuel energy needs.

Gasohol—and all of the other renewable energy sources suggested by the term—offers to supply this country with the means to continue the prosperity with which it has been blessed. The naysayers and the doomsdayers who suggest that America will have to throw in the towel to future growth and prosperity merely demonstrate their lack of faith in the imaginative capacity of a free people to work their way out of their problems utilizing the benefits of the free enterprise system.

And, of course, it is already happening. A team of entrepreneurs opened a plant at Goldston, N.C., last year which turns forestry wastes into a pelletized fuel with an energy efficiency far greater than coal, equal to oil, and close to natural gas. They call their product "Woodex." The potential for scores of such plants all across the land exists now. The technology exists now, having been created entirely in the private sector. This fuel is made from sawdust that only 12 months ago was being dumped in the county landfill.

In East Bend, N.C., an enterprising farmer named Hugh Whitted has begun to run his diesel tractors on oil from sunflowers, peanuts, soybeans, and other plants. Progressive Farmer magazine was so impressed that its editors devoted two pages to the subject in their June 1980 edition, and another two pages in their Midmonth Soybean edition. Further interest is indicated by several articles about Mr. Whitted's success in local North Carolina newspapers.

And, in another exciting development illustrative of a creative people responding to the incentives of the marketplace, the Ethylene Corp. has been in touch with North Carolina sweet potato farmers in efforts to utilize the incredible alcohol potential of that product—of which North Carolina happens to be the Nation's leading producer.

Mr. President, I ask unanimous consent that all of this material, including the articles and correspondence described, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Whiting, Horton and Hendrick,
Winston-Salem, N.C., June 24, 1980.

Hon. Jesse Helms,
U.S. Senate, Dirkson Senate Office Building, Washington, D.C.

Dear Jesse: Recalling your interest in gasohol, I thought you might be interested in what Hugh Whitted, III over in Yadkin County is doing: Since most farm vehicles are diesel powered, they can't operate on gasohol or methanol. They can, however, run on soybean, peanut or sunflower oil. Thus, the North Carolina farmer can *grow* his fuel. Hugh says ten acres of sunflowers will more than take care of his tractor and diesel automobile for a year.

Added to the possibility of energy independence for the North Carolina peanut and soybean farmer is the opportunity to absorb the expected twenty-eight percent (28%) world wide fat and oil surplus at the end of this year.

Sincerely,

Hamilton C. Horton, Jr.

Can You Burn Vegetable Oils in Your Diesel?

(By Vernon Miller)

"I've run my diesel tractor and my diesel automobile on pure sunflower oil, and I believe that vegetable oil fuels—vegetol—are more viable for farm use than alcohol fuels," says Hugh Whitted III of East Bend, N.C.

"From the driver's seat, neither I nor my neighbors—all farmers—have detected any difference in performance whether we're running on straight sunflower oil or No. 2 diesel," he continues.

"We're raising sunflowers this summer and will attempt to mechanically extract and filter the oil for use in our diesel-powered tractors and vehicles. We believe we can press out the oil more economically than we can produce ethyl alcohol."

According to a report in *Progessive Farmer's* April MidMonth Soybean Edition, soybean growers feel much the same way about soybean oil. They're encouraged by the 100 test hours on a John Deere 4630 tractor at Shipp Implement Co., Russellville, Ky. John Shipp's dynamometer tests show that a 50–50 mixture of soybean oil and diesel fuel cranks out as much horsepower as straight diesel fuel.

One of the growers, Lyle Keeton of Trenton, Ky., is so enthusiastic about the prospects that he has run his 1979 GMC diesel pickup on a mixture of half No. 2 diesel fuel and half soybean oil. So far, he has put about 600 miles on his pickup with this fuel and says he seems to be getting the same mileage as with straight diesel fuel.

Research on substitute diesel fuels is under way at some of the engine manufacturing plants too. To date, no one has had tests going long enough to come up with recommendations for using vegetable oil as fuel. Engineers at the engine test facilities normally consider 1,000 test hours as the minimum for preliminary evaluation tests.

"Much work needs to be done before sunflower or other vegetable oils become a recommended engine fuel," says Dr. Cecil Hammond, Extension agricultural engineer, University of Georgia, Athens, Vern Hofman, Extension agricultural engineer, North Dakota State University, Fargo, adds, "Sunflower oil has not been tested for its lubricating capacity and varnish and gum content. It is not yet known what effect long-term use of sunflower oil may have on engine and fuel system parts."

Hofman also points out that some people consider on-farm production of sunflower oil to be simpler than producing alcohol. "Production costs may also be lower," he says. Full production cost information is not yet available.

The heat content of various oils and fuels shown in the table on the next page illustrates why farmers with diesel-powered equipment are especially excited about the possibilities of these alternate fuels. "Engine efficiency, or the horsepower produced per gallon, is directly related to the energy of the fuel," says Hofman. "The higher the energy rating of the fuel, the more horsepower-hours per gallon are produced."

Another reason, of course, is that there is no expense involved in switching to vegetable oil fuels as there is in switching to alcohol fuels.

Early estimates show that less energy is expended to produce a gallon of vegetable oil than to produce a gallon of fuel alcohol.

Because larger mills may be able to operate more efficiently than smaller on-farm mills, it is possible that oil processing plants will be set up at country elevators or by cooperatives.

It was last summer that Hugh Whitted went to the grocery store for a gallon jug of sunflower oil and first tried a 50–50 mix of the oil and diesel fuel—a half gallon at a time—in his IH 544 tractor. Eventually he tried straight sunflower oil as well as peanut oil.

"In fact, there's a mixture of all three in the tank right now," he says. "That's sunflower oil, peanut oil, and No. 2 diesel fuel." He has used the same mixtures in his Mercedes Benz diesel automobile, although only for short trips to town and back.

"I've put about 50 hours on the tractor using peanut oil and sunflower oil alone as well as mixed with diesel fuel. All of it has been in the field. We've plowed and subsoiled. Neither my neighbors nor I could tell any difference in the way the tractor handled."

After hearing about Ohio State University's success in using reclaimed cooking oil as fuel for diesel engines, Whitted stopped by the nearest Kentucky Fried Chicken restaurant and salvaged the oil it was discarding. He strained it through cheesecloth until it was clear, and then he mixed it with No. 2 diesel fuel before pouring it into the fuel tank of his automobile. "The engine ran well—no problems," he confirms.

Dr. Helmuth Engelman at Ohio State explains, "What we're doing here is straining the soybean oil from the deep-fat cookers, mixing it with No. 1 diesel fuel, and using it in a bus used on the campus. I wouldn't say we reprocess the oil; we just strain it through muslin—twice.

"Our biggest problem is that our filtering setup is in an unheated part of the garage, so we warm the oil before we strain it. We launder the muslin filter now and then and have replaced it a couple of times too.

"Our fuel mix is 20 percent used cooking oil, by weight, and 80 percent No. 1 diesel fuel," he continues. "We've been running one bus on it since last fall. It's a standard 59-passenger city bus with automatic transmission. It's powered with a 6-cylinder Detroit Diesel engine—a 6V71. The bus is in daily use for short hauls on the campus, but spends most of its time idling. We've put about 3,000 miles on it so far.

"We did have stalling problems in extremely cold weather, much the same as we would have had from the wax if we had been using No. 2 diesel. An additive high in toluene such as we would normally use took care of these problems."

The Ohio State research project is based on information gathered during World War II and on studies which graduate students in Ohio State's mechanical engineering department made on various vegetable oils for fuel in 1951 and 1952.

"Then in 1974 we began testing the various oils in an Allis-Chalmers 2900 engine hooked to a dynamometer," says Engelman. "That lab engine has now been run more than 200 hours on various mixtures of vegetable oils and diesel fuel.

"It has digested everything from straight cooking oil (a Crisco-type oil) discarded from McDonald's Restaurants to A&P's house-brand soybean oil bought at the store, peanut oil, and Mazola (corn oil)," Engelman reports. "From what I can determine, the only vegetable oil that doesn't work is cottonseed oil. For some reason or other, it flatly does not want to run in an engine. All the others that we tested do very well."

Researchers at Fermi National Accelerator Laboratory, Batavia, Ill., also found that diesels did not run on 100 percent cottonseed oil. "They ran fine, however, on a mixture of 75 percent cottonseed oil and 25 percent diesel fuel," says Henry Hinterberger, head of technical services for the lab. The tests were of short duration—about 10 minutes.

Up in North Dakota sunflower country, Vern Hofman has run a diesel engine on straight refined sunflower oil for a short time. However, most of the 50 hours of test time on that engine have been with a sunflower oil and diesel fuel mixture.

Hofman has been buying refined sunflower oil in 50-gallon drums. Now he is extracting his own crude sunflower oil.

"Crude oil as it comes from the expeller is dark because it contains some meal and hulls," says Dr. James Robertson, USDA biochemist with Richard B. Russell Agricultural Research Center, Athens, Ga. The center has national responsibility for conducting sunflower utilization research. North Dakota State is using in its research project a "village-sized" expeller and filter press Robertson bought from the Hander Co. in Japan for $5,000 in 1975.

This screw-type press is small enough to fit in the back of a pickup truck. It's heavy, but can be lifted by two men. Capacity of the press is 80 pounds of sunflowers per hour.

Its output should be about 300 pounds (40 gallons) of oil per 10-hour day.

Because the process is completely mechanical, Robertson feels that it would be ideal for on-farm use. Filtering costs can be kept to a minimum by allowing residues to settle for a week or so before filtering.

"Vegetol" Runs Diesel Car

(By Tom Dillon)

Orange juice. It's not just for breakfast anymore.

In fact, it would not be totally surprising to see Hugh Whitted III, the East Bend inventor, pouring some into his Mercedes diesel one day soon to give it a try as an automobile fuel.

Whitted hasn't reached that point yet. He says he's heard only of people turning orange juice into a fuel. Even for him, it's a little hard to believe.

But the motley mixture of other fuels Whitted is feeding his Mercedes these days surely makes it one of the most cosmopolitan machines around. The other afternoon, it was running on a mixture of three parts sunflower-seed oil and one part fuel oil.

And Whitted says he is deadly serious about his sunflower-seed fuel, as well as soybean fuel, peanut-oil fuel and some other products for which he has coined the name "vegetol" or fuel from vegetable oils.

Already he notes, Ohio State University is using soybean oil acclaimed from its deep-fat fryers to stretch its diesel supplies. The cost of the reclaimed oil is 11 cents a gallon, compared with about 87 cents a gallon for diesel fuel.

City buses, private cars that run on diesel fuel and large trucks could all make use of such fuels, he says.

And if all our oil supplies get tight enough or expensive enough, he says he can even see farmland in states like North Carolina being put into production of—don't laugh—high-yield sunflowers.

In South Africa, farmers already raise sunflowers for oil, he noted. The Russians have been working on an improved variety with more oil.

During World War II, nations as far apart as China and some of the French colonies in Africa ran buses on vegetable oils. And as far back as 1947, researchers were saying that the only hindrance to vegetable-oil fuel was its cost of $1 a gallon, according to one Georgia Tech researcher.

As one might expect, Whitted's work so far attracts mostly smiles. The nearest most people come to using vegetable oil as a fuel is in those floating candles for the dining room table.

Whitted has written both Gov. James B. Hunt Jr. and the Winston-Salem Transit Authority about his discoveries, and he said he got back the same sort of reply both times: "Don't call us, we'll call you."

Nevertheless, he says his own experiments have shown that his Mercedes will run as well on the vegetable oil as on regular fuel oil. A reporter's trip in the car Tuesday afternoon seemed to confirm that. There was no noticeable difference.

Though cold mornings mean that the fuel needs to be heated—or else it is like Jello—there is little problem with pollution or other residue, Whitted says.

Whitted is a Winston-Salem native who works for Piedmont Aviation and has had much experience with engines. He cautioned that his work should not be duplicated on regular, spark-ignition cars. The advantage of the diesel is that it has the reputation of running on anything that will burn, he said. That's not true of others.

But he says he thinks the concept of vegetol is a step beyond gasohol—one part alcohol to ten parts gasoline—being pushed as one solution to the energy crisis.

"This means railroads and buses could keep going on bean juice," he said. It needs much study, he said, but he added, "American agriculture just might pull us out of the hole again."

Last MidMonth Until January

Progressive Farmer's MidMonth Soybean Edition is published six times a year, January through June, as a supplement to *Progressive Farmer*. This will be the last MidMonth issue for 1980. The next MidMonth will be published Jan. 1981.

MidMonth Editions were introduced to *Progressive Farmer* subscribers this year. Their purpose has been to bring up-to-the-minute information to soybean farmers.

News stories have included such subjects as the latest herbicide clearances, with information on availability and cost; Government plans for soybean programs before the plans were final and while you could still do something about them; and market developments to guide you in production and marketing plans.

News of national, state, and local soybean organizations has been reported as it happened. Farmers have been surveyed about their acreage plans and ways they hope to hold down costs. Reports about new equipment and methods, from industry and research have been given.

From July through December, *Progressive Farmer* will continue to bring you this kind of information in the regular monthly edition.

If you have suggestions for the improvement of MidMonth Soybean Edition, or for soybean information in the regular *Progressive Farmer*, please let us hear from you. Also, if you have a neighbor growing soybeans who has not received MidMonth Soybean Edition, we'll be glad to have his name and address. Write to *Progressive Farmer*, MidMonth Soybean Edition, P.O. Box 2581, Birmingham, AL 35202.

Too Much Oil; Plenty of Meal

The world might be able to absorb 50% more Brazilian soybeans at reasonably stable prices. Or a 90% increase in U.S. sunflower seed. Or a 10% increase in palm oil.

But when the whole world goes wild on oilseed production and increases production 15% in one year—up 50% since 1972–73—you've got a price-depressing surplus that's going to take a while to digest.

The world demand for oil is still expanding at a rapid pace. Consumption this season will no doubt set record highs. U.S. consumers are doing their part. Since 1969, they've increased consumption of visible fats and oils by more than over 5 pounds per capita, most of it as soybean oil.

But unless consumers start pouring it into the tanks of their diesel engines (see page 1), there's no way they can use up the estimated 42 million metric tons of edible vegetable oils the world is producing this season.

Oil World, a German fats and oils journal with a good track record at forecasting, says there'll be 15.4 million tons of fats and oils left over at the end of the season—28% of the world's total consumption.

The protein meal surplus isn't quite as mind boggling, but it's bad enough, especially since demand for animal feed is expected to taper off during the last half of this year.

USDA now estimates world production of 44% protein meal equivalent at over 99 million tons. That's 16% more than the previous record set last season. It's certain that there'll be fewer pigs and chickens in the U.S.; and if the Central Intelligence Agency is right, there'll be fewer in the USSR also.

Even such enormous surpluses of oils and protein meals might not be so price depressing in the long run if the world's oilseed producers would show a little restraint.

But they won't. U.S. farmers say they'll plant just about as many acres of soybeans as they did in 1979. Brazilian farmers are balking at sowing low-paying wheat, which means more land for the 1981 soybean crop down south.

Canada is reducing rapeseed plantings somewhat, and the sunflower boom in the U.S. may be temporarily halted.

But the best estimate that USDA can come up with this early is that in 1980–81, world oilseed production will be at least the second highest ever and may match this season's stupendous output.

And More Palm Oil Too

U.S. soybean farmers who were protesting about palm oil imports back in 1975 may be screaming even louder in 1981.

Robert E. Miller, fats and oils consultant for Uni-Oil Trading, Alamo, Calif., says that palm oil imports will be on the rise again next year. Uni-Oil is the marketing arm in the U.S. for SocOil, a Malaysian palm oil processor.

"The West Malaysian palm oil production looks big this year," Miller says. "It may be double that of 1975." That was the year American soybean growers became so incensed about palm oil imports that they spurred congressional hearings on the subject. At that time, the imports replaced the equivalent of 85 million bushels of soybeans.

Miller believes this year's big production in Malaysia won't find its way into the U.S. market. Stocks are low, and soybean and other U.S. oils are priced far below palm oil.

"But after this year, look out," he warns. "I can see Malaysian palm oil beginning to stockpile, starting in 1981. When that happens, U.S. farmers may have plenty of palm oil to compete with."

Thar's Oil in Them Thar Fields

(By Parker Maddrey)

East Bend.—Hugh E. Whitted III plans to process the oil that he is producing on his small farm near here to provide all the fuel needs of his diesel tractor and Mercedes.

Whitted, confident that his plans are feasible, has enlisted the help of Archie and Billy Doub, neighboring farmers, to see whether they can produce and process the oil for about $1 a gallon.

Their "oil fields"—as Whitted refers to them—are 10 acres of sunflowers being grown on the three men's farms.

The oil is in the seeds that the sunflowers will produce.

They plan to extract the oil with a home-built, screw-press device that Whitted is designing.

Whitted, who has an engineering background, said, "It's nothing new in what we're trying to do." The technology to carry out their experiment has long been available, he said.

Oil from sunflower seeds will run diesel engines without modifications. And scientific tests over the years have shown that sunflower and certain other vegetable oils can be suitable substitutes for No. 2 diesel fuel.

What Whitted hopes their experiment will prove is this: That existing technology can be adapted to make it practical for any farmer to produce his own diesel-tractor fuel, complete to the extraction of oil from the seeds in an easy one-step, mechanical process.

Whitted's oil extractor would be a small-scale, backyard version of the huge models used at commercial oilseed-processing plants. Whitted hopes to come up with a simple design that most farmers could build in their shops with perhaps $400 to $500 worth of materials.

Even if they find it will cost slightly more to produce the substitute fuel than what farmers are paying for diesel fuel, Whitted believes that his plan would be worth doing as a hedge against sudden cutoffs of fuel supplies.

"Take last year as an example, when farmers out in the Midwest couldn't get the diesel when they were planting their crops," he said.

Archie Doub agreed that farmers would go to great lengths to get the fuel they need at both planting and harvesting times, when a delay could cost them their crops. "It's more crucial at planting time when a day can mean the difference in making a crop," Doub said.

Despite his enthusiasm and confidence in his overall plan, Whitted said that he is not ready to recommend it to other farmers until he and the Doubs find how it works for them.

"This thing ought to be done right so that farmers will know exactly what's involved," he said.

And to do that, Whitted wants an independent, scientific evaluation of each aspect of his total plan: from growing and harvesting the sunflower seeds, to extracting the oil on the farm and to burning the oil in diesel engines.

Whitted applied in April to the U.S. Department of Energy for a $48,000 grant to help him complete development of his plan and to finance the scientific evaluation. He has heard nothing from the agency so far.

"I don't have the resources myself to do it the way it should be done," he said.

If he doesn't get a favorable reply on his request for a grant soon, he said, "We might wind up selling the seeds on the open market." The nearest market for sunflower seeds is Cheraw, S.C., he said.

His plan may turn out to be impractical, he said. "But I've got to give it a try."

Whitted, 39, becomes intense, especially when talking about the nation's energy problems.

A shut-off of imported diesel fuel would paralyze the country, he warns: "All prime movers in industry and agriculture are diesel engines . . . and in defense, too."

A methodical person, Whitted has read about everything he can find in the public library on using vegetable oils as a diesel fuel, in addition to scientific papers that he has ordered.

And he has used crude peanut oil and sunflower seed oil in his diesel tractor and car. Either oil will start the engines as easily as No. 2 diesel fuel, he said.

Also, the vegetable oils will run the engines as smooth, if not a little smoother, Whitted said. Working with airplane engines at Piedmont Aviation has taught him to listen closely to engine sounds in trouble shooting, he said.

"When he drives up, people will ask him, 'What's cooking?'" Archie Doub said, laughing. Vegetable oil exhaust smells much the same, whether from the engine or the frying pan, they said.

Various studies indicate that the use of vegetable oils will not harm diesel engines, Whitted said. "But these were experiments under laboratory conditions."

Needed is a scientific evaluation of an engine from a tractor used under typical field conditions, "where the filters may not get changed as often as they should," he said. That would let farmers know whether to try burning vegetable oils in their tractors, he said.

Standing in his field of 3-week-old sunflowers, Whitted said, "Right now, I'm less sure how these things will turn out than I am about the other things working."

He and Archie Doub scratched into the rows to check seeds that didn't germinate. They aren't pleased with the stand they got.

They told of problems involved in introducing a new crop in an area. They did a lot of searching to find seed plates for sunflowers and the seed variety they wanted.

Then the seed plates didn't drop the seeds as they should. But they used them anyway and in a hurry, in order to get the sunflowers planted before a rainstorm broke.

Another problem they face is getting a special kind of header to attach to the combine, for harvesting the sunflower seeds. The seeds are expected to mature in August.

Why sunflowers when other oilseed crops, such as soybeans, also will produce a substitute diesel fuel?

The yield and the extraction of oil favors sunflowers, Whitted said.

Oil from sunflowers is extracted simply, in a screwpress mechanical operation. Soybean oil requires a more complicated process, including boiling and the use of a solvent. "That's a little involved for a backyard operation," Whitted said.

Sunflower seeds (the oilseed variety—not the edible kind) contain almost 50 percent oil.

From his studies, Whitted has learned that yields range from 800 to 3,500 pounds of seeds an acre.

Whitted believes that 2,000 pounds an acre would be a realistic goal for the first year of growing sunflowers. That yield would produce about 1,000 pounds of oil—about 100 gallons an acre.

Sunflower seed meal, a byproduct after the oil is extracted, contains about 49 percent protein, not as high as soybean meal. Whitted said he does not have livestock and probably would put the meal back on the land as a fertilizer.

The cost of growing sunflowers ranges from $80 to $150 an acre, according to reports that Whitted has seen. "In any development phase the costs are going to be high," he said. "The cost comes down the more you learn."

Sunflowers also have other advantages, he said. They are fairly dought-resistant and can grow on uplands where corn might not fare well in a dry year.

The crop matures about 100 days after planting, which means that two crops could be grown a year in the South. Ideally, it could be "double-cropped" with close-growing grains.

Whitted said studies indicate that sunflowers grown in the South have a slightly higher oil content than those grown in the Midwest. Whitted believes that the Southern-grown oil also may have a slightly higher cetane rating.

The cetane rating in diesel fuels is similar to octane ratings in gasolines. No 2 diesel fuels at the pump vary from 35 to 50 cetane, but now are mostly 37-41 cetane, Whitted said.

As a fuel, sunflower seed oil has a cetane rating of about 40, the minimum that most diesel manufacturers recommend to start engines down to zero degrees Farenheit. (In colder climates, No. 1 diesel fuel with a higher cetane rating would be required.)

This ranks sunflowers with corn oil and peanut oil, which also have about 40 cetane, Whitted said. Cottonseed oil has about 38 cetane and soybean oil about 37 cetane, according to studies.

ETHYLENE CORP.,
Jacksonville, Fla., May 28, 1980.

Hon. JESSE A. HELMS,
Dirksen Building,
Washington, D.C.

Dear SENATOR HELMS: In recent times, we have been constantly combatting a disturbing amount of propaganda in both State officials and newspapers based in large part upon several documents. Some of these documents are entitled "THE GASOHOL STUDY GROUP REPORT", by a group calling themselves "The Energy Research Advisory Board" and implying that they represent a Federal fact finding group.

Other reports by the EPA and Office of Technology Assessment also seem to fall in line with the above material.

What is disturbing to us, after reading this material is its totality of misinformation and/or lack of awareness about the real world aspects of fuel alcohol production. It would almost appear as if some vested interest were controlling the writing to purposely produce misleading information to deter this area of fuel development.

Ethylene Corporation has, at its own expense, conducted an intensive three year study on the total concept and feasibility of producing fuel alcohol and attendant by-products before embarking on a full scale program of its own.

The following was developed as a result of that study and is now being implemented in five plants presently under construction or development.

a. A study of arable farm land in seven southern states to determine the amount of available farm land not now utilized in the growing of food crops, tree farming or permanent livestock pasture.

The study revealed that there was some 54,000,000 such acres available, and discussion with several State governments suggests that they would be willing to make another 30 million acres available for appropriate cultivation along highway and freeway right-of-ways that must now already be mowed and maintained. Additionally, there were another 64 million acres engaged in marginal, non-food activities such as tobacco and cotton farming or part time pasture lands. Thus, 136 million acres could be said to be available for fuel alcohol feedstock farming over seven southern states.

b. A study of starch yield per acre of crops with maximum dual yields indicated that certain hybrid strains of sweet potatoes, which mature in 80 days, and yield a high starch and protein crop, also yield a near perfect carbon to nitrogen balance in the vine for the conjunctive production of biogas yielding scrubbed methane gas, which would provide fuel for the ethanol plant's operation and a by-product of fertilizer for the crop fields.

c. Engineering evaluations of existing ethanol distillery designs indicated an old and inefficient design approach, which we studied and re-engineered to produce a simpler and far more efficient design.

d. Evaluations of existing conversion enzymes (alpha amylase and gluco amylase) and yeasts revealed some extraordinary advances in these areas which had not yet been adapted and utilized by the distillation industry, but which we adopted for our systems. Their use has reduced the energy requirements and costs of cooking, reduction and fermentation substantially.

e. Evaluation and study in plant propagation and planting and harvesting methods led our agriculture technicians to the single cell culture of sweet potatoes under lab conditions to a point where the best of a hybrid strain can be ground up and placed in a hormone culture medium, where in six weeks, it will reproduce many millions of rooted plantlets.

This culture medium containing these plantlets can then be placed in holding containers behind tractors and literally injected into the ground, ten rows at a time, almost eliminating the formerly grossly expensive cost of green house propagation and stoop labor planting.

f. Our Agriculture technicians together with the Company's legal and financial management staff then designed a farmer participation plan, not unlike a Farm Energy Cooperative, which insured a long term steady supply at reasonable cost of the ethanol plant's feedstock while giving a larger and steady income to the farmer helping to stabilize economically depressed farm regions.

g. The Company's engineering department is developing a practical, low cost dual fuel carburetion system which would probably cost less than a hundred dollars installed and permit a car to run on either pure fuel alcohol (180 to 190 proof) gasohol or gasoline by a throw of a switch on the dashboard.

At present, the engineering department has perfected a simple $18.00 conversion system which will permit any vehicle to be converted to run on 180 to 190 proof fuel alcohol with the fuel cost below a dollar a gallon.

The Company has, at present, a number of vehicles converted and running on 190 proof alcohol with no problems or adverse effects and no visible sign of any abuse.

What these results and our present pilot plant operation bear out is the following:

If just the farmable land now available in seven southern states alone were utilized fully to produce fuel alcohol it would:

a. Not divert one acre of food crop land from food crop farming.

b. Two crops a year would be able to produce enough sweet potatoes and sweet potato vines to produce:

1. 136 billion gallons of 190 proof fuel alcohol per year.

2. 340 million tons of protein for human and/or animal consumption.

3. 160 trillion cubic feet of methane (natural) gas.

4. 80 trillion cubic feet of carbon dioxide, (from both alcohol and biogas production).

5. 272 million tons of sludge fertilizer or feed supplement as a by-product of anaerobic digestion of the sweet potato vine.

Furthermore, it would produce over 97 billion dollars in Farm Income and distillery worker and fuel alcohol production distribution worker income, principally in rural areas, and add over 544 billion dollars in gross national product.

We do not state these figures from studies alone, but from hard facts developed by the practical experience of designing, constructing and operating the production units we describe and working with the farmers in several states to develop our plan of operation, distribution and use.

We feel that these facts merit the same sort of distribution as those distributed by the studies cited above which I doubt were based on the same sort of hard data and practical experience as our company has had.

We cordially invite you to ask us questions and examine our data base to determine the truth. It is not based on abstract and questionable data gathered by so-called "experts" but rather on facts and information developed in the actual doing and field study gathered by scientific "plumbers", "Hands-on" engineers, real farmers, hard working agricultural technicians and scientists and hardnosed MBA financial analysts.

Sincerely,

JOHN C. GARLAND,
Vice President.

ETHYLENE CORP.,
Jacksonville, Fla., June 27, 1980.

ROBERT D. JENKINS,
Executive Secretary, North Carolina Yam Commission, Inc., Raleigh, N.C.

DEAR JACK, It was indeed a pleasure meeting you and being thoroughly educated in the world of yams and their great versatility. Of course, our research has already sold us on their viability for the process of fuel alcohol manufacturing.

We would very much like to prove the viability of using sweet potatoes, both culls of the food variety and special highstarch fast maturing fuel crop strains, for the production of fuel alcohol.

You and your members could be of great value in accomplishing two things. First in proving the viability of the product for what we propose as a feedstock and thus providing a market for culls and second, setting the stage for us to come up there and build several production units strategically to produce and provide North Carolina energy independence while providing a new and very lucrative market for the yam growers of your State.

How you can do this is to get your growers to sell us their cull potatoes, both from the field direct and from their packing operations at a price of around five to eight dollars a ton for the next twelve months.

We will require about 300 tons a week beginning sometime in September for the next twelve months. Field culls we might be able to coordinate the gathering of in some manner by having a man of ours up there working out the logistics.

During this time, we would be organizing and financing a plant for construction in about April or May in your State as the first of several.

The proposed manner of farmer participation and expected returns are outlined in the material I gave you when you were here.

I would deeply appreciate your contacting your members and sounding them out on the viability of this proposal as soon as possible so that we can begin dealing with the logistics of the operation as quickly as possible.

I have enclosed a copy of a letter from your fine Senator Jesse Helms whose outlook and practicality we greatly appreciate.

I will also send him a copy of this letter as a matter of courtesy since it was through him that this new and exciting potential opened up.

In the meantime, we look forward to the possibility of being of mutual benefit between your growers and our company in the very near future.

Sincerely,

JOHN C. GARLAND,
Executive Vice President.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE FEDERAL COUNCIL ON AGING—MESSAGE FROM THE PRESIDENT—PM 218

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with Section 205(f) of the Older Americans Act of 1965 (P.L. 93-29), I am transmitting to Congress the Annual Report for 1979 of the Federal Council on Aging.

This report has been prepared by the Federal Council on Aging and submitted to me as required by law. The Report describes the Council's activities in 1979 and those proposed for 1980.

JIMMY CARTER.

THE WHITE HOUSE, *July 1, 1980.*

FEDERAL JUVENILE DELINQUENCY PROGRAMS—MESSAGE FROM THE PRESIDENT—PM 219

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on the Judiciary:

To the Congress of the United States:

I have reviewed the report entitled *"The Fourth Analysis and Evaluation of Federal Juvenile Delinquency Programs"* submitted to me and the Congress by the Office of Juvenile Justice and Delinquency Prevention, the Law Enforcement Assistance Administration, Department of Justice.

I concur with the recommendations in the report that I: (1) assure that the statutory members of the Coordinating Council on Juvenile Justice and Delinquency Prevention designate individuals to attend Council meetings who have significant decisionmaking authority; (2) encourage each Federal agency which administers a Federal Juvenile Delinquency program to cooperate with the Coordinating Council and the Office of Juvenile Justice and Delinquency Prevention in the Development of the Annual Analysis and Evaluation of Federal juvenile delinquency programs; (3) encourage statutory members of the Coordinating Council to provide adequate staff support for the Council; and (4) reaffirm the importance of a concentration of Federal effort for all Federal juvenile delinquency programs and activities.

I am deeply committed to the goals and objectives of the Juvenile Justice and Delinquency Prevention Act and strongly support its reauthorization. To fully realize their potential, it is crucial that there be a maximum coordination between all Federal programs directed at troubled youth. In this time of budget austerity, it becomes even more critical that the Federal Government maximize the potential of its scarce resources.

The Coordinating Council on Juvenile Justice and Delinquency Prevention has made much progress in having agencies work together. Joint programs are underway with the Office of Juvenile Justice, Department of Labor, Department of Housing and Urban Development, Department of Education, Department of Health and Human Services and the Department of Agriculture. I applaud this kind of cooperation and strongly urge that it be continued and broadened.

I have asked the Director of the Office of Management and Budget, acting on my behalf, to take all necessary steps to implement fully the first three recommendations.

This report is submitted pursuant to Section 204(c) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended (42 U.S.C. 5614(c)).

JIMMY CARTER.

THE WHITE HOUSE, *July 1, 1980.*

REPORT OF THE OFFICE OF ALIEN PROPERTY—MESSAGE FROM THE PRESIDENT—PM 220

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on the Judiciary:

To the Congress of the United States:

I hereby transmit the Annual Report of the Office of Alien Property, Department of Justice, for the fiscal year ended September 30, 1978, in accordance with Section 6 of the Trading With the Enemy Act.

JIMMY CARTER.

THE WHITE HOUSE, *July 1, 1980.*

MESSAGES FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 12:32 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 5997. An act to provide for the display of the Code of Ethics for Government Services;

H.R. 7477. An act to amend the Internal Revenue Code of 1954 to provide a three-month extension of the taxes which are transferred to the Airport and Airway Trust Fund; and

S. J. Res. 119. A joint resolution to authorize the Vietnam Veterans Memorial Fund, Inc., to establish a memorial.

The enrolled bills and joint resolution were subsequently signed by the President pro tempore (Mr. MAGNUSON).

At 1:44 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 7542) making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. WHITTEN, Mr. BOLAND, Mr. NATCHER, Mr. STEED, Mr. SMITH of Iowa, Mr. ADDABBO, Mr. LONG of Maryland, Mr. YATES, Mr. MCKAY, Mr. BEVILL, Mr. DUNCAN of Oregon, Mr. BENJAMIN, Mr. DIXON, Mr. CONTE, Mr. MICHEL, Mr. MCDADE, Mr. ANDREWS of North Dakota, Mr. EDWARDS of Alabama, and Mr. MCEWEN were appointed as managers of the conference on the part of the House.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5451. An act to amend the Merchant Marine Act, 1936, to revise and reenact the laws pertaining to the United States Merchant Marine Academy and the State maritime academies and for other maritime education and training purposes.

At 5:15 p.m., a message from the House of Representatives delivered by Mr. Gregory, which announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2009) to designate certain public lands in central Idaho as the River of No Return Wilderness, to designate a segment of the Salmon River as a component of the National Wild and Scenic Rivers System, and for other purposes.

The message also announced that the House has passed the following bill, with amendments in which it requests the concurrence of the Senate:

S. 1393. An act to amend section 7 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706) to extend authorizations for appropriations, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 104. A concurrent resolution expressing the sense of Congress regarding the importance of the Alaska Natural Gas Transportation System.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 5164. An act to amend certain inspection and manning laws applicable to small vessels carrying passengers or freight for hire, and for other purposes;

H.R. 6065. An act to amend title 5, United States Code, to provide that military leave be made available for Federal employees on a fiscal year rather than a calendar year basis, to allow certain unused leave to accumulate for subsequent use, and for other purposes; and

H.R. 7482. An act to autnorize the President of the United States to present on behalf of Congress a specially struck gold-plated medal to the United States Summer Olympic Team of 1980.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 5164. An act to amend certain inspection and manning laws applicable to small vessels carrying passengers or freight for hire, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 5415. An act to amend the Merchant Marine Act, 1936, to revise and reenact the laws pertaining to the United States Merchant Marine Academy and to State maritime academies and for other maritime education and training purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 6065. An act to amend title 5, United States Code, to provide that military leave be made available for Federal employees on a fiscal year rather than a calendar year basis, to allow certain unused leave to accumulate for subsequent use, and for other purposes; to the Committee on Governmental Affairs.

HOUSE BILL ORDERED HELD AT THE DESK

The following bill was read by title and ordered held at the desk, by unanimous consent:

H.R. 7482. An act to authorize the President of the United States to present on behalf of Congress a specially struck gold-plated medal to the United States Summer Olympic Team of 1980.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, July 1, 1980, he had presented to the President of the United States the following enrolled joint resolution:

S. J. Res. 119. A joint resolution to authorize the Vietnam Veterans Memorial Fund. Inc., to establish a memorial.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHURCH, from the Committee on Foreign Relations, without amendment:

H.R. 5580. An act to amend title 10, United States Code, to authorize the Secretary of Defense to enter into certain agreements to further the readiness of the military forces of the North Atlantic Treaty Organization (Rept. No. 96–842).

By Mr. HEFLIN, from the Committee on the Judiciary, with amendments:

S. 2387. A bill to aid State and local governments in strengthening and improving their judicial systems through the creation of a State Justice Institute (together with additional views) (Rept. No. 96–843).

ORDER FOR STAR PRINT—REPORT NO. 96–831

Mr. LEVIN. Mr. President, I ask unanimous consent that Senate Report No. 96–831, relating to S. 333, a bill to combat international terrorism, be star printed because lines were inadvertently dropped in the background section of the original text of the report. This request has been cleared with both the majority and the minority.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. NELSON (for himself, Mr. Packwood, and Mr. Levin):

S. 2910. A bill to provide for the payment of interest by the Federal Government on any amount due for more than thirty days to any person under the terms of a contract entered into by the Federal Government and such person; to the Committee on Governmental Affairs.

By Mr. PRYOR:

S. 2911. A bill for the relief of Sayed Mohammed Hassan Bashiri; to the Committee on the Judiciary.

By Mr. RANDOLPH (by request):

S. 2912. A bill to authorize additional expenditures for highway emergency relief programs and to amend provisions of title 23 of the United States Code relating thereto; to the Committee on Environment and Public Works.

By Mr. BENTSEN (for himself, Mr. Randolph, and Mr. Burdick):

S. 2913. A bill to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, and for other purposes; to the Committee on Environment and Public Works, and if and when reported, to the Committee on Finance to consider Title II, by unanimous consent.

By Mr. MAGNUSON:

S. 2914. A bill for the relief of Kai-Mee Chen; to the Committee on the Judiciary.

By Mr. ROTH:

S. 2915. A bill to amend the Internal Revenue Code of 1954 to provide that gains from the sales of patents to unrelated persons should be treated in the same manner as ordinary income from the sale or licensing of patents; to the Committee on Finance.

By Mr. DOLE (for himself and Mr. Talmadge):

S. 2916. A bill to amend the Internal Revenue Code of 1954 to provide that the investment credit may be claimed against the alternative minimum tax to the extent that it is attributable to the active conduct of a trade or business; to the Committee on Finance.

By Mr. SASSER:

S. 2917. A bill to amend the Internal Revenue Code of 1954 with respect to the issuance of mortgage revenue bonds; to the Committee on Finance.

By Mr. HAYAKAWA:

S. 2918. A bill to confer U.S. citizenship posthumously upon Leopoldine Marie Schmid; to the Committee on the Judiciary.

By Mr. COCHRAN:

S. 2919. A bill for the relief of Grady L. Lewis; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NELSON (for himself, Mr. Packwood, and Mr. Levin):

S. 2910. A bill to provide for the payment of interest by the Federal Government on any amount due for more than thirty days to any person under the terms of a contract entered into by the Federal Government and such person; to the Committee on Governmental Affairs.

LATE PAYMENTS ACT OF 1980

● Mr. NELSON. Mr. President, I am today introducing the Late Payments Act of 1980. This bill would require Federal agencies to pay invoices within 30 days or interest would be assessed on the amount due. The rate of interest would be variable according to the commercial cost of money.

Many Federal contractors continue to be dissatisfied with the timeliness with which Federal agencies have paid them. The most recent General Accounting Office study of this issue showed that of 3,200 procurement invoices, 1,187 were paid more than 30 days after the invoice date. These late payments represented nearly 40 percent of the total invoices and almost 20 percent of the dollar volume of those invoices.

Moreover, the report shows that some Federal agencies are inexcusably delinquent in making payments on invoices. For instance, 74 percent of all invoices paid by the General Services Administration were made more than 30 days after the invoice date. And, the Department of Health and Human Services and the Commerce Department paid late for invoiced goods two-thirds of the time.

These late payments are creating havoc for small business contractors. Recent conversations and information received from Federal contractors, have convinced me that the situation has not changed much since the GAO report. Let me give some examples of recent late payments:

One engineering firm recently told me that the Federal Government owes it $800,000 and is 60 days in arrears. That is costing the firm $8,000 a month.

A contractor with the Department of Health and Human Services is owed more than $90,000 and payment should have been made more than 6 months ago.

The government's slow processing of documents before a payment can be made must be reversed. If it is not, small businesses will continue to suffer significant administrative and cash flow problems.

Mr. President, the 30 day payment period and interest on late payments which would be established by this bill are not punitive or onerous. Sears, Gimbels, or Boston Store customers have to pay their bills in 30 days or else pay interest on the amount due. The Federal Government should be treated no differently. Furthermore, the General Accounting Office has testified before the Small Business Committee that 30 days is an appropriate and reasonable period of time for the Government to pay its bills.

Mr. President, enactment of the bill would get management's undivided attention and devotion to solving the late payments problem. If we succeed in doing that, we will have solved a major problem affecting small business.●

By Mr. BENTSEN (for himself, Mr. Randolph, and Mr. Burdick):

S. 2913. A bill to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, and for other purposes; to the Committee on Environment and Public Works, and if and when reported, to the Committee on Finance to consider title II, by unanimous consent.

FEDERAL-AID HIGHWAY ACT OF 1980

Mr. BENTSEN. Mr. President, today I am introducing a bill on behalf of myself, Mr. Randolph and Mr. Burdick, to authorize Federal-aid highway programs through fiscal year 1983, and to enhance the States' ability to complete the remaining parts of the Interstate Highway System. The Committee on Environment and Public Works last considered major highway legislation in 1978. That legislation recognized the need for more expeditious completion of the Interstate System, and for increased emphasis on rehabilitation and preservation of the existing highway network, including a new impetus for bridge replacement and rehabilitation.

The committee today recognizes the need to move further along the path established in 1978, and plans to hold hearings on the items included in the legislation we introduce today. During the late summer and into the fall, the Transportation Subcommittee will hear testimony from experts and from people affected by this bill, so that early in the next session we will be able to report a bill that includes the best thinking of all participants.

Our research and that of the Department of Transportation has confirmed that it is imperative to continue to look to the future funding of the Interstate System. Over 90 percent complete, the Interstate System has been experiencing increasing construction costs. Some of the gaps left on the Interstate System will be costly and difficult to complete. Americans have come to consider the Interstate System a significant resource of this country. It is truly a network of unparalleled excellence, and has led to more energy-efficient travel and transportation. We must get on with the work of completing those essential gaps that are required for total efficiency. In this bill, and items for consideration this summer, are changes that concentrate on completion of those gaps in the interstate that are not yet open to traffic.

Title II is a revenue title and carries forward the principle that the user pays. Since it began in 1956, the highway trust fund has been the funding mechanism for Federal-aid highway and bridge program construction and rehabilitation. And since it began in 1956, the highway trust fund has been supplied with revenue from taxes paid directly by people who use the highways and bridges. The major source of the revenue has been, and still is, a 4-cent-per gallon tax levied on gasoline and diesel fuel used on the highways.

Construction costs have gone up, but the 4-cent-per gallon tax has not. As we look to the future, we recognize that it is appropriate now to provide some indexing mechanism that will permit the tax paid by the highway users to rise with the costs of the highways they use. We also recognize that computation procedures used by retailers will be affected by any change in this tax, so while the tax will be a percentage of the average wholesale price, it will be rounded to the nearest whole penny.

Mr. President, I ask unanimous consent that this bill be referred to the Committee on Environment and Public Works, and if and when reported, it be referred to the Committee on Finance to consider title II.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. DOLE (for himself and Mr. TALMADGE):

S. 2916. A bill to amend the Internal Revenue Code of 1954 to provide that the investment credit may be claimed against the alternative minimum tax to the extent that it is attributable to the active conduct of a trade or business; to the Committee on Finance.

AMENDMENT OF ALTERNATIVE MINIMUM TAX

● Mr. DOLE. Mr. President, the Senator from Kansas today is introducing legislation to correct a provision now in the Internal Revenue Code which may eliminate the use of the investment tax credit for many farmers.

The provision which is causing this concern is the alternative minimum tax for individuals which was enacted as part of the Revenue Act of 1978.

The alternative minimum tax was enacted to encourage capital formation by eliminating capital gains as an item of tax preference subject to the regular minimum tax. The minimum tax on capital gains was replaced by an alternative minimum tax applicable to capital gains and certain itemized deductions only to the extent that this tax exceeded an individual's regular income tax liability.

Unfortunately, the way the tax legislation was drafted, the alternative minimum tax applies to all taxable income over $21,000, unreduced by the investment tax credit, even if the taxpayer had no items of tax preference designed to be taxed by the minimum tax. As a result, a farmer who has a profitable year and decides to purchase needed equipment will not be able to take advantage of the investment tax credit for the purchased equipment.

An investment tax credit which was not used because of the alternative minimum tax may be carried forward to subsequent years, but the alternative tax may cause the tax credit to be denied in future years also.

The legislation this Senator introduces today would allow the investment tax credit to offset the alternative minimum tax on a current basis so long as the investment credit is connected with the active conduct of business. This limitation would assure that the new legislation did not create a new tax shelter for passive investors. At the same time, the legislation would make sure that farmers and other small businessmen who have not incorporated their business will be able to use the investment tax credit as was intended by Congress.

The impact on Federal revenues would be extremely small. However, the impact on farmers and small businessmen would be great, indeed. The Senator from Kansas urges that this measure be considered and passed as expeditiously as possible.●

By Mr. SASSER:

S. 2917. A bill to amend the Internal Revenue Code of 1954 with respect to the issuance of mortgage revenue bonds; to the Committee on Finance.

TAX EXEMPT MORTGAGE REVENUE BOND ACT OF 1980

● Mr. SASSER. Mr. President, I am today introducing the Tax Exempt Mortgage Revenue Bond Act of 1980. I do so because I believe it is necessary to break the legislative impasse over this matter, and because the issuance of mortgage revenue bonds by State and local governments has raised some very fundamental issues about our intergovernmental fiscal system that have to be resolved.

This bill represents what I believe is a realistic attempt to resolve the various conflicting interests that have stymied the effort to develop a legislative response to the extended crisis over tax exempt mortgage revenue bonds.

At the root of the problem is an even greater crisis—the housing crisis in America.

We are simply not building enough homes to house American families.

The crisis is pervasive.

According to the National Association of Homebuilders, single-family housing starts are slower than they have been in a generation. Off 51 percent, or 600,000 units alone from last year. Recently the U.S. Commerce Department reported that new house sales dropped by more than 20 percent during April to their lowest level since September 1966.

The total number of houses sold during April was 37,000—a seasonally adjusted annual rate of 364,000—down from the revised March rate of 459,000.

I am certain that all my colleagues have heard, as I have, from home buyers, from realtors, from savings and loan officials and from homebuilders in their respective States—all of them attesting to the bleakness of the current situation.

True, mortgage rates "plunged" nearly a whole percentage point in the past month, "down" to 15 percent nationwide.

This is still far too high. And it is a direct result of the tight money policies of the Federal Reserve Board—policies that have placed a disproportionate burden upon the homebuilding industry.

The dream of every American family—homeownership—is evaporating.

Given this economic environment, I have to commend State and local governments for their creative response to this crisis in the form of mortgage revenue bonds. I think it is good public policy to use tax-exempt bonds to provide relatively low interest mortgages to qualified home purchasers.

Still, the unrestrained use of this instrument presents some problems. The Subcommittee on Intergovernmental Relations, which I chair, held hearings on this issue last year. Representatives from all levels of government testified. From that testimony and on the basis of extensive consultation with other concerned parties, the following emerged:

First, if we are going to continue to issue tax-exempt mortgage revenue bonds we have to be concerned about the revenue loss the Federal Government is going to sustain.

With no restrictions, the U.S. Treasury Department estimates that about one-half of all mortgages will be financed with tax-exempt revenue bonds by 1984. That is about $240 billion of single-family housing bonds—an 8,000 percent increase over the $3 billion issued in 1978. This means a Federal revenue loss of $11 billion.

This is simply unacceptable.

Second, there will be disruptions in the municipal bond market, and the credit market as a whole, if there is unrestricted use of the mortgage revenue bond. There will be crowding out of the market for other essential public works projects that State and local governments need and want to fund.

We do not really know what the ability of the capital market is to absorb such debt. We do know that during the past year, this market has been extremely sensitive.

Third, there have been only a few abuses in the issuance of mortgage revenue bonds, but a number of witnesses who appeared before the Intergovernmental Relations Subcommittee supported greater fiscal accountability in the issuance of these home financing instruments.

It is questionable whether the Federal Government can evenhandedly establish and enforce across-the-board standards in this field. There are State and regional differences in housing demand, income and other factors. I believe that this is something best left for State governments to do.

So, there is the potential revenue loss to the Federal Government. There is the likelihood of overcrowding an already overcrowded credit market. There is need for fiscal accountability of these bonds.

All three of these concerns underscore the need for restraint in the issuance of mortgage revenue bonds.

Legislation approved 2 months ago by the House imposes a number of restraints. But many feel that the restraints are such that it would make any bond program difficult to administer.

And last Friday, the Senate approved an amendment reported by the Senate Finance Committee that would allow unlimited and unrestricted use of mortgage revenue bonds for the remainder of 1980.

I believe it is clear, however, that the Finance Committee and its chairman, Senator LONG, took this action to indicate that it is serious about fashioning a solution to this issue by the end of the 96th Congress.

It is toward that end that I offer this bill today. The theme of the bill is restraint. Restraint with flexibility. It recognizes the value of the mortgage revenue bond as an instrument of public policy, and permits State and local governments to use them; but it also calls for responsibility in their use.

The bill does three things.

First, it places a statewide volume cap on the number of bonds that may be issued annually. No more than 10 percent of the average of single-family mortgage activity for the prior 3 years.

If a State has a housing agency, that agency will be entitled to issue 50 percent of the mortgage revenue bonds. The remaining 50 percent will be distributed among local jurisdictions as determined by the State legislature.

Second, the maximum annual income of individuals who are eligible to receive bond-financed mortgages cannot exceed 120 percent of the area's median income. This target allows flexibility for regional income differences.

Third, all mortgage bond issuances by local governments and housing agencies must be reviewed by a State agency with responsibility for assuring the financial soundness of such issues.

What would be the effect of this legislation?

Most importantly, it would help ease our national housing crisis.

Nationally, this approach would allow almost $19 billion in mortgage revenue bond activity this year. That is about $9.5 billion by State housing agencies and another $9.5 billion for local jurisdictions.

This means that approximately 320,000 families could be assisted with mortgages financed by bonds.

Also, this legislation calls for no limitations on the use of tax-exempt bonds for multifamily rental housing because multifamily housing is a clearly established part of national housing policy.

The approach in this legislation is direct and forthright. It recognizes the need for using mortgage revenue bonds as an instrument of public policy. But it also imposes restraints—yet these restraints allow room for States to make certain determinations as to other restrictions they may wish to impose.

Mr. President, I urge my colleagues in the Senate, and especially my colleagues on the Finance Committee, to give serious consideration to this legislation.

Mr. President, I ask unanimous consent that the text of this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2917

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Short Title.

This Act may be cited as the "Tax Exempt Mortgage Revenue Bond Act of 1980".

Sec. 2. Exclusion for Interest on Certain Mortgage Revenue Bonds.

Section 103 of the Internal Revenue Code of 1954 (relating to interest on certain governmental obligations) is amended by redesignating subsection (i) as subsection (j), and by inserting after subsection (h) the following new subsection:

"(i) Mortgage Revenue Bonds.—

"(1) General rule.—Except as otherwise provided in this subsection, a mortgage revenue bond shall be treated as an obligation not described in subsection (a) (1) or (2).

"(2) Mortgage revenue bond defined.—

"(A) In general.—For purposes of this subsection, the term 'mortgage revenue bond' means any obligation which is issued as part of an issue a significant portion of the proceeds of which are to be used directly or indirectly for mortgages on owner-occupied residences.

"(B) Exception.—A qualified mortgage bond issued less than 60 months after the date of enactment of this subsection shall not be treated as a mortgage revenue bond.

"(3) Qualified mortgage bond defined.—

"(A) In general.—For purposes of paragraph (2), the term 'qualified mortgage bond' means an issue by a State or political subdivision thereof of 1 or more obligations, but only if—

"(i) all proceeds of such issue (exclusive of issuance costs and a reasonably required reserve) are to be used to finance owner-occupied residences,

"(ii) the maximum annual income of individuals who are eligible to receive such financing does not exceed 120 percent of the median family income for the statistical area in which the residence is located,

"(iii) the aggregate amount of bonds issued pursuant thereto, when added to the aggregate amount of qualified mortgage bonds issued by that State and its political subdivisions during the same calendar year, does not exceed 10 percent of the average annual sum of the amounts of all first mortgage loans on owner-occupied residential real property located within that State which were made during the preceding 3 calendar years (as determined by the Federal Home Loan Bank Board upon request made by the Secretary), and

"(iv) in the case of an issue of obligations by a political subdivision of a State, or by a housing financing agency of such a political subdivision, the issue has been reviewed by a State agency with responsibility for assuring the financial soundness of such issues (or, if there is no such State agency, by the State agency or officer designated by the Governor of the State for such purpose).

"(B) Special rule for certain existing authority.—In the case of obligations issued before January 1, 1982, by a State or a political subdivision thereof under a law which contains income limitations similar to but greater than the limitations contained in subparagraph (A) (ii), that subparagraph shall be applied by substituting 'the lesser of $30,000 or 250 percent' for '120 percent'.

"(4) Allocation of aggregate limit between state and local issuers.—In the case of a State which has a State housing financing agency, clause (iii) of paragraph (3) (A) shall be applied in such a manner as to permit the issuance of one-half of the amount of such aggregate limit by that agency. The State may by law permit a larger or smaller proportion of the aggregate limit applicable under that subparagraph to be issued by the State housing financing agency. In the case of a State which does not have such an agency, the State may provide for the allocation of the aggregate limit applicable under that subparagraph between issues of the State and issues by political subdivisions of that State in whatever proportion the State determines to be appropriate.

"(5) Definitions.—For purposes of this subsection—

"(A) Mortgage.—The term 'mortgage' includes any other owner-financing.

"(B) Bond.—The term 'bond' includes any obligation.

"(C) State.—The term 'State' includes a possession of the United States and the District of Columbia.

"(D) Statistical area.—

"(i) In general.—The term 'statistical area' means

"(I) a standard metropolitan statistical area, and

"(II) any county (or portion thereof) which is not within a standard metropolitan statistical area.

"(ii) Standard metropolitan statistical area.—The term 'standard metropolitan statistical area' means the area in and around a city of 50,000 inhabitants or more (or equivalent area) as defined by the Secretary of Commerce.

"(iii) Designation where adequate statistical information not available.—For purposes of this paragraph, if there is insufficient recent statistical information with respect to a county (or portion thereof) described in clause (i) (II), the Secretary may substitute for such county (or portion thereof) another area for which there is sufficient recent statistical information.

"(iv) Designation where no county.—In the case of any portion of a State which is not within a county, clauses (i) (II) and (iii) shall be applied by substituting for 'county' an area designated by the Secretary which is the equivalent of a county.".

Sec. 3. Effective Date.

The amendments made by section 1 of this Act shall apply with respect to obligations issued after the date of enactment of this Act.●

By Mr. HAYAKAWA:

S. 2918. A bill to confer U.S. citizenship posthumously upon Leopoldine Marie Schmid; to the Committee on the Judiciary.

LEOPOLDINE MARIE SCHMID

● Mr. HAYAKAWA. Mr. President, I am introducing a bill today that will not cost the Federal Government one penny, yet its meaning is priceless to one of my constituents, a man who lost his wife under tragic circumstances.

This legislation would give citizenship to Leopoldine Schmid, a woman who was murdered shortly before she and her husband were to appear in court to take their oath of citizenship.

Eugene and Leopoldine Schmid came to the United States in December 1958. Their story is one of "exemplary aliens preparing for citizenship." Shortly after arriving, the Schmids settled in San Mateo County and, over a period of years, established themselves in a fairly profitable jewelry business in Belmont, Calif. After residing in the United States almost 20 years and demonstrating their ability to be productive and contributing people in society, Mr. and Mrs. Schmid applied for U.S. citizenship, completed the required studies, and passed the examination of February 2, 1977. On February 17, while awaiting notification of their scheduled appearance in court for naturalization, Mrs. Leopoldine Schmid was murdered, the victim of an attempted robbery by two gunmen who were never found.

I would like to share with you a few remarks made by Mr. Schmid about his wife:

> She worked so hard, so long, to be a citizen of this country. It was the one thing she wanted most. All the time she was studying and reading from the books. Every minute she could take away from the store, she worked to prepare herself for the examination.

I think it is important to emphasize that, should this citizenship be granted, it will be granted to one who had completed all the requirements under our laws to become a citizen, except for the appearance in court for naturalization (oath).

Precedent for this type of action was established when we posthumously restored citizenship to Robert E. Lee (Public Law 94–67), and, recently, the House passed the bill restoring citizenship posthumously to Jefferson Davis (S.J. Res. 16). What is most persuasive is the fact that we have granted honorary citizenship posthumously to Winston Churchill in 1963 (Public Law 88–6; 77 Stat. 5). If we can do it for the famous, I feel strongly that we should do it for the not so famous but also deserving. I thank the Chair.●

ADDITIONAL COSPONSORS

S. 1631

At the request of Mr. Randolph, the Senator from South Dakota (Mr. Pressler) was added as a cosponsor of S. 1631, a bill to provide additional funds for certain projects relating to fish restoration, and for other purposes.

S. 2074

At the request of Mr. Levin, the Senator from Arizona (Mr. DeConcini), and the Senator from Vermont (Mr. Stafford) were added as cosponsors of S. 2074, a bill to amend title 39 of the United States Code to provide for the postage-free mailing of absentee ballots and other materials pertaining to absentee ballots.

S. 2355

At the request of Mr. Tsongas, the Senator from New Hampshire (Mr. Durkin), and the Senator from New York (Mr. Moynihan) were added as cosponsors of S. 2355, a bill to encourage basic research by institutions of higher education.

S. 2399

At the request of Mr. Stewart, the Senator from New Hampshire (Mr. Durkin) was added as a cosponsor of S. 2399, a bill to amend title 39, United States Code, relating to nonprofit service clubs qualifying for third-class nonprofit rates of postage.

S. 2402

At the request of Mr. Nunn, the Senator from Wisconsin (Mr. Proxmire) was added as a cosponsor of S. 2402, a bill to insure the confidentiality of information filed by individual taxpayers with the Internal Revenue Service pursuant to the Internal Revenue Code and at the same time, to insure the effective enforcement of Federal and State criminal laws and the effective administration of justice.

S. 2403

At the request of Mr. Nunn, the Senator from Wisconsin (Mr. Proxmire) was added as a cosponsor of S. 2403, a bill to protect taxpayers' privacy regarding third-party recordkeepers summoned to produce records of taxpayers and at the same time to insure effective, efficient enforcement of Internal Revenue Service third-party summons.

S. 2404

At the request of Mr. Nunn, the Senator from Wisconsin (Mr. Proxmire) was added as a cosponsor of S. 2404, a bill to provide penalties for unauthorized disclosure of tax information.

S. 2405

At the request of Mr. Nunn, the Senator from Wisconsin (Mr. Proxmire) was added as a cosponsor of S. 2405, a bill to provide for civil damages for unauthorized disclosures of tax information.

SENATE RESOLUTION 461

At the request of Mr. Nelson, the Senator from New Hampshire (Mr. Humphrey), the Senator from Illinois (Mr. Percy), and the Senator from Hawaii (Mr. Matsunaga) were added as cosponsors of Senate Resolution 461, a resolution disapproving the proposed deferral of budget authority for EPA grants for waste.

SENATE RESOLUTION 462

At the request of Mr. Nelson, the Senator from New Hampshire (Mr. Humphrey), the Senator from Illinois (Mr. Percy), and the Senator from Hawaii (Mr. Matsunaga) were added as cosponsors of Senate Resolution 462, a resolution disapproving the proposed deferral of budget authority for EPA grants for waste.

AMENDMENT NO. 1938

At the request of Mr. Levin, the Senator from Pennsylvania (Mr. Schweiker), and the Senator from Wisconsin (Mr. Proxmire) were added as cosponsors of Amendment No. 1938 proposed to H.R. 6974, a bill to authorize appropriations for fiscal year 1981 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for fiscal year 1981 for civil defense, and for other purposes.

SENATE RESOLUTION 483—SUBMISSION OF A RESOLUTION CALLING FOR THE DISSOLUTION OF THE DEPARTMENT OF TRANSPORTATION

Mr. MOYNIHAN submitted the following resolution, which was referred to the Committee on Governmental Affairs:

S. Res. 483

Whereas in the 1976 campaign President Carter undertook to curb what he termed "the horrible, bloated bureaucratic mess where our government ought to be"; and

Whereas he stated that "If I'm successful in November . . . we're going to have an efficient, economical, well-organized, purposeful, manageable government, and you can depend on it"; and

Whereas in fact President Carter has brought about the creation of two new Cabinet departments; and

Whereas the Department of Energy has achieved a satisfactory state of self-sustained growth; and

Whereas the Department of Health, Education and Welfare, having attained the maximum size, divided by the familiar process of mitosis into two separate departments; and

Whereas the Department of Health and Human Services has now commenced to grow toward the previous size of the Department of Health, Education and Welfare; and

Whereas the Department of Education has already been assigned by the President a $1 billion proposed new program in a field formerly reserved to the Department of Labor, such that its growth is now also ensured, an institutional attainment that was recognized on May 20 when the Senior Senator from Wisconsin gave it his "Fleece of the Month Award" for "fattening its staff and beefing up its budget after promising that if it were created it would include no more people and would cost no more than previously devoted to education programs"; and

Whereas the process of artificial reproduction of Cabinet agencies having been successfully carried out, and the patenting of these new forms of life having been permitted by a recent ruling of the Supreme Court, the multiplication of such agencies and departments is now assured unless countermeasures are taken; and

Whereas recent events in New York have demonstrated that the Department of Transportation has turned over to the Environmental Protection Agency all responsibility, initiative and control over highways, waterways, subways and pathways, in addition to financing, regulating, designing, scrapping and preventing of same; and

Whereas the Department of Transportation clearly has nothing left to do,

Therefore be it resolved that in order to limit the growth of government, to impede the proliferation of bureaucracy and to reduce the associated costs to liberty and to the public purse, it is the sense of the Senate that the Department of Transportation should be dissolved and its functions be consigned to the Environmental Protection Agency.

● Mr. MOYNIHAN. Mr. President, a rather substantial disagreement has arisen between the State of New York and the U.S. Government, a matter that has led me to conclude that the Environmental Protection Agency has usurped the powers of the U.S. Department of Transportation. As one agency of the Government has taken over the duties of another, I therefore suggest in the interest of better, more efficient Government, the dissolution of the Department of Transportation.

What has provoked me to make such a suggestion? EPA's rejection of the State's air quality plan, published yesterday in the Federal Register, is a travesty of the intent of the Clean Air Act.

The matter to which I address myself is not an intergovernmental squabble for jurisdiction. EPA, in carrying out its legal obligation to review the State's revised mass transit plan, has determined that the plan does not provide an adequate level of funding for improving the Metropolitan Transit Authority system. If that were all that EPA did and if they had negotiated in good faith with the State in an effort to resolve differences, I would certainly have little to quarrel with.

However, EPA went one step further by suggesting how the State might increase its Federal funds for mass transit improvements, namely by trading in highway funds allotted to the State. This reference could only mean one thing—the funds for the Westway project, a project which the EPA has opposed and fought for years. Under what authority does EPA suggest the cancellation of a project supported by the Governor of the State, both Senators from New York, the Mayor of the city, and approved by the U.S. Department of Transportation?

The economic implications of the EPA's rejection of the State's plan could be devastating: the "no growth" sanctions first imposed on the city by EPA in July 1979 will continue; the Federal highway and sewage treatment funds could be cut off. Even the announcement of the intended rejection of the plan discourages businesses from considering the siting of new facilities in the State.

The history of this plan is worth recounting. In fulfillment of the terms of the Clean Air Act of 1970, the State of New York had at one time proposed bridge tolls on the East River and Harlem River bridges. The purpose of the tolls was to discourage commuters from using automobiles and encourage their use of mass transit. In some regions, bridge tolls might very well bring about this result and consequently reduce the levels of carbon monoxide and ozone within the city. In New York, however, there was ample reason to doubt that bridge tolls would indeed improve the quality of the air. As I explained on the floor of the Senate on June 9, 1977:

> [The bridge tolls would] simply cause great inconvenience and increase the pollution of the air in Brooklyn, in Queens, and in the Bronx, where cars will line up to go through toll booths which have never existed. . . .

It fell to myself and Representative Elizabeth Holtzman to suggest an alternative means of achieving the same ends as bridge tolls were theoretically to have accomplished. This provision of the law became known as the Moynihan-Holtzman amendment. The amendment granted the Governor the option of revising the State implementation plan to "establish, expand or improve public transportation measures" in order to provide "for emissions reductions equivalent to the reductions identified with the tolls or charges eliminated."

As a consequence of the amendment, the State of New York formulated an alternative transportation plan for the metropolitan New York area and submitted it to EPA in August of 1978. Of the 52 other metropolitan areas in 29 States to which the Moynihan-Holtzman amendment applies, all have been granted an extension until 1982 to submit their revised transportation plans.

It should be noted that New York's allegedly "inadequate" Metropolitan Transit Authority (MTA) system carried about 30 percent of the Nation's mass transit riders in fiscal year 1979. The MTA operates 247 route-miles of subway track compared to 683 route-miles in all U.S. cities combined. Each day it carries over 1.6 million bus riders and close to 3 million subway riders. New York State has fewer cars per thousand people than any other State. In terms of motor fuel consumption, New York is the most energy efficient State in the Nation. In 1978, we used only 341 gallons of highway fuel per capita as compared to a national average of 555 gallons and a high of 980 gallons in Wyoming.

Although EPA had indicated preliminary approval of the plan in March of this year, EPA nonetheless announced—after holding the State's plan for over a year and a half—that it intended to oppose the plan. I regard EPA's actions to be wholly inappropriate and out of the boundaries of sound public administration. The Daily News, in its editorial of June 24, 1980, declared war on EPA for its arrogance on this issue. As I stated in the Senate on June 27, 1980, "New York—and the Daily News—is rebelling against tyranny." For this reason I submit a resolution for consideration by the Congress.●

SENATE RESOLUTION 484—SUBMISSION OF A RESOLUTION RELATIVE TO THE TREATY OF MUTUAL COOPERATION AND SECURITY WITH JAPAN

Mr. HATCH (for himself, Mr. Nunn, Mr. Stennis, Mr. Baker, Mr. Tower, Mr. Lugar, Mr. Percy, Mr. Helms, Mr. Thurmond, Mr. Harry F. Byrd, Jr., Mr. Goldwater, Mr. Stone, Mr. Humphrey, Mr. Dole, Mr. Exon, Mr. Domenici, Mr. Cochran, Mr. Garn, Mr. Jepsen, Mr. McClure, Mr. Schmitt, Mr. Schweiker, Mr. Talmadge, Mr. Wallop, Mr. Laxalt, Mr. Hatfield, Mr. Armstrong, Mr. Cohen, Mr. Boschwitz, Mr. Hayakawa, Mr. Warner, Mr. Cannon, Mr. Levin, Mr. Moynihan, Mr. Stewart, Mr. Baucus, Mr. Huddleston, Mr. Bradley, Mr. DeConcini, Mr. Pryor, Mr. Sasser, Mr. Boren, Mr. Inouye, Mr. Hart, Mr. Randolph, Mr. Williams, Mr. Simpson, Mr. Durenberger, Mr. Pressler, Mr. Roth, Mrs. Kassebaum, Mr. Danforth, and Mr. Chafee) submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. Res. 484

Whereas, in 1960 the United States of America and Japan solemnly entered into a Treaty of Mutual Cooperation and Security;

Whereas, over a period of twenty years since that time the Japanese people have faithfully fulfilled their commitments to the defense of Japan, as provided within the framework of that Treaty;

Whereas, the Mutual Defense Treaty between the United States and Japan has proven beneficial to both nations and provided for the defense of the western Pacific area;

Whereas, the international security environment and the economic balance between the two nations has greatly changed during the past twenty years;

Be it resolved:

(1) That it is the sense of the Senate that the twentieth anniversary of this treaty be commemorated and observed;

(2) That is in the best interest of both the United States and Japan to convene a parliamentary and scholarly conference to commemorate and evaluate the achievements of the Treaty of Mutual Cooperation and Security;

(3) When said conference is held in Tokyo on the dates of August 29–31, 1980, under the auspices of the Japan Center for the Study of Security Issues, Hideaki Kase, Chairman and former Prime Minister Kishi, Honorary Chairman, with a distinguished Japanese organizing committee of parliamentarians and former ministers, the Senate would express an interest in receiving a report as to the proceedings of the Conference.

Mr. HATCH. Mr. President, ever since Commodore Perry opened up the Orient to the Western world the nation of Japan has been among the leaders in the Far East. As a nation today, Japan ranks third as a world economic power, and is rapidly closing the gap between themselves and the second power, the Soviet Union. The industry and technical genius of the Japanese people has become a testimony of Japanese capability the world over.

Twenty years ago, the United States and Japan signed an important treaty. The Treaty of Mutual Cooperation and Security has stood during that time as a symbol of the strong ties between these two great nations. It has served as the anchor in a relationship that has been buffeted by changing economic and political fortunes, constantly reinforcing the commitment these two nations have for the peace and freedom of the western Pacific.

This year, 1980, marks the 20th anniversary of the pact signed by Japan and the United States. The year 1980 also serves as a benchmark in other respects. Not only is the treaty 20 years old, but we are also only 20 years from the turn of the century. This marks a time when we should not only look back at what has transpired, but even more attention should be paid to what may occur in the future. Japan and the United States will be looked to by the other nations of the area for guidance in their quests for further growth and development.

As we look over the horizon, we see that the major threat to the peace of this area remains the Soviet Union. Recent actions by the Soviet client state, Vietnam, serve as a reminder that we must constantly be on our guard. It will be up to Japan and the United States to continue to stabilize, to form the nucleus of a coalition of states dedicated to the principles of freedom and economic prosperity.

Mr. President, it would seem only natural that a conference be convened to discuss the issues facing the two signatories of the 1960 treaty. It should be a conference that calls together the political and academic leaders of both nations, a conference that is willing to openly discuss the issues that span the Pacific Ocean, affecting the peoples on both sides of the water. It should be a conference that will have the vision to provide a blueprint for the two nations to follow in the waning years of the 21st century. A blueprint that will aid in establishing the stability that all desire.

I am submitting a resolution today to accomplish two goals, one to commemorate the anniversary of treaty, and second, to call to the attention of my colleagues the announcement of such a conference.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

● Mr. JACKSON. Mr. President, the Committee on Energy and Natural Resources will hold a hearing on July 23, 1980 as part of its continuing series of hearings on the geopolitics of oil. Dr. Henry Kissinger will be the witness at the hearing. The purpose of the hearing will be to examine the role of U.S. foreign policy in assuring an adequate supply of oil for the United States at a reasonable price.

The hearing will begin at 9:30 a.m. in room 3110 Dirksen Senate Office Building. For further information concerning the hearing, please contact James Pugash, staff counsel, at (202) 224–0611.●

AUTHORITY FOR COMMITTEES TO MEET

Mr. BUMPERS. Mr. President, on behalf of the majority leader I have some requests, all of which have been cleared with the minority side.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to mark up the Colorado Wilderness bill and other pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSUMER SUBCOMMITTEE

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Consumer Subcommittee of the Committee on Commerce, Science and Transportation be authorized to meet during the session of the Senate today to hold a hearing on H.R. 2743, the Materials Policy Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Science, Technology, and Space Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate today to hold a hearing on S. 2816, the Alcohol Impaired Drivers Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet during the session of the Senate today to hold a confirmation hearing on the appointee to be Assistant Secretary of the Interior for Indian Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet during the session of the Senate today to hold a hearing on S. 2829, the Maine Indian Land Settlement Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

FEDERAL GIVEAWAY PROGRAMS

● Mr. SASSER. Mr. President, on three recent occasions I have reported to my colleagues about the activities being conducted by the Government Printing Office—at the direction of the Library of Congress and the Smithsonian Institution—under an obscure law with its antecedents dating back to the 19th century.

Under section 1719 of title 44 of the United States Code, over 1.6 million copies of 20,441 publications are printed for distribution to foreign governments, including the Governments of the Soviet Union, Cuba, and Iran. This Federal giveaway program costs the taxpayer at least $1.1 million a year. In return for the 1.6 million copies we print for shipment overseas, we receive 275,486 in return, or a 6-to-1 disadvantage.

ORIGINAL INTENT

Apparently, this citation in title 44 was originally intended for the exchange of official journals, parliamentary documents, and literary publications.

There may be some justification for sending such documents as the CONGRESSIONAL RECORD, the Federal Register and the Public Papers of the President to foreign countries in exchange for similar documents published by those countries.

However, Mr. President, I can see no justification for sending such sensitive publications as Army field manuals, and Army technical manuals (including the publication "Field Artillery Battalion, LANCE") to the Governments of the Soviet Union, Cuba, and others. Most of these documents are being sent automatically with no thought as to how they may be used.

PURPOSE OF PROGRAM

Mr. President, section 1719 of title 44, United States Code, provides for the distribution of Government publications, including the CONGRESSIONAL RECORD, to foreign governments which agree to send the United States similar publications of their governments for delivery to the Library of Congress.

As I have earlier indicated, the United States ships numerous military manuals, Defense Intelligence Agency publications and Central Intelligence Agency publications to the Soviet Union and 30 other foreign powers. We do not receive Soviet KGB or military manuals in return.

H.R. 7302

Mr. President, on June 3, the House of Representatives passed H.R. 7302 which would transfer to the Superintendent of Documents the function of distributing Government publications to foreign governments. Mr. President, I am opposed to the continuation of this program in its present form in which we appear to be receiving far less than what we get. I believe this program is fraught with abuse, waste, error and confusion—especially confusion. Moreover, I can see no good reason why a program such as this should be shifted from the executive branch to the legislative branch. The legislative branch of Government should not be placed in the position of having to decide which executive branch agency (DIA, CIA, DOD, FBI) documents should be shared with other countries. That is an executive and administrative function.

CONCLUSION

I am hopeful that those who now have the responsibility for the distribution of these U.S. Government publications to foreign powers will exert some measure of discipline so that the appropriate balance can be struck between what we give and what we get. I am in no way opposed to the concept of the exchange program and, indeed, believe if conducted properly, it can be a healthy and positive contribution to mutual understanding among nations. However, this program, as it now stands, appears to fall far short of that goal and the intent of Congress. I believe it ought to be cleaned up, that Federal agency officials should carefully screen any documents sent overseas, and that it should be left where it is in the executive branch.

AGENCY RESPONSES

I am encouraged, Mr. President, that representatives of the affected agencies have been in contact with my office about my concerns. Representatives of these agencies have asked for an interval in which they could investigate their distribution policies and make appropriate administrative reforms. I am agreeable to that procedure, which, at this time, seems preferable to a solution involving legislation.●

THE SALE OF F-15'S TO SAUDI ARABIA

● Mr. DANFORTH. Mr. President, I do not believe that the Carter administration should give even passing consideration to the request by Saudi Arabia to enhance greatly the offensive capability of the 60 F-15's we are selling them. The Saudis are now asking for conformal fuel tanks and aerial refueling capability which would double the F-15's fighting range, multiple ejection racks to vastly increase their bomb payload, and airborne warning and control aircraft (AWACS) which would allow the F-15's to operate effectively far beyond the Saudi borders. The addition of these weapons would significantly increase the threat these fighters would present Israel.

When I voted to approve the initial sale of these F-15's in 1978, I stated that my decision was the most difficult one I had made as a Senator. At the time, it was my view that the arms sale then proposed served the interests of moderation in the Middle East, and that if the sale were not made by the United States, similar equipment would be forwarded by other countries with fewer restrictions on its use. What persuaded me to support the 1978 sale was that the United States could maintain some reasonable controls on how the F-15 would be used, and that the F-15's utility would be purely defensive.

In 1978, many administration officials, including the President and the Secretary of Defense, gave repeated assurances that the offensive supplements such as those now requested would not be sold to Saudi Arabia. In addition, in April 1978, the Saudi Ambassador, along with a member of the Saudi royal family, sat in my office and assured me that their country desired these fighters only for defensive purposes and was not interested in these specific additional offensive items for the F-15.

According to newspaper reports, the Saudis now argue that they have done their best to restrain OPEC oil prices and that the new Soviet presence in Afghanistan presents a new threat to the security of Saudi Arabia and its oil fields. However, it is no longer clear that Saudi "restraint" is having a beneficial effect on oil prices. Since the time of the initial approval of this aircraft sale, OPEC prices have increased 138 percent. Last month, Defense Secretary Brown warned that the continuing increase in OPEC prices was making it more difficult for the United States to accomplish its defense commitments in the Persian Gulf and elsewhere. Further, 60 Saudi F–15's, even if equipped with the items now sought, would clearly be insufficient to meet any concerted Soviet attack on Persian Gulf oil fields.

I am also disappointed that the hoped-for Saudi "moderation" regarding the Camp David agreement has not been evident. On August 3, 1978, I cosigned a letter to then-Secretary of State Vance raising my concern that the arms sales approval only led to a hardening of Saudi attitudes toward the Egyptian-Israeli peace treaty. Saudi Arabia has joined with the rejectionist Arab States in opposing all initiatives to negotiate a settlement in the West Bank and Gaza Strip.

In a June 18 editorial, the New York Times offered two choices for the Saudi request. One is to deny the request and say bluntly that straight dealing and firm promises by the United States to its people, to Israel, and other watching nations are as essential to American power as oil. The other course is to defer the request until the Saudis give signs that they are fulfilling the diplomatic obligations implicit in their bid for closer economic and military ties to the United States—evidence that they are using their wealth to promote stability in the Middle East, to support Egypt's pact with Israel and to encourage other peace efforts.

On either ground, it is clear that this request for new equipment does not serve the purposes of peace in the Middle East. Nor does it serve the interests of the United States. It should be rejected.●

SALT VERIFICATION

● Mr. GARN. Mr. President, a year ago during the SALT II debate, I observed that:

> In not a single instance has the government taken the initiative in bringing a violation or potential violation to the attention of the American people. In every case it has simply reacted to press exposure of the violations. In each case, the U.S. has provided thin rationalizations of the Soviet violation.

The Carter administration handling of the Sverdlovsk biological warfare incident is again in this pattern. Despite reasonably clear evidence that the Soviet Union is producing biological weapons in clear violation of the 1975 Biological Warfare Convention, the Carter administration does almost nothing.

In its report on SALT II monitoring capabilities, the Senate Select Intelligence Committee rightly observed that:

> The capability to determine whether the Soviets had violated the SALT II agreement would be of little consequence if at the same time the United States did not have the will and determination to pursue an aggressive verification policy.

We do not. Indeed, the worst that the Soviet Union can expect from the Carter administration as the result of violating an arms control agreement with the United States is a nasty note from the State Department. Indeed, the characterization of U.S. diplomatic reaction as a nasty note is probably exaggerated. Thus far, they have been very polite notes.

According to Deputy Secretary of State Warren Christopher in the Sverdlovsk incident, we raised the issue twice with the Soviet Union and made clear to them that we are dissatisfied with their responses to date. In this incident, as in the long list of arms control violations in the past, we, in a de facto sense, accept a Soviet explanation we know to be false.

According to Mr. Christopher,

> Because of the gravity with which we view this issue, we are making special efforts to insure that it is dealt with in the most serious fashion, and not treated as a political ploy with which to embarrass the Soviets. This is crucial if we are to persuade both the Soviets and the international community that our concern is genuine.

What an inventive way of saying that he will deny the American people the relevant information; and he will deny them this information in an election year in which the future of our reations with the Soviet Union and the failure of the Carter administration's foreign policy is one of the key issues in that election.

If the Soviet Union is violating the Biological Warfare Convention, the American people have a right to know about it. If they are violating the SALT I Treaty, the SALT II Treaty, and the various nuclear test ban treaties, the American people should know about it.

This administration is attempting in every way it can to sweep the entire arms control compliance issue under the rug. In the wake of the Soviet use of lethal nerve gas in Afghanistan, the Secretary of Defense declares that, "Some progress on the other hand has been made toward the control of chemical and radiological weapons." Ambassador Charles Floweree, head of the U.S. delegation to the Biological Warfare Convention Review Congress, when asked "if a violation by the Soviets would permit the United States to renounce the convention," replied that, "The United States unilaterally renounced biological warfare. It would be inconsistent with this policy to use a Soviet violation as a pretext for something that we want to see prohibited."

Unfortunately, it would seem that the enforcement of any arms control treaty is inconsistent with the policy of the Carter administration.

I would like to call my colleagues' attention to a recent article in International Security Review entitled "Analysis and Compliance Enforcement in SALT Verification," by Senator GORDON HUMPHREY. It is a fine treatment of the subject and deserves your attention.

I ask that it be printed in its entirety in the RECORD.

The material follows:

ANALYSIS AND COMPLIANCE ENFORCEMENT IN SALT VERIFICATION

(By Senator GORDON J. HUMPHREY)

The deteriorating state of Soviet-American relations attending Moscow's invasion of Afghanistan has tended to obscure an exceedingly important fact. This is, the Carter Administration's announced intention to adhere to the terms of the SALT II Treaty, in the absence of Senate ratification. From both a political and a legal point of view, the wisdom of that decision is dubious at best. But given the manifest flaws in the terms of SALT II,[1] and in particular our limited ability to monitor and enforce Soviet compliance with its terms, the Administration's decision is irresponsible.

The Carter Administration, like the Nixon and Ford Administrations before it, officially claims in public that the Soviets have complied with all aspects of both elements of SALT I—the ABM Treaty and the Interim Executive Agreement on Offensive Weapons. This is merely because the U.S. has never charged the Soviets with a SALT violation. But the true record of Soviet activities related to SALT I, which is gradually coming into the open, shows that the Soviets have not been in compliance with its terms in several important cases, and that the Carter Administration has tolerated and in some instances even concealed Soviet circumvention and violation. The Carter Administration's misleading of the Congress and the American people on Soviet compliance with SALT I is identical to the Nixon Administration's misleading of the Congress and the people regarding both the meaning of the terms of SALT I in 1972 and Soviet compliance from October 1972 through December 1976.

The consequences of this collective deception are far-reaching, and emphasize the importance of adequate verification in any arms control agreement. Moreover, what that entails is more complex than is generally understood. Most recognize that verification includes intelligence collection and monitoring. But no matter how good that may be, the most important factors in SALT verification are the analysis and enforcement of Soviet compliance.[2] The purpose of this article is to examine the problems of analysis and enforcement of compliance in SALT verification, based on the record of SALT I and some concerns that have recently arisen affecting the potential verification difficulties with SALT II.

SOVIET COMPLIANCE WITH SALT I ABM TREATY

Soviet Foreign Minister Gromyko stated publicly on June 26, 1979, in Moscow:

> I would like to touch upon the talk that it is allegedly very hard to rely on the Soviet Union without verification and control. In the first place, if somebody can be relied upon, this is precisely the Soviet Union. It has not violated any international treaties and agreements.

Nevertheless, Soviet compliance with the ABM Treaty signed in May 1972 has been widely criticized, and for good reasons. There are fifteen articles in the Treaty, and eight of these are particularly significant. Serious questions have been raised about Soviet compliance with six of these eight significant articles. The five most important and widely reported Soviet activities raising ABM Treaty compliance questions have been:

Their extensive tests of an air defense missile and radars in an ABM mode (SA–5 missile and radar testing, 1973–1975; SA–10 radar testing, 1979);

Their deployment of possible new ABM battle management radars;

Their development of a rapidly deployable, possibly mobile, new ABM system;

Their camouflage of certain ABM R&D;

Their official falsification of the number of their test range ABM launchers dismantled in 1973.[3]

The Soviets also deployed an ABM radar at an ICBM test range—on the Kamchatka Peninsula—thereby creating a new ABM test range, without making the required prior agreement with the United States. Common Understanding C to the ABM Treaty explicitly required Soviet notification before any ABM component could be located at any other test range. The Soviets clearly violated Common Understanding C. But, the U.S. has reacted to this Soviet chicanery by officially and publicly reclassifying the Common Understanding involved as a U.S. Unilateral Statement, thereby accepting and condoning the Soviet violation.

Footnotes at end of article.

Of these questionable activities, the most dangerous to U.S. national security are the probably completed SA–5 tests in an ABM mode, and the completed development of a new rapidly deployable ABM system. This is because the SA–5 could now have a covert ABM capability in some strategic war scenarios, and the Soviets could "break out" of the ABM Treaty quickly with their new ABM system.

SOVIET COMPLIANCE WITH THE SALT I INTERIM EXECUTIVE AGREEMENT

Soviet compliance with the Interim Executive Agreement of SALT I is equally questionable, and for good reasons. There are eight articles in this agreement and one Protocol, of which five articles and the Protocol are particularly significant. The Soviets, through their actions, have raised serious questions about their compliance with four of the five significant articles and also the protocol.

The clearly circumvented the express intent and purpose of the key Article II, prohibiting replacement of light ICBMs with heavy ICBMs, by their deployment of the heavy SS–19 ICBM. The SS–19 is fifty to sixty percent larger in volume than the SS–11, and has four to five times its throwweight.[4] It is clearly a heavy ICBM replacing a light ICBM. Contrary to a Soviet claim of early May 1972, the SS–19's volume is, in fact, close to the midpoint in volume between the SS–9 and the SS–11. Also, contrary to another Soviet claim in May 1972, the U.S. did not know the sizes of new Soviet heavy ICBMs. Soviet deployment of the SS–19 in circumvention of Article II is the most dangerous of all their questionable activities since SALT I was approved by the Congress, because the SS–19 greatly increased the Soviet counterforce threat to U.S. ICBMs. By almost doubling the Soviet counterforce threat, the SS–19 throws an ominous shadow over all U.S. strategic forces.

Soviet compliance with the Protocol to the Interim Agreement and Article III on submarine constraints is equally questionable, because the Soviets clearly falsified their initial baseline level of SLBMs, namely 768. The Soviets have actually admitted that they failed to deactivate ICBMs on time in 1976 in accordance with the agreed procedures. This failure can and should be regarded as an admitted violation. They also falsified the level of deactivated ICBMs three times during 1976, and were never in compliance regarding ICBM deactivation for two years. from 1976 through 1978.[5] Moreover, the whole Soviet rationale for being allowed a superiority over the U.S. of twenty-one submarines was totally fallacious. The Soviet "geographical asymmetry" argument was their justification for being allowed more submarines and missiles. Yet they invalidated their rationale when they deployed the long-range SS–N–8 SLBM after May 1972.

Soviet maintenance of eighteen SS–9 ICBM "training" launchers at a test range for eight years as part of their operational ICBM force. and their deployment of up to 150 new command and control silos (called "III X" silos), both circumvented the purpose and intent of the provision freezing their ICBM force level (Article I).[6] This problem was compounded by the fact that U.S. intelligence was wrong on the number of Soviet ICBMs in 1972.

By engaging in a massive and increased level of deliberate concealment of the testing and operations of their strategic offensive forces since 1972, the Soviets should have been charged with a clear-cut violation of the provision of the SALT I Interim Agreement prohibiting concealment and noninterference with national technical means of verification. These deliberate concealment activities in violation of Article V include:

Encryption of IRBM and ICBM telemetry signals beginning in late 1974 which interfered with U.S. determinations of which Soviet ICBMs were heavy;

Massive camouflage and concealment of ICBM testing, production, and deployment;

Concealment of strategic submarine construction and berthing, construction of dummy submarines, and construction of submarine berthing tunnels for concealment.[7]

The Soviets have also circumvented the intent and purpose, if not the precise terms of the Protocol, by reportedly building three or four additional submarines above the sixty-two they were specifically allowed to have through 1977.[8]

Soviet compliance with the "Agreed Interpreations" of both the ABM Treaty and Interim Executive Agreement is equally questionable. In addition to the items listed above, there are several additional questionable areas. For example, regarding the agreed range definition of an ICBM, Soviet deployment of the SS–20 mobile "intermediate" range missile is questionable. The reason is that the SS–20's full range is still in doubt, and could also be easily increased by adding a booster stage or removing one or two of its three warheads.

The Soviets directly violated five of the seven U.S. Unilateral Statements attached to SALT I. The other two U.S. unilaterals expressed hopes for specific provisions in the SALT II Treaty, which were not achieved. In the case of the seven Unilateral Statements, however, the Soviets never agreed to abide by them, although these U.S. Unilateral Statements were misleadingly presented to Congress as integral parts of the SALT I agreements with the implication that they would bind the Soviet Union. We should realize that all seven U.S. Unilateral Statements have failed in their purpose to constrain the Soviets.

For example, the Soviets indirectly circumvented the U.S. Unilateral Statement against mobile ICBM deployment, and they even ignored Brezhnev's solemn Summit pledge not to "build" mobile ICBMs. There is evidence that they have produced and stockpiled a large number (over 100) mobile ICBMs (SS–16s).[9] They have camouflaged and concealed all SS–16 production and testing.[10] These covertly stockpiled mobile ICBMs are more dangerous than if overtly deployed, because they could be brought out in a crisis, and could then suddenly shift the strategic balance. They are reportedly planning to deploy over 250 mobile SS–20 IRBM launchers, with over 1,200 reloadable missiles. SS–20 launchers should be considered mobile ICBM launchers, because these launchers are identical to the SS–16 launcher.[11]

OTHER SOVIET FALSIFICATIONS AND VIOLATIONS

The Soviets have perpetrated the following violations or circumventions of arms control agreements, falsifications related to compliance with arms control agreements, and diplomatic provocations bearing on the SALT process:

Falsification of the number of ABM test launchers required to be deactivated in 1973.[12] The Soviets evidently never did properly deactivate the required number of ABM test launchers;

Keeping eighteen SS–9 ICBMs (fitted out to launch the Fractional Orbital Bombardment warheads) clandestinely operational at a test range throughout SALT I, thereby circumventing SALT I's implicit limit on the number of Soviet ICBMs;[13]

Providing false and misleading data on the range of the Backfire bomber during SALT II negotiations in Geneva, 1975–1976;[14]

Deploying an SS–11 ICBM canister and ground support equipment at an SS–4 MRBM (medium-range ballistic missile) silo, where ICBMs are not supposed to be; and keeping large numbers of old SS–7 ICBMs at an unidentified installation. These facts again suggest that the Soviets are circumventing the numerical constraints of SALT I and II, and that their 1,300 or more older ICBMs may be maintained as a strategic reserve;[15]

Denying that the Backfire bomber has intercontinental range and refueling capabilities. But the Backfire, in fact, does have both capabilities already according to reports of U.S. intelligence;[16]

Falsifying their conventional force levels in the MBFR negotiations;

Quite possibly exceeding the 150-kiloton limit at least six times in underground nuclear tests, thereby violating the Threshold Test Ban Treaty, together with many reported venting violations of the 1963 Limited Nuclear Test Ban Treaty;[17]

Sending G-class diesel submarines carrying long-range sea-launched ballistic missiles to Cuba twice, in 1972 and 1974; sending an E-class nuclear submarine carrying long-range cruise missiles to Cuba in 1975; reportedly completing a nuclear warhead and missile handling facility and a new submarine pier in Cuba, and recently deploying several squadrons of nuclear-capable MiG–23 fighter-bombers to Cuba, all in violation of the 1962 Cuban Missile Crisis and 1971 Cienfuegos Agreements prohibiting Soviet strategic offensive weapons in Cuba.[18]

In sum, the Soviet SALT I record of negotiating deception, falsification, massive camouflage and concealment, admitted non-compliance in one important case, circumvention of several important provisions and questionable compliance with many other significant provisions, all comprise a bad Soviet record with serious implications for SALT II.

U.S. RETREATS FROM ABROGATION THREATS

It should also be recalled that in at least three of the SALT I cases mentioned above, former Secretary of Defense Melvin Laird (and other top officials) testified to Congress that the U.S. would completely abrogate the SALT I agreements if we ever detected Soviet violations. For example, Laird testified before the Senate Armed Services Committee in 1972 that if the Soviets either deployed a new ICBM significantly larger (15 percent) than the SS–11, or built more than sixty-two SLBM submarines, the U.S. would consider the Soviets in violation of SALT I in either case, and we would abrogate. Further, former President Nixon personally warned Soviet President Brezhnev that if the U.S. ever detected Soviet mobile ICBM production or deployment, we would abrogate.[19]

The Soviets have acted contrary to the U.S. position in each of these three cases. They deployed the heavy SS–19 ICBM to replace the light SS–11 contrary to Article II; they built more than sixty-two submarines for SLBMs contrary to Article III and the Protocol, and they produced mobile SS–16 ICBMs in large quantity. But the U.S. has backed away from each of these three abrogation threats, which is positive evidence of our continuously diminishing enforcement leverage over the Soviets due to the continued shift of the strategic balance in their favor. The Soviets have undoubtedly taken note of this extraordinary U.S. pliability and retreat.

In the face of the record of Soviet noncompliance with SALT I and SALT II, the present and previous Administrations have been nothing less than apologetic on behalf of the Soviets. The U.S. has never officially found or even charged a Soviet violation.

The U.S., instead has merely "questioned" Soviet "ambiguous" behavior. It is difficult to avoid the conclusion that the United States has chosen instead to collude with the Soviets on SALT compliance in the interest of preserving the illusion of detente. The statement below by Soviet Foreign Minister Gromyko published in Pravda remains uncontested by any U.S. official:

Both in the Soviet Union and in the United States it is recognized that both parties are

---

Footnotes at end of article.

complying with all provisions of the agreement on the limitation of both defensive and offensive strategic arms. The Standing Consultative Commission, made up of representatives of the USSR and the United States convening specially to monitor progress in compliance by both parties of pledges made, found not a single fact of violation of these agreements. . . . Only unscrupulous and irresponsible cry babies could permit themselves to accuse the USSR of nonfulfillment of pledges in the agreement. . . .[20]

THE III X SILO CASE

Open-source evidence reveals that in late 1970 the Soviets began building eleven "III X" launch control silos in conjunction with eighty new SS–19 and SS–18 ICBM silos.[21] When in late May 1972 the U.S. announced erroneously that the Soviets had 1,618 ICBM launchers, we apparently counted these eleven III X silos in this total. The Soviets have finally retired most of their 209 old SS–7 and SS–8 ICBMs, and they now have 1,398 ICBMs operational. If they really had 1,618 in 1972, they would have 1,409 today. (The true total then evidently was either 1,607 or 1,625, depending upon whether the eleven III X silos were excluded, or the eighteen SS–9 FOB versions at Tyuratum were included.)

In early 1973 a large number of additional III X silos reportedly began to appear in Soviet ICBM fields, however, and in June 1973 the U.S. first questioned the Soviets diplomatically about these new silos, which we then believed could be potential ICBM launchers. If they were ICBM launch silos, they would have been flagrant violation of SALT I. By 1977 the U.S. had apparently resolved the problem to its satisfaction. We decided after much analysis that III X silos were indeed being used for the launch control function, were unlikely to be used as missile launch silos themselves, and should therefore be dropped from the 1,618 Soviet ICBM total. By 1985, however, there could be as many as 150 III X silos.

The significance of this case is that while III X launch control silos first appeared in 1970, we did not question the Soviets about them until mid-1973, and we did not resolve the question to our satisfaction until 1977. Nevertheless, the Administration claims that on detection, all SALT I compliance problems have been immediately protested to the Soviets, and then have been promptly resolved in the Standing Consultative Commission (SCC). The facts in the III X silo case contradict this claim. From first construction of III X silos, it took three years before we detected a problem and even questioned the Soviets, and seven years before we "resolved" the question. And our resolution amounted to nothing more than accepting the Soviet position. Much of this elapsed time was expended in collecting and analyzing intelligence evidence. And U.S. intelligence at first erroneously counted the III X silos as ICBM launchers.

Most of the elapsed time, however, was due to the requirement for prolonged debate within the U.S. government about whether, when, and how to pursue the question with the Soviets. But seven years is a long time for "resolution" of any compliance problem. Moreover, the issue was never whether these silos were actually being used as launchers. Rather, it was the appropriateness of the Soviet building of "launch control" facilities that could be rapidly converted to launchers in the context of arms control negotiations. Much could happen in seven years to shift the strategic balance further against us, and in fact at the end of this period the U.S. was in a much worse strategic position than at the beginning. Our enforcement leverage had declined seriously.

CAMOUFLAGE, CONCEALMENT AND DECEPTION

As noted above, it is well known that the Soviets have engaged in a massive, nationwide camouflage, concealment, and deception (CCD) program related to the operation of their strategic and other military forces. These CCD activities have been particularly prevalent in the Soviet submarine and ICBM programs, and they have been underway to some degree since the early 1960's, well before SALT was even being thought of on either side. Soviet CCD reportedly increased dramatically in 1970, however, just after the SALT negotiations began. In early 1974 U.S. intelligence first reported on an expanding program of Soviet strategic CCD.[22] Evidently, U.S. intelligence had largely ignored massive Soviet concealment until 1974.

In early 1975, a year later, the U.S. first questioned the Soviets about their strategic CCD in the Standing Consultative Commission. The Soviets initially asserted that there was no expanding pattern of concealment, contrary to U.S. intelligence. The Soviets further refused to consider a need to cease or even reduce their CCD. Finally, the Soviets denied that their activity interfered with U.S. national technical means of SALT verification.

How the Soviets could have known or argued such a position remains a mystery. In any case, the U.S. did not contradict or protest the strange Soviet claim. We merely accepted it. Moreover, U.S. intelligence dutifully concluded in mid 1975, after the Soviet denial, that the massive Soviet CCD program was no longer "expanding." Not even the Carter Administration argues that the Soviets reduced this concealment activity. The record is now clear: after 1972 the Soviets increased their CCD activities to a new higher plateau, where it remains.

Thus, during the period of SALT I, the Soviets actually increased their deception activities, without being accused of a violation and without U.S. challenge. The State Department concedes by implication that the U.S. has tolerated this higher Soviet level of CCD. The State Department argues that the Soviet CCD program has not prevented U.S. verification, but this argument begs a question and defies logic. How do we ever know what is being hidden from our observation? Restated, how can we ever know what we do not know? As Amron Katz put it, "We have never discovered something that the Soviets have successfully hidden." It is simply not true that Soviet CCD activity has not interfered with U.S. national technical means of verification. The real questions are:

Is it deliberate and hence in violation of the SALT I bans on deliberate concealment?

Why did it take U.S. intelligence so long to notice this activity in the first place and to question it?

How could the Soviets get away with such massive concealment for so long?

The answers to these questions are obvious. Large-scale camouflage and concealmeant of strategic military activity is surely not a random, unplanned activity in the USSR. Soviet CCD is surely designed and coordinated at the Defense Council-Politburo level.

The Soviet CCD was therefore clearly deliberate. Moreover, there is good reason to believe that Soviet CCD has significantly interfered with verification. CCD has always been more of an analytical and enforcement problem than one of collection, because evidence of Soviet military CCD has reportedly been available since the early 1960's, and stretches back to World War II.

THE EIGHTEEN TYURATUM OPERATIONAL SS–98

Another noteworthy compliance problem in SALT I was revealed for the first time in the text of SALT II Treaty itself. The Soviets have maintained eighteen SS–9 Fractional Orbital Bombardment systems (FOBS) as an integral part of their operational ICBM force for about eight years, the duration of the SALT I agreements. The State Department's analysis of the Treaty admits that the U.S. has long assessed these eighteen SS–9s to be "part of the operational SS–9 missile force."[23] This is implicit U.S. recognition of Soviet circumvention of the SALT I ceiling on the number of ICBM launchers, because these eighteen SS–9s were never counted in the original 1,618 Soviet ICBM total in 1972 or in any subsequent totals. The Soviets have thus had the benefit of the added deterrent effect of these eighteen extra weapons for eight years, without having to count them. Now they may be able to count at least twelve of them in their deactivation total in SALT II.

Ironically, according to the State Department compliance report, the U.S. has never even brought up these eighteen SS–9s as a compliance issue.[24] This is at least one key compliance issue which has never been discussed in the Standing Consultative Commission at all. The supposed vigilance and promptness of U.S. challenges to possible Soviet violations is belied by over eight years of tolerance of Soviet circumvention.

MOBILE ICBMS

Another area of Soviet circumvention and U.S. abstention is mobile ICBMs. The Soviets have reportedly tested, produced, and covertly stockpiled a large number of mobile SS–16 ICBMs—over 100. Deployment of these mobile SS–16s would be simple and could be done very quickly in a crisis. Their additional numbers could suddenly shift the strategic balance and under such circumstances that no countermove could be taken by the U.S. Thus Soviet stockpiling of mobile SS–16s has circumvented the SALT I ceiling on ICBM launchers, has violated the Brezhnev pledge not to "build" mobile ICBMs, and has circumvented the U.S. Unilateral statement against mobile ICBM deployment.

According to the State Department compliance report, the U.S. has never raised the SS–16 or the related SS–20 issues as compliance problems in the SCC.[25] Mobile ICBMs and mobile IRBMs were part of the SALT discussions. Yet both systems have probably been under development since the mid-1960s. Thus, for many years, another very important compliance issue has never even been raised with the Soviets.

DEACTIVATION OF SOVIET ICBMS

Since the fall of 1975 the Soviets have been obliged to deactivate old ICBMs as an equal number of new SLBMs became operational. In July 1974 the precise deactivation requirements and procedures were solemnly agreed to. They were approved on both sides at the highest levels, but remain secret due to Soviet sensitivity. The Soviets reportedly admitted in September 1975 that they were over the ceiling by twenty-three launchers more than U.S. intelligence estimated.[26] This report was required, and signified that the Soviets had to begin old ICBM deactivation. Then in March 1976 the Soviets reportedly admitted that they had failed to deactivate forty-one of the fifty ICBM launchers that they were supposed to have deactivated by then. They claimed winter weather problems had interfered, but they obviously had no difficulty converting ICBM launchers during the winter season. The Soviets promised to complete this deactivation by June 1976, but contrary to all authoritative U.S. claims, they failed to. In fact, the Soviets officially falsified the deactivation of their excess ICBMs three times during 1976.

Indeed, there is reason to believe that the Soviets have never fully deactivated those missiles. Throughout 1977 and 1978, the U.S. continuously pressed the Soviets to deactivate their old ICBMs as required. And fur-

---

Footnotes at end of article.

ther, there are reports that the Soviets have brought back missile equipment, possibly the SS–20 or the SS–16, to one deactivated SS–7 ICBM complex.[27] This may also be another violation of the deactivation procedures.

Yet, the State Department officially stated in February 1978 that all fifty of the old Soviet ICBMs were deactivated by June 1976.[28]

There is another interesting aspect of this case. In the fall of 1975 the Soviets informed the U.S. negotiators that they had more SLBMs than we thought. It has also been reported that the U.S. had, in fact, lost count of at least one Soviet SLBM submarine for about fifteen years.[29]

SA-5 IN THE ABM MODE

Between 1973 and 1975 the Soviets illegally tested their SA–5 air defense missiles and radars over fifty times at high altitude in an ABM mode. This is contrary to Article VI of the ABM Treaty. The U.S. finally protested in early 1975, and the Soviets then stopped these tests. But many observers believe that they stopped only after they had completed their full test program. The Soviets may thus have achieved an operational capability as an ABM with their SA–5 SAM. The U.S. acceptance of the Soviet response to our belated complaint amounts to a U.S. acquiescence in another Soviet violation.

THE SS–19

The SS–19 story is well-known. The Soviets replaced a light ICBM, the SS–11, with the SS–19, a missile that should be categorized as a "heavy" ICBM. The deployment of the SS–19 was an obvious circumvention of Article II of the SALT I Interim Agreement. In 1972 the U.S. threatened abrogration over this event, but instead we merely questioned this occurrence after a long delay in 1975. The Soviets were adamant that the SS–19 be considered a light missile, even though the Soviets have always themselves considered the SS–19 to be a heavy ICBM. We accepted the Soviet's position immediately without protest, and thus they were able to totally circumvent SALT I's Article II.

The Administration argues that "the U.S. and the USSR delegations have agreed in the draft text of the SALT II agreement on a clear demarcation, in terms of missile launch weight and throwweight, between light and heavy "ICBM's." [30] This U.S. claim is absolutely false. There is no agreed data on the SS–19's launch weight and throwweight. It is also interesting to note that the SS–19 was reportedly first flight-tested in early 1973, but it took U.S. intelligence until early 1975 to develop estimates of its increased size and throwweight with sufficient confidence to "question" the Soviets.[31] This was in an era, one must point out, before large-scale Soviet telemetry encryption and the loss of Iranian collection sites. If it took over two years to determine the SS–19's characteristics confidently in the preencryption days, how long will it take to determine the characteristics of the five new fifth-generation Soviet ICBMs? Moreover, U.S. uncertainties about the volumes of existing Soviet ICBMs are reportedly in the ten-percent range, which is already much greater than the five-percent increase that SALT II allows in new ICBM volume. How can we verify changes of five percent measured from a baseline which we only know to within ten percent?

COMPLIANCE ENFORCEMENT AND SALT II

The record of verification in SALT I, particularly with regard to the problems of analysis and compliance enforcement, is distinctly checkered. What is even more disturbing are the lessons that can be drawn from that record concerning Soviet duplicity and American credulity in the SALT process.

Both the SALT I ABM Treaty and the SALT I Interim Agreement on Strategic Offensive Arms explicitly stated in their preambles that their purpose included the "strengthening of trust between states." Dr. Kissinger also emphasized several times in May and June of 1972 that SALT I was supposed to strengthen U.S.-Soviet trust. The Soviets themselves have also stated that trust was important in SALT:

"The SALT II agreement presupposes mutual trust and the creation of an atmosphere of good will which would promote the improvement of relations between the USSR and the United States." [32]

"Trust" was therefore an important concept in SALT. However, recently published analyses of Soviet negotiating deception in May 1972, together with the massive Soviet camouflage and concealment efforts since 1972, and the Soviet record of questionable compliance with important provisions of SALT I, cast certain doubt on the concept of trust and good faith in the SALT negotiations.[33]

In fact, the Carter Administration is ambivalent about trust in SALT. In a State Department document released in 1978, the Administration contradicts itself on the issue of "trust." On page 8 the document states: ". . . confidence and trust . . . are important to mutual efforts to establish and maintain strategic arms limitations." [34] Five pages later the same document states: ". . . The United States does not rely on trust, on Soviet intentions . . . in assessing whether verification of a SALT agreement is adequate." [35]

Probably because the present Administration does not want to come to grips with the fact that there is now substantial evidence of Soviet deception and bad faith in SALT negotiating and compliance, the preamble to the SALT II Treaty contains absolutely no reference at all to trust. This omission is remarkable, and should raise important questions about the Treaty. The Administration now concedes that although we cannot trust the Russians, we can still "adequately" monitor, verify, and enforce Soviet compliance with SALT II. The question of Soviet negotiating and operational deception is ignored by the Administration, as are the problems of definng a violation and enforcing compliance.

The most serious problems with SALT verification, it should be recalled, do not really deal with the collection and monitoring of intelligence, although these are certainly important. The real problems are analysis and compliance enforcement. It does not do any good to collect good evidence on Soviet strategic activities, if we fail to analyze and understand it properly or to protest illegal Soviet actions.

We should also remember that collection and analysis takes years. It is misleading for the Administration to claim that SALT II will be "adequately" verified and enforced "promptly," and that all "significant" violations will be challenged, in light of the above examples of long delay, obfuscation, and U.S. tolerance of important SALT I circumventions by the Soviet Union. In fact, the available evidence suggests that U.S. SALT verification capabilities are inadequate, and that the intelligence bureaucracy charged with verifying Soviet compliance with any SALT agreement is an unreliable guarantor of our security.

The best indication of the unreliability of our intelligence process is the fact that the historical record of Soviet activities in SALT can be tampered with for political reasons by the White House. Both evidence and analysis of SALT verification issues have on occasions been suppressed within the U.S. intelligence community. As the Pike Congressional Committee reported in 1975:

"The spectre of important information, suggesting Soviet violation of strategic arms limitations, purposely withheld for extended periods of time from analysts, decision-makers, and Members of Congress, has caused great controversy within the Intelligence Community." [36]

And, as Admiral Elmo Zumwalt clearly demonstrated in his January 1976 Aviation Week article:

". . . in six cases cited by Chairman Pike, key intelligence items were withheld at Kissinger's direction for periods in excess of two months—in one case for almost six months." [37]

Moreover, Congressman Jack Kemp has noted recently that key "COMINT" (Communications intelligence) evidence related to the large size of the Soviet SS–19 ICBM and the Soviet commitment to its deployment was intercepted by the U.S. in May 1972. Kemp then notes the contradictions between Dr. Kissinger's assurances to Congress in June 1972, that the Soviets could not deploy heavy ICBMs in place of light ones, and the intercepted evidence. Kemp goes on to ask: "Was any vital evidence ever suppressed within the intelligence community, and did Dr. Kissinger have any role in this?" [38] The public statements of Dr. Kissinger in June 1972, juxtaposed against Congressman Kemp's analysis of the intercepted COMINT evidence, suggest either the suppression of intelligence information, the failure of intelligence analysis, or both.

The official unclassified report of the Senate Select Committee on Intelligence published on October 4, 1979, concerning the verifiability of SALT II confirms that:

"It is *clear* from the SALT I record that intelligence of possible Soviet violation of the Treaty [sic] *was*, in some cases, and for a time, *withheld* from Executive branch officials who had a need for such information." (Emphasis added.)

But the Senate Intelligence Committee has failed to require procedural changes in the Executive branch which would prevent intelligence from being withheld in the future from Executive and Legislative offices with a "need to know." Moreover, there are still no procedures to prevent information on Soviet SALT violations from being withheld from Congress. There have also been public reports that even Dr. Zbigniew Brezinski has participated in the suppression of a highly-classified CIA study on Soviet SALT deception.[39] Taken with the evidence presented above, one cannot avoid concluding that elements within the U.S. government have suppressed intelligence concerning Soviet non-compliance with all of the SALT-related accords. This suppression, in my opinion, constitutes a clear and present danger to our national security.

The obstacles thus posed to SALT verification, in general, and compliance enforcement, in particular, are compounded by two additional factors. First, there are now severe handicaps to intelligence collection and monitoring of SALT II which did not exist in 1972, when SALT I was signed. We now have to deal with Soviet encryption of missile telemetry, which began on a large scale in 1974. Further, since 1972 two expensive and important U.S. intelligence satellites, the "KH–11" and "Rhyolite," have been compromised by Soviet espionage.[40] KH–11 was an imagery collection system and Rhyolite was a signal intelligence collector. Indeed, Rhyolite's compromise may have occurred before 1974, and may have contributed to the Soviet decision to encrypt telemetry in the first place. The KH–11 compromise may have stimulated more and better Soviet strategic camouflage and concealments efforts. The U.S. also has lost the vital Iranian listening posts, and our intelligence facilities in Turkey are now also in jeopardy. Finally, the CIA Director stated in April 1979 that U.S. intelligence collection capabilities were at "a peak now." [41] This is consistent with other reports that budgetary constraints have forced a cutback in technical collection

---

Footnotes at end of article.

capabilities, just as SALT II would take effect.

Under SALT II, we will therefore actually have less collection capability than we had under SALT I, but the future verification challenge will in fact be much greater. SALT II entails both quantitative and qualitative constraints on offensive strategic weapons. These more ambitious constraints on weapons characteristics embodied in SALT II should, however, demand even better intelligence collection capability. SALT I's largely quantitative constraints on ICBM and SLBM numbers were a difficult enough challenge for U.S. intelligence. The reduced collection capabilities, together with the remaining quantitative and even more difficult qualitative constraints of SALT II, combine to make our verification capability inadequate to the task set.

Second, all realistic observers should agree, that enforcement of SALT compliance depends ultimately upon the relative balance of power between the U.S. and the USSR. The strategic balance, which is the subject of regulation in SALT, is itself the ultimate measure of power and therefore the means of compliance enforcement.

It is therefore highly relevant to understand that the strategic balance has shifted dramatically against the U.S. during the course of the 1969–1979 SALT decade. In 1969, when SALT began, there was an approximate parity between the U.S. and the Soviets in strategic forces, as measuered in numbers of delivery vehicles. Since then, however, the Soviets have added *over 1,000* new operational missile launchers and well over 200 Backfire bombers, while the U.S. has unilaterally maintained a constant number of missile launchers and has actually *deactivated* over 250 B–52 bombers. While the U.S. has added about 6,000 warheads since 1970, the Soviets will easily exceed the U.S. in warheads and in accuracy by the mid-1980's. Stated another way, according to well-known analyses by the CIA and RAND, the Soviets have spent over $100 billion more than the U.S. during the 1969–1979 period on strategic forces alone, about 250 percent of U.S. expenditures on strategic forces each year for ten years.

Thus, the present unfavorable strategic balance of 2,060 U.S. launchers to well over 2,650 Soviet launchers has already greatly reduced U.S. enforcement leverage in SALT I compliance. But of even more concern, as the Soviets surpass us in warhead numbers, accuracy, and counterforce capability, the balance will worsen against us further in the future. The Administration's own testimony on SALT II indicates that two of the three legs of our strategic Triad will be vulnerable to a Soviet first strike by 1985, the last year of SALT II. Our ICBMs already have become critically vulnerable in 1980, and our bombers will be vulnerable before 1985. Half our SLBM force is vulnerable now—that is the half in port—and even it will be drawn down soon. Our patrolling SLBMs could well be vulnerable even now, without our knowledge. Carter Administration testimony acknowledges that we will not be able to maintain "essential equivalence" throughout SALT II, and that we will soon move inexorably toward a "minimum deterrence" posture. The Carter Administration refuses to deploy Extremely Low Frequency communications to ensure SLBM survivability, and refuses to consider even one "strategic quick fix" such as deploying SLCMs on Polaris submarines.

In fact, fully within the terms of the SALT II Treaty, the Soviets may be able to achieve a form of strategic superiority. By 1985 they will be able to have 14,500 much more lethal strategic warheads, to our planned 11,900, plus 375 intercontinental Backfire bombers and thousands of other potential intercontinental delivery vehicles not counted in the SALT totals. Collectively, this adds up to counterforce supremacy. (These excluded delivery vehicles are composed of over 1,300 old stockpiled ICBMs, three classes of submarine-based ballistic and cruise missiles totaling over 350 launchers, hundreds of SS–20/16s, and test and training ICBM launchers.) The Soviets will have excluded from SALT II almost as many strategic launchers as in their first-line forces. U.S. strategic forces will be checkmated; mutual deterrence will have ended. But the Administration does not seem to recognize either this shift in the strategic balance or how it handicaps U.S. enforcement of Soviet SALT compliance. In fact, enforcement of Soviet compliance will become ever more difficult as the strategic balance continues to shift against us in the future.

The Soviets, however, recognize very well both the shift in the strategic balance and the advantages this shift gives them. Their concept of global power is the "correlation of forces," which includes military, political, economic, social, and psychological factors. They also know that the correlation of forces shifted in their favor in about 1971, as their military literature points out clearly.

CONCLUSION

The basic problem with verification is the integrity of the intelligence analysis and dissemination process. This is inherently a very fragile process, and damage to its integrity, timeliness, and accuracy is extremely dangerous. Evidence should never be suppressed. Competing and dissenting analysis must be brought to the attention of our policymakers. Common sense, the "American way," and the need for duplication of functions and debate within the intelligence community suggest that dissent and competitive analysis should be encouraged, rather than being penalized as is so often the case. Evidence that is withheld distorts intelligence analysis, and delays in reporting findings prevent recognition of Soviet deceptions, as the record of SALT I verification efforts clearly indicates.

Second, even without considering the suppression and distortion of intelligence regarding Soviet compliance with SALT, it is readily apparent that the record of U.S. intelligence collection and analysis in counting the numbers of both Soviet ICBMs and SLBMs, the main quantitative constraints of SALT I, is not good. In fact, U.S. intelligence miscounted both of these levels during SALT I, and the bias was to underestimate as throughout the 1960's. These heretofore unrevealed miscounts were the result mostly of bad analysis. Our declining collection capabilities suggest that such errors are all too likely to be repeated in the future.

Third, we have seen that there are long delays in the analysis of Soviet SALT compliance. Collection, analysis, and enforcement are in fact not prompt, despite Administration claims. In three cases it took respectively seven, three, and two and one-half years after detection to "resolve" a compliance question. Of even greater importance, after these long delays final resolution of all significant compliance problems amounted to U.S. acquiescence in Soviet circumvention or violation. The Soviets themselves have also falsified basic data in SALT negotiations and compliance, and they have officially lied to the U.S. several times. The U.S. has only once challenged Soviet falsification, but the Soviets evidently never corrected the record or rectified the situation.

Finally, U.S. enforcement leverage is also weak and declining. U.S. collection and analysis of Soviet SALT violations are meaningless if the Soviets cannot be forced to comply. Enforcement leverage is the single most essential factor in verification, yet this is where we are the weakest. This is a function of U.S. strategic and political weakness vis-a-vis the Soviets. U.S. enforcement leverage has, in fact, decreased over time, and may continue to decline in the future as the strategic balance itself continues to shift in favor of the USSR. During the 1970's the Soviets were able to violate with impunity by deploying strategic offensive weapons in Cuba the 1962 agreements ending the Cuban Missile Crisis and the Cienfuegos Agreement of 1971, largely because of this shift. For much the same reason, the U.S. has backed away from three significant U.S. SALT I abrogation threats made in 1972, despite clear-cut Soviet action which the U.S. warned would cause our abrogation. The Soviets in fact went ahead and did all three of these things, but the U.S. did not even protest.

The Soviets have thus taken advantage of the shifting strategic balance and of the failure of U.S. political will to circumvent or openly violate the principal strategic arms limitation agreements reached to date. There is no reason to assume that the U.S.S.R. will treat the proposed SALT II accords any differently. Indeed, the decline in U.S. intelligence collection capabilities (which hinders detection of violations) and in U.S. strategic capabilities (which inhibits compliance enforcement) suggest that the Soviets will be both more inclined to violate SALT II, and better able to do so successfully, than was the case with SALT I. The consequences of such Soviet behavior could be disastrous for the U.S. and must be averted at all costs.

The present compliance situation regarding SALT II is now quite explicit. The U.S. has publicly pledged full compliance with the provisions of both SALT I and SALT II pending Senate ratification of SALT II. The Soviets, on the other hand, have twice publicly disavowed their legal obligation under international law not to do anything to defeat the object and purpose of SALT II pending its ratificatioin. The Soviets have thus explicitly stated their intention not to comply with SALT II. Moreover, their strategic force operations since the invasion of Afghanistan are fully consistent with this Soviet posture of noncompliance.

First, in January 1980 according to several public aerospace industry reports, the Soviets tested their new "Typhoon" SLBM with over 70 percent encryption (encoding) of its radioed telemetry signals. This should be regarded as a direct violation of SALT II provisions requiring that the Soviets not use "deliberate concealment" measures to impair U.S. ability to determine whether they are testing "heavy" SLBMs.

Second, according to an Evans and Novak column of May 18, 1980, and a New York Times news report, the Soviets have physically concealed with a canvas tarpaulin part of a newly launched huge submarine which may carry the Typhoon SLBM. This concealment reportedly may hide Typhoon missile launchers. In any case, it arguably violates the SALT II provisions which require that the Soviets allow the U.S. to be able to establish the relationship between new missiles and their launchers by refraining from concealment of either.

FOOTNOTES

[1] See the articles on this subject in *International Security Review*, Vol. IV, No. II, Summer 1979.

[2] This was the central argument of Carnes Lord, "Verification and the Future of Arms Control," *Strategic Review*, Spring 1978.

[3] Senator Jake Garn, "The Suppression of Information Concerning Soviet SALT Violations By the U.S. Government," *Policy Review*, Summer 1979, pp. 30, 31; Congressman Jack Kemp, "Congressional Expectations of SALT II," *Strategic Review*, Winter 1979, p. 23; Senator Jake Garn, "The SALT II Verification Myth," *Strategic Review*, Summer 1979, pp. 19, 20; Evans and Novak, *Washington Post*, Dec. 14, 1979.

[4] Ibid.

[5] See David S. Sullivan, "The Legacy of SALT I: Soviet Deception and U.S. Retreat,"

Strategic Review, Winter 1979; David S. Sullivan, "A SALT Debate: Continued Soviet Deception," *Strategic Review*, Fall 1979; David S. Sullivan, *Soviet SALT Deception*, Coalition for Peace Through Strength, December 1979; Garn, *Policy Review*, pp. 30, 31; Kemp, *Strategic Review*, p. 23; Garn, *Strategic Review*, pp. 19, 20. See also Jack Anderson, "Vance Credibility On Line Over SALT," *Washington Post*, September 21, 1979; Rowland Evans and Robert Novak, "A Pattern of Selective Cheating," *Washington Post*, October 3, 1979; Rowland Evans and Robert Novak, "Verifying the Verification Report," *Washington Post*, October 7, 1979.

[6] Garn, *Policy Review*, pp. 30, 31; Kemp, *Strategic Review*, pp. 19, 20, implicit in SALT II Treaty text; Jack Anderson, "How the U.S. Monitors Soviet Arms," *Washington Post*, September 15, 1979; Nicholas Daniloff, "How We Spy on the Russians and Monitor SALT," *Washington Post*, December 9, 1979.

[7] Sullivan, *Strategic Review*, Winter and Fall 1979; Sullivan, *Soviet SALT Deception;* Garn, *Policy Review*, pp 30, 31; Kemp, *Strategic Review*, p 23; Garn, *Strategic Review*, pp 19, 20; see also Richard Burt, "U.S. Report Says Soviet Attempts Deception on its Nuclear Strength," *The New York Times*, September 26, 1979, p 4.

[8] *Military Implications of the Treaty on the Limitations of Anti-Ballistic Missile Systems and the Interim Agreement on the Limitation of Strategic Offensive Arms*, Hearing before the Committee on Armed Services, U.S. Senate, 92nd Congress, June–July 1972, p 544.

[9] Bernard Weintraub, "Pentagon Aides Say Moscow Has Mobile Missiles Able to Reach Us," *The New York Times*, November 2, 1977; Sullivan, *Strategic Review*, Fall and Winter 1979; Sullivan, *Soviet SALT Deception;* Kemp, *Strategic Review*.

[10] Sullivan, *Strategic Review*, Winter and Fall 1979; Sullivan, *Soviet SALT Deception;* Garn, *Policy Review*, pp 30, 31; Kemp, *Strategic Review*, p 23; Garn, *Strategic Review*, pp 19, 20.

[11] William T. Lee, *Understanding the Soviet Military Threat: How the CIA Estimates Went Astray* (National Strategy Information Center, 1976), p 43.

[12] State Department SALT Compliance "White Paper," February 1978.

[13] Garn, *Policy Review*, implicit in SALT II Treaty.

[14] Sullivan, *Strategic Review*, Winter and Fall 1979; Sullivan, *Soviet SALT Deception;* Garn, *Policy Review*, pp 30, 31; Kemp, *Strategic Review*, p 23.

[15] *Air Force* Magazine, September 1979, p 24.

[16] *SALT II Reference Guide*, The White House, Spring 1979, questions and answers.

[17] *Washington Post*, June 18, 1979, p A14; *Air Force* Magazine, September 1979, p 22; Rowland Evans and Robert Novak, "Violations of the Test Ban?," *Washington Post*, September 1979, p 5: *Congressional Record*, September 5, 1979, p. 23124.

[18] Senate Foreign Relations Committee, *Hearings on SALT II*, July 11, 1979, afternoon, pp 92–94; *The New York Times*, August 6, 1979; *ABC News*, July 20, 1919; *Washington Post*, August 1, 1979, p A21; William Safire, "The MiGs of April," *The New York Times*, April 1979; Statement by Dr. Kissinger to Senate Armed Services Committee, July 1979; *Air Force* Magazine, September 1979, p 22; "Soviet Brigade: How the U.S. Traced It," *The New York Times*, September 13, 1979; *ABC News*, October 1 and 5, 1979.

[19] Bernard and Marion Kalb, *Kissinger* (Boston: Little Brown, 1974), p 320.

[20] *Pravda*, August 7, 1978, quoted by Rostislav Tumkovskiy in "Soviet-American Talks on the Limitation of Strategic Arms," *Voprosy Istorii*, March 1979.

[21] Garn, *Policy Review*, pp 30, 31; Kemp, *Strategic Review*, p 23; Garn, *Strategic Review*, pp 19, 20, implicit in SALT II Treaty text; Anderson, *Washington Post*, September 15, 1979; Daniloff, *Washington Post*, December 9, 1979; see also Raymond L. Garthoff, SALT and the Soviet Military," *Problems of Communism*, January 1975.

[22] Sullivan, *Strategic Review*, Winter and Fall 1979; Sullivan, *Soviet SALT Deception;* Garn, *Policy Review*, pp 30, 31; Kemp, *Strategic Review*, p 23; Garn, *Strategic Review*, pp 19, 20; Burt, *The New York Times*, September 26, 1979, p 4.

[23] Department of State, Analysis of SALT II Treaty, Selected Documents Number 12A, p 19.

[24] Department of State SALT Compliance "White Paper," February 1978.

[25] Ibid.

[26] Sullivan, *Strategic Review*, Winter and Fall 1979; Sullivan, *Soviet SALT Deception;* Garn, *Policy Review*, pp 30, 31; Kemp, *Strategic Review*, p 23; Garn, *Strategic Review*, pp 19, 20; Anderson, *Washington Post*, September 21, 1979; Evans and Novak, *Washington Post*, October 3, 1979; Evans and Novak, *Washington Post*, October 7, 1979.

[27] *Air Force* Magazine, January 1979, p 18.

[28] Department of State SALT Compliance "White Paper," February 1978.

[29] *Air Force* Magazine, November 1979, p. 22; see also Sullivan, *Strategic Review*, Winter and Fall 1979; Sullivan, *Soviet SALT Deception*; Garn, *Policy Review*, pp. 30, 31; Kemp, *Strategic Review*, p. 23; Garn, *Strategic Review*, pp. 19, 20; Anderson, *Washington Post*, September 21, 1979; Evans and Novak, *Washington Post*, October 3 and 7, 1979.

[30] Department of State, Selected Documents Number 7, August 1979, p. 5.

[31] Congressman Jack Kemp, "The SS–19 and the New Soviet 1CBMs Vis-a-Vis SALT," *Congressional Record*, August 2, 1979, p. 22493.

[32] *Izvestiya*, May 6, 1979.

[33] Sullivan, *Strategic Review*, Winter and Fall 1979; Sullivan, *Soviet SALT Deception*; Garn, *Policy Review*, pp 30, 31; Kemp, *Strategic Review*, p 23.

[34] Department of State, Selected Documents Number 7, February 1978, p 8.

[35] Ibid., p 13.

[36] Garn, *Policy Review*, pp 30, 31.

[37] "Zumwalt Disputes Policy on SALT," *Aviation Week and Space Technology*, January 19, 1976, p 46.

[38] Kemp, *Congressional Record*, p E4076; see also David Kahn, "Cryptology Goes Public," *Foreign Affairs*, Fall 1979, p 148.

[39] *Defense/Space Business Daily*, November 5, 1979, p 70.

[40] Robert Lindsay, "Soviet Spies Got Data on Satellites Intended For Monitoring Arms Pact," *The New York Times*, April 29, 1979, p 1.

[41] *Aerospace Daily*, April 16, 1979, p 226.●

ZIMBABWE, SOUTHERN AFRICA, AND THE RISE OF ROBERT MUGABE

● **Mr. McGOVERN.** Mr. President, one of the world's thorniest foreign policy problems was resolved this year with the British-run election in Zimbabwe. Robert Mugabe was elected as Prime Minister under a majority rule constitution that had been negotiated with all parties last year. The election was a momentous event of historic importance for southern Africa.

Since Mr. Mugabe has come to power, the West has taken a second look at the man who was once labeled a "Communist terrorist." They now find that, contrary to popular impressions, Mr. Mugabe is very much his own man—suspicious of the Soviets, receptive to the West, and open to foreign private investment. Why this sudden turnaround? What is its significance for Africa and the West?

In a comprehensive analysis of the Zimbabwe situation, Xan Smiley has written an insightful article in the summer issue of Foreign Affairs, which discusses these issues. Although he has no illusions about the problems that lie ahead, Mr. Smiley states that:

> Against the odds predicted a year ago, Mugabe has initially shown a remarkable and willing flexibility in his dealings with the West. It would be foolish if the West—in particular the United States and Britain—failed to respond with as much economic and political sympathy as it can muster.

Mr. President, I ask that this article be printed in the RECORD.

The article follows:

ZIMBABWE, SOUTHERN AFRICA AND THE RISE OF ROBERT MUGABE

On April 18, a British Tory government, by repute the most conservative since Hitler's war, handed over the last substantial British colony, Southern Rhodesia, to a professed Marxist, Robert Mugabe, with the Prince of Wales officiating at the ceremony. When the British Prime Minister, Margaret Thatcher, witnessed the all-party signature to the terms decided at Lancaster House, she can hardly have wished for such an outcome, and yet—with only a few ultraconservative backbenchers demurring—the final decolonization process was nevertheless hailed on both sides of the House as a triumph for the British premier whom the Russians call "the Iron Lady."

Mugabe himself declared that he had come to hold the outgoing British governor, Lord Soames, in admiration and "even love." President Samora Machel of Mozambique, himself also a self-styled Marxist-Leninist, labeled Thatcher the "best British Prime Minister for 15 years." Lieutenant General Peter Walls, Ian Smith's military commander through most of the vicious pre-independence war, had held at least two meetings shortly before the election—one with senior industrialists, another with senior military personnel in the Joint Operational Commands—to proffer reassurances that a Marxist government would never come to power. The day after the election result, however, he accepted Mugabe's offer to remain at his post as Commander in Chief of the armed forces, with Mugabe's guerrilla commander, Rex Nhongo, as Chief of Staff. The outgoing Chief Justice, Hector Macdonald, known in nationalist circles as "the hanging judge" and certainly the most prolific pronouncer of the death sentence in the contemporary West, with due pomp swore in the Reverend Canaan Banana as President of the new state of Zimbabwe. Of greater moment in this series of ritual exchanges, which two years ago would have seemed macabre and unthinkable to the whites and surreal to the blacks, was the concurrence of South Africa, which a mere few weeks before the election had hinted broadly at armed intervention to "forestall chaos north of the Limpopo." Deciding to accept Mugabe—temporarily, at any rate—the Afrikaner republic fast fell back on stressing the need for regional cooperation, mindful of Rhodesia's utter reliance upon South Africa's economic support since 1965, and mindful too of the vital economic tasks that Pretoria gladly performs for several other black African states.

But, as a sharp and telling rejoinder to the Afrikaner concept of a "constellation" of southern African states centered around South Africa itself, the African front-line states gathered together a group of nine black states—including the emergent Zimbabwe, plus South Africa's friendliest colleague, Malawi, and the "island" state of Lesotho—to declare a fresh determination to rid themselves cooperatively of economic dependence upon South Africa.[1] In further response, South African journals, even those like *Die Transvaler* and *Beeld*, which are close to government, began increasingly to recognize that no black state could ever encourage any form of contact, let alone formal links, so long as apartheid remains; and they continued to appeal for a further softening of the laws of "separate development".

Mugabe's victory threw a tantalizing question mark, too, over the economic and political future of Zimbabwe's chief neighbors, Zambia and Mozambique. Can a one-party system retain the political vitality to satisfy the needs of a growing black technocratic elite? Certainly that group is becoming restive in Zambia. Similarly, it is being asked increasingly whether a broadly nationalized economy such as Mozambique's can cope with the consumer demands even of a relatively unsophisticated population. As Mugabe appeared ready to accept a mixed economy in Zimbabwe, with a very strong private sector including large white farms and mining ventures owned by foreign capital, so President Machel in Mozambique began to veer sharply away, in rhetoric at any rate, from a strict adherence to Marxist economic principle, despite strong official denials to the contrary.

Finally, the clear-cut nature of victory for Mugabe and the most militant-sounding nationalist faction threw into sharp focus the question of white survival in a continent that must eventually be entirely black-governed. How will the whites in Zimbabwe manage, and what effect will their ensuing welfare have upon their far more numerous counterparts in the white citadel to the south?

How Mugabe governs will provide many clues to such questions. After South Africa and Nigeria, Zimbabwe probably has the most powerfull all-round economy in Africa. Its economic and political development will have a compelling effect both on South Africa and on the diverse set of neighboring black states, ranging from Mozambique to the rigorously authoritarian and pro-Western state of Malawi. In Zimbabwe, it is possible that a greater concentration of power will gradually devolve upon Mugabe himself. It is thus no overstatement to say that he himself has become a critical factor in southern Africa and in Africa as a whole.

Mugabe's rise to power inside the Zimbabwe African National Union (ZANU), as much as in Zimbabwe itself, is a remarkable history of skill and determination. During the prime years of his life, the only activity he could undertake, due to a ten-year spell in prison and detention from 1964 to 1974, was study.

As is well known, he achieved several scholastic successes, mainly in the fields of law and politics. But he was necessarily divorced from outside party activity. From 1970 onward, however, the personality and tactics of the ZANU leader, Reverend Ndabaningi Sithole, who was also in detention, fell under growing criticism from his closest party colleagues imprisoned alongside him, and they in a so-called prison coup (and by a vote of just three to one), replaced him with Mugabe.

But it took several years for Mugabe to convince the party inside Zimbabwe, the front-line states, or the guerrillas themselves that his claims to leadership were just. So he came to party power not through a broad consensus, nor through any widely conducted election.

Furthermore, he was released in December 1974 at a time when the party was experiencing its worst-ever factional infighting, culminating in March 1975 in the assassination of former chairman Herbert Chitepo. Just a few days before that event, Mugabe had slipped secretly into Mozambique, having enjoyed only three months of freedom to assess the needs of his country from outside the walls of prison.

At first President Julius Nyerere of Tanzania refused to acknowledge Mugabe's proclaimed leadership. Machel actually kept Mugabe under virtual house arrest for several months. By the time of the Geneva Conference in the fall of 1976, Mugabe had made some headway in the guerrilla camps, but many guerrillas in the field inside Zimbabwe did not by then recognize him as leader. Some had only recently left eastern Zimbabwe under the auspices of Bishop Abel Muzorewa, who was encouraging them to take up arms in Mozambique. Others still looked at Sithole, while some owed a stronger, direct allegiance to their independent-minded camp commanders, or simply said they were "fighting for Zimbabwe, not for individuals."

When Mugabe came to Geneva, guerrilla leaders like Josiah Tongogara, who had recently been released from over a year in Zambian prison in connection with the Chitepo catastrophe and had therefore had little if any contact with Mugabe for at least 12 years, gave the impression of treating him with distant respect rather than obeisance. The guerrillas tended to refer to him as "spokesman" rather than Secretary General (the post he held under Sithole) or Acting President. After the abortive conference, the guerrilla leadership was further confused because most of the newer, younger men who had displaced Tongogara in Mozambique during his Zambian prison period were themselves ousted and imprisoned in Mozambique shortly after his return there. A year later, in early 1978, another series of guerrilla arrests in Mozambique occurred, due to a variety of internal differences based on tactics, ethnic factors, personality and professed ideology. The party, especially the military wing, was in disarray, and relations between the military and the politicians were ticklish.

But by 1979 Mugabe had clearly managed to assert himself over the guerrillas and had begun to restructure the party. He had strengthened the central committee with a number of coopted members and had made the military more directly answerable to the politicians.

The April "internal settlement" election bringing Muzorewa to the premiership was, nevertheless, a setback for Mugabe, mainly because the turnout (variously estimated at between 50 and 63 percent) contradicted his and the guerrillas' claims that their own military superiority would prevent almost everyone from voting, whatever pressures and intimidation would be brought to bear by the Smith-Muzorewa government. In sheer military terms, the election showed that the organizational capacity of the internal government, still orchestrated by the whites, was undeniably functional and the regime still resilient. The frontline states took note, and became gloomily aware that the guerrilla campaign could take some years to complete.

Muzorewa, however, soon proved highly inept at trying to maneuver himself outside the control of the white bureaucracy and armed forces, and indeed seemed willing both to adopt much of the old regime's crude anti-Marxist rhetoric and to become most evidently beholden to South Africa. Mugabe's guerrillas, assisted both by the clumsiness of Muzorewa in failing to achieve greater political advances and equally by Smith and the whites in their reluctance to give blacks some of the material rewards that could have gained Muzorewa more support, soon proved that they would never be beaten on the battlefield unless the white supremacist apparatus was dismantled. Mugabe found it easy to reassert himself.

Thus by September 1979, when the Lancaster House conference began, Mugabe had over just four and a half dangerous years shown the utmost delicacy in ensconcing himself at the head of ZANU, both politically and militarily. The stamina of his guerrillas was proven, but both sides were near exhaustion. The morale of many guerrillas must have been low, for their casualties were persistently far heavier than those of the white-led security forces. Probably over a quarter of all cadres committed to the bush had perished. Though the guerrillas had effectively captured most of the rural hearts and minds and had almost paralyzed the administration, the white-led forces had never been beaten in conventional contracts and strikes.

In addition, several of the front-line states, principally Zambia and Mozambique, had reached a pitch of economic hardship that only peace in Zimbabwe was likely to end. Thus they were determined that Mugabe and his fellow guerrilla-backed leader Joshua Nkomo of the Zimbabwe African People's Union (ZAPU) should make maximum concessions in order to gain a political settlement that might enable them to assume power through the ballot box.

So when Mugabe entered the conference, he had incontestably become the dominant nationalist figure, because his guerrillas, rather than Nkomo's, had borne the greater share of the fighting and were—for the first time—clearly under Mugabe's control. The party had itself achieved its greatest stability in years. Yet the forces opposed to Mugabe outside the country were many. The unstinting support of the front-line states, it was becoming apparent, could not be relied upon forever. Of those states, Zambia had never been especially sympathetic to Mugabe, and Nkomo had retained the stronger international links in the Organization of African Unity (OAU) and at the United Nations, with the Soviet Union and Western multinationals, and with whites inside Zimbabwe.

South Africa seemed committed to hoisting Muzorewa somehow into power as leader of a client state. Above all, a British government had come to office clearly ill disposed toward Mugabe's self-proclaimed Marxism. All these forces were essential in forcing Mugabe to accept a transitional arrangement and constitutional terms which the ZANU party rhetoric of the past had seemed unlikely to countenance.

Relations between Mugabe and the British Tories were a remarkable aspect of the conference and of the pre-election run-up; in the upshot they suggested that authoritarian, patrician Western politicians may on occasion be better placed to do political business with tough, avowedly left-wing African leaders than are many of those Western politicians more obviously committed to the causes of black liberation in Africa. Indeed, it was notable that the front-line leader with whom Britain most happily cooperated was Mozambique's Machel, rather than Kaunda or Nyerere, two front-line leaders long accustomed to dealing with figures from the West. Occasionally the Zimbabwean nationalists—especially Mugabe's ZANU—found Lord Carrington, British Foreign Minister and chairman of the conference, high-handed but in the end the Tory handling of the negotiations, firm and abrasive to a degree that could be described as aggressive, paid dividends.

Even though any claim to British sovereignty over Southern Rhodesia struck an inevitably loud note of imperial illusion, the Tories did seem more prepared than previous governments to assume what responsibility Britain still had. By contrast, Labour, under the direction of Dr. David Owen as Foreign

---

[1] The nine were Angola, Botswana, Lesotho, Malawi, Mozambique, Swaziland, Tanzania, Zambia and Zimbabwe.

Minister, had been keen to devolve the task to a large extent upon third parties, mainly the United States and the United Nations. Indeed, it was against strong resistance from colleagues in his own cabinet, including the then Prime Minister James Callaghan, that Owen had dragged out a promise for a battalion of British troops to participate in a U.N. peacekeeping force in Zimbabwe.

The Tories, though equally loath to commit troops to a potentially dangerous area, were anxious to remove U.N. and overt American participation, which had made the white Rhodesians and South Africans reluctant to cooperate.

The Tories, moreover, were much less shy about admitting that any settlement in Rhodesia needed the active compliance of Pretoria. This British readiness to reassert responsibility, (even if it was more a matter of style than substance, since "self-government" [i.e., white autonomy] had been granted to Southern Rhodesia back in 1923), gave the Tory conference team additional and necessary bargaining bite.

Carrington also had an advantage over a Labour government operating under similar conditions in that the Smith-Muzorewa tandem knew that no other British government would ever offer better terms. (In fact, Smith was intent on holding out for softer terms from Britain, but he was isolated by both black and white colleagues, and his protestations were scornfully shrugged off by Carrington.)

There could be none of the "Let's hang on until a Tory government gets in" which had dogged Owen's attempts at a settlement. Similarly, when Owen, in negotiations with the black exile nationalists over the Anglo-American proposals, declared that he "would not accept a veto from anyone," the black nationalists rightly sensed that he was bluffing. The Labour Party, because of pressures on the Left, would never under any circumstances have backed any scheme without the support of both guerrilla groups. It was an inevitable and serious flaw in Labour's bargaining capacity.

Though Carrington's ruthless negotiating tactics were skillfully deployed, it must be stressed that the successful Tory attempt at mediation was also blessed with fortunate timing that had been denied to Owen two years before. The pressures had mounted since then, so that the squeeze against both sides had never been so acute. The war had driven the bishop, Smith and the white machine into an ever more desperate bargaining position—as had not been the case, for instance, at Geneva in 1976. Similarly, the economic near-paralysis of the front-line states exerted sharper pressures on Mugabe and Nkomo than ever before. When the Lancaster House conference opened, the time for a settlement was at last ripe.

What did finally clinch the deal was the brinkmanship of Carrington under the direct instruction of Prime Minister Thatcher. The British Foreign Office talked unofficially about the "first class" solution and the "second class." The first involved all parties; the second involved Britain, the internal parties and perhaps also Nkomo, but minus Mugabe and his guerrillas. Ultimately, it was Mrs. Thatcher's threats and determination to stick to what she felt was a matter of principle—based, her detractors would argue, on ignorance of the probable bloody consequences—and plunge into the second class solution, if need be *without* Mugabe, that actually pressed the latter into acceptance.

It was the probably justifiable belief of Mugabe that Thatcher and Carrington might actually go *over* the brink that caused her brinkmanship to succeed. Even at the last hurdle, when Mugabe was extremely hesitant in accepting the unofficially termed "Walls Plan" (whereby the guerrillas were to be corralled inside around 15 assembly points vulnerable to air attack, and in the border regions of Zimbabwe, thus perhaps giving the impression of guerrilla retreat), it was Britain's peremptory decision to dispatch to Salisbury the Governor-designate, Lord Soames, that may, in Carrington's phrase, have prevented "the ball from unravelling."

If the guerrillas had not subsequently signed, Britain could have found itself in Rhodesia technically fighting a massive guerrilla insurgency with almost no British troops and with every chance of international opprobrium. And it should finally be added, as a serious qualification to Britain's skill, that the Tory government—perhaps duped by Rhodesian intelligence—was under the illusion that Muzorewa would win the planned election. (In that case, the vulnerability of the guerilla assembly points would probably have been brutally proven. It would not have been difficult for a winning Muzorewa government to find a pretext for obliterating them as soon as possible after an election.)

Mugabe did not, of course, welcome the rather bullying British conference technique, wherein, even before the agreement was signed, Britain appeared to be harassing the guerrilla parties, while Muzorewa and the whites meekly accepted the new British "authority." The front-line presidents publicly complained of Britain's hard-faced, high-risk approach, but when Mugabe flew to Dar es Salaam in mid-December, resolved to hold out against the Walls Plan after Walls and the bishop had already gone home to embark upon electioneering and military arrangements, the front-line presidents—in particular, Machel—told the guerillas to take the risk and sign. It was an undoubted triumph of British diplomacy.

The hectoring manner adopted toward Mugabe's party by Salisbury's new British administration, manned by much of the same staff whose approach had succeeded at Lancaster House, continued when Britain took over the trappings of formal power in Rhodesia. Right from the start, in an attempt to assert what influence he had, and perhaps over-conscious of the frail artificiality of his position as ruler in name more than in substance, Soames appeared intent on showing the guerillas that he would brook no dissent whatever. It is certain that the guerrillas, conscious, of their new vulnerability in the designated assembly points after years of freely flouting the laws of the illegal regime, decided to keep a proportion of hardened men at large in the villages for electioneering.

Muzorewa, equally keen to ignore inconvenient aspects of the agreement, showed little inclination to allow his armed "auxiliaries," numbering between 16.000 and 25,000 and in theory part of the white-led national security forces, to be monitored by the Commonwealth forces or to be confined to base. Indeed, they roved the countryside, many of them intimidating civilians they suspected of supporting Mugabe.

(The auxiliaries kept a low profile in Matabeleland, where the pro-Nkomo vote was a foregone conclusion.) But the British administration seemed sensitive only to guerrilla breaches of the agreement, arguing that auxiliaries were not in fact partial to the bishop and that many of them were gainfully employed in "community activity" such as repairing roads and cattle-dipping tanks.

Furthermore, within a fortnight of Soames's arrival, security forces were deployed to attack "unlawful" guerrillas (i.e., those who had failed to report to the assembly points by the allotted deadline), and offers by Nkomo's and Mugabe's parties to send out their own forces, in concert with the monitoring forces, to round up the recalcitrants, were rejected.

To the African people it began to look, early on, as if Soames was biased against Mugabe. Nkomo's guerrillas were generally praised by the British for their discipline, which was indeed of a higher order than that of their ZANU counterparts, but the alacrity with which Soames and his administration appeared to congratulate Nkomo soon began to smack of a desire to accept Nkomo into government without Mugabe.

There was a strong lobby in Government House that wanted to ban Mugabe from contesting the election in large areas of the country. It was certainly true that many of his guerrillas were intimidating civilians. And the battle-hardened guerrillas, though fewer than the auxiliaries, were probably more effective, in view of their longtime dominance over the civilians and genuine sympathy among them. But it seemed that the sins of Muzorewa's bullies and the old Rhodesian administration's obvious connivance in (or deliberate failure to notice) acts of sabotage, forgery and attempted assassination were all occurring without the same gubernatorial wrath.

The British administration, inevitably over-reliant upon the old bureaucracy that had served Smith so efficiently, and over-credulous of the Rhodesian intelligence and information services, was strangely insensitive to the Zimbabweans' hopes that is would assert what little authority it had over the white establishment, and start to redress the most obvious wrongs of the past. The British were reprehensibly slow to release political detainees, arguing that those Africans convicted of technically criminal offenses but motivated by reasons of war could not be classified as "political." At the time of the election, at least 2,000 people were still being detained. Similarly, the British appeared slow to accelerate the refugees' return, which was obstructed by the existing Rhodesian administration.

Nor did Soames seem keen to shake the bureaucracy into assisting the exile parties, especially Mugabe's, by granting them the public services enthusiastically given to the Muzorewa team. A small but telling example was the failure of the post office, a mere two weeks before the election, to connect Mugabe's telephones at party headquarters.

What further lowered Britain's reputation for impartiality in the eyes of most Africans and the outside world was the extraordinary decision to allow South African troops to remain in Zimbabwe, in clear breach of Lancaster House. British arguments, logical yet politicially nonsensical, that the presence of the South Africans—a mere few hundred just north of Beit Bridge, the border across the Limpopo—"would not affect the election" showed a remarkable ignorance of the most powerful symbols of hatred in black Africa. On January 30, three weeks after the South African presence was admitted, the force near the bridge withdrew, though over a thousand recent "volunteers" remained as part of units integrated into the old Rhodesian Army.

In defense of Soames, it must be conceded that his readiness to be lenient to the South Africans and the white-led security forces was largely motivated by the fear that Pretoria might at any time intervene militarily or that the white-led forces might revolt, should the British appear lax toward the guerrillas and their political representatives. It is true that the independent-minded security forces were itching to "have a go" at the assembly points on the slightest pretext, and Soames felt consistently obliged to "throw crumbs at the whites" (as a senior British official put it) to ensure that no mutiny took place.

In any event, the Soames policy was proven by its successful outcome—the holding of a reasonably free and fair election. This did add weight to his claim that it was of paramount importance to keep the South Africans and the white Rhodesian establishment quiescent at all costs, even if by so doing it appeared that Britain was partisan against the interests of Mugabe. But Soames could probably have called the white bluff rather more often than he did, in the interests of winning black goodwill, which could have been crucial after the election.

More pertinent is the question of what would have happened in the event of the indeterminate election result predicted by most observers. For Britain was undeniably all set to see Nkomo lead a coalition government even if Mugabe had won the most seats. Even if Mugabe had won 40 of the 80 black seats in the 100-strong assembly, it is highly possible that Nkomo would still have been asked by Soames to lead a government.

The Constitution was quite clear. Soames was perfectly entitled to ask any politician who, in the Governor's view, could "command a majority in the assembly."

Holding the middle ground as the man best able to win support from the widest spectrum of parties, Nkomo could, by refusing to join a government as second fiddle to Mugabe, have made it impossible for Mugabe to lead a government. Had Mugabe won over 40 but under 50 seats, it is probable but not certain that he would have been able to take the premiership with the compliance of Nkomo. Anything less and the British clearly hoped for a coalition government of national unity, led by Nkomo but including both Mugabe and Muzorewa. If Mugabe had rejected second place in a coalition, Britain would simply have granted power to an Nkomo-led coalition without him.

If Mugabe had been excluded, bloodshed would almost certainly have ensued on a worse scale than before. With a possible wavering of Mozambique's support for Mugabe, a Zambia-Nkomo-Muzorewa-South Africa axis of forces might have succeeded bloodily in imposing itself, but the likelihood is that it would have fallen apart in the face of guerrilla retrenchment. Even if it had succeeded, the emergent coalition would have been incalculably more accident-prone, unstable and ill equipped to govern than the party that actually emerged under Mugabe. For the driving desire of most Zimbabweans was not for a particular ideology, but simply for peace, and the eradication of inequities in their society. The near total failure of Muzorewa in his ill-contrived brief courtship of guerrillas, followed by attempted repression of them after the April 1979 election, told the people plainly that peace would only come with a guerrilla victory either in battle or at the polls.

The Ndebele and related Kalanga voted en masse for Nkomo, but (with around 19 percent of the total population) gave him only 20 seats. The Shona majority voted almost as a community and swung wholeheartedly behind Mugabe, giving him a resounding 57 seats—with only 3 for Muzorewa. It was obvious, whatever the threat of more war, that Muzorewa had lost the confidence of the people and that Mugabe, by his articulate reasonableness and conciliatory appeals before and after the election, was gaining that trust by the day. The logic of villagers and townspeople was proven right: peace returned almost overnight.

Soames' manner of governance before the election—severity toward Mugabe, leniency toward the whites and Muzorewa—was remiss in certain already stated respects but it did successfully steer him along the tightrope toward his first vital goal: the actual holding of the election. Thereafter, his real skill manifested itself in his swift recognition that Britain's sole recourse was the rapid if tardy befriending of the victor, Mugabe. Soames brilliantly succeeded in establishing a remarkable rapport with the black leader. It was fortunate for the British governor that the subordination of the victor's professed ideology to pragmatism soon became clear.

For Britain and Soames, the stunning landslide victory became a blessing in disguise, for the political contortions and probable wrangling and international odium that would have accompanied a coalition-building process were all mercifully avoided. The rancor and blunders of the past were soon forgotten, along with Muzorewa and Smith. Soames' reputation soared. And it will be an enduring irony that in international terms, the reputations of Soames, Carrington and Thatcher were hugely boosted by the overwhelming magnitude of Mugabe's victory, which they had never intended. Soames' miracle was wrought with as much luck as skill.

Despite the history of bitterness and oppression in Zimbabwe and the internal violence within Mugabe's own party, the omens at his advent to power were more propitious than can ever have been expected. In the preceding two years he had achieved a greater measure of stability within the party than ever before. The black middle class, much more powerful in Zimbabwe than in other black states at independence, has swung hard behind this new leader. He also has the vital support of the white army commander, Peter Walls. And the clear-cut nature of his electoral victory, obviating the need for frail alliances, gives Mugabe the strongest possible starting point.

His first tasks are national economic reconstruction and social reconciliation. There is much talk of a likely crisis of expectation. Government economic advisers are against granting a series of large pay raises, but the current average urban wage of between $60 and $75 per month falls far below the estimated urban poverty datum line of $115 for a standard African family of six. Domestic servants and agricultural laborers often receive as little as $40 per month. Already, within a fortnight of the election, the new Labour Minister was forced to take a firm line against wildcat strikes sometimes in quest of payraises of over 60 percent.

However, the benefits of peace are so great that progress should assuage popular expectations for at least a year or two. The paradoxical advantages of Rhodesia's unilateral declaration of independence will also become clear, for the self-reliance foisted upon Rhodesia by U.N. sanctions will be a vast asset to Zimbabwe, much to be envied by many other Third World countries which are dependent on a few commodities whose prices on the international market can fluctuate wildly. Black economic betterment will be slow, but, provided political stability is established and enough whites remain to lend their expertise, the benefits of peace, the country's vast and diverse natural wealth, the strong infrastructure, and the people's long-tried patience should all ensure steady enough growth to turn the new Zimbabwe into one of the most prosperous states per capita in Africa.

Mugabe's apparent acceptance of the need to retain indigenous white economic skills also implies a caution that cancels out much of the Marxist and revolutionary rhetoric of exile. A close friend of Mugabe describes his economic and political model as "somewhere between Swedish social democracy and Tito's Yugoslavia." Mugabe hopes the peasants will move toward the collective in agriculture, but "by persuasion rather than by force."

He has also stated a belief that the multiparty system is a "luxury a developing country cannot afford" but will be abolished "only with the people's consent." It is likely that during the transitional period of the next two years or so the more idealistic and experimental side of Mugabe's political nature will be suppressed in favor of the pragmatic.

Whether there is a drift toward the authoritarian and the more strictly egalitarian will depend largely upon the activity of constitutional and unconstitutional opposition. It will also depend upon the ability of the mixed economy and the white civil service to accommodate Mugabe's broader ideals, and to deliver discernible benefits to blacks.

It is nevertheless likely that the one-party system will arrive fairly soon. In many African states such a system is seen, with some justification, as the sole device whereby tribalism, at any rate in formal terms, can be excluded from the body politic, since political parties in multiparty states invariably take on an ethnic tinge. This, indeed, is the case with Nkomo's ZAPU (which this year relabeled itself the Patriotic Front) and Mugabe's ZANU. In Zimbabwe, the move toward a one-party state would be facilitated by the political retirement of Nkomo, a giant in the Ndebele-Kalanga ethnic camp, though he shows no sign of wanting to bow out at present. He seems, in fact, reluctant to accept his party's defeat, let alone its submergence in a coalition. But if a referendum were to be held on the question of a one-party system, there is a strong likelihood that most people would say yes. The opportunity could come within five years.

At present the Patriotic Front (PF), as junior partner in the coalition, remains a dangerous potential source of conflict, with Nkomo currently bitter at his rejection outside his own ethnic group, particularly because he has always taken the utmost care to maintain a non-tribal national executive which is three-quarters Shona and embraces most ethnic groups in the country, including whites, Coloreds (people of mixed race) and Indians. Since his election defeat, Nkomo has accused Britain of rigging the election to favor Mugabe.

He also felt cheated both by Mugabe's decision to give him only one of the 20 senate seats nominated by the premier or elected by the ZANU-dominated assembly, and by the allocation to the PF of just four ministers and two deputy ministers out of 36. In addition, the powers of Nkomo at the Ministry of Home Affairs have been clipped by the removal of rural administration (whose executive arm was the powerful white district commissioners in the tribal reserves) to the local government portfolio, while the police special branch and the intelligence service have also been removed into the Prime Ministers' own care. Nkomo's party has begun to look again to its old Russian and Eastern bloc allies for support. Attitudes within Mugabe's party toward its coalition ally vary from lukewarm to extremely hostile.

This ill-feeling is particularly dangerous in the military sphere, where Mugabe has over 21.000 trained guerrillas against Nkomo's 12,000 or so in Zimbabwe. Nkomo's men, however, have been well equipped with newer and more sophisticated conventional weaponry, which they are reluctant to surrender to a central command. Further, though the coherence of the ZANU guerrilla leadership has been greatly weakened by Tongogara's death, the ZANU guerrillas will have to be persuaded to accept the new reformism in place of the revolutionary doctrine of the past. It will be a delicate task to demobilize as many of the estimated 33,000 guerrillas now in Zimbabwe as soon as possible. In the winding down of the armies—an essential process—no formula had been found as of mid-May to satisfy Nkomo's demand for military parity, which Mugabe's guerrillas are strongly resisting. Indeed, there have been increasing signs of insubordination by Nkomo's forces. Integration of the two guerrilla armies and the old Rhodesian Army is proceeding slowly, with only 600 men for each side so far undergoing joint training. Nor has it escaped the notice of Mugabe, who is also Defense Minister, that the broad ethnic mixture within the Rhodesian African Rifles (RAR), the old security forces' main black infantry regiment, is much more successful than that within the guerrilla armies. (ZANU guerrillas are almost entirely Shona, while Nkomo's forces may contain perhaps 10 percent Shona to 90 percent Kalanga and Kdebele.) Thus, under instruction from white Rhodesian and British officers, the RAR as much as the guerrillas may end up as the central part of the new Zimbabwean army. For Mugabe, the ZANU-Ndebele problem will remain a dangerous threat.

The question of the whites is also likely to become exceedingly tricky after the present honeymoon is over. Due to years of previous propaganda which depicted Mugabe as a psychopath, his polished and persuasive appeals for reconciliation since the election have been enthusiastically received by an astonished white audience. But many whites will now find it hard to accept real social equality, for instance in hospitals and schools, where they erroneously hope that segregation by money rather than by law will still be the norm.

Furthermore, the likely growth of black authoritarianism in place of white, including the overt politicization of supposedly independent institutions such as the broadcasting media and press (recently subservient to Smith) and the university, will demoralize many whites. Many will find it hard to adapt to new customs of overt patronage likely to impinge fiercely upon the business world, while some of the fastidiously upheld standards of white Rhodesia will probably be sacrified in the interest of rapid indigenization and social mobility among blacks. Mugabe has demonstrated his willingness to treat sympathetic whites with respect and generosity by appointing two whites to key ministries. But it is questionable whether many whites will remain. My guess is that in five years, only about 80,000 will have stayed, down from the 278,000 of eight years ago.

But even if the white community is unable to accept the new world, it is important for Mugabe's economic plans that the process of white withdrawal be orderly. Much depends on the Prime Minister's ability to impose his newly adopted views forcefully upon his central committee, the powerhouse of his party. Decisions in ZANU have tended to be taken very much by consensus, in keeping with Shona tradition, in contrast with Nkomo's ZAPU, where the writ of the leader has been far more keenly felt. Indeed, one of the secrets of Mugabe's arduously won success, in party terms, has been his ability to allow everyone his or her say before molding a unanimously agreed-upon policy. Hence, decisions often take exhaustingly long to reach—witness the countless all-night sessions at Lancaster House, and Machel's frequent impatience when dealing with ZANU in Mozambique. The different shades of opinion that still exist within ZANU could threaten to rekindle the flames of factionalism that Mugabe has done much to quench since the dark days of Chitepo's death. The central committee—currently around 27 active members—is a cumbersome parallel body to the new Cabinet, and may have to be sidelined for the government to perform effectively. But party traditions could make that difficult.

Mugabe's first cabinet was a clear attempt to balance the groups within the central committee. The placating of ZAPU, as Nkomo's friends have pointed out, was not Mugabe's prime concern, nor was his appointment of whites. It was the choice of ministers *within* ZANU that was most important, with portfolios very evenly distributed between the two largest of the five main Shona-speaking groups, the Karanga and the Zezuru, and the third largest, the Manyika, only just behind. It would be wrong to characterize ZANU as simply divided into ethnic factions, though ethnic strife (between Karanga and Manyika) was certainly a key factor in the Chitepo debacle. But the two main, though loose, groupings within ZANU, focused on Deputy Prime Minister and Party Vice President Simon Mzenda and on Secretary General and Manpower Minister Edgar Tekere, do tend to attract Karanga and non-Karanga (mainly Manyika and Zezuru) respectively.

Nor is ideology the main bone of contention between the groups, though in past periods of discord it has been invoked on every side. Nothing better illustrates this lack of real ideological depth than the readiness of those professedly left-wing dissidents imprisoned under the party's aegis in Mozambique to realign themselves with "reactionaries" on their release just before the 1980 election. Of the 74 former detainees, most of whom had been categorized as "Maoist" or "pro-Soviet" and nearly all of whom had castigated Mugabe as a "sellout" (Uncle Tom), about half joined Sithole, and a similar number Nkomo, while half a dozen went over to the bishop. Ideological aspirations evaporated quickly.

In the case of Mzenda and Tekere, temperament rather than ideology is the key. Mzenda, the older man, is cautious, conservative and by nature conciliatory. For instance, he counseled the "rehabilitation" of the dissidents in 1978, while Tekere urged that they be shot. Tekere is forceful, aggressive and as powerful in the party as Mzenda.

In the emotive matter of policy toward whites, for instance, Tekere's and his associates' temperamental reluctance to advocate gradualism might push economic considerations aside. But that is hardly a matter of ideology. Apart from the whites, Tekere's associates were not keen to include any members of ZAPU in the Cabinet.

Tekere is particularly hostile to Nkomo, and his group has been in the ascendant since the ZAPU leader's secret August 1978 meeting with Smith in Lusaka, an act of downright treachery in ZANU eyes. It should be emphasized, however, that the groupings are loose, and that Mzenda and Tekere each have close colleagues who do not fit the stereotypes described above. But it nonetheless holds true that the prevailing mood of Tekere's group will make it temperamentally difficult for it to attune to Mugabe's new, gentle tones.

Mugabe himself has managed to stay majestically above the groupings within the party. That is another aspect of his success. He has been the focus of a laboriously sought consensus, a juggler, a spokesman, an arbiter.

Now he will have to strengthen his own base through the machinery of government at his disposal, through the Prime Minister's office and the Defense Ministry, and through the intelligence services. His need for administrative cut and thrust is likely to reduce his deference to the long-winded deliberations of the central committee in favor of the skilled bureaucracy he has inherited.

Indeed, he may look increasingly to his technocratic friends and to those without a personal base within the party, such as Emmerson Munangagwa, minister in the Prime Minister's office and head of intelligence; Rex Nhongo, a curiously lone figure despite the guerrilla leadership thrust upon him since Tongogara's death in December,[2] Nathan Shamuyarira, a university professor, Minister of Information but not yet a member of the central committee; and Bernard Chidzero, a senior figure at UNCTAD in Geneva, whose allegiance until recently has been to a broad nationalism and not specifically to ZANU (at Geneva he offered his services to Muzorewa and Nkomo as well). All these friends owe their primary allegiance not to groupings within the party but to Mugabe.

His choice of Cabinet does, however, indicate a need to attend to the traditional needs of the party balance. His appointment to the Finance Ministry of the erratic Enos Nkala, a belligerent old-style nationalist who had spent 15 years in detention, was a gesture to militant ZANU nationalism and shocked the bureaucrats. But Nkala's powers will be trimmed by the creation of a new Ministry of Planning for Chidzero, a conservative reformist, while other key economic ministries go to a wealthy, pragmatic white farmer not formally connected with politics in the past, Dennis Norman, who controls agriculture, and to the deputy leader of the old ruling Rhodesia Front, David C. Smith, who takes the commerce and industry portfolio.

It is another irony of the new Zimbabwe that Mugabe himself is probably one of the few genuine ideologues in the party, and stands to the Left in ZANU, despite the present pragmatism, which he may or may not countenance beyond the transitional few years. Mugabe is a puritan of deeply felt egalitarian instinct. Many of his new MPs are not. Despite some of the already noted queries over the temperament of some central committee members, it has already become patent that the austere past life in exile is rapidly giving way to an obvious (perhaps too obvious) enjoyment by senior party men of the fruits once reserved for whites alone. Most ministers are moving into expensive houses in the smartest white suburbs of the past. Indeed, some of the new political elite may be too readily acquiring a taste for the benefits of office. Many white businessmen are delighted at how fast the fruits of consumer capitalism are replacing the deprivation of exile, but in the longer term a new elitism could pose a dangerous threat to the nation's equilibrium.

In terms of sheer ability, few observers would contradict Soames' assessment that Mugabe is "head and shoulders above his colleagues." It is impossible to predict, however, whether he will, once he has consolidated his position, gradually reassert the radical egalitarian ideals of the past, or whether he will be "converted" to a belief in the lasting benefits of a mixed economy and a relatively open society.

The regional effect of Mugabe's victory will be profound, not just in its repercussions within South Africa, but also in the debate on political and economic development in neighboring black Africa. Many lessons are already being learned from the election landslide—especially south of the Limpopo. The essential psychological turnabout is that Zimbabwe now faces northward rather than to the south. South Africa knows that the continuing relative backwardness of its black neighbors is the prime safeguard for the apartheid state. While the Republic will continue to strive toward self-sufficiency in all economic areas, even in oil (which is being expensively produced as a by-product of coal), and in conventional and perhaps even nuclear arms. At the same time, Pretoria is intent upon forging as close economic links as possible with its potentially hostile neighbors, to nullify any possible intention on their part to encourage insurgency or participate in economic boycotts against South Africa.

Yet the black countries' plans for regional economic cooperation to oppose South Africa's "constellation" idea look, at this early stage, very much embryonic. The Lusaka meeting of the nine black states, including Zimbabwe, on April 1 and 2, 1980, produced some significant political messages, but they will be hard to translate into economic reality in the short term. Botswana, Lesotho and Swaziland reasserted their commitment to eventual independence of the apartheid economy, though they are currently tied to South Africa by a customs union. At Lusaka, Malawai, the black state probably on friendliest terms with South Africa, also—for the first time—declared its solidarity with the black group.

At present, however, South Africa's relative economic power suggests that the regional reorientation proposed at Lusaka will be a gradual process. According to the 1978 and 1979 World Development Report, published by the World Bank, the total exports of all the countries represented at Lusaka except Zimbabwe amount to less than a third of those of South Africa and Namibia.[3] In African continental terms, apart from South Africa's well-known mineral assets, it produces 25 percent of the continent's entire gross national product, 90 percent of its steel, 50 percent of generated power, 47 percent of telephones, 44 percent of motor vehicles, 40 percent of all manufacturing, 30 percent of all cement.[4] Exports are no longer broken down country by country, but it is reckoned that 16 percent of the total are sold to black Africa. In this context, of particular note is the export of primary and processed foods, which are often vital to the political health of such states as Zambia and Zaire, and machinery and spares for essential mining and industry.

---

[2] There is no evidence that Tongogara's death was caused by foul play, though many nationalists assume that to have been the case.

Despite OAU calls for boycotts of all South African goods, many African states trade heavily with Pretoria. Mozambique's transport system, its railways and harbors, is largely dependent on South African expertise and financed in large part by traffic dues on South African exports, 17 percent of which pass through the port of Maputo. Of Zambian and Malawian trade, 30 percent and 35 percent, respectively, is with South Africa. Mining machinery is exported to Ghana, hardwood is bought from Congo-Brazzaville, many of the francophone countries have trade links, Nigeria is said to import food through third parties. Last year Kenya bought $11 million worth of corn, marked as produce of Mozambique.[5] South African diamond technology and marketing is utilized in Angola, Tanzania and Sierra Leone. Many of the trappings of the Lusaka Commonwealth Conference in August 1979 were brought from South Africa. Even as the April 1980 Lusaka conference took place, new air routes between Johannesburg and Lusaka were being opened, though there was a slight delay so as not to embarrass the conference participants.

The most obvious initial way to counter South African economic hegemony in the region is to develop alternative transport routes. With Angola's Benguela Railway inoperable to through traffic due to Jonas Savimbi's UNITA guerrillas and with Dar es Salaam's port congested and mismanaged, Zambia has sometimes found itself entirely dependent on South African railways for its copper exports in the past year. With Zimbabwe now independent and the routes to Beira and (less importantly) to Maputo soon functioning, the regional transport system should gradually reduce its dependence on South Africa.

If Namibia were to become independent, a rail link westward to its Atlantic coast is also a possibility. In the past, however, attempts to look northward have sometimes backfired. The Bot-Zam road link, for example, designed to facilitate Botswana's northbound trade with Zambia, has simply become an extra conduit for South African goods conveyed more easily by road to Zambia and beyond to Malawi.

The cost or regional transport development is frightening to the black states. At Lusaka in April, it was reckoned that the necessary improvements would cost around two billion dollars, practically all of it to be borrowed from abroad.

Western moneylenders are becoming increasingly tough in their loan conditions to Third World countries, many of which are in danger of defaulting on debt repayments. (Zimbabwe itself is, in fact, greatly underborrowed in relation to other developing countries.) Indeed, increasingly stringent conditions for loans from the International Monetary Fund (IMF) and World Bank are sometimes interpreted by black African states as attacks on the sovereignty of poor nations caught up in a cycle of dependency on others.

But the Lusaka Conference proposed the establishment of a Southern African Development Fund, to be administered in cooperation with the African Development Bank. The Lusaka nine are due to meet again in Zimbabwe in September, and there will be an aid donors conference in November.

The unblocking of the Zimbabwe stalemate has brought an important pyschological lift. As Machel put it at Lusaka: "We must liberate the minds of our technocrats enslaved by South African." President Kenneth Kaunda of Zambia spoke hopefully of "our transcontinental belt." Though it could take long to bear fruit, the regional concept could eventually prove fertile. It offers a key weapon in the slow process of isolating and removing apartheid.

But in the immediate future, the short-term interests of individual states could provide the same sort of stumbling block that destroyed the East African Community (comprising Kenya, Tanzania and Uganda). For instance, it is possible that Zambia could be tempted to impose tariffs against certain Zimbabwean goods, should Zambian manufacturing industry find itself threatened by cheaper and better goods from its newly independent southern neighbor, just as Tanzania resented Kenya's ability to flood the Tanzanian market. In the end, the rigorous management of individual countries and the reinvigoration of their political models may be the fundamental prerequisite, often at present painfully lacking, for black southern African countries wishing to rid themselves of their current economic subordination to the apartheid economy.

In this context, Mugabe could be looked upon in black and white Africa as a guiding light to the future. In Afrikaner eyes, Mugabe's election success has cast a further question mark over the decolonization process in Namibia and may force South Africa to reassess its opposition to the South West Africa People's Organization (SWAPO). Perhaps more important, if the Mugabe experiment succeeds, is the likely reaction in Mozambique and Zambia. Machel is already showing signs of rethinking economic policy and moving toward more free enterprise. He is also looking increasingly for Western investment.

Like Zambia, Mozambique has tended to blame its economic shortcomings on the Zimbabwean war, which has indeed been responsible for immense damage to the health of neighboring states. Mozambique was even more seriously harmed by the exodus shortly after independence five years ago of around a quarter of a million white Portuguese, which left a huge vacuum in the ranks of middle and upper management and even among skilled workers and artisans. Politically, the ruling Frelimo party under Machel has retained some of its revolutionary momentum and idealism. But if Zimbabwe maintains its economic vigor, the Mozambique ideologues who preached a rigid observance of Marxist economic doctrine are likely to come under severe pressure. Signs of this are already apparent.

Although party organs have denied that the removals of Marcelino dos Santos, former Vice President, from the Ministry of Planning, and of Jorge Rebelo from the Information Ministry, were demotions (the two continue to hold important positions in the party), it is probable that the more thoroughgoing left-wingers in government will come under attack. Political and armed dissidence within Mozambique, fueled previously by the Rhodesian government, may be more serious than admitted. Machel, whose country is beset with shortages in many basic commodities, knows he must take fast political action to avert social and economic instability. The next year is likely to see startling economic and political changes in Mozambique, but the pace will depend on Mugabe's success in Zimbabwe.

Zambia is politically no less frail than Mozambique, and Kaunda's own reputation is now lower at home than that of his Mozambican counterpart. The early months of Mugabe's rule have already injected fresh breath into Zambian technocrats. This group has been increasingly frustrated by Kaunda's reliance on the political old guard who have grossly mismanaged the administration.

The rhetoric of humanism has far too long sounded hollow against the backdrop of the privilege and luxury enjoyed by much of the Zambian political elite. The refusal to allow any candidate to stand against Kaunda for the presidency in 1978 is increasingly resented by the technocrats today. If Mugabe continues to condone a lively capitalist-oriented economy and a measure of political freedom in Zimbabwe, they will be crying out for economic and political changes in Zambia too.

A well-known banker (Elias Chipimo) and several former ministers, all of them able technocrats, have been publicly singled out by Kaunda as "traitors" for suggesting that a return to multiparty politics would be beneficial. The poor state of Zambia's ruling and single party, UNIP, does not itself prove the one-party system unworkable, but it is a sharp example of how easily a one-party state can become politically moribund if direction and example among senior politicians are lacking.

As for South Africa, Mugabe has demonstrated the futility of political half-measures designed to satisfy a restless and disenfranchised black majority. Mugabe's victory, above all, has emphasized the attraction of militant nationalism. Since Lusaka's April meeting, South Africa must also increasingly realize that any formal acceptance, let alone encouragement, of South Africa's economic regional mastery is deeply abhorrent to black states, and any attempt to reconcile South Africa's white establishment with black Africa can only succeed through the total abolition of apartheid. Yet it will be important for the psychology of white South Africans, if they are to attune themselves to drastic change, that Mugabe's government turn out to be more tolerable for a substantial number of white in Zimbabwe than white South African public opinion has generally predicted.

South Africa will inevitably become increasingly isolated from the outside world. But if regional pressures on South Africa are to be effective, the continuing international hostility needed to force the pace of reform in South Africa should be accompanied by massive assistance from the West to those black states which met at Lusaka and whose present economic connections with South Africa take the sting out of their capacity for opposition. Zimbabwe can indeed, despite the pitfalls, become the new hub of an alternative constellation of southern black states.

So far, however, aid to Zimbabwe has been only a tiny proportion of what it needs. The British contribution, so far the largest, has been an insubstantial £75 million over three years, while U.S. promises have been meager.[6]

---

[3] Unofficial sources put Zimbabwe's 1979 trade figures at: exports, $700 million; imports, $585 million (Tony Hawkins, "Survey of Zimbabwe," *The Financial Times* [London]), April 22, 1980).

[4] Figures of the South African Foreign Trade Association, Johannesburg.

[5] *The New York Times*, April 5, 1980.

[6] So far the United States has given $2 million for the rehabilitation of provincial medical services, promised $13 million more during the current fiscal year (ending September 30) and has indicated that $25 and $30 million will be forthcoming next year, pending congressional authorization.

Yet, from the Western point of view, Mugabe's victory has so far entailed considerable if surprising political benefits. Although the Soviet Union had in the past two years begun to put out feelers to Mugabe, its interest had remained primarily in the Nkomo camp. As Mugabe recently put it: "We are not cold toward the Soviet bloc. They have been cold to us." In the past two years, Russian weaponry had begun to flow to ZANU through Ethiopia and had long been received through the OAU Liberation Committee, which passed on supplies to the two guerrilla parties equally. But Mugabe's preferred friends have always been China, Romania, Yugoslavia and states such as India and Pakistan, along with Tanzania and Mozambique.

Mugabe has, in fact, been cold toward the U.S.S.R. since independence. His refusal to invite delegations from the Soviet Union's closest Eastern bloc allies to independence celebrations was widely seen as a snub. It has been clear from the wording of radio broadcasts from Moscow and Prague that Mugabe's wholesale victory was not entirely welcome to Moscow. Nor can Mugabe's decision to invite the BBC to assist the state broadcasting service, and British officers to assist the army and police, have much gratified the Russians.

There is an increasing recognition by African states which have experimented with collectivist economic models that the U.S.S.R. has little to offer in development aid or investment. Even on a person level, the reputation of—for example—Russian technical assistants in Mozambique is said to be low. American policy toward Africa under Carter has, with considerable assistance from Ambassadors Andrew Young and Donald F. McHenry, been widely appreciated in many African and Zimbabwean circles. Indeed, some ZAPU cadres, now thinking of strengthening old ties with Moscow, have actually been blaming a conspiracy of the United States, Britain and China for "rigging the election" in Mugabe's favor.

Despite the generally alleged bias of Britain against Mugabe during the election campaign, many Africans were favorably impressed by Britain's ability to hand power peacefully to its apparently least loved candidate. That action alone, in the minds of many African observers, has won massive dividends in the superpower competition for friendship in Africa.

The U.S.S.R., however, is the chief financial supporter of the most important black nationalist movement in South Africa, the African National Congress, while the West continues to be hamstrung by its massive economic investment in apartheid. Zimbabwe is now South Africa's key front-line state, and—whatever Mugabe's protestations to the contrary—will almost certainly find itself entangled in the struggle of South African blacks for self-rule. Against the odds predicted a year ago, Mugabe has initially shown a remarkable and willing flexibility in his dealings with the West. It would be foolish if the West—in particular the United States and Britain—failed to respond with as much economic and political sympathy as it can muster.●

PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulated that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is immediately available to the full Senate, I ask to have printed in the Record at this point the notification which has been received. The classified annex referred to in the covering letter is available to Senators in the office of the Foreign Relations Committee, room S–116 in the Capitol.

The notification follows:

Defense Security Assistance Agency,
Washington, D.C., June 25, 1980.
In reply refer to: I–1291/80ct.
Hon. Frank Church,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80–72, and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Navy's proposed Letter of Offer to Greece for defense articles and services estimated to cost $19.9 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

You will also find attached a certification as required by Section 620c(d) of the Foreign Assistance Act of 1961 that this action is consistent with Section 620c(b) of that statute.

Sincerely,

Ernest Graves,
Lieutenant General, USA,
Director.

[Transmittal No. 80–72]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Greece.

(ii) Total estimated value: Major defense equipment*, $17.9 million; other $2.0 million; total, $19.9 million.

(iii) Description of articles or services offered: Three hundred (300) AIM–9L Sidewinder missiles with support.

(iv) Military department: Navy (AIC).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See Annex under separate cover.

(vii) Section 28 report: Case not included in section 28 report.

(viii) Date report delivered to Congress: June 25, 1980.●

THE ABM QUESTION

● Mr. SCHMITT. Mr. President, since the early 1960's the United States has planned its geopolitical and military strategy based on the concept of mutual assured destruction (MAD). That strategy led to the ABM treaty of 1972 which limited antiballistic missiles (ABM) systems, a technology which the United States had a decisive lead over the Soviet Union. In addition, the 1972 treaty served to discredit the concept of ballistic-missile defense.

While there may have been sound technological reasons for approving the ABM treaty in 1972 and dismantling our existing ABM facility, it is not sound policy not to continually review the feasibility of ballistic-missile defense. In view of the alleged Soviet violations of that 1972 treaty and the changes in technology during the past 8 years which may make an ABM system both effective and cost-effective, it is imperative that we review all the data relating to ABM systems prior to the 1982 renewal of the ABM treaty.

During this period of the vulnerability of our land based ICBM system, it would be a serious mistake not to carefully review not only the feasibility of an ABM system but also Soviet developments in this field. Though there were some who warned us of the vulnerability of our ICBM's to a Soviet first strike, these warnings fell on deaf ears until recently. I see a similar development occurring with regard to ABM systems. There are those that tell us that an ABM system is both feasible and cost-effective and warn us that the Soviet Union has done extensive work in this field.

Recently, Los Alamos Scientific Laboratory completed a study of ABM systems which concluded that an ABM system is, indeed, feasible at this time. In fact, the study indicated that the low altitude defense system (LoADS) is appropriate to both silo and shelter defense and could be fully operational by 1987.

Mr. President, this Senator is pleased that this bill contains funding for ABM research and development, funding for research on a space-based laser ballistic missile defense system, and a provision requiring a report from the Secretary of Defense relating to ABM technology. It is important that the administration and the Congress have all the relevant information prior to deciding whether to renew the ABM treaty.

Mr. President, the May 1980 issue of Commentary contained an article entitled "The ABM Question" by Carnes Lord who was with the Arms Control and Disarmament Agency from 1975 to 1977. The article traces the history of the ABM treaty and the options which the United States faces as we approach 1982. I call the attention of my colleagues to this article and ask that it be printed in the Record.

The article follows:

The ABM Question

(By Carnes Lord)

It is now some ten years since the last serious debate in the United States over nuclear strategy. That debate revolved around the issue of whether, to what extent, and in what role to deploy an anti-ballistic-missile (ABM) system designed to protect our cities and/or our own missiles from a nuclear attack. In one sense, the debate was settled by the ABM Treaty of 1972, which limited ABM systems in such a way as to encourage the eventual termination of an existing American ABM program and to discredit in the eyes of the American public the entire notion of ballistic-missile defense. In another sense, however, the debate was not settled, but merely ended. It was not settled on its technical or strategic merits so much as ended on the one hand by the requirements of the SALT process (of which it was a part) and on the other by the anti-military sentiments generated in the Congress and the country at large by the Vietnam war.

---

* As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

Now, eight years later, the ABM Treaty has become so much a fixture of American policy that its continuing utility seems to be simply assumed by all parties. Indeed, the ABM Treaty is still very widely regarded as the greatest success of U.S. arms-control policy in the postwar period.

Yet it is so clear that Americans should continue to congratulate themselves on the utter vulnerability of the North American continent to Soviet attack? The reassessment of U.S. military needs that has been stimulated by the Afghan crisis ought to address itself to this question, and the best ways to begin is by recalling briefly the terms of the ABM debate as well as the early developments which preceded and stimulated it.

By 1964 or 1965, it began to be apparent that the Soviet Union had decided to undertake a massive and comprehensive improvement in its military posture. The Soviets had let it be known that they would never again allow themselves to be faced down by superior American power, as had occurred in the Cuban missile crisis of 1962; and it is likely that they were already turning their attention to the prospect of a hostile China on their borders. Central to the Soviet effort were new strategic programs involving defensive as well as offensive systems. As early as 1964, the Soviets unveiled the Galosh ABM system, which was intended to defend the Moscow area, and they began construction of an extensive air-defense network with high-altitude interceptor missiles (the Tallinn system) that was believed by elements of the American intelligence community to have some ABM capability, or at least the potential for acquiring such a capability. At the same time, China was showing signs of strategic life. The first Chinese nuclear explosion occurred in the fall of 1964, and in 1965 the Chinese began constructing a ballistic-missile test facility.

These events gave a powerful impetus to ABM development in the United States. Because the intercontinental ballistic missiles (ICBM's) possessed by the Soviets in the mid-1960's were relatively few and inaccurate, American ABM efforts were originally directed toward providing protection for cities rather than weapons. Two types or levels of ABM defense were considered by U.S. military planners: a "thick" defense against all-out attack by the Soviets, and a "thin" defense against attack by the Chinese or against accidental missile launches. In spite of substantial disagreements within the U.S. government (and within the Pentagon in particular), President Johnson and Secretary of Defense Robert McNamara decided in 1967 to proceed with the development and eventual deployment of the "thin" or anti-Chinese alternative, which became known as the Sentinel system.

In the meantime, the idea of negotiating limitations on strategic arms with the Soviet Union was gaining headway in Washington. Early in 1967, options for strategic arms control, including limitations on ABM systems, began to be seriously considered, and contacts were initiated with the Russians. While generally receptive to these American soundings, the Soviets initially displayed considerable distaste for any ABM limitations. At a news conference in London in February, Premier Kosygin responded to a question concerning a possible moratorium on ABM development by asserting, among other things, that an anti-missile defense "is not a cause of the arms race but represents a factor preventing the death of people." Nevertheless, the Russians went along with the American interest in comprehensive limitations, especially after the Johnson administration had announced its intention to proceed with the Sentinel system later that year.

Preparations for SALT were far advanced when the Soviet invasion of Czechoslovakia in August 1968 temporarily froze U.S.-Soviet relations. Apparently as a result of relatively strong sympathy on the part of the American military for ballistic-missile defense, the U.S. negotiating position would have called for high ABM limits and attempted to protect Sentinel, though it was far from inflexible on this point. In any event, with SALT in suspension and popular disaffection with the Vietnam war on the increase, it soon appeared that Sentinel was more in need of protection from the American public and Congress than from Soviet negotiators. Rising protests in the Senate induced the newly arrived Nixon administration to suspend Sentinel deployment in February 1969 and to review the entire ABM situation.

The result was a refurbished ABM program with a new name—Safeguard—and a new focus. While subscribing to the anti-Chinese and anti-accident rationale, President Nixon made clear that the primary task of an American ABM system would be to defend American ICBM's. The reason for the shift was the rapid deployment of the very heavy SS-9 ICBM by the Soviets during this period, which for the first time posed a plausible threat to the American Minuteman ICBM force. The Safeguard system was to make use of most of the components developed for Sentinel, but it would protect Minuteman fields as well as major cities. Somewhat less costly than Sentinel, it was to be deployed eventually at a total of twelve sites, with the Minuteman fields having priority.

In the six months that followed, the future of Safeguard became a subject of intense debate, and the focus for a wider public discussion of the fundamentals of American nuclear strategy. In August, the Senate finally authorized funding for the first two Safeguard sites. But a vocal opposition came within a single vote of killing the program; in the prevailing political atmosphere, the arguments against ABM in general and Safeguard in particular made their mark, and the future of the system had clearly become problematic. In July 1970, after SALT was fully under way, the Senate Armed Services Committee rejected an administration request to proceed with four additional Safeguard sites intended for area defense, thus effectively ending any prospect for ABM defense of American cities. Meanwhile, the Russians were making it clear that any progress on limiting offensive strategic weapons was dependent on American willingness to accept stringent limitations on Safeguard. The next two years of SALT were to be largely consumed in seeking a formula that would honorably inter the Safeguard system and the American commitment to strategic defense.

The arguments against a substantial American ABM system were of several kinds. In the first place, questions were raised about the effectiveness both of ABM defense generally and of the Safeguard system in particular. The shift from the defense of cities to the defense of our own missiles as the primary ABM mission may have made sense on strategic grounds, but it opened Safeguard to a variety of technical criticisms. Partly in response to objections that an anti-Chinese or anti-accident mission could not justify the cost of a substantial ABM system, the Nixon administration redefined Safeguard so as to give it a primary mission that could not only be anti-Soviet; but the system's components had not been designed primarily with a view to a "thick" Soviet attack. Accordingly, doubts could plausibly be raised regarding the ability of the Safeguard radars to track many targets simultaneously and to operate effectively in a nuclear environment. It was also widely argued that ABM radar technology would be unable to keep pace with the ability of the Soviets (or even the Chinese) to saturate the defense with "penetration aids" or decoys, and eventually with multiple independently targetable reentry vehicles (MIRV's).

In the second place, and more importantly from the perspective of public and congressional opinion, ABM defense was held to be "destabilizing" or "provocative." There were two variations on this theme. ABM was said to be destabilizing in the sense that it threatened to fuel the strategic arms race between the U.S. and the Soviet Union, and also in the sense that acquisition of an effective (or an apparently effective) ballistic-missile defense might give one side more of an incentive to launch a nuclear strike in a period of severe crisis.

Behind the latter argument was the strategic view that had achieved orthodox status during the 1960's—the view that stable nuclear deterrence requires each side to possess an "assured" (that is, a "second-strike" or retaliatory) capability of inflicting unacceptable damage on the population and industrial resources of the other. Under the logic of "mutual assured destruction" (MAD, in its inevitable abbreviation), ABM and every other form of strategic defense are undesirable because, by demonstrating belief in the possibility of defense against nuclear attack by the other side, they suggest belief in the possibility of successful nuclear attack by one's own side. Thus they threaten the other side with a preemptive first strike and create a situation of "crisis instability" in which both sides have strong incentives to initiate a nuclear exchange. By contrast, so the argument goes, a condition of complete mutual vulnerability is the most effective deterrent to nuclear war because it makes the very idea unthinkable.

The chief defect of this view as an argument against ABM defense is that it applies only to area or population defense, not to the defense of missile sites. Indeed, the defense of missile sites (or of other strategic-offense systems, such as heavy bombers) is wholly laudable under a MAD rationale since it helps guarantee an assured second-strike capability and hence the basis of stable deterrence. This was admitted at the time by many of the critics of Safeguard deployment. But it was argued that Safeguard was not well-suited to a site-defense mission, and that an extensive ABM network dedicated to site defense would be destabilizing in any event because it would serve as a base for rapid expansion to a system of area or territorial defense.

When one looks back on the ABM debate and the treaty in which it issued, what is most striking is the massive and almost willful failure of anti-ABM forces to give serious attention to Soviet attitudes. The tendency was to treat the Soviets as recalcitrant and somewhat obtuse children who needed patient education in the realities of the nuclear era. American civilian strategists and arms-control enthusiasts with advanced degrees from universities like Harvard and MIT tended to look on the Soviet leadership fundamentally as a collection of untutored peasants bemused by the size of their ICBM's and by mere quantities of such things as tanks and defense missiles. They regarded the Soviets as living in a strategic past, insensitive to the full implications for military strategy of the large nuclear arsenals accumulated by the two superpowers. That Soviet attitudes reflected a political and military culture very different from, but in its way not less sophisticated than, its American counterpart was a possibility not taken into account.

In retrospect, it is hardly clear that the Soviets have behaved more naively during the past ten years than an American leadership which remains bemused by technical sophistication at the expense of size and numbers, which has often shown itself insensitive to the political implications and uses of military force, and which has allowed its military planning to be shaped by an arms-control theology that is increasingly detached from international reality. On the crucial point—the Soviet understanding of the nature of nuclear war—the least that can be said is that the Soviets are so far from being unaware of the alternative represented by American strategic thought that they have considered and rejected this alternative. After some internal debate on the matter, the Soviets opted for the view that the existence of nuclear weapons does not alter the fundamental laws of military strategy, and that nuclear war is therefore not unthinkable in the sense that it is incompatible with any rational strategic or political objective. While recognizing the deterrent function of nuclear weapons, the Soviets have refused to follow the American example in according deterrence—as distinct from the requirements for actually fighting a nuclear war—the dominant role in nuclear planning. This does not mean that the Soviets are eager for nuclear war. It means that they believe it is necessary to be prepared to fight such a war in the event that deterrence fails.

The Soviets' attitude toward strategic defense follows directly from their general outlook. For them, the fundamenal requirement of defense of the homeland weighs more heavily than any abstract calculation based on assumptions about the intentions of potential enemies. While the Soviets almost certainly do not believe that a defense against American nuclear attack could be entirely effective, they do not see this as a reason for abandoning *all* efforts at defense. The Soviet leadership continues to invest enormous sums in air defense, and it has made serious and systematic efforts to provide protection for its population and for a wide range of military and industrial targets within the Soviet Union. All this is in contrast to the decrepitude of current air- and civil-defense programs in the United States—the result in very large part of the dominance of MAD thinking in American leadership circles during the 1960's and 70's.

Against this background, it is difficult to understand how American strategists and politicians were able to persuade themselves that the Soviets shared, or with some tutoring could come to share, the American view of the evils of ballistic-missile defense. Against this background, too, it goes almost without saying that the conclusion of the ABM Treaty did not end Soviet interest in ABM development.

Probably because of its manifest deficiencies, the Soviet Galosh ABM system was never expanded beyond the 64 launchers deployed in the Moscow area, but since 1972 the Soviets have done extensive work on possible successor systems. In addition, evidence has come to light that the Soviets may have conducted surreptitious testing of a high-altitude air-defense system (the SA-5) in an ABM mode during 1974 and 1975, contrary to Article VI of the ABM Treaty. Though overshadowed by other issues in the American debate over Soviet compliance with the SALT I agreements, the SA-5 matter was one of the most important of the alleged violations from a military point of view. During the 1960's, much concern had been felt by elements of the American military over the potential of the Soviet Tallinn air-defense system (which was based on the SA-5 missile) to be "upgraded" to an ABM capability; it was this concern which inspired Article VI of the treaty. The acquisition of even a modest ABM capability by the SA-5—now deployed in large numbers throughout the Soviet Union—could have strategic significance. Truly worrisome, however, is the ABM potential of the much more sophisticated air-defense systems now under development by the Soviets. Unfortunately, the loss of our technical monitoring stations in Iran has made it difficult to keep track of Soviet activities at their ABM test facility at Sary Shagan, not far from the Iranian border. (This reduction in our ability to verify the ABM Treaty has gone unmentioned in recent discussions of SALT verification issues.) In addition, the Soviets are reported to be developing an anti-tactical ballistic-missile system (ATBM), presumably for use in the European theater; the ABM potential of this system is uncertain, but it could be considerable.

But even if one assumes that the Soviets have not cheated on any treaty obligations and will not be tempted to do so in the future, it must be stressed that the ABM Treaty simply does not impose meaningful constraints on their ability to provide themselves with an effective ABM system. Nothing in the ABM Treaty prohibits the Soviets from engaging in research, development, testing, and production of the components of a new ABM system. These components could be stockpiled until such time as the Soviets saw fit to abrogate or terminate the treaty, and then rapidly deployed, either at the end of the six-month notice period or sooner. An action of this kind would certainly dismay many Americans; but respectable rationales for it could be imagined—the deployment of long-range nuclear missiles in NATO Europe, Chinese nuclear developments—that would disarm criticism elsewhere in the world and no doubt within certain segments of American opinion as well. The only technical constraint on such a move is the lead-time required for construction of the large phased-array radars which are necessary for initial tracking of incoming nuclear warheads. It is of more than passing interest that the other significant violations of the ABM Treaty with which the Soviets have been charged have concerned the construction of radars that could serve this purpose. But recent advances in radar technology will in any case greatly enhance the effectiveness of smaller and mobile or semi-mobile ABM radars which can be deployed rapidly and in large numbers.

It is surely a plausible hypothesis that the Soviets signed the ABM Treaty not out of new-found conviction of the wisdom of MAD, but in order to arrest the planned deployment of the American Safeguard system and to dampen American interest in a strategic field in which this country held at the time a commanding technical lead, while simultaneously accelerating their own ABM efforts. If this is correct, however, the arguments employed against an American ABM system lose a great deal of their force. It is said that a treaty was necessary both to forestall competition in strategic defense and to remove an important incentive for competition in strategic offense (since the offense would have to remain capable of penetrating the defense). Yet it is hard to imagine what improvements the Soviets would have made in their offensive capabilities over the last ten years that they have not made under the terms of the treaty. As for competition in ABM development, an arms race has been averted only in the sense that the United States has dropped out of it. It is hard to imagine what the Soviets would have done in strategic defense, given their initial position of technical inferiority, that they have not done under the ABM Treaty.

Moreover, just when the U.S. was renouncing the right to provide effective defense of its ICBM's and other "hard" installations, the Soviets were beginning to mount a serious offensive threat against precisely these targets. Continuing and unexpectedly rapid improvements in missile accuracy together with the unforeseen increase in missile throw-weight stemming from the deployment (contrary to the U.S. understanding of the terms of the SALT Interim Agreement) of the SS-19 ICBM have since brought this threat to crisis proportions. We are now, or will soon be, in a situation where a Soviet attack on the United States could destroy over 90 per cent of our Minuteman ICBM's, do substantial damage (probably more than is officially admitted) to our B-52 bombers, and eliminate the quarter to a third of our ballistic-missile submarine force which happened to be in port, while holding very strong forces in reserve to deter a retaliatory attack against Soviet cities. This is a situation which would give the Soviets considerable incentive to preempt. The SALT process has failed entirely to fulfill the hopes of those who imagined it would create an era of unprecedented strategic stability. And far from alleviating the problem, the ABM Treaty has only aggravated it. For, by effectively prohibiting the defense of ICBM's, it has caused us to deny ourselves what may well be the best remedy for our growing strategic vulnerability.

Yet this is only to beg what many opponents of ABM will argue is the decisive question. Granting that an ABM defense of ICBM sites (and perhaps of other military targets such as bomber bases) could contribute importantly to strategic stability, is it not the case that ABM site defense is inextricably linked with ABM area or territorial defense, and that ABM area or territorial defense is so fundamentally threatening to strategic stability that it must be avoided at all costs?

In the first place, while there is no denying that conventional ABM systems utilized for site defense would also provide a basis for expansion to a territorial defense (particularly with the development of smaller and mobile radars), some attention is now being given to a variety of unconventional schemes for localized defense of ICBM fields which would not have this potential. The point should also be made that it is hardly clear that a limited site or area defense would provide a significantly greater basis for expansion to a territorial defense than what is obtainable under the ABM Treaty.

As for the allegedly destabilizing character of a territorial ABM defense, it must be pointed out that this issue cannot be meaningfully treated as an abstract problem in game theory, as regularly happens in American strategic literature. What American leaders are likely to do in an acute crisis will depend at least as much on the formative influence of the American political and military culture as on instant calculations concerning nuclear-exchange ratios and similar matters. It is nearly inconceivable that an American President would issue an order for a nuclear first strike against the Soviet Union on the strength of a string of hypotheses relating to the effectiveness of an ABM defense in warding off Soviet retaliation. No matter how reliable and effective an ABM system the United States felt it had developed, residual uncertainties regarding the performance of the system under conditions (which are only partly predictable with any confidence) of real nuclear war would always be a powerful constraint. In addition, the capacity of the Soviet Union to inflict damage on American military forces and on American allies around the world, together with the truly incalculable global consequences—political as well as military—of a nuclear exchange between the superpowers, would remain formidable barriers to any such decision.

These considerations also apply, it should be noted, to the Soviet Union. In the Soviet case, however, the military culture, with its emphasis on preemption of attack through massive strikes against the enemy's military forces, tends in itself to promote crisis instability. But this is so far from being an argument againt an American ABM system that it is one of the strongest reasons in favor of one.

With all this said, it can be added that the rationale initially offered for an American ABM system is as powerful today as it was in the late 1960's. Although both the U.S. and the Soviet Union have made significant strides in the recent past in enhancing the reliability of systems designed to warn of nuclear attack, and of techniques and procedures for unilateral control of nuclear weapons as well as for cooperative handling of untoward nuclear events, the fact remains that an accident of potentially disastrous proportions cannot be ruled out altogether. It is unlikely that the accidental or unauthorized launch of one or a few missiles would lead to a full-scale nuclear war, but it could certainly cause immense damage.

As regards the anti-Chinese rationale, the fact that China has not yet developed a real intercontinental nuclear capability, and the fact that we are at present functionally allied with that country, should not blind us to Chinese ambitions and to the instabilities of Chinese politics. But the anti-Chinese rationale remains valid today not merely because of China, but also because of the threat of nuclear proliferation in the radical nations of the Islamic world. The interest that has been shown by the governments of Libya, Iraq, and Pakistan in acquiring nuclear weapons is well known, and it should not be necessary to emphasize the point that countries of this sort seem particularly inclined to produce reckless and fanatical leaders. It is true that in the near future this argues the need not so much for ABM as for improved air defense; yet the proliferation of ballistic-missile technology in less advanced states is a development which cannot simply be discounted. The spectacle of an embassy's-worth of Americans held hostage by an Iranian mob would surely be as nothing compared with the nightmare of an entire city held hostage by the nuclear threats of a government claiming not to be deterred by the prospect of martyrdom.

Still, how effective could an ABM system be under current circumstances? Is an ABM defense feasible or affordable given the prospect of continued improvement in strategic offensive capabilities? Would it not merely stimulate a new and costly arms race?

While the inevitable uncertainties of a developing technology make it impossible to answer the first question categorically, there appear to be considerable grounds for optimism. Again, it is necessary to distinguish carefully among varieties of possible ABM missions. Technical arguments that may have a measure of validity when brought against a thick territorial defense mission may not apply at all to thin territorial defense or to site defense. To defend effectively hardened targets such as ICBM silos, it is not necessary to destroy attacking warheads far from their destination, but merely to degrade their accuracy; and something less than total reliability is not a fatal defect. Hence inexpensive low-technology systems—for example, artillery shells that spray steel pellets in the path of incoming warheads—could be highly effective for site defense, especially when compared with the cost of offensive warheads. Even in the case of territorial defense, however, recent developments have gone very far toward refuting the technical objections that contributed to the defeat of Safeguard.

Conventional ABM technology, to begin with, has profited vastly over the last decade from the advances in data-processing and guidance systems that have revolutionized missile warfare at all levels. The development of precision-guided ("smart") ABM interceptor missiles—missiles equipped with on-board scanners and computers for automatic homing on attacking warheads—is well under way at the present time. American military planners envision a "layered" ballistic-missile defense involving both an improved version of Safeguard for low-altitude (or "terminal") defense and a system for the interception of incoming warheads prior to their reentry into the atmosphere. Under this concept, warning of a Soviet ICBM strike would trigger the launch of rockets carrying optical sensors that would be scattered in near space to assess the attack and direct the launch of other rockets that would dispense small nonnuclear homing vehicles; warheads not destroyed in this encounter would then be engaged again within the atmosphere.

Such a system would improve dramatically on Safeguard by increasing the time and opportunities for interception, by reducing reliance on a network of expensive and vulnerable ground radars, and by permitting the substitution of high-explosive for nuclear warheads (which are both expensive and subject to cumbersome procedures for authorizing their use). For purposes of site defense, such a system would appear quite able to hold its own in terms of cost with the offensive weaponry that would have to contend against it.

The layered concept also holds much promise for territorial defense. What may prove truly revolutionary in this connection, however, are unconventional ABM systems based on so-called directed-energy technology, particularly high-energy laser technology. The development of lasers as antimissile weapons is by now relatively far advanced. and they are likely to prove useful eventually in a variety of air-defense roles. But recent tests in this country have also shown that laser weapons could be considerably more lethal against Soviet ballistic missiles than had previously been thought. The most promising variety of laser ABM would be a system deployed in space (where beams can propagate over great distances—thousands of miles—with relatively little degradation) and designed to destroy hostile missiles shortly after launch, while they are in the vulnerable boost phase and prior to separation of their reentry vehicles (thus negating any advantage deriving from a proliferation of MIRVed warheads or penetration aids). Such a system, based on a network of perhaps two dozen satellites providing continuous global coverage, would be theoretically capable of countering not only ICBM's but also submarine-launched ballistic missiles (SLBM's), land-based intermediate-range ballistic missiles (IRBM's) targeted against NATO Europe, and strategic bombers in high-altitude flight profiles.

Futuristic as all this sounds, the technology it would require is essentially proven, and proponents of the concept claim that, with proper levels of funding and political commitment, a first-generation laser ABM could be tested and deployed well before the end of the decade. While perhaps not fully effective against mass salvos of ICBM's because of limitations on retargeting and rate of fire, a first-generation system could still respond very impressively to such an attack, and it could be exceedingly effective against SLBM's (where launches must be staggered). Passive counter-measures to harden their missiles against laser effects could provide the Soviets a degree of protection, but only at a significant cost in missile payloads. In any event, subsequent generations of laser systems incorporating technical advances which can now be anticipated (primarily involving a shift from infrared to ultraviolet lasers) could render such efforts largely ineffective. Against active countermeasures—Soviet attack on the laser stations with antisatellite weapons—the system would conveniently provide for much of its own defense.

But would an American move to ABM defense not merely perpetuate the "action-reaction cycle" that is supposed to fuel the Soviet-American arms race? Would it not also create a new competition in strategic defense, and in offensive countermeasures such as the maneuverable reentry vehicle (MaRV) now in an early stage of development?

I would be foolish to deny that a serious return to ABM defense would have large consequences for the future direction of strategic programs in both the United States and the Soviet Union. But it is necessary to ask, in the first place, whether the hope of ending the arms race by mutual arms limitations or by unilateral restraint is not essentially chimerical, and in the second place, whether an arms race in strategic defense is not in some ways more desirable than the available alternatives. That a serious move toward ABM defense by the United States would actually enhance strategic stability in crucial respects was suggested earlier. That the Soviets are likely to engage in intensified competition in this area were we to do so is probably true. Yet once faced with the prospect of competing in a technological game in which this country enjoys and will certainly continue to enjoy important advantages, it is conceivable that the Soviets would prove much more amenable to strategic restraint than they have been faced with American disinterest and inaction.

What are the alternatives to ABM defense from the point of view of maintaining or restoring a stable strategic balance? The primary source of strategic instability in the 1980's is the growing vulnerability to a Soviet first strike of the American land-based missile force. There are only two ways of alleviating this problem, given the failure of arms-control solutions: ICBM's either must be defended, or they must be made mobile. (A third alternative—launch on warning or under attack—would appear to be a poor substitute.)

Current American plans call for the development of a mobile ICBM, the so-called MX, which would be based in a deceptive manner in order to frustrate Soviet attempts to target it accurately. But apart from the fact that MX is expected to be enormously expensive (on the order of $40 or $50 billion), serious doubts can be entertained with regard to both its military effectiveness and its political palatability. Some administration spokesmen have made the argument that SALT II is in America's interest because the limits it contains on "fractionation"—on the number of MIRV's permitted on a missile—will guarantee the viability of the deployed MX system against a putative expansion of the Soviet offensive threat. This is less an argument in favor of SALT, however, than an argument against MX, since it would make the MX hostage to the tender mercies of Soviet negotiators in SALT III. Other questions have been raised concerning the reliability of the various deceptive-basing schemes which have been considered for MX, given projected improvements in remote-sensing technologies that could penetrate them. Moreover, it now appears that MX could not be fully deployed before 1989 at the earliest.

Apart from possible technical inadequacies, though, MX has been anathema to American arms controllers, who argue that its throw-weight and accuracy will enable the U.S. to pose a credible first-strike threat against Soviet ICBM silos, thereby undermining strategic stability. MX's technical shortcomings may be more apparent than real; the arms-control argument is weak for an MX force of the limited size currently projected. What is more important, however, is the probable impact of these doubts and objections on American public opinion. With the Rube Goldberg flavor of its basing options and their potential for environmental disruption, MX could be expected to run into domestic difficulties no matter how sound the arguments in favor of it. When faced with vehement opposition from wide segments of liberal opinion—which will certainly surface as soon as the Afghan dust set-ties—MX will be in serious trouble. No amount of assurance by the current administration can make anyone feel comfortable about putting so many of our strategic eggs in the MX basket.

This is not to suggest that an ABM defense of Minuteman missiles presents a simple alternative to MX. (There are persuasive reasons unrelated to survivability for the development of a new ICBM: the larger MX would help rectify the throw-weight imbalance between American and Soviet strategic offensive forces, and provide needed flexibility in targeting an expanded number of hardened Soviet targets.) Rather, it is to suggest that the option of ABM defense would open up a new range of strategic possibilities and provide a cushion in American strategic planning that is currently lacking. In the first place, an ABM site defense could be operational well before the deployment of MX in a land-mobile basing mode will be completed, and will thus be available at what is likely to be the time of maximum Soviet strategic advantage. Secondly, an ABM site defense could make possible the (temporary or permanent) deployment of some MX missiles in existing Minuteman silos, with potential savings in dollars as well as time. Finally, ABM could be utilized to protect or enhance the survivability of MX when it is eventually deployed as a mobile system.

What, then, is to be done? Plainly, the first order of business is a systematic and serious rethinking of the ABM question in all its aspects. This rethinking should take the form initially of a reconsideration of the fundamentals of American nuclear strategy from a perspective that is not determined by the theology and the history of strategic arms control. Then—but only then—it should proceed to reassess the achievements and the future promise of limitations on strategic offensive and defensive weaponry.

The question of strategic defense generally will be central in such a rethinking, and attention will have to be given to the long-neglected areas of civil and air defense. But the ABM question will be fundamental, both because it is inseparable from the largest questions of unclear doctrine and because the ABM Treaty has evolved into a document of considerable symbolic importance for U.S.-Soviet relations and for the entire enterprise of strategic arms control. The approach of the next ABM review conference in 1982 is bound in any event to stimulate new interest in this matter in American defense and foreign-policy circles. But that conference could have disastrous consequences for American interests if it is not preceded and prepared by a comprehensive review of U.S. strategic requirements for the 1980's. It should be added that if the United States does not move to reestablish the linkage between ABM and strategic offense, we are likely to find the Soviets doing it for us. In an ominous but not wholly implausible scenario, the Soviets could enter the 1982 conference with the position that, in view of Soviet advances in ballistic-missile defense, the United States must purchase continuation of the ABM Treaty with restrictions on its strategic-offensive programs—and particularly MX.

From a military point of view, the choices with respect to ABM roles and missions remain essentially what the were in 1969. The fundamental alternatives are site defense (in the first instance of ICBM silos, but also of strategic installations such as bomber and submarine bases and command centers), thin territorial defense (against third-party or accidental attack), and thick territorial defense (against full-scale Soviet attack). Strongest and least controversial in a doctrinal sense is the case for site defense, and this will and should have priority in future discussions of the question. Also strong, in spite of having been lost from sight following the demise of Safeguard, is the case for a thin territorial defense.

As for the third alternative—defense against fullscale Soviet attack—while it is bound to stir bitter controversy and may in the end prove politically impossible, it cannot be lightly dismissed. Of its many strategic advantages, not the least significant would be its effect in restoring credibility to the American commitment to the defense of Europe. A space-based laser ABM system may be the only real way to neutralize the new threat to NATO Europe represented by the Soviet SS-20 intermediate-range ballistic missile that is now being deployed in large numbers in the USSR; and it would surely make more plausible the U.S. threat to employ nuclear weapons in the European theater in response to a conventional invasion by Soviet and Warsaw Pact forces.

From an arms-control point of view, the only alternative that seems entirely unacceptable is maintaining the ABM Treaty regime in its present form. At the very least, the U.S. should seek clarification from the Soviets regarding the permissibility of site defense or of certain types of site defense within the terms of the present treaty; and it should insure that no avenues of ABM research and development (particularly relating to the possible use of space for AMB purposes) will be closed off through our unilateral interpretation of the requirements of the treaty or Soviet sensitivities to them. More radical alternatives would involve amending the treaty to allow an expanded site defense or thin territorial defense, while maintaining the current prohibition on expansion to a thick territorial defense.

Finally, of course, there is the alternative of abrogation. Even if the U.S. government will not have convinced itself by 1982 of the wisdom or feasibility of a thick territorial defense, this is a possibility that ought to be entertained seriously, especially if the Soviets show no inclination to moderate the growth of their strategic offensive forces over the coming decade. If the AMB Treaty is to be continued, it is the Soviets who ought to be made to pay for its continuation by taking meaningful steps to curb their progress toward a first-strike capability against the United States. Decisive Soviet military superiority is an inexorable development only in the minds of those who believe that Americans will not—or should not—have the stomach for a reassertion of American power in the world. As the domestic reaction to recent events in Southwest Asia has shown, such thinking is at best premature.●

GREYHOUND TRAVEL DISCOUNT

● Mr. SASSER. Mr. President, I want to take this opportunity to commend both the Greyhound Corp. and the Tennessee Department of Tourist Development for a laudable program that promotes both tourism and travel in Tennessee and, at the same time, makes it easy for senior citizens to travel.

Greyhound is helping Tennesseans celebrate September as the month of the "Senior Class," that is, everyone 55 or older. And if you are 55, $55 will get you a "Senior Class Pass" for unlimited travel on Greyhound throughout Tennessee during the month of September.

This creative approach to promoting travel and tourism is of particular interest to me. Last year, the Senate passed legislation I introduced calling for Amtrak to set into motion discount travel fares for senior citizens. The House of Representatives passed similar legislation sponsored by Representative Claude Pepper. Since this measure became law last January, senior citizens can receive a discount on most Amtrak trips. I am still pressing for Amtrak to broaden the number of trips eligible for the discount.

At the time this legislation passed, I expressed the hope that an Amtrak discount program for senior citizens would help to stimulate private sector initiatives in an industry troubled by increasing fuel costs and declining passenger revenues.

I do not believe we should be pessimistic about the travel and tourism industry. Last November, I conducted a hearing of the Senate Subcommittee on Intergovernmental Relations on the impact of increased energy costs on the travel and tourism industry in the Southeastern United States.

Hotel and motel owners, travel agents, tour brokers, chamber of commerce representatives, and transportation and energy experts all made one point clear: despite the rapidly escalating price of the cost of energy, the industry is adapting. They are adapting because they are working together and developing new ideas and programs.

The worst enemies of the travel and tourism industry, they told me, are poor information on energy supplies, misleading rumors, and the simple fear of running out of gas. I would like to point out that, even during the worst days of last year's gasoline shortages, there was available gas along every major highway and most of the byways throughout the Southeast. You did not have to fear being lost because of an empty gas tank—even during a weekend. I am certain that the Southeast and the entire Nation can cope with spot gasoline shortages in the future as well.

Still, if someone does not want to drive his or her own car, the travel industry—through programs such as Greyhounds' "Senior Class Pass"—is developing attractive alternatives. These alternatives serve not only the industry or the State of Tennessee, but the millions of older Americans who want to travel and who have more time to travel, but who, because of fixed incomes, find most modes of travel too costly. I would like to see the private sector continue to plan and promote new ideas for travel and tourism.

In addition, I submit for the Record some additional information on the "Senior Class Pass" program.

The material follows:

Senior Class Pass

Greyhound Lines, Inc., local and interdivision round trip excursion tariff naming adult round trip and circle tour fare applicable for Tennessee intrastate transportation between all points in the State of Tennessee on this carriers routes for the elderly with governing rules and regulations as provided herein.

Issued: July 25, 1980.

Effective: September 1, 1980.

This tariff expires with September 30, 1980.

SECTION A: RULES AND REGULATIONS

Rule No. 1. Application of fares:

(a) The Fare authorized herein is an Adult Round Trip and Circle Tour Fare, and is payable in lawul United States money or its equivalent.

(b) The Fare authorized herein applies INTRASTATE between all Points in the State of Tennessee for unlimited travel for the month of September, 1980, when the entire routing is via the routes of Greyhound Lines, Inc.

(c) Tickets sold under authority of this Tariff will be sold only to persons, presenting for inspection of the Selling Agent, valid Birth Certificate, Drivers' License or other valid Documents to substantiate the actual age of the holder, indicating an age of fifty-five (55) years or more.

2. Dates of sale: Tickets will be on sale daily September 1, 1980 through September 30, 1980.

3. Limit of tickets: Tickets sold under authority of this Tariff will be limited to the month of September, 1980.

4. Form and marking of tickets:

(a) Tickets sold under authority of this Tariff will be of "signature form" which must be signed by the purchaser at the time of sale.

(b) Each coupon of Tickets sold under authority of this Tariff must be endorsed or stamped (Exc-).

5. Redemption of tickets:

(a) No refund will be made if any portion of the Ticket has been used.

(b) A totally unused Ticket will be redeemed to the original purchaser at the Fare paid.

6. Other rules and regulations:

Except as otherwise specifically provided herein, the Fare named in this Tariff is subject to the Rules and Regulations published in National Passenger Tariff, T.P.S.C. No. 25, amendments thereto or reissues thereof, issued by National Bus Traffic Association, Inc., Agent.

Exception: The provisions of Rule No. 12, "Exclusive Occupancy of Coaches", and Rule No. 15, "Special Party Fare Tickets", published in Section A3, "Rules and Regulations", of National Passenger Tariff, T.P.S.C. No. 25, WILL NOT apply in connection with Tickets sold under authority of this Tariff.

SECTION B: ADULT ROUND TRIP AND CIRCLE TOUR FARE

Adult round trip and circle tour fare for the month of September, 1980, $55.00.

SEE TENNESSEE ON GREYHOUND WITH A "SENIOR CLASS PASS!"

If you're 55 or older, September is your month to travel Tennessee for only $55.00.*

Tennessee is dedicating the month of September to the "Senior Class," and to celebrate, Greyhound is offering an incredible travel bargain: the "Senior Class Pass." Everyone 55 or older gets 30 days of unlimited travel for only $55.00. Visit any of the more than 120 places Greyhound goes in Tennessee.

And Tennessee has a lot to offer, starting with Opryland USA and the Country Music Hall of Fame in Nashville. Then there's all of Tennessee's romantic history, like the Jackson home of famous Casey Jones, the Tennessee Valley Railroad Museum, the Chattanooga Choo-Choo and rustic Silver Dollar City. The American Museum of Science and Energy is in Tennessee along with the Guinness Hall of World Records. And if you love the wide open space, you can take a local tour to the Loretta Lynn Dude Ranch in Hurricaine Mills or the Rock City Gardents at Lookout Mountain.

During "Senior Class" month, Tennessee will give Senior Citizens first-class treatment and all these wonderful bargains:

Discount rates at participating hotels, motels, resorts, campgrounds and state parks.

Special deals with local group tour companies along the way.

Discounts with rent-a-car companies, sightseeing tours, houseboat and canoe rentals.

Admission discounts to many famous attractions and theme parks.

For complete listing of discounts, write: Tennessee Tourist Development, P.O. Box 23170, Dept. FP-7, Nashville, TN 37202.

Best of all, when you go Greyhound, you get professional and helpful drivers, efficient service, wide reclining seats, on-board restrooms, tinted windows, air conditioning, and the benefits of years of travel experience.

So take advantage of the "Senior Class Pass" in September. An entire state can be yours, plus the comfort and worry-free travel of Greyhound. And that's the kind of vacation memories are made of.

*No other discounts apply in conjunction with this pass.●

PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD at this point the notification I have just received.

The notification follows:

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C., June 26, 1980.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-77, concerning the Department of the Army's proposed Letter of Offer to the Netherlands for defense articles and services estimated to cost $27.4 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General USA, Director, Defense Security Assistance Agency.

[Transmittal No. 80-77]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Netherlands.

(ii) Total estimated value: Major defense equipment*, $26.3 million; other, $1.1 million; total, $27.4 million.

(iii) Description of articles or services offered: Thirty-seven (37) M110A2 howitzers with technical data package, concurrent spare parts, and documentation.

(iv) Military department: Army (VJW).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 Report: Case not included in section 28 report.

---

* as included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(viii) Date report delivered to Congress: 26 June, 1980.●

THE IMPLEMENTATION OF THE TAIWAN RELATIONS ACT

● Mr. GLENN. Mr. President, as you know, April 10 was the first anniversary of the Taiwan Relations Act. That legislation contained a strong provision for congressional oversight. Section 14 called upon the Senate Committee on Foreign Relations and the Committee on Foreign Affairs of the House of Representatives to monitor and report on:

The implementation of the provisions of this act;

The operation and procedures of the Institute;

The legal and technical aspects of the continuing relationship between the United States and Taiwan; and

The implementation of the policies of the United States concerning security and cooperation in East Asia.

As chariman of the Subcommittee on East Asian and Pacific Affairs of the Committee on Foreign Relations, I have taken several steps to fulfill the oversight responsibilities provided for in section 14:

A hearing was held November 15 on the administration's handling of existing treaties and agreements between the United States and Taiwan.

Also in November, I initiated a General Accounting Office study of the implementation of the Taiwan Relations Act.

In March the committee cosponsored a series of workshops with the Congressional Research Service entitled, "Taiwan: One Year After U.S.-China Normalization." The workshops, attended by experts in the field, covered political, economic and security issues.

An executive session was held on March 12 to examine the issue of arms sales to Taiwan. Assistant Secretary Holbrooke and Lieutenant General Graves testified.

In April three members of the committee staff visited Taiwan to obtain—firsthand—the views of Taiwan officials on United States-Taiwan relations a year after derecognition. They were Karl F. Inderfurth, deputy staff director, Carl Ford, professional staff member of the Subcommittee on East Asian and Pacific Affairs, and Frederick S. Tipson, minority staff professional. The staff met with most of the key Government and military leaders of Taiwan.

On May 14 and 15, the full committee held hearings on the overall implementation of the Taiwan Relations Act (TRA) after its first year.

I am happy to report to the Senate, that despite many suggestions to the contrary, the framework for continuing our close, and friendly, relations with Taiwan, the TRA has worked remarkably well.

Trade between the United States and Taiwan increased by 23 percent in 1979 and predictions are that trade will continue to increase by at least 20 percent a year. U.S. investment on the island expanded by about 15 percent.

Tension in the Taiwan Strait area declined as U.S.-P.R.C. relations improved in 1979 and 1980. The P.R.C. apparently discontinued large joint service training exercises opposite Taiwan and moved some air units farther inland. Officials for the first time also allowed Westerners to travel to Fu-chou, a major port city along the Fukien coast. The United States, for its part, resumed defensive arms sales to Taiwan in early 1980. Although some of Taiwan's military requests have not yet been approved, the United States recently decided to include Taiwan among those countries authorized to receive a presentation from U.S. contractors concerning the FX aircraft. Taiwan considers the FX its first priority.

Most importantly, Taiwan, after initially refusing to adapt to the new state of affairs, accepts the TRA as the basis for unofficial relations with the United States. Serious efforts to somehow turn back the clock and regain diplomatic recognition from the United States ended months ago. For example, in response to Governor Reagan's ill-considered remark that he might offer diplomatic recognition to Taiwan, Taiwanese officials immediately insisted that they could not accept a two-China solution. Such a solution could precipitate a conflict with the PRC and jeopardize peace and prosperity on Taiwan and throughout the region. No responsible administration, either here or on Taiwan, can turn back the clock. Both sides must continue to adapt to, and facilitate, the burgeoning unofficial relations between the United States and Taiwan.

Today, as part of the Foreign Relations Committee's oversight responsibility I am releasing three reports that support the optimistic conclusions I have just mentioned. They include:

First, the unclassified record of the May 14–15 general oversight hearings. During these hearings GAO presented the findings of its examination of the TRA's implementation and Mr. David Dean discussed the status of the Institute, the American Institute in Taiwan (AIT), established by the TRA to maintain and conduct our "unofficial" relations with Taiwan;

Next, a record of the workshops which examined, "Taiwan: One Year After U.S.-China Normalization;" and

Finally, the staff report entitled, "Implementation of the Taiwan Relations Act: The First Year." This report synthesizes the findings from the committee's earlier efforts and presents the staff's views of the TRA's implementation during the first year since its passage. I consider it an excellent report and would like to include in the Record its introductory section entitled "Major Findings."

The material follows:

Implementation of the Taiwan Relations Act: The First Year

MAJOR FINDINGS

1. The Taiwan Relations Act (TRA), signed into law April 10, 1979, has successfully established the basis for continued close relations between the United States and Taiwan.

As one measure of this success, trade between the United States and Taiwan increased by 23 percent in 1979 and predictions are that trade will continue to increase by at least 20 percent a year. U.S. investment on the island expanded by about 15 percent in 1979.

Defensive arms sales to Taiwan resumed in early January 1980 ending speculation that the 1979 moratorium on new sales would be extended.[1]

Taiwan and the United States have signed a new civil air agreement with significant new advantages for Taiwan, an other important agreements should be concluded shortly.

Officials on Taiwan give great credit to the Congress for making needed changes in the provisions of the Taiwan omnibus legislation proposed by the Administration. They believe these changes have resulted in a workable relationship.

Taiwan after initially refusing to adapt to the new state of affairs, accepts the TRA as the basis for unofficial relations with the United States. Serious efforts to somehow turn back the clock and regain diplomatic recognition from the U.S. ended months ago; and

The Department of State, after an initial period of uncertainty and resistance to certain provisions of the Act seems to be moving toward an implementation of the legislation which is more consistent with its intent and spirit. Consultations with interested Senators and their staffs have become more frequent and timely, and recent decisions have reflected a more practical and balanced concern for "extensive, close and friendly" relations with Taiwan.

2. An important success in the new relationship has been the American Institute in Taiwan. (AIT). This mechanism worked better than anyone expected. Together with its counterpart—Taiwan's Coordination Council for North American Affairs (CCNAA)—AIT has effectively managed our "commercial, cultural and other" relations with Taiwan. Nevertheless, there have been some difficulties in the operation of AIT.

AIT/Taipei is restricted to a ceiling of 50 employees—about half the number formerly employed by the Embassy.

AIT must receive an authorization from the U.S. Consulate in Hong Kong before issuing non-immigrant visas.

U.S. officials are repeatedly denied permission to visit Taiwan even for unofficial purposes.

AIT officials are instructed not to visit government offices on Taiwan. Taiwan officials obviously resent this restriction.

3. A number of problems surfaced during the first year of the TRA that either conflict directly or indirectly with the letter—or the spirit—of the law. These issues have caused difficulties on both sides.

The State Department's restriction on the number of CCNAA offices permitted in the United States is inconsistent with Section 10(b) of the TRA. Prior to derecognition, Taiwan maintained fourteen consulates. The TRA specifically requested the President to allow Taiwan to maintain "the same number of offices and complement of personnel as were previously operated in the U.S. . . . ." Nevertheless, the number of CCNAA offices is down to nine.

The U.S. has also been slow to provide adequate security for CCNAA personnel stationed in the U.S., despite the clear need to do so.

Taiwan officials also believe that the United States is purposefully undermining Taiwan's international position by encouraging other nations to recognize the PRC. Taiwan perceives that each country that follows the U.S. lead must be acting under U.S. instructions, and the U.S. government has not been successful in dispelling this impression.

Similarly, Taiwan officials blame the Administration for Taiwan's failure to participate in the Winter Olympics.

4. Two problem areas—arms sales to Taiwan and the status of treaties and agreements with Taiwan—most separate the Administration from the Congress. In both cases the Executive Branch has not adequately consulted with the Congress before making important decisions.

The dispute over arms sales began immediately after the announcement that the United States was to normalize relations with the PRC. Administration spokesmen indicated that arms sales to Taiwan would resume in 1980 on a "limited and selected" basis. The intent of Congress was to replace this "limited and selected" formula with a substitute that expanded the U.S. commitment to sell Taiwan those arms which it legitimately needed to meet its self-defense requirements, without regard to PRC sensitivities.

Despite the Administration's approval of a limited number of items in January, its failure to approve or even address Taiwan's top priorities raises questions about the willingness of the United States to improve Taiwan's defensive military capabilities. For Taiwan, this poses the practical problem of planning its military modernization program. Moreover, Washington's failure to take into account Taipei's training needs and support requirements will over time reduce its military capabilities. Presently, State Department guidelines permit only technical training. Professional training is proscribed. There have also been difficulties experienced transferring various sorts of munitions to Taiwan.[2]

The dispute between Congress and the Executive Branch over treaties and agreements with Taiwan dates back to the original TRA debate. The Congress would prefer to deal with each situation as it arises, on a case-by-case basis. Its preference is to retain an old treaty or agreement, modifying it as necessary. New unofficial agreements would be substituted only as a last resort. The Administration, on the other hand, appears to have a preference for replacing old agreements whenever possible with new unofficial arrangements.

The problems concerning arms sales and treaties and agreements appear to stem primarily from the Administration's defining "unofficial relations" too narrowly. In fact, the Executive Branch appears at time to be implementing that version of the Act which it drafted, not the TRA passed by Congress. This reticence apparently results from fear of complicating or upsetting U.S.–PRC relations.

5. Taiwan is now at a crossroads in its political development. Taiwan government and party (KMT) officials appear to recognize the need for reform, and prospects for elections to some seats in the national Legislative Yuan later this year look good. But President Chiang Ching-kuo must contend with various factions:

Some elements within the KMT believe he has already gone too far. In their view political reforms could undermine the regime's legitimacy and eventually could lead to instability and insurrection.

Other elements within the KMT argue for positive programs that would involve the majority of native Taiwanese gradually into the national political process. The Kaohsiung incident, however, may have reduced this group's influence.

---

[1] A decision to include Taiwan among those countries authorized to receive a presentation from U.S. contractors concerning the FX aircraft was announced on June 12, 1980. The Committee also received recently notification that Taiwan was to be offered an opportunity to purchase 105 mm and 8" self-propelled howitzers.

[2] Although U.S. contractors have again been given permission to ship munitions to Taiwan, the pipeline for certain materials was shut off for over a year attempting to find an alternate unofficial source. The Congress envisioned that the TRA would resolve all such problems immediately without any inconvenience to Taiwan.

The majority of those opposed to the current government apparently are still willing to work within the system to change it. In most respects they agree with the moderates' programs of political reform, but want the government to announce a timetable for instituting changes.

Finally, a relatively small group of people outside the KMT want to push the government faster and farther than it is willing to go, even to the point of confrontation and provocation.

Many observers believe that economic factors hold the key to the island's future. The KMT currently appears to receive support from a majority of native Taiwanese because most people give highest priority to stability and continued economic prosperity. But in the event of a downturn in the economy, or if the long-term prospects for genuine political reform appear dim the demands for more rapid political reform could increase dramatically. A failure to satisfy these demands or, even more damaging, attempts to repress them, could ignite an explosion that would tear apart Taiwan's current social and political fabric. American public opinion toward Taiwan would also be negatively and seriously affected by a perception that the present government was not committed to a reasonable course of democratization and liberalization.

U.S. policy toward Taiwan over the past year and a half has, in some instances, tended to aggravate the situation. An obvious Administration preference for seeking good relations with the PRC has caused many Taiwan officials to question America's commitment to the island. This creates an even greater reluctance to institute political reforms. Consequently, even opposition leaders on Taiwan urge the United States to provide those weapons legitimately needed for Taiwan's defense.

6. At the present time, a balance exists in U.S. relations with Taiwan and the PRC. It is in no one's interest to upset this balance.

It is reasonable to assume that the PRC intends to live with the ambiguity of the TRA passed by Congress. To do otherwise could force the PRC to deal with uncertainty and unpredictability, an unattractive option at the moment.

For Taiwan the status quo also is more attractive than any other alternative, given the fact of derecognition. None of the options so frequently cited for Taiwan—independence, development of a nuclear capability, or an approach to the Soviets—appear to have any real support. Such scenarios are plausible only if Taiwan's leaders become desperate and see no other alternative.

For the United States the challenge is to maintain this balance, and, most important, to take no actions which would create a crisis in Taiwan about its security. For without this sense of confidence, Taiwan's economic future could be adversely affected and its willingness to move toward political reform and liberalization called into question.

Finally, it is quite likely that unless the Taiwan part of the equation works, U.S. policy toward the PRC has, over time, little chance of success. The failure in one could well lead to a failure in the other. A stable and prosperous Taiwan is therefore important to the stability of East Asia and to the national interests of the United States.

RECOMMENDATIONS

1. The Committee should place the Administration on notice that the Congress expects the letter—and the spirit—of the TRA to be fully implemented, and will continue to exercise close and continuous oversight of the TRA, U.S.-Taiwan relations and U.S.-PRC relations.

2. The Administration should complete its review of Taiwan's pending arms request—particularly the FX and the Harpoon missile—observing the standard in section 3(b) of the TRA and forward its decisions to the Congress in the near future.[3] This should include an informal 5-year plan that indicates approximately when Taiwan can expect to receive those weapons that are approved by the Administration.

3. The Administration should allow Taiwan's military personnel to attend professional training courses in the United States. Further, the Administration should ensure that explosives are delivered to the island by whatever means available. If this means shipments by U.S. military contractors, so be it.[4]

4. The Administration should allow Taiwan to increase its representation in the United States pursuant to section 10(b) of the TRA. Appropriate security for Taiwan officials in the United States should also be provided.

5. The Administration should, at the appropriate time, increase AIT's personnel level (presently 54 on Taiwan) to accommodate the upward trend in U.S.-Taiwan commercial relations.

6. Additional efforts should be made to increase trade between Taiwan and the United States and to maintain a secure climate for U.S. investment on the island.

7. The Administration should err on the side of preserving existing agreements with Taiwan where feasible and certainly do nothing to call into question the adequacy or legitimacy of their status.

8. The Administration should seek to remove needless irritants to the workings of the unofficial relationship, such as the cancellation of Stars & Stripes to Taiwan, and the exclusion of unofficial agreements with Taiwan in Treaties in Force.

9. The Administration should study the impact and implications of removing Taiwan's wide range of exports to the United States from the availability of the Generalized System of (Tariff) Preferences.

10. The Administration and members of Congress should continue to monitor the human rights situation on Taiwan and should express concern or praise—as the circumstances may warrant—on a fair and balanced basis.●

A PRESCRIPTION FOR ECONOMIC RECOVERY

● Mr. DOLE. Mr. President, I call to the attention of my colleagues an article authored by Senator ORRIN HATCH. Entitled "Inflation, Taxes, the Budget, and You," this important and instructive piece appeared in the July 1980 issue of Reader's Digest.

The basic theme which pervades this article, and one which I have long advocated, is that unconscionable Federal spending is eroding the purchasing power of hard-working, economy-minded American citizens in all walks of life. Despite highly publicized claims to the contrary, we have not begun to control Federal spending. This lack of control we seem to have over the Federal budget can be directly attributed to inflation and fiscal irresponsibility. As Senator HATCH has written, the real solution to our economic woes then lies in a series of cuts in Federal spending coupled with tax reductions designed to spur growth and productivity. I also believe, as I have said many times before, that taxes must be indexed for inflation if we are to combat effectively the economic problems which have beleaguered this country. Republicans are steadfast in their belief that reduced Federal spending, lowered taxes, and increased private sector productivity are essential to reverse the downward economic trend of the past 3½ years.

Mr. President, I believe Senator HATCH's article will be of interest to my colleagues, and I ask that it be printed in the RECORD.

The article follows:

INFLATION, TAXES, THE BUDGET, AND YOU

(By Senator ORRIN HATCH)

It was January 1979. Declaring the fight against inflation (then 11 percent) "our top economic priority," President Carter had submitted a federal budget which he called "lean and austere." Studying the budget documents, I came upon a series of figures that explained, in microcosm, why the nation was headed toward economic crisis. The President was proposing to spend more than $900 million to conduct the 1980 census—a figure over four times the cost of the 1970 tally.

To the President, the census process meant 275,000 temporary jobs which could be used to reward loyal supporters throughout the country. And to the mammoth federal bureaucracy the census would provide facts and figures to justify a whole series of costly new programs. Quadrupling the census budget at a time when we supposedly were involved in a desperate fight against inflation could not be justified—and the General Accounting Office urged a fullscale Congressional review of the Census Bureau's budget.

That review never took place. When I raised the issue in the Senate Budget Committee, my modest proposal to cut the census cost by $100 million was rejected on a virtual party-line vote. The result was the same when we tried to eliminate costly duplication in welfare benefits, or cap wasteful federal-employee overtime, or curb questionable subsidies to business and industry. Over the years, scores of similar votes have spurred massive deficits, producing inflation, huge interest rates, and the greatest economic crisis since the Depression.

Just look at what has happened to the average U.S. factory worker. When his wages are adjusted for taxes and inflation, he actually earns less today than a decade ago. Personal savings—the lifeblood of industrial growth—have dropped to the lowest rate in 30 years; yet taxes have surged to the highest peacetime level in America's history.

Fifteen years of reckless federal spending and unconscionable deficits have triggered this crisis. Obviously, controlling government spending is the first step we must take to break the cycle of inflation and economic stagnation. But 18 months of watching fiscal manipulation from my vantage point on the Senate Budget Committee have convinced me that solutions will not be forthcoming until there is an essential change of attitude in the nation's capital. Indeed, Congress, the President—and the American people—are going to have to confront what's really causing the present economic crisis. Consider these points:

---

[3] A decision to include Taiwan among those countries authorized to receive a presentation from U.S. contractors concerning the FX aircraft was announced on June 12, 1980. The Committee also received recently notification that Taiwan was to be offered an opportunity to purchase 105 mm and 8" seld-propelled howitzers.

[4] Although U.S. contractors have again been given permission to ship munitions to Taiwan, the pipeline for certain materials was shut off for over a year attempting to find an alternate unofficial source. The Congress envisioned that the TRA would resolve all such problems immediately without any inconvenience to Taiwan.

While excessive federal spending is wrecking our economy, the system is richly rewarding politicians, bureaucrats and special-interest groups.

Late last year, while the Carter Administration was in the process of compiling the federal budget for 1981, the President's Office of Management and Budget shipped what amounted to its basic working papers to AFL-CIO headquarters for review. No special-interest group had ever before been invited to participate so fully in the budget process.

Not surprising, labor's pet spending schemes were left virtually untouched by the Administration. For example, President Carter failed to take one step that could save the government billions of dollars in coming years. By issuing an executive order he could negate the inflationary effects of the Davis-Bacon Act, a Depression-era law that, by bureaucratic interpretation, forces government to pay top union scale on vast numbers of federally financed construction projects—even if that is more than twice the going construction wage in a given community.

There is a price for such blatant handouts. This fall, labor will expend more resources than any other pressure group to win reelection of its friends in Washington. Labor, of course, is not alone in raiding the federal Treasury. Shortsighted business interests want handouts from the Economic Development Administration. Teacher lobbies push for more federal aid. Congressmen want larger staffs. Add all this up, and half our citizens may now depend upon government spending for a significant portion of their income.

Despite highly publicized claims to the contrary, we have not begun to control federal spending.

When runaway inflation forced the President last March to revise the 1981 budget, it was done in this way: Spending projections were lowered to $611.5 billion—a reduction of only $4.3 billion from the budget the President had submitted two months before. Projected tax revenues were raised to $628 billion—$28 billion over his original budget. As The Wall Street Journal concludes, "That's 4 for you and 28 for me."

As my colleague Sen. William Roth (R., Del.) points out, taxes projected for the 1981 budget add up to a figure $124 billion higher than 1980. This is the greatest tax increase in U.S. history, yet only one-third of it stems from new taxes and legislated tax tax hikes such as Social Security. The rest is a product of inflation plus its effect of pushing taxpayers into higher tax brackets.

Who says we cannot cut the federal budget beyond $4.3 billion? The Justice Department contends that as much as ten percent of federal expenditures may be eaten up by waste, abuse and fraud. In just one year, for example, federal workers ran up a government-wide overtime bill of $1.5 billion. Why not a $200-million reduction in federal overtime?

Why not, indeed, closer scrutiny of all non-essential spending? There is a law that allows the General Services Administration to spend one-half of one percent of new federal building costs on works of art. When a sculpture consisting of four large steel plates propped up by telephone poles was erected outside a new federal building in Huron, S.D., citizens petitioned to have the unwanted, $25,000 object removed. In Columbia, S.C., citizens picketed to protest the $65,000 cost of a 7000-pound aluminum structure in front of a federal building. In all, this program has cost taxpayers more than $6 million, but it continues uncontrolled in the President's new budget.

Political gimmicks—supposedly designed to force spending reform—actually encourage fiscal irresponsibility.

When Congress passed the Budget Control Act in 1974, it was hailed as a milestone in the drive to control spending. New House and Senate Budget committees—supported by a Congressional Budget Office (CBO)—would set spending ceilings before money was appropriated, thereby imposing economic discipline on the political process.

It hasn't turned out that way. In fact, the combined proposed deficits for the five years following enactment of the act were twice what they had been in the five preceding years. What happened?

Each time the House and Senate Budget committees sit down to establish levels, the CBO, serving at the pleasure of the Democratic majority, provides projections strongly weighted in favor of higher spending. The impact this additional spending has on the inflation rate is always discounted. When we in Congress began work on the 1979 budget, the CBO projected that a budget deficit of $56 billion would produce an inflation rate of six percent. Inflation turned out to be nearly twice that figure. For 1980, CBO economists initially told us inflation would round out at eight percent. But by early 1980, it was running at an annual rate of 18 percent.

How serious are the Budget committees about holding down the growth of government? Late last year a proposal was placed before the Senate to limit taxation to 20.5 percent of the Gross National Product. (In the last six years, taxes as a percentage of GNP have grown from 18.5 percent to a projected 22.5 percent in 1981.) With strong pressure from constituents for such a measure, the amendment appeared to have an excellent chance of passage. But free-spending legislators were spared a politically embarrassing vote against tax limitation when the proposal was shunted to the Senate Budget Committee for preliminary approval; as expected, the amendment is stalled in that committee.

It is time to recognize that the budget process has become a political charade which is being used to legitimize a dangerous course for our country. In the words of columnists Rowland Evans and Robert Novak: "The fact is that the system has worked to depress military spending, preserve social-welfare programs and stave off tax reductions."

Our federal tax system impedes job creation and productivity while inflation thrusts Americans into higher and higher tax brackets.

This year on the north side of Lake Erie, the Steel Company of Canada opened a new $800-million plant, a facility that eventually will provide more than 6,000 jobs for Canadians. On the south side of Lake Erie, U.S. Steel has long wanted to construct a much larger facility, but those plans lie dormant. Why?

A basic answer can be found in the tax codes of the two countries. In Canada a company can write off the equipment cost for industrial expansion in only 2½ years. U.S. companies must spread those tax benefits over more than a dozen years—a job-creation "incentive" that inflation renders almost meaningless.

In the last decade, the Japanese have been modernizing steel-production facilities at a rate nearly twice that of companies in the United States. Money has been available for industrial modernization in Japan in large part because the Japanese save their earnings at a rate of 25 percent—nearly six times the rate of savings in our country.

Why aren't Americans saving? Sadly, inflation far exceeds interest earnings. High federal tax rates on savings dividends encourage Americans to spend—and go into debt.

The bottom line of these tax policies can be found in my state of Utah, where 5500 jobs at a U.S. Steel facility are in jeopardy. The short-term problem centers on demands by the Environmental Protection Agency for the installation of advanced anti-pollution devices, which U.S. Steel says it cannot afford. If federal tax laws encouraged capital investment, those environmental hurdles would not be insurmountable, a plant could be modernized, and American steel would become more competitive on world markets.

The problem is not just steel. Of the seven leading industrial nations, the United States is dead last in spending for new tools and plant equipment. That in turn explains why we also are dead last in the growth of worker productivity.

And it is all so needless. Declares Sen. Lloyd Bentsen (D., Texas), chairman of the Joint Economic Committee: "If our tax system encouraged the supply side of the economy, we might not have to fight inflation by periodically pulling up the drawbridge with recession that dooms millions of Americans to unemployment."

Theoretically, to finance ever-higher government spending, Congress would have to raise tax rates—and face the political consequences. In recent years, however, that has essentially not been the case. In litle more than a decade, the proportion of American wage-earners in the 25-percent-or-higher tax bracket has grown from less than one in 11 Americans to nearly one in three. Working people—the American middle class—are being taxed at a rate once designed for the rich. The result is that the federal Treasury enjoys the benefits of a built-in tax increase each year. This is why big spenders in Washington can offer the mirage of an austere budget because what they actually are doing is raising your taxes.

What we have is a government that is fast consuming the strength of our private economy. This is occurring because we have built into our political system very real incentives to spur the massive growth of government spending and the levels of taxes we must pay. Surely we must recognize that the situation cannot be changed by cosmetic reforms or mere lip service to fiscal responsibility.

The real solution to our economic problems lies in a series of cuts in the growth of federal spending coupled with equivalent tax reductions specifically designed to spur growth and productivity. In September, when the Senate again considers the 1981 budget, I will take the first step toward this goal by proposing an immediate $20-billion reduction in non-defense spending and a comparable cut in federal taxes.

You can join us in this campaign by urging your Representatives and Senators to support this move. What are our chances for success? Similar proposals consistently have been defeated in Congress, but with the election only a few months away, maybe a majority of my colleagues will listen to your demands.

Even if this proposal fails, the effort will have been instructive. We have a blueprint to build a new era of prosperity. What we may ultimately need is new leadership in Congress to make this blueprint a reality.●

1978 AND 1979 FEDERAL AND STATE INCOME TAX RETURN SUMMARIES

● Mr. CULVER. Mr. President, I submit for printing in the Record summaries of my 1978 and 1979 Federal and State income tax returns.

The material follows:

SUMMARY OF 1978 FEDERAL AND STATE TAX RETURNS

FEDERAL RETURN—FORM 1040

Line 7—Total exemptions claimed, 6.

Line 8, Salary	$57,500.00
Line 13, Business income (diving instruction, Ann Culver)	1,492.40
Line 17, Rental income	1,029.37
Line 20, Other income (honoraria income for Senator Culver)	24,924.00
Line 21, Total income	84,945.77
Line 28, Adjustments to income	3,301.81
Line 31, Adjusted gross income	81,643.96
Line 33, Deductions (from schedule A):	
Medical and dental	150.00
Taxes	7,145.50
Interest	18,756.57
Contributions	5,685.00
Miscellaneous	132.50
Less Schedule A Line 40 amount	−3,200.00
Total	28,669.57
Line 34, Taxable income	52,974.39
Line 54, Total tax	14,608.08

IOWA RETURN—FORM 1040

Line 10, Total exemption credit amount	55.00
Column A—Wife:	
Line 14, Iowa net income	2,007.08
Line 21, Iowa taxable income	1,421.56
Column B—Husband:	
Iowa net income	79,636.88
Iowa taxable income	35,908.16
Line 24, Total tax	2,714.90
Total 1978 tax from Federal and State returns	17,322.98

Summary of 1979 Federal and State tax returns

FEDERAL RETURN—FORM 1040

Line 7—Total exemptions claimed, 6.

Line 8, Salary	$58,290.62
Line 9, Interest income	3.49
Line 18, Depreciation (On rental property, McGregor, Iowa)	3,753.84
Line 21, Other income (Includes $21,850 honoraria income for Senator Culver)	22,310.00
Line 22, Total income	76,850.27
Line 28, Adjustments to income	2,996.43
Line 31, Adjusted gross income	73,853.84
Line 33, Deductions (from schedule A):	
Medical and dental	218.98
Taxes	5,912.72
Interest	18,496.28
Contributions	1,195.00
Miscellaneous	97.50
Less schedule A Line 40 amount	−3,400.00
Total	22,520.48
Line 34, Taxable income	51,333.36
Line 54, Total tax	14,289.19

IOWA RETURN—FORM 1040

Line 9, Total exemption credit amount	76.00
Line 14, Iowa net income	73,603.84
Line 20, Iowa taxable income	35,472.67
Line 23, Total tax	2,618.86
Total 1979 tax from Federal and State returns	16,908.05●

THE SUPREME COURT'S DECISION ON THE HYDE AMENDMENT

● Mr. HUMPHREY. Mr. President, yesterday, the U.S. Supreme Court narrowly averted a constitutional crisis in its 5 to 4 decision regarding the Hyde amendment which restricts abortion funding.

The Court upheld the constitutional right and obligation of the Congress to control the expenditure of Federal tax dollars. This right and obligation are clearly stated in article 1, section 9 of the U.S. Constitution, which reads:

> No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law.

From press accounts, it appears that the Justices did not uphold this mandate specifically, for nowhere do they mention it in their opinions, but they did not force the issue by ruling that Federal money would be spent in direct contradiction to the wishes of the Congress, and the American people whom the Congress represents.

That the Supreme Court deigns to allow the Congress to fulfill its constitutional obligation should not be surprising. What is surprising is that four of the nine Justices ruled otherwise.

Four out of nine would presume to spend the people's money against the will of the people as represented by our democratic institutions, and against the plainly stated dictates of the Constitution. Why would these four Justices be party to such action? Were they swayed by the demands of pro-abortionists? The Justices should pause to consider.

Abortion is the most divisive moral issue this country has faced since it faced slavery. For greed, for convenience and for other reasons, slavery had its defenders, just as abortion has its defenders. Some people thought that slavery was a "positive good," just as some people today think that abortion, the killing of unborn children, is a "positive good."

Some people were so intent upon defending the "peculiar institution" of slavery that they were indifferent to the means. To achieve their end, they undermined our democratic institutions and the Union itself. In an action that precipitated the Civil War, they used the Supreme Court to subvert the intent of the Constitution. In the Dred Scott decision, the court ruled, in effect, that black people are not people.

In our day, some people similarly are so intent upon this "peculiar right" to abortion, that they are indifferent to the means by which it is achieved. In our day, the Supreme Court has ruled, in effect, that unborn babies are not persons. Yesterday, it came close to ruling that citizens, through taxation, must pay for the billing of these unborn children even without the constitutionally required appropriation process.

The people who would force Federal subsidy of abortion without regard to our democratic institutions should realize that many of their fellow Americans believe abortion to be murder. The former, therefore, risk much in such a pursuit of their questionable end.

The opponents of abortion feel a moral obligation to oppose it, and cannot tolerate the despoiling of the Constitution for any end, but especially for an end they believe to be morally wrong.●

COLOR TELEVISION RECEIVERS: ANOTHER AMERICAN INDUSTRY SACRIFICED

● Mr. HEINZ. Mr. President, I note with great distress, but little surprise, the announcement by the President that he is lifting the quotas against imports of Japanese television sets and increasing the quota levels for imports from Taiwan and Korea. He has taken this action despite the fact that Japanese productive capacity is some five times that of South Korea and Taiwan combined, and the fact that it is the Japanese industry which has done so much to practically run our own industry out of business in the last 10 years.

I say I am not surprised by this decision, Mr. President, because it is typical of this administration, which has regularly denied justifiable import relief throughout its tenure. The President did not follow the advice of the International Trade Commission in the first television case 3 years ago, just as he did not follow it in cases involving shoes, leather wearing apparel, mushrooms, and specialty steel, to mention only a few. It is apparent that domestic industries hard hit by imports can expect little sympathy from this administration and little assistance in adjusting to the changed economic circumstances that are threatening them. Obviously there are many reasons why an industry begins to lose to foreign competition, and I am not suggesting we ignore economic realities in a blind effort to protect our industries. I am suggesting, however, that the American President ought to be a friend of American industry, not its adversary; and that when an industry is impacted by imports it should get some assistance from its Government in adjusting to the change.

As usual in most of these cases, there was an indication from the White House that the television decision was made, at least in part, to help fight inflation. What the President and his Council of Economic Advisors apparently ignored, however, is the fact that the producer price index for TV receivers has actually fallen 1.3 percent from 1977 to 1979 while the index for other electronic components rose almost 20 percent during the same period, a period, by the way, during which import restraints were in effect. Mr. President, one of the great frauds prepetrated on the public by economists who have not examined real-world data is the argument that import relief is always inflationary. Clearly there are circumstances where that is the case, but there are also a number of other situations where such an argument simply is not true. The television industry is such a case.

The President's decision in this case is also a tragedy because of the way the Government, first the Treasury Department and now the Commerce Department, has botched the antidumping case against the Japanese which has been going on since 1971. I have spoken at some length on that subject and the Treasury's mishandling of it in the past, and I shall not do so again at this time. Many of us in the Senate had hoped that the reorganization which took place last year transferring jurisdiction over antidumping and countervailing duty cases to the Commerce Department would result in tighter administration of these laws. The recent decision by the Commerce Department to use an obscure section of customs law written for a different purpose to justify settling this case for a few cents on the dollar is disturbing evidence that very little has changed in the reorganization and that it is business as usual when it comes to ignoring the law at the expense of American industry.

This decision by the Commerce Department prompted the Finance Committee to write Secretary Klutznick objecting to the use of section 617 of the Tariff Act of 1930 to settle antidumping or countervailing duty claims. The committee specifically took no position on the merits of the television case itself, since it is still being litigated—the domestic industry having gotten an injunction preventing Commerce from going ahead with the settlement—but it made clear its concern that section 617 used in this manner threatens to undo much of what we did last year in the Trade Agreements Act of 1979 to tighten up administration of the antidumping and countervailing duty laws, and that it is the committee's view that that provision of law should not be used in this way. Mr. President, I shall submit the text of that letter at the conclusion of my remarks for the RECORD.

All in all, Mr. President, this has been a bad spring for the television industry. I hope with respect to the antidumping case we will be able to persuade the Commerce Department that its position lacks both legal and policy merit and that the case should be fully prosecuted. As for the orderly marketing agreements, I for one plan to continue my efforts to persuade this administration of the shortsightedness of its trade policy and of the need to become a better advocate for American industry.

The letter follows:

COMMITTEE ON FINANCE,
Washington, D.C., June 27, 1980.

Hon. PHILIP M. KLUTZNICK,
Secretary of Commerce,
Washington, D.C.

DEAR MR. SECRETARY: The Committee notes the recent decision of the Department of Commerce under the cited authority of section 617 of the Tariff Act of 1930 to compromise the disputed claims for antidumping duties on merchandise subject to the formal dumping finding T.D. 71-76, television receivers from Japan. This use of section 617 has caused the Committee considerable concern regarding the enforcement of the antidumping and countervailing duty laws. Because the compromise of the antidumping duties on Japanese television sets under section 617 is currently the subject of litigation, the Committee takes no position on the merits of your Department's decision in that case. We do, however, wish to make some general comments on the future use of section 617.

As you know, the Committee and the Administration consulted and reached agreement last year in the context of implementing the Multilateral Trade Negotiations on amendments to the antidumping and countervailing duty laws intended to strengthen enforcement of these laws. The amendments subsequently made to these laws in the Trade Agreements Act of 1979 particularly strengthened the process of assessment and collection of antidumping and countervailing duties, as the Committee, and indeed the entire Congress, strongly believes that prompt assessment and collection of the full amount of these duties determined to be owed after completion of the procedures specified in the Trade Agreements Act is critical to effective enforcement of the laws concerned. The amendments insure that assessments will be made in a timely fashion and generally revised the process to insure that the practices which led to the problems with the assessment and collection of the antidumping duties on imports of Japanese televisions would not be repeated.

Given the above, the Committee is concerned about the use of section 617 of the Tariff Act of 1930 to compromise disputed claims for antidumping and countervailing duties. If after lengthy, formally prescribed proceedings under the antidumping and countervailing duty laws, claims for duties are subject to compromise under section 617 at the discretion of the Secretary of Commerce, the provisions of the Trade Agreements Act, particularly those which prescribe the amount of duties which must be assessed and collected, would be subject to circumvention. These provisions were written with the intent of limiting administrative discretion, and to use section 617 to compromise claims as a result of countervailing or antidumping duties would effectively destroy these limitations, contrary to the intent of the Congress and the Executive in providing them. The ability to compromise would make administrators subject to great political pressures to compromise politically sensitive cases, and could undermine the effective use of the antidumping and countervailing duty laws.

Therefore, it is our view that, whatever the outcome of the pending litigation, you should not use any authority under section 617 to compromise claims as a result of countervailing or antidumping duties, and that an appropriate regulation within the limitations discussed above should be issued. Given the amendments made by the Trade Agreements Act of 1979, such compromises would not be necessary or wise and would undermine the effect of the antidumping and countervailing laws in combating unfair trade practices.

I would appreciate knowing whether you believe you can accommodate the Committee's request at an early date, so that the Committee may decide what additional action, if any, may be appropriate.

With every good wish, I am
Sincerely,

RUSSELL B. LONG,
Chairman.●

THE NATIONAL REGULATORY RESEARCH INSTITUTE IS DOING A GOOD JOB

● Mr. METZENBAUM. Mr. President, as my colleagues know, I am rarely complimentary in my comments on Department of Energy activities. There is, however, a program of particular interest to me which, though very small, does present a success story for which DOE is in large measure responsible. I wanted briefly to report to you on it.

Members will recall that we voted to include, at my urging, what came to be section 603 of the Public Utility Regulatory Policies Act of 1978. This provided a 2-year authorization for DOE to make grants up to $2 million to the National Regulatory Research Institute which was established in 1976 by the National Association of Regulatory Utility Commissioners and located at the Ohio State University. In point of fact, $1 million for fiscal year 1979 in contract form and $1 million for fiscal year 1980 have gone to NRRI under grant funds administered by the Economic Regulatory Administration. A year earlier, fiscal year 1978, in order to assist this fledgling entity in getting underway as the new research arm of the State public utility commissions and in order to help achieve some of DOE's energy conservation goals, the Office of Utility Systems at ERA placed a $1 million contract with NRRI. These were moneys well spent.

Mr. President, I would like to sketch what we and the regulatory community got for that $3 million. It was a good buy.

In initiating its research assistance to State commissions, the Institute staff visited PUC's in 43 States. From these visits came several reports—a utilities profile; a State jurisdictional profile; a regulatory characteristics profile; computer programs available to regulatory commissions; and a State needs assessment profile. From this last was derived a regulatory assistance program offering to the State commissions technical assistance in four areas—rate design, consumer programs, forecasting and planning, and agency operations. Also, case studies were decided upon to assess specific instances of regulatory innovation and success in five States—Missouri, Arkansas, Arizona, Oregon, and Wisconsin.

The response to the offering was very substantial. Some 138 applications for Institute assistance from 40 States were received. Twenty were chosen and agreed upon with the Utility Regulatory Assistance Division of the Department of Energy. By the end of fiscal year 1978 these 20 projects were completed—7 on generic issues in State public utility regulation and 13 specific to the needs of particular States.

In its assistance agenda for fiscal year 1979, NRRI and DOE agreed to concentrate on aiding implementation of the (then) recently passed National Energy Act. A dozen more technical assistance projects were provided States not previously served. Topics covered by the direct on-site assistance included alternate rate structures, power pooling, fuel adjustment clauses, time-of-use pricing, lifeline, and State commission implementation of State-related portions of the National Energy Act.

In addition to providing on-site technical assistance, the NRRI conducted conferences and workshops during the past year. Regional conferences were held in five cities: Providence, R.I., Columbus, Ohio, Atlanta, Ga., Denver, Colo., and San Francisco, Calif. The purpose of the conferences was to provide State regulatory commissions with timely information concerning the National Energy Act and to provide State commissions with an opportunity to discuss with Federal officials the impact of various provisions of the NEA upon their States. Forty-eight States and the District of Columbia attended these conferences.

Five other multiday workshops were conducted in fiscal year 1979. Two of the five workshops focused upon a financial forecasting and productivity analysis program which allows comparative analyses of utilities and the testing of alternative policies. Fifty-three participants, representing 28 States attended these two workshops. Three separate workshops were held on time-of-use pricing, marginal cost-of-service and embedded or traditional cost-of-service. The workshops were designed to provide participants with theoretical as well as applied knowledge. "Hands-on" learning was an integral part of each workshop. Ninety-three participants representing 26 States attended the three workshops.

In addition to the technical assistance and conferences and workshops, the NRRI undertook 14 generic research studies. The purpose of this generic research was to analyze important regulatory issues in order to provide State commissions with objective research concerning these issues. This time the regulatory issues examined included fuel adjustment clauses, cost-of-service indexing, solar energy regulatory issues, expense and investment treatment of residential energy conservation measures, powerplant productivity, forecasting and planning, contingency planning, trends in commission regulation, commission-ordered management audits, PURPA data requirements, levelized billing, and regulatory performance incentives.

Now in fiscal year 1980 the research and assistance agenda permitted by DOE funding is pointed toward further help to the State commissions in implementing various parts of the NEA. NRRI's projects are now grouped under four program headings—rate design, cost control, computer-assisted regulatory research, and regulatory information. In this last connection a pilot project is included which is designed to provide State commissions with information about the activities of all other State commissions in addressing the 11 PURPA ratemaking standards. Based upon the State response to this limited experiment, the NRRI will attempt to develop a regulatory information exchange system. Some 15 projects comprise the research and assistance effort under the other three programs, all due for completion this fall.

Mr. President, I have reported here only those activities of NRRI flowing from Federal funding and then only on electric and natural gas matters. The Institute also assists commissions in telecommunications and transport research. Over the first 3 years of operation, NRRI has actively arranged on its own for funding from non-Federal sources. Each of the first 2 years this amounted to over a quarter million dollars, and this current year non-Federal funds to NRRI will exceed a half million. Among the substantial contributors here are the Ohio Public Utilities Commission and the Ohio State University itself. This, of course, was the intent of the matching requirements we wrote into section 603 of PURPA.

So the story is a good one, and both the Economic Regulatory Administration at DOE and the National Regulatory Research Institute at OSU are to be commended for their performance in the dual tasks of, first, strengthening the regulation of the Nation's electric and gas utilities through providing regulators with information and analyses as powerful as that of the companies, and second, helping implement the provisions of national energy policy in a way that is not unduly disruptive to 80 years of State regulation.●

ONLY UNCLE SAM THINKS OUR TOWN NEEDS A CLINIC

● Mr. McCLURE. Mr. President, I would like to share an article with my colleagues written by a constituent of mine in Blackfoot, Idaho, Dr. J. D. Thueson. Dr. Thueson relates a tale of Government intervention and bumbling bureaucracy that would be funny—if it were not so pathetic.

Blackfoot, Idaho is located in the heart of potato country in my State. During certain seasons, primarily summer, Blackfoot's population of under 10,000 grows by two or three thousand when migrant farmworkers come to work in the fields. Somewhere along the line, a Federal bureaucrat, sitting at a desk in Seattle, decided that Blackfoot had to have a migrant health clinic. Blackfoot did not want the clinic. Blackfoot did not need the clinic. But Blackfoot got the clinic anyway.

It was argued that the town's nine physicians could not adequately serve the migrant community because their office hours were not in the evenings when migrants were not working in the fields. It was argued the clinic should be located where migrants would have easy access to it. All very good reasons, in my judgment. Yet when the clinic opened up, all but 1 day was normal business hours and it was located in town about one block from physicians' offices and two blocks from the health department. During a 7-month period when the clinic was actually seeing patients, they logged in 1,019 patients and spent $113,407. That comes to $110 a visit.

Mr. President, I think the lesson in this is obvious. Year after year, the Congress appropriates billions of dollars for programs, and then those dollars in many cases are improperly administered and fund projects that are unnecessary, unwanted, and expensive. There are undoubtedly many communities in rural America that could use a migrant health clinic—but Blackfoot, Idaho, is not one of them. The result has been a blatant misuse of taxpayer dollars.

Mr. President, I ask that Dr. Thuesons's article, "Only Uncle Sam Thinks Our Town Needs a Clinic," be printed in the RECORD.

The article follows:

ONLY UNCLE SAM THINKS OUR TOWN NEEDS A CLINIC

It's never been easy to get our local doctors, the community hospital board, and our district health department to agree on health-care-delivery matters. But when the news broke in the spring of 1978 that the regional office of HEW (now the Department of Health and Human Services) 600 miles away in Seattle had decided that what we needed in Bingham County, Idaho, was a free health clinic for migrant workers, agreement was emphatic and unanimous: The idea made about as much sense as a fifth leg on a palomino pony.

Of course, to say so publicly was to risk polemics about fat-cat doctors more interested in their pocketbooks than in the well-being of farm laborers. But our consciences were clear. When an area is truly medically underserved, sound ethical and economic arguments can certainly be made for health clinics. In areas like ours, however, all they do is duplicate existing programs and services and waste everybody's hard-earned tax money.

So Blackfoot's doctors and representatives of the hospital and health department trooped dutifully to an A-95 hearing—the term for the agency that reviews all applications for federal grants. Just getting the hearing held in our town had been a hassle. The applicant for the grant, the Idaho Migrant Council, favored Pocatello in the next county. But we argued that it was our county that was going to be affected, so why not make it easy for our representatives to attend? Surprisingly, we won this first round.

At the hearing we vigorously questioned the need. What was the point, our local health department spokesman asked, of replicating health care, immunization programs, and family-planning counseling that his office already offered? Bingham Memorial Hospital's administrator objected to the clinic's plan to equip and run its own lab, saying that diminishing the hospital's revenues could run up room rates.

Spokesmen for the nine M.D.'s practicing in Blackfoot took exception to the grant application's description of Bingham County as a remote "medically underserved area without reasonable access too medical facilities" for an estimated 2,000 to 3,000 migrant farm workers. We pointed out that our roads are snowed under and impassable no more than once or twice a year. We agreed that our 8 a.m. to 6 p.m. office hours aren't ideal for laborers picking potatoes and hoeing beets all day. But we went on to say that the rotation in our seven-doctor group practice (there are also two soloists in town) guarantees round-the-clock coverage every day and night of the week.

As for the Migrant Council's claim that Mexican-American migrants are "medically unsophisticated," don't know how to gain access to the traditional system, and don't even know how to make an appointment, our own patient files, with hundreds of Chicano names in them, refuted that.

We left the hearing room certain that logic was on our side, but uncertain of victory. Then, several weeks later, came a letter from our state medical association in Boise. Reason had triumphed, and the A-95 hearing report had recommended against the project. A second round for our side.

Three months passed, and another letter arrived from Boise. Arbitrarily, and without further hearings, HEW had funded the clinic along with another one in Twin Falls—to the tune of approximately $300,000 for the first year. A lay member of the local A-95 board resigned in disgust. If government bureaucrats listen to us only when we agree with their preconceived decisions, he declared, why even waste our time at hearings? We made a lot of phone calls and wrote a lot of letters to our congressman, but the HEW regional office in Seattle stood firm.

When months dragged by without any sign of further activity, we wondered hopefully if the people in Seattle had changed their minds again. But in early 1979, ads for nurses, assistants, and a physician consultant appeared in our daily newspaper. That was a change from the original grant, which had sought to import a couple of young National Health Service Corps physicians. On reapplication, the Migrant Council had requested only a nurse practitioner "with local physician backup." With other doctors 25 miles south in Pocatello or 30 miles north in Idaho Falls, we interpreted that to mean us.

The doctors in my group debated whether or not to participate. Since most of us believed that if we didn't go along they'd find someone outside the community, we decided that anyone who was interested should apply for the backup job. At the very least, he could help ensure that the health care provided was up to reasonable standards. In addition, he could gain insight into how these facilities operate. I volunteered.

Project director Ray Garcia was surprised and pleased when I answered his ad. My duties, he said, would not be extensive: a few hours a week of supervising the nurse practitioner, helping her write up protocols, and acting as referral backup when she got in over her head. We agreed on a salary of $900 a month, and I started in May 1979. Our group's half-time pediatrician signed on, too, to provide backup on kids.

Since the Idaho Migrant Council's application had stressed making care more accessible for agricultural workers, you might think the clinic would be located 10 to 15 miles out of town in farm and ranch country. Instead, the site chosen was a house in Blackfoot. This fell through when the town refused to rezone that residential neighborhood, so the council wound up acquiring an empty store and an adjacent house only one block from our medical group and two from the health department!

The council went to the expense of partially remodeling the storefront as a temporary clinic, while preparing for more drastic—and costly—rehabilitation of the house. There's no parking lot, and elderly patients have to navigate half a dozen steps into the building. Patients in wheelchairs? They might as well stay home.

Before hammer ever met nail on reconstruction, the council had already hired the nurse practitioner, who marked time on full salary from early in the year, though she didn't see her first patient until mid-June. The clinic staffed up as though expecting all other medical facilities in town to fold their insurance forms and silently steal away. With not enough records to fill a shoe box, the council advertised for and hired a medical record librarian—full time from Day One. Whenever I came in, she was busy shuffling papers. Knowing the size of the patient population, I can't imagine what was on them.

There was also a full-time lab technician. I asked how the clinic could go to that expense with a low patient load and the relatively unsophisticated tests that a nurse practitioner would be ordering. In our much larger practice, we don't even have a part-time lab tech. We train our RNs to perform simple urinalysis and blood counts. Anything more complicated we refer to the hospital, which has better quality control than can be managed in an office. Well, I was told, the position of lab tech was listed in the grant application.

The purchase of sophisticated equipment was equally unrealistic. The nurse practitioner reviewed her order list with me. Hematocrit centrifuge. Urinalysis centrifuge. I conceded that if they were going to have a lab tech, he would need some lab equipment. But when the nurse got to an electrocardiograph unit, I about swallowed my teeth.

I asked, "Do you feel qualified to interpret ECGs?"

"No," she replied, "but I think I can recognize most of the major patterns."

I asked how many she thought she'd be doing. She didn't know.

"Let me tell you my experience," I said. "When I entered solo practice, I wanted an electrocardiograph, too. I soon learned it wasn't cost-effective. There was just no way I could pay for it on the number of ECGs I'd be doing. So I returned it to the supply house."

"Okay," she said casually, "just scratch that one off the list."

A full-time secretary and a nurse's aide rounded out the staff—along, of course, with a full-time clinic manager. A snappy dresser, he bustled in and out busily, but I never did find out how he managed to fill an eight-hour day.

What I found most disturbing, though, was that the one "deficiency" cited in the grant application that perhaps most justified the clinic's existence had been swept under its own rug. This was the contention that local physicians' office hours were inconvenient for migrant workers. Well, the migrant clinic has nurses' not farm laborers' hours. It's open from 9 a.m. to 5 p.m. four days and from 10 to 7 one day. After-hours and weekend coverage consists of a recorded telephone message advising patients to seek care in the hospital ER.

When, at last, the clinic opened its doors, the mailman delivering directives from Boise, Seattle, and Washington seemed to be its most frequent visitor. I came by to review every adult patient's chart with the nurse on my lunch break once or twice a week. The majority of cases were colds, runny noses, and an occasional physical exam. Adult patients seldom totaled more than 15 a week. My pediatrician associate wasn't overworked either. She reviewed 15 to 20 charts a week at most.

The clinic did stage occasional immunization sessions in the boondocks. And the nurse's aide went into the field to follow up on a few of the patients the nurse saw. But by and large, the claim of outreach to the medically underserved quickly crumbled as I reviewed patient charts. The great majority werent' Spanish-speaking migrants but patients familiar to me—people who'd planted permanent roots in the Blackfoot area and whom our group or our colleagues in town had taken care of in the past.

Some came because, except for a small token copayment fee, care was free. Others came because, although the clinic is open to anyone of limited means, they were Hispanic, and they took a certain amount of pride in saying, "We have our own medical clinic now." But that wasn't enough to keep them coming. Contrary to the grant application claim, they did have some medical sophistication. When they realized they saw only a nurse and that she referred them to doctors in town for anything complicated, many saved a step. They came right to our office.

I'd become the clinic's medical consultant to gain some insight. After serving four months, I resigned: I'd gained more insight than I could tolerate. I'd confirmed my belief that most of the medical care offered—immunization, venereal disease, contraception, and well-baby clinics—duplicated that already provided by our local health department. When I wrote to HEW's Seattle office outlining my reasons for resigning, there was no reply. Later I was replaced by a doctor 25 miles away in Pocatello.

Toward the end of the clinic's first fiscal year, when Seattle sent a representative to assess the Blackfoot clinic's first months of community service, I took time off to meet her one morning. I let her have it with both barrels on what I considered the central issues: overstaffing and wasteful duplication of services. Her response, cool but cordial, was limited to the familiar argument, "Well, sure the patient census is low—we're just starting up."

In September 1979, an A–95 continuation-of-grant hearing was held in Pocatello. Again, most area health-care providers expressed strong opposition. Again, the A–95 review review board recommended to authorities at state and federal levels that funding be denied. I'm told that the Health Systems Agency review board at the state level diplomatically dispatched only a "no recommendation" on the matter to Seattle. The grant was renewed for the following year—almost as though this government agency is determined to spend its allocation, even if it has to pour it into the Snake River.

How big a grant? No one seems to know for sure. A block grant of $1.7 million was benevolently authorized for all five Idaho migrant clinics—an average of $340,000 each.

Perhaps our pecking away served some purpose. The clinic pared down its staff, at least temporarily. The positions of administrator and medical record clerk were combined. My own recommendation would have been to throw in the secretary's duties as well.

Is all this sour grapes? Has the Blackfoot clinic undercut our group, the health department, or the hospital? Hardly. It has stolen no one's thunder and darned few patients. But as health professionals, we're annoyed by the waste. And as taxpayers, we're indignant about it. Throughout the summer months (the workers' peak season before many migrate south to Texas and west to California), an average of only 20 patients per week were being seen.

How much did all this cost? After many calls, one of my persistent associates got financial data from the Idaho Migrant Council. It reported that from Oct. 1, 1978, through Dec. 31, 1979, a total of 1,019 "patient encounters" were recorded and $113,407 was spent. That comes to around $110 a visit. Of course, the clinic didn't start seeing patients until June 1979, and some of the money was spent before then. On the other hand, judging from my firsthand observation, the patient-visit figures may have been padded by things like immunizing three children who tag along with their ailing mother and logging that as four encounters.

I'm also wondering where the rest of the tens of thousands of grant dollars went and whether the clinic has been allotted a similar amount for this year. Whatever the amount, I know where I'd put that money: (1) into evening hours running until 10 p.m.—for the convenience of patients, not staff; (2) into an outreach program like that of the Indian Health Service, systematically sending nurses out to where migrants live, regularly making mobile-unit house calls to assess and treat health problems door to door; (3) into the local hospital, so people who need surgery but lack insurance—in which case the local doctors and the hospital now do it anyway—can get those troublesome gallbladders removed.

In sum, I'd work within the existing system—shoring it up, rather than establishing a new delivery system as redundant as two McDonald's on one block.●

THE THREAT OF ACID RAIN

● Mr. NELSON. Mr. President, acid rain is developing into one of the most serious global environmental problems of the coming decades. The President's Council on Environmental Quality reports that:

> In the eastern half of the United States, the acidity of rainfall appears to have increased about fifty-fold during the past 25 years . . . Sweden placed the economic loss to its recreational and commercial fishing

> industry (due to acid rain) at $50 to $100 million in 1973.

The danger to the environment in northern Wisconsin and Minnesota is increased because our soil is shallow, with bedrock close to the surface, and it is naturally acidic without sufficient buffering capacity to neutralize the acidity in the rain. Already, the entire Great Lakes watershed is receiving rain which is 5 to 40 times more acidic than normal. And recent studies suggest that Wisconsin's rainfall is between 10 and 100 times more acid than normal. In addition, scientists are reporting disturbing results of studies on Wisconsin's lakes. An EPA study of 350 lakes in northern Wisconsin found that fish in 80 percent of the lakes are in danger of being wiped out. Two-thirds of the lakes in Minnesota's Magnificent Boundary Waters Canoe Area are threatened. Clearly, this is an environmental threat of enormous proportions which demands our immediate attention if we are to prevent a worldwide calamity.

Acid rain is produced primarily by the combustion of fossil fuels, such as coal, oil, and gas. As we make our way toward energy independence, in part, through increased use of coal, the threat of acid rain will intensify. At present, 350 new coal-fired plants are planned for construction between now and 1995. Since increased reliance on coal is likely for some time into the future, we must take the necessary steps now to avoid damage to our environment by acid rain.

In the political arena, this problem portends an era of difficult choices. Acid rain is the forerunner of a multitude of environmental problems which will arise out of the conflict between our desire for a high quality environment and our need for energy. The accident at Three Mile Island forced the public to become aware of this long-simmering conflict. And I consider the question of acid rain to be equal in importance to that of nuclear power. These issues confront us with the most difficult kinds of choices. And they must be faced squarely, for on matters of this kind, not to choose is also to choose.

Lines are being drawn on the issue of acid rain. Environmentalists have lashed out at the administration's plan to convert oil-fired plants to coal without requiring additional controls on emissions of sulfur oxides. Opponents and proponents of increased coal use are debating before many subcommittees of Congress and a number of bills have been introduced. Northeastern States are blaming Midwestern States for sending them acid rains. Canadian-United States relations are being strained by American air pollutants which recognize no national boundaries.

At an EPA conference recently, representatives of Northeastern States charged that air pollution from Midwestern States was causing serious damage to their lakes and soils. Because of prevailing winds, much of the pollution generated in States like Ohio and Illinois is carried eastward to the North Atlantic, New England, and Canada. According to the New York Times, they complained that the Midwestern States are burning dirtier coal under less stringent controls than their own. Representatives of the Midwestern States replied that retrofitting their powerplants would be expensive and that to switch from high-sulfur, "dirty" coal, to low-sulfur, "clean" coal would put their home State miners out of work.

According to an April 16 article in the Chicago Tribune, spokesmen for Ohio and Illinois at last week's symposium on the future for coal in the United States, "said that acid rain is not a problem in their States, and their citizens won't pay to clean up someone else's dirty air."

On another front, an administration's plan recently approved by Congress to reduce foreign oil imports by converting oil-fired powerplants in the Northeast and Midwest to domestic coal has Canadian officials worried.

Canada's concern stems from data which shows that as many as 50,000 Canadian lakes (mostly in Ontario) may be seriously endangered in the next 10 to 20 years. The United States sends 25 million tons of SO_2 to Canada each year. Canada sends us 5 million tons a year.

In commenting on the administration's coal-conversion plan, a Canadian official said:

> I can readily appreciate the United States desire to decrease reliance on imported oil, and that increased use of coal could be an important part of such a policy. At the same time, I cannot help but be very concerned about any step which would lead to an increase in transboundary air pollution at a time when both countries have recognized a need to reduce it. This is the objective of the discussions taking place between both Governments to develop a cooperative air quality agreement. Both Governments also committed themselves at the June 1979 Toyko Summit Conference to increase use of coal without damage to the environment.

Environmentalists in the United States have charged that the administration's coal-conversion plan will undo all the gains in reducing air pollution which were made in the 1970's. Testimony by Robert Rauch, an attorney with the Environmental Defense Fund, sums up the environmental position well:

> (T) here is a growing gap between the Administration's rhetoric on acid rain and the reality represented by its regulatory actions. The rhetoric spills all over the front pages of the nation's newspapers; the reality is hidden in the fine print of the Federal Register. While the Administration deplores the threat posed by acid rain and labels it perhaps the greatest environmental problem of the 1980's, the regulators continue to ease up on the sulfur dioxide emission limitations applicable to power plants and other large stationary sources. Despite all the rhetoric, the fact is that we are losing ground in the battle against acid rain. The situation is getting worse, not better. Unless immediate changes are made, the direction may be irreversible.

Rauch criticized the administration both for weakening their standards for new plants and for the exemption extended to plants converting from oil and gas to coal. He also challenged long-term emission projections which, in the past, have shown a gradual reduction in SO_2 after 1985 as older plants are replaced. Instead, new data shows that SO_2 will increase through the end of the century, because Federal actions, such as the administration's plan, will make keeping old, uncontrolled plants in operation more economical than building new plants which have to meet clean air standards.

Under the Clean Air Act of 1970 and the amendments of 1977, newer coal-fired plants built after 1970 must meet stringent emission requirements, but older plants, built before 1970, are exempt. On the average, an existing powerplant will emit 80 pounds of sulfur dioxide (SO_2) per ton of coal burned, while a new plant must emit no more than 12 pounds of SO_2 per ton of coal burned.

According to EPA modeling studies, even with strict enforcement of the clean air requirements on new plants, the total annual SO_2 emissions will rise from 18.6 million tons (in 1975) to 20.5 million tons in 1995. This is largely because of the uncontrolled older plants, which are responsible for 75 percent of SO_2 emissions from powerplants. According to EPA Administrator Douglas Costle:

> Our problem today is essentially caused by the old plants. As long as they are not controlled any tighter than they are now, we're going to continue to have problems with acid deposition.

Controlling air pollution from coal-burning powerplants can be accomplished in a number of ways. Emission controls at the converted plants can be applied before, during, and after the coal is burned. Air pollution can be reduced prior to combustion by coal-washing, gasification of coal, or simply using coal with lower sulfur content. During combustion, the formation of pollutants can be reduced by such new techniques as fluidized bed combustion. After combustion, scrubbers can be used to remove pollutants from the plant's emissions.

I believe that it is absolutely necessary to apply the clean air standards to both new and old plants, and install the best pollution control technology in every case. New Federal legislation may be necessary to require the pollution control technology in all pre-1970 plants.

As environmentalists, scientists, and politicians, we must work to insure that two fundamental and difficult lessons are learned.

First, Americans must realize that the era of cheap energy is gone forever. From now on, we will have to pay the full price of satisfying our energy appetite. Using existing technology, the full price of using more coal will include scrubbing it to reduce emissions of sulfur oxides by 90 perent. In new powerplants, scrubbers will represent 11 to 12 percent of the capital cost of a system. In a 500-megawatt plant, $67 million will be spent on cleansing the emission of sulfur oxides. The costs for retrofitting an old plant are 25 percent higher.

But the costs of uncontrolled emissions are also significant. According to an economic analysis by a Yale researcher, pollution from a single uncontrolled 500-megawatt plant can cause between $7 and $50 million a year in damage to lakes, vegetation, and materials, and in increased mortality and morbidity. The annual health costs of

SO_2 pollution in the United States have been estimated to be $1.7 billion. Architectural damage may be $2 billion a year. And the long-term losses which will result from the slow poisoning of our natural environment cannot be quantified.

Second, we cannot have blind faith that a convenient technological solution will be found "in time." The limits of our knowledge are well demonstrated by the acid rain problem itself. In large part, this problem is the result of our efforts since the early years of this decade to reduce air pollution by building taller smokestacks. We solved one problem by dispersing air pollutants into the upper atmosphere, but we created another, much more serious problem—acid rain.

America's essential economic structure is predicated on cheap energy. Our transportation systems, our industry, our entire social infrastructure were constructed on this basis. Reshaping our national life to reflect the real costs of energy will be a painful and difficult task. The resistance to paying higher energy prices will not be overcome overnight, and there will be many who will argue that the costs of scrubbing the coal are too high, or that the day of paying these costs must be delayed in the interests of reducing inflation.

I believe that environmentalists must resolutely resist any attempts to justify weakening vital environmental safeguards, while at the same time working with other groups in our society toward the solution of our economic and energy problems.

There is no free lunch. The full cost of energy will be paid and that includes the damage to our environment, recreation resources, forests, soil and health. The cost of preventing the damage is cheaper than paying for the damage after it occurs.

In my opinion, the political and social lessons we must learn in order to solve the problem of acid rain will be just as important as any new scientific or technical information we gain. We simply cannot afford winners and losers—the stakes are too high. We must gain our energy independence. And we must protect our environment.●

WILL GUATEMALA BE NEXT?

● Mr. SCHMITT. Mr. President, for years U.S. foreign policy toward the developing countries, particularly in Latin America, has been in shambles. We have lacked the understanding of the dynamic nature of the political and economic systems of these nations and have failed to pursue a reasonable and effective policy in building alliances with these nations. For too long we have taken the nations of the Western Hemisphere for granted.

The problems which we are now experiencing throughout Latin America did not begin with the present administration; the roots of these problems go back further. This administration, however, must be held accountable not only for failing to implement an effective policy, lacking in the past, but also for accelerating the deterioration of the reasonable policies of the past.

For many years U.S. foreign policy was based solely on support for our allies without regard to the economic and human rights policies of those governments. We failed to recognize changes in both the economic and political structures of those countries. More importantly, we failed to encourage a gradual, peaceful, transition to more open societies. Little attempt was made to encourage the development of indigenous free political and economic structures to the benefit of these countries.

The result of these shortcomings is that the United States is now on the defensive in dealing with most of the countries of the developing world. Our closest allies now face major internal problems.

This administration began a policy of attacking all the countries which lacked, in our view, respect for human rights without regard for the degree of human rights violation of their political circumstances. In addition, U.S. support titled away from long-time allies to predominately leftist forces which are often backed directly or indirectly by the Soviet Union or Cuba. The results of this shift in our policy and the previous shortcomings is evident in Nicaragua, El Salvador, Granada, and many other nations.

For too many years we gave the Somoza regime our blind support and no encouragement for a more open society. A large middle class, moderate in outlook, was present in Nicaragua and could have served as the basis for a free and democratic government with a free and open economic system. Instead, this administration did nothing to support the moderate forces in Nicaragua, withdrew its support for the Somoza government, and failed to take any steps in stopping the flow of arms to the leftist forces in Nicaragua. The result of this policy is evident; we have lost Nicaragua. Yet, even with 2,000 Cuban troops in that country, this administration tells the Congress and the American people that Nicaragua is not lost. Even though the true reformers in the revolutionary movement have been purged from the government, this administration tells us that Nicaragua will not be Cuban dominated.

Mr. President, I relate the story of Nicaragua only because it was perhaps the best opportunity which we have had to influence a friendly repressive government to moderate its internal policies with a view toward a transition to a free society. We clearly failed to take these steps. In country after country, we have failed.

The question must be asked, has the Carter policy of human rights resulted in more or less respect for human rights throughout the world. The answer is clearly less. Friendly governments which lacked respect for human rights have been replaced with leftist, anti-American governments, often far more repressive than the governments which they have replaced.

Mr. President, I point all this out as a background to what is now occurring in Guatemala. Guatemala is a key nation in Central America. Its political and economic structure is fragile especially with the pressures being exerted on it by Cuba, Nicaragua, and leftist forces in other nations. Should this continue, either Guatemala will be lost to the left or fall under greater repression from the right.

Our Ambassador to Guatemala, Frank V. Ortiz, Jr., the highest ranking Hispanic-American in the Foreign Service, has a keen understanding of the delicate balancing act needed to preserve order in that nation. In addition, Ambassador Ortiz understands that the United States must encourage the moderate forces toward a gradual transition that will both preserve peace in that nation and stability in Central America. His work toward this goal has been continually frustrated by the policies of this administration and now we hear that Ambassador Ortiz, perhaps our most capable foreign service official in Latin America, is being replaced.

Mr. President, this disturbing news was carried in numerous newspapers this past Saturday, June 28, including the New York Times and the Washington Star. I will submit both these articles for the RECORD at the conclusion of my remarks.

Mr. President, if we are to build a strong relationship with the nations of the developing world, we must show a willingness to understand their legitimate concerns and problems but not be taken in by leftist revolutionary groups that are nothing more than fronts for Cuba. The approach of Ambassador Ortiz is the correct approach. It has been pursued successfully by other nations, in their relations with developing countries, including most recently Portugal. The stability of every nation rests on the middle class and moderate forces.

Through our foreign policy, both diplomacy and foreign aid programs, we must zero in on those segments of society which are truly interested in a free and open political and economic system. These segments must be given encouragement and assistance. We can start by changing the attitude of many of our "foreign policy experts" which assumes that leftist governments in the developing world are the wave of the future and inevitable.

Mr. President, it is time to reverse the trends of the past decade. The United States must go on the offensive in the Third World in the selling of ideology and political and economic systems. The success of the United States in this area of foreign policy will have a profound effect on both these countries and the world.

The articles follow:

[From the Washington Star, June 28, 1980]

U.S. ENVOY TO GUATEMALA BEING REPLACED AMID ROW

Frank V. Ortiz Jr., the highest ranking Hispanic American in the Foreign Service, will be replaced shortly as U.S. ambassador to Guatemala after what some administration officials describe as a bitter internal debate about Washington's policy in that country.

Ortiz, 54, has been in the Guatemalan post for only 11 months, a period in which observers have noted the continuation of a political polarization, with incessant violence and bloodshed perpetrated by the extremes of right and left.

The ambassador, who has spent most of

his 29-year diplomatic career in Latin American affairs, had been accused by some human rights organizations of being too closely identified with the military government of Gen. Romeo Lucas Garcia and Guatemala's conservative forces.

But in a long confidential report earlier this month to Secretary of State Edmund S. Muskie, Ortiz said: "My greatest immediate fear is not so much that the far left will take over Guatemala any time soon, but that the most retrograde elements on the right will unleash an even greater wave of terror."

"Guatemala is a blood-bath waiting to happen," Ortiz told Muskie. "It would not take much to induce the ultra-right to unleash a mass elimination of the groups considered of the left."

The ambassador said that although there were "many moderate and even some leftist elements in the government, it clearly tilts toward the far right."

The government, he said, avoids confrontation with the far right and, "when it employs heavy-handed repression in dealing with political dissidents, becomes undistinguishable from the ultras."

The text of Ortiz's cable, dated June 19, was made available to The New York Times.

Ortiz said that "epochal happenings in Nicaragua and El Salvador and unmistakable signals of increased Cuban (and perhaps ultimately Soviet) support" had emboldened the far left in Guatemala.

Yet, Ortiz told the secretary, "It would be a mistake to see only the negative aspects; there are strong positive ones. There are many capable leaders who are worthy representatives of the moderate majority."

Ortiz strongly implied that his efforts to "strengthen the middle" in Guatemala had been frustrated by statements from Washington giving Guatemalans the impression the United States favored the leftist opposition against the government and conservative forces.

"Since the main institutional threat in Guatemala comes from the reaction of the ultra right, it is not in our interest (or perhaps even in our nature) to be perceived as predicating and publicizing our actions in Guatemala on the assumpton that the radical changes proposed by the ideological left are the wave of the future," he said.

"By seeking to articulate our policy in such terms, we raise to new heights the level of paranoia of the far right and embolden the far left, with foreseeable consequences for the middle. This insight is more easily perceived in the field than in Washington, perhaps representing the eternal conflict between theory and practice."

His immediate superior, William G. Bowdler, assistant secretary of state for inter-American affairs, refused to comment on the ambassador's imminent replacement except to say, "it doesn't represent a policy split at all."

Another high-ranking State Department official said it had long been obvious that Ortiz's analysis of the Guatemalan situation was not shared by other administration specialists.

Ortiz will be replaced in Guatemala by George W. Landau, now the ambassador to Chile, officials said.

[From the New York Times, June 28, 1980]

ENVOY LOSING POST AFTER POLICY CLASH

(By Graham Hovey)

WASHINGTON, June 27.—Frank V. Ortiz, Jr., will be replaced shortly as United States Ambassador to Guatemala after what Administration officials described as a bitter internal debate over United States policy toward that country.

Mr. Ortiz, the highest-ranking Hispanic-American in the Foreign Service, has been in the post for only 11 months, during which violent political polarization has continued.

The Ambassador, who has devoted most of his 29-year diplomatic career to Latin American affairs, has been accused by human-rights organizations of being too closely identified with the military Government of Maj. Gen. Romeo Lucas Garcia and conservative forces.

In a long confidential report this month to Secretary of State Edmund S. Muskie, Mr. Ortiz said: "My greatest immediate fear is not so much that the far left will take over Guatemala any time soon, but that the most retrograde elements on the right will unleash an even greater wave of terror."

"Guatemala is a blood bath waiting to happen," Mr. Ortiz told Mr. Muskie. "It would not take much time to induce the ultra-right to unleash mass elimination of the groups considered of the left."

Amnesty International estimated last December that 2,000 people were killed in Guatemalian political violence during the previous eight months. The Central American republic has a population of just over six million.

The Ambassador said that although there were "many moderate and even some leftist elements in the Government, it clearly tilts toward the far right." The Government, he said, avoids confrontation with the far right and, "when it employs heavy-handed repression in dealing with political dissidents, becomes undistinguishable from the ultras."

Mr. Ortiz, who is in Washington for consultations, will return to Guatemala next week to wind up his mission. He declined to comment on his situation, but friends said he resented learning that he was likely to be replaced from a dispatch in The New York Times on June 15.

Administration specialists said Mr. Ortiz's differences on how to approach Guatemalan problems went beyond the State Department's Bureau of Human Rights and Humanitarian Affairs to the Bureau of Inter-American Affairs, to which he reports directly.

The text of Mr. Ortiz's cable, dated June 19, was made available to The Times.

Mr. Ortiz said that "epochal happenings in Nicaragua and El Salvador and unmistakable signals of increased Cuban (and perhaps ultimately Soviet) support" had emboldened the far left in Guatemala. He said the far left was probably unwilling now "to dialogue, to accept concessions, or even to share power in the constituted institutional framework."

He strongly implied that his efforts to "strengthen the middle" were frustrated by statements from Washington giving the impression that the United States favored the leftist opposition.

BALTIMORE'S NEW PLACE BY THE SEA

● Mr. **MATHIAS**. Mr. President, tomorrow I hope that Senate business will permit me to have the marvelous experience of attending the celebration of the rejuvenation of a great American port. Along the shores of the Patapsco River and the Baltimore Harbor there will be festivities that will include bands and musical groups, singers, dancers, performers, and exhibits. The people of Baltimore will join together to observe the grand opening of Harborplace, a pastiche of 120 restaurants, cafes, specialty markets, and shops enclosed within two glorious glass pavilions.

Harborplace is an impressive structure. It is the latest proof that Baltimore is achieving one of the most successful renewals of any historic city in the country. It is doing this with the collective strength of the people of Baltimore, the successful dynamic of public and private investment and the vision of an able and dedicated mayor, William Donald Schaefer. I ask that an article that appeared in the June 30, Baltimore Sun entitled "Dazzling Baltimore," be printed in the RECORD.

The article follows:

DAZZLING BALTIMORE

Fifteen years ago the Inner Harbor of this famed old port city was clogged by derelict buildings, rotted piers and sunken boats—a repulsive symbol of the worst of urban decay.

But this Wednesday an important event for Baltimore—and perhaps, by example, for cities across the nation—takes place on the waterfront of the handsomely rebuilt Inner Harbor. Developer James Rouse's Harborplace, a $20 million commercial center—two glass-enclosed pavilions with 120 restaurants, cafes, specialty markets and shops—will open its doors.

Baltimore's leaders have great hopes riding on Harborplace. If it has the catalytic effect they're predicting, tens of thousands of residents, tourists, sailors and conventioneers will be attracted daily, creating a centercity focal point of intense nighttime as well as daytime activity. Success for the project would undergird Baltimore's already impressive downtown and neighborhood revitalization.

The message for the outside world could be even more important; that even an old city with an ample share of the poverty and racial problems can rebound and turn its center into a vital place for urban people.

Cynics may claim Harborplace represents just another commercial opening, and not an entirely original one at that. It will bear strong resemblance to Boston's Faneuil Hall Marketplace, the highly successful 150-store extravaganza on Boston' waterfront that draws 15 million visitors annually, also developed by the Rouse Company with Benjamin Thompson as architect. And many will detect Harborplace's thematic descent from San Francisco's Ghirardelli Square, the modern-day pioneer of what one critic disparages as "the hanging plant, scented candle, boutique syndrome."

Scented candles or not, the first task of city builders is to attract people. As Mr. Rouse sees it, "In Harborplace, we'll discover whether the excitement of the Faneuil Hall Marketplace reveals the special spirit of Boston or a yearning of people in cities generally for a festival marketplace. If we can prove there's a comparable response—and I think we will—then there's a potential for a festival market in every American city, even down to metropolitan areas of a half-million people or less."

Similar Rouse projects are scheduled to open in Santa Monica later this year, Milwaukee next year and later at the South Street Seaport on Manhattan's East River waterfront. If the trail of success continues, a host of imitations can be expected. Similar themes—collections of colorful shops, pleasant pedestrian environments, frequent restorations of old buildings for retailing—are springing up in inner-city revival projects across the country.

But "festival markets" alone cannot make a successful city, as Mr. Rouse himself is quick to note. Indeed, they're unlikely to emerge at all unless other critical elements are present. Business leadership, for example: Baltimore businessmen became alarmed about the city's progressive deterioration in the Fifties and then formed the Greater Baltimore Committee, which in turn drew up the two great plans which have "saved" the inner city. The first was for Charles Center, a huge 15-building office and apartment development in the center of downtown, and the second for the Inner Harbor.

On the government side, Baltimore has been fortunate to have "strong mayor" form of government and a string of able mayors. Since 1971, Mayor William Donald Schaefer, has been a near hero for his dedication to city renewal. The city wisely focused all housing and urban renewal powers in a single housing and community development authority, led for several years by Robert Embry, now U.S. Assistant Secretary of Housing and Urban Development.

Employing "homesteading" and other imaginative housing programs, Mr. Embry and his successors have stimualted new construction or rehabilitation for thousands of families of all income groups. They've been skilled at federal "grantsmanship," but government money can't explain the amount of housing restoration now under way. In old Baltimore neighborhoods, it's difficult to find a street where some houses—often cheek-by-jowl with the ugliest slum structures—aren't undergoing restoration

There are some drawbacks: "Gentrification" is forcing poor blacks out of some inner-city neighborhoods, causing overcrowding elsewhere in the city. All the downtown efforts have failed to revive the old retail center at Howard and Lexington, where two of the city's four major department stores closed, leaving hulking abandoned buildings. And in such neighborhoods as "Little Italy," there's fear Harborplace will draw off valued restaurant trade.

Harborplace's single greatest virtue is that it "fits" Baltimore's economy and one of life so well. The city has a well-diversified economic base. But the harbor—one of the world's largest, receiving over 5,000 ships each year—literally gave birth to Baltimore, and remains its strongest asset. Around the globe, great harbor cities are known for their color and diversity. Harborplace will accent those qualities for a city that has not exploited them well for generations.

Other projects already built or planned around the Inner Harbor should build on the same strengths. They range from the 30-story World Trade Center to the Maryland Science Center, from floating restaurants and a new fish market to an aquarium that will include a glass-enclosed Amazon rain forest, and beside Harborplace is the permanent berth of the frigate, Constellation, the first commissioned warship of the U.S. Navy.

Thirteen ethnic festivals—Ukrainian, Finnish, Czech, German and others—are held on the Inner Harbor or at Charles Center each summer. The city's celebration of itself culminates each September with perhaps the grandest urban event in America, the annual Baltimore City Fair. Over 2.5 million city residents and visitors come to hear concerts, to view dozens of neighborhood arts and crafts exhibits, and to sample Chesapeake Bay seafood delicacies and ethnic foods.

Developer Rouse hyperbolically claims that "Baltimore in two years will be recognized as the most dazzing center city in America—in a place that a few years ago wasn't going anywhere."

We'll see. But one point remains. If Harborplace draws people even half as well as its promoters hope, it could transform Baltimore's celebration into a year-round event.●

CLIFFORD EVANS WINS LANDMARK AWARD

● Mr. JAVITS. Mr. President, I rise to salute a distinguished journalist and long-time friend, Clifford Evans, on his becoming the first broadcast journalist to receive the distinguished Barnet Nover Award from the White House Correspondents Association.

It is perfectly fitting that Cliff should be the first broadcaster to receive this award in the Association's 66-year history. As Washington Bureau Chief of RKO General Broadcasting, he has rendered unparalleled service to journalism, whether print or broadcast. In the many years I have known and worked with Cliff, I have been impressed with his intelligent and fairminded coverage of the wide spectrum of issues that have been recorded in his broadcasts.

But Cliff's great contribution is his insight and thoroughness. It was this insight which marked his reportage from the Middle East last March for which he received the Nover Award "for excellence in broadcast journalism."

Cliff has performed a great service to my constituents in New York on stations WOR and WXLO–FM and to citizens who listen to RKO stations across the country. I offer my congratulations along with the many he must have received from friends and colleagues and hope that Washington and the Nation will benefit from his coverage for many years in the future.●

A STEP TO CONTROL THE FEDERAL DEFICIT

● Mr. PERCY. Mr. President, the Senate and the House of Representatives recently passed the first concurrent budget resolution for fiscal year 1981. It was nominally in balance, although in reality it is nowhere near balance. I did not support this budget, for the first time since the budget process got underway, because of the hidden spending and extraordinary increases in taxes in fiscal year 1981.

The estimates on the size of the actual fiscal year 1981 deficit vary. The chamber of commerce has set the deficit as high as $42 billion; others suggest that it may be half of that. The truth is, that even if the fiscal year 1981 budget were in perfect balance on paper, it would not be in balance in reality because of the billions of dollars in outstanding, off-budget Federal credit.

Federal credit programs are, in most cases, not subject to any control through the budget and, until this year, were not even mentioned in our annual budget resolutions. Fortunately the Budget Committees recognized the importance of incorporating loans and loan guarantees in the budget, and the first resolution this year did contain a fledgling "credit budget."

Now the Budget Committee has made another major step forward by establishing a Special Subcommittee on Control of Federal Credit. My distinguished colleague, Senator METZENBAUM, is heading up this effort, joined by Senators BOSCHWITZ and CHILES.

This morning the subcommittee concluded several days of hearings on Federal credit programs. At that session, Senator PROXMIRE and I testified in support of more budgetary control over the credit programs. A focal point of the hearings was a bill that I introduced last December—S. 2151—that brings loans and loan guarantees in under the budget process for the first time.

Mr. President, I would like to bring to the attention of my colleagues the testimony presented during this morning's hearing and ask unanimous consent that the prepared remarks of Senator PROXMIRE, as well as my own statement, be included at the close of these remarks.

In a related matter, the most current issue of U.S. News & World Report—for July 7, 1980—contained a concise article on Federal credit programs. I ask that this article and the accompanying table be printed in the RECORD at the end of my comments.

The material follows:

STATEMENT OF SENATOR WILLIAM PROXMIRE

Mr. Chairman, members of the Special Subcommittee, I am pleased to be here today to discuss measures to improve control of Federal credit programs.

As Chairman of the Committe on Banking, Housing and Urban Affairs, which is the committee of the Senate responsible for Federal credit in all its aspects, I have long been concerned about the lack of budgetary controls over Federal credit programs. These programs include direct loans and loan guarantees of both on-budget and off-budget Federal agencies, plus the lending activities of Federally sponsored agencies such as the Federal National Mortgage Association (FNMA). The lack of budgetary control is accompanied by a lack of any adequate scrutiny of the appropriate uses of Federal credit programs and of their economic impact.

As you probably know, I wrote a letter last March to the Chairmen of the Senate and House Budget Committees urging that aggregate ceilings on Federal credit programs be established in the first Congressional Budget Resolution for fiscal year 1981. In that letter I expressed a number of concerns which I believe are shared by other Members here today on both sides of the witness table. They include the following:

The budgeoning growth of Federal credit programs in recent years, especially those which are "off-budget," mainly loan guarantees. As previous testimony at these hearings indicated, loan guarantees outstanding are slated to rise to $422 billion by the end of fiscal year 1981, an increase of $56.6 billion over 1980, or 15 percent—far greater than the increase in Federal spending.

The impact of Federal credit activities on monetary policy, on financial markets and on the economy in general. This is of particular interest in a period of inflation and credit restraint, where there is great potential for Federal credit programs to run at cross-purposes with other economic policy measures. For example, I found it ironic to see the Federal Government channeling $1.5 billion in guaranteed loans to the Chrysler Corporation at a time when credit for housing, for farmers, for small businesses—and indeed for automobile buyers—is being severely restricted.

The impact of Federal credit programs on fiscal policy and on efforts to balance the Federal budget and reduce inflationary pressures.

The lack of any formal procedures for setting priorities and allocating scarce Federal credit resources among competing uses. This is coupled with the lack of any effective means of determining which type of credit or spending program constitutes the most appropriate way of dealing with a particular problem.

So these are the concerns I raised in my March letter, and I know they are familiar to all of you. I am delighted that the Budget Committees responded as well as they did: by including aggregate ceilings on direct loans and on loan guarantees in the first concurrent resolution on the budget for 1981.

This is a good first step. Now further steps are needed to develop a comprehensive Federal credit budget, as part of an overall Congressional budget process that relates credit activities with expenditures and revenue measures and assesses their impact on the economy. While recognizing that many questions remain to be resolved, I think we need to move forward and confront those questions head on. Thus in the remainder of my testimony I will discuss further actions to be taken, with particular attention to the role the Banking Committees can play in developing an effective credit budget process.

A logical next step is to institutionalize and expand upon the credit budget procedures begun by the Budget Committees in the first concurrent resolution for 1981. The bill proposed by Senator Percy (S. 2151), and by Congressman Mineta and others in the House, would do this, and I commend these Members for their efforts. I know that Senator Percy proposed his bill as an amendment to the Chrysler bill when it was being debated on the Senate floor, and then withdrew it in exchange for a promise of full consideration by the Budget Committee, which has come with these hearings. I thought this was an excellent proposal then, when time constraints were too severe to do it justice, and I offer my full support for it now. Since Senator Percy describes his bill in some detail in his statement, let me just mention a couple of important points:

It requires that the budget resolutions in each year set forth the appropriate level of direct loans and loan guarantees overall, and also break down those estimates by budget function;

It subjects these programs to all aspects of the Congressional budget process, including the May 15 reporting deadline and the points of order against bills exceeding the budget totals.

In addition, and this is vitally important, it requires that direct loans and loan guarantees be subject to the appropriations process. As a member of the Appropriations Committee, and Chairman of the HUD-Independent Subcommittee which handles the bulk of these programs, I believe that the only effective way to implement a Federal credit budget process is through limitations on individual credit programs established in annual appropriations Acts. Indeed, the Appropriations Committees are already taking major steps in that direction, with the support of the President's Office of Management and Budget.

I am pleased to note in particular that the Percy bill would require the Banking Committees of the Senate and House to make recommendations each year to their respective Budget Committees regarding the appropriate level of total gross direct loan obligations and of total commitments for guaranteed loans. In my view, it is essential that the Banking Committees play a major role in the credit budget process, and I intend to work to develop that role. Specifically, I believe that the Banking Committees should conduct at least annually a review of Federal credit activities and policies, similar to our continuing review of monetary policy. In this connection, we should examine various aspects of the proposed levels of Federal credit activity, including the relationship to monetary policy, the implications for financial markets, and the potential impact on the economy as a whole and on particular sectors of the economy. In this effort, we should obtain assistance and recommendations from the Federal Reserve Board and from the Congressional Budget Office. Probably the Treasury Department and the Office of Management and Budget should also be involved in this review.

Based on the information obtained in this review and the Committee's analysis of it, we could then make recommendations to the Budget Committees regarding gross levels of Federal credit activity. It might also be advisable for the Banking Committees to consider recommendations on net lending, i.e. total new loans and guarantees minus repayments of those outstanding, since this figure might be a better measure of certain types of economic impact, such as the effect on the financial markets.

In this context, I have to raise the issue of the budget treatment of Federally-sponsored agencies, such as FNMA and the Federal Home Loan Bank system. There is some resistance to including these agencies in a credit budget, the argument being that they are privately owned and also that their countercyclical role might be hampered by subjecting them to budget limitations. Nonetheless, I see no way that we can establish an effective credit budget process while ignoring this major component of Federally-related credit activity, and I know other witnesses at these hearings have expressed a similar view. Thus I urge you to explore means of incorporating Federally-sponsored agencies within the credit budget process on some basis. Perhaps the problem of accommodating unanticipated countercyclical demands could be handled as it is with the expenditure budget, through changes in the budget resolutions and supplemental appropriations measures. Or if quicker action might be needed, then there could be some clearance procedure established with the Budget and Appropriations Committees.

Going beyond these points, I believe there is a need for additional measures to close certain loopholes in the budget process which hamper the ability of Congress to control Federal credit programs.

One is to place all of the remaining off-budget agencies in the budget, so that all loan programs receive the same treatment. The Banking Committee has done this with programs under its jurisdiction, including the Export-Import Bank and the elderly housing program. I hope that other committees can be pushed to do the same.

Another measure would be to eliminate the off-budget "backdoor" financing role of the Federal Financing Bank (FFB). The FFB comes under the jurisdiction of the Banking Committee in the Senate (it is under Ways and Means in the House). It was created as an off-budget agency because it was intended to be merely a conduit for financing programs of other Federal agencies, with no effect on the budget. In practice, as you know, this has not been entirely the case. FFB purchases of loan guarantees have in effect converted them to direct loans off-budget, and FFB purchases of loan assets and certificates of beneficial obligation (CBO's) have been treated as repayments rather than borrowing, thus understanding the net lending of agencies selling this paper to the FFB. To remedy this situation, I intend to propose legislation to amend the FFB Act by requiring:

That guaranteed loans financed through the FFB be counted in the budget as direct loans of the originating agencies; and

That sales of loan assets and CBO's be treated as borrowing by the originating agencies, and not offset against direct loan outlays. In the course of consideration of such legislation, the Banking Committee may consider other ways of amending the FFB Act, but the basic intend would be to make the FFB solely a conduit for Federal credit activities, without any influence on the budget totals.

Looking still farther ahead, there are other questions which ought to be addressed as the credit budget procedures are put in place. These could include the following:

The question of the appropriate treatment of direct loans and loan guarantees in the expenditure budget. At the present time, direct loans are counted in the budget on a net lending basis—new loans minus repayments—while loan guarantees escape the budget completely. Many have argued that the economic impact is the same. Congress could consider including direct loans and loan guarantees on the same basis within a credit budget and including in the expenditure budget only those aspects of both which are most like expenditures, such as the amount of interest subsidy (implicit or explicit), the administrative costs, and the projected losses from defaults.

Further consideration should be given to establishing uniform standards for all loan and loan guarantee programs, as an additional basis for according them equal budget treatment. This idea is under consideration by OMB and the General Accounting Office and could be explored further by the Banking Committees and other relevant committees of Congress.

Another broad question is that of determining the best device to use in each case, whether it be a direct loan or a loan guarantee or some type of expenditure program. The present system builds in strong incentives to rely on loan guarantees simply because they are off-budget, whether they are appropriate to deal with the problem or not.

In sum, the establishment of a comprehensive Federal credit budget process which brings Federal lending programs under the same sort of controls as Federal spending programs should contribute to a more rational use of all Federal financial resources. I applaud the efforts of this Special Subcommittee to accomplish that goal, and I will do all I can to aid in those efforts.

STATEMENT OF SENATOR CHARLES H. PERCY

Mr. Chairman, Members of the task force, it is a pleasure to appear before you today to comment on the serious problem of controlling Federal credit programs and to offer my proposal to establish a systematic mechanism to oversee credit programs by amending the Budget Reform Act of 1974.

I am particularly pleased to be testifying with Senator Proxmire who has been a leader in this area. Earlier this year he wrote to the Budget Committee urging that annual ceilings be set for federal loans and loan guarantees. Unlike the administration's proposal, Senator Proxmire urged that all federal credit programs, whether direct loans or guarantees or on or off-budget, be included in a credit budget. I agree with the recommendation and I ask that Senator Proxmire's letter be included in the official record of this Special Subcommittee if it is not already.

I would also like to pay tribute to Representative Mineta who originated the concept behind S. 2151 and who has moved Federal credit control ahead in the House of Representatives.

Last December, when the Senate debated the Chrysler Loan Guarantee Act, I simultaneously introduced S. 2151, the Federal Credit Program Control Act, and an identical provision as an amendment to the Chrysler bill.

Introduction of the amendment served the purpose of expressing my concern about the willy-nilly way in which Congress deals with important financial tools like loan guarantees.

At that time, I was assured on the floor of the Senate that the Budget Committee would have hearings on how the Congress can examine credit programs in the budget process. As a result, I withdrew my amendment to the Chrysler bill. Senator Proxmire participated with us in that colloquy.

I want to congratulate you for conducting these hearings now. The many forms and purposes of credit extended by the Federal government do not lend themselves to simple characterizations. There is a real need, however, for uniform, systematic Congressional review of the myriad credit programs as part of our budget process.

I will concentrate my remarks in two areas. First, I would like to discuss why it is so important to establish Congressional control over credit programs. Secondly, I would like to suggest how we can build on existing budget structures as set out in the Budget Reform Act of 1974 to insure that credit programs are exposed uniformly to the light of the authorization and appropriation process. In other words, I will outline the problem and describe my recommended solution.

The Federal government began issuing loan guarantees and having an impact on credit markets as far back as the 1930's. It has not been until the past decade, though, that loans and loan guarantees have mushroomed. Originally, these credit programs were limited to housing, but that, too, has changed as synthetic fuels, Chrysler loan guarantees and economic development have become the beneficiaries of these convenient, often off-budget financing techniques.

In less than a decade, the total of new Federal loans—and by that I mean loans by both on and off-budget agencies, and loan guarantees—has increased from approximately $47 billion in FY 71 to approximately $140 billion in FY 79. That is nearly a 200 percent increase in eight years and does not include loans by government-sponsored enterprises such as Fannie Mae (Federal National Mortgage Association) and Sallie Mae (Student Loan Marketing Association).

The Federal Financing Bank (FFB) deserves special mention because I believe it has played a major role in the expansion of Federal credit since its creation in 1973. The FFB borrows money from the Treasury off-budget. The FFB then buys loans that have been made by both off and on-budget agencies. The result is that the on-budget loans are transferred off the budget. Thus merely through a bookkeeping transaction, the Federal deficit is reduced. As we all know, of course, the off and on-budget borrowing by the Federal government is a distinction without any economic difference. In fact, Congress has to continue raising the debt ceiling dollar-for-dollar for all the loans whether on or off-budget.

The FFB was set up to coordinate and reduce the cost of federal borrowing by having one agency, the FFB, do the borrowing rather than many individual agencies. Those are important functions. The FFB has reduced the interest cost of agency borrowing and has provided the debt management skills that many agencies don't have. Nevertheless, as Nancy Teeters, a Governor of the Federal Reserve Board said, "the FFB has reduced the accountability of Federal credit programs, because lending activities are attributed to the FFB rather than to the agency originating the transaction." I urge this special subcommittee to fully examine the role of the FFB as part of your study of the proper ways to control federal credit.

Another problem of credit programs is that although loans and loan guarantees, even "on-budget loans," do not show up in the budget like spending programs, they have a direct impact on the economy through the displacement of private borrowers. The more credit used by the Government, the less is available, particularly for small businesses and medium-sized corporations. The central thrust of budgetary control of credit is that Congress should set priorities as to who should receive credit subsidies and to what degree private borrowers should be displaced. Federal credit demands ebb and flow depending on program needs. When there is a great demand for credit, issuance of major loans or guarantees can push up interest rates and increase inflationary pressures. Even if economic circumstances are such that there is no displacement of private borrowers, there continues to be a reallocation of credit that can result in non-subsidized borrowers paying higher interest charges than they otherwise would.

The Federal Reserve Bank of San Francisco recently reported that the combination of Federal deficit and heavy borrowing by mortgage-financing agencies could make the Federal presence in credit markets "the dominant element in the credit markets this year. Total Federal and Federally-assisted borrowing could account for perhaps 23 percent of all funds raised in credit markets in 1980, compared with the 20 percent average of the 1977–79 expansion. That 23 percent figure, although considerably lower than the Federal share in the 1975 recession year, could give some substance to the argument that Federal borrowers are 'crowding out' private borrowers from the market."

The importance of dealing with credit programs in a straight-forward manner has been recognized by others over the years. The President's Committee on Federal Credit Programs in 1963 and the President's Commission on Budget Concepts in 1967 both recommended that reforms be made in the budgetary treatment of Federal credit programs.

Now we have another opportunity to formulate a more honest way to deal with these credit programs. We are fortunate that today there exists a framework on which we can build the needed techniques to control credit programs. That framework is the Budget Reform Act of 1974. The Budget Act does not specifically direct the Budget Committee or the Congress to estimate or limit credit programs. It is that shortcoming, in legislation originally developed by and reported out of my own committee, Governmental Affairs, that my bill now seeks to remedy.

Mr. Chairman, simply put, my bill, S. 2151, adds one new section and minimally amends certain other sections of the Budget Reform Act so that we establish the procedures for setting targets and ceilings, in the Congressional budget process, for loans and loan guarantees. I would like to explain the key aspects of how my bill would accomplish the goal of establishing a systematic mechanism for overseeing credit programs. The bill would:

Require that the budget resolution each year set forth the appropriate level of direct loans and loan guarantees. The budget is also required to itemize estimates of loan guarantees and direct loans by budget functions.

Require credit plans to be submitted to the Budget Committee by each authorizing committee. Presently, committees must submit their spending plans to the Budget Committee by March 15; the bill would extend this to loans and guarantees.

Require the Banking Committees to submit to the Budget Committees by March 15 each year their estimates and recommendations for the appropriate level of overall guarantees and loans for the next fiscal year. The Banking Committees would, in effect, evaluate the credit needs of private and public borrowers.

Stipulate that bills or resolutions authorizing new loans or guarantees must be reported from their respective committees by May 15. Bills reported after that date would face a point of order on the floor, as do all spending bills under the budget process.

Require the Congressional Budget Office (CBO) to report annually to the Budget Committees on credit programs of the Federal government.

Permit a point of order to be raised, after the second budget resolution is passed, against loans or guarantees that exceed the totals in the budget.

Stipulate that loans and guarantees must be included within appropriations bills. Points of order could be raised against loans or guarantees that do not subject themselves to the Appropriations Committees.

I know that there are other efforts underway, in the Budget Committees and in the Administration. It seems the "iron is hot." I think it is essential that both on-budget and off-budget loans as well as loan guarantees be included in whatever system we finally agree upon. The problem of loans by government-sponsored enterprises may be something that has to be dealt with through other means.

Two prominent economists have endorsed my bill. Henry Kaufman, a partner with Salomon Brothers, investment bankers, and Alan Greenspan, former Chairman of the Council of Economic Advisers, have both written in support of the bill. I would like to have their letters made a part of the record.

Let me close with two thoughts. While each credit program may have highly desirable objectives, taken altogether, credit programs out of control can have significant detrimental effects on the economy. Second, control of credit programs does not mean cutting back in all cases. The Congress is trying to balance the budget. That means a process of constantly struggling to establish priorities. What I urge that we do is control credit programs so that we can determine where such programs fit in with all the other programs that the Federal government supports, whether it be by direct expenditures, direct loans or loan guarantees. Thank you.

New York, N.Y.,
March 31, 1980.

Hon. Charles H. Percy,
Committee on Governmental Affairs,
Washington, D.C.

Dear Chuck: S. 2151 is a type of bill which is long overdue. There is no question that inflation is a credit problem and that the federal government, both on budget and through its credit guarantees, is a major culprit. I wish you well on your bill.

Best personal regards.

Cordially,

Alan Greenspan.

Salomon Brothers,
New York, N.Y., March 31, 1980.

Hon. Charles H. Percy,
Committee on Governmental Affairs,
Washington, D.C.

Dear Senator Percy: I am responding to your recent letter in which you commented on my column in The Washington Post which reprinted a portion of the talk that I gave to the American Bankers Association in February. A copy is enclosed.

You also enclosed in your letter a copy of the bill that you introduced in Congress concerning the Federal credit programs. I applaud your bill because Federal credit activity has proliferated and is preempting a substantial volume of funds in the marketplace without being subject to adequate surveillance or limits. I have been concerned about this matter for about a decade and I greatly hope that your efforts will bear fruit.

Incidentally, you might be interested in the enclosed copy of my memorandum on "The New Anti-Inflation Program." The memo has a brief table showing the magnitude of both U.S. Treasury borrowings and the direct borrowings of the Federal credit agencies during this calendar year as well as in two earlier periods of credit stringencies.

Thank you for calling your proposal to my attention, and I do hope that we will have the opportunity to meet either here in New York or in Washington.

Sincerely,

Henry Kaufman.

UNCLE SAM, THE BIG-LENDER

When it comes to federal loan programs, the 1.5 billion dollars in help finally made available to Chrysler Corporation is only the tip of the iceberg.

Government-backed lending is expected to grow by 72 billion this year, to an outstanding balance of 601 billion by September 30. Such financing accounts for $1 of every $6 loaned to individuals and business.

Uncle Sam is helping Chrysler by guaranteeing that lenders who funnel funds to the ailing auto maker will be repaid, even if the cash has to come from the U.S. Treasury. Chrysler, on June 24 sold its first notes under the guarantee, for 10 years at 10.35 percent interest, and got two checks totaling 496.8 million dollars from investment bankers.

Chrysler is far from alone in getting loans guaranteed by Washington. New York City, Lockheed, Amtrak and the Washington, D.C., subway have received help, as do college students. Home loans account for 60 percent of federally guaranteed lending.

The U.S. also lends money directly for such purposes as providing rural electrification and phone service, encouraging exports and aiding disaster victims.

Still other direct loans for various needs are made by independent U.S.-sponsored agencies, such as the Federal National Mortgage Association and the Farm Credit Administration.

WIDE RANGE

The programs aid groups across the economy—farmers, veterans, public housing projects, local governments and shipbuilders, among others.

Some economists contend the guarantees and loans add to inflation by boosting credit demands. They also question the favored treatment borrowers get. For one thing, money borrowed with U.S. support comes cheap. The Office of Management and Budget estimates that borrowers this year will save 26.7 billion over the life of their loans because of below-market interest rates.

Federally assisted and direct loans fell from 17.2 percent of all lending in 1970 to 10.6 percent in 1976, but zoomed back to a record 17.9 percent in the year ended last September 30. The administration now is proposing tighter control over lending, but the array of beneficiaries raises doubts about any major cutback.

Largest federally guaranteed loan programs

(Estimated balances outstanding on Sept. 30, 1980)

($ in billions)	*Amount*
Federal Housing Administration (housing loans)	$121.0
Veterans Administration (housing loans)	100.9
Federal Financing Bank (loans guaranteed for numerous federal agencies)	63.3
Farmers Home Administration (farm loans)	43.4
Public-housing loans	15.3
Rural-electrification loans	11.8
Student loans	10.9
Small-business loans	9.7
Export-Import Bank (trade loans)	8.1
Foreign-military-sales loans	7.9

BUENOS AIRES BREAKS NEW GROUND IN SOLID WASTE MANAGEMENT

● Mr. RANDOLPH. Mr. President, as chairman of the Environment and Public Works Committee, I have become thoroughly familiar with the problems and successes of our national effort to properly manage this country's residential, commercial and industrial wastes. We can take justifiable pride in our progress in this area, progress achieved through an admirable partnership of public agencies and private waste service companies.

Lest this pride be thought parochial, I call attention to the successful public/private partnership for solid waste management recently inaugurated by the municipal leadership of the city of Buenos Aires and Province of Buenos Aires in Argentina. With support of the political leaders of these jurisdictions and particularly of Mayor Osvaldo A. Cacciatore, the Cinturon Ecologico Area Metropolitana S.E. (CEAMSE), has been created as a public authority. The purpose of establishing a "green belt" for the city of Buenos Aires, through managed disposal of that metropolitan area's solid wastes, is utilizing the resources and expertise of private companies in combination with that leadership. This project is a model which is being repeated throughout the world, as well as in the United States. It is a source of satisfaction that at least one American company, Waste Management, Inc., of Oak Brook, Ill., will be involved in carrying out this ambitious and progressive undertaking.

I discussed the plan this week with Dr. Guillermo Domingo Laura, secretary of public works for the city of Buenos Aires who conceived the project, and with Architect Claude della Paolera, president director of CEAMSE who has charge of its implementation. The concept is an exciting and innovative approach to related problems of waste management, resource recovery and environmental protection, I share some of those details with you.

As explained, the green belt will consist of a series of land-fill reclamation sites ringing the city of Buenos Aires which will over a period of the next 30 years convert about 12,000 acres of low-lying area into a system of parks with soccer fields, golf courses, picnic areas and trails for cycling, hiking and horseback riding.

The ring, when complete, will have a circumference of some 180 miles, the first 15 of which are already being developed.

This approach seems intriguing and at the same time a practical example of how society's wastes can be turned to useful and beneficial purposes.

To accomplish this design, CEAMSE in 1978 contracted with private companies to perform the waste transfer and landfill operations, and in 1979, for implementation of a new refuse collection, street sweeping and catch-basin cleaning service in part of Buenos Aires. Plans are underway to contract out the remaining portion of the area. Thus, Buenos Aires joins a growing number of communities throughout the free world which are turning to a public/private partnership for the management of their solid wastes. This development parallels similar conversions from municipal to contract collection in hundreds, possibly thousands of U.S. communities from coast to coast.

I salute CEAMSE for its vision and dedication to environmental improvements through proper management of solid wastes and its commitment to harness the energies of private industry into a partnership for progress worthy of our attention and emulation.●

RESTORING THE CONVENTION'S ROLE

● Mr. MOYNIHAN. Mr. President, it is a special pleasure for me to bring to my colleagues' attention an intelligent an absorbing article by Mr. Michael A. Scully which appears in today's Washington Star. In his account of the history and structure of national political party conventions. Mr. Scully reacquaints us with the richness and possibility of our political life, and I therefore ask that the column be printed in full in the RECORD so that all might have the opportunity to give it the attention it merits.

The column follows:

RESTORING THE CONVENTION'S ROLE

Prepare to be appalled if you are a member of the school which holds that 50.1 per cent is the nearest one can get to describing the deliberate will of the people at any given time—without resorting to hundredths.

In fact, there is nothing in America's history or political thought to suggest 50.1 per cent as a magic number. Quite the opposite.

The Senate, for example, traditionally considered quieting a colleague—and even more, shutting off minority opinion—a serious matter. It still is. Finding 60 senators to vote for cloture, the present requirement to end general debate on a bill, can be as arduous as spring round-up. To pass an amendment to the Constitution requires two-thirds votes in each house of Congress, plus agreement by the legislatures of three-quarters of the states.

The logic is sublime: On fundamental law, there should be fundamental agreement.

For most of its history, the Democratic Party required a "serious" majority—two-thirds—before bestowing its mantle. Usually candidates were nonetheless nominated within the first several ballots; sometimes convention voting was dreadfully prolonged. The two-thirds was dropped in 1936.

Disputes within political parties, which when allowed to function properly are the channelers of faction, testify to the wisdom of such high-hurdles. When parties malfunction, their energies dissipated by the quotas and primaries of a Rube Goldberg Reformation, they testify to the wisdom of Garrett Hardin's observation: "When you intervene in a complex organism, you cannot do only one thing."

That is, when parties' national conventions become routines in which persons prescreened according to sex and ethnic background ratify the winners of a 50-state, 30-primary hopscotch, that change in the character of conventions just might affect the aspirants' abilities to stir enthusiasm, or a candidate's ability to get elected, or a president's ability to govern after Jan. 20th.

As with most good things in life, national party conventions were not the inventions of theorists diligently perfecting the world.

No convention nominated George Washington. In his day there were neither national parties nor conventions. Adams and Jefferson in 1796 underwent no formal nomination process. Through the election of 1824, caucuses among members of Congress were the only nominating "conventions."

Not until 1832 did the two great parties of that time, the Anti-Masons and the National Republicans (soon to be called "Whigs"), assemble conventions of delegates representing most of the states.

It is a long journey, not merely temporal, from the often-embittered energy of the young republic to now, when the governor of our second most populous state pleads for an open convention—one with the power *not* to nominate either of his party's announced candidates. That option has been foreclosed by a decade of "opening up" his party, which has meant in fact closing out ordinary party workers and many practicing politicians. So passes the glory of buzzwords.

We have, as of 1980, sufficiently perfected the imperfectible so that the most exciting forum in American politics now ratifies the predetermined; that the practical wisdom of practicing politicians is no longer systematically a part of the convention process; and that winning nomination discloses little about a candidate's suitability for the presidency. These faults pale, however, before, the specter of a presidential-selection process so inflexible that front-runners' fortunes become immune to changes in events months before they are nominated.

If the rules committee to the 1980 convention is looking for an innovation, they might consider taking a page from Democratic rulebooks of old. They might propose to raise the majority needed to nominate to, say, three-fifths—60 per cent—for future conventions.

Were 60 per cent needed to nominate, only a candidate with truly broad support could "walk away with" a nomination. That would be a blessing to a party whose present day ideological divisions rival in intensity 19th-century intraparty feuds over protecting regional interests.

Presidential candidates, for example, would have to attend more seriously to the party's congressional delegation—wherein resides much of any party's good sense and savvy—for congressional influence would increase at the margin.

And finally, when the proposal is attacked by the 50.1 percenters as heinously undemocratic—its Democratic history notwithstanding—it might provide us with a welcome convention diversion: an old-fashioned, rough-and tumble floor fight.●

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the convening time for Wednesday, July 2, 1980, be 10 a.m. rather than 9 a.m. as previously ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL HELD AT DESK—H.R. 4782

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that a message from the House on H.R. 4782 be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR BRADLEY TOMORROW

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the Senator from New Jersey (Mr. BRADLEY) be recognized for a period of not to exceed 15 minutes on Wednesday following the prayer.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL WEDNESDAY, JULY 2, 1980, AT 10 A.M.

Mr. MATSUNAGA. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 10 a.m. on Wednesday, July 2, 1980.

The motion was agreed to and at 1:35 a.m., the Senate recessed until Wednesday, July 2, 1980, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate July 1, 1980:

IN THE ARMY

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, sections 3370 and 3383:

ARMY PROMOTION LIST

To be colonel

Anderson, James A., [redacted].
Bopp, Robert J., [redacted].
Boyajian, Karnig, [redacted].
Boyd, Michael A., [redacted].
Cook, Frederick T., [redacted].
Detar, Norman C., [redacted].
Doughty, Ralph O., [redacted].
Fleming, Russell V., [redacted].
Gehrt, Floyd E., [redacted].
Gravins, John J., [redacted].
Greene, Robert F., [redacted].
Herts, Charles R., [redacted].
Jones, Dennis R., [redacted].
Lacerte, Donald W., [redacted].
Laffel, Robert N., [redacted].
Lindsey, Lucien B., [redacted].
Lockhart, Jack C., [redacted].
McWane, Pearson D., [redacted].
Moorhead, Kenneth E., [redacted].
Moyal, Maurice S., [redacted].
O'Connor, Thomas H., [redacted].
O'Neal, William H., [redacted].
Peterson, Jerome Q., [redacted].
Sherrer, Ronald P., [redacted].
Smith, Robert J., [redacted].
Sweeney, Daniel J., [redacted].
Tengan, George S., [redacted].
Vallely, Paul E., [redacted].
Walker, Hasten E., [redacted].
Walton, Denzil R., [redacted].
Yarbrough, Ralph G., [redacted].
Ziccardi, Joseph S., [redacted].

CHAPLAIN

To be colonel

Heintz, Daniel W., [redacted].

DENTAL CORPS

To be colonel

Favaloro, Guy A., [redacted].
Hammer, Henry S., [redacted].
Martin, Robert S., [redacted].
Peltier, Raymond, [redacted].
Wheelan, Edward F., [redacted].

MEDICAL CORPS

To be colonel

Allport, Frederick W., [redacted].
Fayne, Fred A., [redacted].
Johnson, Carl J., [redacted].
Johnson, David E., [redacted].
Montgomery, Wally O., [redacted].
Talmage, Lance A., [redacted].

MEDICAL SERVICE CORPS

To be colonel

Biggerstaff, John D., [redacted].
Labrecque, Joseph L., [redacted].
Leary, Robert, [redacted].

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, sections 370 and 3383:

ARMY PROMOTION LIST

To be lieutenant colonel

Adams, Spencer D., [redacted].
Ahola, Leo A., [redacted].
Allen, Herbert R., [redacted].
Anderson, Grieg L., [redacted].
Anderson, Laverne R., [redacted].
Andryczyk, Roman W., [redacted].
Banks, Randolph C., [redacted].
Barnett, Jimmy L., [redacted].
Barnes, Roy, Jr., [redacted].
Beauchamp, Thomas, [redacted].
Belcher, Charles R., [redacted].
Berger, Jack, [redacted].
Bernoski, Ronald G., [redacted].
Berry, James L., [redacted].
Berube, Daniel G., [redacted].
Biddle, Richard D., [redacted].
Borsari, George R., [redacted].
Bosch, Hans A., [redacted].
Bowes, Ronald G., [redacted].
Bradley, David K., [redacted].
Braunback, Kenneth, [redacted].
Brune, Francis H., [redacted].
Bryant, Arthur A., [redacted].
Buckner, Robert J., [redacted].
Burch, Earl B., [redacted].
Burger, Gary G., [redacted].
Burtch, Lloyd D., [redacted].
Butler, Leroy N., [redacted].
Campbell, Donald F., [redacted].
Canard, Granville, [redacted].
Carlyle, Robert L., [redacted].
Carr, Lewis E., [redacted].
Casto, James G., [redacted].
Cerhan, Keith A., [redacted].
Chalfant, Betram H., Jr., [redacted].
Chico, James C., [redacted].
Chiodini, Louis J., Jr., [redacted].
Chipman, Laurence D., [redacted].
Clegg, Peter W., [redacted].
Cobean, Kelly J., [redacted].
Cochran, John R., Jr., [redacted].
Cole, Bryan R., [redacted].
Collier, Arthur G., Jr., [redacted].
Combest, Ronald R., [redacted].
Combs, Paul H., [redacted].
Connelly, Kevin T., [redacted].
Cosby, William C., Jr., [redacted].
Covino, Robert P., [redacted].
Craven, Richard B., [redacted].
Crockett, Bruce L., [redacted].
Dale, Harold L., Jr., [redacted].
Dalton, Glen K., [redacted].
Daniel, Raymond G., [redacted].
Davis, Alec C., [redacted].
Day, Jon W., [redacted].
DePauw, John W., [redacted].
Diaz, Rafael E., II, [redacted].
Dicarlo, Leonard C., [redacted].
Dillard, Hugh B., [redacted].
Distel, Francis X., [redacted].
Dodge, Ira D., III, [redacted].
Doerrer, Eric A., [redacted].
Duff, Millison E., Jr., [redacted].
Einsmann, Matthew R., [redacted].
Engels, Dennis W., [redacted].
Fernandez, Francis W., [redacted].
Ferrari, Joseph L., [redacted].
Fong, Ronald H. L., [redacted].
Froggatt, David C., [redacted].
Fuller, James E., [redacted].
Furno, Jimmie F., [redacted].
Galanti, Philip J., [redacted].
Garrett, William A., [redacted].
Gearhard, Michael A., [redacted].
Giglio, John R., [redacted].
Giovanini, Thomas J., [redacted].
Glick, Barry H., [redacted].
Gonzalez, Carlos M., [redacted].
Goo, Ronald T. Y., [redacted].
Gore, William E., Jr., [redacted].
Griswold, Robert B., [redacted].
Guadiano, Anthony F., [redacted].
Guerin, Robert L., [redacted].
Gutter, Peter, [redacted].
Haddox, Hayes P., [redacted].
Hagen, Frederick J., [redacted].
Hansen, Chester K., [redacted].
Harman, James H., [redacted].
Hart, Bennett R., [redacted].
Hawkins, John C., Jr., [redacted].
Henker, Kevin J., [redacted].
Herrington, Roscoe B., [redacted].
Hill, Charles M., Jr., [redacted].
Honeycutt, Ronald G., [redacted].
Hudson, Horace E., [redacted].
Huggins, James F., [redacted].
Hughes, Sidney J., [redacted].
Hunter, Quentin, [redacted].

Imbornone, Vincent J., [redacted].
Imhof, Joseph C., [redacted].
Jackson, David R., [redacted].
Jacobson, Jeffrey A., [redacted].
Jennings, Oscar J., [redacted].
Jester, Billy F., [redacted].
Johnston, Stephen L., [redacted].
Kindley, Douglas G., [redacted].
Kingston, John, Jr., [redacted].
Klein, James E., [redacted].
Kline, Donald A., [redacted].
Klyce, Erskine W., [redacted].
Knowlton, David W., [redacted].
Koshan, John L., [redacted].
Kuempel, Robert H., [redacted].
LaBruyere, John J., [redacted].
Langenus, Peter C., [redacted].
Lindley, Waldo I., [redacted].
Litwiller, Jimmy, [redacted].
Lobel, Leonard J., [redacted].
McDonald, John W., [redacted].
Mahle, Clarence E., [redacted].
Mariniello, Joseph A., [redacted].
Mathis, Joe T., [redacted].
McBride, Robert A., [redacted].
McClone, Robert J., [redacted].
McDonald, George T., [redacted].
McDougal, Arthur L., [redacted].
McKiniry, James J. D., [redacted].
Mefferd, James B., Jr., [redacted].
Miller, Albert K., [redacted].
Monrean, John R., [redacted].
Morris, Robert M., [redacted].
Mullinix, Bobby R., [redacted].
Murray, Thomas J., [redacted].
Newman, Jonathan M., [redacted].
Nold, Woodrow V., Jr., [redacted].
O'Connor, Brian J., [redacted].
O'Shea, Timothy C., [redacted].
Oswalt, Handley C., [redacted].
Pace, Gasper V., [redacted].
Parkin, Richard B., Jr., [redacted].
Patrick, David M., [redacted].
Paul, Larry F., [redacted].
Pellegrino, Anthony R., [redacted].
Phillips, James B., [redacted].
Porach, James J., [redacted].
Quinton, Newell E., [redacted].
Reading, Charles N., [redacted].
Remillard, Lanny E., [redacted].
Rhoads, David R., [redacted].
Rider, Charles R., [redacted].
Rose, William B., Jr., [redacted].
Rosengard, Dennis D., [redacted].
Saiki, Gilbert T., [redacted].
Sams, Charles D., [redacted].
Sauerman, Herbert L., [redacted].
Saunders, Robert C., [redacted].
Schlegel, Charles A., [redacted].
Schuhmann, Frederick P., [redacted].
Schwarzenbach, Malcolm P., [redacted].
Schwent, William J., [redacted].
Seppa, Michael F., [redacted].
Shaw, Frank J., Jr., [redacted].
Siders, Barry L., [redacted].
Siegel, Jay H., [redacted].
Sisson, William H., III, [redacted].
Starr, James R., [redacted].
Steinbrook, Gordon L., [redacted].
Stigler, Theodore W., [redacted].
Stockwell, Robert M., [redacted].
Stone, William H., [redacted].
Sturges, Lawrence, [redacted].
Sullivan, William J., [redacted].
Tabaka, Leonard J., [redacted].
Tapogna, William G., [redacted].
Tashlik, Larry D., [redacted].
Taylor, Loren L., [redacted].
Taylor, Ronald L., [redacted].
Tegtmeier, Carl J., [redacted].
Theobald, Joseph L., [redacted].
Thom, William H., [redacted].
Thompson, Charles A., [redacted].
Thompson, Charles R., [redacted].
Tupper, Terry D., [redacted].
Tyson, Clelland A., [redacted].
Vandermolen, Klaas W., [redacted].
Virgillio, Joseph C., [redacted].
Warder, Francis, [redacted].
Wells, Wade G., [redacted].
Wetterstroem, Robert S., [redacted].
White, Douglas B., Jr., [redacted].
Williamson, Donald R., [redacted].
Wilmer, David L., [redacted].
Wilson, Chappell R., [redacted].
Wims, Paul W., [redacted].
Winter, Terry M., [redacted].
Winton, Raymond S., [redacted].
Withers, Richard E., [redacted].
Woolson, Donald F., [redacted].
Wright, Buddy J., [redacted].

CHAPLAIN

To be lieutenant colonel

Hedrick, Charles W., [redacted].
Martin, Thomas B., [redacted].
Peterson, Fredric G., [redacted].

DENTAL CORPS

To be lieutenant colonel

Billions, Gerald F., [redacted].
Brandenburg, Charles H., [redacted].
Haas, Eugene C., [redacted].
Hardage, Jack L., [redacted].
Hardy, John B., Jr., [redacted].
Henderson, Herbert, [redacted].
Howe, Arthur G., [redacted].
Maddox, Daniel L., [redacted].
McGoodwin, Roland C., [redacted].
Walker, Jerry D., [redacted].

MEDICAL CORPS

To be lieutenant colonel

Andes, Willard A., [redacted].
Guanco, Basilio, [redacted].
Lee, Joseph H., [redacted].
Mills, John, [redacted].
Nold, Robert L., [redacted].
Semins, Howard, [redacted].
Shmigel, Boris M., [redacted].
Stephenson, Larry W., [redacted].
Tate, Wayne E., [redacted].

MEDICAL SERVICE CORPS

To be lieutenant colonel

Blake, Osbon, [redacted].
Brammer, Monte F., [redacted].
Charboneau, Keith N., [redacted].
Clifford, Raymond E., [redacted].
Parsons, James L., [redacted].
Penso, David, [redacted].
Rezer, Harry M., Jr., [redacted].
Saunders, Francis B., [redacted].
Zonna, Anthony J., [redacted].

VETERINARY CORPS

To be lieutenant colonel

Burnham, Leroy G., [redacted].

The following-named officers for promotion in the Reserve of the Army of the United States under the provisions of title 10, United States Code, Sections 591, 593 and 594:

DENTAL CORPS

To be colonel

Baggs, Gary A., [redacted].

MEDICAL CORPS

To be colonel

Beckwith, Merton, [redacted].
Dewey, Albert W., Jr., [redacted].
Erdmann, Ralph R., [redacted].
Marcure, Richard W., [redacted].
Monaghan, James E., [redacted].
Simon, Nathan I., [redacted].
Wright, Kermit J., [redacted].
Zelnick, Saul, [redacted].

MEDICAL SERVICE CORPS

To be colonel

Greenberg, Arthur E., 022–204–4169.

ARMY PROMOTION LIST

To be lieutenant colonel

Collins, Raymond E., [redacted].

DENTAL CORPS

To be lieutenant colonel

Greenfield, William, [redacted].
Hardy, Leslie B., Jr., [redacted].
King, Max C., [redacted].
Kozal, Richard A., [redacted].
Lemoine, Davil L., [redacted].
Linhart, Donald S., [redacted].
Mandracchia, Dominick P., [redacted].
Masters, Earl L., Jr., [redacted].
Reddin, James B., [redacted].
Seymour, Fred W., [redacted].
Trout, Donald W., [redacted].
Williams, Thomas E., [redacted].

MEDICAL CORPS

To be lieutenant colonel

Adler, Robert E., [redacted].
Ariagno, Ronald L., [redacted].
Aslam, Muhammad, [redacted].
Atkins, Sam O., [redacted].
Atkins, Samuel W., Jr., [redacted].
Barrett, Warren M., [redacted].
Bartels, Roger J., [redacted].
Barvick, Edward J., [redacted].
Belflower, Estol R., [redacted].
Benedetto, Margarete D., [redacted].
Bishop, Don L., [redacted].
Breuer, Harry M., [redacted].
Burgess, John R., [redacted].
Burnette, Robert E., [redacted].
Callahan, Robert L., [redacted].
Campbell, Arthur S., [redacted].
Campbell, Malcolm K., [redacted].
Camperlengo, Henry A., [redacted].
Carter, Thomas E., [redacted].
Cheong, In Tai, [redacted].
Clemmons, Roy S., [redacted].
Corzatt, Richard D., [redacted].
Cousineau, Leo E., [redacted].
DaSalla, Consuelo F., [redacted].
Day, Edward J., [redacted].
Dede, Anthony, [redacted].
Efthimiadis, Byron K., [redacted].
Ekland, David A., [redacted].
Fischer, Martin J., [redacted].
Friera, Esteban G., [redacted].
Fusilier, Francis W., [redacted].
Gallucci, Charles L., [redacted].
Garlington, James C., [redacted].
Gerardo, Leticia M., [redacted].
Ghaz, Darius, [redacted].
Gray, John E., [redacted].
Habermel, John F., [redacted].
Hart, Jacqueline S., [redacted].
Jones, William K., [redacted].
Joyner, Leroy, [redacted].
Kayson, Matthew A., [redacted].
Kwatra, Raj, [redacted].
LaNeve, Ralph J., [redacted].
Lanson, Lucienne T., [redacted].
Laszewski, Zofia K., [redacted].
Lazo, Deogracias S., [redacted].
Lentz, Carl W., III, [redacted].
Leskowitz, Martin, [redacted].
Long, James T., [redacted].
Lucas, Robert E., [redacted].
Mansfield, Lyndon E., [redacted].
Mason, John H., III, [redacted].
Mayer, Klaus, [redacted].
McCormick, Timothy M., [redacted].
Melendres, Juanito M., [redacted].
Mindrum, Gerald C., [redacted].
Mitchell, Ellis N., [redacted].
Norris, Francis S., [redacted].
Orman, Edward S., [redacted].
Osterholzer, Heinz O., [redacted].
Plucinski, Theodore, [redacted].
Preece, Howard G., [redacted].
Reay, Donald T., [redacted].
Rend, Charles A., [redacted].
Ringer, Merritt G., Jr., [redacted].
Rivera-Betancourt, Rafael, [redacted].
Roberts, Gayle A., [redacted].
Ryan, Robert J., [redacted].
Santiago, Illuminada V., [redacted].
Sapala, Joseph C., [redacted].
Seliskar, John E., [redacted].
Shannon, George W., [redacted].
Shuft, James R., [redacted].
Sleszynski, Raymond A., [redacted].
Smid, Arthur C., [redacted].
Soelsberg, Walter T., [redacted].
Sreekumar, Sushama N., [redacted].
Swift, Dean C., [redacted].
Supplice, Julian J., [redacted].
Villanueva-Santiago, I., [redacted].

Vontitte, Sigmond N., [redacted].
Walker, Raymond, Jr., [redacted].
Werner, Wolfgang K., [redacted].
Westfall, Charles H. P., [redacted].
Wonderlick, Eugene, [redacted].
Yates, James E., [redacted].

VETERINARY CORPS

To be lieutenant colonel

Brown, George M., [redacted].

The following-named Army National Guard officers are appointed in the Reserve of the Army of the United States under the provisions of title 10, United States Code, section 3385:

ARMY PROMOTION LIST

To be colonel

Allison, Robert E., [redacted].
Baldwin, Paul S., [redacted].
Boros, Edward J., [redacted].
Buxton, Howard R., [redacted].
Chase, Robert N., [redacted].
Coman, Herbert W., Jr., [redacted].

To be lieutenant colonel

Crowell, Olyn C., [redacted].
Custer, Robert W., [redacted].
Daniel, Manuel, [redacted].
Frankfourth, John A., [redacted].
Hartman, Edward M., Jr., [redacted].
Hayes, Richard L., [redacted].
Hyams, Harry T., [redacted].
Issler, Harry, [redacted].
Larson, John W., [redacted].
Lawrence, William J., [redacted].
Lunney, Dennis D., [redacted].
McDaniel, William K., [redacted].
McGough, Donald R., [redacted].
Manweiler, Howard I., [redacted].
Mechling, Chris R., [redacted].
Melchert, Paul A., [redacted].
Nicholas, Steve C., [redacted].
Page, Joseph C., [redacted].
Patrick, Lewie G., [redacted].
Perry, Louis W., Jr., [redacted].
Renwick, Allen B., [redacted].
Salveson, Ronald, [redacted].
Taricani, Joseph R., [redacted].
Wachter, Barb L., [redacted].
White, Shelly L., [redacted].
Willett, Frank W., [redacted].

MEDICAL CORPS

To be colonel

Engeller, Robert E., Jr., [redacted].
Hughes, Francis H., Jr., [redacted].
Miscia, Vincent F., [redacted].
Watts, Alan L., [redacted].

ARMY PROMOTION LIST

Abrahamson, Jon W., [redacted].
Armistead, Bobby, [redacted].
Baysinger, Howard E., [redacted].
Blanchard, Warren, [redacted].
Boland, David D., [redacted].
Boutz, Frederick O., [redacted].
Bowes, Donald S., [redacted].
Braddy, George A., [redacted].
Breeden, Champ T., [redacted].
Bricker, Clarence A., [redacted].
Byrd, William L., [redacted].
Byrne, Michael E., [redacted].
Cahill, Bernard J., [redacted].
Call, Loren E., [redacted].
Chavanne, John E., [redacted].
Clark, Russell, [redacted].
Cooper, Donald A., [redacted].
Coxe, Raymond L., [redacted].
Cross, Charles H., [redacted].
Davis, Homer E., [redacted].
Day, Benjamin W., Jr., [redacted].
Devoe, Robert B., [redacted].
Duclos, Leo A., [redacted].
Dunn, Charles I., Jr., [redacted].
Eisenman, Theodore L., [redacted].
Ellisor, James W., [redacted].
Eskijian, Gregory, [redacted].
Foist, John W., [redacted].
Fragale, Frank M., [redacted].
Francis, William G., [redacted].
Gallego, Gilbert, [redacted].
Gibbs, Jay N., [redacted].
Gonzales, Reynaldo, [redacted].
Havens, John D., [redacted].
Hemann, John W., [redacted].
Henighan, John G., [redacted].
Hoop, James S., [redacted].
Ida, Melvin M., [redacted].
Jantz, Bobby R., [redacted].
Johnson, John F., [redacted].
Kanaris, Louis R., [redacted].
Kersey, Donald H., [redacted].
Killgore, William D., [redacted].
Kimura, Terence Y., [redacted].
Klefman, Gene D., [redacted].
Kludt, Ronald A., [redacted].
Knudsen, George K., [redacted].
Lane, Eddie E., [redacted].
Lanham, Noble W., [redacted].
Leblanc, Harold E., [redacted].
Loesch, James A., [redacted].
McClure, Samuel T., [redacted].
McHugh, Donald P., [redacted].
McKee, Roger O., [redacted].
Madison, Earl, [redacted].
Mangone, Albert A., [redacted].
Mauras, Ramon, [redacted].
Merrill, Francis E., Jr., [redacted].
Mueller, Walter R., Jr., [redacted].
Morris, James M., [redacted].
Morris, Kenneth C., [redacted].
Norton, Gary J., [redacted].
Perkins, Edward E., [redacted].
Poole, Richard S., [redacted].
Predmore, Leland C., [redacted].
Quirk, Thomas J., [redacted].
Ringlespaugh, Gary R., [redacted].
Robertson, Paul W., Jr., [redacted].
Runyon, Ronald L., [redacted].
Sargent, Richard C., [redacted].
Smith, Donald P., [redacted].
Soncrant, William, [redacted].
Sowers, Edward, [redacted].
Spencer, Keith L., [redacted].
Stelzenmuller, Cyril V., [redacted].
Surgent, Joseph, [redacted].
Thomas, James E., [redacted].
Tincher, Ronald D., [redacted].
Van Sickle, James A., [redacted].
Ward, Edward H., [redacted].
Williams, Joe M., [redacted].
Wilson, Roye S., [redacted].
Zang, Joseph H., [redacted].

DENTAL CORPS

To be lieutenant colonel

Chubb, William E., [redacted].
Orgon, Edward, [redacted].
Scales, Kenneth I., [redacted].
Sladky, Kenneth C., [redacted].

MEDICAL CORPS

To be lieutenant colonel

Alberts, Phillip S., [redacted].
Brasswell, Guy R., [redacted].
Camnitz, Leonard, [redacted].
Campbell, Selma R., [redacted].
Cipolla, Vincent T., [redacted].
Clary, James K., [redacted].
Cockrell, Wayne P., [redacted].
Coppolelli, Bernard, [redacted].
Derr, Frank N., [redacted].
Diefenbach, Eugene J., [redacted].
Finazzo, Salvatore J., [redacted].
Harrison, Hollister S., [redacted].
Hepps, Sanford A., [redacted].
Jordan, Harold W., [redacted].
Martens, Thomas J., [redacted].
Preger, Leslie, [redacted].
Rodrigues-Colon, Juan, [redacted].
Rosenthal, David, [redacted].
Sharp, Virgil L., [redacted].
Stark, Richard J., [redacted].
Starr, Clifford H., [redacted].
Williams, Richard J., [redacted].

MEDICAL SERVICE CORPS

To be lieutenant colonel

Berrett, Enniss E., [redacted].
Cornwell, William K., [redacted].
Philbrick, John C., [redacted].

EXTENSIONS OF REMARKS

WORKFARE NOT WELFARE

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. FINDLEY. Mr. Speaker, the distinguished Washington Post columnist William Raspberry lifted the discussion of welfare reform to a new plateau in recent days. In two articles he called for changes which will require work from those getting welfare benefits.

And he argues for the changes from the standpoint of the persons on welfare. The work requirement will help them, not hurt.

Usually reform of welfare is urged in the name of the taxpayer, as necessary to weed out cheaters and loafers.

Granted welfare rolls have plenty of cheaters and loafers, still it must be said that most people on welfare would prefer not to be there. They want a better life.

Mr. Raspberry's columns are a powerful argument for the enactment of my bill, H.R. 6794, under which able-bodied people, age 18 to 64, would be required to work off for a local unit of government the values of benefits they get under Federal programs for food stamps, housing, and aid to families with dependent children.

My bill has 46 cosponsors and others are welcome. It aims to help to a better life those now caught in the welfare trap.

Here are the Raspberry columns:

MORE WELFARE IS JUST A STRONGER TRAP

I have a friend, a successful black lawyer and political moderate, who is convinced that the way we do welfare is all wrong.

"I would make it a simple proposition," he says. "If you can't find a job, we'll help you find one—even *make* one if necessary. But if you don't want to work, that's it. No more welfare."

I thought about my friend the other day when Ronald Reagan came to lunch at The Washington Post. The lawyer would have trouble imagining the circumstances under which he would support Reagan's election. And yet on the question of welfare, the two speak as with one voice.

Reagan cites his two terms as governor of California as his principal qualification for the presidency. And his proudest boast as governor is that he was able to slash the state's welfare rolls.

One of his techniques involved an experiment in which 35 of California's 58 counties instituted a work requirement for able-bodied welfare recipients.

"We made counties, cities, towns, school districts—whatever level—submit to us the things that they would legitimately do, that they were not doing, if they had the manpower or the money. Then we screened them to make sure there were no boondoggles."

Once they had put together a list of useful tasks, they assigned welfare recipients to perform them on a half-time basis, the remainder of the time to be spent either looking for other work or in job training.

"We assigned what we called job agents to those people. Each one had a certain list of clients that he would observe in the work they were doing; his job was to set out as quickly as he could and get them out of those jobs and into private enterprise jobs.

"This was in '73 and '74, with a recession coming on and with unemployment increasing all over the country. Well, in the first year, 54,000 people were funneled into private-enterprise jobs through that program."

But there was another interesting result:

"Thousands of welfare recipients just disappeared—never reported when they were ordered to report—never reported. And we shut off the money. They were never heard from again. There were no complaints; no one ever said 'I'm destitute' and so forth.

"The truth is, no one in the government knows how many people are on welfare. They only know how many checks they send out. These people who disappeared—I call them 'paper people'—knew they were caught, so they just went away."

The only surprise in this for my lawyer friend is that he would wind up agreeing with the Reagan approach—at least on this point.

It isn't that he is interested in punishing people for being poor, though he does believe that the welfare rolls include a lot of people who don't belong there.

The point says my friend, is this: "If you have to get up every morning and go to some terrible job assigned by the government, you might find yourself saying, 'Hey, I don't have to do this junky stuff; I'll go out and find myself a better job since I have to work anyway.' "

The way welfare now works is that it removes the incentive for people to find jobs, and, as a result, it removes the opportunity for people to try to better themselves. "You can work hard on a bad job and try to impress somebody so you can get a promotion, or you can go find yourself something else," my friend contends. "But welfare just traps you." And the more generous the benefits, the stronger the trap.

You'd never know it to listen to the leaders of the major civil rights groups and the antipoverty advocates, but my lawyer friend's view is very close to that of the black American mainstream.

Reagan, partly because he is viewed as an ultraconservative and partly because his most ardent supporters are viewed as unsympathetic to minorities and poor people, hasn't a chance at attracting much of the black mainstream vote.

But any certified liberal who espoused such an approach—if that's not a contradiction in terms—might be surprised at the support he'd find in black America.

WORKING ON WELFARE

I'm disappointed. When I devoted a recent column to the notion that welfare grants ought to be tied to a requirement that able-bodied recipients go to work—going so far as to say nice things about such a program initiated by Ronald Reagan when he was governor of California—I anticipated an outraged reaction from liberals and advocates of the poor.

It hasn't come.

What I have had instead is an amazing degree of support for the idea; some of it, predictably, from people who describe themselves as "taxpayers," but much of it from people whose sympathies are with poor families.

What is happening, I think, is that a lot of us are beginning to question the assumption, implicit in many of our social welfare programs, that poor people are essentially beyond salvation and that the only humane thing to do is to take care of them. We are learning, at last, that the better care we take of people, the more helpless they become. And we are starting to think less about how best to take care of people and more about ways to move them toward self-sufficiency.

The message is delivered in a variety of forms. Willie J. Hardy, a member of the D.C. city council, made the point in her testimony last week before the House Committee on the District of Columbia.

Hardy, who represents one of the poorer sections of the city with a disproportionate amount of the city's public housing, called for an end to public housing construction "in its present form."

Instead of housing that entraps poor people in public-housing ghettos—"government-owned slave quarters," she called it—she called for programs designed to foster upward mobility. And not just housing programs.

"I just feel that all government [welfare] programs should have the common goal of rendering themselves [unnecessary] by giving individuals the opportunity to ultimately stand on their own," she told a hearing on the problems of the cities.

A colleague at The Washington Post said much the same thing in another way: "I've seen a young Vietnamese refugee cleaning the ashtrays in the elevators here, and I ask myself if a pretty good job opens up in the maintenance department here, will the department head look at some guy on welfare or will he look at this Vietnamese who has been showing up for work every day, demonstrating his willingness and ability to work? You know the answer."

Blacks of unmistakably liberal politics are telling me that they are starting to see our best-intentioned welfare programs as a snare that traps people in their poverty. "Even mothers of several children ought to be required to work," one of them said. "If they can't find anything better, they could at least work as aides at day-care centers so other people can go to work."

If this attitude is as widespread as it appears to be, why has the civil rights leadership been so slow to join in?

One reason may be the punitive implications of some of the legislative efforts to substitute work programs for welfare.

A member of the Pennsylvania legislature, for instance, has introduced a bill to eliminate welfare payments to able-bodied recipients when work is available.

The problem with his proposal is that he assumes that the recipients could land these jobs if they really wanted them.

"Oh, they will show up for the interviews as the [present] law requires," he told me, "but they show by their attitudes and the way they present themselves that they don't really want to work."

He would simply assume they weren't truly interested in working and cut them off.

But the fact that people don't land the jobs they apply for does not necessarily mean that they don't want to work, as any number of pavement-pounding college graduates could tell you.

But my mail tells me that there would be enthusiastic endorsement, right across the political spectrum, of a program that said to welfare recipients: here's a job; take it or lose your benefits.

Taxpayers would be better off, and so would the people who went to work.●

TEN YEARS AFTER: THE LENINGRAD TRIALS

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. COUGHLIN. Mr. Speaker, 10 years ago this month 11 Soviet men were apprehended by Russian authorities, charged with treason, and sentenced to die. The men had allegedly attempted to hijack a Soviet airliner after they had continually been denied permission to emigrate to Israel. Later, after appeals for clemency came from world leaders, the Russian Supreme Court commuted the death penalties and sentenced the men to 15 years in prison camps.

Nine of the eleven men convicted were of the Jewish faith. At the present time three of the men apprehended, all Soviet Jews and gravely ill, still remain in captivity in the Soviet prison camps. Yuri Federov, Aleksei Murzhenko, and Iosif Mendelevich have suffered for 10 long years and now there is little hope for their release or eventual survival.

The 10th anniversary of the Leningrad trials is just one incident among many which remind us of the continuing Soviet oppression of their Jewish citizens. This unrelenting oppression of Soviet human rights and the recent brutal Soviet invasion of Afghanistan are grim indications that Russian ambitions are aggressive. We in the West must continue our efforts to support human rights and oppose further Soviet oppression.●

SANITY TO OUR ENERGY OUTLOOK

HON. TRENT LOTT

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. LOTT. Mr. Speaker, I want to direct my colleagues' attention to an editorial which appeared in the June 27 Washington Post. The commentary by Mr. William Raspberry is titled "Getting the Shelf Off the Shelf," and it refers to a measure several of us have introduced to try to bring some sanity to our energy outlook.

I urge my colleagues to join us in sponsoring House Joint Resolution 573, a joint resolution that can double the U.S. production of hydrocarbon fluids within the next 4 to 8 years.

We have got to do something about the outlook for our economy and energy needs, and House Joint Resolution 573 is a step in the right direction.

The commentary referred to follows:

GETTING THE SHELF OFF THE SHELF

Sometimes you get the feeling the country is going stark, raving mad.

America's growing dependence on imported oil is eroding the value of the dollar, skewing the balance of trade, crippling the domestic economy and feeding unemployment.

The problem, astonishingly, is not that we cannot produce virtually all the oil we need domestically. The problem—at least a major part of it—is the rules and regulations that keep us from exploiting our vast domestic resources.

A letter from the Department of Interior's Bureau of Land Management (BLM) to a western oil company illustrates one aspect of the problem:

"This is in response to your request for a variance regarding the sage grouse strutting-nesting complex stipulations attached to the above-mentioned lease and well site.

"At this time, available data suggest the noise from around-the-clock drilling operations tend to suppress sage grouse strutting activities. Combined with the fact that the proposed lease and well site is located within the nesting habitat associated with two strutting grounds, we feel the variance should not be granted in order to protect this resource.

"Since there is a lack of research data on this problem (noise effects on sage grouse strutting, etc.), the Bureau is proposing a research study to determine these effects. However, because of our planning system and budget requirements, we do not anticipate starting the fieldwork for at least three years. After this study has been completed, the data may show that variances of this type may be granted."

Another example: a Chevron oil drilling program in Utah involved several sites that were covered with snow. Under ordinary circumstances, engineers simply would have removed the snow and gone ahead with the drilling.

But BLM procedures required an archeological inspection of each site to determine if Indian artifacts or other archeological materials were present.

Chevron, in order to prevent surface damage, undertook to melt the snow using hot water. But the hot water caused erosion, and BLM ordered a halt. Then Chevron turned to flame-throwers to melt the snow, but this, too, was ruled out by BLM on the ground that an endangered variety of locoweed might have been present.

The result was a delay until warm weather melted the snow.

"As it turned out," Chevron later reported, "no archeological information was found and the locoweed species was not endangered."

Stories of leaving major oil reservoirs unexploited out of deference to sage grouse and locoweed and the California blunt-nosed leopard lizard can be counted on to spark public incredulity and outrage. But endangered species are only part of the picture. Much of the obstruction to development of domestic oil resources stems from federal, state and local laws designed to protect the environment. And a good deal of it is the result of federal procrastination that has no obvious basis in the law.

According to Rep. Edwin B. Forsythe (R-N.J.), one of the major obstacles to fuller exploration is "arbitrary land-use and leasing policies, as well as the publication [by the executive branch] of regulations that go far beyond the intent of statutes."

He cites U.S. Geological Survey reports estimating outer-continental-shelf (OCS) reserves of some 32 billion barrels of oil and 116 trillion cubic feet of natural gas—more oil than in the lower 48 states and Alaska combined.

But only 2.5 percent of the American OCS is currently under lease, as compared with over 40 percent of the world's outer continental shelf. We get only 9 percent of our oil from our OCS, while the rest of the world gets 22 percent of its oil from the worldwide OCS.

Federal officials say these figures don't matter, since many of the oil fields already under lease aren't being exploited.

Forsythe acknowledges as much, but contends that this has "absolutely nothing to do with energy production." What is important, he says, is that areas of high oil and gas potential be made available for development, "and this just has not occurred."

Forsythe and nine other congressmen, mostly Republicans, have introduced a joint resolution that would require the administration to stick to the specific requirements of federal law and court orders in deciding which oil lands to open to exploration, "instead of interpreting statutes and court orders to fit their policies."

That, without the enactment of a single new law, would more than double the OCS production, offsetting $326 billion in the U.S. balance of payments, Forsythe contends.

He insists that he isn't opposed to vital environmental concerns, but he does believe the present safeguards fail to take account of the American energy crisis. He would agree with Mack Wallace, a member of the commission that regulates oil and gas exploration in Texas, the source of a third of our domestic production:

"The boat is sinking, and while some of us are in the bottom, bailing like hell, the Department of the Interior is hanging curtains in the wheelhouse."●

TAX PAYMENTS FROM NEGLIGENCE

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. ARCHER. Mr. Speaker, today I am introducing a bill to amend the Internal Revenue Code of 1954 with respect to the penalty for underpayment of taxes that results from negligence on the part of the taxpayer.

Under existing law, a taxpayer is penalized 5 percent of his entire tax underpayment if there is any miscalculation anywhere resulting from pure negligence. The penalty is not levied only on that portion of underpayment due to the error, but also on any additional underpayment which might well represent a legal and legitimate dispute with the Internal Revenue Service.

The legislation I am introducing simply limits any penalty to that portion of tax underpayment which is a direct result of negligence.

An example might help clarify the intent of this proposed change. Under existing law, if a taxpayer makes an error in his return which results in an underpayment of taxes of $400 and has an additional underpayment of $1,600 which is involved in a legitimate dispute with IRS, the 5-percent penalty is assessed on the entire $2,000. My bill would limit the amount subject to the penalty to the $400 which resulted directly from negligence.

I think this is a fair and just approach to the imposition of penalties in cases such as this and would urge my colleagues in the House to give it speedy approval.●

CAREY McWILLIAMS—A PROPHET IN HIS OWN TIME

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. BROWN of California. Mr. Speaker, sometimes, in our concerns about the injustices and inequities of the day we fail to fully recognize the significant gains we have made toward social justice from yesterday. One man who both recognized and fought the injustices of yesterday and today was Carey McWilliams. By both word and deed, Carey McWilliams demonstrated that America needed improvement and was capable of it. His death a few days ago is worthy of note, as was his life.

At this time I commend an article and editorial about Carey McWilliams to my colleagues.

The items follow:

[From Los Angeles Times, June 28, 1980]

Author and Social Critic Carey McWilliams Dies

(By Dorothy Townsend)

Carey McWilliams, longtime editor of The Nation magazine and self-described "unreconstructed native American radical," died Friday of cancer at New York University Hospital.

The 74-year-old author, lawyer and social critic, whose books about California and its people are regarded as classics of their genre, had been in and out of hospitals with the disease in recent years.

A family friend said Friday there will be no funeral.

A resident of New York City for the last 29 years, McWilliams still considered himself "a kind of an expatriate Californian who has lived in a kind of exile." It was not that he disliked New York so much as that there was what he called "a pull (to California) that's hard to resolve."

Even before taking the editorship of The Nation in 1955, a post he held for 20 years, McWilliams was known internationally for his books dealing with social injustice and discrimination.

The problems of migrant farm workers in California, the internment of Japanese-Americans in World War II, anti-Semitism in America, the post-war "witch hunt" for allegedly disloyal Americans, all provided themes for McWilliams.

"Factories in the Field," his study of the migrant farm worker in California, was credited by United Farm Workers leader Cesar Chavez with destroying the myth that California farming was a "family affair."

"With one book, with one phrase he said it all," Chavez said last year at a Los Angeles tribute to McWilliams. Chavez was a child when the work was published in 1939, the same year John Steinbeck authored his fictional account of migrant workers, "The Grapes of Wrath."

"Factories" was followed by "Ill Fares the Land," "Brothers Under the Skin" and "Prejudice," a detailed account of the relocation of Japanese-Americans in World War II, carrying the subtitle "Symbol of Racial Intolerance."

When he wasn't chronicling social ills, he was describing, analyzing and interpreting California for many in "Southern California Country: An Island on the Land" and "California: The Great Exception."

The two books, appearing three years apart in the late 1940s, were picked as favorites by fellow author John Gregory Dunne because "they are great books, history as literature in every sense, neither polemic nor apology, simply cool and informative . . . a historian's dream."

"I did not just happen to write this book, I lived it." McWilliams said in an introduction to a recent re-issue of the earlier of the two books. "I was an active participant in the community during a period when I was growing up and Los Angeles was becoming a city."

McWilliams said he wrote all his books "for the same reason—to relieve my ignorance on a subject in which I'd become interested."

He was born in Steamboat Springs, Colo., the son of a prominent rancher whose minor cattle empire collapsed after World War I. McWilliams came to Los Angeles in 1922 after disgracing himself at the University of Denver in a St. Patrick's Day drinking spree. His mother and an uncle had preceded him west after the death of his father.

He worked at a number of jobs while attending USC law school. He said he had vague literary aspirations in those days, wrote editorials for the college Daily Trojan, and began to write for magazines and newspapers.

His first book, in 1929, was a biography of Ambrose Bierce, an American writer who has remained an enigma since his disappearance in Mexico.

But his main impetus was social cause.

Once, as a labor lawyer in Los Angeles, he headed a defense committee for the young Chicanos involved in the Sleepy Lagoon murder case. The case years later was to be dramatized as "Zoot Suit." He also represented rank-and-file movie industry workers in a now-historical fight against a company union.

After "Factories in the Field" came out, McWilliams was appointed to head the California immigration and housing division, an office in which he could focus attention on working and living conditions of farm workers and minorities.

But "the farm groups . . . sensed a real conspiracy," he said in a 1978 interview. "They just blew their stacks. They screamed and yelled like banshees.

"When Earl Warren came along as governor four years later, he vowed his first act would be to fire me. Actually, that wasn't necessary. My term was ending automatically."

McWilliams and Warren collided on many issues of the time, including the interning of Japanese-Americans during the war.

After leaving government service, he settled down to writing and in time became western editor for The Nation. In 1951 he was asked to go to New York to help plan a special civil liberties issue. But instead of staying there only a few months, he stayed 29 years.

After his long association with The Nation, a 115-year-old liberal and sometimes muckraking periodical, McWilliams worked on his autobiography, published last year.

During those years, he and his wife, novelist Iris Dornfeld McWilliams, could never bring themselves to sell their Los Angeles home on North Alvarado Street, but kept it rented in case they should ever return.

After leaving the magazine in 1975, McWilliams found new audiences for his views in articles for papers and magazines and, just last fall, as a teacher of the history of California and of muckraking in journalism at UCLA.

As recently as Thursday, he was named a recipient of a civil libertarian award from Playboy Publisher Hugh Hefner.

In addition to his wife he is survived by two sons: Wilson Carey, a historian, of New York and Jerry, librarian and writer, of San Francisco.

[From the Los Angeles Times, June 29, 1980]

A Prophet in His Own Time

Carey McWilliams, who died Friday at 74, has a unique place in the history of Southern California, for he wrote much of it. This "unreconstructed native American radical," as he called himself, set out for Los Angeles from Denver in a snowstorm in 1922, liked what he saw when he got here, and stayed—long enough to understand this strange new land, and to write two classics about it: "California: The Great Exception" and "Southern California: An Island on the Land."

Those books, his many others and his work as a labor lawyer resonated with his passion for social justice. "Factories in the Field" in 1939 illuminated the state of Agriculture in California and the plight of the farm workers. He fought discrimination against Jews, blacks, Japanese-Americans and Chicanos. Wistfully, he left Los Angeles for New York to write for The Nation, which he edited with distinction from 1955 to 1975.

Often attacked as a young man for his views, Carey McWilliams became a prophet with honor in his own country and—to the immense satisfaction of his friends and those who knew him only through his work—a prophet within his own time.●

SPECIAL PROBLEMS OF THE ELDERLY

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. DORNAN. Mr. Speaker, I would like to share a most unusual and beautiful prayer with my colleagues on the Select Committee on Aging. In fact, I believe every Member of Congress and every American who is concerned with the special problems of the elderly will find the following poem to be an inspiration. When I heard the very gifted Ricardo Montalban movingly recite it from memory on television recently it brought back to me how my mother treasured it the last year of her life. She asked my brothers and me to remember its words if she should die before my father. My mother died unexpectedly that very year and from my dad's 75th year to his 83d when he joined my mother for eternity this lovely poem made our caring for him an honor and a loving joy. Because the prayer was on my mom's requiem Mass card, I am able to pass it on to my colleagues.

BEATITUDES FOR FRIENDS OF THE AGED

(From Mickie)

Blessed are they who understand
My faltering step and palsied hand.
Blessed are they who know that my ears today
Must strain to catch the things they say.

Blessed are they who seem to know
That my eyes are dim and my wits are slow.
Blessed are they who looked away
When coffee spilled at table today.

Blessed are they with a cheery smile
Who stop to chat for a little while.
Blessed are they who never say,
"You've told that story twice today."

Blessed are they who know the ways
To bring back memories of yesterdays.
Blessed are they who make it known
That I'm loved, respected and not alone.
Blessed are they who know I'm at a loss
To find the strength to carry the cross.●

HOUSE VOTES ON THE ENERGY SECURITY ACT AND THE ENERGY MOBILIZATION BOARD

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. FISHER. Mr. Speaker, last week the House took two more steps in the establishment of a national energy policy. On Thursday the conference report on the Energy Security Act was passed and on Friday the conferees were sent back to develop a more acceptable Energy Mobilization Board. The first action is the most dramatic step thus far taken in the formulation of a comprehensive energy development program, which will provide the guidance and the resources for making the alternate fuels of today the mainline fuels of the decades ahead. The second action was a good reminder that the House will not confuse what is novel with what is progress when it comes to the energy field.

The Energy Security Act established a Synthetic Fuels Corporation with an authorization of $20 billion over the next 4 years. This Corporation would use loans, loan guarantees, purchase and price guarantees, and joint ventures to stimulate a domestic synthetic fuels industry. The Corporation is also authorized to build, if necessary, up to three Government-owned, contractor-operated synthetic fuels plants. The synthetic fuels to be fostered by the Corporation would include oil from coal, peat, shale, or tar sands; methyl alcohol from coal; hydrogen from water; and magnetohydrodynamics processes for electrical generation. The goal of the Corporation is to bring about the production of 500,000 barrels of oil per day by 1987, which is roughly 8 percent of our current oil imports. This is an interim goal. At the end of the first 4-year authorization, the Corporation can request from the Congress an additional $68 billion with which to meet its ultimate goal of 2 million barrels of oil per day by 1992. This would be the equivalent of reducing by one-third our current level of oil imports.

However, the Energy Security Act is not limited in scope to just synthetic fuels. Rather, in four other parts of the law there are production incentives for ethyl alcohol fuel, fuels from municipal wastes and renewable sources, geothermal energy, and conservation. For example, the act creates a solar energy and energy conservation bank, which will provide subsidized loans to persons who make energy conservation improvements or install solar energy equipment in commercial or residential buildings and who are within certain income levels. The act also sets the goal of producing from biomass 60,000 barrels per day of alcohol for energy use by 1983. This would be done through loans and price and purchase guarantees offered by the Agriculture and Energy Departments.

I believe that it is important both with respect to the Synthetic Fuels Corporation and with respect to the other alternate fuels covered by this act that we proceed in the first few years along a wide-ranging path of different energy sources and production techniques. We should not start out as if we already know all the energy answers, because we do not. I am very pleased that through its broad authority this act recognizes the need for diversified energy development in the beginning. However, when the Synthetic Fuels Corporation comes back to Congress at the end of 4 years for an additional authorization of up to $68 billion, that will be the proper time in terms of experience and commitment of resources to focus in on those technologies which are the most promising. The same strategy should be followed regarding the other energy sources covered by this act.

Finally, I am also encouraged by the act's recognition of the importance of the strategic petroleum reserve. It calls for the filling of this reserve on an accelerated basis. I believe that over the next decade this reserve could make a significant contribution toward shielding our Nation from the political and economic vicissitudes of foreign oil producers.

As for the Energy Mobilization Board, I voted to recommit this legislation to the House-Senate conference committee because I do not believe that the conference report represented the sound development of a basically good idea. I supported the legislation to establish the EMB when the issue was first brought before the House last year. It seems to me that some suprabody would be helpful in pushing priority energy projects which might otherwise become mired in procedural delays. By the same token I believe that it is important that such a board not be given the unchecked authority to waive Federal, State, and local laws indefinitely. The bill which passed the House last year balanced these two concerns in an acceptable fashion. For example, it permitted the EMB to suspend for up to 5 years Federal, State, and local laws which were enacted subsequent to an energy project's application for priority designation and which would have impeded the progress of that project. However, most important from my point of view was that the decision to suspend these laws was subject to the approval of the Congress.

The conference report upset this balance. According to the report the EMB's decisions to suspend new Federal, State, and local laws could be in effect indefinitely and were not subject to congressional approval. In addition, as I read over the conference report I became increasingly concerned that the structure to be set up might not have significantly speeded up energy projects and instead might have just added another level of bureaucracy with which energy developers would have to deal. I do not question the difficulty of the balancing act which confronted the conferees. But it seems that the end product of the conference was a Board which infringed upon the principles of federalism without insuring the benefits of expedited energy development. I would like to see the conferees now go back and try to allay the concerns that the Board will be an unchecked bureaucracy running roughshod over the rights of States and localities. This may require a greater degree of legislative input to the Board, which in turn may require some limits on the number of projects eligible for fast-track status in order for there to be adequate legislative oversight. Therefore, I urge the conferees to look at this issue again and bring back another report to the House and Senate within the next few weeks. The EMB is basically a good idea which deserves another try.

With these two actions the House has given further definition to our national energy policy which has been evolving over the past year—decontrol of the price of domestic crude oil, the windfall profit tax, development of alternate sources of energy, and greater conservation incentives. It has to be further shaped and polished, but the policy's essential form is there. It is useful to remember that less than 2 years ago we were still choosing the marble.●

TAX-EXEMPT STATUS AND PRIVATE SCHOOLS

HON. TRENT LOTT

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. LOTT. Mr. Speaker, during debate last year on the Treasury Department appropriations bill, concern was expressed over proposed Internal Revenue regulations denying tax-exempt status to private schools unless certain new conditions were met by which a school reaffirmed its nondiscriminatory policy.

A careful study of these regulations revealed that they would place enormous burdens on private schools. It would cause them great burdens in time, money, and administrative detail to prove a nondiscriminatory policy even though there was no evidence to the contrary. Under these new regulations, private schools would be considered guilty until proven innocent.

The Members of this House acted wisely by adopting amendments proposed by our colleagues Representatives JOHN ASHBROOK and BOB DORNAN. The amendment by Congressman ASHBROOK provided that no funds could be used to carry out any rule, policy, procedure, guideline, or regulation which would result in the loss of tax-exempt status to private, religious, or church-operated schools under section 501(c)(3) of the IRS Code of 1954 unless it was in effect prior to August 22, 1978. Congressman DORNAN's amendments stated that none of the funds of the act could be used to carry out any revenue ruling of the Internal Revenue Service which rules that a taxpayer is not entitled to a charitable deduction for general purpose contributions which are used for educational purposes by a religious organization exempt under section 170(c)(2) of the Internal Revenue Code of 1954 and none of the funds could be used to carry out specific IRS revenue rulings of August 22, 1978 and February 13, 1979, concerning private schools.

The Senate acted to adopt similar amendments and these amendments were included in the conference report and were put into law when the President signed the bill. These amendments provided protection from these unnecessary and burdensome IRS regulations for private schools.

These protections were included in the Treasury appropriations bill by the subcommittee but unfortunately were removed by the full committee.

It is essential that we place these vital protections back into the Treasury bill. The original IRS regulations, a major change in policy, went far beyond what was necessary to discover evidence of discrimination by private schools. Even before these new regulations were proposed, the IRS had enough enforcement tools to accomplish its purposes and had been successful in removing the tax-exempt status from certain private schools because of what the IRS determined were discriminatory policies. If the restrictions on the IRS are not included in this year's bill, we will see the possibility of these IRS regulations being adopted and placing an enormous and unnecessary burden on private schools. It would be especially harmful to private religious schools which would find the reporting and administrative requirements of these IRS regulations excessive and expensive.

I urge the Members of this House to readopt the Ashbrook and Dornan restrictions this year to protect our private school system from arbitrary IRS regulations imposing intolerable burdens on our private school system.●

PUBLISHER HANK BIALICK OFFERS U.S. CONGRESS SOME ESSENTIAL ADVICE

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. LENT. Mr. Speaker, as we approach the observance of the 204th anniversary of the Declaration of Independence, which marked the beginning of our great Nation, it is most appropriate to give thought to the preservation of the great heritage of freedom and independence which we Americans possess.

A highly respected newspaperman in my Fourth Congressional District in New York, Mr. Hank Bialick, publisher of the Oceanside Beacon and the Baldwin Citizen, has done just that. In a thought-provoking editorial in his newspapers, Mr. Bialick has expertly outlined the many weaknesses and difficulties in our Nation's defenses, and the dire consequences which result from those weaknesses and difficulties when the United States attempts to respond to challenges from our enemies.

Publisher Bialick provides his readers—and the Members of the U.S. Congress—with some words of wisdom on how to deal with this vital question of such great importance to our Nation's future. He urges Americans to support greater military expenditures to make certain we can meet and stop Russian challenges. "We can't just stop them with empty words or empty threats," Publisher Bialick warns.

As the Soviet invasion of Afghanistan proved—indeed, we cannot.

I agree wholeheartedly with Publisher Bialick's advice to the Congress to get to work now remedying the many weakness in our Nation's defenses.

I urge my colleagues in this body to study carefully the message in Mr. Bialick's editorial. It is worthy of the most careful attention as we deliberate and vote on the expenditures necessary to strengthen our Nation's defenses.

Mr. Speaker, I insert the full text of Publisher Bialick's editorial from the Oceanside Beacon and the Baldwin Citizen in the CONGRESSIONAL RECORD at this point.

TO ARMS—TO ARMS

The call to protect our country has always been answered with sufficient weaponry and personnel to fulfill the obligations for the military to perform "Can Do" in any situation confronting our country.

Without trying to be an alarmist, I feel that we have weakened our reserve force and the military to the point where the American people must demand a turnabout in the military expenditure. This is necessary to assure sufficient funds to make America a first class military power once again. The American military is suspected of not being able to sustain an action for more than three months; after that it's surrender or die. Our Air Force is antiquated. The pilots don't have enough flying practice to be effective. The Navy is short of vessels, and the military cannot hold personnel for more than one enlistment. This is because of lack of motivation, faith in the military, and perhaps due to lower military pay compared with skilled civilian opportunities.

I fear the Russians, being the adventurers they are, will not be able to hold back their tremendous superior military forces in any further excursions they care to take. We just can't stop them with empty words or empty threats. The Congress must act decisively now. We have the vast resources and technical skills to produce. Let's get to the job of rearming America to do the job of keeping the peace. Only the United States can perform this task today.

Your elected officials should be made aware of your wishes and fears. An election year should not be an excuse for lack of action to maintain our beloved United States. Write Congressman Lent, Senator Moynihan and Senator Javits. Do not delay, or let our Congress delay, one more day.●

DISAPPROVE SAUDI REQUEST FOR OFFENSIVE WEAPONRY

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. LEHMAN. Mr. Speaker, only 2 years after the Carter administration decided to sell 60 F-15 fighter-bombers to Saudi Arabia, the administration is considering a Saudi request for accessory equipment that would provide the F-15's with an offensive capability.

The Carter administration gave Congress numerous assurances that the F-15 aircraft were to be used for defensive purposes only, and that a sale of offensive accessory equipment would not be made. Although I strongly opposed the arms sale in 1978 because of the possible use of the aircraft by the Saudi's and their friends against

Israel, Congress agreed to the sale on the condition that the delivered planes would not be equipped with the auxiliary fuel tanks, multiple ejection bomb racks, and missiles. Even without the addition of these items now being sought by the Saudis, the sale of the F-15's places in Saudi possession the most sophisticated fighter-bombers that U.S. technology has to offer.

Just as the United States seems determined to reward Jordan with 100 modern tanks for not supporting the Camp David peace process, Saudi Arabia is also taking advantage of our contradictory Middle East policy, a policy which, on one hand, advances the peace negotiations and, on the other, rewards intransigent Arab countries by supplying them with arms. It is not surprising that the United States is facing a credibility crisis in its foreign policy when the administration gives verbal assurance of our moral and strategic alliance with Israel while simultaneously arming Israel's enemies on the eastern front. This exerts tremendous economic pressure on Israel for increased military spending at a time when that nation faces an inevitable reduction in its defense spending. To expect significant breakthroughs at the peace table under these circumstances is naive.

The revolution in Iran should have taught us that providing our most sophisticated aircraft does not guarantee the protection of our interests. Likewise, supplying Saudi Arabia with advanced weaponry would not protect the Saudi monarchy from internal insurrection.

If the administration approves the new Saudi request, I will work vigorously to defeat this sale. This time around, the administration will not be able to argue successfully that the arms sale would not seriously threaten Israel's security. Congress will not allow our dependence on foreign oil to dictate our foreign policy. I am confident that a resolution of disapproval rejecting this sale will be passed by both Houses of Congress.●

CONDEMNING EUROPEAN CAPITULATION TO THE PLO

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. OTTINGER. Mr. Speaker, it is indeed deplorable that a number of our European allies have capitulated to the PLO terrorists in their recent call for the inclusion of the PLO in the Middle East peace negotiations.

Our European allies have chosen to ignore the fact that as recently as June 1 the PLO reaffirmed its commitment to the destruction of Israel. In its political program released last month, the PLO called again for the liquidation of Israel and stated: "The armed popular revolution is the only inevitable path to liberate Palestine."

It should also be noted that the PLO, now embraced by our European allies, also reaffirmed their alliance with the Soviet Union and the Ayatollah Khomeini's regime in Iran, while terming the United States an "enemy."

To further detail the cowardly act of the Europeans, I would like to call the attention of my colleagues to a New York Times editorial of June 15, 1980, entitled "A Minor-League Mideast Game." The text of the editorial follows:

A MINOR-LEAGUE MIDEAST GAME

> As a declaration of independence from American diplomacy in the Middle East, the European allies' pronouncement in Venice Friday was merely pathetic. No self-evident truths, no decent respect for the opinions of mankind, no pledge of mutual fortunes and honor. Just a petulant cry that Europe wants to play big-league power, too, and a cramped call for a "comprehensive" solution, their code language for a denunciation of Camp David. The Europeans did not even have the decency to mention, let alone analyze, that one solid achievement in the region so far.
>
> As a declaration of strategic purpose, their doctrine was absurd. The essence of the conflict, the agonizing tension between Israeli security and Palestinian rights, was simply asserted to be reconcilable. The anti-Israeli majority of the United Nations was put forward as a reliable guarantor of the peace. And the Palestine Liberation Organization, which only last week recommitted itself to the destruction of all Israel ("complete liberation of Palestine, the liquidation of the Zionist entity"), was promised a central seat at the negotiations and an early interview by Europeans as they design their "initiative."
>
> Any aware political amateur could have composed a more honest, and more understandable, statement of European purpose: We need oil and Arab trade so badly that we cannot wait any longer for America, Israel and Egypt to turn their partial peace into a broader settlement; the Arab radicals and P.L.O. terrorists—abetted by the policies of the Begin Government—have kept the West Bank boiling and the autonomy negotiations stalled; so we hope that by granting the Palestinians a state in the entire West Bank and Gaza we will somehow persuade them to accept Israel. Even if it doesn't work, the Arabs will think better of Western Europe and treat it kindly.
>
> That would be honest and understandable, but still very damaging. The West Bank is not Europe's or America's to cede—not for all the oil and trade in Araby. Seized by Israel in a war ignited by Arabs, it is validly claimed by both. Wise Israelis, probably including the next (Labor) Government, do not want to colonize the region's million Palestinians. Through the force of American diplomacy and the promise of American military aid, they may be brought to relinquish much of that troubled territory.
>
> But Israel will never be brought to such risky undertakings by nations that scorn the peacemaking of Anwar Sadat and use their influence to reward terrorism. The Israelis will never heed even the United States if America's own conflicted Middle East diplomacy comes to be seen as driven largely by rebellious Western allies. Pressure on Israel will succeed only if those who apply it have also earned Israel's trust and demonstrate a deep concern for something more than their own convenience.
>
> Any small nation can assert self-interest. Big-league diplomacy requires merging self-interest with the interests of diverse peoples, and notably those who have the power to end the unwanted conflict.●

GOLD VERSUS PAPER

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. PAUL. Mr. Speaker, governments for thousands of years abused their power and held the people in check with various forms of inflation. Originally, inflation was accomplished by coin clipping, but today the theft through monetary destruction is a highly sophisticated procedure involving the politicians, the bureaucrats, and the Federal Reserve System—our present-day central bank. All inflation involves the rejection of commodity money and acceptance of the arbitrary expansion of money and/or credit by Government officials. The conflict is between gold and paper, honest money and dishonest money. The power hungry have insisted on paper and the people have demanded honest money such as gold.

It is disturbing to see so many present-day experts call unbacked currency modern and scientific and label gold archaic or mystical. As long ago as 2000 B.C., the Hammurabic code mandated wage and price controls in an unsuccessful attempt to control inflation. The failure of the Roman Emperor Diocletian in A.D. 301 to stop inflation with wage and price controls is another well-known example of the failure of an unsound currency. The past 200 years also reveal the serious harm brought on by wage and price controls which hide the real cause of inflation. Our most recent example is the imposition of controls by Nixon in 1971. I am convinced if we do not look at the fundamental nature of money itself, all other attempts to thwart our impending economic crisis will fail. I recall first reading about the dangers of inflation in the 1950's. There were economists even then predicting serious consequences from the inflationary programs that were growing by leaps and bounds. But the consequence about which these predictions warned never seemed to materialize. Even though the exact timing of our crisis is not known, it is becoming apparent to more people every day that the day of reckoning is coming, that prolonged inflation has consequences, and that a nation living beyond its means suffers penalties, are accepted by almost everyone.

BALANCED BUDGETS

Today there is a clamor for a balanced budget. Already, we have 30 States demanding a constitutional convention to compel the Congress to stop spending more than it takes in. Since the chief reason for inflation is the printing of money and the creation of credit to pay for Federal deficits, this restriction would be a big step in the right direction. It's also healthy because it would mean the people themselves would be speaking out and going around the Congress to implement a constitutional change for the first time. If four more States request the convention, we can place this restraint on the politicians into the Constitution.

I have two reservations, however, regarding this amendment. First, I do not believe that instructing the politicians to balance the budget through a constitutional amendment will accomplish all that is hoped. The amendments proposed have a clause in them saying that in a time of emergency, by a vote of three-fourths of the Congress, the requirement to balance the budget can be suspended. All it would take is an increased rate of unemployment and the Congress would succumb to the temptation to inflate. The prevailing economic understanding in the Congress, the administration, and the Federal Reserve is that the only correction available to them is to stimulate the economy with deficits, and the spending of more and more new money. I am convinced this will happen with or without an amendment that provides for a balanced budget.

With our economic downturn, the deficits will probably top the $100 billion per year mark in a vain effort to hold off the impending collapse. Government programs will be coming out our ears and the rhetoric about a balanced budget will soon be forgotten.

My other reservation is this: Even if by some miracle Congress should balance the budget, the Federal Reserve can inflate without deficits. The Federal Reserve has the means whereby it can do pretty much what it wants, with or without a balanced budget. For this reason, we need a more fundamental change in the nature of our money.

The monetary unit cannot remain as it is today, a tool of the rich, the powerful, the politicians, the central bankers, and the international corporations. For the middle class to survive and the poor to gain an opportunity to improve their lot, a sound currency is a must. Destructive wealth redistribution through inflation should not be tolerated any longer. Although eventually all economic classes will suffer with economic upheaval and loss of political freedom, up to a point certain groups do benefit at the expense of others. Many a businessman has expressed his acceptance and approval of the inflationary process to me since it affords him a chance to accumulate more material wealth. The unscrupulous businessman, banker, politician, or union leader who encourages inflation for personal gain is guilty of committing the serious crime of theft, and must bear the responsibility of participating in the destruction of our market economy and what remains of our free society. Those who understand inflation and protect themselves and their families to the best of their abilities should be complimented and not criticized; only the perpetrators of the inflationary process are deserving of our harsh condemnation.

If a balanced budget cannot achieve all that is necessary to stop the inflation, what exactly is required? Will tax reduction as proposed by the Roth-Kemp bill provide enough incentive to stimulate production, lower prices, and raise Government revenues? Hardly. Tax reduction is a key element in correcting our economic ills and must be done as soon as possible. Tax reduction should exceed the 30-percent proposed by the Roth-Kemp bill, but not for the purpose of providing revenue for the Government. Government revenues must be reduced, not increased. A balanced budget must be achieved through reduction of Government spending, not through raising its income at the taxpayer's expense. Government programs almost never achieve what is intended and usually do the opposite. Less Government spending, rather than being recessionary or less stimulating to the economy, would provide a tremendous boost toward producing higher employment and lower prices. When one hears the promotion of increasing government revenues through either direct taxation or miraculously through tax reduction, it reminds me of the poem by Sir Allen Patrick Herbert:

Well, fancy giving money to the Government
Might as well put it down the drain.
Fancy giving money to the Government
Nobody will every see the stuff again.
Well, they've no idea what money's for
Ten to one they'll start another war.
I've heard a lot of silly things, but Lord,
Fancy giving money to the Government.

My idea of taxation is to limit the maximum overall taxation for everyone to 10 percent of his income. The church only asks for 10 percent; why should the Government demand more?

Massive tax reduction, elimination of all abusive regulations, reduction of Government spending, and a balanced budget are all absolute musts if we expect to pull our economy out of its downward spiral. This needs to be done quickly and completely if we expect to avert the coming crises in the delivery of energy, medical care, food, clothing, and housing to our people.

Even if all this were achieved overnight by Congress and by some strange occurrence accepted by our President, it would not be enough. In many ways, this would help alleviate the bad effects of inflation, that is, it would tend to lower prices, but would do nothing to change the basic problem in stopping inflation. If anything, it would hide the problem because it would direct the attention away from the real cause of inflation. Just as wage and price controls divert our attention from the real cause, responsible programs that would lessen Government control on the economy—and these should be encouraged—could actually delay the basic changes needed. Already, the productive capacity of our relatively free-enterprise system rather astoundingly achieves lower prices and provides many bargains in spite of the inflationary world in which we live.

BASIC CHANGE NEEDED

The basic change needed is to provide for a commodity-backed currency. Commodity money, in contrast to the archaic, destructive, unbacked, paper currency which circulates throughout the world today, is an absolute must if the inflation is to stop and prices are to stabilize or fall.

Although the productive era of Western civilization was associated with gold backing to both the dollar and to the British pound, total refinement of a gold currency was never achieved. History has given us many more examples where money was unrelated to gold than the other way around. The 20th century free-market economists, such as Hayek, defend capably the different ways whereby a better currency can be devised. There is no reason to return to an old gold standard; we must be progressive enough to consider new and enlightened ideas about money and the age-old problem of inflation. Previous knowledge of how gold-related currencies functioned so much better than the fiat currencies must be coupled with new ideas for providing an even better currency than ever used before.

Unfortunately, it is hard for mankind to accept new ideas. Preference for the old ideas, no matter how disastrous they have been, seems to prevail. Sacrificing to the state the people's right to determine the nature of their money—through legal tender laws, and so forth, is carelessly accepted by most people today. Although there are those in authority who promote the use of paper money for their own personal benefits, the masses, the poor, and the middle class fail to demand a halt to the theft and loss of freedom that occurs through the rotten system of monetary expansion and credit creation. The little people and the honest people of the country must demand a halt to the inflation and insist on a gold-backed currency. No other alternative exists.

Milton Friedman claims that paper money will work, if Government is just told to limit the monetary expansion to a fixed rate of 4 to 5 percent a year. This indicates little understanding about human nature. Even if we had such a law on the books, we would not be able to restrain the politicians from abusing this prerogative and arbitrarily increasing the number of dollars in circulation. Power is corrupting. Do not tempt anyone with a purchasing medium made of something artificial, without intrinsic value, and ask that a limited supply be allowed. It just will not work. If we found perfection in our elected officials, possibly Friedman's monetary ideas would have merit; but, believe me, there is such a scarcity of even the "good guys" in Washington, let alone any that are considered perfect, that it precludes any such dream.

I do not know whether or not a gold-backed currency provided and protected by the Government is superior to the Hayek free-market money, but either one would be far superior to what we have now. I would be delighted with a serious consideration of any form of commodity-backed currency that would put brakes on the rapidly expanding money supply. Unless this happens, the real solution to the inflation problem will not be available to us; and we must face up to the fact that the consumer price index will continue to soar to ever-higher levels. Unemployment will rise; the standard of living will decrease for the majority of us; the rich will become richer, and our freedoms will be threatened. If history is of any significance to us, our preparations and our concerns should be paramount.

On the optimistic side is the fact that we are now legally permitted to practice economic self-protection by owning gold. Gold clause contracts are now permissible after 35 years of repression. Our Government is now compelled by law to use a small percentage of the gold they dump into foreign markets each year to mint coins for purchase by American citizens. More citizens are becoming knowledgeable about the value of buying gold.

Only the Government officials and the conventional economists deny the significance of gold. True economic protection on an individual level can be achieved with gold; however, if our total program of a free economy and a sound dollar is not achieved, the inevitable loss of freedom will wipe out any personal protection that one may achieve with the ownership of gold.

Understanding, promoting, and achieving a free society should top our list of priorities. If this is done, material abundance and economic security can be achieved by all who desire them and are willing to work for them.●

HOPE IN THE BRONX

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. BINGHAM. Mr. Speaker, much has been said and written of the plight of Bronx County, N.Y., and especially of the south Bronx.

But many helpful things are happening in my home county. This was recognized in a heart-warming editorial heard recently over radio station WCBS in New York, which I insert herewith:

HOPE IN THE BRONX

Trees may be growing in Brooklyn, but in the Bronx they're growing hope.

(Now a WCBS editorial. Speaking for the management of this station is Director of Editorials Susan Veatch.)

In the Bronx these days there are gardens growing. Gardens and parks and most important, a feeling of hope and a sense of community pride.

A lot of people who live in that borough have not written it off, as some others have. On the contrary, they have organized themselves into groups that do all manner of good for the neighborhoods.

We have spoken before about the work of the Bronx Frontier Development Corporation with its gardens and resource recovery projects. The people involved are busy turning waste products into compost which is used to make vegetable and flower gardens. They even generate their own energy with a windmill.

An organization with the unlikely name of Banana Kelly is also making headway creating gardens and playgrounds and rehabing apartment buildings. Banana Kelly made news recently by calling in the National Guard for peaceful purposes—leveling the rubble left from torn down buildings and making way for construction of a children's playground, picnic area and greenhouse. The South Bronx Development Office worked on this project and had to cut through a lot of city red tape to get the task accomplished.

Most New Yorkers are holding their heads a little higher now that the city is coming out of the financial crisis that nearly brought it to its knees. It's easy once again to say, "I Love New York," except if you live in an area generally regarded as destroyed. The people who make up these community groups in the Bronx are an example to the rest of us of what it really means to care about your neighborhood. Making a garden out of a rubble heap, that's really loving New York.●

ORDERLY MARKETING AGREEMENTS

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. MURPHY of Pennsylvania. Mr. Speaker, Jacob Clayman, past president of the Industrial Union Department, AFL-CIO, and cochairman of Compact—Committee to Preserve American Color Television—issued an analysis on May 20 following a decision by the U.S. International Trade Commission recommending a continuation of restrictions on the importation of color TV's into this country from Korea and Taiwan, but to discontinue them with Japan.

The analysis described the impact over the last decade on the U.S. color television industry resulting from foreign imports, especially from Japan. Japan has been exporting color TV's to the United States for years at a price below fair market value, or below the price in that country. This practice is known as dumping.

Mr. Clayman points out in his statement that color TV imports from the Far East have forced thousands of Americans out of their jobs. In 1972 there was direct employment in the U.S. color television industry of nearly 42,000. By 1977, when the current import relief program went into effect, the number of jobs had dropped 30 percent to 29,000. In 1979, it was down to 26,000. These figures do not include the jobs in support industries that are dependent on the color TV industry.

In 1977, the ITC itself found that the color TV industry had been injured by imports. It is estimated that about 60,000 direct and support jobs have been lost. There are now about 65,000 jobs, both direct and support, that are dependent on the manufacture of color TV's in this country. Would the ITC in effect abolish these jobs too?

Mr. Clayman said that in 1977 the Commission recommended 5 years of import relief to help the domestic industry. The President reduced this to 3 years under an orderly marketing agreement signed with Japan. But, a surge in shipments from Korea and Taiwan undermined the agreement and separate agreements had to be negotiated with those two countries. The result is that the domestic industry and its workers have had only a little more than a year of effective relief.

The relief will end on July 1, unless the President acts to protect American industry and jobs. I would like to stress that Japan's productive capacity of color TV's is five times greater than that of Korea and Taiwan combined.

Gentlemen, I commend for your study Mr. Clayman's analysis:

STATEMENT OF JACOB CLAYMAN, PAST PRESIDENT, INDUSTRIAL UNION DEPARTMENT, AFL-CIO, COCHAIRMAN OF COMPACT

There are several things I would like to add to Mr. Dawson's observations. Foremost among these is the matter of employment. In 1972 there was direct employment in the color television industry of nearly 42,000. By 1977, when the current import relief program was instituted by President Carter, the number of jobs had dropped 30 percent to 29,000. In spite of import relief, employment has continued to decline in this industry. In 1979 it was down to 26,000 and I would estimate that today it stands below 25,000.

For every job in television manufacturing, the Labor Department says there are one-and-one-half jobs supporting and supplying industries. That means we have gone from about 105,000 jobs in 1972 to 65,000 at the end of 1979. Moreover, we have continued to lose jobs in black-and-white television production. Overall, in the last decade, we have lost at least 60,000 jobs in TV manufacturing and related industries. In short, the work force in television plants and supplying industries has been cut almost in half.

In 1977 the U.S. International Trade Commission unanimously found that the color television industry had been injured by imports. The Commission recommended five years of import relief. The President reduced it to three years when he signed the Orderly Marketing Agreement with Japan. However, a surge in shipments from Taiwan and Korea undermined that OMA and separate agreements had to be negotiated with those two countries. The result is that this industry and its workers have had only a little more than a year of effective import relief as against the five recommended by the ITC and three granted by the President.

In the face of this, and in addition to the declining employment and depressed profits, I am at a loss to explain the recommendation last week by the ITC.

As Mr. Dawson points out, Japan was and is the root cause of the problem. It was the dumping of television sets from Japan that eliminated those 60,000 American jobs in the 1970's. Morever, the exports of color TVs from Taiwan and Korea that undermined the initial OMA came in part from plants in those countries that are partially owned by Japanese companies and that use Japanese color TV tubes and other components.

The ITC based its recommendation regarding the removal of import restraints on Japanese color TVs on the fact that there are now eight Japanese companies manufacturing color television sets in this country. Frankly, our workers can take very little comfort from that. Indeed, we know that in those Japanese-owned plants the workers are assembling sets with components made primarily in Japan and these components have by far the highest labor content. In one American plant that was taken over by the Japanese the work force was cut in half within a year.

I recall when we unveiled COMPACT in September 1976 my Co-Chairman, Al Dawson, was asked why we hadn't included black-and-white television manufacturing in our petition for import relief. Mr. Dawson's reply was that the import penetration in black-and-white was then already over 70% and the black-and-white TV industry was too far gone to save. He predicted it would be extinct in the United States within a very few years. That prediction has now been borne out. So we are not crying wolf when we tell you today that there will be virtually no domestic color television manufacturing left in the United States a few years from now, except perhaps in Japanese-owned plants, if the President adopts this puzzling recommendation by the ITC.

The eleven labor organizations that are members of COMPACT join with the industry members in urging the President to extend the import relief program as it now stands for three more years. Anything less will assure the demise of the color television industry and the 65,000 remaining jobs that depend on it for survival.●

THE SPIRIT OF HELSINKI, VIGIL 1980—ALEXANDER YAKOVLEVICH LERNER

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. OTTINGER. Mr. Speaker, the Spirit of Helsinki, Vigil 1980 is an important means by which Congress can express its outrage over the Soviet Union's repeated denials of human rights. As a cosigner of the Helsinki accords, the Soviet Union has pledged to promote policies consistent with basic principles of human rights. Nevertheless, they continue to unjustly imprison citizens and deny them the right to emigrate. Such actions fly in the face of the Helsinki accords.

Because there is little that can be done within the Soviet Union to redress these violations, only world pressure can force compliance with the Helsinki accords.

Today, I call to the attention of my colleagues the plight of Alexander Yakovlevich Lerner, a 67-year-old refusnik from Moscow. Professor Lerner was among the most respected and honored scientists in the Soviet Union, until 1971—the year he applied for an exit visa. Not only was Lerner denied a visa on the grounds of "knowing state secrets," but he was dismissed from all of his duties. In addition, his daughter was discharged from her position as a mathematics researcher, and his son, an engineer in systems analysis, was fired. Lerner, himself, is now reduced to arranging meetings with other Jewish refusniks, in his small apartment, where they exchange scientific views and dream of their future work in Israel.

The fact of the matter is that there is no basis to the "knowing state secrets" as a reason for denying Lerner a visa. Any confidential projects which Lerner might have participated in have long been discontinued and made public in the West. In fact, Lerner has been allowed to travel abroad—a privilege denied to those privy to state secrets.

I therefore urge the Soviet Union to grant exit visas to Lerner and his family. In addition, let us hope that all other Soviets detained against their will can be granted the basic human rights to travel and speak as they wish. The granting of such freedoms would indicate to the world that the Soviets are now willing to abide by the conditions set forth in the Helsinki accords.

I urge my colleagues to continue to pressure the Soviet Union until the last political prisoner is freed and the last detainee is allowed to emigrate.●

F/A-18 TAKES OFF—IN COST

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. NOLAN. Mr. Speaker, recently I joined with my colleague from Minnesota, Mr. VENTO, and 13 other Members, in calling for public hearings on the F/A-18. This aircraft, which is intended to be the new Navy and Marine Corps attack and fighter plane has run into serious problems.

The F/A-18 has been beset by technical difficulties and schedule problems. This aircraft is unable to meet its range and acceleration specifications; is 1,600 pounds overweight; has problems with its roll rate and is seriously behind in its testing and evaluation schedule.

A major concern with the aircraft is the dramatic increase in the cost of the program. Originally estimated to cost about $6 million per unit in 1975, the F/A-18 now will cost the American taxpayer between $26 and $29 million per aircraft. This growing cost represents an increasingly heavy drain upon other essential national security programs. Faced with a finite budget for defense and the need to maintain a strong defense capability we cannot fund extravagant programs of questionable value.

In view of these problems, I believe that it is essential that the appropriate congressional committees conduct full and open hearings on the F/A-18. Before we make any further commitment to this program, Congress must have a complete explanation of the growing costs of the program and the technical and scheduling problems which it faces.

At this time, I would like to bring to my colleagues attention two articles regarding the F/A-18. The first article appeared in the June 30 issue of Aviation Week & Space Technology. This article details the current reconsideration of the viability of the F/A-18 by the administration. In face of growing costs and the need for other aircraft, it is becoming increasingly apparent that the continuation of the F/A-18 program may be detrimental to our national security.

The second article is a recent editorial in the St. Paul Pioner Press calling for congressional hearings.

Mr. Speaker, I wholeheartedly agree with the Pioneer Press when it states: "There is no question that Congress and the American people need a thorough accounting of this airplane, before it goes into orbit, in terms of cost."

The articles follow:

OPTIONS ON F-18 CANCELLATION WEIGHED

WASHINGTON.—Cancellation of the Navy/McDonnell Douglas/Northrop F-18 air combat fighter is being weighed within the Executive branch of government, and President Carter may have to face the decision in the fall to terminate the program, according to White House officials.

Office of Management and Budget (OMB) officials are delving into potential fighter and attack replacement aircraft and comparing costs if the F-18, and its A-18 attack version, are canceled. The replacement aircraft and cost estimates include:

Grumman F-14 air superiority fighter at a cost of $22.1 billion for 725 aircraft. Of this total, $11.2 billion would be earmarked for 232 F-14s required by the Navy to maintain 18 squadrons of F-14s already planned for the fleet.

McDonnell Douglas AV-8B Advanced Harrier vertical/short takeoff and landing (V/STOL) aircraft for the Marine Corps at a $6.1-billion cost for 32 Harriers, including research and development costs beyond Fiscal 1980.

Vought A-7, with two versions of the aircraft for Navy carrier operations. The service would procure 36 of the present A-7E production-line aircraft at a cost of $400 million to keep the line open for three more years, and then buy a twin-engine version of the aircraft with the General Electric F404 at $5.9 billion for 453 aircraft, including research and development costs.

The current buy of 491 F-14s will support 18 squadrons only through 1986. Using the current attrition rate of 5.3 percent a year, the Navy would lose one squadron per year after 1986, although plans are to maintain 18 squadrons through the year 2000. The present buy is for 24 aircraft in Fiscal 1982, 12 in Fiscal 1983, six in Fiscal 1984 and none in Fiscal 1985.

COST COMPARISON

The comparison being made by OMB includes what officials in the Defense Dept. describe as "to go costs." That means comparing the $25.5 billion in the last selected acquisition report from the Pentagon to the Congress for 1,332 F-18s without recoupment of previously sunk costs.

"What that does not include," one Pentagon official said, "is an approximate increase of $6 billion in the upcoming SAR, which brings the total to $31.5 billion for 1,300 F-18s. It does not take into account a cutback in production quantities in Fiscal 1982 and 1983 recently submitted in the Navy program objective memorandum and five-year defense plan." Those production delays, if implemented, will further drive up the F-18 program costs.

The recommendation to stretch out the F-18 production in Fiscal 1982 comes at the same time the House and Senate Armed Services committees added funding to the Fiscal 1981 defense authorization bill to increase F-18 production.

In the Navy's Fiscal 1982 program objective memorandum, which Navy Secretary Edward Hidalgo sent to Defense Secretary Harold Brown May 22, the service detailed its dilemma: "The aircraft procurement account is in jeopardy in several important respects," Hidalgo said. He added that "the escalating costs of the F/A-18 have raised serious questions in my mind." Hidalgo also said that the Navy can buy an average of only 230 aircraft annually for both Navy and Marines, about 100 short of what is needed to meet attrition and to maintain the force structure. In the near term the problem is worse, Hidalgo explained, because the service will buy only 199 aircraft in Fiscal 1982, including 72 trainers, and 185 in Fiscal 1983.

PROGRAM OBJECTIVE

The Fiscal 1982 program objective memorandum includes only research and development funds for the Marines' AV-8B at the basic funding level, with procurement funds unlikely; "and this will likely be inconsistent with the demonstrated intent of Congress," according to Hidalgo.

The Fiscal 1981 budget request to Congress did not contain procurement funds for the AV-8B nor did it ask for research and development, and another $90 million for long-lead procurement funding. The Senate added $243 million for research and development and $90 million for longlead procurement funding.

The House also added the same amounts for the AV-8B procurement and research development.

With congressional funding of the Harrier program, the Navy is faced with a reduction in A-18 procurement of 322 aircraft added to the F-18 program total when funding for the Advanced Harrier was excluded from the coming year's budget.

Even with the decision by Canada to procure 130 F-18s, that amount will not compensate for the loss of the planned Marine A-18 buy, and the reduction in total numbers will drive up the unit cost of the F-18 fighter beyond the approximate $25 million now estimated by the Defense Dept.

As the Navy concluded, according to Hidalgo, "We searched long and hard for alternative ways to overcome these difficulties within the resources allocated to us, considering even the disturbing possibility of canceling the F/A-18, but no practical alternatives are available."

While the Navy was seeking to find ways to buy sufficient numbers of fighters, the Office of Management and Budget staff was completing its tactical air spring budget review. That review takes a hard look at the F-18 program and at the increase in costs and delays in the flight test program, and provides a number of alternatives for White House consideration. "There is an option which concludes terminating the program," according to one OMB official.

"This is a potential presidential decision," another OMB official confirmed, "and it is related to the Fiscal 1982 budget taking shape now."

That Defense Dept. Fiscal 1982 budget request will not officially reach Carter's desk until November, and the Defense Dept. will get the President's decision on the Fiscal 1982 budget in mid-December.

But cost increases in the F-18 and program delays already have been brought to the President's attention along with similar problems with the Rockwell International space transportation system—the shuttle—and the Army/Hughes Advanced Attack Helicopter (AAH).

They were brought to Carter's attention as possible sources of Administration embarrassment, and because of action that will be required when the Defense authorization bill reaches the Senate floor or conference action with the House.

The White House is expected to launch a lobbying effort to curtail budget increases added by the Congress in a number of areas.

FUNDING BELLWETHER

Just how hard or whether the Administration will fight against F-18 funding increases by Congress could be a bellwether for the future of the F-18 fighter, according to congressional staff members.

Other Administration officials point out, however, that the action by the White House on Fiscal 1981 F-18 funding does not mean the program could not be canceled later by the president. "Carter is going to be leery of that [F-18] hot potato in an election year," one Administration official added. "Can you imagine him stopping a program in which $3 billion is invested in sunk costs, particularly when Congress forced that aircraft on the Navy over their objections as a so-called low-cost, lightweight fighter?"

The Senate Armed Services Committee added funding to provide $1.56 billion for 60 F-18s in Fiscal 1981, and $85 million in long-lead money for procuring 96 of the fighters in Fiscal 1982.

The House added money to provide $1.7 billion for 72 F-18s in Fiscal 1981, and long-lead funds of $118.2 million for 108 aircraft in Fiscal 1982.

The President also must consider the impact on the economy and aerospace industry jobs in F-18 program termination, one White House staffer said. "But the increase of about $11 billion in the F-18 program over the past year or so is causing grave concern."

Another Administration official said that about six weeks ago President Carter was told that the F-18 is one of several programs where cost-effectiveness has been poor and where management attention must be directed. "It was also pointed out to him that the F-18 is one of those programs which will always look bad because of inflation and its impact on the aircraft at this stage in its life cycle, but some of that increase is based on flight test delays and technical problems," the official explained.

Another Administration official added, "OMB recommended looking into terminating the F-18 program, but that cannot be done without determining the impact on general purpose forces and what the cost will be to replace it with other aircraft. That's just what the OMB staff is doing now in preparation for the Fiscal 1982 budget."

Preliminary data indicate that by procuring F-14s, A7s and AV-8Bs in similar numbers to F/A-18s, the Navy could save approximately $2.3 billion. With the $6-billion F-18 increase not reflected in the total program cost, the savings could be approximately $8 billion, "more than enough to reengine the F-14 and add two engines to the A-7 making it an A-7X or whatever," an Administration official said.

One of the considerations OMB is just beginning to address is whether the Navy still has a requirement for a light attack aircraft in the A-18, A-7 and AV-8B category, according to an Executive branch official. The Navy's results from the Indian Ocean deployment in the wake of the Soviet Afghanistan invasion indicate that the only attack aircraft in the fleet that meets requirements in that part of the world is the Grumman A-6, according to the official. But the A-6 is a medium attack aircraft, and it is more costly than either the A-7 with two F404 engines or the AV-8B.

The Navy would have to buy 489 A-6s to replace A-18s, and the cost would be about $8.5 billion.

One reason the Navy light attack aircraft requirement may have to be reassessed is that carrier-based aircraft must be capable of providing surveillance of Soviet vessels at a range of 600 naut. mi.

The fighter requirement is to intercept hostile aircraft at a minimum range of 200 naut. mi. from the carrier. To accomplish these requirements the fleet had to rely on the F-14s, A-6s and Lockheed S-3 aircraft in the Persian Gulf area. The A-7s were unsuitable for the range requirement, according to congressional staff members.

The OMB spring review examined the Navy's aircraft procurement program, "and the main feature was to explain and rationalize the Administration's procurement program and show that Congress is wrong in pressing for the AV-8B," one staff member said. He added that the OMB study suggests that "if Congress wants the AV-8B so badly, they can have it, but at the expense of the F-18."

One reason President Carter was briefed on the F-18 cost increase was related to attacks on the F-18 by Rep. Bruce F. Vento (D.-Minn.) because of cost overruns and failures to meet specifications in performance in the flight test program in areas of roll rates, acceleration and aircraft weight.

One of the major factors in continuing cost increases in the program is caused by mandatory Defense Dept. inflation indices used in computing program costs, particularly in future years of F-18 procurement, according to Defense Dept. officials.

"The Navy is forced to use unrealistic inflation figures when computing program costs," one official explained. "The F-18 is being computed on an inflation rate of 5-6 percent dictated by the Administration when the minimum should be 8 or 9 percent. That's why the program has to be revised and reconfigured every few months, and why it looks like bad management."

Performance problems with the F-18 that cropped up in the flight test program mostly have been fixed, and the flight test program is running only four to six months behind schedule, a Defense Dept. official said. He added that fixes to enhance the aircraft's roll rate have been determined. They include adding control surfaces and strengthening the outer wing panel by adding graphite composite layers (AW&ST June 2, p. 22).

Cruise performance also has been increased so that it is only about 4 percent below specifications, and problems encountered in fatigue testing designed to stress the aircraft also have been corrected, according to Pentagon officials.

"The bottom line," one aircraft program manager said, "is that this inflation and economy means there is no way to look good. OMB dictates inflation rates used for program pricing and it makes program managers look like conniving lying SOBs to the Congress. There's just no longer any such thing as a constant dollar."

F-18 TAKES OFF—IN COST

It now appears likely that the public will be let in on at least some of the fantastic story of an airplane the Navy is counting on for its attack and fighter squadrons in the next decade.

A House Appropriations subcommittee has invited Rep. Bruce Vento, D-Minn., to testify about the F-18 program July 1 and Vento has been told that hearing will be "open"—although most of the subcommittee's hearings on tactical aircraft are being conducted behind closed doors.

Vento began making noise about the F-18 program this spring. It is, at $27 billion and on the way to $33 billion—the largest single item in the Defense Department authorization bill passed by the House, and Vento seems to think it should be discussed a bit before the authorization becomes an appropriation. This seems reasonable enough.

Congress has never taken a close look at the program, although reports about the growing cost and problems of the F-18 are frightening. Intended as a carrier-based plane, the F-18 reportedly cannot land on a carrier without breaking its landing gear. There have been problems with wing flutter and below-specifications roll rate, with lack of range and too much weight. There's a mysterious fuel leak and various parts have broken under stress.

The testing program is behind schedule.

The climb rate of the costs is the most impressive thing about the F-18. It was "sold" to Congress as a $7.77-billion program in 1975, with each airplane costing about $6 million. The estimated program cost for 1982 is *$32.8 billion*, with each airplane costing *$24 million*. The cost overruns, Vento says, exceed the total overruns for the Navy's whole shipbuilding program in the decade of the 1970s. The Navy is getting nervous because the program total is beginning to look like the cost of the Air Force's MX missile system.

In fairness, it should be noted that they're trying to develop and build these airplanes during a period of extreme overall inflation. But there are reports that management problems at McDonnell Douglas and Northrop Aviation have contributed heavily to the price tag.

The Navy wants to use the F-18 (which some people regard as an Air Force reject) as a replacement for its A-7s and F-4s. It is supposed to be built in both fighter and attack configurations and to be used by both Navy and Marine pilots. But there's a faction in the Navy that would rather buy more F-14s than continue to mess around with the F-18. And Vento noted that the Marine Corps seems headed toward more use of the Harrier vertical/short takeoff and landing jet and he questioned whether the F-18 is even suitable to the Navy's defense role in the 1980s.

Whether Vento is right in his defense and weapons philosophy—or even in his specifics about the F-18 problems—there's no question that Congress and the American people need a thorough accounting of this airplane, before it goes into orbit.●

A NOTED COLUMNIST RECOMMENDS GENUINE WELFARE REFORM

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. JONES of Oklahoma. Mr. Speaker, nationally syndicated columnist William Raspberry has recently written two columns on welfare reform which contain much commonsense and should serve as the leadoff point for genuine welfare reform in the next Congress.

Welfare reform is a code word to many. To the far right wing, it means deep slashes at everything that might be included under the banner of welfare even if that means cutting off the truly needed. To the far left wing, it symbolizes a sacrosanct Government guaranteed assistance even if that means that those who do not deserve the help get it.

One thing on which a growing majority of Americans now agree is that our present welfare system is not working. It is debilitating and even humiliating to recipients. It is often an unfair burden to taxpayers who pay the bills.

Mr. Raspberry's views reflect those of many of us who fought hard in the 1960's to improve the quality of life for all of our citizens only to find in the 1970's that some of those efforts went so far as to have counterproductive effects. I commend to my colleagues Mr. Raspberry's latest column in the Washington Post of June 30 as a good way to start thinking about meaningful reform. The column follows:

WORKING ON WELFARE

I'm disappointed. When I devoted a recent column to the notion that welfare grants ought to be tied to a requirement that able-bodied recipients go to work—going so far as to say nice things about such a program initiated by Ronald Reagan when he was governor of California—I anticipated an outraged reaction from liberals and advocates of the poor.

It hasn't come.

What I have had instead is an amazing degree of support for the idea; some of it, predictably, from people who describe themselves as "taxpayers," but much of it from people whose sympathies are with poor families.

What is happening, I think, is that a lot of us are beginning to question the assumption, implicit in many of our social welfare programs, that poor people are essentially beyond salvation and that the only humane thing to do is to take care of them. We are learning, at last, that the better care we take of people, the more helpless they become. And we are starting to think less about how best to take care of people and more about ways to move them toward self-sufficiency.

The message is delivered in a variety of forms. Willie J. Hardy, a member of the D.C. city council, made the point in her testimony last week before the House Committee on the District of Columbia.

Hardy, who represents one of the poorer sections of the city with a disproportionate amount of the city's public housing, called for an end to public housing construction "in its present form."

Instead of housing that entraps poor people in public-housing ghettos—"government-owned slave quarters," she called it—she called for programs designed to foster upward mobility. And not just housing programs.

"I just feel that all government [welfare] programs should have the common goal of rendering themselves [unnecessary] by giving individuals the opportunity to ultimately stand on their own," she told a hearing on the problems of the cities.

A colleague at The Washington Post said much the same thing in another way: "I've seen a young Vietnamese refugee cleaning the ashtrays in the elevators here, and I ask myself if a pretty good job opens up in the maintenance department here, will the department head look at some guy on welfare or will he look at this Vietnamese who has been showing up for work every day, demonstrating his willingness and ability to work? You know the answer."

Blacks of unmistakably liberal politics are telling me that they are starting to see our best-intentioned welfare programs as a snare that traps people in their poverty. "Even mothers of several children ought to be required to work," one of them said. "If they can't find anything better, they could at least work as aides at day-care centers so other people can go to work."

If this attitude is as widespread as it appears to be, why has the civil rights leadership been so slow to join in?

One reason may be the punitive implications of some of the legislative efforts to substitute work programs for welfare.

A member of the Pennsylvania legislature, for instance, has introduced a bill to eliminate welfare payments to able-bodied recipients when work is available.

The problem with his proposal is that he assumes that the recipients could land these jobs if they really wanted them.

"Oh, they will show up for the interviews as the [present] law requires," he told me, "but they show by their attitudes and the way they present themselves that they don't really want to work."

He would simply assume they weren't truly interested in working and cut them off.

But the fact that people don't land the jobs they apply for does not necessarily mean that they don't want to work, as any number of pavement-pounding college graduates could tell you.

But my mail tells me that there would be enthusiastic endorsement, right across the political spectrum, of a program that said to welfare recipients: here's a job; take it or lose your benefits.

Taxpayers would be better off, and so would the people who went to work.●

RISE OF THIRD-PARTY GOVERNMENT

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● **Mr. BOLLING.** Mr. Speaker, following is Lester M. Salamon's op-ed piece which appeared in the Washington Post of Sunday, June 29. It is the best short article I have seen describing the responsibility and accountability aspect of our current crisis of representative government. The condition it describes is one of the major reasons I proposed H.R. 6380, to establish a Commission on More Effective Government:

RISE OF THIRD-PARTY GOVERNMENT

(By Lester M. Salamon)

The Post's recent series by Jonathan Neumann and Ted Gup on federal research contracting deals with a single, if revealing, part of a larger transformation that has taken place in the federal enterprise. This transformation involves a fundamental change in the way the federal government carries out its business, a change that has been under way for more than a generation but that is still only dimly perceived.

The heart of this change is a shift from direct to indirect or "third-party" government, from an arrangement in which the federal government ran its own programs to one in which it relies primarily on others—states, cities, special districts, banks, nonprofit corporations, hospitals, manufacturers and others—to carry out its purposes instead.

To be sure, press accounts still speak of this or that "federal program." But those who work in the federal bureaucracy know that these are merely euphemisms behind which lies a cruel reality in which federal officials are regularly held responsible for programs they do not really run.

Few federal bureaucrats have been the object of more derision than those responsible for "the federal welfare program." In point of fact, however, no such entity exists. This "federal" program is really 50, or 3,000, different programs run by state and local officials who use federal funds but who have the discretion to make their own decision about who is eligible for assistance, over what period of time, under what conditions and at what level of benefits.

Similarly, the $6 million to $8 billion that Congress annually appropriates for employment and training assistance goes not to the Department of Labor, which is regularly held responsible for its wise use, but automatically to more than 450 local "prime sponsors," which are organized by local politicians and community groups and over which the Labor Department has precious little control. "We don't even know who's in charge of these prime sponsors," one department official recently pointed out. "How can we be expected to control them?"

In area after area, the same pattern holds. Indeed, third-party government now dominates the federal domestic-program landscape, though this has yet to be fully appreciated, let alone carefully analyzed and assessed.

What is involved here is not simply the contracting out of well-defined functions or the purchase of specified goods and services from outside suppliers. The distinctive feature of "third-party government" is that what is being delegated and shared is a far more basic governmental function—the exercise of discretion over the spending of federal funds and the use of public authority.

The central reality of most federal programs today is that the lion's share of discretionary authority is vested not in federal officials, but in one or another of a wide array of non-federal implementers.

The classic vehicle for this third-party government is the "grant-in-aid," through which federal resources are put at the disposal of state and local officials to assist them in carrying out a federal goal.

From its meager beginnings in the 19th century, the grant-in-aid device has mushroomed into a massive system of intergovernmental action. More than 500 separate grant-in-aid programs are now on the books, providing aid for everything from emergency medical services to the construction of interstate highways. Since 1955 alone, grant-in-aid funding has grown 26-fold, three times faster than the budget as a whole. By 1980, therefore, almost half of all federal outlays for domestic purposes, aside from Social Security and other direct income transfers, went out in the form of grants-in-aid to non-federal government or quasi-governmental entities.

But grants-in-aid have now been joined by a host of other ingenious devices for sharing federal authority with non-federal actors—credit insurance, loan guarantees, tax incentives, regulations and new forms of contracting and procurement. Here as well, federal officials retain responsibility but are required to surrender much of the operational authority.

In loan guarantee programs, for example, the key decisions are made by private bankers, who process the loan applications and extend the credit that the federal government then guarantees. In the procurement of major military systems, the federal government increasingly depends on contractors not just to provide specified pieces of equipment, but to conceive and design whole weapons systems of enormous complexity.

Since they do not show up in federal budget totals, many of these latter forms of third-party government have gone largely unnoticed. Yet their scale is tremendous. In fiscal year 1979, for example, the federal government assumed over $100 billion in new loan or loan guarantee commitments, provided $125 billion in special tax incentives, and exacted regulatory costs totaling $60 billion to $100 billion—in all, a "hidden budget" in excess of $300 billion.

This curious pattern of third-party government is a natural byproduct of political pressures and of the love-hate relationship Americans have long had with the federal government.

The grant-in-aid device came of age during the New Deal as a political response to the conservative argument that New Deal programs violated states' rights. Since then, cutting key user groups into a piece of the action has been a standard prerequisite for gaining their support for federal undertakings. The third-party approach has also been dictated by federal personnel ceilings and budget pressures, which have clamped a lid on federal employment despite often dramatic expansions of federal programs and responsibilities.

The advantages of this approach, moreover, have been substantial. Through it, the federal government has been able to tap the talents and resources of a wide assortment of different institutions and sectors, to adapt national programs to local circumstances and to limit the growth of the federal bureaucracy. Thanks to the emergence of a third-party government over the past 30 years, it has been possible to hold the federal work force to a growth rate of only 50 percent, while the federal budget increased in real terms by 300 percent and the number of federal programs increased 30- or 40-fold.

But these advantages are purchased at significant cost, for third-party government brings with it immense problems of management, major impediments to coordination and profound issues of accountability arising from the fact that those who now exercise federal authority are not responsible to the Congress that authorizes the programs.

Whether these problems can be overcome remains to be seen. The first step, however, is to educate the nation about how the federal enterprise actually operates. While exposes that poke fun at the madcap behavior that sometimes results from this brave new world of third-party government can help, there is a danger that the resulting bemusement or cynicism will deflect attention from the underlying cause and add to the problem rather than to the cure.

For, if the argument here is correct, much of the problem results not from the malfeasance or incompetence of federal bureaucrats, but from the curious way we have required them to operate. No amount of preachment about better management or tighter controls can afford to overlook this central fact.●

YANKEE INGENUITY INTACT—NORTHEAST OIL DEALERS ARE STRONGLY INTO SOLAR SALES

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● **Mr. MOAKLEY.** Mr. Speaker, with passage of the Energy Security Act conference report, the House made significant strides toward realizing the potential that alternative fuels hold.

Last week, the Christian Science Monitor focused on an effort by the New England Fuel Institute to promote solar energy through its heating oil dealers. If we are ever to achieve a greater degree of energy independence, it is obvious it must happen through constructive actions, such as those taken by the NEFI. I recommend the article to all my colleagues.

A text of the article follows:

YANKEE INGENUITY INTACT, NORTHEAST OIL DEALERS ARE STRONGLY INTO SOLAR SALES

(By Ruth Walker)

If Charlie Burkhardt has his way, solar energy in New England will soon be dominated by heating-oil dealers.

He's not talking through his hat.

Members of the New England Fuel Institute, a heating-oil dealers' trade association, performed 784 solar installations last year. Mr. Burkhardt, NEFI's executive vice-president, expects to see twice that many in 1980. And he's hoping for 5,000 by 1981.

What's more, the NEFI Technical Training Center here is graduating more solar technicians this year than oil-heat technicians.

The important thing about New England's heating-oil dealers is that they are dealers. They aren't necessarily committed just to oil. In fact, a recent survey of NEFI's 1,100-plus member firms showed that nearly 60 percent of them were in the coal business 40 to 50 years ago. And 18 percent were in the ice business around the turn of the century.

The point is that, over the years, NEFI members have been retail energy merchants, selling the latest technololgy—whatever that has been. The evolutionary process continues: eight members have gone back into the coal business within the last 14 months.

There are 1,900 fuel-oil dealers in New England. Individual dealerships fill columns and columns of Yellow Pages—in the Boston area, for example, they run from Abbott Discount Fuel Company in Wellesley to Zamagni & Sons in Quincy. These small businesses are fiercely competitive and more adaptable to change than monopoly gas and electric utilities, locked into large-scale power production.

Solar energy hasn't developed as it should, Mr. Burkhardt maintains, because sluggish corporate giants have dominated the field. Small business dynamism needs to be harnessed to help America meet its energy crisis, he says, and gearing up dealers for solar or other new technologies is just a matter of "training the army for a new weapon."

The utilities, however, are a bit skeptical. If oil dealers are diversifying, they suggest, it's not that they're so energy conscious. It's because they see the handwriting on the wall. "With the way oil prices have gone up, a lot of dealers are going out of business," notes a spokesman for one New England gas company. "If I were an oil dealer, I'd be looking for something else to get into, too."

And a spokeswoman for the New England Electric System says that electric utilities care as much as anybody else about breaking US dependence on foreign oil. New England Electric is "committed to solar" with a 15-year plan calling for, among other things, 100 megawatts generated by solar power by 1990.

Given New England's great dependence on oil heat and its slow rate of building replacement, the region's fuel-oil dealers don't have to worry about their market disappearing.

(The price of natual gas is expected to catch up with that of oil within a couple of years. This rise should slow, or halt, homeowners' conversions from oil to gas heat—up sharply in recent years—at least until oil prices outstrip gas again.)

But with the profitability of heating oil so static, even as prices rise, oil dealers can easily be enticed into selling solar. "We can make as much profit installing two or three solar panels as we do selling a comparable supply of heating oil in eight years," says Mr. Burkhardt.

Wood-chip gasification is another new technology oil dealers are looking into. With the Northeast Solar Energy Center and the Vermont Wood Energy Corporation, NEFI has a federal contract to develop four prototype gasifiers to be used in conjunction with oil furnaces. The process has been used in industry for years in Sweden, but never for residential heating. It involves "baking" the pellets to break them down into clean-burning gases.

The lack of "particulate effluent," as dirty smoke is called, is no small matter. New Englanders have been burning so much wood lately that environmentalists are worried about smoke pollution.

The prototypes, due for delivery late this summer, will be given a six-month test run in four houses, two in Vermont and two in New Hampshire.

Mr. Burkhardt gives the prototypes a 50-50 chance of working well enough to warrant further research and development. But if they do work out, he says, his fuel dealers will be ready to jump into action as wood-pellet dealers as well.●

OPPOSITION TO TAXING SOCIAL SECURITY BENEFITS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. OTTINGER. Mr. Speaker, since the Social Security Advisory Council recommended taxing one-half of social security benefits last December, I have been working hard to prevent this. On December 12, I introduced House Concurrent Resolution 225, expressing the sense of Congress that social security benefits are and should remain tax exempt. This resolution gained strong bipartisan support. Together with a bill by Representative ALBOSTA clarifying the law, these measures got 275 cosponsors, a clear majority of the House.

A similar resolution, House Concurrent Resolution 351, was reported by the House Ways and Means Committee on June 10, and is now awaiting consideration by the full House.

A number of national organizations have supported my efforts to insure that social security benefits are not taxed, including the American Association of Retired Persons, the National Association of Retired Teachers, the Gray Panthers, the National Council of Senior Citizens, the Veterans of Foreign Wars, and the Disabled American Veterans. On June 27, the Chamber of Commerce of the United States issued a memorandum expressing opposition to taxation of these benefits on behalf of the over 98,000 members of the U.S. Chamber of Commerce. I want to bring the chamber's position on this issue to the attention of my House colleagues. The chamber's memorandum is reprinted below.

CHAMBER OF COMMERCE
OF THE UNITED STATES,
Washington, D.C., June 27, 1980.

To: Members, House of Representatives.
From: Hilton Davis.
Subject: Taxation of social security benefits.

As you are aware, one of the proposals of the 1979 Advisory Council on Social Security called for making one-half of Social Security benefits subject to federal income tax.

On behalf of the over 98,000 members of the U.S. Chamber of Commerce, I wish to express opposition to taxation of Social Security benefits. We see several major objections to this proposal.

The proposal is highly discriminatory. According to the Advisory Council's formula, 10.6 million social security recipients out of a total 24.2 million would be affected by this proposal—the upper income one-third of the retired population. The increased tax burden would be approximately $350 per year, per person.

Further, Social Security tax is highly progressive—structured so that the higher wage earners foot the bill for most of the payroll tax and then receive proportionately less in benefits as wage replacement. To tax the retirement benefits of this same group of taxpayers would simply underscore the progressive nature of this tax.

The funds received by taxing Social Security benefits would be considered general revenues. Taxing the benefits would in no way contribute to sustaining the retirement programs, but would further undermine Americans' confidence in the Social Security system. Numerous surveys show that public confidence in the system is now at an all time low. Taxing benefits could prove to be the last straw.

The Chamber recognizes the need to find ways to insure the financial stability of the Social Security system and has so testified before your committee. However, taxation of benefits is not the answer. Therefore, we oppose it.

There are other alternatives for strengthening the Social Security system. These include the Administration's proposal for interfund borrowing, mandatory universal coverage for all workers, and the elimination of inappropriate benefits. Congressional action should be focused on these possibilities.

We urge you to maintain the tax exempt status of Social Security benefits.●

MILITARY READINESS, PART I: THE F-15'S AT LANGLEY AIR FORCE BASE

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. CARR. Mr. Speaker, during the week of June 9, the 1st Tactical Fighter Wing of the U.S. Air Force flunked a readiness inspection in rather spectacular fashion. Mission-capable level was only about 35 percent, and the 5-day inspection was abandoned on the second day because the situation was judged hopeless. Principal villains were the "black boxes" of complex electronic equipment.

I urge my colleagues to approach this problem with some caution, and not to draw the wrong conclusions.

We should not, for example, assume that this performance is typical of the entire F-15 force. According to the Air Force, Langley is at the tail end of the priority list among the seven F-15 wings presently operating. First priority for parts goes to the wings based in Europe. I visited one of those recently, and readiness appeared to be high, although flight hours were unacceptably low. Next priority goes to other wings in the United States, with Langley getting the lowest priority. This is not to say that Langley's parts shortages are acceptable. The point is, they are not necessarily typical.

Neither should we assume the Soviets are doing any better; the evidence suggests they are not. We build complex, unreliable planes; the Russians build simple, reliable planes. For them, the problem is not the black boxes, which in most cases their aircraft do not have, but the engines. Soviet engines are not only less fuel efficient and less powerful per pound than ours, but also a good deal less reliable.

Nevertheless, two questions need to be asked very seriously.

First, does it make any sense to buy new aircraft without buying spare parts necessary to keep them combat ready?

Second, does it make any sense to buy aircraft which, by their design, require large numbers of expensive spare parts? Can we get more real combat capability by buying somewhat less complex aircraft and being able to generate higher sortie rates with them?

I insert an account of the Langley problem from the Washington Star of June 29 in the RECORD at this point.

AIR FORCE HAVING TROUBLE KEEPING F-15 JETS AIRBORNE

(By John J. Fialka)

LANGLEY AF BASE, VA.—The Air Force's First Tactical Fighter Wing—the first U.S. air unit to fight in both world wars—flunked a test earlier this month to determine whether it was ready to mobilize for a war in the Middle East.

The inspectors from the Air Force's Tactical Air Command, which gave the test, found initially that 23 planes, slightly more than a third of the wing's 66 F-15 fighters, were "mission capable."

Later in the test, 14 more planes were readied, but by that time deadlines required to mobilize for a simulated rapid deployment overseas had passed, and the effort collapsed in confusion. A variety of problems were found, many of them relating to a lack of experienced manpower and a chronic shortage of spare parts.

The wing's performance was so bad, according to Air Force officials here, that the inspectors sent to perform the five-day "operation readiness inspection" simply gave up after the second day.

"That was extremely rare," admitted Brig. Gen. Albert G. Rogers, deputy chief of TAC's headquarters staff, who explained that such tests are given on short notice to a wing every 18 months. "It's probably the first time it's happened in our corporate memory."

Most of the specifics of the test are classified. The Air Force agreed to talk about the results of the June 7th inspection after The Washington Star learned about them from other sources. The failures, they said, involve a number of ironies.

One irony is that the F-15 is touted and sold by its manufacturer, McDonnell Douglas, as being "ready for flight more often than any other U.S. Air Force fighter because it is easy to maintain and support."

At the moment, according to Donald L. Miller, commander of the Wing, 13 of the $15 million F-15s that flunked the June 7 test are still in the hangar. Officially they are called "hangar queens," because they have been unable to fly for over 21 days.

Some of them are awaiting spare parts, Miller explained. The oldest "queen" has been waiting since October. Others have been "cannibalized," that is, used as a source of spares to keep some of the wing's other planes in the air.

On paper, Miller's First Tactical Fighter Wing (whose motto is "Readiness is Our Profession") would be a major component of the nation's clout in any rapid deployment military situation. Its 66 F-15s constitute about one-seventh of the Air Force's total inventory of F-15s around the world. The F-15 is the most expensive, complex and potent fighter ever used by the Air Force, which regards it as also the hottest fighter in the world.

Langley is hallowed ground for the Air Force. Capt. Eddie Rickenbacker's "Hat in the Ring" squadron is part of the First Wing. Generals Billy Mitchell, Carl Spaatz, Claire L. Chennault and a host of others who forged the nation's air power capabilities taught here.

Thus it was logical that the first squadron of F-15 "Eagle" fighters that came off the assembly lines in 1976 went to Langley.

And it was predictable that when the United States was invited to show off its new fighter in Saudi Arabia last year, it was Langley's Eagles that were dispatched to the Middle East for that purpose.

One final irony: During the week of June 9, when the inspectors from TAC turned in their dismal test results here, many TAC officials and public affairs officers were in Nevada, where the Air Force was staging a major show of its rapid deployment abilities for the press.

According to Miller, Gen. Rogers and another TAC official, Brig. Gen. John L. Pickitt, the problems here are more typical of TAC's overall condition than the show held in Nevada.

The basic problem with the F-15 begins with parts. "We have never provided adequately for the F-15," explained Pickitt, who said that budget decisions and priorities on available parts for units operating overseas have led to a major shortfall of spare parts, many of which are critical to the performance of the F-15.

As McDonnell Douglas points out in a brochure on the F-15, the Eagle was designed around the concept of so-called "black boxes," modular components that could easily be removed and replaced on the flight line.

One problem is that the Air Force did not buy nearly enough black boxes, so Miller's mechanics here have had to cannibalize for spares or borrow them from a special "war readiness supply kit," a portable package of parts that is supposed to remain intact in case of a rapid deployment.

But Miller's problems go far beyond that. At the time the inspection occurred, he had 30 percent more inexperienced airmen than he wanted and a shortfall of about the same size in experienced sergeants, a problem that now pervades most Air Force units, with experienced personnel leaving for higher pay in civilian jobs.

What that means, among other things, is that about one in every five black boxes deemed faulty during maintenance is in fact operable, according to TAC. The troubleshooting skills of the mechanic or the accuracy of his electronic test equipment are the real problems.

"I'm doing some deep looking at where some of our personnel weaknesses might be," explained Miller. "But if you remove somebody you still have to replace him, and that isn't always easy."

Neither Miller nor anyone else who has looked at the Air Force's problems sees any quick or easy way out. The Senate Armed Services Committee has identified a need in the Air Force for an additional $1.5 billion worth of aircraft parts.

While that money may soon be forthcoming, manufacturing the parts will take considerable time, and finding the experienced mechanics Miller needs will even take longer.

From Miller's viewpoint, it is an incongruous picture.

Until coming to Langley last year, he had spent most of his career flying Phantoms, the durable Vietnam War-era fighter that is supposed to be much more difficult to maintain than its successor, the F-15.

During those years, however, Miller recalls a sort of "benchmark," indicating that during peacetime 70 percent of the Phantoms in a given squadron could fly at a given time. Since he has been at Langley, Miller says, his First Wing has never come close to that level of readiness.

No one here is particularly happy about the predicament. "It will take us years to build back what we had," Miller explains.

Gen. Rogers put it in more forceful terms: "For us a 'hangar queen' is tantamount to a case of V.D. We do not buy airplanes to make hangar queens out of them."●

FINANCIAL STATEMENT

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. MAZZOLI. Mr. Speaker, it has been my custom to submit a statement of financial disclosure every year that I have served in the House of Representatives. While the law now dictates that Members of Congress submit financial statements in May of each year, I continue to file this more detailed family financial report every summer. In this way, my constituents and other taxpayers are kept fully informed concerning my financial status.

The statement follows:

ROMANO L. AND HELEN D. MAZZOLI—STATEMENT OF FINANCIAL WORTH AS OF DECEMBER 31, 1979

	Amount
Cash on deposit:	
Liberty National Bank & Trust Co., acct. No. 09013390	$519.51
Lincoln Federal Savings & Loan, acct. No. 37339-5	783.84
Northern Virginia Savings & Loan:	
Account No. L-6084	1,732.27
Account No. L-50021	1,439.11
Account No. L-80507	1,441.96
Account No. 80688	1,005.98
Government Services Savings & Loan, Account No. 01-112091-0	2,625.40
Securities, stocks and bonds:	
U.S. Government Bonds, Series E	1,161.33
Treasury Certificate (Lincoln Federal Savings & Loan) No. 19503047	10,214.36
Treasury Certificate (Lincoln Federal Savings & Loan) No. 19501132	10,424.19
Real property—residential:	
939 Ardmore Drive, Louisville, Ky. (assessed value)	23,240.00
Less: Mortgage, Portland Federal Savings & Loan	9,770.82
Net value	13,479.18
1030 Anderson Street, Alexandria, Va. (assessed value)	80,800.00
Less: Mortgage, Cowger and Miller	49,711.48
Net value	31,088.52
Household and miscellaneous personal property (estimated)	6,750.00
Cash surrender value of life insurance policy:[1] American United Life Insurance Co., policy No. 1011729	4,169.57
Federal employees retirement system: Contribution to fund	33,877.93
Automobiles:	
1965 Rambler (fair market value)	100.00
1973 Chevrolet (fair market value)	1,520.00
Net assets	122,323.15

[1] Includes $549.26 cash on deposit and $70.31 premium prepayment.

ROMANO L. AND HELEN D. MAZZOLI RECAPITULATION OF INCOME AND EXPENSES FOR CALENDAR YEAR 1979

	Amount
Income:	
Interest and dividends:	
American United Life Insurance Co., policy No. 1011729	$33.32
Liberty National Bank and Trust Co., account No. 09013390	72.09
Lincoln Federal Savings & Loan, account No. 37339-5	405.42
Northern Virginia Savings & Loan:	
Account No. L-6084	89.87
Account No. L-50021	81.50
Account No. 80507	91.96
Account No. 80688	5.98
Government Services Savings & Loan, account No. 01-112091-0	233.18
Honorariums:	
United States Chamber of Commerce	200.00
Jeffersontown High School	75.00
National Shorthand Reporters Association	250.00
Law practice: Income	0
U.S. House of Representatives: Salary	58,027.02
Gross income	59,565.34
Expenses, deductions, exemptions, Federal and Kentucky taxes:	
Gross income	[1]63,415.00
Business expenses	2,738.00
Adjusted gross income	60,677,00
Deductions	9,587.00
Taxable income	51,090.00
Federal income tax:	
Tax withheld	16,986.00
Tax due	13,537.00
Refund	3,431.00
Kentucky income tax:	
Tax withheld	2,225.00
Tax due	1,763.00
Refund	462.00

[1] Includes wife's self-employment income with Panorama Realty of $3,857.00. Also, the total is rounded ●

AGRICULTURAL CONSERVATION PROGRAM

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. JONES of Tennessee. Mr. Speaker, I have long been known for my support for the agricultural conservation program (ACP), and I want to take this opportunity today to speak on its behalf. ACP was created by Congress under the Soil Conservation and Domestic Allotment Act of 1936, and it is administered by the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture.

This program is one of the best examples of how our people and our Government work together to protect and conserve the quality of our soil and water. For some reason, however, ACP seems to be a favorite budget cutting program; it almost seems like the Office of Management and Budget knows that this will be a program restored by the House Appropriations Committee. Once again, the House Appropriations Subcommittee on Agriculture and the full appropriations Committee have acted responsibly and restored this much needed conservation program to last year's level of $190 million. When I think back to the early inception of ACP, when it was funded at $500 million, I feel the $190 million is not characteristic of the importance of good conservation in America today. But in this year of tight budgetary restraint, it can be taken as somewhat of a victory that the program's fiscal year 1981 budget has, to this point, suffered no cuts.

Having served as chairman of the Tennessee State ASC Committee during the 1960's, I know well the accomplishments and effectiveness of ACP. Many of our Nation's farmers are aware of the need for protecting the quality of our soil, water, and air, but lack the financial resources to carry out good conservation. Through this program, a farmer must pay at least 50 percent of the cost, out of his own pocket, for carrying out each practice with the ACP assisting with the remaining 50 percent. In 1979, approximately 339,500 farmers, ranchers, and woodland owners participated in the ACP cost-sharing program.

We have all felt the pain of shortages of fuel and the accompanying high costs. It must be kept in mind that our soil and water can also be in limited supply for future generations unless we take the necessary action to promote good conservation of these important resources.

I commend this program to my colleagues, and urge each of them to lend support, not only in this year but in future years to come. Good conservation is not a one-shot effort; it must be maintained and improved. Through the agricultural conservation program, not only farmers, but all of us who enjoy clean water and unpolluted streams can appreciate the investment that we make as Americans toward maintaining good conservation of the land.●

PROTECTION FOR THE LOWER AMERICAN RIVER

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. MATSUI. Mr. Speaker, today my colleague Mr. FAZIO and I join to introduce a bill to include the lower American River in the National Wild and Scenic Rivers System. The bill would preserve the beauty and recreational value of the river for the millions of persons each year who come to enjoy its free-flowing waters and natural surroundings.

The American River Parkway which borders the river is perhaps unique among American parks. Within its borders are a wide range of vegetation and an abundance of wildlife; yet it runs through the heart of a major metropolitan center. In fact, the parkway is only minutes from the State capital as it meanders through downtown Sacramento.

The close proximity of the parkway to the people of Sacramento has provided a great opportunity for all residents of the community to enjoy nature in an easily accessible yet unspoiled environment. In fact, the parkway annually attracts visitors from all over the State of California and the Nation.

The passage of this bill would climax a long series of attempts by the community to maintain the natural quality of the lower American River. As early as 1915, civic leaders studied plans to incorporate the river into a regional park system. During the 1950's and 1960's, the city of Sacramento, the county of Sacramento, and local environmental groups supported an ambitious program of land acquisition. Then, in 1972, the State of California recognized the importance of preserving the river by including it in the State wild and scenic river system.

Today, I am pleased to assist the city of Sacramento, the county of Sacramento, the State of California, and area environmental groups take the next step. By including the lower American River into the National Wild and Scenic Rivers System, the river is guaranteed the strongest protection this Nation can offer. This will insure that future generations can experience the same beauty and serenity of the American River Parkway that we now enjoy.●

UNIVERSITY OF TEXAS TAKES LEAD IN FUSION RESEARCH

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. PICKLE. Mr. Speaker, I support the amendment offered by Chairman DON FUQUA. Solar and fusion energy are perhaps our best hope for the long-term solution of our energy problems. This amendment would restore funding for basic research at universities around the country.

Basic research is critical if we are to succeed at making the discoveries needed to advance solar and fusion knowledge.

For instance, at the University of Texas at Austin, the committee's cut in basic research would severely cripple our fusion program. The Texas program for fiscal year 1981 is slated to receive some $4 million in Federal funding. Without this amendment, the amount could be cut in half—or even more. The University of Texas at Austin is now the Nation's leading university for basic fusion research. With brand new programs coming on line, a severe cutback in this crucial funding would throw a wrench into the progress that we and all universities have made and will continue to make.

Let me make this additional point. Basic research is interrelated to other programs. A major cut in basic university research would soon affect applied research in the national fusion labs. You need the knowledge and the personnel trained in basic research programs to maintain the applied research.

Restoring this cut in funding is essential to meet our goals in basic and applied research for fusion and solar energy—our brightest hopes for meeting future energy needs.

This fall, two new national research centers will open at the University of Texas.

First, the new Tokamak, called TEXT. This is a national basic experimental fusion research facility. Congress authorized the project in fiscal year 1977. Total construction cost was $10 million. It was built by United Technologies and Westinghouse, is being dedicated quite soon and will begin operating this fall.

The significant thing about the Tokamak is that it is a national user facility. Scientists from around the world will have access to run their experiments on the machine. Another unique characteristic is that the Tokamak is designed to allow maximum diagnostic access so an observer can know what is going on inside the plasma. The machine is not designed to achieve scientific feasibility, but it is excellent for testing. This new Tokamak represents a more clear role for university research in fusion.

Second, the Institute for Fusion Studies is scheduled to open this fall. Announced by DOE some 3 months ago, this Institute is jointly funded by UT and DOE—some $5 million apiece. UT beat several schools, including UCLA, MIT, Maryland, and others to get this center.

The center will collect 35 to 40 of the best theoreticians in the Western World. The director will be Dr. Marshall Rosenbluth who is moving to Austin from the Institute for Advanced Studies. Ten senior people have been recruited for first year operations.

Another program that has pushed UT ahead in fusion research is TAREF: The Texas Atomic Energy Research Foundation. It is a consortium of 10 private electrical utilities in Texas. Since 1957, TAREF has supported fusion research. In fact, TAREF was the first private source of funds for fusion and has spent $17 million in this area. Since 1965, all of TAREF's money has gone to UT—some $400,000 a year. Because of this significant financial assistance, UT has taken the lead in the fusion field.

Last week Chairman FUQUA and Dr. Hansen, staff director of our science committee, toured the University of Texas campus. We reviewed the work our university was doing in the various energy fields: the Balcones Research Center, the electromechanical department, the Fusion Center and the Tokamak project. I was pleased to notice the favorable impression our projects made on our visitors: the work is outstanding, and the University of Texas is on the verge of making additional major commitments to make the university a center of national energy research. This amendment encourages other universities to also go forward, and I thus am glad to support the amendment.●

UNITED STATES A FLOP AS SOCIAL DIRECTOR

HON. PHIL GRAMM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. GRAMM. Mr. Speaker, I would like to bring to the attention of my colleagues a penetrating critique of the fundamental misconceptions which have subtly subverted the original purpose of public housing programs. In a recent column, the Fort Worth Star-Telegram's distinguished editorial writer, Mr. Horace Craig, examined the case of public housing in Fort Worth, but in the process powerfully illuminated a problem common to the Federal Government's public housing programs throughout the Nation.

Originally established to provide decent, affordable housing for those who cannot do so for themselves, public housing has turned into a frequently counterproductive venture into social management. As Mr. Craig so poignantly illustrates, preoccupation with social engineering can overshadow the primary goal of government housing assistance, with the tragic result that much-needed Federal housing aid does not go to those areas that want it and need it.

I hope that all Members of Congress take the opportunity to read this thoughtful and provocative piece:

[From Fort Worth Star-Telegram, June 16, 1980]

UNITED STATES A FLOP AS SOCIAL DIRECTOR

(By Horace Craig)

The latest wisdom to come from the Fort Worth City Council is a proposal that every council district must have a share of public housing.

It seems as if the council would mete out punishment to affluent areas in the form of public housing.

Where did we lose sight of what public housing is all about? The matter of providing decent, affordable housing for those who for some reason find shelter out of reach seems so basic. Some make it so difficult.

Lest anyone misunderstand how I feel about placing federally assisted housing complexes in well-to-do neighborhoods, just know that I'm against the policy.

But I'm prejudiced.

My estimate of the federal government as a social director began to form about 1938.

That was the year that my family was forced to move out of its Cherry Street home in an integrated neighborhood to make way for a segregated housing project.

Ripley Arnold Place was born, and few of the former residents could afford the minimum rents.

The Craig family in that Depression year was not only poor. Now it was homeless, too.

So I'm not too keen on idealistic experimentation with social programs. Too many massive projects have become instant slums, or simply flopped.

Soul City in North Carolina, envisioned as a utopian community of 18,000, was abandoned by the Department of Housing and Urban Development after it had invested $31 million and attracted 130 persons.

I can identify with the poor because I've been as financially poor as anyone. And I can identify with minorities, because I've been a minority in an integrated neighborhood.

In the city's 1938 survey the racial makeup of the few square blocks that comprise Ripley Arnold Place was:

27 Negro families.

78 Mexican-American families.

57 white families.

A news story was headlined, "819 must move to clear site." The story noted that rents in the area generally were less than $10 a month; that 44 of the families earned less than $30 a month; that only nine families earned more than $150 a month.

The wisdom in that year was to route the poorest in order to house the better-off poor. The wisdom then was to replace an integrated neighborhood with an all-white housing project.

The theory then wasn't very good, and the theory now is as bad. The theory behind "scatter-siting" of public housing is to take the poor out of poor neighborhoods.

Who do the social managers leave behind? What do they leave behind?

The opportunity in public housing funds is to help improve neighborhoods that can use the help, not in offering better neighborhoods "a piece of the slum."

Home ownership is the catalyst that creates better neighborhoods. A person works hard, or painstakingly saves, or risks long-term debt, or all three, to acquire the home of his or her dreams.

This brings a pride of ownership, a sense of responsibility, a feeling of possession. Such reward shouldn't come easy.

The object of HUD's scatter-siting could not be to achieve racial equality; for under law a person of any race may live where he or she chooses to live and can afford to live.

The object then must be an attempt to allocate economic equality. This turns me off. Society should provide for all, but it should reward those who effectively produce. A reward is by nature unequal.

If a person through his or her enterprise manages to acquire a home in a better neighborhood, that person should be able to enjoy the fruits of such effort.

In a capitalistic society inequality is a desirable state, for it entices greater effort in pursuit of economic rewards. And the greater effort provides more benefits for everyone.

Provide "the poor" with all their wants? Scatter them in affluent neighborhoods? Where is the incentive to strive for the rewards? The poor should live differently from the non-poor, otherwise poverty becomes a marketable item. The supply of poor will rise as rapidly the rewards for being poor are increased.

Poverty as defined in the United States refers not to physical needs but to a social judgment on income differences. Adults with income less than half the average are judged to be poor.

There'll always be a bottom rung on the economic ladder, no matter where people live. There'll always be a bottom half.

The government has a role in sheltering those who cannot provide for themselves. But if it would improve neighborhoods, it should get away from the big "housing project concept" that warehouses the poor. If it would have the poor in affluent neighborhoods it should encourage home ownership.

House Majority Leader Jim Wright said, "Over the years the regulation writers have subtly distorted this (housing) program until now it is difficult to put such a project in a neighborhood where people want and need it."

Areas that want housing money can't get it. The money is earmarked for areas that don't need it and don't want it.

Social management.

What it has come to in Fort Worth is a proposal for fair share ghetto.

And if we don't? Well, the feds will take their housing money to a place where there is less resistance to social management.

They make Cherry Street in 1938 look pretty good.●

FINANCIAL DISCLOSURE

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. OTTINGER. Mr. Speaker, as I have done every year since my first election to Congress, I am today disclosing a statement of my assets and liabilities, a schedule of securities which I own, a schedule of other securities of which I am income beneficiary, and a schedule of the taxes I paid in calendar year 1978. This disclosure goes beyond what is required by law at the present time, and I am the sponsor of legislation requiring full financial disclosure, believing this to be the best protection of the public interest.

The statement and schedules are as follows:

STATEMENT OF ASSETS, LIABILITIES, AND CAPITAL AS OF MAR. 31, 1980

Assets:	
Cash or equivalent	$83,082
Assets held by Richard L. Ottinger trust dated March 19, 1969:	
(Marketable securities):	
Cost or inventory value:	
Stocks	198,919
Bonds	170,078
Total	368,997
Current market value:	
Stocks	1,183,869
Bonds	155,088
Total	1,338,957
Investment in limited partnership at cost	250,000
Real estate: Residences in Mamaroneck, N.Y., and Washington, D.C., at estimated market value	310,000
Total assets	1,982,039
Liabilities and capital:	
Liabilities:	
Payable on security purchases	128,110
Notes and loan payable:	
Testamentary trust u/w/o Lawrence Ottinger f/b/o Richard L. Ottinger	339,912
Patricia L. Chernoff	150,000
Louise L. Ottinger	350,000
Trust u/a dated Oct. 30, 1957 f/b/o Richard L. Ottinger	110,000
Mortgage payable	218,383
Subtotal	1,168,295
Income taxes payable on unrealized gain on marketable securities	296,100
Total liabilities	1,592,505
Capital	389,534
Total liabilities and capital	1,982,039

Note: See accompanying accountants' compilation report.

SCHEDULE OF MARKETABLE SECURITIES HELD IN RICHARD L. OTTINGER TRUST AS OF MAR. 31, 1980

Description	Number of shares or par value	Current market value
Stocks:		
Alpha Industries, Inc	6	$77
Anheuser Busch, Inc	2,850	62,344
Champion International Corp	990	21,409
Connecticut General Insurance Co	2,700	86,400
International Business Machines Corp	4,152	231,474
Simplicity Pattern Co., Inc	11,898	90,722
Travelers Corp	1,200	45,900
Weyerhaeuser Co	7,094	214,593
Xerox Corp	7,800	430,950
Subtotal		1,183,869
Bonds:		
Ascension, St. James Bridge & Ferry Auth. La., 4.45 percent, Nov. 1, 2001	$50,000	33,000
Albany, N.Y., 5.4 percent, Oct. 1, 1993	$50,000	33,406
New York State Mtge. Finance Agency, 6.9 percent, Apr. 1, 1983	$50,000	46,628
New York State Genl. Obligation, 5.3 percent, Mar. 15, 1992	$25,000	17,242
P/H/A Puerto Rico, 5.87 percent, Aug. 8, 1980	$25,000	24,812
Subtotal		155,088
Grand total		1,338,957

Note: See accompanying accountants' compilation report.

SCHEDULE OF ASSETS OF VARIOUS TRUSTS IN WHICH RICHARD L. OTTINGER IS INCOME BENEFICIARY AS OF MAR. 31, 1980

Description	Number of shares or par value	Current market value
Stocks:		
Anheuser Busch, Inc	2,000	$43,750
International Business Machines Corp	634	35,368
Perkin Elmer Corp	3,600	141,300
Subtotal		220,418
Bonds:		
P/H/A Puerto Rico, 5.87 percent, Aug. 8, 1980	$25,000	24,812
Nevada Housing Division, 4.8 percent, Apr. 1, 1986	$30,000	23,574
Pennsylvania, 4½ percent, July 1, 2000	$25,000	13,423
New York, N.Y., 5 percent, May 1, 1991	$15,000	8,855
Puerto Rico Commonwealth, 4.5 percent, July 1, 1997	$30,000	14,543
Alaska State, 5.40 percent, Jan. 1, 1984	$12,200	10,856
Ascension, St. James Bridge & Ferry Auth. La., 4.45 percent, Nov., 1, 2001	$25,000	16,500
New York State Mortgage Finance Agency, 6.9 percent, Apr. 1, 1983	$15,250	14,222
P/H/A Buffalo, N.Y., 5.93 percent, due Dec. 12, 1980	$21,350	21,054
P/H/A Mechanicville, N.Y., 5.97 percent, Dec. 12, 1980	$24,400	24,069
New York State Thruway Authority, 3.5 percent, Jan. 1, 1990	$21,350	12,883
Massachusetts Bay, 3.75 percent, Mar. 1, 1990	$18,300	11,262
P/H/A Rochester, N.Y., 5.89 percent, Dec. 12, 1980	$40,000	39,432
New York State, 3.6 percent, Nov. 1, 1991	$15,250	8,073
U.S. Treasury Bills, due July 10, 1980	$26,100	24,799
Subtotal		268,357
Cash:		27,589
Grand total		516,364

Note: The above securities are not reflected as assets of Richard L. Ottinger since he is only an income beneficiary of the Trusts. The schedule is prepared for informational purposes.

See accompanying accountants' compilation report.

SCHEDULE 3—RICHARD L. OTTINGER, SCHEDULE OF TAXES PAID IN 1979

Federal income tax	$70,399
State and local income tax	20,001
New York and District of Columbia property tax	6,351
Total taxes paid	96,751

●

IN HONOR OF THE 75TH ANNIVERSARY OF THE FOUNDING OF THE ORDER OF THE SONS OF ITALY

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1980

● Mr. MOFFETT. Mr. Speaker, I wish to congratulate the Order of the Sons of Italy in America for their 75th anniversary and to wish them success in the coming years.

Throughout its long history, the Order of the Sons of Italy in America has provided valuable charitable and benevolent services. For instance, the order greeted immigrants at Ellis Island in New York City and helped them through their initial transition period. It established health, disability, and death benefit insurance programs decades before they were in wide use. The order also supported and helped to organize the original American Federation of Labor. And, it was one of the first fraternal organizations in the country to accord women equal status, equal voice, equal vote, and equal rights to hold office. Many Italian American women are active in public affairs, including our own Governor of Connecticut, Ella Tambussi Grasso.

The Order of the Sons of Italy continues to provide a leadership role in this country. It supports and funds hundreds of scholarships each year for deserving students. It funds university programs in language, social science, and general research. And it raises millions of dollars in support of worthy causes such as the National March of Dimes.

I am proud to honor this fine organization on its 75th anniversary.●

THE CIGARETTE SAFETY ACT

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. MOAKLEY. Mr. Speaker, recently I was sent an analysis written by a group of Stanford University students on the Cigarette Safety Act, H.R. 6675. I found the report to be in depth and well done and would like to share it with my colleagues.

A text of the report follows:

ANALYSIS OF THE CIGARETTE SAFETY ACT

1.0 ABSTRACT

A large percentage of fires resulting in death, injuries, and property loss are started every year by "cigarettes" (hereafter in this report meant to include both cigarettes and small cigars). Two similar and compatible versions of the Cigarette Safety Act are currently in congressional committees in the House and Senate that require cigarettes to meet performance standards so as not to be likely to ignite fabric fires. In analyzing the bills we take into account: (1) the effectiveness of such standards in reducing fires and fire damage; (2) the feasibility of producing a cigarette that could meet the proposed standards and also be acceptable in terms of health standards and consumer preferences; (3) the financial costs in producing such a cigarette; (4) the appropriateness of the standards in comparison to other fire preventive measures.

Given that we feel: (1) environmental safety is more important than the aesthetic quality of cigarettes (i.e., appearance, taste, etc.); and (2) compliance with the Cigarette Safety Act can be achieved without adverse effects on the health of smokers, and without unreasonable financial costs, we conclude that Congress should enact the Cigarette Safety Act, since it represents the best preventative measure in reducing a large number of residential fires.

2.0 STATEMENT OF THE BILL

The Cigarette Safety Act requires that cigarettes and little cigars sold or manufactured in the United States comply with performance standards prescribed by the Consumer Product Safety Commission to ensure that they do not ignite smoldering fires in fabric furniture. The above is a summary of ideas common to two bills now in committee in both Houses of the United States Congress—S. 2215 sponsored by Senator Alan Cranston of California and H.R. 6675 sponsored by Representative Joseph Moakley of Massachusetts. Complete texts of both bills are included in Appendices A and B, respectively. Appendix C contains an earlier version of Mr. Moakley's bill.

3.0 BACKGROUND

3.1 Fire statistics

All versions of the Cigarette Safety Act cite the following as annual losses due to cigarette-caused residential fires in the U.S.: 1800 deaths (29 percent of deaths in all residential fires), 4000 injuries (18 percent of injuries in all residential fires), $180,000,000 in property damage (11 percent of that in all residential fires).

These figures need to be considered along with the amount of institutional fires caused by smoking (27 percent in California) [1], and burn treatment costs ($10,000 for an average fire injury) [2], as well as the additional non-market cost of pain and suffering to assess the total impact of cigarette-caused fires to society. The National Bureau of Standards puts an estimated $668 million figure on total annual upholstered furniture fire losses under current conditions. They also estimate that cigarettes have a .7 probability of being the ignition source.[3]

3.2 How cigarettes cause fires

The typical scenario for a cigarette-ignited fire starts with an abandoned cigarette left burning on a piece of upholstered furniture or a mattress. The cigarette smolders for about 30 minutes, at which time the furniture bursts into flames. These fires typically spread quickly and produce large amounts of toxic fumes.[4] The Consumer Product Safety Commission estimates that 62 percent of residential fire casualties are due to asphyxiation.[5] Cigarettes differ in how long they will smolder without being puffed. The National Bureau of Standards has performed studies showing most burn between 24 and 45 minutes. Fifteen to thirty minutes is usually required to ignite fabric furniture.

3.3 Cigarettes that do not cause fires

Somewhere between 20 and 30 patents exist for non-igniting cigarettes. Patented mechanisms include silicon rings placed along the cigarette which prevent further burning without puffing, and sodium silicate stripes along the length of the cigarette which causes the cigarette to burn more coolly.

Charles Cohn of Atlantic City, New Jersey, holds U.S. Patent No. 4,044,778 for a self-extinguishing cigarette. His invention consists of a standard cigarette with three invisible lengthwise stripes of sodium silicate or water glass, which he calls Colite. As the cigarette burns, the Colite forms an insulating cluster around the burning coal which can be flicked off with the ash.[7]

Colite-treated cigarettes burn more slowly between puffs but burn regularly when puffed. If not puffed, such a cigarette extinguishes within three minutes. Fabric fires generally require fifteen minutes of smoldering. Smokers average one puff per minute. Thus, Colite provides a low ignition propensity, but does not interfere with the smoking of the cigarette.[8]

Other factors which can reduce a cigarette's propensity for ignition are low diameter, low packing density, low paper porosity, all of which are effective in reducing ignition propensity by reducing combustibility.[9]

Patented cigarettes, however, are not yet acceptable to the tobacco industry for three reasons: (1) lowering ignition propensity makes for incomplete combustion which can increase a cigarette's tar level; (2) the cigarettes' taste is unacceptable to consumers; (3) the cigarettes aren't as aesthetically pleasing as currently marketed brands.

John Krasny of the Center for Fire Research in the National Bureau of Standards is currently testing the ignition propensity of cigarettes that are already on the market. Although his work is not yet complete, he has identified two American brand cigarettes which have a slightly less propensity for starting fabric fires. They will go out before igniting harder-to-burn, lighter weight fabrics, but will still ignite heavier-weight fabrics.

4.0 THE QUESTION

The Cigarette Safety Act includes several provisions which we will not analyze because we believe they are not significant obstacles to the main point of the bill. They include methods of enforcement, established penalties for infringement, time of implementation and establishment of CPSC standards. The question we address is: should a bill be enacted which, similar to the acts proposed, requires all cigarettes on the U.S. market to have a low propensity for igniting residential fires?

5.0 ANALYSIS

5.1 Effectiveness

Approximately 90 percent of cigarette-caused fires result from a smoldering contact with fabric. By requiring cigarettes to meet performance standards for a low propensity to ignite fabric, a major cause of residential fires will be significantly reduced. Senator Cranston states, "Some experts estimate that the five minute self-extinguishing requirement could eliminate 85-90 percent of fires started by cigarettes." [10] Further, cigarettes with a low propensity to ignite fabric is likely to have a low propensity to ignite other substances, such as paper. There is no evidence that reducing propensity to ignite fabric increases the propensity to ignite other substances.

It is difficult to predict exactly what reduction in deaths, injuries, and property loss the Act would provide. This would depend upon what performance standards are adopted by the Consumer Product Safety Commission. Senator Cranston believes the CPSC should set as a goal an 80 percent reduction in such damages. This amounts to 1,440 fewer deaths and 3,200 fewer injuries each year.

Opponents of the Act suggest that other fire preventative measures might be more appropriate, but no evidence has been provided that the alternatives would be more effective in reducing fire rates.

5.2 Effects on the smoker

5.2.1 Tar levels. An easy way to make a cigarette with low fire ignition propensity is to decrease the combustibility of the burning end of the cigarette, called the coal. Increasing the thickness of the paper, or otherwise limiting the oxygen supply to the lit end will accomplish this since the cigarette will go out faster. But because tar is by definition non-combusted material, these methods also increase a cigarette's tar level.

The 1979 report of the Surgeon General on smoking and health show there is a small but statistically significant reduction in the risk of dying with the use of lower tar and nicotine cigarettes.[11] Another source estimates that reducing tar intake from medium to low levels increased life expectancy 1.9 to 4 years and decreased death rates by 2.25 to 4.67 fewer deaths per 1000 males in the 45-57 year old range.[12] Obviously, these numbers would weigh heavily against the number of lives saved and injuries averted due to the decrease in the number of fires. Increasing the tar level of cigarettes might even cause more deaths than safety standards would save. All versions of the Cigarette Safety Act, however, prohibit or restrict any increase in toxicity of cigarettes in order to comply with ignition standards. Principle supporters of the act argue that it is possible to produce cigarettes with a low propensity to ignite that are not higher than normal in tar levels.

The National Bureau of Standards is now doing studies that may verify this. One of the two brands that have lower ignition propensity is high in tar and the other is very low.[13] Krasny concludes that since the cigarette industry has produced cigarettes with low ignition propensity without even trying, a cigarette that could meet safety standards wouldn't be difficult to develop and produce.[14] Cohn also claims that his cigarette can meet both fire and health standards. Although his cigarettes have a higher overall total tar level, he says that this is because a smoker is getting more puffs per cigarette. He claims, however, that his cigarette delivers less tar per puff.

5.2.2 Other health effects. Other health effects beside increased tar levels should be considered when adding chemicals to cigarettes. Sodium silicate is inert, releasing only its water content into the smoke, which keeps the tip cool but poses no additional health hazard to the smoker. This is Cohn's claim, but it requires support by further verifying studies before Colite can be safely added to commercial cigarettes.

5.2.3 Taste. Tobacco companies claim that the process of making cigarettes to meet the proposed safety standards adversely affects the taste. When questioned, Senator Cranston's special aide Ms. Joy Jacobson suggested that since non-igniting cigarettes are currently selling on the market, it is possible to produce such cigarettes with acceptable taste. Her observation only demonstrates acceptability to some people. However, the taste of some cigarettes also changed as a result of lowering the tar and nicotine content and many consumers adapted very quickly.[15] The relationship between ignition propensity and taste has not been systematically studied.

5.3 Effects on nonsmokers

5.3.1 Sidestream effects. Since 95 percent of sidestream smoke (smoke arising from the burning end of the cigarette) comes from the idling cigarette, mechanisms such as Cohn's Colite can actually dramatically reduce health hazards due to inhaling sidestream smoke.[16]

5.4 Financial impact

Government cost due to the Cigarette Safety Act will result from procedures to establish and enforce performance standards. Costs to cigarette manufacturers and consumers will depend on how performance standards are met. Senator Cranston estimates that the addition of silicon rings to cigarettes will add one cent to the cost of a package of cigarettes.[17] A representative of R. J. Reynolds Company said that they have no way of knowing how much it would cost them to produce such a cigarette.

On the other hand, the National Bureau of Standards puts the current figures at $668 million in annual losses due to upholstered furniture fires which include the cost of fatalities, injuries, and tangible and intangible property losses. Unfortunately, no one has addressed how much this would be reduced if the proposed cigarettes were introduced.

5.5 Personal freedom

The Cigarette Safety Act may be viewed as an infringement of smokers' choice of cigarettes purchased, especially if compliance with the act necessitates tar level or taste changes in the cigarettes. At the same time, the public's right to safety may be violated by the use of proven fire hazards. Persons who might be affected by cigarette-ignited fires are not given the choice of how safe a cigarette others smoke must be.

5.6 Implications of regulating tobacco companies

Currently, cigarettes are shielded from governmental regulation by Congressional legislation which considers them exempt from the standards imposed on other consumer products that are classified as hazardous, toxic, or flammable. In 1975 Congress voted down an amendment to the Consumer Product Safety Commission Improvements Act that would allow the commission to regulate the cigarette, at least as a fire ignition source.[18]

Passage of the Cigarette Safety Act would be a dramatic departure from the lack of control over the tobacco industry. Powerful tobacco lobbies have averted product regulation until now, although they are under advertising and packaging regulations. They are also exempt from the control of the Food and Drug Administration, as well as the CPSC, and disclosure of the chemical contents in their products is not required. There seems to be no justifiable reason why the tobacco industry should be exempt from safety standards, given there is no doubt that cigarettes are a major cause of residential fire and damages.

5.7 Appropriateness

Opponents of the Cigarette Safety Act suggest that other methods of fire prevention be employed rather than setting safety standards for cigarettes. Two alternatives are often cited: (1) requiring all residences to have smoke detectors; (2) enforcing a standard for upholstered furniture under which combinations of upholstery and furniture construction that can be ignited by cigarettes would not be permitted. These two alternatives would be effective in reducing the number of residential upholstered furniture fires, but the Cigarette Safety Act has some significant advantages over them. For one, once the proposed cigarettes were on the market they would be immediately effective in preventing fire. The 17 year lifespan of furniture [19] would mean a lag time of at least that length before all furniture would meet the proposed standard. Also, fabrics with a high resistance to smoldering are usually low in resistance to open flame.[20]

Smoke detectors would have a lag time of implementation somewhere between that of furniture and cigarettes. The presence of a smoke detector does not guarantee that it will function, and even if it does, a greater amount of property damage would result than if a fire had not started at all.

A report by the National Bureau of Standards analyzes these two alternatives in terms of the total expected cost of implementation plus the fire losses remaining over time. They have drawn up probability trees to calculate expected losses per fire. The further along the tree one goes, the probability of loss increases. If the probability of ignition were reduced with the introduction of the proposed cigarette, the possibility of something going wrong and the probability of loss would decrease substantially. The report also calculated annual cost and loss under the two alternatives over time. Since the Cigarette Safety Standard would have a shorter lag time, is more reliable in reducing the number of fires, and does not seem to cost more than the other two alternatives, it does not seem unreasonable to project that the cigarette safety standards would be superior to the other two. This is not to say that the Cigarette Safety Standards should be exclusively implemented. The National Bureau of Standards reports that a combination of the smoke detectors and furniture standards is preferable to any of the alternatives singly. It is conceivable that the same would be true with some combination of cigarettes safety standards and the other alternatives.

Another issue centers around the responsibility of bearing the cost of taking actions to reduce the number of residential and upholstery fires. The increased cost of furniture (estimated at 2-3 percent [23]) incurred in meeting flammability standards and the cost of smoke detectors would be borne by all consumers—smokers and nonsmokers alike. It seems appropriate for smokers to bear a major portion of this cost. It is estimated that these costs involved in the implementing of the Cigarette Safety Act would be reflected in the one cent increase in a pack of cigarettes.[24]

6.0 CONCLUSIONS AND RECOMMENDATIONS

6.1 Conclusions

For the purpose of formulating a recommendation we assume the following three conclusions, derived from information presented above: (1) A large number of residential fires are caused by cigarette contact with fabric. (2) The Cigarette Safety Act will reduce cigarettes' propensity to ignite fabric and thus reduce the occurrence of residential fires. (3) Compliance with the Cigarette Safety Act can be achieved without adverse effects to the health of smokers or those in their presence.

6.2 Biases

In formulating our recommendation we recognize the following four biases: (1) In the interest of environmental safety, legislation which might have the effect of reducing the aesthetic taste of cigarettes is justified. (2) Financial costs due to the Cigarette Safety Act will be minimal and fully justified by increase in environmental safety. (3) It is appropriate to regulate products of the tobacco industry as products of other industries are regulated. (4) Limits to personal freedom must be drawn when choices may affect non-consenting bystanders.

6.3 Judgment

For the purpose of formulating a recommendation we make the following judgment: imposing safety standards on cigarettes like those proposed in S. 2215 and H.R. 6675 presents the best preventive measure to reduce residential fires.

6.4 Recommendation

We conclude that the Cigarette Safety Act would effectively reduce the environmental hazard of residential fires without increasing health hazards. We are of the opinion that this increase in environmental safety justifies any resultant loss of liberties to cigarette manufacturers or consumers. In our judgment the Cigarette Safety Act is the most appropriate preventive measure against cigarette-caused residential fires.

Since some of the facts upon which this analysis is based are difficult to estimate, the conclusions drawn from this analysis must be subject to change as new information becomes available. However, given that all of the preceding represents the best information available at this time, we strongly recommend that the United States Congress enact one form of the Cigarette Safety Act into law.

REFERENCES

1. California Office of the State Fire Marshall, "Report of Fire Casualties."

2. U.S. Department of Commerce, National Bureau of Standards, "Decision Analysis of Strategies for Reducing Upholstered Furniture Fire Losses," p. 10.

3. "Decision Analysis of Strategies for Reducing Upholstered Furniture Fire Losses," pg. 10. (see #2)

4. O'Malley, Becky. "Cigarettes and Sofas . . ." *Mother Jones*, p.

5. U.S. Department of Commerce, National Fire Data Center, National Fire Prevention and Control Administration, "Fire Deaths in the U.S.", 1977, p. 7.

6. O'Malley, "Cigarettes and Sofas . . ." p. 7.

7. O'Malley, Becky, "Invention Prevention." *Mother Jones*, p. 60.

8. Krasny, John F., Letter to Dr. Gio Gori, May 9, 1980.

9. O'Malley, "Invention Prevention," p. 60.

10. Office of Senator Alan Cranston, press release.

11. H.E.W., *Surgeon General's Report on Smoking and Health*, 1978, pgs. 2-23 and 2-24.

12. Herson. et al. (article) pg. 755:

13. Krasny, John F., from the National Bureau of Standards, phone conversation.

14. Same as above.

15. Gori, Gio (article) pg. 1245.

16. O'Malley, "Cigarettes and Sofas . . ." pg. 64.

17. Office of Senator Alan Cranston, press release.

18. O'Malley, "Cigarettes and Sofas . . ." pg. 59.

19. Decision Analysis of Strategies for Reducing Upholstery Furniture Fire Losses," (see #2) p. 15.

20. Consumer Product Safety Commission data cited by O'Malley, "Cigarettes and Sofas . . ." p. 59.

21. "Decision Analysis of Strategies for Reducing Upholstery Furniture Fire Losses," (see #2) p. 26.

22. "Decision Analysis of Strategies for Reducing Upholstery Furniture Fire Losses," (see #2) p. 47.

23. O'Malley, "Cigarettes and Sofas . . ." p.

24. Office of U. S. Senator Cranston, press release.●

TANKS, NO TANKS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● **Mr. WOLFF.** Mr. Speaker, the Congress of the United States has recently had the pleasure of welcoming King

Hussein of the Hashemite Kingdom of Jordan to the United States and our Nation's Capital. It is well known that King Hussein's country is extremely important to the success of the Middle East peace process, which was begun 2 years ago with the Camp David accords and has thus far yielded a peace treaty between Israel and Egypt. President Carter has made a diligent and concerted effort to bring Jordan into the peace process in order to expand the support for this bold move in the Arab World. King Hussein's recent meetings with the President have apparently failed to persuade the Jordanian leader that the Camp David peace process is the best way to achieve the elusive just and lasting peace in the Middle East that is so urgently required if world peace is to be assured. This is indeed unfortunate.

This setback in our continuing efforts to convince the leaders of the moderate Arab States to join the ongoing peace negotiations is certainly a disappointment. One might expect a brief period of reflection concerning some aspects of our generally friendly relationship with Jordan following the King's Washington visit. Instead, the President has presented Members of Congress with a proposal to sell Jordan 100 sophisticated M60-A3 tanks equipped with advanced night vision technology. Is this the most desirable response to King Hussein's hesitation to take the admittedly risky step of participating in the current negotiations? Are not the long-term benefits of lasting peace and international harmony worth the transient risks involved in such a courageous move? Mr. Speaker, the United States has been assailed for our inconsistency of action in our foreign affairs by ally and adversary alike. This offer to sell these tanks to Jordan seems to me an inappropriate action in the aftermath of King Hussein's visit. Particularly disturbing is the parallel timing of the Saudi Arabian request for additional armaments for their U.S.-produced F-15 fighter-bomber aircraft which were specifically denied them by the Congress at the time of the original sale. Both of these actions are unacceptable as they demonstrate this so-called inconsistency and also continue the already massive buildup of increasingly advanced weapons technology in the most volatile region of the modern world.

The United States must not continue to supply its most sophisticated weaponry to nations which consistently hesitate to support our foreign policy. In addition, the sale of these tanks to Jordan displays a blatant lack of even short-term American political memory. In the 1967 Arab-Israeli war Jordan fought on the side of Soviet-backed Syria and Nasser's Egypt. The security of Israel must be insured. Israel is our most dependable ally in the Middle East, and possibly in the world. The United States is the only nation in the world that can and will insure that the State of Israel will remain secure. The Carter administration has held aloft the limitation and reduction of U.S. arms sales as one of its foreign policy planks. Let us see some evidence of this with regard to the sale of these tanks to Jordan, and both protect the security of our most valuable regional ally and demonstrate American resolve with the same action. We must stop rewarding nations such as Jordan for taking actions that are nonsupportive of our foreign policy. I call for the termination of this proposed sale to Jordan.●

RAMSEY CLARK ON IRAN

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. CONYERS. Mr. Speaker, Ramsey Clark, former Attorney General of the United States and a lifelong champion of human rights and social justice, traveled to Iran in early June to participate in an international conference on easing tensions between Iran and the United States. At that conference he urged that the Iranian Government release the American hostages. Ramsey Clark also honestly and eloquently expressed his own views on the type of actions the American Government can take to facilitate their release and improve relations with Iran. The dialog in Tehran, which he and eight other Americans pursued, was a very constructive step.

Mr. Clark has visited Iran three times since their revolution. Within a few days of the taking of the hostages last November, the President called upon him to undertake negotiations for their release, which tragically was aborted. During the past several years he has been in close communication with a number of its leaders. His familiarity with the situation in Iran gives his views a special significance.

I recommend that my colleagues read the following article, "The Iranian Solution," which Mr. Clark wrote for the Nation, June 21, 1980, shortly after his return from Tehran. One of his recommendations for action, which he elaborated on at a luncheon discussion today with Members of Congress, deserves particular attention. He urged that a delegation of Members of Congress make contact with leaders of the newly formed Iranian Parliament, the Majiis, and offer to meet with them to discuss mutual issues between the two nations. Ramsey Clark is pursuing the course of peace, and his ideas on solving the crisis with Iran should be closely considered.

THE IRANIAN SOLUTION

(By Ramsey Clark)

The Iranian Majlis, or parliament, may take up the hostage issue in the next several weeks. The mood of the Iranian people will be the decisive factor in its decision if it does. If the people feel threatened or abused by the United States, they will oppose release of the hostages. If they sense some new respect for their rights, some easing of opposition and hostility to their hope for independence, some greater capacity for candor by the U.S. Government, they may be ready to accept release of the hostages. Many in Teheran believe this is possible. Many say there will be no trials.

It should be clear by now that the seizure of the U.S. Embassy was a happening. Federico Fellini could not stage such chaos. Perhaps, as they say, the students thought the U.S. Marines would shoot and martyr some of their own, thus radicalizing the nation into making greater efforts to purge U.S. influence. Whatever the immediate causes, the seizure, its duration and the consequences were unforeseeable.

From the beginning, nearly all Iranians knew that taking these hostages was wrong. Initially, virtually all the leadership sought their immediate release. The revolutionary council traveled to Qum several times to urge Ayatollah Ruhollah Khomeini to direct the students to turn the hostages over to the Government.

But a surprising chemistry set in. Holding the hostages became the best way for Iran to show its defiance of the United States. There was no reason, no logic, no justice in this action. It was simply the most direct and convincing way to proclaim resistance. The Iranian people could say "no" to America by denying its demands for the return of the hostages. The rights of fifty-three innocent people were insignificant to them compared to the emotional need to manifest defiance.

The Iranian revolution was led by people prepared to resist to the death. Many died. Ayatollah Khomeini came to embody the spirit of the revolution because no other visible leader refused to compromise with the Shah so adamantly, so consistently, so effectively. He has lived a life of resistance to evil as he sees it.

From the moment the hostages were taken, President Jimmy Carter seemed to need to show the American people that he was strong, decisive, fully capable of dictating the terms for the release of the hostages. An inventory of his acts through the days and weeks and months since November shows consistent and growing reliance on power to have his way. But he does not have such power. This is what every terrorist knows.

With each of President Carter's belligerent acts, threats and refusals to negotiate—and this can be easily and fully documented if necessary—the Iranians become more intransigent. Their history and character compelled it. They will not be bullied now. They lost tens of thousands of their people getting the Shah off their backs. Each aggressive act by the United States hardened Iranian defiance. Each aggressive act imperiled the hostages and serves to prolong their confinement.

The military expedition that President Carter ordered violated international law and endangered the hope for peace. It was as "humanitarian" as attempted murder. It is unthinkable that a constitutional government could empower the Chief Executive to engage in worldwide police actions at his whim. He risked the lives of our hostages, their captors, their liberators, innocent Iranian bystanders; he also risked wider military action, Soviet intervention, world war. The expedition was apparently prepared to kill people in another nation, whoever got in the way. It is the rule of force and violence—terribly dangerous and absolutely lawless. It was dared only because Iran is weak. We will kill Cambodians to show our ruthless power, as we did in the Mayaguez affair, losing American lives as well. But we dared not strike the Soviet Union to release our U-2 pilot, Francis Gary Powers. There are American citizens held prisoner in scores of countries. We cannot choose to smash them free by authoritarian fiat. All Americans who believe in law, human dignity and peace should protest.

In every hostage situation there is a tension between authorities and life. This is the meaning of the Attica prison massacre, in which police took thirty-nine lives, including those of ten hostages, to demonstrate the authority of the state. I was Attorney General when the first U.S. skyjacking of the 1960s took place. I was asked by the Federal Bureau of Investigation for authority to shoot the tires out on an airplane before it took off. I refused. No one was hurt. The whole thing was over in a few hours. The terrorists were arrested. Of course it could have been worse. But I chose life, and events were kind. As Abraham Lincoln "plainly confessed" in the Civil War, he did not control events, events controlled him. But he did not act to make things worse. He did not want the "drummer boy" executed. He saved lives with malice toward none and charity for all.

The mood in Iran is much better now. I am optimistic. The people are pained by the continuing hostage crisis, which they know is wrong and which is said to cost them $50 million a day. The mood can be improved even more before the Majlis meets if America has the vision, the courage and the compassion to act nobly under pressure. The stakes are enormous: fifty-three precious lives, the destabilization of an incredibly difficult revolution. (Thomas Jefferson wrote to the Marquis de Lafayette as the French Revolution began that he must not expect to be carried from despotism to liberty on a feather pillow.) Even nuclear war could ensue. Behind destabilization of Iran stands the Soviet Union which, whatever its aspirations, is the power most likely to fill the vacuum. U.S. policy has driven China, beginning in 1949, Cuba in 1959, Vietnam in 1975, among others, toward the Soviet Union because they had little alternative.

We are just beginning the 1980s. They promise to be wild. We need a new face and the reassertion of the principles on which our country is founded, in democracy, in freedom, in justice. We need to understand that our policy toward Iran has violated every value we love. We supported dictatorship, tyranny, torture, brute force and absolute obedience to authority. Now we must see that such a policy is doomed to failure—thank God.

The United States should:

(1) Renounce intervention by all nations in the affairs of others as contrary to the fundamental human right of self-determination.

(2) Assure Iran and all countries that it supports the cause of international justice and law and assures all nations the right "to seek" to extradite wrongdoers in accordance with law and similarly "to seek" the recovery of stolen property. (This is the language of the declaration that the American delegation approved in Teheran, for which President Carter says we, or at least I, should be punished.)

(3) Enact a charter to control the Central Intelligence Agency by rule of law, assuring its accountability to the American people and prohibiting immoral conduct.

(4) Initiate a Congressional investigation to expose to the world the full truth about U.S. interventions in Iran so that we shall know the truth and the truth shall set us free.

(5) Express humane sorrow for the death of 70,000 persons, the imprisonment, torture and ruination under the Shah's brutal regime and honestly acknowledge the role our Government played and show that we value their lives equally with our own and understand that the temporary detention of fifty-three persons, however wrong and harmful, cannot be equated with what they have suffered. (The United States wrongfully detains thousands of poor men, mostly minorities, annually without finally prosecuting them, and few protest.)

(6) Stop harassing thousands of Iranian students, visitors and permanent residents in the United States because we are angry at Ayatollah Khomeini. It is every bit as irrational that we beat up on them as it is that a group of Iranians hold fifty-three U.S. hostages. The students here did nothing to hurt us, but we punished them severely. Their families at home are angered, and when their generation comes to leadership they will remember American justice rudely hustling them from their schools and homes and hopes.

(7) End all economic sanctions, which anger and weaken Iran. The sanctions are wrong and cannot work. They lead to trade with the Eastern bloc, subterfuge and corruption. They can hurt the United States more than Iran by alienating the Iranian people and endangering the entire region with its vital energy resources.

(8) Give thanks that throughout all the turbulence in Iran during the seventeen months since the Shah's last Prime Minister left and in a period when Americans have been assassinated, murdered and abused in many countries, not a single American has been killed or injured in Iran by Iranians. Those who died at Bas in the rescue mission were killed through acts of our own.

(9) Let all religious people pray humbly to their God throughout our nation that no harm will befall our hostages, that they will be reunited with their loved ones soon, that the Iranian people will find a new fulfillment of their own choice, freely and independently, and that humanity will find the goodness and strength and love to will peace on earth. If fifty million Americans gave such a prayer during the coming Sabbath days, the Iranians, a deeply religious people, would respond generously.

Let us have Lincoln's impossible "faith that right makes might and in that faith let us, to the end, dare to do our duty as we understand it."●

TRIBUTE TO MARY MAYS

HON. MORGAN F. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. MURPHY of Illinois. Mr. Speaker, members, staff, and friends of the Accounters Community Center in Chicago will gather July 20 to pay tribute to Mary Mays, the founder and executive director of Accounters. I am pleased to take this opportunity to recognize this remarkable woman.

After devoting more than 20 years to teaching and administering in the Chicago public schools, Mary realized that a need existed for a community center that would support the positive values of the home and school. Mary founded Accounters in 1967, which quickly became an integral part of the community.

Today, the center is considered by many to be one of the finest community centers in the country. Accounters provides such valuable services as day care, youth employment, family counseling, and adolescent runaway programs. The activities and programs are geared toward providing personal development for those attending.

The center's remarkable success can be largely attributed to the tireless commitment of Mary. Her love and concern have helped to make it a place where everyone is welcome and everyone is considered important.

Mary's compassion and dedication to the people of Accounters should serve as an inspiration to us all. This Nation needs more people with the sensitivity to human needs that Mary Mays has demonstrated. I am very honored to have the privilege of knowing such a fine person.●

A CONGRESSIONAL SALUTE TO THE SLOVAK CATHOLIC SOKOL OF PASSAIC, N.J., UPON ITS DIAMOND JUBILEE CELEBRATION

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. ROE. Mr. Speaker, this coming Independence Day weekend, the Slovak Catholic Sokol, popularly referred to as America's greatest slovak gymnastic and athletic fraternity, will celebrate the diamond jubilee observance of its founding here in the United States. I know that you and our colleagues here in the Congress will want to join with me in extending our warmest greetings and felicitations to the officers and members of Slovak Catholic Sokol on this most festive occasion in appreciation of their outstanding service to our people.

The Slovak Catholic Sokol is a highly prestigious organization of leading and reputable citizens of the Slovak-American community whose standards of excellence as a fraternal, gymnastic, and calisthenic citizens group dedicated to the physical fitness of the individual have truly enriched our community, State, and Nation.

At the outset let me commend to you the founders of the Solvak Catholic Sokol whose quality of leadership and sincerity of purpose throughout the years have helped to perpetuate its sterling principles in pursuit of the improvement and enhancement of the physical well-being and way of life for all mankind, as follows:

Founders of the Slovak Catholic Sokol:

Matus Husy, Valent Lapšansky, Michal Kalafut, Valent Bednarčik, ml., Jozef Rafač, Jozef Kalafut, st., Jozef Pavličko, Matej Kuruc. John Hilla, ml., Jakub Plučinsky.

Jakub Skupin, Valent Tomaškovič, Andrej Servas, Ján Gronkovsky, Lukač Kuna, Juraj Halupka, Jozef Kuruc, Jozef Halupka, Juraj Kopacka.

Michal Zagursky, Jozef Kačmarčik, Stefan Bigos, Jozef Hilla, ml., Jakub Vaxmonsky, Valent Bednarčik, st., Paul Tibus, Michal Kucala, Juraj Lopušnak, Michal Prelich.

Ján Moss, Andrej Bekeš, Andrej Kovalik, Jakub Butz, Juraj Domyon, Jozef Hilla, st., Martin Molitoris, Valent Šotis, Jozef Prelich, Ján Hlavač.

Jakub Frankovič, Jozef Paluch, Ludvik Šoltis, Vincent Dronzek, Andrej Klukosovsky, Valent Bizub, Jozef Petrašek.

Mr. Speaker, the official publication of the Slovak Catholic Sokol, known as the "Katolicky Sokol"—Catholic Falcon—was founded in 1910 as an independent publication in Passaic. N.J. to serve the organization's membership. With your permission I would like to insert at this point in our historical journal of Congress a most comprehensive chronology of events in celebration of the July 5 diamond jubilee celebration as related to me by the most distinguished editor of the Katolicky Sokol, Mr. John C. Sciranka, who is known as the dean of American Slovak journalists and who also serves as president of the Press and Public Relations Section of the National Fraternal Congress of America. The chronology reads, as follows:

DIAMOND JUBILEE, SLOVAK CATHOLIC SOKOL ORGANIZATION

In this day of importance of Physical Fitness, the Slovak Catholic Sokol organization, organized on July 4, 1905, will celebrate its 75th Anniversary.

The original Sokol organization was founded in Prague, the capital of present Czecho-Slovakia on February 16, 1862. The aim of the organization was spiritual and moral upliftment to overcome the hardships of tyrannical governments under which the Slavonic nations were forced to serve their oppressors.

The founders of the Slovak Catholic Sokol chose July 4 in 1905 to commence the establishment of their organization as a patriotic gesture and respect for their adopted country the United States of America.

The 75th anniversary of Slovak Catholic Sokol will be celebrated on Saturday, July 5th, 1980 with a rich civic and religious program. The program will begin with a Pontifical Concelebrated Slovak Mass of Thanksgiving at 2:30 p.m. at the Church of SS. Cyril and Methodius in Clifton, N.J. The principal celebrant will be His Excellency the Most Rev. Andrew G. Grutka, D.D., Bishop of Gary, Indiana and Protector of the Slovak Catholic Sokol. Concelebrating will be the Right Rev. Jerome M. Koval, O.S.B., Abbot of St. Andrew-Svorad Abbey of the Slovak Benedictines in Cleveland, Ohio. Homilist at the Mass will be the Rev. Andrew M. Blasko, Supreme Chaplain.

Presiding at the Mass will be His Excellency the Most Rev. Frank J. Rodimer, D.D., Bishop of Paterson. Also present will be the Rev. Monsignor George Durisin, V.G., Director of the Byzantine Catholic Cathedral of St. Michael the Archangel in Passaic and Vicar General of the Byzantine Catholic Eparchy of Passaic. Msgr. Durisin will represent Most Reverend Michael J. Dudick, Eparch of Passaic. The Rev. Jerome J. Pavlik, O.F.M., host pastor, will welcome the participants at the Jubilee Mass. The Rev. Robert Valent, O.F.M., associate pastor of SS. Cyril and Methodius will serve as Master of Ceremonies. Several Sokol priests from the area will participate in the Jubilee Mass.

Music for the mass will be provided by the Choir of SS. Cyril and Methodius under the direction of Sister M. Annunciata, O.S.F.

DEDICATION OF SOKOL MONUMENT

Following the Mass, the dedication of the monument to the founders will take place at St. Mary's Cemetery in Saddle Brook, N.J. The monument will be blessed by Supreme Chaplain Father Andrew M. Blasko, Mr. John J. Pavlica, Chairman of Supreme Auditors, and a member of the Diamond Jubilee committee will introduce the main speaker, Editor John C. Sciranka.

Tribute will be paid to the original founders at this ceremony, which will include the singing of Slovak hymns. The Rev. John J. Demkovich, pastor of St. Mark's Roman Catholic Slovak Parish in Passaic will offer the prayer. The cemetery belongs to the Passaic Slovak parish.

Rev. Msgr. Emil R. Suchon, former Supreme Chaplain, will give the benediction.

RECEPTION AND BANQUET

Following the program at St. Mary's Cemetery, the reception will be held at 6:00 p.m. at the Marriott Hotel in Saddle Brook, N.J.

The banquet will begin promptly at 7:00 p.m. The program will include a welcome and introduction of the toastmaster, by Supreme President George J. Kostelnik. General Counsel Attorney John D. Pogorelec will serve as the toastmaster during the speakers program. Following the singing of the American, Canadian and Slovak anthems, the invocation will be given by the Rev. Andrew M. Blasko, Supreme Chaplain.

Greetings will be extended by the Hon. Robert C. Hare, Mayor of Passaic. Remarks will be given by our Supreme President George J. Kostelnik and Supreme Ladies Vice President Anne Z. Sarosy. Slovak remarks will be given by Supreme Secretary Tibor T. Kovalovsky. Following the introduction of guests, a pictorial history of the Slovak Catholic Sokol will be given by James Koper. The program will conclude with the Benediction by the Rev. Jerome J. Pavlik, O.F.M., past Supreme Chaplain and the singing of "Kto za Pravdu hori" and "God Bless America." Music will be provided by the Chubak-Kara-Nemeth Slovak Gypsy Orchestra of Perth Amboy, N.J.

RECEPTION ON FRIDAY EVENING

For out of town Sokols and Sokolky, on Friday evening, July 4th beginning at 8:00 p.m. films of past National Slet and other Sokol Slets and celebrations will be shown at the Marriott Hotel. The special film of the episcopal ordination of Archbishop Joseph Tomko by Holy Father, Pope John Paul II in the Sistine Chapel at the Vatican will also be shown. In this film Holy Father Pope John Paul II preaches in Slovak.

Every major Slovak fraternal and civic organization will gather to celebrate the glorious Diamond Jubilee of our beloved organization. It will be an opportunity to renew old Sokol friendships and will also afford the opportunity of making new ones. Three generations of Sokols will be represented at the jubilee celebration. It will be a joyous celebration of three quarters of a century of dedicated Sokol fraternalism.

This Diamond Jubilee celebration as preceded on March 16th when Assembly 1, known as the "father of the organization" celebrated the Diamond Jubilee.

The festivities really began on Friday March 14th when a surprise front page article entitled "Slovakia's Heritage Revived" appeared in "The Herald News." The article by John Rymer, staff writer, arranged by Editor John C. Sciranka, was the added touch which made not only the Passaic-Clifton area aware of the historic year of organization and Assembly 1, but brought to the entire northern counties of New Jersey the story of organization and its many accomplishments over these past seven and a half decades of Slovak fraternalism.

The history of Assembly 1, Slovak Catholic Sokol, has its beginning on December 11, 1904, when several Slovak Catholic pioneers expressed a desire to have a Society of St. Joseph, with a gymnastic and athletic program. They were the pioneers of now popular Physical Fitness. Since already an existing Sokol organization refused their heavenly patron, they organized their Society on January 18, 1905. Their meetings were held at John Servas's Hall on Third Street in Passaic, N.J., and their encouragement came from Father Emery A. Haitinger, later beloved Prelate and Monsignor.

The same feeling and desire was also manifested by the already existing Sokols in Hibernia, N.J., and thus on July 4, 1905, they held their first assemblage and founded now popular organization, the Slovak Catholic Sokol.

And 70 years ago, they founded their Junior Assembly 1.

The following are current officers of Assembly 1, Sloval Catholic Sokol: Rev. John J. Demkovich, Chaplain; Joseph A. Csejka, President; Edward E. Kutcher, Vice President; Michael Bohinek, Recording Secretary; James Lukas, Financial Secretary; Henry Lorencovitz, Treasurer; Albin J. Stolarik, Trustee; Albert Skorupka, Trustee; Thomas Bizub, Trustee; William Filipovsky, Trustee; and Elder of Jr. Assembly 1: James Lukas.

On July 4th of each year they pay tribute to our great country and thank our founders for choosing this historical day as the founding date of now great fraternal and Physical Fitness organization.

Mr. Speaker, throughout the past three-quarters of a century the members of the Slovak Catholic Sokol have combined their spiritual, recreational, social, and athletic endeavors in helping all of our people, young and adults alike, providing a lasting contribution to the future preeminence of America's society in training and developing the industriousness and leadership qualities of our people. We do indeed salute the Slovak Catholic Sokol upon the celebration of its 75th anniversary in service to people.●

THE ROAD TO PRODUCTIVITY AND ECONOMIC GROWTH, PART XI—REPUBLICAN STUDY COMMITTEE NOTES THAT SCHULZE BILL MAY WELL PROVIDE A LONG SOUGHT AFTER REMEDY TO THE NATION'S LAGGING ECONOMY

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. SCHULZE. Mr. Speaker, in an ongoing effort to share with my colleagues developments on my bill, H.R. 6300, the Individual Investors Incentive Act of 1980, I submit for the RECORD today an excellent fact sheet written by Mr. T. Rogers Roth of the Republican Study Committee.

In this fact sheet, the author correctly recognizes that the decline in investment in this country is directly related to the decrease in the rate of productivity.

This relationship is most apparent when we realize that the rate of productivity has fallen to a negative level at a time when at least 6 million individual shareholders have left the stock market.

What this Congress needs to do is enact legislation which will reinstill confidence in America and will encourage individuals, particularly young people, to invest their savings in this country's future. Only then will we be able to reverse our negative rate of productivity, our dismal rate of savings and investment, and our plunging gross national product.

It was with these objectives in mind that I introduced the Individual Investors Incentive Act in January. The main purpose of this legislation, like its French model, is not to boost stock prices, but rather to broaden share ownership and to stimulate American industrial investment.

While many people may be skeptical or may doubt the spectacular success of the French Monory law, the facts speak for themselves. Since its enactment in 1978, the French Bourse stock index has risen 60 points, 1 million French taxpayers have become shareholders—half of them new investors—and French companies have raised about $1.95 billion in new stock equity over the past 2 years, a tenfold increase over the pre-Monory era.

Through enactment of this bill, I offer to you and to the American people the same benefits which have proven so beneficial to the French economy.

I urge my colleagues to read this well-written fact sheet carefully and to join with me in this effort to encourage individual investment, which will allow American industry to raise new funds through equity offerings and to make substantial new investment in plants and equipment.

The text of the Republican Study Committee fact sheet follows:

INDIVIDUAL INVESTOR INCENTIVE ACT OF 1980 (H.R. 6300)

EXECUTIVE SUMMARY

Representative Richard Schulze (R-PA) has introduced legislation (H.R. 6300) to provide incentives to invest in stock and bonds in domestic corporations. In addition to helping individual investors, this would also aid the capital formation picture of the businesses involved. The entire economy would benefit from increased productivity, the enhancement of small business enterprises, increased jobs, and lower consumer prices. Similar plans have been enacted in France, Sweden and Quebec. This fact sheet will examine the foreign experience with this novel approach and provide insight into the Schulze bill.

INTRODUCTION

One of the most pressing problems in the United States today is declining capital formation. One way of ameliorating this is through increased incentives for investment in domestic business. This has the potential to increase business equity dramatically.

The need for new incentives is apparent. In the last ten years, the number of individual shareholders has decreased from 31 million to 25 million. The rate of savings (as percent of disposable personal income) dropped from 7.4 pereent in 1970 to 3.4 percent in the first quarter of 1980, the lowest among industrialized nations. The United States experienced a negative productivity rate in 1979, the second time since World War II. Research and development as a percentage of net sales dropped 32 percent from 1969 to 1978.

These trends indicate a need for increased capital formation in the business community. Economist Ira Corn noted American companies were able to raise 20 percent of their long-term financing needs in 1971 by issuing new stock. Only four percent was raised in this manner in 1978. It would appear from this fact that one method of increasing business equity would be to reverse this trend. It is the reversal of this trend that the Schulze bill (H.R. 6300) addresses.

TABLE I—CAPITAL FORMATION INDICATORS (SELECTED YEARS)

[In percent]

Indicator	1968	1973	1977	10-Year percent of Deterioration
Real business investment (average annual percent change)	8.0	3.9	1.7	(78.8)
Real GNP (average annual percent change)	4.8	3.3	2.7	(43.8)
Unemployment rate	4.2	5.0	6.7	(59.5)
Rate of inflation	2.6	5.0	7.7	(196.2)

Note: It should be noted that the inflation rate for the first quarter of 1980 has been at an annual rate of 18 percent and that in 1972 dollars, the growth rate of the GNP for the same period has been 1.1 percent.

TABLE II—COMPARISON OF U.S. ABILITY TO COMPETE WITH OTHER INDUSTRIALIZED NATIONS (AVERAGE, 1962–77)

[In percent]

Country	Increase in productivity	Average annual increase in real GNP	Investment as of GNP
Japan	8.4	8.3	32.0
France	5.7	4.8	22.8
Netherlands	6.9	4.6	23.7
Belgium	6.9	4.0	21.8
Germany	5.5	4.0	24.8
United States	2.7	3.5	17.5

From the preceding chart, it would appear that the decline in investment is directly related to the decrease in the rate of productivity. Other economic correlations bear this out. The greater the supply of capital available for investment; the more modernization can occur on plant and equipment. Productivity rates are largely a function of up to date equipment and the ability to keep wages in step with the rate of inflation.

A solution to the investment/equity problem has been a demonstrable success in three foreign nations. This solution is the allowance of a tax deduction to individuals who buy stocks and bonds in domestic corporations. The concept was first tried in France and then adopted by the Canadian province of Quebec and Sweden. The results have been a dramatic surge in new investment capital.

THE FRENCH EXPERIENCE

In 1978, the French legislature passed a law known as the "loi Monory" or the Monory Law, after Finance Minister Rene Monory. The law allows French citizens to deduct up to 5,000 francs (approximately $1,200) from their taxable income each year for four consecutive years. Additional income tax deductions may be taken for investments on behalf of children. To qualify for the tax break and avoid a penalty, the investor must leave the money invested for a minimum of three years. It can, however, be reinvested in different securities during that period.

The new law has been remarkably successful. It has achieved mass appeal through attracting the medium wage-earner and small businessman who had never considered owning shares in French industry before. This has resulted in a new injection of capital in business, increased the savings rate, boosted the Paris Bourse (the French stock market) and given a dramatic example of capitalism to a Marxist-leaning French populace.

More than one million French taxpayers have claimed the exemption to date. This has provided for the injection of about $1.8 billion into the Bourse in 1978 and 1979. Moreover, French residents faced with the maximum tax rate of 60 percent receive an actual tax savings of $720. Larger deductions are allowed for investors with independent children.

The Bourse index rested at a low 78 points in 1978, before the Monory law was enacted. Recently, that index rose to a solid 140 points. Within nine months of the enactment of the law, the average price of stock on the Paris exchange rose 44.4 percent. As of March, 1980, the average stock price was up 66 percent. In 1979, the French savings rate (as percent of disposable income) was at 17 percent compared to the U.S. savings rate during the same period of 4.5 percent.

The effect of the new law has not only been realized financially, but psychologically as well. Remi Charpentier, a vice president in the stock brokerage firm of Smith Barney, Harris Upham and Co., noted that the government's demonstration of interest in the stock market has caused French industrial concerns to show faith in their future development. They have plowed about $1.8 billion into new capital investments.

A similar plan was introduced in Quebec, Canada in 1979 by Finance Minister Jacques Parizeau. The plan was proposed in response to the complaint that the Parti Quebecois' tax policies, which leave those earning more than $30,000 a year in Quebec more highly taxed than anyone else in Canada, are stifling business investment and savings.

The Quebec law provides that middle and upper income residents of Quebec may avoid provincial income taxes on 20 percent of earned income up to $15,000 a year if the funds are invested in newly issued shares in Canadian companies that have their headquarters or a majority of their employees in Quebec. One accounting firm estimated that a taxpayer with a salary of $75,000 and an income tax of $35,317 could save $4,811 if he purchased $15,000 worth of eligible stock. Stocks purchased must be left on deposit with a broker for at least two years, although the investor's portfolio may be altered.

In the first six months under the new procedure, approximately 15,000 Quebec investors spent an average $6,000 each on eligible stocks. The total value of shares purchased was valued at over $90 million at the end of 1979.

PROVISIONS OF H.R. 6300

The Individual Investor Incentive Act of 1980 (H.R. 6300), introduced on January 24, 1980, is a fairly straight-forward and simple measure. It provides for a tax credit of ten percent, up to $1,000 to individual taxpayers and up to $2,000 for married couples filing joint returns for net additions to investments in the stocks and bonds of American corporations. The securities are required to be held for one year or the credit is forfeited. Also qualifying as an investment for the purpose of this credit are mutual funds with at least 60 percent of their assets in stocks and bonds of domestic corporations. If enacted, the effective date of the bill would be December 21, 1980.

There are two estimates of revenue and economic impact of the measure. Norman B. Ture, Inc. prepared an estimate of a similar measure contained in the Jobs Creation Act of 1975. This provided for a savings tax credit of 10 percent, up to $1,000 for individual returns and $2,000 for joint returns. This estimate follows:

[Dollars in billions of 1974 dollars]

Years after enactment	Private GNP	Increases in—		
		Employment (thousands)	Capital outlays	Federal revenue
1	31.0	1,780	$22.3	$1.9
2	40.2	2,100	23.3	4.8
3	50.1	2,430	24.3	7.9

The most recent estimates were prepared by the Joint Committee on Taxation in May, 1980. These reflect the revenue impact of H.R. 6300.

REVENUE IMPACT OF H.R. 6300

[In millions of dollars]

	1981	1982	1983	1984	1985
Calendar	1,405	1,545	1,700	1,869	2,056
Fiscal	(1)	1,405	1,545	1,700	1,869

[1] Less than $5 million.

SUMMARY

For some years now, the inability of American companies to attract new investors has been a concern. This has been a substantial factor in the decline of capital available for business investment. The past ten years have witnessed the defection of over six million shareholders. This has led to the loss of equity capital and the erosion of America's technological base. The United States has continued to lose its competitive edge in the international marketplace.

Unless this trend is reversed, the United States will cease to survive economically. The most rapid and sure method of providing the capital needed by large and small businesses to expand and develop is to provide incentives for new investment. This will lead to new jobs, increased productivity, restoration of American international competitive ability and lower rates of inflation. Moreover, as has been shown, there is no revenue loss involved, but rather a revenue increase.

The French experience and the similar experience in Quebec demonstrate the viability of such an approach. Since the 1978 enactment of the Monory Law, the French equity base has increased tenfold. A dramatic increase in new investment capital has also occurred in Quebec as a result of its more recent statute.

The Schulze bill and its underlying premise deserve careful and immediate attention. It may well provide a long sought-after remedy to the nation's lagging economy.●

EMERGENCY AID NEEDED TO RESCUE WESTCHESTER COUNTY'S COMMUTER RAIL SERVICE

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. OTTINGER. Mr. Speaker, one of my top priorities is to cooperate with local, State, and Federal officials to improve the drastically deteriorated commuter rail service in Westchester County, N.Y. Several months ago, the Urban Mass Transportation Administration announced a $40 million Federal commitment to electrify the Upper Harlem line. Massive overhaul and improvements in the equipment and service on the other lines serving the county must also be undertaken immediately in order to rescue the failing system and avoid catastrophe. The necessary improvements can only be made with the assistance of public funds, both from the Federal and New York State Governments. An increased and significant public investment in our Nation's transit systems means jobs, increased mobility for all Americans, improved quality of the environment, a healthier economy, and energy conservation.

So that my colleagues are aware of the magnitude and seriousness of the commuter rail problem in Westchester County, I would like to bring to their attention a firsthand account of the situation and a recent letter which I sent to Gov. Hugh Carey.

THE NEW YORK TIMES,
New York, N.Y., June 18, 1980.

Hon. HUGH L. CAREY,
Executive Chamber,
State Capital, Albany, N.Y.

DEAR GOVERNOR CAREY: I am writing to you, not as an executive of The New York Times, but as a citizen.

In the fourteen years that I have been riding the commuter trains into New York City, conditions never have been worse than in recent months on the Harlem Division. My experiences during the last three days are fairly typical.

On the morning of June 16, there were only half of the normal complement of cars, which resulted in severe crowding for what has become the usual complement of standees. There are no straps for standees in the cars and passengers, including many elderly persons and women, were badly jostled. In the evening, my train had a breakdown at the Mt. Vernon station and the undercarriage on my car caught fire and became enveloped in the billowing smoke. There was panic in the car, but, fortunately, the doors were open and the passengers were able to escape suffocation.

On the following morning, my train was down to two cars. This meant that many people were unable to get aboard the train and it was so crowded that there was difficulty in closing the doors. I assume you know that when the doors are closed the cars are sealed and become potential death traps if anything goes seriously wrong.

On Wednesday morning, the rush-hour schedule broke down with all trains late. Some of the trains only had two cars. My own train suffered a temporary breakdown at 125th Street when, as the announcement told us, the electrical charges failed to function on the brake lining.

(You should know that I am not complaining here about the many cars in which the air conditioning does not work or suffer lighting failures or about well-intentioned trainmen who are too embarrassed or unable to collect tickets in overcrowded cars.)

Richard Ravitch tells me that he lacks funds from the State or Federal Governments to make up a deficit so that proper maintenance can be carried out. You may tell me that you have had only limited success in obtaining subsidies from the State Legislature or the Federal Government.

With all due respect, I must tell you that replies of that kind are not enough. The fact is that there is a clear and present danger to the health and safety of the riders on the Harlem Division, and it is incumbent upon the Executive of the State to take emergency remedial action.

Sincerely yours,
SEYMOUR TOPPING.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., July 1, 1980.

Hon. HUGH L. CAREY,
Executive Chamber,
Albany, N.Y.

DEAR HUGH: The condition of the commuter rail service in Westchester County has deteriorated so drastically over the last several months that we are now faced with a very serious crisis.

Trains are in such poor condition and are running so short of cars that if a commuter is "fortunate" enough to board a train, his life is literally threatened. Serious overcrowding, lack of ventilation, and increased incidences of mechanical breakdowns which send suffocating fumes into tightly-sealed passenger compartments are now common occurrences on the Westchester lines. The recent letter to you from Seymour Topping of the New York Times graphically describes the deplorable state of affairs.

With all of the funds which New York State is proposing for energy, surely some of those funds or bond monies can be directed to mass transit which is the lifeline of Westchester and also importantly addresses the energy crisis. The system can only be saved through massive and immediate infusion of public funds. I will continue to press federal officials for additional aid and look to your leadership in securing additional and vital state funds.

I hope you will give this matter the urgent attention it clearly deserves.

Sincerely,
RICHARD L. OTTINGER,
Member of Congress.●

IN SUPPORT OF THE RAIZ FAMILY

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. ROSENTHAL. Mr. Speaker, I rise today, as I have on many occasions in the past 2 years, on behalf of

Vladimir and Carmella Raiz, prisoners of conscience in the Soviet Union whom I have adopted to call attention to their plight until their dream of emigration is realized.

We in the Congress are conducting this vigil for the Raiz family, their son Moshe, and other Soviet Jews who are being detained in the U.S.S.R. as a result of their Government's repressive emigration policies.

Vladimir and Carmella Raiz live in the Lithuanian town of Vilnius from which they have tried to emigrate since 1972. At that time, they were denied an exit visa by the local immigration officer. The OVIR official contended that Dr. Raiz, a molecular biologist employed at the Institute of Molecular Biology of the Soviet Academy of Sciences, possessed secret scientific information. However, the institute subsequently conceded that the research was conducted more than 14 years earlier and is no longer secret. Upon applying for the visa, Dr. Raiz was fired from his job. He now works as a mailman. Dr. Raiz, whose contribution to society in the field of molecular biology is undisputed, feels, according to a friend, most deeply the degradation and emptiness of his position.

Mrs. Raiz, a violinist in the Moscow Symphony Orchestra, was also dismissed from her position. She recently described her situation in a letter to an American friend: "Everyday is a terror. I never know if my husband will return when he leaves for work."

The Soviet Government's violation of individual civil rights encroaches on the privacy of the Raiz' own home. In 1975, the U.S.S.R. tried to cut off the Raiz' communication with the outside world. Their phone was temporarily disconnected and they were warned that it would be permanently disconnected if they again used it for international phone calls or for calls by visiting tourists. Such are the trials and tribulations that an innocent Soviet family must suffer in the attempt to exercise their legally protected right to emigrate to the country of their own choosing.

Although I have written repeatedly to Chairman Brezhnev, Ambassador Dobrynin, and the chief of OVIR urging their reconsideration of the Raiz' visa request, the Soviet authorities have never responded to me directly about the Raiz family. Yet, the Soviets did respond in an article published in a Russian newspaper which attacked, in great detail, my previous statements in the CONGRESSIONAL RECORD in support of the Raiz family.

The Raiz family still awaits a visa. And until one is granted, I will continue to call attention to their plight to remind the Soviets that my efforts on the Raiz' behalf will not cease until they are released.●

AN IMPORTANT MESSAGE FROM A LEADER OF THE DISABLED

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. SIMON. Mr. Speaker, the Rehabilitation Act of 1973 makes clear Congress commitment to the full participation of handicapped people in American society. Essential to that participation is the ability to move freely throughout the country.

Unfortunately, Mr. Speaker, despite steady progress in making our transportation systems accessible to the handicapped, efforts are now underway to undo that progress and consign handicapped Americans to second-class status in a separate and unequal transportation system of their own.

Hale Zukas is a severely disabled victim of cerebral palsy. He is also a member of the Architectural and Transportation Barriers Control Board, which works to eliminate barriers—of stone and of attitude—which still afflict the handicapped.

Mr. Zukas has been deeply involved in the current debate over appropriate transit facilities for the handicapped, and he has written an important article supporting our continued efforts to make existing mass transit facilities accessible to the handicapped.

Mr. Zukas' article makes short and devastating work of arguments being used to press for a separate "paratransit" system. He makes it clear that neither cost nor quality of service justifies such a step.

He points out, for example, that virtually every existing paratransit system in this country provides service vastly inferior to that provided the able bodied through standard fixed-route buses and trains. Shorter hours, restricted distances, months-long certification procedures, daylong waits for rides, the need to prove the importance of one's trip: All these are standard operating procedure for existing paratransit systems.

And, as Mr. Zukas demonstrates, a network of such inefficient systems strung coast to coast will be no better: The numbers just do not add up. For example, the Congressional Budget Office study cited by paratransit proponents claims that the transportation needs of the Nation's wheelchair users could be met with a fleet of only 1,654 vans nationwide. This is an average of 33 vans per State, or just 6 vans for each of the Nation's 275 SMSA's. Little wonder that CBO is able to come up with relatively modest cost figures for paratransit—it proposes no more than a minimal level of services.

But how does this CBO estimate square with the real need for handicapped transportation services? Not well at all. Mr. Zukas reports on recent studies that found that 100 vans would be necessary merely to serve Santa Clara County, Calif.; and that 455 vans—more than a quarter of CBO's estimate for the entire country—would be necessary to serve the area in and around Los Angeles.

Paratransit service of quality would cost far more than CBO is now projecting—and far more than making existing fixed-route services accessible.

In addition to these valuable findings, Mr. Zukas makes several seemingly obvious points that have been largely ignored in the hullabaloo over certain fixed route usage surveys seized on by paratransit supporters.

First, he reminds us that badly maintained, badly publicized services will not attract a large clientele. This is as true of buses and trains as it is of banks and restaurants—but many people have sought to argue from low-usage figures on badly run systems that the handicapped do not want and will not use mainline transit. This is simply not the case. Communities that have been committed to effective service—keeping lifts in good working order, keeping the handicapped community informed about routes, schedules, and the like—have largely been successful.

Second, Mr. Zukas reminds us that accessible transit does not in and of itself guarantee ridership: "An environment is only as accessible as its least accessible element." Paratransit proponents often argue: "What good is an accessible bus if a person can't get to the bus stop?" This premise is a good one, but the conclusion—that it is therefore senseless to provide accessible mass transit—is no good at all. For the environment in general is becoming more and more accessible to the handicapped—why should transit systems eventually become the major stumbling block? Why should transit systems wait until all this other progress—curb cuts, building ramps, et cetera—is complete before they even consider their own efforts toward true accessibility? Progress on each of these fronts should be occurring simultaneously, and the generous time limits set forth in existing regulations make such progress feasible for virtually all communities.

Mr. Zukas makes a third point: That it takes time to build ridership. "Mobility," Mr. Zukas understands, "is a skill which must be learned, whether one is disabled or not." For those handicapped people who have often felt themselves imprisoned in their chairs and in their homes, adjustment to a better world will not occur overnight. It should not be surprising that handicapped ridership of many mass transit systems is low at the outset; what is more important is that that ridership has been increasing in virtually every community where accessible transit has been made available.

Mr. Speaker, as we consider the question of our responsibility to America's handicapped people, it is important to hear from those most directly affected by our actions. Mr. Zukas' article is a valuable contribution to that debate, and I commend its conclusions to the attention of my colleagues:

Urban Transportation for Disabled Persons: How Is It To Be Provided?

The most important issue concerning transportation and the disabled is the matter of how to meet the transportation needs of the disabled in urban areas. Specifically, the question is whether this should be done by (1) establishing and operating separate demand-response transportation systems to serve only those who cannot use existing public transit systems, (2) making those existing systems accessible so all but a tiny minority of disabled people can use them, or (3) a combination of the two—making existing systems accessible and using specialized services as feeders to the accessible fixed-route systems and to serve the very small number of disabled people who cannot use even accessible fixed-route transit. A corollary is the so-called "local option" issue: should the method of providing transportation to the disabled be determined by each locality, with resulting inconsistencies and variety in actual service delivery to disabled people, or should it be determined by clear, unequivocal Federal guidelines.

Because this issue has been posed as an either/or choice between separate services or accessible fixed-route transit, most organizations of disabled people have taken positions in favor of accessible fixed-route transit. Many disabled people view specialized services as excluding them from the mainstream of society and object to such services on philosophical grounds as well. However, some disabled people have argued in favor of specialized services, largely out of the fear that they will not always be able to get to the bus stop or subway station, and also, in some cases, out of the fear that they will lose the specialized service that they are currently receiving. The third alternative is the only feasible means of providing transportation service at a level approximating[1] that provided to the general public for almost all disabled people.

Most transit operators, on the other hand, oppose making fixed-route transit accessible. In taking this position, the operators argue that:

(A) Making existing systems accessible will be extremely costly;

(B) It would only be to the benefit of wheelchair users, who comprise a tiny fraction of the disabled population;

(C) Very few wheelchair users would use fixed-route transit even if it were accessible;

(D) In any case, specialized services are a much better and more cost effective means of providing transportation to those who cannot use existing systems.

Each of these arguments will now be examined in detail.

(A) The cost of full accessibility.

The transit industry's estimates of the cost of making their systems accessible are often greatly inflated. For example, at least one cost estimate for Chicago's rail system is based on making every car and the entire length of every platform accessible as opposed to one car per train and a portion of each platform as required by DOT's 504 regulation.

Similarly, the Congressional Budget Office in its report "Urban Transportation for Handicapped Persons: Alternative Federal Approaches" estimates that the cost of making bus systems accessible will be $4.8 billion whereas DOT puts the probable cost at $1.8 billion. This discrepancy in estimates is primarily attributable to the CBO's assumption that bus accessibility will necessitate an expansion of bus fleets—by 2% to make up for increased down time due to lift maintenance, and an additional 1.5% to make up for lost seating capacity.

Maintenance experience with bus lifts has so far been extremely varied, with some operators having a high out-of-service ratio and others finding little or no increase in bus maintenance costs, even though lift technology is in its infancy. It is thus unreasonable to assume the expansion of bus fleets will be required because of increased maintenance requirements.

It is also true that provision of wheelchair space does result in a slight loss of seating capacity. What is overlooked however, is that standing room is increased. Thus provision of wheelchair space increases total carrying capacity.

(B) Who will benefit from accessibility.

Measures to accommodate "those who cannot use steps including wheelchair users" account for most of the costs of making transit systems accessible. The transit industry claims that these modifications (such as putting lifts on transit vehicles, and installing elevators and removing other structural obstacles in subway stations) will benefit only wheelchair users. This is far from being the case.

Crain and Associates for instance in its 321(b) Rail Retrofit Evaluation,[2] points out that while only 3% of the "transportation handicapped" population uses wheelchairs, 20% find it difficult or impossible to climb stairs. It was thus estimated that more than 90% of those using lifts on computer rail cars would not be in wheelchairs. Similarly, it has been found that the vast majority of those using the lifts on the buses in Santa Clara County, Ca. have not been in wheelchairs.

Furthermore, making transit systems accessible will benefit the non-disabled public as well. People with heavy packages, baby strollers (particularly those with twins) and shopping carts will find it easier to board a bus when it has a lift. There also will be a place to put the shopping cart or stroller once they are on the bus.

(C) Will Disabled People—Particularly Those In Wheelchairs—Use Fixed-Route Transit If It Is Made Accessible?

The transit industry has attempted to substantiate its claim that people in wheelchairs will not use even accessible fixed-route transit by relying on a mixture of distortions and facts taken out of full context.

For example, the transit industry is fond of quoting a survey taken in early 1977 which showed that 12 wheelchair users a day were using the elevators in the Washington Metro System. Almost never mentioned is the fact that at that time only 5 stations on a small 3 mile piece of the system were operational. Never mentioned either are the subsequent surveys which show that wheelchair usage of Metro elevators has risen by several hundred per cent. Furthermore, these later surveys found that wheelchair users were the smallest of several categories of people riding the elevators, these categories included the semi-ambulatory and people with "other physical problems," people who fear escalators, and those who were encumbered by "baggage or children". Finally, the last survey found that seven out of eight people using the elevators were members of the general public who simply found them faster or more convenient.

The transit industry also likes to cite the experience of the Bi-State Development Corporation, which operates the bus system in the St. Louis area and which was the first transit operator in the country to obtain a large number of lift-equipped buses. While wheelchair usage of the Bi-State system has admittedly been very low, there are a number of readily identifiable factors which have fostered this low ridership.

Bi-State drastically underestimated the ramifications of instituting new technology. Drivers were not given nearly enough training in how to operate the lifts and the maintenance procedures established were grossly inadequate.[3] As a result, a very high percentage of the lifts on the road at a given time were out of service and word soon got around in the disabled community that Bi-States buses could not be depended upon. If a mode of transportation is likely to get a person to a job or an appointment 2 or 3 hours late or not at all, that person is very likely to choose another means of transportation.

In sharp contrast to the story at Bi-State is the experience of the Seattle Metro Transit System, where lift-equipped buses have been in service on a significant number of routes since the first of the year. While the average daily ridership level for wheelchair was rather low in January, by March the level had risen 200%. The difference between Bi-State and Seattle may be attributable in large part to the fact that the transit system in Seattle believes in accessibility and is committed to making it work, while there is some doubt about whether Bi-State has a genuine commitment to full accessibility.

The specifics of any one operator's experience aside, there are other reasons why wheelchair ridership of accessible fixed-route transit, while relatively low at the beginning, can be expected to increase gradually but steadily over a long period of time.

First, as a chain is only as strong as its weakest link, it is also true that an environment is only as accessible as its least accessible element. In this context, this means that increases in wheelchair ridership of fixed-route transit will be produced not only by the obvious—making transit systems themselves accessible—but also by other factors, such as more public buildings and places of employment being made accessible, and construction of curb cuts, making it easier to get to and from transit lines. The comparatively high ridership in Seattle, in fact, has been attributed in part to the fact that curb cuts already cover large areas of the city.

There is also a corollary but more fundamental factor to be considered. Mobility is a skill which must be learned, whether one is disabled or not. For able-bodied people development of one's mobility is a natural part of the growing-up process; a child's "range of mobility" expands with each passing year as he or she is able to go more and more places and further from home. A person whose mobility has been restricted for years has to go through the same kind of learning and familiarization process when presented with new opportunities for mobility. When there has been no access for a long time, it is unlikely that disabled people will immediately take full advantage of an accessible system, whether it be building, transportation or anything else. Thus, it is to be expected that ridership by disabled people—and particularly wheelchair users—on accessible fixed-route transit will be relatively low at the beginning but will grow gradually and steadily over a long period of time.

---

[1] That is, in terms of geographic range and hours of operation, trip decision time, fares, and lack of restrictions on trip purpose and eligibility.

[2] Section 321(b) of the Surface Transportation Assistance Act of 1978 required the Secretary of Transportation to evaluate the nation's light and commuter rail to determine ways to make, and the desirability of making, these modes accessible.

[3] It might be noted that in the words of John D. Booth, its Director of Engineering, Bi-State is "still 20 to 30 years behind in [its overall] maintenance program."

(D) Do specialized services meet the transportation needs of disabled people better than accessible fixed-route transit?

The transit industry's affirmative answer to this question is based almost solely on the ability of a specialized service to pick disabled people up at their door and take them to their destination. It can be surmised that putting so much emphasis on this reflects a perception of disabled people as poor helpless cripples needing special treatment. Philosophical considerations aside, however, virtually all the specialized services operating in this country fall far short—in a number of respects—of providing service that is comparable to that provided by the regular transit system in the area:

Specialized systems typically operate 8 to 12 hours a day, whereas regular transit systems operate 16 to 24 hours a day. A service which runs from 9 to 5 obviously is of little use to someone holding a full time job, let alone a person who wants to go out for a night on the town. Even where the hours of operation are long enough—7 a.m. to 7 p.m., say—to accommodate work trips, another dilemma arises: during commute hours, should a specialized service be devoted to taking a few disabled people to work on a continuing basis to the exclusion of the "casual" rider, or vice versa?

Specialized services generally cover an area much smaller than that covered by the regular transit-operator. This is necessitated by the inherent nature of demand-responsive systems, which can operate halfway efficiently only if trip lengths are less than 5 miles. As the area covered by a demand-responsive system increases, the cost and complexity of operating that system increases almost exponentially.

Virtually all specialized services require requests for transportation to be made at least 24 hours in advance; in some cases, as much as 3 months advance notice is required. A rider on fixed-route transit, in contrast, only has to decide an hour ahead at most (an hour being the longest interval between buses in most systems) when they want to go somewhere. The long advance notice imposed by specialized services puts a person's mobility in a straitjacket, with no allowances for changes in plans, unforeseen delays or spontaneity.

Each of the above characteristic limitations of specialized services undoubtedly serves to reduce demand below what it otherwise would be. Even so, most specialized services have found it necessary to take measures which are explicitly designed to further restrict demand. For example, in order to be eligible to use a specialized service, a disabled person in almost all cases must register and be certified by a physician or—at the very least—a social service agency. This process can take as long as 3 months; this means, among other things, that out-of-town visitors are effectively prevented from using the service. In addition, priority is usually given to certain trip purposes, such as medical appointments and education. This means that someone who wants to make a trip with an "unessential" purpose (visiting a friend for instance) is even less likely to be served.

The argument that specialized services are a more cost-effective means of meeting the transportation needs of the disabled is based on a comparison of systems which, as has been shown above, are nowhere near equivalent in the level of service provided. The Congressional Budget Office, in the report mentioned above, asserts that the transportation needs of the country's wheelchair users could be met with a fleet of 1,654 vans nationwide. This amounts to an average of 33 vans per State or 6 vans for each of the nation's 275 Standard Metropolitan Statistical Areas.

Studies conducted independently for several transit operators in California, on the other hand, all have shown that the number of specialized vehicles required to provide services equivalent to fixed-route transit would be quite large and enormously expensive to operate. For example, a study undertaken by Bechtel Corporation found that 100 vans would be required to serve Santa Clara County adequately; a similar study in the Los Angeles area found that 455 vans—or 27% of the number the Congressional Budget Office claims would be needed to serve the entire country—would be necessary in the 2,280 square miles of the Southern California Rapid Transit District.

In summary, specialized services, standing alone, cannot hope to meet the transportation needs of those disabled people who cannot presently use fixed-route transit. Only by making fixed-route transit systems accessible and thus enabling them to handle the bulk of the demand, will the remaining demand be reduced to a level which specialized services can manage.●

OIL—$12 IN TAXES TO $1 DIVIDEND

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday July 1, 1980

● Mr. COLLINS of Texas. Mr. Speaker, as the election grows near, we hear politicians blasting the oil companies for their profits. They never mention that the one who makes the big profit out of the oil business is Government taxes. Everytime a shareholder in an oil company receives $1 in dividends there have been $12 in taxes paid to the Government.

But I was interested in seeing who were the shareholders. The big oil companies have the major stockholder holdings in New York City. The largest U.S. investor in public energy firms is the Pension Fund of Teachers' Retirement. As I read down the list of the next big stockholders, I found J. P. Morgan Co., Prudential Insurance, Citicorp., Capital Group, and Bankers Trust of New York. These are all big trust institutions that are buying these oil stocks for the benefit of retirement funds. So when you talk about the oil companies we find that the big holders are the retirement funds of America. And we are always reminded that every time the oil companies distribute $13, that $1 is going to an oil company shareholder and $12 is going to the Government in taxes.●

HANDGUN-RELATED DEATHS CLAIM 572 IN MAY

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. DRINAN. Mr. Speaker, during the month of May, 572 Americans were killed by handguns, bringing the total dead during 1980 to 2,980. This dramatic figure has been compiled by Handgun Control, Inc., from media-reported handgun deaths around the country.

Far too many people have lost their lives for the Congress to continue to turn its back on the urgent need for stricter handgun control. I have urged the Committee on the Judiciary to hold hearings in the very near future on handgun control legislation that has been introduced in this body. It is my hope that these hearings will be held soon.

Every day that passes brings another 20 Americans to the list of those who have fallen victim to the American handgun war.

The handgun body count for May 1980, compiled by Handgun Control, Inc., follows:

THE AMERICAN HANDGUN WAR DEAD

ALABAMA (8)

K. Chandler, T. Graves, C. Hardie, J. Moore, G. Smith Jr., C. Wallace, and unid. male.

ARIZONA (8)

J. Crawford, L. Ford, J. Garcia, K. Miller, J. Murray, J. Pommerening, P. Romero, and R. Walker.

ARKANSAS (8)

E. Bell, C. Bruno, E. Dawson, T. Hale, E. Hatton, N. McGuire, G. Nichols, and W. Robinson.

CALIFORNIA (69)

E. Anderson, J. Andrade, J. Armendariz, S. Barba, A. Bennett, C. Bleigh, H. Bouillard, P. Bradley, B. Bready, Lonzell Burnett, G. Burton, S. Butcher, R. Casal, I. Clamage, J. Clamage, M. Dague, S. Dailey, M. Delgado, G. Donnan, L. Ellis, D. Erwin, D. Fenn, C. Flores, C. French, J. Calvin, R. Gonzalez, H. Grossi, A. Haywood, A. Herrera, B. Kelly, M. Kelly, M. Kimes, C. Klier, J. Klima, L. Knox, R. Lozano, E. Lyman, A. Madrigal, J. Majarro, E. McClure, T. Mendez, J. Mitchell, R. Morales, J. Moser, M. Muhammad, G. Muller, L. Ochoa, I. Pena, C. Perkins, J. Pileggi, D. Pipkins, R. Rash, W. Rees, S. Rios, M. Rivera Jr., E. Robinson, M. Rodriguez, J. Ruiz, V. Ruth, A. Sabedra, J. Shunk, L. Smallwood, A. Smith, A. Subt, E. Torrez, A. Tumanoff, W. Upshaw, T. Walker, and M. Yepes.

COLORADO (11)

H. Connors, M. Ford, J. Greenberg, J. McNeal, G. Montoya, M. Morales, S. Pilcher, R. Romero, D. Williams, L. Wilson, and J. Ziegenfuss.

CONNECTICUT (7)

S. Cox, W. Kelsey, W. Lee, M. Olszewski, J. Robinson, K. Robinson, and D. Rush.

DELAWARE (2)

S. Poswinski and A. Tweddle.

DISTRICT OF COLUMBIA (6)

R. Blunt, C. Harris, J. Hill, W. Mathews, K. Smith, and W. Walker Jr.

FLORIDA (31)

P. Barrile Jr., H. Bojarczyk, R. Bojarczyk, R. Brown, G. Butler, W. Everett, J. Everhardt, C. Fajardo, E. Floyd, J. Fuentes, L. Hayward, D. Hcist, R. Hernandez, C. Johnson, J. Kulp, S. Mathis, C. May, H. McCleary, G. Paderlike, J. Paderlike, R. Potts, G. Rodriguez, R. Sawyer, A. Suescun, B. Simpson, J. Smith, F. Vahle, R. Williams, unid. male, unid. female, and unid. male.

GEORGIA (19)

A. Benton, L. Bonham, A. Bryant, S. Canady, W. Chambers, C. Crowe, A. Cummings, J. Cummings, Jr., A. Curry, T. Estes, H. Jackson, T. Lamar, W. Lester, T. Rogers, K. Satterfield, A. Spear, E. Turner, I. Willis, and unid. male.

HAWAII (1)

R. Wilhelm.

ILLINOIS (68)

R. Anderson, F. Astrella, G. Bailey, J. Barber, J. Bialik, E. Blair, M. Boblewski, M. Carrion, M. Chaidez, A. Cole, J. Cooper, R. Coste, W. Daniels, E. Davis, M. Davis, J. Dixon, D. Doering, J. Durand, E. Durano, B. Edwards, M. Epps, M. Flores, P. Futrell, C. Gines, R. Guzman, M. Harris, L. Hatley, T. Hightie, K. Jackson, J. Jones, L. Jones, B. Knox, J. Lewis, J. Lucas, R. Mancilla, B. Marleau, D. Marshall, J. McCollum, S. Miles, S. Montanez, D. Moore, R. Navarro, M. O'Brien, L. Poole, K. Queen, F. Ramos, P. Richards, C. Rickleman, T. Rickenbacker, P. Robinson, L. Santiago, S. Savic, J. Seay, H. Simmons, J. Smith, R. Stevens, W. Stewart, H. Wakefield, L. Washington, B. Wesley, L. White, L. Williams, M. Williams, J. Winston, D. Wood, J. Young, A. Zalcberg, and G. Ziramontes.

INDIANA (5)

G. Furr, W. Jones, J. Knox, C. Lacy, and D. Pulliam.

IOWA (1)

T. Rohde.

KANSAS (9)

L. Barber, F. Chavez, L. Daniels, C. Hobson, B. Machacek, B. Murphy, R. Ramirez, H. Tisch, and M. Woods.

KENTUCKY (7)

E. Caldwell, M. Cummins, M. Day, C. Howard, D. Jackson, M. Pope, and G. Woods.

LOUISIANA (19)

T. Brumfield, B. Butler, W. Butler, J. Coletti, J. Davis, W. Gray, C. Harts, M. Hawkins, M. Lang, S. Morgan, P. Queens, R. Rudolph, C. Shephard, J. Smith, M. Stuckey, A. Taylor, B. Taylor, J. Wilhite, and unid. male.

MAINE (2)

K. Haberski and H. Sargent.

MARYLAND (9)

C. Abrams, B. Allen, N. Henson, W. Lewis, J. Norris, M. Reese, C. Taylor, E. Winkler, and R. Wright.

MASSACHUSETTS (3)

M. Butler, J. Christiansen, and R. Lamonica.

MICHIGAN (12)

J. Beavers, T. Belser, M. Brown, L. Carl, E. Flowers, J. Francis, E. Herrick, B. Marker, D. Porcelli, A. Rodriguez, B. Schaffer, and M. Williams.

MINNESOTA (7)

C. Buckingham, T. Clark, A. Seymour, C. Stibbins, J. Stibbins, unid. male, and unid. female.

MISSISSIPPI (11)

J. Feathers, L. Gordon, M. Gordon, L. Grayson, C. Ladner, H. Moore, R. Redmond, M. Smith, T. Spicer, T. Thornburg, and G. Weatherspoon.

MISSOURI (30)

B. Britton, C. Byrd, R. Cavin, D. Cobb, K. Colunga, J. Cook, R. Duffiled, T. Edie, J. Ely, J. Franklin, B. Gonnella, R. Green, T. Hicks, D. Inlow, J. Johnson, J. Mier, G. Miller, C. Mueller, M. Novogradac, D. Robey, A. Robinson, D. Robinson, K. Ryan, E. Scott, R. Smith, L. Stieger Jr., R. Thompson, J. Tyler, R. Walker, R. White, unid. male, and unid. female.

NEBRASKA (5)

K. Brown Jr., R. Farrell, I. Hurley, P. Rhodes, and B. Steele.

NEVADA (3)

G. Arzadon, J. Johnson, and V. Perdicho.

NEW JERSEY (4)

E. Algarin, A. Binyamain, M. Cooper, and G. Richardson.

NEW MEXICO (2)

D. Durham and R. Logan.

NEW YORK (22)

L. Blount, K. Bowman, R. Brown, G. Campbell, E. Cheong, C. Donatelli, M. Donatelli, V. Donatelli, B. Lee, B. Maykovich, L. McGraw, T. Newman, C. Nitzke, P. Penny, S. Portela de Aguiar, I. Steele, W. Steele, T. Tabor, P. Tine, S. Walker, S. Zwickert. and unid. male.

NORTH CAROLINA (11)

J. Bracy, R. Bridges, E. Brown, J. Hairston, A. Hill, J. Lutz, R. Mize, B. Poteat, L. Poteat, R. Rawls, and M. Southern.

OHIO (24)

J. Achtner, C. Collins, L. Edwards, J. Farrow, M. Goldstein, T. Gordon, G. Gussett, T. Harshaw, M. Hintz, J. Jelks, W. Johnston III, W. Keener, R. Lewis, M. Merles, T. Phillips G. Pritchard, S. Sibula, F. Smith, K. Smith, K. Smith, R. Smith, W. Watson, M. Woods, and unid. male.

OKLAHOMA (15)

D. Arter, S. Bagley, K. Caldwell, H. Danforth, E. Endres, C. Fulk, B. Gunn, T. Grubbs, R. Hall, B. Haze, L. Keffer, S. Keffer, D. Livingston, W. Riddle, and unid. female.

OREGON (9)

C. Baegl, G. Cheshire, G. Cheshire, E. Cleveland, D. Cleveland, G. Clinton, P. Metz, S. Staples, and B. Sutphin.

PENNSYLVANIA (13)

C. Austin, J. Dalton, L. Drummond, A. Fenchock, C. Hayes, J. Hayes, G. Jackson, Jr., D. Mofield, J. Myers, E. Oglesby, J. Phillips, M. Silvestri, and A. Willis.

SOUTH CAROLINA (6)

W. Adams, S. Bridwell, C. Foutz, K. Hicks, C. Hodges, and J. Maloy.

SOUTH DAKOTA (1)

P. Brooks.

TENNESSEE (15)

B. Arwood, L. Barham, G. Cameron, N. Collier, A. Glover, R. Harford, D. Jackson, J. McNiel, E. Newby, B. Porter, B. Spicer, E. Suggs, J. Taylor, B. Ward, and M. Washington.

TEXAS (68)

P. Aguilar, R. Aguilar, R. Aleman, M. Arismendez, J. Beane, L. Bledsaw, L. Bransom, L. Britton, P. Bryant, D. Cobb, G. Cooper, S. Cotton, R. Danziger, J. Davis, M. Deas, J. Dennis, G. Dupree, R. Elizondo, E. Enright, A. Galvan, C. Gongora, J. Gonzales, A. Gosnell, E. Hernandez, J. Hernandez, A. Herrera, L. Herrera, A. Janes, J. Keller, J. Knight, J. Longoria, J. Lopez, R. Lozano, G. Luna, M. Luna, R. Luna, R. Marshall, S. Martinez, T. Mendietta, H. Neal, L. Neal, S. Ozuna, B. Pena, E. Pipkins, M. Query, D. Randall, O. Richardson, J. Riojas, J. Robinson, R. Rollo, M. Ross, R. Ruiz, T. Satcherwhite, R. Smith, C. Sugarek, S. Tarkington, A. Taylor, J. Taylor, K. Thomas, B. Thompson, Jr., T. Clinton, R. Tolliver, J. Torres, O. Turner, N. Turner, G. Wilborn, Jr., unid. male, and unid. male.

UTAH (2)

T. Glashien and P. Tuipulotu.

VERMONT (1)

D. Tenney.

VIRGINIA (8)

D. Boney, D. Ferguson, W. Foster, C. Lemon, A. Mallin, R. McFadden, R. Plowden, and R. Vermillion.

WASHINGTON (6)

B. Beeks, C. Henderson, V. Lowrie, D. Nagel, A. Peters, and T. Ybette.

WISCONSIN (2)

R. Bergstrom and M. Wilson.●

FINANCIAL REPORT OF THE CONGRESSIONAL STEEL CAUCUS

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Ms. MIKULSKI. Mr. Speaker, in accordance with Executive Committee Order No. 1, I am respectfully submitting herewith the quarterly financial report of the Congressional Steel Caucus for insertion into the RECORD. The report is as follows:

FUND BALANCE STATEMENT

	Amount
Balance remaining (as of Dec. 31, 1979)	$112.47
Total revenues (Clerk hire and membership dues)	17,815.30
Total	17,927.77
Less expenses:	
January 1980	2,969.26
February 1980	2,662.06
March 1980	3,270.16
Total expenses	8,901.48
Remainder	9,026.29
Plus interest deposit	3.25
Total unexpended revenues (as of Mar. 30, 1980)	9,029.54

CUMULATIVE STATEMENT OF EXPENSES

	Amount
Salaries	$7,815.30
Travel	
Stationery	220.34
Postage	15.00
Telephone	147.48
Publications	73.60
Equipment	515.35
Printing	
Miscellaneous	114.41
Total expenses as of Mar. 31, 1980	8,901.48

CONGRESSIONAL STEEL CAUCUS DUES PAID AS OF MARCH 31, 1980

Bob Edgar, Allen Ertel, Robert Mollohan, E. Thomas Coleman, Robert Roe, Dan Quayle, Elwood Hillis, Melvin Price, Charles Wilson, Douglas Applegate, Ralph Regula, Clarence Miller, Henry Nowak, William Natcher, Austin Murphy, Louis Stokes, and Richard White.

Ray Kogovsek, William Moorhead, John Duncan, William Clinger, Joseph McDade, John Seiberling, George O'Brien, William Ford, James Santini, John Jenrette, James Oberstar, Paul Simon, Gene Taylor, Leo Zeferetti, Richard Shelby, Jim Lloyd, and Christopher Dodd.

Robert Giaimo, Gary Lee, Ronald Mottl, Joseph Addabbo, Robert Walker, James Hanley, Robert Michel, George Brown, Clement Zablocki, Clarence Long, J. William Stanton, William Clay, George Miller, Donald Bailey, James Quillen, Mary Rose Oakar, and Vic Fazio.

Samuel Stratton, Eugene Atkinson, Marc Marks, Dan Marriott, Sam B. Hall, James Scheuer, E. G. Shuster, Martin Russo, Dough Walgren, Robert Duncan, Jerry Lewis, John Conyers, Stanley Lundine, Adam Benjamin, Jr., J. M. Murphy, and William Brodhead.

Robert Davis, Gunn McKay, Carl Pursell, Don Ritter, John Murtha, Thomas Kindness, Edward Patten, Tom Bevill, John Buchanan, Ray Lederer, Thomas Luken, David Evans, Morgan Murphy, Michael Myers, G. V. Montgomery, Thomas P. O'Neill, William Harsha.

Barbara Mikulski, James Martin, Don Clausen, Benjamin Gilman, Bill Nichols, Richard Ichord, John Dingell, Gus Yatron, Peter Kostmayer, Bruce Vento, Lyle Williams, Robert McEwen, Donald Mitchell, Joseph Gaydos, Clarence J. Brown, and Nick Joe Rahall.●

PRIEST OF THE PEOPLE BIDS FAREWELL TO PARISH

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. GAYDOS. Mr. Speaker, on Monday, June 30, 1980, the parishioners of St. Michael's Roman Catholic Church in Munhall, Pa., lost the priest who has been an integral part of their lives and community for 33 years.

Msgr. Joseph S. Altany, renowned throughout the Pittsburgh Diocese as a fighter for the rights of ethnic people, bid farewell to the priesthood and the people he has served since 1947. More than 800 residents of the Steel Valley turned out for a testimonial on the eve of Monsignor Altany's retirement from the church after nearly 50 years.

But, if the priesthood was Monsignor Altany's vocation, championing the rights of the poor, the deprived, and the discriminated against, was his avocation and he excelled in furthering the cause of both.

Monsignor Altany entered his vocation in June 1931. He was ordained into the priesthood at St. Vincent's College in Latrobe, Pa. It was not long thereafter he began his avocation. That started when, as a young pastor at Our Lady of Consolation Church in Nemacolin, Pa., he watched as the notorious "Coal and Iron Police" charged, on horseback, into the ranks of striking coal miners, scattering them and pursuing them even to the steps of the church.

That experience set the tone for Monsignor Altany's belief that his pulpit would be used to teach justice and rights to his people. He fought that same battle against social injustice at St. Joseph's Church in Aliquippa, Pa., and he carried the standard with him when he assumed the pastorate of St. Michael's, "the Steelworkers Parish," in Munhall.

It was his belief ethnic people were not receiving their fair share of representation in government or civic affairs. So, Monsignor Altany worked, unceasingly, to instill in his people a sense of pride in their past and a sense of promise in their future. He wanted them to be proud, not just of what they were or had been, but of what they could and would be. He succeeded.

Education, this remarkable man knew, was the key. Education of the children and of their parents. It was the key to enlightenment and to fulfillment. He turned that key for the young and old. He taught them to understand the importance of being proud of themselves, the importance of their place in the community, the importance of becoming involved in the world around them, and, most of all, the importance of staying involved in that world.

He cultivated pride in being working people and the harvest reaped has been a rich one. His achievements are not stepping stones to his success but monuments to those he inspired: a new convent at Our Lady of Consolation in Nemacolin, a remodeled church hall and rectory at St. Joseph's in Aliquippa. And at St. Michael's in Munhall a legacy seemingly unsurpassable: a new school and social center, new altars, a new organ and chimes, an outdoor shrine to Our Lady of Fatima, a remodeling of the convent and rectory and the construction of a parish recreational park.

It is most appropriate, therefore, that sitting atop the bell tower of St. Michael's, 110 feet above ground, is a statue of the patron saint of those who labor—St. Joseph the Worker. The statue symbolizes the people of Munhall and the Steel Valley; it symbolizes the parishioners of St. Michael's and, indeed, it symbolizes the spirit of Monsignor Joseph S. Altany.

Mr. Speaker, on behalf of the Congress of the United States, I extend to Monsignor Altany congratulations on his retirement and our sincere wishes that God grant to him as many blessings as he has bestowed upon those who have come to know, respect, and love this outstanding priest of the people.●

THE AEROSPACE CORP. OBSERVES 20TH ANNIVERSARY

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. DORNAN. Mr. Speaker, I would like to take this opportunity to commend the Aerospace Corp., of El Segundo, Calif., on its 20th anniversary of service to our Nation's defense. This will be observed in connection with a meeting of Aerospace's board of trustees at the company's general offices on June 13, 1980. Gen. Alton D. Slay, Commander of the Air Force Systems Command, will be the principal speaker at a convocation of Aerospace employees that date, to recognize the company's important work and its creative people. The occasion will be a rededication to national security.

For the RECORD, I submit information about the Aerospace Corp. on its 20th anniversary.

Emerging in 1960 as a unique concept to satisfy new national defense priorities, Aerospace for two decades has contributed its expertise to America's military activities in space from conception to completion. The corporation's 20th year marks rededication to that purpose.

Aerospace's first 20 years have been important and exciting, years of significant change by any criterion. Its people have directly contributed to some of the most noteworthy elements of our Nation's defense.

In 1960, the ICBM strategic forces of the United States consisted of a few Atlas missiles. In 1980, this country has a powerful force of land- and sea-based ballistic missiles with multiple warheads. Aerospace people have contributed to their survivability, increased payload, and capability to reach targets.

Aerospace began its work only 33 months after the first manmade object was orbited around the Earth. Today about 1,000 defense spacecraft have been successfully launched by the United States, many of these by the Air Force, the aerospace industry, and by Aerospace as a team. Navigation, communication, Earth and space surveillance, manned and unmanned systems in which the company has played a central role, have produced results only optimists dared predict two decades ago. Moreover, technologies of integrated circuits, lasers, new materials, and many others—the results of research at Aerospace and elsewhere—have sprung up in this period.

The years 1960 to 1980 also were filled with challenges associated with the environment, energy, law enforcement, and transportation, each affecting the Nation's future. Aerospace has responded with planning and systems engineering capabilities, already developed for the Department of Defense to help solve these problems.

More than 3,700 people are employed at Aerospace, some 2,100 are skilled support personnel. More than half of the technical staff hold advanced degrees in a broad range of disciplines; about 1 in 4 has a doctorate.

Last December, I was pleased to participate with Aerospace's distinguished board of trustees, and Lt. Gen. James H. Doolittle (USAF, retired), former vice chairman of the board, in breaking ground for the new James H. Doolittle facility at Aerospace. On the occasion of the general's 83d birthday, no less. Within this structure during the next 20 years, creative people of the Aerospace Corp. will be performing their unique role as part of the Air Force-industry team that produces defense systems essential to our national security. The Nation will increasingly need space systems of growing complexity and reliability. Aerospace will help shape, manage, and improve these systems.

Again, Mr. Speaker, I would like to commend the Aerospace Corp. on its 20th anniversary of service to our Nation's defense.

The article follows:

ADDRESS BY GEN. ALTON D. SLAY

I certainly appreciate the tremendous weather that has been provided here today. This is not the Los Angeles that I have visited many times in the past, but I hope it's the Los Angeles of the future. This will mark, I think, a fitting day to start into your third decade.

You know, this marks an extremely important milestone, not only for Aerospace, but for the Air Force and the Air Force Systems Command. This milestone serves to recognize these people here in the center section—the 20 years employees, and it serves to recognize the benefit that the Air Force and the nation has derived from this fine organization.

You know, back in 1959, when a Congressional Committee recommended that a nonprofit organization be formed as a technical arm of the Air Force Ballistic Missile and Space business, they envisioned an institution which could provide very objective and highly competent technical advice and support to the Air Force. The result was The Aerospace Corporation, which was founded in June of 1960, and I would like to quote from its charter, "To aid the United States Air Force in applying the full resources of modern science and technology to the problem of achieving those continuing advances in ballistic missile and military space systems which are basic to national security."

Well, ladies and gentlemen, Aerospace has done that and Aerospace has done that well. The Air Force has, with your very, very valuable assistance, matured in both of these fields of endeavor, missiles and space. We in the Air Force Systems Command, The United States Air Force, DOD, salute all of you for those 20 years of work, hard work. You can be proud of your achievements, and contributions which have touched every single aspect of space, exploration, space flight and our missile program since 1960.

I could, this afternoon, review all of the many major programs that The Aerospace Corporation has helped us with in the past, or I could talk about the important work that you are doing for us and for others today. But, I won't do either of those things. There is no one in this city or this country that knows better than you what you have done and there is no one who knows better than you what you are doing today. So, instead I would like to spend a few minutes putting your work in the context of today's world, and tomorrow's. To do that, I am going to talk about some fairly unpleasant things, but in many ways this is a very unpleasant world that we live in today. It's going to get more unpleasant unless we can figure out a way to make things change.

When The Aerospace Corporation was founded, 20 years ago, we were without any doubt the strongest nation in the world. As a matter of fact, by any yardstick we were probably stronger than the rest of the world combined. The results of the Cuban missile crisis in 1962, just a couple of years after you were founded, serves as ample evidence of the fact of that strength. You will recall that when the Soviets were starting to deploy ballistic missiles in Cuba, President Kennedy said in essence, "Hey, gents, knock it off." And, the Soviets did just that. They actually had little choice in the matter. They knew that we had the conventional force to sink Cuba, if need be, and it was poised and ready to go. They also knew that we had the national will to do just that in the event it was required. But more importantly, they also knew that we had the overpowering nuclear might—in those days, basically the bomber force—to prevent any thought of nuclear blackmail. Our military power was at its peak as you started your two decades.

Back then, in those good old 1960 days, the Air Force had almost 350 major operating squadrons, some 16,000 first-line aircraft operating from nearly 250 major installations worldwide. Today, we have just 250 major force squadrons, not 350. We have 7,000 aircraft, not 16,000, operating from 134 major installations, not 250—and not nearly so worldwide.

On the other hand, since 1962 Soviet defense spending has grown at an average of five percent per year, every year, year-in, year-out, and that's in real terms. While, for a very large part of that time ours has either remained static or has gone down. During the 1970's, the difference between Soviet spending on things related to military research and development, military weapon systems acquisitions, and military facilities, exceeded that that the United States spent by $240 billion.

Now, to a country boy like me, that's a lot of money, and I have trouble visualizing $240 billion. So, let me tell you what that $240 billion, had we spent it during the 1970's, would have bought. It would have bought out the entire B-1 force of 244 airplanes, plus the entire Missile-X program, all its shelters and support equipment, plus all the current Trident missile submarines and all the Trident missiles, plus the total E-4 command post program plus 200 new CX transport aircraft, plus the entire planned buy of F-15's, F-14's, F-16's, A-10's, and F-18's, all 34 E-3 AWACS—we could have had a 20 percent pay raise for every man, and woman in the Air Force, and in the Army, and in the Navy and in the Marine Corps. We could have modernized our entire facility in the Air Force, Army and Navy, and still had a little change left over.

Well, what's the point of that analogy? It's certainly not to say what we could have done, but just to, in a visual sense, say what the Soviets did do with that money, not what we could have done. So, therefore, it's easy to see that the Soviets are now, and have been for 20 years, on a concerted R&D and military offensive. They've had a constant acceleration forward that's given them the momentum we lack. An already mature Soviet military acquisition sector grew over 30 percent during those 1970's and it grew 100 percent in the time that Aerospace has been in existence. We are being very directly challenged today, militarily by the Soviets, and that's not a challenge in the classic guns-at-the-ready sense, but it's more of a challenge to our position as the military power behind the resolve of the free world to resist Soviet aggression, and to deter Soviets from doing things that are not in line with our interests.

We are also being challenged on the technical front by the Soviets. Consider if you will the fact that the total number of Soviet scientists and engineers engaged in research and development activities is now approaching the one million mark. The largest technical manpower pool in the world, by far. As a data point, last year the Soviets graduated just under 300,000 engineers. We graduated 50,000 and that was a banner year for us. We have never graduated more than 52,000 engineers in any one year.

I'll give you another interesting statistic. The Soviets have three times as many engineers engaged in military research and development as do we. We have long maintained that we don't have to match the Soviet Union in quantity, because we have quality on our side, and quality makes the difference, but can we be sure today that one Aerospace engineer, for instance, is the equivalent of three Soviet engineers engaged in a similar project, and if that's so, with them-graduating six times the number of engineers each year that we do, how long do you think that that ratio will apply?

We are being severely challenged in the technical, economic and production sectors by our friends and allies in the West, and we have inexorably lost ground each year. Again, the statistics are far from pleasant, and I hate to repeat them, but they are fact. According to the Bureau of Labor Statistics, our productivity growth rate for the total economy is the lowest of all major nations and continues to decline, while Japan's rate has been increasing annually at 7.1 percent for the last 20 years, and West Germany's at four percent. The United States has been limping along at an average of 1.5 percent. Last year, we had a negative growth rate of 3/10th of one percent, in other words, we didn't grow at all—our rate went down.

A couple of years ago, the United States Council of Economic Advisors projected a 1½ percent economic growth rate over the next 10 years, or so. Right now, that looks very, very optimistic, but even considering the 1½ percent growth rate, France has projected to overtake us in total worker productivity in 1986, Germany in 1987, and Japan in 1988. If immediate action isn't taken by this country to turn that around, to reverse our decline in productivity growth rate, we are soon going to become a second-rate industrial power—it's in the cards; it's as inevitable as death and taxes. I think it's a gross contradiction to think that we can maintain our position as a first-rate military power with a second-rate industrial base.

Let me drape just a little bit more black crepe on you. We imported about $24 billion worth of non-fuel minerals in 1979. Of some 25 key non-fuel minerals that we track in systems command, the United States is self-sufficient in only one, and that's phosphates. And, we don't use too many phosphates in building weapon systems. Fertilizer people do, and maybe we put out a little of that too, but anyhow . . . why is that? Well, obviously it's due, in part, to the lack of ore deposits, but there are other drivers as well. In this country, there's an area the size of the United States east of the Mississippi where all types of mining are prohibited. There are also environmental restrictions in the rest of the country that make certain types of mining uneconomical or unattractive for investment. Now, don't take that as an editorial commentary on environmental laws and regulations, I'm only quoting a fact.

Today, this Nation is dependent on foreign sources for well over half of our total strategic mineral use. Many of the minerals come exclusively from foreign sources, and some are not so stable. In contrast, the Soviet Union is virtually independent of imported supplies. In fact, they are net exporters of some of these critical materials. Until a couple of years ago, we imported a lot of titanium for instance, from the Soviet Union.

Early in your 20 year life span, this country occupied a position of preeminence, as I said before. Preeminence in the relative power structure of the world, but for the most part of that 20 years, we have seen that relative power decline. Militarily, that relative decline has brought us to a position today which has been characterized as an equavalence of military power over the Soviet Union. Industrially and economically, that relative decline has brought us to a position today where much of our industry is much less efficient that Japanese, German, French or Italian industry—to the point where Japan last year produced more automobiles than we did, Japan produced last year more trucks the we did—to the point of dependence on foreign sources for most of our strategic minerals and to the point where we are required to pay whatever price is demanded by foreign powers for a large part of our energy resources.

Technically, more directly related to Aerospace, that relative decline has brought us to the point where we are soon going to be passed by several Western nations in technology. In fact, in many technical areas, this is very hard for a lot of people even in our business to believe or understand, but particularly in electronics, robotics, and machine tools, several countries are already ahead of us, like Japan, West Germany and even Sweden. The gap is widening. By any yardstick, we are being severely tested today, tested politically, militarily, economically, industrially as well. I can only see that testing continuing for the next several years unabated and even augmented. And, ladies and gentlemen, our ability to come to grips with these problems over the next several years, without losing our balance, can be, and in my opinion, will be the key to the future of this country.

I have talked about what our competitors, military, political, technical have been doing over the past couple of decades since you have been in existence to make things tougher for us, but make no mistake about it, our destiny is squarely in our own hands. It's not in the hands of Soviets, it's not in the hands of our political competitors, or our industrial competitors. We have it totally within our own capability, within our own grasp, to reverse all of these trends, if we set our minds to it. But, will we step up to the task? That's the $64 question.

Many years ago, Theodore Roosevelt said, and I'll quote him, "The things that will destroy America are prosperity at any price. Safety first instead of duty first, the love of soft living and the get-rich-quick theory of life. If we seek merely swollen, slothful ease and accept ignoble peace, bolder and stronger people will pass us by and will win for themselves the domination of the world." Some people think that that unhappy circumstance is just around the corner. I don't believe it for a minute, that we are going to let that circumstance happen. Our entire Nation on the other hand has been characterized throughout its history as having an abiding faith in the tooth fairy. We want to believe things are great, and we have always been very, very tardy in recognizing when things aren't great, and you think back over our history, and that has been our characterization.

Once we understand, unequivocally, that the tooth fairy has abandoned us, our history has also been just as marked by an abiding determination to set things right. Well, we're tardy again, and I don't think there's any doubt about that. We're still wanting to believe that the tooth fairy is going to visit us and leave that dime under our pillow. But, I do see some evidence in Congress, and the press, and around the country, talking to people, that we are finally waking up to the realities of life in the 1980's. We are starting to react, somewhat slowly and hesitantly, with a lot of zigging and zagging, but I believe that we are trying to come to grips with our problems and we are going to see a turn-around. But a turn-around during the descent after you have fallen off the cliff is not going to help you very much in getting back up to the top. We just can't afford to dawdle very much longer, or read our press notices.

You people in Aerospace have served this country well for 20 years. But, as you start into your third decade, you'll have ahead of you some very, very critical times. More than ever before, this country needs the kind of talent that's represented in this courtyard. We need highly competent scientists, highly competent engineers, highly competent technical people, and highly competent people that support them. All of those skills are characterized here. We don't have enough to do the things that we would like to do. We don't even have enough to do the things that we should do, so we have to make the most of what we've got. We can't afford to waste a single man year, or a man month, or a man day, of scientific and engineering talent, if you think about the statistics that I've just given you. It's of overriding importance that we not do things that are nice to do, but are not essential.

Ladies and gentlemen, it's been my distinct pleasure to be here on behalf of the Air Force and congratulate you for a first-class 20 year history and to exhort to you, to suggest to you and otherwise plead with you to do a first-class job in the future. We need everyone of you, and we need you very much at work doing the kinds of things that you do best.

Congratulations again, and thank you.●

PERSONAL EXPLANATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. MAZZOLI. Mr. Speaker, I was unavoidably absent from the House of Representatives on Friday, June 27, 1980. Had I been present, I would have voted: Aye on roll No. 378 to waive certain points of order against House Resolution 731, the conference report on S. 1308, to provide for an expedited and coordinated process for decisions on nonnuclear energy products; nay on roll No. 379 to recommit to the committee on conference, the conference report on S. 1308, to provide for an expedited and coordinated process for decisions on nonnuclear energy products; aye to roll No. 380, to waive certain points of order against the bill House Resolution 720, making appropriations for military construction for the fiscal year ending September 30, 1981; aye on roll No. 381, to make appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1981; aye on roll No. 382, to waive certain points of order against H.R. 7593, making appropriations for the legislative branch for the fiscal year ending September 30, 1981.●

TAX CUT: WHY NOT THE BEST?

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. GEPHARDT. Mr. Speaker, the Labor Department's economic indicators released yesterday add to the evidence that although the recession is slowing, it is far from over. The June unemployment rate, which has yet to be released, is expected to be as high as 8 percent.

Earnest consideration of a tax cut has begun. We cannot, however, let a tax cut proposal be tacked on to every bill before us; that would eliminate the necessity of carefully analyzing each proposal as to its merits and shortfalls. H.R. 7046, the Social Security Payroll Tax Credit Act, has been under consideration for some time and its merits and shortfalls are known. It will aid employees, employers, and self-employed alike by providing a credit equal to 10 percent of payroll taxes incurred. It has been estimated that the bill will create some 250,000 jobs, thereby reducing the unemployment rate.

Walter Heller, the noted economist, was recently quoted in U.S. News & World Report as saying that you can have a noninflationary tax cut if it is carefully written. H.R. 7046 is just such a tax relief plan; the Congressional Budget Office has indicated that the bill will reduce the Consumer Price Index by 0.2 percent.

The only questions before us are when to institute a tax cut and how much it should be. H.R. 7046 would provide a 10-percent credit starting January 1, 1981—it is designed to offset the increases in the social security tax rate that become effective at that time. Following is the text of the article from U.S. News & World Report for my colleagues and members of their staff who may have missed it.

TAX CUT—NOW IT'S A SURE THING

Chances for a tax cut in 1981, if not sooner, now look certain.

The chorus of key lawmakers, top advisers to past Presidents and even present White House officials is swelling daily in proposing or forecasting tax trims.

President Carter's inflation adviser, Alfred Kahn, calls a tax cut next year "inevitable." Says Al Ullman, chairman of the House Ways and Means Committee: "Next year, yes." So strong are prospects that Carter was widely expected to drop soon his official opposition to early tax reduction.

REAGAN'S PROPOSAL

Pressure on Carter mounted June 25 when Republican presidential candidate Ronald Reagan proposed a 10 percent, across-the-board cut in individual tax rates to take effect January 1. The plan, which Senate Republicans said would cost 36 billion dollars in the 1981 calendar year, would also speed up tax write-offs that businesses can take on buildings and equipment.

"Given the deteriorating economy, we simply can't afford to wait any longer to take the steps necessary to put such a productivity-oriented tax cut on the books by the year's end," said Reagan. The cuts would be the first in a three-year plan. Beginning in 1984, he would have individual tax rates automatically adjusted each year to soften the impact of inflation.

A band of Republican members of Congress immediately pledged to attach the proposal to most major bills under consideration in coming weeks in order to force a vote this year on tax cuts. They lost their first test vote June 26 by 58 to 38.

Senate Democrats scrambled to catch up, ordering the finance committee to write a tax-cut plan by September 3.

In contrast, the White House has yet to come up with a plan of its own. The President's longstanding opposition to an early cut did appear to be weakening. After months of ruling out any reductions until the 1981 federal budget was balanced, administration officials now are debating the size, shape and timing of cuts. They maintain the only firm decision so far is that any cuts should come next year, not in 1980.

Nevertheless, Kahn talks of a 20 to 25-billion-dollar tax cut. Charles L. Schultze, top White House economic adviser, says that tax action will be geared toward trimming inflation and increasing investment.

What's setting off the tax stampede is the recession unfolding in the midst of the presidential campaign. The business slump already is worse than the administration forecast in March. That means Carter will be fighting for reelection at a time when a rising number of people are out of work and business continues to slow—all building up the political appeal of a tax-cut proposal this summer. The White House is to give Congress a new economic outlook in mid-July. Though some politicians thought Carter might use that report to make a tax proposal, White House aides said no decision has been made.

Adding to the pressures on Carter, many lawmakers want action before they adjourn in October.

"If we wait until next year to recommend a tax cut, with the reorganization of a new Congress, it will be May or June before it is passed, and we will have lost nearly a year," says Representative James Jones (D-Okla.), a member of the Ways and Means Committee.

Private analysts also are urging Carter to focus on the sagging economy rather than on balancing the budget.

If the economy is not stimulated, "it would be the worst economic policy since the 1930s," warns economist Otto Eckstein, head of Data Resources, Inc. "We can afford 30 billion dollars in tax cuts." The sooner the administration announces it, the better, he says.

Behind the push for tax cuts, too, is the big hike in federal taxes set for next year. Social Security tax rates are rising sharply. Inflation is pushing taxpayers into higher brackets. The "windfall profits" tax on oil adds to the burden.

Economist Walter Heller estimates that if taxes aren't cut, the federal tax load will grow by some 60 billion dollars in 1981. "Even if we cut taxes by 30 billion dollars, that only eliminates half the increase in 1981," he argues. Heller was chairman of the Council of Economic Advisers under Presidents Kennedy and Johnson.

With cuts all but inevitable, the conflict in coming weeks will be on their form as well as timing.

BUSINESS BREAKS

As things stand, business is likely to get a bigger share than usual—and individuals a smaller percentage—of the new breaks. There is bipartisan support for more-generous write-offs to firms for investing in new plant and equipment. The idea is to spur such investment for short and long-term economic benefits.

A newly formed Committee to Fight Inflation, headed by Arthur Burns, former chairman of the Federal Reserve Board, proposed reductions in business taxes in each of the next five to seven years as a means to boost productivity.

A hot battle will center on relief for individuals. Republicans are pushing rate cuts like those proposed by Reagan that will put more money in people's pockets. Many Democrats and others argue, however, that this threatens to trigger a new spiral of inflation.

As an alternative, one idea to ease the bite of Social Security taxes, offered by Representative Richard Gephardt (D-Mo.), would give people an income tax credit for payroll taxes they pay.

"You can have a noninflationary tax cut" if it's carefully written, says economist Heller. In the heat of a campaign, however, such caution may be abandoned in the drive to cut taxes fast.●

H.R. 5341

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. LIVINGSTON. Mr. Speaker, I reluctantly opposed H.R. 5341 today in order to express my dissatisfaction with the Federal attempt to lock away valuable phosphate deposits in the Osceola National Forest.

It was painful for me to vote against a bill that contains H.R. 2690, the Kisatchie Hills Wilderness, a bill I cosponsored, and H.R. 5990, the Black Creek Wilderness, both of which are areas fully deserving Government protection as wilderness areas.

The Osceola National Forest in Florida is underlain with extremely rich phosphate deposits which if developed and closely monitored will create jobs, spur the economy, and still protect the scenic and recreational assets of the area.

I regret that a balanced approach cannot be undertaken between the environment and economic issues. Our Nation to be truly healthy must protect and enhance both interests.●

GOVERNMENT SPENDING AND DEBT

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. MOORHEAD of California. Mr. Speaker, the opinions of Thomas J. Leary of Glendale, Calif., are typical of the general concensus that many American citizens have about the high level of government spending and government debt. Mr. Leary has written me:

> The American people are laden with a four-level, i.e., Federal, State, County, and City (78,219 units of government), debt that already exceeds one trillion dollars with current annual interest load of $60 billion. The debt is growing daily at all four government levels and is heading the U.S.A. toward bankruptcy. That trillion dollar debt can be traced slowly and entirely to the needless interest on the needless borrowing. Unless the U.S.A., and every other nation in the world, changes its financing to a "directly issued into circulation" interest-free paper currency, the world is headed toward bankruptcy.
>
> At the most critical period in American history, our Civil War of the 1860s, when the "greedy" U.S. bankers wanted 28-percent interest on loans to the embattled U.S. Government, our President, Abraham Lincoln, demonstrated to the U.S.A. and to every other nation in the world how a national government can and should finance its operations. President Lincoln had his Congress authorize the printing and "direct issuance into circulation" of $450 million of U.S. interest-free paper currency.
>
> There is not any Member of our present Congress, Senate or House, that does not know that every President and session of Congress, before that of President Lincoln and particularly since that of President Lincoln, could have financed the U.S. Government in that legal and constitutional method demonstrated and illustrated by President Lincoln. That method completely eliminates the "curse" of interest which has led all countries in the world to the brink of bankruptcy. Their failure to do so is what has hung that "interest-bearing" trillion dollar debt around the necks of the American people, and unless the U.S. Congress promptly enacts the needed corrective legislation, the U.S.A. is headed for bankruptcy. Corrective legislation would enable the United States to pay off that trillion dollar debt in 20 years, thereafter putting all four levels of Government on an annual cash basis with no debt at the end of successive fiscal years.●

LETELIER'S MINIONS OPEN SMEAR ATTACKS ON CONSERVATIVES

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. McDONALD. Mr. Speaker, the comrades of Orlando Letelier, the murdered director of the Institute for Policy Studies' Transnational Institute (IPS/TNI), Marxist-Leninist, Ambassador of the Allende Unidad Popular regime and KGB agent of influence on Capitol Hill, are still trying to distract attention from Letelier's role in working with the Soviet and Cuban intelligence services and, more importantly, from the implications for IPS/TNI of that revelation. Last Wednesday, June 25, 1980, four individuals from the further shores of U.S. politics forged out into the lead of a smear campaign against this Congressman and other conservatives, most of them journalists or former American intelligence officers, who dared to incur their spite by investigating and reporting objectively on Letelier.

Last Wednesday morning, members of the Citizens Research and Investigation Committee (CRIC), which operates from 351 South Glenroy Avenue, Los Angeles, Calif. 90049, 213/476-7250, and from 2337 Greenfield Avenue, Los Angeles, 213/478-1169, held a press conference in the Methodist Church Building to publicize several of their books and delivery of a compost heap of distortion, innuendo, character assassination, and falsehood they termed a "report" to the U.S. Department of Justice.

The purpose was to publicize their assertions that this Congressman, Mr. David Atlee Phillips, founder of the Association of Former Intelligence Officers, Accuracy in Media, National Review and its publisher are criminals for having brought Letelier's activities to light. Having no apparent regard for truth but demonstrating an equally apparent working knowledge of Goebbels and Josef Stalin's "Big Lie" technique, the CRIC group made untrue claims about what the investigation of Letelier had uncovered.

As for the work of investigative journalists utilizing documents from Letelier's briefcase as the basis for work revealing that Letelier had been under investigation during the 1960's while an official of the Inter-American Development Bank as an agent of the KGB, that he was receiving money from Cuba and the World Peace Council (WPC) and using it to make payoffs to at least one U.S. Congressman, and that he was meeting regularly with top-ranking Soviet, East German, and Cuban intelligence and diplomatic personnel, CRIC dismissed the information as a disinformation conspiracy hatched by the former Chilean intelligence agency, DINA, and the CIA.

The CRIC group consists of Donald Freed, coauthor with Mark Lane of the novel, "Executive Action," alleging that the CIA assassinated President Kennedy; author of the play, "Inquest," presenting the Rosenberg/Sobell atom spying convictions as the result of an FBI conspiracy; and other works; Fred Landis; John Cummings, a longtime reporter for the Long Island daily Newsday who has been coauthor with Ernest Volkman of a number of articles attacking U.S. intelligence agencies for Penthouse magazine; and William F. Pepper, an attorney and holder of a Ph. D. in education.

The CRIC distributed a 29-page packet of materials allegedly providing corroboration to their charges. The packet opened with a letter from Pepper—1 Atlantic Avenue, Westerly, R.I. 02891, 401/596-0106, and 8 East 48th Street, Suite 3C, New York, N.Y. 10017, 212/759-3223—to Philip B. Heymann, Assistant Attorney General of the Criminal Division, asking for a personal meeting at which to make a request for a Federal grand jury investigation into:

> (1) The involvement of former U.S. Senator James Buckley due to the now clearly documented visit to his New York office by convicted assassin Michael Townley exactly one week prior to the assassination, * * *.
>
> (2) The possible violation by William F. Buckley of federal law by not registering as an agent of a foreign government in light of his now well-documented activities on behalf of the Chilean government.
>
> (3) The role of Edwin Wilson, Frank Terpil and others in apparently providing explosives utilized in the actual assassination.

Not being granted their personal interview with the U.S. Attorney General and his assistant, Freed, Landis, and company did the best they could to provide sensationalized charges to the media.

Pepper said that it was important to place the killing of Letelier in the correct historical perspective as part of a chain of U.S. intervention in foreign countries including Guatemala, Lebanon, and Vietnam. The disclosure of Letelier's hostile foreign intelligence connections was the result of CIA influence on the media. Pepper added another chain by asserting the murder should be seen by the reporters as part of a series of CIA assassinations including Patrice Lumumba, Malcolm X, Martin Luther King, John F. Kennedy, and so on.

WILLIAM F. PEPPER

The biographical information provided on William F. Pepper at the press conference stated he is an international attorney who spends much of his time in Europe, Africa, Asia and the Middle East. He also has a doctorate in educational psychology and administration. * * * He has published both trade and textbooks, with, the most recent books being texts on sex discrimination in employment * * *. He has been professionally trained at Columbia College in Columbia University, London School of Economics and Political Science, University of Pennsylvania Law School, University of Massachusetts, and Boston College Law School.

Pepper's curriculum vitae stated he has "been a guest lecturer at 40 colleges and universities in the United States and abroad."

The CRIC does not mention testimony provided to the Senate Internal Security Subcommittee in June 1969, "Extent of Subversion in Campus Disorders," regarding Dr. William F. Pepper, executive director of the National Conference for New Politics and author of a January 1967 Ramparts magazine article, "Children of Vietnam," that he was the subject of a criminal complaint "for carnal abuse of * * * two young male children."

William Francis Pepper, date of birth August 16, 1937, according to the testimony of Yonkers Police Department Detective William E. Grogan, by omission or commission, has made statements contrary to fact. Mr. Pepper has listed himself on many applications as having degrees and attending schools which he has not attended and degrees which he does not possess.

Detective Grogan testified that Pepper had claimed to be a nephew of the now Congressman, former Senator Claude Pepper. However, in attempting to check this we have been informed there is a letter from Congressman Pepper which states that he has absolutely no relation to William Francis Pepper.

The testimony continued that Pepper had listed a false résumé in the brochure for a private boys school he ran in the late 1960's as:

> Being a recipient of the Charles Heyden Memorial Scholarship while attending Columbia Teachers College in New York City. A check with that college discloses that they have no knowledge of a Charles Heyden Memorial Scholarship nor has there ever been such a scholarship issued out of Columbia University.
>
> Mr. Pepper lists himself as attending the graduate faculties and Teachers College of study. The records of that particular unit of Columbia College indicate that he has never been in attendance there.
>
> Mr. Pepper lists himself as attending the London School of Economics and Political Science in 1960. He did attend that school, but not as a registered student. He was allowed only to attend the class and not to take any tests or receive any diplomas. * * * Mr. Pepper lists himself as a doctoral candidate through the New School for Social Research. A check with the New School for Social Research in New York City indicates that Mr. Pepper was only a candidate for admission to that school, never a candidate for a Ph.D. * * *
>
> Mr. Pepper goes on to state that he is * * * a lecturer on over 40 college and university campuses. * * * It is believed that in the cases of all the 40 college and university campuses he was invited there not by the faculty but student groups.

The Senate testimony went on to reveal that Pepper wrote to his draft board to get a student deferment by falsely stating he was attending Howard University Law School—a felony offense.

It is noted that Pepper is a member of the Rhode Island bar, and that his New York address and telephone number are those of the flamboyant radical lawyer Florynce Kennedy.

DONALD FREED

Born May 13, 1932, Donald Freed in 1969 was a leader of the John Brown Brigade and chairman of Friends of the Panthers, support groups for the violence-prone revolutionary Black Panther Party (BPP). In the fall of 1969, Freed and Elizabeth Sutherland, wife of actor Donald Sutherland, were arrested and charged with possession of hand grenades they purchased on behalf of the Black Panther Party from an undercover police officer. They were acquitted of the possession of hand grenades charge on the grounds that they would not have been able to possess them had they not been provided by the police officer.

Throughout the 1970's, Freed remained an active BPP supporter, sponsoring in March 1975 the Committee for Justice for Huey P. Newton, the BPP leader then a fugitive on murder charges in Cuba. Forming CRIC in 1973, with the production of "Executive Action" with Mark Lane, Freed became a premier conspiriologist, finding the hand of the CIA in the deaths of almost every U.S. and foreign postwar leader.

In 1975, Donald Freed became active with the anti-CIA circle around Philip Agee's notorious Counter-Spy magazine, and with a prototype of the grassroots groups attacking the U.S. foreign and domestic intelligence agencies called the Campaign for Democratic Freedoms (CDF).

The highly advertised feature of the CDF conference, "Conspiracy in America," held May 16-18, 1975, at the University of California at Los Angeles was a broadcast live interview and conversation between Freed and Philip Agee, then residing in London and holding his frequent meetings with the Cuban DGI station chief.

On December 1, 1976, Donald Freed and his coauthor and colleague Mark Lane appeared at a Washington, D.C., press conference with Oakland BPP lawyer Fred J. Hiestand, local District of Columbia counsel Bruce J. Terris, and BPP leader Elaine Brown to publicize filing of a lawsuit against the FBI and CIA.

It is noted that in January 1977, Mark Lane and his Citizen's Commission of Inquiry (CCI) held a Capitol Hill press conference arranged by Representative RONALD DELLUMS, Democrat of California, to plead for additional funding for the House Select Committee on Assassinations, of which DELLUMS was a member.

The CCI distributed literature demonstrating its interlocking leadership with the Institute for Policy Studies (IPS), Counter-Spy magazine and the Center for National Security Studies (CNSS). CCI's leaders included Richard Barnet, IPS; Robert Borosage, CNSS director and IPS trustee; Tim Butz, Counter-Spy; Donald Freed; Morton Halperin and John Marks, both CNSS and Counter-Spy; George O'Toole and L. Fletcher Prouty, Counter-Spy; and Marcus Raskin, IPS and Counter-Spy.

FRED SIMON LANDIS

The biographical material distributed on Fred Simon Landis in the CRIC packet stated:

> Fred Landis has taught Political Science at the University of Illinois at Urbana, where he was awarded a Ph.D. for his dissertation, "Psychological Warfare and Media Operations in Chile: 1970-1973." Dr. Landis was to begin a research project for INTEC, an agency of the Allende government on September 15, 1973. Instead he obtained press credentials from the military junta, served as a guide and interpreter to foreign reporters, salvaged books and documents of the Popular Unity government intended for destruction, and interviewed military officers who led the coup. Landis founded and directed the Center for Chilean Documentation, Champaign, Ill., which served as a clearinghouse for information about the Popular Unity Government.
>
> In 1976 he was a researcher with the Senate Select Committee (the Church Committee) and later became Director of the National Study Committee on Indochina's War Crimes Project.

I should like to point out that this morning my office called the Senate Intelligence Committee and that their spokesman said that they have no record of Fred Landis ever having been on their staff. He offered them information as a member of the public.

Landis repeatedly refers to alleged unpublished reports and studies by the Church committee; but these may be as much a fantasy and fraud as the academic credits claimed by his colleague, William Pepper.

The CRIC biography of Fred Landis continues:

> Orlando Letelier wrote an article in December 1975 for the Mexican daily Excelsior (with editor Julio Scherer) reporting on Dr. Landis' findings concerning CIA Psychological Operations in Chile and in 1976 had the entire dissertation translated into Spanish by Casa de Chile.
>
> Within one month of the assassination of Dr. Letelier, Landis had compiled a report, based on previous modus operandi, which pointed the finger at Rafael Otero Echeverria and Michael Townley. Copies of this report were given to the Washington Police, the FBI, the Washington Star, the Institute for Policy Studies, and Counter-Spy.

Apparently no one has thought to question how Fred Landis allegedly was able to determine that Michael Townley was the murderer of Letelier within only a month. Landis, Freed, and company are so eager to have those who exposed Letelier's KGB and DGI connections hauled before a Federal grand jury, that perhaps a return favor would be in order. The penetration of anti-Castro Cuban exile groups by Cuban secret police agents provocateur is a subject long overdue for thorough investigation. Far better than a Federal grand jury in this field would be a restored House Committee on Internal Security.

The CRIC biography of Fred Landis concludes:

> Landis is currently a free-lance writer whose work has appeared in The London Daily Mail, The Manchester Guardian, The Washington Post, The Chicago Daily News, Liberation, Inquiry, the Ann Arbor Free Press, Society/Transaction, and Covert-Action.

This again is misleading. The Congressional Research Service was able to find only one article under Landis' byline, an article in Inquiry magazine in February 1979. Considering that an article based on Landis' report appeared under the byline of Winslow Peck, alias Perry Fellwock, in Counter-Spy magazine, volume 3, No. 2, published in November 1976, it is reasonable to conclude that only his work, that is, an article containing some element of his wild charges—not any credited article—has appeared in the above list of publications.

The exception is the Covert Action Information Bulletin (CAIB), the magazine Philip Agee, William Schapp, Louis Wolf, and three others launched in Havana, Cuba, during the 11th World Youth Festival in 1978 to revive the Counter-Spy tradition of disrupting U.S. intelligence activities by disclosure and exposé.

Landis, described as "a former researcher" for the Senate Select Committee on Intelligence and as a "journalist in Santa Barbara, Calif.," produced an article in the January 1980 issue of the CAIB denouncing the anti-Castro opposition newspaper in Jamaica, the Daily Gleaner, as CIA controlled.

The Institute for Policy Studies and Philip Agee, whose entry into the Netherlands in 1977—from which he was later expelled—was facilitated by the Amsterdam office of IPS's Transnational Institute, have been active for several years in leading a press smear campaign in support of the pro-Castro and pro-Soviet government of Michael Manley in Jamaica by denouncing the opposition Jamaican Labour Party, its leader Mr. Edward Seaga, and the pro-Labour Party newspaper, the Daily Gleaner, as "CIA agents." In 1977, prior to the elections, Philip Agee joined with Ellen Ray of the CAIB and its predecessor, Counter-Spy; with Letelier's successor as chief of the TNI, Saul Landau; and others of the IPS/TNI apparatus in going to Jamaica to personally conduct the smear campaign.

Virtually identical articles have recently appeared by IPS/TNI fellow Michael Moffitt, following a May 19, 1980, propaganda extravaganza in Kingston, Jamaica, put on by local leftist journalists at which Fred Landis, in the words of the Cuban news agency Prensa Latina, charged the CIA is "clumsily utilizing the Gleaner Company's publications."

The Cuban report described Landis as "adviser and investigator for the U.S. Senate committee that wrote the report on the CIA's covert activities in Chile between 1963 and 1973."

PRESS CONFERENCE

The CRIC group distributed a three-page summary sheet by Landis which allegedly provided facts backing up CRIC's claims that a former diplomat and journalist with the anti-Communist Chilean military government stationed in Washington in 1976, Rafael Otero Echeverria, and David Phillips "are, at least, accessories after the fact in the Letelier-Moffitt assassinations."

Landi's fevered rhetorical document read in part:

> Otero Echeverria was a penetration agent in a political party [the Radical Party, part of the Unidad Popular Marxist coalition], the owner of record of a CIA-funded wire service, the publisher of a CIA-funded magazine, a penetration agent in the Cuban news agency Prensa Latina, * * *

Mr. Landis does not seem to recognize any threat from the fact that the Cuban Prensa Latina is the Spanish-speaking twin of the Soviet news agency TASS in that both provide covers for intelligence personnel and that any free world security service worth its salt would hope to have quite a few of its agents inside it.

Landis denounced Mr. Otero's Chilean wire service and magazine, both called SEPA, as having "performed the following subversive functions for the CIA." And this is what Landis calls subversive; SEPA "carried coded messages to resistance groups; carried columns by such CIA media agents as Eudocio Ravines and Robert Moss; reprinted CIA press placements from other media outlets." And so forth.

By "CIA press placements," Landis made it clear at the press meeting that he means any article, editorial, or report that says true things about the Communists. As for Landis, slander against the distinguished British specialist in reporting on terrorism, and Soviet military, espionage, propaganda, and subversive activities, it would appear that Landis' animosity toward Robert Moss stems from Moss' temerity in writing a book documenting the role of the terrorist Cuban-trained MIR as President Allende's shock troops for revolution in Chile.

Landis was asked by Reed Irvine, editor of the Accuracy in Media (AIM) newsletter, whether he condemned only CIA destabilization and alleged propaganda, or if he would also condemn such activities if carried out by the Soviet KGB and Cuban DGI.

After proclaiming that he had been born in Chile and had spent most of his life there, Landis emotionally responded:

> The CIA spent $12 million in Chile saying that certain violent actions would occur, that people would be murdered, that people would be put in concentration camps, * * * that there'll be torture and mayhem if an alleged Communist, Allende, were elected. He was elected; he was President for three years and nothing of the kind happened.
>
> In 1973 [there was] a coup which was the result of a three-year CIA propaganda and disinformation program targeted at the military. After that, all the things that the CIA said the Communists were going to do, they did themselves.
>
> So if I have an ideological bias in this matter, it's simply that life has taught me slowly and painfully that the CIA uses the KGB and the Communists as a scapegoat and a cover for what they intend to do—specifically in my country.

Landis went on:

> * * * From 1970 till 1974, every important cabinet minister in the Allende government was assassinated, not by the DINA, by the CIA or by agents working for them, or by [anti-Castro] Cubans infiltrated into the country. So it was not the KGB or the Communists who created all this mayhem in my country, Chile; it was—and the United States Congress has investigated it * * * I have to accept that the major responsibility for what happened in Chile were the activities of the CIA.

Landis adamantly refused to speak a single word in criticism of either the Soviet or Cuban intelligence services. Freed and Cummings declined to answer at all; but Pepper announced: I am not now nor have I ever been a supporter of the KGB, the DGI, the Mossad or anybody else. I cannot influence things in the Soviet Union; I can influence them here in the United States. This is, of course, the usual copout of the anti-CIA crowd to justify blinding the United States while leaving the KGB unhindered.

Pressed by the journalists to make plain their allegations about David Phillips, former head of the CIA's Latin American operations, and head of the Association of Former Intelligence Officers (AFIO) which Freed termed "a front group," Freed said:

> Together with other former officers, Mr. Phillips circulated forged and translated material from the missing briefcase of Dr. Letelier. * * * [to] sources in the media who over the years had been mentioned by the Senate Select Committee on Intelligence such as Mr. [Jeremiah] O'Leary [Washington Star]; Mr. [George] Lardiner [Washington Post]; and others—Mr. [William] Buckley; the newsletter in question today [AIM Report]; a magazine called National Review; Mr. [Ralph] de Toledano; Mr. Evans, Mr. Novack and a number of other men identified in Senate Select hearings as having been 'elite media assets' of the intelligence establishment. * * * We were able to identify the chief operator in this disinformation campaign as Rafael Otero Echeverria and his former spymaster, David Atlee Phillips.

After this breathless run through the fields of fantasy, Freed lowered his voice and told the assembled journalists:

> That is the kind of information and other names that we are attempting to bring before the Justice Department because this * * * constitutes obstruction of justice and accessory after the fact in murder.

Asked how the CRIC group knew the disinformation campaign was run by Mr. Otero, Landis said it was because press stories on the Letelier murder seeking an official Chilean reaction commenced, "According to Public Affairs Counsellor at the Chilean Embassy Rafael Otero Echeverria." Landis admitted that Otero had appeared on television and radio, "He was an official spokesman for the Chilean Embassy at that time."

Asked how CRIC could document their allegation that the missing Letelier briefcase had been given by Washington police to Otero, Landis told reporters to read the new book on the murder coauthored by IPS/TNI codirector Saul Landau and Washington Post reporter John Dinges.

Asked by another reporter what, if anything, was new in their allegations, Freed said they had a former assistant U.S. attorney working with them who would state that the FBI and CIA knew 2 months in advance that Letelier had been targeted by anti-Castro Cubans.

Next, said Freed, they had discovered a new sort of conspiracy. Admitting that "it's not the simplest thing in the world," Freed said:

> What you have now since the big purges in 1975 after Watergate and Chile is a whole series of former intelligence officers operating now without control, operating on their own and at arms length from their former agencies, intervening, planting false stories and conducting disinformation campaigns.

"Why aren't they held before a grand jury?" he whined, giving no indication he had ever considered that ex-intelligence officers might have first amendment rights.

Premier conspiriologist Freed charged that "murderer Michael Townley met with [former New York] Senator [James] Buckley a week before the murder," again citing Saul Landau. He found it especially significant when the convicted murderer meets * * * a man like Senator Buckley who is closely associated with the American-Chilean Council who, you may remember, the Justice Department found last year that William Buckley and others were guilty of not having registered as agents of the junta in Santiago. You may remember that. That's a Justice Department finding.

If the assembled journalists did remember such a thing they were in error because while the American-Chilean Council and its director, Marvin Liebman, were found to have violated the provisions of the Foreign Agents Registration Act, the council's members and advisers were not.

Freed said,

> So we're not talking about a casual cup of tea between Mr. Townley, the murderer, and some Senator. We're talking about the Buckley brothers who are deeply involved in planting false stories immediately after the murder * * *

Landis, Freed and others appeared nonplussed when reporters reminded them that Mrs. Letelier and her lawyer, Michael Tigar, had had the briefcase in their possession and had permitted a Washington Post reporter, Lee Lescaze, to examine it; and that not once in 3 years had they charged the documents—the account books, letters, daily appointment book, et cetera—were forged. Freed admitted that for her part, Mrs. Letelier had refused to return his phone calls or in any way become personally involved with his CRIC.

The press conference ended not with a bang, but a whimper; and no reporter present thought to query Landis about his false claims of work on the Senate Select Committee on Intelligence or who gave him access to alleged draft and unpublished committee reports, or about the fact that Intelligence Committee spokesmen deny all knowledge of him as a paid committee staffer, saying he volunteered information as a member of the general public.●

EQUITY FOR RETIRED TAXPAYERS

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. THOMAS. Mr. Speaker, I rise today for myself and my colleague from California, Mr. TONY COELHO.

We are seeking bipartisan support for H.R. 6981. This bill is a remedial modification to section 72 of the Internal Revenue Code. The change will benefit persons who retire with pensions paid for partly by their employers and partly by themselves. Private annuities are not affected, nor are pensions paid for entirely by the employer. Revenue impact estimates have been requested and are being prepared. Impact is expected to be nominal.

Most employees receiving benefits from an employee pension or annuity plan will recover the cost of their pension or annuity contract within 36 months after they receive their first benefit payment. If so, no tax will be due until the cost is fully recovered. Thereafter the payments will be taxed as ordinary income. If, however, the cost is not recovered within the 36-month period, under current law, the general annuity rules will apply. Under these rules, the tax-free portion of annuity income is spread evenly over the retiree's life expectancy. However, the exclusion remains the same no matter how long the annuitant lives. This can benefit the retiree if he outlives his actuarial life expectancy. But it can be detrimental if he dies before recovering his full contribution.

The Internal Revenue Code does not give the pensioner a choice. If his investment is recovered in 36 months or less, he must exclude all pension payments from taxable income until he recovers an amount equal to his investment. However, if his investment is recovered in 37 months or more, he has no choice but to include substantially all his pension in income starting with the first payment received.

This can result in a form of double taxation. Not only are the present rules compulsory, they are arbitrary because there is no rational distinction between a retiree who recovers his investment in 36 months and one who recovers it in 37 months or more. The only distinction, and it is not rational, is that one pays taxes on his pension immediately upon retiring, and the other does not.

H.R. 6981 remedies this inequity by granting the taxpayer full freedom of choice. He may elect to exclude all payments until his investment is recovered, or if he prefers, he may elect to come under the general (proportionate) annuity rules. The bill removes the arbitrary limitations and allows the taxpayer to pick the method he expects to be most beneficial. Most taxpayers will choose the 100 percent front-end exclusion, but there will be some who will choose the lifetime exclusion ratio method.

The alternatives may be illustrated by the following examples:

Let us assume a pair of twins, Bill and Tony. On their 65th birthday they both retire from the same employer who paid for most of their retirement annuities. However, because they started their employment on different dates, even though they contributed the same amounts for their annuities, they will receive different pension amounts.

Bill contributed $4,925 toward his pension, and upon retirement began receiving $200 per month from the pension. Since the amount he can expect to receive during the first 3 years—36 months × $200=$7,200—is equal to or more than Bill's contribution, he must exclude his pension from taxable income until the payments total $4,925. After that, Bill's payments are fully taxable.

Tony, on the other hand, contributed $4,925 toward his pension but because his employer did not contribute as much as he did toward Bill's annuity, Tony will only receive $125 per month. Since the amount he can expect to receive during the first 3 years—36 months × $125 = $4,500—is less than Tony's contribution, he cannot exclude his pension from taxable income. Instead, he must use the general annuity rules which result in an exclusion of $27 of each $125 in pension income. In other words, he will pay tax on $98.

At the end of 2 years, Bill will have paid no tax on his pension while Tony will have paid tax on $2,352.

Of course, thereafter Bill will pay tax on everything he receives from his pension while Tony will go on excluding $27 of each $125 he receives.

H.R. 6981 gives both Bill and Tony the option when they retire to choose the tax treatment they prefer.

The amendments to the Code made by H.R. 6981 apply to pensions that began after December 31, 1976. This gives recent retirees the option of amending their tax returns to get the remedial benefits that otherwise would be available only prospectively. The date of December 31, 1976, was chosen because it is consistent with the normal 3-year limitation for amending Federal income tax returns.

The text of H.R. 6981 is as follows:

H.R. 6981

A bill to amend the Internal Revenue Code of 1954 to provide that, in the case of an employee annuity, the employee may elect to exclude from gross income all amounts received by the employee under the annuity until the employee recovers his consideration for the annuity, without regard to whether such consideration is recovered during the first three years of the annuity.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (d) of section 72 of the Internal Revenue Code of 1954 (relating to employees' annuities) is amended by redesignating paragraph (3) as paragraph (4), and by striking out paragraphs (1) and (2) and inserting in lieu thereof the following new paragraphs:

"(1) EMPLOYEE MAY ELECT TO RECOVER EMPLOYEE CONTRIBUTIONS FIRST.—Where—

"(A) part of the consideration for an annuity, endowment, or life insurance contract is contributed by the employer, and

"(B) the employee elects to have this subsection apply,

then all amounts received as an annuity under the contract shall be excluded from gross income until there has been so excluded an amount equal to the consideration for the contract contributed by the employee. Thereafter all amounts so received under the contract shall be included in gross income.

"(2) NONDEDUCTIBLE OWNER-EMPLOYEE CONTRIBUTION TREATED AS EMPLOYEE CONTRIBUTION.—For purposes of paragraph (1), any contribution made with respect to the contract while the employee is an employee within the meaning of section 401(c)(1) which is not allowed as a deduction under section 404 shall be treated as consideration for the contract contributed by the employee.

"(3) ELECTION.—The election under paragraph (1)—

"(A) shall be made at such time in such manner as the Secretary shall by regulations prescribe,

"(B) shall apply to all amounts received as an annuity under an annuity, endowment, or life insurance contract, and

"(C) may be revoked only with the consent of the Secretary."

(b) Subparagraph (B) of section 72(m)(2) of such Code (relating to computation of consideration paid by the employee) is amended by striking out "recoverable in 3 years" and inserting in lieu thereof "recovered first".

(c) The amendments made by this Act shall apply to contracts under which an amount is first received as an annuity after December 31, 1976, in taxable years ending after such date.●

H.R. 7712

HON. W. HENSON MOORE

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. MOORE. Mr. Speaker, I am today introducing legislation to clarify the application of the preemption provisions of the Employee Retirement Income Security Act of 1974 in the case of certain employee welfare benefit plans.

To provide uniform rules governing employee benefit plans, ERISA, in general, preempted applicable State laws. However, recognizing the State's traditional role in regulating the insurance industry ERISA does not preempt State insurance laws.

A problem has arisen in the case of certain organizations that provide various kinds of insurance to employees of several employers. The organizations are referred to as Multiple Employer Trusts or MET's. Some of these MET's have received contributions from employees but have not provided any benefits. The employee in most cases either cannot find the organization when he or she seeks to reclaim their contributions or lacks the funds to sue.

Should the MET be located and cited by a State for insurance law violations, the MET adopts the position that technically it is an employee welfare benefit plan and not an insurance company subject to State regulation. This position benefits the MET because it is not subject to the State's strict insurance laws and is only required to comply with certain of ERISA's reporting and disclosure requirements.

Several courts have rejected this argument and held MET's subject to State insurance laws. However, judicial remedies are costly and time consuming and do not provide a permanent solution.

The legislation I am introducing today provides a permanent solution and will help to protect employees from questionable practices, by requiring organizations that claim to be employee welfare benefit plans, to seek a prior determination from the Secretary of Labor. It is contemplated that the Secretary in issuing the determinations will take into account such factors as an organization's financial condition, affiliation with other groups, prior performance record and character of its officers, shareholders, directors, or trustees. In appropriate cases a group determination letter may be issued.

To provide a more effective enforcement mechanism a State's attorney general or other legal officer may request an employee welfare benefit plan determination.

The legislation provides employees with an additional safeguard and allows ERISA to be applied in a manner consistent with Congress original intention.●

THIS WAY TO THE TAX CUT

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. GEPHARDT. Mr. Speaker, the race to balance the Federal budget, now past history, has been replaced by the race to find a suitable tax cut—with the competitors coming from either side of the aisle. There appears to be no doubt that some form of a tax cut will prevail, but which one? According to Tom Wicker of the New York Times, despite Governor Reagan's fancy footwork last week, the most needed and promising approach is providing individuals with credits against the increase in social security taxes scheduled for January.

H.R. 7046, the Social Security Payroll Tax Credit Act, would provide just such a tax cut equal to 10 percent of payroll taxes. The bill benefits employees, employers, and self-employed alike and, according to the Congressional Budget Office, it will have an anti-inflationary impact. We cannot afford to be spectators in this race, consideration and action must occur soon. Following is the text of Tom Wicker's article for my colleagues and their staff:

THIS WAY TO THE TAX CUT

(By Tom Wicker)

Politics, someone has said, depends on short memories. But is there anyone of voting age who cannot remember, as Republicans and Democrats race each other to a tax cut, that just last spring Republicans and Democrats were racing each other to cut spending and balance the budget?

In fact, they're still doing it. On the very day that 14 Democratic senators, including the majority leader, Robert Byrd, pledged tax reduction for 1981, the Senate Budget Committee met to find about $6.4 billion in revenues to balance the 1981 budget, as pledged by everyone from the President down.

So one set of senators promised the voters a tax cut while another set of senators was thinning $443 million out of cost-of-living assistance for veterans. Over in the House, the education and labor committee hacked $497 million out of child nutrition programs, in the same pursuit of a balanced budget.

This spectacle, of course, not only reflects an approaching election but the general economic confusion. Should we be fighting inflation, which still runs at an annual rate above 10 percent, or unemployment, which probably will reach 8.5 percent next year? And as if to compound the chaos, huge Social Security payroll tax increases next year will give us the worst of both worlds—they'll boost prices while cutting take-home pay—and still won't guarantee the solvency of the Social Security trust funds.

The new tax-cut scramble was set off by the announcement, based on extrapolations from April figures, that the gross national product had declined drastically in the second quarter. This news indicated a long and deep recession, rather than the "short, mild" one predicted by the Administration, since unemployment had already reached 7.8 percent in May.

The Carter Administration, up until then committed to a 1981 balanced budget and adamantly opposed to any talk of tax reduction, began rumbling and hissing like Mount St. Helens; what finally leaked out was the steamy news that a tax cut was being planned, after all, to take effect next January 1.

Ronald Reagan, who had been promising tax reduction all along, saw Mr. Carter cutting in on his turf; so he gave the Democrats a move worthy of The Gipper. They are in power, he announced, so let them put up or shut up and cut taxes now, to take effect Jan. 1. He helpfully proposed a $36 billion plan that looked a lot like the tax cut he's been selling all year.

Senate Democrats, many of whom also must face the voters in the fall, caved in quickly to the pressure Mr. Reagan thus brought on them. They said they'd develop their own tax reduction by Sept. 3, rather than accept Mr. Reagan's "Simple Simon, Tinker Toy" approach. They also voted down a Republican attempt to attach the Reagan tax cut to a bill moving through the Senate.

That shifted the pressure to Mr. Carter, who's economic policy Mr. Reagan had described as "fighting inflation with higher taxes, mounting unemployment and deepening recession" while "production lines are being idled, factory gates are closing across the land and housing construction has gone into a tailspin." That kind of talk could leave a voter wondering who's the Democrat in this race.

Senator Russell Long, the Finance Committee Chairman, nevertheless gave the President the right advice. The Democrats, Mr. Long cautioned, did not have to "charge out ill-prepared" to pass a tax bill and keep up with Ronald Reagan. Americans wanted a tax cut, he said, but "not . . . so bad that they would have it and risk more inflation."

Not only should Mr. Carter be wary of precipitate action that would risk the modest gains so painfully made in the battle against inflation. He already has a reputation for flip-flopping like a pancake on a griddle; so it would add nothing to his slight presidential stature if he abdicated economic policy to the political pressures of his Republican opponent.

Mr. Carter's advisers have been talking about focusing tax reduction for individuals on credits against those hefty Social Security payroll taxes scheduled for next year. Despite the fancy Reagan footwork, that's still the most needed and promising approach.

Even as the Senate Democrats were playing games with Mr. Reagan, the House Social Security Subcommittee voted to shift a small share of payroll tax revenues from the disability fund to the old-age and survivors insurance fund, which would otherwise run out of money by the end of 1981. But Chairman J. J. Pickle of Texas warned that the action only delayed the crisis, since inflation has vastly increased benefit payments while unemployment has cut into expected revenues.

If even the onerous payroll tax increases voted in 1977 can't save the trust funds, surely it's time to stop pretending that Social Security is an insured system, with workers paying their own way. Why not forgo those economically unsound increases—24 percent at the maximum level—and move at last to judicious use of general revenues to supplement the most basic social program we have? That would be good for inflation, good for recession and good for Social Security.●

A LAW FOR THE SEA

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. DERWINSKI. Mr. Speaker, the Committee on Foreign Affairs, of which I am a member, in the exercise of its oversight responsibility, has been intensely interested in the development of a Law of the Sea Treaty between this country and other member states of the United Nations. The Foreign Affairs Committee and several other House committees have also been working on legislation authorizing and regulating American participation in deep seabed mining. Our efforts in this direction have been dedicated to conform with the goals of the administration in its negotiation of the Law of the Sea Treaty.

The Chicago Tribune on June 18, 1980, published an editorial on these developments. The paper hails the accomplishment, calling it wonderful sense, whereby a compromise arrangement gives American firms the right to mine while allowing for passage and ratification of a Law of the Sea Treaty.

The editorial is reprinted here for the benefit of the Members:

A LAW FOR THE SEA

The world has been surprisingly inattentive to what promises to be the most awesome diplomatic accomplishment in the history of civilization:

No fewer than 158 nations—more than belong to the United Nations—are on the verge of agreement on a body of law to apply to no less than 70 percent of the earth's surface. They are about to bring the rule of law to the sea.

The sea made our civilization possible. In the modern dilemma of expanding needs and diminishing resources, nothing offers more promise for its survival. Without the rule of law, nothing offers more potential for conflict, and the ultimate war.

Consider the plight of the world's richest country—the United States. To maintain our industrial society and high standard of living, we now consume 4 billion tons of minerals a year.

Because of dwindling domestic supplies, the United States must now import more than 80 percent of the 12 metals most vital to our defense and economy. Nearly all of the manganese and cobalt we use is imported. Fully 50 percent of the world's manganese is in Russia. Most of our cobalt comes from Third World countries in Africa. Cuba is a major supplier of nickel. As the rest of the world becomes more industrialized, the demand for these resources becomes critical.

The only answer lies in the sea. Estimates are that the deep seabeds beyond the continental shelves contain at least 1.5 trillion tons of manganese, copper, and other valuable minerals.

In 1970 the United States and other members of the United Nations voted to declare this deep sea wealth "the common heritage of mankind," to be shared by all nations. A treaty governing all exploitation of the sea has been in the works since 1958, but drafting the actual document did not begin until the present Law of the Sea Conference convened in 1973.

The conference is to reconvene in Geneva next month. The treaty text is nearly complete, and final agreement is expected by early next year.

As things stand, the treaty would establish 12-mile coastal territorial sovereignty and 200-mile economic zones, with the right of peaceful navigation assured in each. Fishing and the taking of endangered marine mammals would be carefully regulated. A mechanism would be established for settling disputes.

According to Ambassador Elliot Richardson, our chief delegate to the conference, the only major obstacle remaining has to do with the all-important deep seabed mining issue.

The United States won a major point by getting the Third World to back off from demands that this mineral wealth be shared by all nations, no matter who mines it. After all, deep seabed mining involves high risk, sophisticated technology, and huge amounts of capital. There must be a return if there is to be an incentive to produce these resources.

It was agreed that the United States and other advanced nations would be allowed to mine for their own profit, but under the control of an International Seabed Authority, which would also undertake its own mining operations on behalf of disadvantaged countries. The current dispute is over how much of a say the advanced nations would have in this authority's decisions.

Disdainful of the entire treaty, some powerful members of Congress were prepared to thumb their nose at the world and authorize unilateral American mining efforts to begin in 1982. A fortunate compromise has just been reached which postpones that date until 1988 to allow for passage and ratification of a Law of the Sea treaty to which the United States would become subject.

This shows wonderful sense. Among other things, seabed mining operations are indefensible against military attack. Indeed, the lack of a treaty could lead to unilateral declarations of marine sovereignty and the closure of Gilbraltar, Hormuz, Malacca, and dozens of other vital straits.

On sea, as on land, the absence of law may well mean chaos.●

HAITIAN REFUGEES

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mrs. COLLINS of Illinois. Mr. Speaker, I would like this opportunity to acknowledge and openly thank my friend and colleague, Hon. BILL LEHMAN of Florida, for his countless efforts in helping to address the urgent issue regarding the plight of the Haitian refugees.

Congressman LEHMAN first indicated his compassion for the plight of Haitian refugees in 1975. Although the number of Haitians at that time was relatively few, the injustice of their treatment by the Immigration and Naturalization Service was readily apparent. Haitians seeking political asylum in the United States did not receive due process as the INS persisted in treating them differently from other asylum applicants.

He urged the Subcommittee on Immigration, Citizenship, and International Law to look into this matter. In February 1976, the subcommittee staff went to Miami and to Haiti. It subsequently issued a report which made specific recommendations for changes in INS procedures. One suggestion was that aliens seeking asylum should be advised of their right to counsel.

The Congressman continued to be supportive of efforts to obtain justice for the Haitians. In 1977, he sponsored a briefing for members and staff on the nature of the Haitian refugee problem. During that year, the number of Haitians arriving in the United States began to grow. The fiscal impact of the refugees on Dade County began to grow also because of the lack of legal status given to the Haitians.

In April 1979, the Congressman went to Haiti in order to gain a better understanding of why so many people were fleeing their homes. The poverty of Haiti is obvious, but he also found that the climate of repression continued in the present regime. What Amnesty International called the "apparatus of repression" was still there.

Upon his return to Washington, BILL LEHMAN met with INS officials including Commissioner Leonel Castillo, in order to try to persuade the INS not to keep Haitians in jail and to provide them with work authorizations. He also met with members of the Congressional Black Caucus. That body responded by setting up a Haitian Refugee Task Force chaired by Hon. SHIRLEY CHISHOLM. Congressman LEHMAN has cooperated with the task force in its efforts to achieve justice and equality for the Haitians.

In August 1979, BILL LEHMAN publicly called for the granting of asylum to the Haitians who had been languishing in Miami. Later he joined with other distinguished Americans in urging President Carter to exercise his parole authority and grant the Haitians refugee status before the expiration of the parole authority on May 15.

With the influx of Cuban refugees during the past several weeks, BILL LEHMAN did not forget the dire circumstances of the Haitians. In meetings with White House and other administration officials, he continually pointed out the inequity of treatment of the Cubans and the Haitians. When the White House assured him that they would receive equal treatment, he went down to Miami to visit the refugee processing centers and compared how the two groups were being treated by the INS. He noted that the Cubans were receiving work authorizations and the Haitians were not.

These efforts, to me, make us realize that there are those who do in actuality really care about their fellow man, are committed to a deep sense of decency and moral obligation and are not afraid to stand up for human dignity and justice.●

SENIOR CITIZENS BEGIN NEW CAREERS

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. PATTERSON. Mr. Speaker, I would like to ask all of my colleagues to pause and join me in saluting two of my constituents who are proving that senior citizens play an important role in our communities. Lillian Lieberberg, 69, and her younger sister Annette, 66, migrated to California 4 years ago to start a new life for themselves. Rather than just sit back and enjoy the just rewards of a long, productive life, Lillian and Annette went back to school. After much hard work, Lillian and Annette received their associate of arts degree from Orange Coast College in Costa Mesa, Calif., on June 12. The Santa Ana residents graduated from Orange Coast with honors, a distinguished academic achievement. Today, Lillian is busy teaching Vietnamese immigrants at Orange Coast and Annette is also involved in helping her community.

Mr. Speaker, Lillian and Annette Lieberberg are a shining example for people of all ages in Orange County and throughout California. I want to take this opportunity to congratulate Lillian and Annette on their fine accomplishment and ask my colleagues to join me in doing so.●

SUPREME COURT DECISION: THE FIRST STEP

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. ASHBROOK. Mr. Speaker, yesterday's Supreme Court decision limiting abortion-funding was a victory not only for the unborn, but also for the Constitution. I would like to focus on just one aspect of that decision at this time.

In its opinion yesterday, the Court said:

> In making an independent appraisal of the competing interests involved here, the District Court went beyond the judicial function. Such decisions are entrusted under the Constitution to Congress, not the courts. It is the role of the courts only to ensure that congressional decisions comport with the Constitution.
>
> Citing *Maher* v. *Roe*, the Court added, "when an issue involves policy choices as sensitive as those implicated (here) * * *, the appropriate forum for their resolution in a democracy is the legislature."

Clearly then, the lower Federal court, a creation of Congress, had overstepped its bounds and usurped the congressional prerogative of exclusive control of the Federal purse.

Here is proof positive. Not only has there been a pro-abortion bias in the decisions of many lower Federal court judges, but also injudicious encroachments have been made into the legislative domain—into what is exclusively the right of Congress.

Not only have countless innocent unborn human lives been destroyed at government expense, not only have taxpayers had to suffer the injustice of the Dooling order whereby their tax dollars, in spite of the expression of their will through their elected representatives in Congress to the contrary, were expended to pay for abortions, but also they have had to suffer the injustice of the many other court orders prohibiting implementation of restrictions on abortion funding which were lawfully enacted by several State legislatures.

As Thomas Jefferson said:

> To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors, is sinful and tyrannical.

Yesterday the Supreme Court decision addressed the question of restrictions on abortion funding; it did not deal with or settle the question of informed consent legislation, or parental rights, clinic or health regulations or the like.

The Human Life Anti-Injuction Act (H.R. 7307) which is aimed at limiting the jurisdiction of the Federal courts in matters relating to abortion is needed now more than ever, to prevent the lower courts from making similar decisions in the future—decisions that would subvert the expressed will of the legislative branch of the Federal Government. We can no longer tolerate such judicial encroachments.

My bill, the Human Life Anti-Injunction Act, will not only prevent this from happening again but also will remove the matter from the lower Federal courts so that they cannot take actions like Judge Dooling's with regard to other statutes such as clinic or health regulation or informed consent laws.●

WEATHERING OUR HOUSING CRISIS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. BROWN of California. Mr. Speaker, the effects of our present economic recession are great, but nowhere are they more pervasive than in the housing industry. In May of this year, housing starts were at their lowest levels since the 1974 recession.

Most experts agree that, with the potential demand for housing only increasing in the future, the outlook for this industry is less than bleak. At the same time, with the future demand expected to completely outpace available supply, the price of housing can only increase. The expected increase in the price of a home is estimated by some to increase as much as 83 percent. Thus, for many American families, the goal of homeownership will be unattainable in the next decade.

Mr. Speaker, one answer to this seeming dilemma came to my attention in an article that recently appeared in the Wall Street Journal. This article described a homebuilder, Mr. Ralph Lewis, whose business happens to be located in my district.

To overcome the present slump in the housing industry, Mr. Lewis has embarked upon a strategy of building smaller and simpler, and consequently cheaper, homes. While his strategy was aimed at meeting a short-term situation in the housing industry, I suggest that such a strategy can also serve to overcome the problem that looms in the future—housing costs.

I commend Mr. Ralph Lewis for his resourcefulness and recommend this article to my colleagues who are concerned about our housing crisis.

The article follows:

[From the Wall Street Journal, June 26, 1980]

TO WEATHER THE SLUMP, ONE BUILDER TURNS OUT SIMPLE, SMALLER HOMES

(By Victor F. Zonana)

UPLAND, CALIF. Ralph Lewis savors his reputation as a builder of quality tract houses. He has prospered by giving customers such amenities as microwave ovens, stained-glass windows and mirrored wardrobe doors.

But the housing-industry depression of 1980 has changed all that. Today, his crews are erecting smaller, "no frills" homes, without expensive extras like tiled bathtubs, automatic icemakers and deluxe carpets. Gone, too, are the price tags of up to $150,000; the new homes sell for $75,000 to $83,000, making them eligible for low-cost government financing.

"It's more fun to build Cadillacs than Chevrolets," says Mr. Lewis, who has spent 25 of his 60 years as a home builder. "But when people are only buying Chevies, you build Chevies."

Building cheaper homes is just one way Mr. Lewis is surviving—and even making money—in what many industry officials call the worst home-building slump since the

Depression of the 1930s. Even last month's sharp drop in mortgage-interest rates won't help much; at best, it will lift the industry "to recession levels from depression levels," says George Gentry, president of the California Building Industry Association. A look at Ralph Lewis, who has weathered five downturns in the boom-and-bust industry, illustrates how thoughtful planning and innovative thinking can keep a builder afloat during hard times.

"I've become a millionaire three times in my life," says Mr. Lewis, commenting on the industry's ups and downs. "I hope I don't have to try to do it a fourth time."

The continuing profitability of Mr. Lewis's operations makes him unusual in the current gloom-and-doom climate. Banks have dropped entire staffs that formerly arranged mortgages, real-estate offices have closed, and some small builders have folded. Merrill Butler, president of the National Association of Home Builders, sees housing starts falling about 50 percent this year from 1.7 million last year. "The industry is in a state of collapse," he says.

HARD AT WORK

Not Ralph Lewis, who with his wife, four sons and a brother-in-law owns a group of home-building companies in California and Nevada. In fact, Mr. Lewis, who began his career as an accountant and self-taught lawyer with many builders as clients, is working harder than ever; he puts in 12-hour days and many weekends. In addition to switching production to lower-priced units, he has reduced land purchases, sold assets to raise cash, sought out joint-venture partners and slashed corporate overhead by, among other things, eliminating his own $250,000-a-year salary.

"We won't sell 2,000 houses like last year," Mr. Lewis says, "but we won't be off 50 percent like some competitors." Moreover, the soft-spoken executive adds, "we'll keep our people busy and our organization intact so that we can be ready for the next upturn."

His banker backs him up. "If anyone is going to survive this slump, it's the Lewises," says Dean Alexander, a vice president of Security Pacific Bank, which has lent the family millions of dollars over the years. "They know how to move with the market." He adds: "It's a matter of responsiveness. If they were a subsidiary of some big corporation, they wouldn't be able to make the quick decisions that can be so important to a builder."

FAMILY BUSINESS

Others say the Lewis organization will survive because of Ralph Lewis's total devotion to his work. "There are two things in Ralph's life—his business and his family," says a longtime subcontractor for the Lewises. But the distinction between business and family disappears in an enterprise where Ralph is chairman, wife Goldy is vice chairman, sons Richard and Robert are co-presidents, and sons Roger and Randall are vice presidents.

Certainly, the size of the business has helped it weather the current squall. With 1979 revenues of $193.2 million—Mr. Lewis won't disclose profits—and net worth of $40 million at cost on Dec. 31, the Lewis companies had a healthy cushion going into the slump.

Anticipating a slowdown, the companies sold $8 million of land and apartment-building investments last year to increase liquidity. "Our plan is to continue to sell off whatever we used to sell to make the cash-flow statement balance," Mr. Lewis says.

Cash was especially tight in March and April, when mortgage rates climbed to nearly 18 percent and few buyers could get loans. "Sales actually fell below zero. We had more canceled escrows than positive sales," Randall Lewis, the 29-year-old vice president for marketing, says. The Lewises were stuck with about 500 homes, worth $40 million, that nobody could afford. Meanwhile, the cost of carrying that inventory soared as the prime rate—the banks' basic lending rate—briefly hit 20 percent.

Ralph Lewis acted quickly to plug all cash drains. His most important move was to reduce land purchases, which in good times can be a builder's biggest expense. "We aren't buying any land for investment, to have on the shelf," Mr. Lewis says. "We're only buying pieces that are real bargains or have very favorable terms."

Another exception is land that can be profitably developed immediately. "In this market, that means land for government-assisted projects," he says. For example, his crews broke ground last month on 48 houses and 172 condominium units in San Bernardino, Calif., financed by the local redevelopment agency. Buyers will be eligible for mortgages at 8 percent to 9 percent, "so we expect the units to sell like hot cakes," says Richard Lewis, 36, who heads Southern California construction operations.

Also under way are 29 "no frills" homes in Ontario, Calif., that will be eligible for Federal Housing Administration financing. The FHA is currently quoting an 11½ percent mortgage rate, versus 12 percent to 12¼ charged by most California savings and loan associations.

Ralph Lewis bemoans the lower profit margins and "endless red tape" associated with government programs, but he acknowledges that "right now, they're the only game in town." Underlining his commitment to the new market, he recently hired an official away from the Department of Housing and Urban Development "to help steer us through the bureaucratic maze." Mr. Lewis comments wryly: "He helped write the regulations, so I guess he understands them."

SEEKING OUT PARTNERS

The cash pinch has also forced Mr. Lewis to seek out joint-venture partners. He says he is close to a deal on a 1,300-acre tract that he owns in Rancho Cucamonga, a Southern California town just east of corporate headquarters in Upland. If the transaction goes through, the partner would put up $5 million to start development of 11,000 homes and apartments. "It kills me to have to 'joint-venture' it," Mr. Lewis says, "but I'd rather do that than sell the land outright."

Diversification is another tactic in Mr. Lewis's survival kit. He recently completed a four-building low-rise office complex here—one of the buildings houses his own headquarters—and he is finishing and leasing out a two-acre shopping center here. "Commercial and industrial construction usually continues, even when housing falls out of bed," Mr. Lewis notes.

To cut corporate overhead, he also suspended his wife's $50,000-a-year salary as well as his own and ordered a two-month, 5% pay cut in the Northern California division during March and April, when business was terrible. Even relatively minor expenses are being pared. Less furniture and fewer live plants are put in model homes, and a plant-watering service was discontinued. "Now we tell our salespeople to water the plants themselves," he says.

However, layoffs have been few; the payroll is down only about 5 percent from last year's to 270 employes. The cutback hasn't been sharper partly because Mr. Lewis, like most builders, subcontracts much of his work, including carpentry, plumbing, roofing and painting. Moreover, he has retained some senior people even though their duties had to be cut back. For example, Dick Holke, a five-year employe, was downgraded from a superintendent to a laborer two months ago. Says Mr. Holke, "It beats unemployment." Says Mr. Lewis. "We carry some people and keep their experience, which we'll need when things brighten."

BRIGHTER OUTLOOK

Clearly, Mr. Lewis believes that things are a bit brighter already. He recently hired a new draftsman—two were laid off in March—and is deciding, market by market, whether sales increases in recent weeks justify new housing starts. He has sold about 40 houses a week in the past three weeks—"good, but still below normal for this time of year," he says.

His inventory still is a troublesome 500 houses because new homes are being completed as older ones are sold. "But the cost of carrying that inventory is down sharply," he says, with the prime rate now generally at 12 percent.

Besides wanting to pare his inventory, Mr. Lewis has a personal reason for hoping that the home-building business gets on a solid foundation soon. He is eager to build his own $500,000 dream house—but can't spare the money at the moment. Currently, he and his wife live in one of their own $150,000 tract houses, an arrangement that has had its advantages, "We get good feedback from neighbors—Goldy finds out what the wives like or don't like about their kitchens," he says.

Mr. Lewis, a portly man of five feet, seven inches and 236 pounds, has a knack for putting such information to good use. When he first decided to sell his law firm in 1955 and enter the housing business, he knew little about the construction of it. "When I came home and told the kids, they laughed," he says, "One of my sons said, 'But you don't even know how to put up a shelf for Mommy.'" So Mr. Lewis took on a partner experienced in construction. The partners split in 1957, and Mrs. Lewis, who had been running the accounting firm, sold that to join her husband in the building business.●

AMERICAN MUSLIM MISSION FOURTH OF JULY THEME: "I LOVE MY FAMILY"

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. FAUNTROY. Mr. Speaker, since the creation of time and man, the family has been the essence of human existence. It is the fountain from which flows the nutriments of life itself—love, security, shelter, hope, courage, and faith.

On Friday, the Fourth of July, our family of States and the District of Columbia will observe our 204 years as a nation. On this anniversary of our birth as the United States of America, the American Muslim Mission is calling on us and our countrymen everywhere to recognize the theme: "I Love My Family." Under the distinguished leadership of Imam Warith Deen Muhammad, the American Muslim Mission has planned parades and rallies throughout the Nation for four main purposes:

To revive the positive moral spirit in America;

To revive the commitment to proper patriotism in America;

To revive the support for strong leadership in America; and

To revive and support the desire for peace, human dignity, and family unity.

I believe these goals are worthy of support and I wholeheartedly encourage my colleagues to remember the value of family love on this Independence Day.●

TRIBUTE TO THE LATE PAUL HALL, PRESIDENT OF THE SEAFARERS INTERNATIONAL UNION

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. GUARINI. Mr. Speaker, I am deeply saddened by the passing of Paul Hall, who served with such distinction as president of the Seafarers International Union until his death on June 22, 1980, at the age of 65. He was a true friend of working men and women, as well as a great spokesman for the American trade union movement.

Although his strong, courageous leadership will be sorely missed by members of the union which he so proudly served, the loss of this remarkable man will be just as keenly felt by countless numbers of workers who have never known life on the sea.

Paul Hall was a giant of a man whose inspiring words and deeds have had a profound impact on the growth and development of the entire labor movement.

Born in a small, depression-plagued Alabama town, he left home in the early 1930's and traveled to the Port of Mobile to seek work. There, he found a job on a ship in the black gang or engine room; but he also found terrible wages, notorious working conditions, and the worst kind of treatment ever imposed on a class of workers in our country's history.

However, Paul Hall also found hope; he saw the means for change through organizing the then unchampioned workingman.

In 1938, he started his meteoric career by becoming 1 of the 500 charter members of the Seafarers International Union. He served in his first elected office as patrolman for the Port of Baltimore and shortly afterward was made the organizing director of the SIU's Atlantic and gulf district.

In 1944, Hall was elected port agent in New York and, 3 years later, at the age of 32, he rose to chief executive officer of the district—a position he held until his death.

Ten years later, he became president of the Seafarers International Union of North America, which, at the time of his passing, had grown into a thriving, successful organization of more than 80,000 maritime workers.

In addition to serving as president of one of the most highly respected trade unions in America, Hall served as president of the AFL-CIO Maritime Trades Department. Under his splendid leadership, the organization grew from 6 to 43 national and international unions comprising nearly 8 million American workers.

Paul Hall was also vice president of the AFL-CIO and one of the AFL-CIO Executive Council's most influential and revered leaders.

I am certain that there is no one here today who would question the benefit of Paul Hall's support on any Federal issue affecting our merchant marine or the social well-being of American workers.

His dogged persistence, tireless effort, and outstanding leadership are the primary reasons that such landmark legislation as the Merchant Marine Act of 1970 was signed into law.

An adviser to every American President since Harry S Truman, he earned the friendship and valued respect of scores of our Nation's most prominent citizens; but, unlike so many others who achieve nationwide recognition, Paul Hall never forgot his roots.

He never forgot the seamen, and he never gave up his lifelong fight on their behalf for better wages, better working conditions, better ships, better jobs, and better job security. He was a man of great humanity, boundless energy, and undaunted spirit in fighting for a better quality of life for the workingman.

When the Harbor Festival Foundation of New York and New Jersey holds its annual Fourth of July weekend celebration, the highlight of this event—the International Lifeboat Race—will be dedicated to the memory of Paul Hall.

Sponsored annually by the Maritime Association of the Port of New York, the 11 a.m. Saturday race will be attended by many, many of Paul Hall's good friends, and associates.

As they celebrate the birthday of our Nation, I know that Paul Hall's name will be in their thoughts and in their hearts. He will be sorely missed but the dignity of this great American and his contributions to the labor movement will always remain with us.

We all owe much to him; for he was truly one of the great leaders of American history.●

ANTIABORTION AMENDMENT

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. DANNEMEYER. Mr. Speaker, yesterday the Supreme Court upheld the constitutionality of the Hyde amendment limiting the use of tax moneys to pay for abortions. The man whose name has become synonymous with the cause of protecting the life of the unborn is no single-issue ideologist but rather a person whose firm convictions allow him to approach each issue with equal vigor. The following New York Times article nicely profiles our distinguished colleague from Illinois who pursues the convictions of his conscience:

[From the New York Times, July 1, 1980]

THE MAN BEHIND THE ANTI-ABORTION AMENDMENT—HENRY JOHN HYDE

(By Marjorie Hunter)

WASHINGTON, June 30:—Representative Henry John Hyde chuckles when he tells about the time he found a hand printed sign attached to the hotair hand dryer in the men's room at Chicago's O'Hare Airport. The sign instructed users: "Press button and listen to your Congressman."

Regarded by many as a masterful storyteller and a superb speaker, the towering, silver-haired Illinois Republican is often pictured by those favoring the right to abortion as the fiendish Mr. Hyde of Robert Louis Stevenson's famous tale. But to many House colleagues, even those who deplore his stand against abortion, he comes through as the more civilized Dr. Jekyll of that dual personality.

The author of the Hyde Amendment, which was upheld today by the Supreme Court, is adamantly opposed to abortions. His crusade at times borders on the obsessive, yet he is considered by colleagues as a genial man, one who can laugh at himself and make others laugh with him.

NOT A ONE-ISSUE MAN

While his fame has been achieved through his stand against abortion, he is not a one-issue man. He is a strong defender of foreign aid programs, although he is a staunch conservative. Recently, to the surprise of both liberal and conservative colleagues, he made an impassioned speech on the House floor in support of a bill to aid battered spouses, a bill that some Republicans had termed just another "Democratic giveaway."

Because today's Court opinion addressed itself solely to his legislative amendment—it allows Federal financing of abortions only in promptly reported cases of rape, incest or where the mother's life would be endangered without the procedure—Mr. Hyde does not consider the battle won. He will continue to fight for a constitutional amendment to halt all abortions except to save the life of the mother.

Although he had long been a foe of abortions, it was purely by accident that he emerged from relative obscurity as a freshman Congressman in 1976 to become leader of the anti-abortion forces.

STARTED AS A DEMOCRAT

He and a fellow conservative, Representative Robert E. Bauman, Republican of Maryland, decided to test the anti-abortion sentiment in the House that year by attaching an amendment to a money bill. Mr. Hyde offered the anti-abortion amendment, never thinking it would pass, but it did and became known as the Hyde Amendment.

Henry John Hyde was born April 18, 1924, in Chicago, the son of a telephone company coin collector. He grew up in an Irish neighborhood where, he once said, everyone was loyal to "God, the Democratic Party and the White Sox." As a Democrat, he cast his first Presidential vote for Harry S. Truman, in 1948. After graduating from Georgetown University and Loyola University School of Law, he began having doubts about the Democratic Party, which he felt had moved too far to the left. He switched parties and campaigned in 1952 for Dwight D. Eisenhower.

SERVED IN ILLINOIS HOUSE

It was as a Republican that in 1966 he won a seat in the Illinois House, where he served four terms and became majority leader. And it was as a Republican that he won his seat in the United States House of Representatives in 1974. He was chairman of the 17 Republican freshmen in his first year in Congress and is expected to seek the post of Republican whip next year.

He is married to the former Jeanne Simpson. They are the parents of three sons and a daughter, and they live in suburban Falls Church, Va. He is an avid reader, mostly of biographies, and he watches television in the evenings after long hours at the office. Most weekends find him back home in his suburban Chicago district, making speeches, attending church festivals (he is a Roman Catholic) or just walking around to greet constituents.

Mr. Hyde stands 6 feet 3 inches tall and weighs 260 pounds. "I'm afraid," he said ruefully, "I'm the product of a lifetime of enjoying good food."●

QUESTIONNAIRE

HON. MARC L. MARKS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. MARKS. Mr. Speaker, this spring I again mailed questionnaires to every household in Pennsylvania's 24th District in an effort to determine the viewpoint of my constituents on some of the major issues facing this Congress and our Nation. I am delighted to report that over 21,000 of my constituents took the time to fill out this year's questionnaire. This figure represents the largest response I have ever received and indicates, I believe, a very genuine interest in and concern by the people of the 24th District in the activities of Government, especially at the Federal level.

I asked a total of 16 questions covering both domestic and foreign policy issues. The responses confirmed my belief that the men and women of Pennsylvania's 24th District are deeply concerned about this Nation's economy and defense posture and that they are willing to make sacrifices to strengthen both our economy and our ability adequately to defend this Nation and our free world allies.

Some of the responses I received have been particularly useful to me during the recent debate on the budget and our Nation's spending priorities.

I would like to share with my colleagues some of the responses of my constituents. I realize that the opinions of my district may differ somewhat from the views of other Member's districts, but I rather suspect that the views of my district mirror to some degree the views of a majority of American voters this year.

In the area of national defense, I asked my constituents whether or not they supported the President's call for reinstituting draft registration for men. A majority responded "yes" by an overwhelming margin of almost 4 to 1.

I believe my vote and my remarks during the registration debate were reflective of the strong sentiment of the 24th District on this issue. In response to my question as to whether women should also be registered, I was frankly surprised by the fact that a narrow majority favored such a proposal.

In an effort better to understand the reaction of my constituents to events in Southwest Asia and the Middle East, I asked if the United States should respond with military force to any attempted takeover by the Soviets of the Iranian oilfields and 60 percent answered affirmatively. Only 50 percent, however, felt that the United States should send troops in the event of Soviet aggression against Pakistan.

Perhaps the most important defense-related questions involved our Nation's budget priorities. In response to the question "Do you support President Carter's call for a significant increase in defense spending?" Of those responding, 82 percent said "yes."

I believe the President's recent refusal to support the defense spending levels of the first conference report on the budget reflects a retreat from his earlier commitments and a misreading of what I sense to be a national consensus that during the last 7 years we have neglected to some degree our Nation's defense needs. In fact, when my constituents were asked if they favored significantly increasing defense expenditures even if it meant less money for domestic programs, better than three-fourths of those responding still said "yes."

My vote last month to instruct the House budget conferees not to reduce defense spending below $153.7 billion was an effort to assure that the voice of the 24th District was adequately heard on this critical issue.

With the variety of problems confronting us as a nation and with our Nation's limited resources, I felt it important to determine what my constituents felt should be the Federal Government's principal concern. I listed five goals which included: First, improve the standard of living for senior citizens, second, reduce unemployment, third, reduce inflation, fourth, improve our national defense, and fifth, increase supplies of energy, and asked which goal should be the Federal Government's first priority. Nearly 60 percent said reducing inflation should be the Government's No. 1 objective. Interestingly, the goal receiving the next highest measure of support was improvement of our national defense. Reducing unemployment received the fewest number of votes, although this poll was taken before the devastating jobless increases of April and May.

Along the same lines, I asked my constituents whether they would prefer that Congress balance the budget or reduce taxes. By a 2 to 1 margin, those who answered this question favored balancing the budget. I fear that the residents of the 24th District who were willing to forego tax relief in order to achieve a balanced budget are going to be particularly angry when they realize that the Carter administration and the President's party in Congress are unable to balance the Federal budget despite an expected $80 to $90 billion dollars in additional tax revenues in fiscal 1981.

Several of the questions I asked dealt with energy issues. I found overwhelming sentiment in favor of easing antipollution laws so as to encourage increased use of coal and less reliance of foreign oil. Also, a very solid majority of 71 percent expressed opposition to any Government effort to halt the continued development of nuclear powerplants.

In light of my position on the Commerce Committee with its jurisdiction in matters of national health policy, I asked my constituents if they favored a comprehensive national health insurance program, and I estimated the cost of such a program at $40 billion which, frankly, may be too conservative. Nearly three-fourths of those answering this question responded in the negative. However, over 55 percent of those polled favored the concept of an national catastrophic health insurance program with an estimated cost of $10 billion. Some of the other issues about which I questioned my constituents included a constitutional amendment on abortion, taxation of social security, and congressional veto power over regulations issued by Federal agencies. For the benefit of my colleagues, I am including in the Record the complete results of my questionnaire.

In closing I would like to thank all my constituents who took the time to respond to this year's questionnaire, knowing the views of my constituents is indispensible in my deliberations on the critical issues facing this Congress and the Nation.

The questionnaire results follow:

CONGRESSMAN MARC LINCOLN MARKS' 24TH DISTRICT QUESTIONNAIRE RESULTS (IN PERCENTAGES)

1. Do you support President Carter's call for reinstituting draft registration for men? Yes 83, No 15.

2. Should women also have to register for the draft? Yes 53, No 45.

3. If the Soviet Union invades the oil fields in Iran, should the United States use military force to prevent a Russian takeover? Yes 60, No 34.

4. Should the United States use military force if Pakistan is invaded by the Soviet Union? Yes 50, No. 42.

5. Do you support President Carter's call for a significant increase in defense spending? Yes 82, No 16.

5a. Even if it means less money for domestic programs? Yes 77, No 15.

6. Should the Federal Government ban all nuclear powerplant construction? Yes 26, No 71.

7. Would you favor easing present antipollution laws to encourage increased use of coal and a reduction of oil imports? Yes 82, No 16.

8. Would you support a comprehensive national health insurance bill to provide all Americans with cradle-to-grave health coverage, at an annual cost to the taxpayers of $40 billion? Yes 22, No 75.

9. Would you support a national catastrophic health insurance bill to insure all Americans against the high cost of serious, long-term illness, at an annual cost to the taxpayers of $9 billion? Yes 57, No 40.

10. Do you support the recommendation of the President's Advisory Council on Social Security that half of all social security benefits be counted as income subject to Federal taxation? Yes 7, No 91.

11. Would you favor Congress approving an amendment to the U.S. Constitution which would outlaw all abortions, under any circumstances? Yes 22, No 75.

12. Do you favor allowing the Congress to veto rules and regulations issued by Federal agencies, if the Congress feels that those regulations do not carry out the intent of Congress? Yes 70, No 23.

13. How would you characterize President Carter's handling of U.S. relations with the Soviet Union?

A. Too weak—54, B. Too Strong—3, C. About right—40.

14. Which one of the following gasoline conservation programs would you object to the least?

A. Immediate implementation of a gas rationing program at a cost of $2 billion to administer—43.

B. 50 cents per gallon tax on gasoline, offset by a 50 percent reduction in your social security payroll taxes—43.

15. Would you rather Congress try to balance the budget this year, or reduce your taxes?

A. Balance the budget—65, B. Tax cuts—32.

16. Which one should be the Government's highest priority?

A. Improve the standard of living for senior citizens—9.

B. Reduce unemployment—5.

C. Reduce inflation—59.

D. Improve our national defense—14.

E. Increase supplies of energy—10.●

COMBATING THE ROBBERY OF CONTROLLED SUBSTANCES

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. GILMAN. Mr. Speaker, I rise to inform my colleagues that I have today introduced legislation making it a crime to rob or attempt to rob any controlled substance from any pharmacy.

During the course of my work on the Select Committee on Narcotics Abuse and Control, I have become concerned about the critical nature of the growing number of drug robberies from pharmacies.

Many witnesses have come before our Narcotics Committee relating that substantial quantities of drugs have become available to abusers because they are robbed from pharmacies, from physicians, or from shippers.

Making these robberies specific crimes in this particular statute will help to focus the attention of the law enforcement authorities on this particular offense and will, hopefully, lead to stronger enforcement efforts against criminals who prey on pharmacists and others charged with protecting controlled substances.

Enactment of this law would be an important part of our Nation's efforts in combating drug trafficking and abuse. Accordingly, I invite the support of my colleagues and urge prompt action on the bill.

Mr. Speaker, I insert the full text of this bill at this point in the RECORD.

H.R. —

A bill to provide a penalty for the robbery or attempted robbery of any controlled substance

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 103 of title 18 of the United States Code is amended by inserting after section 2117 the following new section:

"§ 2118. Robbery of controlled substances

"(a) Whoever robs or attempts to rob any controlled substance (as defined in section 102(6) of the Controlled Substances Act) shall be fined not more than $5,000 or imprisoned for not more than twenty years or both.

"(b) Whoever, in committing any offense described in subsection (a), assaults any person, or puts in jeopardy the life of any person by the use of a dangerous weapon or device, shall be fined not more than $10,000 or imprisoned for not more than twenty-five years or both.

"(c) Whoever, in committing any offense described in subsection (a), kills any person, shall be imprisoned for not less than twenty years.".

SEC. 2. The chapter analysis of such title is amended by inserting immediately below the item relating to section 2117 the following:

"2118. Robbery of controlled substances.".●

THE LEGISLATION CONCERNING PRISONERS RECEIVING SOCIAL SECURITY BENEFITS

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. PICKLE. Mr. Speaker, the Subcommittee on Social Security held a hearing June 20 to explore the issue of individuals receiving social security benefits while in prison.

Preliminary data from the Government Accounting Office indicates that this is not a widespread practice in the Federal prison system, where only 224 of some 22,000 Federal prisoners are receiving a social security benefit of any sort. The GAO is investigating now the situation in the much larger State and local prison systems.

Nevertheless, the subcommittee recognizes the considerable concern by many, both in and out of Congress, that someone could receive social security while in prison. Accordingly, we have been exploring several routes which might be used to address this problem without infringing on constitutional rights or encountering other legal barriers.

I have today introduced legislation which incorporates several of the routes we have found most promising. Congressmen JACOBS, WHITEHURST, ARCHER, CONABLE, and others have introduced earlier bills. Specifically, this bill would do the following:

First, provide that when an individual is convicted of a felony, the court may, if authorized by applicable law, include denial of social security benefits as part of the sentence. Right to the benefits would be restored upon pardon, parole, or completion of sentence. Benefits for dependents of the prisoner would continue to be paid.

Second, provide the Secretary of Health and Human Services with power to authorize payment of an individual's social security benefit directly to an institution for incarcerated persons, if the institution has established a system for obtaining reimbursement from its inmates for the cost of maintenance, education, rehabilitation, or related expenses;

Third, provide that no one may become eligible for disability benefits if the onset of the disability occurred during the commission of a felony; and place in the law a provision now in regulations that no one can receive a benefit based on the wage record of someone else whom they have been convicted of killing;

Fourth, provide that dependents benefits for full-time students can be paid to an incarcerated individual only while the individual is actually in class and not during any intervening periods between courses; and

Fifth, make other minor and technical corrections.

Many have expressed concern that they do not want social security benefits, which are going for the support of a family, to be denied, even if the wage earner is in prison, and the subcommittee is continuing to study various avenues for protection in this regard.

This is a very complicated area in which to legislate; and what I propose today should not be considered a finished product by any means. However, the subcommittee and I intend to pursue this matter to see that any necessary corrective action is taken.●

AMERICANS SUPPORT TRADITIONAL FAMILY

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. ASHBROOK. Mr. Speaker, as a result of a poll recently conducted for the White House Conference on Families and released earlier this month, George Gallup concluded that the "single, career-woman life has little appeal" and that the "ideal lifestyle for women is to be married, have children."

"The stereotypical 'career-woman' lifestyle—single, free and in pursuit of a full-time career—has little appeal to American women," says Gallup, "only 8 percent say they would prefer this type of existence."

Could it be that what profamily people have been saying all along is not a minority viewpoint after all? Is it possible that this definition of family that the White House Conference on Families refused to face is the only realistic and legitimate one?

The traditional family—two or more persons related by blood, marriage, or adoption—it would seem, according to the latest Gallup poll, coincides rather closely with reality. And if the women surveyed in this poll are able to fulfill their expressed preferences, it will continue to be so.

The will of the people is clear: They want the traditional family reaffirmed and strengthened. The Carter administration's response has been equally clear. It changed the title of the White House Conference on the Family to the White House Conference on Families, officially endorsing the radical activists' contention that the traditional family is just one more lifestyle, no more legitimate than a heterosexual or homosexual couple choosing to live together. The people do not deny the right of couples to live together in this way, but they firmly reject the administration's clearly implied attitude that a legitimate family consists of mere cohabitants.

Once again, the Carter administration has ignored the people in favor of the vocal minority of radical activists. The people have been upset by this elitist attitude in the areas of regulation and taxation. But in November, Mr. Carter will be informed by the voters that, in redefining the family, he has crossed a line, not only beyond common decency, but also beyond public toleration.

The complete text of the Gallup press release for Thursday, June 5, 1980, follows below:

SINGLE, CAREER-WOMAN LIFE HAS LITTLE APPEAL—IDEAL LIFESTYLE FOR WOMEN IS TO BE MARRIED, HAVE CHILDREN

(By George Gallup)

PRINCETON, N.J.—Despite the growing number of women who are holding jobs outside the home—about half of all women 18 and older now have a full-time or part-time job—they tend to do so within the traditional framework of marriage and parenthood.

The stereotypical "career-woman" lifestyle—single, free and in pursuit of a full-time career—has very little appeal to American women, at least as a permanent way of life. Only 8 percent say they would prefer this type of existence.

A Gallup survey recently conducted for the White House Conference on Families, which holds its opening conference in Baltimore today, shows that the vast majority of American women (74 percent) view marriage with children as the most interesting and satisfying life for them personally.

The latest results on the ideal lifestyle of women almost exactly parallel those recorded in a 1975 study, when 76 percent said the most interesting and satisfying life for them was to be married and have children.

Although 41 percent of all women interviewed say their ideal lifestyle would be to be married, have children and not to have a full-time job, one-third (33 percent) of those who prefer marriage and motherhood would like to have a full-time job as well. Presumably, this proportion would be still higher if survey respondents were asked about part-time jobs.

Analysis of the views of women by key population groups brings the following to light:

Younger women (18 to 29 years old) hold almost identical views to those of the total adult female population, with 76 percent saying the most rewarding life for them would be to be married and have children.

The relatively few women who express a preference for being single with a full-time job are more likely to be under 30 years old, college-educated and living in the West. At the same time, however, the vast majority of women, regardless of background characteristics or region of the country, want marriage and children.

The White House Conference on Families was called by President Jimmy Carter to "examine the strengths of American families, the difficulties they face and the ways in which family life is affected by public policies."

Following is the question asked in the survey:

"Let's talk about the ideal life for you personally. Which one of the alternatives on this card do you feel would provide the most interesting and satisfying life for you personally?" (Respondents were handed a card with five alternative lifestyles.)

The following table shows the latest results and those recorded in a survey five years ago:

IDEAL LIFESTYLE—VIEWS OF WOMEN

[In percent]

	1975	Today
Married with children:		
With full-time job	32	33
With no full-time job	44	41
Total	76	74
Married with no children:		
With full-time job	6	6
With no full-time job	3	4
Total	9	10
Unmarried with full-time job	9	8
Not sure	6	8

The results reported today are based on in-person interviews with 813 women, 18 and older, conducted in more than 300 scientifically-selected localities across the nation during the period March 21-24—Copyright 1980 Field Enterprises, Inc., Field Newspaper Syndicate.●

EDITORIAL OPINION ON NEBRASKA'S O'NEILL PROJECT

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 1, 1980

● Mr. BEREUTER. Mr. Speaker, last week the House of Representatives voted by the very narrow margin of 202 to 211 to continue funding of a very controversial project in my home State of Nebraska, the O'Neill unit of the Pick Sloan Missouri River Basin project. I joined my colleague from Nebraska, Congressman CAVANAUGH, in supporting his amendment to delete funds for the project.

While I was disappointed that the amendment did not carry, I am also encouraged by that vote. Last year a similar amendment was defeated by a 2-to-1 margin. Obviously, this year Members of this body are more willing to examine projects on their own merits and are willing to risk making their opposition known when the roll is called.

As I said during debate on the Cavanaugh amendment, this is a controversial project in Nebraska—one that must be addressed by all of the citizens of our State, not just those residing in the immediate area that will benefit from the project.

I would like to bring to the attention of my colleagues the text of a recent editorial that appeared in the Lincoln Star, one of the largest newspapers in my congressional district. It addresses new information which indicates that the dam may need to be moved for safety reasons. Cost estimates for such a move range from $4.5 million to $5.6 million. To quote the Lincoln Star:

> It is a $5 million drop in the bucket that serves to emphasize the slapdash, careless work that went into the plans and designs used to sell this ill-conceived project to Congress.

I would like to have the entire editorial printed in the RECORD at this point:

MORE FILL, MORE DOLLARS MAKE NORDEN DAM SAFE

Having barely survived an attempt in Congress last week to cut off funds, the sponsors of the O'Neill unit irrigation project in Nebraska report that a substantial change and increase in size of the dam will have to be made for safety reasons—at a substantial increase in cost.

The latest finding is just one more reason to conclude that the project is an expensive turkey and should not be built.

The U.S. Water and Power Resources Service said Friday that a "safe" Norden Dam can be built if present plans are changed to move one end of the impoundment 1,000 feet upstream and the amount of fill material is increased by 60 percent. The service estimated that the changes might cost $4.5 million to $5.6 million.

It might be argued that $5 million—which is a rough estimate subject to inflationary pressures and the inevitable cost overruns—is not substantial, but only a drop compared to the full bucket, which, at this point weighs in at $230,000,000. That amount and more ultimately would be spent on a project to benefit fewer than 500 landowners.

Still, it is a $5 million drop in the bucket that serves to emphasize the slap-dash, careless work that went into the plans and designs used to sell this ill-conceived project to Congress.

The water and power folks are also said to still be toying with the possibility of changing the "mission" of the O'Neill Unit to include hydroelectric power capabilities. That would necessitate the construction of a second reservoir immediately downstream at, of course, additional costs. This fishing around for uses and new political justifications paints an absurd picture of the water and power service. Having breathed a spark of life into the monster with its authorization several years ago, they are now having trouble deciding what to do with it if and when it grows up.

Federal officials argue that this is nothing new, that cost overruns and significant design changes are commonplace with public works projects such as this.

Well, at least give 'em credit for admitting it.

The Lincoln Star is also one of the major newspapers in my district that has come out in strong opposition to the project. I would like to share with my colleagues several excerpts from earlier editorials regarding the Cavanaugh amendment.

"Cavanaugh and other observers said that many House Members apparently have finally separated the O'Neill Unit from the pork barrel system with its sacred cow projects; that is, they have finally begun to judge it on its own merit, or lack thereof. The dramatic shift in sentiment over a year's time—even taking into consideration the newest anti-spending mood in Congress—indicates that representatives in ever-increasing numbers are looking at the project and finding it to be the economically wasteful and environmentally destructive project that it is."

". . . opponents of the project nonetheless came closer to stopping it than at any time during these few years of organized opposition. And there were flat predictions in the wake of the close vote that they ultimately will succeed.

"That time cannot come too soon. Altering the Niobrara valley at a cost of hundreds of millions of dollars to benefit a comparatively few irrigators is insane. Surely a more prudent, less costly and destructive, more widely beneficial approach to managing Nebraska's most unique natural resource can be found."●

HOUSE OF REPRESENTATIVES—*Wednesday, July 2, 1980*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O Lord, our God, open our eyes and hearts and minds to be aware of the needs of the people of our land. May each of us see our responsibility to be stewards of Your providence in ways that alleviate suffering and ease the hurt of the forgotten and distressed. May we promote reconciliation and peace among people everywhere that in the spirit of unity, we may see more clearly Your purpose for us. Grant us fortitude and courage to speak the truth as best we know it, and may we be willing to use our talents and abilities to heal the wounds of suspicion that separate one from another. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2597. An act to authorize appropriations for fiscal year 1981 for intelligence activities of the U.S. Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes.

HOUSE COMMITTEE ACTION WOULD DENY UPCOMING COST-OF-LIVING ADJUSTMENT TO FEDERAL RETIREES AND SURVIVORS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, the action taken yesterday by the Committee on Post Office and Civil Service angers and disappoints me. To comply with our reconciliation instructions under the first concurrent resolution on the budget, the committee voted to defer the cost of living adjustment due to Federal retirees and survivors in March 1981. In so doing, we broke the commitment we made to Federal retirees just a few years ago when we substituted the twice-a-year cost of living adjustment for the 1-percent kicker which used to exist.

The committee tried to minimize the adverse impact on retirees and survivors by deferring the March increase, rather than the September 1980 increase as the Senate did. In skipping the March increase, we are depriving the average beneficiary of $260, rather than $380, as eliminating the September increase would. Nevertheless, this action cheats Federal retirees and their survivors out of money to which they were entitled. The fact that we cheated them out of less than the Senate did gives me very little solace.

At the same time, the Committee on Post Office and Civil Service refused to take a major step to eliminate waste and cut Government expenses by failing to attach H.R. 4717 to the reconciliation package. H.R. 4717 would reduce unjustified contracting out of Government functions by requiring that new contract personnel be counted against personnel ceilings and by limiting the permissible amount of yearend spending by agencies.

Why did this happen? It seems to me that this action shows who the powerful special interests really are. While the supposedly powerful unions and employee groups had to sit idly by and watch retirement benefits be eroded, the invisible government of contractors and consultants exercised their veto power.

Mr. Speaker, we all know where there is gross waste in the Government. Why do we insist on cutting Government spending by cheating the weak so that we can continue to support gross waste by the strong?

DELAYS ENDANGER HOUSING FOR FAMILIES

(Mr. GREEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN. Mr. Speaker, President Carter's disastrous economic policies have driven the housing industry to near collapse. New housing starts in May dropped to an annual rate of 920,000, and starts for 1980 are estimated by many to be as low as 1 million, barely half the pace of 1979.

A month and a half ago, the House Banking Committee reported out a bill that would provide some relief for home seekers and the housing industry, but the Democratic leadership of the House has virtually ignored the bill. H.R. 7262, the HUD authorization bill, has appeared repeatedly on the House Calendar for consideration, but each time it has been set aside by the Democratic leadership, ostensibly for more important matters. Amazingly, housing seems to have been given a back seat by the House Democratic leadership despite the fact that the industry last year provided $200 billion to the economy (equal to 8.5 percent of the gross national product) and provided 1.7 million jobs.

Today, as everyone in Congress has been aware, we leave for a recess which will delay the housing bill at least until the end of the month in the House. And when the House finally does act, the history of lengthy housing conferences promises further delay of this much-needed support for housing. The Senate has already approved the HUD authorization bill. The House must follow suit or jeopardize the effectiveness of the new programs designed to aid the faltering housing industry. I urge the House leadership to consider this bill immediately after the July recess, and I ask my colleagues to join me in this effort.

NEW ARRESTS BY SANDINISTA GOVERNMENT IN NICARAGUA

(Mr. BAUMAN asked and was given permission to address the House for 1 minute.)

Mr. BAUMAN. Mr. Speaker, several weeks ago the Episcopal Conference of Catholic Bishops in Nicaragua issued a public statement calling on the Sandinista Communist controlled government of Nicaragua to stop the wholesale arrests of private citizens in that country.

Last night more than 500 Nicaraguans were rounded up from their homes and arrested by the police in Managua for what the Associated Press termed "suspected counterrevolutionary activities." There are now more than 7,000 people languishing in prisons in Nicaragua—many, many times more than under the Somoza regime—and more than 700, and possibly a thousand, people have been reported by the Human Rights Commission of Nicaragua to have been summarily executed by the government.

Mr. Speaker, I hope the majority leader, the gentleman from Texas (Mr. WRIGHT), will explain this action to the House of Representatives since he has such an interest in defending the Sandinista government. I personally believe that those of us in the Congress ought to summarily end all aid to this Marxist government in Nicaragua.

NEW UNEMPLOYMENT FIGURES PRESAGE DOUBLE-DIGIT LEVELS

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, tomorrow the Bureau of Labor Statistics will release the latest unemployment figures. Many economists expect the rate to rise again—on its way to double-digit levels late this year.

Mr. Speaker, soon the jobless figures

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

will show there are more Americans unemployed than at any time since the Great Depression.

For years Democrats have taken great delight in blaming the depression on poor Herbert Hoover.

But, times are changing. Workers are forgetting Herbert Hoover. Instead, they will remember Jimmy Carter.

His stop-and-go economic policies have produced the present economic crisis. He and his allies in Congress are responsible for the Nation's mess.

In November, a number of the people responsible may join the ranks of the unemployed. They will be majority Democrats, not minority Republicans.

SOVIET INTERVENTION IN AFGHANISTAN IS TOPIC OF RESOLUTION AND SPECIAL ORDER

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, yesterday, along with my distinguished colleague from New York (Mr. Wolff), I introduced a resolution condemning the Soviet invasion of Afghanistan and calling for the withdrawal of all Soviet military forces from Afghanistan. In addition, the resolution urges the administration to continue to bring to the attention of the United Nations the Soviet violations of basic norms of international conduct and basic rights of individuals. It is our hope that this resolution will be brought to the floor of the House after we return from the July recess.

Because there is a danger that the Soviet military intervention in Afghanistan will recede in the public consciousness both here and abroad; and because the human suffering inflicted by the Soviets on the people of Afghanistan has gone largely unnoticed, I have requested a special order on July 22 to focus attention on the situation in Afghanistan. This discussion will be most timely as it will focus attention on Afghanistan at the same time the summer Olympic games are getting underway in Moscow. It will also coincide with fund raising activities taking place around the country during the week of July 21 as a part of "Afghanistan Relief Week." My distinguished colleague Mr. Wolff is an honorary cochairman of the Afghanistan Relief Committee which has worked so diligently to provide humanitarian aid to the Afghan refugees. Governor Thone in my own State has joined Governors of 26 States in proclaiming and supporting Afghanistan Relief Week. I urge all my colleagues to join me and Mr. Wolff by participating in the discussion.

A DAY TO REMEMBER

(Mrs. BOGGS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOGGS. Mr. Speaker, I rise today to compliment the New Orleans City Council and to ask my colleagues and all of their constituents to join the members of the city council in declaring the Fourth of July a day to remember. A resolution designating July 4 as "We Will Not Forget Day" has been signed by all the members of our city council. It is declared as a day to remember the hostages in Iran and their families and to rededicate ourselves to being a nation of people who are willing to make sacrifices, and to a nation that believes in peace and in prayer.

They have asked in this resolution, Mr. Speaker, that all of the people in the city of New Orleans at 12 noon on the Fourth of July stop for a moment of silent prayer or meditation to pray for the safe return of the Americans who are held hostage in Iran and to pray for the comfort and consolation of their families and for peace in the world.

INTRODUCTION OF MAJOR TAX PROPOSAL BILL

(Mr. PURSELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PURSELL. Mr. Speaker, as scheduled this afternoon, I am going to introduce a major tax proposal bill which is really a tax-rate reduction concept, but it is modest and it is programed over 5 years. I have been working with some nationally known economists, and I also have approximately 75 cosponsors as of this morning. Any Member who would like to cosponsor this bill, I would be happy to have their name this afternoon before I introduce it. It has stability, it is for 5 years, and very rational. I think it will preserve our purchasing power in America for the worker; it will produce jobs and also include incentives for saving, investment and increased productivity. I think the Members will like the concept. I have been working 2 years on this proposal and I think it is appropriate to introduce it today.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. FOLEY. Mr. Speaker, as chairman of the Democratic Caucus and by the authority and direction of the Democratic Caucus, I send to the desk a privileged resolution (H. Res. 739) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 739

Resolved, That the following-named Members be, and are hereby, elected to the following standing committees of the House of Representatives:

Committee on Appropriations: W. G. (Bill) Hefner of North Carolina; and

Committee on Foreign Affairs: Berkley W. Bedell of Iowa.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 5192, EDUCATION AMENDMENTS OF 1980

Mr. PERKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5192) to amend and extend the Higher Education Act of 1965, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky? The Chair hears none, and appoints the following conferees: Messrs. Perkins, Thompson, Brademas, Ford of Michigan, Gaydos, Biaggi, Simon, Murphy of Pennsylvania, Weiss, Peyser, Ratchford, Miller of California, Ashbrook, Buchanan, Jeffords, Edwards of Oklahoma, Tauke, and Petri.

CONFERENCE REPORT ON S. 2240, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT, 1981

Mr. FUQUA. Mr. Speaker, I call up the conference report on the Senate bill (S. 2240) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of June 27, 1980.)

The SPEAKER. The gentleman from Florida (Mr. Fuqua) will be recognized for 30 minutes, and the gentleman from Kansas (Mr. Winn) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. Fuqua).

Mr. FUQUA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the committee of conference for the bill S. 2240, authorizing funds for the National Aeronautics and Space Administration for fiscal year 1981 has successfully concluded its work. The conference report before you includes the disposition of differences in nine research and development program line items, in two construction of facility program line items, and in two language amendments.

The NASA original budget request for fiscal year 1981 was $5,736,654,000 and the revised budget request was $5,517,654,000. The action of the House/Senate conference would authorize $5,587,904,000 which is $158.75 million less than the original request and $70.25 million more than the revised request. The conference action is $34.25 million less than the House action and $18.05 million more than the Senate action.

The House receded to the Senate position on funds for long lead materials for a fifth Shuttle Orbiter, funds for Shuttle/Spacelab payload flight experiments, and energy conservation facility modifications at the Jet Propulsion Laboratory. The Senate receded to the House position on adding funds for advanced programs, operational Landsat studies and advanced instrument technology, and resource observation advanced research and data analysis.

The conferees adopted House language adding "hereby authorized" to the second line of section 1(d) following the word "appropriations". Additionally, the conferees agreed to listing two construction of facility projects separately as proposed by the Senate.

The conferees reached a compromise resolution of all other items in conference.

I am including in the RECORD a summary of the actions taken by the committee of conference:

SUMMARY ADJUSTMENTS TO FISCAL YEAR 1981 NASA AUTHORIZATION

	Budget request	Revised budget request	House action	Senate action	Committee of conference
Research and development:					
Space Shuttle	$1,873,000,000	$1,873,000,000	$1,878,000,000	$1,873,000,000	$1,873,000,000
Space flight operations	809,500,000	767,500,000	769,500,000	779,500,000	779,500,000
Expendable launch vehicles	55,700,000	55,700,000	55,700,000	55,700,000	55,700,000
Physics and astronomy	438,700,000	346,600,000	370,700,000	352,700,000	352,700,000
Planetary exploration	179,600,000	175,300,000	179,600,000	179,600,000	179,600,000
Life sciences	49,700,000	39,100,000	49,700,000	43,200,000	45,200,000
Space applications	381,700,000	356,700,000	386,700,000	372,400,000	378,700,000
Technology utilization	13,100,000	12,100,000	13,100,000	12,100,000	12,600,000
Aeronautical research and technology	290,300,000	275,300,000	295,800,000	285,300,000	290,800,000
Space research and technology	115,200,000	110,200,000	120,200,000	110,200,000	115,200,000
Energy technology	4,000,000	4,000,000	4,000,000	4,000,000	4,000,000
Tracking and data acquisition	359,000,000	349,000,000	350,500,000	349,000,000	349,750,000
Total	4,569,500,000	4,364,500,000	4,473,500,000	4,416,700,000	4,436,750,000
Construction of facilities	120,000,000	120,000,000	115,500,000	120,000,000	118,000,000
Research and program management	1,047,154,000	1,033,154,000	1,033,154,000	1,033,154,000	1,033,154,000
Grand total	5,736,654,000	5,517,654,000	5,622,154,000	5,569,854,000	5,587,901,000

In conclusion, the conference on both sides of the aisle are to be congratulated for their efforts in bringing the conference report to the floor.

I uge my colleagues to support adoption of this report.

Mr. ECKHARDT. Mr. Speaker, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from Texas.

☐ 1020

Mr. ECKHARDT. I thank the gentleman for yielding.

With respect to section 4, "Notwithstanding any other provision of this act, no amount appropriated pursuant to this act may be used for any program deleted by the Congress from requests originally made to either the House Committee on Science and Technology or the Senate Committee on Commerce, Science, and Transporation," could the gentleman inform me as to what specific programs were deleted and would therefore be excluded?

Mr. FUQUA. There were none.

Mr. ECKHARDT. There were none?

Mr. FUQUA. There were none.

Mr. ECKHARDT. I thank the gentleman.

● Mr. FISH. Mr. Speaker, the amendment has no budgetary impact as $5 million is removed for operating expenses for fiscal year 1981 and added to plant and capital equipment for fiscal year 1981.

The minority have no objection to the Senate add on of $30 million for both fiscal year 1981 and fiscal year 1982 for plant and capital equipment as this amendment makes it clear that only $5 million can be spent in fiscal year 1981. Our budgetary concerns have been met, while the goal remains of developing a comprehensive plan for the construction of OTEC plant ships.●

Mr. WINN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report is a good compromise, the fiscal year 1981 authorization is halfway between the House and Senate versions at $5.59 billion.

The compromise does not represent any changes in policy positions but merely compromises in dollar values.

The House emphasized the importance of providing $5 million to begin procurement for the fifth Space Shuttle Orbiter. This conference report excluded that $5 million but not because there was disagreement about the importance of beginning the procurement. The Senate also recognized the importance of this and the report reflects that but they did not feel it was necessary to provide additional funding. We have compromised to their position.

The budget which is represented in this conference is well balanced between applied and basic research. This balance will contribute to maintaining a vital, healthy space program.

The conference committee has partially restored a budget reduction which was made by the President in "Space and terrestrial applications" line item. Included within that overall reduction was a $6.5 million reduction in applied research and data analysis which seriously affected the severe storms research activities. The conference committee has restored $3 million of this cut to prevent any detrimental effects to this very valuable program.

I am satisfied with this compromise. It is a good piece of work which deserves the support of the House.

Mr. FUQUA. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ECKHARDT. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 384, nays 21, not voting 28, as follows:

[Roll No. 392]

YEAS—384

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hutto

Hyde
Ireland
Jeffords
Jeffries
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Railsback
Rangel
Ratchford
Regula
Reuss
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Shannon
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—21

Bedell
Burton, John
Dellums
Evans, Ind.
Gephardt
Holtzman
Hughes
Jacobs
Jenkins
McDonald
Maguire
Miller, Ohio
Nolan
Ottinger
Porter
Rahall
Russo
Sensenbrenner
Stark
Studds
Weiss

NOT VOTING—28

Anderson, Ill.
Ashbrook
Beard, Tenn.
Dixon
Duncan, Oreg.
Edwards, Okla.
Erlenborn
Giaimo
Hawkins
Hutchinson
Ichord
Jenrette
Johnson, Colo.
Lundine
Mathis
Moffett
Murphy, N.Y.
Nichols
Nowak
Rhodes
Richmond
Runnels
Simon
Weaver
White
Williams, Ohio
Wilson, Bob
Wilson, C. H.

□ 1040

The Clerk announced the following pairs:

Mr. Murphy of New York with Mr. Ashbrook.

Mr. Richmond with Mr. Edwards of Oklahoma.

Mr. Jenrette with Mr. Rhodes.

Mr. Ichord with Mr. Bob Wilson.

Mr. Giaimo with Mr. Erlenborn.

Mr. Hawkins with Mr. Hutchinson.

Mr. Charles H. Wilson of California with Mr. Runnels.

Mr. Nichols with Mr. Williams of Ohio.

Mr. Weaver with Mr. Anderson of Illinois.

Mr. White with Mr. Dixon.

Mr. Moffett with Mr. Johnson of Colorado.

Mr. Simon with Mr. Lundine.

Mr. Mathis with Mr. Nowak.

Mr. Duncan of Oregon with Mr. Beard of Tennessee.

Mr. OTTINGER and Mr. BEDELL changed their votes from "yea" to "nay."

Mr. DANIEL B. CRANE changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON H.R. 7724, DEPARTMENT OF INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1981

Mr. YATES, from the Committee on Appropriations, submitted a privileged report (Rept. No. 96–1147) on the bill (H.R. 7724) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1981, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. McDADE reserved all points of order on the bill.

OCEAN THERMAL ENERGY CONVERSION RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 7474), providing for a research, development, and demonstration program to achieve early technology applications for ocean thermal energy conversion systems, with Senate amendments thereto, concur in the Senate amendment to the title, and concur in the Senate amendment to the text with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "Ocean Thermal Energy Conversion Research, Development, and Demonstration Act".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) the supply of nonrenewable fuels in the United States is slowly being depleted;

(2) alternative sources of energy must be developed;

(3) ocean thermal energy is a renewable energy resource that can make a significant contribution to the energy needs of the United States;

(4) the technology base for ocean thermal energy conversion has improved over the past two years, and has consequently lowered the technical risk involved in constructing moderate-sized pilot plants with an electrical generating capacity of about ten to forty megawatts;

(5) while the Federal ocean thermal energy conversion program has grown in size and scope over the past several years, it is in the national interest to accelerate efforts to commercialize ocean thermal energy conversion by building pilot and demonstration facilities and to begin planning for the commercial demonstration of ocean thermal energy conversion technology;

(6) a strong and innovative domestic industry committed to the commercialization of ocean thermal energy conversion must be established, and many competent domestic industrial groups are already involved in ocean thermal energy conversion research and development activity; and

(7) consistent with the findings of the Domestic Policy Review on Solar Energy, ocean thermal energy conversion can potentially contribute at least one-tenth of quad of energy per year by the year 2000.

(b) Therefore, the purpose of this Act is to accelerate ocean thermal energy conversion technology development to provide a technical base for meeting the following goals:

(1) demonstration by 1986 of at least one hundred megawatts of electrical capacity or energy product equivalent from ocean thermal energy conversion systems;

(2) demonstration by 1989 of at least five hundred megawatts of electrical capacity or energy product equivalent from ocean thermal energy conversion systems;

(3) achievement in the mid-1990's, for the gulf coast region of the continental United States and for islands in the United States, its possessions and its territories, an average cost of electricity or energy product equivalent produced by installed ocean thermal energy conversion systems that is competitive with conventional energy sources; and

(4) establish as a national goal ten thousand megawatts of electrical capacity or energy product equivalent from ocean thermal energy conversion systems by the year 1999.

COMPREHENSIVE PROGRAM MANAGEMENT PLAN

SEC. 3. (a) (1) The Secretary is authorized and directed to prepare a comprehensive program management plan for the conduct under this Act of research, development, and demonstration activities consistent with the provisions of sections 4, 5, and 6.

(2) In the preparation of such plan, the Secretary shall consult with the Administrator of the National Oceanic and Atmospheric Administration, the Administrator of the Maritime Administration, the Administrator of the National Aeronautics and Space Administration, and the heads of such other Federal agencies and such public and private organizations as he deems appropriate.

(b) The Secretary shall transmit the comprehensive program management plan to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate within nine months after the date of the enactment of this Act.

(c) The detailed description of the comprehensive plan under this section shall include but need not be limited to—

(1) the anticipated research, development, and demonstration objectives to be achieved by the program;

(2) the program strategies and technology application and market development plans, including detailed milestone goals to be achieved during the next fiscal year for all major activities and projects;

(3) a five-year implementation schedule for program elements with associated budget and program management resources requirements;

(4) a detailed description of the functional organization of the program management including identification of permanent test

facilities and of a lead center responsible for technology support and project management;

(5) the estimated relative financial contributions of the Federal Government and non-Federal participants in the pilot and demonstration projects;

(6) supporting research needed to solve problems which may inhibit or limit development of ocean thermal energy conversion systems; and

(7) an analysis of the environmental, economic and societal impacts of ocean thermal energy conversion facilities.

(d) (1) Concurrently with the submission of the President's annual budget for each subsequent year, the Secretary shall transmit to the Congress a detailed description of modifications which may be necessary to revise appropriately the comprehensive plan as then in effect, setting forth any changes in circumstances which may have occurred since the plan or the last previous modification thereof was transmitted in accordance with this section.

(2) Such description shall also include a detailed justification of any such changes, a detailed description of the progress made toward achieving the goals of this Act, a statement on the status of interagency cooperation in meeting such goals, any comments on and recommendations for improvements in the comprehensive program management plan made by the Technical Panel established under section 8, and any legislative or other recommendations which the Secretary may have to help attain such goals.

RESEARCH AND DEVELOPMENT

SEC. 4. (a) The Secretary shall initiate research or accelerate existing research in areas in which the lack of knowledge limits development of ocean thermal energy conversion systems in order to achieve the purposes of this Act.

(b) The Secretary shall conduct evaluations, arrange for tests, and disseminate to developers information, data, and materials necessary to support the design efforts undertaken pursuant to section 5. Specific technical areas to be addressed shall include, but not be limited to—

(1) interface requirements between the platform and cold water pipe;

(2) cold water pipe deployment techniques;

(3) heat exchangers;

(4) control system simulation;

(5) stationkeeping requirements; and

(6) energy delivery systems, such as electric cable or energy product transport.

(c) The Secretary shall, for the purpose of performing his responsibilities pursuant to this Act, solicit proposals and evaluate any reasonable new or improved technology, a description of which is submitted to the Secretary in writing, which could lead or contribute to the development of ocean thermal energy conversion system technology.

PILOT AND DEMONSTRATION PLANTS

SEC. 5. (a) The Secretary is authorized to initiate a program to design, construct, and operate well instrumented ocean thermal energy conversion facilities of sufficient size to demonstrate the technical feasibility and potential economic feasibility of utilizing the various forms of ocean thermal energy conversion to displace nonrenewable fuels. To achieve the goals of this section and to facilitate development of a strong industrial basis for the application of ocean thermal energy conversion system technology, at least two independent parallel demonstration projects shall be competitively selected.

(b) The specific goals of the demonstration program shall include at a minimum—

(1) the demonstration of ocean thermal energy conversion technical feasibility through multiple pilot and demonstration plants with a combined capacity of at least one hundred megawatts of electrical capacity or energy product equivalent by the year 1986;

(2) the delivery of baseload electricity to utilities located on land or the production of commercially attractive quantities of energy product; and

(3) the continuous operation of each pilot and demonstration facility for a sufficient period of time to collect and analyze system performance and reliability data.

(c) In providing any financial assistance under this section, the Secretary shall (1) give full consideration to those projects which provide energy to United States offshore States, its territories, and its possessions and (2) seek satisfactory cost-sharing arrangements when he deems such arrangements to be appropriate.

TECHNOLOGY APPLICATION

SEC. 6. (a) The Secretary shall, in consultation with the Administrator of the National Oceanic and Atmospheric Administration, the Administrator of the Maritime Administration, the Administrator of the National Aeronautics and Space Administration, and the Technical Panel established under section 8, prepare a comprehensive technology application and market development plan that will permit realization of the ten-thousand-megawatt national goal by the year 1999. Such plan shall include at a minimum—

(1) an assessment of those Government actions required to achieve a two-hundred- to four-hundred-megawatt electrical-commercial demonstration of ocean thermal energy conversion systems in time to have industry meet the goal contained in section 2(b) (2) including a listing of those financial, property, and patent right packages most likely to lead to early commercial demonstration at minimum cost to the Federal Government;

(2) an assessment of further Government actions required to permit expansion of the domestic ocean thermal energy conversion industry to meet the goal contained in section 2(b) (3);

(3) an analysis of further Government actions necessary to aid the industry in minimizing and removing any legal and institutional barriers such as the designation of a lead agency; and

(4) an assessment of the necessary Government actions to assist in eliminating economic uncertainties through financial incentives, such as loan guarantees, price supports, or other inducements.

(b) The Secretary shall transmit such comprehensive technology application and market development plan to the Congress within three years after the date of enactment of this Act, and update the plan on an annual basis thereafter.

(c) As part of the competitive procurement initiative for design and construction of the pilot and demonstration projects authorized in section 10(c), each respondent ing to a full-scale, first-of-a-kind facility based on the proposed demonstration system; and (2) the financial and other contributions the respondent will make toward meeting the national goals.

PROGRAM SELECTION CRITERIA

SEC. 7. The Secretary shall, in fulfilling his responsibilities under this Act, select program activities and set priorities which are consistent with the following criteria:

(1) realization of energy production costs for ocean thermal energy conversion systems that are competitive with costs from conshall include in its proposal (1) a plan leadventional energy production systems;

(2) encouragement of projects for which contributions to project costs are forthcoming from private, industrial, utility, or governmental entities for the purpose of sharing with the Federal Government the costs of purchasing and installing ocean thermal energy conversion systems;

(3) promotion of ocean thermal energy conversion facilities for coastal areas, islands, and isolated military institutions which are vulnerable to interruption in the fossil fuel supply;

(4) preference for and priority to persons and domestic firms whose base of operations is in the United States as will assure that the program under this Act promotes the development of a United States domestic technology for ocean thermal energy conversion; and

(5) preference for proposals for pilot and demonstration projects in which the respondents certify their intent to become an integral part of the industrial infrastructure necessary to meet the goals of this Act.

TECHNICAL PANEL

SEC. 8. (a) A Technical Panel of the Energy Research Advisory Board shall be established to advise the Board on the conduct of the ocean thermal energy conversion program.

(b) (1) The Technical Panel shall be comprised of such representatives from domestic industry, universities, government laboratories, financial, environmental and other organizations as the Chairman of the Energy Research Advisory Board deems appropriate based on his assessment of the technical and other qualifications of such representative.

(2) Members of the Technical Panel need not be members of the full Energy Research Advisory Board.

(c) The activities of the Technical Panel shall be in compliance with any laws and regulations guiding the activities of technical and fact-finding groups reporting to the Energy Research Advisory Board.

(e) The Technical Panel shall submit to the Energy Research Advisory Board.

(d) The Technical Panel shall review and may make recommendations on the following items, among others:

(1) implementation and conduct of the programs established by this Act;

(2) definition of ocean thermal energy conversion system performance requirements for various user applications; and

(3) economic, technological, and environmental consequences of the deployment of ocean thermal energy conversion systems.

(e) The Technical Panel shall submit to the Energy Research Advisory Board on at least an annual basis a written report of its findings and recommendations with regard to the program. Such report, shall include a minimum—

(1) a summary of the Panel's activities for the preceding year;

(2) an assessment and evaluation of the status of the programs mandated by this Act; and

(3) comments on and recommendations for improvements in the comprehensive program management plan required under section 3.

(f) After consideration of the Technical Panel report, the Energy Research Advisory Board shall submit such report, together with any comments such Board deems appropriate to the Secretary.

(g) The heads of the departments, agencies, and instrumentalities of the executive branch of the Federal Government shall cooperate with the Technical Panel in carrying out the requirements of this section and shall furnish to the Technical Panel such information as the Technical Panel deems necessary to carry out this section.

(h) The Secretary shall provide sufficient staff, funds, and other support as necessary to enable the Technical Panel to carry out the functions described in this section.

DEFINITIONS

SEC. 9. As used in this Act, the term—

(1) "ocean thermal energy conversion" means a method of converting part of the heat from the Sun which is stored in the

surface layers of a body of water into electrical energy or energy product equivalent;

(2) "energy product equivalent" means an energy carrier including, but not limited to, ammonia, hydrogen, or molten salts or an energy-intensive commodity, including, but not limited to, electrometals, fresh water, or nutrients for aquaculture; and

(3) "Secretary" means the Secretary of Energy.

AUTHORIZATION FOR APPROPRIATION

SEC. 10. (a) There is hereby authorized to be appropriated to carry out the purposes of this Act the sum of $25,000,000 for operating expenses for the fiscal year ending September 30, 1981, in addition to any amounts authorized to be appropriated in the fiscal year 1981 Authorization Act pursuant to section 660 of Public Law 95-91.

(b) There is hereby authorized to be appropriated to carry out the purposes of this Act the sum of $30,000,000 for operating expenses for the fiscal year ending September 30, 1982.

(c) Funds are hereby authorized to be appropriated for fiscal years 1981 and 1982 to carry out the purposes of section 5 of this Act for plant and capital equipment as follows:

Project 81-ES-1, ocean thermal energy conversion demonstration plants with a combined capacity of at least one hundred megawatts electrical or the energy product equivalent, sites to be determined, conceptual and preliminary design activities only, $30,000,000.

Amend the title so as to read: "An Act to provide for a research, development, and demonstration program to achieve early technology applications for ocean thermal energy conversion systems, and for other purposes."

Mr. FUQUA (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. PRICE). Is there objection to the request of the gentleman from Florida?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman tell us are there any nongermane amendments?

Mr. FUQUA. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman.

Mr. FUQUA. I can assure the gentleman that there are no nongermane amendments to the bill.

Mr. ROUSSELOT. In the proposals of the other body?

Mr. FUQUA. The gentleman is correct. Yes.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida to dispense with the reading of the Senate amendments?

There was no objection.

The Clerk read the House amendment to the text of the Senate amendment, as follows:

Strike out section 10 on page 13, line 19 through page 14, line 12 of the engrossed Senate amendment and insert in lieu thereof the following:

SEC. 10. (a) There is hereby authorized to be appropriated to carry out the purposes of this Act the sum of $20,000,000 for operating expenses for the fiscal year ending September 30, 1981, in addition to any amounts authorized to be appropriated in the fiscal year 1981 Authorization Act pursuant to section 660 of Public Law 95-91.

(b) There is hereby authorized to be appropriated to carry out the purposes of this Act the sum of $60,000,000 for operating expenses for the fiscal year ending September 30, 1982.

(c) Funds are hereby authorized to be appropriated for fiscal year 1981 to carry out the purposes of section 5 of this Act for plant and capital equipment as follows:

Project 81-ES-1, ocean thermal energy conversion demonstration plants with a combined capacity of at least one hundred megawatts electrical or the energy product equivalent, sites to be determined, conceptual and preliminary design activities only $5,000,000.

(d) Funds are hereby authorized to be appropriated for fiscal year 1982 to carry out the purposes of section 5 of this Act for plant and capital equipment as follows:

Project 81-ES-1, ocean thermal energy conversion demonstration plants with a combined capacity of at least one hundred megawatts electrical or the energy product equivalent, sites to be determined, conceptual and preliminary design activities only $25,000,000.

Mr. FUQUA (during the reading). Mr. Speaker, I ask unanimous consent that the House amendment to the text of the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida to dispense with the reading of the amendment?

There was no objection.

Mr. FUQUA. Mr. Speaker, on Saturday, June 28, the Senate amended and passed H.R. 7474, the Ocean Thermal Energy Conversion Research, Development and Demonstration Act which this body had passed just a few short weeks ago. Since the House action, we have held extensive negotiation with the Senate to arrive at a compromise acceptable to both the House and the Senate. With the exception of two minor points, that are addressed in my amendment, the bill as passed by the Senate, is a bill that we in the House can support.

I would like to take just a brief moment to extend my personal thanks to the author of this legislation, the distinguished Senator from the State of Hawaii, SPARK MATSUNAGA, for all the assistance and cooperation he has extended to our committee during its efforts on this legislation.

Mr. Speaker, as I have stated, there are two minor points in the Senate-passed bill, which we would like to change. The amendment is acceptable to the Senate sponsors. When the Senate acted on this bill, they amended it to include both the fiscal year 1981 authorization in the original Senate bill, S. 1830, and the fiscal year 1982 authorization contained in H.R. 7474. Although we agree with the Senate on the necessity for carrying fiscal years 1981 and 1982 authorizations, we disagree with the manner in which the Senate combined them. H.R. 7474 as passed by the Senate authorizes for fiscal year 1982 $30,000,000 OTEC pilot plants and an additional $25,000,000 for operating expenses. It further authorizes for fiscal year 1982 $30,000,000 for operating expenses.

The amendment I am offering would change this to be as follows:

For fiscal year 1981 $20,000,000 for operating expenses and $5,000,000 for OTEC pilot plants; and

For fiscal year 1982 $60,000,000 for operating expenses and $25,000,000 for OTEC pilot plants.

The reason for this change is that the pilot plant conceptual design activity during fiscal year 1981 will only require $5,000,000 and there is no necessity for the remaining $25,000,000 for the pilot plant line item until fiscal year 1982. At the same time, the operating expense requirements for fiscal year 1982 are larger than the funding authorized in the Senate bill. The amendment restores this operating expense item to the level that was contained in the bill when it overwhelmingly passed the House on June 17.

Mr. Speaker, I ask my colleagues to support H.R. 7474 with the incorporation of this amendment and pass it, so the Senate can expedite final passage of the noncontroversial piece of much needed energy legislation.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Florida?

There was no objection.

A motion to reconsider was laid on the table.

PARLIAMENTARY INQUIRY

Mr. LOEFFLER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. LOEFFLER. Mr. Speaker, is it in order to ask for a vote at this time? It is hard to hear.

The SPEAKER pro tempore. This was just a unanimous-consent request to amend the Senate amendment and there is no vote on that request.

HEARINGS ON SCHOOL PRAYER

(Mr. KASTENMEIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KASTENMEIER. Mr. Speaker, the Subcommittee on Courts, Civil Liberties and the Administration of Justice, which I chair, has responsibility for many fundamental civil liberties issues, including those associated with the first amendment such as freedom of the press and freedom of religion. A first amendment issue which has generated considerable public and congressional attention is the "prayer in public schools" question. There is now legislation pending before my subcommittee, which would statutorily eliminate the jurisdiction of the Supreme Court and Federal district courts to hear cases which relate to prayer in public schools and other public buildings. Obviously, this legislation has been the focus of a great deal of discussion and even controversy. There are many serious questions to be answered about this proposal, including some questions of a constitutional dimension. So today I would like to announce that the subcommittee will hold 2 days of public hearings on the "school prayer" provisions of S. 450, and other proposals. These hearings will be held July 29 and 30 in Washington. Subsequent hearings may be scheduled should a clear need be apparent.

TWENTY-FIVE YEARS OF OUTSTANDING SERVICE TO ST. LOUIS COMMUNITY BY FLORISSANT VALLEY JAYCEES

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, I believe we all agree on the importance of volunteer work through local organizations in communities throughout the Nation. These local volunteer organizations help improve the quality of life through selfless work on the part of individual members. With this in mind, it is my pleasure to recognize the Florissant Valley Jaycees 25th anniversary of civic service. I personally have had the pleasure to participate in some of their sponsored events and can attest to their hard work and civic pride.

The Florissant Valley chapter of the Jaycees has consistently ranked among the top of the Jaycee organizations which now has more than 8,000 chapters and 1 million members worldwide. They have been instrumental in many civil and philanthropic activities of importance to the St. Louis area, including the Valley of Flowers Festival, the Muscular Dystrophy fundraising project, the Strassenfest, the Junior Miss Pageant, senior citizens' dances, numerous activities at St. Sophia's Geriatric Center, the Hugh O'Brien Youth Foundation seminars, distinguished service awards, "Meet the Candidate" forums, Handicapped Day at the Fair, Wounderland Camp, and the Judevine Center for Autistic Children.

I believe it is important to recognize 25 years of outstanding service to the St. Louis community by this organization. Since its founding in 1956 many individuals have contributed to the success of this organization and that is truly what we honor today—the work of these individuals through their organization to their community.

PERMISSION FOR COMMITTEE ON SCIENCE AND TECHNOLOGY TO HAVE UNTIL 5 P.M. TUESDAY, JULY 15, TO FILE REPORT ON H.R. 7689, RESEARCH AND DEVELOPMENT AUTHORIZATION ESTIMATES ACT

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that the Committee on Science and Technology be granted permission to file the legislative report to accompany H.R. 7689, the Research and Development Authorization Estimates Act, by 5 p.m., Tuesday, July 15.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

RAIL ACT OF 1980

Mr. FLORIO. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7235) to reform the economic regulation of railroads, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. FLORIO).

The question was taken; and on a division (demanded by Mr. LOEFFLER) there were—yeas 53, nays 28.

Mr. LOEFFLER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 358, nays 39, answered "present" 2, not voting 34, as follows:

[Roll No. 393]

YEAS—358

Abdnor
Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Bedell
Beilenson
Benjamin
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dodd
Dornan
Dougherty
Downey
Drinan
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ind.
Fary
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Forsythe
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Goodling
Gore
Gradison
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hamilton
Hanley
Hansen
Harkin
Harris
Harsha
Heckler
Hefner
Heftel
Hillis
Hinson
Holland
Hollenbeck
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kelly
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Latta
Leach, Iowa
Lederer
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Porter
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rinaldo
Ritter
Robinson
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weiss
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki

NAYS—39

Albosta
Anthony
Archer
Bennett
Bereuter
Davis, Mich.
Davis, S.C.
de la Garza
Eckhardt
Evans, Ga.
Fountain
Frenzel
Gonzalez
Gramm
Hall, Tex.
Hammerschmidt
Hance
Hightower
Holt
Ireland
Jones, N.C.
Kazen
Lagomarsino
Leach, La.
Leath, Tex.
Leland
Lloyd
Loeffler
Marlenee
Mitchell, Md.
Myers, Ind.
Nolan
Pickle
Quayle
Roberts
Stenholm
Stump
Wright
Young, Alaska

ANSWERED "PRESENT"—2

Ottinger
Zeferetti

NOT VOTING—34

Anderson, Ill.
Beard, Tenn.
Cavanaugh
Daschle
Dixon
Donnelly
Duncan, Oreg.
Erlenborn
Fascell
Ford, Mich.
Hawkins
Hutchinson
Ichord
Johnson, Colo.
Kemp
McCloskey
Mathis
Moffett
Murphy, N.Y.
Nichols
Nowak
Pepper
Rhodes
Richmond
Rodino
Roe
Runnels
St Germain
Waxman
Weaver
White
Wilson, Bob
Wilson, C. H.
Wydler

□ 1110

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 7235, with Mr. AuCoin in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Monday, June 30, 1980, all time for general debate on the bill had expired.

Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the reported bill shall be considered by titles as an original bill for the purpose of amendment, and each title shall be considered as having been read.

The Clerk will designate section 1.

Section 1 read as follows:

SHORT TITLE

SECTION 1. This Act may be cited as the "Rail Act of 1980".

TABLE OF CONTENTS

Sec. 1. Short title.
Sec. 2. Findings.
Sec. 3. Goals.

TITLE I—RAIL TRANSPORTATION POLICY

Sec. 101. Rail transportation policy.

TITLE II—RAILROAD RATES, PROFITS, AND REINVESTMENT

Sec. 201. Regulation of railroad rates in the absence of effective competition.
Sec. 202. Determination of the absence of effective competition.
Sec. 203. Investigation and suspension of rates.
Sec. 204. Contracts.
Sec. 205. Demand sensitive rates.
Sec. 206. Phaseout of capital incentive rates.
Sec. 207. Permissive limited liability rates.
Sec. 208. Rate discrimination.
Sec. 209. Exemption.
Sec. 210. Intrastate rates.
Sec. 211. Transition rate adjustments and inflation-based rate increases.
Sec. 212. Customer solicitation expenses.
Sec. 213. Safe railroad reinvestment requirements.

TITLE III—RAILROAD INTER-CARRIER PRACTICES

Sec. 301. Compensatory joint rate relief.
Sec. 302. Rate bureaus.
Sec. 303. Long and short haul transportation.
Sec. 304. Railroad entry.
Sec. 305. Service during periods of peak demand.
Sec. 306. Reciprocal switching.
Sec. 307. Car service compensation.
Sec. 308. Car service orders for exigent circumstances.
Sec. 309. Employee protection.

TITLE IV—RAILROAD COST DETERMINATIONS

Sec. 401. Uniform accounting system.
Sec. 402. Railroad cost accounting.
Sec. 403. Civil penalties for violations of accounting standards provisions.

TITLE V—RAILROAD MODERNIZATION AND RESTRUCTURING ASSISTANCE

Sec. 501. Coordination of Federal assistance.
Sec. 502. Feeder railroad development program.
Sec. 503. Restructuring assistance.
Sec. 504. Authorization of appropriations.
Sec. 505. Extension of redeemable preference share financing.
Sec. 506. Technical and conforming amendments.

TITLE VI—CONRAIL TITLE V LABOR PROTECTION

Sec. 601. Monthly displacement allowance.
Sec. 602. Duration of monthly displacement allowance.
Sec. 603. Training and transfer.
Sec. 604. Payment, audit, and report.
Sec. 605. Technical amendments.
Sec. 606. Effect on other laws.

TITLE VII—SUPPLEMENTAL TRANSACTIONS

Sec. 701. Supplemental transactions.

TITLE VIII—MISCELLANEOUS PROVISIONS

Sec. 801. Effective dates.
Sec. 802. Effect on pending matters.
Sec. 803. Construction of amendments.

AMENDMENTS OFFERED BY MR. FLORIO

Mr. FLORIO. Mr. Chairman, I offer amendments to the title of the bill, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. FLORIO: Page 97, beginning on line 16, strike out "Rail Act of 1980" and insert in lieu thereof "Harley O. Staggers Rail Act of 1980".

In the following places in the reported bill, insert "Harley O. Staggers" immediately before "Rail".

Page 108, line 12.
Page 120, line 23.
Page 123, line 4.
Page 130, line 25.
Page 138, line 8.
Page 155, line 13.
Page 155, line 15.
Page 157, line 19.
Page 158, line 3.
Page 161, line 11.
Page 175, line 8.
Page 177, line 9.
Page 178, line 14.
Page 181, line 11.
Page 182, line 19.
Page 185, line 20.
Page 188, line 17.
Page 200, line 7.

Mr. FLORIO. Mr. Chairman, this is a very simple amendment, but in my opinion a very symbolically significant amendment. It changes the name of this Act to the "Harley O. Staggers Rail Act of 1980."

Chairman STAGGERS of West Virginia has been a Member of Congress for some 32 years. He has been chairman of the Interstate and Foreign Commerce Committee for 16 years. During this time, he has worked very diligently to maintain and improve our rail transportation system. I do not know of another subject he cares more deeply about than a sound rail transportation system.

He has been enormously helpful in developing this legislation, and I and the other members of the subcommittee particularly want to thank him for his help. As we all know, Chairman STAGGERS has decided to retire at the end of this term. Members of the Interstate and Foreign Commerce Committee will certainly miss his leadership, as will the entire House. I believe the naming of this landmark legislation in his honor is a fitting tribute to his years of service and dedication to a sound rail transportation system in America. I urge the support of this body for this amendment.

Mr. RAHALL. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I will be happy to yield to the gentleman from West Virginia.

Mr. RAHALL. Mr. Chairman, I rise in support of the amendment offered by the gentleman from New Jersey to rename this legislation "the Harley O. Staggers Rail Act of 1980."

Mr. Chairman, no man has been more beneficial nor more concerned about the health, welfare, and survival of our rail system than the distinguished gentleman, fellow West Virginian, and senior member of the West Virginia delegation, HARLEY STAGGERS. Whether it was Amtrak, Conrail, or private rail carriers, HARLEY STAGGERS took their interest at heart and worked toward the development of a viable and economical rail system throughout the country. I can think of no more fitting a tribute than to honor Chairman STAGGERS by renaming this vital legislation after him.

All West Virginians remember Chairman STAGGERS' efforts to retain Amtrak service throughout the State, a State riddled by airline reductions and bus service curtailments. When Chairman STAGGERS announced his retirement just a few short months ago, although America still has a great leader, and all West Virginians still have a truly great friend, his understanding and leadership in the Halls of Congress will be missed. Whether it was railroad legislation or energy legislation, Chairman STAGGERS had the concerns of his West Virginia constituency and our country at heart.

I could go on and on and expound upon the accomplishments of my colleague, but rather, I say so long to the gentleman, not goodby, for HARLEY STAGGERS will continue to shape the direction of all with whom he has come in contact.

I urge my colleagues to support this amendment to pay tribute to HARLEY STAGGERS, a great American, a great leader, and a truly great friend.

Mr. MARKS. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Pennsylvania.

Mr. MARKS. Mr. Chairman, I thank the gentleman for yielding. One of the great privileges I have had in this Congress is to serve on the Interstate and Foreign Commerce Committee with Chairman STAGGERS. Chairman STAGGERS mentions often what is right for America. Chairman STAGGERS was right for America, and is one of our great Americans.

I have been very, very pleased to be able to serve with him and to accept his friendship and help through the years that I have been here in the Congress. He is a great, great man. I support the amendment.

Mr. FLORIO. I thank the gentleman.

Mr. HUBBARD. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Kentucky.

Mr. HUBBARD. Mr. Chairman, I appreciate the gentleman from New Jersey, the chairman of the subcommittee, yielding to me.

Mr. Chairman, I commend the gentleman from New Jersey for naming this bill in honor of our colleague from West Virginia and I rise in support of H.R. 7235, the Rail Act of 1980. This legislation is designed to steer a new course for the railroad industry. A course which happily will be better for both the troubled rail industry and the shippers, like the agricultural community, which depend on rail service. Railroads are both the most regulated sector of the transportation industry and the sickest. This is no happenstance. It is directly related to the stultifying effect of excessive Government control over the rail industry. Regulation adopted at the turn of the century is simply not appropriate to the transportation realities of today.

Where once railroads dominated the national transportation picture, they now face intense competition on virtually all of the traffic they handle. Competition, not rail monopoly, is the fundamental fact of life today. The horse and buggy era system of transportation regulation must end if railroads are to be given a fair chance of competing with the other modes of transportation.

This legislation is designed to allow railroads the necessary management flexibility to compete effectively for the traffic where effective competition exists. At the same time it would maintain railroad regulation for the truly captive shippers.

In speaking for the rail bill today I start from a fundamental premise—a strong healthy railroad system is essential to meet the needs of the shippers who depend upon rail transportation, and no sector of the economy stands to gain more than rural America and the agriculture community from the railroads getting back on their feet. Rural America needs good rail service. It depends upon rail transportation. Under the existing regulatory system we have seen the quality of rail service deteriorate. We have seen continuing erosion of the financial condition of the railroad industry and a continuing shift of traffic to other modes. We must stop this decline of the American rail system. It is a vital national assets but it has been neglected too long.

In my view, this legislation is absolutely essential if we are to arrest the longtime decline of the rail system and revitalize this critically important industry. As a rural Congressman, with a deep concern over the welfare of rural America, let me say that I think we have much to gain from this legislation and much to lose if it is not passed or if it is passed in the weakened form which would occur if the Eckhardt amendment were adopted. This is a bill to strengthen the rail system and in turn it does much for agricultural shippers and rural America.

The legislation will enhance private sector railroading. One of the major problems we in rural America face is abandonment of rail service. This legislation does not encourage or liberalize abandonments. In fact it points in absolutely the other direction. The surest way to encourage abandonments and loss of service is to perpetuate the existing climate for the railroad industry—status quo regulation—which has brought us bankruptcies and wholesale abandonments which come in their wake. We need to take the steps now to avoid future Rock Islands, future Milwaukees, and future Penn Centrals. Railroad bankruptcies are the ultimate abandonment and long before the official bankruptcies occur rural shippers are forced to bear the burden of inadequate service. If we are to preserve rail service to rural America we need to get the railroad industry back on its feet. Our best guarantee is a strong healthy rail system capable of operating in the private sector. I am confident that this bill will help to create that kind of environment. Therefore, I support it, and I oppose the special interest legislation proposed by Mr. ECKHARDT which would strip the bill of meaningful reform.

□ 1120

Ms. MIKULSKI. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentlewoman from Maryland.

Ms. MIKULSKI. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of this amendment because, as the very first woman in the history of the United States to serve on the Committee on Interstate and Foreign Commerce of the House, I would like to say thanks to the gentleman from West Virginia for his leadership and the opportunity that he has given me to serve on this committee of the U.S. Congress. A Member's very first committee assignment is important, not only because of what one can do for the community but what one can do for our country. I am pleased to have served with the gentleman from West Virginia. He has always been a gentleman, a man of ability and gallantry. As a newcomer, I am honored to learn my legislative craft from one so able who offered me such opportunities.

Mr. Chairman, I am sure that this legislation will serve as a legacy from the gentleman from West Virginia (Mr. STAGGERS) and will serve to carry on his populist view of free enterprise.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank my colleague for yielding, and I would like to congratulate him for the amendment he has offered.

Although I am not a member of this committee, I am happy that we have extended this honor to the gentleman from West Virginia, as a mark of the respect and affection that we all share in this House for that remarkable figure, HARLEY STAGGERS of West Virginia. I congratulate my colleague.

Mr. MADIGAN. Mr. Chairman, I rise in support of the amendments.

Very briefly, let me say that I would like to associate myself with the remarks of the previous speakers, but especially I would like to pay tribute to the gentleman from West Virginia (Mr. STAGGERS) for all the courtesies he has extended to the members of the minority on the Committee on Interstate and Foreign Commerce during the period of time that I have been privileged to serve on that committee.

I think this is a fitting tribute to a man who has had such a distinguished career here in the U.S. Congress, and I am very happy to be a part of it.

Mr. BAUMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to this amendment, not because of the content of the amendment. If I had listened carefully—and I admit I did not—I might have made a point of order against it on whatever grounds I could have found, perhaps nongermaneness.

I do not know of another instance in which a bill has been named in honor of or in memorial to a Member of the House. Usually a bill that becomes law takes the name of its sponsors, the Taft-Hartley Act being a classic example. Therefore this bill would be known as the Florio-Madigan Act if it ever becomes law.

I have heard of naming buildings, bridges, highways, monuments, parks, and all sorts of public edifices—the "edifice complex" we talk about—after Members of Congress. That is perhaps fitting.

I have felt that perhaps we have gone too far in that we formerly were naming things after dead members, not Members who are still alive. Under that former custom you have to achieve immortality in one sense before you can achieve such an honor.

The gentleman from West Virginia (Mr. STAGGERS) deserves recognition. He has served with distinction for many, many years, and he has worked hard. He has had to put up with the gentleman from Maryland objecting to his requests and with many other difficult things which we all face, particularly when we sit in positions of responsibility. The gentleman has acquitted himself well, he has served his district well, and we all know that. Nothing I say could add to his luster.

But it borders on the ridiculous when we start naming bills after Members of Congress. When we start honoring numerous people with gold medals and now name bills after Members, we ought to stop and think. Frankly, this amendment is just about the nth degree of the meaningless honoring of Members.

At the same time this is a precedent which would be established in the House that could delay us for hours and hours, beyond even what the gentleman from Maryland could achieve with his own talents, if we are willing to take every bill and offer an amendment naming it after someone associated with it.

And worse than that, think what could happen if this bill becomes law and it screws up the entire railroad system of this country—and many people think it may. I am not taking that position. But I would not want the gentleman from West Virginia (Mr. STAGGERS), with his great record of achievements, to be saddled with the opprobrium of having someone say, "My God, the Staggers Act is the one that destroyed my railroads." I am not saying that will happen.

Let us suppose the other body offers an amendment and adds the name of a Member of the other body with whom the gentleman from West Virginia would not want to be associated. I would not even want to guess, but it might be the name of some arch conservative Republican. Suppose we had the Staggers-

Helms Act. Both of those Members might become terribly uncomfortable.

All I am suggesting is that the possibilities are endless for mischief with this kind of amendment. As much as I want to publicly state my sincere affection and respect for the gentleman from West Virginia, there are ways we could honor him other than naming bills after him.

Frankly, I think it would be more important to name repealing bills after Members of Congress. That is something the American people would applaud, if we repeal a few laws instead of pass them.

So, Mr. Chairman, with no disrespect, I object to the amendment.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, much of what the gentleman who just took the well said is true, but still I think this is kind of an exceptional occasion. We do have here a most distinguished chairman of a committee of great distinction, a committee that over the years has dealt with the question of railroads in a courageous and an effective way.

Although the gentleman from Texas feels that the House version of the bill would not do honor, if it remained in its present shape, to the distinguished gentleman from West Virginia (Mr. STAGGERS), nevertheless the bill in principle and in direction is totally worthy of that distinguished chairman of the committee which I have the honor of serving on.

That committee has been previously chaired by two Members of distinction who, incidentally, come from my State, John Reagan, who wrote the ICC legislation that controlled railroads, and Sam Rayburn. It is a proud tradition. I think it is appropriate that the name of HARLEY STAGGERS, our distinguished chairman today, be attached to a bill which has been the center function of that committee for a long time.

I would think, though, in deference to the statements that were made by the gentleman from Maryland (Mr. BAUMAN) a minute ago, that any Member for whom a bill is named ought to have the option, at the conclusion of the conference report, to take his name off the bill. The question of whether or not the bill does honor to a great Member of this body depends on what the conference committee does with it. It has been frequently said here that two wrongs do not make a right, but they make a heck of a good conference report.

So we do not know precisely what ultimately will happen. I think we ought to at least reserve, without formal action, the option of the distinguished gentleman from West Virginia (Mr. STAGGERS) to decide whether this bill should take his name or not.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New Jersey (Mr. FLORIO).

The amendments were agreed to.

The CHAIRMAN. The Clerk will designate section 2.

Section 2 reads as follows:

FINDINGS

SEC. 2. The Congress hereby finds that—

(1) historically, railroads were the essential factor in the national transportation system;

(2) the enactment of the Interstate Commerce Act was essential to prevent an abuse of monopoly power by railroads and to establish and maintain a national railroad network;

(3) today, most transportation within the United States is competitive;

(4) many of the Government regulations affecting railroads have become unnecessary and inefficient;

(5) nearly two-thirds of the Nation's intercity freight is transported by modes of transportation other than railroads;

(6) earnings by the railroad industry are the lowest of any transportation mode and are insufficient to generate funds for necessary capital improvements;

(7) by 1985, there will be a capital shortfall within the railroad industry of between $16,000,000,000 and $20,000,000,000;

(8) failure to achieve increased earnings within the railroad industry will result in either further deterioration of the rail system or the necessity for additional Federal subsidy; and

(9) modernization of economic regulation for the railroad industry with a greater reliance on the marketplace is essential in order to achieve maximum utilization of railroads in order to save energy and combat inflation.

AMENDMENT OFFERED BY MR. DAVIS OF MICHIGAN

Mr. DAVIS of Michigan. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DAVIS of Michigan: Page 99, line 6, after the word "power" insert "over captive traffic".

Mr. DAVIS of Michigan. Mr. Chairman, this is a clarifying amendment of significant importance to the people in my State. Nowhere in this bill is there any reference to the fact that a substantial portion of the traffic shipped by rail is captive. That is to say when a shipper has no choice but to ship his goods on one particular railroad, from a specific point of origin to a designated point of destination, he is bound into that railroad regardless of the rate.

Historically, the ICC has had broad authority to review cases involving captive traffic. This bill purports to change much of the law in this respect. Such action will cause substantial problems for consumers in my State.

This amendment is important in order to present a true historical perspective as background for this bill.

It serves to underline one of the major perils of deregulation. The drastic altering of an industry's structure can leave some of the involved parties in an extremely vulnerable position. While I support the concept of deregulation, there are some situations in which the consumer will be left unprotected by the outright loss of controls. This is one of those situations.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. DAVIS of Michigan. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would just say that the gentleman's amplification of his findings is in conformity with the general thrust of the legislation, and we are happy to accept the amendment.

□ 1130

Mr. SEBELIUS. Mr. Chairman, will the gentleman yield?

Mr. DAVIS of Michigan. I yield to the gentleman from Kansas.

Mr. SEBELIUS. Mr. Chairman, I appreciate the gentleman offering the amendment and using the word "some" rather than "most," because I think it is much more to the point. As the gentleman knows, I had an amendment that used a different word but was designed to convey the same thing, that most of it is competitive. This is not true out in many, many areas in Michigan as it is in Kansas.

I compliment the gentleman, and I hope the amendment is adopted.

Mr. DAVIS of Michigan. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. DAVIS).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 2?

Mr. HARSHA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise for the purpose of clarifying the meaning of the term "adequate revenues" as that term is used in this bill and the Interstate Commerce Act, although I am very much in support of the bill in its entirety, there is a matter which I think needs clearing up. The ICC, in one of its determinations recently, has found that a rate of return for certain railroads in the vicinity of 5¼ percent, or even lower, in some cases 4.02 percent, was an adequate; that is, that it provided adequate revenues, to attract additional capital to carry on the activities of the railroad.

Mr. Chairman, this sort of a return in today's financial market is just totally unrealistic. You cannot attract capital on a meager return of 4 to 5 percent. That is just ludicrous to even think you could do it. And besides that, everyone knows that the railroads need upgrading, they need modernization. If we are to meet the energy needs in transportation in this country, we are going to have to spend vast sums in expansion to do that.

Now, I would like to have the attention of the distinguished gentleman from California (Mr. MATSUI). I am, as I have said, concerned over the anemic financial condition of the rail industry and its delapidated facilities. The industry needs to achieve much higher earnings if it is to attract capital necessary to rehabilitate, to improve, and to expand the present system and to maintain it.

Am I correct in my understanding that the term "adequate revenues" in the bill and that term as used in the 4-R Act amendments to the Interstate Commerce Act, means a rate of return sufficiently high to enable the railroads to attract all the capital which railroads require to maintain the rail system and to make the needed investment and expansion that the times require?

Mr. MATSUI. If the gentleman from Ohio will yield, I want to thank, first of all, the gentleman from Ohio for his very gracious and generous ability to negotiate, and to come to a reasonable compromise on this issue. I would also say that his comments are in order and they are exactly correct. The purpose of having the provision "adequate revenues" in this bill is to make sure that adequate capital will be available to the rairoads, including the ability of the railroads to capital will be available to the railroads, addition to existing indebtedness and other factors. So the purpose of the language is exactly as the gentleman indicates.

Mr. HARSHA. I thank the distinguished gentleman. Can the gentleman assure me that it is the purpose of the committee to see that the ICC interprets this language in the manner that the gentleman just mentioned?

Mr. MATSUI. Yes.

Mr. HARSHA. And that we are making clear and unambiguous legislative history, and intent, as to what the Congress expects the ICC to carry forward and to carry out in its responsibilities?

Mr. MATSUI. Yes. I would further say that the ICC, when it indicated that 5.2 percent was adequate, in my opinion, perhaps, made a mistake, and that percentage certainly would not be adequate under this particular provision. In fact, we would want to take into consideration not only the ability to attract additional capital investment, but other indicators of economic viability as well.

So I would agree with the gentleman that this is an attempt to make and clarify legislative history in our colloquy here.

Mr. HARSHA. I thank the gentleman.

Mr. Chairman, I would like to address the distinguished chairman of the subcommittee.

Is the gentleman's understanding the same as the gentleman from California (Mr. Matsui) concerning the colloquy that the gentleman from California and I have just had?

Mr. FLORIO. If the gentleman will yield, the answer is yes, the gentleman from California (Mr. Matsui) has taken a lead on this issue in the subcommittee, and he states the intent of the committee correctly.

Mr. HARSHA. I thank the gentleman.

Mr. Chairman, may I inquire of the minority if this colloquy we have just had here between the gentleman from California (Mr. Matsui) and myself adequately and properly interprets the intent of the committee in this regard?

Mr. MADIGAN. If the gentleman will yield, may I ask the gentleman if he intends to offer an amendment?

Mr. HARSHA. If I can clear this up by legislative history and by the expressed intent of the members of the committee and the subcommittee on both sides of the aisle, an amendment to clarify the purpose of the bill and to instruct the ICC to provide the railroads with an adequate rate of return is not necessary in light of your assurances that my understanding of the meaning of adequate revenues is correct.

Mr. MADIGAN. I would say to the gentleman that the remarks of the gentleman from California (Mr. Matsui) correctly reflect the subcommittee's position, as I understand that position to be.

Mr. HARSHA. I thank the gentleman.

AMENDMENT OFFERED BY MR. DAVIS OF MICHIGAN

Mr. DAVIS of Michigan. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Davis of Michigan: Page 99, line 9, strike the word "most" and insert the words "while much";

Line 10, place a comma after the word "competitive" and insert the words "some amount of traffic is alleged to be captive to rail."

Mr. DAVIS of Michigan. Mr. Chairman, this again is a clarifying amendment. Its purpose is to set a tone for the remainder of our consideration of this bill.

The statement as written in the legislation is just not really accurate. It is generally accepted all traffic moving at revenue-cost ratios under 140 percent was competitive. As you go above 140 percent and approach 200 percent revenue-cost ratios, you become more and more competitive and railroads exercise more and more monopoly power over the shipper.

If I tell you that most of the important railroad traffic, such as automobiles, steel, coal, chemicals, fertilizer, grain, and other bulk manufactured goods travel at rates in excess of 180 percent, the significance of my amendment can be understood. It more accurately reflects the reality of railroad shipping and the kinds of cargo sent by rail.

Again, I believe that failure to understand the importance of captive traffic to rail liability is one of the major problems in this legislation.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. DAVIS of Michigan. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, I am pleased to represent that the statement of findings that the gentleman incorporates into this amendment is acceptable to the committee.

Mr. DAVIS of Michigan. I thank the gentleman.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. DAVIS of Michigan. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I want to thank the gentleman for yielding and to say also that we have no objection to the amendment. But for the purpose of legislative history, I would want the record to be clear that we intend that all modes of transportation are to be considered when determining whether or not there is competition.

Mr. DAVIS of Michigan. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. Davis).

The amendment was agreed to.

The CHAIRMAN. Are there other amendments to section 2? If not, the Clerk will designate section 3.

Section 3 reads as follows:

GOALS

Sec. 3. The purpose of this Act is to provide for the restoration, maintenance, and improvement of the physician facilities and financial stability of the rail system of the United States. In order to achieve this purpose, it is hereby declared that the goals of this Act are—

(1) to assist the railroads of the Nation in rehabilitating the rail system in order to meet the demands of interstate commerce and the national defense;

(2) to reform Federal regulatory policy so as to preserve a safe, adequate, economical, efficient, and financially stable rail system;

(3) to assist the rail system to remain viable in the private sector of the economy;

(4) to provide a regulatory process that balances the needs of carriers, shippers, and the public; and

(5) to assist in the rehabilitation and financing of the rail system.

The CHAIRMAN. Are there any amendments to section 3? If not, the Clerk will designate title I.

Title I reads as follows:

TITLE I—RAIL TRANSPORTATION POLICY

RAIL TRANSPORTATION POLICY

Sec. 101. (a) Chapter 101 of title 49, United States Code, is amended by inserting after section 10101 the following new section:

"§ 10101a. Rail transportation policy

"In regulating the railroad industry, it is the policy of the United States Government—

"(1) to allow, to the maximum extent possible, competition and the demand for services to establish reasonable rates for transportation by rail;

"(2) to minimize the need for Federal regulatory control over the rail transportation system and to require fair and expeditious regulatory decisions when regulation is required;

"(3) to promote a safe and efficient rail transportation system by allowing rail carriers to earn adequate revenues, as determined by the Interstate Commerce Commission;

"(4) to ensure the development and continuation of a sound rail transportation system with effective competition among rail carriers and with other modes, to meet the needs of the public and the national defense;

"(5) to foster sound economic conditions in transportation and to insure effective competition and coordination between rail carriers and other modes;

"(6) to provide rate regulation where there is an absence of effective competition and where rail rates provide revenues which exceed the amount necessary to maintain the rail system and to attract capital;

"(7) to require rail carriers, to the maximum extent practicable, to rely on individual rate increases, and to limit the automatic passthrough of inflationary cost increases through rate increases of general applicability;

"(8) to encourage fair wages and safe and suitable working conditions in the railroad industry;

"(9) to prohibit predatory pricing and practices and to avoid undue concentrations of market power;

"(10) to ensure the availability of accurate cost information in regulatory proceedings, while minimizing the burden on rail carriers of developing and maintaining the capability of providing such information; and

"(11) to cooperate with the States.".

(b) Section 10101(a) of title 49, United States Code, is amended by striking out "To ensure" and inserting in lieu thereof "Except where policy has an impact solely on rail carriers, in which case the principles of section 10101a of this title shall govern, to ensure".

(c) The section analysis of chapter 101 of title 49, United States Code, is amended by inserting after the item relating to section 10101 the following new item:

"10101a. Rail transportation policy.".

AMENDMENT OFFERED BY MR. ANDERSON OF CALIFORNIA

Mr. ANDERSON of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ANDERSON of California: Page 101, line 8, immediately after "Government" insert the following: ", consistent with and subject to those obligations which the Constitution of the United States imposes on rail carriers having the power of eminent domain,".

Mr. ANDERSON of California. Mr. Chairman, I will be offering amendments to the Rail Act today which relate to rail service at our Nation's ports.

The first amendment deals with section 1, the policy portion of the bill, by adding some constitutional direction to the rail policy we are setting. This amendment adds 24 words at the outset of the policy portion of this bill:

> Consistent with and subject to those obligations which the Constitution of the United States imposes on rail carriers having the power of eminent domain.

Now it may not seem necessary for us to call attention to the Constitution in setting policy by legislation, and this amendment may seem of less than great consequence. However, I believe this constitutional reference is of critical importance to the future working of railroad deregulation.

Article I, section 9, clause 6, of the Constitution states that "No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another." Also the 5th and 14th amendments to the Constitution have long been interpreted by the courts to mean that railroads which are granted the right of eminent domain have the obligation not to discriminate in ratemaking.

This bill, as written, suggests to the Interstate Commerce Commission a new attitude exempting railroads from this sort of restrictions on discrimination. If this bill were to be the basis for future Commission decisions, it would at the very least require a long and costly round of litigation to reconfirm the railroads' obligation not to discriminate.

This bill also seems to suggest a new interpretation of the railroads' eminent domain responsibilities, particularly with regard to rate discrimination.

In 1978, when the Congress was considering the coal slurry pipeline, the Commerce Committee issued a very strong report about the viability and responsibility to the public of railroads (Committee Print 95-56). Part I of that report gives an excellent summary of the requirement of nondiscriminatory service. I would like to refer to pages 5 through 10 of that report as the most eloquent and definitive case that can be made for the amendment I am proposing to title I of this bill. Let me quote briefly from those pages:

> . . . but it is universally agreed that the public must have the right to make use of the service offered . . . without discrimination, and not merely at the pleasure or caprice of the condemning party.
>
> Because of the broad range of common carrier duties to the general public, railroads qualify as a public use.
>
> A railroad is given the right of eminent domain because "the question is no longer an open one, as to whether a railroad is a public highway, established primarily for the convenience of the people, and to serve public ends, and, therefore, subject to governmental control and regulation."

If Congress attempts, through regulation or through removal of regulation, to permit actions which are discriminatory between ports, that delegation of authority is not permitted to us by the Constitution.

My amendment would make it clear that the Constitution will remain preeminent in the deregulation of railroads, and that the Interstate Commerce Commission shall give primary consideration to the constitutional provisions relating to ports when dealing with cases brought before the Commission.

Therefore, I urge my colleagues to rise in support of this noncontroversial amendment—to insure that the deregulation of our Nation's railroads is conducted constitutionally.

Mr. Chairman, I add an excerpt from the report of the Subcommittee on Transportation and Commerce relevant to these issues.

[Excerpt from report of the Subcommittee on Transportation and Commerce (dated June 1978) commitee print 95-56, pages 5-10]

The grant of the power of eminent domain overrides the basic right of citizens to enjoy and dispose of their private property as they see fit. Legislatures and in particular, the United States Congress, should grant such power only in those rare circumstances when the public benefit flowing from its exercise clearly outweighs the harm to individuals resulting from the use of their property in derogation of their wishes.

The requirement under many statutes for a petitioner to obtain a certificate of public convenience and necessity prior to construction of a regulated project is not sufficient to address this concern. If it were, it obviously would be unnecessary for the Congress to consider separately the question of eminent domain. An applicant could simply petition for certification and the right to condemn would automatically follow.

From the standpoint of the private promoters of coal slurry pipelines, the raison d'etre of Federal coal pipeline legislation is a blanket grant of the Federal power of eminent domain. Because congressional findings as to what constitutes a public use, or purpose, are accorded substantial judicial deference, the Congress must scrutinize the practical effects of legislation to determine whether the use or purpose is truly public, the ultimate test of constitutionality applied by the courts. The committee believes that a serious constitutional question overshadows the principal goal of this legislation: May the Federal Government delegate the power of eminent domain to a private corporation to acquire rights-of-way required to construct, operate, and maintain interstate pipelines for the transportation of coal, where—

(*a*) The public does not have the right to make use of the services without discrimination; and

(*b*) The private corporations are not subject to control over abandonment of facilities and services both of which conditions the Congress required of private companies granted condemnation powers under the Interstate Commerce Act, the Natural Gas Act, and the Communications Act of 1934.

H.R. 1609, the Coal Pipeline Act of 1978, grants the power of eminent domain to private corporations to acquire rights-of-way required to construct, operate and maintain any proposed coal pipeline or pipelines.[1]

However, the bill contains no provision requiring coal pipelines "to provide and furnish transportation upon reasonable request therefor";[2] to avoid undue or unreasonable preferences or advantages;[3] and forbidding such pipelines to "abandon all or any portion of its facilities * * * or any services rendered by means of such facilities, without the permission and approval of the [Secretary] * * * that the present or future public convenience or necessity permit such abandonment".[4]

It is a fundamental principle of the American system of legal protections that private property cannot be taken by the Government except for purposes of a public character.[5] The courts have, without exception, held that it is beyond the legislative power to take, against his will, the property of one and give it to another for what the Courts deem a private purpose.[6] In other words, under the fifth amendment, it is the universal rule that private property can constitutionally be condemned only for a public use.[7]

When it is attempted to justify a taking of property under this branch of eminent domain, namely, public service, it is not material whether the taking is made by a public or a private corporation, * * * but it is universally agreed that the public must have the right to make use of the service offered * * * without discrimination, *and not merely at the pleasure or caprice of the condemning party.*[8]

Because of their broad range of common carrier duties to the general public (see discussion of, infra) railroads qualify as a public use.

A railroad is given the right of eminent domain because "the question is no longer an open one, as to whether a railroad is a public highway, established primarily for the convenience of the people, and to subserve public ends, and, therefore, subject to governmental control and regulation. It is because it is a public highway, and subject to such control, that the corporation by which it is constructed, and by which it is to be maintained, may be permitted, under legislative sanction, to appropriate private property for the purpose of a right-of-way, * * *[9]

Likewise, Congress may delegate to a private corporation the right to acquire by eminent domain private land for the approaches to an interstate bridge open to the public.[10]

* * * [I]t is held that a way for natural gas pipelines may be acquired by condemnation where the gas is to be used to supply consumers generally *and not merely such patrons as the owners of the line choose to accommodate.*[11]

The courts which have considered the constitutionality of gas pipeline eminent domain, except one, have sustained the requirement of nondiscriminatory service.[12] Even though dicta in that one court opinion indicates that gas pipeline companies might not be required to make their services available to each and all alike, Federal eminent domain may be justified for them because *the only way that natural gas could feasibly be transported from one State to another is by means of a pipeline and that none of the means of transportation by water, land, or air, to which mankind has successively become accustomed, suffices for the movement of natural gas.* "Of course, the Natural Gas Act gives the Federal Power Commission the right to require the extension or improvement of pipeline facilities and forbids the abandonment of all or any portion

---

Footnotes at end of article.

of a gas pipeline except by permission of the Commission."[13] Neither of these distinguishing factors appears in the case of H.R. 1609 and their absence may be fatal to its constitutionality. The mere consideration of present or future private contracts for coal transportation at the time of certification as called for in H.R. 1609 does not measure up to the permanent outstanding obligation placed on gas pipeline companies to extend or improve their pipeline facilities as required by intermittent public demand.

The Congress has imposed these obligations on oil pipelines as well.

H.R. 1609 provides that the Secretary must find "that the project * * * provides the capacity necessary to fulfill the requirement of a common carrier of coal, *as determined by the Secretary*." "This cryptic conclusion seems to ignore the ancient wisdom that calling a thing by a name does not make it so." Burger Ch. J. in *Madison School District* v. *Wisconsin Employment Commission*, 429 U.S. 167, 174 (1976). As was said by Brandeis, J. in *U.S.* v. *Brooklyn Terminal*, 249 U.S. 296, 304 (1919), whether one is a common carrier "does not depend upon whether its charter declares it to be a common carrier, nor upon whether the State of a corporation considers it such; but *upon what it does*."

"* * * The Interstate Commerce Act codified the common law obligations of railroads as common carriers. From the earliest days, common carriers have had a duty to carry all goods offered for transportation." *American Trucking* v. *A.T. & S.F.R.R.R. Co.*, 387 U.S. 397, 406 (1967). "One bound to furnish transportation to the public as a common carrier must serve all, up to the capacity of his facilities, without discrimination * * *" *Michigan Commission* v. *Duke*, 266 U.S. 570, 577 (1925). "It is the right of the public to use the road's facilities and to demand service of it rather than the extent of the public which is the real criterion determinative of its character." *The Tap Line Cases*, 234 U.S. 1, 24 (1941).

The method of operation of the coal slurry line does not fit this description. In responding to questions from the Committee on Public Works and Transportation, the Department of Transportation said:

"Our understanding of the complexities surrounding slurry pipelines contracts is that a rate agreement with the utility is an integral part of the package presented to potential financial backers, as well as to the certifying agency. Pipelines will not be built on speculation, with the backers hoping the utility at the other end will agree to purchase the coal. Therefore, rates and volume of traffic to be carried must be agreed upon before construction."[14]

The report of the Committee on Interior and Insular Affairs says:

"Financing of pipeline enterprises would not be possible without long-term arrangements properly containing escalation clauses to cover unforeseen cost increases. Also, common carrier obligations of railroads to provide uneconomical services are probably more stringent than they would be for coal slurry pipelines. These long-term ["take or pay"] contracts which the slurry interests themselves have promoted would be contracts of 20–30 years with public utility companies who would agree to use the slurry pipeline as its primary source for a certain amount of coal each year or pay the slurry pipeline a guaranteed income."[15]

The characteristics of a coal slurry pipeline were described in the Report of the Office of Technology Assessment as, *inter alia:*

2. The coal will be purchased by the user-shipper (utility or industrial plant) at the mouth of the mine under a long term (30-year) contract of sale.

3. The coal will be delivered by mine operator to the coal pipeline near the mine mouth and will be slurried and transported by the coal pipeline to the shipper's plant pursuant to a long term (30-year) transportation contract.

4. The coal pipeline will either deliver the coal slurry to the shipper or will dewater the coal slurry and deliver the water and the coal to the shipper.

5. Several coal producers may deliver coal to a pipeline and such deliveries may be made to more than one pipeline origination point *if contemplated in the original engineering design*. Also coal slurry may be added to the pipeline as it moves toward the shipper's plant *if this possibility was contemplated in the original design*.

6. Coal slurry may be delivered to different points along the pipeline routes and those drop off points, *if contemplated in the original pipeline design*, could be added after the pipeline is in operation.[16]

The Main Report of the Office of Technology Assessment says:

"Common carrier status and Interstate Commerce Commission (ICC) rate regulation place railroads at a disadvantage relative to less stringently regulated pipelines. Even if the pipelines were required to be common carriers in name and subjected to the Interstate Commerce Act (ICA), *they would still behave like contract carriers in practice due to the practical requirements imposed by the economics and mechanics of their operation*." (Emphasis added.)[17]

It is obvious from the foregoing that the proposed coal slurry pipeline will not conform to the above-described requirements of a common carrier.

It is, of course, true that if the pipeline was constructed solely to carry oil for particular producers under strictly private contracts and never was devoted by its owner to public use, that is, to carrying for the public, the State could not by mere legislative fiat or by any regulating order of a Commission convert it into a public utility or make its owner a common carrier; * * *[18]

It is true that the pipeline may permit receipt of coal at more than one origination point and addition of coal along the route: and delivery of coal to different points along the route. But this can be done only "as contemplated in the original engineering design." The financial necessity of depending on long term "take or pay" contracts agreed upon before construction precludes any realistic possibility that these pipelines will be made available to all of the public who desire to use them on a nondiscriminatory basis.

What appears to be essential to the quasi-public character implicit in the common carrier undertakes to carry for all people indifferently * * * but a carrier will not be a common carrier where its practice is to make individualized decisions, in particular cases, whether and on what terms to deal. It is not necessary that a carrier be required to serve all indiscriminately; it is enough that its practice is, in fact, to do so.[19]

A railroad has been permitted to acquire property by eminent domain for the purpose of building a spur to a private industry, but only when the spur could be made available to the public desiring to use it. *Hairston* v. *Danville & Western Ry.*, 208 U.S. 598–608 (1908). *Union Line Co.* v. *Chicago & N.W. Ry. Co.*, 233 U.S. 211, 221–222 (1914). See similar holdings in *Lake Charles Harbor & Terminal District* v. *Henning*, 409 F2d 932, 934–936 (5th Cir. 1969); *Mid-America Pipeline Co.* v. *Missouri Pac. R.R. Co.*, 298 F. Supp. 1112, 1115–1116 (D. Kan. 1969). But as pointed out above, such dedication to public use is not the case here.

The majority report of the Committee on Public Works and Transportation says (p. 3) "that pipelines in every instance are to be regulated as common carriers in fact. This position was adopted to insure that the Interstate Commerce Commission would have full regulatory authority *over the rates* of coal pipelines certificated under the Act."[20] The report of the Committee on Interior and Insular Affairs says (p. 18): "in return for the privilege of exercising powers of eminent domain, the pipeline carriers are subject to statutory and regulatory restrictions and controls that insure that it will serve the public interest." The only example offered is "that an environmental impact statement would be required".[21]

Nowhere do either of these reports recognize the fact that the statute neither requires coal slurry pipelines to serve without discrimination all those who wish to use the service nor to obtain governmental approval before discontinuing operation. This is directly contrary to the requirements imposed by other statutes upon common carriers, in return for granting them the right of eminent domain.

Thus, railroads have been required to distribute to all mines in a district the number of cars proportionate to their respective ratings. They are required to include in such distribution not only all system cars, but also all assigned cars, i.e., those owned or leased by shippers, and those owned or leased by railroads who carry railroad fuel from a particular mine.[22]

The failure to require regulatory approval for abandonment of services likewise fails to impose obligations uniformly required of a public utility. To paraphrase what the court said in *Sunray Oil Co.* v. *F.P.C.* 364 U.S. 137–143 (1960); "If the pipeline company were free to leave its service to the [utility] company, a [regional] economy which had grown dependent on [coal] as a fuel would be at its mercy".

In some cases rail service might still be available to the utility plant. However, the loss of business by the railroad might have left its track so debilitated and its equipment so depleted that it might not be able to render satisfactory services. In other cases, a utility dependent on a pipeline, a railroad might not have even been built to serve it.

H.R. 1609 amends the Mineral Leasing Act of 1929 by providing that rights-of-way through any Federal lands may be created by the Secretary of Interior for pipelines for the transportation of coal, in addition to the present permission for the transportation of oil, natural gas, and other commodities. See 30 U.S.C. section 185(a), Subdivision (r) provides "(1) pipelines and related facilities authorized under this section shall be constructed, operated, and maintained as common carriers." (2)(A) The owners or operators of pipelines subject to this section shall accept, convey, transport, or purchase without discrimination, all oil or gas delivered to the pipeline without regard to whether such oil or gas was produced on Federal or non-Federal lands."

This statute has been uniformly construed to require pipelines to serve without discrimination all persons who wish to use the facilities. *Thomas* v. *Amerada Hess Corp.*, 393 F. Supp. 58, 72 M.D. Pa. 1975: *Denver Petroleum Corp.* v. *Shell Oil Co.*, 306 F. Supp. 289–300 (D. Colo.) 1969.

The same rule has been applied in connection with 30 U.S.C. section 717(f) of the Natural Gas Act: "* * * We regard the condition that pipelines be constructed, operated, and maintained as common carriers to impress the common law meaning of the term." *Chapman* v. *El Paso Natural Gas Co.*, 204 F. 2d 46–51, (D.C. 1953).

FOOTNOTES

[1] Section 4 provides in part:

(*a*) Except as provided in subsection (b), when any carrier cannot acquire by negotiation the right-of-way required to construct, operate, and maintain any proposed coal pipeline or pipelines, such carrier may acquire the same by the exercise of the power of eminent domain in the district court of the United States for the district in which such property is located or in the courts of the State in which such property is located.

Section 5 provides:

(*a*) The power of eminent domain granted pursuant to this Act may be exercised only by a carrier holding a certificate of public convenience and necessity issued by the Secretary of the Interior. The Secretary is authorized to issue such a certificate if the Secretary finds, with respect to the particular project of the carrier as to which said power is sought, that the project is in the national interest and provides the capacity necessary to fulfill the requirement of a *common carrier* of coal, as determined by the Secretary.

(*b*) In addition to other factors customarily considered in determining common carrier status in the case of pipeline common carriers, the Secretary shall consider contracts for the carriage of coal which are in existence or proposed as of the date of the application for certification and may also consider such contract for such carriage as may reasonably be anticipated, at the time of issuance of the certificate, to be entered into after such date.

(*c*) The Secretary shall require a condition of issuance of a certificate of convenience and necessity under this Act that any pipeline for which such certificate is issued be constructed, operated, and maintained as a *common carrier*, in fact, fully subject to rate and charge regulation by the Interstate Commerce Commission, as provided in the Interstate Commerce Act. (Emphasis added.)

[2] *Ct.* 49 U.S.C. § 1, subds. (4), (11), and (12); 15 U.S.C. § 217t (a); 47 U.S.C. § 201(a).

[3] *Ct.* 49 U.S.C. § 3(1); 47 U.S.C. § 202(a).

[4] *Ct.* 15 U.S.C. § 717t (b); 49 U.S.C. § 1a; 47 U.S.C. § 214(a).

[5] *Madisonville Traction Co.* v. *St. Bernard Mining Co.*, 196 U.S. 239, 251–252 (1905).

[6] *Hairston* v. *Danville & Western Railway*, 208 U.S. 598, 606 (1908).

[7] 2A Nichols, Eminent Domain (Rev. 3d ed. 1974), sec. 7.1, citing numerous authorities from each of the 48 states and the District of Columbia.

[8] 2A Nichols, sec. 7.52[1], at p. 7–250, citing numerous cases in footnote 10.

[9] *Cherokee Nation* v. *Kansas Railroad Co.*, 135 U.S. 641, 657–658 (1890).

[10] *Mt. Vernon-Woodbury Cotton Duck Co.* v. *Alabama Interstate Power Co.*, 240 U.S. 30, (1916).

[11] 2A Nichols, sec. 7.523[1], at p. 7–283, citing cases from 10 States.

[12] *Ibid.*. section 7.523[3].

[13] *Thatcher* v. *Tennessee Gas Transmission Co.*, 180 F. 2d 644 (5th Cir. 1950), *cert, den.*, 340 U.S. 829 (1950).

[14] H.P. 95–924, part 2, page 16.

[15] Ibid, part 1, p. 43.

[16] Report of the Office of Technology Assessment, Task Report IV, EM 39–40.

[17] "A Technology Assessment of Coal Slurry Pipelines." Office of Technology Assessment, March 1978, p. 16.

[18] *Producers Transp. Co.* v. *R.R. Comm.*, 251 U.S. 228–30 (1920).

[19] *Nat. Assn. of Regulatory Utility Com'rs.* v. *F.C.C.*, 525 F. 2d 630–41 (D.C. Circuit 1976).

[20] House Report ——, p. 3.

[21] Ibid., p. 18.

[22] *Assigned Car Cases*, 274 U.S. 564, 568. 573, 574 (1927).

☐ 1140

Ms. MIKULSKI. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentlewoman from Maryland.

Ms. MIKULSKI. Mr. Chairman, I am very much interested in the issue of railroad rate equalization, and therefore. I want to clarify the intent of the gentleman's amendment.

As I understand it, the gentleman's amendment will have no effect on the issue of railroad rate equalization as has been discussed in the subcommittee hearings.

Mr. ANDERSON of California. The gentlewoman properly states the intent of my amendment. My amendment does not require port equalization for ratemaking. My amendment simply applies the basic prohibitions against unreasonable discrimination against persons and places, including ports and port districts.

Ms. MIKULSKI. That reassures me. I thank the gentleman for answering.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. ANDERSON).

The amendment was agreed to.

The CHARIMAN. Are there further amendments to title I.

AMENDMENT OFFERED BY MR. SEBELIUS

Mr. SEBELIUS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. SEBELIUS: On page 101, line 17, between "allowing" and "rail", insert the word "efficient".

Mr. SEBELIUS. Mr. Chairman, any statement of Federal policy, official U.S. Government policy, if you will, should express the true sense of what Congress intends. This amendment amends the third statement of policy in title I statement the need to allow railroads to earn adequate revenues.

Presently the statement reads:

> "(3) to promote a safe and efficient rail transportation system by allowing rail carriers to earn adequate revenues, as determined by the Interstate Commerce Commission;

My amendment would insert the word "efficient" between the words "allowing" and "rail" on line 17 of page 101.

It would then read:

> "(3) to promote a safe and efficient rail transportation system by allowing efficient rail carriers to earn adequate revenues, as determined by the Interstate Commerce Commission;

This amendment will qualify the extent to which we feel it is the policy of the U.S. Government to allow "adequate revenues". Rightly so, efficient railroads should be allowed to earn adequate revenues, but certainly inefficient railroads should not be rewarded for their inefficiency.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, I think I can state the policy of the committee is to be in support of efficiency, and accordingly, we have no difficulty in accepting the gentleman's amendment.

Mr. SEBELIUS. I appreciate that.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I am not going to take the floor to argue against efficiency.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas (Mr. SEBELIUS).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title I?

AMENDMENT OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. ECKHARDT: In Title I—rail transportation policy, insert the following new section:
>
> "TRANSPORTATION OF COMMODITIES MANUFACTURED OR PRODUCED BY A RAIL CARRIER
>
> "With respect to the transportation of commodities that are manufactured or produced by a rail carrier, none of the amendments to title 49, United States Code, made by the 'Rail Act of 1980' shall be construed to modify the application of existing law with respect to prohibiting a rail carrier from transporting an article or commodity that: (1) is manufactured, mined, or produced by the rail carrier or under its authority; or (2) is owned by the rail carrier or in which it has an interest."

Mr. ECKHARDT. Mr. Chairman, this is an amendment to be assured that existing law is not altered by this act, and that is that one or more products which are manufactured, mined, or produced by the rail carrier or under its authority is owned by the rail carrier or in which it has an interest is prohibited from transporting such article or commodity.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from New Jersey.

Mr. FLORIO. If I could ask a question: Did the Clerk read the amendment in its entirety?

Mr. ECKHARDT. Yes.

Mr. FLORIO. With that understanding, it is our understanding that this does not modify the existing law. Accordingly, we have no difficulty in accepting the gentleman's amendment.

Mr. ECKHARDT. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title I?

AMENDMENT OFFERED BY MR. SEBELIUS

Mr. SEBELIUS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. SEBELIUS: On page 102 after line 22, insert a new item (12) to read as follows:
>
> "(12) to encourage and promote energy conservation and reasonably priced rail transportation of coal in accordance with the nationally stated objectives of energy independence."

Mr. SEBELIUS. Mr. Chairman, our efforts toward energy independence should certainly be cited within our rail transportation policy. My amendment will address that end by adding a new item to the policy statement contained in the bill.

It reads:

> "(12) to encourage and promote energy conservation and reasonably priced rail transportation of coal in accordance with the nationally stated objectives of energy independence."

The use of coal is already a stated part of our energy independence program, so this addition indicating a coordination between rail transportation of coal and the energy program is certainly important to include in this policy statement.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman from New Jersey.

Mr. FLORIO. I am prepared to accept the gentleman's amendment. In fact, we believe that the passage of this legislation will go a long way toward establishing a good rail network that is able to carry coal. Therefore, the gentleman's amendment is something that we feel very strongly about and are willing to accept.

Mr. SEBELIUS. I thank the gentleman.

□ 1150

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, would the gentleman agree that if in constant dollars the rail transportation costs for coal are less than they were 20 years ago, then they would be in compliance with what the gentleman intends in his amendment?

Mr. SEBELIUS. I would certainly hope so. I do worry about it very much, because of coal becoming somewhat of an integral part of our energy for electricity and I just felt it should be underlined.

Mr. MADIGAN. Mr. Chairman, I have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas (Mr. SEBELIUS).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title I?

AMENDMENT OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Chairman, I offer an amendment, which has been printed in the RECORD.

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT: Page 101, line 11, strike "and the demand for services".

Page 101, line 17, between "allowing" and "rail" insert "efficient".

Page 101, line 19, insert "while maintaining reasonable rates" after "Commission".

Page 102, line 22, strike out the closing quotation marks and the period.

Page 102, after line 22, insert:

"(12) to encourage honest and efficient management of railroads and, in particular, the elimination of noncompensatory rates for rail transportation; and

"(13) to encourage and promote energy conservation".

Mr. ECKHARDT. Mr. Chairman, this amendment addresses some of the matters addressed in the rail coal rates for public participation oversight hearings and by Chairman O'Neal of the Interstate Commerce Commission who testified in those hearings.

The problem with providing that certain rates will not be contested, even though they may be as high as 200 percent of variable cost is that there may, in fact, then be a disincentive to the railroad to make its total operations efficient and lucrative.

I quote from the report that the subcommittee which I have the honor to chair issued on this subject. This is the testimony of Chairman O'Neal:

> Our great concern is that the practice of the railroads in the past several years has been to move away from competition. In other words, instead of dealing vigorously with competitive markets, frequently they have tended to just increase rates where they have monopoly power.

Now, that addresses the captive shipper question that we discussed a little earlier.

It goes on:

> The easier it is for the railroads to increase rates where they have monopoly power, the less there will be pressure on the carriers to try to deal with competition. In order to be competitive, they have got to price more selectively. They have got to improve their service. They have got to market their services. They have not been doing that in many cases.

One of the reasons, perhaps, why they have not been doing it is because they have found that they can more easily obtain revenue from shipments where they have monopoly power.

Now, the spirit of the Four-R Act was to encourage honest and efficient management of railroads and in particular the elimination of noncompensatory rates for rail transportation. It was not merely to give more money to railroads or to permit railroads a greater leeway in charging all that the market would bear in a monopoly situation. It was to permit them adequate revenue on their entire operations, so they could make a profit, but on condition that they also exert their reasonable efforts and not merely dump the load of raising capital through high rates charged to captive shippers.

It seems to me that we should make it absolutely clear in this act, in the policy section of the act, that we do not retreat from that proposition.

I am afraid, and this will be addressed later in title II, that there is language in this bill that permits railroads to increase rates without ICC insistence that the railroads are at the same time attempting to meet the efficiency standards that were originally devised in the Four-R Act.

The purpose of placing this policy provision at an early point in the act is, I think, important. It is to show that the creation of two threshold levels before the ICC is permitted to enter the ratemaking process is not intended to permit railroads to attempt to draw all of their additional earnings from a monopoly situation.

I urge that the language that I am suggesting here is in harmony with the policy of the Four-R Act. I hope it is in harmony with the policy that the gentleman from New Jersey feels pervades the act that we have before us. I would hope that the gentleman may be able to find himself able to agree to the amendment.

Mr. FLORIO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, if I could direct a question to the gentleman from Texas, the amendment deals with the policy statements of the act. There are a whole list of them. I regard them as not offensive and relatively innocuous, with the single exception of the first one, which goes to the major thrust of the legislation. The existing goal in the language provides that the policy is to allow, to the maximum extent possible, competition and demand for services to establish reasonable rates for transportation by rail.

The major thrust of this legislation is to get away from regulation to a large extent and to let the marketplace forces determine the allocation of resources, capital and marketing decisions. The gentleman strikes "the demand for services," which goes to the very heart of the marketplace concept.

If the gentleman would be willing to eliminate that provision, which changes the first goal, I would be inclined to support the balance of the modifications that the gentleman makes in his rather extensive amendment.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I am happy to yield.

Mr. ECKHARDT. Mr. Chairman, in addition, there are clauses here which we do not alter substantially. On page 102, there is a provision for rail regulation where there is an absence of effective competition, where rail rates provide revenues which exceed the amount necessary to maintain a rail system and attract capital.

I do not think that this alters the ability of the railroads to provide services or the thrust of the act.

Mr. FLORIO. If I could perhaps clarify my point. My point is that I think it is inappropriate at the outset, in the goals of the bill, to indicate that "the demand for services" should not be a consideration for the course of the bill. The balance of the changes the gentleman makes I regard as not in any way harmful to the major thrust of the bill.

What I am asking is that one section of the some eight or nine sections that the gentleman is attempting to amend could be eliminated, then I would have no problem accepting the balance of the amendment.

Mr. ECKHARDT. Well, I am disturbed about that language, because in our hearings we found that the ICC was accepting demand for services as an excuse for permitting a cost unrelated to the need for revenue. In other words, that railroads would be permitted, in effect, to absorb a large amount of the difference between the cost of coal at the mine, plus the cost of delivery, and price of imported oil.

Mr. FLORIO. What the gentleman's amendment would do would be to remove the ability to consider the demand for services as one of the factors in decisions before the ICC. I think that flies in the face of what this legislation is all about. Certainly the demand for services should be one of the considerations in the policy formulation of this legislation.

□ 1200

Mr. ECKHARDT. Let me point out on page 76 of the railroad coal rates and public participation oversight hearings we pointed out that past cases have clearly rejected the view that value of service is equivalent to what the traffic will bear. We cited in that connection the Mountain-Pacific cases in which the ICC emphasized it would be equally unjust to compel traffic to pay rates which yield an exorbitant profit over cost, merely because it can pay such rates and continue to move. Regulation on such a basis would be equivalent to the exercise of the power of taxation.

Mr. FLORIO. Reclaiming my time, if the gentleman is suggesting he is not prepared to make the modification and wants to exclude the demand for service from being one of the aspects of the goals of the act, I am unfortunately going to have to oppose the gentleman's amendment. I think the requested change is not that substantial. I think the demand for service should be a consideration and one goal in this bill, and, therefore, I would ask the gentleman to consider deleting that section perhaps by unanimous consent.

Mr. ECKHARDT. I would not agree to delete it. I think it is important.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The question was taken; and on a division (demanded by Mr. ECKHARDT) there were—ayes 5, noes 6.

Mr. ECKHARDT. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1210

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Mr. ECKHARDT. Mr. Chairman, I ask unanimous consent to vacate the previously requested vote and offer the amendment in accordance with the suggestion of the gentleman from New Jersey (Mr. FLORIO) to strike the first two lines.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. LEE. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. ECKHARDT. Mr. Chairman, in that event I ask unanimous consent to withdraw the request for a recorded vote. I understand the gentleman has essentially agreed on the purpose of that section.

The CHAIRMAN. Does the gentleman withdraw that request? That does not require unanimous consent.

Mr. ECKHARDT. I withdraw my request for a recorded vote.

So the amendment was rejected.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. BOWEN

Mr. BOWEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BOWEN: In title I—rail transportation policy, insert the following new section:

"RAILROAD AND WATERWAY TRANSPORTATION COORDINATION

"With respect to the relationship between rail carriers and water carriers, none of the amendments to title 49, United States Code, made by the 'Rail Act of 1980' shall be construed to modify the application of existing law with respect to competition and coordination or to make lawful a competitive practice that is unfair, destructive, predatory, or otherwise undermines competition."

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. BOWEN. I will be glad to yield to the gentleman.

Mr. FLORIO. I thank the gentleman for yielding. It would be the committee's interpretation that the gentleman's amendment is already substantially in the bill in section 803, but we are prepared to accept the gentleman's amendment.

Mr. BOWEN. I thank the gentleman.

Mr. Chairman, long distance surface transportation of heavy bulk commodities such as chemicals, coal, fertilizers, grain, and steel, must rely on railroad and waterway transportation to reach user destinations. Competition among rail and waterway carriers represents an important element in assuring that rates charged for transportation services are not excessive.

Thus, where both railroad and waterway transportation are available, the common carrier providing such services must be prohibited from engaging in marketing transportation in a manner which would unfairly eliminate the availability of competitors by engaging in practices with respect to rates and services that are destructive and predatory in nature.

Title 49, United States Code in section 10741(b) presently contains provisions that address this issue. In the process of reforming railroad regulation under H.R. 7235, and particularly in view of the clear thrust of the bill toward improving the financial health of the railroads, it is essential that the law continue to require appropriate and necessary coordination in railroad and waterway transportation in order to avoid critical losses in surface transportation competition, especially with respect to bulk commodity shippers.

I am very pleased that the chairman of the committee sees fit to accept this amendment. I think it will strengthen the legislation.

Mr. Chairman, I urge the members of the committee to accept this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Mississippi (Mr. BOWEN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Chairman, I offer an amendment, and I ask unanimous consent that the amendment be considered as read.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The amendment is as follows:

Amendment offered by Mr. ECKHARDT: Page 101, line 17, between "allowing" and "rail" insert "efficient".

Page 101, line 19, insert "while maintaining reasonable rates" after "Commission".

Page 102, line 22, strike out the closing quotation marks and the period.

Page 102, after line 22, insert:

"(12) to encourage honest and efficient management of railroads and, in particular, the elimination of noncompensatory rates for rail transportation; and

"(13) to encourage and promote energy conservation".

Mr. ECKHARDT. Mr. Chairman, the amendment is the same as offered before but with the objectionable first two lines stricken.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from New Jersey.

Mr. FLORIO. I thank the gentleman for yielding. As I indicated, I have no difficulties with the gentleman's amendment, as amended.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title I?

The Clerk will designate title II.

Title II reads as follows:

TITLE II—RAILROAD RATES, PROFITS, AND REINVESTMENT

REGULATION OF RAILROAD RATES IN THE ABSENCE OF EFFECTIVE COMPETITION

SEC. 201. (a) Subchapter I of chapter 107 of title 49, United States Code, is amended by inserting after section 10701 the following new section:

"§ 10701a. Standards for rates for rail carriers

"(a) Except as provided in subsection (b) of this section and unless a rate is prohibited by a provision of this title, a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may establish any rate for transportation or other service provided by the carrier.

"(b)(1) If the Commission determines, under section 10709 of this title, that there is no effective competition with respect to a particular transportation service provided by a rail carrier, the rate established by such carrier for such transportation must be reasonable.

"(2)(A) Except as provided in subparagraph (B) of this paragraph, in any proceeding to determine the reasonableness of a rate described in paragraph (1) of this subsection, the shipper challenging such rate shall have the burden of proving that such rate is not reasonable.

"(B) The rail carrier establishing a challenged rate shall have the burden of proving that such rate is reasonable if—

"(i) such rail carrier does not have a cost accounting system that has received final certification by the Commission under section 11164(b) of this title; or

"(ii) the Commission finds that such rail carrier has revenues greater than those established as adequate by the Commission under section 10704(a)(2) of this title.

"(3) In determining whether a rate established by a rail carrier is reasonable for purposes of this section, the Commission shall recognize the policy of this title that efficient rail carriers shall earn adequate revenues, as established by the Commission under section 10704(a)(2) of this title.".

(b)(1) The first sentence of section 10701(a) of title 49, United States Code, is amended by inserting "(other than a rail rate)" immediately after "A rate".

(2) The section analysis of chapter 107 of title 49, United States Code, is amended by inserting immediately below the item relating to section 10701 the following new item:

"10701a. Standards for rates for rail carriers.".

DETERMINATION OF THE ABSENCE OF EFFECTIVE COMPETITION

SEC. 202. (a) Section 10709 of title 49, United States Code, is amended to read as follows:

"§ 10709. Determination of the absence of effective competition in rail carrier rate proceedings

"(a) In this section—

"(1) 'fixed and variable cost' means all cost incurred by rail carriers in the transportation of freight, but limiting the return on equity capital to a rate equal to the embedded cost of debt.

"(2) 'cost recovery percentage' means the lowest revenue-variable cost percentage which, if all movements that produced revenues resulting in revenue-variable cost percentages in excess of the cost recovery percentage are deemed to have produced only revenues resulting in the cost recovery percentage, would produce revenues which would be equal, when combined with total revenues produced by all other traffic transported by rail carrier, to the total fixed and variable cost of the transportation of all traffic by rail carrier.

"(3) 'revenue-variable cost percentage' means the quotient, expressed as a percentage figure, obtained by dividing the total revenues produced by the transportation of all traffic received by rail carriers for rail transportation by the total variable cost of such transportation.

"(b) When a rate for transportation by a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter 1 of chapter 105 of this title is challenged as being not reasonable, the Commission shall, within 90 days after the commencement of a proceeding under section 10707 of this title, determine under this section whether there is effective competition with respect to the transportation to which the rate applies.

"(c)(1) Whenever a shipper or other interested party challenges the lawfulness of a rate on grounds described in subsection (b) of this section, the rail carrier establishing such rate shall have the burden of proving that there is effective competition with respect to the transportation to which such rate applies. In order to satisfy such burden of proof, such rail carrier must demonstrate that—

"(A) there is an actual or present potential transportation alternative (including transportation by other modes, contract carriage, private, exempt, and unregulated carriage, and all other alternatives) for the particular transportation to which the rate applies; or

"(B) the rate charged results in a revenue-variable-cost percentage for such transportation that is equal to or less than the cost recovery percentage.

"(2) For purposes of determining the existence of an actual or present potential transportation alternative under paragraph (1) of this subsection—

"(A) an actual or present potential transportation alternative shall be presumed to exist if (i) comparable traffic has been shipped recently in similar quantities by the shipper challenging the lawfulness of the rate (or another similarly situated shipper) by another mode of transportation at a transportation cost which is not substantially greater than the cost of the transportation of the commodity by rail, or (ii) the consignee is able to obtain the same commodity in sufficient quantities from another source at a delivered cost which is not substantially greater than the cost of the rail transported commodity; and

"(B) a showing that other available transportation is more costly than rail transportation shall not constitute a basis for determining that no alternative transportation exists, unless the cost of such other transportation is substantially greater than the cost of rail transportation.

"(d)(1) If the Commission finds that there is no effective competition with respect to the transportation to which the challenged rate applies, the Commission shall, in accordance with section 10701a of this title, have jurisdiction to determine whether such rate is reasonable.

"(2) If the Commission fails to make the finding described in paragraph (1) of this subsection, the Commission shall dismiss the proceeding.

"(e)(1) Within 180 days after the effective date of the Rail Act of 1980 and on an annual basis thereafter, the Commission shall determine the cost recovery percentage of the transportation of all traffic received by rail carrier for transportation. The Commission shall make such determination after considering each individual revenue-variable cost percentage resulting from the revenues and costs of a valid and reliable statistical sample of all movements of commodities transported by class I rail carriers during the most recent calendar year for which such information is available.

"(2) If, on the basis of calculations under paragraph (1) of this subsection, the Commission determines that revenues earned by all class I rail carriers during the previous calendar year do not exceed the fixed and variable costs of such carriers, then the cost recovery percentage for purposes of this section shall be deemed to be equal to the cost recovery percentage last determined by the Commission.".

(b) The item relating to section 10709 in the section analysis of chapter 107 of title 49, United States Code, is amended to read as follows:

"10709. Determination of the absence of effective competition in rail carrier rate proceedings.".

INVESTIGATION AND SUSPENSION OF RATES

SEC. 203. (a) Section 10707(b)(1) of title 49, United States Code, is amended to read as follows:

"(b)(1) The Commission must complete a proceeding under this section and make its final decision by the end of the 4th month after the rate, classification, rule, or practice was to become effective, except that if the Commission reports to the Congress by the end of such 4th month that it cannot make a final decision by that time and explains the reason for the delay, it may take an additional 3 months to complete the proceeding and make its final decision.".

(b) Section 10707(c) of title 49, United States Code, is amended to read as follows:

"(c)(1) The Commission may not suspend a proposed rate, classification, rule, or practice during the course of a Commission proceeding under this section unless it appears from the specific facts shown by the verified statement of a person that—

"(A) it is substantially likely that the protestant will prevail on the merits;

"(B) without suspension, the proposed rate change will cause substantial injury to the protestant or the party represented by the protestant; and

"(C) because of the peculiar economic circumstances of the protestant, the provisions of subsection (d) of this section do not protect the protestant.

"(2) The burden shall be on the protestant to prove the matters described in paragraph (1)(A), (B), and (C) of this subsection.".

(c) Section 10707(d) of title 49, United States Code, is amended to read as follows:

"(d)(1) If the Commission does not suspend a proposed rate increase under subsection (c) of this section, the Commission shall require the rail carrier to account for all amounts received under the increase until the Commission completes its proceedings under subsection (b) of this section. The accounting shall specify by whom and for whom the amounts are paid. When the Commission takes final action, it shall require the carrier to refund to the person for whom the amounts were paid that part of the increased rate found to be unreasonable, plus interest at a rate equal to the average yield (on the date the statement is filed) of marketable securities of the United States Government having a duration of 90 days.

"(2) If a rate is suspended under subsection (c) of this section and later found to be reasonable under this title, the carrier shall collect from each person using the transportation to which the rate applies the difference between the original rate and the suspended rate for any services performed during the period of suspension, plus interest at a rate equal to the average yield (on the date the statement is filed) of marketable securities of the United States Government having a duration of 90 days, except that this paragraph shall not apply to general rate increases under section 10706 of this title.

"(3) If any portion of a proposed rate decrease is suspended under subsection (c) of this section and later found to be reasonable under this title, the rail carrier may refund any part of the portion of the decrease found to comply with this title if the carrier makes the refund available to each shipper who participated in the rate, in accordance with the relative amount of such shipper's traffic transported at such rate.".

(d) Section 10707(e) of title 49, United States Code, is repealed.

CONTRACTS

SEC. 204. (a) Subchapter I of chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10712. Contracts

"(a) One or more rail carriers providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may enter into a contract with one or more purchasers of rail services to provide specified services under specified rates and conditions.

"(b) Each contract entered into under this section shall be filed with the Commission, together with a summary of the contract containing such nonconfidential information as the Commission prescribes. The Commission shall immediately make a summary of each such contract available to interested persons.

"(c) A contract filed under this section shall be approved by the Commission unless the Commission determines, in a proceeding under subsection (d) of this section, that such contract unduly impairs the ability of the contracting carrier or carriers to meet their common carrier obligations under section 11101 of this title.

"(d)(1) No later than 30 days after the date of filing of a contract under this section, the Commission may begin a proceeding to review such contract on its own initiative or on complaint.

"(2) A complaint may be filed by a shipper or other complainant only on the basis of allegations that such complainant individually will be harmed because the proposed contract unduly impairs the ability of the contracting carrier or carriers to meet their common carrier obligations under section 11101 of this title.

"(3) Within 30 days after the date of a proceeding is commenced under paragraph (1) of this subsection, or within such shorter time period after such date as the Commission may establish, the Commission shall determine whether the contract that is the subject of such proceeding is in violation of this section. If the Commission does not act within such 30-day period or within the shorter established period, the contract shall be approved.

"(e) The Commission may not require a rail carrier to violate the terms of a contract that has been approved under this section, except to the extent necessary to comply with section 11128 of this title.

"(f)(1) Any rail carrier which enters into a contract with a shipper to transport by railroad more than 40,000 tons per year of agricultural or other bulk commodities from one origin to one destination must, in addition to the filing requirements of subsection (b) of this section, file such contract (together with a summary thereof) with any appropriate rate bureau having jurisdiction over the publication of rates from origins served by the contracting carrier within a 50-mile radius of the contracting shipper's origin point and the point of destination. Each such rate bureau shall provide notice of the terms and conditions of such contract to each shipper of agricultural or other bulk commodities that is served by such contracting carrier and located within a 50-mile radius of the contracting shippers origin point.

"(2)(A) If, within 12 months after the effective date of a contract between a carrier and a shipper to transport by railroad more than 40,000 tons per year of agricultural or other bulk commodities from one origin to one destination (but in no event later than the termination date of such contract), any shipper that is served by the contracting carrier and located within a 50-mile radius of the contracting shipper's origin point offers to enter into a contract with the contracting carrier to transport more than 40,000 tons per year of agricultural or other bulk commodities to the same destination upon the same terms and conditions as the original contract, the contracting carrier must, within 60 days, except such offers if—

"(i) the contracting carrier is capable of supplying the necessary equipment and locomotives to carry out the subsequent contract; and

"(ii) the subsequent contract will not unduly impair the ability of the contracting carrier to meet its common carrier obligations under section 11101 of this title.

"(B) In the case of any subsequent contract required under this paragraph, the contracting carrier may require compensation exceeding the compensation applicable under the terms of the original contract, but only to the extent necessary to meet the additional costs of providing service under such subsequent contract.

"(C) A shipper may require a contracting carrier to enter into a subsequent contract pursuant to this paragraph only for the duration of the original contract.

"(3) The Commission shall promulgate such rules as may be necessary to define the terms 'agricultural or other bulk commodities' and 'notice' for purposes of this subsection.".

(b) The section analysis for chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10711 the following new item:

"10712. Contracts.".

DEMAND-SENSITIVE RATES

SEC. 205. Section 10727 of title 49, United States Code, is amended to read as follows:

"§ 10727. Demand-sensitive rates

"The Interstate Commerce Commission shall, subject to the restrictions of this subtitle, permit the establishment of tariffs under which rates may be raised or lowered, between established maximum and minimum levels, in response to expected or actual fluctuations in demand for rail service. A carrier establishing a tariff under this section shall publish such tariff at least 180 days in advance of its application, and shall, upon the request of a shipper, quote and agree to charges for specific movements up to 12 months in advance."

PHASEOUT OF CAPITAL INCENTIVE RATES

SEC. 206. (a) Section 10729 of title 49, United States Code, and the item relating to such section in the section analysis of chapter 107 of such title, are repealed.

(b) Notwithstanding any other provision of law, any rate established by a rail carrier under section 10729 of title 49, United States Code, prior to the date of enactment of this Act shall remain in effect in accordance with its terms, but for no longer than 5 years after the date it became effective, unless the parties otherwise agree. However, the Interstate Commerce Commission may, during the period such a rate is in effect, order such rate revised to a level equal to the incremental cost of providing the transportation if the Commission finds that the level then in effect reduces the going concern value of the rail carrier.

PERMISSIVE LIMITED LIABILITY RATES

SEC. 207. Section 10730 of title 49, United States Code, is amended—

(1) by inserting "(a)" immediately before "The";

(2) by inserting "(other than a rail carrier)" immediately after "carrier" the first place it appears; and

(3) by adding at the end thereof the following new subsection:

"(b) A rail carrier providing transportation or service subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may establish rates for transportation of property under which the liability of the carrier for such property is limited to a value established by written declaration of the shipper or by a written agreement between the shipper and the carrier, and may provide in such written declaration or agreement for specified amounts to be deducted from any claim against the carrier for loss or damage to the property or for delay in the transportation of such property.".

RATE DISCRIMINATION

SEC. 208. Section 10741 of title 49, United States Code, is amended by adding at the end thereof the following new subsections:

"(e) Differences between rates, classifications, rules, and practices of rail carriers providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title do not constitute a violation of this section if such differences result from different services provided by rail carriers.

"(f) This section shall not apply to (1) surcharges under section 10705a of this title, (2) rates and conditions set forth in contracts approved under section 10712 of this title, (3) separate rates for distinct rail services under section 10728 of this title, (4) rail rates applicable to different routes between the same end points, or (5) expenses authorized under section 10751 of this title.".

EXEMPTION

SEC. 209. Section 10505 of title 49, United States Code, is amended to read as follows:

"§ 10505. Authority to exempt rail carrier transportation

"(a) In a matter related to a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under this subchapter, the Commission shall exempt a person, class of persons, or a transaction or service when the Commission finds that the application of a provision of this subtitle—

"(1) is not necessary to carry out the transportation policy of section 10101a of this title; and

"(2) either the transportation or service is of limited scope, or the application of a provision of this subtitle is not needed to protect shippers from the abuse of market power.

"(b) The Commission may, where appropriate, begin a proceeding under this section on its own initiative or on application by the Secretary of Transportation or an interested party.

"(c) The Commission may specify the period of time during which an exemption granted under this section is effective.

"(d) The Commission may revoke an exemption, to the extent it specifies, when it finds that application of a provision of this subtitle to the person, class, or transportation is necessary to carry out the transportation policy of section 10101a of this title.

"(e) No exemption order issued pursuant to this section shall operate to relieve any rail carrier from an obligation to provide contractual terms for liability and claims which are consistent with the provisions of section 11707 of this title. Nothing in this subsection shall prevent rail carriers from offering alternative terms nor give the Commission the authority to require any specific level of rates or services based upon the provisions of section 11707 of this title.

"(f) The Commission may not exercise its authority under this section (1) to authorize intermodal ownership that is otherwise prohibited by this title, or (2) to relieve a carrier of its obligation to protect the interests of employees as required by this subtitle.".

INTRASTATE RATES

SEC. 210. (a) Section 11501(a)(1) of title 49, United States Code, is amended by inserting "(other than a rail rate)" immediately after "the rate".

(b) Section 11501(b) of title 49, United States Code is amended to read as follows:

"(b) The Commission has exclusive authority over intrastate rates for transportation provided by a rail carrier subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title.".

TRANSITION RATE ADJUSTMENTS AND INFLATION-BASED RATE INCREASES

SEC. 211. (a) Subchapter I of chapter 107 of title 49, United States Code, as amended by this Act, is further amended by adding at the end thereof the following new section:

"§ 10713. Transition rate adjustments and inflation-based rate increases

"(a)(1) Except as provided in paragraph (2) of this subsection, during the period beginning on the effective date of the Rail Act of 1980 and ending December 31, 1982, a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may not increase any rate by more than 10 percent, in addition to inflation, in any year.

"(2) The provisions of this subsection shall not apply to (A) surcharges under section 10705a of this title, (B) any rate over which the Commission has jurisdiction under section 10709 of this title, or (C) any rate increase which results in a revenue-variable cost percentage of less than 150 percent.

"(b)(1) On a semiannual basis beginning in calendar year 1983, the Commission may, consistent with the rail transportation policy set forth in section 10101a of this title, prescribe a percentage rate increase or index for rail carriers in order to compensate for inflationary cost increases. Such percentage rate increase or index may be applicable on an industry-wide or on a carrier-by-carrier basis.

"(2) Within 60 days after the date the Commission prescribes a percentage rate increase or index under paragraph (1) of this subsection, each rail carrier or group of rail carriers shall notify the Commission of any rate or group of rates which such carrier or carriers intend to be excluded from the application of such percentage rate increase or index. If more than one rail carrier participates in a particular route, all carriers participating in such route must agree to be excluded from the application of such percentage increase or index.

"(3) For purposes of this subsection, a percentage rate index may include percentage increases within a specified range to allow carriers to recover a total percentage increase specified by the Commission as necessary to compensate for inflationary cost increases.".

(b) The section analysis for chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10712, as added by this Act, the following new item:

"10713. Transition rate adjustments and inflation-based rate increases.".

CUSTOM SOLICITATION EXPENSES

SEC. 212. (a) Subchapter III of chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10751. Customer solicitation expenses

"(a) Any business solicitation or entertainment expense incurred by a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title shall not constitute a violation of section 10741 or 10761 of this title if such expense would not be unlawful if incurred by a person or corporation not subject to the jurisdiction of the Commission.

"(b) Any business solicitation or entertainment expense authorized under this section that is paid or incurred by a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title shall not be taken into account in determining the cost of service or the rate base for purposes of this title.

"(c) Within 180 days after the effective date of the Rail Act of 1980, the Commission shall institute a rulemaking proceeding pursuant to which it shall issue rules establishing appropriate standards and guidelines for authorized business solicitation and entertainment expenses under this section. Such standards and guidelines shall be consistent with standards and guidelines applicable under existing law to persons not subject to this title, including competing unregulated surface transportation carriers.".

(b) The section analysis for chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10750 the following new item:

"10751. Customer solicitation expenses.".

(c) Section 10761 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) This section shall not apply to expenses authorized under section 10751 of this title.".

SAFE RAILROAD REINVESTMENT REQUIREMENTS

SEC. 213. (a) The Secretary of Transportation may, on the basis of inspections of the track, physical facilities, and operations of a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of title 49, United States Code, notify the Commission that such carrier (1) does not meet the safety requirements of applicable Federal statutes, and (2) is not maintained and operated in a manner which protects the public health and safety and the health and safety of railroad employees.

(b)(1) Upon receipt of the Secretary's notification under subsection (b) of this section with respect to a rail carrier, the Interstate Commerce Commission may, to the extent of its authority under chapter 113 of title 49, United States Code, review the financial arrangements of such carrier and prohibit any financial transactions which would unreasonably impair the ability of such carrier to (A) meet the safety requirements of applicable Federal statutes, and (B) operate in a manner which protects the public health and safety and the health and safety of railroad employees.

(2) The Commission may exercise its authority under this subsection with respect to a rail carrier until such time as the Commission determines that the safety deficiencies of such carrier which were the basis of the Secretary's notification have been remedied. In exercising such authority, the Commission shall take all steps necessary to avoid impairing the ability of such carrier to obtain financing.

(c) The Interstate Commerce Commission shall submit an annual report to the Congress setting forth its findings with respect to whether rail carriers that are subsidiaries of other companies are involved in financial transactions with the parent company which (1) result in the transfer of funds or assets, directly or indirectly, from the rail carrier to its parent company, and (2) impair the ability of the rail carrier to (A) meet the safety requirements of applicable Federal statutes, and (B) operate in a manner which protects the public health and safety and the health and safety of railroad employees.

AMENDMENT OFFERED BY MR. FLORIO

Mr. FLORIO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FLORIO: Page 103, line 14, insert "or (c)" immediately after "subsection (b)".

Page 104, line 20, strike out the closing quotation marks and the following period.

Page 104, after line 20, insert the following new subsection:

"(c)(1) Any rate established after the effective date of the Staggers Rail Act of 1980 for transportation by a rail carrier subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title that does not contribute to the going concern value of such rail carrier is unlawful.

"(2) A rate for transportation by a rail carrier that equals or exceeds the variable cost of providing the transportation is conclusively presumed to contribute to the going concern value of such rail carrier.

"(3)(A) Upon the filing of a complaint alleging that a rate is in violation of this subsection, the Commission shall take final action thereon by the 90th day after the date such complaint is filed.

"(B) If the Commission determines, based on the record after opportunity for a hearing, that a rate is in violation of this subsection, the Commission may order such rate to be raised, but only to the minimum level required by this subsection. The complainant shall have the burden of proving that such rate is in violation of this subsection.".

Page 104, after line 23, insert the following new paragraph:

"(2) Section 10701(b) of title 49, United States Code, is repealed."

Page 104, line 24, strike out "(2)" and insert in lieu thereof "(3)".

Page 106, after line 16, insert the following new paragraph:

"(4)(A) 'reasonable transportation alternative' means an alternative which is available at the present time to transport in sufficient quantities the commodity to which a particular rate applies by a mode which has access to the origin and destination involved at a transportation cost which is not substantially greater than the cost of the transportation of such commodity by rail. For purposes of determining the existence of a 'reasonable transportation alternative' under this section, a reasonable transportation alternative shall be presumed to exist if—

"(i) comparable traffic has been shipped recently in similar quantities by the shipper challenging the lawfulness of the rate (or another similarly situated shipper) by another rail carrier or another mode of transportation at a transportation cost which is not substantially greater than the cost of the transportation of the commodity by the rail carrier whose rate is being challenged; or

"(ii) the consignee is able to obtain the same commodity, capable of meeting the needs of such consignee, in sufficient quantities from another source by another rail carrier or another mode at a delivered cost which is not substantially greater than the cost of the commodity transported by the rail carrier whose rate is being challenged.

"(B) If a shipper or consignee is bound by a contract in effect on July 1, 1980, to ship or receive a specific commodity, there shall be deemed to be no reasonable transportation alternative for the transportation of such commodity during the shorter of (i) the duration of such contract, or (ii) the 24-month period beginning on July 1, 1980.

"(C) In this paragraph, 'substantially greater' means 125 percent of the cost of transporting a particular commodity by rail, except that the Commission may prescribe a different percentage figure to the extent necessary to reflect service differentials.

Page 106, line 15, strike out "(c)(1)" and insert in lieu thereof "(c)".

Page 106, line 22, strike out "(A)" and insert in lieu thereof "(1)".

Page 106, line 22, strike out "an actual or present potential" and insert in lieu thereof "a reasonable".

Page 107, line 3, strike out "(B)" and insert in lieu thereof "(2)".

Page 107, strike out line 6 and all that follows through line 2 on page 108.

Mr. FLORIO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. FLORIO. Mr. Chairman, this amendment clarifies the rate-making provisions of the Rail Act in two very important respects. First, it responds to the concerns expressed by some shippers by clarifying the test of what is a reasonable transportation alternative. For example, the amendment makes clear that a reasonable transportation alternative must be one that is presently available. Accordingly, the mere possibility of a coal slurry pipeline in the future should not be construed as an alternative that is reasonable. The amendment emphasizes the transportation alternative must be able to transport the commodity in sufficient quantity. The transportation alternative must also have access to the origin and destination involved. The cost of the alternative cannot be substantially greater than the rail transportation costs. To eliminate any ambiguity as to what "substantially greater" might be, that term is defined as 125 percent of the costs of rail transportation. A shipper bound by an existing contract for a commodity would be protected by this amendment as well. Such a shipper could not be considered to have a reasonable alternative for a 2-year period. The reasonable-transportation-alternative test is a sound one. It allows competition to replace governmental regulation where competition exists, and it represents a good test of when there is competition fully protecting the shippers.

The other change clarifies that rates that do not contribute to the going concern value of railroads are unlawful. This is a clarification of the existing law. Many shippers have complained they are being forced to subsidize such money-losing rates. This amendment would make clear that such rates are unlawful and go to the point of predatory pricing. This amendment resolves the concerns expressed by some shippers about the rate-making provisions of the bill, and I urge the Members' support for it.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Texas.

□ 1220

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Texas.

Mr. ECKHARDT. The gentleman knows that I had some concern about the competitive alternative. Consider the instance, of a railroad bidding to haul coal, say, from Thurber, Tex.—they used to mine coal there and may again if coal prices rise high enough—which is about 300 to 350 miles from Houston.

Suppose the same kind of coal were available, in Montana and the cost of that coal would be, $36 a ton delivered at Houston. Would the railroad be able simply to bid $35 a ton for coal hauled from Thurber to Houston? Would that therefore remove ICC jurisdiction because it was within a reasonable range of a competitive supply of the same kind of coal?

Mr. FLORIO. Mr. Chairman, let me try to frame the gentleman's question with some background for the benefit of the Members as to what this whole section is about.

The gentleman knows, we have had some rather substantial discussions that the transportation alternative provision is designed to say that as long as a user, shipper, has a transportation alternative, that he, therefore, has access to market. A rate between two alternatives cannot be regarded as unreasonable, because if a rate increase is proposed the shipper obviously has the alternative of going to the other source. Using the gentleman's example—let me use two different sites with which I am familiar—Montana coal being shipped to Texas and West Virginia coal being shipped to Texas, both being shipped at hypothetically, the price of $20 per ton; and if the West Virginia carrier increases this rate to $25 a ton, that would not be regarded as unreasonable, and enable the utility to go before the ICC, because the utility can go to the alternative carrier to get access.

Mr. Chairman, what we are saying is that a rate for a utility cannot be unreasonable if that utility has an alternative means of getting coal, comparable coal in sufficient volume with all the other variables being relatively equal.

Mr. Chairman, the answer to the gentleman's question is, what the clarification of the transportation alternative of this amendment does is to spell out that there are to be no ambiguities with regard to comparable transportation alternatives.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. ECKHARDT, and by unanimous consent, Mr. FLORIO was allowed to proceed for 5 additional minutes.)

Mr. ECKHARDT. Will the gentleman yield further?

Mr. FLORIO. I yield to the gentleman from Texas.

Mr. ECKHARDT. In the example the gentleman gives, the gentleman talks about two kinds of coal. One, of course, is West Virginia coal which is high sulfur, high Btu coal, the other example is Montana coal which is relatively low Btu but also low sulfur. I had understood that under the gentleman's amendment, two coal types would be considered different kinds of products and thus would not fit within the transportation alternative process.

Mr. FLORIO. Mr. Chairman, if the gentleman will yield, that is already in the law and it is included in the bill. I am clarifying some remaining points that people have raised that the term "transportation alternative" is ambiguous. Different products are not even in contention. We acknowledge the fact that you certainly cannot have a reasonable transportation alternative, when you are talking about shipping two different types of product.

Mr. Chairman, the gentleman's concern is something already addressed in the bill.

Mr. ECKHARDT. This is correct, and we are clear that it will not be considered a transportation alternative if, for instance, an area needs low sulfur coal and there is high sulfur coal as a competitor. That would not be included.

Mr. FLORIO. That is correct.

Mr. ECKHARDT. The second issue where I think that the facts have not yet been established is as follows: Consider that the case where a high rate quoted involves a very substantial distance, say about 1,600 miles. That is approximately the distance from the Powder River Valley, to Houston and San Antonio.

Suppose there is coal within 600 miles. Consider further that the railroad which is hauling coal for 600 miles, quotes a ton rate, if $1 below that for the coal that is offered from 1,600 miles away. Is the coal originating 1,600 miles away a transportation alternative which makes it impossible to contest the rate for the 600 mile haulage?

Mr. FLORIO. The gentleman is, respectfully, putting the emphasis on the wrong point. In terms of the gentleman's concern about the utility at the end of the line, their concern is for the delivered price. We suggest if there is one railroad that can haul it more efficiently than another railroad, notwithstanding distance, and can get the coal to the site at the same or comparable prices, the answer is, yes, there are then transportation alternatives.

We are concerned about the shipper. We are concerned about the utilities of which the gentleman speaks. The delivered price at the end of the line is the key. We are saying, if we can get the coal to the end site for a comparable delivered price, we do not care how you do it. The fact of the matter is we want to encourage efficiency and we want to encourage modernization. The answer is that the delivered price at the end of the line is the key determiner of whether there is a comparable transportation alternative.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I will be happy to yield to the gentleman from Illinois.

Mr. MADIGAN. As a matter of fact, in comparing railroads, is it not true that if one of those railroads had to cross through the mountains or was experiencing, on a regular basis, a severe winter not occurring to the other railroad, then the differences in the costs of those two railroads would be substantially different?

Mr. FLORIO. The gentleman is absolutely correct.

Mr. MADIGAN. Mr. Chairman, is it not also correct that one of those railroads might be buying its fuel under a contract available to it, which it has signed prior to 1974, but the other railroad might be buying its fuel on the spot market because that is what it was doing prior to 1974, thus having no contract, so that consequently their costs of doing business would be substantially different in that regard?

Mr. FLORIO. Mr. Chairman, the gentleman is correct on that as well, and the gentleman emphasizes the point that we are talking about those marketplace variables that the railroads take into account under those types of conditions. The bottom line in terms of protection for the utility is what the price is delivered to the site.

Mr. MADIGAN. Will the gentleman yield further?

Mr. FLORIO. I yield further to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, is it not even a fact that one of the railroads that is bankrupt today and is trying to work its way out of bankruptcy is in that position largely because, according to testimony before our subcommittee, largely because of their being forced to buy their fuel on the spot market?

Mr. FLORIO. The gentleman is again correct.

Mr. MADIGAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. FLORIO. Mr. Chairman, I yield back the balance of my time.

AMENDMENT OFFERED BY MR. MADIGAN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. FLORIO

Mr. MADIGAN. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. MADIGAN as a substitute for the amendment offered by Mr. FLORIO:

Page 103, line 14 insert "or (c)" immediately after "subsection (b)".

Page 104, line 20, strike out the closing quotation marks and the following period.

Page 104, after line 20, insert the following new subsection:

"(c)(1) Any rate established after the effective date of the Staggers Rail Act of 1980 for transportation by a rail carrier subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title that does not contribute to the going concern value of such rail carrier is unlawful.

"(2) A rate for transportation by a rail carrier that equals or exceeds the variable cost of providing the transportation is conclusively presumed to contribute to the going concern value of such rail carrier.

"(3)(A) Upon the filing of a complaint alleging that a rate is in violation of this subsection, the Commission shall take final action thereon by the 90th day after the date such complaint is filed.

"(B) If the Commission determines, based on the record after opportunity for a hearing, that a rate is in violation of this subsection, the Commission may order such rate to be raised, but only to the minimum level required by this subsection. The complainant shall have the burden of proving that such rate is in violation of this subsection.".

Page 104, after line 23, insert the following new paragraph:

(2) Section 10701(b) of title 49, United States Code, is repealed.

Page 104, line 24, strike out "(2)" and insert in lieu thereof "(3)".

Page 106, after line 6, insert the following new paragraph:

"(4)(A) 'reasonable transportation alternative' means an alternative which is available at the present time to transport in sufficient quantities the commodity to which a particular rate applies by a mode which has access to the origin and destination involved at a transportation cost which is not substantially greater than the cost of the transportation of such commodity by rail. For purposes of determining the existence of a 'reasonable transportation alternative' under this section, a reasonable transportation alternative shall be presumed to exist if—

"(i) comparable traffic has been shipped recently in similar quantities by the shipper challenging the lawfulness of the rate (or another similarly situated shipper) by another rail carrier or another mode of transportation at a transportation cost which is not substantially greater than the cost of the transportation of the commodity by the rail carrier whose rate is being challenged; or

"(ii) the consignee is able to obtain the same commodity, capable of meeting the needs of such consignee, in sufficient quantities from another source by another rail carrier or another mode at a delivered cost which is not substantially greater than the cost of the commodity transported by the rail carrier whose rate is being challenged.

"(B) If a shipper or consignee is bound by a contract in effect on July 1, 1980, to ship or receive a specific commodity, there shall be deemed to be no reasonable transportation alternative for the transportation of such commodity during the shorter of (i) the duration of such contract, or (ii) the 24-month period beginning on July 1, 1980.

"(C) In this paragraph, 'substantially greater' means 125 percent of the cost of transporting a particular commodity by rail, except that the Commission may prescribe a different percentage figure to the extent necessary to reflect service differentials."

Page 106, line 15, strike out "(c)(1)" and insert in lieu thereof "(c)".

Page 106 line 22 strike out "(A)" and insert in lieu thereof "(1)".

Page 106 line 22 strike out "an actual or present potential" and insert in lieu thereof "a reasonable".

Page 107 line 3 strike out "(B)" and insert in lieu thereof "(2)".

Page 107 strike out line 6 and all that follows through line 2 on page 108.

Page 113, line 22, strike out "40,000" and insert in lieu thereof "20,000".

Page 113, line 23, strike out "or other bulk".

Page 114, line 7, strike out "or other bulk".

Page 114, line 12, strike out "40,000" and insert in lieu thereof "20,000".

Page 114, beginning on line 12, strike out "or other bulk".

Page 114, line 18, strike out "40,000" and insert in lieu thereof "20,000".

Page 114, line 19, strike out "or other bulk".

Page 115, beginning on line 15, strike out "or other bulk".

Page 115, strike out line 22 and all that follows through line 10 on page 116 and insert in lieu thereof the following:

ASSURED AGRICULTURAL RAIL TRANSPORTATION AGREEMENTS

SEC. 205. (a) Subchapter II of chapter 107 of title 49, United States Code, is amended by inserting immediately after section 10727 the following new section:

"§ 10727a. Assured agricultural rail transportation agreements

"(a) The Interstate Commerce Commission shall, subject to the restrictions of this subtitle, permit the establishment of tariffs for agricultural commodities under which rates may be raised or lowered, between established maximum and minimum levels, in response to expected or actual fluctuations in demand for rail service.

"(b)(1) Any rail carrier establishing a tariff under the authority of subsection (a) of this section shall publish such tariff at least 90 days in advance of the date of its application. Rates established under any such tariff shall remain in effect for a minimum of 6 months.

"(2) Upon the request of a shipper, any rail carrier establishing a tariff under subsection (a) of this section shall, to the extent of its available equipment, quote a charge (between the established maximum and minimum levels) for the movement, scheduled for up to 12 months in advance, of such shipper's agricultural commodities.

"(3) Whenever a rail carrier quotes a charge pursuant to this subsection and a shipper agrees to such charge, the parties shall be considered to have entered into a binding contract. Such a contract shall not be subject to section 10712 of this title.

"(c) A rail carrier may not be found to have failed to meet its common carrier obligations under section 11101 of this title by reason of entering into or carrying out a contract under this section.

"(d) The exclusive remedy for any alleged breach of a contract entered into under this section shall be an action in an appropriate State court or United States district court, unless the parties otherwise agree.

"(e) In permitting the establishment of tariffs pursuant to this section under which rates may be raised and lowered between established maximum and minimum levels, the Commission shall give due consideration to the competition of other modes of transportation for the particular traffic involved and the fluctuation in demand for particular rail services.".

(b) The section analysis for chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10727 the following new item:

"10727a. Assured agricultural rail transportation agreements.".

Page 118, strike out lines 5 through 11 and insert in lieu thereof the following:

"(f) This section shall not apply to (1) surcharges or cancellations under section 10705a of this title, (2) rates and conditions set forth in contracts approved under section 10712 of this title, (3) rates established under section 10727a of this title, (4) separate rates for distinct rail services under section 10723 of this title, (5) rail rates applicable to different routes, or (6) expenses authorized under section 10751 of this title.".

Page 120, line 5, strike out "other than" and insert in lieu thereof "except".

Page 125, after line 11, insert the following new section:

RAIL SHIPPER NEEDS BOARD; OTHER SHIPPER ASSISTANCE

SEC. 214. (a)(1)(A) There is hereby established a Rail Shipper Needs Board (hereinafter in this section referred to as the "Board"), which shall be composed of the Secretary of Transportation, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Labor, and the Chairman of the Interstate Commerce Commission. The Secretary of Transportation shall serve as Chairman of the Board and shall have the responsibility for expediting the proceedings of the Board.

(B)(i) The Board shall select personnel from the Federal Government, with the consent of the head of the appropriate Federal department or agency, or appoint individuals from private life, to serve on advisory committees, task forces, and advisory panels. Such individuals shall be selected on the basis of their proven expertise in transportation related fields.

(ii) Individuals selected under this section may be compensated for their services at the discretion of the Board, but in no event shall any such individual receive compensation in excess of 1/260 of the rate prescribed for level IV of the Executive Schedule, under section 5315 of title 5, for each day (including travel time) in which he is engaged in the actual performance of duties vested in the Board.

(2)(A) The Board shall conduct a study of the needs of urban and rural rail shippers, and shall submit reports to the Congress, in accordance with subparagraph (B) of this paragraph, on the results of such study. Such reports shall include—

(i) an estimate of the rail car needs of urban and rural shippers using, to the greatest extent practicable, statistics compiled by the Secretary of Agriculture, the Secretary of Commerce, the Interstate Commerce Commission, and the Secretary of Transportation.

(ii) an analysis of the effect of the provisions of this Act on urban and rural shippers;

(iii) an evaluation of the need to create a corporation owned by the rail carriers to operate a fleet of free-running freight cars which could provide service to urban and rural shippers;

(iv) an analysis of potential and existing urban and rural rail Federal programs which need to be coordinated in order to insure the maximum utilization of Federal funds;

(v) a recommendation of the criteria which should be used to identify essential branchlines and to establish priorities for the funding of rail rehabilitation projects;

(vi) an analysis of the economic impact upon urban and rural rail agricultural shippers of abandoning small shipper facilities and consolidating them in order to effectuate economies of scale;

(vii) (I) the effect of contract ratemaking on the common carrier obligation, (II) the interrelationship of negotiated contracts, regulated contracts, and common carrier obligations, and (III) the desirability of regulated contracts for exempted agricultural commodities;

(viii) an outline of elements necessary for successful federally assisted demonstration projects involving urban and rural transportation cooperatives in areas where abandonment is anticipated but where agriculture shippers and governmental units are willing to commit sufficient resources to insure the viability of the lines to be abandoned;

(ix) a recommendation with respect to the need for a transportation information center,

(x) methods for reducing urban and rural grade crossings by carrying out the policies and goals of this Act; and

(xi) an analysis of the possible uses of abandoned branch rail lines and terminal facilities to maximize scarce land resources for public purposes (including recreational purposes, civic purposes, rail purposes, and other public purposes).

(B) The Board shall submit an interim report to the Congress under this paragraph no later than January 1, 1982, and shall submit a final report to the Congress no later than January 1, 1984.

(3) The Board may conduct a study and submit a report to the Congress with respect to the cost effectiveness, economic potential, and technical feasibility of using a conveyor system to transport agricultural commodities on abandoned railroad rights-of-way.

(4)(A) The Board shall cooperate with existing Federal departments and agencies to assure that sufficient resources and facilities exist to assist agriculture shippers in forming cooperative shipper associations and in taking advantage of expanded opportunities for contracting.

(B) All Federal departments and agencies are authorized to cooperate with the Board and to furnish information, appropriate personnel (with or without reimbursement), and such financial and other assistance as may be agreed upon by the Board and the Federal department or agency involved.

(5) The Board shall cease to exist 5 years after the effective date of this Act.

(b) In evaluating restructuring plans submitted under section 518(h) of the Railroad Revitalization and Regulatory Reform Act of 1976, the Secretary of Transportation shall consult with the Secretary of Agriculture with respect to any aspect of such a plan that impacts upon the provision of transportation services to agricultural and rural areas.

(c) The Secretary of Agriculture, in cooperation with the Secretary of Transportation, may establish regional agricultural transportation representatives to assist shippers in securing railroad or alternative transportation services on the most favorable possible terms.

(d)(1) The Secretary of Transportation and the Secretary of the Treasury shall jointly submit to the Congress, within 9 months of the effective date of this Act, a comprehensive report on the anticipated effect (including the loss of revenue to the Federal Treasury) of amending section 103 of the Internal Revenue Code of 1954 to provide an exemption from taxation for interest on obligations issued in connection with the rehabilitation of railroad feeder lines. Such report shall also include such criteria as may be necessary to prevent the abuse of such tax exemption.

(2) For purposes of this subsection, railroad feeder line rehabilitation includes the acquisition, construction, reconstruction, or erection of any feeder line roadbed, track, trestle, depot, switching and signaling equipment, or any other rail equipment (other than rolling stock).

(e) There are authorized to be appropriated for purposes of carrying out the provisions of this section not to exceed $2,000,000, of which not more than $50,000 may be available to conduct the study described in subsection (a)(3) of this section.

Page 97, strike out the item in the table of contents relating to section 205 and insert in lieu thereof the following new item:

Sec. 205. Assured agricultural rail transportation agreements.

Page 98, after the item relating to section 213, insert the following new item;

Sec. 214. Rail Shipper Needs Board; other shipper assistance.

Mr. MADIGAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. ECKHARDT. Mr. Chairman, reserving the right to object, may we have a copy of the amendment?

The CHAIRMAN. The gentleman will be supplied with a copy of the amendment.

Mr. ECKHARDT. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MADIGAN. Mr. Chairman, this amendment includes a number of provisions designed to resolve problems which had been expressed by agricultural groups since the bill was reported from committee.

First, the amendment reduces the threshold limitation for equal contract treatment from 40,000 tons to 20,000 tons. Addressing a principal concern of agriculture shippers.

Second, the amendment strikes the demand sensitive rate section entirely from the bill.

Third, the amendment adds a new section for "assured agricultural rail transportation agreements." This provision is a refinement of one I offered in committee which permits rail carriers to publish tariffs for agricultural commodities which have maximum and minimum levels whereby shippers would be given the opportunity to request and obtain quotes from railroads for specific movements scheduled up to 12 months in advance. Whenever a rail carrier quotes a charge, and the shipper agrees to such charge, the parties shall be considered to have entered into a binding contract. The contract is enforceable in any court. Rail carriers may not change the maximum and minimum levels in the tariffs for at least 6 months after the tariff has been published.

In essence this provision creates a "futures market" for rail transportation. Shippers will receive two direct benefits: First, they will have some certainty as to the price of transportation; second, they will be given assurance of an adequate car supply. In many ways, this provision will be an effective tool for finally resolving the perennial car shortage problem which faces agricultural shippers. The failure of a railroad to provide cars as agreed to will permit shippers to sue the railroad in any court for breach contract.

Fourth, the amendment establishes a Rail Shippers Needs Board. The Rail Shippers Needs Board is made up of high-level Government officials in order to monitor the effects of this legislation. Specific requirements for the Board to consider are contained in the amendment in order to determine the effect of this legislation on rural areas in America.

Fifth, the Secretary of Agriculture is given a specific role with respect to any aspect of any restructuring plant that impacts upon the provision of transportation services to agricultural and rural areas.

Sixth, the Secretary of Agriculture, in cooperation with the Secretary of Transportation, may establish regional agricultural transportation representatives to assist shippers in securing railroad or alternate transportation services on most favorable terms. This provision was one of those recommended in the final report of the Rural Transportation Advisory Task Force earlier this year.

Seventh, the Secretary is given authority to study the technical feasibility of using a conveyor system to transport agricultural commodities on abandoned rights-of-way. In addition, the Secretary of Transportation must submit a report to the Congress within the next 6 months concerning the advisability of permitting the use of State general obligation bonds or revenue bonds for the rehabilitation of railroad feeder lines.

In arriving at the provisions of this amendment, I built upon the work already done in committee for assuring good service in rural areas. I am pleased that the Secretary of Agriculture, Mr. Bergland, has endorsed both my amendmend and the rail bill.

☐ 1230

Mr. Chairman, at this point I insert in the RECORD a letter from Secretary Bergland:

DEPARTMENT OF AGRICULTURE,
Washington, D.C., June 30, 1980.

Hon. EDWARD R. MADIGAN,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MADIGAN: The Rail Act of 1980 will soon be coming to the House floor. While certain agricultural interests have a tradition of opposing regulatory reform of the railroads, this bill, supplemented with amendments to be offered by Mr. Madigan, adequately addresses the general concerns of agriculture and contains the best combination of opportunities for both railroad; and agricultural shippers and receivers.

Specifically, the Department of Agriculture strongly endorses the Madigan Amendments calling for: 1) a liberalization of the bill's contract provisions which relax shipper requirements to qualify for subsequent rail service/rate contracts; 2) "assured agricultural rail transportation agreements" which allows any shipper—even the smallest—to lock in future rail rate and service levels; 3) the establishment of a "Rail Shipper Needs Board" which will comprehensively monitor and investigate the consequences of rail regulatory reform on rural areas and report to the Congress; and 4) the Secretary of Agriculture, in cooperation with the Secretary of Transportation, to establish regional agricultural transportation representatives to assist shippers in securing railroad or alternate transportation services on the most favorable possible terms.

The Rail Act of 1980, with the Madigan Amendments, presents an important opportunity to change the way in which railroads do business with agriculture—a change to move away from a system that has, in the last several years, resulted in significant deterioration in agricultural rail service at a time when our Midwestern railroad system has continued to decline. This deterioration has many causes, but it is clear that the inflexibility of current regulations is a basic cause. The Madigan Amended Rail Act of 1980 will provide flexibility needed by the railroads and agriculture to meet the critical challenges both of these industries face in the 1980's and beyond. I urge you to vote for the Madigan Amendments and the bill.

BOB BERGLAND,
Secretary.

Mr. Chairman, I urge adoption of this amendment.

PARLIAMENTARY INQUIRY

Mr. ECKHARDT. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his inquiry.

Mr. ECKHARDT. Mr. Chairman, I was not aware at the time that this amendment was offered that it would purport to deal with a number of very different subjects. I assume that it would not be in order to raise a point of order concerning germaneness at this late time, not having reserved it, but I would like to ask if the question may be divided. There are several subjects that are quite divisible in the amendment offered here, and that deal with different matters.

The CHAIRMAN. The Chair will advise the gentleman from Texas that he is correct, it is too late to raise a point of order on the question of germaneness.

The Chair will further advise the gentleman from Texas that a substitute is not divisible.

AMENDMENT OFFERED BY MR. ECKHARDT TO THE AMENDMENT OFFERED BY MR. MADIGAN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. FLORIO

Mr. ECKHARDT. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The CHAIRMAN. The Clerk will report the amendment to the substitute amendment.

POINT OF ORDER

Mr. MADIGAN. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. MADIGAN. Mr. Chairman, I understand that the procedure is that the members of the subcommittee would be recognized for amendments first, and that the gentleman from Texas sought recognition for the purpose of making a parliamentary inquiry and was recognized for that purpose, and was not recognized for the purpose of offering an amendment.

I further understand that the gentlewoman from Maryland, a member of the subcommittee, was on her feet seeking recognition for the purpose of offering an amendment, as well as the gentleman from North Carolina (Mr. BROYHILL).

Ms. MIKULSKI. Mr. Chairman, that is correct.

The CHAIRMAN. The Chair will respond to the gentleman by saying to him that the normal procedure is to recognize members of the full committee by seniority, alternating from side to side, which the Chair has been doing. The gentleman was recognized under that procedure, and the Chair's recognition is not in any event subject to challenge.

Therefore, the gentleman is recognized, and any point of order that the gentleman from Illinois would make on that point would not be sustained.

Mr. MADIGAN. Further pursuing my point of order, and with all due respect to the Chair, am I incorrect in assuming that the gentleman from Texas was recognized for the point of raising a parliamentary inquiry?

The CHAIRMAN. The gentleman is correct. He was recognized for that purpose; then separately for the purpose of the amendment that he is offering, which the Clerk will now report.

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT to the amendment offered by Mr. MADIGAN as a substitute for the amendment offered by Mr. FLORIO: page 3, strike out lines 14 through 20.

Page 3, line 5, strike out "(1)".

Page 3, line 13, strike out "; or" and insert in lieu thereof a period.

Pages 4 and 5, strike out "20,000" and insert in lieu thereof "5,000".

Mr. FLORIO. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman from New Jersey reserves a point of order.

Mr. FLORIO. We have not got a copy of the amendment, and what was just shown does not comply with what was just read.

The CHAIRMAN. The Chair will advise the gentleman from New Jersey that the amendment that has been read is the amendment that is pending. The fact that the gentleman does not have a copy of the amendment does not give rise to a point of order.

Mr. FLORIO. I would like to reserve a point of order until we have an opportunity to see the amendment.

The CHAIRMAN. The gentleman reserves a point of order.

The gentleman from Texas (Mr. ECKHARDT) is recognized for 5 minutes in support of his amendment.

Mr. ECKHARDT. Mr. Chairman, we are dealing here with a very, very important portion of this bill. In this bill, before the ICC may consider what would otherwise be considered under existing law a dominant carrier situation, two findings must be made: First, that the rate that the railroad charges is about twice variable cost; and in addition to that, that there exists no transportation alternative, that is, that there exists no competition in the field.

□ 1240

Mr. Chairman, I want to compliment the gentleman from New Jersey (Mr. FLORIO) for somewhat improving the provisions of (c)(1) and (c)(2) with respect to the transportation alternative threshold. He does somewhat improve it, but he does not do all that needs to be done to correct that problem.

The same thing is true in the proposal of the gentleman from Illinois (Mr. MADIGAN), who offered the last amendment. He provides in that amendment that:

For purposes of determining the existence of a "reasonable transportation alternative" under this section, a reasonable transportation alternative shall be presumed to exist if—

And then follows the language that I seek to strike—

the consignee is able to obtain the same commodity, capable of meeting the needs of such consignee, in sufficient quantities from another source by another rail carrier or another mode at a delivered cost which is not substantially greater than the cost of the commodity transported by the rail carrier whose rate is being challenged.

Now, the way this question originally arose was in a case involving existing law. It was a case, as I recall, of a utility near Corpus Christi, Tex., that had made some negotiations for the purchase of foreign coal. I believe it was from Poland. The ICC said a transportation alternative exists; therefore, the railroad is not in a dominant position because it would have been possible to obtain coal in Poland.

That was in the Coleto Creek case.

I feel that that case was entirely incorrect. The utility was arguing that it had already made contracts for the purchase of western coal, that it would not have a dependable supply, from any alternative transportation source and that to require it to change its entire mode of acquisition of coal was improper.

What this type of provision does is legislatively establish the harm done in the Coleto Creek case, and this has nothing necessarily to do with foreign transportation. It would be applicable in domestic as well as foreign transportation where the railroad has a monopoly. Because a railroad being the only one running into a given area, can set a price at any level, so long as it can find another supply of the same commodity, no matter how far away or produced or supplied under whatever unreliable conditions, so long as it bids a price slightly below or in the neighborhood of the price of the higher cost commodity.

The CHAIRMAN. The time of the gentleman from Texas (Mr. ECKHARDT) has expired.

(By unanimous consent, Mr. ECKHARDT was allowed to proceed for 3 additional minutes.)

Mr. ECKHARDT. Mr. Chairman, I gave an example in questioning the gentleman from New Jersey (Mr. FLORIO) about his amendment a moment ago, and I was posing this question: Suppose there is coal available, not at what is now the price, because coal is now being bought in San Antonio at $20.50 a ton from the Powder Basin. Suppose there is coal from the northern area of Montana at, say, $36 a ton. Can that Powder River Basin coal price then be moved up to $35 a ton because you could have acquired coal from a greater distance under a similar monopoly situation for $36 a ton? This could be done under the bill and under the Madigan amendment without opportunity to have ICC review.

Or to draw an extreme case, suppose coal is produced 600 miles from San Antonio or somewhere along the route to Montana and that coal is sold at a dollar less than coal hauled 1,600 miles. In such event, because the railroad that has the local coal 600 miles from its destination can sell that coal a dollar cheaper than the 1,600-mile source, its rate cannot be contested even though its rate is vastly higher per ton mile than the cost of coal from a great distance.

All I am saying is that it is perfectly proper to leave in the bill the provision that if there is an alternative source, a true alternative source, that may deprive the ICC of jurisdiction, but we should not provide here in this detail that if "the consignee is able to obtain the same commodity, capable of meeting the needs of such consignee, in sufficient quantities from another source by another rail carrier," no matter at what price and no matter at what ripoff or under what monopoly circumstances that may exist, the shipper cannot go to the ICC and say that 600-mile coal ought not cost merely a dollar less than coal hauled 1,600 miles.

Mr. Chairman, if we do not leave the language in that is in this substitute or the language that is in the original bill, but leave out this harmful provision by adopting my amendment, then the ICC could look at the entire question and examine whether the rate is too high.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, if I may have the attention of the gentleman from Texas (Mr. ECKHARDT), I would like to ask the gentleman his interpretation, for my clarification, of the other "source" as it appears in the amendment. Does that have any restriction as to whether it be a domestic source or international source, and what ramifications would come from this other "source"? I wonder if the gentleman has had an opportunity to study that part of it?

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, this is a 13-page amendment. If the gentleman will yield to the author of that amendment, perhaps he could answer that question.

Mr. DE LA GARZA. Does the gentleman have any further statement he would like to make?

Mr. ECKHARDT. I would like to ask the author of the amendment, the gentleman from Illinois (Mr. MADIGAN), if there is a limitation such as I have discussed with the gentleman from New Jersey (Mr. FLORIO) respecting whether the source is a domestic or a foreign source.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I am happy to yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I apologize to the gentleman from Texas (Mr. ECKHARDT). I am engaged in conversation over here, and I was not following the question of the gentleman.

Mr. DE LA GARZA. Mr. Chairman, I yield to the gentleman from Texas (Mr. ECKHARDT) to restate the question.

Mr. ECKHARDT. Mr. Chairman, the question is this: In some discussions with the gentleman and with the gentleman from New Jersey (Mr. FLORIO) previously, there was some mention of whether or not the gentleman would be willing to limit this to domestic sources. I do not know whether the gentleman has done that in this amendment or not, with respect to the alternative transportation source, and the gentleman from Texas (Mr. DE LA GARZA) is asking whether this would include alternative transportation, say, from Poland or Africa. I do not know the answer to that because I have not read the amendment that carefully.

Mr. MADIGAN. From Poland to Africa?

Mr. ECKHARDT. From Poland or from Africa, say, to Corpus Christi, Tex.

Mr. MADIGAN. No, I did not include any restriction to domestic alternatives in my amendment.

Mr. ECKHARDT. I see. Mr. Chairman, will the gentleman from Texas (Mr. DE LA GARZA) yield further to me?

Mr. DE LA GARZA. Yes, I am happy to yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, that exactly raises the Coleto Creek question. That means that even though the source may be from Poland, a source which might be interrupted by our relationships with an Iron Curtain country, the mere fact that coal is available at a certain price from Poland meets the amendment's definition of a transportation alternative. Coal is now being shipped to the Corpus Christi area, about 250 miles by rail in Africa, about 7,000 miles at sea, and 30 miles by truck to a location near Corpus Christi.

☐ 1250

The mere fact that that could be done and coal of similar quantity could be thus obtained would be, as I understand it, a transportation alternative; and, therefore, if Africa and the various ship haulers charged, say, $40 a ton, then Burlington Northern could bid $39 a ton from the Powder River Basin and there would be no opportunity for appeal to the ICC. That is what I am trying to eliminate in this amendment that I have offered.

Mr. DE LA GARZA. That is part of my concern, because in reading the amendment it does not restrict it to rail. It says "another mode," which would involve shipping overseas, I could imagine.

Mr. ECKHARDT. That is certainly correct, and I cannot see how the shipper could in any way appeal his case to the ICC that the comparable supply was at an extremely exorbitant rate and might be interrupted. It seems to me that it would be the better part of wisdom to strike this section from this Madigan amendment; and that, of course, is what my amendment does.

Mr. FLORIO. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, by way of background, what the gentleman's amendment does is to indicate that there will be a possibility of a determination of unreasonableness of a rate, in spite of the fact that there is an opportunity to get—and let us use coal as an example—coal from two different sources to a particular site at identical or comparable costs.

The gentleman, for his reasons, feels that it is not appropriate to consider the fact that coal is being shipped, whether it be by train or by car or by truck, from another site, another geographic point, to the same end point. There are two provisions in the bill dealing with transportation alternatives. The first section deals with the fact that a transportation alternative exists where comparable service is available from the same geographic area to an end point. Parallel railroads may be a good example, that the gentleman is willing to accept. But he does not accept the fact that you can have coal shipped from two different sites to a single end point, and have the rates being comparably priced. That should not, in the gentleman's opinion, be considered a transportation alternative.

The significance of all of this is that the gentleman is saying that, should that situation exist, where you have two movements and two different sites and comparable costs, the shipper would be in a position to say, when a rate increase on one movement is proposed, that the commodities are from two different sites, and, therefore, the rates are within the jurisdiction of the ICC.

The net impact of this will be to throw more rate reviews before the Interstate Commerce Commission.

The basic law provides that no rate should be unreasonable. The emphasis in our legislation is that if you have a transportation alternative that could haul the same product to your point at similar costs, a rate increase cannot be unreasonable.

The thrust of the bill is to remove more matters from regulation by the ICC. We feel this will not be done to the detriment of the shipper as long as he has a comparable transportation alternative, regardless of where it comes from, as long as the destination price is similar.

The gentleman, I know, feels strongly about the whole thrust of the legislation. I believe this is absolutely essential, if we are going to be true to the basic philosophy of the bill. If we are trying to provide for less regulation with protection for the shipper, then the gentleman's amendment should be rejected.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I am interested in knowing how the gentleman understands the term "comparable cost."

Suppose, in the example I gave, that the cost quoted by the series of shippers, railroad, ship, and truck, constitutes, say, $40 per ton for coal from Poland. Is the comparable cost that cost or that price for which, for example, Burlington Northern offers to deliver coal from the Powder River Basin? Can Burlington Northern then offer to deliver it at $39 per ton, and are the two comparable figures the $40 and the $39?

Mr. FLORIO. The comparable cost is the destination price to the utility. So the answer is that if one carrier, whatever the carrier is, charges $40, and the other carrier charges $39 for the comparable product, that would be comparable cost and there would be transportation alternatives.

Mr. ECKHARDT. And that means, then, that Burlington Northern might be hauling coal, as it now is, to the San Antonio utility, for $20.50. But if it can find a haulage from Poland to Corpus Christi at a cost of $40, it can raise the rate from $20.50 to $39 to Corpus Christi, and Corpus Christi cannot go before the ICC and contest that rate; is that right?

Mr. FLORIO. If the gentleman will yield, the gentleman knows, of course, that the situation has been just the opposite. The transportation costs from overseas have been lower than the rates that have been charged by railroads. So the gentleman's hypothetical example is the direct opposite of what the facts are.

Mr. ECKHARDT. It may be that the railroads can find some coal in China that would be $40, and in that event, if they quote $39, the ICC cannot come into the game; is that not correct under your provision?

Mr. FLORIO. The gentleman's examples are really arguing for the fact that there has to be a regulatory protection for all conceivable circumstances. We do not think that is appropriate.

Mr. MADIGAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like, very briefly, to make two points. We keep talking about coal shipments to San Antonio. As I understand, the particular coal shipment that all of this conversation is about is a shipment that is some 1,600 miles one way and then has a train arriving in San Antonio, a coal train, that can do nothing except turn around and go back to where it came from, empty, since there is nothing in San Antonio to put in a coal train. So that train winds up making a 3,200-mile round trip for a transportation charge, according to what has just been said here, of $20.50 a ton. What that means to me—and I was in the transportation business—is that that train is moving, on a round-trip basis, for less than 1 cent per ton-mile. I cannot understand how anyone would consider that to be an excessive charge.

In the general debate the other day, the gentleman from New Jersey pointed out that in constant dollars the railroad charge for the movement of coal has actually declined in the last 20 years. So all of this debate seems to suggest that someone is being ripped off by someone else, when in fact the coal is moving for less than it did 20 years ago, in constant dollars, and in the case being discussed here, moving for less than one penny per ton-mile. I cannot believe that this conversation goes on and on like it does.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I was over in my office, working on a number of other matters and watching this matter on television, and at the time I was there I observed that there was a very important question asked. I observed that the question has not been answered. The gentleman who just spoke, the gentleman from Illinois (Mr. Madigan), for whom I have the utmost respect, and my dear friend and colleague, the gentleman from New Jersey (Mr. Florio), chairman of the subcommittee, for whom I also have the greatest respect, have not responded to the very basic question, and that is: Under the language which is currently being discussed, is the alternative source of supply a domestic, or is it a foreign source of supply?

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I will yield to the gentleman if he will answer it. He has not answered it. He has dealt with this as a simple question of hypothetical interest.

Mr. MADIGAN. If the gentleman will yield, I answered that question.

Mr. DINGELL. I will yield to the gentleman, but I just want to have it understood what we are talking about. We are talking about rates on railroads, and you can move the grain milling or you can move any other major industry anywhere in this country that you want, by the simple jiggering of railroad rates. And I think anybody who knows anything about rail rates understands how this is done.

The finest example is the movement, for example, of the grain milling industry, from place to place, by the simple shifting of rail rates. Now, the question was asked—and I will yield to my friend now—whether or not we are dealing with supply which comes in from this country or supply which comes in from abroad. I think that is a question which merits an answer. I will now yield to the gentleman so he can answer it.

Mr. MADIGAN. I thank the gentleman for yielding, and just prior to the gentleman on the floor the question was asked and I answered the question.

Mr. DINGELL. No. With all respect for the gentleman, for whom I have the greatest fondness, the question was not answered. He treated it just simply as a matter of hypotheses, and he went off and started talking about trains running one direction full and trains running in the other direction empty, and I think that is a splendid comparison to make but it does not have merit.

□ 1300

We are talking here about jobs which are important to this country. We are talking about commodities which are produced in this country. We are talking about a nation which is in the midst of one of the worst economic downturns which it has seen. We are talking about a Nation which at this particular time, because of unfair competitive practices by foreign commerce is now seeing many of its major industries literally decimated and now the gentleman treats this as a hypothetical question.

The hard, bloody, brutal fact of the matter is that we have got to see to it that we at least maintain the kind of transportation system which assures domestic industries and domestic producers that they would be treated fairly by their own transportation system.

Can the gentleman answer the question?

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Illinois.

Mr. MADIGAN. May I say to the gentleman that I have the greatest respect and admiration for the gentleman's scholarship and legislative ability and everything else short of his presence on the floor, because I am referring to a colloquy which took place before the gentleman came on the floor.

Mr. DINGELL. I was watching the discussion on the television in my office.

Mr. MADIGAN. The gentleman answered a question and said it did not. A foreign source of coal can be considered a competitive source under the provisions of my amendment, under the provisions of the bill.

Mr. DINGELL. The gentleman is saying it can or cannot?

Mr. MADIGAN. That it can be.

Mr. DINGELL. So then the gentleman has answered the question. What the gentleman talked about is increasing the outflow of dollars from this country by his amendment and increasing the importation of foreign coal. I would assume that we use coal as an example, and the same would apply with regard to any other single commodity which is marketed inside the United States from domestic or from foreign producers.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Texas.

Mr. ECKHARDT. I thank the gentleman for yielding.

I would assume that under the same theory and under this section if the Ford plant produces automobiles in Cologne, which it does, and also produces automobiles in Michigan, a person wishing to have automobiles shipped to him could be charged by a railroad a figure a dollar less from Michigan than the costs from Cologne and still be exempt from ICC rate review.

Mr. DINGELL. The gentleman is correct. The same analogy would apply as regards a person who might wish to import wheat from Australia or Argentina or a person who might wish to import limestone or iron ore or coal or any other similar commodity. That is the point that has not been addressed here to see the mischief that lies in the situation before us.

Mr. ECKHARDT. If the gentleman will continue to yield, that is absolutely true, and the clause I seek to strike out, the railroads, in fact, without limitation——

The CHAIRMAN. The time of the

gentleman from Michigan (Mr. Dingell) has expired.

(At the request of Mr. Bafalis and by unanimous consent, Mr. Dingell was allowed to proceed for 2 additional minutes.)

Mr. BAFALIS. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Florida.

Mr. BAFALIS. Does the gentleman know we are talking about the differential in transportation cost or the delivered cost of the commodity?

Mr. DINGELL. I think that is one of the questions that the author of the bill would have to address.

I would be glad to yield to the gentleman from Texas who, I think, can probably respond.

Mr. ECKHARDT. It is the transportation cost.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from New Jersey.

Mr. FLORIO. I thank the gentleman for yielding.

Quite to the contrary, it is the delivered costs that we are talking about, in making the determination as to whether the transportation alternative is comparable.

Mr. DINGELL. I think the gentleman has answered the question. What he is saying is that the language as it is now constitutes a real threat of strong favoritism to foreign producers and so forth and strong potential for discriminatory treatment of American shippers and manufacturers by the railroads.

Mr. BAFALIS. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Florida.

Mr. BAFALIS. That was the point I wanted to make, that if we have a foreign producer who has cheap labor and cheap costs——

Mr. DINGELL. And cheap transportation by water into the United States.

Mr. BAFALIS. That is right, and does not have environmental protection agencies and all the other problems we have in the mining business in this country, they can compete with us because of this delivered cost. I think it is terribly wrong.

Mr. DINGELL. The gentleman is correct.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Texas.

Mr. ECKHARDT. Let me clarify something. The ICC has jurisdiction to deal with the matter. The ICC is only dealing with transportation cost. I think the gentleman from New Jersey recognizes that. But this is rather internal. The thing is that the product may cost the same, but if the transportation is extremely high from that point, the railroads may also jack up their short transportation costs to equal it.

Mr. DINGELL. If the gentleman will permit, the transportation differential does not have to be extremely high given the volumes that are involved here. It only has to be a little bit. The problem that exists with the legislation before us is that it literally strips the ICC of the right to protect American citizens against discriminatory transportation costs.

Mr. LEE. Mr. Chairman, I move to strike the requisite number of words.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. LEE. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I would just seek recognition momentarily to advise the gentleman from Michigan, who is leaving the floor, that the concerns which he has expressed about foreign coal were addressed in a meeting between several Members of Congress who were trying to work out a solution to this problem last night, and a specific offer was made by the gentleman from New Jersey (Mr. Florio), and the gentleman from Illinois, to exclude from the bill for the purposes of determining competitive delivered price, coal coming from a foreign source. That offer of the gentleman from New Jersey and me was rejected by the gentleman from Texas with whom the gentleman from Michigan has alined himself in this debate.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. LEE. I yield to the gentleman from Texas.

Mr. ECKHARDT. I did not reject that offer. I rejected the total package that was offered at that time. I would like to correct that.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. LEE. I yield to the gentleman from New Jersey.

Mr. FLORIO. It is my understanding the gentleman from Texas (Mr. Loeffler) will have an amendment at a later point that will deal specifically with this question of excluding from consideration foreign coal as an alternative.

Mr. LEE. Mr. Chairman, I yield back the balance of my time.

Mr. KAZEN. Mr. Chairman, I move to strike the last word.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I would be delighted to yield to the gentleman from Michigan.

Mr. DINGELL. I would observe for the benefit of the gentleman from Illinois and also the gentleman from New York, who did not have the courtesy to yield to me, that for their information, I was not part of that meeting. I would also observe for their benefit that the question here is not just a question of coal carriage, but it is a question of any large bulk shipment of any kind of commodity such as wheat, limestone, coal, and iron ore. It also is a question related to automobiles. It also is a question related to large shipments of agricultural commodities, such as feed grains, corn and so forth, and I would point out that the simple adoption of an amendment which might take care of the coal problem leaves unresolved a very large contingent of other problems which can be extremely destructive to the American economy.

Now, I would observe for the benefit of the gentleman from Illinois something else that I think is important. We originally wrote into law a series of protections back in the 1880's to protect against precisely the kind of discriminatory practices which the railroads are going to be able to engage in under this bill before us. I have not involved myself deeply in this debate until this time, but I do want my colleagues to understand that this bill is rich in the opportunity for railroads to discriminate between ports, between manufacturers, between suppliers, between purchasers, between different areas of the country, between different industries, and all of these consequences will be destructive to U.S. producers, U.S. industries, U.S. jobs, and U.S. ports.

□ 1310

It is only moderately cured by any amendment we have discussed so far.

Mr. KAZEN. Mr. Chairman, I will be glad to yield to the gentleman from New Jersey after I yield to the gentleman from Texas.

I yield to the gentleman from Texas (Mr. Eckhardt).

Mr. ECKHARDT. Mr. Chairman, I thank the gentleman for yielding, because I think something ought to be said about what kind of offers might have been made, although I do not think it is really an appropriate time now to talk about possible solutions that could have been accepted in whole or by either the authors of the bill or those that disagree with them. At that time those of us who were concerned with captive shippers, ratepayers in San Antonio, Houston and all over the country, and shippers of wheat, iron ore, and steel, were offered a good number of conciliatory measures, one of which was to grandfather the San Antonio ICC rate case and then let off the hook Chicago or to do something about foreign coal. This compromise did not address the import issue, involving for instance Russian wheat or German automobiles.

We very properly said "no." We do not want to sell out a broad and important principle in protecting shippers of every kind on the basis of simply oiling the squeaky wheel at the point where it seems to be impeding the progress of a bill that is being railroaded down the line. That is what happened in that discussion.

Mr. KAZEN. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I would be delighted to yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to respond to the concerns of the gentleman from Michigan about going back to the 1800's and the monopoly abuses that resulted in the establishment of the ICC. That is not going to happen, for a number of obvious reasons. We now have several different modes of transportation. The regulatory scheme in a declining railroad industry. The railroad industry is absolutely essential if all those industries we have talked about are going to continue to prosper.

The gentleman knows that in the last year we have dealt with two railroad bankruptcies. We have lost 10,000 miles of track. In the last 5 years this Congress has been called upon to pay $11 billion in Federal subsidies to railroads.

What this legislation is designed to do is to modify the regulatory system to provide for greater flexibility. The legislation will let the market determine some of these decisions, rather than the regulators, who apparently have not done a very good job.

The gentleman referred to the fact that there were numerous individuals that felt threatened. I am representing to the gentleman that we think this bill, with some of the amendments that we are going to offer, will deal with the short lines' concerns, and will deal with the shippers' concerns.

We have put together a good, balanced bill, that provides for an opportunity for the rail industry to prosper while maintaining appropriate protection for shippers.

Most of the debate that is going to take place in the next few hours is going to be over the rate provision. That is the provision that some feel will provide the railroads with the opportunity to make more profits and to have a healthier system.

The CHAIRMAN. The time of the gentleman from Texas (Mr. Kazen) has expired.

(At the request of Mr. Florio, and by unanimous consent, Mr. Kazen was allowed to proceed for 3 additional minutes.)

Mr. FLORIO. Mr. Chairman, will the gentleman yield further?

Mr. KAZEN. I would be delighted.

Mr. FLORIO. What will not be debated, I suspect, are those provisions that are designed for the benefit of the shippers, and are a necessary part of this particular legislation, such as provision that will eliminate general rate increases, which have been responsible for a large amount of the cost increases to shippers over the last number of years; the provision to eliminate collective ratemaking among railroads so that they can come together and set rates, which is the very opposite of what we are trying to do by encouraging marketplace forces and competition.

There will probably not be much debate over the standardized accounting provisions, which will work to the benefit of the shipper. There will be some suggestions that we should modify the portion of the bill which deals with rates, but there will be no suggestion to modify the portion of the bill that works to the interests of the shippers, and particularly the coal shippers.

I would ask for a balanced approach in this legislation. I suggest that we have taken into consideration these concerns of the gentleman, and that we are not in the position to draw a piece of legislation for a specific problem in one particular State. We have done everything that is humanly possible to accommodate the needs of the gentleman and we think that we have gone far beyond merely being reasonable. We simply cannot draw legislation for a particular problem.

I thank the gentleman for yielding.

Mr. KAZEN. Mr. Chairman, let me just say that I will be listening to this debate that the gentleman describes very carefully. Somewhere down the line I hope that the gentleman and the sponsors of this bill will discuss the interest of the consumers of this country, not only the interests of the railroads and the shippers and others, but I see nothing in the bill which protects the ultimate consumer, be it a utility or just the average family that is using energy in their homes for their vital domestic needs.

Mr. DECKARD. Mr. Chairman, I move to strike the requisite number of words. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, just in addition to what the gentleman from New Jersey (Mr. Florio) has said and in response to the concerns expressed by the gentleman from Michigan (Mr. Dingell) that we would somehow be giving an unfair competitive advantage to foreign automobiles, let me just read the language in the bill. It reads that the consignee be able to obtain the same commodity and it has to be obtained at the same delivered price; so if we are talking about Chevrolet automobiles, they have to be Chevrolet automobiles, not Chevrolets from one place and Toyotas from another place, and they have to be the same delivered price. That is what we are talking about in the section that the gentleman from Texas would actually strike from my amendment.

Let me further say, speaking to the concerns of the other gentleman from Texas about the consumer; the consumer in America happens also to be the taxpayer in America. As the gentleman from New Jersey has just said, we have pumped $11 billion into the railroad system since the gentleman and I have been in Congress. The gentleman and I have been asked for another $400 million this year just to get Conrail through the balance of this year. That is not to solve their problem. That is not even to improve their system. That is just to get them through the rest of this year.

This railroad industry as a whole earns a rate of return of about 2.7 percent, those that are making money. In my part of the country, they are not making money any more. The two bankruptcies we are handling this year cause us in each case to be putting more tax dollars into the system. Both have been midwestern railroads. Somebody might think that they can keep this railroad problem confined to the Northeast and to the Midwest. I assure you, you cannot. Either we solve the problems of the railroad industry with this bill or this problem spreads on to the West and to the Southwest as well.

The gentleman from New Jersey has worked very hard, along with the other members of the subcommittee for a year and a half to create a very balanced bill. That is what we have here.

Now we have some special interests, and believe me, that is what we are talking about, is some special interests who want to tear asunder what reasonable men and women have taken a year and a half to put together and I hope that the House will not be foolish enough to buy that.

Mr. Chairman, I thank the gentleman for yielding.

Ms. MIKULSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to speak against the Eckhardt amendment, and the reasons that I do so have been rather eloquently stated by the gentleman from New Jersey. I only wish to associate myself with them; however, I would like to amplify one point. The gentleman from Michigan talked about how this legislation in some way discriminates against or hurts ports. As someone who represents ports, I would like to let it be known that I intend, should the opportunity present itself, to offer an amendment to the Madigan substitute, which I also support, that would clarify the whole arrangement that we have with ports. It would insure that the ports of America and their concerns would be taken care of in this legislation.

I would like to support the position of the gentleman from New Jersey on this.

Mr. HANCE. Mr. Chairman, I move to strike the requisite number of words.

First of all, I would like to associate myself with the opinions and expressions of the gentleman from Texas (Mr. Kazen).

Mr. Chairman, I yield to the gentleman from Texas (Mr. Eckhardt).

Mr. ECKHARDT. Mr. Chairman, I thank the gentleman for yielding.

We have gotten far away from the Eckhardt amendment in this discussion. We have been talking about ports and talking about the general merits of competition versus regulation.

I want everyone to understand that my amendment does not touch any of those matters. My amendment only deals with the situation where the railroads enjoy a monopoly in the setting of price.

Now, wherever railroads are, in effect, in a competitive position on a particular haul the language of the Madigan amendment and, indeed, of the bill itself in section (c)(1) would permit competition to control price and the ICC could not enter the ratemaking arena.

□ 1320

The flaw, though, in both the original bill and the Madigan amendment, which repeats the language of the bill, is that it says that if there is any competition, no matter at what price, no matter in what country, as long as the product is the same, and the difference in the price that the railroad quotes for carriage of that haulage is substantially within the range of the other quoted price, then the railroad is absolutely free from ICC review in setting rates.

Now, what this means is that all the railroad has to do is find some rice in China that would be sold at a rate which they quote, and then, for example, a railroad hauling rice from Texas to the east coast would be permitted to charge anything close to the rate of rice from China. That is ridiculous.

What we are doing, in effect, is writing into the act a means by which the railroad can absolutely avoid all ICC control when it is, in fact, in a monopoly position and can find some outlandishly expensive theoretical competitor. There is no real competition by rice from China, yet the railroad can find such an artificial situation and then can simply underbid that price at its own figure.

The gentleman from New Jersey was talking about costs and I asked him what cost meant and he said that is the cost that the railroad places on the product to be delivered. That is the difficulty. If we had a definition in here about what the real cost was, that would be a different matter; and, of course, that is what the ICC looks at, the question of variable cost, fixed costs, fully allocated costs and the like.

The ICC has permitted considerable additional revenue for profits, revenue incentives and the like on top of that. But none of those controls are in effect if this provision is in effect. All the railroad has to do is find some other fictitious competition and then set its price at $1 less and the ICC is out of the picture.

I suggest this has nothing to do with the main thrust of the bill, of which I approve, where there is in fact existing competition of a realistic nature. Where the railroad is not the dominant carrier presently, the ICC has no place in the hearing. The only case in which the ICC comes in today is where you do not have a dominant carrier. But this definition of dominant carrier just lets the railroad determine whether it is going to be controlled by the ICC or escape control.

Mr. HANCE. I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT) to the amendment offered by the gentleman from Illinois (Mr. MADIGAN) as a substitute for the amendment offered by the gentleman from New Jersey (Mr. FLORIO).

The question was taken; and on a division (demanded by Mr. FLORIO) there were—ayes 23, noes 21.

Mr. FLORIO. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

☐ 1330

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business before the Committee is the demand by the gentleman from New Jersey (Mr. FLORIO) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 130, noes 281, answered "present" 2, not voting 20, as follows:

[Roll No. 394]

AYES—130

Abdnor
Alexander
Ambro
Andrews, N.C.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Atkinson
Barnard
Bedell
Bennett
Bereuter
Bethune
Bevill
Blanchard
Boggs
Bonior
Bouquard
Bowen
Brademas
Breaux
Brodhead
Brooks
Brown, Ohio
Carr
Chappell
Conyers
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Dellums
Dingell
Downey
Eckhardt
Edwards, Okla.
English
Evans, Ga.
Fary
Fithian
Ford, Mich.
Fountain
Frost
Fuqua
Gibbons
Ginn
Gonzalez
Gore
Gramm
Grassley
Gudger
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hightower
Hinson
Holtzman
Huckaby
Hutto
Ichord
Ireland
Jenkins
Jenrette
Jones, N.C.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
Leach, La.
Leath, Tex.
Leland
Levitas
Lewis
Livingston
Loeffler
Long, La.
Lott
Lujan
McKay
Markey
Marlenee
Mattox
Mica
Mitchell, Md.
Moffett
Mollohan
Montgomery
Mottl
Murphy, Ill.
Murphy, Pa.
Musto
Neal
Nedzi
Oakar
Perkins
Pickle
Price
Pursell
Quillen
Ratchford
Roberts
Rose
Rostenkowski
Schroeder
Seiberling
Snyder
Steed
Stenholm
Stewart
Stump
Synar
Tauzin
Udall
Vander Jagt
Vento
Walgren
Watkins
Weiss
Whitley
Whitten
Williams, Mont.
Wilson, Tex.
Wright
Wyatt
Yates

NOES—281

Addabbo
Akaka
Albosta
Anderson, Calif.
Andrews, N. Dak.
Aspin
AuCoin
Badham
Bailey
Baldus
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Beilenson
Benjamin
Biaggi
Bingham
Boland
Bolling
Boner
Bonker
Brinkley
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carter
Cavanaugh
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Deckard
Derrick
Derwinski
Devine
Dickinson
Dicks
Dixon
Dodd
Donnelly
Dornan
Dougherty
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
Erdahl
Ertel
Evans, Del.
Evans, Ind.
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Flippo
Florio
Foley
Ford, Tenn.
Forsythe
Fowler
Frenzel
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Glickman
Goldwater
Goodling
Gradison
Gray
Green
Grisham
Guarini
Guyer
Hall, Ohio
Hamilton
Hanley
Hansen
Harkin
Harris
Harsha
Heckler
Hefner
Heftel
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Hughes
Hyde
Jacobs
Jeffords
Jeffries
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kelly
Kemp
Kindness
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Lederer
Lee
Lehman
Lent
Lloyd
Long, Md.
Lowry
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKinney
Madigan
Maguire
Marks
Marriott
Martin
Matsui
Mavroules
Mazzoli
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moore
Moorhead, Calif.
Moorhead, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nelson
Nolan
O'Brien
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Petri
Peyser
Porter
Preyer
Pritchard
Quayle
Rahall
Railsback
Rangel
Regula
Reuss
Rinaldo
Ritter
Robinson
Rodino
Roe
Rosenthal
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schulze
Sebelius
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Nebr.
Snowe
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stockman
Stokes
Stratton
Studds
Swift
Symms
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vanik
Volkmer
Walker
Wampler
Waxman
Whitehurst
Whittaker
Williams, Ohio
Winn
Wirth
Wolff
Wolpe
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

ANSWERED "PRESENT"—2

Bafalis
Hillis

NOT VOTING—20

Anderson, Ill.
Collins, Ill.
Erlenborn
Findley
Hawkins
Hutchinson
Johnson, Colo.
Mathis
Murphy, N.Y.
Nichols
Nowak
Rhodes
Richmond
Runnels
Smith, Iowa
Stark
Weaver
White
Wilson, Bob
Wilson, C. H.

☐ 1340

The Clerk announced the following pairs:

On this vote:

Mr. Nichols for, with Mr. Bob Wilson against.

Messrs. PEPPER, GRISHAM, and JACOBS changed their votes from "aye" to "no."

Messrs. HINSON, ANDREWS of North Carolina, APPLEGATE, LIVINGSTON, BEREUTER, BETHUNE, and FROST changed their votes from "no" to "aye."

So the amendment to the amendment offered as a substitute for the amendment was rejected.

The result of the vote was announced as above recorded.

☐ 1350

AMENDMENT OFFERED BY MR. BROYHILL TO THE AMENDMENT OFFERED BY MR. MADIGAN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. FLORIO

Mr. BROYHILL. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. BROYHILL to the amendment offered by Mr. MADIGAN as a substitute for the amendment offered by Mr. FLORIO: On page 7 of the amendment, strike out lines 14 and 15 and insert in lieu thereof the following:

Page 120, strike out lines 3 through 12, and insert in lieu thereof the following:

INTRASTATE RATES

SEC. 210. (a) Section 11501(a) of title 49, United States Code, is amended—

(1) by striking out "(a)(1)" and inserting in lieu thereof "(a)";

(2) by striking out "subchapter I or subchapter IV" and inserting in lieu thereof "subchapter IV";

(3) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(4) by striking out paragraph (2).

(b) Section 11501 of title 49, United States Code, is amended by redesignating subsections (b) and (c) as subsections (d) and (e), respectively, and by inserting immediately after subsection (a) the following new subsections:

"(b)(1) Any State authority exercising jurisdiction over intrastate rates of a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title shall utilize the rate regulation standards set forth in this title.

"(2) Within 60 days after the effective date of the Rail Act of 1980, each State authority exercising jurisdiction over intrastate rates described in paragraph (1) of this subsection shall submit to the Commission the procedures (including timing requirements) used by such State authority in exercising such jurisdiction.

"(3) Within 60 days after receipt of the intrastate rate procedures of a State authority under paragraph (2) of this subsection, the Commission shall certify such State authority for purposes of this subsection if the Commission determines that such procedures are consistent with the procedures applicable to regulation of rail carriers by the Commission under this title. If the Commission determines that such procedures are not consistent, it shall deny certification to such State authority, and such State authority may resubmit new procedures to the Commission for review in accordance with this subsection.

"(4) Any State authority which is certified by the Commission under this subsection may use its procedures in exercising jurisdiction over intrastate rail rates during the 12-month period commencing on the date of such certification. Any State authority which is denied certification may not exercise any jurisdiction over intrastate rates until it receives certification under this subsection.

"(5) Certification of a State authority under this subsection is valid for the 12-month period beginning on the date of such certification. Prior to the expiration of such 12-month period, the State authority shall resubmit its intrastate rate procedures to the Commission for subsequent certification in accordance with this subsection.

"(6) Notwithstanding any other provision of this section, a State authority may not exercise any jurisdiction over general rate increases under section 10706 of this title or transition rate adjustments or inflation-based rate increases under section 10713 of this title.

"(c) Any rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may file a protest with the Commission alleging that any intrastate rate standard or procedure of a State is not consistent with the standards and procedures under this title. If the Commission determines that such standard or procedure is not consistent, it shall, within 30 days after the date such protest is filed, prescribe the intrastate rate in question.".

Mr. BROYHILL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. ECKHARDT. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman from Texas reserves a point of order.

Mr. BROYHILL. Mr. Chairman, section 210 of the bill removes all jurisdiction of State public utility commissions over intrastate rail rates. There has been great concern expressed by the public utility commission in my State and in others about this action.

The reason that we preempted State jurisdiction in this area is that the basic rules for determining reasonableness of a rate have been changed by this act. Therefore, it becomes important to have consistency in application of the law.

I think that we can achieve a better balance between Federal regulation and State regulation, however, than we have in the bill. Therefore, I offer this amendment which would preserve the State's power for regulation over intrastate rates provided that: First, substantive rule of law under the Federal statute be applied; and second, the Commission certifies that the procedures used by the State are compatible with the Federal procedures used by the Interstate Commerce Commission.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I will be glad to yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I thank the gentleman for yielding. We have had an opportunity here at the desk to review this amendment. We think it is a very good one, and are willing to accept it.

Mr. BROYHILL. I thank the gentleman.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, I commend the gentleman for the amendment. It is a good amendment. The amendment is acceptable to the majority.

Mr. BROYHILL. I thank the gentleman.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask the gentleman from North Carolina a few questions concerning his amendment. I had intended to address the same question, and perhaps this addresses that question adequately.

I was concerned with the provision that struck out all authority of the State Commission with respect to intrastate rail rates. I felt that if the State Commission should sufficiently notify the ICC of an intent to regulate intrastate rates in advance of its doing so in order that the ICC have sufficient time to express the position that the State authority was interfering with commerce in a way not acceptable to the ICC, the ICC could, as it can do now, override State authority. To what extent does this operate in that way?

Mr. BROYHILL. The way this operates is that within 60 days after the effective date of this act, each State authority that wants to exercise jurisdiction over intrastate rates would apply to the Commission and spell out the procedures that would be used in exercising that jurisdiction. Then, the ICC would have 60 days in order to review that application and to certify that State authority, to let them have the authority over intrastate rates.

□ 1400

Then the State authority which is certified would continue exercising jurisdiction over intrastate rates for a 12-month period that starts at the time they are certified. The certification, as I pointed out, is valid for a 12-month period, and then the State commission would have to resubmit its intrastate procedures to the Commission after that 12-month period for subsequent certification.

Mr. ECKHARDT. If the State did not act within the limited period of the gentleman's amendment, what would happen? And what period is it, 60 days?

Mr. BROYHILL. Within 60 days after the effective date of the act, each State authority which wants to exercise jurisdiction over intrastate rates would submit to the Commission the procedures that they would use to exercise that jurisdiction.

Mr. ECKHARDT. And if they did not act within those 60 days, they could never later decide to act in the area of intrastate control; is that right?

Mr. BROYHILL. Well, we give them 2 months. I think that is certainly sufficient for the State commission to decide whether or not they want to exercise jurisdiction over intrastate rates. If they do not do it within that time, then they would be preempted.

Mr. ECKHARDT. All they have to do is say, "We want to exercise jurisdiction over intrastate rates"?

Mr. BROYHILL. That is all they have to do. Within that period of time they have to decide whether they want to exercise jurisdiction over the intrastate rates, and then they shall submit to the Commission the procedures they will use in exercising such jurisdiction.

Mr. ECKHARDT. When does that have to be filed?

Mr. BROYHILL. Within the 60-day period.

Mr. ECKHARDT. Then that is the procedure with respect to how they shall act?

Mr. BROYHILL. That is the way we have it drafted at the present time.

Mr. ECKHARDT. Mr. Chairman, that seems to me like a very, very short time for a State to define its total procedures in that area.

Woud the gentleman enlarge that period to, say, 6 months?

Mr. BROYHILL. I would be glad to extend it to 90 days.

Mr. ECKHARDT. Mr. Chairman, this is a terribly serious question to decide hurriedly at this point. It would seem to me that we would do better to rise now and think it over.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, we are not talking about new State regulations. We are talking about States that are already exercising these powers. As the gentleman knows, most of the concern comes from those States that already have regulations. Therefore, this is not a matter of creating entirely new regulations. It is simply a matter of submitting the existing procedures to the ICC, within 60 days. We are not talking about new regulations being created and an entirely new process being started from scratch.

The CHAIRMAN. The time of the gentleman from Texas (Mr. ECKHARDT) has expired.

PARLIAMENTARY INQUIRY

Mr. ECKHARDT. Mr. Chairman, I have a parliamentary inquiry to make at this point.

The CHAIRMAN. The gentleman is recognized to state his parliamentary inquiry.

Mr. ECKHARDT. Mr. Chairman, let me ask, if this amendment were agreed to, would it still be in order to move to strike the entire intrastate section of the Madigan substitute?

This would apparently be a perfecting amendment with respect to that matter, and an amendment to strike, I would think, would be in order. I would like to know the answer to that question.

The CHAIRMAN. The Chair will state that the Madigan substitute still has to be voted on regardless of the outcome of this amendment, and it is open for amendment after this amendment has been disposed of.

Mr. ECKHARDT. Mr. Chairman, the question I am asking, though, is this: If this amendment were agreed to as a perfecting amendment to the Madigan amendment respecting intrastate rates, would it then be in order to strike the whole section limiting the exercise by a State commission of intrastate rate authority?

The CHAIRMAN. The Chair would have to state to the gentleman from Texas (Mr. ECKHARDT) that it would depend, in the Chair's judgment, on what form the amendment would take. The Chair knows of no such amendment, sees no such amendment, and, therefore, finds it difficult to answer the gentleman's question.

Mr. ECKHARDT. Mr. Chairman, may I ask, is it in order to offer a substitute for this amendment at this point to strike the section?

The CHAIRMAN. The Chair will state that the answer to that question: No, it is not in order to offer a substitute for an amendment to a substitute.

Mr. ECKHARDT. I thank the Chair.

The CHAIRMAN. The Chair would inquire of the gentleman from Texas (Mr. ECKHARDT), does he withdraw his reservation of a point of order at this point?

Mr. ECKHARDT. Yes, Mr. Chairman, I withdraw my reservation of a point of order.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. BROYHILL) to the amendment offered by the gentleman from Illinois (Mr. MADIGAN) as a substitute for the amendment offered by the gentleman from New Jersey (Mr. FLORIO).

The amendment to the amendment offered as a substitute for the amendment was agreed to.

Mr. EMERY. Mr. Chairman, as a Representative of the State of Maine which has several small to midsized railroads, I was concerned when this act was introduced into the Congress that the State of Maine would experience more harm than good from rail deregulation.

After reviewing this legislation and consulting with our railroads, I believe many of my initial reservations have been addressed, and to a great extent satisfied. I believe this legislation is now supported by the railroads of Maine.

I note with special interest, that special protection has been afforded in this bill to class II short-line railroads. In section 301, 10705(j)(1), this language is spelled out.

I believe the same provision should be available for class III railroads of which there are only 18 in the Nation. Both Maine Central and the Bangor & Aroostook Railroads are class II carriers and as such are vulnerable to possible predatory actions of larger railroads. Since Maine is almost entirely served by class II carriers, it is essential that all possible protection be afforded these railroads and their shippers and receivers. Maine Central and Bangor & Aroostook are two of the few solvent and profitable carriers in the Northeast. A continuation of that status is critical to the preservation of a good rail service for the manufacturing and agricultural industries of Maine.

Maine Central and Bangor & Aroostook are small by industry standards, but this size and resulting operating efficiency has preserved good rail service for the State. I, as well as these two railroads in Maine, am concerned that in a deregulated climate, they may be subject to action by large railroads, which could result in loss of traffic presently contributing to the net income of the Maine railroads. I believe the comments of my colleagues, Mr. DINGELL and Mr. ECKHARDT, which appear in the committee report and which address this issue are very important and very appropriate.

Mr. Chairman, the vital importance of all short-line carriers, whether listed as class III or class II, should be understood by all concerned with a healthy railroad industry. Failure to protect all of these railroads will be a serious flaw in this issue of deregulation.

● Mr. UDALL. Mr. Chairman, I rise in support of the amendment of the gentleman from Texas. Although this amendment reflects the concerns of shippers of many different commodities, I am primarily concerned that protection be given captive shippers because of the effect noncompetitive transportation costs has on coal burning utilities in my State.

The railroads have said that the coal rate problem affects only Texas. They claim that Texas is burdened by high rates because getting coal to utilities like Houston Power & Light or San Antonio requires miles of track in the State of Texas alone. This is not your fight, they have told me, Texas is the only State complaining. Apparently the railroads do not think that the present situation in Arizona is serious. But Arizona utilities and consumers are feeling the pinch of increased rail rates too.

In Arizona we are largely dependent on coal and will be for years to come. The largest electric utility in the State, Arizona Public Services, produces 80 percent of its electricity from coal. This is a level of coal usage that many other utilities are striving to attain. This laudable independence from oil and gas is, however, being threatened by the burden that enormous rail transportation costs imposes on APS and by the specter of even greater tariffs in the near future.

APS presently pays one of the highest rates in the country: 31 mills per ton mile. Eight other comparable unit train movements in the West—as of January 15, 1980—have average rates of $7.74 per ton or 10.1 mills per ton-mile. APS estimates that without the pending legislation, the cost of moving the coal needed for the next 5 years will be $61.8 million. If H.R. 7235 is enacted without the Eckhardt amendment, their projected costs for the 5-year period leap to $68 million. This cost increase will be a cost of production for the utility and, as such, will be directly passed through to the consumers.

Another Arizona utility, Arizona Electric Power Cooperative, is also caught in a stranglehold by the railroads. Last year the carrier that serves Arizona Electric requested, and was granted, a capital incentive rate of $11.44 per ton. That translates to 22.97 mills per ton mile. This rate, in terms of cost per ton mile, is the highest in the Nation for rapid turnaround unit train coal service. As if these tariffs were not scandalous enough, Arizona Electric informed me that another rate increase of 7.6 percent is currently on file with the ICC.

It is obvious to me that the problems faced by coal-burning utilities is not limited to Texas or the Southwest. All over the country, utilities are finding themselves turning to imported coal or deciding not to convert to coal because the transportation costs make the conversion economically unfeasible.

I do not object to the railroads earning a profit. I support deregulation as a necessary means of putting the railroad industry back on its feet. While we are trying to stimulate the rail industry, however, we must not sacrifice the economic well-being of captive shippers and, ultimately, the consumers. I urge you to support this amendment. If we fail to do this, we run the risk of forcing consumers of goods from captive shippers to shoulder the lion's share of the financial burden of deregulation.●

● Mrs. SNOWE. Mr. Chairman, while I support the Rail Act of 1980, H.R. 7235, I want to draw my colleagues' attention to a serious oversight in the bill: The lack of special protection for class II carriers that is afforded class III carriers. I can see no reason why class II carriers should not be treated similarly to the class III carriers.

I refer specifically to the special protection afforded class III railroads in the joint rate language of H.R. 7235, section 301, 10705(j)(1). This language allows the class III carrier to protest a surcharge or cancellation if it has no other rail route. It also allows the class III carriers to protest the surcharge or rate cancellation if it is likely to unduly impair a carrier's ability to earn an adequate rate of return or a shipper dependent on that carrier will suffer significant market loss. It is my belief that this authority should also be available for class II carriers.

Only 18 class II railroads in the Nation are currently licensed, and none of them are large enough to be a serious threat to the viability of any major railroad. In many instances, they are very important as regional railroads. Maine Central and Bangor & Aroostook, the two major railroads which service most of the State of Maine, are class II carriers. As class II carriers, these railroads are vulnerable to possible predatory action of larger railroads. Since Maine is almost entirely served by class II carriers, it is essential that all possible protection be afforded these railroads and their shippers and receivers. Maine Central and Bangor & Aroostook are two of the few solvent and profitable carriers in the Northeast. A continuation of that status is critical to the preservation of good rail service for the manufacturing and agricultural industries of Maine. Maine Central and Bangor & Aroostook are small by industry standards, but this size and resulting operating efficiency has preserved good rail service for all the State.

I am concerned that in a deregulated climate class II carriers may be subject to action by large railroads, especially through the proposed joint rate provisions, which could result in loss of traffic presently contributing to the net income of Maine railroads. It should be noted that originated and terminated traffic of these two carriers contributes greatly to the Nation's rail system. To the extent that they handle a substantial amount of business in long-haul services, they provide significant options to accommodate the Nation's freight. Additional protection for class II carriers is vital if this Rail Act is to be considered truly an equitable proposal.●

● Mr. TRAXLER. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Illinois (Mr. Madigan).

In particular, I am most supportive of the provisions of his amendment designated as section 214(b) and section 214 (c). These provisions are virtually identical to two amendments I had intended to offer, which appear on page 17420 of our Record for June 27.

These provisions will provide agricultural shippers and communities with the attention that their problems deserve. Many of these shippers are quite small, and do not have the wherewithall of many large corporate shippers to determine rail rates and to discover provisions of proposed rail contracts which may be harmful to these small shippers, many of whom I am proud to represent.

It would be my expectation that the regional transportation representatives established within section 214(c) will be allowed to assist small shippers in monitoring contracts that may be harmful to their shipping needs, and with this assistance these small shippers may be better prepared to file their complaints on such contracts with the Interstate Commerce Commission within the 30-day time period provided for in section 204(d)(1) of the bill as reported by the Interstate and Foreign Commerce Committee.

Mr. Chairman, I had intended to offer an amendment which would have increased the time period in which an aggrieved shipper would have to file a complaint on a contract which had been filed with the Commission. My amendment would have provided for an increase in this time period from 30 to 60 days.

I shall not offer that amendment, and I do so in deferrence to the Subcommittee on Transportation and Commerce. But I do not offer this amendment with the understanding that the regional transportation assistance to be provided by the Department of Agriculture shall include assisting shippers with obtaining information about such contracts when filed with the Commission so that small shippers can be in a position to file responsible petitions for review of these contracts with the Commission within the 30-day time period provided in the bill.

This assistance by the Department of Agriculture is allowed for both by an amendment that I have prepared for offering, which appears at page 17420 of the Record for June 27, and is also embodied within the provisions of the amendment to be offered by the gentleman from Illinuois (Mr. Madigan) which establishes a new section 214 and assistance for agricultural shippers.

Mr. Chairman, I had intended to offer an amendment which would have provided for a penalty clause in shipping contracts which would have established an escrow account into which the shipper and carrier would each deposit an agreed-upon charge of up to $2 per ton in order to cover the costs associated with default on the shipping contracts.

I shall not offer this amendment, and I do so with the understanding that the committee has recognized the need for penalty clauses in contracts within its deliberations, and would prefer to allow the provisions of such penalty charges be established under a case-specific basis with no limitation on the penalty charge.

However, I do want the legislative history to reflect here that this body recognizes the potential importance of such penalty clauses in contracts, and fully expects that shippers and carriers will deal with each other on a good-faith basis, and will routinely provide for their own penalty clauses.

I would also expect that the agricultural assistance to be provided under the new Section 214, which I have prepared and appears in the Record at page 17420, and which will be offered in a modified form by the gentleman from Illinois (Mr. Madigan).●

● Mr. CONABLE. Mr. Chairman, we of the Northeast have a special interest in this legislation—given the concern we all have to feel over the question of whether or not Conrail can make it.

Although Conrail has actually performed at least as well as we could have expected—and, but for the Carter recession, might at this point have been turning that corner towards profitability—the future of Conrail is probably another one of those difficult questions we are going to have to face once again. In fact, this could be said for most of the rail industry, that essential segment of our economy whose rate of return on investment has not exceeded 3 percent since 1966, and which—with rare individual exceptions—appears headed for further trouble.

There are a flock of reasons for this rather dismal performance, but the most pervasive of these seems to be the problem of governmental regulation of a sort that has turned topsy-turvy the normal incentives that drive businesses forward into innovative channels and some portion of this problem can be corrected through changes in tax policy of the kind being considered by the Ways and Means Committee. But those changes, whatever they may prove to be, are still months off, with whatever benefits that may flow therefrom being still further off in the distant future.

In the meantime, however, we can do something about the railroads by approving the bill now before us. No one knows for sure how deregulation of the rail industry will work which, I presume, is why some here who profess to favor free enterprise now demand to know which prices will rise and which will fall—and by how much—while others seek assurances that no community will receive less service or pay more for it.

I understand that kind of concern and the localized pressures that produce it. Nevertheless, it seems to me that those who would now change or weaken the thrust of the committee's bill are reflectindg, in the main, solicitude about the effect of competition on those who now benefit from regulation, while ignoring the fact that deregulation will eventually enlist for all users of rail services the most effective "regulator" of all—vigorous competition.

One cannot say what passage of this legislation will specifically do for Conrail, on which my area of New York must depend for freight services. It probably will not put it back on the track toward profitability—only an early end to the Carter recession could do that. But deregulation could give Conrail—and our other struggling railroads—some badly needed breathing room and a new spark of life that might serve to postpone the day when other, more costly kinds of Federal relief could be needed.

In closing, Mr. Chairman, I do wish to note the special efforts of my able colleague from New York (Mr. Lee) in helping to fashion this legislation—efforts that give further proof of his valuable contribution as a Member of this body.●

Mr. FLORIO. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. AuCoin, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7235) to reform the economic regulation of railroads, and for other purposes, had come to no resolution thereon.

CONFERENCE REPORT ON H.R. 7542, SUPPLEMENTAL APPROPRIATIONS AND RESCISSION, 1980

Mr. WHITTEN submitted the following conference report and statement on the bill (H.R. 7542) making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes:

Conference Report (H. Rept. No. 96–1149)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7542) "making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes", having met after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 4, 11, 12, 17, 19, 20, 22, 23, 24, 27, 28, 29, 30, 35, 39, 40, 43, 47, 49, 50, 66, 69, 73, 77, 79, 80, 82, 83, 84, 89, 92, 94, 105, 110A, 130, 132, 137, 143, 145, 160, 163, 173, 190, 191, 197, 201, 217, 226, 230, 231, 234, 270, 271, 272, 306, 309, 310, 311, 312, 313, 314, 322, 323, 324, 330, 335, and 344.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 14, 16, 25, 26, 41, 44, 45, 51, 52, 58, 62, 63, 68, 70, 76, 86, 90, 98, 99, 108, 111, 126, 129, 134, 135, 139, 140, 142, 149, 151, 154, 159, 164, 171, 195, 198, 200, 203, 206, 207, 210, 211, 212, 213, 222, 225, 228, 232, 235, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 273, 274, 282, 283, 291, 292, 293, 295, 298, 303, 305, 315, 321, 329, 333, 334, 336, and 338, and agree to the same.

Amendment numbered 5: That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

AGRICULTURAL CREDIT INSURANCE FUND

For an additional amount for "farm ownership loans", $100,000,000.

And the Senate agree to the same.

Amendment numbered 13: That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert "of which up to $243,000,000 may be transferred to and merged with the Food Stamp Program Appropriation"; and the Senate agrees to the same.

Amendment numbered 18: That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

FOOD PROGRAM ADMINISTRATION

(RESCISSION)

Of the funds appropriated under this head in Public Law 96–108, making appropriations available for fiscal year 1980, $500,000 are rescinded.

And the Senate agree to the same.

Amendment numbered 21: That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$43,073,000"; and the Senate agree to the same.

Amendment numbered 32: That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$245,600,000"; and the Senate agree to the same.

Amendment numbered 36: That the House recede from its disagreement to the amendment of the Senate numbered 36, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,255,209,000"; and the Senate agree to the same.

Amendment numbered 55: That the House recede from its disagreement to the amendment of the Senate numbered 55, and agree to the same with an amendment, as follows: In lieu of the sum named in said amendment insert "$38,300,000"; and the Senate agree to the same.

Amendment numbered 57: That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment, as follows: In lieu of the sum named in said amendment insert "$21,129,700"; and the Senate agree to the same.

Amendment numbered 60: That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment, as follows: In lieu of the sum named in said amendment insert "$3,278,600"; and the Senate agree to the same.

Amendment numbered 64: That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment, as follows: In lieu of the sum named in said amendment insert "$9,500,000"; and the Senate agree to the same.

Amendment numbered 71: That the House recede from its disagreement to the amendment of the Senate numbered 71, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$4,000,000"; and the Senate agree to the same.

Amendment numbered 72: That the House recede from its disagreement to the amendment of the Senate numbered 72, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$2,000,000"; and the Senate agree to the same.

Amendment numbered 75: That the House recede from its disagreement to the amendment of the Senate numbered 75, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$31,725,000"; and the Senate agree to the same.

Amendment numbered 78: That the House recede from its disagreement to the amendment of the Senate numbered 78, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$5,150,000"; and the Senate agree to the same.

Amendment numbered 88: That the House recede from its disagreement to the amendment of the Senate numbered 88, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$32,450,000 and, in addition, $9,700,000 for continuing construction of the authorized Garrison Diversion Unit, North Dakota"; and the Senate agree to the same.

Amendment numbered 91: That the House recede from its disagreement to the amendment of the Senate numbered 91, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

None of the funds appropriated in this Act for the Garrison Diversion Unit may be used for the acquisition of mitigation lands by condemnation nor shall such funds be used on features affecting waters flowing into Canada.

And the Senate agree to the same.

Amendment numbered 93: That the House recede from its disagreement to the amendment of the Senate numbered 93, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$74,353,000"; and the Senate agree to the same.

Amendment numbered 96: That the House recede from its disagreement to the amendment of the Senate numbered 96, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment amended to read as follows:

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For an additional amount for "Payments for operation of low-income housing projects", $13,800,000.

And the Senate agree to the same.

Amendment numbered 97: That the House recede from its disagreement to the amendment of the Senate numbered 97, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment amended to read as follows:

Government National Mortgage Association

SPECIAL ASSISTANCE FUNCTIONS FUND

The amount of purchases and commitments authorized under this head for fiscal year 1980 is further increased by $150,000,000.

And the Senate agree to the same.

Amendment numbered 100: That the House recede from its disagreement to the amendment of the Senate numbered 100, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment amended to read as follows:

COMPREHENSIVE PLANNING GRANTS

(RESCISSION)

Of the funds appropriated under this head in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1980, $5,000,000 are rescinded.

And the Senate agree to the same.

Amendment numbered 101: That the House recede from its disagreement to the amendment of the Senate numbered 101, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$25,500,000"; and the Senate agree to the same.

Amendment numbered 104: That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$4,000,000"; and the Senate agree to the same.

Amendment numbered 107: That the House recede from its disagreement to the amendment of the Senate numbered 107, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment amended to read as follows:

UNITED STATES REGULATORY COUNCIL
(RESCISSION)

Of the funds appropriated under this head in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1980, $500,000 are rescinded.

And the Senate agree to the same.

Amendment numbered 120: That the House recede from its disagreement to the amendment of the Senate numbered 120, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment amended to read as follows:

PAYMENTS IN LIEU OF TAXES
(DEFERRAL)

Of the funds appropriated under this head in the Interior and Related Agencies Appropriation Act, 1980 (Public Law 96–126) $5,000,000 shall not become available for obligation until October 1, 1980, and shall remain available for obligation until September 30, 1981.

And the Senate agree to the same.

Amendment numbered 121: That the House recede from its disagreement to the amendment of the Senate numbered 121, and agree to the same with an amendment, as follows: In lieu of the sum named in said amendment insert "$2,000,000"; and the Senate agree to the same.

Amendment numbered 122: That the House recede from its disagreement to the amendment of the Senate numbered 122, and agree to the same with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:

(DEFERRAL AND RESCISSION)

And the Senate agree to the same.

Amendment numbered 124: That the House recede from its disagreement to the amendment of the Senate numbered 124, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$165,000,000"; and the Senate agree to the same.

Amendment numbered 125: That the House recede from its disagreement to the amendment of the Senate numbered 125, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$18,200,000"; and the Senate agree to the same.

Amendment numbered 127: That the House recede from its disagreement to the amendment of the Senate numbered 127, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment amended to read as follows:

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to carry out the provisions of Public Law 95–469 (16 U.S.C. 715s), $1,950,000.

And the Senate agree to the same.

Amendment numbered 146: That the House recede from its disagreement to the amendment of the Senate numbered 146, and agree to the same with an amendment, as follows: In lieu of the sum named in said amendment insert "$2,400,000"; and the Senate agree to the same.

Amendment numbered 148: That the House recede from its disagreement to the amendment of the Senate numbered 148, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$18,500,000"; and the Senate agree to the same.

Amendment numbered 150: That the House recede from its disagreement to the amendment of the Senate numbered 150, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$19,300,000"; and the Senate agree to the same.

Amendment numbered 157: That the House recede from its disagreement to the amendment of the Senate numbered 157, and agree to the same with an amendment, as follows: In lieu of the matter stricken and the matter inserted by said amendment insert the following: "$15,000,000 appropriated for the purpose of title I, part A, section 116; $100,000,000"; and the Senate agree to the same.

Amendment numbered 162: That the House recede from its disagreement to the amendment of the Senate numbered 162, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$21,052,000"; and the Senate agree to the same.

Amendment numbered 167: That the House recede from its disagreement to the amendment of the Senate numbered 167, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment amended to read as follows: ": *Provided*, That the funds made available for fiscal year 1980 for architectural barrier removal shall remain available until September 30, 1981."; and the Senate agree to the same.

Amendment numbered 172: That the House recede from its disagreement to the amendment of the Senate numbered 172, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

REHABILITATION SERVICES

For an additional amount under section 311 of the Rehabilitation Act of 1973, $1,500,855.

And the Senate agree to the same.

Amendment numbered 214: That the House recede from its disagreement to the amendment of the Senate numbered 214, and agree to the same with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert "$15,000,000"; and the Senate agree to the same.

Amendment numbered 215: That the House recede from its disagreement to the amendment of the Senate numbered 215, and agree to the same with an amendment, as follows: In lieu of the sum named in said amendment insert "$3,000,000"; and the Senate agree to the same.

Amendment numbered 216: That the House recede from its disagreement to the amendment of the Senate numbered 216, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$2,362,000"; and the Senate agree to the same.

Amendment numbered 229: That the House recede from its disagreement to the amendment of the Senate numbered 229, and agree to the same with an amendment, as follows: In lieu of the sum named in said amendment insert "$1,000,000"; and the Senate agree to the same.

Amendment numbered 233: That the House recede from its disagreement to the amendment of the Senate numbered 233, and agree to the same with an amendment, as follows: In lieu of the sum named in said amendment insert "$1,163,000,000"; and the Senate agree to the same.

Amendment numbered 236. That the House recede from its disagreement to the amendment of the Senate numbered 236, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$45,100,000"; and the Senate agree to the same.

Amendment numbered 238: That the House recede from its disagreement to the amendment of the Senate numbered 238, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$20,500,000"; and the Senate agree to the same.

Amendment numbered 239: That the House recede from its disagreement to the amendment of the Senate numbered 239, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$7,800,000,000"; and the Senate agree to the same.

Amendment numbered 240: That the House recede from its disagreement to the amendment of the Senate numbered 240, and agree to the same with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment insert "15"; and the Senate agree to the same.

Amendment numbered 241: That the House recede from its disagreement to the amendment of the Senate numbered 241, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$350,000,000"; and the Senate agree to the same.

Amendment numbered 242: That the House recede from its disagreement to the amendment of the Senate numbered 242, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

RAIL LABOR ASSISTANCE

For payment to provide supplemental unemployment insurance, $5,000,000 under section 10; and for new career training assistance, $1,500,000, under section 12, of the Milwaukee Railroad Restructuring Act; together with $61,600,000 to become available for obligation on October 1, 1980, for payment of benefits under section 509 of the Regional Rail Reorganization Act of 1973 as amended: *Provided*, That notwithstanding any other provision of law none of the funds appropriated in this or any previous Act may be made available to Conrail or any of its subsidiaries for any employee protection payments, other than those specified in title VI of H.R. 7235 as reported by the Subcommittee on Transportation and Commerce of the Interstate and Foreign Commerce Committee, which are identical or similar to those previously authorized by title V of the Regional Rail Reorganization Act of 1973 to be paid by Conrail to current Conrail employees and Conrail shall not be liable to make any such employee protection payments other than those specified in title VI of H.R. 7235 as reported by the Subcommittee on Transportation and Commerce of the Interstate and Foreign Commerce Committee: *Provided further*, That this limitation shall not apply to those payments made to employees in accordance with the terms of title VI of H.R. 7235 as reported by the Subcommittee on Transportation and Commerce of the Interstate and Foreign Commerce Committee: *Provided further*, That the effective date of this limitation is the first day of the month following enactment of this bill.

And the Senate agree to the same.

Amendment numbered 245: That the House recede from its disagreement to the amendment of the Senate numbered 245, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$330,000,000"; and the Senate agree to the same.

Amendment numbered 247: That the House recede from its disagreement to the amendment of the Senate numbered 247, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

TRANSPORTATION RESEARCH AND DEVELOPMENT

(LIMITATION ON OBLIGATIONS)

None of the funds provided in this Act or any previous Appropriation Act shall be available for the execution of research and development programs the obligations in fiscal year 1980 for which are in excess of 95 per centum of the amounts estimated to be obligated for research and development in fiscal year 1980 as reflected in the January, 1980 budget document for "Coast Guard, research, development, test, and evaluation; Federal Aviation Administration, facilities, engineering and development and research, engineering and development; Federal Highway Administration, Limitation on general operating expenses, highway safety research and development and motor carrier safety; National Highway Traffic Safety Administration, operations and research; Federal Railroad Administration, railroad research and development; Urban Mass Transportation Administration, research, development, and demonstrations and university research and training (including service and methods demonstration); Research and Special Programs Administration, research and special programs."

And the Senate agree to the same.

Amendment numbered 248: That the House recede from its disagreement to the amendment of the Senate numbered 248, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$60,000,000"; and the Senate agree to the same.

Amendment numbered 249: That the House recede from its disagreement to the amendment of the Senate numbered 249, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$4,100,000"; and the Senate agree to the same.

Amendment numbered 254: That the House recede from its disagreement to the amendment of the Senate numbered 254, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$22,000,000"; and the Senate agree to the same.

Amendment numbered 255: That the House recede from its disagreement to the amendment of the Senate numbered 255, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$9,725,000"; and the Senate agree to the same.

Amendment numbered 268: That the House recede from its disagreement to the amendment of the Senate numbered 268, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows: In lieu of the sum named in said amendment, insert "$750,000"; and the Senate agree to the same.

Amendment numbered 284: That the House recede from its disagreement to the amendment of the Senate numbered 284, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$731,000'; and the Senate agree to the same.

Amendment numbered 285: That the House recede from its disagreement to the amendment of the Senate numbered 285, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$126,000"; and the Senate agree to the same.

Amendment numbered 286: That the House recede from its disagreement to the amendment of the Senate numbered 286, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$58,000"; and the Senate agree to the same.

Amendment numbered 287: That the House recede from its disagreement to the amendment of the Senate numbered 287, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$111,000"; and the Senate agree to the same.

Amendment numbered 288: That the House recede from its disagreement to the amendment of the Senate numbered 288, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$88,000"; and the Senate agree to the same.

Amendment numbered 289: That the House recede from its disagreement to the amendment of the Senate numbered 289, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$142,000"; and the Senate agree to the same.

Amendment numbered 290: That the House recede from its disagreement to the amendment of the Senate numbered 290, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,073,000"; and the Senate agree to the same.

Amendment numbered 294: That the House recede from its disagreement to the amendment of the Senate numbered 294, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,000,000"; and the Senate agree to the same.

Amendment numbered 296: That the House recede from its disagreement to the amendment of the Senate numbered 296, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$2,750,000"; and the Senate agree to the same.

Amendment numbered 297: That the House recede from its disagreement to the amendment of the Senate numbered 297, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,875,000"; and the Senate agree to the same.

Amendment numbered 299: That the House recede from its disagreement to the amendment of the Senate numbered 299, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$7,200,000"; and the Senate agree to the same.

Amendment numbered 300: That the House recede from its disagreement to the amendment of the Senate numbered 300, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$4,000,000"; and the Senate agree to the same.

Amendment numbered 301: That the House recede from its disagreement to the amendment of the Senate numbered 301, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$900,000"; and the Senate agree to the same.

Amendment numbered 302: That the House recede from its disagreement to the amendment of the Senate numbered 302, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,700,000"; and the Senate agree to the same.

Amendment numbered 307: That the House recede from its disagreement to the amendment of the Senate numbered 307, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$17,377,000"; and the Senate agree to the same.

Amendment numbered 308: That the House recede from its disagreement to the amendment of the Senate numbered 308, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$19,760,000"; and the Senate agree to the same.

Amendment numbered 317: That the House recede from its disagreement to the amendment of the Senate numbered 317, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$5,700,000"; and the Senate agree to the same.

Amendment numbered 318: That the House recede from its disagreement to the amendment of the Senate numbered 318, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$5,000,000"; and the Senate agree to the same.

Amendment numbered 319: That the House recede from its disagreement to the amendment of the Senate numbered 319, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$7,000,000"; and the Senate agree to the same.

Amendment numbered 320: That the House recede from its disagreement to the amendment of the Senate numbered 320, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$500,000"; and the Senate agree to the same.

Amendment numbered 326: That the House recede from its disagreement to the amendment of the Senate numbered 326, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amending the sum to read as follows: "$3,300,000"; and the Senate agree to the same.

Amendment numbered 327: That the House recede from its disagreement to the amendment of the Senate numbered 327, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$264,000"; and the Senate agree to the same.

Amendment numbered 328: That the House recede from its disagreement to the amendment of the Senate numbered 328, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$4,409,000"; and the Senate agree to the same.

Amendment numbered 331: That the House recede from its disagreement to the amendment of the Senate numbered 331, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert: Environmental Protection Agency "Salaries and expenses", $2,800,000; and the Senate agree to the same.

Amendment numbered 332: That the House recede from its disagreement to the amendment of the Senate numbered 332, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$151,270,000"; and the Senate agree to the same.

Amendment numbered 337: That the House recede from its disagreement to the amendment of the Senate numbered 337, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$210,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 6, 7, 8, 9, 10, 15, 31, 33, 34, 37, 38, 42, 46, 48, 53, 54, 56, 59, 61, 65, 67, 74, 81, 85, 87, 95, 102, 103, 106, 109, 110B, 112, 113, 114, 115, 116, 117, 118, 119, 123, 128, 131, 133, 136, 138, 141, 144, 147, 152, 153, 155, 156, 158, 161, 165, 166, 168, 169, 170, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 192, 193, 194, 196, 199, 202, 204, 205, 208, 209, 218, 219, 220, 221, 223, 224, 227, 237, 243, 244, 246, 250, 251, 252, 253, 256, 269, 275, 276, 277, 278, 279, 280, 281, 304, 316, 325, 339, 340, 341, 342, and 343.

JAMIE L. WHITTEN,
EDWARD P. BOLAND,
WILLIAM H. NATCHER,
TOM STEED,
NEAL SMITH,
JOSEPH P. ADDABBO,
CLARENCE D. LONG,
SIDNEY R. YATES
(except amendment No. 228),
GUNN MCKAY,
TOM BEVILL,
ROBERT DUNCAN
(except amendments Nos. 228 and 339),
ADAM BENJAMIN
(except amendment Nos. 228 and 339),
JULIAN C. DIXON,
SILVIO O. CONTE,
JOSEPH M. MCDADE
(except amendment No. 118),
MARK ANDREWS,
JACK EDWARDS,
ROBERT C. MCEWEN,
Managers on the Part of the House.

WARREN G. MAGNUSON,
JOHN C. STENNIS,
ROBERT C. BYRD,
DANIEL K. INOUYE
(except amendment No. 95),
BIRCH BAYH,
TOM F. EAGLETON,
LAWTON CHILES
(except amendment No. 95),
J. BENNETT JOHNSTON,
WALTER D. HUDDLESTON,
PAT J. LEAHY,
JIM SASSER,
MILTON R. YOUNG,
MARK O. HATFIELD,
TED STEVENS,
CHARLES MCC. MATHIAS, Jr.,
RICHARD S. SCHWEIKER,
LOWELL P. WEICKER, Jr.,
HARRISON JACK SCHMITT,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7542), making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I

CHAPTER I

DEPARTMENT OF AGRICULTURE

Science and Education Administration

Scientific Activities Overseas

(Rescission)

Amendment No. 1: Rescinds $1,200,000 for scientific activities overseas as proposed by the Senate instead of $2,500,000 as proposed by the House.

Cooperative Research

(Rescission)

Amendment No. 2: Corrects a typographical error as proposed by the Senate.

Amendment No. 3: Rescinds $500,000 for competitive research grants as proposed by the Senate instead of $1,000,000 as proposed by the House.

Extension Activities

(Rescission)

Amendment No. 4: Deletes Senate language proposing to rescind $1,500,000 for the urban gardening program.

Farmers Home Administration

Agricultural Credit Insurance Fund

Amendment No. 5: Provides an additional $100,000,000 for farm ownership loans instead of $600,000,000 for farm ownership loans and $200,000,000 for operating loans as proposed by the Senate. The additional loans are primarily for limited resource borrowers.

Water and Waste Disposal Grants

(Rescission)

Amendment No. 6: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

Water and Waste Disposal Grants

(Rescission)

Of the funds appropriated under this head in Public Law 96–108, making appropriations for fiscal year 1980, $10,000,000 are rescinded.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The conference agreement provides for a rescission of $10,000,000 in water and waste disposal grant funds instead of a rescission of $50,000,000 as proposed by the Senate.

Rural Development Planning Grants

(Rescission)

Amendment No. 7: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

Rural Development Planning Grants

(Rescission)

Of the funds appropriated under this head in Public Law 96–108, making appropriations for fiscal year 1980, $1,000,000 are rescinded.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The conference agreement provides for a rescission of $1,000,000 for rural development planning grants instead of a rescission of $2,000,000 as proposed by the Senate.

Soil Conservation Service

Conservation Operations

Amendment No. 8: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which provides that funds for Conservation Operations are . . . "to remain available until September 30, 1981".

Watershed and Flood Prevention Operations

Amendment No. 9: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: : *Provided*, That these funds shall be available to pay for up to 90 percent of the costs of the emergency measure".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

In consideration of the unique nature of the Mt. St. Helens situation, the conferees have agreed to fund up to 90 percent of these emergency measures on a one-time basis.

(Rescission)

Amendment No. 10: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

(Rescission)

Of the funds appropriated under this head in Public Law 96–108, making appropriations available for fiscal year 1980, $2,000,000 are rescinded.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The conference agreement provides for a rescission of $2,000,000 for watershed and flood prevention operations instead of $10,000,000 as proposed by the Senate.

Resource Conservation and Development

(Rescission)

Amendment No. 11: Deletes Senate language proposing to rescind $4,000,000 for resource conservation and development projects.

Food and Nutrition Service

Child Nutrition Programs

Amendment No. 12: Provides $312,400,000 under this heading as proposed by the House instead of $302,400,000 as proposed by the Senate. The conferees recognize that adjustments may be required in the accounting for these programs. Any such adjustment will have no effect on the number of meals served or on the federal reimbursement obligation.

Amendment No. 13: Deletes House language providing for a transfer of up to $10,000,000 to the Special Milk Program and restores House language providing for a transfer of up to $243,000,000 to the Food Stamp Program, instead of a transfer of up to $27,000,000 to that program as proposed by the Senate.

Special Milk Program

Amendment No. 14: Appropriates $14,800,000 for the Special Milk Program as proposed by the Senate instead of $11,800,000 as proposed by the House.

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: ": *Provided*, That none of the funds appropriated in this Act may be used for payments which exceed five cents per half-pint of milk served after September 1, 1980, which is served to children who are not eligible for free milk and which is served in schools, child care institutions, and summer camps participating in meal service programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966"

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate amendment would restrict Federal payments under this program to five cents per half-pint of milk. The conference agreement is substantially the same as the Senate proposal, deleting only the phrase "or any other Act".

The conference agreement brings the bill in line with the changes reported by the authorizing committees for the Special Milk Program.

Special Supplemental Food Programs (WIC)

Amendment No. 16: Appropriates an additional $250,000 for the Commodity Supplemental Food Program as proposed by the Senate.

Food Stamp Program

Amendment No. 17: Appropriates $203,226,000 for the Food Stamp Program as proposed by the House instead of $419,226,000 as proposed by the Senate. In addition, a transfer of up to $243,000,000 is provided under Amendment No. 13.

Food Program Administration
(Rescission)

Amendment No. 18: Rescinds $500,000 for Food Program Administration instead of $3,000,000 as proposed by the House and no rescission as proposed by the Senate. The conference agreement provides for full funding of the fiscal 1980 requirements for the AIMS program.

Public Law 480

Amendments Nos. 19 and 20: Appropriates $142,860,000 for P.L. 480, of which $122,860,000 is for Title II, as proposed by the House, instead of $100,000,000 including $80,000,000 for Title II as proposed by the Senate.

CHAPTER II

DEPARTMENT OF DEFENSE—MILITARY

Military personnel

Military Personnel, Army

Amendment No. 21: Appropriates $43,073,000 instead of $38,473,000 as proposed by the House and $57,773,000 as proposed by the Senate. The amount provided restores $3,600,000 in the basic allowance for quarters and $1,000,000 in separation pay deleted by the House. The Senate addition of $14,700,000 for Nunn-Warner military pay and benefits was not provided.

Military Personnel, Navy

Amendment No. 22: Appropriates $24,500,000 as proposed by the House instead of $35,700,000 as proposed by the Senate.

Military Personnel, Marine Corps

Amendment No. 23: Appropriates $6,200,000 as proposed by the House instead of $9,800,000 as proposed by the Senate.

Military Personnel, Air Force

Amendment No. 24: Appropriates $32,680,000 as proposed by the House instead of $51,480,000 as proposed by the Senate.

Reserve Personnel, Marine Corps

Amendment No. 25: Appropriates $1,000,000 as proposed by the Senate instead of $1,100,000 as proposed by the House.

Retired Military Personnel
Retired pay, Defense

Amendment No. 26: Appropriates $513,200,000 as proposed by the Senate instead of $573,200,000 as proposed by the House.

Operation and maintenance

Operation and Maintenance, Army
(Including Transfer of Funds)

Amendment No. 27: Appropriates $410,200,000 as proposed by the House instead of $431,562,000 as proposed by the Senate.

Amendment No. 28: Transfers $67,856,000 as proposed by the House instead of $60,494,000 as proposed by the Senate.

Amendment No. 29: Transfers $2,562,000 from "Operation and maintenance, Defense agencies, 1980", as proposed by the House instead of deleting the transfer as proposed by the Senate.

Amendment No. 30: Transfers $26,600,000 from "Procurement of weapons and tracked combat vehicles, Army, 1980/1982", as proposed by the House instead of $21,800,000 as proposed by the Senate.

Operation and Maintenance, Navy
(Including Transfer of Funds)

Amendment No. 31: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $1,010,218,000 instead of $1,041,818,000 as proposed by the House and $1,028,767,000 as proposed by the Senate. The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The Conferees agreed to provide $1,200,000 deleted by the House for Diego Garcia operations and to delete $23,000,000 restored by the Senate for inflation.

Amendment No. 32: Transfers $245,600,000 instead of $212,800,000 as proposed by the House and $250,050,000 as proposed by the Senate.

Amendment No. 33: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment to transfer $40,900,000 from "Aircraft Procurement, Navy, 1980/1982", instead of $23,100,000 as proposed by the House and $38,750,000 as proposed by the Senate. The additional funds were made available for transfer as a result of the House accepting the deletion of two C-9B aircraft as proposed by the Senate. The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 34: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment transferring $8,400,000 from "Research, development, test and evaluation, Navy 1980/1981" as proposed by the House which was deleted by the Senate and will also transfer $15,000,000 from "Operation and Maintenance, Navy Reserve, 1980" instead of $30,000,000 as proposed by the Senate. The House did not propose to transfer any funds from "Operation and Maintenance, Navy Reserve, 1980". The conferees agreed to proceed with the overhaul of one Navy Reserve Destroyer instead of two as contained in the original Fiscal Year 1980 Defense Appropriation Act. The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The text of the amendment is as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: "$8,400,000 shall be derived by transfer from "Research, development, test and evaluation, Navy 1980/1981"; and $15,000,000 shall be derived by transfer from "Operation and Maintenance, Navy Reserve, 1980" "

Operation and Maintenance, Marine Corps
(Including Transfer of Funds)

Amendment No. 35: Appropriates $30,844,000 as proposed by the House instead of $32,844,000 as proposed by the Senate.

Operation and Maintenance, Air Force
(Including Transfer of Funds)

Amendment No. 36: Appropriates $1,255,209,000 instead of $1,246,209,000 as proposed by the House and $1,280,809,000 as proposed by the Senate.

Amendment No. 37: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment to transfer a total of $62,445,000 instead of $56,445,000 as proposed by the House and $52,845,000 as proposed by the Senate. The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 38: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment to transfer $9,600,000 from "Research, development, test and evaluation, Air Force, 1980/1981" instead of $3,600,000 as proposed by the House and no funds as proposed by the Senate. The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The additional transfer of $6,000,000 is proposed because the cruise missile carrier program failed authorization in fiscal year 1981.

Operation and Maintenance, Army Reserve

Amendment No. 39: Appropriates $6,920,000 as proposed by the House instead of $7,420,000 as proposed by the Senate.

Operation and Maintenance, Army National Guard

Amendment No. 40: Appropriates $13,483,000 as proposed by the House instead of $13,983,000 as proposed by the Senate.

Procurement

Procurement of Ammunition, Army
(Transfer of Funds)

Amendment No. 41: Transfers a total of $14,500,000 as proposed by the Senate instead of $2,400,000 as proposed by the House.

Amendment No. 42: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which transfers $12,100,000 from "Aircraft procurement, Navy, 1980/1982". The House bill included no transfer from that appropriation.

Other Procurement, Navy
(Transfer of Funds)

Amendment No. 43: Deletes Senate language which transferred $2,150,000 from "Aircraft procurement, Navy, 1980/1982".

Other Procurement, Air Force
(Transfer of Funds)

Amendment No. 44: Transfers a total of $68,000,000 as proposed by the Senate instead of $51,900,000 as proposed by the House.

Amendment No. 45: Deletes the word "and" as proposed by the Senate.

Amendment No. 46: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which transfers $10,100,000 from "Research, development, test, and evaluation, Air Force, 1979/1980" and $6,000,000 from "Other procurement, Air Force, 1978/1980". The House bill included no transfers from these appropriations.

Research, development, test and evaluation

Research, Development, Test and Evaluation, Army
(Transfer of Funds)

Amendment No. 47: Transfer $1,200,000 from "Procurement of weapons and tracked combat vehicles, Army, 1980/1982" as proposed by the House instead of $6,000,000 as proposed by the Senate.

General Provisions

Amendment No. 48: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

"Of the amount appropriated in the appropriation, "Shipbuilding and conversion, Navy", $96,800,000 which would expire for obligation on September 30, 1980 shall remain available for obligation until September 30, 1982. Funds provided in a Department of Defense Appropriation Act for "Shipbuilding and conversion, Navy" currently available for obligation, may hereafter be transferred within the same appropriation contained in such an Act between the subdivisions thereof, subject to the notification and approval procedures specified in section 734 of the Department of Defense Appropriation Act, 1980."

The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 49: Increases the limitation on transfers to $1,000,000,000 as proposed by the House instead of $1,250,000,000 as proposed by the Senate.

Amendment No. 50: Deletes the provision proposed by the Senate which required a general reduction of $150,000,000 of moneys appropriated in this Act for operation of the military functions of the departments and agencies of the Department of Defense for fiscal year 1980.

Amendment No. 51: Deletes a House provision which would have prohibited involuntary separation of Army officers with Reserve Commissions solely because the officer has not been selected for promotion.

Amendment No. 52: Deletes a House provision which would have deferred availability of operation and maintenance funds for obligation until July 15, 1980.

CHAPTER III

FUNDS APPROPRIATED TO THE PRESIDENT

Special migration and refugee Assistance

Amendment No. 53. Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate amended to read as follows: or pursuant to the Refugee Act of 1980, or pursuant to the Immigration and Nationality Act,

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 54: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate amended to read as follows:

Of the foregoing amount $50,000,000 shall become available on October 1, 1980. Funds appropriated in this paragraph shall be available solely for reimbursement to State and local governments for fiscal years 1980 and 1981 for cash and medical assistance and social services costs related to Cuban/Haitian entrants (status pending) only to the extent that such assistance shall become authorized under the Immigration and Nationality Act, the Refugee Act of 1980 or the International Security Act of 1980.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The Conferees have agreed to delete the language included in the House bill which prohibits assistance to persons convicted of a felony or to prostitutes. The Conferees have further agreed that of the $100 million appropriated in this bill $50 million shall be for fiscal year 1981 costs and shall not become available until October 1, 1980. The funds appropriated are to be used to reimburse State and local governments for the cost of cash assistance, medical assistance and social services provided to aliens who have recently arrived in South Florida from Cuba and Haiti. The availability of these funds is conditional on the enactment of legislation which will authorize refugee type reimbursements for persons classified as "Cuban/Haitian entrants (status pending)." Legislation dealing with this issue is currently in conference. The conference substitute recognizes estimating differences between the Houses, and thus allows appropriated funds to be applied to costs incurred in either 1980 or 1981, but does not preclude further appropriations for anticipated 1981 costs.

CHAPTER IV

DISTRICT OF COLUMBIA

Federal funds

Federal Payment to the District of Columbia

Amendment No. 55: Appropriates $38,300,000 instead of $28,800,000 as proposed by the House and $45,300,000 as proposed by the Senate. The conferees are agreed that the Office of Management and Budget shall not apportion $6,900,000 of this appropriation until approved by the House and Senate Subcommittees on District of Columbia Appropriations. Release of this funding will be contingent upon approval by the Subcommittees of the cancellation of $6,900,000 in capital projects submitted by the Mayor and Council of the District of Columbia.

Amendment No. 56: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate earmarking the District's full contribution to the sinking fund for local pension programs as authorized by Public Law 96–122, approved November 17, 1979.

Loans to the District of Columbia for Capital Outlay

(Rescission)

Amendment No. 57: Rescinds $21,129,700 instead of $8,129,700 as proposed by the House and $28,129,700 as proposed by the Senate. The conferees are agreed that budget authority for the following capital projects are cancelled in the amounts listed:

Project Number and Title:	*Amount*
CC–97 Replace heating, ventilating, and air conditioning, Recorder of Deeds	$1, 100, 000
CC–94 Improvements to the D.C. Warehouse	400, 000
23–100 Renovate Food Service, Forest Haven	400, 000
FB–38 Engine Company Number 20	1, 700, 000
LA–128 Georgetown West Relief Sewer	900, 000
LA–563 Oxon Run Relief Sewer	700, 000
LA–154 Oxon Run Stream Improvement	900, 000

The conferees are further agreed that the Mayor and Council of the District of Columbia shall propose for cancellation additional capital projects totaling $6,900,000 in budget authority. These projects require the approval of the House and Senate Subcommittees on District of Columbia Appropriations before notification will be given to the Office of Management and Budget to release a like amount of the Federal Payment appropriated under Amendment No. 55.

District of Columbia funds

Governmental Direction and Support

Amendment No. 58: Appropriates $6,610,900 as proposed by the Senate instead of $386,600 as proposed by the House.

Amendment No. 59: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate requiring the District of Columbia government to transfer its fifty percent matching share of funds to the Temporary Commission on Financial Oversight upon the joint request of the Commission's Executive Director and the General Accounting Office. The conferees are agreed that all funds appropriated for the purpose of programs and operations under the jurisdiction of the Temporary Commission on Financial Oversight shall be spent in accordance with a detailed budget plan, which shall be developed in conjunction with appropriate District staff and approved by the Commission.

Public Safety and Justice

Amendment No. 60: Appropriates $3,278,600 instead of $1,878,600 as proposed by the House and $4,433,300 as proposed by the Senate. The conference action provides $1,291,500 for the Department of Corrections and $1,400,000 for payment to the Federal Bureau of Prisons.

Amendment No. 61: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate earmarking funds for payment to the Federal Bureau of Prisons to cover the costs of keeping District inmates in Federal prison facilities.

Public Education System

Amendments Nos. 62 and 63: Appropriate $2,903,300 for the District of Columbia Public Schools as proposed by the Senate. The House allowance of $3,237,100 included $2,903,300 for the public school system and $333,800 for the University of the District of Columbia.

Human Support Services

Amendment No. 64: Appropriates $9,500,000 instead of $4,280,700 as proposed by the House and $9,744,500 as proposed by the Senate. The conference action provides $500,000 for increased fuel costs, $6,772,300 for general public assistance, and $2,227,700 for reimbursement to St. Elizabeths Hospital.

Amendment No. 65: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate earmarking funds and increasing the limitation for reimbursements to St. Elizabeths Hospital.

Transportation Services and Assistance

Amendment No. 66: Deletes heading and appropriation of $1,450,200 proposed by the Senate.

Pension Funds

Amendment No. 67: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $16,997,900 instead of $19,997,900 as proposed by the House and $20,997,900 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees are agreed that $12,464,100 of this appropriation is for the District's full share of the sinking fund for Police Officers and Firefighters', Teachers', and Judges' Retirement Funds as authorized by Public Law 96–122, approved November 17, 1979.

CHAPTER V

DEPARTMENT OF ENERGY

Operating Expenses

Energy Supply, Research and Development Activities

Amendment No. 68: Appropriates $13,000,000 for Operating Expenses, Energy Supply, Research and Development Activities as proposed by the Senate instead of $15,000,000 as proposed by the House. The conferees are in agreement with the following allocation of the funding:

Small-scale hydroelectric program	$4, 000, 000
Three Mile Island examination activities	4, 000, 000
Alcohol fuels	2, 000, 000
Ocean thermal systems	3, 000, 000

(Rescission and Deferral)

Amendment No. 69: Rescinds $44,350,000 from Operating Expenses, Energy Supply, Research and Development Activities as proposed by the House instead of $45,850,000 as proposed by the Senate, as follows:

Solar Applications	$9, 000, 000
Solar Technology	8, 000, 000
Biomass	5, 000, 000
Nuclear Commercial Waste Management	5, 000, 000
Liquid Metal Fast Breeder Reactor	5, 000, 000
Gas Cooled Fast Breeder Reactor	5, 350, 000
Magnetic Fusion	5, 000, 000
Basic Energy Sciences	2, 000, 000

The conferees accept the language in the Senate report relating to the above rescissions, except that the reduction in LMFBR base program activities requires the prior agreement of the Committees of Appropriations.

Operating Expenses

Uranium Supply and Enrichment Activities (Including Transfer of Funds)

Amendment No. 70: Provides $235,600,000 for Operating Expenses, Uranium Supply and Enrichment Activities as proposed by the Senate instead of $237,600,000 as proposed by the House.

(Rescission)

Amendment No. 71: Rescinds $4,000,000 from Operating Expenses, Uranium Supply and Enrichment Activities instead of $5,000,000 as proposed by the House and $1,000,000 as proposed by the Senate. The rescission reflects $1,000,000 from the Advanced Isotope Separations program and $3,000,000 from the Uranium Resources Assessment program.

Operating expenses

General Science and Research Activities

(Rescission)

Amendment No. 72: Rescinds $2,000,000 from Operating Expenses, General Science and Research Activities instead of $5,000,000 as proposed by the House and $1,000,000 as proposed by the Senate. The rescission reflects a general reduction of $1,000,000 from the High Energy Physics program and $1,000,000 from the Nuclear Physics program.

Operating expenses

Atomic Energy Defense Activities

Amendment No. 73: Appropriates $31,400,000 for Operating Expenses, Atomic Energy Defense Activities as proposed by the House instead of $30,000,000 as proposed by the Senate.

Operating expenses

Departmental Administration

Amendment No. 74: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which makes funds in excess of the amounts required for the Office of the Inspector General available to pay salaries and related expenses of other offices in the Departmental Administration account.

(Rescission)

Amendment No. 75: Rescinds $31,725,000 from Operating Expenses, Departmental Administration instead of $38,725,000 as proposed by the House and $29,725,000 as proposed by the Senate. The rescission reflects a reduction of $8,000,000 in salaries and expenses, and $23,725,000 in program support.

The conferees agree with the Senate report language relating to additional funding for the Office of Consumer Affairs.

Plant and capital equipment

Energy Supply, Research and Development Activities

Amendment No. 76: Deletes $2,500,000 for Plant and Capital Equipment, Energy Supply, Research and Development Activities as proposed by the House for later consideration in connection with FY 1981 appropriations.

(Transfer)

Amendment No. 77: Deletes $36,500,000 for Plant and Capital Equipment, Energy Supply, Research and Development Activities proposed by the Senate for Project 76–2–b, Ten Megawatt Central Receiver Solar Thermal Power Plant to be derived by transfer from amounts made available under the heading "Department of Housing and Urban Development, Solar Energy and Energy Conservation Bank."

(Rescission and Deferral)

Amendment No. 78: Rescinds $5,150,000 from Plant and Capital Equipment, Energy Supply, Research and Development Activities instead of $4,650,000 as proposed by the House and $45,150,000 as proposed by the Senate. The rescission reflects a reduction of $2,650,000 for Gas-cooled breeder reactor projects, $2,000,000 from the Basic Energy Sciences project and $500,000 for Capital Equipment for the Solar Power Satellite study.

Amendment No. 79: Restores House language deferring $8,000,000 from Plant and Capital Equipment, Energy Supply, Research and Development Activities pending submission to and approval by the cognizant committees of Congress of an appropriate plan for utilization of Project 76–2–b, Ten Megawatt Central Receiver Solar Thermal Power Plant, as a solar repowering test facility to meet repowering objectives for the solar central receiver concept.

Plant and capital equipment

Atomic Energy Defense Activities

Amendment No. 80: Appropriates $6,600,000 for Plant and Capital Equipment, Atomic Energy Defense Activities as proposed by the House instead of $5,000,000 as proposed by the Senate.

Federal Energy Regulatory Commission

Amendment No. 81: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $1,200,000 for the Federal Energy Regulatory Commission.

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

General investigations

The conferees agree with the language contained in the House and Senate Reports regarding the following studies: Lake Elsinore, Calif., Pearl River Basin, Miss., Blair and Sitcum Waterways, Wash., and the Wabash River Basin Comprehensive Survey, Ind., Ill. and Ohio.

Construction, General

Amendment No. 82: Appropriates $180,000,000 for construction, general as proposed by the House instead of $106,600,000 as proposed by the Senate.

The conferees agree with the language contained in the House and Senate Reports regarding the following projects: Aubrey Lake, Texas, Montgomery to Gadsden, Cocsa River Channel, Ala., Placer Creek, Idaho, and Johnson Creek, Oregon.

The conferees direct the Corps to proceed with construction of the Willow Creek, Oregon, project as provided for in P.L. 96–69.

Amendment No. 83: Restores House language regarding Twenty Mile Creek in Lee, Itawamba, and Prentiss Counties, Miss., and Hollywood-Ardmore Beach, Ill., which was stricken by the Senate.

Flood Control, Mississippi River and Tributaries

Amendment No. 84: Restores House language regarding the Grenada Lake, Miss., project and Coffeeville, Miss., which was stricken by the Senate.

Flood Control and Coastal Emergencies

Amendment No. 85: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $170,000,000 for flood control and coastal emergencies instead of $169,500,000 as proposed by the House with language which will accelerate the clean up work resulting from the eruption of Mount Saint Helens in Washington.

OPERATION AND MAINTENANCE, GENERAL

Amendment No. 86: Appropriates $70,000,000 for operation and maintenance as proposed by the Senate instead of $74,000,000 as proposed by the House.

Amendment No. 87: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides language to accelerate the clean up work necessary as a result of the eruption of Mount Saint Helens in Washington.

DEPARTMENT OF THE INTERIOR

Water and Power Resources Service

Construction and Rehabilitation

(Including Transfer of Funds)

Amendments Nos. 88 and 89: Appropriates $32,450,000 to be derived by transfer and, in addition, $9,700,000 for continuing construction of the Garrison Diversion Unit, North Dakota, for Construction and Rehabilitation instead of $29,450,000 as proposed by the House and $42,150,000 as proposed by the Senate in amendment No. 88 and the earmarking of $9,700,000 for the Garrison Diversion Unit, North Dakota, as proposed by the Senate in amendment No. 89. The Senate amendment is amended to read as follows: "$32,450,000 and, in addition, $9,700,000 for continuing construction of the authorized Garrison Diversion Unit, North Dakota"

The language proposed by the Senate in amendment No. 89 is deleted.

Amendment No. 90: Transfers $17,600,000 from the loan program as proposed by the Senate instead of $14,600,000 as proposed by the House.

Amendment No. 91: Inserts language as proposed by the Senate amended to read as follows:

"None of the funds appropriated in this Act for the Garrison Diversion Unit may be used for the acquisition of mitigation lands by condemnation nor shall such funds be used on features affecting waters flowing into Canada."

EXECUTIVE OFFICE OF THE PRESIDENT

ENERGY MOBILIZATION BOARD

Amendment No. 92: Deletes appropriation for the Energy Mobilization Board which was proposed by the Senate.

Nuclear Regulatory Commission

The conferees are in agreement that the General Accounting Office should review the proposed interim consolidation plan for the Nuclear Regulatory Commission and other options which would enable the Commission activities to be consolidated at an early date in a cost-effective manner. The GAO is directed to report to the Committees on Appropriations within 60 days of the date of the conference report on the results of their review, the cost-effective options for NRC consolidation, and GAO's recommendation as the preferred option or options available.

Tennessee Valley Authority

Payment to Tennessee Valley Authority Fund

Amendment No. 93: Appropriates $74,353,000 for payment to the Tennessee Valley Authority Fund instead of $87,353,000 as proposed by the House and $19,353,000 as proposed by the Senate. Included in this appropriation is $19,353,000 for the completion of the Tellico Dam and $55,000,000 for the coal gasification plant.

Amendment No. 94: Deletes language proposed by the Senate.

CHAPTER VI

FOREIGN OPERATIONS

Amendment No. 95: Reported in true disagreement.

CHAPTER VII

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing programs

Amendment No. 96: Restores language proposed by the House and stricken by the

Senate for payments for operation of low-income housing projects, amended to appropriate $13,800,000 instead of $27,600,000 as proposed by the House.

Government National Mortgage Association

Amendment No. 97: Restores language proposed by the House and stricken by the Senate for the special assistance functions fund, amended to provide an additional $150,000,000 in mortgage purchase authority instead of $300,000,000 as proposed by the House. The conferees agree that within the amount provided $100,000,000 is for the targeted tandem program and $50,000,000 is for the Section 8 tandem program.

Community Planning and Development

Amendment No. 98: Rescinds $10,700,000 of the 1980 community development grants—secretary's discretionary fund as proposed by the Senate, instead of $20,700,000 as proposed by the House.

Amendment No. 99: Rescinds $85,109,667 of the 1980 community development grants—categorical program financial settlement fund as proposed by the Senate, instead of $75,109,667 as proposed by the House.

Amendment No. 100: Restores language proposed by the House and stricken by the Senate for comprehensive planning grants, amended to rescind $5,000,000 instead of $10,000,000 as proposed by the House.

Amendment No. 101: Rescinds $25,500,000 of the rehabilitation loan fund, instead of $13,000,000 as proposed by the House and $38,000,000 as proposed by the Senate.

Policy Development and Research

Amendment No. 102: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment rescinding $5,000,000 of research and technology funds, instead of $10,000,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The conferees agree that none of the rescission is be applied to the Housing Assistance Council Inc.

INDEPENDENT AGENCIES

Environmental Protection Agency

Amendment No. 103: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $4,000,000 for research and development, instead of $5,600,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 104: Appropriates $4,000,000 for abatement, control and compliance, instead of $3,000,000 as proposed by the House and $6,400,000 as proposed by the Senate.

Amendment No. 105: Deletes language proposed by the Senate providing that funds previously appropriated shall be used for studies of hazardous waste sites near Memphis, Tennessee. The conferees direct that, within available resources, the Agency shall reprogram up to $2,000,000 to be used for health studies and investigations at hazardous waste sites in the Memphis area.

Amendment No. 106: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate making available for obligation $400,000,000 for construction grants deferred by the Administration.

Amendment No. 107: Restores language proposed by the House and stricken by the Senate for the United States regulatory council, amended to rescind $500,000 instead of $1,000,000 as proposed by the House.

Federal Emergency Management Agency

Amendment No. 108: Appropriates $870,000,000 for funds appropriated to the President, disaster relief as proposed by the Senate, instead of $625,000,000 as proposed by the House.

Amendment No. 109: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate exempting fiscal year 1980 disaster related travel from limitation and providing the President with authority to relocate certain families residing near the Love Canal in New York State.

Considerable attention has been focused on the problems resulting from toxic pollution at the Love Canal site in New York. In 1978 and in 1980 the President declared the area an emergency, making available a broad range of Federal assistance. The language proposed by the Senate and agreed to by the conferees acknowledges that the Love Canal situation, due to its severity, may require extraordinary measures to resolve. By permitting relocation for families living near Love Canal, the conferees are enabling the President, if he so chooses, to provide special relief to families adversely affected by the chemical wastes.

The Committee of Conference recognizes that substantive legislation is urgently required to define the responsibilities of the Federal Emergency Management Agency and other government organizations in response to future toxic pollutant crises. The conferees believe that a clear delineation between an emergency response and victim compensation is essential. The conferees note that certain provisions of superfund legislation under Congressional consideration would authorize payment for compensable damages to real or personal property resulting from hazardous waste pollution. The potential problems resulting from chemical and hazardous waste sites demand such a considered, comprehensive approach.

Other information: Number of accounts in bill, over 600; number of amendments in conference, 344; and number of items in technical disagreement, 117.

Amendment No. 110A: Restores language proposed by the House and stricken by the Senate appropriating $1,900,000 for emergency planning, preparedness and mobilization.

Amendment No. 110B: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate increasing the limitation on fiscal year 1980 travel expenses for emergency planning, preparedness and mobilization by $812,000.

National Aeronautics and Space Administration

Amendment No. 111: Appropriates $285,000,000 for research and development as proposed by the Senate, instead of $300,000,000 as proposed by the House.

National Consumer Cooperative Bank

Amendment No. 112: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate inserting a title.

Amendment No. 113: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate rescinding $555,000 of salaries and expenses funds.

Amendment No. 114: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate rescinding $6,500,000 of self-help development funds.

National Science Foundation

Amendment No. 115: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate inserting a title.

Amendment No. 116: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment rescinding $2,000,000 of research and related activities funds, instead of $3,500,00 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The conferees agree that the $2,000,000 rescission is to be applied to the U.S./U.S.S.R. cooperative research program.

Amendment No. 117: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment rescinding $2,500,000 of science education activities funds, instead of $5,000,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Department of the Treasury

Amendment No. 118: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Department of the Treasury

Payments to State and Local Government Fiscal Assistance Trust Fund

(Rescission)

Of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, $143,035,000 are rescinded: *Provided*, That the total amount rescinded shall be taken from funds allocated to State governments pursuant to 31 U.S.C. 1226, notwithstanding any other provision of law.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree that the rescission is to be applied to the States' third quarter payments.

CHAPTER VIII

DEPARTMENT OF INTERIOR

Bureau of Land Management

Amendment No. 119: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: Restore the matter stricken by said amendment, amended to read as follows: ": *Provided*, That not to exceed $5,000,000 available under this head for fire suppression may be transferred to the Oregon and California Grant Lands appropriation: *Provided further*, That funds so transferred shall be reimbursed to fire suppression from amounts deposited to the Oregon and California Land Grant Fund at such time as available receipts exceed amounts necessary for western Oregon timber management".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 120: Provides that $5,000,000 shall not become available for obligation until October 1, 1980, under payments in lieu of taxes instead of $15,000,000 as proposed by the House.

Office of Water Research and Technology

Amendment No. 121: Appropriates $2,000,000 for salaries and expenses instead of $3,000,000 as proposed by the Senate. The funds are for additional research assessments, grants, and contracts related to water problems stemming from the Mount St. Helens eruption.

Heritage Conservation and Recreation Service

Amendment No. 122: Changes title of account to:

Deferral and Rescission

Amendment No. 123: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "$45,000,000 shall not become available for obligation until October 1, 1980, and $15,000,000 are rescinded.".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 124: Defers obligation of $165,000,000 of funds appropriated to the Land and Water Conservation Fund instead of $170,000,000 as proposed by the House and $162,300,000 as proposed by the Senate.

Amendment No. 125: Defers obligation of $18,200,000 available to the Forest Service under the land and water conservation fund instead of $23,200,000 as proposed by the House and $15,500,000 as proposed by the Senate. Funds for the Feather River WSR, Ca. ($1,500,000), and Cascade Head, Or. ($1,200,000), are made available for obligation in fiscal year 1980.

United States Fish and Wildlife Service

Amendment No. 126: Appropriates $350,000 for resource management as proposed by the Senate to replace facilities and equipment destroyed or damaged by a recent fire at the Leetown National Fisheries Center, W. Va.

Amendment No. 127: Appropriates $1,950,000 for the National wildlife refuge fund instead of $3,900,000 as proposed by the House.

National Park Service

Amendment No. 128: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that maintenance and improvements may be made in the Indiana Dunes National Lakeshore without regard to whether title to such road rights-of-way is held by the United States.

Amendment No. 129: Rescinds $3,000,000 in construction as proposed by the Senate instead of $5,000,000 as proposed by the House. The net increase over the amount proposed by the House consists of a decrease of $214,000 for Scotts Bluff NM and increases for the following: Lehman Caves NM ($120,000), Point Reyes NP ($96,000), and Rocky Mountain NP ($115,000). These restorations will provide funds proposed and now approved for reprogrammings for Lehman Caves NM ($307,000), Montezuma Castle ($192,000), and the National Mall reflecting pool ($2,033,000). In addition, funds are rstored for the Savage River Bridge in Mount McKinley NP ($1,849,000), inscribing Alaska and Hawaii on the Lincoln Memorial ($12,000) and slippage ($22,000).

Office of Territorial Affairs

Amendment No. 130: Appropriates $6,117,000 for the Trust Territory of the Pacific Islands as proposed by the House instead of $7,800,000 as proposed by the Senate. $4,117,000 is provided for indefinite land use compensation to private individuals and $2,000,000 for facility improvements on Ebeye Island in the Marshalls. Reprogramming is approved to provide $3,600,000 for increased fuel costs for trust territory governments and $2,200,000 for initial operations of the central government of the newly-formed Federated States of Micronesia.

Department of the Treasury

Energy Security Reserve

Amendment No. 131: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following:

Department of Energy

Alternative Fuels Production

From the appropriation of $19,000,000,000 made to the "Energy Security Reserve" under this head in Public Law 96–126, an additional amount of $3,310,000,000 shall be immediately available to the Secretary of Energy for obligation to stimulate domestic commercial production of alternative fuels, of which (1) $3,000,000,000 shall be available until expended for (a) the purchase or production of alternative fuels by way of purchase commitments or price guarantees, and (b) a reserve to cover any defaults from loan guarantees issued to finance the construction of alternative fuels production facilities according to the provisions of the Defense Production Act of 1950, as amended (50 USC 2061 et seq.) and (2) $310,000,000 shall be available until expended to support preliminary alternative fuels commercialization activities, to be apportioned as follows:

(a) not to exceed $100,000,000 shall be available for project development feasibility studies, such individual awards not to exceed $10,000,000: *Provided*, That the Secretary may require repayment of such funds where studies determine such project proposals have economic or technical feasibility;

(b) not to exceed $200,000,000 shall be available for cooperative agreements with non-Federal entities, such individual agreements not to exceed $25,000,000, to support commercial scale development of alternative fuels facilities: *Provided*, That the Secretary may require repayment of such funds when such facilities achieve commercial scale alternative fuels production;

(c) not to exceed $10,000,000 shall be available for program management.

For the purposes of carrying out the activities provided herein and activities provided under this head in Public Law 96–126 the provisions of 5 U.S.C. 553 and 42 U.S.C. 7191 shall not apply.

None of the funds provided under this head in this act and in Public Law 96–126 for purchase, price guarantees, or loan guarantees shall be available for biomass energy projects as defined by Section 203(2)(A) of S. 932, 96th Congress, except that of the $1,500,000,000 made available to the Department by Public Law 96–126 for purchase commitments or price guarantees, not to exceed $150,000,000 may be available only for such purposes to the extent authorized under title II, subtitle B, of the Energy Security Act (S. 932).

All provisions of Public Law 96–126 with regard to "Alternative fuels production" not expressly modified in this appropriation remain in effect and are applicable to activities provided for in this appropriation.

Upon the establishment of a "United States Synthetic Fuels Corporation" (the Corporation) projects or actions initiated by the Department of Energy with appropriations under this head shall transfer to the Corporation upon a Presidential determination that the Corporation is fully operational and upon a majority vote of the Board of Directors of the Corporation, except that funds obligated for feasibility studies, cooperative agreements, program management, and projects which do not meet the definitions of eligibility for funding as synthetic fuels projects in the Corporation shall remain with the Department of Energy: *Provided*, That (1) projects meeting the eligibility criteria for funding by the Corporation for which funding has been obligated or committed by the Department of Energy may be adopted by the Corporation as if they had been entered into by the Corporation (for the purposes of such transfers only, the Corporation shall adopt the terms of such projects, established by the Department of Energy, using the authorities of the Department of Energy regardless of whether the Corporation would otherwise have authority to do so); and (2) accepted proposals for loan guarantees, price supports, and/or purchase commitments for which financial assistance is not provided by the Department of Energy shall be considered as responses to a solicitation of the Corporation to the extent they meet the eligibility criteria for funding by the Corporation.

Unexpended balances of funds obligated for projects shall transfer to the Corporation to the extent such projects and activities are transferred to the Corporation as provided herein.

Department of the Treasury

Energy Security Reserve

To carry out the provisions of title I of the Energy Security Act (S. 932, 96th Congress) and for other purposes authorized by title II of S. 932, not to exceed $18,792,00,000 to remain available until expended, of which (1) $13,482,000,000 shall be derived from amounts in the Energy Security Reserve established pursuant to the Department of the Interior and Related Agencies Appropriations Act, 1980 (Public Law 96–126), and (2) not to exceed $5,310,000,000 shall be derived by transfer of the balance of the amounts not committed or not conditionally committed which are appropriated by this Act and by Public Law 96–126 from the Energy Security Reserve to the Department of Energy, such transfer to occur on June 30, 1981, to permit the Department to pursue an aggressive interim program of loan and price guarantees and purchase commitments.

The total available funding (including funds committed or conditionally committed under authority of Public Law 96–126) shall be apportioned so as to provide $17,522,000,000 for purposes of title I, of which $6,000,000,000 shall be immediately available, $6,212,000,000 shall be available for obligation after June 30, 1982, and up to $5,310,000,000 shall be derived by transfer as provided above; and to provide $1,270,000,000 for purposes of title II, to be immediately available and to be apportioned as follows:

(i) not to exceed $525,000,000 to the Secretary of Agriculture for the purposes of subtitle A;

(ii) not to exceed $525,000,000 to the Secretary of Energy for the purpose of subtitle A: *Provided*, That no funds shall be available to the Secretary of Energy for projects as defined by section 212(a)(1)(A) of S. 932; and

(iii) not to exceed $220,000,000 to the Secretary of Energy for purposes of subtitle B.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate originally provided $18.8 billion to carry out the provisions of Titles I and II of the Energy Security Act, S. 932, signed by the President on June 30, 1980. The Senate proposed $16.8 billion be derived by transfer from the revenue established in Public Law 96–126, the Interior and Related Agencies Appropriations Act for FY 1980, and $2 billion from funds appropriated to the Department of Energy in the same act. The Senate apportioned $1,270,000,000 for Title II Biomass activities of S. 932 as follows:

(1) $525 million to the Secretary of Agriculture, of which up to $50 million could be used by the Secretary of Energy for Subtitle A; and

(2) $525 million to the Secretary of Energy for Subtitle A; and

(3) $220 million to the Secretary of Energy for Subtitle B, municipal waste.

The Senate allocated the remaining $17.5 billion for Title I programs including the interim Defense Production Act authorities.

The House had no corresponding provision in the Supplemental appropriation, but had proposed an interim program in the Committee reported bill for FY 1981. That bill allotted $3 billion for Defense Production Act authorities, but in the Department of Energy, not in the reserve account in the Department of the Treasury as provided by the Senate Supplemental. It also provided $100 million for feasibility studies, $900 million for cooperative agreements, and $10 million for DOE administration, also not provided for by the Senate.

The intentions of both the House and Senate are basically the same: To establish a capability in this nation to produce significant quantities of alternative (or synthetic) fuels in the least amount of time. In the long run the Corporation formed by the Energy Security Act just enacted will play the major government role in alternative fuels. However, there is also a need to continue interim initiatives until the Corporation is operational, and to provide also for near term biomass opportunities. The Conference agreement addresses all these important initiatives while allowing needed review of synthetic fuels activities.

The substance of the agreement is as follows:

Within Department of Energy

1. $3 billion is immediately available to carry out interim Defense Production Act activities as authorized by S. 932. This interim authority along with $2 billion provided in Public Law 96-126 for the Federal Non-nuclear Research and Development Act of 1974, as amended, allows a large, aggressive program. The managers expect the Department to issue solicitations as quickly as possible to use these funds and maintain current momentum in the program.

2. $100 million is provided for feasibility studies at no more than $10 million each, to continue programs begun in the FY 1980 appropriation.

3. $200 million is provided for cooperative agreements of no more than $25 million each, to continue programs begun in the FY 1980 appropriation.

4. Provision is made to allow proposals which are not funded in this program to be accepted by the Synthetic Fuels Corporation as valid proposals.

5. Projects funded under this program shall be transferred to the Corporation, to the extent they are eligible, by majority vote of the Corporation.

6. Alternative fuels definitions are expanded to include direct burning of urban waste and heavy oil.

Within the Department of the Treasury

1. $18.8 billion is provided to carry out the provisions of Title I ($17.5 billion) and Title II ($1.3 billion) of S. 932.

2. Up to $5.3 billion of the amount provided will be transferred from amounts appropriated to the Department of Energy if not committed or conditionally committed, as provided by the Senate originally, by June 30, 1981. The managers expect that by that time, the Corporation will be operational and the interim program can be transferred.

3. Of the funds provided for Title I, the Synthetic Fuels Corporation:

a. $6 billion shall be immediately available for obligation.

b. Up to $5.3 billion as previously mentioned is available for transfer on June 30, 1981.

c. $6,212,000,000 shall be available for obligation after June 30, 1982. The managers agree that this provision allows significant review of Corporation activities without inhibiting its operations.

4. Of the funds provided for Title II, biomass activities:

a. $525 million is available to the Secretary of Agriculture for Subtitle A.

b. $525 million is available to the Secretary of Energy for Subtitle A.

c. $220 million is available to the Secretary of Energy for Subtitle B, municipal waste.

These amounts are those provided by the Senate to begin an aggressive near-term biomass and alcohol fuels program.

With the provision of those funds, the managers believe the significant progress begun in the past year will continue and synthetic fuels goals established by Congress can be achieved.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Amendment No. 132: Deletes language proposed by the Senate transferring $1,000,000,000 from the "Solar and Convervation Reserves" to initiate, in the Department of Housing and Urban Development, the Solar Energy and Energy Conservation Bank. The managers are in agreement that transfers from the reserve be made in the regular appropriation process.

Department of Energy

Amendment No. 133: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $4,000,000 for fossil energy research and development instead of $17,300,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The increase over the amount proposed by the House is $4 million for magnetohydrodynamics (MHD) facilities development and testing. The managers are in agreement that this supplemental appropriation for MHD is an advance of fiscal year 1981 monies. A corresponding reduction will be made in this program in fiscal year 1981.

The disallowance of $6,500,000 budgeted for demonstrations of coal oil mixtures in no way implies any lack of support for this program. There is substantial commercial commitment to this concept and federal support for production of coal oil mixtures is available under the alternative fuels production program.

Amendment No. 134: Rescinds $17,600,000 for fossil energy research and development as proposed by the Senate instead of $22,000,000 as proposed by the House. Reprogramming of $6,000,000 for a W. R. Grace coal-to-gasoline project is approved.

Amendment No. 135: Appropriates $2,600,000 for energy conservation as proposed by the Senate instead of $4,751,000 as proposed by the House. The amount provided includes $1,100,000 for administration of the schools and health care institution grant program and $1,500,000 for emergency energy conservation planning.

Amendment No. 136: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing for rescission of $10,000,000 for energy conservation instead of $172,000,000 as proposed by the Senate and $23,000,000 as proposed by the House. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amount rescinded includes $7,000,000 of energy impact assistance funds and $3,000,000 from electric and hybrid vehicles.

Amendment No. 137: Deletes language proposed by Senate to specify rescission in energy conservation of $60,000,000 from the appropriation made available for grants to schools and health care facilities and $5,000,000 from appropriations made available for conservation grants for local government buildings.

Amendment No. 138: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment deferring $1,000,000 of the energy conservation appropriation for electric and hybrid vehicles. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 139: Rescinds $2,000,000,000 from the strategic petroleum reserve as proposed by the Senate instead of $800,000,000 as proposed by the House. This rescission has no effect on fiscal year 1980 spending because the funds were not planned for obligation or outlay before the funds are to lapse on December 31, 1980. This rescission leaves a balance of $2.1 billion for oil purchases, and the Managers remain committed to the principle of filling the Reserve as soon as possible.

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Health Services Administration

Amendment No. 140: Deletes language proposed by the House deferring $6,000,000 for Indian health facilities.

Federal inspector for the Alaska pipeline

Amendment No. 141: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate rescinding $2,700,000 for permitting and enforcement as proposed by the Senate because of schedule slippages.

CHAPTER IX

DEPARTMENT OF LABOR

Employment and Training Administration

Employment and Training Assistance

Amendment No. 142: Deletes language proposed by the House which would have disapproved part of a deferral instituted by the President under the Impoundment Control Act.

Advances to the Unemployment Trust Fund and Other Funds

Amendment No. 143: Appropriates $1,841,000,000 as proposed by the House, instead of $1,441,000,000 as proposed by the Senate.

Amendment No. 144: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which authorizes the Department to borrow from the subsequent year's appropriations for "Federal unemployment benefits and allowances" anytime after August 1, 1980.

Amendment No. 145: Restores language proposed by the House which makes $400 million for trade adjustment benefits available on October 1, 1980.

Health Services Administration

Health Services

Amendment No. 146: Appropriates $2,400,000 instead of $5,125,000 as proposed by the Senate.

The Conferees have agreed to a supplemental of $2.4 million for the National Health Service Corps to support a field strength of not to exceed 2,060 positions. While willing to consider this as an emergency measure because of the many scholarship recipients and volunteers to whom the government has already made commitments, it is imperative that the Department initiate actions immediately to avoid a similar emergency next year. The Department must recognize that the Congress does not intend to let the number of scholarship recipients becoming available for service drive the appropriations for the Corps. The Conferees are agreed that, despite a lower ceiling, the Department should continue its active recruitment of volunteers for the Corps in 1981. These volunteers are more likely to establish a private practice in a shortage area after completing a period of Federal service and they should not be turned down in order to guarantee the placement of a less enthusiastic scholarship recipient. The Conferees expect that at least 300 physician volunteers will be recruited during the 1980–81 recruitment season. It is clear that the placement of scholarship recipients and volunteers in 1981 will be a difficult job within current budgetary limits. Many tools are available to the Department to address this problem. They include significantly expanded use of the private practice option for scholarship recipients and an increase in the number of previously funded Corps sites going independent. Unfortunately authorizations for the Corps in 1981 have not yet passed either the House or Senate. This means that the Corps will almost certainly have to be funded under a Continuing Resolution for the bulk of next year. The Department must recognize, therefore, that the ability to place both volunteers and scholarship recipients in 1981 will rest almost solely on its success in developing these alternative placement strategies.

The Conferees are further agreed that the $7,824,000 provided in Title II for the increased pay cost at the Health Services Administration in 1980 includes $1,175,000 for the Corps.

Amendment No. 147: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate which appropriates $36,000,000 for health services programs related to the recent arrival of Cuban and Haitian aliens in the United States. Funds are available for the provision of health care to Cubans and Haitians at processing centers and for contract medical care at hospitals near centers while these immigrants remain in Federal custody. In addition, this appropriation will provide for new and expanded community health and mental health centers in areas with high concentrations of Cubans and Haitians and for reimbursement to various Department of Health and Human Services accounts for administrative costs incurred while processing the new arrivals.

Amendment No. 148: Rescinds $18,500,000 instead of $16,000,000 as proposed by the House and $21,000,000 as proposed by the Senate. The Conferees are agreed that funding for the emergency medical services program should be reduced by $7,500,000 instead of $5 million as proposed by the House and $10,000,000 as proposed by the Senate.

Center for Disease Control

Preventive Health Services

Amendment No. 149: Appropriates $600,000 as proposed by the Senate. The House bill contained no funds for this purpose.

Health Resources Administration

Health Resources

(Rescission)

Amendment No. 150: Rescinds $19,300,000 instead of $9,300,000 as proposed by the House, and $50,800,000, as proposed by the Senate. In addition to the amounts rescinded by the House the total rescission includes $10,000,000 from funds appropriated for capitation grants to schools of the the health professions.

Assistant Secretary for Health

Salaries and Expenses

Amendment No. 151: Rescinds $18,500,000 as proposed by the Senate, instead of $14,000,000 as proposed by the House.

Health Care Financing Administration

Grants to States for Medicaid

Amendment No. 152: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment amended to read as follows: "to reimburse State or local expenditures made prior to October 1, 1977 unless a request for reimbursement had been officially transmitted to the Federal government by the State within two years after the fiscal year in which the expenditure occurred.".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. This language provides that no payment shall be made from fiscal year 1980 Medicaid appropriations to reimburse State or local expenditures prior to October 1, 1977 unless a State had submitted an official claim for reimbursement within two years after the fiscal year in which the expenditure occurred.

Amendment No. 153: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate which rescinds $30,000,000 of funds appropriated for Grants to States for Medicaid under P.L. 96–123, the Fiscal Year 1980 Continuing Resolution.

Assistant Secretary for Human Development Services

Grants to States for Social and Child Welfare Services

Amendment No. 154: Appropriates $225,750,000 as proposed by the Senate instead of $231,750,000 as proposed by the House.

Amendment No. 155: Reported in technical disagreement. The managers on the part of House will move to recede and concur in the amendment of the Senate amended to read as follows: "*Provided further*, That notwithstanding any other provision of law, not to exceed $75,000,000 shall be used for training activities under this heading for fiscal year 1980."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Departmental Management

Refugee Assistance

Amendment No. 156: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate which appropriates $516,900,000 for refugee assistance. This amount includes $416,900,000 which was originally appropriated in the fiscal year 1980 Continuing Resolution, P.L. 96–123, which is reappropriated in this bill under the authority of the new Refugee Act of 1980. The Senate amendment also provides that $23,168,000 of funds for educational assistance for children shall remain available until March 31, 1981. The effect of the Senate language is to make a total of $100,000,000 of additional funds available for refugee programs which is $81,000 less than requested by the President and the same amount provided by the House.

Department of Education

Elementary and Secondary Education

Amendment No. 157: Restores rescission of $15,000,000 for Title I, part A, section 116 as proposed by the House, and rescinds $100,000,000 for Title I, part A, section 117 instead of $35,000,000 as proposed by the House and $200,000, as proposed by the Senate.

The Conferees urge the authorizing committees to act quickly on technical amendments to clarify State eligibility requirements for Title I incentive grants. Further, in accepting the rescission, the conferees do not intend this action to indicate lack of support for this program. The fiscal 1981 budget request for Title I Incentive Grants will receive serious consideration.

Amendment No. 158: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment amended to read as follows: "and $14,750,000 of the amount appropriated for the purposes of part B of the Headstart-Follow Through Act".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 159: Deletes language proposed by the House which would have earmarked amounts available for support and innovation programs authorized by title IV, part C of the Elementary and Secondary Education Act.

Amendment No. 160: Deletes language proposed by the Senate.

School Assistance in Federally Affected Areas (Supplemental)

Amendment No. 161: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate which appropriates $20,000,000 for disaster assistance under section 7 of Public Law 81–874 (impact aid), and authorizes the use of other available balances under this heading for the purpose of providing disaster assistance.

Emergency School Aid

(Rescission)

Amendment No. 162: Rescinds $21,052,000 instead of $20,104,000 as proposed by the House, and $22,000,000 as proposed by the Senate. The Conferees are agreed that the rescission includes $11,000,000 for grants to school districts, $3,750,000 for special programs and projects, and $6,302,000 for magnet schools, pairing, and neutral site schools.

Under Special Programs and Projects, first priority will be given to Category I and II school districts and to school districts receiving late court orders.

Amendment No. 163: Deletes appropriation of $22,000,000 and earmarking of $3,000,000 proposed by the Senate.

Occupational, Vocational, and Adult Education

Amendment No. 164: Deletes rescission of $24,817,000 proposed by the House.

(Supplemental)

Amendment No. 165: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate which appropriates $17,600,000 for section 318 of the Adult Education Act to remain available until September 30, 1981.

Amendment No. 166: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate amended to read as follows: "and $15,000,000 appropriated for title VII, part E".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 167: Modifies language proposed by the House as follows: ": *Provided*, That the funds made available for fiscal year 1980 for architectural barrier removal shall remain available until September 30, 1981.".

Special Projects and Training

Amendment No. 168: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment with an amendment as follows:

Special Projects and Training
(Rescission)

"Of the funds provided for "Special projects and training" for fiscal year 1980 in Public Law 96–123, $5,000,000 appropriated for the purpose of the Career Education Incentive Act (Public Law 95–207) are rescinded."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

School Improvement
(Supplemental)

Amendment No. 169: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate which appropriates $7,700,000 for title III, part A, section 303 of the Elementary and Secondary Education Act to remain available until September 30, 1981.

National Institute of Education
(Rescission)

Amendment No. 170: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate which rescinds $3,000,000.

Departmental Management

Salaries and Expenses

Amendment No. 171: Appropriates $605,000 for the architectural and transportation barriers compliance board as proposed by the Senate.

Rehabilitation Services

Amendment No. 172: Appropriates $1,500,855 for section 311 of the Rehabilitation Act of 1973 as proposed by the Senate, but deletes earmarking language.

Related Agencies

ACTION

Operating Expenses, Domestic Programs

Amendment No. 173: Appropriates $4,000,000 as proposed by the House instead of $6,000,000 as proposed by the Senate.

CHAPTER X

LEGISLATIVE BRANCH

Senate

Amendments Nos. 174 through 189: Reported in technical disagreement. Inasmuch as these amendments relate solely to the Senate and in accord with long practice, under which each body determines its own housekeeping requirements and the other concurs without intervention, the managers on the part of the House will offer motions to recede and concur in the Senate amendments Nos. 174 through 189.

CHAPTER XI

MILITARY CONSTRUCTION

Indian Ocean Construction

The conferees agree that establishment of facilities to support rapid deployment of U.S. forces to the Indian Ocean and to provide fleet support for U.S. naval forces in the region are important to assure the security of the Free World's oil supply and to maintain stability in the region. Both the House and Senate expressed reservations about the lack of overall planning and the capability to construct military support facilities in an area where very little construction has taken place. Both committees were concerned about the absence of signed country-to-country agreements in those countries where activity was proposed.

These concerns remain, although a great deal has been accomplished since the Department of Defense first made these proposals to the Congress. Because of these improvements, the conferees agree that funding in the following amounts should be provided:

Item	DOD request	House	Senate	Conference
Planning and design:				
Army	$4, 300, 000	$1, 000, 000	0	$1, 000, 000
Navy	19, 000, 000	11, 000, 000	0	14, 000, 000
Air Force	24, 700, 000	4, 000, 000	0	7, 000, 000
Military construction, planning and design	0	0	$25, 000, 000	0
Subtotal	48, 000, 000	16, 000, 000	25, 000, 000	22, 000, 000
Construction: Diego Garcia:				
Dredging	4, 300, 000	4, 300, 000	0	0
Other construction	19, 200, 000	0	10, 800, 000	7, 500, 000
Subtotal	23, 500, 000	4, 300, 000	10, 800, 000	7, 500, 000
Total	71, 500, 000	20, 300, 000	35, 800, 000	29, 500, 000

These funds are to be used first for concept planning and then for specific facility designs. The Department is to submit concept plans to the Committees as soon as available, but not later than February 1, 1981. Emphasis in planning shall be on Indian Ocean and Lajes Air Base facilities. Construction activity at Diego Garcia shall be divided between that necessary to provide fleet support and that needed for rapid reinforcement capability. No funds are available until signed country-to-country agreements are provided to the House and Senate Appropriations Committees.

The conferees are agreed that the NATO allies and Japan must share in the responsibility for paying the enormous costs of the expanded Indian Ocean activities. For this reason, a portion of the funds used to finance this construction program shall be derived from the NATO infrastructure program. The Department is to provide evidence to the Committees during testimony on the fiscal year 1982 budget that consultation has occurred through the infrastructure arena to accomplish cost sharing among the allies.

The conferees direct that a number of sources of funding be used, as indicated in the tables below:

Source of funds	DOD	House	Senate	Conference
New appropriations	0	0	$15, 800, 000	$9, 500, 000
NATO infrastructure	0	$20, 300, 000	5, 000, 000	5, 000, 000
High energy laser facility	0	0	3, 000, 000	3, 000, 000
Culebra weapons range	0	0	12, 000, 000	12, 000, 000
Shipbuilding and conversion, Navy	$71, 500, 000	0	0	0
Total	71, 500, 000	20, 300, 000	35, 800, 000	29, 500, 000

American Preference in Indian Ocean Construction. Both the House and the Senate included report language to give American firms preference in the awarding of construction contracts in the Indian Ocean/Persian Gulf area. However, the House and Senate used different criteria for determining how this preference should be established.

The conferees support the need for American preference and feel that it is the responsibility of the Department of Defense to prepare a detailed program for assuring that American firms be given preference for construction contracting. The conferees feel that this plan should follow the general guidelines of both House and Senate reports and include the following major elements: (1) A prequalification procedure for U.S. contractors that assures competition; (2) a requirement that firms use U.S. personnel, material, and equipment where appropriate; and (3) the use of joint ventures to satisfy existing agreements.

Emergency Construction Funds. The conferees agree that a notification procedure is necessary prior to the use of the Secretary of Defense's emergency construction authority and concur in the Senate proposal that the nature of the emergency be included in the notification. The conferees agree, further, that no reprogramming will be required when the Department uses funds specifically appropriated for the emergency construction program, but that the customary reprogramming requirements will apply where funds are being used from other programs or projects.

MILITARY CONSTRUCTION, ARMY

Amendment No. 190: Provides $1,000,000 by transfer as proposed by the House.

MILITARY CONSTRUCTION, NAVY

Amendment No. 191: Restores "transfer" language deleted by the Senate.

Amendment No. 192: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $21,500,000, instead of $15,300,000 as proposed by the House and $10,800,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 193: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment, as follows: "of which $12,000,000 shall be derived by transfer from funds appropriated for the Culebra Weapons Range by Public Law 93–194 (87 Stat. 766),".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 194: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment, as follows: ": *Provided*, That the limitation on the amount available for study, planning, design, architect and engineer services is increased by $14,000,000.".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 195: Deletes rescission proposed by the House.

Military Construction, Air Force

Amendment No. 196: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment, as follows:

"MILITARY CONSTRUCTION, AIR FORCE

"For an additional amount for "Military

(Transfer of funds)

"For an additional amount of "Military Construction, Air Force, 1980/1984", $7,000,000 of which $4,000,000 shall be derived by transfer from funds provided for NATO infrastructure, "Military Construction, Defense Agencies, 1980/1984"; and $3,000,000 from funds appropriated for the high energy laser research facility at White Sands, New Mexico, to remain available until September 30, 1984: *Provided*, That the limitation on the amount available for study, planning, design, architect and engineer services is increased by $7,000,000.".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Military Construction, Planning and Design

Amendment No. 197: Deletes section proposed by the Senate.

Administrative Provisions

Amendment No. 198: Deletes provision proposed by the House.

Amendment No. 199: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and and concur in the amendment of the Senate, which reads as follows: "purpose, the estimated cost of construction for which these funds are to be used under such authorities, and the justification for invoking the section 402 or similar authority.".

CHAPTER XII

DEPARTMENT OF STATE

International Organizations and Conferences

MISSIONS TO INTERNATIONAL ORGANIZATIONS

Amendment No. 200: Appropriates $418,000 as proposed by the Senate instead of $130,000 as proposed by the House.

Amendment No. 201: Deletes amendment of the Senate which would have increased by $5,000,000 the limit on travel and transportation imposed on the Department of State through Section 112 of P.L. 96-86, which reduced the amounts that could be obligated for travel and transportation in the Executive Branch by $500,000,000 from the amounts proposed in the fiscal year 1980 budget, as amended and supplemented.

The conferees are agreed that the submission of the request to increase the limit on obligations for travel and transportation for the Department of State constitutes the authority to increase the limit on such obligations.

DEPARTMENT OF JUSTICE

Legal Activities

Amendment No. 202: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $325,000 of which $745,000 shall be derived by transfer from the Office of Justice Assistance, Research and Statistics, "Law enforcement assistance".

The conferees are agreed that the $745,000 to be transferred from Law Enforcement Assistance are to be derived from unobligated balances available for Crime Prevention programs.

Salaries and Expenses, Antitrust Division

Amendment No. 203: Inserts heading, "(Transfer of Funds)", as proposed by the Senate.

Amendment No. 204: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $4,233,000 instead of $4,000,000 as proposed by the House and $233,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 205: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: "of which $233,000 shall be derived by transfer from Office of Justice Assistance, Research, and Statistics: 'Law enforcement assistance' ".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees are agreed that the $233,000 to be transferred from Law Enforcement Assistance are to be derived from unobligated balances available for Crime Prevention programs.

Salaries and Expenses, United States Attorneys and Marshals

Amendment No. 206: Inserts heading "(Including Transfer of Funds)", as proposed by the Senate.

Amendment No. 207: Appropriates $16,680,000 as proposed by the Senate instead of $6,104,000 as proposed by the House.

Amendment No. 208: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that $2,008,000 of the $16,680,000 appropriated by amendment No. 207 shall be derived by transfer from Office of Justice Assistance, Research and Statistics, "Law enforcement assistance".

The conferees are agreed that the $2,008,000 to be transferred from Law Enforcement Assistance is to be derived from unobligated balances available for Crime Prevention programs.

Fees and Expenses of Witnesses

(Including Transfer of Funds)

Amendment No. 209: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $846,000 to be derived by transfer from Office of Justice Assistance, Research and Statistics, "Law enforcement assistance".

The conferees are agreed that these funds are to be derived from unobligated balances available for Crime Prevention programs under the Law Enforcement Assistance appropriation.

Federal Bureau of Investigation

Salaries and Expenses

Amendment No. 210: Deletes heading "(Transfer of Funds)" and inserts heading "(Including transfer of Funds)", as proposed by the Senate.

Amendment No. 211: Appropriates $8,336,000 as proposed by the Senate instead of $6,400,000 as proposed by the House.

Amendment No. 212: Provides that of the $8,336,000 appropriated in amendment No. 211, $7,648,000 shall be derived by transfer from Office of Justice Assistance, Research, and Statistics, "Law enforcement assistance".

The conferees are agreed that the $7,648,000 to be transferred from Law Enforcement Assistance is to be derived to the extent possible from unobligated balances for Crime Prevention programs. In no event shall this transfer be derived from unobligated balances available for the Law Enforcement Education Program.

Immigration and Naturalization Service

Salaries and Expenses

Amendment No. 213: Deletes heading, "(Transfer of Funds)" and inserts heading "(Including Transfer of Funds)", as proposed by the Senate.

Amendments Nos. 214 and 215: Appropriate $15,000,000 of which $3,000,000 shall be derived by transfer from Office of Justice Assistance, Research and Statistics, "Law enforcement assistance", instead of $3,000,000 to be derived by transfer as proposed by the House, and $16,492,000 of which $4,492,000 to be derived by transfer as proposed by the Senate.

The conference agreement provides none of the funds requested for transfer to the Bureau of Prisons.

Drug Enforcement Administration

Salaries and Expenses

(Transfer of Funds)

Amendment No. 216: Appropriates $2,362,000 to be derived by transfer from the Office of Justice Assistance, Research, and Statistics, "Law enforcement assistance" instead of $1,300,000 to be derived by transfer as proposed by the House, and $3,421,000 to be derived by transfer as proposed by the Senate.

The conferees are agreed that in no event are these funds to be derived from unobligated balances available for the Law Enforcement Education Program.

Office of Justice Assistance, Research, and Statistics

Law Enforcement Assistance

(Transfer of Funds)

Amendment No. 217: Appropriates $7,000,000 to be derived by transfer from Federal Prison System, "Salaries and expenses" as proposed by the House.

(Rescission)

Amendment No. 218: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which would rescind $4,439,446 previously appropriated under this head instead of $7,439,446 as proposed by the Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees are agreed that the $3,000,000 which were not rescinded and which remain available for obligation under this amendment shall be allocated for technical assistance and project grants to improve operations of the criminal justice system and police-community relations in Dade County, Florida.

The conferees are agreed that the remaining unobligated balances for the Law Enforcement Education Program shall be transferred to the Department of Education in order to provide funds for the program for the 1980-81 school year.

General Provision—Department of Justice

Amendment No. 219: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides language that would increase travel ceilings as necessary for investigation and prosecution of cases, apprehension and retention of prisoners, and deportation activities.

DEPARTMENT OF COMMERCE

General administration

Salaries and Expenses

Amendment No. 220: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in amendment of the Senate which appropriates $10,200,000 instead of $200,000 as proposed by the House, and provides language which would make a grant of $6,000,000 to the U.S. Olympic Committee contingent upon the collection of $8,000,000 from non-Federal sources after May 15, 1980. In addition, the language provides that when this condition is met, the $6,000,000 would be available on the basis of not to exceed one-half of additional funds collected from non-Federal sources in excess of $8,000,000. The language also provides that the funds appropriated not be used (except upon a finding of national interest by the Secretary of Commerce) for the programs of a national governing body which has finally lost an arbitration decision to another group, and that a national governing body so situated cease to exercise national governing body authority specified in Section 203 of Public Law 95-606, as amended.

Participation in United States Expositions

Amendment No. 221: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that no additional Federal funds shall be made available for this purpose.

Economic Development Administration

Salaries and Expenses

Amendment No. 222: Appropriates $40,000,000 as proposed by the Senate instead of $38,545,000 as proposed by the House.

Economic Development Assistance Programs

Amendment No. 223: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

Economic Development Assistance Programs

For an additional amount for "Economic development assistance programs", $5,000,000, to remain available until September 30, 1981, notwithstanding the provisions of section 105 of Public Law 96-86 and section 105, of Public Law 96-123.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

These funds are for the direct business loan program for areas of southern Florida affected by recent civil disturbances.

National Oceanic and Atmospheric Administration

Operations, Research, and Facilities

Amendment No. 224: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $1,500,000 to remain available until expended.

Coastal Energy Impact Fund

(Rescission)

Amendment No. 225: Rescinds $35,400,000 as proposed by the Senate instead of $7,700,000 as proposed by the House.

Maritime Administration

Operations and Training

Amendment No. 226: Appropriates $1,174,000 as proposed by the House.

THE JUDICIARY

Courts of appeals, district courts, and other judicial services

Pretrial Services Agencies

Amendment No. 227: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $900,000 to be derived by transfer from "Space and facilities, the Judiciary".

RELATED AGENCIES

Department of the Treasury

Bureau of Government Financial Operations

Chrysler Corporation Loan Guarantee Program

Amendment No. 228: Provides language, proposed by the Senate, making an indefinite appropriation of such sums as may be necessary for payment of principal and interest on loans guaranteed pursuant to the Chrysler Corporation Loan Guarantee Act of 1979 and in default, to be available immediately and to remain available until December 31, 1991.

Federal Trade Commission

Salaries and Expenses

Amendment No. 229: Appropriates $1,000,000 instead of $1,600,000 as proposed by the Senate.

Small Business Administration

Salaries and Expenses

Amendment No. 230: Deletes appropriation of $2,000,000 and language proposed by the Senate which would prohibit any of the funds made available by this Act from being used for the salary of anyone serving as District Director in Arizona after June 26, 1980.

Business Loan and Investment Fund

(Rescission)

Amendment No. 231: Deletes rescission of $11,000,000 proposed by the Senate.

The conferees are agreed that funds available in the Business Loan and Investment Fund are to be used for the purposes for which they were originally appropriated.

Disaster Loan Fund

Amendments Nos. 232, 233 and 234: Appropriate $1,177,000,000 as proposed by the Senate instead of $839,000,000 as proposed by the House; provide that $1,163,000,000 shall be available without fiscal year limitation instead of $1,165,000,000 as proposed by the Senate and $825,000,000 as proposed by the House; and provide that $14,000,000 shall remain available without fiscal year limitation and may be transferred to "Salaries and expenses" as proposed by the House instead of $12,000,000 as proposed by the Senate.

The conferees are agreed that none of these funds are reserved for any specific disasters, but are available for eligible disaster loan applicants in accordance with the provisions of the Small Business Act, as amended and regulations of the Small Business Administration.

Amendment No. 235: Deletes language, proposed by the House, which provided that all of the funds made available in amendments 232 through 234 not used for salaries and expenses shall be available for the sole purpose of providing disaster loans.

CHAPTER XIII

DEPARTMENT OF TRANSPORTATION

Coast Guard

Amendment No. 236: Appropriates $45,100,000 for operating expenses instead of $29,100,000 as proposed by the House and $47,100,000 as proposed by the Senate.

Amendment No. 237: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which reads as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: "the Secretary of Transportation, subject to the prior approval of the House and Senate Committees on Appropriations, is authorized to transfer an amount not to exceed $1,500,000 to the U.S. Coast Guard appropriation Retired Pay from any available appropriation to meet additional Retired Pay costs which may be increased in fiscal year 1980"

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 238: Appropriates $20,500,000 for pollution fund instead of $15,500,000 as proposed by the House and $35,000,000 as proposed by the Senate. The conferees are aware of the requirement for cleanup activities related to 60,000 drums of hazardous waste at Seymour, Indiana, and have taken this problem into consideration in the conference agreement which provides an additional $5,000,000 over the Senate bill.

Federal Highway Administration

Amendment No. 239: Limits obligations for Federal-aid highways to $7,800,000,000, instead of $7,600,000,000 as proposed by the Senate and $7,900,000,000 as proposed by the House. The conferees are cognizant of the pending application involving the Arrowhead bridge between Superior, Wisconsin and Duluth, Minnesota and direct the attention of the Federal Highway Administration to this project.

The conferees are aware that at least nine states have brought suits challenging the President's deferral of Federal-aid highway obligational authority as well as the method chosen by the Federal Highway Administration to allocate the remaining fiscal year 1980 obligational authority among the States. The conferees are also aware that in some of these suits, district courts have issued orders declaring the deferral and/or the allocation formula illegal and ordering the Secretary of Transportation to take certain actions. It is the intent of the conferees that this legislation, in setting a new statutory obligational ceiling for fiscal year 1980 and in providing a statutory distribution formula, act to moot all aspects of the pending litigation, including any efforts to hold the Secretary in contempt of court. The conferees believe that this is essential because of the negative impact that compliance with the terms of those orders would have upon the operation of the allocation formula established by this legislation, and upon the entire Federal-aid highway program. Therefore, "amounts not obligated on the date of enactment of this Act" shall be determined on the basis of actual obligations, without regard to set-asides or other court orders.

Amendment No. 240: Establishes August 15, 1980, as the date for redistribution of unobligated Federal-aid highways funds instead of August 1, 1980, as proposed by the Senate and August 25, 1980, as proposed by the House. In making this redistribution the conferees direct that particular attention be given to those States which are substantially below their apportioned percentages.

Amendment No. 241: Increases contract authority for emergency relief to $350,000,000 instead of $200,000,000 as proposed by the House and $375,000,000 as proposed by the Senate. The increase above the amount proposed by the House includes not to exceed $125,000,000 for highways in the states of Washington, Oregon, and Idaho affected by the eruptions of the Mount St. Helens volcano. In addition to the projects specified in the House and Senate Committee reports, priority should also be given to state route

163 in Baldwin County, Alabama and state route 182 in Mobile County, Alabama.

Federal Railroad Administration

Amendment No. 242: Restores language proposed by the House appropriating $68,100,000 for rail labor assistance and terminating the windfall employee protection payments which have been paid to certain Conrail employees. Under the conference agreement $61,600,000 would become available for obligation as of October 1, 1980, instead of the date of enactment of the bill as proposed by the House.

Amendment No. 243: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate making funds appropriated to the National Railroad Passenger Corporation for capital improvements available only as such funds are required to make payments to vendors for capital equipment deliveries and services delivered during the balance of fiscal year 1980.

Amendment No. 244: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which reads as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: "$60,000,000 are rescinded: *Provided*, That of the funds appropriated under section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976, an additional $15,000,000 may be used for transaction assistance in accordance with section 505(h)(1) (A) and (B), as amended by the Rock Island Railroad Transition and Employee Assistance Act, except that the dollar limitations contained in those subsections shall not apply to the $15,000,000: *Provided further*, That the $15,000,000 shall be available only upon the enactment of authorizing legislation and shall not be expended prior to October 1, 1980"

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Urban Mass Transportation Administration

Amendment No. 245: Appropriates $330,000,000 for urban discretionary grants instead of $300,000,000 as proposed by the Senate and $400,000,000 as proposed by the House. The conference agreement includes $150,000,000 for buses and bus related facilities, $110,000,000 for rail modernizations and system extensions, and $70,000,000 for new systems construction. The conferees expect that, to the extent possible, UMTA will meet the existing new systems full funding agreements.

Amendment No. 246: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which reads as follows:

In lieu of the matter stricken by said amendment, insert the following:

"Interstate Transfer Grants

"(Disapproval of Deferral)

"The Congress disapproves the proposed deferral D80-72 relating to Urban Mass Transportation Administration, Interstate Transfer Grants, as set forth in the message of June 18, 1980, which was transmitted to the Congress by the President. This disapproval shall be effective upon the enactment into law of this bill."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The disapproval of the proposed Interstate transfer grant deferral will make available an additional $166,245,273 in fiscal year 1980. The conferees direct that these funds be allocated as follows:

Boston, Mass	$10, 000, 000
Chicago, Ill	47, 000, 000
New York, N.Y	32, 000, 000
Philadelphia, Pa	30, 000, 000
Portland, Ore	18, 000, 000
Other eligible cities	29, 245, 273

Transportation Research and Development

Amendment No. 247: Restores House language and limits obligations for certain transportation research and development programs to 95 per centum of the estimated fiscal year 1980 obligations instead of 90 per centum as proposed by the House. The conferees, of course, expect that in administering this limitation the Secretary will, to the greatest extent possible, exempt high priority safety related research projects.

RELATED AGENCIES

Department of the Treasury

Amendment No. 248: Rescinds $60,000,000 of the appropriation for the Office of the Secretary, investment in fund anticipation notes, instead of $45,000,000 as proposed by the Senate and $75,000,000 as proposed by the House.

United States Railway Association

Amendment No. 249: Appropriates $4,100,000 for administrative expenses instead of $3,600,000 as proposed by the House and $4,600,000 as proposed by the Senate.

CHAPTER XIV

DEPARTMENT OF THE TREASURY

Office of the Secretary

(Rescission)

Amendment No. 250: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate rescinding $250,000 for salaries and expenses.

International Affairs

(Rescission)

Amendment No. 251: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate rescinding $250,000 for International Affairs.

United States Customs Service

Amendment No. 252: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate. This amendment appropriates $650,000 for salaries and expenses. It increases the overtime pay limitation included in Public Law 96-74 for Customs officers processing aliens from Cuba. The amendment also provides that the Virgin Islands continue to reimburse the Customs Service for the cost of collecting customs duties in the Virgin Islands.

Bureau of the Mint

(Rescission)

Amendment No. 253: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate rescinding $800,000 for salaries and expenses.

Bureau of the Public Debt

Amendment No. 254: Appropriates $22,000,000 for administering the public debt instead of $23,558,000 as proposed by the House and $6,500,000 as proposed by the Senate.

United States Secret Service

Amendment No. 255: Appropriates $9,725,000 for salaries and expenses instead of $13,550,000 as proposed by the House and $6,975,000 as proposed by the Senate.

The Conferees continue to be concerned over the uncertainty which has arisen about the appropriate application of provisions of existing law regarding reimbursements to State and local governments under Public Law 94-196. The Conferees therefore again recommend that the appropriate legislative committees review the matter, particularly the additional language included in P.L. 96-74, the Appropriations Act for Treasury, Postal Service and General Government for 1980, and provide clarifying guidance in this matter.

EXECUTIVE OFFICE OF THE PRESIDENT

Council on Wage and Price Stability

Amendment No. 256: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $500,000 for salaries and expenses.

GENERAL SERVICES ADMINISTRATION

Federal Buildings Fund

Amendment No. 257: Increases the limitation on the availability of revenue by $109,660,000 as proposed by the Senate instead of $6,144,000 as proposed by the House.

Amendment No. 258: Establishes a total limitation on the availability of revenue of $1,521,928,000 as proposed by the Senate instead of $1,526,177,000 as proposed by the House.

Amendment No. 259: Establishes a limitation on construction of $100,589,000 as proposed by the Senate instead of $94,279,000 as proposed by the House.

Amendment No. 260: Makes available $6,310,000 for the construction of the Miami Courthouse Annex as proposed by the Senate.

Amendment No. 261: Establishes a limitation of $9,071,000 for alteration and major repairs as proposed by the Senate instead of $630,000 as proposed by the House.

Amendment No. 262: Changes a colon to a semi-colon as proposed by the Senate.

Amendment No. 263: Makes available $3,220,000 for alterations and major repairs of the Chicago Federal office building as proposed by the Senate.

Amendment No. 264: Makes available $2,305,000 for alterations and major repairs of the Huntington, West Virginia Federal building and courthouse as proposed by the Senate.

Amendment No. 265: Makes available $2,916,000 for alterations and major repairs of the Laguna Niguel Federal office building as proposed by the Senate.

Amendment No. 266: Deletes $4,000,000 for payment on purchase contracts as proposed by the Senate.

Amendment No. 267: Establishes a total limitation on the availability of revenue of $1,521,928,000 as proposed by the Senate instead of $1,521,928,000 as proposed by the House.

National Archives and Records Service

Amendment No. 268: Appropriate $750,000 for operating expenses instead of $1,500,000 as proposed by the House.

Refunds under Renegotiation Act

Amendment No. 269: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $2,500,000 for refunds under the Renegotiation Act and making same available until expended as proposed by the Senate.

General Provisions

Amendment No. 270: Restores language proposed by the House and deleted by the Senate. This language allows the General Services Administration to enter into a lease for space in the Ford Building in New York City without regard to 40 U.S.C. 278a.

Amendment No. 271: Restores section number as proposed by the House.

Amendment No. 272: Restores section number as proposed by the House.

Amendment No. 273: Deletes language proposed by the House rescinding $100,000,000 for furniture purchases.

Merit Systems Protection Board

Amendment No. 274: Appropriates $500,000 for salaries and expenses as proposed by the Senate instead of $860,000 as proposed by the House.

Office of the Special Counsel

(Rescission)

Amendment No. 275: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate rescinding $2,000,000 for salaries and expenses as proposed by the Senate instead of $1,000,000 as proposed by the House.

TITLE II—INCREASED PAY COSTS

LEGISLATIVE BRANCH

Senate

Amendments Nos. 276 through 281: Reported in technical disagreement. Inasmuch as these amendments relate solely to the Senate and in accord with long practice, under which each body determines its own housekeeping requirements and the other concurs therein without intervention, the managers on the part of the House will offer motions to recede and concur in the Senate amendments Nos. 276 through 281.

ARCHITECT OF THE CAPITOL

Capitol Buildings and Grounds

Amendments Nos. 282 and 283: Appropriate $450,000 for "Senate office buildings" and $10,000 for "Senate garage" as proposed by the Senate.

EXECUTIVE OFFICE OF THE PRESIDENT

White House Office

Amendment No. 284: Appropriates $731,000 for salaries and expenses instead of $700,000 as proposed by the House and $763,000 as proposed by the Senate.

Executive residence at the White House

Amendment No. 285: Appropriates $126,000 for operating expenses instead of $100,000 as proposed by the House and $153,000 as proposed by the Senate.

Special Assistant to the President

Amendment No. 286: Appropriates $58,000 for salaries and expenses instead of $50,000 as proposed by the House and $66,000 as proposed by the Senate.

Domestic Policy Staff

Amendment No. 287: Appropriates $111,000 for salaries and expenses instead of $100,000 as proposed by the House and $122,000 as proposed by the Senate.

National Security Council

Amendment No. 288: Appropriates $88,000 for salaries and expenses instead of $75,000 as proposed by the House and $101,000 as proposed by the Senate.

Office of Administration

Amendment No. 289: Appropriates $142,000 for salaries and expenses instead of $100,000 as proposed by the House and $185,000 as proposed by the Senate.

Office of Management and Budget

Amendment No. 290: Appropriates $1,073,000 for salaries and expenses instead of $1,000,000 as proposed by the House and $1,146,000 as proposed by the Senate.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Amendment No. 291: Appropriates $200,000 as proposed by the Senate.

Department Administration

Amendment No. 292: Appropriates $800,000 as proposed by the Senate.

Working Capital Fund

Amendment No. 293: Provides $983,000 as proposed by the Senate instead of $1,983,000 as proposed by the House.

Office of the Inspector General

Amendment No. 294: Appropriates $1,000,000 instead of $300,000 as proposed by the House and $1,135,000 as proposed by the Senate.

Office of the General Counsel

Amendment No. 295: Appropriates $500,000 as proposed by the Senate.

Agricultural Research

Amendment No. 296: Appropriates $2,750,000 instead of $2,850,000 as proposed by the House and $2,650,000 as proposed by the Senate.

Economics, Statistics and Cooperatives Service

Amendment No. 297: Appropriates $1,875,000 instead of $2,000,000 as proposed by the House and $1,750,000 as proposed by the Senate.

Farmers Home Administration

Amendment No. 298: Appropriates $5,500,000 as proposed by the Senate instead of $5,000,000 as proposed by the House.

Soil Conservation Service

Conservation Operations

Amendment No. 299: Appropriates $7,200,000 instead of $7,500,000 as proposed by the House and $6,900,000 as proposed by the Senate.

Animal and Plant Health Inspection Service

Amendment No. 300: Appropriates $4,000,000 instead of $3,000,000 as proposed by the House and $5,000,000 as proposed by the Senate. Total fiscal 1980 obligations shall not be less than $74,337,000 for brucellosis and $1,750,000 for southern pine beetle. While making appropriate program management savings, the agency shall continue accelerated brucellosis control activities.

Federal Grain Inspection Service

Amendment No. 301: Appropriates $900,000 instead of $500,000 as proposed by the House and $1,000,000 as proposed by the Senate.

Agricultural Marketing Service

Amendment No. 302: Appropriates $1,700,000 instead of $1,000,000 as proposed by the House and $1,800,000 as proposed by the Senate.

Food Safety & Quality Service

Amendment No. 303: Appropriates $12,950,000 as proposed by the Senate instead of $11,000,000 as proposed by the House.

FOREST SERVICE

Amendment No. 304: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $23,487,000 for forest management, protection and utilization instead of $24,250,000 as proposed by the Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 305: Appropriates $5,382,000 for construction and land acquisition as proposed by the Senate instead of $5,500,000 as proposed by the House.

Amendment No. 306: Appropriates $797,000 for the youth conservation corps as proposed by the House instead of $700,000 as proposed by the Senate.

DEPARTMENT OF DEFENSE—MILITARY

Reserve Personnel, Navy

Amendment No. 307: Appropriates $17,377,000 instead of $18,377,000 as proposed by the House and $13,577,000 as proposed by the Senate.

National Guard Personnel, Air Force

Amendment No. 308: Appropriates $19,760,000 instead of $20,760,000 as proposed by the Senate and $17,060,000 as proposed by the House.

Operation and Maintenance, Army

Amendment No. 309: Appropriates $276,900,000 as proposed by the House instead of $283,400,000 as proposed by the Senate.

Operation and Maintenance, Navy

Amendment No. 310: Appropriates $302,000,000 as proposed by the House instead of $314,300,000 as proposed by the Senate.

Operation and Maintenance, Marine Corps

Amendment No. 311: Appropriates $15,700,000 as proposed by the House instead of $17,200,000 as proposed by the Senate.

Operation and Maintenance, Defense Agencies

Amendment No. 312: Appropriates $144,700,000 as proposed by the House instead of $148,000,000 as proposed by the Senate.

Operation and Maintenance, Navy Reserve

Amendment No. 313: Appropriates $3,100,000 as proposed by the House instead of $3,400,000 as proposed by the Senate.

Operation and Maintenance, Army National Guard

Amendment No. 314: Appropriates $25,300,000 as proposed by the House instead of $29,700,000 as proposed by the Senate.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Services Administration

Amendment No. 315: Appropriates $8,335,000 for Indian Health services as proposed by the Senate instead of $9,000,000 as proposed by the House.

Departmental Management

Amendment No. 316: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $43,000 for the Office of Consumer Affairs, instead of $85,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Amendment No. 317: Appropriates $5,700,000 for management of lands and resources instead of $5,500,000 as proposed by the House and $5,900,000, as proposed by the Senate.

U.S. Fish and Wildlife Service

Amendment No. 318: Appropriates $5,000,000 for resource management instead of $4,900,000 as proposed by the House and $5,089,000 as proposed by the Senate.

National Park Service

Amendment No. 319: Appropriates $7,000,000 for operation of the national park system instead of $4,500,000 as proposed by the House and $7,957,000 as proposed by the Senate.

Office of the Solicitor

Amendment No. 320: Appropriates $500,000 for salaries and expenses instead of $450,000 as proposed by the House and $528,000 as proposed by the Senate.

DEPARTMENT OF JUSTICE

(Including Transfer of Funds)

Legal activities

Amendment No. 321: Provides that all of the $5,528,000 for "Salaries and expenses, general legal activities" be derived by transfer from Federal Prison System, "Buildings and facilities", as proposed by the Senate, instead of $104,000 from "Fees and expenses of witnesses" and $5,424,000 from "Buildings and facilities", as proposed by the House.

Amendment No. 322: Provides that the $1,704,000 for "Salaries and expenses, Antitrust Division" be derived by transfer from Federal Prison System, "Buildings and facilities", as proposed by the House, instead of from Federal Prison System, "Salaries and expenses", as proposed by the Senate.

Amendment No. 323: Provides that $4,899,000 of the $11,003,000 for "Salaries and expenses, United States Attorneys and Marshals" be derived by transfer from Federal Prison System, "Buildings and facilities", as proposed by the House, instead of from Federal Prison System, "Salaries and expenses", as proposed by the Senate.

Federal Bureau of Investigation

Amendment No. 324: Deletes proposal of the Senate to provide that $7,000,000 of the $29,498,000 for "Salaries and expenses" be derived by transfer from Federal Prison System, "Buildings and facilities".

Drug Enforcement Administration

Amendment No. 325: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that $1,077,000 of the $7,881,000 for "Salaries and expenses" be derived by transfer from Federal Prison System, "Buildings and facilities" instead of from "Fees and expenses of witnesses" as proposed by the House.

Federal Prison System

Amendment No. 326: Appropriates $3,300,000 for "Salaries and expenses" instead of $9,368,000 proposed by the House.

DEPARTMENT OF THE TREASURY

Federal Law Enforcement Training Center

Amendment No. 327: Appropriates $264,000 for salaries and expenses instead of $130,000 as proposed by the House and $399,000 as proposed by the Senate.

Bureau of Alcohol, Tobacco and Firearms

Amendment No. 328: Appropriates $4,409,000 for salaries and expenses instead of $4,000,000 as proposed by the House and $4,819,000 as proposed by the Senate.

United States Secret Service

Amendment No. 329: Appropriates $7,100,000 for salaries and expenses as proposed by the Senate instead of $7,099,000 as proposed by the House.

Amendment No. 330. Deletes language inserted by the Senate which would have transferred $5,729,583 from the Construction of Mint Facilities to the Secret Service.

The Conferees are agreed that any new construction and renovation proposals for the Bureau of the Mint should proceed through the appropriate authorization process and be approved prior to the appropriation of funds.

Environmental Protection Agency

Amendment No. 331: Inserts language as proposed by the Senate for salaries and expenses, amended to appropriate $2.800 000 instead of $5,600,000 as proposed by the Senate.

Veterans Administration

Amendment No. 332: Appropriate $151,270,000 for medical care, instead of $121,270,000 as proposed by the House and $171,270,000 as proposed by the Senate.

FEDERAL MEDIATION AND CONCILIATION SERVICE

Amendment No. 333: Appropriates $745,000 for "Salaries and expenses" as proposed by the Senate, instead of $515,000 as proposed by the House.

GENERAL SERVICES ADMINISTRATION

Federal Supply Service

Amendment No. 334: Appropriates $5,854,000 for operating expenses as proposed by the Senate instead of $4,340,000 as proposed by the House.

Office of the Inspector General

Amendment No. 335: Deletes appropriation of $860,000 proposed by the Senate.

National Capital Planning Commission

Amendment No. 336: Appropriates $175,000 for salaries and expenses as proposed by the Senate instead of $100,000 as proposed by the House.

National Endowment for the Arts

Amendment No. 337: Appropriates $210,000 for salaries and expenses instead of $250,000 as proposed by the House and $175,000 as proposed by the Senate.

Pennsylvania Avenue Development Corporation

Amendment No. 338: Appropriates $50,000 for salaries and expenses as proposed by the Senate instead of $70,000 as proposed by the House.

TITLE III—GENERAL PROVISIONS

Amendment No. 339: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken by said amendment insert:

"Sec. 303. Notwithstanding any other provision of law, the number of career appointees in any agency paid performance awards during fiscal year 1980 under 5 U.S.C. 5384, or any comparable personnel system established on or after October 13, 1978, may not exceed 25 percent of the number of Senior Executive Service or comparable personnel system positions in any such agency."

The managers on the part of the Senate will move to concur in the amendment of the Senate.

The Conferees are agreed that no more than 25 percent of the number of Senior Executive Service positions, or positions under similar personnel systems, in any agency may receive performance awards. In agreeing to this limit, the Conferees are concerned with the reports that an excessive number of SES employees are being designated to receive bonuses, and that the bonuses are being used in lieu of salary increases which are being denied to all other senior appointed and elected officials of the government.

The Conferees wish to draw attention to potential abuses in the bonus award system and direct that the General Accounting Office in cooperation with the Office of Personnel Management do a thorough study of bonus system payments, and report the findings to the authorizing and appropriations committees. If it is found that SES or SES-type payments are being made on the basis of personal or political favortism or if it is found that SES or SES-type payments are being made on a rotational basis, the Conferees agree that all SES or SES-type payments shall be suspended until such abuses are cleared up.

Amendment 340: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

"Sec. 304. (a) Out of the total moneys appropriated for the operation of the departments and agencies of the Federal Government for fiscal year 1980, $220,000,000 of this total appropriated for the purchase of furniture is hereby rescinded. Excluded from this rescission are furniture items produced by Federal Prison Industries, Inc., or by sheltered workshops for the blind and other severely handicapped under the auspices of Public Law 92–28: *Provided,* That such items are fully justified by agency needs. The Director of the Office of Management and Budget is directed to allocate this rescission total among the departments and agencies of the Federal Government and report back to the House and Senate Committees on Appropriations within 30 days following the date of the enactment of this Act as to the allocation made: *Provided further,* That no allocation shall exceed 25 percent of said amount.

"(b) With respect to the provisions of the Treasury, Postal Service, and General Government Appropriations Act, 1980, under the heading General Services Administration, Federal Buildings Fund, Limitations on Availability of Revenue, the aggregate amount made available from the revenues and collections deposited into the Federal Buildings Fund pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 4901(f)), for the purposes set forth in the provisions contained under such heading is reduced by $15,000,000, which reduction shall apply specifically to the limitation on rental of space under clause (4) of such provisions."

The managers on the part of the Senate will move to concur with the amendment of the House to the amendment of the Senate.

Amendment No. 341: Section 305: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the section number named in said amendment, insert "305".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This provision deals with the completion of government audits.

Amendment No. 342: Section 306: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the section number named in said amendment, insert "306".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This provision deals with the collection of overdue debts owed to the United States.

Amendment No. 343: Section 307: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the section number named in said amendment, insert "307".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This provision deals with the compilation of certain data regarding consulting services.

Amendment No. 344: Deletes language proposed by the Senate. The conferees are agreed that this amendment expresses the sense of the Senate that any future legislation to restrict the use of tax-exempt State and local bonds issued to provide mortgages for housing would be effective only after January 1, 1981. The conferees on the part of the Senate emphasize that their conference action on this matter does not diminish the resolve of the Senate as expressed by Amendment No. 344.

CONFERENCE TOTAL—WITH COMPARISONS

The total net new budget (obligational) authority recommended by the Committee of Conference, with comparisons to the budget estimates, and the House and Senate bills follow:

Budget estimates of new (obligational) authority[1]	$20,703,945,971
House bill	16,095,014,363
Senate bill	23,614,833,253
Conference agreement	[2] 16,583,077,772
Conference agreement compared with:	
Budget estimates of new (obligational) authority	−4,120,868,109
House bill	+488,063,409
Senate bill	−7,031,755,481

[1] Includes $3,491,025,554 of budget estimates not considered by the House. Excludes $9,494,109,404 of budget estimates considered by the Senate for the Foreign Operations items.

[2] Excludes amounts for Foreign Operations items which are in true disagreement. Includes $511,600,000 in advance appropriations for fiscal year 1981.

Jamie L. Whitten,
Edward P. Boland,
William H. Natcher,
Tom Steed,
Neal Smith,
Joseph P. Addabbo,
Clarence D. Long,
Sidney R. Yates
(except amendment No. 228),
Gunn McKay,
Tom Bevill,
Robert Duncan
(except amendments Nos. 228 and 339),
Adam Benjamin, Jr.
(except amendments Nos. 228 and 339),
Julian C. Dixon,
Silvio O. Conte,
Joseph M. McDade
(except amendment No. 118),
Mark Andrews,
Jack Edwards,
Robert C. McEwen,
Managers on the Part of the House.

Warren G. Magnuson,
John C. Stennis,
Robert C. Byrd,
Daniel K. Inouye
(except amendment No. 95),
Birch Bayh,
Tom F. Eagleton,
Lawton Chiles
(except amendment No. 95),
J. Bennett Johnston,
Walter D. Huddleston,
Pat J. Leahy,
Jim Sasser,
Milton R. Young,
Mark O. Hatfield,
Ted Stevens,
Charles McC. Mathias, Jr.,
Richard S. Schweiker,
Lowell P. Weicker, Jr.,
Harrison Jack Schmitt,
Managers on the Part of the Senate.

Mr. WHITTEN. Mr. Speaker, pursuant to the order of the House on yesterday, I call up the conference report on the bill (H.R. 7542) making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. BAUMAN. Mr. Speaker, reserving the right to object to the request that the statement of the managers be read in lieu of the report, it is not the present intention, I would say to the gentlemen who might be hissing back there——

Mr. WHITTEN. Mr. Speaker, I am sorry, but I did not understand the gentleman.

The SPEAKER. The Chair desires to make a statement.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will state that it is the wish of the Chair that the House would be in order and that a quorum would remain on the floor if possible. When the House completes this bill, it goes to the Senate. After the Senate has completed it, at that time they will send a motion to adjourn for the period of time that has been announced earlier in the year.

So if we can expedite this legislation, the better it is for all of us. I appreciate the fact that many of the Members have train and airplane reservations, but they will only be able to meet those reservations if they cooperate with the Chair.

The Chair recognizes the gentleman from Maryland (Mr. Bauman).

Mr. BAUMAN. I thank the Chair, and reserving the right to object, let me say that the Speaker has created the proper and appropriate atmosphere for the consideration of my question.

The request is that the statement of the managers be read in lieu of the report, and I assume that will be followed by a request that the statement of the managers be considered as read.

At the staff level it has so far been impossible for Members to receive copies of various amendments, particularly amendment No. 95, which I understand is to be presented to try to resolve the issue of foreign aid.

☐ 1410

If we cannot receive copies of the amendments to be offered later on, it would be my intention to object to these requests so that we will know what it is we are going to be legislating on.

The gentleman from Maryland does have copies of the conference report and the statement. But so far, we have not received, in response to a specific request, what the gentleman from Maryland (Mr. Long), I understand, is going to offer.

Mr. WHITTEN. Let me say that, of course, I have no control over the gentleman's actions. I will say that we were up until 2:30 this morning trying to get this report together. I believe there were 344 amendments. We went into session at 2:30 in the afternoon and ended at 2:30 this morning without interruption. We have spent the morning getting ready, trying to get all of these documents in print, including the conference report. The position of the committee will be to further insist on amendment No. 95. I have no control over who might offer other amendments. I dare say that they will be readily made available by the gentleman from Maryland (Mr. Long) or whoever else has an amendment in mind. But our motion to further insist, of course, is available and is not complicated, as the gentleman knows.

Mr. BAUMAN. Further reserving the right to object, is it possible to receive a copy of the amendment that will be offered regarding amendment No. 95 which is in true disagreement?

Mr. WHITTEN. I am advised that it is being printed at this time and it will be available shortly.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. Further reserving the right to object, I yield to the gentleman from Massachusetts.

Mr. CONTE. We can all expedite this bill and go along with what the Speaker said if we all cooperate, and I hope the gentleman from Maryland (Mr. Long), within the next 10 minutes, gets the amendment over to the gentleman from Maryland (Mr. Bauman) so that we can consider a lot of these en bloc.

Mr. LONG of Maryland. Exactly. We shall be glad to deliver the figures, perhaps not the entire text of the amendment, but the figures, to the gentleman from Maryland right now, within 10 seconds.

Mr. CONTE. I am sure he has seen the figures already.

Mr. LONG of Maryland. We can have the amendment as finally offered completed within 10 minutes.

Mr. CONTE. Fine. That is great.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, I appreciate that assurance. I have no objection at this point, but I would point out that there are 117 amendments in disagreement, each of which could be subjected to a rollcall and debate. There is no intention to delay, but I do think the Members should have access to what is going to happen in written form.

Mr. Speaker, I withdraw my reservation of objection at this point.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The Clerk read the statement.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER. The gentleman from Mississippi (Mr. Whitten) will be recognized for 30 minutes, and the gentleman from Massachusetts (Mr. Conte) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. Whitten).

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the bill, H.R. 7542, and that I may include tabular matter.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, I think this represents about as difficult and complex an assignment as I have had personally or our Appropriations Committee has had in the years that I have served in the House.

There are a number of issues I will discuss with my colleagues but first I want to compliment all of the House conferees as well as the Senate on a job well done. Yesterday the conferees were in continuous session from 2:30 in the afternoon until 2:30 this morning. There were 19 House conferees and 24 Senate conferees. I think throughout the period, except for very brief periods, all members were in attendance. I call this to the attention of my colleagues because this devotion represents not only the tenacity of a marathon, but for the first time it also requires us to deal with a budget ceiling which carries with it the necessity to deal with two different types of budget requests; namely, rescissions and deferrals. In addition to that we have the budget targets which were recently put in place to provide additional budgetary room for the remainder of this fiscal year.

The circumstances which we faced in conference are further complicated by the new budget procedures which the committee is trying to live with. I would like to review with my colleagues some of the critical events that affected this supplemental appropriations and rescission bill.

On January 28, the President submitted his 1981 budget and his request for 1980 supplementals.

On April 16, a rescission and deferral message was submitted to the Congress by the President.

Unfortunately the 45-day period for rescissions expired on June 4, which had the effect of releasing $1 billion in funds which this committee had recommended be rescinded. Unfortunately this costly situation developed because of the delay in adopting the first budget resolution for fiscal year 1981 and the third budget resolution for fiscal year 1980. Although this resolution was reported in the House March 26 it passed the House on May 7.

The conference report on the budget resolution was finally adopted on June 12. During ths delay the Appropriations Committee acted on at least 5 or 6 different bills that had been reported by the 13 subcommittees of the Committee on Appropriations. Notwithstanding the problems involved, each of the subcommittees did labor at their job, and did exert many, many hours of difficult work in connection with committee work. I am not trying to impress the Members with that, but I want to say that my colleagues in the House and the Senate were able to deal with 344 amendments last night. Except for one area, we reached a conclusion on each and every issue. I must admit while I personally oppose some of the specific provisions of the agreement, such as the addition of $1.5 billion to the Chrysler Corp., but we tried to reach agreements that were acceptable by the conferees on both sides.

Mr. Speaker, today we bring to the Members a bill which includes funding of $16.6 billion in supplemental appropriations. I would like to explain to the Congress why the Committee on Appropriations proposed a supplemental of that size at this time. The budget situation was caused primarily because of inflation which tripled the interest costs that we were paying on the national debt, the great increase in the cost of fuel for our military, and other inflationary items of that type which were beyond the committee's control.

I think we should also call attention to the difficult situation we have with backdoor and entitlement spending that are beyond the control of the Committee on Appropriations. For those budget accounts that the committee is responsible for, I would like to point out that we have been below the budget, 36 out of the past 37 years.

The Budget Committee, with which we join in achieving restraint in the Congress was largely set up to control this backdoor spending problem which committed the Government and forced us to pick up the tab.

A study showed that while we stopped backdoor contracting, the acceleration of expenditures, by reason of inflation and entitlements, replaced it as the major problem.

Notwithstanding the fact that the budget ceilings were late, the committee put together a supplemental bill of $16.6 billion. The conference report which we bring to the Members is $4.1 billion under the budget. The amount over the House bill is $488 million, but it is $7 billion below the Senate figure.

□ 1420

A comparison with the budget ceilings which are controlling under existing conditions, this bill is $576 million under the budget authority set forth in the budget resolution and $175 million below the ceiling set on outlays.

This conference report is interesting in other ways; it contains over 600 budget accounts, it originally reflected 344 amendments to the House position. The number of items in technical disagreement is 117.

All this information will be made available to the Members, but in order that the Members may take some degree of comfort in this, may I repeat again, with the exception of amendment 95, where there is a true difference and where the committee will insist on the House position all other problems were disposed of. I understand our colleague on the committee, the gentleman from Maryland (Mr. Long), intends to offer a substitute amendment different from the position of the committee, and except for that, I think that all members of the conference of which there were 19 on the House side, have accepted the agreement as being the best we could do with a tough proposition.

We have spent the morning getting this ready and other information will be available. Under leave to revise and extend my remarks, I will go into more detail, but in view of the time element here, that is all I have at the present time.

Mr. GIAIMO. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Connecticut.

Mr. GIAIMO. Mr. Speaker, I want to commend the gentleman for doing a real great job in bringing in this supplemental and as I understand, bringing it in under budget which the House and Senate adopted last month. As I understand further, the gentleman made mention of the fact that there is $576 million in budget authority remaining, and $175 million in outlays.

I further understand, however, that there is one item in disagreement on the foreign aid bill and when the gentleman offers his amendment, or I guess it will be the gentleman from Maryland——

Mr. WHITTEN. We expect to insist on the House position as far as the committee is concerned.

Mr. GIAIMO. The gentleman intends to insist on the House position?

Mr. WHITTEN. Yes.

Mr. GIAIMO. That will consume part of this, but we will still be under budget as far as I understand.

Mr. WHITTEN. Yes. May I compliment my friend, the gentleman from Connecticut. He and his colleagues have done a great job. I have voted with the gentleman and support the budget process. Our job was made more difficult by reason of the budget resolution delay, but I think we all have to stand together. I believe however, on the other hand, that we in Congress are going to have to do something to stimulate legislative action, but it takes discipline to hold down spending and simultaneously speed up production.

It is a pleasure to work with my colleague, the gentleman from Connecticut.

Mr. GIAIMO. If the gentleman will yield further, I again agree with what the gentleman is saying. I think the Committee on Appropriations is to be commended. It is never easy to save the tax payers money. That is what the gentleman has been trying to do, and he did it last night.

Mr. WHITTEN. I thank the gentleman for his comments.

That is all I have at the present time. Mr. Speaker.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am very pleased and I would say exhausted, like everyone else on the committee who joins the gentleman from Mississippi (Mr. Whitten) in bringing to the House this conference report.

I want to take this opportunity now to join the chairman in complimenting the members. I wish that more of the press had been there. I did not see any of them, but had they been there—the attendance was just magnificent for those 12 solid hours, especially on our side.

The men worked diligently, hard, and responsibly.

I want to take this opportunity to congratulate the staff. The staff, I do not know how they did it. There were 344 amendments, people talking, people moving around, and their keeping track of what was happening was just remarkable; and then they worked until 5 o'clock in the morning after we left at a quarter of 3 or 2:30. They worked until 5. They got a couple of hours sleep, came back and got this report ready for the Members of the House. They certainly deserve a great deal of credit for their dedicated service to their House of Representatives and to the country.

As my colleagues are aware, just getting to the point of hammering out a conference agreement on this supplemental has been a challenge of titanic proportions—and potentially titanic disaster as well. To be sure, in the early hours of this morning the conferees did bump into a few threatening icebergs, but we navigated a steady course. We stayed afloat, and here we are with an agreement that warrants the support of this House.

Through determined perseverance and 12 hours in conference, we have managed to resolve nearly all of the differences between the House and Senate positions. Out of a total of 344 Senate amendments, only one, only one, remain in true disagreement in this conference report.

I should add that there are 116 items in technical disagreement on which motions will be offered here today.

Mr. Speaker, the conference agreement in this supplemental bill has a net total, as the chairman said, of $16.6 billion in new budget authority, including $19.9 billion in appropriations, and $3.3 billion in rescissions.

These totals indicate that this conference report is $4.1 billion below the President's budget estimate, and nearly $7 billion below the Senate bill.

Even more critical is the relationship to the budget ceiling which originally delayed action on this supplemental for so long a period of time. This conference agreement is $576 million under the budget ceiling in terms of budget authority, and $175 million under the ceiling in outlays. These figures do not include any funds for the foreign operations chapter which is in true disagreement.

I might say to my good friend, the gentleman from Connecticut (Mr. GIAIMO), who came to the Congress with me and I have enjoyed being with so much, who has done such a marvelous job for his people in Connecticut, that I have a confession to make. I think I was about to take the floor of the House here and say that I was ready and willing to repeal the Committee on the Budget and everything attached to it a few weeks ago. I really was. But last night made me a believer in the budget system.

We, for the first time, and I have been on the committee 22 years, for the first time showed discipline in that conference. We knew that we were meeting a limit and we could not go above that limit. Therefore, we worked within that framework. It was not easy. Everybody has some concern for a special project. Everybody's project and everybody's authorizing committee thinks it is the most important project in the world, and it should not be touched. Do not touch it, because if you touch it the end of the world is going to come. They all go home. They all beat their breasts. They all try to tell their people and they do tell their people. They tell their people they are against inflation. They want to balance the budget, but yet touch their item in their budget, especially with those prima donnas whom we have to work with over there, that when they carve out something, they carve it out in marble, and you do not dare, you House Members, come over here and infringe upon "our" jurisdiction. But we did it. We did it last night.

Our chairman deserves a lot of credit and every Member deserves a lot of credit.

Mr. GIAIMO. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Connecticut.

Mr. GIAIMO. I want to thank my good friend and colleague from Massachusetts for what he had said. I know what he and the members of the conference did in the conference last night, and I think it is wonderful. I hope the American people realize, how both the House and Senate worked out their differences in the supplemental appropriations conference on 300 different items of disagreement. After they did that, they realized that by increasing appropriations here and there, they were too high. Then they sat down, and in effect had a reconciliation action in the conference where they reduced items and brought the supplemental appropriation to within budgetary ceiling.

I submit that what the Appropriations Committee did here last night was to demonstrate that Congress can exercise discipline and save money. I think it was demonstrated last night. We are grateful to them.

Mr. CONTE. Thank you very much. I concur.

Let me tell the Members some of the things we did. We put in $1,200,000,000 in the emergency areas, in SBA disaster loans. In the Labor-HEW chapter, on which the gentleman from Kentucky (Mr. NATCHER) did such a magnificent job and hung in there every minute. The conferees included a House figure of $1,498,000,000 for the Trade Adjustment Assistance, which a lot of the Members here are interested in, and $468 million for social and child welfare services. Under the HUD bill, the conference agreement provided $870 million for disaster relief as proposed by the Senate. This amount included $245 million requested by the administration for Cuban refugee assistance, which was not considered by the House.

□ 1430

The conference agreement also provides for the rescission of $143 million in revenue sharing payments to the States as proposed by the Senate. The $143 million reduction will be applied against the third quarter payment and represents a reduction of approximately one-fourth of the amount the States would normally receive in the third quarter.

Under the Department of Interior and related agencies, a significant conference agreement was reached on a funding of the new Energy Security Corporation created by Senate bill 932. The agreement is a compromise between the Senate's desire to turn over immediately to the Corporation, and without further congressional oversight, the funds appropriated into the Energy Security Reserve created last year by Public Law 96–126 and the House's determination at the progress which is being made in soliciting private sector proposals for the development and commercialization of alternate fuels should not be brought to standstill while the Corporation is gearing up.

A lion's share of the credit should go to the chairman of the Interior Committee, the gentleman from Illinois, Mr. SID YATES, and to the gentleman from Utah (Mr. MCKAY), the gentleman from Pennsylvania (Mr. MCDADE) on our side who just did a magnificent job and stood up there for the House version on this particular issue.

On another matter of widespread interest, the conference agreement provides for the continuation of the urban parks program with $25 million to be made immediately available for a second round of awards in fiscal year 1980 and $45 million deferred for spending until fiscal year 1981.

Under Public Law 480, we had a big debate here in the House, the Food for Peace program; the conferees agreed on the House figure of $143 million. You recall in the Fithian amendment, we put in $43 million more for Public Law 480. The Senate knocked it all out and the gentleman from Massachusetts (Mr. BOLAND) and myself and others fought very hard in that conference and we got the $43 million restored.

I should mention also the Senior Executive Service. In an effort to meet the increasing objections about the functioning of this bonus system, the conferees did not go along with the cap, because after closer consideration it was realized that the cap would not accomplish what we thought at the end. Instead, the conferees agreed to limit the number of bonuses that could be awarded in any one year to 25 percent of the number of senior executives, and will keep a jaundiced eye on this new program. If it goes and runs afoul, I know that the gentleman from Indiana, ADAM BENJAMIN, will be on the floor of this House offering amendments, and let this be a warning that they had better clean their house up.

In the defense portion of the bill, we were faced with the problem of exceeding the budget resolution figure unless we reduced that portion by about $150 million. The Senate had imposed a general reduction, but this was not acceptable to the House conferees because it would have given the Secretary of Defense full authority to allocate the reduction, quite possibly against some critical programs.

We agreed to reduce the bill by specific cuts in areas we felt were less critical than others. For example, the Senate had included funds for implementation of the Nunn-Warner pay raise bill, but that is not yet law and the funds would have gone unused.

We reverted to the House figure in funding inflation in the operation and maintenance account. We had to agree to cancel procurement of two passenger/cargo aircraft, the C-9B, for the Navy Reserve.

We did no violence to the House version of the chapter, and impacted as little as possible on the services, and certainly the gentleman from New York (Mr. ADDABBO), and the gentleman from Alabama (Mr. EDWARDS) deserve the lion's share of credit in this particular area.

As presently calculated, this conference report leaves only about $576 million in budget authority, $170 million in outlays remaining in the third budget resolution for fiscal year 1980.

Inclusion of the entire fiscal year 1980 foreign aid conference report in this supplemental bill, as the Senate had proposed and as I would have supported, simply is not possible under these numbers. That conference report will require $1,082 million in budget authority, $282 million in outlays, so we are some $506 million short in budget authority and $107 million short in outlays for the amount needed if we are to fully fund the 1980 foreign bill.

So, with regret, I will support the motion of the gentleman from Maryland (Mr. LONG) to fund several of the most critical foreign assistance programs when that motion is offered following the agreement on the conference report.

In conclusion, Mr. Speaker, let me reiterate, this is a remarkably fine conference, particularly when you consider the tremendous complexities of this critical measure. We are under the budget estimates of the President. We are under the budget ceiling and we are under the Senate proposed bill.

I hope we adopt it. I hope we adopt the Long amendment, so we can all go home and enjoy the Fourth of July with our families.

The SPEAKER pro tempore (Mr. SIMON). Does the gentleman from Mississippi have any further requests for time?

Mr. WHITTEN. Mr. Speaker, I have no requests for time at this moment.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Speaker, I just want to take this time to commend the gentleman from Massachusetts and the gentleman from Oregon (Mr. DUNCAN) for removing what was a grievous inequity in the distribution of highway funds as it came down from the administration. Their compassion for the small States in particular and especially the New England States is certainly something that should be commended.

The gentleman from Massachusetts has assumed a most difficult task this year as ranking Republican on the Appropriations Committee. This is a particularly difficult year with our strong desire to balance the budget. Further difficulties are presented when decisions or deferrals are to be dealt with within the limitations of an appropriations bill. Many times this especially hurts the small States due to the peculiar nature of authorizing statutes. It is so reassuring and rewarding to know that we have a man in Mr. CONTE who understands these difficulties and is willing to look out for our interests and sometimes do battle with the big States with no personal gain.

I likewise want to commend the gentleman from Oregon (Mr. DUNCAN) who on this particular instance had nothing to gain and he, too, was willing to go to bat for the smaller States. I might add a personal observation on how sad I am with respect to his defeat in his primary election. The House is going to miss a dedicated man who unfortunately perhaps, due to the overdedication to the job, was unable to retain his seat.

On June 18, when this bill was being considered by the House, I engaged in a colloquy with the gentleman from Oregon (Mr. DUNCAN) wherein I pointed out the severe inequities caused by the way in which the administration chose to implement its cutback in funds from the Federal-aid highways account. At that time, Mr. DUNCAN also agreed to work with me to effect improvements in the method of distribution of money from the account. He was joined in that effort by the outstanding efforts of Mr. CONTE. I believe we have achieved that in the conference.

Let me recap the problem. Under the administration's deferral, on an average, States could have expected to receive roughly 86 percent of their original fiscal year 1980 formula apportionments had a pro rata distribution been made. However, because funds were distributed on a first-come-first-served basis, some States received, under the deferral, well over 100 percent of their funds while others received less than 50 percent of their expected funds. By way of example, Maryland got more than 200 percent, Rhode Island less than 40 percent. The fact that certain States bore a disproportionate share of the cutback is set forth below.

So gross was the inequity that nine States, including my own, Vermont, filed suit against the Government over the deferral. The courts thus far have recognized the egregious unfairness of the impacted by the cutback.

While the House and Senate versions of this bill modified the administration formula for the distribution of the unobligated balance of funds from the account, they did little to redress its fundamental inequity. For example, both versions placed a cap on the amount of funds any one State could receive, stipulating that, after enactment of the legislation, no State could receive funds in excess of its percentage share of the total funds available for fiscal year 1980. However, some 19 States had already surpassed this limitation.

Although the formula for the distribution of funds remains essentially intact in the conference report, and we would have liked it revised, we have arrived at an important compromise and improvement. The statement of managers provides that those States who, under the bill, are furthest below their apportioned percentages under the basic statute will have first shot at money returned to the trust fund by States which are unable to expend their shares.

To be more specific, the statement reads as follows: "In making this redistribution the conferees direct that particular attention be given to those States which are substantially below their apportioned percentages."

So that Members have a better idea of the inequity I have been talking about, I will now list each of the 50 States and its share under H.R. 7542, as a percentage of its original fiscal year 1980 formula apportionment. Except for the deferral, each State could have received 100 percent. Some percentages as listed are above 100 percent because States which have not used up their allowances from previous years can obligate more money than is apportioned to them for any one fiscal year by also obligating those funds from previous years. These percentages were derived from figures furnished by DOT and the committee. They were calculated using the $7.9 billion obligations limit, not the conference amount of $7.8 billion.

Incidentally, under the Senate version of the bill and the administration plan, the average State share of its original apportionment is 86 percent. Under the House version, the average State share is 89 percent.

State	H.R. 7542 (House version)
Alabama	97
Alaska	79
Arizona	97
Arkansas	86
California	82
Colorado	97
Connecticut	53
Delaware	80
Florida	150
Georgia	114
Hawaii	63
Idaho	62
Illinois	102
Indiana	92
Iowa	97
Kansas	115
Kentucky	115
Louisiana	73
Maine	79
Maryland	212
Massachusetts	75
Michigan	90
Minnesota	81
Mississippi	63
Missouri	101
Montana	108
Nevada	79
New Hampshire	80
New Jersey	61
New Mexico	52
New York	97
North Carolina	97
North Dakota	97
Ohio	77
Oklahoma	112
Oregon	91
Pennsylvania	97
Rhode Island	49
South Carolina	68
South Dakota	93
Tennessee	97
Texas	118

State	H.R. 7542 (House version)
Utah	100
Vermont	57
Virginia	76
Washington	97
West Virginia	187
Wisconsin	97
Wyoming	90

The above includes fiscal year 1981 Interstate moneys, fiscal year 1980 primary, secondary and urban system funds, and safety construction funds. Together, these funds are known as the "Federal-Aid Highways Account."

I understand that, because of the great uncertainty caused by the deferral and the subsequent court cases, as much as $300 million may be unobligated by States and available for redistribution on August 15. As a result of the conference report language which I drafted in conjunction with Mr. Conte and Mr. Duncan, it is the expectation that the eight States which under the bill's formula which were hardest hit and received less than 65 percent of their original fiscal year 1980 apportionments should be given preference in the redistribution process. These eight are: Connecticut, Rhode Island, Vermont, New Jersey, Mississippi, Idaho, Hawaii and New Mexico. Once these States are brought up to the 65 percent level, in other words, once the valleys have been filled in, and this should require roughly $65 million, then the balance of funds for redistribution will go to those States below their apportioned percentages, again according to which ones were most adversely impacted by the cutback.

So I think we were able to perfect this section of the bill in conference, and, once again, I want to thank my colleagues, the distinguished chairman of the Appropriations Transportation Subcommittee and the distinguished ranking minority member of the committee, for helping me implement this change which will restore some equity to the cutback.

I must say, however, I was surprised to find language in the managers' report purporting to create legislative history mooting the court suits. There was no mention in the legislation, the committee reports or on the House floor of this intention. It was certainly not my intention. Rather, it is my hope that the recommendation to the administration which we have included in the managers' report directing that funds returned unexpended to the fund be redistributed to those States which are substantially below their original apportioned percentages, under the basic statute, would make it possible for those cases to be amicably dropped.

Finally, I would like to point out that I think there remains a good deal of room for improvement in the way the highway trust fund is administered, and I am hopeful that, next year, the Public Works and Transportation Committee can work to see that the fund is brought under control, to see that it is not run in such a way that certain small States, including some in the Northeast, are disadvantaged and have to struggle to get their fair shares of funds from the Federal-aid highways account. I do not feel that the ability to spend funds quickly should supplant demonstrated need as the primary determinant in the distribution of aid from the account, under a deferral or otherwise.

I also want to commend the gentleman from Kentucky and the gentleman from Illinois for their help in restoring funds which would have wiped out totally certain programs in small States in our educational area. I appreciate very much their efforts and I want to thank them.

Additionally, although I am committed to a balanced budget, I could not support a rescission that would have eliminated an education program in 6 States and the District of Columbia, and cut into more than 50 percent of this same program in 11 other States.

The case in point was the President's proposed rescission in ESEA titles IV–C and V–B programs, which the House supported in H.R. 7542. A portion of these funds was a hold-harmless provision which was designed to protect small States against the elimination of these programs. Without the funds for this hold-harmless provision, small and rural States were disproportionately affected by this cut. Title IV–C programs in Vermont, Alaska, North Dakota, South Dakota, Wyoming, Delaware, and the District of Columbia would have been totally eliminated. Similar programs in Hawaii, Idaho, Maine, Montana, and New Hampshire would have lost more than two-thirds of their funding.

Title IV–C programs offer discretion and flexibility to the local district's particular need. It is the only Federal program which distributes money to projects which have been judged to be exemplary at the local level. According to a Rand report, these programs have served the important function of reducing the professional isolation that limits teaching skills and incentives to growth, particularly in rural areas—the very areas in which the programs would have been eliminated.

Along with 10 other Members of the House, I wrote to Mr. Natcher requesting that the House recede to the Senate regarding its decision to restore the $55 million rescission. On June 17, I engaged in a colloquy on the House floor with Mr. Natcher and Mr. Michel, at which time they both stated that every consideration would be given to our request during conference. I am extremely pleased that the House conferees recognized the disproportionate burden small States would have had to shoulder under this proposed rescission.

I want to thank the chairman, Mr. Natcher, and the ranking Republican member, Mr. Michel, for receding to the Senate position and fully funding these programs.

I also want to commend Mr. Boland and Mr. Conte once again for their part in the decision to recede to the Senate position concerning funds for the section 107 technical assistance program operated by the Department of Housing and Urban Development.

The House bill rescinded $10 million from the HUD section 107 technical assistance program; the Senate did not rescind any amount from this program. The House action particularly concerned me because section 107 funds represent a very effective use of Federal community development money. A $10 million reduction in a $16 million program would have required inordinately severe cutbacks in these services.

Section 107 technical assistance activities are designed to assist communities in applying for and administering community-development and urban development funds. At a time when appropriations are being held level for the major Federal programs in this area, the community development block grant and the urban development action grant programs, it is all the more important to help insure effective program administration at the local level. Particularly in rural States, communities lack the resources needed to make the best use of these programs.

Mr. CONTE. Mr. Speaker, I yield 5 minutes to my good friend, the gentleman from Illinois (Mr. Michel).

Mr. MICHEL. Mr. Speaker, this may be a good conference report from the standpoint of the time it took to produce it, but it is not particularly the best in terms of results.

More often than not, the conferees took the expeditious way out by simply agreeing to the higher dollar figure. This is indicated by the fact that the report in total is nearly $500 million over the House version, and, when the foreign aid conference report is excluded, nearly a billion dollars above the Senate.

In the Labor-HEW chapter, we ended up at about $15 million above the House and $580 million above the Senate. If you add all the refugee money, that puts us $115 million above the House. Personally I would have preferred that we come out somewhere in between the House and Senate passed bills and not at a level in excess of both. One of the problems is that we tend to spend too much time haggling over $150,000 earmarks while we give away the store in the hundred million dollar items without hardly batting an eye.

In mentioning some of the specific items in the Labor-HEW area, we retained the $400 million for trade adjustment benefits in 1981.

We provided only a $10 million rescission for medical and dental capitation grants. The President requested an $81 million rescission and the Senate approved $40 million.

We provided another phony $30 million cut in medicaid payments, in the midst of a severe recession when such payments always increase.

We retained the $75 million cap contained in the regular 1980 appropriation for State and local training under title 20.

We rescinded $100 million in Education title I concentration grants, here again leaning toward the higher dollar figure between the two versions.

We rejected the House rescission of $55

million for education support and innovation projects.

We rejected the House rescission of $24.8 million in the program improvement area of vocational education.

We rejected all but $14.7 million of the Senate rescission for the Follow Through program.

All told, in this chapter, we ended up rejecting nearly $400 million of the $1.2 billion in deferrals and rescissions proposed by the administration.

As one final item, I should point out that we resolved the issue of bonus payments for senior executive service personnel by lifting the cap on payments and substituting instead a proviso which I offered limiting bonus payments to just 25 percent of the eligible personnel.

This compromise will enable us to go forward with this program and properly test the incentive feature, but at the same time protect against some agencies simply using the bonus as a straight pay increase rather than as a reward for outstanding performance. When 50 percent of the personnel are eligible for bonus payments, as they are under current law, there is always a danger that some agencies will use such payments in a backscratching manner. By limiting such payments to 25 percent of an agency's senior executive service, we will be better insuring that only the best are rewarded.

□ 1440

Mr. WHITTEN. Mr. Speaker, I yield myself 5 minutes.

May I say to my friend from Illinois (Mr. MICHEL), a very able and fine Member of the Congress, it has been my pleasure while I have been here to work with him and other members of the committee, but I would point out that he might be better to say that the House conferees did not reject the item, rather he might have said the other body insisted. After all, I believe there were 24 Senators representing the other side on this matter and 19 House Members. Still we came out with a good bill, rescissions of $3.3 billion, the bill is under the budget by $4.1 billion, it is $7 billion under the Senate bill, and $576 million under the budget authority ceiling, and $175 million under the budget outlay ceiling. I think my friend could well see the bright side of this matter as well as the dark side and use some other term than the word "rejected." I just mention that when we get together with 344 items in a continuous 12-hour session, I think we carried a pretty good record and the gentleman participated in that effort, contributed to it, and I thank him for his effort.

I would also take this time, Mr. Speaker, to point out that during this conference committee we had the chairmen of the 13 subcommittees on the Appropriations Committee. We had the gentleman from Massachusetts (Mr. CONTE) on the Republican side, who has been very cooperative not only on this bill but on other issues. On our side we had the gentleman from Massachusetts (Mr. BOLAND), the ranking member of the committee; my friend, the gentleman from Kentucky, BILL NATCHER; TOM STEED, of Oklahoma; NEAL SMITH, of Iowa; JOE ADDABBO; DR. LONG; SIDNEY YATES; GUNN MCKAY; TOM BEVILL; ROBERT DUNCAN; ADAM BENJAMIN; JULIAN DIXON; as well as JOE MCDADE, MARK ANDREWS, JACK EDWARDS, and ROBERT MCEWEN.

I would say that as strong Members of Congress as all of them are, and fine Members, for that many people to agree on what we have here is quite something. When you read the list of the Senate members of the conference, there were 24.

I think while no one had their way on all of these matter that it speaks well for our legislative process to have various competing interests, and I might say, the competing interests of the various subcommittees on appropriations. Mr. Chairman, I think we did a great job of looking after the whole country in those areas where we put production and protection of our country ahead of a whole lot of less important things.

I want to say I do not believe any chairman of any committee ever had better support or more cooperation than we had in this instance. I would just like the record to show that.

At this time, Mr. Speaker, I yield such time as he may consume to my colleague from Illinois, chairman of the Subcommittee on Interior of the Appropriations Committee, who has rendered such great service not only on the matters before him, but all matters that come before the Committee on Appropriations (Mr. YATES).

Mr. YATES. Mr. Speaker, I thank the gentleman very much for his kind words. I want to express my admiration for my colleagues on the House side, particularly for the wonderful work they did last night. It was a tremendous task that faced them and they handled it beautifully.

I want to say to the House that last week we passed the bill establishing the Synthetic Fuels Corporation. Through the conference last night we carried out and furthered the initiative that was undertaken by this committee last year in financing the alternative fuels program for the country by establishing a schedule for funding the energy bill that was passed last week.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, will the distinguished chairman yield for a question?

Mr. YATES. I am glad to yield to my friend from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I would like to pose a technical question to the chairman of the subcommittee.

Do I understand the language of the amendment No. 131, correctly that the phrase "according to the provisions of the Defense Production Act of 1950, as amended," refers both to the (a) clause and the (b) clause of the amendment language?

Mr. YATES. Yes; the gentleman is correct. The reference to the Defense Production Act is intended to refer both to the purchase commitments or price guarantees in the (a) clause, and also to the loan guarantee reserve in the (b) clause.

● Mr. McDADE. Mr. Speaker, I rise in support of the conference report to the bill, H.R. 7542, the supplemental appropriations bill. I especially want to commend to the attention of the Members the actions of the conferees in title 7, the section of the bill regarding alternate fuels.

Last week, we indicated that the administration was preparing a loaded gun to fire at the Members of this House asking us to accept a $20 billion transfer of the alternative fuels program from the Department of Energy to the Treasury Department where it would be held in an administrative escrow waiting for the Energy Security Corporation to come to life. The effect of this action would have been to gut the recently established program underway at DOE, a program written and funded last year in the Interior appropriations bill of 1980, Public Law 96-126. The effect on the Nation could be yet another catastrophic delay, 1 year—perhaps 2 years, in implementing it.

Your conferees believed this would be a major setback for the national effort to create a domestic synthetic fuels industry, an industry that must, of necessity, lead us away from the narcotic-like dependence upon OPEC oil. And so we refused to terminate the law under which we mandated—not authorized—mandated DOE to get moving on an alternate fuels program. Today I can tell you that this Nation's alternate fuels effort will go forward on the fast track. At the same time we have given the new Energy Security Corporation the funds it needs to begin preparations for eventual operation.

You will recall that the Senate version of H.R. 7542 provided $18.8 billion to carry out the provisions of titles I and II of the Energy Security Act signed on Monday. All of this money was to be transferred from funds established in last year's Interior appropriations bill known as Public Law 96-126. Of that money, $1.27 billion would be earmarked especially for the biomass and alcohol fuels programs authorized by S. 932. The House bill had no such provisions. Instead, we had proposed to continue to expand and strengthen the interim program in the bill which our Subcommittee on Interior had reported for fiscal year 1981. In that bill, it was our intention to provide $3 billion for defense production activity in the DOE, and not in the Treasury as provided by the Senate. That bill also provided $100 million for feasibility studies, $900 million for cooperative agreements, and $10 million for administration to start up the Energy Security Corporation.

So despite agreement for quick action, there was an essential difference in approach by both bodies developed over where to put the funds, what to do with DOE's interim mandate, and how best to keep our Nation's commitments on the fast track. To that end, your conferees hammered out an agreement that I believe will make this bill one of the Nation's major energy bills of all time. We have provided the new Energy Security Corporation with all the funds, all the authority, and all the language necessary to protect and grandfather the program into a workable, coordinated, effort at synthetic fuels production. And, equally important, we keep the viable and vigorous interim program our committee wrote last year.

The conference report provides $3 billion immediately for interim defense production activity in the Department of Energy. This interim authority along with funds provided in Public Law 96-126 under the Federal Non-Nuclear Research and Development Act allows for a large scale aggressive program. It protects and stimulates the positive action that has been going on in DOE since enactment of Public Law 96-126, the 1980 Interior appropriations bill. Another $100 million is available for feasibility studies and $200 million for cooperative agreements to continue programs begun last year. And language is provided that will protect programs not funded by DOE in this funding cycle and next to be grandfathered into the Synthetic Fuels Corporation. This insures that not only the first submissions will be considered but all subsequent submissions. It sends a clear signal to the Nation's energy industry that they will not be subjected to new ground rules in the Energy Security Corporation. We also included programs for heavy oil and urban waste under the definition of alternative fuels.

The Corporation itself, once constituted, will have $6 billion available immediately for obligation and up to another $5.3 billion available for transfer on June 30 of next year with still another $6.2 billion available after June 1982. This schedule of dates is most important and was insisted upon by your conferees to enable us to undertake a significant review of the Corporation's activities without inhibiting its operations.

With the $1.3 billion made available here for title II funding for biomass and alcohol fuels we have insured that there will be no delays in going to work on meeting our liquid fuels needs along with the needs of an aggressive near term urban and municipal waste program.

Mr. Speaker, we all hope that the newly created energy security program will get underway without delay. We wish it were underway today. But that is not possible. So it was unacceptable to your conferees, and I am sure to the majority of the Members of this House, to drop all our energy eggs on the Treasury Department basket and wait for what could be a year or more hiatus when the Corporation is forming but no requests for proposals are being put on the street. As our Nation pours $100 billion per year out the door to OPEC we do not have a year to wait. We do not even have 6 months. We have a national mandate to keep the Department of Energy in the business of accepting private sector proposals to produce energy. It was absolutely critical that the House conferees hold the line last evening and keep the interim program alive. We resisted great pressures and finally came to a workable agreement. It was a tribute to the leadership of our subcommittee Chairman Yates and to the understanding and strong commitment of the gentleman from Masssachusetts, (Mr. CONTE), the gentleman from Utah (Mr. MCKAY), and the gentleman from Oregon (Mr. DUNCAN), all of whom fought especially hard to maintain our position. That the House conferees remained committed to the energy bill which the House Appropriations Committee wrote last year is a victory for all Americans and a victory for energy security.

There are 950 proposals on hand from the private sector to produce alternate sources of energy. They are there because of the initiative we took last year in the Interior and related appropriations bill. Since June 1, the Department of Energy has been prepared to put out a request for proposals for alternative sources of energy using our domestic resources. It is there because of that initiative. It will be the largest request for proposals ever. It is there because Public Law 96-126 created a vibrant energy program. Now there will be no delay or hiatus or hesitation in breaking the OPEC shackles by using our own domestic resources in the alternative fuels program.

In addition there are funds contained in this bill that will insure that this Nation's only active heavy artillery ammunition production facility will remain available if it is needed in an emergency. Without these funds, the facilities would have to be mothballed. The impact of this proposed layaway would have not only been a costly one, but would have insured that in the event of armed conflict, our troops would run out of ammunition months before ammunition production could be resumed.

The cost of placing the last active heavy ammunition facility in layaway would have cost at least $12 million and more likely $15 million. When the same facilities were reopened another $5½ million would be required. More importantly, the highly skilled specialists that manufacture and load heavy artillery ammunition would be lost to other skilled trades. What this means is that, in the event of a conflict, no heavy artillery ammunition could be manufactured for 5 months. Add to these 5 months a shipping time of 60 days, and it is clear our troops would run out of ammunition well before they could be resupplied.

By agreeing to this provision, we prevent the expenditure of at least $15 million in layaway costs; we prevent the unemployment of almost 500 employees in Louisiana and Pennsylvania and, most importantly, we prevent further erosion of the readiness of our Armed Forces.●

Mr. CONTE. Mr. Speaker, I yield 5 minutes to my good friend from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for yielding the time to me.

Mr. Speaker, I want to compliment the gentleman from Massachusetts (Mr. CONTE), the ranking minority member, and the gentleman from Mississippi (Mr. WHITTEN), chairman of the committee, and all of those members of the conference committee on the House side who stood by the House position in this conference meeting.

But because of the tactics of the other body we now have before us a conference committee report on a supplemental appropriation bill, a bill that is appropriating money supposedly for emergency needs. We have now added to that a major appropriations bill.

That is just not the way our system works. We bring to the floor every year 13 major appropriation bills. Each one of those bills has been the subject of lengthy subcommittee hearings, markup sessions, markups in the full committee, presentations to this House of Representatives, and then we go to conference with the other body.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I am happy to yield to the chairman.

Mr. WHITTEN. May I say the other body attempted to put one of the major conference bills in this emergency supplemental bill and the committee resisted that. It shall be my intention at the appropriate time to move that the House further insist.

Mr. YOUNG of Florida. I appreciate the gentleman's position, and I am getting to that point, that we do have that issue to resolve in this House. I am using this time now to discuss that.

I reiterate my compliments to the gentleman and his colleagues for having held to that position, because the other body wanted to make it a part of the conference. We now have it today before us as an amendment in true disagreement.

□ 1450

I want to tell you why I object to this process. This appropriation for the foreign aid bill for fiscal year 1980 could have been brought to the floor a long time ago. There is no reason whatsoever to take an emergency bill of this nature and add to it an appropriations bill for foreign aid for fiscal year 1980.

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I will be happy to yield to the gentleman from Maryland.

Mr. LONG of Maryland. I thank the gentleman for yielding. The gentleman may have forgotten, but this bill would have been brought to the floor, except that the gentleman objected to the unanimous-consent request to bring it to the floor. The unanimous-consent request was made necessary by the fact that the Chair tried to accommodate the gentleman from Florida who wanted to postpone the conference meeting because he had some schedule problems. So in our attempt to accommodate the gentleman, we found ourselves in a unanimous-consent situation with the gentleman repaying our courtesy by nevertheless objecting.

Mr. YOUNG of Florida. Mr. Speaker, I will respond to the gentleman by saying he is half right and he is half wrong. I did object to filing that report that day for one very specific reason, and that was because the gentleman's staff—pay attention now—had failed to show the minority the most simple courtesy that is shown to any Member on the opposite side when a unanimous-consent request is to be made. The gentleman's staff failed to notify this gentleman what that unanimous-consent request was going to be, and if the gentleman will recall, when I called that to his attention, he said he did not blame me for objecting at the time.

Let me go through the chronology of why I think this is an unneeded procedure for bringing the fiscal year 1980 foreign aid bill to the floor. First of all, we have been operating that foreign aid program under a continuing resolution, in fact three continuing resolutions, since September 28, 1979. The House passed the fiscal year 1980 foreign aid bill on September 6, 1979. It was passed by the other body on October 12, 1979. The bill went to conference between the House and the Senate on October 31 and November 1 of 1979. We basically resolved the differences with several minor objections. Those objections were overcome on the 25th of February, 1980. Since that time that conference report has been completed. It has been ready to be filed, and I do not see any reason in the world why we did not use the appropriate procedure, why we did not let that foreign aid bill come to the floor and stand or fall on its own merits. I am prepared to do that. I am willing to do that, and I was willing to do that back in October of 1979 and November of 1979 and February of 1980. But I just strongly object to this procedure. I think this House ought to object to using an emergency funding vehicle, a supplemental appropriations bill, as a vehicle to get a controversial bill passed in the House and the Senate.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. CONTE. Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I am bound to call to the attention of the House—although I want to join in the congratulations for the marathon quality of the work that went into this conference report—the fact that this is a conference report that contains something in the neighborhood of $19 billion in spending. When we take into account rescissions, it means that the bill authorizes further spending for the fiscal year 1980, which ends in a matter of about 90 days, of $16 billion to be spent. I commend the committee for coming in under budget for the moment without any amendments to be offered here.

However, I would like to direct the attention of the House to the problem that the gentleman from Florida (Mr. YOUNG) just discussed. This is supposed to be an emergency piece of legislation. It contains funding for the victims of the disaster at Mount St. Helens in the American West. It contains funding to take care of the problem of the thousands and thousands of refugees in Florida and Arkansas, the victims of floods and drought in various parts of this country. Any number of agencies of Government that need some assistance will have fallen short before the end of the fiscal year, unless this bill passes. It was the decision of the other body to engraft upon this document, this supplemental, 35 pages of legislation which constitute the 1980 foreign aid appropriations bill. Regardless of the comments just heard, this foreign aid bill has been ready for us to consider in this House since February and could have been called up at any time to be discussed. It was not called up because the managers of the bill—and I think the leadership—knew that it probably would be defeated, that the amounts in it were excessive. So what we had was an attempt by the other body, which this conference committee rightly rejected, and the gentleman from Mississippi (Mr. WHITTEN), to his full credit, has repeatedly opposed today in the debate, to engraft on this bill well in excess of another billion dollars for foreign aid spending. Do not get the idea the foreign aid program is in any trouble. We passed a continuing resolution that accepted the higher amounts of spending last fall, and spending will go right on until next October 1. God forbid that we should ever be without a foreign aid program for 10 minutes, because the world would collapse, I am sure. But this bill has been used as the vehicle to promote a foreign aid bill that could not have been sold otherwise.

The gentleman from Maryland has been characterized rightly as being opposed to some of the spending in that the $75 million for Nicaragua is contained in the motion that the gentleman from Maryland (Mr. LONG) will offer. But the gentleman from Maryland (Mr. LONG) is up against the restrictions of the Budget Act. Thank goodness he is because he would have us spend $1.5 billion more for foreign aid, but the Budget Act restricts him to add only a half billion dollars, a half billion dollars that will not go to the refugees in Florida or to the victims of Mount St. Helens, a half billion dollars that will not go to narcotics control because that is cut, a half billion dollars that will not go to the housing industry or go to solve many problems in this country. It will go to Nicaragua where a Communist government exists. It will go to the Export-Import Bank. Maybe an argument can be made for that. It will go to the World Bank, the Asian Development Bank, the African Development Bank, which we cut by $400 million only a few weeks ago in the 1981 bill.

So this bill will be more than full of foreign aid if the amendment of the gentleman from Maryland (Mr. LONG) is adopted. I do not think we should adopt the amendment that will be offered. I think we can bring this bill in at a much lesser amount, about a half billion dollars less. Understand, if you vote for the Long amendment in this conference report, you are accepting a total Federal deficit for fiscal year 1980 of $50 billion. Jimmy Carter told you only a few months ago it would be only $15 billion. You are ratifying a $50 billion deficit if you vote for this amendment of the gentleman from Maryland (Mr. LONG), more than $50 billion.

I say to you if you are interested in a balanced budget, let us reject the amendment that will be offered later on. I will tell you what I am going to do to make it easier for you. The gentleman from Maryland (Mr. LONG) wants to offer a preferential motion to recede and concur with an amendment that adds that half billion dollars. I am going to ask—and I have a right to do this as one Member—to divide the question so the issue you will be voting on is whether to recede from the House position and to agree with the billions the Senate wants. The gentleman from Mississippi (Mr. WHITTEN) says he does not want you to recede; he wants to stand by the House position and not spend this extra money. So do not increase the deficit. Do not allocate the money beyond all of these various programs that have already been acted on. Do not let us engraft a foreign aid bill onto an emergency bill, badly needed by the people of our country.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama (Mr. EDWARDS).

Mr. EDWARDS of Alabama. I thank the gentleman for yielding.

Mr. Speaker, I join in commending the conferees for the work that was done and for the hours that were devoted to bringing this bill to the floor today. We did work until about 2:30 this morning and in the process of trying to put all this together, one minor error occurred in amendment No. 241 which I would like to call to the attention of the House. The amendment as written says:

> In addition to the projects specified in the House and Senate committee reports, priority should also be given to State Route 163 in Baldwin County, Alabama, and State Route 182 in Mobile County, Alabama.

The Federal Highway Administration will certainly take notice of the fact that those are just reversed. In fact, what was intended was to give priority to State Route 182 in Baldwin County, Ala., and State Route 163 in Mobile County, Ala. Since this is a joint statement, it would not be in order for me to offer an amendment here on the floor. But I shall contact the Federal Highway Administration to make sure that they understand what was intended and I want the Members of the House to know what was intended.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of Alabama. I yield to the gentleman from Massachusetts.

Mr. CONTE. I thank the gentleman for yielding. I know the gentleman from Alabama spoke to me about those two highways, and he is absolutely right. That was the intent of myself and the gentleman from Oregon (Mr. DUNCAN).

Mr. DUNCAN of Oregon. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of Alabama. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. I thank the gentleman for yielding. We thank the gentleman for calling attention to the obvious typographical error. We wish it had been called to our attention earlier so that the change could have been made. But I think we have here a clear record of legislative intent, and the gentleman's corrections ought to be taken cognizance of by the Department.

□ 1500

Mr. EDWARDS of Alabama. Mr Speaker, I do not mean this to be criticism of anyone. Lord knows how the staff and the members put all this together in the time that we had. It is beyond me. However, it worked, and I support the conference report. I thank the gentlemen for their comments.

Mr. WHITTEN. Mr. Speaker, I yield myself 2 minutes, and I yield to the gentleman from New York (Mr. LaFalce).

Mr. LaFALCE. Mr. Speaker, I want to congratulate the Committee on Appropriations and, in particular, those of our colleagues who worked long into the night last night to arrive at this proposed final version of this very important supplemental appropriations bill.

There are an unusual number of very important items in this bill. Without slighting any of the others, however, I want to devote my remarks today to just one—a provision added to the bill in the Senate by Senators Javits and Moynihan to provide greater authority for the administration to take effective action to assist the victims of the most serious environmental problem in the Nation, the Love Canal in Niagara Falls.

In specific, Mr. Speaker, this provision would give the President of the United States the authority to provide relocation for the families who now reside within the boundaries defining the "health emergency" at the Love Canal. The authority would be provided through the Federal Government's existing mechanism for dealing with natural and human-cause disasters, the Federal Disaster Relief Act of 1974. Quoting from Senator Javits on the Senate floor, the purpose of this provision is to "liberate the President's hand" in dealing with the incredible human tragedy and loss that have become synonymous with the words "Love Canal."

As the Representative in Congress of the Love Canal, I am deeply indebted to the House conferees who agreed with the Senate's proposal yesterday. As one who has been fighting for over 3 years to try to get meaningful and forceful action from the Federal Government to help the innocent victims of this tragedy, I am hopeful that this bill will pass, that it will be signed into law, and that the Carter administration will use this new additional authority granted through the bill at the earliest possible date.

The State of New York has already spent well in excess of $30 million to try to deal with the incredible problems in the Love Canal neighborhood. The State has pledged another $5 million to assist in dealing with the innumerable problems flowing from the May 1980 Presidential declaration of a health emergency. Indeed, it is the State of New York that has designed a comprehensive plan for resolving the plight of the families who lived in the neighborhood before the most recent Federal emergency declaration there triggered temporary relocation, a plan that has already been accepted by about 500 of the families and a plan toward which the State has already contributed approximately $40 million.

Mr. Speaker, the conference report to accompany H.R. 7542, the supplemental appropriations bill, that we are considering here today expresses most concisely many of the concerns that I have raised in the past about the Love Canal and about the role which the Federal Government must be prepared to play in dealing in a humanitarian and effective way with this and similar problems where humans are exposed to and injured by toxic chemical substances.

The conference report points out that:

> The Love Canal situation, due to its severity, may require extraordinary measures to resolve.

The report goes on to state that through this relocation provision:

> The conferees are enabling the President, if he so chooses, to provide special relief to families adversely affected by the chemical wastes.

Mr. Speaker, in closing their comments upon the problems that this Nation is suffering as a result of toxic chemical pollution, the conferees called for a "considered, comprehensive approach" in designing an effective Government response to such cases where humans are damaged or injured by toxic chemicals. I support this effort most strongly and I pledge to continue my efforts to bring about this reasoned response as quickly as is possible.

Certainly for the long term, we in the Congress must mold such a response mechanism. But, the immediate problems that face the Lovel Canal victims must be addressed. This bill today gives the administration even greater ability to act and to act effectively to help these victims to rebuild their lives and to start anew after literally years of anguish, agony, fear, and uncertainty.

I trust that the President will act most expeditiously to use this new, additional, and flexible authority to relieve the Love Canal victims of their most tragic problems; that he will take the "extraordinary measures" and provide the "special relief" called for by the conferees, and explicitly permitted by the amendment.

Mr. WHITTEN. I yield to my colleague, the gentleman from Virginia (Mr. Fisher).

Mr. FISHER. Mr. Speaker, I want to commend the chairman and his colleagues on the conference committee for the splendid work done on this supplemental. I would especially commend the gentleman for the reasonable and constructive resolution of the problem of bonus payments to the senior executive service. The conferees have arrived at a resolution that, while by no means perfect, will do a great deal to preserve the morale and effectiveness of the whole Government. We are most grateful to the gentleman from Mississippi.

Mr. WHITTEN. I thank my colleague from Virginia.

Mr. Speaker, I now yield to the gentleman from Michigan (Mr. Albosta).

Mr. ALBOSTA. Mr. Speaker, I rise in strong support of the conference committee report now before us, making supplemental appropriations for fiscal year 1980. I would, however, like to ask the distinguished chairman of the Subcommittee on Transportation of the Committee on Appropriations, the gentleman from Oregon (Mr. Duncan) one question.

Last week and again this week I discussed with the subcommittee chairman a need for more highway funding in States like Michigan which have been particularly hard hit by the earlier reallocation. I am, therefore, pleased that the conference committee report provides $7.8 billion for highway funding.

May I ask the subcommittee chairman, is it the intention of the conference committee that pending applications under the economic growth centers program and other discretionary Department of Transportation programs, from a State like Michigan, for a project such as U.S. 131, which is a project in Mecosta County, Mich., be approved as quickly as possible by the Department of Transportation?

Mr. DUNCAN of Oregon. Mr. Speaker, if the gentleman will yield, our original bill provided a limitation of $8.75 billion. The conference report reports back a limitation of $7.8 billion, approximately $200 million over what the administration wanted.

Mr. Speaker, it is obvious that acting under a restraint of some $950 million reduction, we cannot build as many roads as we would had we not made the cut. Economic growth centers is a discretionary fund of the Secretary, responding to State requests and is within the overall limitation on highway funds. Michigan does far better under the distribution formula in this bill than they did under the administration's proposal. It is the committee's intent that all programs, including discretionary programs be approved as quickly as possible within the limitations of this bill and the State's own priorities.

Mr. ALBOSTA. Mr. Speaker, I thank the subcommittee chairman very much. I would like to remind the committee also that the project I refer to has been in the process of construction for approximately 10 years and the Mecosta County link is vitally needed to move this project toward completion.

Mr. ADDABBO. Mr. Speaker, the conference agreement provides a total of $7,009,900,000 in additional budget authority for the Department of Defense. This includes $6,376,600,000 in new appropriations and $633,300,000 to be derived by transfer from funds previously appropriated. The total amount agreed to is $10 million less than was provided by the House and $13 million more than was provided by the Senate.

Most of the funds were provided to the various operation and maintenance accounts ($4.3 billion) and should greatly improve the financial situation in those accounts.

The Senate had proposed additional funds for inflation in the operation and maintenance and research and development accounts. The Senate receded on these amounts.

The House had denied the administration's proposal to transfer funds appropriated last year for the overhaul of two Navy destroyers to be used by the Naval Reserve. The Senate did not agree and the conference provides for the overall of one ship.

The House had also refused to transfer funds previously appropriated for two C-9B aircraft for the Navy. The Senate did not agree and the conference did not fund the C-9B's.

The largest single reduction agreed to was the Senate reduction of $60 million in "Retired pay, Defense." The Defense Department agreed with the calculations which led to the reduction so the conference concurred.

The agreements reached were the best possible under the circumstances. A Senate floor amendment required reductions of $150 million in the Senate amount for defense and those reductions were made. The Defense Department needs the funds agreed to and I urge the House to accept the conference agreement on the defense items.

● Mr. VANIK. Mr. Speaker, the Senate conferees to the supplemental appropriations and rescission bill have included $9.7 million for the construction of the Garrison diversion project. I have been arguing before the House of Representatives for at least 5 years attacking this boondoggle public works project. It is costing the American taxpayer tens of millions of dollars in order to sustain what were formally dry land farms. This is another example of Tenn-Tom, Sloan-Pick gone crazy.

The last time this issue was brought to the House floor was in 1976. Promises were made to the effect that we would abide by the rulings of the International Joint Commission (IJC). They concluded that effectively 75 percent of the project could not be completed at that time. The remaining 21 percent of the project could be constructed but never utilized unless Canadian objections were first resolved.

The largest farm organization in North Dakota has a present position asking for no more project construction or land acquisition until major problems facing the project—including Canada's objections—are resolved.

We should listen to the position of the North Dakota farmers and abide by their wishes for no more project construction.

The House version of this bill contains no money for the Garrison diversion project. We should not let a single additional penny be spent on project construction until the international issue has been resolved and the concerns of the North Dakota farmers have been met.

No money was appropriated for this project in fiscal year 1979. No money was appropriated in fiscal year 1980. None of the major problems facing the project have been resolved since then and we should not put any more money into construction until those problems are resolved.●

Mr. WHITTEN. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 291, nays 117, not voting 25, as follows:

[Roll No. 395]

YEAS—291

Addabbo
Akaka
Albosta
Alexander
Ambro
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burlison
Burton, Phillip
Byron
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Clay
Clinger
Coelho
Coleman
Collins, Ill.
Conte
Corman
Cotter
Coughlin
D'Amours
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Derrick
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Frost
Fuqua
Garcia
Gaydos
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Goldwater
Gonzalez
Gore
Gradison
Gray
Green
Guarini
Gudger
Guyer
Hall, Ohio
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holtzman
Horton
Howard
Hubbard
Huckaby
Hutto
Hyde
Ireland
Jeffords
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, La.
Lederer
Lehman
Leland
Lewis
Lloyd
Long, La.
Long, Md.
Lott
Lowry
Luken
Lundine
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marriott
Matsui
Mazzoli
Mica
Mikulski
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Pa
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
O'Brien
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rinaldo
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Roybal
Russo
Sabo
Santini
Scheuer
Schroeder
Seiberling
Shannon
Shelby
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Spellman
St Germain
Stack
Staggers
Stanton
Steed
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauzin
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Wampler
Waxman
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—117

Abdnor
Anderson, Calif.
Archer
Ashbrook
Badham
Barnard
Bauman
Beard, Tenn.
Beilenson
Broyhill
Burgener
Burton, John
Butler
Campbell
Carney
Cheney
Cleveland
Collins, Tex.
Conable
Conyers
Corcoran
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Deckard
Dellums
Derwinski
Devine
Dornan
Edwards, Okla.
Erdahl
Evans, Ga.
Fenwick
Forsythe
Fountain
Fowler
Frenzel
Gephardt
Glickman
Goodling
Gramm
Grassley
Grisham
Hagedorn
Hall, Tex.
Hansen
Holt
Hopkins
Hughes
Ichord
Jacobs
Jeffries
Jenkins
Kelly
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lent
Levitas
Loeffler
Lujan
Lungren
McClory
Marks
Marlenee
Martin
Mattox
Michel
Miller, Calif.
Miller, Ohio
Moorhead, Calif.
Mottl
Myers, Ind.
Panetta
Pashayan
Paul
Petri
Porter
Quayle
Ritter
Roth
Rousselot
Royer
Rudd
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Sharp
Shumway
Shuster
Snyder
Solomon
Spence
Stangeland
Stark
Stenholm
Stockman
Stump
Symms
Tauke
Taylor
Thomas
Trible
Walker
Weiss
Wydler
Wylie
Young, Alaska

NOT VOTING—25

Anderson, Ill.
Erlenborn
Findley
Hawkins
Hutchinson
Johnson, Colo.
Livingston
McDonald
Mathis
Mavroules
Nichols
Nolan
Nowak
Rhodes
Richmond
Rosenthal
Runnels
Solarz
Thompson
Vander Jagt
Watkins
Weaver
White
Wilson, Bob
Wilson, C. H.

□ 1520

The Clerk announced the following pairs:

On this vote:

Mr. Thompson for, with Mr. McDonald against.

Until further notice:

Mr. Richmond with Mr. Rhodes.

Mr. Mavroules with Mr. Erlenborn.

Mr. White with Mr. Findley.

Mr. Charles H. Wilson of California with Mr. Johnson of Colorado.

Mr. Hawkins with Mr. Livingston.

Mr. Hutchinson with Mr. Bob Wilson.

Mr. Mathis with Mr. Vander Jagt.

Mr. Nolan with Mr. Nowak.

Mr. Nichols with Mr. Runnels.

Mr. Weaver with Mr. Watkins.

Messrs. QUAYLE, DERWINSKI, SATTERFIELD, and LENT changed their votes from "yea" to "nay."

Mr. MOORE changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore (Mr. SIMON). The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 6: Page 2, after line 18, insert:

WATER AND WASTE DISPOSAL GRANTS

(RESCISSION)

Of the funds appropriated under this head in Public Law 96–108, making appropriations for fiscal year 1980, $50,000,000 are rescinded.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 6 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

WATER AND WASTE DISPOSAL GRANTS

(RESCISSION)

Of the funds appropriated under this head in Public Law 96–108, making appropriations for fiscal year 1980, $10,000,000 are rescinded.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 7: Page 2, after line 23, insert:

RURAL DEVELOPMENT PLANNING GRANTS

(RESCISSION)

Of the funds appropriated under this head in Public Law 96–108, making appropriations for fiscal year 1980, $2,000,000 are rescinded.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 7 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

RURAL DEVELOPMENT PLANNING GRANTS

(RESCISSION)

Of the funds appropriated under this head in Public Law 96–108, making appropriations for fiscal year 1980, $1,000,000 are rescinded.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 8: Page 3, line 4, after "$3,000,000" insert ", to remain available until September 30, 1981".

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the Senate amendments Nos. 8, 42, 46, 56, 59, 61, 65, 74, 81, 85, 87, 106, 109, 110(b), 112, 113, 114, 115, 128, 141, 144, 153, 161, 165, 169, 170, 174 through 189, 199, 202, 208, 209, 219, 220, 221, 224, 227, 243, 250, 251, 252, 253, 256, 269, 275, 276 through 281, and 325 be considered en bloc and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

(The Senate amendments, except Senate amendment No. 8, referred to in the above-unanimous consent request are as follows:)

Senate amendment No. 42: Page 11, line 14, after "1980/1982"," insert "and $12,100,000 shall be derived by transfer from "Aircraft procurement, Navy, 1980/1982",".

Senate amendment No. 46: Page 13, line 11, after "1984"" insert "; $10,100,000 shall be derived by transfer from "Research, development, test, and evaluation, Air Force, 1979/1980", and $6,000,000 shall be derived by transfer from "Other procurement, Air Force, 1978/1980" ".

Senate amendment No. 56: Page 16, line 15, after "47–2501d)" insert ", of which $12,464,100 shall be solely for the District of Columbia contribution to the Police Officers and Firefighters', Teachers', and Judges' Retirement Funds as authorized by Public Law 96–122, approved November 17, 1979 (93 Stat. 866)".

Senate amendment No. 59: Page 17, line 6, after $386,600" insert ": *Provided*, That $3,500,000 of this appropriation, to remain available until expended, together with previous appropriations for this purpose shall be for the District of Columbia's contribution toward the expenses of the Temporary Commission on Financial Oversight of the District of Columbia, as authorized by Public Law 94–399, approved September 4, 1976, as amended, and shall be transferred to the Commission upon request of the Executive Director and the General Accounting Office.

Senate amendment No. 61: Page 17, line 9, after "$1,878,600" insert ", of which $1,400,000 shall be available solely for payment to the Federal Bureau of Prisons".

Senate amendment No. 65: Page 17, line 22, after "$4,280,700" insert ": *Provided*, That $2,227,700 of this appropriation shall be available solely for reimbursements to Saint Elizabeths Hospital: *Provided further*, That total reimbursements to Saint Elizabeths Hospital, including funds from title XIX of the Social Security Act, shall not exceed $20,919,500".

Senate amendment No. 74: Page 21, after line 2, insert:

Notwithstanding the provisions of Public Law 96–69 appropriating $6,165,000 for the Office of the Inspector General, those funds determined by that Office to be in excess of the amount required to pay for the salaries and expenses of that Office shall be made available for obligation for the salaries and expenses of other organizations funded by this appropriation.

Senate amendment No. 81: Page 23, after line 14, insert:

FEDERAL ENERGY REGULATORY COMMISSION

For an additional amount for "Federal Energy Regulatory Commission", $1,200,000.

Senate Amendment No. 85: Page 24, strike out lines 20 to 24, inclusive, and insert:

For expenses necessary for flood control and coastal emergencies, $170,000,000, to remain available until expended. Any activity undertaken by virtue of funds appropriated herein for the relief of the emergency situation created by the eruptions of the volcano at Mount Saint Helens in Washington State is not prohibited by or otherwise subject to regulation under section 301, 402, or 404 of the Federal Water Pollution Control Act of 1972, as amended, or section 10 of the River and Harbor Act of 1899: *Provided*, That as expeditiously as possible, consistent with the protection of the public interests through the continuation of the emergency dredging, disposal, and related activities necessary, the Corps of Engineers shall initiate accelerated and abbreviated procedures, including as is appropriate, public notices and opportunities for public hearings, for such activities under section 404 of the Federal Water Pollution Control Act of 1972, as amended, and section 10 of the River and Harbor Act of 1899.

Senate amendment No. 87: Page 25, line 3, strike out all after "until" down to and including "Basin" in line 5 and insert "expended. Any activity undertaken by virtue of funds appropriated herein for the relief of the emergency situation created by the eruptions of the volcano at Mount Saint Helens in Washington State is not prohibited by or otherwise subject to regulation under section 301, 402, or 404 of the Federal Water Pollution Control Act of 1972, as amended, or section 10 of the River and Harbor Act of 1899: *Provided*, That as expeditiously as possible, consistent with the protection of the public interests through the continuation of the emergency dredging, disposal, and related activities necessary, the Corps of Engineers shall initiate accelerated and abbreviated procedures, including as is appropriate, public notices and opportunities for public hearings, for such activities under section 404 of the Federal Water Pollution Control Act of 1972, as amended and section 10 of the River and Harbor Act of 1899."

Senate amendment No. 106: Page 31, after line 25, insert:

CONSTRUCTION GRANTS

Of the unobligated funds appropriated under this head in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1980, $400,000,000 shall be made available for obligation on the date of enactment of this Act, notwithstanding section 205(c) of the Clean Water Act, based on the most efficient and effective use of these funds.

Senate amendment No. 109: Page 32, after line 11, insert:

Section 401 of the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1980, is amended by adding after the second semicolon in the first proviso, the following: "to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Disaster Relief Act of 1974: *Provided, however*, That the President is authorized, from funds appropriated to the President, to provide relocation for the families residing within the boundaries defined in the emergency declared by the President on May 21, 1980, at the Love Canal, in the State of New York: *Provided further*, That the Federal share shall not exceed 75 percent of the cost of such relocation. This shall not include the construction of any permanent housing.".

Senate amendment No. 110: Page 32, strike out lines 14 and 15, and insert:

The limitation on travel expenses in the current fiscal year for "Emergency planning, preparedness, and mobilization" is increased by $812,000.

"Senate amendment No. 112: Page 32, after line 20, insert:

NATIONAL CONSUMER COOPERATIVE BANK

Senate amendment No. 113: Page 32, line 20, insert:

SALARIES AND EXPENSES

(RESCISSION)

Of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, $555,000 are rescinded.

Senate amendment No. 114: Page 32, after line 20, insert:

SELF-HELP DEVELOPMENT

(RESCISSION)

Of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, $6,500,000 are rescinded.

Senate amendment No. 115: Page 32, after line 20, insert:

National Science Foundation

Senate amendment No. 128: Page 35, line 17, after "$1,373,000" insert ": *Provided*, That appropriations for maintenance and improvement of roads within the boundary of Indiana Dunes National Lakeshore, made under this head in Public Law 96–126, shall be available for such purposes without regard to whether title to such road rights-of-way is in the United States.

Senate amendment No. 141: Page 38, after line 12, insert:

Federal Inspector for the Alaska Gas Pipeline

PERMITTING AND ENFORCEMENT

Of the funds appropriated under this head in the Department of the Interior and Related Agencies Appropriations Act, 1980 (Public Law 96–126), $2,700,000 are rescinded.

Senate amendment No. 144: Page 39, line 5, after "1981" insert "and for "Federal unemployment benefits and allowances", such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to August 1 of the current year".

Senate amendment No. 153: Page 42, after line 11, insert:

(RESCISSION)

Of the funds provided for "Grants to States for medicaid" for fiscal year 1980 in Public Law 96–123, Making Further Continuing Appropriations for fiscal year 1980, $30,000,000 are rescinded.

Senate amendment No. 161: Page 44, after line 6, insert:

SCHOOL ASSISTANCE IN FEDERAL AFFECTED AREAS

(SUPPLEMENTAL)

For an additional amount for "School Assistance in Federally Affected Areas," to carry out section 7 of the Act of September 30, 1950, $20,000,000, to remain available until September 30, 1981. In addition, in accordance with section 7(c) of that Act, any funds appropriated under that Act and remaining available after payments in accordance with Public Law 96–123 under the heading "School Assistance in Federally Affected Areas" for fiscal year 1980 under sections 2 and 3 of that Act shall be available for payments under section 7.

Senate amendment No. 165: Page 44, after line 24, insert:

(SUPPLEMENTAL)

For an additional amount for section 318 of the Adult Education Act, $17,600,000 to remain available until September 30, 1981.

Senate amendment No. 169: Page 45, after line 22, insert:

SCHOOL IMPROVEMENT

(SUPPLEMENTAL)

For an additional amount for title III, part A, section 303 of the Elementary and Secondary Education Act, $7,700.000 to remain available until September 30, 1981.

Senate amendment No. 170: Page 45, after line 22, insert:

NATIONAL INSTITUTE OF EDUCATION

(RESCISSION)

Of the funds provided for "National Institute of Education", section 405 of the General Education Provisions Act, $3,000,000 are rescinded.

Senate amendment No. 174: Page 47, after line 11, insert:

SENATE

Senate amendment No. 175: Page 47, after line 11, insert:

Contingent Expenses of the Senate

Senate amendment No. 176: Page 47, after line 11, insert:

MISCELLANEOUS ITEMS

Of the funds appropriated under this head in Public Law 96–86, $1,000,000 are rescinded.

Senate amendment No. 177: Page 47, after line 11, insert:

Administration Provisions

Senate amendment No. 178: Page 47, after line 11, insert:

Sec. 101. Effective October 1, 1979, section 506 of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58), is amended by redesignating subsections (i) through (k) as (j) through (l), respectively, and by inserting after subsection (h) the following new subsection:

"(i) Whenever a Senator or an employee in his office has incurred an expense for which reimbursement may be made under this section, the Secretary of the Senate is authorized to make payment to that Senator or employee for the expense incurred, subject to the same terms and conditions as apply to reimbursement of the expense under this section."

Senate Amendment No. 179: Page 47, after line 11, insert:

Sec. 102. (a) Section 506(e) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(e)) is amended by striking out "in effect under section 5702 of title 5, United States Code, for employees of agencies" in the next to last sentence and inserting in lieu thereof "prescribed by the Committee on Rules and Administration".

(b) The seventh paragraph under the heading "Administrative Provisions" in the appropriation for the Senate in the Legislative Branch Appropriation Act, 1957 (2 U.S.C. 68b) is amended by striking out "in effect under section 5702 of title 5, United States Code, for employees of agencies" each place it appears and inserting in lieu thereof "prescribed by the Committee on Rules and Administration".

Senate Amendment No. 180: Page 47, after line 11, insert:

Sec. 103. Effective February 1, 1980, section 506(a) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(a)), is amended by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) reimbursement to each Senator for costs incurred in the mailing or delivery of matters relating to official business;"

Senate Amendment No. 181: Page 47, after line 11, insert:

Sec. 104. Effective January 1, 1980, section 506(h)(1) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(h)(1)) is amended by striking out "under subsection (a)(9) when such expenses are incurred by or on behalf of a Senator" and inserting in lieu thereof "to an employee in the office of a Senator when traveling on business of a committee of which that Senator is a member".

Senate Amendment No. 182: Page 47, after line 11, insert:

Sec. 105. Effective October 1, 1979, the allowance for administrative and clerical assistance of each Senator from the State of Louisiana is increased to that allowed Senators from States having a population of four million but less than five million, the population of said State having exceeded four million inhabitants.

Senate Amendment No. 183: Page 47, after line 11, insert:

Sec. 106. Any funds appropriated or made available under the heading "Senate" in any appropriation Act for the fiscal year ending September 30, 1980, and any funds appropriated by section 101(c) of the joint resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1980, and for other purposes", approved October 12, 1979 (Public Law 96–86), for disbursement by the Secretary of the Senate which for the fiscal year ending September 30, 1979, were appropriated under the heading "Senate", shall remain available until expended for the same purpose for which appropriated or made available.

Senate amendment No. 184: Page 47, after line 11, insert:

Sec. 107. (a) Section 105(a)(1) of the Legislative Branch Appropriation Act, 1968 (2 U.S.C. 61–1(a)(1)) is amended to read as follows:

"(a)(1) Whenever the rate of compensation of any employee whose compensation is disbursed by the Secretary of the Senate is fixed or adjusted on or after October 1, 1980, such rate as so fixed or adjusted shall be at a single whole dollar per annum gross rate and may not include a fractional part of a dollar."

(b) Section 106(b)(1) of the Legislative Branch Appropriation Act, 1963 (2 U.S.C. 60j(b)(1)) is amended by striking out "two times the multiple contained in section (1)(a) of the applicable Order of the President Pro Tempore of the Senate issued under authority of section 4 of the Federal Pay Comparability Act of 1970" and inserting in lieu thereof "$404".

(c) Section 109(d)(1) of the Legislative Branch Appropriation Act, 1979 (2 U.S.C. 60j–3(d)(1)) is amended by striking out "next highest multiple contained in section 1(a) of the applicable Order of the President Pro Tempore of the Senate issued under authority of section 4 of the Federal Pay Comparability Act of 1970" and inserting in lieu thereof "next higher dollar".

(d) The amendments made by this section shall take effect on October 1, 1980.

Senate amendment No. 185: Page 47, after line 11, insert:

Sec. 108. (a) The Senate Recording Studio hereafter shall be known as the Senate Recording and Photographic Studios. Subject to subsection (b), all references to the Senate Recording Studio (including the revolving fund) in any law, resolution, or regulation shall be considered as referring to the Senate Recording and Photographic Studios, and any provision of any law, resolution, or regulation which is applicable to the Senate Recording Studio shall be deemed to apply to the Senate Recording and Photographic Studios.

(b)(1) The Sergeant at Arms and Doorkeeper of the Senate shall, subject to the approval of the majority and minority leaders, promulgate rules and regulations, and establish fees, for the provision of photographs and photographic services to be furnished by the Photographic Studio.

(2) Subject to the approval of the majority and minority leaders, the Sergeant at Arms and Doorkeeper of the Senate is authorized to appoint not more than fifteen employees with such titles, and at such annual rates of compensation, as he deems appropriate, to carry out the functions of the Photographic Studio. Payments of compensation (including agency contributions and longevity compensation as authorized) for personnel employed pursuant to the preceding sentence shall be made by the Secreary of the Senate from funds appropriated for "Salaries, Officers and Employees" under the heading "Senate".

Senate amendment No. 186: Page 47, after line 11, insert:

Sec. 109. Effective January 1, 1980, section 3 under the heading "Administration Provisions" in the appropriation for the Senate in the Legislative Branch Appropriation Act, 1975 (2 U.S.C. 59), is amended—

(1) by striking out "not in excess of one year." in subsection (a)(2) and inserting in lieu thereof "not extending beyond the term of office which he is serving on the first day of such lease, except that, in the case of a Senator whose term of office is expiring and who has been elected for another term, such lease may extend until the end of the term for which he has been so elected. Each such lease shall contain a provision permitting its cancellation upon sixty days written notice by the Sergeant at Arms and Doorkeeper of the Senate, in the event of

the death or resignation of the Senator."; and

(2) by striking out "shall not at any time exceed the applicable rate per square foot charged Federal agencies" in subsection (c) (1) and inserting in lieu thereof "shall not exceed the highest rate per square foot charged Federal agencies on the first day of the lease of such office."

Senate amendment No. 187: Page 47, after line 11, insert:

SEC. 110. Effective on the first day of the first month following the date of enactment of this Act, the Sergeant at Arms and Doorkeeper of the Senate may appoint and fix the compensation of a Shift Supervisor at not to exceed $14,140 per annum and two Shift Supervisors at not to exceed $12,928 per annum each in lieu of three Mail Carriers at not to exceed $10,302 per annum each; a Deputy Director, Service Department, at not to exceed $35,956 per annum; a Supervisor, Typewriter Repair Section, at not to exceed $26,260 per annum in lieu of not to exceed $24,038 per annum; a Receiving Clerk at not to exceed $12,928 per annum in lieu of a Supervisor, Supply Section, at not to exceed $18,382 per annum; a Power Cutter Operator at not to exceed $13,534 per annum; a Senior Folding Machine Operator at not to exceed $15,554 per annum in lieu of a Laborer at not to exceed $11,716 per annum; an Automatic Typewriter Repairman at not to exceed $19,796 per annum in lieu of a Repairman at not to exceed $18,584 per annum; two Laborers at not to exceed $6,060 per annum each in lieu of a Laborer at not to exceed $11,716 per annum; a Manager, Member and Committee Support, at not to exceed $38,784 per annum in lieu of a Senior Applications Analyst at not to exceed $36,360 per annum; a Manager, Text Processing Applications Development, at not to exceed $38,784 per annum in lieu of a Senior Applications Analyst at not to exceed $36,360 per annum; a Junior Operations Clerk at not to exceed $13,332 per annum; a Manager, Office Administration, at not to exceed $31,512 per annum in lieu of an Office Manager at not to exceed $22,624 per annum; a Special Assistant to the Sergeant at Arms and Doorkeeper at not to exceed $38,784 per annum in lieu of a Manager, User Training and Liaison, at not to exceed $38,784 per annum; a Manager, Educational Services, at not to exceed $38,784 per annum in lieu of an Office Systems Supervisor at not to exceed $32,522 per annum; a Manager, Micrographics Systems, at not to exceed $36,360 per annum in lieu of a Micrographics Supervisor at not to exceed $27,270 per annum; a Computer Output Microfilm Operator at not to exceed $14,948 per annum; a Camera Operator at not to exceed $14,544 per annum; a Senior Network Technician at not to exceed $29,896 per annum; a Network Technician at not to exceed $26,260 per annum; a Quality Control Specialist at not to exceed $15,352 per annum; a Communications Software Specialist at not to exceed $35,148 per annum; and an Office Manager at not to exceed $17,776 per annum: *Provided*, That, effective on the first day of the first month following the date of enactment of this Act, the position of Mail Supervisor at not to exceed $15,756 per annum, the position of Audio Engineer at not to exceed $16,968 per annum, and two positions of Teletype Operator at not to exceed $14,140 per annum each, are hereby abolished: *Provided further*, That the Sergeant at Arms and Doorkeeper is authorized to undertake minor reorganizations and make associated position, title, and compensation changes with respect to not more than ten positions, if and to the extent that such reorganizations do not result in any additional number of positions funded from amounts appropriated for the "Office of Sergeant at Arms and Doorkeeper,": *Provided further*, That not to exceed $45,000 of the amount appropriated for the Office of Sergeant at Arms and Doorkeeper may be used to employ special deputies.

Senate amendment No. 188: Page 47, after line 11, insert:

SEC. 111. There shall be available for construction of platform and seating stands, for refurbishing the Capitol Building, and for salaries and expenses of conducting the inaugural ceremonies of the President and Vice President of the United States, January 20, 1981, in accordance with such program as may be adopted by the joint committee authorized by concurrent resolution of the Senate and House of Representatives, $463,000, to be paid from the contingent fund of the Senate from funds appropriated or otherwise made available under the heading "Miscellaneous Items", and to remain available through September 30, 1981. Such moneys as may be received by donation or otherwise for use in the preparations for such inaugural ceremonies shall be deposited in the Treasury, shall be credit to the appropriation for "Miscellaneous Items", and shall be available for expenditure in like manner and for the same purposes as funds which are appropriated under the preceding sentence.

Senate amendment No. 189: Page 47, after line 11, insert:

SEC. 112. (a) The unexpended balance on February 28, 1981, of the funds appropriated under the heading "Committee Employees" in the appropriations for the Senate in any appropriation Act for any fiscal year shall be transferred to and merged with the funds appropriated under the heading "Inquiries and Investigations" in the contingent fund of the Senate.

(b) Effective as of the close of February 28, 1981—

(1) paragraphs (1) and (2) of section 105(e) of the Legislative Branch Appropriation Act, 1968 (2 U.S.C. 61–1(e)), are repealed, and paragraph (2) of section 105(d) of such Act is amended by striking out "subsection (e) (1)" in the second sentence and inserting in lieu thereof "that portion of subsection (e) (3) preceding subparagraph (A)";

(2) the first proviso under the heading "Committee Employees" in the appropriations for the Senate in the Legislative Branch Appropriation Act, 1974 (87 Stat. 529), is repealed; and

(3) clause (2) of the last paragraph under the heading "Contingent Expenses of the Senate" appearing under the heading "SENATE" in chapter XI of the Third Supplemental Appropriation Act, 1957 (2 U.S.C. 46a–1), is amended by striking out "committees and officers of the Senate" and inserting in lieu thereof "officers of the Senate and the Conference of the Majority and the Conference of the Minority of the Senate".

Senate amendment No. 199: Page 52, strike out lines 16 and 17 and insert "purpose, the estimated cost of construction for which these funds are to be used under such authorities, and the jurisdiction for invoking the section 402 or similar authority.".

Senate amendment No. 202: Page 54, after line 2, insert:

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses, general legal activities", $825,000, of which $745,000 shall be derived by transfer from Office of Justice Assistance, Research, and Statistics, "Law enforcement assistance".

Senate amendment No. 208: Page 54, line 9, after "$6,104,000" insert "of which $2,008,000 shall be derived by transfer from Office of Justice Assistance, Research, and Statistics, "Law enforcement assistance".

Senate amendment No. 209: Page 54, after line 9, insert:

FEES AND EXPENSES OF WITNESSES

(TRANSFER OF FUNDS)

For an additional amount for "Fees and expenses of witnesses", $846,000 to be derived by transfer from Office of Justice Assistance, Research, and Statistics, "Law enforcement assistance."

Senate amendment No. 219: Page 55, after line 19, insert:

GENERAL PROVISION—DEPARTMENT OF JUSTICE

SEC. 203. Sums appropriated by this Act for the Department of Justice may be used for expenses for travel and transportation of persons, and for transportation of things, as may be necessary for the investigation and prosecution of cases, the apprehension and retention of prisoners, and deportation activities, without regard to any restriction or limitation on the availability of sums for such expenses, unless legislation containing such a restriction or limitation is enacted after the date of enactment of this Act which specifically refers to this section.

Senate amendment No. 220: Page 55, strike out lines 23 and 24, and insert:

For expenses necessary to carry out the provisions of Reorganization Plan No. 3 of 1979, $200,000. For expenses necessary to carry out the provisions of Public Law 95–606 and Public Law 95–482, $4,000,000, to be available immediately for grants to the United States Olympic Committee and $6,000,000 to become available upon a determination by the Secretary of Commerce that the United States Olympic Committee has collected $8,000,000 from non-Federal sources after May 15, 1980, and to remain available until expended: *Provided*, That any grant from the $6,000,000 provided above which is made to the Committee after the Secretary's determination shall not exceed one-half of additional funds collected from non-Federal sources. For the purpose of determining the amount of funds collected from non-Federal sources with respect to any grant pursuant to this appropriation, the Secretary may consider pledges of funds to be collected if pledged in accordance with procedures established by the Secretary. No portion of the funds appropriated hereunder shall be used (except as determined by the Secretary to be in the national interest) for the financing of programs conducted by, and none of the national governing body authority specified in section 203 of Public Law 95–606 as hereby amended shall be exercised by, a national governing body member of the Committee for a particular sport, when another amateur sports organization has been declared (pursuant to binding arbitration proceedings prescribed by the organic documents of the Committee) entitled to replace such national governing body as the member of the Committee for that sport.

Senate amendment No. 221: Page 56, line 8, after "1982" insert ": *Provided*, That no additional Federal funds shall be made available for this purpose".

Senate amendment No. 224: Page 56, after line 22, insert:

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities", $1,500,000, to remain available until expended.

Senate amendment No. 227: Page 57, after line 22, insert:

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

PRETRIAL SERVICES AGENCIES

For an additional amount for salaries and expenses of Pretrial Services Agencies established pursuant to title II of the Speedy Trial Act of 1974, including support of services to defendants released pending trial, $900,000, to be derived by a transfer from the appropriation "Space and facilities, the Judiciary".

Senate amendment No. 243: Page 65, after line 8, insert:

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

Provided, That notwithstanding any other provision of law the funds appropriated to the National Railroad Passenger Corporation for Capital improvements shall become available only as they are required to make payments to vendors for capital equipment deliveries and services delivered during the balance of fiscal year 1980.

Senate amendment No. 250: Page 68, after line 7, insert:

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

(RESCISSION)

Of the funds appropriated under this head in Public Law 96–74, making appropriations for the Treasury Department for fiscal year 1980, $250,000 are rescinded.

Senate amendment No. 251: Page 68, after line 7, insert:

INTERNATIONAL AFFAIRS

(RESCISSION)

Of the funds appropriated under this head in Public Law 96–74, making appropriations for the Treasury Department for fiscal year 1980, $250,000 are rescinded.

Senate amendment No. 252: Page 68, after line 13, insert:

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses"; $650,000 to be used for processing Cuban refugees: *Provided further,* That funds expended for overtime pay to Customs officers resulting from the situation involving aliens attempting to reach the United States from Cuba shall not be counted against the overtime pay limitation included in Public Law 96–74. Notwithstanding any other provision of law, the proceeds of customs duties collected in the Virgin Islands less the cost of collecting all said duties shall, effective for fiscal years beginning after September 30, 1979, be covered into the Treasury of the Virgin Islands, and shall be available for expenditure as the Legislator of the Virgin Islands may provide.

Senate amendment No. 253: Page 68, after line 13, insert:

BUREAU OF THE MINT

SALARIES AND EXPENSES

(RESCISSION)

Of the funds appropriated under this head in Public Law 96–74, making appropriations for the Treasury Department for fiscal year 1980, $800,000 are rescinded.

Senate amendment No. 256: Page 69, after line 20, insert:

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON WAGE AND PRICE STABILITY

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $500,000.

Senate amendment No. 269: Page 72, after line 7, insert:

REFUNDS UNDER RENEGOTIATION ACT

For necessary expenses to carry out section 201(f) of the Renegotiation Act of 1951, 50 U.S.C. App. 1231(f), for fiscal year 1980, $2,500,000 to remain available until expended.

Senate amendment No. 275: Page, 74, line 15, strike out "$1,000,000" and insert "$2,000,000".

Senate amendment No. 276: Page 75, after line 8, insert:

SENATE

Senate amendment No. 277: Page 75, after line 8, insert:

"Salaries, officers and employees", $6,700,000;

Senate amendment No. 278: Page 75, after line 8, insert:

"Office of the Legislative Counsel of the Senate", $36,000;

Senate amendment No. 279: Page 75, after line 8, insert:

"Senate policy committees", $100,000;

Senate amendment No. 280: Page 75, after line 8, insert:

"Inquiries and investigations", $1,000,000;

Senate amendment No. 281: Page 75, after line 8, insert:

"Folding documents", $8,000;

Senate amendment No. 325: Page 92, lines 3 and 4, strike out " "Fees and expenses of witnesses" " and insert "Federal Prison System, "Buildings and facilities" ".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendments of the Senate numbered 8, 42, 46, 56, 59, 61, 65, 74, 81, 85, 87, 106, 109, 110, 112, 113, 114, 115, 128, 141, 144, 153, 161, 165, 169, 170, 174 through 189, 199, 202, 208, 209, 219, 220, 221, 224, 227, 243, 250, 251, 252, 253, 256, 269, 275, 276 through 281, and 325 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 9: Page 3, line 8, after "expended" insert: "*Provided,* That these funds shall be available to pay for the full costs of the emergency measures".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 9 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: "*Provided,* That these funds shall be available to pay for up to 90 percent of the costs of the emergency measures".

The motion was agreed to.

□ 1530

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 10: Page 3, after line 8, insert:

WATERSHED AND FLOOD PREVENTION OPERATIONS (RESCISSION)

Of the funds appropriated under this head in Public Law 96–108, making appropriations available for fiscal year 1980, $10,000,000 are rescinded.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 10 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

WATERSHED AND FLOOD PREVENTION OPERATIONS (RESCISSION)

Of the funds appropriated under this head in Public Law 96–108, making appropriations available for fiscal year 1980, $2,000,000 are rescinded.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 15: Page 3, line 24, after "$11,800,000" insert ": *Provided,* That none of the funds appropriated in this Act or any other Act may be used for payments which exceed five cents per half-pint of milk served after September 1, 1980, which is served to children who are not eligible for free milk and which is served in schools, child care institutions, and summer camps participating in meal service programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 15 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: ": *Provided,* That none of the funds appropriated in this Act may be used for payments which exceed five cents per half-pint of milk served after September 1, 1980, which is served to children who are not eligible for free milk and which is served in schools, child care institutions, and summer camps participating in meal service programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 31: Page 8, line 6, strike out "$1,041,818,000" and insert "$1,028,768,000".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 31 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment, insert "$1,010,218,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 33: Page 9, line 2, strike out "$23,100,000" and insert "38,750,000".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 33 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment, insert "$40,900,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 34: Page 9, line 8, strike out all after "and" down to and including "1981" in line 10 and insert "$30,000,000 shall be derived by transfer from 'Operation and maintenance, Navy Reserve, 1980' ".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 34 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "$8,400,000 shall be derived by transfer from 'Research, development, test and evaluation, Navy, 1980/1981'; and $15,000,000 shall be derived by transfer from 'Operation and Maintenance, Navy Reserve, 1980' ".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 37: Page 9, line 21, strike out "$56,445,000" and insert "$52,845,000".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 37 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment, insert "$62,445,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 38: Page 10, line 4, strike out all after "1980/1982" " down to and including "1980/1981" in line 6.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from is disagreement to the amendment of the Senate numbered 38 and concur therein with an amendment, as follows: In lieu of the matter proposed in said amendment, insert "and $9,600,000 shall be derived by transfer from 'Research, development, test, and evaluation, Air Force, 1980/1981' ".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 48: Page 14, strike out lines 6 to 15, inclusive, and insert:

During the current fiscal year, subject to the notification and approval procedures specified in section 734 of the Department of Defense Appropriation Act, 1980, appropriations available to the Department of Defense for "Shipbuilding and conversion, Navy" may be transferred between such appropriations or any subdivisions thereof, to be merged with and to be available for the same purposes, and for the same period, as the appropriation or subdivision to which transferred.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 48 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:

"Of the amount appropriated in the appropriation, 'Shipbuilding and conversion, Navy', $96,800,000 which would expire for obligation on September 30, 1980 shall remain available for obligation until September 30, 1982. Funds provided in a Department of Defense Appropriation Act for 'Shipbuilding and conversion, Navy', currently available for obligation, may hereafter be transferred within the same appropriation contained in such an Act between the subdivisions thereof, subject to the notification and approval procedures specified in section 734 of the Department of Defense Appropriation Act, 1980."

The motion was agreed to.

Mr. CONTE. Mr. Speaker, I ask unanimous consent that the remaining Senate amendments, except amendment No. 95, be considered as read, printed in the RECORD, and designated by number by the Clerk.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 53: Page 15, line 15, after "1980," insert "or pursuant to the Refugee Act of 1980,".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 53 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: "or pursuant to the Refugee Act of 1980, or pursuant to the Immigration and Nationality Act,"

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 54: Page 15, line 16, strike out all after "expended." down to and including "prostitution." in line 20.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 54 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows: "Of the foregoing amount $50,000,000 shall become available on October 1, 1980. Funds appropriated in this paragraph shall be available solely for reimbursement to State and local governments for fiscal years 1980 and 1981 for cash and medical assistance and social services costs related to Cuban/Haitian entrants (status pending) only to the extent that such assistance shall become authorized under the Immigration and Nationality Act, the Refugee Act of 1980 or the International Security Act of 1980.".

The SPEAKER pro tempore. The Chair recognizes the gentleman from Mississippi (Mr. WHITTEN).

Mr. BAUMAN. Mr. Speaker, will the gentleman yield for a question on the motion?

Mr. WHITTEN. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

When the House passed this legislation, the supplemental contained $100 million for refugee assistance for Cubans, Haitians, and others. This spending was not at that time governed by any particular legislative enactment. I notice that this brings the money under the Refugee Act of 1980. But could the gentleman tell me how much total funding is in this supplemental bill for refugee assistance? Is there more than this $100 million? Are there other amounts in other amendments?

□ 1540

Mr. WHITTEN. I yield to the gentleman from Kentucky (Mr. NATCHER) for the answer to the question.

Mr. NATCHER. I would like to advise the gentleman from Maryland that in the conference report that is now before the committee, we have a total of $261 million for assistance to refugees who have come to this country. This is in addition to the $431 million already appropriated for this purpose in 1980—that is for a total of $692 million this fiscal year.

When we had the bill before the committee we agreed to the $100 million requested by the President in January principally for non-Cuban refugees. We therefore had $100 million that was in the bill as presented to the House. An additional $100 million was added on the floor of the House in chapter III for Cubans and Haitians. Finally, the other body added a third $100 million to the bill to be used for Cubans and Haitians. The conference report includes $261 million of the $300 million which was in the Senate bill. The remaining $39 million is in chapter VI which remains in disagreement.

I would like to say to the gentleman that of the $100 million added on the floor in the House, the conference agreement provides that $50 million of that goes over into the fiscal year 1981 to cover fiscal year 1981 program costs; the remaining $50 million is available at this time.

Therefore, we have $211 million additional refugee money that is added in this bill for 1980 and $50 million for 1981.

Mr. BAUMAN. If the gentleman from Mississippi (Mr. WHITTEN) will yield further, is this conditioned on the enactment of further legislation that would govern the Haitian and Cuban refugees?

Mr. NATCHER. The answer to the gentleman's question is "Yes." The $100 million in chapter III is made available conditional on the enactment of additional authorizing legislation. It would be governed by this legislation.

Mr. BAUMAN. It would not be handed out in a hit-or-miss fashion or in indiscriminate fashion. It would be governed as the gentleman indicated?

Mr. NATCHER. The gentleman's statement is correct.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. WHITTEN).

The motion was agreed to.

The SPEAKER pro tempore. The clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 67. Page 18, line 8, strike out "$19,997,900" and insert "$20,997,900."

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 67 and concur therein with an amendment, as follows: In lieu of the sum named by said amendment, insert "$16,997,900".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate Amendment No. 95: Page 27, strike out all after line 18 over to and including line 8 on page 28 and insert:

SUBCHAPTER I—MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

For payment to the Inter-American Development Bank by the Secretary of the Treasury, $812,301,997, to remain available until expended, for the United States share of (1) the new increase in subscriptions to (a) paid-in capital stock and (b) callable capital stock, and (2) the new increase in the resources of the Fund for Special Operations and the replenishment of the resources of the the Fund for Special Operations as authorized by the Act of May 31, 1976 (Public Law 94–302): *Provided*, That of such amount, not to exceed $175,000,000 shall be available for the new increase in the resources of the Fund, and not to exceed $25,000,000 shall be available for replenishment authorized by the Act of May 31, 1976: *Provided further*, That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, $328,000,000, for the United States share of the increase in subscriptions to the (1) paid-in capital stock, and (2) callable capital stock, as authorized by the Act of October 3, 1977 (Public Law 95–118), to remain available until expended: *Provided*, That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE INTERNATIONAL FINANCE CORPORATION

For payment to the International Finance Corporation by the Secretary of the Treasury, $33,447,900, for the United States share of the increase in subscriptions to capital stock, as authorized by the Act of October 3, 1977 (Public Law 95–118), to remain available until expended.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treausry, $272,000,000 for the United States contribution to the fourth replenishment as authorized by the Act of August 14, 1974 (Public Law 93–373), to remain available until expended and $800,000,000, for the third installment of the United States contribution to the fifth replenishment as authorized by the Act of October 3, 1977 (Public Law 95–118), to remain available until expended: *Provided*, That no such payment may be made while the United States Executive Director to the International Bank for Reconstruction and Development is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE ASIAN DEVELOPMENT BANK

For payment to the Asian Development Bank by the Secretary of the Treasury, $363,000,000, to remain available until expended, for the (1) United States share of the increase in subscriptions to the (a) paid-in capital stock, and (b) callable capital stock, and (2) the United States contribution to the increase in resources of the Asian Development Fund as authorized by the Act of October 3, 1977 (Public Law 95–118) and for the new United States contribution to the increase in resources of the Asian Development Fund: *Provided*, That no such payment may be made while the United States Director of the Bank is compensated by the Bank at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to the Bank is compensated by the Bank in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For payment to the African Development Fund by the Secretary of the Treasury, $41,666,667, for the United States contribution to the second replenishment of resources to remain available until expended.

FUTURE UNITED STATES CONTRIBUTIONS TO THE INTERNATIONAL FINANCIAL INSTITUTIONS

It is the sense of the Congress that the United States share of contributions to future replenishments of the International Financial Institutions should not exceed the percentages enumerated below for each of the respective accounts within these institutions:

Asian Development Bank:
Paid-in capital, 16.3 percent;
Callable capital, 16.3 percent;
Asian Development Fund, 22.2 percent;
African Development Bank:
Special Fund, 18 percent;
Inter-American Development Bank:
Paid-in capital, 34.5 percent;
Callable capital, 34.5 percent;
Fund for Special Operations, 40 percent;
International Bank for Reconstruction and Development:
Paid-in capital, 24 percent;
Callable capital, 24 percent;
International Development Association, 25 percent;
International Finance Corporation, 23 percent.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of section 301 of the Foreign Assistance Act of 1961, as amended, and of section 2 of the United Nations Environment Program Participation Act of 1973, $256,280,000: *Provided*, That not more than $10,000,000 shall be available for the United Nations Environment Program: *Provided further*, That not more than $120,000,000 shall be available for the United Nations Development Program: *Provided further*, That none of the funds appropriated in this paragraph shall be made available for the United States proportionate share for any programs for the Palestine Liberation Organization, the South West Africa People's Organization, the Zimbabwe African People's Union, and the Zimbabwe African National's Union: *Provided further*, That none of the funds appropriated or made available pursuant to this paragraph shall be obligated or expended to finance the United States proportionate share for any program in Cuba.

SUBCHAPTER II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, as amended, and for other purposes, to remain available until September 30, 1980, unless otherwise specified herein, as follows:

Agriculture, rural development, and nutrition, Development Assistance: For necessary expenses to carry out the provisions of section 103, $635,000,000: *Provided*, That the amounts provided for loans to carry out the purposes of this paragraph shall remain available for obligation until September 30, 1981.

Population, Development Assistance: For necessary expenses to carry out the provisions of section 104(b), $190,000,000: *Provided*, That the amounts provided for loans to carry out the purposes of this paragraph shall remain available for obligation until September 30, 1981.

Health, Development Assistance: For necessary expenses to carry out the provisions of section 104(c), $135,000,000: *Provided*, That the amounts provided for loans to carry out the purposes of this paragraph shall remain available for obligation until September 30, 1981.

Education and human resources development, Development Assistance: For necessary expenses to carry out the provisions of section 105, $101,000,000: *Provided*, That the amounts provided for loans to carry out the purposes of this paragraph shall remain available for obligation until September 30, 1981.

Technical assistance, energy, research, reconstruction, and selected development problems, Development Assistance: For necessary expenses to carry out the provisions of section 106, $111,888,500: *Provided*, That the amounts provided for loans to carry out the purposes of this paragraph shall remain available for obligation until September 30, 1981.

Loan allocation, Development Assistance: Of the new obligational authority appropriated under this Act to carry out the provisions of sections 103–106, not less than $387,000,000 shall be available for loans for fiscal year 1980: *Provided*, That loans made pursuant to this authority to countries whose annual per capita gross national product is greater than $588 but less than $963 shall be repayable within twenty-five years following the date on which funds are initially made available under such loans and loans to countries whose anual per capita gross national product is greater than or equal to $963 shall be repayable within twenty years following the date on which funds are initially made available under such loans.

American schools and hospitals abroad: For necessary expenses to carry out the provisions of section 214, $20,000,000.

Contingencies: Notwithstanding the provisions of section 451, not more than $3,000,000 of the funds made available under this chapter shall be used to carry out the purposes set forth in said section.

International disaster assistance: For necessary expenses to carry out the provisions of section 491, $73,000,000: *Provided*, That in providing assistance under this paragraph for Cambodian famine victims, the President shall satisfy himself that adequate procedures have been established to ensure that such assistance reaches the innocent victims of famine for whom it is intended. Such procedures shall include end use monitoring of deliveries on a periodic basis by individuals having freedom of movement where the commodities are being distributed within Cambodia. The President shall report to the Congress on compliance with this provision not later than 90 days after the enactment of this provision.

Assistance to African refugees: For necessary expenses to carry out the provisions of section 495F, $14,250,000: *Provided*, That these funds shall be transferred to the Office of Refuge Programs of the Department of State for obligation and expenditure.

Sahel development program: For necessary expenses to carry out the provisions of section 121, $92,500,000, to remain available until expended: *Provided*, That no part of such appropriation may be available to make any contribution of the United States to the Sahel development program in excess of 10 per centum of the total contributions to such program.

Payment to the Foreign Service Retirement and Disability Fund: For payment to the "Foreign Service Retirement and Disability Fund," as authorized by the Foreign Service Act of 1946, as amended, $26,696,000.

Overseas training and special development activities (foreign currency program): For necessary expenses as authorized by section 612, $20,700,000 in foreign currencies which the Treasury Department declares to be excess to the normal requirements of the United States.

Economic support fund: For necessary expenses to carry out the provisions of sections 531 through 535, $1,984,500,000: *Provided*, That of the funds appropriated under this paragraph, not less than $785,000,000 shall be available for Israel, not less than $750,000,000 shall be available for Egypt: *Provided further*, That none of the funds herein appropriated may be made available to Syria without the prior determination by the President and notification thereof to Congress, that Syria is acting in good faith in furthering the process of peace initiated by the Camp David accords of which the treaty between Egypt and Israel is the first step: *Provided further*, That of the funds appropriated under this paragraph, not more than $5,000,000 shall be for refugee assistance through International Relief Organizations in Rhodesia: *Provided further*, That of the funds appropriated under this paragraph, not to exceed $60,500,000 shall be available for programs in southern Africa: *Provided further*, That the funds appropriated under this paragraph for refugee assistance shall be transferred to the Office of Refugee Programs of the Department of State for obligation and expenditure.

Peacekeeping operations: For necessary expenses, to carry out the provisions of section 551, $21,100,000.

Operating expenses of the Agency for International Development: For necessary expenses to carry out the provisions of section 667, $263,000,000: *Provided*, That not more than $102,900,000 of this amount shall be for AID-Washington Operating Expenses: *Provided further*, That not to exceed $700,000 of funds provided to the Agency for International Development by this chapter shall be available for hiring experts and consultants pursuant to 5 U.S.C. 3109: *Provided further*, That none of the funds appropriated or made available pursuant to this paragraph may be used to finance the operating or administrative expenses of the Institute for Scientific and Technological Cooperation: *Provided further*, That not to exceed $2,950,000 of the funds made available pursuant to this paragraph may be used to finance the operating or administrative expenses of the International Development Cooperation Agency.

International narcotics control: For necessary expenses to carry out the provisions of section 481, $48,758,000: *Provided*, That not more than $16,000,000 shall be available for the Republic of Colombia for the interdiction of drug traffic.

INTER-AMERICAN FOUNDATION

For expenses necessary to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969, as amended, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, $15,954,000: *Provided*, That not to exceed $1,036,000 of previously appropriated funds shall be available for necessary expenses during the fiscal year 1980.

PROGRAMS OF SCIENTIFIC AND TECHNOLOGICAL COOPERATION ADMINISTERED BY THE AGENCY FOR INTERNATIONAL DEVELOPMENT

For expenses necessary to carry out programs of scientific and technological cooperation administered by the Agency for International Development (hereafter referred to as the "Agency"), $12,000,000: *Provided*, That in carrying out programs of scientific and technological cooperation administered by the Agency for International Development, the Agency shall—

(1) assist developing countries to strengthen their own scientific and technological capacity in order for them to undertake the research and experimentation necessary for development;

(2) support research, in the United States and in developing countries, on critical development problems, with emphasis on research relating to technologies which are labor-intensive or which do not generate additional unemployment or underemployment and with emphasis on those problems which are the greatest impediment to improvement in the lives of the majority of the poor;

(3) foster the exchange of scientists and other technological experts with developing countries, and other forms of exchange and communication to promote the joint solution of problems of mutual concern to the United States and developing countries;

(4) advise and assist other agencies of the United States Government in planning and executing policies and programs of scientific and technological cooperation with developing countries;

(5) facilitate the participation of private United States institutions, businesses, and individuals in scientific and technological cooperation with developing countries; and

(6) gather, analyze, and disseminate information relevant to the scientific and technological needs of developing countries:

Provided further, That in carrying out the functions specified in the first proviso, the Agency shall take particular care to review all of its programs, projects, and other activities to ensure that technologies which are developed, utilized, or promoted are assessed with regard to minimizing any new problems and that participants in such programs, projects, and activities are fully aware of the need for such review with respect to any technology-related activities for which they are responsible:

Provided further, That for purposes of carrying out the functions specified in the first proviso, the Administrator of the Agency for International Development may utilize, in addition to authorities conferred by these provisions, such authority contained in the Foreign Assistance Act of 1961, the Foreign Service Act of 1946, title V of the Foreign Relations Authorization Act, Fiscal Year 1979, and title IV of the International Development and Food Assistance Act of 1978, as the Administrator of the Agency deems necessary:

Provided further, That the Agency shall carry out its functions in consultation and cooperation with the agencies of the United States Government, international organizations, and agencies of other governments engaged in promoting economic, social, and technological development in developing countries:

Provided further, That the Administrator of the Agency shall prescribe appropriate procedures to assure coordination of the activities of the Agency with other activities of the United States Government in furthering the use of science and technology in the cause of development:

Provided further, That to carry out programs of scientific and technological cooperation administered by the Agency for International Development, the Administrator of the Agency may—

(1) make and perform contracts and other agreements with any individual, institution, corporation, or other body of persons however designated, within or outside the United States, and with governments or government agencies, domestic or foreign;

(2) make advances, grants, and loans to any individual, institution, corporation, or other body of persons however designated, within or outside the United States, and to governments or government agencies, domestic or foreign;

(3) employ such personnel as necessary and fix their compensation;

(4) make provision for compensation, transportation, housing, subsistence (or per diem in lieu thereof), and health care or health and accident insurance for foreign nationals engaged in activities authorized by these provisions while they are away from their homes, without regard to the provisions of any other law;

(5) accept and use money, funds, property, and services of any kind by gift, devise, bequest, grant, or otherwise in furtherance of programs of scientific and technological cooperation administered by the Agency for International Development;

(6) acquire by purchase, lease, loan, bequest, or gift and hold and dispose of by sale, lease, loan, or grant, real and personal property of all kinds;

(7) prescribe, amend, and repeal such rules and regulations as may be necessary to the conduct of programs of scientific and technological cooperation administered by the Agency for International Development;

(8) utilize information, services, facilities, officers, and employees of any agency of the United States Government;

(9) establish a principal office in the United States and such other offices within or outside the United States, as may be necessary;

(10) make such expenditures as may be necessary for administering the provisions of this section; and

(11) take such other actions as may be necessary and incident to carrying out programs of scientific and technological cooperation administered by the Agency for International Development.

OVERSEAS PRIVATE INVESTMENT CORPORATION

The Overseas Private Investment Corporation is authorized to make such expenditures within the limits of funds available to it and in accordance with law and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 849), as may be necessary in carrying out the program set forth in the budget for the current fiscal year.

Funds Appropriated to the President

PEACE CORPS

For expenses necessary for the President to carry out the provisions of the Peace Corps Act, as amended (75 Stat. 612), $105,000,000: *Provided*, That none of the funds appropriated in this paragraph shall be used to pay for abortions.

Department of State

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for European Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1946, as amended (22 U.S.C. 801–1160); allowances as authorized by 5 U.S.C. 5921–5925; hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109; $456,241,000: *Provided*, That these funds shall be administered in a manner that insures equity in the treatment of all refugees receiving Federal assistance: *Provided further*, That no funds herein appropriated shall be used to assist directly in the migration to any nation in the Western Hemisphere of any person not having a security clearance based on reasonable standards to insure against Communist infiltration in the Western Hemisphere.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 2601(c)), $35,000,000, to remain available until expended.

In addition to amounts available under section 101(a)(1) of Public Law 96–123 for necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended, (22 U.S.C. 2601(c)), $39,000,000, to remain available until September 30, 1981.

Subchapter III—Military Assistance

Funds Appropriated to the President

MILITARY ASSISTANCE

For necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, as amended, including administrative expenses and purchase of passenger motor vehicles for replacement only for use outside of the United States, $110,200,000, to remain available for obligation until September 30, 1981: *Provided*, That none of the funds contained under this heading shall be available for the purchase of new automotive vehicles outside of the United States.

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541 of the Foreign Assistance Act of 1961, as amended, $28,400,000.

FOREIGN MILITARY CREDIT SALES

For expenses necessary to enable the President to carry out the provisions of sections 23 and 24 of the Arms Export Control Act, $659,250,000: *Provided*, That of the amount provided for the total aggregate credit sale ceiling during the current fiscal year, not less than $1,000,000,000 shall be allocated to Israel.

Subchapter IV—Export-Import Bank of the United States

The Export-Import Bank of the United States is hereby authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, except as hereinafter provided: *Provided*, That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country other than a nuclear-weapon State as defined in Article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this chapter that has detonated a nuclear explosive after the date of enactment of this Act.

LIMITATION ON PROGRAM ACTIVITY

Not to exceed $6,458,241,000 (of which not to exceed $5,000,000,000 shall be for direct loans) shall be authorized during the current fiscal year for other than administrative expenses.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $14,129,000 (to be computed on an accrual basis) shall be available during the current fiscal year for administrative expenses, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109: *Provided*, That (1) fees or dues to international organizations of credit institutions engaged in financing foreign trade, (2) necessary expenses (including special services performed on a contract or a fee basis, but not including other personal services) in connection with the acquisition, operation, maintenance, improvement, or disposition of any real or personal property belonging to the Bank or in which it has an interest, including expenses of collections of pledged collateral, or the investigation or appraisal of any property in respect to which an application for a loan has been made, and (3) expenses (other than internal expenses of the Bank) incurred in connection with the issuance and servicing of guarantees, insurance, and reinsurance, shall be considered as nonadministrative expenses for the purposes hereof.

Subchapter V—General Provisions

Sec. 501. None of the funds herein appropriated (other than funds appropriated for "International organizations and programs") shall be used to finance the construction of any new flood control, reclamation, or other water or related land resource project or program which has not met the standards and criteria used in determining the feasibility of flood control, reclamation, and other water and related land resource programs and projects proposed for construction within the United States of America under the Principles and Standards for Planning Water and Related Land Resources dated October 25, 1973.

Sec. 502. Except for the appropriations entitled "International disaster assistance" and "United States emergency refugee and migration assistance fund", not more than 15 per centum of any appropriation item made available by this chapter for fiscal year 1980 shall be obligated or reserved during the last month of availability.

Sec. 503. Unobligated balances as of September 30, 1979, of funds heretofore made available under the authority of the Foreign Assistance Act of 1961, as amended, for the "Economic support fund" in an amount not to exceed $19,000,000 to be used for the Maqarin Dam and in an amount not to exceed $5,000,000 to be used for programs in Middle East Regional Cooperation and Development, are hereby continued available for the fiscal year 1980 in not to exceed the aforementioned amounts.

Sec. 504. None of the funds herein appropriated nor any of the counterpart funds generated as a result of assistance hereunder shall be used to pay pensions, annuities, retirement pay, or adjusted service compensation for any persons heretofore or hereafter serving in the armed forces of any recipient country.

Sec. 505. None of the funds appropriated or made available pursuant to this chapter for carrying out the Foreign Assistance Act of 1961, as amended, may be used for making payments on any contract for procurement to which the United States is a party entered into after the date of enactment of this Act which does not contain a provision authorizing the termination of such contract for the convenience of the United States.

Sec. 506. None of the funds appropriated or made available pursuant to this chapter for carrying out the Foreign Assistance Act of 1961, as amended, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations.

Sec. 507. None of the funds contained in subchapter II of this chapter may be used to carry out the provisions of section 209(d) of the Foreign Assistance Act of 1961, as amended.

Sec. 508. Appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

Sec. 509. None of the funds appropriated or made available (other than funds for "International organizations and programs") pursuant to this chapter for carrying out the Foreign Assistance Act of 1961, as amended, may be used to finance the export of nuclear equipment, fuel, or technology or to provide assistance for the training of foreign nationals in nuclear fields.

Sec. 510. Funds appropriated by this chapter may not be obligated or expended to provide assistance to any country for the purpose of aiding the efforts of the government of such country to repress the legitimate rights of the population of such country contrary to the Universal Declaration of Human Rights.

Sec. 511. None of the funds appropriated or made available pursuant to this chapter shall be obligated or expended to finance directly any assistance to Mozambique, except that the President may waive this prohibition if he determines, and so reports to the Congress, that furnishing such assistance would further the foreign policy interests of the United States.

Sec. 512. None of the funds appropriated or otherwise made available pursuant to this chapter shall be obligated or expended to finance directly any assistance or reparations to Angola, Cambodia, Laos, or the Socialist Republic of Vietnam.

Sec. 513. None of the funds appropriated in this chapter shall be used for any form of aid directly to Cuba.

Sec. 514. Not to exceed 80 per centum of the funds made available by this chapter for foreign national participants to be selected for Agency for International Development training programs in the United States in fiscal year 1980 shall be available for participants who are selected by the government of their home country, and it is the sense of the Congress that at least 20 per centum of the number of trainees for which funds are obligated in fiscal year 1980 should be chosen by independent selection panels designated by the United States ambassador to the country receiving assistance upon the recommendation of the Mission of the Agency for International Development in such country, and that not less than 80 per centum of the members of each such panel should be citizens of such country.

Sec. 515. None of the funds made available by this chapter may be obligated under an appropriation account to which they were not appropriated without the written prior approval of the Appropriations Committees of both Houses of the Congress.

Sec. 516. No part of any appropriation contained in this chapter shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

Sec. 517. No part of any appropriation contained in this chapter shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Sec. 518. No part of any appropriation contained in this chapter shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this chapter.

Sec. 519. None of the funds appropriated or made available pursuant to this chapter shall be available to any international financial institution whose United States representative cannot upon request obtain the amounts and the names of borrowers for all loans of the international financial institution, including loans to employees of the institution, or the compensation and related benefits of employees of the institution.

Sec. 520. None of the funds appropriated or made available pursuant to this chapter shall be available to any international financial institution whose United States representative cannot upon request obtain documents(s) developed by the management of the international financial institutions.

Sec. 521. None of the funds appropriated or otherwise made available by this chapter to the Export-Import Bank and funds appropriated by this chapter for direct foreign assistance may be obligated for any government which aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed or is being sought by any other government for prosecution for, any war crime or act of international terrorism, unless the President of the United States finds that the national security requires otherwise.

Sec. 522. None of the funds appropriated or made available pursuant to this chapter for direct assistance and none of the funds otherwise made available pursuant to this chapter to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar or competing commodity: *Provided*, That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar or competing commodity.

Sec. 523. The Secretary of the Treasury shall instruct the United States executive directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank and the Asian Development Bank, and the executive director representing the United States at the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this chapter, for the production of any commodity for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar or competing commodity.

Sec. 524. Each written or printed report, study, evaluation, plan, manual, presentation, publication, or other document prepared under the auspices of an agency for which funds are made available by this chapter, any portion of which is provided by other than full-time employees of such agency, shall reflect in the lower right-hand corner of the title page of such document a cost component which reflects the full cost to the United States Government of such portion. A copy of each such document shall be supplied to the Director of the International Division of the General Accounting Office not later than 10 days after the date of issue of such document. Each such document shall be recorded in order of receipt by the General Accounting Office and maintained by said Office for a period of five years following its date of issue.

Sec. 525. None of the funds made available under this chapter for "Agriculture, rural development, and nutrition, Development Assistance," "Population, Development Assistance," "Health, Development Assistance," "Education and human resources development, Development Assistance," "Technical assistance, energy, research, reconstruction, and selected development problems, Development Assistance," "International organizations and programs," "American schools and hospitals abroad:" "Assistance to African refugees," "Sahel development program," "International narcotics control," "Economic support fund," "Peacekeeping operations," "Operating Expenses of the Agency for International Development," "Military assistance," "International military education and training," "Foreign military credit sales," "Inter-American Foundation," "Institute for Scientific and Technological Cooperation," "Peace Corps," or "Migration and refugee assistance," shall be available for obligation for activities, programs, projects, type of material assistance, countries or other operation not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of those specific headings for fiscal year 1980 unless the Appropriations Committee of both Houses of Congress are previously notified fifteen days in advance.

Sec. 526. None of the funds appropriated or otherwise made available pursuant to this chapter shall be obligated or expended to finance directly any grant Military Assistance program or Foreign Military Credit Sales program to Panama.

Sec. 527. None of the funds made available by this chapter for expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961 shall be available for the Institute for Scientific and Technological Cooperation or shall be available for the Agency for International Development or any other department or agency of the United States to plan for the establishment of the Institute for Scientific and Technological Cooperation.

Sec. 528. Of the funds made available by this chapter for the Agency for International Development, not to exceed $10,000 shall be available for entertainment expenses, not to exceed $100,000 shall be available for representation allowances, and not to exceed $110,000 shall be available for official residence expenses: *Provided*, That of the total funds made available by this chapter under the headings "Military Assistance" and "Foreign Military Credit Sales", not to exceed $2,500 shall be available for entertainment expenses and not to exceed $70,000 shall be available for representation allowances: *Provided further*, That of the funds made available by this chapter under the heading "International Military Education and Training", not to exceed $125,000 shall be available for entertainment allowances: *Provided further*, That of the funds made available by this chapter for the Inter-American Foundation, not to exceed $2,500 shall be available for entertainment and representation allowances: *Provided further*, That not to exceed $8,000 shall be available for entertainment expenses of the Overseas Private Investment Corporation: *Provided further*, That of the funds made available by this chapter for the Export-Import Bank, not to exceed a total of $16,000 shall be available for entertainment allowances for members of the Board of Directors of the Bank: *Provided further*, That of the funds made available by this chapter for the Peace Crops, not to exceed $4,000 shall be available for entertainment expenses.

Sec. 529. Of the amounts appropriated or otherwise made available under this chapter for expenses necessary to enable the President to carry out sections 103 through 106, and 531 through 534 of the Foreign Assistance Act of 1961, not to exceed $20,000,000 shall be available for assistance to Uganda.

Sec. 530. It is the sense of the Congress that the United States should work with the Organization of American States to insure that no further military encroachments are made into the Western Hemisphere by foreign countries.

Amounts provided for each item under this chapter shall be reduced by an amount equal to the amount, if any, provided for such item before the date of enactment of this Act pursuant to the authority of the joint resolution entitled "A joint resolution making continuing appropriations for the fiscal year 1980, and for other purposes", approved October 12, 1979 (93 Stat. 656), and the joint resolution entitled "A joint resolution making further continuing appropriations for the fiscal year 1980, and for other purposes", approved November 20, 1979 (93 Stat. 923).

This chapter may be cited as the "Foreign Assistance and Related Programs Appropriations Act, 1980".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House insist on its disagreement to the amendment of the Senate numbered 95.

PREFERENTIAL MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. LONG of Maryland offers a preferential motion to recede and concur in the amendment of the Senate numbered 95 with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment insert the following:

SUBCHAPTER I—MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

For payment to the Inter-American Development Bank by the Secretary of the Treasury, $763,728,483, to remain available until expended, for the United States share of (1) the new increase in subscriptions to (a) paid-in capital stock and (b) callable capital stock, and (2) the new increase in the resources of the Fund for Special Operations and the replenishment of the resources of the Fund for Special Operations as authorized by the Act of May 31, 1976 (Public Law 94–302): *Provided,* That of such amount, not to exceed $175,000,000 shall be available for the new increase in the resources of the Fund. *Provided further,* That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, an additional amount of $8,000,000, for the United States share of the increase in subscriptions to the paid-in capital stock, and an additional amount of $72,000,000 for callable capital stock, as authorized by the Act of October 3, 1977 (Public Law 95–118), to remain available until expended: *Provided,* That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE INTERNATIONAL FINANCE CORPORATION

For payment to the International Finance Corporation by the Secretary of the Treasury, $33,447,900, for the United States share of the increase in subscriptions to capital stock, as authorized by the Act of October 3, 1977 (Public Law 95–118), to remain available until expended.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $272,000,000 for the United States contribution to the fourth replenishment as authorized by the Act of August 14, 1974 (Public Law 93–373), to remain available until expended and $800,000,000, for the third installment of the United States contribution to the fifth replenishment as authorized by the Act of October 3, 1977 (Public Law 95–118), to remain available until expended: *Provided,* That no such payment may be made while the United States Executive Director to the International Bank for Reconstruction and Development is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE ASIAN DEVELOPMENT BANK

For payment to the Asian Development Bank by the Secretary of the Treasury, an additional amount of $50,000,000, to remain available until expended, for the United States contribution to the increase in resources of the Asian Development Fund as authorized by the Act of October 3, 1977 (Public Law 95–118) and for the new United States contribution to the increase in resources of the Asian Development Fund: *Provided,* That no such payment may be made while the United States Director of the Bank is compensated by the Bank at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to the Bank is compensated by the Bank in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For payment to the African Development Fund by the Secretary of the Treasury, an additional amount of $16,667,000 for the United States contribution to the second replenishment of resources to remain available until expended.

FUTURE UNITED STATES CONTRIBUTIONS TO THE INTERNATIONAL FINANCIAL INSTITUTIONS

It is the sense of the Congress that the United States share of contributions to future replenishments of the International Financial Institutions should not exceed the percentages enumerated below for each of the respective accounts within these institutions:

Asian Development Bank:
  Paid-in capital, 16.3 percent;
  Callable capital, 16.3 percent;
  Asian Development Fund, 22.2 percent;
African Development Bank:
  Special Fund, 18 percent;
Inter-American Development Bank:
  Paid-in capital, 34.5 percent;
  Callable capital, 34.5 percent;
  Fund for Special Operations, 40 percent;
  International Bank for Reconstruction and Development:
  Paid-in capital, 24 percent;
  Callable capital, 24 percent;
  International Development Association, 25 percent;
  International Finance Corporation, 23 percent.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of section 301 of the Foreign Assistance Act of 1961, as amended, and of section 2 of the United Nations Environment Program Participation Act of 1973, $256,280,000: *Provided,* That not more than $10,000,000 shall be available for the United Nations Environment Program: *Provided further,* That not more than $120,000,000 shall be available for the United Nations Development Program: *Provided further,* That none of the funds appropriated in this paragraph shall be made available for the United States proportionate share for any programs for the Palestine Liberation Organization, the South West Africa People's Organization, the Zimbabwe African People's Union, and the Zimbabwe African National's Union: *Provided further,* That none of the funds appropriated or made available pursuant to this paragraph shall be obligated or expended to finance the United States proportionate share for any program in Cuba.

SUBCHAPTER II—BILATERAL ECONOMIC ASSISTANCE FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, as amended, and for other purposes, to remain available until September 30, 1980, unless otherwise specified herein, as follows:

Agriculture, rural development, and nutrition, Development Assistance: For necessary expenses to carry out the provisions of section 103, $605,000,000: *Provided,* That the amounts provided for loans to carry out the purposes of this paragraph shall remain available for obligation until September 30, 1981.

Population, Development Assistance: For necessary expenses to carry out the provisions of section 104(b), $185,000,000: *Provided,* That the amounts provided for loans to carry out the purposes of this paragraph shall remain available for obligation until September 30, 1981.

Health, Development Assistance: For necessary expenses to carry out the provisions of section 104(c), $130,000,000: *Provided,* That the amounts provided for loans to carry out the purposes of this paragraph shall remain available for obligation until September 30, 1981.

Education and human resources development, Development Assistance: For necessary expenses to carry out the provisions of section 105, $97,000,000: *Provided,* That the amounts provided for loans to carry out the purposes of this paragraph shall remain available for obligation until September 30, 1981.

Technical assistance, energy, research, reconstruction, and selected development problems, Development Assistance: For necessary expenses to carry out the provisions of section 106, $111,888,500: *Provided,* That the amounts provided for loans to carry out the purposes of this paragraph shall remain available for obligation until September 30, 1981.

Loan allocation, Development Assistance: Of the new obligational authority appropriated under this Act to carry out the provisions of sections 103–106, not less than $396,200,000 shall be available for loans for fiscal year 1980: *Provided,* That loans made pursuant to this authority to countries whose annual per capita gross national product is greater than $588 but less than $963 shall be repayable within twenty-five years following the date on which funds are initially made available under such loans and loans to countries whose annual per capita gross national product is greater than or equal to $963 shall be repayable within twenty years following the date on which funds are initially made available under such loans.

American schools and hospitals abroad: For necessary expenses to carry out the provisions of section 214, $20,000,000.

Contingencies: Notwithstanding the provisions of section 451, not more than $3,000,000 of the funds made available under this chapter shall be used to carry out the purposes set forth in said section.

International disaster assistance: For necessary expenses to carry out the provisions of section 491, an additional amount of $43,000,000: *Provided*, That in providing assistance under this paragraph for Cambodian famine victims, the President shall satisfy himself that adequate procedures have been established to ensure that such assistance reaches the innocent victims of famine for whom it is intended. Such procedures shall include end use monitoring of deliveries on a periodic basis by individuals having freedom of movement where the commodities are being distributed within Cambodia. The President shall report to the Congress on compliance with this provision not later than 90 days after the enactment of this provision.

Assistance to African refugees: For necessary expenses to carry out the provisions of section 495F, $14,250,000: *Provided*, That these funds shall be transferred to the Office of Refugee Programs of the Department of State for obligation and expenditure.

Sahel development program: For necessary expenses to carry out the provisions of section 121, $75,000, to remain available until expended: *Provided*, That no part of such appropriation may be available to make any contribution of the United States to the Sahel development program in excess of 10 per centum of the total contributions to such program.

Payment to the Foreign Service Retirement and Disability Fund: For payment to the "Foreign Service Retirement and Disability Fund," as authorized by the Foreign Service Act of 1946, as amended, $25,676,000.

Overseas training and special development activities (foreign currency program): For necessary expenses as authorized by section 612, $20,700,000 in foreign currencies which the Treasury Department declares to be excess to the normal requirements of the United States.

Economic support fund: For an additional amount of $80,000,000 for necessary expenses to carry out the provisions of sections 531 through 535: *Provided*, That these funds shall not be available for obligation or expenditure until October 1, 1980: *Provided further*, That of the funds appropriated, not less than $785,000,000 shall be available for Israel, not less than $750,000,000 shall be available for Egypt: *Provided further*, That none of the funds herein appropriated may be made available to Syria without the prior determination by the President and notification thereof to Congress, that Syria is acting in good faith in furthering the process of peace initiated by the Camp David accords of which the treaty between Egypt and Israel is the first step: *Provided further*, That of the funds appropriated under this paragraph, not more than $5,000,000 shall be for refugee assistance through International Relief Organizations in Rhodesia: *Provided further*, That of the funds appropriated under this paragraph, not to exceed $60,500,000 shall be available for programs in southern Africa: *Provided further*, That the funds appropriated under this paragraph for refugee assistance shall be transferred to the Office of Refugee Programs of the Department of State for obligation and expenditure.

Peacekeeping operations: For necessary expenses to carry out the provisions of section 551, $21,100,000.

Operating expenses of the Agency for International Development: For necessary expenses to carry out the provisions of section 667, $256,000,000: *Provided*, That not more than $102,900,000 of this amount shall be for AID-Washington Operating Expenses: *Provided further*, That not to exceed $700,000 of funds provided to the Agency for International Development by this chapter shall be available for hiring experts and consultants pursuant to 5 U.S.C. 3109: *Provided further*, That none of the funds appropriated or made available pursuant to this paragraph may be used to finance the operating or administrative expenses of the Institute for Scientific and Technological Cooperation: *Provided further*, That not to exceed $2,000,000 of the funds made available pursuant to this paragraph may be used to finance the operating or administrative expenses of the International Development Cooperation Agency.

International narcotics control: For necessary expenses to carry out the provisions of section 481, for an additional amount of $10,258,000.

INTER-AMERICAN FOUNDATION

For expenses necessary to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969, as amended, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, $10,000,000: *Provided*, That not to exceed $1,036,000 of previously appropriated funds shall be available for necessary expenses during the fiscal year 1980.

OVERSEAS PRIVATE INVESTMENT CORPORATION

The Overseas Private Investment Corporation is authorized to make such expenditures within the limits of funds available to it and in accordance with law and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 849), as may be necessary in carrying out the program set forth in the budget for the current fiscal year.

FUNDS APPROPRIATED TO THE PRESIDENT

PEACE CORPS

For expenses necessary for the President to carry out the provisions of the Peace Corps Act, as amended (75 Stat. 612), $99,179,000: *Provided*, That none of the funds appropriated in this paragraph shall be used to pay for abortions.

DEPARTMENT OF STATE

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for European Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1946, as amended (22 U.S.C. 801–1160); allowances as authorized by 5 U.S.C. 5921–5925; hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109; $456,241,000: *Provided*, That these funds shall be administered in a manner that insures equity in the treatment of all refugees receiving Federal assistance: *Provided further*, That no funds herein appropriated shall be used to assist directly in the migration to any nation in the Western Hemisphere of any person not having a security clearance based on reasonable standards to insure against Communist infiltration in the Western Hemisphere.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 2601(c)), $26,700,000, to remain available until expended.

SUBCHAPTER III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

MILITARY ASSISTANCE

For necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, as amended, including administrative expenses and purchase of passenger motor vehicles for replacement only for use outside of the United States, $110,000,000, to remain available for obligation until September 30, 1981: *Provided*, That none of the funds contained under this heading shall be available for the purchase of new automotive vehicles outside of the United States.

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541 of the Foreign Assistance Act of 1961, as amended, an additional amount of $3,400,000.

FOREIGN MILITARY CREDIT SALES

For expenses necessary to enable the President to carry out the provisions of sections 23 and 24 of the Arms Export Control Act, an additional amount of $7,000,000: *Provided* That of the amount provided for the total aggregate credit sale ceiling during the current fiscal year, not less than $1,000,000,000 shall be allocated to Israel.

SUBCHAPTER IV—EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank of the United States is hereby authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, except as hereinafter provided: *Provided*, That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country other than a nuclear-weapon State as defined in Article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this chapter that has detonated a nuclear explosive after the date of enactment of this Act.

LIMITATION ON PROGRAM ACTIVITY

Not to exceed $5,702,345,000 (of which not to exceed $4,105,000,000 shall be for direct loans) shall be authorized during the current fiscal year for other than administrative expenses.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $13,690,000 (to be computed on an accrual basis) shall be available during the current fiscal year for administrative expenses, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109: *Provided*, That (1) fees or due to international organizations of credit institutions engaged in financing foreign trade, (2) necessary expenses (including special services performed on a contract or a fee basis, but not including other personal services) in connection with the acquisition, operation, maintenance, improvement, or disposition of any real or personal property belonging to the Bank or in which it has an interest, including expenses of collections of pledged collateral, or the investigation or appraisal of any property in respect to which an application for a loan has been made, and (3) expenses (other than internal expenses of the Bank) incurred in connection with the issuance and servicing of guarantees, insurance, and reinsurance, shall be considered as nonadministrative expenses for the purposes hereof.

SUBCHAPTER V—GENERAL PROVISIONS

SEC. 501. None of the funds herein appropriated (other than funds appropriated for "International organizations and programs") shall be used to finance the construction of any new flood control, reclamation, or other water or related land resource project or program which has not met the standards and criteria used in determining the feasibility of flood control, reclamation, and other water and related land resource programs and projects proposed for construction within the United States of America under the Principles and Standards for Planning Water and Related Land Resources dated October 25, 1973.

SEC. 502. Except for the appropriations entitled "International disaster assistance" and "United States emergency refugee and migration assistance fund", not more than 15 per centum for any appropriation item made available by this chapter for fiscal year 1980 shall be obligated or reserved during the last month of availability.

SEC. 503. Unobligated balances as of September 30, 1979, of funds heretofore made available under the authority of the Foreign Assistance Act of 1961, as amended, for the "Economic support fund" in an amount not to exceed $19,000,000 to be used for the Maqarin Dam and in an amount not to exceed $5,000,000 to be used for programs in Middle East Regional Cooperation and Development, are hereby continued available for the fiscal year 1980 in not to exceed the aforementioned amounts.

SEC. 504. None of the funds herein appropriated nor any of the counterpart funds generated as a result of assistance hereunder shall be used to pay pensions, annuities, retirement pay, or adjusted service compensation for any persons heretofore or hereafter serving in the armed forces of any recipient country.

SEC. 505. None of the funds appropriated or made available pursuant to this chapter for carrying out the Foreign Assistance Act of 1961, as amended, may be used for making payments on any contract for procurement to which the United States is a party entered into after the date of enactment of this Act which does not contain a provision authorizing the termination of such contract for the convenience of the United States.

SEC. 506. None of the funds appropriated or made available pursuant to this chapter for carrying out the Foreign Assistance Act of 1961, as amended, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations.

SEC. 507. None of the funds contained in subchapter II of this chapter may be used to carry out the provisions of section 209(d) of the Foreign Assistance Act of 1961, as amended.

SEC. 508. Appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

SEC. 509. None of the funds appropriated or made available (other than funds for "International organizations and programs") pursuant to this chapter for carrying out the Foreign Assistance Act of 1961, as amended, may be used to finance the export of nuclear equipment, fuel, or technology or to provide assistance for the training of foreign nationals in nuclear fields.

SEC. 510. Funds appropriated by this chapter may not be obligated or expended to provide assistance to any country for the purpose of aiding the efforts of the government of such country to repress the legitimate rights of the population of such country contrary to the Universal Declaration of Human Rights.

SEC. 511. None of the funds appropriated or made available pursuant to this chapter shall be obligated or expended to finance directly any assistance to Mozambique, except that the President may waive this prohibition if he determines, and so reports to the Congress, that furnishing such assistance would further the foreign policy interests of the United States.

SEC. 512. None of the funds appropriated or otherwise made available pursuant to this chapter shall be obligated or expended to finance directly any assistance or reparations to Angola, Cambodia, Laos, or the Socialist Republic of Vietnam.

SEC. 513. None of the funds appropriated in this chapter shall be used for any form of aid directly to Cuba.

SEC. 514. Not to exceed 80 per centum of the funds made available by this chapter for foreign national participants to be selected for Agency for International Development training programs in the United States in fiscal year 1980 shall be available for participants who are selected by the government of their home country, and it is the sense of the Congress that at least 15 per centum of the number of trainees for which funds are obligated in fiscal year 1980 should be chosen by independent selection panels designated by the United States ambassador to the country receiving assistance upon the recommendation of the Mission of the Agency for International Development in such country, and that not less than 80 per centum of the members of each such panel should be citizens of such country.

SEC. 515. None of the funds made available by this chapter may be obligated under an appropriation account to which they were not appropriated without the written prior approval of the Appropriations Committees of both Houses of the Congress.

SEC. 516. No part of any appropriation contained in this chapter shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

SEC. 517. No part of any appropriation contained in this chapter shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 518. No part of any appropriation contained in this chapter shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this chapter.

SEC. 519. None of the funds appropriated or made available pursuant to this chapter shall be available to any international financial institution whose United States representative cannot upon request obtain the amounts and the names of borrowers for all loans of the international financial institution, including loans to employees of the institution, or the compensation and related benefits of employees of the institution.

SEC. 520. None of the funds appropriated or made available pursuant to this chapter shall be available to any international financial institution whose United States representative cannot upon request obtain document(s) developed by the management of the international financial institutions.

SEC. 521. None of the funds appropriated or otherwise made available by this chapter to the Export-Import Bank and funds appropriated by this chapter for direct foreign assistance may be obligated for any government which aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed or is being sought by any other government for prosecution for, any war crime or act of international terrorism, unless the President of the United States finds that the national security requires otherwise.

SEC. 522. None of the funds appropriated or made available pursuant to this chapter for direct assistance and none of the funds otherwise made available pursuant to this chapter to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar or competing commodity: *Provided*, That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar or competing commodity.

SEC. 523. The Secretary of the Treasury shall instruct the United States executive directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank and the Asian Development Bank, and the executive director representing the United States at the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this chapter, for the production of any commodity for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar or competing commodity.

SEC. 524. Each written or printed report, study, evaluation, plan, manual, presentation, publication, or other document prepared under the auspices of an agency for which funds are made available by this chapter, any portion of which is provided by other than full-time employees of such agency, shall reflect in the lower right-hand corner of the title page of such document a cost component which reflects the full cost to the United States Government of such portion. A copy of each such document shall be supplied to the Director of the International Division of the General Accounting Office not later than 10 days after the date of issue of such document. Each such document shall be recorded in order of receipt by the General Accounting Office and maintained by said Office for a period of five years following its date of issue.

SEC. 525. None of the funds made available under this chapter for "Agriculture, rural development, and nutrition, Development Assistance," "Population, Development Assistance," "Health, Development Assistance," "Education and human resources development, Development Assistance," "Technical assistance, energy, research, reconstruction, and selected development problems, Development Assistance," "International organizations and programs," "American schools and hospitals abroad," "Assistance to African refugees," "Sahel development program," "International narcotics control," "Economic support fund," "Peacekeeping operations," "Operating Expenses of the Agency for International Development," "Military assistance," "International military education and training," "Foreign military credit sales," "Inter-American Foundation," "Peace Corps," or "Migration and refugee assistance," shall be available for obligation for activities, programs, projects, type of material assistance, countries or other operation not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings for fiscal year 1980 unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance.

SEC. 526. None of the funds appropriated or otherwise made available pursuant to this chapter shall be obligated or expended to finance directly any grant Military Assistance program or Foreign Military Credit Sales program to Panama.

SEC. 527. None of the funds made available by this chapter for expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961 shall be available for the Institute for Scientific and Technological Cooperation or shall be available for the Agency for International Development or any other department or agency of the United States to plan for the establishment of the Institute for Scientific and Technological Cooperation.

SEC. 528. Of the funds made available by this chapter for the Agency for International Development, not to exceed $10,000 shall be available for entertainment expenses, not to exceed $100,000 shall be available for representation allowances, and not to exceed $110,000 shall be available for official residence expenses: *Provided*, That of the total funds made available by this chapter under the headings "Military Assistance" and "Foreign Military Credit Sales", not to exceed $2,500 shall be available for entertainment expenses and not to exceed $70,000 shall be available for representation allowances: *Provided further*, That of the funds made available by this chapter under the heading "International Military Education and Training", not to exceed $125,000 shall be available for entertainment allowances: *Provided further*, That of the funds made available by this chapter for the Inter-American Foundation, not to exceed $2,500 shall be available for entertainment and representation allowances: *Provided further*, That not to exceed $8.000 shall be available for entertainment expenses of the Overseas Private Investment Corporation: *Provided further*, That of the funds made available by this chapter for the Export-Import Bank, not to exceed a total of $16.000 shall be available for entertainment allowances for members of the Board of Directors of the Bank: *Provided further*, That of the funds made available by this chapter for the Peace Corps, not to exceed $4.000 shall be available for entertainment expenses.

SEC. 529. Of the amounts appropriated or otherwise made available under this chapter for expenses necessary to enable the President to carry out sections 103 through 106, and 531 through 534 of the Foreign Assistance Act of 1961, not to exceed $20.000.000 shall be available for assistance to Uganda.

SEC. 530. It is the sense of the Congress that the United States should work with the Organization of American States to insure that no further military encroachments are made into the Western Hemisphere by foreign countries.

Amounts provided for each item under this chapter shall be reduced by an amount equal to the amount, if any, provided for such item before the date of enactment of this Act pursuant to the authority of the joint resolution entitled "A joint resolution making continuing appropriations for the fiscal year 1980, and for other purposes", approved October 12, 1979 (93 Stat. 656), and the joint resolution entitled "A joint resolution making further continuing appropriations for the fiscal year 1980, and for other purposes", approved November 20, 1979 (93 Stat. 923).

This chapter may be cited as the "Foreign Assistance and Related Programs Appropriations Act, 1980".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the preferential motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. BAUMAN. Mr. Speaker, I demand a division of the question at the appropriate time.

The SPEAKER pro tempore. The question will be divided.

Mr. LONG of Maryland. Mr. Speaker, the amendment which I have offered is a drastically reduced version of the fiscal year 1980 conference report on foreign aid.

It fits the mood of the times and provides only for essential programs which directly affect this Nation's vital interest.

Mr. Speaker, the original fiscal year 1980 conference report was some $1.4 billion below the budget and some $2.9 billion below the fiscal year 1979 bill.

This substitute for a bill is even lower—with some $554 million reduced from the conference report figure.

Some of the key programs are as follows:

Export-Import Bank, $355,000,000. This will provide funding for a program which is now essentially out of funds and which is strongly supported by most Members of this House.

Disaster assistance, $43,000,000. This item is urgently needed and will provide $30,000,000 for Cambodian refugees, $10,000,000 for disaster relief and reconstruction in the Dominican Republic and Dominica, and $3,000,000 for earthquake reconstruction in Italy.

International narcotics control, $10,258,000. This will provide the amount of money agreed to in the 1980 conference report and will fund programs primarily in Colombia and Mexico. This program has received the strong support of the House in the past.

Foreign military credit sales, $7,000,000. This program will finance a $70,000,000 program and will allow the United States to help fulfill its worldwide defense commitments.

Economic support fund, $80,000,000. This money will be provided for obligation and expenditure in fiscal year 1981 and thus will not affect the budget resolution for fiscal year 1980.

Although the funds are not earmarked in the bill, it is my understanding that they will be used in Nicaragua at $75,000,000, and in Honduras at $5,000,000.

This amount is authorized and all Members are aware of the long debate and discussion in finally obtaining that authorization.

African Development Bank, $16,667,000. This reflects the level of the authorization which passed the House and is now enacted into law.

This item is important if the United States is to maintain its role and influence in this new institution so important to a continent upheaval.

Asian Development Bank, $50,000,000. This item is about half of the original conference agreement and is substantially below the amount recently authorized by the House.

World Bank (IBRD) $80,000,000. This is an amazing reduction compared to the original budget request of $1,025,777,153. Certainly this item reflects the growing House position of being conservative in regard to the multilateral banks.

The other two items include $2,000,000 for emergency AID operating expenses and $3,400,000 for international military education and training.

Mr. Speaker, this is a conservative bill. It reflects the mood of the House. It is drastically reduced in comparison with the President's request, with the 1979 bill, and is under the functional category for international affairs.

It is well below the congressional budget functional categories, $3.5 billion below the 1979 foreign aid bill.

You can tell your constituents, you can vote for this and tell your constituents that you voted to cut foreign aid to below the Senate figure in order to get it below the budget.

Mr. Speaker, the House conferees have done their job. This is a bill that can and should be supported.

□ 1550

Mr. ALEXANDER. Mr. Speaker, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Arkansas.

Mr. ALEXANDER. Mr. Speaker, I thank the gentleman for yielding. I wish to congratulate the gentleman from Maryland and the gentleman from Mississippi and all the conferees on the good work they have done, especially in providing for the needs of our Government.

Mr. Speaker, as the House makes its final decision on foreign aid to Nicaragua, we ought to consider the request in the context of the political situation in the entire Central American region. The situation in Nicaragua is the result of a set of distinct historical and political circumstances which bear upon whether the assistance should be extended.

In the case of Nicaragua, I believe those circumstances warrant extension of the aid.

Foreign assistance is not a very popular item in today's economic framework. We continue to experience a high level of inflation even as the number of jobless persons mounts. Clearly, there is a prevailing sentiment that "charity begins at home."

However, our domestic difficulties ought not to blind us to the necessity for the pursuance of a realistic foreign policy that will help guarantee our security. There was a day when we could make gunboats the centerpiece of our foreign policy, but that day has long passed. Today, the reality is that American influence is best advanced by the judicious use of foreign assistance programs.

Because of the proximity of the Central American States and their general volatility—not to mention their particular vulnerability to Castro-style insurrection—it seems to me to be particularly important that we set criteria for assistance in terms of which can be defined which reflect a recognition of our own national interest.

In the case of Nicaragua, I believe the $75 million reconstruction loan to be requisite to maintenance of U.S. influence. In the instance of El Salvador, our assistance may prove critical to the ultimate success of the centrist junta—the alternatives to the junta are extreme elements of either the right or left. The levels of aid in each of those nations seems to me to be consistent with our interests.

However, in the case of aid to Guatemala, the level of assistance does not appear to be adequate to promote economic development and political stability.

Specifically, Guatemala occupies a pivotal position in the region. It is the largest and most populous of the Central American States. Its government has been beset with an unusually high level of political violence but has made some significant efforts to bring about reforms which can defuse the potentially explosive situation there.

For that reason, I do not believe the levels of aid reflect a realistic appreciation of the position occupied in Central America by Guatemala, nor do I believe it reflects a fully realistic appraisal of the stakes involved for the United States.

Mr. Speaker, although we are at the end of congressional consideration of this funding bill, we are in the midst of decisionmaking for fiscal year 1981 and future years. In friendship and cooperation, as in business, the adage of "Nothing ventured, nothing gained" has been well tested. When making future decisions on priorities for using our foreign assistance, we owe it to our fellow Americans to examine closely the immense value to our Nation of having a hemispheric community which shares with us bonds of friendship and cooperation in economic, cultural, and national security matters and to invest our resources accordingly.

Following a recent trip to Nicaragua I have written the following report which describes the current conditions as they appear to me. I urge my colleagues to support the loan to Nicaragua.

NICARAGUA: SANDINISMO SI!—COMUNISMO NO?

(By Bill Alexander, M.C.)

MANAGUA, June 1980.—Bullet holes pock the walls at La Prensa, the independent newspaper that dared to expose the tyranny of ex-Presidente Anastasio Somoza. The stilled press, charred from fire bombings last year, remains standing, a small monument to a victorious revolution. Managua is scarred and wrecked by the ruin of the bloody struggle against oppression which ejected a despicable dictator whose family ruled Nicaragua for 45 years.

It is a myth of the Sandinistas that the Somoza family was placed in power by the U.S. Marines after arranging for the arrest and assassination of Agosto Sandino, in whose name the revolution began.

The historical truth is different.

The Marines, in the early 1930's, carrying out a conscious U.S. policy of de-politicizing the Nicaraguan military, created a National Guard which came to represent the only real power in that politically unstable nation. It was perhaps inevitable that the National Guard leaders would assume power because politics, like nature, abhors a vacuum.

Among the Guard leadership in 1934 was Lt. Col. Anastasio Somoza, the father of Anastasio "Tacho" Somoza, the last of the line. For 45 years, the Somoza family ruled Nicaragua as a personal fiefdom, manipulating its people and institutions for only two purposes—self-aggrandisement and personal gain. When Somoza was driven from power in 1979, he reportedly took with him a personal fortune of more than $100 million and left Nicaragua with debts totalling $1.4 billion.

Somoza's overthrow added force to the tide of rising revolution in Central America that is so conspicuously present in Nicaragua. Plastered on the wall in Managua's Nueva Diaro (Daily News), under the brash symbol of the communist hammer and machete is an El Salvador Communist Party (BPR) poster proclaiming "Viva La Clase Obrera" (Long Live the Working Class). On the opposite wall is a Nicaraguan government poster displaying a map of Latin America and giving notice of a socialist convention—"Movemiento Popular En Centroamerica y La Caribe, 1–5 Julio 1980" (Popular Movement in Central America and the Caribbean, July 1–5, 1980).

The avenues of Nicaragua are lined with billboards displaying revolutionary art, exhorting the people to work, to learn, to mobilize, to struggle for the revolution. The art serves notice to the world that poverty and passion are changing the politics of Central America. No longer are countries like Nicaragua merely exploited little "banana republics", but symbols of the hemispheric struggle between a corrupt right and a radical left.

Somewhere in the center are the people.

Today, Central American politics are as volatile as the volcanos which dominate the landscape. El Salvador's centrist junta is under savage attack from both the left and the right. Panama teeters on the edge of dictatorship as General Omar Torrijos continues his drive for personal power. Honduras bends when the winds from Guatemala's right begin to blow. Guatemalans awake each morning to news of violence and death that is reminiscent of the "body count" reports from Vietnam. In democratic Costa Rica, a political island of peace, prosperity and progress in the region, the uncertainty continues to mount as regional tensions increase.

"We have been living with violence in Central America for many years," said Costa Rican President Rodrigo Carazo, "Now, there is a polarization taking place in Central America between democratic and Marxist governments. It is most important for democratic countries, like the United States, to give support to democratic institutions in Nicaragua. U.S. assistance is like buying an insurance policy" Carazo concluded.

The key to stability in the region is stabilizing Nicaragua. But Nicaragua is a nation divided.

There is no wall in Nicaragua like the one that symbolizes the division of Germany. There is no demilitarized zone—no North or South Nicaragua as there is in Korea. But there are two Nicaraguas as surely as there is a left and a right.

Pedro Joaquin Chamorra is the editor of La Prensa—the old and independent editorial voice which opposed the 45 year dictatorship of Anastasio Somoza. Today, Pedro Joaquin Chamorra is Nicaragua's chief critic of the Sandinista regime.

Carlos Fernando Chamorro is the editor of La Barricada—the strident editorial idealogue of the Frente Sandinista de Liberacion de Nicaragua (FSLN).

Pedro Joaquin and Carlos Fernando are brothers, the scions of one of the nation's oldest families whose members have long been the most responsible journalism in Nicaragua. There is little mutual tolerance for their respective points of view.

But though the political divisions between the brothers are deep, there is a common bond which is probably as strong as their blood ties. They both hated the regime of "Tacho" Somoza.

Its economy in tatters and its political future uncertain. Nicaragua today is at a crunch-point, hung together only by that hatred for the Somoza regime and a determination to save the Sandinista revolution.

On the one hand, the young idealogues of the Sandinista Front are pushing for their version of social justice and are willing to do whatever it takes to achieve it. On the other hand, the private sector—which also suffered the violence of the Somoza regime—is determined to make itself a vital part of the Nicaraguan future.

"It is not so much a question of direction," said a young Sandinista Foreign Ministry official, "as it is of priorities." All sectors seem to support the aims of the Sandinista Revolution, but there are substantial differences of opinion as to how to achieve them.

Officially, the Sandinista revolution professes tolerance for pluralism. The revolution, its leaders repeatedly assert, is unique, unlike that of Castro's Cuba or any other, for that matter.

Unofficially, their acceptance of pluralism has raised the issue of whether the private sector, with its essentially capitalist orientation, will be allowed to play an effective role in restoring economic stability to the nation. The central question is whether the young, generally inexperienced Sandinistas will permit the private sector to take the lead in national reconstruction in the face of their avowed revolutionary determination to shape Nicaraguan society according to the Marxist model.

The present situation is marked by layer upon layer of dilemmas. The Frente—the Sandinista military leadership—has no immediate choice but to rely upon the expertise and competence of the private sector or let the country face almost certain economic collapse.

The private sector—composed of the entire spectrum of Nicaraguan commercial and economic interests, is faced with doing business in a revolutionary environment which collides sharply with the principles and practices of effective free enterprise. "I am a capitalist," a member of the Chamber of Commerce told me, "I am opposed to Marxism, but, the Sandinistas have the guns."

The people of the countryside and the workers of the city continue to demand a better life—but now, a year after Somoza's downfall, prospects for improved health services, literacy and job opportunities remain grim. There are signs of growing discontent everywhere in Nicaragua. According to another moderate politician, "If there was 100 percent support for the Sandinistas when they took power, there is probably no more than 60 percent today," he said.

Most of the violence has ebbed, but in Managua, on a recent morning, a main street in the city was found strewn with stones, bricks, glass and burnt-out car bodies. There was a shooting in the nearby town of Masaya. Sixty stockmen were arrested and the government refused to explain why, except to make vague allusions to counter-revolutionary activity. It is becoming clear that the people are growing impatient in waiting for the promised improvements in their lives.

The church, with its profound concern for the people, is generally ambivalent. It expresses some negative feelings toward the Marxist elements in the leadership, but is supportive of the social aims of the revolution. For the Marxist elements, the church is viewed as an impediment because conservative religious principles conflict with the revolutionary aims of the radical left.

The revolutionary commanders—highly politicized and radical—see their power slipping with each passing day of economic deterioration. They need an enemy. There is a tendency to suspect counter-revolution everywhere. Their tolerance for moderate elements is diminishing daily.

The U.S. is generally perceived as possessing the potential for resolving the dilemmas. By providing aid and assistance, say the moderates, the U.S. can nourish the private sector, allowing it to expand its role while tempering the actions of more radical elements. The Revolutionary Front needs U.S. resources to gratify the immediate demands of the people in order to maintain popular support for the regime.

When our House of Representatives passed the Foreign Aid Bill, it had a positive effect on the political climate in Nicaragua. Relations between radical and moderate elements warmed perceptibly. But there remained over the whole situation the clouded issue of the $75 million reconstruction loan promised more than 10 months ago by the Carter Administration.

That promise of assistance has become the overriding symbol of United States sincerity in its stated intentions of friendship and cooperation. The magnitude of the economic problem mocks the size of the loan. But it is upon the matter of whether the aid will be forthcoming, that the immediate direction of Nicaraguan policy will be decided.

"If the loan is granted," said a businessman, it will be clear to the communists that the United States has not abandoned us. If it is not," he said, "the communists will have an excuse to say, 'See, we told you,' and bring in more Russians and Cubans."

For the revolutionary commanders, the loan represents both a threat and a solution. If granted, it will provide badly needed resources which can be used to make good on their oft-deferred promises to the people. On the other hand, it will shift the focus of popular expectations from the so-called counter-revolutionaries to the revolutionary commanders themselves.

For the U.S., the aid represents a substantial risk. If the loan is granted and the revolutionary government subsequently moves further toward the radical left, the American voter will probably not be very tolerant of those who supported the aid. A recent Lou Harris poll found 82 percent of the American people favored cutting federal funds for foreign economic aid. However, there is a near certainty that withholding the aid will cause a sharp move toward the Cuban model.

Commenting on that possibility, U.S. Ambassador to Nicaragua, Larry Pezzullo said, "It's a game of Central American roulette. The odds aren't the best, but you can't win if you don't play." Pezzullo is quick to point out that if the U.S. withdraws every time a Cuban or a Russian gets into the game, there's "no way of not losing."

There are reportedly about 2000 Cuban and 200 Russians working in Nicaragua. Many of them are described as "technicians," ostensibly engaged in improving the communications system, but in reality, teaching propaganda techniques. Many others are "internal security advisors," training the Sandinista military in the rudiments of counter-intelligence and the development of population control methods.

As troubling as this situation may be, there is a more optimistic side to the Russo-Cuban involvement. Most of the Cubans in Nicaragua are involved in the national health and literacy campaigns. There is ample reason to believe that they have not been very effective in either effort.

When Majority Leader Jim Wright asked Revolutionary Commander Daniel Ortega what the U.S. could do to help Nicaragua, Ortega quickly replied that above all other types of aid, American doctors and nurses and medical educators were needed. Coming from Ortega, who models his personal manner, style, dress and politics after Fidel Castro, the request for U.S health assistance speaks volumes about the quality of the Cuban advisors.

While Ortega and his fellow junta members jockey for positions of economic and political power, the church in Nicaragua continues to enjoy unquestioned moral authority.

The Archbishop of Managua, Msgr. Miguel Obando y Bravo is a dark, squat, block of a man whose shortness in stature belies his towering position in Nicaraguan politics. Although he underplays his influence, his authority among the faithful is enormous.

"Nicaragua," he says, "is moving toward Marxism but the Church remains strong. However, I don't know for how long." Though the words bespoke a certain pessessism, his tone reflected a determination that conceded nothing to Marxism. Later that morning, at a Mass observing the Holy Eucharist, he devoted his sermon to "Truth."

"It is impossible," he said in thinly veiled criticism of the revolutionary leaders, "to achieve the liberation of the people if those who would free them do not first free themselves of falsehoods. Deceitful men whose only God is egalitarianism will never free the people." The Archbishop's criticism was ignored by the official Sandinista newspaper, La Barricada but was printed verbatim in the independent La Prensa.

The Archbishop's concern for the truth seems to be a universal concern among all centers of Nicaraguan power. Revolutionary leaders speak of the need for propagating the truth of the Sandinista cause. The private sector insists that the Sandinista Front is suppressing free expression. They cite the closing of La Prensa last March, 1980, as evidence. The Front cites the reopening of La Prensa as proof of their sincerity in promoting freedom of speech.

Actually, the Front's decision to reopen La Prensa was less a concession to free speech than it was pragmatic respose to public demand. The closing of La Prensa left only Nuevo Diario and La Barricada on the streets. Neither paper enjoys much credibility with good reason. Nuevo Diario is poorly edited, but makes a pretense of objectivity. La Barricada is unabashedly dishonest in its advocacy of the revolutionary regime and ruthless in its attacks on those perceived as enemies.

La Barricada, on May 25, 1980, ran a photo which depicted moderate opposition leader Alfonso Robelo shaking hands with then-President Somoza. Alert editors at La Prensa remembered the photo somewhat differently from their own edition of November 29, 1977. The actual photo had depicted Robelo reaching around Archbiship Obando y Bravo to shake Somoza's hand during a Coordinating Commission meeting two years before. Armed with the photographic evidence, La Prensa published the unretouched photo and set off a public scandal.

Officials of the Front were so embarrassed they felt constrained to denounce La Barricada's actions, calling for absolute truth in reporting. They did not, however, call for objectivity, as evidenced by the highly inflamatory and slanted accounts of opposition activity that continue to run daily in La Barricada.

And so, amid surface professions of unity and fairness, the Nicaraguan revolution proceeds. But the undercurrents of antagonism run deep, strong and dirty. Should the divisions between radicals, moderates, and rightists in government, church, business and unions burst into open conflict, the stakes for the United States become enormous indeed.

"What would happen' an American Embassy official in Costa Rica asked, "if, through U.S. refusal to provide economic assistance, the Nicaraguan private sector were to go under?" In the official's view, the Nicaraguan government would turn sharply to the left, perhaps calling for an even heavier Soviet and Cuban presence and a broadening of assistance to include the introduction of Cuban or Soviet troops onto Nicaraguan soil.

If that happened, the sorely pressed centrist junta in El Salvador most certainly could not maintain its tenuous hold on the government. Since the Salvadoran left enjoys a much wider popular base than the right, it is a fair surmise that El Salvador would follow Nicaragua into the revolutionary camp.

Although the reactionary regime in Guatemala currently enjoys military superiority over its neighbors, it is doubtful whether if pressured by Soviet supported Nicaraguan and Salvadoran forces it could withstand an assault without U.S. assistance or intervention.

Costa Rica would be faced with moving to the left or experiencing similar pressures. The scales could be tipped in Panama where the conditions for the installation of a Castro-type regime under Torrijos are ripe. Honduras would have little choice but to turn in the revolutionary direction of its neighbors.

This worst-case scenario is something more than a replay of the domino theory. Rather, it represents a fair assessment of the situation that exists today in Central America.

It need not happen this way—but it could.

The United States has begun to recognize the high stakes involved. We are searching for a way to promote stability in a context of mutual respect and self-discrimination. If we are not successful in the search, destabilization appears to be inevitable.

Clearly, we cannot accede to the extension of Soviet influence in this hemisphere. Nor can we afford to ignore the aspirations of the people of the region. We must not focus too narrowly on our problems at home and elsewhere abroad to the neglect of our legitimate interests in Central America. Most importantly, we must not allow events to evolve in a way that will heighten the possibility of a military confrontation with the Soviet Union or its surrogates. Reason dictates, therefore, that the Congress move swiftly to extend the requested $75 million reconstruction loan as a signal to the communists that we do not intend to leave Nicaragua to their tender mercies.

With the aid to Nicaragua must also come the recognition that all Central American states are not alike. Each has its own peculiarities, its own needs, its own aspirations and its own set of socio-cultural, economic and political conditions.

But while each of the members of the Central American family of nations is different, they have one common concern—and one which the United States must not forget—the ghost of Tacho Somoza still walks among the people of these troubled lands.

Mr. LONG of Maryland. Mr. Speaker, I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Speaker, I rise in support of the motion offered by the gentleman from Maryland (Mr. LONG).

First, Mr. Speaker, I wish to extend my commendations to the chairman of the committee, the gentleman from Mississippi (Mr. WHITTEN), the gentleman from Maryland (Mr. LONG), the gentleman from Massachusetts (Mr. CONTE), and all the other conferees who worked so diligently to bring us this conference report.

The appropriations provided for in the gentleman's motion are, in my view, absolutely essential to the conduct of U.S. foreign policy during the fiscal year 1980.

The gentleman's motion would permit funding for certain important foreign assistance items which this body has already voted to authorize, and in most cases, already voted to appropriate.

With respect to the appropriation for Nicaragua, may I remind the House that we have already authorized this amount in a bill which we passed after full debate on the floor. The House has decided on our policy toward Nicaragua. Now it is up to us to provide the money.

Let me note some other items covered by the gentleman's motion which are designed to protect our security interests, assist in lifesaving relief efforts, to promote American business abroad, and to meet our obligations toward certain international organizations.

The motion would provide a much needed $10.2 million for international narcotics control;

It would provide $30 million for the Cambodian famine relief program, and $13 million for other disaster assistance efforts;

It would make available an additional $10.4 million in military assistance to our friends and allies;

It would permit an additional $355 million in direct loan activity for the Export-Import Bank; and

It would provide $154.6 million to meet our obligations toward international financial institutions.

Mr. Speaker, for the sake of the best interests of the United States abroad, and for upholding certain measures previously approved by the House, I strongly urge that the House agree to the motion of the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Speaker, I thank the gentleman.

Let me add this one point, that is, that I have read this amendment to Senator INOUYE, my chairman counterpart on the Senate side. He is not totally happy with it, but I think and I hope he will accept it. If we get this done, we can go home. Otherwise we might very well have to be back here on Monday.

Mr. Speaker, again I want to congratulate the chairman of this full committee who has done a magnificent job of cutting below the budget all over the place. We had blood on the floor all over the Senate side last night. I congratulate the great job he has done for the people of Mississippi and the Nation.

Mr. WHITTEN. Mr. Speaker, I rise in opposition to the motion.

Mr. Speaker, it is difficult for me to differ with my friend, the gentleman from Maryland, after saying all those nice things; and I can state that I feel the same things about the work of the gentleman from Maryland (Mr. LONG). I would like to explain my position and what is involved in this amendment.

The Appropriations Subcommittee on Foreign Affairs completed their conference work quite a long time ago. They had reasons of their own for not bringing it before the House. I mentioned previously, the chairman of each of our 13 subcommittees, including the gentleman from Maryland, went into conference with the Senate. After hours and hours of work through the years trying to live within the spirit of the budget process, a process I might add we support, the subcommittee for reasons of its own, anticipated they might be in a better position if we passed a continuing resolution for foreign aid which keeps the ongoing foreign aid program at the 1979 fiscal year level.

At this time however, instead of bringing up their own bill, their own conference report with which the House and the Senate have agreed, it was added to this emergency supplemental bill. Now I understand they have a motion for us to accept additional spending and leave a small balance for the rest of the country. Of course, we could not do that to domestic programs.

When this supplemental bill went through the House, my good friend, the gentleman from Maryland, (Mr. LONG), had two or three items that were of an emergency nature and the committee went along with him, including them in the supplemental, when it left the House; but in the Senate, may I say again, they tied their whole bill in excess of $8 billion as a part of the supplemental.

Now, what we have here, reflects the efforts that we made over a 12-hour stretch with everybody giving, House and Senate. Cuts were made in too many domestic programs; in rural water and waste disposal grants, in the TVA, in the National Mortgage Association, for payments to States and local governments, the Department of Interior for urban parks and recreation, for the strategic petroleum reserves, advancement to the unemployment trust funds in the Department of Labor, Federal aid to highways, General Services Administration, and the Department of Defense. In all we saved money and we got a cushion which we built up to $576 million under the budget authority ceiling and $175 million below the outlays ceiling.

We have less than 3 months to go from now until October 1. If you accept the amendment of the gentleman here and allow him to add this bill on foreign aid, you will have a small cushion for the remainder of this year.

I say that while I agree that the chairman of the subcommittee might have valid reasons for bringing it up now, and the gentleman is within his rights to offer it here, I would say now that the gentleman should instead offer his conference report. I believe it would be a serious mistake that these figures jeopardize the small domestic cushion under which we would live for the remainder of the year. It would be a mistake to turn that around and cause problems with our own conference report.

I have the highest regard for my friend. I tried to cooperate with him, but here the gentleman has spent the dollars that we tried to save. I just tell you that these savings came the hard way. I do not believe you wanted us to stay up all night cutting American programs so that they could give increases to foreign aid by avoiding to bring up the 1980 conference report.

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to my colleague.

Mr. LONG of Maryland. Mr. Speaker, I am sure the gentleman remembers, that we tried for many months to bring up the regular bill and were told that there was not enough money in the budget for it and for supplemental also. The whole idea was to wait until the supplemental was over to see whether there was any money in there for the regular bill. We did that, and last night for 12 hours we waited until we could see whether there was any money left in the budget to put the bill in. Now, I am sure the gentleman knows that we did not want to take money away from domestic programs.

Mr. WHITTEN. The gentleman will agree that, as presiding chairman, I suggested that these tight-budget situations caused us all problems, and the gentleman from Maryland and the gentleman from Hawaii both realized this.

I just say that if you accept this amendment, you have given up your budget cushion for the remainder of this year. I do not think you want to do that.

□ 1600

Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. O'NEILL).

Mr. O'NEILL. Mr. Speaker, I rise in support of Mr. LONG's amendment. His substitute is $554 million lower than the original conference report of $1.4 billion. It provides funds for vital programs such as international disaster relief, foreign military credits, funding for the Export-Import Bank and the World Bank.

You know, we like to cry about how everybody in the world hates us, how there is a cloud over America. I do not believe that cloud is over America, to be perfectly truthful. I do not really believe that everybody out there hates us when the Speaker of the House receives 38 invitations from different nations to lead a delegation of Members. They want us to go there for a reason, because they have respect for us, because we are the greatest Nation in the world and we are the most freedom-loving Nation in the world.

How are we going to maintain that attitude? We are going to maintain that attitude by giving to the President of the United States the tools that he asks for to be able to help these nations.

I do not think there is anybody here that ever would want to see Latin America go completely Marxist. Sure, we shudder at the fact that there are 1,200 or 1,500 Marxist operatives from Cuba in Nicaragua, but we have met with a delegation from Nicaragua, and JIM WRIGHT, our majority leader, brought a group down there. He came back absolutely convinced that while the military may be Marxist led at this particular time, better than 80 percent of the people want that nation free.

We are all familiar with Guyana down there and Leo Ryan, Lord have mercy on him, got lost down there in that little country that we paid no attention to. It turned Marxist for the most part and sent delegations to Russia. We read in the paper today their philosophy, their theory of government is changing.

Why? Because of the influence of the Export-Import Bank and the influence of the World Bank.

We are talking about critical times. Sure, it is easy to cry and criticize and say we ought to spend our money at home. We all would like to see an affluent economy which we will have eventually, because America runs in cycles. The pendulum swings one way or another. But the pendulum does not swing when you are talking about foreign affairs, because when you lose nations you lose them forever.

I think that we are on the throes of making that decision: Do we want them in the camp of the free world or do we want them in the camp of the Marxist world? This is a very, very serious matter. It is a matter of $554 million less than what the other body appropriated.

When I received today a telephone call from the President of the United States, the new Secretary of State, Mr. Muskie, and the Secretary of the Treasury, Bill Miller, they are vitally concerned, vitally concerned for the future of America. I truly, truly believe this is a piece of legislation that we should adopt and I hope the amendment of Mr. Long prevails.

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield?

Mr. O'NEILL. I yield to the gentleman.

Mr. LONG of Maryland. The Speaker brought up a very interesting point. Is it not true that three-fifths of the money in this amendment goes as export promotion to the Export-Import Bank and, therefore, it helps American business?

Mr. O'NEILL. The gentleman is completely correct. It absolutely means jobs to Americans. There is no question about it. While meaning jobs to America, it makes for better friendly relations with these nations and helps save them to be an arm of the free world because that is what they long for and that is what they yen for, to be a part of the free world.

Mr. CONTE. Mr. Speaker, I yield 6 minutes to the gentleman from Florida (Mr. Young).

Mr. YOUNG of Florida. Mr. Speaker, I appreciate the gentleman from Massachusetts allowing me to have the floor following the distinguished Speaker. I find that to be a rather tenuous position, but I will try to be up to it.

I would like to say I agree with the Speaker on many of the things he said. In this foreign aid package we are talking about there are some good things we are trying to do.

I had the privilege of visiting with the Speaker in the Azores, for example, to review the earthquake disaster that devastated the people of that island. In the fiscal 1981 appropriation bill we have made available $10 million for that. I think that is good. I think that is a tremendous investment for the American people and for our great Nation. I think that is a good plan.

You know, if it had not been for the Azores, when we tried to resupply Israel in 1973 in their war, we could not have done it because none of our other friends would allow us to fly over or to land at their bases.

We have assistance for Israel and Egypt, the Mideast peace package, which I think is a good investment in world peace. The point I want to make is that there is nothing in this bill for the Azores. That money is in the fiscal year 1981 bill that has been marked up by our Subcommittee on Foreign Operations.

The Mideast peacekeeping program and assistance for both Israel and Egypt are not going to be affected by the amendment of the gentleman from Maryland (Mr. Long) because this is taken care of at the upper limits in the continuing resolution.

So, you see, many of these good things that we believe in, most of us believe in, that we think are good investments for our Nation, are already taken care of and we do not need the amendment of the gentleman from Maryland (Mr. Long) on this supplemental appropriation bill. This is not the place to put it. This is not the procedure to use. This is the amendment that I talked about earlier during general debate. It does not belong here.

This is a major appropriations bill that should rise or fall on its own and it should not ride piggyback on an emergency supplemental appropriation bill.

Let me talk about something else: An investment for America through foreign aid.

A lot of our money is not a real investment. A lot of the so-called investment we have made, has backfired. Sometimes I have a hard time understanding just what the policy of our Government is today as it relates to our foreign policy in Latin America, in Central America. The Speaker is so right, it is essential to the United States that we do everything that is possible not only to try to get Nicaragua back from the Marxists, if we possibly can, but to keep other countries from going to the Marxists.

My colleagues might find this interesting. When the Foreign Operations Subcommittee marked up its bill for fiscal year 1981 we came across a budget item of $25 million in the economic support fund for Nicaragua. The argument was we ought to do that so that the State Department will have a little flexibility so that we can try to get Nicaragua back from the Marxists.

The thing I found very hard to accept was that in that same economic support fund there was no money for El Salvador, no money for Honduras, El Salvador is right on that thin line. El Salvador is going to topple one way or the other very shortly if the existing government is not supported. Honduras, the same thing. The established government in Honduras is in serious trouble.

Now, someone might say, "Well, Congressman, you are just concerned because it looks like the right wing is not going to make out," or "You tend to favor right-wing governments." But let me tell my colleagues what is going to happen in El Salvador, what is going to happen if the existing government is not supported. The right wing is going to move in and they are going to move very strongly.

But then all of a sudden the left wing, with the support of the Cubans and, in fact, the support of the Soviet Union, the left wing, then, is going to have the revolution, and we are going to see El Salvador go the way Nicaragua went.

Now, if we think it is important to bring Nicaragua back, why is it not equally important to keep El Salvador from going to the Marxists in the first place, or Honduras, or Guatemala?

What I am saying to my colleagues is I agree with the Speaker. I agree that we have to make friends. Our foreign policy should be such that we try to make friends with everybody in the world. But we are not going to keep our friends if, on the one hand, we make it very, very profitable for a country to go against us and kick us in the britches, and then pay them $75 million to try and bring them back.

□ 1610

That $75 million is not all of it. They got $60 million from us within a few weeks of having established the Sandinista government, with the support of the Cubans.

The point I am making is that if we could ever do what some of us are trying to do—get our foreign policy and our foreign aid programs where they are consistent, where the world knows that we want to be friendly with them, and we are willing to be generous but we are not going to spend millions and millions of dollars for someone who is going to turn around and kick us in the britches every time they get a chance, that is the kind of program we want to establish. That is what some of us are trying to do. When we accomplish that, then we will have a foreign aid program all of us could support, one that is a good investment for the United States of America and our taxpayers. We do not have that today, and the amendment of the gentleman from Maryland (Mr. Long) does not give us that today. We ought not to recede. We ought to refuse this amendment. We ought to refuse to recede to the Senate and let the fiscal year 1980 foreign aid bill stand or fall on its own merits.

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. I thank the gentleman for yielding. The gentleman mentioned Honduras. There is $5 million in this amendment for Honduras. And we are providing money for El Salvador in the original bill for fiscal year 1980 and for fiscal year 1981.

Mr. CONTE. Mr. Speaker, I yield 6 minutes to my good friend, the gentleman from Maryland (Mr. Bauman).

Mr. BAUMAN. Mr. Speaker, I would like simply to inform the House, first of all, what we are going to be voting on. We are not going to be voting first on the Long amendment. The question that the Chair will put is whether or not the House will recede from its disagreement with the other body on the issue of foreign aid, and a vote in favor of the motion to recede is to back down on the House's position and to accept the $8 billion foreign aid level that the Senate proposes. That is what you are going to be voting on. It adds $1.3 billion in foreign aid.

Mr. LONG of Maryland. Will the gentleman yield?

Mr. BAUMAN. I will, if I have time.

But if you get over that motion to recede, then you can discuss and vote on the Long amendment. But the question that the Chair will put at the end of this debate is. Do you favor raising the foreign aid level for fiscal year 1980—which ends in about 90 days, 3 months to spend this money—roughly a half billion or more dollars?

Let me just give you the arithmetic we are facing here today. This bill cuts substantially State revenue sharing. This bill does not honor defense commitments that many people wanted to honor. This bill does not go nearly as far as some will wish to meet refugee needs for the Cubans and the Haitians and the border problems we have. This bill does not fund food stamps as much as a lot of people would like. But those are not the objects we are adding a half billion dollars for. We are debating adding a half billion dollars for foreign aid, and the question is, do you think $7.5 billion this year is enough, or do you want $8 billion-plus? That is the issue.

Mr. LONG of Maryland. Will the gentleman yield?

Mr. BAUMAN. When I am through, I will.

I would say to the House, Mr. Speaker, that I think enough is enough. We do have to draw the line.

We passed a continuing resolution last fall that funds foreign aid at the level of $7.5 billion until October 1, and that is the motion you are going to be voting on here. You are not going to be voting on Nicaragua alone. You are not going to be voting on international lending institutions alone. You are going to be voting on the whole package the other body tried to thrust upon the conferees and on the House of Representatives in an emergency supplemental, a foreign aid appropriation bill that has been ready for this House to debate since February and they would not call up because they were afraid it was going to lose. And now they want to slip it into a supplemental—with people suffering from Mount St. Helens, with people dead in this country, with people coming on boats to these shores. They want to use this bill as a cloak to increase foreign aid by a half billion dollars.

What are our priorities in this country? Who comes first here? The American people produce the money to pay for foreign aid, and we are told that in this vote we are taking their sustenance and giving it to foreign countries, when we already have spent more than $200 billion since 1947 on foreign aid. Surely, we need a foreign aid program, but what we are debating here today is not what the Speaker is talking about. We are talking about another half billion dollars—for whom? For the Export-Import Bank. It is true they will need more authority, and they will get it in a very short time.

We are talking about cutting money for narcotics control. The gentleman's amendment cuts international narcotics control from $50 million down to $10 million, but he wants to give $75 million to Nicaragua. Is not our drug problem more important than Nicaragua?

We are talking about giving money to the World Bank, $80 million in his amendment more for foreign military credit sales, $7 million—$7 million we are talking about—the Asian Development Bank, the African Development Bank.

I urge you to stick with the committee, not with BAUMAN, not with the gentleman from Maryland, not with the notorious conservative. This is not a Bauman amendment; this is Long amendment to increase foreign aid, against the wishes of the gentleman from Mississippi (Mr. WHITTEN), the chairman of the Appropriations Committee, who eloquently stated that if you pass his amendment, you ruin any possibility of funding any other programs in the next 90 days for domestic purposes, because you wipe out the budget cushion. We do not have any more to spend. That is little money in the bank of America. That is what you are voting on, a motion to recede. So do not be obfuscated by this talk about all of these issues.

I urge you to vote no, not to recede. That is the issue—to recede or not. Then this bill will go back to the other body tonight, and they will get the message. And I would not be surprised if they come back with counterproposals that fund the Export-Import Bank. And the gentleman from Texas (Mr. WRIGHT) may be happy that they put money in for Nicaragua, and it may get to Nicaragua, as he devoutly wishes.

I am not just talking about Nicaragua. I am talking about all these priorities. Enough is enough, and we do not need to add another half billion dollars on foreign aid in this amendment. That is the issue.

It is unfortunate that the apologists for Nicaragua have chosen this vehicle on which to add that money.

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman.

Mr. LONG of Maryland. I thank the gentleman for yielding. The gentleman makes it sound as though we were the ones who did not want to bring the bill to the floor. We have been trying to get this bill to the floor for 3 or 4 months and could not get permission to do so. One reason was because you folks kept offering technical objections.

Mr. BAUMAN. I will say to the gentleman from Maryland (Mr. LONG) if I may reclaim my time, about this point of scheduling——

Mr. LONG of Maryland. Will the gentleman yield further?

Mr. BAUMAN. I do not yield. I do not yield.

The SPEAKER pro tempore. The gentleman from Maryland (Mr. BAUMAN) has the floor.

Mr. BAUMAN. I want to answer the gentleman's point about scheduling. The gentleman from Maryland is the ranking member. The gentleman from Maryland (Mr. LONG) is the ranking majority member on the Foreign Aid Appropriations Subcommittee. Anytime he wanted to, with the concurrence of his majority leadership, he could have come to the floor and said, "I call up the conference report on the 1980 foreign aid appropriations bill." He could have done it. He did not do it. He was afraid to do it because the House would have debated it, as we are debating it now. His bill contained too much spending and he stood to lose. Do not say we held it up. Next year when we control this House, because of policies such as we are debating, then we on this side will have the power to bring up or not bring up bills. But it is the gentleman's bill, not mine and it is his responsibility.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. I thank the gentleman for the extra minute.

I think we ought to lay to rest this question of why that bill was not brought to the floor earlier, as it could very well have been after February 25. The point is that one unanimous-consent request was made to bring that conference report to the floor. It was objected to because nobody had been told what the unanimous-consent request was going to be, which is strictly a common courtesy shown to any Member when he is directly involved like the gentleman from Maryland is and the gentleman from Florida is. The point that the gentleman is overlooking is this, that once he notified us of that unanimous-consent request, he could have made it again a thousand times between February and July of 1980. So that is nothing but an alibi. It is not even a good excuse. There was no attempt to bring that conference report to this floor. Time after time this side inquired, "When are you going to bring the conference report to the floor?" Time after time we were told, "It is not ready yet. We are not going to do it yet." We were ready. While we might have been opposed to it, we were not being dilatory and were prepared to let it come to the floor.

Mr. WHITTEN. I yield 5 minutes to the gentleman from Texas (Mr. WRIGHT).

□ 1620

Mr. WRIGHT. Mr. Speaker, we have discussed this at some length. We need only to focus on what is at stake, here. The President of the United States has asked that we do certain things which he regards as being of an emergency character. Latin America teeters in the balance between our way and that of the Marxists. I do not know that we can win. I do think it is worth the struggle. I do feel very strongly that unless we make the effort, we surely will lose. For that reason, I very urgently recommend that we support the Long motion.

As our Speaker has so eloquently pointed out, there are many things that are far more important than our own petty prejudicial predilections. No supplemental bill could be featured exactly in the image of any one individual Member.

Let us return to the spirit of bipartisanship, at least for the moment. This is an amendment which will be accepted by the Senate, though reluctantly. It is not big spending. It represents a reduction of $554 million below the figure that the Senate approved. Surely that is conservative. It is within the budget. It represents a reduction of $2 billion below the President's budget request for the fiscal year for foreign aid programs. Surely that is not irresponsible, big spending. Surely it represents an act of prudence on the part of the House. It represents a figure $3.5 billion below the figure of the previous year. Surely nobody can represent that as being runaway big spending on foreign aid.

Let us look at this matter in some perspective. Too long have we indulged the fallacy of considering the United States to be lady bountiful for all the world. We have felt that we here in the United States were giving money away like the horn of cornucopia without limits. There are 14 other nations in the world today that contribute a greater percentage of their gross national product than we do to the developing nations of the world.

Maybe some of this money is not warranted. Perhaps we could save some more, but this is a greatly reduced figure that the Senate reluctantly will accept. This is a figure upon which we can get agreement today. This is a figure which will permit us finally to resolve the question of expenditures in 1980 fiscal year with only 2 or 3 months left, will permit us to act responsibly and permit us to say to the President of the United States and to the world that we have not abandoned the struggle, we have not forfeited the battle.

It will say that we are willing to lock horns with communism in those areas of the world that are groping for leadership and inspiration that we have not abandoned them and will not abandon them and will do the responsible prudent thing represented by the passing of this bill today.

Mr. NEAL. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to my friend, the gentleman from North Carolina.

Mr. NEAL. Mr. Speaker, I thank the majority leader for yielding. I would like to point out that this really is not a $500 million appropriation. $355 million of it is Export-Import Bank authority. The gentleman from Maryland (Mr. Long) characterized that as three-fifths of it. I have not figured it out, but the gentleman says it is almost exactly three-fifths and that money will not be spent at all. The Eximbank pays its own way. Because of a quirk of our budget process around here, the Eximbank is actually authorized through the appropriations process so we are really talking about $145 million, not the $500 million that has been mentioned.

Mr. WRIGHT. I thank the gentleman for that elucidation.

Mr. GARCIA. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from New York.

Mr. GARCIA. Mr. Speaker, I would like to associate myself with the remarks of the majority leader. As one of the few Hispanics in this Chamber and knowing of the possibilities of a domino effect throughout all those countries south of our border, I would hate to be in this Chamber 5 or 10 years from now if we should fail to take the actions now which will demonstrate our continuing determination to be involved in Latin America's fate.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. McHugh).

Mr. McHUGH. Mr. Speaker, I hope that we will keep in perspective the procedure and the substance on this issue. The first vote procedurally, as the gentleman from Maryland (Mr. Bauman) pointed out, is on a motion to recede to the Senate position. However, we are faced with that procedural vote simply because the gentleman from Maryland himself has asked for a division of the Long motion. No one is suggesting, certainly no one on the majority side, that we want to recede to the Senate position in toto. The Senate position would add over $1 billion to this bill. That is not our position and do not let anyone tell you otherwise. We must vote yes on that motion, however, to allow us to get to the second part of the motion made by the gentleman from Maryland (Mr. Long). That part of his motion is a modest one. I suggest that it would not have all of the dire consequences that the gentleman from Maryland (Mr. Bauman) claimed that it would.

Please keep in perspective that this supplemental provides $16.6 billion in supplemental spending. The motion by Mr. Long of Maryland would add $528 million to that. That is a small fraction of the amount of money that this supplemental bill would provide.

Mr. Speaker, the Senate provision would provide over $1 billion. We are not asking to recede to the Senate position. We are simply asking in the Long amendment to add $528 million to what is a $16.6 billion supplemental appropriation bill.

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield?

Mr. McHUGH. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Speaker, I am glad the gentleman brings this up, because the fact is the Senate would be doing most of the receding here and they are very reluctant to accept this. Senator Inouye told me, in fact, he would accept it under protest.

Mr. BINGHAM. Does the gentleman say we have to vote yes on the original motion to recede in order to reach the Long motion? Would the gentleman explain that, please?

Mr. McHUGH. The gentleman from Maryland (Mr. Long) moved that the House recede from its disagreement with the Senate position with an amendment which is a substantive amendment. The gentleman from Maryland (Mr. Bauman) moved to divide those questions so that we have to vote first on receding from our disagreement with the Senate position.

The gentleman from Maryland (Mr. Bauman) has suggested that in receding the House would be accepting the more than $1 billion the Senate position represents. That is not true. In voting for the motion to recede, it simply allows us to get to the substance of the Long position which is to add $528 million to this conference report.

Mr. BAUMAN. Will the gentleman yield?

Mr. McHUGH. I will be happy to yield.

Mr. BAUMAN. Unfortunately, the gentleman is mistaken in his statement. What I said was true. Under our rules, if the motion to recede is accepted we will back down and accept $1 billion more in foreign aid. That is all we are voting on.

Mr. McHUGH. The gentleman from Maryland (Mr. Long) has already offered his amendment; it is before the committee. The gentleman from Maryland (Mr. Bauman) simply divided the question.

PARLIAMENTARY INQUIRY

Mr. LONG of Maryland. Mr. Speaker, a parliamentary inquiry.

I would like to ask a question: If the motion to recede is accepted, is it then true that the Long amendment to cut is not then in order?

The SPEAKER pro tempore. The gentleman from Maryland (Mr. Bauman) incorrectly stated the situation before. If the motion to recede carries, then we go to the other half of the motion of the gentleman from Maryland (Mr. Long). If the motion to recede loses, then the question recurs on the motion of the gentleman from Mississippi.

Mr. LONG of Maryland. So the gentleman from Maryland completely misstated the parliamentary situation?

The SPEAKER pro tempore. The Chair is not in a position to agree or disagree.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BAUMAN. Is it not correct that if the motion to recede, to recede and accept the Senate, passes, that that is an acceptance of the Senate position on this amendment?

The SPEAKER pro tempore. The question is on receding from disagreement. Then the House has to vote on the other half of the motion of the gentleman from Maryland (Mr. Long).

Mr. BAUMAN. Is not at that point a motion to insist on the House's position in order?

The SPEAKER pro tempore. If the motion to recede carries, then the question recurs immediately on the other half of the question on which the gentleman asked for a division.

Mr. BAUMAN. Is there any guarantee that that question will be put?

The SPEAKER pro tempore. It is pending before the body.

Mr. BAUMAN. The gentleman from Maryland understands a motion to recede to mean acceptance of the Senate provision. Is that a correct interpretation?

The SPEAKER pro tempore. The House is not receding and concurring. If the House recedes from disagreement, the other half of the motion of the gentleman from Maryland (Mr. LONG), is still pending.

□ 1630

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the motion of the gentleman from Maryland (Mr. LONG), and ask my colleagues to recede. In essence, it is almost like the same motion of the gentleman from Texas (Mr. WRIGHT) when he moved to table just a few days ago. That motion carried by a vote of 241 to 163.

Now, while some of my colleagues may question the wisdom of appropriating scarce American resources for an aid program, particularly when the cries for fiscal restraint have become roars, I question the wisdom of not providing this assistance.

Mr. Speaker, this is the 22d year that I have stood in this well to defend Americans' foreign aid efforts. I have witnessed the emergence of noteworthy institutions such as the Inter-American Bank, the Development Bank, the Asian Bank, the African Bank. I have seen our aid orientation switch from that capital creation of basic human needs and goals and objectives. I have seen the conflict between our political, our economic, and our social objectives mitigate the reasons of such aid. I have seen America rewarded for her efforts as often as America has been slapped in the face.

But, through it all, the good and the bad years, the quarrels and the compromises, the 22 years of changing goals and the changing means by which to achieve those goals, I have remained optimistic about what we can do and accomplish with our aid program.

I am not going to stand here today in this well and tell you that America can always buy friendship with this aid, or assure you that raw materials will continue to be supplied if this aid bill is passed, or that through these programs America can expect economic miracles overnight. No, I am not going to tell you that, but what I am going to tell you is this: That through our aid program we can continue to demonstrate a commitment to economic development in the third and the fourth worlds; that humanitarian concerns do dominate much of our activity in this field as they have in the past. The United States can and will cooperate with both developed and developing nations to solve the major international problems confronting us; problems such as world hunger, population growth, environmental decay, and the like.

I want to remind you that aid is a two-way street, and that the programs that we fund can be and are to the direct benefit of the U.S. economy.

Let me finish by saying that no one in the House feels the great pressure of complaints about the foreign aid program more than I do. I would also venture to state that no one in this House is more concerned about the domestic economic crisis that we are involved in today, a crisis which does demand belt tightening in all areas. But, America cannot hope to strike a balance between these goals of fiscal responsibility and international obligations through retrenchment. I believe the passage of this amendment will enable us to satisfy the pressures of fiscal responsibility without abandoning our obligations as a member of the world community.

In closing, we have been on a continuing resolution since October. I have heard blame here, blame Mr. LONG there. None of them are to blame. The blame really is on the administration, who wanted a part of that aid bill when we went to conference the Senate would not give. I remember arguing with the Senators. I said, "I can't understand you. Here I am, a Republican—your administration even went out and dug out an opponent for me and gave her a world trip; and I am out here fighting for your President."

The administration would not budge. Do you remember that? They would not budge. They were the real culprits, and now, of course, everybody wants to get the bill out.

But, let me say one thing in closing. We have been on the continuing resolution. The Export-Import Bank—and I want you to listen to this—is on the brink of exhausting its direct loan authority, which will seriously hamper U.S. efforts to promote exports at a time when export promotion is a very top priority for the health of our economy. Under the continuing resolution—listen to this—the Eximbank has been operating under a $3.75 billion limitation on direct loans. Through July 1, 1980, the bank has utilized $3.696.000.000, leaving only $54 million, of which $39 million is direct loans available for the remainder of the fiscal year.

At this time the Eximbank estimates that more than $2 billion of additional loans could be approved this year if there were sufficient commitment authority available. Some of these are in final stages of approval. Thus, it is clear that an increase of the continuing resolution level is essential for the Bank to continue funding.

Do you know what we are talking about here? We are talking about meat and potatoes for the table. We have one of the highest unemployment rates. We have a high imbalance of trade. We are importing almost $90 billion worth of oil, and here we have a chance to put some meat and potatoes on the table by giving money to the Export-Import Bank, which is out of funds. This means jobs; this means profits; this means increased trade; it means productivity.

So, I urge you to vote for this motion to recede.

Mr. WHITTEN. Mr. Speaker, does the gentleman from Massachusetts have any further speakers?

Mr. CONTE. Mr. Speaker, I have no further time.

Mr. WHITTEN. Mr. Speaker, I yield myself the remainder of my time.

Mr. Speaker, one of my colleagues said, "Don't blow it." You cannot blow it when you just tell it like it is, and each of you must decide how you want to vote.

But, let me say this: The foreign aid program is being funded under the continuing resolution, of which I was the author. Funding is provided for the remainder of the fiscal year; they are not out of money. I believe you should stand by this committee, which worked 12 straight hours.

If you stay with us, you do not preclude bringing up that conference report, that is the way to do it. But, when you give us instructions, and insist you put an annual conference report for a major department or activity in an emergency supplemental, and insist that we give the foreign aid program everything they want, and be left with the remaining part of the ceilings for domestic programs, we are put in an awkward situation.

□ 1640

If the Members do not believe there is a problem when we do not have any cushion, I assure them that is not so. We have twice this year taken money from one part of the budget and put it over in another part. We lost $1,300 million in savings because the budget process delayed our rescissions beyond the 45 days.

I am asking the Members in all fairness to stand by this committee. Then if the Members would like, we can let the gentleman from Maryland (Mr. LONG) bring up his bill in the regular way.

Many folks believe in foreign aid, and I would go along with it because it is a key part of our foreign policy. Here we find ourselves involved in foreign aid yet I have a whole lot of differences with it.

I believe we should handle foreign aid on its own merits, but we are going to lose something vital if we go over there and they make us cut out every domestic program that each taxpayer helps fund.

As far as my colleague, the gentleman from Massachusetts (Mr. CONTE) is concerned, I love him and he has been the easiest Member to work with that I know. But when we talk about bread and potatoes, let us not take the bread and potatoes away from Americans to increase foreign aid. Let us handle this in the regular way.

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I do not yield, Mr. Speaker.

The gentleman can bring up the conference report, and we can deal with it later. I hate to differ with my friends, but I do not differ with their intention. However, I do differ with them on the way we happen to be going about it.

Mr. Speaker, I hope the Members will stand by the committee and vote to sustain our position.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the preferential motion.

There was no objection.

The SPEAKER pro tempore. The motion offered by the gentleman from Maryland (Mr. LONG) has been divided at the request of the gentleman from Maryland (Mr. BAUMAN).

The question is, Will the House recede from its disagreement to Senate amendment No. 95?

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 198, nays 196, not voting 39, as follows:

[Roll No. 396]

YEAS—198

Addabbo
Albosta
Alexander
Annunzio
Ashley
Aspin
Bailey
Baldus
Barnes
Bedell
Beilenson
Benjamin
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Brodhead
Brown, Calif.
Buchanan
Burlison
Burton, John
Butler
Carr
Cavanaugh
Chisholm
Clay
Coelho
Collins, Ill.
Conable
Conte
Conyers
Corman
Cotter
Coughlin
D'Amours
Danielson
Daschle
Dellums
Dicks
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
Ertel
Fary
Fascell
Fazio
Fenwick
Ferraro
Fisher
Fithian
Florio
Foley
Ford, Mich.
Fowler
Frost
Garcia
Gephardt
Giaimo
Gibbons
Glickman
Gonzalez
Gore
Gradison
Gray
Green
Guarini
Hall, Ohio
Hamilton
Hance
Harris
Heckler
Heftel
Hillis
Holland
Hollenbeck
Holtzman
Horton
Howard
Hubbard
Jeffords
Jenrette
Johnson, Calif.
Jones, Okla.
Kastenmeier
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Lederer
Lehman
Leland
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCormack
McHugh
McKinney
Maguire
Markey
Matsui
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Pa.
Neal
Nedzi
Nelson
Nolan
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Peyser
Preyer
Price
Pritchard
Pursell
Railsback
Rangel
Ratchford
Reuss
Rinaldo
Rodino
Roe
Rose
Rostenkowski
Roybal
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Skelton
Spellman
St Germain
Stack
Staggers
Stark
Stewart
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weiss
Williams, Mont.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Yates
Young, Mo.
Zablocki
Zeferetti

NAYS—196

Abdnor
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Anthony
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Bauman
Beard, R.I.
Beard, Tenn.
Bennett
Bereuter
Bethune
Bevill
Boner
Bouquard
Breaux
Brinkley
Brooks
Broomfield
Brown, Ohio
Broyhill
Burgener
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Corcoran
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dornan
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Evans, Del.
Evans, Ga.
Evans, Ind.
Fish
Flippo
Forsythe
Fountain
Frenzel
Fuqua
Gaydos
Gilman
Gingrich
Ginn
Goldwater
Goodling
Gramm
Grassley
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hanley
Hansen
Hefner
Hightower
Hinson
Holt
Hopkins
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jeffries
Jenkins
Jones, N.C.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lee
Lent
Levitas
Lewis
Loeffler
Lott
Lujan
Lungren
McClory
McCloskey
McDade
McDonald
McEwen
McKay
Madigan
Marks
Marlenee
Marriott
Martin
Mattox
Mazzoli
Mica
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Myers, Ind.
Natcher
O'Brien
Pashayan
Paul
Pepper
Perkins
Petri
Pickle
Porter
Quayle
Quillen
Rahall
Regula
Ritter
Robinson
Roth
Rousselot
Royer
Rudd
Russo
Santini
Satterfield
Sawyer
Schulze
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Steed
Stockman
Stump
Symms
Tauke
Tauzin
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Watkins
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.

NOT VOTING—39

Akaka
Anderson, Ill.
AuCoin
Barnard
Burton, Phillip
Davis, S.C.
Drinan
Erlenborn
Findley
Ford, Tenn.
Harkin
Harsha
Hawkins
Hutchinson
Jacobs
Johnson, Colo.
Livingston
Mathis
Mavroules
Moorhead, Calif.
Mottl
Nichols
Nowak
Rhodes
Richmond
Roberts
Rosenthal
Runnels
Sebelius
Smith, Iowa
Solarz
Stanton
Stenholm
Udall
Ullman
Weaver
White
Wilson, Bob
Wilson, C. H.

□ 1650

The Clerk announced the following pairs:

On this vote:

Mr. Akaka for, with Mr. Mottl against.

Mr. Findley for, with Mr. Barnard against.

Mr. Rosenthal for, with Mr. Nichols against.

Mr. Solarz for, with Mr. Livingston against.

Mr. Drinan for, with Mr. Rhodes against.

Mr. Richmond for, with Mr. Sebelius against.

Until further notice:

Mr. AuCoin with Mr. Runnels.

Mr. Jacobs with Mr. Erlenborn.

Mr. Phillip Burton with Mr. Harsha.

Mr. Davis of South Carolina with Mr. Stenholm.

Mr. Ford of Tennessee with Mr. Bob Wilson.

Mr. Harkin with Mr. Ullman.

Mr. Hawkins with Mr. Smith of Iowa.

Mr. Hutchinson with Mr. Johnson of Colorado.

Mr. Mathis with Mr. Moorhead of California.

Mr. Mavroules with Mr. Nowak.

Mr. Roberts with Mr. Udall.

Mr. White with Mr. Weaver.

Messrs. LOTT, GRISHAM, and EDWARDS of Oklahoma changed their vote from "yea" to "nay."

Messrs. MURPHY of New York, BOWEN, CHARLES WILSON of Texas, and GUARINI changed their vote from "nay" to "yea."

So the House receded from its disagreement to Senate amendment No. 95.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is, Will the House concur in Senate amendment No. 95 with an amendment?

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 212, nays 178, not voting 43, as follows:

[Roll No. 397]

YEAS—212

Addabbo
Albosta
Alexander
Ambro
Andrews, N.C.
Annunzio
Ashley
Aspin
Atkinson
Bailey
Baldus
Barnes
Bedell
Beilenson
Benjamin
Bereuter
Biaggi
Bingham
Blanchard
Boggs
Bolling
Bonior
Bonker
Bowen
Brademas
Brodhead
Brown, Calif.
Buchanan
Burlison
Burton, John
Carr
Cavanaugh
Chisholm
Clay
Clinger
Coelho
Collins, Ill.
Conable
Conte
Conyers
Corman
Cotter
Coughlin
D'Amours
Danielson
Daschle
Dellums
Dicks
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
Ertel
Evans, Del.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Frenzel
Frost
Garcia
Gephardt
Giaimo
Glickman
Gonzalez
Gore
Gradison
Gray
Green
Guarini
Hall, Ohio
Hamilton
Hance
Hanley
Harris
Heckler
Hillis
Holland
Hollenbeck
Holtzman
Horton
Howard
Jeffords
Johnson, Calif.
Jones, Okla.
Kastenmeier
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Lederer
Lehman
Leland
Levitas
Lewis
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKinney
Maguire
Markey
Matsui
Mattox
Mica
Michel
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett

Mollohan
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Pa.
Neal
Nedzi
Nelson
Nolan
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Peyser
Porter
Preyer
Price
Pritchard
Pursell
Railsback
Rangel
Ratchford
Regula
Reuss
Rinaldo
Rodino
Roe
Rose
Rostenkowski
Roybal
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Spellman
Stack
Staggers
Stark
Stewart
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weiss
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wydler
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—178

Abdnor
Anderson, Calif.
Andrews, N. Dak.
Anthony
Applegate
Archer
Badham
Bafalis
Bauman
Beard, R.I.
Bennett
Bethune
Bevill
Boner
Bouquard
Breaux
Brinkley
Brooks
Broomfield
Brown, Ohio
Broyhill
Burgener
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Coleman
Collins, Tex.
Corcoran
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dornan
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Evans, Ga.
Evans, Ind.
Fish
Flippo
Forsythe
Fountain
Fowler
Fuqua
Gaydos
Gibbons
Gilman
Gingrich
Ginn
Goldwater
Goodling
Gramm
Grassley
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hansen
Hefner
Heftel
Hightower
Hinson
Holt
Hopkins
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Jenrette
Jones, N.C.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, La.
Lee
Lent
Loeffler
Lott
Lujan
Lungren
McDonald
McKay
Madigan
Marks
Marlenee
Marriott
Martin
Mazzoli
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Myers, Ind.
Natcher
Pashayan
Paul
Pepper
Perkins
Petri
Pickle
Quayle
Quillen
Rahall
Ritter
Robinson
Roth
Rousselot
Royer
Rudd
Russo
Santini
Satterfield
Sawyer
Schulze
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Steed
Stockman
Stump
Symms
Tauke
Tauzin
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Watkins
Whitehurst
Whitley
Whittaker
Whitten
Winn
Wyatt
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—43

Akaka
Anderson, Ill.
Ashbrook
AuCoin
Barnard
Beard, Tenn.
Boland
Burton, Phillip
Davis, S.C.
Drinan
Erlenborn
Findley
Harkin
Harsha
Hawkins
Hutchinson
Johnson, Colo.
Leath, Tex.
Livingston
Mathis
Mavroules
Moorhead, Calif.
Mottl
Nichols
Nowak
Rhodes
Richmond
Roberts
Rosenthal
Runnels
Sebelius
Skelton
Smith, Iowa
Solarz
St Germain
Stanton
Stenholm
Udall
Ullman
Weaver
White
Wilson, Bob
Wilson, C. H.

☐ 1710

The Clerk announced the following pairs:

On this vote:

Mr. Akaka for, with Mr. Ashbrook against.

Mr. Barnard for, with Mr. Beard of Tennessee against.

Mr. Rhodes for, with Mr. Livingston against.

Mr. Stanton for, with Mr. Moorhead of California against.

Mr. Findley for, with Mr. Sebelius against.

Mr. Boland for, with Mr. Nichols against.

Mr. Richmond for, with Mr. Runnels against.

Until further notice:

Mr. Rosenthal with Mr. Johnson of Colorado.

Mr. Roberts with Mr. Stenholm.

Mr. Solarz with Mr. Bob Wilson.

Mr. Smith of Iowa with Mr. Nowak.

Mr. AuCoin with Mr. Mottl.

Mr. Phillip Burton with Mr. Mavroules.

Mr. Davis of South Carolina with Mr. Mathis.

Mr. Drinan with Mr. Erlenborn.

Mr. Harkin with Mr. Leath of Texas.

Mr. Hutchinson with Mr. Skelton.

Mr. Hawkins with Mr. Harsha.

Mr. St Germain with Mr. Udall.

Mr. Charles H. Wilson of California with Mr. White.

Mr. Ullman with Mr. Weaver.

Mr. JONES of North Carolina and Mr. GINGRICH changed their votes from "yea" to "nay."

Mr. CAVANAUGH changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 102: Page 31, after line 19, insert:

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

(RESCISSION)

Of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, $10,000,000 are rescinded.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 102 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

(RESCISSION)

Of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, $5,000,000 are rescinded.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 103: Page 31, after line 21, insert:

RESEARCH AND DEVELOPMENT

For an additional amount for "Research and development", $5,600,000, to remain available until September 30, 1981.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 103 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

"RESEARCH AND DEVELOPMENT

For an additional amount for "Research and development", $4,000,000, to remain available until September 30, 1981.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 116: Page 32, after line 20, insert:

RESEARCH AND RELATED ACTIVITIES

(RESCISSION)

Of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, $3,500,000 are rescinded.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 116 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

RESEARCH AND RELATED ACTIVITIES

(RESCISSION)

Of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, $2,000,000 are rescinded.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 117: Page 32, after line 20, insert:

SCIENCE EDUCATION ACTIVITIES

(RESCISSION)

Of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, $5,000,000 are rescinded.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 117 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

SCIENCE EDUCATION ACTIVITIES

(RESCISSION)

Of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, $2,500,000 are rescinded.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 118: Page 32, after line 25, insert:

DEPARTMENT OF THE TREASURY

PAYMENTS TO STATE AND LOCAL GOVERNMENT FISCAL ASSISTANCE TRUST FUND

(RESCISSION)

Of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, $143,035,000 are rescinded: Provided, That the total amount rescinded shall be taken from funds allocated to State governments pursuant to 31 U.S.C. 1226.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 118 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

DEPARTMENT OF THE TREASURY

PAYMENTS TO STATE AND LOCAL GOVERNMENT FISCAL ASSISTANCE TRUST FUND

(RESCISSION)

Of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, $143,035,000 are rescinded: *Provided*, That the total amount rescinded shall be taken from funds allocated to State governments pursuant to 31 U.S.C. 1226, notwithstanding any other provision of law.

Mr. WYDLER. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. Yes. I yield to the gentleman from New York (Mr. WYDLER).

Mr. WYDLER. Mr. Speaker, if I understand this amendment, this amendment seeks to cut the current year revenue sharing program, that is the 1980 revenue sharing program, by $143 million in the last quarter; is that correct?

□ 1720

If I understand what this amendment is trying to do, this amendment is seeking to cut the current year revenue-sharing program by $143 million in the last quarter of the program. Is that the effect of this amendment?

Mr. WHITTEN. Let me give the gentleman the history of this: This amendment was adopted in an effort to get under the budget ceiling. At the time we did not know that the cushion would be used for this reduction.

Mr. WYDLER. But the effect of this amendment would be that you are going to cut the current year program $143 million, and all the jurisdictions in the country that have passed their budgets relying on receiving this money are going to find that they are not going to get part of the money that they are supposed to receive?

Mr. WHITTEN. I agree with the gentleman. I thought it very unfair to accept this at the time, but we were faced with a budget resolution which said you had to cut somewhere. So this is where we made the cut.

Mr. WYDLER. If the gentleman will yield further——

Mr. WHITTEN. At the insistence of the Senate.

Mr. WYDLER. If the gentleman will yield further, the problem that is being created by this amendment——

Mr. WHITTEN. May I say the problem was created independent of this amendment. The amendment followed the problem.

Mr. WYDLER. But this amendment is going to create an enormous problem for the jurisdictions in the country that have already passed their budgets, already have put in the fact that they are going to get this revenue-sharing money. They are expecting to receive this money. As a matter of fact, they are legally entitled to receive it.

Mr. WHITTEN. I agree with the gentleman.

Mr. WYDLER. Is the gentleman going to agree with me, if I understand the gentleman?

Mr. WHITTEN. The vote just cast is not enough cushion to replace it.

Mr. WYDLER. If the gentleman agrees with me, and I think the gentleman would agree with me, we should vote against this amendment.

Mr. WHITTEN. I think that would be all right.

Mr. FOUNTAIN. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman.

Mr. FOUNTAIN. I am extremely sympathetic with what the gentleman is attempting to do.

Mr. WHITTEN. I will repeat again, if I may, and then yield to my colleague from North Carolina: The House insisted on this $143 million, since it is for domestic programs. We were forced to take this cut, otherwise we would be breaking the ceiling fixed by the budget resolution. So we were faced with either being subject to a point of order by exceeding the budget or accepting this cut. Under those conditions, we were forced to accept this. As I see it now, I have changed my mind.

Mr. FOUNTAIN. If the gentleman will yield to me, as one who has consistently supported a balanced budget and hates to even raise a question which would unbalance the budget, I would like to say that I do not believe the conferees, or the House, or the Senate, or the Congress, has the authority to do what we are being asked to do here. This is an entitlement.

Mr. WHITTEN. I guess we just withdraw by request.

Mr. FOUNTAIN. I see. Not only that, but if they withdraw it under the 1972 Fiscal Assistance Act, as amended, the $143 million would have to come from local and State governments as well as the Federal Government, because they are tied together, one-third State and two-thirds local government.

Mr. WHITTEN. The gentleman has carried me a little farther. I am not too familiar with that.

Mr. FOUNTAIN. In other words, to do this you will have to repeal the Fiscal Assistance Act.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Speaker, let me see if I understand the gentleman. Were it not for the amendment we just adopted, there would have been a cushion to take care of this?

Mr. WHITTEN. There would have been.

Mr. KAZEN. I thank the gentleman.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman.

Mr. BROWN of Ohio. As I understand the situation, the Senate Appropriations Committee voted to take out some $572 million. Then, on the floor of the Senate, acting as a body, they restored the amount; is that correct? Or was it the full Appropriations Committee in the Senate that restored the amount? And then later, when they found that the appropriations were over the budget, they returned to the issue and took out only $143 million?

Mr. WHITTEN. The gentleman's statement is true insofar as I understand it. They were in somewhat the same situation we were when we were forced to accept this amendment.

Mr. BROWN of Ohio. And the problem with this whole situation is that under the revenue-sharing law this is an entitlement program, and the rescission may not stand up if it is tested in court; is that not true?

Mr. WHITTEN. I think that is right. May I say I accepted this, or we did last night, somewhat under duress. After we had accepted it I urged that it be restored, but at that time it was thought that we would have to take a percentage cut across the board to stay within the law and keep from being subject to a point of order. I did not know that the House was going to take the earlier action which it did when it used up the cushion. I do not know where this leaves us.

Mr. BROWN of Ohio. If, in effect, a suit is mounted by the States in order to establish whether or not this rescission is legally made——

Mr. WHITTEN. I would not want to pass on this at this time without having made some study of it, which I have not.

Mr. BROWN of Ohio. If, in fact, such a suit would be mounted and be successful, then the funds would have to be expended, notwithstanding the action contemplated in this amendment. Is that correct?

Mr. WHITTEN. I am not too sure about that. The gentleman gets me into a dark area. I imagine it would go to the court of last resort.

Mr. BROWN of Ohio. Suffice it to say that the cut is a quarter of the money that is due to the States in the third quarter of 1980, that is, the checks that the States will get within the next few days?

Mr. WHITTEN. I would guess so. They could get it if we got another budget resolution.

Mr. BROWN of Ohio. So that those funds will be withheld if this amendment is left in the legislation; $143 million will be withheld from the States in the payment that will be made with the quarter ending June 30; is that right?

Mr. WHITTEN. I am not too sure about the answer to the gentleman's question.

Mr. BROWN of Ohio. I would hope, as an individual Member, that the States will test the question, because it seems to me they are entitled to it under present existing law. I am sorry, sorry that the Appropriations Committee was caught in a trap that apparently obliged the committee to concur with the Senate reduction. I wish the Senate had planned a little bit better, because I think we may have to pay out the money in any event.

Mr. WHITTEN. May I say I regret it a little more than the gentleman does.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I want to commend the gentleman from Mississippi (Mr. WHITTEN) for the warning that he gave to this House a few minutes ago regarding the Long amendment on foreign aid. The gentleman from Mississippi not once but twice took the floor and explained in detail that if you voted for the Long amendment and refused to go along with the gentleman from Mississippi, you wiped out the remaining budget cushion, as he called it. I am told that by reason of your vote we used up $500 million for foreign aid and Nicaragua and we now have available for spending between now and October 1, unobligated, only about $4 million. So everybody that complains in your States that their revenue sharing is at an end can look to those who supported the Long amendment a few minutes ago. As far as your State revenue sharing, tell them that you voted to send that money to Managua. I did not.

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman.

Mr. PANETTA. I thank the gentleman for yielding to clear up a matter that was raised here with regards to the legal right to receive the amount that is provided through revenue sharing. As I understand the agreement, it was that the reduction would be made notwithstanding any other provision of law so that, in fact, there is no legal basis on which to then attack the authorization provided; is that correct?

Mr. WHITTEN. The gentleman could be correct. If so, we made an unfair agreement, I think.

Mr. PANETTA. I thank the gentleman.

☐ 1730

Mr. BROWN of Ohio. Would the gentleman yield for one more comment on this question?

Mr. WHITTEN. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding. I wish only to make this point in response to the last exchange that if this amendment were not brought back in the form it was brought back, it would not be germane and it could not be approved in this body; is that not correct?

Mr. WHITTEN. Well, that is a parliamentary question. I would not want to usurp that right.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Speaker, I find myself in a difficult position on this issue. In the past I have supported full funding of the State's share of revenue sharing for fiscal year 1980 on the grounds that we promised it to them and we should not renege on that promise. But now we are considering a whole package of expenditures—and rescissions—that have been tailored to fit the final 1980 budget resolution. If we do not go along with this rescission we will be going through the ceiling set by that resolution, which would place us in violation of the budget procedure.

I intend to resolve that conflict by voting in favor of the budget process. I think that should be our overriding concern. But I would like to take a moment here to point out a matter of great significance that is raised by this issue. The action of the Senate in rescinding a portion of the State's revenue sharing money has the effect of restoring revenue sharing to the appropriations process, and should bring to an end the practice we have followed of making some programs entitlements. I applaud the Senate for that action and that is another reason why I hope this rescission stands.

With this vote we can bury for good the idea that some programs stand apart from the appropriations process, that they are untouchable, beyond the reach of any budget cuts, no matter how severe our economic condition. By approving this rescission we will establish the fact that a so-called entitlement is no different than any other appropriation Congress has made. Which is exactly as it should be and exactly what the Constitution means when its says:

> No money shall be drawn from the Treasury but in consequence of appropriations made by law.

With this vote we can end the foolishness of trying to shield some programs from the annual appropriations process. We can prove that there is no distinction between the dollars that come out of the U.S. Treasury, that Congress does have control over all expenditures.

That would be an important and a highly desirable step for us to take and I hope we will do it.

I support the budget process and the chairman of the committee.

Mr. WHITTEN. I yield myself such time as I may require.

May I say to the gentleman from Texas (Mr. BROOKS) I am being awakened to a whole lot of facts here this afternoon. I was, as the gentleman knows, chairman of the study group that recommended the new budget process. At that time I did not realize that this could happen under the Budget Act proposals. When I assumed the chairmanship of the Appropriations Committee. I had a study made, which showed that 58 percent of the laws that we have on the books have backdoors or entitlements. But we found that the budget process stopped backdoor spending through prior appropriations but they substituted entitlements.

Now it appears that by coming in with an amendment, as we did awhile ago—and I yield to the decision of the House because I just spelled it out like I saw it and as best I knew how—I could see that if you get an amendment that uses up or absorbs the money that it will effect programs which may be vital to the well-being of this country. So I see in this matter something I have not heretofore contemplated in the Budget Act.

Mr. BROOKS. Will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman.

Mr. BROOKS. I thank the gentleman for yielding. And if they add this money in for States, they will be taking it away from the cities and counties that now contemplate they will get some of that revenue-sharing money.

Mr. WHITTEN. I realize the gentleman's outstanding service in this area and point out many of the things he has repeated here

Mr. BROOKS. I thank the gentleman.

Mr. GIAIMO. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Connecticut.

Mr. GIAIMO. I thank the gentleman for yielding.

If the gentleman's amendment is voted down, what would be the result insofar as funding for the fourth quarter?

Mr. WHITTEN. I think we would have to ask the gentleman for another budget resolution.

Mr. GIAIMO. Of course, now I understand the thrust of what the gentleman from Mississippi is saying. I am not the one who recommended to him that he take revenue sharing out of 1980.

Mr. WHITTEN. I was one of those who wanted a cushion for domestic programs.

Mr. GIAIMO. I understand that, and I know the gentleman is unhappy about the last vote. Will the gentleman yield a little further?

Mr. WHITTEN. I yield.

Mr. GIAIMO. I know the gentleman is unhappy about the last vote, and I love him. But he has to understand the Speaker was very persuasive when he made that speech in the well about how essential it was.

Mr. WHITTEN. I was almost persuaded myself, although I could not support it.

Mr. GIAIMO. Part of the problem with the ceiling—and the gentleman will need another ceiling—is some of these programs, including this one, have been crowded out because additional moneys were added, mostly in the other body, in areas dealing with disaster moneys, as the gentleman knows, and things of that type. That is part of the problem we face right now.

Mr. WHITTEN. What are we going to do if we have another disaster in the next several months?

Mr. GIAIMO. We have to face them as they come along.

Mr. WHITTEN. What are we going to do?

Mr. GIAIMO. The gentleman has done great work. He did great work last night. He saved money for the taxpayers. Do not throw it away now because he is unhappy about the foreign aid vote. He did a tremendous job last night, and he deserves the acclaim of everyone in this House. He brought the whole supplemental down to the budgetary limits.

I would like to get back to the original question I asked the gentleman.

Mr. WHITTEN. All right.

Mr. GIAIMO. What the gentleman is trying to do, as I understand it, by this amendment is—and we do not have papers or anything in front of us here—he is holding the cut down to $143 million; is that right?

Mr. WHITTEN. May I say that I tried to get the $143 million put back in before it came out of the conference.

Mr. GIAIMO. Yes. They took it out.

Mr. WHITTEN. I was unable to do so. At that time I suggested that we reduce everything a given percentage, but I was unable to get the revenue-sharing funds back. I am not proud of having this happen, in view of the entitlement feature of it.

Mr. GIAIMO. What happens if the gentleman's motion goes down?

Mr. WHITTEN. I would guess the Committee would have to rise. We are in the House, so I guess this could happen.

Mr. GIAIMO. The gentleman would have to go back to conference.

Mr. WHITTEN. The conference would have to decide how to provide relief on the budget ceiling.

Mr. GIAIMO. That is what I am asking. If this goes down, the gentleman does not get the money.

Mr. WHITTEN. As the gentleman can see, I am being a little facetious at this time. We are breaking new ground here, as I said awhile ago. I did not realize when I was working on this system that by injecting an amendment we would end up with all the problems we seem to be having now. I do not know whether we can do anything here under the present rules except review it and perhaps get a new ceiling.

Mr. McEWEN. Mr. Speaker, will my chairman yield for a question?

Mr. WHITTEN. I yield to the gentleman from New York.

Mr. McEWEN. I thank the gentleman for yielding.

In the discussion here we have been talking about the language, as I understand it, we have in the conference report that a cut is directed toward State governments only, but as I read the State and Local Assistance Act of 1972, section 107, Entitlements of State Governments, it says this:

> The State Government shall be entitled to receive one-third of the amount allocated to any State for each entitlement period. The remaining portion—

And that would be two-thirds—

> of each State's allocation shall be allocated among the units of local government of that State.

So are we not in effect here not just cutting States but the local government as well?

Mr. WHITTEN. I would not argue with the gentleman's interpretation. I have not studied it very closely. As I say, we are in a situation now that I had not anticipated.

Mr. McEWEN. If the chairman will yield just further on that, I think we may have been misled, and I am not saying deliberately so, by our friends in the other body. They talk about this as a cut against State government. Yet, as one reads the act, the basic authorizing act directs one-third of the money to go to the States and two-thirds to local communities. I question whether in the appropriations process we can override that. I wonder what the chairman's comment is on that.

Mr. WHITTEN. I am sorry, I did not catch the gentleman's question.

Mr. McEWEN. My question of the chairman is, Does he believe we can override the authorizing legislation which says one-third to States and two-thirds to the local communities?

Mr. WHITTEN. Whether we could or not, I do not think it is fair. I did not know we were going to be in this dilemma at the time this was considered in conference. Either we go up above the budget ceiling that we have imposed on ourselves, or we had to take this method or rescissions. The more I think of it, the more I think that we probably made a mistake in that the entitlement, whether it is sound, I think the action was a mistake.

☐ 1740

Mr. McEWEN. Would the gentleman agree with me that to do other than divide as the authorizing legislation states—one-third to the States, two-thirds to the communities—to do other than that would be legislating on an appropriation bill?

Mr. WHITTEN. That has been done but only where you have a rule waiving points of order. It would be going out of our normal jurisdiction if we try to do that.

Mr. McEWEN. I thank the gentleman.

Mr. FOUNTAIN. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from North Carolina.

Mr. FOUNTAIN. Mr. Speaker, I rise in opposition to the action by the conferees to reduce revenue-sharing allocations for State governments in the July quarter by $143 million. I support the full appropriation for the general revenue-sharing program which was previously voted by this body.

Mr. Speaker, the conference report makes a mockery of the action taken by the Congress in authorizing an entitlement program for the payment of revenue-sharing allocations to State and local governments. As an entitlement, the Congress clearly intended that the full amount of the authorization would be paid to State and local governments each year as long as the authorization was in effect. Under the Budget Control Act, an entitlement is precisely what this term implies—that the Congress has elected to give preferential treatment for the payment of revenue-sharing allocations and to deny the Appropriation Committee any discretion in this matter. In other words, we are bound morally and legally to appropriate this money as an entitlement.

The legislation to reauthorize general revenue sharing for an additional 3 years as an entitlement is now before the Government Operations Committee. I personally have supported the entitlement concept for this program in order to enable the recipient governments to plan their budgets in an orderly manner. However, if the Congress is not serious about honoring its entitlement commitment for this purpose, and if the Congress wishes to reserve to itself the flexibility for reducing the amount of money for this program, this body should forthrightly not commit itself to providing entitlements in the future. For the present, however, I believe we should honor our past commitments.

In any event, we are simply shadowboxing on this issue as it is treated in the conference report, since the money withheld from the States will be paid to them in a future appropriation. This is the case because the States have a legal right to this entitlement money and will surely seek it in the courts if it is not forthcoming at this time. Moreover, I believe that the Secretary of the Treasury does not possess authority, under the State and Local Fiscal Assistance Act of 1972, as amended, to withhold the $143 million exclusively from State governments. In my judgment, the allocation formula set forth in the statute will require him to withhold two-thirds of these funds from local governments and one-third from the States. Consequently, I do not believe that the intent of the conference committee can be carried out by the Treasury Department even if this item in dispute is upheld by the House.

For these reasons, I urge my colleagues to reject this rescission.

Mr. FOUNTAIN. Mr. Speaker, I hate to see anything done that interferes with the Budget Control Act but I do not think anything we do here on this is going to do it. The revenue-sharing legislation came through the subcommittee which I have the honor to Chair.

The gentleman from Texas (Mr. BROOKS), the chairman of the committee, takes a position different from mine. I take the position, and I think I will be supported by the law, that an entitlement means we are morally and legally obligated to provide these funds. We are taking funds that have already been authorized and appropriated. The Appropriations Committee does not have the power to take those funds away.

Second, if we withdraw $143 million and attempt to do it exclusively from State governments, as the gentleman has already pointed out on the other side, you withdraw $143 million from both State and local government because they are tied together, one-third and two-thirds, so if we had the power, that would be the effect of the motion the gentleman makes.

In other words, in my opinion, whatever you do, if you pass it, you are going to have to go and get the money, return the money to some other appropriation because they can go into the courts and bring a suit out.

Mr. WHITTEN. If they went to court, I understand they could get a judgment. The judgment would be sent to Congress so there is a situation forcing the legalities of it. When you get into the details, I think we made a mistake in going along with this to start with.

Mr. BROOKS. Will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, I want to point out that the States now are receiving in this fiscal year 1980 $2.3 billion. This would cut $143 million out of that $2.3 billion leaving then for this fiscal year $2,157 million, about half of which has already been paid to them. This $143 million would come out of the last half of an annual total of $2,157 million and I think they can survive on that.

Mr. WHITTEN. May I say the gentleman is talking to the merits and the gentleman from North Carolina is talking to the law. I think both may be right. The gentleman from Texas may be right with regard to the feelings; the gentleman from North Carolina seems to be right with regard to the law.

Mr. BROOKS. The law, as you say, is just a judgment. We will see how that goes.

Mr. WHITTEN. I will yield to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. I just want to let the House know the dilemma we are in, with respect to this amendment to rescind a portion of the third quarter of revenue sharing. If we put the money back in, then we are over the budget. It goes back to the Senate and the Senate is in the same dilemma, over the budget ceiling. Then we are going to have to go back to conference to straighten that situation out. Either we do it tomorrow or we come back here Monday or Tuesday because of the emergency nature of 90 percent of this bill. That is the situation and the dilemma that we face at this present time.

Mr. Speaker, it is just unfortunate that this came up so late. As the committee chairman will recall this came up about 2 o'clock in the morning. We were a little short of time. We were over the ceiling in budget authority and budget outlays and the gentleman from Massachusetts (Mr. BOLAND) made the motion that we recede to the Senate on its amendment to rescind $143 million in revenue sharing funds to the States and that this reduction be applied toward the third quarter payment.

This did not change the amount of money at all, if I recall correctly. The Senate amendment had provided that the $143 million rescission be applied in both the third and fourth quarters with a one-eighth reduction in each quarter.

What the conference agreement did was to leave the amount of the rescission unchanged but provide that it all be taken in the third quarter resulting in a payment reduction of 25 percent in the third quarter to States. I believe that is what happened. Then at that point we were still above the budget ceiling on outlays and on budget authority. I think we were about $61 million above the budget in outlays. At that time I suggested to my good friend from Mississippi that maybe what we ought to do is to take an across-the-board cut and let the staff work out what the across-the-board cut would be. It would be very, very small.

Mr. WHITTEN. It seemed to be the best solution at that time.

Mr. CONTE. That is right, to reach a resolution so we could bring this bill back here to the House and complete the bill before we went home.

Mr. WHITTEN. What is the suggestion of the gentleman for release from the predicament we are in at the moment.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman from Massachusetts yield for a question?

Mr. CONTE. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Speaker, I wonder if it would be in order in a parliamentary way to restore the revenue sharing cut of $143 million to State governments by reducing a comparable amount from the Long amendment that was just approved. I do not know whether at this point that can be done or whether we have to reconsider the Long amendment. I am sure the gentleman from Massachusetts and the gentleman from Mississippi being better parliamentarians than I could figure out how to do it.

Mr. WHITTEN. I had yielded to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, in answer to the gentleman's question, I agree with what the gentleman from Connecticut (Mr. GIAIMO) said; I know that the gentleman from Mississippi is upset over the adoption of the Long amendment.

Mr. WHITTEN. The water was a little deeper than I anticipated.

Mr. CONTE. Those are the facts of life and I am sorry. The gentleman and I very seldom disagree. There were a lot of things in that amendment that were desperately needed and, of course, this is a very important item, also, there is no doubt about it. However, we are in this dilemma. We go back to the Senate if we defeat this amendment and we will have to come back here. The Speaker is in charge here and he would have to determine whether we stay here or whether we come back next Monday or next Tuesday.

Mr. WHITTEN. May I say to my colleague I feel we were mistaken in the action in withholding this last night, though we were caught on the horns of a dilemma. Insofar as I am concerned I feel this is a program that we may see fit to change in the future but where the entitlement is written into it, I do think the States are entitled to this for this current year. I do not know what may be true next year.

Mr. CONTE. I will say there was little discussion in the conference. I am not telling any tales out of school, this was an open conference. There was very little discussion on this particular aspect. In fact, the whole procedure did not take but a few minutes. They did put in that amendment, if I correctly remember, something about protecting themselves if they are brought into court. Do we have that amendment?

Mr. PEYSER. Mr. Speaker, will the gentleman yield?

Mr. CONTE. Yes, I yield to my friend from New York.

Mr. PEYSER. I thank the gentleman for yielding. I certainly hate to stand in the well, after hearing all of this debate, and still not have a very clear picture of what is going to happen. If the amendment that is offered is passed, I would like to know specifically, if the gentleman would tell me, what happens in that case? If we vote yes on the Whitten amendment, what is going to happen?

Mr. CONTE. Then we have rescinded 25 percent of the revenue sharing payments to the States for the third quarter in 1980.

Mr. PEYSER. That will be eliminated from the States?

Mr. CONTE. Yes.

PARLIAMENTARY INQUIRY

Mr. WHITTEN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. WHITTEN. Mr. Speaker, could there be a reconsideration of the vote on which the Long amendment passed?

The SPEAKER pro tempore. Such a motion would be in order at the proper time.

□ 1750

Mr. CONTE. In answer to the question of the gentleman from New York, this is how it reads, and I will read it:

> Provided the total amount rescinded shall be taken from funds allocated to State governments pursuant to 31 USC 1226, notwithstanding any other provision of law.

The answer to the gentleman's question is, State governments, not local governments.

Mr. PEYSER. I thank the gentleman. Then, that would happen if the Whitten amendment is defeated—if the Whitten amendment is defeated, then what is the result?

Mr. CONTE. Then we are over the budget. It goes back to the Senate, and the Senate is in exactly the same dilemma. We are over the budget ceiling and we are going to have to go back to conference and try to find out some way to bring this bill back down below the ceiling.

Mr. PEYSER. So, as I understand it, if we support the Whitten amendment we are still within the operation of the conference report subject to the Long amendment, but within the conference report and within the budget.

Mr. CONTE. In all fairness to the gentleman from Mississippi, I would not call it the Whitten amendment. I would say that it is the amendment the conference adopted.

Mr. PEYSER. I beg the gentleman's pardon.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I notice that the gentleman from Massachusetts correctly states what the conference did, but as the gentleman from New York (Mr. MCEWEN) pointed out, in the State and Local Fiscal Assistance Act of 1972, in section 107, "Entitlements of State Governments," it says the following:

> (a) Division between State and local governments.—The State government shall be entitled to receive one-third of the amount allocated to that State for each entitlement period. The remaining portion of each State's allocation shall be allocated among the units of local government of that State as provided in section 108.

The problem that that raises is whether or not the language in the rescission as approved by the conferees of the Appropriations Committee in this instance——

Mr. PEYSER. If it has the backing of law—they said notwithstanding, notwithstanding any other action of law.

Mr. BROWN of Ohio. I think clearly that would be tested, I would say to the gentleman, and the prospect would be that local governments would perhaps lose, of the $143 million, their share, or two-thirds of $143 million. In other words, one-quarter of their entitlement for this period.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, one of the things that bothers me is that I think we are embarking on some very dangerous ground in interfering with an entitlement program. I do not remember any precedent where we have actually taken funds out of an entitlement program in favor of a discretionary program. Is this not a brandnew thing to be doing on the House floor?

Mr. CONTE. I read the amendment, and it said notwithstanding any other provision of law. I believe that the Senators felt, when they put that in last night, that would take care of it.

I might also make an observation here, not to digress, but I think the gentleman who is on his feet and several others, including myself, have been very upset that this appropriations bill is two-thirds entitlement. I have heard a lot of speeches from members about this. I am not sure whether the gentleman made one of them, but I know that Mr. MICHEL and others made speeches about these entitlement programs. This is the whole problem of the appropriation bill. We have entitlement programs and we cannot touch them.

Mr. WALKER. If the gentleman will yield further, I agree with the gentleman. That is one of the problems. We have heard time and time again, primarily from the majority side of the aisle, how we cannot interfere with entitlement programs. Here, we are setting a precedent, taking money out of an entitlement program. It seems to me that that endangers all the philosophy we have heard before with regard to the social security program and all these various other entitlement programs; that it now seems to me that they are being endangered by this precedent. Does the gentleman agree with that?

Mr. CONTE. This could go to court, it has been said here. The States might sue the Federal Government for their entitlement, and it would be a test case.

Mr. WALKER. I thank the gentleman.

Mr. DOUGHERTY. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Pennsylvania.

Mr. DOUGHERTY. So that we may clarify the situation as to what we would want to do, if we support revenue sharing, then we should vote against the amendment of the conferees, which would then leave in effect funding for the assistance to the States.

Mr. CONTE. Part of it. They are not cutting all of it.

Mr. DOUGHERTY. I know, but let us just clarify and keep it simple for those of us who are confused. So, we are saying in effect, if we vote against the amendment offered by the chairman, we are voting in favor of revenue sharing not being reduced.

Mr. CONTE. Not being reduced.

Mr. DOUGHERTY. At that point in time then, we could move to reconsider the vote that increased the funding for foreign aid, and at that point in time we could move to reduce the foreign aid appropriation by the amount of money we are keeping in for Federal revenue sharing for the States. Is that correct?

So, if we favor revenue sharing, we want to vote no on the amendment being offered by Mr. WHITTEN.

Mrs. HECKLER. Mr. Speaker, I move to reconsider the vote by which—and I voted on the prevailing side—the vote on the Long amendment.

The SPEAKER pro tempore. That motion is not in order to be voted on at this time, since another motion is pending.

PARLIAMENTARY INQUIRY

Mrs. HECKLER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentlewoman will state her parliamentary inquiry.

Mrs. HECKLER. I would like to know, then, what time such a motion would be in order.

The SPEAKER pro tempore. When there is no other motion pending before the House, that motion would be in order.

Mr. McCORMACK. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Speaker, I speak for only a moment to the merits of this particular situation. We have been talking legalisms quite a bit here, but it is important to remember that a cut of $143 million in revenue sharing entitlements for this fiscal year can cause serious problems for many State or local governments. No matter how the court may rule the cuts would impact both State and local government, and they will probably cause serious problems. Many States are on a budget where the difference between red and black ink is substantially less than the amount of reduction they would suffer in the third quarter from this particular proposed reduction. Many States have laws that do not allow them to deficit spend. We could very easily force State governments into special sessions during this last quarter of our fiscal year, if we cut off their entitlements.

With all due respect to the chairman, and I know how hard he has tried——

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the amendment be withdrawn.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. YATES. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Mr. McCORMACK. Mr. Speaker, with all due respect to the chairman and the committee I think we should vote down the motion, continue revenue sharing on its existing schedule, and move at the appropriate time to reduce the amount of funding for foreign aid accordingly.

Mr. CONTE. Mr. Speaker, it is my understanding of the rules of the House that the gentleman does not need unanimous consent to withdraw his motion.

The SPEAKER pro tempore. The gentleman from Massachusetts is correct. The Chair, in error, ruled that there was objection, but thought that the gentleman was trying to withdraw the Senate amendment.

Does the gentleman from Mississippi withdraw his motion?

Mr. WHITTEN. Mr. Speaker, I ask that the amendment be withdrawn.

The SPEAKER pro tempore. The gentleman from Mississippi withdraws his motion.

Mr. CONTE. In regard to the parliamentary situation that we are in, the State revenue sharing now is back in?

The SPEAKER pro tempore. The Senate amendment 118 is still pending. There is no motion before the House.

Mr. CONTE. I heard the chairman withdraw his motion.

The SPEAKER pro tempore. The amendment has been designated by the Clerk and is before the body, but there is no motion to dispose of it pending.

Mr. CONTE. Then is it my understanding that a motion to reconsider the past amendment is in order?

The SPEAKER pro tempore. There is no motion pending.

MOTION TO RECONSIDER OFFERED BY MRS. HECKLER

Mrs. HECKLER. Mr. Speaker, I move to reconsider the vote by which the motion to concur with the amendment of Mr. LONG was passed by the House. I think great confusion surrounded that amendment and the position of the House, and I was one Member who was misled by it. I would like to move reconsideration, and I voted on the prevailing side.

The SPEAKER pro tempore. The gentlewoman from Massachusetts voted on the prevailing side.

The Clerk will report the motion.

The Clerk read as follows:

> Mrs. HECKLER moves to reconsider the vote by which the motion to concur with an amendment by Mr. LONG of Maryland was passed by the House.

☐ 1800

MOTION TO TABLE OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion to table the motion offered by the gentlewoman from Massachusetts (Mrs. HECKLER).

The SPEAKER pro tempore. The Clerk will report the motion.

PARLIAMENTARY INQUIRIES

Mr. BAUMAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from Maryland (Mr. BAUMAN) will state his parliamentary inquiry.

Mr. BAUMAN. Mr. Speaker, I will ask, is the motion to reconsider debatable?

The SPEAKER pro tempore. The Chair will state that the previous question had been ordered on the entire motion to recede and concur with an amendment, and so the motion is not debatable.

Mr. YATES. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. YATES. Mr. Speaker, is it in order for me to offer a motion to table the motion offered by the gentlewoman from Massachusetts (Mrs. HECKLER)?

The SPEAKER pro tempore. The Chair will state that that motion is in order.

Mr. YATES. Mr. Speaker, I offer such a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. YATES moves to table the motion offered by Mrs. HECKLER.

The SPEAKER pro tempore. The question is on the motion to table offered by the gentleman from Illinois (Mr. YATES).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 107, nays 262, not voting 64, as follows:

[Roll No. 398]

YEAS—107

Alexander
Annunzio
Ashley
Aspin
Baldus
Barnes
Beilenson
Boggs
Bolling
Bonior
Bonker
Brademas
Brodhead
Brooks
Burlison
Carr
Cavanaugh
Clay
Coelho
Collins, Ill.
Conte
Conyers
Corman
Danielson
Dellums
Derrick
Dingell
Dixon
Eckhardt
Elgar
Edwards, Calif.
Fary
Fazio
Fithian
Florio
Foley
Ford, Mich.
Fowler
Frost
Garcia
Giaimo
Gibbons
Green
Howard
Jenrette
Johnson, Calif.
Jones, N.C.
Kastenmeier
Kildee
Kostmayer
Leland
Long, La.
Long, Md.
Lowry
McCloskey
McHugh
Maguire
Markey
Matsui
Mattox
Mikulski
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Murphy, Ill.
Murphy, N.Y.
Musto
Nedzi
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pickle
Price
Pritchard
Rangel
Ratchford
Reuss
Rodino
Rose
Rostenkowski
Roybal
Sabo
Seiberling
Shannon
Sharp
Simon
Stack
Stewart
Stokes
Swift
Thompson
Van Deerlin
Vanik
Waxman
Weiss
Wirth
Wright
Yates
Young, Mo.
Zablocki

NAYS—262

Abdnor
Addabbo
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Anthony
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Bailey
Bauman
Beard, R.I.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Boner
Bouquard
Bowen
Breaux
Brinkley
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burton, John
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Courter
Crane, Philip
D'Amours
Daniel, Dan
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dicks
Donnelly
Dornan
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fenwick
Ferraro
Fish
Fisher
Flippo
Ford, Tenn.
Forsythe
Fountain
Frenzel
Fuqua
Gaydos
Gephardt
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hammerschmidt
Hance
Hanley
Hansen
Harris
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Lederer
Lee
Lehman
Lent
Levitas
Lewis
Lloyd
Loeffler
Lott
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Mazzoli
Mica
Michel
Miller, Calif.
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nelson
O'Brien
Oakar
Pashayan
Paul
Pepper
Perkins
Petri
Peyser
Porter
Preyer
Pursell
Quayle
Quillen
Rahall
Railsback
Regula
Rinaldo
Ritter
Robinson
Roe
Roth
Rousselot
Royer
Rudd
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
Staggers
Stangeland
Stark
Steed
Stockman
Stratton
Studds
Stump
Symms
Synar
Tauke
Trible
Vander Jagt
Volkmer
Walgren
Walker
Wampler
Watkins
Whitehurst
Whitley
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wolff
Wolpe
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Zeferetti

NOT VOTING—64

Akaka
Anderson, Ill.
AuCoin
Barnard
Beard, Tenn.
Bedell
Bingham
Blanchard
Boland
Brown, Calif.
Burton, Phillip
Chisholm
Cotter
Crane, Daniel
Daniel, R. W.
Davis, S.C.
Dodd
Drinan
Erlenborn
Fascell
Findley
Hamilton
Harkin
Harsha
Hawkins
Holtzman
Hutchinson
Johnson, Colo.
Leath, Tex.
Livingston
Mathis
Mavroules
Moorhead, Calif.
Moorhead, Pa.
Mottl
Nichols
Nolan
Nowak
Rhodes
Richmond
Roberts
Rosenthal
Runnels
Russo
Scheuer
Sebelius
Skelton
Smith, Iowa
Solarz
St Germain
Stanton
Stenholm
Tauzin
Taylor
Thomas
Traxler
Udall
Ullman
Vento
Weaver
White
Whitten
Wilson, Bob
Wilson, C. H.

□ 1810

Messrs. DE LA GARZA, CHARLES WILSON of Texas, PEYSER, PEPPER, KOGOVSEK, HUGHES, NEAL, GUDGER, WOLPE, and McKINNEY changed their votes from "yea" to "nay."

So the motion to table was rejected.

The result of the vote was announced as above recorded.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and joint resolution of the House of the following titles:

On June 27, 1980:

H.J. Res. 521. Joint resolution making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Selective Service System.

On June 28, 1980:

H.J. Res. 569. Joint resolution to provide for a temporary increase in the public debt limit;

H.R. 2759. An act to establish an interim procedure for the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto, and for other purposes;

H.R. 4887. An act to authorize appropriations for the San Francisco Bay National Wildlife Refuge, and for other purposes;

H.R. 4889. An act to extend the authorization period for the Great Dismal Swamp National Wildlife Refuge;

H.R. 5259. An act to name a certain Federal building in Santa Fe, N. Mex., the "Joseph M. Montoya Federal Building and U.S. Courthouse";

H.R. 5926. An act to establish the Biscayne National Park, to improve the administration of the Fort Jefferson National Monument, to enlarge the Valley Forge National Historical Park, and for other purposes;

H.R. 6022. An act to establish the Tensas River National Wildlife Refuge;

H.R. 6169. An act to establish the Bogue Chitto National Wildlife Refuge; and

H.R. 6614. An act to authorize appropriations to carry out the national sea grant program for fiscal years 1981, 1982, and 1983, and for other purposes.

On June 30, 1980:

H.R. 7685. An act to amend title IV of the Employee Retirement Income Security Act of 1974 to postpone for 1 month the date on which the corporation must pay benefits under terminated multiemployer plans.

On July 1, 1980:

H.R. 7477. An act to amend the Internal Revenue Code of 1954 to provide a 3-month extension of the taxes which are transferred to the airport and airway trust fund.

On July 2, 1980:

H.R. 2475. An act for the relief of Issac David Cosson;

H.R. 3818. An act for the relief of Clarence S. Lyons; and

H.R. 5156. An act for the relief of certain employees of the Naval Ordnance Systems Command.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 7482. An act to authorize the President of the United States to present on behalf of Congress a specially struck gold-plated medal to the United States Summer Olympic Team of 1980; and

H.R. 7573. An act to provide an extension of the time frame for nomination of a selection pool under the Cook Inlet land exchange.

The message also announced that the Senate agrees to the amendment of the House with an amendment to a bill of the Senate of the following title:

S. 2382. An act to provide for additional authorization for appropriations for the Tinicum National Environmental Center.

□ 1820

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BAUMAN. Could the Chair describe on what motion the next vote will come,

The SPEAKER pro tempore. We are about to vote on the motion of the gentlewoman from Massachusetts (Mrs. HECKLER) on the motion to reconsider.

Mr. BAUMAN. To reconsider what, Mr. Speaker?

The SPEAKER pro tempore. To reconsider the motion to concur with an amendment to Senate amendment 95 offered by the gentleman from Maryland (Mr. LONG).

Mr. BAUMAN. If that motion prevails, what will be the situation as far as the Long amendment?

The SPEAKER pro tempore. The House will vote immediately on the Long motion.

Mr. BAUMAN. Will that amendment be debatable at that time?

The SPEAKER pro tempore. It will not. The previous question has been ordered.

Mr. BAUMAN. So the vote would occur first on reconsideration then on the Long amendment?

The SPEAKER pro tempore. That is correct.

Mr. BAUMAN. Would it be necessary to defeat the Long amendment in order to return to the motion to provide the amount of money for revenue sharing that has just been discussed?

The SPEAKER pro tempore. The Chair does not think the gentleman is propounding a parliamentary inquiry. I think he is answering his own question.

PARLIAMENTARY INQUIRY

Mr. WRIGHT. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. WRIGHT. Mr. Speaker, on the other hand, if this motion to reconsider is rejected and the House reaffirms what it decided earlier, then that is the end of it, is it not, and there is no more opportunity for mischief.

PARLIAMENTARY INQUIRY

Mr. McCORMACK. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. McCORMACK. In the event that this motion prevails, will it be in order to amend the Long amendment to reduce the amount of money equivalent?

The SPEAKER pro tempore. It would not be. The House would then vote on the Long amendment.

Mr. McCORMACK. A further parliamentary inquiry.

Would it then be in order to submit a substitute for the Long amendment reducing it by the amount necessary to pass the revenue-sharing measure?

The SPEAKER pro tempore. If the Long motion is defeated the Senate amendment is still before the House for disposition by motion.

Mr. McCORMACK. I thank the Speaker.

The SPEAKER pro tempore. The question is on the motion to reconsider offered by the gentleman from Massachusetts (Mrs. HECKLER).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. YATES. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 243, nays 124, answered "present" 1, not voting 65, as follows:

[Roll No. 399]

YEAS—243

Abdnor
Addabbo
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Anthony
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Bailey
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Boner
Bouquard
Bowen
Breaux
Brinkley
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burton, John
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Courter
Crane, Philip
D'Amours
Daniel, Dan
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Donnelly
Dornan
Dougherty
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla
Emery
English
Erdahl
Evans, Del.
Evans, Ga.
Evans, Ind.
Fenwick
Ferraro
Fish
Fisher
Flippo
Forsythe
Fountain
Fowler
Frenzel
Gaydos
Gephardt
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gore
Gradison
Gramm
Grassley
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hanley
Hansen
Harris
Heckler
Hefner
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jeffords
Jeffries
Jenkins
Jenrette
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Lederer
Lee
Lent
Levitas
Lewis
Loeffler
Lott
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Mazzoli
Mica
Michel
Miller, Calif.
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Murphy, N.Y.
Murphy, Pa.
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nelson
O'Brien
Oakar
Pashayan
Paul
Pepper
Perkins
Petri
Porter
Preyer
Pursell
Quillen
Railsback
Regula
Rinaldo
Ritter
Robinson
Roe
Roth
Rousselot
Royer
Rudd
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
Stack
Stangeland
Steed
Stockman
Stratton
Studds
Stump
Symms
Synar
Tauke
Thomas
Trible
Vander Jagt
Walker
Wampler
Watkins
Whitehurst
Whitley
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wolff
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Zeferetti

NAYS—124

Albosta
Alexander
Annunzio
Ashley
Aspin
Baldus
Barnes
Beilenson
Boggs
Bolling
Bonior
Bonker
Brademas
Brodhead
Brooks
Burlison
Carr
Cavanaugh
Clay
Coelho
Collins, Ill.
Conte
Conyers
Corman
Danielson
Dellums
Derrick
Dicks
Dingell
Dixon
Downey
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
Ertel
Fary
Fazio
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Frost
Fuqua
Garcia
Giaimo
Gibbons
Goodling
Gray
Green
Hall, Ohio
Hance
Howard
Johnson, Calif.
Kastenmeier
Kildee
Kogovsek
Kostmayer
LaFalce
Lehman
Leland
Lloyd
Long, La.
Long, Md.
Lowry
McCloskey
McHugh
Maguire
Markey
Matsui
Mattox
Mikulski
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Murphy, Ill.
Murtha
Nedzi
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Peyser
Pickle
Price
Pritchard
Rahall
Rangel
Ratchford
Reuss
Rodino
Rose
Rostenkowski
Roybal
Sabo
Seiberling
Shannon
Sharp
Simon
Staggers
Stark
Stewart
Stokes
Swift
Thompson
Van Deerlin
Vanik
Volkmer
Walgren
Waxman
Weiss
Wirth
Wolpe
Wright
Yates
Young, Mo.
Zablocki

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—65

Akaka
Anderson, Ill.
AuCoin
Barnard
Bedell
Bingham
Blanchard
Boland
Brown, Calif.
Burton, Phillip
Chisholm
Cotter
Crane, Daniel
Daniel, R. W.
Davis, S.C.
Dodd
Drinan
Erlenborn
Fascell
Findley
Hamilton
Harkin
Harsha
Hawkins
Heftel
Holtzman
Hutchinson
Jacobs
Johnson, Colo.
Leath, Tex.
Livingston
Mathis
Mavroules
Moorhead, Calif.
Moorhead, Pa.

Mottl
Nichols
Nolan
Nowak
Quayle
Rhodes
Richmond
Roberts
Rosenthal
Runnels
Russo
Scheuer
Sebelius
Skelton
Smith, Iowa
Solarz
St Germain
Stanton
Stenholm
Tauzin
Taylor
Traxler
Udall
Ullman
Vento
Weaver
White
Whitten
Wilson, Bob
Wilson, C. H.

□ 1830

The Clerk announced the following pairs:

Mr. Boland with Mr. Erlenborn.
Mr. Akaka with Mr. Harsha.
Mr. Hawkins with Mr. Johnson of Colorado.
Mr. Russo with Mr. Bob Wilson.
Mr. Solarz with Mr. Phillip Burton.
Mr. Tauzin with Mr. Davis of South Carolina.
Mr. Mottl with Mr. Robert W. Daniel, Jr.
Mr. Nichols with Mr. Livingston.
Mr. AuCoin with Mr. Moorhead of California.
Mr Barnard with Mr. Findley.
Mr. Bedell with Mr. Nolan.
Mr. Vento with Mr. Udall.
Mr. Jacobs with Mr. Stenholm.
Mr. Hutchinson with Mr. Stanton.
Mr. Rosenthal with Mr. Sebelius.
Mr. Richmond with Mr. Whitten.
Mr. Roberts with Mr. Charles H. Wilson of California.
Mr. Shelton with Mr. Runnels.
Mr. Heftel with Mr. Scheuer.
Mr. Bingham with Ms. Holtzman.
Mr. Blanchard with Mr. Daniel B. Crane.
Mr. Brown of California with Mr. Dodd.
Mrs. Chisholm with Mr. Drinan.
Mr. Fascell with Mr. Hamilton.
Mr. Harkin with Mr. Leath of Texas.
Mr. Mavroules with Mr. Mathis.
Mr. Moorhead of Pennsylvania with Mr. Nowak.
Mr. White with Mr. Rhodes.
Mr. Weaver with Mr. Quayle.
Mr. Ullman with Mr. Traxler.
Mr. Smith of Iowa with Mr. St Germain.

Mr. COUGHLIN changed his vote from "nay" to "yea."

So the motion to reconsider was agreed to.

The result of the vote was announced as above recorded.

□ 1840

The SPEAKER pro tempore The question is on the motion offered by the gentleman from Maryland (Mr. LONG), to concur with the Senate amendment numbered 95.

The motion was rejected.

PREFERENTIAL MOTION OFFERED BY MR. BAUMAN

Mr. BAUMAN. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

> Mr. BAUMAN moves to recede and concur in the amendment of the Senate, (No. 95) with an amendment as follows: In lieu of the matter stricken and inserted by said amendment insert the following:
>
> CHAPTER VI
> FOREIGN OPERATIONS
>
> FUNDS APPROPRIATED TO THE PRESIDENT
>
> INTERNATIONAL DISASTER ASSISTANCE
>
> For an additional amount to carry out the provisions of Section 491 of the Foreign Assistance Act of 1961, as amended, $43,000,000 to remain available until expended.
>
> PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND
>
> For an additional amount for "Payment to the Foreign Service Retirement and Disability Fund", $1,020,000.
>
> OPERATING EXPENSES
>
> For an additional amount for "Operating Expenses of the Agency for International Development", $2,000,000, to remain available until expended.

Mr. BAUMAN (during the reading). Mr. Speaker, that happens to be the end of the motion. I am not sure why the gentleman is reading further. That is the end of the motion I sent to the desk.

PARLIAMENTARY INQUIRY

Mr. ERTEL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. ERTEL. Mr. Speaker, how is this particular amendment a preferential motion?

The SPEAKER pro tempore. The gentleman rose and was recognized to offer a preferential motion. The Clerk has not completed the reading of the motion.

Mr. BAUMAN. The gentleman from Maryland would advise the Speaker that the clerk has completed reading the motion that I sent to the desk. I am not sure what the Clerk is now reading.

The SPEAKER pro tempore. Has the Clerk finished reading the motion?

The Clerk will rereport the motion.

Mr. ERTEL (during the reading). Mr. Speaker, I reserve a point of order.

The SPEAKER pro tempore. The gentleman from Pennsylvania reserves a point of order.

PARLIAMENTARY INQUIRIES

Mr. ERTEL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. ERTEL. Mr. Speaker, inasmuch as the motion was partially read before, how is this a preferential motion which the gentleman has been recognized for; on what basis?

The SPEAKER pro tempore. The Long amendment having been to concur with an amendment and being defeated, another motion to concur with an amendment is a preferential motion.

Mr. ERTEL. Mr. Speaker, I have an additional parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from Pennsylvania will state his additional parliamentary inquiry.

Mr. ERTEL. Mr. Speaker, did we not though vote to recede and concur in the Senate amendment previously?

The SPEAKER pro tempore. The House has, on reconsideration refused to concur in the Senate amendment No. 95 with an amendment.

The Clerk will continue to read the motion.

The Clerk read as follows:

> Mr. BAUMAN moves to concur in the amendment of the Senate (No. 95) with an amendment as follows: In lieu of the matter stricken and inserted by said amendment insert the following:
>
> CHAPTER VI
>
> FOREIGN OPERATIONS
>
> FUNDS APPROPRIATED TO THE PRESIDENT
>
> INTERNATIONAL DISASTER ASSISTANCE
>
> For an additional amount to carry out the provisions of Section 491 of the Foreign Assistance Act of 1961, as amended, $43,000,000 to remain available until expended.
>
> PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND
>
> For an additional amount for "Payment to the Foreign Service Retirement and Disability Fund", $1,020,000.
>
> OPERATING EXPENSES
>
> For an additional amount for "Operating Expenses of the Agency for International Development", $2,000,000, to remain available until expended.

The SPEAKER pro tempore. The gentleman from Maryland is recognized.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, under the rules, does not the gentleman from Mississippi have the time? I would like for him to yield to me, but I believe he has the time.

Mr. LONG of Maryland. Mr. Speaker, I have a preferential motion.

Mr. BAUMAN. Mr. Speaker, I have been recognized, I believe.

Mr. LONG of Maryland. Mr. Speaker, I was on my feet.

POINT OF ORDER

Mr. BAUMAN. Mr. Speaker, a point of order.

The SPEAKER pro tempore. The gentleman will state the point of order.

Mr. BAUMAN. Mr. Speaker, I have the floor and I do not yield.

Mr. LONG of Maryland. Mr. Speaker, I was on my feet for a preferential motion.

The SPEAKER pro tempore. On this motion the gentleman from Maryland (Mr. BAUMAN) has the time.

Mr. BAUMAN. Mr. Speaker, I would like to take my time at this point.

The SPEAKER pro tempore. The gentleman from Maryland (Mr. BAUMAN) is recognized.

Mr. BAUMAN. Mr. Speaker, I do not want to complicate an already complicated situation. The motion which I have just offered, and the Members should at least try and understand it because we are apparently going to have to vote on it, in essence returns the House to the position that we went to the conference with on the foreign aid issue. It provides amounts of money for three funds that the administration informed the House was necessary for inclusion in the supplemental appropriation bill. It does not include any of the funding which was added by the other body and, therefore, amounts to roughly about $46 million.

Thus, if it were adopted, my motion would make available something in the neighborhood of $450 million to accommodate revenue-sharing amendments that might be offered when we return to that motion, and any other programs between now and October 1.

It, in effect, vindicates the position taken by the gentleman from Mississippi (Mr. WHITTEN), who asked the House not to adopt the Long amendment so this cushion of about $500 million would remain for further consideration of this bill and other incidental costs that might come up before October 1.

I would strongly urge that the House adopt this motion which would simply return us to the original position, and if a motion to table my motion is offered

I would only say that that will only prolong the matter. The House has already voted twice now in the last hour on the issue of revenue sharing, and any motion to table my motion will be another vote on revenue sharing as opposed to the foreign aid increase and will again pose the same question.

So I do not know how long we can avoid the issue. The House showed in the debate on the issue of revenue sharing when we proceeded to that amendment in disagreement that they had not realized that by offering the Long amendment and adopting it by a very narrow margin they, in effect, ruled out the possibility under the Budget Act of restoring State revenue sharing.

So I would hope, therefore, we would adopt the pending motion and continue——

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield for a parliamentary inquiry?

Mr. BAUMAN. Mr. Speaker, I do not yield for any purpose.

The SPEAKER pro tempore. The gentleman from Maryland (Mr. BAUMAN) indicates he will not yield for a parliamentary inquiry at this point. The gentleman from Maryland (Mr. BAUMAN) has the floor.

Mr. BAUMAN. So I hope that we would then adopt the motion to concur in the amendment of the Senate with an amendment as described so that we could either present this question to the other body for their rejection or acceptance, or go back to conference and solve the problem.

I am disturbed, too, that the Export-Import Bank is not included in this, but there is nothing to preclude the gentleman from Maryland (Mr. LONG) from bringing his beloved conference report on foreign aid to the floor any day that we are in session and addressing the need for that lending.

☐ 1850

Mr. PEYSER. Will the gentleman yield for a question?

Mr. BAUMAN. I yield at this time to the gentleman from Mississippi (Mr. WHITTEN) if he wishes to be heard.

Mr. WHITTEN. I do not have any comment to make except that I have learned that the budget ceiling lends itself to a whole lot of things that we did not anticipate, and it is my feeling that in our action on the House side—not individually because I have not had a chance to speak with the conferees—in our efforts to try to make up some of this money, that we had to have this $143 million revenue sharing reduction now that should be restored as a matter of right and as a matter of law. Whether we should repeal it in the future is a different thing, but I think we should act in such a way as to have the cushion available where we could restore that amount of money.

Mr. BAUMAN. I thank the gentleman from Mississippi for his support of the pending motion.

Mr. PEYSER. Will the gentleman yield for a question? Will the gentleman yield?

Mr. BAUMAN. I wonder if the majority leader wants time, because I would be more than willing to yield to him. I yield 5 minutes for the purposes of debate only to the gentleman from Texas.

Mr. WRIGHT. I thank the gentleman for yielding.

As I understand it, what the gentleman from Maryland (Mr. BAUMAN) proposes is that we shall insist upon the House position with respect to foreign aid. In other words, we will disagree with all those items that the Senate inserted in its bill. The predictable effect of that, I think, would be that we would find very strong and determined resistance on the part of the other body. Conferees would have to go back into conference. We would be back in session next week arguing the very same things that we have argued today.

It seems to me that there may be one way we can have an alternative solution. We need something between what the House embraced earlier and the Senate had agreed reluctantly to accept, and what the gentleman from Maryland (Mr. BAUMAN) now offers, which the Senate most assuredly will not accept. One way to arrive at such a point would be to defeat the previous question on the Bauman motion and thereby make it possible for the gentleman from Maryland (Mr. LONG), or some other Member to offer a substitute that might have some chance of being accepted by the other body.

We need to provide some measure of flexibility for the President of the United States to conduct the foreign policy of the United States. If that is what we want to do, if we are willing to let the President have a little flexibility to engage in the battle with the Soviet Union and with Castro's Cuba, if we are willing to let the chairman of the subcommittee work it out with his counterpart in the other body, then we will vote down the previous question.

If, on the other hand—if, on the other hand—this House is willing to yield not only the minority leadership, but the majority leadership, and the Secretary of State-ship as well to the gentleman from Maryland (Mr. BAUMAN), then we will adopt the previous question, adopt the Bauman motion, and let Mr. BAUMAN tell the President of the United States what he may or may not do in the field of foreign affairs. If you are willing to let the gentleman from Maryland (Mr. BAUMAN) be Secretary of State, and if you are willing [applause, the Members rising]. I think the issue is pretty well settled.

If, on the other hand, you believe in the bipartisanship of foreign policy conducted as the Constitution intended it be conducted by the President of the United States, with the help of a bipartisan Congress, you will vote down this previous question and give the gentleman from Maryland (Mr. LONG) the opportunity to offer something that will allow the President the flexibility of some new initiatives in foreign policy.

Mr. PEYSER. Will the gentleman yield?

The SPEAKER pro tempore. The gentleman from Maryland (Mr. BAUMAN) has the floor.

Mr. BAUMAN. Mr. Speaker, I would like to announce that I accept the nomination of the gentleman from Texas (Mr. WRIGHT).

I yield myself such time as I may consume.

Mr. Speaker, let me just say this. I regret only slightly that the gentleman from Texas (Mr. WRIGHT) has personalized the issue, because he has done me a great honor, I think. But the issue is not the gentleman from Maryland; the issue is whether we have enough available money for revenue sharing. That is what we have been fighting about for the last hour here, and by voting down the previous question on my motion, the only thing I know you can insure is that another motion will be offered, containing how much money I do not know, since the gentleman from Maryland (Mr. LONG) is now writing it with his aides, for what programs I do not know. I do know that I conferred with the Appropriations Committee staff during the last two votes, and this was the amendment that they felt was consistent with the Budget Act and the only one that could be drafted to meet the budget requirements of outlays, new obligational authority, and budget authority. This simply allows us to go to the other body and discuss the matter. And I was informed during the gentleman's eloquent remarks that the other body is so desirous of leaving this place and this issue that they are very likely even to accept this amendment, even though the gentleman from Maryland's name is on it.

We will be back here a short time after the conventions, and we can address this further, and we can bring up the conference on foreign aid tonight and deal with the issues that the gentleman from Maryland (Mr. LONG) insists on piggybacking on a bill that I once again remind you is full of money for the disaster victims of Mount St. Helens, the West, flood victims, and those suffering from drought in the Southwest. So I would hope that you would not vote down the motion and would in fact support the previous question.

Mr. PEYSER. Will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from New York for purposes of debate only. He has been very patient.

Mr. PEYSER. I thank the gentleman for yielding. The House having made its viewpoint very clear on the revenue-sharing issue as pertains to the foreign affairs money, I am just wondering if we could not reach an agreement on the action that basically would reduce the foreign affairs money by the $143 million, which I believe it is in a flat reduction, let the amendment be offered with that reduction in it, and let the amendment be offered to put that money back into the revenue sharing without the effort being made of eliminating all of the foreign aid. I think it would pass by a voice vote if we could do that. In other words, simply have the $143 million removed from the Long amendment, and have the $143 million restored to the revenue sharing, and I think we could finish it in 5 minutes.

Mr. BAUMAN. In reply to the gentleman from New York (Mr. PEYSER) that is precisely what I am attempting to do. Unfortunately, there has now been suggested the need to vote down the previous question and offer still a new amendment which will contain we do not know what amount. So I think we could simplify it by adopting my amendment. If this is adopted, we will go back immediately to the question pending at the time reconsideration was voted, and that is the Senate amendment dealing with revenue sharing. We could restore the money. That is what I am seeking to do.

Mr. DOUGHERTY. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Pennsylvania for debate only.

Mr. DOUGHERTY. I thank the gentleman for yielding.

I would just like to state, being one of the few Republicans who voted for the Long amendment the first time, I resent the fact that we were put into a position—and I think I speak for other Members who also supported the Long amendment—of having $500 million for foreign aid at a time when we were then to be faced with a reduction of some $100 million in State revenue sharing. In my State of Pennsylvania most revenue-sharing money is passed down to local governments. In my city of Philadelphia it goes for special education.

I think the leadership on the Democratic side of the aisle, that looks over here occasionally for votes, should have been more responsible in addressing this issue. I do not like the fact that, while I do support foreign aid, I am put in a position now of having been on record as sacrificing money to my State in the form of revenue sharing. I think that for the record I am going to reconsider. I may even vote for the Bauman amendment as proposed because I am fed up with the gamesmanship that is being played by the majority at the expense of those of us on this side of the aisle who do try to vote for foreign aid once in awhile.

Mr. BAUMAN. I would only reply to the gentleman from Pennsylvania. I think this is a bipartisan problem that has arisen because I think people on both sides of the aisle have found themselves tied in knots on this issue.

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. I thank the gentleman for yielding.

Notwithstanding the eloquent statement of the majority leader, I would not want anyone here to think that if we did not pass the Long amendment, or attach additional foreign aid money onto this supplemental appropriations bill, that our whole foreign policy would be down the drain. We do not have a foreign policy to begin with. But the truth of the matter is no matter what happens on this bill there is still $7,503,761,548 for foreign aid available in fiscal year 1980.

Notwithstanding the arguments of the majority leader, notwithstanding the amendment of the gentleman from Maryland (Mr. LONG) the fact is that under the continuing resolution, which goes until the end of the fiscal year, that much money is already available and is already being spent. Like it or not, the foreign aid program is going on.

□ 1900

If one has the idea that if you vote against the Bauman amendment or if you vote against the previous question there will be no money for foreign aid in 1980, that is an error; $7.5 billion has already been appropriated by this Congress this year for fiscal year 1980 for foreign aid. The amendment of the gentleman from Maryland (Mr. BAUMAN) adds $46 million more to that.

Mr. BAUMAN. For foreign aid. I want the record to note the gentleman from Maryland is offering that amendment.

Mr. YOUNG of Florida. The foreign aid kitty is not empty. The taxpayers pockets may be empty but the foreign aid kitty is not.

Mr. BAUMAN. Mr. Speaker, for purposes of debate only I yield to the gentleman from New York (Mr. MCEWEN).

Mr. McEWEN. Mr. Speaker, I thank the gentleman for yielding.

The SPEAKER pro tempore. For what purpose does the gentleman from Massachusetts rise?

Mr. O'NEILL. Mr. Speaker, in view of the fact that the gentleman from Maryland did not offer a preferential motion, I offer a preferential motion that is at the desk.

Mr. BAUMAN. Mr. Speaker, I did not yield to the gentleman to offer a motion.

Mr. O'NEILL. I was recognized.

Mr. BAUMAN. Well, I did not yield for that purpose, Mr. Speaker. I control the time, do I not?

The SPEAKER pro tempore. The gentleman from Maryland (Mr. BAUMAN) has 30 minutes, the majority side has 30 minutes.

Does the gentleman from Maryland wish to use more time?

Mr. BAUMAN. I do and I was in the course of using the time when I was interrupted. I do not believe I can be interrupted unless I yield.

The SPEAKER pro tempore. The gentleman from Maryland may proceed.

Mr. BAUMAN. I do not yield for that purpose. I yield for debate only to the——

Mr. O'NEILL. I want the House to know that I reserve my right and before the previous question is put, I will offer for a preferential motion.

Mr. BAUMAN. Mr. Speaker, I yield to the gentleman from New York for the purpose of debate only.

Mr. McEWEN. I thank the gentleman for yielding for that purpose.

Mr. Speaker, I would like to address a question if I may to my chairman of the Committee on Appropriations (Mr. WHITTEN).

Mr. Speaker, the question I wanted to ask of the gentlemen from Mississippi relates to the sum in the Bauman amendment that is now pending. As I understand it, there are two aspects we have to consider in an appropriation: the obligational authority and the cash flow. If I understood the gentleman——

The SPEAKER pro tempore. The House is not in order.

Mr. BAUMAN. I yield to the gentleman from New York (Mr. MCEWEN) for the purpose of questioning.

Mr. McEWEN. The question is this, Mr. Speaker. The gentleman from Maryland (Mr. BAUMAN) indicated he had conferred with some of our professional staff as to the amount of cut that would have to be made in the Long amendment to accommodate revenue sharing.

Am I correct in believing that this amount is necessary in order to accommodate the cash flow for revenue sharing for this quarter?

Mr. BAUMAN. I yield to the gentleman from Mississippi for debate only.

Mr. WHITTEN. I have not checked the figures recently but I believe the figures are available with regard to revenue sharing, as I understand it, the amount is $143 million. The difference remains $143 million, later I will offer a motion to further insist on the House position on revenue sharing.

Mr. BAUMAN. Mr. Speaker, I yield further to the gentleman from New York for debate only.

Mr. McEWEN. If the chairman would inquire of staff, staff assisted the gentleman from Maryland (Mr. BAUMAN) on this. Is it staff's view of the figures, Mr. Chairman, that it is necessary to take the figure the gentleman from Maryland (Mr. BAUMAN) had in order to realize $143 million in cash outlays for revenue sharing?

The SPEAKER pro tempore. The gentleman from New York will suspend.

Mr. BAUMAN. I yield to the gentleman from New York for debate.

Mr. McEWEN. I yield to the chairman for an answer if staff could advise him.

Mr. WHITTEN. May I say I have not tabulated the amounts. The way the gentleman words it, whether you had to take the figures of the gentleman from Maryland (Mr. BAUMAN) or not, it would be a different concern. In fairness to our figures, the $143 million which I hope to restore, by insisting on the House position, or refusing to go along with the Senate, would require a substantial reduction in the amounts that were included in the Long amendment.

Mr. McEWEN. Mr. Speaker, I understood the gentleman from Maryland to say that professional staff of our committee had assisted in preparing this and I assumed that the figure he had——

Mr. WHITTEN. I do not question the gentleman's statement in the least. I have not personally talked to the staff about it.

Mr. McEWEN. Well, Mr. Chairman, could the gentleman inquire of the staff?

Mr. WHITTEN. I would suggest that the gentleman talk to the gentleman from Maryland or those who may have talked to him.

Mr. McEWEN. Well, could the chairman inquire of staff if they consider this would read $143 million of outlay money for revenue sharing.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, as part of my time I would like to propound a parliamentary inquiry.

Mr. WHITTEN. Members of the staff advise me that it would reach in that neighborhood.

Mr. McEWEN. I thank the gentleman.

Mr. BAUMAN. My parliamentary inquiry is that the Chair stated a moment ago that the time on a preferential motion to concur with an amendment is divided between the majority and the minority. Is it not controlled by the maker of the motion? Only amendments in disagreement are divided.

The SPEAKER pro tempore. The practice of the House is clearly on a motion of this type after an initial motion has been rejected on an amendment reported from conference in disagreement that the time is divided between the majority and the minority parties.

Mr. BAUMAN. The second question I have is, has not the gentleman from Maryland made a preferential motion which is now pending?

The SPEAKER pro tempore. The gentleman from Maryland made a motion which was in form a preferential motion. Upon examination by the Chair, it is in fact a motion to insist upon the original House position rather than a motion to amend the Senate amendment.

Mr. BAUMAN. A further parliamentary inquiry. The House's previous action on this amendment was a vote to recede from the position of the House. At that point——

The SPEAKER pro tempore. If the Chair could—the House has not voted to reconsider the motion to recede——

Mr. BAUMAN. Precisely. That is what the gentleman from Maryland is observing, that the House has voted to recede from its position. At that point a preferential motion to concur with an amendment is in order. That is what the gentleman from Maryland has offered.

The SPEAKER pro tempore. What the House has done is to recede from its initial disagreement, not from the House position.

Mr. BAUMAN. Well, is not the gentleman from Maryland's motion a preferential motion under the rule?

The SPEAKER pro tempore. In form it is but upon examination it is in fact a motion to insist upon the House position.

Mr. BAUMAN. Well, does not the Chair have to be subjected to a point of order at an appropriate time in order to make that ruling? Does the Chair on its own inquire behind the form of motion?

The SPEAKER pro tempore. The Chair is responding to a parliamentary inquiry of the gentleman from Maryland.

Mr. BAUMAN. Well, but the Chair made a statement a few moments ago, unsolicited by anyone that my motion was not a preferential motion. This gentleman would like to ask upon what authority the Chair is able to rule a preferential motion offered in proper form is nonpreferential when no one has raised the issue.

The SPEAKER pro tempore. The Chair has not ruled out the motion of the gentleman from Maryland. It is still pending. The parliamentary inquiry was whether it was a preferential motion.

Mr. BAUMAN. Mr. Speaker, further using my time on parliamentary inquiry of the Chair, who controls the preferential motion on the previous question under these circumstances?

The SPEAKER pro tempore. Is the gentleman asking if another motion is made?

Mr. BAUMAN. I am asking the Chair, under the parliamentary inquiry, who controls the preferential motion of the previous question? Who may move the previous question on this motion?

The SPEAKER pro tempore. If a motion is privileged it may be offered by any Member of the House.

Mr. BAUMAN. Mr. Speaker, I move the previous question on the motion.

The SPEAKER pro tempore. For what purpose does the gentleman from Massachusetts (Mr. O'NEILL) seek recognition?

PREFERENTIAL MOTION OFFERED BY MR. O'NEILL

Mr. O'NEILL. Mr. Speaker, I offer a preferential motion.

Mr. BAUMAN. Mr. Speaker, a point of order. I moved the previous question on the pending motion.

The SPEAKER pro tempore. The motion for the previous question does not rule out a preferential motion, if moved while time is remaining to the opposite party. The previous question is not yet in order.

The Clerk will read the preferential motion.

□ 1910

The Clerk read as follows: Mr. O'NEILL moves that the House concur in the amendment of Senate numbered 95 with an amendment as follows:

In lieu of the matter deleted and inserted by said amendment, insert the following:

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL DISASTER ASSISTANCE

For an additional amount to carry out the provisions of section 491 of the Foreign Assistance Act of 1961, as amended, $43,000,000 to remain available until expended.

DISABILITY FUND

For an additional amount for "Payment to the Foreign Service Retirement and Disability Fund," $1,020,000.

OPERATING EXPENSES

For an additional amount for "Operating Expenses of the Agency for International Development," $2,000,000, to remain available until expended.

ECONOMIC SUPPORT FUND

For an additional amount of $80,000,000 for necessary expenses to carry out the provisions of section 531 through 535, provided that these funds shall not be available for obligation or expenditure until October 1, 1980.

POINT OF ORDER

Mr. BAUMAN. Mr. Speaker, I make a point of order against the motion.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. BAUMAN. Mr. Speaker, I make a point of order that this motion is not a preferential motion. It is, in fact, an amendment to the pending motion of the gentleman from Maryland, which sought to concur in the Senate amendment with an amendment. This is simply another motion seeking to concur in the Senate amendment with a slightly different amendment, and therefore it has no preference over my pending motion.

I make a point of order against it on that ground.

The SPEAKER pro tempore. The Chair is trying to be fair to all Members, but the fact remains that the motion to concur with an amendment takes precedence over a motion to insist on the House petition, and the point is well taken.

Mr. BAUMAN. A point of order, Mr. Speaker.

The gentleman from Maryland has offered a motion to concur in the amendment of the Senate with an amendment, and now another motion to concur in the amendment of the Senate with an amendment is being offered. That additional motion is not in order at this point.

The SPEAKER pro tempore. The gentleman from Maryland has offered an amendment which in form was a motion to concur with an amendment. In fact, it is a motion to insist on the original House language.

Mr. BAUMAN. I make a point of order against the pending motion by the gentleman from Massachusetts (Mr. O'NEILL) that it is not preferential because it is, in form, simply a motion to insist on the House position and is not, in fact, a preferential motion. If my motion is not in order, his is not either.

The SPEAKER pro tempore. The gentleman from Maryland is not correct. The point is not well taken.

Mr. BAUMAN. Mr. Speaker, I appeal the ruling of the Chair.

If that is the way you are going to play the game, let us fight it to the end.

The SPEAKER. The gentleman appeals the ruling of the Chair. The question is, shall the Chair's decision stand as the judgment of the Committee.

MOTION TO TABLE OFFERED BY MR. BOLLING

Mr. BOLLING. Mr. Speaker, I move to lay the appeal from the Chair on the table.

Mr. BAUMAN. And that the motion be reduced to writing.

Mr. BOLLING. It is at the desk. It is at the desk.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. BOLLING moves to lay the appeal on the table.

The SPEAKER pro tempore. The question is on the motion to table.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays, so that we can go on record on the fairness in this House.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 222, nays 140, answered "present" 1, not voting 70, as follows:

[Roll No. 400]

YEAS—222

Addabbo
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
Bailey
Baldus
Barnes
Beard, R.I.
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Boggs
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Burlison
Burton, John
Byron
Carr
Cavanaugh
Chappell
Chisholm
Clay
Coelho
Collins, Ill.
Conyers
Corman
D'Amours
Daniel, Dan
Danielson
Daschle
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Downey
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
English
Ertel
Evans, Ga.

Evans, Ind.
Fary
Fazio
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Ginn
Glickman
Gore
Gramm
Gray
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hance
Hanley
Harris
Hefner
Heftel
Hightower
Holland
Howard
Hubbard
Huckaby
Hughes
Hutto
Ichord
Ireland
Jacobs
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
Leach, La.
Lederer
Lehman
Leland
Levitas
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCormack
McHugh
McKay
Maguire
Markey
Matsui
Mattox
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Rahall
Rangel
Ratchford
Reuss
Rodino
Roe
Rose
Rostenkowski
Roybal
Sabo
Santini
Satterfield
Schroeder
Seiberling
Shannon
Sharp
Shelby
Spellman
Stack
Staggers
Stark
Steed
Stewart
Stokes
Studds
Stump
Swift
Synar
Thompson
Van Deerlin
Vanik
Volkmer
Walgren
Watkins
Waxman
Weiss
Whitley
Whitten
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—140

Abdnor
Andrews, N. Dak.
Archer
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Bereuter
Bethune
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Campbell
Carney
Carter
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Courter
Crane, Philip
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Dornan
Dougherty
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
Erdahl
Evans, Del.
Fenwick
Fish
Forsythe
Frenzel
Gilman
Gingrich
Goldwater
Goodling
Gradison
Green
Grisham
Guyer
Hagedorn
Hammerschmidt
Hansen
Heckler
Hinson
Hollenbeck
Holt
Hopkins
Horton
Hyde
Jeffords
Jeffries
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Leach, Iowa
Lee
Lent
Lewis
Loeffler
Lott
Lujan
Lungren
McClory
McCloskey
McDade
McDonald
McEwen
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Michel
Miller, Ohio
Mitchell, N.Y.
Moore
Myers, Ind.
O'Brien
Pashayan
Petri
Porter
Pursell
Quillen
Railsback
Regula
Rinaldo
Ritter
Robinson
Roth
Rousselot
Royer
Rudd
Sawyer
Schulze
Sensenbrenner
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stockman
Stratton
Symms
Tauke
Thomas
Trible
Vander Jagt
Walker
Wampler
Whitehurst
Whittaker
Williams, Ohio
Winn
Wydler
Wylie
Young, Alaska
Young, Fla.

ANSWERED "PRESENT"—1

Simon

NOT VOTING—70

Akaka
Anderson, Ill.
AuCoin
Barnard
Bedell
Bingham
Blanchard
Boland
Brown, Calif.
Burton, Phillip
Cotter
Coughlin
Crane, Daniel
Daniel, R. W.
Davis, S.C.
Dodd
Drinan
Erlenborn
Fascell
Findley
Gonzalez
Grassley
Hamilton
Harkin
Harsha
Hawkins
Hillis
Holtzman
Hutchinson
Johnson, Colo.
LaFalce
Latta
Leath, Tex.
Livingston
Mathis
Mavroules
Moorhead, Calif.
Moorhead, Pa.
Mottl
Nichols
Nolan
Nowak
Paul
Pritchard
Quayle
Rhodes
Richmond
Roberts
Rosenthal
Runnels
Russo
Scheuer
Sebelius
Skelton
Smith, Iowa
Solarz
St Germain
Stanton
Stenholm
Tauzin
Taylor
Traxler
Udall
Ullman
Vento
Weaver
White
Williams, Mont.
Wilson, Bob
Wilson, C. H.

☐ 1920

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. O'NEILL) is recognized in support of his preferential motion.

Mr. O'NEILL. Mr. Speaker, I have served in legislative bodies for 44 years. In my legislative lifetime I have never seen a Speaker ever make a wrong ruling. When he makes a ruling, he makes it for posterity.

☐ 1930

At no time do I ever want to make a ruling and have anyone look at the record and say, "He was political." I have my life to live with, and the records will always be there.

I was 16 years in the Massachusetts Legislature, and only once did I ever see anybody appeal the Chair's ruling. Every member of his party voted against him.

How shocked I am that you people should go along when you know that the gentleman in that chair relies upon the Parliamentarian, and the Parliamentarian is a nonpartisan House officer.

What has come over this legislative body that we act like this? Something different. But believe me, I have no fears of the House ever going any way other than Democratic as long as you are under your newfound leadership on that side of the aisle.

Now, I offered a preferential motion, and the preferential motion is not just to insist on the House position but to add. It is to add $80 million for Nicaragua. That is all it does. I feel that we have an obligation. We sent out a message to Nicaragua that we would help them. We all have talked this issue over. We know that Nicaragua is the nation where 80 percent of the people are controlled by 20 percent of the people, and they are trying to avoid the Marxist yoke. Were we to abandon Nicaragua we would lose her and lose all of that section of the world.

Now, the amendment I offer has $80 million in it for Nicaragua. There is enough room left for revenue sharing. And as the gentlewoman from Massachusetts said, "We have made a commitment. It is local and State."

It is not local. There is no issue involving local revenue sharing.

I have always voted for revenue sharing until I got a letter recently from my Governor, who said, "Dear Mr. Speaker, will you fight for revenue sharing? We received $83 million last year, from which we were able to pay the interest on our State debt."

I wrote back to him, and I said, "I would like to be able to use that money to pay the Federal debt."

There are some 40 States in this Union that have surpluses.

I am sorry that the gentlewoman from Massachusetts was duped the way she was. I am sorry, in my opinion——

Mr. BAUMAN. Mr. Speaker, I demand that the gentleman's words be taken down.

Mr. O'NEILL. She was duped the way she was.

Mr. BAUMAN. I demand the gentleman's words be taken down.

Mr. O'NEILL. Here we go, with the same dilatory manner.

Mr. BAUMAN. You said it, Mr. Speaker.

Mr. O'NEILL. The man who lives 50 miles from here——

Mr. BAUMAN. I demand his words be taken down.

Mr. O'NEILL. And commutes every night. What concern is it to you?

Mr. BAUMAN. Regular order. The Speaker no longer has the floor. I demand his words be taken down.

The SPEAKER pro tempore. Does the gentleman from Massachusetts withdraw the word that was used?

Mr. O'NEILL. The Speaker will withdraw the word.

Mr. ASHBROOK. Louder. Could not hear it.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the gentleman be permitted to withdraw the word "duped."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. O'NEILL. So we are at the situation at the present time. You have the amendment as basically offered by Mr. BAUMAN with $80 million in there for Nicaragua. That leaves enough funding room available for those of you who want to vote for revenue sharing for the States, for the third quarter.

I would hope that we would adopt this amendment. I would hope that we would adopt it on a voice vote. I cannot see any reason for moving to have a long rollcall and prolong the evening. I would hope that when the amendment comes along with regard to revenue sharing that we adopt it on a voice vote. There are four or five or a half a dozen other things out there they tell me are just perfunctory, and we could close off and go home for the evening.

Now, my honest opinion is that I doubt if the Senate will accept our version, but we would send it to them. And I would hope that when we have done this, we would adjourn and have a pro forma session on Thursday, a pro forma session on Monday, and meet on Tuesday. If by any chance the Senate accepts it, then on the session on Tuesday there would be no need of the membership being here, but I would be here as the Speaker of the House and entertain the motion to adjourn until the day which we had originally planned.

Mr. PEYSER. Mr. Speaker, will the gentleman yield?

Mr. O'NEILL. I would be happy to yield to the gentleman.

Mr. PEYSER. I thank the Speaker for yielding.

The question I pose, Mr. Speaker, is that if we follow, as I hope we will, the program that you have laid out, is that if we could not simply recess at this time until we at least see what the Senate action might be, because if they were to act tonight, we could then finish tonight.

Mr. O'NEILL. In my opinion, it might be for hours. You would have word by the newspapers, by the media, and the office would notify you that there would be no formal session on Tuesday next.

Mr. PEYSER. So there would be no votes then beyond that, if they accept it tonight?

Mr. O'NEILL. Well, of course, there would be a motion on the accepting of the recess resolution that they would send over. I would hope that common decency would prevent a rollcall at that time.

Mr. PEYSER. I thank the Speaker.

Mr. BAUMAN. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, I hope that the motion of the gentleman from Massachusetts is voted down.

I do not know what this preoccupation is with this Carter administration or the gentleman from Massachusetts or the majority leadership with the need for aid to Communist Nicaragua, but I will tell you what his motion deletes. It deletes $350 million for the Export-Import Bank that is important to many of the Members here because the bank is running out of authority, and they need it to extend their loans. It deletes $43 million for disaster assistance. It deletes $39 million for emergency refugee assistance. It deletes $10 million for international narcotics control. It deletes $3,400,000 for military education. It abandons $80 million for the World Bank, $7 million for foreign military credit sales, $50 million for the Asian Development Bank, and $16 million for the African Bank.

All of those were moneys that were supposed to be added by the Long amendment, and all of that is jettisoned in favor of aid to Communist Nicaragua.

Now, where are our priorities? Where are our priorities when we turn our back—whether you like these programs or not—and must insist on aid for Communist Nicaragua.

There is going to be a vote on the issue. Go right ahead, gentlemen, hiss and boo if you will. I would expect that courtesy from some of you in the majority. I really would. It has become that kind of a session, when the Speaker questions the entire minority party because we feel we have had an unfair and incorrect ruling from the Chair. And I reiterate that belief.

The gentleman from Illinois (Mr. SIMON) in the Chair ruled in response to an earlier question by the gentleman from Pennsylvania (Mr. ERTEL) as to whether my motion was a preferential motion, and the Chair ruled that it was. And a few minutes later, at his convenience, the Chair ruled that it was not, when the Speaker decided he had an amendment to offer that he wished to take preference.

You can talk about fairness all you want. I have served in parliamentary bodies for 10 years, too, and, and I have never seen the kind of unfair action that has gone on here tonight. For what? To promote aid to Communist Nicaragua. Now, if that is what you want to live or die on, I say to the Speaker, that is your privilege. But let us vote on it. If you have got the votes, give your aid to Communist Nicaragua, throw away the rest of the Long amendment that 2 hours ago was so important to you, had to be passed, had to save the foreign aid program, but by all means save Communist Nicaragua. That is the important thing for you. Funny that it should come down to this at the last moment of debate. You have the votes, you have the majority, and you go right ahead and do what you want.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Massachusetts.

□ 1940

Mr. CONTE. I just want to make one point, that both in the gentleman's amendment and in the Speaker's amendment, they leave out the $305 million for the Export-Import Bank. Now I became quite excited about this thing and spoke earlier in the well in support of the Eximbank.

If you are going to weigh the choice of State revenue sharing—and as the Speaker said so many States are in the black and have a surplus—against the Export-Import Bank—you must consider that here is an agency that is out of money. They have $2 billion in applications that could provide thousands of jobs at a time when the unemployment rate in this country is 8 percent, when the balance of payment is mostly unfavorable at this time, and now you are going to put these two on a scale, I think you must go with the Export-Import Bank. Three-fifths of that Long amendment was the Export-Import Bank. That is what you did when you defeated the Long amendment. Now you want to give it to the Governors, who want to beat their chests with their constituency and show that they have a balanced budget? How much credit do they give this House of Representatives when they have a balanced budget due in some part to Federal revenue sharing? Yet, we have people out there, unemployed, looking for jobs.

We had a chance here to help them, and we did not do it. You unraveled it for State revenue sharing. When the unemployment rate goes up in Massachusetts or New York or some other place, and you go back and you start screaming about this and that, your constituents ought to point the finger at you. You are the ones compounding unemployment here tonight in the House of Representatives.

Mr. BAUMAN. May I ask the gentleman from Massachusetts whether or not I take that speech to be in opposition to the O'Neill motion?

Mr. CONTE. I would favor the gentleman's amendment, and now, I would favor the O'Neill one. If we could, I would even favor going back to the Long amendment to try and straighten this entire thing out.

We did a terrible thing, and I am really disappointed in the way this matter has developed. I disagreed with the chairman's position. I am sorry he lost the earlier battle on the Long amendment but I have lost a lot of battles, too. I lost one here just now, but I am sticking with the position of the majority of the House conferees all the way.

Mr. BAUMAN. I admire the gentleman from Massachusetts.

I admire the tenacity of the gentleman from Massachusetts on the issue of the Export-Import Bank. It is something the other gentleman from Massachusetts did not show. The Speaker is willing to drop the Export-Import Bank, as the gentleman indicated, but I still urge a vote against the motion of the gentleman from Massachusetts (Mr. O'NEILL), and a vote for my motion so we can accommodate the revenue sharing problem. A vote for the O'Neill motion is purely a vote to give $75 million to the Sandinista Communist Government of Nicaragua.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Briefly, Mr. Speaker, to correct a statement made by both the gentlemen from Massachusetts, or not correct it, but put it in the right context, that was that 40 of the States in the Union have surpluses. The fact of the matter is that 48 States of the Union are required to have, by their State law, balanced budgets.

Now, vast surpluses do not exist in those States. And our State of Ohio, that is required to have a balanced budget, they are now in the process in the State legislature of rethinking all of their appropriations because of the deteriorating economic situation, but they must keep within a balanced budget. They need the revenue sharing in that State because of the crippled children and for other reasons.

Mr. BAUMAN. I would just like to wish the Speaker and the majority party a very happy Fourth of July.

Mr. Speaker, I yield back the balance of my time.

Mr. O'NEILL. Mr. Speaker, those are the first kind words I have ever heard the gentleman say.

Mr. Speaker, with reference to the motion that I made that included the motion of the gentleman from Maryland (Mr. BAUMAN), I realize the facts of life. I would like to get everything in that the gentleman from Maryland (Mr. LONG) wanted. It is not my fault that the gentlewoman from Massachusetts saw fit to knock it out with the aid of the gentleman from Maryland.

I move the previous question, Mr. Speaker.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BAUMAN. The vote is now on the O'Neill motion to concur with a more extended amendment, and if that is adopted, that wipes out the pending motion of the gentleman from Maryland. Is that correct?

The SPEAKER pro tempore. That is correct.

Mr. BAUMAN. I thank the Speaker.

The SPEAKER pro tempore. The question is on the preferential motion offered by the gentleman from Massachusetts (Mr. O'NEILL).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 199, nays 163, not voting 71, as follows:

[Roll No. 401]

YEAS—199

Addabbo
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
Atkinson
Bailey
Baldus
Barnes
Beard, R.I.
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Boggs
Bolling
Bonior
Bonker
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Burlison
Burton, John
Carr
Cavanaugh
Chisholm
Clay
Coelho
Collins, Ill.
Conte
Conyers
Corman
D'Amours
Danielson
Daschle
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Downey
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
Ertel
Evans, Ind.
Fary
Fazio
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Fuqua
Garcia
Gephardt
Giaimo
Gibbons
Glickman
Gonzalez
Gore
Gradison
Gray
Green
Hall, Ohio
Hance
Hanley
Harris
Hefner
Heftel
Hightower
Holland
Hollenbeck
Howard
Hubbard
Huckaby
Hughes
Hutto
Ireland
Jacobs
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Kastenmeier
Kildee
Kogovsek
Kostmayer
Leach, La.
Lederer
Lehman
Leland
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCormack
McHugh
McKay
Maguire
Markey
Matsui
Mattox
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Murphy, Ill.
Murphy, N.Y.
Murtha
Musto
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Peyser
Pickle
Preyer
Price
Pursell
Rahall
Rangel
Ratchford
Reuss
Rodino
Roe
Rose
Rostenkowski
Roybal
Sabo
Schroeder
Seiberling
Shannon
Sharp
Simon
Spellman
Stack
Staggers
Stark
Steed
Stewart
Stokes
Studds
Swift
Synar
Thompson
Van Deerlin
Vanik
Volkmer
Walgren
Watkins
Waxman
Weiss
Whitley
Whitten
Williams, Mont.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—163

Abdnor
Andrews, N. Dak.
Anthony
Applegate
Archer
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Bereuter
Bethune
Boner
Bouquard
Broomfield
Brown, Ohio
Broyhill
Burgener
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Courter
Crane, Philip
Daniel, Dan
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Dornan
Dougherty
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Evans, Del.
Evans, Ga.
Fenwick
Fish
Forsythe
Fountain
Frenzel
Gaydos
Gilman
Gingrich
Ginn
Goldwater
Goodling
Gramm
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hansen
Heckler
Hinson
Holt
Hopkins
Horton
Hyde
Ichord
Jeffords
Jeffries
Jenkins
Jenrette
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Leach, Iowa
Lee
Lent
Levitas
Lewis
Loeffler
Lott
Lujan
Lungren
McClory
McCloskey
McDade
McDonald
McEwen
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Murphy, Pa.
Myers, Ind.
O'Brien
Pashayan
Perkins
Petri
Porter
Quillen
Railsback
Regula
Rinaldo
Ritter
Robinson
Roth
Rousselot
Royer
Rudd
Santini
Satterfield
Sawyer
Schulze
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stockman
Stratton
Stump
Symms
Tauke
Thomas
Trible
Vander Jagt
Walker
Wampler
Whitehurst
Whittaker
Williams, Ohio
Winn
Wydler
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—71

Akaka
Alexander
Anderson, Ill.
AuCoin
Barnard
Bedell
Bingham
Blanchard
Boland
Brown, Calif.
Buchanan
Burton, Phillip
Cotter
Coughlin
Crane, Daniel
Daniel, R. W.
Davis, S.C.
Dodd
Drinan
Early
Erlenborn
Fascell
Findley
Grassley
Hamilton
Harkin
Harsha
Hawkins
Hillis
Holtzman
Hutchinson
Johnson, Colo.
LaFalce
Latta
Leath, Tex.
Livingston
Mathis
Mavroules
Moorhead, Calif.
Moorhead, Pa.
Mottl
Nichols
Nolan
Nowak
Paul
Pritchard
Quayle
Rhodes
Richmond
Roberts
Rosenthal
Runnels
Russo
Scheuer
Sebelius
Skelton
Smith, Iowa
Solarz
St Germain
Stanton
Stenholm
Tauzin
Taylor
Traxler
Udall
Ullman
Vento
Weaver
White
Wilson, Bob
Wilson, C. H.

☐ 2000

The Clerk announced the following pairs:

On this vote:

Mr. Akaka for, with Mr. Rhodes against.

Mr. Vento for, with Mr. Livingston against.

Mr. Drinan for, with Mr. Latta against.

Mr. Boland for, with Mr. Taylor against.

Mr. Solarz for, with Mr. Barnard against.

Mr. Tauzin or, with Mr. Stanton against.

Mr. Fascell for, with Mr. Moorhead of California against.

Mr. Nichols for, with Mr. Coughlin against.

Mr. Richmond for, with Mr. Daniel B. Crane against.

Mr. Rosenthal for, with Mr. Robert W. Daniel, Jr., against.

Mr. St Germain for, with Mr. Erlenborn against.

Mr. Moorhead of Pennsylvania for, with Mr. Findley against.

Mr. Brown of California for, with Mr. Grassley against.

Until further notice:

Mr. Alexander with Mr. Harkin.

Mr. Bingham with Mr. Davis of South Carolina.

Mr. AuCoin with Mr. Dodd.

Mr. Hutchinson with Mr. Harsha.

Mr. Early with Mr. Blanchard.

Mr. Bedell with Mr. LaFalce.

Mr. Leath of Texas with Mr. Hillis.

Mr. Nolan with Mr. Mathis.

Mr. Hamilton with Mr. Hall.

Mr. Nowak with Mr. Buchanan.

Mr. Phillip Burton with Mr. Marvoules.

Mr. Hawkins with Mr. Pritchard.

Mr. Roberts with Ms. Holtzman.

Mr. Runnels with Mr. Mottl.

Mr. Russo with Mr. Quayle.

Mr. Scheuer with Mr. Sebelius.

Mr. Skelton with Mr. Smith of Iowa.

Mr. Stenholm with Mr. Traxler.

Mr. Udall with Mr. Ullman.

Mr. Weaver with Mr. Charles H. Wilson of California.

Mr. White with Mr. Bob Wilson.

Mrs. FENWICK and Mr. GUARINI changed their votes from "yea" to "nay."

So the preferential motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will again designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 118; Page 32, after line 25, insert:

DEPARTMENT OF THE TREASURY

PAYMENT TO STATE AND LOCAL GOVERNMENT FISCAL ASSISTANCE TRUST FUND

(RESCISSION)

Of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, $143,035,000 are rescinded: *Provided*, That the total amount rescinded shall be taken from funds allocated to State governments pursuant to 31 U.S.C. 1226.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House insist on its disagreement to the amendment of the Senate Numbered 118.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

This is a matter at this time, of insisting that the House maintain its position against the rescission by the other body. The rescission would cut out funds for revenue sharing retroactively, which have not only been planned on but have been committed by Congress. This proposition insists on the House position which would defer the rescissions by the Senate and restore the revenue money for the remainder of this fiscal year.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, in view of the actions of this body in the last hour which has made room available in the budget ceiling, I favor the motion of the gentleman from Mississippi.

I very much regretted the necessity of receding to the Senate on the amendment to rescind revenue sharing funds to the States during the conference, but we had no choice at that time. This supplemental bill contains emergency funding for a number of programs and it was imperative that the conferees be able to reach an agreement that would be within the budget ceiling.

Likewise I supported the amendment of the gentleman from Maryland (Mr. LONG) earlier today because of the urgent need for additional funding for the Export-Import Bank. We are all well aware of this Nation's unfavorable balance of payments and of our increasing unemployment rate. The activities of the Export-Import Bank have the potential for improving our balance of payments and for creating thousands of jobs for American citizens. For this reason I felt that forced to make a choice it was more important to the American people to fund the Export-Import Bank than to provide $143 million for revenue sharing which is just 25 percent of one quarter's payment of revenue sharing to the States.

Now, however, with the adoption of the amendment by the gentleman from Massachusetts (Mr. O'NEILL), it appears we will have room available in the budget ceiling and I am pleased to support the chairman's motion.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. WHITTEN).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WOLFF. Mr. Speaker, I demand a recorded vote.

The SPEAKER pro tempore. Does the gentleman from New York request the yeas and nays?

Mr. WOLFF. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were refused.

So the motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 119: Page 33, line 18, strike out all after "$46,800,000" down to and including "management" in line 25.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 119 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows: ": *Provided*, That not to exceed $5,000,000 available under this head for fire suppression may be transferred to the Oregon and California Grant Lands appropriation: *Provided further*, That funds so transferred shall be reimbursed to fire suppression from amounts deposited to the Oregon and California Land Grant Fund at such time as available receipts exceed amounts necessary for western Oregon timber management".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 123: Page 34, lines 13 and 14, strike out "$45,000,000 shall not become available for obligation until October 1, 1980" and insert "$85,000,000 are rescinded".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 123 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "$45,000,000 shall not become available for obligation until October 1, 1980, and $15,000,000 are rescinded".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 131: Page 36, after line 19, insert:

DEPARTMENT OF THE TREASURY

ENERGY SECURITY RESERVE

To carry out the provisions of title I of the Energy Security Act (S. 932, 96th Congress) and for other purposes authorized by title II of S. 932, not to exceed $18,792,000,000, to remain available until expended, of which $16,792,000,000 shall be derived from amounts in the Energy Security Reserve established pursuant to the Department of the Interior and Related Agencies Appropriations Act, 1980 (Public Law 96-126), and not to exceed $2,000,000,000 shall be derived by transfer of the balance of the amounts not committed or not conditionally committed which were appropriated by Public Law 96-126 from the Energy Security Reserve to the Department of Energy, such transfer to occur on June 30, 1981, to permit the Department to pursue an aggressive interim program of loan and price guarantees and purchase commitments: *Provided*, That of the $1,500,000,000 made available to the Department by Public Law 96-126 for purchase commitments or price guarantees, not to exceed $150,000,000 may be available only for such purposes to the extent authorized under title II, subtitle B, of the Energy Security Act (S. 932). The total available funding (including funds committed or conditionally committed under authority of Public Law 93-126) shall be apportioned so as to provide $17,522,000,000 for purposes of title I and to provide $1,270,000,000 for purposes of title II, to be apportioned as follows:

(i) not to exceed $525,000,000 to the Secretary of Agriculture for the purposes of subtitle A, to be available immediately, except that not to exceed $50,000,000 of that amount may be available to the Secretary of Energy until June 30, 1981, under funding provided by Public Law 96-126, for projects as defined by section 212(a)(1)(A) of S. 932: *Provided*, That no other funds shall be available to the Secretary of Energy under Public Law 96-126 for projects as defined by section 212(a)(1)(A) of S. 932;

(ii) not to exceed $525,000,000 to the Secretary of Energy for the purpose of subtitle A; and

(iii) not to exceed $220,000,000 to the Secretary of Energy for the purposes of subtitle B.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 131 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following:

DEPARTMENT OF ENERGY

ALTERNATIVE FUELS PRODUCTION

From the appropriation of $19,000,000,000 made to the "Energy Security Reserve" under this head in Public Law 96-126, an additional amount of $3,310,000,000 shall be immediately available to the Secretary of Energy for obligation to stimulate domestic commercial production of alternative fuels, of which (1) $3,000,000,000 shall be available until expended for (a) the purchase or production of alternative fuels by way of purchase commitments or price guarantees, and (b) a reserve to cover any defaults from loan guarantees issued to finance the construction of alternative fuels production facilities according to the provisions of the Defense Production Act of 1950, as amended (50 USC 2061 et seq.) and (2) $310,000,000 shall be available until expended to support preliminary alternative fuels commercialization activities, to be apportioned as follows:

(a) not to exceed $100,000,000 shall be available for project development feasibility studies, such individual awards not to exceed $10,000,000: *Provided*, That the Secretary may require repayment of such funds where studies determine such project proposals have economic or technical feasibility;

(b) not to exceed $200,000,000 shall be available for cooperative agreements with non-Federal entities, such individual agreements not to exceed $25,000,000, to support commercial scale development of alternative fuels facilities: *Provided*, That the Secretary may require repayment of such funds when such facilities achieve commercial scale alternative fuels production;

(c) not to exceed $10,000,000 shall be available for program management.

For the purposes of carrying out the activities provided herein and activities provided under this head in Public Law 96-126 the provisions of 5 U.S.C. 553 and 42 U.S.C. 7191 shall not apply.

None of the funds provided under this head in this act and in Public Law 96-126 for purchase, price guarantees, or loan guarantees shall be available for biomass energy projects as defined by section 203 (2)(A) of S. 932, 96th Congress, except that of the $1,500,000,000 made available to the Department by Public Law 96-126 for purchase commitments or price guarantees, not to exceed $150,000,000 may be available only for such purposes to the extent authorized under title II, subtitle B, of the Energy Security Act (S. 932).

All provisions of Public Law 96-126 with regard to "Alternative fuels production" not expressly modified in this appropriation remain in effect and are applicable to activities provided for in this appropriation.

Upon the establishment of a "United States Synthetic Fuels Corporation" (the Corporation) projects or actions initiated by the Department of Energy with appropriations under this head shall transfer to the Corporation upon a Presidential determination that the Corporation is fully operational and upon a majority vote of the Board of Directors of the Corporation, except that funds obligated for feasibility studies, cooperative agreements, program management, and projects which do not meet the definitions of eligibility for funding as synthetic fuels projects in the Corporation shall remain with the Department of Energy: *Provided*, That (1) projects meeting the eligibility criteria for funding by the Corporation for which funding has been obligated or committed by the Department of Energy may be adopted by the Corporation as if they had been entered into by the Corporation (for the purposes of such transfers only, the Corporation shall adopt the terms of such projects, established by the Department of Energy, using the authorities of the Department of Energy regardless of whether the Corporation would otherwise have authority to do so); and (2) accepted proposals for loan guarantees, price supports, and/or purchase commitments for which financial assistance is not provided by the Department of Energy shall be considered as responses to a solicitation of the Corporation to the extent they meet the eligibility criteria for funding by the Corporation.

Unexpended balances of funds obligated for projects shall transfer to the Corporation to the extent such projects and activities are transferred to the Corporation as provided herein.

DEPARTMENT OF THE TREASURY

ENERGY SECURITY RESERVE

To carry out the provisions of title I of the Energy Security Act (S. 932, 96th Congress) and for other purposes authorized by title II of S. 932, not to exceed $18,792,000,000, to remain available until expended, of which (1) $13,482,000,000 shall be derived from amounts in the Energy Security Reserve established pursuant to the Department of the Interior and Related Agencies Appropriations Act, 1980 (Public Law 96–126), and (2) not to exceed $5,310,000,000 shall be derived by transfer of the balance of the amounts not committed or not conditionally committed which are appropriated by this Act and by Public Law 96–126 from the Energy Security Reserve to the Department of Energy, such transfer to occur on June 30, 1981, to permit the Department to pursue an aggressive interim program of loan and price guarantees and purchase commitments.

The total available funding (including funds committed or conditionally committed under authority of Public Law 96–126) shall be apportioned so as to provide $17,522,000,000 for purposes of title I, of which $6,000,000,000 shall be immediately available, $6,212,000,000 shall be available for obligation after June 30, 1982, and up to $5,310,000,000 shall be derived by transfer as provided above; and to provide $1,270,000,000 for purposes of title II, to be immediately available and to be apportioned as follows:

(i) not to exceed $525,000,000 to the Secretary of Agriculture for the purposes of subtitle A;

(ii) not to exceed $525,000,000 to the Secretary of Energy for the purpose of subtitle A: *Provided*, That no funds shall be available to the Secretary of Energy for projects as defined by section 212(a)(1)(A) of S. 932; and

(iii) not to exceed $220,000,000 to the Secretary of Energy for purposes of subtitle B.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 133: Page 36, after line 21, insert:

For an additional amount for "Fossil energy research and development", $17,300,000, to remain available until expended.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. The Chair would state to the gentleman that most of these have already been considered as read as they come over, but the motion has to be read, and at that point such request will be in order.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 133 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$4,000,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 136: Page 37, line 10, strike out: "$23,000,000" and insert "$172,000,000".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 136 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$10,000,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 138: Page 37, after line 10, insert:

(DEFERRAL)

Of the funds appropriated under this head in the Department of the Interior and Related Agencies Appropriations Act, 1980 (Public Law 96–126), $4,000,000 shall not become available for obligation until October 1, 1980.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 138 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,000,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 147: Page 40, after line 9, insert:

For an additional amount for "Health services", $36,000,000, for the medical examination and care of aliens who have recently arrived in south Florida, to remain available through September 30, 1981. The amounts appropriated may be used to reimburse other Department of Health and Human Services accounts for related expenses, including administrative and support costs.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 147 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 152: Page 42, lines 6 and 7, strike out: "to reimburse State or local expenditures made prior to October 1, 1977" and insert "for State claims for Federal reimbursement filed either on or before September 30, 1979, if the State or local expenditure was made prior to October 1, 1976; or after September 30, 1979, if the State or local expenditure was made prior to October 1, 1977".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 152 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "to reimburse State or local expenditures made prior to October 1, 1977 unless a request for reimbursement had been officially transmitted to the Federal government by the State within two years after the fiscal year in which the expenditure occurred".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 155: Page 43, line 1, strike out all after "1981" down to and including "1980" in line 4.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 155 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows: "*Provided further*, That notwithstanding any other provision of law, not to exceed $75,000,000 shall be used for training activities under this heading for fiscal year 1980".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 156: Page 43, strike out lines 7 and 8, and insert: For expenses necessary to carry out the provisions of the Refugee Act of 1980, $516,900,000, including $23,168,000 for educational assistance for children which shall remain available through March 31, 1981.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 156 and concur therein.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 158: Page 43, line 15, strike out all after "117," down to and including "Act" in line 17 and insert "and $59,000,000 of the amount appropriated for the purposes of part B of the Headstart-Follow Through Act".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 158 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "and $14,750,000 of the amount appropriated for the purposes of part B of the Headstart-Follow Through Act".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 166: Page 45, line 19, after "part A," insert "$25,000,000 appropriated for title VII, part E, and $4,000,000 appropriated for title XI".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 166 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: "and $15,000,000 appropriated for title VII, part E".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

□ 2010

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 168: Page 45, after line 22, insert:

SPECIAL PROJECTS AND TRAINING (RESCISSION)

Of the funds provided for "Special projects and training" for fiscal year 1980 in Public Law 96-123, $1,000,000 appropriated for title III, part g of the Elementary and Secondary Education Act and $10,000,000 appropriated for the purpose of the Career Education Incentive Act (Public Law 95-207) are rescinded.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 168 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SPECIAL PROJECTS AND TRAINING (RESCISSION)

Of the funds provided for "Special projects and training" for fiscal year 1980 in Public Law 96-123, $5,000,000 appropriated for the purpose of the Career Education Incentive Act (Public Law 95-207) are rescinded.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 192: Page 50, line 25, strike out "$15,300,000" and insert "$10,800,000".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 192 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment, insert "$21,500,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 193: Page 50, line 25, strike out all after "$15,300,000," over to and including "1980/1984"," in line 2 on page 51.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 193 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert "of which $12,000,000 shall be derived by transfer from funds appropriated for the Culebra Weapons Range by Public Law 93-194 (87 Stat. 763),".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 194: Page 51, line 3, strike out all after "1984" down to and including "$11,000,000" in line 5.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 194 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert ": *Provided*, That the limitation on the amount available for study, planning, design, architect and engineer services is increased by $14,000,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 196: Page 51, strike out lines 10 to 18, inclusive.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 196 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

MILITARY CONSTRUCTION, AIR FORCE

(TRANSFER OF FUNDS)

For an additional amount for "Military construction, Air Force, 1980/1984", $7,000,000, of which $4,000,000 shall be derived by transfer from funds provided for NATO infrastructure, "Military construction, Defense Agencies, 1980/1984"; and $3,000,000 from funds appropriated for the high energy laser research facility at White Sands, New Mexico, to remain available until September 30, 1984: *Provided*, That the limitation on the amount available for study, planning, design, architect and engineer services is increased by $7,000,000.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in the disagreement.

The amendment is as follows:

Senate amendment No. 204: Page 54, line 5, strike out "$4,000,000" and insert "$230,000".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 204 and concur therein with an amendment, as follows: In lieu of the sum proposed by the said amendment, insert "$4,233,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 205: Page 54, line 5, after "$4,000,000" insert ", to be derived by transfer from Office of Justice Assistance, Research, and Statistics, "Law enforcement assistance".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 205 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: "of which $233,000 shall be derived by transfer from Office of Justice Assistance, Research, and Statistics, 'Law enforcement assistance' ".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 218: Page 55, after line 19, insert:

(RESCISSION)

Of the funds appropriated under this head in Public Law 96–68, making appropriations for the Department of Justice for fiscal year 1980, and other appropriations acts in previous years, $7,439,446 are rescinded.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 218 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$4,439,446".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 223: Page 56, after line 17, insert:

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for "Economic development assistance programs", $10,000,000, to remain available until September 30, 1981.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 223 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for "Economic development assistance programs", $5,000,000, to remain available until September 30, 1981, notwithstanding the provisions of section 105 of Public Law 96–86 and section 105 of Public Law 96–123.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 237: Page 60, line 8, strike out all after "addition," down to and including "development" in line 11 and insert "the Secretary of Transportation is authorized to transfer an amount not to exceed $1,500,000 to the U.S. Coast Guard appropriation Retired Pay from any available appropriation to meet additional Retired Pay costs which may be increased in fiscal year 1980".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 237 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "the Secretary of Transportation, subject to the prior approval of the House and Senate Committees on Appropriations, is authorized to transfer an amount not to exceed $1,500,000 to the U.S. Coast Guard appropriation Retired Pay from any available appropriation to meet additional Retired Pay costs which may be increased in fiscal year 1980".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 244: Page 65, line 14, strike out "$75,000,000 are rescinded" and insert "$45,000,000 are rescinded: *Provided further*, That none of the funds restored by this amendment to the Rail Rehabilitation and Improvement Financing Funds shall be used for any purpose other than the purchase of preference shares and trustee certificates convertible to redeemable preference shares for the purchase of properties defined by section 505(h)(1)(B) of the Railroad Revitalization and Regulatory Reform Act of 1976: *Provided, however*, That funds obligated from this restoration shall not be expended prior to October 1, 1980, subject to authorization".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 244 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "$60,000,000 are rescinded: *Provided*, That of the funds appropriated under section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976, an additional $15,000,000 may be used for transaction assistance in accordance with section 505(h)(1)(A) and (B), as amended by the Rock Island Railroad Transition and Employee Assistance Act, except that the dollar limitations contained in those subsections shall not apply to the $15,000,000: *Provided further*, That the $15,000,000 shall be available only upon the enactment of authorizing legislation and shall not be expended prior to October 1, 1980".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 246: Page 66, strike out lines 5 to 10, inclusive.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 246 and concur therein with an amendment, as follows: In lieu of the matter stricken by said amendment, insert the following:

INTERSTATE TRANSFER GRANTS

(DISAPPROVAL OF DEFERRAL)

The Congress disapproves the proposed deferral D80–72 relating to Urban Mass Transportation Administration, Interstate Transfer Grants, as set forth in the message of June 18, 1980, which was transmitted to the Congress by the President. This disapproval shall be effective upon the enactment into law of this bill.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 304: Page 83, line 6, strike out "$24,250,000" and insert "$23,584,000".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 304 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert: "$23,487,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 316: Page 88, after line 18, insert:

"Office of Consumer Affairs", $85,000;

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 316 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

"Office of Consumer Affairs", $43,000;

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 339: Page 102, strike out all after line 16, over to and including line 10 on page 103.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 339 and concur therein with an amendment, as follows: In lieu of the matter stricken by said amendment, insert the following:

SEC. 303. Notwithstanding any other provision of law, the number of career appointees in any agency paid performance awards during fiscal year 1980 under 5 U.S.C. 5384, or any comparable personnel system established on or after October 13, 1978, may not exceed 25 percent of the number of Senior Executive Service or comparable personnel system positions in any such agency.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 340: Page 103, after line 10, insert:

SEC. 303. (a) Out of the total moneys appropriated for the operation of the departments and agencies of the Federal Government for fiscal year 1980, $220,000,000 of this total appropriated for the purchase of furniture is hereby rescinded. Excluded from this rescission are furniture items produced by Federal Prison Industries, Inc. or by sheltered workshops for the blind and other severely handicapped under the auspices of Public Law 92–28: *Provided*, That such items are fully justified by agency needs. The Director of the Office of Management and Budget is directed to allocate this rescission total among the departments and agencies of the Federal Government and report back to the House and Senate Committees on Appropriations within 30 days following the date of the enactment of this Act as to the allocation made.

(b)(1) With respect to the provisions of the Treasury, Postal Service, and General Government Appropriations Act, 1980, under the heading General Services Administration, Federal Buildings Fund, Limitations on Availability of Fund pursuant to section 210 (f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 4901(f)), for the purposes set forth in the provisions contained under such heading is reduced by $15,000,000, which reduction shall apply specifically to the limitation on rental of space under clause (4) of such provisions.

(2) Notwithstanding any other provision of law, the sum of $15,000,000 is hereby transferred from the unobligated balance of the Federal Buildings Fund as of the date of the enactment of this Act to the Treasury of the United States as miscellaneous receipts.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 340 and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert the following:

"SEC. 304. (a) Out of the total moneys appropriated for the operation of the departments and agencies of the Federal Government for fiscal year 1980, $220,000,000 of this total appropriated for the purchase of furniture is hereby rescinded. Excluded from this rescission are furniture items produced by Federal Prison Industries, Inc., or by sheltered workshops for the blind and other severely handicapped under the auspices of Public Law 92–28: *Provided*, That such items are fully justified by agency needs. The Director of the Office of Management and Budget is directed to allocate this rescission total among the departments and agencies of the Federal Government and report back to the House and Senate Committees on Appropriations within 30 days following the date of the enactment of this Act as to the allocation made: *Provided*, That no allocation shall exceed 25 percent of said amount.

"(b) With respect to the provisions of the Treasury, Postal Service, and General Government Appropriations Act, 1980, under the heading General Services Administration, Federal Buildings Fund, Limitations on Availability of Revenue, the aggregate amount made available from the revenues and collections deposited into the Federal Buildings Fund pursuant to section 210(f) of the Federal Property and Administrative

Services Act of 1949, as amended (40 U.S.C. 4901(f)), for the purposes set forth in the provisions contained under such heading is reduced by $15,000,000, which reduction shall apply specifically to the limitation on rental of space under clause (4) of such provisions."

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 341: Page 103, after line 10, insert:

Sec. 304. All unresolved audits currently pending within agencies and departments, for which appropriations are made under this Act, shall be resolved not later than September 30, 1981. Any new audits, involving questioned costs, arising after the enactment of this Act shall be resolved within 6 months.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 341 and concur therein with an amendment, as follows: In lieu of the section number named in said amendment, insert "305".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 342: Page 103, after line 10, insert:

Sec. 305. Each department and agency for which appropriations are made under this Act shall take immediate action (1) to improve the collection of overdue debts owed to the United States within the jurisdiction of that department or agency; (2) to bill interest on delinquent debts as required by the Federal Claims Collection Standards; and (3) to reduce amounts of such debts written off as uncollectible.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 342 and concur therein with an amendment, as follows: In lieu of the section number named in said amendment, insert "306".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the last amendment in disagreement.

The amendment is as follows:

Senate amendment No. 343: Page 103, after line 10, insert:

Sec. 306. (a) Effective October 1, 1981, for application in fiscal year 1982, a department, agency, or establishment, as defined by section 2, subchapter I, chapter 1, title 31, United States Code, shall submit annually to the House and Senate Appropriations Committees, as part of its budget justification, the estimated amount of funds requested for consulting services; the appropriation accounts in which these funds are located; and a brief description of the need for these services, including a list of those major programs that require consulting services.

(b) Effective October 1, 1981, for application in fiscal year 1982, the Inspector General of such department, agency, or establishment, or comparable official, or if the agency has no Inspector General or comparable official, the agency head or the agency head's designee, shall submit to the Congress along with the agency's budget justification, an evaluation of the agency's progress to institute effective management controls and improve the accuracy and completeness of the data provided to the Federal Procurement Data System regarding consultant service contractual arrangements.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 343 and concur therein with an amendment, as follows: In lieu of the section number named in said amendment, insert "307".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

Mr. NEAL. Mr. Speaker, I have a unanimous consent request.

The SPEAKER pro tempore. The gentleman will state his request.

Mr. NEAL. Mr. Speaker, I ask unanimous consent that the O'Neill motion on Senate amendment 95 be adopted as modified to include the following language. Mr. Speaker, the language that I would like adopted is as follows:

An additional amount of not to exceed $360 million are hereby authorized for the current fiscal year for other than administrative expenses, provided no expenditures or disbursements are to be made before October 1, 1980.

Mr. Speaker, because of the parliamentary situation we find ourselves in, we have killed off funding for the Eximbank. The Eximbank only needs budget authority; it needs no outlays. If we adopt this amendment, we give the Eximbank the authority it needs to continue operating.

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield?

Mr. NEAL. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. I thank the gentleman for yielding.

Let me say, as chairman of the committee, that I very much hope that the gentleman's amendment will be accepted. If will have this advantage: It will make the amendment of the Speaker much more acceptable on the Republican side and greatly reduce the chances of their disagreeing and forcing us to come back into session.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. FRENZEL. Mr. Speaker, I reserve the right to object. Mr. Speaker, I think the gentleman has made an important suggestion, and I hope that there will be no objection to his unanimous consent request. We spend money poorly, often seemly, around here, but the Eximbank is not a cost. It needs money to operate. It loans it out. It makes money on its operation and returns it to the Treasury. The gentleman's amendment provides jobs. It answers our export potential and tends to reduce our trade deficit. If there is an objection to the gentleman's unanimous consent request, this House will have done a very terrible thing.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. CONTE. Reserving the right to object, Mr. Speaker, I want to compliment the gentleman in the well. I wish I had thought of this earlier. I have been fighting all day to save this money for this bank. The gentleman asked me to cosponsor it with him, and I am glad to be a cosponsor. I hope no one objects to it.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Washington.

Mr. FOLEY. I thank the gentleman for yielding.

I hope the entire House accepts this unanimous consent request. It is one that will keep our exports moving. It does not go beyond obligational authority, and I think it makes great sense for both sides in its current controversy to resolve this issue at least with unanimity, I hope, in the spirit that the purposes of what this would accomplish would be in the interests of all Americans.

Mr. CONTE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, the O'Neill motion that is now sought to be perfected, if I may use that term, was the motion that defeated the gentleman from Maryland's motion. I assume it was drafted with the usual care that the Parliamentarians and others devote to these kinds of leadership projects, since the Speaker himself was burdened with having to introduce it and the Chair had to specially rule in his favor so that he could do it at the expense of the gentleman from Maryland and at the expense of elemental fairness.

☐ 2020

It is amazing to me his motion would not have contained all that the Speaker had intended. Had it done so undoubtedly it would have had even more appeal. As I remember, the motion passed by no more than 20 or 30 votes. As a matter of record I pointed out then that the Export-Import Bank was excluded by the Speaker.

Mr. Speaker, I would suggest that the situation in which the gentleman from North Carolina finds himself and seeks to correct by this unanimous-consent request is one of the majority's making. It is typical of the poor leadership that we have in this House, that a $360 million program is let fall through the cracks so you could get $75 million for the Communist government of Nicaragua.

You have created the situation and you can live with it.

Mr. Speaker, I object.

The SPEAKER pro tempore. The gentleman from Maryland (Mr. BAUMAN) objects.

A motion to reconsider the votes by which action was taken on the conference report and the several motions was laid on the table.

The SPEAKER pro tempore. For what reason does the gentleman from Illinois seek recognition?

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I take this time to inquire of the majority leader, the gentleman from Texas (Mr. WRIGHT) the state of legislative program before our adjournment for the upcoming district work period.

Mr. WRIGHT. Will the gentleman yield?

Mr. MICHEL. I will be happy to yield to the gentleman from Texas.

Mr. WRIGHT. The Speaker has been in consultation with the majority leader of the Senate and there is a possibility, at least, that the other body may accept the amendments agreed to by the House in order that conceivably we may adjourn for the home district work period this evening. Against that possibility, it is the intention of the leadership that we should remain in session tonight until about 9 p.m. awaiting further word from the other body. During that time, it would be our purpose to resume consideration of the rail deregulation legislation with the understanding that no votes would occur, save the possibility of voice votes or votes unanimously agreed to. Any vote otherwise required would be postponed until our return following the home district work period.

Should there be no agreement by the other body, we would expect to be in session tomorrow beginning at 12 o'clock noon for a pro forma session and then probably again Monday for a pro forma session and then Tuesday either to vote on the conference report, H.R. 7325, supplemental appropriations, or if the Senate has agreed to the actions of the House, to accept the adjournment resolution.

Against the possibility that we might be able to work it out this evening, it is our intention to stay in session for a little while longer and to discuss to the extent that discussion can be conducted without any formal votes, further progress on the rail legislation.

Mr. MICHEL. I thank the gentleman. I certainly support that effort particularly if there is any prospect of our concluding all legislative action for us to be able to adjourn later this evening. Members have been advised for a long time that this was to be a period, particularly in relation to our side of the aisle, when we would be departing here not only for the celebration of the Fourth of July but for those of us who serve on the platform and other committees of our national convention, just as Members of the other side are going to want to serve in that same capacity the week before convening of their convention. I know how important, having spoken to the minority leader of the other body, that there is a particular problem there with Members that is consistent with our Members here in this body on this side of the aisle, to be able to attend the very important function we have got to perform.

I would hope we would be able to resolve it, and to be able to adjourn tonight. Certainly this would result in preventing Members from being asked to respond to rollcalls next week when they have been planning for several months now to have this week off either in their districts or in the Republican Convention in Detroit.

Mr. WRIGHT. If the gentleman will yield, I certainly join in that devout wish.

I think I should announce for the benefit of the Members present that on Monday, July 21, when we resume sitting following the home district work period, we would have votes on that day. The Speaker has formally advised that Members, in making their plans for the weeks of July 21 and July 28, should take into account that the House expects to have long sessions during those weeks and that we will be voting on Mondays. Adjournment times will be announced on a daily basis except for Fridays when the House will adjourn by 3 p.m.

At the close of business on Friday, August 1, the House would adjourn until noon on Monday, August 18, for the summer recess and the Democratic National Convention and since there are only 2 working weeks between the July district work period and the August district work period, it is imperative that we work diligently in an effort to complete action on fiscal year 1981 appropriations bills and the leadership requests the cooperation of all Members in this effort.

Mr. MICHEL. I thank the majority leader. I certainly concur with us having that kind of advanced notice. We all ought to be prepared to work 5 days a week for those 2 weeks that we will have between our having come back from our convention and the convention to be held in August by the majority party. Even after that there will be such a short period of time in which to conclude the business of this Congress. Members will be well advised to have taken the advice of the majority leader as very serious, that there will be business 5 days a week during those periods of time.

DISPENSING WITH CALL OF THE CONSENT CALENDAR ON MONDAY, JULY 7, 1980

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent to dispense with the call of the Consent Calendar on Monday, July 7, 1980.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. KAZEN. Mr. Speaker, will the gentleman from Texas yield for a question?

Mr. WRIGHT. I do yield to the gentleman from Texas.

Mr. KAZEN. Did I understand the gentleman to say we are going to stay in session tonight until 9 p.m.?

Mr. WRIGHT. We are going to stay in session for a little while longer, at least until 9 o'clock, to see if the other body may agree to the actions taken by the House on the supplemental appropriations bill.

Mr. KAZEN. I thank the gentleman.

NATIONAL POW-MIA RECOGNITION DAY

Mr. GARCIA. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate joint resolution (S.J. Res. 168) designating July 18, 1980, as "National POW-MIA Recognition Day," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 168

Whereas the United States has fought in many wars;

Whereas thousands of Americans who served in such wars were captured by the enemy or are missing in action;

Whereas many American prisoners of war were subjected to brutal and inhuman treatment by their enemy captors in violation of international codes and customs for the treatment of prisoners of war and many such prisoners of war died from such treatment;

Whereas it is uncertain whether those Americans missing in action are alive or dead and such uncertainty has caused their families to suffer acute hardship; and

Whereas the sacrifices of American prisoners of war and Americans missing in action and their families is deserving of national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 18, 1980, is designated as "National POW–MIA Recognition Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

● **Mr. MONTGOMERY.** Mr. Speaker, this week the House approved Senate Joint Resolution 168 designating July 18, 1980, as National POW/MIA Recognition Day to recognize American prisoners of war and all those missing in action while serving in defense of this Nation.

In total, from World War I to the Vietnam war, over 142,000 Americans have been captured and interned as prisoners of war. Of that number, 98,000 ex-POW's are living today to testify to the cruelty and the hardship they endured at the hand of our enemies. They bear the scars of their service with pride in witness to the courage, endurance and faith they kept with their comrades and their country.

This day of recognition is also designed to pay tribute to all servicemen and women listed as lost in combat. We honor that sacrifice, and the courage of the families who have waited and wondered for long anguishing years. As another unresolved legacy of the Vietnam war, 2,461 have yet to be recovered from Southeast Asia. In other wars, after the fighting stopped, we were free to go into combat areas to search for the missing. At the present time, with families still in doubt, we are not free to look; we are only free to ask. We are committed to see that the sacrifice and suffering of so many Americans can finally be brought to a just resolution and that a full accounting of the missing can be made. In doing so, we pay a true and lasting tribute to all the men and women who have fought for what is good and what is strong in our country today. In this respect, it is fitting that for the second year in a row we set aside a special day to honor that special service and special sacrifice.

Mr. Speaker, the 95th Congress authorized the Veterans' Administration to conduct a survey to analyze the present health-care needs and psychological well-being of the ex-POW population in the United States today. The purpose of the study was to determine if the Federal Government is adequately meeting the needs of this very special group of U.S. citizens. On June 25 I chaired a hearing of the House Veterans' Affairs Subcommittee on Compensation, Pension, Insurance, and Memorial Affairs, to review the VA's findings and to evaluate that agency's recommendations. Apart from VA witnesses, the members of veterans service organizations, we were privileged to hear from Mr. Stanley G. Sommers, national senior vice commander; Mr. Herman E. Molen, national commander; and Mr. Earl Derrington, national legislative officer of the American Ex-Prisoners of War, Inc.; Mr. Arthur Bresse of the American Defenders of Bataan & Corregidor, Inc.; and Lt. Gen. John P. Flynn (Ret.), veterans' affairs adviser for the Air Force Association. All of these men suffered long and arduous years as prisoners of war. They are great Americans and leading spokesmen for all POWs and their families in our country today. General Flynn, himself, was a prisoner and ranking officer in North Vietnamese prisons for 5 long years.

On the basis of testimony received on that day, I have since introduced H.R. 7663, a bill designed to expand veterans compensation eligibility requirements and health-care services for former prisoners-of-war, according to the recommendation of the VA study.

The VA survey found that ex-POW's have a higher rate of service-connected disabilities than veterans who were not interned or imprisoned. It also found that psychoses and anxiety neuroses were the most common service-connected disabilities among returned prisoners-of-war from the time of their repatriation to the present. It also documented a higher than normal mortality rate among the group as a whole. Current law grants a presumption for service-connected disability for a POW-related psychosis appearing only within a 2-year period following separation from the service. H.R. 7663, if approved, would waive that limitation. The bill also includes a VA recommendation which would extend full hospital care and outpatient treatment in VA medical facilities to all former POW's for any disease, including neuropsychiatric disabilities. Many of these veterans have been carrying the mental and physical scars of the prison camps and death marches for years. Especially in the case of many World War I and World War II ex-POW's, these disabilities have been very difficult to document and to prove.

While the Veterans' Administration has always given former POW's special consideration in handling their claims, this bill, if enacted, woud put that special consideration into law. The bill would also authorize the establishment of a permanent annual POW/MIA recogniiton day. This provision will fall under the jurisdiction of the House Committee on Post Office and Civil Service. I urge the members of that committee to give it every consideration. Considering the hardships and the brutality these former POW's have endured, it is obvious that their own private war against stress and disability continues, as does our obligation to serve and honor them. ●

The Senate joint resolution was ordered to be read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

RESIGNATION OF MEMBER OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Public Works and Transportation:

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 2, 1980.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, U.S. House of Representatives.

DEAR MR. SPEAKER: As you know, I was elected today by the House Democratic Caucus to a seat on the Appropriations Committee. Therefore, I resign my position as a member of the House Committee on Public Works and Transportation.

With kindest regards, I am
Sincerely,

BILL HEFNER,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

REVENUE SHARING

(Mrs. HECKLER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. HECKLER. Mr. Speaker, I am delighted that this House saw fit to support my motion to reconsider our action on the Long amendment and to reassert our commitment and the entitlement of States and local governments who receive benefits therefrom through revenue sharing.

I was one of scores of House Members who initially supported the Long amendment. When I subsequently learned that the language of that amendment would have emasculated revenue sharing costing State and local governments $143 million, I made the motion to reconsider Congressman LONG's ill-advised proposal. My motion rescued revenue sharing. That was my priority; that was my objective and that was the result. Now, Massachusetts and the other 49 States will not lose $143 million in Federal revenue-sharing funds. The overwhelming majority of my colleagues—242 to 124—rallied behind my efforts to save these all important revenue sharing dollars for the States.

Responsible foreign aid is important. I have always supported it. But foreign aid should never be as high a priority as the sharing of American tax dollars at the State and local level, dollars that flow back to, and relieve the tax burden, on the average American citizens.

□ 2030

AUTHORIZING ADDITIONAL APPROPRIATIONS FOR TINICUM NATIONAL ENVIRONMENTAL CENTER

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2382) to provide for additional authorization for appropriations for the Tinicum National Environmental Center, with a Senate amendment to the House amendment thereto, and concur in the Senate amendment to the House amendment.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendment, as follows:

In lieu of the matter proposed to be inserted by the House engrossed amendment, insert:

Section 1. The Act of June 30, 1972, entitled "An Act to provide for the establishment of the Tinicum National Environmental Center in the Commonwealth of Pennsylvania, and for other purposes" is amended—

(1) by amending section 7 to read as follows:

"Sec. 7. There are authorized to be appropriated, $19,500,000 (of which $8,400,000 shall be available beginning October 1, 1980) for acquisition of the Tinicum Environmental Center, for construction of environmental educational center facilities, and for other development projects on the Center, to remain available until September 30, 1985."; and

(2) by adding at the end thereof the following new section:

"Sec. 8. The Administrator of the Environmental Protection Agency, in consultation and cooperation with the Fish and Wildlife Service, is directed to investigate potential environmental health hazards resulting from the Folcroft landfill, within the authorized boundary of the Tinicum National Environmental Center, and to develop alternative recommendations as to how such hazards, if any, might best be addressed in order to protect the refuge and the general public.".

Sec. 2. (a) If—

(1) the property known as Sailors' Snug Harbor, consisting of approximately eighty acres and located in the city of New York, is donated to the Secretary of the Interior (hereinafter referred to as the "Secretary") by the city of New York; and

(2) the Secretary and the city of New York and the Snug Harbor Cultural Center, Incorporated, enter into mutually satisfactory cooperative agreements of the kind described in subsection (c) of this section, the Secretary shall manage Sailors' Snug Harbor as a National Wildlife Refuge until the completion of the study required by subsection (e) of this section.

(b) Except as may be provided for in cooperative agreements referred to in paragraph (2) of subsection (a) and in subsection (c) of this section, the property acquired under paragraph (1) of subsection (a) of this section shall be administered in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966.

(c)(1) The Secretary and the City of New York and the Snug Harbor Cultural Center, Incorporated, shall endeavor to enter into cooperative agreements regarding the respective functions each such party will undertake with respect to the property acquired under paragraph (1) of subsection (a) of this section, except that the Secretary shall only be responsible for the protection of such property and the costs for normal operation and maintenance of such property as a refuge.

(2) In addition, the Secretary may, if he deems appropriate, utilize any additional statutory authority that he may have for the conservation and development of wildlife and natural resources on such property and interpretative environmental education at such property.

(3) Nothing in this Act or cooperative agreements negotiated pursuant to this Act may be construed as affecting in any manner, or to any extent, the eligibility (as in effect on the day before the date of the enactment of this Act) of the city of New York, the Snug Harbor Cultural Center, incorporated, or the State of New York, under any Federal law for funds or other assistance for use in the restoration or preservation of historic buildings, or in the carrying out of developmental and recreational projects and programs, within the area included in such property.

(d) For purposes of section 401 of the Act of June 15, 1935 (commonly known as the "Refuge Revenue Sharing Act," the property acquired under paragraph (1) of subsection (a) of this section may not be considered to be, nor treated as, a fee area within the meaning of subsection (g)(2) of such section 401.

(e) Within two years after the date of enactment of this Act, the Secretary shall complete a study of the property acquired under paragraph (1) of subsection (a) of this section to determine how the resources and facilities could best be protected and managed under other statutory authorities available to him. Notwithstanding the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) and pursuant to Reorganization Plan No. 3 of 1950, such property shall upon completion of such study, either be placed permanently in the National Wildlife Refuge System by the Secretary or transferred by the Secretary to any more appropriate agency of the Department of the Interior to be managed as, and become a part of, that agency consistent with its general statutory responsibilities. Notwithstanding the provisions of this Act, subsequent to such transfer, if any, the resources and facilities identified in the study shall be managed consistent with the findings of the study and that agency's authorized programs using the fundings authorized under this section.

(f) There are authorized to be appropriated to the Department of the Interior not to exceed $1,750,000 for purposes of carrying out this section during the period covering fiscal years 1981, 1982, and 1983; except that no part of any funds appropriated pursuant to this section may be expended for the restoration or preservation of any building within the property acquired under paragraph (1) of subsection (a) of this section or for activities other than those enumerated in subsections (b) and (c) of this section.

Sec. 3. (a) During any period in which the Secretary of the Interior, by regulation, limits vehicular access to Back Bay National Wildlife Refuge, the Secretary of the Interior shall issue, to any eligible applicant, a renewable annual permit to enable the applicant to commute across the Back Bay National Wildlife Refuge. For purposes of this section, the term "eligible applicant" shall include all full-time residents who can furnish to the Refuge Manager, Back Bay Nation Wildlife Refuge, adequate proof of residence commencing prior to December 31, 1979, on the Outer Banks from the refuge boundary south to and including the village of Corolla, North Carolina, as long as they remain full-time residents. The South boundary of the area for access consideration is defined as a straight east-west line extending from Currituck Sound to the Atlantic Ocean and passing through a point 1,600 feet due south of the Currituck Lighthouse.

(b) As used in this section, the term—

(1) "residence" means a place of general abode;

(2) "place of general abode" means a principal, actual dwelling place in fact, without regard to intent; and "dwelling" means a residential structure occupied on year-round basis by the permit applicant and shall not include seasonal or part-time dwelling units such as beach houses, vacation cabins, or structures which are intermittently occupied.

(c) Any permit issued pursuant to this section shall assure that eligible applicants shall be allowed at least two round trips per day. Travel pursuant to such permits may be retricted to between the hours of 5:00 a.m. and 12:00 p.m. (midnight). In addition the Refuge Manager may make exceptions to access restrictions for qualified permittees who have demonstrated to the satisfaction of the Refugee Manager a need for additional access relating to health or livelihood.

(d) Permits pursuant to this section shall be renewed upon the submission of a signed, notarized statement by an eligible applicant that conditions of the previous permit have not changed.

(e) The Secretary of the Interior, may, subject to the foregoing provisions of this section, issue such regulations as are necessary to protect the resources of the refuge.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I yield to the gentleman from California (Mr. McCloskey).

Mr. McCLOSKEY. Mr. Speaker, the minority is apprised of this bill. It is almost identical to the bill passed by the House, and we have no objection.

Mr. BAUMAN. Mr. Speaker, if the Murphys can get together, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. JONES of North Carolina. Mr. Speaker, reserving the right to object, a few days ago I introduced legislation which would permit the residents of the Back Bay National Refuge, down in my district, certain rights of egress and ingress which had heretofore been restricted by the Department of the Interior. I understand this afternoon that the Senate added an amendment doing exactly what the bill I introduced provides, and I just wanted to be sure that that amendment was in the report and that it would be acceptable.

Mr. MURPHY of New York. Mr. Speaker, if the gentleman will yield, I want to assure the gentleman that we are concurring with the Senate amendment that provided that advantage for 13 families in the gentleman's district to be able to have certain access through that wildlife refuge. It is in the bill, and it is that Senate amendment we are concurring in.

Mr. Speaker, S. 2382 is an administration bill. It originally passed the Senate on May 6, 1980, it would amend the Tinicum National Environmental Center Act to increase its funding authorization by $8.4 million and to limit such funding until September 30, 1985. The additional funds provided by the bill would be used for habitat improvement and the construction of facilities at the center. The bill also would direct the Environmental Protection Agency to study a leaching problem associated with a landfill dump site on the refuge and to recommended ways of correcting such problem.

On May 19, 1980, the House amended the bill. The House amendment would simply rewrite the Senate bill to increase the funding authorization for the center by the same amount as the Senate bill, $8.4 million.

On July 2, the Senate concurred in the House amendment to the bill, with an amendment. The amendment added new language to the bill which in essence is the language of a previously House-passed bill, H.R. 7191. This bill passed the House on May 19, 1980, and it would provide for the designation of Sailors Snug Harbor in New York, an 80-acre tract of land, as a wildlife refuge and operated as a unit of the National Wildlife Refuge System. The Senate amendment authorizes the same funding for Sailors Snug Harbor as that authorized by the House bill, which is $1,750,000 for the next 3 fiscal years, and retains the restriction included in the House bill that such funding can only be used for operation and maintenance of the area and not for rehabilitation or renovation of the buildings on the site.

The Senate amendment also includes a nonobjectionable provision that would simply permit 13 additional families to traverse Back Bay National Wildlife Refuge when going to and from work in Virginia.

Mr. Speaker, because of the similarity of the Tinicum National Environmental Center and the Snug Harbor proposal, both of which are in urban areas, I think it is appropriate that these two bills be merged into one.

I urge my colleagues to join me in concurring in the Senate amendment to the House amendment to the Senate bill.

Mr. JONES of North Carolina. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO HAVE UNTIL MIDNIGHT, FRIDAY, JULY 11, 1980, TO FILE OVERSIGHT REPORT

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations have until midnight Friday, July 11, to file an oversight report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON VETERANS' AFFAIRS

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Veterans' Affairs, which was read and referred to the Committee on Appropriations:

COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., July 1, 1980.

Hon. THOMAS P. O'NEILL,
The Speaker,
House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the provisions of Public Law 96-22, Section 5004, the Committee on Veterans' Affairs of the House of Representatives today approved the following construction and alteration project for the Veterans Administration medical facility listed below:

MAJOR CONSTRUCTION

Wichita, KS, 60-Bed Nursing Home, Care Unit, and Underground Drain Culvert—$6,800,000.

The original and one copy of the authorizing Resolution are enclosed.

Sincerely,

RAY ROBERTS,
Chairman.

RAIL ACT OF 1980

Mr. FLORIO. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7235) to reform the economic regulation of railroads, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. FLORIO).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 7235, with Mr. GEPHARDT, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose earlier today, title II was open to amendment at any point.

Pending was an amendment offered by the gentleman from New Jersey (Mr. FLORIO) and an amendment offered by the gentleman from Illinois (Mr. MADIGAN) as a substitute for the amendment offered by the gentleman from New Jersey (Mr. FLORIO).

Further amendments to the substitute amendment are now in order.

AMENDMENT OFFERED BY MS. MIKULSKI TO THE AMENDMENT OFFERED BY MR. MADIGAN, AS AMENDED, AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. FLORIO

Ms. MIKULSKI. Mr. Chairman, I offer an amendment to the amendment, as amended, offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Ms. MIKULSKI to the amendment offered by Mr. MADIGAN, as amended, as a substitute for the amendment offered by Mr. FLORIO: On page 7 of the amendment, immediately after "title" on line 19, insert the following "(other than surcharges applicable to international shipments of commodities through ports)".

Ms. MIKULSKI. Mr. Chairman, this amendment is a compromise which I believe all who are concerned about the problems of ports in this bill should support. The complaint has been that the surcharge provisions in section 301 will allow the railroads to unfairly discriminate against different ports. This amendment makes it absolutely certain that surcharges cannot be used to discriminate among ports.

The position of ports under existing law is absolutely unchanged and protected. Therefore, a charge cannot be made without justification. Rates will continue as they have been for the purposes of this section.

I represent a port, and I am sympathetic to the fears of ports about discrimination. This amendment will guarantee that ports will have the ability to insure that discrimination does not occur. The existing economic relationship among ports has been in place for over a century. This amendment will guarantee that ports are able to maintain their current economic position.

I urge my colleagues who want to see that rates are set according to the economics of the marketplace and not according to regulation to support my amendment, and the Madigan substitute.

Mr. MURPHY of New York. Mr. Chairman, will the gentlewoman yield?

Ms. MIKULSKI. I will be happy to yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, I am not quite clear as to what the intent of the gentlewoman's amendment is as far as surcharges to ports are concerned. Would she explain in a little more detail for me, please?

Ms. MIKULSKI. I will be happy to. There has been some concern that the surcharge provision will allow discrimination against certain ports. The position of ports under existing law is absolutely unchanged and protected by my amendment. In other words, we do not change the rules of the game with ports in terms of the surcharge.

Mr. MURPHY of New York. I frankly do not see where the gentlewoman is accomplishing very much. The problem, I think, that we have with rates to ports begins with the Constitution of the United States. I just want to quote from article I, section 9 of the Constitution, which states:

> No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another.

What the gentlewoman——

Ms. MIKULSKI. If I can have my time back——

Mr. MURPHY of New York. I am responding to the response of the gentlewoman to my question. The problem we have that the gentlewoman is not quite addressing is this problem: In the North Atlantic range we have a disparity of rates between ports, and ports in different States. We do not have that disparity on the west coast, on the gulf coast, or the South Atlantic range. So, here what we are trying to do is, we are trying to just deal in a very narrow area of surcharges and not address a basic flaw and inequity in this legislation which

I will address in amendments at a proper time.

☐ 2040

I have had members of our Port Caucus, 136 members of the Port Caucus, contact me.

Ms. MIKULSKI. Mr. Chairman, will the gentleman allow me to reclaim my time?

Mr. MURPHY of New York. If the gentlewoman would like to cut me off, that is all right, but I would be happy to get more time for her. I will ask unanimous consent that the gentlewoman have 2 additional minutes when her time expires.

If I may continue, Mr. Chairman, the problem, of course, is that we have this disparity in this one range. We have had this debate among the Port of Baltimore, the Port of New York, the Port of Philadelphia, and the Port of Boston, all of which have different rates, and the gentlewoman's amendment points up once again that disparity that exists in the North Atlantic range and that can exist in the future in other ranges.

Mr. FLORIO. Mr. Chairman, will the gentlewoman yield?

Ms. MIKULSKI. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, I thank the gentlewoman for yielding.

Mr. Chairman, I would just echo the gentlewoman's statement about what this amendment does. The gentleman from New York (Mr. MURPHY) has some preconceived views about the appropriateness of his position, and as he states, he will have an opportunity in the next title to make adjustments if he sees fit to do so.

I am sure the gentleman does not have any difficulty with the thrust of this amendment, which is to clearly and unequivocally state that surcharges cannot be applied in a discriminatory fashion. That is clearly compatible, I think, with the gentleman's previous statements and his concerns.

Likewise, on his reference to the constitutionality, those questions were adequately addressed. I believe, in the statement of findings, and the amendment was already adopted to this bill.

So, Mr. Chairman, I think what the gentlewoman's amendment does is something desirable, something that is needed. It will clearly and unequivocally state that surcharges with regard to ports will not be applied in a discriminatory fashion, and I support the amendment.

Ms. MIKULSKI. Mr. Chairman, the point I wanted to make in answer to the question of the gentleman from New York (Mr. MURPHY) is that the Anderson amendment adopted earlier did deal with the preservation of the constitutional issues raised by the gentleman from New York.

Second, I believe that some of the points the gentleman brought up in effect support the very nature of this amendment, because under this provision that I am recommending there cannot be a change in rate without justification. That justification usually has to have some merit as to mileage or some other factor.

Mr. ECKHARDT. Mr. Chairman, will the gentlewoman yield at this point?

Ms. MIKULSKI. I am happy to yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I understand, as the gentleman from New Jersey (Mr. FLORIO) has stated and as the gentlewoman in the well has stated, that this amendment does not preclude our dealing with this matter in much more detail. I had been interested in it, as well as the gentleman from New York (Mr. MURPHY), but that point will be reached when we get to title III.

I have some question in my own mind as to whether the gentlewoman's amendment, though good, embraces all of the questions involved by those concerned with ports, but I understand that it will not preclude our dealing with that matter at a later time.

I would, therefore, Mr. Chairman, support the amendment.

Ms. MIKULSKI. Mr. Chairman, I thank the gentleman from Texas (Mr. ECKHARDT).

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from Maryland (Ms. MIKULSKI) to the amendment offered by the gentleman from Illinois (Mr. MADIGAN), as amended, as a substitute for the amendment offered by the gentleman from New Jersey (Mr. FLORIO).

The amendment to the amendment, as amended, offered as a substitute for the amendment was agreed to.

PARLIAMENTARY INQUIRY

Mr. PEYSER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. PEYSER. Mr. Chairman, with the agreement on voting at this point or not voting, is this title II going to remain open even if we move beyond this evening? In other words, will it be possible to discuss areas in title II at a later date?

The CHAIRMAN pro tempore. The Chair will state that if there are no further amendments to title II, the Clerk will read additional titles.

Mr. PEYSER. So, then, Mr. Chairman, it would move away and we would lose the privilege of offering anything or discussing anything in title II if we move on beyond that, under the normal procedure?

The CHAIRMAN pro tempore. The gentleman is correct, except that by unanimous consent the Committee could reenter a title that has been passed.

Mr. PEYSER. I thank the Chair.

AMENDMENT OFFERED BY MR. LOEFFLER TO THE AMENDMENT OFFERED BY MR. MADIGAN, AS AMENDED, AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. FLORIO

Mr. LOEFFLER. Mr. Chairman, I offer an amendment to the amendment, as amended, offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. LOEFFLER to the amendment offered by Mr. MADIGAN, as amended, as a substitute for the amendment offered by Mr. FLORIO: On page 4 of the amendment, after line 17, insert the following:

Page 108, after line 2, insert the following new subsection:

"(d) For purposes of determining the existence of a reasonable transportation alternative under this section, any coal imported into the United States for the generation of electricity by utilities shall not be taken into account in the determination of whether a consignee can obtain such commodity from another source.

Redesignate the following subsections accordingly. Page 122, after line 5, insert the following new subsection:

(b) A rail carrier rate which increased over 70 percent between 1976 and 1979 for the transportation in shipper owned equipment over a distance exceeding 1,550 miles between points within the United States of coal pursuant to a tariff calling for an annual volume of more than 2,000,000 tons per year purchased by a municipally owned utility for the purchase agreement entered into by such utility in the year 1974 shall not be increased until the expiration date of such purchase agreement.

Page 122, line 6, strike out "(b)" and insert in lieu thereof "(c)".

Mr. LOEFFLER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. LOEFFLER. Mr. Chairman, my amendment provides that coal which conceivably could be imported from foreign countries will not be counted in determining whether there is a reasonable transportation alternative. Simply stated, even though coal could be purchased from foreign sources the ICC would find that there is no effective competition with respect to transportation. The proposed domestic rate increases in such a situation would be within the scope by which the ICC could determine whether such a rate is reasonable.

The second part of the amendment, which I have worked out with the subcommittee leadership deals with the peculiar problems of a municipally owned utility serving my district. This amendment recognizes the extremely high profit level under existing rates. It would moderate that profit level by limiting future increases until profits are reduced to a reasonable level.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. LOEFFLER. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I thank the gentleman for yielding.

We have had an opportunity to review the amendment and intend to support it on this side of the aisle.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. LOEFFLER. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, I concur in the statement of the gentleman from Illinois (Mr. MADIGAN). We accept the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Texas (Mr. LOEFFLER) to the amendment offered by the gentleman from Illinois (Mr. MADIGAN), as amended, as a substitute for the amendment offered by the gentleman from New Jersey (Mr. FLORIO).

The amendment to the amendment, as amended, offered as a substitute for the amendment was agreed to.

AMENDMENT OFFERED BY MR. FLORIO TO THE AMENDMENT OFFERED BY MR. MADIGAN, AS AMENDED AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. FLORIO

Mr. FLORIO. Mr. Chairman, I offer an amendment to the amendment, as amended, offered as a substitute for the amendment, and I am offering this amendment on behalf of the gentleman from Michigan (Mr. TRAXLER).

The Clerk read as follows:

Amendment offered by Mr. FLORIO to the amendment offered by Mr. MADIGAN, as amended, as a substitute for the amendment offered by Mr. FLORIO: On page 6, line 1, immediately after "shall," insert the following: "in addition to the other provisions of this subtitle relating to rail carrier rates and".

On page 6, line 2, immediately after "permit" insert the following: ", as an additional ratemaking option,".

On page 6, after the period on line 22, insert the following new sentence: "Any failure of a shipper to enter into a contract under this subsection shall not affect any right of such shipper to rates for rail service under the other provisions of this subtitle.".

On page 5, after line 1, insert the following:

Page 114, line 5, line 8, and line 16, strike out "50" and insert in lieu thereof "75".

Mr. FLORIO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. FLORIO. Mr. Chairman, this amendment, offered on behalf of the gentleman from Michigan (Mr. TRAXLER), is a very simple amendment. It is an amendment which provides for an extension of the right with regard to agricultural contracts to be issued and to be demanded on comparable terms.

The existing law provides for those individuals who have entered into those contracts to be authorized for a 50-mile distance from the point of origination to the point of shipment. What the amendment of the gentleman from Michigan (Mr. TRAXLER) will do is extend that distance for 25 miles, so that all individuals within 75 miles will be enabled to demand the same contractual terms.

Mr. Chairman, I believe this is an amendment that the gentleman from Illinois (Mr. MADIGAN) feels is acceptable.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I intend to support the amendment and will only add to the comments of the gentleman from New Jersey (Mr. FLORIO) by saying that this is an amendment recommended by the Department of Agriculture which both the majority and the minority have agreed to support.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New Jersey (Mr. FLORIO) to the amendment offered by the gentleman from Illinois (Mr. MADIGAN), as amended, as a substitute for the amendment offered by the gentleman from New Jersey (Mr. FLORIO).

The amendment to the amendment, as amended, offered as a substitute for the amendment was agreed to.

AMENDMENT OFFERED BY MR. ANDERSON OF CALIFORNIA TO THE AMENDMENT OFFERED BY MR. MADIGAN, AS AMENDED, AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. FLORIO

Mr. ANDERSON of California. Mr. Chairman, I offer an amendment to the amendment, as amended, offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. ANDERSON of California to the amendment offered by Mr. MADIGAN, as amended, as a substitute for the amendment offered by Mr. FLORIO: On page 7 of the amendment, strike out line 16 and all that follows through line 2 on page 8 and insert in lieu thereof the following:

Page 117, line 23, strike out "subsections" and insert in lieu thereof "subsection".

Page 118, line 4, insert closing quotation marks and a period immediately after "carriers.".

Page 118, strike out lines 5 through 11.

Mr. ANDERSON of California. Mr. Chairman, the amendment I offer today seeks to insure that any person, place, port, or traffic is not subject to unreasonable discrimination by a rail carrier—as they are protected under present law. Under present law no common carrier may charge a different rate to two people for the same service. Section 208 of this bill will exempt certain charges and contracts from these safeguards. I am sure no one would like the Port of Boston to suffer from discrimination by the railroads which would favor a larger North Atlantic port.

For example: Section 208 adds new sections (f) (1 through 5) to the existing law.

Section (f) (1) states that prohibitions against unreasonable discrimination shall not apply to surcharges under section 10705a of this title. By selective addition of surcharges it is possible for a railroad to divert cargo from one port to another. I am sure no one would like to see a rail carrier systematically discriminate against an individual, the South Jersey Port Corp., or the Delaware River Port Authority. The railroad may earn more money in the short term, but it will cost jobs, industry, and transportation in the area being discriminated against. In the long run, everyone will lose, especially the hundreds of smaller ports around the country.

Section (f) (2) states that prohibitions against unreasonable discrimination shall not apply to rates and contracts set forth under Section 10712 of this title. I will use the port of Baltimore as an example. Let us say a railroad contracts for all, or a significant portion, of its coal hopper cars to the ports of Norfolk and Philadelphia. This will result in discrimination against their competing port—Baltimore. There will be few, if any railroad cars for the other ports to use, and those which are available will be expensive to lease due to the shortage of those types of cars on the market. As a result; cargo will be driven from the port which could not afford to lease the railroad cars, or did not have the foresight to lease them first, to those ports who could lease them. This could happen to any port that is in keen competition for cargo with another port.

Section (f) (3) simply put, is redundant. Rate discrimination is already allowed for separate rates for distinct rail service under the section 208 addition of (e) above.

Section (f) (4) can also result in unreasonable discrimination and should be exorcised from the bill. It allows discrimination in rail rates applicable to different routes between the same end points. Here we can also have railroads selectively diverting cargo from one port to another. For example, in my own district, I have two adjoining, competing ports—Los Angeles and Long Beach. It is possible under the present bill for a railroad to have different rates from the same point of origin to these adjoining ports. This will result in the railroad selectively promoting one port over another. The same thing could happen to the ports of Houston and Galveston. We should be trying to integrate our intermodal system—not split it apart like we are doing here.

Section (f) (5) allows rate discrimination for expenses authorized under section 10751, again this is redundant. It is contained in section 212(a) on page 122, line 19 of the bill.

So my amendment only has the effect of eliminating section 208 (f) (1) (2) and (4). It allows, as the committee saw fit, rate discrimination for separate rates for distinct rail services under section 10728, and for solicitation expenses authorized under section 10751.

As in my other amendment, I only want to insure that we maintain equity between individuals and ports. Article I, section 9, clause 6, of the Constitution of the United States reads "no preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another." Presently we prohibit unreasonable discrimination which would favor one State's ports over another. In this bill we are eliminating these safeguards—and, I believe, contradicting the intent of our Founding Fathers. Without this amendment it is possible for the railroads to unconstitutionally discriminate against ports.

I hope no one mistakes my amendment for those offered in the Interstate Committee to have a rail rate equalization for container shipments. This amendment will not equalize rail rates. Rates may be different for different services—

but they should not be allowed to be unreasonably discriminatory.

Surcharges will be allowed with this amendment—so long as they are not discriminatory.

I also hope that no one believes that this amendment will prevent the railroads from making money on these rates. They will still be allowed to have at least 110 percent of their variable costs covered in their rates. Maintenance of the antidiscrimination provisions may in fact help a railroad by allowing them to increase their rates.

The Interstate Commerce Commission permits railroads to have cost based differential pricing under the existing discrimination provisions of the Interstate Commerce Act. The act prohibits all other forms of discrimination.

So finally, one must ask yourself—Why would someone want to exempt the railroads from unreasonable discrimination provisions? I have not found a satisfactory answer to that question. That is why I offer this amendment today. I urge all of my colleagues to rise in support of continuing our antidiscrimination statutes.

Thank you Mr. Chairman.

☐ 2050

Mr. MURPHY of New York. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the Anderson amendment is a wise amendment, and I take particular note of the amendment where it says, "On page 118, strike out lines 5 through 11," and as we analyze the Madigan amendment, of course, we insert certain language pertaining to section 10725(a) of this title, which are surcharges or cancellations, and then we also refer to 10727(a) of this title.

Now, when we speak about deregulation or reregulation, let us rationally place it in perspective and go back and look at the original act and just what we are deregulating or reregulating. Let us go to 10705 of the act, and I am reading directly from the act. This is what the gentleman from California is trying to retain. It says:

> The Interstate Commerce Commission may, and shall when it considers it desirable in the public interest, prescribe through routes, joint classifications, joint rates (including maximum or minimum rates or both), the division of joint rates, and the conditions under which those routes must be operated, for a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter, I, II . . .

What we do there is, we have the Commission involved in the division of rates. In this legislation we would not have the Commission involved in the division of rates. We would have short lines, communities discriminated against in that division process. This keeps the ICC involved in a proper and fair and equitable distribution of rates. And on that basis, I would support the gentleman from California. That is the 10705.

Yet us go over to 10727, "demand-sensitive rates."

It says here:

> The Interstate Commerce Commission shall maintain standards and procedures to permit seasonal, regional, or peak-period demand rates for transportation by rail carrier.

So that we can provide sufficient incentive to shippers to reduce peak-period shipments, generate additional revenue for rail carriers, make better use of the national supply of freight cars.

And anyone in the Midwest and in grain shipment certainly is sensitive to the national supply of freight cars.

And to improve the transportation of property by rail carriers, the level of employment by rail carriers, and the financial stability of markets served by rail carriers.

We require the Commission to submit to the Congress reports in these areas, and unless we support the Anderson amendment, we have these levelers, these protections, stricken from the act under the guise of reregulation or deregulation. I think it would be most unwise to take away the protections for shortline railroads, for shippers, for communities and for the public unless we adopt the Anderson amendment to remedy what I think is a very serious shortcoming in the Madigan amendment.

Mr. FLORIO. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, this amendment, while superficially sounding to be very attractive, in fact does not really do too terribly much in a couple of respects, and in another respect it violates the whole concept of contracts, which is a new provision which is going to work to the benefit of shippers.

With regard to ports, we just had the amendment of the gentlewoman from Maryland pass, which specifically prohibits the use of surcharges to port areas for discriminatory purposes. That is what the gentleman suggests he is concerned about. That has been dealt with.

The key point and the key problem with the amendment is its impact upon contracts because the whole new movement that this bill moves us into is to provide for the specific authority for railroads and shippers to enter into contracts. In a sense, what we are saying is that there is going to be arm's length bargaining and people will agree to contracts. What the gentleman is saying is that any time there are different terms in different contracts, that will be regarded as discriminatory and, accordingly, the whole regulatory process will come into play.

What we are saying is that we have confidence in the fact that shippers and the railroads, when they enter into contracts, will do so of their own free will, obviously, and will be attempting to negotiate more beneficial terms for the contracts.

So what the gentleman is saying, by virtue of the enactment of this provision, would be that any contract, we will have to have standardized contracts, because if in fact they are not standardized, someone who does not get beneficial terms, contrasted with someone else's contract, will be able to go before the ICC and maintain that they have been discriminated against.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from New York.

Mr. MURPHY of New York. I would think that unless we adopt the Anderson amendment, where we have the ICC as really the arbiter of the questions of rates and the division of rates, we are not going to have equity for the shippers. We will not have contracts. We will have prescriptions, prescriptions by what will eventually be six major rail carriers that dominate rail transportation in this country.

There is no arbiter that the shipper, the shortline, or the community can go to get equity, and that is the purpose of the Interstate Commerce Act, to prevent that from happening.

Mr. FLORIO. If I may reclaim my time, the gentleman is touching upon a number of other subjects, all of which will be dealt with in title III. The ICC does still have the authority to look into questions with regard to surcharges for shortlines, surcharges for shippers, and so on. That is not what this amendment deals with. What this amendment deals with, and almost in its entirety, is contracts. What we are saying is that people should now be able to negotiate their contracts, and they have the right to enter into contracts, and certainly no one forces anyone to enter into contracts.

If the gentleman's amendment were to pass, what is going to happen is that if someone does not get a beneficial contract, they would have standing to go before the ICC and say they have been discriminated against, even though they have entered into a contract of their own free will.

☐ 2100

This would be counterproductive and certainly would violate one of the major provisions of this bill for the benefit of shippers, which is the whole contract provision of the legislation.

Ms. MIKULSKI. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentlewoman from Maryland.

Ms. MIKULSKI. I would just like to associate myself with the gentleman's position. I feel that the amendment of the gentleman from California goes too far. The previously adopted Mikulski amendment does take care of the concerns of ports, No. 1, and No. 2, the impact of the gentleman's amendment would do exactly what the gentleman from New Jersey said. It would eliminate the whole concept of surcharges, No. 1, and, No. 2, it would destroy really the whole incentive to have shipper railroad contracts; and quite frankly, I would much prefer marketplace forces and free enterprise negotiation over the decisions of the ICC.

Therefore, I urge the defeat of the Anderson amendment.

Mr. ECKHARDT. Mr. Chairman, I rise in support of the Anderson amendment.

The question really is whether or not, when there is the assertion of discrimination, as between ports, the question is who is going to make the decision? Is the decision going to be made by a coalition of railroads and exercised on the basis of their power, or are we to have an umpire under those circumstances?

Now, I believe, in permitting the marketplace to make determinations when the question simply involved competition between two carriers, that is not the situation here. This is a situation of whether or not one port will be advantaged by a coalition of railroads that favor that port as against another.

All this amendment provides, as I see it, is an umpire under circumstances of this nature.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from New Jersey.

Mr. FLORIO. Does the gentleman not concede that the gentlewoman's amendment specifically is prohibiting the use of the surcharges and the discriminatory fashion such as the ICC jurisdiction applies, and that the gentleman's amendment with regard to at least ports and surcharges is clearly redundant and already has been dealt with by the gentlewoman's amendment?

Mr. ECKHARDT. It appears to me, though, this is not the only method by which the favoring of one port against another can be accomplished. I think that the safe course is to pass the Anderson amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. MADIGAN. Mr. Chairman, I rise in opposition to the amendment.

I will not take the 5 minutes, but I do want to say that one of the problems that I have had to deal with as a Representative from an agricultural district since the first day that I got here is the constant shortage of railroad cars in that agricultural district. That is not a problem unique to me.

Every Member of this House who represents an agricultural district has that same kind of problem, and it occurs at different times of the year. That problem occurs because there has never been any way for shippers of agricultural commodities and the railroads who would move those agricultural commodities to prearrange for the shipment of those commodities on any kind of orderly basis, because if a railroad were to enter into a contract with one elevator for the delivery of a certain number of cars on a certain date and then not provide an equal number of cars to another elevator who did not have a contract, that refused to enter into the contract, and be obliged to abide by the terms of the contract, the second shipper could sue the railroad, claiming that they were discriminated against by virtue of the contract with the first shipper.

That has been the chilling factor, if you will, the inhibition against being able to introduce some semblance of reason into the orderly utilization of railroad cars in agricultural movement.

We wrestled with that problem ever since I have been a member of this committee.

For a year and a half, we have tried to determine how we would solve that problem and finally have reached what we think is the solution to the problem, what the railroads think is the solution to the problem, what the farm organizations think is the solution and what the country elevator operators think is a solution, along with the wheat millers and any other numbers of groups of people.

The adoption of the Anderson amendment would make it impossible for us to implement the contract provisions of our bill. I would urge the defeat of the amendment.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from New York.

Mr. MURPHY of New York. Would the gentleman from Illinois tell me how he is going to solve the rail shortage problem and the peak demand problems because of agricultural scheduling by striking 1027(a)? Would the gentleman explain that to me?

Mr. MADIGAN. The reason the agricultural commodities all move at the same time is because the people operating the elevators want to move them when the price on the Board of Trade, whether that is in Kansas City or Chicago, wherever it is, is the best or when the bid at the Port of New Orleans or Toledo or some place else is its best. They all want to move at the same time.

If a railroad were able to move different prices for the utilization of railroad cars at different times of the year, then there would be a new economic factor introduced into all of this, and a person could look at the future market and say, "I am going to sell my elevator full of corn in September instead of October, because the difference in the price for those 2 months is less than the difference in the price that I can get on transportation arrangements," I can actually make more money by selling my crop or these crops that I have accumulated when the market is lower, because the transportation costs are going to be even lower than the bid spread between those 2 months. That can occur not only in September and October, it can literally occur the year round. That is what we want to do.

The result of the Anderson amendment would be to keep us from doing that.

Mr. MURPHY of New York. I would submit to the gentleman that the ICC was not born yesterday. It came out of the last century, as far as rail regulation was concerned. They are not naive down there. They were charged by the Congress in the Interstate Commerce Act to maintain standards and procedures to permit seasonal, regional, or peak period demand rates for transportation. They understand the commodities market, and they understand futures; and they understand prices. But they also understand how to regulate the movement of cars and the supply of cars.

Mr. MADIGAN. Then why have they failed so miserably? Why do we have the same problem every year? Why do we have everybody trying to move their grain at the same time? Because they have failed. The reason that they have failed is because the Commission was not willing to allow the type of contract that we would allow in this bill. That is the reason that they failed.

Now, recently a more liberal Commission has begun to open that up just a little bit.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. ANDERSON) to the amendment offered by the gentleman from Illinois (Mr. MADIGAN), as amended, as a substitute for the amendment offered by the gentleman from New Jersey (Mr. FLORIO).

The question was taken and on a division (demanded by Mr. ANDERSON) there were—ayes 4, noes 19.

Mr. ANDERSON of California. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

Mr. FLORIO. Mr. Chairman, under the previous understanding that was entered into by all parties, I move that the Committee do now rise.

The motion was agreed to.

□ 2110

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BOLLING) having assumed the Chair, Mr. GEPHARDT, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 7325) to reform the economic regulations of railroads, and for other purposes, had come to no resolution thereon.

COMMEMORATING LITHUANIAN MILITARY OCCUPATION BY THE SOVIET UNION

(Mr. LEDERER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEDERER. Mr. Speaker, I would like to take this opportunity to ask my colleagues to rise and join with me in commemorating the military occupation and forcible incorporation of Lithuania into the Soviet Union in 1940.

For 22 years, Lithuania was a free and independent state, which made great strides in modernization and raising the standard of living. In these 22 years, the people of Lithuania were able to live their lives as they saw fit, under their laws, their customs and in their culture. In 1940, Soviet occupation destroyed much of this progress and heritage and resulted in the deportation of 300,000 freedom-loving Lithuanians to Siberian labor camps.

The United States does not recognize the unlawful occupation of Lithuania or any other of the Baltic States by the Soviet Union. This action is in clear violation of the Atlantic Charter and present international law. Furthermore, the so-called plebiscite to incorporate Lithuania into the Soviet Union was a farce, supported solely by the rifles of the Red army.

The importance of this event cannot be downplayed. This Soviet military aggression bears striking resemblance to the present Afghanistan invasion. On the 40th anniversary of the military occupation and forcible incorporation of Lithuania into the Soviet Union, I feel that we, as members of an institution which epitomizes the belief in freedom, should rise and commemorate this sad day, and pray for the time when a free Lithuanian nation will again be reality.

TEXT OF PROPOSED AGREEMENT FOR COOPERATION BETWEEN UNITED STATES AND REPUBLIC OF INDONESIA CONCERNING PEACEFUL USES OF NUCLEAR ENERGY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96-338)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs and ordered to be printed.

(For message, see proceedings of the Senate of today, July 2, 1980.)

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I have asked unanimous consent to proceed for a minute, or two, or three, for the purpose of inquiring of the distinguished majority leader the program that he has envisioned for us after we return.

Mr. WRIGHT. Mr. Speaker, will the distinguished acting minority leader yield?

Mr. MICHEL. I am happy to yield.

Mr. WRIGHT. I will respond to the gentleman's timely inquiry.

The program for the House of Representatives for the week of July 21, 1980, the first week of our return from the labors in our respective home districts, and my Republican colleagues' attendance at their great national convention, would include roughly the following legislative matters:

□ 2130

On Monday, the day of our return, we would hope to meet at noon. Monday is the day set aside for the consideration of bills under Suspension of the Rules, and it happens that there are some 13 separate bills scheduled for consideration under motions to suspend the rules and adopt those bills. Now I should like to point out at this time that on each of any of these, whereon the requisite number of Members should require a rollcall vote, it would be our purpose to schedule that vote and not to put it off until Tuesday, as has been our wont on other occasions, but rather, because of the pressing urgency of the legislative schedule, remain to vote on Mondays during the remainder of the summer.

Mr. MICHEL. If I might interrupt the distinguished majority leader as he is drawing the ground rules for the week on which we return, it is quite obvious that this will be a departure from the norm to have rollcalls on the same day that we consider the legislation—on the same day on Monday, I take it?

Mr. WRIGHT. As a matter of fact, that is quite true. In that regard I am remindful of that ancient injunction: Be not the last to try the new, nor yet the first to set the old aside.

Mr. MICHEL. What are those 13 bills the gentleman referred to that are on the extensive list? I am just waiting with anxiety and apprehension for what the distinguished majority leader has in store for us.

Mr. WRIGHT. I am aware that the gentleman has waited, and with patience, but I am remindful in that respect of that marvelous injunction issued by Rudyard Kipling when he said:

> If you can wait and not be tired by waiting,
> Or being lied about, don't deal in lies,
> Or being hated, don't give way to hating,
> And yet don't look too good nor talk too wise.

I trust the gentleman will agree that during his waiting we have not looked too good and probably have not talked too wise. But in response to the gentleman's request, I hasten to respond that those bills scheduled for consideration under suspension——

Mr. MICHEL. Before the gentleman begins to give us this very extensive list, I think we ought to have order in the House.

I appreciate the Speaker's getting the attention of our wavering Members, because this is a very important announcement for which we have all been waiting anxiously now for the last half hour, and there are these 13 bills or more than the gentleman has referred to.

Mr. WRIGHT. The distinguished acting minority leader, along with others in the Chamber, have been very patient, and I hasten to respond to their request. The recitation of those 13 would be as follows:

Mr. FLIPPO. Mr. Speaker, would the gentleman yield?

Mr. MICHEL. I would be happy to yield.

Mr. FLIPPO. I thank the gentleman for yielding. I wonder, before the gentleman names those 13 bills, if he would tell me whether or not there is any significance to the fact that there are 13 in number that he is about to reveal to us?

Mr. WRIGHT. Only to assure my colleague, the gentleman from Alabama, that those 13 are not the only bills scheduled for consideration that day. Were they, he might rightly concern himself with that old saw in which none of us takes any real significance or attaches any real importance to the claim that 13 is an unlucky number. But I think it will not be an unlucky day because we have added two other bills, one on which to complete consideration and the other on which perhaps to complete consideration, making a total of 15—2 added to 13 being exactly 15.

Mr. MICHEL. What are those two additional bills?

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. I thank the gentleman.

With the kind of luck we have been having around here all night, they would have us carry a black cat around our necks and walk us under a ladder to get us in here, so I do not worry about 13.

Mr. MICHEL. I do not yield to the gentleman any further.

Mr. WRIGHT. If Members would stop their dilatory tactics, I would like to get on with this recitation. Those 13 bills, as I was saying in response to the request by the acting minority leader, include first a bill known as H.R. 7511, the veterans compensation bill, and that is a very important bill, one in which there is quite considerable interest evidenced on both sides of our aisle, the Democrats and Republicans alike having expressed enormous interest in hastening consideration of this bill which would improve veterans' compensation.

But in addition to that, we hope to consider H.R. 7394, a bill involving veterans education benefits, so that we will hope to improve not only compensation for disabled veterans but also the educational opportunities offered to them as partial compensation for the sacrifices they have undertaken. Then having completed action on those two bills, we would expect to undertake consideration of the bill H.R. 5800, which would authorize the striking of a gold medal for Lewis Bryan Allen. Yes, you heard me right, Lewis Bryan Allen. Surely all of us recognize Lewis Bryan Allen. He is the one who rode the bicycle across the English Channel. I am sorry. He pedaled an airplane as though it were a bicycle across the English Channel.

Mr. MICHEL. Does the gentleman know offhand whether this will be really one of those solid gold medals that we have been given to awarding, or will this be one of those that the Olympic team was awarded?

Mr. WRIGHT. I trust that the medal itself will be gold, and to the extent that it should lack in any respect total goldness, I know that the sentiment that it bespeaks will be solid gold, as it will be followed immediately by a bill known as H.R. 7113 involving the Bureau of Standards authorization. If anyone should have any complaint about the quality of the medal or of any other questions about type, it could quite well be taken up by the Bureau of Standards, that agency to be authorized by this particular authorization.

Then the fifth bill scheduled for consideration has no known number, but notwithstanding that, it involves a Standards Committee contempt citation. Then that would be followed by H.R. 7039, the Fish Development Act. I know that Members have waited with quite considerable interest for the Fish Development Act.

The seventh bill that we have under consideration would be House Concurrent Resolution 531 which deals with the tax-free status of social security benefits. All the Members I know are aware that this would place us emphatically, irrevocably, unalterably, and I trust eternally on record as opposing any tampering whatever with the tax-free status of social security benefits. As the gentleman from Illinois undoubtedly is aware, there have been some recommendations made by certain parties appointed to an Executive Advisory Commission to the effect that social security benefits might be subject to taxation, but I believe Members, both Democratic and Republican, will vote resoundingly to reject any such idea as that so that we may give positive assurance to our elder citizens that their social security benefits shall remain inviolate.

□ 2140

Mr. MICHEL. The gentleman did anticipate my question because I was wondering why it was necessary for us to consider a resolution of this type. I knew of no effort on this side of the aisle to tax social security benefits. The gentleman has indicated that it has not come from his side of the aisle.

Mr. WRIGHT. If the gentleman would yield, I am not certain who it was that brought this up but whomever it was, I hardly disagree with that gentleman. I am sure the gentleman from Illinois disagrees with him as well.

Mr. MICHEL. I am quite certain that will be one of those resolutions that will have a unanimous vote here in the House.

Mr. WRIGHT. I trust that it will. I am going to be disappointed if it does not.

Once we have attended to that, then the House probably would take under consideration a bill H.R. 5047 temporarily suspending the duty for color couplers and intermediates.

That would be followed by another bill of similar character, one H.R. 6571, Tariff Act amendments for fish netting.

We would then have the opportunity to act on a bill known as H.R. 6975 which would eliminate duty and hardwood veneers.

Now if we have successfully accomplished those first 10, then it would be our purpose to undertake consideration of a bill, H.R. 7670 which deals with an allocation of social security tax receipts. That would be followed by H.R. 7664, the child nutrition authorization adjustments. Finally, among those 13 considered for suspension of the rules we might take up H.R. 5499, the Wartime Relocation and Internment of Civilians Act. That involves what was done in the heat of conflict in the beginning days of World War II when our Government interned American citizens of Japanese ancestry. We now belated will be expressing our very strong feelings that this was not and should not be considered to be good practice nor in conformity with the constitutional guarantees for the rights of citizens.

Mr. MICHEL. May I inquire if we will be clustering the votes on those suspensions on Monday, the 21st of July, or will there be urgency on the part of the House to move along more expeditiously than we have during the past 15 minutes to really move the business of the House along?

Mr. WRIGHT. I think it is quite possible we would cluster those votes, thus giving those Members slightly more opportunity to assemble in considerable numbers here on the House floor though I am certain there will be a great number available for the discussion of the first bill scheduled.

If we do not cluster them, we will vote on them individually and severally, following the consideration of each in turn. Failing in that, we would complete our debate and then vote on each ad seriatim.

Having completed that activity, I would expect that the House would resume consideration of H.R. 7325, the Rail Act of 1980 and thereafter take up H.R. 7584, the State-Justice appropriations on which deliberations have already begun, as the gentleman from Illinois well knows, with the hope that we might complete those deliberations.

That would constitute a reasonably full schedule for Monday, July the 21st.

Mr. MICHEL. By way of recapitulation I might make the observation that the Rail Act of 1980 will be read for amendment under the 5-minute rule when we go back to reconsidering that legislation, is that not correct?

Mr. WRIGHT. Yes. I would respond the likelihood seems quite strong that there will be amendments pending at the desk for consideration of the Members on the Rail Act of 1980.

Mr. MICHEL. Does the gentleman have any indication of how many amendments might be pending at the desk on that very important piece of legislation?

Mr. WRIGHT. I think there are precisely several.

Mr. MICHEL. Then I think we have just finished the Justice title of the State-Justice appropriation bill. That one has been languishing for several weeks on and off again, scheduled as it has. Is there any special intelligence on why we are having such a terrible time resolving that particular appropriations bill?

Mr. WRIGHT. Only that the schedule itself has imposed certain impediments to the completion of the bill. The diligence of the Members in wanting to deliberate thoroughly and be certain that they are doing the right thing in their consideration of each and every amendment that is offered to that bill.

It puts me mindful of the gentleman who once served in the Congress from the area of Texas that I represent. On one occasion—it could have been a Fourth of July but probably was not; nevertheless it was a hot summer day—he strayed out onto the platform and began his speech there on the courthouse lawn of Parker County, Tex. The Congressman was speaking in his usual flurried style and someone interrupted him with a question. This was not usually the occasion but this rude, thoughtless citizen said, "Where do you stand on prohibition, Fritz?"

Fritz, not being accustomed to being interrupted continued his dissertation in his usual oratorical fashion but the heckler not to be put off renewed his question and said again, "Where do you stand on prohibition, Fritz?"

Now, the Congressman said, "Now, that is a question which deserves the closest and most careful deliberation of the greatest legislative body on Earth. I pledge to you and to all those here assembled that I shall devote to it my most earnest study and if after deep and serious deliberation I should determine it to be in the best interest of the people and the Nation then I shall support it with every ounce of vigor that I possess.

On the other hand, if, after careful consideration and weighing of the merits and the demerits of the legislation I should deem it to be inimical to the interests of America and Texans, then I would oppose it just as vigorously."

Whereupon the crowd thundered its approval.

I thought he has made a pretty good point.

Mr. MICHEL. What prompted the gentleman to relate that story at this particular point in time?

Mr. WRIGHT. The gentleman's question as to why Members were so deliberative in their study of various amendments offered to the State-Justice appropriations bill.

Incidentally, Tuesday, July 22d, will follow Monday, July the 21, directly. At least that is the way we had it scheduled. We planned it that way.

It would be our purpose that the House might meet at noon on Tuesday, noon being the median hour of the day after Members had an opportunity to dispatch the business attendant to committees and to assemble here in this historic Chamber for the consideration of matters that lie awaiting our attention on Tuesday, July 22d.

□ 2150

On Tuesday, July 22. after having convened at noon, the House may take up H.R. 7631. Now. I would advise the gentleman from Illinois that H.R. 7631 is otherwise known as the HUD appropriations for fiscal year 1981. Those appropriations provide the necessary funds for the conduct of all those myriad activities that are carried out under the direction of our Department of Housing and Urban Development.

Mr. MICHEL. Is there any intelligence as to how long we might be debating that very important piece of legislation on that day?

Mr. WRIGHT. Why, there is no knowledge as to how long it might be, and I dare say——

Mr. MICHEL. It might be the usual, 2 hours, 3 hours, 4 hours?

Mr. WRIGHT. Two, three, four, yes. It is conceivable that even more time might be required to dispatch that business, but we do hope that in these succeeding weeks of summer the House will move with its characteristic speed, and even faster, in order that we might complete these necessary appropriations bills.

If I am not hurrying it along too rapidly, I would like to suggest that after having considered the other appropriations bill, the House might take up H.R. 6711, the Youth Act of 1980, with the expectation of completing consideration on that act.

Mr. MICHEL. I might make the observation that I think, with respect to that piece of legislation, we are also at the juncture of the 5-minute rule, but we have no intelligence on that bill as to how long it might take to complete consideration.

Mr. WRIGHT. Youth is so impatient. The 5-minute rule will be adequate for individual Members to speak.

Mr. MICHEL. Would the majority leader assure me that we will not be getting all fouled up at the end of the session, when we ultimately want to adjourn sine die for our own re-election campaigns, that so many of these pieces of legislation will still be left hanging and that the future of the country will be endangered for our not having completed action on such important legislation as the gentleman speaks of, the HUD appropriation bill, the Youth Act—very touching pieces of legislation?

Mr. WRIGHT. I know the gentleman from Illinois did not intend to inject politics into the discussion when he made reference to our returning home for our reelection campaigns.

Mr. MICHEL. Well, only to the extent that both the gentleman from Texas and the gentleman from Illinois are both obliged to go through the normal routine to assure our reelection to this body. I understand that.

Mr. WRIGHT. That is sacred.

Mr. MICHEL. I have no reason to apologize for the fact that we have to do that. I do not mind just calling it flat out politics, of the need for going back to commiserate with the people again, whether you call it a district work period or just the normal kind of thing that one has to do to get by these days in the legislative body.

Mr. WRIGHT. The gentleman raises an interesting point. The word "politics" has been terribly abused over the years. Webster defines that word as, "the science and art of government".

And yet, there are those for whom the word "politics" conjures up the image of lobbyists with their bags of gold making their annual pilgrimage to the mecca of their tribe, the Capitol; lurking surreptitiously in the lobbies of this hallowed building. There are those who think of a politician suddenly as one about as sincere as a victrola, or about as shallow as a mirror, and yet the gentleman from Illinois joins me, I know, in recognizing that politics is as necessary to the functioning of our free society as water is to the flow of a river. It does not have to be filthy or corrupted, and neither does the river.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I will be happy to yield. I just did not want to hurry the gentleman. He was making a very profound statement. I wanted him to conclude the statement.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for yielding. When the gentleman from Texas mentioned rivers, I was wondering if the gentleman could honor the House with a repetition of his famous speech about the drop of water. I have not heard that speech for some time, and in fact I have often wakened in the middle of the night hoping that I would hear him give it the next day, and learn when the gentleman traces the drop of water from creation right down to the water project in his district.

Mr. WRIGHT. So many, many things have been said about water. There was a beautiful song once about cool, clear water. And then there was Kipling, who spoke of water. He said:

You may talk o' gin an' beer
When you're quartered safe out 'ere,
An' you're sent to penny-fights an'
    Aldershot it;

But when it comes to slaughter
You will do your work on water,
An' you'll lick the bloomin' boots of 'im
    that's got it.

Now in Injia's sunny clime,
Where I used to spend my time
A-servin' of 'Er Majesty the Queen,
Of all them black-faced crew
The finest man I knew
Was our regimental *bhisti*, Gunga Din.

And then it went on in that same vein, but I dare say that is not exactly what the gentleman from Maryland had in mind, although it does bear upon the subject of water.

I should like the gentleman from Maryland to reflect with me upon an episode that occurred in the very early days of my State. The Spanish Conquistadores were here under Francisco Coronado and others of their leaders looking for the fabled Seven Cities of Gold. I think they never existed, really. I think it must have been the adobe structures built by the Pueblo Indians gleaming in the sunlight that made them look like gold about which some wanderer had brought back tales to Spain.

They wandered across the prairies and the meadows and the barren desert looking for the Seven Cities of Gold. As was always the custom with the Spanish Conquistadores, they brought with them little donkeys to carry their packs, and always there was a chaplain, a clergyman, a priest. On this particular occasion they had trudged for days in the wearying, sweltering heat of the desert, and their scant water supplies had been exhausted.

□ 2200

They had not sighted water, and they wondered if their lives would soon be snuffed out by the lack of water. When the leader of the expedition called a halt and asked them to kneel there on the desert floor and called upon the chaplain who accompanied them to offer prayer for devine intervention, it is recorded that the chaplain prayed, and then they rose and followed a draft of seeming natural light until, mounting the crest of a little hill, they looked down and saw gleaming in the sunlight the waters of what was to become known as the Brazos River. And so they ran, slaking their thirst and the emptiness in their stomachs, quenching their thirst like animals, and when they finished drinking, they rose, and the leader of the expedition said, "We were saved by the Apostles of Faith—by the Arms of God."

And for many years the Brazos River would be named, in its twisting, turning path, the Rio Des Prospaderos. That was the way it was described on the map—the River of the Arms of God.

Water is surely the one commodity we cannot live without. It is more precious by far than oil or gold or uranium or any other resource. I am glad the gentleman recognizes the importance of water.

Mr. MICHEL. Mr. Speaker, now that we have been interrupted here in the construction or reconstruction of the program, could we recapitulate now the program on Tuesday, because that is going to be a very busy day?

Mr. WRIGHT. Oh, yes, Tuesday.

Mr. MICHEL. I forgot where we left off.

Mr. WRIGHT. Yes; I think we said that Tuesday would be July 22, and we spoke of the Youth Act of 1980, and then the Housing and Community Development Act. Now, there is going to be an open rule and 2 hours of general debate on the Housing and Community Development Act. That is a very fine piece of legislation that was set in motion for some activity that is badly needed in the field of housing construction. The rule, incidentally, has already been adopted on that.

Then there is an important piece of legislation emanating from our Special Committee on Intelligence. It is known as H.R. 7152, the intelligence authorizations. It will be considered under an open rule, with 1 hour of "generous" debate.

Now, after we have completed that hour of "generous" debate, it might be in order for someone to offer an amendment, since it is an open rule, but this basically is one of several bills that may come from the Intelligence Committee. This particular bill, however, merely provides financial authorizations for continuance of our intelligence community, those activities carried on by our

Federal Bureau of Investigation and, more probably, our CIA, the Central Intelligence Agency, or the Defense Intelligence Agency, agencies of one kind or another.

After we have been engaged in that, as I know the gentleman from Illinois would want us to do, we might take up the Foreign Service Act of 1980. That is known as H.R. 6790. That will come up under an open rule, with 2 hours of very general debate.

The DOE authorizations of defense programs introduce an interesting subject, they being embodied in a bill known as H.R. 7265, for which the Rules Committee has recommended a 1-hour open rule. In fact, the House has already adopted that rule.

DOE authorizations of defense programs are administered by the Department of Energy. That is one of the interesting things the Department of Energy does.

Once we have concluded that particular piece of legislation, the House might be expected to take up H.R. 7115, known as the National Science Foundation authorization for fiscal year 1981, and complete consideration of that piece of legislation.

Having done so, we might consider the Maritime Omnibus Act of 1980, otherwise known as H.R. 6899, but that will be subject to the granting of a rule.

Those generally might be among the things we would consider on Tuesday, July 22. I just wonder if the gentleman from Illinois might have any questions with respect to one or more of those bills?

Mr. MICHEL. Well, that really answers my questions as to the program for Tuesday, and I recognize that the majority leader has gone on to such an extent that he probably needs a little breather at this time. I might just recite a little poem of my own, since the gentleman has been so good about relating some of the fairy tales of his past.

Absolute knowledge have I none,
But my aunt's sister's washerwoman's son
Heard a policeman on his beat
Say to a laborer on the street
That he got a letter just lask week
Printed in the finest Greek
From a Chinese coolie from Timbuktu
Who heard the Cubans,
And the Cubans knew
Of a black man
From Texas town
Who got it straight from a circus clown
Who knew a swell society female fake
Whose mother-in-law will undertake
To prove in a print-of-peace
That she has a friend
Who has a friend
Who knows
How this session will end.

Now, if we really could predict with ultimate accuracy as to how this session would end tonight, I must confess that I have little doubt that as we began this exchange to divulge to our membership the extensive program that the majority leader has laid out for us for the week upon our return, we could have consumed up to this particular time in our exchange some 37 or 38 minutes.

Now, I have heard it said many times that the other body, minus the 5-minute rule to which we wed ourselves, is given to extensive exchanges at length over a period of time, but little did I realize that we in the House could say so much or talk so long and say so little.

I am really kind of waiting breathlessly for the program that the gentleman has scheduled for us for Wednesday. We have only come through Monday and Tuesday of that week.

Mr. WRIGHT. Well, moving right along——

Mr. MICHEL. Oh, yes, please do.

Mr. WRIGHT. The gentleman from Illinois undoubtedly will be interested in the knowledge which I have just heard, more or less in the same vein as the people he quoted, reciting possibilities of rumors and other stories, knowledge to the effect that Members of the other body to whom the gentleman just made reference have, indeed, completed their consideration on all save one item of the supplemental appropriations bill, they having considered en bloc all matters save amendment No. 95. It alone remains under debate. But they are now at this very moment, even as we speak, debating that particular issue.

Mr. MICHEL. Does the gentleman know who has the floor in the other body at the moment? That might give us some information as to how long a spirited discourse we might have.

Mr. WRIGHT. I am advised that Senator JAVITS has the floor.

Mr. MICHEL. Oh, he is given to extensive debate and good discussion on any variety of subjects.

Mr. WRIGHT. He is thorough and knowledgeable and well-informed, I am certain. But the gentleman's reference to the length of debate makes me mindful of the lengths of various other things—certain dogs, for example.

□ 2210

And I am reminded of a story about a little dachshund, and it goes like this: There was a dachshund once so long he had not any notion, how long it took to notify his tail of his emotion. And so it was that while his eyes were filled with woe and sadness, his little tail went wagging on because of previous gladness.

May that be an inspiring thought.

Mr. MICHEL. Oh, yes.

Mr. WRIGHT. We have discussed Tuesday.

Mr. MICHEL. Mr. Speaker, if I need to request additional time here, I am not sure whether or not I have run out of time, but I would like to ask unanimous consent to proceed for an additional minute.

The SPEAKER pro tempore. The gentleman has time remaining.

Mr. MICHEL. I have time remaining?

The SPEAKER pro tempore. Yes, the gentleman has time remaining.

Mr. MICHEL. I was hoping the Speaker would rule that my time had expired, because I was hoping that in making that request there would be the usual reservation of the right to object by the usual objectors on our side, be they official or unofficial, because they have been given also to extending the time of debate around here. We have not heard from the gentleman from California (Mr. ROUSSELOT).

Mr. WRIGHT. As a matter of fact, we have not.

Mr. MICHEL. All day long, as a matter of fact. He is usually one of those who asks those very incisive, inquiring questions of the majority leader when he is presenting the program, particularly, as you know, whether we are going to have rollcalls or whether some legislation is really important to the official function of this House or not, or all that necessary to move with such dispatch as we are moving here this evening.

I am sorry if I interrupted the gentleman.

Mr. WRIGHT. Oh, no, no, no.

Mr. MICHEL. The gentleman was proceeding with such dispatch here in the recitation of the program. Now I have really forgotten where he left off, but if he would kindly get back on track, we hopefully will complete the recitation of the program.

Mr. WRIGHT. Time does pass so fast when you are having such a good time.

I think that following Tuesday is Wednesday. And in this instance, in this particular instance under consideration at the moment, the Wednesday to which I refer will be Wednesday, the 23d day of July.

Now, on that day the House quite probably will meet at 10 a.m. It is necessary for us to meet rather early on that day because we have some important legislation to consider.

The first bill that we have under consideration scheduled for that day is H.R. 7583, the Treasury-Postal appropriations for fiscal year 1981.

I wish our colleague, TOM STEED, were here on the floor at the moment in order that he might hear our recital of our expectations of resuming consideration of that important piece of legislation in which he has such vital interest.

Mr. MICHEL. And with his announced retirement from the House, we are going to miss the presentation of the gentleman from Oklahoma of that bill on an annual basis.

I might say that I, too, regret that I will not be here, probably, on that occasion to hear the case that will be made by our side of the aisle by the gentleman from Ohio (Mr. MILLER), who combines with Mr. STEED in presenting that bill to us on an annual basis.

Mr. WRIGHT. Well, that is true, too. And we will miss TOM STEED.

I wonder if the gentleman has any knowledge as to whether Mr. MILLER will have any amendment that would reduce the appropriation by some fixed percentage. Well, it might be premature. I should not ask that at this time.

But there are agricultural appropriations that will be considered following our consideration of Treasury-Postal appropriations, and they would come to us under a bill known as H.R. 7591.

Mr. MICHEL. Now, that measure has been scheduled several times before. The gentleman from Indiana (Mr. MYERS) reminds me that that was the first appropriation bill we were to consider, and I am rather at a loss to know why it should have been put off from time to time. I am not altogether certain why that controversial piece of legislation, the agricultural bill, a very important part of the farming community of this country, as a matter of fact, for city folks, too, with food stamps and those benefits in that piece of legislation that affect all of America, I just cannot understand why it should be delayed until this time.

Does the gentleman have any insight as to why that is so?

Mr. WRIGHT. Yes, I do.

In scheduling the program for the Congress one must be constantly aware of the importance of maintaining a little suspense. I learned this from Agatha Christie. Always hold something back and keep people guessing a little bit. And that is what we are doing with this bill, quite frankly. We are maintaining a little suspense in the schedule, and we do expect and hope, however, to bring that bill on Wednesday, July 23.

And now moving right along, Thursday, July 24, after the House convenes at 10 a.m., we will see the consideration of the bill known as the legislative branch appropriations, fiscal year 1981, it being H.R. 7593.

As I think the Speaker advised the Members earlier, we do expect to be in session on Fridays from now on. Friday, July 25, will be no exception to that rule. In fact, the House on that particular day will meet at 10 a.m. Now, we would expect to be through by 3.

Mr. MICHEL. I know that the gentleman had made that announcement earlier, that we would be meeting for 5 days of the week, and I applauded that effort. But after hearing the extensive program that has been laid out for us for Monday and Tuesday and Wednesday and Thursday of that week, I am rather shocked that we should go to such lengths as to extend ourselves as to work the fifth day on that week on such an important bill as Interior appropriations, having spent all day Thursday, apparently, on the legislative branch appropriations, and I having some responsibility for that legislation myself, as well as the gentleman from Indiana (Mr. BENJAMIN). I had thought maybe it could be disposed of with dispatch of an hour's debate or so, at the tail end of one day, rather than consuming Members' time for the entire day on Thursday.

Is there any particular reason why we should have a whole day blocked out for that legislative appropriation bill?

Mr. WRIGHT. Well, as the gentleman knows, the Interior appropriations are quite important to a vast stretch of this country. That area that lies beyond the great tilt of the continent on the other side of the Mississippi River is quite sensitive to the appropriations that come in that bill every year. It opens up great vistas of opportunity, where once there had been bleak and barren desert. It makes the desert bloom. The waters that cascade up from the smitten rock water the earth and bring forth replenishment which one may see if one flies over the irrigated lands of our Western States in an aircraft, and if circular irrigation is being employed, one can see great circles of greenery lying underneath, surrounded by the toast brown colorlessness of the plain. And there, where water has been pulled forth from the earth and placed upon the surface, vegetation grows. And that vegetation provides food and fiber for millions of people every year. And in recognition of the importance of the Interior Department's appropriations, we thought it only fitting that they should be dignified by having a special day set aside for their consideration. And having so regarded them, we felt that there could not be a better day than Friday, July 25.

Now, it is altogether possible that one or more of the bills we have discussed here in this brief moment might fall by the wayside or be supplanted by some other legislation. But as far as we can tell at this particular time, those specific legislative items seem most likely to occupy our attention during that period ahead.

But thinking upon the gentleman's very wise and sage observation, how difficult it is, after 4 or 5 days of arduous labor to maintain suspense, drama, and verve that characterizes this House, I am mindful of something that Mary Martin once said. She was asked, while performing in the play "South Pacific," which was breaking all attendance records on Broadway at the time, how it was that, night after night, she could recite the same lines with all the enthusiasm she puts into it.

□ 2220

Mary Martin, a splendid person, replied, "It is easy." She said, "I just remember that while those lines are old to me, they are brand new to people out there in that audience. Some of those people who have paid their good money have never heard these lines before, and they are hearing them for the first time, and they are entitled to hear them as though they were being spoken for the first time."

May there be a moral in that.

Also, the gentleman's comment with respect to the length of the week and the labors that beset us in the period of the week make me mindful of another member of the animal kingdom, our having referred to the dachshund earlier, this particular one being a pelican. He, indeed, may have more in common with Members of Congress than the dachshund, because it is said of the pelican:

A wonderful bird is the pelican!
His beak holds more than his belican.
He can take in his beak
Enough food for a week,
But I'm darned if I know how the helican.

And that is said of the pelican.

Now, I know the gentleman from Illinois has some comments that he would care to make with respect to this scheduling before I ask unanimous consent that certain things be permitted.

Mr. MICHEL. Well, I thought since the gentleman related the program so expeditiously here——

Mr. WRIGHT. I did not mean to hurry the gentleman.

Mr. MICHEL. He might want to go ahead and tell us what we are going to be doing the next week. That may be an unfair question at this juncture but he has just electrified the Members of the House here with this colorful display of what we will be doing on our immediate return after our Republican Convention, as we made mention of several times, and if the gentleman would want to go on and tell us what we might have in prospect for that following week, we might just be able to prepare ourselves a little better for another 5-day vigorous work week before we adjourn again for what the majority leader likes to call that district work period.

Mr. KOSTMAYER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I would be happy to yield to my friend from Pennsylvania (Mr. KOSTMAYER), who has been listening very attentively and is obviously prompted to make some very moving remarks or observations at this juncture.

Mr. KOSTMAYER. I thank the gentleman for yielding.

I have been sitting back in my office listening to this and enjoying it, listening to every word of the majority leader and the minority whip. I am wondering whether it might be possible to ascertain whether the House will be called upon to cast a recorded vote when this matter comes back from the other body, whether the gentleman from Illinois might know or whether or not he or any Member on his side, most especially the gentleman from Maryland (Mr. BAUMAN), might desire to have a recorded vote, and perhaps our own majority leader might be able to indicate whether or not he or anyone on our side might demand a vote. It is not that I want to go home. It is not that I want to bring what we have been witnessing here in this sacred Chamber tonight to a halt, because I do not. Speaking only for the gentleman from Pennsylvania and certainly not for any other Member, I would be willing to remain here all night and listen to the gentleman from Illinois and the gentleman from Texas go on, because, as I said, when I first rose, I have enjoyed it. It has been for me one of the exciting moments since I first came to serve in the Congress, but I thought that there are others here who may not feel as I do, and for that reason I pose the question to the gentleman from Illinois and also to our own majority leader, the gentleman from Texas.

Mr. MICHEL. Well, if I might respond, the gentleman from Illinois has no special information from any of our Members as to whether or not a rollcall vote would be forced tonight on our ultimate resolution, hopefully, that supplemental appropriations bill.

It is my understanding by comment from the majority leader that there was ensuing an extensive discussion, particularly on the Export-Import Bank matter, which we failed to fund over here in the House and which the gentleman from Illinois was very supportive of, and subscribed to those arguments that were made at a time when we do have increasing unemployment and decline of work here in our own country that we ought to be doing everything we possibly can for those industries here domestically that are producing for export and could keep many people working here at home.

I regret very much the fact that we may be foreclosed through the legislative process here at least at this particular point of funding that Export-Import Bank the way I personally feel it ought to be funded. But those are the fortunes and vicissitudes of this job, I guess, from time to time.

I might make mention to my friend from Pennsylvania that I am not all that anxious to stick around here for any extended period of time. The gentleman may know that we served as conferees on the supplemental appropriations bill last night and were involved with our counterparts in the other body until 2:30, nearly 3 o'clock this morning, trying to hammer out a compromise and agreement that hopefully would not have kept Members here this long today and certainly not into next week, as I said earlier, all of us have made plans a long time ago to either return to our districts or to go to the place of our choice.

I would be happy to yield at this juncture to the majority leader if he has any new information as to what we might expect from the other body and how much longer we might have to continue relating this very colorful story of the program that we have been discussing.

Mr. WRIGHT. If the distinguished minority leader would yield, I know of no desire on the part of anyone to require a rollcall vote. If the other body should agree, as I think most of us hope that it will, to those conditions insisted upon by the House, then there would be no occasion for the House to take any further action on the supplemental appropriation bill. The only thing that would become an occasion for any rollcall vote would be the adjournment resolution. It would not be the purpose of the majority leadership to require a rollcall vote in order for us to recess for the Fourth of July period.

If there be any present in the Chamber who would expect to demand a rollcall vote, a recorded vote of any sort on the motion to agree to the resolution for the recess, I should think that party might speak now or forever hold his or her peace.

Mr. MICHEL. Might I inquire, are we expecting the adjournment resolution to come from the other body, or will that be initiated in this body?

Mr. WRIGHT. The adjournment resolution comes from the other body this time.

If the gentleman would permit me in the midst of his exciting dissertation to intrude long enough to make a unanimous-consent request, I would appreciate it.

AUTHORIZING THE SPEAKER TO ACCEPT RESIGNATIONS, AND TO APPOINT COMMISSIONS, BOARDS, AND COMMITTEES, NOTWITHSTANDING ADJOURNMENT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Monday, July 21, 1980, the Speaker be authorized to accept resignations, and to appoint commissions, boards, and committees authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 2230

Mr. WRIGHT. Mr. Speaker, will the gentleman yield further?

Mr. MICHEL. I am happy to yield.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, JULY 23, 1980

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule on Wednesday, July 23, 1980, incidentally one of those days we were just discussing, be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING CLERK TO RECEIVE MESSAGES FROM THE SENATE AND THE SPEAKER TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS DULY PASSED, NOTWITHSTANDING ADJOURNMENT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Monday, July 21, 1980, the Clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MICHEL. Mr. Speaker, I ask unanimous consent to proceed for an additional minute, if there is anybody in the Chamber who would like to reserve the right to object. In the absence of any such Member, I think maybe we might make the point, I might say to the gentleman from Texas, that while it is not unprecedented that we engage in this kind of extended delay, particularly in view of the fact that I do not recall it having taken place since we have been televising the proceedings in the House, and I am appropriately admonished by our watchdog of this body, the gentleman from Maryland, to be very cautious in making that kind of an observation; but only to the extent that for educational purposes, that rather than the wrong reflection of the deliberations of this body being projected to the American public, that it be clearly understood that under normal circumstances these kind of as I would characterize them rather dilatory, delaying tactics, take place only in the other body, given and noted for that tactic, for here we operate under very tight rules, many Members being given no more than 5 minutes time to make their case. I think it makes for a much more smoother institution from time to time; but then here we are on this particular occasion when we are awaiting imminently a very important piece of legislation to wrap up the proceedings here, having to at least let us say kill a little time to wait on the other body to extensively debate that issue which we have been considering all day here.

I just thought it might be appropriate to explain that as weakly as the gentleman from Illinois has done that, to those who might be paying particular attention.

Mr. HANSEN. Mr. Speaker, will the gentleman from Illinois yield?

Mr. MICHEL. I am happy to yield to my friend, the gentleman from Idaho.

Mr. HANSEN. Mr. Speaker, while we are killing the time, I thought it might be an interesting venture to ask the gentleman from Texas, the distinguished majority leader, what basically there is on the agenda before we wrap Congress up this year. What are some of the big items that we still have to consider and about what time frame we are talking about, if the gentleman has that at his immediate command.

Mr. WRIGHT. Well, I think, of course, the things that command our immediate attention are the appropriation bills. We ought to be at some speed to complete those appropriation bills.

Mr. MICHEL. Mr. Speaker, if I might interject and make the gratuitous observation that I would certainly subscribe to that point of view, that we are going to be limited for time. We have been delayed in consideration of appropriation bills, and coming up to that period as I can foresee it down the road here, where we have to come to grips with that thing called reconciliation on that second budget resolution time, that the sooner we can get our House in order on the money bills, I would certainly like to feel that the majority would consider the appropriation bills as the No. 1 priority before any other piece of legislation. The gentleman may wish to respond to that.

Mr. WRIGHT. I think the only thing that we absolutely have to perform will be the appropriation bills and the budget resolution and the reconciliation process, which we would hope to make applicable to all spending subsequent to the adoption of the second budget resolution.

Mr. HANSEN. Mr. Speaker, will the gentleman from Illinois yield further?

Mr. MICHEL. Yes.

Mr. HANSEN. Mr. Speaker, if I might inquire further of the distinguished majority leader, we have that brief time at the end of July in which we are to meet after the July recess and then we have an extended August recess and then we move into the September legislative period. As I understand it, we are supposed to adjourn in early October for the balance of the year, because of the fact that we should have our work done, but also because this is a heavy election year and there needs to be time for the candidates to present themselves to the public.

Is there anything that the distinguished majority leader can see in the future that would cause those plans to change, that would force us to move into October to any extended degree before we are able to adjourn?

Mr. WRIGHT. No. I do not think so. In fact, it is our firm intention that we shall adjourn on October 4, if not sooner, and that if we are not able to complete our business before October 4, we will recess and come back after the election, but we will recess on October 4 and return in November after the elections have been held.

Mr. HANSEN. If I might inquire further, I think that would prompt us to do our work before, lest we be labeled lame ducks; is that an appropriate term?

Mr. WRIGHT. Well, I surely hope so. We will do the best we can. Everybody needs to realize that we have only some 30 days, maybe 40, 41 or 42 at the most, legislative days between now and then, so we are going to have to utilize this time beginning with July 21.

Mr. MICHEL. Might I inquire, is the gentleman saying that if he were a betting man that the House would definitely be back in session after the election, no matter what, that the chances for a sine die adjournment on October 4 are not as good as simply recessing for the elections and coming back after the elections?

Mr. WRIGHT. Well, the chances are far from certain, but I would not want to abandon them yet. I am not going to forsake hope that we can finish our work by October 4. Let us let that be our first priority. If we can make that date, let us make it. If we cannot, we will go back and attend to the business of the elections and then return, but I hope we can finish by then.

Mr. MICHEL. Well, I thank the gentleman for his response and I thank the indulgence of the chair for extending the minute of the gentleman from Illinois as liberally as he has.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield, if I still have the floor. I am happy to yield to my friend, the gentleman from Indiana.

Mr. MYERS of Indiana. Well, having served on the minority for the past 14 years without having the opportunity to make decisions as far as the scheduling, if the same type of deliberation is going into the programing as has gone into this exercise this evening, I can well see why we are going to be here after December probably; but what really concerns me is the fact that we have only passed 2 appropriation bills so far this year of the 13 required. At this point we have only passed two. Now, this next week we have six scheduled. I think a person who is familiar with our programing here and the success we have in getting things passed, out of those six we cannot pass all of them next week in that limited period of time. That means we have 1 week following before we recess for the Democratic National Convention and the August home district work period and then we are going into September here with not all the appropriation bills passed. As has just been expressed here, there are only a limited number of days left. I do not see how we are going to be able to complete all the appropriation bills, get them over to the other body for their consideration, get them back to conference. We have just witnessed that we are still languishing tonight because the conferees were unable to do the job between the other body and now the other body is having a conference report long into the night. I do not see how we can get out by the 2d or early October, because we are not going to be able to complete even our appropriation bills, which as the majority leader said, are the constitutional responsibility of this body; but again going back to this exercise tonight, while we all recognize the purpose of it, if this is the type of deliberation that goes into programing, we are going to be here until December trying to complete our work.

I guess the majority leader has taken off, maybe, to pick up the papers so we can adjourn this body for the Fourth of July recess. I hope that is the reason for his departure from the body, that he might go over and pick up the pâpers from the other body.

Mr. MICHEL. Well, the points the gentleman makes are well taken. I would hope, however, that we would not intentionally discourage Members from engaging in dilatory tactics on the consideration of those money bills, because they are of paramount importance and the sooner we get done with them, we can go to conference with the other body and resolve our differences and really come to that original schedule to which we had hoped to subscribe in the second budget resolution.

□ 1440

Mr. MYERS of Indiana. If the gentleman will continue to yield, we have 27 bills now on this program for the week of July 21. We have not passed 27 bills in the last month. Three weeks ago we passed 6 out of a scheduled 21. Two weeks ago we passed 8 out of a scheduled 22. This past week we are just finishing, hopefully, sometime later this evening or the wee hours of tomorrow where we have passed 8 out of a programed 17.

Now we have 27, 13 of them that we spent a half hour or 45 minutes discussing, such important things as the Fish Development Act. I do not know what that means. I guess they are going to try to develop the snail darter into a larger fish of significance in this country or something like this. These are not really bills that really the future of our country depends upon.

Some of them are very important.

Mr. MICHEL. I might point out to the gentleman, as we get near the end of the session, it is traditional that we have extensive lists of bills on the suspension calendar, and 13, while an extensive list, is not all that unprecedented. As the gentleman knows, given 20 minutes of debate on each side, and under the clustering rule for voting, that number of bills can be disposed of within 1 day's period of time.

Mr. MYERS of Indiana. I am hoping next year when the leadership changes in this body that this time of year we will be only interested in appropriation bills and those things that are absolutely necessary, and that we will let these fall in wherever there is an opportunity. But we will program the necessary work of this country, and that is the appropriation bills to keep our Government functioning, to keep the agencies performing, and these bills are not important. We ought to at this time only be concerning ourselves with the necessary appropriation bills and not bring up all of these other things. A number of them are not strangers to the program, as the gentleman identified in his colloquy. Some have been on here an extensive length of time, several of them have been on for the last 3 weeks.

Mr. MICHEL. The gentleman makes a very telling point.

Mr. MYERS of Indiana. Why do we not program, and why do they, why do they program this way?

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the distinguished majority leader who has now returned to the floor.

Mr. WRIGHT. The gentleman from Indiana made reference to the 27 bills that we have scheduled for the week of our returning, Monday through Friday. I just would like to assure the gentleman if we finish those bills on Wednesday we may have Thursday and Friday off.

Mr. MYERS of Indiana. If we do that then we should not be here, but we should be in other businesses.

□ 1010

SENIOR CITIZEN COMMUNITY FORUM

(Mr. LOWRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LOWRY. Mr. Speaker, on April 11 nearly 200 senior citizens gathered at the Carpenters Hall in Renton, Wash., to address major policy issues of concern to them. This was one of the first community forums held in the Nation to develop recommendations that will be forwarded to the White House Conference on Aging early next year.

Each participant worked on issue areas that included economic security, health security, housing, energy, and social services. Policy recommendations were developed on each one of these subjects. The policies were debated, prioritized, and voted on by those who attended the forum.

Mr. Speaker, I would like to express my appreciation for the hard work and concerned interest that was shown by each person who attended the senior citizen community forum. I am also pleased to submit for the Record the list of very constructive recommendations adopted by the forum.

White House Conference on Aging Report on Policy Recommendations

SEVENTH DISTRICT COMMUNITY FORUM APRIL 11, 1980, CONGRESSMAN MIKE LOWRY, SPONSOR

HEALTH SECURITY

"Health care is a basic human right and should be available to all people, recognizing the constraints of limited resources."

1. Health care for older adults should be provided as part of a continuum of services for everyone, recognizing special services needed by some people.

2. The cost of health care should be covered, in the first place, for prevention and for all services, including maintenance and catastrophic care, as well as nursing home services.

3. National health legislation should be enacted.

4. Cost, standards of care, and range of services should be determined by a partnership of consumers, providers, regulators and insurers, all of whom should also manage health care delivery.

5. Immediate steps needed include:

payment for prescription drugs under Medicare

requirement that companies selling Medigap insurance be required to return a portion of premiums in services

control of physician fees

reimbursement increase for qualified professional services

6. Health care should be paid for by the same method as used for the members of Congress (i.e., Federal government pays the entire cost for coverage.)

ENERGY

1. Energy Supply: To deal with national energy supply, we need a mixed strategy which includes government regulation and control of resources and allocations (including oil imports), innovative research and development of all energy sources except nuclear (solar, heat pumps, house design, windmills), and pollution standards. We must not rely on information and directions from oil companies.

2. Conservation: To deal with conservation in transportation, the government should set policies such as promoting mass transit and car-pooling. Increasing gas taxes should not be used as a conservation method.

3. Heating and Electric Conservation: The government should require that all buildings be safely insulated, encourage more efficient heating methods and provide incentives for more self-help approaches (Block Grant community associations and barter banks).

4. Energy/Transportation Costs: All low-income persons, regardless of age, should be assisted with energy costs in line with the cost of living.

5. We should nationalize all energy resources, including coal, oil, etc.

ECONOMIC SECURITY

1. All members of the older population have an equal right to economic security.

2. Department of Labor statistics reflecting the American standard of living should be made the basis for a guaranteed minimum income for senior citizens which would be adequate to meet basic human needs as well as social and recreational needs.

3. The immediate financial problems in the social security system should be solved by using general revenue.

4. Any taxation of social security income or any decrease in benefits should be opposed.

5. A new model for social security should be developed which would provide greater equality in pensions, particularly for homemakers and other women, which would be financed by general revenues in addition to the payroll tax.

6. Taxes to support retirement benefits should be based on the ability to pay, and the "fat" should be trimmed from the bureaucracy and the military.

7. There should be federal legislation to assure early vesting and portability of private pensions.

8. Price and rent control should be implemented as soon as possible.

9. Old people have a right to affirmative action in employment, especially in programs serving older people.

HOUSING

1. The elderly have a right to adequate housing which does not cost more than 25 percent of their income.

2. The government is responsible for assuring availability of adequate housing through: tax incentives, subsidized interest rates, land use regulations, public construction, and more housing rehabilitation and repair funds.

3. Corporations and institutions should be held socially responsible for their impact on the community's housing needs. EX: "social impact statement" during business expansion and retrenchment.

4. Local governments should emphasize neighborhood preservation; control speculation; prevent displacement; require replacement housing for units destroyed by development; prevent rent "gouging"; reduce property tax burden for homeowners and renters; encourage homesharing and a range of housing options including multi-age neighborhoods.

SOCIAL SERVICES

1. Each elderly person should be assured the following services:

Transportation: city, suburban and rural

A blending of in-home services to the housebound

Advocacy, to assure that a person's rights to benefits and services are maintained.

2. (Note: the following three recommendations tied for second ranking.)

A. Services should be provided under neighborhood control.

B. Service provision should be based on individual need for service.

C. Services should be free to those below a certain income level, and provided on a sliding fee scale to those above that level.

5. There should be a focal point, preferably senior centers, in each community for the dissemination of information about senior services.

6. The government needs to be involved in the provision and administration of social services.

7. There should be increased funding for nutrition programs.

8. Equal geographic availability of nutrition services and senior centers must be ensured.

CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

(Mr. TAUZIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TAUZIN. Mr. Speaker, there is an adage to the effect that everyone complains about the weather but no one does anything about it.

I come before you today to offer legislation that will not do anything about the weather in general, but will enable the Congress to exercise some control of the regulatory climate that is threatening to smother our land. This bill offers a simple and direct means by which we, the elected Representatives of this Nation, can assure that the intent and scope of legislation we enact, is not misconstrued by regulatory personnel employed to implement our decisions.

For too long now, we have complained that the unelected rulemaking bureaucracy has taken over the helm of Government. But it is we who have surrendered authority to that bureaucracy and it is we who must now act to restore congressional oversight and authority. To do less is a shirking of our responsibility. The proposal I make today provides a procedure for review of Federal regulations.

At the very heart of my proposal is a recognition of the constitutional role of Congress to declare what shall be the law of the land. This proposal would require that Federal agencies submit proposed rules to both the House and the Senate once those rules have completed the existing requirements in our law.

Once submitted to Congress, these proposed rules would then be referred to committees with subject matter jurisdiction or oversight responsibility. A committee may, if it chooses, then review the proposed rule and, if it disagrees with it, it may adopt a resolution of disapproval.

At that time, either the House or the Senate may override its committees, or it may formally or informally adopt the resolution of the committee. Disapproval by either the House or the Senate is sufficient to bar a rule from becoming law.

There will be those who will tell you that my proposal has the potential to throw Congress into the middle of many complex, highly technical issues. In a sense, that is correct. The potential does exist, but I hasten to point out that there is nothing in my proposal which mandates an action by Congress, or by the committee to which the proposed regulation or rule is assigned. If the committee or the Congress choose to do nothing with a rule or regulation, it will become law just as it does under existing provisions of law.

However, if Congress or the committee is of the opinion that a proposed regulation, albeit complex and highly technical, exceeds the authority delegated by Congress, then Congress may intervene. The choice belongs to the Congress, and I submit, that in such cases Congress must have the right to act—for it has a duty to act.

There will be other voices which shall rise to warn you that my proposal will slow down the rulemaking process. With a smile in my heart, I must agree that the potential is indeed there and Congress may just want to do the American economy a great favor by doing just that.

The concept of congressional review is not new. Increasingly this Congress has included in major regulatory legislation provisions for a congressional veto. While such an approach may be adequate for the individual legislation in which it is included. It does not satisfy the need for congressional review of the hundreds of existing authorities under which regulations may be promulgated by literally dozens of regulatory agencies.

Today Federal regulation pervades every aspect of our lives. Surely, some regulation is necessary. But this Congress should have a voice to say how much is enough.

Everyday now, the newspapers carry stories about our industries shutting down plants, laying off people or going broke. At the same time the Federal bureaucracy continues to grow, more and more novice regulators are being hired, and more areas are becoming subject to intense Federal regulation to the end that today, for example, over 40,000 regulations affect a single hamburger—well, that is more than I can swallow, and it is more than the American people should have to swallow.

Our present regulatory system is costing us too much and is giving us too little good in return. It is in many cases stiffling our best and most productive instincts. This Congress can do something about it, if it chooses to do so. Congressional review of agency rulemaking is a start, and, just as my proposed legislation envisions, the choice to do something belongs to the Congress.

□ 1050

SUPREME COURT DECISION—10 PERCENT SET-ASIDE OF PUBLIC WORKS PROGRAM FOR MINORITY BUSINESSES IS CONSTITUTIONAL

(Mr. MITCHELL of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous material.)

Mr. MITCHELL of Maryland. Mr. Speaker, I would like to have the attention of my colleagues for one moment, if I may. When we considered the local public works program, I offered an amendment which set aside 10 percent of the local public works program for minority businesses.

That was challenged in the Supreme Court of the United States in a case that was initially Fullilove against Kreps. The case is now Fullilove against Klutznick, Secretary of Commerce et al. The Supreme Court handed its decision down this morning. The Court has held in a 6-to-3 majority opinion that the 10-percent set-aside is clearly constitutional and is a remedy for the Congress of the United States to exert. I will have this printed in the official Record.

[Supreme Court of the United States]

Syllabus

FULLILOVE ET AL. *v.* KLUTZNICK, SECRETARY OF COMMERCE, ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

(No. 78–1007. Argued November 27, 1979—Decided July 2, 1980)

The "minority business enterprise" (MBE) provision of the Public Works Employment Act of 1977 (1977 Act) requires that, absent an administrative waiver, at least 10% of federal funds granted for local public works projects must be used by the state or local grantee to procure services or supplies from businesses owned by minority group members, defined as United States citizens "who are Negroes, Spanish-speaking, Orientals, Indians, Eskimos, and Aleuts." Under implementing regulations and guidelines, grantees and their private prime contractors are required, to the extent feasible, in fullfilling the 10% MBE requirement, to seek out all available, qualified, bona fide MBE's, to provide technical assistance as needed, to lower or waive bonding requirements where feasible, to solicit the aid of the Office of Minority Business Enterprise, the Small Business Administration, or other sources for assisting MBE's in obtaining required working capital, and to give guidance through the intricacies of the bidding process. The administrative program, which recognizes that contracts will be awarded to bona fide MBE's even though they are not the lowest bidders if their bids reflect merely attempts to cover costs inflated by the present effects of prior disadvantage and discrimination, provides for handling grantee applications for administrative waiver of the 10% MBE requirement on a case-by-case basis if infeasibility is demonstrated by a showing that, despite affirmative efforts, such level of participation cannot be achieved without departing from the program's objectives. The program also provides an administrative mechanism to ensure that only bona fide MBE's are encompassed by the program, and to prevent unjust participation by minority firms whose access to public contracting opportunities is not impaired by the effects of prior discrimination.

Petitioners, several associations of construction contractors and subcontractors and a firm engaged in heating, ventilation, and air conditioning work, filed suit for declaratory and injunctive relief in Federal District Court, alleging that they had sustained economic injury due to enforcement of the MBE requirement and that the MBE provision on its face violated, *inter alia*, the Equal Protection Clause of the Fourteenth Amendment and the equal protection component of the Due Process Clause of the Fifth Amendment. The District Court upheld the validity of the MBE program, and the Court of Appeals affirmed.

Held: The judgment is affirmed. Pp. 4–39 (opinion of BURGER, C. J.); 1–7 (opinion of MARSHALL, J.). 584 F. 2d 600, affirmed.

MR. CHIEF JUSTICE BURGER, joined by MR. JUSTICE WHITE and MR. JUSTICE POWELL, concluded that the MBE provision of the 1977 Act, on its face, does not violate the Constitution. Pp. 4–40.

(1) Viewed against the legislative and administrative background of the 1977 Act, the legislative objectives of the MBE provision, and the administrative program thereunder, were to ensure—without mandating the allocation of federal funds according to inflexible percentages solely based on race or ethnicity—that, to the extent federal funds were granted under the 1977 Act, grantees who elected to participate would not employ procurement practices that Congress had decided might result in perpetuation of the effects of prior discrimination which had impaired or foreclosed access by minority businesses to public contracting opportunities. Pp. 4–20.

(2) In considering the constitutionality of the MBE provision, it first must be determined whether the objectives of the legislation are within Congress' power. Pp. 20–28.

(a) The 1977 Act, as primarily an exercise of Congress' spending power under Art. I, § 8, cl. 1, "to provide for the . . . general Welfare," conditions receipt of federal moneys upon the recipent's compliance with federal statutory and administrative directives. Since the reach of the spending power is at least as broad as Congress' regulatory powers, if Congress, pursuant to its regulatory powers, could have achieved the objectives of the MBE program, then it may do so under the spending power. Pp. 22–23.

(b) Insofar as the MBE program pertains to the actions of private prime contractors, including those not responsible for any violation of antidiscrimination laws. Congress could have achieved its objectives under the Commerce Clause. The legislative history shows that there was a rational basis for Congress to conclude that the subcontracting practices of prime contractors could perpetuate the prevailing impaired access by minority businesses to public contracting opportunities, and that this inequity has an effect on interstate commerce. Pp. 23–24.

(c) Insofar as the MBE program pertains to the actions of state and local grantees, Congress could have achieved its objectives by use of its power under § 5 of the Fourteenth Amendment "to enforce by appropriate legislation" the equal protection guarantee of that Amendment. Congress had abundant historical basis from which it could conclude that traditional procurement practices, when applied to minority businesses, could perpetuate the effects to prior discrimination, and that the prospective elimination of such barriers to minority-firm access to public contracting opportunities was appropriate to ensure that those businesses were not denied equal opportunity to participate in federal grants to state and local governments, which is one aspect of the equal protection of the laws. Cf., *e. g., Katzenbach* v. *Morgan*, 384 U. S. 641; *Oregon* v. *Mitchell*, 400 U. S. 112. Pp. 24–27.

(d) Thus, the *objectives* of the MBE provisions are within the scope of Congress' spending power Cf. *Lau* v. *Nichols*, 414 U.S. 563. Pp. 27–28.

(3) Congress' use here on racial and ethnic criteria as a condition attached to a federal grant is a valid *means* to accomplish its constitutional objectives, and the MBE provision on its face does not violate the equal protection component of the Due Process Clause of the Fifth Amendment. Pp. 28–40.

(a) In the MBE program's remedial context, there is no requirement that Congress act in a wholly "color-blind" fashion. Cf., *e. g.,, Swann* v. *Charlotte-Mecklenberg Board of Education*, 402 U. S. 1; *McDaniel* v. *Barresi*, 402 U. S. 39; *North Carolina Board of Education* v. *Swann*, 402 U. S. 43. Pp. 30–32.

(b) The MBE program is not constitutionally defective because it may disappoint the expectations of access to a portion of government contracting opportunities of nonminority firms who may themselves be innocent of any prior discriminatory actions. When effectuating a limited and properly tailored remedy to cure the effects of prior discrimination, such "a sharing of the burden" by innocent parties is not impermissible. *Frank* v. *Bowman Transportation Co.*, 424 U.S. 747, 777, Pp. 32–33.

(c) Nor is the MBE program invalid as being underinclusive in that it limits its benefit to specified minority groups rather than extending its remedial objectives to all businesses whose access to government contracting is impaired by the effects of disadvantage or discrimination. Congress has not sought to give select minority groups a preferred standing in the construction industry, but has embarked on a remedial program to place them on a more equitable footing with respect to public contracting opportunities, and there has been now showing that Congress inadvertently effected an invidious discrimination by excluding from coverage an identifiable minority group that has been the victim of a degree of disadvantage and discrimination equal to or greater than that suffered by the groups encompassed by the MBE program. Pp. 33–34.

(d) The contention that the MBE program, on its face, is overinclusive in that it bestows a benefit on businesses identified by racial or ethnic criteria which cannot be justified on the basis of competitive criteria or as a remedy for the present effects of identified prior discrimination, is also without merit. The MBE provision, with due account for its administrative program, provide a reasonable assurance that application of racial or ethnic criteria will be narrowly limited to accomplishing Congress' remedial objectives and that misapplications of the program will be promptly and adequately remedied administratively. In particular, the administrative program provides waiver and exemption procedures to identify and eliminate from participation MBE's who are not "bona fide," or who attempt to exploit the remedial aspects of the program by charging an unreasonable price not attributable to the present effects of past discrimination. Moreover, grantees may obtain a waiver if they demonstrate that their best efforts will not achieve or have not achieved the 10% target for minority firm participation within the limitations of the program's remedial objectives. The MBE provision may be viewed as a pilot project, appropriately limited in extent and duration and subject to reassessment and re-evaluation by the Congress prior to any extension or re-enactment. Pp. 34–38.

(4) In the continuing effort to achieve the goal of equality of economic opportunity, Congress has latitude to try new techniques such as the limited use of racial and ethnic criteria to accomplish remedial objectives, especially in programs where voluntary cooperation is induced by placing conditions on federal expenditures. When a program narrowly tailored by Congress to achieve its objectives comes under judicial review, it should be upheld if the courts are satisfied that the legislative objectives and projected administration of the program give reasonable assurance that the program will function within constitutional limitations. Pp. 38–40.

MR. JUSTICE MARSHALL, joined by MR. JUSTICE BRENNAN and MR. JUSTICE BLACKMUN, concurring in the judgment, concluded that the proper inquiry for determining the constitutionality of racial classifications that provide benefits to minorities for the purpose of remedying the present effects of past racial discrimination is whether the classifications serve important governmental objectives and are substantially related to achievement of those objectives, *University of California Regents* v. *Bakke*, 438 U.S. 265, 359 (opinion of BRENNAN, WHITE, MARSHALL, and BLACKMUN, JJ., concurring in judgment in part and dissenting in part), and that, judged under this standard, the 10% minority set-aside provision of the 1977 Act is plainly constitutional, the racial classifications being substantially related to the achievement of the important and congressionally articulated goal of remedying the present effects of past racial discrimination. Pp. 1–6.

BURGER, C. J., announced the judgment of the Court and delivered an opinion, in which WHITE and POWELL, JJ., joined. POWELL, J., filed a concurring opinion. MARSHALL, J., filed an opinion concurring in the judgment, in which BRENNAN and BLACKMUN, JJ., joined. STEWART, J., filed a dissenting opinion, in which REHNQUIST, J., joined. STEVENS, J., filed a dissenting opinion.

Mr. SIMON. Mr. Speaker, will the gentleman yield?

Mr. MITCHELL of Maryland. I will be delighted to yield to the gentleman from Illinois.

Mr. SIMON. I thank the gentleman for yielding. I simply want to commend our colleague. I do not know if everyone was listening carefully, but it is a great victory not only for our colleague but for the people of America. I commend the gentleman.

Mr. MITCHELL of Maryland. I thank the gentleman very much.

FUNERAL WEDNESDAY FOR DR. ANDREW YOUNG, SR.

(Mrs. BOGGS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOGGS. Mr. Speaker, today funeral services were held in New Orleans for one of the city's beloved and illustrious sons, Dr. Andrew Jackson Young, Sr.

Dr. Young, the father of our former colleague and Ambassador to the United Nations Andrew J. Young, Jr., and of Dr. Walter F. Young of Atlanta, Ga., was respected in his profession, admired for his civic, fraternal and business leadership and affectionately regarded by a multitude of friends. He was joined by his accomplished wife, Mrs. Daisy Fuller Young, in his cultural, religious, and philanthropic achievements.

The comprehensive nature of Dr. Young's long and distinguished career has been recorded in the following article from the New Orleans Times-Picayune/States-Item:

FUNERAL WEDNESDAY FOR DR. ANDREW YOUNG, SR.

Dr. Andrew Jackson Young Sr., father of the former U.S. Ambassador to the United Nations, died Sunday at Flint-Goodridge Hospital of Dillard University. He was 84.

Funeral services will be conducted at 11 a.m. Wednesday at the Central Congregational United Church of Christ, 2401 Bienville St. Interment will be in St. Louis Cemetery No. 3. The Gertrude Geddes Willis Funeral Home is in charge of arrangements.

Dr. David E. Chambers, pastor, will officiate at the ceremonies. Assisting will be Dr. Nicholas Hood, a former pastor and now pastor of Plymouth Congregational United Church of Christ of Detroit, Mich., and former U.N. Ambassador Andrew J. Young, Jr., an ordained minister in the United Church of Christ.

A native of Franklin, La., Dr. Young practiced dentistry in New Orleans for 57 years. He was an alumnus of Straight College, now Dillard University, and the Howard University Dental School in Washington, D.C., where he earned his D.D.S. degree.

During the late thirties and early forties, Dr. Young was retained by the Louisiana State Hospital Board in charge of a mobile dental clinic to serve schoolchildren and welfare clients across the state.

He was active in civic, business, religious, fraternal and business organizations. He was a founder and vice-president of the Keystone Investment Corporation; a board member of the Dryades Street Young Men's Christian Association, and a member of the Urban League of Greater New Orleans, the Pelican State Dental Association and the New Orleans Dental Association. He was a member of the board of trustees and a deacon-emeritus of Central Congregational Church where he sang in the Senior Choir. He was an original member of the Osceola Five Ensemble.

He was a member of Alpha Phi Alpha Fraternity Inc., National Dental Asosciation, National Insurance Association, New Orleans Insurance Executive Council, Century Club, Sigma Pi Phi Fraternity and the Dillard University Alumni Association.

He received numerous awards for his services to the community and his profession. Among his awards were the Order of the Red Triangle of Dryades Y.M.C.A., that organization's highest award to a volunteer worker; 50-year awards by the National Dental Association, the Pelican State Dental Association; 40-year service award, B-Sharp Music Club; "Father of the Year" from the Central United Church of Christ; and awards from Alpha Alpha Boule, Sigma Pi Phi Fraternity for "contribution to the field of dentistry more than 50 years."

In addition to his son, former Ambassador Young, Dr. Young is survived by his wife, Mrs. Daisy Fuller Young; a son, Dr. Walter Young of Atlanta, Ga.; three sisters, Mrs. Beatrice Lorena Y. Pryce of Lake Charles, La., Mrs. Bessie Y. Young Melton of Beaumont, Texas, and Mrs. Alma Young of New Orleans and eight grandchildren.

Active pallbearers are Joseph Beslin, Thomas C. Dent, Dr. Ernest Cherrie Jr., Edward Craig Moore, Marcus Neustadter Jr., Charles Y. Pryce, Ulric Y. Pryce and Commodore Wilson.

Honorary pallbearers are Dr. Samuel DuBois Cook, Dr. Albert W. Dent, Dr. Ernest Cherrie Sr., Dr. Wellington Arnaud, Dr. Joseph Epps, Dr. Jesse Hill, Dr. L. L. Melton, Dr. Martin Luther King Sr., Edward Rose, Dr. W. A. Gibbs, Emile Richardson, Dr. A. E. McDonald, Douglas Evans, Dr. Coretta Scott King, U.S. Rep. Lindy Boggs, Mayor Ernest N. Morial, Judge Robert Collins, the Rev. Fred C. Bennett, Dr. William R. Adams, Dr. Alvin Smith Jr., Dr. George Thomas, Dr. Douglas Hook, Samuel Graves, Thomas A. Bolden, Nick Melton, Dr. Guy Gipson, J. W. Merrick, Osceola A. Blanchet, John Bennett, Willard L. Dumas Sr., Lafayette Jones, James Edwards, Dr. David Hall, Dr. A. C. Terrence, Dr. T. M. Johnson and LaVergne Randolph Jr.

In place of flowers, the family requests contribuions be given to Central Congregational United Church of Christ or the Scholarship Fund of Dillard University.

□ 2120

Mr. Speaker, we mourn the passing of this great man and we are grateful for his many contributions to our society.

NATIONAL WORK CARD PLAN

(Mr. KOSTMAYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOSTMAYER. Mr. Speaker, before I begin, I just want to comment on what the gentleman from Maryland said. I share his concern about what is happening in Nicaragua, but I am concerned that, while Mr. Somoza was in charge there, we heard not a peep from the gentleman from Maryland or others from his side. I wonder about that inconsistency.

Mr. Speaker, I rise this morning to take strong exception to a recommendation by Attorney General Benjamin R. Civiletti that all Americans carry a national work authorization card.

Mr. Civiletti, a member of the Select Commission on Immigration and Refugee Policy, which is considering a national work card plan, spoke last week before the League of United Latin American Citizens here in Washington and endorsed the concept of requiring all persons in our country to present a "work card" as a requirement for employment.

Mr. Speaker, I believe any such plan involving a national work card or identity card sets a dangerous precedent contrary to the principles of individual liberties which our country has so long honored and guaranteed.

While I recognize the difficult agenda before the Select Commission on Immigration and Refugee Policy in recommending solutions to the steadily worsening illegal alien problem in our country, I reject the notion that registration of all working Americans is a necessary or acceptable answer. I would note that the Privacy Protection Study Commission in its final recommendations strongly opposed the Federal Government taking any action that would foster the development of a standard, universal identifier for individuals or a central population register. The Privacy Commission recognized that the use of standard documents for identification and authentication imposes a heavy cost on industry, government, and society as a whole and is also a concept inconsistent with America's tradition of civil liberties.

I might also note, that the proposed national work card plan would be a bureaucratic nightmare. The Select Commission on Immigration and Refugee Policy envisions such a plan requiring the issuance of 13 to 15 million cards per year, or about 50,000 per day until all working Americans are covered. Eventually, over 100 million computer files would have to be created. The first year cost alone would be about $50 million. Surely, there must be a more cost-effective and efficient way of cracking down on the growing number of illegal aliens and the employers who hire them.

Mr. Speaker, I am circulating a letter to the Select Commission among my colleagues raising these objections to the plan. I would hope that by a strong showing of opposition to this idea, the Commission will reject sending any recommendation to Congress that Americans carry a national work card.

A TRIBUTE TO MARCEL BEITEL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Mexico (Mr. LUJAN) is recognized for 5 minutes.

● Mr. LUJAN. Mr. Speaker, I would like to call attention to the fact that the House of Representatives recently lost one of its most dedicated employees with the retirement of Marcel Beitel, who for 16 years had served as the House bill clerk.

I have valued Mr. Beitel's friendship since the time I first arrived in Congress because of his eagerness and willingness to provide valuable personal assistance in every possible way.

It was his responsibility to process new legislation when introduced by Members, and to process executive communications and amendments. He was always able to handle this responsibility in an efficient, courteous manner, regardless of how heavy the workload became at times.

Mr. Beitel brought a new dimension of service to the job of House bill clerk when he initiated the system that assured the availability of legislation when it was scheduled for consideration on the House floor.

He was of great assistance to me personally on many occasions and I never knew of any time that he was not willing to go out of his way to give personal attention to the need of any Member of Congress or his staff, regardless of party affiliation.

Originally from Pennsylvania, Mr. Beitel has returned to Hazelton, Pa., to enjoy the outdoor life near the Pocono Mountains. He has earned his retirement and I know that all Members of the House join me in wishing him well.

Mr. Beitel was a dedicated public servant who did honor to himself and to the Congress. His presence here will be missed not only by his fellow workers but those of us in the Congress who came to depend on him a great deal.●

TAX CUTTING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 60 minutes.

● Mr. KEMP. Mr. Speaker, we have been hearing a great deal of talk from the administration this week on the subject of tax cutting. The Secretary of the Treasury, G. William Miller, took to the airwaves Sunday to denounce the Republican Party's tax-rate reduction plan as "irresponsible and misleading and inflationary." He vowed that the administration would oppose any tax cut which affected the fiscal year 1981 budget. In yesterday's paper, we read a statement from President Carter that he "has no plans" to submit a tax cut before the elections.

Today we find that after meeting with congressional Democrats, the President agrees on the wisdom of cutting taxes in 1981, and that he may even agree to do so before the November elections. The administration's mid-July economic report, now in preparation, already assumes the enactment of a $25 billion tax cut.

Apparently we are being treated to another Carter turnaround. As recently as March, President Carter flatly stated, "I will not consider any reduction in taxes until I am convinced that the 1981 budget will be balanced."

This vow seems to have gone the way of the President's statement, "I want the world to know that I am not going to resume business-as-usual as a partisan campaigner out on the campaign trail until our hostages are back here—free and home."

It seems to have gone the way of President Carter's pledge to increase defense spending 3 percent in real terms next year, which he kept by cutting defense spending in the current year. It seems to have gone the way of President Carter's pledge to propose a small budget increase in 1981, which he kept by cramming more than $40 billion into the 1980 budget.

The fact of the matter is that despite President Carter's proposed 1-year tax increase of $96 billion, the administration has already demonstrated that it is incapable of balancing the budget in 1981, or any other year. The administration does not seem to have realized, as many of us warned, that bigger deficits would be the inevitable result of this administration's and this Congress attempt to fight inflation by deliberately triggering a recession.

Pardon me. Vice President WALTER MONDALE told the Christian Science Monitor recently, "We don't have a Democratic recession. We are trying to have a slowdown, a moderate slowing to bring down inflation."

Whatever you call it, revenues are dropping and spending is automatically rising as unemployment continues its relentless spread. Unemployment has already climbed from 5.6 to 7.8 percent, and some economists are predicting 10-percent unemployment by the end of the year. Each 1 percentage point increase in the number of jobless Americans widens the Federal deficit by $25 billion to $29 billion, according to the Congressional Budget Office. So on top of double-digit inflation and possible double-digit unemployment, we are now looking at a budget deficit next year on the order of $50 billion.

This failure to balance the budget with massive tax increases is what the administration is being forced to admit in its mid-July economic report. Oddly enough, the administration seems to think that the deficits caused by its recessionary economic policies are not inflationary like other deficits. The Chairman of the Council of Economic Advisers, Charles Schultze, told U.S. News & World Report this week that:

> To the extent you're getting a deficit because the Federal Government is spending a lot more money, you've got a problem. To the extent you're getting a deficit because you've got much more slack in the economy, then it's not inflationary.

Mr. Schultze did not explain how it is that deficits do not have to be financed during a recession.

Despite the fact that the 1981 budget will be deeply in deficit, and despite President Carter's solemn pledge not to propose tax cuts before the budget is balanced, I do not criticize him for changing his mind. For the millions of Americans being held hostage in the Nation's unemployment offices to Mr. Carter's economic policies, a change for the better is preferable to a foolish consistency.

Unfortunately, there is every reason to believe that this most recent turnabout is dismally consistent with the failed and destructive economic policies up to now. Throughout this administration and under Democratic Party controlled Congresses, economic policy has been based on the idea that all that matters in our economy is how much money people have in their pockets. If there is inflation, it is supposed to mean that people have too much money in their pockets, and some of it must be extracted through higher taxes, higher unemployment and controls on wages. If there is unemployment, it is supposed to mean that there is too little money in people's pockets, so more must be pumped in with higher spending and the printing of money by the Federal Reserve.

What confounds this neat little theory is the fact that the administration has managed to bring about a combination of events it had thought impossible—simultaneous recession and double-digit inflation. This has given economic policy under the Carter administration the air of a Marx Brothers movie: Harpo at the Federal Reserve has madly tried to put money into people's packets while Chico in the White House has tried to extract it at the same time.

The administration's belief in the discredited idea that unemployment is necessary to fight inflation means that when President Carter embraces tax cuts, it will unfortunately signal the end of his fight against inflation—such as it was. The administration just does not seem able to conceive of a policy of fighting inflation and economic stagnation at the same time.

The Republican Party and its virtual nominee, Governor Reagan, on the other hand, reject the idea of responding to recession by pumping more paper money into people's pockets, with tax rebates and higher spending. We propose to do what President Carter says he cannot do—fight inflation with sound monetary policy, while fighting stagnation by restoring permanent incentives for jobs, saving, and growth.

Inflation and our steeply progressive Tax Code have combined over the past 15 years to push all Americans relentlessly into higher tax brackets on their earnings and savings. And because of outdated historical cost accounting, businesses must pay additional taxes because they are not allowed to deduct the full, inflation-adjusted cost of replacing equipment worn out in production. In effect, our Tax Code forces businesses to sell their tools to pay their taxes.

Governor Reagan has proposed, and the Republican Party has adopted as official policy, two specific measures to meet these problems head-on. We propose to cut individual income tax rates 30 percent over 3 years to make up for some of the past automatic tax-rate increases. We would index or "inflation-proof" these new tax rates to prevent future tax increases of this nature. And we propose to permit accelerated depreciation of business plant and equipment to help offset the overtaxation caused by inflation and our outdated tax code. These are not the only tax reforms we favor, but they are two of the most urgent.

Unfortunately, even this tax plan is smaller in aggregate dollar terms than the tax increases which President Carter and the Democratic congressional majority have proposed for the foreseeable future. The Joint Committee on Taxation estimates that the first-year 10 percent cut in individual income tax rates will reduce current tax liability by $31.8 billion in calendar year 1981. But the JCT estimates that combined Federal tax increases on personal income during that same time—the automatic income tax increases and schedule payroll tax hikes—will amount to $38.1 billion.

Likewise, the first year of the "10-5-3" accelerated depreciation bill is estimated to cost $4 billion. But this does not even begin to make up for the overtaxation of profits (estimated at over 50 percent in 1977 by economist Martin Feldstein), or the $18 billion oil excise tax, or a host of other planned tax increases.

But what these reforms will do is reduce marginal tax rates on employment, savings and investment. The incentive of any tax cut depends on how it affects the marginal tax rates paid by individuals and businesses—the tax on an additional unit of saving or productive effort, which is your "tax bracket" rate. Because the income tax is levied on productive effort, but not on leisure, and on savings, but not on consumption, marginal income tax rates largely determine decisions between more or less production, and between the saving and consumption of income.

Unfortunately, the emerging Democratic Party tax package does not recognize the importance of incentives for individuals. The administration is considering a $20 billion to $30 billion tax cut including accelerated depreciation for businesses—but only an income tax rebate for individuals, to offset part of the payroll tax increase scheduled for next January 1.

This means that, under the Democrats' plan, individuals would not receive either a cut in overall taxes paid, or a cut in marginal tax rates on their effort and savings. The rebate will not reduce the payroll tax rates which raise the cost of working and hiring workers, because it will be made through the income tax. And since it is merely a lump-sum rebate, it will leave everyone in the same income tax bracket as before. And it is not even permanent.

Therefore, this proposal will not restore incentives for individuals to encourage more saving, more effort, more initiative, or more jobs.

Incredibly, the administration is calling this plan "supply-side" because it contains tax cuts for business. The administration apparently believes that individuals only consume without producing. It is even trying to describe a rebate which pumps more money—but not incentives—into the economy as "anti-inflationary."

It is my hope that we on the Republican side of the aisle will be able to join hands with enough sensible and like-minded colleagues on the Democratic side of the aisle to enact a tax measure, like Governor Reagan's, which is truly "supply-side" because it restores incentives to all individuals and businesses for working, saving, producing, and investing. Such a tax package is essential if we are to reverse current national economic policy—which is literally counter productive—and bring about full employment without inflation.●

TRANSPORTATION FOR THE HANDICAPPED—THE CLEVELAND AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Hampshire (Mr. CLEVELAND) is recognized for 10 minutes.

Mr. CLEVELAND. Mr. Speaker, over the last several weeks, many Members and their staffs have contacted me regarding my recent amendment to H.R. 6417, the Surface Transportation Act of 1980. This amendment is section 223 of the bill as adopted by the Public Works and Transportation Committee.

Regulations promulgated last year by the Department of Transportation, based on section 504 of the Rehabilitation Act of 1973, require full accessibility service, this generally has meant buses equipped with special lifts; for rail systems, older stations must be retrofitted. A 1979 Congresssional Budget Office study concluded that this approach "would prove extremely costly and would benefit a relatively small number of handicapped persons." That report and several others have pointed out that transportation services specially designed to meet the needs of the handicapped will serve a much larger portion of the handicapped community.

The intent of my amendment is to give every community receiving urban mass transportation funds the option of submitting an alternative transportation plan for the handicapped, which may include special services; for example, vans, fully accessible mainline service, or any combination of the two.

Any such plan would require DOT approval after consultation with the Architectural and Transportation Barriers Compliance Board. Furthermore, to prevent communities from opting to do nothing, my amendment would require that:

At least 3 percent of the community's UMTA funds must be expended for handicapped transportation;

Service for the handicapped must be provided over the same area as that provided to the general public;

Fares charged the handicapped must be comparable to those charged to the general public;

The handicapped rider must not be required to give more than 24 hours' notice; and

The plan must be developed in consultation with the local handicapped community.

The amendment would not affect the present requirement that new rail and subway systems must be fully accessible, and it certainly would not abolish section 504 of the Rehabilitation Act. Rather, it would more effectively implement that act.

Some have said that my aim is only to save money. While not opposed to controlling Federal spending, I am more concerned with providing adequate and practical transportation for the handicapped on a cost-effective basis. After all, each handicapped person enabled to reach a job, a school or community amenities comes closer to full participation in American life and realization of his or her potential, and becomes a more productive and self-reliant member of the community.

Unfortunately, it seems that some apparently prefer the empty symbol of a "fully accessible" mass transportation system. It seems to matter little that bad weather, the inability to get to the nearest bus stop, or the difficulty of using mass transit during rush hours, makes it impossible for most handicapped to use a so-called fully accessible system.

Mr. Speaker, it is important to note that the Senate has also recognized the tremendous difficulties posed bv the current DOT regulations. The public transit authorization passed by that body earlier this week was amended to modify those regulations. While I have serious reservations as to the effectiveness of the Senate provision, I find it an encouraging indication of the need to act.

Nor is concern over the effectiveness of the Department's full accessibility requirements confined to the Congress. As the appended editorials from the New York Times and Washington Star show, communities required to meet DOT's requirements believe them to be unrealistic.

[From the New York Times, Feb. 16, 1980]

HINDSIGHT ON HELPING THE HANDICAPPED

Want a textbook example of how good but vague intentions can balloon into exorbitant programs? Consider the regulations that require Federally funded mass transit systems to make buses, subways, streetcars and commuter trains accessible to wheelchairs. The rules have just been upheld by a court decision, which makes it clear that Congress had no idea what it was getting into when it decided to help the handicapped in this fashion.

On several occasions over the past decade, Congress passed laws requiring that, as a condition for receiving Federal grants, mass transit systems make their facilities usable by handicapped and elderly persons. As is customary and proper, Congress left it to the executive branch to work out the details. The Department of Transportation did so with unbridled zeal. It issued rules requiring that half of all existing buses and about 40 percent of all subway and commuter train stations be made negotiable by wheelchair. All new buses and subway and rail cars will also have to accommodate the disabled.

Estimates of the cost of these modifications range from $3 to $7 billion over the next 30 years. The Federal Government would pay some of that, local transit authorities the rest. A study by the Congressional Budget Office calculated that a larger number of the handicapped could be served at less cost by a specialized door-to-door taxi service, but that would not be allowed under the Federal rules; they require that regularly scheduled vehicles be made accessible. Small wonder that the American Public Transit Association sued in Washington to block implementation.

Federal District Judge Louis Oberdorfer has now ruled against the public transit officials. The regulations are valid, he says, because the executive branch has great latitude in determining how to carry out the laws of Congress, and these particular rules are not "arbitrary and capricious."

Whether they are wise, or what Congress intended, is another question, as the judge acknowledges. The original laws were passed with little debate; so it remains an open question whether Congress knew what it was doing, and whether the Transportation Department has correctly interpreted the Congressional will.

There is, as the judge observes, an obvious answer to that question. Congress has the power to revoke or amend the rules at any time. Let it now do what it should have done in the first place: balance its laudably humanitarian instincts with some notion of what the program will cost and who will have to pay.

[From the Washington Star, June 11, 1980]

TRANSIT AND CIVIL RIGHTS

Congressional murmurs have a tendency to turn into high-decibel howls when the magnitude of a legislative action becomes apparent. Sometimes Congress is astonished to learn the dimensions of what it has wrought.

One example is Section 504 of the 1973 Rehabilitation Act, which, with dizzying sweep, ordered that no handicapped person "shall, solely by reason of his handicap, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

The sentiment was admirable. Fashioning sentiment into law, however, can create all sorts of competing claims for limited resources—especially in a day when it is a rare sentiment that cannot find legislators eager to claim its constituency.

Thus has it been with Section 504. The public sector most conspicuously affected is mass transit. It took the Department of Transportation six years to publish regulations, with lobbying groups for the handicapped becoming ever more impatient, not to say aggressive. Well before DOT finished its regulations last year, there were indications that compliance would be extraordinarly expensive. The regulations for federally-assisted public transportation (which is to say all of it) would require nearly complete modification to make the systems fully accessible to the "transportation disabled."

The Congressional Budget Office last November estimated that it would cost $6.8 billion over the next 30 years to accomplish—or more than twice the entire current federal spending on mass transit. The study contended that alternative approaches—a special van and taxi service, and a plan to provide specially equipped autos to the severely disabled—would cost considerably less and help more people.

But proponents of Section 504 are having none of it, and a federal court in February rejected a claim that the DOT regulations went beyond congressional intent—though there is little indication what Congress had precisely in mind. Advocates of the law argue that what is at stake is no less provision of access to transportation than "civil rights" for the handicapped.

But to what extent would "retro-fitting" of mass-transit systems help the severely handicapped? Only eight people are daily using the 90 buses in the Washington-area Metrobus fleet rigged with special lifts, for example, and a recent Metrorail survey showed only 139 blind, semi-ambulatory and non-ambulatory taking the subway in one day.

Rep. James C. Cleland, R-N.H., has moved to inject a modest flexibility into this delicate issue. His amendment—approved by the Public Works Committee—would exempt localities that provide equivalent special services for the disabled. The Cleveland amendment is not a dodge of Section 504 and would not, of course, preclude expanding the accessibility of regular service. It recognizes, however, that proportion and degree are better mechanisms of government than dogma.

But the amendment is adamantly opposed by DOT and a number of organizations representing the handicapped. Special service would result in "separate but equal" transportation, they argue, and would violate the civil rights of disabled citizens. The handicapped should have the right to take the subway or ride the bus like everyone else.

But the point must be made. The handicapped are not like everyone else. Law and social programs can, and should, attempt to ameliorate that unhappy fact. They cannot change it. Government efforts to accommodate handicapped individuals and to help them lead fuller lives are obviously appropriate. To frame this issue in terms of civil rights, though, is to seek equity beyond the ability of the state to achieve it.●

ARMY CORPS OF ENGINEERS LOUISVILLE DISTRICT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. DECKARD) is recognized for 10 minutes.

Mr. DECKARD. Mr. Speaker, the distinguished majority leader moments ago spoke very eloquently of water, and I recognize that it is a precious resource for his State and many others of the South and Southwest.

Water is also a matter of concern to my Indiana district as well, although the problem is of a different nature. At times we suffer from an overabundance, and attempts to manage our water resources causes me to arise this evening.

Over the past several years many of my constituents have fought with the Louisville District of the Army Corps of Engineers over alleged fraudulent land buying practices and increased land erosion as the result of construction of high-lift locks and dams along the entire length of the Ohio River.

A recent copyrighted story in one of my district's newspapers, Hard Times, a unique crusading newspaper, reveals that the Louisville District of the U.S. Army Corps of Engineers has been suppressing and covering up an environmental impact statement that conflicts with the Government's own court position that the high-lift locks and dams along the Ohio River have not caused bank erosion. This most blatant of actions will add more fuel to the anger, resentment, and frustration of my own constituency, and others, who have been outright victims of the Corps of Engineers.

According to a Deputy General Counsel for a Federal environmental agency, such a withholding of data violates NEPA, the National Environmental Protection Act. Under NEPA, the report covering all aspects of the construction of the lock and dam projects on the river, must be published and made available to the general public. Instead, the information has been safely tucked away in the Louisville District office. Upon inspection of the aborted report however, one finds a full section entitled, "Unavoidable Adverse Impact", including one of increased bank erosion in all the pool areas due to an increase in the normal pool elevation. In recent court cases the corps has consistently denied that such a relationship exists.

The higher pool level has been notable in the tremendous loss of farmland along the river. The depth of the channel has increased from the normal 9 feet to 12 feet, without apparent authorization. Even private groups have documented the steady encroachment of the river on fields and even homes. One report estimates that the continued elevation of the water and the resulting erosion may be drastically raising ground water level and may even threaten the clean water supply of the city of Louisville, among others.

Compensation for the land acquired—land acquired in some cases through threats and harassment, has included purchase of fertile river bottom acreage for as little as $15 dollars per acre.

And now, 10 full years after the enactment of NEPA, and after thousands of tons and millions of dollars worth of valuable farmland has been literally washed down the Ohio River, the Corps of Engineers, as recently as January of this year, refuses to treat erosion seriously. In their own outline of the Ohio River operation and maintenance, the unusual patterns of erosion and flooding are written off as natural changes in the course of the river. In my office, I have literally hundreds of letters from landowners who live on the Ohio and can give facts, figures, and even photographs as proof of the destruction.

The political power of the Army Corps is evident yearly in this body during our consideration of the public works measures; it is undeniable. Yet, I question the wisdom of continually, and generously, funding a Federal agency that, at this moment, is attempting to jail a 63-year-old man and a 55-year-old widow for contempt of court because of their refusal to be forced into selling their 7-acre riverfront land to the corps. I would suggest that this Congress instead should review the suspect land buying practices of the Louisville District of the Corps of Engineers. We should investigate Nature's ordinary high water mark for designation of land ownership to see if it has been changed to an artificial ordinary high water line by the corps. We should investigate appraisals to see if fair market value was offered to hundreds of landowners for flowage easements.

We should investigate the preparation of the Government's defense for the river erosion trials, which came to the incredible conclusion that raising water 25 feet and bulldozing the protective vegetation, somehow leads to bank stabilization.

We should investigate the land buyers' allegations that they were promised there would be an erosion office in Louisville to confirm and pay for damages if erosion occurred after the water was raised behind the dam.

We should investigate the corps' statements to landowners that they might not be paid if the landowners resisted.

We should be doing something worthwhile, something for justice's sake, instead of threatening the victims with jail.

We should look for some truth and honesty and decency, and report back to the landowners along the Ohio River why their massive erosion damages are being covered up, and their constitutional rights are being violated by a bureaucracy that has destroyed the people's trust in their government, alienated them from their homeland and angered them beyond belief.

Certainly navigation on the Ohio River—which annually carries more tonnage than the Panama Canal—is extremely important to the economy of the Ohio River Valley and the Nation. And I support this navigation. This does not, however, release the U.S. Government, through the Army Corps of Engineers, of the obligation to treat landowners with respect and justice.

□ 2250

THE CHEMICALS QUESTION/ AGENT ORANGE

The SPEAKER pro tempore (Mr. BOLLING). Under a previous order of the House, the gentleman from Texas (Mr. ROBERTS) is recognized for 5 minutes.

● Mr. ROBERTS. Mr. Speaker, I would like to commend the Washington Post for its June 30 editorial, "The Chemical Question." The article describes the awesome task of determining the extent and effect of toxic chemical contamination on residents of the Love Canal area in upstate New York. The same quandry exists, compounded by even more uncertainty, in the case of Vietnam veterans exposed to the defoliant agent orange during the Vietnam war. Already, scientific inquiry into the Love Canal situation has been hampered by a lack of adequate controls and protocols, as scientists and researchers delve into the unknown. But the problem, while elusive, is immediately before us. The houses are there, the people are there, the chemicals are there, and the problem, real or perceived is there as well. The trial of evidence for or against agent orange has long since grown cold, lost in a maze of episodes and suppositions now 10-years old. Our investigation is cluttered by the same variables among veterans in their life style, physical condition, genetics, habit, diet, and psychological state that currently cloud the cause and effect investigation at Love Canal. But even more so. The average veteran was 23 when the spraying stopped in South Vietnam. He is now 33.

The Post article mentions "stress." Unlike Love Canal, the potential for stress existed among Vietnam veterans even before the suppositions of chemical exposure arose. Delayed stress, or "Post Traumatic Stress Disorders" among Vietnam veterans resulting from their service in Vietnam have been well documented and analyzed.

The just released Harris survey of Vietnam veterans revealed that 34 percent of those who served in Southeast Asia and 39 percent of the American public consider mental and emotional problems one of the most serious issues facing the Vietnam veteran today.

Thousands of Vietnam veterans determined to resolve their wartime experience are currently being treated or counseled in traditional ways in VA hospitals and in a nontraditional format through 91 "storefront" counseling centers authorized by the Congress primarily for this purpose last year. As the Post editorial implies, stress alone cannot be considered an alternative answer to the chemical question. But it could be a contributing or aggravating factor. But quoting the editorial, "What is cause and what is effect in this is unknown."

In most cases we do not even know who was exposed to agent orange in Vietnam. We have some idea where the bulk of it was sprayed, and who sprayed it for the most part, but we do not know exactly who was sprayed and for what duration they were exposed. We may never know. The Veterans Administration can only, and does indeed, take the veteran's word that he was exposed to agent orange and not to a host of other chemicals and life-threatening agents, while serving in Southeast Asia.

Not all of the herbicide sprayed in Vietnam even contained the toxic contaminant dioxin which is the ingredient blamed for poisoning our Vietnam veterans. The same class of chemicals have been used commercially in this country in gardens, fields and forests since before most Vietnam veterans were born.

Not all Vietnam veterans are suffering adverse health effects. Out of a potential 2 million plus exposed, and 20,000 veterans examined to date, approximately 2,000 have filed disability claims with the VA in the past 2 years. A massive search, mandated by the Congress, continues to determine if this is only the tip of the iceberg or a random distribution of illness among the Vietnam veteran population at large. Most of the veterans who have filed claims with the VA have defined health problems: Scores of disabilities ranging from brain cancer to numbness in the extremities; many have no diagnosis at all. Their concern is easily heightened by the same anecdotal and circumstantial evidence that forced Love Canal residents to take hostages last month.

But as the editorial states:

This is not to say their suffering is not real, it is.

And this is not to say we should not do everything in our power to solve this predicament. We are trying. But the "legions of doctors and scientists" and the millions of dollars, and thousands of man hours already spent by at least four major Federal agencies and scores of other public and private institutions only mark the beginning of a long and certainly frustrating process. Whatever the outcome of ongoing investigation, whether agent orange has poisoned the Vietnam Veteran or not, we want to know. As the Post states:

It need not lessen the urgency to find out until all the medical evidence is in.

I applaud the Washington Post for this new and reasonable approach on the chemical question mark. There is no pro and con on this issue, only a determined search for the truth.

Here follows the full text of the June 30 editorial:

[From the Washington Post, June 30, 1980]

THE CHEMICALS QUESTION

"You don't have to be a doctor," says a Love Canal mother, "to know that there's something wrong here." True enough. But it's going to require legions of doctors and scientists and many years to find out just *what* is wrong—and ultimately it may even prove to be impossible.

Unfortunately, in the absence of medical evidence, anecdotal evidence is mounting up—in press reports and from the personal stories of Love Canal residents—that may be painting a very misleading picture. A recent story, for example, related that among the 15 families on one particular street, six women have had breast cancer; three houses away lives a man with bladder cancer; and three houses down from him lives another with throat cancer. That might seem to say that the buried chemicals are causing an epidemic of cancer at Love Canal; in fact, it says nothing about the cause.

In order to determine whether cancer incidence in a particular area is higher than normal, many factors have to be accounted for. Among the most important are genetics (family history of cancer); occupational exposures; personal habits, including diet and smoking (which is associated with bladder, kidney, pancreas and other cancers as well as with lung cancer); and environmental exposures (including, but not limited to, toxic chemicals). To determine whether there is a higher rate of cancer at Love Canal and whether the buried chemicals are responsible, Love Canal residents must be compared with control groups of people who are similar in all respects to Love Canal residents except in exposure to the chemicals. That is obviously an awesome task, made even more difficult by the fact that the Love Canal population is quite small. In a small community whose members have similar habits, diets and occupants, factors other than the chemicals could well be the culprits.

Another confounding factor is stress, which is known to be linked to increased rates of dozens of diseases from cancer to arthritis to viral infections. Though everyone is constantly subjected to challenge from potential disease-causers, the healthy person fights them off. Stress, in ways not yet known, seems to weaken the body's ability to combat these challenges, and thus can affect an individual's likelihood of getting a particular disease. Stress is also a prime candidate to be the cause of many of the generalized ailments that prevail at Love Canal. The families in the area who seem to have tried to ignore the chemicals and go about their daily business as though nothing had happened are apparently in much better physical condition than their close neighbors. What is cause and what is effect in this is unknown.

All this is not to imply that the suffering at Love Canal is not real—it is—or that the chemicals have had no effect. But with an estimated 30,000 chemical dumps scattered around the country, it is important to everyone's health and well-being that it not become an article of faith that buried chemicals automatically cause cancer, chromosome damage or anything else. They may, or they may not. It need not lessen the urgency to find out to keep a reasonably open mind until the medical evidence is in.●

KING CRIME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 15 minutes.

Mr. GONZALEZ. Mr. Speaker, on the 28th of June it was exactly 13 months, 1 year and 1 month, that Judge John W. Wood was murdered in one of the suburban areas of San Antonio. This followed by some 6 months the attempted assassination of Western Judicial District Assistant Federal District Attorney James Kerr. The fact that both crimes remain unsolved to this day should be very disturbing to each and every one of us. I have spoken out sometimes quite often in the last 1½ years because it was evident from the beginning that the attempted murder of James Kerr had the gravest of implications to the judicial system and the law enforcement agents charged by us with enforcing the laws. At the time that the attempt was made on James Kerr, it followed by some 2 months some statements and some news stories in the city of San Antonio. Because of some yet unsolved murders involving two lesser known citizens of the city, one of the local San Antonio newspaper dailies, the San Antonio Light, was interested in following through because of its similarity to some pattern of criminal behavior of the most serious type that had been victimizing the area for at least some 8 years prior involving the development of the famous Carrasco Gang, which some of you may or may not recall. National headlines were made when this individual Carrasco, the head of an internationl drug ring more or less used San Antonio as a way station which was beginning to find an increased role, once the highly sophisticated organized that area and in that traffic.

I might say by way of explanation and parentheses that our highly organized criminal corporation organizations did not really get involved in the international drug peddling, especially with respect to the nations south of the border until the Turkish and the French connection in the heroin drug market had so proliferated in our country, in our northern borders and eastern shore borders, the Canadian and eastern seacoast. When around the end of the decade, in the late sixties and early seventies, we had the exposure and for awhile the effective reduction in traffic of the French connection, we then had a transfer to the Latin American area where Mexico, for example, became a very important point, both of origin as well as of transit, for much of the other drugs that now seem to be largely emanating from South American ports of origin and with very heavy concentration in the Florida area, as counter-distinguished from the California and the Texas border area.

Nevertheless, it remains high in volume and considerable in money so that when the first glimmerings of what was happening here became evident in San Antonio, it was obviously not apparent to the local nor the State law-enforcement agencies, and for reasons just like the inability to apprehend those who murdered John Wood and attempted to murder James Kerr. The same thing happened in 1970, something that I have once before referred to, and because of the intimate connection with constituents, many of whom I have had communications with ever since I served as chief juvenile prosecuting officer many years ago for the Bear County general court, and because of my consequent interest in offender rehabilitation in the penal system, both on the Federal as well as State level, I have continued to have rather intimate and what I consider to be informative associations with people who have one way or another continued to have association with or knowledge of some of the patterns of behavior of those engaged in crime.

So in 1970, because of a woman who feared for the safety of her husband, and who communicated her fear to me, I discovered that there was a pattern of murders that was taking place in Bear County that seemed to be puzzling the local law-enforcement officials.

They could not ascribe motives. They saw that the method used in the hit or the murder of these individuals was similar gangster fashion, Southwest style. But when this lady first communicated with me, she did not know that her husband had been murdered. A week after she talked to me, then I became interested, and as a result of the information I obtained subsequent to that man's murder and the discovery of his body in an isolated part of the county, and the fact that it led to information showing that the hit was made by special squads that came out, that came in from across the border—in a matter of 3 hours they would cross the border in their automobiles, be in San Antonio, make the hit, and in another 3 to 3½ hours would be safe across the border again with very little capacity on the part of the local or State officials to even know of their presence much less of the pattern of their activities—I then went to the county district attorney at that time. As a result, I appeared before the county grand jury, and information was then ferreted out in a matter of 3 months by the cooperation of the local law-enforcement agents, both city as well as county, with the State law-enforcement agencies, the department of public safety, as it is called in the State of Texas. Then it was definitely established that there had been a considerable growth in the amount of drugs, the brown heroin that was coming in from Mexico, and San Antonio was a way station through the middle of America up through Chicago and into New York and the eastern seaboard. In the meanwhile, not noticed by us in Texas, some 1,600 miles away the California connection was building up, and in the course of less than 5 years you began to have a highly sophisticated and thoroughly rich growth in volume, and that means money in this international drug traffic in the United States.

□ 2300

Carrasco 3 years later then emerged as one of those who was the first of the local products to synchronize his efforts with the so-called organized criminal element which began to show interest in moving in with their expertise, their ability, and finances. It was subsequent to Mr. Carrasco's appearance and evident participation that he became a fugitive. He was finally corralled in Mexico and escaped from the Mexican authorities and subsequent to that, one night, while disguised in a motel in San Antonio was captured by the local police. He was tried. He was finally convicted. He was held in the Bear County jail. While there he received treatment that nobody to my knowledge has ever received in the Bear County jail. He continued to have the use of a telephone in his cell. He had conjugal visitation. He continued to pursue some of the drug business by the use of a telephone out of the county cell, all of that, believe it or not, through a State district court judge's order, because Carrasco had always been able to get the most skilled and very expensive attorneys who were available in that area.

Nobody raised any question about this very dubious practice and suspicions as it would indicate some corruption in the processes until after Carrasco had been transported to the penitentiary at Huntsville, which is a State penitentiary, and it was while there that he was first assigned in a very selective way to, of all places, the library in the penitentiary. While there, he and two other criminals captured as hostages three women employees. Of course, the rest is history. They holed themselves up for 3 days and then attempted to escape. They were gunned down along with the two innocent hostages so, all in all, four people died.

The Carrasco gang or the remnants of it, in my opinion, have been engaged in a power struggle and this yet has to be determined exactly by the law enforcement agencies.

The two men who were found murdered, as I said, 2 years ago this coming month of August, had only one thing in common, which is what I noticed and advised the law enforcement agents of. When these bodies were found and the police could ascribe no motive, one thing that was different was that neither of the men had any kind of criminal record, but the only thing that I noticed that they had in common was that they were both in the automobile business. I also pointed out it was in the same area with the same modus operandi as had been used in 1973 when Carrasco made the hits.

The San Antonio newspaper then was the one who interviewed me, wrote a story and set forth my conjectures and my hypotheses.

About a month after that another hit was made in the same fashion. At that point I predicted that unless the law enforcement agencies, this time with the help of the Federal agencies, coordinated their efforts, I would predict that without any hesitation, the next victim might likely be not a fellow culprit or criminal or malefactor, but it could very well be one of the law enforcement agents, never dreaming that it would be a district attorney, assistant district attorney or judge. It was exactly 45 days after that kind of prediction that the attempt was made on James Kerr, and it was for that reason that the San Antonio papers then called me first immediately, remembering that I had made that kind of a prediction.

The James Kerr attempt happened in the same area, the same suburban neighborhood as the one in which Judge Kerr was living. It is one of the quietest most affluent, sophisticated, and distinguished and sedate neighborhoods you will find anywhere in the United States.

The attack on James Kerr was made at 8 a.m. in the morning as he was leaving his home to go to the office downtown. It was made by the use of an M–1 through the rear of a van, which van was later found to have been stolen in the city of Austin. To this day there has been no arrest or apprehension of anyone for that attempt on the Federal district attorney, Judge James Kerr. There was quite a bit of commentary in the newspaper subsequent to that, some headlines about how some members of the bandidos motorcycle gang were suspect and then finally some newspaper stories that two had been arrested, implying they had been arrested for suspicion of having participated in the attack on James Kerr. However, no one was ever arrested or charged for that, nor has there been to this day. True, two members of the bandidos motorcycle club were arrested but they were charged with illegal possession of prohibited weapons and that was all.

In the meantime, James Kerr was placed under protective custody by the U.S. marshals.

I grew quite concerned when weeks turned into months and nothing really effective had been done in the solution of that case.

I then came to the national level and was finally able to meet with the Domestic Adviser to the President of the United States who in turn facilitated my communication with the White House special assistants with respect to the Department of Justice and the Drug Enforcement Agency. But other than the fact that they recognized that this was serious and that it did point up the lack of coordination among even the Federal agencies, I pointed out how there were five different agencies and departments involved and not one checked with the other.

You had Customs, you had the Department of Agriculture, the Justice Department, the Drug Enforcement Administration, and neither of these agencies communicated with the others on any particular common objective or occurrence in that area.

In the meantime I did some research work with limited staff—as you know, a Congressman has his own staff—and amazingly discovered a very interesting experiment that had been tried which indicated a need for several things. First, the coordination I was calling for; second, the employment of more personnel at all levels of law enforcement, because of the inadequacy of personnel now; and third, really I think this is the most important of all—some legislation that would aid in controlling what in the meantime had grown to be the biggest paying criminal activity, and that was the sale and exportation, illegally, that is, into Mexico of stolen vehicles and vehicle parts in the United States.

□ 2310

That grew in a matter of less than 2 years to over a billion-dollar criminal activity, which it is today, unabated, with three mainlines or streams all the way from the Gulf connection—what I call Las Vegas-El Paso-Sierra Juarez; the New York-Dallas-San Antonio-Laredo connection; and the east coast from the area on down to Florida and then across over the Gulf to New Orleans, Houston, and into Mexico and the lower border points in Texas. That is now better than a billion-dollar criminal activity, except that you now have a border system in exchange for the vehicles and stolen parts, you get drugs back into the United States.

It was this particular segment in the El Paso area that had been proliferating so fast that the law enforcement officials could not help but be aware of and do something about; and it was in the prosecution of some of these corollary cases that bothered Assistant Federal District Attorney James Kerr, and especially the judge for the western district, which extends all the way from San Antonio 600 miles over to El Paso, that involved Judge Wood.

It was obvious that the attempted assassination of James Kerr had some kind of association with the murder of Judge Wood. But, what I have been afraid of and what I have been determined I would do the utmost to prevent from happening was that the coldness of the trail would lead to a forgetting and an eventual dusting off of the case very much like the Jimmy Hoffa case.

Now, who today asks what has happened to Jimmy Hoffa? Yet, that is a very grievous crime that has grave national import for many reasons other than just the fact that Jimma Hoffa disappeared. There are many implications there that I believe this Congress, the national policymaking body, has a tremendous responsibility for looking into.

But, the Judge Wood case, in my opinion, transcends in importance any other issue because, for the first time in our history, we have this kind of crime committed against a member of the judiciary. We have not had this kind of crime committed in the history of our Federal judiciary. We had a Federal judge murdered about a hundred years ago, but not under these circumstances where it is obvious that we had a defiance of the system set up by our society for its defense against the criminal element being defied by that criminal element; and where you have had the resultant intimidation of the third branch of our Government—the judiciary.

Now, let there be no doubt whatsoever that the judiciary has been intimidated. Oh, maybe not up at the northern district; maybe not in the southeastern; maybe not in the Far West, but certainly in these areas where the immediacy of this crime is well noted, have we had a successful intimidation of the third branch of our Government.

You have the judges; you have the law enforcement agents; you have the district attorneys and the prosecutors' offices, every one of them is presently under martial supervision. It has cost the taxpayers several millions of dollars while, on the other hand, the malfactor, the criminal, walks the streets with head high, undetected and apparently with no fear that he will be.

Now, I have not spoken out on this in some 3 or 4 weeks because when we had the 1-year anniversary last month, I spoke, and I think I helped to trigger off a little bit more interest. I am proud to say that in my area, up until this last week, when now it has abated again and has quieted down, we finally had a concentrated show of interest with the newspapers, the utterances of public officials, the determination by the Justice Department to reconcentrate effort on this crime, and we had for the first time the formation of a special grand jury announced about some 2 weeks ago—less than 2 weeks ago.

Now, I am not enamored or an admirer of the special grand juries. The special grand jury was part of the 1970 Crime Control Act, which I did not vote for. I was 1 of 28 individuals who did not vote for it because, as court decisions have proven to us, it is an overcharged blunderbuss and contained so many flagrant violations of basic constitutional guarantees that it did not take an expert in constitutional law to know it was a matter of time before some of those significant portions would be knocked out. I felt then, as I feel now, that the special grand jury system that was being created for the first time in the history of the English-speaking judicial world, for the first time in the history or in the corpus of history and tradition of the Anglo-American juridical system, you have such a thing as a special grand jury and it is dangerous because, placed in the hands of a willful and politically determined and vengeful or bad district attorney, it can be the most tyrannical of agencies that we could set up.

This has already happened in several instances. We saw it in the case of the "Irish Five." These were five new York men who, through a special grand jury in Fort Worth, Tex., 2,000 miles away were indicted and had transport all the way from New York to Fort Worth to find out what it was they were being indicted for, and then commandeered under penalty of jail to stand interrogation for questions they had not been confronted with; and served in jail for weeks as a result of their failure to answer the questions as a result of the subpena 2,000 miles away from their home districts by a special grand jury.

We have seen what has happened in the case of some of the Members of this Congress—not recently with respect to Abscam—but in the past few years. I think that the potential there was so great and is so great for continued mischief that I am not in favor of this. But, I can see where, with a temperate, with an honest, and with a well-intentioned district attorney—and of course that is begging the question—that you can proceed on a special grand jury basis and do some good other than on a fishing expedition. But, it seems to me that in the case of the John Wood murder, to form a special grand jury almost 13 months after the event is a confession that the institution authorities that have the prime responsibility for investigation were laying the predicate for the cases for establishing the motives and the culprits, had failed.

☐ 2320

Otherwise, why the special grand jury 13 months later?

So the danger is that the special grand juries can then be used as a sort of "soft soap" or as a sort of sop to go on fishing expeditions that perhaps in the long run would best be left out.

Now, there is no question in my mind that the murder of Judge Wood has the greatest of implications nationwide, for it is one further indication of the degree to which our society is victimized by the most successful and sophisticated of organized crime that exists anywhere in the world. Where this ill has penetrated every layer of society from the lowest to the highest, from the private to the governmental, it is obvious that this pattern of crime, like the pattern and the type of drug crimes and drug trade related crimes that exist and continue to persist in our democracy, is possible only because there is a joinder between the criminal element and the political, the governmental.

Without some kind of association of that nature, this kind of crime unquestionably could be rooted out in a matter of weeks or months or, at the most, in a year. But it never will be as long as this cheek-by-jowl association continues to exist where now organized crime has been so successful that it has ownership of banks, State and national, savings and loans, shopping centers, and so forth. You name it, organized crime is in it, and it is operating so successfully and so well that even the fronts are undetected in the main.

There is no question in my mind that we are paying the highest price for this uncontrollable and rampaging organized crime that a society could pay, and to its detriment. I do not consider some of the dangers that we fear so much—invasion from the external, imposed communism, or socialism—and I do not really fear those because if the day comes when America succumbs to that, well, then there is no use even talking about it. But I worry more about the successful penetration that the organized criminal element has made in our society. It has done it successfully and, as I repeat, from the lowest to the highest strata in our society, private and public.

This is the seed of destruction of our democracy, of our liberties, and what we call our way of life.

It has been very, very demoralizing to find that it has been quite a difficult task to concentrate some interest on this subject matter, though I am proud to say and rather happy that I have seen some glimmers of activity over in the Senate. Senator NUNN has announced the formation of a series of activities by a subcommittee of the Senate looking into organized crime.

I also notice that the Justice Department is trying to refurbish what they call the "strike force." Unfortunately, the Justice Department itself has been very, very inadequate to the challenge.

I do not know enough about the inner workings to say that I know all the causes, but I do know that the established law enforcement agencies, those that we primarily expect to be in control of things, have not had the ability to penetrate this level of organized crime. In just 1½ years, in less than 2 years, the principal agency has lost its middle and upper level informer crops through murder, through organized crime, without being able to detect who did it. Therefore, they do not have the contracts and the penetration ability that perhaps they might have had in the past. At least I doubt it seriously.

I think that generally and popularly we have been misled to believe that the word, "Mafia," is synonymous with "organized crime," and that the Mafia is "it," when the truth is that there is a very convenient way to simplistically try to set forth the problem. The truth is that what has been designated or referred to as the "Mafia" is only a corollary or a subordinate part of this corporate achievement.

The name I would give it would be the "Syndicate," rather than some of the Latin or Italian surnames that we get so used to associating with the Mafia, quite unjustly and wrongfully.

We ought to hear more about Meyer Lansky. We ought to hear more about the real brains, the ones who have survived it all and who have had the brains to put together such schemes as, for instance, the release of a leading mobster during World War II through the use of the Governor of New York, Tom Dewey, the great "gang-buster," and through the naval intelligence, believe it or not. It was Meyer Lansky's brilliant wit that devised the way to get this gangster out of jail, because they sold him as an expert on the Sicilian shores where our armies were going to land, and they released him as a result.

Meyer Lansky's son is a graduate of West Point. Meyer Lansky is the "commandant," but one would never know that by reading the FBI reports or following the course of investigations and special studies made by our law enforcement agencies. It is those related to this syndicate who are the ones who really have developed this highly sophisticated, intricate organization on corporate methods and procedures. They have their corporate structures, their boards of directors. They have their executive committees, and they also have their regional headquarters.

For example, if an individual in my part of Texas ever found himself in need of credit—and some of them have—like any other poor man, he has to go to the loan sharks when the regular avenues of credit are closed to him, and he finds himself having to go to organized crime. He comes to New York to ask for the loan and he will be talked to but he will be referred to New Orleans because that is the area chieftain's place. The same thing happens with the west coast, and the same thing happens with Las Vegas.

In a most serious connotation of the Wood case, an individual who was recently tried and convicted out of El Paso, an individual who was directly involved with the Judge Wood case, had for his lawyer Mr. Lansky's personal private lawyer.

Mr. Speaker, I yield back the balance of my time.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7542) entitled "An act making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes."

The message also announced that the Senate agrees to the House amendment to Senate amendment Nos. 6, 7, 9, 10, 15, 31, 33, 34, 37, 38, 48, 53, 54, 67, 95, 102, 103, 116, 117, 119, 123, 131, 133, 136, 138, 152, 155, 158, 166, 168, 192, 193, 194, 196, 204, 205, 218, 223, 237, 244, 246, 304, 316, 339, 340, 341, 342, 343.

And that the Senate recedes from its amendment No. 118.

The message also announced that the Senate had passed a concurrent resolution of the following title in which the concurrence of the House is requested:

S. Con. Res. 107. Concurrent resolution providing for a recess of the Senate from July 2 to July 21, 1980, and an adjournment of the House of Representatives from July 2 to July 21, 1980.

RECESS OF THE SENATE AND ADJOURNMENT OF THE HOUSE FROM WEDNESDAY, JULY 2, 1980, TO MONDAY, JULY 21, 1980

Mr. WRIGHT. Mr. Speaker, I call up from the Speaker's table a privileged Senate concurrent resolution (S. Con. Res. 107) on the subject of adjournment and ask for its immediate consideration.

The Clerk read the Senate concurrent resolution, as follows:

S. Con. Res. 107

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses on Wednesday, July 2, 1980, it stand in recess until 11 a.m. on Monday, July 21, 1980, and that when the House adjourns on Wednesday, July 2, 1980, it stand adjourned until 12 o'clock noon on Monday, July 21, 1980.

Mr. WRIGHT. Mr. Speaker, I move the previous question on the Senate concurrent resolution.

The previous question was ordered.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

☐ 2230

A TRIBUTE TO HELEN GAHAGAN DOUGLAS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Phillip Burton) is recognized for 15 minutes.

● Mr. PHILLIP BURTON. Mr. Speaker, when I first became involved in politics as a member of the California Young Democrats, there were, in my view, two towering women figures in the Democratic Party, Eleanor Roosevelt, the acknowledged "first lady of the world" and in my own State of California, Helen Gahagan Douglas, a fighter for social justice, a staunch defender of civil liberties and an eloquent espouser of liberal ideas and ideals.

Helen Gahagan inspired me in a truly personal way and she has always been for me a symbol of the highest expression of progressive thought, social concern and liberal activism. My admiration for her was unbounded when I worked in her California Senate campaign and that admiration has continued to grow over the years.

We mourn her death and, I believe, her many friends honor her by recalling her struggles and dedicating ourselves to those high ideals she served during her life.

She has been the subject of many editorial tributes and I would like to place in the Record at this time tributes that appeared in the Washington Post and New York Times:

[From the Washington Post, June 29, 1980]

Helen Gahagan Douglas, 79, a former actress and Democratic member of Congress whose political career came to a halt in 1950 when she was defeated in her bid for a Senate seat by Richard M. Nixon, died of cancer Saturday at Memorial Sloan-Kettering Medical Center in New York.

A family spokeswoman said Mrs. Douglas underwent a mastectomy seven years ago. Her cancer went into remission but recurred three years ago, the spokeswoman said.

Mrs. Douglas was first elected to Congress from the 14th District in Los Angeles in 1944. She was reelected to two more terms and then decided to try for a Senate seat in 1950.

The California Democrat ran up against Nixon, a Republican, who had represented the 12th district in the Los Angeles area since his election in 1946.

The campaign was a heated one. Nixon, who became known for his role in the House Un-American Activities Commission, charged that Mrs. Douglas had strong left-wing tendencies and that her views were considered pro-Communist. He accused her of pink leanings.

She in turn, accused him of witch hunting. She lost the election and he went on to become vice president two years later.

Because of Nixon's attacks on her, Mrs. Douglas became a martyr in the eyes of embittered Democrats, and Nixon a target of criticism because of his tactics for years to come.

In later years, Mrs. Douglas, who became a lecturer and author and returned for a period to the theater, said she felt no bitterness. But in 1974, at the height of the Watergate scandal when then President Nixon was forced to quit the White House, she suggested that he be impeached.

Mrs. Douglas was born in Boonton, N.J., and grew up in Brooklyn, N.Y. She attended Barnard College but dropped out of school to go on the Broadway stage.

She appeared in such plays as "Young Woodley," "Trelawney of the Wells" and "Tonight or Never," where she met actor Melvyn Douglas. They were married in 1931. He was with her when she died.

During the late 1920s, she also studied operatic singing and sang opera on several stages in Europe. She went to Hollywood in 1935 and starred in a movie, "She."

While in California, Mrs. Douglas became interested in the plight of the poor and became involved in politics. She was named a Democratic national committeewoman from California in 1940, when she also became vice chairman of the Democratic State Central Committee and chairman of the women's division, positions she held until her election to Congress.

Active in president Franklin D. Roosevelt's New Deal, Mrs. Douglas had served as a member of the national advisory committee of the Works Progress Administration and of the state committee of the National Youth Administration.

President Roosevelt appointed her to the voluntary participation committee in the Office of Civil Defense. Later President Harry S Truman named her an alternate delegate to the United Nations Assembly.

In 1964, President Lyndon Johnson appointed Mrs. Douglas as special ambassador to head a United States delegation to the inauguration ceremonies of President V. S. Tubman of Liberia.

Mrs. Douglas, who lived in New York, was working on her memoirs at the time of her death, the family spokeswoman said.

In addition to her husband, she is survived by a son, Peter, and a daughter, Mary Helen.

[From the New York Times, June 29, 1980]

Helen Gahagan Douglas, the actress and former United States Representative whose defeat in 1950 for a Senate seat from California launched Richard M. Nixon into national prominence, died early yesterday at Memorial Sloan-Kettering Cancer Center. She was 79 years old and lived on Riverside Drive in Manhattan.

At her bedside were her husband, Melvin Douglas, the actor, and their daughter, Mary

Helen. Mrs. Douglas, who underwent surgery for cancer seven years ago, suffered a recurrence of the illness three years ago and entered the hospital a week before her death.

Mrs. Douglas's life was marked by sudden, unpredictable changes, usually the result of her own firm choice, always followed through with courage.

The child of affluent parents, she was born on Nov. 25, 1900, in Boonton, N.J., where her parents happened to be briefly. She grew up in Brooklyn in a closely knit family that included a sister and three brothers at a time when Brooklyn had a Driving and Riding Club and private schools for its own elite.

Her father, Walter H. Gahagan, an Ohio-born engineer, had a large construction business in Brooklyn and a shipyard in Arverne, Queens. Her mother had been a schoolteacher before her marriage.

BROADWAY STAR AT 22

At 22, Helen Gahagan was a Broadway star, hailed as one of the 10 most beautiful women in the world. She went to Europe to sing in opera, went back to Broadway stardom again, married leading man, Melvyn Douglas, and moved with him to California. There Mr. Douglas went on to co-star with Greta Garbo, Gloria Swanson, Marlene Dietrich and other movie queens of the 1930's.

Mrs. Douglas began championing liberal causes in California and, after having a son, Peter, in 1934, and a daughter, Mary Helen, in 1938, she plunged into politics. She became a Democratic national committeewoman in 1940 and was elected, with labor support, to represent California's 14th Congressional District in 1944. The district included Los Angeles.

After three terms in the House, Mrs. Douglas ran for the Senate in 1950. Her defeat in that contest was probably the first serious setback of her life. It also brought her a kind of dubious lasting fame.

Her successful opponent, Mr. Nixon, without actually stating that she was a Communist, stressed her liberalism in a way that made her appear to be one. The tactics were often later attacked—but not by Mrs. Douglas. Whenever she was invited to criticize Mr. Nixon's conduct in that campaign, she refused. "One must always look to the future, not the past," she would insist.

To run for the Senate, Mrs. Douglas had given up her House seat. Her defeat by Mr. Nixon left her out of public office, and she never ran for one again. She returned to the theater and concert stage occasionally during the 1950's and continued to be active as a private citizen in behalf of liberal causes and Democratic candidates who espoused them.

The sheltered Brooklyn girl—"I was chaperoned practically all the time until I was married," she told an interviewer in 1971—became an actress through sheer determination in the face of explicit opposition from her parents.

At Barnard College, where her parents had enrolled her to keep an eye on their daughter in a futile attempt to dissuade her from her acting career, Helen Gahagan coached the Wig and Cues Dramatic club, wrote plays in her English course and acted in them.

Harry Wagstaff Gribble, a playwright and director, saw her in one of these amateur productions and offered her the leading role in his play "Shoot." She was the only nonprofessional in the cast, and the only one singled out for praise by the critics.

Ten days later, she appeared in another play, in a minor part, which was seen by William A. Brady, a producer. He announced that she was "the coming Ethel Barrymore," signed her to a five-year contract and put her in the leading role of "Dreams for Sale." It opened to rave reviews in September 1922 at the Playhouse Theater, and overnight Helen Gahagan was a Broadway star.

SANG IN OPERA IN EUROPE

As the play opened, the new semester was beginning at Barnard. After reading the reviews, Miss Gahagan saw no reason why she should go back for a third and fourth year. The play lasted only a week, but she went on to other starring roles, and other laudatory reviews. She began to study singing and went to Europe to appear in opera. But then word came that her father was seriously ill and she abandoned her tour, rushing home in October 1930.

A month later, she returned to Broadway in a singing role, in David Belasco's production of "Tonight or Never." Her leading man was Mr. Douglas, a newcomer to Broadway who had polished his acting in stock companies in the Middle West. While the play was still running, they were married on April 5, 1931, at the Gahagan family home at 17 Prospect Park West, Brooklyn, a few months after her father died.

Mrs. Douglas's life changed in many directions after her marriage. The couple drove across the country to take up residence in California and new careers in motion pictures.

On the way, they encountered migratory workers searching for jobs after the economic collapse of 1929 and were profoundly affected. Mrs. Douglas took up the study of economic and social problems, began organizing relief campaigns and to take an interest in politics.

In 1937, Mrs. Douglas returned from a concert tour through Central Europe with her political education further enhanced. Her accompanist, who was Jewish, like her husband, had not been invited to the parties given for her, and she had been forbidden to sing "Jewish" music. She canceled her contract to sing there the following year and began working for organizations opposed to the Nazis, as well as for the migrants, whose numbers had soared.

Mr. Douglas, who like his wife was accused of being a Communist sympathizer, served in the Army in the Burma-China theater in World War II (he was also in the armed forces in World War I, enlisting by exaggerating his age) and was discharged a major. He resumed acting and directing in Hollywood, but after Mrs. Douglas's political career ended, they moved back to New York, where they remained.

One of Mrs. Douglas's final public pleas was an appeal to Congress for Federal funds for cancer research. On June 19, 1979, she spoke to a Congressional hearing in Washington by telephone from the bedroom of her Riverside Drive apartment, a frail but determined figure braced by pillows and cushions.

She had "learned a lot about terminal cancer" since her Congressional days, she told the hearing, in a voice amplified for the audience there. "My father, a brother and my only sister died of it."

Dr. William Cahan, a cancer specialist and her physician, was in the room as she spoke. At a bridge table against the wall, piled high with files, clippings and books a young actor doing research for her was typing notes she had dictated for the autobiography she was determined to finish.

Mrs. Douglas was persuaded to write the autobiography by a literary agent who had suggested that it would be a good way to take her mind off her illness.

"Later, I discovered she had cancer and she died," Mrs. Douglas said of the agent during an interview in the summer of 1979. "It's as if I have a commitment to her to finish the book, before I pass on."

"When they wanted to give me drugs to ease the pain I wouldn't let them," she said. "I want to keep my mind as clear as I can as long as I can. I never wrote a book before, but I used to write my own speeches."

Nan Stevens, the Douglases' secretary, said yesterday that most of the manuscript had been delivered to her publisher, Doubleday's, but that Mrs. Douglas was still finishing the final chapter she was planning to write. It was to cover her 1950 Senate race in California.

Mrs. Douglas also wanted to add an epilogue, Mrs. Stevens reported. She said that Mrs. Douglas's editors should be able to complete the book with the materials she was putting together for the final part.

Besides her husband and daughter, Mrs Douglas is survived by a son, Peter; a stepson, Gregory Hesselberg; a brother, Walter H. Gahagan; and several grandchildren.

The family said there would be no funeral, and contributions in lieu of flowers should be made to the Memorial Sloan-Kettering Cancer Center. A memorial service was to be held later at an as yet undetermined time and place in New York or Vermont.●

A RICH MAN'S TAX CUT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 10 minutes.

● Mr. REUSS. Mr. Speaker, at first glance, Ronald Reagan's proposed 10-percent across-the-board tax cut seems fair: Why not reduce everyone's taxes by the same proportionate amount?

In fact, this is a rich man's tax cut. Consider: The median American family, with an income just under $20,000, no capital gains, no tax-free income, four exemptions and the standard deduction, has a Federal income tax liability of about $2,000. Reagan's tax reduction would save that family $200 in taxes.

But what would happen to that same family if it had, for example, Ronald Reagan's income? As recently reported in the national press, Mr. Reagan in 1979 garnered a total of about $400,000 in taxable income: $300,000 in speaker's fees and about $100,000 in unearned interest and dividends. With such an income, our hypothetical family would have a tax liability of $207,336. Reagan's tax cut would save that family over $20,000—or 100 times as much as it would save the average American.

We do not know how much Mr. Reagan actually paid in taxes last year. But one thing is certain. Mr. Reagan's tax proposals have been drafted with a keen eye to the hardships of the tax burdens—of the super-rich.

PROTECTING TELECOMMUNICATIONS SERVICES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

● Mr. PREYER. Mr. Speaker, today I introduce legislation to prohibit the unauthorized interception and use of subscription telecommunications.

The bill seeks to insure adequate and appropriate protections for the integrity, security and privacy of a growing portion of electronic communications. We are in the midst of a revolution in communications and information transfer, a revolution which is frequently and forcefully brought to my attention as chairman of the Subcommittee on Government Information and Individual Rights. In investigating such matters as international data flow, in overseeing the operations of the Federal Communications Commission, in fulfilling our legislative responsibilities, the subcommittee I chair has found that the communications revolution often leaves the legal structure behind. This bill fills one of those legal gaps.

The legislation seeks to protect all subscription telecommunications, whether broadcast over the airwaves or carried in a cable or other common carrier "pipe." At one obvious level, subscription telecommunications include such offerings as pay television services. Also included, however, are an increasing variety of digital and video services, such as teletext and videotext, which may employ broadcast, cable, or ordinary common-carrier communications channels to provide information to customers.

Although section 605 of the Communications Act and chapter 119 of title 18 currently provide some protections for these communications, those protections are neither as effective nor as legally secure as they might be. Indeed, to the extent these services may be transmitted in digital form, or simply as data, it is not clear that existing law protects them. The bill I am offering would.

The elements of the legislation are simple. It prohibits interception of subscription telecommunications by anyone not entitled to receive them. It provides those whose communications are intercepted with the right to sue to halt interception and to recover damages for any injury. The bill also provides for criminal penalties under some circumstances, and I have attempted to tailor the penalties to the proposed criminal code reform legislation.

One of the primary objectives of the bill is to offer protections to a wide range of legitimate economic and property concerns, perhaps most simply illustrated in the pay television industry, but encompassing a far wider range of emerging services. As with any emerging industry, its legitimate proprietary interests deserve the protection of society, particularly if we want to continue to encourage innovation and development in telecommunications services. At the same time, however, the legislation provides substantial protection to the individuals and organizations receiving any subscription service. It safeguards each citizen's privacy interest in not having others know what movies he sees in his own home or what information he calls up from a data base at home or office. Further, the bill does not interfere in any way in the relationship between an originator of subscription telecommunication and its subscribers.

As we consider this legislation, I believe it vital that all understand that the weight of its provisions for private enforcement and civil liability would fall on those who intercept communications for financial gain. Equally important, this bill is both technologically "blind"—adaptable to changes in technology—and makes no attempt to regulate technology or restrict the sale of products which may be adaptable to many uses. Not only is such regulation and restriction impossible to enforce, it is most often a return to the discredited ideas of the Luddites.

I urge the earliest consideration of this bill and invite the dialog which will assure its successful passage into law.●

USURY CEILING PREEMPTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 10 minutes.

● Mr. LAFALCE. Mr. Speaker, I am introducing legislation today that will continue the House's recent mood of less, rather than more regulation for financial institutions, and to establish a free market in and therefore greater availability of credit. The bill I propose today is modeled after our earlier actions to free rates on home mortgages, business credit, agricultural credit and mobile home loans. It is also in keeping with the recent recommendations of the interagency task force on thrift institutions formed under the direction of the Depository Institutions Deregulation and Monetary Control Act of 1980. The task force called upon the Congress to consider overriding State limits on interest that may be charged on credit cards and other consumer loans.

Although the problems generally caused by usury ceilings are not new, they have become increasingly evident in the past few months as market interest rates continued to rise above the various State-imposed usury ceilings. When market rates exceed usury ceilings, lower income and higher risk borrowers have difficulty obtaining loans from commercial banks, thrifts, or other lenders. Credit often then flows to markets not subject to usury ceilings, thereby hurting both the borrower who finds conventional sources of credit closed off, and the lender as well.

Consumers and lenders are not the only ones hurt by such restrictive interest rate lending; smaller retailers suffer as well. Years ago, many retailers had their own charge or credit plans, but today most of them rely on bank cards to handle their credit programs. When customers are denied credit cards or have their loan limits reduced, it squeezes the smaller retailer by tightening the availability of credit to his customers.

I introduce this bill today in recognition of a problem that appears to exist between the imposition of State usury ceilings and the ability of thrifts, commercial banks, and businesses to extend consumer credit in periods of high interest rates. However, I want to emphasize that I am not wedded to these particular provisions nor to this approach. I am introducing this legislation today because of the need for something to be done soon, and to give my colleagues, and myself, a chance to mull over the situation during recess.

I have heard much from my home State of New York regarding the need for some relief from the usury ceiling. The chairman of the New York Federal Reserve Bank, Mr. Solomon, Governor Carey, and the New York State Banking Commissioner, Muriel Siebert, have all expressed their desire to see some relief from State usury ceilings. Yet the State legislature has failed to act and went into recess without considering the issue.

I am certain that there will be many differences of opinion about my bill and the particular approach taken. I welcome whatever suggestions may be forthcoming from consumers, businesses, and financial institutions between now and July 21. I encourage those who have a difference of opinion on this issue to contact me so that when the House reconvenes in 2½ weeks, I will have a better idea of the need for such legislation, the pros and cons, and the best way to address the problem. I am hopeful that the House and Senate Banking Committees will have early hearings on this problem when we return.

I ask my colleagues to join me in this effort to improve the financial stability of thrifts, recently granted authority to expand into the consumer-credit field; to help the small businessman who has suffered from this recent bout of high-interest rates, and to take the necessary step toward establishing free market competition in the area of consumer credit.

I respectfully request that a copy of my bill together with a section-by-section analysis be printed in the CONGRESSIONAL RECORD:

H.R. 7735

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title V of the Depository Institutions Deregulation and Monetary Control Act of 1980 (94 Stat. 161; P.L. 96–221) is amended by adding at the end thereof the following:

"Part D—CONSUMER CREDIT

"EXTENSIONS OF CONSUMER CREDIT

"SEC. 531. (a) The provisions of the constitution or the laws of any State expressly limiting the nature, rate, amount of, or manner in which interest, finance charges or other charges or fees which may be charged, taken, received, or reserved shall not apply to an extension of consumer credit.

"(b) Except as provided in subsection (c)(1), the provisions of subsection (a) shall not apply to any extension of consumer credit made pursuant to the laws of any State after the date (on or after the effective date of this section and before April 1, 1983) on which such State adopts a law or certifies that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly by its terms that such State does not want the provisions of subsection (a) to apply with respect to extensions of consumer credit made pursuant to the laws of such State.

"(c)(1) Notwithstanding any other provision of the laws of the United States or of the constitution or the laws of any State, a creditor may impose transaction fees and access fees upon account holders pursuant to an open end credit plan.

"(2) Any transaction fees and access fees imposed upon account holders pursuant to an open end credit plan shall not be considered a component of the interest charge, finance charge, or other charge for credit under the constitution or laws of any State expressly limiting the types, rate or amount of interest, finance charge, other charges, or fees which may be taken, received, or reserved by a creditor.

"(3) Notwithstanding the provisions of subsection (b), no State shall enact any law, regulation, or constitutional provision which shall in any manner limit or restrict the amount of interest, finance charge, other charges, or fees which may be contracted for, charged, taken, reserved, or received in connection with an open end credit plan based on whether a creditor imposes transaction fees or access fees.

"DEFINITIONS

"Sec. 532. For purposes of this part—

"(1) the term 'access fee' means a fee or other charge which is related to the privilege granted by a creditor to a person to obtain access to an open end credit plan;

"(2) the term 'credit' means the right granted by a creditor to a person to defer payment of debt or to incur debt and defer its payment;

"(3) the term 'creditor' means a person who regularly extends consumer credit, or who regularly arranges for the extension of consumer credit, that is payable by agreement in installments or where the payment of interest, a finance charge or other charge or fee is or may be required, whether in connection with an extension of credit, sales of property or services, or otherwise;

"(4) and for purposes of section 528, the term 'extension of consumer credit' means credit offered or extended by a creditor to a person, primarily for family, household, travel, entertainment, or personal purposes;

"(5) the term 'open end credit plan' means the extension of consumer credit on an account pursuant to which—

"(A) the creditor may permit the account holder to make purchases or obtain loans, from time to time, directly from the creditor or indirectly by use of a credit card, check, or other device; and

"(B) a finance charge may be computed by the creditor from time to time on an outstanding balance;

"(6) the term 'person' means a natural person or an organization, including a corporation, partnership, proprietorship, association, cooperative, estate, trust, banking organization, or governmental unit; and

"(7) the term 'transaction fee' means a fee or other charge which is imposed by a creditor upon the occurrence of a transaction with respect to an open end credit plan.

"REGULATIONS

"Sec. 533. The Board of Governors of the Federal Reserve System is authorized to issue rules and regulations and to publish interpretations governing the implementation of this part.".

Sec. 2. Section 106 of the Truth in Lending Act (15 U.S.C. 1605) is amended by adding at the end thereof the following new subsection:

"(f) The following items, when charged in connection with an open end credit plan, shall be excluded from the computation of the finance charge with respect to such plan:

"(1) any fee or other charge related to the privilege granted by a creditor to a consumer to obtain access to credit pursuant to such plan; or

"(2) any fee imposed by a creditor upon the occurrence of a transaction pursuant to such plan.".

Sec. 3. Section 528 of the Depository Institutions Deregulation and Monetary Control Act of 1980 (94 Stat. 168; P.L. 96–221) is amended by striking out "the same loan, mortgage, credit sale, or advance, such loan, mortgage, credit sale, or advance" and inserting in lieu thereof "the same loan, mortgage, credit sale, extension of consumer credit, or advance, such loan, mortgage, credit sale, extension of consumer credit, or advance".

Sec. 4. The amendments made by this Act shall take effect on the date of the enactment of this Act.

Section-by-Section Analysis

This bill will amend the recently enacted Depository Institutions Deregulation and Monetary Control Act of 1980 (PL 96–221) (the "Act"). Title V of the Act provided for Federal preemption of various state usury ceilings on business, agricultural and mortgage loans. The first section of this legislation will amend Title V by adding a new Part D. Part D provides for the Federal preemption of state usury ceilings on extensions of consumer credit.

Section 531(a) of the new Part D preempts state usury ceilings on all extensions of consumer credit including loans or purchases made under an open end credit plan, such as automobile loans, home improvement loans, and mobile home loans. This is accomplished in the same manner as the Federal preemption of state usury ceilings on mortgages contained in section 501(a)(1) of this Act.

Section 531(b) permits a state to override the Federal preemption of state usury laws provided in Section 531(a). Any state law, constitutional provision or other override proposal must specifically refer to section 531 and expressly indicate that the state intends to override the provisions of section 531(a). States are permitted to override this Federal preemption at any time from the effective date of section 531(a) until April 1, 1983. These provisions correspond with the state override feature embodied in section 501(b)(2) with respect to the federal preemption of state usury ceilings on mortgages.

Section 531 (a)(1) preempts existing state laws and supersedes current Federal laws which prohibit or restrict a creditor from imposing access fees and transaction fees upon account holders pursuant to an open end credit plan, e.g. credit card loans and purchases.

Section 531(c)(2) specifically provides that access fees and transaction fees imposed by a creditor in accordance with section 531(c)(1) shall not be considered a component of the interest charge, finance charge or any other charge for credit under the provisions of the constitution or laws of any state expressely limiting such charges.

Section 531(c)(3) prohibits a state from enacting any law, regulation or constitutional provision which limits or restricts the amount of interest charges, finance charges or other charges imposed pursuant to an open end credit plan which is based on whether a creditor imposes an access fee and a transaction fee on such a plan.

Section 532 comprises the definitional section of Part D:

Section 532(1) defines the term "access fee" to mean a fee or other charge related to the privilege granted by a creditor to a person to obtain access to an open end credit plan.

Section 532(2) defines the term "credit" to mean the right granted by a creditor to a person to defer payment of debt or to incur debt and defer its repayment.

Section 532(3) provides that the term "creditor" means a person that regularly extends, or arranges for the extension of consumer credit payable in installments or where the payment of interest, a finance charge or other charge may be required.

Section 532(4) defines the term "extension of consumer credit" to include credit offered or extended by a creditor to a person primarily for family, household, travel, entertainment or personal purposes. An extension of consumer credit would include credit offered or extended to a person primarily for personal purposes, that is credit related directly to the purposes of the person to which the credit is offered or extended.

Section 532(5) provides that the term "open end credit plan" means the extension of consumer credit on an account pursuant to which the creditor may permit the account holder to periodically make purchases or obtain loans directly from the creditor or indirectly by use of a credit card, check or other device. In addition, a creditor may compute a finance charge on an outstanding balance, from time to time. The term open end credit plan includes credit cards and lines of credit accessed by use of a card, check or other device.

Section 532(6) defines the term "person" to mean a natural person or an organization including a corporation, partnership, proprietorship, association, cooperative, estate, trust, banking organization or government unit.

Section 532(7) provides the definition of "transaction fee" as meaning a fee or charge imposed by a creditor upon the occurance of a transaction with respect to an open end credit plan.

Section 533 empowers the Federal Reserve Board to issue rules and regulations and to publish interpretations governing the implementation of Part D.

Section 2 of this legislation contains a technical amendment to current Federal law by amending the Truth in Lending Act to specifically exclude access fees and transaction fees from the computation of the finance charge in connection with an open end credit plan.

Section 3 of this legislation amends section 528 of the Act to clarify the fact that extensions of consumer credit may be made at the highest applicable rate.

Section 4 of this legislation provides that Part D shall take effect upon enactment.●

H.R. 5200

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. Nelson) is recognized for 5 minutes.

● Mr. NELSON. Mr. Speaker, this is to comment on the recent passage of H.R. 5200, as amended, and on how the actions on this bill confirm my belief in a policy I have consistently maintained in 8 years of public service.

It is rare that I will commit in advance to a particular piece of legislation, if it is complex, because of my personal insistence on having the opportunity to deliberately study the legislation, to read the committee reports, to hear the floor debate, and to conduct further research if needed. I carefully guard these prerogatives in order to make an informed judgment before deciding how to cast my vote. I will continue this practice as a Congressman, as I have in the past.

With regard to H.R. 5200, I would have been doing a disservice to my constituents to "chisel in stone" a position on legislation as complex as this prior to its final consideration. To do so would have prevented the thoughtful consideration of floor debate and of the new actions taken by the House in the amendment process.

In early meetings with constituent groups from my district concerning this legislation, I expressed concern about the concept of using administrative law judge tribunals from the Department of Housing and Urban Development which would be establishing HUD as investigator, prosecutor, judge and jury in those cases. Had I stated at the time an adamant position in opposition to any administrative law judge involvement in these cases, I would not have been free to thoroughly consider the new amendment offered by our colleague from Oklahoma (Mr. SYNAR). In fact, it was this amendment by Mr. SYNAR which eliminated a wholly HUD administrative law judge tribunal. I supported his amendment and voted for the legislation on final passage with 309 other Members of the House.

This example has reconfirmed my belief that to commit to a "concrete" position in advance of final consideration on complex legislation places an unreasonable constraint on the deliberative process.

That said, Mr. Speaker, I would like to set forth for the record my beliefs with respect to the House's action on H.R. 5200:

On June 11, the House passed H.R. 5200 after extended debate and after approving several amendments by an ovewhelming vote of 310–95. I voted for the bill as amended. Let me explain the complexity, necessity, and purpose of this legislation.

PROBLEMS AND HISTORY

Any review of the bill must start with an understanding that almost every Congressman agreed that something had to be done to improve the enforcement provisions of the 1968 Act. Under that law, conciliation (an agreement worked out between the person filing the complaint and the party complained against) was the only way to resolve an individual fair housing complaint short of going into Federal court. Conciliation is, unfortunately, working in only about one in twelve complaints. Congress recognized that this wasn't fair to either side. Federal court is generally time consuming (an average case takes nearly 2 years to complete) and very expensive. Those filing the complaint just can't afford to wait that long to know whether or not they can rent or buy, and, on the other side of the coin, realtors and landlords often find themselves tied up for two years in expensive legal battles. Clearly something had to be done to speed up the resolution of complaints.

Everyone, then, recognized that there is a legitimate need to alter the enforcement of the Fair Housing Act for individual complainants. The only question was how.

THE COMMITTEE BILL

H.R. 5200, as reported out of committee, gave complainants two choices: They could go into Federal court or they could file a complaint through HUD and, in most cases, have that complaint resolved by an Administrative Law Judge (ALJ) who would hear both sides and reach a speed decision. If either party was dissatisfied with the ALJ ruling, they could file an appeal with Federal court, but the District Court Judge would not hold an entire new trial; he would simply review the hearing record, solicit new testimony where he thought it necessary, and then make his own determination as to which side should have prevailed.

The committee bill also specifically required that HUD must first refer the complaint to a state or local fair housing board, if one were certified in the jurisdiction where the complaint occurred.

Many congressmen were happy with the committee approach to enforcement. They recognized that we must speed up the system, but felt that HUD would effectively become "investigator, prosecutor, judge and jury" and that landlords and realtors would arguably be facing a "stacked deck" when someone filed a complaint. They also were concerned that the committee bill would have allowed HUD ALJs to make decisions on local government zoning practices—something few saw as good. I shared those concerns.

SENSENBRENNER-VOLKMER AMENDMENT

Congressmen Sensenbrenner and Volkmer announced their intention to try to amend the bill by eliminating the ALJs in favor of Federal Court magistrates and by improving the conciliation process. Supporters of this approach did not challenge the need for H.R. 5200, they simply believed this to be the better approach.

Many Congressmen, myself included, concluded that the Sensenbrenner-Volkmer approach didn't really solve the problem. Federal magistrates are arms of the court and, in many if not all cases, are almost as backlogged as Federal judges. And while we all agree that conciliation is the preferable way to resolve a dispute, conciliation, by its very nature, is not going to be successful in most cases. When two sides are both convinced they're right, it's going to be difficult for them to resolve their differences without some outside influence.

THE SYNAR AMENDMENTS

I concluded after hearing the debate that it was necessary, therefore, to keep the ALJ process intact so that there would be speedy and relatively inexpensive resolution of disputes. It was also important, however, to encourage conciliation and, if that failed, to insure that the process did not "stack the deck" in favor of one side. To that end, Congressman Synar of Oklahoma introduced amendments on the floor. The Synar amendments made three basic changes in the committee bill:

(1) They took local government zoning complaints out of the jurisdiction of HUD; these complaints, though filed with HUD, must be referred to the Attorney General and processed through Federal court—as they are under existing law;

(2) They strengthened the conciliation process by setting periods before and after the ALJ hearing during which conciliation would be encouraged; many times the parties may be able to reach an agreement among themselves after they've had their day in court; and

(3) They took several steps to insure that the ALJs would not be partial—that the "judge and jury" would, in fact, be separate from the "investigators and prosecutors", so that landlords and realtors would not face even the appearance of a stacked deck.

The issue of impartiality was, of course, very important. Specifically, the Synar amendments provided:

(1) the ALJs are to be appointed, paid, supervised and removed (for cause only) by the Attorney General and not HUD;

(2) no one may be appointed as an ALJ who has supervised or served as an investigator or prosecutor in HUD within 2 years of the time of appointment; and

(3) the ALJ may not communicate with HUD investigative or prosecutive personnel unless all parties to the complaint are present.

The Synar amendments were accepted and gave a final bill which provided a speedy but fair way to handle complaints.

SUMMARY

In summary, H.R. 5200, as amended, gives us a process that relies on local fair housing boards first, keeps HUD out of local zoning matters, encourages conciliation and gives us a speedy yet fair method for dealing with complaints. I am confident it will prove to be a very workable piece of legislation.●

RAIL ACT OF 1980

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. RATCHFORD) is recognized for 5 minutes.

● Mr. RATCHFORD. Mr. Speaker, I rise to voice my support for the Rail Act of 1980, and particularly for the provisions of this legislation which authorizes the purchase and operation of Conrail lines in the States of Connecticut and Rhode Island by the Providence and Worcester (P. & W.) Rail Co.

There is no need to remind my colleagues from the Northeast region of the importance of the continued operation of freight service now provided by Conrail. For the past 20 years, New England businesses relying on rail transportation services for the shipment of their goods have faced the troubling possibility of rail bankruptcy cutting their link to the rest of the Nation. If present trends were to continue, Conrail may have had no alternative but to abandon a number of rail lines in Connecticut and Rhode Island, thereby deserting many of the small shippers which it now serves.

I am most pleased today that the small companies in my district in Connecticut may have an alternative to this disruption of rail service. Following a study sponsored by the Federal Railroad Administration and the U.S. Railway Association entitled "Alternatives for Conrail," the P. & W. Rail Co. has indicated a willingness to purchase and operate Conrail lines in Connecticut and Rhode Island for a period of at least 5 years without Federal or State subsidies. In addition, P. & W. has pledged to provide service to any users currently threatened with discontinuation of rail services. It is with great pride and enthusiasm that I applaud P. & W.'s initiative in this important area.

The ability of P. & W. to fulfill its pledge to New England residents seems clear. The company has already proven its economic strength, purchasing several bankrupt rail lines and securing an increasing share of the region's rail market after only 7 years of independent operation. Today, P. & W. owns all of its own facilities and trackage and remains debt free.

It is in this context, Mr. Speaker, that I welcome the incorporation of H.R. 6986, which I cosponsored, into the Rail Act of 1980 to permit the purchase and operation of Conrail lines by P. & W. And I strongly urge my colleagues in the House to join the Connecticut and Rhode Island delegations in approving this measure which is of such great importance to the rail transportation system of the Northeast and the Nation.●

A BILL TO IMPROVE ACCESS TO HOSPICE SERVICES FOR THE TERMINALLY ILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, during the last decade, we have been fortunate to witness the blossoming of an international hospice movement; a concept dedicated to helping terminally ill patients and their families adjust to the fact of their impending death and live out the remainder of their days in dignity and peace in a supportive environment with the medical and psychological care necessary to accomplish this.

As is often the case, private groups and individuals have perceived a need in society and acted creatively to address that need, leaving the policies of the Federal health programs to catch up at a later date. This is the situation now confronting the hospice movement. Although hospice services are both humane and cost-effective, under present law they are not eligible for medicare reimbursement. For this reason, I am introducing a bill to remedy this situation and allow medicare reimbursement for hospice care.

As my colleagues are aware, the Department of Health and Human Services is currently planning a hospice demonstration project which will utilize medicare waivers for a broad range of hospice services which would otherwise not be reimbursible. This demonstration project which is not yet underway, will not yield results for approximately 3 years. While the hospice demonstration project results will be valuable in many respects, I do not believe that we need to wait that long to allow medicare reimbursement for these services. We know the hospice concept works and we know that the need is there. Due to the relative youth of the hospice concept, statistics on cost-effectiveness are not well developed; however when consideration is given to the fact that the majority of patients who are treated in a hospice setting—or in their own homes with hospice support services—would otherwise be hospitalized, it is apparent that medicare reimbursement for hospice care is an opportunity to contain costs while comprehensively addressing the needs of the terminally ill.

The legislation I am introducing today would provide medicare reimbursement for hopsice services under part B of medicare, to patients who have been determined to be terminally ill with less than 6 months to live, and who choose to enroll in the program and pay the required premiums.

Mr. Speaker, the diagnosis of terminal illness places a tremendous psychological and financial burden on the patient and his or her loved ones. This burden can be relieved somewhat by compassionate medical care in a setting which is sensitive to the special medical, psychological, and spiritual needs of the dying patient and his or her family. I have no doubt that at some point, the Federal Government will be forced to recognize the appropriateness of medicare reimbursement for hospice services. I urge my colleagues to join with me now in this timely effort to insure access to hospice care for those who desire it.

The following is the text of my proposal.

H.R. 7744

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

AMENDMENT TO PURPOSE OF PART B MEDICARE PROGRAM

SECTION 1. Section 1831 of the Social Security Act is amended by inserting ", terminally ill," after "aged".

SCOPE OF BENEFITS

SEC. 2. Section 1832(a) of the Social Security Act is amended by striking out "and" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof "; and", and by adding the following new subparagraph at the end thereof:

"(E) hospice services."

PAYMENT OF BENEFITS

SEC. 3. Section 1833(a)(3) of the Social Security Act is amended by striking out "section 1832(a)(2)(D)" and inserting in lieu thereof "subparagraphs (D) and (E) of section 1832(a)(2)".

ELIGIBILITY

SEC. 4. (a) Section 1836 of the Social Security Act is amended—

(1) by inserting "(a)" after "1836."; and

(2) by adding the following new subsection at the end thereof:

"(b) In addition to individuals described in subsection (a), every individual who—

"(1)(A) is determined by a physician (as defined in section 1861(r)(1)), pursuant to regulations issued by the Secretary, to be terminally ill and to have less than 6 months to live, and (B) is under an approved program of care, as determined by the Secretary pursuant to regulations, by a hospice; and

"(2) is a resident of the United States and is either (A) a citizen, or (B) an alien lawfully admitted for permanent residence who has resided in the United States continuously during the 5 years immediately preceding the month in which the individual meets the requirements of paragraph (1),

is eligible for benefits provided with respect to hospice services under the insurance program established by this part."

(b) Sections 1837(c), 1837(d), 1837(f)(1), 1838(a)(2)(A), 1838(c), and 1839(f) of the Social Security Act are each amended by inserting "(a)" after "section 1836" each time it appears therein.

ENROLLMENT

SEC. 5. Section 1837 of the Social Security Act is amended by adding the following new subsection at the end thereof:

"(i) Any individual who is eligible under section 1836(b) for benefits provided with respect to hospice services under the insurance program established by this part shall be deemed to be enrolled in such program on the date on which such person becomes eligible as a result of such section."

COVERAGE PERIOD

SEC. 6. Section 1838 of the Social Security Act is amended by adding the following new subsection at the end thereof:

"(e) In the case of an individual who is deemed to be enrolled in the insurance program established by this Act as a result of section 1837(i), the coverage period for such individual shall—

"(1) begin on the date on which the individual is deemed to be so enrolled under such section; and

"(2) terminate in accordance with subsection (b) or on the date on which the individual dies or is determined to be no longer terminally ill; except that, with respect to bereavement counseling described in section 1861(bb)(1)(B), such period shall terminate 1 year after the individual's death.

Payment for hospice services furnished on and after the date described in paragraph (1) may be made only after the individual has filed an application for benefits under this part and has paid premiums in accordance with section 1840(e)."

DEFINITIONS

SEC. 7. Section 1861 of the Social Security Act is amended by adding the following new subsection at the end thereof:

"(bb)(1) The term 'hospice services' means items and services furnished, with respect to an individual eligible for benefits under this part and described in paragraph (1) of section 1836(b), by a hospice or (to the extent permitted in regulations prescribed by the Secretary) by others under arrangements made with them by the hospice. Such items and services shall include—

"(A) the following items and services provided in a place of residence used as such individual's home—

"(i) nursing care provided by or under the supervision of a registered professional nurse;

"(ii) part-time or intermittent services of a home health aide;

"(iii) homemaking services provided with respect to maintaining the residential environment of the individual;

"(iv) physical and speech therapy, including both rehabilitative and maintenance therapy;

"(v) medical social services under the direction of a physician, including psychiatric assessment, referral, and counseling for members of the individual's family before the death of the individual;

"(vi) nutritional services by or under the supervision of a registered dietician;

"(vii) prescription drugs and biologicals;

"(viii) durable medical equipment and safety devices;

"(ix) medical supplies; and

"(x) home respite services furnished by a home health aide or a homemaker;

"(B) not more than 3 sessions of bereavement counseling furnished to members of the individual's family within 1 year after the death of the individual;

"(C) inpatient care furnished in a hospital, skilled nursing facility, intermediate care facility, or another facility used by the hospice to provide care to the terminally ill; and

"(D) physicians' services.

"(2) The term 'hospice' means an organization—

"(A) the purpose of which is to provide care to terminally ill patients; and

"(B) which meets requirements specified by the Secretary for the purpose of carrying out part B of this title." ●

HOSPITAL FINANCING EXPERIMENT AND DEMONSTRATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. RANGEL) is recognized for 15 minutes.

● Mr. RANGEL. Mr. Speaker, I am today introducing a bill, the Hospital Financing Experiment and Demonstration Act, which would be a first step toward averting a serious crisis in our Nation's hospitals.

For some time now we have been aware that our community hospitals are experiencing severe financial problems—problems so severe that, in many cases, hospitals are in danger of closing. Already many hospitals have reduced or terminated services which are essential to their communities in an attempt to keep acute care inpatient beds operative.

There is no need for me to explain why this particular crisis should generate so much intense concern. Our public and, in many cases, private nonprofit hospitals represent the principle source of primary and acute care services for the great majority of our poorest citizens, most of whom cannot, as a practical matter, obtain care elsewhere. The financial viability of these hospitals—their capacity to provide the volume and quality of needed services—must be a matter of immediate concern to all of us.

There is no one cause for the financial problems facing our community hospitals. Almost in every case, however, hospitals in "distress" have significant amounts of uncollected revenues resulting from care provided to people with inadequate or no health insurance coverage. There are approximately 20 million people in the United States who do not qualify for medicaid and have no private health insurance. Community hospitals are providing not only acute care but primary care—the care generally provided by a family physician—for these people. Other factors contributing, often in combination, to hospitals' plight include:

Rapidly rising operating expenses due to inflation, the cost of new medical technologies, excess hospital beds, ineffective planning, and obsolete physical plants;

Stringent eligibility requirements, limited benefits, and inadequate reimbursement rates under some State medicaid programs, as well as limits on direct State and local funding;

Bad management, manifested by poor accounting practices, inadequate reimbursement rates under some State medicaid programs, as well as limits on direct State and local funding; and

Physician shortages and no organized primary care systems, which result in individuals in medically underserved areas seeking care in more expensive and often ill-adapted hospital outpatient department and emergency room settings.

Those of us who saw this situation developing were, unfortunately, largely at a loss to know what to do. Although we knew the hospitals could not pay their bills, we did not have an objective definition of "financially distressed." And, obviously, we could not provide Federal relief for every hospital merely experiencing cash flow problems. Neither did we have good estimates of the magnitude of the problem; relevant data are limited and untested.

The most serious cases seemed to be in urban areas where community hospitals are serving large numbers of people not covered by private insurance and not eligible for public programs. However, small rural hospitals also tell us they are experiencing the same problems. And finally, we were not sure of the most appropriate method of assistance. Should it be short-term emergency grants? Or, were those problems indicative—as many said—of the need for permanent changes in medicare and medicaid reimbursement methodology?

My Subcommittee on Health held hearings in Washington and several cities throughout the United States in an effort to gather the information necessary to develop a bill to deal with this problem. The more people we talked to and the more examples we saw, the more we realized how little we knew about developing a solution which would be appropriate in every case.

I am, therefore, today introducing a bill which would provide us with the information necessary to develop more permanent reforms in our health care system. My bill would expand existing demonstration authorities under the medicare and medicaid programs so as to allow the Secretary of Health and Human Services to test some of the reimbursement reforms which have been suggested as appropriate. For example, many have suggested that some hospitals are experiencing financial problems because medicare and medicaid do not pay their proportional share of the hospitals' bad debts. Others have criticized these Federal reimbursement programs for not picking up their share for the cost of eliminating acute care bed capacity or substituting excess capacity with other services such as long-term care beds.

But whatever the proposed reforms, it is essential that we make available the opportunity to test and evaluate them for their effectiveness in meeting the specific problems faced by hospitals. And it is this objective that my bill seeks to foster.

The bill follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Hospital Financing Experiment and Demonstration Act".

Sec. 2. (a) The Secretary of Health and Human Services (hereinafter in this Act referred to as the "Secretary"), directly or through contracts, grants, or cooperative agreements with public or private agencies or organizations, shall develop and carry out studies and experimental pilot or demonstration projects designed—

(1) to determine whether, and if so under what circumstances, it would be desirable and feasible to use funds available under title XI, XVIII, or XIX (or any combination thereof) of the Social Security Act to foster such restructuring of the health care delivery system in a community as results in the more efficient and economical delivery of health care services under such titles; such studies and projects may include—

(A) reimbursement with respect to the costs of closing or modifying the use of an underutilized facility where this would (i) eliminate excess bed capacity, (ii) result in the discontinuing of an underutilized service, or (iii) result in the substitution for the underutilized service of some other service which is needed in the community where this is consistent with the findings of an appropriate health planning agency; and

(B) payment, in a manner determined by the Secretary to be appropriate, for the costs of acquisition, construction, or renovation of a hospital outpatient primary care facility in cases where the use of the existing facility that provides outpatient primary care services results in substantial inefficiencies because of physical location, inappropriate design, or inadequate capacity;

(2) to determine whether, and if so under what circumstances, it would be desirable, feasible, and consistent with the findings of an appropriate health planning agency to use funds available under title XVIII or XIX (or both) of the Social Security Act to provide financial relief for public or private nonprofit hospitals which, without such assistance, would be forced to close or terminate or reduce the availability of services which are essential to the community; such studies and projects may include—

(A) reimbursement for a proportional share of the hospital's expenses related to bad debts and charity care;

(B) payment, in a manner determined by the Secretary to be appropriate, for the cost of management improvements where such improvements are necessary for the hospital to become financially viable; and

(C) payment, in a manner determined by the Secretary to be appropriate, for the cost of renovations and physical improvements which are required to bring the hospital into compliance with Federal, state, and local standards for hospitals; and

(3) to determine whether, and if so what, changes in title XVIII or XIX (or both) of the Social Security Act would increase the availability of services under such titles, contribute to the more efficient and economical use of funds under such titles, or improve the administration of the programs under such titles; such studies and projects may include—

(A) such changes in the reimbursement methodology under either or both of such titles as would reduce costs without adversely affecting the quality of services or as would result in the more efficient administration of such titles;

(B) subject to subsection (b)(1)(B), changes in eligibility criteria for benefits under title XIX of the Social Security Act which would increase the availability of services while promoting effective program administration;

(C) modifications in the definition of covered services which would be consistent with the intent of such titles; and

(D) such modifications of the criteria for and definitions of providers of services as would make covered services more widely available without otherwise increasing the cost of such services.

(b)(1)(A) In the case of any project under subsection (a), the Secretary may waive compliance—

(i) with the requirements of part B of title XI of the Social Security Act,

(ii) with the requirements of titles XVIII and XIX of such Act as they relate to covered services, reimbursement methodology, or definition of a provider of services, and

(iii) subject to subparagraph (B), with the requirements of title XIX of such Act as they relate to the criteria for individuals to be entitled to benefits under that title.

(B) Under subparagraph (A), the Secretary may not reduce the entitlement of individuals to benefits under either title XVIII or XIX of the Social Security Act.

(2) No project shall be developed or carried out under subsection (a) until the Secretary obtains the advice and recommendations of specialists who are competent to evaluate the proposed project as to the soundness of its objectives, the possibilities of securing productive results, the adequacy of resources to conduct it, and its relationship to other similar projects already completed or in process; and no such project shall be actually placed in operation unless at least 30 days prior thereto a written re-

port, prepared for purposes of notification and information only, containing a full and complete description thereof has been transmitted to the each House of Congress.

(c) Grants, payments under contracts, and other expenditures made for studies and projects under this section shall be made in appropriate part from the Federal Hospital Insurance Trust Fund (established by section 1817 of the Social Security Act) and the Federal Supplementary Medical Insurance Trust Fund (established by section 1841 of the Social Security Act) and from funds appropriated under part B of title XI and title XIX of such Act. Grants and payments under contracts may be made either in advance or by way or reimbursement, as may be determined by the Secretary, and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purposes of this Act. With respect to any such grant, payment, or other expenditure, the amount to be paid from each of such trust funds (and from funds appropriated under such title XI and XIX) shall be determined by the Secretary, giving due regard to the purposes of the study or project involved.

SEC. 3. Section 1875(b) of the Social Security Act (42 U.S.C. 139511(b)) is amended by striking out "and" after "Amendments of 1967," and by inserting after "Amendments of 1972" the following: ", and the projects authorized by section 2 of the Hospital Financing Experiment and Demonstration Act".●

INDEPENDENCE DAY

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Illinois (Mr. FARY) is recognized for 5 minutes.

● Mr. FARY. Mr. Speaker, it has been 4 years since our Nation's Bicentennial. The Fourth of July of 1980 approaches in marked contrast to the atmosphere of celebration and symbolism surrounding our Bicentennial 4 years ago. As we depart for the holiday to enjoy the time with our family and friends, let us not forget the purpose behind July 4, Independence Day.

Two hundred and four years ago, in Philadelphia, 56 Representatives met in Congress under the leadership of Thomas Jefferson, Ben Franklin, and John Adams to declare their independence from colonial rule. That declaration forged the beginning of democracy in the modern world; proclaimed the subordination of political authority to the rights of man; validated the moral obligation to revolt against oppression and set new aspirations for civilized society.

America is unique. We are young as a nation, and yet at the same time we are the world's oldest continuously practicing participatory democracy. Back in 1776, our Nation was founded not on a feeling of nationalistic fervor, but on principles which our Founding Fathers felt were inherent in human rights: Freedom, justice, liberty and equality.

These rights coupled with our democratic form of government and the resourcefulness of the American people have produced unparalleled progress for our Nation. Our achievements have created a standard of living our ancestors could not even dream of. These same principles must be put to work for us today and in the future. For the future holds many great challenges that will test both us and generations to come. The experiences from the past will help us face them and solve them. Let us go forward utilizing the principles upon which our country was founded 204 years ago and meet these challenges.●

A TRIBUTE TO THE HONORABLE ROBERT F. DRINAN ON HIS RETIREMENT

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. HANLEY. Mr. Speaker, many, many words have been offered in association with the pending retirement of our dear friend and colleague, Congressman ROBERT F. DRINAN. Recently, I read a rather interesting article on the subject which was authorized by Father John Reedy, CSC. I commend its reading to my colleagues.

The article follows:

[From the Catholic Sun, May 21, 1980]

DECISIONS

(By Father John Reedy)

Father Robert Drinan is a good priest, a good Jesuit. Obviously his constituents also thought he was a good congressman; they've been reelecting him since 1970.

Because I have some idea of how difficult it must have been for him to accept Rome's order to withdraw from public office, my long-standing respect for him as a priest has only increased.

Still, in spite of that respect, I think Father Drinan's service in the House of Representatives offers support for my own reservations about priests and religious serving in public office.

(At this point, I haven't seen the reasons offered by Rome for the decision, but I'm sure the Holy Father will be pleased to know that he and I are in substantial agreement.)

Because Father Drinan has been subjected to vicious criticism which went far beyond legitimate political disagreement, which challenged his fidelity to the church, I want to offer my opinion of the criticism.

From personal acquaintance and from my knowledge of his work, I know that he is an exceptionally gifted man. He has a sophisticated intellect and an educational background far superior to those demonstrated by his colleagues in Congress.

In spite of all the bitter denunciations, I have never seen a position of his—an article, a speech or a vote—which I did not consider to be within the options allowed by a sophisticated understanding of Catholic moral teaching.

(I don't intend to answer letters debating his particular votes; I'm simply stating my judgment.)

Often his positions were not the ones I held, but I could understand how he reached his judgments while holding the same principles I find in the authoritative teachings of the Church.

Nevertheless, public perception is important when considering a priest's role in giving witness to the Lord, to the teachings of the church.

Some of Drinan's critics can be written off as the kind of people who sniff out any scandal they can find and then claim to be outraged by it. But there are many others whose understanding of theology, of theological reasoning, of political processes is such that they quite honestly could not see how a priest could arrive at his judgments on legal issues relating to abortion.

And this was the focus of attention; little comment was given to his effectiveness in supporting a whole range of human and social values proclaimed by Church authorities.

The difficulty is that the specific political choices presented to a congressman do not come like neatly-packaged cases from the old textbooks of moral theology.

They come entangled with all kinds of other considerations: What would be the side effects of a particular piece of legislation? Will my vote make any difference in the final outcome? Is there any preferable alternative possible in which my ethical values could be preserved? Does the specific wording constitute good law? Would it survive legal tests? And many, many others.

A responsible Catholic legislator would have to consider all the issues and make his best judgment according to his conscience. In political activity, he has to work with compromise while trying to avoid a compromise of his basic principles.

But even a gifted, dedicated legislator (which I consider Father Drinan to be) finds it difficult, if not impossible, to communicate clearly how his values are preserved through the maze of issues involved in specific decisions.

And that is the problem. In general, people who represent the Church should be able to witness clearly to the values proclaimed by the Church. We are most free to do this outside the practical demands of politics.

I regret that Father Drinan will be leaving Congress. In my opinion, it will be a loss for Congress. But in his obedience he has certainly given clear witness to the priority of his values.●

ST. MATTHEW'S ROMAN CATHOLIC CHURCH CELEBRATES ITS 100TH ANNIVERSARY

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD).

● Mr. HANLEY. Mr. Speaker, 100 years ago on June 15, 1880, 50 families of predominantly Irish and German descent, gathered to attend the first mass of St. Matthew's Roman Catholic Church in East Syracuse. The new parish was to fulfill a great need to Roman Catholics in the area for a place to worship closer to home. Prior to the founding of St. Matthew's, early parishioners had to travel by horse and buggy miles to one of two existing parishes—St. John the Evangelist Cathedral or St. Vincent de Paul Church, both in Syracuse—often a difficult and dangerous journey in the severe winter months common to central New York.

Thus drawing from the large concentration of Irish and German immigrants, St. Matthew's Roman Catholic Church grew quickly in membership and became firmly established as a parish serving the needs of the burgeoning village of East Syracuse. Today, 100 years later, some 2,500 families worship at St. Matthew's.

The first St. Matthew's Church was a small wooden frame structure on Yates Street, which was dedicated October 15, 1880. The present church was constructed in 1915 on the same site. During its construction, parishioners celebrated mass in the original church which had been carefully moved across the street and placed on stilts. The first St. Matthew's Church was later converted into apartments, but unfortunately was destroyed by fire on February 13. 1979.

St. Matthew's Roman Catholic Church today has grown under the guidance of the Reverend John J. Heagerty, pastor since August 31, 1976. Former pastor Msgr. James Bennett and Father Heagerty were responsible for the building of a parish administration center and a new rectory. Another recent addition was a daily mass chapel in the south vestry of the church, a particularly modern note, since this energy-saving step eliminated the need to heat the high ceiling main church during the week.

On June 15, 1980, the 100th anniversary celebration of St. Matthew's, members of the parish, as well as public officials, priests who have served at the church, and nuns associated with St. Matthew's School, gathered to celebrate mass with the Most Reverend Frank J. Harrison, bishop of the Diocese of Syracuse, the Reverend John J. Heagerty, pastor, and the Reverends Dennis J. Hayes, C. Patrick Keating and Charles A. Aho, assistants.

In commemoration of the special occasion, an 18-foot family banner was draped on the main altar, "depicting centennial events of the church for 1980." Following the mass, the cornerstone in the front of the church was opened by Bishop Harrison and Reverend Heagerty. The cornerstone contained the Syracuse daily newspapers, religious papers, an East Syracuse newspaper, a list of promoters of the church and coins of the period—all preserved untouched for a century. These 19th century contents of the cornerstone were replaced by articles relevant to the church's 100th anniversary, the Syracuse Herald-American of June 15, 1980, a centennial coin, covenant from the people of St. Matthew's, an anniversary yearbook and an illustrated history of St. Matthew's. Members of the church resealed the cornerstone—not to be reopened again until June 15, 2080.

Anniversaries can often be perfunctory observances but in the case of this large working-class parish of St. Matthew's, there is a spirit of family, a sense of challenge and struggle, a sense of accomplishment that a thriving parish still exists today. There is a grateful recognition that all the sacrifices, the hard work, the patience of the thousands of former parishioners, the priests, the sisters, the unidentified members of the Altar and Rosary Society, the Holy Name Society, and the myriad other parish-centered activities achieved something. That something is the continuing capacity of St. Matthew's Roman Catholic Church to bring the healing presence and consoling wisdom of Christ to the people of East Syracuse and surrounding area.●

REMARKS OF CONGRESSMAN CARL D. PERKINS ON INTRODUCTION OF BLACK LUNG LEGISLATION

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the Record.)

● Mr. PERKINS. Mr. Speaker, I am today introducing legislation designed to correct an inequity contained in the 1977 amendments to the Black Lung Benefits Act. Those amendments, along with the companion Black Lung Benefits Revenue Act of 1977, established the current financing mechanism for paying the claims of eligible black lung beneficiaries. They also prescribe the rules to determine whether a claim is the liability of a responsible coal operator or that of the black lung disability trust fund. Generally, the trust fund pays benefits in cases in which the miner's last coal mine employment was before January 1, 1970.

The 1977 amendments also require that all claims which had been previously denied or which were then pending be subject to review under the revised eligibility criteria prescribed by the new law. All claims approved pursuant to review were to be paid either by a responsible coal operator or by the trust fund, without regard to whether they had been filed initially under part B (Federal liability) or part C (coal operator liability) of the black lung program. All claims filed and approved under part B of the program were paid out of general revenues prior to the 1977 black lung amendments. Claims filed and approved under part C were the responsibility of a coal operator or general revenues in the event a responsible coal operator could not be affixed with the liability. Part B claims were those filed prior to July 1, 1973. Part C claims were those filed on and after January 1, 1974. The filing period July 1, 1973, to January 1, 1974, was a transition stage during which a hybrid payments procedure applied.

The combined effect in the 1977 law of requiring the automatic review of old, part B claims, and of directing that those approved be paid by coal operators—either directly or through the trust fund—has produced a particularly harsh result on operators who had no reason to anticipate that they would ever be held directly liable for a claim filed under part B; that is, before July 1, 1973, but who now find themselves called upon to pay such claims in cases where the miner's last employment occurred between January 1, 1970, and July 1, 1973.

My bill simply advances the cutoff date for trust fund claims liability from January 1, 1970, to July 1, 1973, in order to be congruent with the time parameters of part B in the underlying law. It would require the claims approved pursuant to the review requirements of the 1977 amendments be paid out of the trust fund in cases where the miner's last coal mine employment was before July 1, 1973. We are not transferring any liability from coal operators to the Treasury; rather, we are only—in respect of fairness—transferring liability from coal operators directly to coal operators indirectly and proportionately, that is, through the revenues derived from the taxes paid by all coal operators to the black lung disability trust fund. I think we are also thereby performing a fundamental act of equity.

My personal judgment is that it was unfair in the 1977 law for us to have taken claims that—had they began previously approved—were earmarked as the financial responsibility of the Federal Government and to have retrospectively assessed their cost upon subsequent approval under new and unforeseen criteria directly to unsuspecting and unprepared coal operators. Although we spared them the financial burden of claims in which the miner's last coal mine employment was prior to January 1, 1970, we really should have advanced that cutoff date to July 1, 1973—the date upon which all coal operators were on notice that all claims filed on and thereafter were potentially their direct liability.

How many claims are affected by moving this date forward 3½ years? Although good data is hard to come by in this area, we are advised by sources utilizing two independent avenues of providing estimates, that approximately 7,275 to 8,000 claims will be approved under the review procedures of the 1977 amendments in which the miner's last coal mine employment occurred on or after January 1, 1970, but before July 1, 1973. These are claims which theoretically would be paid directly by individual coal operators but which, under the terms of my bill, will instead be paid out of the black lung disability trust fund.

Mr. Speaker, I am unaware of any significant opposition to this bill. As I indicated earlier, it is only an exercise in fairness and equity. It does not revise the eligibility criteria by which claims are evaluated. It does not substitute Federal revenues for coal operator moneys in the payment of these claims. Operators endorse it because is spreads a risk of which they had no clear advance warning among the industry-at-large. Claimants receive equivalent benefits, whether they derive from a responsible coal operator or the trust fund. And the Congress should accept this as an opportunity to do what should in fairness have been done in 1977.

I hope we can move quickly and unanimously on this legislation. I do not see it as presenting the difficult philosophical problems that past black lung legislation has posed. All fair-minded people can agree to what we are doing in this bill without in any way contradicting their diverse views on the black lung benefits program generally.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

Mr. Dellums (at the request of Mr. Wright), for July 1, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Gonzalez, for an additional 30 minutes, today.

(The following Members (at the request of Mr. Deckard) to revise and extend their remarks and include extraneous material:)

Mr. McKinney, for 5 minutes, today.

Mr. Lujan, for 5 minutes, today.

Mr. Kemp, for 60 minutes, today.

Mr. Cleveland, for 10 minutes, today.

Mr. Marlenee, for 5 minutes, today.

Mr. Deckard, for 10 minutes, today.

Mr. Derwinski, for 60 minutes, on July 23.

(The following Members (at the request of Mr. Flippo) to revise and extend their remarks and include extraneous material:)

Mrs. Boggs, for 15 minutes, today.

Mr. Roberts, for 5 minutes, today.

Mr. Gonzalez, for 15 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Phillip Burton, for 15 minutes, today.

Mr. Brademas, for 5 minutes, today.

Mr. Reuss, for 10 minutes, today.

Mr. Preyer, for 5 minutes, today.

Mr. LaFalce, for 10 minutes, today.

Mr. Dodd, for 5 minutes, today.

Mr. Nelson, for 5 minutes, today.

Mr. Stark, for 5 minutes, today.

Mr. Ratchford, for 5 minutes, today.

Mr. Panetta, for 5 minutes, today.

Mr. Rangel, for 15 minutes, today.

Mr. Hightower, for 5 minutes, today.

Mr. Fary, for 5 minutes, today.

Mr. Nelson, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Emery, during consideration of H.R. 7235, Rail Act of 1980, in the Committee of the Whole today.

Mr. Anderson of California, and to include extraneous matter with his remarks on H.R. 7235 in the Committee of the Whole today.

(The following Members (at the request of Mr. Deckard) and to include extraneous matter:)

Mr. Whittaker.

Mr. Lee.

Mrs. Snowe.

Mr. Gilman in two instances.

Mr. Buchanan in two instances.

Mr. Conable.

Mr. Collins of Texas in three instances.

Mr. Royer.

Mr. Lent.

Mr. Campbell in three instances.

Mr. Solomon in two instances.

Mr. Roth.

Mr. Courter in two instances.

Mr. Gilman.

Mrs. Holt in two instances.

Mr. Gingrich.

Mr. Clinger.

Mr. Vander Jagt.

Mr. Broomfield.

Mr. Frenzel in three instances.

Mr. Quayle.

Mr. Goldwater.

Mr. Marlenee.

Mr. Goodling.

Mr. Pursell.

Mr. Paul.

Mr. McKinney.

Mr. Dornan in two instances.

Mr. Dickinson.

Mr. Marriott in two instances.

Mr. Coughlin.

Mr. Dougherty.

Mr. Fish.

Mr. Winn in two instances.

Mr. Young of Alaska.

Mr. Badham.

Mr. Stockman.

Mr. Derwinski in two instances.

Mrs. Smith of Nebraska.

Mr. Kemp in five instances.

Mr. Marriott in two instances.

(The following Members (at the request of Mr. Flippo) and to include extraneous matter:)

Mr. Dodd in three instances.

Mr. Dingell in two instances.

Mr. de la Garza in five instances.

Mr. Udall in two instances.

Mr. Hamilton.

Mr. Stokes.

Mr. Guarini in two instances.

Mrs. Collins of Illinois in two instances.

Mr. Murtha in two instances.

Mr. Natcher.

Mr. Edgar.

Mrs. Schroeder.

Mr. Coelho in two instances.

Mr. Patterson.

Mr. Wolff in two instances.

Mr. Chappell.

Mr. Bedell in two instances.

Mr. Tauzin.

Mr. Stark in two instances.

Mr. LaFalce in two instances.

Mr. Harkin.

Mr. Weiss in two instances.

Mr. McDonald in five instances.

Mr. Cotter.

Mr. Fauntroy.

Mr. Wirth.

Mr. Scheuer.

Mr. Markey in five instances.

Mr. Conyers.

Mr. Ottinger in 10 instances.

Mr. Reuss in two instances.

Mr. Moorhead of Pennsylvania.

Mr. Leland.

Mr. Panetta.

Mr. Swift.

Mr. Kogovsek.

Mr. Garcia.

Mr. Hubbard.

Mr. Hance in two instances.

Mr. Oberstar.

Mr. Hightower.

Mr. Solarz.

Mr. Jenrette.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2009. An act to designate certain public lands in central Idaho as the River of No Return Wilderness, to designate a segment of the Salmon River as a component of the National Wild and Scenic Rivers System, and for other purposes.

ADJOURNMENT TO MONDAY, JULY 21, 1980

Mr. WRIGHT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. Pursuant to the provisions of Senate Concurrent Resolution 107 of the 96th Congress, the House stands adjourned until 12 o'clock meridian, Monday, July 21, 1980.

Thereupon (at 11 o'clock and 33 minutes p.m.), pursuant to Senate Concurrent Resolution 107, the House adjourned until Monday, July 21, 1980, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4745. Communication from the President of the United States, transmitting a draft of proposed legislation to establish a State Planning Council on Radioactive Waste Management in Executive Branch (H. Doc. No. 96-339); jointly, to the Committees on Interior and Insular Affairs and Interstate and Foreign Commerce and ordered to be printed.

4746. A letter from the Acting Comptroller General of the United States, transmitting his review of the proposed rescission and revised deferrals of budget authority contained in the message from the President dated May 20, 1980 (House Document No. 96-314), pursuant to section 1014 (b) and (c) of Public Law 93-344 (H. Doc. No. 96-340); to the Committee on Appropriations and ordered to be printed.

4747. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice that a study has been conducted of the training and consultant services function at Fort Riley, Kan., and that a decision has been made that performance under contract is the most cost-effective method of accomplishing it, pursuant to section 806 of Public Law 96-107; to the Committee on Armed Services.

4748. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice that a study has been conducted of selected installation support functions at the St. Louis Area Support Center, Granite City, Ill., and that a tentative decision has been made that performance under contract is the most cost-effective method of accomplishing them, pursuant to section 806 of Public Law 96-107; to the Committee on Armed Services.

4749. A letter from the Acting Assistant Secretary of the Air Force (Research, Development and Logistics), transmitting notice that a study has been conducted of the T-45 simulator operator functions at Mather Air Force Base, Calif., and that a decision has been made that performance under contract is the most cost-effective method of accomplishing it, pursuant to section 806 of Public Law 96-107; to the Committee on Armed Services.

4750. A letter from the Acting Assistant Secretary of the Air Force (Research, Development and Logistics), transmitting notice that a study has been conducted of the commissary shelf stocking and custodial functions at the U.S. Air Force Academy, Colo., and that a decision has been made that performance under contract is the most cost-effective method of accomplishing them, pursuant to section 806 of Public Law 96-107; to the Committee on Armed Services.

4751. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the proposed sale of certain defense equipment by the American Institute in Taiwan to the Coordination Council for North American Affairs (Transmittal No. 80-76), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

4752. A letter from the Secretary of Housing and Urban Development, transmitting a report on the study of the scope, causes and impacts of the conversion of rental housing to condominiums and cooperatives, pursuant to section 109(b) of Public Law 96–153; to the Committee on Banking, Finance and Urban Affairs.

4753. A letter from the Secretary of Housing and Urban Development, transmitting the 1979 annual report of the financial management capacity sharing program; to the Committee on Banking, Finance and Urban Affairs.

4754. A letter from the Chairman, National Advisory Council on the Education of Disadvantaged Children, transmitting the annual report of the Council, pursuant to section 196(c) of the Elementary and Secondary Education Act, as amended; to the Committee on Education and Labor.

4755. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the President's intention to exercise his authority to furnish emergency defense services to Thailand, pursuant to section 506(a) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

4756. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassador-designate to the Republic of Senegal, Walter C. Carrington, and by members of his family, pursuant to section 6 of Public Law 93–126; to the Committee on Foreign Affairs.

4757. A letter from the Director, Defense Security Assistance Agency, transmitting, notice of the intention of the American Institute in Taiwan to offer to sell certain defense equipment for the Army to the Coordination Council for North American Affairs (Transmital No. 80–76), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4758. A letter from the Under Secretary of Agriculture for International Affairs and Commodity Programs, transmitting the third quarterly report, for the period ended June 30, 1980, on the status of planned programing of food assistance under title I of the Agricultural Trade Development and Assistance Act, pursuant to section 408(b) of the act, as amended; to the Committee on Foreign Affairs.

4759. A letter from the Comptroller General of the United States, transmitting a report on spending authority recordings in certain revolving funds (PAD–80–29, July 2, 1980); to the Committee on Government Operations.

4760. A letter from the Clerk, U.S. Court of Claims, transmitting a copy of the Court's judgment order in Docket No. 332–C–2, *Yankton Sioux Tribe* v. *The United States of America:* to the Committee on Interior and Insular Affairs.

4761. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation under the authority of section 244(a)(1) of the Immigration and Nationality Act, together with a list of the persons involved, pursuant to section 244(c) of the act; to the Committee on the Judiciary.

4762. A letter from the Secretary, Aviation Hall of Fame, Inc., transmitting its annual report and financial audit, pursuant to section 15(b) of Public Law 88–372; to the Committee on the Judiciary.

4763. A letter from the Chairman, National Advisory Committee on Oceans and Atmosphere, transmitting the committee's ninth annual report, pursuant to section 4 of Public Law 95–63; to the Committee on Merchant Marine and Fisheries.

4764. A letter from the Acting Comptroller General of the United States, transmitting a report on weaknesses in the Army's systems for identifying the resources needed by its combat units (LCD–80–67, June 30, 1980); jointly, to the Committees on Government Operations, and Armed Services.

4765. A letter from the Acting Comptroller General of the United States, transmitting recommendations for additional changes in the pending amendments to the system of cost-of-living adjustments for Federal civilian and military retirees; jointly, to the Committees on Government Operations and Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and references to the proper calendar, as follows:

Mr. YATES: Committee on Appropriations. H.R. 7724. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1981, and for other purposes. Rept. No. 96–1147. Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 7670. A bill to amend title II of the Social Security Act to make necessary adjustments in the allocation of social security tax receipts between the Federal old-age and survivors insurance trust fund and the Federal disability insurance trust fund. (Rept. No. 96–1148). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee of Conference. Conference report on H.R. 7542 (Rept. No. 96–1149). Ordered to be printed.

Mr. ULLMAN: Committee on Ways and Means. H.R. 7652. A bill to make expenditure reductions and to raise revenues in accordance with the budget reconciliation process; with amendments (Rept. No. 96–1150, pt. 1). Ordered to be printed.

Mr. BINGHAM: Committee on Foreign Affairs. H.R. 7230. A bill to direct the Secretary of Commerce to encourage the formation and operation of export trading companies, and for other purposes; with amendment (Rept. No. 96–1151, pt. 1). Ordered to be printed.

Mr. BINGHAM: Committee on Foreign Affairs. H.R. 7531. A bill to authorize operations by the Overseas Private Investment Corporation (OPIC) in the People's Republic of China (Rept. No. 96–1152). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROBERTS: Committee on Veterans' Affairs. H.R. 7394. A bill to amend title 38, United States Code, to revise the veterans' vocational rehabilitation program, to provide a 10-percent increase in the rates of educational assistance under the GI bill, to make certain improvements in the educational assistance programs for veterans and eligible survivors and dependents, to revise and expand veterans' employment and training programs, to provide certain cost-saving administrative provisions, and for other purposes; with amendments (Rept. No. 96–1154). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROBERTS: Committee on Veterans' Affairs. H.R. 7511. A bill to amend title 38, United States Code, to provide a cost-of-living increase in the rates of disability compensation for disabled veterans and in the rates of dependency and indemnity compensation for survivors of disabled veterans, and for other purposes (Rept. No. 96–1155). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. BOLAND: Select Committee on Intelligence. H.R. 7668. A bill to strengthen the system of congressional oversight of the intelligence activities of the United States. Referred to the Committee on Foreign Affairs for a period ending not later than August 1, 1980, for consideration of such portions of the bill as fall within its jurisdiction under clause 1(h), rule X (Rept. No. 96–1153, pt. 1).

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. YATES:

H.R. 7724. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1981, and for other purposes.

By Mr. ARCHER:

H.R. 7725. A bill to amend the Internal Revenue Code of 1954 to exempt independent producers and royalty owners from the windfall profit tax on the first 1,000 barrels of daily production; to the Committee on Ways and Means.

By Mr. BEDELL:

H.R. 7726. A bill to amend title 10, United States Code, to reduce from 60 to 55 the age at which a member of the Armed Forces may retire for non-Regular service and to provide that the retired pay of such a member retiring before the age of 60 shall be reduced in a manner determined by the Secretary of Defense; to the Committee on Armed Services.

H.R. 7727. A bill to amend the Higher Education Act of 1965 to increase the eligibility of members of the military Reserves and of the National Guard for basic educational opportunity grants by $500; to the Committee on Education and Labor.

H.R. 7728. A bill to amend the Internal Revenue Code of 1954 to provide a refundable tax credit to an employer who pays compensation to an employee for a period during which the employee is participating in Armed Forces training; to the Committee on Ways and Means.

By Mr. BINGHAM (by request):

H.R. 7729. A bill to amend the Trading With the Enemy Act in order to authorize the use of assets vested under that act during World War II for an ex gratia payment of $20,000 to the Government of Switzerland and to provide for the deposit in the Treasury of the remainder of such assets; to the Committee on Foreign Affairs.

By Mr. PURSELL (for himself, Mr. Burgener, Mr. Hollenbeck, Mr. Davis of Michigan, Mr. Derwinski, Mr. Mottl, Mr. Flippo, Mr. Broomfield, Mr. Hillis, Mr. Leach of Iowa, Mr. Young of Florida, Mr. Gilman, Mr. Clausen, Mr. Winn, Mr. Edwards of Alabama, Mr. Carter, Mr. Lujan, Mr. Ashbrook, Mr. Goodling, Mr. Guyer, Mr. Railsback, Mr. Madigan, Mr. Martin, Mr. Taylor. Mr. Stangeland, Mr. Marlenee, Mr. Gingrich, Mr. Ritter, Mr. Williams of Ohio, Mr. Walker, Mr. Cleveland, Mrs. Holt, Mr. Deckard, Mrs. Snowe, Mr. Bob Wilson, Mr. Corcoran, Mr. Royer, Mr. Hammerschmidt, Mr. Dan Daniel, Mr. Coughlin, Mr. Bethune, Mr. Hopkins, Mr. Miller of Ohio, Mr. Lungren, Mr. Erdahl, Mr. Moorhead of California, Mr. Michel, Mr. Marriott, Mr. Robinson, Mr. Lee, Mr. Fish, Mr. Sebelius, Mr. Kindness, Mr. Campbell, Mr. Solomon, Mr. Beard of Rhode Island, Mr. Broyhill, Mr. Trible, Mr. Jeffords, Mrs. Smith of Nebraska, Mr. Goldwater, Mr. Horton, Mr. Myers of Indiana, Mr. Tauke, Mr. Dornan, Mr. Pritchard, Mr. Emery, Mr. McKinney, Mr. Devine, Mr. Hinson, Mr. Wylie, Mr. Butler, Mr. Sawyer, Mr. Spence, Mr. Latta, Mr. Stockman, Mr. Forsythe, Mr. Hansen, Mr. Bereuter, Mr. Rousselot, Mr. O'Brien, Mr. Rudd, Mr. Hyde, and Mr. McClosky):

H.R. 7730. A bill to provide for permanent tax rate reductions for individuals; to the Committee on Ways and Means.

By Mr. BURLISON:

H.R. 7731. A bill terminating the restrictions imposed by the President on exports of agricultural commodities to the Soviet Union; to the Committee on Foreign Affairs.

By Mr. CARR:

H.R. 7732. A bill to establish a coordinated, prompt, and simplified process for decisionmaking in regard to significant nonnuclear energy facilities, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Interstate and Foreign Commerce.

By Mr. CARTER:

H.R. 7733. A bill to require the Secretary of Health, Education, and Welfare to study whether there may be a relationship between exposure of members of the Armed Forces of the United States to nuclear radiation in Hiroshima and Nagasaki immediately after World War II and various symptoms currently exhibited by such members; to the Committee on Interstate and Foreign Commerce.

By Mr. GUARINI:

H.R. 7734. A bill to amend the Internal Revenue Code of 1954 to eliminate the requirement that States reduce the amount of unemployment compensation payable for any week by the amount of certain retirement benefits; to the Committee on Ways and Means.

By Mr. LaFALCE:

H.R. 7735. A bill to amend the Depository Institutions Deregulation and Monetary Control Act of 1980; to the Committee on Banking, Finance and Urban Affairs.

H.R. 7736. A bill to encourage exports by facilitating the formation and operation of export trading companies, export trade associations, and the expansion of export trade services generally; jointly, to the Committees on Banking, Finance and Urban Affairs, Foreign Affairs, and the Judiciary.

By Mr. MARLENEE:

H.R. 7737. A bill to provide for limitations in the amount of land which may be owned by the United States; to the Committee on Government Operations.

By Mr. MARRIOTT:

H.R. 7738. A bill to establish the goal of reducing Federal paperwork costs by 33 percent over a 3-year period, to prescribe the procedures for the reduction of such costs, to provide for the development of strategies and methods for determining such costs and effecting such reductions, and for other purposes; to the Committee on Government Operations.

H.R. 7739. A bill to amend the Internal Revenue Code of 1954 to provide tax incentives for small business; to the Committee on Ways and Means.

By Mr. OBERSTAR (for himself, Mr. Frenzel, Mr. Erdahl, Mr. Hagedorn, Mr. Vento, Mr. Sabo, Mr. Stangeland, and Mr. Andrews of North Dakota):

H.R. 7740. A bill to amend title 18 of the United States Code to provide criminal penalties for the malicious destruction or interference with the operation of certain energy facilities; to the Committee on the Judiciary.

By Mr. OBEY:

H.R. 7741. A bill to amend sections 551 and 553 of title 5, United States Code to provide for the consideration and implementation by agencies of differing requirements for different groups subject to agency rules, and for other purposes; to the Committee on the Judiciary.

By Mr. OTTINGER:

H.R. 7742. A bill to amend the Internal Revenue Code of 1954 to double the amount of interest and dividend income exempt from tax, to allow taxpayers to elect to receive a refundable credit in lieu of the partial exclusion of interest and dividend income, and to provide for a special partial exclusion of interest and dividend income in the case of elderly taxpayers with low and moderate incomes; to the Committee on Ways and Means.

By Mr. PANETTA:

H.R. 7743. A bill to authorize the Corps of Engineers in performing certain emergency repairs and restoration of flood control works to make improvements which provide a higher level of flood protection; to the Committee on Public Works and Transportation.

H.R. 7744. A bill to provide coverage under part B of the medicare program for supplies and services furnished by hospices to individuals who have been determined to be terminally ill; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. PERKINS (for himself and Mr. Hubbard):

H.R. 7745. A bill to amend the Black Lung Benefits Act to provide that certain amounts available for disbursements under section 424 of such act shall be available for the payment of benefits and reimbursements in the case of miners whose last coal mine employment occurred before July 1, 1973; to the Committee on Education and Labor.

By Mr. PICKLE (for himself and Mr. Kazen):

H.R. 7746. A bill to make certain technical amendments to the Mineral Lands Leasing Act; to the Committee on Interior and Insular Affairs.

By Mr. PREYER:

H.R. 7747. A bill to amend the Communications Act of 1934 to prohibit the unauthorized interception and use of subscription telecommunications and to protect the privacy of the users of such telecommunications; jointly, to the Committees on Interstate and Foreign Commerce and the Judiciary.

By Mr. RINALDO:

H.R. 7748. A bill to amend title 11 of the Social Security Act to suspend the payment of old-age or disability insurance benefits to any individual who is confined in a penal institution or correctional facility, and to provide instead (if specified conditions are met) for the payment of such benefits to the individual's dependents or to such institution or facility; to the Committee on Ways and Means.

By Mr. ROTH:

H.R. 7749. A bill to amend the Internal Revenue Code of 1954 to increase the unified credit against estate and gift taxes so that estates under $500,000 will not be subject to estate tax and to increase the gift tax exclusion from $3,000 to $6,000; to the Committee on Ways and Means.

By Mr. SCHEUER (for himself and Mr. Rinaldo):

H.R. 7750. A bill to amend the Securities Exchange Act of 1934 to make it unlawful for a foreign corporation to acquire certain ownership interests in U.S. securities unless the country in which such corporation is incorporated permits the acquisition of similar ownership interests in foreign securities by U.S. companies; to the Committee on Interstate and Foreign Commerce.

By Mrs. SPELLMAN:

H.R. 7751. A bill to protect retired and disabled persons by preserving the integrity of the Consumer Price Index; to the Committee on Education and Labor.

H.R. 7752. A bill to amend the Merchant Marine Act, 1936, to allow both sons and daughters of residents of the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements, and of U.S. Government personnel in the Republic of Panama, to be nominated as candidates to the Merchant Marine Academy, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. SWIFT:

H.R. 7753. A bill to permit States to participate in a system of regional Presidential primaries administered by the Federal Commission, and for other purposes; to the Committee on House Administration.

By Mr. TAUZIN:

H.R. 7754. A bill to amend title 5 of the United States Code to establish procedures for congressional review of agency rules; jointly, to the Committees on the Judiciary and Rules.

By Mr. ULLMAN:

H.R. 7755. A bill to establish a program to direct financial and technical assistance to those geographic areas of the United States which have particularly severe and chronic soil erosion, soil erosion related, or irrigation water management problems; to the Committee on Agriculture.

By Mr. VENTO:

H.R. 7756. A bill to amend the Internal Revenue Code of 1954 to provide an income tax credit for social security taxes; to provide an income tax credit to encourage compliance with the voluntary pay and price guidelines; to provide a small business corporate income tax reduction; and to provide for accelerated depreciation for businesses in economically deteriorated areas; and for other purposes; to the Committee on Ways and Means.

By Mr. WAMPLER (by request):

H.R. 7757. A bill to provide grants to the 1890 land-grant colleges, including Tuskegee Institute, in the purchase of equipment and land, and the planning, construction, alteration or renovation of buildings to strengthen their capacity to conduct food and agricultural research; to the Committee on Agriculture.

By Mr. WAXMAN (for himself and Mr. Carter):

H.R. 7758. A bill to amend the Public Health Service Act to make technical revisions in the provisions of title XV of the act relating to health planning; to the Committee on Interstate and Foreign Commerce.

By Mr. GILMAN:

H.R. 7759. A bill to amend the Energy Policy and Conservation Act to authorize certain appropriations for energy conservation programs for schools and hospitals and buildings owned by units of local government and public care institutions, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. OBERSTAR:

H.R. 7760. A bill to provide for the adjustment of geographic boundaries of standard metropolitan statistical areas for the purpose of Federal assistance programs; to the Committee on Government Operations.

By Mr. DICKS:

H.J. Res. 583. Joint resolution providing additional program authority for the Export-Import Bank; to the Committee on Appropriations.

By Mrs. FENWICK (for herself, Mr. Courter, Mr. Kemp, Mr. Conte, Mr. Guarini, Mr. Minish, Mr. Zablocki, Mr. Fish, Mr. Hollenbeck, Mr. Pursell, Mr. Michel, Mr. Conable, Mr. Moore, Mr. McDade, Mr. Marks, Mr. Clinger, Mr. Giaimo, and Mr. Fascell):

H.J. Res. 584. Joint resolution providing for the commemoration of the 250th anniversary of the birth of Philip Mazzei; to the Committee on Post Office and Civil Service.

By Mr. LEACH of Iowa:

H.J. Res. 585. Joint resolution proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States; to the Committee on the Judiciary.

By Mr. NEAL:

H.J. Res. 586. Joint resolution providing additional program authority for the Export-Import Bank; to the Committee on Appropriations.

By Mr. DODD:

H. Con. Res. 378. Concurrent resolution expressing the sense of the Congress not to impose additional Federal income tax withholding on interest and dividends; to the Committee on Ways and Means.

By Mr. HOLLENBECK:

H. Con. Res. 379. Concurrent resolution expressing the sense of the Congress that the Postmaster General should issue a postage stamp in honor of the American hostages in Iran; to the Committee on Post Office and Civil Service.

By Mr. PEASE (for himself, Mr. Seiberling, Mr. Horton, Mr. Barnes, Mr. Porter, Mr. Stokes, Mr. Roe, Mr. Fazio, Mr. Oberstar, Mr. Neal, Mr. Benjamin, Mr. Kildee, Mr. Wolpe, Mr. Bonior of Michigan, Mr. Vento, Mr. Tauke, and Mr. Fithian):

H. Con. Res. 380. Concurrent resolution urging the President of the United States to enter into trade negotiations with representatives of the Government of Japan with respect to the establishment of Japanese auto production facilities in the United States in lieu of American import quotas on Japanese cars, and for other purposes; to the Committee on Ways and Means.

By Mr. QUAYLE:

H. Con. Res. 381. Concurrent resolution calling on the President of the United States to bring before the United Nations Security Council certain questions regarding Soviet Union compliance with the Biological Weapons Convention of 1972; to the Committee on Foreign Affairs.

By Mr. STRATTON (for himself, Mr. Michel, Mr. Ichord, Mr. Kemp, Mr. White, Mr. Beard of Tennessee, Mr. Chappell, Mr. Ambro, Mr. Abdnor, Mr. Andrews of North Carolina, Mr. Andrews of North Dakota, Mr. Anthony, Mr. Applegate, Mr. Archer, Mr. Ashbrook, Mr. Atkinson, Mr. Badham, Mr. Bafalis, Mr. Bailey, Mr. Barnard, Mr. Bauman, Mr. Bennett, Mr. Bereuter, Mr. Bethune, Mr. Bevill, Mrs. Bouquard, Mr. Bowen, Mr. Breaux, Mr. Brinkley, Mr. Broomfield, Mr. Broyhill, Mr. Buchanan, Mr. Burgener, Mr. Butler, Mrs. Byron, Mr. Campbell, Mr. Carney, Mr. Carter, Mr. Cheney, Mr. Clausen, Mr. Cleveland, Mr. Clinger, Mr. Collins of Texas, Mr. Conable, Mr. Corcoran, Mr. Coughlin, Mr. Courter, Mr. Daniel B. Crane, Mr. Philip M. Crane, Mr. Dan Daniel, Mr. Robert W. Daniel, Jr., Mr. Dannemeyer, Mr. Davis of South Carolina, Mr. Davis of Michigan, Mr. Deckard, Mr. de la Garza, Mr. Derwinski, Mr. Devine, Mr. Dickinson, Mr. Dornan, Mr. Dougherty, Mr. Duncan of Tennessee, Mr. Edwards of Alabama, Mr. Edwards of Oklahoma, Mr. Emery, Mr. English, Mr. Erlenborn, Mr. Evans of Georgia, Mr. Evans of Indiana, Mr. Evans of Delaware, Mr. Findley, Mr. Fish, Mr. Flippo, Mr. Fountain, Mr. Fowler, Mr. Frost, Mr. Fuqua, Mr. Gilman, Mr. Gingrich, Mr. Ginn, Mr. Goldwater, Mr. Goodling, Mr. Gradison, Mr. Gramm, Mr. Grassley, Mr. Grisham, Mr. Gudger, Mr. Guyer, Mr. Hagedorn, Mr. Hall of Texas, Mr. Hance, Mr. Hammerschmidt, Mr. Hanley, Mr. Hansen, Mr. Harsha, Mr. Hefner, Mr. Heftel, Mr. Hightower, Mr. Hillis, Mr. Hinson, Mr. Holland, Mrs. Holt, Mr. Hopkins, Mr. Horton, Mr. Hubbard, Mr. Huckaby, Mr. Hutto, Mr. Hyde, Mr. Ireland, Mr. Jeffries, Mr. Jenkins, Mr. Jenrette, Mr. Johnson of California, Mr. Jones of North Carolina, Mr. Jones of Oklahoma, Mr. Kazen, Mr. Kelly, Mr. Kindness, Mr. Kramer, Mr. Lagomarsino, Mr. Latta, Mr. Leach of Louisiana, Mr. Leath of Texas, Mr. Lederer, Mr. Lee, Mr. Lent, Mr. Levitas, Mr. Lewis, Mr. Livingston, Mr. Lloyd, Mr. Loeffler, Mr. Lott, Mr. Lujan, Mr. Luken, Mr. Lungren, Mr. McClory, Mr. McDade, Mr. McDonald, Mr. McEwen, Mr. Madigan, Mr. Marks, Mr. Marlenee, Mr. Marriott, Mr. Mathis, Mr. Mattox, Mr. Mica, Mr. Miller of Ohio, Mr. Mitchell of New York, Mr. Mollohan, Mr. Montgomery, Mr. Moore, Mr. Moorhead of California, Mr. Mottl, Mr. Murphy of Pennsylvania, Mr. Murphy of New York, Mr. Murtha, Mr. Myers of Indiana, Mr. Neal, Mr. Nelson, Mr. Nichols, Mr. O'Brien, Mr. Pashayan, Mr. Paul, Mr. Perkins, Mr. Petri, Mr. Pickle, Mr. Quayle, Mr. Quillen, Mr. Regula, Mr. Rinaldo, Mr. Ritter, Mr. Roberts, Mr. Robinson, Mr. Roth, Mr. Rousselot, Mr. Royer, Mr. Rudd, Mr. Satterfield, Mr. Sawyer, Mr. Schulze, Mr. Sebelius, Mr. Sensenbrenner, Mr. Shelby, Mr. Shumway, Mr. Shuster, Mr. Skelton, Mrs. Smith of Nebraska, Mrs. Snowe, Mr. Snyder, Mr. Solomon, Mr. Spence, Mr. Stangeland, Mr. Steed, Mr. Stenholm, Mr. Stockman, Mr. Stump, Mr. Symms, Mr. Synar, Mr. Tauzin, Mr. Taylor, Mr. Thomas, Mr. Trible, Mr. Vander Jagt, Mr. Walker, Mr. Wampler, Mr. Watkins, Mr. Whitehurst, Mr. Whittaker, Mr. Whitten, Mr. Bob Wilson, Mr. Charles Wilson of Texas, Mr. Charles H. Wilson of California, Mr. Winn, Mr. Won Pat, Mr. Wyatt, Mr. Wydler, Mr. Wylie, Mr. Yatron, Mr. Young of Florida, Mr. Young of Alaska, Mr. Young of Missouri, and Mr. Zeferetti):

H. Con. Res. 382. Concurrent Resolution to express the sense of the Congress that the foreign policy of the United States should reflect a national strategy of peace through strength; to the Committee on Foreign Affairs.

By Mr. LUJAN:

H. Res. 740. A resolution commending Dr. M. Stanley Livingston upon the 50th anniversary of his original work in the field of cyclic acceleration; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. EARLY:

H.R. 7761. A bill for the relief of Claire Hontz; to the Committee of the Judiciary.

By Mr. GOODLING:

H.R. 7762. A bill for the relief of Remigio Aquino and his wife Ines Aquino; to the Committee on the Judiciary.

By Mr. GRASSLEY:

H.R. 7763. A bill for the relief of Emanuel E. Lenkersdorf; to the Committee on the Judiciary.

By Mr. RODINO (by request):

H.R. 7764. A bill for the relief of Dr. Eric George Six, Ann Elizabeth Six, and Karen Elizabeth Mary Six; to the Committee on the Judiciary.

By Mr. BUTLER:

H. Res. 741. Resolution to refer the bill, H.R. 6559, to the Chief Commissioner of the Court of Claims; to the Committee on the Judiciary.

By Mr. PETRI:

H. Res. 742. Resolution to refer the bill, H.R. 7683, to the Chief Commissioner of the Court of Claims; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1785: Mr. Waxman, Mr. Won Pat, Mr. AuCoin, Mr. Jeffries, Mr. Young of Alaska, and Mr. Goldwater.

H.R. 1918: Mr. Mollohan.

H.R. 3655: Mr. Roe.

H.R. 4345: Mr. Dickinson, Mr. Stark, and Mr. Williams of Ohio.

H.R. 4557: Mr. Daniel B. Crane.

H.R. 4646: Mr. Gephardt.

H.R. 4676: Mr. Richmond, Mr. Garcia, Mr. Pepper, Mr. Corrada, Mr. Downey, Ms. Mikulski, and Mr. Clay.

H.R. 5211: Mr. Pritchard, Mr. Stockman, Mr. Forsythe, Mr. Rousselot, and Mr. Wydler.

H.R. 5382: Mr. Davis of Michigan, Mr. Derwinski, Mr. Downey, Mr. Horton, Mr. Lagomarsino, Mr. Mollohan, Mr. Nolan, Mr. Nowak, Mr. Roe, Mr. Thompson, and Mr. Vento.

H.R. 5477: Mr. Hawkins.

H.R. 5610: Mr. Marlenee and Mrs. Smith of Nebraska.

H.R. 6057: Mr. Lee.

H.R. 6369: Mr. Frost.

H.R. 6380: Mr. Gramm.

H.R. 6426: Mr. Gray.

H.R. 6429: Mr. Wylie, Mr. Campbell, Mr. Natcher, Mr. Lundine, Mr. Beard of Tennessee, Mr. Mattox, Mr. Lent, Mrs. Fenwick, Mr. Leath of Texas, Mr. White, Mr. Courter, Mr. McKay, Mrs. Holt, Mr. Royer, Mr. Traxler, and Mrs. Heckler.

H.R. 6889: Mr. Charles Wilson of Texas.

H.R. 7046: Mr. LaFalce, Mr. Dodd, Mr. Bolling, Mr. Frost, Mr. Murphy of Pennsylvania, Mr. Mattox, Mrs. Bouquard, Mr. Obey, Mr. Jones of Oklahoma, Mr. Glickman, Mr. Blanchard, Mr. Downey, Mr. Mineta, and Mr. Heftel.

H.R. 7074: Mr. Carter, Mr. Wampler, and Mrs. Spellman.

H.R. 7183: Mr. Hughes, Mr. Dingell, Mr. Stokes, Mr. Stark, Mr. Vento, and Mr. Mollohan.

H.R. 7211: Mr. Ashbrook, Mr. Rudd, Mr. Tauzin, Mr. Royer, Mr. Livingston, Mr. Marks, Mr. Lundine, Mr. Young of Missouri, Mr. Fish, Mr. Whitten, Mr. Alexander, Mr. Bowen, and Mr. Dornan.

H.R. 7333: Mr. Kogovsek.

H.R. 7394: Mr. Kogovsek.

H.R. 7445: Mr. Lagomarsino, Mrs. Heckler, Mr. Lee, Mr. Hubbard, Mr. Evans of Georgia, Mr. Philip M. Crane, and Mr. Sawyer.

H.R. 7447: Mr. Pepper, Mr. Scheuer, Ms. Mikulski, Mr. McEwen, Mr. Lloyd, and Ms. Chisholm.

H.R. 7458: Mr. Danielson.

H.R. 7479: Mrs. Fenwick, Mr. Glickman, Mr. Bedell, Mr. Vander Jagt, Mr. Williams of Montana, Mr. Marks, Mr. Garcia, Mr. Hughes, Mr. Royer, Mr. Fazio, Mr. Tauke, Mr. Hamilton, Mr. Mollohan, Mr. Murphy of Pennsylvania, and Mr. Simon.

H.R. 7506: Mr. Collins of Texas, Mr. Derwinski, Mr. Duncan of Tennessee, Mr. Erdahl, Mr. Fish, Mrs. Holt, Mr. Hughes, Mr. Jeffries, Mr. Jones of North Carolina, Mr. Kazen, Mr. Kogovsek, Mr. Kramer, Mr. Leath of Texas, Mr. Royer, Mr. Stangeland, Mr. Steed, and Mr. Whitehurst.

H.R. 7522: Mr. Hubbard, Mr. Porter, Mr. Won Pat, Mr. Kramer, Mr. Ottinger, Mr. Edgar, Mr. Weiss, Mr. Wolpe, Mr. Edwards of California, and Mr. Kogovsek.

H.R. 7533: Mr. Hall of Texas and Mrs. Holt.

H.R. 7548: Mr. Abdnor, Mr. Corrada, Mr. Fish, Mrs. Heckler, and Mr. Sabo.

H.R. 7557: Mr. Ford of Tennessee and Mrs. Chisholm.

H.R. 7563: Mr. Schulze, Mr. Walker, Mr. Lott, Mr. Gingrich, Mr. Courter, Mr. Dannemeyer, Mr. Edwards of Oklahoma, Mr. Livingston, Mr. Gilman, and Mr. Lungren.

H.R. 7572: Mr. Richmond.

H.R. 7632: Mr. Myers of Indiana, Mr. Nolan, Mrs. Smith of Nebraska, Mr. Kogovsek, Mr. Pashayan, Mr. Sebelius, and Mr. Simon.

H.R. 7655: Mr. Broomfield, Mr. Brown of Ohio, Mr. Buchanan, Mr. Burgener, Mr. Campbell, Mr. Coleman, Mr. Corcoran, Mr. Devine, Mr. Dornan, Mr. Edwards of Alabama, Mr. Edwards of Oklahoma, Mr. Emery, Mr. Fish, Mr. Forsythe, Mr. Goodling, Mr. Harsha, Mr. Horton, Mr. Hyde, Mr. Jeffords, Mr. Kindness, Mr. Kramer, Mr. Leach of Iowa, Mr. Lent, Mr. Livingston, Mr. Loeffler, Mr. Lott, Mr. Lujan, Mr. Lungren, Mr. Marriott, Mr. Michel, Mr. Moorhead of California, Mr. O'Brien, Mr. Quillen, Mr. Railsback, Mr. Regula, Mr. Robinson, Mr. Royer, Mr. Rudd, Mr. Shuster, Mr. Sebelius, Mr. Shumway, Mr. Solomon, Mr. Stangeland, Mr. Stanton, Mr. Thomas, Mr. Walker, Mr. Whitehurst, Mr. Bob Wilson, Mr. Winn, Mr. Wydler, Mr. Young of Alaska, Mr. Broyhill, Mr. Abdnor, Mr. Lagomarsino, Mr. Ritter, and Mr. Quayle.

H.R. 7689: Mr. Walgren, Mr. Lundine, Mr. Anthony, Mr. Blanchard, and Mr. Roe.

H.J. Res. 511: Mr. Hutto.

H.J. Res. 516: Mr. Anderson of California, Mr. Barnes, Mr. Corman, Mr. Dellums, Mr. Jeffords, Mr. Jones of Tennessee, Mr. Lloyd, Mr. McDade, Mr. Marriott, Ms. Mikulski, Mr. Moffett, Mr. Murphy of Illinois, Ms. Oakar, Mr. Ottinger, Mr. Rodino, Mr. Roe, Mr. Stack, Mr. Stangeland, Mr. Stark, Mr. Vento, Mr. Walgren, Mr. Winn, and Mr. Wolff.

H.J. Res. 575: Mr. Abdnor, Mr. Bauman, Mr. Davis of Michigan, Mr. Kindness, Mr. Lagomarsino, Mr. Lujan, Mr. Madigan, Ms. Mikulski, Mr. Murphy of Pennsylvania, Mr. Myers of Indiana, Mr. Quayle, Mr. Walker, and Mr. Whitehurst.

H.J. Res. 580: Mr. Hollenbeck, Mr. Dingell, and Mr. Young of Missouri.

H. Con. Res. 341: Mr. Bonker, Mr. Oberstar, Mr. Waxman, Mr. Wolff, Mr. Yates, Mr. Fascell, Mr. Hanley, Mr. Derwinski, Mr. Bingham, Mr. Pritchard, Mr. Weaver, Mr. Pepper, Mr. Wolpe, Mr. Hollenbeck, Mr. Maguire, Mr. AuCoin, Mr. Horton, Mr. Bedell, Mr. Lehman, Mr. Drinan, Mr. Hughes, Mrs. Fenwick, Mr. Dornan, Mr. Evans of the Virgin Islands, Mr. Fish, Mr. Stack, Mr. Ottinger, Mr. Ratchford, Mr. Barnes, Mr. Lewis, Mr. Gramm, Mr. Lent, Mr. Frost, Mr. Kostmayer, Mr. Ertel, Mr. Green, Mr. Edgar, Mr. Downey, Mr. Murphy of Pennsylvania, Mr. Blanchard, Mrs. Spellman, Mr. Beilenson, and Mr. Brodhead.

H. Con. Res. 355: Mr. Robert W. Daniel, Jr., Mr. Jenkins, Mr. Murphy of Pennsylvania, and Mr. Bowen.

H. Con. Res. 361: Mr. Burgener, Mr. Courter, Mr. Robert W. Daniel, Jr., Mr. Dougherty, Mr. Fish, Mr. Hawkins, Mr. Lagomarsino, Mr. Lehman, Mr. Lent, Mr. Martin, Mr. Murphy of Pennsylvania, Mr. Nichols, Mr. Bob Wilson, and Mr. Wolff.

H. Res. 603: Mr. Wolpe.

H. Res. 703: Mr. Preyer, Mr. Coleman, Mr. Gibbons, Mr. Addabbo, Mr. Frenzel, Mr. Fascell, Mr. Young of Florida, Mr. Vento, Mr. Hughes, Mr. Mitchell of New York, Mr. Erdahl, Mr. Ford of Michigan, Mr. Hubbard, Mr. Derwinski, Mr. Clay, Mr. Volkmer, Mr. Moorhead of Pennsylvania, Mr. Coughlin, Mr. Fish, and Mr. Andrews of North Carolina.

H. Res. 709: Mr. Fithian and Mr. Downey.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

380. By the SPEAKER: Petition of the National Sheriffs' Association, Hollywood, Fla., relative to Federal funding for State Highway safety programs; to the Committee on Public Works and Transportation.

381. Also, petition of the National Sheriffs' Association, Hollywood, Fla., relative to paraquat; jointly, to the Committees on Foreign Affairs and Interstate and Foreign Commerce.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6386

By Mr. HUCKABY:

—On page 2, line 10, strike out "$321,300,000" and insert in lieu thereof "$300,000,000".

On page 2, line 11, after "year 1981" strike out ", $380,000,000 for the fiscal year 1982, and $450,000,000 for the fiscal year 1983."

—On page 2, line 11, after "year 1981" strike out ", $380,000,000 for the fiscal year 1982, and $450,000,000 for the fiscal year 1983."

—On page 2, after line 12, insert the following new section:

Sec. 2. (a) Section 1007 of the Legal Services Corporation Act (42 U.S.C. 2966(f) (Public Law 93-355) is amended by adding at the end thereof the following new section:

"(i) Not less than 50 percent of the total amount of funds made available by grant or contract to each State by the Corporation in fiscal years 1981, 1982, and 1983 for providing legal assistance (including administrative support services) shall be used to provide legal assistance by the private bar, with open participation rights by members of the bar; and at least one-third of the total amount of funds spent in each congressional district be used for legal assistance which is provided by the private bar."

(To the amendment by Mr. Sensenbrenner.)

—Page 2, line 12: Section 2(A), strike out the period after the words "member of the bar" and insert in lieu thereof a semicolon and the following: "*Provided*, That at least one-third of the total amount of funds spent in each congressional district be used for legal assistance that is provided by the private bar.".

H.R. 7584

By Mr. HARRIS:

—Page 43, after line 5, insert the following:

Sec. 605. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract in excess of $10,000, prior to the date that such executive agency enters the completed Federal Procurement Data System Individual Procurement Action Report (indicating that the contract is a consultant contract or a commerical and industrial type activity contract) with respect to such obligation into the Federal Procurement Data System, pursuant to regulations promulgated under the Office of Federal Procurement Policy Act.

H.R. 7631

By Mr. HARRIS:

—Page 45, after line 23, insert the following:

Sec. 411. No part of any appropriation contained in this Act shall be expended by any executive agency as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract in excess of $10,000, prior to the date that such executive agency enters the completed Federal Procurement Data System Individual Procurement Action Report (indicating that the contract is a consultant contract or a commercial and industrial type activity contract) with respect to such obligation into the Federal Procurement Data System, pursuant to regulation promulgated under the Office of Federal Procurement Policy Act.

SENATE—*Wednesday, July 2, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. SAM NUNN, a Senator from the State of Georgia.

Mr. NUNN. Our prayer today will be given by our colleague, Rev. JOHN DANFORTH, Senator from Missouri.

PRAYER

The Honorable JOHN C. DANFORTH, a Senator from the State of Missouri, offered the following prayer:

Mr. DANFORTH. This prayer is taken from the Book of Prayers, New and Old. It is found under the heading "In Time of Weariness."

IN TIME OF WEARINESS

O God, the strength of them that labor and the rest of the weary, grant us when we are tired with our work to be recreated by Thy spirit; that being renewed for the service of Thy kingdom, we may serve Thee gladly in freshness of body and mind; through Jesus Christ our Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 2, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SAM NUNN, a Senator from the State of Georgia, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. NUNN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Hawaii.

THE JOURNAL

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

INTENTION OF THE LEADERSHIP TO CALL UP H.R. 39 ON JULY 21, 1980

Mr. ROBERT C. BYRD. Mr. President, under an order that was entered on February 7, 1980, with respect to H.R. 39, Order No. 442, an act to provide for the designation and conservation of certain public lands in the State of Alaska, including the designation of units of the National Park, National Wildlife Refuge, National Forest, National Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes, the majority leader is authorized to call up that legislation not before July 4 but at any time hereafter, I have upon several occasions stated my intention to call up the legislation, upon the reconvening of the Senate, on July 21.

That is my intention, and I will exercise the prerogatives of the majority leader under that order on Monday, July 21, upon the return of the Senate.

SENATE BUSINESS FROM JULY 21 THROUGH AUGUST 6, 1980

Mr. ROBERT C. BYRD. Mr. President, when the Senate returns on July 21, it will be in session from 13 to 15 days—13 days, not counting Saturdays; 15 days, including Saturdays. I would expect that the Senate will be in session at least on one of the two Saturdays in that period.

The legislation that will be taken up during the period includes the following measures. It does not represent the only bills that might be considered between the July and August recesses. Other legislation may be cleared by unanimous consent or brief floor time as the schedule permits. Among the measures are these:

MAJOR AUTHORIZATIONS AND APPROPRIATIONS

Alaska Lands (Cal. 442) There is a time agreement entered.

ERISA—(Employee Retirement Income Security Act) may be reported during the recess; has a July 31 expiration date.

Department of Energy fiscal year 1981 authorization (Cal. 738).

Nuclear Regulatory Commission fiscal year 1981 authorization (Cal. 817).

Mental Health authorization (Cal. 762).

Nuclear Waste Disposal (Cal. 582 from Energy) Environment Committee report their version of this legislation after the recess.

Comprehensive Employment and Training Act authorization (Cal. 761).

Securities and Exchange Commission authorization (Cal. 802).

Department of Treasury/International Affairs authorization (Cal. 816).

School Lunch/Child Nutrition Act authorization (Cal. 918).

Military construction authorization. Should be reported during recess.

Water Resources Council authorization (Cal. 824).

APPROPRIATIONS

It is hoped that as many as eleven of the regular appropriations bills will be ready for Senate action. The time of Defense and Labor/HEW is uncertain. The House does not expect to take up these two bills in the near future.

OTHER EXPIRING AUTHORIZATIONS

Listed below are other authorizations which do not look like they will involve much floor time.

Federal Insecticide, Fungicide and Rodenticide authorization (Cal. 814).

Marine Protection Research (title II) (Cal. 744).

Hazardous Materials Transportation authorization (Cal. 768).

Climate Control Program authorization (Cal. 834).

Corps of Engineers Law Enforcement (Cal. 793).

UNREPORTED EXPIRING AUTHORIZATIONS

Listed below are unreported authorizations and it is difficult to project how much floor time will be needed on them:

Department of Energy weapons (Armed Services).

Panama Canal (Armed Services).

Naval Petroleum Reserve (Armed Services).

Stockpile disposal and acquisition (Armed Services).

Disaster Relief Act (Environment and Public Works).

Health Manpower (Labor and Human Resources).

The measures will be taken up not necessarily in the order that I have stated, but, as Senators will note from reading the RECORD, there is a very crowded schedule of measures to be disposed of during the period between July 21 and August 6.

HOW THE SERIES OF STATEMENTS ON THE UNITED STATES SENATE BEGAN

Mr. ROBERT C. BYRD. Mr. President, today I am making my 15th statement on the United States Senate. Those statements began back in March of this year—on March 21, to be exact. It was on that day that my younger granddaughter, Mary Anne Moore, was in the gallery. Of course, the Senate rules preclude references to persons in the galleries, but in view of the fact that that was three months ago, I call attention to the fact that she was in the gallery that day. With her were her schoolmates of one of her classes and at that particular time, the Senate was not engaged in business—it was on a Friday, and during that period, no rollcall votes

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

were occurring on Fridays. I had assured Senators that there would be no rollcall votes on Fridays through May. So it was a very slow day.

It occurred to me, as I sat here in the Chamber, and my younger granddaughter, Mary Anne, was in the gallery, that it might be well to speak of the United States Senate.

I felt that it could be edifying to the students in Mary Anne's fourth grade class and to Mary Anne if I attempted to explain some of the Senate customs and traditions.

That was how this series of statements on the United States Senate began.

At that time, I had no intention of continuing the series. But on the following Friday, again a day on which no rollcall votes were to occur and a day in which little business was being transacted, my older granddaughter was in the gallery with other seventh graders in her class.

I felt that in view of the fact that I had spoken for about an hour while Mary Anne Moore, my younger granddaughter, was in the gallery with her classmates the week before, I should do the same for my older granddaughter, Mona Byrd Moore.

So I gave a little talk that day, extemporaneously again.

In view of the fact that my son-in-law, John Moore, had been in the gallery the previous Friday and had heard my first talk, I tried to make the second statement somewhat different from the first, so that at least Mary Anne's and Mona's father would not have heard the same speech.

That is how the series began.

Then, having made those two talks on two successive weeks, I began receiving some comments from people in and around the Senate who felt the talks might be beneficial if they continued.

So I conceived the idea of continuing to speak from time to time, when the Senate was not busily engaged in other matters, on the subject of the United States Senate.

I thought this would be particularly fitting in view of the fact that in 1989, some 10 years away, the Senate will be commemorating its 200th anniversary.

As I contemplated that event, I felt that it might be useful to Senators in the future, and to historians, and to students in the universities, colleges, and high schools around the country, if I would talk on the subject, looking forward to the time when the Senate would be remembering its 200th anniversary.

So it is that purpose that I have in mind now as I today make my 15th statement.

Mr. HELMS. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield to the distinguished Senator from North Carolina (Mr. HELMS).

Mr. HELMS. Mr. President, the Senator commented that he hoped this series of discussions would be useful. I can assure him that they are and will be.

I want to publicly commend him, as I have privately commended him. I am building my own file of the Senator's presentations. I will say again, as I said to him privately, I hope these will be compiled so they will be made available to college, university, and high school libraries.

They are exceedingly well done. I congratulate the Senator.

Mr. ROBERT C. BYRD. Mr. President, I thank my friend (Mr. HELMS) for his very generous and considerate remarks. They encourage me to continue on in this effort. I appreciate it very much and I thank him for his statement.

THE UNITED STATES SENATE

Mr. ROBERT C. BYRD. Mr. President, during my 22 years as a member of this body, I have had many occasions to appreciate the tireless and always reliable services of those officials who labor at the desk immediately before me. Whether the chamber is filled to capacity, or as quiet as a West Virginia mountain top; whether the time is high noon or in the small hours of the morning; when the Senate is in session, these valued staff members are present to assist us in maintaining a smooth and orderly flow of business. It may seem, however, that at times we take their services too much for granted, and I guess we do. For that reason, I would like to pause today, in the midst of these series of observations on the United States Senate, to briefly discuss the contributions of these individuals and the history of their offices.

Recently, I spoke at length about the history of the Secretary of the Senate, the office now held by Mr. Stan Kimmitt. Now, I would like to talk about five officials who operate here on the floor directly under the Secretary's supervision. They are, from my left, the Journal Clerk, and then the Parliamentarian, and farther to my right the Legislative Clerk, and the Assistant Secretary. I also want to include the Executive Clerk who is present on the rostrum when the Senate conducts executive business.

In preparing these remarks, the Senate's records, and some of the Senate's older records were examined, including those for the late eighteenth century, in the hope of tracing the evolution of each position from its origins to the present day. The impossibility of such an undertaking was quickly realized. Despite a basic similarity in titles over the years, the specific duties have shifted from one official to another, depending on the direction of the Secretary of the Senate and the needs of this body.

Shortly after the Senate convened in 1789, its members selected Benjamin Bankson to serve as Principal Clerk. Over the years, that position as the Secretary's primary assistant, has been titled "Principal Clerk," "Chief Clerk," and, since 1971, "Assistant Secretary."

In examining the Senate's early 19th century manuscript records, it was discovered that the "Principal Clerk" in that early period was indeed a busy and versatile man. Lewis Henry Machen, whose service in the Secretary's Office began in 1810, held the Principal Clerk's post from 1837 until the eve of the Civil War. In my earlier remarks on the Secretary's Office, I referred to Machen's gallant role in rescuing from the burning Capitol in 1814 the priceless records of the Senate's first quarter-century. In the 1820's, Machen served, in effect, as a one-man Congressional Research Service. At a time when Senators had virtually no staff assistance, Machen responded to their requests for facts, books, maps, and research. He searched the *Senate Journal* and other records for rules changes and precedents, much as our own Doctor Floyd Riddick has done during the second half of the twentieth century.

Among the Senate's old papers is a copy of Machen's job description as Principal Clerk for the year 1838. It confirms his versatility. According to its text, Machen, under the Secretary's direction, had primary staff responsibility for the day-to-day operation of the Senate's legislative machinery. His functions included those of today's Legislative Clerk, Journal Clerk, Bill Clerk, Enrolling Clerk, and Printing Clerk. Several years later, his duties were expanded as follows: "He will note, in a book for that purpose, all questions of order or of practice decided in the Senate, and he will prepare the annual statement of appropriations and offices created."

We are much indebted to Mr. Machen for his colorful accounts of life in the Senate chamber during his fifty-year tenure. He knew first-hand the surviving statesmen of the Revolutionary era, witnessed the electric oratory of Clay, Webster, Calhoun, and the like, and watched solemnly as the Nation, as reflected in Senate debates on the question of slavery in the territories, moved inexorably toward disunion. He described that memorable day in January 1830 when Daniel Webster delivered his celebrated reply to Robert Hayne in words that flashed across the nation and were memorized by subsequent generations of school children: "Liberty *and* Union, now and forever, one and inseparable!"

On that occasion in 1830, Machen described the Old Senate Chamber. Its galleries were filled to capacity an hour before the Senate assembled. Machen wrote, "to accommodate the ladies who thronged the vestibules, not only the lobbies and passages below were filled with chairs, but even Senators had the gallantry to yield their seats, and still, many were seen standing during the whole of the day. When Mr. Webster commenced his reply, I never witnessed a more breathless attention. Amidst the visible excitement which prevailed, he arose, collected, and apparently, unmoved. He continued for three hours, and displayed powers which, great as I knew him, I was not aware that he possessed. He portrayed the consequences of disunion in language eloquent and glowing, and in a manner which will never be forgotten by the most insensible of those who heard. Never, I assure you, was there ever in our country, a more felicitous display of moral and intellectual greatness."

At the end of his long career, Lewis Machen paused to reflect on the Senate orators he had known. Some, he wrote, "possess from the gift of nature a fluency of delivery, and a flexibility, fullness and melody of voice which fills every auditor with pleasure and surprise, and imparts almost irresistible force to what in others would awaken no emotion." Although the giants of the Senate's so-called "Golden Age" had passed from the scene, Machen concluded that the "average talent in the Senate will not be less than at any former period. Certainly," he added, "some of the new members are not inferior to their predecessors."

In the pre-Civil War years, Machen worked closely with other Senate floor officials. Next in importance to his own position was that of the Executive Clerk. The Executive Clerk served as the Senate's financial clerk, keeping a record of all expenses and salary payments. Further, he had the thankless chore of ordering newspapers for Senators and seeing to it that they were received on time and paid for.

In 1838, the Senate also employed a "First" and a "Second" Legislative Clerk, a "First" and a "Second" Engrossing Clerk, and finally, a Messenger and Assistant Messenger. As the low man on the totem pole, the Assistant Messenger had to ensure that the Senate's rooms in the Capitol "were properly cleaned and warmed."

On January 4, 1859, the Senate, with most of its 64 members in attendance, made a formal procession from its beloved but overcrowded Chamber just down the hall—in front of what is now the Disbursing Office—to the modern Chamber here, which we now occupy. Before many days had passed, members and clerks alike were heard complaining bitterly about the new room's poor acoustics and faulty ventilation.

I continue to hear my colleagues complain about the faulty acoustics and the faulty ventilation.

There are days when a certain chill is felt in this Chamber, and it especially seems to concentrate in the area just in front of me. The person who sits in the chair especially is in the direct path of the draft. The people about whom I speak today—the Executive Clerk, the Journal Clerk, the Parliamentarian, the Legislative Clerk, and so forth—all have come to me to complain about the chill that besets this Chamber on days when it is warm outside and it feels like a butcher's meat cooler here on the inside.

So those who served in this Chamber long before those of us came upon this mortal stage, complained about the acoustics and the ventilation in this Chamber. Of course, this was no air conditioned Chamber in those days.

Those were the days when Senators could not make themselves heard, virtually, to Senators who sat next to them in this body.

The speaker system that we now have was a long time acoming. For many years I was opposed to bringing into this Chamber the microphones because I felt so keenly aware of the beautiful traditions and customs of this great body that I had to be brought literally kicking and screaming into the 20th century, but finally I voted to bring into this Senate the public address system now that is available which makes it possible for our guests in the galleries to hear Senators and makes it possible also for our colleagues to be able to hear most of the time especially when the chair is vigorous——

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD [continuing]. In maintaining order in the Senate, as the very distinguished Senator from New York (Mr. MOYNIHAN) has just demonstrated, and which is in accordance with the rules requiring the chair to maintain order, without a point of order being made from the floor, in the Chamber and in the galleries.

A persistent complaint from Senators was that they could not hear one another, or the reading clerks. By the 1890's, the Senate employed five reading clerks, who took turns performing the functions of today's Legislative Clerk. Apparently, they performed none too well, for members of the House constantly chided Senators about their clerks' poor and inaudible speaking voices.

By 1900, the Senate had had enough. Word reached the Senate Leadership of a remarkable man from Michigan, named Henry Rose, who was reputed to be one of the nation's finest readers. Senator Francis Warren of Wyoming later noted that it was "love at first sight". At a time when most floor and committee clerks were receiving salaries of $1,200 to $1,800 per year, Mr. Rose asked for and received the unprecedented sum of $5,000. In 1905, by special resolution of the Senate, Rose was named permanent chief clerk, giving him the only guaranteed tenure in the entire Senate. Despite poor health in the last decade of his life, Rose remained a familiar figure in this chamber until his death in 1932. In mourning the Senate's loss, Senator Arthur Vandenberg commented on Rose's important role in the Senate for three decades. Rose was, in Vandenberg's words, "able, efficient, capable, and utterly dependable. He possessed both genius and character. He combined kindliness with dignity. He was ever a credit to himself, the Senate, and the nation." Rose, indeed, personified the highest traditions of Senate service.

Rose's deputy, known to every Senator and staff member as "Uncle John" Crockett, followed in his footsteps for forty years. I am sure that there are a few members of the Senate today who recall Crockett and his fine Shakespearean actor's voice. The *Washington Post* at the time of Crockett's retirement in 1947 cited his departure as a reminder of "how many ancient arts are destined to perish in the hostile climate of a technological civilization. He was perhaps the most eminent modern practitioner of a noble trade, the origins reach into the great dimness of history." He was, in estimation of the Washington Post, "the spiritual descendent of the immortal herald described by the noblest of poets as 'great-hearted Stentor, with voice of bronze, whose cry was loud as the cry of fifty other men.' " Apparently, Crockett developed his great lung power as an Iowa plowboy exhorting his mules. Although forced to lessen his full powers in the confines of the Senate chamber, he exercised them mightily at national party conventions. One observer of Crockett at work in this chamber noted that he "rendered everything—bills, resolutions, roll calls, presidential messages, amendments—in a kind of five-alarm legato, never tripping over commas never slowing up on the syntactical curves, spelling out without hesitation what he could not pronounce."

In 1947, as he commented on Crockett's retirement, Senator Alben Barkley made some general observations on those dedicated clerks who labor at the desk. His remarks are as applicable today as they were a third of a century ago, or, for that matter, a century and a half ago, in Lewis Machen's day. Those officials, said Barkley, "have a rare opportunity, quietly and unobtrusively, to shape the legislative course of the body in which they serve, not simply by what they read from the desk, but by the advice, counsel, cooperation, and assistance they give to Senators who, day by day, face problems incident to the difficulty of mastering the rules of the Senate and questions of procedure. Learning the rules of the Senate and methods of procedure here is like learning the decisions of a court of appeals, or of the Supreme Court of the United States, or the courts of a State. It is a long, hard process. Many who serve here for long terms find it difficult and sometimes impossible to master the minutiae and mechanics of legislation, and, in that situation, the reading clerks, the parliamentary and journal clerks, and all individuals who keep the records render an invaluable service to the Members of the Senate, and, through them, to the country."

And Alben Barkley was right.

At this point, I would like to focus special attention on the Senate's Parliamentarian, who operates under the Secretary's immediate jurisdiction.

The parliamentary law of the Senate entails endless complexities. For one to be able to preside without expert assistance would necessitate several years of observation and study. To accommodate the President and President pro tempore of the Senate, and the Senators called to the chair to preside temporarily, the Senate has accepted the practice of appointing a permanent Parliamentarian to assist in rendering correct parliamentary decisions, thus keeping the practices and precedents uniform within the Senate.

The Parliamentarian is seated in the Senate just in front of the Presiding Officer, and he must be so well acquainted with the practices and precedents of the Senate that he can render a decision to the Chair on a moment's notice.

And in my 22 years in the Senate few times have I observed the Parliamentarian when he could not, readily and without resort to books and papers, advise the Chair on the most complex questions of order.

Occasionally, the Parliamentarian has been required to take a brief moment to examine ancient precedents, and that is to be expected. But it is a very burdensome task, and I must say I have observed with pride the expertise that has been demonstrated in the most difficult situations by the Senate Parliamentarian and his assistants.

The Office of Senate Parliamentarian has had an interesting evolution. Not until after the beginning of the 20th century did either the House of Representatives or the Senate have a permanent parliamentarian designated as such. The person performing these duties in earlier years held other titles, performing other duties simultaneously. Today, the job is considered that of an expert, and the person filling it has a permanent assignment.

It has to be a permanent assignment, it cannot be an assignment that changes with changes in leadership or party control. In recent years, some of the tasks formerly performed by the presiding officer have been assumed by the Parliamentarian. In the name of the presiding officer, the Parliamentarian refers bills and resolutions to the proper committees. The Parliamentarian acts in an advisory capacity to committees, as well as to individual Senators, concerning the legislative process. When the Senate is in session, the Parliamentarian advises the presiding officer as to the order of business, the proper response to a question, parliamentary inquiry, or decision on a point of order raised as to a mode of procedure.

The first Parliamentarian of the United States Senate, Charles L. Watkins, was born at Mount Ida, Arkansas, August 10, 1879, and was a graduate of the Mount Ida Normal Academy of the Law Department of the University of Arkansas. From 1899 to 1901, he clerked in the offices of the Attorney General and of the Governor of the State of Arkansas. On December 1, 1904, he came to Washington, D.C., as a stenographer in the office of the United States Senator James P. Clarke of Arkansas. In July 1914, he was appointed as a clerk in the Office of the Secretary of the Senate, and in June 1919, was made Minute and Journal Clerk of the Senate. In 1923, one of the reading clerks of the Senate who had been advising the Presiding officer in an informal manner on parliamentary matters became incapacitated, and Mr. Watkins assumed his duties. On July 1, 1935, the first formal use of the term "Parliamentarian" occurred when his title was changed to Parliamentarian and Journal Clerk, and on July 1, 1937, the two positions were separated and Charles L. Watkins was appointed as the first Parliamentarian of the United States Senate.

An article appearing in the *Washington Star* in 1937 described Charlie Watkins as "the man who probably knows more today about the intricate conduct of Senate affairs, the floor rules and committee rules, than anybody the length and breadth of the land (and) is one of the most retiring and unostentatious persons to be found anywhere, having hidden for years under the anonymity of his official title Parliamentarian and Journal Clerk.

Symptomatic of the type of parliamentary problem that Charles Watkins had to deal with is one that began August 2, 1948, when Senator Kenneth S. Wherry of Nebraska, the Acting Majority Leader for the Republican majority in the Senate in the 80th Congress, moved to take up a bill to forbid the imposition of a poll tax as a prerequisite for voting in Federal elections. After the motion had been debated at some length, Senator Wherry sent to the desk a cloture motion against which Senator Richard B. Russell of Georgia made a point of order to the effect that a cloture motion could not lie against a motion to take up the bill under the wording of Rule XXII as it then existed. The rest of that day and evening, and all of the next day and evening, were taken up with arguments over the validity of this point of order, until, on the advice of Parliamentarian Charles L. Watkins, the President of the Senate pro tempore, Arthur S. Vandenberg, Republican of Michigan, ruled that, indeed, cloture could not be applied to a motion to take up a bill. As a result of this advice and ruling, the cloture itself had to be amended to permit cloture to be applied to motions to proceed.

The respect in which Charles L. Watkins is held is indicated by the fact that in 1945, on leave given by the Senate, he journeyed to San Francisco to serve as the first parliamentarian of the United Nations, which was then being formed with President Truman in attendance.

In many ways, Charles L. Watkins was a self-made man in that the House of Representatives had its volumes of Hinds' and Cannon's precedents, but in the Senate there were practically no printed guides. Therefore, Charles Watkins, on his own, read through the *Congressional Records* from 1884, the time of the last previous recodification of the Rules, and wrote up his own volumes of precedents on which to rely. When Charles L. Watkins finally retired as Parliamentarian in December 1964 and was designated Parliamentarian Emeritus of the United States Senate as a token of the appreciation of the Senate for his 59 years of service as an employee of the Senate, Senator Richard B. Russell of Georgia took the Floor to comment on the 32 years of association he had had with Watkins. He stated then: "I look down the lane of those 32 years and recall three different occasions when I made parliamentary points which resulted in the Chair being overridden and my own views sustained by the Senate.

"It is remarkable to note that on not one of those occasions did the Presiding Officer take the advice of Charlie Watkins in making his rulings. The Chair made them on his own, and the Senate did not concur with the Chair when the Chair deviated from the advice that he had received from the Parliamentarian, Charlie Watkins."

Senator Russell Long of Louisiana added: "Mr. President, in losing a very good man, we are also gaining a very good man. In my judgment, the new Parliamentarian, Floyd M. Riddick, will live up in every respect to the kind of service that is demanded of a successor to Charlie Watkins."

Floyd M. Riddick, the second Parliamentarian of the United States Senate, was born in Trotville, North Carolina, and grew up on a farm in Gates County. His undergraduate degree was taken at Duke University, which he entered with the intention of following the pre-law course, but he soon came under the influence of Professor Robert S. Rankin, under whose tutelage he followed the course in Political Science. His doctoral dissertation was concerned with parliamentary procedure, but it focused on the House of Representatives, not the Senate. He soon made himself an expert in the area of congressional procedure as a whole, however, publishing in 1949 *The United States Congress, Organization and Procedure*, which soon became a standard text in the field of congressional procedure, and which, by the way, I, myself, have used as a text in conducting seminars on the legislative process at American University. Dr. Riddick was first placed on the Senate payroll in 1947 when his idea for a Daily Digest to be placed at the end of the *Congressional Record* each day was put into practice with himself as the editor. In 1951, he became the Senate's first Assistant Parliamentarian, with his primary responsibility being to develop a printed volume of Senate procedure, which appeared in print in 1958. This volume was re-issued and updated, first in 1964 and later in 1974, the year of Dr. Riddick's retirement as Senate Parliamentarian and his designation as the second Parliamentarian Emeritus of the United States Senate. To quote Senator James B. Allen, of Alabama, on the occasion of Dr. Riddick's retirement: "The Nation, the Congress, and in particular, the Senate are indeed fortunate to have had Dr. Riddick as Parliamentarian of the Senate. He ranks with John Hatsel, Parliamentarian of the House of Commons in the 18th Century, and with Thomas Jefferson, second Vice President and third President of the United States, as one of the greatest parliamentarians."

As Senator Jacob Javits, of New York, said on that occasion: "I am confident that Dr. Riddick's successor . . . Mr. Murray Zweben, who has served under Dr. Riddick for many years will carry on in the same fine tradition as Dr. Riddick."

Incidentally, Dr. Riddick, the Senate Parliamentarian Emeritus, still works for the Senate, and without pay. He works several days every week. He is the epitome of dedication—supreme dedication—to this institution. He retired quite a good while ago, but every week he is here in the office working in the suite of the Senate Committee on Rules and Administration. He is always ready to lend a helping hand to Senators. Recently several of us spoke. from the depths of our admiration and respect, of Dr. Riddick's continuing dedication and service to the United States Senate—without salary.

Murray Zweben came to the Parliamentarian's Office in 1956 as Secretary to then Parliamentarian Charles L. Watkins, and served in that post until 1959 while simultaneously attending the George Washington University Law School, serving as a member of the staff of the George Washington University Law School Law Review. He returned to the Senate in January, 1963 after clerking with Judge Laramore of the United States Court of Claims and being in private practice. He filled the newly created post of Second Assistant Parliamentarian.

In January, 1965 he was promoted to Assistant Parliamentarian, and 10 years later, to the post of Parliamentarian. He has shared his parliamentary knowledge with students at the George Washington University Law School, being a part-time member of the faculty.

Mr. President, I wish at this time to speak in words of praise as I direct my remarks to the Parliamentarian, Mr. Murray Zweben. He, too, has been faithful in his service to the Senate. All Senators are indebted to him for the contributions that he makes to the Senate and its work, and for his courteous assistance to them—and that includes all of us—from day-to-day as we deal with the complex problems of procedure.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of New York, would like to most vigorously second the gracious remarks of our majority leader with respect to Mr. Zweben, who has been valuable to all of us.

Mr. ROBERT C. BYRD. I thank the Chair.

In 1966, Mr. Zweben's assistant came to the United States Senate from a position as Assistant Professor of Government at Iowa State University in Ames, Iowa. Robert Dove, after being graduated from The Ohio State University, in Columbus, Ohio, pursued first the Master's Degree in Political Science at Duke University and then his Doctorate under the same professor, Robert S. Rankin, who had so influenced the early career of Floyd M. Riddick. It was Mr. Dove's honor to be recommended by Professor Rankin to Dr. Riddick as a worthy successor in the Office of Parliamentarian. Since coming to the Senate Mr. Dove has also pursued studies at the Georgetown University Law Center, receiving his J.D. degree in 1978 and is a member of the District of Columbia Bar.

In 1977 the third Parliamentarian was added to the staff of the Parliamentarian's Office, Alan Frumin, of New Rochelle, New York. Mr. Frumin also is a graduate of Georgetown University Law Center, having earlier been graduated from Colgate University, where he pursued studies in Economics and Political Science. Mr. Frumin had held the position of Legal Editor, working on Deschler's precedents of the House of Representatives, and as a result has brought to the office helpful perspectives from the position of the House of Representatives.

Now I wish to turn my attention to the current duties of those who sit with the Parliamentarian at the front desk.

The Legislative Clerk, Mr. William E. Farmer, Jr., is the reading clerk of the Senate. When directed by the Presiding Officer, the Legislative Clerk reads bills, resolutions, amendments, the *Senate Journal*, House messages, Presidential messages, conference reports, and so forth, before the Senate. The Legislative Clerk calls the roll, either to establish the presence of a quorum or to decide a question by yea-and-nay vote, then notifies the Presiding Officer of the result, and the Presiding Officer in turn announces it to the Senate. Bills and resolutions and reports thereon of committees are numbered, processed, and placed on the *Calendar of Business* by the Legislative Clerk. The Legislative Clerk prepares the *Calendar of Business* which contains:

Bills and resolutions reported by committees, or otherwise placed on the *Calendar*.

Bills pending in conference committees.

Unanimous Consent Agreements on matters or measures which are or may be pending before the Senate.

Subjects On The Table.

Motions For Reconsideration.

Resolutions and Motions Over Under The Rule.

Standing, Select and Special Committee membership lists.

An alphabetical list of the Senate membership.

The Legislative Clerk maintains official copies at the desk of bills and resolutions pending before, or eligible for consideration of the Senate and conforms them to include modifications and amendments agreed to, and endorses them to reflect such action. The Legislative Clerk accepts and endorses for printing all statements and other papers presented by Senators for insertion in the *Congressional Record*, which are not given on the floor. When Senators propose unprinted amendments to measures pending on the floor, the Legislative Clerk receives, reports, numbers and provides copies of them to the Leadership, the managers and others concerned with such measures.

The Legislative Clerk performs the duties of the Executive Clerk on the Senate floor when required and, in the absence of the Secretary or Assistant Secretary accompanies the Presiding Officer and the Chaplain of the Senate to the rostrum upon convening of the daily sessions.

The Journal Clerk, Mr. James E. Thorndike, in long hand, records the daily proceedings of the Senate in the "minute book" briefly and accurately, including all communications, reports of committees, bills introduced, details of floor proceedings, etc., the official record of the Senate as prescribed by Article 1, section 5, subsection 3 of the *Constitution of the United States*. Transcribed into typewritten manuscript, the aforementioned notes are sent to the Government Printing Office for printing as daily copy of the *Journal*, and after *sine die* adjournment of each session, they are bound together, one Senate session per volume, for distribution to Senators, depository libraries, and legislative and executive branch libraries. No general public distribution is made. The bound *Journal* is indexed with appropriate reference either to a page or a bill number.

The Journal Clerk prepares the History of Bills and Resolutions, which is a part of the bound *Journal;* it serves as an index of legislative action for that Senate session. The Journal Clerk maintains for the Leadership a daily tabulation of the time consumed for roll calls, quorum calls, recesses, and the total time utilized for debate on specific legislation. The Journal Clerk accepts for printing—prior to 1 o'clock p.m., on the day following the filing of a cloture motion—amendments in the first degree, and, prior to one hour before the beginning of a cloture vote, amendments in the second degree, all of which Senators intend to propose to the pending measure or matter on which the cloture motion was filed. Such acceptance by the Journal Clerk of amendments is provided for in Rule XXII, section 2, paragraph 4.

It is the duty of the Journal Clerk to accept from Senators at the desk requests in writing for staff members to be granted the privilege of the floor during debate and/or roll call votes. Such requests are then forwarded to the Sergeant at Arms for compliance.

On occasion, the Journal Clerk has been ordered by the Presiding Officer to read aloud to the Senate from his minute book, to confirm or deny references to previous statements, or to settle discrepancies between the *Congressional Record* and the *Journal*, the latter having precedence.

The Journal Clerk maintains files of official papers (unprinted amendments, co-sponsorship requests, etc.) from each day's proceedings.

The Executive Clerk is concerned with treaties and nominations, the executive business of the Senate.

Treaties submitted to the Senate by the President of the United States may be acted upon in one of four ways:

1. The Foreign Relations Committee voting against reporting them to the full Senate, or by taking no action, or reporting them to the full Senate.
2. Advice and consent to the ratification by the Senate.
3. Rejection by the Senate.
4. Withdrawal by the President, but only if the Senate acts to return the treaty.

Nominations received from the President may be confirmed or disapproved by the Senate, withdrawn by the President, or remain in committee or on the *Executive Calendar* at *sine die* adjournment. At the end of the first session of a Congress, nominations pending are customarily carried over to the second session at the discretion of the Leadership and with approval of the Senate, but all nominations pending on the *Executive Calendar* or in committee at *sine die* adjournment of a Congress automatically die at that time and are returned to the President. To qualify for confirmation after that time they would have to be resubmitted.

The Executive Clerk, Mr. Gerald Hackett, Jr., is concerned with the entire process relating to the Senate's action on treaties and nominations, from the time they are received until their final disposition, with the exception of that period of time when the nomination or treaty is before a committee of the Senate.

The Executive Clerk prepares and maintains accurate records of actions taken during executive sessions for publication at the end of each session in the *Executive Journal*. The *Executive Journal*, which is indexed, includes all executive business conducted during each session of the Senate.

Unless otherwise instructed by Senate action, the Executive Clerk transmits copies of each Presidential message on executive business to the appropriate committee or committees as notification of referral, usually determined by precedent or, as in the case of nominations to new positions, in consultation with the Parliamentarian; however, such referrals are carried out by the Executive Clerk acting on behalf of the President of the Senate, the Vice President of the United States.

The Executive Clerk prepares the daily *Executive Calendar*, a cumulative listing of treaties and nominations reported by Senate committees, but not yet acted upon. The Executive Clerk also prepares amendments, reservations, understandings, etc., to treaties and the resolutions of ratification thereto, statements for the removal of injunctions of secrecy, and the preparation of each treaty document and relating paper, and executive reports.

Mr. President, as an exhibit of just what I have been talking about—the Executive Calendar—I hold in my hand the Executive Calendar which was printed for today, Wednesday, July 2, 1980. I ask unanimous consent that the first page and the second page of this Executive Calendar for today be printed in the RECORD at this point.

There being no objection, the pages were ordered to be printed in the RECORD, as follows:

Senate of the United States

NINETY-SIXTH CONGRESS

FIRST SESSION { Convened January 15, 1979
Adjourned December 21, 1979
SECOND SESSION { Convened January 3, 1980

EXECUTIVE CALENDAR

Prepared under the direction of J. S. KIMMITT, Secretary of the Senate
By GERALD A. HACKETT, Executive Clerk
Wednesday, July 2, 1980

TREATIES

Date of report	Calendar No.	Treaty No.	Subject	Action of committee
1979				
Nov. 19	7	Ex. Y (96th Cong., 1st sess.).	Treaty with the Union of Soviet Socialist Republics on the Limitation of Strategic Offensive Arms and Protocol Thereto (SALT II Treaty).	Reported favorably, with reservations, understandings and declarations, by Mr. Church, Committee on Foreign Relations, with a printed report, together with supplemental and minority views (Ex. Rept. 96–14).
1980				
June 25	7	Ex. C (96th Cong., 1st sess.).	Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, with Annexes and Protocols.	Reported favorably, without reservation, by Mr. Church, Committee on Foreign Relations, with a printed report (Ex. Rept. 96–36).
25	8	Ex. D (96th Cong., 1st sess.).	Protocol of 1978 Relating to the International Convention for the Safety of Life at Sea, 1974.	Reported favorably, without reservation, by Mr. Church, Committee on Foreign Relations, with a printed report (Ex. Rept. 96–37).
25	9	Ex. S (96th Cong., 1st sess.).	Amendments to the 1948 Convention on the Intergovernmental Maritime Consultative Organization.	Reported favorably, without reservation, by Mr. Church, Committee on Foreign Relations, with a printed report (Ex. Rept. 96–38).

Date of report	Calendar No.	Treaty No.	Subject	Action of committee
1980				
June 25	10	Ex. GG (96th Cong., 1st sess.).	Amendment to the 1966 International Convention on Load Lines.	Reported favorably, without reservation, by Mr. Church, Committee on Foreign Relations, with a printed report (Ex. Rept. 96-39).
25	11	Ex. J (96th Cong., 2d sess.).	International Convention on Maritime Search and Rescue, 1979, with Annex.	Reported favorably, without reservation, by Mr. Church, Committee on Foreign Relations, with a printed report (Ex. Rept. 96-40).
25	12	Ex. F (96th Cong., 2d sess.).	Consular Convention with the German Democratic Republic.	Reported favorably, without reservation, by Mr. Church, Committee on Foreign Relations, with a printed report (Ex. Rept. 96-41).
27	13	Ex. B (96th Cong., 2d sess.).	Agreement with the International Atomic Energy Agency for the Application of Safeguards in the United States of America, with Protocol.	Reported favorably, with 5 understandings, by Mr. Church, Committee on Foreign Relations, with a printed report (Ex. Rept. 96-42).

NOMINATIONS

Date of report	Calendar No.	Message No.	Nane of nominee	Office and predecessor	Reported by
			CIVIL AERONAUTICS BOARD		
1980					
Mar. 4	* 57	736	Marvin S. Cohen, of Arizona.	A member of the Civil Aeronautics Board for the term of 6 years expiring Dec. 31, 1985. (Reappointment.)	Mr. Cannon, Committee on Commerce, Science, and Transportation.
			FEDERAL HIGHWAY ADMINISTRATION		
June 4	* 176	209	John S. Hassell, Jr., of Georgia.	Administrator of the Federal Highway Administration, vice Karl Smith Bowers, resigned.	Mr. Randolph, Committee on Environment and Public Works.
			NATIONAL LABOR RELATIONS BOARD		
17	* 208	280	Don Alan Zimmerman, of Maryland.	A member of the National Labor Relations Board for the term of 5 years expiring Dec. 16, 1984, vice Betty Southard Murphy, resigned.	Mr. Williams, Committee on Labor and Human Resources.

Mr. ROBERT C. BYRD. For those who will read the CONGRESSIONAL RECORD 100 years from today, they will note the treaties that were on the calendar today and which, incidentally, will be disposed of this afternoon, and they will also note certain nominations on the calendar. Incidentally, those nominations have not yet been acted upon.

RECOGNITION OF SENATOR BRADLEY

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from New Jersey (Mr. BRADLEY) is recognized for not to exceed 15 minutes.

S. 2920—TAX CREDIT FOR SOCIAL SECURITY PAYMENTS

Mr. BRADLEY. Mr. President, I introduce for appropriate reference a bill to provide for a temporary tax credit of 10 percent for the payment of social security payroll taxes over the next 2 years.

Mr. President, over the course of the next few weeks the Finance Committee will be taking testimony and considering what elements should be part of the tax package we all anticipate will be enacted later this year. During this consideration, all Members will be looking for a tax bill that will ease the heavy burden of taxes on American citizens and business. But we will also be looking for a tax bill that responds to the growing recession in a direct and immediate way. Finally, we will be careful to avoid unnecessary stimulation of inflation.

Constructing such a package will not be easy. There is a great temptation these days to propose tax cuts, which promise much in the way of votes in November, but which play havoc with our efforts to contain inflation.

The measure that I am introducing today is no panacea to all our economic problems. But of all the proposals that have been offered in the last few weeks, it is the one which is best calculated to offer immediate benefits to individuals, provide a needed stimulus to business, encourage employment and counter the recession, and yet not be inflationary.

This proposal, which is identical to H.R. 7046, introduced by Mr. GEPHARDT in the House, has the following advantages:

First, it provides needed additional income to businesses by reducing the amount they have to contribute as employer share of social security taxes. This income will be available for additional investments, for additional employment, and as much as 75 percent will be reflected in lower prices for goods and services. As it reduces the cost of labor it has an immediate impact on productivity. While admittedly this is not the long-term solution to increasing productivity, it does represent a needed shot in the arm to this critical problem of our economy.

Second, unlike other business tax cuts, this reduction will benefit all types of industry, not just those which are capital intensive. In this respect, it offers special advantages for the service sector of our economy which, of course, is labor intensive.

Third, it should be especially helpful in encouraging employment. It is estimated that it takes an investment of about $100,000 in the manufacturing sector to provide for each additional new employee. In the service sector, the cost is $20,000 to $40,000. And the service sector offers the greatest opportunities for employment of minorities, women, the unskilled, and others who are most immediately and seriously hurt by the recession.

Fourth, this proposal offers tax benefits to both business and labor. The estimated $10.4 billion tax reduction for fiscal year 1981 and $16.2 billion for fiscal year 1982 will be divided about 2 to 1 in favor of individuals.

Fifth, the importance of this proposal in easing the recession cannot be overstated. It should reduce the cost of goods and services immediately, by reducing the labor costs attributable to them. On the one hand, it makes those products more attractive to the consumer, while also providing more resources to the consumer with which to make those purchases.

Sixth, this tax cut will reduce inflation. The CBO estimates that it will actually reduce the rate of inflation by as much as 0.3 percent and at the least, by 0.1 percent, since most of the business labor cost savings will probably be reflected in lower prices.

Seventh, the proposal may go far toward counteracting the Federal revenue losses and expenses associated with the recession. As a rule of thumb, every increase in unemployment of 1 percent results in the loss of revenue and increases of other costs to the Federal Treasury of $29 billion. To the extent that this proposal does result in creating jobs, Federal revenues will increase. Counting the savings in the costs associated with unemployment and the return to the Treasury in increased income taxes from those at work, the net cost to the Treasury of this proposal would be reduced.

Eighth, as with all good tax cuts, this proposal is progressive. For those employees who have not had an increase in salary, the tax cut of 10 percent will more than offset the 8 percent increase in payroll taxes next January. And, since this is a tax credit, it will offer proportionately more benefits to those at the lower tax brackets, than to individuals at the higher rates.

Finally, I propose to have this credit refundable, so it will benefit those at the very lowest incomes levels, as well.

Most important, however, this proposal is a way of attacking directly the great increase in social security taxes that will become effective on January 1. Those increases may have been necessary to keep the social security system financially viable. In the best of circumstances, this will be a terrible burden on the average working individual, and it is a burden which is all the more unwelcome since it works regressively. But as the Nation enters into a recession that already is called the second worst since the Depression, these increases will be especially heavy for individual Americans and the Nation as a whole. In a sort of reverse Keynesian way, we find ourselves increasing taxes and reducing purchasing power as the country enters into a business slowdown. What we should be doing, of course, is avoiding those steps which make a recession worse.

I believe that this proposal offers the most responsible way to keep faith with the American people as we seek to fight recession and inflation at the same time. I commend it to my colleagues of both parties as a way to make good on campaign promises while doing good for the country.

I believe it is a proposition that should attract the support of Members on both sides of the aisle, because it is a job-creating, anti-inflationary tax cut that also increases productivity.

Mr. President, I ask unanimous consent that the text of the bill be printed in full in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The text of the bill is as follows:

S. 2920

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Social Security Payroll Credit Act of 1980".

SEC. 2. CREDIT FOR SOCIAL SECURITY TAXES PAID IN 1981 AND 1982.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits against tax) is amended by inserting after section 44C the following new section:

"SEC. 44D. CREDIT FOR SOCIAL SECURITY TAXES.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this subtitle for any taxable year beginning in the calendar year 1981 or in the calendar year 1982 an amount equal to 10 percent of the taxpayer's social security taxes for that calendar year.

"(b) SOCIAL SECURITY TAXES FOR 1981 OR 1982.—The taxpayer's social security taxes for the calendar year 1981 or the calendar year 1982 are—

"(1) the taxes imposed by section 3101 (relating to tax on employees under the Federal Insurance Contributions Act) which are paid by the taxpayer with respect to wages received by the taxpayer during that calendar year;

"(2) the taxes imposed by section 3111 (relating to tax on employers under the Federal Insurance Contributions Act) which are paid by the taxpayer with respect to having individuals in his employ during that calendar year; and

"(3) the taxes imposed by section 1401 (relating to tax on self-employment income under the Self-Employment Contributions Act of 1954) which are imposed on the self-employment income of the taxpayer for the taxpayer's taxable year beginning in that calendar year.

"(c) ONLY NET AMOUNT OF SOCIAL SECURITY TAXES TAKEN INTO ACCOUNT.—The amount of the social security taxes of a taxpayer which may be taken into account for any taxable year for purposes of this section shall be the total amount of such taxes reduced by an amount equal to that portion of any refund or credit under subsection (b) or (c) of section 6413 which is attributable to such taxes.

"(d) DENIAL OF TRADE OR BUSINESS DEDUCTION.—No deduction shall be allowed a taxpayer under this chapter for that portion of the taxes imposed by section 3111 which is equal to the amount of the credit allowable under this section.

"(e) WAGES DEFINED.—For purposes of this section, the term 'wages' has the meaning given to it by section 3121(a), except that such term also includes remuneration covered by an agreement made pursuant to section 218 of the Social Security Act.

"(f) SPECIAL RULES IN CASE OF SECTION 218 AGREEMENTS COVERING STATE AND LOCAL EMPLOYEES.—Under regulations prescribed by the Secretary, in the case of an agreement made pursuant to section 218 of the Social Security Act—

"(1) amounts deducted from the employee's remuneration as a result of the agreement (whether or not such amounts have been paid to the Secretary) shall be treated as taxes paid under section 3101, and

"(2) amounts paid by the employer as a result of the agreement which are equivalent to taxes imposed by section 3111 shall be treated as taxes imposed by such section.

"(g) PAYMENTS TO NON-TAXABLE ENTITIES.—In the case of—

"(1) a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions, or

"(2) an organization exempt from tax under section 501(a) (other than an organization required to make a return of the tax imposed under this subtitle for its taxable year),

no credit shall be allowable under this section for any taxable year, but (in lieu of such credit) the Secretary shall pay to such State, subdivision, agency, instrumentality, or organization, without interest, an amount equal to the amount of the credit which would otherwise be determined under this section with respect to such State, subdivision, agency, instrumentality, or organization.".

(b) CREDIT TO BE REFUNDABLE.—Subsection (b) of section 6401 of such Code (relating to excessive credits) is amended—

(1) by striking out "lubricating oil), and 43" and inserting in lieu thereof "lubricating oil), 43";

(2) by striking out "earned income credit)" and inserting in lieu thereof "earned income credit), and 44D (relating to credit for social security taxes)"; and

(3) by striking out "39 and 43" and inserting in lieu thereof "39, 43, and 44D".

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44C the following new item:

"Sec. 44D. Credit for social security taxes."

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply only with respect to remuneration received or paid, and taxable years beginning, in the calendar years 1981 and 1982.

ORDER OF BUSINESS

Mr. PROXMIRE. Mr. President, how much time does the Senator have remaining?

The PRESIDING OFFICER (Mr. MORGAN). Six and a half minutes.

Mr. PROXMIRE. Mr. President, I have a statement I should like to make on the bill. I have discussed this with the distinguished Senator from Colorado, and he has permitted me to go ahead. If the Senator yields back his time, I can do it on the bill.

Mr. BRADLEY. Would the Senator like to use my 6 minutes?

Mr. PROXMIRE. That will not be necessary. I thank the Senator.

The PRESIDING OFFICER. There is no time on the bill. There would have to be time on the amendment.

Mr. PROXMIRE. If there is no time on the bill, I can speak on the bill, can I not?

The PRESIDING OFFICER. The amendment is supposed to be called up.

Mr. PROXMIRE. Mr. President, will the Senator yield me his 6½ minutes?

Mr. BRADLEY. Mr. President, I yield my colleague from Wisconsin 6½ minutes, the remainder of my time.

The PRESIDING OFFICER. It is now 6 minutes.

Mr. PROXMIRE. I thank the distinguished Senator from New Jersey.

DEPARTMENT OF DEFENSE AUTHORIZATIONS, 1981

Mr. PROXMIRE. Mr. President, I oppose this bill both for its fiscal excesses and the negative effect it will have on the defense procurement system. First, this bill is $5 billion above the official request of the Secretary of Defense and the President. Having spent almost 1 year carefully defining the defense needs of the country, the Defense Department came forward with a bill and recommendations that totalled $46.9 billion on a comparable basis with this bill.

Yet, the Senate is called upon to approve not this already significant number but a budget that totals $51.9 billion. That, of course, is $5 billion above it, about 10 percent higher.

What are these additions? They read like the wish list of the country's aircraft manufacturers. More Army UH-60A helicopters, more Navy AV-8B VSOL aircraft, more F-18 fighters, more EA-6B electronic warfare aircraft, more F-14 fighters, more P-3C antisubmarine warfare aircraft, more F-15 fighters. Right offhand, I cannot think of anyone who got left off the list.

Of course, the Navy was not overlooked. We have added $640 million for an unrequested nuclear attack submarine, $131 million for advance procurement for the Aegis cruiser program that is not in the defense budget, an extra $476 million for two additional guided missile frigates, $304 million to reactivate the Oriskany aircraft carrier, $294 million to reactivate the battleship *New Jersey*, eight additional SL-7 cargo ships for $285 million.

The committee also has made a number of decisions which will have a significant effect on U.S. strategic planning. For example, the committee completely cut out of the bill all funds for a wide bodied jet cruise missile carrier. This is part of what appears to be a grand strategy of resurrecting a manned penetrating bomber while killing off any meaningful competitor such as the wide bodied jet cruise missile carrier. While killing the cost-effective cruise missile carrier, the committee added $91 million for research and development and procurement funds for the FB-111 aircraft—an interim penetrating bomber that has come in dead last in every cost effectiveness study conducted by the Department of Defense. When matched against the B-52 or the cruise missile carrier or even the B-1, the FB-111 stands last on the cost effectiveness scale. Even the Senate modification to the committee position still left in a new bomber of some kind.

If the bill was not bad enough on face value, certain amendments to it have further deteriorated its appeal. At the top of the list is a late-night add-on of $25 million for an ABM system for the MX mobile missile system. No sooner is the MX off the drawing boards with its fourth major modification then the Senate concludes that it just might not be effective in and of itself. Therefore the only logical answer is to protect it with a mobile ABM. So there it is. The worst of all worlds spliced together in this bill: The MX and the ABM.

The bill has other infirmities. Perhaps the most obvious is the language requiring the President to select a site for the ELF system by April 1, 1981. The recommended operational capability date of 1985 and the dedication of $10 million in fiscal year 1981 funding for proceeding with ELF is totally unwarranted in view of the facts. The General Accounting Office has examined the strategic communications systems available and expected in later years and has found that the ELF program just is not necessary in any military sense. At the present time, we have an adequate communications system operating from aircraft. These aircraft will continue to supply a reliable and secure source of communications for our submarines for another 10 to 15 years. In the meantime, advances in the high technology arena of blue green lasers promise a solution to the communications problem without ELF.

We must remember that the mission and the capabilities of ELF have changed radically over time. It simply is not the concept we started with. Originally, the Sanguine/Seafarer was to be a survivable communications system for use during a nuclear war. The present ELF system cannot perform that role. It is not survivable. One hit with a nuclear weapon and it is out of business. Thus, it cannot communicate after the outbreak of war.

So what we have ended up with is a system that can communicate only in peacetime. The one selling point for Sanguine/Seafarer was its effectiveness during a war. Now that is gone and with it the last justification for proceeding with ELF.

Although having obvious faults, this bill does seek to improve some of the problems that exist with the National Guard and Reserves. The bonus system for Guard and Reserve personnel has been expanded to include all units and skills instead of just early deploying units and critical skills. This should help recruiting for the Guard and Reserve. Further, the Senate has passed the McGovern/Proxmire amendment, which has expanded the educational bonus system for Guard and Reserve personnel. Instead of the $500 a year limit on educational assistance, the new level will be $1,000 a year, with a 4-year total of $4,000. This is a much more realistic figure, given the current cost of education.

This bill reflects an atmosphere that somehow the United States should increase its commitment to national security. There is a dissatisfaction with our foreign policy and our seeming inability to control international events. Thus, there has been an uncontrollable urge to respond in some fashion. Unfortunately the response has shown up in this bill.

We are stuffing this bill with aircraft and ships that are far more expensive than necessary to do the job. Will this restore our prestige in Europe or release the American hostages in Iran? Had we had these ships and fragile, gold-plated planes earlier, would that have deterred the seizing of the hostages? Would that settle the unrest in El Salvador or bring the Middle East peace agreement to fruition? The answers, of course, are No. No. No.

It is understandable that we pretend they will. But in our hearts we know they will not. They do not automatically enhance our security. They may well hinder the planning of the Department of Defense. And, surely, they will contribute to inflation, which only now shows some sign of remission.

For these reasons, I cannot support this bill.

DEPARTMENT OF DEFENSE AUTHORIZATIONS, 1981

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 6974, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6974) to authorize appropriations for fiscal year 1981 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for fiscal year 1981 for civil defense, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the Senator from Colorado (Mr. ARMSTRONG) is recognized to call up an amendment on which there shall be 45 minutes, with 30 minutes for the Senator from Colorado (Mr. ARMSTRONG) and 15 minutes for the Senator from Georgia (Mr. NUNN).

The Senator from Colorado is recognized.

UP AMENDMENT NO. 1396

(Purpose: To provide a 3 percent additional pay increase for members of the armed forces)

Mr. ARMSTRONG. Mr. President, I send to the desk an unprinted amendment and ask that it be reported and that it be considered immediately by the Senate.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an unprinted amendment numbered 1396:

On page 59, strike out lines 12 through 22, and insert in lieu thereof the following:

SEC. 306(a) (1). The overall percentage increase made under the provisions of section 1009 of title 37, United States Code, relating to adjustments in the compensation of members of the uniformed services, and which becomes effective beginning with the first period beginning after September 30, 1980, shall be increased by 3 percent.

Mr. ARMSTRONG. Mr. President, during the last several months, it has become increasingly obvious that the most serious national defense problem which confronts this country is the recruiting and retention problem of military personnel in all three of our uniformed services.

It is clear that unless some action is taken the attrition which we are suffering and which has so seriously affected both the numbers and quality of people who are serving this country in uniform will be the undoing of our defense effort.

I think it is a tribute to the Committee on Armed Services that they have recognized this problem, and I believe that more progress has been made during the last several months toward giving recognition to the problem and toward solving it than in any comparable period in recent years.

Mr. President, I especially wish to pay tribute to the leadership of the committee, to the distinguished Senator from Georgia (Mr. NUNN), to Mr. JEPSEN, to Mr. TOWER, to Mr. WARNER, and especially to my colleague from Maine, Mr. COHEN, all of whom have shown great interest in the military personnel problems who have spoken and acted perceptively and wisely in dealing with the problems and whose leadership I think is a great credit to them and to the committee and of great value to the Nation.

However, Mr. President, the actions which have been taken, and I am more than pleased—I am delighted that the bill which the committee has brought before us today includes a lifting of the military pay cap which has so seriously undermined efforts to make the All-Volunteer concept work.

This action in and of itself is not enough to solve the serious personnel problems which the Nation's military services face.

Therefore, on behalf of my colleague, Mr. MATSUNAGA, and myself, I am offering today an amendment which will provide a partial catchup cost of living pay increase for military personnel.

Mr. President, I am particularly honored to be joined in this effort by Mr. MATSUNAGA. Senators know that he has for many years, not just this year or not just during the time when it has been popular and fashionable, but over a long period of time, the Senator from Hawaii (Mr. MATSUNAGA) has been a leader in developing and fostering and sustaining the All-Volunteer Force concept.

Mr. President, the Senator from Hawaii has not only supported the concept of the all-volunteer service with words and actions, indeed, he is one of the fathers of the legislation which ended the draft and created the Volunteer Force and so his interest and his support of the amendment which we have offered and of amendments which he and I have previously joined in bringing to the Chamber are extraordinarily meaningful.

We are pleased that the Armed Services Committee has adopted the concept of lifting the pay cap for 1981. This means that the Nation's servicemen and women will be able to keep pace with inflation in the future. But while this is a good step we are convinced that something must also be done to make up for the last 6 years when military pay was not increased fast enough to keep pace with the cost of living. The pay of military personnel has fallen even further and further behind the Consumer Price Index. Today the average serviceman or woman receives 18 percent less after adjusting for inflation than 6 years ago.

Under the circumstances, it is no wonder that the services are experiencing almost insurmountable recruiting and retention problems.

We must keep faith with the need to catch up what has already been lost in pay and benefits by service personnel.

The Chairman of the Joint Chiefs of Staff and each of the service chiefs are agreed that there can be no solution to military manpower problems without a catch-up pay increase for the services.

The Chief of Naval Operations, Adm. Thomas Hayward, has said that an increase of 19.8 percent in regular military compensation is required to solve the Navy's manpower problems. Former Secretary of Defense Melvin Laird has called for a catchup pay increase of a similar magnitude for all military personnel coupled with substantial increases in enlistment and reenlistment bonuses and in specialty pays.

Virtually every expert has identified manpower as either most serious or one of the most serious problems confronting our national security as we enter the perilous decade of the eighties.

Last year for the first time ever all of the services failed to meet their recruiting goals. And the Armed Forces are also discovering a steadily increasing percentage of those they do recruit are unsuitable for military service and must be discharged before the expiration of their enlistments.

Compounding the problem is the fact that learning skills of those who are attracted to military service and who serve out their term of enlistment are declining. Nearly 50 percent of all military volunteers test mentally in the lower half of the U.S. population, compared to 32 percent in 1974. Army training manuals are being rewritten downward from an 11th to an 8th grade reading level. This is a very serious development in an Army where a corporal today commands a tank which is more complex as a technological enterprise than the fighter plane which college graduates flew during World War II.

But the most serious personnel problem of all is the declining rate of reenlistments. The shortages are especially acute in the middle noncommissioned officer and officer grades, the highly trained men and women who have the skills and experience necessary to operate complex weapons in our modern, technology-centered Armed Forces. The Navy now lacks 17,000 skilled petty officers with 9 to 16 years of service and is suffering shortages of officers trained as nuclear submariners, pilots, and doctors. The Army is short more than 46,000 NCO's and the Air Force more than 3,000.

These shortages are compounded by the fact that there is no lateral entry into the Armed Forces. So if a fighter squadron commander or a submariner leaves the service, the Navy or the Air Force cannot go into the civilian job market and hire someone to replace him. It takes years and many thousands of dollars to train someone to take his place.

Mr. President, at this time I ask unanimous consent to have printed in the RECORD a brief summary of the statistical documentation of the seriousness of the problem facing the military services at this time.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY

Base pay for a recruit has fallen to 83 percent of the minimum wage.

Base pay has declined, relative to inflation, every year since the All Volunteer Force was created.

Regular Military Compensation (base pay plus allowances for housing and subsistence) has declined more than 20 percent for each pay grade since 1972.

The average salary for enlisted personnel, including all allowances, is $9,900. The Bureau of Labor Statistics says that the minimum necessary to maintain a "lower standard of living" for a family of four is $11,546.

100,000 military families are eligible for food stamps.

A janitor on the union scale earns almost as much as a Chief Petty Officer with 17 years of service.

Mr. ARMSTRONG. The plain fact of the matter which I have documented in the material now submitted for the RECORD is this: Many patriotic, qualified, motivated men and women are discovering they literally cannot afford to serve their country. The wonder is not that so many of them are leaving the service. The wonder is that considering the way they have been treated so many are staying.

I believe it should be clear to all of us that something must be done to stop this exodus of personnel, and the answer is to stop the erosion of pay and benefits.

Budgetary restraints may prevent Congress from doing this year everything that should be done to undo the damage of the past which has been caused by three pay caps and two pay redistributions in the last 8 years. But it is critically important that we send a clear signal to our servicemen and women that we intend to make the compensation package for military personnel comparable to what they could earn in the private sector.

Therefore, Senator MATSUNAGA and I have proposed a 3-percent increase for all personnel to send that signal and to provide an immediate, concrete benefit in increased retention. This is a step. It is not a final step, but together with lifting the pay cap as proposed by the Armed Services Committee in this bill, together with the Nunn-Warner amendment which was adopted by this body last year, and the complementary, stopgap measures which we have already approved and which are in the works, this permanent upgrading of military pay and benefits will go a long, long way toward making it possible for servicemen and women to earn, in the service of their country, a wage comparable to what they could earn in the private sector.

Mr. President, I hope that Senators will support this amendment.

I now ask how much time remains to me?

The PRESIDING OFFICER. The Senator has 21 minutes.

Mr. ARMSTRONG. Mr. President, I yield 15 minutes to the distinguished Senator from Hawaii (Mr. MATSUNAGA).

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, I thank the Senator from Colorado (Mr. ARMSTRONG) for his most generous words relative to my association with the military Volunteer Force, and I wish to commend him for the leadership which he has demonstrated here in the Senate.

It was my pleasure to serve with him in the House of Representatives for many years and it is certainly a pleasure to be working with him in the Senate.

Had it not been for his leadership I am somewhat doubtful that the Armed Services Committee would have lifted the pay cap, and indeed I must commend him and express my deep pleasure in being associated with him.

Mr. President, as a cosponsor I rise in support of the amendment offered by the distinguished Senator from Colorado (Mr. ARMSTRONG) which would provide an additional 3-percent increase in basic pay, subsistence and quarters allowances for mid-level career military personnel effective October 1, 1980.

I wish to preface my remarks, Mr. President, by joining the Senator from Colorado in commending the chairman of the Armed Services Committee, the Senator from Mississippi (Mr. STENNIS), the chairman of the Armed Services Subcommittee on Manpower, the Senator from Georgia (Mr. NUNN), and the ranking minority member of the committee, the Senator from Texas (Mr. TOWER) and the ranking minority member of the subcommittee, the Senator from Iowa (Mr. JEPSEN), for their conscientious effort in providing significant improvement in pay and benefits for service members in the pending bill.

In my judgment, the single most important provision of this bill which, as my colleagues know, provides tremendous increases in defense spending, is that which lifts the cap on pay increases for military personnel for fiscal year 1980.

There is no doubt in my mind, Mr. President, that this action by the Congress will have a very positive effect on the military's recruitment of quality personnel and the retention of those trained and skilled individuals already serving in our Armed Forces.

Mr. President, as the Senator from Colorado has already indicated, lifting the pay cap on military pay increases is an initiative which he and I first proposed to the Senate last October as an amendment to the Defense appropriations bill, and again this February as an amendment to the armed services personnel management bill.

Although our amendments to raise military pay were unsuccessful, the first being defeated on a procedural motion, and the second being tabled by the Senate in favor of a package of allowance increases proposed by the Senators from Georgia (Mr. NUNN) and Virginia (Mr. WARNER), I am convinced that our efforts brought to the attention of Congress and, indeed, the American people the true cause of the present manpower problems facing the All-Volunteer Force, that is, the steep and steady decline in military pay and benefits relative to the private sector since the establishment of the All-Volunteer Force in 1973.

I am most pleased, Mr. President, that the members of the Armed Services Committee have now recognized the fact that military pay has eroded throughout the last decade to levels almost as unacceptable as those which existed prior to the establishment of the All-Volunteer Military Force.

Looking back over the volunteer era it can be seen very clearly that a series of related and unrelated developments had an increasingly detrimental effect on military pay levels. First, changes were made in the method of calculating comparability increases for Federal employees in attempts to correct inequities in the general schedule pay system. Due to the fact that military compensation is tied to the general schedule, these changes in comparability calculations had a spin-off effect on military pay levels, leaving them without proper justification.

Second, the President in 1975, 1978, and 1979 imposed pay caps on both GS and military pay increases as part of the Federal Government's overall efforts to fight inflation. As a result, average military pay declined between 1972 and 1978 about 7 percent relative to broad measures of private sector pay.

Third, the extraordinarily high rate of inflation has compounded these effects to the further disadvantage of military personnel in terms of real purchasing power. It should be noted that from 1972 to the end of 1979 the Consumer Price Index rose approximately 73.6 percent while military pay increased by only 56.2 percent. This, of course, represents a CPI-military pay differential of nearly 18 percent.

I might emphasize, Mr. President, that even with the 14.7-percent pay increase proposed in this Defense authorization bill, members of the armed services will still remain far behind on the inflationary curve.

Fourth, there have been significant reductions in present and future military fringe benefits, such as overseas station housing allowances, reserve drill pay, future retirement, and social security benefits, among other things, which have had an adverse impact on the standard of living of military personnel.

Fifth, Mr. President, Congress decision to replace the Vietnam-era GI bill with a less attractive, less lucrative, contributory veterans' educational assistance program, commonly referred to as VEAP, has had a significant and an adverse impact on both recruiting and retention by the All-Volunteer Force.

Pentagon studies indicate that active duty personnel participation in the VEAP program is at dismally low levels primarily because the service members just cannot afford the contributory payments. These studies show that VEAP, as the military education assistance incentive, is actually a disincentive for the enlistment of high school graduates.

Mr. President, in view of the circumstances, Secretary of Defense Harold Brown last year ordered an in-depth study of the adequacy of military compensation in terms of the economic conditions in which servicemen and women must live, and the recruitment and retention requirements of the All-Volunteer Force.

The pay adequacy study, which was conducted under the auspices of the Assistant Secretary of Defense for Manpower, Mr. Pirie, was released last November, and its findings confirmed beyond a reasonable doubt that overall military compensation has eroded over the entire life of the All-Volunteer Force.

Mr. President, in my view, the pay adequacy study's final conclusions concerning the effect of declining military pay on the ability of the All-Volunteer Force to recruit and retain the numbers and the quality of personnel necessary to maintain our national security during peacetime, are the most significant.

Here is the primary conclusion of the pay adequacy study:

> In sum, the study data strongly suggest that military personnel are not adequately compensated, that the inadequacy is not evenly distributed across the force, and that the condition impacts on attraction and retention. There is a clear indication that mid-career personnel, junior entering members, personnel in high living cost areas, and Permanent Military Reassignment (PCS) travelers bear an inordinate share of the defined shortfall.

Focusing on the effect of military pay on attraction of new personnel and retention of those already serving, the pay adequacy study had this to say:

> One powerful measurement of the "adequacy" of military compensation is the ability of the services to attract and retain the numbers and kinds of personnel necessary to meet national defense requirements. Regular Military Compensation has declined across the entire spectrum of enlisted and officer pay grades in comparison to the real goods and services it commanded at the inception of the All-Volunteer Force in 1973. Perhaps more importantly, it has also declined relative to civilian earnings over this period. Actual and anticipated pay caps have served to focus attention on compensation issues and have caused both enlisted and officer personnel to articulate clearly that their primary source of dissatisfaction with a military career is pay.

Finally, Mr. President, I would like to bring to the attention of Senators this most noteworthy statement from the pay adequacy study:

> A general decline in military pay, relative to that offered by the civilian sector, holding all else constant, will invariably be evident in declining retention, increasingly tight recruiting markets, and shortages of military manpower. Studies which have attempted to measure the effects of compensation on recruiting and retention have been reviewed (by this study) and the empirical evidence overwhelmingly supports this conclusion.

Mr. President, this is precisely the situation facing the All-Volunteer Force today. Indeed, the findings of the pay adequacy study confirm what the Senator from Colorado and I have been contending for a long time—that the recruiting and retention problems now plaguing the All-Volunteer Force have not been caused by any conceptual failure in the AVF, but are directly attributable to the serious decline in military pay and benefits since the inception of the All-Volunteer Force in 1973.

Mr. President, since the Senator from Colorado and I first raised the issue of military pay as the underlying cause of the military's manpower problems last November, the manpower chiefs of all four service branches, the Joint Chiefs of Staff, and the Assistant Secretary of Defense for Manpower have testified before the Congress and confirmed that this is a fact.

I might say to my colleagues, at this point, that it is interesting to note that the current situation concerning poor pay and military manpower problems confirms the foresight of the President's Commission on the All-Volunteer Force—the Gates Commission—which said, in its 1970 report:

> The viability of an all volunteer force ultimately depends upon the willingness of the Congress, the President, the Department of Defense, and the military services to maintain . . . competitive levels of military pay.

As my colleagues may know, Mr. President, I have long been an ardent supporter of the All-Volunteer Force concept. In the early 1970's, I joined with my friend from Wisconsin, the late Congressman Bill Steiger, in introducing and guiding to enactment the legislation which created the All-Volunteer Force in 1973.

In the face of the prevailing manpower problems being experienced by the military services, which have caused many critics of the all-volunteer concept to declare the All-Volunteer Force a failure and call for a return to the peacetime draft, I stand firm in my belief that the All-Volunteer Force can continue to provide our Nation's peacetime defense needs.

The fact of the matter is, Mr. President, that the All-Volunteer Force has not failed, but we have failed the All-Volunteer Force by not keeping faith with the basic principles of the volunteer concept, as set down by the Gates Commission—the maintenance of military pay and benefits at levels comparable to and competitive with that provided in the private sector.

Mr. President, as the Senator from Colorado has repeated over and over again, the key to the continued viability of the All-Volunteer Force is in reachieving and maintaining pay comparability. If we take these steps, we will no doubt solve our manpower problems and render unnecessary a return to the costly and divisive peacetime draft.

Mr. President, let me say, once again, that I strongly support the full comparability pay increase provided to military personnel in this bill. I see this substantial pay increase, coupled with the package of allowance increases approved by the Senate in February and recently endorsed by President Carter, as the first major steps which must be taken by the Congress toward adequate military pay.

However, as the Senator from Colorado has said, the 11.7-percent increase does not go far enough. To be sure, it will adequately keep most military personnel from falling further behind inflation during the coming fiscal year. But, for the most part, it will not allow servicemembers to "catch-up" to the levels of pay which they should be receiving to be comparable to the private sector and recoup some of the purchasing power they and their families have lost over the past several years.

My point is, Mr. President, the Senate must recognize that this one-shot comparability pay increase will not, in itself, solve the problem of military pay inadequacy and the related problems of recruiting and retention. We must realize that we have a great deal of catching up to do in order to fully reachieve the competitive levels of pay and benefits which will stabilize and improve our retention rates and enhance the attractiveness of a career in the Armed Forces. It is my hope that the members of the Armed Services Committee and all of my colleagues share the view that we must address the pay inadequacy in a comprehensive manner. Our action in this bill must be considered only the beginning.

Mr. President, the Senator from Colorado and I have raised this amendment to add an additional 3 percent to the 11.7-percent pay increase for all military personnel because of our concern about the effect on junior enlisted personnel of the reallocation provision also contained in the bill. It is our understanding that this provision will provide the President with the authority to reallocate up to 25 percent of the pay increase to wherever he believes additional funds are necessary. The practical effect of this provision will probably be that up to 25 percent of the total pay increase will be redistributed to senior or critical skills personnel. Junior enlisted personnel, many of whom are making such low wages that they are eligible for food stamps, will bear the brunt of such a redistribution and will probably receive less than an 11.7-percent pay increase, perhaps even as low as 8.8 percent.

It is the intent of our amendment, Mr. President, to add 3 percent to the pay increases for all military personnel, thereby making a reallocation of pay away from junior enlisted servicemembers and to critical skills personnel unnecessary.

Mr. President, the Senator from Colorado and I certainly understand the budgetary constraints under which the Armed Services Committee is working. Although we would very much like to see each and every servicemember, whether he is an officer, a mid-level career member, or a junior enlisted man, receive a full comparability increase in October, we recognize that, under the present circumstances, that cannot be accomplished. We will, therefore, withdraw our amendment, but we respectfully ask assurances of the distinguished leaders of the Armed Services Committee that this proposal and others which represent important steps toward reachieving and maintaining pay comparability will be given full and serious consideration by the Armed Services Committee in the future.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I first want to thank the Senator from Hawaii and the Senator from Colorado for taking the lead in this overall question of military pay and personnel fringe benefits and so forth. I think that the role they played has been very valuable. We have not agreed on all of their conclusions, but I believe that they have brought to the attention of this body, in a very forceful way, some of the problems that have developed over a period of years with the overall compensation, particularly in the career area.

I think it is important to recognize, when we are talking about the military having gotten behind in pay, that what I believe the Senator from Colorado and the Senator from Hawaii are talking about in terms of their measurement is the difference between the Consumer Price Index over the last several years and the military pay raises over the last several years.

What we have as law, though, is not a measurement of Consumer Price Index versus the military pay. What we have is a rather complex comparability provision in law, and that comparability provision basically takes two steps. The first step is to measure the private white collar workers' average pay increase and that determines the civilian white collar work force increase, and that, in turn, in a second step, determines the military pay increase.

The military and the Federal civilian white collar workers have both gotten behind if you measure them against the private civilian work force. What we have done in this bill, we have increased the military pay this year by 11.7 percent, and we have suspended the comparability measurements. The 11.7 percent does indeed, according to the Office of Management and Budget, restore comparability to military pay and makes up for the gaps in military that have occurred in the last 4 or 5 years, based on the current law.

But the Senator from Colorado is correct that that does not completely restore military pay if you measure it against the Consumer Price Index. So what the committee has done, we have gone one step further, we have suspended the comparability measurement which is a matter of law. We have said that we want the President to study this comparability and to come back and recommend to us and to the House whether we should change the provision of law that sets military pay based on the two-step process of measuring private white-collar pay, then having that apply to the civilian white-collar work force and having that apply to the military work force. There are a lot of nuances and complexities within those two steps, but that is basically, in a rather simplified form, the way we measure pay today.

So I think our colleagues should recognize that the 11.7 percent pay raise in this bill does restore comparability as now defined by law. It does not restore complete comparability if you measure it against the Consumer Price Index, but the Consumer Price Index is not a legal mechanism that has ever been dealt with in terms of military pay.

So those two measurements are important for the Members to keep in mind when we are trying to determine what is the appropriate measure for military pay in the future, because we are going to face that problem next year. We have asked for a report from the executive branch of Government and, hopefully, we will have that with their recommendations.

The other area that I think we ought to discuss very briefly this morning that I have not been able to get into during the course of this debate—and I think it is very, very important—is the amendments on educational assistance pay and benefits. The Senator from Maine, Senator COHEN, has taken a lead in our committee on this. Senator ARMSTRONG, Senator MATSUNAGA, and others have taken the lead in the Senate on this question, and I believe it is an extremely important one.

I do not pretend to have the answers to it, but I do believe if we are going to attract quality personnel in the initial term, we are going to have to put more money in educational benefits and I think that is a much higher priority than pay raises in the beginning of a person's career. I do not believe that is true as the career force matures.

In the past, the committee has supported educational assistance programs in a way to induce highly qualified persons in the military. In the past, we have approved an educational assistance program for enlistment and reenlistment in the Reserve components, and we did this over the initial objections of the Defense Department. Last year we directed the Army to test a 2-year enlistment program, combined with higher educational assistance.

There are several proposals that have been made to provide additional educational assistance for the military services. The committee recommends this year, and we have in our bill, an authorization of $45 million for fiscal year 1981 for a 1-year pilot test of various types of educational assistance.

There are four major elements to this test program, and these have been worked out carefully in our committee in coordination with a good many people knowledgeable on the subject in the Department of Defense. This is not a Department of Defense initiative or an administration initiative. I, frankly, do not know what their position is on this. But we believe it is an appropriate approach to a very, I think, important problem.

The first thing we would let them experiment with is the student loan forgiveness—for components and specialties to be selected by the Secretary of Defense to include particular attention to combat-related skills and other critical skills in which there are shortages.

For the Reserve components, the committee recommends that the Secretary be authorized to pay 15 percent or $500 (whichever is greater) of outstanding Federal student loans for each satisfactorily completed year of service. This test should include offering student loan forgiveness to personnel that are now in the split training option—that is those Reservists who complete their active duty for training during two consecutive summer periods, usually while they attend school between summers.

For active service, the committee recommends the Secretary be authorized to pay 33⅓ percent or $1,500 (whichever is greater) of outstanding Federal student loans for each satisfactorily completed year of service. In addition, the Secretary would be authorized to contract, at the time of enlistment or reenlistment, to provide equivalent payments for educational assistance after satisfactory completion of their military enlistment.

The committee recommends that the current test on additional Government contributions to the current veterans educational assistance program should be expanded to include significantly higher levels of Government contributions and shorter terms of enlistment to qualify for the additional payments.

For enlistments and reenlistments during fiscal year 1981, the Secretary would be authorized to make the member's contribution to the veterans educational assistance program for those skills and terms of service that he determines would most benefit from such a program. Under this part of the test, the Secretary will use part of the $45 million authorization to make the initial $50 to $100 per month contribution that the soldier would ordinarily make to the VEAP program which then qualifies the soldier for matching Government funds. This would be a test of a program similar to the old GI bill where educational assistance would be a benefit of military service and not depend on any contribution from the member at all.

For reenlistments during fiscal year 1981, including both officer and enlisted personnel for components and specialties selected by the Secretary of Defense, the Secretary would be authorized to make payments, up to the amount in the member's VEAP account, to the spouse or children of the member. General Meyer has suggested that educational assistance to children would be a very powerful reenlistment tool, and this program will enable Defense to test this approach.

A full program of educational assistance expanded to cover all members on active duty and their dependents, or even selected skills, could prove to be very expensive. But an effective educational assistance program may well be the last hope of the Volunteer Force to attract personnel of needed quality. So, a test of the effectiveness of these approaches is needed.

OCTOBER 1981 PAY RAISE

The committee recommends an amendment on the 1981 pay raise and pay reallocation to:

Suspend the current military pay raise mechanism that is now in law for 1 year and to require the President to conduct a study on comparability and submit proposals on a new mechanism by April 1, 1981;

Provide in law for an 11.7 percent increase effective October 1, 1980 in basic pay, quarters and subsistence allowances subject to the current authority to reallocate up to 25 percent of the basic pay increase into the allowances;

A new reallocation authority to allow reallocation by grade and years of service. No more than a total of 25 percent of the basic pay raise could be reallocated; and

Reallocation into pay for personnel with 4 years or less service would be prohibited.

The effect of this amendment will be to provide certainty that all personnel will receive a basic pay raise of 8.8 percent (which would be the increase in basic pay if the President uses the reallocation authority to increase quarters and subsistence allowances by more than 11.7 percent). Junior personnel could receive up to 11.7 percent. Senior personnel could receive more.

"NIMITZ" PROPOSALS

The committee also recommends approval of several items recommended by the President in his speech aboard the *Nimitz* on Memorial Day including:

An increase in the maximum amount of reenlistment bonuses from $15,000 to $20,000 and an increase in the maximum of enlistment bonus from $3,000 to $5,000.

A new reenlistment bonus for the individual Ready Reserve of $600 for a 1-year test period.

A 5 year extension of current Reserve and Guard bonuses and educational assistance.

A new selective affiliation bonus for prior service personnel who have a military service obligation remaining and who affiliate with a Reserve unit in needed skill areas

An increase in the maximum rate of per diem allowance for personnel on temporary duty travel from $35 to $50 and an increase from $50 to $75 in the maximum reimbursement allowed in high cost areas.

New authority to provide the Secretary of Defense with discretionary authority to offer a continuation bonus of up to 4 months basic pay to pilots with between 6 and 18 years of service. The President's estimate was $20 million in fiscal year 1981 for this bonus, limited to Navy pilots. However, the committee feels that all rated officers in all services should be considered for the bonus program and that a more realistic estimate of the cost would be $100 million in fiscal year 1981.

I think on educational assistance all of us should recognize, and I want to make it clear I think this is the direction we should move on, that we have a different environment now in terms of making this a real incentive than we have ever had before. That reason is because we have a very broad, vast program of student loans and most people in this country are eligible for those loans.

That means that to do something that will attract people into the military or retain people in the military, when you have a very, very liberal program for persons who do not serve in the military, it is a very difficult problem to be able to find an answer to.

That is the reason this committee has taken a pilot project approach. We do not know what will work. We do believe that educational assistance is an important part of the future of incentives for the military.

In terms of the pay raise, we have, as I have already explained, provided for an 11.4-percent pay raise. In terms of what this bill contains, if you look at the pay raise and various other benefits, we have a total of $1.584 billion, $1.5 billion, in this bill for additional pay and additional incentives.

We have made adjustments in the retirement system which deletes in terms of cost approximately $408 million.

We made other changes that relate to eligibility for benefits in the first term that save $4 million.

So we have a net increase in this bill of $1.172 billion. Over a 5-year period that amount will be $6,847,200,000. If we consider that and we also consider the so-called Warner-Nunn proposal, which is about $3.5 billion over a 5-year period, and I am confident that will pass and be signed by the President, we have a total in this bill and the Warner-Nunn approach of $10 billion, $10.3 billion, in overall pay and incentives.

I do want to call that to the attention of my colleagues.

Again I congratulate the Senator from Colorado and the Senator from Hawaii for taking the lead in this bill and in this session of the Congress. As far as this particular amendment is concerned, I have not studied it in depth. I do not know the overall cost. I am sure the Senator from Colorado does. I do not know what the Senate will choose to do in this, or what the Senator from Colorado plans for the future with this amendment. But I do think we should let these benefits and these increased pay levels be fully implemented so that we can determine the effect on the overall readiness and the overall manpower capabilities of our military.

Mr. CULVER addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. How much time have I left, Mr. President?

The PRESIDING OFFICER. Two minutes and thirty-four seconds.

Mr. NUNN. I yield such time as the Senator may desire.

Could the Senator leave 1 minute for the Senator from Texas?

Mr. CULVER. Yes.

Mr. NUNN. Mr. President, could I ask unanimous consent that each side be given an additional 5 minutes?

The PRESIDING OFFICER. Is there objection?

Mr. ARMSTRONG. I believe for our side that is unnecessary. I believe I still have sufficient time. I have no objection to granting an additional 5 minutes to Senator NUNN.

Mr. NUNN. I thank the Senator. I yield to Senator CULVER.

Mr. CULVER. I thank the distinguished Senator from Georgia and also the Senator from Colorado.

Mr. President, I want to join my distinguished colleague from Georgia, and also the distinguished Senator from Colorado, both in supporting the actions of the Armed Services Committee——

Mr. ARMSTRONG. Mr. President, will the Senator withhold for a moment? There may be a misunderstanding. It was my suggestion that I retain my 6 minutes and an additional 5 minutes be granted to the Senator from Georgia.

Mr. NUNN. Mr. President, I ask unanimous consent that this side be given an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. I thank the Senator. I apologize for the interruption.

Mr. NUNN. I would ask unanimous consent that the time thus far taken not be deducted from the time of the Senator from Colorado.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CULVER. Mr. President, I join my distinguished colleague from Georgia in supporting the actions of the Armed Services Committee to improve military pay benefits and to add special incentives to strengthen the Reserves. In my judgment, the best way to improve our defense posture is to concentrate on the three R's, readiness, the Reserves, and retention.

The provisions in this bill which the Senator from Georgia has described. are aimed directly at encouraging retention of skilled people and in helping the Guard and Reserve to achieve the strength and quality that they need to fulfill their role in the total force concept.

I know that Senator NUNN has been deeply concerned about the readiness and training of our forces and about our ability to mobilize in an emergency. I believe that the measures he has outlined today will help us make improvements in that critical area.

Mr. NUNN. Mr. President, if the Senator will yield, I just want to acknowledge the efforts of the Senator from Iowa in drawing attention over a period of several years to the need to improve the combat readiness of our force. He has taken the lead in this in our committee. He has been Mr. Readiness on the Armed Services Committee. I do not know of anyone on our committee, or for that matter anyone in the Senate, who has done more or worked harder to try to bring about an improved state of reliability and readiness of our overall defense efforts.

I also congratulate the Senator for his efforts in research and development and many other areas. The Senator has been a real leader in that field.

Mr. CULVER. I thank the Senator very much.

Mr. President, I thank my distinguished colleague for his kind words. I have had the privilege of working with him on several initiatives to strengthen our defense, starting with the Culver-Nunn amendment to avoid wasteful duplication of efforts and to create a more cohesive and militarily effective force in NATO through the standardization of weapons.

This has been an area where I have enjoyed working with the Senator as well.

Mr. NUNN. On that point, Mr. President, I just say that the efforts the Senator from Iowa has made in terms of trying to bring about improved NATO readiness, I believe, have had a real effect.

I do not know how long it is going to take—it may take another decade—before we really begin to have commonality and interoperability in NATO, which greatly improve our readiness and deterrence capabilities and save billions of dollars. When those efforts really begin to pay off, I believe history will record that the effort was begun, at least in this country, and continued and pursued diligently by the Senator from Iowa. I have been proud to play a small role in it.

Mr. CULVER. Mr. President, I also want to acknowledge Senator NUNN's excellent contributions to the work of the Research and Development Subcommittee, which I chair. He is a probing questioner, as we all know, and a very well-informed listener. One of the fruits of our efforts was a joint initiative several years ago to accelerate the development of a powerful tank-killing gun. This has now made possible a whole new generation of lightweight, highly mobile tank destroyers.

I am extremely grateful for his continued work in this area.

Mr. NUNN. Mr. President, I want to say one final word about the Senator from Iowa. I am proud to serve on his subcommittee. He has done an excellent job as chairman of our R. & D. Subcommittee. He has pursued and believes in a vigorous and versatile research effort. This year, he has been the leader in making sure that the crucial part of our strategic triad, the MX, is not diluted and is not jeopardized. He is, I think, largely responsible for the committee's coming out with a very strong position on the MX.

Of course, we shall be debating that as the morning wears on. I thank the Senator from Iowa for what I think is his exemplary job in chairing the Committee on Research and Development. I think his efforts there will bear great fruits in the years to come.

Mr. CULVER. Mr. President, I am deeply grateful to my friend from Georgia for his comments. Although we do not always end up in agreement on every defense issue, I know that we both try to approach these issues in the same way; that is, to do what we believe is best for our country. I also think it is remarkable how much consensus there is between us and on our committee as to what we really have to do to strengthen our military capabilities.

Mr. NUNN. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 1 minute and 4 seconds.

Mr. NUNN. If I could get unanimous consent to have 2 more minutes on this side, I shall yield all that time to the Senator from Texas.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. I yield to the Senator from Texas.

Mr. TOWER. I thank the Senator from Georgia.

Mr. President, I thank my friend from Colorado for his continuing interest in the welfare of the men in uniform, reflected in his several initiatives on military pay and benefits. I am in fundamental agreement with what he is trying to do here today.

I think that we have made some giant strides. I think we have probably done about as much this year as budgetary restraints will permit us to do. I assure him that will be a matter of continuing interest with me and with the committee.

We are not going to stop here. We are not completely satisfied with everything we have done, although we have made significant strides. I just want to assure the Senator from Colorado that some of the initiatives he has taken are going to be matters of serious consideration and, I think, favorable deliberation in the Committee on Armed Services.

As the only enlisted reservist in the Congress of the United States, may I say I have more than casual interest in the welfare of the enlisted man.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ARMSTRONG. Mr. President, in the 6 minutes or so remaining to me, I want to sum up this debate. I should like to begin by expressing my utmost appreciation to the Senator from Texas for the leadership he has shown and for his generous remarks, especially for his complimentary remarks about me. I think, from what he has said here today and from what Senator NUNN has said here today, people will feel the real assurance and confidence about handling this issue that I myself feel.

I particularly compliment Mr. TOWER and Mr. NUNN for the work that has already been done and congratulate them on the lifting of the pay cap in this bill, and I express my own personal appreciation for that and my compliments for that excellent effort.

Mr. NUNN. The Senator from Texas took the real lead in that, Mr. President, and it was his amendment that our subcommittee finally adopted. I know he consulted at length with the Senator from Colorado. So the Senator from Colorado and the Senator from Hawaii have had a real impact and the part they took played a major role in it.

Mr. ARMSTRONG. Mr. President. I appreciate the kind words of the Senator from Georgia. I congratulate the Senator from Georgia, not only on his interest and dedication, but also on his expertise and particularly on the way, over the last year, that he has succeeded in making military personnel problems a major national issue. It is a matter of such great importance and yet, for years, it was impossible to get people to pay attention to it. In the last year and, truly. in the last 8 or 9 months, the Senator from Georgia has gone a long way toward focusing national attention on this. I compliment him for his efforts and wish him all success. In my judgment, personnel problems are the very essence, the very heart, the most important single national defense issue facing this country.

Mr. President, I also share the sentiments which the Senator from Georgia has expressed with respect to educational benefits. I think there is every reason to believe that reinstatement of GI bill benefits, as has been suggested by the Senator from Georgia, along the lines of the bill recommended by the Senator from Maine (Mr. COHEN), or the bill which I have joined with a dozen other Senators in introducing, and which is now the subject of a hearing before the Veterans' Affairs Committee. is legislation that makes sense. It fulfills an important and meaningful function.

In my opinion. however, Mr. President, educational benefits, although necessary and desirable, are not. in and of themselves. an ultimate solution to the problem. The GI bill concept fulfills an important recruiting function, but when it comes to retaining the people we need in the senior NCO and the middle and upper grade officer ranks, in my judgment the ultimate solution must be direct pay and benefits. That is the essence of the amendment which the distinguished Senator from Hawaii (Mr. MATSUNAGA) and I have presented today.

Mr. President, I ask unanimous consent at this time that Mr. THURMOND and Mr. DURKIN be added as cosponsors of our amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. At this time, Mr. President, it would be my thought, subject to the approval of my cosponsors, that we not press this amendment to a vote. I believe that it has been useful to air the issue this morning. I think the need for a catchup pay increase is very clear, and it is my sense that there is a willingness and a disposition on the part of members of the committee to look seriously at that. I think, as the Senator from Texas has said, that we have gone a long way in this bill and it is a question of just how far we can go. I personally believe that a catchup with what has been lost in the last 6 years to military personnel is well justified and that an amendment such as presented by Mr. MATSUNAGA and myself, along with Mr. THURMOND and Mr. DURKIN, is in order and will be passed at an early date.

I think at this point, it would be well, and with their approval, I shall, in a moment, ask unanimous consent to withdraw it so the committee can look at it, so we can study it carefully and then, I hope, bring it back to the floor at an early date for approval.

Mr. MATSUNAGA. Will the Senator from Colorado yield?

Mr. ARMSTRONG. Yes; I am happy to yield.

Mr. MATSUNAGA. I fully concur with the Senator from Colorado and I shall join in his move to ask unanimous consent to have the amendment withdrawn.

Mr. WARNER. Will the Senator from Colorado yield?

Mr. ARMSTRONG. I am very pleased to yield to the distinguished Senator from Virginia.

Mr. WARNER. Mr. President, I very much appreciate the action of the Senator from Hawaii and the Senator from Colorado in bringing this to the Senate. I dare say their action will travel as a signal of hope throughout the United States and, indeed, throughout the land, indicating that there is an increasing awareness on the part of the Senate to provide for the men and women of the Armed Forces.

I see my distinguished colleague (Mr. NUNN) has risen, and I think he would agree with me that the pending legislation in the Congress, known as the Nunn-Warner bill, received much of its impetus from the direction and leadership given by the distinguished Senator from Colorado and the distinguished Senator from Hawaii.

Mr. ARMSTRONG. Mr. President, I thank all who have spoken.

I am greatly encouraged by the evidence of interest and support for military personnel. I know that around the world, as Senator WARNER said, there will be men and women in uniform who will be encouraged, who will take heart, and their spirits will be lifted by what has been said today and what is already in this bill in the way of lifting the pay cap and other benefits for service personnel.

Mr. President, I ask unanimous consent to withdraw the amendment at this time.

Mr. NUNN. Mr. President, if I have any time, I will yield it back.

The PRESIDING OFFICER. All time has been yielded back.

The amendment is withdrawn.

What is the will of the Senate?

Mr. STENNIS. Mr. President, what is the parliamentary situation?

We had the MX matter set for coming up.

The PRESIDING OFFICER. The only amendment remaining that is in order is the amendment of the Senator from Ohio with regard to the MX, and the amendment of the Senator from Rhode Island concerning the *Oriskany*.

Mr. STENNIS. Mr. President, I want to thank all those who participated in this debate in these matters, and on the MX.

I am going to ask to be excused for the rest of the day, under the circumstances. There will be those who will speak for the committee. Senator JACKSON is next on the majority. He will be here and be on the floor. Senator CANNON is next, and he will be here. Of course, we are blessed with Senator TOWER.

So, under the circumstances, I will ask to be excused.

Mr. GLENN. Before the chairman of the Armed Services Committee leaves the floor, I want to thank him very much for the consideration he has shown me.

I am not a member of the Armed Services Committee, but he has been most helpful and most considerate in giving me advice and listening to my views on various matters of mutual concern.

I want him to know I appreciate that very much and appreciate all the consideration in the last few days. We have had some long hours, and he has done a great job managing this bill.

I am sorry he will be away for the rest of the day as we wind this up. I appreciate his concern very much.

Mr. STENNIS. I thank the Senator. He has been very helpful to all of us on the committee. I have enjoyed working with him.

Mr. GLENN. I thank the Senator.

UP AMENDMENT NO. 1397

(Purpose: To prohibit use of funds for development of a Multiple Protective Structure (MPS) system basing mode until the Secretary of Defense reports reasons for not developing a fully mobile ICBM system)

Mr. GLENN. Mr. President, I send an unprinted amendment to the desk and I ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN) proposes an unprinted amendment numbered 1397.

Mr. GLENN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 47, between lines 17 and 18, insert the following:

"(e) Notwithstanding the foregoing provisions of this section, none of the funds authorized to be appropriated by this title may be used for conducting research, development, testing, or evaluation on a Multiple Protective Structure (MPS) basing mode system for the MX missile until after (1) the Secretary of Defense has submitted to the Congress, at the earliest practicable date, a detailed explanation of why a fully mobile intercontinental ballistic missile system is not as strategically sound or practicable as, or superior to, a Multiple Protective Structure (MPS) basing mode system, and (2) a Joint Resolution is enacted to approve the use of the funds authorized to be appropriated by this title for conducting such research, development, testing, or evaluation.".

Mr. GLENN. Mr. President, the amendment I have sent to the desk I would like to view as an offer the Senate cannot refuse and an offer that the American people cannot refuse because it does two basic things, it gives the maximum deterrent against the Soviets that an MX missile can provide, and this proposal does it at less cost, by a considerable amount, than that proposed by the Armed Services Committee.

The savings, in fact, are at least $7 billion by the Pentagon's own estimate.

With the possibility of $13 billion of savings, think what we could do with all those savings.

We have debated long and loud here on the floor with regard to our concern for military manpower, for the lack of money to do the things we need to do, and here we have a possibility of having more deterrent force and saving, at the same time, $7 billion.

I will go into a little of the background on this.

Mr. President, we have 1,054 ICBM's ready to go, minus those that are due for servicing at any one particular time.

Along with that, we have a submarine-based missile fleet.

We should be able, with all that, to retaliate to any ill-conceived first strike the Soviets might be foolish enough to launch. This was accepted as gospel for many years.

However, so many critics have pointed to the possibility of a Soviet first strike that could immobilize our retaliatory capability—we could argue all day as to whether that is valid or not—but, valid or not, I think that possibility has become widely believed by the people in this country.

I think, unfortunately, we may even have convinced the Soviets that we are vulnerable, and that is the biggest danger of all, because that means we probably do need an MX, a missile system that guarantees our retaliatory capability.

The question then becomes which missile system will provide us the best guarantee of retaining a retaliatory capability in the event of a Soviet first strike, and most importantly, what system will the Soviets look at and know unequivocally that it guarantees our retaliatory capability—in other words, they will know if they are stupid enough to make a first strike on the United States, that the result will be Russian annihilation, if they are crazy enough to make that first move.

But that is the problem we face, and it is a doomsday scenario, at best.

But let us analyze the problem now of providing that guaranteed retaliatory capability. Our 1,054 ICBM's are tied to specific geographic coordinates; silos, and installations that can be precisely targeted by Soviet strike planners. The premise is that they can target one or more reentry vehicles (RV's) on each silo and supposedly immobilize as high as 80 or 85 percent of our ICBM's.

So we have got to consider an MX proposal which spreads that "geographic pinpoint" vulnerability by providing 200 new missiles, each of which would have the flexibility of moving from one protected silo to another on a giant racetrack pattern, with each hole being spaced and hardened to survive anything but a direct hit. For a number of reasons that basing mode was changed and the proposed basing mode in this legislation has 23 horizontal shelters spaced well apart but requiring no expensive dug-in silos.

This in effect spreads out the vulnerability we have with 1,054 launch sites to an additional 4,600 potential MX launch points. This does indeed make a more formidable problem for Soviet strike planners, but to me it is still not as good nor as guaranteed a retaliatory response as we could have at a cheaper price. Let me demonstrate how going to these additional geographic coordinate launch sites still leaves us very vulnerable, if there are but some comparatively minor Soviet developments.

With 200 MX shelters planned per missile, that comes out to 4,600 shelters—potential geographic aim points for Soviet planners. That sounds like a tremendous number, but we should be reminded that the Soviet SS–18 missile, their largest, but just one in their arsenal now, in their stockpile, and now limited by SALT to 10 RV's per missile, but that SS–18 has a sufficiently large weight-carrying capability that our experts estimate it could actually carry between 25 and 40 reentry vehicles.

Let us assume for a moment that they expanded to that lower limit of carrying 25 reentry vehicles per booster, as opposed to the 10 the Soviet SS–18 is now programed to carry. That would be 15 additional RV's per missile. The Soviets have 308 of those SS–18's, so the additional 15 warheads per booster comes out to an additional 4,620 RV's available—once again targeting each geographic spot where we have built a shelter. It is almost an exact match: 426 RV's available for the 4,600 shelters we are going to provide.

Our whole effort to provide additional geographic points, therefore, could be neutralized by a single Soviet development of additional warheads on the SS–18. So, Mr. President, I hate to see us spend $33 billion, at the minimum, which is the cheapest cost we are talking about, and I hate to see us spend $33 billion for what I see could be a temporary advantage, when we could have a much longer lasting advantage at a cheaper price, with a truly mobile missile system.

The Pentagon scientists and planners make no bones of the fact that we could have a fully mobile missile system, as accurate as those now planned, one that is cheaper by one-third than the horizontal shelter system now planned, and one which gives Soviet target planners a nightmare.

In effect, it would provide an infinite number of potential launch points for us to use. I am talking about the fully mobile ICBM system. It can be designed to be completely mobile so that it could be deployed on the 25 million acres of military land we have normally available to us. It could be deployed that way in peacetime; but we could, when necessary, use the tremendous advantage we have in this country, which the Soviets do not enjoy, of an interstate highway system and supplementing road network. Such a design could make a mobile missile nearly infinitely maneuverable in time of crisis, and all the potential launch points could not possibly be targeted by the Soviets.

This, Mr. President, would be the greatest possible deterrent to any first strike the Soviets might contemplate, because they would be absolutely assured that not only would our submarine forces respond, but also, we would have accurate land-based missiles left over in such great numbers that we still could obliterate anything of significance within Soviet borders.

To go to other than a complete mobile system is to go to a less guaranteed retaliatory capability than we can have, with the resultant lessened deterrent on the Soviet. That has to be the final bottom line.

Let us go now to the main reason why we have not gone to that system, to begin with.

The main reason given by the Pentagon for not using this system is that it is "politically unacceptable" to the American public to think that missiles or military equipment of this kind could be rolled out on the interstate highway system and be dispersed all over the United States—as opposed to the idea of making Utah and Nevada "ground zero" in any future nuclear exchange.

I do not buy the idea that the American public needs to be mollycoddled to that extent. I believe the American public is far more interested in an absolute, guaranteed deterrent to the Soviets than any other consideration. I believe they are far more concerned about getting the greatest security at the least price than they are concerned about whether there might be a few extra trucks coming down the highway, trucks that could look much like the present trucks they see going down the highway through their particular part of the country at any particular time. Our interstate highway system and road network provide facilities from which we could launch from almost any point in an emergency.

Moreover, this missile system is less expensive by approximately one-third. The figures currently being quoted for the horizontal basing mode are approximately $33 billion—the Pentagon figures are that that is the minimum; that is the current budgeting figure—while the figures for a truly road mobile system, which I feel is more capable, comes in at an estimated $20 billion to $26 billion.

In other words, even at the upper figure for the mobile system, we save $7 billion. If we go to the $20 billion figure, which is probably more comparable to the $33 billion, we would save $13 billion, one-third of the cost, and get a far better deterrence than we are going to have with present plans.

In short, our ICBM's are vulnerable to a Soviet first strike. I suppose that is generally accepted now.

The MX, with its horizontal basing mode, creates an additional number of geographic aim points, but they are still exactly that—specific geographic points which can be targeted, and easily so, according to the figures I gave on the SS–18, on expanding its RB capability.

The truly mobile missile system, which can be deployed on Federal lands or on our highway system if needed, gives a far greater guaranteed retaliatory response to any Soviet strike and at a price up to one-third less.

Mr. President, we do not need to soft-soap the American people into thinking that weapons systems can be completely unobtrusive and that war is easy. What we are talking about is survival; and when you can get a guaranteed survival at a cheaper price, I believe the American people will buy it.

What I am proposing in our amendment to H.R. 6974 would prohibit the use of funds for development of an MPS, a Multiple Protective Structure System, as envisioned in that bill, until—and this could be a very short time period—the Secretary of Defense reports reasons for not developing a full mobile ICBM system and receives approval of Congress to proceed further with development. It is a very simple amendment.

It is my intention to insure that a fully mobile system is given careful consideration before we go beyond the point of no return on the presently proposed Multiple Protective Structure System basing mode.

Mr. President, the bottom line on it all is that we get more deterrence at a cheaper cost and guaranteed to least farther into the future than the way we are going at the present time.

Mr. WARNER. Mr. President, will the Senator yield for a question?

Mr. GLENN. I yield.

Mr. WARNER. As my distinguished colleague from Ohio will recall, last night I stood side by side when he proposed an amendment with respect to the future manned bomber for the United States. I regret that today I must stand in opposition to this amendment.

The Research and Development Subcommittee of the Armed Services Committee has studied for 2 years every conceivable option of the MX, and we now have come to the unanimous conclusion—I believe it is unanimous; the chairman of the committee is in the

Chamber—that the present system that is before the Senate is the most operable.

The thing that troubles me about the proposal of the distinguished Senator from Ohio is that I do not find in it the means by which we can hope someday to have verification under what I believe we will see in this Chamber in the not distant future—a more balanced and favorable strategic arms limitation agreement.

Will the Senator address the question of a future arms control agreement and how we would propose to verify this system?

Mr. GLENN. I will be glad to respond to that.

I see no problem in that regard, with what we could do to the trailers in the mobile system. I would not mind seeing them identified fully; because wherever they are located today, they are not going to be there tomorrow, if we are in an emergency situation and wish to keep them that mobile.

I would see nothing wrong with identifying them with a big red X on top, if we wish, so that it would enable the Soviets to identify how many there are.

We are at a disadvantage in identifying exactly where the Soviet SS-16 is. They keep the production facilities covered, and we are not absolutely certain how many they have. We have the same problem in the other direction.

I see nothing wrong with even letting them identify them on occasion, so that they would know the exact number; because wherever they are today, they are not going to be at the same spot tomorrow, if we wish to vary their location.

I do not believe this would be any problem so far as SALT is concerned. I am sure that objections would be raised to it, but I believe it would fit very nicely into the present SALT package.

Mr. WARNER. My colleague will recall that when the President reviewed the several options and then ultimately forwarded the MX grid system it was the choke-point design that gave a measure of credibility to the issue of verification. There is just no comparable choke-point element to this proposal that the Senator has this morning.

Mr. GLENN. I would not mind identifying them. As I said I think that would satisfy all the SALT criteria. I do not think there would be any problem with that at all.

Mr. WARNER. If we relied upon identification then it would have to be almost based on a 100-percent trust. I am certain our Nation could be trustworthy but I personally do not have a reciprocal feeling toward the Soviet Union that we could ever place a commensurate measure of trust if they went to a mobile system of this nature.

Mr. GLENN. The Senator will recall in the SALT treaty each side is left up to its own national technical means, NTM, to identify what the other side is doing. It has been that area that we have done a great deal of work on and it was that area that I felt we were somewhat lacking in as far as our capabilities go and the reason I voted in the Foreign Relations Committee to oppose the SALT treaty. I did not oppose necessarily the balances that were being set. I did have a real problem once we lost our monitoring bases in Iran of our capability to see exactly what the Soviets were doing and to identify specific numbers. So each side is left to its own technical means.

I think if we had special markings on the trailers or the vehicles that will be moving these boosters around the country we could even be helping them because within the SALT treaty right now it is up to them to identify what we have. It is not up to us to necessarily do even as much as I am proposing here. So we left that up to their national technical means. If they have a problem that is their problem as they have left us to solve our own problems with identification and have not been the least bit helpful.

Mr. WARNER. I have a vivid recollection of the concentration of the distinguish Senator from Ohio on the very issue of verification during the SALT and the time which he spent.

In my own judgment, I think this system complicates tremendously any verification under a future treaty proposal and the national technical means by which it would have to be monitored.

Mr. GLENN. The Pentagon has indicated only one reason so far to me, and this was as late as the day before yesterday, why this system is not as good or superior to the system we are using and that is public acceptability. I think that is the only way that we can address this. If it is publicly acceptable, then this is a better deterrent system. It is a system that is cheaper. We can save a minimum of $7 billion with it which we certainly would like to use on some other things, obviously. That is the only objection that they have had so far, and if we could get by this public interface, as it is called, and get that kind of acceptability, which does not seem to bother people in other Western nations around the world, the moving of military equipment around, then I think this would be a superior system and undoubtedly gives a greater deterrent effect to the Soviets than any other system we could have because it is the nearest thing on land to what our submarine systems provide at sea.

Mr. TOWER and Mr. CULVER addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Go ahead.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. CULVER. I thank the distinguished Senator from Texas.

Mr. President, as chairman of the Research and Development Subcommittee I have conducted at least 14 hearings on the MX program. The ranking minority member, Senator WARNER, has been very conscientiously and actively involved in all those efforts over the past 2 years.

I think, therefore, that we are very much aware that this is a complex, controversial, and a very important program.

I believe the Senator from Ohio was correct in pointing out the possible inadequacies of 4,600 shelters if the Russians built substantially more missiles and warheads than expected or than provided for under SALT II.

That is why I support SALT II, in order to put a cap on that buildup and to limit them to only one wholly new ICBM system because in the absence of SALT II the Soviet capacity for breakout would put at substantially greater risk part of the U.S. strategic posture, which is still very great indeed.

It is also why I oppose the Cannon amendment that is in the pending bill, which purports to set a maximum of only 2,300 shelters in the Utah-Nevada area. Without SALT and with the Cannon amendment the MX as currently planned could well be inadequate to insure survivable ICBM.

Those are potential problems. Neither one of those, the SALT issue or the Cannon amendment, are a certainty. Congress could still reject or repeal the Cannon amendment and the Senate could still ratify SALT II.

The alternative basing plan, however, suggested by the Senator from Ohio has been studied by the Defense Department. While I have no objection to further study of this and other alternatives, I do not believe we should delay the current plan in the hope, which is an illusive hope, that we will discover a magic solution.

As the Senate knows, there have already been strong and negative public reactions to the plan to construct shelters and connecting roads in the sparsely populated regions of the West. Those reactions, in my judgment, are infinitesimal compared to the likely outcry against deploying these monster missiles on public highways throughout the country.

People are properly concernd today about the risk of accidents of trains or trucks carrying nuclear and other hazardous materials. Rightly or wrongly, their concerns would be heightened if giant vehicles were moving about with powerful nuclear warheads aboard.

Those expectations have led the Defense Department to rule out the ground mobile MX basing plan suggested by the Senator from Ohio.

But another major problem and one that the Senator from Virginia has touched on with the road mobile system in my judgment would be how to verify any arms control restrictions on numbers that might apply to both the United States and the Soviet Union.

The Senator from Ohio has been properly concerned about SALT verification and his suggestion I think raises the most profound difficulties in this regard.

The things that we are trying to count are launchers, and if we get these mobile launchers which we can drive them into garages and out, it is not that we would be prone or incited to violate any mutually agreed understandings with regard to SALT limits, but we have to design a verification regime in which we can have confidence in Soviet compliance if and when at a subsequent date they develop comparable capability with regard to mobile land-based systems.

I do not mean to suggest that all questions about the MX are settled or that no changes in the deployment plan should be considered.

But I do think we have to press ahead with the plan that has been recommended by the President and his military advisers so that our response to the increasing accuracy of Soviet missiles will not be delayed.

The Senator from Ohio has also referred to cheaper price. And again I think it is important to keep in mind that when we talk about the best and most feasible resolution of the issue of Minuteman vulnerability we have not just the one issue of cost, but we have a whole checklist of considerations and factors that we have to reconcile and resolve in the most mutually compatible package.

One is cost, another is environmental considerations; another is technical feasibility; another certainly is the compatibility with arms control and verification.

So the road mobile plan may be cheaper, but it clearly, I think, falls short of satisfying other key criteria of this important military program.

Mr. GLENN. Mr. President, I hate to disagree with my colleague from Iowa on SALT, but I just do not see that this changes the SALT verification situation any at all, particularly, if we clearly identify these units. We then leave it up to the Soviets as to whether that is the total number, just as we have to verify theirs, and they certainly have a better intelligence gathering network in this country than we have in the Soviet Union.

We are all aware that we do our main counting in this area with satellites, and in an area in which we are probably more accurate and better versed in those technical capabilities than are the Soviets.

But it seems to me we do not do any violence to the SALT treaty at all here. What we do with identifying these is make the number available.

The main point is wherever they are today they can be at a different spot tomorrow or even if we, in the event we picked up radar signals of incoming missiles on this country, wherever they are when those missiles started out, they can be even at 30 miles an hour, a fairly slow speed, down the road, quite a ways when the first one could go off, and they would not even know what direction we were going in, as a matter of fact, from that original point they have located.

So this makes for an infinitely variable system, a potential of infinite numbers of launch points which the Soviet planners cannot possibly take into account. So I do not see the same concerns here as being of any question at all.

Mr. CULVER. Mr. President, will the Senator yield?

Mr. GLENN. Yes.

Mr. CULVER. This is what troubles me because it seems to me the Senator has been most conspicuous in his insistence and concern about the verification issue in regard to the pending SALT II treaty.

He mentions here that this does not present verification problems because we can put a big red X on top of a van and somehow the Soviet Union would know, and everything would be hunky-dory.

First of all, of course, the launchers are the key thing, and you can hide those all over, in airport hangars or anywhere else, and maybe we would run out of red paint, and we would quit putting X's on top.

But the most important thing is not whether we are honest but it is whether we can trust the Soviet Union to comply with a verification system in which we had high confidence in our technical capability to police and monitor to prevent Russian cheating.

One of the most dangerous things about the introduction of a mobile missile concept at all is the fact that it introduces extremely difficult verification problems. Frankly, we, relatively speaking, are at a disadvantage if the Soviet Union moves to mobile land-based missiles anyway, because they have such an enormous land mass, and they have a society that historically is expert at secrecy and stealth, and the opportunity for camouflage and evasion is heightened and very great.

So it makes us very nervous. We are assuming now on that with the current MX design we have an airtight system to our own satisfaction. All we are doing is betting that the Soviet Union is going to agree with us if and when they get to a mobile system, and they are going to be good boys and design a system just like ours so that it is air tight for purposes of our verification.

But what if the Soviet Union is not going to be a good boy, even with our current plan, and what in Heaven's name in history leads us to believe they are ever going to be good boys about anything? We have to have it air tight, and we cannot rely on something like red signs. It isn't sufficient to rely on signs such as in World War II when we used to put red crosses on everything, "Do Not bomb, Red Cross tents, USO, Ray Charles here Friday night, leave alone." What difference does it make putting a red cross on top of the thing?

Now, come on, John, I have heard you do very valuable, penetrating work on insisting on a very tough, excruciatingly tough, arms control package with verification being your speciality, and I think you have pushed the administration, to your credit, to a tough-minded insistence in this area.

But now we are throwing all that conscientious work of 2 years out the window and we are saying that we will put a red cross on top of all these vans. And I guess we will ship the Soviet Union the red paint, and hope they do the same thing, and then we confidently can go to bed at night feeling better about these great big SS-18's and the warheads on top of them. They are—1, 2, 3, 4—red paint, which we can see from our satellites or whatever.

Now, it is ludicrous on its face, and I think this plan in terms of verification may be cheap, but the question is does it work. Everything that costs less is not necessarily better, particularly if you are talking about the survival and the security of the United States of America.

Mr. GLENN. Mr. President, on the NTM, national technical means, that is what each side is left to devise, their own means of what the other side is doing with regard to SALT, as the Senator is very much aware.

I suggest that the identification system which could be any one of a number of different systems, is just an illustration that I certainly would be willing to help them identify in some way. We might even want to put radio locators that are turned on once a month, something like that. It is up to them to determine how many we have just as they leave it up to us, and I am sure we would be completely honest in this regard and would not try to make extras.

We have seen the Soviets already in the past covering up some of their efforts in their missile production facilities, so that it deliberately confuses our identification efforts in those particular areas. So I just do not see that the SALT considerations would be the overriding considerations here.

To me the main consideration is the maximum deterrent effect that this can have by taking our geographic target points that we give the Soviet Union by going to fixed base systems, we take that away with a mobile system and make a guaranteed deterrent absolutely guaranteed. It is retaliation that they know is going to come if they are ever ill advised enough to start a first-strike consideration. I think it would be the greatest deterrent we could have.

Right now, with just the development, as I pointed out a while ago, the SS-18 can have a 15- to 40-warhead capability, by our best estimates of our planners in this country. It can have that many warheads on it. It is limited now by SALT to 10.

But what if we do not have a SALT treaty or what if they develop a warhead system that has just that minimum additional 15? They have 308 of those boosters that comes out, if you total that out, to somewhere around an additional 4,620 additional warheads they could have with that one development. Granted we would probably be able to monitor the testing of that development, I hope we can—at least we had better be able to or we are really playing Russian roulette in a big way with our future and that of the rest of the free world. That is the importance of the monitoring capability that I was concerned about during all our SALT considerations.

Let us say they develop that, that over 4,600 RV's, which means they could well target the 4,600 shelters we are having with 1 per shelter at least, and hit every one regardless of where we have our MX booster hidden, in whichever one. We have an average of 23 of these horizontal shelters to be built for each single MX booster, so it comes out with just that one development we could go back to the same kind of vulnerability that we have now with our 1,054 ICBM's, which is the reason we are going to a new MX system to begin with.

So I just think we get a far greater deterrent factor with this. I think it does fit under SALT considerations. I think the savings are something we have to very seriously consider. The minimum savings, I would repeat, are $7 billion. It is a $26 billion cost maximum as the Pentagon figures it for a mobile system as opposed to a minimum of $33 billion for the present shelter system, and that is a minimum, the $33 billion, for the present system. So we save at least $7 billion, possibly $13 billion, and wind up with more of a deterrent factor against the Soviets, which just has to be the bottom line in our considerations.

Mr. TOWER addressed the Chair.

The PRESIDING OFFICER (Mr. STONE). The Senator from Texas.

Mr. TOWER. Mr. President, I think we should vote on this pretty soon. Therefore, I will be very brief.

I do not know that any minds are going to be changed by what is said from this point on. I hope we can get to a vote on this issue.

It is my understanding that the Senator from Ohio intends to press for a record vote, and the Senate should be advised about that.

I just simply want to note that the net effect of the amendment of the Senator from Ohio will be to delay the MX system for yet another year after it has already been delayed longer than it should have been.

The MX is literally being studied to death. There are already numerous studies on the road mobile concept. As a matter of fact, the latest study on the road mobile concept was conducted by the same person who developed the road mobile ground launch cruise missile, and that study showed that road mobile ICBM's were not a practical way to go.

We would have to sacrifice something, too, in terms of the capability of the missile. The optimal road mobile ICBM would be half the size of the MX. It would be able to carry only half the number of warheads.

The current MX missile, even with the smaller transported erector launcher associated with the horizontal loading dock system, is too large for American highways, because of the wear it would place on the road and difficulties in getting under overpasses.

The verification difficulties have already been very adequately and well articulated by the distinguished chairman of the R. & D. subcommittee, the Senator from Iowa.

But, beyond that, there are infinite problems in terms of security, traffic conditions, and the vulnerability to terrorism.

In terms of an environmental impact statement, it is difficult enough now to get an environmental impact statement on anything. You try to get an environmental impact statement on running the thing up and down hundreds of miles of highway and see how long it is going to take.

So the ultimate effect of this would be to impose an unacceptable delay on the deploy of the MX missile, perhaps a fatal delay. I hope the Senate will reject this scheme.

Mr. CANNON. Will the Senator yield?

Mr. TOWER. I yield to the Senator from Nevada.

Mr. CANNON. Is it not a fact that we have been briefed to the effect that this kind of a proposal has been studied by the Department? They considered a number of types of proposals before they came to the ultimate solution that they have recommended to us here now. They recommended, as a matter of fact, they even considered the air mobile, not only the road mobile but the air mobile.

Mr. TOWER. The air mobile was considered.

Mr. CANNON. They came along and said that, while some of these plans were feasible, they were not as good as the MPS shelter-type recommendation that they have made to us.

The Senator, I am sure, is aware of the fact that one of the problems we have today is the shipment of hazardous cargo throughout the United States. We have roadways designated that they are for hazardous cargo and other roadways that will not accept them. Many of the cities throughout this country are placing restrictions now on the shipment of hazardous cargo.

Does the Senator think that it would be quite likely that many cities would certainly attempt to block the movement through a community or a town over the interstate highways of a cargo that involved the carrying of nuclear weapons?

Mr. TOWER. I think the Senator is absolutely right. I think it would certainly be considered hazardous cargo, an MX missile running up and down the highways with nuclear arms.

I might note that we have had from 60 to 70 options studied since 1977 and there is no point now in going beyond with a further study.

I am reminded of what Admiral Rickover once said. He said:

> You could study something and study it and finally you have got to haul off and build the damn thing and see if it works.

The time has come now where we have to go ahead and build the missile and deploy it and have faith that it works. I believe that the administration has come up with an adequate basic mode. It has been agreed to by the members of the Armed Services Committee. It is unusual when the administration and the Armed Services Committee are in absolute harmony on something. On this, we are, Mr. President. I hope that the Senate will reject the amendment proposed by the Senator from Ohio.

Mr. GLENN. Mr. President, I have talked a great deal to the people in the Pentagon about this. What it all comes down to is that it is politically unacceptable. The feasibility is there, they admit that. They think it might even be superior. And they agree that the larger number of launch points would be a greater deterrent.

The bottom line always comes down to not whether it is feasible or not whether our highway system will accept this. As far as weights go and overpass heights and such things as that, a system can be easily designed to fit within those parameters. But what it comes down to is the political unacceptability, the political interface, the public interface, as it has been termed.

Environmental impact statements were mentioned as an item here. I think the major environmental impact statements were where we are going to take up large parts of land in the West, where we are going to have towns established, where we are going to alter water courses, where we are going to do things like that. As far as rolling some of this equipment up and down the highway, there would certainly be no environmental impact there.

As far as the hazardous cargo goes, the type of restriction that we have in many States is on toxic-type material. I really personally do not see any major danger from one of these vehicles being out on the road. It can be well attended, well protected, while it is rolling down the road. As far as any danger from a nuclear weapon going off, that is just not a major consideration here, because the safety on those is so extensive that I think we can rely on the safety of this.

As far as the booster itself, it could be solid grain material, something that, during its transport, could be vented at both ends. So, even in the highly unlikely event that it caught fire, it would not go ricocheting around the countryside. All it would do would be burn in place, venting out both ends and not roaring around causing a lot of problems.

The delay that we are talking about is something that I find difficult to accept, also, because to me redesigning and going into this thing for a year's delay, as the floor manager on the other side indicated to me, would be well worth it, because this system is going to be a deterrent for decades hence. So if we were to say that we would delay while we get a more efficient, better, more reliable, and more guaranteed deterrent system that the Soviets would know gave a genuine retaliatory capability in case they ever launched a first strike, then, to me, that is the important thing.

The important thing, also, is we can save at least $7 billion and probably as high as $13 billion by going to this system.

I repeat, the only objection the Pentagon has ever come up with in this regard is the public interface, the political unacceptability, of just the thought of boosters going down our highways in some sort of a trailer system.

I think, if the American people could be educated in this regard, the choice between a guaranteed deterrent to make sure that Soviets are never misled into making an attack on this country and saving money to boot, to me is something that the American people would accept.

Mr. CANNON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. CANNON. Mr. President, the Senator says that it is because of the interface problem. I would like to read a statement from the Department of Defense. I think it indicates clearly that it is not just an interface problem that we are concerned with.

This is their statement:

> The Department of Defense has extensively studied the basing mode as proposed by Senator GLENN and we have provided the results to him. The mode has been rejected because it fundamentally does not provide the same degree of deterrence that is offered by MX and MPS.

Now, that is quite different than being the interface problem. I think it is clear that the studies that we have been exposed to indicate that it does not provide and would not provide the same degree of deterrence that is offered by the MX and the MPS.

In addition to that, you have the security problem against sabotage. It is much harder to insure. You have the maintenance, which is much harder to take care of. It is difficult to maintain and would be extremely costly.

I think the essence of the MX and the MPS, as proposed by the Air Force, is that an adverse exchange ratio is created and that is really what we want is an adverse exchange ratio, insofar as the Soviets are concerned.

I hope that the Senate will reject the amendment of the Senator from Ohio.

Mr. JACKSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. Mr. President, I have great admiration for the Senator from Ohio. I thought his participation last evening was extremely helpful in dealing with the penetrating bomber issue. I regret to disagree with him regarding the basing mode for the MX.

I have nothing to add to what has already been said this morning by the opponents of this amendment. We are all seeking to find a basing mode which will make the MX system survivable. I think when one looks over the record of studies considering the range of basing schemes that have been undertaken over the past 20 years, it is quite obvious that we are now down to a situation where a mobile system utilizing the Interstate Highway System of this country simply is unworkable.

I do not think such a basing mode would be survivable. Furthermore, I think it would expose to the public all kinds of problems.

I can just see the antinuclear types taking over the Interstate Highway System from time to time, causing traffic jams, and endless problems.

The work done by Senator CANNON and his colleagues, Senators HATCH, LAXALT, and GARN, clearly has focused on the real issue. It seems to me that we are at the point now, Mr. President, where we have to get on with the program.

I remember the first study on mobility going back more than 20 years ago when it was suggested that we use the railroad systems of the country to base our missile forces. I think the Senator from Nevada will recall those studies. It was gone into very carefully from both operational and survivability standpoints. It was found that it would not work.

Clearly, I think the program recommended by the Armed Services Committee and now before the Senate represents an effort that will give our strategic forces the measure of survivability that makes them credible deterrents. This is what we are really addressing here this morning.

So, Mr. President, I would hope that we could proceed now to an up-or-down vote on the Glenn amendment. This matter has been fully considered and discussed. I see no need for further debate on the matter.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER (Mr. FORD). The Senator from Ohio.

Mr. GLENN. Mr. President, I want to reply to the comments of the Senator from Nevada in particular. I hate to hide behind classification here, but some of the documents that I have and the information contained in them indicates quite the opposite of the statement he read about whether it is a feasible system or not. Some of these things come out of the study which has been referred to here.

Mr. President, I would like to have a vote on this. I would like to focus the attention of the Senate on this at least one time. I have not made a nose count, but I think this is such an important matter. As I indicated last night, the buys that we are making here are setting the military posture of this country and much of the free world for probably the next generation. That was true of our discussion last night with aircraft. It is true of many other things in this bill. It is true in this particular situation here.

MAINTAINING THE SURVIVABILITY OF OUR NUCLEAR DETERRENT

Mr. CRANSTON. Mr. President, I share the reservations expressed by the Senator from Ohio regarding the basing system presently planned for the MX—the so-called horizontal dash multiple protective structure system. The system is designed to hide the actual location of 200 missiles as they hide in any 200 of 4,600 protective structures. The system of 4,600 shelters is intended to be located in Utah and Nevada, though the bill before us would allow only half of the missile shelters—2,600—to be built in those two States.

I have two major reservations concerning the MX proposal. I will address whether the Glenn "fully mobile" ICBM system alleviates these concerns.

First, I question whether, over the long run, the system will be able to insure the survivability of a land-based ICBM force. I am concerned that the Soviet Union's capacity to proliferate nuclear warheads may always allow them to outstrip our capability to protect the MX missiles with shelters. Under these circumstances we could maintain the survivability of the MX system only at the cost of billions of dollars which would then be denied to other important defense and domestic programs.

Second, I question whether we can afford to sacrifice large portions of the Western United States to an MX system even at its current size. And, the current MX program is "sized" to counter only a "moderate SALT-constrained Soviet threat." If the Soviet Union builds up beyond that threat level, because a SALT II or a SALT III agreement is not in force when the MX is deployed, we could maintain the survivability of the MX system only at the cost of an ever-increasing consumption of land in the Western United States—and even then it might not work.

Clearly, these same concerns have motivated the Senator from Ohio to offer his amendment. Indeed, his proposal for a "fully mobile" ICBM system is intended to overcome my first reservation about the currently designed MX basing mode. Senator GLENN wants to insure that the Soviets can never deploy enough warheads to make the MX vulnerable, by proliferating "aimpoints" infinitely. He proposes to make the MX fully mobile and, therefore able to "hide" in an unlimited area of land. But this proposal only intensifies my second reservation about the MX—the potentially insatiable appetite of the MX for land.

Mr. President, the environmental impact statements on the MX basing system—confined as it now is by the Defense Department to a specific area of land—consumes at least 6 feet of bookshelf space in my office. Even more shelf space is taken up by the statements by environmentalists, landowners, ranchers, and farmers who are legitimately upset about the impact of the MX on the environment, commerce, and the very quality of life in the areas in which the MX is proposed to be deployed. If Senator GLENN's proposal to open up the highways of the United States to the MX system is seriously studied, I expect that I—and, I presume, the rest of us—will have to devote several hundred feet of shelf-space to the environmental impact statements required on the proposal.

The Senator's "fully mobile" MX may conceptually solve the problem of MX vulnerability to increasing numbers of Soviet nuclear warheads by proliferating "aimpoints." However, the proposal would only intensify the environmental and land-use problems which are created by the MX system even as currently designed.

Thus, I cannot support the amendment by the Senator from Ohio. But, I think his amendment and his well-informed comments today have been very useful. He has forcefully brought out the questions about the currently proposed MX system: Can it fully insure survivability of a land-based ICBM force? And, if so, at what cost to the taxpayers and the residents of the Western United States who must consider the MX their neighbor?

The continuing development—not procurement—of the MX provided by this bill will give us more time to seek answers to these questions.

● Mr. LEVIN. Mr. President, I rise in support of the amendment by my colleague from Ohio. I believe it is a prudent measure—at no cost to national security—to avoid committing this Nation prematurely to spending billions of dollars on an MX-missile basing mode which may not be militarily effective and which could cost much more than necessary and cause serious arms control and environmental problems.

As a member of the Committee on Armed Services, I believe that the United States should modernize its strategic nuclear triad as necessary to maintain forces sufficiently powerful and flexible to cover a wide range of Soviet targets and insure our capacity to cause unacceptable damage to them.

In that way, our triad of intercontinental ballistic missiles (ICBM's), submarine-launched ballistic missiles (SLBM's) and manned bombers/cruise missile carriers will remain a strong and viable deterrent and defense against Soviet nuclear aggression or nuclear blackmail.

It is for these reasons that I support the billions we are spending to modernize the SLBM and manned aircraft legs of our triad. And while I continue to have serious doubts that the MX ICBM missile itself is the most cost- and militarily-effective way to counter improving Soviet strategic forces, I think that research and development on it should continue for at least another fiscal year.

However, I believe that the presently proposed multiple protective structure (MPS) mobile basing mode for MX creates more problems for the United States than it solves, has decreasing prospects of successfully hiding the new ICBM and just is not affordable financially and environmentally.

The Glenn amendment would permit the Department of Defense, the Air Force and the Congress to further investigate possible, other missile-basing mode combinations which might meet our national security requirements at less cost and risk to future arms control initiatives and to the environment.

In saying this, Mr. President, I would like to indicate that, while I find the proposal by my colleague from Ohio for a fully mobile ICBM system to be intriguing and certainly worthy of further study, I must withhold a final judgment on it until the results of that examination are available to our committee to analyze.

The Senator's proposal does raise major arms control questions of its own—especially in the area of verification—as well as concerns about its interaction with the public on our Nation's highways, even in a crisis. But given the continuing concerns and questions about the presently proposed MX basing mode, we should take the time to study it further to assess its costs and benefits.

That additional time also will permit the Arms Control and Disarmament Agency to submit an analysis especially requested by Senator CULVER, chairman of our R. & D. Subcommittee, and myself to compare the arms control implications of the proposed MX system and one of its possible alternatives—the shallow underwater missile system known as "SUM."

Our subcommittee should have the opportunity to study this assessment also, Mr. President, and the Glenn amendment will provide us this opportunity.

The Glenn amendment also will permit the Congress to consider more fully the military, arms control, fiscal and environmental implications of the Defense Department's most recent change in the MX basing mode.

Despite the many years of examination of ICBM basing alternatives, DOD has again only recently altered the plans for the MPS system.

We also should consider the effects of the Arms Services Committee's recent split basing decision for MX on the program. This decision has not removed the arms control, military, cost and environmental problems with the system.

I submit for the RECORD a comparison of the size and environmental aspects of the two most recent MPS basing modes—the recently rejected "racetrack" system and its successor—the "linear" system.

I also submit a recent article in Aviation Week & Space Technology, the comprehensive aerospace industry journal, regarding problems with the split-basing proposal, as well as statements from the Governors of Utah and Nevada about their continuing concerns with the system.

Passage of the Glenn amendment will allow us to address all these issues properly, and therefore I support its passage.

This especially so since there has been ample testimony from the experts in the Defense Department that our strategic nuclear deterrent forces will remain viable and effective well into the late 1980's, and that this gives us the additional time provided by the Glenn amendment to examine the MX basing mode as it should be.

The material follows:

PRELIMINARY COMPARISONS

	Integral TEL (closed loop) (7,000-ft shelter spacing)	Nonintegral TEL (linear array) (5,200-ft shelter spacing)
Deployment area (suitable land) (square NM)	6,000	5,000
Deployment area (overall) (square NM)	11,000	9,000
Length of cluster roads (NM)	7,800	5,500
Shelter dimensions:		
Interior diameter (feet)	20	14.5
Length (feet)	210	180
Wall thickness (inches)	24	24
Verification ports	4	2
Steel rebar per shelter (tons)	181	70
Concrete per shelter (cubic yards)	1,400	1,000
TEL/MEL	TEL	MEL
Length (feet)	185	155
Width (feet)	13	10
Weight (pounds)	[1] 1,000,000	[1] 550,000
Transporter:		
Length (feet)	(2)	155
Width (feet)	(2)	10
Weight (pounds, empty)	(2)	700,000
Mobile surveillance shield:		
Length (feet)	190	(2)
Width (feet)	20	(2)
Weight (pounds)	400,000	(2)

[1] Missile included.
[2] Not available.

Note: An intense design tradeoff analysis between the missile erector-launcher (MEL), transporter, and shelter is now underway. Similarly, detailed shelter layouts associated with linear arrays have not been accomplished. Accordingly, the values for the nonintegral TEL should be treated as preliminary and are subject to change.

ALTERNATE MX BASING POSES

LOS ANGELES—Population density of the alternate basing site for the MX missile system poses some serious obstacles for the missiles' security system and complicates the task of establishing techniques for satisfying requirements of future Strategic Arms Limitations Treaty requirements.

The southern high plains area of west Texas and eastern New Mexico officially was endorsed this month by the Air Force for inclusion in the MX draft environmental impact statement, following a close examination of the region to insure that it meets basic MX operational requirements.

The Defense Dept.'s first choice for deployment of the advanced intercontinental ballistic missile is the great basin of Nevada and Utah, but increasing resistance from residents of those two states because of potential impact of the system led to evaluation of the southern high plains area—located about 700 mi. to the southeast—as a possible dual basing location.

One of the primary advantages of the proposed deployment valleys of Nevada and Utah is that they are essentially U.S. government-owned land with few people living or working in the area. Land in the border region between Texas and New Mexico, by comparison, is more than 90 percent privately owned and occupied by several thousand residents largely involved in farming and ranching.

The southern high plains area under consideration is relatively flat terrain in contrast to the series of mountain ranges and valleys of the Great Basin, and essentially is bounded by an area between Lubbock, Tex., Roswell, N.M., and a point to the north where the borders of Colorado, Kansas and Oklahoma meet.

While deployment of perhaps half of the 200 MX missiles in the Texas-New Mexico area could stem some opposition from Nevada-Utah residents, utilization of the southern high plains also would introduce some major obstacles.

One problem involves verification of SALT provisions by insuring that movements of missiles in the deployment area are highly-visible. This would be accomplished in several ways, including:

Earthen barriers at key points on deployment area roads to slow missile movements so they will be more easily observed.

Removable roof sections on missile shelters and other facilities to verify the number of missiles in the area during specified inspection periods.

Opting for the sparsely-populated Great Basin region so that other economic activity in the area or nearby population centers will not hinder monitoring of the missiles for verification.

Inability of the large missile transporter to move from one missile shelter cluster to another without using the road network and therefore having to wait for the large earth barrier to be removed.

"In general, many of the SALT (verification) precedents that we are trying to set with MX hinge on doing certain things in fairly isolated ways so that they can be monitored," according to Col. William H. Crabtree, director of engineering for the Air Force's Ballistic Missile Office (BMO) at Norton AFB, Calif. "In an area where there is more activity that's going to be more difficult, and in an area where the ground is actually tilled its going to be more difficult to convince someone that you didn't move a missile through a field and then plow the area afterwards."

Crabtree added that the precedents that MX program officials currently are trying to establish will be the basis for negotiation of a possible SALT 3 agreement.

Another potential problem raised by deploying MX in the Texas-New Mexico region is burdening the vital security system due primarily to the greater population density and economic activity.

More than 2,000 security personnel, a fleet of 12 to 15 helicopters and a two-layered surveillance system were planned to monitor the MX system as initially planned in the Great Basin.

Surveillance systems to aid security forces are to be divided into two categories, an area system to monitor activity in the unrestricted road areas and another to guard against suspicious activity at the 4,600 missile shelters. About 2.5 acres of land will be fenced off from public use around each shelter.

The area surveillance system could consist of remote surveillance sites at which radar and optical sensors were mounted atop 100-ft. towers. The optical sensors could have night-viewing enhancement and a zoom capability so that security personnel stationed at alert facilities throughout the deployment area could focus on an area of interest.

Program officials said surveillance sensor efficiency would be hampered in the Texas-New Mexico area by manmade structures as well as vegetation, and that security forces would be strained by the amount of activity resulting from the population density. Deployment valleys in the Great Basin, by contrast, are virtually unpopulated.

Other problems posed by extension of the system to the southern high plains include the estimated $2–$3 billion additional cost compared to basing the entire system in Nevada-Utah, which results in part from acquisition of additional facilities like a missile assembly area and crew training facilities and the added personnel to operate and support the system. The Air Force also faces the prospect of deployment in an area of decreasing ground-water supplies and displacement of families living in the area.

Even though the second region will appear in the draft environmental statement to be released next month and has been the subject of a Senate amendment designed to limit Nevada-Utah deployment, many, Texas-New Mexico residents are fully-aware of the MX program and believe the Air Force is not serious about its dual-basing evaluation.

"I sense that people don't really feel that they are being considered as a serious alternative for the system," according to one Air Force official. "Of course, as each one of the congressional floor debates and amendments comes up and they talk more seriously about split basing. I think it's beginning to sink in. Once the draft [environmental impact statement] comes out, I think that people definitely will think they are a candidate area."

While there is no organized opposition at the local level, several state and federal elected officials have expressed concern about the prospect of split basing:

Rep. Kent R. Hance, (D-Tex.) told Aviation Week & Space Technology that one of the areas the Air Force is considering northwest of Lubbock, Tex., "is probably one of the most fertile farmland areas in the nation." He added that 25 percent of the cotton grown in the U.S. is raised within 100 mi. of Lubbock.

Sen. Lloyd Bentsen, D-Tex., noted that basing half of the MX system in the southern high plains region could force relocation of an estimated 10,000 Texas and New Mexico residents and close thousands of acres of farmlands in the two states.

New Mexico Gov. Bruce King generally does not support basing MX in the region because it would be disruptive to agriculture, although the governor said he wants to learn more about the Air Force plans. "We do not view [MX basing] as being something that would fit into the pattern of our lifestyle in east New Mexico and west Texas," King said.

Several municipal officials near the proposed siting area, however, believe the deployment generally would be supported locally because of its boost to the economy and the defense-oriented environment of the communities. "Basically here in Lubbock, we are a very conservative community and probably very hawkish in terms of defense," one city official said. "Texans by nature are pretty self-sustaining and believe in carrying a big stick."

The site selection process for the MX missile system initially began with the screening of potential areas across the United States, based on such geotechnical criteria as depth to bedrock and watertable, as well as some basic cultural criteria like distance to urban areas.

The evaluation resulted in the selection of six areas—including the Great Basin and the southern high plains—which were reevaluated in terms of MX operationl requirements. Two important operational criteria have been location of a site 200-naut.-mi. or more from international land or water boundaries, and selection of an area remote from populated regions.

The 200-naut.-mi. buffer zone is considered necessary to make the system less vulnerable to attack by submarine-launched ballistic missiles and to protect the site from sensors that might determine in which shelter a missile has been placed, or from jammers that could interfere with command and control. It is believed that sensors or jammers placed outside the U.S. could not be investigated or countered by MX security forces. The buffer zone also is designed to provide a corridor in which airborne launch control aircraft may orbit following an attack.

THE STATE OF NEVADA,
EXECUTIVE CHAMBER,
Carson City, Nev., May 7, 1980.

Hon. WILLIAM J. PERRY,
Under Secretary of Defense, Washington, D.C.

DEAR BILL: I would like to take this opportunity to address five key issues concerning MX which have recently come to my attention.

FIRST

For some time I have been deeply concerned about any hasty decision to deploy the entire system in the Nevada/Utah region without adequate time to thoroughly investigate split basing alternatives. At the same time I am aware of, and sympathetic to time pressures imposed by a mid-1986 initial operating capability.

With these considerations in mind, I would propose that should Congress make the decision to proceed with deployment in the Great Basin region, deployment would be limited to fifty missiles each in Nevada and Utah. Such an alternative would allow for a complete analysis of other regions, specifically, the Southern High Plains (West Texas/New Mexico) site as described in your MX Basing Area Analysis Process report. Such a study, in my judgment, is essential to the question of where the remainder of the system should be built.

SECOND

I have noted with interest the recent announcement that an alternative to the "Racetrack" basing mode is being adopted which will provide some meaningful reductions in the overall impacts. I am pleased that some measurable process is being made, however, there remain many serious concerns which must be addressed. I am hopeful that as more detailed data becomes available, further refinements can be adopted which will reduce environmental and socio-economic impacts, within the operational requirements of the system.

THIRD

I was pleased to receive your letter of April 23rd providing clarification on the issue of operation and maintenance assistance to state and local governments. It was never my intent to propose these funds be provided without some demonstrable need based on MX related impacts. As we proceed with fiscal impact analysis studies based on site specific data, I am hopeful we will be able to predict, with some precision, the levels of operation and maintenance impacts. Concurrent with that analysis, I have directed our planning staff to develop a proposal which will address the need in a manner which will respond to an increased capability of local government to support such costs.

FOURTH

We are in receipt of the MX Systems Environmental Programs Scoping Summary and have made our preliminary review of its contents.

When I read the summary, I realized with alarm that only one of Nevada's two scoping comments lists were included in Appendix G. Both are integral parts of Nevada's comments. Included was the list entitled "Scoping Issues List", which was transmitted on February 29, 1980. Another set of comments entitled "Preliminary Issues List", summarized the state agency comments. The February 27, 1980 transmittal letter for this list was included in the scoping summary; the Preliminary Issues List was not. The February 29 letter also makes reference to the Preliminary Issues List. By letter dated, March 25, 1980, Ms. Constance Ashcraft again requested that both sets of scoping issues be included. Please make the Preliminary Issues List, included as Attachment I to this letter, an official part of the Scoping Summary.

Since the Scoping Hearings were held in January, I have raised several other significant issues which are not included in the Scoping Summary. I feel strongly that the following additional issues must be included and fully analyzed in the Environmental Impact Statement now under preparation:

A. MX construction workers will be paid federal prevailing wages, which will generally be higher than wages being paid to industries competing for the same labor forces. The effects of MX construction wages on existing and potential industry in Nevada must be analyzed in the EIS.

B. MX construction expenditures will potentially cause serious inflation problems in Nevada. The probable effects of inflation on Nevada's economy must be intensely studied and included in the EIS.

C. In recent public statements Air Force officials have alluded to the fact that they are considering the purchase of existing water rights. The EIS must consider the consequences on the environment and individual property rights through the acquisition by the Air Force of water currently appropriated and utilized for other purposes. Discontinuation of activities utilizing existing water rights can only result in major long term environmental, economic and social consequences. As Governor, I will resist Air Force acquisition of existing water rights through condemnation or eminent domain. As a matter of policy the Air Force should deploy the system where unappropriated water can be utilized.

D. There are, apparently, Air Force plans to utilize water from the deep carbonate aquifer. Extensive testing must be undertaken by the Air Force to determine that such action will not result in drying up surface springs or adversely affect water resources in other areas. The results of these studies must be included in the EIS.

E. The Scoping Summary does not indicate that the EIS will evaluate the alternative proposed above that a combined total of only 100 missiles be deployed in Neveda and Utah. In order to evaluate this alternative fully, the EIS should consider the reduced socioeconomic and environmental impact this alternative would have on the Great Basin area. Furthermore, given the increased site selection flexibility created by reducing the number of missiles, the EIS should consider which local communities and valleys could best handle the anticipated impacts.

F. The EIS should analyze the linear deployment option I mentioned above that the Air Force recently proposed to replace the "racetrack" basing mode.

G. If this is indeed a site selection EIS, a subsequent EIS with site specific detail must be completed before any construction begins. Current schedules call for the Air Force to commence road and utility construction in January of 1982. We expect that a subsequent EIS will discuss the exact road and utility locations, construction management plans and the short term and long term environmental and socioeconomic impacts of each.

FIFTH

I have become concerned that complete data collection will not be completed and a thorough analysis of the impact issues will not be possible for the Draft EIS now scheduled for July of 1980. I am continually reminded by my staff that studies and data collection will continue through the Draft EIS and may only be available for the final EIS. This action by the Air Force will render Nevada's comments on the Draft EIS incomplete and somewhat meaningless.

In order to be responsible to NEPA, the CEQ Regulations (1502.9 (a)) require that the Draft EIS "fulfill and satisfy to the fullest extent possible the requirements established for final statements in section 102 (2) of the Act." In order to accomplish this requirement, data collection and analysis must be complete prior to the Draft EIS and must be included in it. In addition, CEQ Regulation (1502.9) (a)) requires, in part that:

"If a draft statement is so inadequate as to preclude meaningful analysis, the agency shall prepare and circulate a revised draft of the appropriate portion."

Although the efforts of the Air Force and HDR are substantial, I believe that the time schedule set for the issuance of the Draft EIS on July 18, 1980 leaves inadequate time to fulfill the data collection and complete analysis envisioned by the CEQ Regulations. It is clear that if the Air Force does not include all required information and analysis the State of Nevada is ready to force compliance with CEQ regulations and NEPA through whatever means are available.

However, in order to prevent such action, we would suggest that pursuant to CEQ regulation S1501.8 (c) time limits be set so that the unavailability of information because of time constraints does not prevent your fulfillment of CEQ requirements. The State of Nevada would therefore request the following time limits:

Draft EIS, October 15, 1980.

Commencement of Public Comment Period, October 22, 1980.

Public Hearings, January–February, 1981.

End of Comment Period, April 1, 1981.

This request is based upon the following additional factors:

(1) Because of the size of the project and the proposed expansive deployment area within both Nevada and Utah, there is the extreme potential for harm to both the natural and human environment. The Scoping Summary prepared for the Air Force clearly illustrates the number of areas of concern and the significance of the size of the project.

(2) MX has been described as mankind's largest construction project. It has been estimated to cost upwards from $33 billion to $67 billion. The huge manpower, construction materials, labor and support service requirements gives this project additional significance.

(3) Most of the information could be available, given ample time to successfully complete the required field work, research and analysis. The Air Force, HDR, and Fugro have all indicated that they know what data collection and analysis are required and that they are striving to accomplish them. It is generally stated that much of the work will not be available for the Draft EIS, but that it can be expected for the Final EIS. Final versions of several background technical reports for the EIS will not be completed until September 30, 1980. The cost of obtaining the data is clearly not exorbitant because the actions are already underway.

(4) Clearly every citizen in the States of Nevada and Utah will be severely affected by this action. The system is expected to be deployed in extremely rural areas and therefore the numbers of expected workers and support personnel will induce significant social and economic problems. The action serves not only to disrupt life styles, the State's economy, but also its natural environment. The scope of the project is so large that regional and nationwide impacts are also probable just from labor, construction material and inflation pressures. Therefore, it is paramount that our citizens be given ample opportunity to comment on a project which could so drastically change their lives.

All of the above factors clearly require that the Air Force, as the lead agency, must slow down the timing of the Draft EIS and the comment period. The Final EIS should be issued only after it clearly addresses the comments raised during the public hearings and comment period, and fulfills the requirements of NEPA and the CEQ regulations.

I will appreciate very much your attention to the above concerns and any efforts to initiate or support appropriate actions relative to their solution.

Sincerely,

ROBERT LIST,
Governor.

REMARKS OF GOVERNOR ROBERT LIST

I would like to share my thoughts with you about what is certainly the most important and dramatic event to impact Nevada since the Comstock period over a century ago.

I am referring, of course, to the MX missile system which is proposed to be built in Nevada and Utah.

My first contact with MX goes back almost 2 years when I became aware through an obscure news item in the Ely Daily Times that the Air Force was considering construction of a large missile system in Nevada which would involve closing off 10,000 square miles of Nevada's land.

My reaction, of course, was one of strong opposition to this or any other Federal program which would take away from public use such enormous amounts of public land.

No official action on MX occurred until the spring of 1979, when I was contacted by the Air Force. More information was provided about a huge network of missiles to be deployed in an undetermined choice among a variety of methods. The preferred deployment mode of the Air Force at that time was to dig huge trenches throughout valleys in Nevada and Utah, creating tunnels in which missiles would move on railroad tracks with various points at which they could be fired upward through the hardened tunnel.

Less desirable alternatives to the Air Force at that time were to place the missiles in vertical silos similar to the Minuteman system or in horizontal shelters connected by roads or railroads.

I was quick to point out to them that the tremendous disruption which would occur from digging these huge trenches throughout the proposed area would cause extensive and irreparable damage to the fragile ecology of our valleys and that given a choice, the individual silos would obviously be less damaging and therefore more acceptable from our point of view.

I'm sure Guy Hecker still remembers the hell I raised that day in my office when he told me they were digging and testing such a trench and that this was their No. 1 choice for a deployment mode.

In addition, I was advised that due to the strong opposition which the Air Force heard from me regarding the area security approach they had previously been considering, (where large amounts of land would be shut off to public access similar to the Nevada test site) they adopted what was now being called a point security approach whereby only the individual missile launch points would be withdrawn and thereby removed from multiple use.

Very little information was provided at that time about the specifics of MX. Naturally, many questions were raised in my mind and in the minds of all Nevadans.

I then met with General Hecker and urged him to get out into central and eastern Nevada to meet the citizens of those communities to explain what MX was all about and to listen to their concerns.

During the summer of 1979 General Guy Hecker did cover the State talking with State officials, local officials, members of the legislature, chambers of commerce and virtually any group that would listen.

During that time he spoke about the Soviet threat, the vulnerability of the United States strategic forces, the strategic Triad and the overall attributes of the MX system in meeting this threat.

This approach by the military in taking its program to the people was new to traditional methods of military policy- and decision-making concerning defense strategy.

The result of this effort by the Air Force was that most Nevadans were in a state of shock when confronted with the huge scale of this proposal.

MX was defined as "man's largest construction project ever undertaken." It would be "three times the size of the Alaska pipeline." Twenty-two to twenty-four thousand construction workers would be required to build the system over a six year period. After completion fourteen thousand steady employees would be required to operate the system. The annual payroll would be four hundred million dollars.

. . . Then we began to analyze the impacts it would have on our State. What kind of inflationary effect would it have on our economy? How much water would be needed and where would it come from? What would happen to our important agricultural industry and the livestock now grazing in the valleys? What would be the impact on our mining industry? What would happen to local governments already strapped for resources to provide services, with these large increases in population but questionable increases in the tax base?

Then last fall, the Air Force announced that they wished to go through a process called "scoping." During the scoping period the Air Force was to conduct public hearings all over the State where people would have an opportunity to express themselves and ask questions about what MX really would mean. We found out, of course, that there were many questions but not many answers. The questions got more specific:

Where would the bases be located? What would we do about already overcrowded schools? What about the construction of new sewage and water facilities? What about health services and social services in those rural central and eastern counties where few such services presently exist,

The Air Force explained that the answers to these and other questions would come over the next year's time as an environmental impact statement on siting is developed.

We also learned that the Air Force had contracted with a number of research consulting firms and that there was virtually a cast of thousands working on MX planning. Hundreds of issues were being studied, so they said, as the Air Force used this process to develop the answers to serious questions that had been raised in the minds of all Nevadans.

We have now been advised the draft environmental impact statement will be released on July 18, 1980 and that the final environmental impact statement will be filed on November 9, 1980.

The public comment period for the draft environmental impact statement is scheduled to run from July 25th through October 2, 1980. This seventy day review period, is totally inadequate for our State to intelligently respond to the vast amount of data which is currently being developed in all of the various Air Force studies.

I am informed that the results of some of the critical studies being done will not even be completed until the end of September. And so this week I forwarded to the Department of Defense my recommendation for delaying the draft EIS until October 15, 1980 followed by a five month public comment period ending April 1, 1981.

It makes no sense at all that the same minimum time periods for public comments on a project to locate picnic tables in a national park will be equally applied to this, "man's largest construction project." The citizens of this State, at the very least, deserve a reasonable time period to analyze and comment on the plans developed by the Air Force.

Last summer it became evident that the Air Force and the Department of Defense were indeed serious about proceeding rapidly with the development of this proposed project. It became abundantly clear to me that the State of Nevada must begin immediately to take a role in this process if we are going to have anything to say at all about the decisions which would be made in the months ahead.

With that in mind, Governor Matheson and I met with President Carter in Albuquerque and requested immediate financial assistance so that two States could become involved.

First of all, staff capability was needed both at the State and local levels. State agencies, already operating at maximum capability, did not have the staff to devote full time to analyzing the impacts of MX. Local Government was even less capable of providing full time attention to the growing need for involvement.

It became clearly evident that there had to be a strong effort to build a factual data base of as much information as possible, if we were to have anything meaningful to say about the many issues which would be debated and resolved in the months ahead.

An inventory of existing facilities including water and sewer systems, schools, health facilities and transportation systems was sorely needed. In our rural counties we saw the need to begin at once so that those existing facilities could be compared with the potential impact.

Some initial scenario assessment would be required to get an idea of what would happen if the main base were located in White Pine County, or in Nye County, or in Lincoln County, or in some other area.

Furthermore, I asked for the aid and participation of all State agencies in helping us with this preliminary evaluation of the possible impacts which could occur on various State Government programs.

As a planning structure for this system, I appointed three members of my cabinet to a State MX management committee. Utilizing the funds appropriated by Congress for MX related planning, we created an MX project field office in Carson City, staffed by six people to begin this work of planning and assessment.

An equal amount of funds were made available to those counties in Eastern and Central Nevada which were proposed to be directly impacted by MX, so that they could build a similar staff capability at the local level.

In addition to these staff offices, and the assistance from State agencies we will be utilizing the expertise of many Nevadans in a variety of specialty areas, by forming an MX task force of Nevadans who are experts on potential MX issues.

This task force will be charged with providing input to me regarding mining, grazing, employment, minority concerns, economic development interests and a variety of other areas which may not be adequately addressed through regular channels of Governmental oversight.

It is my intent to develop a strategy whereby, should the decision be made to site MX here, and as specific information becomes available from the Air Force, we will have a structure in place with the ability and the expertise to analyze as quickly as possible the data as we receive it.

The coordination of this effort, as I'm sure you appreciate, is extremely difficult and complex. To illustrate, let me give you just a brief idea of the number of Federal agencies and levels which we have found we must deal with on a continuing basis regarding MX.

First of all, the White House is involved concerning administration policy. As you may be aware, I met with President Carter on two separate occasions to directly express the concerns of Nevada at the highest possible level.

Within the Department of Defense, we are in continuous contact with a number of high level officials regarding military policy.

Both the civilian and military members of the Air Force in the Pentagon are actively engaged in dialogue, not only with my office but with the heads of a number of State agencies.

The Strategic Air Command in Omaha, Nebraska, is responsible for the design of the main base. The Ballistic Missile Office at Norton Air Force Base in California is responsible for all of the engineering and technical concerns relative to MX. The Corps of Engineers must be dealt with concerning construction and land withdrawal issues.

As I have mentioned before, numerous consulting firms, working on behalf of the Air Force provide a constant stream of technical consultants and planners who are probing every corner of our State, conducting environmental and socio-economic studies.

We must also deal with the Office of Economic Assistance in Washington seeking their help in obtaining impact mitigation funds.

Dozens of Federal domestic agencies must also be dealt with including, the Department of Housing and Urban Development, the Economic Development Administration, the Department of Transportation . . . and the list goes on and on.

In addition, we must work with a variety of congressional committees responsible for our Nation's military needs and for the appropriation of impact assistance funds which will be vital to our State.

Here within Nevada, there are from four to seven counties which could be directly impacted by MX, and virtually all the counties in our State would be indirectly impacted.

Local townships and cities throughout Nevada also must be consulted with and heard from in this planning process.

As I have already indicated, all of the various State agencies and numerous interest groups throughout the State will also play a vital role in this task of responding to the problems we could face concerning MX if Congress decides to deploy it here.

Never before in the history of our State, has there been a greater reason for all Nevadans to pull together. A basic military strategy is to divide and conquer. We simply cannot allow that to happen. It will be absolutely essential for all Nevadans to speak with a single voice if we are to meet this challenge in an effective way.

I believe that our efforts over the past year have met with some success. The hundreds of hours that I and my staff have spent working on MX—traveling around the State, listening to the concerns of Nevadans, attending meetings, traveling to Washington to meet with decision-makers and to testify before congressional committees—have all added up to the fact that it has made a difference.

As I mentioned earlier, I believe our initial efforts resulted in the Air Force moving from area security to a point security concept, thereby drastically reducing the amount of land which would be removed from public access.

Our efforts in strenuously objecting to the trench mode of deployment were successful, as evidenced by the Air Force switch to a multiple protective shelter concept.

Recently, the Air Force and the administration have indicated they would support our request for initial operation and maintenance funds to offset the impacts on our ability to provide services.

I believe an important concession was obtained when President Carter agreed to follow our State water laws.

This week, the Defense Department abandoned their so-called "racetrack" system for a less costly system, further reducing the impacts on our State. This is not the world's greatest breakthrough, but it is certainly an improvement. For months, we have been asking the Air Force to look hard at alternative deployment methods. They have taken those hard looks and there have been results.

And so, today the MX is a vastly different animal than it was two years ago. It is an effort that has utilized the special cooperation of Utah Governor Scott Matheson as well as the congressional delegations of each of our States.

A week ago Friday, I announced a proposal that could lead to the biggest change concerning MX since we first began this effort over a year ago.

I am urging the President and Congress to limit the construction of the MX system to a maximum of fifty missiles each in Nevada and Utah, if worse comes to worst and our States are chosen as sites. The proposal would permit the federal government to study split basing of a full MX system which would require other states or regions to accept responsibility for additional siting.

As currently proposed, the MX system would deploy missiles in Nevada and Utah with some 130 of them in Nevada. Reducing that to 50 missiles would dramatically reduce the impact which would be imposed on our state. I believe this can be done without jeopardizing the defense needs of our nation during the critical time period of vulnerability during the early and mid 1980's.

On Tuesday, the "narrowing" document on site selection for which we have constantly pressured the Air Force arrived. We also learned from the Department of Defense that portions of Texas and New Mexico are now being seriously considered potential sites, and that a full EIS will be ordered for those areas. At last we have some tangible hope that the full burden of MX, if it becomes a reality, might be spread to other States, not just Nevada and Utah.

Finally, let me review with you what I believe to be the four basic questions regarding MX which we must have answers to from the administration and Congress.

First of all, is a land based mobile ICBM system absolutely necessary for National Defense? If so, can it be absolutely demonstrated that such a system must be located in Nevada? If so, can it be scaled down, modified or split up into other states or regions? Finally, should, in the final analysis, this system come to Nevada to some degree, what is the Administration and Congress willing to do to minimize the negative impacts on our states and to maximize the benefits?

I've asked the hard questions. We've gotten some answers—and we expect to get more.

Quite frankly, the sounds carried by the winds blowing off the Potomac and Capitol Hill are beginning to sound more like we are going to get a piece of the MX system . . . and we must get ready for the potential storm those winds might precede.

I read just yesterday that President Carter declared several counties in Southern Florida a "national disaster area" due to the influx of some 20,000 Cubans. This was in an area which had a substantial population base to absorb the impact.

In 1986, several rural counties in Nevada may experience the influx of some 20,000 construction workers. At the very least, I hope those counties will not become a "national disaster area".

I would like to specifically address the special role those of you here tonight, representing the Nevada press, have played and will play in this effort. You and I share a responsibility to the public we serve that is essential to insuring Nevada's interests are protected.

In seeking the facts and informing the public on the many complex issues surrounding MX, that responsibility can be fulfilled and I pledge to you a partnership in that effort.

Over the past year or so a lot of printers ink has been used on MX, and a lot of hours have been devoted by many of you trying to gain a clear understanding of the seemingly endless ramifications of this project. The Capitol Press Corps—Cy Ryan, Brendan Riley, Guy Shipler, Lee Adler, and Sue Volek are, as Sue puts it, MX-ing it practically every day.

Joe Merica, Jo Ann Townsend and Jeff Adler have also become MX experts through a lot of time, miles and research.

I appreciate the work of these and other professionals and applaud their important contributions in helping us all keep a more clear perspective on the issues.

Let me close by thanking you for the opportunity to be here tonight and to seek your continued help in the tasks ahead.

As your Governor, I have a genuine sense of optimism about the future of our State. I believe that, because Nevada has built a long tradition of resourcefulness, self-will and ability. Collectively, we will not allow that tradition to be broken.

Thank you.

STATEMENT BY GOVERNOR SCOTT M. MATHESON

In September of 1979, President Carter announced his proposal to deploy the MX missile system, on the land, in horizontal multiple protective structures. He indicated that he had charged the Department of Defense and the United States Air Force with the task of achieving initial operational capability of TAT system not later than July 1, 1986. He also noted that the most likely site for deployment of the MX missile system was in the great basin desert valleys of Utah and Nevada.

Since that time, the citizens of Utah and Nevada have been confronting a daily and continuing stream of information and misinformation—claims and counterclaims—estimates of impact and denial of impact from opponents and proponents of the MX system. The MX proposal—coupled with these conflicting viewpoints have raised substantial concerns among Utahns.

As Governor of the State of Utah, I have attempted to see to it that our decisions regarding possible MX deployment are made in the full glare of public scrutiny and based on factual information regarding the need for the MX system and the true magnitude of its impacts. To this end, I have spent an increasing proportion of my time becoming personally informed about national security issues, the survivability of our present strategic deterrent capacity, Soviet war-making capability and intentions, strategic arms limitation proposals as well as the specifics of the administration proposal for MX deployment. Based upon those reviews, the continuing flow of information, congressional hearings, MX town meetings, the MX debate held in Salt Lake's symphony hall and the views of thousands of citizens who have written me about this issue, I now wish to make clear my position on the President's MX proposal.

From the outset, beginning with Congressman McKay's hearings in Cedar City in November of 1979, I have insisted upon two fundamental ground rules. The first is that the present administration—which proposed this weapon system to solve a perceived problem of strategic imbalance—must bear the burden of proof in demonstrating one, that a new weapon system is needed; two, that the basing mode proposed for the system is the best of many options, the one most likely to achieve the nation's strategic objectives; and three, that the deployment area suggested be capable of handling the impacts of the proposed system. The second ground rule is that I have insisted on an "arms-length" relationship between the State of Utah and the United States Air Force to permit us to perform a professional, independent critique and evaluation of the proposal made by the administration and the Air Force in particular.

The arms-length relationship has worked reasonably well although I believe that the State of Utah (and Nevada for that matter) has been ill-served by the general unwillingness of the Air Force to promptly and candidly share all of the information which is in their possession about the MX missile system and its impacts. Indeed, process failures on the part of the Air Force are many and substantial, ranging from such matters as long time delays in furnishing requested information and refusal to furnish information justifying a sharply reduced estimate of construction labor force to the incredulous proposition that the Air Force can perform a professionally competent environmental impact analysis on MX deployment in Utah and Nevada—Texas and New Mexico within a time period of less than one year. Indeed, as of today's date, only five weeks away from the scheduled issuance of the draft environmental impact statement, some subcontractors needed for the performance of specific components of this environmental work have not yet started to work.

In addition, the administration has not seriously addressed the problem of setting up mechanisms to handle MX impacts. They have ignored the lessons learned from building the Trident submarine base in Kitsap County, Washington and have failed to establish streamlined procedures to facilitate impact assistance for the enormous impacts which would stem from MX deployment. In fact, it appears that a strategy of minimizing the impacts of MX has emerged. This strategy, however successful in the short run, will inevitably backfire as more facts become known, and as the enormous consequences of this basing mode are understood.

It is tempting to dwell at length on the process failures since they are pervasive and have posed serious difficulties for the State of Utah and our cities and counties in our attempt to comprehend the total impacts of the proposed system. However, in spite of these failures and what they imply regarding the seriousness with which the administration has addressed the objectives of keeping the public informed and facilitating informed congressional decision making, I want to talk primarily about the substantive issues associated with the MX missile system. I firmly believe that the fundamental questions about deploying the MX missile system must be decided along substantive lines in response to the following key issues.

First, is there an imbalance in the strategic deterrent forces of the United States and the Soviet Union which requires correction?

Second, is the proposal from this administration the best way to address such perceived strategic imbalance?

Extensive and careful examination of the first question, including lengthy discussions with many leading national experts on all aspects of strategic warfare and national defense have led me to the inescapable conclusion that the United States has entered a period of significant deficiency regarding its strategic deterrent capability. The Soviet Union has invested so much of its resources in the development and deployment of increasingly accurate and powerful missiles that our land based missiles, the Minuteman II and III (together with a few older Titan missiles) are either now or shortly will be vulnerable to a Soviet first strike. This vulnerability is entirely a function of significant breakthroughs in Soviet missile accuracy and staggering increases in the number of Soviet missiles and warheads which can now be targeted on our strategic forces.

I recognize that the vulnerability of our land based missiles does not translate directly into immediate fear of nuclear war. However, I am persuaded that failure to respond to the vulnerability of these land based missiles will free the Soviet Union to concentrate on means of attacking the deep water submarine launched and bomber launched or air breathing components of the strategic triad.

My analysis has led to the conclusion that the United States needs to develop a strong response which promptly and significantly increases the survivability of our strategic forces. I also strongly believe that the increasing age and relatively smaller size and warhead capacity of the Minuteman system requires the continued development and deployment of a new, far more capable missile than Minuteman III, a description which the MX missile appears to fill admirably.

The critical question then becomes how to make this new strategic missile survivable against an increasing Soviet threat.

The administration's proposal is to provide for missile mobility on the land among multiple aim points or protective structures requiring the enemy to target many structures in order to destroy one missile.

In theory, this concept may be workable, provided that the United States is prepared to enter into a race with the Soviets in which we try to build protective shelters faster than they can build missiles and warheads.

Administration proponents of the MX system argue that we can do so but I am not fully persuaded of the reasonableness of that assertion. Many members of the scientific community believe the administration proposal adds little or no survivability to our strategic forces.

Nevertheless, even if one accepts the administration's assertion that we are prepared to engage in such a race—where we build missile garages while the Soviets build weapons—I believe the proposed system is fatally flawed for two very important reasons.

First and most critical, even assuming the best possible time-table for MX deployment, with no delays associated with the environmental impact statement and potential litigation associated with it, the land withdrawal process or construction delays associated with such a massive system, it will be at least mid-1986 before the first ten MX missiles are deployed in 230 shelters.

Because the Soviet Union has so many warheads, this will result in only an insignificant increase in the survivability of our strategic land based missiles. It will be 1989 before the total system as proposed is deployed—a date which is almost sure to slip, probably by several years. The peculiar arithmetic stemming from the large and growing number of Soviet warheads and the proposed number of protective structures means that it is not until the MX system is almost fully deployed that we will have any significant increase in survivability of of land based missiles.

Thus, from now in 1980 until 1990 or later, the issue which drives us to build the MX system—a threat to the survivability of our land based missiles—will not be addressed. The MX system as proposed simply does not meet the critical test of timeliness.

Second, it is quite possible that the present MX deployment scheme will be obsolete before it is completed. Technology is moving at a rapid pace. U.S. strategic measures are followed quickly by Soviet countermeasures in a pattern which seems to be shortening the life cycle of new weapons systems. The MX system, as proposed, relys almost totally on deception, by hiding the missile among many shelters. If deception fails to work adequately in our open society, we will inevitably see movement to increase security in the development area or to build an anti-ballistic missile defense system, or both.

The net result of these factors is that the 4600 shelter, 200 missile, 35 billion dollar system is highly likely to grow in size, cost, complexity and thus impact. In spite of these problems, the administration apparently has developed no workable alternatives to its own proposal.

Because I believe in a strong national defense and because I am pursuaded that Minuteman vulnerability is a real issue, I believe that we must seriously consider alternatives to the administration's proposal. I am impressed by several options which I believe deserve the serious attention of the Congress.

The first is a proposal largely credited to Professor William Van Cleave, Director of Defense and Strategic Studies at USC. His proposal is to begin immediately to build hundreds of additional vertical Minuteman-type silos in the existing multi-State deployment area for the Minuteman system and to simultaneously begin converting existing Minuteman III missiles to mobile cannisterized weapons which could be moved among these multiple aim points.

I note that the present Minuteman deployment area now has fully developed support facilities and systems such as air bases, Air Force personnel, communication systems, road networks and the like. Relationships with adjacent communities should be relatively straightforward since these communities have been accustomed to the presence of Minuteman bases and launchers for over twenty years.

Indeed, elected officials from throughout the Minuteman deployment area have recently written to the Air Force indicating how much they have enjoyed the benefits of the Minuteman system and the positive aspects of the community relationships which it has engendered.

Dr. Van Cleave estimated in testimony delivered in May to a U.S. Senate Appropriations Subcommittee that the entire U.S. stockpile of some 700 Minuteman IIIs could be modified and deployed in about three years. If accompanied by rapid construction of austere vertical shelters, he believes that the system could be entirely in place by about 1985, well before the likely initial operating capability of the first ten MX missiles. He further indicated that this alternative proposal had been estimated by a Defense Science Board panel to shave about four years and $15 billion from the present MX basing proposal.

Dr. Van Cleave also proposes continuing the engineering development and construction of the MX missile, which is a view that I strongly share. Not only will the MX missile fit within the vertical silos built for Minuteman, but as the Minuteman system ages, the MX missile will replace it. Additionally, during the next several years, continuing analysis could be given to the need for other possible basing modes for the MX missile without foreclosing the option for basing some portion of the system as now proposed.

This proposal appears to me to have several advantages. First and foremost, it is said to address our urgent national security needs far more promptly than the administration's proposal. Second, it is apparently less costly. Third, it is far less disruptive of the deployment areas both environmentally and sociologically, since it builds upon existing operational facilities and personnel thus obviating the need to build additional costly facilities.

I also wish to stress that this option would also permit the deployment of some Minuteman III and MX missiles with the State of Utah. They could be placed in vertical silos built on land already under military control in the west desert of Utah and serviced from Hill Air Force Base. I have consistently stated that the citizens of Utah are very patriotic and, although, having sacrificed as much if not more than the citizens of any other State, are willing to do their fair share by accepting some reasonable proportion of an expanded Minuteman-MX vertical system under this option.

Closely related to this proposal is a suggestion that we continue to rely upon very hard vertical shelters protected by anti-ballistic missile defenses. This option supported by several defense analysts and decision makers, including Senator Garn of our own State, essentially rejects the idea of trying to match each new Soviet warhead with a U.S. missile shelter. Recent dramatic technological advances suggest that it is now quite feasible to successfully defend fixed silos with anti-ballistic missiles (ABM) systems. The new MX missile could be "stuffed" into existing silos as it comes on line, and additional new vertical silos could be built to accommodate MX missiles, with the total number of missiles sized to meet the Soviet threat.

Each of these land based options deserves serious analysis and measured consideration by the Congress. Accurate and unbiased estimates of the relative costs, speed of deployment, survivability and impact need to be presented for rigorous public scrutiny and debate. We must not blindly rush to embrace any one land based mode when the stakes, including cost and impact, are so great.

Still another option which I think should continue to be vigorously addressed by the Congress is the proposal largely attributed to Dr. Sidney Dress and Dr. Richard Garwin for a shallow underwater mobile submarine or SUM. The SUM proposal also has the apparent advantage of responding to the critical issue of timeliness in deploying additional survivable missiles since each submarine deployed with its missile adds immediately to the total of survivable U.S. strategic forces.

If the entire 200 MX missiles were to be deployed on submarines, the system would probably equal the cost of the land based MX system but would have the added advantage of not disturbing the land or the communities adjacent to where the system will be deployed.

While I recognize that there are concerns about the long term survivability of submarine based missiles, it seems to me they are no more serious than those associated with any component of the triad. In addition, a relatively large number of small submarines poses an entirely different war planning problem for the Soviets than attacking deep water submarines, bombers and cruise missiles or land based missiles.

Thus, it represents a very effective alternative deterrent in my judgment and may not represent an abandonment of the triad concept.

In summary, I do not believe that the administration has met the burden of proof in demonstrating that the MX missile basing mode which they propose is deployable in a timely fashion. I do not believe it is the best basing mode, and it is not appropriate for the Utah/Nevada deployment areas. I call upon the President and the Members of Congress to respond directly to these concerns.

I want to make one final comment about the proposed basing of MX in Utah and Nevada. Several people have asserted that the concerns which we have previously expressed regarding MX deployment have been narrowly and parochially based in a desire to preserve Utah and Nevada from the ravages of this unwanted and unwarranted Federal largess. The question is far broader than that. National security can be defined in many ways. It can be defined in terms of the number of nuclear devices which exist in our stockpiles. It can be measured in conventional weapons and the force readiness of the Army, Navy, Marine Corps and Air Force, an area where we are critically deficient and where any cost savings from MX could be usefully invested. In fact, it is my opinion that this Nation must promptly address the need to rebuild and refit our conventional forces. They are in shocking condition. Since the Nation cannot afford unlimited expenditures for defense, priorities must be set, and our conventional forces deserve the highest priority.

But national security can also be measured in terms which are critically important to the Nation and to the State of Utah, such as energy independence and production of strategic materials.

The West in general and Utah specifically have been proposed as the target area not only for MX but for coal development, construction of large coal fired electrical generating plants such as IPP, the development of synthetic fuels from tar sands and oil shale, and the development of critically needed strategic materials such as beryllium, aluminum, molybdenum and the like.

Utah has a fine capacity to bear the burdens and demands of large scale development. We have only a finite amount of water and we cannot manufacture more. Our labor force and mechanisms for developing capital have limits to their capacities.

Our cities and towns have limits to growth. In my judgment, this administration has not carefully thought through the implications of the competing demands on Utah resources which it is simultaneously presenting through a variety of largely uncoordinated policies. Utah can and will play an important national security role.

But I believe it should play that role primarily in terms of helping achieve energy independence—not as a location for the deployment of a strategic weapon system with such enormous impacts. This is a judgment which I have reached after long and serious soul searching.

I am grateful to the Members of our Congressional delegation for their hard work in attempting to limit the amount of the MX system which might be deployed within Utah and Nevada. However, I believe that the currently proposed split-basing limitation does not go far enough since it does not address the fundamental issue of timeliness. Furthermore, it is not a final answer since this Congress cannot bind the next, the Air Force is still saying that split-basing will cost billions more, and the Secretary of Defense has recenty reiterated his opposition to split-basing.

In as much as the administration's MX basing proposal has not met the burden of proof test, and cannot be fully operational until the late 1980's or early 1990's, I, therefore, must declare that I cannot support deploying the MX missile system in Nevada/Utah in the proposed horizontal multiple protective structure mode.

The requirements of our Federal system impose special responsibilities. As citizens of Utah, we are concerned for the way of life we have come to cherish, and we are committed to preserving it. As citizens of the United States, we are concerned for the security of our Nation, and we are prepared to do our part to defend it. When issues as complex and demanding as national defense are involved, these two commitments are inseparable. For on issues such as MX, we must give effective voice to our immediate concerns while at the same time educating ourselves to the wider aspects of policies whose consequences extend across States and across generations. Only in this way can we participate effectively in the crucial decisions that will shape our future, as citizens of our State, and as citizens of our Nation. It is within this context that I present my views to you today.●

Mr. GLENN. I would like to call for a vote on this. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. GLENN. Mr. President, I would make one last remark. By going to this mobile system we get the maximum deterrent effect at a cheaper cost. Those are the two bottom lines. The savings are at least $7 billion by the Pentagon's own figures. It could be as high as $13 billion. We get the maximum deterrence. We get a guaranteed retaliatory response. I think that is completely acceptable to the American people.

I am prepared to go to a vote if the other side is ready.

Mr. WARNER. We are ready for a vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Maryland (Mr. MATHIAS), the Senator from Oregon (Mr. PACKWOOD), the Senator from New Mexico (Mr. SCHMITT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The PRESIDING OFFICER. Are there any Senators in the Chamber who have not voted?

The result was announced—yeas 9, nays 80, as follows:

[Rollcall Vote No. 294 Leg.]

YEAS—9

Boren
Glenn
Gravel
Levin
Pell
Proxmire
Riegle
Stevenson
Williams

NAYS—80

Armstrong
Baker
Baucus
Bentsen
Biden
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Lugar
Magnuson
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Percy
Pressler
Pryor
Randolph
Roth
Sarbanes
Sasser
Schweiker
Simpson
Stafford
Stevens
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Young
Zorinsky

NOT VOTING—11

Bayh
Bellmon
Goldwater
Kennedy
Long
Mathias
Packwood
Ribicoff
Schmitt
Stennis
Weicker

So Mr. GLENN's amendment (UP No. 1397) was rejected.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT TO CHANGE THE BASIS FOR CALCULATING RETIRED PAY FOR MILITARY PERSONNEL

Mr. HEFLIN. Mr. President, a great deal has been spoken and written recently regarding the growing concern for the state of our Nation's military readiness. Recent events in Iran, Afghanistan, and elsewhere in the world have served to crystalize this concern—and appropriately so. The threat facing our Nation has never been greater.

We are confronted by a decade of immense challenge which will call for supreme sacrifice and commitment. We have recently approved a budget which tangibly reflects our feeling that more money must be allocated to defense needs. However, we must not lose sight of the fact that hardware is only half of the defense equation—people are the other, and ultimately the more important, half of the equation.

Mr. President, I am not going to offer an amendment to the committee bill this morning to restore the current system of computing retired pay for military personnel, but I would like to make a few comments about the changes the committee proposes to make in the way retired military pay is computed.

It is my understanding that the committee amendment would change the basis for calculating retired pay for members of the uniformed services of a system whereby the average of the highest 3 years of pay is used to compute their retirement benefits rather than using the present system of basing retirement benefits on the final basic pay rate.

I understand that this action was taken because the committee feels that the cost of paying retirement benefits to our military personnel is high and is increasing and that the committee wants to increase pay for military personnel while they serve, instead of after their careers are completed. I also understand that the committee amendment includes a provision that would continue the current practice of calculating retired pay on the basis of final basic pay for all members with 10 or more years of active service.

Mr. President, while I understand and appreciate the committee's concerns, it seems to me incongruous that at the very time we are experiencing such difficulties in recruiting and retaining qualified service members, a major reduction in the overall benefit package would be proposed and seriously considered. In my judgment, transferring money from deferred compensation, such as retirement, to current compensation merely exchanges one deficiency for another and does not address the overall inadequacy of military compensation, which is a recognized problem the services are facing today.

Certainly, it is widely recognized and accepted that current military pay levels are inadequate to attract qualified personnel, as is witnessed by the strong debate over the inability of the Army to attract high school graduates. When a young man out of high school can make more money working in a fast-food restaurant than a mid-level noncommissioned officer can make working perhaps twice as many hours per week, then it is little wonder that we are having difficulty recruiting and retaining competent personnel.

Mr. President, the services' manpower problems are real and immediate. They cannot be washed away. In fiscal year 1979, for the first time in the history of the All-Volunteer Force, all services failed to meet their recruiting goals. We have reached the point where it requires a deep recession and massive unemployment to drive people into the services.

The retention picture is even worse. The Navy is tying ships to the dock because of a lack of qualified people to run them. The Air Force's pilot retention rate is only about half the figure needed to meet experience requirements. Reenlistment rates among career enlisted personnel have plummetted in the last 4 years, and retirement-eligible members—senior leadership and management resources—are leaving the services in increasing numbers.

This lost experience cannot be replaced, and we must act now to reverse these alarming trends. Already it will require years to train and season new replacements for the professional former careerists who have already departed.

For these reasons, Mr. President, I question whether shifting money out of retired pay into current pay is the proper course of action. Adoption of a system of determining retirement benefits based on the high 3 years of service would constitute a major reduction in the total compensation package and, in judgment, would cause a further degradation of morale and retention among service members.

Certainly, it would negate the beneficial retention effects of the Nunn/Warner amendment which this body so thoroughly supported just a few short months ago.

It is estimated by the Department of Defense that deterioration of retention would impact on the services recruiting requirements in a market that is already severely constrained. It is estimated, for example, that the loss of lifetime earnings and reduced career attraction would increase turnover 4 percent annually, thus requiring the Department of Defense to recruit as many as 40,000 additional members each year. The cost of recruiting and training these 40,000 additional members each year would seem to greatly offset any savings which might be realized in reducing the retired pay of members.

It is my understanding, Mr. President, that under the proposed change, typical enlisted and officer members stand to lose from 10 to 17 percent of their retired pay if the committee amendment becomes law. I am going to have printed a table showing a comparison of the current system to the high-three averaging and I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COMPARISON OF CURRENT SYSTEM TO HIGH-3 AVERAGING

Grade YOS	Initial annual retired pay		Loss	
	Value under current system	Value if currently had high-3 averaging	Amount	Percent
Officer examples:				
O–4/20	$13, 252. 20	$11, 938, 32	$1, 313, 88	9. 91
O–5/20	15, 310. 80	13, 409, 10	1, 901. 70	12. 42
O–5/22	17, 431. 26	15, 265. 34	2, 165. 92	12. 43
O–5/26	20, 600. 58	18, 634. 82	1, 965. 76	9. 54
O–6/23	20, 595. 81	17, 891. 56	2, 704. 25	13. 13
O–6/26	25, 249. 38	21, 017. 65	4, 231. 73	16. 76
O–6/30	29, 133. 90	26, 353. 98	2, 779. 92	9. 54
Enlisted examples:				
E–6/20	6, 186. 24	5, 582. 34	603. 90	9. 76
E–7/20	7, 032. 96	6, 289. 16	763. 80	10. 86
E–7/22	8, 257. 26	7, 070. 36	1, 186. 90	14. 37
E–8/26	12, 193. 90	10, 126. 38	2, 067. 52	16. 96
E–8/28	13, 131. 89	11, 696. 61	1, 435. 28	10. 93
E–9/26	13, 651. 56	11, 457. 16	2, 194. 60	16. 07
E–9/30	15, 751. 80	14, 247. 45	1, 504. 35	9. 55

Basic assumptions: All members retire Mar. 31, 1981. All members have service anniversary on Oct. 1. Oct. 1, 1980, pay raise of 7.4 percent (current President's budget figure). Used actual fisca year 1977, 1978, 1979, pay rates.

Mr. HEFLIN. Mr. President, as can be readily observed just from a perusal of this table, a master sergeant E–8 with 26-years service would actually suffer a reduction of almost 17 percent per year in his retirement benefits if the high-three averaging system is adopted. It is hard for me to realize how a competent enlisted technician—say, for example, a computer specialist—with 8 or 10 years of service today can look at the action which is being proposed, can look at the salary and fringe benefit package available in a civilian market for someone with his skills, and still remain in the armed services.

Mr. President, a key attraction of the military compensation package has always been that a person could, if he so desired, retire in 20 years on a good basic pension and then could go about the job of making a living for his family. There are all kinds of plans being discussed, and indeed, the Senate has passed and sent to the House legislation that would revise the retirement system and extend the number of years a person would have to serve in order to earn retirement benefits. Can we now, even before that legislation is passed, take this precipitous action to arbitrarily reduce the amount of retirement pay that currently serving service members will be entitled to when they retire?

Mr. President, I know there are many arguments that can be made both in favor of and against the proposed amendment. As I mentioned, I do not intend to offer an amendment at this time, although I certainly hope that the House conferees and the Senate conferees will give this matter a great deal of attention, and I hope that this provision would be taken out of this act and deferred until a complete and thorough study has been done to determine just exactly what benefits to the defense establishment and to the country might accrue if such a change were made in the retirement system.

I think, upon closer scrutiny, the detriments will outweigh any proposed benefits, and in the long run, the decision will be made not to change the present system, or if it is changed, to integrate it with other changes in compensation to make sure that we do not work at counterpurposes to other initiatives we are taking to try to enhance the military as a career so that our recruiting and retention efforts will be bolstered and not weakened.

RAPID DEPLOYMENT SEALIFT FORCES

● Mr. JOHNSTON. Mr. President, some months ago, the President announced the formation of the rapid deployment joint task force. This force was established to better prepare our country to respond to threats to world peace, particularly in the critical Mideast region. Recent events in that area have underscored the importance of and immediate need for the rapid deployment force.

The RDF will be supported by the maritime prepositioning ship program. This program requires the construction of ships which will be prepositioned in critical areas of the world with military supplies and equipment for use in a time of crisis. The DOD Authorization Act we are considering today authorizes funds for the first maritime preposition ship, which will become operational in the mid-1980's, and also authorizes funds for long-lead procurement for a second ship.

The report of the Senate Armed Services Committee well summarizes this need for this program. It seems to me, however, that the situation in the world today demands a closer look at the feasibility of accelerating this program. The maritime prepositioning ship program can be accelerated by purchasing or obtaining through long term charter, commercial ships whose specifications either meet or are capable of being converted to meet the requirements of our sealift forces to project U.S. military power worldwide. There are several advantages of doing this: First, such ships can be put into service more quickly, significantly increasing our near term sealift capacity. Second, significant program cost savings can accrue through avoiding out-year inflationary price increases. Third, a signal to the world will be sent that we are ready and able to protect our interests wherever a crisis may arise.

The conversion option is a practical alternative source for some of the ships we need. I have been informed, for example, that there are commercial ships now under construction which will be available for this purpose. Thus, I urge DOD to consider this acceleration option.●

NATO

● Mr. LEVIN. As the Senate concludes consideration of its version of the fiscal 1981 defense budget, I would like to call special attention to a provision of this bill which I authored and which I think highlights the concern of many in this body, as well as of the American public, about the willingness of our NATO allies and Japan to shoulder more of a burden in their own defense and to contribute to the costs of maintaining American forces in their nations.

I wonder if I might ask the distinguished floor manager of the bill whether I have accurately characterized the feelings of our committee about this provision in the bill, section 803 on allied defense commitments, and about how strongly the committee feels that our NATO allies and Japan should increase their defense efforts along with the renewed efforts of the United States.

Would he agree with this interpretation of this provision, which I would ask be inserted into the RECORD at this point along with that portion of the committee report explaining our reasons for adding it to the bill at my initiative?

Mr. JACKSON. I am happy to agree with my colleague from Michigan and commend him for his sponsorship of this bill and report language.

The material follows:

ALLIED COMMITMENTS REPORT

SEC. 803. (a) The Secretary of Defense shall submit a report to the Congress each year at the time of submission of the budget for the Department of Defense describing the degree to which the United States and its North Atlantic Treaty Organizations (NATO) allies have met, in the preceding fiscal year, the 3 percent annual real growth commitment to NATO defense and their commitments to accomplishment of the NATO Long Term Defense Program. Such report shall include a description of efforts being made by the United States to ensure that all members of NATO fulfill these mutual defense commitments.

(b) The Secretary shall also include in the report described in subsection (a) a description of the defense cost-sharing arrangements within NATO and with Japan. and a report on comparative spending by the United States, its NATO allies, and Japan expressed on a per capita basis, together with an explanation of any disparities in such spending. The Secretary shall include in such report an explanation of any measures being undertaken by the United States to equalize the sharing of defense burdens with its NATO allies and Japan.

(c) It is the sense of Congress that the President should seek, through appropriate bilateral and multilateral arrangements, reasonable and adequate contributions from nations in which substantial United States forces are stationed and operate if such nations do not now adequately contribute to the direct payment of the costs of operations and support of United States forces and the host-nation support program.

SEC. 203. ALLIED DEFENSE COMMITMENTS

The committee adopted bill language concerning the commitments by our Allies to their own defense programs and to the support of mutual defense efforts with the United States.

In light of the Soviet invasion of Afghanistan and the increased instability in the Persian Gulf region, as evidenced by the continued incarceration of American diplomats in direct violation of international law, the United States has undertaken expanded national and international security responsibilities in the Persian Gulf to protect the common interests of itself and its Allies. Meeting these expanded responsibilities already has required, and will continue to require, increased defense expenditures on the part of the United States, whose NATO Allies and Japan will be major beneficiaries of these efforts. Complicating the effort to make these increased defense expenditures is the fact that the cost to the United States of maintaining and improving the strategic nuclear umbrella for its own security and the security of our NATO Allies has dramatically increased and major new strategic modernization programs will consume substantial resources in the future.

The committee notes that the United States already spends substantially more yearly on defense, on a per capita basis, than its NATO Allies and Japan, and that U.S. defense spending annually as a percentage of Gross Domestic Product greatly exceeds that of the NATO average and even more so that of Japan. The Gross National Product per capita of several NATO countries and Japan approximates or even exceeds that of the United States, meaning these nations can afford to commit larger amounts to mutual defense efforts.

Therefore, considering both the Soviet invasion of Afghanistan and the potential for instability in the Persian Gulf region, and because of the sustained growth in Soviet defense spending over time, the committee believes it has become even more important for the United States and its NATO Allies to fulfill their pledge to increase their annual defense spending by three percent after inflation to carry out the Alliance's Long Term Defense Program. The committee further believes it is more important than ever for Japan to significantly increase its defense spending as a percentage of GNP. While the committee acknowledges that at NATO's last Defense Planning Committee meeting, in May, 1980, most of the Alliance's members renewed their pledges to meet the 3 percent real growth commitment for 1980, reversing initial plans in some cases, and to accelerate their programing for implementing the later phases of the Long Term Defense Program, both in light of the Soviet invasion of Afghanistan, it nevertheless is concerned that economic conditions not undermine these resolves, as they threatened in part to do in late 1979. One area of particular importance and concern is the provision of enough NATO infrastructure funding for U.S. reinforcement forces and war reserve stocks. The committee believes the lack of increased funding could seriously hinder mid-term improvements in the readiness and sustainability of NATO's forces.

The Secretary of Defense has reported that the United States engages in negotiations with other nations in which our forces operate in an effort to secure their agreement to increase their contributions to paying the operating and support expenses of these forces in peacetime, as well as to increase provision of "host nation support" to reinforcing U.S. forces in wartime. Unfortunately, progress and results in these negotiations have been less than desirable, and the United States has failed even to initiate such discussions with some nations in which our forces operate.

The committee believes that the other members of NATO should meet the 3 percent real growth commitment in 1980 and later years; expand their programing to accelerate the LTDP even beyond those efforts agreed to in May, 1980; increase their contributions to the NATO infrastructure program and to the host nation support program; and to specifically increase their defense efforts in Europe to maintain an adequate defense even if the United States is engaged in protecting the interests of the Alliance and Japan in the Persian Gulf region. The committee believes that Japan should increase its defense spending significantly beyond what it now spends on defense as a percentage of Gross National Product, in recognition of the U.S.'s expanded efforts on its behalf in the Persian Gulf region; and increase its contributions to paying the operations and support costs of U.S. troops in Japan.

To underscore its concerns, the committee, as part of the Fiscal 1981 Defense Authorization Act, has directed the Secretary of Defense, in an annual report to the Congress, to evaluate the degree to which the United States and its NATO Allies are meeting the 3 percent annual real growth commitment and their commitments to accomplish the LTDP, including any reasons why they are failing to meet these obligations and what the United States is doing to encourage fulfillment of these commitments. It also directs the Secretary to report to the Congress on an annual basis the scope and composition of burden-sharing within the NATO Alliance and with Japan, including an explanation of disparity in per capita defense spending between the United States and its NATO Allies and Japan.

Finally, the President is urged in law to seek, through appropriate bilateral and multilateral arrangements, to open negotiations with any nation in which U.S. forces operate and which does not contribute to their operations and support costs, with the goal of securing significant contributions to those costs, and to seek to re-open negotiations with any nation in which U.S. forces operate and which does make such contributions, with the goal of increasing those contributions. The Secretary of Defense is required to report to the Congress on an annual basis on U.S. efforts to correct remaining inequities.●

Mr. HUMPHREY. Mr. President, the military defense authorization bill contains a provision for replacing 100 Minuteman II missiles with 100 Minuteman III missiles.

I ask unanimous consent that a "dear colleague" letter on that point, as well as a factsheet, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEE ON ARMED SERVICES,
Washington, D.C., June 27, 1980.

DEAR COLLEAGUE: I ask for your support in opposing floor actions to delete deployment of 100 stockpiled Minuteman III Intercontinental Ballistic Missiles (ICBMs) from the FY 1981 Defense Authorization Bill. The Senate Armed Services Committee voted overwhelmingly, 13 to 4, in favor of deploying these ICBMs which are in warehouse storage. The Committee stands behind this action. Each Minuteman III carries 3 accurate Multiple-Independently-targetable Reentry Vehicle (MIRV) warheads, and they would replace 100 Minuteman II ICBMs, carrying only 1 warhead each. The Minuteman IIIs would go into existing Minuteman II silos.

There are six main reasons for supporting the Committee action:

1. Deployment of 100 stockpiled Minuteman IIIs would maximize the number of our surviving warheads. The 200 additional warheads will increase our survivable ICBM warheads by 10 percent and our hard target capability by 14 percent.

2. It is fully consistent with the SALT II MIRV missile launcher aggregate of 1,200. It entails Functionally Related Observable Differences, consistent with Soviet verification concerns. Procedures for converting MIRV back to un-MIRVed launchers are still to be negotiated in the SALT Standing Consultative Commission. It will give the U.S. better leverage for enforcing Soviet compliance with SALT II and in negotiating SALT III. The Soviets evidently plan to remain well over the SALT II ceilings of 2,250 delivery vehicles pending ratification of SALT II.

3. The cost is minimal, only $10 million in 1981 and $34 million more in 1982—$44 million total. Each warhead will cost only $147,000 to deploy, clearly the cheapest increment of warheads ever deployed. This low cost is largely because the missiles, warheads, and silos are already procured, at the cost of over $500 million. This expense would be essentially wasted if we allow these expensive missiles to remain in warehouses.

4. There would be sufficient Minuteman IIIs left—43—to ensure adequate reliability flight testing through 1986, when the survivability of our entire ICBM force will improve with MX deployment.

5. The Soviets are known to have already produced over 100 SS–16 ICBMs, which also have mobile launchers. These missiles and launchers do not count in SALT II. The Soviets maximize the military potential of their stockpiled missiles by providing them with launchers.

6. It is a modest step for the U.S. to deploy 200 additional warheads, when the Soviets have been adding over 1,000 warheads a year for the last six years, a rate which will continue for the next six years.

Sincerely,

GORDON J. HUMPHREY,
U.S. Senator.

ANNEX: THE FULL ARGUMENT FOR ADDITIONAL MINUTEMAN IIIS

I ask for your support in opposing any floor actions to delete deployment of 100 stockpiled Minuteman III Intercontinental Ballistic Missiles (ICBMs) from the FY 1981 Defense Authorization Bill. The Senate Armed Services Committee voted overwhelmingly, 13 to 4, in favor of deploying these extra ICBMs. The Committee stands behind this action. Each Minuteman III carries three accurate Multiple-Independently-targetable Re-entry Vehicle (MIRV) warheads, and they would replace 100 Minuteman II ICBMs, carrying only one warhead each.

There are 14 strong arguments supporting the need to deploy 100 extra Minuteman IIIs:

(1) The press reports that the Commander of the Strategic Air Command has testified recently that since 1977, the U.S. has lost strategic "essential equivalence" with the Soviet Union. Most strategic experts agree. How did this happen to America?

There are three basic reasons for our loss of essential equivalence. First, the number of U.S. warheads has been frozen since 1976. No new warheads have been added since then. Second, since 1976, U.S. intelligence has grossly under-estimated the growth of the Soviet counterforce threat to the U.S. in the early 1980's. U.S. intelligence has been consistently underestimating the quantity and quality of Soviet strategic forces for the last 18 years. Third, partly because of these disastrous intelligence underestimates, we have cut back our own strategic programs: the B-1 bomber was canceled, the new MX ICBM's development was delayed for 3 years, construction of our new Trident submarines and development of our new cruise missiles was delayed two years, Minuteman III and Short-Range Attack Missile (SRAM) production was terminated, and we canceled plans to deploy 50 extra Minuteman IIIs. We have scrapped plans to add over 7,000 warheads by 1985.

(2) U.S. loss of essential equivalence is also due to the huge Soviet strategic effort:

(a) They have spent over $100 billion more than the U.S. on strategic forces alone since 1969—2½ times more per year.

(b) 8 types of Soviet ICBMs are now in production, compared to none for the U.S.

(c) Since 1969, the Soviets have added over 1,000 new missile launchers and over 250 new intercontinental bombers, while the U.S. has maintained a lesser number of missiles and deactivated over 250 B-52 bombers.

(d) Since 1974, the Soviets have been adding an average of over 1,000 additional warheads to their strategic forces each year, while the U.S. warhead number has been frozen for over four years, since 1976. Moreover, U.S. intelligence estimates that the Soviets will continue deploying an average of over 1,000 new warheads per year through 1985, fully within the terms of SALT II. This may be another underestimate. While the U.S. has canceled plans for 7,000 more warheads, the Soviets have added 7,000 and will keep on building.

(3) The SAC Commander has also testified that even after the now delayed MX, Trident, and air-launched cruise missile programs are finally fully deployed in 1989, we will still not regain essential equivalence.

The conclusion that we have deliberately planned to reject strategic parity and plan to sustain strategic inferiority to the Soviets throughout the entire decade of the 1980's is inescapable. Due to the long lead-times in strategic weapons developments, we may never be able to regain parity.

At least 5,000 more warheads, all of which are presently unprogrammed, would be required to return to essential equivalence with the Soviets. We especially need these warheads to be available before 1983 and to be capable of attacking hard targets.

(4) As noted, Soviet ICBM accuracy improvements and MIRVing rates will be almost 100 percent greater for the early 1980's than predicted in the 1976 National Intelligence Estimate, the year of the A Team—B Team competitive estimate. The Soviets will have increased their hard target capabilities against U.S. forces by over 500 percent by 1981. By 1985, the Soviets actually could have more warheads left unused after a counterforce strike that devastated U.S. forces than the entire total number of Soviet warheads available in 1977.

Our loss of essential equivalence is therefore due largely to the vulnerability of our ICBMs throughout the 1980s. But bomber vulnerability will become severe before 1985, and even now half of our SLBM leg is vulnerable and we are actually reducing the SLBM leg of our Triad. Moreover, our "window of vulnerability" spanning the years 1980 to 1989 will actually get worse in the next two years before it begins to get better in 1982. We are not yet at the depth of the trough of our inferiority. There is still time to reverse the adverse trends.

(5) So we need to maximize now the number of our surviving warheads. SAS says that 100 additional Minuteman IIIs adding a net total of 200 warheads will increase our survivable ICBM warheads by 10 percent and our hard target capability by 14 percent. These are very significant gains militarily. But even with 200 more hard target warheads, there are still far more Soviet hard targets than there are U.S. warheads capable of attacking them, even one-on-one. The 100 additional Minuteman IIIs would be only 4 percent of what we require in additional warheads to return to essential equivalence.

(6) Due to U.S. inferiority and vulnerability, the Soviets are already able to gain significant geo-political advantages by being able to credibly threaten initiation of nuclear war. The Soviets can now engage in nuclear blackmail for geo-political gain. The Soviets now have the strategic capabilities to control nuclear escalation at the intercontinental and theatre levels, thereby threatening to paralyze U.S. conventional responses to Soviet aggression.

(7) Adding 100 Minuteman IIIs is fully consistent with the now deferred SALT II MIRV missile launcher aggregate of 1,200. We will not reach 1,200 until 1982 or 1983. We plan to exceed the 1,200 ceiling anyway in 1984, as our 6th Trident submarine becomes operational. In addition, the deployment of the extra Minuteman IIIs would have Functionally Related Observable differences. Procedures for converting MIRV back to un-MIRVed launchers are not yet agreed in SALT II. If these procedures are necessary, they could be negotiated in the Standing Consultative Commission. Moreover, the deployment of 100 extra Minuteman IIIs will give the U.S. better leverage for enforcing Soviet compliance with SALT II and in negotiating SALT III. The Soviets are already well over 250 delivery vehicles over the SALT II 2,250 delivery vehicle aggregate, and they evidently plan to remain over indefinitely pending ratification of SALT II.

(8) The cost of deploying 100 more Minuteman IIIs is minimal, only $10 million in FY 1981 and $34 million more in FY 1982—$44 million total. It is extremely cost effective. At an average cost of only about $147,000 for each warhead, this will clearly be by far the cheapest increment of warheads ever deployed, largely because the missiles, silos, and warheads are already procured. Sufficient warheads already exist or are already programmed, and there would be no directly attributable warhead cost if missile retrofit is properly phased.

In contrast, each previous Minuteman warhead has cost about $19 million to deploy. Each SLBM warhead has cost over $7 million to deploy, and each bomber weapon cost over $31 million to deploy.

(9) Moreover, the existing spare 100 Minuteman III missiles have already cost over $500 million to procure. This expense would be essentially wasted if we allow these already procured expensive missiles to remain in warehouses. Why should we allow their expensive military potential to go unused, especially in a time of increased international tension?

(10) The survivability of the U.S. ICBM force will begin to improve somewhat in 1986, so it is not true that augmenting Minuteman is unreasonable due to its present vulnerability. If we keep out extra Minuteman IIIs through 1986, when the first MX missiles and shelters become operational, the survivability of our entire ICBM force will begin to rise significantly. This is because MX multiple shelters require the Soviets to expend more warheads in an attack, thereby diverting some warheads from targeting the Minuteman force. Conversely, our Minuteman force contributes significantly to MX survivability.

(11) The Soviets are known to have produced well over 100 SS-16 mobile ICBMs. Moreover, these missiles are known to be equipped with enough mobile launchers to launch them all. We do not even count them in the Soviet SALT II aggregate, yet they could be rolled out of their garages and immediately launched at any time. Thus, the Soviets maximize the military potential of their stockpiled missiles by providing them with launchers. We should do the same by deploying 100 Minuteman IIIs.

(12) SAC believes that there are sufficient Minuteman IIIs left after deploying the 100 extra Minuteman IIIs for adequate reliability flight testing through 1986. There would still be 43 Minuteman IIIs left for reliability testing, and reliability estimates would drop only a few percentage points. Thus, the 100 are not needed for reliability testing, as even Defense Secretary Brown has conceded in testimony.

(13) The Soviets are still massively building strategic forces. Minuteman III deployment is a small step toward returning to essential equivalence, and strategic equality was supposed to be enshrined in Salt II. It is merely a small boost in U.S. capability. Minuteman III deployment therefore in no way reduces the need for MX. MX would be needed even if we still had essential equivalence, in order to provide for a more survivable ICBM force and a better counterforce capability. It is a modest step for the U.S. to add 200 net additional warheads, when the Soviets have been adding over 1,000 warheads a year for over six years and for the next five years, fully within the context of the SALT II negotiations.

(14) In sum, Minuteman III deployment is an important signal. It signifies to the Soviets and to the world that America is finally beginning to reverse its strategic decline. The deployment of these extra missiles is therefore important both militarily and in terms of strategic perceptions.

In the aftermath of the Soviet invasion of Afghanistan, described by President Carter himself as the greatest threat to world peace since WW II, there should be no question that we need to add to our strategic arsenal. These missiles will help make America more capable of withstanding Soviet attempts at geopolitical intimidation.

DEFENSE DEPARTMENT FACT SHEET ON MINUTEMAN III BACKFIT INTO MINUTEMAN II SILOS

The Secretary of Defense and the Air Force Chief of Staff testified to the Senate Armed Services Committee on 5 June 1980 that they are opposed to deploying 100 Minuteman (MM) III missiles, replacing MM II's.

The additional warheads thus gained help the perception of national resolve, but this proposal does not address the basic problem of Minuteman survivability—attention should not be diverted from the basic survivability problem.

The MPS—based MX system coupled with a residual Minuteman force, remains the recommended solution to redress declining ICBM survivability.

The addition of 100 MM III's with the corresponding net increase of 200 warheads yields only a marginal increase in overall SIOP effectiveness.

Particularly true in light of projections for 1985–1990 MM prelaunch survivability estimates (assuming a U.S. ride-out of a Soviet first strike).

There are currently 127 MM III's remaining as test assets, plus 16 operational spares; 27 remaining test assets would be expended by about 1984 at the current launch rate of 7 flight tests per year.

Reduced launch rate could reduce statistical confidence in force reliability and accuracy.

If test assets were the only consideration, deployment of only 50 additional MM III's would be a more viable concept since remaining MM II and III test assets would be more closely balanced.

The proposed deployment would add additional MIRV'ed launchers to the SIOP forces.

The SALT II MIRV sublimit would be exceeded before this new MM III deployment was completed.

The U.S. would then be faced with selecting some of the MIRV'ed delivery systems for deposturing.

There would be an impact to DOE's capacity to support other DOD nuclear weapon programs.

Adjustments to and reprioritization within currently programmed stockpile and production plans would be required.

Limited life Component change out will be required for MK 12s which would remain deployed (those currently scheduled to be replaced with MK 12As).

Nuclear material now programmed for recycling from the MK 12s would not be available to DOE.

SENATOR HUMPHREY'S SPECIFIC REBUTTALS TO DEPARTMENT OF DEFENSE FACT SHEET ON MINUTEMAN III

The DOD concedes that deployment of 100 extra Minuteman III's would in fact help to bolster the perception that the U.S. is catching up to the Soviets in strategic power. This is a worthy thing to do, and is, in fact, required by the Secretary of Defense's own Posture Statements. Secretary Brown argues that we need to be perceived as equal to the Soviets in strategic power.

The additional Minuteman deployment would in fact increase our survivable warheads by 10 percent. This is a very significant gain in survivability. Just because it would not solve the entire ICBM vulnerability problem is no reason not to do it. We will still require the MX as soon as possible.

The DOD also concedes that Minuteman III deployment would result in a "marginal increase" in the effectiveness of our strategic forces. But a 14 percent increase in hard target capability is much greater than merely marginal. This is a very significant gain. But even marginal increases are worthwhile, if cost effective.

The DOD cites an estimate suggesting that between 1985 and 1990, our Minuteman force will not be very survivable. But we should be more concerned about the period 1980 to 1985. In this period our Minuteman force will not be quite so vulnerable, and this is the period in which we plan to add the Minuteman IIIs. Moreover, the Air Force has stated that our entire ICBM will become significantly more survivable after 1986, when MX deployment begins:

"Since the deployment of MX MPS would confront the Soviets with a strongly adverse exchange ratio and provide a significant surviving U.S. retaliatory ICBM force . . . this should deter the Soviets from attacking the U.S., including the Minuteman force, in the first place . . ."

There will be a significant growth in the survivability of our ICBM force after 1986 with MX deployment. The above Air Force statement highlights the contribution which augmenting and keeping the Minuteman force makes to force-wide ICBM survivability. Our Minuteman force adds significantly to MX and force-wide survivability, by requiring Soviet targeting.

Regarding test assets remaining, SAC has assured me that deploying the 100 additional Minuteman IIIs will reduce our confidence in Minuteman III reliability by only 10 percent. This is a small reduction, and could be partially compensated for by using the replaced 100 Minuteman II as test assets. Slightly reduced reliability is worth the 10 percent increase in survivability and the 14 percent increase in hard target capability. Moreover, there would be 43 Minuteman IIIs remaining, not the 30 I originally believed. The existing test rate of 7 per year could therefore be sustained through 1986.

The SALT II arguments posed against Minuteman III deployment indicate that the United States is indeed stuck with complying unilaterally with an unratified Treaty. Moreover, the DOD has neglected to inform the Congress that existing U.S. force structure plans require the United States to break the 1200 MIRV launcher ceiling in 1984 anyway, when our 6th Trident submarine comes in line.

Thus, the principle that we are going to exceed the 1200 limit has already been established by the DOD's Trident submarine construction plan.

We would therefore have to deactivate some Minuteman IIIs or Poseidons in 1984 in any case. We should come to grips now rather than later with the problem of what to do about SALT II's constraints on U.S. force plans. If SALT II does in fact constrain U.S. forces, then we need to either ratify or reject SALT II. We cannot go on forever unilaterally complying with the Treaty without the advice and consent of the Senate, especially when the Soviets do not seem to be complying with SALT II themselves.

They are reportedly heavily encrypting their new Typhoon SLBM, and they are reportedly camouflaging their new giant submarine. These actions should be regarded as clearcut Soviet violations of SALT II.

Regarding the availability of warheads, I have been assured by both DOE and SAC that sufficient warheads are already available, and that there would not be any warhead problems entailed in deploying the 100 extra Minuteman IIIs. Moreover, the Armed Services Committee has requested that the Minuteman III deployment be phased so as not to disrupt the supply of warheads for other programs. So if any unforeseen warhead problems did develop, we could cope with them.

In fact, however, we should be increasing our warhead production and testing capabilities for the MX, Trident, ALCM, GLCM, SLCM, Pershing II, neutron shell, Lance II, and so forth, which are required for our strategic and theatre nuclear force modernization programs. The strategic force modernization and theatre nuclear force modernization programs are among our highest national security priorities, and we must be able to produce and test new warheads for these programs.

POINT PAPER ON MINUTEMAN III

COMMITTEE REPORT LANGUAGE

Deployment of Additional Minuteman III Missiles:

The committee recommends authorization of $10.4 million for the Air Force to deploy 1700 Minuteman III missiles currently in storage in existing Minuteman II silos. The committee recommends the Air Force to phase the retrofit rate in fiscal year 1981 and fiscal year 1982 in such a way as to minimize any disruption of the DOE's warhead fabrication and reprocessing capabilities.

At a cost of $10 million in FY81 and $44 million total this is an extremely efficient way to increase our number of ICBM warheads and survivable ICBM warheads by 10 percent.

Not all scenarios of strategic nuclear exchange involve a "bolt out of the blue" surprise attack on our ICBM fields, thus survivability rates would be much higher than 10 percent under some scenarios.

The Department of Energy has testified that it is possible to produce sufficient strategic nuclear materials for these warheads although there is some possibility of an increased chance of disruption of other programs. If that should occur, a decision could be made to deploy fewer Minuteman IIIs, increase retirement of older weapons in the stockpile or slow other programs. The committee has requested that this program be phased so as not to disrupt other programs.

This action does not violate SALT II and the U.S. can consider action to be taken if and when, several years from now, any SALT ceiling creates difficulties.

Then-Secretary of State Vance has stated that conversion of MIRVed missile launchers is permitted under SALT II, so that Treaty does not forbid later conversion of Minuteman III launchers to Minuteman II launchers.

Opposition to this amendment on SALT grounds is another example of preemptive, unilateral arms control.

This action in no way reduces the requirement for MX.

The 350 Minuteman IIs remaining would be more than adequate for any targets which could best be covered by the larger single warheads.

Deploying extra Minuteman IIIs highlights the need to begin planning to adapt the Minuteman III into a single warhead missile to modernize the Minuteman IIs in the late 1980s.

● Mr. MOYNIHAN. Mr. President, I would like to call the attention of the body to a small but highly important recommendation made to us by the Armed Services Committee. The bill before us funds advanced procurement of the A–6 attack plane in fiscal year 1981. Since the administration proposed to cut funding for this program altogether, with the resulting danger that the production line of this valuable airplane might be closed. I believe the committee should be commended for its action.

The A–6 stands out among the aircraft we are procuring today in a number of important ways. Although it seems to have become our practice to introduce successive generations of wholly new weapons systems, some of which prove disappointing to us once deployed. the intruder program has followed a different course—of steady improvement and refinement (one could even argue, perfection) of its capabilities. This is, we ought to note, much more the Soviet pattern of procurement, and we might do well to emulate it: it has certainly proved itself in the case of the A–6.

Mr. President, we are perhaps only beginning to realize the full importance of the A–6's capabilities and its superiority to many other elements of our arsenal. The difficulties of defending

American interests in areas where our forces are thinly stretched and tenuously supported, have recently been driven home to us, and this has made the range, the payload, the sophisticated capabilities of this plane all the more valuable to us. It is not too much, I believe, to think of the A-6, with its many other roles, as our energy security plane.

In light of this contribution to our defense, there should be no doubt that we need to continue production of the A-6. This year, for budgetary reasons, the Armed Services Committee has only been able to recommend advanced procurement for six aircraft, but its report notes that they will "be fully funded in the fiscal year 1982 budget request if the Navy believes these aircraft are required at that time." Mr. President, as the committee's report itself informs us, the Navy has already made this judgment in its planning for 1982 and beyond. It recognizes, as I believe we must, and as our colleagues in the House already do, that the A-6 meets a need we cannot afford to ignore.●

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment, as amended, and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

Mr. TOWER. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. Mr. President, the Senator from Colorado wishes to address the Senate for 10 minutes, I believe, or 5 minutes, prior to final passage.

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator?

Mr. JACKSON. Yes; to the Senator from Colorado.

Mr. HART. Mr. President, I will not test the indulgence of my colleagues for more than a few minutes. I know they are anxious to go to final passage. But I believe this subject is one that we will have to face as a body, eventually.

Mr. President, this 1981 military procurement bill has about $1.7 billion for the purchase of F-78 aircraft. I believe the Senate should delete from the bill $1,672.4 billion for 60 F-18 aircraft, and substitute $1,689.4 billion for 48 F-14 aircraft, 12 A-6 aircraft, and 18 A-7E aircraft—a total of 78 naval aircraft.

As my colleagues are aware, I have challenged the F-18 program for the past 2 years. I strongly believe we should delete the F-18's in the bill, with the objective of terminating the F-18 program, and authorize substitute aircraft. We should make a firm commitment to replace planned F-18's and A-18's with other, better, Navy fighter and attack aircraft on at least a one-for-one basis.

The cost overruns and technical failures in the F-18 program over the past year have made obvious what previously could be concealed: the F-18 is a failure.

In previous years, I have attempted to point out to the Senate the inherent conceptual flaws in the F-18 program. These flaws still exist. While the technical failures of the F-18 exacerbate them, they would exist even if the F-18 met all its performance specifications.

The first conceptual flaw in the F-18 program is that it commits us to a new generation of Navy aircraft which depend on relatively large aircraft carriers. In my view, we should instead be rapidly developing V/STOL aircraft which can operate off small carriers and even surface warships, so as to disperse our sea-based airpower.

This is not to say we do not need catapult aircraft for our existing large carriers. We do need such aircraft, and this amendment provides for them. It provides more and better aircraft for those ships than will the F-18 program.

It is also possible that smaller carriers, down to about 40,000 tons, may be able to carry CTOL aircraft. Again, this amendment and the program it represents provides for that. These 40,000-ton carriers would receive F-14's, A-6's, and A-7's in lieu of the F-18—again, better aircraft than F-18's and A-18's.

While 40,000-ton carriers may be able to use CTOL aircraft, V/STOL would give us still more flexibility. We have in the fleet today 12 V/STOL carriers—5 LHA's and 7 LPH's. These ships cannot use CTOL aircraft, but with V/STOL aircraft, they can become multimission ships. We have many surface ships which could carry one or two V/STOL aircraft, which would be invaluable for radar early warning, targeting cruise missiles, and ASW. Again, no CTOL aircraft can fly from these ships. We have in our merchant marine many containerships which could be converted in wartime to light carriers with V/STOL aircraft—but not with CTOL aircraft.

If we want a flexible Navy, we must perfect V/STOL technology. We must, and can, provide CTOL aircraft for existing carriers. We do not need the F-18 for that. And we certainly do not need a new generation CTOL aircraft, locking us into dependence on a relatively small number of carriers. The next generation of Naval aircraft should be V/STOL.

Paradoxically, the F-18 not only locks us into a smaller number of carriers than we need, it also weakens those carriers, because it is an inferior aircraft. A combination of F-14's A-6's and A-7's, will provide more capable air wings for our carriers than will the F/A-18.

The main threat to the carrier from the air is massed missile attacks, not enemy tactical aircraft with iron bombs. Thus, we need an interceptor aircraft rather than a fighter. We need an aircraft which can engage several incoming antiship missiles simultaneously.

The F-14 can do that. With its Phoenix missile, it can track and shoot down as many as six incoming missiles at once.

The F-18 is only a fighter. It can only take on missiles one at a time.

The attack version of the F-18, the A-18, also weakens the carrier. Last year, the Congressional Budget Office naval issues paper pointed out that an equal deckspace load of A-18's is less capable than a load of the existing A-7. Yet the A-7 costs $12.3 million per airplane, compared to $26 million for an A-18.

The A-6 is slightly more expensive than the A-18, but it is vastly more capable. It is an all-weather aircraft, which the A-18 is not. Do we expect the Soviets to wait until the weather is good, so we can use our A-18's?

Again, my proposal does not just cancel the F/A-18. It substitutes other, more effective aircraft for the F-18. It increases the number of aircraft for the Navy, at about the same cost. Coupled with the recommendations in this bill for the AV-8B and AV-8B+ V/STOL aircraft, it insures the Navy will get the best possible CTOL aircraft while moving toward V/STOL.

Many Senators are probably aware that the F-18 program is running into tremendous difficulties, both technical and cost. This is not new, but the shocking magnitude of the problems which have arisen in the past year have given new and needed attention to the technical weaknesses of the airplane.

As early as 1975, Mr. George Spangenberg, the highly respected former Director of the Evaluation Division of Naval Air Systems Command, testified that:

> Summarizing, it is clear that the F-18 is neither effective, nor cost effective, in either fighter or attack roles. It is vastly inferior in capability to the F-14 at about the same total cost, somewhat less capable and considerably more expensive than the (20 year old) F-4, and is inadequate in range and more costly than the A-7. There is no justification for continuing this program.

Also in 1975, Senator GOLDWATER testified to the Senate Defense Appropriations Subcommittee:

> I recommend the F-18 program not be approved because other alternatives appear to offer the Navy a more effective fighter and attack force. I have stressed my concerns over F-18 program costs but it is not the estimated total amount that bothers me as much as what we will get for that amount. For example, we will be better sticking with a proven system like the F-14 whose capability and cost, although high, is known and in hand rather than proceeding with an unknown.

In recognition of the deficiencies of the F-18, the Navy moved in 1977 to cancel the program. In a memo to the Secretary of Defense, the Navy stated:

> The major maritime air threat of the 1980s is the Backfire bomber . . . the Navy must be capable of defeating or deterring this threat. It is clear that the F-14 offers such a capability. The F-18 does not . . . the F-18 is not, as is often stated, a lower cost complement to the F-14. It is rather a low capability substitute . . . The F-18 cannot replace the F-14. Even if used only for unilateral intervention, the Navy must be able to face down Soviet naval intervention. This requires F-14-like air defense effectiveness which the F-18 does not have. The F-18 (A-18) won't be much different from the A-7E in attack effectiveness except for survivability (better), payload versatility (worse), and fuel required (worse) if the performance advantage is used.

In 1978, then Secretary of the Navy W. Graham Claytor stated before the Senate Armed Services Committee, when asked his personal opinion about the F–18:

> My personal view was, and still is, that if I were making the decision right down to the limitation on the budget that we foresee, I would be prepared, I would prefer to go with an all F–14 Navy fighter force, use extended A–7s for Navy light attack, and the AV–8B for the Marines and get by without the F–18.

Pilots echo these sentiments. In 1979, one Navy pilot wrote to Aviation Week:

> The F–18 was designed to be a small, low-cost complement to the Navy's F–14 force. These design criteria were evidently not attained, since the aircraft is neither small nor low cost. When and if the F–18 enters the inventory five years from now, it will barely be able to compete with the MIG–23, a threat that today has been operational for nearly half a decade . . . My opinion is shared by the vast majority of tactically current fighter crews with whom I have been associated in the past few years. It was reemphasized as a consensus by the cream of the crop of naval fighter aviation during the 1976 Fighter Symposium—yet no one seems to want to listen.

A Marine pilot wrote in the June 23, 1980, issue of Aviation Week:

> Re F–18 roll rate (AW&ST May 19, p. 107) —now let me get this straight: it doesn't have the range they said it would, doesn't have the endurance they said it had, doesn't have the speed it needs and now you're telling me its roll-rate doesn't meet specs . . . A roll rate of 160 deg./sec. is absurd! The MIG–17, long the standard for an inadequate roller, can beat those figures. In the same breath you tell me that (McDonnell Douglas) offers a fix—it'll just weigh more. Real fine. It appears to me the only spec this aircraft has exceeded is the flyway cost.
>
> From my point of view, and I'm only a dumb Marine fighter pilot who'll have to fly this machine, I'd like to know who's running this lash-up? Is there anyone involved in the F–18 project that has a lick of common sense? Considering the cost (is it above $25 million now?), basic systems inadequacies and the ultimate deficiency—a single-seat fighter—it's my opinion this is not the fighter the Corps or the Navy needs. Someone has to call a halt to this deal, give the project aircraft to Dax River or the Blue Angels and chalk up the investment to lessons learned—then build the fighter community a fighter that does what it says it can!
>
> If you print this, please don't use my name—I'm up for promotion this fall.
>
> Marine fighter pilot.

Those who have judged the F–18 on its merits, with political considerations aside, appear to be agreed the program should be canceled.

Events of the past year have brought the technical and cost failures of the F–18 more into the open. As early as last August, it was reported, quoting a test official at the Patuxent River Naval Air Station, that "The F/A–18's are having to come home before their F–4 chase aircraft, ' suggesting a serious deficiency in the range of the F–18. The Navy denied reports of a range shortfall of 20 to 50 percent and stated, "we believe we are looking at a range degradation of between 10 percent and 12 percent." A 10 to 12 percent range shortfall is not a minor problem. In addition, reports of range degradations substantially in excess of 10 to 20 percent have persisted.

Also in August, it was reported the F–18 was not meeting its specifications in regard to acceleration. Since air combat capability depends largely on "energy maneuverability"—the ability to gain and lose speed quickly—a shortfall in acceleration is most disturbing.

In April of this year, it was reported Navy was amending the acceleration specification, reducing the requirement to what the aircraft could obtain. The weight specification was also to be changed, to accept a weight increase of 1,000 pounds.

Most recently, severe problems with the F–18's wing have been reported. While the contractor insists the current wing can be successfully modified, other reports suggest a need for a completely new wing.

As Armed Forces Journal reports in its July issue:

> F–18 skeptics within the Navy say this about the plane: "It was supposed to be a lightweight, low cost fighter. Well, it ain't lightweight; its cost isn't low; and it sure as hell isn't a fighter."

Cost has understandably become a major issue. While the F–18's performance has been slipping, its cost has been rising dramatically. Despite a major increase in the planned buy, from 800 to 1,377 aircraft—a move which should have reduced unit costs substantially—the "fly-away" cost per aircraft has risen in constant dollars since fiscal year 1977. For fiscal year 1981, the procurement cost of the 48 F–18's in the President's budget was projected at $33.7 million. In contrast, the procurement cost of the F–14, with a smaller buy, was $32 million—less than the F–18. We are of course assured the future-year unit cost of the F–18 will be less, but we have been assured that every year, and every year the cost of the program rises.

In fact, costs in the past year not only went up about $5 billion in what has been reported to Congress, but may have gone up yet another $5 or $6 billion above that—increases not yet reported. One high-ranking Navy officer was recently quoted as saying:

> This means that the Navy's F–18 program is now close to the cost of the Air Force MX, and it is causing lots of congressional questions.

Well it should.

Unfortunately, it appears not enough questions are being asked in Congress, since this bill not only approves the 48 F–18's requested by the administration, it adds 12 more.

It appears the Congress may itself face some serious questions on the F–18, since it may end up being the goat. On May 22, Secretary of the Navy Hidalgo reportedly sent a letter to Secretary Brown stating, "escalating costs * * * have raised serious questions in my mind" about the F–18, and "even the disturbing possibility of canceling the F/A–18" has been considered. OMB has said canceling the program is an option it is preparing for President Carter—the same OMB which rammed the F–18 down the Navy's throat in 1977. One senior OMB official is reported to have said:

> None of us in our wildest nightmares would have predicted then (in 1977) the problems the plane has run into. It's totally contrary to all of our recent experience in fighter aircraft.

Thomas P. Christie, the Deputy Assistant Secretary of Defense for General Purpose Programs, recently told Armed Forces Journal, "We are looking at the option of terminating."

If one adds together the reported and unreported program cost increases, the F–18 program cost has gone up 38 percent since the beginning of this year.

How long is the Congress going to hold the bag on this one? The Navy, the Defense Department and OMB are all seriously considering canceling the program. The costs are out of control, the performance continues to decline, and better aircraft are available at equal or lower cost. This amendment gives us those better aircraft, and in greater numbers for the same cost.

I urge my colleagues to consider seriously the proposal I have offered.

Mr. President, I do not intend to take this to a vote, but I hope my colleagues will give this matter serious consideration. It is a matter that is going to cost the taxpayers of this country billions of dollars and will not make the country any stronger.

Mr. President, I ask unanimous consent to have printed in the Record an article published in the June 30, 1980 issue of Aviation Week and Space Technology, entitled "Options on F–18 Cancellation Weighed."

There being no objection, the article was ordered to be printed in the Record, as follows:

Options on F–18 Cancellation Weighed

Washington.—Cancellation of the Navy/McDonnell Douglas/Northrop F–18 air combat fighter is being weighed within the Executive branch of government, and President Carter may have to face the decision in the fall to terminate the program, according to White House officials.

Office of Management and Budget (OMB) officials are delving into potential fighter and attack replacement aircraft and comparing costs if the F–18, and its A–18 attack version, are canceled. The replacement aircraft and cost estimates include:

Grumman F–14 air superiority fighter at a cost of $22.1 billion for 725 aircraft. Of this total, $11.2 billion would be earmarked for 232 F–14s required by the Navy to maintain 18 squadrons of F–14s already planned for the fleet.

McDonnell Douglas AV–8B Advanced Harrier vertical/short takeoff and landing (V/STOL) aircraft for the Marine Corps at a $6.1-billion cost for 322 Harriers, including research and development costs beyond Fiscal 1980.

Vought A–7, with two versions of the aircraft for Navy carrier operations. The service would procure 36 of the present A–7E production-line aircraft at a cost of $400 million to keep the line open for three more years, and then buy a twin-engine version of the aircraft with the General Electric F404 at $5.9 billion for 453 aircraft, including research and development costs.

The current buy of 491 F–14s will support 18 squadrons only through 1986. Using the current attrition rate of 5.3 percent a year, the Navy would lose one squadron per year after 1986, although plans are to maintain 18 squadrons through the year 2000. The present buy is for 24 aircraft in Fiscal 1982, 12 in Fiscal 1983, six in Fiscal 1984 and none in Fiscal 1985.

COST COMPARISON

The comparison being made by OMB includes what officials in the Defense Dept. describe as "to go costs." That means comparing the $25.5 billion in the last selected acquisition report from the Pentagon to the Congress for 1,332 F–18s without recoupment of previously sunk costs.

"What that does not include," one Pentagon official said, "is an approximate increase of $6 billion in the upcoming SAR, which brings the total to $31.5 billion for 1,300 F–18s. It does not take into account a cutback in production quantities in Fiscal 1982 and 1983 recently submitted in the Navy program objective memorandum and five-year defense plan." Those production delays, if implemented, will further drive up the F–18 program costs.

The recommendation to stretch out the F–18 production in Fiscal 1982 comes at the same time the House and Senate Armed Services committees added funding to the Fiscal 1981 defense authorization bill to increase F–18 production.

In the Navy's Fiscal 1982 program objective memorandum, which Navy Secretary Edward Hidalgo sent to Defense Secretary Harold Brown May 22, the service detailed its dilemma: "The aircraft procurement account is in jeopardy in several important respects," Hidalgo said. He added that "the escalating costs of the F/A–18 have raised serious questions in my mind." Hidalgo also said that the Navy can buy an average of only 230 aircraft annually for both Navy and Marines, about 100 short of what is needed to meet attrition and to maintain the force structure. In the near term the problem is worse, Hidalgo explained, because the service will buy only 199 aircraft in Fiscal 1982, including 72 trainers, and 185 in Fiscal 1983.

PROGRAM OBJECTIVE

The Fiscal 1982 program objective memorandum includes only research and development funds for the Marines' AV–8B at the basic funding level, with procurement funds unlikely; "and this will likely be inconsistent with the demonstrated intent of Congress," according to Hidalgo.

The Fiscal 1981 budget request to Congress did not contain procurement funds for the AV–8B nor did it ask for research and development, and another $90 million for long-lead procurement funding. The Senate added $243 million for research and development and $90 million for long-lead procurement funding.

The House also added the same amounts for the AV–8B procurement and research development.

With congressional funding of the Harrier program, the Navy is faced with a reduction in A–18 procurement of 322 aircraft added to the F–18 program total when funding for the Advanced Harrier was excluded from the coming year's budget.

Even with the decision by Canada to procure 130 F–18s, that amount will not compensate for the loss of the planned Marine A–18 buy, and the reduction in total numbers will drive up the unit cost of the F–18 fighter beyond the approximate $25 million now estimated by the Defense Dept.

As the Navy concluded, according to Hidalgo, "We searched long and hard for alternative ways to overcome these difficulties within the resources allocated to us, considering even the disturbing possibility of canceling the F/A–18, but no practical alternatives are available."

While the Navy was seeking to find ways to buy sufficient numbers of fighters, the Office of Management and Budget staff was completing its tactical air spring budget review. That review takes a hard look at the F–18 program and at the increase in costs and delays in the flight test program, and provides a number of alternatives for White House consideration. "There is an option which concludes terminating the program," according to one OMB official.

"This is a potential presidential decision," another OMB official confirmed, "and it is related to the Fiscal 1982 budget taking shape now."

That Defense Dept. Fiscal 1982 budget request will not officially reach Carter's desk until November, and the Defense Dept. will get the President's decision on the Fiscal 1982 budget in mid-December.

But cost increases in the F–18 and program delays already have been brought to the President's attention along with similar problems with the Rockwell International space transportation system—the shuttle—and the Army/Hughes Advanced Attack Helicopter (AAH).

They were brought to Carter's attention as possible sources of Administration embarrassment, and because of action that will be required when the Defense authorization bill reaches the Senate floor for conference action with the House.

The White House is expected to launch a lobbying effort to curtail budget increases added by the Congress in a number of areas.

FUNDING BELLWETHER

Just how hard or whether the Administration will fight against F–18 funding increases by Congress could be a bellwether for the future of the F–18 fighter, according to congressional staff members.

Other Administration officials point out, however, that the action by the White House on Fiscal 1981 F–18 funding does not mean the program could not be canceled later by the President. "Carter is going to be leery of that [F–18] hot potato in an election year," one Administration official added. "Can you imagine him stopping a program in which $3 billion is invested in sunk costs, particularly when Congress forced that aircraft on the Navy over their objections as a so-called low-cost, lightweight fighter?"

The Senate Armed Services Committee added funding to provide $1.56 billion for 60 F–18s in Fiscal 1981, and $85 million in long-lead money for procuring 96 of the fighters in Fiscal 1982.

The House added money to provide $1.7 billion for 72 F–18s in Fiscal 1981, and long-lead funds of $118.2 million for 108 aircraft in Fiscal 1982.

The President also must consider the impact on the economy and aerospace industry jobs in F–18 program termination, one White House staffer said. "But the increase of about $11 billion in the F–18 program over the past year or so is causing grave concern."

Another Administration official said that about six weeks ago President Carter was told that the F–18 is one of several programs where cost-effectiveness has been poor and where management attention must be directed. "It was also pointed out to him that the F–18 is one of those programs which will always look bad because of inflation and its impact on the aircraft at this stage in its life cycle, but some of that increase is based on flight test delays and technical problems," the official explained.

Another Administration official added, "OMB recommended looking into terminating the F–18 program, but that cannot be done without determining the impact on general purpose forces and what the cost will be to replace it with other aircraft. That's just what the OMB staff is doing now in preparation for the Fiscal 1982 budget."

Preliminary data indicate that by procuring F–14s, A–7s and AV–8Bs in similar numbers to F/A–18s, the Navy could save approximately $2.3 billion. With the $6-billion F–18 increase not reflected in the total program cost, the savings could be approximately $8 billion, "more than enough to re-engine the F–14 and add two engines to the A–7 making it in A–7X or whatever," an Administration official said.

One of the considerations OMB is just beginning to address is whether the Navy still has a requirement for a light attack aircraft in the A–18, A–7 and AV–8B category, according to an Executive branch official. The Navy's results from the Indian Ocean deployment in the wake of the Soviet Afghanistan invasion indicate that the only attack aircraft in the fleet that meets requirements in that part of the world is the Grumman A–6, according to the official. But the A–6 is a medium attack aircraft, and it is more costly than either the A–7 with two F404 engines or the AV–8B.

The Navy would have to buy 489 A–6s to replace A–18s, and the cost would be about $8.5 billion.

One reason the Navy light attack aircraft requirement may have to be reassessed is that carrier-based aircraft must be capable of providing surveillance of Soviet vessels at a range of 600 naut. mi.

The fighter requirement is to intercept hostile aircraft at a minimum range of 200 naut. mi. from the carrier. To accomplish these requirements the fleet had to rely on the F–14s, A–6s and Lockheed S–3 aircraft in the Persian Gulf area. The A–7s were unsuitable for the range requirement, according to congressional staff members.

The OMB spring review examined the Navy's aircraft procurement program, "and the main feature was to explain and rationalize the Administration's procurement program and show that Congress is wrong in pressing for the AV–8B," one staff member said. He added that the OMB study suggests that "if Congress wants the AV–8B so badly, they can have it, but at the expense of the F–18."

One reason President Carter was briefed on the F–18 cost increase was related to attacks on the F–18 by Rep. Bruce F. Vento (D.-Minn.) because of cost overruns and failures to meet specifications in performance in the flight test program in areas of roll rates, acceleration and aircraft weight.

One of the major factors in continuing cost increases in the program is caused by mandatory Defense Dept. inflation indices used in computing program costs, particularly in future years of F–18 procurement, according to Defense Dept. officials.

"The Navy is forced to use unrealistic inflation figures when computing program costs," one official explained. "The F–18 is being computed on an inflation rate of 5–6 percent dictated by the Administration when the minimum should be 8 or 9 percent. That's why the program has to be revised and reconfigured every few months, and why it looks like bad management."

Performance problems with the F–18 that cropped up in the flight test program mostly have been fixed, and the flight test program is running only four to six months behind schedule, a Defense Dept. official said. He added that fixes to enhance the aircraft's roll rate have been determined. They include adding control surfaces and strengthening the outer wing panel by adding graphite composite layers (AW&ST June 2, p. 22).

Cruise performance also has been increased so that it is only about 4 percent below specifications, and problems encountered in fatigue testing designed to stress the aircraft also have been corrected, according to Pentagon officials.

"The bottom line," one aircraft program manager said, "is that this inflation and economy means there is no way to look good. OMB dictates inflation rates used for program pricing and it makes program managers look like conniving lying SOBs to the Congress. There's just no longer any such thing as a constant dollar."

Mr. CANNON. Mr. President, I should like to respond very briefly to Senator HART.

Everyone has his own idea of what the force structure should consist of, and Senator HART is no exception. As a matter of fact, he opposes the F–18 and supports the AV–8B. That happens to be contrary to what the Navy's position is.

The Navy actually has a very serious problem in funding tactical aircraft, and one of the problems is a requirement to come up with about $1.5 billion in added funds during the next few years to support the AV–8B Harrier program for the Marine Corps. That program, which is strongly supported by Senator HART, is one of the prime reasons why the Navy has a funding shortfall in its budget planning that is necessitating preliminary action to reduce quantities of F–18's for next year.

The Navy needs added tactical aircraft; and if Congress continues to insist on funding types of aircraft that the Navy and Defense Department have not requested, such as the AV–8B, then Congress should not at the same time criticize the resultant cost increase in other aircraft caused by its actions.

Mr. President, the F–18 is recommended to us very highly. It is like many other aircraft programs: The costs do go up and they have problems incident to development. The same types of problems will occur with the AV–8B and every other aircraft that comes on stream. We have to be realistic about this.

I am sorry that Senator HART did not offer his amendment, because I am sure it would have been defeated resoundingly.

I believe we should keep that in mind as we move down the stream of giving the Navy the two principal types of aircraft they want for their aircraft carriers—that is, the F–14 and the F–18.

Mr. WARNER. Mr. President, consideration of the Department of Defense military authorization bill represents one of the most important issues facing the Senate this year. As each Senator fully understands, we have the constitutional responsibility for providing our national defense.

Each of us share pride in our Nation's ability to provide freedom and in its capability to guarantee us the right and privilege to assemble and to conduct the political process.

I wish I could say that the current posture of our national defense is strong and without challenge; however, it is not. The international climate grows continually more tense. Instead of acting strongly, the administration has often faced the world with an appearance of ineptness and has watched benignly as our military posture has eased into a position of perceived weakness.

The defense policy issues that we face are complex and exceedingly important. They must be addressed frankly, considered thoughtfully, and acted upon in a responsible manner. Our Nation and its citizens deserve no less.

Unfortunately, the current tendency in the executive branch has been to view the world through rose tinted glasses. The world has been seen as we would like it to be, rather than as it actually exists. The gulf between reality and idealism is so significant that it can no longer be ignored.

The observations I bring to you come from my own perspective. I have had the privilege of serving in two branches of the U.S. Armed Forces—the Navy and the Marine Corps. During the last 10 years, I have served as Secretary of the Navy and now as a Senator and member of the Senate Armed Service Committee. This has provided me a vantage point to see a shift in our defense posture first hand over more than three decades, and I am troubled by the trends.

Words such as "our Nation faces a period of crisis" have been used so often in recent times that we have become inured to them. However, to a very real extent, this is the first time since World War II that our national interests have been subjected so dramatically to potential threats.

At first, this may seem a surprising assertion considering the regrettable loss of life and the physical and the mental suffering incurred in Korea and later in Southeast Asia. Then and now the principle of freedom in widespread parts of the world is being questioned, tested and challenged.

However, now the threat is significantly greater. Now we face a world situation that could truly bring about the collapse of the free world as we know it. Military as well as economic threats of tremendous magnitude hang over the United States and the Western world.

Militarily, we face a Soviet threat of unprecedented scope and power. The Soviet Union now possesses strategic nuclear forces which are, or soon will be, superior to those of the United States. In tactical nuclear weapons, what used to be a substantial U.S. advantage has turned into an obvious superiority on the part of the Soviet Union. In conventional military forces, the Soviet Union has maintained and even expanded its advantage in land-based military forces. The Soviets are rapidly drawing even in naval forces, and, in fact, in many areas have an advantage. Maritime superiority is key to keeping our sealanes open not only in time of peace, but should the need occur, in periods of conflict.

On the economic front as well. the United States and the Western world in general are losing ground. Rampant inflation, unfavorable trade balances, and an increasing dependence on importation of strategic and critical materials from Third World countries are creating dangerous vulnerabilities and heightening the threats to our peace and security.

This, briefly, is the situation in which we as a Nation find ourselves in 1980 and this then is the single most important issue which we must address. I believe we, as responsible citizens and as national leaders, must assess our present situation and then clearly define a policy and a strategy to move our Nation forward.

Consistent policy and a clearly defined strategy have been distinctly lacking and this has been, in no small way, responsible for our Nation's present troubles. Our foreign policy does not command respect from our allies and appears weak and inept to potential adversaries.

Over the past decade, we as a Nation have gone from unquestioned superiority to impending inferiority. Since the early 1970's, the United States has failed to make the necessary investment in our Nation's defense capabilities to keep pace with the growing threat.

Over this same period, the Soviet Union has been engaged in a truly massive military buildup. They have devoted far more resources to military purposes than we, and it is clear that a continuation of this unequal investment in military power would pose grave dangers to U.S. national security.

The Soviets in the last decade spent 30 percent more on defense than the United States. For example, the Soviet Union invested a total of $104 billion more than the United States in military equipment and facilities, and $40 billion more in research and development. According to a 1979 CIA assessment, the Soviet Union is still outspending the United States for military forces by at least 40 percent annually.

The significance of this spending difference is difficult to comprehend unless one considers what it means in terms of hardware and systems. If the United States had been budgeted at the Soviet level for defense, we could have procured in addition to our existing force structure:

The full 244-aircraft B–1 program.

The complete multiple protective shelter MX missile system.

Additional Trident submarines and improved missiles.

Seven thousand XM–1 tanks.

All of our infantry fighting vehicle needs.

New Rapid Deployment Force airlift.

Enough F–14, F–15, F–16, F–18, and A–10 tactical aircraft to meet all our force modernization requirements.

Unfortunately, the consequences of this decade of disparity in defense investment are apparent across the entire spectrum of military power. We will inevitably face a period of tenuous vulnerability in the early 1980's in strategic, tactical, and conventional warfare capabilities.

Indeed, because of these adverse trends in the military balance, the basic strategy governing the most demanding of all U.S. military commitments may, in fact, no longer be viable. Since its formal adoption in 1967, the strategy of flexible response has been predicated on strategic and theater nuclear superiority as a means of offsetting NATO's conventional force inferiority on the Eurasian continent. Yet that nuclear superiority has vanished during the past decade. In the realm of strategic armaments, the Soviet Union has gained at least a rough equivalence with the United States, and the greater momentum of her ongoing strategic programs will dictate a further deterioration in our comparative position during the coming half-decade. Many will argue that we are already in a period of strategic imbalance.

The certainty of a continued erosion in the strategic nuclear balance has been guaranteed by administration decisions during the past 3 years. Development of a new bomber was cancelled, new submarine launched missiles were deferred, cruise missiles were slipped, and even the new survivable ICBM—the MX—will not be ready for initial deployment until 1986, at best.

The shift in the balance of theater nuclear arms, which comprise the critical link in the chain of deterrence between conventional and strategic nuclear resources, has been no less profound over the past decade. Indeed, today, the Warsaw Pact now enjoys a pronounced advantage over NATO in long range theater nuclear systems.

International cohesiveness and national initiative are both required within NATO to shoulder the burden. Today, every man, woman, and child in the United States spends over $520 per year on defense. Britain, Belgium, Denmark, France, Germany, the Netherlands, and Portugal average between $300 and $400 per person. Greece, Italy, and Canada are only around $150 per person. Japan, which is not a member of NATO, but which shares many of our international interests has invested less than a $100 per person on defense.

The unfavorable trends in the strategic and theater nuclear balances during the past decade have been accompanied by alarming trends in the conventional arena.

Unfortunately, the West has relied too heavily on arms control and détente to offset the impressive expansion of Soviet military capabilities on land and at sea. Growing Western inferiority in the conventional force balance is nowhere more glaringly manifest than in Central Europe, where the steady growth and modernization of Warsaw Pact ground and tactical air forces has created an ever-widening disparity.

Our dependence upon critical natural resources and focus on Soviet and Warsaw Pact initiatives have left us increasingly vulnerable to the whims and desires of terrorists and revolutionaries. Our current policy appears to be based upon the proposition that if we keep repeating that we will not answer to terrorists' blackmail, then maybe both of us will believe it.

We have been embarrassed, ridiculed, and have seen our allies question our ability to lead.

We must learn to match our rhetoric with actions—the capability to predict, the ability to prevent, and, if that fails, the capacity to react.

It is against this military backdrop of loss of strategic nuclear parity, emerging theater nuclear disadvantage, conventional force inferiority, and the developing insidious threat of terrorism that our needs for a new and clearly-defined national defense policy must be judged.

Today our Nation is just not capable of backing up with military force, a foreign policy that Americans would like to follow.

The current situation is alarming and I wish to bring to your attention the facts in a number of areas that dramatically affect our national security.

Our ability to counter this threat may well be determined by the availability and readiness of those highly skilled personnel which are essential to the defense of the country.

Recruitment of military personnel and retention of qualified individuals in key positions pose the critical problem which may surface as the "weak link" in our defense structure. Despite the sophistication of our weapon systems—and, often, because of it—we need skilled individuals who are highly trained, available, and ready. Let us look at the record:

Currently, we are short 20,000 highly skilled and technically trained petty officers. Recently the U.S.S. *Canisteo* was removed from operational status because it was judged unsafe due to personnel shortages.

The Air Force is 2,400 pilots short and, if current reenlistment rates do not improve, the pilot shortage will go as high as 5,000. Only 27 out of every 100 pilots are reenlisting at the end of their first term, down 50 percent from just 2 years ago. The Strategic Air Command, which fields our bomber force is retaining only 38 percent of its pilots. We lost $500 to $750 thousand in training expenses for each pilot who leaves.

Similarly, the Navy pilot retention rates are decreasing from approximately 60 percent in 1977, to a projected 20 percent in 1980. In addition, the Navy is losing nuclear trained submarine officers.

The Air Force is now short 3,000 NCO's. Chief of Staff, Lew Allen has been forced to suggest that in the early 1980's, he wants to spread the shortages "in a way as wise as we can."

The Army is short 46,000 NCO's. Support and Reserve forces are under strength.

There are requirements today for 1 million personnel in the Active Reserve—currently there are 800,000. The individual Ready Reserve requires 700,000, but has only 200,000 personnel.

Retention difficulties have reduced the skill levels in our current force. Today only 14 percent of our artillery crewmen have sufficient skills for combat. Ten percent of the nuclear weapons maintenance specialists are ready, 2 percent of the tank repairmen, 18 percent of Hawk missile crews, and on and on.

Wartime mobilization simulations show that we can only fill 52 percent of the infantry positions, 73 percent of the artillery, and 28 percent of the armor requirements.

The Army's medical corps has less than 40 percent of the doctors, 25 percent of the nurses, and half the medics needed to look after casualties in wartime. There are peacetime shortages as well.

Dependence upon rapid response by a family unit has not been evaluated in battle conditions and may further reduce the readiness capability.

To summarize, our planes are grounded for lack of maintenance and our ships are tied up because of a shortage of experienced crews. Critical jobs are held by personnel with inadequate training or experience.

Our force structure modernization and improvement have been lethargic compared to the aggressive growth of Soviet capabilities. Some have said that deterrence is a state of mind and that perception is reality. The will and intent of our current defense posture could be measured in rather simple terms by a potential adversary.

The Soviets have 1,398 intercontinental ballistic missiles. The United States has 1,054.

The Soviets have 308 heavy ICBM's capable of carrying a 15,000-pound payload. The United States has none.

The Soviets have 950 submarine launched ballistic missiles. The United States has 656.

The Soviets have 91 submarines that launch ballistic missiles. The United States has 41.

Since 1964, the number of U.S. long-range bombers has been reduced from 1,300 to 348. The Soviets are adding at least 30 Backfire aircraft per year to the 160 bombers now deployed.

The Soviets have developed an operational "killer" satellite system. The United States has none.

The Soviets have close to 10,000 strategic air defense missiles. The United States has none.

The Soviets have deployed an anti-ballistic missile system around Moscow. The United States removed its operational site.

The Soviets have 7,200 radar systems used for air or missile defense. The United States has 134.

The Soviets and the Warsaw Pact countries have over 63,000 tanks. The United States and the NATO allies have fewer than 13,000.

The Soviets have 170 general purpose force divisions. The United States has 19.

The Soviets and the Warsaw Pact countries have over 24,000 artillery pieces deployed. The United States and the NATO allies have 14,000.

The Soviets have over 5,000 tactical aircraft deployed. The United States has fewer than 4,000 and is not producing enough to replace those lost due to attrition. The Navy currently has so few tactical aircraft that it cannot even muster enough airplanes to put a full complement of aircraft on each of our 13 aircraft carriers. Just to stay at this already low level of aircraft, we would have to buy at least 180 tactical aircraft per year.

The Soviets have 260 general purpose submarines. The United States has 87.

The Soviets have 300 minesweepers. The United States has 3.

The Soviets have 273 principal surface ship combatants. The United States has 165 and is currently not projected to replace all ships that may be retired in this decade.

The Soviets have more than 500,000 scientists and engineers dedicated to defense related research and development. The United States has 170,000.

Our force posture depends critically upon not only our production capability, but also our defense procurement plan. But what has been our plan? Let us look at the record:

The Soviets produce 2,000 tanks a year to our 650.

The Soviets build 500 combat aircraft a year to our 275.

The Soviets build 350 helicopters per year to our 150.

The Soviets build five times as many combat vehicles as we do.

The Soviets build six attack submarines a year compared to our three.

Production is unreasonably slow. During World War II, the P–51 Mustang was designed, tested, and ready for production in 117 days. That compares with the 10 years required to develop the current F–16.

Not only have weaponry development and deployment and force readiness suffered during recent years, but there are also problems in other defense areas. Significant shortfalls in ammunition and spare parts have also occurred, for example. These areas represent target areas for budget cutters who evidently assume that supplies are adequate. The Army has tremendous shortfalls in ammunition and combat equipment. The details are classified, but I do not feel at all comfortable letting American soldiers be deployed along the East German border with the ammunition shortages we have today.

Current ammunition production capabilities cannot make up deficiencies in war reserve stocks in a major conflict that begins on short notice.

Due to a shortage of spare parts, only 50 percent of the F–14 and F–15 tactical aircraft are "fully mission capable."

The recent Iranian rescue mission revealed that the parts inventory and most capable technicians from our RH–53 helicopter fleet had to be brought to bear. However, even the success or failure of an effort can depend upon the ready availability of even the simplest spare part.

The problem of international terrorism is not new, of course, but the trends have become alarming.

The CIA reports that terrorist attacks caused more deaths and casualties in 1979 than in any previous year since they began keeping records in 1968.

During the past year, at least 12 Americans, representing diplomatic, military, and private interests were fatal victims of anti-U.S. attacks abroad. Our Ambassador to Afghanistan was senselessly killed.

Our Embassy in Tehran was seized for the second time on November 4. Our personnel, including the token force assigned for Embassy security have been held hostage for over 7 months. Other U.S. Embassies and facilities were attacked when the Grand Mosque at Mecca was seized by terrorists.

We have seen the spectacle of the American flag being used by insurgents for garbage. We have seen the remains of our special force patriots who gave their lives in April placed upon grotesque exhibition.

Yet, over the past decade, 35 percent of terrorist attacks abroad have been aimed at private citizens.

If one examines our national priorities as evidenced by budget commitment, the reason for America's sagging posture become evident.

Since the time of the Korean conflict, there has been a gradual reduction in spending needed to support a strong national defense. This trend was accentuated in the 1960's with the initiation of many social welfare efforts.

Since 1953, our defense budget has decreased from 57 to 23.2 percent of the Federal budget and from 12.1 to 5.2 percent of the gross national product.

Social welfare expenditures per capita have increased at an annual rate of 7 percent since 1964. They comprised 38 percent of all Government outlays in 1950 and now have risen to over 60 percent of the total.

Hundreds of high-priority military projects go unfunded year after year. There's currently a $35 billion backlog in needed military construction and modernization. We have medical facilities that are not only inadequate and outdated, but in outright violation of health and safety standards. We have ammunition handling facilities that are antiquated and unsafe. The list goes on and on and on.

Some would have you believe that the current administration budget recommendation represents a significant change in this dismal trend. Yet, the President reduced the fiscal year 1980 defense budget so that the fiscal year 1981 budget would represent a modest increase.

The defense policy and programs to implement it represent serious problems that must be addressed—and addressed promptly—if we are to maintain the security of our Nation.

We must have a defense policy which clearly bolsters our sagging military posture. We must ask our allies to renew their efforts to provide a common defense. The policy must be long range, consistent, and well articulated so that friend and adversary clearly understand our intentions.

The foundation of this policy rests upon the premise that we must have a strategic nuclear deterrent that is clearly second to none. We must have a survivable nuclear force that is capable of conducting a wide spectrum of missions with sufficient effectiveness that no aggressor will ever have reason to believe that nuclear war is to his advantage. This posture would not only reduce the possibility of a nuclear holocaust, but also, by its very existence, deter an aggressor from nuclear coercion to expand his sphere of influence and place our national interests in peril.

Our conventional land-based and sea-based military forces must be strengthened so that we truly have a capability to fight for sustained periods without having to resort to tactical nuclear weapons. This is a necessary part of a flexible response capability designed to deter threats across a wide spectrum. A credible conventional defense is a necessary part of our overall defense posture. An ability to keep open the sea lanes in peacetime, as well as wartime, is an essential feature of a sound defense policy. For too long the United States has allowed its naval forces to deteriorate to the point where the United States can no longer keep its commitments. We now have, in effect, a one-and-a-half ocean Navy with a three-ocean commitment.

International events suggest that the ability to terminate brush fire hostilities and terrorist actions worldwide is likely to be even more important requirement. Our Rapid Deployment Force should be comprised of uniquely qualified personnel and special equipment maintained at the highest possible rate of readiness. This group should be viewed as one which not only reacts rapidly to crisis situations posed by terrorists or sudden aggression but, because of its very existence, reduces the possibility of hostile actions occurring.

A national policy is just a collection of words unless implemented. The defense posture that I have outlined has far-reaching implications on the current force structure and the means for implementation should not be taken lightly.

The military authorization bill before us with the additions and improvements that we have recommended represents the first step in implementation of a strong defense policy.

We have here the responsibility of articulating a national defense program and suggesting means of implementation which will provide national security.

As responsible citizens, we must:

Reorder our force structure to support specific strategic nuclear deterrent, conventional force, and rapid deployment force objectives that I have identified.

Provide for a survivable strategic nuclear deterrent based upon selected modernization of the triad.

Provide for conventional force modernization through invigorization of the shipbuilding program to assure maritime superiority and through acceleration of tactical aircraft deployment to replenish our forces.

Provide a crisis management team that cuts across Federal agencies which can conduct contingency planning and training for antiterrorist operations.

Provide for sound pay and benefit packages for military personnel which will make a military career attractive and will provide adequate numbers of quality personnel.

Provide operations and maintenance funds adequate to operate and train our forces to required levels.

Provide for the basic equipment that is often overlooked but mandatory to engage successfully in conflict at any level—ammunition, spare parts, et cetera.

Review the roles, and needs, of Reserve and National Guard support in light of rapid deployment force and conventional force objectives.

I have outlined a national defense policy based upon implementing three objectives: strategic nuclear deterrent second to none; a conventional force designed to guarantee maritime superiority and terminate any conflict at the lowest possible level; and a rapid deployment force to deter terrorists and revolutionaries. My personal assessment is that implementation will assure national security.

The need for defining and implementing a "lean and tough" defense policy are obvious. We here have the responsibility for assuring that our national security can be maintained with confidence, yet we must provide this capability in a manner which is not inflationary and does not require budgets that cannot be balanced. We must be responsible.

Within the defense area, there are a great many needs. We have to identify them and implement the programs that will support and assure our national security.

At the same time, we have to recognize the programs, concepts and ways of doing business that have outlived their usefulness. If there are elements that no longer contribute, let us identify them. Our responsible job is to provide the facts and a policy based upon objective assessment.

To keep the interests of humankind in perspective, I believe it is mandatory that we remember that a responsible objective is to pursue control and reduction of weapons of mass destruction. Many of us had reservations about several provisions of the SALT II treaty as signed in Vienna on June 18, 1979. However, we must firmly endorse the concept of arms control as one legitimate means of providing for our national security. It is a difficult challenge, however, to deal with an adversary who demands not equality, but an advantage, whenever the bottom line is written.

My conclusion, therefore, is that the only way we can negotiate effectively is from a position of strength, perceived as well as actual. The MX system, Trident improvements, and modernization of our strategic aircraft and cruise missile launchers will provide us this posture. No potential aggressor will fail to understand the significance of these systems. I believe their development is our primary hope for eventual equitable arms control.

As Americans, we have an awesome responsibility. Only a strong United States can insure a stable worldwide military balance. To believe otherwise is to harbor a most dangerous illusion.

Our job as Members of the Senate is to trust the American people with the facts and provide them with the leadership to pursue a coherent defense policy. This will insure the future security of this great Nation.

Mr. President, the facts speak for themselves—the shortages are real, the threat is significant, and the time is now. We simply must augment our forces to assure the continued security and freedom of our Nation. Authorization of needed programs for national security should have the highest priority because our military personnel have the right to expect fair treatment, good equipment, and plenty of it.

I ask my colleagues that, when they consider the resolution, they think of their responsibility to provide the Nation a secure defense which is clearly second to none. A strong and ready force cannot only cap military actions by aggressors in the strategic sense or terrorists worldwide, but, by its very existence, deter hostile initiatives from happening in the first place.

We must assure that the defense program provide for this security. We have the obligation to assure Americans that we have provided a strong national defense through a strategic nuclear deterrent that is survivable, conventional forces that assure maritime superiority and protection of areas of our national interest, and a rapid deployment force capable of thwarting brush fire conflicts worldwide.

We also must remember that we have the direct obligation of providing our military personnel with the proper level of support. We cannot ask people to serve throughout the world without giving them the weapons and materiel to which they are entitled.

I urge Congress to respond responsibly to our defense needs. I have examined the issues critically as a member of the Armed Services Committee, as have others. Americans have been awakened from their false sense of security by international events.

The growing Soviet threat is real. Revolutionaries have been able to place our national interests at risk. We have the constitutional responsibility of providing a national defense. Our defenses need strengthening now.

Mr. STEWART. Mr. President, today we stand on the threshold of a monumental decision that will literally chart America's course into the future. If we vote yes to this strong defense measure, we will be charting a return to the military might that has so ably preserved our Democracy through two centuries of international challenge. The Soviet Union will be forewarned that while the United States is a peace-loving Nation, we will stand steadfastly prepared to defend our shores and our allies from any outside aggressor who would be so foolish as to threaten our people. To vote against this defense package, however, would be to choose a path America has never followed before—a path that rests the security of our country on a foundation of blind faith in the benign nature of the Communist nations that so fundamentally oppose our value systems. To vote no, in my opinion, could very well be the decision that propels this Nation into a war where we are both outmanned and outgunned by the one nation that has always threatened to destroy the free world.

The question before us is simple: Do we step boldly into the future, prepared to address whatever confrontations may arise, or do we step foolishly into the future with only hope and good intentions to protect us from possible aggression? I believe in good will, Mr. President, but I also believe in fighting for my freedom and the freedom of the people I represent. Looking at the relationship America has had with the Soviets over the years, I see a pattern where words and promises have not meant all that much. Military muscle has.

Some of my less defense minded colleagues may charge that I am overdramatizing the situation. I beg to disagree. For years, we have held our defense spending back while the Soviet Union has been building their military weaponry, equipment, and manpower. A comparison of the sheer numbers of weapons and military equipment between the two nations shows a disparity that frankly frightens me. We may not have lost our military superiority yet, and I emphasize the word "yet," but there can be no doubt that the gap has sharply narrowed. We may still hold the lead in technology, but soon that lead is going to be eradicated by the sheer weight of the Soviet military machine unless we act to rebuild our strategic and conventional weapons systems.

I realize some may wish to call me a hawk for this stand. Well, if being a hawk means taking a stand that America's security can only be maintained through a strong, well-prepared military, then, indeed, I am a hawk. But I am a peace-loving hawk. I have two children at home. I would not want to see them cast into a war-torn world—and that is another strong reason for us all to vote for a strengthened national defense. For if we truly want to preserve peace in this world, we can only do so through a position of strength.

The Soviet Union was founded on the doctrine of world domination, and their brutal assault on Afghanistan is our most recent example of just how they intend to achieve that founding goal. To ignore that invasion is to play into the hands of the Soviet war chiefs.

The Soviets have no respect for the principles of self-determination of nations; they only respect force and strength. We can keep Soviet fighters away from our shorelines as long as they are afraid of the power and might of the American military. They will not want to engage in a war with an adversary who is strong and prepared, they are not willing to start a war they know they will not win.

Mr. President, now is the time to send a clear message to the Soviets. This great Nation of ours is not going to be caught unaware by the Soviet threat. If the Russians think they can intimidate us through an arms buildup, they have another thing coming. This Senator is not going to stand by and watch our military effort decline. This Senator will not let our national security needs take a back seat to other parts of the Federal budget. The Senate has taken a stand on this bill for military procurement—we will provide this Nation with the weapons it needs, we will provide the resources to have a military force second to none.

This bill, the highest in our Nation's history, puts us on the right path. The Senate has taken the President's recommendations for the defense budget and has made significant improvements. We have added over $5 billion for weapons procurement and added needed incentives to our men and women in uniform. We have added more fighters for the Navy and Air Force, and importantly, more funds for spare parts to keep these planes in standby operation. We have added funds for space based laser research, for blue/green laser communication, and, of special interest to me, we have added funds for ballistic missile defense research.

I strongly support a provision in this bill which will provide an 11.7-percent increase in basic pay, subsistence, and quarters allowances for military personnel effective October 1, 1980. This pay increase responds to my deep concern that we must attract good people into the military and keep these folks in uniform once they are trained.

Our Nation's preparedness rests on the quality of the men and women in uniform. We owe those who are giving their lives in service to their country our support and financial backing. This bill will show our troops that this country is behind them, all the way.

Mr. President, perilous times are ahead. The Russian bear is revealing himself as a true predator, and it is time for us to draw the line and reassert American supremacy. Ever since I first came to the Senate almost 2 years ago, I pledged to work for a strong defense. I have voted against every attempt to cut defense funds and I have supported each defense spending bill. Today, I am pleased to see the successful presentation of the 1981 procurement bill and I urge full Senate support for our Nation's defense.

Mr. JACKSON. Mr. President, I wish to express my special appreciation for the cooperation and assistance which was extended to me by all concerned on the authorization bill, from the beginning of the Senate hearings until final passage. I especially want to thank the ranking minority Member, Senator TOWER for his fine work.

As we all know, Senator CULVER, chairman of the Research and Development Subcommittee, Senator NUNN, chairman of the Manpower and Personnel Subcommitte, and Senator BYRD, chairman of the General Procurement Subcommittee, have also carried heavy responsibilities on this bill in its preparation and presentation. Also, Senator CANNON devoted a great amount of time to tactical air matter, Senator EXON concentrated on the Rapid Deployment Force, while Senator HART and LEVIN looked into the shipbuilding portion and civil defense portion of the bill, respectively. These Members did a fine job in presenting the results to the committee.

I extend my appreciation as well as that of the members of the committee, for the consistent hard and fine work performed by our able committee staff. Floor action is only a small portion of the time consumed in the preparation of this legislation. Again this year, the committee received from witnesses testimony totaling thousands of pages, and the staff in their usual capable and professional manner analyzed all the facts in order to assist our Members in making the decisions. The entire staff was involved in this to some degree, and I should like to specifically mention their names.

Mr. Francis J. Sullivan, our staff director, and our other professional staff members, Charles J. Conneely, Christine E. Cowart, Rhett B. Dawson, Robert Steve Dotson, George H. Foster, Louise R. Hoppe, Alton G. Keel, Edward B. Kenney, Ronald F. Lehman, James R. Locher, Don L. Lynch, Robert C. McFarlane, E. George Riedel, John Roberts, James C. Smith, John T. Ticer, and George Travers.

I also pay special tribute to the clerical staff, since each of them participated in getting this bill passed. They are Judith P. Barr, Tina R. Bowes, Marie Fabrizio Dickinson, Frances B. Frazier, Brenda K. Hudson, Helen Kalbaugh, Karen A. Love, Mary A. Shields, and Ann E. Sauer.

Finally, Mr. President, I acknowledge the printing work performed in connection with this bill. As the Senate well knows, the annual military authorization bill is a very complex piece of legislation involving thousands of pages of testimony. On behalf of the entire committee and staff, I specifically thank Mr. Gerald D. Strickler, printer and documents clerk on the committee staff, and Richard Caswell of the Government Printing Office. I thank the Government Printing Office for their hard work and expert handling of this massive amount of material.

TURNING THE DEFENSE TIDE

Mr. ROBERT C. BYRD. Mr. President, H.R. 6974, the fiscal year 1981 defense authorization bill, represents a significant achievement. It strikes a balance between the competing pressures of budget constraints and defense needs; and it provides steady and significant defense budget growth.

For these achievements, the Senate owes a debt of gratitude to the chairman of the Armed Services Committee, Senator STENNIS; to the ranking minority member, Senator TOWER, and to the other 15 members of the committee.

I also would like to express special appreciation to several Senators who have played significant roles in the disposition of this bill on the floor. The Senator from Michigan (Mr. LEVIN), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Georgia (Mr. NUNN) all participated in a major amendment on military manpower. The Senator from Ohio (Mr. GLENN), the Senator from Iowa (Mr. CULVER), and the Senator from California (Mr. CRANSTON) cosponsored a major amendment regarding the future of the manned strategic bomber. And the Senator from Nebraska (Mr. EXON) successfully offered an amendment concerning the War Powers Resolution. The debates on all of these amendments were spirited and enlightening. The result is a bill that will serve the American people well.

This bill breaks new ground by authorizing funding for the proposed rapid deployment force; it accelerates modernization of the Navy; it gives a major boost to military pay; and it strengthens the strategic Triad by moving forward with the MX missile system.

RECENT DEFENSE DEVELOPMENTS

To consider this bill properly, we must review recent developments in defense funding.

From 1969 until 1976, the defense budget, in constant dollars, decreased 31 percent. Such a decrease, of course, was reflected in our force levels. From 1968 to 1976, the Navy's active ship roster decreased from 976 to 476.

There were understandable reasons for some of this decrease. During those years, we were disengaging from Vietnam, so some drop in spending was to be expected. But the overall result—viewed in retrospect—was that we did not keep pace, particularly in certain areas involving military readiness, capital investment, and our reserve forces.

Now I think we can safely say that the tide in the defense budget has turned. The defense budget has now reached, in constant dollars, the same level as in 1965, the last year before the Vietnam build-up. And the momentum will continue, following the steady and significant growth charted by the defense procurement bill before us today.

Other important defense preparedness initiatives have been undertaken in the last several years.

Our Navy ship inventories are increasing again, toward the modern, efficient Navy the 1980's demand. The planned active level for 1984 is 575 ships.

Air Force inventories of F–15 and F–16 fighter aircraft have risen significantly.

The Army has undergone major modernization in its weapons and transportation systems. These include new tanks, new troop carriers, new attack helicopters, and a new missile air defense system.

We have strengthened our presence in the Pacific and Indian Oceans and in Europe. Our partnership with NATO has been strengthened through a cooperative program of modernization, and the mutual pledge to increase defense budgets by 3 percent after inflation.

Our strategic arsenal has been improved with the addition of the cruise missile, and the development of the MX.

Just last February, in the Nunn-Warner amendment to H.R. 5168, the military personnel authorization bill, the Senate authorized $500 million in additional pay and benefits for military personnel.

In sum, there have been important initiatives in manpower, in equipment, in theater development, in strategic deployment, and in modernization of the Army, Navy, and Air Force. The direction and size of the defense budget also have been changed.

CONTENTS OF THIS BILL

In judging the bill before us, we should be sure that the momentum of these important initiatives is maintained. I believe that this bill will do that.

This bill is consistent with the decision of the Senate in the fiscal year 1981 first concurrent budget resolution to increase defense budget authority by 8 percent in real growth.

Procurement for the Army, Navy, and Air Force are substantially increased over current levels. The Armed Services Committee recommends a 35-percent increase in shipbuilding over the President's request. In aircraft purchases, the committee's recommendation would increase by more than 10 percent the number of aircraft and helicopters to be procured.

Our flexibility in potential military theaters will be increased by the rapid deployment force. The committee recommends authorizing $1.1 billion for equipment for this select mobile force.

Military pay and benefits would be increased by $1.5 billion in this bill, enhancing the ability of our services to retain skilled personnel. Reenlistment rates in the Navy have dropped from 92 percent in 1973 to 62 percent in 1979. In the Marine Corps, over the same period, the drop was from 82 to 52 percent. The American soldier, airman, and sailor are better trained than any of their counterparts around the world, and we ought to do whatever we can to retain the exceptional service they can provide.

In strategic preparedness, $1.5 billion is provided in this bill for the MX program, and $97 million for development of the Trident II missile.

Thus, H.R. 6974 carries forward the major defense initiatives begun in the last several years; and it gives new emphasis to areas that have more recently emerged as primary defense concerns.

CONCLUSION

If approved, this bill would authorize funding levels that are unprecedented for peacetime. We must remember, however, that money alone cannot solve our defense ailments. We must think in terms of getting the highest return possible for each defense dollar. In this case, the return is defense preparedness.

The proposals in this bill must be tested for practicality and results: Is the proposal realistic, and does it buy us preparedness? We are seeking a balanced and workable defense program that can be tailored to our defense needs. This is a tall order, but the Armed Services Committee has given us a bill that can carry us a long way toward that end.

Again, the committee, its chairman, Senator STENNIS, and the ranking minority member, Senator TOWER, have our gratitude for a job well done.

● Mr. LEVIN. Mr. President, the Senate today passed its version of the fiscal 1981 Department of Defense Authorization Act—in essence its collective judgment as what should be our Nation's defense spending priorities for the upcoming fiscal year.

I voted for final passage of this $51.9 billion authorization for major weapons procurement and defense research and development—although as a member of the Committee on Armed Services I opposed reporting it to the full Senate. I voted approval today because I believe that the full Senate improved on the product which came out of the committee in terms of reorienting defense priorities in a few important areas.

That does not mean that I do not continue to have problems with the overall amount of this authorization, or with specific programs within it. There are still parts of this bill which can be improved, and I hope that the conference between the House and Senate will make such improvements.

Let me address those improvements which I think were important, as well as my continuing disagreements with the bill which I hope can be resolved through the conference.

In both the strategic and conventional warfare areas, the full Senate wisely modified the authorization as reported by our committee.

Specifically, it restored the Army's end strength by the 25,000 soldiers cut by the committee and emphasized that we need an Army that is strong both quantitatively and qualitatively.

As those who followed our debate on this bill know, I disagreed with the proposed committee cut because I did not think it was the best way to improve the quality and capabilities of our Army. We obviously need the most-highly qualified Army possible, consistent with the willingness and abilities of the American people to support reasonable levels of defense spending and sufficient spending for programs to meet our domestic needs.

Restoration of this reduction, and removal of the committee's complicated "indexing" mechanism which allowed the Army's end strength to float upward depending on its recruitment of high school graduates, permits the Army to manage its resources best to achieve both quality and quantity.

This was an important modification in the conventional forces area.

The bill itself, also authorizes $1.1 billion in additional pay/benefits for our military personnel to help restore comparability in their compensation with pay/benefits received in the private sector. This was a long-overdue and necessary step.

Furthermore, the bill increases the resources devoted to operations, maintenance, training and war reserve stocks. These are committee initiatives with which I agreed and which I was gratified to see the full Senate endorse.

In the strategic area, the full Senate diverted $91 million from development of a modified F/FB-111 aircraft to a more promising program which allows for research and development of an advanced technology bomber. There are serious questions whether the F/FB-111 "stretched," modified aircraft would have been able to accomplish the strategic mission in the late 1980's against improving Soviet air defenses that is, it was quite clear it would have been a penetrating bomb which would not penetrate. It would not have been wise for the Senate to approve this total $7–$8 billion program.

There is more potential that the advanced technology bomber being studied by the Defense Department and Air Force will be able to accomplish this strategic, penetrating mission.

The bill also contains funding to continue important strategic modernization programs for the submarine leg of the Triad, and to continue development and procurement of cruise missiles for the air-breathing leg of our deterrent.

My continuing problems with the authorization include funding for the multiple protective structure (MPS) mobile basing mode for the new ICBM—the MX missile. I believe that this basing mode has serious negative implications for arms control, and I question whether it will be militarily-and cost-effective. The financial and environmental costs of this basing mode also are immense.

I still challenge the $304 million the committee added, and with which the Senate adopted, to reactivate the World War II vintage aircraft carrier *Oriskany*. This ship could cost the taxpayers at least $1.7 billion for the few short years remaining in its service life.

The limited gain in combat capability represented by the thrown-together-from-desert-storage air wing this ship will carry just is not worth the price, especially when one considers the Navy's much higher priority needs which should be funded. Reactivation of this manpower-intensive ship also will exacerbate the Navy's already-critical personnel shortages.

The Chairman of the Joint Chiefs of Staff, Gen. David C. Jones, USAF, in a special letter to me on June 24, 1980, convincingly demonstrated this reactivation is unwise. The Nation's highest ranking military officer, General Jones wrote:

> I do not believe that reactivating the 36-year-old *Oriskany* is the best use of $300-plus million in the face of far graver shortfalls in naval readiness. I recognize the appeal of additional carrier capability in the relatively near term, but I consider the advantages outweighed by the "opportunity cost" of foregoing investment in a number of personnel and material readiness initiatives which I view as more fundamental and far reaching in improving our overall maritime capability than reactivating a ship with 1940's-vintage technology.

On the other hand, the committee and the Senate added funds for procurement of an additional, nuclear attack submarine and two more frigates in fiscal 1981. These ships are needed to improve our naval capabilities.

Also, the committee and the Senate added funding for eight container ships to support our rapid deployment force, as well as authorization for procurement and R. & D. on lightweight armored vehicles to improve our rapid deployment capabilities. I believe these additions are useful improvements to our defense posture.

The full Senate also endorsed language, which the committee rejected over the objection of myself and several of my committee colleagues, which emphasizes that the new capabilities represented by these rapid deployment programs must be used in strict accordance with the letter and spirit of the War Powers Act of 1973.

The War Powers Act was passed to restrict the potential for any unilateral commitment by any President of American troops overseas without proper consultation and consent of the Congress. This serves as an important restraint on improper Executive abuse of constitutional powers. I am gratified that the full Senate agreed this re-emphasis of the War Powers Act was appropriate at this time.

Mr. President, reconciling and balancing the many possible defense procurement and R. & D. programs with the true military needs of the United States is a difficult task.

I believe that the fiscal 1981 authorization as modified by the full Senate contains some useful steps toward reaching this reconciliation and striking this balance at this time. I hope that the upcoming conference makes further progress toward this goal.●

Mr. BAKER. Mr. President, I am pleased that we have endured and persevered to complete the Senate's consideration of the fiscal year 1981 defense authorization bill prior to the July recess. The defense bill is in every year an extraordinarily important legislation ritual being, as it is, the provision for the common defense of the Nation. It is especially important this year, however, because the Congress has seized the initiative in deciding to at least halt, and perhaps reverse, the adverse trend in the military balance between the United States and the Soviet Union. We have a long way to go, but at least now we are making a beginning.

There is much, Mr. President, to which we can attribute this newfound sense of determination. The Senate hearings on SALT II, for instance, paradoxically, contributed greatly to the sense of urgency in rebuilding the Nation's defenses. Some in this Chamber, who supported SALT II, saw the treaty as a means of preventing a bad situation from becoming worse.

Some, including myself, who opposed the treaty, saw it as an instrument which would insure a bad situation remained bad. But no one, as far as I know, Mr. President, who participated in and listened to those debates, and who considered all the arguments, came away reassured of the security of the United States.

It is not my intention to enumerate here all the meritorious elements of this bill, Mr. President, but several areas of the bill seem particularly worth mentioning.

The first are those provisions that represent a significant effort to redress the growing disparities in United States and Soviet strategic capabilities. After too many years' delay, we seem finally to be moving to a survivability based ICBM force.

We are not only continuing the production of the Trident SLBM force, we are beginning the development of Trident II and proceeding to upgrade the command and control capabilities associated with both land- and sea-based strategic forces.

We are devoting resources for the development of an interim strategic bomber to supplement our ability to penetrate the Soviet Union with a strategic weapons capable aircraft through the end of the decade. Finally, we are providing for the deployment of 100 additional Minuteman III missiles in Minuteman II silos as an interim measure to alleviate the ICBM vulnerability problems.

All these measures, Mr. President, will contribute to eventually greater strategic stability, but we should bear well in mind that few of these measures will make an immediate difference in the strategic posture of the United States and our ability to deter Soviet aggression at the highest and most awesome level of confrontation. Many of these measures will not be in the strategic forces for a number of years and for some, deployment will not be completed until the end of the decade.

Even the so-called interim fixes, Mr. President, are several years away. We must remember that they are indeed only interim and supplementary measures. We should bear somberly in mind that we are entering a period wherein Soviet strategists must believe that the balance of power will never be more in their favor. It will be a period during which they may be willing to take extraordinary risks, particularly if their view of the strategic balance is complemented by a continuing perception that the United States lacks the resolve to respond.

The Soviet invasion of Afghanistan, or more accurately that pattern of activity of which Afghanistan is only a part, is another of the factors that contributed to the special importance attached to this bill.

After 3 years of dwindling resources and expanding commitments, the Senate has come fully to realize that deterrence is not a term with meaning only in the context of strategic weapons, but one that applies throughout the spectrum of forces.

That realization is seen most markedly in the various provisions designed to enhance our ability to project power in distant parts of the world. Over and above the administration's budget request, we have provided increased funding for additional nuclear attack submarines, an additional Aegis cruiser, two additional guided missile frigates and advanced funding for the new class of amphibious assault ships.

We have given additional substance to the concept of the rapid deployment force by the purchase of eight commercial vessels for the immediate benefit of significant high tonnage, high speed sealift capability. We have moreover decided that we can augment our power projection capability by the reactivation of the *Essex* class carrier *Oriskany* and the battleship *New Jersey*.

Mr. President, the hardware that is contained in this bill is important. It will contribute greatly to enhanced capabilities in each of the mission areas of our Armed Forces. Our willingness to allocate a significant percentage of our very finite resources represents a commitment to our defense which is and must remain a long-term commitment—it cannot be, and I do not believe it is, merely election year patriotism.

There is, however, another important element of our defense that, by the length of the debate devoted to it, is very much in our minds and rightfully so, manpower. The men and women who serve in the Armed Forces of this country do us all an extraordinary service, a service that has become not entirely fashionable to perform. We ask a great deal of them; we ask of them deprivation and sacrifice that most in our affluent society will never know.

Still they serve, and it is encumbent on us to remember their sacrifice and compensate them in a manner such that they can afford to serve.

If we do not, as we are discovering with each new revelation of critical manpower shortages, we shall have neither the quantity nor the quality of young men and women who are willing and who can afford to serve their country. Without them, Mr. President, all the hardware in the world is meaningless.

I would also observe, Mr. President, that simply to provide by defense procurement the means by which we implement the foreign policy of the United States is inadequate.

Over the past several years we have found that we cannot have a foreign policy that contains security commitments in three broad theaters of potential conflict without a Navy that can protect the sealines of communication to those theaters or capable of projecting power in those theaters, without the air and sealift capability to move forces rapidly, and without the adequately and appropriately equipped forces to deploy rapidly should the need arise.

Our foreign policy should define our objectives and define those interests that we are resolved to pursue and protect. Our foreign policy should have as an adjunct our plans for the deployment and employment of forces and their doctrine for the employment of weapon systems at each potential level of confrontation. It should be a foreign policy premised on the role of the United States as a world power, and one that defines our relationship with the world's other powers.

Our problem, Mr. President, is that for the past 3 years we have not had a comprehensive and coherent foreign policy.

We have failed to see the connection between a Soviet combat brigade in Cuba, Cuban troops in Africa, a military buildup in South Yemen and the Vietnamese invasion of Cambodia. We have failed to see how Presidential pronouncements that the SALT negotiations were too important to the United States to be linked to the massive Soviet buildup of arms in Ethiopia would result in the worst of both worlds: A badly negotiated SALT Treaty in which the patient Russians simply outbargained us and a continued pattern of Soviet activity, then represented by Ethiopia and now by Afghanistan. Without a coherent world view our reactions are ad hoc and event specific. When Russian troops invaded Afghanistan we announced that the Soviets must pay a long-term price for their miscalculation.

More recently, we have announced our recognition of a Soviet security interest in the once sovereign and independent nation of Afghanistan. There is still no consistent carefully thoughtout plan.

I go into this at some length, Mr. President, because here, too, the Senate has taken the initiative that the President was unable or unwilling to provide. More particularly, the senior Senator from Oklahoma (Mr. BELLMON) has taken that initiative. It was he who realized during the Foreign Relations Committee's consideration of the SALT Treaty that not only have we negotiated a strategic arms treaty in a vacuum of strategic thought, but that we also annually authorize the implements of foreign policy without adequately relating the authorization to the foreign policy to be implemented. It was entirely his initiative that led to the comprehensive hearings both in the Budget Committee and the Foreign Relations Committee on the foreign policy of the United States and which set the context within which the Budget Committee considered the first concurrent budget resolution. His was a beginning that I hope and trust we shall continue, even as we lose the benefit of his services at the conclusion of this Congress. He should be commended for his worthwhile efforts and he is deserving of our gratitude.

As I have said earlier, Mr. President, the provisions in this bill are really only steps in the right direction. They are overdue and we are just beginning, but we have made a good start.

Mr. JAVITS. Mr. President, in haste to keep an appointment, I left the Chamber while the vote was on without having voted. My vote was really not essential as the measure passed 83 to 4.

I wish to declare my support of it, having voted in all phases of the consideration of the measure upon the particulars which are contained in the measure.

LEGISLATIVE PROGRAM

Mr. ROBERT C. BYRD. Mr. President, for the benefit of Senators, so that Senators may know what is in the offing for the remainder of the day: At the moment, attempts are being made to obtain an agreement to proceed to the consideration of seven conventions and protocols on the Executive Calendar, with one rollcall vote to count for seven.

It is hoped that this can be done very soon after the vote on final passage of the pending business.

Mr. BAKER. Mr. President, will the Senator yield to me on that subject for a moment?

Mr. ROBERT C. BYRD. I yield.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, I just came back from the cloakroom to the Chamber, and I heard the majority leader speaking of the items on the Executive Calendar appearing after the SALT Treaty.

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Did he indicate that he might wish to call those up today?

Mr. ROBERT C. BYRD. Yes, I expressed the hope and indicated that attempts were being made to clear these seven conventions and protocols for action immediately after the vote on final passage of the military procurement bill.

I think I should add at this point that Mr. CHURCH, the chairman of the Foreign Relations Committee, has cleared this on this side.

Mr. BAKER. Mr. President, I thank the majority leader.

If he will yield further, I might tell him the reason I was in the cloakroom at that moment was to ascertain the status of our calendar and also to inquire of certain Members who are not presently in the Chamber about when they could return for that vote or those votes.

The preliminary indication I have is that if we can do this immediately after final passage—and I state again this is a preliminary determination, I am not prepared yet to agree to a unanimous-consent request—but if we can do it right after final passage I think we can arrange to do that with one vote to count for six and possibly for seven.

There is one item we are still attempting to clear on the Executive Calendar. I believe it is the last item on the Executive Calendar on which there is a notation.

Mr. ROBERT C. BYRD. All right.

Mr. BAKER. But we will continue to work on that.

I hope in the next few moments that we can give the majority leader some more information. In the meantime, for those who are here and those who may hear this colloquy, they should know that I will initiate a hot line from our cloakroom before long suggesting that we do that this afternoon, immediately after final passage, that if anyone has any objection to that, they should register that with our cloakroom as soon as possible.

Mr. ROBERT C. BYRD. Mr. President, I feel that this is very agreeable, and I would want all Senators to be alerted to the very real possibility that there will be a rollcall vote which will count for seven very soon after the vote on final passage of the military procurement bill. The request will be made later as soon as the minority leader has been able to clear the matter on his side of the aisle.

One other thing, and that is with respect to the supplemental appropriations conference report. The latest word I have is that that conference report will be received in the Senate at around 4:45 p.m. or 5 p.m. this afternoon. So I hope that Senators could schedule their departures accordingly.

I thank the Senator for yielding.

DEPARTMENT OF DEFENSE AUTHORIZATIONS, 1981

The Senate continued with the consideration of the bill.

Mr. JACKSON. Mr. President, I think we are ready to vote.

The PRESIDING OFFICER. The question is, Shall the bill pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from New Jersey (Mr. BRADLEY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF), the Senator from New Jersey (Mr. BRADLEY), the Senator from Mississippi (Mr. STENNIS), and the Senator from Louisiana (Mr. LONG) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from New York (Mr. JAVITS), the Senator from Maryland (Mr. MATHIAS), the Senator from Oregon (Mr. PACKWOOD), the Senator from New Mexico (Mr. SCHMITT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

I further announce that, if present and voting, the Senator from New York (Mr. JAVITS) would vote "yea."

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). Is there any Senator in the Chamber who wishes to vote who has not voted?

The result was announced—yeas 84, nays 3, as follows:

[Rollcall Vote No. 295 Leg.]

YEAS—84

Armstrong
Baker
Baucus
Bentsen
Biden
Boren
Boschwitz
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Lugar
Magnuson
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Pell
Percy
Pressler
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Schweiker
Simpson
Stafford
Stevens
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Williams
Young
Zorinsky

NAYS—3

Hatfield
Proxmire
Stevenson

NOT VOTING—13

Bayh
Bellmon
Bradley
Goldwater
Javits
Kennedy
Long
Mathias
Packwood
Ribicoff
Schmitt
Stennis
Weicker

So the bill (H.R. 6974), as amended, was passed as follows:

That this Act may be cited as the "Department of Defense Authorization Act, 1981".

TITLE I—PROCUREMENT

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1981 for the use of the Armed Forces of the United States for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, as authorized by law, in amounts as follows:

AIRCRAFT

For aircraft: for the Army, $1,044,300,000; for the Navy and the Marine Corps, $5,910,900,000; for the Air Force, $9,516,943,000, of which $518,800,000 shall be available only for procurement of War Reserve Materiel spares.

MISSILES

For missiles: for the Army, $1,514,400,000; for the Navy, $2,076,400,000; for the Marine Corps, $74,443,000; for the Air Force, $3,180,284,000.

NAVAL VESSELS

For naval vessels: for the Navy, $8,385,200,000.

TRACKED COMBAT VEHICLES

For tracked combat vehicles: for the Army, $2,210,500,000; for the Marine Corps, $45,825,000.

TORPEDOES

For torpedoes and related support equipment: for the Navy, $380,200,000.

OTHER WEAPONS

For other weapons: for the Army, $269,000,000; for the Navy, $195,500,000; for the Marine Corps, $93,490,000.

PATRIOT MISSILE SYSTEM

SEC. 102. Not more than $494,100,000 of the funds authorized to be appropriated by this title for the Army may be used for procurement of the PATRIOT missile system, and no unobligated funds heretofore appropriated for the Army for fiscal year 1980 and no funds authorized to be appropriated by this title for the Army may be obligated or expended for the procurement of PATRIOT missile system end-items unless and until the Secretary of Defense certifies to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives that, based upon operational and development testing conducted by the Army, the PATRIOT missile system is suitable for hardware production.

CERTAIN AUTHORITY PROVIDED SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) PROGRAM

SEC. 103. (a) During fiscal year 1981, the Secretary of Defense, in carrying out the Multilateral Memorandum of Understanding Between the North Atlantic Treaty Organization (NATO) Ministers of Defence on the NATO E-3A Cooperative Programme, signed by the Secretary of the Defense on December 6, 1978, may—

(1) waive reimbursement for the cost of the following functions performed by personnel other than personnel employed in the United States Air Force Airborne Warning and Control System (AWACS) program office:

(A) auditing;
(B) quality assurance;
(C) codification;
(D) inspection;
(E) contract administration;
(F) acceptance testing;
(G) certification services; and
(H) planning, programing, and management services;

(2) waive any surcharge for administrative services otherwise chargeable; and

(3) in connection with the NATO E-3A Cooperative Programme for fiscal year 1981, assume contingent liability for—

(A) program losses resulting from the gross negligence of any contracting officer of the United States;

(B) identifiable taxes, customs duties, and other charges levied within the United States on the program; and

(C) the United States share of the unfunded termination liability.

(b) Authority under this section to enter into contracts shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

FIGHTING VEHICLE SYSTEMS

SEC. 104. (a) The Secretary of the Army shall select, on a competitive basis, a second source contractor for the production and final assembly of the Fighting Vehicle Systems not later than June 30, 1981. Each competitor shall be judged on its ability to reduce the procurement costs of such system to the maximum possible extent as well as on its ability to provide a dependable second source for the production and final assembly of the Fighting Vehicle Systems. The Secretary may not select as a second source contractor for such systems any contractor that is a subsidiary or otherwise a part of the prime contractor for such system.

(b) At least five of the vehicles procured with funds authorized by this Act for the procurement of the Fighting Vehicle Systems shall be manufactured and finally assembled by the second source contractor.

REQUIREMENT FOR AUTHORIZATION OF APPROPRIATIONS FOR FUNDS FOR MAJOR REPAIR WORK ON CERTAIN CLASSES OF SHIPS; RESTRICTIONS ON SERVICE LIFE EXTENSION PROGRAM (SLEP)

SEC. 105. (a) Section 138 of title 10, United States Code, relating to authorization of appropriations for the armed forces, is amended—

(1) by striking out "subsection (e)" in subsection (a)(6) and inserting in lieu thereof "subsection (f)"; and

(2) by redesignating subsection (e) as subsection (f) and inserting after subsection (d) the following new subsection (e):

"(e)(1) No funds may be appropriated for any fiscal year beginning after September 30, 1981, for major repair work on any ship over 3,000 tons (full load displacement) unless such work has been specifically authorized by law.

"(2) The Secretary of Defense shall submit to the Congress a written report, not later than February 15 of each fiscal year, recommending the number of ships over 3,000 tons (full load displacement) in each Navy ship classification on which major repair work should be performed in the next fiscal year.

"(3) The report required under paragraph (2) of this subsection shall include, in the case of each ship, the justification for and an explanation of the major repair work proposed to be performed on such ship and shall also include—

"(A) an estimate of the total cost of the work by appropriation category;

"(B) the estimated time for completing the work;

"(C) the number of military personnel, civilian employees of the Department of Defense, and private industry personnel planned for the work;

"(D) the estimated date of the next major repair work;

"(E) the amount of minor repair work expected to be performed in shipyards before the next major repair work;

"(F) a description of any improved or increased military capability which is expected to result from the work; and

"(G) the effect of the major repair work recommended in such report on the utilization of the peacetime capacity and capability of the United States and on the wartime mobilization capacity of private and public shipyards of the United States.

"(4) For purposes of this subsection—

"(A) The term 'major repair work' means, in the case of any ship to which this subsection is applicable, any overhaul, modification, alteration, or conversion work which will result in a total cost to the United States of more than $10,000,000.

"(B) The term 'minor repair work' means, in the case of any ship to which this subsection is applicable, any repair work which will result in a total cost to the United States of $10,000,000 or less.".

(b) No funds authorized to be appropriated by this or any other Act may be obligated or expended for the purpose of carrying out the Service Life Extension Program (SLEP) for the aircraft carrier Forrestal unless such program is conducted on the basis of cost and such other factors, including national security, as the Secretary of Defense considers appropriate in the exercise of his authority over this program, including but not limited to his authority to make industrial site assignments. The Secretary of Defense shall inform the Congress in writing of the reasons for any decision pursuant to this subsection to obligate or expend funds for carrying out the Service Life Extension Program.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. Funds are hereby authorized to be appropriated for fiscal year 1981 for the use of the Armed Forces of the United States for research, development, test, and evaluation, as authorized by law, in amounts as follows:

For the Army, $3,258,614,000; for the Navy (including the Marine Corps), $5,116,386,000, of which $10,000,000 shall be available only for continuation of the development of the Extremely Low Frequency (ELF) Communications System; for the Air Force, $7,160,197,000, of which not more than $50,000,000 may be obligated or expended for the CX aircraft and of which not more than $91,000,000 may be obligated or expended for the advanced development and engineering development of a strategic bomber which can achieve an initial operation capability in 1987. Such advanced development and engineering development shall include but not be limited to the FB-111B/C aircraft; a multi-role bomber aircraft, a variant of the B-1 bomber aircraft; an advanced technology aircraft, or an appropriate mix of such aircraft, so long as such aircraft have the capability of performing the missions of conventional bomber, cruise missile launch platform, and nuclear weapons delivery system; for the Defense Agencies, $1,368,600,000, of which $42,100,000 is authorized for the activities of the Director of Test and Evaluation, Defense.

MX MISSILE AND BASING MODE

SEC. 202. (a) The Congress finds that a survivable land-based intercontinental ballistic missile (ICBM) system is vital to the security of the United States and to a stable strategic balance between the United States and the Soviet Union and that the timely deployment of a new basing mode is essential to the survivability of this Nation's land-based intercontinental ballistic missiles. It is, therefore, the purpose of this section to insure that the programs for development and deployment of the MX missile system, consisting of 200 missiles and 4,600 hardened shelters, are carried out as soon as practicable.

(b) The Secretary of Defense shall proceed immediately with the full-scale development of the MX missile and a Multiple Protective Structure (MPS) system basing mode for such missile which incorporates a linear or grid road system, and shall continue such development in a manner that will achieve an initial operational capability of such missile and basing mode not later than December 31, 1986.

(c) Notwithstanding any other provision of law, the initial phase of construction shall be limited to 2,300 protective shelters for the MX missile in the initial deployment area.

(d) The Secretary of Defense shall—

(1) submit to the Committees on Armed Services of the Senate and the House of Representatives, not later than February 1, 1981, a general plan for minimizing the adverse economic, environmental, and social effects that are likely to result from the construction of multiple protective structures in the areas proposed for the deployment of the MX missile system, and

(2) conduct a comprehensive study to identify locations, in addition to the Great Basin of Nevada and Utah, suitable for construction of the remaining multiple protective structures, evaluate the costs and the military, environmental, and socioeconomic consequences associated with such further construction and deployment in all such areas, and submit the results of such study to the Committees on Armed Services of the Senate and the House of Representatives not later than February 1, 1981.

RESTRICTIONS ON USE OF FUNDS FOR CX AIRCRAFT

SEC. 203. (a)(1) None of the funds authorized to be appropriated by this title may be obligated or expended for full-scale engineering development of the CX aircraft or any other new transport aircraft associated with the study required under subsection (b) unless the Secretary of Defense certifies to the Congress in writing that (A) the magnitude and characteristics of the military cargo and material to be transported by air to the Indian Ocean area in military emergencies are sufficiently well defined to provide clear justification and design parameters for such aircraft, and (B) plans for such aircraft are sufficiently well developed to make such full-scale engineering development both economical and technically feasible.

(2) Not more than $10,000,000 of the amount authorized to be appropriated by section 201 for the CX aircraft may be obligated or expended before February 1, 1981. The balance of such amount may be obligated or expended only after the expiration of 90 days after the receipt by the Congress of the study required under subsection (b).

(b) (1) The Secretary of Defense shall conduct a study of the immediate and long-term overall military mobility requirements of the United States. In conducting such study the Secretary shall specifically consider and analyze the following factors:

(A) The immediate and long term transportation capacity needed by the Armed Forces to transport planned military units, equipment, and supplies to the Indian Ocean, Persian Gulf, and adjacent areas in emergency situations that may arise in such areas.

(B) The portion of the total transportation capacity referred to in clause (A) that will likely be needed to transport large or bulky equipment, flammable goods, high explosives, urgent replenishment supplies, and other equipment and supplies requiring special treatment.

(C) Any special considerations imposed by the environment of the areas of possible deployment, including the adequacy of airfield and port facilities, the requirement for inflight refueling and tanker aircraft, and the cubic area and weight of armored vehicles to be transported.

(D) The appropriate mix of airlift, sealift, and prepositioning of material in the planned deployment areas that would provide an adequate transportation capacity when needed at least cost.

(E) The relationship of the transportation demands estimated for emergency situations that may arise in the Persian Gulf, Indian Ocean, and adjacent areas to the transportation demands estimated for emergency situations that may arise in North Atlantic Treaty Organization countries and in other areas of the world.

(2) The Secretary of Defense shall submit a report to the Committees on Armed Services of the Senate and the House of Representatives not later than December 1, 1980, containing the results of the study required under paragraph (1), together with such comments and recommendations as the Secretary deems appropriate, including—

(A) recommendations for specific new programs to provide an adequate overall military transportation capacity for the United States and an assessment of the near and long term costs, benefits, and contribution to overall time phased transportation capacity in the case of each such program; and

(B) an analysis of the costs and benefits of at least one alternative group of programs which would provide an adequate overall military transportation capacity.

EXTREMELY LOW FREQUENCY (ELF) COMMUNICATIONS SYSTEM

SEC. 204. (a) Notwithstanding the provisions of section 202 of the Department of Defense Appropriation Authorization Act, 1979 (92 Stat. 1611) or section 203 of the Department of Defense Authorization Act, 1980 (93 Stat. 805), the Secretary of the Navy shall use, for the purpose of resuming research and development work on the Extremely Low Frequency (ELF) Communications System, any unobligated funds heretofor appropriated for such system for fiscal year 1979.

(b) The President shall select a site for deployment of the Extremely Low Frequency (ELF) Communication System not later than April 1, 1981, and shall promptly notify the Congress after the selection of such site has been made.

INCREASING CEILING ON FUNDS THAT MAY BE EXPENDED BY THE DEPARTMENT OF DEFENSE FOR INDEPENDENT RESEARCH AND DEVELOPMENT AND BID AND PROPOSAL COSTS

SEC. 205. Section 203 of Public Law 91-441 (84 Stat. 907) is amended—

(1) by striking out "$2,000,000" and "$250,000" in subsection (a) (1) and inserting in lieu thereof "$4,000,000" and "$500,000", respectively; and

(2) by adding at the end of such section the following new subsection:

"(f) Beginning October 1, 1983, and every three years thereafter, the Secretary may, based upon economic indexes that the Secretary has selected, adjust the amounts in subsection (a) (1) (B) of this section in accordance with economic changes reflected in those indexes."

STUDY OF POTENTIAL CONTRIBUTIONS OF STRATEGIC BALLISTIC MISSILE DEFENSE TECHNOLOGIES

SEC. 206. The Secretary of Defense shall prepare a comprehensive study of: (1) contributions to the increased survivability and reduced force requirements of present and planned land-based intercontinental ballistic missile systems of the United States which would be possible through a planned exploitation of strategic defensive technologies, to include endoatmospheric and exoatmospheric intercept missiles and space-based systems and, (2) the implications of Soviet ballistic missile defense activities for United States strategic force requirements. The results of such study will be submitted to the Congress no later than February 1, 1981.

DEVELOPMENT OF A STRATEGIC BOMBER

SEC. 207. The Secretary of Defense shall vigorously pursue the advanced development and engineering development of a strategic bomber which maximizes range, payload and ability to perform the missions of conventional bomber, cruise missile launch platform, and nuclear weapons delivery in both the tactical and strategic role. The Secretary of Defense shall submit a report on the results of this effort including comparisons of advanced technology aircraft with the B-1 and derivatives of the B-1 and the FB-111B/C in terms of cost and military effectiveness. This report shall be submitted to the Committees on Armed Services of the Senate and House by February 15, 1981.

TITLE III—ACTIVE FORCES

AUTHORIZATION OF END STRENGTHS

SEC. 301. For the fiscal year 1981, each component of the Armed Forces is authorized an end strength for active duty personnel as follows:

(1) The Army, 775,300.
(2) The Navy, 536,100.
(3) The Marine Corps, 185,200.
(4) The Air Force, 564,500.

LIMITATION ON INDUCTION OF PERSONS INTO THE ARMED FORCES WHOSE MENTAL ABILITY IS BELOW A PRESCRIBED LEVEL

SEC. 302. (a) The number of male individuals (with no prior military service) enlisted or inducted into the Army during the fiscal year beginning October 1, 1980, who are not high school graduates may not exceed, as of September 30, 1981, 32 percent of all male individuals (with no prior military service) enlisted or inducted into the Army during such fiscal year.

(b) The total number of individuals enlisted or inducted into all of the armed forces during the fiscal year beginning October 1, 1980, whose mental ability test results place them within the Mental Category Group IV, may not exceed a number equal to 25 percent of all individuals enlisted or inducted into the armed forces during such fiscal year. For any fiscal year beginning after September 30, 1981, the number of individuals enlisted or inducted into any armed force during such fiscal year whose mental ability test results place them within the Mental Category Group IV may not exceed a number equal to 20 percent of all individuals enlisted or inducted into such armed force during such fiscal year.

(c) The Secretary of Defense shall report to the Committees on Armed Services of the Senate and the House of Representatives at the end of each quarter of fiscal year 1981 whether the requirements of subsections (a) and (b) of this section negatively impact on combat readiness.

(d) It is the sense of the Congress that educational institutions in the United States and its territories should cooperate with the recruiting organizations of the armed services by allowing recruiting personnel to visit high schools and by releasing to the armed services, to the extent consistent with current law, directory information to include such data as names, addresses, and educational level of students, and that the release of such directory information be consistent with the provisions of the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g et. seq.).

COMPREHENSIVE MANPOWER MOBILIZATION PLAN

SEC. 303. (a) The Secretary of Defense, in conjunction with the Director of Selective Service, shall prepare and submit to the Congress, not later than April 2, 1981, a comprehensive plan for the effective management during peacetime of the potential military manpower of the United States and for the effective mobilization during a war or national emergency of the potential military manpower and defense-related manpower of the United States. Such plan shall include—

(1) new and improved procedures for the registration and classifications of persons under the Military Selective Service Act, placing special emphasis on administrative and medical procedures that will result in more efficient and cost-effective screening of registrants;

(2) new categories and equitable standards for the deferment and exemption of persons from training and service under the Military Selective Service Act; and

(3) such other administrative changes deemed necessary or appropriate to manage effectively during peacetime the potential military manpower of the United States and to mobilize effectively during a war or national emergency the potential military manpower of the United States.

(b) The Secretary of Defense and the Director of Selective Service shall conduct a study of the impact of reinstating registration under the Military Selective Service Act, if any, and the impact of implementing the plan described in the preceding paragraph on the recruitment and retention of personnel for the active duty, National Guard and reserve forces of the United States. The Secretary shall submit the results of such study to the Congress not later than April 2, 1981, together with such recommendations as he deems appropriate for—

(1) such administrative and legislative changes to integrate and coordinate the plan described in the preceding paragraph with on-going programs to maintain and improve the all volunteer armed forces program;

(2) coordinating operations under such plan with recruiting and retention efforts

of the reserve and National Guard forces of the United States; and

(3) establishing and maintaining a national inventory of civilian personnel who possess key or critical skills, in areas such as medicine, electronics, or engineering, or in any other comparable area, of which, in the event of mobilization, the Secretary determines the armed forces would face significant shortages:

(c) The Secretary of Defense, shall conduct a study to identify the number of military personnel in each of the several skill categories needed to respond effectively in situations in which a military conflict is most likely to occur and submit a report to the Congress not later than April 2, 1981, containing the results of such study, including (1) the estimated shortfalls in each skill category in each of the situations in which a military conflict is most likely to occur, (2) recommendations for the procedures necessary for locating and securing such additional skilled personnel as may be needed by the armed forces to respond effectively in such situations, and (3) such recommendations for changes in existing law as may be necessary to facilitate the compilation and maintenance of a current list of personnel who possess the skills required by the armed forces to respond effectively in such situations.

AUTHORIZATION TO REPAY LOANS FOR SERVICE IN THE ARMED FORCES

SEC. 304. (a) (1) The Secretary of Defense may repay, subject to the provisions of this section, any loan made, insured, or guaranteed under part B of the Higher Education Act of 1965, or any loan made under part E of such Act, and which was made after October 1, 1975. Repayment of any such loan shall be made on the basis of each complete year of service performed by the borrower.

(2) The Secretary of Defense may repay loans described in paragraph (1) of this subsection in the case of any person for—

(A) service performed (i) as an enlisted member of the Selected Reserve of the Ready Reserve of an armed force after September 30, 1980, and (ii) in a Reserve component and military specialty specified by the Secretary of Defense; or

(B) service performed on active duty as an enlisted member of the armed forces after September 30, 1980, in a military specialty specified by the Secretary of Defense.

In the case of service described in clause (A) of the first sentence of this paragraph, the Secretary of Defense may repay a loan described in paragraph (1) only if the person to whom the loan was made performed such service after the loan was made.

(b) The portion or amount of a loan that may be repaid under subsection (a) of this section is—

(1) 15 percent or $500, whichever is greater, for each year of service, in the case of service described in subsection (a) (2) (A) of this section; or

(2) 33⅓ percent or $1,500, whichever is greater, for each year of service, in the case of service described in subsection (a) (2) (B) of this section.

(c) If a portion of a loan is repaid under this section for any year, interest on the remainder of such loan shall accrue and be paid in the same manner as is otherwise required.

(d) Nothing in this section shall be construed to authorize refunding any repayment of a loan.

(e) Any individual who transfers from service described in clause (A) or (B) of subsection (a) (1) of this section to service described in the other clause of such subsection during a year shall be eligible to have repaid a portion of such loan determined by giving appropriate fractional credit for each portion of the year so served, in accordance with regulations of the Secretary concerned.

(f) There is authorized to be appropriated $45,000,000 to carry out the provisions of this section and section 305.

(g) The Secretary of Defense shall, by regulation, prescribe a schedule for the allocation of funds made available to carry out the provisions of this section during any year for which funds are not sufficient to pay the sum of the amounts eligible for repayment under subsection (a).

(h) The Secretary of Defense shall equitably allocate the amount appropriated under this section between the repayment of loans made, insured, or guaranteed under part B of the Higher Education Act of 1965, the repayment of loans made under part E of such Act, and the educational assistance program provided for under section 305.

(i) The authority provided under this section shall apply only in the case of persons who enlist or reenlist in the Selected Reserve of the Ready Reserve of an armed force or enlist or reenlist for service on active duty after September 30, 1980, and before October 1, 1981.

EDUCATIONAL ASSISTANCE PILOT PROGRAM

SEC. 305. (a) (1) As a means of encouraging enlistments and reenlistments in the armed forces, the Secretary of Defense, on behalf of any person who enlists or reenlists in the armed forces after September 30, 1980, and before October 1, 1981, and who elects or has elected to participate in the Post-Vietnam Veterans Educational Assistance Program provided for under chapter 32 of title 38, United States Code, may pay the monthly contribution otherwise deducted from the military pay of such person. No deduction may be made under section 1622 of title 38, United States Code, from the military pay of any person for any month to the extent that the contribution otherwise required to be made by such person under such section for such month is paid by the Secretary of Defense.

(2) No payment may be made under this section on behalf of any person for any month before the month in which such person enlisted or reenlisted in the armed forces or for any month before October 1980.

(b) The amount paid by the Secretary of Defense under this section on behalf of any person shall be deposited to the credit of such person in the Post-Vietnam Era Veterans Education Account established under section 1622(a) of title 38, United States Code.

(c) Except as provided in subsection (d), the provisions of chapter 32 of title 38, United States Code, shall be applicable to payments made by the Secretary of Defense under this section.

(d) Notwithstanding the provisions of section 1631(a) (4) of title 38, United States Code, the Secretary of Defense, in the case of any person who enlists or reenlists in the armed forces or any officer who is ordered to active duty with the armed forces after September 30, 1980, and before October 1, 1981, or whose active duty obligation with the armed forces is extended after September 30, 1980, and before October 1, 1981, and who is a participant in the educational assistance program described in subsection (a), may make monthly payments out of the Post-Vietnam Era Veterans Education Account to the spouse or child of such person to assist such spouse or child in the pursuit of a program of education. Payments under this subsection may be made to the spouse or child of a person participating in such educational assistance program only upon the request of such person and only for such period of time as may be specified by such person. The total amount paid under this subsection in the case of any spouse or child may not exceed the amount credited to such person in the Post-Vietnam Veterans Education Account.

(e) (1) The authority conferred on the Secretary of Defense under this section shall be used by the Secretary only for the purpose of encouraging persons who possess critical military specialties (as determined by the Secretary of Defense) to enter or to remain in the armed forces.

(2) Except as otherwise provided in this section, the Secretary of Defense may offer the benefits of this section to persons eligible therefor for such period as the Secretary determines necessary or appropriate to achieve the purpose of this section.

(f) As used in this section—

(1) The term "program of education" shall have the same meaning as provided in chapter 32 of title 38, United States Code.

(2) The term "child" shall have the same meaning as provided in section 101(4) of title 38, United States Code.

(3) The term "armed forces" means the Army, Navy, Air Force, and Marine Corps.

EDUCATIONAL BENEFITS INCENTIVE PROGRAM REPORT

SEC. 306. (a) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives, within 30 days after the end of each quarter of fiscal year 1981, a report on the implementation of sections 304 and 305.

(b) The Secretary of Defense shall also submit to such committees, not later than March 1, 1981, a report on the extent to which the Post-Vietnam Veterans' Educational Assistance Program provided for under chapter 32 of title 38, United States Code, has encouraged persons to enter or remain in the armed forces. The Secretary shall include in such report—

(1) an evaluation of contributory and noncontributory educational assistance programs as incentives for individuals to enter or remain in the armed forces;

(2) an analysis of the costs and benefits of various educational assistance incentive programs designed to encourage individuals to enter and remain in the armed forces; and

(3) recommendations for such new programs or revision of existing programs as the Secretary determines neecssary or appropriate to successfully encourage individuals to enter and remain in the armed forces.

PAY INCREASE FOR MEMBERS OF THE UNIFORMED SERVICES

SEC. 307. (a) Any adjustment required under the provisions of section 1009 of title 37, United States Code, relating to adjustments in the compensation of members of the uniformed services, which would otherwise first become effective beginning with any pay period in fiscal year 1981 shall not become effective.

(b) (1) Subject to the provisions of paragraph (2), each element of compensation specified in section 1009(a) of title 37, United States Code, shall be increased for members of the uniformed services by 11.7 percent effective with the first pay period beginning after September 30, 1980.

(2) The President may allocate the overall percentage increase specified under paragraph (1) in the same manner and to the same extent he is authorized under subsections (c) and (d) of section 1009 of title 37, United States Code, as amended by section 309 of this Act, to allocate the overall percentage increase of any increase described in subsection (b) (3) of section 1009 of such title, except that the overall percentage increase in the case of any member of the uniformed services with four years or less service may not be more than 11.7 percent.

MILITARY PAY RECOMMENDATIONS

SEC. 308. The President shall submit to the Congress not later than April 1, 1981, such recommendations as he deems necessary or appropriate to improve the method for determining adjustments in the pay and allowances for members of the uniformed services.

AUTHORITY TO ALLOCATE PAY INCREASES AMONG PAY GRADES AND YEARS OF SERVICE CATEGORIES

SEC. 309. Section 1009 of title 37, United States Code, relating to adjustments in compensation, is amended—

(1) by striking out "subsection (c)" in clause (3) of subsection (b) and inserting in lieu theerof "in subsections (b) and (c) of this section";

(2) by inserting "(1)" before "Whenever" at the beginning of subsection (c);

(3) by redesignating subsection (d) as paragraph (2) and striking out in such paragraph, as redesignated, "under subsection (c)" each place it appears and inserting in lieu thereof "under paragraph (1) of this subsection";

(4) by inserting after subsection (c) the following new subsection (d):

"(d) Whenever the President determines such action to be in the best interest of the Government, he may allocate the overall percentage increase in the element of basic pay that would otherwise be effective after any allocation made under subsection (c) of this section among such pay grades and years of service categories as he deems appropriate, except that (1) the basic pay increase for any given pay grade and years of service category after any allocation made under this subsection, subsection (c) of this section, or under both such subsections, as the case may be, may not be less than an amount equal to 75 per centum of the increase in the element of basic pay that would otherwise have been effective under subsection (b)(3) of this section, and (2) the overall percentage increase in the case of any member of the uniformed services with four years or less service may not exceed the overall percentage increase in the General Schedule rates of basic pay for civilian employees.";

(5) by inserting "or (d)" after "subsection (c)" in subsection (e) and by striking out "among the different elements of compensation" in such subsection; and

(6) by striking out "among the three elements of compensation" in subsection (f).

INCREASE IN ENLISTMENT AND REENLISTMENT BONUSES; EXTENSION OF PERIOD DURING WHICH SUCH BONUSES MAY BE PAID

SEC. 310. (a) Section 308 of title 37, United States Code, relating to reenlistment bonuses, is amended—

(1) by striking out "ten years" in paragraph (1)(A) of subsection (a) and inserting in lieu thereof "fourteen years";

(2) by striking out "$15,000" in the first sentence of paragraph (1) of subsection (a) and inserting in lieu thereof "$20,000";

(3) by striking out "twelve years" in the last sentence of paragraph (1) of subsection (a) and inserting in lieu thereof "sixteen years"; and

(4) by striking out "September 30, 1980" in subsection (f) and inserting in lieu thereof "September 30, 1982".

(b) Section 308a of such title, relating to enlistment bonuses, is amended—

(1) by striking out "$3,000" in the first sentence of subsection (a) and inserting in lieu thereof "$5,000"; and

(2) by striking out "September 30, 1980" in subsection (c) and inserting in lieu thereof "September 30, 1982".

AVIATION CAREER PAY

SEC. 311. (a) Chapter 5 of title 37, United States Code, relating to special and incentive pays, is amended by adding at the end thereof the following new section:

"§ 314. Special pay: aviation career officers extending period of active duty

"(a) Under regulations prescribed by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, an officer of a uniformed service who—

"(1) is entitled to aviation career incentive pay under section 301a of this title;

"(2) is below the pay grade of O-7;

"(3) is qualified to perform operational flying duties as defined in clause (6)(A) of section 301a of this title;

"(4) has at least six but less than 18 years of aviation service as an officer;

"(5) executes a written agreement to remain on active duty in aviation service for at least one year; and

"(6) is in an aviation specialty designated as critical;

may, upon the acceptance of the written agreement by the Secretary of Defense or the Secretary of Transportation, as appropriate, be paid, in addition to all other compensation to which the officer is entitled, a sum of money not to exceed an amount equal to four months of the basic pay to which the officer is otherwise entitled at the time the agreement is executed, multiplied by the number of years, or the monthly fractions thereof, of obligated service under the agreement. No agreement under this section may extend beyond the date on which the officer would complete 19 years of aviation service. Upon acceptance of the agreement by the Secretary of Defense or the Secretary of Transportation, as appropriate, and subject to subsection (c) of this section, the total amount payable becomes fixed and may be paid in either a lump sum or in installments.

"(b) For the purpose of this section, the term 'aviation service' means the service performed by an officer holding an aeronautical rating or designation (except a flight surgeon or other medical officer) under regulations prescribed by the Secretary of Defense or the Secretary of Transportation, as appropriate. The years of aviation service are computed beginning with the effective date of the initial order to perform aviation service.

"(c)(1) A member who has received payment under this section and fails to serve the total period of active duty in aviation service specified in the member's agreement shall refund to the United States an amount which bears the same ratio to the amount paid such member under such agreement as the unserved period of active duty in aviation service bears to the total period of active duty in aviation service specified in the agreement.

"(2) Nothing in this section shall be construed (A) as altering or modifying the obligation of a regular officer to perform active service at the pleasure of the President, or (B) as obligating, in any way, the President to accept a resignation submitted by a regular officer upon completion of the period of active duty in aviation service agreed upon by such officer under this section.

"(d) An obligation to reimburse the United States as provided in subsection (c) is a debt owing to the United States for all purposes.

"(e) A discharge in bankruptcy under title 11 shall not release a person from an obligation to reimburse the United States required under the terms of an agreement described in subsection (a) of this section if the final decree of the discharge in bankruptcy was issued within a period of five years after the last day of the period which such person had agreed to serve. This subsection applies to any proceeding in bankruptcy which begins after September 30, 1980.".

(b) The table of sections at the beginning of chapter 5 of such title is amended by adding at the end thereof the following new item:

"314. Special pay: aviation career officers extending period of active duty.".

CHANGE IN METHOD OF COMPUTING RETIRED PAY AND RETAINER PAY

SEC. 312. (a)(1) Section 1401 of title 10, United States Code, relating to the computation of retired pay is amended by striking out all of column 1 of the table contained in such section and inserting in lieu thereof the following:

"Column 1

Take

1/36th of the highest total amount of basic pay to which the member was entitled for any 36 months of active duty service performed by the member or 1/36th of the highest total amount of basic pay to which the member was entitled for any 36 months of active duty service preceding the date on which his name was placed on the temporary disability retired list, whichever is higher. In the case of a member who has served on active duty for less than 36 months, take the average of the monthly basic pay to which the member was entitled for the period served on active duty.

1/36th of the highest total amount of basic pay to which the member was entitled for any 36 months of active duty service performed by the member or 1/36th of the highest total amount of basic pay to which the member was entitled for any 36 months of active duty service preceding the date on which his name was placed on the temporary disability retired list, whichever is higher. In the case of a member who has served on active duty for less than 36 months, take the average of the monthly basic pay to which the member was entitled for the period served on active duty.

1/36th of the total amount of basic pay in effect for the 36-month period immediately preceding the date on which the member becomes entitled to retired pay for the member's grade and years of service under the basic pay rates in effect during such period.

1/36th of the highest total of basic pay to which the member was entitled for any 36 months of active duty performed by the member.".

(2) Section 1401 of such title is further amended by striking out the footnote designation "4" in the table and by striking out footnotes 1, 2, and 4 following such table.

(b)(1) Section 1402(a) of such title is amended by striking out all of column 1 of the table contained in such section and inserting in lieu thereof the following:

"Column 1

Take

1/36th of the highest total amount of basic pay to which the member was entitled for any 36 months of active duty preceding the date of his release from that active duty.".

(2) Section 1402 of such title is further amended by striking out footnote 1 following the table contained in such section.

(3) Section 1402(d) of such title is amended by striking out all of column 1 of the table contained in such section and inserting in lieu thereof the following:

Column 1

Take

1/36th of the highest total amount of basic pay to which the member was entitled for any 36 months of active duty preceding the date of his release from active duty or 1/36th of the highest total amount of basic pay to which the member was entitled for any 36 months of active duty service preceding the date on which his name was placed on the temporary disability retired list, whichever is higher.".

(c)(1) Section 3991 of such title is amended by striking out all of column 1 of the table contained in such section and inserting in lieu thereof the following:

"Column 1
Take
1/36th of the total amount of basic pay to which the member was entitled for any 36 months of active duty service preceding the date of retirement.".

(2) Section 3991 of such title is further amended by striking out footnotes 1, 2, and 3 following the table contained in such section.

(d)(1) Chapter 571 of such title is amended by adding at the end thereof the following new section:

"§ 6333. Computation of retired pay or retainer pay

"Notwithstanding any other provision of law—

"(1) The monthly retired pay of a member retired under this chapter, chapter 573, or chapter 575 shall be computed by taking 1/36th of the highest total amount of basic pay to which the member was entitled for any 36 months of active duty service preceding the date of retirement multiplied by 2½ percent of years of service creditable for retirement purposes, but not to exceed 75 percent of the basic pay upon which the computation of retired pay is based.

"(2) A member who has become entitled to retired pay or retainer pay, and who thereafter serves on active duty (other than for training), is entitled to recompute his retired pay or retainer pay upon his release from that duty by taking 1/36th of the highest total amount of basic pay to which the member was entitled for any 36 months of active duty preceding the date of his release from that active duty or 1/36th of the highest total amount of basic pay to which the member was entitled for any 36 months of active duty service preceding the date on which his name was placed on the temporary disability retired list, whichever is higher, multiplied by the higher of—

"(A) 2½ percent of the years of service credited for retirement purposes, or

"(B) the highest percentage of disability attained while on active duty after retirement or after the date on which his name was placed on the temporary disability retired list, as appropriate,

plus any amount necessary to increase that produce to 50 percent of the pay upon which the computation is based if the name of the member is on the temporary disability retired list; but the retired pay or retainer pay may not exceed 75 percent of the pay upon which the computation is based.".

(2) The table of sections at the beginning of chapter 571 of such title is amended by adding at the end thereof the following new item:

"6333. Computation of retired pay or retainer pay.".

(e)(1) Section 8991 of such title is amended by striking out all of column 1 of the table contained in such section and inserting in lieu thereof the following:

"Column 1
Take
1/36th of the total amount of basic pay to which the member was entitled for any 36 months of active duty service preceding the date of retirement.".

(2) Section 8991 of such title is further amended by striking out footnotes 1, 2, and 3 following the table contained in such section.

(f) Notwithstanding any other provision of law, the retired pay of commissioned officers of the Coast Guard, Public Health Service, and the National Oceanic and Atmospheric Administration shall be computed in the same manner as provided in the case of members of the armed forces under title 10, United States Code.

(g)(1) The amendments made by subsection (a) shall not be effective in the case of any member or former member of the uniformed services who, before the date of enactment of this section, had completed ten or more years of creditable service for purposes of determining eligibility for retired or retainer pay. The provisions of law relating to retired pay and retainer pay as in effect on the day before the date of enactment of this Act shall be applicable in the case of any person described in the preceding sentence in the same manner as if such provisions had not been amended by this section.

(2) The amendment made by subsection (a) shall not reduce the monthly retired pay or retainer pay to which a member or former member of a uniformed service was entitled on the day before the effective date of this section.

INCREASE IN PER DIEM ALLOWANCES

SEC. 313. (a) Section 404(d) of title 37, United States Code, relating to travel and transportation allowances, is amended—

(1) by striking out "$35" in clause (2) of the first sentence and inserting in lieu thereof "$50"; and

(2) by striking out "$50" in the second sentence and inserting in lieu thereof "$75".

(b) The amendments made by subsection (a) shall be effective with respect to travel and transportation performed after September 30, 1980.

INCREASE IN TRANSPORTATION EXPENSES FOR MEMBERS OF THE UNIFORMED SERVICES WHO HAVE HOUSE TRAILERS OR MOBILE HOMES

SEC. 314. (a) Section 409 of title 37, United States Code, relating to travel and transportation allowances for trailers, is amended to read as follows:

"§ 409. Travel and transportation allowances: trailers

"(a) Under regulations prescribed by the Secretaries concerned and in place of the transportation of baggage and household effects, except as provided in subsection (c), a member, or, in the case of the member's death, the member's dependent who would otherwise be entitled to transportation of baggage and household effects under section 406 of this title, may transport a house trailer or mobile dwelling within the continental United States, within Alaska, or between the continental United States and Alaska, for use as a residence by one of the following means:

"(1) transport the trailer or dwelling and receive a monetary allowance in place of transportation at a rate to be prescribed by the Secretaries concerned, but not more than 20 cents a mile;

"(2) deliver the trailer or dwelling to an agent of the United States for transportation by the United States or by commercial means; or

"(3) transport the trailer or dwelling by commercial means and be reimbursed by the United States for the expense, including the expenses of necessary tolls, charges, and permit fees.

However, the cost of transportation under clause (2) or the reimbursement under clause (3) may not be more than the cost of packing, pick-up, line-haul or drayage, delivery, and unpacking costs of the maximum weight allowance of baggage and household effects prescribed by the Secretaries concerned for the member or dependent. Storage in transit of up to 180 days as specified in section 406 of this title is authorized. Any payment authorized by this section may be made in advance of the transportation concerned. For the purposes of this section, 'continental United States' means the forty-eight contiguous States and the District of Columbia.

"(b) A member transporting a house trailer or mobile home dwelling under this section is entitled to the dislocation allowance authorized in section 407 of this title.

"(c) Under regulations prescribed by the Secretaries concerned, a member who is ordered to make a change of permanent station from a place inside to a place outside, or from a place outside to a place inside, the continental United States or Alaska is entitled to both the transportation of the member's house trailer or mobile dwelling and the transportation of his baggage and household effects within the continental United States or Alaska. However, to total cost of moving baggage and household effects and house trailer or mobile dwelling within the continental United States or Alaska may not be more than the cost of transporting the maximum weight allowance of baggage and household effects and related costs authorized for the member or member's dependent from—

"(1) the old duty station in the continental United States or Alaska to the location to which the house trailer or mobile dwelling is transported at the expense of the United States thence to the port of embarkation through which household goods would have been transported from the old duty station; or

"(2) the greater distance of either—

"(A) the port of debarkation to the new duty station in the continental United States or Alaska; or

"(B) the location where the house trailer or mobile dwelling was transported at the expense of the United States to the new duty station in the continental United States or Alaska.".

(b) The amendment made by subsection (a) shall become effective on October 1, 1980.

REMOVAL OF PROHIBITION AGAINST PAYMENT OF FAMILY SEPARATION ALLOWANCE TO LOWEST FOUR PAY GRADES

SEC. 315. (a) Section 427(b) of title 37, United States Code, relating to family separation allowance, is amended by striking out in the first sentence thereof "(other than a member in pay grade E–1, E–2, E–3, or E–4 (4 years' or less service))".

(b) The amendment made by subsection (a) shall become effective on October 1, 1980.

AMENDMENTS TO CHAMPUS PROGRAM TO AUTHORIZE IMMUNIZATIONS FOR CHILDREN UNDER TWO YEARS OF AGE; TO AUTHORIZE ROUTINE CARE OF NEWBORN; TO AUTHORIZE WELL-BABY CARE; AND TO INCREASE GOVERNMENT'S SHARE OF CERTAIN COSTS

SEC. 316. (a) Section 1079 of title 10, United States Code, relating to contracts for medical care for spouses and children, is amended—

(1) by striking out the semicolon at the end of clause (2) of subsection (a) and inserting in lieu thereof a comma and the following: "except that immunizations may be provided children under two years of age;";

(2) by striking out "routine care of the newborn, well-baby care, and" in clause (3) of subsection (a); and

(3) by striking out "$350" in clause (2) of subsection (e) and inserting in lieu thereof "$1,000".

(b) The amendment made by subsection (a) shall become effective October 1, 1980.

DENIAL OF BENEFITS TO PERSONS WHO FAIL TO COMPLETE AT LEAST TWO YEARS OF AN ORIGINAL ENLISTMENT

SEC. 317. (a) Section 505 of title 10, United States Code, relating to enlistment qualifications is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision of law, any enlisted member of a regular component of the armed forces who fails to complete at least twenty-four months of such person's period of original enlistment shall not be eligible for any right, privilege, or benefit for which persons become eligible by reason of serving on active duty in the armed forces if the claim for the eligibility of such person for such right, privilege, or benefit is based upon any period of service performed by such person under such enlistment, unless such member was discharged under section 1173 or chapter 61 of this title or unless it is later established that such person is suffering from a disability which resulted from an injury or disease incurred in or aggravated during the period of the enlistment completed by such member and is not the result of the member's intentional misconduct and was not incurred during a period of unauthorized absence.".

(b) The amendment made by subsection (a) shall be effective in the case of persons who enlist in the armed forces on or after the date of enactment of this Act.

ONCE A YEAR ADJUSTMENT OF RETIRED PAY AND RETAINER PAY TO REFLECT CHANGES IN THE CONSUMER PRICE INDEX

SEC. 318. (a) Section 1401a(b) of title 10, United States Code, relating to adjustment of retired pay and retainer pay to reflect changes in the Consumer Price Index, is amended to read as follows:

"(b) Each time that an increase in annuities is made under section 8340(b) of title 5, the Secretary of Defense shall increase the retired pay and retainer pay of members and former members of the armed forces by the same precentage figure by which annuities are increased under such section and the increase in such retired pay and retainer pay shall be effective on the same date as the effective date for the increase in annuities under such section 8340(b). An increase under this subsection shall be applicable in the case of the retired pay and retainer pay of members and former members of the armed forces who become entitled to that pay before the effective date of the increase.".

(b)(1) The amendment made by subsection (a) shall not become effective unless legislation is enacted which provides for a once-a-year adjustment of annuities paid under chapter 83 of title 5, United States Code. In the event such legislation is enacted, such amendment shall become effective with respect to adjustments in the retired pay and retainer pay of members and former members of the armed forces and with respect to the cost-of-living adjustment of annuities paid under the Central Intelligence Agency Act of 1964 for Certain Employees at the same time that the once-a-year adjustment of annuities paid under chapter 83 of title 5, United States Code, becomes effective.

(2) The provisions of paragraph (1) relating to legislation which provides for a once-a-year adjustment of the retired pay and retainer pay of members and former members of the armed forces shall be applicable to cost-of-living adjustments of the retired pay of commissioned officers of the National Oceanic and Atmospheric Administration and the retired pay of commissioned officers of the Public Health Service.

DELAY OF EFFECTIVE DATE FOR CEILINGS ON NUMBER OF COMMISSIONED OFFICERS ON ACTIVE DUTY AND CIVILIANS EMPLOYED BY THE DEPARTMENT OF DEFENSE

SEC. 319. Section 811 of the Department of Defense Appropriation Authorization Act, 1978 (Public Law 95–79) is amended by striking out "October 1, 1980" in the first sentence of subsection (a)(1) and inserting in lieu thereof "October 1, 1981".

STATUTORY RECOGNITION OF THE PRESENT MILITARY LEGAL ASSISTANCE PROGRAM

SEC. 320. (a) It is the intent of the Congress that members of the Armed Forces and their dependents have legal assistance made available to them in connection with their personal legal affairs.

(b)(1) Chapter 53 of title 10, United States Code, is amended by adding at the end of such chapter the following new section.

"§ 1041. Legal assistance

"(a) Under such regulations and with such limitation as the Secretary concerned may prescribe, members of the armed forces on active duty and their dependents may be provided legal assistance in connection with their personal legal affairs.

"(b) The Judge Advocates General, as defined in section 801(1) of this title, are responsible for the establishment and supervision of legal assistance programs under such regulations as may be prescribed by the Secretary concerned.

"(c) Nothing contained in this section shall be construed as authority for specific increases above levels of legal assistance programs currently planned or the representation in court of persons described in subsection (a) who can otherwise afford legal fees for such representation without undue hardship.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1041. Legal assistance.".

BASIC PAY OF WOMAN OFFICER OF THE NAVY SERVING AS A REAR ADMIRAL

SEC. 321. (a) Section 202(k) of title 37, United States Code, is amended to read as follows:

"(k) When initially appointed as a rear admiral under section 5767(c) of title 10, a woman officer of the Navy is entitled to the pay of a rear admiral of the lower half. An officer serving under such an appointment or a subsequent appointment under that section is entitled to the basic pay of a rear admiral of the upper half when any officer who is junior to her is entitled to the basic pay of a rear admiral of the upper half as determined under subsection (a) of this section.".

(b) Notwithstanding any other provision of law, a woman officer of the Navy who, on the effective date of this Act, is serving under an appointment made under section 5767 (c) of title 10, United States Code, and who would have been entitled to the basic pay of a rear admiral of the upper half on any date prior to the effective date of this Act had the amendment made by this Act been effective on such date shall be entitled to the pay of a rear admiral of the upper half from that date.

EXEMPTION OF MEMBERS OF THE ARMED FORCES FROM OFFICE OF MANAGEMENT AND BUDGET CIRCULAR A–118 (RELATING TO FEDERAL EMPLOYEE PARKING FACILITIES)

SEC. 322. Members of the Armed Forces of the United States who are serving on active duty shall be exempted from any charge for parking facilities imposed against Federal employees under Office of Management and Budget Circular A–118, dated August 13, 1979, and published in the Federal Register of August 17, 1979 (Vol. 44, No. 161, page 48638).

TITLE IV—RESERVE FORCES

AUTHORIZATION OF RESERVE COMPONENT STRENGTHS

SEC. 401. (a) For the fiscal year 1981, the Selected Reserve of each reserve component of the Armed Forces shall be programed to attain an average strength of not less than the following:

(1) The Army National Guard of the United States, 371,300.

(2) The Army Reserve, 204,500.

(3) The Naval Reserve, 87,400.

(4) The Marine Corps Reserve, 33,700.

(5) The Air National Guard of the United States, 94,300.

(6) The Air Force Reserve, 58,800.

(7) The Coast Guard Reserve, 11,700.

(b) Within the average strengths authorized in subsection (a) for fiscal year 1981, each component of the Armed Forces is authorized an end strength of no more than the following numbers of reserve component members serving on full-time active duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve forces:

(1) The Army National Guard of the United States, 10,159.

(2) The Army Reserve, 5,400.

(3) The Naval Reserve, 708.

(4) The Marine Corps Reserve, 67.

(5) The Air National Guard of the United States, 3,207.

(6) The Air Force Reserve, 698.

(c) The average strength prescribed by subsection (a) of this section for the Selected Reserve of any reserve component shall be proportionately reduced by (1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at any time during the fiscal year; and (2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are an active duty (other than for training or for unsatisfactory participation in training) without their consent at any time during the fiscal year. Whenever such units or such individual members are released from active duty during any fiscal year, the average strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

BONUSES FOR ENLISTMENT, REENLISTMENT, AND EXTENSIONS IN THE READY RESERVE; SELECTIVE BONUSES FOR RESERVE AFFILIATION AGREEMENT PRIOR TO DISCHARGE OR RELEASE FROM ACTIVE DUTY

SEC. 402. (a) Chapter 5 of title 37, United States Code, relating to special and incentive pays, is amended by adding after section 308c the following new sections:

"§ 308d. Special pay: bonus for enlistment, reenlistment or voluntary extension in the Ready Reserve of an armed force

"(a) Any eligible person who enlists, reenlists, or voluntarily extends his enlistment in a designated element of the Ready Reserve of an armed force for a period of three or more years may be paid a bonus as provided in subsection (b) of this section.

"(b) Eligibility for and the amount and method of payment of a bonus to be paid under this section shall be determined under regulations prescribed by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, except that the amount of such bonus may not exceed $600, and the bonus recipient must enlist, reenlist, or voluntarily extend in an element of the Ready Reserve other than the Selected Reserve.

"(c) A person who fails to participate satisfactorily in the designated element of the Ready Reserve in which he enlists, reenlists, or extends shall refund to the United States an amount which bears the same ratio to the amount of the bonus paid to such person as the unserved period of the enlistment, reenlistment, or extension bears to the total period of enlistment, reenlistment, or extension for which the bonus was paid.

"(d) An obligation to reimburse the United States as provided in subsection (c) is a debt owing to the United States for all purposes.

"(e) A discharge in bankruptcy under title 11 shall not release a person from an obligation to reimburse the United States required under subsection (c) of this section if the final decree of the discharge in bankruptcy was issued within a period of five years after the last day of the period which such person had agreed to serve under the enlistment, reenlistment, or extension for which a bonus was paid under this section. This subsection applies to any proceeding in bankruptcy which begins after September 30, 1980.

"(f) No bonus may be paid under this section to any person for an enlistment, reenlistment, or voluntary extension of an enlistment in the Ready Reserve after September 30, 1981.

"§ 308e. Special pay; bonus for reserve affiliation agreement

"(a) Under regulations prescribed by the Secretary of Defense, the Secretary of a military department may pay a reserve affiliation bonus to any person who is serving on active duty and has 180 days or less remaining of his active duty obligation, or who has served on active duty for any period of time and was discharged or released from such active duty under honorable conditions, and who—

"(1) is eligible for reenlistment or for an extension of his active duty service;

"(2) holds and is qualified in a military specialty approved by the Secretary of Defense;

"(3) has a grade for which there is a vacancy in the reserve component in which such person is to become a member;

"(4) is not affiliating in a reserve component to become a Reserve, National Guard, or Air National Guard technician:

"(5) enters into a written agreement with the Secretary concerned to serve as a member of the Selected Reserve of the Ready Reserve of an armed force for the obligated period of reserve service such member has remaining or, if on active duty, will have remaining at the time of his discharge or release from active duty; and

"(6) meets all the other eligibility requirements for becoming a member of the Selected Reserve of the Ready Reserve of an armed force.

"(b) (1) The amount of the bonus paid to any person under this section shall be an amount determined by multiplying $25 times the number of months of reserve obligation such person has remaining or, if on active duty, will have remaining at the time of his discharge or release from active duty.

"(2) in the case of a person who has, or at the time of discharge or release from active duty will have, eighteen months or less reserve service obligation remaining, the Secretary concerned may pay the total amount of the bonus at the time such person signs his reserve affiliation agreement. In the case of a person who has, or at the time of discharge or release from active duty will have, more than eighteen months of such service remaining, the Secretary concerned may pay one-half of the bonus at the time such person signs his reserve affiliation agreement and the remaining one-half on the date of the fifth anniversary of such person's original enlistment or call to active duty.

"(c) In no case may a bonus be paid in whole or in part under this section to any person who has more than 180 days remaining on his active duty service obligation.

"(d) A person who fails to participate satisfactorily in the Selected Reserve in which such person agrees to serve shall refund to the United States an amount which bears the same ratio to the amount of the bonus paid to such person as the period which such person failed to serve satisfactorily bears to the total period for which the bonus was paid.

"(e) An obligation to reimburse the United States as provided in subsection (d) is a debt owing to the United States for all purposes.

"(f) A discharge in bankruptcy under title 11 shall not release a person from an obligation to reimburse the United States required under the terms of an agreement described in subsection (a) of this section if the final decree of the discharge in bankruptcy was issued within a period of five years after the last day of the period which such person had agreed to serve. This subsection applies to any proceeding in bankruptcy which begins after September 30, 1980.

"(g) No bonus may be paid under this section to any person for a reserve obligation agreement entered into after September 30, 1981.".

(b) The table of sections at the beginning of chapter 5 of such title is amended by inserting below the item relating to section 308c the following new items:

"308d. Special pay: bonus for enlistment, reenlistment, or voluntary extension in the Ready Reserve of an armed force.

"308e. Special pay: bonus for reserve affiliation agreement.".

(3) The amendments made by this section shall become effective on October 1, 1980.

EXTENSION OF RESERVE RECRUITMENT INCENTIVES

SEC. 403. (a) Section 2135 of title 10, United States Code, relating to the eduactional assistance for enlisted members of the Selected Reserve, is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1985".

(b) Section 308b(g) of title 37, United States Code, relating to reenlistment bonuses for members of the Selected Reserve, is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1985".

(c) Section 308c(f) of title 37, United States Code, relating to bonuses for enlistment in the Selected Reserve, is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1985".

EDUCATION ASSISTANCE FOR ENLISTED MEMBERS OF SELECTED RESERVE OF THE READY RESERVE

SEC. 404. (a) Section 2131(c) of title 10, United States Code, relating to educational assistance for enlisted members of the Selected Reserve of the Ready Reserve, is amended by striking out "$500" and "$2,000" and inserting in lieu thereof "$1,000" and "$4,000," respectively.

(b) The amendments made by subsection (a) shall take effect on October 1, 1980.

TITLE V—CIVILIAN PERSONNEL

AUTHORIZATION OF END STRENGHTHS

SEC. 501. (a) For the fiscal year 1981, the Department of Defense is authorized an end strength for civilian personnel as follows:

(1) The Department of the Army, 354,545.

(2) The Department of the Navy, including the Marine Corps, 309,245.

(3) The Department of the Air Force, 238,620.

(4) Activities and agencies of the Department of Defense (other than the military departments), 78,640. (b) In computing the authorized end strength for civilian personnel there shall be included all direct-hire and indirect-hire civilian personnel employed to perform military functions administered by the Department of Defense (other than those performed by the National Security Agency) whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth such as the stay-in-school campaign, the temporary summer aid program, and the Federal junior fellowship program and personnel participating in the worker-trainee opportunity program. Whenever a function, power, duty, or activity is transferred or assigned to a department or agency of the Department of Defense from a department or agency outside of the Department of Defense, or from another department or agency within the Department of Defense, the civilian personnel end strength authorized for such departments or agencies of the Department of Defense affected shall be adjusted to reflect any increases or decreases in civilian personnel required as a result of such transfer or assignment.

(c) When the Secretary of Defense determines that such action is necessary in the national interest, he may authorize the employment of civilian personnel in excess of the number authorized by subsection (a) of this section but such additional number may not exceed 1¼ per centum of the total number of civilian personnel authorized for the Department of Defense by subsection (a) of this section. The Secretary of Defense shall promptly notify the Congress of any authorization to increase civilian personnel strength under the authority of this subsection.

(d) During fiscal year 1981, the Secretary of Defense shall manage the manpower resources of the Department of Defense in a manner that will insure that functions of the Department of Defense involving maintenance, construction, engineering acquisition, or repair activities will be provided civilian manpower resources sufficient to fulfill the work requirements for which funds have been appropriated, on a schedule consistent with the requirements of national security and military readiness.

TITLE VI—MILITARY TRAINING STUDENT LOADS

AUTHORIZATION OF TRAINING STUDENT LOADS

SEC. 601. (a) For the fiscal year 1981, each component of the Armed Forces is authorized an average military training student load as follows:

(1) The Army, 53,128.

(2) The Navy, 64,545.

(3) The Marine Corps, 21,393.

(4) The Air Force, 46,238.

(5) The Army National Guard of the United States, 7,177.

(6) The Army Reserve, 6,880.

(7) The Naval Reserve, 953.

(8) The Marine Corps Reserve, 3,144.

(9) The Air National Guard of the United States, 1,930.

(10) The Air Force Reserve, 1,139.

(b) In addition to the number authorized in subsection (a), each component of the Armed Forces is authorized a military training student load to be utilized solely for one station unit training of not less than the following:

(1) The Army, 18,890.

(2) The Army National Guard of the United States, 6,839.

(3) The Army Reserve, 2,468.

(c) The average military training student loads for the Army, the Navy, the Marine Corps, and the Air Force and the reserve components authorized in subsection (a) for fiscal year 1981 shall be adjusted consistent with the manpower strengths authorized in titles III, IV, and V of this Act. Such adjustment shall be apportioned among the Army, the Navy, the Marine Corps, and the Air Force and the reserve components in such manner as the Secretary of Defense shall prescribe.

EXTENSION OF AUTHORITY FOR SUBSISTENCE ALLOWANCE FOR MARINE CORPS PLATOON LEADER CLASSES

SEC. 602. (a) Chapter 3 of title 37, United States Code, relating to basic pay, is amended by adding at the end thereof the following new section:

"§ 210. Marine Corps officer candidate program: subsistence allowance

"(a) Except when serving on active duty, a member of the armed forces enrolled in a Marine Corps officer candidate program which requires a baccalaureate degree as a prerequisite to being commissioned as a regular or reserve officer, and who is not enrolled in a program under section 103 of title 10 or is not a cadet or midshipman in a service academy established under chapter 403, 603, or 903 of title 10, may be paid a subsistence allowance at the same rate as that prescribed under section 209(a) of this title for a member of the Senior Reserve Officer's Training Corps selected for advanced training under section 2104 of such title.

"(b) No subsistence allowance may be paid under subsection (a) of this section for any period after September 30, 1982.".

(b) The table of sections at the beginning of chapter 3 of such title is amended by adding at the end thereof the following new item:

"210. Marine Corps officer candidate program; subsistence allowance.".

(c) Public Law 92-172 (85 Stat. 491; 37 U.S.C. 209 note) is repealed.

TITLE VII—WAR-RELATED CIVIL DEFENSE

AUTHORIZATION FOR APPROPRIATIONS

SEC. 701. There is authorized to be appropriated for fiscal year 1981 for the purpose of carrying out the provisions of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251-2297) the sum of $114,500.00.

REQUIREMENT FOR MATCHING FUNDS FOR CONSTRUCTION OF EMERGENCY OPERATING CENTERS

SEC. 702. Title II of the Federal Civil Defense Act of 1950 (50 App. U.S.C. 2281-2286) is amended by adding at the end thereof the following new section:

"SEC. 206. Notwithstanding any other provision of this Act, funds appropriated to carry out this Act may not be used for the purpose of constructing emergency operating centers (or similar facilities) in any State unless such State matches in an equal amount the amount made available to such State under this Act for such purposes.".

CIVIL DEFENSE

SEC. 703. The Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251 through 2297), is amended—

(1) by adding after title IV the following new title:

"TITLE V—ENHANCED CIVIL DEFENSE PROGRAM

"SENSE OF CONGRESS

"SEC. 501. (a) It is the sense of Congress that—

"(1) a civil defense program providing for relocating the population of risk areas including the larger United States cities during a period of strategic warning resulting from an international crisis, may be effective in protecting the population;

"(2) the present civil defense program should be improved;

"(3) an improved civil defense program can be developed and can enhance the civil defense capability of the United States.

"(b) It is the sense of Congress that an improved civil defense program should be implemented—

"(1) to enhance the survivability of the American people and its leadership in the event of nuclear war and thereby to improve the basis for eventual recovery and to reduce the vulnerability to a major attack;

"(2) to enhance deterrence and to contribute to perceptions of the overall United States-Soviet strategic balance and crisis stability, and to reduce the possibility that the United States might be susceptible to coercion by an enemy in times of increased tension;

"(3) to not suggest any change in the United States policy of relying on strategic nuclear forces as the preponderant factor in maintaining deterrence; and

"(4) to include planning for some population relocation during times of international crisis as well as be adaptable to help deal with natural disasters and other peacetime emergencies.

"PROGRAM ELEMENTS

"SEC. 502. (a) To carry out section 501, the President shall, to the extent practicable, develop and implement a civil defense program which includes—

"(1) a program element structure for the resources planned for war-related civil defense;

"(2) a program element structure for the resources planned for civil disaster civil defense;

"(3) a list of criteria and procedures under which resources of either program elements and structure (1) or (2) may be used for the other programs.

"(b) Consideration should be given to the following program elements—

"(1) nuclear civil protection planning for more rapid population relocation during times of international crisis;

"(2) nuclear civil protection planning for improved inplace protection should circumstances preclude crisis relocation;

"(3) a survey of the shelters inherent in existing facilities;

"(4) planning for the development of additional shelter for use during times of crisis, development of capabilities for shelter management, of the marking of shelters and development of ventilation kits for shelter;

"(5) the development of emergency evacuation plans in areas where nuclear powerplants are located;

"(6) the improvement of strategic warning systems;

"(7) the improvement of systems and capabilities for the direction and control of emergency operations by civil governments at all levels, including further development of a network of emergency operating centers;

"(8) the improvement of civilian radiological defense capabilities;

"(9) the improvement of emergency public information and training programs and capabilities;

"(10) the development of plans for postattack and post-disaster provided that postdisaster economic recovery planning does not detract from post-attack economic recovery planning;

"(11) the improvement of and training in self-help nuclear survivor skills;

"(12) research and development; and

"(13) other appropriate systems to increase life-saving potential of the civil defense program.

"ADMINISTRATIVE PROVISIONS

"SEC. 503. The powers contained in titles II and IV of his Act shall be used in developing and implementing section 502."; and

(2) by adding at the end of the table of contents the following:

"TITLE V—ENHANCED CIVIL DEFENSE PROGRAM

"Sec. 501. Sense of Congress.
"Sec. 502. Program elements.
"Sec. 503. Administrative provisions.".

TITLE VIII—GENERAL PROVISIONS

TRANSFER OF FUNDS FOR SELECTIVE SERVICE SYSTEM

SEC. 801. (a) Notwithstanding any other provision of law, funds appropriated to the Department of Defense shall be made available to the Director of Selective Service in such amounts as may be necessary, but not in excess of $13,300,000, to meet expenses in connection with the registration of male persons under the Military Selective Service Act during the fiscal year beginning October 1, 1979.

(b) The Secretary of Defense shall transfer from funds appropriated to the Department of Defense to the Director of Selective Service such amounts, not to exceed $13,300,000, as the Director may request for use during the fiscal year beginning October 1, 1979. Funds shall be transferred by the Secretary of Defense from such account or accounts of the Department of Defense as the Secretary shall specify.

(c) This section shall not constitute authority for enactment of new budget authority in fiscal year 1980.

EXEMPTION OF CERTAIN CONTRACTS FROM PROFIT LIMITATION PROVISIONS OF TITLE 10, UNITED STATES CODE

SEC. 802. (a) Notwithstanding the provisions of any contract or agreement to the contrary, the provisions of sections 2382 and 7300 of title 10, United States Code, relating to excess profits on contracts for the construction or manufacture of aircraft and naval vessels and parts thereof, shall not apply to any contract or subcontract the performance of which was completed during the period beginning on October 1, 1976, and ending on September 30, 1981.

(b) Neither the Department of Defense nor the Internal Revenue Service may require any report under section 2382 or 7300 of title 10, United States Code, before October 1, 1981; and neither the Department of Defense nor the Internal Revenue Service may promulgate any regulation which provides for the implementation of either or both such sections before October 1, 1981.

ALLIED COMMITMENTS REPORT

SEC. 803. (a) The Secretary of Defense shall submit a report to the Congress each year at the time of submission of the budget for the Department of Defense describing the degree to which the United States and its North Atlantic Treaty Organization (NATO) allies have met, in the preceding fiscal year, the 3 percent annual real growth commitment to NATO defense and their commitments to accomplishment of the NATO Long Term Defense Program. Such report shall include a description of efforts being made by the United States to ensure that all members of NATO fulfill these mutual defense commitments.

(b) The Secretary shall also include in the report described in subsection (a) a description of the defense cost-sharing arrangements within NATO and with Japan, and a report on comparative spending by the United States, its NATO allies, and Japan expressed on a per capita basis, together with an explanation of any disparities in such spending. The Secretary shall include in such report an explanation of any measures being undertaken by the United States to equalize the sharing of defense burdens with its NATO allies and Japan.

(c) It is the sense of Congress that the President should seek, through appropriate bilateral and multilateral arrangements, reasonable and adequate contributions from nations in which substantial United States forces are stationed and operate if such nations do not now adequately contribute to the direct payment of the costs of operations and support of United States forces and the host-nation support program.

PROVISION OF ADDITIONAL FUEL AND LUBRICANTS TO CIVIL AIR PATROL; REIMBURSEMENT FOR CERTAIN MAINTENANCE EXPENSES; AND CIVIL LIABILITY

SEC. 804. (a) Section 9441(b) of title 10, United States Code, relating to support of the Civil Air Patrol by the Air Force, is amended—

(1) by striking out the semicolon at the end of paragraph (3) and inserting in lieu thereof the following: ", including unit capability testing missions and training missions,";

(2) by striking out "and" at the end of paragraph (6);

(3) by striking out the period at the end of paragraph (7) and inserting "; and" in lieu thereof; and

(4) by adding at the end thereof the following new paragraph:

"(8) authorize the payment of aircraft maintenance expenses relating to operational missions, unit capability testing missions, and training missions.".

(b)(1) Section 9441(c) of such title is amended by striking out the period and inserting in lieu thereof the following: ", and for purposes of determining the civil liability of the Civil Air Patrol or any member thereof with respect to any act or omission committed by the Civil Air Patrol or any member thereof in fulfilling such mission, the Civil Air Patrol shall be deemed an instrumentality of the United States Government.".

(2) The amendment made by paragraph (1) shall be effective with respect to all services of the Civil Air Patrol provided to the Department of the Air Force before the date of enactment of this Act as well as to such services provided on and after such date.

PHOENIX MISSILES OWNED BY THE GOVERNMENT OF IRAN

SEC. 805. (a) None of the funds authorized to be appropriated in this Act, shall be obligated or expended in a way that will result in payments either directly or indirectly to Iran or any instrumentality of the Government of Iran. If paid to any agency or instrumentality of the United States, or other person acting as trustee for Iran, none of the funds shall be transferred to Iran or an instrumentality of the Government of Iran prior to the release of the hostages without prior consent of the Congress.

(b) Pursuant to subsection (a), the Secretary of Defense is authorized to take possession of any Phoenix AIM–54A missiles, procured on behalf of Iran and found within the territorial jurisdiction of the United States; *Provided, however*, That any person, firm, or corporation (other than an agency or instrumentality of Iran) from whom possession of such military missiles is acquired shall be indemnified and held harmless by the United States from all claims of whatever type arising from the action of the Secretary of Defense as authorized by this section.

(c) The Secretary of Defense is authorized to direct the Armed Forces of the United States to utilize all such missiles, of which he has taken possession pursuant to this section, and he shall require the use of such missiles in the manner best suited to enhance the national security of the United States.

(d) (1) The Secretary of Defense is directed to conduct an inventory of all military equipment, missiles or other military materiels which have been purchased in behalf of Iran and are found within the territorial jurisdiction of the United States.

(2) The Secretary of Defense is further directed to report the results of that inventory to the appropriate committees of the Congress by February 1, 1981, following the effective date of this Act, along with his recommendation as to the most effective disposition of such equipment, missiles and other military materiels consistent with the national security of the United States and the maximum effectiveness of the United States armed forces.

CONSULTANT CONTRACTS

SEC. 806. Notwithstanding any other provision of law, none of the funds, authorized by this Act may be used for the procurement of services by independent experts or consultants or organizations thereof unless notice of the proposed procurement action is publicized in the daily publication "United States Department of Commerce Synopsis of the United States Government Proposed, Procurement, Sales, and Contracts Awards," immediately after necessity for such procurement is established, but in no event less than fifteen days prior to the closing date for submission of bids or proposals. This section does not apply to these procurements:

(1) in which the anticipated total cost of the action is less than $10,000; or

(2) which for security reasons are of a classified nature; or

(3) for which a civilian officer of the appropriate procuring activity who is appointed with the advice and consent of the Senate makes written determination that exigencies of such compelling nature exist so as to require that this section not apply.

ADHERENCE TO THE WAR POWERS RESOLUTION

SEC. 807. Whereas the National Command Authority must have the capacity to carry out any military mission which is essential to the national security of the United States having in its hands in the Rapid Deployment Force an increased capability to extend the reach of our military power in an expedited manner; and whereas, without the significant safeguard of the War Powers Resolution (Public Law 93–148), United States foreign and defense policies could be subject to misinterpretation; it is therefore the sense of the Congress that the provisions of the War Powers Resolution be strictly adhered to and that the congressional consultation process specified by such resolution be utilized strictly according to the terms of the War Powers Resolution.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. JACKSON, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendment to H.R. 6974.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, again on behalf of Mr. JACKSON, I ask unanimous consent that the bill, as passed, be printed in full, with amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, as we complete our work on the defense authorization bill, I want to state publicly my deep sense of gratitude and admiration for the distinguished ranking member of the Senate Armed Services Committee, Senator JOHN TOWER of Texas. His role in this legislation has been instrumental in assuring that the committee reported and the Senate passed the best possible authorization. He has been, as always, tireless and persevering, and I truly respect the job he has done.

I want also to recognize the others who represent this side of the aisle in the Armed Services Committee and particularly those who serve on the Manpower and Personnel Subcommittee: Senators WARNER, JEPSEN, and COHEN. They too have contributed greatly to our consideration of this bill, and particularly with respect to its most important element, the people that serve. The studied expertise that they bring to this subject and others in their relatively short tenure in the Senate augurs well for the future role of the Republican Party but as well for the strength of this institution.

I commend them all on an enormous amount of effort and skill that contributed so greatly to our consideration of this important legislation.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, not to extend beyond 2 hours, and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

A SPECIAL BIRTHDAY FOR AN EXTRAORDINARY WOMAN

Mr. MOYNIHAN. Mr. President, I welcome this opportunity to salute a resident of my State who tomorrow will celebrate her 90th birthday in Bloomingdale, N.Y., Mrs. Isabelle Lamson Williams.

Mrs. Williams is the mother of our distinguished colleague, the senior Senator from New Jersey, HARRISON A. WILLIAMS, JR. But I would like to pay tribute to Mrs. Williams not just because she is the mother of a U.S. Senator but because she is a most remarkable woman in her own right; a person whose life has been marked by strength and values which seem as enduring as the Adirondack Mountains where she was born.

She is a native of Vermontville, N.Y., just 3 miles from where she now resides. After receiving her early education in local schools, Mrs. Williams matriculated at Courtland Normal School. When she completed her studies, she accepted a teaching position in Oradell, N.J. The journey from Vermontville to Oradell is a small one by today's standards but for a young woman in those days to move that far from home demonstrated her own fortitude and willingness to accept a challenge.

It was in Oradell that she met her husband, Harrison A. Williams and became a resident of New Jersey where she raised her family.

While her children were growing up, she became involved in a wide variety of community activities ranging from the presidency of the PTA to working with the Kiwanis Club, helping to send needy young people to camp. But her interests went far beyond the community and extended to a lifelong dedication to the advancement of the principles of social and economic justice upon which this country is based.

In the 1930's, she became active in the fellowship of reconciliation and devoted much of her enormous energies to the cause of stopping war and promoting peace. Yet while she was steadfast in her own views, she passed along to her children the need for them to make their own decisions; decisions based on the traditions of the great country in which they lived.

Thus, while Mrs. Williams was so opposed to war, her oldest son, and our colleague, Senator Williams, volunteered for the U.S. Navy even before our entry into World War II and during the war served as a Navy pilot. In the Korean War, her other son, Lamson, volunteered for the U.S. Marine Corps and gave his life in combat for this country.

Another child, the late Mrs. Jeanette Smith, also demonstrated the results of her fine upbringing. She worked here for the Federal Housing Administration where she became known not only as a champion of the cause of better housing for all Americans but also as a person of great warmth and generosity who went out of her way to make newcomers to the city feel at home.

Mrs. Williams continued to reside in New Jersey until her husband's retirement in the 1960's when they moved to Bloomingdale near the family farm where she was born and in an area where much of her family still resides. Mr. William, Sr. died in 1974.

So, Mr. President, it is indeed a privilege for me to honor Mrs. Williams, a woman of Adirondack stock who has represented so well what we like to feel are the greatest virtues of our country. I thank you, and I thank my colleagues.

TINICUM NATIONAL ENVIRONMENTAL CENTER, PENNSYLVANIA

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2382.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives.

Resolved, That the bill from the Senate (S. 2382) entitled "An Act to provide for additional authorization for appropriations for the Tinicum National Environmental Center", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That section 7 of the Act of June 30, 1972, entitled "An Act to provide for the establishment of the Tinicum National Environmental Center in the Commonwealth of Pennsylvania, and for other purposes" (86 Stat. 391; U.S.C. 668dd, note) as amended, is further amended to read as follows:

"SEC. 7. There are authorized to be appropriated, $11,000,000 for acquisition of the Tinicum Environmental Center and $8,500,000 to carry out the development projects on the Center.".

SEC. 2. This Act shall take effect on October 1, 1980.

UP AMENDMENT NO. 1398

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. RANDOLPH, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), on behalf of the Senator from West Virginia (Mr. RANDOLPH), proposes an unprinted amendment numbered 1398.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. The Act of June 30, 1972, entitled "An Act to provide for the establishment of the Tinicum National Environmental Center in the Commowealth of Pennsylvania, and for other purposes" is amended—

(1) by amending section 7 to read as follows:

"SEC. 7. There are authorized to be appropriated, $19,500,000 (of which $8,400,000 shall be available beginning October 1, 1980) for acquisition of the Tinicum Environmental Center, for construction of environmental educational center facilities, and for other development projects on the Center, to remain available until September 30, 1985."; and

(2) by adding at the end thereof the following new section:

"SEC. 8. The Administrator of the Environmental Protection Agency, in consultation and cooperation with the Fish and Wildlife Service, is directed to investigate potential environmental health hazards resulting from the Folcroft landfill, within the authorized boundary of the Tinicum National Environmental Center, and to develop alternative recommendations as to how such hazards, if any, might best be addressed in order to protect the refuge and the general public.".

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendments with further amendments, one of which I just sent to the desk.

UP AMENDMENT NO. 1399

Mr. BAKER. Mr. President, I send to the desk an amendment on behalf of the Senator from North Carolina (Mr. HELMS), and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), on behalf of the Senator from North Carolina (Mr. HELMS), proposes an unprinted amendment numbered 1399.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

The amendment to S. 2382 offered by Mr. HELMS is amended by adding at the end thereof the following new section:

(3)(a) That during any period in which the Secretary of the Interior, by regulation, limits vehicular access to Back Bay National Wildlife Refuge, the Secretary of the Interior shall issue, to any eligible applicant, a renewable annual permit to enable the applicant to commute across the Back Bay National Wildlife Refuge. For purposes of this section, the term "eligible applicant" shall include all full-time residents who can furnish to the Refuge Manager, Back Bay National Wildlife Refuge, adequate proof of residence commencing prior to December 31, 1979, on the Outer Banks from the refuge boundary south to and including the village of Corolla, North Carolina, as long as they remain full-time residents. The south boundary of the area for access consideration is defined as a straight east-west line extending from Currituck Sound to the Atlantic Ocean and passing through a point 1,600 feet due south of the Currituck Lighthouse.

(b) As used in this section, the term,

(1) "residence" means a place of general abode;

(2) "place of general abode" means a principal, actual dwelling place in fact, without regard to intent; and "dwelling" means a residential structure occupied on year-round basis by the permit applicant and shall not include seasonal or part-time dwelling units such as beach houses, vacation cabins, or structures which are intermittently occupied.

(c) Any permit issued pursuant to this section shall assure that eligible applicants shall be allowed at least two round trips per day. Travel pursuant to such permits may be restricted to between the hours of 5:00 a.m. and 12:00 p.m. (midnight). In addition the Refuge Manager may make exceptions to access restrictions for qualified permittees who have demonstrated to the satisfaction of the Refuge Manager a need for additional access relating to health or livelihood.

(d) Permits pursuant to this section shall be renewed upon the submission of a signed, notarized statement by an eligible applicant that conditions of the previous permit have not changed.

(e) The Secretary of the Interior, may, subject to the foregoing provisions of this section, issue such regulations as are necessary to protect the resources of the refuge.

ACCESS FOR CURRITUCK HOSTAGES

● Mr. HELMS. Mr. President, I am offering an amendment to assist 13 families in the community at Corolla, N.C., who have been denied access across the Back Bay Wildlife Refuge.

Corolla is on the Currituck outer banks of my State. For years and years, those citizens living on those outer banks have traveled up the beach to the Tidewater area of Virginia, across an area known now as the Back Bay Wildlife Refuge. These citizens have gone to the Norfolk area to shop, to get medical attention, to attend sports events and entertainment.

But mostly the majority of them have been traveling to Norfolk to make a living. They work there. But now 13 of those families who reside full time in Corolla are being told by their Government that they can no longer travel that route to their jobs in Norfolk.

Now perhaps, Mr. President, we in Congress are not supposed to be concerned about just 13 families. But I am concerned, and that is why I am offering an amendment to "free the hostages" on the Currituck outer banks. Government ought never to be unbending, unyielding in considering the best interests of its citizens—even a small number of them.

How did the full force of the Federal Government come to be focused on these 13 families? With the indulgence of the Senate, let me trace a bit of history. According to the Fish and Wildlife Service, which manages the Back Bay Wildlife Refuge, travel through the refuge increased dramatically in the late 1960's, and there was fear that permanent damage might be done to the beach and dunes area of the refuge. Therefore, the Service determined it was necessary to limit access through the refuge by regulation—which it did in 1972. Since that time, access rules have changed several times, slowly limiting access to only permanent residents and owners of improved property on the banks.

Now, the Fish and Wildlife Service has issued new regulations, final on May 28, 1980, which allow limited access to families who can establish that they were residents of the banks prior to December 31, 1976. This eliminated the 100 or so people who own homes there, but who live there only a portion of the year.

Twenty-three families qualify as permanent residents, but 13 families who moved there between 1976 and the end of 1976, and now live there full-time, are excluded. These are the people who must drive 125 miles each way to work, when their next door neighbors can drive through the refuge, a total distance of 30 miles. My amendment would merely help those 13 families by allowing them to cross the refuge along with the other

23 families. This is not unlimited access; it is restricted to a maximum of two round trips per day between the hours of 5 a.m. and 12 midnight.

Mr. President, it is important that everyone understand that I introduce this legislation today after exhausting all other avenues. When a change in the access regulations was proposed, I wrote to the Secretary of the Department of the Interior expressing my support for continued access for all residents. After the proposed regulations were published, my staff and I contacted the Department several times, both by letter and telephone. In spite of assurances that the problem would "be taken care of" in the final regulations—when they were published, there was no solution presented. Before offering this bill, I met last week with Assistant Secretary of the Interior Herbst, who oversees the Fish and Wildlife Service, in the hope that some solution could be found.

I understand Secretary Herbst has a mandate to protect the refuge, however, his unwillingness to adjust a rule to individual circumstances, indicated in that meeting, both surprised and disappointed me.

Therefore I am offering an amendment to establish a permanent date for access for full-time residents. My amendment is not intended to set a precedent for any additional families which might become full-time residents nor for any part-time residents. Any future case, and I foresee none at the moment, would be decided on its merits at that time.

Mr. President, the 13 families without permits at Corolla on the Currituck Banks are being severely penalized for no valid reason. I can see no significant harm in allowing them the same opportunities the other 23 families there have—the opportunity to work, to buy food and clothing, and to secure medical care.●

UP AMENDMENT NO. 1400

(Purpose: To provide for the management of Sailors' Snug Harbor as a Wildlife Refuge and for other purposes)

Mr. MOYNIHAN. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) proposes an unprinted amendment numbered 1400.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

The amendment to S. 2382 offered by Mr. Byrd is amended by adding at the end thereof the following new section:

"SEC. 2. (a) If—

"(1) the property known as Sailors' Snug Harbor, consisting of approximately eighty acres and located in the city of New York, is donated to the Secretary of the Interior (hereinafter referred to as the 'Secretary') by the city of New York; and

"(2) the Secretary and the city of New York and the Snug Harbor Cultural Center, Incorporated, enter into mutually satisfactory cooperative agreements of the kind described in subsection (c) of this section, the Secretary shall manage Sailors' Snug Harbor as a National Wildlife Refuge until the completion of the study required by subsection (e) of this section.

"(b) Except as may be provided for in cooperative agreements referred to in paragraph (2) of subsection (a) and in subsection (c) of this section, the property acquired under paragraph (1) of subsection (a) of this section shall be administered in accordance with the provisions of the National Wildlife Refugee System Administration Act of 1966.

"(c) (1) The Secretary and the City of New York and the Snug Harbor Cultural Center, Incorporated, shall endeavor to enter into cooperative agreements regarding the respective functions each such party will undertake with respect to the property acquired under paragraph (1) of subsection (a) of this section, except that the Secretary shall only be responsible for the protection of such property and the costs for normal operation and maintenance of such property as a refuge.

"(2) In addition, the Secretary may, if he deems appropriate, utilize any additional statutory authority that he may have for the conservation and development of wildlife and natural resources on such property and interpretative environmental education at such property.

"(3) Nothing in this Act or cooperative agreements negotiated pursuant to this Act may be construed as affecting in any manner, or to any extent, the eligibility (as in effect on the day before the date of the enactment of this Act) of the city of New York, the Snug Harbor Cultural Center, Incorporated, or the State of New York, under any Federal law for funds or other assistance for use in the restoration or preservation of historic buildings, or in the carrying out of developmental and recreational projects and programs, within the area included in such property.

"(d) For purposes of section 401 of the Act of June 15, 1935 (commonly known as the 'Refuge Revenue Sharing Act'), the property acquired under paragraph (1) of subsection (a) of this section may not be considered to be, nor treated as, a fee area within the meaning of subsection (g) (2) of such section 401.

"(e) Within two years after the date of enactment of this Act, the Secretary shall complete a study of the property acquired under paragraph (1) of subsection (a) of this section to determine how the resources and facilities could best be protected and managed under other statutory authorities available to him. Notwithstanding the National Wildlife Refuge System Administration Act of 1966 (16 USC 668dd–668ee) and pursuant to Reorganization Plan No. 3 of 1950, such property shall upon completion of such study, either be placed permanently in the National Wildlife Refuge System by the Secretary or transferred by the Secretary to any more appropriate agency of the Department of the Interior to be managed as, and become a part of, that agency consistent with its general statutory responsibilities. Notwithstanding the provisions of this Act, subsequent to such transfer, if any, the resources and facilities identified in the study shall be managed consistent with the findings of the study and that agency's authorized programs using the funding authorized under this section.

"(f) There are authorized to be appropriated to the Department of the Interior not to exceed $1,750,000 for purposes of carrying out this section during the period covering fiscal years 1981, 1982, and 1983; except that no part of any funds appropriated pursuant to this section may be expended for the restoration or preservation of any building within the property acquired under paragraph (1) of subsection (a) of this section or for activities other than those enumerated in subsections (b) and (c) of this section.".

Mr. MOYNIHAN. Mr. President, I rise today to offer an amendment authorizing Federal assistance to Sailor's Snug Harbor. As many of my colleagues are aware, Sailor's Snug Harbor is a lovely and unique area on Staten Island, formerly used as a retirement home for sailors and now as an environmental, educational and cultural center in the ownership of the city of New York.

H.R. 7191 as passed by the House and now held at the table in the Senate, would allow this area to become a national wildlife refuge, in recognition of its unique plants and wildlife values. The proposed refuge would include 80 acres, divided among grasslands, woodlands, pasture, lake, and buildings. It is notable for its concentration of gray squirrels, rabbits, and raccoons, and for its brilliant bird populations, including egrets, herons, pheasants, mourning doves, and a variety of ducks.

Many rare plant species are present in the area, in addition to its beautiful woods of maple and cherry. The seamen who inhabited Snug Harbor in the past would customarily return from their journeys with exotic plant varieties which can now be found there in the wild. In addition to its plants and wildlife, the site includes several structures of national significance and is already recognized as a national historic district and State landmark. In all, Snug Harbor is a truly lovely site well worthy of Federal interest, protection and funding.

Sailor's Snug Harbor was bought by New York City in the early seventies, and has been operated since that time by a consortium known as the Snug Harbor Cultural Center, Inc. It has been administered as an environmental and cultural resource for the entire New York area. H.R. 7191 would enable New York State to donate this unique property to the Federal Government, to be preserved and protected as a national wildlife refuge.

What I am proposing today is an amendment to S. 2382, the Tinicum National Environmental Center Act which provides for the Federal management of Sailor's Snug Harbor. My amendment differs from the language of H.R. 7191, in that I have made several changes to alleviate the concerns of some members of the Committee on Environment and Public Works about particular aspects of the legislation. These differences are detailed below.

Because there is some uncertainty about the most suitable form of Federal involvement in the refuge, my amendment specifies that Sailor's Snug Harbor be managed as a national wildlife refuge, but that within the 2-year period after the enactment of the bill, the Secretary of the Interior shall conduct a study to evaluate how the resources and facilities at Snug Harbor could best be protected and managed under his various statutory authorities. This study will then be the basis for transferring the refuge administratively to the most appropriate form of management in the Interior Department at that time. This arrangement recognizes the unique value of Snug Harbor, the appropriateness of Federal involvement, and the pressing need to provide financial assistance, while also providing the time to insure that this Federal role is shaped in the best possible way.

It has also been said that the Federal Government—particularly the Fish and Wildlife Service—should not be responsible for the restoration and preservation of the historic buildings on the site, nor for the development of cultural and recreational programs on the site. I entirely agree with this assessment, as does Congressman MURPHY, the sponsor of the House bill. The House bill already includes a provision which leaves the administration of the site in the hands of the Snug Harbor Cultural Center, Inc. The bill also specifies that it is not meant in any way to alter the eligibility of Sailor's Snug Harbor for any grants or other Federal assistance for use in preservation of the historic buildings or the development of recreational programs.

To clarify this issue even further, my amendment states that the Department of Interior's role at Sailor's Snug Harbor is to protect it, contribute operation and maintenance costs for the area, to conserve and develop its wildlife and natural resources, and at the Secretary's option, to carry out interpretive environmental education there.

Both the Snug Harbor bill and the Tinicum bill feature unique urban environmental resources. Facilities like these can add an extra dimension to the lives of city residents and will also attract visitation from other areas. It is for these reasons that I am proposing that these similar issues should be considered together and that, therefore, protection for Sailor's Snug Harbor be included within S. 2382.

It is particularly appropriate that the Senate take action on this matter this week. Just this last Sunday was the fourth anniversary of the Snug Harbor Cultural Center, as detailed in a New York Times article entitled "Guide to the New Snug Harbor." I ask unanimous consent that the article appear following my remarks in the RECORD.

I have collaborated with my colleagues on the Senate Environment Committee on all of these changes, and I understand that they are also acceptable to Congressman MURPHY. Seeing that this matter has been cleared for action by unanimous consent, I, therefore, send my amendment to the desk and ask unanimous consent that it be attached to S. 2382 which establishes the Tinicum National Environmental Center. I further move that the title of S. 2382 be amended to read "An act to provide for additional authorization for the Tinicum National Environmental Center and to provide for the Federal management of Sailor's Snug Harbor."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GUIDE TO THE NEW SNUG HARBOR

(By Jennifer Dunning)

It was nearly 180 years ago that Robert Randall, a well-to-do and childless Manhattan merchant, signed a will providing for the erection of "an asylum, or marine hospital, to be called 'Sailor's Snug Harbor' for the purpose of maintaining and supporting aged, decrepit and worn-out sailors."

Today, children scamper through a game of tag over the site of the sailors' sanitarium, and a flock of crows pursues an afternoon's meal where once stood a domed, Renaissance-style church. Artists and their work fill Greek Revival buildings that look out over the waters of the Kill Van Kull. For Sailors' Snug Harbor, now registered as a National Historic Landmark, has become a peaceful pleasure ground for the entire city, and this weekend it celebrates its fourth anniversary as the Snug Harbor Cultural Center.

The festivities will take place Sunday, when the 80-acre site will be open to the public from noon to 6 p.m. There will be games and rides for youngsters on a donkey cart and a horse-drawn wagon. For the entire family, there will be folk dancing and entertainment by a barbershop quartet, a singing cowboy and Cosit, an association of Staten Island theater groups, which will present highlights from recent and coming musical productions. Picnics will be encouraged, and vendors will roam the grounds selling food and soft drinks of all descriptions. But this is a party, too, for those who wish to go back in time to the days when the meadows and hallways were dotted with "white-haired seadogs." And a trip into the past, as well as a look at the future, will be provided with frequent tours.

A tour proper might start at the front gate, facing away from the site of the dock at which building materials were unloaded in September 1831, when the construction work began on Snug Harbor. The harbor opened in the late summer of 1833, its first 37 inhabitants ranging from one J. Chamber, 64 years old, of Ireland, who had lost an eye, to George Thompson, 29, of Connecticut, whose complaint was listed as "weak knees." Life at sea made old men of youths, men so dependent on the unyielding routine of ship life that they were often unable to conform to the minimal behavioral norms expected at Snug Harbor. With 950 inhabitants at the turn of the century, battles tended to break out between the constantly warring factions of sailors and "steamboat men."

The "snugs," as their neighbors called the harbor inhabitants, caused scandals by selling their votes. But the chief problem was drink. Accustomed to a daily shipboard ration of half a pint of rum, whisky or diluted "grog," the sailors were often found "beastly drunk upon the road," as an 1836 account put it. For all its Italianate design and giddy, vernacular Victorian detail, the front gatehouse through which the tourist passes today served as a checkpoint at which sailors returning from a day's jaunt were frisked and tested for sobriety.

Once inside the grounds, the sailors were well attended to. Under the harsh directorship of Thomas Melville, brother of the novelist Herman Melville, the home became more nearly a poor house from 1867 to 1884. Thereafter, provided for by funds from Robert Randall's land holdings in the Washington Square area of Manhattan, the Snug Harbor became known as "the haughtiest and richest charitable institution in the world." It remained that way until 1972, when the few sailors left were resettled at a home in Sea Level, N.C., a move necessitated by dwindling finances and battles over modernizing the landmark buildings.

The remaining central buildings, five in a total of 26 still existing, were joined by enclosed passageways and formed a self-sufficient, microcosmic city. "They are thought to be the greatest example of Greek Revival architecture in one place," Allan Weissglass, chairman of the board of directors of Snug Harbor Cultural Center, says.

The earliest and most handsome of these was built as a dormitory in 1831 and is now used principally for administrative offices and occasional shows like the current exhibition of maritime history, "In Praise of Sailors." Vaulting up into a dome with a compass and wind vane, the huge hall is decorated with backlighted colored-glass windows that reproduce the constellations. The sailors were even provided with their own North Star, illuminated from the attic by an elaborately constructed tin chamber and reflected skylight apparatus.

The "Ferryboat," a hallway so named because of the ferry-style waiting room benches lining its walls, leads to what was once the infirmary. The fixtures of some of the sick rooms remain, and here may be found a chastely furnished model of a sailor's bedroom, complete with a wobbly lettered temperance text. Plants and gaily colored paintings and sculptures fill the building now, for many of the rooms have been turned over to community and local school projects, and to members of the Staten Island Federation of Artists for studio and teaching space.

SHOW ABOUT VILLAGE ART OF 50'S

Gone are the old men who listened to their crystal sets with earphones attached to the benches of the Great Hall, once the library. But the handsome iron chandelier and wood paneling and the huge windows and vaulting ceiling make of this an impressive place. Nearby are the Newhouse Gallery, new showing "Tenth Street Days," a show about Greenwich Village artists in the 1950's, and the ingeniously designed, smaller Gallery 3, with an exhibition of photographs by Gernot Kuehn. There is a shop, too, at which one may buy anything from a tiny, brightly painted clay pig for 25 cents to Barnett Shepherd's "Sailors' Snug Harbor," a highly detailed and imaginatively produced historical guide to the complex, for $6.95.

The plaster work in the delicately ornate 700-seat theater, the next stop along the tour, has deteriorated with the years, but the potential of the building are evident, and the renovation work is about to start, thanks to a grant from the Staten Island War Memorial Association. The possibilities of the nearby chapel, someday to house a smaller theater, are also evident, but history still rings out from its stark white walls. It was here that the early Snug Harbor philosophy was most clearly articulated. "You are here not to spend your time in idleness, in the mere animal indulgence of eating, and drinking, and sleeping; but you are here to refit," the Rev. W. W. Phillips thundered out to the men in 1856. "Have you prepared your bark for this last part of your voyage?"

Back out into the sunlight, and a gaze across the meadows at the rose garden and duck pond, the fanciful gazebo and greenhouse and the governor's house and five mansard cottages that have so elegantly housed generations of administrators. Even the abandoned morgue has a sunny look, with its tongue-and-groove style roof and eaves brackets "straight out of a Victorian pattern book," as George Erickson, staff carpenter, proudly puts it.

MUCH REMAINS TO BE DONE

Though much remains to be done, the center is already being used by a number of the island's cultural institutions. "And the more the center is used, the more it can be opened up for use," Eleanor Proske, secretary of the board of directors, says. "It's a ripple effect."

An elderly man sits on a distant bench watching the water, perhaps, for an excursion steamer or brig of old. Close up, he is revealed to be a papier mâché and wire statue brought over for the day by the children of the island's A.M.E. Zion Church in a workshop project for the Staten Island Children's Museum, which plans to move its facilities into Snug Harbor in the fall of 1982.

The harbor will be home, too, to the Staten Island Institute of Arts and Sciences, as it is now to the Staten Island Botanical Gardens, which is said to be undertaking a survey of the lushly wooded grounds in search of exotic foreign plants said to have been smuggled in by the sailors.

Students from Staten Island's McKee and Curtis High Schools are completing training programs by restoring and finishing harbor holdings, and the island's children are now collecting money to refurbish the peeling but still grand old Neptune Fountain. Manhattan is represented, too, by three huge outdoor sculptures on loan from the Museum of Modern Art.

An admission fee of $1 a person or $2 a family will be charged Sunday. (Rain date is July 6.) Snug Harbor may be reached by the Staten Island Ferry and No. 1 bus from the ferry terminal. By car the harbor is accessible from the Verrazano-Narrows Bridge or the Goethals, Bayonne or Outer Bridges from New Jersey. Information: 448-2500.

● Mr. STAFFORD. Mr. President, I heard some time ago of the proposal to designate Sailors' Snug Harbor, in the heart of Staten Island, as a National Wildlife Refuge. I must admit that my first reaction was one of astonishment and dismay, for I lived on Staten Island some years ago and am familiar with the surrounding area—which even at that time was fully developed.

Sailors' Snug Harbor lies between the freeway and the railroad, and consists of a number of 19th century buildings, sturdily constructed and not at all unattractive. I am sure they are worth putting to use as a community center. I know very well the interest of the Senator from New York (Mr. Moynihan) not only in the arts, but also in preserving sound examples of our period architecture—for we have been working together to define a program for the Federal Government's Public Buildings Service, and to implement a national buildings policy which includes renovating and utilizing sound structures from previous periods.

I have no doubt that for the people of the community, and for Staten Island and the city of New York—perhaps for the State of New York as well—the opportunity to convert Sailors' Snug Harbor into a functioning and productive visual and performing arts center may well attract strong local and State support. Perhaps there could even be an appropriate Federal contribution under one of the Interior Department's regular programs for the preservation of historic buildings, for monuments, or for urban parks—or in support of an arts center through the National Endowment for the Arts.

The fact which leaps to mind, however, Mr. President, is that whatever else it may be, or whatever it may be called, the one thing Sailors' Snug Harbor is not—it is not a national wildlife refuge.

I note that the House bill on this subject, H.R. 7191, was referred to the Committee on Environment and Public Works some weeks ago, as has been S. 2738, the companion bill offered by the junior Senator from New York. However, I do not believe that this proposal has been discussed in committee, or by the subcommittee in which the Senator from Iowa (Mr. Culver) and the Senator from Rhode Island (Mr. Chafee) have done such yeoman work this year. We have authorized, or expanded, a number of wildlife refuges—at least seven as I recall—but unless I am mistaken, we have not considered this proposal, although the staff may be familiar with it.

I am concerned that this proposal could establish a precedent. Even if it does not establish a precedent, it seems to me to derogate the purposes and structure of the national wildlife refuge program.

Mr. President, the chairman of the House Committee on Merchant Marine and Fisheries has been in touch with me about this matter, and I am always impressed by the interests and enthusiasms of my good friend, the junior Senator from New York. I shall not object to the proposal.

But I think it timely to question the step of effectively discharging the committee from bills properly referred to the Committee on Environment and Public Works and its Subcommittee on Resource Recovery—and in a somewhat hurried fashion in the closing days before the recess, without committee discussion.

I have a specific concern. Officials of the Fish and Wildlife Service estimate the cost of rehabilitating these buildings to be in excess of $22 million. At least that is cited as the estimate in 1978, so the cost would doubtless exceed $30 million by this time. It could be far more, it seems to me, under the comprehensive plans in the 1976 historic structures study.

The Senator's proposal does not authorize repair, rehabilitation or renovation of these buildings at Federal expense. In fact, his amendment prohibits the Secretary of the Interior from entering into any agreement accepting responsibility for more than the protection of the property, and for its operation as a refuge. But once the Federal Government takes title—once the Department of the Interior accepts this gift—I wonder if the taxpayers have not been saddled as well with the liability of maintaining, repairing, and finally renovating these historic buildings.

Mr. President, Sailors' Snug Harbor is a fascinating architectural complex. Putting it to use as a visual and performing arts center is an attractive idea. But I believe both the idea and the public interest would have been better served by developing this proposal in committee—and by directing the solution toward those agencies and programs equipped and funded to work with historic buildings, rather than the artifice of designating Sailors' Snug Harbor a national wildlife refuge.●

● Mr. HEINZ. Mr. President, I rise today to urge my distinguished colleagues to pass this bill, S. 2382, which I introduced to provide additional authorization for appropriations for the Tinicum National Environmental Center in Philadelphia. Specifically, this bill increases the authorization for developing this unique urban wildlife habitat as an environmental education center from its current level of $11.1 million to $19.5 million. The need for this additional authorization is documented in Executive Communication 2659 forwarded to Congress by the Department of Interior on October 16, 1979; I will submit this communication for the Record.

By way of background, the Tinicum National Environmental Center was established as a result of Public Law 92-326, which directed the Interior Department to establish a 1,200-acre refuge and environmental center in the southwest corner of Philadelphia at the confluence of Darby Creek with the Delaware River. An important nesting and feeding ground for waterfowl and other wildlife, the marsh has increasingly been subject to the pressures for development from an urban area of four million people, and vast areas have been filled for highways and homesites and used for dumping. In response to this pressure, the Tinicum Wildlife Preserve was established in 1955 as a result of efforts by the Philadelphia Conservationists, Inc., and other groups. This and subsequent events documented in the communication from the Interior Department culminated in passage of Federal legislation in June 1972.

Recognizing the potential of Tinicum as an urban wildlife habitat, Congress has twice seen fit—during the 95th and 96th Congresses—to amend the original act to enlarge the boundaries of the center and increase the authorization for appropriations. Once developed as an environmental center, Tinicum will offer opportunities for wildlife interpretation, outdoor recreation, and education—providing a much-needed respite from the concrete jungle for urban dwellers. Tinicum Marsh is now used by a number of different species of migratory birds; in fact, 110 different species of waterfowl and wading birds have been recorded in the Tinicum area. Also found in the marshes and surrounding land areas are white-tailed deer, mink, weasel, otter, fox, muskrat, raccoon, and skunk. Of the ten recorded species of fish, crappie, carp, and bullheads have been the object of numerous fishermen. The Fish and Wildlife Service expects the ecological diversity of the marsh to increase as rehabilitation of the marsh proceeds with development of the Tinicum Center.

In closing, I ask my distinguished colleagues to give this measure serious and expeditious attention so that acquisition of this unique urban wildlife habitat and its development as an environmental education center can proceed.

Text of Interior Department communication follows:

The Tinicum National Environmental Center was established by enactment of Public Law 92-326. That Act directed the Secretary of the Interior to create a refuge and environmental center consisting of some 1,200 acres of land and water in the southwest corner of Philadelphia at the confluence of Darby Creek with the Delaware River. Historically, the marsh comprised several thousand acres of important feeding and nesting area for large numbers of waterfowl and other wildlife. The needs of an expanding urban area of some four million people resulted in conversion of the marsh to serve industry, filling the marsh for roadbeds and homesites and use of the marsh for the disposal of waste. By 1960, only 900 acres of the marsh remained, only 200 acres of which remained in a condition resembling their natural state.

In early 1969 Tinicum Marsh became the center of a controversy over whether to construct Interstate 95 and a large scale dump fill project or preserve the last remnants of a tidal marsh ecosystem. Local interests had long sought protection for Tinicum Marsh. The Tinicum Wildlife Preserve was established in 1955 through the efforts of the Philadelphia Conservationists, Inc. The Preserve, plus a 70 acre parcel acquired by transfer from the Corps of Engineers to the Fish and Wildlife Services (hereinafter referred to as the "Service") and administered by the City of Philadelphia under cooperative agreement, represented one of the largest city-operated wildlife sanctuaries in the United States in the 1960's. Recognizing the significance of the Tinicum Marsh estuary, the Department of the Interior refused permission of a highway right-of-way through the federally owned refuge lands. Subsequent litigation halted expansion of the dump. Then in June of 1972 Congress assured preservation of the Marsh by authorizing establishment of the Tinicum National Environmental Center.

Tinicum's greatest asset is its potential for an urban wildlife habitat. As an environmental center it will offer an opportunity for wildlife interpretation, education and high quality outdoor recreation. In its present condition, many different migratory bird species use Tinicum Marsh. A total of 119 different species of waterfowl and wading birds have been recorded in the Tinicum area. White-tail deer are occasional visitors; mink, weasel, otter, fox, muskrat, raccoon and skunk are found in the marshes and edge areas. Ten species of fish have been recorded and there is considerable fishing for crappie, carp and bullheads among others. With rehabilitation of the marsh, conditions for wildlife will naturally improve and we expect a greater diversity of wildlife and greater numbers of the species presently using the marsh.

The Act establishing the Center has been amended in both the 94th and the 95th Congresses. In each instance the boundaries of the Center were enlarged and the authorizations for appropriations increased. Our proposed legislation would increase the authorization for the Tinicum Environmental Center in Philadelphia to $11 million for acquisition.

The Service previously estimated that approximately $6.6 million would be required for land acquisition. These estimates were made in the initial stages of the planning process. That process has now been substantially completed and the revised estimates are that approximately $11 million will be needed for acquisition.

Twelve tracts consisting of 527 acres, with an estimated value of $6.2 million, remain to be purchased. Of this amount, $1.8 million is currently available and $3.5 million is requested in the fiscal year 1980 budget, leaving a balance to be appropriated in future years of $.9 million. Several of these tracts of land were not included in the Service's original concept plan, but have been added because of acquiring additional buffer lands. The addition of these lands and the escalating land values are responsible for the revised acquisition estimates.

Our proposal would also authorize $4,000,000 for the construction of environmental educational center facilities. Under this authorization, we anticipate building an environmental educational center to serve the many people in the Philadelphia area and a visitor contact station.

We are also requesting an authorization for "such sums as may be necessary for other development projects on the Center". The estimates of the development costs are undergoing rapid changes and we are currently unable to provide reliable estimates as to what development costs are likely to be. Much of the development money will be needed to restore the habitat. Much of this will be needed to stabilize the Folcroft Landfill area, which is currently the cause of rather severe leachate pollution, and this is the area where estimates are currently the least reliable. Thus, we have requested an authorization of "such sums" until such time as we can provide reliable cost estimates.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

ROBERT HERBST,
Assistant Secretary.

The PRESIDING OFFICER. The question is on agreeing to the motion to concur in the House amendments with the Senate amendments (UP No. 1398, UP No. 1399, and UP No. 1400).

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO INDEFINITELY POSTPONE S. 1775, S. 1748, S. 1716, SENATE RESOLUTION 232 AND SENATE RESOLUTION 234

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar Order No. 382, S. 1775; Calendar Order No. 391, S. 1743; Calendar Order No. 393, S. 1716; Calendar Order No. 431, Senate Resolution 232; and Calendar Order No. 402, Senate Resolution 234 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders Nos. 771 and 925.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, the purpose of the reservation is to advise the majority leader that the two calendar items identified by him are cleared on our side. We have no objection to their consideration and passage.

OCEAN THERMAL ENERGY CONVERSION ACT OF 1980

The Senate proceeded to consider the bill (S. 2492) to regulate commerce, promote energy self-sufficiency, and protect the environment, by establishing procedures for the location, construction, and operation of ocean thermal energy conversion facilities and plantships to produce electricity and energy-intensive products off the coasts of the United States; to amend the Merchant Marine Act, 1936, to make available certain financial assistance for construction and operation of such facilities and plantships, and for other purposes, which had been reported from the Committee on Commerce, Science, and Transportation with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Ocean Thermal Energy Conversion Act of 1980".

SEC. 2. DECLARATION OF POLICY.

(a) It is declared to be the purpose of the Congress in this Act to—

(1) authorize and regulate the construction, location, ownership, and operation of ocean thermal energy conversion facilities connected to the United States by pipeline or cable, or located in the territorial sea of the United States consistent with the Convention on the High Seas, and general principles of international law;

(2) authorize and regulate the construction, location, ownership, and operation of ocean thermal energy conversion plantships documented under the laws of the United States, consistent with the Convention on the High Seas and general principles of international law;

(3) authorize and regulate the construction, location, ownership, and operation of ocean thermal energy conversion plantships by United States citizens, consistent with the Convention on the High Seas and general principles of international law;

(4) establish a legal regime which will permit and encourage the development of ocean thermal energy conversion as a commercial energy technology;

(5) provide for the protection of the marine and coastal environment, and consideration of the interests of ocean users, to prevent or minimize any adverse impact which might occur as a consequence of the development of such ocean thermal energy conversion facilities or plantships;

(6) make applicable certain provisions of the Merchant Marine Act, 1936 (46 U.S.C. 1177 et seq.) to assist in financing of ocean thermal energy conversion facilities and plantships;

(7) protect the interests of the United States in the location, construction, and operation of ocean thermal energy conversion facilities and plantships; and

(8) protect the rights and responsibilities of adjacent coastal States in ensuring that Federal actions are consistent with approved State coastal zone management programs and other applicable State and local laws.

(b) The Congress declares that nothing in this Act shall be construed to affect the legal status of the high seas, the superjacent airspace, or the seabed and subsoil, including the Continental Shelf.

SEC. 3. DEFINITIONS.

As used in this Act, unless the context otherwise requires, the term—

(1) "adjacent coastal State" means any coastal State which is required to be designated as such by section 105(a)(1) of this Act or is designated as such by the Administrator in accordance with section 105(a)(2) of this Act;

(2) "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration;

(3) "antitrust laws" includes the Act of July 2, 1890, as amended, the Act of October 15, 1914, as amended, and sections 73 and 74 of the Act of August 27, 1894, as amended;

(4) "application" means any application submitted under this Act (A) for issuance of a license for the ownership, construction, and operation of an ocean thermal energy conversion facility or plantship; (B) for transfer or renewal of any such license; or (C) for any substantial change in any of the conditions and provisions of any such license;

(5) "coastal State" means a State in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes;

(6) "construction" means any activities conducted at sea to supervise, inspect, actually build, or perform other functions incidental to the building, repairing, or expanding of an ocean thermal energy con-

version facility or plantship or any of its components, including but not limited to, piledriving, emplacement of mooring devices, emplacement of cables and pipelines, and deployment of the cold water pipe, and alterations, modifications, or additions to an ocean thermal energy conversion facility or plantship;

(7) "facility" means an ocean thermal energy conversion facility;

(8) "Governor" means the Governor of a State or the person designated by law to exercise the powers granted to the Governor pursuant to this Act;

(9) "high seas" means that part of the oceans lying seaward of the territorial sea of the United States and outside the territorial sea, as recognized by the United States, of any other nation;

(10) "licensee" means the holder of a valid license for the ownership, construction, and operation of an ocean thermal energy conversion facility or plantship that was issued, transferred, or renewed pursuant to this Act;

(11) "ocean thermal energy conversion facility" means any facility which is standing or moored in or beyond the territorial sea of the United States and which is designed to use temperature differences in ocean water to produce electricity or another form of energy capable of being used directly to perform work, and includes any equipment installed on such facility to use such electricity or other form of energy to produce, process, refine, or manufacture a product, and any cable or pipeline used to deliver such electricity, freshwater, or product to shore, and all other associated equipment and appurtenances of such facility, to the extent they are located seaward of the highwater mark;

(12) "ocean thermal energy conversion plantship" means any vessel which is designed to use temperature differences in ocean water while floating unmoored or moving through such water, to produce electricity or another form of energy capable of being used directly to perform work, and includes any equipment installed on such vessel to use such electricity or other form of energy to produce, process, refine, or manufacture a product, and any equipment used to transfer such product to other vessels for transportation to users, and all other associated equipment and appurtenances of such vessel;

(13) "plantship" means an ocean thermal energy conversion plantship;

(14) "person" means any individual (whether or not a citizen of the United States), any corporation, partnership, association, or other entity organized or existing under the laws of any nation, and any Federal, State, local or foreign government or any entity of any such government;

(15) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the United States Virgin Islands, Guam, the Commonwealth of the Northern Marianas, and any other Commonwealth, territory, or possession over which the United States has jurisdiction;

(16) "test platform" means any floating or moored platform, barge, ship, or other vessel which is designed for limited-scale, at sea operation in order to test or evaluate the operation of components or all of an ocean thermal energy conversion system and which will not operate as an ocean thermal energy conversion facility or plantship after the conclusion of such tests or evaluation;

(17) "thermal plume" means the area of the ocean in which a significant difference in temperature, as defined in regulations by the Administrator, occurs as a result of the operation of an ocean thermal energy conversion facility or plantship; and

(18) "United States citizen" means (A) any individual who is a citizen of the United States by law, birth, or naturalization; (B) any Federal, State, or local government in the United States, or any entity of any such government; or (C) any corporation, partnership, association, or other entity, organized or existing under the laws of the United States, or of any State, which has as its president or other executive officer and as its chairman of the board of directors, or holder of similar office, an individual who is a United States citizen and which has no more of its directors who are not United States citizens than constitute a minority of the number required for a quorum necessary to conduct the business of the board.

TITLE I—REGULATION OF OCEAN THERMAL ENERGY CONVERSION FACILITIES AND PLANTSHIPS

SEC. 101. LICENSE FOR THE OWNERSHIP, CONSTRUCTION, AND OPERATION OF AN OCEAN THERMAL ENERGY CONVERSION FACILITY OR PLANTSHIP

(a) No person may engage in the ownership, construction, or operation of an ocean thermal energy conversion facility which is documented under the laws of the United States, which is located in the territorial sea of the United States, or which is connected to the United States by pipeline or cable, except in accordance with a license issued pursuant to this Act. No citizen of the United States may engage in the ownership, construction or operation of an ocean thermal energy conversion plantship except in accordance with a license issued pursuant to this Act, or in accordance with a license issued by a foreign nation whose licenses are found by the Administrator, after consultation with the Secretary of State, to be compatible with licenses issued pursuant to this Act.

(b) The Administrator shall, upon application and in accordance with the provisions of this Act, issue, transfer, amend, or renew licenses for the ownership, construction, and operation of—

(1) ocean thermal energy conversion plantships documented under the laws of the United States, and

(2) ocean thermal energy conversion facilities documented under the laws of the United States, located in the territorial sea of the United States, or connected to the United States by pipeline or cable.

(c) The Administrator may issue a license to a citizen of the United States in accordance with the provisions of this Act unless—

(1) he determines that the applicant cannot and will not comply with applicable laws, regulations, and license conditions;

(2) he determines that the construction and operation of the ocean thermal energy conversion facility or plantship will not be in the national interest and consistent with national security and other national policy goals and objectives, including energy self-sufficiency and environmental quality;

(3) he determines, after consultation with the Secretary of the department in which the Coast Guard is operating, that the ocean thermal energy conversion facility or plantship will not be operated with reasonable regard to the freedom of navigation or other reasonable uses of the high seas and authorized uses of the Continental Shelf, as defined by United States law, treaty convention, or customary international law;

(4) he has been informed, within 45 days after the conclusion of public hearings on that application, or on proposed licenses for the designated application area, by the Administrator of the Environmental Protection Agency that the ocean thermal energy conversion facility or plantship will not conform with all applicable provisions of any law for which he has enforcement authority;

(5) he has received the opinion of the Attorney General, pursuant to section 104 of that Act, stating that issuance of the license would create a situation in violation of the antitrust laws, or the 90-day period provided in section 104 has expired;

(6) he has consulted with the Secretary of Energy, the Secretary of Transportation, the Secretary of State, the Secretary of the Interior, and the Secretary of Defense, to determine their views on the adequacy of the application, and its effect on programs within their respective jurisdictions and determines on the basis thereof, that the application for license is inadequate;

(7) the proposed ocean thermal energy conversion facility or plantship will not be documented under the laws of the United States;

(8) the applicant has not agreed to the condition that no vessel may be used for the transportation to the United States of things produced, processed, refined, or manufacured at the ocean thermal energy conversion facility or plantship unless such vessel is documented under the laws of the United States;

(9) when the license is for an ocean thermal energy conversion facility, he determines that the facility, including any submarine electric transmission cables and equipment or pipelines which are components of the facility, will not be located and designed so as to minimize interference with other uses of the high seas or the Continental Shelf, including cables or pipelines already in position on or in the seabed and the possibility of their repair;

(10) the Governor of each adjacent coastal State with an approved coastal zone management program in good standing pursuant to the Coastal Zone Management Act of 1972 (33 U.S.C. 1451 et seq.) determines that, in his or her view, the application is inadequate or inconsistent with respect to programs within his or her jurisdiction;

(11) when the license is for an ocean thermal energy conversion facility, he determines that the thermal plume of the facility is expected to impinge on so as to degrade the thermal gradient used by any other ocean thermal energy conversion facility already licensed or operating, without the consent of its owner;

(12) when the license is for an ocean thermal energy conversion facility, he determines that the thermal plume of the facility is expected to impinge on so as to adversely affect the territorial sea or area of national resource jurisdiction, as recognized by the United States, of any other nation, unless the Secretary of State approves such impingement after consultation with such nation;

(13) when the license is for an ocean thermal energy conversion plantship, he determines that the applicant has not provided adequate assurance that the plantship will be operated in such a way as to prevent its thermal plume from impinging on so as to degrade the thermal gradient used by any other ocean thermal energy conversion facility or plantship without the consent of its owner, and from impinging on so as to adversely affect the territorial sea or area of national resource jurisdiction, as recognized by the United States, of any other nation unless the Secretary of State approves such impingement after consultation with such nation; and

(14) when a regulation has been adopted which places an upper limit on the number or total capacity of ocean thermal energy conversion facilities or plantships to be licensed under this Act for simultaneous operation, either overall or within specific geographic areas, pursuant to a determination under the provisions of section 107(b)(4) of this Act, issuance of the license will cause such upper limit to be exceeded.

(d) (1) In issuing a license for the ownership, construction, and operation of an ocean thermal energy conversion facility or plantship, the Administrator shall prescribe conditions which he deems necessary to carry out the provisions of this Act, or which are otherwise required by any Federal department or agency pursuant to the terms of this Act.

(2) No license shall be issued, transferred, or renewed under this Act unless the licensee or transferee first agrees in writing that (A) there will be no substantial change from the plans, operational systems, and methods, procedures, and safeguards set forth in this application, as approved, without prior approval in writing from the Administrator, and (B) he will comply with conditions the Administrator may prescribe in accordance with the provisions of this Act.

(3) The Administrator shall establish such bonding requirements or other assurances as he deems necessary to assure that, upon the revocation, termination, relinquishment, or surrender of a license, the licensee will dispose of or remove all components of the ocean thermal energy conversion facility or plantship as directed by the Administrator. In the case of components which another applicant or licensee desires to use, the Administrator may waive the disposal or removal requirements until he has reached a decision on the application. In the case of components lying on or below the seabed, the Administrator may waive the disposal or removal requirements if he finds that such removal is not otherwise necessary and that the remaining components do not constitute any threat to the environment, navigation, fishing, or other uses of the seabed.

(e) Upon application, a license issued under this Act may be transferred if the Administrator determines that such transfer is in the public interest and that the transferee meets the requirements of this Act and the prerequisites to issuance under subsection (c) of this section.

(f) Any United States citizen who otherwise qualifies under the terms of this Act shall be eligible to be issued a license for the ownership, construction, and operation of an ocean thermal energy conversion facility or plantship.

(g) Licenses issued under this Act shall be for a term of not to exceed twenty-five years. Each licensee shall have a preferential right to renew his license subject to the requirements of subsection (c) of this section, upon such conditions and for such term, not to exceed an additional 10 years upon each renewal, as the Administrator determines to be reasonable and appropriate.

SEC. 102. PROCEDURE.

(a) The Administrator shall, after consultation with the Secretary of Energy and the heads of other Federal agencies, issue regulations to carry out the purposes and provisions of this Act, in accordance with the provisions of section 553 of title 5, United States Code, without regard to subsection (a) thereof. Such regulations shall pertain to, but need not be limited to, application for issuance, transfer, renewal, suspension, and termination of licenses. Such regulations shall provide for full consultation and cooperation with all other interested Federal agencies and departments and with any potentially affected coastal State, and for consideration of the views of any interested members of the general public. The Administrator is further authorized, consistent with the purposes and provisions of this Act, to amend or rescind any such regulation. The Administrator shall complete issuance of final regulations to implement this Act within 1 year of the date of its enactment.

(b) The Administrator, in consultation with the Secretary of the Interior and the Secretary of the department in which the Coast Guard is operating may, if he determines it to be necessary, prescribe regulations consistent with the purposes of this Act, relating to those activities in site evaluation and preconstruction testing at potential ocean thermal energy conversion facility or plantship locations that may (1) adversely affect the environment; (2) interfere with other reasonable uses of the high seas or with authorized uses of the Outer Continental Shelf; or (3) pose a threat to human health and safety. If the Administrator prescribes regulations relating to such activities, such activities may not be undertaken after the effective date of such regulations except in accordance therewith.

(c) Not later than 60 days after the date of enactment of this Act, the Secretary of Energy, the Administrator of the Environmental Protection Agency, the Secretary of the department in which the Coast Guard is operating, the Secretary of the Interior, the Chief of Engineers of the United States Army Corps of Engineers, and the heads of any other Federal departments or agencies having expertise concerning, or jurisdiction over, any aspect of the construction or operation of ocean thermal energy conversion facilities or plantships, shall transmit to the Administrator written description of their expertise or statutory responsibilities pursuant to this Act or any other Federal law.

(d) (1) Within 21 days after the receipt of an application, the Administrator shall determine whether the application appears to contain all of the information required by paragraph (2) of this subsection. If the Administrator determines that such information appears to be contained in the application, the Administrator shall, no later than 5 days after making such a determination, publish notice of the application and a summary of the plans in the Federal Register. If the Administrator determines that all of the required information does not appear to be contained in the application, the Administrator shall notify the applicant and take no further action with respect to the application until such deficiencies have been remedied.

(2) Each application shall include such financial, technical, and other information as the Administrator determines by regulation to be necessary or appropriate to process the license pursuant to section 101.

(e) (1) At the time notice of an application for an ocean thermal energy conversion facility is published pursuant to subsection (d) of this section, the Administrator shall publish a description in the Federal Register of an application area encompassing the site proposed in the application for such facility and within which the thermal plume of one ocean thermal energy conversion facility might be expected to impinge on so as to degrade the thermal gradient used by another ocean thermal energy conversion facility, unless the application is for a license for an ocean thermal energy conversion facility to be located within an application area which has already been designated.

(2) The Administrator shall accompany such publication with a call for submission of any other applications for licenses for the ownership, construction, and operation of an ocean thermal energy conversion facility within the designated application area. Any person intending to file such an application shall submit a notice of intent to file an application to the Administrator not later than 60 days after the publication of notice pursuant to subsection (d) of this section, and shall submit the completed application no later than 90 days after publication of such notice. The Administrator shall publish notice of any such application received in accordance with subsection (d) of this section. No application for a license for the ownership, construction, and operation of an ocean thermal energy conversion facility within the designated application area for which a notice of intent to file was received after such 60-day period, or which is received after such 90-day period has elapsed, shall be considered until action has been completed on all timely filed applications pending with respect to such application area.

(f) An application filed with the Administrator shall constitute an application for all Federal authorizations required for ownership, construction, and operation of an ocean thermal energy conversion facility or plantship, except for authorizations required by documentation, inspection, certification, construction, and manning laws and regulations administered by the Secretary of the department in which the Coast Guard is operating. At the time notice of any application is published pursuant to subsection (d) of this section, the Administrator shall forward a copy of such application to those Federal agencies and departments with jurisdiction over any aspect of such ownership, construction, or operation for comment, review, or recommendation as to conditions and for such other action as may be required by law. Each agency or department involved shall review the application and, based upon legal considerations within its area of responsibility, recommend to the Administrator the approval or disapproval of the application not later than 45 days after public hearings are concluded pursuant to subsection (g) of this section. In any case in which an agency or department recommends disapproval, it shall set forth in detail the manner in which the application does not comply with any law or regulation within its area of responsibility and shall notify the Administrator of the manner in which the application may be amended or the license conditioned so as to bring it into compliance with the law or regulation involved.

(g) A license may be issued, transferred, or renewed only after public notice, opportunity for comment, and public hearings in accordance with this subsection. At least one such public hearing shall be held in the District of Columbia and in any adjacent coastal State to which a facility is proposed to be directly connected by pipeline or electric transmission cable. Any interested person may present relevant material at any such hearing. After the hearings required by this subsection are concluded, if the Administrator determines that there exist one or more specific and material factual issues which may be resolved by a formal evidentiary hearing, at least one adjudicatory hearing shall be held in the District of Columbia in accordance with the provisions of section 554 of title 5, United States Code. The record developed in any such adjudicatory hearing shall be part of the basis for the Administrator's decision to approve or deny a license. Hearings held pursuant to this subsection shall be consolidated insofar as practicable with hearings held by other agencies. All public hearings on all applications with respect to facilities for any designated application area shall be consolidated and shall be concluded not later than 240 days after notice of the initial application has been published pursuant to subsection (d) of this section. All public hearings on applications with respect to ocean thermal energy conversion plantships shall be concluded not later than 240 days after notice of the application has been published pursuant to subsection (d) of this section.

(h) Each person applying for a license pursuant to this Act shall remit to the Administrator at the time the application is filed a nonrefundable application fee, which shall be deposited into miscellaneous receipts of the Treasury. The amount of the fee shall be established by regulation by the Administrator, and shall reflect the reasonable administrative costs incurred in reviewing and processing the application.

(i) (1) The Administrator shall approve or deny any timely filed application with respect to a facility for a designated application area submitted in accordance with the provision of this Act not later than 90 days after public hearings on proposed licenses for that area are concluded pursuant to subsection (g) of this section. The Administrator shall approve or deny an application for a license for ownership, construction, and operation of an ocean thermal energy conversion plantship submitted pursuant to this Act no later than 90 days after the public hearings on that application are concluded pursuant to subsection (g) of this section.

(2) In the event more than one application for a license for ownership, construction, and operation of an ocean thermal energy conversion facility is submitted pursuant to this Act for the same designated application area, the Administrator, unless one or a specific combination of the proposed facilities clearly best serves the national interest, shall make decisions on license applications in the order in which they were submitted to him.

(3) In determining whether any one or a specific combination of the proposed ocean thermal energy conversion facilities clearly best serves the national interest, the Administrator, in consultation with the Secretary of Energy, shall consider the following factors:

(A) the goal of making the greatest possible use of ocean thermal energy conversion by installing the largest capacity practicable in each application area;

(B) the amount of net energy impact of each of the proposed ocean thermal energy conversion facilities;

(C) the degree to which the proposed ocean thermal energy conversion facilities will affect the environment;

(D) any significant differences between anticipated dates and commencement of operation of the proposed ocean thermal energy conversion facilities; and

(E) any differences in costs of construction and operation of the proposed ocean thermal energy conversion facilities, to the extent that such differentials may significantly affect the ultimate cost of energy or products to the consumer.

SEC. 103. PROTECTION OF SUBMARINE ELECTRIC TRANSMISSION CABLES AND EQUIPMENT.

(a) Any person who shall willfully and wrongfully break or injure, or attempt to break or injure, or who shall in any manner procure, counsel, aid, abet, or be accessory to such breaking or injury, or attempt to break or injure, any submarine electric transmission cable or equipment being constructed or operated under a license issued pursuant to this Act shall be guilty of a misdemeanor and, on conviction thereof, shall be liable to imprisonment for a term not exceeding 2 years, or to a fine not exceeding $5,000, or to both fine and imprisonment, at the discretion of the court.

(b) Any person who by culpable negligence shall break or injure any submarine electric transmission cable or equipment being constructed or operated under a license issued pursuant to this Act shall be guilty of a misdemeanor and, on conviction thereof, shall be liable to imprisonment for a term not exceeding 3 months, or to a fine not exceeding $500, or to both fine and imprisonment, at the discretion of the court.

(c) The provisions of subsections (a) and (b) of this section shall not apply to any person who, after having taken all necessary precautions to avoid such breaking or injury, breaks or injures any submarine electric transmission cable or equipment in an effort to save the life or limb of himself or of any other person, or to save his own or any other vessel.

(d) The penalties provided in subsections (a) and (b) of this section for the breaking or injury of any submarine electric transmission cable or equipment shall not be a bar to a suit for damages on account of such breaking or injury.

(e) Whenever any vessel sacrifices any anchor, fishing net, or other fishing gear to avoid injuring any submarine electric transmission cable or equipment being constructed or operated under a license issued pursuant to this Act, the licensee shall indemnify the owner of such vessel for the items sacrificed: *Provided*, That the owner of the vessel had taken all reasonable precautionary measures beforehand.

(f) Any licensee who causes any break in or injury to any submarine cable or pipeline of any type shall bear the cost of the repairs.

SEC. 104. ANTITRUST REVIEW.

(a) Whenever any application for issuance, transfer, or renewal of any license is received, the Administrator shall transmit promptly to the Attorney General a complete copy of such application. Within 90 days of the receipt of the application, the Attorney General shall conduct such antitrust review of the application as he deems appropriate, and submit to the Administrator any advice or recommendations he deems advisable to avoid any action upon such application by the Administrator which would create a situation inconsistent with the antitrust laws. If the Attorney General fails to file such views within the 90-day period, the Administrator shall proceed as if such views had been received. The Administrator shall not issue, transfer, or renew the license during the 90-day period, except upon writen confirmation by the Attorney General that he does not intend to submit any further advice or recommendation on the application during such period.

(b) The issuance of a license under this Act shall not be admissible in any way as a defense to any civil or criminal action for violation of the antitrust laws of the United States, nor shall it in any way modify or abridge any private right of action under such laws. Nothing in this section shall be construed to bar the Attorney General or the Federal Trade Commission from challenging any anticompetitive situation involved in the ownership, construction, or operation of an ocean thermal energy conversion facility or plantship.

SEC. 105. ADJACENT COASTAL STATES.

(a) (1) The Administrator, in issuing notice of application pursuant to section 102(d) of this title, shall designate as an "adjacent coastal State" any coastal State which (A) would be directly connected by electric transmission cable or pipeline to an ocean thermal energy conversion facility as proposed in an application, or (B) in whose waters any part of such proposed ocean thermal energy conversion facility would be located, or (C) in whose waters an ocean thermal energy conversion plantship would be operated as proposed in an application.

(2) The Administrator shall, upon request of a State, designate such State as an "adjacent coastal State" if he determines that (A) there is a risk of damage to the coastal environment of such State equal to or greater than the risk posed to a State required to be designated as an "adjacent coastal State" by paragraph (1) of this subsection or (B) that the thermal plume of the proposed ocean thermal energy conversion facility or plantship is likely to impinge on so as to degrade the thermal gradient at possible locations for ocean thermal energy conversion facilities which could reasonably be expected to be directly connected by electric transmission cable or pipeline to such State. This paragraph shall apply only with respect to requests made by a State not later than the 14th day after the date of publication of notice of application for a proposed ocean thermal energy conversion facility in the Federal Register in accordance with section 102(d) of this title. The Administrator shall make any designation required by this paragraph not later than the 45th day after the date he receives such a request from a State.

(b) (1) Not later than 5 days after the designation of adjacent coastal State pursuant to this section, the Administrator shall transmit a complete copy of the application to the Governor of such State. The Administrator shall not issue a license with consultation with the Governor of each adjacent coastal State which has an approved coastal zone management program in good standing pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.). If the Governor of such a State has not transmitted his approval or disapproval to the Administrator by the 45th day after public hearings on the application is concluded pursuant to section 102(g) of this title, such approval shall be conclusively presumed. If the Governor of such a State notifies the Administrator that an application which the Governor would otherwise approve pursuant to this paragraph is inconsistent in some respect with the State's coastal zone management program, the Administrator shall condition the license granted so as to make it consistent with such State program.

(2) Any adjacent coastal State which does not have an approved coastal zone management program in good standing, and any other interested State, shall have the opportunity to make its views known to, and to have them given full consideration by, the Administrator regarding the location, construction, and operation of an ocean thermal energy conversion facility or plantship.

(c) The consent of Congress is given to two or more States to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, (1) to apply for a license for the ownership, construction, and operation of an ocean thermal energy conversion facility or plantship or for the transfer of such a license, and (2) to establish such agencies, joint or otherwise, as are deemed necessary or appropriate for implementing and carrying out the provisions of any such agreement or compact. Such agreement or compact. Such agreement or compact shall be binding and obligatory upon any State or other thereto without further approval by the Congress.

SEC 106. DILIGENCE REQUIREMENTS.

(a) The Administrator shall promulgate regulations requiring each licensee to pursue diligently the construction and operation of the ocean thermal energy conversion facility or plantship to which the license applies.

(b) If the Administrator determines that a licensee is not pursuing diligently the construction and operation of the ocean thermal energy conversion facility or plantship to which the license applies or that the project has apparently been abandoned, the Administrator shall cause proceedings to be instituted under section 111 of this title to terminate the license.

SEC. 107. PROTECTION OF THE ENVIRONMENT.

(a) The Administrator shall initiate a program to assess the effects on the environment of ocean thermal energy conversion facilities and plantships. The program shall include baseline studies of locations where ocean thermal energy conversion facilities or plantships are likely to be sited or operated; and research; and monitoring of the effects of ocean thermal energy conversion facilities and plantships in actual operation. The purpose of the program shall be to assess the environmental effects of individual ocean thermal energy facilities and plantships, and to assess the magnitude of any cumulative environmental effects of large numbers of ocean thermal energy facilities and plantships.

(b) The program shall be designed to determine, among other things—

(1) any short-term and long-term effects on the environment which may occur as a result of the operation of ocean thermal energy conversion facilities and plantships;

(2) the nature and magnitude of any oceanographic atmospheric, weather, climatic, or biological changes in the environment which may occur as a result of deployment and operation of large numbers of ocean thermal energy conversion facilities and plantships;

(3) the nature and magnitude of any oceanographic, biological or other changes in the environment which may occur as a result of the operation of electric transmission cables and equipment located in the water column or on the seabed, including the hazards of accidentally severed transmission cables; and

(4) whether the magnitude of one or more of the cumulative environmental effects of deployment and operation of large numbers of ocean thermal energy conversion facilities and plantships require that an upper limit be placed on the number or total capacity of such facilities or plantships to be licensed under this Act for simultaneous operation, either overall or within specific geographic areas.

(c) Within 180 days after enactment of this Act, the Administrator shall prepare a plan to carry out the program described in subsections (a) and (b) of this section, including necessary funding levels for the next 5 fiscal years, and submit the plan to the Congress.

(d) The program established by subsections (a) and (b) of this section shall be reduced to the minimum necessary to perform baseline studies and to analyze monitoring data, when the Administrator determines that the program has resulted in sufficient knowledge to make the determinations enumerated in subsection (b) of this section with an acceptable level of confidence.

(e) The issuance of any license for ownership, construction, and operation of an ocean thermal energy conversion facility or plantship shall be deemed to be a major Federal action significantly affecting the quality of the human environment for purposes of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)). For all timely applications covering proposed facilities in a single application area, and for each application relating to a proposed plantship, the Administrator shall, pursuant to such section 102(2)(C) of this title and in cooperation with other involved Federal agencies and departments, prepare a single environmental impact statement, which shall fulfill the requirement of all Federal agencies in carrying out their responsibilities pursuant to this Act to prepare an environmental impact statement. Each such draft environmental impact statement relating to proposed facilities shall be prepared and published within 180 days after notice of the initial application has been published pursuant to section 102(d) of this title. Each such draft environmental impact statement relating to a proposed plantship shall be prepared and published within 180 days after notice of the application has been published pursuant to section 107(d) of this title. Each final environmental impact statement shall be published not later than 90 days following the date on which public hearings are concluded pursuant to section 102(g) of this title. The Administrator may extend the deadline for publication of a specific draft or final environmental impact statement to a later specified time for good cause shown in writing.

(f) An ocean thermal energy conversion facility or plantship licensed under this title shall be deemed not to be a "vessel or other floating craft" for the purposes of section 502(12)(B) of the Federal Water Pollution Control Act of 1972 (33 U.S.C. 1362(12)(B)).

Sec. 108. Marine Environmental Protection and Safety of Life and Property At Sea.

(a) The Secretary of the department in which the Coast Guard is operating shall, subject to recognized principles of international law, prescribe by regulation and enforce procedures with respect to any ocean thermal energy conversion facility or plantship licensed under this Act, including, but not limited to, rules governing vessel movement, procedures for transfer of materials between such a facility or plantship and transport vessels, designation and marking of anchorage areas, maintenance, law enforcement, and the equipment, training, and maintenance required (1) to promote the safety of life and property at sea, (2) to prevent pollution of the marine environment, (3) to clean up any pollutants which may be discharged, and (4) to otherwise prevent or minimize any adverse impact from the construction and operation of such ocean thermal energy conversion facility or plantship.

(b) The Secretary of the department in which the Coast Guard is operating shall issue and enforce regulations, subject to recognized principles of international law, with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property on any ocean thermal energy conversion facility or plantship licensed under this Act.

(c) Whenever a licensee fails to mark any component of such an ocean thermal energy conversion facility or plantship in accordance with applicable regulations, the Secretary of the department in which the Coast Guard is operating shall mark such components for the protection of navigation, and the licensee shall pay the cost of such marking.

(d)(1) Subject to recognized principles of international law and after consultation with the Secretary of Commerce, the Secretary of the Interior, the Secretary of State, and the Secretary of Defense, the Secretary of the department in which the Coast Guard is operating shall designate a zone of appropriate size around and including any ocean thermal energy conversion facility licensed under this Act and may designate such a zone around and including any ocean thermal energy conversion plantship licensed under this Act for the purposes of reorganizational safety and protection of the facility or plantship. The Secretary of the department in which the Coast Guard is operating shall by regulation define permitted activities within such zone consistent with the purpose for which it was designated. The Secretary of the department in which the Coast Guard is operating shall, not later than 30 days after publication of notice pursuant to section 102(d) of this title, designate such safety zone with respect to any proposed ocean thermal energy conversion facility or plantship.

(2) In addition to any other regulations, the Secretary of the department in which the Coast Guard is operating is authorized, in accordance with this subsection, to establish a safety zone to be effective during the period of construction of an ocean thermal energy conversion facility or plantship licensed under this Act, and to issue rules and regulations relating thereto.

(e)(1) The Secretary of the department in which the Coast Guard is operating shall promulgate and enforce regulations specified in paragraph (2) of this subsection and such other regulations as he deems necessary concerning the documentation, design, construction, alteration, equipment, maintenance, repair, inspection, certification, and manning of ocean thermal conversion facilities and plantships. In addition to other requirements prescribed under those regulations, the Secretary of the department in which the Coast Guard is operating may require compliance with those vessel documentation, inspection, and manning laws which he determines to be appropriate.

Within 1 year after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall promulgate regulations under paragraph (1) of this subsection which require that any ocean thermal energy conversion facility or plantship—

(A) be documented;

(B) comply with minimum standards of design, construction, alteration, and repair; and

(C) be manned or crewed by United States citizens or aliens lawfully admitted to the United States for permanent residence, unless—

(i) there is not a sufficient number of United States citizens, or aliens lawfully admitted to the United States for permanent residence, qualified and available for such work, or

(ii) the President makes a specific finding, with respect to the particular vessel, platform, or moored or standing structure, that application of this requirement would not be consistent with the national interest.

(3) For the purposes of the documentation laws, for which compliance is required under paragraph (1) of this subsection, ocean thermal energy conversion facilities and plantships shall be deemed to be vessels and, if documented, vessels of the United States for the purposes of the Ship Mortgage Act, 1920 (46 U.S.C. 911–984).

(f) Subject to recognized principles of international law, the Secretary of the department in which the Coast Guard is operating shall promulgate and enforce such regulations as he deems necessary to protect navigation in the vicinity of a vessel engaged in the installation, repair, or maintenance of any submarine electric transmission cable or equipment, and to govern the markings and signals used by such a vessel.

Sec. 109 Prevention of Interference With Other Uses of the High Seas.

(a) Each license shall include such conditions as may be necessary and appropriate to ensure that construction and operation of the ocean thermal energy conversion facility or plantship are conducted with reasonable regard for navigation, fishing, energy production, scientific research, or other uses of the high seas, either by citizens of the United States or by other nations in their exercise of the freedoms of the high seas as recognized under the Convention of the High Seas and the general principles of international law.

(b) The Administrator shall promulgate regulations specifying under what conditions and in what circumstances the thermal plume of an ocean thermal energy conversion facility or plantship licensed under this Act will be deemed—

(1) to impinge on so as to degrade the thermal gradient used by another ocean thermal energy conversion facility or plantship, or

(2) to impinge on so as to adversely affect the territorial sea or area of natural resource jurisdiction, as recognized by the United States, of any other nation.

Such regulations shall also provide for the Administrator to mediate or arbitrate any disputes among licensees regarding the extent to which the thermal plume of one licensee's facility or plantship impinges on the operation of another licensee's facility or plantship.

(3) Except in a situation involving force majeure, a licensee of an ocean thermal energy conversion facility or plantship shall not permit a vessel, registered in or flying the flag of a foreign state, to call at, load or unload cargo at, or otherwise utilize such a facility or plantship licensed under this Act unless (A) the foreign state involved has agreed, by specific agreement with the United States over the vessel and its personnel, in accordance with the provisions of this Act, while the vessel is located within the safety zone, and (B) the vessel owner or operator has designated an agent in the United States for receipt of service of process in the event of any claim or legal proceeding resulting from activities of the vessel or its personnel while located within such a safety zone.

(c) The Secretary of the department in which the Coast Guard is operating shall promulgate, after consultation with the Administrator, and shall enforce, regulations governing the movement and navigation of ocean thermal energy conversion plantships licensed under this Act to ensure that the thermal plume of such an ocean thermal energy conversion plantship does not unreasonably impinge on so as to degrade the thermal gradient used by the operation of any other ocean thermal energy conversion plantship or facility except in case of force majeure or with the consent of owner of the other such plantship or facility, and to ensure that the thermal plume such of an ocean thermal energy conversion plantship does not impinge on so as to adversely effect the territorial sea or area of national resource jurisdiction, as recognized by the United States, of any other nation unless the Secretary of State has approved such impingment after consultation with such nation.

SEC. 110. MONITORING OF LICENSEES' ACTIVITIES.

Each license shall require the licensee—

(1) to allow the Administrator to place appropriate Federal officers or employees aboard the ocean thermal energy conversion facility or plantship to which the license applies, at such times and to such extent as the Administrator deems reasonable and necessary to assess compliance with any condition or regulation applicable to the license, and to report to the Administrator whenever such officers or employees have reason to believe there is a failure to comply;

(2) to cooperate with such officers and employees in the performance of monitoring functions; and

(3) to monitor the environmental effects, if any, of the operation of the ocean thermal energy conversion facility or plantship in accordance with regulations issued by the Administrator, and to submit such information as the Administrator finds to be necessary and appropriate to assess environmental impacts and to develop and evaluate mitigation methods and possibilities.

SEC. 111. SUSPENSION, REVOCATION, OR TERMINATION OF LICENSE.

(a) Whenever a licensee fails to comply with any applicable provision of this Act or any applicable rule, regulation, restriction, or condition issued or imposed by the Administrator under the authority of this Act, the Attorney General, at the request of the Administrator, shall file an action in the appropriate United States district court to—

(1) suspend the license; or

(2) if such failure is knowing and continues for a period of 30 days after the Administrator mails notification of such failure by registered letter to the licensee at his record post office address, revoke such license. No proceeding under this section is necessary if the license, by its terms, provides for automatic suspension or termination upon the occurrence of a fixed or agreed upon condition, event, or time.

(b) If the Administrator determines that immediate suspension of the construction or operation of an ocean thermal energy conversion facility or plantship or any component thereof is necessary to protect public health and safety or to eliminate imminent and substantial danger to the environment established by any treaty or convention, the Administrator may order the licensee to cease or alter such construction or operation pending the completion of a judicial proceeding pursuant to subsection (a) of this section.

SEC. 112. RECORDKEEPING AND PUBLIC ACCESS TO INFORMATION.

(a) Each licensee shall establish and maintain such records, make such reports, and provide such information as the Administrator, after consultation with other interested Federal departments and agencies, shall by regulation prescribe to carry out the provisions of this Act. Each licensee shall submit such reports and shall make available such records and information as the Administrator may request.

(b) Any information reported to or collected by the Administrator under this Act which is exempt from disclosure pursuant to section 552(b)(4) of title 5, United States Code (relating to trade secrets and confidential commercial and financial information), shall not—

(1) be publicly disclosed by the Administrator or by any other officer or employee of the United States, unless the Administrator has—

(A) determined that the disclosure is necessary to protect the public health or safety or the environment against an unreasonable risk of injury, and

(B) notified the person who submitted the information 10 days before the disclosure is to be made, unless the delay resulting from such notice would be detrimental to the public health or safety or the environment, or

(2) be otherwise disclosed except—

(A)(i) to other Federal and adjacent coastal State government departments and agencies for official use,

(ii) to any committee of the Congress of appropriate jurisdiction, or

(iii) pursuant to court order, and

(B) when the administrator has taken appropriate steps to inform the recipient of the confidential nature of the information.

SEC. 113. RELINQUISHMENT OR SURRENDER OF LICENSE.

Any licensee may at any time, without penalty, surrender to the Administrator a license issued to him, or relinquish to the Administrator, in whole or in part, any right to conduct construction or operation of an ocean thermal energy conversion facility or plantship, including part or all of any right of way which may have been granted in conjunction with such license: *Provided*, That such surrender or relinquishment shall not relieve the licensee of any obligation or liability established by this or any other Act, or of any obligation or liability for actions taken by him prior to such surrender or relinquishment, or during disposal or removal of any components required to be disposed of or removed pursuant to this Act.

(b) If part or all of a right of way which is relinquished, or for which the license is surrendered, to the Administrator pursuant to subsection (a) of this section contains an electric transmission cable or pipeline which is used in conjunction with another license for an ocean thermal energy conversion facility, the Administrator shall allow the other licensee an opportunity to add such right of way to his license before informing the Secretary of the Interior that the right of way has been vacated.

"SEC. 114 Civil Actions.

(a) Except as provided in subsection (b) of this section, any person having a valid legal interest which is or may be adversely affected may commence a civil action for equitable relief on his own behalf in the United States District Court for the District of Columbia whenever such action constitutes a case or controversy—

(1) against any person who is alleged to be in violation of any provision of this Act or any regulation or condition of a license issued pursuant to this Act; or

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary.

In suits brought under this Act, the district courts of the United States shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce any provision of this Act or any regulation or term or condition of a license issued pursuant to this Act, or to order the Administrator to perform such act or duty, as the case may be.

(b) No civil action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to 60 days after the plaintiff has given notice of the violation to the Administrator and to any alleged violator; or

(B) if the Administrator or the Attorney General has commenced and is diligently prosecuting a civil or criminal action with respect to such matters in a court of the United States, but in any such action any person may intervene as a matter of right; or

(2) under subsection (a)(2) of this section prior to 60 days after the plaintiff has given notice of such action to the Administrator.

Notice under this subsection shall be given in such a manner as the Administrator shall prescribe by regulation.

(c) In any action under this section, the Administrator or the Attorney General, if not a party, may intervene as a matter of right.

(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines that such an award is appropriate.

(e) Nothing in this section shall restrict any right which any person or class of persons may have under any statute or common law to seek enforcement or to seek any other relief.

SEC. 115. JUDICIAL REVIEW.

Any person suffering legal wrong, or who is adversely affected or aggrieved by the Administrator's decision to issue, transfer, modify, renew, suspend, or terminate a license may, not later than 60 days after such decision is made, seek judicial review of such decision in the United States Court of Appeals for the District of Columbia. A person shall be deemed to be aggrieved by the Administrator's decision within the meaning of this Act if he—

(1) has participated in the administrative proceedings before the Administrator (or if he did not so participate, he can show that his failure to do so was caused by the Administrator's failure to provide the required notice); and

(2) is adversely affected by the Administrator's action.

SEC. 116. TEST PLATFORMS; LICENSE FOR PILOT OR DEMONSTRATION OCEAN THERMAL ENERGY CONVERSION FACILITY OR PLANTSHIP.

(a) The provisions of this title shall not apply to any test platform which will not operate as an ocean thermal energy conversion facility or platform after conclusion of the testing period.

(b) Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall, after consultation with the Administrator, issue regulations providing for issuance by the Secretary of Energy of a license for ownership, construction, and operation of any pilot or demonstration ocean thermal energy conversion facility or plantship which is financed in whole or in part by the Department of Energy. Such regulations shall be issued in accordance with the provisions of section 553 of title 5, United States Code, without regard to subsection (a) thereof, and shall provide for the Secretary of Energy to make, after consultation with the Administrator, all licensing decisions and determinations related to issuance of a license for such a pilot or demonstration facility or plantship in lieu of the Administrator. Such regulations shall include as many of the requirements and procedures of this title as are necessary, feasible, and practicable for the licensing of such pilot or demonstration facilities and plantships, without damaging the nature of or unduly delaying such projects. A license issued by the Secretary of Energy under this subsection shall have the same status and validity as a license issued by the Administrator pursuant to the other provisions of this title.

TITLE II—MARITIME FINANCING FOR OCEAN THERMAL ENERGY CONVERSION

Sec. 210. Determinations Under the Merchant Marine Act, 1936.

(a)(1) For the purposes of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177), any ocean thermal energy conversion facility or plantship licensed pursuant to this Act, and any vessel providing shipping service to or from such an ocean thermal energy conversion facility or plantship, shall be deemed to be a vessel operated in the foreign commerce of the United States.

(2) The provisions of paragraph (1) of this subsection shall apply for taxable years beginning after December 31, 1981.

(b) For the purposes of the Merchant Marine Act of 1936 (46 U.S.C. 1177 et seq.) any vessel documented under the laws of the United States and used in providing shipping service to or from any ocean thermal energy conversion facility or plantship licensed pursuant to the provisions of this Act shall be deemed to be used in, and used in an essential service in, the foreign commerce or foreign trade of the United States, as defined in section 905(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1244(a)).

Sec. 202. Amendments to Title XI of the Merchant Marine Act, 1936.

(a) Section 1101 of the Merchant Marine Act, 1936 (46 U.S.C. 1271), is amended—

(1) in subsection (b) by striking "and" immediately before "dredges" and inserting in lieu thereof a comma, and by inserting immediately after "dredges" the following: "and ocean thermal energy conversion facilities or plantships",

(2) in subsection (g) by striking "and" after the semicolon,

(3) in subsection (h) by striking "equipping" and inserting in lieu thereof "equipping and", and

(4) by adding at the end thereof a new subsection (i) to read as follows:

"(i) The term 'ocean thermal energy conversion facility or plantship' means any at-sea facility or vessel, whether mobile, floating unmoored, moored, or standing on the seabed, which uses temperature differences in ocean water to produce electricity or another form of energy capable of being used directly to perform work, and includes any equipment installed on such facility or vessel to use such electricity or other form of energy to produce, process, refine, or manufacture a product, and any cable or pipeline used to deliver such electricity, freshwater, or product to shore, and all other associated equipment and appurtenances of such facility or vessel, to the extent they are located seaward of the highwater mark.".

(b) Section 1104(a)(1) of the Merchant Marine Act, 1936 (46 U.S.C. 1274(a)(1)), is amended by striking "or (E)" and inserting in lieu thereof "(E) as an ocean thermal energy conversion or plantship; or (F)".

(c) Section 1104(b)(2) of the Merchant Marine Act, 1936 (46 U.S.C. 1274(b)(2)), is amended by striking "vessel;" and inserting in lieu thereof "vessel: *Provided further*, That in the case of an ocean thermal energy conversion facility or plantship which is constructed without the aid of construction-differential subsidy, such obligations may be in an aggregate principal amount which does not exceed 87½ percent of the actual cost or depreciated actual cost of the facility or plantship;".

Sec. 203. OTEC Demonstration Fund.

(a) Title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271–1279b) is further amended by adding at the end a new section 1110 to read as follows:

"Sec. 1110. (a) Pursuant to the authority granted under section 1103(a) of this title, the Secretary of Commerce, upon such terms as he shall prescribe, may guarantee or make a commitment to guarantee, payment of the principal of and interest on an obligation which aids in financing, including reimbursement of an obligor for expenditures previously made for, construction, reconstruction, or reconditioning of a pilot or demonstration ocean thermal energy conversion facility or plantship owned by citizens of the United States. Guarantees or commitments to guarantee under this subsection shall be subject to all the provisos, requirements, regulations, and procedures which apply to guarantees or commitments to guarantee made pursuant to section 1104(a)(1) of this title, except that—

"(1) no guarantees or commitments to guarantee may be made by the Secretary of Commerce under this subsection before October 1, 1981;

"(2) the provisions of subsection (d) of section 1104 of this title do not apply to guarantees or commitments to guarantee made pursuant to this section;

"(3) guarantees or commitments to guarantee made pursuant to this section may be in an aggregate principal amount which does not exceed 87½ percent of the actual cost or depreciated actual cost of the pilot or demonstration ocean thermal energy conversion facility or plantship. If the pilot or demonstration ocean thermal energy conversion facility or plantship is supported with appropriated Federal funds, such guarantees or commitments to guarantee may not exceed 87½ percent of the aggregate principal amount of that portion of the actual cost or depreciated actual cost for which the obligor has an obligation to secure financing in accordance with the terms of the agreement between the obligor and the Department of Energy or other Federal agency; and

"(4) the provisions of this section may be used to guarantee obligations for a total of not more than 5 separate pilot or demonstration ocean thermal energy conversion facilities and plantships or a demonstrated 400 megawatt capacity, whichever comes first.

"(b) A guarantee or commitment to guarantee may not be made under this section unless the Secretary of Energy certifies to the Secretary of Commerce that the ocean thermal energy conversion facility or plantship for which the guarantee or commitment to guarantee is sought is a pilot or demonstration plant for the development of alternative energy sources for the United States and is either approved or participated in by the Department of Energy, and the Secretary of Commerce determines that sufficient guaranty of performance or payment is being provided by the Department of Energy, or any other Federal or State agency or any person to lower the risk of loss to a level which is reasonable, taking into account the need of the United States to develop new renewable sources of energy and the benefits to be realized from construction and operation of the proposed pilot or demonstration ocean thermal energy conversion facility or plantship.

"(c) A special subaccount in the Federal Ship Financing Fund, to be known as the OTEC Demonstration Fund, shall be established on October 1, 1981. The OTEC Demonstration Fund shall be used for obligation guarantees authorized under this section which do not qualify under other sections of this title. Except as specified otherwise in this section, the operation of the OTEC Demonstration Fund shall be identical with that of the parent Federal Ship Financing Fund: except that, notwithstanding the provisions of section 1104(g), (1) all moneys received by the Secretary pursuant to sections 1101 through 1107 of this title with respect to guarantees or commitments to guarantee made pursuant to this section shall be deposited only in the OTEC Demonstration Fund, and (2) whenever there shall be outstanding any notes or other obligations issued by the Secretary of Commerce pursuant to section 1105(d) of this title with respect to the OTEC Demonstration Fund, all moneys received by the Secretary of Commerce pursuant to sections 1101 through 1107 of this title with respect to ocean thermal energy conversional facilities or plantships shall be deposited in the OTEC Demonstration Fund. Assets in the OTEC Demonstration Fund may at any time be transferred to the parent fund whenever and to the extent that the balance thereof exceeds the total guarantees or commitments to guarantee made pursuant to this section then outstanding, plus any notes or other obligations issued by the Secretary of Commerce pursuant to section 1105(d) of this title with respect to the OTEC Demonstration Fund. The Federal Ship Financing Fund shall not be liable for any guarantees or commitments to guarantee issued pursuant to this section. The aggregate unpaid principal amount of the obligations guaranteed with the backing of the OTEC Demonstration Fund and outstanding at any one time shall not exceed $2,000,000,000.

"(d) The provisions of section 1105(d) of this title shall apply specifically to the OTEC Demonstration Fund as well as to the Fund: *Provided, however*, That any notes or obligations issued by the Secretary of Commerce pursuant to section 1105(d) of this title with respect to the OTEC Demonstration Fund shall be payable solely from proceeds realized by the OTEC Demonstration Fund.

"(e) The interest on any obligation guaranteed under this section shall be included in gross income for purposes of chapter 1 of the Internal Revenue Code of 1954.".

(b)(1) Section 1103(f) of the Merchant Marine Act 1936 (46 U.S.C. 1273(f)) is amended by striking out "$10.000.000.000." and inserting in lieu thereof "$12,000,000,000, of which $2,000,000,000 shall be limited to obligations pertaining to pilot or demonstration ocean thermal energy conversion facilities or plantships guaranteed pursuant to section 1110 of this title.".

(2) The amendment made by paragraph (1) of this subsection shall take effect October 1, 1981.

TITLE III—ENFORCEMENT

Sec. 301. Prohibited Acts.

It is unlawful for any person who is a United States citizen or national, or a foreign national on board an ocean thermal energy conversion facility or plantship or other vessel documented or numbered under the laws of the United States, or who is subject to the jurisdiction of the United States by an international agreement to which the United States is a party—

(1) to violate any provision of this Act, or any rule, regulation, or order issued pursuant to this Act, or any term or condition of any license issued to such person pursuant to this Act;

(2) to refuse to permit any Federal officer or employee authorized to monitor or enforce the provisions of sections 110 and 303 of this Act to board an ocean thermal energy conversion facility or plantship or any vessel documented or numbered under the laws of the United States, for purposes of conducting any search or inspection in connection with the monitoring or enforcement of this Act or any rule, regulation, order, term, or condition referred to in paragraph (1) of this section;

(3) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer or employee in the conduct of any search or inspection described in paragraph (2) of this section;

(4) to resist a lawful arrest for any act prohibited by this section; or

(5) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person subject to this section knowing that the other person has committed any act prohibited by this section.

SEC. 302. REMEDIES AND PENALTIES.

(a)(1) The Administrator or his delegate shall have the authority to issue and enforce orders during proceedings brought under this Act. Such authority shall include the authority to issue subpenas, administer oaths, compel the attendance and testimony of witnesses and the production of books, papers, documents, and other evidence, to take depositions before any designated individual competent to administer oaths, and to examine witnesses.

(2) Whenever on the basis of any information available to him the Administrator finds that any person subject to section 301 of this title is in violation of any provision of this Act or any rule, regulation, order, license, or term or condition thereof, or other requirements under this Act, he may issue an order requiring such person to comply with such provision or requirement, or bring a civil action in accordance with subsection (b) of this section.

(3) Any compliance order issued under this subsection shall state with reasonable specificity the nature of the violation and a time for compliance, not to exceed 30 days, which the Administrator determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

(b)(1) Upon a request by the Administrator, the Attorney General shall commence a civil action for appropriate relief, including a permanent or temporary injunction, any violation for which the Administrator is authorized to issue a compliance order under subsection (a)(2) of this section.

(2) Upon a request by the Administrator, the Attorney General shall bring an action in an appropriate district court of the United States for equitable relief to redress a violation, by any person subject to section 301 of this title, of any provision of this Act, any regulation issued pursuant to this Act, or any license condition.

(c)(1) Any person who is found by the Administrator, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 301 of this title shall be liable to the United States for a civil penalty, not to exceed $25,000 for each violation. Each day of a continuing violation shall constitute a separate violation. The amount of such civil penalty shall be assessed by the Administrator, or his designee, by written notice. In determining the amount of such penalty, the Administrator shall take into account the nature, circumstances, extent and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(2) Any person against whom a civil penalty is assessed under paragraph (1) of this subsection may obtain a review thereof in the appropriate court of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Administrator. The Administrator shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Administrator shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(3) If any person subject to section 301 fails to pay an assessment of a civil penalty against him after it has become final, or after the appropriate court has entered final judgment in favor of the Administrator, the Administrator shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(4) The Administrator may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this subsection.

(d)(1) Any person subject to section 301 of this title is guilty of an offense if he willfully commits any act prohibited by such section.

(2) Any offense, other than an offense for which the punishment is prescribed by section 103 of this Act, is punishable by a fine of not more than $75,000 for each day during which the violation continues. Any offense described in paragraphs (2), (3), (4), and (5) of section 301 is punishable by the fine or imprisonment for not more than 6 months, or both. If, in the commission of any offense, the person subject to section 301 uses a dangerous weapon, engages in conduct that causes bodily injury to any Federal officer or employee, or places any Federal officer or employee in fear of imminent bodily injury, the offense is punishable by a fine of not more than $100,000 or imprisonment for not more than 10 years, or both.

(e) Any ocean thermal energy conversion facility or plantship licensed pursuant to this Act and any other vessel documented or numbered under the laws of the United States, except a public vessel engaged in noncommercial activities, used in any violation of this Act or of any rule, regulation, order, license, or term or condition thereof, or other requirements of this Act, shall be liable in rem for any civil penalty assessed or criminal fine imposed and may be proceeded against in any district court of the United States having jurisdiction thereof, whenever it shall appear that one or more of the owners, or bareboat charterers, was at the time of the violation a consenting party or privy to such violation.

SEC. 303. ENFORCEMENT.

(a) Except where a specific section of this Act designates enforcement responsibility, the provisions of this Act shall be enforced by the Administrator. The Secretary of the department in which the Coast Guard is operating shall have exclusive responsibility for enforcement measures which affect the safety of life and property at sea, shall exercise such other enforcement responsibilities with respect to vessels subject to the provisions of this Act as are authorized under other provisions of law, and may, upon the specific request of the Administrator, assist the Administrator in the enforcement of any provision of this Act. The Administrator and the Secretary of the department in which the Coast Guard is operating may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment, including aircraft and vessels, and facilities of any other Federal agency or department, and may authorize officers or employees of other departments or agencies to provide assistance as necessary in carrying out subsection (b) of this section. The Administrator and the Secretary of the department in which the Coast Guard is operating may issue regulations jointly or severally as may be necessary and appropriate to carry out their duties under this section.

(b) To enforce the provisions of this Act on board any ocean thermal energy conversion facility or plantship or other vessel subject to the provisions of this Act, any officer who is authorized by the Administrator or the Secretary of the department in which the Coast Guard is operating may—

(1) board and inspect any vessel which is subject to the provisions of this Act;

(2) search the vessel if the officer has reasonable cause to believe that the vessel has been used or employed in the violation of any provision of this Act;

(3) arrest any person subject to section 301 of this title if the officer has reasonable cause to believe that the person has committed a criminal act prohibited by sections 301 and 302(d) of this title;

(4) seize the vessel together with its gear, furniture, appurtenances, stores, and cargo, used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of this Act if such seizure is necessary to prevent evasion of the enforcement of this Act;

(5) seize any evidence related to any violation of any provision of this Act;

(6) execute any warrant or other process issued by any court of competent jurisdiction; and

(7) exercise any other lawful authority.

(c) Except as otherwise specified in section 115 of this Act, the district courts of the United States shall have exclusive original jurisdiction over any case or controversy arising under the provisions of this Act. Except as otherwise specified in this Act, venue shall lie in any district wherein, or nearest to which, the cause of action arose, or wherein any defendant resides, may be found, or has his principal office. In the case of Guam, and any Commonwealth, territory, or possession of the United States in the Pacific Ocean, the appropriate court is the United States District Court for the District of Guam, except that in the case of American Samoa, the appropriate court is the United States District Court for the District of Hawaii. Any such court may, at any time—

(1) enter restraining orders or prohibitions;

(2) issue warrants, process in rem, or other process;

(3) prescribe and accept satisfactory bonds or other security; and

(4) take such other actions as are in the interest of justice.

(d) For the purposes of this section, the term "vessel" includes an ocean thermal energy conversion facility or plantship, and the term "provisions of this Act" or "provision of this Act" includes any rule, regulation, or order issued pursuant to this Act and any term or condition of any license issued pursuant to this Act.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Effect of Law of the Sea Treaty.

If the United States ratifies a treaty, which includes provisions with respect to jurisdiction over ocean thermal energy conversion activities, resulting from any United Nations Conference on the Law of the Sea, the Administrator, after consultation with the Secretary of State, shall promulgate any amendment to the regulations promulgated under this Act which is necessary and appropriate to conform such regulations to the provisions of such treaty, in anticipation of the date when such treaty shall come into force and effect for, or otherwise be applicable to, the United States.

Sec. 402. International Negotiations.

The Secretary of State, in cooperation with the Administrator and the Secretary of the department in which the Coast Guard is operating, shall seek effective international action and cooperation in support of the policy and purposes of this Act and may initiate and conduct negotiations for the purpose of entering into international agreements designed to guarantee noninterference of ocean thermal energy conversion facilities and plantships with the thermal gradients used by other such facilities and plantships, to assure protection of such facilities and plantships and of navigational safety in the vicinity thereof, and to resolve such other matters relating to ocean thermal energy conversion facilities and plantships as need to be resolved in international agreements.

Sec. 403. Relationship to Other Laws.

(a) (1) The Constitution, laws, and treaties of the United States shall apply to an ocean thermal energy conversion facility or plantship licensed under this Act and to activities connected, associated, or potentially interfering with the use or operation of any such facility or plantship, in the same manner as if such facility or plantship were an area of exclusive Federal jurisdiction located within a State. Nothing in this Act shall be construed to relieve, exempt, or immunize any person from any other requirement imposed by Federal law, regulation, or treaty.

(2) Ocean thermal energy conversion facilities and plantships licensed under this Act do not possess the status of islands and have no territorial seas of their own.

(b) (1) Except as may otherwise be provided by this Act, nothing in this Act shall in any way alter the responsibilities and authorities of a State or the United States within the territorial seas of the United States.

(2) The law of the nearest adjacent coastal State to which an ocean thermal energy conversion facility located beyond the territorial sea and licensed under this Act is connected by electric transmission cable or pipeline, now in effect or hereafter adopted, amended, or repealed, is declared to be the law of the United States, and shall apply to such facility, to the extent applicable and not inconsistent with any provision or regulation under this Act or other Federal laws and regulations now in effect or hereafter adopted, amended, or repealed: *Provided, however*, That the application of State taxation laws is not extended hereby outside the seaward boundary of any State. All such applicable laws shall be administered and enforced by the appropriate officers and courts of the United States outside the seaward boundary of any State.

(c) (1) For the purposes of the customs laws administered by the Secretary of the Treasury, ocean thermal energy conversion facilities and plantships documented under the laws of the United States and licensed under this Act shall be deemed to be vessels.

(2) Except insofar as they apply to vessels documented under the laws of the United States, the customs laws administered by the Secretary of the Treasury shall not apply to any ocean thermal energy conversion facility or plantship licensed under the provisions of this Act, but all foreign articles to be used in the construction of any such facility or plantship, including any component thereof, shall first be made subject to all applicable duties and taxes which would be imposed upon or by reason of their importation if they were imported for consumption in the United States. Duties and taxes shall be paid thereon in accordance with laws applicable to merchandise imported into the customs territory of the United States.

Sec. 404. Submarine Electric Transmission Cable and Equipment Safety.

(a) The Secretary of Energy, in cooperation with other interested Federal agencies and departments, shall establish and enforce such standards and regulations as may be necessary to assure the safe construction and operation of submarine electric transmission cables and equipment subject to the jurisdiction of the United States. Such standards and regulations shall include, but not be limited to, requirements for the use of the safest and best available technology for submarine electric transmission cable shielding, and for the use of automatic switches to shut off electric current in the event of a break in such a cable.

(b) The Secretary of Energy, in cooperation with other interested Federal agencies and departments, is authorized and directed to report to the Congress within 60 days after the date of enactment of this Act on appropriations and staffing needed to monitor submarine electric transmission cables and equipment subject to the jurisdiction of the United States so as to assure that they meet all applicable standards for construction, operation, and maintenance.

Sec. 405. Annual Report.

Within 6 months after the end of each of the first 3 fiscal years after the date of enactment of this Act, the Administrator shall submit to the President of the Senate and the Speaker of the House of Representatives a report on the administration of this Act during fiscal year. Such report shall include, with respect to the fiscal year covered by the report—

(1) a description of progress in implementing this Act;

(2) a list of all licenses issued, suspended, revoked, relinquished, surrendered, terminated, renewed, or transferred; denials of issuance of licenses; and required suspensions and modifications of activities under licenses;

(3) a description of ocean thermal energy conversion activities undertaken pursuant to licenses;

(4) the number and description of all civil and criminal proceedings instituted under title III of this Act, and the current status of such proceedings; and

(5) such recommendations as the Administrator deems appropriate for amending this Act.

Sec. 406. Authorization of Appropriations.

There are authorized to be appropriated to the Secretary of Commerce, for the use of the Administrator in carrying out the provisions of this Act, not to exceed $3,000,000 for the fiscal year ending September 30, 1981, not to exceed $3,500,000 for the fiscal year ending September 30, 1982, and not to exceed $3,500,000 for the fiscal year ending September 30, 1983.

Sec. 407. Severability.

If any provision of this Act or any application thereof is held invalid, the validity of the remainder of the Act, or any other application, shall not be affected thereby.

UP AMENDMENT NO. 1401

Mr. ROBERT C. BYRD. Mr. President, on behalf of Messrs. INOUYE and JACKSON, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), on behalf of the Senator from Hawaii (Mr. INOUYE) and the Senator from Washington (Mr. JACKSON) proposes an unprinted amendment numbered 1401.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 101, line 17, strike "Platforms; License for Pilot or", and insert in lieu thereof the following: "Platforms and Commercial".

On page 101, strike all from line 24 through line 19 on page 102, and insert in lieu thereof the following:

"(b) The provisions of this title shall not apply to ownership, construction, or operation of any ocean thermal energy conversion facility or plantship which the Secretary of Energy has designated in writing as a demonstration project for the development of alternative energy sources for the United States which is conducted by, participated in, or approved by the Department of Energy. The Secretary of Energy, after consultation with the Administrator, shall require such demonstration projects to abide by as many of the substantive requirements of this title as he deems to be practicable without damaging the nature of or unduly delaying such projects.".

On page 105, line 21; on page 106, lines 12–13 and line 14; on page 107, line 1; and on page 109, line 18, strike "pilot or" and insert in lieu thereof "commercial".

On page 106, strike lines 6 through 8 and insert in lieu thereof the following:

"(2) the provisions of subsection (d) of section 1104 of this title shall apply to guarantees or commitments to guarantee for that portion of a commercial demonstration ocean thermal energy conversion facility or plantship not to be supported with appropriated Federal funds;".

On page 106, line 14, strike "plantship. If" and insert in lieu thereof the following: "plantship: *Provided*, That, if".

On page 107, strike lines 4–20 and insert in lieu thereof the following:

"(b) A guarantee or commitment to guarantee shall not be made under this section unless the Secretary of Energy, in consultation with the Secretary of Commerce, certifies to the Secretary of Commerce that, for the ocean thermal energy conversion facility or plantship for which the guarantee or commitment to guarantee is sought, there is sufficient guarantee of performance and payment to lower the risk to the Federal Government to a level which is reasonable. The Secretary of Energy must base his considerations on the following: (1) the successful demonstration of the technology to be used in such facility at a scale sufficient to establish the likelihood of technical and economic viability in the proposed market; and (2) the need of the United States to develop new and renewable sources of energy and the benefits to be realized from the construction and successful operation of such facility or plantship.".

Page 102, line 19, insert the following new section.

"PERIODIC REVIEW AND REVISION OF REGULATIONS"

SEC. 117. The Administrator and the Secretary of the Department in which the Coast Guard is operating shall periodically, at intervals of not more than every three years, and in consultation with the Secretary of Energy, review any regulations promulgated pursuant to the provisions of this Title to determine the status and impact of such regulations on the continued development, evolution, and commercialization of ocean thermal energy conversion technology. The results of each such review shall be included in the next annual report required by section 405. The Administrator and such Secretary are authorized and directed to promulgate any revisions to the then effective regulations as are deemed necessary and appropriate based on such review, to ensure that any regulations promulgated pursuant to the provisions of this Title do not impede such development, evolution, and commercialization of such technology. Additionally, the Secretary of Energy is authorized to propose, based on such review, such revisions for the same purpose. The Administrator or such Secretary, as appropriate, shall have exclusive jurisdiction with respect to any such proposal by the Secretary of Energy and, pursuant to applicable procedures, shall consider and take final action on any such proposal in an expeditious manner. Such consideration shall include at least one informal hearing pursuant to the procedures in 5 U.S.C. 553.

● Mr. CANNON. Mr. President, the Senate has before it today S. 2492, a bill to expedite the development and commercialization of ocean thermal energy conversion, one of the newest solar energy technologies. The oceans are the world's largest solar energy collectors. The energy is collected as heat and stored in the warm surface layers of water. In many parts of the world the temperature difference between those warmed upper layers and the deep cold water is enough to provide economic energy production by offshore ocean thermal powerplants. Thus, solar heating of the ocean can provide a continuous, renewable source of power. This electricity can be transmitted to shore via cable for direct use or used on board these ships to manufacture hydrogen, ammonia, freshwater and other energy intensive products. The principle for doing this has been understood for years, but only now is the technology at a stage to be commercially viable. The legislation before us today is one step toward removing the barriers toward full commercialization.

The bill does so by establishing a regulatory and licensing regime for OTEC plantships and facilities in the National Oceanic and Atmospheric Administration, requiring that the facilities and plantships be documented as vessels of the United States and that supply vessels be U.S. flag. It amends the Merchant Marine Act of 1936 to establish an OTEC Commercial Demonstration Fund within the Federal Ship Financing Fund, to make loan guarantees available for the construction of OTEC facilities and plantships, to make OTEC vessels eligible for capital construction funds, and to make U.S. flag vessels transporting materials from plantships to the United States, eligible for construction differential and operating differential subsidies.

The amendments proposed today address title II of the act and reflects the concerns of both the Commerce Committee and the Committee on Energy and Natural Resources. They clarify the funding provisions of the act and incorporate the concerns of the Energy Committee with respect to all new energy technologies.

This legislation has received broad support from the industry, the utilities, and State and local governments. Mr. President, our Nation must make a firm commitment to developing renewable sources of energy if we are ever to become energy independent. This bill is a step in that direction, and I urge my colleagues adopt the amendments and to move for prompt passage of the legislation.●

● Mr. INOUYE. Mr. President, we have before the Senate today the bill, S. 2492, the Ocean Thermal Energy Conversion Act of 1980. The purpose of this bill is to provide for the commercialization of OTEC facilities and plantships as alternative renewable energy technologies. This bill was considered by the Committee on Commerce, Science, and Transportation in two hearings and unanimously reported favorably to the full Senate. The bill was then informally considered by the Committee on Energy and Natural Resources. A package of amendments to the bill has been proposed which reflects the concerns of the Energy Committee, and which I fully support.

To summarize, title I of S. 2492 establishes a licensing and regulatory system for OTEC facilities and plantships to be administered by the National Oceanic and Atmospheric Administration. Title I also requires that OTEC facilities and plantships be documented as vessels of the United States—but not necessarily built there. Vessels delivering materials and supplies to and from such a facility must be U.S. flag.

Title II amends the Merchant Marine Act of 1936 to make OTEC facilities and plantships eligible for Federal mortgage guarantees under title XI of that act. A separate section creates a subfund for mortgage guarantees on demonstration projects which would not otherwise meet the requirements of title XI. Title II creates the OTEC Commercial Demonstration Fund to provide loan guarantees for construction of facilities and plantships. Title II also makes OTEC facilities and plantships eligible for capital construction funds which now apply to all merchant ships, and makes U.S.-flag vessels transporting materials from plantships to the United States eligible for construction differential and operating differential subsidies. Title III contains enforcement provisions. Title IV contains miscellaneous provisions including one which exempts demonstration projects from the detailed licensing provisions contained elsewhere in the bill.

The amendments to the bill proposed today serve to further protect the parent Federal Ship Financing Fund and to incorporate the safeguards practiced by the Energy Committee with all new energy technologies. The proposed changes are as follows:

First. The Secretary of the Department of Energy, after consulting with the Secretary of Commerce, must certify to the Secretary of Commerce that there is sufficient guarantee of performance and payment for a proposed OTEC demonstration project to lower the risk to the Federal Government in making a loan guarantee for its construction from the OTEC Commercial Demonstration Fund. This certification must be based on the need of the United States to develop renewable energy sources, the benefits to be realized from the successful operation of such a project, and a successful demonstration of the technology involved to suggest the technical and economic viability of the project. This in no way abrogates the responsibilities or criteria of the Maritime Administration in making the loan guarantees.

Second. A clarification that guarantees or commitments to guarantee from the Fund apply only to the private capital, not the portion of the overall project costs supported by Federal funds through the Department of Energy.

Third. A clarification that demonstration projects are not subject to the same stringent regulations and the fully operational, commercial facilities. It is understood, however, that these demonstration projects must meet as many of the substantive requirements of the licensing provisions of title I of the act as are practicable without damaging the nature of the project or unduly delaying it.

As a continued reliance on imported oil places an increasing burden on the American economy, and as fossil fuels are being depleted worldwide, the Nation's interest is turning to renewable energy resources. These include synthetic fuels, solar power, and energy derived from the oceans.

Ocean thermal energy conversion uses the temperature difference between the warm surface layer of seawater—a collector of solar heat—and the colder subsurface layers to power a turbine which generates electricity. The electricity may either be transmitted to onshore power grids by underwater cables or used at sea to produce hydrogen, freshwater, ammonia or other products. Although estimates of potential output from OTEC plants vary, experts suggest that the process could be commercially operational for island baseloads by the mid-1980's. About one-third to one-half of the lower 48 States could be supplied with electricity from facilities in the Gulf of Mexico at competitive prices by the year 2000. Grazing plantships can use the process to produce hydrogen and ammonia for fuel cells or fertilizer, bringing the benefits of this technology to all parts of our Nation.

The principal barriers to immediate commercialization of OTEC are first, the need for demonstration of large-scale OTEC systems, and second, the need for a Federal regulatory and siting framework and financial assistance. The first of these was addressed in the Senate by S. 1830 providing for demonstration projects and setting national goals for energy generated by OTEC. This bill, introduced by Senator MATSUNAGA passed the Senate in January of this year. The companion bill in the House, H.R. 7474, introduced by Congressman FUQUA, passed on June 17. The differences in the two versions of those bills are currently being resolved. The second of the barriers is addressed in the legislation before us today.

The two pieces of legislation are complimentary, and passage of both is needed to assure prompt commercial development of OTEC; 8 years ago the cost of fuel was less than 20 percent of the total cost of electricity. Today it comprises over 51 percent, and the percentage is expected to rise to as high as 61 percent. In January, the cost of electricity rose by 17 percent from December 1979 as a result of adjustments for the higher costs of fuel. For OTEC, the fuel is solar energy, which is free. Clearly OTEC offers real promise of holding down or even reducing costs of electricity.

My own State of Hawaii has taken the lead among the States toward the development of OTEC. The first OTEC plant to generate more power than it consumed was placed in operation off of Hawaii in August 1979. "Mini-OTEC" was a project of the State of Hawaii, Lockheed, and Dillingham, with no Federal funding. Work is underway now for a second pilot project. "OTEC-1," a plantship to test heat exchangers and other key components, is due to be on station in July of this year off of Keahole Point. This will be the beginning of a 3-year ocean test for that facility.

● Mr. JACKSON. Mr. President, both the Committee on Commerce, Science, and Transportation and the Committee on Energy and Natural Resources have been active this Congress to promote ocean thermal energy conversion (OTEC). Our efforts started with a bill introduced by Senator MATSUNAGA on September 27, 1979, which was aimed at bringing this technology from a test platform stage through the demonstration of the technology at sufficient scale to provide the technical, economic, and other information necessary to foster the commercial use of this technology. That legislation passed the Senate in January and now is in conference with the House of Representatives as part of H.R. 5892. I am pleased to have been a cosponsor of that legislation and I want to commend Senator MATSUNAGA for his leadership and his commitment to OTEC technology.

More recently, Mr. President, my good friend, the senior Senator from Hawaii, Senator INOUYE, introduced on March 27 with several cosponsors another piece of legislation dealing with OTEC. After having held hearings, the Committee on Commerce, Science, and Transportation reported the Senator INOUYE's bill, S. 2492, from committee on May 15.

To insure that the two OTEC bills are in harmony with each other and to insure that the bill S. 2492 is consistent with the commercialization approaches that the Energy Committee has adopted for all other energy technologies, the staffs of the respective committees have worked out a set of amendments which are to be offered during the adoption of this bill today so that rereferral of the bill to the Energy Committee would not be necessary. I believe these amendments as prepared for offering today strike a proper balance in incentives for the commercialization of OTEC and achieve a harmonious structure with regard to the program authorized by S. 1830, the bill introduced by Senator MATSUNAGA.

Mr. President, I would like to explain briefly the intent of the amendments which were prepared in cooperation with the Commerce Committee so that the relationship established by S. 2492 with the DOE programs which will be established by the companion legislation, S. 1830, is clear. Basically, the amendments bring these two bills into harmony.

One amendment exempts facilities which the Secretary of Energy designates as demonstration projects from the provisions of the regulatory title of S. 2492. For those projects the Secretary will decide which of the regulatory requirements of title I should be applied, since it will be difficult to regulate a technology which has not yet been established as a viable industry. In fact, too stringent of a regulatory framework on the technology while it is still being proven might very well preclude its commercialization. Thus, pilot plants and commercial demonstration plants where the Federal Government engages in direct cost sharing would not be licensed by the Administrator of NOAA. Once the technology has been proven to be technically and economically feasible through a demonstration program, the full licensing requirements of title I would naturally apply.

The other amendments pertain to the loan guarantee program under title II of S. 2492. In order to insure that the loan guarantee is not given for projects where repayment of the loans and interests is in serious doubt, the bill has been modified to require the Secretary of Energy to certify that there is sufficient guarantee of performance and payment, based on demonstration of the technology at a scale sufficient to project the technical and economic viability of a proposed project seeking a loan guarantee and on the need and benefits to be realized from such proposed project.

The bill as amended, with these amendments, makes loan guarantees only available for commercial demonstration where, after taking into account any Federal cost sharing on the project, the loan guarantee can be for not more than 87.5 percent of the remaining project costs and where revenues from the project must be projected to be sufficient to repay the principal and interest on the guaranteed loans.

It is not appropriate for loan guarantees to apply to pilot and demonstration facilities which, in the parlance of the Department of Energy, have always been defined to be projects which need not meet the test of economic viability. This is not to say that an OTEC facility or plant ship could not be built as a demonstration platform with modular construction and, upon proof of technical viability, expand to the full capacity of the platform and converted to a commercial demonstration project in this manner. For instance, a platform suitable for 100 megawatts of electric generating capacity might be constructed with initially only a 10-megawatt generating module as a demonstration project and then converted to a commercial demonstration by installing the additional 90 megawatts of generating modules.

Mr. President, I am sure that the members of the Commerce Committee will seek to preserve the careful balance that has been struck by these amendments during the further consideration of this legislation in negotiations with the House of Representatives, where H.R. 6154, introduced by Congressman STUDDS, is also moving toward passage. With that understanding, Mr. President, and the adoption of the proposed amendments, I believe the interests of the Energy Committee will be protected so that rereferral of the bill to the Energy Committee and conferee status for members of the Energy Committee will not be necessary.

Mr. President, I appreciate the cooperation of the members of the Committee on Commerce. I commend the sponsors of this bill for their enthusiastic support of OTEC technology and for their interest in assisting its early commercialization.●

● Mr. MATSUNAGA. Mr. President, as a cosponsor of S. 2492, the Ocean Thermal Conversion Act of 1980, I speak in strong support of the measure.

S. 2492 complements very well S. 1830, my bill to provide for a research, development, and demonstration program to achieve the early commercialization of ocean thermal energy systems, which originally passed the Senate in January of this year, was slightly modified in the House and given a House number of H.R. 7474, and is also on the agenda for final Senate approval today.

While H.R. 7474 provides for the basic developmental work necessary to bring about the commercialization of this innovative ocean energy technology, S. 2492 deals with the financing and regulatory requirements. As necessary as research, development, and demonstration is to a fledgling energy source, equally as important is the need for a sound system of regulations and financial options, for the timeframe from conception to operation of an OTEC project is no different from that of conventional powerplants. A stable set of rules and economic incentives are required to spur the interested industrial consortia and gain the confidence of the financial community.

S. 2492 establishes a licensing and regulatory system for OTEC facilities and amends the Merchant Marine Act of 1936 to make OTEC plantships eligible for guaranteed loans and construction assistance. Enforcement provisions are included and certain exemptions are allowed for demonstration projects.

The Senate Energy and Natural Resources Committee waived consideration of the bill in the interest of comity, because our overburdened agenda might well have caused undue delay on a matter which requires immediate attention. The Energy Committee did, however, participate in perfecting the bill for floor consideration. We proposed a number of amendments which were amicably received by the Commerce, Science, and Transportation Committee.

Among the provisions discussed were:

The importance of obtaining the consultation of the Secretary of Energy in any Federal commitments.

The necessity for closely analyzing any financial packages so that a project through piggy-backing of various Federal assistance programs could not exceed 100 percent financing.

The waiving of certain licensing and financial requirements for OTEC pilot plants and demonstrations.

These provisions are now part of S. 2492, and the Energy Committee endorsed the measure and urges support from the full Senate.

S. 2492 proposes to do more than assist ocean thermal energy conversion. S. 2492 implicitly is intended to promote energy self-sufficiency. Mr. President, the Congress is on the verge of enacting sweeping legislation on virtually the eve of Independence Day to back out oil and gain swift energy and materials independence.

We have passed the Windfall Profit Tax Act, the Energy Security Act and Deep Seabed Mineral Resources Act, all signed into law by the President. These measures will allow the country to extricate itself from the depths of a far too dangerous dependency on other countries, some potentially unstable and some downright unfriendly, on strategic minerals and petroleum.

S. 2492 will combine with these bills, and others, such as the Wind Energy Systems Commercialization and Utilization Act and my previously mentioned OTEC R.D. & D. bill, to spur the development of our indigenous resources so that we can become energy self-sufficient by the turn of the century, if not earlier.

Hawaii, the home State of Senator INOUYE and myself, has already embarked on a crusade to become the first State in the Nation to become energy self-sufficient through the use of only renewable energy sources. I offer my colleagues in the Senate a challenge—a challenge to make our Nation energy independent with the zeal and fervor of the citizens of Hawaii.

S. 2492, the Ocean Thermal Energy Conversion Act, is an important component in the drive for energy independence. I urge my colleagues in the Senate, Mr. President, to join us in supporting passage of this most appropriate piece of legislation to enable our Nation to attain energy self-sufficiency at the earliest possible moment.●

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1401) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

Without objection, the committee amendment, as amended, is agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2492

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Ocean Thermal Energy Conversion Act of 1980".

SEC. 2. DECLARATION OF POLICY.

(a) It is declared to be the purposes of the Congress in this Act to—

(1) authorize and regulate the construction, location, ownership, and operation of ocean thermal energy conversion facilities connected to the United States by pipeline or cable, or located in the territorial sea of the United States consistent with the Convention on the High Seas, and general principles of international law;

(2) authorize and regulate the construction, location, ownership, and operation of ocean thermal energy conversion plantships documented under the laws of the United States, consistent with the Convention on the High Seas and general principles of international law;

(3) authorize and regulate the construction, location, ownership, and operation of ocean thermal energy conversion plantships by United States citizens, consistent with the Convention on the High Seas and general principles of international law;

(4) establish a legal regime which will permit and encourage the development of ocean thermal energy conversion as a commercial energy technology;

(5) provide for the protection of the marine and coastal environment, and consideration of the interests of ocean users, to prevent or minimize any adverse impact which might occur as a consequence of the development of such ocean thermal energy conversion facilities or plantships;

(6) make applicable certain provisions of the Merchant Marine Act, 1936 (46 U.S.C. 1177 et seq.) to assist in financing of ocean thermal energy conversion facilities and plantships;

(7) protect the interests of the United States in the location, construction, and operation of ocean thermal energy conversion facilities and plantships; and

(8) protect the rights and responsibilities of adjacent coastal States in ensuring that Federal actions are consistent with approved State coastal zone management programs and other applicable State and local laws.

(b) The Congress declares that nothing in this Act shall be construed to affect the legal status of the high seas, the superjacent airspace, or the seabed and subsoil, including the Continental Shelf.

SEC. 3. DEFINITIONS.

As used in this Act, unless the context otherwise requires, the term—

(1) "adjacent coastal State" means any coastal State which is required to be designated as such by section 105(a)(1) of this Act or is designated as such by the Administrator in accordance with section 105(a)(2) of this Act;

(2) "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration;

(3) "antitrust laws" includes the Act of July 2, 1890, as amended, the Act of October 15, 1914, as amended, and sections 73 and 74 of the Act of August 27, 1894, as amended;

(4) "application" means any application submitted under this Act (A) for issuance of a license for the ownership, construction, and operation of an ocean thermal energy conversion facility or plantship; (B) for transfer or renewal of any such license; or (C) for any substantial change in any of the conditions and provisions of any such license;

(5) "coastal State" means a State in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes;

(6) "construction" means any activities conducted at sea to supervise, inspect, actually build, or perform other functions incidental to the building, repairing, or expanding of an ocean thermal energy conversion facility or plantship or any of its components, including but not limited to, piledriving, emplacement of mooring devices, emplacement of cables and pipelines, and deployment of the cold water pipe, and alterations, modifications, or additions to an ocean thermal energy conversion facility or plantship;

(7) "facility" means an ocean thermal energy conversion facility;

(8) "Governor" means the Governor of a State or the person designated by law to exercise the powers granted to the Governor pursuant to this Act;

(9) "high seas" means that part of the oceans lying seaward of the territorial sea of the United States and outside the territorial sea, as recognized by the United States, of any other nation;

(10) "licensee" means the holder of a valid license for the ownership, construction, and operation of an ocean thermal energy conversion facility or plantship that was issued, transferred, or renewed pursuant to this Act;

(11) "ocean thermal energy conversion facility" means any facility which is standing or moored in or beyond the territorial sea of the United States and which is designed to use temperature differences in ocean water to produce electricity or another form of energy capable of being used directly to perform work, and includes any equipment installed on such facility to use electricity or other form of energy to produce, process, refine, or manufacture a product, and any cable or pipeline used to deliver such electricity, freshwater, or product to shore, and all other associated equipment and appurtenances of such facility, to the extent they are located seaward of the highwater mark;

(12) "ocean thermal energy conversion plantship" means any vessel which is designed to use temperature differences in ocean water while floating unmoored or moving through such water, to produce electricity or another form of energy capable of being used directly to perform work, and includes any equipment installed on such vessel to use such electricity or other form of energy to produce, process, refine, or manufacture a product, and any equipment used to transfer such product to other vessels for transportation to users, and all other associated equipment and appurtenances of such vessel;

(13) "plantship" means an ocean thermal energy conversion plantship;

(14) "person" means any individual (whether or not a citizen of the United States), any corporation, partnership, association, or other entity organized or existing under the laws of any nation, and any Federal, State, local or foreign government or any entity of any such government;

(15) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the United States Virgin Islands, Guam, the Commonwealth of the Northern Marianas, and any other Commonwealth, territory, or possession over which the United States has jurisdiction;

(16) "test platform" means any floating or moored platform, barge, ship, or other vessel which is designed for limited-scale, at sea operation in order to test or evaluate the operation of components or all of an ocean thermal energy conversion system and which

will not operate as an ocean thermal energy conversion facility or plantship after the conclusion of such tests or evaluation;

(17) "thermal plume" means the area of the ocean in which a significant difference in temperature, as defined in regulations by the Administrator, occurs as a result of the operation of an ocean thermal energy conversion facility or plantship; and

(18) "United States citizen" means (A) any individual who is a citizen of the United States by law, birth, or naturalization; (B) any Federal, State, or local government in the United States, or any entity of any such government; or (C) any corporation, partnership, association, or other entity, organized or existing under the laws of the United States, or of any State, which has as its president or other executive officer and as its chairman of the board of directors, or holder of similar office, an individual who is a United States citizen and which has no more of its directors who are not United States citizens than constitute a minority of the number required for a quorum necessary to conduct the business of the board.

TITLE I—REGULATION OF OCEAN THERMAL ENERGY CONVERSION FACILITIES AND PLANTSHIPS

SEC. 101. LICENSE FOR THE OWNERSHIP, CONSTRUCTION, AND OPERATION OF AN OCEAN THERMAL ENERGY CONVERSION FACILITY OR PLANTSHIP.

(a) No person may engage in the ownership, construction, or operation of an ocean thermal energy conversion facility which is documented under the laws of the United States, which is located in the territorial sea of the United States, or which is connected to the United States by pipeline or cable, except in accordance with a license issued pursuant to this Act. No citizen of the United States may engage in the ownership, construction or operation of an ocean thermal energy conversion plantship except in accordance with a license issued pursuant to this Act, or in accordance with a license issued by a foreign nation whose licenses are found by the Administrator, after consultation with the Secretary of State, to be compatible with licenses issued pursuant to this Act.

(b) The Administrator shall, upon application and in accordance with the provisions of this Act, issue, transfer, amend, or renew licenses for the ownership, construction, and operation of—

(1) ocean thermal energy conversion plantships documented under the laws of the United States, and

(2) ocean thermal energy conversion facilities documented under the laws of the United States, located in the territorial sea of the United States, or connected to the United States by pipeline or cable.

(c) The Administrator may issue a license to a citizen of the United States in accordance with the provisions of this Act unless—

(1) he determines that the applicant cannot and will not comply with applicable laws, regulations, and license conditions;

(2) he determines that the construction and operation of the ocean thermal energy conversion facility or plantship will not be in the national interest and consistent with national security and other national policy goals and objectives, including energy self-sufficiency and environmental quality;

(3) he determines, after consultation with the Secretary of the department in which the Coast Guard is operating, that the ocean thermal energy conversion facility or plantship will not be operated with reasonable regard to the freedom of navigation or other reasonable uses of the high seas and authorized uses of the Continental Shelf, as defined by United States law, treaty, convention, or customary international law;

(4) he has been informed, within 45 days after the conclusion of public hearings on that application, or on proposed licenses for the designated application area, by the Administrator of the Environmental Protection Agency that the ocean thermal energy conversion facility or plantship will not conform with all applicable provisions of any law for which he has enforcement authority;

(5) he has received the opinion of the Attorney General, pursuant to section 104 of this Act, stating that issuance of the license would create a situation in violation of the antitrust laws, or the 90-day period provided in section 104 has expired;

(6) he has consulted with the Secretary of Energy, the Secretary of Transportation, the Secretary of State, the Secretary of the Interior, and the Secretary of Defense, to determine their views on the adequacy of the application, and its effect on programs within their respective jurisdictions and determines on the basis thereof, that the application for license is inadequate;

(7) the proposed ocean thermal energy conversion facility or plantship will not be documented under the laws of the United States;

(8) the applicant has not agreed to the condition that no vessel may be used for the transportation to the United States of things produced, processed, refined, or manufactured at the ocean thermal energy conversion facility or plantship unless such vessel is documented under the laws of the United States;

(9) when the license is for an ocean thermal energy conversion facility, he determines that the facility, including any submarine electric transmission cables and equipment or pipelines which are components of the facility, will not be located and designed so as to minimize interference with other uses of the high seas or the Continental Shelf, including cables or pipelines already in position on or in the seabed and the possibility of their repair;

(10) the Governor of each adjacent coastal State with an approved coastal zone management program in good standing pursuant to the Coastal Zone Management Act of 1972 (33 U.S.C. 1451 et seq.) determines that, in his or her view, the application is inadequate or inconsistent with respect to programs within his or her jurisdiction;

(11) when the license is for an ocean thermal energy conversion facility, he determines that the thermal plume of the facility is expected to impinge on so as to degrade the thermal gradient used by any other ocean thermal energy conversion facility already licensed or operating, without the consent of its owner;

(12) when the license is for an ocean thermal energy conversion facility, he determines that the thermal plume of the facility is expected to impinge on so as to adversely affect the territorial sea or area of national resource jurisdiction, as recognized by the United States, of any other nation, unless the Secretary of State approves such impingement after consultation with such nation;

(13) when the license is for an ocean thermal energy conversion plantship, he determines that the applicant has not provided adequate assurance that the plantship will be operated in such a way as to prevent its thermal plume from impinging on so as to degrade the thermal gradient used by any other ocean thermal energy conversion facility or plantship without the consent of its owner, and from impinging on so as to adversely affect the territorial sea or area of national resource jurisdiction, as recognized by the United States, of any other nation unless the Secretary of State approves such impingement after consultation with such nation; and

(14) when a regulation has been adopted which places an upper limit on the number or total capacity of ocean thermal energy conversion facilities or plantships to be licensed under this Act for simultaneous operation, either overall or within specific geographic areas, pursuant to a determination under the provisions of section 107(b)(4) of this Act, issuance of the license will cause such upper limit to be exceeded.

(d)(1) In issuing a license for the ownership, construction, and operation of an ocean thermal energy conversion facility or plantship, the Administrator shall prescribe conditions which he deems necessary to carry out the provisions of this Act, or which are otherwise required by any Federal department or agency pursuant to the terms of this Act.

(2) No license shall be issued, transferred, or renewed under this Act unless the licensee or transferee first agrees in writing that (A) there will be no substantial change from the plans, operational systems, and methods, procedures, and safeguards set forth in his application, as approved, without prior approval in writing from the Administrator, and (B) he will comply with conditions the Administrator may prescribe in accordance with the provisions of this Act.

(3) The Administrator shall establish such bonding requirements or other assurances as he deems necessary to assure that, upon the revocation, termination, relinquishment, or surrender of a license, the licensee will dispose of or remove all components of the ocean thermal energy conversion facility or plantship as directed by the Administrator. In the case of components which another applicant or licensee desires to use, the Administrator may waive the disposal or removal requirements until he has reached a decision on the application. In the case of components lying on or below the seabed, the Administrator may waive the disposal or removal requirements if he finds that such removal is not otherwise necessary and that the remaining components do not constitute any threat to the environment, navigation, fishing, or other uses of the seabed.

(e) Upon application, a license issued under this Act may be transferred if the Administrator determines that such transfer is in the public interest and that the transferee meets the requirements of this Act and the prerequisites to issuance under subsection (c) of this section.

(f) Any United States citizen who otherwise qualifies under the terms of this Act shall be eligible to be issued a license for the ownership, construction, and operation of an ocean thermal energy conversion facility or plantship.

(g) Licenses issued under this Act shall be for a term of not to exceed twenty-five years. Each licensee shall have a preferential right to renew his license subject to the requirements of subsection (c) of this section, upon such conditions and for such term, not to exceed an additional 10 years upon each renewal, as the Administrator determines to be reasonable and appropriate.

SEC. 102. PROCEDURE.

(a) The Administrator shall, after consultation with the Secretary of Energy and the heads of other Federal agencies, issue regulations to carry out the purposes and provisions of this Act, in accordance with the provisions of section 553 of title 5, United States Code, without regard to subsection (a) thereof. Such regulations shall pertain to, but need not be limited to, application for issuance, transfer, renewal, suspension, and termination of licenses. Such regulations shall provide for full consultation and cooperation with all other interested Federal agencies and departments and with any potentially affected coastal State, and for consideration of the views of any interested members of the general public. The Administrator is further authorized, consistent with the purposes and provisions of this Act, to amend or rescind any such regulation. The Administrator shall complete issuance of final regulations to implement this Act within 1 year of the date of its enactment.

(b) The Administrator, in consultation with the Secretary of the Interior and the Secretary of the department in which the Coast Guard is operating may, if he determines it to be necessary, prescribe regulations consistent with the purposes of this Act, relating to those activities in site evaluation and preconstruction testing at potential ocean thermal energy conversion facility or plantship locations that may (1) adversely affect the environment; (2) interfere with other reasonable uses of the high seas or with authorized uses of the Outer Continental Shelf; or (3) pose a threat to human health and safety. If the Administrator prescribes regulations relating to such activities, such activities may not be undertaken after the effective date of such regulations except in accordance therewith.

(c) Not later than 60 days after the date of enactment of this Act, the Secretary of Energy, the Administrator of the Environmental Protection Agency, the Secretary of the department in which the Coast Guard is operating, the Secretary of the Interior, the Chief of Engineers of the United States Army Corps of Engineers, and the heads of any other Federal departments or agencies having expertise concerning, or jurisdiction over, any aspect of the construction or operation of ocean thermal energy conversion facilities or plantships, shall transmit to the Administrator written description of their expertise or statutory responsibilities pursuant to this Act or any other Federal law.

(d) (1) Within 21 days after the receipt of an application, the Administrator shall determine whether the application appears to contain all of the information required by paragraph (2) of this subsection. If the Administrator determines that such information appears to be contained in the application, the Administrator shall, no later than 5 days after making such a determination, publish notice of the application and a summary of the plans in the Federal Register. If the Administrator determines that all of the required information does not appear to be contained in the application, the Administrator shall notify the applicant and take no further action with respect to the application until such deficiencies have been remedied.

(2) Each application shall include such financial, technical, and other information as the Administrator determines by regulation to be necessary or appropriate to process the license pursuant to section 101.

(e) (1) At the time notice of an application for an ocean thermal energy conversion facility is published pursuant to subsection (d) of this section, the Administrator shall publish a description in the Federal Register of an application area encompassing the site proposed in the application for such facility and within which the thermal plume of one ocean thermal energy conversion facility might be expected to impinge on so as to degrade the thermal gradient used by another ocean thermal energy conversion facility, unless the application is for a license for an ocean thermal energy conversion facility to be located within an application area which has already been designated.

(2) The Administrator shall accompany such publication with a call for submission of any other applications for licenses for the ownership, construction, and operation of an ocean thermal energy conversion facility within the designated application area. Any person intending to file such an application shall submit a notice of intent to file an application to the Administrator not later than 60 days after the publication of notice pursuant to subsection (d) of this section, and shall submit the completed application no later than 90 days after publication of such notice. The Administrator shall publish notice of any such application received in accordance with subsection (d) of this section. No application for a license for the ownership, construction, and operation of an ocean thermal energy conversion facility within the designated application area for which a notice of intent to file was received after such 60-day period, or which is received after such 90-day period has elapsed, shall be considered until action has been completed on all timely filed applications pending with respect to such application area.

(f) An application filed with the Administrator shall constitute an application for all Federal authorizations required for ownership, construction, and operation of an ocean thermal energy conversion facility or plantship, except for authorizations required by documentation, inspection, certification, construction, and manning laws and regulations administered by the Secretary of the department in which the Coast Guard is operating. At the time notice of any application is published pursuant to subsection (d) of this section, the Administrator shall forward a copy of such application to those Federal agencies and departments with jurisdiction over any aspect of such ownership, construction, or operation for comment, review, or recommendation as to conditions and for such other action as may be required by law. Each agency or department involved shall review the application and, based upon legal considerations within its area of responsibility, recommend to the Administrator the approval or disapproval of the application not later than 45 days after public hearings are concluded pursuant to subsection (g) of this section. In any case in which an agency or department recommends disapproval, it shall set forth in detail the manner in which the application does not comply with any law or regulation within its area of responsibility and shall notify the Administrator of the manner in which the application may be amended or the license conditioned so as to bring it into compliance with the law or regulation involved.

(g) A license may be issued, transferred, or renewed only after public notice, opportunity for comment, and public hearings in accordance with this subsection. At least one such public hearing shall be held in the District of Columbia and in any adjacent coastal State to which a facility is proposed to be directly connected by pipeline or electric transmission cable. Any interested person may present relevant material at any such hearing. After the hearings required by this subsection are concluded, if the Administrator determines that there exist one or more specific and material factual issues which may be resolved by a formal evidentiary hearing, at least one adjudicatory hearing shall be held in the District of Columbia in accordance with the provisions of section 554 of title 5, United States Code. The record developed in any such adjudicatory hearing shall be part of the basis for the Administrator's decision to approve or deny a license. Hearings held pursuant to this subsection shall be consolidated insofar as practicable with hearings held by other agencies. All public hearings on all applications with respect to facilities for any designated application area shall be consolidated and shall be concluded not later than 240 days after notice of the initial application has been published pursuant to subsection (d) of this section. All public hearings on applications with respect to ocean thermal energy conversion plantships shall be concluded not later than 240 days after notice of the application has been published pursuant to subsection (d) of this section.

(h) Each person applying for a license pursuant to this Act shall remit to the Administrator at the time the application is filed a nonrefundable application fee, which shall be deposited into miscellaneous receipts of the Treasury. The amount of the fee shall be established by regulation by the Administrator, and shall reflect the reasonable administrative costs incurred in reviewing and processing the application.

(i) (1) The Administrator shall approve or deny any timely filed application with respect to a facility for a designated application area submitted in accordance with the provision of this Act not later than 90 days after public hearings on proposed licenses for that area are concluded pursuant to subsection (g) of this section. The Administrator shall approve or deny an application for a license for ownership, construction, and operation of an ocean thermal energy conversion plantship submitted pursuant to this Act no later than 90 days after the public hearings on that application are concluded pursuant to subsection (g) of this section.

(2) In the event more than one application for a license for ownership, construction, and operation of an ocean thermal energy conversion facility is submitted pursuant to this Act for the same designated application area, the Administrator, unless one or a specific combination of the proposed facilities clearly best serves the national interest, shall make decisions on license applications in the order in which they were submitted to him.

(3) In determining whether any one or a specific combination of the proposed ocean thermal energy conversion facilities clearly best serves the national interest, the Administrator, in consultation with the Secretary of Energy, shall consider the following factors:

(A) the goal of making the greatest possible use of ocean thermal energy conversion by installing the largest capacity practicable in each application area;

(B) the amount of net energy impact of each of the proposed ocean thermal energy conversion facilities;

(C) the degree to which the proposed ocean thermal energy conversion facilities will affect the environment;

(D) any significant differences between anticipated dates and commencement of operation of the proposed ocean thermal energy conversion facilities; and

(E) any differences in costs of construction and operation of the proposed ocean thermal energy conversion facilities, to the extent that such differentials may significantly affect the ultimate cost of energy or products to the consumer.

SEC. 103. PROTECTION OF SUBMARINE ELECTRIC TRANSMISSION CABLES AND EQUIPMENT.

(a) Any person who shall willfully and wrongfully break or injure, or attempt to break or injure, or who shall in any manner procure, counsel, aid, abet, or be accessory to such breaking or injury, or attempt to break or injure, any submarine electric transmission cable or equipment being constructed or operated under a license issued pursuant to this Act shall be guilty of a misdemeanor and, on conviction thereof, shall be liable to imprisonment for a term not exceeding 2 years, or to a fine not exceeding $5,000, or to both fine and imprisonment, at the discretion of the court.

(b) Any person who by culpable negligence shall break or injure any submarine electric transmission cable or equipment being constructed or operated under a license issued pursuant to this Act shall be guilty of a misdemeanor and, on conviction thereof, shall be liable to imprisonment for a term not exceeding 3 months, or to a fine not exceeding $500, or to both fine and imprisonment, at the discretion of the court.

(c) The provisions of subsections (a) and (b) of this section shall not apply to any person who, after having taken all necessary precautions to avoid such breaking or injury, breaks or injures any submarine electric transmission cable or equipment in an effort to save the life or limb of himself or of any other person, or to save his own or any other vessel.

(d) The penalties provided in subsections (a) and (b) of this section for the breaking or injury of any submarine electric transmission cable or equipment shall not be a bar to a suit for damages on account of such breaking or injury.

(e) Whenever any vessel sacrifices any anchor, fishing net, or other fishing gear to avoid injuring any submarine electric transmission cable or equipment being constructed or operated under a license issued pursuant to this Act, the licensee shall indemnify the owner of such vessel for the items sacrificed. *Provided*, That the owner of the vessel had taken all reasonable precautionary measures beforehand.

(f) Any licensee who causes any break in or injury to any submarine cable or pipeline of any type shall bear the cost of the repairs.

SEC. 104. ANTITRUST REVIEW.

(a) Whenever any application for issuance, transfer, or renewal of any license is received, the Administrator shall transmit promptly to the Attorney General a complete copy of such application. Within 90 days of the receipt of the application, the Attorney General shall conduct such antitrust review of the application as he deems appropriate, and submit to the Administrator any advice or recommendations he deems advisable to avoid any action upon such application by the Administrator which would create a situation inconsistent with the antitrust laws. If the Attorney General fails to file such views within the 90-day period, the Administrator shall proceed as if such views had been received. The Administrator shall not issue, transfer, or renew the license during the 90-day period, except upon written confirmation by the Attorney General that he does not intend to submit any further advice or recommendation on the application during such period.

(b) The issuance of a license under this Act shall not be admissible in any way as a defense to any civil or criminal action for violation of the antitrust laws of the United States, nor shall it in any way modify or abridge any private right of action under such laws. Nothing in this section shall be construed to bar the Attorney General or the Federal Trade Commission from challenging any anticompetitive situation involved in the ownership, construction, or operation of an ocean thermal energy conversion facility or plantship.

SEC. 105. ADJACENT COASTAL STATES.

(a)(1) The Administrator, in issuing notice of application pursuant to section 102(d) of this title, shall designate as an "adjacent coastal State" any coastal State which (A) would be directly connected by electric transmission cable or pipeline to an ocean thermal energy conversion facility as proposed in an application, or (B) in whose waters any part of such proposed ocean thermal energy conversion facility would be located, or (C) in whose waters an ocean thermal energy conversion plantship would be operated as proposed in an application.

(2) The Administrator shall, upon request of a State, designate such State as an "adjacent coastal State" if he determines that (A) there is a risk of damage to the coastal environment of such State equal to or greater than the risk posed to a State required to be designated as an "adjacent coastal State" by paragraph (1) of this subsection or (B) that the thermal plume of the proposed ocean thermal energy conversion facility or plantship is likely to impinge on so as to degrade the thermal gradient at possible locations for ocean thermal energy conversion facilities which could reasonably be expected to be directly connected by electric transmission cable or pipeline to such State. This paragraph shall apply only with respect to requests made by a State not later than the 14th day after the date of publication of notice of application for a proposed ocean thermal energy conversion facility in the Federal Register in accordance with section 102(d) of this title. The Administrator shall make any designation required by this paragraph not later than the 45th day after the date he receives such a request from a State.

(b)(1) Not later than 5 days after the designation of adjacent coastal State pursuant to this section, the Administrator shall transmit a complete copy of the application to the Governor of such State. The Administrator shall not issue a license without consultation with the Governor of each adjacent coastal State which has an approved coastal zone management program in good standing pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.). It the Governor of such a State has not transmitted his approval or disapproval to the Administrator by the 45th day after public hearings on the application is concluded pursuant to section 102(g) of this title, such approval shall be conclusively presumed. If the Governor of such a State notifies the Administrator that an application which the Governor would otherwise approve pursuant to this paragraph is inconsistent in some respect with the State's coastal zone management program, the Administrator shall condition the license granted so as to make it consistent with such State program.

(2) Any adjacent coastal State which does not have an approved coastal zone management program in good standing, and any other interested State, shall have the opportunity to make its views known to, and to have them given full consideration by, the Administrator regarding the location, construction, and operation of an ocean thermal energy conversion facility or plantship.

(c) The consent of Congress is given to two or more States to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, (1) to apply for a license for the ownership, construction, and operation of an ocean thermal energy conversion facility or plantship or for the transfer of such a license, and (2) to establish such agencies, joint or otherwise, as are deemed necessary or appropriate for implementing and carrying out the provisions of any such agreement or compact. Such agreement or compact shall be binding and obligatory upon any State or other party thereto without further approval by the Congress.

SEC. 106. DILIGENCE REQUIREMENTS.

(a) The Administrator shall promulgate regulations requiring each licensee to pursue diligently the construction and operation of the ocean thermal energy conversion facility or plantship to which the license applies.

(b) If the Administrator determines that a licensee is not pursuing diligently the construction and operation of the ocean thermal energy conversion facility or plantship to which the license applies, or that the project has apparently been abandoned, the Administrator shall cause proceedings to be instituted under section 111 of this title to terminate the license.

SEC. 107. PROTECTION OF THE ENVIRONMENT.

(a) The Administrator shall initiate a program to assess the effect on the environment of ocean thermal energy conversion facilities and plantships. The program shall include baseline studies of locations where ocean thermal energy conversion facilities or plantships are likely to be sited or operated; and research; and monitoring of the effects of ocean thermal energy conversion facilities and plantships in actual operation. The purpose of the program shall be to assess the environmental effects of individual ocean thermal energy facilities and plantships, and to assess the magnitude of any cumulative environmental effects of large numbers of ocean thermal energy facilities and plantships.

(b) The program shall be designed to determine, among other things—

(1) any short-term and long-term effects on the environment which may occur as a result of the operation of ocean thermal energy conversion facilities and plantships;

(2) the nature and magnitude of any oceanographic, atmospheric, weather, climatic, or biological changes in the environment which may occur as a result of deployment and operation of large numbers of ocean thermal energy conversion facilities and plantships;

(3) the nature and magnitude of any oceanographic, biological or other changes in the environment which may occur as a result of the operation of electric transmission cables and equipment located in the water column or on or in the seabed, including the hazards of accidentally severed transmission cables; and

(4) whether the magnitude of one or more of the cumulative environmental effects of deployment and operation of large numbers of ocean thermal energy conversion facilities and plantships requires that an upper limit be placed on the number or total capacity of such facilities or plantships to be licensed under this Act for simultaneous operation, either overall or within specific geographic areas.

(c) Within 180 days after enactment of this Act, the Administrator shall prepare a plan to carry out the program described in subsections (a) and (b) of this section, including necessary funding levels for the next 5 fiscal years, and submit the plan to the Congress.

(d) The program established by subsections (a) and (b) of this section shall be reduced to the minimum necessary to perform baseline studies and to analyze monitoring data, when the Administrator determines that the program has resulted in sufficient knowledge to make the determinations enumerated in subsection (b) of this section with an acceptable level of confidence.

(e) The issuance of any license for ownership, construction, and operation of an ocean thermal energy conversion facility or plantship shall be deemed to be a major Federal action significantly affecting the quality of the human environment for purposes of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)). For all timely applications covering proposed facilities in a single application area, and for each application relating to a proposed plantship, the Administrator shall, pursuant to such section 102(2)(C) of this title and in cooperation with other involved Federal agencies and departments, prepare a single environmental impact statement, which shall fulfill the requirement of all Federal agencies in carrying out their responsibilities pursuant to this Act to prepare an environmental impact statement. Each such draft environmental impact statement relating to proposed facilities shall be prepared and published within 180 days after notice of the initial application has been published pursuant to section 102(d) of this title. Each such draft environmental impact statement relating to a proposed plantship shall be prepared and published within 180 days after notice of the application has been published pursuant to section 107(d) of this title. Each final environmental impact statement shall be published not later than 90 days following the date on which public hearings are concluded pursuant to section 102(g) of this title. The Administrator may extend the deadline for publication of a specific draft or final environmental impact statement to a later specified time for good cause shown in writing.

(f) An ocean thermal energy conversion facility or plantship licensed under this title shall be deemed not to be a "vessel or other floating craft" for the purposes of section 502(12)(B) of the Federal Water Pollution Control Act of 1972 (33 U.S.C. 1362(12)(B)).

SEC. 108. MARINE ENVIRONMENTAL PROTECTION AND SAFETY OF LIFE AND PROPERTY SEA.

(a) The Secretary of the department in which the Coast Guard is operating shall, subject to recognized principles of international law, prescribe by regulation and enforce procedures with respect to any ocean thermal energy conversion facility or plantship licensed under this Act, including, but not limited to, rules governing vessel movement, procedures for transfer of materials between such a facility or plantship and transport vessels, designation and marking of anchorage areas, maintenance, law enforcement, and the equipment, training, and maintenance required (1) to promote the safety of life and property at sea, (2) to prevent pollution of the marine environment, (3) to clean up any pollutants which may be discharged, and (4) to otherwise prevent or minimize any adverse impact from the construction and operation of such ocean thermal energy conversion facility or plantship.

(b) The Secretary of the department in which the Coast Guard is operating shall issue and enforce regulations, subject to recognized principles of international law, with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property on any ocean thermal energy conversion facility or plantship licensed under this Act.

(c) Whenever a licensee fails to mark any component of such an ocean thermal energy conversion facility or plantship in accordance with applicable regulations, the Secretary of the department in which the Coast Guard is operating shall mark such components for the protection of navigation, and the licensee shall pay the cost of such marking.

(d)(1) Subject to recognized principles of international law and after consultation with the Secretary of Commerce, the Secretary of the Interior, the Secretary of State, and the Secretary of Defense, the Secretary of the department in which the Coast Guard is operating shall designate a zone of appropriate size around and including any ocean thermal energy conversion facility licensed under this Act and may designate such a zone around and including any ocean thermal energy conversion plantship licensed under this Act for the purposes of reorganizational safety and protection of the facility or plantship. The Secretary of the department in which the Coast Guard is operating shall by regulation define permitted activities within such zone consistent with the purpose for which it was designated. The Secretary of the department in which the Coast Guard is operating shall, not later than 30 days after publication of notice pursuant to section 102(d) of this title, designate such safety zone with respect to any proposed ocean thermal energy conversion facility or plantship.

(2) In addition to any other regulations, the Secretary of the department in which the Coast Guard is operating is authorized, in accordance with this subsection, to establish a safety zone to be effective during the period of construction of an ocean thermal energy conversion facility or plantship licensed under this Act, and to issue rules and regulations relating thereto.

(e)(1) The Secretary of the department in which the Coast Guard is operating shall promulgate and enforce regulations specified in paragraph (2) of this subsection and such other regulations as he deems necessary concerning the documentation, design, construction, alteration, equipment, maintenance, repair, inspection, certification, and manning of ocean thermal energy conversion facilities and plantships. In addition to other requirements prescribed under those regulations, the Secretary of the department in which the Coast Guard is operating may require compliance with those vessel documentation, inspection, and manning laws which he determines to be appropriate.

Within 1 year after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall promulgate regulations under paragraph (1) of this subsection which require that any ocean thermal energy conversion facility or plantship—

(A) be documented;

(B) comply with minimum standards of design, construction, alteration, and repair; and

(C) be manned or crewed by United States citizens or aliens lawfully admitted to the United States for permanent residence, unless—

(i) there is not a sufficient number of United States citizens, or aliens lawfully admitted to the United States for permanent residence, qualified and available for such work, or

(ii) the President makes a specific finding, with respect to the particular vessel, platform, or moored or standing structure, that application of this requirement would not be consistent with the national interest.

(3) For the purposes of the documentation laws, for which compliance is required under paragraph (1) of this subsection, ocean thermal energy conversion facilities and plantships shall be deemed to be vessels and, if documented, vessels of the United States for the purposes of the Ship Mortgage Act, 1920 (46 U.S.C. 911–984).

(f) Subject to recognized principles of international law, the Secretary of the department in which the Coast Guard is operating shall promulgate and enforce such regulations as he deems necessary to protect navigation in the vicinity of a vessel engaged in the installation, repair, or maintenance of any submarine electric transmission cable or equipment, and to govern the markings and signals used by such a vessel.

SEC. 109. PREVENTION OF INTERFERENCE WITH OTHER USES OF THE HIGH SEAS.

(a) Each license shall include such conditions as may be necessary and appropriate to ensure that construction and operation of the ocean thermal energy conversion facility or plantship are conducted with reasonable regard for navigation, fishing, energy production, scientific research, or other uses of the high seas, either by citizens of the United States or by other nations in their exercise of the freedoms of the high seas as recognized under the Convention of the High Seas and the general principles of international law.

(b) The Administrator shall promulgate regulations specifying under what conditions and in what circumstances the thermal plume of an ocean thermal energy conversion facility or plantship licensed under this Act will be deemed—

(1) to impinge on so as to degrade the thermal gradient used by another ocean thermal energy conversion facility or plantship, or

(2) to impinge on so as to adversely affect the territorial sea or area of natural resource jurisdiction, as recognized by the United States, of any other nation.

Such regulations shall also provide for the Administrator to mediate or arbitrate any disputes among licensees regarding the extent to which the thermal plume of one licensee's facility or plantship impinges on the operation of another licensee's facility or plantship.

(3) Except in a situation involving force majeure, a licensee of an ocean thermal energy conversion facility or plantship shall not permit a vessel, registered in or flying the flag of a foreign state, to call at, load or unload cargo at, or otherwise utilize such a facility or plantship licensed under this Act unless (A) the foreign state involved has agreed, by specific agreement with the United States, to recognize the jurisdiction of the United States over the vessel and its personnel, in accordance with the provisions of this Act, while the vessel is located within the safety zone, and (B) the vessel owner or operator has designated an agent in the United States for receipt of service of process in the event of any claim or legal proceeding resulting from activities of the vessel or its personnel while located within such a safety zone.

(c) The Secretary of the department in which the Coast Guard is operating shall promulgate, after consultation with the Administrator, and shall enforce, regulations governing the movement and navigation of ocean thermal energy conversion plantships licensed under this Act to ensure that the thermal plume of such an ocean thermal energy conversion plantship does not unreasonably impinge on so as to degrade the thermal gradient used by the operation of any other ocean thermal energy conversion plantship or facility except in case of force majeure or with the consent of owner of the other such plantship or facility, and to ensure that the thermal plume such of an ocean thermal energy conversion plantship does not impinge on so as to adversely effect the territorial sea or area of national resource jurisdiction, as recognized by the United States, of any other nation unless the Secretary of State has approved such impingement after consultation with such nation.

SEC. 110. MONITORING OF LICENSEES' ACTIVITIES.

Each license shall require the licensee—

(1) to allow the Administrator to place appropriate Federal officers or employees aboard the ocean thermal energy conversion facility or plantship to which the license applies, at such times and to such extent as the Administrator deems reasonable and necessary to assess compliance with any condition or regulation applicable to the license, and to report to the Administrator whenever such officers or employees have reason to believe there is a failure to comply;

(2) to cooperate with such officers and employees in the performance of monitoring functions; and

(3) to monitor the environmental effects, if any, of the operation of the ocean thermal energy conversion facility or plantship in accordance with regulations issued by the Administrator, and to submit such information as the Administrator finds to be necessary and appropriate to assess environmental impacts and to develop and evaluate mitigation methods and possibilities.

SEC. 111. SUSPENSION, REVOCATION, OR TERMINATION OF LICENSE.

(a) Whenever a license fails to comply with any applicable provision of this Act or any applicable rule, regulation, restriction, or condition issued or imposed by the Administrator under the authority of this Act, the Attorney General, at the request of the Administrator, shall file an action in the appropriate United States district court to—

(1) suspend the license; or

(2) if such failure is knowing and continues for a period of 30 days after the Administrator mails notification of such fail-

ure by registered letter to the licensee at his record post office address, revoke such license. No proceeding under this section is necessary if the license, by its terms, provides for automatic suspension or termination upon the occurrence of a fixed or agreed upon condition, event, or time.

(b) If the Administrator determines that immediate suspension of the construction or operation of an ocean thermal energy conversion facility or plantship or any component thereof is necessary to protect public health and safety or to eliminate imminent and substantial danger to the environment established by any treaty or convention, the Administrator may order the licensee to cease or alter such construction or operation pending the completion of a judicial proceeding pursuant to subsection (a) of this section.

SEC. 112. RECORDKEEPING AND PUBLIC ACCESS TO INFORMATION.

(a) Each licensee shall establish and maintain such records, make such reports, and provide such information as the Administrator, after consultation with other interested Federal departments and agencies, shall by regulation prescribe to carry out the provisions of this Act. Each licensee shall submit such reports and shall make available such records and information as the Administrator may request.

(b) Any information reported to or collected by the Administrator under this Act which is exempt from disclosure pursuant to section 552(b) (4) of title 5, United States Code (relating to trade secrets and confidential commercial and financial information), shall not—

(1) be publicly disclosed by the Administrator or by any other officer or employee of the United States, unless the Administrator has—

(A) determined that the disclosure is necessary to protect the public health or safety or the environment against an unreasonable risk of injury, and

(B) notified the person who submitted the information 10 days before the disclosure is to be made, unless the delay resulting from such notice would be detrimental to the public health or safety or the environment, or

(2) be otherwise disclosed except—

(A) (i) to other Federal and adjacent coastal State government departments and agencies for official use.

(ii) to any committee of the Congress of appropriate jurisdiction, or

(iii) pursuant to court order, and

(B) when the administrator has taken appropriate steps to inform the recipient of the confidential nature of the information.

SEC. 113. RELINQUISHMENT OR SURRENDER OF LICENSE.

(a) Any licensee may at any time, without penalty, surrender to the Administrator a license issued to him, or relinquish to the Administrator, in whole or in part, any right to conduct construction or operation of an ocean thermal energy conversion facility or plantship, including part or all of any right of way which may have been granted in conjunction with such license: *Provided*, That such surrender or relinquishment shall not relieve the licensee of any obligation or liability established by this or any other Act, or of any obligation or liability for actions taken by him prior to such surrender or relinquishment, or during disposal or removal of any components required to be disposed of or removed pursuant to this Act.

(b) If part or all of a right of way is relinquished, or for which the license is surrendered, to the Administrator pursuant to subsection (a) of this section contains an electric transmission cable or pipeline which is used in conjunction with another license for an ocean thermal energy conversion facility, the Administrator shall allow the other licensee an opportunity to add such right of way to his license before informing the Secretary of the Interior that the right of way has been vacated.

SEC. 114. CIVIL ACTIONS.

(a) Except as provided in subsection (b) of this section, any person having a valid legal interest which is or may be adversely affected may commence a civil action for equitable relief on his own behalf in the United States District Court for the District of Columbia whenever such action constitutes a case or controversy—

(1) against any person who is alleged to be in violation of any provision of this Act or any regulation or condition of a license issued pursuant to this Act; or

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary.

In suits brought under this Act, the district courts of the United States shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce any provision of this Act or any regulation or term or condition of a license issued pursuant to this Act, or to order the Administrator to perform such act or duty, as the case may be.

(b) No civil action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to 60 days after the plaintiff has given notice of the violation to the Administrator and to any alleged violator; or

(B) if the Administrator or the Attorney General has commenced and is diligently prosecuting a civil or criminal action with respect to such matters in a court of the United States, but in any such action any person may intervene as a matter of right; or

(2) under subsection (a)(2) of this section prior to 60 days after the plaintiff has given notice of such action to the Administrator.

Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation.

(c) In any action under this section, the Administrator or the Attorney General, if not a party, may intervene as a matter of right.

(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines that such an award is appropriate.

(e) Nothing in this section shall restrict any right which any person or class of persons may have under any statute or common law to seek enforcement or to seek any other relief.

SEC. 115. JUDICIAL REVIEW.

Any person suffering legal wrong, or who is adversely affected or aggrieved by the Administrator's decision to issue, transfer, modify, renew, suspend, or terminate a license may, not later than 60 days after such decision is made, seek judicial review of such decision in the United States Court of Appeals for the District of Columbia. A person shall be deemed to be aggrieved by the Administrator's decision within the meaning of this Act if he—

(1) has participated in the administrative proceedings before the Administrator (or if he did not so participate, he can show that his failure to do so was caused by the Administrator's failure to provide the required notice); and

(2) is adversely affected by the Administrator's action.

SEC. 116. TEST PLATFORMS AND COMMERCIAL DEMONSTRATION OCEAN THERMAL ENERGY CONVERSION FACILITY OR PLANTSHIP.

(a) The provisions of this title shall not apply to any test platform which will not operate as an ocean thermal energy conversion facility or platform after conclusion of the testing period.

(b) The provisions of this title shall not apply to ownership, construction, or operation of any ocean thermal energy conversion facility or plantship which the Secretary of Energy has designated in writing as a demonstration project for the development of alternative energy sources for the United States which is conducted by, participated in, or approved by the Department of Energy. The Secretary of Energy, after consultation with the Administrator, shall require such demonstration projects to abide by as many of the substantive requirements of this title as he deems to be practicable without damaging the nature of or unduly delaying such projects.

SEC. 117. PERIODIC REVIEW AND REVISION OF REGULATIONS.

The Administrator and the Secretary of the Department in which the Coast Guard is operating shall periodically, at intervals of not more than every 3 years, and in consultation with the Secretary of Energy, review any regulations promulgated pursuant to the provisions of this title to determine the status and impact of such regulations on the continued development, evolution, and commercialization of ocean thermal energy conversion technology. The results of each such review shall be included in the next annual report required by section 405. The Administrator and such Secretary are authorized and directed to promulgate any revisions to the then effective regulations as are deemed necessary and appropriate based on such review, to ensure that any regulations promulgated pursuant to the provisions of this title do not impede such development, evolution, and commercialization of such technology. Additionally, the Secretary of Energy is authorized to propose, based on such review, such revisions for the same purpose. The Administrator or such Secretary, as appropiate, shall have exclusive jurisdiction with respect to any such proposal by the Secretary of Energy and, pursuant to applicable procedures, shall consider and take final action on any such proposal in an expeditious manner. Such consideration shall include at least one informal hearing pursuant to the procedures in section 553 of title 5, United States Code.

TITLE II—MARITIME FINANCING FOR OCEAN THERMAL ENERGY CONVERSION

SEC. 201. DETERMINATION UNDER THE MERCHANT MARINE ACT, 1936

(a)(1) For the purposes of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177), any ocean thermal energy conversion facility or plantship licensed pursuant to this Act, and any vessel providing shipping service to or from such an ocean thermal energy conversion facility or plantship, shall be deemed to be a vessel operated in the foreign commerce of the United States.

(2) The provisions of paragraph (1) of this subsection shall apply for taxable years beginning after December 31, 1981.

(b) For the purposes of the Merchant Marine Act of 1936 (46 U.S.C. 1177 et eq.) any vessel documented under the laws of the United States and used in providing shipping service to or from any ocean thermal energy conversion facility or plantship licensed pursuant to the provisions of this Act shall be deemed to be used in and used in an essential service in, the foreign commerce or foreign trade of the United States, as defined in section 905(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1244(a)).

Sec. 202. Amendments to Title XI of the Merchant Marine Act, 1936.

(a) Section 1101 of the Merchant Marine Act, 1936 (46 U.S.C. 1271), is amended—

(1) in subsection (b) by striking "and" immediately before "dredges" and inserting in lieu thereof a comma, and by inserting immediately after "dredges" the following: "and ocean thermal energy conversion facilities or plantships",

(2) in subsection (g) by striking "and" after the semicolon,

(3) in subsection (h) by striking "equipping" and inserting in lieu thereof "equipping and", and

(4) by adding at the end thereof a new subsection (i) to read as follows:

"(i) The term 'ocean thermal energy conversion facility or plantship' means any at-sea facility or vessel, whether mobile, floating unmoored, moored, or standing on the seabed, which uses temperature differences in ocean water to produce electricity or another form of energy capable of being used directly to perform work, and includes any equipment installed on such facility or vessel to use such electricity or other form of energy to produce, process, refine, or manufacture a product, and any cable or pipeline used to deliver such electricity, freshwater, or product to shore, and all other associated equipment and appurtenances of such facility or vessel, to the extent they are located seaward of the highwater mark.".

(b) Section 1104(a)(1) of the Merchant Marine Act, 1936 (46 U.S.C. 1274(a)(1)), is amended by striking "or (E)" and inserting in lieu thereof "(E) as an ocean thermal energy conversion facility or plantship; or (F)".

(c) Section 1104(b)(2) of the Merchant Marine Act, 1936 (46 U.S.C. 1274(b)(2)), is amended by striking "vessel;" and inserting in lieu thereof "vessel: *Provided further*, That in the case of an ocean thermal energy conversion facility or plantship which is constructed without the aid of construction-differential subsidy, such obligations may be in an aggregate principal amount which does not exceed 87½ percent of the actual cost or depreciated actual cost of the facility or plantship;".

Sec. 203. OTEC Demonstration Fund.

(a) Title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271-1279b) is further amended by adding at the end thereof a new section 1110 to read as follows:

"Sec. 1110. (a) Pursuant to the authority granted under section 1103(a) of this title, the Secretary of Commerce, upon such terms as he shall prescribe, may guarantee or make a commitment to guarantee, payment of the principal of and interest on an obligation which aids in financing, including reimbursement of an obligor for expenditures previously made for, construction, reconstruction, or reconditioning of a commercial demonstration ocean thermal energy conversion facility or plantship owned by citizens of the United States. Guarantees or commitments to guarantee under this subsection shall be subject to all the provisos, requirements, regulations, and procedures which apply to guarantees or commitments to guarantee made pursuant to section 1104(a)(1) of this title, except that—

"(1) no guarantees or commitments to guarantee may be made by the Secretary of Commerce under this subsection before October 1, 1981;

"(2) the provisions of subsection (d) of section 1104 of this title shall apply to guarantees or commitments to guarantee for that portion of a commercial demonstration ocean thermal energy conversion facility or plantship not to be supported with appropriated Federal funds;

"(3) guarantees or commitments to guarantee made pursuant to this section may be in an aggregate principal amount which does not exceed 87½ percent of the actual cost or depreciated actual cost of the commercial demonstration ocean thermal energy conversion facility or plantship: *Provided*, That, if the commercial demonstration ocean thermal energy conversion facility or plantship is supported with appropriated Federal funds, such guarantees or commitments to guarantee may not exceed 87½ percent of the aggregate principal amount of that portion of the actual cost or depreciated actual cost for which the obligor has an obligation to secure financing in accordance with the terms of the agreement between the obligor and the Department of Energy or other Federal agency; and

"(4) the provisions of this section may be used to guarantee obligations for a total of not more than 5 separate commercial demonstration ocean thermal energy conversion facilities and plantships or a demonstrated 400 megawatt capacity, whichever comes first.

"(b) A guarantee or commitment to guarantee shall not be made under this section unless the Secretary of Energy, in consultation with the Secretary of Commerce, certifies to the Secretary of Commerce that, for the ocean thermal energy conversion facility or plantship for which the guarantee or commitment to guarantee is sought, there is sufficient guarantee of performance and payment to lower the risk to the Federal Government to a level which is reasonable. The Secretary of Energy must base his considerations on the following: (1) the successful demonstration of the technology to be used in such facility at a scale sufficient to establish the likelihood of technical and economic viability in the proposed market; and (2) the need of the United States to develop new and renewable sources of energy and the benefits to be realized from the construction and successful operation of such facility or plantship.

"(c) A special subaccount in the Federal Ship Financing Fund, to be known as the OTEC Demonstration Fund, shall be established on October 1, 1981. The OTEC Demonstration Fund shall be used for obligation guarantees authorized under this section which do not qualify under other sections of this title. Except as specified otherwise in this section, the operation of the OTEC Demonstration Fund shall be identical with that of the parent Federal Ship Financing Fund: except that, notwithstanding the provisions of section 1104(g), (1) all moneys received by the Secretary pursuant to sections 1101 through 1107 of this title with respect to guarantees or commitments to guarantee made pursuant to this section shall be deposited only in the OTEC Demonstration Fund, and (2) whenever there shall be outstanding any notes or other obligations issued by the Secretary of Commerce pursuant to section 1105(d) of this title with respect to the OTEC Demonstration Fund, all moneys received by the Secretary of Commerce pursuant to sections 1101 through 1107 of this title with respect to ocean thermal energy conversional facilities or plantships shall be deposited in the OTEC Demonstration Fund. Assets in the OTEC Demonstration Fund may at any time be transferred to the parent fund whenever and to the extent that the balance thereof exceeds the total guarantees or commitments to guarantee made pursuant to this section then outstanding, plus any notes or other obligations issued by the Secretary of Commerce pursuant to section 1105(d) of this title with respect to the OTEC Demonstration Fund. The Federal Ship Financing Fund shall not be liable for any guarantees or commitments to guarantee issued pursuant to this section. The aggregate unpaid principal amount of the obligations guaranteed with the backing of the OTEC Demonstration Fund and outstanding at any one time shall not exceed $2,000,000,000.

"(d) The provisions of section 1105(d) of this title shall apply specifically to the OTEC Demonstration Fund as well as to the Fund: *Provided, however*, That any notes or obligations issued by the Secretary of Commerce pursuant to section 1105(d) of this title with respect to the OTEC Demonstration Fund shall be payable solely from proceeds realized by the OTEC Demonstration Fund.

"(e) The interest on any obligation guaranteed under this section shall be included in gross income for purposes of chapter 1 of the Internal Revenue Code of 1954.".

(b)(1) Section 1103(f) of the Merchant Marine Act, 1936 (46 U.S.C. 1273(f)) is amended by striking out "$10,000,000,000." and inserting in lieu thereof "$12,000,000,000, of which $2,000,000,000 shall be limited to obligations pertaining to commercial demonstration ocean thermal energy conversion facilities or plantships guaranteed pursuant to section 1110 of this title.".

(2) The amendment made by paragraph (1) of this subsection shall take effect October 1, 1981.

TITLE III—ENFORCEMENT

Sec. 301. Prohibited Acts.

It is unlawful for any person who is a United States citizen or national, or a foreign national on board an ocean thermal energy conversion facility or plantship or other vessel documented or numbered under the laws of the United States, or who is subject to the jurisdiction of the United States by an international agreement to which the United States is a party—

(1) to violate any provision of this Act, or any rule, regulation, or order issued pursuant to this Act, or any term or condition of any license issued to such person pursuant to this Act;

(2) to refuse to permit any Federal officer or employee authorized to monitor or enforce the provisions of sections 110 and 303 of this Act to board an ocean thermal energy conversion facility or plantship or any vessel documented or numbered under the laws of the United States, for purposes of conducting any search or inspection in connection with the monitoring or enforcement of this Act or any rule, regulation, order, term, or condition referred to in paragraph (1) of this section;

(3) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer or employee in the conduct of any search or inspection described in paragraph (2) of this section;

(4) to resist a lawful arrest for any act prohibited by this section; or

(5) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person subject to this section knowing that the other person has committed any act prohibited by this section.

Sec. 302. Remedies and Penalties.

(a)(1) The Administrator or his delegate shall have the authority to issue and enforce orders during proceedings brought under this Act. Such authority shall include the authority to issue subpenas, administer oaths, compel the attendence and testimony of witnesses and the production of books, papers, documents, and other evidence, to take depositions before any designated individual competent to administer oaths, and to examine witnesses.

(2) Whenever on the basis of any information available to him the Administer finds that any person subject to section 301 of this title is in violation of any provision of this Act or any rule, regulation, order, license, or term or condition thereof, or other requirements under this Act, he may issue an order requiring such person to comply with such provision or requirement, or bring a civil action in accordance with subsection (b) of this section.

(3) Any compliance order issued under this subsection shall state with reasonable specificity the nature of the violation and a time for compliance, not to exceed 30 days, which the Administrator determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

(b)(1) Upon a request by the Administrator, the Attorney General shall commence a civil action for appropriate relief, including a permanent or temporary injunction, any violation for which the Administrator is authorized to issue a compliance order under subsection (a)(2) of this section.

(2) Upon a request by the Administrator, the Attorney General shall bring an action in an appropriate district court of the United States for equitable relief to redress a violation, by any person subject to section 301 of this title, of any provision of this Act, any regulation issued pursuant to this Act, or any license condition.

(c)(1) Any person who is found by the Administrator, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 301 of this title shall be liable to the United States for a civil penalty, not to exceed $25,000 for each violation. Each day of a continuing violation shall constitute a separate violation. The amount of such civil penalty shall be assessed by the Administrator, or his designee, by written notice. In determining the amount of such penalty, the Administrator shall take into account the nature, circumstances, extent and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(2) Any person against whom a civil penalty is assessed under paragraph (1) of this subsection may obtain a review thereof in the appropriate court of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Administrator. The Administrator shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Administrator shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(3) If any person subject to section 301 fails to pay an assessment of a civil penalty against him after it has become final, or after the appropriate court has entered final judgment in favor of the Administrator, the Administrator shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(4) The Administrator may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this subsection.

(d)(1) Any person subject to section 301 of this title is guilty of an offense if he willfully commits any act prohibited by such section.

(2) Any offense, other than an offense for which the punishment is prescribed by section 103 of this Act, is punishable by a fine of not more than $75,000 for each day during which the violation continues. Any offense described in paragraphs (2), (3), (4), and (5) of section 301 is punishable by the fine or imprisonment for not more than 6 months, or both. If, in the commission of any offense, the person subject to section 301 uses a dangerous weapon, engages in conduct that causes bodily injury to any Federal officer or employee, or places any Federal officer or employee in fear of imminent bodily injury, the offense is punishable by a fine of not more than $100,000 or imprisonment for not more than 10 years, or both.

(e) Any ocean thermal energy conversion facility or plantship licensed pursuant to this Act and any other vessel documented or numbered under the laws of the United States, except a public vessel engaged in noncommercial activities, used in any violation of this Act or of any rule, regulation, order, license, or term or condition thereof, or other requirements of this Act, shall be liable in rem for any civil penalty assessed or criminal fine imposed and may be proceeded against in any district court of the United States having jurisdiction thereof, whenever it shall appear that one or more of the owners, or bareboat charterers, was at the time of the violation a consenting party or privy to such violation.

SEC. 303. ENFORCEMENT.

(a) Except where a specific section of this Act designates enforcement responsibility, the provisions of this Act shall be enforced by the Administrator. The Secretary of the department in which the Coast Guard is operating shall have exclusive responsibility for enforcement measures which affect the safety of life and property at sea, shall exercise such other enforcement responsibilities with respect to vessels subject to the provisions of this Act as are authorized under other provisions of law, and may, upon the specific request of the Administrator, assist the Administrator in the enforcement of any provision of this Act. The Administrator and the Secretary of the department in which the Coast Guard is operating may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment, including aircraft and vessels, and facilities of any other Federal agency or department, and may authorize officers or employees of other departments or agencies to provide assistance as necessary in carrying out subsection (b) of this section. The Administrator and the Secretary of the department in which the Coast Guard is operating may issue regulations jointly or severally as may be necessary and appropriate to carry out their duties under this section.

(b) To enforce the provisions of this Act on board any ocean thermal energy conversion facility or plantship or other vessel subject to the provisions of this Act, any officer who is authorized by the Administrator of the Secretary of the department in which the Coast Guard is operating may—

(1) board and inspect any vessel which is subject to the provisions of this Act;

(2) search the vessel if the officer has reasonable cause to believe that the vessel has been used or employed in the violation of any provision of this Act;

(3) arrest any person subject to section 301 of this title if the officer has reasonable cause to believe that the person has committed a criminal act prohibited by sections 301 and 302(d) of this title;

(4) seize the vessel together with its gear, furniture, appurtenances, stores, and cargo, used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of this Act if such seizure is necessary to prevent evasion of the enforcement of this Act;

(5) seize any evidence related to any violation of any provision of this Act;

(6) execute any warrant or other process issued by any court of competent jurisdiction; and

(7) exercise any other lawful authority.

(c) Except as otherwise specified in section 115 of this Act, the district courts of the United States shall have exclusive original jurisdiction over any case or controversy arising under the provisions of this Act. Except as otherwise specified in this Act, venue shall lie in any district wherein, or nearest to which, the cause of action arose, or wherein any defendant resides, may be found, or has his principal office. In the case of Guam, and any Commonwealth, territory, or possession of the United States in the Pacific Ocean, the appropriate court is the United States District Court for the District of Guam, except that in the case of American Samoa, the appropriate court is the United States District Court for the District of Hawaii. Any such court may at any time—

(1) enter restraining orders or prohibitions;

(2) issue warrants, process in rem, or other process;

(3) prescribe and accept satisfactory bonds or other security; and

(4) take such other actions as are in the interest of justice.

(d) For the purposes of this section, the term "vessel" includes an ocean thermal energy conversion facility or plantship, and the term "provisions of this Act" or "provision of this Act" includes any rule, regulation, or order issued pursuant to this Act and any term or condition of any license issued pursuant to this Act.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. EFFECT OF LAW OF THE SEA TREATY.

If the United States ratifies a treaty, which includes provisions with respect to jurisdiction over ocean thermal energy conversion activities, resulting from any United Nations Conference on the Law of the Sea, the Administrator, after consultation with the Secretary of State, shall promulgate any amendment to the regulations promulgated under this Act which is necessary and appropriate to conform such regulations to the provisions of such treaty, in anticipation of the date when such treaty shall come into force and effect for, or otherwise be applicable to, the United States.

SEC. 402. INTERNATIONAL NEGOTIATIONS.

The Secretary of State, in cooperation with the Administrator and the Secretary of the department in which the Coast Guard is operating, shall seek effective international action and cooperation in support of the policy and purposes of this Act and may initiate and conduct negotiations for the purpose of entering into international agreements designed to guarantee noninterference of ocean thermal energy conversion facilities and plantships with the thermal gradients used by other such facilities and plantships, to assure protection of such facilities and plantships and of navigational safety in the vicinity thereof, and to resolve such other matters relating to ocean thermal energy conversion facilities and plantships as needed to be resolved in international agreements.

SEC. 403. RELATIONSHIP TO OTHER LAWS.

(a)(1) The Constitution, laws, and treaties of the United States shall apply to an ocean thermal energy conversion facility or plantship licensed under this Act and to activities connected, associated, or potentially interfering with the use or operation of any such facility or plantship, in the same manner as if such facility or plantship were an area of exclusive Federal jurisdiction located within a State. Nothing in this Act shall be construed to relieve, exempt, or immunize any person from any other requirement imposed by Federal law, regulation, or treaty.

(2) Ocean thermal energy conversion facilities and plantships licensed under this Act do not possess the status of islands and have no territorial seas of their own.

(b)(1) Except as may otherwise be provided by this Act, nothing in this Act shall in any way alter the responsibilities and authorities of a State or the United States within the territorial seas of the United States.

(2) The law of the nearest adjacent coastal State to which an ocean thermal energy conversion facility located beyond the territorial sea and licensed under this Act is connected by electric transmission cable or pipeline, now in effect or hereafter adopted, amended, or repealed, is declared to be the law of the United States, and shall apply to such facility, to the extent applicable and not inconsistent with any provision or regulation under this Act or other Federal laws and regulations now in effect or hereafter adopted, amended, or repealed: *Provided, however*, That the application of State taxation laws is not extended hereby outside the seaward boundary of any State. All such applicable laws shall be administered and enforced by the appropriate officers and courts of the United States outside the seaward boundary of any State.

(c)(1) For the purposes of the customs laws administered by the Secretary of the Treasury, ocean thermal energy conversion facilities and plantships documented under the laws of the United States and licensed under this Act shall be deemed to be vessels.

(2) Except insofar as they apply to vessels documented under the laws of the United States, the customs laws administered by the Secretary of the Treasury shall not apply to any ocean thermal energy conversion facility or plantship licensed under the provisions of this Act, but all foreign articles to be used in the construction of any such facility or plantship, including any component thereof, shall first be made subject to all applicable duties and taxes which would be imposed upon or by reason of their importation if they were imported for consumption in the United States. Duties and taxes shall be paid thereon in accordance with laws applicable to merchandise imported into the customs territory of the United States.

SEC. 404. SUBMARINE ELECTRIC TRANSMISSION CABLE AND EQUIPMENT SAFETY.

(a) The Secretary of Energy, in cooperation with other interested Federal agencies and departments, shall establish and enforce such standards and regulations as may be necessary to assure the safe construction and operation of submarine electric transmission cables and equipment subject to the jurisdiction of the United States. Such standards and regulations shall include, but not be limited to, requirements for the use of the safest and best available technology for submarine electric transmission cable shielding, and for the use of automatic switches to shut off electric current in the event of a break in such a cable.

(b) The Secretary of Energy, in cooperation with other interested Federal agencies and departments, is authorized and directed to report to the Congress within 60 days after the date of enactment of this Act on appropriations and staffing needed to monitor submarine electric transmission cables and equipment subject to the jurisdiction of the United States so as to assure that they meet all applicable standards for construction, operation, and maintenance.

SEC. 405. ANNUAL REPORT.

Within 6 months after the end of each of the first 3 fiscal years after the date of enactment of this Act, the Administrator shall submit to the President of the Senate and the Speaker of the House of Representatives a report on the administration of this Act during such fiscal year. Such report shall include, with respect to the fiscal year covered by the report—

(1) a description of progress in implementing this Act;

(2) a list of all licenses issued, suspended, revoked, relinquished, surrendered, terminated, renewed, or transferred; denials of issuance of licenses; and required suspensions and modifications of activities under licenses;

(3) a description of ocean thermal energy conversion activities undertaken pursuant to licenses;

(4) the number and description of all civil and criminal proceedings instituted under title III of this Act, and the current status of such proceedings; and

(5) such recommendations as the Administrator deems appropriate for amending this Act.

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Commerce, for the use of the Administrator in carrying out the provisions of this Act, not to exceed $3,000,000 for the fiscal year ending September 30, 1981, not to exceed $3,500,000 for the fiscal year ending September 30, 1982, and not to exceed $3,500,000 for the fiscal year ending September 30, 1983.

SEC. 407. SEVERABILITY.

If any provision of this Act or any application thereof is held invalid, the validity of the remainder of the Act, or any other application, shall not be affected thereby.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COOK INLET LAND EXCHANGE

The bill (H.R. 7573) to provide an extension of the time frame for nomination of a selection pool under the Cook Inlet land exchange, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SUMMER OLYMPICS MEDALLIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 7482, the Olympics Gold Medal bill, that it be considered as having been read the first and second time, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 7482) to authorize the President of the United States to present on behalf of Congress a specially-struck gold-plated medal to the United States Summer Olympic team of 1980.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

Mr. PROXMIRE. Mr. President, being held at the desk is a House-passed bill which would award special congressional medallions to those amateur athletes who were chosen to represent the United States at the 1980 summer Olympics in Moscow. These medallions would be presented to the athletes by the President in recognition of their outstanding athletic achievements and for their determination in the pursuit of excellence. Funding for H.R. 7482—which has a ceiling of $50,000—would be available from amounts currently appropriated for the Bureau of the Mint, with an eventual payback out of funds appropriated under the Amateur Sports Act of 1978. This will enable the Mint to begin immediate production of the medallions in time for a special presentation which would be scheduled later this month when all of the approximately 650 athletes would be invited to our Nation's Capitol for a special ceremony.

Mr. President, my colleagues Senator GARY HART and Senator TED STEVENS introduced a similar bill here in the Senate. In an effort to expedite production of the medallions, they have very graciously agreed to step back and let the Senate consider the version already passed by the House.

Mr. HART. Mr. President, I am pleased to support the House counterpart to legislation I introduced to provide for specially struck medals honoring the U.S. Olympic summer team of 1980. The medals will be presented to the amateur athletes who, on the basis of their outstanding performances, have earned places on the team.

These men and women, in the finest tradition of American athletics, have been selected in the very strictest competition with their peers. They deserve recognition not only for their talent, but for their great personal sacrifice and dedication to the spirit of the Olympic games.

At a time of turmoil abroad, Americans are united in admiration of the devotion to the best in themselves which these athletes represent. We all have a natural pride in these men and women, and in the commitment to excellence which they have shown.

In their striving toward perfection, in their dedication and countless hours of hard work, in their promotion of the virtues and benefits of athletic competition, these young people exemplify the very best which the United States has to offer.

To honor and thank them, this legislation provides for the presentation by the President of the United States, on behalf of Congress, of special gold medals in recognition of their outstanding athletic achievements. The medals will be paid for out of appropriations to the U.S. Olympic Committee.

I want to thank the House sponsors of this measure, along with the House and Senate Banking Committees and their staff, for the extraordinary effort they have all made to insure that this legislation is passed in time to provide for the presentation of the medals on July 30. I hope all my colleagues will join in approval of this expression of our Nation's appreciation to these young people who have given so much of themselves in the extraordinary effort required to represent the United States on the 1980 summer Olympic team.

Mr. STEVENS. Mr. President, I am pleased today to comment on this congressional medals bill for the U.S. Olympic athletes. The Senate has received from the House of Representatives H.R. 7482, which authorizes the Secretary of the Treasury to strike gold-plated medals that will be presented to the athletes this summer. The athletes who will receive these medals are those who, through the Olympic trials process, actually qualify and become members of the official U.S. Olympic team.

The House has passed this bill by an overwhelming majority. It is my hope that the Senate will also. This is but a small way to recognize these tremendous athletes. They deserve recognition not only for their talent and perseverance, but also for their dedication to the spirit of the Olympic games. We are all proud of the commitment to excellence which these athletes have shown.

Americans are very proud of their athletes because of what they represent to us. They exemplify the very best that our Nation has to offer in the athletic arena. We are constantly impressed and amazed by the level of excellence which can be reached when an individual puts his or her mind to it.

Finally, I wish to encourage my colleagues to join together in support of this legislation. The funds for these medals will come from the U.S. Olympic Committee. The medals will be produced by the U.S. Mint.

I point out to the Senate that this medal is not intended in any way to be a substitute for any gold, silver, or bronze medal that any athlete could have conceivably won in Moscow this summer. The intention is to recognize these athletes for their outstanding athletic achievement.

Mr. President, I hope the Senate will join in this effort to honor our Olympic athletes. They have attained a level of excellence that few of us will ever reach. I have a very strong admiration and respect for these athletes.

The bill was ordered to a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZATION FOR TESTIMONY AND PRODUCTION OF A DOCUMENT IN UNITED STATES AGAINST JAMES A. CONLON

Mr. ROBERT C. BYRD. Mr. President, I send to the desk in behalf of myself and Mr. BAKER, a resolution, and ask that it be stated by the clerk.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 485) authorizing testimony and production of a document in United States v. James A. Conlon.

Mr. ROBERT C. BYRD. Mr. President, this resolution would, under Senate rule XI, authorize Walter S. Fialkewicz, a former staff investigator of the Senate Permanent Subcommittee on Investigations, to testify in the case of *United States* v. *James A. Conlon*, CR. 79-380, pending in the U.S. District Court for the District of Columbia. The resolution also directs that the prosecution and the defense in that case receive copies of an affidavit taken by the investigator for the use of the subcommittee in which a witness, Gary A. Transtrum, provided a statement of his knowledge.

The testimony and the affidavit have been requested by the Department of Justice. The Permanent Subcommittee on Investigations believes the authorization of testimony will serve the interests of justice in this case and will not unduly interfere with the confidentiality of Senate investigative processes.

I ask unanimous consent that this resolution be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 485

Whereas in the case of United States v. James A. Conlon (CR No. 79-380), pending in the United States District Court for the District of Columbia, the Department of Justice has requested the testimony of Walter S. Fialkewicz, a former staff investigator of the Senate Permanent Subcommittee on Investigations, and has requested the production of an affidavit taken by the investigator for the use of the Subcommittee in which a witness, Gary R. Transtrum, provided a statement of his knowledge;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, as it appears that testimony of a former Senate Committee employee about information acquired in the course of his official duties as a Senate employee is needful for use in a court for the promotion of justice and, further, that such testimony may involve documents, papers and records under the control of or in the possession of the Senate, the Senate will take such action thereon as will promote the ends of justice consistently with the privileges and rights of the Senate: Now, therefore, be it

Resolved, That Walter S. Fialkewicz is authorized to testify at trial in the case of United States v. James A. Conlon, (CR No. 79-380), and that copies of the affidavit taken by him shall be furnished to the Department of Justice and to the counsel for James A. Conlon.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZATION FOR COMMITTEES TO FILE REPORTS AND FOR FILING OF CONFERENCE REPORTS ON CERTAIN DATES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that committees may file reports and that conference reports may be filed on Friday, July 11, between the hours of 10 a.m. and 3 p.m., and on Wednesday, July 16, between the hours of 10 a.m. and 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR SECRETARY OF THE SENATE TO RECEIVE MESSAGES DURING RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the recess of the Senate over until July 21, at 11 a.m., the Secretary of the Senate be authorized to receive messages from the President of the United States and/or the other body, and that they may be appropriately referred.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR THE VICE PRESIDENT, THE PRESIDENT PRO TEMPORE, AND THE ACTING PRESIDENT PRO TEMPORE TO TAKE CERTAIN ACTION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, during the recess of the Senate over until 11 a.m. on Monday, July 21, the Vice President of the United States, the President of the Senate pro tempore, and the Acting President of the Senate pro tempore may sign all duly enrolled bills and joint resolutions.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.

EXECUTIVE SESSION

TREATIES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for the purpose only of considering calendar orders No. 7, Executive C.—96th Congress, 1st session—the protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, with annexes and protocols; proceeding through the following conventions, protocols, and amendments, to and including calendar order No. 13, Executive B.—95th Congress, 2d session—and that each of these items be considered as having passed through the various parliamentary stages, up to and including the presentation of the resolution of ratification.

Mr. BAKER. Mr. President, reserving the right to object, I have no objection. I wish merely to advise the majority leader that that procedure is fine with us.

We would like to provide a limited amount of time for debate on the last item identified by him. That is Calendar Order No. 13, Executive B, 95th Congress, 2d session, and we can begin that whenever the majority leader is ready to commence.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader.

ORDER FOR DIVISION OF TIME UNTIL 1:45 P.M. AND FOR 30-MINUTE VOTE TO BEGIN AT 1:45 P.M.

Mr. President, I ask unanimous consent that the time between this hour and 1:45 p.m. today be equally divided between Mr. CHURCH and Mr. JAVITS for discussion of the various conventions protocols, amendments, and an agreement, and that the vote begin at 1:45, extend for 30 minutes to the hour of 2:15 p.m.; that the one rollcall vote for seven; and that, upon the disposition of the seven conventions protocols, the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, the various unanimous-consent requests of the distinguished majority leader dealing with the seven treaties are agreed to.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I have one further request. I ask unanimous consent that it may be in order to order the yeas and nays on the seven as one rollcall with one show of seconds.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I make that request now.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

PROTOCOL OF 1978 RELATING TO THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS, WITH ANNEXES AND PROTOCOLS; EX. C—96TH CONGRESS, 1ST SESSION.

The PRESIDING OFFICER. Without objection, the first treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will state.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, with its Annexes I and II, and Protocols I and II, 1973, Done at London February 17, 1978 (the Marpol Protocol). (Executive C, 96th Congress, first session).

PROTOCOL OF 1978 RELATING TO THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974; EX. D—96TH CONGRESS, 1ST SESSION

The PRESIDING OFFICER. Without objection, the next treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will state.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Protocol of 1978 Relating to the International Convention for the Safety of Life at Sea, 1974, With Its Annex and Appendix, Which Was Signed by the United States on June 27, 1978. (Executive D, 96th Congress, first session).

AMENDMENTS TO THE 1948 CONVENTION ON THE INTER-GOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION; EXECUTIVE S.—96TH CONGRESS, 1ST SESSION

The PRESIDING OFFICER. Without objection, the next treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will state.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Amendments to the Convention on the Inter-Governmental Maritime Consultative Organization, Signed at Geneva on March 6, 1948, which were adopted on November 14, 1975, and November 17, 1977, by the Assembly of the Inter-Governmental Maritime Consultative Organization (IMCO) at its Ninth and Tenth Sessions. (Executive S, 96th Congress, first session).

AMENDMENT TO THE 1966 INTERNATIONAL CONVENTION ON LOAD LINES; EXECUTIVE GG.—96TH CONGRESS, 1ST SESSION

The PRESIDING OFFICER. Without objection, the next treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will state.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the 1975 Amendment to Article 29 of the International Convention on Load Lines, Done at London, April 5, 1966. (Executive GG, 96th Congress, first session.)

INTERNATIONAL CONVENTION ON MARITIME SEARCH AND RESCUE, 1979, WITH ANNEX.; EXECUTIVE JOURNAL—96TH CONGRESS, 2D SESSION

The PRESIDING OFFICER. Without objection, the next treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will state.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the International Convention on Maritime Search and Rescue, 1979, with Annex, Adopted at Hamburg on April 27, 1979 by a Conference of Representatives of 51 Nations Convened Under the Auspices of the Inter-Governmental Maritime Consultative Organization (IMCO) and Signed on Behalf of the United States on November 6, 1979. (Executive J, 96th Congress, second session).

CONSULAR CONVENTION WITH GERMAN DEMOCRATIC REPUBLIC; EXECUTIVE F.—96TH CONGRESS, 2D SESSION

The PRESIDING OFFICER. Without objection, the next treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will state.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Consular Convention between the United States of America and the German Democratic Republic, signed at Berlin on September 4, 1979 (Executive F, 96th Congress, second session), without reservation.

The legislative clerk read as follows:

AGREEMENT WITH THE INTERNATIONAL ATOMIC ENERGY AGENCY FOR THE APPLICATION OF SAFEGUARDS IN THE UNITED STATES OF AMERICA, WITH PPOTOCOL; EX. B—95TH CONGRESS, 2D SESSION

The PRESIDING OFFICER. Without objection, the next treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will state.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Agreement between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America, with attached Protocol, signed at Vienna on November 18, 1977 (Ex. B, Ninety-fifth Congress, second session, hereinafter referred to as "the Agreement"), subject to the following understandings:

1. That the President shall notify the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives of any proposed addition to the list, to be provided to the International Atomic Energy Agency pursuant to Article 1(b) of the Agreement, of nuclear facilities within the United States eligible for International Atomic Energy Agency inspections, together with an explanation of the basis upon which the determination was made that any such facility did not have a direct national security significance, not less than 60 days prior to such proposed addition being provided to the International Atomic Energy Agency, during which period the Congress may disapprove such addition by joint resolution by reason of direct national security significance, under procedures identical to those provided for the consideration of resolutions pursuant to section 130 of the Atomic Energy Act of 1954 as amended.

2. That the President shall assure that concerned licensees within the United States are consulted in advance of, and that their views and interests are considered in, any negotiations with the International Atomic Energy Agency concerning the application to a particular facility of Subsidiary Arrangements made pursuant to Article 39 of the Agreement.

3. That the President shall establish and maintain an appropriate interagency mechanism, comprised of the relevant Executive Branch agencies, and with the participation of the Nuclear Regulatory Commission, under the chairmanship of the Department of State, for the purpose of coordinating policy, and of resolving disputes, relating to the implementation of International Atomic Energy Agency safeguards under the Agreement, and, further, that the Congress shall be kept informed of the functions and procedures of such interagency mechanism.

4. That in the event of any question of interpretation of the Agreement, the Nuclear Regulatory Commission shall seek and be bound by guidance from the President. Neither this understanding nor any other in this resolution shall in any way alter the responsibilities of the Nuclear Regulatory Commission under the Agreement or in any way limit the existing authorities and responsibilities of the Nuclear Regulatory Commission.

5. That the Agreement shall not be construed to require the communication to the International Atomic Energy Agency of "Restricted Data" controlled by the provisions of the Atomic Energy Act of 1954, as amended, including data concerning the design, manufacture, or utilization of atomic weapons.

MARITIME TREATIES

Mr. CHURCH. Mr. President, with respect to the five maritime treaties that we are to consider and vote upon, beginning at 1:45 p.m., I might say that the vote in each case of the Senate Committee on Foreign Relations was unanimous. These are treaties covering technical, but important areas of maritime law. I know of no dissent to them.

Mr. President, five of the treaties before us today deal with maritime safety and pollution prevention. These treaties either establish more stringent international standards for the operation and design of ships or streamline the procedures used by the international community to draw up and agree on these standards. The Committee on Foreign Relations, by a vote of 14 to 0, has recommended that the Senate give its advice and consent to ratification of all five agreements. The maritime industry, labor, and the environmental community concur in this recommendation.

Mr. President, these treaties advance the interests of the United States in reducing the chances of marine pollution caused by serious tanker mishaps. I urge the Senate to advise and consent to the ratification of these agreements.

EX. C., 96–1 (PROTOCOL OF 1978 RELATING TO THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS (MARPOL), 1973, WITH ANNEXES AND PROTOCOLS), AND

EX. D., 96–1 (PROTOCOL OF 1978 RELATING TO THE INTERNATIONAL CONVENTION OF THE SAFETY OF LIFE AT SEA (SOLAS), 1974)

The MARPOL and SOLAS Protocols improve the international requirements for marine inspection and certification, and the standards for ship equipment and construction. The protocols are a result of an urgent U.S. initiative which followed a series of tanker mishaps during the winter of 1976–77, the most notable of which involved the SS *Argo Merchant*.

The 1978 MARPOL Protocol (Ex. C., 96–1) requires certain operational procedures and design features to minimize pollution caused by ships. Specifically, this protocol, with its incorporated convention, regulates more rigorously the allowable amounts of, and permissible ocean locations for, oil discharges from tankers. In addition to setting forth maximum allowable levels of discharges, the protocol requires design features and operating procedures to minimize discharges of oil during ballast operations and during the cleaning of cargo holds.

The 1978 SOLAS Protocol (Ex. D., 96–1), a complement to the MARPOL Protocol, strengthens the international standards governing radar equipment and the level of inspection and certification for all ships and steering mechanisms and fire safety systems for tankers in particular.

Under the provisions of the Port and Tankers Safety Act of 1978, the United States, for the most part, has already implemented the provisions of these protocols for ships under U.S. jurisdiction. But marine pollution is a problem which transcends national boundaries and requires international as well as domestic efforts. By ratifying these protocols, the United States will further the goal of raising international standards to minimum levels of safety and pollution prevention.

EX. S., 96–1 (AMENDMENTS TO THE 1978 CONVENTIONS ON THE INTER-GOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION)

The Inter-Governmental Maritime Consultative Organization (IMCO) a specialized agency of the United Nations concerned with maritime affairs, was established by a 1948 convention. The amendments to this convention before the Senate today update the charter and structure of IMCO to take into account its evolution into the international forum for developing standards, both for prevention of marine pollution and for the promotion of safety of international shipping.

EX. GG., 96–1 (AMENDMENT TO THE 1966 INTERNATIONAL CONVENTION ON LOADLINES)

Standards for the proper placement on ships of loadlines—marks showing the deepest draft to which a ship may be safely loaded—are formulated in the 1966 Loadlines Convention. This treaty amends the 1966 convention to allow more efficient procedures for changing technical provisions. With this new procedure, technical amendments to the convention will enter into force automatically after an agreed of time, unless an appropriate number of the members object. Under the current procedure which requires explicit approval by two-thirds of the parties, no technical amendments have received the necessary acceptance.

EX. J., 96–2 (INTERNATIONAL CONVENTION ON MARITIME SEARCH AND RESCUE, 1979, WITH ANNEX)

The purpose of this convention is to promote cooperation among organizations around the world in maritime search and rescue operations. The convention establishes a comprehensive multilateral framework for rescuing persons in distress at sea. The current practice of the U.S. Coast Guard already satisfies the obligations assumed by the United States under this treaty.

CONSULAR CONVENTON WITH THE GERMAN DEMOCRATIC REPUBLIC (EX. F, 96–2)

Mr. President, the sixth treaty is the Consular Convention with the German Democratic Republic which establishes firm obligations between the two countries on such important matters as free communication between a citizen and his consul, notification to consular officers of the arrest and detention of their citizens, and the right of a consul to visit detained citizens. The United States achieved a significant concession from the East Germans on the treatment of citizens of dual nationality; under this treaty if such a person is traveling in East Germany on a U.S. passport with a valid visa, he will be treated as a U.S. citizen for the purposes of consular protection.

This convention in no way will affect adversely our relations with West Germany.

U.S.-IAEA TREATY

Finally, Mr. President, on June 24, the Foreign Relations Committee unanimously ordered favorably reported the Agreement Between the United States and the International Atomic Energy Agency for the Application of Safeguards in the United States, with several understandings in the resolution of ratification. This agreement was submitted to the Senate as a treaty, and was referred to the Foreign Relations Committee on February 9, 1978. If approved, the treaty would permit the International Atomic Energy Agency to apply safeguards on peaceful U.S. nuclear facilities. All U.S. nuclear facilities having a direct national security significance would be excluded. The United States would have the sole right to determine which facilities had a direct national security significance and, therefore, excluded from safeguards.

Ratification of the treaty before the opening of the Review Conference of the Treaty on the Nonproliferation of Nuclear Weapons in Geneva this August is highly desirable. This would greatly strengthen the ability of the United States to countercharges that the NPT safeguards are discriminatory. It would also redeem commitments made by every President since President Johnson in 1967 that the United States would voluntarily accept safeguards on its civil or peaceful nuclear facilities.

After carefully reviewing the extensive record, Senator JAVITS and I agreed that there are certain ambiguities about domestic implementation that should be resolved. Therefore, we proposed to the committee that it include five understandings in the resolution of ratification which, in our judgment, will resolve these ambiguities without touching U.S. obligations under the treaty.

I would like to outline briefly the reasons for each of the understandings the committee has recommended:

FIRST UNDERSTANDING

Under the treaty, facilities with a direct national security significance will not be eligible for safeguards. During the hearings, the question was raised whether criteria should be developed which would enable all parties, including licensees, to know in advance what facilities would meet that basic criterion. The administration answered, convincingly in my judgment, that this broad criterion best preserves U.S. flexibility in national security matters. To define precise criteria could, in effect, set a standard which the United States would have to satisfy to exclude facilities.

Nevertheless, since the basic criterion gives such broad discretion to the executive branch, the committee believes that the Congress should play a role in determinations involving national security. Therefore, it has included this understanding which would provide for the right of congressional disapproval of additions to the list of eligible facilities by reason of national security.

SECOND UNDERSTANDING

In endorsing the treaty, many organizations stressed the need to protect industry's rights and interests in the implementation of safeguards. The administration and the NRC have stated that industry would be heard and its views taken into account. The committee believes it reasonable that the Senate should insure in an understanding the right of industry to be consulted and to have its views considered in a matter touching so directly on its interests.

THIRD UNDERSTANDING

In the hearings, concern was expressed about the present ad hoc, informal arrangements among the executive branch agencies and the NRC for implementing the treaty. The committee recommends that a formal interagency mechanism for coordinating policy and resolving issues should be established. The understanding recommended by the committee would regularize the present informal Interagency Steering Group or a comparable mechanism so that there will always be an appropriate administrative arrangement for dealing with issues relating to implementation.

FOURTH UNDERSTANDING

The IAEA Treaty gives to the Nuclear Regulatory Commission, an autonomous agency not responsible to the President, a major role in carrying out an international undertaking by the United States. Relations with the IAEA, an international body, properly will be the responsibility of the State Department. The NRC has said that it would give great weight to the State Department's interpretation of the treaty.

Nevertheless, there exists the possibility of a dispute between the executive branch and the NRC over the interpretation of the treaty, with no ultimate authority to resolve it short of Congress or the courts. The committee does not believe this is likely; in fact, it probably would never happen.

Nevertheless, the committee believes it is a possibility that should be provided for. Therefore, the committee adopted an understanding requiring that, solely for the purpose of resolving disputes between the executive branch and the NRC over interpretation of the treaty, which could not be settled in the mechanism established in the third understanding, the NRC would ultimately be bound by the President's guidance.

FIFTH UNDERSTANDING

The treaty does not require the provision of restricted data for safeguards. The administration has stated that it does not intend to provide restricted data under the treaty. Restricted data is among the most sensitive of U.S. classified information. The committee believes that the possibility that such information should ever be provided under the treaty should be precluded, and this is the purpose of the final understanding.

Mr. President, I call attention to the fact that the administration and the NRC have indicated acceptance of the approach Senator Javits and I proposed and which the committee adopted. Senator McClure also wrote to us that he, too, supported it.

The Foreign Relations Committee believes these understandings will strengthen implementation arrangements under the treaty without reducing its nonproliferation value. We hope the Senate will give its advice and consent to the treaty with the understandings recommended by the committee.

Mr. President, at an appropriate time, I will ask unanimous consent that the five understandings be considered as agreed to. But, first, I wish to defer to my colleague, the able Senator from New York.

Mr. JAVITS. Mr. President, I thank my colleague (Mr. Church).

Mr. President, I commend the treaties to the Senate for the Senate's ratification.

Mr. President, five of the treaties before us are valuable additions to the growing framework of maritime law developed under the auspices of the Intergovernmental Maritime Consultative Organization (IMCO). The sixth is a routine Consular Convention with East Germany. None of these agreements has evoked any serious controversy.

Indeed, they are admirable in dealing with pollution and similar problems of citizens, et cetera, all of which are desired.

The so-called MARPOL Protocol of 1978 (Ex C, 96–1), is the result of initiatives taken by the United States following a series of serious tanker accidents; it should go far in reducing both accidental and operational pollution from oil tankers. Some observers may wish that the standards for oil tanker construction contained therein had been even tougher, but the committee is convinced that this agreement is a significant step forward, and an improvement over the original 1973 MARPOL convention. The so-called SOLAS Protocol of 1978 (Ex. D, 96–1), which was negotiated and adopted through IMCO at the same time as the MARPOL Protocol, is also an improvement over the original SOLAS Convention approved by the Senate 2 years ago. It provides for increased inspection of vessels and for higher standards of construction and navigational safety. I commend the executive branch, and the Coast Guard in particular, for the able manner in which they have negotiated these conventions.

The third treaty before us incorporates a series of amendments to the original IMCO Convention of 1948. These amendments take account of the enlarged membership of the organization by expanding the number of states represented on the IMCO Council from 24 to 32 and adjusting the criteria for council membership accordingly. The fourth treaty amends the International Convention on Load Lines of 1966 to provide an expedited procedure for technical amendments to that agreement.

The last maritime treaty on the Executive Calendar is the International Convention on Maritime Search and Rescue, signed last November. When fully in force, this treaty will provide an international framework for the assistance of vessels in distress, including the sharing of information and radio monitoring and the coordination of searches and rescues. Such an approach is obviously long overdue.

Finally, the Consular Convention with the German Democratic Republic (Ex. F, 96–2) extends to our relations with that country the same rights of prompt access to our detained citizens for the protection of their legal rights that we have with other Communist countries. Signed last September, this Consular Convention took almost 5 years to negotiate. An outcome acceptable to the United States occurred only when the GDR agreed to acknowledge, for consular protection purposes, the full and governing rights of U.S. citizenship for individuals whom East Germany regards as dual nationals, in order to proceed with expanded bilateral relations in other areas.

The Voluntary Safeguards Treaty and Protocol with the International Atomic Energy Agency (IAEA) is the outcome of a long-standing commitment of the United States. In an effort to assure nonnuclear weapons countries that they would not be commercially disadvantaged in their peaceful nuclear programs by the acceptance of safeguards, the United States volunteered to accept such safeguards on all of our nuclear facilities, excluding only those with a direct national security significance. Japan and West Germany have cited this commitment as a significant consideration in their own ratification of the Nuclear Nonproliferation Treaty. Canada and Australia have also made it clear that their willingness to ship uranium to this country, or any other, is dependent upon the application of the IAEA safeguards provided for in this agreement.

Mr. President, the program of reporting and inspections which comprise the safeguards administered by the International Atomic Energy Agency is a basic element of the Nuclear Non-Proliferation Treaty. Application of such a program greatly reduces the possibility that commercial nuclear facilities will be diverted to the production of materials for nuclear weapons. It is strongly in the interest of the United States that as many countries as possible accept the obligations represented by such safeguards. Therefore, I have always supported this commitment on the part of the United States and strongly support the ratification of this treaty to bring that commitment into force.

The five understandings included in the resolution of ratification are intended to clarify the domestic effect of the obligations contained in the treaty. Therefore, they are exactly what understandings are meant to be. They make clear that certain laws and procedures now in effect would not be altered by this agreement. The first understanding also insures that the Congress will continue to be involved in the process of determining which facilities will be exempt from safeguards inspections by reason of their direct national security significance.

I would like to commend my colleague, Senator McClure of Idaho, for the careful and responsible manner in which he raised these issues before the Foreign Relations Committee and worked with us to resolve them in these understandings. I believe he agrees, and he has certainly shown, that this treaty is in the interests of the United States and I am especially pleased that we have been able to satisfy his concerns without delaying its ratification. Such delay would have been particularly unfortunate in light of the upcoming review conference on the Nuclear Nonproliferation Treaty to be held in August.

Mr. President, for all these reasons I commend the six treaties which relate to maritime and consular matters, and the seventh treaty which relates to International Atomic Energy Agency safeguards, to the Senate for ratification.

The PRESIDING OFFICER. Who yields time?

Mr. CHURCH. Mr. President, I ask unanimous consent that the five understandings to Executive B, (95–2) Calendar No. 13, be considered as agreed to.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. CHURCH. Mr. President, I suggest the absence of a quorum and I ask that the time be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, do I correctly understand that the vote has been ordered for a quarter to 2?

The PRESIDING OFFICER. The Senator is correct. The vote has been ordered for 1:45.

Mr. McCLURE. I ask unanimous consent that the beginning of the rollcall vote be delayed by 2 minutes, so that I may make a statement with respect to the pending matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Idaho is recognized.

Mr. McCLURE. I thank the Chair, and I thank my colleagues.

THE U.S.-IAEA TREATY

Mr. President, I support the U.S.-IAEA Treaty and the resolution of ratification and report submitted to the Senate by the Foreign Relations Committee. It is with great satisfaction today that I find I can speak favorably in support of the treaty and the resolution. As the members of the Foreign Relations Committee know, I have worked with the committee on this treaty since it was first submitted to the Senate on February 9, 1978. That effort included continued consultation with the committee over the past 2½ years, the presentation of formal testimony at a committee hearing on December 11, 1979, and extensive discussions with Chairman Church and Ranking Minority Member Javits over the past few months to develop the resolution and the report which is before the Senate today.

Mr. President, the testimony I offered last December highlighted a series of concerns which I had with the treaty as submitted to the Senate. I ask unanimous consent that the text of my prepared statement be printed in the Record at this point.

There being no objection, the statement was ordered to be printed in the Record, as follows:

STATEMENT OF HON. JAMES A. McCLURE, A U.S. SENATOR FROM IDAHO

Senator McClure. Thank you very much, Mr. Chairman.

I am particularly pleased to appear before the committee this morning to present my views and recommendations on the agreement between the United States and the IAEA for the application of safeguards in the United States.

At the outset, I want to express my sincere appreciation to the chairman and to the committee for scheduling this hearing, in order that I could testify on this treaty. I hope, given this opportunity, that my testimony will provide a meaningful input to the committee's consideration of the pending treaty.

Mr. Chairman, I believe it will be valuable if I state at the outset the two primary recommendations which I will offer respectfully to the committee this morning.

First, I recommend that the Senate give its consent to the treaty in the near future. Second, I recommend that the consent of the Senate be given with a reservation that the President shall not transmit written notification to the IAEA that statutory and constitutional requirements have been met until such time as legislation providing for domestic implementation of the treaty has been enacted.

My testimony today reflects a lengthy and thorough analysis over the past 1½ years of the pending treaty and its proposed implementation. That analysis has involved numerous meetings with administration officials from the State Department, ACDA, [Arms Control and Disarmament Agency], NRC [Nuclear Regulatory Commission], and the Energy Department, industry representatives and private attorneys, and the review of proposed regulations and comments and other relevant documents. The analysis also involved the able support of the Congressional Research Service through a series of separate, supporting analyses. Finally, the analysis included two near confrontations with the administration over access to certain DOE-held classified memoranda addressing implementation of the treaty.

Mr. Chairman, I appear before you today with two basic recommendations.

First: I endorse the early consent of the Senate to the ratification of the treaty. I have come to this conclusion after a great deal of initial concern and skepticism regarding U.S. ratification of the treaty. That initial concern and skepticism, candidly, was based in part on the succession of errors which I believed, then and now, have occasioned the administration's nuclear nonproliferation policy and its actions during consideration of the Nuclear Non-Proliferation Act of 1978. Also, I questioned the underlying motivations and intentions of the administration in submitting the treaty at that time. I also was troubled, as a Senator with a large nuclear research complex in my State at the Idaho National Engineering Laboratory and as ranking minority member now of the Energy Committee's subcommittee with jurisdiction over civilian nuclear policy and formerly of the Nuclear Regulatory Subcommittee of the Committee on Environment and Public Works, that the proposed treaty could constitute a threat to highly sensitive information in our domestic nuclear research program and a further impediment to the civilian nuclear power programs.

Consequently, I initially was skeptical that there was, on balance, a reasonable and well-thought-out risk versus gain, so to speak, for the United States in this treaty.

As a result of the analysis that has occurred over the past 1½ years, I have become convinced that there is, in fact, substantial merit in Senate consent to the treaty.

Mr. Chairman, the committee record developed in the June 22, 1979, hearing on the treaty, which I have reviewed in detail, as well as my own independent analysis, indicate conclusively that the treaty is an important element of the international legal regime evolving under the Nuclear Non-Proliferation Treaty.

I shall not repeat the details of why this treaty is such an important element, since the hearing record is very complete already in that regard. I simply will endorse the administration testimony and statements of industry representatives regarding the role of the treaty under the NPT. I do believe that timely action on the treaty, subject to my second recommendation, is important because of the international nonproliferation situation over the next year, with the NPT review conference and other key events.

Mr. Chairman, my second recommendation to the committee, however, departs rather dramatically from the administration testimony.

I strongly recommend the Senate give its consent to the treaty with a reservation to the treaty that the President shall not provide written notification to the IAEA pursuant to article 24 of the treaty, that statutory and constitutional requirements of the United States for entry into force have been meet until such time as legislation providing for domestic implementation of the treaty has been enacted.

This reservation would have the effect temporarily, and hopefully only briefly, of delaying the entry into force of the treaty and the immediate domestic implementation thereafter specified in the treaty until Congress has passed legislation dealing with implementation.

Mr. Chairman, I do not lightly make this recommendation to the committee, but I am convinced that domestic implementation of this treaty in the absence of legislation is fraught with such substantial legal and practical risks that the treaty may become counterproductive to our nuclear nonproliferation policy and other vital national interests.

Let me briefly summarize the more significant of the risks I see in implementing the treaty without legislation.

First: The legal relationship of the IAEA, U.S. agencies, the NRC, NRC licensees, and DOE nonlicensed contractors are completely inadequate.

The treaty specifies that the State Department shall represent the United States in communications with the IAEA. The NRC is an independent regulatory commission, which operates under the active and often independent direction of the Commissioners, as we have learned so well under the Nuclear Non-Proliferation Act of 1978. There is no direct legal relationship today which links the IAEA to the NRC for purposes of interpretation and implementation of the treaty through the regulation of licensees.

In fact, notwithstanding administration testimony to the contrary, there is valid legal ambiguity as to the authority of the NRC to regulate its licensees under the treaty. The administration has testified and has offered a State Department memorandum of October 9, 1979, to the effect that an ad hoc, nonstatutory Interagency Steering Group [ISG], chaired by the State Department, will decide issues of interpretation and implementation of the treaty.

The October 9, 1979, memo, which superseded an October 2, 1979, memo, which superseded the State Department's June testimony, is hardly the legal basis for determining the rights and obligations of all the parties involved in the NRC implementation of the treaty by regulation of licenses under the Atomic Energy Act.

Also, administration officials have stated privately and publicly that the ISG will consider foreign policy and nonproliferation policy aspects of any interpretation or implementation issues, and that is reflected in NRC draft regulations.

The abject lack of legal certainty and predictability under the administration's extralegal memorandum for the record approach to these matters should not be tolerated by the Congress. A major dispute involving a licensee, the NRC, the State Department, and the IAEA without any legal basis for resolution—be it an administrative dispute, a domestic legal action, or arbitration under the treaty or action in the International Court of Justice under the treaty—would embarrass the United States and be extremely counterproductive to nonproliferation policy.

In that regard, it is obvious from the hearing and our analysis that there has been no serious consideration of how the United States would handle a potential diversion case, such as the current case at the NFS facility at Erwin, Tenn., under the treaty. Legislation should, and must, replace the October 9, 1979, State Department memorandum to provide a valid and acceptable legal basis for domestic implementation of the treaty. I would not want a major international incident with the IAEA to occur, for instance, at the Idaho National Engineering Laboratory simply because this Congress failed to act to provide such a valid and acceptable legal basis.

Second, the exclusion from the IAEA safeguards of facilities associated with activities with direct national security significance to the United States, and the related protection of restricted data and national security information are not adequately addressed.

The criteria for the "direct national security significance" exclusion is a subject of serious concern. The State Department and Energy Department testimony on the criteria issue differed significantly, with State testifying that the "mythical" ISG would develop criteria at some future time, which is repeated in the October 9, 1979, State Department memorandum, and the Energy Department stating a set of criteria which that Department, in fact, has used in past decisions.

I have been unable to obtain a clear statement from the administration regarding the criteria. Mr. Van Doren, Assistant Director of ACDA for Nonproliferation, has stated in a meeting with my subcommittee staff that the criteria would reflect nonproliferation policy objectives, whatever that may mean, in terms of some "sliding scale" of a criterion.

Also, the administration does acknowledge in the hearing, after repeated denials in the past, that the Portsmouth Gas Centrifuge Enrichment Plant will be a candidate for IAEA safeguards, apparently in exchange for agreement by other nations to place their facilities under IAEA safeguards.

IAEA safeguards at Portsmouth would involve additional costs of $35 to $40 million and would, according to DOE internal memoranda, present a serious risk of disclosure of highly sensitive national security information and restricted data.

I am convinced that Portsmouth, which we "smoked out" with persistent inquiry and demands for internal DOE memos, is but a single indication of a larger problem we will face, if these decisions on criteria and facilities are left to this ISG.

It is quite clear to me that there has been an internal administrative debate on these issues, and just as clear that the ISG is not the appropriate arbiter. Congress should and must establish the criteria, and perhaps even affirmatively approve DOE and licensed facilities subject to the treaty.

Our voluntary offer did not, and should not, become a threat to our national security.

Third, details of treaty implementation proposed by the NRC and the State Department do not adequately protect vital U.S. interests.

There are a host of particulars which could be cited in this category.

The administration continues to refuse to guarantee that IAEA inspectors will be escorted, despite the obvious political and legal problems that could result. The NRC and the State Department, through the NRC's proposed regulations, such as the design information questionnaires and the facility attachments, continue to under-value the importance to this country of commercially sensitive technology and proprietary information.

Neither the NRC nor the State Department adequately have considered the vital importance and the sensitivity associated with civilian nuclear energy R. & D. [research and development], which troubles me particularly in light of our absolutely critical national energy situation. Similarly, the predictable operation of our Nation's nuclear powerplants should not be inhibited by apparently arbitrary requirements for access, inspections, notice, and reporting. We increasingly will need these plants on the line in the months and years ahead, and we should not interfere unnecessarily—I repeat, unnecessarily—with those operations.

For all of these reasons and others, facility operators should be given a participatory right in the negotiation of facility attachments, but that right continues to receive administration objection.

Congress should consider and resolve these issues and the several other significant issues under NRC rules implementing the treaty. Again, the ISG should not be making these decisions for the United States in the absence of clear and direct statutory guidance.

Mr. Chairman, I am convinced that the issues I have discussed, and others equally important, are far too sensitive to the United States to be left virtually to administrative discretion. I believe we must have domestic legislation to implement the treaty. At the same time, however, I now am convinced that the international interests and obligations of the United States compel us to give consent, but subject to the reservation on legislation.

Thank you, Mr. Chairman.

Mr. McCLURE. Mr. President, as a result of a lengthy and cooperative effort with Senator CHURCH and Senator JAVITS, the three of us were able to reach agreement on June 6, 1980, to the effect that I would withdraw my recommendation that the treaty only be supported by the Senate if accompanied by a reservation requiring domestic implementing legislation. Rather than such a reservation, we were able to agree on the resolution of ratification which is presented to the Senate today and which Senator CHURCH and Senator JAVITS offered during the Foreign Relations Committee consideration of the treaty. I ask unanimous consent that our exchange of letters regarding this compromise be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON ENERGY
AND NATURAL RESOURCES,
Washington, D.C., June 6, 1980.

Hon. FRANK CHURCH,
Chairman,
Hon. JACOB K. JAVITS,
Ranking Minority Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR FRANK AND JAKE: Thank you for your letter of June 6, regarding the pending U.S.-IAEA Treaty.

As you know, I have carefully analyzed and reviewed the Treaty in terms of its impact on our international nuclear nonproliferation policy and also its domestic implementation. I also have provided the Foreign Relations Committee with the results of that review in formal testimony before the Committee and through continued consultation with the Committee staff.

I have concluded, after careful consideration of your letter and the attached understandings, that the proposed combination of understandings and report language would provide the appropriate legal basis for a positive and legally predictable domestic implementation of the Treaty. The proposed understandings and report language also would carefully balance the need for such a positive and predictable domestic implementation with the concurrent need to demonstrate continued strong support by the United States internationally for IAEA safeguards and their implementation in non-nuclear weapons states under the Nuclear Nonproliferation Treaty and other applicable international agreements. Your proposed approach also would provide a timely resolution of the Treaty issues in light of the forthcoming Nuclear Nonproliferation Treaty Review Conference. Consequently, I am convinced that the stated combination would resolve affirmatively the concerns about the Treaty which I have discussed with the Committee.

If the Foreign Relations Committee reports the resolution of ratification for the Treaty with the indicated understandings and report language, I would not offer on the Floor the reservation requiring domestic implementing legislation before the Treaty takes effect in the United States. Further, I would be prepared to support strongly the resolution on the Floor and work with you to obtain the earliest possible Senate adoption of the resolution.

I would like to take this opportunity to again thank you, Senator Pell, and the Committee staff for your continued cooperation in the consideration of the Treaty. I look forward to working with you in obtaining early Senate adoption of your proposal.

Sincerely,

JAMES A. MCCLURE.

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washingon, D.C., June 6, 1980.

Hon. JAMES A. MCCLURE,
U.S. Senate,
Washington, D.C.

DEAR JIM: We anticipate that the Foreign Relations Committee will consider the U.S.-IAEA Treaty on the implementation of safeguards on U.S. peaceful nuclear activities this month. You testified before the Committee on the Treaty last December, and we know you have major concerns about it. We wanted to inform you of an approach we plan to offer in the Committee for dealing with our concerns about the Treaty.

After reviewing the record, we have concluded that measures are needed to provide for a strong Congressional role in the national security aspects, to protect the interests of industry, to make more precise the institutional arrangements within the U.S.

Government for implementation, to define the relationship between the Executive Branch and the Nuclear Regulatory Commission on interpretation of the Treaty, and to preclude the transfer of Restricted Data. Therefore, in the Committee's consideration of the Treaty, we plan to propose that the attached understandings be included in the resolution of ratification. We hope the Committee will agree with us that these understandings will strengthen implementation arrangements while not affecting U.S. obligations under the Treaty.

In addition, we plan to propose to the Committee that our report clarify a number of additional points which, in our judgment, do not warrant being included in the resolution of ratification. These include:

1. That commercially sensitive or proprietary information will continue to be protected by the Trade Secrets Act to the degree that this is not inconsistent with the obligations of the Treaty. We do not believe the Administration or the NRC should have any basis for using the Treaty to compel the release or disclosure of any proprietary information not required to fulfill the Treaty, except as provided by the Trade Secrets Act.

2. That the IAEA will not have the right to participate in, or have access to, investigations of suspected unauthorized withdrawals of nuclear materials, the so-called "materials unaccounted for (MUFs)", conducted by U.S. domestic agencies such as the FBI. The Treaty provides for IAEA investigations of such suspected "MUFs", and for U.S. cooperation. But we want to make clear that the IAEA cannot demand, in the conduct of its own investigations, access to FBI information or investigations.

3. That the Treaty will not lead to an abridgement of the rights of due process and judicial review of interested parties, such as those provided by the Administrative Procedures Act. While we do not want implementation of the Treaty to be blocked by endless litigation, we do want to ensure that the right of licensees to due process under appropriate procedures is adequately protected.

We believe that the understandings and report clarifications we intend to offer will strengthen domestic arrangements regarding implementation of the Treaty, while not weakening its non-proliferation value. We hope they will also allay your own concerns.

Sincerely,

FRANK CHURCH,
Chairman.
JACOB K. JAVITS,
Ranking Minority Member.

RESOLUTION OF RATIFICATION

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the Agreement between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America, with attached Protocol, signed at Vienna on November 18, 1977 (Ex. B, Ninety-fifth Congress, second session, hereinafter referred to as "the Agreement"), subject to the following understandings:

1. That the President shall notify the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives of any proposed addition to the list, to be provided to the International Atomic Energy Agency pursuant to Article 1(b) of the Agreement, of nuclear facilities within the United States eligible for International Atomic Energy Agency inspections, together with an explanation of the basis upon which the determination was made that any such facility did not have a direct national security significance, not less than 60 days prior to such proposed addition being provided to the International Atomic Energy Agency, during which period the Congress may disapprove such addition by joint resolution by reason of direct national security significance, under procedures identical to those provided for the consideration of resolutions pursuant to section 130 of the Atomic Energy Act of 1954 as amended.

2. That the President shall assure that concerned licensees within the United States are consulted in advance of, and that their views and interests are considered in, any negotiations with the International Atomic Energy Agency concerning the application to a particular facility of Subsidiary Arrangements made pursuant to Article 39 of the Agreement.

3. That the President shall establish and maintain an appropriate interagency mechanism, comprised of the relevant Executive Branch agencies, and with the participation of the Nuclear Regulatory Commission, under the chairmanship of the Department of State, for the purpose of coordinating policy, and of resolving disputes, relating to the implementation of International Atomic Energy Agency safeguards under the Agreement, and, further, that the Congress shall be kept informed of the functions and procedures of such interagency mechanism.

4. That in the event of any question of interpretation of the Agreement, the Nuclear Regulatory Commission shall seek and be bound by guidance from the President. Neither this understanding nor any other in this resolution shall in any way alter the responsibilities of the Nuclear Regulatory Commission under the Agreement or in any way limit the existing authorities and responsibilities of the Nuclear Regulatory Commission.

5. That the Agreement shall not be construed to require the communication to the International Atomic Energy Agency of "Restricted Data" controlled by the provisions of the Atomic Energy Act of 1954, as amended, including data concerning the design, manufacture, or utilization of atomic weapons.

Mr. McCLURE. Mr. President, I believe that the result of our joint effort will provide the legal certainty and predictability necessary in the domestic implementation of this treaty, while at the same time positively supporting our Nation's important nonproliferation policy.

I also believe that Senate adoption of this resolution today will be a timely result in light of the forthcoming nuclear nonproliferation treaty review conference in Geneva in August of this year. I am convinced that interested parties both in the United States and abroad will find the resolution and the accompanying report to be a necessary and satisfactory approach to the application of international safeguards in the United States.

I would like to take this opportunity to thank my colleague from Idaho, Senator CHURCH, and my good friend from New York, Senator JAVITS, for their continued cooperation and assistance in fashioning this compromise. I also wish to commend Mr. William Bader, staff director of the Foreign Relations Committee, and Mr. Eric Newsome, professional staff member of the committee, for their timely and effective response to the concerns I raised and the development of this compromise.

I also express my thanks to Chuck Trabandt, of the Energy Committee staff, who also has been invaluable in effecting this compromise.

Mr. CHURCH. Mr. President, the committee appreciates the constructive spirit with which these questions have been worked out and believes that the Senator from Idaho (Mr. McCLURE) has helped to clarify issues that needed to be the subject of the understandings that have now been attached to the instrument of ratification.

Mr. JAVITS. Mr. President, the Senator from Idaho (Mr. McCLURE) was invaluable to us, and I said so in my earlier remarks.

Mr. McCLURE. I thank the Senator from New York and my colleague from Idaho.

Mr. STEVENS. Mr. President, I rise in support of the series of marine safety treaties now being considered by the Senate. As a major producer of oil and gas shipped by tanker, Alaska is as concerned about these treaties as any State in the Union. The largest tankers plying U.S. waters are found in my home State.

The chairman, Senator CHURCH, and ranking minority member, Senator JAVITS, of the Foreign Relations Committee, will recall that I sent each of them a letter urging the Foreign Relations Committee to take action upon these treaties prior to the next meeting of the International Maritime Consultative Organization. IMCO is the international body through which nation states set the internationally recognized minimum marine safety standards. The United States will be attending this fall's conference with the intent of again upgrading the internationally recognized minimum standards for tanker safety. Ratification of these treaties was considered essential by the Coast Guard if the United States was to enter those negotiations in a strong posture.

Although these are good treaties and I strongly urge the Senate to grant its advice and consent, it is necessary to clarify the relationship of the safety standards recognized in these treaties and the safety standards that we may choose to implement under domestic law.

It is necessary to do this in part because as a leader in world tanker safety the United States has continuously found itself far ahead of the IMCO safety standards.

The standards set by the IMCO and accepted by the member states are the internationally recognized minimum safety standards. I would emphasize the words "minimum safety standards." Nothing in these treaties precludes the United States from implementing more stringent safety standards for any U.S. flag vessels engaged in trade anywhere in the world or for foreign flag vessels registered or documented in any nation of the world which are using U.S. ports. The actions which I have just referred to are not unprecedented, Mr. President. In fact, the United States implemented more stringent safety standards than the minimum world standards when it passed the Port and Waterways Safety Act and related amendments.

In order to clarify this point, however, I have sent a letter to the Coast Guard requesting comments on this issue. I have the response from the Coast Guard verifying the relationship between the minimum internationally recognized safety standards and the power of the Congress to implement more stringent domestic requirements. I ask unanimous consent that the letter from the Coast Guard, signed by the Acting Commandant, be printed in the Record in its entirety following my remarks.

I thank the distinguished chairman and ranking minority members of the Foreign Relations Committee.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Department of Transportation,
U.S. Coast Guard,
Washington, D.C., July 2, 1980.
Hon. Ted Stevens,
U.S. Senate,
Washington, D.C.

Dear Senator Stevens: This is in reply to your letter of 2 June 1980 expressing your concern over standards for tankers in view of the propulsion system casualty onboard the SS *Prince William Sound.*

The Coast Guard shares your concern for the environment and is continuing work for improved tanker standards. As you are aware, much national and international activity regarding tanker safety occurred following the 1976–77 "winter of the tankers" and the Presidential Initiatives of 17 March 1977. The Coast Guard actively participated in the development of the 1978 Protocols to the International Convention for the Prevention of Pollution from Ships (MARPOL), 1973, and the International Convention for the Safety of Life at Sea (SOLAS), 1974. Regulations implementing these protocols were published as final rules on 19 November 1979.

Ratification of these protocols would not prevent the United States from applying more rigorous standards; however, the avenue for improving these standards is still open and is being pursued nationally as well as internationally through the Intergovernmental Maritime Consultative Organization (IMCO). I urge your support of the protocols now before the Senate for its advice and consent to ratification.

As you point out, the reliability of propulsion systems is not addressed by the protocols; however, several actions should improve this in the near future. Resolution A.325 (IX), Recommendations Concerning Regulations for Machinery and Electrical Installations in Passenger and Cargo Ships, contains additional requirements for propulsion machinery and will amend SOLAS 1974. Specifically, special consideration of the reliability of single essential components and duplication of certain essential auxiliaries will be required. Projects to implement Resolution A.325 (IX) in national regulations are currently underway.

The philosophy of requiring duplication of vital components has been followed by the Coast Guard in many areas in the absence of significant information on reliability. The failure of both of the duplicate condensate pumps during the casualty on the SS *Prince William Sound*, while a rare occurrence, highlights the need for additional information on reliability. A current Coast Guard research project, "Reliability Analysis and Prediction of Large Commercial Vessel Automation Systems," should yield some data on the subject within the next year.

The Coast Guard views tanker safety and pollution prevention as global problems, requiring international solutions. As such efforts to develop international solutions are continuing through IMCO. Due to the *Amco Cadiz* and other casualties, the work program for IMCO's Ship Design and Equipment Subcommittee includes the consideration of reliability of propulsion system component parts and towing arrangements to facilitate ship assistance operations. The Coast Guard actively participates in the Working Group on Machinery and Electrical Installations and chairs the Working Group on Maneuverability where these subjects will be considered. A meeting of the Subcommittee and its working groups is scheduled during 7–11 July 1980. The discussions held should ultimately result in international recommendations, probably in the form of amendments to the SOLAS Convention.

Another important aspect of any casualty is the performance of personnel. In this regard, the Coast Guard remains active in improving international standards in this area through participation in IMCO's Subcommittee on Standards of Training and Watchkeeping.

Please be assured that the Coast Guard will continue to pursue the improvement of commercial vessel standards and will utilize the international forum of IMCO as well as our own national regulations to implement recommendations from the casualty investigation of the SS *Prince William Sound.*

Sincerely,
R. H. Scarborough,
Vice Admiral, U.S. Coast Guard, Acting Commandant.

The PRESIDING OFFICER. The question is on agreeing to the resolution of ratification on Executive C, 96th Congress, 1st session, Protocol of 1978 Relating to International Convention for the Prevention of Pollution from Ships, with Annexes and Protocols.

The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from Connecticut (Mr. Ribicoff), and the Senator from Mississippi (Mr. Stennis) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. Ribicoff) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from Oregon (Mr. Packwood), the Senator from New Mexico (Mr. Schmitt), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent due to illness.

The PRESIDING OFFICER (Mr. Tsongas). Are there other Senators who wish to vote?

The yeas and nays resulted—yeas 90, nays 0, as follows:

[Rollcall Vote No. 296 Ex.]

YEAS—90

Armstrong
Baker
Baucus
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Schweiker
Simpson
Stafford
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Williams
Young
Zorinsky

NOT VOTING—10

Bayh
Bellmon
Goldwater
Kennedy
Long
Packwood
Ribicoff
Schmitt
Stennis
Weicker

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the resolution of ratification was agreed to.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the resolution of ratification on Executive D, 96th Congress, 1st session, Protocol of 1978 Relating to the International Convention for the Safety of Life at Sea, 1974.

The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from Connecticut (Mr. Ribicoff), the Senator from Mississippi (Mr. Stennis) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. Ribicoff) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from Oregon (Mr. Packwood), the Senator from New Mexico (Mr. Schmitt), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent due to illness.

The PRESIDING OFFICER. Are there other Senators who wish to vote?

The yeas and nays resulted—yeas 90, nays 0, as follows:

[Rollcall Vote No. 297 Ex.]

YEAS—90

Armstrong
Baker
Baucus
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser

Schweiker
Simpson
Stafford
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Williams
Young
Zorinsky

NOT VOTING—10

Bayh
Bellmon
Goldwater
Kennedy
Long
Packwood
Ribicoff
Schmitt
Stennis
Weicker

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the resolution of ratification was agreed to.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the resolution of ratification on Executive S, 96th Congress, 1st session, amendments to the 1948 Convention on the Intergovernmental Maritime Consultative Organization.

The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Oregon (Mr. PACKWOOD), the Senator from New Mexico (Mr. SCHMITT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The PRESIDING OFFICER. Are there other Senators who wish to vote?

The yeas and nays resulted—yeas 90, nays 0, as follows:

[Rollcall Vote No. 298 Ex.]

YEAS—90

Armstrong
Baker
Baucus
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Schweiker
Simpson
Stafford
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Williams
Young
Zorinsky

NOT VOTING—10

Bayh
Bellmon
Goldwater
Kennedy
Long
Packwood
Ribicoff
Schmitt
Stennis
Weicker

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the resolution of ratification was agreed to.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the resolution of ratification on Executive GG, 96th Congress, 1st session, amendment to the 1966 International Convention on Load Lines.

The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Connecticut Mr. RIBICOFF), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Oregon (Mr. PACKWOOD), the Senator from New Mexico (Mr. SCHMITT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The PRESIDING OFFICER. Are there other Senators who wish to vote?

The yeas and nays resulted—yeas 90, nays 0, as follows:

[Rollcall Vote No. 299 Ex.]

YEAS—90

Armstrong
Baker
Baucus
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Schweiker
Simpson
Stafford
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Williams
Young
Zorinsky

NOT VOTING—10

Bayh
Bellmon
Goldwater
Kennedy
Long
Packwood
Ribicoff
Schmitt
Stennis
Weicker

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the resolution of ratification was agreed to.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the resolution of ratification on Executive J, 96th Congress, 2d session, International Convention on Maritime Search and Rescue, 1979, With Annex.

The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Connecticut (Mr. RIBICOFF) and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Oregon (Mr. PACKWOOD), the Senator from New Mexico (Mr. SCHMITT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The PRESIDING OFFICER. Are there other Senators who wish to vote?

The yeas and nays resulted—yeas 90, nays 0, as follows:

[Rollcall Vote No. 300 Ex.]

YEAS—90

Armstrong
Baker
Baucus
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Schweiker
Simpson
Stafford
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Williams
Young
Zorinsky

NOT VOTING—10

Bayh
Bellmon
Goldwater
Kennedy
Long
Packwood
Ribicoff
Schmitt
Stennis
Weicker

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the resolution of ratification was agreed to.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the resolution of ratification on Executive F, 96th Congress, 2d session, Consular Convention with the German Democratic Republic.

The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Oregon (Mr. PACKWOOD), the Senator from New Mexico (Mr. SCHMITT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The PRESIDING OFFICER. Are there other Senators who wish to vote?

The yeas and nays resulted—yeas 90, nays 0, as follows:

[Rollcall Vote No. 301—Ex.]

YEAS—90

Armstrong
Baker
Baucus
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Schweiker
Simpson
Stafford
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Williams
Young
Zorinsky

NOT VOTING—10

Bayh
Bellmon
Goldwater
Kennedy
Long
Packwood
Ribicoff
Schmitt
Stennis
Weicker

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the resolution of ratification was agreed to.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the resolution of ratification on Executive B, 95th Congress, 2d session, Agreement with the International Atomic Energy Agency for the Application of Safeguards in the United States of America, with Protocol.

The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Oregon (Mr. PACKWOOD), the Senator from New Mexico (Mr. SCHMITT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The PRESIDING OFFICER. Are there other Senators who wish to vote?

The yeas and nays resulted—yeas 90, nays 0, as follows:

[Rollcall Vote No. 302–Ex.]

YEAS—90

Armstrong
Baker
Baucus
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Schweiker
Simpson
Stafford
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Williams
Young
Zorinsky

NOT VOTING—10

Bayh
Bellmon
Goldwater
Kennedy
Long
Packwood
Ribicoff
Schmitt
Stennis
Weicker

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the resolution of ratification was agreed to.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHURCH. Mr. President, I ask unanimous consent that the President be notified.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

DERBY LINE, VT., AND ROCK ISLAND, QUEBEC, LEAD THE UNITED STATES AND CANADA IN UNPRECEDENTED GESTURE OF GOOD WILL

Mr. LEAHY. Mr. President, on June 6, I had the privilege of participating in a precedent-setting ceremony which took place in the tiny towns of Derby Line, Vt., and Rock Island, Quebec, which sit on the international boundary between the United States and Canada. The purpose of the ceremony was to sign an intermunicipal/international agreement that will result in the cleaning up of the Tomifobia River. This is the first time the two nations have reached an agreement involving the expenditure of Federal funds by both governments to solve a common domestic problem.

The signing of this agreement for joint sewage facilities represents an unprecedented gesture of good will between the two North American neighbors.

Originally, the two communities were one. But when the international boundary line was drawn, the settlement was divided in two. This symbolic line runs right through the middle of the Haskell Free Library in which this historic document was signed.

Presently, Derby Line's raw sewage is collected and discharged either into a lagoon at the end of Valentine Avenue, or into the Tomifobia River, which eventually empties into Canada's Lake Massawipi. Rock Island's sewage is treated in a wastewater treatment facility which was built in 1967.

In the late 1960's, Derby Line was ordered by the Vermont Agency of Environmental Conservation to cease dumping untreated waste into the river. At the same time, Rock Island was about to be ordered to remove the element phosphorus from their treated wastewater.

Since the two communities already shared a water system and a public library, and since it is much more economical to enlarge a single facility than to operate two separate ones, it seemed logical and efficient for Derby Line to tie into Rock Island's facility and share the costs of cleaning up the river. Furthermore, cooperation between the two would save Rock Island approximately half the cost of installing the mandatory phosphorus removal system.

In 1972, the two communities agreed in principle to proceed on their sewage project proposal. However, because it was the first international sewage treatment plant to be federally funded in part, it took 8 years to overcome bureaucratic regulations. Lengthy correspondence and negotiations were required before the final agreement could be formalized on this date.

The total project cost is estimated at $1,500,000. The Rock Island plant will be upgraded and expanded to accommodate the additional flow and accomplish the phosphorus removal. Derby Line will construct about 9,700 feet of sewer lines and the appurtenant structures to transport the domestic and industrial waste across the border. In addition to financing by the U.S. Environmental Protection Agency, the project will receive aid from the State of Vermont Agency of Environmental Conservation, and the Environmental Protection Services of Quebec.

Construction is slated to begin this summer. If the work progresses according to schedule, the water quality of the Tomifobia River will meet the specified standards required under both United States and Canadian legislation, and the Vermont Water Resources Board by 1983.

Mr. President, the signing of the intermunicipal/international agreement signifies something remarkable, in fact, almost amazing. Three different levels of government in each nation came to full agreement, not only among themselves, but with their respective counterparts.

What is even more amazing is that all of this was brought about, not by a crisis, not by an incident, but by the deep respect and cooperative spirit of two very small towns who sought to cut costs on a project by working together. They were united by the worthy goal of reducing pollution in the most cost-effective manner.

It is a good sign for both countries that when small communities seek to work together they can get the support and help of State, provincial and national leaders. It is a good sign, because Canada and the United States face complex challenges that will only be met with determination, cooperation and commonsense.

We must take note of this accomplishment, we must learn the lessons of this great occasion. We can and must realize that no matter how small the project, no matter how large the problem, by working together we can succeed.

If we fail to build on this example of cooperation, we shall be left, as our fellow Vermonter Robert Frost, once warned:

> With nothing to look backward to with pride and nothing to look forward to with hope.

If we do rise to meet the challenges of today, we will assure that our way of life will not merely endure, but will prevail.

It has been a long haul since the two communities originally decided to join hands to clean up the Tomifobia River. Thanks to the determination and foresight of the local leaders, especially Ben Blais, first trustee for the village of Derby Line, and Jean-Louis DuPont, mayor of Rock Island, Quebec, both the United States and the Canadian Governments now have an experience to look back on with pride that will give direction in resolving commonly shared problems in the future.

Mr. President, I would like the record to show that in the spirit of friendship, I have had my June 6 statement translated into French. And, but for technical problems related to printing, my statement here would also appear in French.

Finally, I want to congratulate all the people who have followed the leadership provided by Ben Blais and Jean-Louis DuPont, and thanks to their cooperation and hard work, made this event happen.

I want to acknowledge all of the folks who have worked with the communities of Derby Line and Rock Island over the years to the historic signing on June 6. In addition to the able members of the board of trustees, including Ben Blais, Gordon Johnston, and Roland "Buzz" Roy in Derby Line and the board of selectment from Rock Island, there is also Rich Philips and Doug Brink of the Vermont Agency of Environmental Conservation; Wilford Morin, consulting engineer for Rock Island, Andre Caille, Jean Claude Valle, and Guy Audette of the Quebec Environmental Protection Service; George Gustafson and Bob Bergmann of the engineering firm of Whitman and Howard; William Adams, regional administrator of the U.S. Environmental Protection Agency; Ralph Caruso, EPA's representative to Vermont; Gerald Yamada of the EPA Washington office; Jim Frech and Margaret Gross of my staff and John Crook and Linda Baumann of the U.S. Department of State, as well as the language services staff of the Congressional Research Service at the Library of Congress.

Thanks to the cooperation and hard work of these people, and no doubt, others over the years, the dream of many years ago has became reality on June 6 in the Haskell Free Library.

EXTENSION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that speakers may speak during a period for routine morning business of not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

NUCLEAR ACCIDENT AND RECOVERY AT THREE MILE ISLAND

Mr. HART. Mr. President, today we are releasing the report of the special Senate investigation of the nuclear accident at Three Mile Island. The investigation was conducted over the past year by the Subcommittee on Nuclear Regulation for the Committee on Environment and Public Works and has been transmitted to the Senate for its consideration by the distinguished chairman and ranking minority member of the Committee on Environment and Public Works, Senators RANDOLPH and STAFFORD.

The purpose of this report is to provide independent congressional scrutiny of the facts and the implications of the Three Mile Island accident. It was conducted pursuant to the committee's jurisdiction over nonmilitary environmental regulation and control of nuclear energy—an assignment inherited from the old Joint Committee on Atomic Energy.

More to the point, our investigation is an exercise of the unique congressional role in the Nation's atomic energy program, dating back to establishment of the Atomic Energy Commission in 1946. The Nuclear Regulatory Commission, like the AEC that it replaced in 1975, was set up by Congress to be independent of the President and of the executive branch, and was required by law to keep Congress "fully and currently informed" of its activities.

This special congressional involvement carries with it a special responsibility to arrive at independent findings and conclusions about Three Mile Island—the causes of the accident, its implications for the future of the nuclear power program and the need for improvements in the safety of the program.

In carrying out this responsibility, we have made use of, and have sought to avoid unnecessary duplication of, the work of the two other principal investigations of the Three Mile Island accident. Our work is intended to serve as an independent check on the findings of those inquiries, in those areas that we probed in common, as well as to develop an independent set of findings and conclusions. By utilizing the work of other investigations, and by drawing some assistance from the General Accounting Office and the Congressional Research Service, we have been able to do our work with a relatively small staff and to place principal emphasis on problems particularly in need of continued scrutiny and possible legislative action by Congress.

Our investigation focused on three principal aspects of the accident:

The events of the first day of the accident, particularly questions regarding what was known and not known by the utility and the NRC about uncovering and potential melting of the reactor core and the need for evacuation or other protective action during that period;

The ongoing cleanup and recovery operation at the Three Mile Island site, including safety, legal, financial and social problems.

Certain events prior to the accident that contributed to the severity of the accident.

We now know, of course, that all of the major damage to the reactor occurred during the first day of the accident, but that the severity of the damage and the potential danger to the community was not discovered until the third day. We have reconstructed, minute by minute, the events of the first day—hopefully in terms the general public will understand—to throw additional light on how such extensive damage could have been missed and how to avoid such major errors in the event of other accidents.

In particular, we looked at the questions of whether plant conditions during those early hours warranted evacuation of the surrounding community and whether there was willful concealment of those conditions by plant operators and managers.

What we found was that by 8:30 in the morning—some 4 hours into the accident—the core had been uncovered for a prolonged period and that control room personnel were in varying degrees of uncertainty as to whether the core had been or still was uncovered. We have concluded that such uncertainty should itself be deemed a plant condition sufficient to warrant consideration of a precautionary evacuation. At this point in the accident, the factual record is unclear as to whether the utility official in charge of handling the emergency was uncertain about whether the core was covered. Others in the control room told us that they were uncertain. We have contradictory statements from the individual in charge as to whether he was uncertain.

Our conclusion is that if the utility official in charge in fact had been substantially uncertain about whether the core was uncovered, and if he had understood his role for recommending protective action, "he then should have advised State officials that the condition of the plant at that time warranted consideration of a possible precautionary evacuation of the population within a close proximity of the plant."

While the factual record was not sufficiently clear to permit us to conclude whether the utility had acted improperly by not recommending consideration of a precautionary evacuation at that time, we do find that "the utility was remiss in not clearly communicating its uncertainty on the morning of the first day to the NRC and the State;" further, that "the NRC and the State were remiss in failing to pursue effectively with the utility the issue of plant conditions, including most particularly its uncertainty about whether the core was uncovered."

The lesson, in my view, should be clear for the future: If there is prolonged, substantial uncertainty about whether the core of a nuclear powerplant is covered, the affected State should promptly consider the need for evacuation. Calculations (by the NRC special inquiry) showing the TMI containment would have withstood a total core melt are themselves uncertain, as are all such risk-assessment calculations. In the event of another nuclear accident in which there is severe damage to the core, or in which there is uncertainty about whether melting has occurred, the surrounding community is unlikely to want to wait around to test the accuracy of those calculations. There should be ready means to consider and to carry out a precautionary evacuation under those circumstances.

As to the issue of whether the utility willfully withheld important information about plant conditions, we find that "the evidence reviewed by the special investigation does not confirm any intentional concealment of information by the utility on the first day of the accident." Although there are conflicting statements as to whether the utility official in charge of emergency operations was made aware of major evidence of an uncovered and severely damaged core, the weight of the evidence does not support intentional concealment of such information by the utility.

Our findings are similar to those of the Kemeny and Rogovin inquiries in this respect, as is our finding that human error was the principal contributor to the severity of the Three Mile Island accident. We stress, however, that "it is inappropriate and unfair simply to blame these (plant) personnel for the Three Mile Island accident. It should be emphasized that the utility, the reactor-vendor, the architect-engineer and the NRC were responsible for deficiencies in training, in control-room design, in instrumentation and equipment, and in mergency procedures. These deficiencies were the underlying cause of the accident."

We find further that these deficiencies resulted from insufficient attention by the nuclear industry and the NRC to human factors in nuclear plant design and operation. "These human factor problems," we find, "were beyond the control of the operators on duty during the accident and were so serious that they had consequences equivalent to those that could be caused solely by major mechanical failures and design defects."

Beyond the human factor problems, our investigations identified "several major weaknesses in the design of TMI-2 (that) contributed to the difficulties faced by plant operators and managers in understanding plant behavior, in stabilizing the plant and particularly in preventing radiological releases to the environment." These design weaknesses involved emergency-related equipment—including a surplus of alarms, a backlogged computer printer, a key radiation monitor that did not work and a containment building that failed to seal automatically.

Design weaknesses also involved other equipment needed in an emergency but that was unavailable or inadequate to the task—including instrumentation designed to show only normal (not accident) conditions, lack of indicators to show directly water level in the core or whether the PORV (pressurizer relief) valve was open or closed, "candy-cane" shaped pipes that trapped steam and prevented natural circulation of coolant, and inability to maintain isolation of the containment building when the letdown system in the auxiliary building was used or to prevent radioactive releases from the auxiliary building during the accident.

Our investigation reviewed the extent to which prior operating experience at TMI and other nuclear powerplants had been systematically evaluated by the NRC and the industry. Our findings suggest that neither the reactor vendor (Babcock & Wilcox) nor the NRC "had procedures to assure an effective systematic review and analysis of potentially recurring problems" and consequently "TMI control room personnel did not have the benefit of analysis and guidance, based on similar accidents, that would have helped them in diagnosing and responding correctly to the early events of the accident."

We conclude that the deficiencies in such industry and NRC programs "were among the most important inadequacies in the nuclear safety program brought to light by the accident."

An example of this problem revealed by our investigation was the apparent failure to communicate an early problem, discovered during "hot functional testing" of the plant, to the operators who were on duty during the early hours of the accident. This problem involved steam getting caught in the candy-cane piping and causing misleading indications that the primary system (including the reactor) was full of water when it was not. We found as a result of the failure to communicate this early incident to the operators, "they neither recognized nor understood similar conditions on the day of the accident" during the period the core was uncovered.

Generally, we found that the industry and NRC programs for anticipating the accident and responding to the emergency at Three Mile Island were inadequate. Our findings in this regard are similar to those of the other two principal investigations. We also reviewed their findings and other data on radiation releases and found "no persuasive evidence that releases during the accident resulted in statistically significant adverse long-term physical health effects."

We have a similar finding with respect to radiation releases thus far from the cleanup and recovery operations at the TMI site. Our investigation of cleanup and recovery is the most extensive to date, and it has identified what we identify as "a dilemma" stemming from radiation releases and deteriorating plant equipment. On the one hand, "it is desirable to follow deliberate procedures providing for review of alternatives, for elderly decisionmaking and for public participation." On the other hand, "as time passes, there is an increasing chance of accidental releases of radioactivity to the environment and perhaps even of renewed fissioning (recriticality) of the damaged reactor core. At present, the plant's condition is not fully known. Further deterioration can be assumed. Damaged and unmaintained equipment may fail, and there is the potential for human error."

Thus the basic dilemma is what I would call the dynamic tension between procedural safeguards, especially those contained in the National Environmental Policy Act to insure that mistakes are not made in haste, and the need to proceed with cleanup promptly to avoid accidental releases from deteriorating equipment.

Our report looks closely at the procedures followed thus far with respect to decontaminating radioactive water and venting radioactive gas. We find that there is adequate provision for acting promptly in emergencies, but that there are "problems relating to the NRC's planning and management of cleanup that cannot be attributed to the deliberate pace of legal and regulatory procedures." Specifically, there have been long delays in formulating new and specific regulatory guides to govern radiological releases during cleanup while barring the utility from followed existing regulations that apply to normal plant operations.

We also look at the substantial financial impact of cleanup and recovery, particularly the still-unresolved "who pays?" issue. We also examine the social issues and find expressions of "strong distrust of the utility and NRC" by many residents and local officials who "have questioned the ability of those two organizations to manage the cleanup and to be candid in discussing problems and risks."

Our report contains many findings and conclusions on the accident and cleanup at Three Mile Island, but does not make recommendations since several of our recommendations already have been enacted into law and because we will await the forthcoming policy studies by our investigative staff before deciding on further legislative recommendations.

Several of the recommendations of the Kemeny and Rogovin investigations have been addressed in the NRC authorization bill for fiscal year 1980, which the President just signed into law, and in the NRC reorganization plan submitted by the President, which is expected to take effect in October.

In particular, the fiscal year 1980 Authorization Act contains several post-TMI legislative reforms, including:

Conditioning the issuance of new operating licenses for nuclear powerplants on the existence of approved emergency evacuation plans;

Requiring new NRC regulations to assure the siting of new nuclear powerplants farther from population centers;

Requiring high civil penalties and establishing criminal penalties for violation of safety requirements of the Atomic Energy Act;

Requiring NRC to prepare a plan for improved training of nuclear powerplant operators;

Requiring NRC to develop a plan for responding to nuclear emergencies, including the means to acquire immediate technical data from a damaged reactor and to eliminate other communications problems; and

Providing funds to accelerate the NRC resident inspector program.

The NRC reorganization plan upgrades the role of chairman especially in emergencies, and provides for a strong executive director to improve the day-to-day management of the agency, but it does not replace the multimember Commission with a single administrator—a proposal by the Kemeny and Rogovin inquiries that I opposed.

Having spent the past year investigating the Three Mile Island accident, I still believe that we need nuclear power and that we should continue to use it as long as we need it. The Three Mile Island accident teaches us that major improvements in nuclear safety must be made promptly. Assuming that nuclear powerplants can be made to operate safely, we have no choice but to use nuclear power—at least the plants now in operation and under construction—to get us through our present energy dilemma.

We cannot have it both ways—we cannot have our energy-extravagant lifestyle and do without nuclear energy now or in the near future. Just how deeply dependent we are on nuclear power today, and in the foreseeable future, can be seen in some statistics—what I call the energy facts of life.

The President's Council on Environmental Quality gives the lowest of all official estimates of U.S. energy demand by the year 2000. It estimates that we will require 85 to 90 quads (quadrillion British thermal units) of energy, compared with the 78 quads used during 1978, and that 10 percent of the quads needed in the year 2000 will come from nuclear energy. Even this austere energy budget would require continued operation of all 70 nuclear powerplants already built and operation of all 87 for which construction permits have been issued.

Although we cannot do without nuclear powerplants—at least not without undertaking drastic revisions in lifestyle—we cannot afford to give nuclear power a free ticket either. Plants must be operated safely, which means that both the equipment and the operators have to be upgraded. This investigation should help to point the way.

Mr. SIMPSON. Mr. President, I was pleased to participate today with my distinguished colleague from Colorado in releasing the report of the Nuclear Regulation Subcommittee on the accident and recovery at Three Mile Island. I share his hope that this report will contribute to public and congressional understanding of the Three Mile Island accident and its aftermath.

Without repeating too many specifics, I would offer a few general comments about the report and where I believe it leads us.

First, I believe the report fairly describes the actions of the utility; State and NRC personnel responsible for responding to this accident in the perspective of the situation they were forced to deal with. We identify the actions of plant operators and managers as "the immediate cause of the uncovery of, and severe damage to, the reactor core," and we find that utility personnel "proved unable to diagnose the accident correctly in time to prevent a serious situation" and "took incorrect actions, aggravating what began as a minor problem." At the same time, we emphasize that these actions were due to deficiencies, with respect to this set of accident conditions, in training, in control room design, in instrumentation and equipment, in plant design, and in emergency procedures. Although we find fault with NPC's response to the accident on March 28, 1979, we recognize that the agency "was unprepared for an accident of the duration and severity of that at TMI," and that it, like the utility "was handicapped by highly deficient internal and external communications." Similarly, we find that the State's response was inadequate "because of deficiencies in its plans, insufficient information, fragmentation and lack of resources, and poor management."

Second, I believe the report emphasizes a particularly important factor—the need for advance emergency planning to deal with potential accidents. We find that "effective emergency preparedness requires the assumption that serious accidents can happen and that adequate plans need to be made in advance to deal with them. Such plans should be based on a realistic consideration of the range of potential accidents and must ensure that the resources and procedures necessary for dealing with such realistic contingencies will be readily available."

Third, I believe the report sheds additional light on the difficulties experienced during the first day of the accident in transferring critical information on plant conditions between and among the utility, the various NRC offices and the State. These difficulties were particularly important given our findings that the utility, the NRC and the State "should have given great weight to plant conditions—as being a determining factor in considering the need for evacuation or other protective action." We believe that uncertainty about whether the core is uncovered is itself a plant condition that should be a determining factor in considering the need for protective action, and if the responsible utility official is substantially uncertain about whether the core is uncovered, he should advise State officials that the condition of the plant warrants consideration of a possible precautionary evacuation of the population within a close proximity of the plant.

Fourth, our report finds evidence in the early testing of the TMI plant, as well as in the operation of other similar plants, that greater attention must be paid to nuclear plant operating experience.

Our report is justly critical of the pre-Three Mile Island efforts of NRC and elements of the nuclear industry in this and several other respects. In several instances, we find fault with the responses of the utility personnel, State officials, and staff and members of the Nuclear Regulatory Commission. For my own part, I would like to emphasize that this is done not to find fault with the performance of these individuals, who were all functioning in a crisis-laden environment, but rather to learn as much as we can about the deficiencies that led to an accident of this severity. My sincere hope, and I believe that of my colleagues, is that a full airing of these deficiencies will lead to prompt corrective measures to better prepare us to deal with future accident situations, and to reduce as much as possible the likelihood of future Three Mile Island.

In that regard, it is worth noting that this report, like previous efforts of the President's Commission and the NRC special inquiry group, focuses attention on the accident and the pre-TMI period. We devote considerable attention to the cleanup and recovery task at the site, which in many respects represents a continuation of the accident, but we do not review in this document the many excellent efforts that have been made by the NRC and the industry to address the problems brought to light by the accident. In the last analysis, the full story of Three Mile Island depends upon how well the lessons are learned.

We will be issuing shortly a series of staff studies assessing the adequacy of many of those efforts. My own view is that in many respects it is still too early to tell how much improvement has been made in reducing the possibility of future Three Mile Islands or how much better prepared we are to respond to one now. But in my investigation of this accident over the past year, I have seen a remarkable commitment on the part of the Commission and the industry to address seriously the deficiencies identified by this accident. Perhaps the most important thought I come away with is the need to maintain this vigilance, even as memories of TMI begin to fade. That is a task not only for the Commission and the industry, but also for the Congress as well.

I would add a comment on the cooperation we received in this endeavor. We made extensive use of materials prepared for other investigations in order to avoid unnecessary duplication. Nevertheless, our work involved extensive reviews of documents supplied by the NRC, the utilities owning and operating Three Mile Island, the reactor designer and the plant architect engineer, and other elements of the nuclear industry. We also conducted detailed interviews with representatives of these organizations and the State, and held hearings involving many of these individuals.

On occasion, it was necessary to take these individuals away from other pressing assignments, including work on the many other studies of the accident and the recovery operations at TMI. In all instances, I believe these individuals and the organizations they represent were fully cooperative, forthright and candid in assisting our inquiry. We could have asked for nothing more, and we owe them our sincere appreciation.

Finally, I fully agree with the conclusion of my distinguished colleague from Colorado that we need nuclear power in this country and that we should continue to use it. Our investigation, like others before it, has found serious deficiencies in many aspects of the operation and regulation of the Three Mile Island plant. None of those problems seem insurmountable, provided the necessary commitment to safety on the part of the NRC and the industry is there. The present efforts are encouraging, and we hope the results of this investigation will be of assistance.

I am especially pleased with the documentation of this report. In every instance, individual findings and conclusions are referenced to discussions in the text, and that discussion in turn identifies the supporting documentation and facts supporting it. This in itself should be a valuable tool in furthering understanding of the Three Mile Island accident and its aftermath.

Mr. McCLURE. Mr. President, I call the attention of the Senate to the fact that the Environment and Public Works Committee of the Senate has completed a report with regard to the nuclear accident and recovery at Three Mile Island. The report is a very comprehensive document and I think both Senator HART and Senator SIMPSON should be commended for the thoroughness with which they approached the problem and not only that, for the quality of the results of their deliberations.

Just a half-hour ago, Mr. President, the report was released and they have participated in a press conference announcing that and describing the contents of the report and their conclusions.

Mr. President, I rise now not only to give them some commendation and well-earned gratitude on the part of the entire Senate, but also to note with a great deal of satisfaction that both Senator HART and Senator SIMPSON, in personal remarks made upon the release of this report, have concluded that nuclear power is an absolute necessity, critical, and essential element in the energy supply of the United States and will be throughout the remainder of this century; that nuclear powerplants now operating and under construction should go forward without any interruption in activity while remedial actions are being taken; that industry and Government can make the necessary improvements to continue to operate existing new plants safely; and, finally, that industry and Government already have made an important start in taking the actions necessary to remedy any identified deficiencies and are doing so with a clear commitment to achieving that end.

Mr. President, those remarks and the report are remarkably well-balanced documentary evidence of not only the recovery, the resilience and the ability of the industry and Government to deal with a critical problem, but also recognition that the energy supply of this Nation is equallv critical and that nuclear power is an absolutely essential element in meeting the energy needs of the future of this country to keep our people gainfully employed and happily occupied.

Mr. BAKER. Will the Senator yield to me?

Mr. McCLURE. I am happy to yield to the Senator from Tennessee.

Mr. BAKER. Mr. President, I am happy to agree with the Senator from Idaho and I rise to commend him for bringing this to the attention of the Senate.

Senator MCCLURE has long been a voice of reason and concern in the field of nuclear power, indeed, in the whole question of adequate energy sources of the United States. I was especially pleased when the Senator from Idaho indicated to me his special concern for the investigation of the Three Mile Island accident. We shared our mutual concern in that respect and both of us were reassured early, during the course of the investigation by the Environment and Public Works Committee jurisdictional subcommittee, that both Senator HART and Senator SIMPSON were intent on conducting that investigation and inquiry in a way that was as calm and dispassionate as the circumstances would permit.

I know I took great comfort from that reassurance, Mr. President, and I know the Senator from Idaho did, as well.

No subject that I know of in recent years was more susceptible to the temptation of demagoguery than this one. No subject that has been inquired into by the Senate in recent years has been more emotional than this one. I think it is a great tribute to two fine Senators that they have waded through that inquiry and avoided that temptation and have now published a report that seems to be a sane and sensible appraisal of the unfortunate accident at Three Mile Island.

So Mr. President, it is with a sense of great satisfaction that we note the culmination of their efforts: the release of the report to the Senate on the nuclear accident and recovery at Three Mile Island. The report represents, I believe, a constructive and useful addition to a body of literature which now includes several studies of the Nation's most serious accident at a commercial nuclear power installation. My colleagues on the subcommittee, the Senator from Colorado (Mr. HART), and the Senator from Wyoming (Mr. SIMPSON), have spent many hours diligently attending to the preparation of this special investigation document, and have presented the Senate with a report that has bipartisan support.

Mr. President, Senators SIMPSON and HART have expertly summarized the results of the report today in their statements, and I believe they have been thorough in focusing attention on the highlights of the investigation. There is no reason to elaborate. But I would like to comment briefly on the road we have traveled since those traumatic days at Three Mile Island in Pennsylvania, 1 year and 3 months ago.

I believe that the committee investigation correctly reflects a healthy examination of the causes and handling of this episode in the chronology of the development of nuclear power. Having had the accident at Three Mile Island, Mr. President, and having fortunately escaped with no apparent adverse effects on public health and safety, it would be the greater loss if we had not learned from that experience. It was a difficult and rude education in the respect of nuclear power, but I believe that we can now move ahead in the development of an indispensible resource, free of illusions, with a new appreciation of the hazards and potential which this resource can hold for our energy future.

I find it encouraging, not to say remarkable, that there are so many points of agreement between the earlier inquires of the President's Commission, the NRC special inquiry group, and the report of the Senate subcommittee. Experts within the administration, the Congress, and indeed, within the nuclear industry itself have arrived at an essential consensus of views in the analysis of the causes, consequences, and lessons of Three Mile Island. I think that bodes well for our ability to use nuclear energy safely in the future. I think there is little question that nuclear power is safer today, by a substantial margin, than it was 18 months ago. And I am hopeful, and indeed we must all insist, that nuclear power be safer 5 years from now than it is today.

Mr. President, my colleagues on the subcommittee outlined a number of the important findings and conclusions of the Senate report. They note that many of the recommendations implicit in the findings have already been enacted into law, in the fiscal year 1980 Authorization Act of the Nuclear Regulatory Commission. Indeed, this legislative function is the special role which the subcommittee must fulfill as a consequence of its investigation. The chairman and ranking minority member of the subcommittee have already indicated their commitment to continue their efforts in this regard in the forthcoming policy studies to be carried out by the investigative staff, as a background for further legislative recommendations.

Mr. President, I would especially urge however, that the unique and current aspect of this report, that dealing with the recovery of the still crippled Three Mile Island plant, not go unnoticed. I would emphasize the importance that we deal not just with the continuing problems at Three Mile Island, but that the NRC and other responsible agencies avail themselves of this unwelcome but valuable opportunity to learn all that we can to insure that there will never be another Three Mile Island.

Mr. President, safe nuclear power is an essential component of any prudent national energy plan. We simply cannot afford to discard the nuclear option, because we need nuclear power now, and we may need it even more in the future. Three Mile Island was a serious accident, a rude awakening that shook the confidence of all of us. But we have learned much since those predawn hours on March 28, 1979. I am most hopeful that history will record we learned our lessons well.

Finally, Mr. President, I say a special word for the Senator from Wyoming (Mr. SIMPSON). He is a freshman Senator who is the ranking member of the jurisdictional subcommittee, whose father served in this Chamber and was a colleague of many of those present here today. This was a real challenge and a triumph for the Senator from Wyoming. I think he has negotiated that challenge and those difficulties with grace and dignity, and with success. I wish especially to commend him for his contribution to this magnificent effort.

I thank the Senator from Idaho for keeping his usual close tabs on this matter as it unfolded and developed and, personally, for keeping me advised of its progress.

Mr. McCLURE. I thank the Senator from Tennessee for his remarks, both those that are personal and those that are directed toward the subject matter. I could not agree more, as the former ranking member of the Nuclear Regulatory Subcommittee, as I was when the Senator from Tennessee was the ranking Republican on the full committee. We worked together closely in that area, but I can appreciate the burden that was passed to ALAN SIMPSON when he first came in and the first major item turned out to be one of the major items for the country at Three Mile Island. I think it is safe to say that Senator SIMPSON in many ways, but certainly in this way, has earned his spurs and is entitled to his place in the bunkhouse.

I appreciate the work that he has done and also the work that Senator HART has done through a thoughtful, temperate, deliberate review of the facts, separating the fact from the emotion, and coming out with the kind of report that they have come out with now. I think the report will be carefully studied by many and will have a great impact upon future deliberations on the future energy sufficiency of supply for this country.

I thank the Senator from Tennessee for his remarks.

INDEPENDENCE DAY—1980

Mr. MATHIAS. Mr. President, as the Nation prepares to celebrate Independence Day, the Senate is faced with the prospect of approving the largest peacetime military budget in our history. This fact alone tells us much about the danger and the difficulties of our times.

As a people and as a Nation, in this 204th year of our independence, we face an array of problems so complex and so urgent that solving them will challenge our courage and our patience and our ingenuity to their limits.

Nonetheless, we will have great cause for celebration this Fourth of July, for we remain, as we have always been, "The last best hope of Earth."

Abraham Lincoln announced that simple verdict about this Nation after asking himself "what great principle or idea it was that kept this confederacy so long together." He concluded it was "something in that Declaration giving Liberty, not alone to the people of this country, but hope to the world for all future time."

It seems to me that the hallmark of our civilization—the unique quality of our democracy which gives us liberty and which gives hope to the world—is our concept of justice.

Our true strength does not lie in having great armies that command continents; or in great navies that sweep the seas, or even in great legislatures. What is really important about this Nation is our concept of justice and our ability to administer justice. Our other strengths as a society derive from the special sense of justice that animates this Nation.

This year as we observe Independence Day and as we remember those who have fought to preserve our liberties, I hope all Americans will give a special thought to the veterans of Vietnam because for far too long our special sense of justice was suspended where they were concerned.

Until yesterday, the veterans of Vietnam had been dealt with very unfairly by their fellow citizens. It was their bad luck to fight in an unpopular war. No one blamed them personally, but there was no hero's welcome for them when they returned from the fierce crucible of Vietnam. Yesterday, however, we took a long overdue step toward restoring justice to our dealings with the veterans of Vietnam.

At a simple ceremony in the Rose Garden at the White House, President Carter signed into law Senate Joint Resolution 119, a resolution to authorize the Vietnam Veterans Memorial Fund, Inc., to erect a Memorial in Constitution Gardens near the Lincoln Memorial in honor of those who served in Vietnam. That ceremony marked the end of a sustained effort by many people to enact this legislation, and it signaled the beginning of an all-out effort to raise funds from private donations to pay for the memorial.

Speaking at the signing ceremony, I recalled that last summer when the founders of the Vietnam Memorial Fund first met with me to discuss their proposal, I was touched and impressed by their dedication and determination. At that time, Jan Scruggs, the sparkplug of this effort, never considered the idea of using public funds to pay for the memorial. He believed in the symbolic importance of building the memorial with voluntary contributions from Americans all over the country. And I agreed with him.

My faith in this cause was confirmed here in this Chamber when every single one of my colleagues joined in this great enterprise as cosponsors of the resolution I introduced to authorize the memorial which yesterday became the law of the land.

Now begins the task of letting the American people know about the Vietnam Memorial so that as many people as possible may share the joy of helping to build it. I hope that each of my colleagues will help me spread the word that tax-deductible contributions for this project may be made to the Vietnam Veterans Memorial Fund, 1025 Connecticut Avenue NW., Washington, D.C.

I can think of no more appropriate or satisfying way to observe Independence Day, 1980, than by supporting the Vietnam Veterans Memorial. I ask unanimous consent that a very brief account of yesterday's signing ceremony from the July 2 Washington Post be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CARTER CLEARS VIETNAM MEMORIAL

President Carter yesterday signed a resolution authorizing a two-acre site for the nation's first Vietnam memorial, saying it will symbolize the healing of a nation deeply divided over the war.

"A long and painful process has brought us to this moment today," Carter said during a Rose Garden ceremony. "Our nation as you know was divided and in the process we ignored those who answered our nation's call."

Meanwhile, the Veterans Administration released a survey showing the public backs more government aid for Vietnam-era veterans, but the veterans themselves think they are less appreciated than those who served in earlier combats.

The memorial will be a "reminder of the past, what was lost and a reminder of what we learned," Carter said. "We do not honor war, but we honor the peace and freedom they sought."

The resolution, which had the Senate's unanimous support, authorized construction of a memorial in Constitution Gardens, not far from the Lincoln Memorial. Private donations will raise the $2.5 million needed to build the memorial.

"This memorial will say to all Vietnam veterans this nation cares and remembers," said Veterans Administrator Max Cleland, who lost both legs in the war.

Cleland's office earlier released a survey showing 66 percent of the public thinks the federal government should do more for Vietnam-era veterans, and most say they feel positively toward veterans of the unpopular war.

"The public is finally separating the war from the warrior," Cleland said.

But only 47 percent of Vietnam-era veterans said they got a friendly reception from family and friends, compared to 73 percent of World War II and Korean War veterans.

The survey, conducted at a cost of $485,000 by Louis Harris Associates between November 1979 and March among 7,000 people nationwide, found 91 percent of the veterans were glad to have served their country, and two-thirds would do it again.

"They have continued to keep faith with their country even when their country has not at all times kept faith with them," Cleland said.

A CRY FROM THE HEART: "STOP YOUR SNIVELLING AND WORK"

Mr. MATHIAS. Mr. President, recently a constituent of mine, Gerald P. Panaro, who is general counsel to the Retail Bakers of America, addressed the RBA 62d annual convention in New Orleans. The thrust of his presentation was that all Americans have a stake in the political process and the way in which our Government functions. As he put it:

> Our participation in the political process is also necessary to insure that we remain a free people, that our government remains a true democracy and that America remains the last, best hope of mankind.

I have sounded the same alert myself quite regularly and hope that my colleagues will reflect on what Mr. Panaro has to say.

I ask unanimous consent that his speech, "Let's Get Down To Work," be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

Let's Get Down To Work

This day, I am sure, will be noted in the chronicles of RBA as the first time in many years that the Washington report has not been given by William A. Quinlan. Mr. Quinlan handed over his duties as general counsel of the association to me this past October.

As lawyer, leader, counsellor and mediator; and as one who has tried to relieve retail bakers from the oppression of Washington and guide them through the wilderness of federal regulation for almost forty years, he is to RBA what Moses was to ancient Israel.

And I know you will all agree with me that Bill Quinlan is and always will be the greatest friend, counsellor and advocate that retail bakers will ever have.

Since this is my first address before a national convention, I would like to share with you some of my thoughts about our country, about how well or how poorly our government is working, and about what I believe our proper attitude and role in the system ought to be. In this way, you can judge for yourselves—at least initially—who it is that succeeds to the office of general counsel.

You often hear it said that America is no longer a land of opportunity. But I submit to you that America holds more promise for the individual today than any other land in the world.

You often hear it said that we have lost most of our freedoms. But I submit to you that we are the freest people who ever lived.

You often hear it said that the government is too big and too remote to be moved by the complaints of ordinary citizens. But I submit to you that we have the most open, responsive and compassionate government on earth.

You often hear it said that nothing can be done to change the system. But I submit to you that people are making changes in the system every day.

You often hear it said that America's most serious threat is from its foreign enemies. But I submit to you that it is not some foreign power but our own pessimism and indifference which are the greater threats to our survival.

Were we not always so preoccupied with our own problems, and did we but take the time to learn what is happening to other peoples in other nations, we would see these things more quickly.

But so beset are we by the scores of agencies, thousands of laws and millions of government officials that daily harass our lives that we never imagine how many people there are in the world right now who would give anything to be here in America today. And do you know why they want to come here?

Because, Ladies and Gentlemen, these people know that we still have some things, in spite of all our rules and regulations, which they do not and which they therefore realize are absolutely precious: enough food and money to feel full and enjoy a good living; freedom to worship or not as we see fit; freedom to say or think as we please; freedom from arbitrary arrest and torture; the right to assistance of counsel and a fair and public trial if we are accused of crime; and in the immortal words of the first amendment, the right to petition the government for a redress of grievances when we feel wronged.

For the past 30 years, for example, no one in all of China knew what was and what was not a crime. This was because China had no published criminal code and no lawyers. Now China does. And now everyone in China knows that expressing your own opinion is a crime for which you can be sentenced to 15 years in prison. The same is true in Russia, of course, where Nobel-prize winner Andrei Sakharov was summarily exiled from Moscow for protesting the invasion of Afghanistan.

The military rulers in El Salvador have just nationalized all the banks and farmland. They have also banned freedom of travel, freedom of the press, any right to privacy, and have given the police authority to arrest anyone without specifying the charges.

In South Korea, the average per capita income is $1500 a year.

Inflation is running at 100 percent in Turkey, unemployment is at 20 percent and the rate of growth is zero.

Poland also has one of the lowest productivity and industrial efficiency levels in Europe. Food shortages have sometimes caused rioting, and having religious beliefs subjects you to discrimination and persecution.

In Iran, 100s of people have been executed in the middle of the night for being "enemies of God" or "sowing corruption on earth."

Seven thousand people are sitting in the Peruvian embassy in Havana, hoping to escape from Cuba.

Nor are they any better off in places like Cambodia, Czechoslovakia, Ethiopia, Ecuador, Argentina, Pakistan. And even in countries most like our own—Britain and Israel for example—the problems with labor, taxes and the rate of inflation are far worse than ours.

Given this state of affairs, it is no wonder that the Wall Street Journal recently editorialized that "Throughout the world, civilization is receding before our eyes."

In a world such as this, it is no wonder that to others America is an earthly paradise, the promised land of the nations.

It is no wonder that others, aside from Merrill Lynch & Co., are bullish on America.

It is no wonder that abroad America is seen as the last bastion of capitalism, as a nation of political and economic stability, and still the best investment in the world.

By now you may be thinking, "That may all be true, but it is of no comfort to us." "Don't you know", you may ask, "how difficult it is to start a business today and keep it going?"

"Don't you know that inflation is approaching 20 percent right now? And don't you realize that our own government—open, democratic and decent as it may be—is largely to blame for our woes?"

Government paperwork alone costs us 13 billion dollars a year. One study estimates the total cost of all government regulation—not just paperwork—will be 100 billion dollars in 1980. And it also estimates that small businesses will have to pay 60 percent of that total.

Nor is this all: the impact of government regulation on small business goes beyond the millions of dollars and billions of hours spent on compliance. There are the indirect costs as well of postponing expansion, postponing investment, postponing new development, and living with the psychological burdens of the depression and frustration we all feel whenever we behold the whole mess.

At the same time, the number of people who work for the government continues to increase. There are 18,400 people working in Washington for the nation's 535 Senators and Representatives. The payroll for all these people is $550 million. There are 168 committees in the House of Representatives alone. Twenty-five thousand bills were introduced in Congress during 1977 and 1978, although only 2 percent of them actually passed, which still left us with 500 new laws.

Now many people—and I am sorry to say that there seem to be plenty of retail bakers among them—look at such statistics, damn the whole government as hopelessly stupid and evil, and simply turn away.

This is a cynical, pessimistic attitude which I for one will have no part of.

In the first place, I do not believe that our government is as stupid or diabolical as some say it is. After all, what we call "The Government" is only other people not unlike ourselves. And I do not believe that there is nothing we can do to make that government respond to our demands.

Each of us is the special handiwork of God. Each of us has a unique role to play in this world, and if we do not do our part, it simply won't get done. So it does matter whether we use the talents we were born with and how hard we work at our tasks. And it is this mentality, I humbly submit to you, that "Yes, we can!" and "Yes, we will!" which should characterize us as free citizens of a free country.

"It's important for business leaders—as you all are—to commit themselves personally to achieving an economic environment in which we all grow. . . . (W)e owe it to the system and those who come after us to pay something back", says Roland Bixler, President of a small company in Connecticut. And what Richard DeVos, President of Amway Corporation, once said bears repeating today:

"Whenever I attend a meeting of . . . one of the trade associations which represents our business, I am amused to listen to the conversation during the social hour or the remarks at a seminar or discussion program. There we sit wringing our hands about this government action or that regulation, not even realizing (or unwilling to admit) that most of our problems are of our own making. They are the result of our failure to nurture and support the system that provides our economic life."

"Government didn't take our freedom from us . . . we gave it away. Inaction by businessmen and women over decades has permitted the misguided champions of social equity to impose their philosophy on all of us."

History itself shows that individuals who have faith in themselves and in their causes can do. Our own revolutionary war was initiated by a handful of men; James Madison wrote the entire Constitution almost alone; and the amendments banning alcohol and giving women the right to vote resulted in each case from the work largely begun by a single woman.

In our own day, 77-year-old Howard Jarvis—virtually alone—led the movement that resulted in passage of Proposition 13 in California. David Keating, practically by himself, started the National Taxpayers Union, which has been instrumental in the drive for a constitutional convention. John Dolan and the National Conservative Political Action Committee raised 2 million dollars last year and another 2 million this year to defeat certain Senators whose positions they oppose. And the simple but determined "no" of a hardware store owner in Idaho caused the United States Supreme Court in 1978 to tell OSHA it had to get a warrant before it could inspect a man's business.

Right here in RBA, changes were made in food stamp regulations, special provisions were written into the Fair Labor Standards Act, retail bakers won classification as essential natural gas users, RBA was represented at the White House Conference on Small Business, retail bakers in Pennsylvania won a separate classification which reduced their workers' compensation costs, and the Connecticut bakers just beat back an attempt to tax bakery foods at 7 percent, all through the efforts of dedicated individual members.

To those whose only response to all of this is a disinterested "So what?", I have this reply to make: What would you have us do? What alternatives do you recommend?

Do we sit on our hands and let others speak for us?

Do we stand mute and let others have it all their own way in getting the rules they want?

Do we bow our heads in silence and let others who know little or nothing about running a retail bakery pass laws to put us out of business and kill our industry?

Perhaps a despairing cynic would answer yes to all these questions, but you can be sure that as long as I am with RBA, we will never answer "yes" to a single one of them! We will never give up the fight, regardless of how few troops join the battle!

For there is more at stake here, Ladies and Gentlemen, than just our survival as retail bakers or as a national association. Our participation in the political process is also necessary to insure that we remain a free people, that our government remains a true democracy and that America remains the last, best hope of mankind.

And so, in the words of that famous American philosopher William James, I invite you today to "Stop your snivelling, roll up your sleeves and get down to work like men!" The work will not always be easy; it will not always be rewarding or pay immediate dividends. And it will certainly not always be successful or permanent. But at least it will never be in vain!

A CALL FOR PATRIOTISM

Mr. MATHIAS. Mr. President, America's Independence Day, July 4, is customarily reserved for looking back and celebrating the glories of our past. I have a young constituent, Linda Allnock, a student at the Thomas Stone High School, in Waldorf, Md., who has marked Independence Day this year by looking instead to the future. She asks what she and her friends can do to improve our power to meet the challenges that are in store for us. Linda has written down and sent me her thoughtful conclusions on what she calls "Americanism," and I would like to share them with my colleagues as we approach Independence Day, 1980. I ask unanimous consent they be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Americanism

"Patriotism is easy to understand in America; it means looking out for yourself by looking out for your country."—Calvin Coolidge

How many Americans today are truly looking out for their country? How much pride and value do we actually feel in being a citizen of the United States?

Apparently Americanism is not widely practiced any more. Voting, the right struggled for in years past, has become a tedious ritual ignored by many (too busy) Americans. 40 percent of those eligible to vote do not vote.

Why? Perhaps there was dinner to prepare or T.V. to watch. Maybe there's shopping to do, or maybe a nap on the couch sounds tempting. In the majority of cases, it's just plain laziness or apathy that keeps a healthy normal American away from the polls.

Apathy is the root of our American evil. Since the Depression years, acts of caring between fellow Americans have steadily declined. In our good time society, we have no time to think of others' feelings or needs. Most would have no dealings with a public official they do not trust, when actually they should be working with him and others to improve our country. It takes caring, time, and involvement with others to raise our United States to the level our forefathers dreamed of.

As the youth of America, we must display the enthusiasm our country needs so desperately. We have to show our devotion to our freedom and our beliefs in small and large ways by voicing our opinions to each other and our leaders, by pledging our allegiance and observing our national anthem and flag, by getting involved in our government, not only through votes, but by running for political office and changing and reforming the subjects we constantly complain about.

All Americans need to support, believe in, and love their country in the face of Soviet threats and American danger overseas. But the most important part of America is its youth. Though now only in high school, we are the next decade's leaders. Let us face any threats to America together as loyal citizens instead of opinionated apathetic ideologues unwilling to even listen to each other. We are Americans, descendants of the first believers of freedom and democracy. The free spirit is there, we have to find it together.

FEDERAL PUBLIC TRANSPORTATION ACT—S. 2720

Mr. MATHIAS. Mr. President, on Wednesday, June 25, the Senate passed the Federal Public Transportation Act, S. 2720. An amendment to that legislation by my distinguished colleague from Nebraska (Mr. Zorinsky) provided a so-called local option to communities to decide in consultation with metropolitan planning organizations and local handicapped communities what mix of both accessible public transportation and/or specialized transportation services for the handicapped would be appropriate for that community.

I want to be clear about certain aspects of that amendment in its implementation. I would like to address four specific concerns:

First, the meaning of "no restrictions on the trip purpose."

Second, the meaning of a "reasonable waiting period."

Third, the meaning of "service throughout the recipient's normal service area."

Fourth, the impact on handicapped services should a penalty be imposed on a locality for noncompliance with its local option plan.

It is my interpretation of the local option amendment that "no restrictions on the trip purpose" would mean that handicapped persons would not be required to disclose the purpose of their trip to anyone associated with providing the transportation. Persons who are not handicapped do not have to disclose their trip purpose and certainly the same courtesy and respect for privacy should be required of those providing local option transportation services for the handicapped.

Secondly, I would suggest that a "reasonable waiting period" be interpreted to mean no more than two times the average frequency of transportation available to the general public within the same area. Thus, if bus service were available on the average of once an hour, then the waiting period for a handicapped person for the "local option" transportation service would be no longer than 2 hours. A waiting period longer than that would be deemed unreasonable.

Also, I would suggest that "service throughout the recipient's normal service area" be interpreted to mean that a handicapped person would be served with the same origin and destinations of trips within the area served as the general public.

Lastly, the "local option" amendment for handicapped transportation services contains a penalty provision if the locality fails to implement its own "local option" transportation plan. That penalty may, at the discretion of the Secretary of Transportation, be a withholding of up to 25 percent of section 3, 5, or 18 Federal funds available under S. 2720. I would hope my colleagues would agree that such a withholding of Federal funds should in no way result in a reduction of transportation services available to the handicapped. A reduction of handicapped transportation services would surely thwart the purpose which I believe my colleague from Nebraska was seeking to achieve in offering his amendment.

I ask unanimous consent to have printed in the Record the text of the amendment.

There being no objection, the material was ordered to be printed in the Record, as follows:

Mass Transportation To Meet Special Needs of Handicapped Persons

Sec. 12. Section 16 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection:

"(d) (1) Any State, any recipient of financial assistance under section 3, or any recipient designated to receive or dispense funds under section 5 of this Act may submit for approval by the Secretary a program, which has been approved by the metropolitan planning organization after considering and soliciting the views of the community of handicapped persons for whom such transportation shall be provided. The Secretary, with the concurrence of the Architectural and Transportation Barriers Compliance Board, may approve any program (including a program providing transportation of handicapped persons through facilities other than facilities used by the State or recipient to provide transportation to the general public) submitted under this subsection which the Secretary determines meets the requirements of this subsection and other applicable law.

"(2) The Secretary shall approve a program respecting transportation of handicapped persons under this subsection which—

"(A) provides that at least 5 per centum of all Federal funds apportioned under sections 3, 5, and 18 of this Act to the State or made available for expenditure by the recipient under section 3 or 5 of this Act for any fiscal year will be expended for the specific purpose of providing transportation for handicapped persons, except that the Secretary may reduce the percentage of such Federal funds below 5 per centum or waive such requirement if the Secretary determines that the program with such reduction or waiver will still comply with subparagraphs (B) and (C) of this paragraph;

"(B) provides that the State or recipient will provide transportation to handicapped persons in a manner which (i) will provide service no less beneficial for handicapped persons than that which would be required if such application had not been made, and (ii) will—

"(I) provide transportation services throughout the recipient's normal service area;

"(II) provide there will be no waiting lists for handicapped persons desiring to use the system;

"(III) provide for no prior registration or approval of handicapped persons who wish to utilize the service;

"(IV) provide for fare rates which are comparable to those of the transit system serving the general public;

"(V) provide for reasonable minimum waiting periods; and

"(VI) provide that there will be no restrictions as to the purpose of the trip as desired by the handicapped person; and

"(C)(i) provides, in the case of an urbanized area with a population of 50,000 to 750,000, that at least 50 per centum of the buses purchased are fully accessible to handicapped persons unless the Secretary determines that a different percentage is consistent with the area's program respecting transportation of handicapped persons; or

"(ii) provides, in the case of an urbanized area with a population in excess of 750,000, that 100 per centum of the buses purchased are fully accessible to handicapped persons unless the Secretary determines that a different percentage is consistent with the area's program respecting transportation of handicapped persons.

"(3) The Secretary shall approve a program respecting transportation of handicapped persons under this subsection only after soliciting and considering the views of handicapped persons for whom such transportation will be provided.

"(4) A State or recipient may amend a program approved under this section if (A) the Secretary, with the concurrence of the Architectural and Transportation Barriers Compliance Board, determines that the program, as amended, complies with this subsection, and (B) such amendment was approved by the metropolitan planning organization after soliciting and considering the views of the community of handicapped persons for whom the transportation is being provided.

"(5) Notwithstanding any other provision of law or any regulation, if a State or recipient has a program approved by the Secretary under this subsection, such State or recipient shall be deemed to satisfy the requirements of this section and any other provision of Federal law relating to discrimination against handicapped persons to the extent that such provision of law relates to transportation of handicapped persons, except that nothing in this paragraph shall allow discrimination in use of facilities or equipment by handicapped persons able to use such facilities or equipment.

"(6) Each State and recipient for which a program respecting transportation of handicapped persons is approved under this subsection shall annually certify to the Secretary that such State or recipient is complying with such program.

"(7)(A) If the Secretary determines, after notice and an opportunity for a hearing, that a State or recipient with an approved program respecting transportation of handicapped persons is not providing such transportation in accordance with its program, the Secretary shall issue an order requiring such State or recipient to comply with its program.

"(B) If, after the 90th day following the date of issuance of an order under subparagraph (A) of this paragraph, the Secretary determines, after notice and an opportunity for an agency hearing on the record, that the State or recipient is not providing transportation to handicapped persons in accordance with its approved program, the Secretary may withhold a portion not to exceed 25 per centum of Federal funds available to the State or to the recipient under section 3, 5, or 18 of this Act. If the Secretary later determines that the State or recipient is providing transportation to handicapped persons in accordance with such program, the Secretary may resume making available such Federal funds to the State or designated area.

"(8) This subsection does not apply to any new fixed rail system for the mass transportation of the general public which is constructed after January 1, 1970, nor to the major rehabilitation or extension of any fixed rail system in existence on December 31, 1969.

"(9) Assistance under this Act used to provide transportation for handicapped persons shall not be used in substitution for other Federal funds used to provide transportation for handicapped persons."

NATIONAL POW-MIA RECOGNITION DAY

Mr. MATHIAS. Mr. President, although the Vietnam war has become a distant memory for many Americans, the agony of the war continues to be felt by some. There are approximately 2,500 Americans unaccounted for in Vietnam, Laos, and Cambodia. The trauma of the Vietnam war cannot and will not be overcome until the fate of these men can be clearly established.

I have cosponsored a resolution designating July 18, 1980 as "National POW-MIA Recognition Day" in order to honor those Americans in all wars who have made special sacrifices in the defense of our Nation. On this day let us also remember the suffering of the families of these men. Mrs. Edna Hicks, the Maryland State Coordinator of the National League of Families of American Prisoners and Missing in Southeast Asia, summed up the feeling of the families:

> We who have lived these years in limbo well recognize the agony of the families of the hostages in Iran.

As we observe this day, let us remember all POW's, MIA's, and others unaccounted for, and let us commit ourselves to redoubling efforts to account for these men so that we can ease the uncertainty and suffering of their families.

QUORUM CALL

Mr. MATHIAS. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. LEVIN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TSONGAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BETRAYAL OF HOPE IN SOUTH AFRICA

Mr. TSONGAS. Mr. President, on the far tip of the African Continent, a critical country is in the throes of change. The world watches anxiously as the most explosive racial crisis in the world simmers and steams. In South Africa, Mr. President, history is on the march—double time. But who is in command? And to where will it all lead?

Mr. President, in South Africa, it is not easy to sort out the fundamental from the superficial, the policy from the posture, the commitment from the ploy. On the brink of disaster, South Africa and its people send forth contradictory signals and inconsistent impressions. I went there 6 months ago to see for myself where that tragically divided society was headed.

What I saw was hopeful and encouraging. I spoke with representatives of nearly all segments of South African society. Their judgment was consistent. They said that Prime Minister Botha represented the first real hope for change in 30 years. I was impressed with what I heard. I told the South African press that I was prepared to give the Prime Minister the benefit of the doubt. I promised to suspend my university divestiture campaign for 6 months. In 6 months, the Prime Minister would have enough time to demonstrate in what direction his policy was headed. I was hopeful then. Finally, perhaps South Africa would move toward racial reconciliation and the dismantling of apartheid by force of reason, not by force of arms.

I selected three issues to measure the progress of Prime Minister Botha's government over the 6-month-time period. Because so many dissidents in South Africa told me that they could not obtain passports, I decided to monitor the government's policy on passport revocation and denial. A Foreign Ministry spokesman told me that the government does not oppose a U.N. settlement in Namibia. Progress on that issue became my second measure of South Africa's intentions.

Finally, there was widespread expectation that the South African Parliament would pass legislation pulling down some of the minor pillars of apartheid, such as the Immorality Act and Mixed Marriages Act. Legislative action along these lines was my third measure.

Six months later, I am now in a position to report my findings to the Senate. The facts speak, unfortunately, for themselves.

PASSPORTS

As part of a general clampdown on critics and dissidents, the government has withheld and revoked passports. The most notable case is Bishop Desmond Tutu, whose passport was revoked in March. Bannings and detentions without trial have increased dramatically this year.

I add, parenthetically, that Bishop Tutu was given an honorary degree by Harvard University 2 years ago; and it is unfortunate that that university, which I represent, does not feel that divestiture is a policy it would like to undertake at this point.

NAMIBIA

After stalling for several months, South Africa replied to the latest U.N. proposal in ambiguous terms. Then the South African military launched a series of air strikes and ground assaults into Angola. The severity and duration of these attacks are unprecedented. They have dashed hopes for a peaceful settlement in Namibia.

They are referred to in the statement by Secretary General Waldheim in the newspapers this morning, condemning the South African incursion into Angola.

LEGISLATION

The Parliament has enacted no anti-apartheid legislation whatsoever. New restrictions on the press, however, have become law.

For reasons only Prime Minister Botha can explain, the government retreated from last year's rhetoric and resumed a hard line. To say that the government betrayed its promises is an understatement. The government has set out on a path of polarization and destruction. And South Africans will suffer.

At a time of rising expectations among blacks, coloreds, and Asians, the government has chosen to block change. Accommodations and negotiations are no longer discussed. Magnus Malan, the commander of South Africa's military forces, urges a strategy of "total war" against the "Communist onslaught." Military spending is up.

At the same time, the government places an eight-page ad in Time magazine, urging Americans to invest in South Africa. A government ad in the Economist tells us that South Africa is a reliable source of gold and strategic minerals. We are asked to remember the importance of the cape route.

I add, for those Members who are interested, that there is a rather large section in the Economist of last week on South Africa, which is probably the best analytic piece I have read on that country in a long time, considering that the magazine comes from a philosophic direction somewhat different from mine. I believe that analysis was accurate, and I commend it to my colleagues.

South Africa portrays itself as an island of prosperity and stability in a turbulent world. While the government entrenches discrimination and minority rule, we are asked to play along—as if that country was a placid democracy.

That sort of public relations flim-flam would be amusing if the stakes were not so high, if the crisis was not so acute. South Africa is convulsed by racial turmoil. In the past few months, the three engines of discontent—labor unrest, civil protest, and revolutionary violence—have reached new plateaus of activity.

I need not inform my colleagues in great detail about events which have made headline news here. On the labor front, a rash of strikes has broken a period of industrial peace. Starting with the Ford plant in Port Elizabeth and spreading to other industrial centers, labor disputes have rocked South Africa's economy since last December.

Civil protest is so extensive, it is difficult to summarize: Nonwhite student boycotts of classes in which over 30 mixed-race students were killed by police; a march by prominent clerics in protest of government policies; rallies and meetings to commemorate those who died in the Soweto uprising in 1976. All these protests met harsh and at times brutal treatment from the South African police.

Lastly, the ominous stirrings of a viable revolutionary movement are plainly visible. South Africa is not an easy target for rebel tactics, but in the last few months, black guerrillas have attacked police stations, occupied a bank in the capital city, and attacked two strategic industrial sites—the Sasol coal-to-oil conversion plants. At last report, none of the guerrillas had been captured.

I have stood here before and lectured my colleagues on the imminence of black unrest in South Africa. I have warned that South Africa is inherently unstable under present government policies. I have beseeched my colleagues to open their eyes to this serious threat to our security interests.

My colleagues may be listening, but the administration clearly is not—pallid words of concern were all the State Department could muster in response to the deaths of over 30 students at the hands of the police. A vote of abstention in the U.N. was our brave response to the invasion of Angola by South African troops.

I read this weekend that Secretary of State Ed Muskie is uncomfortable with Foggy Bottom clichés. I applaud his directness on the issue of Thailand's security. I would like to see him apply his considerable talent and candor to southern Africa. It is high time that our Africa policy spoke unambiguously on the subject of apartheid.

But let us face the cruel political facts. South Africa lobbies and propagandizes very effectively in the United States. Chaotic turbulence in the Middle East has left most Americans leery of disturbing existing regimes, no matter how deeply they offend our values and beliefs. The Soviet invasion of Afghanistan has cast nearly every foreign policy issue in East/West terms. The hostage crisis has put the country into an isolationist mood. So the political deck is stacked. Pretoria is the beneficiary of a political windfall. No one wants to hear that South Africa is edging toward the brink. So when a liberal stands up in the Senate and attacks apartheid, it is a lonely exercise.

But, I am here to tell my discerning colleagues, and I will tell them again and again, that the apartheid crisis is not going to disappear. It is going to get worse. It is going to involve the United States directly because our interests are at stake. For some, the question is purely moral, and I can understand that. But for the U.S. Senate, there can be no flinching from the cold calculation of our security interests.

In the case of South Africa, we have not done that. Instead, we have indulged ourselves with a lot of wishful thinking. We all acknowledge that apartheid is an abhorrent political doctrine, but all too many of us believe that gradual, evolutionary change will alter the system painlessly and quietly. The slick assurances of South African spokesmen tell us not to worry. They urge us to invest in their country. They say that prosperity will break down apartheid. Such platitudes sound good on the surface, but 20 years of unprecedented economic growth in South Africa went hand-in-hand with harsher race laws. The public relations man says one thing, the facts say quite another.

All of this would not matter much if South Africa's people accepted their lot. But they do not. Look at the last few months. Who is responsible for the unrest?

The wretched victims of South Africa's resettlement policies, crowded in the remote bantustans? No. The impoverished blacks working on white-owned farms? No. The migrant workers separated from their families and living in barracks? No. The urban blacks corralled in townships with rife unemployment? No. None of those groups are responsible for the present unrest in South Africa. They are at the bottom of the heap—they endure the full weight of apartheid's burden. But they have been silent this year.

Then who is it? Who are these malcontents losing their jobs, their homes, their lives? They are, for one, the coloreds, those who by virtue of their mixed race heritage are just once removed from white society and who are first in line for what is left. They are in the second case, the elite black labor force who work in the modern auto factories and other industrial plants where working conditions are the best in the country for nonwhites. They are, third, black and colored clerics, established men of the church, who are in the forefront of civil protest. These are not the most heavily oppressed, these are the most-favored-rebels, apartheid's select few who scratch the most from that rigid system.

What does this mean? If the black and colored elite are risking all they have gained to confront the apartheid regime, what is happening at the bottom of the pyramid? What stage of desperation have the masses of black people reached as government promises turned to dust? If the relative elites are outraged, what is the common man thinking? How long will police repression keep him in line?

Four years ago, the Soweto uprising

gave us an idea of black frustration and anger. Those feelings have since filtered up. Now there are practically no moderates left in the system. There are more and more rebels and fewer conciliators. This is called political polarization, and it means big trouble for South Africa.

Unlike South Africa, America is the land of compromise. We negotiate our differences here. We do not have South Africa's problems or their approach. It is sometimes hard for us to understand why people of color have become so embittered in that country. Why not put ourselves in their situation?

Would we be content with no political rights of any kind?

Would we accept government control over where we travel and where we live?

Would we endure the humiliation of pervasive discrimination?

Would we be willing to work at only the lowest paid jobs in the economy?

Would we sit quietly while a small racial minority reaped the rewards of our country's mineral bonanza?

Would we put up with all of this when our neighbors in Zimbabwe had just triumphed over minority rule?

I think not. I think that most of my colleagues would have abandoned peaceful petitions and letters of protest long ago. They would be somewhere in the Soviet Union, I venture to say, learning how to handle a Kalashnikov.

I am convinced of that. Very few of us would swallow what apartheid dishes out. But, somehow we cannot see Africans doing what we, in their shoes, would have done long ago. When we hear of guerillas being trained in East Germany and the Soviet Union, we are outraged by Soviet meddling. We blame the anger and unrest on Communist subversion, as if there was no real problem in South Africa, only outside agitation. That kind of tunnel vision will take us straight to a foreign policy disaster in South Africa.

As we fearfully reject the opponents of apartheid, the Soviets embrace them. As we search for Communits, the Soviets court the nationalists. As we cuddle up to Pretoria, the Soviets champion majority rule.

Where will that logic take us, I ask? Where would it take you if you lived in Soweto?

We have a clear choice. We can play along with Pretoria or we can get tough

I favor the latter. We should adopt a step-by-step program of political, social, and economic sanctions. If the South African Government makes a measurable attempt to dismantle apartheid, we should reverse the process and dismantle our sanctions, step-by-step. We must remain flexible and ready to encourage any positive developments.

I will resume my active support of the university divestiture campaign. It is a moderate first step. I deeply hope that it is the last step I will have to take.

The goal is peaceful change. The means is outside pressure to encourage it. The alternative is a gathering storm of violence, poltical chaos, and economic collapse. Pretoria must move aggressively and creatively to accommodate the liberationist tide. If not, South Africa will be overwhelmed by it.

Mr. President, I hope that the recent events in South Africa will remind us that the demand for change is real. It is not only among the blacks; it is among the coloreds, who are in a preferable situation. At some point, this Senate and this Government and this country is going to have to face up to doing something for that country, which is so besieged by unhappy events.

HARPERS FERRY HISTORICAL PARK PROVIDES OPPORTUNITIES TO VISIT WITH THE PAST

Mr. RANDOLPH. Mr. President, Harpers Ferry, a beautiful area in West Virginia, where our State begins, at the confluence of the Shenandoah and Potomac Rivers, is an area of tremendous beauty.

In 1781, Thomas Jefferson, who later became our third President, wrote of the majesty and grandeur of the scenery at Harpers Ferry. His words were:

> The passage of the Potomac through the Blue Ridge is, perhaps, one of the most stupendous scenes in nature, and worthy of a trip across the Atlantic.

That view that Jefferson saw is little changed today, and is available to all from a point high above the rivers, rightfully named Jefferson's Rock. And it is just 1 hour and 15 minutes away from this spot by automobile—observing the 55-mile-per-hour speed limit, of course.

In 1796 President George Washington asked the Congress for an armory and arsenal to be built at the confluence of the Potomac and Shenandoah Rivers. In the following year, construction was started at what is now Harpers Ferry, W. Va. In 1859, the bloody raid on the arsenal by abolitionist John Brown precipitated a series of events which led to the War Between the States.

Today, the continuing drama of historic happenings of early America is captured in time within the Harpers Ferry National Historical Park. Almost 1 million visitors from around the world are expected to visit the park this year. They will walk cobblestone streets, tour 150-year-old houses, and browse through stores and craft shops carefully restored to their original appearance.

I was privileged in 1946 to author the legislation which created this park, which has now grown into tremendously important proportions. At its Mather Training Center, we train Park Service people to serve in the national parks throughout the country.

Since its opening in 1948, Harpers Ferry Historical National Park has attracted increasing numbers of visitors from the Washington and Baltimore area. In the year of our Nation's Bicentennial celebration, the total of visitors topped the million mark. Over the past 4 years, attendance has averaged 750,000 annually, a drop from 1976.

Park officials feel the decrease is due to the recurrent gas crises, growing inflation, and restricted vacation plans. This year, the proximity of Harpers Ferry to the major metropolitan areas of the East has created a visitors' boom which promises to set new attendance records. Already park visitors are running approximately 35 percent ahead of last year.

Official figures on park attendance are understated, since only those visitors who actually register are counted. Since the park is only a half-a-tank of gas away from the Washington-Baltimore area, many people drive over for the day without recording their presence.

For example, in May of last year, there were 48,568 visitors who registered. This past May, that figure had more than doubled to 106,186. Park officials feel the peak tourist time is in the early fall, when more than 25,000 visitors come to Harpers Ferry to admire the spectacular views and fall colors.

Mr. President, an article by S. Preston Smith of the National Park Service, describes the on-going restoration work and the historical attractions of Harpers Ferry Historical National Park. It relates the efforts being made to accommodate the growing number of visitors and to provide them with comfort and entertainment. It is a genuine educational experience to visit the park, to travel back in time to see, however briefly, the way it was in the 19th century.

I ask unanimous consent that Mr. Smith's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HARPERS FERRY PARK SHORTENS DISTANCE TO AUTHENTICITY

(By Preston Smith)

HARPERS FERRY, W. VA.—Sometime in the near future the visitor will, in essence, enter a "time capsule" at Harpers Ferry National Historical Park, with an environment so complete that history will become a participatory experience.

The total park environment started to crystallize on July 16, 1979, when Donald W. Campbell, a 13-year employee of the National Park Service, assumed command as the new permanent Superintendent of the Harpers Ferry Park. There had been eight acting superintendents appointed to head the park during the previous two years.

As part of the on-going restoration work at Harpers Ferry Park, archeologists of the Park Service completed excavations early this year in search of the original 19th Century locations and composition of Shenandoah and High Streets. The reconstructed road surface was completed before the summer season started this year, and the large influx of park visitors arrived.

The road surface is constructed of concrete because of modern, heavy use of the area, but simulate the original road material and include the cobblestone gutters and shale sidewalks. Signs of modern utilities such as man-holes are hidden beneath covers made of the same street material.

The extensive historic building restoration program in the lower town area of the park, that has been going on for several years, is nearly complete. The John Brown Fort was restored last year.

It is anticipated that the interiors of the buildings located on the West side of Shenandoah Street between High and Potomac Streets are to be finished by the summer season of next year. The exteriors of this entire block of buildings are now restored. The park bookstore is to be moved into the Stephenson Building, built in 1848, at an early date as both exterior and interior restoration has now been completed.

Restoration also is continuing on historic Stagecoach Inn (former Park Visitor Center) as this 153-year-old structure suffered severe damage by fire caused by an electrical short. The Park's Visitor Center was moved, and continues to be located across the street from the fire-damaged building in the Master Armorer's House.

It was March 1978, that a group of Harpers Ferry area resident, who commute regularly by train to jobs around metropolitan Washington, proposed—"bring the people to the Harpers Ferry Park by rail." The proposal was drafted and sent to Senators JENNINGS RANDOLPH and ROBERT BYRD, and Congressman HARLEY STAGGERS. In June of the same year, Bradley D. Nash and Terry Flaherty, both of whom were members of the West Virginia Railroad Maintenance Authority, supported the measure. On Saturday, July 15, 1978, an article in the Washington Post had a heading "Amtrak as a Transportation Bargain."

Back in August 1978, an extra attraction was added for weekend passengers on the Blue Ridge Excursion Train, Amtrak's run between Washington, D.C., and Harpers Ferry.

Uniformed guides from the National Park Service started riding the Blue Ridge on both Saturdays and Sundays through the fall. They distributed brochures and answered questions about Harpers Ferry National Historical Park and other historic spots along the route.

The Amtrak Excursion Trains continue, but the National Park Service has discontinued providing their helpful uniformed interpreters to the train-riding park visitor. Each Amtrak brings about 225 visitors to Harpers Ferry.

This season the park's "Season Activity" program includes seven conducted tours that start at 10:00 a.m. daily every hour on the hour; talks and demonstrations presented daily, and the self-guiding walking tour of the historical town. Hiking trails and special events are offered free of charge, as are all activities provided by the National Park Service.

The moods of Harpers Ferry change with the seasons; it is a pleasure to visit Harpers Ferry National Historical Park during any of the four seasons. The first weekend in December will mark the traditional Olde Tyme Christmas weekend at Harpers Ferry.

Charles "Chuck" Dennis, from Martinsburg, West Virginia, is the first blind park interpreter at Harpers Ferry, possibly in the nation, and he is working to make it easier for other handicapped people to enjoy their national parks. Dennis reported on duty at the park nearly four years ago.

As an interpreter, Dennis spends most of his time behind the information desk in the Visitor Center passing out maps and park activity folders as well as conducting the John Brown Tour once each day. "Being able to help the public on a daily basis, helping them with information, leading a tour or just cheering them up a little, that's what I was looking for in life—and I found it," Dennis said.

Alcohol and driving don't mix—that is unless the alcohol is in the gas tank and the vehicle gets 40 miles per gallon. It seemed appropriate that this mountain state would be granted the first "moonshine" fueled vehicle. At Harpers Ferry Park, this occurred on Friday, June 13th, and just after the park, on Wednesday, May 21st, had switched its entire fleet of motor vehicles and other motorized equipment completely to gasohol.

The park's early introduction to the subject of gasohol was assisted by Ms. Rosemarie Sanders of Senator Randolph's office who put park officials in touch with Michael Evans, legislative affairs officer, U.S. Department of Energy.

Harpers Ferry National Historical Park, through this one particular effort, will reduce dependency on oil by 2,400 gallons for this year alone—and that fights inflation. Although this is a drop in the bucket, Park Superintendent Campbell hopes Harpers Ferry's example will be multiplied by other parks, agencies and the public to reduce petroleum consumption.

We are hopeful that support for this program will lead to the experimental use of methyl-alcohol, which is produced from native coal and natural gas found in West Virginia.

You can come by train or round trip by car on a ½ tank of gasoline from Washington, D.C., to experience the "time capsule," now nearly completed, at your National Park in Harpers Ferry.

The Shakespeare Summer Festival will be continued this year July 29th and 30th, with the production of "Mid Summer Night Dream" at Harpers Ferry National Historical Park.

All performances are free and opened to the general public. All persons desiring to are encouraged to bring their own chair or blanket as only a limited number (50) of chairs can be provided.

The Shakespeare Summer Festival, in its twentieth season of free professional theater, is made possible by a grant from the National Park Service.

The festival was founded in 1961 by Ellie Chamberlain, and is Washington's oldest free professional theater.

SENATOR FORD'S ADDRESS TO THE NATIONAL COAL ASSOCIATION

Mr. RANDOLPH. Mr. President, today, the able Senator from Kentucky (Mr. FORD) commented on the remarks of our very energetic and effective majority leader, Mr. ROBERT C. BYRD, and said that Senator BYRD and I had spoken at the National Coal Association's leadership breakfast on the morning of Monday, June 30.

Senators should take note of the fact that Senator FORD is a "crusader" for our coal resource. As chairman of the Senate Coal Caucus and a member of the Energy and Natural Resources Committee, he has worked effectively to see that the Energy Security Act and the oil backout bill received favorable committee and Senate action.

Through his efforts the cooperation of others, we are approaching a new age, a new era for coal.

I ask unanimous consent that Senator FORD's address to the 63d annual National Coal Association meeting be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR WENDELL FORD

Let me start by thanking you for the opportunity to join you today.

As you know, coal is something about which I feel very strongly, not only because I represent the nation's largest coal-producing state, but also because I am convinced that this country will never bring inflation under control until we stop sending $90 billian a year overseas to purchase imported energy.

It's frustrating for me to hear the continued cries in Washington about how the United States must find alternatives to foreign energy, then go back to my state every weekend and face the stark reality of empty mines, unemployed workers, and hundreds of thousands of tons of coal stockpiled on the ground, begging to be burned.

It hurts—and it hurts deeply—because from the time I was Governor of Kentucky I've tried to use every available resource at my disposal to bring an end to the boom-and-bust cycles that have plagued the coal industry over the years, and to bring stability to an industry that can provide security to a nation in dire need of help.

I'm proud of what Kentucky has done to find ways to increase the use of coal. Kentucky has become a national leader in seeking out new ways to use coal. The research laboratory that we have in Lexington is second to none anywhere. We've kept it working around the clock, and we've put millions of state dollars into proving that there are a multitude of ways coal can be used to meet America's energy needs.

For years, we have tried to convince the Federal government to follow our lead, but until lately, our recommendations have fallen on less-than-receptive ears.

Everybody in Washington is concerned about the rising cost of energy. Everybody is concerned about the excessive dependence on foreign sources of fuel. Everybody knows that something has to be done—but until lately no one has been willing to lay it on the line and say that some hard decisions will have to be made—and soon—if this country is to make maximum use of those resources with which we have been blessed.

Contrary to what some people want to believe, those decisions will not sacrifice the future environmental quality of our land. If anything, any tradeoffs that will have to be made represent more than a fair exchange for the continued security of this nation.

I know what needs to be done—and so do you. But I didn't come here today to talk about the frustrations of the past and what could and might have been.

You've heard that song many times before—and I'm sure you'll be hearing it again.

I'd like, instead, to use this time to make a few observations about where I think we've been and where I hope we're going in the years ahead.

I'm afraid that out of necessity I'm forced to look at the Federal government's response to issues facing the coal industry from a different position than most of you. You're on the outside looking in; I'm on the inside looking out.

That means no matter what I think or how strongly I feel about a particular issue or cause, I'm still just one voice out of 100 in the Senate.

What I'm trying to say is that even though you and I might be in total agreement on what needs to be done to put this nation on the road to energy independence, mine is just one of many diverse views and philosophies to be considered.

Now I know that many of you are disappointed that Congress hasn't moved more assertively and more quickly in promoting the direct use of coal as one sure way to reduce this nation's consumption of foreign oil.

After all, there is no supply shortage in coal. We have a demand shortage. Some 20,000 miners are unemployed and over 100 million tons a year of production capacity are not being used. It's time we put that unused capacity to work, with no ifs, ands, or buts about it.

I understand where you're coming from—it's the same direction as mine.

As far as I'm concerned, and I think the record will back me up—the 96th Congress will go down as doing more to promote the use of coal than any other in history.

Now I'm not saying that what we did is enough, because it isn't, but we still are better off than we were at the start.

We've passed legislation establishing a $22 billion program to encourage synthetic fuels production and use—a program that will stress the development of synthetic liquids and gas from coal.

We passed a bill to establish an Energy Mobilization Board to eliminate the red tape that has so often delayed and blocked vital energy development—and I hope that we will be able to quickly resolve the differences that led the House on Friday to recommit the conference report.

We enacted the Windfall Profits Tax to help fund the transition from an oil-based economy to a more diversified base.

In less than four hours from now, President Carter will sign the synfuels bill, and when he does, this nation will at last be on the road to declaring its energy independence once and for all.

The pieces of an energy strategy are finally starting to fall in place, and not a moment too soon, because never before has this nation been more vulnerable to the threat of foreign blackmail and foreign intimidation.

Our country is like an iron lung—and OPEC has its hand on the plug.

By no stretch of the imagination can we even begin to think of resting our laurels on what has been accomplished. Much, much more remains to be done and at the top of the list is enacting into law the bill that passed the Senate last week to require 80 oil-burning powerplants to convert to coal.

Of all the various Congressional initiatives for increasing domestic coal demand, this bill is the only measure that will have a near-term impact.

It will increase coal use by 25–30 million tons annually by 1985 and it will also decrease our dependence on oil imports by an estimated 250,000 to 300,000 barrels a day.

Despite the fact that this bill is not everything we had tried for, it still is a significant piece of legislation. It is of vital importance—not just for your industry, but for the nation as well—that this bill be on the President's desk by October 1.

I'm just as disappointed as you are that this bill does not accomplish everything that was in the original legislation I proposed. But the fact of the matter is that we're simply not going to accomplish everything you or I want.

It's going to come slowly, piece by piece, before everything fits together, and while we might prefer it another way, that's just not the way it is.

I know we're on the right track. I know that if this nation is to make it through the short and mid-term future that coal will have to be the bridge that gets us there.

It is more than a coincidence that, last week, the leaders of the industrialized Democracies met in Venice to address the same energy dependence and national security issues which are facing our country today. In the field of energy, the leaders concentrated on the need to substitute coal for oil, a need that was highlighted in the recent World Coal Study.

Those countries are concentrating on the increased use of U.S. coal in Western Europe, Japan, and the developing nations. They are concentrating on the requirement for this country to improve its coal transportation system, its seaport facilities, its ability to ship coal.

It would be an ironic failure in leadership and self-interest if the United States did not take firm steps to substitute domestic coal for foreign oil.

The other nations of the Western World have recognized the potential of coal, and foreign steam coal exports from this country continue to boom. Steam coal shipments for 1980 soared past the 5.5 million ton mark in April, with met coal orders rising 80 percent above March levels to just under 1.9 million tons.

The nations at the Venice Summit declared their intent to double coal production and use by early 1990.

The technical director of the World Coal Study has been quoted as saying that within a decade expanded coal production, chiefly in the United States, will make possible a 25 percent cut in Western dependence on oil. This would mean a saving of $50 billion a year at current prices and a cut of 6 million barrels a day in OPEC imports—enough to replace the total oil shipments from Libya, Iraq, Algeria and Iran by 1990.

Somehow other nations are seeing the light. The U.S. had better soon come to grips with that reality or literally be left out in the cold.

This nation has more than 260 billion tons of recoverable coal reserves—32 percent of the coal in the world.

It's not doing anybody any good lying there under the ground.

If this country doesn't want to use coal to our benefit, then let's sell it elsewhere. If Canada, Japan, France, Spain or anybody wants our coal, then let's sell it to them.

Every ton of coal we sell to somebody else will be less oil that the OPEC cartel can use as a lever over the Western World's economy.

Certainly, I'd much prefer to see that coal stay here to bail this country out of our energy problems. But every ton of coal we export helps reduce our trade deficit abroad—and when we're sending $90 billion overseas for oil alone, we need all the help we can get.

Next to continuing efforts to increase the direct use of coal at home, the most important priority the next Congress must address—at least as far as coal is concerned—is improving this country's ability to export more coal overseas.

The U.S. can become the Saudi Arabia of coal—and I want you to know I was using that term back in 1972, long before it became a favorite part of many others' vocabulary. I believed it then—and I still believe it!

There is one final point that needs to be made. You may not want to hear it, but it needs to be said.

The single most obvious reason why it has taken this country so long to come to agreement on a national energy strategy is that energy has been, without question, the most divisive issue to face the Congress since I've been there.

Every time the subject came up, we had the producing states on one side, the consuming states on the other. We had local and regional interests so preoccupied with their own interests and needs, that very little regard was given to the overall picture.

Now there is nothing wrong with diverse views, free and open debate, or defending one's particular viewpoint. But when that parochialism begins to obscure solutions and answers, then it must be set aside for the national good.

For once we are beginning to see that happen, and the various elements, the best ideas, the most promising technologies that can make maximum use of this country's own energy resources are being fashioned together in a cohesive approach to gradually wean America from its dependence on energy imports.

Coal has certainly received a good part of the action, and one major factor, I think, has been the involvement of the Senate's Coal Caucus and the Congressional Coal Group. For the first time ever, the coal-state Senators, despite differences we might have, are coming together to speak in a unified voice on behalf of coal. Certainly there are times when we cannot all agree. But when that happens, we try to let the consensus of the majority prevail.

Since the creation of the caucus on May 3, 1979, we have been able to demonstrate the impact of 28 Senators working together for the same cause. We still are far from a major force, but when we speak with one voice, we can be a force to be reckoned with.

This ability to shape a consensus, this ability to speak with a unified voice, is something that must come to pass in your industry, too, if the full potential of coal is to be realized.

We can't have you against us on Monday, then with us on Friday.

We can't have it either all your way or not at all.

There comes a time when you have to separate utopia from reality and go with the best you can do.

There is something I've learned the hard way about the legislative process—you need to know it, too. There are no victories in Washington—only varying degrees of defeat.

Think about those words a moment. They make a lot of sense.

Maybe I'm from a different school of thought than you—after all, I'm from Kentucky, the state that produced the man known as the Great Compromiser, Henry Clay.

Since I've been in the Senate, I've learned that compromise is not necessarily a bad deal—and that if you stick with this approach long enough and far enough, you might even come close to scoring a few victories along the way.

I say all this to you as friends, and, because we're friends, I hope we can be open and candid with one another. I think we've come a long way together and that we will be able to accomplish much more—if we work together and not apart.

Let me close by saying you can continue to count on me to push for a greater use of coal. I know that what we are trying to do is not just for the good of my state and your industry, but for the good of a country whose independence and security we must guarantee for those generations that will follow.

BUILDING AN ENERGY POLICY

Mr. ROBERT C. BYRD. Mr. President, during the 96th Congress, the Senate has enacted four pieces of energy legislation of vital importance to our Nation's future: The windfall profit tax, the Energy Security Act, the Energy Mobilization Board and the utility coal conversion bill. With this legislation, the foundation for America's energy independence has been laid. We are set on the right course—a course that will lead us to reliance on our own plentiful domestic energy resources. We are set on a course which will insure our economic and national security. We are set on a course of leadership, industry and ingenuity which should serve as the example for the oil-consuming nations as we move toward a new energy era.

We can best know where we are by seeing how far we have come. Just a year ago, the country was gripped with panic over the shortage of gasoline and skyrocketing energy prices. Americans sat for hours in gasoline lines. Fuel shortages precipitated by the cutoff of Iranian oil supplies threatened a severe economic slowdown. The oil-consuming nations grabbed for every drop of oil available on the international market, sending prices soaring—to the delight of OPEC. Political instability in the oil producing Persian Gulf region gave warning of future, and even more serious, supply interruptions. But worst of all, Americans were set against each other—region by region—as we struggled to come up with solutions to the crisis.

Despite the clear emergency which we faced, we were not prepared to make use of our own energy resources. Unrealistic pricing policies kept domestic oil in the ground. A tangle of bureaucratic regulations prevented construction of critical energy projects, such as new refineries or coal burning powerplants. Lack of foresight had blocked the development of alternate energy resources which could substitute for imported oil. We seemed paralyzed by inaction.

But there were leaders in the White House and in the Congress who possessed the vision and ingenuity that was so needed. The distinguished chairman of the Senate Energy Committee (Mr. Jackson) introduced omnibus energy production legislation which sought to harness all of our available energy resources. The distinguished Congressman from Pennsylvania (Mr. Moorhead) and the distinguished House majority leader (Mr. Wright) moved to make synthetic fuel production a reality. President Carter took the courageous step to decontrol oil prices and sent to Congress a far-sighted plan to control oil imports, increase American energy production, and ease the hardship which soaring energy prices visited upon those least able to afford it. As these pieces came together, so did the Nation. Americans have come to understand the immediacy of the crisis and supported these efforts to construct a new energy future.

The creation of an Energy Mobilization Board has been an especially difficult issue. Untangling the web of overlapping and duplicative regulations which has prevented the fullest use of our own energy potential was viewed by some as a direct attack on the environmental achievements of the past decade. But this need not be the case. The agreement worked out in conference creates a "fast-track" process for priority energy projects while preserving environmental laws. In those instances where the waiver of legal or regulatory constraints may be in order, procedural safeguards are provided to insure congressional oversight.

The energy agenda has been a bipartisan achievement. Both sides of the aisle have worked together effectively to enact energy legislation which is in the best interest of the American people. This is not the time to inject election year politics into the debate on energy policy. The Energy Mobilization Board is the key which unlocks the door to America's energy potential. The panoply of programs we have enacted to stimulate the production of synthetic fuels, domestic oil and gas production and the greater use of coal will be for naught if the construction of these facilities gets tangled up in bureaucratic redtape. The promise of the Energy Security Act will never be realized if the Energy Mobilization Board is not enacted.

The conference report to which the conferees agreed gives broad powers to the Energy Mobilization Board, to be established within the Executive Office of the President. The Board would have the power to designate priority energy projects which are deemed to be in the national interest. The first test for any project being considered for designation as a priority is whether the project would reduce the Nation's dependence on imported oil. This is the right test if we are to break the grip of OPEC.

The Board would have the authority to order deadlines for Federal, State, and local agency decisions on priority projects and to require preparation of a single environmental impact statement. The Board would be authorized to suspend the application of any Federal, State, or local law enacted after work on a priority energy project has begun. It may also recommend the suspension of any Federal law which presents a substantial impediment to the completion of a priority project. This override of Federal law can only be done with the consent of the President and the Congress. These are necessary and important tools if we are to achieve our goal of energy independence.

I urge the Senate and House conferees to return to the conference table in the best spirit of bipartisan cooperation. This is critical legislation and an acceptable compromise should be achieved soon.

This legislative record is testimony to the leadership in the Congress and in the White House. It is a clear demonstration of what can be done if we work together. There is very little that we cannot accomplish if we continue to stand fast. These programs are building blocks to a new energy future. The house that we construct should serve notice to OPEC that we can and will become energy self sufficient. It should also be a model to our allies for future initiatives to insure our joint energy security.

From the beginning, America has been a nation of change. We are no strangers to new challenges and the opportunities of new circumstances. The transition from an oil-dependent economy to an energy diversified economy is no more insurmountable a challenge than others we have faced successfully in the past. But it will take work, money, and sacrifice. It will call for the best that American ingenuity and technology can offer. But in the end we will be more secure, more independent and more confident in our Nation's future.

GUYANA, THE WORLD BANK, AND THE INTERNATIONAL MONETARY FUND

Mr. JAVITS. Mr. President, as many of my colleagues are aware, successive pieces of legislation providing for U.S. contributions to the World Bank, the regional development banks, and the International Monetary Fund (IMF) have faced strong opposition in the Congress. During recent debates, vociferous critics of our participation in these institutions have pointed to the financial support that these institutions have given to Communist countries and countries which violate human rights or engage in practices or policies of which they disapprove.

We do not often hear on the floor of the Senate about the success stories of countries which, with the help of these international institutions, begin to undertake policies consonant with our own. One such country, which is the subject of an editorial in today's Washington Post, is Guyana. Prime Minister Forbes Burnham has decided to stake the future economic development of his country on cooperation with the West and appears to have become disillusioned with the Soviet and Cuban economic assistance, which he expected but never received. Guyana, with World Bank assistance, is constructing a multibillion dollar hydroelectric complex that will allow it to cut its dependence on imported oil and convert its bauxite into aluminum. Such a project would help Guyana's balance of payments by not only reducing Guyana's dependence on oil imports but also by providing it with a manufactured product that, with its added value, will increase Guyana's exports on the world market.

The IMF also had an important role in Guyana. Before the World Bank would go ahead with its project financing, it insisted that Guyana work out a stabilization agreement with the IMF. Such a stabilization agreement involved changes in Guyana's macroeconomic policies and entailed significant sacrifices from its people. While no one can guarantee the successful completion of the project, Guyana's willingness to develop a closer economic working relationship with the World Bank and the IMF is an important element in the evolving political shift of the Burnham government toward the West. These positive developments in Guyana are especially gratifying because they occur in an area of the world, the Caribbean, in which the United States has a special interest in insuring such success stories.

Without World Bank and IMF involvement, which supplied both technical and financial assistance, Prime Minister Burnham might not have been able to consider undertaking such a significant step. It is important that my colleagues both in the Senate and especially in the other body be made aware of the important contributions that the World Bank and the IMF make to achieve the type of world that we want to live in.

Mr. President, I commend the editorial to my colleagues and ask unanimous consent that it be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Good News in the Caribbean

Something has happened in the Caribbean basin that, had it gone the other way, would have brought the Senate to its feet to decry the latest surge of the Red Tide. Guyana, a small struggling English-speaking country on South America's northern shore, has quietly decided to take what the experts have long regarded as the single most important step open to it to advance its development.

The step involves constructing, with World Bank assistance, a multibillion-dollar hydroelectric complex that will allow Guyana to cut its dependence on imported oil and convert its ample bauxite reserves into exportable aluminum. Before the bank would go along however, it had to be assured that Guyana would pursue the policies capable of satisfying would-be international creditors. This is the significance of the new agreement Prime Minister Forbes Burnham is making with the International Monetary Fund, which, in return for substantial sacrifices on Guyana's part, is offering credits and, in the process, certifying Guyana for the big investments (public and private) that the Upper Mazaruni project will require.

Assuming that the project turns out reasonably well, its potential economic impact in Guyana is hard to exaggerate. But there is also an immediate political impact extending across the whole Caribbean. Mr. Burnham had gone far in recent years to identify his country with Cuba's economic and foreign policy designs. For his pains, however, he did not get the substantial Soviet and Cuban economic assistance he sought. On the contrary, he got next to nothing. He came to believe that Moscow was funding a damaging sugar strike conducted by his political opposition; later there were suggestions of Soviet weapons smuggling. Cuba, he found, cheated on a fisheries agreement. And so on.

Meanwhile, Mr. Burnham could see Jamaica, whose current government seems entranced by the Cuban way, sinking into an economic swamp and suffering alarming political polarization. All this is evidently what led him to try to ensure his country's future—and, not to put too fine a point on it, his future—by turning clearly to the Western way.

Much could still go wrong: it always can. It seems safe to say, however, that the good guys have won one in a region where it was important to win one. Though the United States stands to benefit, it is not, strictly speaking, an American triumph. As only they could, the International Monetary Fund and the World Bank have provided the critical leverage and incentive. In fact, all those who want to see development forwarded in a democratic context now have an interest in seeing that Guyana makes it.

RECESS UNTIL 3:15 P.M.

The PRESIDING OFFICER (Mr. TSONGAS). If there are no further requests for time, the Chair, in its capacity as a Senator from Massachusetts, moves that the Senate stand in recess until 3:15 p.m. today.

The motion was agreed to; and at 2:58 p.m. the Senate recessed until 3:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. PELL).

END THE VETO OF SILENCE

Mr. PROXMIRE. Mr. President, critics of the Genocide Treaty say it is ineffectual, because it is nothing but words. As a matter of record, let me point out that there are provisions in the treaty for sanctions going beyond words. But assume, Mr. President, for the moment, that it is a document of "mere" words. The critics are still dead wrong. Words can be very powerful instruments indeed.

For an example, I give you the Ten Commandments. What were the Ten Commandments, but words? And yet those words have reverberated in the collective conscience of men and women for thousands of years. Those words have raised human beings above the level of beasts, Mr. President. No army ever marched to enforce, no sword was ever drawn to convince. Some statements need no battalions.

The Genocide Treaty is such a statement—a step toward raising humankind another notch on the moral scale.

Words can do this, Mr. President. Yes, words. Let us put our name to this document. Let us say to the world: We cannot condone the deliberate destruction of a racial, ethnic, religious, or national group.

Do we, the most powerful nation on Earth, have the courage to say this, Mr. President? To put into words? Shall we stand up now and be counted with the 83 nations—virtually every other developed nation in the world; every major nation, certainly—who have already spoken out against genocide, leaving the United States alone in not having done so?

For 30 years we have hesitated to speak. I urge my fellow Senators to end this timid hesitation. Let us ratify the Genocide Convention now.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. I yield to the distinguished Senator from South Carolina (Mr. THURMOND).

The PRESIDING OFFICER. The Senator from South Carolina.

VIETNAM'S ATTACK ON THAILAND

Mr. THURMOND. Mr. President, if there is any doubt that the Soviet Union's proxy in Southeast Asia, North Vietnam, will be satisfied with its newly acquired control of South Vietnam and Cambodia, the recent incursion into Thailand should remove that doubt.

The forces of communism in Asia are now consolidating their gains, and once the situation in Cambodia and South Vietnam is established, I expect North Vietnam to move in earnest against Thailand. Those who scorned the domino theory should take special note of these recent events.

The United States should undertake to aid Thailand and others threatened in Southeast Asia, and I am pleased to see that the administration has taken moderate steps in that direction.

Mr. President, I ask unanimous consent that an article on this subject which appeared in the July 7, 1980 issue of Time magazine, entitled "A Show of Military Muscle", be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A SHOW OF MILITARY MUSCLE

Non Mak Mun is a peaceful little Thai town about a mile from the Cambodian border. Early one morning last week the villagers were awakened by the sound of gunfire. Then, over a loudspeaker came an unfamiliar voice: "We won't kill any Thais. All we will take is some food." Similar sounds awakened Cambodian refugees at two camps straddling the nearby border between Thailand and Cambodia. All too soon they recognized the fatigue-clad intruders who had stolen into their midst under cover of darkness as Vietnamese soldiers. As back-up mortar and artillery fire echoed in the distance, the Vietnamese began digging foxholes at the camps, sending the frightened refugees fleeing into nearby paddyfields.

The Vietnamese incursion into Thailand was mercifully brief. Nonetheless it raised international alarms that Hanoi was threatening to pursue into Thailand its war against Cambodian Khmer Rouge guerrillas still loyal to the ousted Pol Pot regime. Many of the estimated 60,000 Cambodians who have fled into Thailand or border camps over the past two years have been sympathetic to either the Khmer Rouge or non-Communist groups known collectively as the Khmer Serei. All oppose the Hanoi-installed regime of Heng Samrin in Phnom-Penh. By mid-week virtually all of the Vietnamese had withdrawn. But the action appeared to have slowed, if not halted, a United Nations program to repatriate to Cambodia any refugees volunteering to go. Moreover, with some 10,000 of their troops still poised along the border area, the Vietnamese remained an ominous threat to Thailand's security.

The incursion was carried out by elements of Viet Nam's crack 75th Division. It had no discernible military target. There were small probes along a section of the eastern border of Thailand stretching from Surin province in the north to Trat province in the south.

The main thrust occurred at the two border camps just north of Aranyaprathet. The camps, at Non Mak Mun and Nong Chan, had long been a source of annoyance to the Vietnamese. Non Mak Mun was the headquarters of a Khmer Serei group known as the National Liberation Front of Cambodia. Nong Chan was the main dispersal point for the "land bridge" program, operated by international relief agencies, that distributed rice, seed and other supplies inside Cambodia. The camps were also the sites of huge jungle black markets, where smugglers bought sarongs, watches, cigarettes and other consumer goods for resale in Cambodia.

Hanoi apparently acted also to show its anger over the U.N. repatriation effort. Viet Nam has charged that the program was a plot to strengthen the Khmer Rouge resistance. In the single week that it had been in operation, 8,700 Khmers had returned to Cambodia. Pol Pot's rebel forces somehow managed to survive Cambodia's dry season against overwhelming Vietnamese armor and airpower. Now that the monsoon rains have arrived, the Khmer Rouge's clandestine radio has announced plans to step up the guerrilla war against the 200,000-man Vietnamese army occupying the country.

At the same time, Hanoi undoubtedly wanted to give Thailand a demonstration of its military muscle. Viet Nam has long accused Thailand of providing military support to the Khmer Rouge and Khmer Serei guerrillas. Most observers say that the charge is accurate. Khmer soldiers, with Thai acquiescence, habitually seek refuge in the border camps, replenish their food supplies and then return to Cambodia to fight. Thailand, like the U.N., the U.S., China and several other Asian states, has refused to recognize the Hanoi-sponsored Heng Samrin government, even though it succeeded the vicious, genocidal reign of Pol Pot.

Thai forces reacted swiftly to the Vietnamese assault. Ground units swept the invaded area with automatic weapons fire, while helicopter gunships strafed Vietnamese sighted in scrub land outside the camps. After the Vietnamese shot down a Thai chopper and observation plane, the Thais moved in heavy reinforcements of tanks and armored cars to the front. TIME Hong Kong Bureau Chief Marsh Clark visited the scene while the fighting was still going on. "Thousands of refugees were fleeing down the road," he reported, "and many others squatted in the water of the overflowing rice paddies, the picture of abject misery. "Well, we're on the move again," said one Khmer. Herders, many of them carrying shotguns, drove bunches of cattle down the roads and across the fields, spurred by the whooshing sounds of Thai howitzer shells passing overhead.

"At a dirt crossroads about a mile from the Non Mak Mun camp was a Thai pickup truck. The front windshield was blasted completely away and a helmet lay on the blood-covered floor. A few hours later,Thai soldiers dragged the body of the driver, one of their men, from the paddy. In another paddyfield, seven dead Vietnamese soldiers were fished out. Suddenly someone yelled 'Incoming!' and we leaped out of the car. Mortar rounds, fired by Vietnamese down the road, were landing very close. After five near hit rounds, we sprinted for a nearby culvert where we cowered, along with some villagers, until the barrage was over."

Thai military officials later said that their artillery had struck a Vietnamese fire base about four miles inside Cambodia. Military casualties were relatively light; the Thais claimed to have recovered 72 Vietnamese dead and lost 22 of their own men. But hundreds of refugees were reported killed, many by a Thai artillery barrage that was lobbed into one of the camps. Others were caught in the crossfire. Two International Red Cross officials and two American photographers were apparently captured by Vietnamese soldiers while they were inspecting the refugee encampment at Nong Chan.

International condemnation of the Vietnamese action was swift. China, which invaded Viet Nam early last year "to teach Hanoi a lesson," warned of the "grave danger" of such military adventures."In dealing with wolves, it will have merely limited effect to raise a hue and cry," editorialized Hong Kong's pro-Communist daily *Ta Kung Pao*. "Only with the use of a big stick or of guns can the wolves be driven away or beaten to death."

U.S. Secretary of State Edmund Muskie, on his way to Kuala Lumpur for a foreign ministers' meeting of the ASEAN group (Thailand, Malaysia, Indonesia, Singapore, the Philippines), also condemned the attack as a Soviet-backed act of aggression that threatened Thailand's security. On arrival, Muskie immediately huddled with Thailand's Foreign Minister and promised a rapid speedup of U.S. arms deliveries to Thailand. In Bangkok, U.S. Ambassador Morton Abramowitz delivered a message from Muskie to Hanoi's Foreign Minister Nguyen Co Thach, who was making an unofficial stopover there on his way home from a visit to Indonesia. Thach denied that any Vietnamese troops had entered Thailand.

Throughout the week, Washington remained in close consultation with the Bangkok government over the military threat. The Thais decided not to invoke the 1954 Manila Pact, which obligates the U.S. to help meet Thailand's security needs in the event of armed attack. But Bangkok did ask for increased military and security assistance. Washington responded by announcing an immediate airlift of artillery, ammunition, machine guns and other automatic weapons, and quick delivery of at least some of the 35 M-48 A5 tanks that Thailand was slated to receive this year

THE NEED FOR A STRONG NAVY

Mr. THURMOND. Mr. President, the reasons for strengthening the U.S. Navy were well expressed in a recent article by Adm. Isaac Kidd, Jr.

Entitled "Strong U.S. Navy Forces Essential to Free World," this article is worthy of the attention of the Senate.

Mr. President, I ask unanimous consent that this item, which appeared in the June 26, 1980, issue of the Journal of Commerce be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Strong U.S. Naval Forces Essential to Free World

(By Adm. Isaac Campbell Kidd, Jr.)

Why a Navy at all? Indeed a nation must answer that question for itself at the very outset of its national being if it is to be able to square with its national conscience the requisite funding of capital costs for the most expensive instrument of national policy yet developed.

Many nations have no navies, never have had and probably never will have—so why should we? Considering the difficulties year by year in getting across the idea of need to public and Congress, not to mention the executive branch itself, one could correctly conclude the original question remains inadequately answered.

And, just whose fault is that? Perhaps it is no one's fault directly. Perhaps we do ourselves a disservice as a nation by spending too much time looking for the proverbial "goat," and might better spend our time looking for long-term real reasons of justification tied to just what would happen if we did not have one.

As a nation, we've only been practicing at and learning how best to use a navy for 200 years—not overly long in the scheme of things. Much of the time we've been looking to older nations for lessons of the past on how they did it. The lessons have been useful, not always applicable, but usually useful—and very often the lessons have been taken out of context in time. This can often be dangerous because times change, reasons change, needs change and nations, more often than not, do not change fast enough in their thinking to keep pace with reality.

Examples make the point. HMS Victory was on to 70 years old at Trafalgar. Ironclads under steam without sail proved themselves in the mid-1880s, yet my own father went to sea in 1902. 50 years later, in a ship of the fleet, USS Chesapeake, which was a full-rigged sailing ship with a coal burning auxiliary. Do we adjust to progress with sufficient alacrity, or are we overly bound by the fetters of tradition?

On the other side of this coin we find a Soviet Union, a traditional land power, also experimenting with a new navy. How is it making out? An important difference is evident. There are examples in the last few years that the Soviets have laid up and scrapped brand new designs of ships—this is ships at sea, not designs on paper—after but seven to eight years of service when they have found a design or a class to be wanting in some important particular.

The free world, on the other hand, has found it most difficult to be so ruthless. We find it easier to alter, modify, redesign and make-do too often, usually at the expense of operational performance, and routinely in the name of cost effectiveness. Is it indeed cost effective for a ship life span of 30 years and upwards?

How frustrating it all becomes when the questions always seem to keep so far ahead of the answers. And they always will, unless we regularly recycle our thinking back to ". . . why we serve?" The most important thing when addressing this question is to recognize that the reasons are going to change, and as the reasons change, it is always possible that the types of military tools needed in the toolbox will probably have to change with the reason.

This becomes very expensive. When ". . . to fulfill our manifest destiny," we needed to satisfy the then reason, we still had a few frigates left but had transitioned to steam and steel in limited numbers—a few at Manila Bay, and a few more under Sampson at Santiago Bay half a world away were enough to do the job.

We were growing up as a nation. We were still self-sufficient in raw materials. A few good ships were enough for our purposes provided they could "swing" from Atlantic to Pacific and vice versa quickly enough to permit the requisite concentration of force. It is too often overlooked. USS Oregon barely was able to swing in time to tip the balance in our favor off Cuba, but she did make it in time and the Panama Canal followed soon after to make such inter-fleet transfers more timely.

Thus far, simply stated, we had not had to learn the lesson of needed large numbers of ships—numbers needed to be in many different parts of the world, all at the same time. Both Britain and France had had to learn this lesson during the Napoleonic era when expansion of empires was the common denominator dictating naval sizes and ship types.

To have been able to have drawn the correct conclusions on which to base national requirements for our own navy, we too would have had to have lived the problem. Fortunately, we had not had to endure such a prolonged naval campaign, but in retrospect, we were ill-prepared for the naval demands of World War I when we became involved—ill-prepared for the demands for large numbers of ships of all types, naval and merchant.

Keep in mind, we were still independent to a large extent as to raw materials, so we were not having to think of imports seriously to satisfy our national appetites. Fleets in being were, in the classic sense, still the quintessence of seapower—the Trafalgar idea still in vogue from 120 years prior—find the enemy's fleet, sink it and you have won. No one had yet counted seriously on an invention called a submarine.

Time, however, was on our side, and we were able to crank up industries drawing upon raw materials right in the ground here at home, build the overwhelming numbers of ships needed and win. It was all over quickly, two years for us. The lessons were soon forgotten by most. Leaders in the Axis did not forget.

Twenty-one years later we were at it again, this time on a truly global scale, and the reasons had changed drastically for the need for navies. Too few fully appreciate the changed complexion of the needs of the world, as those changes have driven naval requirements.

Japan had to eat and expand industrially to survive. So thought the government. Nazi Germany was little different in perceived national needs leaving aside its respective governmental characteristics for this discussion and how it went about its business.

The world was entering an era where the baser characteristics were emerging, where national needs for food, space to expand growing populations and like fundamentals were dictating national policies. Where assured sources of raw material supply and regions into which to expand growing populations could not be guaranteed to the satisfaction of governments, said governments simply decided to take them for their own.

Navies thus become guarantors, the newly needed guarantors for the continued safe and uninterrupted flow of the raw materials sophisticated societies demand in a very real sense, the sea fights of World War II were waged over oil routes to Japan, steel supplies for Japan, coal and iron ore supplies needed by Germany, as differentiated from the more classic empire expansion and colonial policy related naval engagements of prior generations. Things have not changed since WW II. The reasons have only become more acute.

But, the free world still takes too much for granted the steady flow of raw materials from far beyond national boundaries—raw materials which travel only by ship from where those materials exist in mines, in wells, in crops and like natural habitats. For the moment, the problem is not yet one of volume of supply—that is sure to come in time but it is not yet critical worldwide. The immediate matter is one of movement of the materials at assured rates of flow adequate to the needs of the using nations.

In peacetime, each year these United States of ours import over 400 million tons of materials we need, want, have become accustomed to and which we do not own or have in our own ground. Each year we export some 200 million tons. This flow must not stop. It moves by ship. Ships are of the sea. This is a matter for our navy.

There is no practicable alternative to having a navy of global dimension and capability, sufficient in numbers and deterrent potential to preclude economic strangulation—which is precisely what the Soviet building program is designed to accomplish. Their annual investment and rate of naval expansion is most sobering. The Soviets are obviously very serious about it. Their intentions are crystal clear.

The choice is ours. It will be expensive. The proper option offers no short cuts or bargains. Freedom is not free.

Admiral Kidd, a graduate of the United States Naval Academy, was commissioned an ensign in Dec. 19, 1941, 12 days after his father, Rear Adm. Issac C. Kidd was killed on board his flagship, the battleship Arizona, during the Japanese attack on Pearl Harbor.

He had served 23 years at sea before his retirement in October 1978, 15 of which were as commander of destroyers, destroyer divisions and squadrons, a flotilla and three U.S. fleets in the Pacific, Mediterranean and Atlantic.

Immediately before his retirement, the admiral was supreme allied commander Atlantic, commander in chief eastern Atlantic, and commander in chief, U.S. Atlantic Fleet.

INTERVENTION OF DEPARTMENT OF LABOR IN CONTRACT DISPUTE OF ERSKINE COLLEGE

Mr. THURMOND. Mr. President, in today's edition of the Greenville News, a leading newspaper in my State, there is an article which I want to bring to the attention of my colleagues.

The article reports that Erskine College, a small Associate-Reformed Presbyterian college in Due West, S.C., with an enrollment of about 700 students, has refused to go along with a contract to host an athletic and vocational camp to be sponsored by the National Football League Players Association, because of the antibusiness and prounion nature of the program to be offered to nearly 450 underprivileged children.

Mr. President, after a review of the contents of this proposed program by the trustees of Erskine College, Erskine president, Dr. M. Stanvarne Bell, felt the program was not consistent with the kind of program it had agreed to host and ordered that the program be canceled. As I understand it, lawyers for the Players Association will be asking today for an order to make Erskine College live up to its contract.

Since there may be more litigation on this matter, I will refrain from commenting on the contract dispute that has been raised. I cannot, however, refrain from expressing my disappointment and outrage at the actions of the U.S. Department of Labor. It is my understanding that the Labor Department has asked the U.S. attorney in Columbia to intervene on behalf of the NFL Players Association in seeking injunctive relief to enforce the terms of the contract.

Mr. President, this is just one example of the Federal Government sticking its nose into matters that do not directly affect it. As I understand the facts in this matter, this is a dispute between Erskine College and the NFL Players Association, not Erskine College and the U.S. Department of Labor.

It is true that the children who were to attend the program were eligible for Comprehensive Employment and Training Act funds. But the contract agreement for running the program, using the facilities and other such matters, was between Erskine College and the Players Association. Apparently, the fact that two private parties are involved in a dispute over a contractual agreement is no bar to the U.S. Department of Labor entering the case. Under the law and the Federal Rules of Civil Procedure, the Government may think it is legally entitled to such intervention, but I suspect that will be for the court to decide.

Mr. President, in my judgment it is highly inappropriate for the Labor Department, through the U.S. attorney, to intervene in a case where two private litigants are seeking relief on a contract dispute. I may be opposed to the NFL Players Association teaching antibusiness and prounion ideas to our youth in South Carolina, but I would never think of intervening in a lawsuit by two private parties where I had no colorable legal or economic interest. Erskine College made the decision to cancel its contract. It is one of the parties to the contract. The other is the NFL Players Association. Neither the Labor Department nor the Federal Government is a party to this agreement. No CETA funds are involved. The children who were to attend the summer camp are simply disadvantaged youths, as defined under CETA guidelines.

Mr. President, the U.S. Department of Labor has absolutely no business interfering in this matter. It is one more case of needless Federal intervention in local matters and I urge the Labor Department to withdraw from this matter as soon as possible.

Mr. President, I ask unanimous consent that the entire article from the Greenville News be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ERSKINE CANCELS ATHLETIC SUMMER CAMP

(By Bill Windler)

Claiming the program wasn't in the best interests of the institution, Erskine College has canceled its contract to host an athletic and vocational training camp conducted by the National Football League Players Association.

The camp was scheduled to begin last Sunday with three 11-day sessions that were to include seminars conducted by community residents from a variety of professions, along with athletic sessions directed by celebrity pros such as Jerry Butler and Bennie Cunningham.

Youths from ages 14–16 and eligible for funds under the U.S. Department of Labor-regulated Comprehensive Employment and Training Act were eligible for the camp.

But Erskine officials decided late last week that the players' union program did not suit the college and decided to cancel the contract. The attorney representing the school likened the camp program to a "brainwashing" effort.

Erskine President Mr. Stanyarne Bell said the decision was made on a "pretty broad base" of opinions, including the college trustees'. When asked if any local businesses which have traditionally opposed union programs had an influence on the decision, he said, "Not to my knowledge. That's sort of in left field, to tell you the truth."

The last-minute decision meant that campers were not informed of the cancellation in time and began showing up Sunday. Although Erskine officials said that they could not conduct the camp on their campus, they did not toss the campers back on the road.

About 150 camp participants were being housed at Erskine on Tuesday and the camp agenda is progressing as normally as possible, officials and participants said.

A total of 400 campers were expected during the June 29–Aug. 5 camp session.

Bell said the first 11-day session will be run on an abbreviated basis, but he does not want any more teen-agers showing up for the next scheduled camp session.

"As far as we're concerned now, it's a closed issue and the two lawyers have it," said Bell.

Erskine's attorney in the matter is management lawyer Robert Thompson of Greenville.

Thompson said that, as the program neared its opening, Erskine officials became aware of what they considered to be inconsistencies in what was originally presented to them and what was actually going to take place. But neither Thompson nor Bell would be specific.

"The contents of the program seemed to be totally inconsistent as to what they (NFL Players Association) laid out as their program," said Thompson. "I suppose that's a matter for the courts to decide."

When asked what specifically was objectionable to Erskine—a private college with a co-educational enrollment of about 700 and an affiliation with the Presbyterian Church, Thompson said "It seemed to be a union-oriented program; kind of an antibusiness program—almost a brainwashing program that they were laying on these underprivileged kids."

Thompson was instructed by Bell to inform the Players Association of Erskine's decision and did so by reading the following telegram over the phone Saturday night to union Executive Director Ed Garvey.

"You are hereby notified that the summer camp agreement between your organization and Erskine College is canceled effective immediately. The nature of the program which you have developed and announced to the public is inconsistent with and contrary to the interests of Erskine College."

Thompson then sent the telegram to the NFLPA's offices.

The camp at Erskine was to be a test project by the players' union. The union had set up similar camps in larger cities such as Atlanta, where NFL franchises are located. But the group has said it wanted to try the program in a smaller community.

Thompson said no money changed hands and that the contract called for Erskine to provide housing facilities, counselors and sanitation services.

Bell said the original contract had been signed by John Neiswender, the women's basketball coach who lines up various summer camps. The college president said he believes the original agreement dates back to March.

Attorney E. M. "Nick" Zeigler of Florence was contacted Saturday night by Garvey to represent the players' association.

"We expect to file something in the morning. Other than that, I can't comment," Zeigler said. "I'm leery about making a statement until it's public record because it's a sensitive issue and involves young people."

Thompson said Zeigler told him Sunday that the players' association was going to file for a court injunction ordering Erskine to live up to the contract.

The PRESIDING OFFICER (Mr. BOREN). The Senator from North Carolina is recognized.

MAJOR D'AUBUISSON AND FREEDOM OF THE PRESS

Mr. HELMS. Mr. President, this morning's Washington Post published a front-page story declaring that an individual, whom the newspaper labeled a "Salvadorian Rightist," has entered the United States illegally to plead his cause before the American people. The article in the Washington Post quoted certain unnamed State Department officials as asserting that his organization is responsible for the assassination of hundreds of Salvadoreans in that country's bloody political warfare in recent months. The individual in question is Maj. Robert D'Aubuisson, a retired army intelligence officer from El Salvador.

This is all too typical journalism, Mr. President, and all too typical conduct by the State Department where unnamed, unidentified "officials" or "spokesmen" from the State Department make allegations for which there is no credible documentation. Then the newspapers take that and print it as the gospel.

Let us look at these allegations, Mr. President.

The fact is that Major D'Aubuisson entered the United States legally. He has long held a multiple entry visa, and has visited the United States many times. I am reliably informed that he used this visa under his true name, and that it was properly stamped at the port of entry by the proper U.S. officials.

If I am correct in my understanding, Mr. President—and I believe I am—then what does this make of the unnamed, unidentified "spokesman" from the State Department? You put your name on it.

Now the State Department alleges that the visa was canceled 1 month ago, and that notice of cancellation was sent to him in El Salvador. It should be noted that El Salvador is a country torn by violence and is in a state of disruption. There is no evidence that Major D'Aubuisson ever received any such notice. If such notice was sent, all ports should have been informed, so that his name would be picked up on entry. The fact is that he presented his passport, and his entry was therefore legally approved, and it was approved as being legal.

But the real question is, Why was Major D'Aubuisson's visa revoked in the first place, if it was? Major D'Aubuisson is the leader of a major political group, the Broad Opposition Front, which has consistently demonstrated that it has broad support in political gatherings numbering up to 100,000 people in San Salvador, at a time when the Christian democrats, who are really the puppet governors installed by the United States, have been unable to rally either demonstrations of popular support, or practical demonstrations of cooperation from any significant breadth of public opinion.

The present junta was imposed upon the Salvadorean people by the U.S. State Department, acting through the U.S. Embassy. It is totally illegal under the Constitution of El Salvador, and indeed has suspended key sections of that Constitution protecting human rights. It succeeds the October junta, which was similarly imposed upon El Salvador by the United States, and which also was unable to gather public support.

Major D'Aubuisson has been a leader in rallying a broad coalition of responsible Salvadoreans against this U.S.-imposed regime which is not only illegal, but too weak to govern. It is every bit as much a puppet of the United States as the Communist regime in Afghanistan is a puppet of the Soviet Union.

A few weeks ago, in a nonviolent action, Major D'Aubuisson attempted to convince the Salvadorean military to return the nation to constitutional government. Under pressure from the U.S. Ambassador, Robert E. White, Major D'Aubuisson was arrested. But the military demonstrated that their loyalties were to their own country, not to the United States, and Major D'Aubuisson was released.

It appears that the reason why Major D'Aubuisson was tagged for the lifting of his visa was that he has the temerity to oppose the State Department's plans to turn El Salvador over to a Marxist dictatorship.

Indeed, the purpose of his coming to the United States was to bring information concerning the purported involvement of Ambassador White in setting up a left-wing coup to overthrow his present puppet government, a government that has obviously failed.

Mr. President, the Senator from North Carolina has no information beyond that which Major D'Aubuisson has furnished; but it is certainly credible in the light of Ambassador White's personal statement to me that he favored "the passionate left," which I will discuss in detail in a moment.

The point here is that the State Department is obviously trying to prevent a responsible political opinion from being heard in the United States. The Broad National Front is a true centrist organization that rejects socialism, but reaffirms the fundamental principles of liberty and property which are the basis of freedom in the United States. Ambassador White, whom this Senate confirmed just a few weeks ago apparently fears that the exposition of such viewpoints in the United States will give the lie to the charges that the political opposition to the enforced Marxist program he is supporting in El Salvador consists of what he calls right-wing extremists.

The truth is that neither the Republican nor the Democratic Parties would have the slightest difficulty in supporting the Broad National Front's program for El Salvador. Only last week the U.S. Senate, in a bipartisan move, repudiated the policies of land reform and banking reform which are the cornerstone of U.S. policy in El Salvador. The State Department's move is an attempt to impose a gag on political debate both in the United States and in El Salvador. The State Department knows that their policies in El Salvador cannot survive in the glare of a free press.

That is why, Mr. President, this contrived news story appeared on the front page of the Washington Post this morning. It was placed there by unidentified spokesmen for the U.S. Department of State. Mr. President, if any responsible representative of the Department of State has anything to say, let him or her step forward and give his or her name and not operate behind a veil. I am sick and tired of this kind of journalism, and I am sick and tired of this kind of activity by the U.S. Department of State.

Mr. President, as for the charges that the Broad National Front is responsible for the "assassination of hundreds of Salvadoreans," it can be dismissed out of hand. I do not know who is creating the violence that has been troubling that land. It may be created by the left; it may be created by the right. Most likely it is by both, since we are in a situation where civil war is already underway. But the political and business leaders who are gathered in the Broad National Front represent too broad a spectrum of responsible people to be tarred by the brush of anonymous "U.S. officials" and "international human rights organizations" who have a vested interest in policies imposing socialism upon the people of El Salvador. Unless the Washington Post is able to find State Department officials who are willing to go on the record with their names and with credible evidence, the present charges can be filed with those who assert that members of the U.S.-backed junta are members of the leftist terrorist organizations.

But it is not just Major D'Aubuisson alone who is under attack from Ambassador White and the U.S. State Department.

Mr. President, yesterday representatives from the moderate political organizations in El Salvador appeared at a press conference in Washington, representing the Broad National Front. They made a number of disturbing points.

They stated, for example, that a coup involving leftwing members of the present junta and other elements of the far left is being planned for the near future in El Salvador. More importantly, they believe that this coup is being planned with the knowledge and encouragement of the American Ambassador in El Salvador, Mr. Robert White, who was just confirmed by the Senate a few weeks ago.

This is extremely disturbing, if it is true. It reminds me of a conversation that took place in my offices with Robert White shortly prior to his confirmation this past spring. At that time, White indicated that he had little faith that the present junta governing El Salvador would survive. He predicted that it would probably collapse, and that either the far left or the right would assume power after a conflict. He went on to say that while some people would probably prefer to see the right take power, he personally preferred the leftwing option.

It was at that point that I decided to oppose his appointment as Ambassador. Subsequently, White gave me and other Members of the Senate assurances that his purpose was to oppose a bloody civil war and the coming to power of the radical left. Although a number of other

Senators ultimately joined me in opposing White's confirmation, after 6 weeks' delay, White was eventually approved by a majority of Senators, and he departed for El Salvador.

His subsequent tenure in office has been wracked by controversy. And, at one point, the State Department pulled him back suddenly "for consultations" following one particularly embarrassing series of incidents involving wild charges and incendiary accusations on the eve of Archbishop Rumero's funeral.

If now, White is, in fact, encouraging the far left to mount a coup, then the time has come for the Senate to take a closer look at just what White is trying to accomplish.

Who are America's friends? Marxists? Leftwing extremists? Does anyone at this point seriously doubt that the international left is making a major push in the entire Caribbean—and that a domino situation threatens? Do people understand that the far left in Nicaragua is refraining from utterly consolidating its death grip on that nation because they are presently isolated by non-Communist neighbors?

If the charges aired by conservative El Salvadoran officials are true, then the American Embassy in El Salvador is playing the same game in El Salvador that they previously played in Cuba and Nicaragua.

Today, I have sent a letter to the Secretary of State asking for either confirmation or denial of the charges made by visitors from El Salvador.

Mr. President, I ask unanimous consent that my letter to Secretary Muskie and the press conference statements issued by Major D'Aubuisson and by the Frente Amplio Nacional be printed in the RECORD at the conclusion of my remarks.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

STATEMENT BY ROBERTO D'AUBUISSON

We have previously denounced Communist plans and maneuvers which have caused political, economic and social failure in El Salvador. We have also denounced treason carried out against our Armed Forces and attempts to propose the Christian Democrats as the only viable solution to the present national problems. We have been heard for we have been called extreme rightists conspiring to disarrange the process of reforms. We have even been slandered by certain U.S. officials. However, time and the facts as they have unfolded have shown us to be right. Everything that we have denounced in the past has happened step by step, and we have now returned to Washington, D.C. to reveal the next plot that the enemies of freedom are planning for us.

Col. Adolfo Majano will take full power and will form a new government with the Democratic Revolutionary Front (FDR) with the support of Enrique Alvarez Cordova, Secretary General of the FDR, Dr. Napolean Duarte, Rodriguez R., Vice-Rector of the National University and active member of the Salvadorean Communist Party, Dr. Manuel Ungo, ex-member of the Junta and of the International Socialists and possibly Lt. Col. Rene Guerra, member of the Salvadorean Communist Party. In this matter the Christian Democrats will be given a coup d'etat.

An analysis of this maneuver and its consequences are:

1. The U.S. State Department already accepts its mistake in supporting the Christian Democrats and is aware of the need to change the present scheme of things save its prestige. The State Department, therefore, sees a new government as a solution.

2. The Christian Democrats, who do not have popular support nor the human resources to govern have failed on being given power.

3. U.S. Ambassador Robert White, who sympathizes with the FDR, which is a cover for all leftist organizations, hopes to save face by imposing what might be perceived as being a more popular government.

4. The Armed Forces will not accept this new scheme. This is a fact already known to the U.S. Embassy in El Salvador. Because of this the new government will have to exist either in guerrilla controlled territory or in exile. Such an action will create two governments in El Salvador.

5. A number of nonaligned countries will recognize the new government, especially Nicaragua, Costa Rica, Panama and Cuba, also possibly Venezuela, Colombia and Mexico.

6. What the Communists seek is the international acceptance of a "state of belligerency" in El Salvador. In this way the subversive forces will gain recognition as a popular militia as happened in Nicaragua.

7. As a small portion of the Armed Forces is working for the Communists through Majano this will create division and lead to a state of civil war.

8. By this strategem the Salvadorean crisis will be resolved through misinformation and Communist propaganda, as happened in Nicaragua.

We would like to make it clear that no matter the attempts to discredit us we will continue to fight and inform in order not to fall under Marxism. We will attempt to alert this great nation, the United States, so that it will not become a target in the same way as has befallen Latin American nations. We are aware of international Communism's plan for the free world, part of which is the one-sided SALT II Treaty and the attacks against the Caribbean and South America aimed at isolating the United States from those nations which will stand by its side no matter the circumstances. El Salvador must be the country where we reverse this Communist process and begin banishing it from our American hemisphere.

STATEMENT BY THE BROAD NATIONAL FRONT OF EL SALVADOR

COMMUNIST PENETRATION IN CENTRAL AMERICA AND THE CARIBBEAN

1. World-wide revolution, which has been started and directed by the USSR against the free world, is becoming more obvious in Central America and the Caribbean, a fact which we have previously denounced on various occasions. We have watched how this international communist attack has been repelled by the brave people of some southern cone countries (Chile, Argentina). We are also withstanding these great pressures, originating many times from the U.S. Government, which we still consider the leader of the free world, and which we respect and admire for its highest ideals, which are also ours.

It is well known that when communism takes over a nation, that nation suffers the causes of tyranny and also the most basic rights and freedoms disappear, causing a radical change in the innermost part of human nature. We all know examples of this type of situation. We are never brave or opportune enough to help such nations once submerged in dictatorship. We limit ourselves to making statements of condemnation at international forums, the apparatus of international communism silences those voices, and succeeds in consolidating totalitarian governments in nations, puppets of Soviet imperialism. Communists advance step by step. Their strategy is not limited to time. They continue consolidating positions in order to reach their main objective, the United States of America!

2. Let us remember that communism follows a soft line in the political arena and a hard line in the armed fight. Its main tactics are infiltration, penetration and disinformation. It is in this last tactic that the fourth estate, or the mass media, plays a very important role. Those of us who are fighting to keep ourselves free ask why did the international mass media make such an impressive campaign in favor of Fidel Castro and then became silent when the noble Cuban people desperately shouted for help, when they were subdued by Castro's tyranny.

Let us remember even more recently, how the international news plays the Sandinistas as heroes. Why don't they tell the true fate of our Nicaraguan brothers?

The communist tactic of disinformation pictures every nation and government trying to defend itself from communist penetration as reactionary, massacring oligarchic, exploiter, breaker of human rights, etc. And what is worse, they accuse such governments of being servants of "Yankee Imperialism." Our big brother, the country that we admire and respect turns its back on us at the most difficult moment of our history, and we have never been ashamed to recognize the United States as a world example of democracy, where basic human rights and laws are respected. But disinformation keeps our reality away from the American people.

The Caribbean is an important objective of world revolution. Cuba is already in their hands. Now Nicaragua and El Salvador are being subdued. Then they will continue with Guatemala and Honduras. These countries have fought and continue fighting against such aggression. The remaining Central American countries have chosen to follow the path of collaboration, thinking that they will be saved from aggression. But they forget that communist tactics are many and varied. As a reminder, I would tell them, "Join today, tomorrow's enemy."

3. When communists were only working with their ideology and military resources to attack us, that struggle did not preoccupy us. But when they utilized the mistaken foreign policy of the free world's leaders, then the picture changed. We are against two forces without any backing.

Nicaragua fell under this scheme. When the State Department, believing that they were anticipating a communist maneuver, pressured the Nicaraguan government, they had a guaranteed failure, because when political decisions are made at a desk thousands of miles away and basing those decisions on old, erroneous information, one cannot but fail. In order to define State Department policy, we could use this axiom: Who is a communist? Those who consciously or unconsciously collaborate with the Soviet cause. We can ascertain that present State Department policy toward Central America has candidly favored communist infiltration. It is in such manner that governments accepted the threats and pressures of human rights policy implemented by the present United States Government, and they have fallen or will shortly fall under Marxist dictatorship. Those nations that were able to shake away from the threat are now free. We know that the State Department knows these are realities but we do not know why they insist on maintaining the same line.

Some agra-industrial plants, such as coffee and sugar processing mills have been expropriated under the guise that they are physically located in the expropriated land areas. Irresponsibility has been the guideline in this process and the consequences will be suffered by the Salvadorean people, who are the ones they pretend to benefit.

Economic power has been seized by government through the confiscation of banking and export systems, and through Decree 114 they obliterated our constitution, which they swore to defend and have also centralized political power. This scheme is certainly not acceptable for a Western Democracy because it violates basic human rights, emulating communism's totalitarian system. We believe that most U.S. citizens cannot conceive how this happened, but it is a reality sponsored by their political representatives. For communists, it is not enough to have a little. They want everything and through the violent way.

It is an insult to Salvadorean dignity to realize how Pro-Consul Robert White has virtually become President of the country, and to realize how communist aggression provokes a bloody offensive with external aid, while at the same time they blame the State Department and "Yankee Imperialism."

4. The reality of the situation in El Salvador is very different from that presented by the United States Department of State and by international communist disinformation. The present junta, led by the Christian Democrat mini-party and presented by the Department of State as the only solution for the country, is a total failure politically, economically and socially. Let's look at the facts. If the undemocratic reforms had brought real benefits to the country, these would be succeeding. But an analysis of the agrarian reform program, sponsored by the Department of State according to Assistant Secretary William Bowdler at a recent Congressional hearing, has drastically reduced productivity. Land has been arbitrarily taken away from the land owners and as a result destroyed most of our agriculture.

The agrarian reform program, an imported program prepared with neither administrative support nor technological know-how, has paralyzed our economy and become the biggest source of corruption in the history of our country. Government bureaucracy is not capable of effectively managing the various agricultural divisions which are the basis for our economy. In expropriating the property the rightful owners have not been compensated for as of now. I believe the present communist oriented junta has used Ambassador White in following the steps of its sister junta in Nicaragua.

We have previously forecast and predicted communist plans, maneuvering and the political, economic and social failure which they are bringing about in our country.

We have denounced the treasonous actions to our armed forces advising that the Christian Democrats are not the only viable solution. We have been heard. As a result we have been called rightist extremists and conspirators attempting to prevent the reform programs. We have even been slandered by United States government officials. Each of the actions and predictions we have forecast have taken place, one by one, and we are back again in Washington, D.C. to predict the next plot which is being planned for us by the enemies of freedom.

Colonel Adolfo Majano will form a new government with cooperation of the Democratic Revolutionary Front (FDR). Those coming to power will be Enrique Alvarez Cordoba, Secretary General of the FDR, Dr. Rodriquez R. Napoleon, Vice Rector of the National University and active member of the Salvadorean Communist Party, Dr. Manuel Ungo, ex-member of the junta and of the International Socialist party and possibly Lieutenant Colonel Rene Guerra, member of the Salvadorean Communist Party. This is how the coup d'etat of the Chrisitan Democrats will take place. Now let us make an analysis of this maneuver and its consequences.

a. The Department of State already accepts it made a mistake supporting the Christian Democrats and realizes a change must be made to salvage its prestige. This is why a new government is seen as a solution.

b. The Christian Democrats have a fear of failure since they are not able to depend on popular support and do not have the capability of running the government.

c. Ambasasdor Robert White sympathizes with the FDR, which is simply a cover-up for all the leftist organizations, and will save face by imposing an apparently popular government.

d. The Armed Forces will not accept this scheme which is known already by the United States Embassy in El Salvador. Since the Armed Forces will not accept this new government the FDR will have to exist either in guerrilla country or in exile. Then there will be two El Salvadorean governments.

e. Non-aligned countries will recognize the new government, especially Nicaragua, Costa Rica, Panama, Cuba and possibly Venezuela, Colombia and Mexico.

f. The Communists want international acceptance or recognition of a "state of beligerency." Then subversive forces will be recognized as popular militia as occurred in Nicaragua.

g. Since a small number of the Armed Forces is working for the communists through Colonel Majano, a diversion would be created, and we would end up in a state of civil war.

h. This is the way our crisis will be resolved, through disinformation and communist propaganda, as was done in Nicaragua.

Last but not least we would like to make it clear that no matter what names we are called, we will continue fighting and keeping others informed, so as not to fall under Marxism. We will try to alert this great nation of the United States so that it will never become a target the way our Latin American nations have. We can foresee the international communist plan for the free world, part of it being the unequal SALT II Treaty. The attack against the Caribbean nations and South America is intended to isolate the United States from the only nations which would be at its side regardless how grave the circumstances. El Salvador must be the country where the communist process is reversed and irradicated from our immortal American Hemisphere.

WASHINGTON, D.C., *July 2, 1980.*

Hon. EDMUND MUSKIE,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: Yesterday a group of conservative El Salvadoreans held a press conference in Washington charging that Ambassador White was encouraging left wing members of the present junta in El Salvador to join with other representatives of the far left in mounting a coup.

It is sometimes difficult to separate fact from fiction in small countries distant from the United States, but I would appreciate it if Ambassador White could be formally asked for a reply to these charges. The El Salvadoreans believe that this coup is planned for the next few weeks. For this reason, a rapid response from Ambassador White would be appreciated by this Senator.

Sincerely,

JESSE HELMS.

U.S. POPULATION

Mr. BAKER. Mr. President, I ask unanimous consent that a statement by Mr. PACKWOOD on the U.S. population be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The statement follows:

STATEMENT BY SENATOR BOB PACKWOOD

I would like to report that, according to the latest U.S. Census Bureau approximations, the total population of the United States on July 1, 1980 was 223,035,980. This is an increase of 177,581 people since June 1. Since this time last year, our population has grown by an additional 2,251,727.

During the past month we have added enough people to our population to fill the city of Spokane, Washington. Over the past year, our population has increased enough to fill the entire city of Houston one and one-half times.

EXTENSION OF ROUTINE MORNING BUSINESS TO 4:30 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, when will the period for morning business expire?

The PRESIDING OFFICER. In 20 minutes.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I ask unanimous consent that morning business expire at no later than 4:30 p.m. today and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I assume it is proper to proceed in morning business?

The PRESIDING OFFICER. The Senate is in morning business.

Mr. DOLE. I thank the Chair.

GRAIN EMBARGO LEGISLATION

Mr. DOLE. Mr. President, on June 20, 1980, I introduced legislation, S. 2855, to rescind the agricultural commodity export embargo to the Union of Soviet Socialist Republics.

The bill I introduced stated that any restrictions heretofore imposed by the President of the export and reexport of agricultural commodities to the Union of Soviet Socialist Republics under the authority of the Export Administration Act of 1979 are terminated effective on the date of enactment of this act.

When I introduced the bill, there were 11 cosponsors. During the next week nine more cosponsors were added.

I am pleased today to add the name of Senator TED KENNEDY as a cosponsor of the legislation.

I ask unanimous consent that his name be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I know Senator KENNEDY has been critical of the President's action for some time. Senator KENNEDY spoke out against the embargo during the campaign, before the Iowa caucus.

This brings the number of cosponsors to 20. Senator KENNEDY joins Senators KASSEBAUM, BOSCHWITZ, MCGOVERN, ZORINSKY, PRESSLER, YOUNG, JEPSEN, BELL-

MON, McCLURE, EAGLETON, DANFORTH, MELCHER, TOWER, COCHRAN, EXON, WALLOP, BURDICK, BAUCUS, and BOREN.

That is a good bipartisan group of, for the most part, farm State Senators, concerned about the embargo.

Mr. President, in the few months that have elapsed since the grain embargo was imposed, I believe the record will show the embargo to be both ineffective and unfair.

In short, I believe the embargo action taken by the President has been a failure.

FARMERS PATRIOTIC

I think we should all recognize that there is no group of people who are more patriotic than are our farmers and their families, the people who live in rural America. They are more than willing to bear the burden of national security and to pay the price necessary to maintain freedom.

EMBARGO INEFFECTIVE

The embargo has been ineffective in my view for at least four reasons:

First. It was only partial in its inception. The Soviet Union was permitted to continue to buy 8 million tons of grain from us under the fourth year of the grain agreement. Only their additional request for 17 million more tons was embargoed. The Carter administration is also allowing Russia to buy another 8 million tons under the fifth year of the grain agreement.

Second. The Soviets soon discovered ways to reduce exports, use existing stocks, tighten their belts and purchase necessary grain needs on the international market. The Carter administration made no effective effort to stop grain exports to Russia and recently formally granted permission to international grain companies operating in the United States to sell grain to Russia from their foreign subsidiaries.

In other words, it is all right to purchase foreign grain and ship it to Russia if you are a big grain company, but do not purchase any domestic grain. Let us keep domestic prices as low as possible, according to this administration.

Third. Russia is now developing permanent supplies of foreign grain so they will not have to rely on American sources. This means increased production of grain in other countries at the expense of American farmers. American agriculture and U.S. exporters are now losing markets to the Soviets and probably to other countries which may question our ability to honor our commitments.

Fourth. Noncooperation of our allies in enforcing the Carter embargo has become the rule, rather than the exception.

EMBARGO UNFAIR

Mr. President, the embargo has been unfair to American agriculture and to the American taxpayers. The impact of the grain embargo is negative in America but negligible in Russia.

The restrictions on grain and other trade items have caused little more than inconvenience for the Russians, but have resulted in enormous losses to American farmers and the American taxpayers.

The time has come to reassess our actions and stop our losses.

Mr. President, in my view, the so-called embargo will cost the American taxpayer nearly $3 billion. It will cost the American farmer billions of dollars. It has not cost the Russians anything. They have been able to buy their grain from other countries. They have not suffered. The troops are still in Afghanistan.

It is another symbolic action taken that has had no impact.

Mr. President, before I proceed to another matter, I yield to the distinguished Senator from Alabama for a unanimous-consent request.

Mr. STEWART. Mr. President, I thank the distinguished Senator from Kansas.

THE DOOR TO SURVIVAL OF THE NATION'S ECONOMY

Mr. STEWART. Mr. President, today I am delivering a wooden door to the White House that has been sent to Washington by the Greater Montgomery Homebuilders Auxiliary Association. It represents their urgent plea that policymakers here at the national level recognize the gravity of their present predicament, and take actions which will insure the future health of this country's housing industry.

The door carries with it a simple but eloquent message, signed by over 1000 citizens in Montgomery. It states that "The Door to Survival of Our Nation's economy is supporting the home-building industry." There is no question about the truth of this claim. In 1979, new building activity constituted 8.5 percent of our total GNP, contributed over $200 billion to our economy, furnished 2.5 million jobs, and added close to $8 billion in Federal, State, and local tax revenues.

Now, with our housing industry in a severe slump, we are experiencing the most serious economic downturn since the 1974–75 recession. Housing starts in May were at an annual level of 920,000 units, 50 percent below last year's level, and could drop below 1 million units for the first time since 1945. As a result, close to a million workers in construction and related industries have been laid off, unemployment is in the neighborhood of 8½ percent; and billions of dollars in Federal and local taxes have been lost. And the situation will undoubtedly worsen before things begin to improve.

While statistics help us estimate the costs that crippling housing production imposes on the economy, they can only begin to help us understand the suffering experienced by thousands of individual businessmen and their families. In Alabama alone, probably 25,000 workers have lost their jobs; dozens and dozens of long-standing businessmen have been forced to close their companies, probably forever.

And in addition to this, literally millions of Americans have been denied their dream of owning their own home; 10 years ago, close to half of all American families could afford to purchase their own homes; for most of this year, that figure has been around 4 or 5 percent.

Housing is simply too vital an activity to be subjected to the boom and bust cycles that it has experienced over the past decade. I think it is imperative that all policymakers here in Washington recognize this important fact. I have just been appointed to head a housing subcommittee as part of the Senate's economic task force, and I shall use this forum to press for policies that stabilize housing production in the decade ahead.

I commend my constituents in Montgomery for their ingenuity and persistence, and I promise them that their concerns will not go unaddressed here in Washington.

THE SHELTONS' GOLDEN ANNIVERSARY

Mr. STEWART. Mr. President, I would like to offer congratulations to two special people from Alabama who have contributed much to the development of their community and State. I recently had the pleasure of attending their 50th wedding anniversary.

Barrett Clinton Shelton and Suzanne Jones were married 50 years ago in the First Presbyterian Church in Decatur, Ala., and have since added benefits to their community and State.

The Sheltons, Sr., were honored by their children and their spouses, Mr. and Mrs. Barrett Shelton, Jr., and Mr. and Mrs. Steve Shirley in Decatur, where some 300 distinguished guests from Alabama and other States came to celebrate the golden wedding anniversary.

Barrett Shelton has been a true leader in the Tennessee Valley, or the Valley, as we refer to it, and his newspaper, the Decatur Daily, has reflected that outlook.

The newspaper was founded in 1912 by Barrett's father, W. R. Shelton, but in 1924, while Barrett was a student at Washington and Lee University, he was called home to take over as editor and publisher.

Over the years, he has championed many causes, but none made him more proud than seeing the development of the Tennessee Valley Authority. Barrett Shelton was a strong force in Alabama for that development, and had the foresight to realize that it would mean industry to the Valley and would stop outmigration of workers. His reason was that he was "more interested in jobs than cheap power rates."

Here in Washington, former Congressman Bob Jones of Scottsboro, was known as Mr. TVA, and, in the Valley, Barrett Shelton was Mr. TVA.

There are numerous other community and State projects to attribute to the Sheltons, but it might best be said that they have done an outstanding job in raising a family, a newspaper, and a community.

PRESIDENT TAKES NO ACTION ON RAMSEY CLARK

Mr. DOLE. Mr. President, several weeks have passed since Ramsey Clark and his nine cohorts returned from their unauthorized negotiations with the Iranian Government in Iran. Their participation in the anti-American conference led to a denunciation of the U.S.

role in Iran at the same time 53 of their fellow Americans were being held by their host government in Tehran.

All signs from the Justice Department are that the 10 Americans will not be prosecuted—under either the Logan Act or the President's travel ban. It appears that Ramsey Clark and his fellow travelers will not be held legally accountable for their actions.

I wonder, sometimes, if the President has really focused on this. At one point, he made a rather remarkable statement, publicly, that he felt there should be a prosecution. I am not certain that should have been said by the President.

In any event, it made front page headlines.

Is this not typical of Jimmy Carter? A month ago, the President made front page headlines advocating the prosecution of the 10 Americans. Now, quietly, there is no action taken—nothing done. The President, believing the American public's memory very short, obviously hopes the Ramsey Clark issue will be forgotten and blow away.

Certainly, this Senator has no personal quarrel with Ramsey Clark. But it seems to me if we have one rule and one standard for Ramsey Clark and another standard and rule for the families of the hostages, or for others who would like to visit Iran, then, in fact, the policy should be changed.

This ostrich-like approach is symbolic of the Carter administration's off-and-on again foreign policy and is particularly typical of the American hostage situation as a whole. Day 250 plus, and the yellow ribbons are still flapping in the breeze around the trees on the White House ellipse. Ever since the President's overly complicated plan to rescue the hostages failed so ingloriously in the spotlight of the world press, it seems no new steps have been taken to effect the release of the hostages. The polls show that public opinion has swung away from approval of Mr. Carter's handling of the crisis, and ever since he has tried to remove it from the headlines. Does the President hope that the whole matter will just blow away?

WHEN DID THE CRISIS BECOME MANAGEABLE?

Shortly after the crisis began on November 4 with the public loyally rallying behind the President to face the common danger, Mr. Carter found that he could no longer find the time to debate his principal challenger in the Democratic primaries. The President promised he would remain in the rose garden until the hostages were freed. Then, with his approval rating falling and a chain of primary defeats tarnishing his winner's image, he called on the ill-fated military rescue attempt. After that disastrous plan failed, which even if successful the Pentagon estimated would have cost 45 lives in order to save 38, Mr. Carter announced the crisis was now manageable, and he could come out and campaign now.

It is pathetic to see 53 Americans held hostage by the Iranians for these past 8 months. It is even more pathetic to observe the erratic Carter administration response to the situation. But, it is more pathetic to witness the lack of resolve shown by the executive branch when private citizens, such as Ramsey Clark, by dealing with the Iranian Government, openly usurp the President's role in conducting foreign affairs.

THE PRESIDENT'S CONTINUED LOSS OF CREDIBILITY

Once again, it is the case of President Carter, after a few tough words in the media limelight for political window dressing, following through with nothing. Perhaps in an effort not to further antagonize the left wing of his party just before the convention. Mr. Carter allows the liberal's pet, Ramsey Clark, to escape prosecution in a cloud of constitutional privilege claims.

The President's paralysis not engaging in consistent action in the Ramsey Clark matter comes despite a vote by the Senate on June 18 approving a measure introduced by me, calling on the President to enforce the provisions of the Logan Act or any other applicable act that Mr. Clark and the others may have violated. Mr. Carter's failure to follow through yet once again has contributed to his loss of credibility with the American people. More importantly, it has cost the United States the respect of nations throughout the world, who have looked in vain to him for a clear signal in foreign policy and for coherent consistent leadership.

Mr. President, it just seems to this Senator that this is another example of the on-again-off-again policy by the President.

Again, I question the judgment of any President saying publicly that someone should be prosecuted. I think he can convey that interest to his Attorney General. But I think it is just time we asked the question of the Justice Department. There has been adequate time to investigate. Will anything happen? Should the law be changed?

Maybe it is the fault of the Congress for not enacting appropriate legislation.

But as I said a few weeks ago when an amendment was offered, which was debated, and then a substitute offered by the distinguished majority leader, which I felt was adequate and said what the distinguished majority leader and most Senators felt, the law to be applied uniformly and discourage anyone from trying to regulate the fate of the American hostages.

So I suggest that perhaps it is now time for the Justice Department to respond.

QUORUM CALL

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the qourum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WORDS OF APPRECIATION TO SENATOR WILLIAMS

Mr. ROBERT C. BYRD. Mr. President, we have just had a very busy and productive week here in the Senate, and I am pleased that we have been able to accomplish such a great deal. The cooperation and careful preparation on the part of Members on both sides of the aisle and their staffs has been exemplary.

I would like to take just a moment to offer a special word of appreciation to my good friend and colleague, Senator WILLIAMS. The senior Senator from New Jersey guided the floor debate on several most important pieces of legislation these past few days, and has helped us come to agreement on complex and controversial issues.

First, we had the benefit of his sage guidance and many years of experience with the Davis-Bacon Act to assist us in our consideration of Mr. JEPSEN's amendment to the Public Buildings Act of 1980.

And, as I noted previously, Senator WILLIAMS did an excellent job as floor manager of the major authorizing legislation for the Department of Housing and Urban Development. This complex authorizing bill not only extended major programs such as the urban development action grant program, section 8 rental housing and FHA mortgage insurance, but this year it also included some very farsighted provisions for protecting the rights of tenants who live in rental housing which is being converted to condominiums.

In that Saturday session, Senator WILLIAMS worked diligently to assure passage of this measure which will guarantee decent, affordable housing for thousands of Americans and help ease the effects inflation and high interest rates are having on the Nation's housing industry.

Again, on Thursday of this week, we turned to Senator WILLIAMS for leadership on the Federal Public Transportation Act of 1980. And again, he lent his expertise and persuasive argument to the legislation which reauthorizes our basic public transportation assistance program and makes several important structural changes, including a new distribution formula that will help assure that Federal transit funds will be used most efficiently.

I cannot overstate the contributions which the senior Senator from New Jersey has made these past few days, and I would just like to extend a special thank you for his work and his dedication. The culmination of his most recent labors will go a long way toward improving the quality of life for countless Americans, and the legislation which he so aptly helped to mold will provide valuable, basic services for generations to come. I am sure that I speak for his colleagues on both sides of the aisle when I say that it is always a pleasure to work with him on issues of this magnitude. Once again, his efforts were fruitful and impressive.

WORLD CENSURE

Mr. ROBERT C. BYRD. Mr. President, today—more than 6 months since the Soviet invasion of Afghanistan—it is imperative that the brutal act of aggression be kept at the center stage of public attention.

The Soviets believe that passage of time will insulate them from world condemnation and accountability for their aggrandizement. We cannot let that happen.

World censure of the Soviets for their barbarism and ruthlessness must not abate. The murder of thousands of Afghans—including some children as young as 8 years old, schoolchildren, boys and girls—must not recede from the public's consciousness.

It is for these reasons that I recently sponsored a resolution—which was approved unanimously by the U.S. Senate—condemning the invasion of Afghanistan and deploring the Soviet violations of national rights and individual freedoms in Afghanistan.

The resolution urges all other nations to join in denouncing the Soviet Union for its intervention. It also puts the Senate on record in support of withdrawal of Soviet military forces from Afghanistan, and supports the imposition of penalties against the Soviet Union for its unlawful acts.

The United States will not be mollified by a token troop withdrawal designed as a propaganda ploy. Until the Soviets retreat from their invasion, we must, at every opportunity, keep this outrage before the world and in the press.

We must be reminded daily of the atrocities being committed in Afghanistan. We cannot let ourselves become numb to mass murder. And we cannot ignore the forced flight of hundreds of thousands of Afghans from their homes to the neighboring countries of Pakistan and Iran.

The Soviets, to a degree, respect world opinion. They should be reminded every hour of every day that the condemnation of their actions in Afghanistan is universal and unrelenting.

THE SUPPLEMENTAL CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I am now notified that it will probably be around 6:30 p.m. today before the papers on the supplemental conference report are transmitted to the Senate from the other body. The other body is presently acting on the conference report and various amendments in disagreement thereto.

So, for the benefit of my colleagues, I remind them that we hope to complete action on the conference report later this evening. More precisely, about an hour and a half from now, we should receive the papers.

THE REAL ESTATE CONSTRUCTION AND REHABILITATION INCENTIVES ACT OF 1980

Mr. WILLIAMS. Mr. President, the real estate industry, one of the Nation's largest and most critical economic sectors, is in a deep recession. All housing production is headed toward its lowest level since 1946, and the production of multifamily housing is practically nonexistent, except for a modest number of Government subsidized units. Likewise, the construction of modern factories and commercial realty, plagued by high interest rates and skyrocketing costs, is falling off substantially. The result is unemployment for hundreds of thousands of construction workers, and others, and a shortage of homes and apartments for millions of Americans.

We have heard much lately about the need for tax incentives to increase our Nation's productivity. I believe this can be a worthwhile approach for increased productivity, will curb inflation, and reduce unemployment. Therefore, Mr. President, I propose to introduce shortly the "Real Estate Construction and Rehabilitation Incentives Act of 1980." I ask unanimous consent that an outline of this vital legislation be printed at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WILLIAMS. Mr. President, this bill will provide new shorter lives for the depreciation of real estate, will repeal limitations on the deduction of construction period interest and taxes, and will permit taxpayers to elect, in lieu of depreciation, an experimental new investment tax credit for new realty construction.

This bill will also reduce the cost to tenants of those rental units which are converted to condominiums or cooperatives by making it possible for the owners of buildings, after negotiation with a tenant organization, to realize capital gains on the sale of these units. This will eliminate the needless and costly step of selling to a third-party, professional converter who in turns sells the dwelling units. It will also help to assure that those conversions which do take place are agreed to by tenants, not imposed on them. Moreover, investment in new rental housing will be encouraged by permitting a portion of the capital gain to be deferred if the funds are reinvested in new residential apartment construction.

The bill will also remove the fast-approaching expiration dates for those present tax incentives which encourage the rehabilitation of low-income housing, the removal of architectural barriers, and the preservation of historic properties. In the case of the former, the bill will extend these incentives to the rehabilitation of all rental housing.

Finally, the bill will restructure the rules concerning the deduction of investment interest, clarify the present Internal Revenue Code in several respects, and remove various technical impediments in the tax code to the full production of housing.

One of the most important provisions of the bill, the enactment of shorter useful lives for real estate depreciation, is also a feature of the widely discussed "10–5–3" capital cost recovery proposal which is now favored by many Members, and which I have cosponsored in support of its general thrust. However, my bill will propose only 20-year straight-line depreciation for all real estate—except for low-income housing, which would be amortized over 15 years—instead of the 10-year accelerated depreciation proposed in the "10–5–3" concept. The real estate industry is practically unanimous in the opinion that 10 years is an unnecessarily short period of time. Moreover, the "10–5–3" proposal excludes residential housing entirely from its benefits, ignoring its critical distress, and provides for eventual full recapture of the entire amount amortized. Most importantly, 10-year amortization of new real estate construction for industrial and commercial enterprises alone would be extremely costly in terms of lost revenues—perhaps as high as $17 billion per year by 1984. Preliminary estimates indicate that my proposal, including residential real property, will by contrast cost approximately $6 billion per year by 1984, while providing both the stimulus and the certainty necessary to spur realty development. And the other aspects of my bill will not add any significant further strain on the budget.

In short, my bill provides a broad arsenal of tax incentives to get housing and other real estate production going again at a reasonable cost. I urge every Member to support it.

EXHIBIT 1

OUTLINE OF THE REAL ESTATE CONSTRUCTION AND REHABILITATION INCENTIVES ACT OF 1980

I. Capital Cost Recovery and Depreciation Revision for Real Property.

It is increasingly likely that any tax cut for business enacted within the near future will be based on "10–5–3," a proposal to provide new incentive for capital investment by eliminating the present depreciation rules and establishing only three classes of useful lives: 10 years for real estate other than residential rental property, 5 years for certain equipment and 3 years for light trucks and autos. However, at present, the proposal entirely excludes residential real estate and leaves that type of property subject to present law. Non-residential real estate is encompassed within the "10–5–3" proposal but, in some respects (e.g., full Section 1245 recapture), it receives worse treatment than that which exists under current law. This bill would revise and simplify the current depreciation rules by providing in the statute for a 20-year straight line useful life for all real property, except for new low-income housing. This is a more realistic and a less expensive depreciation allowance than exists in the proposed "10–5–3" bills. There is wide industry support for a 20-year useful life; the real estate industry does not support the more aggressive and expensive accelerated 10-year depreciation write-off contained in "10–5–3".

A straight 20-year life (15 years in the case of new low-income housing) with no accelerated depreciation allowed would also simplify the Code and tax administration by doing away entirely with the necessity for the present complicated recapture and minimum tax provisions insofar as they involve real property. It would eliminate, also, endless audit disputes between taxpayers and the IRS concerning useful life.

Low-income housing requires a more advantageous depreciation schedule in order to encourage the production of this vitally needed housing, which is currently in critically short supply. Under our federal housing laws and regulations, ownership of low-income housing is governed by restrictions on rate of return, rental fees, and resale opportunities. Therefore, without a tax advantage, private investors would direct their capital toward nonsubsidized housing and other real estate which is unencumbered by such financial and business restrictions.

Low-income housing would be defined as

it presently is in the Code, except that there would be added other government-assisted housing in which at least 20 percent of the dwelling units receive rental assistance under the Section 8 low-income housing program.

With respect to any depreciable property already constructed and in use on the effective date of the Act, present law would continue to apply. Moreover, if such property is sold anytime within five years of the effective date, it must be depreciated over its then remaining economic useful life by an allowable method under the law as in effect before the effective date of the Act. If it is sold more than five years after the effective date, the bill would permit taxpayers to utilize, on a straight-line basis, either the remaining useful life of the property or 20 years (15 years in the case of low-income housing), whichever is shorter.

II. Election to Use Investment Credit Instead of Depreciation.

For newly constructed real property, a taxpayer could take a 10 percent investment tax credit as an alternative to the 20-year depreciation set forth above. If a taxpayer were to make this election no depreciation would be allowed in later years and, if the property were disposed of within 4 years, some or all of the tax credit would be recaptured. The concept of using the tax credit is experimental and is designed as a further incentive to encourage the construction of real property. This provision would expire in 4 years unless extended by Congress. The Internal Revenue Service would be required to report to the Congress before this time on the effectiveness of this provision.

III. Current Deductions of Construction Period Interest and Taxes (Section 189).

This bill would repeal Section 189 of the Internal Revenue Code, which was first enacted in 1976. Section 189 requires the amortization over a 10-year period of all construction period interest and taxes involved in the construction by individuals of real estate. (Certain low-income housing is presently exempt from this requirement until 1982.)

Repeal of this provision would equalize the treatment of interest and taxes, which are actual out-of-pocket expenses, between real estate construction and other industries. It would also remove the discrimination against individuals and in favor of corporations which construct real estate.

IV. Removal of Existing Expiration Dates for Rapid Amortization of Expenditures for Rehabilitation Historic Preservation and Barriers for Handicapped.

Congress has enacted several provisions to provide tax incentives for low-income housing rehabilitation, historic preservation and removal of barriers for the handicapped and elderly. When these were enacted they had expiration dates in order to encourage the development of alternative non-tax incentives. None have emerged, and the present tax provisions are an enormous incentive encouraging these desirable activities. This bill solves the legislative problem inherent in piecemeal extension of the expiration dates and provides more certainty to industry planners by repealing all of the expiration dates, most of which occur in 1981.

V. Extension of Provision for Rapid Amortization of Rehabilitation Expenses to All Residential Rental Property.

In order to encourage the maintenance of the Nation's existing housing stock, the bill extends the current tax provisions which allow a 60-month amortization of rehabilitation expenses for low-income housing to all residential rental property. In addition, to keep pace with inflation, the bill increases the maximum amount of rehabilitation expenditures subject to this amortization schedule from $20,000 to $30,000 per dwelling unit and the minimum amount from $3,000 to $5,000 per unit.

VI. Elimination of Tax Preference "Bias" Against Rehabilitation and Favoring New Construction.

Although taxpayers are given an incentive for investment in rehabilitation instead of new construction of low-income residential housing by the rapid five year write-off, this incentive is almost entirely taken away by the fact that all of the extra depreciation is an item of tax preference subject to the 15 percent minimum tax and to the maximum tax offset. The bill would restore the incentive (and extend it to all rental housing) by treating as a tax preference item only the amount of excess depreciation generated by the most rapid method available for new construction—the double declining balance method. Therefore, insofar as tax preference effects are concerned, rehabilitation will be treated on an equal footing with new construction instead of being disadvantaged vis a vis new construction.

In addition, with respect to all low-income housing placed in service prior to the effective date of the Act, the bill would clarify the meaning of the word "similar" in Section 1250(a)(1) (A) and (B) of the Code, so that Congressional intent in that regard will be clear.

VII. Capital Gains Treatment for Gains from Sale to Tenant; Tax-Deferred Rollover of Reinvested Gain.

Under current law, if a landlord wishes to dispose of his residential rental property, he is virtually forced to sell this to an outside professional condominium or cooperative converter rather than to his tenants, because he will get capital gains treatment for a sale to a converter and ordinary income treatment for a sale to his tenants. This extra layer of profit to the converter drives up prices for tenants. This bill would encourage a landlord to convert directly by allowing capital gains treatment on such a sale to these tenants, and other individuals, where the terms and conditions of the conversion have been negotiated with an organization representing a majority of the tenants. Further, to encourage continued investment in residential rental property this bill would allow a landlord to defer the tax on half the gain from the sale of rental property, the conversion of which is structured to maintain its low- or moderate-income character, for the portion of the proceeds which are reinvested within a reasonable period of time in new residential rental property construction.

VIII. Interest on Investment Indebtedness.

The Tax Reform Act of 1976 included a provision which limits an individual's deduction for interest on investment indebtedness to $10,000 plus the amount of net investment income. For example, if an individual borrows $60,000 at 17 percent interest to purchase property for investment, he will pay more in interest than he may deduct under current law. This provision discriminates against individuals since there is no similar limitation on corporations. Further, it discriminates in favor of wealthy individuals who, because of the large amount of investment income that they frequently have, have virtually no limit on their interest deductions. This bill would make realistic modifications in the Code with respect to investment interest.

IX. Ordinary and Necessary Business Expenses Paid or Incurred Prior to Realization of Current Income.

The Internal Revenue Service has adopted the policy, in the case of real estate activities involving the construction and operation of a property, of disallowing the deduction of otherwise deductible ordinary and necessary business expenses paid or incurred by the owner of the property prior to the actual realization of income. This bill clarifies existing law to the effect that ordinary and necessary business expenses incurred within twenty-four months before the actual realization of income are currently deductible. It would also permit a taxpayer to demonstrate that a period exceeding twenty-four months is appropriate for the particular type of real estate he is developing.

X. Rental of Property to Relatives as Principal Residence.

This bill provides a technical correction to the internal Revenue Code provision enacted in 1976 to place limitations on deductions relating to vacation homes. That provision inadvertently also limited deductions on the rental of property at a fair market rental to a relative of a taxpayer for use as a principal residence. For example, if a taxpayer rents residential property to a stranger he is entitled to deductions for repairs, depreciations, etc. If he rents the same residence to a relative at the same rental, he should be entitled to, but under current law is denied, the same deductions.

XI. Advance Refunding of Housing Bonds.

Congress recognized, in the Revenue Act of 1978, that it was proper to permit the advance refunding of tax-exempt bonds for certain qualified public facilities. Accordingly, advance refunding is permitted for public-airports, docks, wharves, mass commuting facilities, parking facilities, and convention and trade show facilities. Unfortunately, no provision was made for the advance refunding of residential real property for family units, which is an exempt activity similar to the ones permitted by the 1978 amendment to be advance refunded. This oversight should be corrected.

XII. Use of Bond Proceeds to Remove Liens in Connection with Rehabilitation.

It is the view of the Internal Revenue Service that the use of more than 10 percent of the proceeds of a tax-exempt bond issue to remove an existing first lien so that the property can be rehabilitated by its present owner for use as residential real property prevents the bond issue from being tax-exempt. Since it is usually necessary to use more than 10 percent of the bond proceeds to remove an existing first lien in order to substitute the state's first lien, this interpretation has greatly impeded the efforts of state housing agencies, among others, to issue their bonds for the purpose of rehabilitating existing structures for low- and moderate-income housing. Accordingly, the bill would provide that the removal of a first lien would be considered an "exempt" use under the Code allowing the states to issue tax-exempt bonds.

HOUSE EXAMINES VEHICLE THEFT

Mr. PERCY. Mr. President, two important subcommittees of the House of Representatives recently concluded 3 days of informative joint hearings on the worsening problem of motor vehicle theft.

The Subcommittee on Consumer Protection and Finance of the Interstate and Foreign Commerce Committee, chaired by Representative JAMES H. SCHEUER of New York City, and the Subcommittee on Inter-American Affairs of the Foreign Affairs Committee, chaired by Representative GUS YATRON of Reading, Pa., examined the Motor Vehicle Theft Prevention Act of 1979 (S. 1214/H.R. 4178) which I cointroduced with Senator JOSEPH BIDEN, JR., of Delaware last year. The House subcommittee hearings conducted on June 2, 10, and 12, 1980, in New York City and Washington, D.C., in many respects confirmed the findings of previous Senate hearings.

The Permanent Subcommittee on Investigations, of which I am ranking minority member, held 5 days of hearings into this problem in late November 1979. In April 1980, the Criminal Justice Subcommittee of the Judiciary Committee conducted a 1-day field hearing on S. 1214 in Baltimore, chaired by Senator Charles Mathias of Maryland, ranking Republican.

The House hearings have provided an impressive record documenting the need for swift passage of both S. 1214 and H.R. 4178. Mr. President, the current absence of a Federal legislative strategy to curb vehicle theft is not only unacceptable, but shameful. According to the Department of Justice uniform crime reports, motor vehicle theft increased 10 percent in 1979 over 1978, accounting for 1.1 million stolen vehicles.

Insurance rates for vehicle theft continue to spiral and now amount to $2 billion paid out annually by American motorists for this crime. The Justice Department estimates that the overall cost of vehicle theft is $4 billion a year, including law enforcement costs, and time and wages lost due to theft. For instance, the Law Enforcement Assistance Administration has determined that vehicle theft ranks second only to violent assault as the greatest crime-related cause for job absenteeism.

In some cities, motorists are paying over $200 a year for vehicle theft coverage. Unfortunately, no one class of motorist is left untouched by this alarming trend. Auto and pickup truck theft are among the fastest growing nonurban crimes in America.

Experts have attributed the increase in theft to the rise of "chop shop" and "retagging" operations that have developed throughout the Nation. A chop shop is usually a clandestine garage where late model stolen cars are disassembled for their component crash replacement parts.

These lucrative parts, such as doors, front ends, and rear assemblies, are regularly fenced on the illicit market. Oftentimes, these parts move in interstate commerce thousands of miles due to the instant communication network illegally used by professional thieves.

Because these parts lack vehicle identification numbers, police are unable to halt this lucrative racket.

Another popular vehicle theft scam is known as retagging. Typically, a thief will buy a totally wrecked and unusable vehicle at an insurance auction for a nominal price. After receiving title to the wreck, the retagger removes all important identifiers. He then steals a car which resembles the wreck and affixes the identifiers from the wreck to the stolen vehicle. In a matter of a few hours, the stolen car assumes the identity of a legitimately registered car.

Both problems are addressed in S. 1214 and H.R. 4178. Title II authorizes the Secretary of Transportation to mandate the placement of additional identifying numbers on those key crash replacement parts coveted by choppers. Regarding the cost of this procedure, the major motor vehicle manufacturers have informed me that the numbers can be affixed to six additional crash replacement parts for a total cost of no more than $5, labor included.

During the House hearings, Ford Motor Co. testified that its pilot component identification program for 1980 Lincoln Continentals and Mark VI's may have resulted in a 10 percent drop in theft of these cars as opposed to the unnumbered models manufactured last year. This corroborates testimony given before the Permanent Subcommittee on Investigations that thieves avoid trafficking in marked parts, such as motors and transmissions, because the risk of apprehension is significantly increased.

Here is a summary of what key House witnesses said about the potential advantages of additional vehicle parts component identification.

Philip B. Heymann, Assistant Attorney General, in charge of the Criminal Division and Cochairman of the Federal Interagency Committee on Auto Theft Prevention:

> We take very seriously the type of measure you have before you, and we are urging it strongly, in part because we think that prevention has perhaps a bigger role than after-the-fact law enforcement in this very substantial problem, certainly one that involves billions of dollars worth of theft.

Joan B. Claybrook, Administrator, National Highway Traffic Safety Administration:

> We think the most cost-beneficial thing to do now is the labeling with identification numbers of the parts; clearly, that is by far the most important thing.

M. D. Knight III, vice president, Government Employees Insurance Co., and chairman, National Association of Independent Insurers (Auto Physical Damage Committee):

> We will be glad to see the law passed, directed at the people making the money out of the theft and not just directed at the kids and punks who are stealing them.

Albert B. Lewis, New York State superintendent of insurance:

> What I want to say about why I think the bill has merit, especially in the component parts, is because we would expect that the insurance industry would be the final step in this whole proceeding . . . After all, the end result of this is an insurance company paying for these parts. That is where the money comes in and that would be the bottom line.
>
> We would expect that, when this legislation is passed, insurance companies throughout the United States would not pay a claim, would not pay a claim for any part replacement, unless the part identification number is put into a schedule . . .

Paul W. Gilliland, president, National Automobile Theft Bureau:

> Any of these suggestions that are included in this bill in and of themselves individually are not the total answer, but the combination of those are a major step in the right direction.

Theodore W. Johnson, executive director, Coalition to Halt Automotive Theft:

> Our goal is to see this bill enacted in this present session of Congress. It is important and it is urgent.

G. R. Williams, vehicle regulations manager, Environmental and Safety Engineering, Ford Motor Co.:

> Compared to vehicle anti-theft design improvements—which in time are defeated by professional thieves—we believe a more effective aproach may be in the area of vehicle identification.

David E. Martin, director, Automotive Safety Engineering, Environmental Activities Staff, General Motors Corp.:

> We are not objecting to it (component identification). We are not negative about it. If we were not relatively positive, if we were not hopeful this would be an effective concept, we would not have voluntarily taken on the course that we have.

Russell F. McKinnon, executive vice president, Automotive Dismantlers and Recyclers of America:

> We fully support the legislation and would urge its passage, and we strongly support the inclusion of Title II in the bill, and that it not be watered down.
>
> I think the last point we would like to make is that this bill would be a substantial curb on auto theft chop-shop operations and that it would be a great aid to the citizens of this country in hoping to curb a $4 billion a year fraud.

Sgt. Frank A. Martin, Auto Crime Unit, New York City Police Department:

> . . . The idea is that we have to somehow take away the tremendous profits in auto theft in order to deter the thief.

Col. Clinton L. Pagano, Superintendent of the New Jersey State Police:

> It will give enforcement some tools and backbone that we presently do not have. I think that this is very important.

Barry Matheson, Special Prosecutor, Canadian Department of Justice, St. Catherines, Ontario:

> If all of the parts and replacement parts of automobiles were marked by an appropriate identification number, the problem of detection and prosecution would be greatly resolved.
>
> I think if you got the vehicle identification numbers, you would have the problem licked.

Donald J. Bardell, executive director, American Association of Motor Vehicle Administrators:

> I do want to point out right at the beginning that AAMVA vigorously supports the concept and the purposes of H.R. 4178.

Noel A. Chandonnet, assistant vice president, Government Employees Insurance Co., Woodbury, N.Y.:

> Without a cooperative effort between the states and the Federal government, we are not going to lick the problem and make substantial inroads in curtailing chop shop operations or whatever.
>
> We need the assistance of the Federal government to bring a sort of cohesion to our fight against the problem.

Lt. Luis Barba, Auto Theft Bureau, El Paso Police Department:

> Federal legislation would really help us if we could get some form of uniform registration throughout the country.

Mr. President, I want to commend Representative S. William Green, of New York City, for his effective role as chief House sponsor of the Motor Vehicle Theft Act of 1979. His staff, particularly John Cuttell, have done an outstanding job in educating the House on the merits of the bill.

Additionally, my deepest appreciation goes to Representative James H. Scheuer, chairman of the House Subcommittee on Consumer Protection, and particularly to his able assistant, Ms. Mary Fran Kirchner, for her expert preparation of the House hearings. She was capably assisted by Ed Rovner, staff director. Also, I would like to thank Representative Gus Yatron, chairman of the Inter-American Affairs Subcommittee, and his conscientious staff director, Gene Friedman who with Mathew Moser, performed with distinction.

I ask unanimous consent to submit for the Record articles on the hearings that appeared in the Newark Star-Ledger, the Automotive News, the Journal of Commerce and an editorial aired by WABC–TV in New York City.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Newark Star-Ledger, June 13, 1980]

Lessons in Auto Theft: "Pro" Shows House Panel the Tricks of the Trade

New York, N.Y.—A hooded convict showed a joint congressional committee yesterday just how easy it is to break into a car.

He went into the garage of the Federal Office Building at Foley Square and using a "slim Jim" locksmith's tool, inserted it a certain way into the closed window and unlocked the door within five seconds.

"This does what the key does, without the key," he explained.

Minutes later, he sat in a hearing room upstairs and told the committee he was involved in an auto theft ring from 1963 to last year during which he stole about 150 late-model luxury cars mostly for sale to "chop shop" garages, which cannibalize cars for parts for illegal resale, usually to order.

Identified for security reasons only as "John Doe," he testified at a joint hearing on a bill to require the stamping of vehicle identification numbers (VINs) on all major car parts.

"This would cut down on car thefts," said Rep. S. William Green (R–N.Y.), sponsor of the bill.

He said about one million cars are stolen in the United States each year, or one every 33 seconds. More than 100,000 disappear from New York State alone.

Rep. James H. Scheuer (D-N.Y.), head of the House subcommittee on consumer protection and finance which conducted the hearing with the subcommittee on inter-American affairs, said auto theft costs the nation $4 billion a year.

"Ten years ago, 80 percent of auto thefts were committed by kids out for a joyride and 80 percent of the cars were recovered," he said.

"Today, organized crime is into car theft and only 40 percent of the vehicles are recovered."

At least four federal agents had "John Doe" in custody at the hearing and would not even disclose where he was being held for fear of jeopardizing an ongoing investigation into car theft.

The witness, who said that during the past year he specialized in theft of construction equipment and trailer tractors, testified that stolen vehicles also were exported without trouble.

"Pick up a car and that same day it would be loaded on a foreign vessel," he told the committee.

He said auto repair shops mostly wanted tires, doors and "noses"—hoods, bumpers and fenders—from luxury cars.

"Motors and transmissions aren't the big resale items," he said.

He explained that motors and transmissions bear identification numbers and although they could be changed or forged, the demand for them was not as great.

Sgt. Frank Martin of the New York City Police Department's Auto Crime Division, showed slide pictures of a "chop shop" operation in Brooklyn.

"They would rent a vacant warehouse under a fictious name, strip the cars and pile them up, one on top of another, starting at the rear of the building. When they worked their way to the front and there was no space left, they would just walk away, leaving it up to the owner to clean up the mess," he said.

Green's proposed Motor Vehicle Theft Prevention Act would give the National Highway Traffic Safety Administration authority to set stricter standards for car security, including the display of VINs on all major component parts of an automobile.

It also would make it a federal crime to change or remove a VIN from a component part and require those exporting vehicles to provide the VINs to the U.S. Customs Service prior to shipping.

[From the Journal of Commerce, June 11, 1980]

Congress Focusing On Auto Theft

(By David M. Cawthorne)

Washington.—Congressional hearings on how to impede the growth of one of the few American industries which posted a 10 percent increase in business in a declining economy began here Tuesday.

Although Congress these days doesn't like to use the heavy hand of government regulation to impede the growth of an industry, an exception may be made for the interstate auto theft business.

FBI figures indicate that over $3 billion of motor vehicles and parts are stolen each year and auto thefts for the first quarter of 1980 are up 10 percent.

And amid growing indications that organized crime is going into the business because of a lucrative domestic and foreign market in car and truck parts, Congress wants to do something about it.

The hearings, held by the House Interstate and Foreign Commerce Committee's Consumer Protection and Finance Committee and the InterAmerican Affairs Subcommittee of the House Foreign Affairs Committee, focused on legislation aimed at making it easier to identify stolen car parts and extending the Racketeer Influence and Corruption Organization Act to cover trafficking in stolen motor vehicles and their parts.

Specifically, the bill would give the secretary of transportation the authority to require auto and truck manufacturers to attach vehicle identification numbers to auto parts and make it a federal offense to alter the numbers or sell them.

DOT also would be authorized to require manufacturers to install steering wheel and ignition locking mechanisms aimed at making it more difficult to steal a car if the devices are cost-justified.

[From the Automotive News, June 16, 1980]

Organized Crime Seen in Auto Thefts

(By John A. Russell)

New York.—Auto thefts has become big business for organized crime and is costing the general public an estimated $4 billion annually in losses and additional insurance costs, as well as costs in tracking down the criminals.

Forty percent of all cars stolen are never recovered, according to experts testifying at a congressional hearing here, but 10 years ago that figure was 20 percent.

This steady increase has led enforcement officials and insurance companies to assume that organized crime syndicates are involved in auto theft and are "chopping" cars and selling parts.

The hearings were conducted by Rep. James H. Scheuer, chairman of the subcommittee on Consumer Protection and Finance, and Rep. Gus Yatron, chairman of the subcommittee on Inter-American Affairs.

This joint committee hearing was held to consider new legislation introduced last year to require additional physical security of motor vehicles as well as placing Vehicle Identification Numbers on component parts of vehicles and increasing federal penalties for those trafficking in stolen cars or parts.

A key witness at the hearing was a masked auto thief, who was identified only as "John Doe." Scheuer said that the person was now cooperating with federal authorities on several open cases.

"Doe" related a tale of altered VIN numbers, forged titles and other documents and lax titling policies in many states, all of which he said help the professional auto thief.

This witness noted that there were standing orders for auto parts existing in the body-shop business and he painted a dim picture for any improvement.

Numbers can be changed, the supposedly secure metal plate in the door jamb of cars that have the VIN can be removed and replaced within five minutes and no matter what type of numbering system is employed, it can be overcome, he said.

Going rate for simply the theft of a car, "Doe" said, was $250. A bigger and more developing business for the professional thief is the theft of heavy construction equipment and trucks. The witness claimed this was the curent "hot" market and this type of equipment was being traded internationally.

This international market is only for whole vehicles, he said, and actually it's easy to ship vehicles. Most of those involved bring the vehicles to the docks the day the ship sails.

Backing this contention was Paul W. Gilliland, president of the National Automobile Theft Bureau.

Gilliland said that "at least 10,000 stolen vehicles are taken annually to Mexico. This estimate does not include seaport exportation of vehicles being sent to Central America, West Africa, the Caribbean, the Philippines and other countries."

Actual theft of a vehicle is a three-to-five-minute job for the professional theif, according to "Doe." Current popular models for parts include all General Motors cars, "Doe" said.

Law-enforcement officials testified that the parts business seems to be the high-profit area for the professional thief.

Sgt. Frank Martin, of the New York City Police Department's Auto Crime Division, said "it is organized rings that are stealing and cutting 40, 50, 60 cars a month that are the heart of the problem. The theft of 50 late-model cars can result in profits of more than $100,000."

Col. C. L. Pagano, superintendent of the New Jersey State Police, said that figures recently developed before the U.S. Senate in testimony on auto theft showed that a "relatively low-priced car with a $5,741 sticker price contains parts worth $26,418 if they are purchased separately on the retail market.

He said that thieves also are working the "phantom-car fraud."

Pagano said in this scheme, non-existent motor vehicles are titled by presenting counterfeit proofs of ownership to the New Jersey Division of Motor Vehicles. A legitimate certificate of ownership is issued. The actor insures the phantom vehicle, reports it stolen and collects on the insurance claim.

Another problem confronting law-enforcement officials, Pagano said, is the relatively light sentences given to thieves.

This, combined with plea bargaining, has made arrest and conviction a mild deterrent to the auto thief.

The bill under consideration by the U.S. House, introduced by Rep. William Green, would be an amendment to the National Traffic and Motor Vehicle Safety Act of 1966.

It would provide for additional security systems to be developed as per regulation by the Secretary of Transportation with the possibility of eliminating a key-start system.

Also, it would include a requirement that VIN numbers be included on major automobile components, including fenders, bumpers and deck lids.

To counter fencing stolen vehicles, the penalty for altering or removing VIN numbers would be a $5,000 fine and not more than five years in prison, or both.

Trafficking in stolen motor vehicles or parts would incur a sentence of $25,000 and 10 years in prison, or both.

Importation or exporting of stolen motor vehicles or parts would have a fine of $10,000 and not more than five years in prison.

More hearings are slated on the bill in Washington in the future.

[From the Journal of Commerce, June 13, 1980]

International Car Thefts Investigated

(By David M. Cawthorne)

Washington.—Mexican police are involved in an international stolen car ring and are converting stolen American automobiles to government use, El Paso, Texas, police officials told a House subcommittee Thursday.

The cars also are being used to encourage top Mexican law enforcement officials to ignore narcotic trafficking and other violations, the officials told a hearing held by the House Interstate and Foreign Commerce and International Affairs Subcommittee hearing here.

The hearings are on legislation aimed at stemming the growth of organized rings which steal and sell automobiles or automobile parts.

FBI figures indicate that over $3 billion worth of motor vehicles and parts are stolen each year and that thefts for the first quarter of 1980 are up 10 percent from last year.

Insurance costs push the total cost to over $4 billion annually, industry officials estimate.

Provisions of the bill require auto and truck manufacturers to attach vehicle identification numbers to all parts of an automobile and make it a Federal offense to alter or sell them.

Manufacturers also could be required to install tougher steering wheel and ignition locking mechanisms in their cars.

Anti-racketeering laws would be extended to cover car and car parts thefts, and importers and exporters would be barred from handling a vehicle if they know the VIN has been altered.

Exporters also would have to provide the VIN number to customs officials before the vehicle is shipped.

But Thursday's hearings focused on the "Mexican Connection," which the National Auto Theft Bureau estimates handles 10,000 American vehicles annually. Many are ultimately exported to other South American countries.

The El Paso officials complained they get little or no cooperation from Mexican authorities and said that Mexican police have been arrested in stolen cars.

In one incident, they said, a Mexico City policeman was accompanied by a known narcotics addict and two men armed with guns.

One other American car recovered contained a police uniform, a police badge, and other personal belongings, they added.

Car thieves are also employed by the Mexican police, the El Paso officials charged, and narcotics often are traded for stolen vehicles.

Mexican officials either sell the hot cars or pass them on to their higher-ups as a form of bribery, the El Paso policemen said.

They claimed to have documented evidence that one Mexican colonel received a car in return for overlooking narcotics trafficking, the officials said.

Stolen vehicles recovered also are converted to official use, the El Paso officers said, citing as an example a stolen El Paso Police Department motorcycle being used by Mexican gendarmes.

Since stolen vehicles are able to get well past the border without any problems, the officials said, there must be some complicity at checkpoints within the country.

Poor pay, a lack of equipment and little training are at the root of the problem, the officials said.

Editorial

Announcer. Here with a Channel Seven Editorial is Phil Boyer, Vice President and General Manager of WABC–TV.

Boyer. Every 32 seconds a car is stolen somewhere in the nation and one million vehicles are stolen every year. Ten percent of those are ripped-off right here in New York City. That statistic is the reason that New Yorkers pay nine times the national average for auto insurance premiums.

The New York City Police Department reports that 55 percent of the cars stolen are taken for the resale of the parts. They are pirated by highly organized and professional criminals who take them to "chop shops" and on occasion sell them back in whole vehicles to unsuspecting buyers. The marketability of the component parts account for their substantial profits.

Congressman James H. Scheuer of New York recently conducted hearings on the motor vehicle theft prevention act that if approved would provide for stiffer penalties for auto theft, set stricter security standards, and most importantly require the display of vehicle identification numbers on all major component parts.

Channel 7 believes that the rising tide of auto theft must be brought to a halt and it seems this bill might be a step in the right direction. We urge you to write your local Congressman and express your support. We think vehicle I.D. numbers will be a significant deterrent to chop shop operators. Maybe this action will help drive them out of town.

I'm Phil Boyer.

Announcer. What's your opinion? Write Channel Seven Editorials, 7 Lincoln Square, New York, N.Y. 10023.

FEDERAL REGULATION OF BUSINESS

Mr. THURMOND. Mr. President, Dr. Ronald P. Wilder, associate professor of economics in the College of Business Administration at the University of South Carolina, has written an excellent article entitled "Recent Trends in Federal Regulation of Business." This article appeared in the May–June, 1980 issue of Business and Economic Review, published by the University of South Carolina's College of Business Administration.

In discussing the significant amount of health, safety, and environmental legislation passed during the 1960's and 1970's, Professor Wilder makes several interesting and very important points. He explores the need for cost-benefit analyses of Federal regulations, concluding that such analyses are necessary to avoid a serious misallocation of society's scarce resources. Professor Wilder also discusses the relationship between excessive regulation and decreases in labor productivity, pointing out that, for the first half of 1979, labor productivity growth was negative.

I highly recommend this article to my colleagues as an enlightening discussion of some important regulatory reform issues. On behalf of myself and my distinguished colleague from South Carolina, Senator Hollings. I ask unanimous consent that this article be printed in the Record following these remarks.

There being no objection, the article was ordered to be printed in the Record, as follows:

Recent Trends in Federal Regulation of Business

(By Ronald P. Wilder)

The purpose of government regulation of health, safety, and environmental quality, say proponents, is to improve the quality of life. The results of such government regulation, argue an increasing number of critics, have been massive regulatory costs, declining productivity, and an increase in the inflation rate.

The decade of the 1960's marked a watershed in the development and application of Federal regulation of business. Prior to that time, such regulation had fallen primarily into one of two categories. The first variety, characterized by antitrust policy, had the objective of modifying the state of competition in individual markets. The second variety, exemplified by public utility regulation, had the objective of controlling entry, rates, and profitability levels in specific utility industries. The effect of both was to alter the market environment in which firms operated. Management of affected firms took the regulatory environment into consideration when they made pricing, output, and other business decisions. Specific managerial decisions, such as hiring and firing, choice of production technique, and the nature of the product, however, were essentially decisions internal to the firm.

This traditional regulation, therefore, tended to be industry specific and directed toward shaping the environment in which business firms operate. The institutions involved in implementing these controls included the Antitrust Division of the Department of Justice, The Federal Trade Commission, and such other Federal regulatory commissions as the Civil Aeronautics Board. The Federal Communications Commission, and the Interstate Commerce Commission.

Beginning in the 1960's and continuing through the 1970's, however, a new wave of Federal regulation appeared.[1] It differed from the original requirements in the following ways: (1) The new regulation tends not to be industry specific. Rather, it is directed more toward business firms in general than firms in particular industries or sectors. (2) Instead of affecting managerial decisions indirectly by altering market environments, the new regulation tends to be directed toward specific managerial decisions. (3) The new regulation is directed toward broad social objectives rather than narrowly defined economic objectives. In other words, the new regulation is more closely related to quality of life than to traditional measures of economic output such as gross national product.

The purpose of this article is to survey recent trends in Federal regulation and to discuss some of their costs and benefits. The concluding section addresses the issue of deregulation.

SCOPE OF THE NEW FEDERAL REGULATION

A partial listing of the areas of new regulation is shown in Table 1. The scope of the new regulation ranges from the business firm's activities in input markets, including regulation of employment practices and energy consumption, to conditions in production, including worker safety and health and environmental pollution, to the nature of the product safety regulation. Because of the broad range of the new regulation, managers in virtually all the functional areas of the firm are affected. The effects on management are substantial. Managerial decision making is constrained by the numerous Federal regulations covering virtually every important aspect of business activity. Some examples of these effects are listed below.

1. Decision making times is increased because of the necessity of considering compliance with Federal regulation for each decision made.

2. Uncertainty is increased because of the broad wording of much of the new regulation. Uncertainty is also related to the relatively undeveloped state of case law regarding the new regulation.

3. Because of the time and uncertainty effects, additional resources in decision making and compliance are required. These additional resources add to the cost of production.

TABLE 1.—SCOPE OF THE NEW FEDERAL REGULATION: A SAMPLE OF RECENT LEGISLATION

Year of enactment of enabling legislation	Name of legislation	Objectives and requirements
1962	Food and Drug Amendments	Require pretesting of drugs for safety and effectiveness and labeling of drugs by generic names.
1962	Air Pollution Control Act	Provides first modern ecology statute.
1963	Equal Pay Act	Eliminates wage differential based on sex.
1964	Civil Rights Act	Creates Equal Employment Opportunity Commission (EEOC) to investigate charges of job discrimination.
1965	Water Quality Act	Extends environmental concern to water.
1965	Cigarette Labeling and Advertising Act	Requires labels on hazards of smoking.
1966	Fair Packaging and Labeling Act	Requires producers to state what a package contains, how much it contains, and who made the product.
1966	Child Protection Act	Bans sale of hazardous toys and articles.
1966	Traffic Safety Act	Provides for a coordinated national safety program, including safety standards for motor vehicles.
1966	Coal Mine Safety Amendments	Tightens controls on working conditions.
1967	Flammable Fabics Act	Broadens Federal authority to set safety standards for flammable fabrics, including clothing and household products.
1967	Wholesale Meat Act	Offers states Federal assistance in establishing interstate inspection system and raises quality standards for imported meat.
1967	Age Discrimination in Employment Act	Prohibits job discrimination against individuals aged 40 to 65.
1968	Consumer Credit Protection Act (Truth-in-Lending)	Requires full disclosure of terms and conditions of finance charges in credit transactions.
1968	Interstate Land Sales Full Disclosure Act	Provides safeguards against unscrupulous practices in interstate land sales.
1968	Wholesome Poultry Products Act	Increases protection against impure poultry.
1968	Radiation Control for Health and Safety Act	Provides for mandatory control standards and recall of faulty atomic products.
1969	National Environmental Policy Act	Requires environmental impact statements for Federal agencies and projects.
1970	Amendments to Federal Deposit Insurance Act	Prohibits issuance of unsolicited credit cards. Limits customer's liability in cases of loss or theft to $50. Regulates credit bureaus and provides consumers access to files.
1970	Securities Investor Protection Act	Provides greater protection for customers of brokers and dealers and members of national securities exchanges. Establishes a Securities Investor Protection Corporation, financed by fees on brokerage houses.
1970	Poison Prevention Packaging Act	Authorizes standards for child-resistant packaging of hazardous substances.
1970	Clean Air Act Amendments	Provides for setting air quality standards.
1970	Occupational Safety and Health Act	Establishes safety and health standards that must be met by employers.
1971, 1974	Federal Election Campaign Act	Provides for organization of Political Action Committees. Sets limits on political spending.
1972	Consumer Product Safety Act	Establishes a commission to set safety standards for consumer products and bans products presenting undue risk of injury.
1974	Employee Retirement Income Security Act	Provides detailed standards for private sector pension plans.
1975	Energy Policy and Conservation Act	Sets forth energy conservation measures.
1978	National Energy Act	Provides for changes in public utility ratemaking, natural gas deregulation, coal conversion, conservation, and taxation.

Source: Murray Weidenbaum, Business, Government, and the Public (Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1977), pp. 6–8.

Data summarizing the effects of the new regulation on the activity of the business firm can be found in Table 2. These data suggest that the scope of the new regulation is firm-wide, and not restricted to senior corporate management and staff.

In addition to noting the number and breadth of the new Federal regulations, it is also important to point out that the new regulations tend to be prescriptive in nature. That is, rather than merely stating laws without specifying details of how a firm may comply, the new regulation frequently sets design standards and specific means of compliance. Hence, the constraining effect on the firm is even greater than would be suggested by the mere number of new regulations and regulatory institutions.

TABLE 2.—FEDERAL REGULATION AND THE ACTIVITIES OF THE BUSINESS FIRM

Functional area	Examples of regulatory constraints
Corporate headquarters and staff (top management, accounting, finance, and legal).	Antitrust, taxation, securities regulations, overall regulatory compliance.
Personnel	Equal employment opportunity, pension regulations, labor relations laws.
Production	Occupational safety and health environmental protection, energy, product safety.
Marketing	Antitrust, FTC-advertising regulations, product safety.

COSTS AND BENEFITS OF REGULATIONS

The general objective of most of the new regulation is to improve the quality of life. This objective is pursued by specific laws that affect working conditions, the quality and safety of the product, living conditions, and individual rights and freedoms. Although many critics of the new regulations focus their criticism on the high costs of implementing these programs, it should not be overlooked that most programs also have positive benefits. Because of the intangible nature of many of the effects of the new regulations, however, quantitative measurement of benefits is difficult. Most observers would agree that quality of life has improved as a result of the provisions of the new regulations, but there is little agreement on whether the benefits are small or substantial and whether benefits are larger than costs. It has also been pointed out that at the time of passage of the majority of the laws implementing the new regulation, Congress had only a very imperfect knowledge of the benefits and costs that would be involved.

The question of whether benefits outweigh costs is an important one because the proper allocation of society's scarce resources requires that these resources be used in those pursuits with the highest proportion of benefits to costs. In the private sector, resource allocation responds to supply and demand and the profit motive. In the public sector, however, profit signals are usually absent, and allocation depends upon Congress' judgment regarding benefits and costs. Passing regulations without regard for the benefit-cost relationship necessarily results in a misallocation of resources. The fundamental economic problem of scarcity dictates that such misallocations cause a reduction in society's total output. In the last few years, the Council on Wage and Price Stability has undertaken a series of benefit-cost studies of legislative proposals. In many cases the council's studies have found that proposed legislation was not justified on a benefit-cost basis.[2]

One area of regulation in which extensive estimates of costs and benefits have been made is that of environmental protection. The Council on Environmental Quality has estimated that the damages incurred by society from air pollution would be in excess of $25 billion per year in the absence of pollution controls. This estimate of the potential benefits of pollution control can be compared with annual costs of compliance with pollution control regulation in the range of $3–5 billion.[3]

On the surface, these order of magnitude values give the impression that the benefit cost ratio for environmental regulation may be favorable. However, preliminary studies of the causes of reduced pollution loads in the United States suggest that other forces, such as technological change and fluctuations in the level of economic activity, may account for most of the observed reductions in pollution levels.[4] In other words, although pollution has decreased in recent years, it is not clear that regulation has been the major causal force.

In other regulatory areas as well there is considerable controversy and doubt regarding benefit-cost relationships. For example, OSHA has proposed an industrial noise standard that would set an absolute limit on sound levels in industrial plants. The cost of protecting workers by requiring that hearing protectors (ear plugs or ear muffs) be worn would be much lower than setting an absolute noise standard that has to be met by modifying machinery and equipment. In this case, the choice between setting standards for ambient noise levels versus allowing the same objective (protecting workers against hearing loss) to be met by wearing hearing protectors would make a considerable difference to the cost of regulation.[5]

A similar example may be found in the case of the automobile crash protection regulations. The Department of Transportation has proposed that air bags be required in all

---

Footnotes at end of article.

passenger vehicles beginning in the mid-1980's. The experience in other countries suggests that similar or higher levels of protection could be achieved by laws requiring mandatory lap and shoulder belt usage. Although on a benefit-cost basis the mandatory usage of lap and shoulder belts would be superior to air bags, the final rules may require air bags on the grounds that it is difficult to persuade motorists to wear seat belts.[6]

Congress appears to have underestimated consistently the ultimate cost of many of the new regulations. The underestimation of cost is related to the prevailing conventional wisdom when the new regulatory legislation was being passed that regulatory costs were low. The actions of Congress seem to have been based on the assumption that the benefits of regulation are substantial, the costs are relatively low, and therefore each aspect of the new regulation can be justified on a benefit-cost basis. Recently, researchers have begun to add up the costs of some areas of regulation, with the conclusion that regulatory costs may be very high.

The most comprehensive estimates of regulatory costs were those made by Murray Weidenbaum of Washington University. Professor Weidenbaum estimated that total regulatory costs were in the range of $66 billion in 1976 and that they may well have exceeded $100 billion in 1979.[7] Details of Weidenbaum's cost estimates are shown in Table 3.

Probably the most striking inference from Table 3 is that the costs to business firms related to complying with the provisions of the new regulation are the major cost component, with administrative costs to the Federal Regulatory Agencies minor by comparison.

TABLE 3.—ESTIMATES OF THE ANNUAL COST OF FEDERAL REGULATION BY AREA, 1976

[In billions of 1976 dollars]

Regulatory area	Administrative cost[1]	Compliance costs[2]	Total
Consumer safety and health	$1.5	$5.1	$6.6
Job safety and working conditions	.5	4.0	4.5
Energy and environment	.6	7.8	8.4
Financial regulation	.1	1.1	1.2
Industry-specific (regulated industries)	.5	19.9	20.4
Paperwork	([3])	25.0	25.0
Total			66.1

[1] Cost to the Government regulatory agencies.

[2] Cost to the regulated firms.

[3] Included in other categories.

Source: Murray Weidenbaum and Robert DeFina, "The Cost of Federal Regulation of Economic Activity," reprint No. 88 (Washington, D.C.: American Enterprise Institute, 1978).

These estimates of regulatory costs are crude and, in some cases, include income redistribution effects and resource costs. The estimate of paperwork costs is probably the least precise of the cost categories shown. A separate estimate made by the General Accounting Office found paperwork costs to exceed $1 billion annually for complying with only a fraction of all Federal regulations.[8]

A recent source of major concern to policy makers is the effect of regulation on labor productivity. During the period 1948–65, the annual rate of growth in labor productivity averaged more than 3 percent. In the mid-1960's, however, labor productivity began to decline, and over the period 1965–'73, the average growth rate was only 2.3 percent. This decline accelerated in the mid-1970's, with an average annual growth of only 1 percent between 1973–'77. The productivity picture worsened between 1977 and 1979, and in the first half of 1979, labor productivity growth was negative.

It is difficult to estimate the extent to which the productivity decline is related to increases in regulation. The Council of Economic Advisers has cited studies suggesting that regulatory trends may account for about one-half of 1 percentage point of the recent decline in productivity growth.[9] (For example, one-half of 1 percent of a 3 percentage point decline in productivity growth would mean that regulation may account for one-sixth of the total decline.) The new regulation may affect productivity in two ways. First, regulation, with its focus on quality of life and quality of working environments, may increase the quality of national output, without increasing the quantity of output. To the extent that measured output is thereby understated, there is an apparent decline in productivity that is directly related to the new regulation. Second, the resources required to comply with regulation show up as increases in labor and capital inputs relative to output. This effect also decreases measured productivity.

The link between regulation and productivity extends even further by affecting inflation. As productivity decreases, unit labor costs increase, with a resulting increase in the inflation rate. Some function of the acceleration in rates of inflation is indirectly related to changes in the regulatory environment.

In summary, the potential effects of regulation include both benefits and costs. Although in the early years of increased regulatory activity relatively little attention was paid to quantifying benefits or costs, in more recent periods greater effort has been made to study both. One recent review of regulatory effects by Paul McAvoy has drawn the following pessimistic conclusion:

> It is clear that the health and safety regulatory system has increased prices and reduced GNP in the most regulated industries. These conditions have probably been realized to an important extent already. There have been indications that, because of drawing attention toward equipment and away from behavior, the control system had also not brought about improvements generally in health, safety, and environmental quality as of the late 1970's. In other words, those regulatory agencies have been having a substantial cost effect, but not the benefits intended in the enabling legislation. They have increased costs of production, which have increased prices to consumers, without having brought about significant improvements in the safety and cleanliness of production and consumption.[10]

A more widespread use of benefit-cost analysis should insure that regulatory resources are allocated more efficiently. More careful attention to the costs involved should also work to lessen the undesirable side effects of regulation in the form of compliance costs, paperwork, and the negative effects on productivity and inflation.

PROSPECTS FOR DEREGULATION

In recent sessions of Congress, the degree of interest in deregulation has increased substantially. Most of the original focus of this deregulation movement was on air and surface transportation, with less attention being devoted to those areas within the new regulation. Regulatory review in the area of the new regulation has been concerned primarily with two factors: (1) the level and pace of achievement of the ultimate goals of regulation and (2) the details of regulatory design. Now, however, more attention is being paid to the costs of regulation and the relationships between the pace of achieving goals and the costs. In the area of regulatory design, more attention is being paid to the presence of excessive regulatory detail and inflexible rules.[11]

The major concern currently in the area of regulatory reform appears to be the need for a comprehensive and centralized review of the economic consequences of regulation. At present there is no institutional framework in the Federal Government for considering the cost of regulation as a whole in order to make informed decisions regarding economic impacts, the establishment of objectives, and the measurement of tradeoffs between conflicting objectives and conflicting regulations. An increase in resources devoted to regulatory review, research into costs and benefits of regulations, and the establishment of regulatory priorities appears to be in order. A careful program of regulatory review will prevent society from taking either of the two extreme, and probably erroneous, courses: first, viewing regulation only in terms of benefits and ignoring or discounting its costs, or, alternatively, focusing entirely on regulatory costs and overlooking or denying the existence of any benefits.

In retrospect, the experience to date with new forms of Federal regulation serves as a reminder that the state of health of the market-oriented economy is not immune to damage in the face of broad scale regulatory intervention. To minimize its harmful effects on economic efficiency, regulation aimed at improving the quality of life should be designed to change the social performance of business firms through reliance on economic incentives rather than specific and detailed restrictions of economic behavior.

FOOTNOTES

[1] The following are two of the first works calling attention to the characteristics of this new trend in regulation: W. Lilley and J.C. Miller. "The New 'Social Regulation,'" The Public Interest (Spring 1977); and Murray Weidenbaum, Business, Government, and the Public (Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1977.

[2] See, for example, J. C. Miller and Bruce Yandle, ed., Benefit-Cost Analyses of Social Regulation (Washington, D.C.: American Enterprise Institute, 1979).

[3] Weidenbaum, Business, Government, and the Public, Chapter 6.

[4] Paul McAvoy, The Regulated Industries and the Economy (New York: W. W. Norton, 1979), p. 102.

[5] Miller and Yandle, Benefit-Cost Analyses, Chapter 4.

[6] Ibid., Chapter 7.

[7] Murray Weidenbaum and Robert DeFina, "The Cost of Federal Regulation of Economic Activity," Reprint No. 88 (Washington, D.C.: American Enterprise Institute, 1978).

[8] U.S., General Accounting Office, Federal Paperwork: Its Impact on American Businesses (Washington, D.C.: Government Printing Office, November 1978).

[9] U.S., President, Economic Report of the President, January 1979, 85–91.

[10] McAvoy, The Regulated Industries and the Economy, pp. 102–104.

[11] Economic Report of the President, 86–91.

AN ANALYSIS OF VESTING REQUIREMENTS IN QUALIFIED RETIREMENT PLANS PUBLISHED BY THE EMPLOYEE BENEFIT RESEARCH INSTITUTE

Mr. THURMOND. Mr. President, on April 9, 1980, the Internal Revenue Service published proposed regulations dealing with vesting standards in qualified retirement plans. Many knowledgeable observers of the private pension sector—including attorneys, accountants, actuaries, consultants, administrators, trustees, and representatives of insurance and annuity companies and banks—strongly objected to the proposal as being contrary to congressional intent. I received scores of letters from constituents and others regarding these regulations, and I am certain that most Senators received similar letters.

On June 12, 1980, in response to the volume of objections, the Internal Revenue Service announced a modfication of the proposed regulations. The modified regulations address some of the objections to the original regulations, particularly with respect to large businesses and large plans; however, the modified regulations leave unanswered many important questions, particularly for smaller businesses and small plans. Treasury representatives have indicated that they will work with the private sector to resolve the remaining problems, and I sincerely hope that they will do so, so that we can avoid the necessity for further congressional action.

A major problem with the proposed regulations is that they fail to recognize "4/40" vesting as a safe harbor against a finding of "discriminatory vesting;" "4/40" vesting refers to a vesting schedule which provides that after 4 years of employment, an employee is guaranteed to receive 40 percent of his pension benefits should he decide to leave his employer before the plan matures (normally after 10 years). In my judgment, this failure to recognize "4/40" vesting as a qualified plan is directly contrary to the intention of Congress as expressed in the ERISA conference committee report, which states that:

> Except in cases where actual misuse of the plan occurs in operations, the Internal Revenue Service is directed not to require a vesting schedule more stringent than . . . 4/40.

Another major problem with the proposals, in my view, is that they are narrowly focused on a single policy consideration—the "antidiscrimination" rules of the Internal Revenue Code. The proposals do not reflect proper consideration of other factors, including, for example, funding and administrative costs, the effect on termination of existing plans, and the effect on creation of new plans. I am very concerned that there has been an insufficient factual analysis to determine exactly what the regulations will do to the private sector if they are finalized as proposed.

Section 3022 of ERISA directed that a comprehensive study be undertaken by the Congress and the Treasury prior to changes in vesting standards. This study has not been undertaken; nor, to my knowledge, have any other officially sanctioned studies been undertaken. However, at least one private organization has recently completed a preliminary study in this area.

The Employee Benefits Research Institute, a nonprofit, nonpartisan organization formed to conduct research in the employee benefits area, recently commissioned a study of vesting standards. A draft of the study was issued for review and comment just a few days ago. The study raises a number of very crucial policy questions, and clearly establishes the need for even further indepth analysis prior to adoption of any new vesting standards. For example, the study suggests that in many cases the values of additional vested benefits resulting from very rapid vesting is less than the cost to administer and account for the benefits. Further the study suggests that the costs of rapid vesting for small businesses and smaller plans may be 40 percent to 50 percent more than the costs for large businesses and large plans. Of critical significance, the study suggests that imposing vesting standards which are too rapid may result in the termination of existing plans and in the failure of employers to adopt new plans.

The EBRI study is informative and thought provoking. In view of the current debate regarding the proposed vesting regulations, it is very timely. I urge it to the attention of all my colleagues.

Mr. President, I ask unanimous consent that a draft of the study conducted by the Employee Benefits Research Institute and a copy of the letter which I wrote to the Secretary of the Treasury concerning these proposed regulations be included in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C., June 23, 1980.

Re: Proposed Treasury Regulation § 1.411 (d)-1

Hon. G. WILLIAM MILLER,
Secretary of the Treasury,
Washington, D.C.

DEAR MR. SECRETARY: On April 9, 1980, The Internal Revenue Service proposed a regulation dealing with vesting standards for qualified retirement plans. To guarantee future qualification, plans would have to conform to a three-year, 100% vesting schedule ("3/100 vesting"), or a graded equivalent. I have received numerous letters from concerned constituents about the impact of the proposal, a number of which I have forwarded to the Internal Revenue Service. I share the concern expressed by many owners of small businesses and principals of professional corporations regarding this proposed vesting regulation.

In initiating ERISA, Congress attempted to satisfy the legitimate concerns of both employers and employees with "4/40" vesting, which seeks a balance between the high costs of rapid vesting and the assurance that employees, after a reasonable service period, would receive pension benefits. The proposed regulation is inconsistent with this Congressional directive.

In the Conference Committeee Report to ERISA, it is manifest that Congress expected either the Treasury Department or the IRS to supply detailed information in connection with a Joint Pension Task Force study, as required by Section 3022 of ERISA. The study, which was to help the concerned Congressional committees determine whether additional legislation was necessary, has not been undertaken. The proposed regulation, then, appears to be an administrative attempt by IRS to usurp the legislative, policy-making authority Congress clearly meant to retain for itself.

The proposed regulation would substantially increase administrative costs for record maintenance, as well as pension plan costs. This could have a negative effect on the adoption of new plans and could even lead to the termination of existing ones.

The recent IRS modifications of its vesting proposals on June 12, 1980, do not rectify the basic problem of the proposed regulation—namely, that it is contrary to the intention of Congress, as expressed in the Conference Committee Report to ERISA. If these modifications provide any relief at all from the stringency of the initial proposal, the benefits will accrue primarily to big businesses, rather than to smaller enterprises, which will find it virtually impossible to meet the requirements of these proposed rules.

For the above reasons, I request that this proposed regulation be withdrawn immediately.

With kindest regards and best wishes.

Sincerely,

STROM THURMOND.

FOREWORD

The Employee Benefit Research Institute (EBRI) is developing a series of reports designed to provide a basis for research and decisions involving retirement income policy. The series has been designed to provide private and public sector decision-makers with the analytical tools they need to address individual issues and to develop a complete information base for future comprehensive retirement income policy research and decisions.

As part of its ongoing work, the Institute is examining the potential effects that changing opportunities for receiving retirement benefits may have on retirement income adequacy. This specific piece of analysis contributes to that effort by evaluating the benefits and costs of a number of proposals for alternative vesting schedules.

Proposals for shortening private pension plan vesting periods to increase benefit receipt have recently received considerable public attention. Aspects of the issue have been actively debated creating an interest in quantitative analyses of the costs and benefits associated with these alternative vesting proposals.

The Institute hopes that the results of this preliminary analysis of alternative vesting schedules will be a useful contribution to the discussion of vesting, even though the broader study of benefit receipt issues is not completed.

Your comments on this preliminary analysis would be much appreciated. Your input will directly aid our efforts to encourage the development of information on employee benefit policies.

PRELIMINARY ANALYSIS OF ALTERNATIVE OF VESTING REQUIREMENTS

A. PURPOSE

This paper presents a preliminary analysis of the potential effects of alternative vesting requirements for pension and profit-sharing plans. It is part of a broader research project initiated by EBRI on coverage and participation in retirement income programs. This preliminary report is being circulated for review and comments. Based upon the comments and suggestions of interested parties, the analysis will be revised and extended. The revised results will be incorporated into the Retirement Program Coverage Study Paper to be published by EBRI in the fall of 1980.

B. SUMMARY

Prior to the passage of the Employer Retirement Income Security Act of 1974 (ERISA), the Federal Government exercised only indirect influence over the participation and vesting provisions of private pension plans. The IRS sought to prevent discrimination in the distribution of pension benefits primarily on a case by case basis. No specific legal requirements for participation or vesting existed. Nevertheless, the number of workers with vested benefits increased rapidly prior to ERISA, reflecting the general maturation of pension plans, the increasing prevalence of vesting in plan provisions and the gradual liberalization of these provisions.

During the last ten years, policy makers have placed increasing emphasis on shorter vesting requirements as one approach to improve the level and distribution of pension benefits. Examples of this trend include the minimum vesting standards of ERISA, two IRS regulations and a third proposed regulation establishing specific standards, and the preliminary recommendations of the President's Commission on Pension Policy (PCPP) that support shorter vesting periods.

Because of the potential role that shorter vesting requirements may play in retirement income policy, EBRI has sponsored an analysis of alternative vesting requirements as part of a broader research plan. The preliminary results of this analysis suggest that:

1. Although the number of vested workers will generally increase, the value of vested benefits for newly vested workers may be relatively low. Our analysis of a range of vesting alternatives indicates that shorter vesting will increase the proportion of separating workers who can expect to receive some benefit. Table 1 below illustrates the impact on the likelihood of benefit receipt of several vesting alternatives applied to a typical defined benefit plan.

TABLE 1: *Separating participants who can expect to receive a benefit*

(Percent of all separating participants)

Vesting schedule	*Percent*
10 Year Cliff	7
5 Year Cliff	15
3 Year Cliff	34
1 Year Cliff	69
Full and immediate	100

SOURCE.—ICF estimates for a typical defined benefit plan using moderate turnover assumptions.

Based on an analysis of defined benefit plans with 11 or more participants, we conclude that most participants who separate before 10 years of service could expect to receive relatively low lump sum distributions. In over 90 percent of the cases for a plan with typical benefits, the lump sum value of vested benefits would be below $1,750, which is the level at which defined benefit plans are permitted under ERISA to cash out the benefits of separating participants. Participants in more generous plans would receive proportionately higher amounts.

2. The expected increase in defined benefit plan costs for the range of the vesting alternatives considered here could be from one to five percent of annual contributions, depending upon individual plan characteristics. The costs would be higher for a typical defined benefit plan with ten or fewer participants and for most typical defined contribution plans. For these plans, the increase in annual contributions could range from five to ten percent for a shift from 10 year to full and immediate vesting. However, because many of these plans already have vesting schedules which provide for vesting after a period of less than ten years, the cost impact would more realistically be in the two to seven percent range.

In addition, the administrative expenses associated with accounting for the additional number of relatively small vested benefits are not insignificant. In fact, for young workers with relatively short service, the administrative expenses may actually exceed the lump sum value of their vested benefits. Thus, adoption of shorter vesting may dictate the need for less expensive administrative and funding arrangements.

3. The analysis emphasizes the importance of considering alternative vesting proposals in relation to other policy changes, and not solely on their own merits. In fact, the analysis raises important questions regarding the specific objectives that proposals for shorter vesting seek to address. The proposals considered here suggest that, under most circumstances, shorter vesting will improve the opportunity for more workers to earn a vested benefit. However, the fact that more workers are vested may have little value to the individuals if the benefits are low or if they are used for current consumption rather than retirement income. Thus, policy makers should consider:

Whether shorter vesting or other policy alternatives, such as more generous pension benefits, best achieve the objective of ensuring an adequate retireemnt income;

Whether the costs of shorter vesting or other policies might further discourage new plan formation and the associated retirement benefits;

Whether younger and shorter service workers would prefer higher wages over shorter vesting; and

Whether alternative mechanisms could more efficiently administer the new benefits generated under alternative vesting proposals.

The importance of alternative vesting provisions could vary substantially depending on the answers to these questions.

This analysis is limited to a small number of vesting alternatives. We note that there exist a number of other approaches to shorter vesting, for example, those coordinated with pension plan participation requirements or benefit levels. In future analyses, we will attempt to address some of these other alternatives.

The following sections review the background on alternative vesting proposals and our analysis of their potential effects.

C. BACKGROUND

Federal policy has an influence on the vesting practices of private pension plans. Under ERISA, minimum vesting standards directly control the type of vesting provisions used by plan sponsors. In addition, the conditional nature of federal tax deductions for plan contributions and investment income provides an indirect opportunity for regulators to influence plan vesting provisions. This section reviews the evolution of federal regulation affecting vesting and identifies a range of potential changes in federal policy.

1. Prior to ERISA:

Prior to the enactment of the Employee Retirement Income Security Act of 1974 (ERISA), the principal federal legislation affecting private pension plans was the Internal Revenue Code. Although the Welfare and Pension Plan Disclosure Act of 1958 (WPPDA) required periodic financial reports from plan sponsors, it did not establish standards for pension plans' operating practices. The only source of guidelines for plan operations was the Revenue Act of 1942, and these were limited in scope by the relatively narrow regulatory objectives of the Code. These were:

To encourage broader participation in pension plans by preventing discrimination in favor of shareholders, officers, and highly compensated individuals with respect to coverage, benefits and financing of private plans, and;

To protect federal revenues against excessive and unjustified use of the tax deductions allowed for pension plans.

Except as required to prevent discrimination, there were no regulations relating specifically to vesting or generally to the enforcement of individual benefit rights.

Despite the absence of a regulatory standard, the number of vested workers increased rapidly prior to ERISA. As shown in Table 2, growth in the number of vested participants far outstripped the growth in active participation. This reflects three major factors: the general growth and maturation of all pension plans, the increase in the proportion of plans with vesting provisions, and the liberalization of vesting provisions.

TABLE 2.—TRENDS IN VESTED PARTICIPANTS, 1965–75

	Participants (millions)		Vested participants as a percentage of activities
	Active	Vested	
1965	26.2	3.2	12
1970	31.8	7.9	25
1975	43.4	19.3	44

Source: ICF Incorporated, "Analysis of Coverage, Participation, and Vesting in Private Pension Plans" (June 1977) table I–7, p. 16.

Just prior to ERISA, the vesting provisions of most pension plans did not meet the minimum standards established by ERISA. A recent analysis of a representative sample of defined benefit plans with 100 or more participants indicated that approximately 20 percent of these plans met ERISA vesting standards prior to its passage. Although 20 percent of the plans met ERISA's standards they covered 30 percent of all participants.[1] It should be noted that most plans had participation provisions that met or exceeded the ERISA standards. Thus, while most plans had to modify their vesting rules to comply with the law, they could have offset some of these costs by establishing stricter participation rules.

In addition, a 1972 survey conducted by the Departments of Labor and HEW indicated that 32 percent of all full-time pension plan participants were vested.[2] This study also revealed that there were substantial differences among industries, and that vested workers ranged from 28 percent of all participants in the finance industry to 63 percent of all participants in the manufacturing industry.

2. ERISA:

Passage of ERISA marked a major change in the scope and emphasis of legislation regulating private pension plans. ERISA was designed as a comprehensive regulation of the private pension system with an emphasis on preserving the security of pension plan participants' benefit claims. In pursuit of this objective, ERISA established minimum standards for participation and vesting. Specifically, ERISA established three standards that effectively required plans either to fully vest participants after ten years of service or to partially vest participants prior to ten years of service with full vesting occurring after not more than 15 years.

Because most plans did not meet ERISA vesting standards prior to its passage, they had to adopt new vesting rules. A recent study found that most plans complied with ERISA by adopting full vesting after ten years of service (10/100 or "10 year cliff").[3] At the current time, approximately 90 percent of defined benefit plans with 100 or more participants use 10/100 vesting.

For most defined benefit plans, complying with the ERISA standards raised plan costs by approximately three to seven percent. Table 3 illustrates the potential cost impact of adopting 10/100 vesting for each of the most common pre-ERISA vesting provisions. These estimates illustrate the potential effect on a typical plan. However, a plan's actual costs may vary depending on workforce characteristics, such as its age and service distribution and its turnover rates. Because the vast majority of defined contribution plans provided vesting in fewer than ten years, the cost impact of ERISA's vesting standards was generally lower for these plans.

---

[1] ICF Incorporated, *An Analysis of Pension Plan Costs, 1972–1976* (March, 1980).

[2] U.S. DHEW and DoL, *Coverage and Vesting of Full-Time Employees Under Private Retirement Plans: Findings from the April 1972 Survey.*

[3] ICF Incorporated, *An Analysis of Pension Plan Costs, 1972–1976* (March, 1980).

Although the estimates in Table 3 provide an accurate picture of the potential impact of ERISA vesting provisions, it is possible that the actual impact of compliance could have been lower. This could occur because of a change in actuarial assumptions, other plan provisions or the rate of investment return. Nevertheless, ERISA vesting standards had a measurable impact upon pension plan costs.

TABLE 3.—ESTIMATED INCREASE IN CONTRIBUTIONS REQUIRED TO MEET ERISA VESTING RULES

Pre-ERISA vesting requirement	Annual percent increase	Annual amount per participant
Service only:		
15 yr of service	3	$22
20 yr of service	7	53
25 yr of service	10	75
Age and service:		
Age 40 and 10 yr	2	15
Age 45 and 10 yr	5	38
Age 45 and 15 yr	6	45
Age 50 and 20 yr	10	75

Source: ICF, Inc., "An Analysis of Pension Plan Costs, 1972–76" (March 1980) table B–4, p. B–5. Based upon a typical defined benefit plan with more than 100 participants using the entry age normal actuarial cost method, T–6 turnover assumption and a 6-percent interest rate. Plan assets are assumed to be equal to the benefit liabilities of retired and separated vested participants.

3. After ERISA:

Despite the changes dictated by ERISA, encouragement of even shorter vesting has been implicit in IRS practices for enforcing non-discrimination. Recent IRS regulations governing non-discrimination in vesting have generally encouraged shorter vesting by providing "safe harbor vesting schedules" that are more rapid than ERISA standards. Safe harbor vesting schedules are provided by the IRS for plans as an alternative to standard IRS audit procedures for discriminatory vesting. Plans that adopt safe harbor vesting schedules are presumed not to discriminate in favor of highly compensated employees and are not required to document nondiscrimination unless there is evidence of actual misuse. Since the passage of ERISA in 1974, the IRS has outlined three sets of regulations governing nondiscrimination. Each set provides a safe harbor option as an alternative to case by case review to assure regulatory compliance. The three regulations are:

Revenue Procedure 75–49, issued in 1975, applied specifically to plans seeking advance determination letters. It provided a safe harbor vesting rule of 4/40, such that a participant was 40 percent vested after four years of service and 100 percent vested after 11 years of service. New plans with longer vesting periods had to satisfy one or both (depending on the age of the sponsoring firm) of the following tests in order to obtain an advance determination letter:

Key employee test: the percentage of plan participants who were key employees (shareholders, officers or highly compensated employees) could not exceed a specified percentage of plan participants.

Turnover test: the rank and file turnover rate could not exceed a specified percentage of the turnover rate of key employees.

Revenue Procedure 76–11, issued in 1976, relaxed the previous requirements for obtaining an advance determination letter by adding two generally more lenient methods of satisfying IRS nondiscrimination standards:

Possession of a prior advance determination letter as long as the vesting schedule had not been made stricter.

The employer could show that, based on the facts and circumstances of the situation, vesting in the plan was not discriminatory. The facts and circumstances to be considered by the IRS were not specified.

Proposed Regulation 1.411(d)–1, released in April 1980,[4] would have applied to plans in operation as well as plans seeking advance determination letters. It would have superceded previous regulations and provided only three methods of satisfying IRS standards:

Meeting a case-by-case test of facts and circumstances. In addition to other, unspecified factors, the IRS may consider comparisons between the rank and file and the key employee group of: annual employee turnover, annual vesting percentages for current, terminated, and retired employees and the average years remaining until fully vested for each participant. The degree to which these differences would be considered to be significant by the IRS was not specified.

Possession of a prior advance determination letter obtained by passing previous IRS tests for non-discrimination; however, letters based on plans' adoption of 4/40 would not be recognized under the proposed regulation.

Adoption of full vesting after three years (3/100 vesting) or a graduated vesting schedule that achieves 100 percent vesting after ten years of service, providing that the sum of the annual vesting percentages after ten years equals 700 (700 percent vesting); Table 4 illustrates that 3/100 vesting is actually a special type of 700 percent vesting.

TABLE 4.—COMPARISON OF 3/100 AND 700-PERCENT VESTING SAFE HARBORS

	Vesting percentages	
	3-yr vesting	Graded 5-yr vesting
Completed years of service:		
Less than 1	0	0
1 to 2	0	20
2 to 3	0	40
3 to 4	100	60
4 to 5	100	80
5 to 6	100	100
6 to 7	100	100
7 to 8	100	100
8 to 9	100	100
9 to 10	100	100
Total	700	700

Thus, despite the previous costs of complying with ERISA vesting rules, the IRS as sought to extend these standards to shorter periods. Although, the regulation proposed in April 1980 was withdrawn, it is probably indicative of policies that are being seriously considered by the IRS. Consequently, we consider it in this analysis.

4. Possible Future Alternatives:

A number of other alternatives have also been suggested for future consideration. For example, the President's Commission on Pension Policy (PCPP) is currently studying the impact of a change in the current ERISA vesting standards which would explicitly require all plans to best more rapidly. According to the PCPP's *Interim Report:*

"The Commission believes that as a general principle, vesting requirements should be shortened. The Commission staff, with the help of the U.S. Department of Labor and the Department of Health and Human Services, will begin a study to determine the cost implications of various shortened vesting and participation alternatives."

The PCPP is considering a wide range of alternative vesting standards ranging from relatively modest changes such as full vesting after seven years (7/100 vesting) to more significant changes such as immediate full vesting. It is clear that a wide range of vesting policies will receive full consideration in the near future.

D. RATIONALE FOR SHORTER VESTING

Private pension plans are a major source of income for retirees. In combination with Social Security and personal savings, pension plans provide the income necessary to avert economic hardship during retirement. Nevertheless, Bureau of the Census data indicate that a disproportionate number of the elderly have incomes below the official poverty line.[5] Because private pension plans are designed to provide income to retirees, they represent an important mechanism for addressing problems of retirement income adequacy.

Shorter vesting is viewed as one of several alternatives for increasing the level of retirement benefits provided by pension plans. It accomplishes this in two ways. First, by reducing the length of time necessary to become vested, shorter vesting increases the proportion of all participants who can expect to receive a plan benefit, especially among more mobile, short service workers. And, second, because the number of years of covered and vested service may increase, the level of pension benefits for each worker may also rise, primarily because workers would receive benefits from previously unrecognized service. To the extent that the costs of these benefits are not offset by reductions in overall pension benefits, pension incomes would rise.

In addition to increasing retirement income, shorter vesting may help to prevent an inequitable distribution of retirement plan benefits. Shorter vesting may offset the potential discriminatory effects created by variations in turnover rates among different groups of workers. Alternative vesting may help to reduce the possibility that the distribution of benefits would discriminate in favor of shareholders, officers or highly compensated workers. As a result, safe harbor rules with shorter vesting schedules may be a useful way for the IRS to reduce the incidence of discrimination in certain types of plans. This may reduce enforcement expenses and increase the probability that abuses will be detected.

E. ANALYSIS OF POTENTIAL BENEFITS

As stated above, shorter vesting rules may improve workers' opportunities for earning a retirement benefit and may also improve the level of retirement benefits. Furthermore, the safe harbor approach may reduce discrimination in favor of highly paid workers. To evaluate the impact of accelerated vesting, we employed a benefit simulation model. For each vesting alternative, the model estimated the increase in the number of workers who are likely to separate with a vested benefit and the present values of individual benefits for this group of separated vested participants.

These analyses were conducted for typical defined benefit and defined contribution plans with 11 or more participants. We also conducted a separate analysis of defined benefit plans with ten or fewer participants. Data for these analyses came from two major sources: (1) a large, representative sample of defined benefit and defined contribution plans with 100 or more participants; and (2) data on a large number of plans with fewer than 100 participants, obtained from actuarial and benefit consulting firms. The data on small plans were obtained from benefit consulting firms in different parts of the country and were selected so as to be representative of the firm's clients. Consequently, although small plan data analyzed here are probably representative of all small plans, they may not meet strict statistical sampling tests.

In these analyses, we assumed that the defined benefit plans had flat dollar unit benefit formulas. Our review of a large number of representative plans indicates that the typical defined benefit plan with 11 or more participants in 1980 has an accrual rate which is equivalent to a flat dollar unit accrual rate of approximately $10.10 per month per year of service. This is an approximation, because we had to convert many different types of benefit formulas into a flat dollar accrual rate for purposes of comparison. For defined contribution plans, we estimated that the average firm contributed seven percent of earnings. This estimate was based upon an analysis of the percentage of earnings contributed to a representative sample of 300 profit sharing plans in 1975.

---

[4] This proposed regulation was withdrawn in June 1980.

[5] Bureau of the Census figures show that as of March 1979, 14 percent of those aged 65 or over versus 11 percent of those under age 65 had incomes below the official poverty line. *Money Income and Poverty Status of Families and Persons in the United States:* 1978, Current Population Survey Series P–60, No. 120, (November 1979).

Table 5 shows the potential range of participants affected by alternative vesting requirements. For a typical defined benefit plan with 11 or more participants and moderate turnover patterns, approximately seven percent of participants who separate prior to retirement can expect to receive a benefit under ten year vesting—currently the most common vesting provision among these plans. This occurs because most participants who separate prior to retirement have less than ten years of service (93 percent in this case). As vesting requirements become shorter, the proportion of separating participants with a vested benefit increases. In defined contribution plans, a higher percentage of participants who separate receive a benefit because these plans typically provide vesting after five years.

TABLE 5.—*Separating participants who can expect to receive a benefit*

(Percent of all separating participants)

Vesting schedule:	
10 Year Cliff	7
7 Year Cliff	12
5 Year Cliff	15
4/40 Vesting	22
3 Year Cliff	34
1 Year Cliff	69
Full and Immediate	100

SOURCE.—ICF estimates for a typical defined benefit plan using moderate turnover.

Under full and immediate vesting, all participants would receive a benefit. And, under three year cliff vesting, approximately 34 percent of participants who separate would receive a benefit. This occurs because turnover in the first two years of service is usually higher than in later years.

Although the proportion of workers with a vested benefit will rise, the level of these benefits may be lower than some would expect. Table 6 illustrates the potential value of lump sum benefits that separated vested participants would receive from a defined benefit plan with a typical benefit level ($10.10 per month per year of service). As shown in this table, if a plan with this benefit level were to adopt full and immediate vesting, those with less than ten years of service and under 40 years of age would receive a lump sum benefit distribution worth less than $1,750 upon separation. And, those under the age of 55 with less than ten years of service would receive a distribution of less than $5,000 upon separation. Thus, it is possible that the administrative costs of calculating a participant's accrued benefit and purchasing a deferred annuity may exceed the value of benefits for many younger workers with short service.

TABLE 6.—LUMP SUM VALUE OF BENEFITS THAT PARTICIPANTS WOULD RECEIVE UPON SEPARATION UNDER IMMEDIATE VESTING

Age at separation	Service at separation									
	<1	1–2	2–3	3–4	4–5	5–6	6–7	7–8	8–9	9–10
20 to 24	$39	$112	$186	$260	$335	$409	$485	$558	$632	$708
25 to 29	50	150	249	349	449	549	649	748	848	946
30 to 34	67	201	335	469	603	737	871	1,005	1,139	1,278
35 to 39	90	271	451	631	812	992	1,172	1,353	1,533	1,713
40 to 44	122	365	608	851	1,094	1,337	1,581	1,824	2,067	2,313
45 to 49	165	495	825	1,155	1,486	1,816	2,146	2,476	2,806	3,130
50 to 54	226	678	1,130	1,582	2,034	2,486	2,937	3,389	3,841	4,296
55 to 59	315	944	1,573	2,202	2,831	3,460	4,089	4,718	5,347	5,973
60 to 64	447	1,342	2,236	3,131	4,025	4,920	5,815	6,708	7,604	8,496

Source: ICF estimates for a defined benefit plan using a 6-percent interest rate and a flat dollar unit benefit formula with an accrual rate of $10.10 per month per year of service (the accrual rate for an average defined benefit plan). For plans with an accrual rate of $5.05, amounts are half the value shown. Similarly, for plans with twice the accrual rate ($20.20) the lump sum benefits would be twice the amounts shown here.

Because the individuals most affected by a change in vesting provisions are young workers with short service, the average value of vested benefits may be low. Table 7 shows that, under three year vesting, approximately 91 percent of all workers separating with a vested benefit could expect to receive a lump sum distribution of less than $1,750 under the typical defined benefit plan used in our analysis; approximately 98 percent of separated vested workers would receive a distribution below $3,500.

Defined benefit plans typically exercise their legal option to cash out rather than hold vested benefits valued at less than $1,750. This option was provided because many persons thought that the administrative costs made holding small benefits in the plan inefficient for both participants and sponsors. These amounts, coupled with the youth of the separating workers, suggest that the benefits derived from the alternative vesting rules would probably be cashed out and consumed by workers, rather than transferred to an IRA. Thus, although participants receive the value of these benefits, their retirement income may not be increased.

TABLE 7.—*Distribution of benefits for newly separated participants with less than 10 years of service under 3 year cliff vesting (3/100)*

(Percentage of separated participants receiving benefit)

Lump Sum Benefit:	*Percent*
Under $1,000	72
$1,000 to $1,750	19
$1,750 to $3,000	7
$3,000 to $4,000	1
$4,000 to $5,000	1
Over $5,000	0
Total	100

SOURCE.—ICF estimates for a typical defined benefit plan with 11 or more participants using a 6% interest rate and a benefit accrual rate of $10.10 per month per year of service (the accrual rate for an average defined benefit plan).

In defined contribution plans, the value of lump sum benefits for young, short service workers may be larger than in defined benefit plans. This occurs because contributions in defined contribution plans are generally not discounted for turnover and mortality as they are in defined benefit plans. Consequently, our analysis shows that for defined contribution plans with a contribution rate of five percent, the average worker will receive a lump sum benefit of $1,750 after approximately 3.5 years of service—regardless of the age of the worker.[6]

This analysis suggests that, although the number of workers with a vested benefit will increase under shorter vesting, the level of these benefits may be relatively low for some groups of workers. Although the value of those lump sum distributions may be higher in defined contribution plans, these plans already have shorter vesting. Moreover, it is possible that many newly entitled participants may not prefer to save these funds for retirement, but rather apply them to current consumption.

F. ANALYSIS OF POTENTIAL COSTS

Alternative vesting could increase the number of individuals who receive benefits from a pension plan by providing benefits to separating short service employees who would otherwise have been ineligible for a plan benefit. In the absence of an offsetting decline in benefit levels, this expansion in the number of beneficiaries will raise benefit costs. However, the magnitude of the cost impact will vary by plan type and with workforce characteristics. Individual costs will be particularly sensitive to the following factors:

Age and service group.—Plans covering younger workforces typically experience higher turnover and, therefore, would tend to be more vulnerable to cost effects; plans covering shorter service work groups would also tend to be more vulnerable because of the proportionately larger number of workers affected.

Current vesting practices.—The more restrictive the current vesting schedule, the greater the potential cost impact of shorter vesting; for example, most defined benefit pension plans have ten year vesting and would be affected more than those plans which have five year vesting.

Personnel group.—Plans covering hourly employees are likely to have higher turnover than those covering salaried employees; similarly, plans in higher turnover industries such as the service industry may expect higher additional costs than those in lower turnover industries such as mining.

Benefit formula.—Formulas where the value of the accrual rate increases as the individual approaches retirement will be less affected by shorter vesting; for example, in a plan with a final average salary formula, the value of the accrual rate increases with salary. Because wages and salaries rise over time to reflect productivity increases, the real value of the accrual rate will generally be lower at separation than it would be at retirement; in contrast, because a flat benefit accrual rate does not automatically increase to reflect productivity changes the real value of a specified accrual rate is the same at separation and at retirement; thus, the cost impact of shorter vesting is greater for flat benefit formulas than final average salary formulas.

---

[6] Assumes an interest rate of 6 percent, salary increase assumption of 7.8 percent per year, current annual earnings of $13,560, and a plan with a contribution rate of 5 percent for low wage earners.

Plan size.—There is a substantial fixed cost component to the cost of administering a set of benefits. The cost of establishing and maintaining a system to administer these benefits is a much larger portion of the annual contribution of a small plan than of a large plan.

1. Cost of additional benefits:

Because of the sensitivity of plan costs to these factors, the potential impact on benefit costs of alternative vesting schedules was analyzed under several sets of assumptions about plan type and workforce characteristics, as indicated in Tables 8–10.

TABLE 8.—POTENTIAL INCREASE IN CONTRIBUTIONS UNDER ALTERNATIVE VESTING REQUIREMENTS

	Annual percentage change	Annual amount per worker	Annual increase in aggregate contributions (millions)
Change in vesting from 10-yr cliff (10/100) to:			
5 yr (5/100)	0.9	$9	$270
3 yr (3/100)	1.6	15	480
1 yr (1/100)	2.3	22	690
Full and immediate	2.5	24	750

Source: ICF estimates for a typical defined benefit plan with more than 11 participants using the entry age normal actuarial cost method, moderate turnover, and a 6-percent interest rate. Plan assets are assumed to be equal to the benefit liabilities of retired and separated vested participants.

First, in analyzing alternative vesting schedules, we found that, for a typical defined benefit plan, the average annual increase in required contributions to shift from ten year vesting to immediate full vesting is approximately 2.5 percent. These results are shown in Table 8. To shift to five year vesting, the annual increase would be approximately 0.9 percent. To illustrate the magnitude of a 1.6 percent increase, a plan like the Central States Conference of Teamsters or a firm like General Motors could incur, an annual increase of approximately $10 million or more. In the aggregate, the cost for all plans to shift from ten year cliff vesting to five year vesting would be approximately $270 million.[7]

Next, because work groups and industries differ in turnover characteristics, we analyzed the cost of shorter vesting under three different sets of turnover assumptions. These different turnover assumptions are illustrative of different industries. For example, higher turnover is often associated with lower skill service industries while light turnover patterns are often found in the mining industry. As shown in Table 9, the range of possible turnover patterns can double the cost impact of alternative vesting rules. Because vesting may itself have an effect on turnover, we also analyzed the effect of decreased turnover on plan costs. If one assumes that a shift to five year vesting from ten year vesting would reduce the turnover rate in the fourth year of service by 20 percent (for example, from ten percent to eight percent), the cost of five year vesting would increase from 0.9 percent to 1.0 percent. However, one would also want to assess the potential impact of turnover on worker and firm productivity.

TABLE 9.—POTENTIAL INCREASE IN CONTRIBUTIONS UNDER ALTERNATIVE TURNOVER ASSUMPTIONS

[Annual percent increase]

	Turnover assumption		
	Light	Moderate	Heavy
Change in vesting from 10-yr cliff (10/100) to:			
4/40 vesting	0.6	0.8	1.1
5-yr cliff	.7	.9	1.2
3-yr cliff	1.2	1.6	2.2
1-yr cliff	1.6	2.3	3.1
Full and immediate	1.8	2.5	3.5

Source: ICF estimates for a typical defined benefit plan using the entry age normal actuarial cost method, and a 6-percent interest rate.

Finally, we analyzed the effect of the age and service structure of the workforce on the cost of alternative vesting schedules. The young workforce reflects the quartile of workers with the youngest average age (average age of 35 years) and the old workforce represents the quartile of plans with the oldest average age (average age of 47 years). The medium group includes all plans in the middle quartiles and has an average age of 41. These were typical distributions selected from both our representative sample of plans with more than 100 participants and from plans with fewer than 100 participants. As shown in Table 10, the age structure of the workforce can more than double the cost of changing a plan's vesting schedule.

We also examined the quartile of plans in our data base with the lowest level of average service (five years of service), and the quartile with the highest level of average service (14 years of service). As with the previous analysis, we found that the length of service can more than double the cost of vesting, as shown in Table 10.

TABLE 10.—POTENTIAL INCREASE IN CONTRIBUTIONS UNDER ALTERNATIVE AGE AND SERVICE PATTERNS

[Annual percent increase]

	Change from 10-yr cliff vesting to—		
Workforce structure	5-yr cliff	3-yr cliff	1-yr cliff
Medium service and:			
Young age	1.4	2.4	3.2
Moderate age	1.0	1.8	2.4
Old age	.6	1.2	1.7
Moderate age and:			
Short service	1.5	2.7	3.8
Medium service	1.0	1.8	2.4
Long service	.6	1.1	1.5

Source: ICF estimates for typical defined benefit plans using the entry age normal actuarial cost method, moderate turnover and a 6-percent interest rate.

The cost increase is higher for defined benefit plans covering younger workforces in higher turnover industries. Because pension coverage is currently lowest among young workers and in high turnover industries such as trade and service, and because the cost effects are most significant for new plans, these vesting proposals may have an impact on new plan formation. However, even the most significant change in vesting provisions to immediate full vesting raises annual costs by no more than five to seven percent for the most heavily affected plans.

One of the groups of plans most heavily affected by shorter vesting is small plans. Those plans with ten or fewer participants often have workforces that are young, with short service, and with higher turnover. An analysis of typical small plans (ten or fewer participants) from the sample of small plans used here indicates that, even if they have moderate turnover, the cost of adopting shorter vesting is typically 40 to 50 percent higher than for larger plans. For example, the annual contribution increase required to fund a shift from ten year vesting to three year vesting for a typical small plan's workforce is approximately 2.3 percent while for a large plan's workforce it is approximately 1.6 percent.

The cost impact of alternative vesting is also greater for defined contribution plans. Because young, short service workers receive generally larger lump sum distributions than they do in defined benefit plans, the cost impact of faster vesting can be significant. As shown in Table 11, the annual increase in required contributions that would be required by a shift from ten year vesting to five year vesting in a typical defined contribution plan is approximately two and one-half times larger than for this same shift in a typical defined benefit plan. A shift from ten year to one year vesting produces an even greater difference, approximately three times higher for defined contribution plans than for defined benefit plans. In the case of the shift to one year vesting, the annual increase in contributions per worker would be approximately $80 for the defined contribution plan in contrast to $24 for the defined benefit plan.

TABLE 11.—POTENTIAL INCREASE IN CONTRIBUTIONS UNDER ALTERNATIVE VESTING FOR A TYPICAL DEFINED CONTRIBUTION PLAN

	Annual percentage increase for shift from—	
	10-yr vesting	5-yr vesting
New vesting schedule:		
5 yr (5/100)	2.3	NA
3 yr (3/100)	4.4	2.0
1 yr (1/100)	8.2	5.7
Full and immediate	8.6	6.2

Source: ICF estimates for a typical defined contribution plan with a contribution rate of 5 percent of earnings covering a group of workers with average annual earnings of $13,560 in 1980, a plan rate of return of 6 percent, and an annual salary rate increase of 7.8 percent.

2. Administrative costs:

In addition to increasing benefit expenses, alternative vesting rules could impose additional administrative costs. Benefit administration costs would tend to increase because of the need to estimate accrued benefits for additional workers, and to distribute funds or purchase annuities for the additional vested workers who terminate.[8] In addition, because there are fixed costs associated with administering a deferred monthly pension benefit, small benefits would be proportionately more expensive for the sponsor to hold, creating an incentive for plans to give lump sum benefit distributions. Finally, because there is a large fixed cost component to a system which administers plan benefits, any additional administrative costs would tend to have a relatively larger impact on small plans than on large plans.

Price estimates for single premium deferred annuities indicates how the costs of administering a deferred vested benefit vary with the size of those benefits. Although fees vary from firm to firm, most insurance companies charge a proportionately greater amount to administer small benefits. As Table 12 illustrates, a lump sum deposit which is near the minimum deposit accepted by the insurance company is charged proportionately more, regardless of whether the firm accepts small ($1,000), medium ($5,000) or large ($10,000) deposits. Some insurance companies do not accept deposits as small as $1,000, and those which do charge higher premiums for the service.

---

[7] Aggregate contribution to defined benefit plans in 1975 were estimated to be approximately $20.7 billion. If defined benefit plans increased their benefits at an annual rate of 7.7 percent, contributions in 1980 would be approximately $30 billion. These estimates are derived from ICF Incorporated's report entitled, *A Private Pension Forecasting Model* (October, 1979).

[8] The estimated charge for calculating a participant's benefit in a defined benefit plan is typically $50–$75, as reported by several benefit consulting groups.

TABLE 12.—ESTIMATED PERCENTAGE OF DEPOSIT DEDUCTED FOR ADMINISTERING DEFERRED ANNUITIES

	Minimum deposit allowed		
	Small	Medium	Large
Potential size of deposit:			
$1,000	7.9	NA	NA
$5,000	6.0	6.4	NA
$10,000	5.7	5.7	6.4
$25,000	5.6	5.3	5.6
$100,000	5.5	5.1	5.1

Source: Survey of annuity charges presented in "Best's Retirement Income Guide 1979–80," A. M. Best (Oldwick, N.J., 1979). Minimum deposits are $1,000 for small, $5,000 for medium, and $10,000 for large deposits.

In addition to paying higher administration fees, small depositors are often unable to capture the same investment returns as large depositors. Minimum deposit rules for annuities operate in much the same way in limiting access to higher yield investment funds. The combined effect of higher administration fees and lower returns tends to make the small deposit considerably less attractive. For this reason, it may be necessary to consider alternative investment outlets for lump sum amounts paid to short service workers in conjunction with more efficient administrative arrangements.

G. POTENTIAL INCIDENCE OF COST INCREASES

The full impact on plan participants of shorter vesting depends on whether the cost increases are ultimately absorbed by:

The plan sponsor through a reduction in profits;

The consumer through an increase in prices, induced by higher labor costs; or

The employees through offsetting reductions in the growth of wages, pensions or other fringe benefits.

Recent empirical studies of the Social Security payroll tax suggest that increases in unit compensation cost unaccompanied by a corresponding increase in productivity tend to be absorbed by workers in the form of lower wages and other fringes. In addition, it seems that the adjustment is made in a relatively short period of time. Recent estimates place the adjustment period at about 12 to 18 months.[9]

Increases in private pension costs resulting from shorter vesting may not be absorbed in exactly the same manner as Social Security tax increases. However, if they are shifted in a manner similar to public retirement costs, shorter vesting could ultimately have the effect of reducing overall retirement benefit levels, thus offsetting one objective of shorter vesting alternatives.

To estimate an upper bound on the potential effect on compensation of shorter vesting, we assumed that the full burden of the associated cost increase was shifted to workers through a proportionate reduction in overall pension benefit levels. The benefit simulation model was used to estimate the reduction in benefit levels that would be necessary to offset an increase in contribution rates. The results indicate a decline in benefit levels ranging from approximately two percent for a defined benefit plan shifting to immediate full vesting to less than one percent for a defined benefit plan shifting to 7/100.

The above analysis illustrates the full possible effect on benefit levels. However, the actual effect on benefit levels might realistically be smaller. Because firms are not permitted to reduce accrued benefits, the adjustment would have to be accomplished by slower liberalization of future accruals. In most instances, this would imply an adjustment period much longer than the 12 to 18 months observed for Social Security payroll tax changes. As a result, sponsors might prefer to offset a portion of the cost increase by reducing the growth of current compensation since the adjustment would be quicker.

Finally, these additional costs may simply tend to discourage new plan formation among firms where the impacts are greatest. Although existing plans and workers may be able to absorb the additional costs of shorter vesting, firms considering the establishment of pension plans may simply elect not to do so. Furthermore, because most new plans are formed by small firms which typically have younger, shorter service workers than existing plans, these alternative vesting schedules will have a relatively larger impact. Although it is difficult to estimate the potential impact of such action, it is possible that much of the impact would be felt in those industries that already have the lowest proportions of covered workers.

H. POLICY IMPLICATIONS

These findings raise several important questions about the role of shorter vesting in retirement income policy. Because there are other ways of achieving the objectives identified for shorter vesting, it will be important for decision makers to evaluate the full range of alternatives for improving retirement incomes. Within such a framework, several key questions for policy makers arise:

Does shorter vesting achieve the objective of ensuring an adequate retirement income better than other policy alternatives such as more generous benefit levels? Although shorter vesting can have a significant effect on increasing the proportion of workers with a vested benefit, the levels of these benefits may be relatively low. Policymakers will have to determine whether shorter vesting improves the adequacy of retirement income more effectively than simply increasing existing benefit levels, providing incentives for new plan formation or other measures. In addition, it will be important to identify other policies that, when combined with shorter vesting, provide a meaningful improvement in retirement benefits. However, consideration of shorter vesting policies simply on their own merits may not lead to the most effective choice.

Do the added costs of shorter vesting or other policies discourage new plan formation and the retirement benefits associated with them? If ERISA had an impact on the numbers and types of pension plans established, then the adoption of shorter vesting policies could also have an adverse impact on new plan formation. If pension plan participation declines under a policy of shorter vesting, policymakers will have to determine whether the potential increase in benefits from shorter vesting outweighs the potential decline in benefits from lower rates of plan participation.

Do the primary beneficiaries of shorter vesting, generally younger and shorter service workers, prefer the benefits of shorter vesting over other forms of compensation? If these workers prefer current compensation over the benefits of shorter vesting, then other policies may be more effective in ensuring an adequate retirement income. In addition, policies which provide greater personal latitude about forms of compensation may produce a more effective result for all workers.

Could other pension mechanisms more efficiently administer the new benefits generated by shorter vesting? Because of the potentially higher administrative costs associated with shorter vesting, it is possible that more efficient administrative vehicles could improve the overall level of benefits to retirees. For example, if a fully portable pension arrangement could be established, this would help to reduce some of the deadweight administrative costs that accompany shorter vesting. However, even with such arrangements, shorter vesting may not significantly affect the adequacy of retirement income.

Because the scope of the analysis was limited to consideration of the potential impact of alternative vesting schedules, it does not address tradeoffs among related policy options. However the larger study of which this analysis is a part will provide a more comprehensive examination of the issue of retirement income receipt and its relationship to retirement income adequacy, specifically options for improving retirement income receipt will be explored in the Study of Retirement Program Coverage forthcoming from the Employee Benefit Research Institute (EBRI). Results of the coverage study will provide a useful basis for a subsequent Study of Retirement Income Adequacy, also forthcoming from EBRI.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

AGREEMENT FOR COOPERATION BETWEEN THE UNITED STATES AND THE REPUBLIC OF INDONESIA CONCERNING PEACEFUL USES OF NUCLEAR ENERGY—MESSAGE FROM THE PRESIDENT—PM 221

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers, which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

I am pleased to transmit to the Congress, pursuant to Section 123 d of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(d)), the text of the proposed Agreement for Cooperation between the Government of the United States of America and the Government of the Republic of Indonesia Concerning Peaceful Uses of Nuclear Energy with accompanying agreed minute; my written approval, authorization and determination concerning the agreement; and the memorandum of the Director of the United States Arms Control and Disarmament Agency with the Nuclear Proliferation Assessment Statement concerning the agreement. The joint memorandum submitted to me by the Secretaries of State and Energy, which includes a summary analysis of the provisions of the agreement, and the views of the Members of the Nuclear Regulatory Commission and the Director of the United States Arms Control and Disarmament Agency are also enclosed.

---

[9] Major studies of the incidence of increases in the Social Security payroll tax are: George Perry, "Changing Labor Markets and Inflation", *Brookings Papers on Economic Activity*, 1970:3, pp. 411–448; Robert Gordon, "Inflation in Recession and Recovery", *Brookings Papers on Economic Activity*, 1971:1, pp. 105–166; John A. Brittain, "The Incidence of Social Security Payroll Taxes", *American Economic Review* 61 (March 1971): 110–25; Wayne Vroman, "Employer Payroll Taxes and Money Wage Behavior", *Applied Economics*, 1974, pp. 189–204; John Hagens and John Hambor, "The Macroeconomic Effects of a Payroll Tax Rollback", Social Security Administration, Office of Research and Statistics, August 1979; and Janice Halpern and Alicia H. Munnell, "The Inflationary Impact of Increases in the Social Security Payroll Tax", *New England Economic Review* (March/April, 1980).

The Nuclear Non-Proliferation Act of 1978, which I signed into law on March 10, 1978, calls upon me to renegotiate existing peaceful nuclear cooperation agreements in order to obtain the new provisions set forth in that Act. In my judgment, the proposed agreement for cooperation between the United States and Indonesia, together with its agreed minute, meets all statutory requirements.

I am particularly pleased to note in this connection that Indonesia deposited its instrument of accession to the Treaty on the Non-Proliferation of Nuclear Weapons on July 12, 1979, thereby becoming the 109th Party to that landmark treaty and cornerstone of international non-proliferation efforts. This action reflected Indonesia's commitment to international non-proliferation efforts, and marks a notable step toward the ultimate goal of universal acceptance of the objectives of the NPT.

The proposed bilateral agreement between us reflects the desire of the Government of the United States and the Government of Indonesia to update the framework for peaceful nuclear cooperation between our two countries in a manner that recognizes both the shared non-proliferation objectives and the close relationship between the United States and Indonesia. The proposed agreement will, in my view, further the non-proliferation and other foreign policy interests of the United States.

I have considered the views and recommendations of the interested agencies in reviewing the proposed agreement and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the agreement and authorized its execution, and urge that the Congress give it favorable consideration.

JIMMY CARTER.

THE WHITE HOUSE, *July 2, 1980.*

PRESIDENTIAL APPROVALS

A message from the President of the United States reported that he had approved and signed the following acts and joint resolutions:

On June 28, 1980:

S. 2460. An act to amend chapter 5 of title 37, United States Code, to revise the special pay provisions for medical officers in the uniformed services and to extend the special pay provisions for other health professionals in the uniformed services, and for other purposes.

On June 30, 1980:

S. 562. An act to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes.

S. 932. An act to extend the Defense Production Act of 1950, and for other purposes.

On July 1, 1980:

S. 2245. An act to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of property, and for other purposes.

S.J. Res. 119. Joint Resolution to authorize the Vietnam Veterans Memorial Fund, Inc., to establish a memorial.

On July 2, 1980:

S.J. Res. 115 Joint Resolution designating July 1980 as "National Porcelain Art Month".

S.J. Res. 188. Joint Resolution extending the reporting date of the National Commission on Air Quality.

MESSAGES FROM THE HOUSE

At 9:04 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2240) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 5192) to amend and extend the Higher Education Act of 1965, and for other purposes; agree to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. PERKINS, Mr. THOMPSON, Mr. BRADEMAS, Mr. FORD of Michigan, Mr. GAYDOS, Mr. BIAGGI, Mr. SIMON, Mr. MURPHY of Pennsylvania, Mr. WEISS, Mr. PEYSER, Mr. RATCHFORD, Mr. MILLER of California, Mr. ASHBROOK, Mr. BUCHANAN, Mr. JEFFORDS, Mr. EDWARDS of Oklahoma, Mr. TAUKE, and Mr. PETRI were appointed as managers of the conference on the part of the House.

The message further announced that the House agrees to the amendment of the Senate to the text of the bill (H.R. 7474) to provide for an accelerated research and development program to achieve early applications of ocean thermal energy conversion systems, and for other purposes with an amendment in which it requests the concurrence of the Senate; and that the House agrees to the amendment of the Senate to the title of the bill.

The message also announced that the House agrees to the amendment of the Senate to the amendment of the House to the bill (S. 2382) to provide for additional authorization for appropriations for the Tinicum National Environmental Center.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7542) making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 8, 42, 46, 56, 59, 61, 65, 74, 81, 85, 87, 106, 109, 110B, 112, 113, 114, 115, 128, 141, 144, 147, 153, 161, 165, 169, 170, 174 through 189 inclusive, 199, 202, 208, 209, 219, 220, 221, 224, 227, 243, 250, 251, 252, 253, 256, 269, 275, 276 through 281 inclusive, and 325 to the bill, and concurs therein; that the House recedes from its disagreement to the amendments of the Senate numbered 6, 7, 9. 10, 15, 31, 33, 34, 37, 38, 48, 53, 54, 67, 95, 102, 103, 116, 117, 119, 123, 131, 133, 136, 138, 152, 155, 158, 166, 168, 192, 193, 194, 196, 204, 205, 218, 223, 237, 244, 247, 304, 316, 339, 340, 341, 342, and 343, and concurs therein each with an amendment in which it requests the concurrence of the Senate; and that the House insists upon its disagreement to the amendment of the Senate numbered 118.

The message also announced that the House has passed the joint resolution (S.J. Res. 168) designating July 18, 1980 as "National POW-MIA Recognition Day," without amendment.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 5341. An act to designate components of the National Wilderness Preservation System in the States of Florida, Missouri, Mississippi, North Carolina, South Carolina, and Louisiana, and for other purposes; and

H.R. 5829. An act for the relief of the Foundry United Methodist Church.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

S. 2009. An act to designate certain public lands in central Idaho as the River of No Return Wilderness, to designate a segment of the Salmon River as a component of the National Wild and Scenic Rivers System, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. MAGNUSON).

At 11:30 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 107. Concurrent resolution providing for a recess of the Senate from July 2, to July 21, 1980, and an adjournment of the House of Representatives from July 2 to July 21, 1980.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 5341. An act to designate components of the National Wilderness Preservation System in the States of Florida, Missouri, Mississippi, North Carolina, South Carolina, and Louisiana, and for other purposes; to the Committee on Agriculture, Nutrition and Forestry and the Committee on Energy and Natural Resources, jointly, by unanimous consent.

H.R. 5829. An act for the relief of the Foundry United Methodist Church; to the Committee on Finance.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4121. A communication from the Under Secretary of Agriculture for International Affairs and Commodity Programs, transmitting, pursuant to law, the third quarterly report on the status of the planned programing of food assistance; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4122. A communication from the Deputy Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on the reapportionment of an appropriation on a basis indicating a need for a supplemental estimate of appropriation; to the Committee on Appropriations.

EC-4123. A communication from the Acting Assistant Secretary of the Air Force for Research, Development, and Logistics, transmitting, pursuant to law, a study with respect to converting the T-45 simulator operator function at Mather Air Force Base, California, and a decision has been made that performance under contract is the most cost-effective method of accomplishing it; to the Committee on Armed Services.

EC-4124. A communication from the Acting Assistant Secretary of the Air Force for Research, Development, and Logistics, transmitting, pursuant to law, a study with respect to converting the commissary shelf stocking and custodial functions at the United States Air Force Academy, Colorado and a decision that performance under contract as the most cost effective method of accomplishing it; to the Committee on Armed Services.

EC-4125. A communication from the Assistant Secretary of the Army for Installations, Logistics, and Financial Management, transmitting, pursuant to law, study with respect to converting the function of training and consultant services at Fort Riley, Kansas, and a decision that performance under contract is the most cost-effective method of accomplishing it; to the Committee on Armed Services.

EC-4126. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Army Continues To Have Serious Problems Identifying Its Resource Requirements"; to the Committee on Armed Services.

EC-4127. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Equitable Cost Sharing Questioned On NATO's Airborne Early Warning and Control Program"; to the Committee on Armed Services.

EC-4128. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The World Wide Military Command And Control System—Evaluation Of Vendor And Department Of Defense Comments"; to the Committee on Armed Services.

EC-4129. A communication from the Assistant Secretary of the Army for Installations, Logistics, and Financial Management, transmitting, pursuant to law, a study with respect to converting the function of custodial services at Anniston Army Depot, Alabama, and a decision that performance under contract is the most cost-effective method of accomplishing it; to the Committee on Armed Services.

EC-4130. A communication from the Assistant Secretary of the Army for Installations, Logistics, and Financial Management, transmitting, pursuant to law, a study with respect to converting the function of motor vehicle maintenance at Pine Bluff Arsenal, Arkansas, and a decision that performance under contract is the most cost effective method of accomplishing it; to the Committee on Armed Services.

EC-4131. A communication from the Assistant Secretary of the Army for Installations, Logistics, and Financial Management, transmitting, pursuant to law, a study with respect to converting selected installation support functions at the St. Louis Area Support Center, Granite City, Illinois, and a tentative decision that performance under contract is the most cost-effective method of accomplishing it; to the Committee on Armed Services.

EC-4132. A communication from the Assistant Attorney General, Antitrust Division, Department of Justice, transmitting, pursuant to law, a report on various agreements between government and private industry that have developed under the terms of the Defense Production Act; to the Committee on Banking, Housing, and Urban Affairs.

EC-4133. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, a report on the beneficial ownership reporting requirements under the Securities Exchange Act; to the Committee on Banking, Housing, and Urban Affairs.

EC-4134. A communication from the Deputy Secretary of the Treasury, transmitting, pursuant to law, the report of the Interagency Task Force on Thrift Institutions, dated June 30, 1980; to the Committee on Banking, Housing, and Urban Affairs.

EC-4135. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the 1979 Annual Report of the Financial Management Capacity Sharing Program; to the Committee on Banking, Housing, and Urban Affairs.

EC-4136. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report on loan, guarantee, and insurance transactions supported by Eximbank during May 1980 to Communist countries; to the Committee on Banking, Housing, and Urban Affairs.

EC-4137. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report entitled "The Conversion of Rental Housing to Condominiums and Cooperatives: A National Study of Scope, Causes, and Impacts"; to the Committee on Banking, Housing, and Urban Affairs.

EC-4138. A communication from the Secretary of Interstate Commerce Commission, transmitting, pursuant to law, a report that the Commission is unable to render a decision on appeal in No. 37010, *General Electric Co.* v. *The Delaware and Hudson Railway Co.* within the specified 180-day period, and that an extension of 90 days has been voted; to the Committee on Commerce, Science, and Transportation.

EC-4139. A communication from the Secretary of Interstate Commerce Commission, transmitting, pursuant to law, notice that the Commission is unable to render a final decision in Docket No. 37331, Increased rates on Coal, Alabama to Boykin, Florida, within the initially specified 7-month period; to the Committee on Commerce, Science, and Transportation.

EC-4140. A communication from the Chairman of the National Advisory Committee on Oceans and Atmosphere, transmitting, pursuant to law, the ninth annual report of the Committee dated June 30, 1980; to the Committee on Commerce, Science, and Transportation.

EC-4141. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report for the period January through March 1980 concerning imports of crude oil, residual fuel oil, refined petroleum products, natural gas, and coal; refinery activities; and inventories; together with data on exploratory activity, exports, nuclear energy, and electric power; to the Committee on Energy and Natural Resources.

EC-4142. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Many Water Quality Standard Violations May Not Be Significant Enough to Justify Costly Preventive Actions," July 2, 1980; to the Committee on Environment and Public Works.

EC-4143. A communication from the Chairman and Ranking Minority Member, Committee on Environment and Public Works, transmitting, for the information of the Senate, a report entitled "Nuclear Accident and Recovery at Three Mile Island," June 1980; to the Committee on Environment and Public Works.

EC-4144. A communication from the Secretary of Health and Human Resources, transmitting, pursuant to law, a report on State Medicaid program compliance with section 1903(g) of the Social Security Act; to the Committee on Finance.

EC-4145. A communication from the Chairman, United States International Trade Commission, transmitting, pursuant to law, the 22nd quarterly report on trade between the United States and the nonmarket economy countries; to the Committee on Finance.

EC-4146. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Federally-Financed Research and Communication on Soviet Affairs: Capabilities and Needs," July 2, 1980; to the Committee on Foreign Relations.

EC-4147. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Spending Authority Recordings in Certain Revolving Funds Impair Congressional Budget Control," July 2, 1980; to the Committee on Governmental Affairs.

EC-4148. A communication from the Acting Comptroller General of the United States, reporting, pursuant to law, on the equity and costs of the Government's policy of full, automatic cost-of-living increases for Federal Civilian and military retirees; to the Committee on Governmental Affairs.

EC-4149. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report on the examination of the financial statements of the Pennsylvania Avenue Development Corporation for fiscal year 1979; to the Committee on Governmental Affairs.

EC-4150. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on the administration of the Government in the Sunshine Act; to the Committee on Governmental Affairs.

EC-4151. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, D.C. Act 3-204, "Rental Housing Conversion and Sale Act of 1980" and report, adopted by the Council on June 17, 1980; to the Committee on Governmental Affairs.

EC-4152. A communication from the President of the United States, transmitting a draft of proposed legislation to establish a State Planning Council on Radioactive Waste Management in the Executive Branch; to the Committee on Governmental Affairs.

EC-4153. A communication from the Secretary, Aviation Hall of Fame, Inc., transmitting, pursuant to law, its annual report for calendar year 1979; to the Committee on the Judiciary.

EC-4154. A communication from the General Counsel, National Council on Radiation Protection and Measurements, transmitting, pursuant to law, a report entitled "Financial Statements and Supplemental Schedules for the Year Ended December 31, 1979 and Auditors' Opinion"; to the Committee on the Judiciary.

EC-4155. A communication from Chairman, United States Commission on Civil Rights, transmitting, pursuant to law, a report entitled "Extending Equal Employment Opportunity Law to Congress," June 1980; to the Committee on Labor and Human Resources.

EC-4156. A communication from the Chairman, National Advisory Council on the Education of Disadvantaged Children, transmitting, pursuant to law, its 1980 annual report; to the Committee on Labor and Human Resources.

EC-4157. A communication from the Acting Comptroller General of the United States, reporting, pursuant to law, on the President's ninth special message for fiscal year 1980, transmitted on May 20, 1980, pursuant to the Impoundment Control Act of 1974; to the Committee on Appropriations, the Committee on the Budget, the Committee on the Judiciary, the Committee on Armed Services, the Committee on Energy and Natural Resources, and the Committee on Environment and Public Works, jointly, pursuant to order of January 30, 1975.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and referred as indicated:

POM-783. A concurrent resolution adopted by the Legislature of the State of Pennsylvania; to the Committee on Energy and Natural Resources:

"RESOLUTION

"Whereas, Efforts have been underway since 1915 by governmental officials and numerous organizations and historical groups around the United States to establish the Legionville National Historic Site in Harmony Township, Beaver County; and

"Whereas, This 22 acre site of national significance to the American people and is the largest unrestored historical site in Pennsylvania listed in the National Registry, and

"Whereas, Legionville dates to 1000 years before Christ as an Early Woodland Adena Indian cultural inhabitation site; and

"Whereas, The Legionville area was the historical capital of the Delaware and Shawnee Indians, from 1725 to 1754, and was called Logstown; and

"Whereas, The first Christian religious ceremony in Pennsylvania west of the Allegheny Mountains was performed on this site in 1749; and

"Whereas, Legionville was the site of the Treaties of Logstown of 1748-53 which gave the Virginia government the right to establish its fort at the forks of the Ohio, where the city of Pittsburgh is now located, and

"Whereas, Major George Washington held councils at the Legionville site which helped establish the British American foothold on the Western Frontier and precipitated the events of the French and Indian War of 1755; and

"Whereas, In 1792 President George Washington asked his Revolutionary War General, Major General Anthony Wayne of Pennsylvania, to establish and train the First American Legion at Legionville, the first formal military training camp of the U.S. Army; and

"Whereas, Original revetments and trenches of 1792 remain as to traces of the Pittsburgh to Beaver Wagon Road of 1806; and

"Whereas, Establishment and development of the Legionville National Park will lend to the preservation of our historical heritage, and the promotion of our economy; therefore be it

"*Resolved*, (the House of Representatives concurring), That the General Assembly of the Commonwealth of Pennsylvania supports the development of Legionville as a National Park and Historical center and urges Congress and the President to appropriate the necessary funds for this purpose; and be it further

"Resolved, That copies of this resolution be sent to the President of the United States, the presiding officers of each House of the Congress of the United States, and to each Senator and Representative from Pennsylvania in the Congress of the United States."

POM-784. A resolution adopted by the Senate of the State of Illinois; to the Committee on the Judiciary:

"SENATE RESOLUTION NO. 371

"Whereas, The President of the United States, on behalf of the American people, has expressed an avowed concern for Human Rights, worldwide; and

"Whereas, Violations of Human Rights continue to take place in the North of Ireland under British occupation, as have been verified by the European Court of Human Rights, and more reecntly by Amnesty International; and

"Whereas, The U.S. State Department has granted visas to pro-British Loyalists, from the North of Ireland, to enter the United States to propagate and espouse their positions; and

"Whereas, The U.S. State Department has arbitrarily and politically denied Irish Nationalists, specifically Ruairi O'Bradaigh, President of Sinn Fein, the oldest and only all-Ireland political party, the opportunity to espouse their positions and to speak on behalf of Irish Human Rights; and

"Whereas, The U.S. State Department has created an imbalance of opinion in the U.S. and fostered a continued British presence in the North of Ireland by their denial of visas to Irish Nationalists; and

"Whereas, The denial of visas to Irish Nationalists by the U.S. State Department silences vocal opposition to Britain's suspension of the rule of law and basic human rights; and

"Whereas, The denial of visas to Irish Nationalists, specifically Ruairi O'Bradaigh, violates the rights of U.S. citizens who invited Mr. O'Bradaigh to the United States as guaranteed by the First Amendment of the U.S. Constitution, demonstrates contempt for the Irish-American community and prolongs the miseries, torture and war in Ireland by denying the American people the basis to support an equitable solution to, and to form a just opinion regarding, the conflict in the North of Ireland; therefore, be it

"Resolved, by the Senate of the Eighty-First General Assembly of the State of Illinois, that this Body condemns the denial of visas to Irish Nationalists by the U.S. State Department, specifically Ruairi O'Bradaigh, President of the Sinn Fein Political Party, and calls upon the U.S. State Department to revoke this discriminatory policy; and be it further

"Resolved, That copies of this resolution, suitably engrossed, be sent to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the Secretary of State, and all members of the United States Congress and the Senate from the State of Illinois."

POM-785. A resolution adopted by the National Sheriffs' Association, Washington, D.C., in support of a serious congressional review of Federal legislation restricting use of the herbicide, paraquat; to the Committee on Agriculture, Nutrition, and Forestry.

POM-786. A resolution adopted by the National Sheriffs' Association, Washington, D.C. urging the U.S. Congress to continue to provide Federal funding for State highway safety programs ,and that the U.S. Congress appropriate the $50 million authorized for 55-mile-per-hour enforcement and the $7 million in incentive funds requested by DOT so as to maintain and expand this life saving and fuel conserving program; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PELL, from the Committee on Rules and Administration, without amendment:

S. 2936. An original bill to transfer certain employees of the Architect of the Capitol to the Sergeant at Arms of the Senate (Rept. No. 96-844).

By Mr. HOLLINGS, from the Committee on the Budget, without amendment:

S. 2939. An original bill to provide for revenue reconciliation as provided by section 310 of the Congressional Budget Act of 1974.

REVENUE RECONCILIATION ACT OF 1980

Mr. HOLLINGS. Mr. President, in conformance with the budget resolution Congress adopted 2½ weeks ago, the Committee on Finance today reported the revenue reconciliation bill for 1980. This bill is a companion to the reconciliation savings bill the Senate passed two nights ago.

Under the revenue reconciliation bill, the Federal Government would receive another $4.2 billion in revenues during fiscal year 1981, principally by the continuation of certain taxes otherwise scheduled to expire, and by the acceleration of tax payments which are due under existing law. Individual and corporate income tax rates would not be amended.

The bill also makes a number of miscellaneous changes in revenue legislation, none of which affect the rates paid by the average taxpayer.

In order for Senators to have the earliest possible advantage of full information about this important bill, I ask unanimous consent that there be printed at this point in the RECORD the text of bill and the explanation of it prepared by the Committee on Finance.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2939

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Revenue Reconciliation Act of 1980".

REVENUE MEASURES

SEC. 200. AMENDMENT OF INTERNAL REVENUE CODE OF 1954.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

Subtitle A—Taxation of Foreign Investment in United States Real Property

SEC. 201. SHORT TITLE.

This subtitle may be cited as the "Foreign Investment in Real Property Tax Act of 1980".

Sec. 202. Tax on Dispositions of Foreign Investment in United States Real Property.

(a) In General.—Subpart C of part II of subchapter N of chapter 1 (relating to miscellaneous provisions with respect to nonresident aliens and foreign corporations) is amended by adding at the end thereof the following new section:

"Sec. 897. Tax on Dispositions of Foreign Investment in United States Real Property.

"(a) Imposition of Tax.—

"(1) In general.—In the case of a nonresident individual or foreign corporation, there is hereby imposed for each taxable year a tax of 28 percent of the excess (if any) of—

"(A) the amount of the gains realized by the taxpayer during the taxable year from the sale of United States real property interests, over

"(B) the amount of the losses realized by the taxpayer during the taxable year from the sale of United States real property interests.

"(2) Minimum amount.—The tax imposed by this subsection for any taxable year shall not be less than the increase in the taxpayer's tax for the taxable year under section 871(b) or 882(a) (whichever is appropriate) which would result from increasing the taxpayer's taxable income taken into account under such section for the taxpayer's taxable year by an amount equal to the excess described in paragraph (1).

"(b) Coordination With Sections 871 and 882.—Any gain or loss realized on the sale of a United States real property interest shall not be taken into account for purposes of applying section 871 or 882. The preceding sentence shall not apply to any gain or loss realized by any taxpayer during any taxable year if such taxpayer is exempt from the tax imposed by subsection (a) by reason of subsection (c).

"(c) Exception Where Taxpayer's Net Gain for Year Is Less Than $5,000.—

"(1) In general.—No tax shall be imposed under subsection (a) on any nonresident alien individual or foreign corporation for any taxable year if the amount of the excess referred to in subsection (a) is $5,000 or less.

"(2) Rules for applying paragraph (1).—For purposes of paragraph (1)—

"(A) Installment sales.—In the case of a sale to which section 453 applies, the amount to be realized shall be taken into account in the taxable year in which the sale occurs.

"(B) Husband and wife.—For purposes of paragraph (1), a husband and wife shall be treated as a single individual.

"(C) Persons under common control.—Under regulations, all persons under common control (within the meaning of section 52 (b)) shall be treated as 1 person.

"(d) Other Dispositions Treated as Sales.—For purposes of this section and section 1444, an exchange or other disposition shall be treated as a sale.

"(e) United States Real Property Interest.—For purposes of this section—

"(1) United states real property interest.—

"(A) In general.—Except as provided in subparagraph (B), the term 'United States real property interest' means—

"(i) an interest in real property (including an interest in a mine, well, or other natural deposit) located in the United States, and

"(ii) any interest (other than an interest solely as a creditor) in any entity which was a real property holding organization at any time during the shorter of—

"(I) the period during which the taxpayer held such interest, or

"(II) the 5-year period ending on the date of the sale of such interest.

"(B) Exclusion for interest in certain entities.—The term 'United States real property interest' does not include any interest in an entity if—

"(i) as of the date of the sale of such interest, such entity did not hold any United States real property interests, and

"(ii) all of the United States real property interests held by such entity at any time during the shorter of the periods described in subparagraph (A)(ii) were disposed of in transactions in which gain or loss was recognized.

"(2) United states real property holding organization.—The term 'United States real property holding organization' means any entity (whether domestic or foreign) if—

"(A) a controlling interest in such entity is owned by or for not more than 10 persons, and

"(B) United States real property interests constitute 50 percent or more of the fair market value of the assets of such entity.

"(3) Special rules for application of paragraph (2)(B).—For purposes of paragraph (2)(B)—

"(A) Exclusion of certain assets.—The term 'assets' does not include cash, amounts described in section 861(c), marketable securiites, accounts or notes receivable, or other assets which are readily marketable, in excess of a reasonable amount of working capital.

"(B) Treatment of controlling interests.—Under regulations, if any person holds a controlling interest in any entity, such person shall be treated as holding a pro rata share of the assets of such entity.

"(4) Other special rules.—

"(A) Interest in real property.—The term 'interest in real property' includes fee ownership and co-ownership of land or improvements thereon, leaseholds of land or improvements thereon, options to acquire land or improvements thereon, and options to acquire leaseholds of land or improvements thereon.

"(B) Controlling Interest.—The term 'controlling interest' means—

"(i) in the case of a corporation, 50 percent or more of the total combined voting power of all classes of stock of such corporation or 50 percent or more of the fair market value of all classes of stock of such corporation,

"(ii) in the case of a partnership, 50 percent or more of the capital or profits interest, or

"(iii) in the case of a trust, 50 percent or more of the beneficial interests in such trust (actuarially determined).

"(C) Constructive ownership rules.—For purposes of determining ownership of interests in any corporation, partnership, or trust, rules similar to the rules of subsections (a) and (b)(1) of section 544 shall apply.

"(D) Real property includes associated personal property.—The term 'real property' includes movable walls, furnishings, and other personal property associated with the use of the real property.

"(E) Entity.—The term 'entity' means a corporation, partnership, or trust.

"(f) Nonrecognition Provisions Not To Apply.—

"(1) In general.—Except as provided in paragraph (2), any amount realized on any sale shall be taken into account for purposes of this section and section 1444 notwithstanding any nonrecognition provision.

"(2) Exception.—Under regulations, the Secretary may provide that, for purposes of this section and section 1444, any nonrecognition provision shall be applied as though it also provided for not realizing gain or loss.

"(3) Nonrecognition provision defined.—For purposes of this subsection, the term 'nonrecognition provision' means any provision of this title for not recognizing gain or loss.".

(b) Clerical Amendment.—The table of sections for such subpart C is amended by adding at the end thereof the following new item:

"Sec. 897. Tax on dispositions of foreign investment in United States real property.".

(c) Cross References.—

(1) Subsection (g) of section 871 (relating to tax on income of nonresident alien individuals) is amended by adding at the end thereof the following new paragraph:

"(8) For special tax treatment of gain or loss from the disposition by a nonresident alien individual of a United States real property interest, see section 897.".

(2) Subsection (a) of section 882 (relating to tax on income of foreign corporation connected with United States business) is amended by adding at the end thereof the following new paragraph:

"(3) For special tax treatment of gain or loss from the disposition by a foreign corporation of a United States real property interest, see section 897.".

Sec. 203. Withholding of Tax on Dispositions of United States Real Property Interests.

(a) In General.—Subchapter A of chapter 3 (relating to withholding of tax on nonresident aliens and foreign corporations) is amended by adding at the end thereof the following new section:

"Sec. 1444. Withholding of Tax on Dispositions of United States Real Property Interests.

"(a) General Rule.—Except as otherwise provided in this section, every purchaser of a United States real property interest (as defined in section 897(e)) from a foreign person shall deduct and withhold a tax equal to whichever of the following is the smallest:

"(1) 28 percent of the amount realized on the disposition,

"(2) if there is a seller's maximum tax liability (as defined in subsection (g)(3)), the amount of such liability, or

"(3) an amount equal to the fair market value of that portion of the proceeds of the sale which are within the withholding agent's control.

"(b) Purchaser Must Know or Have Notice That the Investment Was Foreign.—

"(1) In general.—Subsection (a) shall not apply to a purchaser with respect to an acquisition unless the purchaser—

"(A) knew that the seller was a foreign person, or

"(B) had received the notice provided for in subsection (c).

"(2) Time for applying paragraph (1).—

"(A) In general.—Except as provided in subparagraph (B), paragraph (1) shall be applied as of the time for settling the transaction.

"(B) Withholding in case of installment sales, etc.—If the withholding agent has any portion of the proceeds from the sale in his control after the time for settling the transaction, paragraph (1) shall be applied as of the time immediately before the payment of such portion is made to the seller.

"(c) Requirements To Furnish Notice.—

"(1) Seller must furnish notice to purchaser.—If the seller is a foreign person, he shall notify the purchaser at such time and in such manner as may be prescribed by regulations.

"(2) Seller's agent.—

"(A) In general.—If any seller's agent has at any time before the time specified in subsection (b)(2) reason to believe that the seller may be a foreign person, he shall notify the purchaser at such time and in such manner as may be prescribed by regulations.

"(B) Only 1 notice required.—Under regulations, the requirements of paragraph

(1) and of subparagraph (A) of this paragraph shall be treated as met with respect to any transaction if at least one notice which meets the requirements of paragraph (1) or subparagraph (A) is furnished.

"(C) Seller's agent.—For purposes of this paragraph, the term 'seller's agent' means any person who bears any one of the following relationships to a seller who is a foregin person:

"(i) a nominee of the seller,

"(ii) the broker engaged by the seller,

"(iii) the settlement attorney engaged by the seller, and

"(iv) any person holding any of the proceeds of the sale.

"(3) Failure to furnish notice.—

"(A) Duty to withhold.—If any seller's agent—

"(i) is required by paragraph (2) to furnish notice, but

"(ii) fails to notify the purchaser at such time and in such manner as may be prescribed by regulations,

such agent shall have the same duty to deduct and withhold that the purchaser would have if the seller's agent had complied with paragraph (2).

"(B) Treatment of compensation.—In any case to which subparagraph (A) applies, the compensation received by the seller's agent in connection with the transaction shall be treated as proceeds from the sale within the seller's agent's control.

"(C) Requirement of reasonable inquiry.—For purposes of subparagraph (A), a seller's agent who fails to make reasonable inquiry shall be treated as required to furnish notice.

"(d) Exemptions.—

"(1) In general.—No person shall be required to deduct and withhold any amount under subsection (a) with respect to a transaction if paragraph (2), (3), or (4) applies to the transaction.

"(2) Seller furnishes qualifying statement.—

"(A) In general.—This paragraph applies to the transaction if the seller (at such time, in such manner, and subject to such terms and conditions as the Secretary may by regulations prescribe) furnishes a qualifying statement to the person who (but for this paragraph) would be required to withhold.

"(B) Qualifying statement.—For purposes of subparagraph (A), the term 'qualifying statement' means a statement by the Secretary that—

"(i) the seller either—

"(I) has reached agreement with the Secretary for the payment of any tax imposed by section 897 on any gain realized by the seller on the disposition of United States real property interests, or

"(II) is exempt from any tax imposed by section 897 on any gain realized by the seller on the disposition of United States real property interests, and

"(ii) the seller has satisfied any unsatisfied prior withholding liability or has provided adequate security to cover such liability.

"(3) Principal residence where amount realized is not more than $150,000.—This paragraph applies to the transaction if—

"(A) the property being acquired consists of a single family residence,

"(B) the amount realized by the seller does not exceed $150,000, and

"(C) the property is acquired by the purchaser for use as his principal residence.

"(4) Stock transferred on established securities market.—This paragraph applies to a disposition of stock in a corporation if the transaction takes place on an established securities market.

"(e) Rules Relating to Certain Partnerships, Trusts, and Estates.—Pursuant to such terms and conditions as may be provided by regulations, a domestic partnership, the trustee of a domestic trust, or the executor of a domestic estate shall be required under subsection (a) to deduct and withhold from amounts of which such partnerships, trustees, or executors have custody which are—

"(1) attributable to the sale of a United States real property interest (as defined in section 897(e)), and

"(2) either—

"(A) includible in the distributive share of a partner of the partnership who is a nonresident alien individual of a foreign corporation, partnership, trust, or estate;

"(B) includible in the income of a beneficiary of the trust who is a nonresident alien individual or a foreign corporation, partnership, trust, or estate; or

"(C) includible in the income of a nonresident alien individual, foreign corporation, partnership, trust, or estate under the provisions of section 671.

"(f) Authority of Secretary to Prescribe Reduced Amount of Withholding, Etc.—At the request of the seller or of any withholding agent, the Secretary may prescribe a reduced amount to be withheld under this section if the Secretary determines that to substitute such reduced amount will not jeopardize the collection of the tax imposed by this section or section 897.

"(g) Definitions.—For purposes of this section—

"(1) Seller.—The term 'seller' means the person disposing of the United States real property interest.

"(2) Purchaser.—The term 'purchaser' means the person acquiring the United States real property interest.

"(3) Seller's maximum tax liability.—The term 'seller's maximum tax liability' means, with respect to the disposition of any interest, the maximum amount which the Secretary determines the seller could owe—

"(A) as tax under section 897 by reason of such disposition, plus

"(B) any unsatisfied prior withholding liability with respect to such interest.

"(4) Unsatisfied prior withholding liability.—The term 'unsatisfied prior withholding liability' means any withholding obligation imposed under this section on any prior acquisition of the United States real property interest to the extent such obligation has not been satisfied.".

(b) Technical Amendment.—Paragraph (16) of section 7701(a) (defining withholding agent) is amended by inserting "1444," after "1443,".

(c) Clerical Amendment.—The table of sections for subchapter A of chapter 3 is amended by adding at the end thereof the following new item:

"Sec. 1444.—Withholding of tax on dispositions of United States real property interests.".

Sec. 204. Credit of Withheld Tax.

(a) Genfral Rule.—Paragraph (1) of section 32 (relating to tax withheld at source on nonresident aliens and foreign corporations and on tax-free covenant bonds) is amended by inserting "or on the disposition of United States real property interest" after "withheld at source".

(b) Amendment of Section 6401.—Subsection (b) of section 6401 (relating to treatment of excessive credits as overpayment) is amended—

(1) by inserting "32 (relating to tax withheld at source on nonresident aliens and foreign corporations and on tax-free covenant bonds)," after "withheld on wages),",

(2) by striking out "sections 31" and inserting in lieu thereof "sections 31, 32", and

(3) by striking out the last sentence.

Sec. 205. Reporting Requirements.

(a) General Rule.—Subpart A of part III of chapter 61 (relating to information returns concerning persons subject to special provisions) is amended by inserting after section 6039B the following new section:

"Sec. 6039C. Return of Certain Entities Holding United States Real Property Interests.

"(a) Requirement.—If this section applies to any entity for any calendar year, such entity shall make a return for such calendar year setting forth—

"(1) the name and address of any person who held an interest in such entity at any time during the calendar year,

"(2) the composition of the assets of such entity at such time or times during the calendar year as the Secretary shall by regulations prescribe,

"(3) such information with respect to transfer during the calendar year of interests in such entity as the Secretary shall by regulations prescribe,

"(4) whether such entity is a United States real property holding organization (within the meaning of section 897(e)(2) at any time during the calendar year), and

"(5) such other information as the Secretary shall by regulations prescribe.

Any such return shall be made at such time and in such manner as the Secretary shall by regulations prescribe.

"(b) Statements To Be Furnished to Persons Holding Interests in the Entity.—Every entity making a return under subsection (a) shall furnish to each person who at any time during the calendar year held an interest in such entity a written statement showing—

"(1) the name and address of the entity making such return,

"(2) whether such entity is a United States real property holding organization at any time during the calendar year, and

"(3) such other information as the Secretary shall by regulations prescribe.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the year for which the return under subsection (a) was made.

"(c) Entities to Which This Section Applies.—This section applies to any entity for any calendar year if at any time during such year—

"(1) one or more of the persons owning an interest in such entity is a foreign person,

"(2) a controlling interest in such entity is owned by or for not more than 10 persons, and

"(3) United States real property interests constitute more than 40 percent of the fair market value of the assets of such entity.

"(d) Special Rules.—

"(1) Entity.—For purposes of this section, the term 'entity' means any corporation, partnership, or trust.

"(2) Certain rules made applicable.—For purposes of subsection (c), the rules of subsection (e) of section 897 shall apply.".

(b) Penalty for Failure To File Return.—Section 6652 (relating to failure to file certain information returns, registration statements, etc.) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) Returns Required Under Section 6039C.—

"(1) In general.—In the case of each failure—

"(A) to make a return required by section 6039C(a), or

"(B) to furnish a statement required by section 6039C(b),

on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, the amount determined under paragraph (2) shall be paid (upon notice and demand by the Secretary and in the same manner as tax) by the person failing to make such return or furnish such statement.

"(2) AMOUNT OF PENALTY.—For purposes of paragraph (1), the amount determined under this paragraph with respect to any failure shall be the greater of—

"(A) $25 for each day during which such failure continues, or

"(B) the amount determined under regulations as the amount of the tax imposed by section 897 which is not paid and which is attributable to transfers occurring during the calendar year for which the return or statement was required.

The amount determined under subparagraph (A) with respect to any calendar year shall not exceed $25,000. Subparagraph (B) shall not apply with respect to any transaction unless withholding with respect to such transaction was required under section 1444.".

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of chapter 61 is amended by inserting after the item relating to section 6039B the following new item:

"Sec. 6039C. Return of certain entities holding United States real property interests.".

SEC. 206. MISCELLANEOUS AMENDMENTS.

(a) SOURCES WITHIN UNITED STATES.—Paragraph (5) of subsection (a) of section 861 is amended to read as follows:

"(5) DISPOSITION OF UNITED STATES REAL PROPERTY INTEREST.—Gains, profits, and income from the disposition of a United States real property interest (as defined in section 897(e)).".

(b) RESTRICTION ON EXAMINATION OF TAXPAYERS.—Subsection (b) of section 7605 (relating to restrictions on examinations of taxpayers) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any inspection of a taxpayer's books of account for purposes of section 897 or 1444.".

SEC. 207. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this subtitle shall apply to dispositions after December 31, 1979.

(b) SPECIAL RULE FOR TREATIES.—After December 31, 1984, nothing in section 894(a) or 7852(d) of the Internal Revenue Code of 1954 or in any other provision of law shall be treated as requiring an exemption from (or reduction of) any tax imposed by section 897 or section 1444 of such Code by reason of any treaty obligation of the United States.

(c) TAX AND WITHHOLDING NOT TO APPLY IN CASE OF POSTEFFECTIVE DATE BINDING CONTRACT DISPOSITIONS OR PAYMENTS PURSUANT PREEFFECTIVE DATE TRANSACTIONS.—

(1) BINDING CONTRACTS.—The amendments made by this subtitle shall not apply to dispositions of property pursuant to a written contract which, on December 6, 1979, and at all times thereafter, was binding on the taxpayer.

(2) PREVIOUS TRANSACTIONS.—The amendments made by this subtitle shall not apply with respect to the withholding or deduction of tax in connection with payments or other amounts paid after December 31, 1979, in connection with any disposition before January 1, 1980, of a United States real property interest.

Subtitle B—Inclusion in Wages of FICA Taxes Paid by Employer

SEC. 221. INCLUSION IN WAGES OF FICA TAXES PAID BY EMPLOYERS.

(a) INCLUSION IN WAGES.—

(1) IN GENERAL.—

(a)(1) Section 209(f) of the Social Security Act is amended to read as follows:

"(f) The payment by any employer (without deduction from the remuneraion of the employee)—

"(1) of the tax imposed upon an employee under section 3101 of the Internal Revenue Code of 1954 for wages paid for domestic service in a private home of the employer or for agricultural labor, or

(2) TECHNICAL AND CONFORMING CHANGES.—

(A) Section 3121(a)(6) of the Internal Revenue Code of 1954 is amended to read as follows:

"(6) the payment of an employer (without deduction from the remuneration of the employee)—

"(A) of the tax imposed upon an employee under section 3101 for wages paid for domestic service in a private home of the employer or for agricultural labor, or

"(B) of any payment required from an employee under a State unemployment compensation law;".

(B) Section 3306(b)(6) of the Internal Revenue Code of 1954 is amended to read as follows:

"(6) the payment of an employer (without deduction from the remuneration of the employee)—

"(A) of the tax imposed upon an employee under section 3101 for wages paid for domestic services in a private home of the employer or for agricultural labor, or

"(B) of any payment required from an employee under a State unemployment compensation law;".

(h) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall be effective with respect to remuneration paid after December 31, 1980.

(2) REMUNERATION PAID BY CERTAIN STATES.—In the case of remuneration paid by a State (or political subdivision thereof) which, on June 17, 1980, had in effect an arrangement whereby such State or political subdivision paid under an agreement entered into pursuant to section 218 of the Social Security Act (without deduction from the remuneration of the employee) on behalf of its employees in positions of a particular kind, all or a substantial portion of the amounts equivalent to the taxes which would be imposed by section 3101 of the Internal Revenue Code of 1954, the amendments made by this section shall be effective with respect to remuneration paid to employees in such positions after December 31, 1983, and, notwithstanding any provision of law of a State or political subdivision thereof, any payment after such date—

(A) made by a State or interstate instrumentality to the Secretary of the Treasury pursuant to section 218(e)(1)(A) of the Social Security Act;

(B) with respect to an employee whose services are covered pursuant to an agreement under section 218 of such Act;

(C) of amounts equal to all or any portion of the tax which would be imposed on the employee under section 3101 of the Internal Revenue Code of 1954 if the services of such employee constituted employment as defined in section 3131 of such Code; and

(D) without deduction from the remuneration of such employee,

such be considered wages for purposes of title II of the Social Security Act. With respect to such payments the State shall be liable under section 218(e)(1)(A) of such Act for amounts equivalent to the sum of the taxes which would be imposed by sections 3101 and 3111 of such Code on such payments if the services of employees covered by the agreement constituted employment as defined in section 3121 of such Code.

Subtitle C—Telephone Tax

SEC. 231. TELEPHONE TAX CONTINUED AT 2 PERCENT FOR 1981.

(a) IN GENERAL.—The table contained in paragraph (2) of section 4251(a) (relating to imposition of tax on communication services) is amended by striking out the last 2 lines of such table and inserting in lieu thereof the following:

"During 1980 or 1981	2
During 1982	1".

(b) CONFORMING AMENDMENT.—Subsection (b) of section 4251 is amended by striking out "January 1, 1982" and inserting in lieu thereof "January 1, 1983".

Subtitle D—Cash Management

SEC. 251. ESTIMATED INCOME TAX PAYMENTS BY CORPORATIONS.

(a) GENERAL RULE.—Section 6655 (relating to failure by corporation to pay estimated income tax) is amended by adding at the end thereof the following new subsection:

"(h) LARGE CORPORATIONS REQUIRED TO PAY AT LEAST 50 PERCENT OF CURRENT YEAR TAX.—

"(1) IN GENERAL.—In the case of a large corporation, the amount treated as the estimated tax for the taxable year under paragraphs (1) and (2) of subsection (d) shall in no event be less than 50 percent of—

"(A) the tax shown on the return for the taxable year, or

"(B) if no return was filed, the tax for such year.

"(2) LARGE CORPORATION.—For purpose of this subsection, the term 'large corporation' means any corporation if such corporation (or any predecessor corporation) had taxable income of $1,000,000 or more for any taxable year during the testing period.

"(3) RULES FOR APPLYING PARAGRAPH (2).—

"(A) TESTING PERIOD.—For purposes of this subsection, the term 'testing period' means the 3 taxable years immediately preceding the taxable year involved.

"(B) MEMBERS OF CONTROLLED GROUPS.—For purposes of applying paragraph (1) to any taxable year in the testing period with respect to corporations which are component members of a controlled group of corporations for such taxable year, the $1,000,000 amount specified in paragraph (1) shall be divided among such members under rules similar to the rules of section 1561.".

(b) TECHNICAL AMENDMENT.—Subsection (e) of section 6655 is amended by striking out "subsections (b) and (d)" and inserting in lieu thereof "subsections (b), (d), and (h)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1980.

SEC. 252. INCLUSION OF MINIMUM TAX IN ESTIMATED TAX PAYMENTS.

(a) FOR INDIVIDUALS.—Paragraph (1) of section 6015(c) (relating to definition of estimated tax) is amended by striking out "(other than the tax imposed by section 55 or 56)".

(b) FOR CORPORATIONS.—Paragraph (1) of section 6154(c) (relating to definition of estimated tax) is amended by inserting ", section 56," after "section 11".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 6654(f) (relating to tax computed after application of credits against tax) is amended by striking out "(other than by section 55 or 56)".

(2) Paragraph (1) of section 6655(e) (relating to definition of tax) is amended by inserting ", section 56," after "section 11".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1980.

SEC. 253. INCREASE IN ESTIMATED INCOME TAX PAYMENT REQUIRED FROM CORPORATIONS FROM 80 PERCENT TO 85 PERCENT.

(a) IN GENERAL.—Section 6655 (relating to failure by corporation to pay estimated income tax) is amended by striking out "80 percent" in subsections (b)(1) and (d)(3)

(A) and inserting in lieu thereof "85 percent".

(b) Effective Date.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1980.

Subtitle E—Import Duty on Certain Imports of Ethyl Alcohol

Sec. 271. Imposition of Duty of Ethyl Alcohol Imported To Be Used as Fuel.

(a) In General.—Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by adding in numerical sequence the following new item:

" 907.50	Ethyl alcohol (provided for in item 427.88, part 2D, schedule 4) when imported to be used in producing a mixture of gasoline and alcohol or a mixture of a special fuel and alcohol for use as fuel, or when imported to be used otherwise as fuel	Gal	3% ad val. + 40c per gal.	20% ad val. + 40c per gal.	On or before 12/31/92 ".

Subtitle F—Amendments Relating to Crude Oil Windfall Profit Tax

Sec. 291. Credit Against Crude Oil Windfall Profit Tax for Royalty Owners; Decrease in Adjusted Base Price.

(a) Credit Against Windfall Profit Tax for Royalty Owners.—

(1) In general.—Subchapter B of chapter 65 (relating to rules of special application for abatements, credits, and refunds) is amended by adding at the end thereof the following new section:

"Sec. 6429. Credit and Refund of Chapter 45 Taxes Paid by Royalty Owners.

"(a) Treatment as Overpayment.—In the case of a qualified royalty owner, that portion of the tax imposed by section 4986 which is paid in connection with qualified royalty production shall be treated as an overpayment of the tax imposed by section 4986.

"(b) Credits and Refunds.—

"(1) In general.—Under regulations prescribed by the Secretary, any amount treated as an overpayment of tax under subsection (a) shall be credited against the tax imposed by section 4986 or refunded to the qualified royalty owner.

"(2) Claim for credit or refund.—Any claim for credit or refund under this section shall be filed in such form and manner, and at such time, as the Secretary may prescribe by regulations.

"(c) $1,000 Limitation on Credit or Refund.—

"(1) In general.—The aggregate amount which may be credited or refunded under subsection (a) with respect to any qualified royalty owner shall not exceed $1,000.

"(2) Allocation within family.—In the case of individuals who are members of the same family (within the meaning of section 4992(e)(3)(C)), the $1,000 amount in paragraph (1) shall be reduced for each such individual by allocating such amount among all such individuals in proportion to their respective qualified royalty production.

"(3) Allocations between corporations and individuals.—In the case of an individual who owns any stock in a qualified family farm corporation, the $1,000 amount in paragraph (1) shall be reduced by the amount which bears the same ratio to the amount of the credit or refund allowable to the corporation under this section as the percentage of shares owned by such individual bears to all shares of the corporation.

"(4) Allocation between corporations.—If at any time after June 24, 1980, any individual owns stock in two or more qualified family farm corporations, the $1,000 amount in paragraph (1) shall be reduced for each such corporation by allocating such amount among all such corporations in proportion to their respective qualified royalty production.

"(d) Definitions and Special Rules.—For purposes of this section—

"(1) Qualified royalty owner.—The term 'qualified royalty owner' means a producer (within the meaning of section 4996(a)(1)), but only if such producer is an individual, an estate, or a qualified family farm corporation.

"(2) Qualified royalty production.—The term 'qualified royalty production' means, with respect to any qualified royalty owner, taxable crude oil which—

"(A) is attributable to an economic interest of such royalty owner other than an operating mineral interest (within the meaning of section 614(d)), and

"(B) is removed from the premises after February 29, 1980, and before January 1, 1981.

"(3) Qualified Family Farm Corporation.—The term 'qualified family farm corporation' means a corporation—

"(A) which was in existence on June 25, 1980,

"(B) all of the outstanding shares of stock of which on such date and at all times thereafter were held by members of the same family (within the meaning of section 2032A(e)(2)), and

"(C) 80 percent of the assets of which (other than interests described in paragraph 2(a)) were used by the corporation on such date for farming purposes (within the meaning of section 2032A(e)(5)).

"(e) Cross reference.—

"For the holder of the economic interest in the case of a production payment, see section 636.".

(2) Technical and conforming amendments.—The table of sections for subpart B of chapter 65 is amended by inserting at the end thereof the following new item:

"Sec. 6429. Credit and refund of chapter 45 taxes paid by royalty owners.".

(b) Denial of Deduction.—

(1) In general.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end thereof the following new section:

"Sec. 280D. Portion of Chapter 45 Taxes for Which Credit or Refund Is Allowable Under Section 6429.

"No deduction shall be allowed for that portion of the tax imposed by section 4986 for which a credit or refund is allowable under section 6429.".

(2) Conforming amendment.—The table of sections for part IX of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 6429. Portion of chapter 45 taxes for which credit or refund is allowable under section 6429.".

(c) Decrease in Adjusted Base Price.—Section 4989 (defining adjusted base price) is amended by adding at the end thereof the following new subsection:

"(e) Special Rule for Fiscal Year 1981.—In the case of any taxable period beginning after September 30, 1980, and before October 1, 1981, the adjusted base price (determined without regard to this subsection) shall be reduced by an amount equal to the product of—

"(1) such adjusted base price, multiplied by

"(2) 0.008.".

Revenue Increases: Recommendations of the Committee on Finance Required by the Reconciliation Process in Section 3(a)(16) of H. Con. Res. 307, the First Budget Resolution for Fiscal Year 1981

FOREWORD

The Congressional Budget Act provides for the adoption by May 15 of each year of a First Concurrent Budget Resolution setting an overall budgetary framework within which the Congress will operate as it considers revenue and spending legislation for the upcoming fiscal year. The revenue and spending totals in the First Budget Resolution are not binding under the usual rules of the Budget Act. In the Fall of each year a binding Second Concurrent Budget Resolution is adopted to reaffirm or revise the budgetary totals which were incorporated in the First Budget Resolution. The Congressional Budget Act provides for a "reconciliation" procedure under which the Second Budget Resolution may include instructions directing specified House and Senate committees promptly to report legislation raising revenues or reducing spending in programs within their jurisdiction by specific amounts. The Congressional Budget Act does not provide for a reconciliation procedure under the First Budget Resolution. However, the Act does permit the inclusion in that Resolution of any "procedure which is considered appropriate to carry out the purposes of this Act."

The First Concurrent Budget Resolution for fiscal year 1981 (H. Con. Res. 307) includes reconciliation instructions to the Committee on Finance and several other committees of the Senate and House. In the case of the Finance Committee, the resolution includes both revenue and spending instructions. The committee is directed by the resolution to recommend reductions in outlays or spending programs under its jurisdiction totaling $2.2 billion for fiscal year 1981, decreases in budget authority totaling $0.9 billion, and increases in revenues totaling $4.2 billion.

The spending changes have been incorporated in a separate document. This committee print incorporates committee report language and bill language relating to the recommendations for revenue increases required of the Finance Committee.

I. SUMMARY OF FINANCE COMMITTEE RECOMMENDATIONS

The Finance Committee recommendations submitted to the Budget Committee on ways to raise fiscal year 1981 revenues by $4.2 billion, as required by the first budget resolution, include:

(1) A tax on gains from U.S. real estate realized by foreign investors.

(2) Imposition of social security and unemployment taxes on the employee social security tax paid by employers.

(3) A one-year delay in the phaseout of the telephone excise tax.

(4) Extension of estimated tax requirements for individuals and corporations to the minimum tax.

(5) An increase in the proportion of the corporate income tax to be covered by estimated tax payments from 80 percent to 85 percent.

(6) A requirement that large corporations cover at least 50 percent of their current year's tax liability with estimated tax payments if they elect the exception to the general estimated tax rules allowing them to base their estimates on the prior year's tax liability.

(7) A 40-cent increase in the tariff on alcohol imported for use as fuel.

(8) A $1,000 tax credit for royalty owners against their 1980 windfall profit tax liability.

(9) A reduction in the inflation adjustment to the base price under the windfall profit tax for the taxable periods in fiscal year 1981.

These changes are expected to increase revenues by $4.2 billion in fiscal year 1981 and $1.3 billion in fiscal year 1982.

Tax treatment of gain on sale of U.S. real property by foreign investors

Under present law, capital gains realized by foreign investors on the sale of U.S. property are generally not subject to U.S. tax unless the property is held in connection with a U.S. trade or business.

The committee recommendation would subject foreign investors to tax on gains on the sale or other disposition of U.S. real property. Foreign investors also would be taxed on gains realized from the sale or exchange of an interest in a corporation, trust, or partnership formed or availed of to hold U.S. real property interests. Reporting requirements would be established to identify when taxable transactions had occurred. The tax would be collected through withholding requirements and related enforcement provisions.

The provision would be effective for sales or other dispositions of U.S. real property interests occurring on or after January 1, 1980. However, to the extent that a provision conflicts with a U.S. treaty obligation, the provision would not take effect until after 1984. Also, the provision would not apply to sales made pursuant to written contracts which were binding at all times after December 6, 1979.

Inclusion in wages of social security taxes paid by employers

The bill provides that an employer payment of an employee's social security tax liability (except with respect to agricultural labor and domestic service) is to be includible in wages for purposes of the social security tax, the unemployment tax and social security benefits. Except in cases of employment by certain State and local governmental units, the provision applies with respect to remuneration paid after December 31, 1980. The provision applies with respect to payments by certain State or local governmental units after December 31, 1983.

Telephone excise tax

Under present law, the excise tax on communications services is scheduled to phase down from 2 percent in 1980 to 1 percent in 1981 and to expire in 1982. The bill delays the phaseout by one year, so that the tax rate will be 2 percent in 1981 and 1 percent in 1982 and the tax will expire on January 1, 1983.

Estimated income tax payments

Under present law, corporations are generally expected to pay 80 percent of their current year's tax liability in quarterly estimated tax payments during the taxable year. However, they are exempt from the penalty for underpayment of estimated tax if their estimated tax payments equal 100 percent of the prior year's tax liability.

The bill raises the amount of the current year's corporate income tax which must be covered by estimated tax payments from 80 percent to 85 percent. Also, corporations whose taxable income in any of the 3 preceding taxable years exceeds $1 million are required to make estimated tax payments of at least 50 percent of the current year's tax liability regardless of their prior year's tax liability.

For both individual and corporations, the minimum tax is not subject to estimated tax requirements. The bill subjects both the add-on minimum tax for corporations and individuals and the alternative minimum tax for individuals to the same estimated tax requirements as the regular income tax.

Increased duties on alcohol

There is an exemption under present law from the 4-cent-per-gallon Federal excise taxes on gasoline, diesel fuel, or other motor fuels for fuel which is at least 10 percent alcohol (other than alcohol derived from petroleum, natural gas, or coal). This exemption applies through December 31, 1992. When fuel is not subject to the excise tax, or to the extent that fuel contains more than 10 percent alcohol, a tax credit equal to 40 cents per gallon of alcohol is available. Both the credit and the exemption apply without regard to where the alcohol was produced.

The bill increases the duty on imported ethyl alcohol (not used as a beverage) by 40 cents per gallon. This duty increase would offset what amounts to a 40 cents per gallon subsidy now available to imported alcohol as a result of the excise tax exemption and the 40-cent tax credit. This provision would encourage U.S. alcohol production for fuel, aiding U.S. national security.

Windfall profit tax changes

The bill provides for a credit or refund for royalty owners (other than most corporations and trusts) equal to the first $1,000 of windfall profit tax on royalty oil removed during calendar year 1980. The credit may be claimed during the first part of 1981. In the case of a family, the $1,000 limit on the credit applies to a husband, wife and their minor children as if they were one taxpayer. A corporation treated as a qualified family farm corporation for purposes of the credit may claim the $1,000 credit; however, the shareholders of the qualified family farm corporation will have to reduce their personal credit in proportion to their interest in the corporation.

In calculating the amount of any deduction of the windfall profit tax for income tax purposes, the royalty owner must reduce the amount of the otherwise available income tax deduction by the amount of the credit allowable against the windfall profit tax for which the deduction would otherwise be claimed. The $1,000 credit will not affect withholding or other tax payment requirements imposed by the Crude Oil Windfall Profit Tax Act of 1980.

The revenue loss in fiscal year 1981 attributable to the credit is offset by the proposed increase in the duty on imported alcohol and by a reduction of the otherwise applicable adjusted base price for each barrel of oil removed during fiscal year 1981. This reduction will be made by subtracting from the otherwise applicable base price an amount equal to 0.8 percent of that price, which is equivalent to a reduction in the inflation adjustment by 0.8 percent.

II. REVENUE EFFECTS

Table 1 shows the estimated revenue effects of the provisions in the Finance Committee recommendations for fiscal years 1981 through 1985. In fiscal year 1981, the overall revenue increase is $4.2 billion, the amount required by the budget resolution. In fiscal year 1982, it is $1.3 billion. The revenue increases shown for the estimated tax changes (numbers 4, 5 and 6 in table 1) represent changes in the timing of tax payments, not changes in tax liability. The other changes all represent changes in tax liability.

TABLE 1.—ESTIMATED REVENUE EFFECTS FROM PROVISIONS FOR REVENUE RECONCILIATION RECOMMENDED BY SENATE FINANCE COMMITTEE

[In millions of dollars]

Provision	Fiscal year— 1981	1982	1983	1984	1985
1. Tax gains from sale of U.S. real estate by foreigners	182	119	130	143	157
2. Tax employer payment of employee Social Security tax	45	77	119	217	328
3. Changes in excise tax on communications services (2 percent in 1981 and 1 percent in 1982)	358	570	193		
4. Require estimated payments on minimum tax	500	35	38	40	45
5. Increase proportion of corporate income taxes to be covered by estimated payments from 80 percent to 85 percent	901	139	135	116	119
6. Require large corporations to be at least 50 percent current with estimated payments	2,239	348	334	288	294
7. 40 cent per gallon tariff on imported alcohol	63	23	4	1	
8. Windfall profit tax credit for royalty owners	−190				
9. Modification of windfall profit tax inflation adjustment	124	−15			
Total	4,222	1,296	953	805	943

III. EXPLANATION OF THE COMMITTEE RECOMMENDATIONS

A. Tax Treatment of Gain on Sale of U.S. Real Property by Foreign Investors

(Secs. 202–72 of the bill and new secs. 897 and 1444 of the Code)

Present law

General

Under the Code, nonresident aliens and foreign corporations engaged in a U.S. trade or business are generally taxed on the U.S. source income of that business in the same manner, and at the same rates, as U.S. persons. (However, their foreign source income not connected with that business is not taken into account in determining the applicable U.S. tax.)

In contrast, the U.S. source income of a nonresident alien or foreign corporation which is not effectively connected with a U.S. business is generally subject to a different tax regime. The Code provides that a foreign individual or corporation is ordinarily subject to a 30-percent withholding tax on the *gross* amount of certain passive income such as rents, dividends, and interest, which is received from U.S. sources and is not effectively connected with a U.S. business. This withholding tax generally satisfies the taxpayer's U.S. income tax liability on the income. Capital gains not effectively connected with a U.S. business are not subject to any U.S. income tax, except in the limited situation of nonresident individuals who were present in the United States 183 days or more during the year, who are taxed at the flat rate of 30 percent on the gains.

Foreign investment in U.S. property

Whether a foreign investor in U.S. real property is engaged in a U.S. trade or business depends on all the facts and circumstances. For example, a foreign investor who enters into a single long-term net lease (under which the lessee is responsible for operation of the property and pays the expenses) probably would not be engaged in a U.S. trade or business, whereas a taxpayer who owns and manages a number of commercial buildings would be so engaged.

If a foreign taxpayer is not actually engaged in a U.S. trade or business, he is permitted under the Code to elect to be treated as if he were so engaged with respect to all his real property held for the production of income. This election is provided because rental income, unlike other types of passive income, ordinarily has associated with it significant expenses. Therefore, a tax equal to 30 percent of the gross rentals could frequently exceed the entire economic income from the property. If the election is made, the taxpayer may reduce his gross income from the real property by the deductible expenses, such as depreciation, mortgage interest, and real property taxes. The taxpayer is then taxed on the net income at the graduated rates which generally apply to U.S. taxpayers rather than paying 30 percent on his gross rental income. Often, as a result of the election, the investor will pay no tax on the current income because depreciation, mortgage interest, real property taxes and other expenses exceed gross income. (This result would be the same as if a U.S. person owned the property.) However, by making the election, the taxpayer will also subject himself to U.S. tax on any gains from the sale or exchange of the property. The election, once made, is binding on the taxpayer in all subsequent years unless consent to revoke it is obtained from the Internal Revenue Service.

Apart from the Code election, a number of planning techniques exist whereby a foreign investor may obtain the advantages of being taxed on current income from real property on a net basis. However, unlike the Code election, these techniques also offer the opportunity to avoid tax on the gain which would result from the sale of the property. Also, unlike the Code election, these techniques may be employed on a property-by-property basis. For example, a foreign investor who is actually engaged in a U.S. real estate business will be taxed on current income from the property on a net basis (which might result in no current tax because of the allowable deductions). He may sell the property on the installment and receive most or all of the payments in years following the year of the sale. If he is not actually engaged in a U.S. trade or business in later years when the installment payments are received (and has not made the election to be treated as if he were), the gain would not be treated as effectively connected with a trade or business in the later years and would therefore go untaxed.

Secondly, a foreign investor could generally exchange his U.S. real property held for productive use or investment for other property of a like kind, whether within or without the U.S., without recognition of gain. If the property he acquired in the exchange were outside the U.S., the gain he would recognize on the ultimate sale of the property received in the exchange would not be subject to U.S. tax. This would be the case even if the investor were actually engaged in a U.S. trade or business or had made the election to be so treated.

A taxpayer may also obtain the benefits of current taxation on a net basis and exemption from tax on the gain by investing in U.S. real property indirectly through a foreign holding company which either is actually engaged in U.S. business or makes the election. The holding company would be subject to tax on the income it receives from the property, but, as noted earlier, often there would be no taxable income on a current basis. Moreover, the corporation often could reduce or eliminate its taxable income by paying deductible interest to its investors. Ordinarily, dividends and interest paid by a foreign corporation deriving most of its income from U.S. sources are subject to U.S. withholding taxes. However, these taxes are sometimes waived on a reciprocal basis under tax treaties between the United States and other countries. If the corporation is entitled to such a treaty benefit, income paid currently by the corporation would escape that U.S. tax. (Foreign investors frequently utilize U.S. treaties applicable to the Netherlands Antilles and British Virgin Islands because these treaties contain the necessary waivers or reductions and because these jurisdictions impose low or no taxes on the income.)

The investors in the holding company could avoid U.S. tax on the gain from the sale of the property by either of two methods. First, if the corporation sells the property and follows a plan of liquidation meeting certain requirements, the corporation will not be taxable on the gain under a general rule of the Code which exempts liquidating corporations from tax on gains from the sale of property (sec. 337). Moreover, the shareholders and security holders will generally not be taxable when they exchange their stock and securities in liquidation for the proceeds of the sale of the real property because, as foreign investors, they generally are not subject to U.S. capital gains tax. Even though the corporation is engaged in a U.S. trade or business, that business is not imputed to its investors. Since mere ownership or sale of stock is generally not a trade or business, the gains ordinarily would not be effectively connected with a U.S. business and thus would escape U.S. tax.

Second, if the investors instead sell their stock or securities, they would generally not be subject to tax on the gain for the same reasons that they would generally not recognize gain in a liquidation. Assuming that the sales price reflected the appreciated value of the real property, the purchaser of the corporation, even if a U.S. person, could then liquidate it without realizing a gain subject to U.S. tax because his basis in the stock for purposes of determining his gain on the liquidation would be his purchase price for the stock. He would also get a stepped-up basis for the real property equal to his purchase price for the stock.

Finally, some U.S. tax treaties (such as the treaties with the Netherlands Antilles and the British Virgin Islands) provide for a real property election similar to that in the Code, but the election may be made on a year-by-year basis. A foreign investor entitled to the benefits of such a treaty and not actually engaged in a U.S. business could use the treaty election to be taxed on a net basis in years prior to the year of sale. In the year of sale, the taxpayer would not make the treaty election and would not be taxed on the gain on the sale of the property because of the absence of a U.S. trade or business.

A number of U.S. tax treaties (not including, however, the protocols with the Netherlands Antilles or the British Virgin Islands) contain reciprocal provisions which prevent the United States from taxing certain types of U.S. source capital gains of foreign investors who are entitled to the treaty benefits. While these provisions reciprocally exempting capital gains generally do not apply with respect to real estate (that is, they do not restrict either country from taxing gains on sales of its real estate derived by residents of the other), they generally would apply with respect to stock in corporations formed or availed of to hold real estate. The Code provides that these treaty exemptions are to prevail if they require the exclusion from gross income of gains which the United States would otherwise tax (sec. 894(a); *cf.* also sec. 7852(d)).

Reasons for change

The committee believes that it is essential to establish equity of tax treatment in U.S. real property between foreign and domestic investors. The committee does not intend by the provisions of this bill to impose a penalty on foreign investors or to discourage foreign investors from investing in the United States. However, the committee believes that the United States should not continue to provide an inducement through the tax laws for foreign investment in U.S. real property which affords the foreign investor a number of mechanisms to minimize or eliminate his tax on current income from the property while at the same time effectively exempting himself from U.S. tax on the gain realized on disposition of the property.

The committee further believes that the tax should generally be imposed at a flat rate of 28 percent, currently the maximum rate which a U.S. investor would pay on long-term capital gains. It is not appropriate to allow foreign investors to be taxed on part or all of the gain at the lower graduated rates at which a U.S. investor might pay tax because foreign investors generally are taxed only on their U.S. source income. Their foreign source income would not be taken into account in determining the rates at which the U.S. tax would be imposed. However, if because part or all of the gain is treated as ordinary income, tax at graduated rates would be higher than 28 percent, a tax at the lower flat rate allowed for long-term capital gains would be inappropriate.

In order to impose a tax on gains from the sale of U.S. real estate, it is also necessary to impose a similar tax on gains from the disposition of interests in entities which hold substantial U.S. real property. Otherwise a foreign investor could, as under present law, avoid tax on the gain by holding the real estate through a corporation, partnership, or trust and disposing of his interest in that entity rather than having the entity itself sell the real estate.

Finally, the committee believes that, to assure effective enforcement, it is necessary to provide for withholding of the tax by the purchaser. This withholding mechanism is similar in many respects to the withholding system now in effect for other types of investment income, such as interest and dividends, paid to foreign investors. However, to protect the U.S. purchaser from liability in cases of unintentional failure to withhold, the obligation only arises if he knows that the seller is a foreign investor or receives a notice to that effect. Moreover, to prevent interference with routine transactions, the withholding obligation will not apply in the case of certain sales of personal residences or the trading of stock in an established securities market.

Explanation of provisions

General

Under the provision, foreign investors would be taxed on gains from the disposition of U.S. real property. Foreign investors would also be taxed on gains realized through the sale or exchange of an interest in a real property holding organization (RPHO). An RPHO generally is a closely held corporation, trust, or partnership at least half of the assets of which are U.S. real property interests. Reporting requirements would be established to identify when taxable transactions had occurred.

The tax would be collected through withholding requirements and related enforcement provisions. Foreign investors would be required to notify purchasers of their U.S. real property interests or their foreign status prior to the sale. Where such notice is given (or where the purchaser knows that the seller is a foreign person), the purchaser generally would be required to withhold the smallest of (a) 28 percent of the purchase price, (b) the tax on the seller's gain plus the full amount of any tax which was not paid on a previous sale of the property by a foreign person, or (c) the proceeds under his control. This withholding requirement could be waived (or reduced) if a certificate were obtained from the IRS indicating that no tax was due (e.g., there was no gain on the sale or adequate security had been provided to the IRS) or allowing withholding in a reduced amount.

No withholding would be required in the case of a sale of a single-family residence to be used as the purchaser's principal residence unless the gross sales price exceeded $150,000. No withholding would be required in the case of RPHO stock sold on an established securities market.

Tax imposed on seller

Amount of tax

In the case of any nonresident alien individual or foreign corporation, the tax imposed by the provision for each taxable year generally is equal to 28 percent of the excess (if any) of (i) the amount of the gain realized by the taxpayer during the taxable year from the sale of U.S. real property interests, over (ii) the amount of the loss realized by the taxpayer during the taxable year from the sale of U.S. real property interests. However, no tax is due if the excess is $5,000 or less. Gains of certain related parties are aggregated for purposes of the $5,000 exception. In the case of an installment sale, the entire gain to be realized is taken into account in the year of the sale for purposes of determining whether the $5,000 exception is available.

"U.S. real property interests" include both U.S. real property held directly and interests in U.S. real property holding organizations, as described below. The tax is imposed separately from, and in addition to, other U.S. taxes which may be imposed on the foreign investor's income. In order to prevent double taxation in the case of a sale of a U.S. real property interest which is effectively connected with a U.S. trade or business (or which the foreign investor has elected to have so treated), any gain or loss realized on the sale of a U.S. real property interest is not to be taken into account for purposes of applying the provisions governing effectively connected gains (secs. 871 and 882). However, in order to prevent a foreign investor from paying less tax than he would have been required to pay if the gain were treated as effectively connected with a U.S. trade or business, the tax imposed under the provision will be at least equal to the tax that would be paid if the income were effectively connected and subject to graduated tax rates (after allowance of the long-term capital gains deduction where it is appropriate).

For purposes of imposing the tax, any disposition of a U.S. real property interest will be treated as a sale. Moreover, because the tax is imposed on the amount realized, the tax is imposed without regard to any provisions of the Code providing for nonrecognition of realized income unless nonrecognition for purposes of this tax is provided for by regulations. It is anticipated that, for example, if nonrecognition treatment is otherwise available, and if collection of the tax imposed by the provision would not be jeopardized, a foreign person would be permitted under the regulations to exchange one U.S. real property interest for another without recognition of gain and payment of the tax. The tax would not be payable on dispositions by gift or inheritance because there is no amount realized.

The tax is imposed on the beneficial owner of the property, rather than the nominee, trustee, executor, etc., who holds record title. However, the record title holder may be a "seller's agent" under the withholding provisions (discussed below).

Direct Interest in U.S. Real Property

The tax is imposed on gains from the sale of interests in real property (including an interest in a mine, well, or other natural deposit) located in the United States. The term "interest in real property" includes fee ownership and co-ownership of land or improvements, easements, and options to acquire leaseholds of land or improvements. Such an interest would, for example, include a mineral royalty. Moreover, the term includes partial interests such as life estates, remainders, reversions, and rights of refusal in real property. Moveable walls, furnishings, and other similar personal property associated with the use of real property are considered real property for purposes of the bill.

U.S Real Property Holding Organizations

Also included in the definition of U.S. real property interests are certain holdings in a U.S. real property holding organization (RPHO). Thus, gain on the sale of such holdings would be subject to the tax.

Generally, the holdings subject to the tax are stock in a corporation, or an interest (other than solely as a creditor) in a partnership or trust, which, during the shorter of the period during which the taxpayer held his interest or the 5 years preceding his sale of the interest, is or was an RPHO. However, the interest would not be a U.S. real property interest if the RPHO recognized gain on all its U.S. real property interests prior to sale of the interest in the RPHO. Since convertible debt of an RPHO is an interest in an RPHO other than solely as a creditor, such convertible debt would be a U.S. real property interest.

An RPHO is a corporation, partnership, or trust, whether domestic or foreign, if at any time during the taxable year, (i) a controlling interest in the organization is owned by or for not more than 10 persons, and (ii) U.S. real property interests constituted at least 50 percent of the assets of the organization. For purposes of the 10-owner rule, if the organization cannot identify holders of interests (e.g., bearer shares), it is intended that the unidentified interests will be presumed to be held by one person unless shown otherwise. In addition, to the extent that their effect is to make an organization an RPHO, attribution rules similar to those applied to ownership of personal holding companies will be applied under regulations. A "controlling interest" is, in the case of a corporation, 50 percent or more of the total combined voting power of all classes of stock or 50 percent or more of the fair market value of all classes of stock; in the case of a partnership, 50 percent or more of the capital of profits interest; and, in the case of a trust, 50 percent or more of the beneficial interests (actuarially determined). For purposes of applying the assets test, cash, certain savings deposits, marketable securities, accounts or notes receivable, or other assets which are readily marketable, in excess of a reasonable amount of working capital, are not counted. This rule is intended to prevent the investors in an RPHO from converting it into a non-RPHO merely infusing liquid assets.

The Treasury Department is to prescribe regulations setting forth "look through" rules under which, if a person controls an entity, that person is deemed to own directly a pro rata share of the assets of the entity.

Tax withheld by purchaser

Requirement of Withholding

To enforce the provision, withholding obligations are imposed on purchasers of a United States real property interest (and certain other persons involved in the transactions) who know or receive a notice (described below) that the seller is foreign. As discussed below, in certain situations a withholding obligation is also imposed on certain other persons involved in the disposition of a U.S. real property interest. The purchaser or other withholding agent is to deduct and withhold a tax equal to the smallest of (i) 28 percent of the amount realized on the disposition, (ii) the "seller's maximum tax liability" (discussed below), or (iii) the fair market value of that portion of the sale proceeds which is within the withholder's control. The "seller's maximum tax liability" is the maximum amount which the Treasury determines that the seller could owe as his tax under the provision as a result of the disposition of a United States real property interest plus any unsatisfied prior withholding tax liabilities of foreign persons under the provision with respect to that interest. Thus, for example, if a U.S. person sells a U.S. real property interest to a foreign investor for $1 million, if that foreign investor sells the property for $1.5 million to a second foreign investor and no tax under this provision is paid, and if that second foreign investor in turn sells the property to a third foreign investor for $2 million and again no tax is paid, the unsatisfied prior withholding liability on the subsequent sale of the property by the third foreign investor would be $280,000 (assuming the gain of the first two foreign investors is long-term capital gain)—the sum of the unsatisfied withholding tax liabilities of the second and third foreign investors (which would be the amount of the maximum tax liabilities of the previous holders). Therefore, if the third investor sold the property for $2.5 million, his "maximum tax liability" would be $420,000—the sum of his $280,000 unsatisfied prior withholding liability plus the $140,000 tax due by reason of his disposition.

The provision limiting the withholding obligation to the value of the proceeds in the withholder's control limits the amount of withholding in sales where part of the consideration is the assumption of a mortgage or where payments are to be made in installments. If the amount withheld exceeds the seller's liability for failure to withhold on a prior transaction and for gain on the sale, the excess is refundable to the seller. The purchaser is indemnified against any claims by the seller if he withholds the lesser of 28 percent of the amount realized or the amount set forth in a "qualifying statement" (discussed below) from the IRS. If a purchaser fails to withhold when he had a duty to do so, he is relieved of liability to the extent that the tax is paid by the seller or some other person.

A person receiving a U.S. real property interest from a foreign person in an exchange is considered to be the purchaser of the interest for purposes of this provision and is required to withhold the appropriate amount of tax from the property transferred to the foreign person in the exchange. Thus, for example, in the case of a liquidation of an RPHO, the liquidating corporation is treated as the purchaser of stock exchanged by foreign shareholders for the liquidating distribution and is required to withhold from the liquidating distribution.

Where there are multiple sellers, the withholding rules apply to the portion of the proceeds which reflect the interests of sellers who are foreign persons. Where there are multiple purchasers, the withholding liability of each is limited, as described above, to the proceeds under his control.

Knowledge or Notice Requirement

The withholding requirement is not to apply to a purchaser of a United States real property interest unless, as of the time for settling the transaction, he knows that the seller is a foreign person or has received a notice from the seller or the seller's agent that the seller is a foreign person. However, if after the time for settling the transaction, the purchaser has any portion of the sale proceeds under his control and, immediately before the purchaser pays any of those proceeds to the seller, he knows or receives notice from the seller or the seller's agent that the seller is a foreign person, then the purchaser will be required to withhold with respect to the later payment.

The seller is required to notify the purchaser that the seller is a foreign person. The seller's agent (which can be the seller's nominee, broker, settlement attorney or any person holding any of the sale proceeds) is also required to notify the purchaser that the seller is a foreign person if, as of the time for settling the transaction, the agent has reason to believe that the seller may be a foreign person. The notice requirement for both the seller and his agents will be satisfied if at least one party gives the purchaser the required notice.

Other Withholding Agents

A domestic partnership, the trustee of a domestic trust, or the executor of a domestic estate will be required to deduct and withhold from distributions to foreign partners or beneficiaries to the extent that the distributions are attributable to the sale of a U.S. real property interest.

Failure To Give Notice

If a seller's agent is required to notify the purchaser of a U.S. real property interest that the seller is a foreign person and fails to give the notice, the agent is liable for the amount of the unpaid tax which the purchaser would have been required to withhold if the agent had given the purchaser the required notice. As in the case of other withholders under this provision, the liability of the seller's agent is limited to the proceeds under his control. For this purpose, however, compensation received by the agent in connection with the transaction is treated as proceeds under his control. A seller's agent who fails to make reasonable inquiry is treated as required to give notice.

Exemption From and Reductions of Withholding

A purchaser will not be required to withhold if: (i) the seller furnishes a "qualifying statement" (described below) to the person required to withhold, (ii) the property being sold is a single family residence which is to be used by the purchaser as his principal residence and the amount realized by the seller on the sale is $150,000 or less, or (iii) the property being sold is stock of a corporation and the sales transaction takes place on an established securities market. For this purpose, "established securities market" would generally include those included for purposes of section 453(b)(3) of the Code and also any comparable foreign securities market. It would not include negotiated transactions. A "qualifying statement" is a statement by the Treasury that the seller either (i) has reached agreement with the Treasury on the payment of the tax imposed by section 897 and has satisfied or provided adequate security for unsatisfied prior tax liabilities under section 897, or, (ii) is exempt from tax imposed by section 897 and has satisfied or provided adequate security for unsatisfied prior tax liabilities under section 897. The Treasury may prescribe a reduced amount to be withheld if the Treasury, upon request by the purchaser or the seller, determines that such reduced amount will not jeopardize the collection of the withholding tax or the tax under section 897.

Reporting requirements

Requirement To File a Return

If, at any time during a calendar year, (1) a corporation, partnership, or trust has United States real property interests which constitute more than 40 percent of the fair market value of its assets, (ii) 10 or fewer persons have a controlling interest (other than solely as a creditor) in the entity, and (iii) at least one foreign person has an interest (other than solely as a creditor) in the entity, the entity is required to file an information return for the year. The return is to set forth the following information: (i) the name and address of any person who held an interest (other than solely as a creditor) in the entity at any time during the calendar year, (ii) the composition of the assets of the entity at such time or times during the calendar year as the Treasury may prescribe by regulations, (iii) any information with respect to transfers during the calendar year of interests in the entity which the Treasury may prescribe by regulations, (iv) whether such entity was a United States RPHO at any time during the calendar year, and (v) any other information which the Treasury may prescribe by regulations.

In addition to the information return, the reporting entity is also required to furnish a written statement to every person who held an interest (other than solely as a creditor) in the entity during the calendar year setting forth the name and address of the entity making the return, whether the entity was a United States RPHO at any time during the calendar year and any other information that the Treasury may prescribe through regulations. The return will be furnished to the person having the interest no later than January 31 of the year following the year for which the return was made.

Failure To Make a Return or Furnish a Statement

A penalty for failure to file a tax return or to furnish a statement will be imposed in an amount equal to the greater of (i) $25 for each day during which such failure continues but not to exceed $25,000, or (ii) the amount of the tax imposed by section 897 which is not paid and which is attributable to transfers (other than those made in an established securities market) occurring during the calendar year for which the return or statement was required. However, if it is shown that the failure to file the return or to furnish the notice is due to reasonable cause and not to willful neglect, no penalty will be imposed.

Miscellaneous amendments

Source of income.—Income from the disposition of a United States real property interest will be United States source income.

Examination of taxpayer.—Section 7605(b) will not apply to an inspection of a taxpayer's books of account for purposes of sections 897 or 1444.

Effective date

The amendments made by the provision will generally apply to dispositions after December 31, 1979. The amendments will not apply, however, to sales made pursuant to written contracts which were binding at all times after December 6, 1979 (the date these provisions were originally ordered reported by the Finance Committee as amendments to H.R. 1212, H.R. 1319, and H.R. 2297). In addition, for a 5-year period, gain will not be taxed to the extent required by treaty obligations of the United States. After that 5-year period for the renegotiation of conflicting treaty provisions (i.e., after December 31, 1984), the provision will prevail over any conflicting treaty provisions remaining in effect. The provision may, however, be modified by treaties taking effect after the effective date of these amendments where such modification is necessary to prevent double taxation or otherwise coordinate the tax systems of the two countries.

Revenue effect

It is estimated that this provision will increase budget receipts by $182 million in fiscal year 1981, $119 million in 1982, $130 million in 1983, $143 million in 1984 and $157 million in 1985.

B. Inclusion In Wages of Employee Social Security Taxes Paid By Employers

(Sec. 211 of the bill, sec. 209 of the Social Security Act and secs. 3121 and 3306 of the Code)

Present law

The Internal Revenue Code imposes separate social security (FICA) taxes on employers and employees. Traditionally, the employer deducts and withholds the employee's tax from his pay and remits both it and the employer's own tax payment to the Treasury. Present law, however, excludes from the definition of wages for tax and benefit purposes any payment by an employer of the employee's social security tax liability so long as the employer makes the payment without deduction from the remuneration of the employee. A similar exclusion applies to the definition of wages for the purposes of the Federal Unemployment Tax Act (FUTA).

Ordinarily, the employee FICA tax is levied on the employee's earnings before deduction of the tax, and the employee is credited for social security purposes with earnings equal to his earnings before deduction of FICA taxes. If an employer pays the employee FICA tax without deduction from the employee's remuneration, however, the procedure can be different. First, the amount of both the employer's and employee's payroll tax liability is, in effect, based on earnings after deducting the employee's FICA tax rather than earnings before the deduction. Second, the amount of earnings credited for social security benefit computation purposes is also, in effect, earnings net of the FICA tax. An example of how such a salary reduction plan works under the alternative FICA tax computation is set out in table 2.

TABLE 2.—EXAMPLE OF EFFECTS OF EMPLOYER PAYMENT OF EMPLOYEE SOCIAL SECURITY TAX IN 1980

	Before adoption of plan	After adoption of plan	Result
Employer:			
Pays salary of	$10,000	$9,387	
Pays employer FICA tax of.	613	[1] 575	
Pays employee FICA tax of.	0	[1] 575	
Total cost	10,613	10,538	Employer saves $75.
Employee:			
Receives salary of	10,000	9,387	
Pays employee FICA tax of.	613	0	
Take home pay (before income tax).	9,387	9,387	
Income subject ot income tax:			
Salary	10,000	9,387	
Employee tax paid by employer.	0	575	
Taxable income.	10,000	9,962	Has $38 less subject to income tax.
Receives social security benefit credit of.	10,000	9,378	Receives $613 less in social security benefit credit.
Social security trust funds: Receive FICA taxes of.	1,226	1,151	Lose $75 in revenues.

[1] Rounded to nearest dollar.

Reasons for change

The compensation plans which make use of the alternative FICA computation have an adverse effect on participating employees and on the financial condition of the social security trust funds.

First, reducing the amount of earnings subject to the FICA tax also reduces the amount of earnings credited for social security benefit computation purposes. Thus, while the employer and employee pay somewhat less in taxes, the employee receives more limited social security protection. Moreover, the reduction in social security benefits may be only one byproduct of such alternative tax computations. There might also be reductions in the benefits available under other employee benefit plans which are related to earnings, such as pensions, profit-sharing, other insurance and unemployment compensation.

Second, the use of the alternative FICA computation leads to a reduction in total social security payroll tax receipts. While it also leads to a reduction in benefit payments, the reduction in benefit payments occurs in the future while the reduction in payroll tax revenue occurs immediately. Even the long-run use of the alternative computation will reduce receipts available to meet benefit payments. In a pay-as-you-go system such as social security, these results are particularly pernicious. If all employers adopted the alternative procedure, trust fund receipts would be reduced by more than $6 billion per year in 1980.

Third, in establishing the social security program, Congress believed that it was important that it be based on both employer and employee contributions. This gives program participants an important stake in the financing of the program and allows them properly to view the benefits payable as the earned result of their many years of contributions to the program. While the legislative history is not entirely clear as to the reasons for the 1939 amendment which excluded from social security taxes and credits payments made by employers of the employee FICA tax, there is no indication that this was viewed as authorizing such a fundamental change in the financing structure of the program. At the time, the maximum annual tax avoidance from using the procedure was of the magnitude of 60 cents and was thus not likely to lead to widespread use. By contrast, the larger savings now possible have resulted in the promotion of its use and may well lead to its rapid spread.

Finally, the elimination of the alternative FICA tax computation has been recommended by the 1979 Quadrennial Advisory Council on Social Security. In its report the Council noted its concern over the growing use of the "tax avoidance device." The Council emphasized that if enough employers began to use these plans, there would be a significant loss to the trust funds that would have to be made up by higher tax payments from all workers and employers.

The committee has decided, however, to allow the continued use of the alternative computation procedure with respect to agricultural and domestic labor. This is in recognition that this procedure has been much more common with regard to this type of employment and that requiring these employers to change their methods of tax computation for what are often relatively informal employment arrangements could lead to problems of compliance.

Explanation of the provision

The provision revises the Social Security Act (section 209(f)) and the Internal Revenue Code of 1954 (section 3121(a)(6) and 3306(b)(6)) to include within the definition of wages for tax and social security benefit computation purposes payments by an employer (without deduction from the remuneration of the employee) of social security taxes imposed upon an employee. The provision does not apply to payments by an employer of the payroll taxes imposed upon an employee for wages paid for agricultural labor and for domestic service in the home of the employer.

The general rule with respect to social security taxation is that all forms of remuneration constitute wages for social security tax purposes unless specifically exempted by statute. The committee understands that a question has been raised as to whether or not this general rule would cover payments by State and local governments of the equivalent of employee social security taxes for their employees inasmuch as the Social Security Act imposes the liability for such payments on the States rather than on the employees themselves. Inasmuch as such payments represent a benefit to the employees from their employer, the committee feels that the better reading of the law would be to consider such payments to constitute "remuneration" within the meaning of the Act and the Code but for the exception which is being eliminated by this amendment. To remove any doubt, however, the committee has included specific language providing that payments by a State or local employer after December 31, 1983, of the employee share of the social security tax equivalent will be treated as wages for purposes of the Social Security Act. The committee intends that this provision shall be considered as clarifying existing law and shall not call into question the general rule that all remuneration constitutes wages in the absence of a specific exception in the statute.

Effective date

Except for certain State or local governmental employment, the provision applies with respect to remuneration paid after December 31, 1980.

In the case of certain State, political subdivision, or other State or local coverage group employment under section 218 of the Social Security Act, the provision applies with respect to remuneration paid after December 31, 1983. This later effective date for governmental units is limited to remuneration for services in positions of a kind for which all or a substantial portion of the amounts equivalent to employee social security taxes were paid by such governmental units (without deduction from the wages of the employee) under the practices of the governmental unit in effect on June 17, 1980.

Revenue effect

The provision will increase budget receipts by an estimated $45 million in fiscal year 1981, $77 million in 1982, $119 million in 1983, $217 million in 1984, and $328 million in 1985.

C. Telephone Excise Tax

(Sec. 231 of the bill and sec. 4251 of the Code)

Present law

Under present law, the excise tax imposed on communication services (local telephone service, toll telephone service, and teletypewriter exchange service) for 1980 is 2 percent of amounts paid for service (Code sec. 4251). The tax is scheduled to be 1 percent for 1981 and to expire as of January 1, 1982. The communication services excise tax has been declining one percentage point per year since 1973, when it declined from the prior rate of 10 percent to 9 percent.

Reason for change

The committee believes that delaying the phasedown of the telephone excise tax will raise revenues to meet budget targets for fiscal year 1981 without having the adverse economic effects which might result from new taxes.

Explanation of provision

The provision delays by one year the remaining scheduled reductions in the communication services excise tax. Thus, on amounts paid pursuant to bills first rendered during 1980 or 1981 the tax will be 2 percent. For 1982 the tax will be 1 percent, and the tax will expire as of January 1, 1983.

Effective date

The provision will be effective for amounts paid pursuant to bills first rendered after December 31, 1980.

Revenue effect

It is estimated that the provision will increase budget receipts by $358 million in fiscal year 1981, $570 million in fiscal year 1982 and $193 million in fiscal year 1983, and will have no revenue effect thereafter.

D. Cash Management Provisions

1. Estimated income tax payments by corporations

(Sec. 251 of the bill and sec. 6655 of the Code)

Present law

Under present law, a corporation must make estimated tax payments if the estimated tax for the taxable year can reasonably be expected to be $40 or more (Code sec. 6154). In general, a corporation's estimated tax is the estimated income tax (other than the minimum tax) less any estimated credits against the tax. Any corporation required to make estimated tax payments must make such payments in installments. The number of installments, and the amount of each installment, is determined in accordance with the following table:

If the 40 threshold is first met—	The following percentages of the estimated tax shall be paid on the 15th day of the—			
	4th mo	6th mo	9th mo	12th mo
Before the 1st day of the 4th mo of the taxable year	25	25	25	25
After the last day of the 3d mo and before the 1st day of the 6th mo of the taxable year		33⅓	33⅓	33⅓
After the last day of the 5th mo and before the 1st day of the 9th mo of the taxable year			50	50
After the last day of the 8th mo and before the 1st day of the 12th mo of the taxable year				100

A corporation that fails to pay the proper estimated tax when due may be subject to an underpayment penalty (Code sec. 6655). The penalty is figured for the period of underpayment, determined under section 6655 of the Code, at a rate determined under section 6621. (The penalty rate currently is 12 percent). The amount of underpayment is, for purposes of this penalty, the excess of the amount of the installment which would be required to be paid if the estimated tax were equal to 80 percent of the tax shown on the return for the taxable year (or, if no return was filed, 80 percent of the tax for such year) over the amount, if any, of the installment paid on or before the last date prescribed for payment.

No penalty is charged with respect to underpayment of a corporation's estimated tax liability if the corporation made payments on or before the due date of the installment and the total payments up to the particular due date in question equal or exceed the amount which would have been due had the estimated tax been based on any of the following amounts: (1) the preceding year's liabilities, if a return showing a tax liability was filed by the corporation for the preceding taxable year and such preceding year was a taxable year of 12 months; (2) tax liabilities computed by using the current year's tax rates for the prior years return and the law that applies to the prior year; or (3) 80 percent of the taxes which would have been due if the income which the corporation had already received during the current year had been placed on an annualized basis.

Reasons for change

The committee believes that there are few if any reasons to permit very large corporations to escape paying estimated tax for the current year simply because they had little or no tax liability for their prior taxable year. Allowing these corporations to avoid paying estimated tax amounts to a large, interest-free loan to the corporations from the Government. Because large corporations should be able to estimate their profit position on a regular basis, the committee feels that there is no need for them to base their estimated tax payments entirely on the prior years experience. Accordingly, the committee has agreed that the use of the prior year exceptions to the general estimated tax penalty rules should be restricted in the case of large corporations. However, in the case of smaller business entities, which may lack the capability for projecting their annual income currently, no change in the prior year exceptions is made because the committee feels that these corporations should continue to be able to rely on these exceptions.

In addition, the committee believes that the proportion of the final liability required to be paid to avoid a penalty should be increased from 80 percent to 85 percent and the minimum tax should be included in the estimated tax in order to more nearly approximate the current payment of tax.

Explanation of provisions

Under the bill, the estimated tax payments of a large corporation generally must equal at least 50 percent of tax shown on its income tax return for the taxable year (or the actual tax if no return is filed) in order to rely on the prior year exception to the estimated tax penalties.[1] Thus, a large corporation which had no taxable income for its preceding taxable year will no longer be able to avoid paying estimated tax for its current taxable year.

Corporations subject to these new requirements will be those corporations which had taxable income of $1 million or more in any of the three taxable years immediately preceding the taxable year involved.

---

[1] A large corporation could continue to rely on the present exception under which the estimated tax can be based on the current year's tax computed on an annualized basis (Code sec. 6655(d)(3)).

In the case of the component members of a controlled group of corporations (within the meaning of section 1563), the $1 million amount for any taxable year in the 3-year base period shall be divided among the members of the group in the same manner in which the benefits of the graduated tax rates are allocated for that year.

In addition, the bill increases the proportion of the tax shown on the return (or the actual tax if no return is filed) which is to be paid currently by a corporation not relying on the prior year exception from 80 percent to 85 percent. The bill also modifies the exception to the penalty based on the annualized income test by raising the 80 percent requirement to 85 percent.

Finally, the bill includes the minimum tax (under Code sec. 56) in the estimated tax. For purposes of computing the exception to the penalty based on annualization, the minimum tax will be computed by annualizing the items of tax preference and the annual exemption.

Effective date

The provisions are effective for taxable years beginning after December 31, 1980.

Revenue effect

These provisions will increase budget receipts by $3,440 million in fiscal year 1981, $502 million in 1982, $485 million in 1983, $420 million in 1984 and $431 million in 1985.

2. Estimated income tax payments by individuals

(Sec. 252 of the bill and secs. 6015 and 6654 of the Code)

Present law

Under present law, individuals generally are required to make quarterly estimated tax payments if their tax liability is expected to exceed withheld taxes by $100 or more. However, no underpayment penalty is imposed if estimated tax payments and withheld taxes are at least 80 percent of the tax liability shown on the individual's tax return.

In addition, there are four exceptions to the underpayment penalty. No penalty is imposed upon a taxpayer if: (1) total tax payments (withholding plus estimated tax payments) exceed the preceding year's tax liabilities; (2) total tax payments exceed the tax on prior year's income under the current year's tax rates and exemptions; (3) total tax payments exceed 80 percent (66⅔ percent for farmers or fishermen) of the taxes which would be due if the income already received during the current year were placed on an annual basis; or (4) total tax payments exceed 90 percent of the tax which would be due on the income actually received from the beginning of the year to the computation date.

The alternative minimum tax (under Code sec. 55) and the add-on minimum tax (under Code sec. 56) are not included in the tax liability on which the estimated tax must be based.

Reasons for change

The committee believes that individual taxpayers should be required to make current payments of their minimum tax liability just as taxpayers are presently required to currently pay their regular tax liability.

Explanation of provision

Under the bill, the minimum taxes imposed by Code sections 55 and 56 will be included in the estimated tax so that current payment will be required. For purposes of computing the exceptions to the penalty based on annualization, the minimum taxes will be computed by annualizing alternative minimum taxable income, the items of tax preference, and the exemptions. Likewise, in computing the exception related to currently based actual income, the minimum taxes will be based on actual facts up to the computation date.

Effective date

The provision is effective for taxable years beginning after December 31, 1980.

Revenue effect

The provision will increase budget receipts by $200 million in fiscal year 1981, $20 million in 1982, $22 million in 1983, $24 million in 1984 and $27 million in 1985.

E. Increased Duties on Alcohol

(Section 271 of the bill)

Present law

Imports of ethyl alcohol for non-beverage purposes are dutiable at a most-favored-nation (MFN) rate of 3 percent *ad valorem* and a non-MFN rate of 20 percent *ad valorem* under item 427.88 of the Tariff Schedules of the United States (TSUS).

Under section 232 of the Crude Oil Windfall Profit Tax of 1980 (Act) (Public Law No. 96–223), a pre-existing exemption under section 4041(k) and 4081(c) of the Internal Revenue Code (Code) from the Federal excise taxes on motor fuel (currently 4 cents per gallon) was extended through December 31, 1992, for fuels that are at least 10 percent alcohol. In addition, section 232 of the Act added Code section 44E, which provides that, where alcohol[1] is used as a fuel (either blended or straight) of a type suitable for use in an internal combustion engine, a credit is provided for such alcohol. The amount of the credit is 40 cents per gallon for most alcohol of at least 190 proof, and 30 cents per gallon for alcohol between 150 and 190 proof. The credit reduced by the amount of excise tax exemption applicable to the fuel.[2] The credit generally is available only to a person who blends an alcohol mixture for use as a fuel in a trade or business or who uses straight alcohol as a fuel in a trade or business. The credit applies only to sales or uses after September 30, 1980, and on or before December 31, 1992.

Reasons for change

These tax provisions relating to alcohol for fuel uses (Code secs. 44E, 4041(k), and 4081(c)) were primarily intended to encourage the U.S. production of alcohol for fuel uses so as to reduce reliance on foreign sources of energy. However, under present law, the excise tax exemptions under Code sections 4041(k) and 4081(c) are available for fuels produced by blending gasoline or special fuels with either domestically produced alcohol or imported alcohol. Additionally, the credit available for alcohol used as fuel under Code section 44E is available to domestically produced alcohol and imported alcohol. This means that imported alcohol as well as domestically produced alcohol is benefiting from the resulting 40-cents-per-gallon subsidy for alcohol used as a fuel. These tax incentives have made the exportation of alcohol to the United States from foreign countries economically attractive and encouraged imports of alcohol for fuel uses to the detriment of domestically produced alcohol. For example, in March 1980, total imports of alcohol for fuel use were approximately 4 million gallons. In May 1980, imports of this alcohol increased in excess of 13 million gallons.

The provisions for tax exemptions and tax credits on alcohol were intended to develop a secure domestic source of liquid motor fuel, which is essential to the defense of this country. It was not intended by Congress to encourage excessive United States dependence on foreign sources of alcohol, in effect to discourage excessive dependence on one foreign energy resource, *i.e.*, petroleum, only to substitute a new dependency on another foreign resource, *i.e.*, alcohol. Increasing dependency on overseas sources of supply for strategical and critical energy resources during periods of world instability gravely endangers the present and future security of the United States.

Given this situation, the committee decided to increase the duty by 40 cents per gallon on imports of ethyl alcohol to be used for mixing with gasoline or special fuels for use as fuel, or to be used as a fuel. The action would offset the 40 cents per gallon subsidy now available to imported alcohol as a result of the excise tax exemptions and credit provisions.

In taking this action, the committee recognizes that the MFN rate of duty provided for this product in the TSUS is "bound" under the General Agreement on Tariffs and Trade (GATT), *i.e.*, the United States has agreed not to impose a duty on this product in excess of the existing duty without following the procedures prescribed by the GATT. However, the GATT, by its terms, does not prevent the United States from taking any actions that are necessary for the protection of its essential security interests. Increasing dependency on overseas sources of alcohol, a strategic and critical energy source, given the circumstances the United States faces today, poses a danger to U.S. security.

Explanation of provision

The committee provision would amend the Appendix to the TSUS to impose, in addition to the existing duty on MFN and non-MFN imports of ethyl alcohol for non-beverage purposes, an additional duty of 40 cents per gallon on such imports from the date of enactment through December 31, 1992.

Effective date

The increased duty will be applicable during the period beginning on the date of enactment and ending on December 31, 1922 (the expiration date of the existing exemptions from the Federal excise tax under Code sections 4041(k) and 4081(c) and the existing credit under Code section 44E).

Revenue effect

It is estimated that this provision will increase revenues by $63 million in fiscal year 1981, $23 million in 1982 and less than $5 million thereafter.

F. Windfall Profit Tax Changes

1. Royalty owners credit

(Sec. 291 of the bill and new secs. 6429 and 280D of the Code)

Present law

Under the Crude Oil Windfall Profit Tax Act of 1980, an excise tax is imposed on the removal of domestic crude oil from the premises on which it was produced. Differing rates and base prices apply to oil depending on whether it is previously controlled oil (tier one), stripper oil (tier two), or newly discovered, heavy or incremental tertiary oil (tier three). In addition, lower rates apply to the first 1,000 barrels a day of tier one and tier two oil produced by an independent producer. Royalty owners, and persons holding similar nonoperating mineral interests, are not independent producers eligible for lower rates.

---

[1] For both the excise tax exemption and the income tax credit, the term "alcohol" does not include alcohol produced from petroleum, natural gas, or coal. This means that alcohol produced from such substances, or from any derivative or product of such substances, may not be treated as alcohol which is eligible for the credit (or as alcohol for purposes of the "at least 10 percent alcohol" requirement in the excise tax exemption).

[2] If no excise tax would apply to the fuel because of an exemption (or credit or refund) provision other than the exemption for alcohol fuels, the credit would not be reduced. Thus, if a taxpayer blends 90 gallons of gasoline and 10 gallons of 190 proof alcohol and sells the mixture to a unit of local government, the sale of the fuel would be tax-free by reason of sec. 4221(a)(4) and the taxpayer could claim the credit on the 10 gallons of alcohol without any reduction. Similary, if the taxpayer were to sell the alcohol fuel to a farmer for on-farm use, the taxpayer may claim the credit without reduction even though the alcohol fuel was sold free of tax to the farmer. (The basis for the result in the preceding sentence is that if a tax had been imposed on the fuel sold to the farmer, the farmer could have claimed a credit or refund of such tax (see secs. 39 and 6420).)

Reasons for change

The committee believes imposition of the windfall profit tax on small amounts of royalty oil income may impose a hardship on many low and middle income taxpayers who are not the recipients of the large oil company profits which led, in part, to the windfall profit tax. During the committee's hearings on the impact of the tax on royalty owners, the committee learned that many of these royalty owners receive very modest incomes of which their oil royalties are a vital portion. The credit provided in the committee bill will give significant relief to these royalty owners. However, the provision will not have a major impact on the larger producers who were the primary focus of the Crude Oil Windfall Profit Tax Act.

Explanation of provision

The bill provides royalty owners with a credit (or refund) of up to $1,000 against the windfall profit tax imposed on the removal of their royalty oil during calendar year 1980. The credit is available only to individuals, estates and family farm corporations and not to other corporations or trusts. The credit may be claimed during the first part of 1981 in the manner provided by Treasury regulations.

The credit is only for taxes paid on production from a royalty interest held by a person other than a trust or corporation. (However, royalties received by a family farm corporation are eligible.) For this purpose, a royalty interest is an economic interest in oil production which is not a working or operating interest (within the meaning of section 614(d)). Whether an interest is an economic interest is determined by reference to the income tax rules, including section 636 just as in the windfall profit tax itself. Similarly, the income tax definitions of royalty interest and working interest are used. Thus, a royalty interest includes a net profits interest, an overriding royalty, a landowner royalty, and similar interests. An overriding royalty interest that may be converted into a working interest is treated as a royalty interest until conversion to a working interest occurs. Taxes paid with respect to working interests, including working interests owned by independent producers and working interests created by the conversion of a qualified overriding royalty, are not eligible for the credit. If a producer owns oil production from both a working interest and a royalty interest, only taxes paid with respect to the royalty interest are eligible for the credit.

The credit is available to any producer (other than a trust or a corporation other than a qualified family farm corporation) subject to windfall profit tax on crude oil from a qualified royalty interest. In the case of a partnership which owns a royalty interest, each partner is entitled to the credit for his share of windfall profit tax paid on royalty oil. (However, a partner that is a corporation other than a family farm corporation or a trust is not eligible for the credit.) In the case of a family, the committee bill follows the treatment accorded families for windfall profit tax and percentage depletion purposes by treating a husband, wife and their minor children as one taxpayer for purposes of the $1,000 limit on the credit. For purposes of the rule that trusts are not eligible royalty owners, a guardianship or conservatorship will not be treated as a trust (unless it constitutes a trust under local law) since all of the royalty income actually belongs to the individual ward.

A qualified family farm corporation that is eligible for the credit is one which (1) was in existence on June 25, 1980, (2) all the outstanding stock of which was on that date, and all times thereafter is held by members of the same family, and (3) 80 percent of the assets of which were used by the corporation on June 25, 1980, for farming purposes (within the meaning of section 2032A(e)(5)). For purposes of the definition of qualified family farm corporation, the term family has the same meaning as in section 2032A (e)(2). Thus, members of the same family are an individual and that individual's ancestors and lineal descendants, the lineal descendants of the grandparents of such individual, the spouse of such individual and the spouse of any descendant. The amount of the credit available to a qualified family farm corporation is limited to the same $1,000 amount that applies with respect to individuals and estates. When a qualified family farm corporation is allowed a credit, the shareholders of that corporation are required to reduce their $1,000 credit limit by their proportionate share of the credit allowable to the corporation. Any shareholder's proportionate share of the corporation's credit will be determined on the basis of the shareholder's stock ownership in the corporation. If at any time after June 24, 1980, any individual owns stock in two or more qualified family farm corporations, a single $1,000 credit must be allocated between all such corporations in proportion to their respective qualified royalty production. The allocation of the $1,000 credit between qualified family farm corporations the stock in which is held by the same individual is made first, then the shareholders reduce their $1,000 credit limit as appropriate.

Under present law, both percentage depletion and the special windfall profit tax rates for independent producers generally are denied in cases of properties transferred from one person to another. The committee bill does not contain general provisions denying the credit in cases of the transfer of royalty interests. The committee believes no provision is necessary because the denial of percentage depletion on transferred properties will generally outweigh the benefits of the one-year credit contained in the bill. If the credit were extended beyond 1980, however, the committee would consider whether special rules relating to transfers of royalty interests after June 24, 1980, or some other date are appropriate.

In calculating the amount of the income tax deduction for the windfall profit tax net income for percentage depletion purposes, and oil-related income for the minimum tax on intangible drilling costs, a taxpayer must reduce the gross amount of windfall profit tax paid or withheld during the taxable year by the amount of the credit allowable against that tax. Thus, for example, a qualified royalty owner who in 1980 has $800 of windfall profit tax paid or withheld on qualified royalty production, but whose final liability for qualified royalty oil removed in 1980 is $1,100, will have no income tax deduction in 1980 for the windfall profit tax. The $800 of paid or withheld taxes is offset by the $800 of allowable credit. When the taxpayer files a windfall profit tax return in 1981, that return will show a tax liability of $1,100, payments of $800, a credit of $1,000 and a net liability of $100. The Internal Revenue Service will apply the credit against the tax liability and refund to the royalty owner $700 of payments in excess of the net liability ($800 payment less the $100 net liability). For 1981 income tax purposes, the taxpayer's windfall profit tax deduction will include the $100 of liability paid in 1981 but not the $200 offset by the credit. This reduction of the income tax deduction must be made regardless of whether the taxpayer actually claims the credit to which he is entitled.

The availability of the credit has no effect upon the withholding and other payment requirements of the Crude Oil Windfall Profit Tax Act because the credit does not affect directly the amount of the royalty owner's windfall profit tax liability, but instead permits a refund or credit for that liability.

Effective date

The royalty owner credit applies to oil removed in calendar year 1980.

Revenue effect

The revenue loss is expected to be $190 million in fiscal year 1981.

2. Modification of inflation adjustment

(Sec. 291 of the bill and sec. 4989 of the Code)

Present law

Under the Crude Oil Windfall Profit Tax Act of 1980, an excise tax is imposed on the removal of domestic crude oil from the premises from which it was produced. The tax is imposed on the difference between the selling price of each barrel of domestic crude oil and its adjusted base price for the calendar quarter during which it is removed. The adjusted base price is determined by taking into account inflation between the second quarter of 1979 and the second quarter prior to the quarter for which the adjusted base price is being determined. In the case of newly discovered oil, heavy oil and incremental tertiary oil, the adjusted base price is determined by using the rate of inflation plus 2 percent per year.

Reasons for change

To compensate for the revenue loss in fiscal year 1981 attributable to the royalty owner credit provided in the committee bill, the committee has decided to make an adjustment to the otherwise applicable adjusted base price for each calendar quarter in fiscal year 1981. The amount of this adjustment is intended to raise an amount of revenue in fiscal year 1981 equal to the expected revenue loss from the royalty owner credit minus the revenue gain from the increased duty on imported alcohol.

Explanation of provision

The otherwise applicable adjusted base price for each calendar quarter in fiscal year 1981 would be adjusted by subtracting an amount equal to 0.8 percent of that adjusted base price. This adjustment to the adjusted base price would be made only for calendar quarters occurring in fiscal year 1981; i.e., for the fourth quarter of calendar year 1980 and the first three quarters of calendar year 1981.

Revenue effect

The revenue gain will be $124 million in fiscal year 1981, and there will be a revenue loss of $15 million in 1982.

IV. REGULATORY IMPACT OF THE BILL AND OTHER MATTERS TO BE DISCUSSED UNDER SENATE RULES

A. Regulatory Impact

Pursuant to rule XXVI of the Standing Rules of the Senate, as amended, the committee makes the following statement concerning the regulatory impact that might be incurred in carrying out the provisions of this bill.

1. *Numbers of individuals and businesses who would be regulated.*—The bill does not regulate individuals or businesses but generally changes tax provisions that relate to individuals and businesses.

2. *Economic impact of regulations on individuals, consumers and businesses affected.*—The bill provides modifications of existing tax law that primarily affect the size of estimated income tax payments. In

addition, other changes were made in tax law that affect tax liability. None of the changes involve regulatory changes.

3. *Impact on personal privacy*.—The bill will have no significant impact on the personal privacy of taxpayers.

4. *Determination of the amount of paperwork*.—The bill will require additional tax computations in some cases. Most of the paperwork will require only the assembly of information that is already in the taxpayer's records. The cost of submitting such information and the time needed to assemble it will vary among taxpayers depending on their individual tax situations and how the amendments affect them.

B. Other Matters

Consultation with Congressional Budget Office on Budget Estimates

In accordance with section 403 of the Budget Act, the committee advises that the Director of the Congressional Budget Office has examined the committee's budget estimates (as shown in part II of this report) and agrees with the methodology used to arrive at the full year budget effects.

New budget authority

In compliance with section 308(a)(1) of the Budget Act, the committee states that the bill consists of revenue provisions which, with the exception of section 241 relating to the inclusion in wages of employee social security taxes, do not provide new budget authority. That section, inasmuch as it will increase appropriations to the social security trust funds by an amount equal to the increased revenues, will result in new budget authority of $45 million in fiscal year 1981, $77 million in fiscal year 1982, $119 million in fiscal year 1983, $217 million in fiscal year 1984, and $328 million in fiscal year 1985. The reconciliation instructions in H. Con. Res. 307 indicate that a $900 million reduction in budget authority for fiscal year 1981 is required to bring Finance Committee programs into conformity with the overall allocations included in the budget resolution. In its spending program recommendations, which have been incorporated into S. 2885, the Committee recommended reductions in budget authority in excess of this amount (including the impact of enacted legislation—H.R. 3236 and H.R. 3434). This provides adequate room to accommodate the budget authority provided for in this section.

Tax expenditures

In compliance with section 308(a)(2) of the Budget Act with respect to tax expenditures, and after consultation with the Director of the Congressional Budget Office, the committee states that the bill does not provide new or increased tax expenditures.

Vote of the Committee

In compliance with section 133 of the Legislative Reorganization Act of 1946, the following statement is made about the vote of the committee in approving the revenue reconciliation provisions. The provisions were approved by voice vote.

V. STATUTORY LANGUAGE OF FINANCE COMMITTEE RECOMMENDATIONS

TITLE II—REVENUE MEASURES

SEC. 200. AMENDMENT OF INTERNAL REVENUE CODE OF 1954

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

Subtitle A—Taxation of Foreign Investment in the United States Real Property

SEC. 201. SHORT TITLE.

This subtitle may be cited as the "Foreign Investment in Real Property Tax Act of 1980."

SEC. 202. TAX ON DISPOSITIONS OF FOREIGN INVESTMENT IN UNITED STATES REAL PROPERTY.

(a) IN GENERAL.—Subpart C of part II of subchapter N of chapter 1 (relating to miscellaneous provisions with respect to nonresident aliens and foreign corporations) is amended by adding at the end thereof the following new section:

"SEC. 897. TAX ON DISPOSITIONS OF FOREIGN INVESTMENT IN UNITED STATES REAL PROPERTY.

"(a) IMPOSITION OF TAX.—

"(1) IN GENERAL.—In the case of a nonresident alien individual or foreign corporation, there is hereby imposed for each taxable year a tax of 28 percent of the excess (if any) of—

"(A) the amount of the gains realized by the taxpayer during the taxable year from the sale of United States real property interests, over

"(B) the amount of the losses realized by the taxpayer during the taxable year from the sale of United States real property interests.

"(2) MINIMUM AMOUNT.—The tax imposed by this subsection for any taxable year shall not be less than the increase in the taxpayer's tax for the taxable year under section 871 (b) of 882(a) (whichever is appropriate) which would result from increasing the taxpayer's taxable income taken into account under such section for the taxpayer's taxable year by an amount equal to the excess described in paragraph (1).

"(b) COORDINATION WITH SECTIONS 871 AND 882.—Any gain or loss realized on the sale of a United States real property interest shall not be taken into account for purposes of applying section 871 or 882. The preceding sentence shall not apply to any gain or loss realized by any taxpayer during any taxable year if such taxpayer is exempt from the tax imposed by subsection (a) by reason of subsection (c).

"(c) EXCEPTION WHERE TAXPAYER'S NET GAIN FOR YEAR IS LESS THAN $5,000.—

"(1) IN GENERAL.—No tax shall be imposed under subsection (a) on any nonresident alien individual or foreign corporation for any taxable year if the amount of the excess referred to in subsection (a) is $5,000 or less.

"(2) RULES FOR APPLYING PARAGRAPH (1).—For purposes of paragraph (1)—

"(A) INSTALLMENT SALES.—In the case of a sale to which section 453 applies, the amount to be realized shall be taken into account in the taxable year in which the sale occurs.

"(B) HUSBAND AND WIFE.—For purposes of paragraph (1), a husband and wife shall be treated as a single individual.

"(C) PERSONS UNDER COMMON CONTROL.—Under regulations, all persons under common control (within the meaning of section 52 (b)) shall be treated as 1 person.

"(d) OTHER DISPOSITIONS TREATED AS SALES.—For purposes of this section and section 1444, an exchange or other disposition shall be treated as a sale.

"(e) UNITED STATES REAL PROPERTY INTEREST.—For purposes of this section—

"(1) UNITED STATES REAL PROPERTY INTEREST.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'United States real property interest' means—

"(i) an interest in real property (including an interest in a mine, well, or other natural deposit) located in the United States, and

"(ii) any interest (other than an interest solely as a creditor) in any entity which was a real property holding organization at any time during the shorter of—

"(I) the period during which the taxpayer held such interest, or

"(II) the 5-year period ending on the date of the sale of such interest.

"(B) EXCLUSION FOR INTEREST IN CERTAIN ENTITIES.—The term 'United States real property interest' does not include any interest in an entity if—

"(i) as of the date of the sale of such interest, such entity did not hold any United States real property interests, and

"(ii) all of the United States real property interests held by such entity at any time during the shorter of the periods described in subparagraph (A)(ii) were disposed of in transaction in which gain or loss was recognized.

"(2) UNITED STATES REAL PROPERTY HOLDING ORGANIZATION.—The term 'United States real property holding organization' means any entity (whether domestic or foreign) if—

"(A) a controlling interest in such entity is owned by or for not more than 10 persons, and

"(B) United States real property interests constitute 50 percent or more of the fair market value of the assets of such entity.

"(3) SPECIAL RULES FOR APPLICATION OF PARAGRAPH (2)(B).—For purposes of paragraph (2)(B)—

"(A) EXCLUSION OF CERTAIN ASSETS.—The term 'assets' does not include cash, amounts described in section 861(c), marketable securities, accounts or notes receivable, or other assets which are readily marketable, in excess of a reasonable amount of working capital.

"(ii) in the case of a partnership, 50 percent or more of the capital or profits interest, or

"(iii) in the case of a trust, 50 percent or more of the beneficial interests in such trust (actuarially determined).

"(C) CONSTRUCTIVE OWNERSHIP RULES.—For purposes of determining ownership of interests in any corporation, partnership, or trust, rules similar to the rules of subsections (a) and (b)(1) of section 544 shall apply.

"(D) REAL PROPERTY INCLUDES ASSOCIATED PERSONAL PROPERTY.—The term 'real property' includes movable walls, furnishings, and other personal property associated with the use of the real property.

"(E) ENTITY.—The term 'entity' means a corporation, partnership, or trust.

"(f) NONRECOGNITION PROVISIONS NOT TO APPLY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), any amount realized on any sale shall be taken into account for purposes of this section and section 1444 notwithstanding any nonrecognition provision.

"(2) EXCEPTION.—Under regulations, the Secretary may provide that, for purposes of this section and section 1444, any nonrecognition provision shall be applied as though it also provided for not realizing gain or loss.

"(3) NONRECOGNITION PROVISION DEFINED.—For purposes of this subsection, the term 'nonrecognition provision' means any provision of this title for not recognizing gain or loss.".

(b) CLERICAL AMENDMENT.—The table of sections for such subpart C is amended by adding at the end thereof the following new item:

"SEC. 897. Tax on dispositions of foreign investment in United States real property.".

"(B) TREATMENT OF CONTROLLING INTERESTS.—Under regulations, if any person holds a controlling interest in any entity, such person shall be treated as holding a pro rata share of the assets of such entity.

"(4) OTHER SPECIAL RULES.—

"(A) INTEREST IN REAL PROPERTY.—The term 'interest in real property' includes fee ownership and co-ownership of land or improvements thereon, leaseholds of land or improvements thereon, options to acquire land or improvements thereon, and options to acquire leaseholds of land or improvements thereon.

"(B) CONTROLLING INTEREST.—The term 'controlling interest' means—

"(i) in the case of a corporation, 50 percent or more of the total combined voting power of all classes of stock of such corporation or 50 percent or more of the fair market value of all classes of stock of such corporation,

(c) CROSS REFERENCES—

(1) Subsection (g) of section 871 (relating to tax on income of nonresident alien individuals) is amended by adding at the end thereof the following new paragraph:

"(8) For special tax treatment of gain or loss from the disposition by a nonresident alien individual of a United States real property interest, see section 897.".

(2) Subsection (a) of section 882 (relating to tax on income of foreign corporation connected with United States business) is amended by adding at the end thereof the following new paragraph:

"(3) For special tax treatment of gain or loss from the disposition by a foreign corporation of a United States real property interest, see section 897.".

SEC. 203. WITHHOLDING OF TAX ON DISPOSITIONS OF UNITED STATES REAL PROPERTY INTERESTS.

"(a) IN GENERAL.—Subchapter A of chapter 3 (relating to withholding of tax on nonresident aliens and foreign corporations) is amended by adding at the end thereof the following new section:

"SEC. 1444. WITHHOLDING OF TAX ON DISPOSITIONS OF UNITED STATES REAL PROPERTY INTERESTS.

"(a) GENERAL RULES.—Except as otherwise provided in this section, every purchaser of a United States real property interest (as defined in section 897(e)) from a foreign person shall deduct and withhold a tax equal to whichever of the following is the smallest:

"(1) 28 percent of the amount realized on the disposition,

"(2) if there is a seller's maximum tax liability (as defined in subsection (g)(3)), the amount of such liability, or

"(3) an amount equal to the fair market value of that portion of the proceeds of the sale which are within the withholding agent's control.

"(b) PURCHASER MUST KNOW OR HAVE NOTICE THAT THE INVESTMENT WAS FOREIGN.—

"(1) IN GENERAL.—Subsection (a) shall not apply to a purchaser with respect to an acquisition unless the purchaser—

"(A) knew that the seller was a foreign person, or

"(B) had received the notice provided for in subsection (c).

"(2) TIME FOR APPLYING PARAGRAPH (1).—

"(A) IN GENERAL.—Except as provided in subparagraph (B), paragraph (1) shall be applied as of the time for settling the transaction.

"(B) WITHHOLDING IN CASE OF INSTALLMENT SALES, ETC.—If the withholding agent has any portion of the proceeds from the sale in his control after the time for settling the transaction, paragraph (1) shall be applied as of the time immediately before the payment of such portion is made to the seller.

"(c) REQUIREMENTS TO FURNISH NOTICE.—

"(1) SELLER MUST FURNISH NOTICE TO PURCHASER.—If the seller is a foreign person, he shall notify the purchaser at such time and in such manner as may be prescribed by regulations.

"(2) SELLER'S AGENT.—

"(A) IN GENERAL.—If any seller's agent has at any time before the time specified in subsection (b)(2) reason to believe that the seller may be a foreign person, he shall notify the purchaser at such time and in such manner as may be prescribed by regulations.

"(B) ONLY 1 NOTICE REQUIRED.—Under regulations, the requirements of paragraph (1) and of subparagraph (A) of this paragraph shall be treated as met with respect to any transaction if at least one notice which meets the requirements of paragraph (1) or subparagraph (A) is furnished.

"(C) SELLER'S AGENT.—For purposes of this paragraph, the term 'seller's agent' means any person who bears any one of the following relationships to a seller who is a foreign person:

"(i) a nominee of the seller,

"(ii) the broker engaged by the seller,

"(iii) the settlement attorney engaged by the seller, and

"(iv) any person holding any of the proceeds of the sale.

"(3) FAILURE TO FURNISH NOTICE.—

"(A) DUTY TO WITHHOLD.—If any seller's agent—

"(i) is required by paragraph (2) to furnish notice, but

"(ii) fails to notify the purchaser at such time and in such manner as may be prescribed by regulations,

such agent shall have the same duty to deduct and withhold that the purchaser would have if the seller's agent had complied with paragraph (2).

"(B) TREATMENT OF COMPENSATION.—In any case to which subparagraph (A) applies, the compensation received by the seller's agent in connection with the transaction shall be treated as proceeds from the sale within the seller's agent's control.

"(C) REQUIREMENT OF REASONABLE INQUIRY.—For purposes of subparagraph (A), a seller's agent who fails to make reasonable inquiry shall be treated as required to furnish notice.

"(d) EXEMPTIONS.—

"(1) IN GENERAL.—No person shall be required to deduct and withhold any amount under subsection (a) with respect to a transaction if paragraph (2), (3), or (4) applies to the transaction.

"(2) SELLER FURNISHES QUALIFYING STATEMENT.—

"(A) IN GENERAL.—This paragraph applies to the transaction if the seller (at such time, in such manner, and subject to such terms and conditions as the Secretary may by regulations prescribe) furnishes a qualifying statement to the person who (but for this paragraph) would be required to withhold.

"(B) QUALIFYING STATEMENT.—For purposes of subparagraph (A), the term 'qualifying statement' means a statement by the Secretary that—

"(i) the seller either—

"(I) has reached agreement with the Secretary for the payment of any tax imposed by section 897 on any gain realized by the seller on the disposition of United States real property interests. or

"(II) is exempt from any tax imposed by section 897 on any gain realized by the seller on the disposition of United States real property interests, and

"(ii) the seller has satisfied any unsatisfied prior withholding liability or has provided adequate security to cover such liability.

"(3) PRINCIPAL RESIDENCE WHERE AMOUNT REALIZED IS NOT MORE THAN $150,000.—This paragraph applies to the transaction if—

"(A) the property being acquired consists of a single family residence,

"(B) the amount realized by the seller does not exceed $150,000, and

"(C) the property is acquired by the purchaser for use as his principal residence.

"(4) STOCK TRANSFERRED ON ESTABLISHED SECURITIES MARKET.—This paragraph applies to a disposition of stock in a corporation if the transaction takes place on an established securities market.

"(e) RULES RELATING TO CERTAIN PARTNERSHIPS, TRUSTS, AND ESTATES.—Pursuant to such terms and conditions as may be provided by regulations, a domestic partnership, the trustee of a domestic trust, or the executor of a domestic estate shall be required under subsection (a) to deduct and withhold from amounts of which such partnerships, trustees, or executors have custody which are—

"(1) attributable to the sale of a United States real property interest (as defined in section 897(e)), and

"(2) either—

"(A) includible in the distributive share of a partner of the partnership who is a nonresident alien individual or a foreign corporation, partnership, trust, or estate;

"(B) includible in the income of a beneficiary of the trust who is a nonresident alien individual or a foreign corporation, partnership, trust, or estate; or

"(C) includible in the income of a nonresident alien individual, foreign corporation, partnership, trust, or estate under the provisions of section 671.

"(f) AUTHORITY OF SECRETARY TO PRESCRIBE REDUCED AMOUNT OF WITHHOLDING, ETC.—At the request of the seller or of any withholding agent, the Secretary may prescribe a reduced amount to be withheld under this section if the Secretary determines that to substitute such reduced amount will not jeopardize the collection of the tax imposed by this section or section 897.

"(g) DEFINITIONS.—For purposes of this section—

"(1) SELLER.—The term 'seller' means the person disposing of the United States real property interest.

"(2) PURCHASER.—The term 'purchaser' means the person acquiring the United States real property interest.

"(3) SELLER'S MAXIMUM TAX LIABILITY.—The term 'seller's maximum tax liability' means, with respect to the disposition of any interest, the maximum amount which the Secretary determines the seller could owe—

"(A) as tax under section 897 by reason of such disposition, plus

"(B) any unsatisfied prior withholding liability with respect to such interest.

"(4) UNSATISFIED PRIOR WITHHOLDING LIABILITY.—The term 'unsatisfied prior withholding liability' means any withholding obligation imposed under this section on any prior acquisition of the United States real property interest to the extent such obligation has not been satisfied.".

(b) TECHNICAL AMENDMENT.—Paragraph (16) of section 7701 (a) (defining withholding agent) is amended by inserting "1444," after "1443,".

(c) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 3 is amended by adding at the end thereof the following new item:

"SEC. 1444.—Withholding of tax on dispositions of United States real property interest.".

SEC. 204. CREDIT OF WITHHELD TAX.

(a) GENERAL RULE.—Paragraph (1) of section 32 (relating to tax withheld at source on nonresident aliens and foreign corporations and on tax-free covenant bonds) is amended by inserting "or on the disposition of United States real property interest" after "withheld at source".

(b) AMENDMENT OF SECTION 6401.—Subsection (b) of section 6401 (relating to treatment of excessive credits as overpayment) is amended—

(1) by inserting "32 (relating to tax withheld at source on nonresident aliens and foreign corporations and on tax-free covenant bonds)," after "withheld on wages),",

(2) by striking out "sections 31" and inserting in lieu thereof "sections 31, 32", and

(3) by striking out the last sentence.

SEC. 205. REPORTING REQUIREMENTS.

(a) GENERAL RULE.—Subpart A of part III of chapter 61 (relating to information returns concerning persons subject to special provisions) is amended by inserting after section 6039B the following new section:

"SEC. 6039C. RETURN OF CERTAIN ENTITIES HOLDING UNITED STATES REAL PROPERTY INTERESTS

"(a) REQUIREMENT.—If this section applies to any entity for any calendar year, such entity shall make a return for such calendar year setting forth—

"(1) the name and address of any person who held an interest in such entity at any time during the calendar year,

"(2) the composition of the assets of such entity at such time or times during the calendar year as the Secretary shall by regulations prescribe,

"(3) such information with respect to transfer during the calendar year of interests in such entity as the Secretary shall by regulations prescribe,

"(4) whether such entity is a United States real property holding organization (within the meaning of section 897(e)(2) at any time during the calendar year), and

"(5) such other information as the Secretary shall by regulations prescribe.

Any such return shall be made at such time and in such manner as the Secretary shall by regulations prescribe.

"(b) STATEMENTS TO BE FURNISHED TO PERSONS HOLDING INTERESTS IN THE ENTITY.—Every entity making a return under subsection (a) shall furnish to each person who at any time during the calendar year held an interest in such entity a written statement showing—

"(1) the name and address of the entity making such return,

"(2) whether such entity is a United States real property holding organization at any time during the calendar year, and

"(3) such other information as the Secretary shall by regulations prescribe.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the year for which the return under subsection (a) was made.

"(c) ENTITIES TO WHICH THIS SECTION APPLIES.—This section applies to any entity for any calendar year if at any time during such year—

"(1) one or more of the persons owning an interest in such entity is a foreign person,

"(2) a controlling interest in such entity is owned by or for not more than 10 persons, and

"(3) United States real property interests constitute more than 40 percent of the fair market value of the assets of such entity.

"(d) SPECIAL RULES.—

"(1) ENTITY.—For purposes of this section, the term 'entity' means any corporation, partnership, or trust.

"(2) CERTAIN RULES MADE APPLICABLE.—For purposes of subsection (c), the rules of subsection (e) of section 897 shall apply.".

(b) PENALTY FOR FAILURE TO FILE RETURN.—Section 6652 (relating to failure to file certain information returns, registration statements, etc.) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) RETURNS REQUIRED UNDER SECTION 6039C.—

"(1) IN GENERAL.—In the case of each failure—

"(A) to make a return required by section 6039C(a), or

"(B) to furnish a statement required by section 6039C(b),

on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, the amount determined under paragraph (2) shall be paid (upon notice and demand by the Secretary and in the same manner as tax) by the person failing to make such return or furnish such statement.

"(2) AMOUNT OF PENALTY.—For purposes of paragraph (1), the amount determined under this paragraph with respect to any failure shall be the greater of—

"(A) $25 for each day during which such failure continues, or

"(B) the amount determined under regulations as the amount of the tax imposed by section 897 which is not paid and which is attributable to transfers occurring during the calendar year for which the return or statement was required.

"The amount determined under subparagraph (A) with respect to any calendar year shall not exceed $25,000. Subparagraph (B) shall not apply with respect to any transaction unless withholding with respect to such transaction was required under section 1444.".

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of chapter 61 is amended by inserting after the item relating to section 6039B the following new item:

"Sec. 6039C. Return of certain entities holding United States real property interests.".

SEC. 206. MISCELLANEOUS AMENDMENTS.

(a) SOURCES WITHIN UNITED STATES.—Paragraph (5) of subsection (a) of section 861 is amended to read as follows:

"(5) DISPOSITION OF UNITED STATES REAL PROPERTY INTEREST.—Gains, profits, and income from the disposition of a United States real property interest (as defined in section 897(e)).".

(b) RESTRICTION ON EXAMINATION OF TAXPAYERS.—Subsection (b) of section 7605 (relating to restrictions on examinations of taxpayers) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any inspection of a taxpayer's books of account for purposes of section 897 or 1444.".

SEC. 207. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this subtitle shall apply to dispositions after December 31, 1979.

(b) SPECIAL RULE FOR TREATIES.—After December 31, 1984, nothing in section 894(a) or 7852(d) of the Internal Revenue Code of 1954 or in any other provision of law shall be treated as requiring an exemption from (or reduction of) any tax imposed by section 897 or section 1444 of such Code by reason of any treaty obligation of the United States.

(c) TAX AND WITHHOLDING NOT TO APPLY IN CASE OF POST-EFFECTIVE DATE BINDING CONTRACT DISPOSITIONS OR PAYMENTS PURSUANT TO PRE-EFFECTIVE DATE TRANSACTIONS.—

(1) BINDING CONTRACTS.—The amendments made by this subtitle shall not apply to dispositions of property pursuant to a written contract which, on December 6, 1979, and at all times thereafter, was binding on the taxpayer.

(2) PREVIOUS TRANSACTIONS.—The amendments made by this subtitle shall not apply with respect to the withholding or deduction of tax in connection with payments or other amounts paid after December 31, 1979, in connection with any disposition before January 1, 1980, of a United States real property interest.

Subtitle B—Inclusion in Wages of FICA Taxes Paid by Employer

SEC. 211. INCLUSION IN WAGES OF FICA TAXES PAID BY EMPLOYERS.

(a) INCLUSION IN WAGES.—

(1) IN GENERAL.—

(a)(1) Section 209(f) of the Social Security Act is amended to read as follows:

"(f) The payment by any employer (without deduction from the remuneration of the employee)—

"(1) of the tax imposed upon an employee under section 3101 of the Internal Revenue Code of 1954 for wages paid for domestic service in a private home of the employer or for agricultural labor, or

(2) TECHNICAL AND CONFORMING CHANGES.—

(A) Section 3121(a)(6) of the Internal Revenue Code of 1954 is amended to read as follows:

"(6) the payment of an employer (without deduction from the remuneration of the employee)—

"(A) of the tax imposed upon an employee under section 3101 for wages paid for domestic service in a private home of the employer or for agricultural labor, or

"(B) of any payment required from an employee under a State unemployment compensation law;".

(B) Section 3306(b)(6) of the Internal Revenue Code of 1954 is amended to read as follows:

"(6) the payment of an employer (without deduction from the remuneration of the employee)—

"(A) of the tax imposed upon an employee under section 3101 for wages paid for domestic services in a private home of the employer or for agricultural labor, or

"(B) of any payment required from an employee under a State unemployment compensation law;".

(h) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall be effective with respect to remuneration paid after December 31, 1980.

(2) REMUNERATION PAID BY CERTAIN STATES.—In the case of remuneration paid by a State (or political subdivision thereof) which, on June 17, 1980, had in effect an arrangement whereby such State or political subdivision paid under an agreement entered into pursuant to section 218 of the Social Security Act (without deduction from the remuneration of the employee) on behalf of its employees in positions of a particular kind, all or a substantial portion of the amounts equivalent to the taxes which would be imposed by section 3101 of the Internal Revenue Code of 1954, the amendments made by this section shall be effective with respect to remuneration paid to employees in such positions after December 31, 1983, and, notwithstanding any provision of law of a State or political subdivision thereof, any payment after such date—

(A) made by a State or interstate instrumentality to the Secretary of the Treasury pursuant to section 218(e)(1)(A) of the Social Security Act;

(B) with respect to an employee whose services are covered pursuant to an agreement under section 218 of such Act;

(C) of amounts equal to all or any portion of the tax which would be imposed on the employee under section 3101 of the Internal Revenue Code of 1954 if the services of such employee constituted employment as defined in section 3121 of such Code; and

(D) without deduction from the remuneration of such employee,

shall be considered wages for purposes of title II of the Social Security Act. With respect to such payments the State shall be liable under section 218(e)(1)(A) of such Act for amounts equivalent to the sum of the taxes which would be imposed by sections 3101 and 3111 of such Code on such payments if the services of employees covered by the agreement constituted employment as defined in section 3121 of such Code.

Subtitle C—Telephone Tax

SEC. 231. TELEPHONE TAX CONTINUED AT 2 PERCENT FOR 1981

(a) IN GENERAL.—The table contained in paragraph (2) of section 4251(a) (relating to imposition of tax on communication services) is amended by striking out the last 2 lines of such table and inserting in lieu thereof the following:

"During 1980 or 1981 2
During 1982 .... 1".

(b) Conforming Amendment.—Subsection (b) of section 4251 is amended by striking out "January 1, 1982" and inserting in lieu thereof "January 1, 1983".

Subtitle D—Cash Management

Sec. 251. Estimated Income Tax Payments by Corporations.

(a) General Rule.—Section 6655 (relating to failure by corporation to pay estimated income tax) is amended by adding at the end thereof the following new subsection:

"(h) Large Corporations Required To Pay at Least 50 Percent of Current Year Tax.—

"(1) In general.—In the case of a large corporation, the amount treated as the estimated tax for the taxable year under paragraphs (1) and (2) of subsection (d) shall in no event be less than 50 percent of—

"(A) the tax shown on the return for the taxable year, or

"(B) if no return was filed, the tax for such year.

"(2) Large corporation.—For purposes of this subsection, the term 'large corporation' means any corporation if such corporation (or any predecessor corporation) had taxable income of $1,000,000 or more for any taxable year during the testing period.

"(3) Rules for applying paragraph (2).—

"(A) Testing period.—For purposes of this subsection, the term 'testing period' means the 3 taxable years immediately preceding the taxable year involved.

"(B) Members of controlled groups.—For purposes of applying paragraph (1) to any taxable year in the testing period with respect to corporations which are component members of a controlled group of corporations for such taxable year, the $1,000,000 amount specified in paragraph (1) shall be divided among such members under rules similar to the rules of section 561.".

(b) Technical Amendment.—Subsection (e) of section 6655 is amended by striking out "subsections (b) and (d)" and inserting in lieu thereof "subsections (b), (d), and (h)".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1980.

Sec. 252. Inclusion of Minimum Tax in Estimated Tax Payments.

(a) For Individuals.—Paragraph (1) of section 6015(c) (relating to definition of estimated tax) is amended by striking out "(other than the tax imposed by section 55 or 56)".

(b) For Corporations.—Paragraph (1) of section 6154(c) (relating to definition of estimated tax) is amended by inserting ", section 56," after "section 11".

(c) Conforming Amendments.—

(1) Paragraph (1) of section 6654(f) (relating to tax computed after application of credits against tax) is amended by striking out "(other than by section 55 or 56)".

(2) Paragraph (1) of section 6655(e) (relating to definition of tax) is amended by inserting ", section 56," after "section 11".

(d) Effective Date.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1980.

Sec. 253. Increase in Estimated Income Tax Payment Required From Corporations From 80 Percent to 85 Percent.

(a) In General.—Section 6655 (relating to failure by corporation to pay estimated income tax) is amended by striking out "80 percent" in subsections (b)(1) and (d)(3)(A) and inserting in lieu thereof "85 percent".

(b) Effective Date.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1980.

Subtitle E—Import Duty on Certain Imports of Ethyl Alcohol

Sec. 271. Imposition of Duty of Ethyl Alcohol Imported to be Used as Fuel.

(a) In General.—Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by adding in numerical sequence the following new item:

" 907.50	Ethyl alcohol (provided for in item 427.88, part 2D, schedule 4) when imported to be used in producing a mixture of gasoline and alcohol or a mixture of a special fuel and alcohol for use as fuel, or when imported to be used otherwise as fuel	Gal	3% ad val.+ 40¢ per gal.	20% ad val.+ 40¢ per gal.	On or before 12/31/92 '

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

Subtitle F—Amendments Relating to Crude Oil Windfall Profit Tax

Sec. 291. Credit Against Crude Oil Windfall Profit Tax for Royalty Owners; Decrease in Adjusted Base Price.

(a) Credit Against Windfall Profit Tax for Royalty Owners.—

(1) In general.—Subchapter B of chapter 65 (relating to rules of special application for abatements, credits, and refunds) is amended by adding at the end thereof the following new section:

"Sec. 6429. Credit and Refund of Chapter 45 Taxes Paid by Royalty Owners.

"(a) Treatment as Overpayment.—In the case of a qualified royalty owner, that portion of the tax imposed by section 4986 which is paid in connection with qualified royalty production shall be treated as an overpayment of the tax imposed by section 4986.

"(b) Credits and Refunds.—

"(1) In general.—Under regulations prescribed by the Secretary, any amount treated as an overpayment of tax under subsection (a) shall be credited against the tax imposed by section 4986 or refunded to the qualified royalty owner.

"(2) Claim for credit or refund.—Any claim for credit or refund under this section shall be filed in such form and manner, and at such time, as the Secretary may prescribe by regulations.

"(c) $1,000 Limitation on Credit or Refund.—

"(1) In general.—The aggregate amount which may be credited or refunded under subsection (a) with respect to any qualified royalty owner shall not exceed $1,000.

"(2) Allocation within family.—In the case of individuals who are members of the same family (within the meaning of section 4992(e)(3)(C)), the $1,000 amount in paragraph (1) shall be reduced for each such individual by allocating such amount among all such individuals in proportion to their respective qualified royalty production.

"(3) Allocation between corporations and individuals.—In the case of an individual who owns any stock in a qualified family farm corporation, the $1,000 amount in paragraph (1) shall be reduced by the amount which bears the same ratio to the amount of the credit or refund allowable to the corporation under this section as the percentage of shares owned by such individual bears to all shares of the corporation.

"(4) Allocation between corporations.—If at any time after June 24, 1980, any individual owns stock in two or more qualified family farm corporations, the $1,000 amount in paragraph (1) shall be reduced for each such corporation by allocating such amount among all such corporations in proportion to their respective qualified royalty production.

"(d) Definitions and Special Rules.—For purposes of this section—

"(1) Qualified royalty owner.—The term 'qualified royalty owner' means a producer (within the meaning of section 4996(a)(1)), but only if such producer is an individual, an estate, or a qualified family farm corporation.

"(2) Qualified royalty production.—The term 'qualified royalty production' means, with respect to any qualified royalty owner, taxable crude oil which—

"(A) is attributable to an economic interest of such royalty owner other than an operating mineral interest (within the meaning of section 614(d)), and

"(B) is removed from the premises after February 29, 1980, and before January 1, 1981.

"(3) Qualified Family Farm Corporation.—The term 'qualified family farm corporation' means a corporation—

"(A) which was in existence on June 25, 1980,

"(B) all of the outstanding shares of stock of which on such date and at all times thereafter were held by members of the same family (within the meaning of section 2032A(e)(2)), and

"(C) 80 percent of the assets of which (other than interests described in paragraph 2(a)) were used by the corporation on such date for farming purposes (within the meaning of section 2032A(e)(55).

"(e) Cross reference.—

"For the holder of the economic interest in the case of a produciton payment, see section 636.".

(2) Technical and conforming amendments.—The table of sections for subpart B of chapter 65 is amended by inserting at the end thereof the following new item:

"Sec. 6429. Credit and refund of chapter 45 taxes paid by royalty owners.".

(b) Denial of Deduction.—

(1) In general.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end thereof the following new section:

"Sec. 280D. Portion of Chapter 45 Taxes For Which Credit or Refund Is Allowable Under Section 6429.

"No deduction shall be allowed for that portion of the tax imposed by section 4986 for which a credit or refund is allowable under section 6429.".

(2) Conforming amendment.—The table of sections for part IX of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 6429. Portion of chapter 45 taxes for which credit or refund is allowable under section 6429.".

(c) Decrease in Adjusted Base Price.—Section 4989 (defining adjusted base price) is amended by adding at the end thereof the following new subsection:

"(e) Special Rule for Fiscal Year 1981.—In the case of any taxable period beginning after September 30, 1980, and before October 1, 1981, the adjusted base price (determined without regard to this subsection) shall be reduced by an amount equal to the product of—

"(1) such adjusted base price, multiplied by

"(2) 0.008.".

By Mr. DANFORTH from the Committee on Governmental Affairs, with an amendment and an amendment to the title:

S. 2185. A bill to authorize the Federal

Emergency Management Agency to accept a bequest to the United States Government of approximately $500,000 (Rept. No. 96–845).

By Mr. MELCHER, from the Select Committee on Indian Affairs, without amendment:

S. 2801. A bill to designate the Indian Health Facility in Ada, Oklahoma, the "Carl Albert Indian Health Facility" (Rept. No. 96–846).

By Mr. MELCHER, from the Select Committee on Indian Affairs, with amendments:

S. 2767. A bill to provide that per capita payments to Indians may be made by tribal governments, and for other purposes (Rept. No. 96–847).

ORDER FOR JOINT REFERRAL—H.R. 5341

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—this has been cleared on the minority side—that when the Senate receives from the House of Representatives the bill, H.R. 5341, to designate components of national wilderness preservation system in the States of Florida, Missouri, Mississippi, North Carolina, South Carolina, and Louisiana, and for other purposes, it be jointly referred to the Committees on Agriculture, Nutrition and Forestry and Energy and Natural Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BRADLEY:

S. 2920. A bill to amend the Internal Revenue Code of 1954 to provide an income tax credit for social security taxes paid in 1981 and 1982; to the Committee on Finance.

By Mr. CHURCH:

S. 2921. A bill for the relief of Ammara Deitz; to the Committee on the Judiciary.

By Mr. HEINZ (for himself and Mr. Stone):

S. 2922. A bill to amend the Congressional Budget Act of 1974 to limit the level of total budget outlays in any fiscal year and to require compensation for additional costs imposed on State and local governments, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, that if one committee acts to report, the other must act within 30 calendar days of continuous session or be automatically discharged, pursuant to order of August 4, 1977.

By Mr. CRANSTON:

S. 2923. A bill to reduce the capital gains tax rate, and for other purposes; to the Committee on Finance.

S. 2924. A bill to amend the Internal Revenue Code of 1954 to provide for increased investment by individuals through a tax-deferred rollover account; to the Committee on Finance.

By Mr. DOLE (for himself, Mrs. Kassebaum, Mr. Young, Mr. Melcher, Mr. Zorinsky, Mr. Helms, Mr. Bellmon, Mr. Jepsen, Mr. McGovern, Mr. Boschwitz, Mr. Pressler, Mr. Exon, Mr. Lugar, and Mr. Bentsen):

S. 2925. A bill to require that the announcement by the Secretary of Agriculture with respect to a set-aside of cropland under the wheat and feed grains program be made no later than August 1 and November 1 of each year, respectively, for crops harvested in the next calendar year; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. TSONGAS (for himself, Mr. Church, Mr. Domenici, Mr. Baker, Mr. Bradley, Mr. Williams, and Mr. Sasser):

S. 2926. A bill to provide for an accelerated research, development, and demonstration program to achieve confirmation of the engineering feasibility of magnetic confinement fusion, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MORGAN (for himself, Mr. Garn, Mr. Riegle, Mr. Chiles, Mr. Domenici, and Mr. Ford):

S. 2927. A bill to prescribe an interest rate differential on deposits and accounts in insured banks and savings institutions; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LAXALT (for himself, Mr. Simpson, Mr. Wallop, Mr. Lugar, Mr. Hatch, Mr. Hayakawa, Mr. Schweiker, Mr. Dole, and Mr. Thurmond):

S. 2928. A bill to establish a charter for the Federal Bureau of Investigation, and for other purposes; to the Committee on the Judiciary.

By Mr. WALLOP (for himself, Mr. Lugar, Mr. Laxalt, Mr. Simpson, Mr. Hayakawa, Mr. Hatch, Mr. Thurmond, Mr. Dole, and Mr. Schweiker):

S. 2929. A bill to establish an intelligence community to promote the national security of the United States, and for other purposes; to the Committee on Governmental Affairs.

By Mr. JEPSEN:

S. 2930. A bill to amend the Internal Revenue Code of 1954 to repeal the estate and gift taxes; to the Committee on Finance.

By Mr. TALMADGE:

S. 2931. A bill to amend the Consolidated Farm and Rural Development Act to provide the Secretary of Agriculture with emergency credit readjustment authority and provide for review of certain agricultural loans by Farmers Home Administration county committees, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HATFIELD:

S. 2932. A bill to consent to the Goose Lake Basin Compact between the States of California and Oregon; to the Committee on the Judiciary.

By Mr. NELSON:

S. 2933. A bill to amend the Federal Water Pollution Control Act to provide funds for metropolitan areas which require additional funds for sewage treatment programs; to the Committee on Environment and Public Works.

S. 2934. A bill to amend the Federal Water Pollution Control Act to provide additional funds for metropolitan areas which are under court order to construct treatment works; to the Committee on Environment and Public Works.

By Mr. HATFIELD:

S. 2935. A bill to authorize the Secretary of the Army to convey to the city of Umatilla and to the port of Umatilla certain real property in Umatilla County, Oregon; to the Committee on Environment and Public Works.

By Mr. PELL (from the Committee on Rules and Administration):

S. 2936. A bill to transfer certain employees of the Architect of the Capitol to the Sergeant at Arms of the Senate. Original bill reported and placed on the calendar.

By Mr. PELL:

S. 2937. A bill for the relief of Jovita Correia Cabral; to the Committee on the Judiciary.

By Mr. DOLE (for himself, Mr. Baucus, Mr. Cochran, Mr. Ford, Mr. Hatch, Mr. Mathias, Mr. Moynihan, and Mr. Wallop):

S. 2938. A bill to amend section 117 of the Internal Revenue Code of 1954 to provide that Federal grants for tuition and related expenses at institutions of higher education shall not be includible in gross income merely because the recipient is required to render future service as a Federal employee, and for other purposes; to the Committee on Finance.

By Mr. HOLLINGS (from the Committee on the Budget):

S. 2939. A bill to provide for revenue reconciliation as provided by section 310 of the Congressional Budget Act of 1974. Original bill reported and placed on the calendar.

By Mr. CHAFEE:

S. 2940. A bill to provide for permanent tax rate reductions for individuals, reduction of the "marriage penalty" tax, incentives for new plant and equipment, small business tax relief, and export tax incentives beginning in 1981; to the Committee on Finance.

By Mr. WARNER:

S. 2941. A bill to amend title 38, United States Code, to provide a new program of educational assistance for persons who serve in the Armed Forces; to the Committee on Veterans' Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BRADLEY:

S. 2920. A bill to amend the Internal Revenue Code of 1954 to provide an income tax credit for social security taxes paid in 1981 and 1982; to the Committee on Finance.

(The remarks of Mr. Bradley, when he introduced the bill, appear elsewhere in today's proceedings.)

By Mr. HEINZ (for himself and Mr. Stone):

S. 2922. A bill to amend the Congressional Budget Act of 1974 to limit the level of total budget outlays in any fiscal year and to require compensation for additional costs imposed on State and local governments, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, that if one committee acts to report, the other must act within 30 calendar days of continuous session or be automatically discharged, pursuant to August 4, 1977.

PASSAGE OF SUPPLEMENTAL APPROPRIATIONS MEASURE DRAMATIZES NEED FOR ADDITIONAL STATUTORY AND CONSTITUTIONAL CONTROLS ON FEDERAL SPENDING

Mr. HEINZ. Mr. President, the week before last, the Senate put the finishing touches on a piece of fiction. Unfortunately, this piece of fiction will not make the New York Times best sellers list. This piece of fiction, of which we can all claim to be coauthors, is known as "The Balanced Budget."

I support both the concept and the fact of a balanced budget.

By calling the balanced budget a piece of fiction, I do not mean to denigrate the efforts of my distinguished colleagues on the Budget Committee and others on the floor of the Senate who did help produce a budget demonstrating remarkable fiscal restraint, relative to previous years.

Yet having produced this so-called "balanced budget," now we are turning around and conducting business as usual.

The budget resolution conference report—which I voted against after supporting the Senate version—increased the deficit for fiscal year 1980 by over $10 billion between the time the resolution was passed by the Senate and the short time later when we received back the House-Senate conference report. To lay to rest any misconceptions that anyone may have about how serious Congress is about fiscal restraint, we then raised the debt limit yet another time. And now, in this supplemental appropriations measure, we are approving an additional $16 billion in Federal spending for this fiscal year, thus insuring one of the largest budget deficits in our history.

Regardless of whether the heavy hand of recession puts its thumb on the scales of the so-called balanced budget for the coming fiscal year, that really is not the issue. The key to solving our problem of declining productivity and the double-digit inflation accompanying it is not just to balance the budget—although doing that is a necessary first step. We could have a balanced budget at $1 trillion—and in fact are fast approaching that level.

The key is to bring under control the amount of our output, the amount of our productive resources, that the Federal Government usurps.

Ideally, this would be accomplished via an amendment to the Constitution. But we already have the means for accomplishing this goal statutorily, through the congressional budget process. Yet although we have the way, we have yet to demonstrate the will.

As a way of insuring that Congress would in fact exercise its will and control Federal spending, last year Senator STONE and I introduced Senate Joint Resolution 56, a constitutional amendment limiting the growth of Federal spending to the rate of growth of the gross national product.

Mr. President, today I introduce and will shortly send to the desk a bill which incorporates the basic provisions of the amendment to the Constitution which Senator STONE and I introduced last year. Both the constitutional amendment and the bill which Senator STONE and I are introducing would allow Government to grow in real terms—but would bring to a halt the unrestrained growth of the Federal Government as an ever-increasing chunk of our Nation's output.

Specifically, this measure would do the following things:

First, it prohibits Congress from increasing outlays—both on and off budget—in any fiscal year by a rate greater than the increase in nominal GNP in the calendar year ending before the start of that fiscal year.

Second, during times of high inflation, Government spending would be limited even more. Whenever the inflation rate exceeded 3 percent, the percentage increase in outlays which would otherwise be permitted would be reduced.

Third, it prevents the Federal Government from forcing the States to expand their services by simply replacing Federal grants-in-aid with Federal mandates. it also stipulates that the Federal spending limit would be reduced even further when Federal grants to the States decline over a set period.

Fourth, it authorizes emergency spending above the overall limit subject to a declaration by the President and a two-thirds vote of both Houses of Congress. In addition, the measure allows increases in the spending limit, on a year-to-year basis, if three-fourths of the Members of both Houses approve.

The compelling arguments in favor of this measure are many. Developed by Nobel laureate Dr. Milton Friedman, these provisions enjoy broad-based support, as evidenced by the thousands of cards and letters I have received in support of this measure since introducing Senate Joint Resolution 56. But to summarize, the reasons I urge adoption of this measure are as follows:

First. We need to reduce the oppressive burden of taxation on the American people and on American enterprise so that we can improve our dismal productivity performance, restore our competitiveness abroad, fight inflation, and create jobs.

Second. We need to discipline the alarming growth of Federal spending so that it does not continue to usurp an ever-growing proportion of our Nation's resources.

Third. We need to reduce Federal deficits and the national debt before we so heavily mortgage the future that our children are living in houses of cards.

Let me briefly explain each of these points.

First, on the need to reduce taxes. Although we passed a so-called windfall profit tax this year, the real windfall has been to the Federal Government as a result of skyrocketing inflation. Since 1976, taxes have increased by more than 50 percent. And according to the administration's own projections, Federal taxes will increase by close to $100 billion in the upcoming year. These tax increases include the following, according to the administration:

A $41.8 billion increase in personal income taxes;

A sum of $10.1 billion from the tax on energy production popularly known as the windfall profit tax;

A $23.2 billion increase in social security taxes;

A $3.4 billion increase derived from the proposed withholding of taxes on interest and dividends;

A $9.2 billion increase derived from the proposed gasoline tax; and

A $7.9 billion increase in other taxes.

And the conference report on the budget resolution which we recently approved put a floor—not a ceiling, but a floor—on tax revenues of some $613.8 billion.

In short, Mr. President, the budget is being balanced on the backs of the American taxpayer. This, despite all the evidence that we desperately need a tax cut not only to alleviate the effects of the recession but also to stimulate the productivity improvements that we must see before inflation can be brought under control.

In fact, the bipartisan leadership of the Joint Economic Committee has endorsed a "supply side" tax cut. The JEC, in conjunction with Data Resources, Inc., developed a supply side model of the economy showing that such modest supply side tax cuts as a 2.7 percent increase in the investment tax credit and a reduction in the average tax lifetime of producers' durable equipment by four years would, within a decade:

First, reduce the CPI by 4 percent;

Second, increase productivity by 3.3 percent;

Third, increase real business fixed investment by 15.6 percent; and

Fourth, increase the capital stock by 7.2 percent.

Thus we see that the way to fight inflation is not to induce a recession, needlessly and senselessly throwing millions out of work. The way to fight inflation is to outproduce it, so that we have more jobs, less inflation, and a higher standard of living for us all.

On my second point, that the share of our Nation's output gobbled up by the Federal Government has been accelerating dramatically—let me cite the following statistics. Federal spending as a percentage of GNP has increased from 18 percent in 1965 to an estimated 22.3 percent today. This increase is all the more remarkable when we realize that in 1965 we were heavily engaged in Vietnam and embarked fully on the expansive programs of the Great Society; 1965 was a time of guns-and-butter spending, in contrast to the "austerity" that we are told to expect today.

For 10 of the past 15 years, Federal spending has increased at a faster rate than has GNP. In 1 year alone, fiscal year 1967, Federal spending increased by more than twice the 8.2-percent increase in GNP. In 3 other years, Federal spending increased by 4.5 percent or more than the most recent increase in the GNP.

My amendment—unlike measures which would limit Federal spending to a fixed percentage of GNP—would bring about reductions in the growth of spending gradually. Thus provided would be a reasonable transition period to the fiscal discipline we so desperately need, without drastic cuts in ongoing programs.

Mr. President, thanks to a considerable amount of analysis, I can provide some idea of the benefits of this legislation. For example, had it been in effect just since 1970:

Our national debt would be lower today than it was in 1970, instead of its actually being $624 billion higher.

Interest payments on the national debt would be at least $35 billion lower this year, instead of being over $60 billion.

Federal debt per household would have been cut significantly from $6,098 per household in 1970 to $4,788 today. Unfortunately, in the real world without this legislation, the Federal debt per household today is instead a staggering $11,652.

I ask unanimous consent that tables demonstrating the impact which this measure would have had on Federal outlays since 1965 (table 1) and Federal debt since 1970 (table 2) be inserted in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE 1.—TOTAL OUTLAYS OF THE FEDERAL GOVERNMENT, 1965–82

Year	Total outlays (billions)		Year-to-year (percent change)		Share of GNP (percent)	
	Actual	Amendment	Actual	Amendment	Actual	Amendment
1965	118.4	NA	−0.2	NA	18.0	NA
1966	134.7	NA	13.8	NA	18.7	NA
1967	158.3	NA	17.5	NA	20.4	NA
1968	178.8	NA	13.0	NA	21.5	NA
1969	184.6	NA	3.2	NA	20.4	NA
1970	196.6	200.6	6.5	8.6	20.5	20.9
1971	211.4	215.0	7.5	7.2	20.7	21.1
1972	232.0	224.5	9.7	4.4	20.9	20.2
1973	247.1	241.7	6.5	7.7	20.0	19.5
1974	271.1	265.4	9.7	9.8	19.9	19.5
1975	334.2	294.0	23.3	10.8	22.9	20.2
1976	373.7	313.1	11.8	6.5	23.0	19.3
Transition quarter	96.5	79.8	NA	NA	NA	NA
1977	411.4	339.1	8.0	6.6	22.4	18.5
1978	461.2	375.0	12.1	10.6	22.6	18.4
1979	505.4	413.3	9.6	10.2	22.1	18.1
1980	543.5	456.3	7.5	10.3	21.7	18.2
1981	589.5	502.1	8.5	10.0	21.4	18.2
1982	626.0	544.6	6.2	8.5	20.7	18.0

Source: Actuals: Budget of the United States (1980). Amendment: Simulation assume-total outlays are equal to maximum permissible outlays.

TABLE 2.—DEBT OF THE FEDERAL GOVERNMENT, 1970–82

Year	Annual Federal deficit (surplus) (billions)		Total Federal debt (billions)		Federal Debt/Household (dollars)		Federal interest payments (billions)		Outlays less interest (billions)	
	Actual	Amendment	Actual	Amendment	Actual	Amendment	Actual	Amendment	Actual	Amendment
1970	2.9	6.9	382.6	386.6	6,035	6,098	18.3	18.5	178.3	182.1
1971	23.0	26.6	409.5	417.0	6,319	6,435	19.6	20.0	191.8	195.0
1972	23.4	15.9	437.3	437.3	6,556	6,556	20.6	20.6	211.4	203.9
1973	14.9	9.5	468.4	463.0	6,858	6,779	22.8	22.5	224.3	219.2
1974	6.2	.5	486.2	475.1	6,956	6,797	28.0	27.4	243.1	238.0
1975	53.2	13.0	544.1	492.8	7,653	6,931	30.9	28.0	303.3	266.0
1976	73.7	13.1	631.9	520.0	8,668	7,133	34.5	28.4	339.2	284.7
1977	53.6	(18.7)	709.1	508.2	9,570	6,858	38.0	27.2	373.4	311.9
1978	59.2	(27.0)	780.4	493.3	10,268	6,491	44.0	27.8	417.2	347.2
1979	49.4	(42.7)	839.2	460.0	10,828	5,935	52.8	28.9	452.6	384.4
1980	40.9	(46.3)	899.0	432.6	11,365	5,469	57.0	27.4	486.5	428.9
1981	12.7	(74.8.	940.3	386.4	11,652	4,788	59.1	24.3	530.4	477.7
1982	(26.6)	(108.0)	951.9	316.7	11,566	3,848	59.5	19.8	566.5	524.8

Source: Actual: Budget of the United States (1980) and Bureau of the Census Amendment: Simulation assumes total outlays are equal to maximum permissible outlays.

Mr. HEINZ. As a further example, Mr. President, the following table demonstrates the impact that this measure, had it already been on the books, would have had on the administration's budget projections for fiscal years 1980 through 1985:

Fiscal year	GNP [1]	Federal outlays [2]	Federal outlays [3]	Net reduction	Federal spending (percent) [3]
1980	2,558	583.9	583.9	0	22.8
1981	2,879	630.2	630.2	0	22.4
1982	3,172	699.6	686.3	13.3	21.6
1983	3,588	771.5	744.1	27.4	20.7
1984	4,027	857.8	831.6	26.2	20.7
1985	4,479	936.1	930.0	6.1	20.8

[1] As projected by the President in his March budget message.

[2] As projected in the March budget.

[3] After implementation of my bill.

These limitations on the proportion of GNP consumed by the Government are consistent with pledges by President Carter himself to limit Federal spending to less than 21 percent of GNP. They are consistent with requirements of the Humphrey-Hawkins Act that spending as a percentage of GNP be reduced. And they are consistent with the Revenue Act of 1978 which established—as a matter of national policy—that spending be reduced to less than 21 percent of GNP.

Which leads me to my third point, namely: That Federal spending, deficits, and the national debt have been growing at an alarming rate and must be controlled.

Federal spending has been accelerating at an alarming rate for the past 20 years. It took 173 years for our Federal budget to reach $100 billion, in 1962. But it took only 9 more years for the budget to reach $200 billion, 4 more years for it to exceed $300 billion, and 2 more years to exceed $400 billion, in 1977.

Our fiscal 1981 budget—if we stick to our first budget resolution totals—would increase Federal spending to $613 billion.

Twice earlier in the year, we raised the debt ceiling—first, from $798 billion to $830 billion, and then a second time, from $830 billion to $879 billion. And then just a few days ago, we lifted the ceiling again—temporarily, we said—to $905 billion.

Whatever the statutory debt limit, the truth is that we will likely see a national debt of over $1 trillion by the end of the year. The interest on the national debt alone is projected to be $67 billion in fiscal year 1981—making it the third largest item of Federal spending. The runaway Federal spending which this national debt represents is the major cause of double-digit inflation—and a burgeoning Federal bureaucracy which imposes even more inflationary costs on the beleagured taxpayer, businessman, and State local government.

In short, Mr. President, passage of this measure is necessary because—like the compulsive eater, the chronic gambler, and the alcoholic—the Federal Government needs to be saved from itself. Although like following a doctor's advice, many may be reluctant at first to embrace what we prescribe. But I am convinced this treatment will help reverse the habits of nearly two decades that have weakened our economy and productive base.

I believe the end result will be to liberate enormous reserves of creative energy and productivity today latent in America.

I strongly urge my distinguished colleagues to support this legislation—and ultimately to vote for a similar constitutional amendment.

I ask that the text of my legislation be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2922

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) title III of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following new section:

"LIMITATION ON LEVEL OF TOTAL BUDGET OUTLAYS

"SEC. 312. (a) IN GENERAL.—

"(1) Notwithstanding any other provision of this Act (but subject to paragraphs (2), (3), and (4) of this subsection and to subsection (b)), total budget outlays (as defined for purposes of this section in subsection (c) (2)) for any particular fiscal year beginning after September 30, 1980, shall not exceed total budget outlays (as so defined) for the preceding fiscal year by a percentage greater than the percentage of the increase in nominal gross national product which occurred during the last calendar year ending before the first day of that particular fiscal year.

"(2) The maximum amount of total budget outlays which is otherwise permitted for any fiscal year under paragraph (1) may be changed by a specified dollar amount by the Congress, through the adoption of a provision to that effect in a concurrent resolution on the budget under section 301, 304, or 310 or through the adoption of any other concurrent resolution which has (and is limited to) that effect, if such provision or such other concurrent resolution is agreed to by the affirmative vote of three-fourths of the authorized membership of each House.

"(3) If the inflation rate for the last calendar year ending before the first day of a particular fiscal year was more than 3 per centum, the percentage increase in total budget outlays which is otherwise permitted for such fiscal year under paragraph (1) (after the application of paragraph (2)) shall be reduced by a percentage equal to one-fourth of the percentage by which such inflation rate exceeded 3 per centum.

"(4) If the total amount of the Federal grants to State and local governments which are included in the budget for any fiscal year, computed as a fraction of the total budget outlays for such fiscal year, is less than the smallest of the corresponding fractions for the three preceding fiscal years, the maximum amount of total budget outlays which is otherwise permitted for such fiscal year under paragraph (1) (after the application of paragraphs (2) and (3)) shall be reduced to the extent necessary to make such fraction for the fiscal year involved exactly equal to the smallest of such corresponding fractions for the three preceding fiscal years.

"(b) EMERGENCY OUTLAYS.—Following the declaration of an emergency by the President, at any time during any fiscal year while the emergency continues, the Congress may authorize a specified amount of emergency outlays for such fiscal year (over and above the maximum amount of total budget outlays permitted for such fiscal year under subsection (a)), through the adoption of a provision to that effect in a concurrent resolution on the budget under section 304 or 310, or through the adoption (after a concurrent resolution on the budget has been adopted for such fiscal year under section 304 or 310) of any other concurrent resolution which has (and is limited to) that effect, if such provision or such other concurrent resolution is agreed to by the affirmative vote of two-thirds of the authorized membership of each House.

"(c) DEFINITIONS.—For purposes of the preceding provisions of this section—

"(1) the 'inflation rate' for any calendar year is the percentage by which the percentage increase in nominal gross national product for that calendar year exceeds the percentage increase in real gross national product for that year;

"(2) the term 'total budget outlays' includes all off-budget outlays, but does not include redemptions of the public debt or any emergency outlays authorized under subsection (b) (and, for purposes both of such preceding provisions and of the provisions of subsection (d), the term 'off-budget outlays' means outlays which under specific provisions of law are not included in the totals of the budget of the United States Government and are exempt from any annual expenditure and net lending (budget outlays) limitations imposed on such budget); and

"(3) the 'nominal gross national product' and 'real gross national product' for any calendar year shall be determined and promulgated by the Secretary of Commerce.

"(d) REQUIREMENTS APPLICABLE TO BUDGET RESOLUTIONS.—It shall not be in order in either the House of Representatives or the Senate to consider or adopt a concurrent resolution on the budget for any fiscal year under section 301, 304, or 310, or to consider or adopt any amendment to such a concurrent resolution, if the level of total budget outlays which is set forth in such resolution or which would result from such amendment exceeds the maximum amount of total budget outlays which (when added to the total of all off-budget outlays for such fiscal year) would be permitted for such year under subsections (a) and (b) of this section.".

SEC. 2. Title III of the Congressional Budget Act of 1974, as amended by the first section of this Act, is further amended by adding at the end thereof the following new section:

"REQUIREMENT OF COMPENSATION FOR ADDITIONAL COSTS IMPOSED ON STATE AND LOCAL GOVERNMENTS

"SEC. 313. (a) IN GENERAL.—No State or local government may be directly or indirectly required by any Federal law hereafter enacted, or by any officer or agency of the United States pursuant to such a law, to perform any new or additional functions or engage in any new or additional activities, or to expand any of the functions or activities which it is already performing or in which it is already engaged, without compensation equal to the necessary costs incurred in connection with such new, additional, or expanded functions or activities.

"(b) REQUIREMENTS FOR CONGRESSIONAL ACTION.—It shall not be in order in either the House of Representatives or the Senate to consider or pass any bill or joint resolution (or to consider or adopt any amendment to a bill or joint resolution) which directly or indirectly requires a State or local government to perform any new or additional function, engage in any new or additional activity, or expand any function or activity which it is already performing or in which it is already engaged, unless compensation for such State or local government in an amount equal to the necessary costs incurred in connection with such new, additional, or expanded function or activity—

"(1) is authorized or otherwise provided for in such bill, joint resolution, or amendment, or in a law previously enacted; and

"(2) is included as part of the total budget outlays which are permitted for the fiscal year involved under section 312(a), as set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year.".

SEC. 3. (a) The table of contents for the Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end of the matter relating to title III the following new items:

"Sec. 312. Limitation on level of total budget outlays.
"Sec. 313. Requirement of compensation for additional costs imposed on State and local governments.".

(b) Section 301(a) of the Congressional Budget Act of 1974 is amended—

(1) by inserting "(subject to section 312)" after "total budget outlays" in paragraph (1);

(2) by redesignating paragraphs (5) through (7), as paragraphs (6) through (8), respectively; and

(3) by inserting after paragraph (4) the following new paragraph.

"(5) the estimated amount of the grants to be made to State and local governments, both as an aggregate amount and as a fraction of total budget outlays;".

(c) Section 310(a) of such Act is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5); respectively;

(2) by inserting after paragraph (2) the following new paragraph:

"(3) specify the amount by which grants to State and local governments, both as an aggregate amount and as a fraction of total budget outlays, are to be changed and direct the committees having jurisdiction to recommend such change;"; and

(3) by striking out "(1), (2), and (3)" in the paragraph redesignated as paragraph (5) by paragraph (1) of this subsection and inserting in lieu thereof "(1), (2), (3), and (4)".

(d) Section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11) is amended—

(1) by striking out "301(a)(1)(5)" in subsection (d) and inserting in lieu thereof "301(a)(1)-(6)"; and

(2) by adding at the end thereof the following new subsection:

"(k) The Budget transmitter pursuant to subsection (a) for each fiscal year shall be prepared, on the basis of the best estimates then available, in such a manner as to assure compliance with sections 312 and 313 of the Congressional Budget Act of 1974; and the President shall from time to time during each fiscal year take such action as may be necessary to assure continuing compliance with such sections.".

SEC. 4. The amendments made by this Act shall apply with respect to fiscal years beginning on or after October 1, 1980.

● Mr. STONE. Mr. President, today my distinguished colleague from Pennsylvania, Mr. HEINZ, and I are introducing legislation essentially identical to our constitutional amendment, Senate Joint Resolution 56, which would place a necessary restraint on the growth of Federal Government spending. This legislation would place a much-needed cap on the growth of the Federal Government.

Mr. President, this does not mean that I am not longer concerned about balancing the budget. On the contrary, I see this proposal as a necessary addition to attempts to balance the budget. Unfortunately, the recession is forcing our uncontrollable expenditures up. Despite recent congressional efforts to reach a balanced budget, this situation threatens the balanced budget for fiscal year 1981. The adoption of the Heinz-Stone legislation would assure the American people that the Congress is serious about restraining Federal spending, even if changing economic circumstances prevent a balanced budget in the next fiscal year. It will put the Federal Government's budget process on the right track by placing an absolute limit on the Federal Government's insatiable appetite to spend money.

Mr. President, the Congress must respond to the call for help which has come from the people of our country. They are calling for relief from the ever-growing national debt; relief from the increasing tax burden required by uncontrolled Federal spending; relief from the ravages of the resulting inflation.

As we are all aware, inflation is the foremost concern of our constituents. Rising costs continue to hurt our elderly and others on fixed incomes. To a significant degree, Federal Government spending practices are responsible for this continuing economic malaise.

The proposed legislation contains an inflation penalty which would further restrain Congress and the President if inflation were to exceed 3 percent. This penalty would force the Government to eliminate wasteful and inefficient programs and take other steps to ease the inflationary pressures on the economy.

Our legislation also helps the overburdened taxpayer by allowing Congress to reduce taxes or institute other changes in the tax structure. Congress also has the discretion to use budget surpluses to retire the national debt. Our bill has the net effect of reducing the amount of the national wealth which flows to the Government rather than back to the economy.

Mr. President, had this legislation been enacted in 1969, it has been estimated that we would have accumulated a surplus of $22 billion dollars instead of increasing the deficit by $271 billion. Also, the national debt would be almost one-half of the over $800 billion it is today. As can be seen, had our bill been in effect since 1969-70, our economy would probably be much healthier than it is today.

Last, Mr. President, I feel that our bill is far more flexible than any other approach that has been proposed. Our bill does not severely tie the hands of Congress and the President by mandating a balanced budget, although that is a desired end. We propose to limit the growth of the Federal budget to a percentage equal to that of the percentage increase in the gross national product. This gives Congress the leeway to have a deficit or a surplus, depending on which is the most favorable to a healthy economy at the time, as long as the outlays do not exceed the limit.

This bill is also flexible in that it allows three-fourths of both Houses of Congress to change the Federal spending base from which the future limits are calculated. There is also a provision which would allow Federal spending in excess of the limit should the President declare a State of Emergency. I think you will have to agree that this bill is both flexible and tough.

Mr. President, I hope my colleagues join Senator HEINZ and myself as cosponsors of this bill and work to insure its passage.●

By Mr. CRANSTON.

S. 2923. A bill to reduce the capital gains tax rate, and for other purposes; to the Committee on Finance.

REDUCTION OF THE CAPITAL GAINS TAX RATE

● Mr. CRANSTON. Mr. President, today I am introducing legislation to reduce the effective tax rate on capital gains from 28 to 21 percent for individuals and corporations.

This is the same proposal supported overwhelmingly in the Senate in the 95th Congress during consideration of the Revenue Act of 1978. At that time, the final decision of Congress was to reduce the capital gains tax rate from 49 percent to the present 28-percent rate.

I feel now as I did in 1978 that the capital gains rate should be reduced as recommended at that time by the Finance Committee and approved by the Senate.

I am offering this proposal to assure that when the Finance Committee considers tax legislation this year the committee will have before it a specific bill for the reduction of the capital gains tax rate.

I am convinced that Congress can enact a bill to reduce capital gains taxes and remain within the revenues specified by the congressional budget resolution.

The Treasury Department's revenue projections show that due to the tax cut enacted in 1978, realizations of capital gains and related tax receipts were at much higher levels than expected in 1979 and even higher totals are now estimated for 1980. It may well be, as suggested by O. S. Pollock of Ingalls and Snyder, that higher realizations may offset most of the receipts lost to lower capital gains tax rates. When all factors and consequences are taken into account, cuts in capital gains may well result at once, not in a loss, but in a net increase in revenues.

A further reduction in the rate certainly can be financed in effect by higher realizations of gains and related tax receipts consisting largely of ordinary income earned by brokers executing sales commissions.

But of far greater consequence to the American economy will be the greatly increased savings and capital available for productive investments. Reports show that as a result of the 1978 changes:

New venture capital picked up dramatically from $39 million in 1977 to $570 million and $319 million in 1978 and 1979;

Disbursements by venture capital firms rose from $400 million to $1 billion—unfreezing capital for reinvestment; and

New stock offerings picked up fivefold.

A table prepared by O. S. Pollock of Ingalls and Snyder summarizing these achievements is attached to my statement, and I ask unanimous consent that it appear at the conclusion of my remarks.

Mr. President, our tax laws have turned investment incentives upside down. By imposing high tax rates on productive capital investments we have told investors to put their money into economically valueless and wasteful tax shelters.

The change in capital gains tax rates made in 1978 and the exemption for savings interest enacted in the "Windfall profit" tax bill this year are major steps toward redressing the bias in the tax laws against productive investments. The Capital Investment Incentive Act of 1980 which I have introduced to reduce the capital gains tax rate to 21 percent will be another substantial move toward a healthier economy.

Mr. President, as my colleagues will recognize, I am building upon the work started by the late Bill Steiger in the House of Representatives and by our former colleague, Senator Cliff Hansen of Wyoming, in the Senate. Bill and Cliff's friendly spirit of challenge and bipartisan cooperation resulted in enactment of the reduction of capital gains taxes in 1978.

Today the Senate is engaged in a competitive challenge to obtain appropriate incentives and adjustments in our tax laws which will assure a healthy and productive recovery from our current economic ills without fueling inflation.

As the Senate moves forward to consider sound tax proposals this year, I ask my colleagues to recall the examples of Bill Steiger and Cliff Hansen who gave unstintingly of themselves without thought of self-advancement in order to reverse the bias in our tax law against saving, investment, and productivity.

Mr. President, I ask unanimous consent that the text of the bill and the table be printed in the RECORD.

There being no objection, the bill and table were ordered to be printed in the RECORD, as follows:

S. 2923

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Capital Investment Incentive Act of 1980."

SEC. 2. Section 1202(a) (relating to the deduction for capital gains) of the Internal Revenue Code of 1954 is amended by striking out "60 percent" and inserting in lieu thereof "70 percent".

SEC. 3. Section 1201(a) (relating to alternative tax for corporations) is amended by striking out "28 percent, and inserting in lieu thereof, 21 percent."

PROGRESS REPORT

Last year, Congress enacted a major cut in the capital gains tax, thereby improving the general atmosphere for investment. (Walter W. Heller, August 2, 1979, Wall Street Journal.)

(1) In spite of worsening economic conditions, the prospect of a 1978 capital gains tax reduction and its enactment was accompanied by a more than $200 billion rise in total equity values in the past two years to a new high. The rise was led by shares of smaller companies.

1968	$1,034
1969	915
1970	907
1971	1,060
1972	1,198
1973	948
1974	676
1975	892
1976	1,107
1977	1,039
1978	1,086
1979	1,245

Note: Year-end totals in billions. Source: Federal Reserve Board.

(2) New capital raised by venture capital firms picked up dramatically in late 1978 and 1979, after a long dry period.

1969	$171
1970	97
1971	95
1972	62
1973	56
1974	57
1975	10
1976	50
1977	39
1978	570
1979	319

Note: Amounts in millions. Source: Stanley E. Pratt, *Venture Capital Journal.*

(3) Aided by the new capital and other factors, disbursements of venture capital firms rose to $1 billion in 1979—two and one-half times the pre-1978 level.

1974	$350
1975	250
1976	300
1977	400
1978	550
1979	1,000

Note: Amounts in millions. Source: same as above.

(4) New capital raised through initial public stock offerings by corporations climbed sharply in late 1978 and in 1979 and the improvement continued in 1980.

1975	$265
1976	234
1977	153
1978	250
1979	506

Note: Amounts in millions. Source: Going Public.

In 1978 and 1979, new capital derived from venture capital disbursements and initial public stock offerings is more than $1.2 billion ahead of the 1976–1977 total. According to research done by the American Electronics Association this amount of seed money has the potential to create about 80,000 new jobs over a period of several years.

(5) Total common stock offerings (new issues excluding offerings of mutual funds,

REIT's, secondaries) improved in 1979 and are rising dramatically in 1980. The total for the first five months is $3.9 billion—a record rate.

Source: Oppenheimer & Co., Inc.

(6) The climate for investment improves. Capital spending by U.S. corporations has been a source of strength in the economy.

(7) The latest Treasury Department projections indicate that just added realizations induced by the 1978 tax changes will offset a large part of the tax receipts lost due to lower rates.●

By Mr. CRANSTON:

S. 2924. A bill to amend the Internal Revenue Code of 1954 to provide for increased investment by individuals through a tax-deferred rollover account; to the Committee on Finance.

CAPITAL GAINS "ROLLOVER" ACCOUNTS

● Mr. CRANSTON. Mr. President, I am introducing legislation today to establish a major incentive for investment by individuals through a tax-deferred rollover account.

The basic purpose of my bill is to help individuals make long-term commitments of capital and savings to productive investments without suffering adverse tax consequences from moving assets from nonproductive to productive investments.

As the tax law now stands, when an individual realizes a gain upon the transfer of assets from one investment situation to another, the gain is taxable, in the same way as it would be if the individual used his gain as income for the purposes of consumption or for other uses outside the scope of continued investment. Thus, there is no incentive for reinvestment.

Not all such transfers in which gains are realized are treated as a taxable event, however. The best known instance, of course, is the deferral of capital gains taxes allowed when an individual reinvests the proceeds realized from the sale of his personal residence into another personal residence.

My bill proposes to apply the same tax deferral treatment to reinvestments of capital gains—that is, a deferral of taxes due on a rollover of capital gains into other investments.

The deferral of taxes will enable individuals to make long-term commitments of substantial amounts of capital into a series of investments such as stocks, bonds, enterprises, and the like.

Under my proposal, only realized gains will be deferred. Interest and dividends received will be treated as ordinary income of the investor in the tax year received just as they would be under normal investment circumstances. It is not the purpose of this proposal to set up a shelter for ordinary income.

The purpose of my bill is to help meet the enormous need of our economy for substantial commitments of capital for long-term periods. It is estimated that our economy will require about $5.3 trillion in capital investment in the next 10 years to replace worn out equipment, expand plant capacity, and promote research and development to sustain even a modest level of economic growth.

Where is this capital to come from?

A significant source of capital today is frozen in investments made many years ago. The holders of those investments, in some cases, literally are waiting to die in order to avoid heavy taxation if they should realize their gains today. Some prefer to accept their return in the form of dividends. Many other investors, however, must make prudent decisions based upon the potential return of a new investment against remaining locked in an old one and simply accepting dividend income instead of gains. The tax-deferred rollover account would offer such investors very substantial incentives to move their capital into new dynamic investments with a greater potential for profit. I think our general economy would benefit greatly from movement of capital from older, less productive enterprises into newer ones.

Throughout the life of the rollover account, the Treasury receives taxes on interest and dividends paid on stocks and bonds held by the account—I wish to emphasize that these taxes will not be at a sheltered rate but at the individual investor's ordinary income tax rate.

When the rollover account is liquidated, the Treasury will receive taxes on gains realized at the capital gains tax rate.

Death of the trustor will not result in avoidance of capital gains taxes. Under my bill, the capital gains accrued in the trust account will be taxed upon death.

This proposal is a fair bargain for all concerned.

It represents, in my view, the qualities which should be found in sound proposals for investment incentives in the tax laws:

A firm promise of reward for sound investments insofar as tax treatment is concerned;

Clear direction toward productive investment by limiting the rollover to investments in stocks and bonds;

Artificial accounting losses are not rewarded;

No shelter for ordinary income;

Clear and fair rules for payment of taxes when the deferral period is at an end;

Elimination of tax avoidance as a consequence of death of the taxpayer.

Not all investment incentives can be so strictly structured nor should they.

This proposal for tax-deferred rollover accounts administered by trustees accountable under law for carrying out their duties properly is a sound and sure way from the point of view of the Treasury to promote investment decisions free of tax considerations until the gains are realized.

The time has come to study such proposals to determine the potential for promoting sound investment in the productivity of America.

I urge my colleagues to consider my proposal, and I welcome their suggestions for improvements.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD as follows:

S. 2924

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE OF CONTENTS; AMENDMENT OF 1954 CODE

(a) SHORT TITLE.—This Act may be cited as the "Individual Investment Act of 1980."

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents; amendment of 1954 Code.
Sec. 2. Tax-deferred rollover account.
Sec. 3. Effective date.

(c) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 2. TAX-DEFERRED ROLLOVER ACCOUNT.

Subchapter F of chapter 1 of subtitle A of the Internal Revenue Code of 1954 is amended by adding at the end thereof part VIII to read as follows:

"Part VIII—ESTABLISHMENT OF TAX-DEFERRED ROLLOVER ACCOUNTS

"Sec. 529. Tax-deferred rollover account.
"Sec. 530. Filing of information returns.

"SEC. 529. TAX-DEFERRED ROLLOVER ACCOUNT.

"(a) TAX-DEFERRED ROLLOVER ACCOUNT.—For purposes of this section, the term "rollover account" means a trust created or organized in the United States for the exclusive benefit of an individual or his beneficiaries, but only if, the written governing instrument creating the trust meets the following requirements:

"(1) No contribution will be accepted unless it is made by the individual and is in cash, or consists of stock or securities of a domestic corporation.

"(2) The trustee is a bank or such other person who demonstrates to the satisfaction of the Secretary that the manner in which such other person will administer the trust will be consistent with the requirements of this section.

"(3) The trust funds will be invested in stock or securities of a domestic corporation or held in interest-bearing deposits in a bank.

"(4) The assets of the trust will not be commingled with other property.

"(5) The interest of the individual in the balance of his rollover account is nonforfeitable, and all or any portion of stocks, securities, or money in such account will be paid or distributed—

"(A) to the individual within 10 days after demand, or

"(B) in the case a payment or distribution is to be made to a beneficiary, in accordance with subsection (e).

"(6) The trust will adopt a taxable year which is the same as the taxable year of the individual.

"(7) The individual is permitted to elect, no more often than each taxable year, for the rollover account to be either—

"(A) a discretionary account in which case the investment and reinvestment of the trust funds will be determined by the trustee, or

"(B) a self-directed fund in which case the investment and reinvestment of the trust funds will be determined by the individual.

"(b) TAX TREATMENT OF ROLLOVER ACCOUNTS.—A rollover account is exempt from tax under this subtitle.

"(c) TAX TREATMENT OF PAYMENT OR DISTRIBUTION.—Any amount paid or distributed from the capital gain fund of a rollover account shall be included as a long term capital gain in the gross income of the recipient for the taxable year in which such payment or distribution is received.

"(d) Tax Treatment of Ordinary Income.—All ordinary income consisting of:

(A) interest and dividends received, plus

(B) net short term capital gain as defined in section 1222(5), shall be distributed to the trustor and shall be included in the gross income of the trustor for the taxable year in which such ordinary income was received by the trust.

"(e) Payment or Distribution to Beneficiary.—If the individual dies prior to the time the balance in the rollover account has been paid or distributed in accordance with subsection (a)(5)(A), the balance shall be paid or distributed to his designated beneficiary or beneficiaries, or, if no beneficiary has been designated, to his estate.

"(f) Establishment of Separate Funds.—The trustee of a rollover account shall establish on its books, without the segregation of assets, a capital fund, and a capital gain fund.

"(1) Capital fund.—The capital fund shall consist of the amount of cash contributed to the rollover account, the basis in the hands of the individual of property contributed to the rollover account, and the amount of any gain realized upon the disposition of property in a transaction in which gain or loss is not recognized under this subtitle.

"(2) Capital gain fund.—The capital gain fund shall consist of net capital gain as defined in section 1222(11).

"(g) Payment or Distribution Treated as Made From Separate Fund.—Any payment or distribution from a rollover account shall be treated as made—

"(1) first, from the capital gain fund, and

"(2) second, from the capital fund.

Except as provided in subsection (i)(4), no payment or distribution shall be treated as made from a fund until the balance of any fund which precedes it in order of priority has been paid or distributed.

"(h) Character of Amounts in Hands of Recipient.—Any amount paid or distributed from a rollover account shall, for the purposes of this subtitle, have the same character in the hands of the recipient as the amounts included in the fund from which it is treated as having been distributed.

"(i) Special Rules Related to Account Balances, Basis, and Losses.—

"(1) Determination as of end of taxable year.—The balance of a fund established in accordance with subsection (f) shall be determined as of the end of each taxable year, taking into account the total of all amounts included in the fund in all taxable years and the total of all amounts paid or distributed from the fund prior to the beginning of the taxable year.

"(2) Basis of property.—The basis of property contributed by an individual to a rollover account shall, in the hands of the trustee, be the same as the basis in the hands of the individual, and the basis of property distributed from a rollover acount shall, in the hands of the distributee, be the same as the basis in the hands of the trustee.

"(3) Valuation of distributions in kind.—If property is distributed from a rollover account, for the purposes of this section the amount of the distribution shall be the basis of the property distributed.

"(4) Losses realized by individual outside the rollover account.—If for any taxable year, the individual has a net capital loss within the meaning of section 1222(10) (determined without regard to paragraph (5)), the lesser of—

"(A) the net capital loss, or

"(B) the amount in the capital gain fund shall be treated as having been distributed in the taxable year to the individual from the capital gain fund. Any amount treated as distributed by application of the preceding sentence shall be added to the capital fund.

"(5) Loss upon termination of account.—If upon payment or distribution of the balance of a rollover account in any taxable year, the total of all contributions to the account exceeds—

"(A) the balance paid or distributed in such taxable year, plus

"(B) the total of all amounts previously paid or distributed from the account,

such excess shall be a capital loss of the recipient for such taxable year.

"(j) Other Special Rules, Limitations, and Definitions.—

"(1) Effect of transfer or pledge of account as security.—If, during any taxable year, the individual transfers or uses as security for a loan, the account or any portion thereof, the portion so transferred or used shall be treated as having been paid or distributed to the individual.

"(2) Transfer of account incident to divorce.—The transfer of an individual's interest in a rollover account to his former spouse under a divorce decree or under a written instrument incident to such divorce is not to be considered a payment or distribution or a taxable transfer made by the individual notwithstanding any other provision of this subtitle, and such interest at the time of the transfer is to be treated as a rollover account of such spouse, and not of the individual. Thereafter the rollover account, for purposes of this subtitle is to be treated as maintained for the benefit of such spouse.

"(3) Only one account may be maintained.—

"(A) No rollover account for an individual may be established until after the close of the taxable year in which the balance of any previously established rollover account is paid or distributed, and

"(B) No contributions to a rollover account may be made after the balance of such account has been paid or distributed and another rollover account for such individual has been established.

"(4) Definitions.—For the purposes of this section, the term "bank" has the same meaning as in section 581.

"Sec. 530. Filing of Information Returns.

The trustee of a rollover account shall keep such records, render under oath such statements, comply with such rules and regulations as the Secretary may from time to time prescribe, and file an annual return, stating specifically the items of gross income, receipts, disbursements, and such other information for the purposes of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe."

Sec. 3. Effective Date.

The amendments made by this Act shall apply to a trust created or organized after September 1, 1979.●

By Mr. DOLE (for himself, Mrs. Kassebaum, Mr. Young, Mr. Melcher, Mr. Zorinsky, Mr. Helms, Mr. Bellmon, Mr. Jepsen, Mr. McGovern, Mr. Boschwitz, Mr. Pressler, Mr. Exon, Mr. Lugar, and Mr. Bentsen):

S. 2925. A bill to require that the announcement by the Secretary of Agriculture with respect to a set-aside of cropland under the wheat and feed grains program be made no later than August 1 and November 1 of each year, respectively, for crops harvested in the next calandar year; to the Committee on Agriculture, Nutrition, and Forestry.

DATE FOR ANNOUNCEMENT FOR WHEAT AND FEED GRAIN SET ASIDE

● Mr. DOLE. Mr. President, I am today introducing a bill to amend the Agriculture Act of 1949 to require that the proclamation made by the Secretary of Agriculture with respect to a set-aside of cropland under the wheat and feed gains program be made no later than August 1 and November 1 of each year, respectively, for crops harvested in the next calendar year.

I am pleased to be introducing this legislation with the junior Senator from Kansas, Nancy Landon Kassebaum. She has worked closely with me in the development of this legislation. Senator Kassebaum is deeply concerned about the condition of agriculture in Kansas and across the country.

Senator Kassebaum has only been in the Senate for 1½ years but during this time she has taken a major interest in agricultural legislation. It is always a pleasure to work with her on issues facing our State of Kansas. She has put emphasis on agriculture on her staff. Senator Kassebaum's agricultural assistant, Ron Wilson, grew up on a Kansas farm, attended Kansas State University, and was State president of the Future Farmers of America. Ron also served as national vice-president of the Central Region of the Future Farmers of America.

I am also pleased that Senators Young, Melcher, Zorinsky, Helms, Bellmon, Jepsen, McGovern, Boschwitz, Pressler, Exon, Lugar, and Bentsen have joined with Senator Kassebaum and myself in sponsoring this legislation.

The purpose of the bill is to move forward by 2 weeks the date by which the Secretary of Agriculture is required to announce any set-aside of cropland under the wheat and feed grains program.

The final dates currently are fixed by law at August 15 in the case of wheat, and November 15 in the case of feed grains, of the year preceding the year in which the crop will be harvested. The bill would change those dates to August 1 and November 1, respectively.

Some farmers have found that announcements of set-asides under the wheat and feed grains program as late as August 15 and November 15 have worked hardships on them. For example, winter wheat farmers in Texas, Oklahoma, and Kansas may, depending upon circumstances, begin planting wheat in early September. If an announcement of any set-aside for wheat is not made until August 15, there is not enough time for planting their operations for the crop to be harvested in the next year.

Corngrowers in the Midwest may need to apply fertilizer for the next year's corn crop before November 15. Thus, an announcement of any set-aside for feed grains as late as November 15 may be ineffective as it applies to their operations.

Essentially, the 2-week period would provide valuable assistance to farmers at a critical time—that time when plans are being made concerning the planting of crops.

FARM PLANNING

For both wheat and feed grain production, much field preparation takes place prior to the current announcement dates. If the set-aside program is announced after the farmer had made considerable investments of time and capital into preparation, it is then unlikely that he will then choose to forfeit this investment and participate in the set-aside program. Consequently, poor participation in the program could lead to a continual worsening of the farm economy, and under certain conditions, lead to increased governmental farm support costs.

There has been continued concern that the Department of Agriculture will not have sufficient information by the proposed dates on the size of the current year's crop or existing stocks. They would need this data before determining whether or not to implement a set-aside program.

CROP ESTIMATES

The crop reporting board issues a report each month which is a forecast of the total production of agricultural commodities. It is from these crop reports that the USDA makes a decision concerning the extent of set-aside programs.

Because crop estimates are reported around the tenth of each month, however, the Department would have nearly 3 weeks to consider current data bearing on a set-aside decision. Additionally, the possibility of significant changes in crop estimates from announcement months are very slim. Over the past 6 years, no estimate has exceeded a difference of 4 percent. The establishment of the deadline date for announcement of wheat and corn set-asides to August 1 and November 1, respectively, will take into consideration the Department's need to base its decisions on complete and comprehensive information and the farmer's need to know of these decisions at an earlier date.

Additionally, I feel that it is important to note that, since the Soviet grain embargo last January, agricultural markets have experienced considerable deterioration and disarray. Passage of this legislation would be a firm commitment that this body is determined to reestablish stability in the farm economy and to provide more effective information to the American farmer about Federal farm policy.

Finally, I would like to commend the House of Representatives for their foresight in passing this same legislation. I sincerely hope that my fellow Senators will recognize the importance of this bill, both to the farmer, and, in turn, to the consumer. Certainly this bill deserves the most prompt consideration and adoption.●

● Mrs. KASSEBAUM. Mr. President, I am pleased to be an original cosponsor of this legislation to require an earlier announcement of a set-aside for 1981 crops of wheat and feed grains. Under existing law, the Secretary of Agriculture shall provide for a set-aside of these crops if supplies are likely to be excessive. The Secretary's determination must be announced by August 15 for wheat and November 15 for feed grains. This bill will move the announcement deadline ahead by 2 weeks. The earlier time would be significantly beneficial for agricultural producers.

The set-aside program is an important part of our agricultural policy. The program encourages land conservation and helps bring grain supplies more in balance with demand. American farmers today deal successfully with a great number of variables, including crop disease, insects, the markets, and the weather. Unfortunately, they also encounter risks that are man made, such as sudden changes in Government policies affecting farmers' plans and purchases, after those plans and purchases are already made. Since an effective set-aside will alter farmers' cropping patterns and buying decisions for fuel and fertilizer, the set-aside should be announced before that process begins. Considerable fieldwork is done immediately following wheat harvest, which will be occurring over the next 2 months in the lower Midwest, and Government programs need to take this into account.

Early announcement of a 1981 set-aside would be a good example of expediting these programs. Considering the need to minimize our consumption of energy products in such items as fuel and fertilizer, an early announcement will allow farmers to make the most careful use and consumption of these products. In addition, announcement of such a positive Government action should provide much needed strength to the agricultural markets.

In discussing the need for expeditious action, it must be pointed out that the current administration's farm policy is, in plain terms, a failure. Farm income in real dollars is approaching its lowest point since the days of the Great Depression. The U.S. Department of Agriculture projects that net farm income in 1980 will drop nearly 40 percent from 1979. In April, the USDA index "Prices Received By Farmers" suffered the largest single month drop that had occurred in the last 7 years.

Meanwhile, we all know what inflation is doing to costs. Farmers' production factors and living expenses have increased dramatically. According to a study by Chase Econometrics, the national average cost of producing wheat in 1980 increased 25 percent from the previous year, to $4.59 per bushel. Recent USDA figures project that the cost is around $5.00 per bushel. Fuel, fertilizer and interest were the leading items in variable cost increases. Simultaneously the actual prices received have not kept pace. According to USDA, the national average price farmers received for wheat as of mid-May was $3.62 per bushel.

If we are to reverse this situation, we must aggressively promote agricultural exports and thereby strengthen farm prices. Agricultural leaders in this administration pay lip service to this belief, and they state that exports are maintaining a rapid pace. If this is the case, it is in spite of this administration, not because of it. The present administration has reduced the funding of the direct export credit financing program to exactly zero. The President has replaced this program with a loan guarantee mechanism which is less effective. The direct credit program rejected by the administration is overwhelmingly preferred by our international customers, the very people whose purchases would strengthen our farm prices.

Is it any wonder that farmers are frustrated, that they feel abused and disenfranchised? Many farmers see USDA as an agency where one administrator spends tax money telling customers to buy less beef, and another administrator spends tax money to study why the family farm faces hard times. While the Carter administration's farm policy seems contradictory and unclear, the results are obvious—prices farmers receive are hitting lows and the costs farmers pay are hitting highs. The Carter administration's continuing neglect of the production sector of our economy will, in the long run, have serious consequences for the consumer.

It is far past time for this administration to take positive action for American agriculture. One small step will be to announce at an early date a set-aside for 1981. An early announcement will not alter the substantive considerations USDA must take into account in determining annual set-aside policy. Those considering a set-aside must weigh several factors for each commodity: the inventory of grain stocks on hand at the end of the marketing year, the prospect for the new year's domestic production of that grain and the percentage of current world use that these amounts comprise. Preliminary information is already available on all three of these factors and reports scheduled for publication in July will bring them into even better focus. The earlier announcement date called for in this proposal still permits sufficient time for deliberation and responsible action. In fact, based on currently available information I believe that the need for an effective set-aside can already be clearly foreseen.

Preliminary information indicates that we will have substantially higher stocks of grain to "carryover" into the new marketing year. USDA estimates that ending stocks for total grains, not including oilseeds, will be a record high 78.8 million metric tons. This is 6.2 million metric tons above what USDA estimates it would have been without the grain embargo, which makes the case for a set-aside this year even more compelling.

The second factor, current production, is extremely important. Even with high carryover stocks, if the current year's production is low, the world food supply situation could change dramatically and a set-aside would not be appropriate. In 1980, the facts militate for a set-aside because of the strong indications of a good crop year. Conditions as of June 1 lead USDA to estimate an all-time record for winter wheat production of 1.76 billion bushels. The Department projects total wheat production in 1980 as possible exceeding, by more than 10 percent, last year's record.

A third factor, increasingly important in our modern world, is how domestic production relates to world food supply. In the July report of the World Food and Agricultural Outlook and Situation Board, this relationship will be brought into clearer focus. According to their May 13 agricultural supply and demand estimates, however, early indications suggest that 1980–81 world grain crops may exceed those of 1979–80. The reports in the next 2 months should clarify how world consumption of these crops is progressing.

In sum, by August 1 the administration will have ample information to support the needed decision to implement a set-aside for 1981.

Let me emphasize that the course we are suggesting today does not require substantial Government outlays. The Secretary of Agriculture already has this set-aside authority. In addition, this is a market-oriented method of strengthening farm income which farmers prefer to Government subsidy. We are not suggesting additional major expenditures or budget outlays, but rather implementing a mechanism already in place in a more expeditious, effective manner.

Some USDA officials understand the need for an early announcement of their programs. They are to be applauded for their foresight in past years when they have revealed program decisions early. This record suggests that it is not impossible for USDA to make timely announcements. However, this spring we saw an example of the need for statutory direction. Immediately following the embargo January 4, USDA attempted to placate farmers with encouraging talk of a diversion program. Nearly 2 months later, USDA disclosed that there would be no diversion after all. The Department's timing of that announcement, which came on the afternoon of the last day before the deadline, demonstrates that this statutory change is necessary to meet the need for early announcement.

Mr. President, I am very concerned about the strength of our agricultural economy. It is basic to the strength of the Nation. Congress has considered several measures such as higher loan rates, increased funding for Farmers Home borrowing and my legislation dealing with the prohibitive interest rates for agricultural operating loans. Ultimately, however, what farmers need is not easy credit or higher subsidies. What they need and deserve, as I have noted in the past, is a fair return on their labor and investment. Early announcement of an effective set-aside should start to accomplish this through stronger prices in the marketplace without excessive Government outlays. I urge my colleagues to consider and enact this legislation quickly.●

By Mr. TSONGAS (for himself, Mr. CHURCH, Mr. DOMENICI, Mr. BAKER, Mr. BRADLEY, Mr. WILLIAMS, and Mr. SASSER):

S. 2926. A bill to provide for an accelerated research, development, and demonstration program to achieve confirmation of the engineering feasibility of magnetic confinement fusion, and for other purposes; to the Committee on Energy and Natural Resources.

MAGNETIC FUSION ENERGY ENGINEERING ACT OF 1980

Mr. TSONGAS. Mr. President, today I am introducing legislation to promote research, development, and demonstration of magnetic confinement fusion. I am pleased that Senators CHURCH, DOMENICI, SASSER, BAKER, BRADLEY, and WILLIAMS join me as sponsors of the Magnetic Fusion Energy Engineering Act of 1980.

This legislation, which does not involve new spending authorizations, is principally a statement of national policy and program direction. It recognizes fusion's potential as a fundamental part of America's long-term energy supply. Fusion energy holds great promise as a safe, clean complement to energy conservation, solar energy, and other renewable energy resources. Fusion will not release chemical combustion products into the air; it will not create byproducts that are hazardous to store or potentially suitable for nuclear weapons. The raw materials needed for fusion are abundant and widely distributed.

The primary goal of fusion energy development is to develop pure fusion systems that will produce heat. Production of electricity is the easiest and most straightforward application for fusion, but there are many other applications as well.

This legislation seeks to achieve operation of a magnetic fusion engineering device—based on the best available confinement concept—not later than 1990. Operation of a magnetic fusion demonstration plan is sought by the year 2005. A comprehensive program management plan for research, development, and demonstration will be devised. Industry, universities, government laboratories, other scientific and technical organizations will be represented on a panel to advise the Secretary of Energy. International cooperation agreements in magnetic fusion research will be strengthened.

I believe that this bill merits widespread bipartisan support. In a letter to Energy Secretary Duncan last December, the distinguished minority leader expressed the concern of many of us that initiatives are vital now to bolster fusion's potential as a major energy source in the future. I hope that hearings in the Energy Committee this year will illuminate the promise and problems of fusion in the course of considering this legislation.

Mr. President, I believe we must focus national attention on fusion's potential as a major energy source in the future. Some experts believe the commercial viability of fusion can be demonstrated in 10 to 15 years. This bill will help mobilize national resources to overcome the obstacles to fusion and to speed its commercial use.

Mr. President, I ask unanimous consent that the text of the Magnetic Fusion Energy Engineering Act of 1980 be printed in the RECORD. I also ask unanimous consent that an article about fusion by Thomas O'Toole that appeared in the Washington Post on June 24 be printed in the RECORD.

There being no objection, the article and bill were ordered to be printed in the RECORD, as follows:

PANEL URGES UNITED STATES TO SPEND BILLIONS ON FUSION POWER

(By Thomas O'Toole)

The United States is making such progress in harnessing the power of the hydrogen bomb that it should build a $1 billion test facility in the next 10 years to lay the foundation for commercial fusion power plants.

At the same time, the United States should double spending on fusion research to $1 billion a year in the next five years so the pace of development can be matched with the engineering test facility to have the first commercial fusion plant operating by the turn of the century.

These were the two major recommendations to the Department of Energy by the Energy Research Advisory Board's Fusion Review Panel, which gave fusion power its heartiest nongovernment, endorsement.

"This next step in the fusion program is sound and timely," the panel said in a report that took almost six months to prepare and was released yesterday. "The U.S. should determine as soon as is feasible whether fusion reactors can compete with alternate energy sources from economic, environmental and safety standpoints."

Fusion power involves the combining of light gases in such a way that they release temperatures that match the heat of the sun. The commercial development of fusion, sought for the last 30 years, would bring a swift end to at least that part of the energy crisis that involves burning oil, coal or uranium to generate electricity.

The main fuels for fusion would be deuterium and tritium, isotopes of hydrogen that can be extracted in abundance from seawater.

The review panel said it expects the feasibility of fusion to be demonstrated in 1983 by the Tokomak fusion test reactor being built at Princeton University for $284 million.

Demonstrating fusion means creating a temperature inside the fusion test reactor of 100 million degrees and sustaining it for at least one second. A device known as the Princeton Large Torus has reached temperatures of 60 million to 80 million degrees for one-twentieth of a second.

"The last five years have been marked by notable achievements, making the U.S. the unquestioned leader in fusion research," the report said. "There is a momentum in the program which should continue until the mid-1980s."

The review panel's recommendations are likely to have a deep impact on the White House, the Department of Energy and the Congress, in part because the panel consists of some of the nation's most renowned scientists.

The 10-member panel includes Marvin Goldberger, president of the California Institute of Technology; Wolfgang Panofsky, director of the Stanford Linear Accelerator Center, and John S. Foster Jr., former head of research for the Pentagon and now vice president for science for TRW Inc. The panel is chaired by Sol Buchsbaum, executive vice president of Bell Laboratories.

Once scientists demonstrate that fusion is possible, they must move to the next step—demonstrating that it can produce usable energy. That involves creating temperatures of 100 million degrees and sustaining them for days and even weeks.

This would be done by the $1 billion Fusion Engineering Device recommended by the panel, which said it is feasible to produce a burning plasma that would sustain a 100-million-degree temperature virtually indefinitely.

The major obstacles to this are finding wall materials that can withstand the terrific heat created if any of the burning plasma leaks from its confinement. In a fusion device, the 100-million-degree gas is contained by an enormous magnetic field that keeps the hot gas from contact with walls of the device.

The magnetic field would have to be generated in a fusion engineering device so strong that it would be too much for conventional copper coiled magnets.

The magnetic field would have to be generated by a network of superconducting magnets whose size and expense would be enormous.

Finally, a fusion engineering device would be a test of whether constant neutron bombardment would contaminate the walls of a reactor to where the reactor might have to be shut down and the walls dismantled every few years.

"This facility would demonstrate whether a fusion reactor could answer questions of public safety," Dr. Edward A. Frieman, director of energy research for the Energy Department, said. "It would tell us how a plant operator would deal with a fusion device when the time comes for fusion to go commercial."

S. 2926

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Magnetic Fusion Energy Engineering Feasibility Demonstration Act of 1980".

FINDINGS AND POLICY

Sec. 2. (a) The Congress hereby finds that—

(1) the United States must formulate an energy policy designed to meet an impending world-wide shortage of many exhaustible, conventional energy resources in the next few decades;

(2) the energy policy of the United States must be designed to ensure that energy technologies using essentially inexhaustible resources are commercially available at a time prior to serious depletion of conventional resources;

(3) fusion energy is one of the few known energy sources which are essentially inexhaustible, and thus constitutes a long-term energy option;

(4) major progress in all aspects of magnetic fusion energy technology during the past decade instills confidence that power production from fusion energy systems is achievable;

(5) the United States must aggressively pursue research and development programs in magnetic fusion designed to foster advanced concepts and advanced technology and to develop efficient, reliable components and subsystems;

(6) to ensure the timely commercialization of magnetic fusion energy systems, the United States must demonstrate at an early date the engineering feasibility of magnetic fusion energy systems;

(7) progress in magnetic fusion energy systems is currently limited by the funds made available rather than technical barriers;

(8) it is a proper role for the Federal Government to accelerate research, development, and demonstration programs in magnetic fusion energy technologies;

(9) acceleration of the current magnetic fusion program will require a doubling within 7 years of the present funding level without consideration of inflation.

(b) It is therefore declared to be the policy of the United States and the purpose of this Act to accelerate the national effort in research, development, and demonstration activities related to magnetic fusion energy systems. Further, it is declared to be the policy of the United States and the purpose of this Act that the objectives of such program shall be—

(1) to promote an orderly transition from the current research and development program through commercial development;

(2) to establish a national goal of demonstrating the engineering feasibility of magnetic fusion by the early 1990's;

(3) to achieve at the earliest practicable time, but not later than the year 1990, operation of a magnetic fusion engineering device based on the best available confinement concept;

(4) to establish as a national goal the operation of a magnetic fusion demonstration plant by the year 2005;

(5) to foster cooperation in magnetic fusion research and development among government, universities, industry, and national laboratories;

(6) to promote the broad participation of domestic industry in the national magnetic fusion program;

(7) to continue international cooperation in magnetic fusion research for the benefit of all nations;

(8) to promote greater public understanding of magnetic fusion; and

(9) to maintain the United States as the world leader in magnetic fusion.

DEFINITIONS

Sec. 3. For the purposes of this Act—

(1) "fusion" means a process whereby two light nuclei, such as deuterium and tritium, collide at high velocity, forming a compound nucleus, which subsequently separates into constituents which are different from the original colliding nuclei, and which carry away the accompanying energy release;

(2) "magnetic fusion" means the use of magnetic fields to confine a very hot, fully ionized gas of light nuclei, so that the fusion process can occur;

(3) "energy system" means a facility designed to utilize energy released in the magnetic fusion process for the generation of electricity and the production of hydrogen or other fuels;

(4) "fusion engineering device" means a magnetic fusion facility which achieves at least a burning plasma and serves to test components for engineering purposes;

(5) "demonstration plant" means a prototype energy system which is of sufficient size to provide safety, environmental reliability, availability, and ready engineering extrapolation of all components to commercial size but which system need not be economically competitive with then alternative energy sources;

(6) "Secretary" means Secretary of Energy.

PROGRAM ACTIVITIES

Sec. 4. (a) (1) The Secretary shall initiate activities or accelerate existing activities in research areas in which the lack of knowledge limits magnetic fusion energy systems in order to ensure the achievement of the purposes of this Act.

(b) (1) The Secretary shall maintain an aggressive plasma confinement research program on the current lead concept to provide a full measure of support for the design, construction, and operation of the fusion engineering devices.

(2) The Secretary shall maintain a broadly based research program on alternate confinement concepts and on advanced fuels at a sufficient level of funding to achieve optimal design of each successive magnetic fusion facility using the then best available confinement and fuel concept.

(3) The Secretary shall ensure that research on properties of materials likely to be required for the construction of fusion engineering devices is adequate to provide timely information for the design of such devices.

(c) (1) The Secretary shall initiate design activities on a fusion engineering device using the best available confinement concept to ensure operation of such device at the earliest practicable time, but not later than the year 1990.

(2) The Secretary shall develop and test the adequacy of the engineering design of components to be utilized in the fusion engineering device.

(d) The Secretary shall initiate at the earliest practical time each activity which he deems necessary to achieve the national goal for operation of a demonstration plant by the year 2005.

(e) The Secretary shall continue efforts to assess factors which will determine the commercial introduction of magnetic fusion energy systems including, but not limited to—

(1) projected costs of alternative energy sources;

(2) projected growth rates in energy demand;

(3) safety-related design limitation;

(4) environmental impacts;

(5) limitations on the availability of strategic elements such as helium, lithium, and precious metals.

COMPREHENSIVE PROGRAM MANAGEMENT PLAN

Sec. 5. (a) The Secretary shall prepare a comprehensive program management plan for the conduct of the research, development, and demonstration activities under this Act. Such plan shall include at a minimum—

(1) a presentation of the program strategy which will be used to achieve the purposes of thise Act;

(2) a five-year program implementation schedule, including identification of detailed milestone goals, with associated budget and program resources requirements;

(3) risk assessments;

(4) supporting research needed to solve problems which may inhibit or limit development of magnetic fusion energy systems; and

(5) an analysis of institutional, environmental, and economic considerations which are limiting the national magnetic fusion program.

(b) The Secretary shall transmit the comprehensive program management plan to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate not later than January 1, 1982.

MAGNETIC FUSION ENGINEERING CENTER

Sec. 6. (a) The Secretary shall develop a plan for the creation of a national magnetic fusion engineering center for the purpose of accelerating fusion technology development via the concentration and coordination of major magnetic fusion engineering devices and associated activities at such a national center.

(b) In developing the plan, the Secretary shall include relevant factors including, but not limited to—

(1) means of saving cost and time through the establishment of the national center relative to the cost and schedule currently projected for the program;

(2) means of providing common facilities to be shared by many magnetic fusion concepts;

(3) assessment of the environmental and safety-related aspects of the national center;

(4) provisions for international cooperation in magnetic fusion activities at the national center;

(5) provision of access to facilities for the broader technical involvement of domestic industry and universities in the magnetic fusion energy program;

(6) siting criteria for the national center including a list of potential sites;

(7) the advisability of establishing such a center considering all factors, including the alternative means and associated costs of pursuing such technology.

(8) changes in the management structure of the magnetic fusion program to allow more effective direction of activities related to the national center;

(c) The Secretary shall submit not later than July 1, 1981, a report to the House Committee on Science and Technology and the Senate Committee on Energy and Natural Resources characterizing the plan and setting forth the steps necessary for implementation of the plan, including any steps already implemented.

TECHNICAL PANEL ON MAGNETIC FUSION

Sec. 7. (a) A Technical Panel on Magnetic Fusion of the Energy Research Advisory Board shall be established to advise the Secretary on the conduct of the national magnetic fusion energy program.

(b)(1) The technical panel shall be comprised of such representatives from domestic industry, universities, government laboratories, and other scientific and technical organizations as the Chairman of the Energy Research Advisory Board deems appropriate based on his assessment of the technical qualifications of each such representative.

(2) Members of the Technical Panel need not be members of the full Energy Research Advisory Board.

(c) The activities of the Technical Panel shall be in compliance with any laws and regulations guiding the activities of technical and fact-finding groups reporting to the Energy Research Advisory Board.

(d) The Technical Panel shall review and may make recommendations on the following items, among others:

(1) the preparation of the five-year program plan prepared pursuant to Sec. 5;

(2) the type of future facilities needed to meet the goals of this Act along with their projected completion dates;

(3) the adequacy of participation by universities and industry in the program;

(4) the adequacy of international cooperation in magnetic fusion and any problems associated therewith; and

(5) institutional, environmental, and economic factors limiting, or prospectively limiting, efforts to achieve commercial application of magnetic fusion energy systems.

(e) The Technical Board shall submit to the Energy Research Advisory Board on at least an annual basis a written report of its findings and recommendations with regard to the magnetic fusion program.

(f) After consideration of the Technical Panel report, the Energy Research Advisory Board shall submit such report, together with any comments such Board deems appropriate, to the Secretary.

PROGRAM ADVISORY COMMITTEES

SEC. 8. (a) The Secretary shall direct the Director of each major magnetic fusion laboratory or installation operated for, and funded by, the Federal government (hereinafter referred to as the Director) to establish a Program Advisory Committee solely for the purpose of advising such Director.

(b)(1) Each such Committee shall have such representation from domestic industry, universities, government laboratories, and other scientific and technical organizations as the Director deems appropriate.

(2) Initial members of such Committee shall be selected by the Director, but the term of service and future members shall be determined by each such Committee.

(3) Each such Committee shall be chaired by an individual appointed by the Director, taking into consideration the recommendations of the members of such Committee.

(c) Each Program Advisory Committee shall advise the Director on the following items, among others:

(1) the types of experiments which need to be conducted utilizing such facility including a priority ranking;

(2) the availability of technical expertise in other research laboratories to conduct or to assist in the conduct of the experiments;

(3) methods for accommodating experiments by technical teams not associated with the laboratory with which such facility is associated;

(4) possible arrangements for payment of operating expenses for such facility associated with experiments conducted by technical teams not associated with such laboratory from other sources of research funding; and

(5) such other matters as the Director of each such Committee deems appropriate.

(d) Each Program Advisory Committee shall meet at least annually to provide such advice to the Director.

INTERNATIONAL COOPERATION

SEC. 9. (a)(1) The Secretary in consultation with the Secretary of State shall actively seek to enter into or to strengthen existing international cooperative agreements in magnetic fusion research and development activities of mutual benefit to all parties.

(2) The Secretary shall seek to achieve equitable exchange of information data, scientific personnel, and other considerations in the conduct of cooperative efforts with technologically advanced nations.

(b)(1) The Secretary shall examine the potential impacts on the national magnetic fusion program of United States participation in an international effort to construct fusion engineering devices.

(2) The Secretary shall explore, to the extent feasible, the prospects for joint financial participation by other nations with the United States in the construction of a fusion engineering device.

(3) Within two years of the enactment of this Act the Secretary shall transmit to the House Committee on Science and Technology and the Senate Committee on Energy and Natural Resources the results of examinations and explorations with his recommendations for construction of a national or international fusion engineering device: *Provided, however,* That such examinations and explorations shall not have the effect of delaying design activities related to a national fusion engineering device.

TECHNICAL MANPOWER REQUIREMENTS

SEC. 10. (a) The Secretary shall assess the adequacy of the projected United States supply of manpower in the engineering and scientific disciplines required to achieve the purposes of this Act taking cognizance of the other demands likely to be placed on such manpower supply.

(b) The Secretary shall within two years of the date of enactment of this Act submit a report to the President and to the Congress setting forth his assessment along with his recommendations regarding the need for increased support for education in the engineering and scientific disciplines.

INFORMATION DISSEMINATION

SEC. 11. (a) The Secretary shall take all necessary steps to assure that technical information relevant to the status and progress of the national magnetic fusion program is made readily available to interested persons in domestic industry and universities in the United States;

Provided, however, That upon a showing to the Secretary by any person that any information or portion thereof provided to the Secretary directly or indirectly from such person would, if made public, divulge (1) trade secrets or (2) other proprietary information of such person, the Secretary shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18, United States Code.

(b) The Secretary shall maintain an aggressive program in the United States for the provision of public information and educational materials to promote widespread knowledge of magnetic fusion among educational, community, business, environmental labor, and governmental entities and the public at large.

REPORTS

SEC. 12. As a separate part of the annual report submitted pursuant to section 801 of the Department of Energy Organization Act (Public Law 95-91), the Secretary shall submit to Congress an annual report of activities pursuant to this Act. Such report shall include—

(a) modifications to the comprehensive program management plan for implementing this Act;

(b) an evaluation of the state of national magnetic fusion energy program in the United States;

(c) a summary of the findings and recommendations of the annual report of the Energy Research Advisory Board on magnetic fusion;

(d) an analysis of the progress made in commercializing magnetic fusion technology; and

(e) suggestions for improvements in the national magnetic fusion program, including recommendations for legislation.

AUTHORIZATION OF APPROPRIATIONS

SEC. 13. There is hereby authorized to be appropriated to the Secretary, for the fiscal year ending September 30, 1981, such sums as are provided in the annual authorization Act pursuant to section 660 of Public Law 95-91.

By Mr. MORGAN (for himself, Mr. GARN, Mr. RIEGLE, Mr. CHILES, Mr. DOMENICI, and Mr. FORD):

S. 2927. A bill to prescribe an interest rate differential on deposits and accounts in insured banks and savings institutions; to the Committee on Banking, Housing, and Urban Affairs.

INTEREST DIFFERENTIAL ON SAVINGS

● Mr. MORGAN. Mr. President, today I am introducing a bill that will produce a more equitable solution to a problem which came to the public's attention through the actions of the Depository Institutions Deregulation Committee.

On May 28, 1980, the committee acted to eliminate the differential on certain savings accounts and created a complicated formula for computing interest maximums and minimums.

As we all know and as we brought out in the lengthy floor debate on H.R. 4986, the banks desire a total elimination of the differential in interest paid on savings accounts and certificates and savings and loan associations favor the retention of the differential which is created by the well-known regulation Q.

The Deregulation Committee was directed to provide for an orderly phase-out of the differential over a 6-year period with proper attention paid to the impact of its actions on various financial institutions.

What took place on May 28 was neither orderly nor gradual. The differential was retained on some accounts intact and was eliminated in certain ranges for other deposits.

Quite simply, the bill which I am introducing would provide for an orderly phase-out of the differential which creates a solid compromise for banks and S. & L.'s

The bill provides that for the next 12 months the differential would be retained at one-quarter of 1 percent. The next year, the differential declines to 20 basis points. Each year thereafter, it would decline by five basis points so that, by the end of 5 years, the differential would be eliminated.

This is a simple, across-the-board, and equitable approach to the issue presented by the differential. The banks are assured of an orderly reduction in the competitive advantage they feel that S. & L.'s enjoy with a definite termination date. Termination of the differential would begin with certainty today.

Savings and loans would be given time, as provided by Public Law 96-221, to reorganize themselves and prepare to use the tools given them by the law in order to compete with banks. They would be put on notice that the differential was on its way out.

This bill would establish a statutorily guaranteed differential between thrift institutions and commercial banks for accounts created since December 10, 1975. The bill does not affect the expiration date of Public Law 94-200 and carries forward the purposes of H.R. 4986.

I believe that this bill will benefit everyone. It removes the burden from the Deregulation Committee to determine where and when to eliminate or reduce the differential, it guarantees banks a definite termination point for the differential and allows them greater certainty in their planning, and the bill gives S. & L.'s the time provided in the bill to arrange their affairs and to attract badly needed housing funds.●

Mr. DOMENICI. Mr. President, since the early 1950's, thrift institutions in this country have grown from providing about 35 percent of this Nation's mortgage finance to about 55 percent. These are the financial institutions which the people have come to rely upon to meet our Nation's housing needs and to stimulate our construction industry. Therefore, it has always been—but is particularly now—important that we insure a flow of savings to these institutions to provide mortgage credit.

In the the past, Congress provided additional support to housing by allowing thrift institutions to pay slightly more on its savings accounts than commercial banks—the so-called "differential."

On the other hand, commercial banks had much broader asset and liability powers than thrift institutions—checking accounts, trust offices, consumer lending and so on. The idea was to separate savings and service institutions. But competition suffered and both the thrift and commercial banking industries were subjected to violent cycles of disintermediation.

This last year Congress passed several very important pieces of legislation restructuring and streamlining the entire financial system of this country. H.R. 4986, enacted in February of this year, for example, provided for an orderly phase out of regulation Q and the "differential." Simultaneously, the legislation permitted thrift institutions to offer a whole new menu of savings instruments, NOW accounts, consumer loans and trust services. The new asset powers were immediate while the phase-out was scheduled to take 6 years. But—and this is the important point—it will take some time, maybe even 6 years, for thrift institutions balance sheets to show the benefit of their new powers. It will take time for consumers to understand the new services, and, it will take time for savings and loan people to market and adjust to their own new products. No business, Mr. President, could expect to so radically alter its whole line of services without time to adjust, adapt, and experiment.

On May 28 of this year, the newly created Depository Institutions Deregulation Committee (DIDC) chose to exercise its regulatory authority and phase out the differential (except for a very narrow band on the interest rate spectrum)—not over a 6-year period—but immediately. The bill we are introducing today, Mr. President, would reinstitute the differential and phase it out over the full 6-year period. I believe it is in keeping with the orderly process initially envisioned.

But, Mr. President, I would point out that this bill is not aimed at commercial banks. In fact, it provides that the differential will disappear—not at an unspecified time, but over a period carefully spelled out. It only provides that the thrift industry will be able to perfect the new asset powers it has been given and, more importantly, time for those new powers to find their way into the S. & L. balance sheet. It is a fair and equitable approach for both the thrift and commercial banking industry, Mr. President. And perhaps more importantly, it will promote the ready availability of housing finance in this period of credit restrictiveness.

I am pleased to cosponsor this bill and urge its rapid approval.

● Mr. CHILES. Mr. President, I am pleased to support this legislation proposed by Senator MORGAN. I think the bill we are introducing today provides a reasonable alternative to the reckless and ill conceived actions of the Depository Institutions Deregulation Committee that effectively eliminate much of the authority of savings and loans and other thrifts to pay a quarter percent more than commercial banks on savings instruments.

We all know there is a strong and basic relationship between the housing industry and the thrifts, especially savings and loan associations. S. & L.'s provide some 60 percent of all mortgage credit for housing but are now, unfortunately, enduring some of the toughest times in the history of their industry.

For the first 4 months of this year, they have seen a tremendous drop in acquired net new savings, down 93 percent from last year. On the lending side, only $18.4 billion was loaned for mortgages in the first 4 months of the year, marking a 35-percent reduction from the same period last year. When inflation is taken into consideration, S. & L.'s are operating at a lower level now than during the mid-1970's crunch.

This proposal to phase out the differential in an orderly, regular manner makes good economic sense. It will allow lending institutions the time they need to modify their operations and will give them the opportunity to plan their changes in an orderly manner as was envisioned in Public Law 96-221. It is important to note that this legislation does not postpone the phase out of the differential, it merely insures that mortgage lending institutions will not have the rug pulled out from under their feet in the space of 6 weeks. I think if we are going to insure the health and viability of our housing industry, we need to carefully consider sensible recommendations such as this that will help assure the well-being of the financial institutions that make mortgage credit available.●

By Mr. LAXALT (for himself, Mr. SIMPSON, Mr. WALLOP, Mr. LUGAR, Mr. HATCH, Mr. HAYAKAWA, Mr. SCHWEIKER, Mr. DOLE, and Mr. THURMOND):

S. 2928. A bill to establish a charter for the Federal Bureau of Investigation, and the other purposes; to the Committee on the Judiciary.

FEDERAL BUREAU OF INVESTIGATION CHARTER ACT

● Mr. LAXALT. Mr. President, today I am introducing a new charter for the FBI. It is part of a package of bills, introduced by myself and several other Senators, which will serve as alternate charters for the FBI and for the Intelligence Agencies.

The charter I am introducing today is a clear and concise document which delineates the mission of the FBI and gives it the authority it needs to function effectively in the difficult years ahead. At the same time, it has been carefully drafted so that it protects the civil liberties and legal rights of our citizens, and explicitly precludes the FBI from committing the abuses which were so prevalent in an earlier time.

The protection of the constitutional rights of Americans on the one hand, and the ability of any law enforcement agency to function on the other, requires the striking of a delicate balance. Throughout our history the two have often clashed, leaving for the courts and the Congress to reconcile what have become many of their most trying issues.

As law enforcement requirements and the protection of civil liberties continue to clash, we cannot back away from them, but must try to meet the challenge by giving our law enforcement agencies the structure and the means necessary to prevent criminal activity and terrorism, while at the same time protecting the rights of our innocent citizens. My charter meets that challenge, I believe, and strikes the balance between those two conflicting forces in a positive and workable way.

Our intention in introducing this charter is to present a clear statement of our position, thereby stimulating interest in an FBI Charter which will be acceptable to a majority of the Congress. S. 1612, the FBI Charter Act introduced last summer with the administration's blessing, has been stalled in the Judiciary Committee for nearly a year, and is unlikely to emerge from the committee in this Congress. Those of us who are cosponsoring this new charter are convinced that it is stalled not because committee members believe the FBI does not need a charter, but because we are concerned that the charter places too many unreasonable and unworkable restrictions on the Bureau, making it impossible to do an effective job of law enforcement.

The FBI remains our primary law enforcement agency, our single most effective weapon in the battle against terrorism and organized crime. The organized criminal and the terrorist make the maximum use, as a shield from investigation, of groups and individuals who are legitimately asserting their constitutional rights. In investigating organized crime and terrorist activity, therefore, law enforcement agencies must often tread a very fine line between the use of legitimate and legal investigative techniques and infringement of civil liberties and constitutional rights. Rigid controls placed on the use of undercover agents and informants tend to hinder the FBI's ability to deal with such crimes, while too lax a standard would allow a recurrence of past abuses.

We believe that S. 1612, the administration's charter, imposes debilitating restrictions on the FBI's ability to investigate, to gather intelligence, and to apprehend those who would work to destroy our society, and does not demonstrate a rational understanding of the Bill of Rights. Our Constitution is not a covenant of nonresistance toward the criminal element, and we certainly are entitled to preserve the free society that is implicit in the Constitution. This charter will allow the FBI to perform the work that is so crucial to that self-preservation, while it will not permit the FBI to abuse our innocent citizen.

I ask unanimous consent that the text of the bill be printed in the RECORD.●

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2928

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Bureau of Investigation Charter Act".

SEC. 2. (a) Chapter 33 of title 28, United States Code, is amended to read as follows:

"CHAPTER 33—FEDERAL BUREAU OF INVESTIGATION CHARTER

"SUBCHAPTER I—PURPOSES; PRINCIPLES; DEFINITIONS

"Sec.
"531. Statement of purposes.
"531a. General principles.
"531b. Definitions.

"SUBCHAPTER II—THE FEDERAL BUREAU OF IN-INVESTIGATION; DIRECTOR; DUTIES OF THE DIRECTOR

"532. The Federal Eureau of Investigation.
"532a. Director of the Federal Bureau of Investigation.
"532b. Duties of the Director.
"532c. General powers and duties.

"SUBCHAPTER III—CRIMINAL INVESTIGATIONS

"533. Criminal activity.
"533a. Guidelines for investigation of criminal matters.
"533b. Use of various investigative techniques.
"533c. Retention, dissemination, and destruction of information.

"SUBCHAPTER IV—UNDERCOVER OPERATIONS

"534. General authority.
"534a. Techniques.

"SUBCHAPTER V—CIVIL AND OTHER INVESTIGATIONS

"535. General authority.
"535a. Background investigations.
"535b. Special service functions.

"SUBCHAPTER VI—LAW ENFORCEMENT SUPPORT FUNCTIONS

"536. Education, training, and research.
"536a. Foreign liaison.
"536b. Maintenace and exchange of information.
"536c. Technical assistance.

"SUBCHAPTER VII—MISCELLANEOUS

"537. Civil fines and penalties.
"537a. Civil remedies; nonlitigability of guidelines and procedures.
"537b. Congressional oversight and accountability of the Federal Bureau of Investigation.

"SUBCHAPTER I—PURPOSES; PRINCIPLES; DEFINITIONS

"§ 531. Statement of purposes

"The purposes of this chapter are—

"(1) to define the duties and responsibilities of the Federal Bureau of Investigation (FBI) except as to foreign intelligence collection and foreign counterintelligence investigations;

"(2) to confer upon the FBI and to codify the statutory authority necessary to discharge those duties and responsibilities; and

"(3) to authorize the promulgation of procedures for the discharge of those duties and responsibilities.

"§ 531a. General principles

"(a) The FBI shall conduct its investigations consistent with the constitutional and legal rights of citizens of the United States.

"(b) The FBI is authorized to—

"(1) conduct investigations not exclusively assigned to, or within the exclusive jurisdiction of, another agency to detect violations, to prevent violations, and to aid in the prosecution of violations of the criminal laws of the United States; and

"(2) conduct such investigations, and collect and maintain such intelligence and information, as may be necessary for the security of the United States and its defense, and to facilitate the operations of the FBI in carrying out investigations authorized by this chapter.

"(c) LIMITATIONS.—The FBI shall not conduct an investigation solely on the basis of—

"(1) a religious or political view lawfully expressed by an individual or group;

"(2) the lawful exercise of the right to peaceably assemble and to petition the Government; or

"(3) the lawful exercise of any other right secured by the Constitution or laws of the United States.

"(d) MINIMAL INTRUSION.—The FBI shall carry out its investigative responsibilities with only such intrusion as may be necessary for the accomplishment of the purposes authorized by this chapter.

"§ 531b. Definitions

"As used in this chapter, the term—

"(1) 'aggravated property destruction' means significant damage to property or to a public facility, or the interruption or impairment of a public facility, through the use of a destructive device;

"(2) 'criminal activity' means acts which violate the criminal laws of the United States, and the planning of, and preparation for, such acts;

"(3) 'criminal history information' means information compiled by a criminal justice agency concerning an individual, consisting of notations of arrest, detention, indictment, information, or other informal crim-

"(4) 'destructive device' means any implement or device or other material that can inal charge, together with the disposition thereof, if any;
be used to cause bodily harm or damage to property;

"(5) 'Director' means the Director of the FBI;

"(6) 'enterprise' means—

"(A) a partnership, corporation, association or other such entity; or

"(B) two or more individuals associated in fact for a common purpose, whether or not they are a legal entity;

"(7) 'guidelines' means written statements issued by the Attorney General establishing investigative policy for the FBI;

"(8) 'informant' means any person or entity which, by arrangement, furnishes information to the FBI on a confidential basis;

"(9) 'source' is any person or entity which, although not asked to provide information to the FBI on a continuing basis is, by reason of position or location, able to provide on a confidential basis information relating to specific matters within the jurisdiction of the FBI pursuant to this chapter;

"(10) 'mail cover' means any systematic and deliberate inspection of the exterior of mail in the United States postal channels, prior to delivery of such mail to the addressee, and the recording of information thereon;

"(11) 'procedures' means internal rules, directives or regulations, or manuals promulgated by the Director of the FBI;

"(12) 'proprietary' means a sole proprietorship, partnership, corporation, or other business entity that is owned or controlled by the FBI and used by the FBI in connection with undercover operations but whose relationship with the FBI is not generally acknowledged;

"(13) 'racketeering activity' means activity that involves a violation of sections 1961 through 1968 of title 18, United States Code, or a violation incorporated in section 1961 (1) of such title;

"(14) 'State' means a State of the United States, the District of Columbia, or a geographical area outside a State of the United States;

"(15) 'terrorist activity' means violent acts, including kidnaping, aggravated property destruction, the taking of hostages, bombings, sabotage, terrorizing, or the infliction of bodily harm, for the purpose of—

"(A) intimidating or coercing the civil population, or any segment thereof, or any public or private entity; or

"(B) influencing or retaliating against the policies or actions of the Government of the United States or of any State or political subdivision thereof or of any foreign state, by intimidation or coercion;

"(16) 'terrorizing' means the communication of—

"(A) a threat to commit, or to continue to commit, a Federal crime of violence or unlawful conduct dangerous to human life; or

"(B) information, known to be false, that the commission of a Federal crime of violence is imminent or in progress or that a circumstance dangerous to human life exists or is about to exist, and thereby causes any person to be in sustained fear for his or another person's safety, causes evacuation of a building, a public structure, or a facility of transportation, or causes serious disruption to the public; and

"(17) 'pattern of terrorist activity' means two or more separate terrorist acts that share the same participants or methods of commission or have similar victims or other characteristics that create the appearance of an interrelationship.

"SUBCHAPTER II—THE FEDERAL BUREAU OF INVESTIGATION; DIRECTOR; DUTIES OF THE DIRECTOR

"§ 532. The Federal Bureau of Investigation

"The FBI is within the Department of Justice and shall discharge its duties and responsibilities under the general authority of the Attorney General.

"§ 532a. Director of the Federal Bureau of Investigation

"The President shall appoint a Director, by and with the advice and consent of the Senate, for a term of ten years. A Director may not serve more than one ten-year term. The President may remove the Director only for gross neglect of the duties of the office or malfeasance in office.

"§ 532b. Duties of the Director

"The Director shall—

"(1) ensure that the duties and responsibilities of the FBI are carried out consistent with the Constitution and the laws of the United States, and in accordance with the provisions of this chapter and the guidelines and procedures promulgated pursuant to this chapter; and

"(2) promulgate such procedures as are necessary to administer the FBI pursuant to the provisions of this chapter.

"§ 532c. General powers and duties

"The Director, any Executive Assistant Director, any Assistant to the Director, Assistant Director, Inspector, and any agent of the FBI may—

"(2) investigate a violation of a law of the United States or any other matter encompassed by the provisions of this chapter;

"(3) execute an order, warrant, subpena, investigative demand, or other process issued under the authority of the United States for arrest, search, or seizure, or production of evidence;

"(4) make an arrest without a warrant for an offense against the United States committted in his presence, or for a felony cognizable under the laws of the United States committed outside his presence if he has probable cause to believe that the person to be arrested has committed or is committing or is about to commit a felony;

"(5) offer and pay a reward for services or information assisting in the detection or investigation of the commission of a violation of the criminal laws of the United States or the apprehension of an offender; and

"(6) perform any other lawful duty that the Attorney General may direct, consistent with this chapter.

"SUBCHAPTER III—CRIMINAL INVESTIGATIONS

"§ 533. Criminal activity

"(a) Authority.—The FBI is authorized to conduct investigations of an individual or a group of individuals who have engaged, are engaged, or are likely to engage, in criminal activity, or who intend to use violence or other unlawful means to overthrow the Government of the United States or to influence or bring about a change in the policy of the United tSates or any State or subdivision thereof, or to deny other individuals their constitutional or legal rights.

"(b) Racketeering.—The FBI is authorized to conduct investigations of two or more individuals who are engaged in racketeering activity as a continuing enterprise, or who are engaged, as a continuing enterprise, in other activities in violation of the criminal laws not covered in this chapter.

"(c) Investigation and Prevention of Terrorist Activities.—The FBI is authorized to conduct investigations, and gather and maintain such information and intelligence as may be necessary, to prevent terrorist activity, and to identify and aid in the prosecution of individuals or groups of individuals involved in domestic terrorist activity.

"§533a. Guidelines for investigation of criminal matters

"The Attorney General, as soon as feasible after enactment of this chapter, shall promulgate guidelines for inquiries and investigations conducted pursuant to section 533, embodying the principle that such investigations will be conducted in such manner as to efficiently and expeditiously detect, prevent and prosecute criminal activity, and to efficiently and expeditiously collect and maintain intelligence regarding the national security of the United States. Such guidelines shall be designed to protect the security of the people of the United States as well as protect their legal and constitutional rights, and shall also insure that information obtained by the FBI be used only for lawful purposes.

"§ 533b. Use of various investigative techniques

"(a) Sources, Informants, and Undercover Agents.—

"(1) Authorty.—The FBI is authorized to use sources, informants, and undercover agents for investigations and intelligence activities authorized by this chapter and only in a manner consistent with the restrictions of this chapter.

"(2) Criminal activity.—Informants are authorized to participate in acts which are or may be in violation of the criminal laws of the United States (other than acts which may result in death or serious bodily injury) when under the supervision of an officer of the Department of Justice or of the FBI, if such acts are required to obtain information necessary for lawful purposes, to establish and maintain credibility or cover with persons associated with the activity under investigation, or to prevent or avoid death or serious bodily injury or danger to himself or another. An informant is not an agent or employee of the FBI, and if an informant becomes involved in unauthorized criminal activity, the relationship with the FBI shall not protect him from arrest and prosecution by Federal, State, or local authorities.

"(3) Authorization for criminal activity.—If circumstances permit, prior authorization shall be obtained for such participation in criminal activities. If circumstances make it impossible to obtain prior authorization, the informant shall provide a report on his involvement as soon as possible after the event to his supervising officer. Each informant shall be advised that, in carrying out his assignment, he shall not initiate plans to commit criminal acts or actively participate in crimes of violence, or use techniques to obtain information which an FBI agent could not use under the same circumstance. He shall further be advised that if he does initiate plans to commit criminal acts, or actively participates in crimes of violence other than pursuant to paragraph (2), or uses techniques to obtain information which an FBI agent could not use under the same circumstances, his relationship with the FBI will not protect him from arrest and prosecution by Federal, State, or local authorities.

"(b) Physical, Mail, and Electronic Surveillance.—The FBI may conduct physical, mail, and electronic surveillance against an individual or group of individuals only for the purposes of and within the scope of investigative activity authorized in this chapter, and only in accordance with applicable law.

"(c) Third Party Records.—Consistent with applicable provisions of law, the FBI may obtain or examine financial or other third-party records, including telephone bills, medical records, and hotel and motel registration forms.

"(d) Other Sensitive Techniques.—The FBI may use such other investigative techniques, consistent with applicable provisions of law, as may be necessary to carry out the intent of this chapter.

"§ 533c. Retention, dissemination, and destruction of information

"(a) Retention of Information.—The FBI may disseminate to another Federal under this chapter as it may need to aid the FBI in the investigation of any criminal activity, or for the security and defense of the United States.

"(b) Dissemination of Information.—The FBI may disseminate to another Federal agency, or to a State or local criminal justice agency, criminal background information or other information relating to criminal activities, or information bearing on threats of terrorism or civil disorders or other threats to the public security, as may be necessary to prevent criminal activity or which may be necessary for the security and defense of the United States.

"(c) Destruction of Criminal Investigative Information.—The FBI may destroy any records compiled by the agency, or deposit such records in the Archives of the United States for historic preservation, after such a period of time as the Director determines that no useful purpose will be served by maintaining such records within the FBI.

"(d) Disclosure of Information to the Private Sector.—Under no circumstances shall criminal investigative information be revealed to a person not acting on behalf of a law enforcement agency authorized to receive such information, unless—

"(1) such information relates to potential terrorist activity in which a confidential sharing of information may serve to save life or property or may assist in frustrating the plans of terrorists and result in their apprehension;

"(2) such information relates to a kidnapping, political assassination, or other crime posing a threat to life or serious bodily harm, in which a confidential warning to the object of the crime may prevent the crime from being perpetrated;

"(3) such information relates to the penetration or planned penetration of a legitimate enterprise by racketeering organizations, in which a confidential notification to the management of the legitimate enterprise may serve to frustrate or terminate the penetration, or result in the apprehension of the criminal elements involved; or

"(4) unless the confidential release of such information is otherwise authorized by the Attorney General or his designee on the basis of exceptional circumstances.

"SUBCHAPTER IV—UNDERCOVER OPERATIONS

"§ 534. General authority

"The FBI is authorized to conduct undercover operations when necessary as part of an investigation of criminal activity, terrorist activity, or racketeering activity.

"§ 534a. Techniques

"In conducting undercover operations, the FBI may—

"(1) procure or lease property, supplies, services, equipment, buildings, or facilities, or construct or alter buildings or facilities, or contract for construction or alteration of buildings or facilities (including for the purposes of providing redress to the lessor of any building or facility upon conclusion of any such operation), in any State, including the District of Columbia, without regard to provisions relating to contract clauses, contract procedures, lease and alteration restrictions, or other provisions regulating procurement undertaken in the name of the United States;

"(2) establish, furnish, and maintain secure cover for FBI personnel or informants, by making false representations to third parties, including governmental agencies, and by concealing Government involvement in the operation;

"(3) establish and operate proprietaries;

"(4) use properly accounted for proceeds generated by a proprietary or other undercover operation to offset necessary and reasonable expenses of the proprietary or other undercover operation, if the balance of such proceeds is deposited in the Treasury of the United States as miscellaneous receipts;

"(5) deposit appropriated funds and proceeds of an undercover operation in banks or other financial institutions; and

"(6) engage the services of cooperative individuals or entities in aid of undercover operations, and reimburse those individuals or entities for their services or losses incurred as a result of such operations, if any such assumption of liability for losses is specifically approved by the Attorney General or the Deputy Attorney General before any representations are made relating thereto except in exigent circumstances.

"SUBCHAPTER V—CIVIL AND OTHER INVESTIGATIONS

"§ 535. General authority

"The FBI shall conduct investigations at the request of the Attorney General to aid the Department of Justice in its litigation responsibilities, and shall collect such information and background intelligence as it deems necessary regarding civil disorders that have a potential for violence that may require the presence of Federal troops or United States marshals to enforce Federal law or to ensure the safety of the peaceful participants.

"§ 535a. Background investigations

"The FBI is authorized to conduct background investigations, and to provide relevant information from its files to the Government official requesting such investigation, of individuals who—

"(1) are employed or who may be employed by the United States Government;

"(2) have been designated as appointees to an official position within the executive congressional, or judicial branch of the United States Government;

"(3) have applied for a Presidential reprieve or pardon;

"(4) have been designated by an official of the United States Government as requiring access to classified information;

"(5) are contractors or prospective contractors or employees thereof for an agency of the United States Government;

"(6) are applicants for a substantial Federal grant or loan; or

(7) have access to a person or premises within the protective responsibility of the United States Secret Service if the requesting agency is the United States Secret Service.

"§ 535b. Special service functions

"In addition to other duties and responsibilities defined in this chapter, the FBI may—

"(1) provide investigative assistance, including personnel and support staff, to those committees of the Congress for which it is authorized to conduct background investigation of staff members, on a temporary and reimbursable basis, if the chairman of the committee requests, and the Attorney General or his designee approves, the provision;

"(2) provide investigative assistance and technical services to the Office of Professional Responsibility and other components of the Department of Justice, as authorized by the Attorney General or his designee, in connection with matters within the responsibilities conferred by law upon the Attorney General;

"(3) provide investigative assistance to a Federal grand jury on matters within FBI jurisdiction, upon request of an attorney for the United States;

"(4) provide investigative assistance to other Federal, State, or local law enforcement agencies in criminal investigations when requested by the heads of such agencies if the Attorney General or his designee finds that such assistance is necessary and would serve a substantial public interest; and

"(5) provide protective services as authorized by the Attorney General or his designee in connection with matters within the responsibilities conferred by law upon the Attorney General.

"SUBCHAPTER VI—LAW ENFORCEMENT SUPPORT FUNCTIONS

"§ 536. Education, training, and research

"The FBI is authorized to provide education and training for Federal, State, and local law enforcement agencies, foreign governments, with the approval of the Secretary of State, and the Armed Forces of the United States, and to conduct or contract for research and development to improve law enforcement.

"§ 536a. Foreign liaison

"The FBI shall establish and maintain liaison with, provide assistance to, and cooperate with foreign law enforcement and security agencies to such extent as may be necessary to carry out its responsibilities under this chapter, including the exchange of criminal investigative, scientific, and technical information.

"§ 536b. Maintenance and exchange of information

"(a) CIVIL AND CRIMINAL RECORDS.—The FBI shall acquire, collect, classify, and preserve fingerprint records, records relating to stolen property, missing persons, and such criminal records as are necessary to carry out its functions under this chapter.

"(b) EXCHANGE OF INFORMATION.—Pursuant to the provisions of applicable law and such regulations as the Attorney General may prescribe, the FBI is authorized to exchange information described in subsection (a) with—

"(1) other agencies and departments of the Federal Government;

"(2) foreign law enforcement and security agencies;

"(3) State and local criminal justice and law enforcement agencies;

"(4) federally chartered or insured financial institutions; and

"(5) such other organizations as are required by Federal law to exchange such records.

"§ 536c. Technical assistance

"(a) The FBI is authorized to—

"(1) provide identification assistance for humanitarian purposes, including disasters and missing person cases, at the request of another Federal agency or a foreign, State, or local governmental agency;

"(2) provide laboratory, identification, technical and scientific assistance in connection with—

"(A) an investigation being conducted by a Federal agency that requests such assistance: and

"(B) a criminal investigation being conducted by a State or local law enforcement agency that requests such assistance;

"(3) provide expert testimony in Federal, State, local or foreign proceedings in connection with assistance rendered pursuant to paragraph (1) or (2);

"(4) provide technical examinations to detect clandestine surveillance devices, upon request of a Federal agency, a committee of the Congress, or a court of the United States; and

"(5) provide scientific or technical analyses of materials of historic significance upon request of a Federal, State, or local agency.

"(b)(1) The FBI shall provide personnel, information, and technical and investigative assistance to the United States Secret Service to aid the Service in its protective responsibilities, or may conduct an investigation for the United States Secret Service. In the course of such assistance, the FBI is authorized to emply any sensitive investigative technique authorized by this chapter deemed necessary by the FBI, or requested by the Secret Service.

"(2) The FBI is authorized to disseminate to the Secret Service any information it obtains relating to a possible threat to the life or safety of any person within the protective jurisdiction of the Secret Service.

"SUBCHAPTER VII—MISCELLANEOUS

"§ 537. Civil fines and penalties

"(a) VIOLATION OF CHAPTER.—The Director may impose such disciplinary action as is authorized by law on any person who, while acting as an employee of the FBI, intentionally uses any of the sensitive investigative techniques described in section 533b (b) and (d) knowing that such use violates the provisions of this chapter.

"(b) DISCLOSURE OF INFORMATION.—The Director may impose such disciplinary action as is authorized by law on any person who, while acting as an employee of the FBI, discloses sensitive or confidential information collected or maintained by the FBI to any person or entity not authorized to receive such information.

"(c) IMPROPER DISSEMINATION OF RECORDS.—The FBI may modify, suspend, or cancel the exchange of crime record information if the Federal, foreign, State, or local agency or private organization receiving such information engages in unauthorized dissemination of such information outside the receiving agency or organization or a related agency or organization, in violation of regulations established by the Attorney General.

"§ 537a. Civil remedies; nonlitigability of guidelines and procedures

"(a) NO CIVIL CAUSE OF ACTION AGAINST UNITED STATES.—Nothing in this chapter creates a civil cause of action against the United States not available under other provisions of this title, or a civil cause of action against any officer, agent, or employee or former officer, agent, or employee of the United States not otherwise available at law.

"(b) EFFECT OF FAILURE TO FOLLOW THIS CHAPTER, GUIDELINES, OR PROCEDURES.—Nothing in this chapter, or in any guidelines or procedures established pursuant to this chapter, creates any substantive or procedural right and no court has jurisdiction over a claim in any proceeding, including a motion to quash a subpena, suppress evidence, or dismiss an indictment, based solely on an alleged failure to follow a provision of this chapter or of guidelines or procedures established pursuant to this chapter.

"(c)(1) CRIMINAL SANCTION.—No criminal sanction shall be imposed on any person who, while acting as an employee of the FBI in good faith and without willful intent, complies with this chapter, or the guidelines, employee manuals, and other official directives of the FBI which are consistent with this chapter.

"(2) Any disciplinary proceeding, civil cause of action, or criminal proceeding based upon a violation of this chapter, or the guidelines, employee manuals, or other official directives of the FBI which are consistent with this chapter, shall be commenced not later than 3 years after the date of the occurrence of the alleged violation.

"§ 537b. Congressional oversight and accountability of the Federal Bureau of Investigation

"(a) DUTIES OF THE ATTORNEY GENERAL.—To the extent not inconsistent with all applicable authorities and duties, including those conferred by the Constitution and laws of the United States upon the executive and legislative branches, the Attorney General shall—

"(1) keep the Committees on the Judiciary of the Senate and the House of Representatives fully and timely informed concerning the implementation of this chapter; and

"(2) provide any information or material of the FBI within the jurisdiction of the Committees on the Judiciary of the Senate and the House of Representatives, in accordance with provisions agreed to by the respective chairmen of those committees and the Attorney General.

"(b) DUTIES OF THE DIRECTOR.—On an annual basis, the Director shall provide the following information to Committees on the Judiciary of the Senate and the House of Representatives:

"(1) The total number of investigations, specified by category, conducted in the preceding calendar year.

"(2) The total number of activities, specified by category, conducted in the preceding calendar year which under this chapter require approval of the Director or his designee or the Attorney General or his designee.

"(3) Any other report required by the Committee on the Judiciary of the Senate or the House of Representatives within its oversight functions.

"(c) Congressional Review of Guidelines; Nondisclosure of Guidelines.—As soon as feasible after the effective date of this chapter, the Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives for their review and comment any guidelines established pursuant to this chapter.".

(b) The table of chapters for such title, and for part II of such title, are amended by inserting immediately after the item relating to chapter 31 of the following:

"33. Federal Bureau of Investigation Charter ---------------------------- 531".

Sec. 3. Title 5 of the United States Code is amended as follows:

(a) Section 552a is amended by adding at the end thereof the following:

"(u) Law Enforcement Records.—The Federal Bureau of Investigation shall not make available any records maintained, collected, or used for law enforcement purposes which pertain to a law enforcement investigation until the date which is—

"(1) 10 years after the termination of any investigation not resulting in prosecution;

"(2) if the person who is the subject of the record has been the subject of two or more investigations not resulting in prosecution, 10 years after the termination of the last investigation; or

"(3) if the person who is the subject of the record has, as a result of an investigation, been convicted and subject to probation or a sentence of imprisonment or fine, 10 years after the latter of the termination of probation, the term of imprisonment, or the imposition of the fine, as the case may be.".

(b) Section 552a(e) is amended by adding at the end thereof the following: "Each agency which carries out law enforcement functions shall prepare and furnish the same general standardized written response for issuance to any person making a request for records under this section for use both in cases in which the agency does not have the records requested and in case in which the records are protected from disclosure because disclosure would reveal that a criminal investigation concerning any person or entity is in progress.".

(c) Section 552 is amended by adding at the end thereof the following:

"(f) The Federal Bureau of Investigation shall not make available any records maintained, collected, or used for law enforcement purposes which pertain to a law enforcement investigation until the date which is—

"(1) 10 years after the termination of any investigation not resulting in prosecution;

"(2) if the person who is the subject of the record has been the subject of two or more investigations not resulting in prosecution, 10 years after the termination of the last investigation; or

"(3) if the person who is the subject of the record has, as a result of an investigation, been convicted and subject to probation or a sentence of imprisonment or fine, 10 years after the latter of the termination of probation, the term of imprisonment, or the imposition of the fine, as the case may be.".

(d) Section 552(b) is amended by adding at the end thereof the following: "Each agency which carries out law enforcement functions shall prepare and furnish the same general standardized written response for issuance to any person making a request for records under this section for use both in cases in which the agency does not have the records requested and in cases which the records are protected from disclosure because disclosure would reveal that a criminal investigation concerning the person or entity is in progress.".

(e) Section 1304 is amended—

(1) by repealing subsections (b), (c), and (d); and

(2) in subsection (f) by striking out "or the Federal Bureau of Investigation" each time it appears.

(f) Section 2102(a)(1) is amended by adding at the end thereof the following:

"(D) positions in the Federal Bureau of Investigation.".

(g) Section 5313 is amended by adding at the end thereof the following new paragraph:

"(25) Director of the FBI, Department of Justice.".

(h) Section 5314 is amended by repealing paragraph (44).

Sec. 4. Chapter 203 of title 18, United States Code, is amended—

(1) by repealing section 3052; and

(2) by amending the item relating to section 3052 in the table of sections at the beginning of the chapter to read:

"3052. Repealed.".

Sec. 5. (a) Section 2679(b) of title 28, United States Code, is amended—

(1) by inserting "(1)" immediately after "(b)"; and

(2) by adding at the end thereof the following:

"(2) The remedy against the United States provided by sections 1346(b) and 2672 of this title for injury or loss of property or personal injury or death, resulting from the negligent or wrongful act or omission of any employee of the Federal Bureau of Investigation while acting within the scope of his office or employment, shall be exclusive of any other civil action or proceeding by reason of the same subject matter against the employee whose act or omission gave rise to the claim.".

(b) Section 2402 of such title is amended by inserting immediately after "section 1346 (a)(1)" the following: ", or under section 1346(b) which involves an employee of the Federal Bureau of Investigation".●

● Mr. DOLE. Mr. President, the Senator from Kansas is pleased to join with his distinguished colleagues, Senators Laxalt, Simpson, Wallop, Lugar, Hatch, Hayakawa, Schweiker, and Thurmond in proposing this legislation to promulgate a charter for the Federal Bureau of Investigation. This legislation is offered as a constructive initiative in order to responsibly move the consideration of this subject forward.

Extensive hearings have been held on the earlier FBI charter, S. 1612, proposed by the distinguished chairman and the ranking minority member of the Judiciary Committee (Mr. Kennedy and Mr. Thurmond). Much staff work has been done on that proposal, with the able assistance of the FBI. Yet, in spite of these considerable efforts, that legislation remains bogged down in the Judiciary Committee. This bill expresses in the form of a counter proposal some of the misgivings many of us have had about S. 1612. As such, the Senator from Kansas views it not only as a good articulation of what the FBI should be doing, but also as a document which will enhance, and hopefully speed up, the debate on FBI charter legislation generally.

The Senator from Kansas has been concerned about one critical failing in earlier proposals in this area—that is, the failure to recognize that many of the past abuses in law enforcement were not institutional problems, but "people problems." These earlier abuses were often produced by weaknesses in people of the sort that no statute, guidelines, or other institutional procedures can completely cure. Ignoring this unfortunate fact, S. 1612 set out a complicated array of procedures in a single-minded drive to prevent the recurrence of past abuses. Not only is preventing the recurrence of all past abuses doomed to failure, but such an effort, by disregarding the devilish cleverness of human nature, will undoubtedly not prevent new, unimagined perversions of legitimate law enforcement authority.

Furthermore, and perhaps most importantly, the baroque procedures proposed by others, though ineffective in stopping abuse, would be very effective in preventing the FBI from responsibly fulfilling its legitimate law enforcement role. Indeed, many Kansans have written to express their concern over this very point—that the existing FBI charter proposal would hamstring the FBI. In their letters, these citizens generally articulate the major law enforcement problems that they feel the FBI must be authorized to confront. Whether it is terrorism, organized crime, drug trafficking, or a number of other crimes which are national in scope, the Senator from Kansas believes, with his constituents, that the FBI is the appropriate law enforcement organization to grapple with certain crimes and that it must be given sufficient authority to do that job effectively.

Of course, recognizing the human dimension of past abuses is not to forget them or to fail to adopt some preventive measures. Clearly setting out the authority of the FBI, as this bill attempts to do, in itself goes a long way to prevent abuses which were often more the result of unclear limits to authority than the product of some sinister Gestapo mentality. In addition, where clear limits can be reasonably set out in some detail, this bill does so.

In one sense, this is a "pro-FBI" bill in that it recognizes the importance of the FBI, and with general confidence in its personnel, authorizes it to do its job effectively. In so doing, the bill infringes no constitutional rights and sets up no national police force. This bill is a moderate proposal which, while mindful of the abuses of the past, attempts to confront the law enforcement challenges of the future. The Senator from Kansas urges all his colleagues to closely evaluate this proposal and to give it their full support.● .

By Mr. WALLOP (for himself, Mr. Lugar, Mr. Laxalt, Mr. Simpson, Mr. Hayakawa, Mr. Hatch, Mr. Thurmond, Mr. Dole, and Mr. Schweiker):

S. 2929. A bill to establish an intelligence community to promote the national security of the United States, and other purposes; to the Committee on Government Affairs.

● Mr. WALLOP. Mr. President, today, along with Senators Laxalt, Lugar, Simpson, Hayakawa, Hatch, Thurmond, Dole, and SCHWEIKER, I am introducing charter legislation for the intelligence agencies and the FBI.

In a sense, the introduction of these bills marks the end of one long process and the beginning of another. For the last decade, and especially for the past 5 years, the Congress has been discussing how to circumscribe and limit the function of the intelligence agencies.

In recent months, however, the Congress has come to realize that the American people stand to lose much if the intelligence agencies perform less well than they should. The defeat in the Intelligence Committee of S. 2525 and of the long form of S. 2284 does not result from any disbelief in the usefulness of legislative charters for intelligence, nor from any lessened commitment to our own civil liberties. My own commitment to both has never wavered.

Rather, the defeat of the restrictive charters results from a widespread realization that our intelligence agencies have not been performing as competently as they should, and that the proper goal of legislation is to improve, insofar as possible, the agencies' ability to do their job.

Moreover, the Congress has come to realize that there are more effective and intelligent ways of protecting ourselves against past and potential abuses than those proposed in the restrictive charters. The agencies' effectiveness need not come at the expense of our civil liberties. Quite the contrary.

Intelligence agencies whose activities are finely focused on their missions, which warn the United States of impending danger, and which protect us from hostile clandestine activities, are the very first line of defense for all our liberties.

During the coming months and years the Congress will be searching for means to improve American intelligence. These charters are intended to be a starting point for that search.

Today, our first line of defense is all too weak. Intelligence has become too politicized. National estimates have become bureaucratic exercises which have led to dangerous errors. American counterintelligence sadly lacks central files and central coordination. Above all, the agencies lack a clear statement of the mission which the American people expect them to accomplish.

These charters provide each agency a clear statement of what it should do. Each agency's performance, and that of its director, would be measurable against that statement. The director of each intelligence agency would be given a single fixed term, and would be insulated from political influence. The President would be given his own adviser on intelligence, but that adviser could not exercise bureaucratic authority over any agency. The clandestine service of CIA would be separated from the analytical offices, in a move long advocated by scholars in the field. The Defense Intelligence Agency would be established as a source of competing national intelligence estimates.

An office in the Justice Department would be empowered to coordinate American counterintelligence. Civil liberties would be safeguarded by executive guidelines reviewed by the Congressional intelligence committees, by expanded legislative oversight, and by a special independent Intelligence Oversight Board, whose sole task would be to prevent abuses. There would also be an independent National Intelligence Advisory Board, with the sole function of stimulating effective performance.

Legislation alone will not give us the improved intelligence we will need in the dangerous decade ahead. Much better Presidential leadership will be needed. But legislation should be designed to enhance, not hinder, performance. This legislation is designed to do just that. Americans need protection from illegal intelligence activities but equally they need protection from the evil designs of our enemies. This bill seeks to provide both protections with appropriate balance.●

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2929

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—THE INTELLIGENCE COMMUNITY

STATEMENT OF PURPOSE

SEC. 101. It is the purpose of this Act to promote the national security of the United States by creating an intelligence community, composed of independent agencies and components of departments, which shall—

(1) provide the United States Government with accurate, reliable, and timely information relating to the national defense of the United States, to the conditions affecting the conduct of the foreign policy of the United States, and to the protection of the United States from the activities of foreign intelligence services, from international terrorism, and from large-scale and organized international crime, and

(2) conduct such additional activities as may assist in the achievement of the objectives described in paragraph (1).

ESTABLISHMENT OF THE INTELLIGENCE COMMUNITY

SEC. 102. (a) The intelligence community of the United States shall consist of—

(1) the Office of the Director of National Intelligence;

(2) the Central Intelligence Analysis Agency;

(3) the Defense Intelligence Agency;

(4) the Foreign Intelligence Agency;

(5) the National Security Agency;

(6) the intelligence components of the Federal Bureau of Investigation;

(7) the offices within the Department of Defense for the collection of specialized intelligence through reconnaissance programs;

(8) the National Counterintelligence Office;

(9) the intelligence and security components of the military services;

(10) the intelligence and security components of the Department of State, the Department of Treasury, and the Department of Energy;

(11) the intelligence components of the Drug Enforcement Agency; and

(12) such other components of the departments and agencies, to the extent determined by the President, as may be engaged in intelligence activities.

(b) The entities of the intelligence community are authorized to conduct intelligence activities in accordance with the provisions of this Act. Subject to the provisions of section 107, nothing in this Act shall be construed to prohibit any department or agency from engaging in any activity which is otherwise authorized.

(c) As used in this Act, the term "intelligence committees of the Congress" means the Select Committee on Intelligence of the United States Senate and the Permanent Select Committee on Intelligence of the United States House of Representatives, or their successors.

MISSION OF THE INTELLIGENCE COMMUNITY OF THE UNITED STATES

SEC. 103. It shall be the mission of the intelligence community—

(1) to gather current, accurate, and useful information about the structure, activities, characteristics, equipment, plans, and objectives of foreign powers or factions;

(2) to anticipate and to monitor throughout the world those developments that could pose a danger to the United States or its allies, or that might provide an opportunity for the United States to conduct its foreign policy more successfully or to enhance its national security;

(3) to provide the United States with the best possible intelligence in the event of war or other national crisis involving a foreign power; and

(4) to protect the United States against terrorism and any harm resulting from foreign intelligence activities and large-scale organized international crime.

DIRECTOR OF NATIONAL INTELLIGENCE

SEC. 104. (a) There is established in the Executive Office of the President an Office of the Director of National Intelligence, headed by a Director of National Intelligence who shall be appointed by, and serve at the pleasure of, the President.

(b) The Office of the Director shall include—

(1) a United States Intelligence Board (hereinafter in this Act referred to as "USIB") which shall be constituted by the heads of the entities of the intelligence community for the purpose of coordinating the intelligence activity of the United States;

(2) a Board of Presidential Estimates, whose members shall be appointed by the Director of National Intelligence to prepare briefings on intelligence for the President and the National Security Council; and

(3) any other committees, boards, and staff the Director, in consultation with the USIB, shall choose to appoint.

(c)(1) The Director shall serve as the President's chief advisor on intelligence matters and shall—

(A) keep the President currently informed regarding the views and developments within the intelligence community;

(B) receive the budget estimates and proposed programs of the various entities of the intelligence community and forward them to the President with the Director's recommendations;

(C) transmit to the various entities of the intelligence community the President's orders and priorities regarding intelligence matters;

(D) coordinate the recommendations of the various entities of the intelligence community for legislation and submit such recommendations to the Congress together with the comments and recommendations of the President;

(E) facilitate liaison among the various entities of the intelligence community, the Intelligence Oversight Board, and the National Foreign Intelligence Advisory Board;

(F) provide the President and the Congress with an annual assessment of the effectiveness of the intelligence community, its strengths and weaknesses, and how the intelligence community can be improved;

(G) promulgate and enforce regulations governing the classification of sensitive information acquired by the various entities of the intelligence community and the transfer of such information among such entities providing for the security of such information;

(H) coordinate and arrange for the provision of common technical services needed by the various entities of the intelligence community, among which services shall be the provision and coordination of cover for personnel designated by the head of each agency in the intelligence community as requiring cover; and

(I) perform such other duties relating to intelligence matters as the President may prescribe.

(2) Upon request of the Director of National Intelligence, any department or agency of the United States shall provide credentials and assignments to employees of the intelligence community indistinguishable from the credentials and assignments of that department or agency. The Director is authorized to reimburse any other department or agency of the Federal Government or any private business or organization for any salary, benefit, damage, or other expense incurred by such department, agency, business, or organization in providing cover for any employee of any agency of the intelligence community.

(d) In response to requests from the National Security Council, the Director of Central Intelligence shall cause to be produced Presidential intelligence estimates. In responding to any such request, the Director shall—

(1) draw upon the resources of the entire intelligence community;

(2) ensure that any diverse points of view are fully presented and carefully considered, and that differences of judgment within the intelligence community are clearly expressed; and

(3) have authority to assign analytic tasks to any departmental intelligence production organization within the intelligence community, in consultation with the head of such organization.

NATIONAL FOREIGN INTELLIGENCE ADVISORY BOARD

SEC. 105. (a) There is established a National Foreign Intelligence Advisory Board (hereinafter in this section referred to as the "Advisory Board").

(b) The Advisory Board shall be composed of nine members who shall be appointed by the President. Members shall be selected for appointment on the basis of their exceptional independence and expertise.

(c) Individuals shall be appointed to the Advisory Board for a term of seven years except that persons first appointed to the Advisory Board shall be designated by the President to serve the following terms: Two members shall be appointed for a term of two years, three members shall be appointed for a term of four years, and four members shall be appointed for a term of seven years.

(d) The President shall designate one of the members of the Advisory Board to serve as chairman, but no member may serve as chairman for more than three years.

(e) It shall be the function of the Advisory Board to continually evaluate the effectiveness and efficiency of the intelligence community. The Advisory Board shall report the results of its evaluations from time to time to the President and to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate. Such report shall include such comments and recommendations for administrative or legislative actions as the Advisory Board deems appropriate.

(f) The Advisory Board shall employ such staff as may be necessary to carry out the functions of the Advisory Board.

(g) Consistent with applicable provisions of law, the Director of National Intelligence and the heads of all entities of the intelligence community shall make available to the Advisory Board any information it may request.

INTELLIGENCE OVERSIGHT BOARD

SEC. 106. (a) There is established a board to be known as the Intelligence Oversight Board (hereinafter in this section referred to as the "Board") which shall be composed of five members to be appointed by the President, by and with the advice and consent of the Senate. Members of the Board shall be appointed solely on the basis of their eminent qualifications to perform the duties of the Board.

(b)(1) Persons first appointed to the Board shall be appointed for the following terms, as designated by the President at the time of their nomination for appointment: Two members shall be appointed for a term of three years, two members shall be appointed for a term of two years, and one member shall be appointed for a term of one year. Thereafter, all members shall be appointed for a term of three years, except that a person appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the unexpired term of his predecessor.

(2) The President shall designate one of the members of the Board to serve as chairman.

(c) It shall be the duty of the Board to thoroughly investigate allegations of illegal, unethical, or improper activities of any entity of the intelligence community. The Board shall, at its own discretion, report the results of any investigation conducted by it under this section to the head of the appropriate entity of the intelligence community, to the President, to the Director of National Intelligence, to the Permanent Select Committee on Intelligence of the House of Representatives, and the Select Committee on Intelligence of the Senate, or to the Attorney General of the United States.

(d) In carrying out its duties under this section, the Board shall, consistent with applicable provisions of law, be given access to such files, documents, records, and other information as it may request.

GUIDELINES FOR INTELLIGENCE COLLECTION AND DISSEMINATION

SEC. 107. (a) The head of each entity of the intelligence community shall establish, subject to the approval of the Director of National Intelligence and the Attorney General, guidelines with respect to each of the collection methods referred to in subsection (c) that may be used by such entity against a United States person in the collection of intelligence information. In no case may any collection method be targeted against a United States person without the consent of such person, except in accordance with the guidelines established pursuant to the first sentence. Such guidelines shall—

(1) take into account the constitutional rights of such person;

(2) specify the official who must authorize the collection activity to be used;

(3) be reasonably designed to match the acquisition of information concerning United States persons with the need of the United States to obtain information relating to the national security and foreign policy of the United States and information regarding activities of hostile intelligence services, international terrorist groups, and large-scale international criminal organizations; and

(4) be consistent with subsection (d).

(b) The head of each entity of the intelligence community shall establish, subject to the approval of the Director of National Intelligence and the Attorney General, guidelines with respect to the dissemination of information concerning United States persons. Such guidelines shall—

(1) ensure that such information does not identify a United States person unless the identity is necessary to understand or assess an intelligence matter, except as provided in paragraph (3);

(2) permit dissemination of such information to the United States Counterintelligence Office;

(3) permit dissemination of such information to foreign or domestic law enforcement officials if the information indicates an immediate threat of serious danger to any person or property or if such information is evidence involving a felony; and

(4) be consistent with subsection (e).

(c)(1) The Director of the National Intelligence and the Attorney General shall jointly prescribe in writing definitions for the following intelligence collection and techniques which shall be applicable to and binding upon each entity of the intelligence community:

(A) Intrusive techniques, including those techniques that may require a judicial warrant if used to collect information for a law enforcement purpose.

(B) Informants and undercover agents.

(C) Other covert or clandestine techniques, including the use of techniques in which the person from whom information is being obtained is unaware that he or she is providing information to an entity of the intelligence community.

(D) Examination of financial or other third-party records, including telephone bills, medical records, and hotel registration forms.

(E) Public information sources, including interviews in which the interviewer acknowledges the interviewer's connection with an entity of the intelligence community.

(2) The Director of the National Intelligence and the Attorney General shall provide appropriate security classification for the methods defined under paragraph (1), for the information gained by those methods, and for the guidelines established under subsections (a) and (b).

(d) Intrusive techniques may not be directed against any United States person for the purpose of obtaining foreign intelligence while such person is in the United States unless the President or his designee determines that the use of such techniques is necessary in order to obtain intelligence essential to the national security and that such intelligence cannot be obtained by less intrusive methods.

(e)(1) Subject to the provisions of paragraphs (2) and (3), the United States Counterintelligence Office may disseminate intelligence information with respect to a United States person only if the facts and circumstances reasonably indicate that such person is or may be engaged in—

(A) a clandestine intelligence activity on behalf of a foreign power or organization;

(B) any other clandestine activity on behalf of a foreign power or organization; or

(C) international terrorist activity, or preparations therefor.

(2) The United States Counterintelligence Office may also disseminate intelligence information with respect to a United States person to another entity of the intelligence community, upon request of any such entity regarding the suitability of such person as a potential source of intelligence or operational assistance. A record of each such transfer shall be maintained by such office.

(3) Nothing in this section shall be construed to prohibit the United States Counterintelligence Office from disseminating information regarding a United States person if such person has given his or her consent to the dissemination of such information.

(f) As used in this Act, the term "United States person" means—

(1) a citizen of the United States, except that any person residing outside the United States may be presumed not to be a citizen of the United States until it is determined that he is a citizen;

(2) a person admitted to the United States for permanent residence, except that such person may be presumed not to be a United States person after one year of continuous residence outside the United States until it is determined that he intends to return to the United States as a permanent resident; or

(3) any organization composed primarily of United States persons as defined in paragraph (1) or (2), or a corporation incorporated within the United States and owned primarily by United States persons as defined in paragraph (1) or (2), except that any organization or corporation which is controlled or directed by a foreign government, faction, group, or political party shall not be considered a United States person.

AUTHORITY TO CLASSIFY INFORMATION: PROHIBITION AGAINST UNAUTHORIZED DISCLOSURE

SEC. 108. (a) The head of each entity of the intelligence community may classify information in accordance with rules and regulations as the Director of National Intelligence shall prescribe.

(b) Classified information shall be protected in accordance with such rules as may be prescribed by the President, or, at the direction of the President, by the Director of National Intelligence.

(c) Any employee of any entity of the intelligence community or any person who receives classified information from any agency of the intelligence community and who discloses any classified information to any person not authorized to receive such information shall be guilty of an offense described in section 794 of title 18 of the United States Code.

EXEMPTION FROM CERTAIN REQUIREMENTS UNDER OTHER LAWS

SEC. 109. The entities of the intelligence community shall be exempt from the provisions of any law which requires the publication or disclosure, or the search or review in connection therewith, of information in files specifically designated by the Director of National Intelligence to be concerned with any of the following:

(1) The design, function, deployment, exploitation, or utilization of scientific or technical systems for the collection of foreign intelligence or counterintelligence information.

(2) Special activities and foreign intelligence or counterintelligence activities.

(3) Investigations conducted to determine the suitability of potential intelligence sources.

(4) Intelligence and security liaison arrangements or information exchanges with foreign governments or their intelligence or security services.

EXEMPTION FROM TITLE 5

SEC. 110. Any civilian individual employed by any entity of the intelligence community may be hired, paid, promoted and dismissed without regard to the provisions of title 5 of the United States Code.

AMENDMENT TO FOREIGN ASSISTANCE ACT OF 1961

SEC. 111. Section 662 of the Foreign Assistance Act of 1961 (22 U.S.C. 2422) is repealed.

AMENDMENT TO INTERNATIONAL SECURITY ASSISTANCE AND ARMS EXPORT CONTROL ACT OF 1976

SEC. 112. Section 404 of the International Security Assistance and Arms Export Control Act of 1976 (22 U.S.C. 2293 note) is repealed.

TITLE II—CENTRAL INTELLIGENCE ANALYSIS AGENCY

ESTABLISHMENT OF THE AGENCY

SEC. 201. There is established a Central Intelligence Analysis Agency (hereinafter in this title known as the "Agency") to collate intelligence from all sources available to the United States, and to produce such estimates and periodic and special publications as may be useful for the successful formulation and execution of the foreign policy and the defense policy of the United States.

DIRECTOR OF THE AGENCY

SEC. 202. There shall be at the head of the Agency a Director of the Central Intelligence Analysis Agency. The Director shall be appointed by the President, by and with the advice and consent of the Senate, to serve a term of ten years. The Director may not be reappointed, and may be removed by the President only for cause. The Director shall appoint such subordinate officials as may be necessary for the effective accomplishment of the Agency's mission.

MISSION OF THE AGENCY

SEC. 203. It shall be the mission of the Agency, on the basis of classified intelligence information, to—

(1) warn the President and the intelligence committees of the Congress of any impending warlike acts anywhere in the world;

(2) warn the Director of National Intelligence and the United States Intelligence Board of any shortages of data which impair the Agency's ability to assess foreign situations;

(3) correctly assess the disposition of foreign governments, parties, factions, or entities toward the United States, the allies of the United States, and the interests of the United States;

(4) correctly assess the size, scope, and purpose of the military and political activities of foreign nations; and

(5) correctly assess the political and military vulnerabilities of foreign governments, parties, factions, or entities.

TITLE III—DEFENSE INTELLIGENCE AGENCY

ESTABLISHMENT OF THE AGENCY

SEC. 301. There is established within the Department of Defense a Defense Intelligence Agency (hereinafter in this title known as the "Agency") for the purpose of—

(1) serving as the intelligence staff element for the United States Joint Chiefs of Staff;

(2) coordinating the work of the intelligence elements of the Armed Forces; and

(3) fulfilling the same mission set forth in section 203 of this Act.

DIRECTOR OF THE AGENCY

SEC. 302. There shall be a Director of the Defense Intelligence Agency, appointed by the President, by and with the advice and consent of the Senate, for a term of ten years. The Director shall not be reappointed and may be removed by the President only for cause. The Director shall appoint, promote, and remove such subordinate officials as may be necessary for the effective accomplishment of the Agency's purpose and mission, without regard to title 5, United States Code, and to the regulations of the Department of Defense.

TITLE IV—THE UNITED STATES FOREIGN INTELLIGENCE AGENCY

ESTABLISHMENT OF AGENCY

SEC. 401. There is established in the executive branch of the Government an agency to be known as the United States Foreign Intelligence Agency (hereinafter in this title referred to as the "Agency").

DIRECTOR OF THE AGENCY

SEC. 402. There shall be at the head of the Agency a Director of the United States Foreign Intelligence Agency. The Director shall be appointed by the President, by and with the advice and consent of the Senate, for a term of ten years. No person may serve as Director for more than ten years. The Director may be removed from office by the President only for cause.

MISSION OF THE AGENCY

SEC. 403. It shall be the mission of the Agency to collect throughout the world information not available to the public for the purpose of keeping the President and the Congress fully, accurately, and currently informed regarding the resources, plans, and activities of foreign governments, factions, and other entities that might affect the foreign relations or the safety and welfare of the United States, and to be prepared to successfully undertake such special activities as the President may from time to time order in writing.

DUTIES OF THE AGENCY

SEC. 404. (a) The Agency shall collect intelligence from human sources outside the United States, shall serve as the coordinating body for all activities of various entities of the intelligence community engaged in collecting intelligence from human sources outside the United States, and shall provide support to such entities in carrying out such activities:

(b) The Agency shall develop and maintain the capability to influence events outside the United States in such a manner that the role of the United States Government is neither revealed nor acknowledged, and shall undertake such special activities as the President may from time to time direct.

(c) In coordination with the Federal Bureau of Investigation, the Agency shall conduct such intelligence activities within the United States as may be necessary and appropriate to carry out effectively its duties outside the United States. In no event, however, shall the Agency engage in domestic law enforcement.

DUTIES OF THE DIRECTOR

SEC. 405. (a) The Director shall be responsible for carrying out the mission and the duties of the Agency.

(b) In carrying out his duties under this title, the Director shall—

(1) provide all necessary information (which shall be in identical form and content) to the two analytic components of the intelligence community, the Central Intelligence Analysis Agency, and the Defense Intelligence Agency;

(2) submit to the intelligence committees of the Congress not less than once each year a description of all activities of the Agency, with a notation as to the opportunities which arose during the reporting period for improving the United States collection of intelligence and for the application of special activities abroad to the advantage of the United States, and a statement as to the reasons the Agency took advantage of, or declined, those opportunities;

(3) assign, in such number and in such manner as shall be prescribed by the Director of National Intelligence, employees of the Agency to the United States Counterintelligence Office; and

(4) take such action as may be necessary to ensure that classified information in the possession of the Agency is not provided to any person not authorized by Agency regulations to receive such information unless specifically authorized by the President.

POWERS OF THE AGENCY

SEC. 406. (a) The Agency may permit employees of the Agency to use cover techniques anywhere in the world if, and to the extent that, the Director determines the use of such techniques are necessary to accomplish the mission of the Agency. Whenever any employee of the Agency is authorized to use a cover technique, such employee may execute and carry documents under false identity.

(b) At the direction of the Director of National Intelligence, the Agency shall effect cover for employees of other agencies or departments engaged in intelligence activities outside the United States.

(c) The Agency is authorized to purchase, establish, operate, and dispose of any commercial enterprise within or outside the United States for the purpose of providing any employee of the Agency with cover or for the purpose of carrying out any of the activities authorized by this title.

(d) The Agency is authorized to hire and discharge personnel to award contracts and to pay agents without regard to any other law or regulation of the United States. However, the Director shall promulgate rules and regulations governing personnel matters, and shall keep a written record of all cases in which exceptions to such rules and regulations are made.

(e) Under such regulations as the Director shall prescribe, Agency personnel may carry and use firearms while in the discharge of their official duties. Within the United States such official duties shall include only the protection of—

(1) information concerning intelligence sources and methods and classified documents and materials;

(2) facilities, property, moneys, and other valuable assets owned or utilized by the Agency;

(3) the Director, and such other personnel of the Agency as the Director may designate, but any such designation made by the Director shall be made only upon a determination that a specifically stated exigency warrants armed protection and such designation shall be terminated, unless renewed by the Director upon the expiration of the exigency, at the time specified in the designation order, or at the end of one hundred twenty days after the initial designation, whichever occurs first; and

(4) defectors and foreign persons visiting the United States under Agency auspices.

(f) The Agency may provide for the transportation and utilization of firearms and ammunition therefore for training and authorized special purposes.

(g) The Agency may engage in intelligence activity outside the United States, other than an intelligence gathering activity, if such activity is approved by the President before such activity is undertaken and if the intelligence committees of the Congress are notified of such activity as soon as practicable.

(h) The Agency may conduct such research and development programs as may be necessary to carry out its mission effectively and efficiently.

(i) The authorities under subsection (a) through (e) of this section may be exercised notwithstanding any other provision of law, and shall not be effected by any subsequent provision of law which does not explicitly modify or repeal such subsections.

ACCOUNTABILITY FOR FUNDS: CONTINGENCY RESERVE FUNDS

SEC. 407. (a) Whenever the Director determines such action is essential to accomplish the mission of the Agency, the expenditure of funds appropriated or transferred to the Agency shall be accounted for solely on the written certificate of the Director.

(b) There is established within the Agency a fund to be known as the Contingency Reserve Fund (hereinafter in this section referred to as the "Reserve Fund"). There shall be credited to the Reserve Fund such sums as are specifically appropriated to such fund. Funds may be expended from the Reserve Fund only upon the written authorization of the Director and only in the amounts specified by the Director. The Director may not authorize the expenditure of any funds from the Reserve Fund unless he has previously informed the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate of his intension to authorize such expenditure, the amount thereof, and the purpose for which the expenditure is to be made.

ADMISSION OF ESSENTIAL ALIENS

SEC. 408. Whenever the Director, with the approval of the Attorney General, determines that the entry of particular aliens into the United States for permanent residence is in the interest of national security or essential to intelligence activities, such aliens and their immediate families shall be given entry into the United States for permanent residence without regard to their inadmissibility under, or their failure to comply with, any immigration law of the United States or any other law or regulation. The Agency is authorized to process, debrief, and provide relocation assistance to such individuals, as necessary and appropriate under regulations established by the Director.

TITLE V—FEDERAL BUREAU OF INVESTIGATION

STATEMENT OF PURPOSE

SEC. 501. (a) The Federal Bureau of Investigation (hereinafter in this title referred to as the "Bureau") shall perform certain intelligence and counterintelligence activities for the purpose of safeguarding the United States from foreign intelligence collectors from agents working in the United States against the interests of the United States, and from terrorists.

(b) The Bureau shall collect, produce, analyze, publish, and disseminate to authorized recipients counterintelligence and intelligence useful for countering terrorism, and conduct such other lawful counterintelligence and counterterrorist activities as are necessary for the achievement of the purposes of this Act, including liaison with State, local, and Federal agencies, and with foreign governments.

(c) All Bureau counterintelligence and counterterrorist activities outside the United States shall be conducted in coordination with the Foreign Intelligence Agency. All counterintelligence and counterterrorist operations within the United States by agencies of the United States Government shall be coordinated with the Bureau, except such activities by the military services relating primarily to persons subject to Article 2 of the Uniform Code of Military Justice (10 U.S.C. 802).

DUTIES OF THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION WITH REGARD TO FOREIGN COUNTERINTELLIGENCE AND COUNTERTERRORISM

SEC. 502. Under the supervision of the Attorney General, the Director shall—

(1) serve as the principal officer of the Government for the conduct and coordination of counterintelligence and counterterrorism within the United States;

(2) provide to the National Security Council, the Permanent Select Committee on Intelligence of the House of Representatives, and the Select Committee on Intelligence of the Senate, a yearly report on the capabilities and intentions of foreign intelligence services operating in the United States and of terrorist groups operating in the United States;

(3) advise the National Security Council, the Permanent Select Committee on Intelligence of the House of Representatives, and the Select Committee on Intelligence of the Senate regarding the objectives, priorities, direction, conduct, and effectiveness of counterintelligence and counterterrorism intelligence activities within the United States;

(4) appoint subordinate officials to perform the duties of the Director in his absence, and to administer the Bureau's counterintelligence activities in the most effective and efficient manner;

(5) release any data relating to counterintelligence and counterterrorism to the United States Counterintelligence Office, and assign Federal Bureau of Investigation personnel to the United States Counterintelligence Office, as the Director of the Federal Bureau of Investigation, the Director of the United States Counterintelligence Office, and the Director of National Intelligence shall agree; and

(6) promulgate guidelines for the conduct of investigations.

FOREIGN INTELLIGENCE

SEC. 503. (a) In the course of its work in counterintelligence and counterterrorism, the Bureau shall collect information in support of the collection programs of any other entity of the intelligence community, and disseminate that information to the appropriate entity through the Director of National Intelligence.

(b) The Bureau shall coordinate the efforts of all other entities in the intelligence community to collect foreign intelligence within the United States.

ASSISTANCE TO FOREIGN GOVERNMENTS

SEC. 504. The Bureau may comply with requests from any law enforcement, intelligence or security agency of a foreign government for assistance in collecting intelligence within the United States. The Bureau shall make a record of such requests, submit such requests to the Attorney General and the Director of National Intelligence in a timely manner, and cease providing any assistance if either disapproves of any such request.

NECESSARY AUTHORITY

SEC. 505. (a) In carrying out its functions under this title, the Bureau is authorized to—

(1) establish, furnish, and maintain secure cover for Bureau officers, employees, and sources, in accordance with procedures approved by the Director of National Intelligence.

(2) protect intelligence sources and methods from unauthorized disclosure, in accordance with standards established by the Director of National Intelligence; and

(3) take all lawful measures to fulfill its task of protecting the United States from hostile intelligence services and terrorists.

(b) The Bureau shall coordinate the efforts of all other entities in the intelligence community to collect foreign intelligence within the United States.

TITLE VI—NATIONAL SECURITY AGENCY

ESTABLISHMENT OF AGENCY

SEC. 601. There is establishment within the Department of Defense an agency to be known as the National Security Agency (hereinafter in this title to be referred to as the "Agency") for the purpose of conducting signals intelligence, cryptology, and communications security for the United States, and to serve as the principal agency of the United States Signals Intelligence System.

DIRECTOR OF THE AGENCY

SEC. 602. There shall be a Director of the National Security Agency. The Director shall be appointed by the President, by and with the advice and consent of the Senate, for a term of ten years, and may be removed by the President only for cause. The Director shall appoint such subordinate officials as may be necessary for the effective accomplishment of the Agency's mission.

DUTIES OF THE DIRECTOR

SEC. 603. The Director shall—

(1) serve as the principal signals intelligence officer and communications security officer of the United States;

(2) organize, maintain, direct and manage the United States signals intelligence system and prepare a consolidated United States signals intelligence program and budget for each fiscal year;

(3) conduct such research and development in support of signals intelligence and communications security as may be necessary to meet the needs of the United States, and review research and development in signals intelligence and communications security conducted by other agencies of the United States Government;

(4) classify information pertaining to signals intelligence and communications security;

(5) conduct liaison with foreign governments with regard to signals intelligence, cryptology, and communications security;

(6) provide signals intelligence support for the conduct of military operations;

(7) assign, in such manner and in such number as shall be prescribed by the Director of National Intelligence, employees of the Agency to the United States Counterintelligence Office; and

(8) report to the intelligence committees of the Congress at least yearly on the state of American signals intelligence and communications security, stating what technologic or other opportunities for improved performance have arisen during the reporting period, and what action the Agency has taken with respect to those opportunities.

GENERAL AUTHORITIES OF THE AGENCY

SEC. 604. (a) In carrying out its functions, the Agency is authorized to—

(1) establish, furnish and maintain, in coordination with the Director of National Intelligence, secure cover for Agency officers, employees, agents and activities;

(2) purchase, rent, and dispose of property, either openly or covertly, and expend funds as appropriate to the fulfillment of the Agency's purpose as described in section 601; and

(3) physically protect the security of its facilities, equipment, personnel, and papers, to which end it may authorize personnel to carry firearms.

(b) The authorities under subsection (a) may be exercised notwithstanding any other provision of law, and shall not be affected by any subsequent provision of law which does not explicitly modify or repeal such subsection.

TITLE VII—UNITED STATES COUNTERINTELLIGENCE OFFICE

ESTABLISHMENT OF OFFICE

SEC. 701. There is established in the Department of Justice at United States Counterintelligence Office (hereinafter in this title known as the "Office") for the purpose of coordinating the counterintelligence activities of the intelligence community.

APPOINTMENT OF DEPUTY

SEC. 702. There shall be at the head of the Office a Deputy Attorney General for the United States Counterintelligence Office (hereinafter known as the "Deputy"). The Deputy shall be appointed by the President, by and with the advice and consent of the Senate, to serve a term of ten years and may be removed by the President only for cause. The Deputy shall appoint subordinate officials as may be necessary for the effective accomplishment of the Office's mission.

MISSION OF THE OFFICE

SEC. 703. It shall be the mission of the Office to retain the central counterintelligence files of the United States Government, to analyze the information contained therein, and to determine the nature, extent, and detailed characteristics of the threat to the United States and its allies from foreign intelligence services, international terrorism, or any other clandestine or violent activities of foreign governments or groups, excluding overt military activities conducted by the overt armed forces of foreign governments or ordinary criminal activities by individuals.

COMPOSITION AND POWERS OF THE OFFICE

SEC. 704. (a) The Office shall be staffed by personnel who are employees of an entity of the intelligence community. Such personnel shall be assigned to the Office as the Deputy and the directors of the agencies by which they are employed shall agree.

(b) The Deputy may assign the Office's personnel to projects anywhere in the world without regard to any provision of law governing the jurisdiction of the agencies by which such personnel are employed.

(c) The Office shall be entitled to receive all information of counterintelligence interest concerning any persons collected by any other entity of the intelligence community. It shall be entitled to request any information concerning United States persons collected by any agency or department of the United States Government. Requests for such information shall be made through the Office's liaison personnel at the agency or department of the United States Government having custody of the information.

(d) Notwithstanding any other provision of law, the Office shall purchase, lease, and dispose of property as necessary for the accomplishments of its mission.

INVESTIGATIVE AUTHORITY

SEC. 705. The Office may request any entity of the intelligence community to initiate an investigation of any United States person on the basis of facts and circumstances which reasonably indicate that such person is or may be engaged in—

(1) clandestine intelligence activity on behalf of a foreign power;

(2) international terrorist activity, or any activity in preparation thereof;

(3) international trafficking in drugs or other contraband substances, including illegal arms trafficking; or

(4) organized crime activities, which transcend international boundaries in terms of location of the criminal activities involved, location of places used as havens from prosecution or location of places where the proceeds from such criminal activities are invested or deposited.

DISCLOSURE OF INFORMATION

SEC. 706. (a) No provision of law shall be construed to require disclosure of information in the custody of the Office, except that the intelligence committees of the Congress shall have the same powers, responsibilities, and authorities with respect to the Office as with respect to other entities of the intelligence community.

(b) Subject to the approval of the Director of National Intelligence, the Attorney General shall establish guidelines for the dissemination of information concerning United States persons from the Office to other entities of the intelligence community or to law enforcement agencies at the Federal, State or local level or to foreign intelligence, internal security, or law enforcement agencies. Those guidelines shall be consistent with section 107 of this Act and shall—

(1) minimize the dissemination of information from the Office;

(2) prohibit dissemination of information to a law enforcement agency as soon as such agency shall advise the Office that prosecution of a subject of the investigation is contemplated, except in cases where there is an imminent danger of bodily harm or major loss or destruction of property; and

(3) prohibit dissemination to a foreign intelligence, internal security agency or law enforcement agency, except in any case in which (A) the interests of the United States are directly involved, (B) the Director of National Intelligence has decided that, for reasons of comity, dissemination is in the interests of the United States, or (C) there is an imminent danger of bodily harm or major loss or destruction of property.

TITLE VIII—CONGRESSIONAL OVERSIGHT

REPORTS AND NOTIFICATION TO CONGRESS

SEC. 801. (a) To the extent consistent with all applicable authorities and duties, including those conferred by the Constitution upon the executive and legislative branches, and to the extent consistent with due regard for the protection of classified information and intelligence sources and methods from unauthorized disclosure, the head of each entity of the intelligence community shall—

(1) keep the intelligence committees of the Congress fully and currently informed of all intelligence activities which are the responsibility of, are engaged in by, or are carried out for or on behalf of, that entity, including any significant anticipated intelligence activity, except that this paragraph does not require approval of such committees as a condition precedent to the initiation of any such anticipated intelligence activity;

(2) furnish any information or material concerning intelligence activities in the possession, custody, or control of that entity requested by the intelligence committees of the Congress in order to carry out authorized responsibilities; and

(3) report in a timely fashion to the intelligence committees of the Congress relating to intelligence activities that are illegal and corrective actions that are taken or planned.

(b) The President may establish such procedures as the President determines may be necessary to carry out the provisions of subsection (a) and shall establish procedures for timely informing the intelligence committees of the Congress of any special activity not subject to prior notification under subsection (a), together with a statement of the reasons for not giving prior notification.

(c) Each special activity authorized under section 404(b) shall be considered significant anticipated intelligence activities for the purposes of this section.

(d) Through rule or resolution, both the House of Representatives and the Senate shall, in consultation with the Director of National Intelligence, establish procedures to protect from unauthorized disclosure information or materials provided under this section which concern intelligence sources and methods or classified information.●

By Mr. JEPSEN:

S. 2930. A bill to amend the Internal Revenue Code of 1954 to repeal the estate and gift taxes; to the Committee on Finance.

Mr. JEPSEN. Mr. President, today I am introducing legislation to abolish the estate and gift tax. In my view the tax is unfair, unnecessary and harmful to the economy, and we would be better off without it.

The estate and gift tax became a permanent part of the Federal tax system in 1916. The first year in which revenue was collected was 1917, when the estate and gift tax brought in $6 million to the Federal Government. The tax has never been much of a revenue-producer. In 1979 it brought in a mere 1.2 percent of Federal revenues. In real terms, estate and gift tax revenues are no higher than they were in 1964. This is shown on the following table.

ESTATE TAX REVENUES

[Dollar amounts in billions]

Year	Revenue	Revenue in 1972 dollars	Percent of total revenue
1979	$5.5	$3.3	1.2
1978	5.3	3.5	1.3
1977	7.4	5.2	2.1
1976	5.3	4.0	1.8
1975	4.7	3.7	1.7
1974	5.1	4.4	1.9
1973	5.0	4.7	2.1
1972	5.5	5.5	2.6
1971	3.8	3.9	2.0
1970	3.7	4.0	1.9
1969	3.5	4.0	1.9
1968	3.1	3.7	2.0
1967	3.0	3.8	2.0
1966	3.1	4.0	2.4
1965	2.7	3.6	2.3
1964	2.4	3.3	2.1
1963	2.2	3.1	2.0
1962	2.0	2.8	2.0
1961	1.9	2.7	2.0
1960	1.6	2.3	1.7
1959	1.4	2.1	1.8
1958	1.4	2.1	1.7
1957	1.4	2.1	1.7
1956	1.2	1.9	1.6
1955	.9	1.5	1.4
1954	.9	1.5	1.3
1953	.9	1.5	1.3
1952	.8	1.4	1.2
1951	.7	1.2	1.3
1950	.7	1.3	1.8
1949	.8	1.5	2.0
1948	.9	1.7	2.1
1947	.8	1.6	2.1
1946	.7	1.6	1.8
1945	.6	1.6	1.3
1944	.5	1.3	1.1
1943	.4	1.1	1.7

Although the tax is a minor part of the Federal tax system, its impact is much greater than just the dollars collected. The estate tax is essentially a pure tax on capital. Moreover, the tax adversely affects individuals' decisions to save, invest and work during their lifetimes. As Professor Richard Posner recently put it:

> Since the accumulation of a substantial estate is one of the motivations that drive people to work hard, a death tax is indirectly a tax on work.

Thus the tax directly pulls several billion dollars per year out of the Nation's accumulated capital and at the same time discourages people from accumulating capital. Consuming one's estate during one's life is one sure way to beat the tax collector.

The estate tax affects not only the amount of capital accumulated but its composition as well. As a result of the tax, individuals have less incentive to invest in long-term projects. Investors fearing a heavy estate tax will have an incentive to undertake projects that will mature within an individual's lifetime. In addition, people are encouraged to keep their assets as liquid as possible to avoid the cost of dissolving illiquid capital assets when the estate tax must be paid.

An estate comprised mainly of real estate or a large bloc of stock in a single company might have to be sold at a substantial discount in order to get cash to pay the estate tax, whereas assets which are more liquid do not involve a penalty.

When the estate tax was first instituted it was designed to affect only the wealthy. The estate tax law passed in 1916 allowed executors to reduce a decedent's estate for tax purposes by a $50,000 exemption and certain other expenses and claims. Thus an estate of $50,000 or less would pay no tax, and $50,000 was a very substantial estate in 1916. The estate tax rates then began at 1 percent on net estates up to $50,000 and went up to 10 percent on net estates above $5 million. Now, however, estate tax rates begin at 18 percent on estates above $161,563, less lifetime gifts, and go up to 70 percent on estates above $5,000,000.

Because the unified estate and gift tax credit is a fixed dollar amount and because of steeply graduated estate tax rates, this means that inflation increases the burden of the estate tax just as it increases the burden of individual income taxes. The result is that today many people with relatively modest estates are heavily impacted by the estate tax, whereas a few years ago they would not. In 1976 200,747 estate tax returns were filed. Seventy-one percent represented estates of less that $200,000. Of these, the bulk of the estate consisted of real estate—family homes and farms.

With the sharp effect that inflation has had on farmland and real estate prices in many years, people who own nothing more than their own home find themselves socked by an estate tax supposedly reserved for the rich.

Farmland in Iowa now sells for $3,000 per acre or more, meaning that a modest 200-acre farm is worth $600,000 and probably would have to be sold to pay the estate tax even though the farmer who owned it may never have made more than $10,000 in his best year. Such a person could hardly be called rich.

Ironically, the very rich, who presumably should be hit hardest by the tax, generally are able to escape its burden by complex estate planning. A recent book by Prof. George Cooper, "A Voluntary Tax?", documents this fact. What we really have, in fact, are two estate taxes:

A relatively light one on those who plan their estates carefully—meaning generally the rich who can afford expensive estate tax lawyers—and a very harsh estate tax for those who do not plan their estates—meaning generally those with modest incomes who probably are not aware that they even have a taxable estate, like small farmers. Thus, almost every study ever done has concluded that the estate tax has done nothing to change the distribution of wealth in the United States.

Historically, poor people have lifted themselves out of poverty by building up capital within the family unit, so that each new generation starts off in a better position than the previous one. A father may work all his life to build a small business in the hope that his heirs may turn it into a large one. But high taxes on incomes, capital gains, and estates make it extremely difficult to accumulate capital during one's life to leave to one's decedents. Thus, ironically, such taxes as the estate tax actually stratify American society—large fortunes acquired before tax rates reached their present high level remain intact even through many generations, while entrepreneurs struggling to build an estate for the betterment of their children are unable to do so. In my view, this is contrary to all America stands for. That is why the estate tax should be abolished.●

By Mr. TALMADGE:

S. 2931. A bill to amend the Consolidated Farm and Rural Development Act to provide the Secretary of Agriculture with emergency credit readjustment authority and provide for review of certain agricultural loans by Farmers Home Administration county committees, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

AGRICULTURAL CREDIT READJUSTMENT ACT OF 1980

● Mr. TALMADGE. Mr. President, I am today introducing legislation designed to give renewed emphasis and meaning to authorities of the Secretary of Agriculture in deferring the payment of principal and interest by farmers on loans they have obtained from the Farmers Home Administration.

This legislation will give the Secretary of Agriculture the tools he needs in aiding producers who are faced with economic problems that are beyond their control, especially those who are suffering losses due to the current drought.

Our agricultural producers have had rough sledding for the past few years. It is not at all uncommon to hear of farmers who have suffered major crop losses due to droughts in 3 of the last 5 years. Too, farm income has not kept pace with farm production expenses, the farmer's share of the food dollar has steadily decreased, and farm debt is now at an all-time high.

The Department of Agriculture predicts that net farm income will decrease in 1980 by between $6 billion and $9 billion below the 1979 level. Farmers are facing rapidly increasing farm production expenses. According to the Department of Agriculture, production expenses from 1970 to 1979 increased by 156 percent—from $44.4 billion in 1970 to $113.5 billion in 1979. Current projections are that these production expenses will increase to between $124 and $130 billion in 1980. This will be $10 to $16 billion above the 1979 level.

Another significant factor is the relationship of farm cash flow and income to farm debt. As producers have been less able to generate income in the marketplace, we have seen larger and larger increases in outstanding farm debt. Outstanding farm debt increased by 15 percent from January 1, 1979, to January 1, 1980—from $137.5 billion to $57.8 billion. In all likelihood, as farm production expenses continue their rapid climb and as farm income continues to drop, we will see a continued rapid increase in the amount of outstanding farm debt as well as an increased inability of our producers to retire their farm debt in a timely manner.

We must, therefore, take prompt action to aid our Nation's producers who are faced with adverse economic conditions over which they have no control.

The legislation I am introducing today is directed specifically at those agricultural producers who are borrowers of the Farmers Home Administration. There was a time when the Farmers Home Administration was considered a final haven for borrowers who were too marginal to obtain credit from regular commercial sources. The Farmers Home Administration is still a lender of last resort, but because of the factors I have described, many established farmers have been forced into seeking loans from the Farmers Home Administration. The bill I am introducing will enable the Secretary of Agriculture to give meaningful relief to farmers who simply cannot meet the repayment schedule for their loans.

In this connection, the bill will improve the operation of the Farmers Home Administration farm loan program. Because of highly restrictive personnel ceilings, limited training, and travel restrictions, that agency has not been capable of providing adequate counseling and supervision to many of its farm loan borrowers.

Although the Farmers Home Administration has long employed the use of county committees made up of farmers, the Agency has not used these farmer committees as extensively as they should. It has not drawn on their expertise in counseling borrowers regarding financial management and credit matters. The bill, therefore, makes possible the increased use of the Farmers Home Administration county committees in carrying out loan servicing and counseling functions.

The bill would also authorize the Secretary of Agriculture to declare a national moratorium on repayment of outstanding farm loans, except for guaranteed loans, made through the Farmers Home Administration, and on foreclosures on loans held by that Agency, for up to 3 years.

The Secretary would also be authorized, in specific locations suffering from repeated natural disasters, to defer interest and principal payments and provide for moratoriums on loan foreclosures for up to 3 years.

Additionally, this legislation gives the Secretary greater authority to consolidate or reschedule outstanding loans.

I ask unanimous consent that the text of the bill and a summary thereof be printed in the RECORD.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 2931

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Credit Readjustment Act of 1980".

SEC. 2. The Consolidated Farm and Rural Development Act is amended by—

(1) amending section 331A to read as follows:

"SEC. 331A. (a) In addition to any other authority that the Secretary may have to defer principal and interest and forego foreclosure—

"(1) The Secretary may permit, at the request of the borrower, the deferral of principal and interest on any outstanding loan made, insured, or held by the Secretary under this title or under the provisions of any other law administered by the Farmers Home Administration, and may forego foreclosure of any such loan, for such period as the Secretary deems necessary upon a showing by the borrower that due to circumstances beyond the borrower's control, the borrower is temporarily unable to continue making payments of such principal and interest when due without duly impairing the standard of living of the borrower.

"(2) The Secretary may—

"(A) implement a national moratorium on the repayment of principal and interest, and

"(B) implement a national moratorium on loan foreclosures,

for up to 3 years on outstanding loans made, insured, or held by the Secretary under this title or under the provisions of any other law administered by the Farmers Home Administration whenever the Secretary determines that the ability of the borrowers of such loans to make timely payment of such principal and interest has been, or may be severely impaired by economic, climatic, or other emergencies adversely affecting the agricultural economy.

"(3) The Secretary may, for any county or area—

"(A) implement a moratorium on repayment of principal and interest, and

"(B) implement a moratorium on loan foreclosures, for up to 3 years on outstanding loans made, insured, or held by the Secretary under this title or under the provisions of any other law administered by the Farmers Home Administration whenever the Secretary determines that the ability of borrowers of such loans in the county or area to make timely payment of such principal and interest has been, or may be, severely impaired because of natural disasters occurring in the county or area in successive or numerous crop years.

"(b) The Secretary may permit interest that accrues during the deferral period under subsection (a)(1) or the moratorium period under subsection (a)(2) or (a)(3) for any loan to which the deferral or moratorium applies to bear no interest during or after such period: *Provided,* That, as applicable, if the security instrument securing such loan is foreclosed, such interest as is included in the purchase price at such foreclosure shall become part of the principal and draw interest from the date of foreclosure at the rate prescribed by law.

"(c) In addition to any other authority that the Secretary may have to consolidate or reschedule outstanding loans for payment, the Secretary may consolidate or reschedule outstanding loans under this title or under provisions of any other law administered by the Farmers Home Administration for payment over a period, not to exceed the maximum term provided in law for the type of loan involved, beginning on the date of such consolidation or rescheduling. The amount of unpaid principal and interest of the prior loans so consolidated or rescheduled shall not create a new charge against any loan levels as may be authorized by law. A new loan may be included in a consolidation. Such new loan shall be charged against any loan level as may be authorized by law. The interest rate on such consolidated or rescheduled loans, other than guaranteed loans, may be changed by the Secretary to a rate not to exceed the rate being charged at the time of the consolidation or rescheduling for loans under the law establishing the loan program. The interest rate on any guaranteed loan that may be consolidated or rescheduled for payment shall be such rate as may be agreed upon by the borrower and the lender, but not in excess of a rate as may be determined by the Secretary.";

(2) amending section 332 by—

(A) adding at the end of subsection (a) the following new sentence: "Notwithstanding any other provision of law, the members of the committee shall not be counted against any employment ceiling or limitation to which the Secretary is subject.";

(B) inserting before the period at the end of subsection (b) a semicolon and the following: "*Provided,* That the rate of compensation to each member shall not be less than the rate of compensation to members of county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h)."; and

(C) adding at the end of subsection (c) the following: "The Secretary may use the committee or any of its members for any purpose the Secretary deems appropriate in carrying out the Secretary's responsibilities under this title. The Secretary shall provide for the adequate training of members to carry out such assigned responsibilities and other responsibilities under this title."; and

(3) inserting after section 333 a new section 333A as follows:

"SEC. 333A In addition to such other duties as the Secretary may prescribe for the committee, the committee shall serve as a loan review board on loans under this title and the Secretary shall require the recommendation of the committee for any servicing action, as defined by the Secretary (including the adjustment and modification of loan instruments as authorized under section 331(d) of this title, the requirement of financial management actions by the borrower, and the initiation of any foreclosure action), relating to any loan made or insured under this title, except loans under sections 306, 310B, and 314 of this title. Before any servicing action covered by this section is submitted to the committee, the Secretary shall notify the borrower of the status of the borrower's loan; that loans may be consolidated or rescheduled and, in certain cases, principal and interest deferred; and that the borrower's case will be submitted to the county committee for its recommendation or servicing action. The committee, in arriving at its recommendation, shall consider pertinent information and any recommendation submitted by the Secretary and may consider such other information and factors as it deems appropriate, including information obtained from a personal interview with the borrower."

SUMMARY OF AGRICULTURAL CREDIT READJUSTMENT ACT OF 1980

The bill would—

(1) Authorize the Secretary of Agriculture to implement national moratoriums on repayment of principal and interest, and on

loan foreclosures, for up to 3 years, on loans made by the Farmers Home Administration whenever the Secretary determines that the ability of FmHA borrowers to make timely repayment has been, or may be, severely impaired by economic, climatic, or other emergencies adversely affecting the agricultural economy;

(2) For any county or area, authorize the Secretary to implement moratoriums on repayment of principal and interest, and on loan foreclosures, for up to 3 years on loans made by the Farmers Home Administration whenever the Secretary determines that the ability of FmHA borrowers in the county or area to make timely repayment has been, or may be, severely impaired due to the repeated occurrence of natural disasters;

(3) Authorize the Secretary to permit interest that accrues during a moratorium period to bear no interest during or after such period;

(4) Authorize the Secretary to consolidate or reschedule outstanding Farmers Home Administration direct and guaranteed loans. A borrower under a consolidation or rescheduling could receive additional time—as much as the maximum repayment term for the loan—to repay his loan;

(5) Provide that Farmers Home Administration county committee members (a) be paid at not less than the rate at which Agricultural Stabilization and Conservation county committees are paid, and (b) not be counted against any employment ceiling of the Department of Agriculture;

(6) Authorize the Secretary to use FmHA county committees to assist in carrying out the Secretary's responsibilities under the Consolidated Farm and Rural Development Act;

(7) Require that FmHA county committees serve as loan review boards for loans under the Consolidated Farm and Rural Development Act;

(8) Require that FmHA county committees make recommendations on proposed servicing actions (such as adjustments and modifications of loans, requirements that borrowers take corrective financial management actions, and foreclosure actions) and, in arriving at their recommendations, consider pertinent information and recommendations submitted by the Secretary (they may consider other appropriate information and factors, including information obtained from a personal interview with the borrower);

(9) Require the Secretary, before any servicing action is taken on a loan, to notify the borrower of the status of the loan, that loans may be consolidated or rescheduled and, in certain cases, principal and interest deferred, and that the borrower's case will be referred to the county committee for its review; and

(10) Require the Secretary to provide for the adequate training of FmHA county committee members to carry out the responsibilities of the committees.●

By Mr. HATFIELD:

S. 2932. A bill to consent to the Goose Lake Basin Compact between the States of California and Oregon; to the Committee on the Judiciary.

GOOSE LAKE BASIN COMPACT

Mr. HATFIELD. Mr. President, today I am introducing legislation to ratify the Goose Lake Basin Compact between the States of California and Oregon. Identical legislation has been introduced in the House by Mr. ULLMAN.

Goose Lake lies on the border of California and Oregon, and as such both States have an interest in the development, use and conservation of the water in the Goose Lake Basin. The compact protects this interest by requiring the consent of both State legislatures for the export of water from the basin, and provides further restrictions on the interstate use and transfer of water within the basin.

Mr. President, Mr. ULLMAN and I were asked to introduce this legislation by the Commissioners of Lake County, Oreg., who reminded us that similar legislation introduced some 30 years ago was never acted upon due to objections raised by the Department of Justice. By introducing this legislation, I am raising the issue again for comment, in the hope that questions and possible objections can be resolved and the compact ratified.●

By Mr. NELSON:

S. 2933. A bill to amend the Federal Water Pollution Control Act to provide funds for metropolitan areas which require additional funds for sewage treatment programs; to the Committee on Environment and Public Works.

S. 2934. A bill to amend the Federal Water Pollution Control Act to provide additional funds for metropolitan areas which are under court order to construct treatment works; to the Committee on Environment and Public Works.

FUNDING FOR SEWAGE TREATMENT CONSTRUCTION

● Mr. NELSON. Mr. President, next year, committees of the next Congress will begin the task of revising and reauthorizing the Clean Water Act of 1972 (Public Law 92-500) and its 1977 amendments (Public Law 95-217). Since these laws were enacted, much progress has been made on cleaning up our municipal and industrial wastewater discharges. To date, $31.6 billion has gone to the municipalities to fund the Federal share of sewage treatment facilities. Industry has cleaned up too. Of the Nation's major industrial polluters, 85 percent as complying with clean water requirements. These programs are having an effect. There has been no further degradation of the Nation's waters since 1975 for several of the worst measures of water pollution (fecal coliform, dissolved oxygen, total phosphorus, total mercury, and total lead). But the goal of restoring and maintaining the chemical, physical, and biological integrity of the Nation's waters has not yet been achieved.

In addition, problems have arisen which were not foreseen in 1972 or even in 1977. The two pieces of legislation which I am introducing today are a first attempt to address two such problems. Undoubtedly, both bills will need to be fine-tuned, and I am certain that the committees to which both bills are referred will do so. However, the task of improving water quality and protecting the public health is so important that I do not believe we can begin too early to consider means to furthering these objectives.

The first bill addresses a problem which affects over 100 large metropolitan areas across the Nation. These standard metropolitan statistical areas (SMSA's) have sewage treatment needs of such an enormous magnitude that the yearly allotments to their States cannot cover the costs of their sewage treatment construction programs. This is a two-sided problem which does not only affect the SMSA's. Smaller communities in the rest of the State also suffer because their needs are lost against the size and urgency of the needs of the SMSA's.

Mr. President, the legislation which I am proposing would resolve this two-sided problem by providing a separate source of funding for the SMSA's. SMSA's with more than $50 million in needs would be eligible. The Environmental Protection Agency (EPA) has identified 106 such SMSA's, and I ask unanimous consent that a list of these SMSA's be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

STANDARD METROPOLITAN STATISTICAL AREAS (SMSA's)

State	SMSA
Region I:	
Massachusetts	Boston.
New Hampshire	Manchester.
Connecticut	New Haven.
Connecticut	Hartford.
Maine	New Bedford.
Maine	Worcester.
Region II:	
New York	New York.
New Jersey	Newark.
New York	Nassau.
New Jersey	Jersey City.
New York	Syracuse.
New Jersey	Trenton.
New York	Rochester.
New York	Poughkeepsie.
New Jersey	Passaic.
New Jersey	Long Beach.
New York	Utica.
Region III:	
Pennsylvania	Philadelphia.
Maryland	Baltimore.
District of Columbia	Washington, D.C.
Virginia	Norfolk.
Pennsylvania	Scranton.
Pennsylvania	Pittsburgh.
Pennsylvania	Allentown.
Pennsylvania	Lancaster.
Virginia	Richmond.
Delaware	Wilmington.
Pennsylvania	York.
Pennsylvania	Erie.
Region IV:	
Florida	Tampa-St. Petersburg.
Georgia	Atlanta.
Florida	Orlando.
Florida	Jacksonville.
Tennessee	Memphis.
Kentucky	Louisville.
North Carolina	Greensboro.
Florida	Miami.
Florida	Fort Lauderdale.
Florida	Melbourne,
Florida	Daytona Beach.
Florida	Fort Myers.
Georgia	Macon.
Kentucky	Lexington.
Mississippi	Jackson.
Tennessee	Chattanooga.
Florida	Pensacola.
Florida	Sarasota.
Tennessee	Nashville.
North Carolina	Charlotte.
Tennessee	Knoxville.
Florida	Lakeland.
Region V:	
Illinois	Chicago.
Michigan	Detroit.
Minnesota	Minneapolis.
Wisconsin	Milwaukee.
Ohio	Columbus.
Ohio	Dayton.
Ohio	Cleveland.
Ohio	Akron.
Indiana	Indianapolis.
Ohio	Youngstown.
Indiana	Gary.
Ohio	Cincinnati.
Michigan	Kalamazoo.
Ohio	Lorain.
Ohio	Toledo.
Ohio	Canton.

STANDARD METROPOLITAN STATISTICAL AREAS (SMSA's)—Continued

Region VI:	
Texas	Houston.
Texas	Dallas-Fort Worth.
Oklahoma	Oklahoma City.
Texas	San Antonio.
Louisiana	Baton Rouge.
Texas	Waco.
Oklahoma	Tulsa.
Louisana	New Orleans.
Region VII:	
Missouri	St. Louis.
Missouri	Kansas City.
Nebraska	Omaha.
Iowa	Des Moines.
Region VIII:	
Colorado	Denver.
Utah	Salt Lake City.
South Dakota	Sioux Falls.
Region IX:	
California	Los Angeles.
California	San Francisco.
California	San Diego.
California	Anaheim.
California	San Bernardino.
Hawaii	Honolulu.
California	Sacramento.
California	Vallejo.
California	Modesto.
California	San Jose.
California	Monterey.
California	Santa Rosa.
California	Santa Cruz.
California	Ventura.
Nevada	Las Vegas.
Arizona	Phoenix.
California	Fresno.
Nevada	Reno.
Region X:	
Washington	Seattle.
Alaska	Anchorage.
Washington	Tacoma.
Oregon	Portland.
Oregon	Eugene.
Oregon	Salem.

Mr. NELSON. Mr. President, the needs of these SMSA's are a significant percentage of the sewage treatment needs of the entire Nation. Depending upon which components of a sewage treatment construction program are eligible for funding, EPA estimates the Federal share for the SMSA's alone at between $16 billion and $40 billion. The entire sewage treatment need for the Nation is currently estimated to range from $54 billion to $167 billion. Thus, the needs of the SMSA's constitute at least 25 to 30 percent of the total need.

In this first attempt to address the problem, I have not altered the existing provisions of the Clean Water Act of 1972, as amended, but only added a new section for the purpose of providing the necessary authority and funding to solve the problems facing these large metropolitan areas.

A short description of the existing law may be helpful. The sewage treatment construction grants program was established by the 1972 Water Pollution Control Act (Public Law 92-500) and amended in 1977 (Public Law 95-217). The program provides 75-percent Federal grants to municipalities for construction of wastewater treatment facilities, with the objective of restoring and maintaining "the chemical, physical, and biological integrity of the Nation's waters."

Funding for the program is authorized at $5 billion annually, but appropriations have not reached that amount for several years, even though the most recent nationwide needs survey by the Environmental Protection Agency, in 1978, found that $54 billion was required to complete needed treatment facilities. Since 1972, $31.6 billion has been appropriated.

Moneys are appropriated annually and are available for 2 fiscal years. For example, funds appropriated in fiscal year 1979 are available through the end of fiscal year 1980. Once appropriated, the moneys are spent in a two-stage process of allotment and obligation. First, States receive an allotment based on a formula which takes into account population and need. These allotted funds remain in the Federal Treasury until a State obligates them for a specific sewage treatment project. Projects are chosen on the basis of an EPA-approved priority list. Any moneys not obligated by a State at the end of the second year are subject to reallotment to other States by the Environmental Protection Agency.

The legislation which I am today introducing would not circumvent established State clean water programs. Quite the contrary, it would provide the additional funding needed by the State programs to fund adequately the enormous construction programs of the SMSA's and still attend to the needs of the smaller communities which have a difficult time competing with the SMSA's for the top spots on a priority list.

The second piece of legislation which I am introducing today addresses an entirely separate problem—that is, the case of SMSA's which are under court order to provide specific sewage treatment facilities under a timetable dictated by the court. While much more limited in terms of the funding needs, this problem is much more serious for the SMSA's which are confronted with either paying for the bulk of their sewage construction program themselves or finding themselves in contempt of court. In my own State of Wisconsin, the city of Milwaukee is in just such a situation. A brief review of Milwaukee's situation, which is shared by other SMSA's, including New York and Los Angeles, will illustrate the need for legislation of this type.

Milwaukee's court-ordered sewage treatment construction program is currently estimated to cost $1.6 billion. According to the terms of the order, the facilities must be completed by 1989. The annual expenditures are estimated to be:

Annual Expenditures

[In millions of dollars]

FY 1981	89.0
FY 1982	162.5
FY 1983	233.6
FY 1984	269.9
FY 1985	238.7
FY 1986	210.0
FY 1987	186.2
FY 1988	110.6
FY 1989	32.5

Now compare these annual expenditures against the entire annual allotment to the State of Wisconsin—currently running at $65 million per year. Obviously, even if the entire annual allotment to the State of Wisconsin could be committed to Milwaukee alone, in most years it would only scratch the surface.

What does this mean for Milwaukee and the State of Wisconsin? What does it mean for all other SMSA's which do now or will in the future find themselves in the same situation? And what does it mean for the Nation as a whole, as a precedent for future litigation in the area of water quality and public health?

For Milwaukee and Wisconsin, the answer is all too painfully clear. For Milwaukee, the situation is one of impending economic disaster. For the State of Wisconsin, the future of work toward achieving minimum Federal requirements for all other municipal dischargers in the State is threatened.

Under the terms of the Clean Water Act, Milwaukee should be receiving 75 percent of the $1.6 billion program from the Federal Government—$1.2 billion. And they must receive this amount over a period of 9 years. As the situation currently stands, the best that the Mliwaukee metropolitan sewerage district can assume is that it will receive approximately 25 percent of its needs from the Federal Government—$413 million. The remaining 75 percent will have to be paid by the people of Milwaukee and Wisconsin.

The Federal Government has the very same moral commitment and responsibility to Milwaukee as it does to any other community—that is, to pay the full 75-percent Federal share of construction of federally mandated sewage treatment facilities. In my opinion, if a municipality is required by law—either statute or court order—to meet a specified level of sewage treatment within a dictated time period, then it is only reasonable and logical to expect that the same degree of Federal assistance be provided to meet the congressionally mandated goals of improving water quality and protecting the public health.

The second piece of legislation which I am introducing today addresses this problem by providing a separate authority and the necessary funding to the Administrator of the Environmental Protection Agency to provide the full 75-percent Federal funding to SMSA's which find themselves in the situation of a court-imposed sewage treatment program and timetable for construction. As in the first piece of legislation, I have not altered the existing provisions of the Clean Water Act, as amended, except to add a new section for this purpose.

However, this legislation, as currently drafted, does take into account the fact that the State allotment should, in part, contribute to the funding of the court-ordered program. Therefore, the legislation includes a requirement that a minimum of 25 percent of a State's annual allotment go to funding the program, with the remainder of the funding—to reach a level of 75 percent Federal funding—coming directly from the Administrator of the Environmental Protection Agency.●

By Mr. HATFIELD:

S. 2935. A bill to authorize the Secretary of the Army to convey to the city of Umatilla and to the port of Umatilla certain real property in Umatilla County, Oregon; to the Committee on Environment and Public Works.

• Mr. HATFIELD. Mr. President, today I am introducing a bill to transfer three parcels of land in and near Umatilla, Oreg., from the Federal Government to the local jurisdictions concerned, the city of Umatilla and the Port of Umatilla. I will explain the background and the various considerations for each of the parcels, but they have in common a connection with the construction and management of the McNary Dam, a Corps of Engineers project. The dam serves as the boundary between two districts of the corps' jurisdiction, so one of the tracts is managed by the Walla Walla District and two by the Portland district.

Congressman ULLMAN and I have been in touch with local officials, who have been attempting to solve a number of problems created by the present restrictions on these parcels and have concluded that legislation should be introduced and passed to transfer the parcels to the local units of government.

We are convinced this will be in the public interest and will not hinder the management tasks given to the corps. Appropriately, it is difficult if not impossible for Federal agencies to transfer real property to local jurisdictions when it appears to be connected with a Federal project like McNary Dam, but in this case the project would be enhanced, not damaged by the transfer.

TRACT ONE

This parcel is usually designated as the "Old Town" site and was acquired some 15 years ago from the private owners and the city government which then occupied most of the city of Umatilla. Presumably the land was needed to provide a margin of safety above the water line for the John Day reservoir.

It appears that far more of the "Old Town" was acquired than was necessary and the corps has neither taken care of the property nor prevented damage by amateur "treasure hunters," attracted to the artifacts left from the city and the ancient Indian sites which preceded it.

This neglect has not been intentional, but undoubtedly because of a lack of funds or personnel for tasks so remote from the main responsibilities of the agency. The area has been fenced, but a well-worn pathway leads through the fence into the dense trees and brush, where amateur archaeologists search for artifacts.

The site is near the edge of the Portland district and outside the jurisdiction of the district responsible for the dam just to the east of it, it is not surprising that the parcel has been neglected.

Meanwhile, local residents whose property was taken from them marvel at the logic of transforming a city into an eyesore for no apparent reason. The area had experienced little growth and change at the time the dams were built, but has since become a part of a very rapid expansion of the population and the economy, primarily based on irrigated agriculture and related processing. This has in turn created a demand for additional private land for residences and services and public land for city services. Specifically, the city of Umatilla has begun working on a master plan for this part of the city, which would utilize the flood plain for open park space and would contemplate a hospital and civic center for the higher ground.

The city of Umatilla is very conscious of the archeological values of this site and in fact has proposed the transfer for that very reason. Currently, the site is subject to nighttime raids. By clearing the area of brush and opening it to public use, preventing unauthorized digging would be much easier. One plan would also consider covering the richest archeological area with a thick layer of fill from the proposed McNary Second Powerhouse or from some other source nearby. Not only would the city seek to protect the area but it has plans for an interpretive center in coordination with various Federal, State, and Indian agencies.

Not only would the transfer take place with the assurance that archeological resources would be protected, but other commitments would be honored. Easements would be provided for necessary fluctuations in the John Day pool. Sufficient land would be set aside for expansion of municipal water treatment facilities lying between the Umatilla Marina and the "Old Town" site.

TRACT TWO

This parcel consists of the Umatilla Marina Park and an adjacent undeveloped piece of property, totaling about 100 acres. The marina was developed jointly by the Corps of Engineers and the local port district. Voters in the district approved a bond measure for the construction in 1966 and the lease was arranged through the county of Umatilla in 1968. Work was completed in 1969 and the project has been an asset to the community and the county since then. However, the facility has been operated at a very substantial loss to the port district, forcing it to draw on other revenues to repay the bonds.

The primary purpose in transferring the facility from the Federal Government to the local jurisdiction is to allow greater flexibility in developing the marina in a way that it will no longer be a drain on local budgets.

The Corps of Engineers has fulfilled its service to the public by building the boat basin, but is not interested in operating the marina. In fact, if the port could no longer handle the annual deficits and decided to close the facility, it would revert to the corps and would likely be closed down, except for the boat-launching ramp. This would be an unfortunate waste of Federal and local funds. I am convinced that it would be in the broader public good to turn the facility over to the port, to allow further development to occur. This would in no way compromise the mission of the corps and would not remove the facility from public use.

A number of developments have been proposed for the marina area in the past, but in most cases corps restrictions on the length of the lease have prevented their realization. Even though corps officials have recently indicated the possibility of greater flexibility on the length of proposed leases, there are other corps requirements that make it very difficult to go ahead with revenue-producing developments.

It would be important that the instrument of transfer assure that future corps needs in connection with managing the John Day pool be met and that public access to the marina be assured. The parcel to the south of the marina could be developed by the port under normal permit and land-use restrictions, particularly with respect to flood plain conditions.

TRACT THREE

The third parcel consists of a narrow strip of land along the McNary pool, above the dam and above the present dock facility operated by the Port of Umatilla. Access would of necessity be from the south, since the corps maintains a public recreation area between this parcel and the present port facilities.

While it is understandable that the corps would acquire and control a certain margin of land surrounding the McNary Reservoir, the years of operating the dam have shown that this parcel is not important for corps management, as long as there are appropriate flowage easements attached to the land. Meanwhile, Port ownership would allow access to the river from the large tract to the south which has little use for agriculture and has little industrial value without access to the river.

Concerns have been raised about fish and wildlife protection, particularly nesting by ospreys and Prairie falcon. Present port plans are for very minimal gravity flow transfer of commodities from the cliff above the river to the water's edge. Permits for such facilities would have to receive the clearance of agencies concerned with wildlife protection.

The same protection would be assured for possible archeological resources in the Box Canyon area of this trip. Rather than excluding the archeological area or the nesting area from the nesting site, I have concluded that it would be better to provide an assurance that all the area would be protected by normal permit procedures required by the State and Federal agencies.

Anyone who has worked with these permit and review procedures is aware that thorough measures are taken to assure that developments not destroy a value important to the public.

Mr. President, I sumbit this legislation trusting that it will be given favorable consideration. Pursuing this type of solution is not meant as an attack on Corps of Engineers officials at all. I have great respect for and rapport with those in charge of the North Pacific Division and the two districts involved. It seems to me, though, entirely unnecessary and unwise to further bind local agencies to the various corps restrictions on development when local management can assure greater public benefit and protection. As I have indicated in the case of the "Old Town" site, insisting on Federal management has actually dissipated an important archelogical resource.

Mr. President, I ask unanimous consent that the text of the bill appear in the RECORD at this point. I also want to thank my colleague from Oregon (Mr. ULLMAN) for his joint efforts in pursuing solutions to these problems.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2935

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, the Secretary of the Army (hereinafter referred to as the Secretary), or his designee, is authorized to convey to the city of Umatilla, Oregon (hereinafter referred to as the City), and to convey to the port of Umatilla, Oregon (hereinafter referred to as the Port), subject to the terms and conditions hereafter stated, and to such other terms and conditions as the Secretary shall deem to be in the public interest, certain lands and improvements in Umatilla County, Oregon, such conveyances being more particularly set forth in the following sections of this Act.

SEC. 2. (a) The Secretary, or his designee, is authorized to convey, to the City, all right, title, and interest of the United States in and to certain land, as described in subsection (e) of this section, to be used for public park and recreation or other public purposes.

(b) In consideration for the conveyance authorized by subsection (a) of this section, the City shall pay to the United States a sum of money equal to the fair market value of the property, as determined by the Secretary, and the proceeds therefrom shall be covered into the Treasury as miscellaneous receipts.

(c) The conveyance of land authorized by subsection (a) of this section shall reserve to the United States the perpetual right, power, privilege, and easement in, upon, over, and across the lands described in subsection (e) for the purpose of inundation, overflow, saturation, percolation and wave action which may result from a pool, including backwater effect, created by water level at John Day Lock and Dam to elevation 268 feet above mean sea level, provided that no structures for human habitation shall be constructed or maintained on said land with a first floor below 290 feet above mean sea level.

(d) The conveyance authorized by subsection (a) of this section shall be subject:

(1) To any easement or leasehold interest previously granted;

(2) To the condition that if any portion of the property described in subsection (e) is used for any purpose other than those purposes designated in this section, all right, title, and interest in and to that portion of the parcel so used shall revert to and become the property of the United States at its option; and

(3) To the condition that prior to any development, the City will comply with all conditions, restrictions, and provisions set forth in the National Historic Preservation Act (16 U.S.C. 470a, et seq.) and the National Environmental Policy Act (42 U.S.C. 4321, et seq.).

(e) The lands authorized to be conveyed under subsection (a) of this section comprise approximately 87 acres, more or less, situated in sections 8, 17 and 18, township 5 north, range 28 east of the Willamette Meridian, Umatilla County, Oregon, being more particularly described as follows:

Beginning at the intersection of the Northerly right-of-way line of Fourth Avenue with the Westerly right-of-way line of Switzler Avenue;

thence Southwesterly along said Northerly right-of-way line of Fourth Avenue to the intersection with the centerline of H street;

thence Northwesterly along said centerline of H Street to the intersection with the extended East-West centerline of Block 28 of the Original Town, now city of Umatilla;

thence Southwesterly along the East-West centerline of Blocks 28, 29, 60, 61 and 30 of said city of Umatilla and Wardwells Addition, to the centerline of C Street;

thence Southeasterly along said centerline of C Street to the Northerly right-of-way line of said Fourth Avenue;

thence Southwesterly along said Northerly right-of-way line of Fourth Avenue to the intersection with the Westerly line of Lot 8, Block 32 of the Original Town, now city of Umatilla;

thence Southeasterly along the extended Westerly line of said Lot 8, to the centerline of said Fourth Avenue;

thence Westerly along said centerline of Fourth Avenue to the intersection with the centerline of A Street;

thence Southeasterly along said centerline of A Street to the Northerly right-of-way line of the Union Pacific Railroad Co.;

thence Southwesterly along said Northerly right-of-way line of the Union Pacific Railroad Co. to the ordinary high water line as it existed on 7 June 1965;

thence Northeasterly along said ordinary high water line to the intersection with the extended centerline of said Switzler Avenue;

thence Southeasterly along said centerline of Switzler Avenue to the Northerly right-of-way line of Third Avenue;

thence Westerly along said Northerly right-of-way line of Third Avenue to the Westerly right-of-way line of said Switzler Avenue;

thence Southeasterly along said Westerly right-of-way line of Switzler Avenue to the point of beginning.

Excepting therefrom a portion of a tract of land conveyed by the United States of America to the port of Umatilla by quitclaim deed, dated 22 August 1967, recorded in Book 291, Pages 148–151, of the Deed Records of Umatilla County, being more particularly described as follows:

Commencing at a point being the intersection of the centerlines of Switzler Avenue and Third Avenue;

thence North 10°48'59'' West 34.16 feet to the point of beginning;

thence North 48°43'19'' West 410.22 feet;

thence North 52°21'13'' West 145.35 feet;

thence North 15°46'07'' West 133.17 feet;

thence North 14°25'37'' West to a point on the ordinary high water line;

thence Northeasterly along said ordinary high water line to the extended centerline of said Switzler Avenue;

thence Southeasterly along said centerline to the point of beginning.

Also excepting therefrom all of Lots 1, 2, 7 and 8 of Block 45 of said Wardwells addition.

(f) The legal description in subsection (e) may be modified as agreed upon by the Secretary, or his designee, and the City, consistent with any necessary changes which may be disclosed as a result of accurate survey, the expense of which is to be borne by the City.

SEC. 3. (a) The Secretary, or his designee, is authorized to convey to the Port, all right, title and interest of the United States in and to the land, together with improvements thereon, as described in subsection (e) of this section, and the Secretary of the Interior shall convey to the Port that portion of land included in subsection (e) which was withdrawn from the public domain by Public Land Order Number 3871, dated 22 November 1965, to be used for public park and recreation purposes.

(b) In consideration for the conveyance authorized by subsection (a) of this section, the Port shall pay to the United States a sum of money equal to the fair market value of the property, as determined by the Secretary, and the proceeds therefrom shall be covered into the Treasury as miscellaneous receipts.

(c) The conveyance authorized by subsection (a) of this section shall reserve to the United States the perpetual right, power, privilege, and easement in, upon, over, and across the lands described in subsection (e) for the purpose of inundation, overflow, saturation, percolation and action which may result from a pool, including backwater effect, created by water level at John Day Lock and Dam to elevation 268 feet above mean sea level, provided that no structure for human habitation shall be constructed or maintained on said land with a first floor elevation below 290 feet above mean sea level.

(d) The conveyance authorized by subsection (a) of this section shall be subject:

(1) To any easement or leasehold interest previously granted;

(2) To the condition that if any portion of the land described in subsection (e) is used for any purpose other than those purposes designated in this section, all right, title, and interest in and to that portion of the parcel so used shall revert to and become the property of the United States at its option; and

(3) To the condition that prior to any development, the Port will comply with all conditions, restrictions, and provisions set forth in the National Historic Preservation Act (16 U.S.C. 470a, et seq.) and the National Environmental Policy Act (42 U.S.C. 4321, et seq.).

(e) The land, together with improvements thereon, authorized to be conveyed under subsection (a) of this section comprise approximately 140 acres, more or less, being that portion of Government lot 6 of section 9 and that portion of Government lots 5 and 6 of section 8 lying westerly of the westerly right-of-way line of State Route 82 and lying above the ordinary high water line of the Columbia River as it existed on 15 July 1965 and a parcel of land situated in sections 8, 9, 16 and 17, all in township 5 north, range 28 east of the Willamette Meridian, Umatilla County, Oregon, and being more particularly described as follows:

Beginning at the intersection of the Northerly right-of-way line of the Brownell Ditch Company and the Westerly right-of-way line of State Route No. 82;

thence South 74° 45' 00'' West along said Northerly right-of-way line of the Brownell Ditch Company to the Easterly right-of-way line of Switzler Avenue in the city of Umatilla;

thence Northerly along said Easterly right-of-way line of Switzler Avenue to the Southerly right-of-way line of Third Street;

thence Northeasterly along said Southerly right-of-way line of Third Street to the intersection with the Easterly right-of-way line of Quincy Avenue;

thence Northerly along said Easterly right-of-way line of Quincy Avenue to the intersection with the South line of Lot D McNary Addition to said city of Umatilla;

thence Southwesterly along the South line of said Lot D and Lots C, B and A of said McNary Addition to the intersection with the Westerly right-of-way line of Oliver Avenue extended;

thence Southeasterly along said Westerly right-of-way line of Oliver Avenue to the intersection with the Northerly right-of-way line of Second Street;

thence Southeasterly along said Northerly right-of-way line of Second Street to the intersection with the West right-of-way line of Nugent Avenue;

thence Northerly along said West right-of-way line of Nugent Avenue and the extension thereof to the ordinary high water line as it existed on 15 July 1965;

thence Northeasterly along said ordinary high water line to the intersection with the North line of Government Lot 1, of said section 8;

thence Northeasterly along said North line of Government Lot 1 to the East line of said section 8;

thence North along said East line of said section 8 to said ordinary high water line;

thence Northeasterly along said ordinary high water line to the Westerly right-of-way line of said State Route 82:

thence South 19° 12′ 30″ East along said Westerly right-of-way line of State Route 82 to a point 40.00 feet Westerly when measured at right angles from centerline Station 116+50.00;

thence South 70° 47′ 30″ West 40.00 feet to a point 80.00 feet Westerly when measured at right angles from said centerline Station 116+50.00;

thence South 19° 12′ 30″ East 494.80 feet to a point 80.00 feet Westerly when measured at right angles from centerline Equation Station 121+44.80 P.O.T. BK=121+45.59 P.O.T. AH.;

thence continuing South 19° 12′ 30″ East 254.41 feet to a point 80.00 feet Westerly when measured at right angles from centerline Station 124+00.00 T.C.;

thence in a Southwesterly direction to a point on the Northerly right-of-way line of Third Street in said McNary Addition, which point bears South 73° 51′ 50″ West 340.00 feet from centerline Station 127+78.95;

thence South 16° 08′ 10″ East 40.00 feet to the centerline of said Third Street;

thence North 73° 51′ 50″ East along said centerline of Third Street 280.81 feet to a point which bears South 73° 51′ 50″ West 75.81 feet from centerline Station 128+22.25;

thence South 38° 42′ 30″ East 280.38 feet to a point 70.00 feet Westerly when measured at right angles from centerline Equation Station 130+73.53 T.C. BK=130+74.00 T.C. A.H.;

thence Southerly on a simple curve to the right, having a radius of 884.93 feet through an angle of 38° 14′ 20″, to the intersection with the Northerly right-of-way line of said Brownell Ditch Company and the point of beginning.

Excepting therefrom a parcel of land lying in said Section 17 being more particularly described as follows:

Commencing at the Northeast corner of said Section 17; thence North 00° 59′ 00″ West 13.70 feet to the Southerly right-of-way line of Third Street; thence South 73° 13′ 00″ West 2,116.90 feet; thence South 16° 22′ 30″ East 320 feet to the POINT OF BEGINNING;

thence continuing South 16° 22′ 30″ East to the Northerly right-of-way line of the Brownell Ditch Company;

thence South 77° 45′ 00″ West, along said Northerly right-of-way line, to the Westerly right-of-way line of Switzler Avenue;

thence Northwesterly along said right-of-way to a point which lies South 73° 13′ 00″ West from the point of beginning;

thence North 73° 13′ 00″ East to the point of beginning.

(f) The legal description in subsection (e) may be modified as agreed upon by the Secretary, or his designee, and the Port, consistent with any necessary changes which may be disclosed as a result of accurate survey, the expense of which is to be borne by the Port.

Sec. 4. (a) The Secretary, or his designee, is authorized to convey to the Port, all right, title, and interest of the United States in and to the land, as described in subsection (e) of this section, to be used for public port or industrial purposes.

(b) In consideration for the conveyance authorized by subsection (a) of this section, the Port shall pay to the United States a sum of money equal to the fair market value of the property, as determined by the Secretary, and the proceeds therefrom shall be covered into the Treasury as miscellaneous receipts.

(c) The conveyance authorized by subsection (a) of this section shall reserve to the United States:

(1) The perpetual right, power, privilege, and easement in, upon, over, and across the lands conveyed for the purpose of inundation, overflow, saturation, percolation, and wave action which may result from a pool including backwater effect, created by water level at McNary Lock and Dam to elevation 340 feet above mean sea level, U.S.C. & G.S. Datum; provided, no structures for human habitation shall be constructed or maintained on said land.

(2) The right to construct, operate, and maintain navigation markers, aids, and/or ranges, water gaging stations, communication facilities, access roads, their appurtenances, and other facilities necessary and or convenient for the operation of public port or industrial facilities on said lands.

(3) The right of the officers, agents, and employees of the United States to enter upon the lands at any time and for any purpose necessary or convenient in connection with the reservations and conditions and the operation and maintenance of the McNary Lock and Dam project in order to fully accomplish the several purposes for which said project was authorized; provided such entry shall be exercised at such times and for such purposes as not to unreasonably interfere with public port and industrial operations.

(d) The conveyance authorized by subsection (a) of this section shall be subject:

(1) To any easement or leasehold interest previously granted;

(2) To the condition that if any portion of the land conveyed is used for any purpose other than the purposes designated in this section, all right, title, and interest in and to that portion of the parcel so used shall revert to and become the property of the United States at its option; and

(3) To the condition that prior to any development, the Port will comply with all conditions, restrictions, and provisions set forth in the National Historic Preservation Act (16 U.S.C. 470a, et seq.) and the National Environmental Policy Act (42 U.S.C. 4321, et seq.).

(e) The lands authorized to be conveyed under subsection (a) of this section comprise approximately 128 acres, being all of those portions of Government Lots 1, 2, 3, and 4 of section 7; Government Lots 1 and 2 of section 8; Government Lots 1 and 2 and the north half of the northwest quarter of section 17; and Government Lots 2, 3, and 4 of section 16 all in township 5 north, range 29 east of the Willamette Meridian, Umatilla County, State of Oregon, which lie northerly of the McNary Lock and Dam project boundary and southerly of the ordinary high water line of the Columbia River.

(f) The legal description in subsection (e) may be modified as agreed upon by the Secretary, or his designee, and the Port, consistent with any necessary changes which may be disclosed as a result of accurate survey, the expense of which is to be borne by the Port.●

By Mr. DOLE (for himself, Mr. Baucus, Mr. Cochran, Mr. Ford, Mr. Hatch, Mr. Mathias, Mr. Moynihan, and Mr. Wallop):

S. 2938. A bill to amend section 117 of the Internal Revenue Code of 1954 to provide that Federal grants for tuition and related expenses at institutions of higher education shall not be includible in gross income merely because the recipient is required to render future service as a Federal employee, and for other purposes; to the Committee on Finance.

TAX EXCLUSION TO ATTRACT STUDENT HEALTH PROFESSIONALS

● Mr. DOLE. Mr. President, today, along with my colleagues Mr. Baucus, Mr. Cochran, Mr. Ford, Mr. Hatch, Mr. Mathias, Mr. Moynihan, and Mr. Wallop, I am introducing legislation designed to provide a permanent tax relief for participants in the Public Health Service/National Health Service Corps and Armed Forces health professions scholarship programs. This legislation is similar to a bill introduced by Congressman Rostenkowski on April 2, 1980.

Before sharing with you my rationale for such action, I would like to share with you a brief historical view of the scholarship programs we will discuss today and the problems that face them.

In 1972, Congress passed legislation that recognized two major areas of concern; First, the health manpower shortage in certain medically needy communities and second, the need to insure there were sufficient health professionals to care for our military personnel and their families.

In that year, the Emergency Health Personnel Act amendments, Public Law 92–585, and the Uniformed Service Health Professionals Revitalization Act of 1972, Public Law 92–426 became law. These new laws created two scholarship programs designed to support the training of health professions students in return for certain service commitments. The programs that were authorized were: The Armed Forces Health professions scholarship program and the Public Health Service/National Health Service Corps scholarship program. The programs have done an admirable job of accomplishing the goal of providing health professionals to underserved communities and to the military.

In 1975, the military enrolled 4,829 professions students in the scholarship program; in 1976, 4,856; and in 1979, 500 participants.

NATIONAL HEALTH SERVICE CORPS

The National Health Service Corps program shows an even more remarkable growth pattern. We must recognize that their funding has also grown, from $3 million to $75 million in fiscal year 1979.

In 1974, when the Corps program was finally funded, 391 awards were granted; in 1975, 2,371; in 1976, 2,288; with an additional 2,247 given in the transition quarter and in 1979–80, 6,408 awards were given.

I am convinced that the Public Health Service/ National Health Service Corps program is a major step toward addressing the critical issue of the maldistribution of health manpower. This scholarship program is by no means ordinary. Indeed, it has as its goal not simply financial support of health professions students but, more importantly, the provision of health services to those not receiving adequate medical care. As a Senator from a predominantly rural State, I am well aware of the need for such a program.

ARMED FORCES HEALTH PROFESSIONS SCHOLARSHIP

The Armed Forces health professions scholarship program provides that for the purpose of obtaining adequate numbers of commissioned officers on active duty who are qualified in the various health professions, the Secretary of each military department may establish and maintain a health professions scholarship program for the Department.

It has been said that both the scholarship programs are publicly funded programs which have vital social goals, the principal beneficiaries of these programs are intended to be the American people—the taxpayers themselves who will receive the benefit of needed health services. It is essential that these programs remain viable and attractive to students entering health careers so that the public service goals can be achieved.

The Armed Forces health professions scholarship program will have its work cut out—even more so because we have removed one of the more attractive incentives, tax exclusion for the scholarship moneys.

The Public Health Service/National Service Corps is in the same predicament.

CURRENT LAW

Under current law, subject to certain limitations, the tax code provides that gross income of an individual does not generally include any amount received as a scholarship at an educational institution or as a fellowship grant.

Whether an amount received by an individual is excludable from gross income depends upon the facts and circumstances under which the payment is made.

The regulations further provide that any amount or amounts paid or allowed to, or on behalf of an individual to enable the individual to pursue studies or research shall not be considered to be an amount received as a scholarship or fellowship grant if such amounts represent compensation for past, present, or future services. The Internal Revenue Service has ruled that the Armed Forces health professions scholarship program and the National Health Service Corps meet its definition and thus amounts received from the programs should be included as gross income.

Recognizing the special nature of these programs, Congress passed legislation that exempted amounts received under the Armed Forces health professions scholarship program or any similar program, including the PHS scholarships.

This legislation expired in 1975 but the Congress has acted numerous times to continue the exemption. However, due to the expiration of this temporary legislation, students entering these programs after December 31, 1980 face the prospect of being taxed on the entire amount of benefits received from these programs.

SITUATION CRITICAL

The situation has become critical. Education for health professions students has become increasingly more expensive. In medical schools alone, the tuition rates range up to $14,000 a year. Minority students and other economically disadvantaged students are particularly hard hit. While approximately 1 in 10 medical students are of minority/low income status, one in four is a scholarship recipient. Health manpower is increasingly difficult to recruit into underserved areas and the military.

During discussions on the 1976 Tax Reform Act, it was decided to continue the exclusion of these scholarships from gross income pending a thorough staff review of the appropriate tax treatment of the grants in view of the overall national policy toward the health professions scholarship programs. This study has not yet begun.

In the meantime, the programs may experience a serious setback as they no longer can offer as an incentive tax exclusion for the moneys granted. Students entering the program may be faced with the situation of insufficient funds to cover expenses because of taxes.

PERMANENT SOLUTION

The bill I am introducing today provides a permanent solution to the current problem by exempting from taxation the tuition and fees portions received as scholarships under Federal programs which require future service as Federal employees; we do not, however, exempt monthly stipends for living expenses. Since most students have little income, if any, apart from the monthly stipend, the tax liability arising from the stipend alone should not be unduly burdensome.

As. Mr. ROSTENKOWSKI pointed out in his introductory remarks on his bill, the proposal offers a rational compromise between two competing policies. By exempting the major portion of the total scholarship award from taxation, it retains the incentive for students to seek these scholarships. The Nation is thereby assured of fulfilling its need for dedicated, well-trained professionals in Federal programs, deemed high priority by Congress. At the same time, this bill creates only a limited but quite rational exception to the general rule that amounts received for educational benefits, when award is conditioned by future service as a Federal employee, are taxable as compensation. The exception is based on the distinctive source of these scholarships in that these are Federal grants. In effect, the application of the general rule means that the Federal Government confers a benefit, but rescinds part of that benefit when it taxes it. This bill lessens the impact of these contradictory policies by exempting tuition and related expenses from taxation.

NATIONAL RESEARCH SERVICE AWARDS

Mr. President, also included in the legislation being introduced today is a 1-year extension of the exemption from taxation of the amounts received under the National Research Services Awards. These programs have been included in the temporary exclusions agreed to in the past, which also provided relief for recipients of the Armed Forces and public health services programs.

PURPOSE OF NRS AWARDS

National Research Service Awards are of two types; individual fellowship awards to post-doctoral trainees and institutional awards which provide traineeships to both pre-doctoral and post-doctoral trainees. An individual who accepts a National Research Service Award is required to pursue research or training on a full time basis during the period of support. The recipient, in addition, must contract to engage in biomedical or behavioral research or teaching upon expiration of the award for a period equal to the period of support. If the Secretary of the Department of Health and Human Services determines that there are no suitable research or teaching positions available to an NRSA recipient upon completion of his or her research or training, the Secretary may authorize the individual to fulfill the contract in three alternative ways.

The individual may first, serve as a member of the National Health Service Corps for a period equal to the period of support, or second, serve in private practice in a geographic area designated by the Secretary as requiring that individual's particular specialty for a period equal to the period of support, or third, provide services in his or her specialty for a health maintenance organization receiving payments under section 1876 of title XVIII of the Social Security Act and serving an underserved population for a period equal to the period of support.

If an NRSA recipient fails to perform this service, the Federal Government is entitled to recover the total amount paid to the individual with interest. The individual must repay this amount within 3 years.

There were 11,197 awards made in fiscal year 1979. Of these, 5,349 went to pre-doctoral candidates and 5,848 to post-doctoral candidates. Appropriations for the NRSA program for fiscal year 1979 were $143,661,000 overall, with $49,557,000 going to pre-doctoral awards and $94,104,000 to post-doctoral awards.

TEMPORARY SOLUTION

This program, like those mentioned earlier, will be adversely affected should taxation of moneys granted take place.

The Senator from Kansas offers a temporary solution because we are currently unsure of how best to resolve the tax problem with respect to the Research Service Awards, their situation being somewhat different from the other programs mentioned. The one year extension of tax exempt status for the Research Service Awards will give us an opportunity to devise a permanent solution.

CONCLUSION

Mr. President, I believe it is in the best interests of the public to continue to support these programs by providing for tax exclusion.

I urge my colleagues to give this matter their attention.●

● Mr. BAUCUS. Mr. President, I am pleased to join Senator DOLE in introducing a bill which provides permanent tax relief for recipients of Federal scholarships whose award is contingent upon performance of future service as a Federal employee. Under current law, amounts received for educational benefits are generally taxable even when the recipient is required to perform future services for the grantor. This practice applies equally to scholarships granted under such programs as the Armed Forces health professions scholarship program and the Public Health Service and National Health Service Corps scholarship program.

Congress has repeatedly exempted National Health Service Corps scholarships and Armed Forces health profession scholarships from personal income tax.

The principles behind the exemption is that taxation of these scholarships would undermine the intent of the legislation which is to meet the pressing need for health manpower in medically underserved areas and in the Armed Forces. The legislation was also intended to enable students, especially those from ethnic minorities and low-income backgrounds, to afford the high costs of medical and dental schools which are particularly high for those attending private schools or for out-of-State residents of public schools.

This exemption is especially important for the people of Montana because we have many medically deprived areas across the State and because we have no in-State medical school of our own.

The bill I am cosponsoring today provides a permanent exemption to the current tax law by exempting from taxation the tuition and fees portions received as scholarships under Federal programs which require future service as Federal employees. The bill does not exempt monthly stipends for living expenses from taxation. The tax liability arising from the stipend alone should not be unduly burdensome since most students have little income apart from the monthly stipend.

I believe this bill offers a rational compromise between two competing policies. By exempting the major portion of the total scholarship award from taxation, it retains the incentive for students to seek these scholarships. The Nation is thereby assured of fulfilling its need for dedicated, well-trained professionals in areas deemed high priority by Congress. We are all aware, for example, of the critical shortage of physicians we are experiencing today in the Armed Forces.

At the same time, this bill creates a limited exception to the general rule that amounts received for educational benefits, whose award is conditioned by future service as a Federal employee, are taxable as compensation. The exception is based on the distinctive source of these scholarships because they are Federal grants.

The shortages in medical personnel in the Armed Forces, coupled with the 49 million Americans who reside in medically underserved areas is justification alone for enacting this important legislation. We must continue to make service in the National Health Service Corps as well as in the Armed Forces health professions attractive. Exempting these scholarships from personal income tax will accomplish this objective.●

Mr. MATHIAS. Mr. President, I am pleased to join the distinguished Senator from Kansas (Mr. DOLE) as a sponsor of the bill S. 2938. Enactment of this measure would exempt from taxation scholarships received through the National Health Service Corps program and the Armed Forces health professions program. These scholarship awards require future Government service in health programs.

Both scholarship programs are vital components of efforts to achieve an important national goal. No one should be forced to forego medical care because of a lack of health personnel or facilities in the area where he or she lives.

Last year, according to the Public Health Service, there were 1,407 primary care shortage areas and 676 dental shortage areas. All citizens, including those in isolated rural or inner-city urban areas and those in the Armed Forces, should have access to the best health care available.

Congress established the National Health Service Corps in 1970 to help address the problems of maldistribution of health care professionals. The National Health Service Corps has recruited health professionals and assigned them to community health centers, hospitals, and other practices in health manpower shortage areas.

The National Health Service Corps began a scholarship program in 1972 to assure an adequate supply of physicians, dentists, nurses, and other health professionals for the shortage areas. The principal purpose of awarding National Health Service Corps scholarships is to provide health services to medically underserved areas and not simply to provide financial support for students in health professions.

The scholarship program therefore requires 1 year of full-time clinical practice in a health manpower shortage area in return for each year of scholarship support, with a minimum service obligation of 2 years. The service obligation can be met either by salaried service in the National Health Service Corps or Public Health Service or by private practice in a health shortage area.

The Armed Forces health professions scholarship program operates in a similar manner and carries service obligations in military medicine. Because these two scholarship programs were created to assure adequate medical staff for the Armed Forces and health services for underserved people, the principal beneficiaries of the programs are the American people.

The bill we are introducing today would make permanent the current but temporary exclusion from taxable income of tuition and fees received as a scholarship through the programs.

Generally educational grants are not excludable from gross income if they represent compensation for past, present, or future services. However, temporary legislation has excluded these scholarships from taxable income, but the legislation will not apply to new scholarships awarded after this year.

Taxing these unique Government health scholarships, which already require fulfillment of a commitment to substantial public service, would impose an additional burden and could very likely discourage participation in the programs. Taxation of the scholarships at a time when the recipients have almost no other income would have the effect of substantially reducing the value of the scholarships.

This bill lessens the impact of those contradictory policies by exempting from taxation scholarship grants for tuition and required fees, books, supplies, and equipment. Monthly stipends for living expenses, or salaries, would not be exempted from taxation, though the tax liability arising from stipends alone would not be burdensome.

Mr. President, the scholarship bill we are introducing today maintains the opportunity for able students to combine an education in the healing professions with a commitment to public service and preparation for a career. At the same time, the Nation benefits by better assuring a steady supply of trained health professionals who will help meet the need for health personnel in medically underserved areas and in the Armed Forces.

By Mr. CHAFEE:

S. 2940. A bill to provide for permanent tax rate reductions for individuals, reduction of the "marriage penalty" tax, incentives for new plant and equipment, small business tax relief, and export tax incentives beginning in 1981; to the Committee on Finance.

TAX REDUCTION AND JOB CREATION ACT OF 1980

● Mr. CHAFEE. Mr. President, endorsing tax cut legislation that is likely to deepen the Federal budget deficit expected in 1981 was not a decision I made lightly. It was a decision compelled by the dismal condition of our economy. Fiscal policy has been so badly handled by the Carter administration it could be sometime before our economy gains enough strength to support a balanced budget. But it will be even longer if steps are not taken to prevent the erosion of individual purchasing power and restore the productive capabilities of our industrial machine.

In that regard, today I am introducing the Tax Reduction and Job Creation Act of 1980. My package encompasses five basic tax provisions that I consider top priorities for Senate consideration:

First, an across-the-board 10-percent reduction in individual income tax rates.

Second, a new tax deduction to reduce the so-called "marriage penalty" tax. This consists of a deduction equal to 10 percent of the smaller of the two incomes earned by two married workers. There would be a $2,000 cap on the size of the deduction.

Third, a rapid depreciation system identical to S. 1435, the Capital Cost Recovery Act. This provision includes a 10-year writeoff for new commercial and industrial buildings; a 5-year writeoff for business machinery and equipment; and a 3-year writeoff with a $100,000 cap for automobiles and light duty trucks.

Fourth, a graduated corporate surtax exemption with a new level of $250,000 to assist small business capital formation and job expansion.

Fifth, a $50,000 earned income tax exclusion for Americans living and working overseas to stimulate sagging U.S. exports and help restore the competitive edge of U.S. industry in international trade.

While revenue estimates have not been completed on each of these provisions, the total loss to the Treasury on a static basis would be in the $25 billion to $30 range. As my Republican colleagues will note, both the individual 10-percent rate reduction and the accelerated depreciation provision are included from the tax cut proposal we made together last week.

While President Carter and his advisers may still believe the economy will be on its way back up by the end of the year, very few knowledgeable economists share this rosy view. In fact, Mr. President, the economic news seems to be getting worse. In the last 2 months, 1.7 million Americans lost their jobs, the largest 2-month drop in history; 8.2 million workers are now on the unemployment rolls in this country.

Real incomes are continuing to lose ground to inflation, and more people, especially the elderly, are forced to dig into their savings. Worker productivity has actually declined over the last year. The U.S. trade deficit has moved into its 49th consecutive month marked by the news that exports declined 4.3 percent in May.

Our economy needs help, Mr. President, not benign neglect.

Yet, the Carter administration continues to balk at positive action toward resolving these problems. It is said that an individual tax cut would be too stimulative, too inflationary. The fact is that a 10-percent rate reduction yielding a $19.8 billion tax cut will offset less than half the $42 billion tax increase Americans can expect in 1981 from inflation, rising social security taxes and windfall profit taxes. We are not exactly plucking the drowning taxpayer out of the water. It is more like throwing him a life preserver.

On the other hand, it is accurate to say that the business-related tax provisions in my proposal would be stimulative. But who would argue about the need to increase our level of productive business investment to create jobs and buy more efficient tools for our workers? Who could disagree about the need to provide tax relief to small businesses, the primary source of new employment in this country? And who would shun the opportunity to increase U.S. exports? The Commerce Department estimates that every $1 billion of new exports creates a minimum 40,000 jobs.

The provisions in my bill would address these important issues, and they are the very issues that must be solved if we are to cut the underlying rate of inflation and regain our strength among trading nations.

I sincerely hope my colleagues will join me in placing constructive and effective tax reduction at the top of the Senate's priority list this year. Positive action must be taken now, not bandied about as just another campaign promise.●

By Mr. WARNER:

S. 2941. A bill to amend title 38, United States Code, to provide a new program of educational assistance for persons who serve in the Armed Forces; to the Committee on Veterans' Affairs.

ARMED FORCES EDUCATIONAL ASSISTANCE ACT OF 1980

Mr. WARNER. Mr. President, we have discussed at length in these Chambers the fact that the Armed Forces today face critical problems in recruiting and retaining high quality individuals.

I believe that we can provide a real service to our Armed Forces by addressing this problem squarely and by making substantive improvements in our education program for military personnel.

The bill that I introduce has the objectives of increasing the retention of current and future active military career personnel, enhancing recruitment through augmentation of the military career benefit package, and upgrading the quality of the military force.

Such a program is necessary for several reasons. First, career military personnel, whether personally in combat or not, have made a time commitment to their country's service. The time spent in the early stages of their military service may have been used instead for career preparation had they not been in the military. We must assure our military personnel that time spent in their country's service does not deny them the opportunity to prepare for a career.

Second, educational assistance should be also viewed as one element of a benefit package together with other features that this Congress is addressing, such as the Warner-Nunn proposal. Thus, educational assistance is a benefit which we can provide to military personnel who make the commitment to their Nation to serve as career personnel.

The bill that I bring forward will improve the quality of the career force by providing educational assistance that will attract high school graduates or those with equivalent experience who want help in acquiring additional education. As most of you know, high school education has been found to be a statistically important criteria in determining level of competence in the military.

The program is designed to provide four basic educational assistance options which taken together will encourage enlistment and increase retention.

The first option is specifically designed as an incentive for recruitment. To qualify for educational assistance, an enlistee must make a commitment of time and service. After 3 years of active duty and with a 3-year commitment to the Active Reserves, the individual qualifies for 18 months of educational assistance. This should also be an important benefit for those not necessarily interested in formal university level education, but who can take advantage of this option for junior college or trade school training. There is a critical national shortage of technicians, professional machine and tool designers, skilled medical assistants, et cetera, and such training should help alleviate that situation.

The second option is analogous to the original GI bill in concept and is designed as an incentive for both recruitment and retention. Thirty-six months of educational assistance would be provided to those who make the time and service commitment of 4 years of active duty, along with a 4-year service in the Active Reserves.

The third option provides 36 months of educational assistance to those individuals who remain on active duty 6 years before taking advantage of the GI bill. The Active Reserve commitment is waived. The 6 years of active duty should help relieve the critical skill shortage at intermediate enlisted personnel levels.

As an additional incentive for retention, a fourth option is provided which allows the individual to pass his or her 36-month educational assistance program on to a spouse or child if 16 years have been devoted to active duty.

The program is proposed to begin effective with fiscal year 1981. It is important to note that no costs would be incurred until 1985.

Not since World War II has our country been threatened so dramatically on so many fronts. We find ourselves not only losing our military parity in the strategic and conventional force arenas, but also subject to the emerging threat of revolutionaries and terrorists.

At this time the availability of highly trained personnel in critical job skill areas may well be the most important issue affecting the readiness of our forces. We must assure that our men and women in uniform view the military as an attractive career.

Recruitment of military personnel and retention of qualified individuals in key positions pose the critical problem which may surface as the "weak link" in our defense structure. Despite the sophistication of our weapon systems (and, often, because of it), we need skilled individuals who are highly trained, available and ready.

Currently, we are short 20,000 highly skilled and technically trained petty officers. Recently the U.S.S. *Canisteo* was removed from operational status because it was judged unsafe due to personnel shortages.

The Air Force is now short 3,000 NCO's. Chief of Staff Lew Allen has been forced to suggest that in the early eighties he wants to spread the shortages "in a way as wise as we can."

The Army is short 46,000 NCO's. Support and Reserve Forces are under strength.

There are requirements today for 1 million personnel in the Active Reserve—currently there are 800,000. The Individual Ready Reserve requires 700,000, but has only 200,000 personnel.

Retention difficulties have reduced the skill levels in our current force. Today large numbers of our artillery crewmen have insufficient skills for combat. Substantial difficulties can also be found in other skill specialties such as nuclear weapons maintenance, tank repair, Hawk missile maintenance, and on and on.

Wartime mobilization simulations show that we can only fill 52 percent of the infantry positions, 73 percent of the artillery, and 28 percent of the armor requirements.

I urge that the Senate give this proposal full and prompt attention. We need to retain our personnel if we are to maintain a desired state of readiness—the capability of our planes to fly, our ships to sail, and our ground forces to deploy.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2941

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Armed Forces Educational Assistance Act of 1980".

SEC. 2. (a) Title 38, United States Code, is amended by adding after chapter 32 the following new chapter:

"Chapter 33—ARMED FORCES EDUCATIONAL ASSISTANCE PROGRAM

"Sec.
"1644. Statement of purpose.
"1645. Definitions.
"1646. Eligibility; entitlement.
"1647. Time limitations for completing a program of education.
"1648. Educational assistance; subsistence allowance.
"1649. Program requirements.
"1650. Right of eligible veteran to transfer entitlement to spouse or dependent children.

"§ 1644. Statement of purpose

"It is the purpose of this chapter to demonstrate that an improved educational assistance program for persons who serve on active duty will not only exact honorable military service from such persons but will also increase the retention rate of current and future military personnel, increase recruitment of personnel, and enhance the quality of the military force generally.

"§ 1645. Definitions

"For the purposes of this chapter—

"(1)(A) The term 'eligible veteran' means any person who entered military service after September 30, 1980, and (i) served on active duty for three or more years after such date and was discharged or released therefrom under conditions other than dishonorable, or (ii) was discharged or released from active duty after such date for a service-connected disability.

"(B) The requirement of discharge or release, prescribed in subparagraph (A), shall be waived in the case of any person who has completed at least three years' active duty (which began after September 30, 1980).

"(C) For the purposes of subparagraphs (A) and (B), the term 'active duty' does not include any period during which an individual (i) was assigned full time by the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians, (ii) served as a cadet or midshipman at one of the service academies, or (iii) served under the provisions of section 511(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard, or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve.

"(2) The terms 'program of education' and 'educational institution' shall have the same meaning as in subsections (b) and (c), respectively, of section 1652 of this title.

"§ 1646. Eligibility; entitlement

"(a) Except as otherwise provided in this section—

"(1) an eligible veteran who serves at least 36 consecutive months but less than 48 consecutive months of active duty and who agrees to serve as a member of the Ready Reserve of an armed force for three years immediately after such veterans' discharge or release from active duty shall be entitled to 18 months of educational assistance under this chapter;

"(2) an eligible veteran who serves at least 48 consecutive months but less than 72 consecutive months of active duty and who agrees to serve as a member of the Ready Reserve of an armed force for four years immediately after such veteran's discharge or release from active duty shall be entitled to 36 months of educational assistance under this chapter; and

"(3) an eligible veteran who serves at least 72 consecutive months of active duty shall be entitled to 36 months of educational assistance under this chapter without any requirement for service as a member of a reserve component of an armed force.

"(b) An eligible veteran who has served on active duty for a period of 16 years as of September 30, 1986, or any time thereafter, may transfer, as provided in section 1650 of this title, such veterans educational entitlement under this chapter to such veteran's spouse or children.

"(c) Whenever the period of entitlement under this section of an eligible veteran who is enrolled in an educational institution regularly operated on the quarter or semester system ends during a quarter or semester, such period shall be extended to the termination of such unexpired quarter or semester. In educational institutions not operated on the quarter or semester system, whenever the period of eligibility ends after a major portion of the course is completed such period shall be extended to the end of the course or for 12 weeks, whichever is the lesser period.

"(d) Any enlisted member of the Armed Forces eligible for educational assistance under this chapter shall be eligible to participate in the Predischarge Education Program (PREP), authorized by subchapter VI of chapter 34 of this title, during the last 6 months of such member's first enlistment after September 30, 1980.

"(e) Eligible veterans under this chapter shall be eligible for education loans authorized by subchapter III of chapter 36 of this title in such amounts and on the same terms and conditions as provided in such subchapter, except that the term 'eligible veteran' as used in such subchapter shall be deemed to include 'eligible veteran' as defined in this chapter.

"(f) Except as provided in subsection (a) and in subchapters V and VI of chapter 34 of this title, no eligible veteran shall receive educational assistance under this chapter in excess of 36 months.

"(g)(1) No educational assistance shall be afforded to any eligible veteran who fails to complete three consecutive years of active duty service.

"(2) The Administrator shall terminate the benefits under this chapter in the case of any veteran who fails to participate satisfactorily in the Ready Reserve of an armed force if such participation was a requirement for entitlement under this section. The Administrator may reinstate such benefits upon receipt of certification from the Secretary of Defense that such veteran is participating satisfactorily as a member of the Ready Reserve of an armed force.

"§ 1647. Time limitations for completing a program of education

"(a) No educational assistance shall be afforded an eligible veteran under this chapter beyond the date six years after the veteran's last discharge or release from active duty after September 30, 1980; except that, in the case of any eligible veteran who was prevented from initiating or completing such veteran's chosen program of education within such time period because of a physical or mental disability which was not the result of such veteran's own willful misconduct, such veteran shall, upon application, be granted an extension of the applicable delimiting period for such length of time as the Administrator determines, from the evidence, that such veteran was prevented from initiating or completing such program of education.

"(b) In the case of any eligible veteran who has been prevented, as determined by the Administrator, from completing a program of education under this chapter within the period prescribed by subsection (a), because the veteran had not met the nature of discharge requirements of this chapter before a change, correction, or modification of a discharge or dismissal made pursuant to section 1553 of title 10, the correction of the military records of the proper service department under section 1552 of title 10, or other corrective action by competent authority, then the six-year delimiting period shall run from the date the veteran's discharge or dismissal was changed, corrected, or modified.

"(c) In the case of any eligible veteran (1) who became eligible for educational assistance under the provisions of this chapter, and (2) who, subsequent to the veteran's last discharge or release from active duty, was captured and held as a prisoner of war by a foreign government or power, there shall be excluded, in computing the veteran's six-year period of eligibility for educational assistance, any period during which the veteran was so detained and any period immediately following the veteran's release from such detention during which the veteran was hospitalized at a military, civilian, or Veterans' Administration medical facility.

"§ 1648. Educational assistance; subsistence allowance

"(a) The Administrator shall pay, in the case of each eligible veteran pursuing a program of education under this chapter, the cost of such veteran's tuition and fees or $1,500 per school year (or an appropriate portion thereof, as determined under regulations which the Administrator shall prescribe, in the case of an eligible veteran pursuing a program of education on a part-time basis), whichever is less.

"(b) The Administrator shall pay to each eligible veteran pursuing a program of education under this chapter a subsistence allowance of $300 per month (or an appropriate portion thereof, as determined under regulations which the Administrator shall prescribe, in the case of an eligible veteran pursuing a program of education on a part-time basis), except that an eligible veteran pursuing a program of education while serving on active duty shall not be eligible for a subsistence allowance under this section.

"§ 1649. Program requirements

"The provisions of sections 1670, 1671, 1673, 1674, 1677, 1681(c), 1683, 1696, and 1698 of this title and the provisions of chapter 36 of this title shall be applicable to the educational assistance program provided for in this chapter.

"§ 1650. Right of eligible veteran to transfer entitlement to spouse or dependent children

"(a)(1) An eligible veteran described in section 1646(b) of this title may transfer all or any part of such veteran's educational entitlement under this chapter to such veteran's spouse or to a child of such veteran. Any transfer under the preceding sentence may be revoked at any time by the veteran making the transfer.

"(2) If a veteran described in paragraph (1) dies before making such an election but has never made an election not to transfer such entitlement, any unused entitlement of such veteran shall be automatically transferred to such veteran's surviving spouse or (if there is no surviving spouse or if the surviving spouse so elects) to such veteran's children.

"(b) Any transfer of entitlement under subsection (a) shall be made in such form and manner as the Administrator concerned may prescribe.

"(c) A spouse or surviving spouse or a child to whom entitlement is transferred under this section is entitled to educational assistance under this chapter in the same manner and in the same amount as the veteran from whom the entitlement was transferred, except that the delimiting period shall be ten years after the date on which the entitlement is transferred or ten years after the veteran's last discharge or release from active duty, whichever is earlier. A surviving spouse is not entitled to educational assistance under this section by virtue of the service of another person during any period during which the surviving spouse is remarried.

"(d) The total amount of educational assistance available to a veteran entitled to educational assistance under section 1646 of this title and to the veteran's spouse and dependent children is the amount of educational assistance to which the veteran is entitled. If more than one person is being provided educational assistance for the same period by virtue of the entitlement of the same veteran, the subsistence allowance authorized by section 1648(b) of this title shall be divided in such manner as the person may specify or (if the person fails to specify) as the Secretary concerned may prescribe.".

(b) The table of chapters at the beginning of such title and at the beginning of part III of such title are each amended by adding below the item relating to chapter 32 the following new item:

"33. Armed Forces Educational Assistance Program.".

(c) Chapter 32 of title 38, United States Code, relating to the post-Vietnam era veterans' educational assistance program, is amended by adding at the end thereof the following new section:

"§ 1644. Termination of program

"No person who enters the military service after September 30, 1980, and who is eligible to earn educational assistance entitlement under chapter 33 of this title shall be eligible to participate in the program provided for in this chapter after such date, and no person who entered the military service before such date shall be eligible to participate in such program after September 30, 1982. The preceding sentence shall not be construed to deny benefit payments under this chapter to any eligible veteran who was a participant before the applicable termination date specified in the preceding sentence.".

(d) Clause (4) of section 1795 of title 38, United States Code, relating to limitation on period of assistance under two or more programs, is amended by inserting "33," after "chapters 31,".

SEC. 3. (a) The Administrator of Veterans' Affairs and the Secretary of Defense, not later than 90 days after the date of enactment of this Act, shall submit to the Congress a joint report containing their respective plans for implementing the educational assistance program provided for under chapter 33 of title 38, United States Code, as added by section 2 of this Act.

(b) The Secretary of Defense shall report to the Congress semiannually on the effect that the educational assistance program provided for under chapter 33 of title 38, United States Code, as added by section 2 of this Act, has had on the number and quality of individuals entering the armed forces. Each such report shall include—

(1) the number of original enlistments in the armed forces, the number of first reenlistments, and the number of other volunteers for active duty during the preceding six-month period;

(2) the retention and attrition rates in the armed forces during the preceding six-month period;

(3) a comparison of the enlistment, reenlistment, retention, and attrition rates in the armed forces during the preceding six-month period with those for a comparable period in each of the preceding five years; and

(4) such other pertinent information as the Secretary deems appropriate.

ADDITIONAL COSPONSORS

S. 1435

At the request of Mr. NELSON, the Senator from Idaho (Mr. MCCLURE) was added as a cosponsor of S. 1435, a bill to amend the Internal Revenue Code of 1954 to provide a system of capital recovery for investment in plant and equipment, and to encourage economic growth and modernization through increased capital investment and expanded employment opportunities.

S. 1843

At the request of Mr. CRANSTON, the Senator from Massachusetts (Mr. TSONGAS) was added as a cosponsor of S. 1843, a bill to provide for Federal support and stimulation of State, local, and community activities to prevent domestic violence and provide immediate shelter and other assistance for victims of domestic violence, for coordination of Federal programs and activities pertaining to domestic violence, and for other purposes.

S. 2521

At the request of Mr. DOLE, the Senator from Utah (Mr. GARN) was added as a cosponsor of S. 2521, a bill to amend the Internal Revenue Code of 1954 to provide more equitable treatment of royalty owners under the crude oil windfall profit tax.

S. 2580

At the request of Mr. SCHWEIKER, the Senator from New Jersey (Mr. BRADLEY) was added as a cosponsor of S. 2580, a bill to amend the Immigration and Nationality Act to provide procedures for administrative correction of the dates of birth of certain naturalized citizens.

S. 2620

At the request of Mr. NELSON, the Senator from New Hampshire (Mr. DURKIN) was added as a cosponsor of S. 2620, a bill to expand the opportunities for small business participation in exporting, and for other purposes.

S. 2668

At the request of Mrs. KASSEBAUM, the Senator from Missouri (Mr. DANFORTH) was added as a cosponsor of S. 2668, a bill to provide for certain importers of crude oil to contribute to the strategic petroleum reserve.

S. 2722

At the request of Mr. WALLOP, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 2722, a bill to amend title II of the Social Security Act to provide that disability insurance benefits may not be paid to inmates of penal institutions or facilities for the criminally insane.

S. 2848

At the request of Mr. DOLE, the Senator from Utah (Mr. GARN) was added as a cosponsor of S. 2848, a bill to amend the Internal Revenue Code of 1954 to provide more equitable treatment of royalty owners under the crude oil windfall profit tax.

S. 2890

At the request of Mr. LEVIN, the Senator from Maine (Mr. COHEN), the Senator from Iowa (Mr. JEPSEN), the Senator from California (Mr. CRANSTON), the Senator from Wyoming (Mr. SIMPSON), and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. 2890, a bill for the relief of Maria and Timofei Chmykhalov, and for Lilia, Peter Liubov, Lidia and Augustina Vashchenko.

S. 2916

At the request of Mr. DOLE, the Senator from Missouri (Mr. DANFORTH) was added as a cosponsor of S. 2916, a bill to amend the Internal Revenue Code of 1954 to provide that the investment tax credit may be claimed against the alternative minimum tax to the extent that it is attributable to the active conduct of a trade or business.

SENATE JOINT RESOLUTION 176

At the request of Mr. INOUYE, the Senator from Maine (Mr. COHEN) was added as a cosponsor of Senate Joint Resolution 176, a joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the 7 calendar days beginning October 5, 1980, as "National Port Week," and for other purposes.

SENATE CONCURRENT RESOLUTION 92

At the request of Mr. CHAFEE, the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of Senate Concurrent Resolution 92, a concurrent resolution declaring that the Congress does not favor the withholding of income tax on interest and dividend payments.

SENATE RESOLUTION 460

At the request of Mr. DOMENICI, the Senator from Maine (Mr. COHEN), the Senator from Florida (Mr. CHILES), the Senator from Rhode Island (Mr. PELL), the Senator from California (Mr. CRANSTON), the Senator from New Jersey (Mr. BRADLEY), and the Senator from Vermont (Mr. STAFFORD) were added as cosponsors of Senate Resolution 460, a resolution to express the sense of the Senate that the Secretary of Energy should take all necessary actions to promote energy efficient cooling.

AMENDMENT NO. 1796

At the request of Mr. COCHRAN, the Senator from Alabama (Mr. STEWART) was added as a cosponsor of amendment No. 1796 intended to be proposed to S. 2639, a bill to mitigate the adverse effects of the suspension of trade with the Union of Soviet Socialist Republics on United States agricultural producers, and for other purposes.

SENATE CONCURRENT RESOLUTION 106—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO MONETARY POLICIES TO REDUCE INFLATION AND FACILITATE ECONOMIC GROWTH

Mr. PROXMIRE (for himself and Mr. GARN) submitted the following concurrent resolution, which was referred to the Committee on Banking, Housing, and Urban Affairs:

S. CON. RES. 106

Whereas Article I, Section 8 of the Constitution provides that the Congress shall have the power to "coin money and regulate the value thereof"; Whereas the Congress established the Federal Reserve as its agent and delegated to it the day to day responsibility for managing the growth of money and credit;

Whereas the Congress is approving section 2A of the Federal Reserve Act has required the Board of Governors of the Federal Reserve System and the Federal Open Market Committee to twice yearly report their objectives and plans for growth or diminution of the monetary and credit aggregates to the Congress;

Whereas the economy's performance is affected by changes in the growth of money and credit; and

Whereas chronic inflation is a threat to the stability of our economic, social and political system, and excessive growth of money and credit contributes to inflationary pressures;

Now, therefore, be it resolved by the Senate (the House of Representatives concurring);

That it is the sense of the Congress that the Board of Governors and the Federal Open Market Committee;

(1) adhere to a long-run anti-inflation policy until significant progress has been made in reducing inflation and establishing a financial framework conducive to a noninflationary economy;

(2) pursue policies over the remainder of 1980 and 1981 so as to encourage reductions in the rate of inflation and expansion in the rates of growth of the monetary and credit aggregates appropriate to facilitating economic growth; and

(3) work toward establishing long-run rates of growth of money and credit consistent with the economy's long-run potential to expand output and productivity in order to promote full employment, balanced growth, and price stability, by gradually reducing the rates of growth of the monetary and credit aggregates in a firm and stable manner.

Mr. PROXMIRE. Mr. President, on behalf of Mr. GARN and myself, I am today submitting a concurrent resolution relating to the conduct of monetary policy by the Board of Governors of the Federal Reserve System and the Federal Open Market Committee. This resolution stresses the importance of monetary policy in the continuing views expressed by the Members of the fight against inflation. It reflects the Banking Committee in the last three reports on monetary policy made to the Senate. It also reflects the recommendation by the newly formed "Committee To Fight Inflation," which is chaired by Dr. Arthur F. Burns. This committee is a bipartisan group composed of seven Democrats and six Republicans all with lengthy experience in economic policymaking with the Federal Government. A great deal of the credit for this resolution should go to that committee.

I think that the Congress has made great strides in the last several years with regard to understanding the role of monetary policy in the fight against inflation. The semiannual hearings on the conduct of monetary policy that began in 1975 have been very important in helping us to understand the very complex task performed by the Federal Reserve in the formulation and execution of monetary policies. We all recognize more clearly that too much money and credit growth is at the heart of inflation. Too much money chasing, too few goods does indeed increase prices. It is not just a platitude, it is a fact of life.

Before I explain the intent of this resolution I would like to read from the policy statement of the Committee to Fight Inflation, their recommendation on monetary policy. It states:

> The ability of the Federal Reserve System to combat inflation has in the past been limited by lack of understanding and support in the Congress. Although the system has at times stepped hard on the monetary brakes, its policies have at other times accommodated a good part of the inflationary pressures in the market place. At present, the general thrust of monetary policy is appropriately restrictive. The Federal Reserve has been and will remain the faithful agent of Congress: but if it is to continue to combat inflation forthrightly and with vigor, it must have the strong and steadfast support of Congress. We recommend that Congress adopt a concurrent resolution stressing the importance of restrictive monetary policies in furthering the goal of ending inflation.

This recommendation by the committee is really composed of two parts. First, it says that a resolution should be introduced stressing the importance of restrictive monetary policies in furthering the goal of ending inflation. Second, it says that the Congress should approve such a resolution so as to send a message to the Federal Reserve Board that it has the support of the Congress to pursue policies that will work toward ending inflation rather than policies that would tend to exacerbate inflation. I fully agree with these recommendations.

The Federal Reserve has been and probably will continue to be our principle anti-inflation fighter. Its choices are difficult and painful to many, but given the current and recent past rates of inflation the Federal Reserve really has very little choice but to be firm in restraining the growth of money and credit. The rate of inflation has moderated during the past 2 months, but it is still painfully high by any standard of measurement. We cannot hope to correct our economic problems unless inflation is brought under control and we restore price stability such as we had in the 1950's and early 1960's.

In the months ahead it is likely that the rate of inflation will temporarily decline. But most economists agree that the underlying rate of inflation, the inflationary tendency within the economy, will remain quite high. There is a danger that policies directed at reducing the adverse effects of the recession in an aggressive manner will rekindle inflationary expectations. If monetary policy were to become too expansionary, inflationary expectations would be heightened and it is likely that interest rates would rise dramatically. That is the precise reason why this resolution calls on the Federal Reserve to continue to pursue anti-inflationary monetary policies.

Mr. President, this resolution has three parts. First, it calls upon the Federal Reserve to adhere to a longrun anti-inflation policy until significant progress has been made in reducing inflation and in establishing a financial framework conducive to a noninflationary economy.

Inflation can only be sustained in the long run if rapid increases in nominal GNP are accommodated through excessive monetary expansion. In such circumstances the financial markets and companies have little incentive to provide funds for longrun investments whose earnings would be eroded quickly by inflation. Thus, it is important that we have in place a longrun monetary strategy aimed at getting rid of inflation in order to create a financial atmosphere conducive to long-term investment.

Second, the resolution calls upon the Federal Reserve to pursue policies over the remainder of 1980 and 1981 so as to encourage reductions in the rate of inflation and expansion in the rates of growth of the monetary and credit aggregates appropriate to facilitating economic growth. The course of monetary policy set forth by the Federal Reserve in its February 1980 report to the Congress indicated that the rates of growth of the monetary and credit aggregates for 1980 would be somewhat lower than in 1979. These rates of growth are set forth as target ranges.

Personally, I think that the ranges are far too broad and that they should be narrowed. But the important point is that the target ranges implied slower growth of money and credit, sufficient to allow moderate economic growth, while serving to restrain inflationary forces. This resolution does not indicate that those ranges of growth for the monetary aggregates could, would, or should be changed by the Federal Reserve. It is their responsibility to set those targets. But, once the targets are set they should be adhered to, unless there is some reason for change. Over the past 6 months the growth of the aggregates had been somewhat below the lower end of the ranges set by the Federal Reserve and thus the Fed has latitude to permit faster money growth during the next 6 months without serious adverse effects.

However, this must be done very carefully so that money growth in 1981 does not become excessive. It would probably be appropriate for money growth in 1981 to be directed at target ranges that are slightly lower than those set for this year. That is a judgment that can best be made by the Federal Reserve and one that should be reviewed carefully as we obtain additional information as to the course of economic activity.

Third, the resolution calls upon the Federal Reserve to work toward establishing longrun rates of growth of money and credit commensurate with the economy's longrun potential to expand output and productivity in order to promote full employment, balanced growth and price stability by gradually reducing the rates of growth of the monetary and credit aggregates in a firm and stable manner. The purpose of this recommendation is to indicate to the Federal Reserve that in recent years the growth of money and credit has generally been higher than need be. What we really need is a multiyear commitment for a gradual, but steady slowdown in the growth of the monetary and credit aggregates. We recognize that the monetary and credit aggregate growth rates cannot and should not be reduced in one shot to the longrun rate commensurate with the economy's potential. This would cause serious disruptions in the economy. But, at the same time if slower money and credit growth is to be achieved it must be done consistently over a period of time in a firm and stable manner.

Mr. President, I hope that my colleagues in the Senate will join me in support of this resolution. It is an important resolution for it will signal our continued concern with inflation and our recognition of the need for monetary policies that continue to pursue the elimination of inflation.

I have sent copies of the resolution to Dr. Arthur F. Burns, who as I said, is chairman of the Committee to Fight Inflation—and who, as we all know, was the Chairman of the Federal Reserve from 1970 to 1978—and to Henry H. Fowler, who is vice chairman of that Committee to Fight Inflation and who was a former Secretary of the Treasury. Both of these distinguished gentlemen have given me their concurrence and support for the resolution. Dr. Burns has sent me a brief letter, which I will ask to be inserted in the Record at the end of my remarks.

It is my intent to push this resolution in the Banking Committee. We have scheduled our regular midyear review of the conduct of monetary policy by the Federal Reserve for July 21 and 22, 1980. The witnesses on those days will be asked to comment on this resolution. I also will be asking others to comment by letter and expect to receive widespread bipartisan support for the resolution.

I invite my colleagues in the Senate to join with me in this resolution.

Mr. President, I ask unanimous consent that the letter from Dr. Burns be printed at this point in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

American Enterprise Institute
for Public Policy Research,
Washington, D.C., July 1, 1980.

Hon. William Proxmire,
U.S. Senate,
Washington, D.C.

Dear Bill: I have your letter concerning the policy statement issued on June 23, by the newly-formed Committee to Fight Inflation. I very much appreciate your interest in the Committee's endeavors and, more particularly, your speedy action in drafting a resolution on monetary policy for consideration by the Congress.

I find the language of your proposed resolution entirely in keeping with the Committee's recommendation on monetary policy. Approval of this resolution would assure the Federal Reserve of Congressional support in its efforts to reestablish the general price stability that is so essential to a lasting prosperity.

Sincerely yours,

Arthur F. Burns.

SENATE RESOLUTION 486—SUBMISSION OF A RESOLUTION RELATING TO METROPOLITAN WASHINGTON AIRPORTS POLICY

Mr. MATHIAS (for himself, Mr. Warner, Mr. Sarbanes, Mr. Javits, and Mr. Hatfield) submitted the following resolution, which was referred to the Committee on Commerce, Science, and Transportation.

S. Res. 486

Whereas, the Washington metropolitan area is fortunate to be served by 3 commercial airports,

Whereas, Washington National Airport and Dulles International Airport are wholly owned and operated by the Federal Aviation Administration,

Whereas, Dulles International Airport is underutilized handling only 16 percent of the region's commercial jet traffic,

Whereas, Baltimore Washington International Airport, owned and operated by the State of Maryland, carries 20 percent of the commercial jet traffic of the region and is also underutilized,

Whereas, Washington National Airport is overutilized and handles 64 percent of the commercial jet aviation among Washington's 3 major airports,

Whereas, such overutilization strains technical facilities and unnecessarily reduces safety margins,

Whereas, such overutilization impacts on the noise levels surrounding Washington Airport, and

Whereas, such overutilization interferes with the ability of all Americans to enjoy the memorials, monuments and museums of their Nation's capital: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Secretary of Transportation and the Federal Aviation Administrator expeditiously adopt a Metropolitan Washington Airports Policy and implement regulations to manage the growth of commercial jet air traffic in the region and to establish a rational balance in the jet and passenger use of the 3 commercial airports of the Washington region.

Mr. MATHIAS. Mr. President, I call upon Senators to join in a resolution designed to convey to the Secretary of Transportation and the Administrator of the Federal Aviation Administration the sense that a responsible attitude prevails in Congress in regard to the difficult subject of National Airport and the scope of its operations.

The FAA is currently considering a policy which would acknowledge the over-utilization of National Airport and take a modest first step toward establishing a more balanced relationship among the three airports of our region, National, Dulles, and BWI.

In the last 2 weeks, the House of Representatives Subcommittee on Aviation held hearings on this proposed policy.

Eleven years have passed since the Senate held hearings on the acute overuse of National Airport and the safety and environmental concerns which that facility generates. No changes in National's role as Washington's primary jetport have occurred since that time. National Airport continues to handle nearly 70 percent of the commercial jet operations in our region, even though it was built in 1941 in the pre-jet age.

Dulles Airport, built in 1962 totally with Federal funds to be Washington's primary jetport, handles only 15 percent of our region's jet traffic. Indeed, there are fewer commercial jet flights at Dulles now than there were 10 years ago. Baltimore Washington International Airport has undergone major expansion of passenger freight terminals, as well as runway resurfacing.

In the past decade, however, passenger traffic at National has increased by almost 50 percent to the present level of 15,500,000 per year. Because of its proximity to downtown Washington, users of National Airport cannot avoid using the same routes that commuters take, further clogging our congested highways.

The safety issue at National cannot be ignored any longer. National Airport has a single main jet runway, only 6,800 feet long. By contrast, Dulles—like all modern jetports—utilizes parallel runways, and they are 11,500 feet in length. Baltimore Washington International has two major runways 9,500 feet in length, fully instrumented, as well as a separate general aviation runway.

While National operates at maximum capacity much of the day, squeezing more than 60 operations an hour into this airport, Dulles' runways are never used at more than 30 percent of capacity and BWI's is at 40 percent of capacity.

The FAA has not only crowded more and more operations into National, but has succumbed to airline pressure to utilize bigger and bigger aircraft. First, jets were brought in, and then "stretched" 727's were allowed into National in 1967.

Now, FAA proposes to bring in wide-bodied aircraft even though the Airline Pilots Association has said that this would present a serious safety hazard. Indeed, using FAA's own figures, the pilots tell us that the risk of accident at National Airport with such planes is 471 percent greater than the risk of accident at New York's La Guardia Airport.

The environmental problems at National are no less serious. The Department of the Interior has told us that our Nation's most cherished monuments, the Lincoln and Jefferson Memorials, are literally crumbling from the constant vibration and pollution from National Airport jets. The Mall and recreation areas along the Potomac are difficult, and sometimes impossible, to enjoy. More importantly, tens of thousands of area residents are exposed to literally hundreds of overflights a day, with the constant thundering overhead becoming an unending and unfair intrusion into their lives.

The present use of National has been justified by some on the altar of convenience. But the facts belie this conclusion. In truth, National is more convenient only to some of the people, some of the time. It is closer to downtown Washington, of course, than either Dulles or BWI. But a 1968 Department of Transportation study shows that only 25 percent of the passengers using National are coming to or from downtown Washington.

Today, with the proliferation of business and industry in the Tyson's Corner, I-270 and Baltimore-Washington corridor, that percentage may even be lower. For thousands of others, Dulles or BWI would be a preferred choice, actually more convenient than National or no more than minutes further away. For example, BWI is served by scheduled limousine service from downtown Washington hotels 24 times a day. In October the Amtrak rail passenger station will open at BWI linking the airport to the Northeast Corridor rail project. This will provide yet another regularly scheduled connection from Washington to BWI from the Union Station Visitor Center.

Why then, if National is not overwhelmingly more convenient, do three out of every four travelers in our region use National? The answer is that they have no choice. Of 66 operations a day between Washington and Chicago, only one flight uses Dulles Airport. Of 90 flights a day between Washington and Atlanta, only six use Dulles.

There are no rush hour flights to or from New York from Dulles and one cannot fly from Dulles at all to Buffalo, Pittsburgh, Cincinnati, Cleveland, Detroit, or Charlotte. Indeed, the only one-plane service to some 14 cities west of the Mississippi is from National Airport. The airlines force the public to use National, and National alone, because it is plainly more economical for them to build, staff and maintain complete facilities at one airport, rather than three.

It is time, however, that we take such factors as safety and environmental considerations into account in establishing a regional airport policy. It is neither rational nor defensible to continue the gross overutilization of National Airport. It is bad enough that we have allowed the Potomac River corridor to become a "noise sewer." It would be far worse if we allow industry pressure to compel us to take no action until a major and tragic accident occurs at National Airport. I urge my colleagues to join in this resolution, which seeks only to establish a rational balance among the airports in the Washington region.

Mr. WARNER. Mr. President, I am a cosponsor of the resolution just submitted by the distinguished Senator from Maryland. Three weeks ago, I testified on the matter of Washington metropolitan area airport policy before the House Subcommittee on Aviation. I consider this to be an issue of utmost importance. Airport operations directly impact on my constituents on a wide range of issues—especially safety, statewide air service, noise levels and employment.

In northern Virginia, safety is a paramount consideration. Acceptable noise levels and safe airport operation directly affect the quality of life experienced by those Virginians residing within a wide radius of the airport.

Further, National Airport renders "hub service" to many Virginia cities. Any loss of access flights would most severely impact those smaller cities where the frequency of air service already is limited.

The Federal Aviation Administration has proposed to change hourly operation allocations at National Airport from the present 40 per hour for air carriers, 8 for commuter air carriers and 12 for general aviation, to 36 per hour for air carriers, and either 12 for commuters and 12 for general aviation, or 15 for commuters and 9 for general aviation.

I believe that such a change in the allocation of slots would be beneficial to all concerned. The large air carriers will soon be operating new two- and three-engine aircraft. These aircraft not only have larger passenger capabilities, but are significantly quieter than the large jet aircraft now operating at National. Therefore, the air carriers can absorb a reduction in long frequency without a reduction in passenger totals.

This would also benefit those people residing near the airport with respect to a reduction in noise levels, for aircraft noise is a severe problem. In addition to demonstrated evidence on hearing loss, noise can be a factor in serious health problems. Changing to new and quieter equipment, along with a reduction in takeoff and landing frequency of large aircraft, could have a significant impact on airport noise abatement.

National Airport's role as a "short haul" airport can be strengthened by reducing the number of slots which are now allocated to air carriers, and assigning them instead to operators of commuter airlines. Most commuter flights are short in length and, because they use smaller aircraft, they are able to use airports in many smaller communities not capable of accommodating larger airlines. Having a sufficient number of slots available to commuter airlines will enhance the airport's local service role for many of the smaller communities on the east coast that are now denied such service because of slot limitations.

With respect to the FAA's proposed change in the "perimeter rule" at National Airport, I would suggest the adoption of a multiperimeter-type concept. Under this proposal, we could preserve the short and medium haul role of National Airport, but also allow limited long haul service.

All these changes are, I believe, in the best interest of the citizens whom Washington National Airport is designed to serve.

Mr. RANDOLPH. Mr. President, is it possible for the able Senator from Maryland (Mr. MATHIAS) to yield to me in connection with this airport subject?

Mr. MATHIAS. I would yield to the distinguished senior Senator from West Virginia (Mr. RANDOLPH) on any subject.

Mr. RANDOLPH. The Senator is very kind.

I took a man, one time, 85 years of age, and put him in a single-engine aircraft. I took him on a short flight. He had never been up before, but I thought on his birthday he should have his first flight. I was good on takeoffs, but poor on landings. He was there, strapped in the aircraft.

Mr. MATHIAS. Once you take off, it does not really matter about the landing.

Mr. RANDOLPH. That is right. The man never said a word and when we came in, we bounced. I helped him unfasten his seatbelt and helped him to the ground. We all called him Uncle Dudley. We did it affectionately.

I said, "Uncle Dudley, were you frightened?" He said, "No, but I never did let my full weight down in the plane."

Mr. President, in connection with the airport situation, I just entered the floor and I understood the Senator was talking about the Baltimore-Washington International Airport?

Mr. MATHIAS. No, we are concerned about the excessive noise which is generated from the operations at National and the kind of safety problems that may be involved at National in the event that traffic continues to build up there.

Mr. RANDOLPH. I only wish to comment that I frankly think there is much emotionalism about National Airport and many of its so-called excesses or shortcomings are really not as severe as we often hear. As chairman of the Committee on the District of Columbia, I handled the enabling legislation at the time the airport was constructed. We were developing a National Airport, although it was being placed in the Commonwealth of Virginia. We had many problems at that time in the creation of that airport.

An airport that is near a city today sometimes has three strikes against it. But this should not be. There are ways in which an airport of the proximity of the National Airport to this city of Washington, can serve many useful purposes. And I am not talking about Senators or House Members going back and forth to their States.

I do not disparage in any way the importance of the Baltimore-Washington International Airport in the Senator's State, or the Dulles International Airport in Virginia. However, I do say that there are innovations, equipment, and procedures which make it possible to keep an airport at a level that some might consider a saturation point.

I use the word "saturation" advisedly, because National Airport must be used to a maximum degree. But Washington National Airport, of course, should never be used for 1 minute beyond the point of safety. The safety factor is something that must be painstakingly assessed. This cannot be done in an atmosphere of emotionalism.

I have studied this. I have been in the aviation business. I speak not as an advocate of National Airport in the current disagreement over its use. But the efforts to promote Dulles or Baltimore-Washington should not be the deciding factor. We must not write off the Washington National Airport, which some people are attempting to do.

I have followed the hearings on this issue very carefully. I hope we will be well-reasoned and the decisions will be made in the interest of the traveling public and citizens of the area.

Mr. MATHIAS. The Senator from West Virginia is very acute, as he always is. He is always very acute in his observations of nature. I think he has judged it right in saying that there is a lot of emotion in this.

I can tell the Senate that emotion on the part of my constituents who are troubled by the noise is an emotion of anger, real anger. Unfortunately, that is the case.

I have introduced a resolution which I hope the Senator from West Virginia will study carefully and give his attention to because we would value his advice on that subject.

NOTICES OF HEARINGS

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. PROXMIRE. Mr. President, the Committee on Banking, Housing and Urban Affairs will hold 2 days of hearings to review the conduct of monetary policy by the Federal Reserve System on July 21 and 22, 1980. These hearings are part of the monetary policy oversight procedures established in the Full Employment and Balanced Growth Act of 1978, which requires that the Banking Committee issue a report to the Senate twice yearly giving our views on the monetary policy plans and objectives that will be announced by the Federal Reserve as part of the hearings.

On both days the hearings will be held in room 5302 of the Dirksen Building beginning at 10 a.m. The witnesses on July 21 will be Dr. Robert T. Parry, senior vice president and chief economist, Security Pacific National Bank, Los Angeles; Dr. Allan Sinai, senior vice president, Data Resources, Inc., Lexington, Mass.; and Mr. Mark H. Willes, chief financial officer of General Mills and former president of the Federal Reserve Bank of Minneapolis. The witness on July 22 will be the Honorable Paul A. Volcker, chairman of the Board of Governors of the Federal Reserve System.

Anyone in need of additional information about these hearings should contact Steven M. Roberts, chief economist for the committee, at 224–7391.

COMMITTEE ON LABOR AND HUMAN RESOURCES

● Mr. WILLIAMS. Mr. President, the Committee on Labor and Human Resources will conduct a hearing on S. 2887, the Labor Statistics Respondent Privacy Protection Act of 1980, on Tuesday, July 22, 1980. The hearing will be at 10:30 a.m. in room 4232, Dirksen Senate Office Building. For further information, contact Darryl Anderson of the committee staff at 224–3673.●

SELECT COMMITTEE ON INDIAN AFFAIRS

● Mr. MELCHER. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Select Committee on Indian Affairs.

An oversight hearing is scheduled for August 19, 1980, beginning at 10 a.m., in room 5110 of the Dirksen Senate Office Building. Testimony is invited regarding Indian housing programs.

For further information regarding the hearing you may wish to contact Virginia Boylan of the committee staff on extension 224–2251. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Select Committee on Indian Affairs, U.S. Senate, Washington, D.C. 20510.●

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY AND SPACE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Science, Technology and Space Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate today to hold a hearing on H.R. 2743, the National Materials Policy Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet during the session of the Senate today to hold a hearing on S. 2829, legislation to settle Indian land claims in Maine.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

STUDENT AID CUTS REFLECT SKEWED PRIORITIES

● Mr. CULVER. Mr. President, last week the Senate approved its version of the Education Amendments of 1980. In addition to giving new direction and focus to existing programs, the bill authorizes some innovative projects on how the higher education community can help prepare unemployed youths for jobs and can better deliver post-secondary training to working women. It also establishes an important program to train regular elementary and secondary teachers to teach handicapped children in areas where a shortage of special-education teachers exists and mandates a study of how higher education can adapt to society's future needs.

But perhaps the most significant section of this legislation lies in title IV—the student assistance programs. These programs enable literally thousands of students to attend colleges, universities, and business and technical schools across the country. In fiscal year 1979, over 11,000 Iowans participated in federally subsidized work-study programs, allowing them to learn and earn at the same time. During the 1978–79 school year, close to 18,000 needy Iowa students received national direct student loans; over 20,000 obtained guaranteed student loans; nearly 7,000 received supplemental education opportunity grants; and over 20,000 low- and middle-income familes benefited from basic educational opportunity grants—the cornerstone of the Federal assistance programs. Any duplication aside, as many as one in three Iowa college students depend on Federal assistance programs to go to school.

The Senate has also recommended the establishment of a new guaranteed loan program for parents of dependent students. With rising costs, many families find they cannot always come up with the cash needed for their expected contributions to tuition expenses. This nonsubsidized program—first introduced in legislation which I cosponsored last year—will enable parents to borrow the sums needed to meet their obligations to their son's or daughter's education.

Mr. President, I welcome these developments in the higher education bill. Certainly the participation of Iowa students and families in these Federal assistance programs is testimony to their impact. The dollars we invest in the education, training, and retraining of our people are returned many times over in a more productive, skilled work force.

For that reason, I am particularly concerned over further efforts to "save" money by cutting expenditures for educational programs. When the higher education reauthorization bill came from committee to the Senate floor, it already contained $375 million in savings in the guaranteed student loan program—a program available to all students regardless of income level. These savings were achieved by increasing the interest rate paid by students on their loans after leaving school (from 7 percent to 9 percent) and shortening the 9-month grace period to 4 months before repayments begin.

In floor debate, however, the Senate added an additional provision—which I opposed—to this bill requiring students to pay back the interest paid by the Government on their loans while they were in school. On the surface, that might seem only fair, and it would certainly increase Federal revenues. Unfortunately, for every dollar saved, an estimated 66 cents will be spent implementing this proposal. According to the Congressional Budget Office, the added redtape threatens to drive many private lenders out of the GSL program entirely and may actually cut in half the number of loans currently available. When added to an already tight credit situation, this amendment, if accepted in the House-Senate conference, will severely restrict the educational loan money available.

To make matters worse, this GSL amendment came within days of our action on the fiscal year 1980 supplemental appropriations bill which would reduce every basic educational opportunity grant by approximately $50. Mr. President, we may be creating a situation where students, whose grant funds have been reduced, find that Congress has effectively cut off the supply of loan money as well.

I am alarmed by these recurring cuts in our educational aid programs, especially in light of what I consider to be excessive increases in our military spending. Such budget decisions reflect a set of skewed priorities and can only weaken us in the long term. The people of my State are committed to a strong defense, but they also have a long, proud history of support for education. As I have argued before, we cannot expect the taxpayers of this country to withstand the brunt of these budget-cutting policies. They are now beginning to affect the capacity of many people to educate their children.●

SALE OF F-15 AIRCRAFT TO SAUDI ARABIA

● Mr. DECONCINI. Mr. President I vigorously opposed the sale of 60 F-15 aircraft to Saudi Arabia when this issue was debated in the Senate in 1978. My conviction that the sale of these sophisticated military planes could only serve to upset the fragile military balance in the Middle East remains unchanged. Moreover, the sale of these highly advanced fighter bombers to Saudi Arabia poses a serious threat to the security of Israel, which is contrary to the foreign policy objectives of the United States.

It appears appropriate to review the substance of the 1978 debate. At that time, major policy questions were raised concerning the potential offensive capabilities of the F-15. As a result, the administration pledged in writing that no additional equipment which could "increase the range or enhance the ground attack capability of the F-15" would be supplied to Saudi Arabia. Without this assurance, I do not believe the Senate would have approved the sale. The Saudis accepted this limitation as a condition of sale. Now, less than 2 years later, Saudi Arabia is requesting exactly the type of equipment which would enhance the F-15's offensive capabilities. Complying with the Saudis' request for such items as multiple-ejection racks, conformal fuel tanks, KC-135 aerial refueling tankers, AIM 9-L air-to-air missiles and AWACS would clearly violate the 1978 sales agreement, breach the administration's assurances to Congress, and undermine the delicate peace negotiations which are currently underway between Israel and Egypt. Furthermore, this additional equipment would provide the Saudis with the capability of striking any target within Israel, which is totally unacceptable from a foreign policy standpoint. It would signal the Israelis as well as our other allies that this Nation is an unreliable partner which cannot be depended upon to honor its foreign policy commitments.

A question arises in my mind as to the motivations behind the Saudi request. Since the F-15 aircraft will not be delivered to the Saudis until 1981, the argument that this additional equipment is necessary to thwart an imminent military threat cannot be substantiated. It is impossible to predict what the situation in the Middle East will be a year from now. Who could have predicted the events which have transpired in that region during the last year—a revolution and the establishment of an Islamic Republic in Iran, the seizure of 50 American hostages, the attack on the Holy Mosque in Mecca and the invasion of Afghanistan by the Soviet Union? Clearly, the Middle East situation is more precarious now than at the time of the 1978 sale. How can we insure that the current Saudi regime will be in power when the F-15's are delivered? To provide additional advanced offensive military technology to the Saudis in this volatile area is a totally irresponsible and dangerous course to pursue, and I urge the administration to reject the Saudi request.●

ENVIRONMENTAL EMERGENCY RESPONSE ACT

● Mr. CULVER. Mr. President, I am pleased to inform this body that the Committee on Environment and Public Works reported out the "Environmental Emergency Response Act," the so-called "Superfund" legislation, last Friday by an 11-to-1 vote.

S. 1480 is landmark legislation and indicates that this Congress does not intend to allow the health and environmental hazards posed by abandoned hazardous waste sites and other releases of toxic poisons, to go unaddressed in this country.

I am satisfied with the record of testimony this committee has compiled since the Subcommittees on Environmental Pollution and Resource Protection began holding hearings on these critical issues. This committee has held 11 days of hearings and 17 days of markup since March 1979, and I am pleased that the vote on reporting this legislation strongly indicates the agreement by Members that serious problems do exist and reasonable solutions are available.

I would like to include here in the Record a summary of the major provisions of the legislation reported from the committee and hope that other Members and staff will closely examine the legislation to resolve what many call the most important environmental issue of the decade.

The summary follows:

Summary of S. 1480: Environmental Emergency Response Act—"Superfund"

A bill to provide liability, compensation, cleanup, and emergency response for hazardous substances released into the environment and the cleanup of inactive hazardous waste disposal sites.

I. SUBSTANCES AND RELEASES COVERED

The bill would establish a fund to pay for government response quickly to releases of hazardous substances into the environment and compensate victims who suffer damages. In addition, the bill would establish a liability scheme for these costs to encourage those responsible for releases of hazardous substances to clean them up and prevent additional releases of hazardous substances.

S. 1480 defines a hazardous substance as all substances which are already listed under Section 311 or 307 of the Clean Water Act, Section 112 of the Clean Air Act, subtitle C of the Solid Waste Disposal Act, Section 7 of the Toxic Substance Control Act. Authority is provided for designation of additional hazardous substances which when released into the environment, may present substantial danger to the public health or the environment. For a hazardous substance not on the above lists, the government may use the fund for cleanup damages, but cannot use the liability scheme of S. 1480 to recover its costs.

Not included in the definition is petroleum not specifically designated as hazardous or any waste where a regulation has been previously suspended by Congress. The term "release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, or dumping into the environment. The term also includes any other release into the environment which presents or may present a substantial danger to the public health, welfare, or the environment. The term release does not include the normal field application of fertilizer emissions from a motor vehicle; nuclear material or most workplace exposures.

II. THE FUND AND FEES

A Hazardous Substances Response Fund would be established under this Act to enable government to take emergency actions to protect public health and the environment and to clean up the release of hazardous substances into the environment. The Fund would in addition compensate victims for their damages when the responsible party did not. The fund would reach $1.7 billion after three years, with two-thirds of the amount to be used to cover governmental costs of emergency action and longer term remedy; one-third of the fund amount would be available for third party damages resulting from contamination incidents.

$800 million would be raised annually—$100 million from federal appropriations and $700 million from industrial fees. The bill places fee collections on oil, inorganic and petrochemical raw material which are the building blocks of most poisonous chemicals and hazardous wastes.

The fund would be phased-in over three years, rising from $250 million in fees the first year, $525 million the second year and $700 million in the third year from industrial fees.

The fees are imposed early in the industrial and commercial chain of production so that costs will be passed along evenly to all industrial sectors which produce hazardous substances and wastes.

The allocation of fees among petrochemicals, inorganics and oil reflects the degree to which they result in the generation of hazardous wastes.

[Dollar amounts in millions]

Composition	Contribution (percent)	Contribution	Companies	Substances subject to fee
Primary petrochemicals	65	$450	255	13
Inorganic raw materials	20	150	418	32
Crude oil	15	100	[1] 300	
Total	100	700	973	45

[1] Refineries.

The actual fee rates are based upon production volumes and after the first three years the rates will periodically be adjusted by public rulemaking to reflect fund expenditures. The legislation specifies the fees in the first year. The fees cannot exceed certain maximums listed below.

	Maximum fee	Maximum percent of market price
Primary petrochemical	1-/lb	2
Inorganic raw material	$10/ton	2
Crude oil	3-/bbl	2

III. DAMAGES COVERED BY FUND

Where a responsible party fails to respond to a spill, or no responsible party can be identified, the reported bill would pay for two different levels of government response—one being "removal" and the other "remedy"—for any release regardless whether it was a spill or a disposal site, a release from a permitted facility or as a result of using a pesticide. Removal action would be those emergency actions as established under existing Section 311 of the Clean Water Act, including temporary provision of water supplies and temporary housing relocation. Up to $1 million could be used for these emergency removal actions (more if the emergency continues). Following these initial emergency actions, the Bill authorizes remedy of the release. There is no dollar limit on remedy. Remedy may include a variety of onsite or offsite actions to cleanup the released hazardous substances and stop further spread of the contaminants. Permanent relocation and provisions of alternative water supplies may be provided as part of remedy.

The fund would also pay for the following losses resulting from a hazardous chemical release covered by this legislation. A claim or action for damages must be brought within three years of the discovery of the loss or enactment of this Act. Specific provisions are included for third party claims resulting from exposure prior to January 1, 1977, and prior to enactment of the Act.

(1) Out-of-pocket medical expenses of affected parties limited to those incurred within six years of exposure.

(2 compensation for lost wages or other personal income limited for two years.

(3) 90% of the operation and maintenance cost of any removal or remedy; States would pay 10%.

(4) capital loss or loss of income due to the destruction of agricultural products from chemical contamination.

(5) loss or loss of income to processors of fish or seafood resulting from a release of a hazardous substance.

(6) loss of natural resources, including costs of assessing damages, and cost of restoring injured, destroyed or lost natural resources.

(7) costs of expert witness fees, health studies, and diagnostic examinations.

IV. LIABILITY

The bill builds upon existing law to help assure that spills, hazardous waste sites and other covered releases will be cleaned up and innocent victims will be compensated for their losses.

Those parties held responsible for an incident involving the release of hazardous chemicals are held liable on a "no fault" basis under federal law for all government response costs and those third party damages listed in "damages covered." These costs may be paid initially by the Response Fund and then collected from the responsible parties, if necessary. In addition, liability is established for damages to and loss of use of real or personal property, including relocation costs, loss of use of natural resources, loss of government income, and all out-of-pocket medical expenses due to personal injuries, including those resulting from illnesses with long latencies. Victims are provided access to Federal courts to seek compensation for damages under this bill.

The liability provisions of the bill pertain equally to natural resource loss, as well as to personal injury. In the event of injury to, destruction or of loss of natural resources, a person found liable would be required to compensate the Federal government and any state.

The bill would impose strict, joint and several liability on owners and operators of vessels and facilities, including modes of transportation, releasing hazardous substances. In addition, liability for releases of disposed hazardous substances would be imposed on owners and operators of sites at the time of disposal, generators of hazardous wastes who arrange for others to dispose of the wastes, and transporters of these wastes who select where they will dispose of it.

However, where any person can demonstrate that his contribution to a discharge, release, or disposal of a hazardous substance can be distinguished from that of others and his contribution was not a significant factor in the release or resultant damages, his liability will be limited to his portion.

The only defenses to liability are:

(1) an act of God; and

(2) an act of war.

V. CAUSATION

For the purpose of determining liability, the normal legal rules of causation will apply in most states. However, the bill applies a different causation standard for assessing damages in two other areas: (1) medical expenses resulting from personal injury; and (2) injuries to natural resources.

The medical causation provisions will allow an easier entrance to the court system for the victims of hazardous substances and allows more reasonable requirements of proof. Once a victim has met those requirements, a presumption exists in his favor to avoid premature dismissal of his case.

For assessing damages to natural resources, an assessment procedure would be established by rulemaking. When an assessment of damages could be determined it would be given the effect of a rebuttable presumption.

VI. FINANCIAL RESPONSIBILITY

Owners and operators of vessels over 300 gross registered tons must establish evidence of financial responsibility of $300 per gross registered ton or, for a vessel carrying hazardous substances as cargo, $5 million, whichever is greater.

For facilities handling hazardous substances, financial responsibility requirements will be set in the future after a three-year federal study to identify high-damage groups within the industry. The financial responsibility requirements would then begin to be set in five years and be phased-in over three to 6 years.

VII. RELEASE, NOTICE AND PENALTY

Any person in charge of a vessel or of a facility where hazardous substances are located is responsible for notifying the appropriate Federal agency as soon as any release of a hazardous substance is known. Any person failing to notify the appropriate agency of non-permitted releases of designated hazardous substances would be subject to a fine of $10,000 or one year imprisonment. In most cases the Federal agency must notify the State of a release within 24 hours.

Owners or operators of facilities or sites where hazardous substances are located and which are not in compliance with permit requirements of the Solid Waste Disposal Act must notify the Environmental Protection Agency wthin 180 days, or face a $10,000 fine or one year's imprisonment. Concealing, destroying, or falsifying records concerning such sites is prohibited; violation carries a fine of $20,000 or two year's imprisonment. Further, any deed or conveyance of such property must disclose the presence of hazardous substances and include appropriate restrictive covenants.

In the event of a release of a hazardous substance, the President is authorized to provide necessary government action, including any emergency action essential to protect human health or welfare if the responsible parties cannot be located or refuse to take appropriate action.●

MOTOR CARRIER REFORM ACT IS MAJOR STEP TOWARD ELIMINATION OF UNNECESSARY FEDERAL REGULATIONS

● Mr. METZENBAUM. Mr. President, for the past year, I have had the pleasure to work with Senator KENNEDY for passage of the Motor Carrier Reform Act. This legislation, Mr. President, goes a long way toward removing unnecessary Federal regulation, cutting some of the Federal bureaucracy and easing Government interference in private enterprise.

The fruition of Senator KENNEDY's hard work came yesterday when he joined the President at the White House for the signing of the Motor Carrier Reform Act. During the ceremony, Senator KENNEDY eloquently expressed many of the benefits the trucking industry and the consumers of this Nation will realize as a result of this important legislation. He also expressed the need for further work in this area. Mr. President, I ask that his statement be printed in the RECORD.

The statement follows:

REMARKS OF SENATOR EDWARD M. KENNEDY AT WHITE HOUSE SIGNING CEREMONY FOR THE MOTOR CARRIER REFORM ACT OF 1980

I am pleased to be here to witness the signing of the Motor Carrier Reform Act into law. This day marks a victory for those who have long sought to reduce unnecessary Federal regulation of the trucking industry and to terminate the exemption from the antitrust laws which regulated trucking firms have for so long enjoyed.

Enactment of this law is also a victory for consumers and for shippers, who together must pay the nation's freight bill. The Congressional Budget Office and others have estimated that reduced Federal economic regulation of trucking will save between $5.3 and $8 billion in annual freight charges by 1985. Thus, it will contribute significantly to the fight against inflation.

The Congressional Budget Office has also projected that reduced regulation of interstate trucking could shave from .3 to .45 percentage points off the Consumer Price Index. This represents nearly twice the amount the CBO has estimated would be achieved following a $15 billion Federal spending cut to balance the Federal budget.

This ceremony today represents, moreover, a significant victory in the ongoing battle to reform and reduce needless Federal regulation of business. It means less government interference with industry, less bureaucracy, and more freedom for individual firms to conduct their business in the way they think best.

While the new law does not go quite as far toward eliminating unnecessary regulation in every area that I had wished, it is, nonetheless, a very important step on the road to full trucking regulatory reform. It removes many of the regulatory obstacles that prevented existing firms from cutting their prices and stopped new firms from entering the trucking industry. And it ends antitrust immunity for the setting of rates which affect a substantial portion of truck freight.

There are, however, two important areas of reform which remain:

Antitrust immunity for all ratemaking activities should be ended. I am hopeful that the soon-to-be-established National Motor Carrier Ratemaking Commission will work hard toward that goal.

Secondly, there is an urgent need for Congress to enact legislation to improve truck safety. Such legislation was part of the original trucking bill the President and I introduced a year ago, and has already been passed by the Senate. I urge that the House act quickly on this bill as well, that it too may be signed into law during the current session.

The ultimate success of the Motor Carrier Reform Act depends to a very great extent upon how forcefully the Interstate Commerce Commission moves to implement its provisions within the framework established by Congress. The aspirations of those in this room who have worked so long and hard for this law now rest with the ICC. I urge that the Commission act quickly to ease entry into the trucking industry and to encourage independent pricing by motor carriers. By the Commission's actions in the months ahead, it will become clear whether 45 years of excessive government regulation of this industry is truly at an end.

Finally, I want to offer my congratulations to the President, Senators Howard Cannon and Bob Packwood, Congressmen Jim Howard and Bizz Johnson, and to the coalition of citizen, business and farm groups who have made possible the success we celebrate today. Working together, we have achieved something which few thought possible only a couple of years ago. I am proud to have been a part of this effort.●

AGRICULTURAL DEPRESSION

● Mr. BUMPERS. Mr. President, everyone argues that our Nation's economy is in a recession. But what a lot of people do not know is that American agriculture is experiencing a severe depression.

Recently, the Department of Agriculture released statistics which show that annual farm income for 1980 could drop more than 40 percent. If the drop in farm income for the second quarter holds steady for the remaider of the year, net farm income for 1980 would be $20.2 billion as compared to $33.3 billion in 1979. But this is only part of the story. The farmer's purchasing power has actually dropped to the level of the mid-1920's when the Nation was in the depths of a major agricultural depression.

During the last several months this administration has proudly pointed to the decrease in farm commodity prices as a sign that inflation has finally begun to slow. Farm commodity prices fell 4.5 percent in April. By following a cheap food policy our Government is attempting to stem inflation by breaking the American farmer. This policy has done little to halt the rise of food prices and it has done much to contribute to the decline of the family farm. There is absolutely no evidence to show that lower farm commodity prices bring lower retail food prices. In April, when commodity prices took the 4.5 percent drop, the price of retail food increased at an annual rate of 6 percent. Retail food prices continue to increase because over 60 percent of the consumer's food dollar goes into marketing, packaging, transportation, and labor expenses after the commodity leaves the farm.

USDA's May 30 Agricultural Prices report reveals that farm prices are 8.1 percent lower than last year at this time. Many commodities are in far worse shape than these figures indicate. The price of poultry and eggs, for example, was down 19 percent from 1979. Arkansas is a leader in poultry and egg production, and our growers and processors have been losing millions of dollars each month. Soybeans, another of my states' major crops, were selling for an average of $5.71 per bushel in May. That is well below the cost of production and $1.35 per bushel below the 1979 May price average. The current price is well below the cost of production.

While farm commodity prices have decreased sharply, farmers are paying 25 to 30 percent more for the fertilizer that goes into their crops. They are paying as much as 100 percent more for the diesel fuel which powers their heavy machinery. The price of that machinery itself, and the chemicals, seed, and other things the farmer must purchase continue to escalate. Interest rates for spring production loans have more than doubled since last year. Farmers must borrow money each year to plant their crops, and many Arkansas farmers now hold production loans with 19 to 21 percent interest.

The American consumer has been well served by the 3.9 million farmers. Americans spend only 16.4 percent of their after-tax income on food—even in this time of high inflation. That is the cheapest food supply in the world. American agricultural products are expected to produce a $18 billion surplus for our balance of trade in 1980. Without this trade surplus our balance of payments would be much higher and the value of the dollar much lower.

In this crisis we cannot be shortsighted. We must not allow thousands of farmers to go out of business in order to have a few short months of extremely low commodity prices. The consumer's interests will not be best served by allowing American agriculture to be further concentrated into the hands of a few large agribusinesses. I urge the administration and the Department of Agriculture to utilize the powers that this Congress has given them to raise farm prices, curtail overproduction, and relieve the depression in American agriculture.●

A FATEFUL SILENCE

● Mr. STEVENSON. Mr. President, the June 30 issue of the New York Times contains an article in which Anthony Lewis discusses the morality and prudence of silent criticism of the Israeli Government's settlements policy. His words are worth heeding. And so, Mr. President, I ask that the article be printed in the RECORD.

The article follows:

A FATEFUL SILENCE

(By Anthony Lewis)

Should American Jews speak out when they believe that Israeli Government policies endanger the future of Israel? The question arouses deep feeling, and the answer may have profound consequences.

The prevailing view in the diverse American Jewish community has been that there should be no public disagreement on security matters: what the Israeli Government decides should be accepted. A reason often given for this view was forcefully expressed in a letter to The New York Times the other day by Rabbi Sol Roth of Miami Beach, president of the Rabbinical Council of America.

"For American Jews to exercise the right of offering advice and then to assign to Israel the risks involved if that advice is taken," Rabbi Roth said, "is unconscionable."

Criticism of ordinary Israeli policy can be beneficial if constructive, Rabbi Roth said. "But the right to dissent may not be demanded in areas which pertain to Israel's security and survival."

The letter regretted that 90 American Jews "recently saw fit to publicize their opposition to Israel's settlement policies." They had a right to disagree, Rabbi Roth wrote, "and to express their disagreement in the privacy of the (Israeli) Prime Minister's office"—but not in the newspapers. He called for "a moratorium on public media debate."

There is indeed a moral problem in offering advice to other people on matters related to their survival. Anyone who does not bear the risks himself should be conscious of that fact—and eschew easy criticism.

But the view argued by Rabbi Roth rests on an unarticulated premise. It is that outsiders who have serious concerns about the consequences of Israeli policy—the consequences for Israel's safety—are morally correct to remain silent. And that premise is false.

The responsibility of silence is especially weighty in this case, because the American Jewish community is so important to Israel. Its financial contributions are vital. Its opinion affects American Government attitudes. And the American community is a reservoir of legitimacy for the policy of any Israeli government.

Consider in those terms the particular issue mentioned by Rabbi Roth: the Begin Government's policy of planting settlements in the occupied West Bank. Though the policy is rooted in ideology, and though many Israeli military experts consider the settlements a burden, the Government usually claims that they have a security purpose.

In the American Jewish Community, many leaders privately oppose the settlements. They know from their visits to Israel that some of the most respected figures there, quite apart from political interests, are increasingly worried about the effects of the policy.

Military morale, a crucial element in Israel's strength, has painly been damaged by the continuing settlement push and the resulting need to control the West Bank indefinitely. More young men reaching the age of military service are saying that they will not serve on the West Bank—and so are reservists. The desertion rate is up. The military police have more problems.

There is a terrible sense of division, of polarization in what was once a country with rare unity of purpose. The emigration rate is increasing. People express fear that division over policy toward the occupied territory will end in civil conflict. The religious zealots in the new settlements have guns and are organized in para-military units.

The 500,000 Arabs inside Israel proper—Israeli citizens—have been radicalized. They are drawing politically closer to the Palestinians outside.

Prime Minister Begin's great achievement for peace, the relationship with Egypt, has come under strain. Anwar Sadat, that most patient of politicians, has made it increasingly clear that he sees no hope of further progress under a Begin government.

Some American Jewish leaders have expressed their concern about the settlement policy to Prime Minister Begin, and even had long arguments with him. But because questions of security are involved, few will directly criticize the policy in public.

Is that silence neutral? Not at all. The position of the American Jewish community lends legitimacy to the settlement policy. Inside Israel, it adds to the burden of those who fear what is happening to their country. If their forebodings are accurate, if the policy goes on and the consequences deepen, history will not forgive silence.●

VETERANS' ADMINISTRATION 50TH ANNIVERSARY

● Mr. CRANSTON. Mr. President, as chairman of the Senate Committee on Veterans' Affairs, I would like to bring to the attention of my colleagues that Monday, July 21, markets the 50th anniversary of the Veterans' Administration, the third largest agency in our Government.

Although we can give thanks that another year has passed in which our country has been at peace, our commitment to our Nation's veterans and to providing the benefits and services they have earned should not be diminished. Since 1930, the VA has acted on behalf of a grateful Nation in keeping that commitment.

To mark the VA's anniversary on Capitol Hill, Congressman Ray Roberts, chairman of the House Veterans' Affairs Committee, and I are sponsoring an exhibit of photographs and displays detailing the history of veterans' programs in the United States, the development of the Veterans' Administration, and the present role of the agency in making available services to the over 30 million veterans in our country today. The exhibit will be displayed in the rotunda of the Cannon House Office Building and will be on view for the general public, Members of Congress, and their staffs from July 14 to July 25.

Mr. President, I ask that President Carter's June 16, 1980, proclamation proclaiming July 21, 1980, as Veterans' Administration 50th Anniversary Day, as well as a list of activities in Washington, D.C. marking this anniversary be printed in the Record.

I know my colleagues join with me in saying happy anniversary to the VA and to all of its dedicated employees.

The material follows:

Proclamation

Fifty years ago, on July 21, 1930, President Herbert Hoover established the Veterans Administration, fulfilling the words of Abraham Lincoln that our great Nation would "care for him who had borne the battle, and for his widow and orphan."

The world has seen much turbulence and suffering since that day, and American families have all touched in some sense the tragedy of war. Throughout this period, the Veterans Administration has set a standard of care and compassion.

On this 50th anniversary of the Veterans Administration, Americans take pride in having led the world in healing the physical and social wounds of war. Our system of assistance and care for veterans is the most comprehensive in the world. In medicine, the Veterans Administration has been a leader in innovation, research, and the quality of care. Its staff includes Nobel Prize winners and other men and women of international renown. Millions of Americans have been helped by Veterans Administration benefits and services, and protected by Veterans Administration life insurance. Veterans loan guarantees have made home ownership possible for tens of thousands of families, and GI Bill education has transformed the social fabric of America. These efforts express our appreciation and commitment to those who have sacrificed for our country and to the families of those who gave their lives in its service.

Now, therefore, I, Jimmy Carter, President of the United States of America, do hereby proclaim July 21, 1980, as Veterans Administration 50th Anniversary Day, and call upon State and local officials and all Americans to observe this day with appropriate activiites.

In witness whereof, I have hereunto set my hand this sixteenth day of June, in the year of our Lord nineteen hundred eighty, and of the Independence of the United States of America the two hundred and fourth.

Jimmy Carter.

Veterans Administration 50th Anniversary Schedule July 1980

Tuesday, July 15th—8:00–9:15 p.m., Jefferson Memorial, U.S. Army Band military Concert.

Sunday, July 20—9:15–9:45 a.m., Constitution Gardens on Constitution Avenue, N.W., religious service.

Monday, July 21st—9:30–10 a.m., St. John's Episcopal Church, 1525 H Street, N.W., Commemorative Stamp Ceremony

Monday, July 21st—9 a.m.—4 p.m., VA Central Office, 810 Vermont Avenue, N.W., Commemorative Stamp First Day Issue Program.

Monday, July 21st—10:30–11:45 a.m., Lafayette Park, Living Memorial Tree Dedication.

Tuesday, July 22nd—Labor Day, Pension Building, 440 G Street, N.W., VA Architectural Exhibit, "Building for Veterans.".

OLYMPIC SHADOWS

● Mr. CHILES. Mr. President, the July edition of the Reader's Digest contains an article written by Albin Dearing of Florida entitled "Olympic Shadows." Mr. Dearing has presented a thoughtful reflection on the Berlin Olympics of 1936.

Earlier this year the U.S. Olympic Committee took a courageous step in voting overwhelmingly not to send a team to Moscow this summer. This was a strong statement of national resolve and disapproval of the Soviet invasion of Afghanistan. Mr. Dearing reminds us what the alternative to the boycott may have been.

I ask to have the article printed in the Record.

The article follows:

Olympic Shadows

It does not seem that 44 years have passed. Hitler sat on the very spot that I now occupy in Berlin's vast Olympia Stadium. Today the playing field is silent. Only the wind slapping ropes against metal flagpoles, the baleful cry of crows wheeling in the gray overcast, intrude upon my reverie. . . .

An ever-loudening roar of crowds along the Via Triumphalis announces Hitler's approach. Thirty thousand Brownshirts line his passage. A blare of trumpets and suddenly he is there. An unprepossessing figure, he wears the plainest of uniforms, in startling contrast with his bemedaled entourage: the International Olympic Committee.

Band music announces the parade of contestants, athletes of 51 nations marching behind their colors. As the Austrians pass, they stiff-arm the Nazi salute. The crowd roars approval. Upstaging this, the Bulgarians lock into a goose step. The crowd is delighted. From the Americans, some 370 strong, no dipping of the colors, only hats over the heart and a deferential eyes-right. Displeased, the crowd whistles and stamps. Finally, the German team enters to the music of "Deutschland über alles" and the "Horst-Wessel-Lied." The crowd roars: *Sieg Heil! Sieg Heil! Sieg Heil!*

Hitler gives the traditional salutation. Then comes a blond-haired runner holding high a lighted torch, the sacred fire from the Temple of Zeus at Olympia. Circling the arena, the runner bounds up a stone stairway to a large basin. This he touches with his torch. Blue flames leap upward. A cannon booms. Richard Strauss conducts his composition for this gala day, "The Olympic Hymn." The Games may now begin.

It is so splendidly contrived, so professional, and yet how close it came to not happening, to *boycott*. Hitler's roughnecks were already robbing, beating, humiliating Jews. America's protest was loud and threatening. Britain rumbled. Hitler took countermeasures; token Jews were allowed to compete for Germany. Capt. Wolfgang Fürstner, half-Jewish, was made deputy chief of the Olympic Village (but an Aryan got credit for his work).

The Berlin Olympiad was a resounding success, racking up millions for its Nazi sponsors. Forcefully, the Nazis showed the world the awesome power, discipline and solidarity of their Germany. Visitors came home with glowing praise for Adolf Hitler, his prosperous nation, his people's devotion to . . .? None seemed quite sure what.

Hitler could have told them.

Even as he sat here, following the spectacle, Hitler had greater concerns. His secret plans to enlarge the war in Spain. Just about to be dispatched from Hamburg: aircraft, munitions, specially selected air crews costumed and documented as tourists. Franco's revolt would provide a testing ground for Hermann Göring's young Luftwaffe. His grand design, as carefully planned, as skillfully orchestrated as today's great spectacle would methodically realize the announced ambitions of *Mein Kampf*, the glorious Thousand-Year Reich.

Some in America had railed against participation in the great Nazi propaganda debauch, this massive launching program designed to dominate world news. Others claimed that athletics and politics were separate, alien entities. Members of the Olympic Committee strongly disagreed with the many Americans who believed that international sportsmanship would be subverted for base, political purposes. Athletes were interviewed who disclaimed any interest or concern for anything other than winning medals for their country. They wanted no boycott.

Says Dryden:

Thus, in a pageant show, a plot is made,
And peace itself is war in masquerade.

I leave this cold and dismal stadium, take a subway, then walk two blocks to Checkpoint Charlie. All détente stops here. Behind barbed wire and mine fields at an opening in the Wall stand some well-disciplined agents of that other Germany. Beyond is a nation imprisoned. I have traveled through that Germany. I believe I know what the people who live there would counsel. The Moscow Olympics? Look around you. Afghanistan was no charade. No war is masquerade.●

STRENGTHENING THE INNER DEFENSES

Mr. HOLLINGS. Mr. President, for the past several days we have been debating questions of great significance to our country's military. America, caught with its defenses down, is challenged as never before to rebuild and compete, to defend freedom from the onslaught of tyranny. Rebuilding our military is absolutely essential.

The defense of freedom involves even more than weaponry, however. It involves our American commitment to our American ideals, and in the most fundamental sense it goes to the spirit of our people.

Last Sunday, one of our most respected clergymen, Dr. Bryan Crenshaw of the Buncombe Street United Methodist Church in Greenville, S.C., delivered an incisive and impassioned sermon in defense of the spiritual ideals which built the land of free and which are necessary to the perpetuation of our free way of life.

Dr. Crenshaw talks about inner strength, moral defenses, and the responsibility which goes hand-in-hand with the blessings we enjoy. He talks about the intense belief which motivates those who wish us ill. about their dedication to advancing the ill-conceived beliefs they hold. Dr. Crenshaw understands the severity of the challenge we face, and the urgency of a response. That response must be one centered foursquare in our religious beliefs and our spiritual heritage. "We must believe our beliefs, behave our beliefs and transmit our beliefs, seeking in all things to follow God's will."

Mr. President, this sermon, coming at that time of year when we pause to celebrate America's past and rededicate ourselves to the principles on which our Nation is founded, deserves the widest audience. For that reason, I ask that it be printed in today's edition of the Record.

The sermon follows:

STRENGTHENING THE INNER DEFENSES

Scripture: II Chronicles 7: 14–15, Ephesians 6: 10–18.

Most of the time a minister chooses his sermon, but sometimes a sermon chooses the minister. Such is the circumstance as we come to celebrate the birthday of our nation. That which I say today is not intended to depreciate our country, for we have the greatest nation with the greatest freedom known in history. It is also not intended to be pessimistic, for I am gloriously optimistic. However, Chronicles 7: 14 speaks a true and significant word to us today.

"If my people, who are called by my name, shall humble themselves and pray, and seek my face, and turn from their wicked ways, then will I hear from heaven and will forgive their sins, and will heal their land."

In his inaugural address the late President Kennedy used a sentence that I have never been able to get out of my mind. He said, "in the long history of mankind only a few generations have been given the opportunity of defending freedom in the hour of its maximum danger."

And the questions that I would like for us to consider this morning are these: What is the maximum danger to freedom, and what can we do to defend it? What is the role of the church and the individual Christian in the defense of freedom?

There is no question that we are passing through a time of great danger to freedom, not only for our nation but indeed for the free people of the whole world. Great contending concepts of life are arrayed against each other on a worldwide scale, and the contention and parrying of these great powers effect almost every aspect of our lives.

For the most part our attention is focused on the external phase of this conflict. The military build up of nations, coupled with a fear that the United States is falling far behind: the political shifting and maneuvering among the great powers: the flood of refugees entering South Florida: the plight of the prisoners in Iran; the tension over the occupation of Afghanistan: the squeeze upon our industry and individual lives due to cartel of the OPEC countries. These are external manifestations, and I do not wish to speak of these today, except to say that we are in a time when our government needs the cooperation of all of our people.

But there is another aspect in the struggle in which the Church has a large stake and a large contribution to make. This is in the tremendous innerness of the struggle—that which lies at the heart of the battle in which we are now engaged. And if, in the Church we give no distinctive note but only the echo of mass emotion, military might, the shrill voice of the extremists, then we will know that the Church has forsaken its Christian mission.

There are indications enough that the inner defenses still prove, in the long run, to be major defenses. This is true for a number of reasons:

(1) It is true because the conflict in which we are engaged is first of all ideological, a battle for the ears and the minds of men, a war of ideas and ideals. It is fought far more in the classrooms, the laboratories, the conference chambers and the Church than it is on the battlefield. It calls more urgently for wisdom than it does for weaponry.

(2) The inner defenses are important because we know that the enemy is using the strategy of winning by default. From their own pronouncements and involvement in South America, Africa, the Middle East, the major plan is infiltration, destruction of faith in existing governments, the stirring of ferment within. They base their hopes on the weakness of others, on the collapse of the inner defenses.

(3) The inner defenses are most important because of the verdict that we have from history; namely, that nations and civilizations are seldom defeated by internal forces, but most often go to pieces from within. This is what happened in mighty Rome. Someone has said that the Roman Empire fell 400 years before anyone realized it, and any nation that grows weak in its inner resolve, by a lack of faith in itself, is in a similar position of danger.

Ancient China put its faith in its Great Wall, powerful, with towers and garrisoned soldiers at every gate, almost invincible in the time that it was built. There was an interesting article in the Christian Science Monitor within the past two weeks that talked about the present destruction of the Great Wall of China. It seems that the Chinese farmers are taking stones from the Wall to build pig pens. There is a lesson in that, which we will not pursue today—a lesson of how men often take the great things and use them for trifling and temporary purposes. But in the ancient days the Wall was a formidable, almost impenetrable defense. However, it is reported that three times the Wall was broached by invaders. The enemy did not climb the Wall, or batter it down, or fight the soldiers. Each time they bribed the gatekeepers and marched in. Not the outer defenses, you see, but the inner defenses.

And what we would like to do this morning is to march around our inner defenses, the inner defenses in which the Church has a large stake and for which each of us has a measure of personal responsibility.

I. Let us consider this first at the point of belief. We have to begin there because the whole struggle revolves around belief. The great choice today is not just between belief and no belief, but between beliefs—between what the Christian movement stands for, wants to do in this world, and its confessed opposite.

What we see in world Communism is not irreligion, as some suppose, but another religion, a new form of the old idolatry, the secular substitute for Christianity. The old conflict between light and dark, between Christ and anti-Christ has always existed.

But now we see the old idolatry as it has been enlarged, organized, lifted to a world stage. There is the proclamation that God does not exist, that Christ is but a myth, that man is nothing more than an accelerated animal, that the ultimate reality is in the state. As we see this old idolatry as it moves across the world, it frightens us. Its terrorisms and vast cruelties, its stark tyrannies and treacheries, its contempt for decency—all of this we see, confront, and arm ourselves against. But we must realize that often it has given hope to people who had no hope, a limited freedom to people who were under total despotism, and a higher standard of living than had been known previously.

But however much we resist the political and military aggression, may the Lord have mercy upon us if we do not see the innerness of the conflict, or if we imagine that we can drive out one idolatry with another idolatry, or that we think we can kill materialism with materialism. It is the inner defenses that we must strengthen, belief in our own belief. That is where we are weak. That is where the enemy slips through the wall—our halfhearted belief in our beliefs.

We should possess and must possess a high faith about man—his dignity, his freedom, his destiny, the meaning of his life, his divine and eternal nature. And the greatest of all tragedies would be that we should have this and let it go by default.

Certainly there is no future in any people whose inner faith is burned out. A Godless democracy is no better answer to the needs of mankind than is a Godless totalitarianism. Ours is a great responsibility to replenish the springs of our faith, to discover the virility of our basic beliefs, to redefine them for the age in which we live, and to commit our lives to them. The battle is joined at the point of belief and dedication to our belief.

II. There is a second area in the inner defenses, closely related to the first. Part of our inner defenses is in the area of morals. The first area was that of believing our beliefs—now we come to the area of behaving our beliefs.

Napoleon is reported to have said, "In war, morals are to materials what the figure 3 is to 1." In other words, how people behave themselves, control and discipline themselves, the moral strength which they have in their hearts—is three times as important as the weapons which they hold in their hands.

You do not have to be told that we are not doing well in this! It bothers us to think about it, cuts us to be reminded of it, but we must. We are so accustomed in our minds to think of a good America, to think of ourselves as being enlightened, God fearing, and honest. We think of ourselves as altrustic with unimpeachable motives, and it comes as quite a shock when we hear criticism of our actions and attitudes by peoples in other lands. We can't imagine that other people would dislike us, distrust us, suspect us of taking advantage of anybody. America is good—that is the picture in our minds. We are the righteous people, arrayed against the unrighteous.

But the truth of the matter is that our halo has managed to get pretty much tilted and tainted. And however painful the experience might be, we must face the truth about ourselves—not by comparison with others, that is not sufficient, but by comparison with the plan God has for our country and the dreams conceived by our forefathers. Our spirit must be that of Isaiah in the temple, in the presence of the God in whom we believe. There is a great unwillingness to do this. Some think that it is unpatriotic, almost subversive, to look at the flaws in our armor—to admit any weakness, any sin, any failing in ourselves.

The prophets of Israel were not so squeamish in dealing with their nation. "Cry aloud," they said, "Spare not. Lift up your voices like a trumpet. Tell my people of their sins. If my people, who are called by my name, will humble themselves and turn from their wicked ways . . ."

The battle in which we are engaged today is not marked off in neat little boundaries on a map—good nations on one side, bad nations on another. It just isn't that simple. It is a battle between good and evil, the Christ versus the anti-Christ, in every human heart.

Humiliating beyond words are the evidences that America is not good, and that we find evidences of corruption and lack of morality here in our own nation. I do not think that I have to detail for you. The recent Abscam investigations, the evermounting dependence upon alcohol and drugs, the breakdown of moral standards give evidence of weakness. We are aware of the breakdown of the family, the alarming divorce rate, the increase in crime, the seeking of physical thrill, the focus upon personal acquisition at any cost. In some of our great cities, people, especially the elderly, barricade themselves against assault and robbery. We find an alarming disregard and disrespect of the law and for those public servants whose job it is to enforce the law. America leads the world in inventions, but it also leads in crime, delinquency, lawlessness. The sins of our nation are written in the pages of every daily newspaper,.

Many recent things have shaken the illusion that the good people are fighting against the bad people. Collusion in some of our most respected business corporations, corruption in high places, our mounting expenditures in gambling—these and many other things are all symptoms of a moral sickness and an inner weakness.

Inner defenses. Adequate belief. Moral strength. Three times as powerful as the weapons in our hands. You see what I am talking about. If we are really sincere and honest in our efforts to build the dream of America for all men, if we are going to be Christian in the conflict, then we must channel our indignation against the evils that destroy it, and then open the door for the coming of the good in our lives and others.

Moral irresponsibility closes the door. Community apathy closes the door. Racial snobbery closes the door. Social injustice, lack of concern for the needs of others. Every time we go back on our faith we put another missile in the hands of the enemies, we sharpen the shovel with which they threaten to bury us. Inner defenses in the realm of morals, of behaving our beliefs.

III. Now there is one other area that I would like to mention. We have talked about believing our belief and behaving our belief. There is also the area of sharing and transmitting our beliefs.

Here again we need to face the humiliating truth. We are being outstripped by the dedication to a cause, the willingness to work, and to sacrifice for it. To be sure, the Communists win victories by force, but they don't rely wholly on force. The greatest method that they use, and you can see this demonstrated across the world today, is in the verbal and propagandizing dissimination of their strange mixture of truth and error. A mission, ideas, a goal, the promise of the good life. Ideas in error, certainly, but ideas which are held with a fanatic devotion and pursued with dynamic ingenuity which have exerted an unbelievable impact upon this world. They believe in that which so many of us have forgotten—the power of an idea and the dedication to an ideal.

They work around the clock. Day and night they are armed with slogans and with leaflets and instruction. Every true Communist is a witness. You will never meet a Communist who is an isolationist. They have a global vision and a map of the world in their hands, and don't you forget it. There is no peasant in any backward country of the world that is to them unimportant. And there is no corner of the earth's surface which is too insignificant for their attention. They are world minded, missionary minded—every true Communist is a dedicated missionary.

We often hear the phrase "a card-carrying Communist." When that phrase is used, we know that we are not referring to the fact that this person carries a little card in his wallet that attests to his membership in the Communist party. But when we say a "card-carrying Communist," we are talking about a quality of life, a priority of values, a sense of dedication and willingness to give time and study and work for the cause in which they believe. We are talking about a person who is willing to communicate to others the depth of his belief.

And when we understand that the battle is waged on the inner defenses, I wonder how we measure up beside that. Is it possible that a passionate evangelism for a wrong cause can outmatch a timid, tired, half-hearted faith in the right cause—even the highest cause?

How many of us seek to communicate our faith to our friends, to our families, to our neighbors? How many of us seek to lead others to a walk with Christ, who is our light and our salvation. In the definition we were giving a moment ago of a "card-carrying Communist," I wonder how many of us could be classified as "card-carrying Christians?"

Inner defenses. That is where we need strengthening—as a nation and as individuals. If we were placed in some position of known extremity and asked to do a great thing, I have no question that we would do it. If our nation were overtly attacked, we would respond. I would be willing to pull out of the closet my old World War II uniform (which I could still wear, by the way, if the waist of the trousers were let out about three inches), pin on my ribbons, and report for duty. Such would be the response of all of you.

But the truth of the matter is that we are in an extreme position. Perhaps not as clearly discernible, but equally dangerous. It may be that we keep waiting for some ultimate confrontation, when all the time the battle is being fought on the inner defenses—the little corners in which we live and give our witness—or withhold it.

And how do we answer such a challenge? Let us return again to the scriptures we have heard this morning.

The word of God speaks clearly when it says, "If my people, who are called by my name, shall humble themselves and pray and seek my face and turn from their wicked ways, then will I hear from heaven and will forgive their sins and will heal their land."

And the way in which we do this is the way given to us by St. Paul in his admonition in Ephesians 6:10–18.

"Finally, be strong in the Lord and in the strength of his might. Put on the whole armor of God, that you may be able to stand against the wiles of the devil. For we are not contending against flesh and blood, but against the principalities, against the powers, against the world rulers of this present darkness, against the spiritual hosts of wickedness in the heavenly places.

"Therefore, take the whole armor of God, that you may be able to withstand in the evil day, and having done all, to stand. Stand, therefore, having girded your loins with truth, and having put on the breastplate of righteousness, and having shod your feet with the equipment of the gospel of peace; above all things taking the shield of faith, with which you can quench all the flaming darts of the evil one. And take the helmet of salvation, and the sword of the Spirit, which is the word of God.

"Pray at all times in the Spirit, with all prayer and supplication. To that end keep alert with all perseverance, making supplication for all the saints."

I am not one who proposes that we meet frenzy with frenzy or fanaticism with fanaticism. That is what we must not do. But the truth of our situation is gradually dawning, and that is since our adversaries in this world are strong, intelligent, disciplined and dedicated, then we who are the soldiers of Christ can be no less. And if there is to be the brighter hope for ourselves and our children and our children's children, we must put on the whole armor of God, we must take seriously the teachings and demands of our Christian faith, we must strengthen the inner defenses.

We must believe our beliefs, behave our beliefs and transmit our beliefs, seeking in all things to follow God's will.

STATEMENT OF SENATOR PERCY BEFORE REPUBLICAN PLATFORM COMMITTEE

● Mr. TOWER. Mr. President, over the past few months the 1980 Republican Platform Committee has been conducting a series of public hearings in various cities throughout the country. As temporary chairman of our Platform Committee, it has been an exciting opportunity for me to preside at these regional hearings, and to observe the interest and enthusiasm with which citizens from all walks of life have come to take part in our proceedings.

I might note that a number of our colleagues from both the House and the Senate have participated in these hearings, and the caliber of testimony we have received will be of great benefit to the delegates who will draft the platform statement.

During our hearings in Chicago, I was most impressed by the views so eloquently stated by our distinguished colleague from Illinois, Senator Percy. Those of us who have the honor of serving with Chuck Percy here in the Senate are familiar with his able leadership in the areas of foreign policy and Government regulation. In Chicago, Senator Percy shared with us his thoughts on the challenges which this Nation faces in the areas of economic priorities and foreign relations as well as suggestions as to how we might best address these problems.

I would like to commend Senator Percy's fine statement to all of our colleagues here in the Senate, and I ask that it be printed in the Record.

The statement follows:

Remarks by Senator Charles H. Percy

Mr. Chairman, members of the Platform Committee, representatives of the Republican National Committee. It is a distinct pleasure and privilege to testify before the 1980 Republican Platform Committee. As a life-long Republican, I consider this testimony today both a duty and an opportunity.

It is a duty for all Republicans to make their views known on national policy. And it is an opportunity for all Republicans to participate in the platform process. Without the full participation of all Republicans, the process of drafting our party platform would be incomplete.

The task we face as a people and as a party is one of national renewal. We must rebuild our Nation's strength. But we must make it clear that we are not building power for the sake of power. We are building power for a purpose.

Our purpose is to preserve, by word and deed, the United States as the example of freedom and justice for the whole world.

Dedication to building power for a purpose should be the theme that guides us as a nation. It should be our theme as we set policies domestic and foreign, economic and social, military and diplomatic.

Mr. Chairman, my appearance today before the Platform Committee brings back vivid memories of 20 years ago, when as chairman of the 1960 Platform Committee, right here in Chicago, I helped draft—with John Tower's assistance—a platform that spoke strongly for fiscal responsibility and firm opposition to communist aggression.

The platform we adopted then said clearly as follows:

"The Republican Party asserts that the

sovereign purpose of our foreign policy is to secure the free institutions of our Nation against every peril, to hearten and fortify the love of freedom everywhere in the world, and to achieve a just peace for all of anxious humanity."

That was our policy then, and I submit that that should be our policy now.

The 1960 platform brought our party together. It was endorsed by our nominee, Richard Nixon, by Nelson Rockefeller who was the "first runner-up," and by incumbent President Eisenhower.

At that time the United States was the unquestioned leader of the free world. We held a preponderance of military power, and we were determined to maintain our deterrents to hostile action by the Communist countries.

Today, as we write a platform for 1980, we must seek to regain the power, the respect and the influence in world councils that we enjoyed 20 years ago.

But we cannot actually strengthen our nation unless we elect Republican leadership, and we will not elect Republican leadership to the White House and the Congress unless we win the November election.

To win in November we shall have to hold all our Republicans, attract more than half of the discerning independents, and get a share of the disillusioned Democrats. This will require a platform and a policy which meets the concerns of all Republicans, which is understanding of minorities and ethnic groups, and which maintains our party's commitment to women in endorsing the equal rights amendment both in 1972 and 1976.

With a third candidate in the race, we cannot afford to encourage defections by adopting narrow or parochial policies. I want a platform which will give the Republican nominee a springboard to win a decisive victory in November.

Our goal, as one of the Nation's great parties, is to preserve the two-party system, in which we deeply believe. To accomplish this goal, we must seek to make unnecessary the advent of an independent movement. Also, we must reach out and make all Republicans feel comfortable in their party. Finally, we must open wide our doors for others to enter and feel welcome. If we fail in this endeavor, we face the serious threat of the 1980 election being decided in the House of Representatives with the perils those uncharted waters offer.

So our challenge is clear. We seek to draft a platform that will bring our party together. And we seek to draft a platform that will reach out to millions of American voters and attract them to our ranks.

This year Americans have seen the basic Republican theme for 1980 in television messages carried throughout the country. It says simply:

VOTE REPUBLICAN, FOR A CHANGE

That phrase says it all. A Republican vote in 1980 will bring the changes in national policy sought by millions of Americans who are tired of old solutions and hungry for new leadership.

I wish to speak to you today about some of the economic priorities we face as a nation and as a party. But first, I will speak briefly to the challenges we face in the field of foreign policy.

Wherever we look in the world today, America's foreign policy goals are clouded and obscured. A major task of our party in the coming campaign, and in the Republican administration that will commence in 1981, will be to regain our sense of direction in foreign policy and to make it visible to the world. We will be building power for a purpose.

We begin the 1980's in a state of almost unparalleled peacetime challenge. Our relationship with the Soviet Union is in flux. Instability in the Persian Gulf poses a threat to our security. The search for peace in the Middle East continues under difficult circumstances.

Of all these challenges, and others too numerous to mention here, our relationship with the Soviet Union is perhaps the most crucial. The state of relations between the world's two superpowers must be placed at the top of our foreign policy priority list.

I believe strongly that our stance in the relationship between the United States and the Soviets should be firm and resolute. Our message should convey clearly that we will not tolerate aggression and military adventurism. We stand ready to engage in meaningful dialogue with the Soviets, but only with the clear understanding that our national interest and that of the free world will remain paramount.

To underline this resolve, we must clearly state in our platform that we intend to support our intention to stand up to the Soviets. This will require adequate defense spending to assure that American military strength is second to none. We cannot allow the Soviets to surpass us in military preparedness and capability.

I have been committed to this course in the Senate and I renew my pledge to that principle today.

Here at home, as we face the challenges of domestic policy, we will muster the same dedication and resolve we will bring to foreign policy. We will be building power for a purpose.

The most important issue we face today in domestic policy is inflation. The domestic challenge of the 1980s is the task of putting the American economy back on a sound footing by restoring the purchasing power of every American and boosting the productivity of American business and industry.

An important element in reaching this goal is a firm commitment to achieving a balanced Federal budget based on reduced spending. Only then can we have a foundation on which to reduce inflation by reducing the Federal Government's intrusion into the private economy.

Specifically, we should establish a national policy of limiting the Federal budget to 21 percent or less of the gross national product. This policy would reduce the recent trend of more and more Federal spending that saps the private sector and feeds inflation.

Recent votes in the Senate on the Federal budget for fiscal year 1981 failed to meet the test. It is a budget balanced on paper only, one that relies on excessive levels of spending and higher taxes. When the truth is known, the so-called balanced budget for fiscal year 1981 will be seen by millions of Americans as the work of wishful thinkers.

Let our platform reflect respect for the American taxpayer. Let it state clearly that we support a balanced budget, but only if it is based on reduced spending. As a Republican and as a Senator I am firmly committed to continuing the fight to give the American people a truly balanced budget that frees them from the expanding circle of Federal spending.

A balanced budget achieved through limited Federal spending would be a potent weapon in the fight against inflation. It would signal domestic and international financial markets that we intend to apply the brakes. But to be effective, it should be coupled with meaningful tax reform that serves both individual taxpayers and business.

We made progress earlier this year when we passed a measure I sponsored that provides a tax exclusion for interest and dividend income up to $200 for individuals and $400 for a joint tax return. This measure, which will apply to income earned in 1981 and 1982, is an important tax reform. But it is only a beginning.

We need to go further by indexing personal income and exemption tax rates. This would combat the "bracket creep" that makes wage and salary increases meaningless in the face of skyrocketing inflation. Indexing speaks to the reality of real income. It addresses the crying need to translate pay increases into hard cash.

To encourage business investment that boosts productivity and creates jobs, we need to make capital investment attractive. One immediate opportunity that I favor is the pending capital cost recovery proposal, the popular 10–5–3 measure that would simplify depreciation of plants, equipment and vehicles. It speaks to the urgent need to revitalize the American industrial machine and make us more competitive in the international marketplace.

Mr. Chairman, these priorities, which I believe should be an integral part of our party's 1980 platfrom, are the priorities of all Americans. They represent sound and sensible approaches to challenges that must be met as we enter the decade ahead.

Let there be no mistake about it. The goals of the Republican Party are the goals of millions of Americans. No longer can our opponents claim that they have a patent on political leadership. The Republican Party is in step with the foreign policy and economic wave of the future. Together we will build the national policies required to lead our Nation.

In 1960, I addressed the Republican National Convention in Chicago and said in conclusion, "I am proud to be an American and I am proud to be a Republican." I say it again today as we work together to make 1980 a year that will be good for America and good for the Republican Party.

Let us, by our actions and words at the 1980 convention, cause millions of other Americans to join with us in building a better and stronger America.

Let the Republican Party, in its platform and the campaign based upon it, renew America's commitment to building power for a purpose. And then let us lead our Nation guided by principles that for so long have made America the hope of the world.●

SUPPORT FOR TAX REFORM ACT AMENDMENTS

● Mr. NUNN. Mr. President, on March 11 I introduced S. 2402, S. 2403, S. 2404, and S. 2405, all of which would amend the Tax Reform Act of 1976 and restore the Internal Revenue Service to an effective role in cooperative law enforcement efforts.

To my mind, there is no more important law enforcement issue facing us than the demise of IRS as a full partner in Federal efforts aimed at organized criminals and narcotics traffickers.

Since 1976, IRS has withdrawn, for all practical purposes, from these efforts. Part of the reason stems from an attitude on the part of high-ranking IRS officials that the Service should stick to tax collection, mostly from ordinary taxpayers, and not emphasize enforcement against big-time criminals.

Another part of the problem, however, lies in the provisions of the Tax Reform Act of 1976 governing disclosure of tax information, summons issued by IRS to third-party recordkeepers, and civil and criminal sanctions against anyone who discloses tax information in violation of that act.

In our bills, which 11 of our colleagues have joined me in sponsoring, we have attempted to strike a balance between the privacy of tax information and the legitimate needs of law enforcement. Those bills also would signal the IRS that Congress intends for that agency to rejoin the fight against crime.

Mr. President, I am pleased to report that these bills are being supported by three organizations, the Law Enforcement Intelligence Unit (LEIU), the State Drug Enforcement Alliance (SDEA), and Atlanta Metropol, Inc.

I ask that letters from Thomas Ruxlow, general chairman of the LEIU, from B. S. Allsbrook, chairman of SDEA, and from Clinton Chafin, chairman of the board of Atlanta Metropol, along with a resolution adopted at the LEIU's national conference, be printed in the RECORD.

The material follows:

LAW ENFORCEMENT
INTELLIGENCE UNIT,
May 28, 1980.

Hon. SAM NUNN,
Senate Office Building,
Washington, D.C.

DEAR SENATOR NUNN: The membership of the Law Enforcement Intelligence Unit, at its National Conference in May, Unanimously passed a resolution supporting the pending legislation to amend the Tax Reform Act of 1976.

The Law Enforcement Intelligence Unit has long recognized the need for free interchange of information regarding organized crime activities among cooperating law enforcement agencies. Realizing that in order to combat the massive profits derived by organized crime through its illegal activities, the pending legislation is needed. This legislation will enable the Internal Revenue Service to work in concert with other law enforcement agencies to combat the illegal profits of organized crime.

The Law Enforcement Intelligence Unit is offering this resolution, signed by the Executive Board, in support of the legislation to amend the Tax Reform Act of 1976 in our continuing battle against organized crime.

Yours truly,

THOMAS R. RUXLOW,
General Chairman.

LAW ENFORCEMENT INTELLIGENCE UNIT
RESOLUTION

A resolution petitioning the President and Congress of the United States to support legislation designed to return the Internal Revenue Service to the fight against organized crime and narcotics trafficking, which legislation was introduced in the 96th Congress by Senator Sam Nunn, Chairman of the Senate Permanent Subcommittee on Investigations.

Whereas, the Law Enforcement Intelligence Unit (LEIU) consists of 230 law enforcement agencies, representing 46 states and several Canadian law enforcement agencies, and

Whereas, one of the goals of the Law Enforcement Intelligence Unit is to determine the influence that organized crime exerts in major United States cities and against the national economy, and

Whereas, in order to successfully attack the tremendous profit motive for organized criminals the Internal Revenue Service must conduct a centrally directed and monitored program that vigorously pursues illegal assets, and

Whereas, this effort can only be achieved when all law enforcement levels, all agencies, and all officers, work together effectively, and

Whereas, the Permanent Subcomittee on Investigations held extensive hearings in December, 1979, on the declining role of the Internal Revenue Service in law enforcement, and specifically in sophisticated financial investigations aimed at organized crime figures and major narcotics traffickers, and

Whereas, testimony at those hearings indicated that the Internal Revenue Service has withdrawn from cooperative state and federal law enforcement efforts to uncover evidence of organized crime activtiy and narcotics trafficking, and

Whereas, witnesses said that the main reason stems from the Tax Reform Act of 1976, which set stringent rules on the disclosure of tax returns and other information gathered by Internal Revenue Service, and

Whereas, the Internal Revenue Service offers the Nation one of the more effective tools to successfully prosecute organized crime and large narcotics syndicates, and

Whereas, the membership of LEIU concurs with the findings and conclusions of the Permanent Subcommittee on Investigations in regards to the declining role of the Internal Revenue Service in cooperative law enforcement efforts, and

Therefore, be it resolved that the Law Enforcement Intelligence Unit:

Strongly recommends that the legislation which is currently pending (S. 2402, S. 2403, S. 2404 and S. 2405) designed to restore the Internal Revenue Service role in the fight against organized crime and narcotics trafficking be passed by the Congress in order that law enforcement's efforts in these areas be more successful.

Unanimously passed at the 25th Annual Conference of the Law Enforcement Intelligence Unit.

STATE DRUG ENFORCEMENT ALLIANCE,
Richmond, Va., June 18, 1980.

Hon. SAM NUNN,
Member, U.S. Senate, Senate Permanent Subcommittee on Investigations, Washington, D.C.

DEAR SENATOR NUNN: On behalf of the twenty member states comprising State Drug Enforcement Alliance, I would like to record our support for Senate Bills 2402, 2403, 2404, and 2405.

The members of SDEA have been very aware of the absence of Internal Revenue Service from the mainstream of law enforcement by virtue of the reforms placed upon it in 1976. Because of the enormous problems confronting law enforcement today, we wholeheartedly support your efforts in attempting to restore IRS to the role of a viable effective law enforcement position.

We are particularly interested in paragraph 7, page 13, of Senate Bill 2402 dealing with Disclosure to State Authority upon Certification of Evidence of a State Felony Violation. There are many instances where IRS through routine inquiries will become knowledgeable of felony violations of state law or where state agencies need information from IRS to prove felony violations of state law. Through disclosure, as provided in Senate Bill 2402, a most difficult task can be made easier and result in successful prosecution of major criminal violators.

Should you at any time feel this organization can be of assistance to you in any way, please let us know. It is the desire of this organization and each of its member states to cooperate with you in all matters of mutual interest.

Best wishes for success.

Sincerely,

B. S. ALLSBROOK,
Chairman.

ATLANTA METROPOL, INC.,
Tucker, Ga., June 4, 1980.

Hon. SAM NUNN,
Chairman, Committee on Governmental Affairs, Senate Permanent Subcommittee on Investigations, Washington, D.C.

DEAR SENATOR: As Chairman of Atlanta Metropol, Inc., I wish to convey the feelings of our entire membership toward Senate Bills 2402, 2403, 2404, and 2405 of which you are the principal sponsor.

Atlanta Metropol is a non-profit organization comprised of approximately 140 members representing the heads of Law Enforcement and Private In House Industrial Security Organizations in the Metropolitan Atlanta area. We have recognized for some time the lack of support and involvement by the Internal Revenue Service in a cooperative effort with law enforcement agencies to stop organized crime, labor racketeering, and narcotics trafficking.

We, as a group and individually, feel that IRS involvement is a must if law enforcement officials are to be effective in their roles. We support your efforts, and those of Senators Percy, Chiles, Cohen, DeConcini, Long, Talmadge, Ribicoff, and Jackson in amending the Tax Reform Act of 1976 to restore the IRS to its original effective anti-crime role.

Sincerely,

CLINTON CHAFIN,
Chairman of the Board.●

REGISTRATION FOR THE DRAFT

● Mr. BAUCUS. Mr. President, several weeks ago, I joined a majority of my colleagues in supporting the draft registration measure, because in my view, registration was a simple but necessary step to enhance our military preparedness. Recent events in Iran and Afghanistan have only heightened our awareness that we are living in turbulent, tense times. It behooves the United States, as the leader of the free world, to be adequately prepared to mobilize our Armed Forces in the event of an emergency. Without premobilization registration we do not have that ability; with registration we do.

My vote for registration was not a vote for a return to a peacetime draft, which I do not favor at this time. Rather, my vote for registration was a vote of confidence in the All-Volunteer Force, and for a prudent defense posture.

Even with registration, I am fully aware that we must vigorously and responsibly address the fundamental problems currently facing our All-Volunteer Force. These problems are not trivial, or easily solved. They are wide ranging and increasingly serious, and it is the duty of Congress to come up with constructive, sound and effective answers if the All-Volunteer Force, as originally conceived, is to continue to exist as a credible and central aspect of our overall defense posture.

Any American who reads a newspaper must know that the Armed Forces are experiencing ever greater difficulties attracting qualified recruits and retaining skilled personnel.

A selected few of the myriad of statistics available on this issue will suffice to make my point.

For example, according to the National Journal, since 1976 some 75 percent of those who had completed their first term of enlistment have not reenlisted. Also, approximately 30 percent of the men who actually do enlist fail to complete their first term of service. In addition, the average reenlistment rate of career personnel has dropped from over 80 percent in 1974 to 68 percent in 1979. The Navy has experienced the most severe retention problem, and this spring, the U.S.S. *Canistero* could not leave Norfolk, Va., for lack of skilled crew members to man the vessel.

The increasing difficulty in attracting adequate numbers of qualified recruits and high school graduates has led the Senate Armed Services Committee to ask for a reduction in the Army's authorized end strength. While I am opposed to the committee's method for trying to obtain more high school graduates for the Army, I certainly understand the frustration and concern motivating the committee action. In fact, it is my understanding that perhaps as many as half of the recent Army volunteers have reading skills at the eighth grade level or below. This decline in the quality of recruits is particularly disturbing in view of the fact that the equipment and situations our military personnel are expected to handle are ever more complex and challenging.

Most disturbing of all, in my judgment, is the declining quality of life for those who actually do volunteer for duty in our armed services. Former Secretary of Defense Melvin Laird has estimated that approximately 580,000 military personnel are paid no more, and in many instances, substantially less, than the minimum wage. The pay of new recruits, when computed on an hourly basis, is now about 80 percent of the minimum wage, and as many as one in five enlisted personnel is forced to "moonlight" simply to make ends meet.

Also, Laird estimates that perhaps as many as 275,000 military families are eligible for welfare assistance, and military commissaries take in more than $10 million a year in food stamps.

Finally, a family of a typical enlistee who earns $9,900 a year in pay and benefits has a standard of living 17 percent below what the Bureau of Labor Statistics classifies as a "lower" standard of living for a family of four. These selected figures are grim testimony to our failure to adequately compensate those who serve their country in the All-Volunteer Force.

Another very serious and fundamental shortcoming in the All-Volunteer Force is that those who serve our country in the Armed Forces are not representative of the country as a whole. Blacks, and other minorities are substantially overrepresented, while middle- and upper-class whites do little to shoulder the burden. This is inexcusable—I am certain that those who originally conceived of an All-Volunteer Army did not conceive of an ill-paid army composed largely of those who are less fortunate in our society.

Earlier this year the Senate passed the so-called Nunn-Warner benefits package which increased certain selected pays and benefits, as a first step toward addressing the problem of retention of skilled personnel in the Armed Forces. Now, in the Defense Department authorization bill before us today, the Senate Armed Services Committee has proposed further measures which help us to tackle the problems of recruitment and retention. For example, the committee has provided for an 11.7-percent pay raise, and removed the pay cap which aggravated the already serious problems of inadequate compensation for military personnel. Overall, the $1.5 billion package fashioned by the members of the Senate Armed Services Committee goes a good part of the way in addressing the problems of inadequate military pay and benefits.

The Congressional Budget Office has published a study which recommends measures even beyond those supported by the administration and the Nunn-Warner package, including a comprehensive restructuring of military and military retirement pay. Other proposals have been put forth by a number of my colleagues, including proposals to further increase military pay, and establish a new and comprehensive GI bill benefits program which would help the services attract recruits. All of these are legitimate proposals which deserve the serious attention of every Member of Congress.

I might only add that anything less than complete cooperation from every branch of our armed services in supplying figures and acknowledging and addressing the difficulties experienced in manning and maintaining the Armed Forces is unacceptable if we are to successfully address these difficulties.

We cannot buy a strong defense cheaply, and as with any other aspect of our national defense, we must be fully prepared to spend what is necessary to attract and retain qualified personnel in our armed services. It is illogical, if not unconscionable, that we are willing to contemplate spending some $50 to $60 billion on the proposed MX missile, while we balk at paying our military personnel enough to simply maintain an adequate standard of living. We cannot continue to so shabbily treat our military personnel if we expect the All-Volunteer Army to continue to exist.

We must not retreat from our responsibilities by returning to a peacetime draft. That is not a solution. Instead, we must come to grips with the shortcomings of our All-Volunteer Force and do all that is reasonable and equitable to solve them.

One of the arguments put forth in favor of registration was that it was a symbol of American resolve. That resolve will seem pathetic indeed if we do not take strong and carefully considered steps to strengthen and revitalize our All-Volunteer Force.●

CONSUMER INTERESTS

● Mr. TOWER. Mr. President, I would like to call to the attention of my colleagues a most interesting statement by Barbara A. Keating, president of Consumer Alert, Inc. This is one of the most direct and sensible statements I have heard on the subject of consumer interests, and if Ms. Keating's suggestions were followed, I think we would have happier consumers and a healthier economy as a result.

The occasion for this statement was a regional hearing before the Republican Platform Committee in New York City. All in all, we have heard testimony in nine different locations throughout the country, and on several of these occasions, the issue of Government regulation and consumer protection has been discussed. I believe our platform delegates will be well-served by the quality and variety of statements we have heard. From my own observations during these hearings, most Americans are stressing the need for less Government control and more freedom to choose in the marketplace. In the words of Ms. Keating:

> It (government) is not the solution to consumer problems; in fact, it has become in large measure a part of the problem.

I urge my colleagues to read this excellent statement, and ask that it be printed in the RECORD.

The statement follows:

TESTIMONY OF BARBARA A. KEATING

I want to thank the members of this Committee and its Chairman, Senator John Tower, for this opportunity to testify today.

I will not take but ten minutes of the legislators' time, and will be more than happy to answer any questions anyone may have.

It is a most appropriate time to take stock of where the consumer movement is going in the '80's. As a consumer advocate and president of a 5,000-member consumer organization, I suspect that what I have to say may be somewhat startling in the sense that my views may be quite different from what we have come to expect of those who advocate consumer causes today.

What should government do for the consumer? In my opinion, government has already done too much. It is not the solution to consumer problems; in fact, it has become in large measure part of the problem . . . and I'll tell you why.

Existing laws are sufficient to guard consumers against blatant fraud in the marketplace. Enforcement of those laws is where governments, both state and federal can best help the consumer. What is a consumer anyway? Certainly not a separate constituency, for we are all acting as consumers part of the time. We each have other facets of our existence as voters and taxpayers, as workers and investers, and as farmers and producers. Since there is no single monolithic consumer viewpoint, no one can rightfully claim to speak for all consumers. Rather shoppers can best speak for themselves. The shopper needs to recognize once more the role he plays in the free market chain, for the consumer making economic decisions certainly offers the best regulation of that system. An informed shopper is in fact the best consumer advocate—and the most efficient regulator of our marketplace. We must inform consumers, and that's what consumer advocacy groups are best prepared to do.

Consumer protection is wrong if it takes away our liberties as shoppers and producers. It's wrong if it puts government in the role of product selector.

In my opinion, those who advocate the consumer cause today are doing consumers a disservice when they prompt government to oversee our shopping selections for us. They adhere to a mistaken theory that government knows better than we do about what we want or should be allowed to have. Not only does this take away the shopper's freedom to select, but it increases prices as well.

Much of what passes for consumerism today is merely an anti-business crusade. It is important to be able to discern the difference. Anti-business advocates clothe their intentions in the respectable claim of looking after the "consumer interest."

Yet their opposition to the profit incentive surely results in a shrinking supply, a decline in innovations, and fewer new products. We also see them working against fluctuating prices which can offer consumers real bargains at times. The adversarial situation which has been deliberately created between business and buyers is an uncompromising costly affair with consumers footing the bill of $100 billion each year.

Our new car costs an additional $666 to carry the safety features mandated by government. Yet just as many people are dying on our nation's highways because we are attacking the business of manufacturing automobiles instead of recognizing the fact that accidents are caused by drivers who err.

It is time to point out publicly that many consumer activists are not free of ulterior motives themselves. These include protection of their own jobs in government agencies and recipients of government grants to investigate their various theories, as well as the ultimate power of gaining control over the lives and livelihoods of others. We must not fail to recognize these realities, for people who live off what we pay them to protect us from ourselves are as distasteful as the unfeeling corporate giants upon whom they heap their invectives.

And so we need to look at the facts, as they are, not as some would have them appear.

Let's look at the charge that Americans are dying of cancer in greater numbers than ever before and that this is directly attributable to industrial progress. Pollution is disagreeable to be sure and there is no doubt that the vast majority of people support efforts to clean up our environment as economic realities will allow . . . but pollution, product-materials, and work place environments have not brought us a cancer epidemic in this country. This is a myth advanced by fright peddlers who want to believe that cancer surrounds us and is caused by the material things which we desire.

The U.S. ranks 21st in nations around the globe in cancer deaths. The fact is that Americans are living the longest lives ever achieved in the hisltory of mankind—over 73 years as a national average. That's quite phenomenal!

"We've never been healthier," according to the most recent Surgeon General's report, a statement no doubt vehemently denied by activists who depend upon fright of risk and fear of death in order to make a living. National hypochondria sells more newspapers and attracts more government grants.

We all have a 100 percent possibility of dying someday, our Constitution does not guarantee immortality. We are not suffering from an epidemic of death, but from an epidemic of living, as we are all around longer than people used to be. Incidences of cancer and heart disease of course increase with age. And so, if we put the 400,000 deaths attributed to cancer in this country, in proportion to the increased age of our society, we note that death from cancer has not been increasing, but has actually shown marked decline in many areas, with the exception of lung cancer directly attributable to cigarette smoking—A risk deliberately taken by those who choose to smoke.

Public interest groups who prompt government actions by making claims of what "might be," rather than "what is," need to concern us because public interest politics in many cases bypasses the legislative deliberations that are so much a part of our sound system of government. Legislative bodies all too often have put their responsibilities off onto independent agencies where they become out of control . . . and out of touch with the average consumer/voter.

Last year at the federal level those we elected to represent us in Washington passed 223 new laws by the powers vested in them. At the same time independent agencies, both victims of and partners to public interest fanaticism, launched the passage of 7,568 new regulations affecting our lives. The average American had little interest and virtually no participation in the passage of those regulations and rules.

Yet he shall pay for them all in higher taxes, runaway inflation from government overspending, and in the increased cost of every product he buys. He will also have limits placed on the types of products available to him.

I urge that the members of this panel consider these things . . . for you now have an opportunity to recognize the hazards of letting "government by the people" become "government of the vocal activists" in the name of consumerism or anything else.

I urge that you as legislators make every effort to maintain the powers vested in you by those voters who elected you. To weigh every bit of legislation that comes before you rather than to push it off to a separate agency. We as voters elected each of you to make wise decisions which will affect us as shoppers and taxpayers.

You have an opportunity to really protect the consumer if you bear in mind the fact that pollution of our environment is in large part caused not by companies, but by the demands of people for more products; companies are merely meeting those demands. Tax incentives can be a valuable tool for getting companies to move toward clean-up while they continue to supply us. You will serve us well, too, if you keep in mind the facts about benefits and risks, and bore through the emotional arguments that are made about death epidemics.

You will serve us well if you base your decisions on the fact that it is the consumer that pays for every bit of regulation, as companies pass regulatory compliance costs along in their higher prices.

You will serve us well if you scrutinize activists who come to plead their causes with an eye to their ulterior motives.

And you will put into operation a wise and fair consumer program if you move to keep the marketplace free, open, and competitive . . . because consumers benefit only from wide selection and fluctuating competing prices. Consumers are hurt by heavy, handed government as well as from industries protected from competition. Consumers want to be informed and then feel qualified to make their own decisions regarding selections in the free enterprise system.

Consumer organizations such as my own can serve the consumer best by helping to inform and by assisting individuals with problems occasionally encountered in the marketplace, and by urging companies, not government, to better handle consumer dissatisfaction. Consumers can actively promote response from industry where they spend their money.

I hope you will especially recognize the need to keep the middle man, the government bureaucrat, out of the consumer debate in the interest of sound economy and in keeping freedom in the free market system.●

GASOHOL: A BIRD IN THE HAND

● Mr. BAUCUS. Mr. President, ideas, good ideas, to help the United States become more energy secure, pour into each of our offices every day. Oil from coal, oil from shale, electric cars, ocean thermal layer generation, geothermal energy, giant solar towers—the list goes on and on.

If the Senate often seems to be tilting at windmills—and these, too, are being offered as a "new" source of electricity—it is because it is very difficult to set priorities among all of these competing energy ideas.

One principle that we should remember in making these decisions can be simply stated: A bird in the hand is worth two in the bush.

Gasohol is one of the ideas competing for attention in funding. And, according to a just-completed study by the General Accounting Office (GAO), gasohol is a sure and certain bird in the hand.

I asked GAO to look through the fog of claims and criticisms surrounding ethanol and gasohol decisionmaking. In brief, GAO found that, "it appears entirely feasible for the nation's vehicle fleet to be operating (on gasohol) by the year 2000." This, GAO says, "could cut U.S. oil imports by 260 million barrels a year at a savings of over $8 billion, based on current prices for imported oil."

Mr. President, right now gasohol is being sold in service stations across the country. GAO reports that this can be just the beginning. I urge my colleagues to become familiar with this new GAO report, entitled "Potential of Ethanol as a Motor Vehicle Fuel"; EMB-80-73; June 3, 1980.

On June 18, I testified before the National Alcohol Fuels Commission where I summarized the findings in this report. I ask that a copy of my testimony be printed in the RECORD at the conclusion of my remarks.

The testimony follows:

TESTIMONY OF SENATOR MAX BAUCUS

Mr. Chairman, several years ago you and I stood on the steps of the capitol and greeted farm families who had driven across the country in a caravan to promote gasohol.

Gasohol has come a long way since then. That caravan for the first time focused public attention on gasohol. But despite the phenomenal growth in the demand for gasohol since that first major public event, many questions remained unanswered.

For years, critics have argued that gasohol would always be too expensive, that to make it requires more energy than is produced, and that it would force this nation to choose between producing food or fuel.

Studies conducted by various agencies—often seeking to justify their own programs—reached conflicting conclusions.

Until less than a year ago, the federal government's policies toward gasohol were at best confusing and often downright contradictory.

REQUEST FOR GAO STUDY

It was for these reasons that some 15 months ago I asked the Comptroller General to conduct a thorough and comprehensive analysis of gasohol.

I asked him to determine the potential for alcohol fuels. Can alcohol fuels really help make us more energy self-sufficient? Just how much could they save the U.S. in payments for foreign oil?

Are there technological barriers that inhibit large-scale reliance on gasohol?

Also, how would a shift to ethanol affect American consumers and domestic agriculture?

Finally, what have federal agencies, states, the oil industry and others done so far?

I wanted the General Accounting Office to examine these questions because GAO has no axe to grind; it is independent, and

I believe able to make the kind of analysis so necessary now.

GAO FINDINGS

Today I am releasing the results of GAO's investigation. In my view, they are extremely encouraging.

Briefly, let me summarize GAO's findings:

First, this nation's entire vehicle fleet can be operating on gasohol by the year 2000. Thus, ethanol production, GAO states, "merits a key role" in the nation's overall energy strategy.

Second, the price of gasohol could remain about the same as the cost of unleaded gasoline. As we begin to use new, more efficient distilleries, and relatively inexpensive feed stocks, the price of alcohol for liquid fuels will go down.

Third, oil imports now total about three billion barrels per year. By using ethanol, this can be cut by 260 million barrels a year. At today's prices this would mean an annual savings of $8 billion.

Fourth, all of the implications of a nationwide gasohol program on domestic agriculture have not been determined. GAO reports that taking food and food export requirements into consideration, American agriculture can do the job. We can have sufficient ethanol production.

Fifth, dozens of studies have been done to assess ethanol's potential which have focused on the net energy of ethanol production. GAO states strongly that net energy analysis has been over-emphasized. The emphasis on net energy obscures the real objective of any liquid fuel program—producing a replacement for oil.

Sixth, GAO reported to me that federal efforts on gasohol have been fragmented. It noted that the Department of Energy did not adopt a recommendation of its own task force which concluded that there is a need for aggressive action to develop alcohol fuels. On the positive side, I was pleased to see President Carter has ordered higher ethanol production goals than recommended by the Department of Energy.

Finally, GAO reported that the domestic oil industry has been, at best, reluctant to accept gasohol. I note that on June 2, the Oil and Gas Journal ran an editorial proclaiming that, in their words, "The U.S. gasohol program is a $1.5 billion rathole." This shows just how strong industry reluctance reported by GAO has been.

However, GAO also reported that the oil industry is becoming more supportive, and that Texaco in particular is now working to market gasohol extensively.

RECOMMENDATIONS

I want to commend GAO for the work it has done on this study. GAO's report represents a comprehensive review of both the technical questions and the economic questions. GAO has looked at the efforts of the federal government as well as the work being done in the private sector.

This report confirms what most of us have suspected: gasohol can be—and must be—a vital part of this nation's drive toward energy self-sufficiency. Americans have the capability to produce gasohol on a widespread basis. Gasohol is not just another exotic scheme to produce energy. The GAO study shows that it is possible, probable—and desirable.

The findings and conclusions of this report now must be followed with specific policy steps. In my view, there are several steps that must be taken, as we form a national alcohol fuels policy.

First, we must have a commitment to renewable resource alcohol fuel production in major quantities. We must set specific goals for at least enough production of alcohol fuels to provide a 10 percent alcohol mix with gasoline sufficient to meet all of our automobile fleets' needs by the year 2000.

Second, I urge the Commission to put basic agriculture research on its list of recommendations to the President and to Congress. I know that U.S. agriculture can produce the right kinds of crops and in enough quantity to make the large amounts of ethanol needed for gasohol.

In my home state of Montana, for example, in 1975, farmers produced about 156 million bushels of wheat and 51 million bushels of barley.

The government's set-aside program later reduced acreage planted; this reduced wheat production in 1979 to 116 million bushels and barley production to 41 million bushels.

If we had used only half the production lost by the set-aside program, this grain could have produced 70 million gallons of ethanol.

GAO reported that 14 million acres of currently non-productive land would have to be cultivated to supply a major alcohol fuels industry.

This is a difficult goal to meet and will only be accomplished with new crop varieties, farming techniques and improved farm equipment. We may have to change feed for our livestock.

But these changes will not occur unless sufficient funds are devoted to agricultural research.

Third, the Commission should recommend that one agency be designated as the lead agency in the field. I don't have to tell the Commission of the confusion that exists right now about gasohol programs. My state offices spend hours answering requests from Montanans who don't know where to get answers to their questions about gasohol.

The SBA has gasohol programs, so does the Farmers Administration, DOE, HUD, the Community Services Administration, and others. It's virtually impossible for most Montanans to determine where to go for assistance.

In the field, one agency must be designated as the lead agency, or much of our effort will be wasted in time-consuming efforts to work through the federal bureaucracy.

Fourth, we must make sure that when funds for energy research and development are divided, renewable energy resources, and especially alcohol fuels, gets a high priority.

I am deeply concerned about the high level of funding that soon will be provided the Synthetic Fuels Corporation.

There is no one path to energy self-sufficiency. In the end, we will reach our goals only by utilizing a mix of conservation and production methods.

The GAO report notes an Energy Department finding that ethanol is the only alternative fuel that is likely to be available by 1985. In fact, it is the "bird in the hand" right now. With ethanol, the question is how much—not whether.

Coal-based synfuels is a "bird in the bush." Its potential is not known. Its effects on scarce Western waters has not been adequately explored. Acid rain and other potential environmental problems are not fully understood.

We know about gasohol—and we should press ahead.

Finally, Mr. Chairman, alcohol fuels represent a unique opportunity in these days of huge corporations and conglomerates. Ethanol production is ideally suited to small businesses. Local, moderately sized alcohol production facilities, with farmers providing local grain for distilleries, is ideal. This must be fostered and encouraged.

The GAO report is an important first step. But much remains to be done. I stand ready to join in this effort along with the Commission and others who believe that gasohol can be a significant part of this nation's energy picture.●

COGENERATION

● Mr. PACKWOOD. Mr. President, cogeneration—the sequential production of heat and power from a single energy source—is one of our best near-term energy alternatives. Common during the first half of this century, industrial cogeneration was largely abandoned when inexpensive, reliable, centrally generated power became available. But we are coming full circle. Centrally generated electricity is increasingly expensive and unreliable, fuel prices are rising, and cogeneration is looking better and better. Industries, and now utilities, are giving it serious consideration.

Cogeneration has been called "industry's north slope." The actions of the Federal Government will, in large part, determine how fast we exploit this resource. There are still too many impediments. I believe cogeneration is important enough to warrant special attention by Congress. To date, however, legislation which affected cogeneration has been considered in a piecemeal fashion. Some provisions, in fact, have the effect of discouraging cogeneration investments.

I am now working to develop legislation which would eliminate the financial and regulatory barriers to expanded use of cogeneration. I am interested in working with environmental and business energy experts to develop a proposal. I particularly welcome comments on the draft legislation following these remarks.

Mr. President, I ask that the text of this draft legislation, and a summary of the draft, be printed in the RECORD. I also ask that an article from the July 9 issue of Energy User News by Richard Vander Veen, former Member of Congress and organizer of the Cogeneration, Coalition, be printed in the RECORD.

The material follows:

COGENERATION LEGISLATION

The following is a summary of different features of cogeneration legislation currently under evaluation. It does not necessarily represent the final views of Senator Packwood, but is offered to help encourage public discussion of the best options for encouraging expansion of cogeneration.

NON-TAX PROVISIONS

1. Removal of current prohibitions in Section 216 of the National Energy Conservation Policy Act against public utilities from supplying or installing certain energy conservation measures to promote better capabilities for cogeneration penetration into residential and commercial applications.

2. Amend the Public Utility Regulatory Policies Act to provide that under the Public Utilities Holding Company Act:

other utilities beyond electric utilities can qualify for the benefits of Sections 201 and 210 of PURPA regarding qualifying cogeneration facilities, and

the 50 percent ownership test for electric and other utilities is made elective between both the qualifying cogeneration facility and the electric utility to make more attractive utility ownership of cogeneration projects. This would enhance electric utility participation with industrial companies in meritorious cogeneration projects.

3. Streamlining provisions of the Fuel Use Act (FUA) regarding permanent exemptions from the prohibitions of that Act on use of oil or natural gas for cogeneration facilities by removing latent inconsistencies with the Public Utility Regulatory Policies Act (PURPA). Further, a technical amendment should be included to the Fuel Use Act authorizing a cogeneration exemption for facilities that produce mechanical as well as electrical energy.

4. Provide a study of total energy system approaches and their maximum potential by DOE within one year after the date of enactment, with appropriate legislative recommendations to the Congress.

TAX PROVISIONS

1. Amend the current investment tax credit provisions for cogeneration equipment in the windfall profits tax legislation as follows:

Increase the amount of energy tax credit for cogeneration equipment from 10 to 20 percent.

Modify the definition of cogeneration equipment to insure that mechanical cogeneration qualifies for this tax credit, as well as cogeneration equipment that uses energy sources such as solar and geothermal energy.

Extend the termination date for the cogeneration tax credit from December 31, 1982 to December 31, 1990.

Make the cogeneration tax credit available for cogeneration equipment installed in new facilities as well as modification or retrofit of existing facilities.

Make the cogeneration tax credit available for the total costs of the cogeneration system installed.

2. Remove the current exclusion against public utilities qualifying for the business energy investment tax credit and the cogeneration tax credit.

3. Provide for more rapid cost recovery allowances for business investments in energy conservation, such as for cogeneration facilities, modeled after the Capital Cost Recovery Act of 1979 (S. 1435 and H.R. 4646), particularly regarding Class II property (five year depreciation for equipment and other tangible personal property).

In this regard, for public utilities, the statutory concept of mandatory normalization and unlimited carryforward of unused deductions should be maintained; or in the alternative,

4. Create a new tax classification for cogeneration property providing at the taxpayer's binding election:

5-year amortization of the cost of the investment in cogeneration property with no investment tax credit, or

A 10-year class life for cogeneration property with investment tax credit.

5. Establish the eligibility of cogeneration equipment for tax-exempt financing through the proceeds of industrial development bonds. Thus, the industrial development bond exemption in the Code should be made available for any cogeneration equipment that is eligible for the expanded cogeneration tax credit in this legislation.

COGENERATION LEGISLATION

Section 101—Short Title.

This Act may be cited as the National Waste Energy Policy Act of 1980.

Section 102—Findings; Statement of Purposes.

(a) Findings—The Congress finds that—

(1) There currently is no integrated and coordinated national energy policy favoring the encouragement and development of cogeneration by electric and gas utilities and industrial facilities.

(2) Cogeneration has the capability of providing a near-term possibility for reducing oil imports by 1985 in the amount of 1 to 1½ million barrels of oil a day.

(3) National energy policy favors the accelerated development of cogeneration initiatives by the Department of Energy, FERC, other appropriate Executive Branch departments and agencies, and the states.

(4) The purposes of this Act are furthered in cases where cogenerated electric capacity is used by electric powerplants and industrial facilities, rather than centralized electric power generated by oil or natural gas.

(b) Statement of purposes—The purposes of this Act are as follows:

(1) To encourage and foster the development of an integrated and coordinated national energy policy for the development of cogeneration by removing artificial economic, legal, regulatory and institutional barriers to achieving national cogeneration goals.

(2) To focus current initiatives regarding cogeneration on both electrical and mechanical cogeneration, while insuring that all interested parties to the cogeneration facilities are treated on a parity basis.

(3) To reduce the importation of oil and increase the Nation's capability to use domestically-derived sources of electrical power and decentralized energy system options to the extent such reduction and use further the goal of national energy self-sufficiency and otherwise are in the best interests of the United States.

(4) To insure that all Federal and state agencies utilize their authorities fully in furthering the purposes of this Act by carrying out programs to encourage the development of cogeneration, and by taking such actions within their authorities to maximize the efficient use of energy and encourage the conservation of oil and natural gas in programs founded or carried out by such agencies.

(5) To reduce the vulnerability of the United States to energy supply interruptions.

(6) To streamline current fuel use restrictions to permit use of cogeneration pending the development of additional conventional energy supply sources, and other unconventional and synthetic sources of energy.

(7) To enhance the capability to finance cogeneration investments by public utilities and industrial facilities.

(8) To regulate interstate commerce.

This bill would be divided into two sections arranged by Committee jurisdictions dealing with non-tax provisions and tax provisions.

Section 201. Supply, Installation, and Financing By Public Utilities.

Section 216 of the National Energy Conservation Policy Act of 1978 (NECPA) currently prohibits public utilities from supplying, installing or financing certain residential energy conservation measures. Limited exemptions are available as provided in Subsections 216 (b), (c), (d) of NECPA.

It has been recognized that these current prohibitions may impede the active involvement of utilities in the development of the capabilities to deliver decentralized power. The removal of such prohibitions could promote better capabilities for cogeneration penetration into residential and commercial applications. The Aspen Institute in its recent Report on "Decentralized Electricity and Cogeneration Options" recommended that federal laws should be changed to permit utilities to install conservation devices and decentralized energy systems. The Energy Security Act (S. 932), which is currently in Conference Committee, removes the prohibition regarding financing of measures in residential and commercial applications.

However, the Conference Committee has decided to permit utilities to install and supply energy conservation measures only through subcontractors which must be independent from utilities. Utility subsidiaries cannot engage in the supply and installation of such measures for residential and commercial use. Therefore, this provision of the bill would modify Section 216(a) of NECPA to permit public utilities to supply and install energy conservation measures for cogeneration in residential and commercial buildings pursuant to the development of decentralized power delivery capabilities. Previous concerns expressed regarding the utility's monopoly position for the installation of such measures such as insulation, storm windows, and clock thermostats, etc. is not present for cogeneration systems, which require the expertise and the need to assess the impact on overall system reliability directly by the utility.

Section 202. Amendment to PURPA Regarding the Public Utilities Holding Company Act.

Section 210(e)(1) of PURPA provides that the Federal Energy Regulatory Commission shall provide for an exemption for qualifying cogeneration facilities in whole or part from the Public Utility Holding Company Act, and other federal and state statutory schemes, if the Commission determines such exemption is necessary to encourage cogeneration. This provision has been implemented recently by the Federal Energy Regulatory Commission on Order No. 70.

This provision of PURPA should be amended to provide that under the Public Utilities Holding Company Act other utilities beyond electric utilities qualify for the benefits of Section 201 and 210 of PURPA regarding qualifying cogeneration facilities. In Order No. 70 at Section 292.206(d), the Commission has excluded from qualifying status, facilities owned by public utility holding companies that are not engaged in the generation or sale of electricity other than from cogeneration facilities or small power production facilities. The rule should not prohibit a gas distribution utility from owning or qualifying cogeneration facility. The Commission has noted that Sections 17 (C)(ii) and 18(B)(ii) of the Federal Power Act require the Commission to limit qualifying status to facilities "owned by persons not primarily engaged in the generation or sale of electric power." Section 292.206 of the Commission's rules prohibits public utility holding companies from owning more than 50% of the equity interest of a qualifying facility.

This modification in PURPA would make clear that the Commission should not prohibit companies without any electric utility interests from owning qualifying facilities.

As discussed, Section 292.206 of the Commission's rules prohibits public utility holding companies from owning more than 50% of the equity interest of a qualifying facility. This ownership test is unduly restrictive and may impede proper ownership arrangements between electric utilities and industrial customers for qualifying cogeneration facilities. Thus, the 50% ownership test for electric and other utilities should be made elective between both the qualifying cogeneration facility and the electric utility to make more attractive utility ownership of cogeneration projects. This would also enhance electric utility participation with industrial companies in meritorious cogeneration ventures. The modification of PURPA to make this test purely elective would provide the flexibility for tailoring necessary ownership arrangements between the electric utility and the qualifying cogeneration facility to ensure serious consideration of such projects without the burden of unnecessarily restrictive artificial regulatory requirements.

Section 203. Streamlining Fuel Use Act Exemptions.

(a) The Fuel Use Act currently provides in Sections 212(c) and 312(c) permanent exemptions for cogeneration from the prohibitions of that Act on use of oil or natural gas in electric powerplants or major fuel burning installations. Since a large portion of small or medium-sized cogeneration facilities use oil or natural gas to some degree, the provisions of the Act should be streamlined to ensure use of these fuels where cogeneration is involved, and to remove inconsistencies with provisions of PURPA.

The current exemption process under the FUA administered by the Economic Regulatory Administration has proven to be costly, burdensome and time-consuming, specifically for small and medium-sized companies.[1] Further, the DOE does have the discretion to reject a cogeneration exemption application under circumstances outlined in the Act. Finally, the cogeneration exemption as currently interpreted by DOE does not apply to mechanical cogeneration, but only to electrical cogeneration.

A potential cogenerator can avoid technically the FUA requirements for an exemption if:

It is a non-boiler facility, such as a combustion turbine, and

It is selling less than 50% of the facility's electrical output.

Otherwise, such facility falls under the application of the prohibitions of the FUA on the use of oil or natural gas.

The 50% electrical output sales provision is purely artificial, and bears no correlation with the actual energy savings from employing cogeneration. More importantly, this requirement conflicts with the implementation of Section 210 of PURPA in FERC Order No. 69, and its attempts to remove regulatory barriers to the encouragement of cogeneration. Under FERC Order No. 69, the electric utility is encouraged to purchase all of a cogeneration facility's electrical output at the utility's avoided cost, rather than just the facility's surplus electrical output. The cogeneration facility can then purchase back all of its electrical requirements at a rate based on the utility's average cost for electric power.

However, for the cogeneration facility to maximize use of the regulatory benefits provided under PURPA, it must become classified as an electric powerplant under the FUA (insofar as it sells in excess of 50% of the facility's electrical output) and seek an exemption from the prohibitionary features of that Act. Under this regulatory inconsistency between the two Acts, it is highly unlikely that large numbers of industrial and commercial firms will be in a position to justify the expensive, burdensome, and time-consuming FUA exemption process to make capital investments in cogeneration projects.

Thus, this Section of the legislation would remove these latent inconsistencies with the Public Utility Regulatory Policies Act. Further, a technical amendment would be included to the Fuel Use Act authorizing a cogeneration exemption for facilities that produce mechanical as well as electrical energy. These modifications should be provided particularly for small and medium-sized cogeneration facilities more likely to burn oil or natural gas, since the rate of return on capital investment for borrowing for burning coal in such facilities is prohibitive. Such an amendment is consistent with the FERC implementation of PURPA, where the Commission has noted: "[It] believes that the legislative history, Congressional intent, and National energy policy support the use of oil and gas in cogeneration facilities." (Order Granting in Part and Denying in Part Rehearing of Order Nos. 69 and 70, and Amending Regulations, May 15, 1980, mimeo at 23.)

Section 204. DOE Study of Total Energy Systems.

This provision would provide for a study of total energy system approaches by DOE in consultation with FERC within one year after the date of enactment, with appropriate legislative recommendations to the Congress for further consideration.

TITLE III—TAX PROVISIONS

Section 301. Investment Tax Credit for Cogeneration Facilities.

The Windfall Profits Tax legislation (H.R. 3919) which was recently signed into public law (P.L. 96-223) provided the establishment of a business energy investment tax credit for cogeneration equipment. This nonrefundable tax credit in the amount of 10 percent is in addition to the current investment tax credit of 10 percent for such equipment, and is available through 1982. Cogeneration equipment means property which produces steam, heat or some other form of useful energy (other than electricity) for industrial, agricultural, commercial, or space heating purposes, and which also produces electricity in the same energy consuming system.

To qualify, cogeneration equipment must be installed in connection with a boiler or burner at an existing facility and must result in an expansion in the facility's cogenerating capacity (including the start of cogenerating activity). To qualify for this energy credit, the annual use of an oil or natural gas fuel in the systems must be less than 20 percent of all fuel used each year and must be limited to use as a startup, backup, or flame stabilization fuel.

Thus, the current investment tax credit provisions for cogeneration equipment in the Windfall Profits Tax legislation should be amended as follows:

1. Increase the amount of the energy tax credit for cogeneration equipment from 10 percent to 20 percent.

2. Modify the definition of cogeneration equipment to ensure that mechanical cogeneration qualifies for the tax credit, as well as cogeneration equipment that uses energy sources such as solar and geothermal energy.

3. Extend the termination date for the cogeneration tax credit from December 31, 1982 to December 31, 1990.

4. Make the cogeneration tax credit available for cogeneration equipment installed in new facilities as well as modification or retrofit of existing facilities.

5. Make the cogeneration tax credit available for the total costs of the cogeneration system installed.

Many knowledgeable observers in the field have agreed that the energy tax credit for cogeneration equipment should be increased beyond its current 10% level to provide the appropriate and necessary incentive to spur investments in cogeneration systems. In that regard, it should be noted that some sources have indicated that the energy tax credit should be raised as high as 40% to stimulate the optimal amount of cogeneration development. In this respect, the recent GAO report on cogeneration indicated a belief that the current 10% business energy investment tax credit for cogeneration facilities was insufficient to serve as an appropriate investment incentive.

The current business energy investment tax credit for cogeneration equipment will expire after December 31, 1982. There is a limited possibility for an extension through 1990 for certain property where the taxpayer has affirmatively committed to such investment by December 31, 1982. At a minimum, any new credit established under this legislation should be available for the period through December 31, 1990, while providing a further extension for projects where the taxpayer has affirmatively committed to the investment at the end of that period. Such an extension of the cogeneration tax credit is necessary for two critical reasons:

(1) The tax credit will not achieve its maximum impact and benefit until the Treasury Department issues final regulations to implement the credit. It is highly unlikely that final regulations can be expected from the Treasury Department for at least two years after the effective date of the credit based on recent experience regarding the business energy tax incentives from the Energy Tax Act of 1978. This period could be shortened if the Congress would require the Treasury Department to issue regulations within a time certain period after the legislation is enacted.

(2) Once implementation of the credit occurs by the Treasury Department, there should be a substantial period of time available for business and utilities to plan long range projects relying on the availability of the credit. Based on current forecasting requirements, it can take as much as five years or more for a cogeneration project to move the initial conception stage in feasibility studies to final construction. In that respect, most of the expenditures for which the credit will be claimed probably occur close to the end of that five year period. Thus, the credit should be available for the substantial period of time necessary to develop the cogeneration facilities.

The current business energy tax credit for cogeneration equipment is limited to equipment installed in an existing industrial or commercial facility. However, new facilities are generally better suited to cogeneration than the retrofitting of existing facilities. New facilities can be constructed from the outset to avoid numerous technical problems which are faced in the modification and retrofit of existing facilities. Thus, the business energy tax credit for cogeneration should be available irregardless of whether it is installed at a new or existing facility.

Finally, the current energy tax credit for cogeneration is limited to equipment which increases a systems capacity to produce electricity or useful energy, whichever is the secondary energy output of the system. The credit should be extended to cover the entire cost of an energy system which includes cogeneration equipment. Specifically, the credit should also be available for any pollution control equipment or loading and handling equipment required in connection with the cogeneration facility. This would recognize major concerns which exist that environmental restrictions will be a significant impediment to the development of cogeneration projects.

Section 302. Extension of Business Energy Investment Tax Credit to Utilities.

The Energy Tax Act of 1978 created a number of business energy credits to supply a tax incentive for taxpayers to conserve energy and to convert from the use of oil and natural gas to alternative forms of energy. However, public utilities were excluded from the class of taxpayers eligible for such tax credits. Section 302 would remove this exclusion.

The proposed Section 302, which deletes Section 48(1)(3)(B) of the Internal Revenue Code would provide the special additional business energy tax credit as modified in Section 301 for energy property used by public utilities, such as alternative energy property, solar or wind energy property, and recycling equipment. To make this and other business energy tax credits useful, the December 31, 1982 termination date should be extended to December 31, 1986 for these business energy tax credits as provided in Section 301.

Although a provision providing energy tax credits for public utility property was originally contained in both the House and Senate versions of the Energy Tax Act of 1978, this provision was deleted in the Conference Committee on the Act. The reasons for the deletion, while apparently based in part on the belief that the energy tax credits are not cost-effective with respect to public utilities (which are otherwise required to construct or to convert to coal facilities), did not take into account the stimulative effects the credit would have upon needed acceleration of conversions as well as new plant construction. This has become an overriding interest of the Administration as embodied in its utility oil backout legislation.

The end result of this most recent examination of the utility property exclusion during consideration of H.R. 3919 retains the exclusions under present law, and also makes public utility property ineligible for the energy credit on new types of property added in that bill, i.e. biomass property and cogeneration property, except for qualifying hydroelectric energy property. This most recent action is effective for qualifying investments after December 31, 1979.

---

[1] DOE has recently indicated that it will propose a new rulemaking dealing with the implementation of the cogeneration exemption under the FUA. (45 *Fed. Reg.* 38306, June 6, 1980)

Section 303. Rapid Cost Recovery Allowances for Cogeneration Property.

More rapid cost recovery allowances for business investments in energy conservation equipment, such as for cogeneration facilities, would be provided modeled after the Capital Cost Recovery Act of 1978 (S. 1435 and H.R. 4646), particularly regarding Class I property under the Act (ten year depreciation for buildings and their structural components) and Class II property (five year depreciation for equipment and other tangible personal property). In this regard, for public utilities, the statutory concept of mandatory normalization and unlimited carryforward of unused deductions should be maintained.

Or, in the alternative

A new tax classification for cogeneration property investments would be created providing at the taxpayer's binding election:

5-year rapid amortization of the costs of investment in such property with no investment tax credit capability, or

A 10-year class life for cogeneration property with the capability to take investment tax credits.

This provision would provide flexibility for utilities to secure more accelerated writeoffs through rapid amortization or depreciation of the costs of investment in cogeneration property when the utility has reached maximum use of its investment tax credit capability. This could occur because of the restrictions in the investment tax credit limitation, or because of the utility's current tax liability posture. This provision could also be considered for availability to industrial companies which face current problems in fully utilizing available investment tax credits.

This approach would also be consistent with Congressional recognition of the need to provide for accelerated amortization capabilities for certain equipment investments such as pollution control equipment and railroad rolling stock.[2] In the alternative, it could be considered whether the business energy investment tax credit for cogeneration equipment should be refundable as another effective option for addressing the problems caused by the investment tax credit limitation.

Section 304. Industrial Development Bond Financing for Cogeneration Facilities.

This section would establish the eligibility of cogeneration equipment for tax-exempt financing through the proceeds of industrial development bonds. Thus, the industrial development bond exemption in the Internal Revenue Code should be made available for any cogeneration equipment that is eligible for the expanded cogeneration tax credit in this legislation. In this regard, it should be noted that the "double dipping" rules contained in Section 48(1)(11) of the Code would prevent any potential duplication of benefits as a result of this suggested extension of the industrial development bond exemption to cogeneration equipment.

The availability of industrial development bond financing would provide an important incentive to the private sector, as well as providing necessary encouragement to governmental units and entities, and other tax-exempt groups which do not derive any benefit from energy tax credits.

Finally, this provision would also specifically clarify that a cogeneration facility would satisfy the public use requirements of Section 103(b) even if the entire output of the facility is used by a single industrial or commercial user. This modification is totally consistent with the current treatment of pollution control equipment under the Code, and would ensure that the exemptions for industrial development financing provide the maximum range of benefits to cogeneration.

[From Energy User News, June 9, 1980]

CONGRESS SHOULD PROVIDE COGENERATION INCENTIVES

(By Richard F. Vander Veen)

The most recent consideration by the Congress of the Windfall Profits Tax legislation (P.L. 96-223) offers an excellent opportunity to reexamine Congressional treatment of cogeneration in the past, and to attempt a forecast of what needs to be done in the future.

P.O. 96-223 provides a business energy tax credit for investment in cogeneration equipment in the amount of 10 percent. The definition of cogeneration, however, does not include mechanical cogeneration, the tax credit does not apply to utilities, and the full amount of the credit may not be sufficiently effective to make cogeneration investments attractive. The exclusion of utilities from this tax credit is noteworthy since it removes from this major benefit one of the key parties to cogeneration (from an energy supply and facility ownership perspective). Minimal incentive can exist to the utility when the available benefits are provided to only one party in the transaction—the industrial facility rather than both interested parties.

The establishment of the tax credit for congeneration offers an important precedent, since the conferees on this legislation focused primarily on issues associated with raising revenues by imposition of the windfall profits tax. The major questions involving how those revenues should be spent were postponed by the conferees until Congress considers major energy and tax legislation in the months ahead.

Major Congressional consideration of cogeneration occurred in the 95th Congress during treatment of the National Energy Act. The Congressional approach, however, provided a confusing and often inconsistent treatment of cogeneration. But the important issues raised and treated provided a first step in focusing on the national and public interest benefits of cogeneration.

Basically, the approach exercised by the Congress was a combination of exemptions from other regulatory programs, involving conversion to coal and the incremental pricing of natural gas, and the establishment of new incentives for cogeneration through the tax system and through utility rate design.

Let's examine the key provisions that have provided an initial impetus for cogeneration in the National Energy Act. Title II of the Public Utility Regulatory Policies Act (PURPA) provides the major treatment of cogeneration in the NEA. Section 201 of PURPA defines the dual concepts of cogeneration and small power production, focusing on small-scale electricity production for resale.

The FERC has issued implementing regulations that spell out in greater detail the concepts outlined in the definition contained in Section 201. This FERC rulemaking is very important, since it identifies the class of cogeneration facilities which meet PURPA standards for rate assistance available elsewhere in that statute.

The other major section of PURPA that is of primary interest to cogeneration is Section 210, which establishes a requirement that the FERC encourage cogeneration and small power production by requiring electric utilities to sell and purchase electric energy from these utilities.

The legislative history of PURPA also emphasizes that industrial cogeneration facilities should not become subject to utility rate regulation as an outgrowth of PURPA. The FERC has recently issued final regulations to implement this provision of the PURPA, which provides in extensive detail the rules regarding rate treatment of cogenerated power, the capability of cogeneration facilities to receive backup power, and the role of the states in this entire process. These uniform federal guidelines will now be implemented at the state level over the next year.

The Powerplant and Industrial Fuel Use Act (FUA) includes as one of its major purposes in Section 102(b)(2) the conservation of natural gas and petroleum for uses, other than electric utility or other industrial or commercial generation of steam or electricity, for which there are no feasible alternative fuels or raw material substitutes. The Fuel Use Act provides a permanent exemption from its prohibitions against use of oil and natural gas by new and existing electric power plants and major industrial fuel burning installations (MFBI) for cogeneration facilities in Sections 212(c) and 312(c). These exemptions have been implemented by the Economic Regulatory Administration in interim rules which will be finalized later this spring. The cogeneration exemption appears to be one of the more fruitful approaches for establishing relief from the prohibitionary features against use of natural gas or petroleum under the Fuel Use Act.

The Energy Tax Act provisions do not include a specific additional business investment tax credit was established for the first time in the Windfall Profits Tax legislation. However, other provisions of the Energy Tax Act could provide substantial economic incentives to different types of cogeneration.

To date the U.S. Treasury has not implemented regulations on these incentives, which has diminished interest in aggressive pursuit of these benefits so far. Specifically, alternative energy property under Section 301 qualifies for an additional 10% business energy tax credit above the regular 10% investment tax credit, for investments in equipment which uses an energy source other than oil, gas, their derivatives, and nuclear power. The tax credit is available for new facilities, pollution control equipment, and equipment used for the unloading, transfer and processing of alternate substances. This should be especially attractive to industrial users of coal or biomass in their cogeneration facilities.

The Natural Gas Policy Act (NGPA) may provide an incentive for cogeneration insofar as the cogeneration facility is fired by natural gas. Title II of the NBPA established incremental pricing for industrial customers using natural gas up to an alternate fuel level based on the price of oil.

However, Section 206(c)(3) of the NGPA specifically exempts qualified cogeneration facilities as defined by the FERC in its implementation of Section 201 of PURPA from incremental pricing. Final rules on this cogeneration exemption have recently been issued by FERC. This may provide an incentive for industrial facilities to pursue cogeneration opportunities, especially if they are fired by natural gas.

The current laws establishing the status of cogeneration are neither integrated nor coordinated. There is a need for reexamination by the Congress of its past approach, to insure removal of technical, institutional and economic obstacles to effective use of cogeneration technologies by utilities and industry.

---

[2] There are currently special amortization provisions in the Internal Revenue Code covering certain facilities and other properties having an important national interest permitting amortization over a shorter period, regardless of useful life. These include pollution control facilities (Section 169); railroad rolling stock and right-of-way investments (Sections 184–185); and on-the-job training and child care centers (Section 188).

Some of the current major impediments that exist to extensive development of cogeneration facilities are:

1. Small industrial firms may experience severe difficulties in securing adequate financing in today's financial markets to construct a cogeneration facility. This concern is also tempered by corporate refusals of the financial risks inherent in such large investments, which would occur outside the firm's main business area and scope of expertise.

2. Most cogenerating facilities, especially the smaller units, use the very fuels that national energy objectives are attempting to replace—oil and natural gas. However, an awareness must be established that use of these types of fuels in cogeneration facilities may be the most efficient use available for these fuels.

3. There are siting impacts of an environmental nature that must be addressed in the areas of noise, emissions, physical space requirements, and storage requirements for large amounts of fuel.

4. The current low rate of building and capital investment nationwide may force decisions to retrofit existing boilers rather than investing in new facilities such as cogeneration, thus increasing the costs.

5. Facilities priced at the margin must compete with the prices based on the average cost of the established grid for electrical service.

6. Current regulatory requirements make it just as difficult to secure permits and licenses for small facilities as for large facilities. Companies may be unable or unwilling to invest scarce management resources in dealing with the myriad problems posed in the permitting and licensing processes.

7. Industrial cogeneration facilities withdrew baseload demand from the electric system grid. This operates to raise the peak to baseload ratio, and therefore the price of power to remaining customers, if that price is based on historical average cost ratemaking. Industry and appropriate regulatory authorities are fragmented, and not necessarily in full agreement on the many issues posed by cogeneration. Likewise, utility companies are experiencing difficulties in adjusting to the spectre of a decentralized system where they no longer control all aspects of electricity production and sale.

8. Finally, there is no integrated statutory framework to address all of the issues previously raised. Current fragmentation within executive branch departments and agencies has fostered an environment in which the Administration has avoided a hard policy position on cogeneration. Instead, the Administration has preferred a piecemeal approach, with little recognition of the national benefits of pursuing cogeneration incentives.

It is these major issues which must be addressed by the Congress if a coordinated approach to effective use of cogeneration in the 1980s is to be developed.

Current consideration by the Congress of utility fuel-switching legislation and of incentives for capital formation by industry could provide the appropriate vehicles for developing an integrated, coordinated approach on cogeneration that addresses these major impediments. This approach would attempt to foster sufficient economic incentives for cogeneration technologies during the 1980s to achieve projected energy conservation of one to one and a half million barrels a day of oil equivalent.

An outline of the major outstanding issues follows:

The prohibition in Section 216 of the National Energy Conservation Policy Act against utilities supplying or installing decentralized energy systems should be removed.

The exclusion for utilities qualifying for the business energy tax credit in Section 46 (1) of the Internal Revenue Code should be removed to permit utility investments to qualify for this business energy tax incentive.

The grant program proposed by the Administration for voluntary conversions of electric power plants to alternative fuel sources should be enacted into law using a streamlined administrative review process at both the federal and state government levels.

The whole subject of decentralization needs to be addressed comprehensively. The current Administration has failed to recognize the enormous benefits of pursuing cogeneration opportunities in an integrated fashion. The Administration must assume major leadership responsibilities within the Congress to effectively address this issue, and remove major obstacles for aggressive pursuit of cogeneration options in the 80s.

There is the obvious need for comprehensive legislation which would coordinate the benefits for industry and utilities.●

AMERICAN HOSTAGES IN IRAN

● Mr. BOREN. Mr. President, as the Fourth of July approaches, it is fitting that we pause to pay tribute to those Americans being held hostage in Iran. I wish that it were possible for all Americans to express their feelings to these brave fellow citizens this Independence Day.

If I could talk with the hostages this Fourth of July, I would tell them that their fellow Americans have not forgotten them, that we are determined to do everything which we can to obtain their release.

I would also tell them that their personal sacrifice for freedom and our country is appreciated. Their courage has made us even more proud to be Americans.

The holding of the hostages reminds us that sacrifice is always required to preserve freedom. It is required today as it was in 1776. When we think of them, imprisoned, held against their will, not free to spend their days as they would want, we realize again how precious freedom is to each of us.

The courage of the hostages makes us even more determined to preserve the gift of freedom for the next generation.●

THE CHALLENGES FACING LIBERALISM IN THE 1980's

● Mr. PELL. Mr. President, the distinguished Senator from Massachusetts (Mr. Tsongas) recently wrote a most perceptive and thoughtful analysis of the challenges facing liberalism in the 1980's.

The article, which appeared in the New York Times of Monday, June 30, 1980, argues persuasively that just as liberalism responded practically and effectively to the urgent needs of the 1960's, so must liberals respond practically to the different but no less urgent issues and needs of the 1980's.

As Senator Tsongas has said so cogently:

> Liberals "cannot abandon unfinished business: Pursuing basic human dignity, equal opportunity and peaceful development. But liberalism must evolve to meet urgent new issues. In addition, liberals must talk in terms that means something to a new generation of potential adherents and activists.

I believe Senator Tsongas' article will be of interest to all Americans, whether liberal or conservative, and I ask that it be printed in the Record.

The article follows:

Update Liberalism, Or It's a 60's Relic

(By Paul E. Tsongas)

Washington.—Liberals are losing cause after cause. SALT II died without a fight. Defense spending is increased. Social programs are cut. Renewable resources get far too little funding. Environmental safeguards are pushed back. Ronald Reagan has moved ahead of President Carter in opinion polls. The mood is right for a 20-mule-team march into the past.

Liberalism risks becoming a relic of the 1960's. To someone choosing a set of values in that decade, liberalism provided the action and passion. Liberals marched for civil rights and enlisted in a war on poverty. We volunteered to serve in the Peace Corps and organized against the war in Vietnam. Liberal programs responded practically to urgent needs.

In 1980, we cannot abandon unfinished business: pursuing basic human dignity, equal opportunity and peaceful development. But liberalism must evolve to meet urgent new issues. In addition, liberals must talk in terms that mean something to a new generation of potential adherents and activists. Failure will reduce liberalism to an interesting dissertation topic for historians.

Liberals must take a fresh look at how to mobilize this new generation. The average young American takes for granted the social equities for which others fought. Young citizens have never known the abuses and injustices that molded older generations of liberals. They have never felt the anger and outrage that fueled the liberal cause. They have not grown up reading about hungry poor people; they have read about abuses in the food-stamp program. They have not grown up confident in an ever-expanding economy; they have seen sagging productivity, record interest rates, and foreign dominance in trade ranging from crude oil to efficient cars. They may remember military adventurism in Vietnam, but they can read every day about Soviet military adventurism in Afghanistan.

Today's most compelling issues—energy and the economy—involve survival. Our survival and security demand tough, fresh policies. Public officials must dare to disregard the political wisdom: "Never adopt a program that cannot be put on a bumper sticker."

The energy crisis, for example, involves one basic fact: Oil is a finite, diminishing resource. Many liberals approach this issue by attacking the oil companies. Emotionally satisfying, yes; an answer to the problem, no. The problem is American consumption, which must be cut through conservation. Liberals led the fight against the 10-cent gasoline tax "to protect the consumer." That's fine for today. In the long run, to protect the consumer from the reality of the energy crisis is to destroy him. John B. Anderson talks about a 50-cent gasoline tax, and the young flock to his campaign.

Nuclear power is another bumper-sticker issue. Most liberals denounce nuclear power. But "no nukes" means one certain result: large-scale reliance on coal. Any environmentalist who can accept the severe problems caused by large-scale coal burning is not an environmentalist by my standards. The absolute priority is to speed energy conservation, solar energy and other renewable resources, but nuclear power cannot be ignored in the transition.

The economy has a pressing need for productivity. Unions must demand productivity gains as part of their contracts. Labor and management must also be concerned that their products anticipate the future. Detroit, for example, planned its own obsolescence with gas-guzzlers, precision-designed for the past. Now 296,000 automobile workers are out of work, but without Federal fuel economy standards ("Government regulation") it would be far worse.

If economic recovery requires providing tax credit to industry as opposed to individuals, how will liberals respond? Probably most will vote against it. They will vote for short-term relief and not long-term job protection and job creation.

The soul of liberalism is intact: a conviction that government can and must help people achieve equal opportunity and individual dignity: Liberals need to escape the 60's time capsule and apply the sound values of our past to today's particular challenges.

Our successes and our failures created the resurgence of right-wing simplicities. Conservatives have copied the organizing strategies of liberal activists in the 60's. They are cashing in on a natural cycle of resentment and retrenchment against past gains. They are using instances of wasteful spending and over-regulation to attack the basic Federal role in serving citizens.

Liberals must make sure the liberal agenda meets the needs of the 80's. Otherwise, we will lose the leadership of this nation—and perhaps we should lose it. We will abandon the humane policies of government to those who wanted Washington to stay out of racial discrimination and environmental degradation, and to stay in Vietnam.●

NOTICE OF DETERMINATIONS BY THE SELECT COMMITTEE ON ETHICS

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD this notice of a Senate employee who participates in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received a request for a determination which permits Mr. Richard Abell, a member of the staff of Senator SCHWEIKER, to participate in a program sponsored by a foreign educational organization, the Guatemala Freedom Foundation, in Guatemala from April 8 to April 10, 1980.

The committee has determined that participation by Mr. Abell in the program in Guatemala, at the expense of the Guatemala Freedom Foundation, is in the interests of the Senate and the United States.

The Select Committee on Ethics has received a request for a determination under rule 35 which would permit Mr. Bruce Weinrod, a member of the staff of Senator HEINZ, to participate in a program sponsored by a foreign educational institution, Tung-Hai University, in Taichung, Taiwan, from August 7 to August 14, 1980.

The committee has determined that participation by Mr. Weinrod in the program in Taiwan, at the expense of Tung-Hai University, to participate in a study tour concerning the economic development of Taiwan, is in the interests of the Senate and the United States.

The Select Committee on Ethics has received a request for a determination under rule 35 which would permit Mr. Mark Schneider, Senator GARN's designee on the staff of the Select Committee on Intelligence, to participate in a program sponsored by a foreign educational institution, Soochow University in Taipei, Taiwan, from July 5 to July 11, 1980.

The committee has determined that participation by Mr. Schneider in the program in Taiwan, at the expense of Soochow University, to discuss United States-Taiwanese relations, is in the interests of the Senate and the United States.●

PIERCING THE BUDGETARY FOG

● Mr. HOLLINGS. Mr. President, in these days when each morning newspaper brings a new statistic and a new figure, and each afternoon brings a new proposal for dealing with the economy, it is important to achieve some perspective on where we are. Last week in the Wall Street Journal, economist Walter Heller took a fresh look at the economic situation and at the budget process, and what he has to say deserves the attention of my colleagues. Dr. Heller understands that the Congress, in the first concurrent budget resolution, exercised real discipline in holding the line and in providing the possibility of a balanced budget in fiscal year 1981. He understands that the budget process is working, that it has made a difference, and that the difference is positive.

Dr. Heller also understands that the height of economic unwisdom is to draft a new economic policy at sunup every day. He appreciates that a hastily constructed tax cut will cause problems rather than solve them. His preference is for a carefully formulated tax cut designed to offer incentive where incentive is required. As he says:

> If . . . Congress simply rushes through an across-the-board income tax cut, it will throw away a rare opportunity to use its tax powers to promote faster growth and slower inflation in the 1980s.

Mr. President, Dr. Heller's "Piercing the Budgetary Fog" merits our attention, and I ask that it be printed in the RECORD.

The article follows:

[From the Wall Street Journal, June 30, 1980]

PIERCING THE BUDGETARY FOG

(By Walter W. Heller)

Now that the "budget-balancing charade" is over and the "tax-cut frenzy" is on, it's worth standing back a bit to see what's really happening. Was anything accomplished by the budget-balancing effort or do burgeoning deficits mean that it was an exercise in futility? Is the budget off to the inflationary races? Where should we go from here on a tax cut?

No one now denies that while Congress was huffing and puffing, an anything-but-mild recession unhitched the economic horses from the balanced-budget bandwagon. But does it follow that it was all a charade? Not really.

First, in overall terms, that laborious budget process has produced a fiscal 1981 budget that, leaving tax cuts aside, (a) really would have balanced under the working assumptions of a mild recession and a 1981 unemployment rate of 7.5 percent; (b) really would have produced an impressive surplus—around $30 billion to $40 billion—if there were no recession and unemployment held at 6 percent; (c) really will be $25 billion to $30 billion in deficit, given the sharp recession in 1980, moderate recovery in 1981, and unemployment peaking out above 9 percent. With a tax cut now in prospect, a $50-billion-plus deficit looms.

Second, what about those "civilian-spending cutbacks"—are they a charade? No, the tears being shed by the victims of the budget knife are hardly crocodile tears. Washington has heeded the clamor for a spending slowdown:

—The $613 billion budget for 1981, while 7 percent above 1980 in nominal terms, is 3 percent smaller in real terms, that is, after correction for inflation.

—With 1981 defense outlays jumping by $19 billion, the cut in real non-defense spending is even deeper—over 5 percent. Those who say, "Ah, yes, but look at the bloated 1980 budget," will be surprised to find that real federal spending in the 1981 budget is lower than two years earlier and, excluding defense, lower than four years earlier.

USES OF ADVERSITY

Third, hasn't the Congressional budget procedure—the six-year-old law for spending discipline—been damaged? Granted, it has been suffering the Perils of Pauline in 1980. But it may yet gain some strength from its harrowing experience. In mandating, on tight deadlines, $6.4 billion of spending cutbacks and $4.2 billion of revenue increases, the budget committees are going farther than ever before in invading the once-sacrosanct precincts of the tax and spending committees.

Yet, all indications are that the requisite cuts will be made, and perhaps more surprisingly, that the tax committees will comply. The House Ways and Means Committee has already come up with a $4.2 billion revenue package—mainly in the form of speedups of tax payments. And Senator Russell Long has warned his Senate Finance Committee members that even if an anti-recession tax cut later becomes the order of the day, their obligation now is to meet the Congressional budget requirement. So the integrity of the budget process is being preserved.

One conspicuous absence from the election-year scene is a rivers and harbors act. With the help of a few Congressional critics of the pork barrel, President Carter has managed to bottle up the traditional water resources authorization bill. This once-hardy perennial has withered on the vine since 1976.

This is not to say that Congress is about to abandon the pork barrel. Over the past weekend, the Senate voted $58 million in supplemental funds for the 449-mile Tennessee-Tombigbee Waterway cutting through Alabama and Mississippi. Senator Moynihan, with only a touch of hyperbole, calls this project the "cloning of the Mississippi." It is the costliest water project in history—and one of the most uneconomic—but as the Senate vote indicates, it just keeps rolling along, impervious to the country's cry for cutting out wasteful and non-essential spending. Mr. Carter has outdone his predecessors in slowing this "race to the river," but he has been unable to stop it.

Nonetheless, it remains true that for those who want to tighten budget discipline or clip government's budget wings, the White House and Congress are obliging with a truly toughened budget for 1981. So much so, that, in the face of steep recession, Carter and Congress may have overdone it.

Cutbacks in jobs programs, housing, highways, and state-local aid are cases in point. State-local budgets, at least in nonoil states, will suffer a double jolt as recession bites into their tax revenues at the same time that federal grants are being curtailed, state revenue sharing is being phased out, and President Carter's $500 million transition aid to cities was rejected.

To cushion the blow of recession and promote recovery, some in Congress would temporarily reverse gears. Senator Kennedy, while holding firmly to the objective of balanced budgets in good times, has offered a $12 billion package of job-creating programs. If this amount were added to the 1981 budget, the projected cutback in nondefense spending would shrink to about 2½ percent.

To assess the full impact of budget or fiscal policy on the course of recession and recovery, we have to broaden our perspective to encompass not just spending but taxes. Piercing the budget fog reveals this striking fact: we are in the midst of one of history's sharpest swings toward fiscal restriction.

Government numbers show the full-employment budget (calculated at 5.1% unemployment, assuming no tax cuts, and excluding the oil import fee) swinging from a deficit of about $30 billion in 1978 to a surplus of about $70 billion in 1981. Data Resources Inc. (using a 6.1% unemployment rate and assuming a modest tax cut in mid-1981) shows a swing from a $30 billion deficit in 1978 to a $51 billion surplus in 1981. Fortune estimates that the drag of fiscal policy on economic activity would increase by "some $80 billion" in the next year and a half. Using National Income Account (NIA) numbers, and in the absence of a tax cut, my estimate of the swing from 1979 to 1981 is roughly $75 billion.

BUILT-IN TAX BOOSTS

Even allowing for some differences in assumptions and coverage, one can reach only one conclusion from these numbers: the fiscal drag is huge. While some of it is the product of spending restraint, the bulk of it is generated by a staggering set of built-in tax increases that are speeding the 1980 slide into recession and will retard the 1981 recovery. Every time one looks, they look larger. Continued oil price hikes are lifting oil profits tax revenues to around $27 billion in 1981. Adding $14 billion of "bracket creep" in income taxes and $18 billion in new payroll taxes, one now faces nearly $60 billion of tax increases next year (not to mention this year's growing tax burdens).

Small wonder that a modest tax cut of about $30 billion—actually a $30 billion cutback of the $60 billion tax increase—is daily gaining support in the camps of fiscal moderates and conservatives.

Such a cut would use $30 billion to moderate the severe fiscal drag on next year's recovery and retain the other $30 billion for the dual purpose of permitting rapid progress toward a balanced budget as the economy recovers and enabling the monetary authorities to pursue a policy that will be somewhat less restrictive and hence somewhat more favorable to investment. This modest tax cut stands in sharp contrast to the 30% income tax cut—a cut of $127 billion over three years—favored by fiscal radicals.

It is late in the day for a tax cut in 1980, but it is none too late to move on a carefully crafted tax cut for early 1981 that will remove some of the fiscal drag, offer business tax incentives in the form of faster capital recovery, and cut back the cost of payroll taxes (even if it has to be done in the form of a credit against income taxes). If instead Congress simply rushes through an across-the-board income tax cut, it will throw away a rare opportunity to use its tax powers to promote faster growth and slower inflation in the 1980's.

Nineteen eighty has been a remarkable year in economic policy: In an election year, the budget is being cut in real terms, the White House stands firm against a tax cut effective in 1980, and we are in the midst of a recession induced by tough fiscal and monetary policy—an election-year recession induced to fight inflation. Surely, that violates all the political cliches about years divisible by four.●

THE MENTAL HEALTH SYSTEMS ACT

● **Mr. MORGAN.** Mr. President, as my colleagues know, I intend to offer an amendment to title III of the Mental Health Systems Act, S. 1177, which would encourage each State to take steps to insure that mental health patients receive the protection and services they require. This amendment would replace the federally mandated bill of rights and enforcement procedures now contained in the bill.

Mr. President, I am now hearing rumors from a number of different sources that the senior Senators from Massachusetts and New York are threatening to kill the entire Mental Health Systems Act if they do not get their way on title III.

Mr. President, while I am sure that these rumors are inaccurate, I wish to express my concern over the fact that they even exist. The Mental Health Systems Act, with the exception of title III, renews and makes notable improvements in the existing Federal mental health programs. And, with the exception of title III, it is legislation that ought to be passed.

It was for this reason that I responded in a much more restrained manner than normal with measures like title III. I have already told the majority leader, and will restate here for the RECORD, that I am prepared to have S. 1177 brought to the floor, to have the floor fight over title III, and then to move ahead with the rest of the bill.

However, I want the record to also show that I will not respond to rumors or pressure tactics of this type.

Mr. President, I will not now take the time of the Senate to discuss my numerous substantive objections to title III. But, I would like to point out the irregular procedures that have been followed in the development of this section, something that should be of concern to all Senators.

S. 1177 is a reauthorization bill, and title III is not germane to it. There has not been 1 day of hearings directed to title III, and there is virtually no legislative record for it. By contrast, there were 8 days of hearings, with a record of over 1,600 pages, directed toward the much milder and more responsible rights of the institutionalized bill which was recently enacted into law.

Of the numerous witnesses that testified on S. 1177 generally, only two mentioned the bill of rights, one of them just in passing. And, worse still, the many groups and individuals opposed to title III have been given absolutely no opportunity to express their views for the record.

Mr. President, this is not how responsible and effective legislation is developed. And, I am outraged that rumors that the entire bill will be blocked if a few individuals do not get their way on title III are appearing, even if those rumors are inaccurate.

Mr. President, I would hope that these rumors are false. If they are not, and if the bill is not passed, I can live with it. But, I wonder how those who would be responsible for that action, if it comes to pass, will explain it to the millions of Americans that support or are depending on the passage of the Mental Health Systems Act.●

INFLATION

● **Mr. HARRY F. BYRD, JR.** Mr. President, in a hard-hitting editorial on June 26, the Norfolk Virginian-Pilot emphasized that inflation remains Public Enemy No. 1.

The Senator from Virginia agrees and recommends that the Congress and the President keep their eyes on the ball—the inflation ball.

The Virginian-Pilot, whose editor is J. Harvie Wilkinson III, makes this point:

> We know those things we need to do. What we lack is not economic knowledge but political courage.
>
> As a result, the real value of 1967 dollar has declined to 41 cents today. With it has declined the power and prestige of the United States abroad and the confidence of Americans in their own institutions.

I ask to insert at this point in the RECORD the editorial capitioned, "Let's Lick Inflation First."

The editorial follows:

LET'S LICK INFLATION FIRST

Editorials are often accused of sounding like broken records. That's exactly what we hope to sound like on the national economy.

So we repeat: Inflation remains public enemy number one. . . . Inflation remains public enemy number one.

What galls us is talk that inflation is "slowing down." In April and May prices rose at an annual 10.9 percent.

That's supposed to be a slowdown?

It is a slowdown, of course, from the 18.1 percent rate during the first three months of the year. But let no one whistle that 11 percent inflation is a cheerful norm that represents "victory" for the national administration.

Worse yet, the current recession is nudging candidates toward stimulative policies. Ronald Reagan proposes a $22 billion tax reduction effective January 1. Alfred Kahn, the president's chief inflation adviser, says the White House may "re-examine" its tight budget policy if the recession deepens.

We do not mean to belittle this recession. The slump in housing and autos is now fanning out over the economy. In May retail sales dipped 1.5 percent generally, much more than that in cars and appliances. Unemployment soars from 6.2 percent in March to 7.8 percent in May.

Those aren't just numbers; they are heartache for thousands upon thousands with sagging incomes or without jobs. Unemployment insurance, food stamps, and other welfare programs cushion—but don't cure—recession's impact for the jobless.

The last way to cure a recession, however, is through stimulative tax cuts united to specific cuts in federal spending. Accelerated depreciation to encourage business investment—and hence productivity—seems wise. But to cut personal taxes across the board is to set inflation off and running from an already high base rate of 10 percent.

Pretty soon we'll return to where we were in March (20 percent inflation). Interest rates will again climb; monetary brakes will again be applied. Recession will begin anew.

The lesson is so simple. We won't avoid future recessionary shock waves unless we curb inflation first.

Last week the respected bipartisan Committee to Fight Inflation, chaired by former Federal Reserve Chairman Arthur Burns, suggested that Congress take, among many others, these salutary steps:

Balance the federal budget each fiscal year, unless a deficit is authorized by two-thirds of each house of Congress.

Loosen regulatory "restrictions on competition in the transportation and numerous other industries."

Scrutinize federal health, safety, and environmental regulations that "have been running up costs and prices unnecessarily."

Oppose new trade restraints such as tariffs and import quotas which hike consumer prices, discourage industrial innovation, and invite retaliation on American products abroad.

Restrict minimum wage hikes that "raise labor costs throughout the economy."

Cut capital gains taxes "in due course" to encourage investment and risk capital.

We know those things we need to do. What we lack is not economic knowledge but political courage.

As a result, the real value of a 1967 dollar has declined to 41 cents today. With it has declined the power and prestige of the United States abroad and the confidence of Americans in their own institutions.●

TAXATION OF AMERICAN WORKERS OVERSEAS AND THE FOREIGN CORRUPT PRACTICES ACT ARE TRADE DISINCENTIVES THAT COST U.S. JOBS AND EXPORTS

● Mr. CHAFEE. Mr. President, two of the most devastating export disincentives that impede U.S. companies in their competitive efforts overseas are the taxation of Americans working overseas issue, and the Foreign Corrupt Practices Act of 1977.

More than any other law, regulation or competitive disadvantage these two disincentives have been responsible for hundreds of thousands of lost U.S. jobs, have caused American companies to lose billions of dollars of business, and have helped to increase our current trade deficit by hindering the efforts of competitive U.S. firms.

Mr. President, as evidence of the seriousness of these problems, I submit an article for the attention of my colleagues, from today's Wall Street Journal entitled, "U.S. Firms Lose Ground in the Mideast." The author of this well-researched piece, Mr. Ray Vicker, cites both the taxation of American workers overseas and the Foreign Corrupt Practices Act as major reasons for the drop in U.S. sales in the Middle East, especially in the construction industry.

Mr. Vicker reports that a survey of 220 construction contracts showed that the United States accounted for only 1.6 percent of the total number, ranking behind such countries as Brazil and Yugoslavia In Saudi Arabia, the U.S. Commerce Department says that the U.S. share of the construction market fell from 9 percent in 1975 to 3 percent in 1978. Most astounding is the fact that the U.S. share of the world construction market has dropped from 1st place in 1976 to 12th place in 1979.

I observed the effects of these statistics firsthand while on a trip through the Middle East earlier this year, and heard of the problems directly from American workers who are in a position to know just how and why business is being lost. Statements from the Wall Street Journal article match my own observations and collaborate the information provided by numerous business people.

In an effort to encourage overseas sales, I have introduced two bills to eliminate these export impediments in the form of tax policy and foreign corrupt practices.

On February 8, 1980, I introduced S. 2283, a bill designed to simplify the tax treatment of Americans working overseas. This measure, which has 12 cosponsors, was drafted after consultation with Mr. Reginald Jones, Chairman of the President's Export Council, and was guided by the Council's report.

My proposal would repeal section 913 of the Tax Code, which contains a series of complex and confusing deductions for expenses incurred while living abroad. The bill also restructures section 911 by adding an off-the-top $50,000 earned income exclusion, which increases to $65,000 after 2 years of residence, and an exclusion from taxation for housing costs which exceed 20 percent of earned income.

The Taxation Subcommittee, of which I am a member, held a hearing on my bill, and related proposals, on Thursday, June 26, 1980. Mr. President, I urge all my colleagues, especially those who have made public statements in opposition to my proposal, to review the testimony of this hearing. The evidence submitted to the subcommittee by independent researchers, trade associations, and private citizens and businesses operating overseas is overwhelming.

One vivid example of the effects of this tax disadvantage was demonstrated by the Chase Economic Study which showed that the taxation of Americans working overseas is responsible for a 5-percent drop in real exports. The decline in U.S. income due to this 5-percent drop in exports causes a loss of 80,000 jobs in the United States, and it reduces the Federal receipts from personal and corporate taxes by more than $6 billion. Yet, if all taxes on overseas Americans were repealed—and I am proposing a much more modest exemption on earned income—it would cost the U.S. Treasury less than $500 million.

Virtually every other industrial nation in the world exempts all income earned abroad by its citizens to encourage more vigorous international trade.

Mr. Vicker is correct in stating that "Americans can't afford to work" in the Middle East. It is too expensive to employ American citizens overseas. U.S. companies must pay higher salaries to Americans to compensate for their tax costs. In some parts of the world, it costs a U.S. firm $140,000 a year to keep an employee who would make $40,000 here at home. Most of that is attributable to taxes. Consequently, many companies are now filling foreign positions with third-country nationals who pay no tax. And these third-country nationals then order products from their own country with which they are most familiar. During my visit to Amman, Jordan, I discovered that the two largest American banks no longer have American managers. One has an Indian, the other a Pakistani.

It has taken 4 years for Congress to understand that in 1976, it viewed this tax problem through the wrong end of the telescope.

Only now—after economic studies, speeches by Mr. Reginald Jones, Chairman of the President's Export Council, and the hard work of many business people—are we beginning to get the message:

However well-intended, taxation of Americans working overseas is a mistake.

In contrast, we are only now beginning a long education process on the Foreign Corrupt Practices Act.

When this law passed the Congress in December 1977, it seemed like the right solution to a serious problem.

Unfortunately, the congressional committees chose to ignore the practical realities of some types of payments in their effort to make the world a better place.

By thinking of corporate bribery abroad as a purely moral issue, which is how most of us think of it (and certainly how most of the Senate thought of it when they approved the bill), we have saddled ourselves with a particularly self-defeating application of the post-Watergate morality.

In many countries in South America, Asia, and Africa, payoffs go on at all levels of the bureaucracy. Minor civil servants generally have petty but potentially destructive authority over all sorts of business activities. A firm that wants to obtain an operating license, get a shipment of goods unloaded, be granted an audience with a head-of-state, lower an arbitrary tax assessment, or simply to cut through a government's layer of redtape will often be required to pay a fee or service charge to a bureaucrat.

The act has given rise to interpretive problems for companies engaged in overseas transactions. It is difficult to decipher, hard to implement, and its ambiguities have bred confusion for both business people and regulators.

In addition, the cost of complying with the accounting and record keeping requirements of the act has placed an excessive burden on all publicly-held companies regardless of whether or not they make any foreign sales. To violate the statute, one need only to err in keeping company books in the detail to which the Securities and Exchange Commission deems necessary. Most alarming is the fact that the American Bar Association (ABA), the American Institute of Certified Public Accountants (AICPA), and the SEC all disagree as to a firm's responsibility under the accounting provisions of the law.

Costly accounting procedures and ambiguities not only cause U.S. companies to lose foreign orders, but retard competing in the first place. The problems created by the act are especially onerous on smaller publicly-held companies, and new exporters, who are unable to obtain specialized counsel familiar with the act's intricacies.

Mr. Vicker writes:

> Some companies say they have pulled back from the Mideast because of this law. "The easy way out, when confronted with a doubtful situation, is to look elsewhere for business," says one sales vice president of an American company that formerly did considerable Mideast construction.

On May 28, 1980, I introduced S. 2763, a bill to amend and clarify the Foreign Corrupt Practices Act of 1977. My staff and I began work on this proposal in September of last year. This is the first legislative measure ever introduced to amend the act, and I am pleased to have the support of 12 cosponsors and many business representatives, attorneys, and accountants.

My bill proposes several major changes to the law, including limitations to the accounting provisions, definitions of permissible payments, separation of enforcement powers between the Securities and Exchange Commission and the Justice Department and guidelines and compliance assistance, especially for smaller firms and potential exporters. It is my hope that this legislation will provide the groundwork for a necessary review of the act.

The often quoted remark, "We have met the enemy and he is us" is particularly relevant to the situation in which we find ourselves today in the area of international trade.

All too frequently we have been our own worst enemy.

Where our trading partners have incentives and governmental export promotion programs, we have created disincentives and barriers for our most competitive businesses in the international market.

A major deterrent to export expansion has been the burgeoning of politically motivated restrictions on trade. Well intended legislation has given many Federal agencies involved in trade broad discretion to regulate exports, but often without careful regard to the impact such regulation has on U.S. businesses and the American economy.

Ambiguities in the law, inconsistent applications of regulations, confusion and delays, contribute to an export trade environment fraught with uncertainty.

Sections 911 and 913 of the Tax Code and the Foreign Corrupt Practices Act are examples of what can result when adequate leadership is lacking, when Government takes a myopic view of an issue, and when export trade is overlooked at the time policy is made or laws adopted.

The latter case, the Foreign Corrupt Practices Act is an especially good example of what happens when the business community is unwilling to challenge a draft law for fear of being accused of favoring that which the law seeks to prohibit.

Mr. President, having experienced one of our worst monthly trade deficits in May, and with our Nation now entering its 49th consecutive month of trade deficits—the longest in our history, with more and more jobs being lost each day, we can no longer afford to wait. Action is needed. And Congress must take the lead.

I urge my colleagues, who are concerned about our continuing trade deficit and rising unemployment, to cosponsor these two bills, S. 2283 and S. 2763, and to join me in working for their passage.

Mr. President, I ask that the article entitled "U.S. Firms Lose Ground in the Mideast" by Mr. Ray Vicker, from the Wall Street Journal, July 2, 1980, be printed in the RECORD.

The article follows:

U.S. FIRMS LOSE GROUND IN THE MIDEAST

(By Ray Vicker)

The American share of fast-growing Middle Eastern markets is shrinking at a time when U.S. companies badly need foreign orders.

Hardest hit are construction concerns, which complain that contracts are being grabbed left and right by bid-cutting Asian companies, among others. U.S. exporters, too, note that the American label doesn't spell instant sales in the Mideast the way it once did.

It isn't just the sometimes-higher cost of U.S. goods and services, companies say. They cite U.S. legislation and government policies that they feel reduce their competitive edge, and they say the U.S. simply doesn't encourage overseas sales the way other nations do.

L. Neal Spencer, executive vice president for international relations at Morrison-Knudsen Co., a Boise, Idaho, construction concern, says all American contractors are hampered by the U.S. antibribery and anti-Arab-boycott legislation. "These disincentives seem to be the exclusive burden of U.S. contractors," he complains.

Mr. Spencer also notes U.S. antitrust restrictions and the Export-Import Bank's reluctance to lend money to countries violating human rights. Besides all that, he says, "this is the only country in the world that taxes the foreign earnings of its citizens," thus forcing U.S. contractors to raise their bids to cover the added tax expense.

A recent check of 220 construction contracts valued at $21.8 billion and awarded in 14 Mideast countries showed that the U.S. accounted for 1.6 percent of the total number, ranking behind such countries as Brazil and Yugoslavia. In 1975–78, the U.S. accounted for 10 percent of Mideast building contracts. In Saudi Arabia alone, the U.S. Commerce Department says the U.S. share of the construction market fell from 9 percent in 1975 to 3 percent in 1978.

Even where the U.S. has achieved sales gains, other countries have won heftier increases. For example, while U.S. exports to Saudi Arabia rose 11 percent in 1979 from 1978, the French sold a billion dollars of goods there in 1979, for a sales rise of 22 percent.

Business in Iran declined for all the competitors following the revolution. But U.S. sales understandably plummeted the fastest. January 1980 sales of U.S. goods to Iran, for instance, amounted to $3.4 million versus $83.8 million in the year-earlier month. With the recent U.S. effort to enforce a trade boycott against Iran, the figure should drop to near zero.

The two whipping boys of U.S. policy, in the minds of some disgruntled American executives, are the anti-Arab-boycott legislation and the Foreign Corrupt Practices Act, both passed in 1977.

The antiboycott measure was aimed at tempering the Arab boycott against Israel. It bars American companies from complying with any Arab requests to verify that the companies don't deal with Israel.

The exact effect of this legislation on trade is difficult to estimate. It is generally believed that the Arabs ignore the boycott if they need specific goods. But as more and more suppliers enter this competitive market, there is a trend toward favoring those suppliers that are willing to disavow any connection with Israel.

The corrupt practices law draws criticism because of its ambiguities, though the U.S. Justice Department says it will advise companies whether it would enforce the act against specific proposed conduct. The law makes it a crime to make bribes or payoffs to foreign governments, politicians and agents to obtain overseas business, and it levies stiff fines.

But some companies claim that even legitimate payments to agents could be construed as violations. Most Mideast countries require foreign companies to have local agents. Yet so-called conflict-of-interest policies are almost unknown in the Arab world. A government official, even of ministerial status, may operate several businesses that handle government contracts. Or a businessman may accept a government appointment while maintaining all his agency contracts.

Thus American companies claim they could inadvertently pay an agent for an apparently legitimate service, only to be accused later of bribing a government official.

Some companies say they have pulled back from the Mideast because of this law. "The easy way out, when confronted with a doubtful situation, is to look elsewhere for business," says the sales vice president of an American company that formerly did considerable Mideast construction.

Complaints are also aimed at U.S. tax law. Companies gripe that any perquisites aimed at easing Mideast life for a U.S. expatriate are apt to be interpreted as income by the Internal Revenue Service. Where a person earns $50,000 a year in salary, they say, the IRS may claim an income double that. Companies often absorb those taxes, and some claim that tax burden prices them out of the market.

The tax factor may have another, subtler effect. "We find it almost impossible to hire an American any more," says an official of a Saudi agency that is building two giant new industrial centers with infrastructure costing $35 billion. He adds: "Because Americans can't afford to work here, we are hiring Europeans. These people naturally favor their home countries when it comes to placing orders for the things we need. So America loses out."

Meanwhile, Japan, other Asian countries and West European nations back their businessmen with hard-sell tactics, credit guarantees, few government barriers and political support all along the line.

France's President Valery Giscard d'Estaing recently made a triumphal tour through the Arab states, winning hearts—and factory orders—by plugging the Palestinian cause. A Scandinavian floating exhibition steamed into eight Arab ports last February, displaying products to 100,000 visitors and drumming up several hundred million dollars of sales. The same month, Muhammad Ali barnstormed Saudi Arabia promoting cars for the Saudi distributor of Toyota Motor Co. The company sold 115,000 units there in 1979, but aims at 150,000 this year.

In the construction field, South Korea has been the big gainer, now accounting for a fourth of the total business. But Korea's chief contractor, Hyundai Construction Co., has hit the kind of barrier usually thought to impede only the Americans. For allegedly seeking to bribe Saudi officials, Hyundai has been fined $91 million and has been banned

from bidding on any new Saudi contracts for two years.●

THE RETIREMENT OF LT. GEN. WILLIAM B. CALDWELL III

● Mr. BOREN. Mr. President, I am very sorry to learn that Lt. Gen. William B. Caldwell III will soon be retiring as the Commanding General of the Fifth U.S. Army and will be leaving the service. General Caldwell has served the Army and this Nation with ability and devotion. He deserves the appreciation of each one of us.

Recently General Caldwell spoke to the National Guard Association of Arkansas. In one of the finest and most forthright speeches by a military leader which I have read in some time, he challenges all Americans to do more to improve our military preparedness. I agree strongly with the remarks made by General Caldwell.

Mr. President, by speaking out, General Caldwell has performed a valuable service. For his patriotism and his personal integrity, I salute him. For his service to his country, I express appreciation.

The following is the text of the address by General Caldwell. I hope that every Member of this body will take the time to read it.

The text follows:

OUR MOST CRITICAL CHALLENGE: TO RECRUIT AND MAN THE TOTAL FORCE

It is indeed a pleasure to be in the Little Rock area again, and I am humbled that you have asked me to be your keynote speaker.

The National Guard Association of the United States . . . and the several State Guard Associations . . . have had my unflinching respect and support for as long as I have been a soldier. Your proud history documents the Guard's dedication to protect State and National security by maintaining an acceptable level of readiness in terms of trained, equipped soldiers.

While not an active member, I have supported the N-G-A-U-S and the State Guard Associations for many years, through participation in your programs and with the many fine State Adjutants General in the Fifth Army Area—of whom Major General "Jimmy Red" Jones is an outstanding example.

I am keenly aware that the National Guard . . . through its State Associations and national officers . . . has long been a guilding, motivating force—informing the American people and the Congress of the Army's needs. You enjoy a very high degree of credibility with your citizen neighbors because of the Guard's invaluable contributions to their safety and security in time of both Peace and War.

I am aware also that all of us must pool our efforts . . . that Readiness is contingent upon a coordinated effort—one in which we mutually support and strengthen each other's position.

One of the greatest problems our Nation has faced in recent years has been the general lack of public understanding and support for the value and need of service to our Country. Fortunately, recent events on the international scene have triggered a resurgence of national pride. I believe patriotism is alive and waits only for a reasonable excuse to erupt dramatically across the Country. We need it.

I speak today for the Army side of the house, but our Sister Services share our basic mission . . . to deter War if we can and, if War comes, to win on the battlefield. That requires Readiness, and I'd like to spend the next few moments discussing Readiness with you. Our Chief of Staff, General Meyer, pretty well laid out the parameters of our Readiness mission, in terms of deterrence, when he said:

"Deterrence requires a clear and evident capability and resolve to fight at any level of conflict or to deliberately escalate so that any potential opponent will assess the risk as unacceptable. To this end, the United States must maintain combat-ready forces capable of defending U.S. interests across the entire spectrum of conflict—strategic, theater nuclear, and conventional. Our security will be jeopardized unless we have capabilities to meet threats at the various levels."

When our Armed Forces are sufficiently strong—and the National Resolve is perceived by others as being fully committed to defense of National Interests . . . then our deterrent mission has been fulfilled. We have accomplished our purpose simply by being ready to fight.

The key word in what I've just said, I think, is "perceived."

Readiness is more, much more, than just a state of mind or numbers. When I assumed command of the Fifth Army, I made a pledge that neither I nor any member of Fifth Army would ever have to look a young American in the eye and say "We weren't ready when the call came."

We've made some real strides during the past two years, and I'm cognizant of the fact that it has been in the Guard that Fifth Army has attained greatest readiness.

I wish I could say "We're ready enough . . . leaning forward in the foxhole" . . . but the best I can say right now is we are gaining. We're a lot closer to being ready than we've been in a long time.

Quite frankly, in the Army today, we're somewhat short of where we should be.

While I'm not trying to sound a tocsin of Imminent War on the horizon, I don't feel it is unreasonable to draw certain parallels between our current Defense needs and those faced by America during the year before Pearl Harbor.

Then, as now, tensions existed in the world. Here in America, some were beginning to perceive that our security was threatened.

Then, as now, our Armed Forces were less strong than the professional, military leadership felt was necessary to deter War.

Then, as now, we did not have on hand enough equipment or material stores to properly train or equip our troops.

Then, as now, there was wide-spread sentiment to "Stay out of it, It's not our proper concern, and not worth the investment of resources and lives."

Fortunately, there were those who realized that we could not stay out of it . . . that Freedom *is* our proper concern . . . and that no price is too high for its maintenance.

For two centuries we have proved repeatedly how easy it is to forget that the future is grounded in the past.

During the American Revolution, an outnumbered and ill-equipped Army held on for eight years to win our Freedom and Independence.

But when the war was won, the soldier went home. Any thought of the need for future readiness went home with him . . . and a pattern emerged that has lasted more than 200 years.

When the challenges of the War of 1812 surfaced, only a handful of Regulars were available.

America mobilized again.

Again, Regulars and Militia fought side by side.

Again, after the victory, wholesale demobilization. Thus the pattern was set:

Wait for a crisis.

Mobilize.

Fight.

Demobilize.

When Hitler marched into Poland in 1939, our Army was ranked 17th in comparison to other armies of the world.

The Infantryman's weapon was the Springfield '03 rifle; his anti-tank weapon was the .50 caliber machine gun.

In assessing America's preparedness for War, in August 1941, FORTUNE magazine reported:

No plan existed to organize manpower.

Material shortages abounded.

Shipping capacity was short.

No scheme for national priorities existed.

The threat of destabilizing Inflation hung over the Nation.

An integrated political-military game plan was non-existent.

The Common Man lacked understanding of the tasks ahead, and the National Will was uncertain.

Fortune concluded that America had not yet been "asked to do what is necessary to win."

Yet . . . were we really so far behind the power curve? Had the American people "not yet been asked?" Here, my comparison between America's Preparedness . . . pre-Pearl Harbor and right now . . . must take pause.

We were a lot more "ready" than popular memory and High School history recall . . . and the National Guard was in the forefront of that increased Readiness.

Under the careful hands of General George C. Marshall, the Army had begun to take some very positive steps:

The National Guard had been mobilized,

Selective Service was in full operation, and

Training camps were going full blast, across the Country.

In fact, on June 30th, 1941, General Marshall reported to Secretary of War Stimson that we had:

Almost 1.5 million enlisted men in the Army (1,418,097).

Nine Regular and 18 National Guard Infantry Divisions on duty (117,600 RA, 318,100 ARNG enlisted).

The Army had fielded two Regular Cavalry (17,500 total) and four Regular Armored (43,200 total) divisions, and they were relatively well-manned and staffed with a hard core of Regular Officers and NCO's. We also had:

Nine Corps headquarters (105,700),

A "General Headquarters reserve" (120,000),

A 54-Group Army Air Corps program (167,600),

Almost 9 Regular Divisions of men in training centers (114,997), and more than 400,000 trained troops in "other" categories:

"Overseas Duty" (116,700),

"Overhead" (161,100),

"Harbor Defense" (46,500),

"Base Forces" (3,000), and

"Army Troops" (82,600).

We weren't nearly as far behind the power curve as FORTUNE had portrayed. Yet, on a calm Sunday morning, an opponent felt we were still weak enough, and unprepared enough, to launch a full-scale attack against us.

Any American who remembers that day can tell you exactly what he or she was doing when the radio crackled with the news that Pearl Harbor was under attack.

I missed that historic broadcast because I was on Oahu when the bombs began to fall. For me, the Day of Infamy, and those that followed, were spent driving ammunition trucks and helping in hospital wards. I was a junior in High School . . . my Dad was a soldier . . . and I had seen War for the first time.

I saw it again in 1950 when my unit was rushed to Korea to bolster defenses against the North Korean attack. The first American to die was a young man in my Infantry Platoon.

In candor and with deep concern, I confess to you that FORTUNE'S assessment of our preparedness in 1941 is not unlike our State of Readiness today.

Our most critical challenge in the Army today is to recruit and man the Total Force. . . . Active Army, National Guard, and Army Reserve.

The termination of the Draft in 1973, coupled with subsequent economic improvement in the civilian sector, has contributed to a severe weakening of both the Active Army and our Reserve Component forces.

When the Draft ended in June 1973, we had an Active Army of more than 800,000 . . . more than 385,000 in the Army National Guard . . . approximately 234,000 in the Army Reserve and about three quarters of a million soldiers in the Individual Ready Reserve.

The I-R-R, as we refer to it, was established as a reservoir for trained soldiers who had either completed their active service obligation and volunteered to retain their association with the Army in an inactive status rather than join a Guard or Reserve unit . . . or those who were separated from the Active service with an obligation to serve in the Inactive Reserves for a specified period. Collectively, they provided the hard skill replacements needed immediately in the event of mobilization.

Last Fiscal Year the Active Army was authorized 773,800 soldiers. In spite of our best efforts, we failed to recruit about 15,000. That's about the strength of a Combat Division.

The Calendar Year ended with the Army National Guard at 87.3 percent (349,161) of its authorized strength of 400,000. The Army Reserve had achieved just over 73.5 percent (191,159) of its authorized 260,000.

The I-R-R had a strength of slightly more than 210,000 (210,210), with only a small percentage of them carrying the critical combat specialties need for Infantry, Armor and Artillery replacements.

The urgent need to bring our Reserve component units up to strength can best be explained this way:

Fifty-eight percent of the Army's deployable forces are in Guard and Reserve units. That includes:

Fifty-two percent of our Infantry and Armor Battalions.

Fifty-eight percent of our Artillery Battalions.

Sixty-five percent of our Combat Engineer Battalions.

Forty-five percent of our Aviation strength, and

Sixty-six percent of our Medical support.

Mindful of your, and the National Association's position, let me pause to emphasize that I am not calling for a return to the Draft.

Whether or not the United States reestablishes the Selective Service System is not a soldier's decision. The responsibility for raising and maintaining an Army rests clearly with the Congress and the American people.

It is a soldier's responsibility to tell the American people and the Congress what our requirements are. But—the final decision rests with the Congress. History, I believe, will show that Congress fulfills its constitutional responsibility once it is convinced that it has the facts.

I do favor a return to registration for the simple reason that if America finds herself going to war in the '80s, we will not have the time that geography and the state of technology afforded us thirty and forty years ago.

If our pattern continues:

Wait for a crisis.

Mobilize.

Fight.

Demobilize—then our old solutions and procedures have been made obsolete by missiles and Mach-2 aircraft. Technology has compressed Time.

Moreover, we have about 205,000 soldiers deployed today in West Germany. Many of them train only a stone's throw from the watchful eyes of the Warsaw Pact.

If war comes there, our advance warning may be only a fortnight or less . . . lightning quick as described in General Sir John Hackett's book "The Third World War, August 1985."

If we are fortunate enough to have a warning of three or four weeks, America is still behind the power curve without some form of registration.

The Congressional Budget Office, in a 1978 study of mobilization capabilities, said their "most optimistic estimate is that Selective Service could not begin delivering Inductees to the DoD training centers until 65 days after mobilization . . . and less than 60 percent of DoD's induction requirements would be met by six months after mobilization."

Add 100 days to train, equip and deploy the first inductee and the situation, I think, is readily apparent.

Registration, in my judgment, helps us break the pattern we have historically followed in time of crisis.

Lest you infer from my remarks that I am disenchanted with the quality of the volunteer soldier, let me correct that too.

The soldier who volunteers for the Army today is every bit as good as his counterpart I have seen in my more than 30 years of service.

He wants challenge and the opportunity to prove himself. He will give of himself and will acquit himself in the tradition of service, pride and valor that has marked American soldiers from Valley Forge to Vietnam.

The only problem is . . . we don't have enough of them in the Total Force.

And . . . If we did, we don't have the modern equipment and enough of it, to give him comparability with his Soviet counterpart. For example, we have 10,200 tanks in our inventory. The Russians have 45,000.

Our front-line tank is the M–60; our XM–1 tank is in early production. The first two off the assembly line, two months ago, were delivered to Aberdeen Proving Grounds for further tests. The Soviets have equipped some of their forces with the T–72 tank, and are now about to produce the T–80.

The Russians have developed and deployed an Infantry Fighting Vehicle. (Old Soldiers would call it an APC, Armored Personnel Carrier.) The Soviet IFV has a low silhouette, it's fast, well-armed, has an amphibious capability for river crossing, and can be sealed to operate safely in a chemical, biological or nuclear environment.

Our new Infantry Fighting Vehicle, the XM–2, is not expected to be in our inventory for 15 months to two years.

Russian ground forces, which rely heavily on Armor, are equipped with modern, self-propelled artillery and ammunition that incorporates the latest technology. Just a few months ago, at Ft. Stewart, Ga., our Army received the first new self-propelled 155MM artillery pieces since 1969.

Additionally, our forces in Europe face more than 100 SS–20 missiles and 60 Backfire bombers, and other sophisticated weaponry.

The point is, the Soviets do not consider costs the same way we do. They simply state their requirements and the Russian people pay the price in hardship and privation. It is their system. The Party declares a requirement exists, the Government validates the requirement, and the rest of the country bends to the task.

That is how they support an Army of 170 combat divisions, outnumbering our 16 by more than 10 to 1.

We are heartened by the recent decision to increase Defense spending after inflation from three to five percent in the 1981 Budget. It will help, but more is needed if we are to sustain a Total Force of volunteers.

If you're asking what you . . . as the State Guard Association of Arkansas . . . can do to help the Army recruit and maintain the necessary strength. I have some suggestions.

First, continue to seek out the information you need to be well informed and explain to your friends and neighbors what world events mean to them . . . and how those events touch or could touch their lives here in Arkansas.

Continue to explain to them the meaning of Soviet influence and presence in places like Southeast Asia, Latin America, Cuba, Africa and the Middle East . . . and how that presence impacts on the Free World.

An informed citizenry is the first step to a motivated expression of National Will . . . which is an essential step toward the survival of the American Way of Life.

Second, visit Reserve Component units here in Arkansas. From Texarkana to Blytheville, you'll find 96 Army National Guard units and 35 Army Reserve units, training in 71 Armories and 18 Centers, with an authorized strength of almost 12,000 (8,900 ARNG+2,995 USAR).

The Guard side of the House is doing an outstanding job under General Jones' capable leadership. His 31 March strength report showed them at 100.6 percent of authorized Army Guardsmen. Unfortunately we're not doing so well on the Reserve side of the House. I hope I don't shock too many of you, when I say that this is an area where you can help.

Yes, I'm asking you, as a State Guard Association, to help the Army Reserve units in this State do a better job of attaining and maintaining adequate strength levels. We're all part of the Total Army—whether Active, Guard or Reserve—and our ability to get on with the task of defending freedom is adversely affected by any weakness in our structure.

Just as there are young Americans who . . . for reasons of school, or jobs, or families . . . are better suited to serve in peacetime as members of the Reserve Components than in the Active Army, so there are those in this group who are more suited to the Guard than the Reserve, and vice versa.

Basically, what I'm saying is: "While we're preaching the Gospel of Readiness . . . Preparedness . . . and the value of Service to the Nation . . . we need to keep in mind that if the whistle blows—we're all wearing the same suit and fighting the same War.

You can be a great deal of help, here in Arkansas, by helping spread the Word . . . by helping build a sense of Community Awareness of what their local Guard and Reserve units are doing for the towns and cities themselves.

One place to start will be getting to know the Army Reserve units in your communities just as well as you do the Guard units. Learn their strengths, and their weaknesses . . and indicate to them your appreciation of their contribution to the National Defense.

While you're visiting them, ask about the payroll that unit generates in the local community. A recent study by a Colorado economics professor reported a Reserve Component unit with 100 members brought income into a community that was equivalent to a full-time industry employing 20 persons.

Anytime a Guard or Reserve unit is under strength, not only is America's readiness impaired . . . their community is losing money.

Ask your associates in the business community to support the Guard and Reserve. There are still too many who don't give more than lip service to really helping. There are still too many cases where our soldiers have been reported as saying that they had to leave units because: "My boss wants me to work weekends" . . . or, "I can't get permission to be absent for annual training."

You can really help your own Country, as well as these citizen soldiers, by making business more aware of the critical contribution the Guard and Reserve make to the strength of America's Defense.

Finally, when you have a chance, remind your friends and neighbors that Americans have much to be proud of . . . That there is much to be regained from rekindling the feeling of pride and service to our Nation.

I think pride in America is out there . . . just waiting for an excuse to surface. It was apparent at the Winter Olympics. It made me and a lot of other Americans proud to see our flag being waved with pride . . . To hear the voices chanting "U—S—A" and to see Americans gesturing "Number 1."

Many Americans are rethinking their values, and I sense a yearning on the part of our people to be reunited with the Pride and Tradition of what being "an American" means.

"America has not yet been asked to do what is necessary to win," the editors of Fortune wrote in 1941.

I submit that, if asked, America will respond. Our history is one of rising to the challenge . . . and winning.

Given the facts, Americans generally reach the right decision and—with uncommon determination—set their jaw to the task and the work to be done.

To be born free is an accident.
To live free is a challenge.
And to die free is an obligation.●

BLM WILDERNESS PROPOSAL—BITTERCREEK

● Mr. BAUCUS. Mr. President, the Federal Land Policy Management Act of 1976 (FLPMA) directs the Bureau of Land Management (BLM) to inventory all the remaining roadless areas managed by the Department of the Interior for potential inclusion in the national wilderness system. In my home State of Montana, just over 8 million acres were subject to the initial wilderness inventory. In December of 1979, the BLM dropped nearly 6 million acres of that total from further wilderness consideration.

The remaining 2 million acres of BLM land in the inventory process are divided into units which, under FLPMA, must exceed 5,000 acres. The BLM is seeking public comment on these individual inventory units. A large volume of public comment is being sent to the BLM and, because any wilderness designation requires congressional approval, to the Montana congressional delegation.

The Bittercreek unit near Glasgow, Mont. is the focus of much public concern because the BLM accelerated review of the area to accommodate the proposed northern border leg of the Alaska natural gas transportation system. The residents of Phillips and Valley Counties are particularly concerned about the future of this unit that lies in their backyard.

Mr. President, the Bittercreek unit, like many of the BLM areas being inventoried, is not the scenic mountain region that comes to mind when one thinks of wilderness. Rather, these grasslands are part of the high plains where agriculture is the base of the economy. Grazing rights and water are primary concerns of the area ranchers. It is easy to see why the thought of making this area wilderness does not sit well with the local residents.

The original Bittercreek unit contained nearly 80,000 acres. In part, as a result of public comment and in light of wilderness criteria, the Bureau of Land Management reduced the acreage under intensive review to 59,112 acres. It is important to note that under BLM guidelines, the Bittercreek area remains open for grazing and other existing uses throughout the wilderness study.

The letters I am receiving on Bittercreek are almost exclusively opposed to any further consideration of the area for wilderness designation. In response, I personally contacted Mr. Mike Penfold, State director of the BLM. He has assured me that the BLM will carefully weigh all public comments as the wilderness study proceeds.

Mr. President, regardless of the final BLM recommendation for Bittercreek, Congress must approve any proposal before final wilderness designation. In the event that wilderness legislation were introduced in Congress, it, too, would unquestionably involve hearings and a variety of opportunities for public comment.

As I stated earlier, the BLM inventory is complete for more than two-thirds of the land in Montana. The congressional directive under FLPMA has been followed by the BLM to this point. I believe it would be a dangerous precedent to circumvent this congressionally mandated process for one particular area, no matter how strong the temptation. As part of this process local comment must receive priority attention from the BLM.

In conclusion, I understand the wishes of the area residents that any further wilderness consideration for Bittercreek be stopped. However, the review of Bittercreek is following the congressional mandate of FLPMA. I encourage the BLM to proceed diligently with the Bittercreek Wilderness study so that a final decision can be made on the management of the area in a timely fashion. Only after a complete review will the question be put to rest.●

THE 63D ANNIVERSARY CONVENTION OF THE NATIONAL COAL ASSOCIATION

● Mr. FORD. Mr. President, I have reason today to be very optimistic about the coal business in this country for the foreseeable future. The Congress has passed, and the President signed on June 30, the Energy Security Act of 1980 which will use coal as the base feedstock for a vital and new synthetic fuels industry. The Senate, on June 24, passed the Powerplant Fuels Conservation Act of 1980 which will assure more direct use of steam coal through reconversion of many coal-capable, oil-fired utility plants.

In addition, if we can effectively address our port congestion problems, we should see a tremendous surge in steam coal exports which will provide an "energy lifeline" from United States to foreign nations.

It's been a productive year in Washington, D.C., for advancing coal policy. Thus it was an appropriate year for the National Coal Association's annual convention to be held in Washington—the first time this has been the convention site.

On Monday the 63d convention, attended this year by over 550 people, was opened with a leadership breakfast. The speakers at that function were two of our colleagues who have represented coal and the State of West Virginia in a positive, constructive way for many years. They have been and are the "one-two punch" for coal in the U.S. Senate. I am, of course, speaking of Senator Robert Byrd, our majority leader and creator of the Senate Coal Caucus, and Senator Jennings Randolph, member of the President's Coal Commission, member of the Coal Caucus, and father of synthetic fuels in the U.S. Congress.

Mr. President, I ask that the remarks of Carl Bagge, president of the National Coal Association, Senator Randolph, and Senator Byrd at this most important occasion marking a new dawn of coal use be made part of the Record.

The remarks follow:

Introductory Remarks by Carl Bagge

I am Carl Bagge—President of the National Coal Association. Welcome to the opening events of the National Coal Association's 63d Anniversary Convention. This is the first time that the National Coal Association has held its convention on Capitol Hill. Truly the mountain has come to Mohammed.

I am your host for this leadership breakfast, the first event which I believe is an outstanding program that Jim Randolph, President of Kerr McGee Coal Company, and our program chairman has put together for us. Jim Randolph, please stand and take a bow, from the group.

The theme of our convention this year is "U.S. Coal—Lifeline to the World." We are very fortunate, indeed, to have with us this morning, two men whose public careers are helping to make that theme a reality. The names Jennings Randolph and Robert Byrd are synonymous with West Virginia. They are the longtime leaders of a proud state. In fact, their combined service to their state and nation, in the House of Representatives and Senate totals 64 years—which I think they should be commended, and a round of applause for Jennings Randolph and Robert Byrd, God love you both.

But, their leadership has proved essential far beyond the boundaries of West Virginia. It is a leadership that places the interest of the country first and foremost. It is a leadership, that during a period of confusion and uncertainty, has provided a real sense of progress and stability to our nation, for which we are truly grateful. These two men, as much as anyone in the United States, know the strategic, economic, and political necessity of producing and using coal, and they've known it for some time, and they've been telling the nations of the world about it for some time.

It is because of their leadership and their long valued friendship, that we are especially honored to have them here with us today at this leadership breakfast. We are grateful to both of you for that. So to get things moving, I'm going to introduce Senator Jennings Randolph first, who, in turn, will introduce our keynote speaker, the Majority Leader of the United States. This is an easy assignment for me because Jennings is well known to all of us and well loved by all of us. He first came to the Congress the year Franklin Roosevelt was first elected President in 1932. He served in the House during all the years of the Depression and World War II. For the next decade he was in private industry, but he couldn't resist the recall to public service. And in so doing, in 1958 he plunged into a U.S. Senate race which he won and he's been winning ever since.

Ladies and Gentlemen, I am very pleased to present one of the true friends of the nation's coal industry and a great personal friend of mine, and so many of us here, U.S. Senator Jennings Randolph.

REMARKS BY U.S. SENATOR JENNINGS RANDOLPH

Good morning ladies and gentlemen, and I emphasize ladies, because there are 3½ million more women of voting age in this country than there are men of voting age. The mountain State gentleman I shall present understands with me that there is women power as well as coal power.

Carl, it is good to be with you, and all the representatives of the coal-producing states of this great America which we love and desire to strengthen. Mention was made of Jim Randolph and Kerr-McGee. I know that Senator Byrd and I would like to have you remember again one of the truly great senators with who we were privileged to serve—Bob Kerr of Oklahoma. He was perhaps not so much at that time in coal; he was more in Angus cattle.

Now, I shall be very brief, if you can believe a member of the Senate, which I doubt.

But, at the rate that we import oil from abroad, this very day driving here, I had the radio tell me that Kuwait had raised its oil price $2 per barrel. Yes, at the rate we import oil today, we could substitute exclusively West Virginia and Illinois coal for all the foreign oil for over 100 years. This is a graphic and factual example. All of you are in the business of coal, and you've had very difficult times. You realize that the problem cannot be solved unless we can turn this talk of utilizing America's coal reserves into a program of action.

During the history of our country's fight for greater energy independence we have made progress but a unity of purpose waxed and waned. But at long last, direct coal utilization is clearly in the national interest. Our current energy situation demands, as never before, a sense of urgency from the institutions of the federal, and yes, the state governments. From the Congress, your Congress, and from the Administration—your Administration, regardless of your preference in parties!

This is a time when we must work together if we are to win together the—yes together—independence of America. We must have the production through the direct use of coal and coal processed into synthetic fuels, a vast undertaking. A crusade, not just another effort, must and is being launched. The direct burning of coal under electric boilers and in factory installations must be the order of the day as we make a frontal attack with coal as our winning weapon.

Now, together all of us, and I keep speaking of all of us, must continue to impress on the members of the Congress of the United States, the importance, yes, the truth, as Carl keeps saying with those coal mugs, "Coal is the answer—NOW." I speak of your honored guest who is the "man of the now."

One man on Capitol Hill, only a few minutes walk from where we breakfast, keeps us in session almost around the clock. I call him the man for all hours because we are really in the legislative harness, as we should be. But, this man on Capitol Hill, perhaps above all others, has set his priorities for a coal policy and securing action on energy NOW. He is my colleague, my friend. He is your guest speaker this morning.

We are not in a nominating convention, but I feel a little touch of nominating, and "I name my man! He is Robert C. Byrd."

He knows that America left the coal bucket behind in the middle 40's. His efforts can assure us that it is carried back. He knows that while the contents of the bucket will still have properties of coal, the form in many cases will be different.

In addition to direct coal utilization, coal must be converted so that it can be successfully used in industrial processes, transportation systems, and possibly again in the homes of America.

During the past year and a half, Robert Byrd has given staunch support, as many of us has given support, to Governor Rockefeller and the members of the President's Coal Commission, helping us in a united effort to provide the necessary framework for coal to move front stage in a role of increasing significance in a successful strategy for energy.

Robert Byrd was instrumental through his chairmanship of the Appropriations Subcommittee on Interior and Related Agencies in securing funding to initiate a National Synthetic Fuels Program. That's factual. That's demonstrable of what I've been saying of his leadership. That was a major initiative; it was followed by his leadership in the fashioning of the Synthetic Fuels Corporation to guide and manage programs for the development of synthetic fuels projects.

You begin your conference on a very important date. The President will sign the Synthetic Fuels bill into law this afternoon at 4:00. Let's cheer for America.

Robert Byrd was active in shaping the recommendations which form the basis for the Power Plants Fuel Conservation Act of 1980. You are knowledgeable in this field. The measure was approved last week in the Senate. Was it by a close vote? No, a victory vote of 86 to 7. Would you do some missionary work with the 7? Our result was due in substantial part to the emphasis our leader in the Senate placed on coal conversion. Robert Byrd's energy leadership continues. He helped guide the Surface Mining Amendments of 1979, to passage in the Senate. He continues to explore possibilities for future action in the House.

Ladies and gentlemen, we carry on continuing conferences with the Office of Surface Mining to assure that the plans submitted by the states are approved by that agency.

I've introduced my colleague many, many times in the hills of West Virginia. When we came to Congress, after winning together in 1958, we were called the "Coal-dust twins." We both recall those editorials. I've introduced my colleague in the halls of government.

I am happy in the assignment Carl has given me today.

At this very special occasion, it's the beginning of your, I hope, best convention, a challenging convention, a convention that can solidify efforts and bring a dynamic resurgence to this great industry. I present the Majority Leader of the United States Senate, in fact, the Leader of the Senate. Robert Byrd.

SPEECH BY U.S. SENATOR ROBERT C. BYRD

Jennings, I have faith in coal. And, we are demonstrating that there is a new unity among coal people, and that we will not rest until coal achieves its rightful place as the primary energy source in this country.

We must remind our people, again and again and again, that this nation has tied itself to the wrong lifeline. It has tied itself to a fragile oil pipeline, that stretches into the heart of the OPEC nations. And, that pipeline poses a multiple threat to this country.

Even after the pain and economic dislocations that have occurred during this decade, the dangers of oil dependence have not come through to the American people. This year, we will send from the pockets of the American people $94 billion to the coffers of the oil-producing nations.

In 1970, ten years ago, we spent $3.7 billion for imported oil. Last year, our oil bill was $60 billion; this year, $94 billion. A 50 percent increase over last year and a 2500-percent increase over 1970.

In that year, the price of oil was under $3 per barrel. Today, the price has increased from 12 to 1500-percent, $32, $34, and in some cases $40 per barrel—$94 billion dollars. And the American people still don't believe we are having an energy problem.

That represents $94 dollars for every minute since Jesus Christ was born. That represents more money than the combined income of all the Fortune 500 companies. And if we continue to spend at that rate, and keep in mind that $94 billion is 50 percent above last year's oil bill. But, if we just continue to spend at that rate, within less than a dozen years, this country will have sent more cash out of the American people's pockets to the exporting countries than the combined total of all the stocks on Wall Street—more than one trillion dollars, and not one thin dime will have gone into the U.S. Treasury. Not one thin dime.

And we tried, just a few days ago, to support the President's import fee, which would have provided for a measly ten cents per gallon for the U.S. Treasury. And I don't know of anything that's more unpopular than the vote for tax on gasoline.

The federal tax on gasoline is four cents. The Germans pay $1.14. The French pay $1.63. The Italians pay $1.84. The tax on gasoline.

But don't tax American gasoline. Leave it up to the oil countries. They'll put the tax on the American people.

Kuwait, you say, has increased the price $2 per barrel. That's just like a tax on the American people and that's not being passed by my collegues on the hill.

Not one thin dime is going into the United States Treasury. It's all going into the treasuries of the oil-producing countries. And the American people cannot do one thing about it, insofar as voting against those in authority, in Kuwait, and Saudi Arabia, and Iraq, and Nigeria, and so on down the line. Not one vote can you cast against their rulers.

But you can write letters to your members of the House and Senate and cast votes against them if they seek to increase the price by adding a tax that will go into the United States Treasury and be refunded to the American people. And so the price will continue to go up.

While the economic consequences of this dollar hemorrhage is having its impact on the economy, on the balance of payments, and, worst of all, upon the national security of this country, we must remember that these are threats that are real.

The United States secures about 25 percent of its oil from the Persian Gulf. Our Western European allies secure 50 percent of their oil from the Persian Gulf. Japan secures 90 percent of its oil from the Persian Gulf. And if there were an interruption of that oil supply tomorrow morning, would we be ready?

And that interruption could happen, and in all probability will happen. And it can happen from many causes—an embargo, and we've seen that in 1973 when the gasoline lines were prolific. It could happen from the overthrow of a regime, and we've seen that happen in Iran.

It could occur as a result of an accident in the Straits of Hormuz. It could occur from the results of an invasion or from terrorists' acts. We are in danger. Oil is imperative, if planes fly. Our ships cannot sail without oil.

Our tanks cannot roll without oil. Our armies cannot move without oil. And yet, we depend upon a thin line of tankers stretched halfway around the world for our national security.

A cutoff of 3 million barrels of oil would deal our economy a $100 billion annual loss. A complete cutoff of oil would deal our economy a devastating $700 billion annual loss. Contemplate that. This threat is just as real as if enemy divisions were poised at the Canadian border. It could happen. And I repeat that the probabilities are that it will happen in some form or another in my judgment. I hope I am wrong.

I don't know of any conceivable weapon that would be more important to our arsenal than would energy independence.

Back in 1957, when the Soviets orbited Sputnik, it sent shock waves through this country. The "space race" that followed put in motion the most unified political, technological, and economic commitments in the history of the Republic.

I believe that if we are to make coal the lifeline of the world, and if we are to win the war for energy independence, it will take no less a commitment, and no less solidarity by this government and its people. And the American people are going to have to believe that there is such a war, and they are going to have to be committed to such a war.

And that places a responsibility on every one of us here. Whether we are politicians or whether we are men and women in the coal industry, we have a responsibility to bring home to the American people the facts concerning this critical problem that faces our country.

We can't go on and on and on, wasting gasoline, wasting energy. I remember the days—they haven't been too long ago—when one could drive up to any gasoline station, get the tank filled at 23¢ a gallon, 25¢ a gallon, 27¢ a gallon. My wife used to say when I went to the gas station, "This time get cloves." Next time I went to get the gas tank filled, "This time get cinnamon." Next time I went to the gas station, "This time get sage." And then red pepper, and black pepper, and then finally she said, "Now that I've gotten all these canisters of spice, this time, get the rack." A little handsome rack that she could place on the kitchen wall and put all the little canisters of spice. And so one could get spices and one could get glasses and get the tank filled because energy was dirt cheap. Gasoline was dirt cheap. But it is no longer that way. And we are going to have to educate the American people to the fact that cancer is eating at the body of this Republic. A person has cancer, looks well, his color is good, he hasn't lost weight, his appetite is good. And yet, beneath the surface, there is that terrible disease that is about to bring him down. And the same is true with the oil problem.

On the surface, nine out of every 10 automobiles I see coming from my house to the Capitol, and returning in the evening, have one person in the car—the driver. But, just below the surface, there is that terrible probability that the headlines one day will say that the oil lifeline has been cut. And then disaster will stab us in the face.

We are doing something about it. The President's Commission on Coal, to which Jennings Randolph referred, and on which he serves, chaired by Governor Rockefeller of West Virginia, recently presented a coal study. And the commission concluded that there is no short-term answer to our energy problems other than the greater use of coal. I want to echo what Governor Rockefeller's commission said and what he said in his report to the President—"Coal is cheaper. Coal is American. And, there are a lot of people that want and need the work." And coal can put those people to work.

Jennings spoke of the synthetic coal fuels bill; I will not touch upon that. Jennings spoke of the coal conversion bill and of its critical importance, and so I will say little about that—except to state that the conversion of the power plants mandated under that legislation will be carried out within existing environmental standards. And this bill deserves the support of the National Coal Association as it is considered by the House of Representatives. It isn't everything you want, it isn't everything that Jennings Randolph wants, it isn't everything that I want, but it's something. And I say that a half a loaf today is better than not even a slice. And a half a loaf today may mean another half tomorrow. And I urge that you, too, give this measure the priority that it deserves.

I was gratified as you were, with the results of the recent Venice Summit, where the leading industrial nations of the world adopted a program to develop alternate energy sources, which could supply the equivalent of 15 to 20 million barrels of oil per day by 1990. The plan closely parallels a United States proposal for severing the oil-consuming nations' dependence on OPEC.

A dramatic increase in coal production, particularly in the United States, is the essential part of the allies' plan. The summit called for a doubling of coal use and production by 1990. To meet that goal, the United States must increase coal exports from the present five to ten million tons to 100 million tons. This will require what British Prime Minister Margaret Thatcher termed "massive investments" to improve rail facilities and to improve port facilities needed to move high volumes of coal. We hope that European countries and Japan will begin a utility and industrial coal conversion program similar to that outlined in the legislation enacted by the Senate.

And so, we are on the threshold of a "new energy era" in this Nation. We can look to the future with optimism, even though there are potential roadblocks ahead. We cannot allow unreasonable environmental standards to restrict or stop the use of coal. And it is crucial that the American people understand how coal people view this issue. We do not favor sacrificing our air, our land, our water in the wake of energy production. But, we do believe, that any national and environmental policy must consider this Nation's economic and national security imperatives, as it develops its environmental policies.

People have to work. People must use energy. The factories have to keep operating and the farmers must be able to continue to grow their crops, if America is to remain the breadbasket of the world. And all of this requires energy, and this country cannot sacrifice its national security interests. After all, the first priority is national security. What good would food stamps be to the boys and girls of Afghanistan who have to stand in the line of sight of the Soviet rifles?

There is no secret to building an understanding about energy production and environmentalism. It will take the same kind of painstaking effort that has been put forth to build our present progress. It will take education, it will take compromise, and above all, some statesmanship.

I believe that U.S. coal can be the lifeline to the world.

I believe that U.S. coal is the lifeline to the world.

I believe that we can make it the lifeline to the world.

At the close of the Revolutionary War in 1782, a Philadelphian remarked to his friend, Dr. Benjamin Rush, "It looks like the battle for independence is over." Rush replied, "Sir, you are mistaken. The Revolutionary War may be over, but the battle of independence is just beginning."

The battle for energy independence is just beginning. We must press on with the fight, in the industry, and in Congress. This, of all times, is not the time to be complacent. It is time to spread the word that coal is the lifeline to the world. It is time for us to make a reality the often-heard slogan that, "The United States is the Saudi Arabia of coal."

THE PILGRIM

Man comes a pilgrim of the universe, out of
the mystery that was before the world,
out of the wonder of old stars.
Far roads have felt his feet, forgotten wells
have glassed his beauty bending down
to drink.
At altar-fires anterior to Earth his soul was
lighted, and it will burn on after the
suns have wasted on the void.
His feet have felt the pressure of old worlds,
And are to tread on others yet unnamed—
Worlds sleeping yet in some new dream of
God.

Closing Remarks by Carl Bagge

Senator Byrd, you have set the direction and the spirit and the tone for this convention in your truly historic keynote address.

As long as our country is blessed with your leadership, I believe we can look forward to the future with confidence.

Thank you very much for being with us.●

RECESS SUBJECT TO CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair, and that it remain in morning business until such time as the conference report is received in the Senate later today.

There being no objection, the Senate, at 5:10 p.m., recessed, subject to the call of the Chair.

The Senate reassembled at 9:04 p.m., when called to order by the Presiding Officer (Mr. Proxmire).

SUPPLEMENTAL APPROPRIATIONS, 1980—CONFERENCE REPORT

Mr. MAGNUSON. Mr. President, I submit a report of the committee of conference on H.R. 7542 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7542) making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the Record of July 2, 1980.)

Mr. MAGNUSON. Mr. President, this is one of the largest supplemental appropriation bills that the Congress has ever considered.

It is the most complicated, because it also includes rescissions and deferrals.

The President had submitted budget requests that our Appropriations Committee reviewed that came to over $22.4 billion. We reduced those requests by $5.6 billion and went to conference.

The conference agreed to allow a total of almost $16.6 billion.

That difference between our initial Senate bill and the conference bill does not reflect the major differences that were before the conferees on this supplemental.

There were 345 amendments that we had to consider; funding for every department of the Government was involved. All of our Appropriations Subcommittees were involved, 25 members of the committee were conferees.

And I want to take this opportunity to thank every one of our Senate conferees for their attention; and for their active participatioin in our lengthy deliberations that lasted until 2 o'clock this morning.

We met yesterday at 2:30 in the afternoon until 2 a.m. this morning trying to resolve all those differences, and I think we have done a good job.

There were many difficult issues that the conference had to address: Disaster assistance; revenue sharing; defense items; trade adjustment assistance; the Chrysler guarantee program; synfuels and the energy security program; child nutrition; black-lung benefits—and many many more.

The statement of the managers has already been distributed. We have already discussed almost every item that was in conference—for 3 days last week the Senate debated this measure—and I hope that we can resolve the differences that now remain.

Late this afternoon and evening, in a complicated series of votes, the House rejected the conference position on foreign operations and on State revenue sharing.

I hesitate to comment on those actions by the House—others will certainly express themselves.

The action by the House does leave this supplemental rescission bill under the current budget resolution. In fact, it is now about $347 million under the ceiling in budget authority and it is $46 million under in outlays.

Mr. President, I felt our conference report a good one; there was give and take, as there must be in any conference. I felt the House would accept the conference report as we finished it. While I do have reservations about what the House has done to change those agreements—I do urge adoption of this measure.

THE SSI DISABLED CHILDREN SERVICES PROGRAM

On another matter, Mr. President, H.R. 3434, the Adoption Assistance and Child Welfare Act of 1980, which recently was signed into law, reauthorized entitlement funding from the SSI appropriation for the $30 million a year SSI disabled children services program. H.R. 3434 extends this program for 3 years from October 1, 1979.

Mr. President, we fully expect the administration to fund this program from next year's fiscal 1981 appropriation through the use of borrowing authority included in the appropriations for fiscal year 1980.

I now yield to my colleague from North Dakota.

Mr. YOUNG. Mr. President, this is the biggest and most extensive supplemental appropriations bill ever considered by the Senate. It involves items for almost every agency of our Government. The purpose of a supplemental bill is to take care of urgent appropriations matters that cannot wait to be considered by the regular appropriations bills. This bill, for the most part contains appropriations to meet very urgent needs as already explained by the distinguished chairman of the Senate Appropriations Committee, Mr. MAGNUSON.

Mr. President, the Senate Appropriations Committee was given little time to consider this huge appropriations bill. It was late in coming over from the House which meant the Senate committee had very limited time in which to consider it. Consideration by the Senate was further delayed by requirements to meet the 3-day rule, a rule not often applied.

Mr. President, even the House, under a seldom used rule, held up consideration by the conference committee of the two Houses.

In order to meet the scheduled adjournment for tonight, the Senate and House conferees met continuously from 2:30 yesterday afternoon until about 2 a.m. this morning. This meant long and exhausting hours. It is this kind of fast procedure that does not make for the best kind of consideration.

Mr. President, since this bill had to be considered by all 13 subcommittees of the Senate Appropriations Committee, the staffs of all these subcommittees worked all day yesterday and all night until 10 a.m. this morning to get the conference report ready for approval by the two Houses. This would never have been possible if it had not been for our very competent staff who were willing to work unreasonably long hours. There are not many industries or other institutions where the staff members are often required to work these long hours without over-time. Our highest commendation must go to these dedicated and very competent staff members.

Mr. President, this bill contains mostly very urgently needed funds. It is a necessary bill and I hope this conference report wil be approved.

Mr. President, in short, as the bill left the Senate, we were $2 million under the Budget Committee ceiling on budget authority and $9 million under in outlays.

May I say that again. Two million under in budget authority and $9 million under in outlays.

And then, as the bill left the conference committee, the bill was $509 million over on budget authority and $79 million over in outlays. I would like to say that again. As the bill left the conference committee, we were over in budget authority by $509 million and over in outlays by $79 million.

The bill now as it comes before us is $347 million under in budget authority and $46 million under in outlays. So this is a better bill than when it left the Senate or the conference committee with respect to the budget ceiling. I hope it will be approved.

Mr. BAKER. Mr. President, may I take just a moment to offer my congratulations and my expression of appreciation to Senator Young for his role as senior Republican on the Appropriations Committee for a long and difficult chore and, of course, to the chairman of the Appropriations Committee for bringing us this measure at this hour after their diligent efforts.

I have not had time to examine the statement on behalf of the managers. I regret that. But I have the general impression—and I would ask either the chairman or the ranking Republican to correct me if I am wrong—that what happened was we got the bill back from conference within the budget, or slightly under. We got it back with full restoration of State share revenue sharing, with a slight reduction in foreign operations, and postponement of obligational authority for Nicaragua until 1981. I am sure there are many other things.

But of the controversial and emotional issues, those are the ones that strike me on first blush.

I wonder if either or both of my friends could confirm or modify the observations I have just made.

Mr. MAGNUSON. I will say to the Senator from Tennessee that that is correct. But, despite the shift from foreign operations to revenue sharing, which the House did, in effect, we are still under in budget authority and outlays.

Mr. BAKER. Mr. President, I think that is quite a feat. I intend to support the conference report and I urge my colleagues to do so.

Mr. YOUNG. Mr. President, I thought the Senator from Tennessee would be happy, because he was a strong supporter of the full amount of revenue sharing and this bill provides the full amount now.

Mr. BAKER. And I am highly gratified, very pleased, and terribly grateful.

Mr. MAGNUSON. Mr. President, I move the Senate adopt the conference report.

Mr. ARMSTRONG addressed the Chair.

The PRESIDENT OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. ARMSTRONG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado has the floor.

Mr. ARMSTRONG. Mr. President, I just want to observe that I share the general sense of relief to have this before us. I also share the sentiments of those who are pleased by the action of the House in restoring the full amount of revenue sharing, as I understand the House has done. It sounds to me like taking that money out of foreign operations and putting it back into States of our own country is a very desirable outcome.

As to what else may have been done, I note, in passing—and I am not going to dwell on it—that at exactly 10 minutes past 9 there was placed on the desk of the Senator from Colorado and other Senators a 117-page joint explanatory statement of the committee on conference.

At that same hour, the distinguished chairman of the Appropriations Committee began his explanation to the Chamber, which lasted something under 4 minutes.

I suggest, Mr. President, once again, on the last night of the session, we are being asked to adopt what I believe to be a $22 billion appropriations measure with no real idea of what has happened to it since it left this Chamber.

I am not going to, at this point, avail myself of any parliamentary options that there might be to delay the consideration of it, because I think, clearly, it is not the temper of the body to do so. I just want to note, in passing, that I think this is a most irresponsible procedure.

We have known for a long, long time that we would be enacting a supplemental appropriations bill. We should have had it out before or we should delay our projected adjournment or in some way make it possible for Senators, the press, and the public to know precisely what it is we are voting on. Yet once again we are not doing so. It is partially for that reason, among others, that the Senator from Colorado will vote against this conference report.

Mr. MAGNUSON. If the Senator will yield, I must say we were under great pressure with regard to time. We worked hard to get this done. I do not agree with this, and none of us do. But we have been working against a time limit.

The conference report and statement of the conferees were put on every Senator's desk 3 hours ago.

Mr. ARMSTRONG. Mr. President, with all due respect to the distinguished Chairman, the report was placed on the desk of Senators at approximately 10 minutes past 9. It was not placed on this Senator's desk prior to that. As a matter of fact, earlier today one Senator assiduously sought to obtain the conference report. I heard that there was available someplace a mimeographed report. It is not a printed conference report. It is not a conference report in the general sense of the word. But it is a document which on its face appears to be in good order. I have been seeking it and my staff has been seeking it, and we have not been able to find it. It was finally placed on my desk at 10 minutes after 9.

I noted the same was true of delivery to other Senators.

But, Mr. President, I do not quarrel with that. I did understand that the committee was working under great pressure. I object to the procedure. I have objected to it in the past. I objected to it on the Chrysler procedure.

One of these nights on the last day of the session, when everybody assumes that we are going to go ahead and pass whatever the pending legislation is, there is going to be a big bill get kicked in the creek. When this happens, we are going to have to decide whether we will reform our procedure or continue it in this way.

Nor do I deny, may I say to this distinguished chairman, that the committee members and the staff worked hard. In fact, one of the things that distresses me, may I say, is the observation of Senator Young that the staff worked all day yesterday and through the night and until 10 o'clock this morning to prepare this report.

I would suggest that completely aside from the imposition on our staff, that does not create the kind of work atmosphere in which high quality work is likely to result. In fact, the record of a conference report which has been adopted under that kind of procedure is a miserable one, a record full of errors, a record of legislation enacted that has mistakes in it, and has required technical and policy corrections.

We went all through this on the last night of the session in December of last year when we discussed the Chrysler conference report. I am not disposed tonight to go through it again. But I suggest when we do this time and time again and time and time again, when we force our staff to the wall and force the conferees to the wall, and make them work under that kind of condition, bad legislation and bad appropriations result.

I do not know, this may be the exception to the rule. There may not be a single error in this 117-page joint explanatory statement or in the conference report which it represents. But I would be amazed, let me say to the Senate, if there are not serious unintended consequences in this report. It is almost inevitable, considering the procedure under which it is brought to the floor.

I just want to note that. I am not eager to delay the proceedings. But as I pointed out a moment ago this is one of the reasons that the Senator form Colorado will vote against the conference report.

The PRESIDING OFFICER. The question is on adopting the conference report.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I have a question of the distinguished chairman of the subcommitee that handled the synthetic fuel and energy security reserve portions of this bill. I am referring to the portion of the statement of managers that refers to the Department of the Treasury and the energy security reserve.

There is a statement therein, and I will quote:

> Total available funding, including funds committed or conditionally committed under authority of Public Law 96–126, shall be apportioned so as to provide $17,522,000,000 for purposes of title 1.

My question is as to the Synthetic Fuels Corporation, which is a portion of title 1. Would the Senator tell me what is intended as to the funding of the Synthetic Fuels Corporation as a portion of title 1?

Mr. ROBERT C. BYRD. Mr. President, the Senator asks a very pertinent question. I quote from page 46 of the conference report pertaining to this funding:

> Of the funds provided in title 1, the Synthetic Fuels Corporation:
>
> a. $6 billion shall be immediately available for obligation.
>
> b. Up to $5.3 billion as previously mentioned is available for transfer on June 30, 1981.
>
> c. $6,212,000,000 shall be available for obligation after June 30, 1982. The managers agree that this provision allows significant review of corporation activities without inhibiting its operations.

Mr. DOMENICI. I thank my good friend. That makes the provision of the law consistent, as I see it, with the statement of the managers on this issue. I have no further question about the report.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator.

The PRESIDING OFFICER. The question is on adoption of the conference report. The yeas and nays have been ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, sometime prior to the vote I would like to inquire either of the chairman of the committee or perhaps Senator Inouye as to what happened in the conference with respect to money that was in the bill for relief of the Cambodian people.

I am assured by staff that the full amount remains in the bill for that purpose despite the fact that foreign assistance was substantially reduced by the conference. I would like some assurance, because I cannot find any specific reference in the document that has been placed on our desk with respect to Cambodia.

Mr. MAGNUSON. Mr. President, on that matter we have funds for special migration and refugee assistance. And, it is my understanding that funds are available to take care of the Cambodian situation.

Mr. DANFORTH. So that the full amount that I think this matter was first dealt with——

Mr. MAGNUSON. I think the Long amendment over there cut the amount a little bit, but not too much.

Mr. DANFORTH. I wonder if we could verify that.

Mr. MAGNUSON. The Senator from Hawaii can address himself to that.

Mr. INOUYE. Mr. President, the $43 million that was in the continuing resolution is still in.

Mr. DANFORTH. I thank the Senator.

Mr. MAGNUSON. As I understand it, they still kept the Cambodian matter in.

Mr. DANFORTH. I thank the Senator very much.

Mr. GARN. Mr. President, I shall not delay the Senate long, because I know everyone is anxious to leave, but I have to express my disapproval of this supplemental for a very specific reason—the arrogant treatment by the House of Representatives of the Export-Import Bank. For 16 months, Senator Inouye and I have worked on this year's foreign appropriations bill as the chairman and ranking member of that subcommittee. We finished our bill last fall, under the budget. We worked with the House of Representatives in a conference until February. We had 75 different points of disagreement, which we resolved with them, and finished that conference report in February. It has never been adopted by either the Senate or the House. Therefore, the Export-Import Bank has been working on continuing resolutions.

As of last week, they only had $30 million left for loans and loan guarantees. So, in effect, they are out of business. We continue to lose sales of aircraft and other type of U.S. technology, and we have a very poor balance of trade to many other countries because of predatory financing—not because we do not have better technology and better equipment.

Senator Inouye and I added the conference report as an amendment. Last night, in the conference, over and over again, we tried to bring it to a vote. The House conferees would not allow it to be brought to a vote, kept delaying it until the middle of the night, when we were at the end of the rope and there were only crumbs left, and they were $600 or $700 million over.

We do not appreciate the way we were treated in the conference. It finally was resolved by sending it back in disagreement.

So the House, this evening, totally gutted the Eximbank, because I suppose it is politically popular to vote against foreign aid budgets. Mr. President, I have never, in the 6 years I have been in the Senate, voted for a foreign aid appropriations bill before. But the Eximbank is not foreign aid; it is domestic aid. It is helping sell American products in the international markets. That is what the House has arrogantly and stupidly done tonight, cut off the possibility of sales. We shall simply guarantee that other countries take those sales away from American business.

Then we shall have our House colleagues giving speeches about how terrible the balance of trade deficit is, how we have to do things to stimulate the sale of American products, Buy American—they will be out on the campaign stump doing that.

I hope every one of their constituents look at who is causing the problem, because it was much more politically popular to vote for every darn-fool social program last night. That is what we did in the conference, exactly what we did. We took the high side if it were the Senate's position and the high side if it were the House's position on all social programs and ran $700 milion over. Then we talk about American products' deficit of trade and they gutted it.

It is too late to do anything about it, Mr. President, but I hope they enjoy what they have done. If they think they had a tough conference this year, wait until next, because I am sure the chairman and I are not happy with the treatment we have had after 16 months of work.

Mr. President, I want everybody to know, particularly the House of Representatives, that this Senator will vote against this supplemental because of the priorities they have set in it and what they have done to American business. I hope they do not have the guts to go around giving speeches about how we have to do something about the balance of trade.

Mr. MAGNUSON. Mr. President, may I say to the Senator form Utah that we could not agree with him more, but we just face the fact that they did it and even they thought they should not have done it.

Mr. GARN. I say to the chairman that I understand that. That is why I make no more attempt to amend this bill. But after all this work, I was not going to sit here and be a nice little boy and leave it without its going into the Record so the House will know exactly what they did and who is responsible when there is no more money left in the till to finance the sale of American products overseas.

Mr. INOUYE. Mr. President, may I just say, "Amen."

Mr. President, I should like to take just a moment to discuss the action of the conference committee with respect to the Senate amendment, No. 344, which was adopted by the Senate by a vote of 79 to 3 last Friday evening.

Senators will recall that the amendment, which was offered by Senator Long and which I had the privilege to support, provided that it was the sense of the Senate that any change in the tax-exempt status of mortgage revenue bonds adopted after Senate action would not apply to bonds issued before January 1, 1981, provided proceeds from the bonds were committed within a year of their issuance.

In debate on the Long amendment, a number of us made the point that the House-passed bill, H.R. 5741, was unacceptable because of its being retroactive to April 25, 1979, the day its predecessor bill, H.R. 3712, was introduced in the other body.

It was further pointed out that the housing industry and related industries, including the timber industry, have been adversely affected by the sharp decrease in the number of new housing starts in America.

When the conference committee on H.R. 7542 met last night, the House members were unwilling to accept the Long amendment on the basis that an amendment expressing the sense of the Senate was inappropriate in a measure under consideration by both Houses of the Congress.

Reluctantly, the Senate conferees receded on the amendment, but insisted on inclusion in the conference report the following language:

> The conferees are agreed that this amendment expresses the sense of the Senate that any future legislation to restrict the use of tax-exempt state and local bonds issued to provide mortgages for housing would be effective only after January 1, 1981. The conferees on the part of the Senate emphasize that their conference action does not diminish the resolve of the Senate as expressed by amendment No. 344.

I call the attention of the Senate to the language contained in the conference report and I want to make sure that the record is clear on this point. The Senate, by its vote of 79 to 3 last Friday, has made clear its intent that this body will not accept the retroactive provisions of the House-passed bill. I think it important that the record reflect that position.

SUPPLEMENTAL APPROPRIATION AND RESCISSIONS CONFERENCE REPORT, FISCAL YEAR 1980

Mr. ROBERT C. BYRD. Mr. President, the conference report on H.R. 7542, which makes supplemental appropriations and rescissions for the remainder of the current fiscal year, provides almost $16.6 billion in budget authority for numerous Federal programs.

It is a very large and complex bill. The conferees were confronted with a formidable task when they met yesterday to resolve the differences between the House and Senate bills. There were over 300 amendments in disagreement. Numerous issues had to be resolved. The conferees worked under unusually difficult time constraints.

The list of programs already disrupted by delays had become familiar to all of us. The black lung program, which is very important to my own State of West Virginia, was in urgent need of supplemental funds. The Federal Emergency Management Administration (FEMA) disaster relief program and the Small Business Administration (SBA) disaster relief program are in urgent need of funds. For weeks, these two programs have not been able to respond adequately to natural disasters in almost every region of the country. Unemployment compensation provided under the Trade Adjustment Assistance Act ran out in early June.

Recognizing the very critical nature of this measure, the conferees took expeditious action on the conference report. They met yesterday afternoon and for nearly 12 hours they worked through every chapter, every amendment, to reach agreement on the final provisions of the bill. The conferees worked in a spirit of cooperation and compromise. Where the Senate could recede, it receded; where the House could recede, it receded.

The final product is a balanced and equitable measure which is within the limits of the new budget ceiling for fiscal year 1980. Some sacrifices had to be made. But at a time when the Congress is seeking to bring Federal spending under control—when it is committed to bringing the budget within balance—these sacrifices are necessary. The conferees understood that, and all were ready to make the necessary reductions to keep this measure within the budget ceiling.

I want to commend the distinguished Senator from Washington (Mr. Magnuson), chairman of the Appropriations Committee, for encouraging the conferees to persist in resolving difficult positions. The distinguished Senator from North Dakota (Mr. Young) is also to be commended for his efforts, as are all the conferees who worked through the many differences in the two bills.

I would also like to commend the House conferees, the chairman of the House Appropriations Committee, Mr. WHITTEN, and the ranking minority member, Mr. CONTE, for their seriousness of purpose and their efforts to reach agreement on the conference report.

Every agreement requires give-and-take. There was just such a spirit of compromise on the part of both the House and the Senate conferees. They deserve our thanks and appreciation for their hard efforts and fine work.

Mr. HATFIELD. Mr. President, during the House/Senate conference on the supplemental appropriations bill for fiscal year 1980, the House agreed to the Senate amendment appropriating $600,000 for Center for Disease Control activities relating to the health effects of the Mount St. Helens eruption in the Northwest.

The Senate report language also included earmarking $150,000 of the total $600,000 for the Health Sciences Center, of the University of Oregon, to plan a comprehensive study on the long- and short-term health impact of the eruption on human and animal life in the region as well as an assessment of the economic impact associated with the health problems. The report of the conferees contains no language regarding this specific earmark. But it was clearly the understanding of the conferees, particularly the chairman of the House subcommittee and you, Mr. Chairman, as chairman of the Senate subcommittee, that the Senate report language would prevail.

Mr. MAGNUSON. Yes, that is correct. The Senate language designating funds for the Oregon Health Sciences Center would take precedence and provide the basis for distributing funds accordingly.

Mr. HATFIELD. The Senate language also directed the Center for Disease Control and NIH to work closely with and assist the Health Sciences Center in developing and carrying out this plan in the coming months. Is that right?

Mr. MAGNUSON. Yes, that is right.

Mr. HATFIELD. I think the Senate report language as well as this colloquy give a clear directive to the various Federal agencies concerned of the legislative intent of this amendment and there should be no question as to how these funds will be allocated.

I know the chairman realizes the importance of immediate action to provide services to residents in the affected areas. He is well aware that the toxic effects of volcanic ash on the biological system is of great concern to all those living in areas impacted by volcanic activity. Under the direction of the Health Services Center, working with the Center for Disease Control and other health professionals in our two States, residents in Oregon and Washington will benefit from knowing that local institutions are deeply involved in health assessment programs in the region.

The chairman is to be commended for all his efforts on behalf of those touched by this awesome natural disaster in the Pacific Northwest.

FTC USED CAR RULE

Mr. HELMS. Mr. President, inasmuch as the supplemental appropriations conference report increases funding for the Federal Trade Commission by $1 million, it is relevant to note recent developments in the FTC's used car rulemaking proceeding.

As Senators know, with the passage of the Magnuson-Moss warranty—Federal Trade Commission Improvement Act in 1974, Congress directed the FTC to initiate a rulemaking proceeding dealing with warranties and warranty practices in connection with the sale of used cars.

In issuing this directive, Congress intended that the rulemaking focus on disclosure. Specifically, rules were to be developed requiring clear and concise disclosure that a used car was being sold without a warranty if such were the case. If a warranty were being offered, the rules would require information as to the nature, extent, and limitations of the warranty.

In keeping with its history of defying congressional intent, the FTC in 1975 proposed a rule mandating both inspections and warranties in connection with the sale of used cars. Responding to this blatant disregard for the expressed will of Congress, the Senate passed as part of the Federal Trade Commission Act of 1979 an amendment prohibiting the FTC from requiring a mandatory warranty or inspection in connection with the sale of a used motor vehicle.

Mr. President, House and Senate conferees on the Federal Trade Commission amendments agreed to remove from the bill the specific prohibition against the FTC's mandating used car warranties and inspections, saying:

> While the Conferees agree that the substance of the Senate amendment provided a correct statement of the limitations on the Commission's authority in this area, they believe it is unnecessary to restate existing law. Consequently, the Senate provision is deleted.

Simply stated, Mr. President, current law prohibits the FTC from requiring a mandatory warranty or inspection in connection with the sale of a used motor vehicle.

In the face of increasing congressional dissatisfaction, the FTC revised its proposed rule to technically eliminate the requirement for mandatory warranty or inspection.

Practically speaking, however, the newly proposed rule will still subject used car dealers to excessive Federal regulation and unnecessary financial burdens. The rule would require a dealer to give certain information about the condition of each of his used cars. I do not know how the FTC thinks a dealer can give this sort of information without inspecting the car.

Furthermore, if a dealer should say some aspect of the car is "OK," this representation would be treated as a warranty under the commercial law of most States.

I do not understand exactly how the effect of this rule would be any different from the effect of the original rule. It looks to me like the FTC is trying to get around the intent of Congress by making technical changes in the language of the rule that will not change the effect of the rule.

The FTC should realize that Members of Congress are monitoring the progress of the used-car rule. And the FTC should be prepared for disciplinary action by Congress should the final rule exceed congressional intent.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Vote! Vote!

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. ARMSTRONG. Will the Chair state the question?

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. ARMSTRONG. I thank the Chair.

The PRESIDING OFFICER. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from North Dakota (Mr. BURDICK), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Florida, (Mr. CHILES), the Senator from California (Mr. CRANSTON), the Senator from Iowa (Mr. CULVER), the Senator from Arizona (Mr. DECONCINI), the Senator from Nebraska (Mr. EXON), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Washington (Mr. JACKSON), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Nebraska (Mr. ZORINSKY), the Senator from Vermont (Mr. LEAHY), the Senator from Louisiana (Mr. LONG), the Senator from New York (Mr. MOYNIHAN), the Senator from Wisconsin (Mr. NELSON), the Senator from Georgia (Mr. NUNN), the Senator from Arkansas (Mr. PRYOR), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Massachusetts (Mr. TSONGAS), the Senator from Maryland (Mr. SARBANES), the Senator from Mississippi (Mr. STENNIS), the Senator from Illinois (Mr. STEVENSON), the Senator from Alabama (Mr. STEWART), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that if present and voting, the Senator from North Dakota (Mr. BURDICK), the Senator from California (Mr. CRANSTON), the Senator from Washington (Mr. JACKSON), the

Senator from Vermont (Mr. LEAHY), the Senator from Louisiana (Mr. LONG), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Connecticut (Mr. RIBICOFF) would each vote "yea."

Mr. BAKER. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Maine (Mr. COHEN), the Senator from Oregon (Mr. HATFIELD), the Senator from Pennsylvania (Mr. HEINZ), the Senator from North Carolina (Mr. HELMS), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Oregon (Mr. PACKWOOD), the Senator from New Mexico (Mr. SCHMITT), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), the Senator from Texas (Mr. TOWER), the Senator from Wyoming (Mr. WALLOP), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER), is absent due to illness.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote "nay."

The PRESIDING OFFICER. Is there any other Senator in the Chamber who desires to vote?

The result was announced—yeas 37, nays 19, as follows:

[Rollcall Vote No. 303 Leg.]

YEAS—37

Baker
Baucus
Biden
Bradley
Byrd, Robert C.
Cannon
Chafee
Church
Cochran
Danforth
Dole
Durkin
Eagleton
Ford
Gravel
Hollings
Inouye
Javits
Kassebaum
Levin
Lugar
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Pell
Riegle
Sasser
Schweiker
Stone
Warner
Williams
Young

NAYS—19

Armstrong
Boren
Boschwitz
Domenici
Durenberger
Garn
Glenn
Hart
Hatch
Hayakawa
Heflin
Humphrey
Jepsen
Percy
Pressler
Proxmire
Roth
Simpson
Thurmond

NOT VOTING—44

Bayh
Bellmon
Bentsen
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Chiles
Cohen
Cranston
Culver
DeConcini
Exon
Goldwater
Hatfield
Heinz
Helms
Huddleston
Jackson
Johnston
Kennedy
Laxalt
Leahy
Long
McClure
Moynihan
Nelson
Nunn
Packwood
Pryor
Randolph
Ribicoff
Sarbanes
Schmitt
Stafford
Stennis
Stevens
Stevenson
Stewart
Talmadge
Tower
Tsongas
Wallop
Weicker
Zorinsky

So the conference report (H.R. 7542) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. MAGNUSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will state the amendments in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 6 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

WATER AND WASTE DISPOSAL GRANTS

(Rescission)

Of the funds appropriated under this head in Public Law 96–108, making appropriations for fiscal year 1980, $10,000,000 are rescinded.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 7 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

RURAL DEVELOPMENT PLANNING GRANTS

(Rescission)

Of the funds appropriated under this head in Public Law 96–108, making appropriations for fiscal year 1980, $1,000,000 are rescinded.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 9 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: *Provided*, That these funds shall be available to pay for up to 90 percent of the costs of the emergency measures

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 10 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

WATERSHED AND FLOOD PREVENTION OPERATIONS

(Rescission)

Of the funds appropriated under this head in Public Law 96–108, making appropriations available for fiscal year 1980, $2,000,000 are rescinded.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 15 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: *Provided*, That none of the funds appropriated in this Act may be used for payments which exceed five cents per half-pint of milk served after September 1, 1980, which is served to children who are not eligible for free milk and which is served in schools, child care institutions, and summer camps participating in meal service programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 31 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $1,010,218,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 33 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $40,900,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 34 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: $8,400,000 shall be derived by transfer from "Research, development, test and evaluation, Navy, 1980/1981"; and $15,000,000 shall be derived by transfer from "Operation and Maintenance, Navy Reserve, 1980"

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 37 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $62,445,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 38 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert: and $9.600.000 shall be derived by transfer from "Research, development, test, and evaluation, Air Force 1980/1981".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 48 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: Of the amount appropriated in the appropriation, "shipbuilding and conversion, Navy", $96,800,000 which would expire for obligation on September 30, 1980 shall remain available for obligation until September 30, 1982. Funds provided in a Department of Defense Appropriation Act for "Shipbuilding and conversion, Navy", currently available for obligation, may hereafter be transferred within the same appropriation contained in such an Act between the subdivisions thereof, subject to the notification and approval procedures specified in section 734 of the Department of Defense Appropriation Act, 1980.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 53 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed to be inserted by said amendment, insert: or pursuant to the Refugee Act of 1980, or pursuant to the Immigration and Nationality Act,

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 54 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: Of the foregoing amount $50,000,000 shall become available on October 1, 1980. Funds appropriated in this paragraph shall be available solely for reimbursement to State and local governments for fiscal years 1980 and 1981 for cash and medical assistance and social services costs related to Cuban/Haitian entrants (status pending) only to the extent that such assistance shall become authorized under the Immigration and Nationality Act, the Refugee Act of 1980 or the International Security Act of 1980.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 67 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $16,997,900

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 95 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed to be inserted by said amendment, insert:

Resolved. That the House recede from its disagreement to the amendment of the Senate numbered 102 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed to be inserted by said amendment, insert:

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

(Rescission)

Of the funds appropriated under this head in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1980, $5,000,000 are rescinded.

Resolved, That, the House recede from its disagreement to the amendment of the Senate numbered 103 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed to be inserted by said amendment, insert:

RESEARCH AND DEVELOPMENT

For an additional amount for "Research and development", $4,000,000, to remain available until September 30, 1981.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 116 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

RESEARCH AND RELATED ACTIVITIES

(Rescission)

Of the funds appropriated under this head in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1980, $2,000,000 are rescinded.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 117 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SCIENCE EDUCATION ACTIVITIES

(Rescission)

Of the funds appropriated under this head in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1980, $2,500,000 are rescinded.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 119 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL DISASTER ASSISTANCE

For an additional amount to carry out the provisions of section 491 of the Foreign Assistance Act of 1961, as amended, $43,000,000, to remain available until expended.

DISABILITY FUND

For an additional amount for "Payment to the Foreign Service Retirement and Disability Fund", $1,020,000.

OPERATING EXPENSES

For an additional amount for "Operating Expenses of the Agency for International Development", $2,000,000, to remain available until expended.

ECONOMIC SUPPORT FUND

For an additional amount of $80,000,000 for necessary expenses to carry out the provisions of sections 531 through 535: *Provided*, That these funds shall not be available for obligation or expenditure until October 1, 1980.

Provided, That not to exceed $5,000,000 available under this head for fire suppression may be transferred to the Oregon and California Grant Lands appropriation: *Provided further*, That funds so transferred shall be reimbursed to fire suppression from amounts deposited to the Oregon and California Land Grant Fund at such time as available receipts exceed amounts necessary for western Oregon timber management.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 123 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: $45,000,000 shall not become available for obligation until October 1, 1980, and $15,000,000 are rescinded.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 131 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

DEPARTMENT OF ENERGY

ALTERNATIVE FUELS PRODUCTION

From the appropriation of $19,000,000,000 made to the "Energy Security Reserve" under this head in Public Law 96–126, an additional amount of $3,310,000,000 shall be immediately available to the Secretary of Energy for obligation to stimulate domestic commercial production of alternative fuels, of which (1) $3,000,000,000 shall be available until expended for (a) the purchase or production of alternative fuels by way of purchase commitments or price guarantees, and (b) a reserve to cover any defaults from loan guarantees issued to finance the construction of alternative fuels production facilities according to the provisions of the Defense Production Act of 1950, as amended (50 USC 2061 et. seq.) and (2) $310,000,000 shall be available until expended to support preliminary alternative fuels commercialization activities, to be apportioned as follows:

(a) not to exceed $100,000,000 shall be available for project development feasibility studies, such individual awards not to exceed $10,000,000: *Provided*, That the Secretary may require repayment of such funds where studies determine such project proposals have economic or technical feasibility;

(b) not to exceed $200,000,000 shall be available for cooperative agreements with non-Federal entities, such individual agreements not to exceed $25,000,000 to support commercial scale development of alternative fuels facilities: *Provided*, That the Secretary may require repayment of such funds when such facilities achieve commercial scale alternative fuels production;

(c) not to exceed $10,000,000 shall be available for program management.

For the purposes of carrying out the activities provided herein and activities provided under this head in P.L. 96–126 the provisions of 5 U.S.C. 553 and 42 U.S.C. 7191 shall not apply.

None of the funds provided under this head in this act and in Public Law 96–126 for purchase, price guarantees, or loan guarantees shall be available for biomass energy projects as defined by Section 203(2)(A) of S. 932, 96th Congress, except that of the $1,500,000,000 made available to the Department by Public Law 96–126 for purchase commitments or price guarantees, not to exceed $150,000,000 may be available only for such purposes to the extent authorized under title II, subtitle B, of the Energy Security Act (S. 932).

All provisions of Public Law 96–126 with regard to "Alternative fuels production" not expressly modified in this appropriation remain in effect and are applicable to activities provided for in this appropriation.

Upon the establishment of a "United States Synthetic Fuels Corporation" (the Corporation) projects or actions initiated by the Department of Energy with appropriations under this head shall transfer to the Corporation upon a Presidential determination that the Corporation is fully operational and upon a majority vote of the Board of Directors of the Corporation, except that funds obligated for feasibility studies, cooperative agreements, program management, and projects which do not meet the definitions of eligibility for funding as synthetic fuels projects in the Corporation shall remain with the Department of Energy: *Provided*, That (1) projects meeting the eligibility criteria for funding by the Corporation for which funding has been obligated or committed by the Department of Energy may be adopted by the Corporation as if they had been entered into by the Corporation (for the purposes of such transfers only, the Corporation shall adopt the terms of such projects, established by the Department of Energy, using the authorities of the Department of Energy regardless of whether the Corporation would otherwise have authority to do so); and (2) accepted proposals for loan guarantees, price supports, and/or purchase commitments for which financial assistance is not provided by the Department of Energy shall be considered as responses to a solicitation of the Corporation to the extent they meet the eligibility criteria for funding by the Corporation.

Unexpended balances of funds obligated for projects shall transfer to the Corporation to the extent such projects and activities are transferred to the Corporation as provided herein.

DEPARTMENT OF THE TREASURY

ENERGY SECURITY RESERVE

To carry out the provisions of title I of the Energy Security Act (S. 932, 96th Congress) and for other purposes authorized by title II of S. 932, not to exceed $18,792,000,000, to remain available until expended, of which (1) $13,482,000,000 shall be derived from amounts in the Energy Security Reserve established pursuant to the Department of the Interior and Related Agencies Appropriations Act, 1980 (Public Law 96–126), and (2) not to exceed $5,310,000,000 shall be derived by transfer of the balance of the amounts not committed or not conditionally committed which are appropriated by this Act and by Public Law 96–126 from the Energy Security Reserve to the Department of Energy, such transfer to occur on June 30, 1981, to permit the Department to pursue an aggressive interim program of loan and price guarantees and purchase commitments.

The total available funding (including funds committed or conditionally committed under authority of Public Law 96–126) shall be apportioned so as to provide $17,522,000,000 for purposes of title I, of which $6,000,000,000 shall be immediately available, $6,212,000,000 shall be available for obligation June 30, 1982, and up to $5,310,000,000 shall be derived by transfer as provided above; and to provide $1,270,000,000 for purposes of title II, to be immediately available and to be apportioned as follows:

(i) not to exceed $525,000,000 to the Secretary of Agriculture for the purposes of subtitle A;

(ii) not to exceed $525,000,000 to the Secretary of Energy for the purpose of subtitle A: *Provided*, That no funds shall be available to the Secretary of Energy for projects as defined by section 212(a)(1)(A) of S. 932; and

(iii) not to exceed $220,000,000 to the Secretary of Energy for purposes of subtitle B.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 133 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $4,000,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 136 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $10,000,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 138 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $1,000,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 152 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: to reimburse State or local expenditures made prior to October 1, 1977 unless a request for reimbursement had been officially transmitted to the Federal government by the State within two years after the fiscal year in which the expenditure occurred

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 155 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: *Provided further,* That notwithstanding any other provision of law, not to exceed $75,000,000 shall be used for training activities under this heading for fiscal year 1980

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 158 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: and $14,750,000 of the amount appropriated for the purposes of part B of the Headstart-Follow Through Act

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 166 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: and $15,000,000 appropriated for title VII, part E

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 168 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SPECIAL PROJECTS AND TRAINING

(Rescission)

Of the funds provided for "Special projects and training" for fiscal year 1980 in Public Law 96–123, $5,000,000 appropriated for the purpose of the Career Education Incentive Act (Public Law 95-207) are rescinded.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 192 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $21,500,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 193 to the aforesaid bill, and concur therein with an amendment as follows;

In lieu of the matter proposed by said amendment, insert: of which $12,000,000 shall be derived by transfer from funds appropriated for the Culebra Weapons Range by Public Law 93–194 (87 Stat. 766),

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 194 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert: *; Provided,* That the limitation on the amount available for study, planning, design, architect and engineer services is increased by $14,000,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 196 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

MILITARY CONSTRUCTION, AIR FORCE

(Transfer of funds)

For an additional amount for "Military construction, Air Force, 1980/1984", $7,000,000, of which $4,000,000 shall be derived by transfer from funds provided for NATO infrastructure, "Military construction, Defense Agencies, 1980/1984"; and $3,000,000 from funds appropriated for the high energy laser research facility at White Sands, New Mexico, to remain available until September 30, 1984: *Provided,* That the limitation on the amount available for study, planning, design, architect and engineer services is increased by $7,000,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 204 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by the said amendment, insert: $4,233,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 205 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by the said amendment, insert: of which $233,000 shall be derived by transfer from Office of Justice Assistance, Research, and Statistics, "Law enforcement assistance".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 218 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by the said amendment, insert: $4,439,446

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 223 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by the said amendment, insert:

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for "Economic development assistance programs", $5,000,000, to remain available until September 30, 1981, notwithstanding the provisions of section 105 of Public Law 96–86 and section 105 of Public Law 96–123.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 237 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by the said amendment, insert: the Secretary of Transportation, subject to the prior approval of the House and Senate Committees on Appropriations, is authorized to transfer an amount not to exceed $1,500,000 to the U.S. Coast Guard appropriation Retired Pay from any available appropriation to meet additional Retired Pay costs which may be increased in fiscal year 1980.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 244 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by the said amendment, insert: $60,000,000 are rescinded: *Provided,* That of the funds appropriated under section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976, an additional $15,000,000 may be used for transaction assistance in accordance with section 505(h)(1)(A) and (B), as amended by the Rock Island Railroad Transition and Employee Assistance Act, except that the dollar limitations contained in those subsections shall not apply to the $15,000,000: *Provided further,* That the $15,000,000 shall be available only upon the enactment of authorizing legislation and shall not be expended prior to October 1, 1980

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 246 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by the said amendment, and insert:

INTERSTATE TRANSFER GRANTS

(Disapproval of Deferral)

The Congress disapproves the proposed deferral D80–72 relating to Urban Mass Transportation Administration, Interstate Transfer Grants, as set forth in the message of June 18, 1980, which was transmitted to the Congress by the President. This disapproval shall be effective upon the enactment into law of this bill.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 304 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by the said amendment, insert: $23,487,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 316 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by the said amendment, insert: "Office of Consumer Affairs", $43,000;

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 339 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter striken by the said amendment, and insert:

Sec. 303. Notwithstanding any other provision of law, the number of career appointees in any agency paid performance awards during fiscal year 1980 under 5 U.S.C. 5384, or any comparable personnel system established on or after October 13, 1978, may not exceed 25 percent of the number of Senior Executive Service or comparable personnel system positions in any such agency.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 340 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 304. (a) Out of the total money appropriated for the operation of the departments and agencies of the Federal Government for fiscal year 1980, $220,000,000 of this total appropriated for the purchase of furniture is hereby rescinded. Excluded from this rescission are furniture items produced by Federal Prison Industries, Inc., or by sheltered workshops for the blind and other severely handicapped under the auspices of Public Law 92–28: *Provided,* That such items are fully justified by agency needs. The Director of the Office of Management and Budget is directed to allocate this rescission total among the departments and agencies of the Federal Government and report back to the House and Senate Committees on Appropriations within 30 days following the date of the enactment of this Act as to the allocation made: *Provided,* That no allocation shall exceed 25 percent of said amount.

(b) With respect to the provisions of the Treasury, Postal Service, and General Government Appropriations Act, 1980, under the heading General Services Administration, Federal Buildings Fund, Limitations on Availability of Revenue, the aggregate amount made available from the revenues and collections deposited into the Federal Buildings Fund pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 4901(f)), for the purposes set forth in the provisions contained under such heading is reduced by $15,000,000, which reduction shall apply specifically to the limitation on rental of space under clause (4) of such provisions.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 341 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: 305

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 342 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: 306

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 343 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: 307.

Resolved, That the House insist upon its disagreement to the amendment of the Senate numbered 118.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that it be in order to move that the Senate concur in the amendments of the House to the amendments of the Senate which are in disagreement en bloc.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object, I wish to be heard on No. 95. I have no feeling about the remainder of the amendments.

Mr. MAGNUSON. I will ask except No. 95.

The PRESIDING OFFICER. Amendment No. 95 will be excepted. Is that acceptable?

Mr. JAVITS. All right, unless someone else has something else.

The PRESIDING OFFICER. Is there objection to considering the amendments en bloc except No. 95?

Mr. THURMOND. Mr. President, I wish to know what they are.

Mr. MAGNUSON. Mr. President, I move that the Senate concur en bloc to the amendments of the House to the amendments of the Senate, except No. 95.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Washington.

The motion was agreed to.

The clerk will state amendment No. 95.

The legislative clerk read as follows:

The House recedes and concurs with amendments to Senate amendment No. 95.

Mr. JAVITS addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, first can we find out from the manager or perhaps the chairman of the subcommittee what they did? From looking at the facts and figures, as we have them the House of Representatives has taken all additional money away from the Eximbank. I wish to know whether that is true or whether it is not.

Mr. INOUYE. Mr. President, the House of Representatives adopted the continuing resolution. In addition to that $2 million for operating expenses, $1,020,000 to cover the retirement fund, $43 million for the disaster fund, and $80 million to be available October 1 for Nicaragua and Honduras.

Mr. JAVITS. Do I gather from Senator INOUYE that by exclusion the Bank has no money with which to make loans?

Mr. INOUYE. The Bank, I have been advised, has $25 million available for loans at this moment.

Mr. JAVITS. Million?

Mr. INOUYE. Million.

Mr. JAVITS. What are its commitments?

Mr. INOUYE. They have requests for about 3 billion dollars worth.

Mr. JAVITS. In commitments. Can the Senator from Hawaii explain to us, because I have enormous regard for him, though it is late at night, why we should take this in view of the fact that this country is suffering from a very serious imbalance in its payment? It is suffering from a very serious problem of trade. The Eximbank finances foreign trade. I am myself a member of the Export Council and I believe my friend and colleague is a member of the Senate Export Caucus trying to sell goods abroad. And here we are cutting the valuable program because the House of Representatives wants to go home tonight and we want to go home.

I mean, how can we do that and stand by and let this happen? What do Senators propose that will permit us to take this action?

I have no desire to tie up the House of Representatives or the Senate. But it just seems to me outrageous and highly improvident.

Mr. INOUYE. I think the proper word is "outrageous." We did try our best, as the Senator from New York is aware.

I yield at this time to my distinguished colleague from Utah who was in the forefront and has always been in the forefront as far as the Eximbank is concerned.

Mr. GARN. Mr. President, I will not repeat my earlier speech. I think most Senators heard it.

The only possibility I see tonight is the suggestion from one of our House colleagues that we add back in $340 million, and that is way below what we tried to put back in, raising the level back to $6 billion for the year. He did not know whether the House of Representatives would accept that or not. He thought it was the maximum they would accept, and it is only a token. It is like offering them a nickel or a dime.

So whether it is worth putting the Senate and the House of Representatives through an exercise tonight over that amount I do not know.

If the Senator desires to have a vote adding that, we can have the amendment prepared, and I have already expressed my strong feelings about what the House of Representatives has done.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. GARN. I am happy to yield.

Mr. JAVITS. We wish to give them the right figure. What is the figure we sent over there in the conference report?

Mr. GARN. $5 billion.

Mr. JAVITS. Then we should insert $5 billion, and I will tell the Senator why. Again, like some here——

Mr. MAGNUSON. Mr. President, will the Senator from New York yield?

Mr. JAVITS. May I just give my thinking?

Mr. MAGNUSON. I know the Senator is going to give his speech.

Mr. JAVITS. All right. I yield.

Mr. MAGNUSON. But there are other things involved in this huge bill. There is $16 billion involved in this bill, and I do not like what they did on the Export-Import Bank, but we have to pass this bill.

I told the Senator from New York, who came up here to my desk. I said I am going to introduce a supplemental to take care of the Export-Import Bank, separate it, and I think we will get it done. I think the House of Representatives will vote for it. I think the Senate will vote for it.

Why hold this up on one issue?

Mr. JAVITS. Mr. President, no one respects the Senator from Washington more than I, but $5 billion and $16 billion are not inconsiderable sums.

And the speech I was going to make, which would have lasted for exactly 2 minutes, was meant to say this, if I may continue.

Mr. MAGNUSON. All right.

Mr. JAVITS. They have done this to us year after year. They have shamefully deserted their post of duty and held us ransom because they were going home.

Let them go home and take the responsibility for what they do. Let them go home and leave the Eximbank without any money.

If that is the way they are going to operate let them account for it to the country. They are running just as many of us are.

That is my speech.

Mr. MAGNUSON. All right.

Mr. GARN. Mr. President, I believe I still have the floor.

I thank the distinguished Senator from New York for his support and I wish to just clarify that when we say $5 billion, we are talking about authority there, and all we are talking about in budget outlays the remainder of this year is $138 million in actual outlays. That makes it even more shameful. The $5 billion is deceiving. There are only $138 million in outlays.

So I am perfectly willing to add it back in and send it back over to them, but leave that to the judgment of others.

Mr. PERCY. Mr. President, will the Senator yield for a brief comment?

Mr. GARN. I am happy to yield.

Mr. PERCY. Mr. President, I think we ought to make it a matter of record that we are not just talking about a bank. We are talking about a bank that makes money. We are talking about investments. We are talking about jobs at a time of very high unemployment. I cannot think of anything that would do more to stimulate jobs in this country than to do this and support the bank. I cannot think of anything that would just cut the legs out from under us, and certainly when you take into account the range of companies that rely upon the Export-Import Bank, when you take into account the way Japan and Germany carry out actions that back up their industry, and for us, the greatest capitalist country on Earth, to undermine the whole free enterprise system just because everybody wants to go home, I think we ought to stay here and stand here until we have some commitment or some other way to resolve this question in time so that we do not give up the business and the jobs this country needs.

Mr. GARN. I would be happy to yield to the minority leader. But I will just say we will see a lot of airbuses flying through Seattle if we do not take care of this one way or another.

Mr. BAKER. Mr. President, I have not heard a single person here tonight who has spoken in agreement with the action by the other body in deleting the funds for the Export-Import Bank. I do not know what the head count would be if we had a rollcall on this amendment to restore $100 million or $300 million or $5 billion, but I expect the Senate would support that overwhelmingly, and, Mr. President, I would support that. I would urge Republicans to support that.

I think this is a dreadful thing that has happened. You have interrupted—we are on the brink of interrupting—one of the most valuable programs we have in terms of the future prospects and economic solvency of this country.

But, Mr. President, we have another problem, and that is how are we going to resolve this issue tonight with this supplemental with this conference report and these items in disagreement?

I listened with great care to the remarks of the distinguished chairman of the Appropriations Committee, and if I understood him correctly, he made the representation that as soon as we return, shortly after we return, I judge that to be a matter of days, that he would introduce an urgent supplemental to restore an appropriate amount of money for the Export-Import Bank.

I am authorized to speak on behalf of the distinguished ranking member of the Appropriations Committee, Senator Young, who has indicated that I may say he would join with the chairman of the Appropriations Committee in such a measure.

That is incomplete redress. That does not undo the damage that has been done. But, Mr. President, I urge that we consider at least that that is the Senate's remaining practical initiative. There are other things we can do procedurally, but I urge that that is our practical remaining initiative, and I believe then, Mr. President, we should accept at face value the assurances given by the chairman and the ranking member, and I will add to that my own assurance that we will see that that is done as promptly as possible.

Mr. GARN. Mr. President, will the Senator yield?

Mr. BAKER. You have the floor, you yielded to me.

Mr. GARN. The only problem with that is there will not be sufficient room within the budget resolution to accommodate this urgent supplemental. I am afraid that even with the assurances of the chairman and the ranking member, we are going to be back in the same box, and the Export-Import Bank will be at the bottom of the barrel, and there simply will not be any budget authority or outlay authority left to accommodate that emergency supplemental.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. GARN. I yield the floor.

Mr. MAGNUSON. Wait a minute, the Budget Committee is going to meet for the next budget resolution.

The PRESIDING OFFICER. Will the Senator from Washington use his microphone?

Mr. MAGNUSON. The Budget Committee is going to meet again for the budget resolution, and I am sure that with the expression of sentiment here tonight the Budget Committee is going to make room for this. I am sure they will. The Budget Committee is not through. They still have another resolution to come up with, and I am sure they are going to make room for it.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. MAGNUSON. Listen, I am on the Budget Committee, too, you know. I am the ranking member. I do not speak too much about it, but I am the ranking member. [Laughter.] I am sure the Budget Committee is going to take care of this item.

But my point is that we cannot hold up this bill, which includes everything, big items, over this one issue.

Mr. GARN. Mr. President, if you did not hear, I have yielded the floor.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, I agree with everything the distinguished Senator from Tennessee said. We can pass overwhelmingly a motion with respect to the Export-Import Bank, but I do not know anything that would more encourage and enthuse the particular majority that now is reigning on the House side to reject it even further.

Let us go back to exactly what has occurred.

The talks by the Senator from New York, the Senator from Illinois, and the Senator from Utah would infer that we have not made the good try. The truth of the matter is that the best, the most moving, plea I have ever heard for understanding and help for the Export-Import Bank, was made about 2:15 this morning by the Senator from Hawaii. We were sitting there in conference, the Presiding Officer, the Senator from Wisconsin, myself, and others, and Danny Inouye laid it on the line. The House was not going to regard or even consider anything about the foreign operations appropriations. That was it. Foreign affairs was out, and they were not going to have anything done.

It was due to the leadership of Senator Inouye on that conference committee that he got the House to take it up, in spite of the feeling of the majority of the conferees on the House side not to take this matter and not to include it. We were in communication with the Appropriations Committee over on the House side earlier today, and the word was, "We will take this foreign operations matter up, we will pass it, we will have it to you in an hour's time." That is when everybody said we were going to leave here about 4:30 or 5:30. Well, they did. They took it up and they made the appropriation for it. Then they got down to revenue sharing and one of the House Members stood up and said, "Well, now, you have taken the money from the States and sent it to Nicaragua," and the foreign operations agreement blew up in their faces, and they had to move to reconsider.

The Export-Import Bank was not casually treated or callously treated. There are many on the House side who want the same thing. They understand the wisdom of the program. But the fact remains that they had to move to reconsider in order to save the bill. That is what they had to do, or they were not even going to get a bill up there this afternoon. So do not kid yourselves about passing great calls for loyalty and strength and power, and that we are going to show them about our concern. That is hooey. They worked at it. Danny Inouye convinced them to work at it. I think they have done the best they are going to do this particular hour. You can go ahead and send an Eximbank amendment over, but it is not going anywhere, and we are not going to have it done on this particular supplemental.

Let us get to work on a new bill with the leadership on the House side, and get one passed through the House.

All this excitement about how we are responsible and we are going to do our duty and we all are, for the Export-Import Bank: We are just playing in the air, I can tell you that. We are going to have to have a separate bill and do it first on the House side. Senator Inouye has done an outstanding job. He got it as far it could go at this particular time.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. HOLLINGS. I would be delighted to yield.

Mr. DOMENICI. I heard the distinguished minority leader, and everyone knows I have the greatest respect for him, and I heard the chairman of the Appropriations Committee speak to this issue and suggest that we just go ahead and pass this and we will have another resolution on a separate item to fund the shortcomings of the Export-Import Bank.

Well, let me just tell you that is a lot more difficult than you might think. We are already tonight, when we vote on this issue, voting on the third concurrent resolution for the budget process for 1980.

We put that in the first concurrent resolution for 1981. We have $46 million in outlays left in this third concurrent budget resolution which added $25 billion in outlays to what we agreed on just a few months ago to be the budget for this year.

Now, what you have to do if you are going to pass another bill all by itself and another resolution, you have to break the bank, you have to have the first time in history that we are going to a fourth concurrent resolution for whatever number of dollars it is. And the budget authority is about $346 million that is left, and that will not do what we are talking about.

The distinguished chairman of the Appropriations Committee—and I have the greatest respect for him—says the Budget Committee is going to have another resolution. Well we are talking about the resolution for 1981 that is coming up in September. There is not any plan between now and then to change the budget again for 1980, the year we are in.

Mr. MAGNUSON. There is no reason why you cannot.

Mr. DOMENICI. There is no reason whatsoever.

Mr. MAGNUSON. It is not against the law, is it? Senators can meet up there again if they want to.

Mr. DOMENICI. There is no question, I say to the chairman, that we can. I am merely suggesting to the Senate——

Mr. MAGNUSON. It would be difficult.

Mr. DOMENICI. And it will be precedent setting. It will not be like we found a resolution that there was a few million dollars short. This will be the fourth time we have changed the resolution for 1980 if we have to come through again. And that would be in advance of the second concurrent resolution for 1981.

I am not suggesting what you should do. I am merely suggesting that Senator Javits and those who think the Eximbank has been underfunded as a matter of policy and that perhaps the House has put us in a position we do not want to be in, that we ought not consider it to be an easy way out to send them back what they want because, in a few days or weeks, we can fund the Eximbank, because it will break the budget and we will have to go through a fourth resolution for 1980.

That is the only point I make. It can be done. It is provided for under the law. I am certain that, in great national emergencies, we will have third and fourth and fifth resolutions modifying what we have already done. I just wonder if that is where we are here tonight.

Mr. JAVITS addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, I listened with rapt attention to the views of the distinguished chairman of the Budget Committee and for whom I have great regard and personal affection.

What I fail to hear is what he suggests we do. I fail to hear that.

This is the situation as I see it: The House has as many hostages to fortune in this conference report as the Senate. They have many constituents who are going to benefit or be hurt by the fact that this conference report is not approved tonight. That is all right. They have to face it. And they are not facing it and we are allowing them not to face it.

The second point: I have been here before in exactly similar situations. What is missing with respect to what has been proposed is the necessary support laterally of not only the leadership here—we have not heard from the majority leader—as I say, we have not heard what Senator Domenici called for from the chairman of the Budget Committee, to wit, that the Budget Committee will facilitate, at least in the Senate, what Senator Magnuson proposes; nor is it unusual, at an hour like this and in this situation, for our leadership to talk to the Speaker and the leader of the majority and minority in the other body and let us find out really whether we have at least the authoritative backing of those who lead in what we propose to do.

But just to go home and close up shop and let it go at that on the idea that one distinguished Member, the chairman of our Appropriations Committee—whom we all love, really—is going to bring in a resolution when we come back, that is very laudable, but it does not get any money for the Eximbank unless a lot of other people cooperate.

I think we ought to ascertain at least something about that before we let go of this issue. It is very significant to me.

I understand that the House Members have not gone home. They are still around. They are not so sure that this conference is going to get all buttoned up the way they like it and, indeed, some of them are here and we welcome them. But this is far from a sure shot, as far as they are concerned.

Mr. President, under those circumstances, I ask a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Is there any time limitation on this debate?

The PRESIDING OFFICER. There is no time limitation.

Mr. JAVITS. May the Senator from New York suggest the absence of a quorum?

The PRESIDING OFFICER. The Senator may, indeed.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have been having some discussions with Mr. Javits and I am prepared to yield to him, while I retain the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New York.

Mr. JAVITS. Mr. President, I have been talking with our leaders and with Senator Magnuson and the chairman, the ranking members of the Budget Committee, and I felt that with the stakes involved here, and they are very great for many people on many issues, I felt we ought to have at least some basic assurances that we are to get on this thing, and that when the chairman of the Appropriations Committee brings in an urgent supplemental, at least the configuration is auspicious that we will get it done here in the Senate and that our leadership will be a unit in seeking to get it done in the House.

I felt under those circumstances, as far as I was concerned, in considering the many equities which are at stake, that I would stand aside.

So I am very hopeful that Senator Baker may return momentarily to the Chamber and that we may hear from our own leadership.

I felt that I have great confidence in them, have worked with them for years, and I have had certain deference to their view in running this place, too.

So I felt at this moment that had to be upper and I turn to them as colleagues in the expectation they will respond, and I hope they do.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. I thank my friend from New York.

Mr. President, I will not repeat at length the statement I made earlier, except to say that I am as disappointed as anyone in the room, perhaps, that we have come to this position, because I feel that it is, indeed, urgently necessary that we restore funds for the supplemental.

I have previously represented to Senator Javits, Senator Garn, and others who have a jurisdictional and particular interest in this matter, that I will exert any persuasion I can and make every effort I can to see that as soon as we return after the July 4 recess that we proceed to try to supply funds for the Export-Import Bank.

Obviously, there are problems, procedural and substantive, that we must deal with.

I expect we cannot fully discuss and agree on this tonight. There are a number of alternative possibilities.

But I reiterate the commitment I made earlier that I will do my dead level best and attempt to cooperate with the majority leader to the maximum extent to see that this end is accomplished.

I would add only, Mr. President, that I have been authorized by the ranking Republican on the Appropriations Committee (Mr. Young) to say on his behalf that he, too, will join in that effort as soon as we return to provide in the form of an urgent supplemental and the transfer of funds, and whatever device is available to us, to provide funds for the Eximbank and to accommodate this serious problem.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. GARN. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield to the Senator.

Mr. GARN. I thank the majority leader.

Mr. President, I say that after 16 months of working on this, there is a considerable amount of frustration.

I say two things. First of all, I thank the distinguished chairman of the subcommittee, whom I have had the privilege of serving with for the last 2 years, for backing me on this effort for these 16 months.

Not once did he ever back off in the attempt to fund Exim, and tonight I suppose both he and I were a little bit tired after 16 months of battle.

I would like to thank the distinguished Senator from New York for a spirited defense of the Eximbank and his help in trying to do something for us tonight.

I thank him very much.

Mr. ROBERT C. BYRD. Mr. President, first, I wish to express my admiration and respect for Senator JAVITS and the other Senators who have expressed their concern about the turn of events.

I never have been a great supporter of "foreign aid," but I recognize that while this country, over the years, may have been somewhat promiscuous in some of its foreign aid programs, it remains a fact that some of the assistance this country gives to other countries is in the best interests of our own country and it is in the interests of our national security. It is a little hard for some people to understand that. It is a little hard for me to try to explain sometimes, but I recognize it.

I can understand how appealing it is to stand and say, "Let's take it off foreign aid and give it to the States for revenue sharing." I also understand that 48 States have reduced their income taxes or their sales taxes in the last few years; that more than 30 States already have appealed to Congress to support a constitutional amendment to balance the budget; that while they continue to ask the Federal Government, which runs a deficit, not to reduce its funding to the States of the program we refer to as revenue sharing for the States, 45 States will have a surplus, and no State had a deficit last year and no State is expected to have a deficit this year; that the accumulated unobligated balance for the States is $9.9 billion, while the Federal Government will run a deficit for fiscal year 1980 amounting to somewhere between $40 billion and $50 billion.

Also, the States that implore the Federal legislature to go for a constitutional amendment to balance the budget continue to run their surpluses and implore their Representatives here to continue the handout of Federal funds for State revenue sharing.

So it is an appealing argument that, as against "foreign aid," we should continue to send the States the revenue sharing to which they have been accustomed and which they are expecting for the remainder of this year.

Mr. President, I am not one of those who supported the State revenue sharing. I believe it is about time we cut it out and recognize that the Federal Government, which does not have a surplus, should begin right there and cut out the State revenue sharing, because States are imploring the Federal legislature to balance the budget.

I used to receive a lot of letters to balance the budget. We have attempted to balance the budget, and the mail has fallen off. It used to be that one out of every 10 letters wanted to balance the budget; then it became one in every 32; then one in every 50; then one in every 88; and last week I received 607 letters on the budget, and not one asked for a balanced budget. When you start to cut their share, they do not want to balance the budget. So we are seeing this come home to roost.

Mr. President, I am going to do everything I can to rectify this mistake that has been made. It would be a mistake to send this conference report back to the House tonight. In the first place, we probably do not have a quorum. Forget about whether the House has a quorum or not. The Senate does not have a quorum. I would not want to bet on it. I would not want to bet that the Senate has a quorum right now.

Let us say we send it back. The House will not be able to do a thing about it until next Tuesday, and it would be a mistake to send this conference report back. In the first place, we do not have a quorum. We will be forced to come back here tomorow, under the rules. If we have a rollcall vote at this time and do not have a quorum, we have to come back tomorrow. We do not have an order for a time to convene, so the Senate would have to come at 12 o'clock tomorrow.

For what? The House will not be back until Monday, and only for a pro forma session then. The House cannot do a thing about this until next Tuesday, but we will be back tomorrow if we have a rollcall vote and do not have a quorum. We will have to come back and establish a quorum.

This means that some Senators who have gone to their States, on the assurance that the Senate would go out at the close of business today until next Monday, will have to return. And for what? We cannot do a thing tomorrow.

We can send this conference report back to the House tonight, but we cannot do a thing about it tomorrow, except to do what we have to do, and that is establish a quorum, and then go out again. Next Tuesday, when the House comes back, maybe—maybe—they will have a quorum.

So I say it will be a serious mistake to attempt to take any action on this particular conference report with reference to this item, and I hope the Senate will not force itself to come back tomorrow to do nothing.

I give the Senator my assurance—and may I say that I have talked with the majority leader in the House, Mr. WRIGHT, and he has given me assurance—that on the 21st of July, when the House comes back, they will take up, on that Monday, a bill on the Eximbank.

The Senator has my assurance that so far as I am concerned personally, I will do everything I possibly can to rectify this mistake.

I believe that when the people of this country understand that we are tampering with the national security interests of this country and the best economic interests of the country, that we are dealing with jobs and balance of payments and bread and butter, they will want to see this action corrected.

I cannot do any more than express to the Senator my dedication to getting this done. The distinguished chairman has given his assurance. The chairman of the Budget Committee has stated his assurance and has stated, quite correctly, that it would be very unwise to attempt to send this conference report back to the House and expect to get this action rectified on this conference report while we hold up all the other urgent funds. We would be cutting off our nose to spite our face.

The objective should be to try to get something done to correct the error that has been made by the other body. We do not correct that error by making the situation worse. We do not correct that error by keeping beneficiaries of black lung from receiving their payments, from keeping unemployed individuals who have been thrown out of their jobs from receiving what amounts to unemployment compensation under the trade assistance law, or from keeping the people in the South and West who have been victims of disasters caused by floods from getting relief, or from keeping the people who have suffered the disaster created by Mount St. Helens from getting their relief.

We do not serve the country if we compound the wrong that has already been committed.

So I give the Senator my assurance and on top of that I have the assurance of the majority leader from the House of Representatives who I know intends to do what he has said he will do. I believe in JIM WRIGHT. He recognizes what has happened and the necessity for correcting and rectifying what has been done.

So I have confidence in the House leadership. I hope that the Members of the Senate will have confidence in the joint leadership of the Senate, and I do not know what more our colleagues could ask for. I hope that they will accept the assurances that have been given and complete the action on this conference report posthaste and go home.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. JAVITS. Mr. President. I can only utter two words. That is I do. I do accept the majority leader's assurances and those of the other Senator's involved and of my own minority leader.

Mr. ROBERT C. BYRD. I thank the Senator from New York.

Mr. MAGNUSON. Mr President, I wish to reiterate to the Senator from New York that I also earlier talked to the majority leader in the House of Representatives. I talked to two Republicans, and they were very concerned about this and they agree they will do something about it.

I wish to make the record straight. No one is for the Export-Import Bank operations more than I am. I have really a parochial interest. I think Boeing Aircraft Co. sells more airplanes through the Export-Import Bank loans than any other corporation in the country, and they do more to balance the trade deficit than any other company also.

So I wish to assure Senators that I will do my part as ranking member of the Budget Committee and as chairman of the Appropriations Committee.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. MAGNUSON. I yield.

Mr. JAVITS. I say the same thing to him I said to Senator ROBERT C. BYRD. I do accept it.

The PRESIDING OFFICER. The question is agreeing to the motion to concur in the House amendment to the Senate amendment No. 95.

The motion was agreed to.

The PRESIDING OFFICER. The clerk

will state the last amendment in disagreement.

The legislative clerk read as follows:

The House insists upon its disagreement to Senate amendment numbered 118.

The PRESIDING OFFICER. The Senator from Washington.

Mr. MAGNUSON. Mr. President, this is the revenue sharing amendment and no cut in revenue sharing was agreed to by the House of Representatives

I move the Senate recede from its amendment No. 118.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Washington.

The motion was agreed to.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. INOUYE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I thank the Members of the Senate on both sides of the aisle for the work that has been done and for their consideration of the problems that confront the leadership.

SENATE CONCURRENT RESOLUTION 107—PROVIDING FOR A RECESS OF THE SENATE FROM JULY 2 TO JULY 21, 1980, AND AN ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES FROM JULY 2 TO JULY 21,1980

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a concurrent resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the concurrent resolution.

The legislative clerk read as follows:

S. CON. RES. 107

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses on Wednesday, July 2, 1980, it stand in recess until 11 o'clock a.m. on Monday, July 21, 1980, and that when the House adjourns on Wednesday, July 2, 1980, it stand adjourned until 12 o'clock noon on Monday, July 21, 1980.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, there is a little work that remains to be done.

May we have order in the Senate?

The PRESIDING OFFICER (Mr. BAUCUS). The Senate will come to order.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore in accordance with Public Law 94-201, appoints Dr. Ronald Clifford Foreman, Jr., of Florida, to the Board of Trustees, American Folklife Center, for a 6-year term beginning March 9, 1980.

ORDER AUTHORIZING THE VICE PRESIDENT AND THE PRESIDENT PRO TEMPORE TO TAKE CERTAIN ACTION DURING THE RECESS OF THE SENATE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the recess, the Vice President and the President pro tempore be authorized to make appointments to commissions or committees authorized by law and act on concurrent action of the two Houses or by order of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

OCEAN THERMAL ENERGY

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 7474.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the text of the bill (H.R. 7474) entitled "An Act to provide for an accelerated research and development program to achieve early applications of ocean thermal energy conversion systems, and for other purposes", with the following amendment:

Page 13 of the Senate engrossed amendments, strike out all after line 18 over to and including line 12 on page 14, and insert:

SEC. 10. (a) There is hereby authorized to be appropriated to carry out the purposes of this Act the sum of $20,000,000 for operating expenses for the fiscal year ending September 30, 1981, in addition to any amounts authorized to be appropriated in the fiscal year 1981 Authorization Act pursuant to section 660 of Public Law 95-91.

(b) There is hereby authorized to be appropriated to carry out the purposes of this Act the sum of $60,000,000 for operating expenses for the fiscal year ending September 30, 1982.

(c) Funds are hereby authorized to be appropriated for fiscal year 1981 to carry out the purposes of section 5 of this Act for plant and capital equipment as follows:

Project 81-ES-1, ocean thermal energy conversion demonstration plants with a combined capacity of at least one hundred megawatts electrical or the energy product equivalent, sites to be determined, conceptual and preliminary design activities only $5,000,000.

(d) Funds are hereby authorized to be appropriated for fiscal year 1982 to carry out the purposes of section 5 of this Act for plant and capital equipment as follows:

Project 81-ES-1, ocean thermal energy conversion demonstration plants with a combined capacity of at least one hundred megawatts electrical or the energy product equivalent, sites to be determined, conceptual and preliminary design activities only $25,000,000.

Mr. MATSUNAGA. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Hawaii.

The motion was agreed to.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

GRAYMAIL LEGISLATION

Mr. BIDEN. Mr. President, I am pleased to see that the Senate recently adopted my bill, S. 1482, the Classified Information Procedures Act. I commend my colleagues for taking this important step toward insuring that the intelligence agencies are subject to the rule of law and toward strengthening enforcement of laws designed to protect both our national security and our civil liberties.

This measure will provide uniform procedures for Federal courts to handle classified information in criminal trials. It addresses the problem described by the Intelligence Committee in its report on "National Security and the Administration of Justice" issued in the fall of 1978. In short, criminals ranging from intelligence officials to foreign spies evade justice by engaging in so-called graymail. Those defendants have forced the Federal Government to dismiss prosecution by threatening to reveal sensitive information in the course of a trial.

Under the procedures established in S. 1482 a defendant will no longer be able to threaten the Government with disclosures of classified information that will later prove inadmissable. With both the prosecution and the defense present, the judge is to review in a closed proceeding the question of whether certain material could be used in a trial before the evidence is introduced. If the classified information is determined to be admissible, as an alternative to permitting disclosure, the judge may take sanctions short of dismissal against the Government, such as dropping counts of an indictment and finding issues in the defendant's favor. The Government could then decide whether to proceed with the prosecution knowing beforehand whether and what information would be released.

S. 1482 is the product of lengthy discussions and a sincere effort to address concerns of both the government and the defendant. In particular, the Subcommittee on Criminal Justice gave great weight to issues raised by Mr. Philip B. Heymann, head of the Department of Justice, Criminal Division; Mr. Brent N. Rushforth, Deputy General Counsel, Department of Defense; Mr. Daniel M. Silver, General Counsel, Central Intelligence Agency; Mr. Daniel C. Schwarts, General Counsel, National Security Agency; and Mr. Morton H. Halperin, Center for National Security Studies. The Subcommittee on Criminal Justice benefited greatly from their expertise, and I believe the bill was greatly improved as a result of their efforts.

I also wish to thank Mr. Keith Raffel of the Intelligence Committee Staff; Mr. Burt Wides, Eric Hultman, Mike Klipper and Jock Nash of the Judiciary Committee staff for their assistance in bringing together a wide variety of difficult issues and preparing this measure for Senate action.

TIME-LIMITATION AGREEMENT— S. 1280

Mr. ROBERT C. BYRD. Mr. President, with respect to Calendar Order No. 862, S. 1280, a bill to amend the Energy Policy and Conservation Act, as amended, to provide assistance to States and political subdivisions within States to promote national energy objectives, and for other purposes, I ask unanimous consent that at such time as that measure is made the pending business before the Senate there be a time agreement thereon as follows:

Twenty minutes equally divided on the bill between Mr. JOHNSTON and Mr. HATFIELD; 10 minutes equally divided on an amendment by Mr. JACKSON making changes recommended by the Budget Committee; 10 minutes equally divided on an amendment by Mr. CRANSTON providing for applications by cities within urban counties; 10 minutes equally divided on an amendment by Mr. JOHNSTON providing for interagency agreement between the DOE and HUD; 1 hour equally divided on an amendment by Mr. DOMENICI providing for approval of grants made to cities and counties by Governors; provided further, that these four amendments be the only amendments in order, that there be no second-degree amendments, no motions to table; provided further, that there be 10 minutes equally divided on any appeal or a point of order if such is permitted to the Senate and that on the motion to reconsider there be 10 minutes equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for not to exceed 2 minutes to consider nominations on the executive calendar on pages 3, 4, and 5.

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—the nominations identified by the majority leader beginning on page 3 and continuing on page 4 and to the end of page 5, including nominations placed on the Secretary's desk, have been cleared on our calendar and we have no objection to the request made by the majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominees on pages 3, 4, and 5 be considered en bloc.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The nominations considered and confirmed en bloc are as follows:

NATIONAL SCIENCE FOUNDATION

Donald Newton Langenberg, of Pennsylvania, to be Deputy Director of the National Science Foundation.

NATIONAL MEDIATION BOARD

Robert Oberndoerfer Harris, of the District of Columbia, to be a member of the National Mediation Board.

IN THE AIR FORCE

Col. John A. Collins, [redacted]FR (lieutenant colonel, Regular Air Force, chaplain), U.S. Air Force to be brigadier general.

IN THE NAVY

Vice Adm. Willard P. Arentzen, Medical Corps, U.S. Navy (age 58), to be vice admiral.

Vice Adm. Samuel L. Gravely, Jr., U.S. Navy (age 57), to be vice admiral.

Rear Adm. Lando W. Zech, Jr., U.S. Navy, to be Chief of Naval Personnel.

Rear Adm. Zech to be vice admiral.

Rear Adm. Edward S. Briggs, U.S. Navy, to be vice admiral

Rear Adm. William P. Lawrence, U.S. Navy, to be vice admiral.

Rear Adm. William H. Rowden, U.S. Navy, to be vice admiral.

IN THE MARINE CORPS

Lt. Gen. Philip D. Shutler, U.S Marine Corps, to be lieutenant general.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE AND MARINE CORPS

Air Force nominations beginning Thomas M. Adams, to be captain, and ending Barry H. Whitehead, to be captain, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on June 17, 1980.

Marine Corps nominations beginning Ray A. Alberigi, to be colonel, and ending Stanley C. Wiggins, to be colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on June 13, 1980.

Mr. ROBERT C. BYRD. Mr. President, I move en bloc to reconsider the vote by which the nominees were confirmed en bloc.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation of the nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to executive session to consider one nomination on the Executive Calendar with respect to the Federal Highway Administration.

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—the reservation is for the purpose of advising the majority leader that we have just received our clearance on this nomination which has been held on the calendar for some time. We are now prepared to proceed to its consideration and, therefore, I have no objection to the majority leader's request.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL HIGHWAY ADMINSTRATION

The assistant legislative clerk read the nomination of John S. Hassell, Jr., of Georgia to be Administrator of the Federal Highway Administator, vice Karl Smith Bowers, resigned.

The PRESIDING OFFICER. Without objection the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nominee was confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation of the nominee.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS BAKER AND BYRD ON JULY 21, 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, following the orders for the recognition of the two leaders on July 21, Mr. BAKER be recognized for not to exceed 15 minutes and that Mr. ROBERT C. BYRD be recognized for not to exceed 15 minutes, after which I be recognized to carry out the authority delegated to me by the order entered on February 7, 1980, to proceed with the Alaska lands bill, H.R. 39.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPRESSIONS OF THANKS AND APPRECIATION

Mr. ROBERT C. BYRD. Mr. President, while awaiting action by the other body on the recess resolution, let me take this opportunity to thank the distinguished minority leader, Mr. BAKER, for the cooperation that is customarily given by the minority leader and which has assisted the majority in carrying out its responsibilities in pressing forward with the work of the Senate throughout this session and particularly with reference to the last 2 weeks. The last 2 weeks have been exceedingly difficult. An enormous amount of work has been effectively done by the Senate.

I wish to thank also the minority whip, Mr. STEVENS, for his fine cooperation. I wish to express appreciation to the majority whip, Mr. CRANSTON, for the fine cooperation that he has given and the excellent support that I received from him.

I would say this to all the Members of the Senate on both sides of the aisle, Mr. President: There have been long days, there have been very late evenings, and I have heard very, very little said by way of complaint because of the long hours that the Senate has spent in carrying out its work during these past 2 weeks.

I wish also to thank the officers of the Senate and the very dedicated staff director and chief counsel of the Democratic Policy Committee, Mary Jane Checchi; Abby Reed, who so faithfully carries out her duties on the Senate floor; and Charles Kinney and Patrick Griffin.

I thank Joe Stewart, the secretary for the majority, Mr. Bill Hildenbrand, secretary for the minority; Mr. Howard Greene, assistant secretary for the minority; the assistant secretary to the majority, Patrick Hynes, and the pages.

I wish to thank Mr. G. Russell Walker, chief reporter of debates, and the official reporters of debates for the Senate.

They all have cooperated together in the effort to complete our work, to complete the people's business.

I hope we will continue to see this kind of cooperation and progress, and that during the interim between July 21 and August 6, and following the August break, hopefully making it possible for the Senate to complete its work and adjourn sine die by by October 4.

As I have stated before, and I will state again, if the Senate cannot complete its work by October 4, the Senate will go out until after the elections and then return.

Mr. President, I yield the floor.

Mr. BAKER. Mr. President, I wish to thank the majority leader for his kind remarks in respect to our relationship and the business of the Senate that we have been able to conduct together.

In many cases, it has been possible to cooperate between the majority and the minority. On those cases where it has not been possible to cooperate, the conflict or confrontation between us has been amiable and I think in the best traditions of the Senate.

I will take just a moment, Mr. President, as well to express my appreciation to Bill Hildenbrand, the secretary to the minority, Howard Greene, and Elizabeth Baldwin, together with all of our cloakroom personnel, the Republican pages, and all of the officers and employees of the Senate, who rather even more than the Senators, have borne the burden of late sessions, into the late evening on many occasions, and for 6 full days in the past 2 weeks.

I want them to know that I am mindful of the good job that they have done and that they have my appreciation, and I am sure that of every Member of the Senate.

Finally, Mr. President, I wish to express to the majority leader our best wishes for a successful visit to the People's Republic of China. He will travel as an official emissary. I send with him my good wishes. I look forward to a fruitful and a meaningful report from him when he returns.

Mr. ROBERT C. BYRD. Mr. President, I thank the minority leader for his kind felicitations. I wish for him an enjoyable and restful period between now and the date the Senate returns.

Mr. President, I join our leader in complimenting Elizabeth Baldwin. I inadvertently overlooked the young lady in my mentioning several names. She is also very dedicated, always most courteous and attentive to her duties.

I certainly would not want the Senate to recess without my having acknowledged the help that she gives, not only to the minority but to the majority.

I also wish to thank Susan Alvarado, the floor assistant for the minority whip.

Their cooperation helps us get our work done in the Senate. We work together for the country. It requires that kind of work. Sometimes I feel that is the secret to the Senate's ability to pass rather difficult legislation when the legislation runs into problems in other places.

RECESS UNTIL MONDAY, JULY 21, 1980, AT 11 A.M.

Mr. MATSUNAGA. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in recess until the hour of 11 o'clock a.m., Monday, July 21, pursuant to Senate Concurrent Resolution 107.

The motion was agreed to, and at 11:35 p.m., the Senate recessed until Monday, July 21, 1980, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate July 2, 1980:

DEPARTMENT OF STATE

The following-named person for appointment as a Foreign Service Information officer of class 2, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America:

Alfred V. Boerner, Jr., of Connecticut.

For appointment as a Foreign Service officer of class 3, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America:

Stanley E. Johnson, of California.

For appointment as a Foreign Service Information officer of class 4, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America:

Christopher Paddack, of the District of Columbia.

For promotion from a Foreign Service officer of class 6 to class 5:

Eric A. Kunsman, of Pennsylvania.

For appointment as a Foreign Service officer of class 5, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America:

Russell F. King, of California.

For appointment as a Foreign Service Information officer of class 5, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America:

Randall Speer, of New Jersey.

For promotion from Foreign Service officers of class 7 to class 6:

Charles L. Glatz, Jr., of Virginia.
Bruce W. Keeling, of Michigan.
Eileen Ann Riley, of the District of Columbia.
Tanya M. Russ, of Florida.
James Douglas Seay, of Virginia.
Michael James Senko, of Guam.
Stuart Lee Spoede II, of Texas.
Laurence D. Wohlers, of Washington.

For appointment as Foreign Service officers of class 6, Consular Officers, and Secretaries in the Diplomatic Service of the United States of America:

Larry H. Atcherson, of the District of Columbia.
Marie Louise Burba, of Virginia.
Karlene G. Knieps, of California.

For appointment as Foreign Service Information officers of class 6, Consular Officers, and Secretaries in the Diplomatic Service of the United States of America:

Wendy Marie Beaver, of New Mexico.
Katherine Inez Lee, of California.

For appointment as Foreign Service Information officers of class 7, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

Merrie D. Blocker, of Florida.
Camille Caliendo, of Illinois.
Carl Kam-To Chan, of Virginia.
Janey D. Cole, of New York.
Betty Ann Felthousen, of New York.
Gerard J. Joria, of Illinois.
Mark Krischik, of Maryland.
Peter John Kovach, of Massachusetts.
Gregory Lynch, of Virginia.
Helen E. McKee, of Oregon.
Greta N. Morris, of California.
Gloria S. Nelli, of Massachusetts.
Karen L. Pérez, of California.
William R. C. Phelps, of Virginia.
Warren Soiffer, of New York.
Louis John Spaventa, of New York.
Daniel Sreebny, of New York.
Alden P. Stallings, of Alabama.
Sam Westgate, of California.

For appointment as Foreign Service Information officers of class 8, Consular Officers, and Secretaries in the Diplomatic Service of the United States of America:

Brad Owens, of Massachusetts.
Michael T. Scanlin, of Maine.
Daniel Alan Spikes, of Florida.

Foreign Service Reserve officers to be Consular Officers of the United States of America:

Stanton R. Bigelow, of Wisconsin.
Donna C. McClelland, of California.

Foreign Service Reserve officers to be Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

Nancy Anne Agnew, of Florida.
David Stewart Black, of Virginia.
John Bobbin, of Connecticut.
Manuel Brana, of Virginia.
Lou Linn Cain, of Virginia.
Marc R. Cardwell, of Virginia.
John A. Chalfant, of California.
Jan A. Cioci, of Maryland.
Edward F. Connelly, of Virginia.
John Scott Crissman, of Texas.
Catherine A. Eschback, of Virginia.
Warren E. Frank, of Nebraska.
Howard J. Freeman, Jr., of Texas.
Jack G. Downing, of Virginia.
John F. Gilhooly, of Virginia.
Robert W. Ince, of Virginia.
Gerald L. Jacoby, of Virginia.
Emily E. Jeffers, of Maryland.
Wesley D. Johnson, of Virginia.
Peter S. Koromilas, of New Hampshire.
John R. Mangis, of Virginia.
Lane A. Nordholm, of Virginia.
Morton Mowbray Palmer III, of Connecticut.
John F. Patton, of Maryland.
Curtis Jay Perry, of Oregon.
Peter W. Rhoades, of Virginia.
John E. Roberts, of Virginia.
James Merrill Rosenbluth, of Virginia.
Conrad A. Smith, of Virginia.
Lisa N. Taylor, of the District of Columbia.
Charles C. Van Zee, of Virginia.
Patrick T. Welch, of Virginia.
Robert H. White, of Virginia.

Foreign Service Reserve officers who are candidates for appointment as mid-level Foreign Service officers to be Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

Lois Gochnauer Angulo, of Virginia.
Edmund Earl Atkins, of California.

Gloria Charles Becker, of Maryland.
Helen Marshall Carter, of Texas.
Shirley Marie Hartman, of Texas.
Olin Winston Morrow, of New Mexico.
Marie Murray, of Maryland.
Bismarck Myrick, of Virginia.
Barbro Appelquist Owens, of Maryland.
Albert Shaw, of the District of Columbia.
Elizabeth Petersen Spiro, of the District of Columbia.
Herbert Leo Tyson, of Maryland.
Jennifer Claudette Ward, of the District of Columbia.
Dorothy Watson, of New York.

Foreign Service Reserve officers who are candidates for appointment as junior Foreign Service officers to be Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

John Jack Boris, of Connecticut.
Helen Dorothy Brown, of North Carolina.
Sandra Joy Campbell, of Oregon.
John W. Chamberlin, of New York.
Jorge Cintrón, of Puerto Rico.
James Francis Cole, of New York.
Alice R. Cook, of Massachusetts.
Philip Hughes Egger, of the District of Columbia.
Christopher Paul English, of Virginia.
John Joseph Foarde III, of Nebraska.
Philip Charles French, of California.
Jeffrey H. Gorsky, of Maryland.
Richard Lance Hartung, of Washington.
Cherie Jean Jackson, of Colorado.
Mark Raymond Kennon, of New York.
Monica Ladd, of Georgia.
C. Robert Loftis, Jr., of Colorado.
Wendell Alexander Matthews, of the District of Columbia.
Virginia E. Morris, of California.
Louis John Nigro, Jr., of Florida.
Nelson Blythe Nugent, of New Hampshire.
Lisa A. Piascik, of the District of Columbia.
Ronald Sinclair Robinson, of Virginia.
Stephen L. Savage, of Colorado.
Virginia Jean Scheel, of Virginia.
Nicholas James Spiliotes, of New York.
Howard Joseph Thomas Steers, of Texas.
Howard Stoffer, of New York.
Gail Aragon Thompson, of New York.
Alan Roger Tousignant, of Massachusetts.
Carol Lee van Voorst, of the District of Columbia.
David G. Whittlesey, of Maine.
Donald Yukio Yamamoto, of New York.

Foreign Service Reserve officers to be Secretaries in the Diplomatic Service of the United States of America:

Peter N. Brush, of Maryland.
John P. Carlson, of Virginia.
Robert A. Stella, of California.
Eugene G. Vincent, of Maryland.
Gene H. Williams, of Virginia.

Foreign Service Staff officers to be Consular Officers of the United States of America:

Dan J. Jordan, of Oklahoma.
Patrick B. Long, of Nevada.
Vita A. Palazzolo, of Missouri.
Dorothy J. Simmons, of Ohio.

For appointment as a Foreign Service Information officer of class 7, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America, effective May 23, 1980:

Arthur N. Buck, of California.

U.S. COMMISSIONER GENERAL FOR ENERGY-EXPO 82

Charles E. Fraser, of South Carolina, to be Commissioner General of the U.S. Government for Energy-Expo 82 (new position).

DEPARTMENT OF JUSTICE

Matt Garcia, of Texas, to Commissioner of Immigration and Naturalization, vice Leonel J. Castillo, resigned.

Brian P. Joffrion, of Louisiana, to be U.S. Marshal for the western district of Louisiana for the term of 4 years, vice Emmett G. Wyche, term expired.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Robert Jacob Baer, [redacted] (age 55), Army of the United States (major general, U.S. Army).

IN THE NAVY

Vice Adm. Joseph P. Morrer, U.S. Navy (age 57), for appointment to the grade of vice admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 2, 1980:

FEDERAL HIGHWAY ADMINISTRATION

John S. Hassell, Jr., of Georgia, to be Administrator of the Federal Highway Administration.

NATIONAL SCIENCE FOUNDATION

Donald Newton Langenberg, of Pennsylvania, to be Deputy Director of the National Science Foundation.

NATIONAL MEDIATION BOARD

Robert Oberndoerfer Harris, of the District of Columbia, to be a Member of the National Mediation Board for the term expiring July 1, 1983.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE AIR FORCE

The following officer for temporary appointment in the U.S. Air Force to the grade indicated, under the provisions of chapter 839, title 10 of the United States Code:

To be brigadier general

Col. John A. Collins, [redacted] (lieutenant colonel, Regular Air Force, Chaplain), U.S. Air Force.

IN THE NAVY

Vice Adm. Willard P. Arentzen, Medical Corps, U.S. Navy (age 58), for appointment to the grade of vice admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

Vice Adm. Samuel L. Gravely, Jr., U.S. Navy (age 57), for appointment to the grade of vice admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

Rear Adm. Lando W. Zech, Jr., U.S. Navy, for appointment as Chief of Naval Personnel in the Department of the Navy for a term of 4 years pursuant to title 10, United States Code, section 5141.

Rear Adm. Zech having been designated for command and other duties of great importance and responsibility determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

The following-named officer having been designated for command and other duties of great importance and responsibility in the grade of vice admiral within the contemplation of title 10, United States Code, section 5231, for appointment while so serving as follows:

To be vice admiral

Rear Adm. Edward S. Briggs, U.S. Navy.

The following-named officer having been designated for command and other duties of great importance and responsibility in the grade of vice admiral within the contemplation of title 10, United States Code, secion 5231, for appointment while so serving as follows:

To be vice admiral

Rear Adm. Wililam P. Lawrence, U.S. Navy.

The following-named officer having been designated for command and other duties of great importance and responsibility in the grade of vice admiral within the contemplation of title 10, United States Code, section 5231, for appointment while so serving as follows:

To be vice admiral

Rear Adm. Wililam H. Rowden, U.S. Navy.

IN THE MARINE CORPS

Lieutenant General Philip D. Shutler, U.S. Marine Corps, age 53, for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of Title 10, United States Code, Section 5233.

IN THE AIR FORCE

Air Force nominations beginning Thomas M. Adams, to be captain, and ending Barry H. Whitehead, to be captain, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on June 17, 1980.

IN THE MARINE CORPS

Marine Corps nominations beginning Ray A. Alberigi, to be colonel, and ending Stanley C. Wiggins, to be colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on June 13, 1980.

EXTENSIONS OF REMARKS

ENERGY UPDATE

HON. GARY A. LEE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. LEE. Mr. Speaker, as you know, the Congress has finally acted on several fronts to ease our energy situation. For the benefit of both my colleagues and myself, I will briefly outline the most significant of these.

I. CRUDE OIL WINDFALL PROFITS TAX ACT OF 1980

Imposes a tax on the windfall profits accruing to oil companies from recently decontrolled domestically produced oil. The expected tax revenue from the bill is expected to be $227.7 billion between 1980 and 1990.

Increases tax credits to encourage residential energy conservation.

Allows tax incentives for businesses to aid them in their conservation efforts.

Authorizes $3.1 billion for a series of grants for States to use to provide assistance to lower-income families for heating and cooling costs.

Designs guidelines for the disposition of tax proceeds: First, 60 percent to income tax reductions; second, 25 percent to low-income assistance for fuel bills; and third, 15 percent to energy and transportation programs.

Constructs other income tax exemptions, including a $200 exclusion for interest and dividends. This is designed to spur a much-needed return to saving and investing.

Limits the President's ability to impose oil import quotas without the approval of the Congress.

II. REJECTION OF PRESIDENT CARTER'S 10 CENTS PER GALLON GAS TAX

The severe negative impacts on poor and middle- and fixed-income citizens that so far outweighed any slight gain for the Government led me to cosponsor a vigorous opposition to this measure.

III. REJECTION OF FEDERAL REGULATIONS ON INCREMENTAL GAS PRICING

This rule would have extended the category of industrial users of gas that would have to bear the brunt of increased natural gas prices, thereby seriously impairing their ability to provide jobs. And, in fact, residential users would only have saved about $10 a year while firms using natural gas would have suffered irreparable harm.

IV. REAUTHORIZATION AND REORGANIZATION OF THE NUCLEAR REGULATORY COMMISSION (NRC).

The thrust of this legislation is both to streamline operating procedures and to improve safety precautions in nuclear plants.

V. ENERGY SECURITY ACT

Creates the Synthetic Fuels Corporation to provide up to $20 billion over 4 years in financial assistance to synfuel projects.

Appropriates $1.2 billion for funding of biomass and alcohol fuel projects.

Requires the President to transmit "energy targets" for imports and domestic production of all fuels to Congress every other year.

Aids small hydroelectric plants in gaining licenses.

Provides loans—$5 million for each of the next 6 years—to assist projects to explore the viability of geothermal energy.

Gives $50 million over the next 9 years to study the acid rain issue, and $3 million for a carbon dioxide study.

Provides that the President shall resume the purchase of oil for the Nation's strategic petroleum reserve.

The specter of an enormous synfuel energy bureaucracy raised by this law disturbs me, and I have opposed this measure.

VI. REJECTION OF THE EMERGENCY MOBILIZATION BOARD

I regret that this bill has failed to pass the House. It would have contributed greatly to the country's need for quick action in the energy field by cutting through mounds of bureaucratic redtape.

VII. STANDBY GASOLINE RATIONING

The President's plan would go into effect if there were a 20-percent shortfall of gasoline over a 30-day period.

The plan takes into account recent State energy consumption as well as agricultural needs.

I would like to note, Mr. Speaker, that unless both Houses vote to reject this plan by July 30 of this year, it will be automatically approved for standby use.

As you know, gentlemen, I have taken an active interest in energy legislation and have cosponsored several proposals that address the problem. Those now pending in committee include bills to:

Provide production incentives for domestic crude oil recovery;

Eliminate State taxation of electricity generated in another State;

Assist low-income and elderly households in meeting rising fuel bills;

Facilitate and promote the recovery of energy and materials from municipal solid waste;

Provide tax relief to residential oil consumers;

To help small fuel manufacturers meet Government fuel economy standards;

Revokes the President's authority to impose a tax on oil imports without congressional approval;

Encourage cooperation with Mexico in its development of oil and natural gas potential.

In my own 33d Congressional District of New York, three energy-related projects should be of special interest to this body:

First, an electric vehicle demonstration board has been assembled to review plans for an electric car, an alternative to high fuel prices and uncertain supply.

Second, the alcohol fuel workshop, partially funded by the Department of Energy, has been designed in an attempt to demonstrate that small-scale alcohol fuel production is feasible.

Three, the city of Auburn, N.Y., has recently received a grant to drill a well in search of geothermal energy, thought to be in plentiful supply in that area.

I heartily endorse these local efforts to seek practical solutions to our problems.

I am pleased, Mr. Speaker, that these and other attempts are being made to meet our energy concerns head on. It is time for us to meet this challenge and exhibit the leadership demanded of us by the American people.●

THE MENACE OF HANOI

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. MURTHA. Mr. Speaker, there are many of us who have argued for a number of years that the North Vietnamese have always been expansionist minded and their incursion into Thailand further shows the policy of domination and aggression which they are continuing to pursue.

For the Members' information I am enclosing a copy of an editorial on this subject which appeared in the July 1 Washington Star.

The editorial follows:

HANOI'S WIDE-RANGING MISCHIEF

It sounded distressingly familiar. The U.S. secretary of state deplored an act of aggression by forces under the control of the communist government in Hanoi. He promised speeded help to the aggrieved country and expressed concern about the sufferings of non-combatant victims.

We were not imagining ourselves back in the 1960s, with Saigon fending off the

---

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

North's deadly combination of infiltration and formal offensive. Last week's fuss was about a three-day incursion by Vietnamese troops into border areas of Thailand, a whole country removed from Vietnam itself. A new front opened in Vietnam's many-sided, unending war.

Hanoi's aim in attacking camps of Cambodian refugees in Thailand apparently was to dissuade the Thai government from further aiding the lingering insurgency of the Khmer Rouge in Cambodia. Supporters of the wildly radical regime led by Pol Pot, which was chased from power in Phnom Penh by the invading Vietnamese in 1979, fight on in Cambodia's less accessible provinces. Pol Pot's soldiers indeed are among the 300,000 Cambodian refugees that have fled into Thailand to escape war and famine.

Thai officials have sent some Khmer Rouge guerrillas along with other refugees back across the border, and they have sought to make common cause with the Chinese in limiting the further extension of Hanoi's influence. But Thailand did not ask for the massive refugee problem created by the Vietnamese intervention in Cambodia and the resultant devastation of that country.

The new Vietnamese incursion has had unfortunate effects, besides scores of immediate casualties (including 75 of Hanoi's own). The border fighting is believed to have sent another 100,000 Cambodians scurrying into Thailand. And the battle, with accompanying movements of large numbers of people, brought to a halt the international relief effort that has been saving possibly 1 million to 1.5 million Cambodians from starvation.

The disruption of the border food program, actually, was one of Vietnam's targets—as pointlessly cruel as that might sound—on the ground that the aid behind Khmer Rouge lines helps the Pol Pot forces. Hanoi prefers that humanitarian aid be channeled through the puppet Heng Samrin regime, but this permits little to reach endangered segments of the population. Without the Thailand-based food program, in which United Nations agencies have participated, many more Cambodians would surely starve.

The extension of Vietnamese aggression heightened the insecurity felt by non-communist countries in the region. This was indicated by a gathering in Kuala Lumpur of the foreign ministers of the Association of South East Asian Nations (ASEAN), at which Secretary Muskie put in a timely appearance. Hanoi, now the boss in virtually all of Indochina and enjoying strong Soviet support, is the preoccupation of these other neighbors. (Besides Thailand, the members are Indonesia, Malaysia, Singapore and the Philippines.)

Food relief to the homeless people along the Thai-Cambodian border must be restored whatever the wishes of Hanoi. The Soviets should be prevailed on to restrain their allies. Thai forces, which were reported to have put up an effective defense last week, should be steeled to protect their turf against future threats. The ASEAN members would prefer to concentrate on economic and political programs rather than worry about the military menace of Hanoi. That will be difficult as long as Vietnamese, controlling both Laos and Cambodia, lurk on Thailand's border.●

STATE SENATOR URGES ACTION ON SHORT-TIME COMPENSATION BILL

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mrs. SCHROEDER. Mr. Speaker, when the Ways and Means Subcommittee on Public Assistance and Unemployment Compensation held hearings on H.R. 7529, the Short-Time Compensation Act of 1980, one of the witnesses was Senator Bill Greene, chairman of the Industrial Relations Committee of the California State Senate.

Senator Greene spoke on behalf of the legislation I have introduced to encourage the use of short-time compensation as an alternative to layoffs. In 1978, Senator Greene introduced legislation in the California State Senate to establish a State program to permit reimbursement from unemployment insurance for partial unemployment. The California legislation was enacted in July 1978, for a 1-year trial, and was extended last year, when the program showed widespread support from businesses, unions, and State officials who administered the program.

I urge my colleagues to read Senator Greene's statement, which urges Congress to pass legislation to encourage the use of short-time compensation nationwide, in view of the rising unemployment rate:

STATEMENT OF SENATOR BILL GREENE, CALIFORNIA STATE LEGISLATURE

Mr. Chair and Honorable Members: I come before you today in support of Representative Schroeder's efforts to enact the "Short-time Unemployment Compensation Act of 1980", contained in H.R. 7529. My support is not because we, in California, are in need of the grants or technical assistance provided for in the legislation to assist states in developing, enacting and implementing short-time compensation programs. I am the author of legislation establishing such a program which has been operating in California since 1978. In fact, I do have some reservations concerning the establishment of national standards for short-time compensation which may hinder the experimentation so helpful in the development of innovative programs. I nonetheless believe the time has come for Congress to think very seriously about encouraging the use of short-time compensation nationwide, which is the thrust of the proposal before you today.

That time came for us in California in 1978 when the passage of Proposition 13, limiting property tax assessments, threatened to force massive layoffs in the public sector. The enactment of our short-time compensation program was initially designed to buy public agencies and their employees some time to determine exactly what the consequences of Proposition 13 would be. As it turned out, few public agencies participated in this program because the state was able to replace much of the revenue lost to local governments. But interest in the program by firms in the private sector has grown steadily, and for very good reasons. It is beneficial to employees and employers alike during periods of temporary business downturns, periods such as many firms are experiencing today.

Fred Best, representing the Employment Development Department of the State of California which administers our program, is here to provide current data on the program and to answer your technical questions. What I would like to do briefly is to describe at a policy level what I perceive the short-time program to be, and perhaps equally important, to suggest what it is not. I emphasize the not, because I have followed with interest the national press coverage of our California program and I find a curious tendency among the press—and among both supporters and opponents of the program outside of California—to talk about it as if it were a substitute for existing programs, as if it were an alternative which will replace all other programs that deal with unemployment issues. That is a fallacious and regrettable way of dealing with short-time.

What we have here is an addition to the arsenal this country maintains for fighting unemployment. I'm sure this subcommittee is considering many bills which modify and hopefully improve our present Unemployment Compensation system. In no way is Representative Schroeder's bill in conflict with any major reform thrust for the unemployment compensation system. You would do yourself a disservice to mix up this bill with any others. Let it stand on its own.

Personally, I don't see how this Congress can afford not to test the idea on a national scale, given the unemployment prospects that face us these days. You owe it to people who can be spared from lay-off. You owe it to the people who are looking for jobs and who won't have to compete with workers who haven't had to hit the streets because they've stayed with their jobs as a result of short-time. And I think you owe it to employers who can respond more quickly to recovery of demand with a work force that's there to do the work when it's needed.

I've spent a good many years as a state legislator working on employment issues. I've spent many hundreds of hours listening to economists argue about what full employment is, I'll tell you one thing—economists may say that there is an unemployment rate below which inflation is accelerated—I guess it's allegedly around 7% these days—but I'll be damned if anyone ought to be allowed to call that kind of unemployment full employment.

Part of the trouble we have in dealing with new policies is the way we've thought about traditional policies. I support reform of the Unemployment Compensation system. But I insist we should throw our strongest effort into employment programs, not unemployment programs. As a long-time, fully committed supporter of the New Deal, I must confess it saddens me, and even alarms me, to see how we've allowed ourselves to drift into institutionalizing programs to provide income to people with no jobs—and can tinker with these programs over and over and over again, calling it welfare reform or unemployment insurance reform—but keep falling on our faces with employment programs.

Short-time is an employment program—it utilizes the unemployment compensation system to keep people attached to their jobs through lean times. That is not appropriate to all jobs or all workers or all businesses at all times—but where it is appropriate this program can be an enormous help to people.

Let's talk for a moment about what the program is not.

It is not a cure for unemployment. That takes a healthy economy. But it does reduce the number of layoffs necessary when the economy is not as healthy as it should be.

It is not a panacea for the last-hired/first-hired problem. Employers who understand the program use it to hold on to their most skilled and most experienced workers. Those usually aren't the last-hired. But it has got to help—there certainly is a greater prospect for preserving affirmative action gains when layoffs are minimized than when there's no choice but to lay workers off. Still, I think we should be very careful not to overstate the affirmative action aspects of short-time. Just let me say again—it can't hurt, it might help.

Keeping workers attached to their jobs through hard times is the key. When you lose connection with your job, you're likely to begin losing your skills. Even if you're hired back, your employer may have to invest some time and money in retraining. If you move on to a new job, your former employer will eventually have to hire a replacement—and that means extra recruitment and training expenses for him, outlays that might be especially difficult coming as they do at the end of a business downturn. It also means less quality in production and lower productivity, two problems that have contributed in recent years to this country's slippage in international economic competition.

This brings me to a final point. While I agree that the preservation of fringe benefits is proper, I'm afraid that the mandatory maintenance of full health and pension benefits in the Schroeder bill as introduced can inhibit testing of the program. The majority of employers will preserve those benefits without mandate, because they're only going to use the program on a limited basis for a limited period of time, and the administrative problems of pro-rating or eliminating such benefits would be costlier than leaving them alone. More important, however, is the fact that no employer in his right mind is going to go out of his way to antagonize employees that he's going out of his way to keep working for him. Chances are research will show everybody that it isn't worth worrying about. In any case, it should not be included as a national standard for short-time programs at this time.

To sum up: Short-time has been a long time coming to this country. It works well in Europe. It works well in California. It is an addition to our present policies, not a substitution or replacement. Where it is appropriate, it is also a benefit to both workers and employers. It is largely self-regulating as long as you establish it clearly as a program to be used for temporary periods of time. Given the positive experience so far with the program in California, I would submit that its opponents ought to assume the burden of proof with regard to their negative concerns. At a minimum, test it and find out for yourselves.●

HOPE ON THE HORIZON FOR ARTHRITIS SUFFERERS

HON. LARRY J. HOPKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. HOPKINS. Mr. Speaker, I rise to stress again my strong support for the bill H.R. 7023, which I introduced earlier this year. I am pleased to report that as of today, more than 100 of my distinguished colleagues have cosponsored my bill, which directs the National Institute of Arthritis, Metabolism, and Digestive Diseases to undertake clinical studies of the effectiveness of the drug dimethyl sulfoxide (DMSO), for use by patients suffering the pain and discomfort of arthritis.

Mr. Speaker, in my view, H.R. 7023 offers a much-needed ray of hope to the estimated 31 million Americans who live daily with the chronic condition known as arthritis. With no known cure for this crippling disease, many older Americans seeking relief have been victimized by hawkers and charlatans pushing worthless and ineffective gimmicks.

On the horizon, however, is a simple and inexpensive chemical compound known as DMSO which, it appears, may provide a meaningful measure of relief. This long-sought remedy has recently been the subject of a "60 Minutes" report and the focus of hearings conducted by the House Select Committee on Aging, of which I am a member.

Testimony before our committee revealed:

DMSO is a low-cost, easily produced byproduct of the manufacture of paper, which is rapidly absorbed into the bloodstream when applied directly to the skin. Its medicinal possibilities were first brought to attention in the United States in the early 1960's.

Doctors report that DMSO is effective in significantly reducing pain, inflammation, and stiffness associated with ailments such as arthritis, bursitis, tendonitis, and scleroderma.

Bootleg use of DMSO is apparently widespread among American professional athletes, who report favorable results using DMSO in connection with various sports injuries.

Side effects associated with DMSO apparently are minimal; garlicky breath and some minor skin irritations are the only documented problems.

Despite enthusiastic claims by doctors, researchers, and DMSO users, progress toward Food and Drug Administration approval of DMSO for arthritis sufferers is nonexistent. The FDA has authorized only a few tests to study its effects on humans, and there are currently no ongoing studies to establish the possible effectiveness of DMSO in the long-term treatment of arthritic diseases.

Mr. Speaker, this situation is totally unacceptable to the millions of Americans suffering from the nagging aches of arthritis—thousands of whom go abroad each year for DMSO treatments, or pay exorbitant prices for DMSO here in the United States.

This tragedy is compounded by the fact that the DMSO molecule is so common that it is unpatentable, and so cheaply produced that private firms regard the income potential from DMSO insufficient to meet their investment criteria.

What we have is an affordable and promising remedy. What we need is an objective evaluation so that the value of DMSO for use by arthritis sufferers can be established once and for all.

In my view, this situation represents a golden opportunity for the bureaucrats to do something for the American people rather than to them, as is more often the case.●

"CHRISTIAN RESPONSIBILITY IN THE POLITICAL ORDER," AN ADDRESS BY CONGRESSMAN JOHN BRADEMAS

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. EDGAR. Mr. Speaker, on June 9, 1980, our colleague, the gentleman from Indiana, the Honorable John Brademas, the distinguished majority whip, delivered an address at the Baltimore Annual Conference of the United Methodist Church meeting here in Washington, D.C.

Mr. Brademas joined Supreme Court Justice Harry Blackmun in speaking on this occasion, which marked the retirement of the bishop of the United Methodist Church of this area, Bishop James K. Mathews.

Mr. Speaker, because I believe my colleagues will find of interest Congressman Brademas' discussion of "Christian Responsibility in the Political Order," I insert his address at this point in the Record. The address follows:

Christian Responsibility in the Political Order

It is for several reasons that I count it a privilege to have been invited to participate in the Baltimore Annual Conference of the United Methodist Church.

I am, first, pleased to share the platform with a distinguished member of the United States Supreme Court, Mr. Justice Blackmun, a fellow member of our church.

It is, second, an honor to join in paying tribute to the retiring Bishop of the United Methodist Church of our area, Bishop James K. Mathews.

The fact is that Bishop Mathews' service in Washington and mine almost overlap, and I have come to know and respect him during those years as a vigorous and vital voice for the Christian faith, both here at home and in the world.

Bishop Mathews and I have worked together in a number of ways, perhaps most often, curiously enough, not here in Washington but abroad, as a result of our common membership on the Central Committee of the World Council of Churches.

I can, therefore, speak from personal observation when I tell you that I know the high regard in which Bishop Mathews' judgment and wisdom are held by Christian leaders of all denominations from throughout the world.

For his friendship, I am deeply grateful, even as I value the friendship of his fine wife, Eunice, whose father, Dr. E. Stanley Jones, I remember from having as a high school and college student avidly read his books and, on two or three occasions, having met him.

Yet another reason I am glad to be with you tonight is that I am a child of the Methodist Church.

I grew up in the First Methodist Church in South Bend, Indiana . . . in the Methodist Youth Fellowship . . . and then at Harvard, where I was president of the Wesley Foundation.

And just over thirty years ago, I spent a summer working on a Methodist Youth Camp in the Mountains of Mexico with Aztec Indians and there, Bishop Mathews, came to know your late colleague, Bishop Juan Pascoe.

There was, indeed, a time when I told my college pastor at Harvard, Jackson Burns, that I was trying to make up my mind whether to become a Methodist preacher or a politician, but that after having attended an annual conference, I knew it was going to be politics either way!

The fact of the matter, however, is that my having grown up in the Methodist Church was one of the reasons I decided on a career in electoral politics, and my Methodist heritage has strongly shaped my attitudes toward my responsibilities as a Member of the Congress of the United States.

So I hope you will allow me tonight, as we mark the retirement of a United Methodist Bishop who has served in the capital city of our nation, the seat of our government, to reflect on the relationship between our Christian faith and the political order.

As we meet in a year when once again the American people choose a President and their representatives in Congress, I think it particularly fitting that we consider this question of Christian responsibility and political action.

It is less necessary than it once was to persuade Americans of the importance of politics in the modern world. We live, whether we like it or not, in a time when the lives of all of us are touched in some important way by the actions of government. Moreover, because of our country's immense power, the lives of millions of people all over the world are affected significantly by decisions of the officials in our Government.

But if Government is an increasingly important factor in the lives of people, it is imperative, at least in a society that claims to be free, for government to be the servant, not the master of the citizens. And in a free society this means recognition of the Central—and legitimate—place of politics, of competition and conflict, of struggle for control of power which government is.

Surely then, there can be no denying the significance of government. Similarly, most of us can give at least tacit assent to the proposition that every citizen of a democracy has some obligation to participate in politics.

OUR CONCERN AS CHRISTIANS

The essential question for us as Christians, however, is this: Why should we be concerned about politics, about government? Is there a religious responsibility incumbent upon Christians for action in the political order?

Some say no, that the Christian as an individual and the Christian church as an institution must stand aside from the hurly-burly of politics. Separation of church and state, they agrue, is the same as separation of politics from religion.

I strongly disagree with this contention. Moreover, I often find it a thinly disguised argument for maintaining the status quo. I am profoundly afraid of preachers who never preach on anything but how to find personal happiness. The theme of the great World Conference of Christian Youth in Oslo some years ago was "Jesus Christ: Lord of All Life." This means that our religious faith must touch every dimension of man's existence—social, economic, and political as well as private and individual.

If this is true, we must then have a specifically Christian perspective on responsibility for action in the political order. Surely one of the reasons Christians have such a difficult time coming to grips with politics is that they lack a perspective which is intellectually honest, theologically consistent, and realistic in the world.

Some Christians suggest—in a kind of sentimental, utopian way—that if only all men were to become Christians, we would be able to resolve the many social and political problems that afflict mankind. But even if we were all Christians, there would still be Republicans and Democrats, business and labor, black and white. We still would have problems, for there still would be conflicts of geography, of interest, of viewpoint.

DILEMMA OF RELATIONSHIPS

The core of the dilemma, as I view it, is that many Christians do not understand how they can relate the law of love to the world of politics. On the one hand, they see Christian love, agape, represented by Christ on the cross—utterly self-sacrificing, self-giving, other regarding love. On the other hand, they see the calculating world of politics, where "accommodation," "negotiation," and "compromise" are the words we characteristically use to describe what happens, for example, in a Congress composed of 435 Representatives and 100 Senators, working with or against one President—not to mention the other participants in the governmental process. Yet these are precisely the words which we ought to use if we want to get something done.

But many Christians view these seemingly irreconcilable realms of religion and politics—of the selfless Christ on the cross and the horse-trading Congressman—and conclude that there can be no link, that the two worlds can have nothing to do with each other.

Let me put the same point—that never the twain of politics and religion can meet—another way in the words of Arthur E. Walmsley of the Episcopal Church. Says Walmsley:

"In the new era, decisionmaking takes place increasingly within the context of ever larger structures: the modern corporation, the automated industry, the welfare state—group settings in which decisionmaking by teams or task forces reduce individual accountability to a minimum.

"How," he asks, "is power to be exercised responsibly in this setting? Traditional approaches of personal accountability, as expressed in the Protestant ethic, fail to come to grips with the nature of structure and context of the new era.* * * The humanization of the social order does not reduce itself, in situations such as this, to the categories of Christian love."

Christians, sensing the extraordinary complexity of the mordern age, notes Walmsley, look with nostalgia to a simpler era when men made most of their important decisions face to face, and felt a sense of personal choice and personal accountability.

But we live in a different time, in a more vast and complicated society, where men's lives are determined in large measure by powers and principalities—corporations, government, unions—rather than by their next door neighbors or the family who lives down the road a piece.

What, then, has the law of love—of utterly un-self-regarding love—to say to such a world, to a President or a Congressman?

Does it say to withdraw? Does it say we must reject making decisions about the use of power in such a world? My answer is "No." My answer is that there is a link between the law of love and the practice of politics, a concept which relates the two. That concept is justice.

The concept of justice varies in human history, but I suggest that at the very least justice means guaranteeing to every man or woman his or her due, assuring that he or she gets what is coming to him or her—what he or she is entitled to as a person.

JUSTICE IS NOT LOVE

Now justice is not the same as love. Love does not count or reckon—but justice does. Justice must be calculating. It is not love, therefore, but justice that should be the immediate objective of political action.

As Walmsley says, "The balance of the rights and responsibilities of one group against those of another involves issues of justice." This "balance of rights and responsibilities" of competing groups, of course, is the very stuff of politics. Justice, then, is not a hand-me-down kind of concept.

"Justice seen in this light," Walmsley declares, "is not a crude approximation of love but the means by which the Christian cooperates with the will of God precisely in the midst of life."

As Reinhold Niebuhr puts it, "justice is the instrument of love."

And as William Temple says: "Associations cannot love one another; a trade union cannot love an employers' federation, nor can one national state love another. The members of one may love the members of the other so far as opportunities of intercourse allow. That will help in negotiations; but it will not solve the problem of the relationships between the two groups. Consequently, the relevance of Christianity in these spheres is quite different from what many Christians suppose it to be. Christian charity manifests itself in the temporal order as a supernatural discernment of, and adhesion to, justice in relation to the equilibrium of power."

Look at one of the great issues of our time here at home, civil rights, and remember Martin Luther King's words:

"I'm not asking for a law to make the white man love me, just a law to restrain him from lynching me."

Listen to the language of legislation: parity for farmers, equitable tax laws, fair labor standards—and we hear echoes of the concept of justice.

Is love then irrelevant to political action? No. On the contrary, it is our love for our fellow human beings—commanded us by Christ—that generates in us a concern that they be treated justly. Love is the force that motivates our commitment to justice.

So we have in the concept of justice, I believe, a link that binds together the worlds of Christian faith and political action—and does so in an intellectually honest, theologically consistent and realistic way.

MEN ARE SINNERS

Let me turn to yet another reason beyond the love commandment which imposes on us as Christians a religious responsibility to strive for justice among human beings.

It is that men and women are sinners—that men and women, you and I, tend to put ourselves rather than God at the center of life.

This is, of course, simply another way of stating the doctrine of original sin. It is this doctrine, rather than the idea that human beings are naturally good, that is the unariculated view of human nature on which most politicians—at least the successful ones—proceed.

This is not, I must emphasize, a cynical view, not one that declares human beings are evil through and through.

You may recall Machiavelli's comment: "Whoever organizes a state and arranges laws for the government of it must presuppose that all men are wicked and that they will not fail to show their natural depravity whenever they have a clear opportunity, though possibly it may be concealed for a while."

Not so, for to paraphrase Niebuhr: Men are good enough to make democracy work. Men are bad enough to make democracy necessary.

It is in part this more skeptical but uncynical view of human nature that caused the Founding Fathers to write into the fabric of our American Constitution a system of checks and balances. We do elect Members of Congress and entrust them with certain powers, but only for two years. And even Senators of the United States are required to have their credentials reviewed every six years. The President has the veto power, but he can be overridden. Men are good enough to make democracy work but bad enough to make democracy—with all its checks and limitations on the rulers—necessary.

It is this propensity of human beings to injustice—to unwarranted self-seeking that is a chief purpose of political action to curb and channel while at the same time promoting wider degrees of justice, a fair share for all persons.

I do not say that all political questions can be resolved readily into simple issues of justice or injustice, for many problems facing government are primarily technical in nature, requiring expertise and know-how.

Nor do I say that all political issues have to equal sides although sometimes there is clearly greater weight on one side than the other.

THE POLITICIANS TASK

In my view, then, it is the task of the politician to seek in the given circumstances—with all the skill and imagination he can muster—the greatest measure of justice for all concerned.

I believe Christians have a particular obligation to seek justice for the disinherited. As Dean John C. Bennett of Union Theological Seminary has said, "Christ himself concentrated on the people of greatest need, the people whom respectable society neglected or despised." It is this aggressive caring for the people who cannot defend themselves which is essential when the Christian makes political judgments.

Now I have said that the lives of all people are today immensely influenced by what governments do, and that Christians have a religious responsibility, motivated by love, to seek justice for their fellow men. I conclude, therefore, that, if the church of Christ is to say anything to men and women today, it must speak to them not only in their individual and family capacities but also to the social, economic, and political dimensions of their existence.

Niebuhr tells the story of how, at the beginning of this century, the late Bishop Charles Williams of Michigan was approached by a young clergyman with a plan for organizing a Christian Layman's league. Learning that the league's chief objective was to close all movie houses on Sunday, the bishop said, "I should think that could wait until you have solved the weightier matters of the law."

Niebuhr warns that: "The church, as does every other institution, sinks into triviality when it fails to deal with the weightier matters of the law, particularly the law of love or the basic concern of the self for the neighbor."

If the Christian church today fails to touch on the "weightier matters of the law"—on the continuing search for racial justice, on the paradox of poverty in the richest Nation in human history, on the slums still festering in our great cities, on the problems of devising a tolerable peace in a nuclear world—then on what matters will it touch?

If the church has nothing to say on these great issues, it has little of significance to say about anything, because these are the crucial issues of our time.

THE CHRISTIAN IN POLITICS

Although I do not advocate Christian political parties, and although I find the phrase "Christian politician" suspect as both self-serving and inaccurate, it must be obvious that I believe Christians should get into politics.

For Christians, subject to the limitations of all people, can nonetheless be inspired by the law of love to enter the struggle for justice and be ready, even eager, to use political action as a legitimate weapon (but not the only one) in that struggle. The point is that politics, seen from a Christian perspective, can be a Christian vocation just as much as being a minister or missionary.

May I be bold enough to offer some guidelines to Christians in politics:

1. It is not sufficient to be a good Christian to be effective in politics. You must also be a good politician—that is, know your job.

2. You must have or develop a thick skin. The other day I chanced upon a sermon preached on an election day in Hartford, Connecticut, by one Nathan Strong. Mr. Strong's admonition to politicians nearly 175 years ago is, I think, worth repeating today:

"A ruler needs religion much more than his unofficered brethren, to support his mind under trials, and to guard him against temptations. When the respectable citizen rises from private into public life, he must expect to exchange quietness for trouble; honor, though alluring, has its bitterness and its dangers; enemies, before unknown, will rise up; the jealous will sift all his actions, and what man can be so guarded as to have his behavior escape censure? The ambitious, thinking him in the way of their own progress, will be his enemies. To support the mind under these evils, and lead it into the exercise of prudence and patience, religion is necessary."

All policies, societies, governments, and politicians are under God's judgment. None must be absolutized or defied as incarnating God's will—for none is righteous—no, not one.

The Christian in politics will, therefore, always live under tensions, always aware that he measures political achievement by standards that require ever greater effort. He can never be satisfied.

4. The Christian in politics must be outgoing and must actively seek justice and combat injustice. I should add, however, that there is no mandate on him to ride at full armor into every battle that comes along. If he does, he will soon deplete his forces and diminish his effectiveness. He must make realistic judgments on when and where to move.

5. The Christian in politics is armed with a unique understanding of human nature. He realizes that man is made in the image of God, yet prideful; he is aware of the role of self-interest in politics, of his own as well as that of others. He knows that, as an active participant in politics, he often will find himself in morally ambiguous situations. But as Dean Bennett said, "Instead of being unnerved by guilt or despair in their midst, Christians do know the experience of receiving grace and forgiveness while they take responsibility."

It is this forgiving love of God which above all will sustain the Christian in politics as well as in every other work of life.●

ONE AMERICAN'S PRAYER

HON. DONALD J. MITCHELL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. MITCHELL of New York. Mr. Speaker, I would like to share with my colleagues an outstanding expression of patriotism and love of country. It is called "One American's Prayer" and it was written by Mr. Joseph Ray of Whitesboro, N.Y., which is a part of my congressional district. Mr. Ray's work is an inspiration for all the citizens of our Nation.

Mr. Ray's prayer follows:

ONE AMERICAN'S PRAYER

Just One More Time, O Lord, let me stand with the silent throng at Arlington as the ramrod-straight Infantryman paces his post in heat of noon and gloom of night, in ceaseless salute to those who died that I might be free.

Just One More Time, Lord, let me stand where stood the victor and the vanquished at Appomattox, mindful that Thou doth give us all 'our horses for Spring plowing' even as Grant on that April day gave to Lee—no longer foes but Americans.

Just One More Time, Lord, let me stand on the tonto rim of the Grand Canyon, where Time and Space blend in purple majesty, rejoicing that the boisterous Colorado, busily carving more mile-high sculptures, will flow eternally free through this wild and beautiful land.

Just One More Time, Lord, let me sit in the gallery of the Congress listening to the foolish and the wise, the rich and the poor, white and black, men and women, young and old, stirring the batter that makes the laws that govern a sovereign people.

Just One More Time, Lord, let me stand on Gettysburg's hallowed ground, where stood in 1863 Democracy's war-weary Demosthenes pronouncing his immortal benediction over the heroic dead of North and South; and depart 'highly resolving' to do MY part that Government of the People shall indeed not perish from the earth.

Just One More Time, Lord, let me cast myself adrift on the endless golden waves of Kansas grain, and give thanks for our good earth, and the stalwart men Thou hast given us to make it bloom.

Just One More Time, Lord, let me measure myself at the foot of a mighty California sequoia and be thankful that I, too, can grow tall in Thy sight.●

THE ROCHESTER AREA HOSPITALS' EXPERIMENTAL PAYMENTS PROGRAM

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. CONABLE. Mr. Speaker, as my colleagues are well aware, the problem of containing the rising rate of hospital costs is one that we have wrestled with during the last few years. Indeed, the Health Care Financing Administration of the Department of Health and Human Services points out that expenditures for hospital care comprised the largest category of health expenditures, accounting for 32 percent of the total in 1965 and nearly 40 percent in 1978. They are projected to be almost 42 percent by 1985 and 44 percent by 1990. In dollar terms, it is anticipated that expenditures for hospital care will reach $97 billion by 1980 and $335 billion by 1990.

Although there are numerous explanations for what is propelling the cost of hospital care ever upward, solutions thus far have proved elusive. Several States have tried various programs—such as rate regulation or prospective budgeting—with varying degrees of success. Unfortunately, in some cases hospitals have been involuntary participants or have been required to accept rates that they regard as unfair and inadequate. And, as my colleagues are well aware, the administration's ill-fated attempt to impose Federal regulation to control costs through an arbitrary expense or revenue cap also did not provide a meaningful solution.

Thus, I am pleased to call to the attention of my colleagues a prospective hospital payment plan which has been in operation in Rochester, N.Y., since January 1 of this year. This plan is known as the Rochester area hospitals' experimental payments program, often referred to as HEP. This demonstration project has been made possible through a unique cooperative effort among hospitals in the Rochester area; all levels of government; the national Blue Cross and Blue Shield Association; the Hospital Association of New York State; the major insurers of hospital care including medicare, medicaid, and Rochester Area Blue Cross; and the Rochester Area Hospitals' Corp. (RAHC), established in 1978 to develop the HEP program and to implement a more effective review and planning process. According to Dr. James Block, president of RAHC, the HEP program represents a culmination of years of cooperative efforts involving Rochester hospitals' boards, physicians, and management.

At a recent meeting of the National Health Lawyers Association, Peter Oddleifson, a Rochester attorney and a member of the RAHC board of directors, presented a paper that discussed the program in great detail. In describing some of the major features of HEP, he points out that the program covers revenue from all payors for all hospital acute inpatient and outpatient services. It sets a regional revenue cap or upper limit on payments and guarantees a minimum revenue for each hospital. Thus, the public is assured of cost containment on the one hand, and each hospital is assured of a predictable cash flow.

The hospitals have agreed to the revenue cap in exchange for local management control over the hospitals, allowing them to make their own management decisions. There is no longer concern about occupancy penalties, peer group ceilings, or other restrictions because these restrictions have been waived by the Federal and State Governments.

The purpose of the experiment is to show that local, voluntary hospital systems, motivated by the incentives in the prospective payments program, can meet cost control objectives, and deliver efficient high-quality health care services, while retaining management control of the industry.

Since this program may well become a prototype which can be implemented in other areas and benefit other hospital systems, I would like to share with my colleagues the following summary of the program that I feel is extremely informative:

ROCHESTER AREA HOSPITALS LAUNCH MAJOR EXPERIMENTAL PAYMENTS PROGRAM TO CONTAIN RISING COSTS

Hospitals in Monroe and Livingston Counties are beginning a three-year demonstration program described as the nation's most significant voluntary effort to contain hospital costs.

The project, called Rochester Area Hospitals Experimental Payments Program (referred to as HEP), is designed to slow the rise in hospital costs while maintaining local control of excellent hospital services. It provides the opportunity for the Rochester community to demonstrate the ability of the voluntary sector to help solve the nation's number-one health care problem: The rapid escalation in health care costs, especially in terms of hospital services.

The traditional hospital payment system often prevents health care professionals from developing more cost-effective alternatives to existing methods of patient care, since reductions in cost lead to reductions in reimbursement. Under HEP, new financial incentives are provided so that hospitals no longer lose income when they improve efficiency.

As a demonstration project, the HEP program has been made possible through a unique cooperative effort among area hospitals; all levels of government; the national Blue Cross and Blue Shield Association; the Hospital Association of New York State; the major insurers of hospital care including Medicare, Medicaid, and Rochester Area Blue Cross; and the Rochester Area Hospitals' Corporation (RAHC).

RAHC was established in July, 1978, by area hospitals to develop the HEP program and to implement a more effective review and planning process in the two-county area, in conjunction with the Finger Lakes Health Systems Agency.

The participating hospitals include one in Livingston County—Nicholas H. Noyes Memorial, Dansville; and the remainder in Monroe County: Lakeside Memorial in Brockport, Genesee, Highland, Park Ridge, Rochester General, St. Mary's, and Strong Memorial.

The HEP program, effective for three years starting January 1, 1980, has received approvals from the U.S. Dept. of Health, Education, and Welfare, and the N.Y. State Departments of Health and Social Services.

In commenting on the unique nature of the HEP program, William D. Ryan, chairman of the RAHC board of trustees, observed: "The Rochester area's reputation for leadership in health care is being recognized once again. This is the first time that the Federal Government has granted approvals for a voluntary hospital system to conduct a reimbursement experiment of this magnitude. Also, if HEP is successful, it will likely serve as the model for a major new national health policy."

Mr. Ryan continued: "The intriguing aspect of HEP is its utter simplicity. After several years of intense study, we concluded that the traditional system—with its bureaucratic inefficiencies and wasteful regulations—had to be scrapped. In its place, HEP provides positive incentives for our hospitals and physicians for the wise use of limited resources, and for new approaches to old problems. Almost as important, HEP is a giant step in the direction of regaining local control of our hospital system."

According to Dr. James Block, president of RAHC, the HEP program represents a culmination of years of cooperative efforts involving Rochester hospitals' boards, physicians, and management.

A major development that led to approval of HEP by the participants was the issuance several years ago of a series of State regulations aimed at controlling the rapid escalation of hospital costs that had been occurring nationwide. Applied with relative uniformity statewide, these regulations had especially severe impact on Rochester area hospitals, because these institutions were already part of a very efficient hospital system. For example, Rochester area per capita costs for hospital care, and the number of hospital beds per thousand population, were—and remain—among the lowest in the nation.

The boards of Rochester hospitals, particularly local corporate leadership, became concerned that the existing hospital system's excellence could be seriously hampered by the regulations that governed the various payment systems.

In particular, they found that the overall working capital position of the hospitals had been eroded, and some institutions had been forced to liquidate a portion of their unrestricted endowment funds to underwrite current operations. Concern for this situation led to the initiative for RAHC and HEP.

According to Dr. Block, the HEP program uses a payment system that is in marked contrast to the traditional approach. The traditional system often prevents health care professionals from developing more cost-effective alternatives to existing methods of patient care. This occurs because of a reimbursement process that rewards volume, penalizes low levels of occupancy, and discourages efficiency—because as costs are reduced, payment is reduced.

Thus, the traditional payment system has added to the major cause of recent hospital cost escalation (other than general inflationary pressures): Namely, the increasing intensity with which diagnostic and treatment services are utilized, and reimbursed, within the hospital setting.

Under HEP, in contrast, each participating hospital in the two-county region has agreed to limit the rate of increase in total hospital revenues to an amount well below the national average by means of a "cap" on such revenues. For the period 1980-82, these revenues will total approximately $900 million. This figure is based on 1978 costs, trended forward for inflation in various components of these costs.

Additional payments may be made to hospitals on increases in volume and the additional operating costs associated with new equipment or facilities. The amounts of these additional payments must be approved by the board of RAHC, which includes representatives of the boards of all participating hospitals. This insures that investment decisions will be made in the context of a community-wide definition of patient need, and with cooperative use of scarce resources among participating institutions.

Under HEP, the participating hospitals do not lose revenue when they succeed in cost-reduction efforts. Thus, there are new incentives for hospitals to study their procedures for managing the productivity and utilization of diagnostic and therapeutic services within their institutions.

Dr. Block observed: "By guaranteeing hospitals a target revenue, administrators can now focus on planning for efficient services. Under the traditional payment system, there were no incentives to study the increasing intensity with which hospital resources were used."

Dr. Block added: "In order to be able to take full advantage of these new incentives, the hospitals will work with RAHC to develop and operate an information system that will supply productivity and resource-use data to managers and planners. In addition, physicians will have access to data that will permit them to analyze their clinical decisions in the context of community resources."

Because of the potential national significance of the HEP program, RAHC has received a grant from the John A. Hartford Foundation to assist in these documentation and elevation activities.

RAHC also provides a forum for creative competition and planning. Hospitals can realign their resources, as appropriate, wherever the community's health needs are better served by so doing. In this way, the HEP program reinforces the local decision-making process, along with consumer and community involvment through the existing Finger Lakes Health Systems Agency.

The strong reputation of the Rochester region in cooperative health planning was a key factor in securing the necessary approvals for the demonstration project.

Mr. Ryan commented: "Federal and State approval of the HEP program is testimony to their recognition that we can deliver results when our hospitals, medical staffs, and Boards work together on a voluntary basis for the good of the community. In this way, we can achieve the goals that underlie the existence of RAHC and HEP—namely to demonstrate that the voluntary sector has the ability to offer solutions to the problem of rapidly escalating costs in hospital care, while maintaining excellence in health services."

The track record of the Rochester area hospitals was further recognized in the letter of endorsement for the HEP Program from New York State to the Department of Health, Education, and Welfare.

The letter, signed jointly by Richard A. Berman, Director of the State Office of Health Systems Management, and Barbara B. Blum, State Social Services Commissioner, said, in part, that the hospitals involved "have a long history of cooperative relationships at all relevant levels—board, administration, and medical staff. Most of the hospitals have years of coordinated planning efforts behind them and several have active teaching affiliations with the University of Rochester School of Medicine and its teaching hospital, Strong Memorial."

Community planning for health care in Monroe County dates back 40 years to creation of the Rochester Regional Hospital Council. A number of other health planning agencies have emerged since, leading to development of a variety of shared services, cooperative planning efforts, and community funding drives.

In 1972, the local hospitals formed the Hospital Planning Group in response to a request by the Health Council of Monroe County. Under its auspices, an ad hoc committee of hospital trustees was formed in 1976, to study the potential for improving cost effectiveness of the local hospital system. In 1978, the Hospital Planning Group was succeeded by the RAHC, and planning was undertaken for the program that has emerged as the HEP program.

HEP IN BRIEF

WHAT HEP DOES

The Rochester Area Hospitals Experimental Payments Program (HEP) provides a way to place an upper limit, or cap, on the total revenue paid to the community's hospitals, for all patient care.

Each participating hospital's revenue for three years is guaranteed at a base level, calculated primarily from the hospital's 1978 costs, trended forward to reflect inflation. If a hospital's patient volume increases, or if it purchases new equipment or facilities, additional payments may be made.

HOW THE HEP SYSTEM IS DIFFERENT FROM TRADITIONAL PAYMENT PROCEDURES

Traditional reimbursement systems pay hospitals for each incident of patient care rendered. If fewer patients are admitted or fewer health care services rendered, hospital income goes down even though its fixed costs remain the same. The inflexibility of the traditional system does not permit hospitals to treat patients and provide services in the most efficient setting. There is no reward for efficiency in providing care: In effect, efficiency is penalized.

Under the HEP program, the opposite is true. Each hospital's guaranteed base revenue is known in advance, and hospitals that achieve economies can share in their savings. The lock-step is broken between hospital cost factors, and reimbursements. This provides an unprecedented opportunity for hospitals to provide patient care that is cost-effective, without negatively affecting their financial position.

WHY HEP STARTED HERE

Nationally, hospital care costs have escalated much faster than inflation. To counteract this trend, New York State instituted regulations aimed at controlling and reducing hospital costs. Applied with relative uniformity state-wide, these regulations had particularly severe impact on Rochester area hospitals, because hospitals in this area were already part of a very efficient system. For example, per-capita cost for hospital care, and the number of hospital beds per thousand population, were—and remain—among the lowest in the nation.

The boards of Rochester hospitals, particularly local corporate leadership, feared that the excellence of our existing hospital system might be undermined by the State's actions to regulate the various reimbursement systems.

In fact, the overall working capital position of the hospitals was poor, and some hospitals had already been forced to liquidate some of their endowment funds to underwrite daily activities.

Representatives of area hospitals therefore established Rochester Area Hospitals' Corporation (RAHC) in July, 1978, which developed the HEP demonstration program. In doing so, RAHC has also worked with the Finger Lakes Health Systems agency to strengthen the program review and planning process in Monroe and Livingston Counties.

WHY HEP IS SIGNIFICANT

HEP has national significance because, if it works, it will demonstrate that a community's hospitals can act together to control costs *voluntarily*, under local control—with cooperation from government agencies and private insurers, but *without government mandates*.

In addition, HEP will make it possible to document the cost of clinical services and to compare these costs among and within the hospitals. The absence of this kind of information has made it virtually impossible to develop an accurate reimbursement process reflecting reasonable costs of production and performance in the hospital setting.

WHAT HEP NEEDS FOR SUCCESS

The success of HEP will depend on support at many levels. Hospital boards have an important role to play, in defining community needs and determining how each hospital will participate in the hospital system. Boards will need to change their budget review process, because more attention must now be given to financial and clinical implications when programs are being planned. Physicians and clinical department heads will also need to review their planning and patient care functions, so hospital boards and management can have full information with which to make informed decisions on matters which are their responsibility.

All participants in HEP will need complete, timely information for efficient planning and operation under the new system. RAHC and the participating hospitals are now developing the necessary educational programs and information systems. In addition, because of the national significance of HEP, evaluation data is being gathered.

PARTICIPATING HOSPITALS

Livingston County: Nicholas H. Noyes Memorial, Dansville

Monroe County:

Lakeside Memorial, Brockport, Genesee, Highland, Park Ridge, Rochester General, St. Mary's, Strong Memorial.

PARTICIPATING MAJOR THIRD-PARTY PAYORS

Medicare, Medicaid, Blue Cross (Rochester Hospital Service Corp.), and Other Major Insurers.

COOPERATING GOVERNMENT AGENCIES

State of New York, Department of Health, Office of Health Systems Management.

State of New York, Department of Social Services.

Health Care Financing Administration (Medicare), U.S. Department of Health, Education and Welfare, (After April 13, 1980; U.S. Department of Health and Human Services).

Monroe County Department of Social Services.

Livingston County Department of Social Services.

DATES OF THE DEMONSTRATION

January 1, 1980—December 31, 1982 (three years).●

HEALTH PLANNING TECHNICAL AMENDMENTS OF 1980

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. WAXMAN. Mr. Speaker, today Dr. TIM LEE CARTER, the distinguished ranking minority member of the Subcommittee on Health and the Environment, and I are introducing the Health Planning Technical Amendments of 1980.

There are two reasons for this legislation. First, and most important, the bill would extend the deadline for States to enact or amend their certificate-of-need laws to comply with the Health Planning and Resources Development Amendments of 1979. Because final regulations have not been promulgated by the Department of Health and Human Services, many States have adjourned their 1980 sessions without enacting the necessary legislation. This bill would give all States one additional legislative session to pass legislation.

The second reason for the bill is to make a number of strictly technical changes in the 1979 amendments.

We believe this bill is noncontroversial and deserves the support of all Members.●

A MEMORIAL FOR THE VICTIMS OF THE HOLOCAUST

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. DODD. Mr. Speaker, the swearing-in ceremonies for the 60-member Holocaust Memorial Council took place on May 28, 1980. Those appointed to the Council will continue the work of the President's Commission on the Holocaust to establish a memorial in Washington, D.C., to the victims of the most appalling tragedy in the history of our world.

Mr. Speaker, I would like to bring to the attention of my colleagues the speech delivered by Mr. Sigmund Strochlitz at the time of his swearing-in as a member of the Council. I have known Sigmund Strochlitz for many years, as a resident of my congressional district and a leading spokesman for the Jewish community. I have been inspired by his courage and his dedication to sustaining the memory of those men, women, and children who were systematically murdered by the Nazis.

As a man who himself suffered through the horrors of Auschwitz and survived, Sigmund Strochlitz knows the importance of establishing a national memorial that will stand forever as a reminder of an evil beyond human comprehension that must never be allowed to recur.

Mr. Strochlitz's remarks remind all of us of our national commitment to human rights that may one day erase the indifference, complacency, and ignorance of the past:

SPEECH OF SIGMUND STROCHLITZ

Mr. Chairman, Members of the United States Holocaust Memorial Council, and invited guests: It's a great privilege to be here today, and a great honor to serve together with fellow survivors, historians, members of Congress, presidents of universities, rabbis, ministers, and priests on the newly appointed United States Holocaust Memorial Council. Most of those present served on President Carter's Commission, and I would like first to express my fervent hope that the spirit of friendship and cooperation that prevailed during our deliberations last year making it possible not only to submit our report on time but to secure the unanimous approval of all Commissioners of the final draft of our Recommendations will also guide us this time. I realize, of course, that in the implementation of those recommendations several interpretations will have to be reconciled which will require from all of us a lot of patience, a lot of understanding, and a lot of sensitivity.

Fifteen months ago we met here for the first time with trepidations and great hopes to participate in an historic event. The occasion was solemn and in an atmosphere of great expectancy all of us survivors were eager to share our experience, and help develop plans and programs to fight the angel of forgetfulness. The history of the moment was felt by all of us as the Chairman of the Commission, Professor Eli Wiesel, was asking the assembled to rise for a minute of silence in memory of the 6 million. Most of us could not help but be overwhelmed with feelings that perhaps our tragedy and the suffering of others could have been prevented had another President established forty years ago a permanent Commission to deal with the unfolding tragedy of European Jewry.

Two months later we were assembled in the Capitol Rotunda in commemoration of the Days of Remembrance. The President and Vice President of the United States, members of Congress and the Supreme Court and invited guests participated in a ceremony which I hope future generations will be proud of: the President declaring that when any fellow human being is stripped of humanity, then all human beings are victims too. Our Chairman responding that "When I as a Jew evoke the tragic destruction of the Jewish victims, I honor the memory of all the victims. When any group is persecuted, mankind is effected." Still for the sake of truth, we must remember that only the Jewish people's extermination was an end in itself. That day at the Capitol Rotunda Jewish and American history were linked, reaffirming a commitment to uphold the sacredness of human life and pledging never to forget.

Several months later a factfinding pilgrimage of the members of the Commission to the sites of destruction took place. Travelling through Europe we were exposed not only to reminders of destruction, but also to the shameful attempts by some governments to hide the identity of the victims, to strip them of their Jewishness. Our Chairman, Professor Eli Wiesel, underlined at every occasion the Jewish character of the Holocaust, and I am hopeful that the newly appointed Council will try to pursue that matter further taking the following in consideration: The word Holocaust entered many years ago our lexicon as a term for the murder of 6 million European Jews by Nazi Germany during the Second World War. The catalog division of the Library of Congress has an entry "Holocaust—Jewish, 1939-1945". This classification is now used throughout the United States in cataloging books and other printed materials which deal with the suffering and the destruction of European Jewry in the Second World War. The New Columbia Encyclopedia contains an entry under Holocaust which begins with a definition of the word as the name given to the period of persecution and extermination of European Jewry by Nazi Germany.

And yet a concerted effort is being undertaken to re-interpret the meaning of the term Holocaust. For those who have lived through the Nazi period and scholars who have seriously studied the rise and fall of that regime, the term Holocaust can mean only one thing—the systematic, state-sponsored murder of six million Jews—men, women and children—and nothing else! No other people were singled out for total annihilation except the Jewish people. It is therefore unreasonable and inappropriate to ask survivors to share the term Holocaust with any other mass suffering that occurred in the history of mankind. By agreeing to share the term Holocaust with other people that suffered at the hands of the Nazis or other oppressors, we will be distorting history, betraying the memory of those who were killed for no other reason than that their great-grandparents were born into the Jewish faith. We will be agreeing to equate our suffering, our lives, our fate during the war with others and take away the distinctiveness, the uniqueness of a tragedy that has no precedent in the history of mankind. The murder of six million Jews was genocide for the sake of genocide. There were acts of aggression before the rise of Hitler to power and there were mass killings during and after the war, and every attempt to distort the significance of those events has got to be resisted. Nobody wants to diminish the suffering of the Armenians who were slaughtered by the Turks, or the Biafra tragedy, or the mass starvation in Cambodia. Nobody wants to deny the suffering of some civilians in Polish cities, or Russian prisoners of war, or the fate of any other people under Nazi occupation. All acts of man's inhumanity to man should be remembered and perhaps deserve special terms without using the term Holocaust to describe every tragedy.

The coming months will be crucial in developing our plans. Let's be daring and not be frightened by the awesome task that we are privileged to be charged with. Let's remember that the establishment of a national memorial should not only be a reminder of the terrible acts of murder committed by the Nazis, but should be also a warning for those who were indifferent in the face of very well known facts of murder. The memorial should also give a perpetual expression of America's determination and dedication to fight anti-Semitism in any form or shape. The Commission on Conscience should give testimony to the American people's commitment to the sacredness of human life. A feeling of reverence for the dead should guide us in whatever we are going to undertake.

And I would like to conclude that the furnaces of destruction still burn within us, pointing out to those that lit them and searching for answers—Why?!●

STATEMENT ON ACP

HON. ROBERT (BOB) WHITTAKER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. WHITTAKER. Mr. Speaker, I would like to make a special statement today concerning the agriculture conservation program administered by the Agricultural Stabilization and Conservation Service of the USDA. This program, which began in 1936, is one of the best examples of how our people and our Government work together to protect and conserve the quality of our soil and our water. This program is a partnership between a farmer and the Federal Government, each sharing a part of the cost of the conservation burden. Many farmers of our Nation today are aware of the need for protecting the quality of our soil, water, and air but lack the monetary resources to carry out good conservation. Through this program and the establishment of necessary conservation work all Americans for future generations will be able to benefit. About 339,500 farmers, ranchers, and woodland owners participated in the ACP cost-sharing program in 1979. Our goal should be to have sufficient funds for 1 million farmers to participate. The ACP is administered by locally elected county ASC committees who down through the years have had their responsibilities taken away as far as final practice selection is concerned in their respective counties. It is our hope that the 1981 ACP will permit county ASC committees to again have the authority to select the practices most needed in their respective counties. I want to commend the Appropriations Subcommittee on Agriculture and request funding the ACP again in 1981 at the level of $190 million.●

IN DEFENSE OF THE CONGRESSIONAL BUDGET PROCESS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. HAMILTON. Mr. Speaker, I insert my Washington Report for Wednesday, July 2, 1980, into the CONGRESSIONAL RECORD:

IN DEFENSE OF THE CONGRESSIONAL BUDGET PROCESS

For the moment, at least, the federal government has a balanced budget. Two weeks ago, after a long effort and one full month behind schedule, Congress approved a compromise budget that calls for outlays of $613.6 billion, revenues of $613.8 billion, and a slim surplus of $200 million in 1981. These figures are preliminary targets, of course, but they represent a vigorous attempt on the part of Congress to give fiscal restraint the strong emphasis it must have. The congressional budget process made their approval possible.

Unfortunately, it is becoming increasingly apparent that the targets embodied in the 1981 budget resolution will not be hit. The budget has come up against harsh economic and political realities, and the balance we hoped for is quickly turning into a substantial deficit. Because of the recession, the expenditures of the federal government are rising and its revenues are decreasing. The consensus in Congress in favor of a vital national defense is bringing with it added pressures to spend. My guess is that the 1981 deficit will approach, if not exceed, the deficits of recent years. The likelihood of a deficit has caused many people to castigate Congress for "deceiving the public." These critics argue that the congressional budget process is a fraud that ought to be junked.

I cannot go along with such a critical appraisal of the congressional budget process. I did not vote for the budget in final form (principally because of the unrealistic figures), but I do not think that Congress should reject the six-year-old procedure it uses to set overall spending and revenue goals. In my view, it would be a serious mistake to dismiss the congressional budget process as defective.

The congressional budget process was designed to reassert the historic power of the purse that Congress enjoys under the Constitution. It follows internal rules intended to aid Congress in preparing the budget in an integrated and responsible manner. Only at specified times in the process does Congress vote on total outlays and receipts. Nearly everyone agrees that the process is superior to the way Congress addressed fiscal matters in the past. Prior to 1974, Congress altered spending and revenues helter-skelter as it considered fiscal measures one by one. It gave little or no attention to the big picture, and deficits became a way of life as a result. Moreover, the process has instilled in legislators a new sense of austerity that must be maintained and built upon. Our lack of rapid progress toward fiscal restraint is disappointing, but without a recession this year we would have had a balanced budget in all probability. After all, the 1981 budget is the most restrictive in years. It provides for increases in spending that, with the exception of defense, are well below increases in the cost of living. The congressional budget process, despite its weakness, has given the legislature better control over fiscal affairs than it had in the past.

There is yet another reason why the congressional budget process should be retained. It is capable of change and may be improved. For example, two promising provisions of the 1981 budget resolution will force Congress to tighten the belt. One provision will require Congress to cut existing programs substantially in order to hit the overall targets. The other provision will hold down spending across the board by keeping from the President (whose signature is needed for enactment) all appropriations bills that violate budget limits. Such bills will be released only if Congress cuts the appropriations or takes special action to waive the limits.

My own view is that we should continue to use the congressional budget process to push hard for fiscal restraint, acknowledging that a deficit is difficult to avoid in a year of recession. The emergence of a deficit during an economic downturn simply does not mark the process as a failure. The important thing to realize is that the process has put us on a course toward less spending in the long run, making future deficits less likely. The congressional budget process can also hold in check the temptation in Congress to overreact to the recession by spending to stimulate the economy.

The budget of the federal government has more than one aspect. Since it is a major means by which the government affects the economy, the budget should be drawn up with economic considerations—the need to fight inflation or unemployment—in mind. Exactly what the budget ought to be, however, demands extremely difficult judgments, especially as we suffer the ravages of high inflation and high unemployment. The economy needs to be cooled to curb inflation, but excessive cooling could throw millions out of work. Congress wants to balance the budget to combat inflation, but it is aware that a balanced budget will intensify the recession.

The budget cannot be understood from an economic point of view alone. It is a political document forged in response to direct pressures from large numbers of people who are interested in the division of the federal dollar. Many groups will defend their programs stoutly regardless of the need for overall fiscal restraint or the inefficiencies of their programs. Sizable reductions in existing programs offend as many people as does a budget that is not fiscally responsible.

The congressional budget process offers us the best available hope of accommodating both the economic trends and the potential pressures for spending that may be put on Congress.●

PAYING HONOR TO COL. EARL FULLER, JR.

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. MURPHY of Pennsylvania. Mr. Speaker, I would like to honor Earl Fuller, of Washington, Pa.—an American dedicated to his country.

This gentleman has accrued numerous honors in his meritorious participation in our Nation's battles. Fuller joined the National Guard in 1939 as a private in Company H, 110th Infantry Regiment and served in Europe in World War II. It was in this capacity that Fuller received the first of his many awards, the Purple Heart, as a result of a wound sustained in the Battle of the Bulge. He later was awarded the Silver and Bronze Stars for combat in the infantry. Then in 1950 Fuller was commissioned a second lieutenant, and during the Korean war he saw service again with the 110th. Finally Fuller joined the Guard from 1953 until his retirement as full colonel in 1975.

Men of the caliber of Earl Fuller, Jr., should be recognized and commended for their fine accomplishments and high regard for their country. It is with great pride and respect that I formally note to this Congress the unfailing devotion of Col. Earl Fuller to his Nation. Recently the colonel was honored at a dinner held by the Colonels Club and was presented an American flag that has flown over the Capitol in Washington, D.C. The colonel was also presented a Minuteman trophy from the local ROA chapter. This ceremony cited Colonel Fuller for his dedication and service to the Colonels Club and other military organizations over the past several years.

In addition to the obvious value of his past accomplishments, the colonel serves as a fine example for generations to come as a lesson in true and unselfish service. Mr. Speaker, Colonel Fuller is a most loyal American, commanding our utmost esteem.●

THE WORKING POOR

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. HUBBARD. Mr. Speaker, there is a new underprivileged class in this country, a class that has gone largely ignored but which is now speaking out and is starting to receive the attention of the Congress. I am speaking of the working poor, those members of the public who work at low-paying jobs and pay taxes, but who are too proud to give up and accept the easy life that comes with the acceptance of various Federal welfare benefits. I heard recently from a constituent of mine, Carol A. Phillips of Russellville, Ky., who wrote with eloquence about the frustrations faced by the working poor. I reprint her letter here for the benefit of my colleagues, who no doubt are hearing similar concerns from their own constituents.

DEAR SIR: I have a complaint to make that you have heard from thousands of other people like me. When paying my income tax for 1979, I was very heartbroken and upset. My income for 1979 was $7568. I am a resident manager for an apartment complex. I receive a large salary of $4368.00 a year including rent for my apartment. I have another income of $3200. I had to withdraw $650 from my $2000 savings to pay my federal and state taxes. At this rate my savings will be wiped out in three years, and then what happens if I get sick?

Both of my children were students last year, and both married last year. I could not claim either one of them, although I spent every dime I had on them. The other day I saw my son and wife and neither one of them had shoes to wear. Fortunately, school is out; and it is warm and they can go barefooted.

Something should be done to relieve the low income people in situations like that, and taking one's last few dollars of security for taxes. It is a crying shame to see people in the line for food stamps better dressed than I have been, fat and healthy, and driving a big, fancy new car, when I work for a living, and too proud to take hand-outs from the government. It gets my dander up to see things like this when I have to pay the kind of taxes I pay to feed people that are able to work at something. Make them pick up beer cans if nothing else. Maybe that should be a prerequisite for food stamps. The roadsides would be beautiful.

Both of my doctors classify me as disabled, and I would be ashamed to apply for disability at age 49. I shall wait and see if I can get disability at the time when I am unable to work.

It is up to the lawmakers to improve situations like these. There should be a tax break for honest-hard-working poor people who will not ask for help. The free-loaders in this world will be like they have always been, taken care of, without turning a hand.

Thank you for reading my letter. Maybe it will make someone think about the little ole lady or gentleman lost in the shuffle of making ends meet.

Sincerely,

CAROL A. PHILLIPS,
Russellville, Ky.●

STATEMENT OF CHAIRMAN AL ULLMAN, COMMITTEE ON WAYS AND MEANS, WITH RESPECT TO THE RULE TO BE REQUESTED FOR CONSIDERATION OF TITLE IV OF H.R. 6899, OMNIBUS MARITIME REGULATORY REFORM, REVITALIZATION, AND REORGANIZATION ACT OF 1980

HON. AL ULLMAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. ULLMAN. Mr. Speaker, on July 1, 1980, the Committee on Ways and Means ordered reported to the House H.R. 6899, the Omnibus Maritime, Regulatory Reform, Revitalization, and Reorganization Act of 1980, with a committee amendment to strike title IV from the bill. This legislation has previously been considered by the Committee on Merchant Marine and Fisheries and the Committee on the Judiciary. After extensive deliberations, the Committee on Ways and Means agreed to strike title IV, the tax title, from H.R. 6899.

Pursuant to the rules of the Democratic Caucus, I take this occasion to advise my colleagues as to the nature of the rule that I will request for consideration of this matter on the floor of the House. The Committee on Ways and Means specifically instructed me to request the Committee on Rules to grant a closed rule on title IV of H.R. 6899 which would only provide for:

First. Ways and Means Committee amendments, which would not be subject to amendment;

Second. Thirty minutes of general debate, to be equally divided; and

Third. Waiving all necessary points of order.

In addition, the Committee on Ways and Means will request that the Committee on Rules permit an amendment to be offered to strike that portion of section 306(3) of H.R. 6899, as reported, relating to the duty-free treatment of certain repairs to vessels.

We intend to officially report H.R. 6899 to the House on July 21, 1980. It is our intention to request to be heard before the Committee on Rules concurrently with the other committees involved in this legislation.●

ENERGY CRISIS AND THE MIDDLE EAST

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. MURTHA. Mr. Speaker, several months ago a consultant on international economics and politics, who had predicted the overthrow of the Shah of Iran several months before the revolution, informed me that Saudi Arabia was facing a very uncertain future. This article by Mr. Edward Teller which appeared in the June 30 Washington Star reinforces this prediction and could indeed presage a calamity which will have serious repercussions across the world.

The article follows:

FROM ENERGY CRISIS TO CATASTROPHE?

(By Edward Teller)

It is a sad fact that we have been on notice for more than six years that we have an energy crisis.

Had the national policy been reasonable, we would not have an unprecedented inflation rate today, we would not face the great hazard which immediately affects our unfortunate hostages, and we would not have to consider a still graver disaster which may affect everyone of us. The greatest danger is no longer an energy crisis—it is the possibility of an energy catastrophe.

Two scenarios are unfortunately more than mere possibilities. Soviet troops in Afghanistan are 400 miles from the Strait of Hormuz. Together with the many Soviet tanks in Yemen, they could, if the Kremlin chose, close off in a few hundred hours more than 50 per cent of the oil on which the free world depends.

Furthermore, the political situation in Saudi Arabia may well be a more immediate danger than this. If Iran was not quite stable, Saudi Arabia is thoroughly unstable. It has five million truly tribal Bedouins and the thinnest possible crust of super-millionaires. King Khalid has had three heart attacks; the royal house is deeply split; social injustice is great. The workers in the Arabian oil fields do not appear less susceptible to influence than the Iranian workers were.

Should either of these catastrophes occur, what would the consequences be? The most severe depression that the free industrialized world has ever faced may result.

Furthermore, the Kremlin would have the possibility of withholding oil from individual countries in the Third World, where lack of oil may prevent the growth of the new abundant crops and may mean death by starvation for millions. The Soviets may use this lever to bring more than half the world under their domination. Japan and countries in Western Europe may find themselves in a relationship to Russia similar to Finland's.

Under these conditions, should we concentrate on Fortress America or should we try to save freedom elsewhere? This cannot be done except by exporting our own oil at a time when the shortage of imported oil would be creating seemingly intolerable sacrifices already!

One alternative that is being discussed today should be excluded. We cannot undertake military action in the Middle East. Thorough preparation and proximity both favor the Russians. A war which we are bound to lose should surely be excluded.

What we need is a contingency plan to allow us to fight an economic war for survival—with sweat and tears but without bloodshed.

It is obvious that the United States needs more energy resources, but it should be equally clear that the United States (and the free world) needs an economic plan that can be put into action immediately should Mideastern oil be cut off. No matter what course of energy development our nation takes, it cannot provide more than small quantities of relief in less than five years. Should an energy crash occur before then, only conservation will help. Such conservation will require sacrifice and privation at an awesome level—but it would be better than war.

Each month that we delay the development of our own resources creates more danger in an interdependent world, lengthens the period of suffering should an emergency arise and weakens our economy further. It is doubtful that we can avoid a cold war, but no matter how cold that war should be, it is incomparably better than a hot war. It is more justified, more profitable and, in the end, it would be successful.

But it requires planning, and it cannot be won unless we take it seriously.

The crime of omission of our current national leaders is so great that I can think of no justification for continuing them in office. We have a government that introduced taxation which makes it hardly more profitable for oil companies to drill wells than to invest in government bonds. We have a government which prevented realistic agreements for buying Mexican gas. We have a government where the president advocates coal, and the environmental agencies prevent its mining and use. We have a government afraid to oppose the hysteria caused by a vocal minority obstructing the cleanest, safest, most readily available form of electricity generation we have—nuclear power.

Yet this same government makes military noises under indefensible circumstances.

If we hope for the survival of our nation and the free world, if we hope for continued peace and freedom for ourselves and others, we must find a way to face and attack these problems. We must elect a government worthy of the name.●

A NATIONAL HISTORIC LANDMARK IN KENTUCKY

HON. WILLIAM H. NATCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● **Mr. NATCHER.** Mr. Speaker, in a ceremony on June 5, 1980, the Samuels family, the owners of Maker's Mark Distillery, observed the designation of the distillery near Loretto, Ky., as a national historic landmark. Judged by the Secretary of the Interior to possess significance for all Americans, a national historic landmark is a special part of America's heritage, deemed worthy of a place on the Department of the Interior's roll of landmarks commemorating our Nation's past.

The site of the Maker's Mark Distillery is not only the oldest Kentucky distilling site still in use, but it is also the last extant operating example of the distillery farms that made the words "Kentucky" and "bourbon" synonymous in the public mind.

Maker's Mark Distillery is the last of a once strong tradition—the small, family-owned distillery. Bill Samuels and his son, Bill, Jr., continue the family's tradition of distilling fine bourbon whisky, a tradition which dates back seven generations to 1779.

I insert the text of a congratulatory letter concerning the designation of the distillery as a historic landmark from the members of the Kentucky congressional delegation be printed in the Record along with two newspaper articles about the presentation ceremony on June 5.

The material follows:

Congress of the United States,
House of Representatives,
Washington, D.C., June 23, 1980.

Mr. Taylor W. Samuels, Sr.,
Chairman, Maker's Mark Distillery, Inc.,
Bardstown, Ky.

Dear Mr. Samuels: We who represent the Commonwealth of Kentucky in the Congress of the United States are proud that Maker's Mark Distillery has been designated a National Historic Landmark.

On this site in Happy Hollow near Loretto since 1805, except during the Prohibition era, a distillery has been in operation. For seven generations since 1779 the Samuels family, the present owners of Maker's Mark, have been distillers of fine bourbon whiskey.

The Maker's Mark Distillery is the oldest Kentucky distilling site still in use. It is the only distillery to be selected as a National Historic Landmark. As a small family-owned distillery it stands as a reminder of an important aspect of Kentucky's past.

We congratulate you, your family, and your coworkers for the recognition you have received for preserving as a place of beauty as well as an active workplace this symbol of Kentucky's past.

William H. Natcher, Second District; Carl D. Perkins, Seventh District; M. G. (Gene) Snyder, Fourth District; Tim Lee Carter, Fifth District; Romano L. Mazzoli, Third District; Carroll Hubbard, Jr., First District; Larry J. Hopkins, Sixth District; Walter D. Huddleston, U.S. Senator; Wendell H. Ford, U.S. Senator.

[From the Cincinnati Enquirer, June 15, 1980]

Kentucky Distillery Now National Landmark

(By Paul Lugannani)

A rare occurrence was witnessed recently by some 100 guests just outside the farm hamlet of Loretto, Ky., in Marion County 20 miles from Bardstown.

It is not every day that one is privileged to see the unveiling of a National Historic Landmark plaque, officially bestowed by the U.S. Department of Interior (DOI). It is an unusual happening when the selected site is one of whiskey production, that of the Burks/Maker's Mark Distillery.

On behalf of the DOI, Paul Hartwig, Atlanta, Ga., regional director of its Heritage and Conservation Commission, presented a bronze plaque and a certificate to T. William Samuels, Sr., his son "Bill Jr." and daughter, Leslie Samuels Tucker.

"T.W.," Bill and Leslie are fourth and fifth generations of the pioneer Kentucky bourbon making Samuels family. A member of its sixth generation, Taylor Samuels, was given the honor of unveiling the plaque.

The ceremony was at Happy Hollow, site of the small, sour mash bourbon distillery, which originally started at the end of the 18th century as Star Hill Farm.

In 1806, another industrious pioneer, Charles Burks, who had started a gristmill on the farm, did what all millers did in those days. He began distilling whiskey out of surplus grain. On the frontier, whiskey was so valuable that it all but replaced currency as the medium of trade.

The Burks Distillery thrived for more than a century. At the same time, the T.W. Samuels Distillery also thrived at nearby Deatsville.

The Samuels family, now the oldest continuing whiskey maker in America, had begun making whiskey in Pennsylvania during the American Revolution. Then, at the beginning of the 19th century, the family shipped its still down the Ohio River by flatboat to set up business in Deatsville.

By 1953, the elder Samuels, a master distiller, had sold his interest in the original business and began anew by acquiring the Burks Distillery.

T. W. adopted the name Maker's Mark. Later, with Bill Jr. as a partner, a complete restoration of all historical buildings on the premises was accomplished.

One refurbished structure near the entrance, for example, is the one-room Quart House. This is where pioneer farmers brought their barter goods and their quart jars to be filled with bourbon.

Hartwig declared, "This Burks/Maker's Mark Distillery still makes whiskey in the meticulous methods utilized in the late 19th and early 20th centuries. It is the smallest legal distillery in the state; possibly in the nation."

He said it also is the last operating example of the early distillery-gristmill farms that made whiskey, in the words of one historian, "the distinctive spirit of our country."

"These landmarks are awarded as visible reminders that persons, objects or events have in this spot effected broad patterns of American history, possessing national significance and commemorating the heritage of America," said Hartwig.

The distillery can be coupled with any one or more of a score of attractions in the Bardstown area.

I recommend three places I had not previously visited: the Bernheim Forest, a 10,000-acre nature center and arboretum; St. Joseph's Cathedral, adorned with nine large paintings by European masters and given to the Bishop of Bardstown by a King of France, and the beautiful camping-picnic grounds adjacent to Steven Foster's "My Old Kentucky Home."

GETTING THERE

Take Interstate 71 to the Watterson Expressway (Interstate 264) on the outskirts of Louisville. Take I-264 to Interstate 65 south. Then take the Bardstown-Bernheim Forest exit and turn left on Ky. 245 to Bardstown. To reach Maker's Mark distillery, take Ky. 49 south to Loretto, then Ky. 52 for a few miles. Be alert for the small entrance sign on your left.

From Cincinnati to Loretto is a 3½- to 4-hour trip. If in doubt, stop at the Bardstown Information Center on the central traffic circle. There is free parking and free brochures for all area attractions.

[From the Kentucky Standard, June 12, 1980]

A Distillery With the "Maker's" Mark

(By Bill Medley)

History and bourbon mixed on a sunny June afternoon near Loretto last Thursday when distillers, public officials and chroniclers paid homage to the Burks' Distillery, home of Maker's Mark, and now a National Historic Landmark.

Following a sampling of the product, and a lunch of country ham and corn pudding, a crowd gathered on the front lawn of Star Hill Farm and watched as young Taylor Samuels, the sixth generation of the family, unveiled the prestigious marker.

On the speakers' platform was his grandfather, T. William Samuels, who purchased a group of dilapidated buildings in 1953 and began the transformation of what is now Kentucky's most charming distillery.

There was a tone of pride in T. W. "Bill" Samuels' voice as he told the audience of his ancestors making whiskey in George Washington's day . . . and of how the Samuels family is the oldest family still making whiskey in the U.S.

"Even before buying this place, I dreamed of restoring the buildings, making it a historic distillery. Showing something of the history of whiskey, and the history of Kentucky," he said.

In closing, Samuels made another point about an industry which had been regulated, at times almost strangled, by federal, state, and local regulations and taxes.

"All this (restoration) was done with our own money, not a dime from the government," he said, obviously proud in that fact.

About 50 invited guests were entertained by the stories of George Burks, a descendant of the family which started the distillery.

Burks, who was born in what is now the Star Hill Farm guest house, told of his forefathers petitioning the Washington County Court to build a water grist mill in 1805.

Later, when the distillery was in operation, the many blackberry bushes on the farm provided supplemental income, he said. "They made blackberry wine, and had a heck of a market to the hospitals and the Catholic nuns."

Also on the speakers' platform were Frank Dailey, president of the Kentucky Distillers Association; State Senator Ed O'Daniel; Frank Rankin, chairman of the Kentucky Heritage Commission; and Paul Hartwig, assistant regional director of the U.S. Department of the Interior.

All places designated as National Historic Landmarks must possess a national significance, Hartwig said.

"This distillery is a visible reminder which commemorates Kentucky's long dominance of the whiskey industry. It is in the heart of Kentucky's Bourbon Belt, and at the same time the smallest and oldest legally operating distillery in Kentucky".

"A visit here gives one an understanding of the industry, and a feeling for its history", Hartwig added. "We are proud to be able to preserve a portion of that history."

Both Frank Dailey and State Senator O'Daniel cited the role of Maker's Mark as a good corporate citizen. "Maker's Mark's value to the economy of Marion County is fairly obvious," O'Daniel said. "In terms of tax revênue, jobs and employment for people of Marion and Nelson counties, it's been substantial."

"The vision and sensitivity of one man reversed the history of this place. It has been transformed to a thriving business of extraordinary beauty and serenity," O'Daniel said in praise of T. W. Samuels' work.

Before ending, the state senator also cited the passage of House Bill 976 in the General Assembly which will phase out state ad valorem taxes. Because of that legislation, O'Daniel says the trend of moving whiskey out of state for storage will be reversed. That is considered a boost for Kentucky's distilling industry.

"We are already seeing results of that legislation," he added. "Brown-Forman Distilleries has tabled plans to build out-of-state warehouses. Schenley, National, and Glenmore distilleries are no longer moving whiskey out of Kentucky for storage." O'Daniel recognized the efforts of state Rep. Kenny Rapier, Bardstown, who worked for passage of the bill in the House.

Frank Rankin, chairman of the Kentucky Heritage Commission, was glowing in his praise of Maker's Mark.

"This place is a pride and joy in these days and times", Rankin said.

"It is a delightful, historic hollow."

Perhaps it was Ed O'Daniel though, who best summed up the feeling of the day:

"If an artist were attempting to create an image of a distillery, the one he would create would be that of Maker's Mark right here at Burks' Spring."

At the moment no one could disagree.●

RECENT DEATH OF MRS. LILLIAN M. ROEBUCK

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mrs. COLLINS of Illinois. Mr. Speaker, my colleagues of the Congressional Black Caucus and I were saddened to learn of the recent death of Mrs. Lillian M. Roebuck, mother of Raymond Roebuck of the Democratic Cloakroom. In Mrs. Roebuck's memory and to her son, Ray, of whom we think so highly, I would at this time like to share with this Chamber the obituary of Mrs. Roebuck.

Obituary

"Servant of God, well done!"

No one deserves these words of praise more than Lillian M. Roebuck, who made the final transition into immortality on Friday, June 20, 1980.

Mrs. Roebuck, daughter of the late William and Lula Chivis, was born eighty-three years ago on April 26, 1897 in Winston-Culpeper County, Virginia.

From youth on, she was a faithful member of the Oak Grove Baptist Church, Madison County, Virginia, where she developed strong Christian ideals she was later to instill in all of her children.

When she came to Washington she joined the First Baptist Church of Mt. Pleasant Plains under the pastorate of Rev. Daniel Washington. Later, she united with the Canaan Baptist Church under the pastorate of Rev. M. Cecil Mills.

On January 17, 1915, Lillian M. Chivis married John H. Roebuck. Of this union eleven children were born, Lula Roebuck Harris, Virginia Roebuck Gibson, Betty Sydnor White, Ira Mae Hester, Doris R. Norman, Shirley A. Golden, John W., Reuben F., Thomas H., Jesse N., and Raymond H. Roebuck, all of whom reside in the Metropolitan area. The welfare of her husband, children and later grand and great-grandchildren took priority over everything else. However, she was an ardent worker in the church and while at Canaan Baptist, she organized the Deaconess Board and served as its Chairman until her health failed. In addition, she was a faithful and diligent member of the Missionary Society and was never too busy to lend a helping hand wherever one was needed.

Surviving is her beloved husband of sixty-five years, John H. Roebuck, eleven devoted children, fourteen grand-children, twelve great-grandchildren, one brother, Charlie Chivis, a devoted brother in-law, the Rev. Thomas Roebuck, two devoted sisters-in-law, Bernice Chivis and Harriet Tate and a host of other relatives and friends.

Mr. Speaker, to Raymond, and his family, we express our deepest sympathy.●

SCIENCE MAGAZINE CELEBRATES ITS 100TH ANNIVERSARY

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. BROWN of California. Mr. Speaker, today I note an American institution that deserves recognition and praise. I refer to Science magazine, which was first published on July 3, 1880. While it was only several years later that Science became the official publication of the American Association for the Advancement of Science (AAAS), this 100th anniversary is an important event for the AAAS. As a regular reader of Science, I have a fine sense of appreciation for the quality, and respect for the influence this magazine has in the world today. The centennial issue, dated July 4, 1980, is one that every Member should take the time to review.

A sense of the scope of concern by the AAAS and Science magazine can be captured from the editorials which accompany this issue. The lead editorial by Kenneth E. Boulding, immediate past president of AAAS, describes his view of the next 100 years. I think every Member would be interested in this perspective. The executive officer of AAAS and publisher of Science, William D. Carey, describes the role of Science within AAAS. I find Mr. Carey's remarks to be insightful and illustrative of why Science is an important publication.

I'm certain all my colleagues join me in wishing Science and AAAS another 100 years of success. At this time, I include the two articles mentioned above in the Congressional Record.

[From Science, July 4, 1980]

Science

(By Kenneth E. Boulding)

THE NEXT 100 YEARS?

In determining the behavior of humans, excuses seem to be more important than reasons, and one of the functions of the human brain is to find excuses for doing things that are reasonable to do. A centennial is one such excuse. There is no scientific reason why we should celebrate the number 100. The decimal system is only a convenient way to count, derived from the accident that we have ten fingers. The only case for celebrating such an uninteresting and mediocre number as 100 is that it stands roughly for the extreme limit of the single human life. It is, therefore, a good excuse for reminiscing about the past and looking forward into the future.

This is a good occasion, therefore, to think about the next 100 years. Will Science still exist? Will science itself still exist? The probability of nuclear war has risen so sharply in the last year that the most probable future in 2080 might be that Science will long have ceased to exist, or that something like it might be published in Tasmania, and that science itself will survive, if at all, only in scattered enclaves in a ravaged world. The dismal sequence—science gives knowledge, knowledge gives power, power destroys us—may be the writing on the wall at festivals of science. There is an uncomfortable gap between the wisdom of the folk and the ethos of science. How much ignorance is bliss, and how much curiosity killed the cat? If science leads to nuclear holocaust, may we not expect an immense revulsion of the survivors against it? Much short of this, do we see in Iran the beginnings of a folk revolt against the all-conquering empire of science-based technology?

This is not much of a speech for a birthday party, so let me light a few candles. There are signs of hope. For the first time, I believe, the Council of the AAAS last January passed a resolution instructing the Association to make "Directing Science Toward Peace" a major theme of the 1981 meetings, and to set up a working group on nuclear arms control, which has been done. Congress has set up a commission to study the formation of a National Academy of Peace and Conflict Resolution; the commission is now actively conducting hearings all over the country and will report by the end of the year. The whole concept of unilateral national defense is in deep intellectual trouble, as it becomes increasingly clear that deterrence cannot ultimately be stable, and that the civilian populations of the world are no longer defended by the armed forces for which their taxes pay, but are merely hostages to them.

I do, therefore, see a future for science, both the magazine and the institution. Ignorance does not lead to bliss, and at least the veterinarian's curiosity can save the cat. But I would like to see a motto on the masthead: "We persuade by evidence and not by threat." The renunciation of threat as a means of persuasion is an essential part of the ethic and culture of science; the use of political threat to enforce ideological conformity is the greatest threat to science itself. Science is a world community that transcends national interest and ideologies. It is a weak community, but it has a deep loyalty to the principles that have made it such a remarkable human achievement.

In the last 100 years Science has recorded faithfully an extraordinary growth in human knowledge, especially of the physical and biological world. In the next 100 years I see it recording a great growth in knowledge about human learning itself, through which we can learn how to use power for human betterment, and not for human destruction.

SCIENCE: ITS PLACE IN AAAS

(By William D. Carey)

When a journal of science reaches a certain age, intimations of continuity come naturally and must be put down swiftly. Longevity is no guarantor of continuity. On the whole, editors grasp this truth better than publishers, for the editor knows that life is unfair and that adversity crouches close by. A publisher, on the other hand, assumes that a journal that has had 5000 live births and is still going strong is likely to be around a while longer if he has enough sense to let the editors alone, and he sees his chores as those of repelling forays on editorial freedom, ministering to aggrieved authors and readers, and managing controversy.

RESPONSIBILITY

Adaptation and a capacity to come to terms with change are characteristics of scientific publishing no less than of consumer publishing. Qualitatively, there are necessary differences. A journal of science must not pander, nor court what is called favor. It is not, nor should it be, a mass market product. Its legitimacy, even after 100 years, arises not from longevity but from its linkages with the method of scientific responsibility through which accountability is enforced by peer review. Even with that constraint, change and adaptation have ample space within which to work, not simply to retain readership but to enhance and develop the journal's influence.

This matters very much. Influence is not another term for power. It affects choices and outcomes but does not dictate them. What appears in Science on the lot of Sakharov and Orlov seems to produce no visible effect on the Soviet authorities. On the other hand, when Science concerns itself with violations of human rights of scientists at the hands of the Argentine authorities, no one is left in doubt that pain has been inflicted and felt. Not the least of the problems of the editor and publisher of a science journal is how to conserve this influence and ration it. The fact is that Science is a more potent platform then we appreciate, and its privileges are to be exercised judiciously. Misuse of the journal's voice could drain its reserves of influence dangerously. If we have a brief for employing this influence, it runs to proper concerns for science, its uses, its effects, its transnational community, and a concern for where the conscience of the world—through science—is tending.

Science is the journal of the AAAS, a fact that bears directly on both the viability of the Association and the roles of the journal. There is more to this relationship than meets the eye. What is beyond argument is that Science is AAAS's responsibility. As AAAS sees to the care and tending of Science, so it is ultimately accountable for its contents and opinions. Pulling in the other direction are the dictates of editorial and scientific independence, in the absence of which the journal could hardly lay claim to distinction. Institutional responsibility and editorial independence are not always chummy neighbors. The archives show that editors have been known to resign rather than knuckle under to officers of the Association on matters of editorial principle, and in so doing they have made their point. As matters now are arranged, Science is brought out each week by its editors with neither prior review nor restraint by the high command of the AAAS. If officialdom is vexed by what it reads, or by the absence of what it thinks it should have read, sound and fury may have their day but Science goes on under the ground rules. The reason is not hard to find. The officers and editors are not far apart on the essentials, with the result that the noise is contained at the margins.

SCIENCE JOURNALISM

In today's burgeoning industry of science journalism, electronic as well as print, Science increasingly takes on the appearance of the laced and corseted great-grandmother who is very sure of her position and, despite her great age, entirely capable of keeping it. In the journal's 100th year, the Hearst publishing empire made the tactical mistake of testing its geriatric reflexes. They did so by changing the cover logo of Science Digest in a manner that bannered the word "Science" and shrunk the word "Digest." Handing down her decision on AAAS's suit for injunctive relief, Federal Judge Joyce Hens Green held for the AAAS, and opined that the Hearst product "differs from Science as a Philip Roth novel differs from a Shakespeare play, as Bo Derek does from Katharine Hepburn." Justice seldom has been rendered with as much artistic and literary grace. Yet, the discovery of the public's growing interest in science is a very good thing, and AAAS has no quarrel with commercial publishers or sponsors of programs focused on science. The day may come, however, when vulgarization gets out of hand and if it does come, the scientific community will have little choice but to arm itself for battle. Meanwhile, AAAS intends to set a standard of scientific accuracy for the popular market with its general-audience magazine, Science 80.

The decision to field a magazine for an educated but nonscientific readership was hardly impetuous. For more than a decade, AAAS has been mandated to foster the public understanding of science. It is a very large order. There is more than one public, and each has different characteristics. In its total terms, this problem is close to being beyond any resources that are likely to be available. If AAAS was to address it, the choice of strategy had to be grounded in a strong and proven capability. Not surprisingly, this turned out to be Science, whose Research News editor was in fact gestating a concept for a new kind of magazine. The approach was to be decidedly different from the successful formula of Science, but the standard of authenticity would come very close. And the good name of both Science and its shepherd, AAAS, would provide legitimacy and assurances of quality. We would not solve the entire problem of public confusion and anxiety about science and technology, but we might reach and inform a sizable population. Equally, the magazine might help to shore up the timbers of science education.

CONTROVERSY

The place of controversy in Science is a much-argued matter, though the history of science would suggest that progress has been propelled by controversy. What is actually at issue, however, is political controversy. There are those among us who are resigned to having sociopolitical debates at the AAAS annual meeting, yet take umbrage at the use of Science as a medium for pursuing such matters. Their position is disputed by the substantial cohort of readers who take Science mainly to find out, from one week to the next, what political storms are lashing the beaches of science. Considering how both science and its applications figure centrally or tangentially in most of society's dilemmas, it would become Science poorly to pose as a nonaligned and faceless party before contemporary events and forces, as though knowledge and its sires had no values and nothing to say. On the whole, Science seems to have dealt with the difficulties at least moderately well, since the publisher's mail is roughly equally divided between those who indict Science for being pronuclear and those who can "prove" that its editorial slant is anti-nuclear. There are some impatient readers who would have Science take a far more militant stand in denouncing violations of human rights of scientists, even as Soviet censors are working overtime to rid the journal of its persistent thrusts on behalf of harassed dissidents. Whatever it does, Science plays no political favorites at home or abroad. The good, the bad, and the simply foolish in every administration, and in the scientific research enterprise as well, will find their way into the journal. Its News and Comment department was a first in the field of science journalism, and it scores its newsbeats with as much professional pride and independence as will be found anywhere. That is the way it should be, but without rashness or a bent for muckraking.

Should Science shape and lead, to the extent that it can, the evolution of policies for science and technology? Or is its role the more modest one of reporting and commenting on policies as others shape them? Perhaps the answer depends on the effectiveness and the intentions of the nation's policy machinery and its managers. As matters have been arranged, by both pragmatism and drift, government has most of the leverage on policies for science and technology, while the other "partners," universities and industry, are minor stockholders. Although this arrangement may be serviceable enough when policy management is not seriously stressed, it can be quite another matter as the national policy system settles into a prolonged period of crisis accumulation. Then policies for science and technology undergo a mutation that is driven by government's intentions and strategies. When, to carry the point a little farther, the government's process lacks a workable capability for strategic policy planning, science and technology are conscripted into the service of expediency. Independence of thought and inputs to goals, strategies, and means become quite chancy in these circumstances, as the scholarly world discovered during the Vietnam years. Yet that was a single, though massive, crisis of policy, and different in terms and possibilities from a multicrisis syndrome driven not from within but from without and prolonged over time.

It may not be certain that the United States is headed for such troubled waters, but to speak softly of a sea change qualifies as understatement. Relying in the next decades on a systemic political technology that shows so much evidence of being flawed, and taking for granted a seat for science at the policy-making table, is not a prospect that invites confidence. The central problem facing government, though it may not yet have caught its attention, will be that of managing surprise. Our political technology now provides very poorly for this, with the result that government finds itself preoccupied with managing crisis. It takes little effort to appraise the budding surprises that are strewn about the world, in the Third World especially.

They nest in disappointed expectations, in hopeless debt burdens, in subversion, in terrorism, in hunger, in anger, and in shrinking living space. Violence is an element in the strategy of political surprise, and it is cultured in smoldering grievances that invite opportunism and mischief. The surprise factor, as it acquires strategic importance, cannot be dismissed as mere discontinuity. It is much more: it is evidence of the mature play of rogue forces and methods aimed at stressing an overstructured and overloaded Western value system. If surprise is to be managed even halfway adequately, participation of scientists and their institutions is plainly in the cards.

TAKING POSITIONS

For AAAS and its journal Science, the question is not whether political issues are within or beyond their brief. Instead, the question is which political issues are germane to that brief and which require that the brief be stretched to justify addressing them. A heated argument can still be raised as to whether the fate of the Equal Rights Amendment is AAAS's proper business. But it is much clearer that the politics of world hunger and starvation are central to the scientific enterprise for at least two reasons: first, as Clifford Wharton has pointed out, knowledge itself—theory, invention, discovery, technology—together with human skills must be pooled globally if the problem is to be solved, and second, the relative indifference of the advanced nations arouses the conscience of science. Not far removed from similar centrality is the issue of technological terror as expressed in the complexities of nuclear arms control and disarmament, where once again knowledge and scientific conscience bear heavily on the course of policy management. For issues that cut as deeply as these, the resources of AAAS and its journal should be open to the use of the scientific community.

The issues may at times defy clear distinctions between those that are intrinsically scientific and those that are intrinsically political. Some will be hybrids, but no less appropriate for the involvement of scientists. Still others will be in a no-man's-land where conscience alone governs; an example would be the appropriateness of mobilizing scientists for human rights or for American ratification, after decades of stewing, of the Genocide Treaty. With all this, AAAS is left to wrestle with the proposition laid down by Philip Handler, who does not mince words: "Scientists best serve public policy by living within the ethics of science, not those of politics." In an era when most things are colored gray, that takes considerable doing.

These and other dilemmas frame the operative question as to what AAAS's function and role should be, under the rubric of advancing science. Too much scrambling in the whirlpool of contemporary social and political turmoil, on issues at the fringes of scientific responsibility, would carry AAAS far from its center of gravity. A hard and fast policy of strict germaneness to "advancing science" would mean accepting narrowness and noninvolvement in most of the action and passion of the times—opting out. Between these extremes, the problem comes down to matching the choice of issues with the competences and resources that are at hand. Taking positions merely because an issue or a controversy has arisen, without a sufficiency of knowledge, will not do. But argument from strength where we can be sure of strength, on issues that are not trivial, can advance both science and the context on which its advancement and its continuity depend profoundly.●

VOLUNTEERISM DAY FOR PALM BEACH COUNTY

HON. DAN MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. MICA. Mr. Speaker, I insert this proclamation in special honor of all dedicated volunteers in Palm Beach County, Fla.:

Whereas, the Outreach Prayer Foundation in cooperation with the 1980 Palm Beach County Royal Palm Festival Committee, will launch forth on August 16th to commence a week of celebration in honor of our beautiful County of Palm Beach; and

Whereas, the men and women of Palm Beach County are constantly striving to further the cultural, civic and charitable aims of Palm Beach County; and

Whereas, the furtherance of these aims requires dedication, devotion and a zealous spirit of love and pride in community; the Royal Palm Festival will graciously assist these volunteers in the promotion of these worthwhile aims.

Now, therefore be it proclaimed by the Palm Beach County Board of Commissioners that Saturday, August 16, 1980 be proclaimed, Volunteerism Day, in honor of all dedicated volunteers in Palm Beach County.●

STRONGER DEFENSE

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. COLLINS of Texas. Mr. Speaker, with the need to cut spending so vital in this country, there is one place we must invest more money and that is defense. I just read one of the best analyses I have seen on how weak our national defense really is.

A good friend of mine from Fort Worth had read in the Fact Finder, which is published out in Phoenix, a statement made by Gen. George Keegan, who is former Chief of Air Force Intelligence.

I knew we were No. 2, but I did not realize how far we were behind the Soviets.

Here are key parts of this analytical statement:

> American leadership is backed by a diplomacy that is now known to be bankrupt and a defense policy which for 20 years has disarmed this country unilaterally.
>
> How could this be? In strategic, nuclear, offensive power and weapons, the Soviets today outnumber us two-to-one. In the ability to inflict nuclear fire expressed in megatonnage, the Soviet Union today has a six-to-one advantage over the U.S. In its ability to defend its people against attack, the Soviet Union has a weapons advantage of 47-1.
>
> And, while these Soviet capabilities were being developed during the past 20 years, the United States unilaterally grounded 1,000 of its strategic bombers and cut them up into ingots of aluminum. The United States grounded its entire supersonic bomber force—the most advanced bomber in history. The United States disbanded almost 100 percent of its air defenses—its anti-bomber missiles and its fighter interceptors to where but a few dozen remain today.
>
> In the conventional area, we now see 175 Soviet and 80 Communist-allied divisions arrayed against fewer than 16 American divisions. We see 200 Soviet reserve divisions, fully equipped, which could be mobilized and activated within 30 days.
>
> In tanks, the Soviets have achieved an advantage of 5-1. In artillery, 7-1. In ammunition stocks, more than 100-1 over the

United States and the Free World. In antiaircraft defenses for its divisions, an advantage of more than 10-1 over the Free World. And in fighter bombers, particularly across from Western Europe, an advantage of 3-1 over the U.S. and its allies.

In the naval area, we, the world's foremost naval power at the end of World War II, now find ourselves confronted by a Soviet Navy that in all classes of ships, small and large, outnumbers the United States by 5-1. In attack submarines, nuclear-powered, we are disadvantaged by 3-1. How many of you recall what two dozen Diesel submarines under Nazi Germany did to bring England within two weeks of surrender in 1942? And here are the Soviets with a most formidable array of nuclear-powered attack submarines in history that can cruise for months without refueling. In attack submarines, an advantage of 3-1, in missile-carrying submarines, an advantage of 2-1, over the United States. And in heavy, surface, combatant ships and submarines, the Soviets today have an advantage of 2-1 over the United States.

In the area of defense spending, the Soviets with an economy half the size of ours are spending two times for military capability what the United States is spending. On nuclear forces, they are spending more than three times the U.S. On military research and development, they are spending more than six times the U.S.

In the area of new technology, the Soviets have just perfected a giant laser gun to be based in space which soon, thanks to the giant computer we let the Soviets have under detente, will be capable of destroying all of our satellites in space from whence we get our warning, our information, in something less than five minutes. All of our nuclear scientists have refused to believe me until now the reality is at our doorsteps. This is a giant beam weapon capable of firing tens of thousands of giant lightning bolts to destroy the missiles that we would retaliate against the Soviet Union for having struck us first.●

MAY 29—DAY OF REMEMBRANCE FOR JOHN F. KENNEDY

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. DONNELLY. Mr. Speaker, today I am introducing a resolution to commemorate our late President John F. Kennedy. This good and brave man, tragically slain before the completion of his third year as President of these United States, left a legacy to all Americans, an undimmed vision of hope for an unclear future, and a deep sense of faith in our Nation's commitment to equality.

As my esteemed colleagues know, John F. Kennedy served his country well, with pride and great personal sacrifice in time of war, and in time of peace.

Accordingly, I am introducing the resolution to designate May 29 of each year as a day of remembrance of John F. Kennedy, and to call on our fellow citizens to observe this day by reflecting on the challenges and legacy of this good man.

We will do well to pause and recollect the greatest challenge issued by our late President, to put aside our differences, and to build a Nation respected across the globe because of its justice, human dignity, and opportunity for all its citizens.

The resolution follows:

H. CON. RES. —

Concurrent resolution authorizing and requesting the President to establish May 29 as a day of remembrance of John F. Kennedy.

Whereas John F. Kennedy inspired and challenged the people of our great Nation and the world with his bold vision for the future;

Whereas John F. Kennedy, the youngest President elected in our Nation's history, sparked a commitment in the youth of our country to better the living conditions of the disadvantaged at home and abroad;

Whereas the late President John F. Kennedy won world respect as the leader of the Free World by his firm, unflinching resolution of the Cuban missile crisis and by his success in enacting the Nuclear Test Ban Treaty; and

Whereas John F. Kennedy was assassinated November 22, 1963, to the immense horror and deep sorrow of all mankind, after an all too brief tenure as President, and with all too many tasks left unfinished: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the President is authorized and requested to issue a proclamation designating as a day of remembrance of John F. Kennedy May 29, the date of his birth, of each year and calling on the American people to observe such day by reflecting on the challenges and legacy of John F. Kennedy.●

MARIHUANA PENALTIES AND DRUG EDUCATION

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. WOLFF. Mr. Speaker, as chairman of the Select Committee on Narcotics Abuse and Control, I am deeply concerned by the extensive and growing use of marihuana, particularly by the youth of our Nation. A recent survey of the nonmedical use of drugs by Americans 12 years of age and older, released by the Department of Health and Human Services, confirms the epidemic proportions of marihuana use among young people. According to the survey, 31 percent of 12- to 17-year-olds have tried marihuana, up from 14 percent in 1972. Within this age group, 17 percent are current users as compared to 7 percent in 1972. Marihuana use is highest in the 18- to 25-year-old group, with 68 percent having tried the drug, a substantial increase over the 48 percent who had tried marihuana in 1972. Current use of marihuana among this age group increased from 27 percent in 1977 to 40 percent in 1979.

These statistics are corroborated by recent data on drug use by high school seniors compiled for the National Institute on Drug Abuse. These data show that from 1975 to 1979 the number of high school seniors who had ever used marihuana increased from 47 percent to 60 percent. In addition, this study shows that approximately 1 out of every 10 high school seniors in 1979 used marihuana on a daily basis, nearly double the number of daily users among this group in 1975.

The pervasive use of marihuana by our young people is particularly alarming for several reasons. Evidence continues to mount that smoking marihuana can lead to serious and sometimes irreversible physiological and psychological damage. The risks of impairment are especially great for users who are still in their formative years. Moreover, the potency of marihuana has increased substantially over the past 5 years.

Because of the dangers associated with marihuana abuse, I have maintained a strong interest in the continuing controversy surrounding the question of whether penalties for possession of small amounts of marihuana for personal use should be reduced. To date, 11 States have resolved the issue by decriminalizing such possession. At the Federal level, President Carter has endorsed elimination of all Federal criminal penalties for the possession of up to 1 ounce of marihuana, and during the 96th Congress, proposals have been offered in both the House and the Senate that would effectively decriminalize possession of small amounts of marihuana by substituting payment of a fine for incarceration. Although the present Federal criminal sanctions for marihuana possession do not deter people from using the drug for recreational purposes, decriminalization—the most publicized alternative to current law—also is inadequate because it fails to make users aware of the serious dangers and implications of drug abuse.

In an attempt to provide a viable alternative to both the present law and decriminalization, my colleague on the Select Committee, Representative ROBIN BEARD, and I introduced last year H.R. 3470, the Marihuana Pretrial Diversion Act. Under our bill, persons subject to criminal prosecution for possession of small amounts of marihuana would be channeled out of the traditional criminal justice system and placed instead in an educational counseling program that stresses the serious dangers and ramifications, both for the individual and society, associated with the abuse of marihuana and other drugs. Upon successful completion of the program, all official public records relating to the offense would be destroyed and no adjudication of guilt would be made.

We believe the approach embodied in our bill represents a superior policy because it offers a number of important advantages that neither present law nor decriminalization provides.

First, it recognizes that possession of small amounts of marihuana for personal use should not subject an offender, who most likely will be a young person, to the lifelong stigma of a criminal record. Second, it recognizes that drug education and counseling, as opposed to a jail sentence or probation, offers a constructive opportunity to affect the youthful user's attitudes about drugs. Third, by making expungement of an offender's criminal record contingent upon successful completion of a drug education program, the marihuana pretrial diversion concept maintains an effective sanction against marihuana possession for personal use. Many persons undoubtedly would construe the mere payment of a fine for possessing small amounts of marihuana as official condonation of marihuana use. Fourth, and perhaps most important, our bill provides a responsible model for State legislatures as they wrestle with the complexities of drug abuse.

In our consideration of the available policy alternatives, we in the Congress must be ever mindful that Federal legislation in the drug area often serves as a guide for the States. Particularly in the area of marihuana penalties, we must weigh our action carefully, recognizing that virtually all arrests for simple possession of small amounts of marihuana in the past several years have been made at the State and local levels, not at the Federal level. Decriminalization at the Federal level would encourage those States still debating the issue to follow suit. To adopt such a policy, however, without first evaluating the experiences of the 11 States that have decriminalized marihuana possession would be precipitous and premature.

Earlier this year, I wrote to the Governors of these 11 States in an effort to obtain up-to-date information on the operation of their decriminalization laws. I was particularly impressed with the information I received from our former colleague, Governor Quie of Minnesota, and other officials responsible for administering that State's decriminalization law. In 1976, the Minnesota State Legislature enacted a law—M.S. Chapter 42-152.15, Subd. 2—that reduced penalties for first time minimal marihuana violators—possession of 1.5 ounces or less—to a $100 fine and eliminated criminal records on the condition that offenders attend a State-certified drug education program. The statute adopted by Minnesota is similar in many respects to H.R. 3470, the marihuana pretrial diversion legislation Representative BEARD and I have sponsored. At this point, I would insert in the RECORD a brief summary of the Minnesota drug education program which, Governor Quie reports, is now operating in all of Minnesota's 87 counties:

MINNESOTA'S MINIMAL MARIJUANA VIOLATOR/DRUG EDUCATION PROGRAM

State legislation enacted on April 11, 1976, removed criminal records and jail terms for first time minimal marijuana violators (possession of 1.5 oz. or less) on the condition that they attend a state-certified drug education program.

Under the direction of the Minnesota Behavioral Institute, the program was made available to the state's 108 courts on April 11, 1976, and by April 11, 1979, 5,000 Minnesotans had been referred into the program as an alternative to full criminal justice processing.

The mean average age of the minimal marijuana violators is 19.5 and 96+% of those referred are male. Health analysis infers that the group is not disproportionately in need of therapy.

The two-evening programs are based on trained instructors attempting to persuade the young Minnesotans not to misuse intoxication. Information on the dangers of PCP, cocaine, alcohol, medicine, as well as marijuana, are shared openly and directly in a communications style designed to influence the youthful experimenters.

Recidivism rates have been low, with only 16 violators having had second offenses. An in-depth evaluation published by the University of Minnesota Evaluation Consortium reported that:

> * * * the Drug Education Program is meeting its singular objective [to persuade participants not to misuse non-alcoholic or alcoholic drugs in the future]. Two-thirds of the respondents indicated that in the future they would make positive changes relative to their use of alcohol and drugs . . . the program is improving over time. Participant responses are increasingly more positive toward the program * * *

Based on its own evaluation and relative to the fact that federal funds allocated by the [State] Chemical Dependency Division are used to support the program, in 1977, the National Institute on Drug Abuse awarded the National Pacesetter Award to the program. The national award was shared by the Chemical Dependency Division and the Minnesota Behavioral Institute.

A financial audit of the program was conducted by the accounting firm of Peat, Marwick & Mitchell under contract with the National Governor's Conference in 1978. They reported that the program was cost effectively managed and efficiently organized.

The initial start-up costs for the first year were $135,000, the second year costs were reduced to $107,000, and during the third year, a system to bill violators to reduce annual costs was implemented, further reducing the annual expenditure to $90,988. During the upcoming fourth year (1979-80), the request is for $85,917. The reduction in costs is reflective of less managerial time committed to manage the project, increased client billings and a shift away from reliance on films and projectors to the use of a manual.

Mr. Speaker, I commend the State of Minnesota for its progressive response to the problem of handling minimal marihuana offenders. Certainly the success of its alternative drug education program merits the attention of all of us in the Congress as we continue to examine the issue of appropriate penalties for possession of small amounts of marihuana for personal use.●

ELIMINATION OF UNEMPLOYMENT COMPENSATION OFFSET

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. GUARINI. Mr. Speaker, today I am introducing a bill which would amend the Internal Revenue Code of 1954 to eliminate the requirement that States reduce the amount of unemployment compensation payable for any week by the amount of certain retirement benefits.

This bill would address the problems created by the enactment of Public Law 95-19, which provides a dollar-for-dollar offset of unemployment compensation benefits against social security and other retirement benefits.

This statute has worked a severe hardship upon numerous senior citizens who may have once retired but who have been forced by inflation and high prices to return to work. Older workers forced into early retirement by plant closings have also been affected. Once they have lost their jobs, just as with younger workers, these older workers and senior citizens need financial assistance to tide them over until they have found new jobs. However, under the law which went into effect on April 1, 1980, if they receive retirement benefits, these workers are subject to an offset which frequently precludes them from receiving any unemployment compensation benefits.

In New Jersey, nearly 10,000 unemployed older workers and senior citizens have been adversely affected. In my district alone, an estimated 500 men and women have summarily lost their unemployment compensation benefits. To add insult to injury, New Jersey is one of a handful of States in which both workers and employers contribute to the fund. The contribution is mandatory. Thus, in New Jersey, some workers who must contribute to the unemployment compensation fund are denied the possibility of ever collecting benefits.

I am convinced that Congress never intended this harsh result. It is inconsistent with our policies in other areas. Recognition of the fact that many senior citizens continue to work after retirement is clearly reflected in our policies on social security. We currently allow an individual age 65 to 72 to earn up to $5,000 without losing social security benefits. After age 72, we permit that individual to keep any income earned regardless of amount without being penalized by loss of social security benefits. It is my understanding that this provision will be lowered to age 70 within the next 2 years.

I would urge my colleagues in the House to join me in eliminating the offset provisions of Public Law 95-19. Let us instead work toward enacting provisions which are compatible with our policies on social security benefits and which reflect the realities of our present economic circumstances.●

RAMSEY CLARK

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. WEISS. Mr. Speaker, I wish to register my strong opposition to the suggestions that have been made to prosecute former Attorney General Ramsey Clark and nine others for their recent trip to Iran.

There are three compelling reasons why prosecution is unwarranted and unwise: Mr. Clark's trip did not violate U.S. law; he and his colleagues are protected by constitutional guarantees of the freedom to travel and free speech, and prosecution would be detrimental to U.S. interests at home, in Iran, and throughout the world.

The law cited by administration officials for possible use against Mr. Clark, the International Emergency Economic Powers Act (IEEPA) of 1977, does not support a ban on travel. The law only allows a President to prohibit transactions in a particular foreign exchange. Mr. Clark did not spend a cent in Iran, he has said. How can he be prosecuted, then? For accepting free room and board?. Neither the statute nor its legislative history mentions travel.

Another statute cited by my colleagues in this House and in the Senate as the basis for prosecution, the so-called Logan Act, though enacted in 1799, has been used just once—in 1861—without success. It prohibits any attempt to "influence" a foreign government or to "defeat" the measures of the American Government abroad—a ridiculously vague provison that would seriously erode our freedom of speech if enforced. Indeed, individual Americans seeking to support the President's laudable human rights initiatives by condemning tyranny in other lands could be prosecuted in that event.

Ramsey Clark has not tried to "defeat the measures" of his government, which last fall valued him enough to appoint him an emissary to Iran. Rather, he has tried to advance America's interests, the hostages' interests, and the interests of all people in a peaceful and just resolution to a bitter dispute. He spoke out bravely in Iran for the hostages' release; he has spoken out both in Iran and at home for a needed appraisal of our conduct in a nation formerly ruled by a tyrant installed by our hand.

Beyond the particular statutes, however, we should concern ourselves with the basic freedoms guaranteed every American by our Constitution. Prominent among these freedoms are the freedom of speech, which Ramsey Clark exercised on his journey, and to travel identified by the Supreme Court in 1958, in *Kent* v. *Dulles* (357 U.S. 116). "Freedom of movement is basic to our scheme of values," the Court held.

Even travel to a country on the State Department's prohibited list is not a crime, the Supreme Court ruled 9 years later. I should note that our President has lifted such restrictions on travel during his term of office, fearing that they might violate provisions of the Helsinki agreement that call for "free movement across borders." Our Government has accused Soviet Russia of violating that clause.

These constitutional guarantees lie at the core of our Nation's greatness, and must be preserved for every citizen regardless of political favor.

Freedom of speech does not cease when a citizen leaves our borders. Dissent is a fundamental right wherever an American may exercise it.

Prosecution of Mr. Clark, finally, would be more detrimental to the measures of this Government than anything he could have said or done. Iranians and others would only be encouraged to believe that American diplomats' words are worth as little as the constitutional and statutory standards that would be ignored. Those who hold our hostages would be persuaded that few if any Americans wish to understand our historic relations with Iran, and that those who do will be silenced.

Prosecution, too, would signal to our citizens here that the administration is losing sight of our Nation's basic principles, and is willing to forfeit those principles to satisfy its pride and the short-sighted vengeance of those intolerant of nonconformity.

Prosecution of Ramsey Clark and his associates would be a betrayal of the Bill of Rights. I trust that an administration that has wisely lifted bans on travel will not now initiate an act so inimical to our best interests, and our fundamental principles.●

DEADEYE SAM

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. SOLOMON. Mr. Speaker, Congressman SAM STRATTON, my neighbor in the 28th Congressional District of New York, has served in Congress for 22 years and has become one of this Nation's most respected and authoritative advocates of a strong national defense. Even though we are members of different political parties, I would like to take this opportunity to thank him on the behalf of my constituents and all Americans for his tell-it-like-it-is contribution to our national security. In a recent column in the Troy, N.Y., Times-Record, Editor Joseph Cooley recognizes this contribution, too. I would like to offer his fine tribute to SAM STRATTON as mine also.

The editorial follows:

CALL HIM HAWK OR MAVERICK, HE'S DEADEYE SAM

(By Joseph A. Cooley)

His years of close association with the nation's armed forces has made a real deadeye out of Congressman Sam Stratton. He can really hit the target when talking about defense. He proved it last week.

Sam also knows a bear trap when he sees one. That's why he hollered "Whoa" when members of his House Armed Service Investigations Subcommittee talked about dropping the rule which limits the excess profits on defense contracts.

Current law limits contractor's profits to 12 percent on aircraft and 10 percent on shipbuilding contracts. The law has been on the books for 46 years and if our defense posture is weak nobody dreams of blaming the law. It may need revision, such as boosting the profit ceiling to 15 percent. That would be a lot better than dumping the rule entirely.

Sam Stratton says the nation can't afford to "let the excess profits genie out of the bottle or we'll never get it back in." He's right. And that's just what would happen if Congress agrees to dropping the limit.

If Americans servicing and flying the nation's planes, driving the tanks or manning the warships are called on to give up so much then it won't hurt producers of the machine of war to give up a little bit. Limiting the profit from war would make it less acceptable to more people.

Advocates of the plan to drop the limit on excess profits include Congressman Paul McCloskey of California's 12th Congressional District. Not surprisingly, McCloskey's district includes a giant Lockheed plant in Sunnyvale. Talking about the plant, The Almanac of American Politics for 1980 says "In some years it has absorbed more federal dollars than any other defense plant in the nation." If Lockheed's slogan about planes is "Keep 'em flying," McCloskey's slogan about defense dollars for his district must be "Keep 'em coming."

Sam Stratton has defense plants in his district too. Fortunately it doesn't stop him from blowing the whistle when he sees a chance public money might be wasted on defense.

It's interesting to take a look at the reasons some in Congress want to open the door to the safe and let contractors get at the cash box.

First, the open cash box club complains about lack of enforcement. They say after the contractors get used to no enforcement the government steps in, blows the whistle and demands a refund. It sounds a lot like the gambler who runs a horseroom and never gets bothered by police. Finally the police raid him and the bookie cries persecution and thinks his rights are being violated. There is a simple solution. Contractors should observe the limits from the start and they won't get caught with their hands in the cookie jar.

Second, the contractors and their friends in Congress claim it costs too much to keep cost records. Are they trying to make us believe they don't include such an item in their cost analysis? Do they suggest such costs aren't included in the base from which their legal profits are figured?

Once the excess profits limit is dropped, the next step will be to convince Congress and the public we must have planes, missiles and ships at any cost. We'll be told it is unpatriotic to complain about runaway costs and excessive profits. We'll be in disgrace if we dare express Samuel Johnson's thought that "Patriotism is the last refuge of the scoundrel" even though it is true when used to excuse raids on the public pocketbook.

Dropping a limit on excess profits on defense contracts is a bad idea. What makes it worse, and makes the whole idea suspect, is the way people, including some on Stratton's subcommittee, would like to sneak it through Congress without a vote.

Nobody is better suited to fight the fight than Sam Stratton. His great interest is in defense. Since he fought in both World War II and the Korean War that should cause no surprise. Some call him a hawk but Sam says if that means he doesn't think the United States should be weak in defense the name is fine with him. He's been called a maverick too. What he really is though is a realist who doesn't think a strong defense means you need to waste taxpayer money. Fortunately he's maverick to say so. Congress should listen and not drop the excess profits tax on defense contracts.●

MILITARY CAPABILITIES

HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. WINN. Mr. Speaker, I am submitting for the RECORD today a copy of a recent "Memo" column written by Mr. Stan Rose, publisher of the Overland Park Sun in my third district.

As the article points out, U.S. military capabilities have deteriorated to the point that many Americans are concerned that we could not respond adequately to a Russian strike if we wanted to.

I agree with the premise that this problem is our most serious, and I believe we would all benefit from reading Mr. Rose's remarks.

NO. 1 PROBLEM NOT ECONOMY BUT SURVIVAL

Read the headline again and mull it over. I didn't dream it up. The words were spoken by a guy who should know what he's talking about. Col. Gene Chompko, director of the "Threats" Department at the Army Command and General Staff School, Fort Leavenworth, and former Russian interpreter for the Washington-Moscow Hotline, is going to spend the rest of his life drumming this message into our minds, if necessary.

Col. Chompko will retire from the U.S. Army within a few days after 30 years service. And he asked me—facetiously, I hope—to wait a week before reporting what he told the Overland Park Rotary Club Monday. "I don't want court martial proceedings to start before my retirement," he said.

Well, it's been five days and we don't publish on Monday. So I'm jumping the gun by a couple of days (they've only got a skeleton staff working at the Pentagon on weekends anyway). And waiting until Wednesday's paper might be too late.

You see, Col. Chompke is convinced that we've frittered away our military capability to the point that we couldn't respond adequately to a Russian strike if we wanted to.

"Any general officer who insists that our voluntary service is working is either lying, stupid or possessed of a false sense of loyalty," he said.

"The sword of Damocles is hanging by an ever thinning thread," he says. "America lacks an appreciation of the Soviet military capability and its determination to use it. The other side of that two edged sword is the sad state of our own military capability. America's self righteous smugness, its simple belief that our hearts are pure and therefore our strength is the strength of 10 has deluded us into thinking that we will prevail.

"Remember when we used to sing 'Over There'? 'And we won't come back til it's over over there.' Chances are the third world war won't be fought over there . . . it will be fought over here. The Soviets today have more submarines cruising back and forth along our Atlantic coast to Cuba than Hitler had in his entire U-Boat Navy.

Col. Chompko continued his pessimistic assessment of our military position as the Rotarians stayed glued to their seats long after the 1:30 adjournment time.

"Russia has 31 divisions outside the Soviet Union in Europe—all armed to the teeth. The United States has four divisions in Europe and only 16 in its entire Army. And there's talk of deactivating some of those!" Col. Chompko said.

"All of the NATO forces combined don't have half the strength of those 31 Soviet Divisions based in Europe outside the Soviet Union."

The Russians could attack on a line in Europe that would be equivalent to the distance between a spot in North Central Canada all the way to Puerto Rico. America's front line equivalent would be the distance between Kansas City and Omaha.

"We've got to shatter this illusion of American omnipotence. The only war we're prepared to fight today is a nuclear war—a war that has no winners. That will not be the next war. Why should the Russians destroy themselves in the process of trying to destroy us when it can get what it wants by conventional means."

Regarding all the talk about calling up the reserves, Col. Chompko says, "We destroyed the reserves when we abolished the draft."

Col. Chompko, whose stirring presentation makes Gen. Singlaub's messages sound like Sunday school sermons, isn't the least bit optimistic about America's chances of regaining its national will.

"I got sick the other day when the wife of a lieutenant colonel said, 'If they pass the registration bill, I'm going to urge my son to go to Canada.'

"From the looks of things and the way some of our people are talking, Canada is going to end up with the biggest damned army in the world—thanks to America."

Col. Chompko is convinced that Russia will move into Iran or Pakistan next—not just to get the oil out of the Persian gulf but to control the Moslem world. Russia moved into Afghanistan to quell the Moslem turmoil that represented a threat to its own border security.

"And unless we stop playing politics with our security, we won't be in any position to do anything about Russian aggression except bluster."●

EL SALVADOR: PROSPECT AND RETROSPECT—PART I

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. McDONALD. Mr. Speaker, at a time when the Washington Post can equate "victory over the left" in El Salvador as "complete failure for U.S. policy," it is well to remind this body that our policy in Central America still favors the leftists united under Fidel Castro's orders, over all our friends in the region.

The Post article to which I refer appeared on July 1; reporter Dickey is not even conscious of his irony when he states what is obvious—that Communist defeat is completely contrary to the policies being implemented in El Salvador by our Ambassador, John White, who is known to Salvadoreans as El Virrey, the Viceroy.

The people of El Salvador now confront but a small taste of the economic distress which faces them next year, when U.S. implementation of the Communist land reform program manifests itself in crops one-half to one-tenth of normal size. The effects of the State Department's policy with respect to money and credit, which has been implemented through the cat's-paw Salvadorean junta installed by coup last October, was explained some months ago by a leading banker in that nation.

The testimony of Sr. Luis Escalante Arce, presented to the Subcommittee on Inter-American Affairs but not yet available, is highly relevant to the situation today.

The statement follows:

STATEMENT BY LUIS ESCALANTE

I appreciate the opportunity offered by the distinguished Chairman and members of the subcommittee to submit information and views on the situation facing private business in El Salvador; it is of deep concern to our Central American peoples, and to your own.

My name is Luis Escalante. I have been active in business in my native El Salvador all of my adult life, and in 1955 founded El Salvador's Banco Agricola Comercial. This bank introduced the idea of making loans and services available to the rural and urban poor which—to the surprise of many—enabled the Banco Agricola Comercial to grow to become the country's largest, with $12 million in capital and surplus.

It is ironical that governments in Washington with the best intentions at times do unforeseen harm in the hemisphere's countries. President John F. Kennedy, inspired by Franklin D. Roosevelt's earlier Good Neighbor policy, set out to implant in Latin America the precepts of his Alliance for Progress. In failing, that policy in fact acted to stimulate the growth of socialism in Latin America's countries, as its backwash disrupted in various ways the normal social and economical growth process in each country.

Later, in equally good faith, President Carter brought forth his policy based on human rights. Circumstances has decreed that this policy's penalties have been applied by the United States most stringently to the weakest countries, and especially to those in Central America.

The threat by the United States implicit in this policy is that, regardless of circumstances, sanctions will fall upon regimes that do not respect human rights. This threat has impelled the governments of the countries of Central America to commit a graver offense against their peoples. It has obliged those governments to embrace weakness as policy, to the point of acting as no more than observers rather than protecting their peoples from the communist penetration of the Central American isthmus.

In El Salvador's case, the U.S. administration's commitment to human rights in foreign policy has affected two successive governments, neither for the better.

The bad government of General Carlos Humberto Romero reacted to the threat of U.S. human-rights penalties by adopting indifference to his people's well-being as policy. He made no use of his presidential powers to restrain the socio-political ferment that was being brewed by a number of small leftist and communist groups. These groups, which had acted in secret, were emboldened to set about creating anarchy in Salvadorean life.

They disrupted urban transportation, setting fire to buses and automobiles and blocking streets in San Salvador, the national capital. They assaulted people in the streets, and set fire to buildings and to homes.

Meanwhile certain of these leftist groups for some time had been kidnapping widely-known Salvadoreans, government officials and business executives, and a prominent matron. In exchange for their victims' freedom, they exacted enormous ransoms from industry associations, when the families could not pay. Over the years, it is estimated that leftist kidnappings have extorted some $60 million, in some cases for victims ruthlessly murdered at the outset.

President Romero's response was confined largely to avoiding, as far as possible human-rights charges conveyed by the American Ambassador. Romero turned aside the anguished pleas of Salvadoreans for protection against raids, gangland-style shootings of prominent citizens and all such urban guerrilla crimes with the "human-rights" excuse. He showed such absolute indifference to the wave of leftist kidnappings that it gave rise to whispers of the complicity of high governmental and Army officers in these highly remunerative crimes.

On October 15, 1979, a military coup d'état replaced President Romero with a junta made up of two military officers and three civilians named the following day. The leaders of the coup issued a proclamation in the name of the Fuerza Armada (comprising the five military and police services) which pledged, among other things, to nationalize the country's principal export products, agree to agrarian reform, and nationalize private banks.

This junta broke up after some three months because its three civilian members, along with almost the entire cabinet and top government officials demanded of the Army a program to carry out the reforms pledged in the proclamation issued at San Carlos, headquarters of the Fuerza Armada. This was tantamount to demanding revocation of the Salvadorean constitution as well, since our fundamental law guarantees the right to private property.

Upon the rejection of their demands, the national officials elected to resign in a body. This was taken as confirming that the overthrow of President Romero had been with the foreknowledge of the American Ambassador, Frank Devine, who had condoned the coup.

At the breakup of the recently formed junta, Ambassador Devine participated in the organization of a new governing junta, which installed in place of the three civilians who had resigned three members of the Chirstian Democrat Party, it being argued that this would produce popular support for the junta.

Ambassador Devine's agreement to this political strategy was ingenuous, since El Salvador's Christian Democrats are at best a small minority. The re-cycled junta was actively opposed by virtually all sectors of Salvadorean society, to such a point that the country's rulers had great difficulty in getting qualified people to accept cabinet posts.

Meanwhile, the guerrilla groups that had previously operated clandestinely were emboldened to drop their masks. This enabled them to redouble their attacks. The National University, hiding behind a distorted view of "autonomy," while supported by the state with a sizable piece of the national revenue, has for years served as an active guerrilla garrison.

As an act of leftist guerrilla theatrics, a few years ago, the university's rector, Dr. Carlos Alfaro Castillo, was ruthlessly shot to death by gunmen from a speeding car as he entered the university campus. Dr. Alfaro was devoting his efforts to de-politicizing the university, and to reversing its conversion into a leftist hotbed.

In what amounted to a guerrilla re-play, late the dean of the university's School of Economics was similarly assassinated.

El Salvador's second university is la Universidad José Simeón Cañas, also called the Universidad Católica (Catholic University), or "UCA". Run by Jesuit priests, it has played an in-depth role in the country's socio-political ferment, both directly and through the Salvadorean clergy. As a direct result, our country has suffered an anguish of the spirit, and a crisis of conscience unknown in this country. Priests bearing arms have joined in guerrilla assaults and, engaged in killing, have themselves been killed. With the obliteration of the separation of Church from State, the separation of the Church from violence has also been lost.●

SALE OF F-15'S TO SAUDI ARABIA

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. WIRTH. Mr. Speaker, I rise to voice my opposition to the proposal to provide Saudi Arabia with additional military equipment for their F-15 aircraft, which is currently under consideration by the administration.

Two years ago, I spoke on the floor against the sale of F-15's to Saudi Arabia because I felt that this sale would seriously jeopardize the delicate military balance in the Mideast, and our commitment to the peaceful settlement of the confrontation and hostilities there. The Congress went through a long and intense debate over this decision to sell 60 of our top line fighter/bombers to Saudi Arabia as a part of a package deal of sophisticated armaments to the Mideast. The Congress received assurances from both the Secretary of Defense and the State Department that these aircraft were for defensive purposes only and would not constitute a threat to Israel. Furthermore, we were assured that these planes would not be fitted with the sophisticated add-on equipment which the F-15 is designed to carry. Now, the administration is considering the request by the Government of Saudi Arabia for precisely the same equipment which we were assured would not be provided.

It is obvious that the Mideast today is not the same Mideast of 2 years ago. We face a grave situation in Afghanistan, with no certainty that the Soviets intend to withdraw, and we are unable to resolve our differences with Iran to secure the release of the Americans held hostage there.

We must pause to consider Iran and our past relationship with the government of the Shah. Just as we supplied the Shah with our most sophisticated arms systems, we are attempting to buy influence and protection with our sales to the Saudis. If we learn anything from our past relations with Iran, it is that arms transfers do not prop up unstable regimes. And if these regimes fall, our own arms transfer policy works against us.

It had been argued in 1978 that our sale of F-15's to Saudi Arabia would encourage moderation not only on oil policy but on their attitude toward Egyptian-Israeli peace negotiations. Let us examine these assumptions in light of 2-year's experience.

While the Saudi price for crude oil has generally been somewhat lower than other OPEC oil producers, the difference has been insignificant. As the most influential member of OPEC, Saudi Arabia presided over a more than doubling of the price of crude oil in the last 18 months.

After the sale of the F-15's, the Saudis made it clear that they would cut back their oil production if the administration went ahead with the plans to fill a strategic petroleum reserve as mandated by Congress.

Shortly after the signing of the Egyptian-Israeli Peace Treaty, a giant stride toward peace in that long-troubled region, Saudi Arabia led the Arab League in condemning the treaty. It has withheld economic support from Egypt and, in fact, broken diplomatic relations with Egypt. The Saudis joined with Iraq at the Baghdad conferences in organizing the Arab political and economic boycott of Egypt. To sell Saudi Arabia additional, offensive equipment for its F-15's would not be encouraging moderation but rather rewarding a policy with which we disagree.

It had been argued in 1978 and it will undoubtedly be argued today that if the United States does not supply Saudi Arabia with its arms request then the French would be more than eager to make the sales. This should come as no surprise as the French have made their preferences clear in the past few months. Oil is making their foreign policy, but it need not dictate ours.

There is only one nation threatened by the supply of armaments to Saudi Arabia—Israel. To supply these additional arms systems would be a direct contravention of the assurances made by the administration to the Congress in 1978. While we are working to bring Egypt and Israel closer together for the conclusion of the Camp David peace treaty, it cannot be in our best interests to escalate the tension of the region by arming one of the parties to the teeth, while at the same time claiming these arms will help to moderate their vehement opposition to the only structure for peace which has been created.

We must act rationally and responsibly, as a nation, if we are to insure that Israel remains a vital, democratic state and that the problems in the Mideast are resolved in an equitable and peaceful manner. I urge my colleagues in the House to join me in expressing to the administration our opposition to the pursuit of this proposal, which is contrary to American interests in the Mideast.●

VILLAGE OF CATO, N.Y.—HISTORY

HON. GARY A. LEE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. LEE. Mr. Speaker, July 18, 1980, marks the 100th birthday of the upstate village of Cato, N.Y., in north central Cayuga County. This does not mean, however, that civilization came late to these parts; on the contrary, settlers from New England and eastern New York State came to the area around 1800, holding the first Cato town meeting in 1803.

The Congress of the United States, 2 months after the Declaration of Independence, made provision for the payment of land bounties to those who served in the military service of the United States. In 1792 the New York State Legislature set aside for this purpose 1.8 million acres of former Indian lands known as the Onondaga Military Tract. Surveyor General Simeon DeWitt and his assistants laid out 28 military townships, each containing 100 600-acre lots; lots were drawn, rank determining the number of acres allotted to each veteran. The present towns of Ira and Victory, plus the upper halves of the towns of Cato and Conquest, make up what was the Cato Military Township.

Comparatively few soldiers settled on their claims; the majority sold or traded their warrants which, in 1788, were priced at $8, and had risen to $30 in 4 years. Indeed it was not unusual for a 600-acre parcel to be traded for a few gallons of whisky or a suit of clothes. The four corners of Cato Village mark the junction of four lots of the Cato Military Township.

Dr. Jakway, who was reputed to have served with Ethan Allen, is considered to be the first permanent settler, and for many years the village was known as "Jakway's Corners." Jakway was the first doctor, covering Conquest and other hamlets on horseback. He opened a store in 1838, served in the assembly and signed the petition requesting formation of the Cato Masonic Lodge Storke's "History of Cayuga County" says "Jakway was a * * * man of generous impulses and marked idiosyncracies." It is no wonder, then, that one story in particular revolves around the good doctor: It is said that he requested to be buried with his head sticking out of the ground, so that boys could crack nuts on his skull. Obviously, his request was denied.

Immigration west was accomplished in many ways: people came on foot and horseback. Many stayed because of the fertile soil and long growing season. Many Irish settled in the area as they were connected with the digging of the Erie Canal. A railroad was built between Auburn and Fair Haven in 1869 with Cato being a major station. Where people go, goods and services usually follow, so it stands to reason that after the tillers of the soil, came the shopkeepers, millers, tanners, blacksmiths, and a host of others.

By 1879 there were three churches—Dutch Reformed, Disciples of Christ, and Roman Catholic—a union school, four stores, three cigar shops—turning out more than 50,000 cigars per month—a steam saw and gristmill combined, a foundry, machine shop, three blacksmiths shops, two milliners, two hotels, and two barbershops.

During all of Cato's existence people and agencies providing goods and services have come and gone; businesses have been formed, bought and sold, and merged. There have been some successes and yes, there have been some failures.

Today Cato remains about the same size as it was 100 years ago as it is too far to be caught in the fast city growth. It is bustling bedroom community with the inhabitants traveling to Syracuse, Auburn, Oswego, and Rochester to work. The school and the Cato Show Print are the major employers in the area. Let's say Cato is the typical small town, U.S.A.—a good place to live and raise a family.●

JUVENILE JUSTICE AMENDMENTS

HON. RAY KOGOVSEK

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. KOGOVSEK. Mr. Speaker, I submit this series of questions and answers regarding section 223 of H.R. 6704, the Juvenile Justice Amendments of 1980, requiring that all juveniles not be detained in adult jails and lockups. H.R. 6704 is expected to come before the House in the very near future and I believe this information will be helpful to my colleagues at that time:

QUESTIONS AND ANSWERS REGARDING THE REMOVAL OF JUVENILES FROM ADULT JAILS AND LOCKUPS

A major consideration in the 1980 reauthorization of the Juvenile Justice and Delinquency Prevention Act of 1974 is an amendment which would require that States participating in the Act's formula grant program agree not to detain or confine juveniles in adult jails or lock-ups after five years from approval of the amendment. The amendment responds to the enormous human costs and operational inefficiencies which results from the detention of juveniles in adult facilities. Support for the removal of juveniles from adult jails and lock-ups is pervasive and longstanding among juvenile justice practitioners and citizen advocates. The purpose of this paper is to respond to the following questions which have been raised regarding the amendment and the need to remove juveniles from adult jails and lock-ups as proposed by H.R. 6704 as reported.

1. WHAT IS AN ADULT JAIL OR LOCKUP?

1. A jail is a lock facility, administered by state, county, or local law enforcement or correctional agencies, the primary purpose of which is to detain individuals charged with violating the criminal law prior to trial. (Jails are also used to hold convicted offenders, usually those sentenced to serve a term of less than a year.)

A lock-up is similar to a jail except that it is generally a municipal or police facility of a temporary nature which does not hold persons after they have been formally charged.

2. HOW MANY CHILDREN ARE HELD IN ADULT JAILS AND LOCKUPS EACH YEAR?

2. It is conservatively estimated that 500,000 children are detained in the Nation's jails and lock-ups each year. Precise national information on the numbers and characteristics of those held are unavailable because of different definitions of "juvenile" used by various states, differences in sample sizes, and the confidentiality of juvenile records. In addition, facilities holding persons less than 48 hours are not included in most surveys. It is the short-term lock-up to which alleged juvenile offenders are often relegated.

3. WHY ARE CHILDREN JAILED? WITH WHAT OFFENSES ARE THEY CHARGED?

3.9 percent are charged with crime to a person; 69 percent are charged with property offenses; 18 percent are status offenders (runaways, truants); 4 percent have been charged with no offenses.

83 percent of those jailed are male, 17 percent female. 81 percent of those jailed are white, 19 percent non-white. The average child's stay in jail is 4.8 days.

The more serious an offense, the less frequent the involvement of juveniles. Only 6.1 percent of arrests for violent crimes in 1976 were juveniles under age 15; only 22 percent were juveniles under age 18. Only 4 percent of the total number of juveniles arrested are charged with violent crimes. Thus, only a small number of those children now jailed actually need this level of security because they are likely to run, likely to commit a new offense, or failure to appear.

4. WHAT HAPPENS TO CHILDREN IN ADULT JAILS AND LOCK-UPS?

4. The following harms to children in adult jails and lock-ups have been documented:

—Rape, physical assault, exploitation, and injury by adults in the same facility or staff;

—Isolation in maximum security cells or drunk tanks, with sensory deprivation;

—Emotional stress (demonstrated by a suicide rate for children in adult facilities seven times the rate for children in juvenile detention facilities);

—Failure to provide services to meet the needs of juveniles;

—Negative labeling as a result of the first placement decision;

—Negative impact on preparation of defense;

—Adverse impact on a judge's decision to release a child to a non-secure post-trial setting.

Jails and lock-ups have been constructed for adults; they were not intended for children and staff is not trained to deal with children.

5. DOES CURRENT LAW PERMIT THE JAILING OF JUVENILES?

5. Each state may establish its own criteria for incarceration of juveniles, subject to general constitutional constraints. Those States which participate in the Juvenile Justice and Delinquency Prevention Act have agreed that juveniles alleged to be delinquent, status offenders, and non-offenders shall not be detained or confined in any institution in which they have regular contact with adults convicted of a crime or awaiting trial on criminal charges. Thus, juveniles may be placed in jails or lock-ups if no regular contact.

State statutes may limit the admission of certain juveniles to adult jails or lock-ups. Common requirements relate to age, offense, time held, or other available alternatives.

Connecticut, Maryland, Mississippi, Pennsylvania, Rhode Island, Washington, and the District of Columbia have the strongest prohibitions against the jailing of juveniles.

6. WHAT DOES "NO REGULAR CONTACT" WITH ADULTS MEAN WITH REGARD TO JAILS AND LOCK-UPS?

6. "No regular contact" does not mean complete removal, although removal is encouraged. The current position of the Office of Juvenile Justice and Delinquency Prevention is that section 223(a)(13) of the Juvenile Justice and Delinquency Prevention Act requires, at a minimum, sight and sound separation of adults and juveniles in all institutions, including jails and lock-ups.

7. HOW IS SIGHT AND SOUND SEPARATION OF JUVENILES AND ADULTS IMPLEMENTED IN JAILS AND LOCK-UPS? WHY ISN'T IT CONSIDERED ADEQUATE?

7. Jails, having been built for adults who have committed criminal acts, do not provide an environment suitable for the care or keeping of delinquents or status offenders. Many states have interpreted the level of separation required for compliance with the law to justify isolation of juveniles in adult facilities under the guise that they are technically separated by sight and sound. Adequate separation as contemplated is virtually impossible in most existing jails and lock-ups. Juveniles are often placed in the most undesirable parts of the facilities, such as solitary cells and drunk tanks. There is no guarantee that children held in jails, even though separated from adults, will receive even minimal services required to meet their special needs.

8. WHAT IS THE COURT'S VIEW OF THE JAILING OF JUVENILES?

The separation of juveniles and adult offenders in most of the nation's jails and lock-ups is very costly to achieve and may be architecturally impossible. Overcrowding is exacerbated by sight and sound separation.

8. There have been a growing number of court decisions holding that the jailing of juveniles constitutes either cruel and unusual punishment or a denial of due process. The U.S. Supreme Court has never squarely ruled on this issue, but there has been a growing recognition that individuals involuntarily committed to institutions have a right to treatment.

9. WHAT HAS BEEN THE EXPERIENCE OF JURISDICTIONS WHICH REQUIRE THE REMOVAL OF JUVENILES FROM ADULT JAILS AND LOCK-UPS?

9. Pennsylvania enacted a total prohibition on the jailing of juveniles in 1977, effective in 1980. This is a model for other states. It provided a period of planning to remove juveniles and set up a system of State subsidized "negative" incentives. Utah, Oklahoma, Louisiana, and Michigan have each found that the number of secure beds for juveniles can be substantially reduced and that complete removal of juveniles from adult jails and lock-ups is more cost effective than adequate sight and sound separation.

10. WHAT SPECIFICALLY DOES THE AMENDMENT PROPOSE?

10. The amendment currently included in H.R. 6704 adds to the Juvenile Justice and Delinquency Prevention Act, as a condition of assistance, a requirement that each State plan for formula grants provide that, beginning 5 years after enactment of the amendment, no juveniles shall be detained or confined in any jail or lock-up for adults. When enacted, a State need not immediately remove all juveniles from jails, but just must start planning for removal in 5 years. An additional 2 years can be granted if there is substantial compliance. Juveniles may be held for a short period for identification and placement, even after fully implemented.

11. IS THIS AN EFFORT BY THE FEDERAL GOVERNMENT TO DIRECT STATE ACTION?

11. This is not Federal compulsion, but leadership in a major reform. Each state has the option of agreeing to removing juveniles from adult jails and lock-ups. If the State so agrees, Federal funds are available to help achieve the objective.

12. HOW MUCH DOES IT COST TO HOLD JUVENILES IN JAILS? HOW MUCH WOULD IT COST TO REMOVE THEM AND IMPLEMENT THE AMENDMENT? WHERE WOULD THE MONEY COME FROM?

12. The American Justice Institute estimates that merely jailing a juvenile, without providing the necessary services, costs $24 a day. Home detention ($14), attention homes ($17), and small group homes ($17) are less costly alternatives that provide services. Secure detention with full services would cost $61 per day per child.

Using these figures, the number of juveniles (as defined by State law), and the average time held, it is estimated that current costs over a two-year period are about $24 million. If complete sight and sound separation were attempted in existing facilities, the two year cost would be $36 million. If, however, objective release/detention criteria are implemented and those not needing secure detention are placed in less restrictive alternatives, while those who need secure detention are placed in adequate facilities, the two-year cost would be $28 million.

Planning and implementation of screening criteria would reduce or eliminate the need for new capita construction. Each new bed costs about $41,600. Renovation to provide sight and sound separation with adequate living conditions is equal to or slightly more expensive than new construction.

The funding assistance necessary to implement the amendment may be provided under the Juvenile Justice Act through several mechanisms. Because status offenders will soon be deinstitutionalized formula grant funds will be available. Additional discretionary funds can be used for these purposes. Technical assistance and training will also be provided.

Jurisdictions should realize a net savings, both in economic and human costs, by removing juveniles from adult jails and lock-ups.

These estimates do not include the saving realized from removing from jail (actually diverting) those who are now held less than 48 hours.

13. WHAT ALTERNATIVES TO JAIL ARE AVAILABLE?

13. Objective screening procedures and detention/release guidelines have been shown to significantly reduce the detention rate of juveniles without significantly impacting on the re-arrest rate or rate of appearance for trail. Assuming such practices are implemented, there are many models for alternative placements. Included are Night Intake Projects, Youth Attendant Programs, Home Detention Programs, Attention Homes, Runaway Homes, Residential Foster Homes, Reception/Diagnostic Centers, Holdover Facilities, and Juvenile Detention Centers.

14. HAVEN'T MOST STATES MADE A BIG INVESTMENT IN SIGHT AND SOUND SEPARATION THAT WOULD BE WASTED IF THE AMENDMENT IS APPROVED?

14. It is difficult to determine the actual investment, however, it appears that little would be wasted. Most renovation funds have been used to improve basic living conditions and in already separated areas. No jails have been constructed for the purpose of achieving sight and sound separation. The majority of construction has been in response to litigation and the inclusion of a juvenile area was incidental. Juvenile areas could be used for others, helping reduce overcrowding.

15. WON'T A LARGE CAPITAL OUTLAY BE REQUIRED TO REMOVE JUVENILES FROM ADULT JAILS? WITH THE EXISTENCE OF MORE FACILITIES, WON'T MORE CHILDREN BE INCARCERATED?

15. The intent of the amendment is to reduce, not increase, the overall number of children incarcerated each year.

It is widely recognized that approximately 10 percent of all juveniles detained actually require secure detention. With the establishment of objective intake criteria, the need for secure beds is reduced so significantly that there is no justification for constructing a new facility. Existing appropriate settings can be used to handle the small number of juveniles requiring short term detention.

If a jurisdiction decided to develop a facility for those few who require secure holding, established procedures are available to assure that the bed space provided corresponds to the bed space needed.

16. DON'T THE CONDITIONS OF JAILS DETER THE JAILING OF JUVENILES?

16. The existence of jails with conditions documented as being harmful to children has not served as a deterrent to an estimated 500,000 juveniles being placed in jails and lock-ups for adults each year. Without objective and specific release/detention criteria, it is likely that those making the placement decision will take the easiest course of action.

17. SINCE THE AMENDMENT ONLY APPLIES TO JAILS AND LOCKUPS, WILL IT LEAD TO MORE JUVENILES BEING PLACED IN OTHER FACILITIES, OR THE IMPOSITION OF LONGER SENTENCES?

17. When a requirement was enacted that all status offenders be deinstitutionalized, some expressed fear that these children would be re-charged as criminals to justify their incarceration. This has not happened, and should not happen with the jail removal amendment. States have statutory criteria and sanctions to enable waiver to criminal courts. These are based on the offense, not availability of bed space. A hearing must be held and judicial determination made. Thus, a juvenile couldn't be jailed based on the arresting officer's beliefs that a juvenile may be later charged as an adult and waived.

18. WHAT HAPPENS UNDER THE AMENDMENT TO JUVENILES WHO COMMIT SERIOUS CRIMES AGAINST PERSONS OR ARE CHRONIC OFFENDERS?

18. The House Report on H.R. 6704 indicates that the prohibition on placing juveniles in jails and lock-ups extends to a juvenile who may be subject to the exercise of juvenile court jurisdiction for the purposes of adjudication and treatment based on age and offense limitations established by state law. If a juvenile is formally waived or transferred to a criminal court by a juvenile court and criminal charges have been filed, or a criminal court with original or concurrent jurisdiction over a juvenile has formally asserted its jurisdiction through the filing of criminal charges against a juvenile, the prohibition no longer applies.

A court order does not change youths into adults. They still need the same treatment and services that other children do. Because the adult criminal justice system is not suited to the needs of children, placement of any person under age 18 in adult facilities should be done only where clearly justifiable.

19. WON'T THE AMENDMENT IMPACT THE HARDEST ON RURAL AREAS? WHAT CAN BE DONE TO MEET THE SPECIAL REQUIREMENTS OF RURAL AREAS WITH RESPECT TO THIS AMENDMENT?

19. The implementation of objective and specific release criteria can reduce the rate of detention in both rural and urban settings without a significantly higher rate of rearrest or failure to appear for court hearings.

Almost 400 existing juvenile detention centers are located within 75 miles of 80-90 percent of the Nation's population. The need for secure detention of juveniles in more rural areas is minimal and, for the most part, cannot justify the development of a separate detention facility. Typically, such areas may have the need for secure detention services on 30 to 60 days a year.

Contractual around-the-clock supervision can be provided for short-term holding in available facilities. In some instances, transportation costs for a limited number of trips to more distant full-service facilities will be less costly than providing full services. The use of distant, full-service detention centers for rural areas of Maine, Utah, and Michigan has been operated in a cost effective manner for many years. In rural Kansas, the municipal lock up is designated as the juvenile detention facility with the county jail used to house adult offenders only. Youths are held up to 72 hours, supported by 24-hour youth attendants.

20. WHY IS A NEW PROVISION BEING PROPOSED WHEN ONLY A FEW STATES ARE NOW IN COMPLIANCE WITH SIGHT AND SOUND SEPARATION?

20. The reason only 15 States report compliance with sight and sound separation has been the difficulty involved. Fewer juveniles are being detained, but sight and sound separation has been particularly hard to accomplish in jails and lock-ups. Faced with large additional costs for renovation, those in charge of jails end up isolating juveniles in undesirable areas and fail to provide minimal services. Sight and sound separation is also an enormous operational problem for officials.

Because sight and sound separation with suitable living conditions means an enormous expense with questionable results, every jurisdiction which has carefully studied its options has decided complete removal is the best alternative.

21. WHAT ORGANIZATIONS SUPPORT REMOVAL FROM ADULT JAILS AND LOCKUP?

21. While not all addressing the specific amendment, many groups have called for removal of juveniles from all adult jails and lock-ups, including the U.S. Department of Justice, President's Commission on Law Enforcement and Criminal Justice (1967), American Bar Association and Institute for Judicial Administration, National Council of Juvenile and Family Court Judges, National Advisory Committee on Criminal Justice Standards and Goals, and Los Angeles Times (Editorial of March 28, 1980).

All members of the National Coalition for Jail Reform support removal of juveniles from jails and lock-ups. Members include: American Correctional Association, ACLU, National Assoc. of Counties, Natl. League of Cities, Natl. Center for State Courts, Natl. Sheriffs Assn., Natl. Urban League, NLADA, Jail Managers Assn. NCCD, Criminal Justice Planners, and 16 others.●

A TRIBUTE TO DR. CHARLES H. KREMER

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. WEISS. Mr. Speaker, I rise today to pay tribute to Dr. Charles H. Kremer, a resident of the 20th Congressional District in New York who will celebrate his 83d birthday on July 15.

Dr. Kremer is one of the outstanding members of our community. Born in Braila, Romania, he became a U.S. citizen in 1926 and attended the University of Pennsylvania, where he graduated a member of Phi Beta Kappa. He is the founder and president of the Committee to Bring Nazi War Criminals to Justice in the United States. Dr. Kremer has contributed much to this foundation and to the people of his community for many years.

He has done much in his 83 years to improve the plight of others. For example, he was instrumental in securing the introduction of penicillin in Romania in 1947. In addition, he has served as treasurer, Romanian Medical Relief 1946-47, founder and president, Romanian Lodge, B'nai-B'rith of New York City, chairman, Romanian Division, United Jewish Appeal Israel bond drive. In 1977, he was rightly honored as the recipient of the ORT Man of the Year Award.

Mr. Speaker, people like Dr. Kremer, who give a unique contribution to our society, deserve special tribute and recognition.

Therefore, at this time, Mr. Speaker, I would like to again pay tribute to Dr. Charles H. Kremer on his 83d birthday.●

HANDGUN CONTROL MEANS LESS CRIME

HON. WALTER E. FAUNTROY

OF DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. FAUNTROY. Mr. Speaker, those of us who are interested in the effectiveness of tough handgun control legislation will be pleased to learn the results of a study of the District of Columbia handgun control legislation just released by the U.S. Conference of Mayors. It clearly demonstrates that the number of handgun-related crimes has significantly dropped in the District of Columbia area since the enactment of the tough handgun control legislation by the Washington, D.C. City Council in 1977. Specifically, the study reveals that handgun homicides have decreased 26.2 percent, handgun robberies down 22.5 percent, handgun suicides down 40 percent, and handgun assaults dropped 10.5 percent since the law took effect compared to the 3-year period prior to handgun control legislation's enactment.

The conference study is empirical evidence that handgun control is an effective and necessary tool in reducing crime. It is my hope that the study will initiate widespread interest because of its potential importance for crime reduction elsewhere as well as our Nation's Capital.

Mr. Speaker, I submit for the RECORD a detailed article on the study from the Washington Star:

[From the Washington Star, June 29, 1980]

HANDGUN CRIMES DOWN SINCE NEW DISTRICT LAW

(By Charles McCollum)

Crimes involving handguns in the District have dropped sharply since the city enacted its tough gun control law in 1977, according to a report released today by the U.S. Conference of Mayors.

The study—the first comprehensive analysis of the law's impact—says that handgun homicides have dropped 26.2 percent in the three-year period since the law took effect compared to the three-year period prior to its enactment.

Handgun assaults dropped 10.5 percent and handgun robberies were down 22.5 percent during the same period. Suicides involving handguns decreased 40 percent while the number of deaths by accidental shooting has dropped to almost none.

"The D.C. analysis is the very first to deal with the effects of a strong gun control law," said John J. Gunther, executive director of the conference. "As a result, we expect the study will receive national attention."

Gunther called the District law "a definite solution to the handgun problem in this country" and said the conference will push the city's statute as a model for the rest of the country.

The study immediately drew criticism from the leading opponent of gun control legislation, the National Rifle Association.

While noting the association's experts have not yet had an opportunity to fully review the report's finding, NRA spokesman John C. Adkins said, "If there has been any crime reduction in the District, it is not a direct result of the law. And we contend the crime rate has been going up—not down."

Passed by the City Council in June, 1977 after extended debate and signed into law on July 23 of that year by then-Mayor Walter E. Washington, the D.C. Firearms Control Act effectively bans handguns from the District.

Residents who owned handguns at the time the law went into effect were allowed to retain their weapons, but sales of new guns or transfers of registered weapons were prohibited. Legal handguns must be registered annually.

"I'm very gratified," said councilman David A. Clarke, whose Judiciary Committee produced the gun law. "The law was severely attacked at the time it was passed, and I'm happy it has proven as effective as it has."

The Conference of Mayors chose the District law for study because it is the strongest in the nation and because the city is "surrounded by two states who have relatively lax handgun control laws," the study notes.

Working from statistics provided by the FBI and the D.C. police, the report says there were 19.4 homicides involving firearms for every 100,000 residents of the city during the three years prior to the law's enactment.

Between 1977 and 1979, that figure dropped to 14.6—a decrease of 24.7 percent. A similar comparison involving only handguns showed a decrease of 26.2 percent.

In comparison, handgun homicides nationally dropped only 6.5 percent during the same period.

Nationally, robberies involving firearms dropped 9.9 percent during 1977-79 while firearm assaults increased 1 percent.

But, in the District, assaults involving all types of firearms dropped from 130.1 to 115.9 per 100,000—a decrease of 11.4 percent. Firearm robberies decreased from 501.6 to 385, a drop of 23.6 percent.

"The conclusions reached by the analysis of the crime statistics of Washington, D.C. indicate that a strong gun control law has been effective in curbing violent deaths and crime due to firearm abuse," the report says.

The NRA's Adkins contended, however, that crime is "cyclical" and the crime rate would have dropped even if the gun control law had not been enacted.

"Despite any kind of gun laws, you're going to get a cyclical rate of crime," he said. "These statistics merely reflect similar regional increases and decreases."

Adkins noted that an NRA analysis of the same statistics used by the Conference of Mayors showed an increase in total homicides—as opposed to homicides committed with handguns—between 1977 and 1979.

"With any of these studies," he said, "the question is what they really reflect and whether they're a true mirror of the problem or the solution.

"It is our position that, if you want to reduce crime, gun control is not going to do that."

The statistics in the Conference of Mayors report show a total homicide rate of 26.9 per 100,000 in 1976 and a rate of 27.1 in 1979. The biggest yearly decrease over the past six years actually occurred between 1974 and 1975 when the rate went from 40.9 to 33.

But Anne D. Garner, who worked on the study for the association's handgun control project, used the same argument of a cyclical crime rate to defend the study's conclusions. She noted that, nationwide, the total homicide rate showed fluctuations similar to those in the District.

"We took that into account," she said.

She also noted that, last year, the national homicide rate showed an increase and Atlanta and Baltimore suffered sharp jumps in homicides while the District's homicide rate dropped over 3 percent.

"People kept asking us 'what the hell kind of an effect could a local gun control law have on crime?'" Garner said. "Now, we know and—in all honesty—we really didn't expect the law to have this much effect."

She added that conference officials hoped the study would have an impact on national gun control legislation and on efforts to institute similar handgun bans in cities across the nation.●

ALAN H. OLMSTEAD

HON. WILLIAM R. COTTER

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. COTTER. Mr. Speaker, I would like to bring to the attention of my distinguished colleagues the passing of an outstanding journalist, political columnist, and author, Alan H. Olmstead.

Mr. Olmstead wrote two books after retiring as editor of the Manchester Evening Herald in 1972, having served the town of Manchester and the State of Connecticut as a journalist for 32 years. He will be missed by the community he helped to shape.

I commend to the attention of my colleagues the following article on Mr. Olmstead:

ALAN OLMSTEAD, 73, DIES; RETIRED EDITOR

(By Karen Goodwin)

MANCHESTER.—Alan H. Olmstead, retired editor of the Manchester Evening Herald, died Tuesday at Manchester Memorial Hospital. He was 73.

His long career as a journalist and political columnist took him from Europe at the outset of World War II to the local newspaper where he chronicled the political development of the town, the state and the nation.

"He was probably one of the most brilliant pens in modern Connecticut journalism," former Herald Publisher Thomas Ferguson said of Olmstead in an interview last year. Ferguson worked with him from the time Olmstead joined the paper in 1940 to the columnist's retirement in 1972.

Politicians "watched his stuff closely," Bob Conrad, political writer for The Herald of New Britain, said of his friend of 20 years.

And West Hartford News contributing editor Bice Clemow described his colleague as "an American original: a guy who looks cynical and is as soft as marshmallow candy on the inside."

Olmstead, who lived at 669 Tolland Turnpike, revealed some of that insight and sensitivity in two books, published during his retirement, in which he spoke of himself and the world in poignant terms.

"Who am I? Where am I? Why am I here? are all questions that can be answered successfully if one can say: I am the one who holds this cabbage seed and is about to implant it in this earth so that, having germinated, it shall wear its existence in some purpose and dignity," he wrote in his 1977 book "In Praise of Seasons."

In "Threshold, the First Days of Retirement," he spoke sadly of leaving his newspaper position, but at the same time diminished the significance of the work he had done for some 45 years.

"Congratulations on your retirement! What the hell for?" he wrote in one of the first pages of the book.

Then, toward the end of his diary-like book, he wrote, "I am beginning to think it would never have made any difference if my particular factory had not been operating at all. Neither what I produced there, in the course of a lifetime, nor what any successors may produce there has really mattered or will matter to anyone. . . I am close to being able to go through the morning newspaper without giving much more than a flick of mind or interest to those who are merchandizing, today, the products which were my own speciality for more than 40 years."

A year after Ferguson and his brother, Walter, sold the Herald to a California-based chain, Olmstead retired from the newspaper. He had worked as associate editor, chief editorial writer, editorial page editor, and then editor there.

The sale of the herald "disturbed" him Clemow said, and in "Threshold" Olmstead described the new owners as a "new and alien management," with whom he found it "intolerable" to work.

By the time Olmstead joined the Herald at the age of 33, he already had amassed impressive journalistic experience.

After he graduated from Yale University in 1927, he returned to his hometown, Bridgeport, and took a job with the former Bridgeport Times-Star.

As Hitler's power grew, the Bridgeport paper named him a foreign correspondent and sent him to cover the Munich crisis in 1938. He later was expelled from Austria by the Nazis, Ferguson said.

His articles about Europe were gathered in a collection called "Europe as I Saw It."

His editorials for the Herald were not limited to local issues, and in the late 1940s he was nominated for a Pulitzer Prize for a series of editorials on world federalism, Ferguson said.

But he also wrote widely on local affairs and New England habits.

After leaving the Herald in 1972 he continued writing his syndicated column "Connecticut Yankee," described by Clemow as "salty, irreverent, perceptive and humane." The Herald, however, did not publish it.

He wrote often of Manchester, his home for 39 years, in his book "Threshold."

Manchester was once "a mill town much more beautiful and attractive than all other New England mill towns," he wrote. But "now it has ceased being a town."

"There was a town and there was an editor, and they had their moments. I hope present-day thinkers and doers will forgive me if I confess I liked it better when," he wrote.

State and local politicians remembered him from those days and from his more recent syndicated columns, which observed

Connecticut and national politics with what one observer described as candor.

"Connecticut has lost its freest spirit," U.S. Sen. Abraham Ribicoff said today.

"Alan Olmstead was the most sensitive man I knew," Ribicoff said. "He was completely in tune with our state—past, present and future.

"He really had extra-sensory perception, knowing what men would do in events before they happened. He was the pre-eminent columnist of our state.

"He was a poet, a philosopher and a tiller of the soil, and above all a decent human being."

State Sen. David Barry today said, "I think he was really the most outstanding commentator on the political scene I've ever known.

"I enjoyed meeting him at the capitol," Barry said. "I missed him at this session."

Former Republican Director Carl Zinsser said Olmstead was especially skilled in candid, in-depth reporting. "Things," Zinsser said, "in which we're lacking today."

"I'll miss that crusty gentleman," Democratic Town Committee Chairman Ted Cummings said. "He had a very individualistic style that could make you squirm."

Olmstead leaves his wife, Catherine Casey Olmstead; three daughters, Allison Rowland of Thousand Oaks, Calif., Kathleen Olmstead of Bloomfield and Sarah Jane Olmstead of New York City; a sister, Mrs. Richard Green of Bryn Mawr, Pa., and three grandsons.

A memorial service will be held at 2 p.m. Friday at Watkins Funeral Home, 142 E. Center St.●

CHAPEL OF FOUR CHAPLAINS HONORS CONGRESSMAN MELVIN PRICE AND OTHER CITIZENS

HON. CHARLES F. DOUGHERTY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. DOUGHERTY. Mr. Speaker, on May 18, 1980, the chairman of the House Armed Services Committee, Melvin Price, was awarded the Legion of Honor Bronze Medallion, the highest honor presented in the Chapel of Four Chaplains in Philadelphia, for outstanding public service in his chosen profession.

On behalf of the Chapel of the Four Chaplains, Mr. John L. Koenig, a trustee of the chapel, and Chaplain Karl B. Justus, executive director emeritus of the Military Chaplains Association, have expressed a desire to make it a matter of record that it was a high honor and distinct privilege to award the chapel's bronze medallion to Chairman Price at a special vesper service in the chapel on May 18, the closing Sunday of Armed Forces Week.

On that same occasion, 31 other citizens of Philadelphia and the metropolitan environs were honored with the chapel's Legion of Honor Certificate. They are: Dorothea Clanton, John Clanton, Capt. Joseph J. Ciprich, Jr., Brig. Gen. George D. Eggers, Jr., Dorothy L. Eiser, Harry W. Gehman, Remus La Gioa, Harry Graesle, Sfc. Ronald Grande; Col. Arthur L. Grill, president ROA, Department of Pennsylvania; Alverta Grant, Mary Mateer Harris, Rev. Olivia S. Henry. Capt. John Kane, Joseph P. Marnell, Brig. Gen. Theodore C. Mataxis, USA, retired; John J. McCann, Ph. D., Sfc. Benjamin Miller, Reginia K. Nelis, Diane Kidd O'Brien, James J. O'Brien, Miriam Rosenbaum, Mary Ann Sanner, Robert P. Schatz, Frank Sileo, Rowland A. Simpson, Agnes Sledge, Mrs. Benjamin Sprafkin, Renee Stubbs, Mrs. William J. Thomas, and Mrs. Homer L. Wightman, both of the latter DAR.

Mr. Speaker, we offer our congratulations to Chairman Price and to the other citizens who were honored by Philadelphia's Chapel of Four Chaplains for outstanding service. I believe it would be beneficial to the Members of the House and the rest of the country to read Chairman Price's remarks delivered on Armed Forces Day weekend:

> Dr. White, Associate Chaplains, and Ladies and Gentlemen: I am indeed honored to receive the Legion of Honor Bronze Medallion, the highest honor presented in the Chapel of Four Chaplains. In deep humility, I stand here in this chapel—a nation's shrine to the dream of human brotherhood and above whose entrance burns the eternal light of brotherhood and good will.
>
> With its three altars representing the three great faiths of our people—Roman Catholic, Protestant, and Hebrew—this living memorial exemplifies the need for solidarity among those who believe in the spiritual dignity of mankind and the right of individuals to live in freedom and self respect. Dr. Daniel A. Poling once called the three chapel altars the nation's symbol of unity.
>
> Located in the City of Brotherly Love, the chapel is a living shrine for a whole nation to the memory of the four gallant chaplains—two ministers, a priest, and a rabbi—who surrendered their life preservers, so that four other men could live, and went down with the USS *Dorchester.*
>
> The story of their conduct on that bitter, wintry night has been told again and again. It will never be told too often. For we need to be reminded of the spirit of brotherhood represented in the sacrifice of the four chaplains.
>
> I know there is an indelible picture in my own mind of the four men who stood in a circle with arms linked together and prayed as the ship went down.
>
> I suggest on this Armed Forces Day that the ideals of service, courage, faith and brotherhood which the four chaplains represented has never been more needed than at this moment in history.
>
> Today, our democracy stands in the midst of grave crises. But I have faith in America, in the American people, and in the great doctrines of freedom and justice for the individual. I have faith in ordered liberty under law upon which our country was founded and which has supported our claim to moral leadership in the world community.
>
> In recent times, that leadership has been questioned as never before. If we are to regain our position and acceptance of not too long ago, we must demonstrate our adherence to those basic principles which find their roots in our religious ideals and in those concepts exemplified by the four chaplains. In the religious framework they carved for us, we must once again give proper emphasis to the equality of man, the individuality of man, and the responsibility of man.
>
> I feel I would be remiss today if I did not pay homage to another group of heroes who made the supreme sacrifice in the line of duty and brotherhood. I refer to the five Air Force men and three Marines who recently lost their lives in the desert in Iran.
>
> In a eulogy to these eight young men delivered last week at Arlington National Cemetery, President Carter said: "They chose a life of military service at a time when it offered very little glory in our land, when their reward had to come from knowing they had done a necessary and dangerous job. They volunteered for this mission, knowing its importance and its risks. They did so, not because they cared too little for life to want to live it out to full old age, but because they cared so much more for the lives of our hostages and for the right of our people to enjoy the freedom for which this nation was formed."
>
> We echo the President's remarks. Like me, every American must feel deep pride in the valor and dedication to duty of those who died in that dark desert night. Of such men was our beloved country made.
>
> Their lives remind us again that there is a moral force in this world more powerful than the might of arms or the wealth of nations—as important as those things are.
>
> We do not pretend to know why those who seem to have been needed so much here on earth should have been taken so soon. Our temptation is to rebel and ask why. But in the words of another great chaplain, Dr. Peter Marshall, "The measure of a life, after all, is not its duration, but its donation."
>
> To these brave and gallant men who rose to heights of unselfish sacrifice, let us extend a fond salute, a grateful salute, a profoundly respectful salute on this Armed Forces Day weekend. They practiced separate religions but they prayed to the same God and believed in the same brotherhood of man.
>
> Let us be challenged and inspired as never before to a renewal of faith in the power of national unity and to the spirit of brotherhood represented in the sacrifice of these courageous men.
>
> If you will permit me to paraphrase the credo of the Chapel of Four Chaplains: Let the spirit which bound these men together in death now bind us together in life.
>
> There can truly be unity without uniformity.●

RECOGNITION OF THE STAFF'S CONTRIBUTION TO ENERGY SECURITY ACT CONFERENCE

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. McKINNEY. Mr. Speaker, the recently completed conference on the Energy Security Act of 1980 was an extraordinary example of the devotion to duty and to our country that is typical of the people who work behind the scenes for both the House of Representatives and the Senate.

Since that conference began in December, many of the staff have spent their weekends and evenings attempting to draft in workable terms agreements that the conferees would reach with a casual "* * * and staff can work out the details." Typical of the spirit which the staff have shown throughout this ordeal is the feeling that respect and understanding for the work of other committees has been gained and new friendships have been formed. There is also a unanimous sentiment that they hope they never have to go through something like that conference again. I cannot say that I blame them.

Mr. Speaker, the names of the conferees who worked on S. 932 have been praised repeatedly. But the people who do the real work—the committee staff, the personal staff, and the staff of the legislative counsel's office—do not often get the recognition they richly deserve. I would like to offer my gratitude and recognize at this time the following people without whose help there would not be an Energy Security Act:

Dick Olson of the majority leader's office; Jack Lew of the steering and policy group; Norm Cornish, Ruth Wallick, Ike Webber, David Kiernan, Graham Northup, Roger Faxon, Diane Dorius, Bill Warfield, and Patty Lord from the Banking Committee; Mike Ward, Mike Barrett, Randy Davis, Steve Bienstock, Andy Athy, Dave Finnegan, and Nancy Mathews from the Commerce Committee; Rob Ketcham and Jack Dugan from the Science Committee; Gary Norton, Frank Winston, and Bob Bor from the Agriculture Committee; and, from the legislative counsel's office, Lee Peckarsky, Paul Smith, Carl Tibbetts, Pope Barrow, Joe Womack, Larry Filson, and all the support staff.

Obviously there were many on the Senate staff who contributed, primarily Richard Grundy, Dan Dreyfus, Owen Malone, Chuck Trabandt, Dave Swanson, Ben Cooper, and Steve Hickok from the Energy Committee; Leon Reed, Paul Winslow, and Linda Zemke from the Banking Committee; and Bob Poling from the Congressional Research Service. To all the other staff members from both Houses who played a part in this tremendous achievement, I extend my thanks and congratulations for a job well done.●

DISTORTING THE FACTS ON BAN ON ARMS SHIPMENTS TO RUC OF NORTHERN IRELAND

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. LENT. Mr. Speaker, as a member of the Ad Hoc Congressional Committee for Irish Affairs, I have long been concerned over the lack of appreciation in the United States of the grave violations of human rights taking place under the British rule in Northern Ireland. This failure to understand the gravity of the situation in Northern Ireland is due in no small measure to the apparent reluctance of some influential American newspapers to report completely or accurately on the tragic events taking place in that unhappy land.

A recent example of this distortion of the real situation in Northern Ireland has been pinpointed with great accuracy by the Irish Echo, an American newspaper which does give us full details on the situation in Northern Ireland.

As many of my colleagues are aware, there is a move afoot in the United States to persuade the U.S. Department of State to lift its ban on the sale of American arms to the Royal Ulster Constabulary (RUC)—the Northern Ireland police force. Recently, the New York Times supported this move in an editorial favoring this dangerous change in U.S. policy. I had earlier joined Representative Mario Biaggi, Democrat of New York, and 16 other members of the Ad Hoc Congressional Committee for Irish Affairs in urging the State Department to hold to its ban on arms sales to the RUC.

The Irish Echo details the distortions of fact in the New York Times demand for arms shipments to the RUC. In a most perceptive examination of the matter, the Irish Echo notes that the British Government's own commission has condemned the RUC treatment of its prisoners, yet the British Government now lobbies for lifting the State Department ban.

Mr. Speaker, in the interest of a clearer understanding of the true situation in Northern Ireland, I insert the full text of the Irish Echo editorial in the Congressional Record at this point:

[From the Irish Echo]

DISTORTING THE FACTS

It is difficult to comprehend that a newspaper of stature which The New York Times is could stoop to disparage the Irish American community the way it did in an editorial last week.

It was callous, petty and most of all, unjust. It also showed once again the evil influence of the British lobby in America.

Righteously quoting the British Foreign Minister, Lord Carrington, as if his opinion was automatically correct on matters Irish, the Times called on the U.S. State Department to lift its ban on the sale of arms to the Royal Ulster Constabulary—the Northern Ireland police.

To The New York Times, the RUC, apparently, is a responsible police organization. In reality—and how sad it is that The New York Times could totally ignore reality in its editorial defending the RUC—the RUC has been generally condemned by the most responsible of organizations for using torture to coerce "confessions" from prisoners and for degrading men and women because of their race.

A British Government commission issued a report—the Bennett Report—condemning the RUC's use of force on prisoners.

The European Court at Strasbourg condemned the way prisoners in British jails in Northern Ireland were treated. The court called interrogation methods used by the RUC excessive and indecent.

Amnesty International corroborated the charges against the British military and the RUC in Northern Ireland. This organization has been awarded the Nobel Peace Prize for its work in defense of tortured political prisoners throughout the world.

For the U.S. State Department to reconsider its very proper ban on the sale of weapons to this discredited police force would be outrageous. The New York Times demeans itself by calling for weapons for such an organization.

We applaud the members of Congress who have spoken out against the lifting of the ban. Any member of Congress who would support such a lifting of that ban would deserve immediate retirement.

It is really very simple, the British controlled police force in Northern Ireland—the RUC—is a discredited police force. It should in no way be considered for arms from this nation.●

HONORING MISS MARTHA L. KROGMANN

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. DORNAN. Mr. Speaker, during my tenure in the House of Representatives I have had an opportunity to meet a great many distinguished individuals in my district. I would like to take this opportunity to recognize and thank one of those individuals, Miss Martha L. Krogmann, for the dedicated service and charm she has provided to so many people in the Greater Los Angeles area.

Martha recently received the Honorary Service for Children Award from the South Bay Council of the Parent Teacher Association and was honored as a recipient of the South Bay Young Womens Christian Association Award for 1980. I offer my colleagues a copy of the Honorary Service Award commentary as a reminder of the tremendous impact one woman can have in our society:

Our recipient today was born quite a few years ago in the United States. However, she traveled extensively in Europe and speaks French, Spanish, German and some other languages fluently.

She taught in the Los Angeles School District for 25 years where she recieved acclaim for her exciting and innovative programs in the Dance, her specialty. It was during this time that she was honored by the Los Angeles City Council as their teacher of the year, winning the coveted "Golden Apple Award." And so you see, our honoree has spent many years brightening the lives of children.

More recently, after she retired, she joined the ranks of volunteers. Since 1967 our recipient has been a member of the Neptunian Club. It was through this organization that she became acquainted with a Senior Citizen volunteer organization known as RSVP. Here she spent one year teaching German at Torrance High. She calls on lonely people through their Telecare program and really brightens many spirits with her delightful personality.

Her representation at the Manhattan Beach Coordinating Council is a delightful and inspirational experience.

For three years our recipient has been directing the multi-cultural program at La Marina School. She provides her own experiences and speakers of foreign backgrounds who enrich the backgrounds of the children there.

Our honoree is a true eccentric in the most delightful sense of the word and she's a real "Spring Chicken," especially in her outlook.

QUOTING FROM FRIENDS

"She's a beautiful person, a true friend, and all her peers love her."

"Her programs are a great favorite with the children, and they look forward to her friends from abroad indeed."

Mr. Speaker, it is my honor and privilege to present to you someone who makes a real difference in the lives of all of us children.

Please join me in honoring—Miss Martha Krogmann.●

RAISE THE CIGARETTE TAX

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. STARK. Mr. Speaker, the Federal excise tax on cigarettes has not been increased since 1958. Then, the tax of 8 cents a pack represented 37 percent of the average retail price of a pack of cigarettes. Today it is 14 percent. During the same period, the social costs attributable to smoking have soared, reaching an estimated $5 to $8 billion in direct health care costs and over $12 billion in lost wages, reduced productivity, and absenteeism.

This is why I joined our colleague from Massachusetts (Mr. Drinan) in sponsoring his bill—H.R. 7019—amending the Internal Revenue Code to increase the excise tax on cigarettes.

This is one more issue on which Bob Drinan has provided leadership. He will be missed.

The June 26, 1980, editions of the Town Crier Newspapers of Wayland, Weston, and Sudbury, Mass. carried a guest column authored by Father Drinan. In this column, he outlines the case for an increase in the cigarette tax. I insert this article reprinted in the Record at this point. It is an effective argument for our legislation:

[From the Town Crier Newspapers of Wayland, Weston, and Sudbury (Massachusetts), June 26, 1980]

Raise Cigarette Tax—And Stop Smoking

(By Congressman Robert F. Drinan)

In 1964 the Surgeon General's Advisory Committee on Smoking and Health concluded: "Cigarette smoking is a health hazard of sufficient importance in the United States to warrant appropriate remedial action."

Over the past 15 years thousands of additional studies conducted throughout the world have conclusively reinforced the findings of that first Report. We now know far beyond any reasonable doubt that cigarette smoking contributes to disease and premature death. Heart disease, emphysema, bronchitis, lung cancer, and other disorders have been definitively linked to cigarette smoking.

Confronted with this knowledge, the government has an obligation at least to inform its citizens of the dangers of cigarette smoking.

REAL COSTS OF SMOKING

But over the past 15 years we have learned other things about cigarette smoking. We have learned that women who smoke during pregnancy increase the likelihood of birth defects in their children. We have learned that cigarette smoke has an adverse health effect on exposed non-smokers. We have learned that smoking now accounts for $5 to $8 billion in direct health care expenses for the federal government and for over $12 billion in lost wages, reduced productivity, and absenteeism for employers and the economy.

Cigarette smoking harms not only the smokers but children, non-smokers, and the economy as well. Confronted with this additional knowledge, the government has a duty to discourage cigarette smoking.

EDUCATING TO STOP

In a free society, outright government prohibition is traditionally and rightly viewed with apprehension. In our efforts to discourage smoking, therefore, we have relied on education and exhortation. Congress has required that warning labels be placed on all cigarette packages and advertisements and has removed all cigarette ads from television and radio, the public domain. Federal agencies and local governments have restricted smoking in elevators, airplanes, trains, busses and some eating establishments and other public places. Schools and private institutions have attempted to educate the public with regard to the dangers inherent in cigarette smoking.

These efforts must continue, but we do have another weapon at our disposal, one that is especially appealing in view of the current effort to balance the federal budget.

CIGARETTE TAX SAME FOR 29 YEARS

Despite the tremendous financial burden placed on the federal treasury and the economy by cigarette smokers, the federal cigarette excise tax has not been increased since 1951, when it was set at 8 cents per package. As we struggle to reduce unnecessary government spending, the government can no longer afford to subsidize the multi-billion dollar public health cost of cigarette smoking. While we all have incurred billions of dollars of direct and indirect costs attributable to smoking, costs increasing each year, the cigarette excise tax has not been raised for 29 years. How many other federal taxes can claim the same distinction?

This year I have introduced legislation in the House of Representatives that would increase by ten cents a pack the federal excise tax on cigarettes. The measure would increase the tax per pack from 14 percent of the average retail price to 27 percent—still well below the 37 percent level established in 1951 when retail prices were much lower.

Assuming that consumption will not be affected, the tax increase would bring in an additional $3 billion per year, raising the total revenue from the sale of cigarettes to $5.4 million—an amount barely equivalent to the direct health care cost to the government of cigarette smoking.

SIX MILLION WOULD QUIT

Studies cited in the Surgeon General's latest report, however, indicate that enactment of this legislation will cause about six million Americans to quit smoking. If so, we will all benefit and will still receive twice as much revenue as from the present tax. Importantly, teenage smoking in particular would be discouraged since young people have been found to be more sensitive to the price of cigarettes—and there are six million smokers under age 20 in the United States.

There can be no doubt that it is altogether appropriate to place the economic burden of smoking on the 54 million Americans who this year will choose to smoke a total of 615 billion cigarettes at our expense. We must also redouble our efforts to protect the non-smoker from the noxious fumes of the smoker. And we must strengthen our warnings and exhortations, especially to the youth, and continue our research into the deleterious effects of smoking.

In 1975 I introduced legislation to reduce the health hazards of smoking the first legislation to protect the rights of non-smokers. In the last few months of the 96th Congress, I intend to do all I can to fulfill our moral and financial obligation to discourage cigarette smoking and to improve the well-being of all Americans.●

LA PALMA RUNNING CELEBRATION

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. PATTERSON. Mr. Speaker, since its passage, proposition 13 has been felt in Orange County cities in numerous ways. A budget cut exercised by the city of La Palma was the decision to discontinue their Fourth of July parade and fireworks display. To honor the birth of this country and to provide their residents with the traditional celebration they have come to anticipate, the city will hold the second annual running celebration.

This event, a 5 kilometer and 10 kilometer running celebration, will be cohosted by the La Palma Police Association, the city of La Palma, and Automatic Data Processing, Inc. Beginning runners and families are being encouraged to enter into the events, which will also include wheelchair athletes.

Mr. Speaker, I feel this event has captured the spirit of the Fourth of July. Civic organizations, local business, industry, and city staff have all worked together to create this event for La Palma and they have contributed to the development of a permanent facility for the better health and enjoyment of their residents.

I ask my colleagues to join with me in honoring the city of La Palma and the planners of this event for their innovative program, and the effective way in which they have maintained the Spirit of '76 in their Fourth of July celebration.●

HUMAN RIGHTS IN SOUTH KOREA

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. HARKIN. Mr. Speaker, because of my sincere concern about the situation in South Korea, I would like to commend to my colleagues the following article which appeared recently in the Nation. In it, Mr. Don Ranard outlines our own Government's failure to adequately address the difficult questions of democratic participation and social change in South Korea.

The article follows:

[From the Nation, June 28, 1980]

DARKNESS IN SEOUL—PARK'S CLONE IN SOUTH KOREA

(By Donald L. Ranard)

The best that can be said of the current turbulence in South Korea is that it was predictable [see Ranard, "Seoul Brothers," *The Nation*, January 19]. The worst is that if Washington continues its present diplomacy toward Seoul, it will inevitably be confronted with another foreign policy debacle.

For the past three decades, U.S. policy toward Korea has had a dual objective: prevention of war on the Korean Peninsula and the development of a viable South Korea. Yet today, and in the land where once the United States was determined to build a "showcase of democracy," there is greater tension and more instability than at any time since 1950.

President Carter now faces in Korea a foreign policy disaster that, unless reversed, could be greater in significance than Iran. The ugly photos in the American press of Korean paratroopers carrying M-16 rifles co-produced by Colt Industries in Pusan and of American M-45 tanks killing college students in Kwangju can only make the American public, on whose support the independence of South Korea ultimately rests, wonder who is the real enemy, where lies the major threat. No clearer illustration of the failure of American policy has been seen since the Korean War ended.

The portents of impending tragedy were discernible as early as last fall. At the time of the expulsion from the National Assembly of the leader of the opposition party, public restiveness with President Park Chung Hee's Government was mounting. In seven cities, students were stepping up their opposition and paying a heavy price in beatings and deaths.

Although censored by the Korean press, inadequately reported by American newsmen and downplayed by the State Department, these developments were assessed as so dangerous to internal stability that Korean Central Intelligence Agency chief Kim Jae Kyu assassinated his patron President Park in order to "restore democracy and minimize to the extent possible the sacrifice of the people."

Provided with the first real chance in years to help turn Korea around, the Carter Administration waffled. A deeply concerned but, with regard to Korea, misguided Secretary of State Cyrus Vance made equivocal public statements in response to Seoul's foot-dragging on constitutional reform and national elections. It was little wonder that the Korean military concluded that American policy under Carter, as it had under Nixon and Ford, still placed greater emphasis on national security than on human dignity. So it was no surprise that on December 12 the ominous Maj. Gen. Chon Too Huan seized the Government from the civilian caretakers and began the march that shortly led to gross brutality and bloodshed in Kwangju. Today, General Chon rules Korea with greater power than his assassinated benefactor.

Save for its determined effort to repel the North in 1950, American policy in Korea has been characterized by the diplomacy of "wait and see," which inevitably has resulted in "too little, too late." This was the pattern of the American response to Park's coup in 1961, and to each subsequent grab for power: the referendum to allow Park a third term in 1969, the inauguration of the dreaded Yushin Constitution in 1972, the deliberate postponement of democratic reform after Park's assassination and the military coup of mid-December 1979.

Instead of reacting immediately and forthrightly to Chon Too Huan's seizure of power, which precipitated the Kwangju rebellion, Carter vacillated. According to reports from Seoul, the American ambassador waited for weeks before sending word to the Korean press that he had had only a few moments' notice of Chon's self-appointment as acting head of the K.C.I.A. The new Secretary of State, confronted by civil insurrection in a country intimately linked to U.S. security, was cautioned by his principal officer on East Asian and Pacific Affairs, Assistant Secretary of State Richard Holbrooke, against "issuing any hasty statements condemning the generals until the situation was clearer."

Clearer than what? From the moment the generals engineered Choi Kyu Ha's appointment as President under a Constitution which itself had been discredited, the handwriting had been on the wall. The analogies between 1961 and 1980 are so obvious that even the blind can discern the formula: a junta composed of myopic generals who intend to run political affairs like an army stockade and the economy like a quartermaster's depot; the appointment of corrupt leaders to cleanse the country of "ill-gotten fortune-makers" (who twenty years before rode in under a similar mandate); the same sterile interim military councils disengaged from both reason and public sentiment; the continued reliance on the North Korean threat to obfuscate the grab for power and, of course repetitive charges that dissidents are Marxist-oriented. Even General Chon's self-promotion to three-star rank follows the pattern of Park Chung Hee's rapid self-advancement.

That the Korean military would react as they do can be understood. That our own State Department is making the same mistakes it made from 1961 on cannot.

The State Department's handling of the Korean crisis has a quality of panic before the magnitude of South Korea's internal instability, an almost paranoid fear about the North and a reflexive continuation of discredited policies. The United States, with 40,000 troops in Korea and a $3.1 million Export-Import Bank exposure, has no leverage on the generals, we are once more being told. But wasn't it candidate Carter who said that the United States had the political and economic clout to bring about democratic change in Korea? Are we really to believe that sending the chairman of the Ex-Im Bank to Seoul at this precarious time to negotiate more credits is the best way to bring the generals to their senses?

Admittedly, the Korean dilemma is complex. It has defied solution, many feel, largely because the United States neglected to give human rights the importance that most South Koreans placed on them. Where are the specialists in the State Department today who understand these fundamental aspirations of the Korean people? At a time when Washington emphasizes the significance of Korea to Asian security, the Carter Administration cannot point to a single officer with Korean experience in the department's Bureau of East Asian and Pacific Affairs above the level of desk officer. For the first time in twenty years, of the five principal officers in that bureau (i.e., Deputy Assistant Secretary and above) now attempting to deal with this enormous crisis, none have served with a diplomatic mission in Korea, where they could have experienced first-hand the depth of the Korean people's yearning for democracy. Nor, for that matter, have any of them had significant political experience in China or Japan, which have large collateral interests in the stability of the peninsula.

"What ideas do you have?" the head of Korean affairs in the State Department earnestly besieges the press and outside authorities, but then refuses to ponder how we came to our current dilemma. But until the State Department is prepared to recognize that Koreans will never be content with economic progress gained at the expense of political freedom—both from their own military as well as from the North—there is little hope that the United States will achieve internal security in the Land of the Morning Calm or on the peninsula either.●

SALUTE TO CONGRESSMAN GEORGE MILLER

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. UDALL. Mr. Speaker, we have just enacted the Adoption Assistance and Child Welfare Act of 1980, which is truly one of the most significant laws in the last decade on behalf of children and families in our country. As a result of this legislation, many tens of thousands of children will live more secure lives. Federal policies which often caused families to split apart, and which kept children in institutions and foster homes unnecessarily will be replaced with a policy which emphasizes the needs of families and children, and which works to keep them together. Children who otherwise might remain indefinitely in foster care will now have a chance to be adopted and lead more stable and happier lives. And because these reforms are based on demonstration programs which have proved successful in several different States, we know that this new approach will not only improve the lives of these children and their parents, but will cost less to taxpayers than the present inefficient and chaotic system.

This bill did not just happen. It is the result of years of hard work, of disappointment and recommitment, and of genuine concern for the well-being of hundreds of thousands of children in the foster care system throughout our country.

No one played a more vital role in the development of this legislation than our colleague from California, GEORGE MILLER, who initiated the investigation into the abuses in the foster care system nearly 5 years ago. GEORGE spent 1½ years developing legislation, working with States and local governments and with national children's and foster parents' organizations, and conducting studies with the General Accounting Office. He introduced the Foster Care and Adoption Reform Act of 1977, and almost won passage in 1978. He reintroduced his bill last year, and finally, we have this new law.

We all know that nothing in Congress happens only because of one person. But at the same time, it usually requires one committed and diligent person to push us to take action. In the case of foster care and adoption reform, that person has been GEORGE MILLER.

I am very glad to see that columnist J. F. TerHorst, and one of GEORGE's local newspapers, the Antioch Ledger, have recognized the great contributions which he had made to improving the lives of foster children and their families. I want to share Mr. TerHorst's article, and the Ledger's recent editorial, with all Members of Congress.

The material follows:

[Editorial]

MILLER A TRUE HUMANITARIAN

J. F. Ter Horst in a column below commends eight members of Congress for their untiring efforts to win passage of bill that will allow for adoption of more homeless children.

Among them is our own Rep. George Miller, who we think deserves more than a passing comment.

It was Rep. Miller who five years ago joined with then-Sen. Walter Mondale to initiate a congressional probe into alleged abuses in the nation's foster care and adoption systems and then in 1977 introduced reform legislation.

The bill fell short its first time out, but was reintroduced in 1979, and with the assistance of the other lawmakers mentioned, it easily won passage and was signed by President Carter last week.

The new law authorizes funding for services designed to prevent family breakup and encourage the return of children to their families when possible.

Perhaps the best feature is a provision to allow federal assistance to families willing to adopt children with physical and emotional problems, who otherwise were destined to remain in foster care indefinitely.

It is estimated more than 500,000 children nationwide are in foster care programs, about half of those for more than two years and 100,000 for more than six years.

About one-fourth of these children are available for adoption, yet no homes have been found for them.

Those are sad statistics—made even sadder if you have seen the faces of some of the children involved. After five years of studying foster care in America, they are all too familiar to Rep. Miller, and no doubt motivated him in his persistent efforts to win passage of his bill.

If as a result of those efforts, that 500,000 figure can be reduced even slightly, George Miller will have accomplished a great deal. We think he is deserving of a humanitarian award.

PLEASING CHAPTER IN CHILD NEGLECT STORY

(By J. F. Ter Horst)

WASHINGTON.—There is a supply of homeless youngsters craving adoption and a supply of families demanding the opportunity. All that is needed is a willingness by Congress and the Carter administration to take down the fences. It makes such good, heartwarming sense, one wonders why it takes so long.

That paragraph concluded an indignant column I penned more than three years ago. Back then, in May of 1977, I was writing about the shameful way we were ignoring the plight of nearly 200,000 unfortunate children in foster care and in institutions across the country.

But now we can celebrate.

On Friday the 13th of June, both Houses of Congress passed the nation's first Adoption Assistance Act. Four days later, a once-reluctant president signed House bill No. 3434 into law. And just before commencing its recess—while many of us held our breath—a budget-minded Congress put up the first year's money to find this innovative new policy for rescuing double-hexed youngsters from a life of despair and institutional care.

Under Public Law 96-272—remember it well—the federal government has agreed to share in the local costs of moving these children with special needs from institutions and temporary foster homes and placing them with families eager to adopt them.

I called them double-hexed youngsters, and they really are. Besides being homeless, they also happened to have physical or emotional problems requiring constant and expensive treatment. They hardly constitute the cream of the adoptive crop. So they have been shunted from one facility to another, often five or six times before they reach 18, and then become permanent burdens on society. Their future has been as bleak as the look in their eyes.

Amazingly, there are families all across America that are eager to adopt these hard-to-place children—providing they could obtain public money to defray the same costs of medical and psychiatric treatment the children now receive as wards of the states. What was needed was a federal law making it possible to spend federal aid-to-children funds in this manner.

That ought to have made good sense a long time ago. For one thing, it is far less expensive than keeping the children in institutions, about half as costly, in fact. But federal inertia, local welfare bureaucrats' fears of losing institutional money through smaller case loads, and congressional apprehension over increasing federal welfare costs all combined to stymie the patient efforts of the Child Welfare League, the North American Center on Adoption, and the National Commission for Children in Need of Parents.

But no more. Thanks to PL 96-272, we can now begin to rewrite this story of child neglect.

The long and controversial history of the new legislation would fill several volumes. The fight goes back at least five years. But never mind the old villains—the lawmakers who would finance new weapons by cutting childrens' services, the local and state welfare bureaucracies and the Carter officials who fretted about a new administrative burden and pushing localities to find permanent families for these hard-to-place children.

Today is a day to salute the handful of key lawmakers who never lost sight of the objective: Reps. George Miller and James Corman, D-Calif., William Brodhead, D-Mich., and Silvio Conte, R-Mass., as well as Senators Alan Cranston, D-Calif., Daniel Moynihan, D-N.Y., Carl Levin, D-Mich., and Robert Dole, R-Kans.

In the long run they will save us a lot of money. But no public accolade for that can equal the satisfaction of knowing they have helped thousands of handicapped youngsters find adoptive parents and permanent homes.●

CONGRATULATIONS TO TWO DEDICATED TEACHERS

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. FISH. Mr. Speaker, I have the pleasure today to bring to the attention of my colleagues two dedicated educators, Mrs. R. Salvestrini and Ms. Mary Wilcox.

The students of the Putnam Valley Junior High School and the Lakeland Middle School, respectively, have written to me recognizing these women as not only fine teachers but also good friends. Mrs. Salvestrini and Ms. Wilcox who have earned the respect and admiration of their students, are truly deserving of this recognition. I know that my colleagues will join me in commending Mrs. Salvestrini and Ms. Wilcox for their outstanding efforts in the field of education. Their work is a distinguished representation of the school system in New York's 25th Congressional District.●

IMPROVE ATTRACTION AND RETENTION OF ARMED FORCES RESERVE AND NATIONAL GUARD PERSONNEL

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. BEDELL. Mr. Speaker, the National Guard and Reserve components of our Nation's Armed Forces have a problem. Their strength has significantly declined since the advent of the All-Volunteer Force. This drop in strength has reached such proportions that it is severely hampering the efforts of our Armed Forces to meet their combat readiness goals.

The failure to satisfy Reserve component needs places the whole All-Volunteer Force concept in jeopardy because the Reserve Forces have to be kept as viable and healthy as the Active Forces because of the crucial role they are assigned under the total force doctrine. Under its total force concept the Department of Defense has placed emphasis and reliance on the mobilization assets of the Reserves to supplement the active All-Volunteer Force. For example, Army Reserve components account for 67 percent of the Army's tactical support, 65 percent of the combat-engineer battalions, 58 percent of the artillery battalions, 57 percent of the special forces units, 54 percent of the deployable forces, 52 percent of the infantry and armor battalions, and 45 percent of the Army's aviation assets. Given the urgent, rapid-deployment missions now assigned to many Guard and Reserve units, it becomes evident that what is absolutely vital to our national security is a large, well-trained Reserve Force, one that is ready, one that can be called into service rapidly in case of a national emergency.

Despite the essential role of our Nation's Reserve Forces, they continue to face shortfalls in recruitment goals. Equally disturbing, there is also a continuing decline in the retention rate of qualified personnel. Currently, the Reserve component has a shortage of over 350,000 people; 75,000 in the Selected Reserve, and 275,000 in the individual Ready Reserve. Unfortunately, the solution to the problem of recruiting and retaining the required number of qualified people in our Nation's Armed Forces is not simple. At least 28 motivational studies on why people avoid or join the Guard or Reserves have been conducted or sponsored by Defense Department agencies in the last 3 years. They indicate a general lack of interest in military service. Adding to the problem is the fact that each month, relentlessly, the pool of young men available for military service declines. Demographic projections make it clear that this trend will continue through the 1980's. At the beginning of the next decade there will be only about three-fourths as many young men in the country as there are today.

I think that it is time that we, as Members of Congress, face up to these facts and attempt to do what is necessary to remedy the problem. Studies have shown that those who join the Guard or Reserves do so because of additional income, social ties, variety from civilian life, opportunities to learn new skills, promotion possibilities, and retirement benefits. In addition, at meetings in my district with National Guard and Reserve representatives, a number of changes and proposals were discussed which are designed to help correct some of the very real and critical problems facing the National Guard and Reserves with respect to component strength. Of particular importance, I believe, were proposals to provide incentives as a retention aid, and to spur recruiting.

As a result, I am today introducing a package of three bills aimed at improving the problem of maintaining Reserve component strengths. First is a bill to reduce from 60 to 55 the age at which a member of the Armed Forces may retire for nonregular service, providing means by which there is no additional cost to the Government. It seems to me that one solution to the problem of recruiting and retaining people in the military is for the Government to provide these individuals and their families with a quality of life commensurate with the sacrifices we demand of them, and one of the primary ingredients in providing that quality is improved benefits.

The second bill provides a refundable tax credit to employers for supplementary payments to employees who participate in Armed Forces training missions. This will help insure that Guard and Reserve members are not financially penalized for attendance at summer camp. This proposed change should unquestionably improve recruiting and retention. There are more than 100,000 Federal employees in the various Reserve components out of the overall total of 806,000. One reason so many of them are willing to serve is the favorable leave policy which provided fully paid leave for Federal employees to participate in military training.

The third bill would amend the Higher Education Act of 1965 to increase the eligibility of members of the Reserves and of the National Guard for basic educational opportunity grants by $500. Current law provides for forgiveness of some portion of a student loan for persons serving on active duty in combat. The House of Representatives has passed and the administration supports changes to the Higher Education Act that would forgive a portion of student loans for active or Reserve enlisted service. This bill would provide an additional educational assistance incentive to attract potential recruits.

Mr. Speaker, any realistic solution to the problems of the presently structured All-Volunteer Force must alleviate the manpower shortages. The bills I have introduced today are an important step in the right direction of assuring that our Reserve and Guard components have the manpower strength to meet our national defense goals. They are also an important step in doing our utmost to make the All-Volunteer Force concept work. We need to continue to evaluate our military personnel policies and search for solutions which will provide the programs needed to halt manpower losses and overcome existing shortfalls. I urge my colleagues in the House to join with me in seeing that the personnel needs of our military are met. This will insure that the needs of our Nation are met as well, for the choice confronting us is simple: either we provide the resources necessary to recruit and retain skilled people or we settle for a military less ready and ill-prepared to respond to our security and defense needs in the future.

The text of the bills follow:

H.R. —

A bill to amend the Higher Education Act of 1965 to increase the eligibility of members of the military reserves and of the National Guard for basic educational opportunity grants by $500.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 411(a)(A)(i) of the Higher Education Act of 1965 is amended by striking out the period at the end and inserting in lieu thereof the following: ", plus $500 in the case of any individual who, on or after October 1, 1980, enlists, reenlists, or extends an enlistment in, or is originally appointed in, a reserve component of the armed forces of the United States (as defined in section 261 of title 10, United States Code).".

H.R. —

A bill to amend title 10, United States Code, to reduce from 60 to 55 the age at which a member of the Armed Forces may retire for non-regular service and to provide that the retired pay of such a member retiring before the age of 60 shall be reduced in a manner determined by the Secretary of Defense.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1331(a)(1) of title 10, United States Code, is amended by striking out "60" and inserting in lieu thereof "55".

SEC. 2. Section 1401 of title 10, United States Code, is amended—

(1) by inserting "(a)" before "The monthly"; and

(2) by adding at the end thereof the following new subsection:

"(b) In the case of a person retiring under section 1331 of this title before the age of 60, the retired pay of such person shall be reduced in an amount to be prescribed by the Secretary of Defense by regulation. Reductions in retired pay under the preceding sentence shall be prescribed solely for the purpose of ensuring that there is no actuarial cost to the Government because of members retiring under section 1331 of this title between the ages of 55 and 60 in addition to the cost which would exist if members were not eligible to retire under such section before attaining the age of 60.".

SEC. 3. The amendments made by this Act shall take effect on October 1, 1980.

H.R. —

A bill to amend title 10, United States Code, to reduce from 60 to 55 the age at which a member of the Armed Forces may retire for non-regular service and to provide that the retired pay of such a member retiring before the age of 60 shall be reduced in a manner determined by the Secretary of Defense.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a section 1331(a)(1) of title 10, United States Code, is amended by striking out "60" and inserting in lieu thereof "55".

SEC. 2. Section 1401 of title 10, United States Code, is amended—

(1) by inserting "(a)" before "The monthly"; and

(2) by adding at the end thereof the following new subsection:

"(b) In the case of a person retiring under section 1331 of this title before the age of 60, the retired pay of such person shall be reduced in an amount to be prescribed by the Secretary of Defense by regulation. Reductions in retired pay under the preceding sentence shall be prescribed solely for the purpose of ensuring that there is no actuarial cost to the Government because of members retiring under section 1331 of this title between the ages of 55 and 60 in addition to the cost which would exist if members were not eligible to retire under such section before attaining the age of 60.".

SEC. 3. The amendments made by this Act shall take effect on October 1, 1980.

H.R. —

A bill to amend the Internal Revenue Code of 1954 to provide a refundable tax credit to an employer who pays compensation to an employee for a period during which the employee is participating in armed forces training.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Refundable Credit to Employer for Payment to Employee Participating in Armed Forces Training.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting after section 44E the following new section:

"SEC. 44F. CREDIT TO EMPLOYER FOR PAYMENT TO EMPLOYEE PARTICIPATING IN ARMED FORCES TRAINING.

"(a) ALLOWANCE OF CREDIT.—In the case of an employer, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to the amount paid by the employer to a qualified employee with respect to the period (including traveltime) during which such employee has participated in armed forces training.

"(b) DEFINITIONS.—For purposes of this section—

"(1) Armed Forces training.—The term 'Armed Forces training' means summer training camp which is—

(A) duty for training of not less than 14 days (excluding traveltime) under section 270(a)(1) of title 10, United States Code,

(B) active duty under section 672(b) of title 10, United States Code, or

(C) training at encampments under section 502(a)(2) of title 32, United States Code.

"(2) QUALIFIED EMPLOYEE.—The term 'qualified employee' means an individual who has been a full-time salaried employee of the employer for the 21-day period immediately preceding armed forces training.

"(3) EMPLOYER.—The term 'employer' does not include the Federal Government or any agency thereof.

"(c) LIMIT ON AMOUNT CREDITABLE.—The amount allowed as a credit under subsection (a) shall not exceed the amount which the employee would have been paid by the employer for full-time salaried employment during the employee's period of participation in armed forces training, reduced by the pay (and any allowances for dependents) paid by the Federal Government to such employee by reason of such participation.

"(d) CREDIT IN LIEU OF DEDUCTION.—No deduction shall be allowed an employer for any amount for which a credit is allowed under this section.

"(e) NO CREDIT FOR VACATION, HOLIDAY, ETC., PAY.—The amount paid by the employer which may be taken into account under subsection (a) shall not include amounts paid as vacation pay or holiday pay or any other remuneration—

"(1) which is not part of the employee's basic compensation, and

"(2) to which the employee would be entitled under the terms of employment.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section."

(b) CREDIT MADE REFUNDABLE.—

(1) IN GENERAL.—Subsection (b) of section 6401 of such Code is amended—

(A) by striking out "and 43 (relating to earned income credit)" and inserting in lieu thereof "43 (relating to earned income credit), and 44F (relating to payments to employees participating in armed forces training)"; and

(B) by striking out "and 43" and inserting in lieu thereof ", 43, and 44F".

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (5) of section 44C(b) of such Code is amended by striking out "and 43" and inserting in lieu thereof "43, and 44F".

(B) Paragraph (5) of section 44D(b) of such Code is amended by striking out "and 43" and inserting in lieu thereof "43, and 44F".

(C) Paragraph (1) of section 44E(e) of such Code is amended by striking out "and 43" and inserting in lieu thereof "43, and 44F".

(D) Paragraph (2) of section 55(b) of such Code is amended by striking out "and 43" and inserting in lieu thereof ", 43, and 44F".

(E) Subsection (c) of section 56 of such Code is amended by striking out "and 43" and inserting in lieu thereof "43, and 44F".

(F) Paragraph (4) of section 6201(a) of such Code is amended—

(i) by striking out "or 43" and the heading thereof and inserting in lieu thereof ", 43, or 44F"; and

(ii) by striking out "or section 43 (relating to earned income)" and inserting in lieu thereof ", section 43 (relating to earned income), or section 44F (relating to payments to employees participating in armed forces training)".

(c) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 1 of the Internal Revenue Code of 1954 is amended by inserting after the item relating to section 44E the following new item:

"SEC. 44F. Credit to employer for payment to employee participating in armed forces training."

(d) EFFECTIVE DATE.—The amendments made by this Act shall apply to amounts paid in taxable years beginning after December 31, 1980.●

SEATIME REQUIREMENTS FOR SEAMEN

HON. W. J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday July 2, 1980

● MR. TAUZIN. Mr. Speaker, while I strongly support the passsage of H.R. 5164, the Small Commercial Vessel Inspection and Manning Act, I take great exception to the change which has been made in the bill regarding the increase in the seatime requirement for seamen to qualify as able-bodied seamen. While the change on its face increases the seatime requirement from 6 months to 12 months, the actual effect is much more serious for Louisiana's merchant marine industry.

The offshore marine industry in Louisiana is conditioned to a 7-day-on-7-day-off work schedule, so that seamen normally require 12 months of actual time to accumulate 6 months of seatime even assuming no loss time due to sickness or injury. For our seamen, then, the change made in H.R. 5164, increasing by 6 months the seatime requirements for able-bodied seamen, has the practical effect of adding 12 months to their seatime requirement, raising it from a practical 12 months to a practical 24 months. Such a change seriously diminishes the chances that H.R. 5164 will have its desired effect of helping to alleviate the severe and growing shortage of able-bodied seamen in the merchant marine service.

I realize, as do the authors of the bill, that the change must have been made to accommodate in expeditious consideration of the bill by the full House and I therefore concur in the practical wisdom of that decision. But the Coast Guard has confirmed that it agrees with those of us who believe a 6-month seatime requirement is more than adequate to train able-bodied seamen. Why then must the bill restate what is already the onerous and counterproductive 12-month seatime requirement presently applied pursuant to the Coast Guard understanding of existing law? Why not make the change to 6 months and boldly reach out to bring amply trained seamen into the merchant marine service and reduce or end the shortages which continue to restrict the efficient operation of the industry?

H.R. 5164 has numerous meritorious features chief of which is the necessary change allowing the Coast Guard to treat the smaller vessels servicing the offshore industries in a manner different from that required of the much larger oceangoing vessels for which existing law was originally intended. H.R. 5164 represents a more enlightened approach to a changing and expanding industry and helps conform the law to the practice, a most worthy endeavor when the law is obviously antiquated and no longer relates to realities without understandings and liberal interpretation. The bill is, therefore, a great step forward, and I commend its authors, the chairman of the full committee, Mr. MURPHY, and the chairman of the subcommittee, Mr. BIAGGI, for bringing the bill to the point where it now enjoys such a broad consensus of support.

I conclude by urging the improvement of the bill by returning it to a 6-month seatime training requirement for able-bodied seamen in order that we might see an end to the personnel shortages which continue to plague an industry vital to the economic strength and well-being of our Nation.●

DEREGULATION—THE RESULTS

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. COELHO. Mr. Speaker, we have heard a lot in recent weeks about how railroads are going to abuse any freedoms they get if H.R. 7235 is passed—about how deregulation is going to mean higher rates—about how higher railroad rates are going to hurt the consumer.

Well, let us put rhetoric aside. Let us take a look at what has actually happened in the one case where railroads have been deregulated.

Last May, the Interstate Commerce Commission decided to exempt from regulation railroad movements of fresh fruits and vegetables, giving railroads the same freedom already enjoyed by trucks.

What happened then? Did railroad rates soar?

No. It is true that some went up. Others went down. Railroads adjusted their rates on a frequent basis, just as the truckers had been doing all along.

But the key point to remember is that on the whole railroad rates were considerably below truck rates. Shippers responded to this by moving more and more produce by rail—saving consumers money. Before their rates were deregulated in May, rail produce shipments were down 6 percent. After rail rates were deregulated, rail produce traffic went up almot 32 percent. This was the first time in 25 years that railroads had made substantial gains in this type of traffic.

There it is. The only case history we have. And it shows that railroads have not gouged shippers when deregulated. It shows instead that railroads have responded by developing innovative pricing and service packages that have allowed them to gain new business.

I take this opportunity to include for the RECORD, Mr. Speaker, an article by Robert Roberts which appeared in the June issue of Modern Railroads. It clearly articulates this point and I urge my colleagues to read it:

WELCOME BACK

(By Robert Roberts)

DEREGULATION OF FRESH FRUIT AND PRODUCE MARKS A TURNING POINT

Are fresh fruit and vegetables a bellwether for further deregulation of rail rates? If so, early indications are that deregulation would work and would benefit the industry. Furthermore, with increased activity of third-party consolidators in the food distribution business, rails can expect to carry much greater volumes of unprocessed foods, a business that under years of regulation had nearly disappeared.

The benefits may come in unexpected ways. For example, it looks like the greatest potential for rail perishables will be in providing stable rates under annual contracts, rather than spot market rates.

The ICC has in the past few years switched to a new track of gradual deregulation for trucks and rails. That new policy was manifested for rails in the removal from regulation of fresh fruit and vegetables on May 28, 1979. The ICC exempted 11 more commodities March 24, 1980. The Commission made that change because the lion's share of the business already was moving by unregulated truck. The ICC could move with the times and observe results without the threat of a major traffic upheaval.

The rails lost perishables market share from 90 percent in the 1940s to about 11 or 12 percent prior to deregulation. That occurred in spite of rail acquisitions of refrigerator cars and trailers and introduction of new services. For example, the SP originated its "Salad Bowl Express" train in 1976, but had to discontinue it because of lack of business.

The AAR recently reported that the rail share of market moved up last year to 12.9 percent. It said that produce tonnage rose 14 percent from the 1978 level. It concluded that a 25-year decline in this business had been reversed. It credited deregulation for the change.

CONFLICTING DATA

Although deregulation has resulted in a dramatic change, the perishables traffic on the rails still is small. Since deregulation (June through November) SP originated 14,000 carloads and Santa Fe, 3,900. It still is not certain to what extent rail business nationally has grown, if indeed it has. The Department of Agriculture provided figures to Modern Railroads that show combined refrigerator car and TOFC domestic handlings in thousands of hundredweights (1,000 cwt) declining in 1979 to 41,992 from 47,565 in 1978. "These are the figures, and we're sticking with them," a USDA spokesman told us. So USDA reports the rail volume of unregulated perishables down 12 percent in 1979 in spite of a long truck strike last June and July.

But railroads handling the major share of produce origins support the AAR view. The major originating carriers of western produce—Santa Fe and Southern Pacific—report increases, as does the major eastern terminating carrier, Conrail.

Santa Fe reports an overall increase of 32 percent since deregulation through January 1980. Included in that increase was Plan 3 flatback, which rose 53 percent.

SP reports handling 16 percent more perishables in 1979 than in the previous year. SP's increase was comparable for carload and TOFC. However, the TOFC portion of the business was small. SP began a volume carload contract move of grapes to Canada late in 1979 that contributed to a sharp climb in the last quarter. Carload volume was up 338 percent for the last three months of the year, while climbing only 2 percent in the previous four months, compared to like 1978 periods, said an ICC study of perishables by rail under deregulation. That study, done by Manalytics, Inc., stated that "Railcar traffic in exempt perishables has increased substantially in 1979 over the same period of 1978." But it based those findings on three railroads and traffic data for only the last half of 1979. The fact that SP's grape move is international may account for the USDA's conclusion of "domestic" business down for 1979.

Burlington Northern reports moving 1,000 trailerloads of new perishables business in 1979. However, only 300 loads of apples and pears were unregulated. The rest was regulated frozen fish. Its reefer car volume last year declined.

Conrail reports that reefer carloads of unregulated perishables have risen 17 percent since June 1, 1979, cumulatively to March 15, 1980. During that time, tonnage rose 27 percent. However, since January 1, 1980, carloadings have risen 81 percent, according to Bruce Brown, CR's LOB unit manager, food products. The recent upswing in the growth curve was also noted by Santa Fe. Thus 1980 volume should show an increase using anyone's figures.

A WESTERN PHENOMENON

Apart from a handful of railroads that are actively promoting the produce business, there is not much interest elsewhere. Many railroads share the view of a Missouri Pacific spokesman who said, "Our research department has studied the perishables market and restudied it and doesn't find it to be very attractive."

Even so, many railroads are cooperating in the handling of interchange business. For example, SP states that 31 railroads have signed contracts with it to complete delivery of SP-originated loads. SP quotes rates to off-line destinations, giving its connecting carriers an agreed division of the fluctuating rates.

There are indications that the produce originations may spread to the Southeast. The SCL reports talking with three groups of shippers about piggybacking of citrus and other perishables. It expects to get off the ground with one of those groups soon.

The picture since deregulation for the reefer car business hasn't changed—even for West Coast carriers. The fleet of cars has rapidly declined to a present level of about 19,000 from 25,000 in 1975. SP has the largest fleet of 5,362 and consequently emphasizes utilization of that fleet while noting that when those cars wear out in five to seven years, TOFC will replace them. None of the railroads have plans to buy new reefer cars.

Thus, flatback appears to be the major benefactor of deregulation of produce for the long pull. Indeed, BN and Santa Fe are currently emphasizing flatback to a far greater extent than carload despite having a lot of reefer cars. ATSF has 4,184 reefer cars and BN, 3,074. The balance of the car fleet is divided between UP (4,668), Fruit Growers Express (2,657) and BAR (331), according to the ICC study.

Although the transit time for express produce trains, such as SP's reinstated Salad Bowl Express, is good to certain locations, flatback generally is far more expeditious. But the SP-UP-C&NW-CR route of the Salad Bowl Express has been a fine example of rail cooperation and expedited operation. Produce from California reaches the world's largest produce terminal at Hunt's Point in New York City on the sixth morning, and Conrail can get cars to such other Eastern cities as Boston by the seventh morning in its daily perishable express trains. Flatback to those points is about a day faster.

STABLE RATES ADVANTAGE

Ironically, one of the most successful approaches for perishables, as well as other foods still under regulation, is the provision of fixed rates. With the increase in rate fluctuation as the rails were brought into the competitive arena, shippers have sought ways to stabilize rates. Rails have captured business and are negotiating for more by offering annual volume rates or contracts. Those began prior to deregulation. Although the SP has offered volume rates in carload, the greater activity has been in flatback.

It could be said that the increase in perishables by rail is not a result of deregulation, since contract rates were already legal.

However, as the ICC study points out, there is a "psychological climate" that has come about with deregulation that made rail service more acceptable to shippers. And the uncertainty of daily fluctuating rates from both truck and rail is an incentive to shippers to seek fixed rates in return for a guaranteed annual volume.

The SP has been a leader in playing the deregulation game. It rapidly moved to set up a network of rate quoting offices and a framework for making daily spot-market rates. It negotiated the master transportation agreement with shippers. The system is moving well now, notes Robert W. Thull, group manager, market development. The hardest job is to set rates for each growing area to different destinations, but the rate flexibility allows the railroad to adjust quickly, he said. With the combination of volume contracts and spot-market business, SP has stabilized the equipment demand and smoothed the pipeline.

REDUCING TURNAROUND TIME

Improved utilization of existing cars is what makes the effort worthwhile. Reefer car trips per year have improved from under ten before deregulation to about 12. "We will improve utilization still more and work to reduce the empty return trip. We've developed two back-haul options. The first is for frozen foods, and the second is for dry commodities (processed foods) that only require insulation," Mr. Thull said.

SP forecasts a 15 percent growth in market share for carload and TOFC for the year. "We've learned a lot and we're very pleased. And the business is absolutely profitable," he said.

Shippers also are pleased. After some initial bad publicity over service and liability, the service has improved in several ways. Mr. Thull notes that Conrail's express train service is good, making it possible to get an agreement with connections for guaranteed carload schedules. The Salad Bowl Express-PSXE train to Boston had an on-time record of 89 percent, to New York, 71 percent. The Master Transportation Agreement has been rewritten to make it more attractive to shippers (more than 350 shippers have signed it). It now allows them to divert and reconsign shipments. And an objectionable $100 deductible on claims was removed.

But the most pleasing service for both SP and at least some shippers is the volume contract. It is geared to an annual volume of about 1,000 cars and there is some rate flexibility. SP guarantees a car supply, thus providing to shippers both a stable rate and assured equipment availability.

For Santa Fe and BN, the story is quite different. Although Santa Fe also has provided daily spot-market prices for carload, its main thrust has been to work with shippers groups who will commit themselves to ATSF service by buying reefer trailers. Santa Fe's Robert E. Gehrt, assistant to vice-president, public relations, said that there will be 1,400 such trailers in service by midsummer, compared to 600 this spring. Santa Fe phased out of service its own aged fleet of reefer trailers in March so it no longer offers a Plan 2½ service for perishables.

Santa Fe sees truckload as the desired quantity for shippers and Plan 3 as the real potential area. With trailers, a shipper can quickly divert his business to highway. To prevent that, Santa Fe is providing volume rates in Plan 3 service. "The rates hold for six months before negotiation, and we are guaranteed a certain volume. The shipper arranges for backhaul loads and takes the responsibility for claims under normal conditions," Mr. Gehrt said. Co-Operative Shippers, Inc. of Chicago is a major user of Santa Fe's volume service.

Santa Fe also connects with Conrail to provide sixth morning delivery schedules in the East and a hot fifth morning schedule westbound. The flatback trains are run through via Streator, Ill. Launched September 11, 1979, it was called the first run-through transcontinental flatback service in the U.S. Santa Fe says that its TOFC perishables business is profitable and it claims 95 percent of that market to the Midwest.

BN's flatback service with the Pacific Northwest Perishables Shippers Association got off to a slow start because of failure of the members to utilize the service fully. The arrangement is for a fixed rate geared to an annual volume of 1,000 trips. Said Vance Opsahl, AVP food & agricultural products, BN, "We feel that more and more fresh food will go Plan 3. It's the way to go. The service is terrific; we have very reliable fourth morning delivery to Chicago."

BN expects to double its 1970 trailer volume this year. And Mr. Opsahl added that it was in the interest of the shippers to keep the association's trailers busy, and that they would increase utilization.

Although carload rates for substantial periods of time have been below the level of regulated rail rates, increased equipment utilization reduces the ownership cost. SP reported a 29 percent reduction in car cycle time by September 1979.

Refinement in service to date has been largely in the rate area, although some of the new shipper reefer trailers are larger (41 ft 4 in) to provide the same cubic capacity as the standard 40-ft dry van for the benefit of backhaul shippers. There may also be improvements that will save the railroads money in car and terminal design.

RAILS CAN COMPETE

But perhaps the critical difference is in the flexibility of rate making. As SP points out, "Since rail prices are now market-based, the trucking industry cannot easily undercut the rail price."

This flexibility has enabled railroads at long last to compete with the unregulated trucker. As the ICC study pointed out, rail share since deregulation has increased for lettuce, oranges, apples, tomatoes, onions and cabbage, while decreasing for grapes. The increase of market share was most dramatic for apples, jumping from 2 percent of the market to 14 percent. Significantly, for potatoes, which remain regulated, rail share was constant at 18 percent during the same period.

Although the produce business is currently in the limelight, there are other notable food movements that show the value of rail service. Family Lines operates a unit reefer car train for Tropicana juice from Florida to New Jersey with Conrail. That weekly train produced 4,940 carloads in 1979. It also increased its annual volume of peanuts in TOFC under contract for the last three years.

The ICG recently regained a portion of the Central American banana market it once had in boxcars. This time, the bananas are arriving in containers and move via highway on chassis from Gulfport to the New Orleans intermodal terminal for piggybacking north. ICG developed a five-year marketing plan and a door-to-door distribution plan to demonstrate their capability to handle the business.

FIERCE FIGHT SEEN

It also is quite obvious that truckers—not to mention airlines—are not going to give up the fight. The exempt truckers, for example, are seeking either ICC action or legislation to make it easier for them to get backhauls of regulated freight. The United Fresh Fruit and Vegetable Association is backing that effort. And the American Trucking Association's headline in "Transport Topics" (March 17, 1980 issue) reads "Fierce Rail, Truck Fight for Perishables Seen Coming."

If rails are getting this kind of response, it looks like they're at last on the right track. But that track isn't as clear as might be expected. For example, a much greater marketing effort is required to sell under deregulation. Claims, which in the past have been exorbitant, must be controlled. And routing of freight is more complicated owing to fear of antitrust laws governing produce. Railroads are reluctant to make routing arrangements with competitors for fear this will be viewed as collusion.

One thing is clear, however, those who said railroads couldn't react quickly enough under deregulation to compete have been proven wrong. And this augurs well for the industry as regulation of other rail business lessens in the future.●

THE BALTIC STATES: 40 YEARS AFTER

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. COUGHLIN. Mr. Speaker, this June marked the 40th anniversary of the Soviet invasion and forcible annexation of the Baltic nations of Lithuania, Latvia, and Estonia. In light of the recent military invasion of Afghanistan, the history of the Baltic States provides an ominous counterpoint.

In 1939, threatened by massive Soviet military buildups on their borders, Lithuania, Latvia, and Estonia agreed to sign Soviet-imposed pacts of mutual assistance. These pacts allowed the Soviets to establish an unlimited number of military bases in the Baltic area. Then on June 14, 1939, after repeated Soviet-provoked border incidents, the Russians presented Lithuania with an ultimatum to be answered within 24 hours which demanded the formation of a new government acceptable to the U.S.S.R. Estonia and Latvia received similar proposals on succeeding days.

The invasion of the Baltic nations began the next day and a complete isolation from the West was accomplished. Previous government officials and military officers were imprisoned and executed.

With only a Communist slate of candidates allowed, elections of Soviet parliaments were directed. These puppet governments then "requested" to be incorporated into the Soviet Union, and were subsequently admitted August 4, 1940.

The Soviets callously deported 30,000 Balts to Siberian slave labor camps to oppress any spark of nationalism, and pave the way for Sovietization and annexation of the once fiercely independent Baltic nations.

The invasion and subjugation of Afghanistan provides the latest example of Soviet expansionism accomplished with brute force. The bitter lessons of the conquest of Lithuania, Estonia, and Latvia have been repeated in another part of the globe. With the Soviets, it appears that the more things change the more they stay the same.●

THE PLIGHT OF SOVIET JEWS

HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. WINN. Mr. Speaker, the plight of Soviet Jews concerns us all. The Jewish community in the U.S.S.R. suffers under increasingly restrictive emigration policies while official and unofficial anti-Semitism grows more blatant.

Evidence the Soviet preparations for the summer 1980 Olympics included a crackdown on Jews is one more strong reason for U.S. athletes and the athletes of all other free nations to boycott the Olympic games. Through this and other means, the United States must pressure and influence the Soviet Union to permit Jews to emigrate.

The growing problems of Soviet Jewry are thoroughly detailed and documented in an excellent paper, "Jewish Emigration from the U.S.S.R. in 1979" by Elie Valk, director of the Soviet Jewry Research Bureau.

As the paper notes, in 1979 Jewish emigration was at a higher level than any time since 1971 when Jews began to emigrate from the U.S.S.R. in sizable numbers. More than 51,320 Jews left the U.S.S.R. or about 4,200 each month in 1979.

At the same time, however, that actual emigration was at record levels, a decrease in the number of exit visas issued to Soviet Jews for future emigration was occurring. This is the result of the imposition by Soviet authorities of a growing number of administrative obstacles to emigration. The Soviet Union has also introduced a demand for an invitation from a "close or first degree relative" as a first step toward emigration. For reasons explained by Elie Valk, this further discriminates against those who wish to go to Israel.

While the Soviet Union has erected new barriers to Jewish emigration, it has also fostered and tolerated a rise in anti-Semitism. Restrictions against Jews in higher education and job promotion have increased as have official and nonofficial physical and verbal abuse.

This is a tragic situation which compels world concern. Elie Valk's report is not only informative, therefore, it should also help focus attention on the terrible conditions facing Soviet Jewry today. Excerpts of the report follow:

SOVIET JEWRY RESEARCH BUREAU

JEWISH EMIGRATION FROM THE U.S.S.R. IN 1979

Last year, when 51,320 Jews left the USSR and arrived in Vienna, emigration indisputably played an even more important role in the life of Soviet Jews than ever before. It was a record figure, since Jews began to leave the USSR on a large scale in 1971, with a monthly average of over 4,200 people.

A close analysis of the figure, however, taking into account emigration statistics for January-February 1980, demonstrated a simultaneous counter trend. Sometime in the summer of 1979 a decision to cut down the rate of emigration had apparently been made in the highest Soviet circles. The number of visas issued by the Dutch Embassy in Moscow (representing Israel in the USSR) decreased in November-December to 3,600-3,300. This sharp drop was later felt in Vienna with 2,803 arrivals in January and 3,023 in February, representing a 30-35 percent drop from the 1979 average.

A month-by-month analysis suggests that new restrictions, which were implemented months before the Soviet invasion of Afghanistan, were not directly connected to changes in Soviet international policy. While we cannot ignore the impact on emigration of the present international climate, a possible cutback should not be seen as a Soviet reaction to US measures undertaken after the Afghanistan invasion. Indeed, in the past there were situations when emigration was maintained at high rates during international crises, for example during the Yom Kippur War, in October 1973.

INSUFFICIENT KINSHIP

The decrease in emigration seems to reflect the introduction of a demand for an invitation (visov) from "close or 1st degree relative". This invitation is the necessary first step for most people to leave the Soviet Union. Having used "insufficient kinship of the invitee" sporadically, as a pretext for refusals, Soviet authorities never applied it on a wide scale. The broad application began in May 1979, in Odessa, and slowly spread to Kharkov and Kiev, then to Kishinev and Tashkent. By the first quarter of 1980 it had touched Minsk, to some extent Moscow and was announced in Leningrad at the end of February. Not only have exit visas been denied, but initial applications are increasingly rejected by OVIR[*] clerks if the affidavit of invitation is signed by a relative other than spouse, parents, children or siblings. In Kiev, where the restrictions are most severe, only parents and children qualify.

Soviet authorities unquestionably are taking advantage of the fact that in the last few years many Jews have arrived in Vienna with invitations from relatives in Israel, but have then gone elsewhere. As a result, they cannot actually provide their closest relatives still in the USSR with Israeli invitations. "First degree kinship" refusals, while reported from almost every city in the USSR, have mostly affected a number of cities and towns in the Ukraine, where the drop-out rate reached 95-96 percent.

The following illustrates the present situation in mid-December, as reported by recent arrivals. In Kiev 220 families were refused in one week. In the last week of January there were 29 permissions in Kiev OVIR and about 400 refusals. In February, in the Moscow OVIR, 48 refusals were issued—47 on the pretext of "insufficient kinship" and only 1 on the basis of the oft used reason of "secrecy and state considerations".

As a result of this wave of refusals, a new category of "internal emigrants" has been created. These are persons who, for the most part, were not involved in Jewish activities. Their primary drive appears to be emigration, rather than aliya to Israel. For the most, they are not psychologically prepared for the life of a "refusenik". This explains the fact that as of January 1 the list of refuseniks compiled by NCSJ's Soviet Jewry Research Bureau had "only" 3,000 persons, or about 1,200 families, compared to 2,500 on October 1, 1979. Most of the recently refused families don't, in fact, know how to publicize their plight, or are frightened to do so, and might not want their names to be mentioned abroad or to have their cases subjected to public scrutiny and political action.

After the introduction of the new barriers, based on "insufficient kinship, many Jews initially decided to postpone their applications, although the latest reports indicate that the number of prospective applicants has begun to climb.

ADMINISTRATIVE CONTROLS ON EMIGRATION

One of the usual means of controlling emigration is to place various administrative obstacles in an applicant's path. Using devices from past years, local authorities applied these measures to an even greater extent than formerly. Nondelivery of invitation letters from Israel, the usual method of regulating the number of applications, continued in early 1979. Then, in the main cities of Jewish exodus (viz. Kiev, Kharkov, Odessa, Minsk, Kishinev), OVIR offices began to limit receipt of applications to one or two days a week. Official forms had to be filed in legal advice bureaus or typing offices, sometimes located in the suburbs. This situation has created lines of applicants, which reached 1,000 in Kishinev alone, and was said to be about 800 in Minsk.

In some isolated instances, OVIR clerks do not accept applications if there are sons of draft age in the family. Applications of families in which any member has not worked an obligatory three-year term in a state directed job, following graduation from university, have also been rejected, primarily in Leningrad. If these are not new devices, they were more widely used in 1979 than in previous years.

AFFIDAVIT PATTERNS

In regard to the number of affidavits from 1974-1977, an average of 39,000 new ones were sent annually from Israel. This number increased in 1978 to 107,212 affidavits. In 1979 there was a further increase, and 96,000 were sent in the first eight months, bringing the average monthly to 12,000 compared with 3,200 in the period 1974-1977, and 8,900 in 1978.

The jump in demands for visovs could be attributed to the following:

1. The sharp increase in all manifestations of anti-Semitism, expressed in a wave of hostile publications, restrictions in higher education and in job promotion. On the popular level, it has often resulted in verbal as well as physical abuses. Partly as a result of continued emigration, the mood—"Jews, get out" has become prevalent in some regions, encouraging more to seek to leave.

2. Worsening of the economic conditions of the Soviet population in general.

3. Widespread rumors, perhaps initiated by the KGB, that in connection with the Olympic Games applications will not be received after January 1979 (or April 1979 or January 1980). Such rumors were rife in the second half of 1978 and 1979, although no evidence has been forthcoming. There was speculation that such a campaign might be

---

[*] OVIR—Office of Visas and Registration, of the Ministry of the Interior.

part of an effort to maintain a high quota for 1979, a goal dictated by economic and political considerations.

4. Generous assistance to Jewish immigrants in Western countries, especially the U.S., Canada or Australia.

JEWISH EMIGRATION FROM THE USSR CUMULATIVE STATISTICS

	Emigrants
Date:	
Oct. 1968–70	4,235
1971	13,022
1972	31,681
1973	34,733
1974	20,628
1975	13,221
1976	14,261
1977	16,736
1978	28,864
1979	51,320

From October 1968 to December 1979, 228,701 persons left the Soviet Union with Israeli visas. Approximately 153,000 of them came to Israel. In that period approximately 598,100 affidavits (invitation letters) were sent to Soviet Jews.●

NATIONAL LAND USE CONFERENCE

HON. CHARLES PASHAYAN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● **Mr. PASHAYAN.** Mr. Speaker, just recently a number of Members of Congress had the opportunity to address the Second Annual National Land Use Conference. In the opening of that conference, I shared in welcoming the participants with our colleague, Representative WILLIAM WAMPLER of Virginia. At the first conference, I was honored by serving on the same panel. His remarks to the participants at the second conference struck the very heart of the reason for the gathering, and I want not only to associate myself with those remarks, but to share them with other Members. Following is the text of those opening remarks.

REMARKS OF REPRESENTATIVE WILLIAM C. WAMPLER, SECOND ANNUAL NATIONAL LAND USE CONFERENCE

I thank the National Association of Property Owners and other sponsoring organizations for the opportunity to participate in this—the Second Annual—National Land Use Conference.

I was honored to be included last July at the christening of this annual function, and I am happy to be with you again.

Let us begin by re-affirming the principles that bind this conference: Among the most fundamental rights of the American people under the Constitution are those of private property ownership and due process of law. These basic rights of the individual citizen should never be compromised or subverted.

Throughout our history as a free nation, citizens traditionally have recognized that the government can exercise the power of emminent domain where there is an unquestionable and demonstrative public need. Along with this power, however, comes the continuing responsibility to guard against arbitrary and capricious abuse.

In recent years, a trend has been developing within the Federal Government which has led to the erosion of these Constitutional rights. Current Federal land acquisition policies are infringing upon the rights of the individual and upon state sovereignty. These policies only intensify the steadily decreasing public confidence in our government.

An individual should not be prohibited from selling or donating his land to the government, if that is his desire. However, I feel strongly that no person should be forced to relinquish private property to the government through coercion—or absent due process, through a policy of abstract coercion.

In my opinion, the major problem we are facing today with Federal land use policies is one of ATTITUDE. Due to the prevailing interpretation of our Constitutional rights and common law, we have developed the attitude that only through ownership can one have complete control of a parcel of land. The Federal Government has embraced this concept in their land acquisition policies and has determined that absolute ownership by the government is the only means by which it can have effective utilization of land use controls. The consequences of this attitude are frightening. It has led government agencies to undertake an accelerated land acquisition policy that essentially amounts to a "land grab" of unprecedented dimension.

The Council on Environmental Quality and the General Accounting Office have recognized that the existing policy is costly and may result in the acquisition of land not needed for public use or protection. They also have indicated that Federal acquisition and/or management does not necessarily protect the natural and cultural resources of an area—and that sole reliance on Federal acquisition and management is increasingly unrealistic.

New and innovative options to total Federal ownership and management must be explored. One viable alternative is already included in the Federal Land Policy Management Act of 1976 and in the National Forest Management Act of 1976. Language in these laws provides for cooperative arrangements with State and local governmental units, to develop planning and land use controls in order to preserve unique characteristics and privately owned status. You have a special opportunity, through the organizations you have formed, to be a viable political force in altering the direction of current federal land acquisition policies, and to assist in the formulation of new national goals in the area of land management.

Notwithstanding findings such as these and recent legislative action to cut the Federal Budget for land acquisitions next year, the immediate outlook for responsive Congressional action on government land use policies is not promising in my judgment. And you can be sure that, if such reforms were passed by the Congress, they would receive stiff opposition from the Administration.

You have many friends in Congress, and few downtown as well. Our base is continuing to grow. But, up to now, our numbers have been insufficient to prevail on the pressing questions of government land use policy. Your continued effort to educate your elected and appointed representatives is central to our future growth and progress.

At the same time, you must continue to organize at the local level, where individual land management decisions are made. In my home District—Southwestern Virginia—property owners are organized along the Blue Ridge Parkway; and property owners are organized in the Mount Rogers National Recreation Area. I have had the privilege of working closely with these citizens; and I can say without reservation that they are knowledgeable, they are committed, and they are active. Until such time as conditions are more favorable for responsive legislative action, I believe the keys to success will be local initiative and individual contact.

We all recognize the importance of our lands; and we accept the responsibility to manage and preserve our natural and cultural resources. Individual property ownership is a right and an integral part of our American heritage.

Traditionally, land has been a legacy handed down from generation to generation. This heritage is of benefit to each American. This heritage is of benefit to the public good. And this heritage must be preserved.

Keep up the fight.●

PRODUCTIVITY AND EDUCATION: A NEGLECTED DIMENSION

HON. JOHN J. LAFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● **Mr. LAFALCE.** Mr. Speaker, there is a wide consensus that believes that there are a number of serious problems in the U.S. educational system. Far too many high school graduates are functional illiterates, unable to cope with an ever more complex economy and society. Far too many college graduates lack any understanding of science and technology, despite the overwhelming importance of both in our economy.

Although there have been many studies of the dismal state of U.S. education, there remains one neglected dimension. One of the most important components of productivity growth is the input from workers, managers, and scientists, which means that productivity and education are closely related. The fact that productivity growth declined during the 1970's and the fact that our educational system has experienced increasing problems during the past decade are not coincidents.

For a number of years after the Sputnik shock of 1957, the United States emphasized increased training and expertise in mathematics, science, and engineering, both in terms of specialization and general awareness. Unfortunately, the momentum from that shock has dissipated; and this country has forgotten the important lesson from that shock. However, the Germans and the Japanese have keenly learned the lesson and have maintained rigorous mass education programs in mathematics, science, and engineering, which has in turn contributed to their excellent performances in the field of productivity growth.'

In an article of the June 10 edition of the Washington Post, entitled "While All We Do Is Push the Buttons," Daniel S. Greenberg analyzes the importance of that difference in national educational policies for industrial innovation and improved productivity. He also noted that the Department of Education and the National Science Foundation are preparing a report for release, which reviews the state of science and engineering education in this country. I certainly hope that the White House will expedite the release of that report and will make meaningful recommendations, so that the U.S. educational system can once again make its necessary contribution to productivity growth during the rest of the century.

I commend the article to all of my colleagues, and I urge all of my colleagues to carefully examine the report, when it is released, because to ignore the report would risk consigning this country to the backwaters of science and technology.

The article follows:

WHILE ALL WE DO IS PUSH THE BUTTONS

Compare their education standards and ours, and you'll have a new clue to the runaway industrial performance of West Germany and Japan.

That's one of the main points that's going to be delivered to the White House next month when a team of specialists completes what's described as "the first review of science and engineering education policies to be prepared at the presidential level in almost two decades." Conducted at President Carter's request by the Department of Education and the National Science Foundation, the report, now circulating in near-final draft form, introduces an additional suspect to the long-running inquest on what ails the American economy: the declining quality and scope of science, engineering and mathematics training throughout the education system.

While, as is so often the case in American society, the peaks are at world-beater levels, the rest of the system is decaying at a time when Germany, Japan and the Soviet Union have pinpointed mass science and mathematics training as strategic requirements for the modern state. The result, the report suggests, is that the United States is perhaps uniquely evolving into a two-culture society—divided between highly trained, professionally engaged scientists and engineers and a scientifically illiterate mass with little or no comprehension of the workings of the modern world.

Meanwhile, the report notes, in Great Britain, France, Germany, the Soviet Union and Japan, "virtually the entire educated class of opinion leaders and decision-makers . . . has a high level of scientific and technical literacy. In the U.S., however, there is an increasing divergence in the science and mathematics qualifications between those secondary students interested in the science and engineering professions and those who are not."

Noting that most high school systems in the United States require only two years of mathematics and two years of science, the White House study points out, for example, that the German and Japanese versions of junior high school far exceed that requirement and that their high school students go on to super-enriched math and science programs that have few counterparts here. Ironically, the Japanese are making good use of the Sputnik-crisis curriculum materials that were developed in the United States in the 1960s—only to be abandoned or watered down here in response to complaints that they were too difficult.

As for Germany, the inquiry found that "the overall picture . . . is one of a very high level of science and math literacy among college graduates as well as a strong science/math understanding among the general population."

The key question, of course, is whether it matters that a large part of our population is uncomprehending of science and technology. After all, it is possible to use modern machinery without having the remotest notion of how it works; the ubiquitous hand-held electronic calculator is a perfect case in point.

The White House study, however, suggests that scientific illiteracy is a drag on industrial performance and political judgment. Thus it notes reports "from U.S. industry that in some highly technical areas the time required to produce a product has increased as workers' base level of understanding of science and math has decreased over the past decade." The study cites the military services' complaints about the difficulty of obtaining recruits who can maintain sophisticated military equipment.

The inquiry also found that the British, in their long agonizing over plummeting productivity rates, have credited mass science and engineering education in Germany and Japan as major factors in the postwar industrial growth of those countries. Japan, with about half the American population, outproduces the United States in engineers; and Japanese students, the White House study reports, "view the engineering degree as a "ticket" to business and social success in much the same way as the liberal arts degree used to be viewed in the U.S."

Only half of Japan's new engineers go into engineering, the report continues. "The others become civil servants and managers in industry. Around half of the senior civil service hold degrees in engineering or related subjects, and half of those are at the post-graduate level. In industry, about half of all directors have engineering qualifications." Similarly high proportions of leaders with advanced technical training are to be found in reigning bureaucracies of the other nations with which the United States competes in one way or another.

The American political and administrative tradition holds that the non-technical generalist leader can get by with the assistance of highly skilled advisers and that engineering management can make up for lack of trained skills on the factory floor.

The forthcoming White House report on science and engineering education strongly indicates that's no longer true. Whether this country can act on that diagnosis is a separate matter.●

A TRIBUTE TO A SMALL BUSINESSMAN

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. CHAPPELL. Mr. Speaker, I want to call the attention of my colleagues to a man who represents the strength of America, B. Ernest Griffin, of Jacksonville, Fla. Mr. Griffin has been in the forefront as the spokesman for small business—the backbone of this Nation's economy. In his capacity as chairperson of the Small Business Administration's National Advisory Council, Mr. Griffin has traveled throughout the country listening to the concerns of small business persons and speaking at every opportunity on their behalf. His outstanding efforts in this area were formally recognized a few days ago when he was named SBA National Advisory Council Advocate of the Year by a panel of fellow members on the Advisory Council.

His own business, Sav-a-Stop, began 28 years ago with an SBA loan. Since then, Sav-a-Stop, Inc., has grown to a major national corporation listed on the New York Stock Exchange. In addition to serving currently as Sav-a-Stop's chairman emeritus, Mr. Griffin is president of the American Federal Savings & Loan Co. of Jacksonville, and chairman of the board of Ocean State Bank in Neptune Beach, Fla.

I am truly pleased to know Mr. Griffin and believe our citizens are as proud as I am not only of his achievements but of this well deserved recognition he has received. His own success exemplifies how our free enterprise system truly creates opportunity for its citizens. It also demonstrates how goverment in its correct function assists individual initiative of our citizenry instead of hindering it.

Mr. Griffin has worked steadfastly to enhance the quality and effectiveness of the National Advisory Council, and his leadership has won the respect of its members, SBA management, and the small business community nationwide. I know that both by the example of his success and of his unselfish service to the business community and the needs of this country that Mr. Griffin will serve as an example to many thousands of enterprising Americans in this country as well as in Florida.●

TRIBUTE TO A. A. "EDDIE" SMITH

HON. DAVE STOCKMAN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. STOCKMAN. Mr. Speaker, I would like to take this opportunity to honor A. A. Smith who will soon retire from his post as treasurer of Van Buren County, Mich. Mr. Smith has devoted his life to community service through his leadership in local government.

He has held a broad range of key positions including: member, city of South Haven City Commission, board of public works, and hospital board; South Haven City treasurer; Van Buren County board of supervisors; Van Buren County treasurer; county plat board; county allocation board, county building authority committee.

"Eddie," as he is known to his friends, has also been involved in countless community activities including South Haven Congregational Church, South Haven Elks Club, Van

Buren County Republican Committee, Michigan Association of County Treasurers, and Junior Baseball Association. ation.

Eddie Smith is truly an outstanding citizen—dedicated to his constituents, his community, and his family. He has earned the respect, admiration, and friendship of many. I am thankful that I can call Eddie Smith my friend and I call upon my colleagues to honor him as a great American.●

WYDLER CALLS FOR NEW UNITED STATES AND INTERNATIONAL APPROACHES TO NONPROLIFERATION

HON. BARRY GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. GOLDWATER. Mr. Speaker, the gentleman from New York (Mr. Wydler) has just returned from a trip to Sweden and Finland, during which he met with government and industry officials in Sweden, and inspected Russian-made nuclear reactors in Finland. He found, once again, that the administration's misguided nonproliferation policy, which has consisted of simply denying nuclear technology to other nations, has been counterproductive. We have treated friendly nations, such as Sweden, as if they were potential weapons threats. We have also lost billions of dollars of nuclear business and our influence over world nuclear policy has waned considerably.

While in Sweden, Mr. Wydler spoke to the Atomic Industrial Forum/Swedish Industrial Forum Conference on the future of nuclear power. In his statement, he gave perspectives on nuclear nonproliferation which he has developed in visiting nearly 20 countries over the past 3 years, and I suggest that my colleagues read it carefully in terms of recommendations for new directions in the U.S. approach. Mr. Wydler called for a new set of general guidelines to assure nuclear supply without compromising proliferation concerns to be ratified by supplier and consumer nations.●

EXPORT TRADING COMPANIES

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. LaFALCE. Mr. Speaker, one of the most depressing annual statistics is the figure for the U.S. trade deficit. During the past 3 years, the United States has experienced nearly $90 billion in trade deficits; and there is absolutely no indication that 1980 will be different. This lamentable situation demands a comprehensive and effective national policy to promote U.S. exports; and at the center of that policy must be the creation of U.S. export trading companies, which will provide marketing, informational, financial, and technical assistance to the 20,000 small- and medium-sized companies which would export, if they were given assistance.

Therefore, on May 8, 1980, I introduced H.R. 7310, the Export Trading Company Act of 1980, which would facilitate the establishment of U.S. export trading companies. I am pleased that a broad bipartisan group of my colleages has agreed to cosponsor that particular bill, which would provide meaningful incentives for U.S. exports. In addition, Congressman Stephen L. Neal, Congressman Les AuCoin, and Congressman Henry S. Reuss have also introduced export trading company bills, since I introduced my original bill; and I want to take this opportunity to salute their efforts to draw attention to the importance of export trading companies.

Today, Mr. Speaker, I am introducing a new export trading company bill, which has two major differences from H.R. 7310. I believe that these two differences will enhance the quality of the new bill and will help facilitate passage of the bill.

First, this new bill deletes the tax provisions of H.R. 7310 and other similar bills. I believe that the DISC and subchapter S provisions of those bills are very important and merit action, but the political situation has been drastically altered since early May. First, those tax provisions could become entangled in the general question of omnibus tax legislation, which is presently being discussed both in the administration and in the Congress. Second, those tax provisions could very well become part of the general discussion of tax reductions, which has become such a political question in recent weeks. I do not want any tax provisions to interfere with the passage of an export trading company bill, despite the value of those tax provisions, because Congress must swiftly and boldly act to facilitate the creation of U.S. export trading companies.

Second, H.R. 7310 would have delegated all governmental assistance to the U.S. Export-Import Bank. My new bill would allow the Bank to provide assistance for the ongoing activities of export trading companies, but it would delegate to the Department of Commerce's Economic Development Administration and the Small Business Administration the authority to provide startup assistance to export trading companies. I believe that this particular approach is preferable, because these two agencies have amassed considerable experience and expertise in assisting new businesses.

During hearings before the Banking Subcommittee on International Trade, Investment and Monetary Policy, spokesmen for the U.S. Trade Representative and the Department of Commerce endorsed these changes on behalf of the administration. I hope that all of my colleagues will join with me to press for passage of an export trading company bill during this session of Congress, because bold steps must be taken in the field of export promotion.●

PUBLIC LANDS

HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. MARLENEE. Mr. Speaker, today I am introducing two bills in order to bring attention to a very serious problem of an ever-increasing amount of private lands being acquired by the Federal Government. These lands are being acquired supposedly to achieve the objectives of parks, forests, wild and scenic rivers, preserves, recreation areas, wildlife refuges and other national areas established by the Congress.

However, the GAO recently questioned the acquisition policies of the Federal Government in a report released on December 14, 1979. The study focused on the activities of Federal agencies that have major land management responsibilities and extensive acquisition programs: The Forest Service, the Fish and Wildlife Service and the National Park Service. The GAO concluded that these three agencies generally followed a practice of acquiring full title to private lands rather than examining all the alternatives. These alternatives included easement, zoning, tax incentives and other Federal regulatory controls which would meet program objectives while allowing the land to remain in private control.

More than one-third of the land in the United States is owned by the Federal Government and this area is steadily growing. During the fiscal years 1973–77 the Federal Government acquired full or partial title to 2.2 million acres at a cost to the taxpayers of $606 million. The predominant method for acquisition was full title purchase which made up 88 percent of the acreage and 95 percent of the cost. Part of the problem appears to be the readily available funds for acquisition. The Land and Water Conservation Act of 1965 made all this possible. Its main source of income is from: Surplus property disposals, motorboat fuel taxes, recreation fee receipts and Outer Continental Shelf mineral leasing.

Federal land acquisition usually prevents the land from being used for resource development as well as agricultural and family dwellings. Acquisition also reduces local tax revenues by removing private property from the tax rolls. Although compensation to local governments is made by the Federal

Government through the payments in lieu of taxes program, these practices increases the cost of land acquisition and are not generally recognized as a land cost by Federal agencies. Local governments complain these payments do not keep pace with increasing land values and the cost of acquiring the land or impact on the community and private owners often is ignored.

As Congress attempts to bring the massive Federal budget under control, rather than cutting back on the amount of land being acquired, the administration, in its supplementary appropriation bill, has reduced appropriations for the payments in lieu of taxes by $30 million over fiscal years 1980 and 1981. This means that State and local governments, where tax bases are already depleted by ever-increasing land purchases by the Federal Government, will be further burdened.

The first bill would prevent further escalation in the amount of land owned by Federal agencies by forcing each agency to give up an equal amount of land for each parcel they buy. This would prevent further losses of productive private lands and the subsequent losses to local tax rolls. This bill would also force the agencies to carefully examine the need to acquire full title to a particular parcel of land. According to the GAO report the Federal Government is acquiring land regardless of demonstrated need.

I believe it is time for Congress to make clear its directions to Federal agencies that these reckless purchases of private land must stop. Federal agencies need to develop a policy for Federal protection and acquisition of land. These agencies must weigh the need for the land against the cost and impact on private landowners and State and local governments. By developing alternative protection strategies the agency can fulfill its responsibility to both the public users of Government lands and the local communities.●

ED REA, SR.

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. BADHAM. Mr. Speaker, I would like to call to my colleagues' attention the installment of Mr. Ed Rea, Sr., of Palos Verdes, Calif., as the new president of the National Retail Hardware Association.

Ed Rea started in the hardware business in 1941 with the opening of his El Segundo store. From there, Ed began to expand his horizons. Today there are six Rea's Hardware Stores throughout the Los Angeles area.

Ed is very involved in his community. He has, at one time or another, served as the president of the local Kiwanis Club, Rotary Club, and the chamber of commerce. In 1979, Ed was honored as the Palos Verdes Peninsula Citizen of the Year.

On July 24, 1980, Ed will once again be honored by his peers. On that date, the National Congress of the National Retail Hardware Association will install Ed as their president.

Coming from a family with roots in the hardware business, I wish to congratulate Ed and his family on this occasion.●

HOUSE JOINT RESOLUTION 573

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. YOUNG of Alaska. Mr. Speaker, it is with great pleasure that I join with my colleagues in sponsoring House Joint Resolution 573, a resolution to unlock America's vast energy resources. Alaska has the potential to significantly contribute to the U.S. energy supply if the provisions of this resolution are adopted. The provisions of House Joint Resolution 573 could be adopted without altering existing statutes. The thrust of this legislation is to direct the administration to change their policy with respect to energy production for this Nation.

Currently, oil from Prudhoe Bay accounts for 15 percent of the U.S. domestic oil production. My State of Alaska however, has the potential to contribute not only with additional supplies of oil, but also with vast quantities of natural gas, coal, and geothermal power. Exploration and development of Alaska's wealth of energy resources would aid the Nation in breaking the OPEC stranglehold insuring national security, and strengthening our economy.

OIL AND NATURAL GAS

At the present time, the trans-Alaska pipeline system (TAPS) carries 1.5 million barrels of oil per day of Alaskan crude oil to American homes, cars, and businesses in the lower 49 States. Earlier this year, the oil industry warned that one-tenth of the reserves contained within the Sadlerochit reservoir had been extracted and that a decline in the production from the field was anticipated between 1985-87. In order for the TAPS to remain operating at maximum capacity, it will be necessary to tap the oil reserves in the National Petroleum Reserve—Alaska and in the Arctic Wildlife Range. The oil produced from these areas of high potential would make up for the decline in production from the Prudhoe Bay field. In addition to the oil reserves contained at Prudhoe Bay, natural gas reserves total some 26 trillion cubic feet. Production of this energy resource will further assist the United States in becoming energy self-sufficient. Once the Alaska natural gas transportation system is constructed, Alaska will have another energy transportation system in which to provide energy to our fellow Americans in the lower 49 States. The natural gas pipeline will have the capacity to carry natural gas from the Prudhoe Bay area in addition to natural gas that is tapped in the areas adjacent to the Prudhoe Bay field such as the Arctic Wildlife Range and the National Petroleum Reserve—Alaska.

I and many of my colleagues have indicated our strong support for an accelerated private leasing program in the NPR-A. Efforts to expedite private leasing will allow these much needed resources to be available when the decline in the Prudhoe Bay area occurs. It is estimated that as much as 8 billion barrels of oil may be contained within the 23 million acre area of NPR-A. In order to realize the benefits from this area, planning must begin now.

The Arctic Wildlife Range is another area adjacent to TAPS. This area may hold up to 80 percent of Alaska's onshore oil and gas reserves. Experts estimate that this area may contain as much as 40 billion barrels of oil. The geological structure and the proximity to TAPS make this area attractive to those interested in energy production. Unless steps are taken to fully identify the resources in this area, every American citizen will suffer due to the myopic policies presently imposed by the Carter administration.

GEOTHERMAL POWER

Alaska has an abundance of untapped geothermal power sites. Unfortunately however, many of the actions taken by the Federal Government such as the land withdrawls in Alaska under the authority of the Antiquities Act and the Federal Land Policy Management Act (FLPMA), have created serious impediments to developing this energy resource in Alaska.

Alaska has 104 hot spring locations and 88 volcanoes that have potential to provide a significant amount of geothermal energy. Currently, the State of Alaska is in the process of identifying and measuring the geothermal resources despite the severe constraints placed by the Federal Government. An example of a geothermal site in Alaska is Pilgrim Hot Springs. It is estimated that by 1983, the Btu's available would be 3.4×10^{10}. Tapping this geothermal site and other sites of high potential throughout the State could displace millions of gallons of oil each year.

COAL

There are extensive coal deposits in Alaska that have yet to be tapped. Currently, there is only one commercial coal operation in Alaska. This operation is the Usebelli Coal Mine near Healy, Alaska.

The Federal Government has classified over 30 million acres of land in Alaska as prospectively valuable for coal. Accordingly, the estimated known and hypothetical coal reserves in Alaska range from 1,719,346.8 to 4,849,946.8 million short tons. In spite of the current energy situation and the uncertainty associated with importing foreign oil, many of the valuable coal lands in Alaska remain locked up. It is time to reevaluate past policies and replace them with responsible actions.

In sum, I am pleased to be associated with my colleagues in supporting House Joint Resolution 573. This resolution properly directs what has been a misguided administration. Alaska has much to offer Americans in the form of oil, natural gas, geothermal power, and coal energy resources. Let us support an energy policy that will result in the production of energy. Let us support a land policy that makes sense. I urge my colleagues in the House of Representatives to support House Joint Resolution 573.●

REFORMS IN FLOOD CONTROL POLICIES

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. PANETTA. Mr. Speaker, many areas of our Nation continue to be subject to disastrous flooding during periods of heavy rain despite the great progress of recent decades in constructing essential public works projects. Extensive property damage from floods is still common in many regions, threatening lives, ruining homes, and damaging valuable agricultural land. The fact is that for many of these areas the cost involved in implementing permanent solutions to flood control problems exceeds the resources available at the State and local level, while Federal financing for such projects is limited as well. Consequently, the residents of flood-prone areas must rely on the flood control programs which are in effect both at the Federal and local level to minimize damage.

Unfortunately, the experience has been that the programs in place today at the Federal level are inadequate to meet either the needs of the landowners or the intent of Congress in enacting them. The region of central California which I represent has been particularly adversely affected by the lack of effectiveness and coordination in Federal flood control efforts. In the interest of better protecting the lives and property of our citizens, and more efficiently utilizing Federal flood control expenditures, I would like to alert the attention of the Members of this House to three areas in which I feel effective reforms need to be implemented.

First, the Corps of Engineers: I am today introducing legislation which is designed to improve the effectiveness of emergency flood control work undertaken by the Army's Corps of Engineers while saving the U.S. Treasury substantial sums.

Under current law, the Corps of Engineers may exercise its emergency flood control authority to repair flood works which have been damaged during a natural disaster. While this aid has proven extremely valuable to protecting flood-prone areas, the experience in my own congressional district in California indicates that modification of the corps' authority to allow the upgrading of flood control works would provide better protection at lessened Federal expense.

Along the Carmel and Salinas Rivers in Monterey County, Calif., serious property damage resulting from floods has occurred periodically, necessitating the construction of extensive levee systems to protect agricultural and residential lands. When these works fail during the most severe episodes of flooding, the corps is authorized to undertake the restoration of those levees. However, restoration of the levees fails to correct the deficiencies in the original structure, leaving the levee, and the property owner, vulnerable to future floods of comparable size. The end result has been that in many cases the corps has rebuilt the same levees several times over, entailing considerable expense to the Federal Government. Ironically, the cost of repeated repairs for these sites far exceeds the cost which would have been involved in the construction of a more effective levee in the first instance.

In 1978, the corps' emergency flood protection assistance was requested to repair damage which had occurred at 30 levee sites in the county at a cost of nearly $2 million. Of these 30 sites, 15 had previously been restored by the Corps of Engineers subsequent to heavy flooding in the county in 1969. This year, when more moderate damage occurred, the corps has six sites under consideration for flood protection assistance, two of which were reconstructed by the corps in prior years.

My amendment would address this problem by authorizing the corps to upgrade the levees to provide a higher level of flood protection if it is determined that such improvement will result in subsequent cost savings to the Federal Government by obviating the need for future repair work on the levees. It is rare that one can propose to resolve the difficulties faced by residents of flood-prone areas and also effect an important reform in current law to reduce Federal expenditures. I do not expect that the amendment I am proposing today will provide a long-term solution to the flood hazards faced in many areas of our Nation; however, it can greatly assist in combating this problem while simultaneously lessening the costs of future flood damage repair. The following is the text of the bill:

H.R. —

A Bill to authorize the Corps of Engineers in performing certain emergency repairs and restoration of flood control works to make improvements which provide a higher level of flood protection

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5(a) of the Flood Control Act of August 18, 1941 (33 U.S.C. 701n(a)) is amended by adding at the end thereof the following: "The Chief of Engineers is authorized, in carrying out any repair or restoration under this subsection of a flood control work threatened or destroyed by flood, to improve such flood control work in order to provide a higher level of flood control protection or to provide flood control protection to a larger area, if he determines that such improvement will result in lower future costs to the United States for repair and restoration of such flood control work.".

SEC. 2. The amendment made by the first section of this Act shall apply with respect to amounts appropriated after the date of enactment of this Act.

Second, the Soil Conservation Service: The Department of Agriculture administers an emergency watershed protection program (EWP) authorized by Congress to protect lives and property from flood damage. This program has been especially valuable in the past for assisting farmers in the protection of threatened or damaged agricultural land. The bank protection and soil erosion control work provided by the Agriculture Department through the Soil Conservation Service (SCS) has helped a great number of farmers retain prime agricultural land in production and avoid the tremendous losses which can accompany major flood activity in a region.

Quite recently, however, the Agriculture Department adopted new regulations for implementing the program which severely restrict the number of eligible applicants. This action has served to greatly impair the effectiveness of this program, and has left many individuals with no recourse in combating serious flood control damage. The experience in Monterey County, Calif., within my own congressional district provides clear evidence of the drastic manner in which the program has been scaled back; of approximately 200 individuals who suffered damage to homes and property as a result of heavy flooding along the two major rivers in the county, the SCS approved only three for emergency watershed protection. The remainder of applicants have been left with no alternatives in terms of obtaining needed assistance, and face serious financial loss or ruin.

Consequently, I have written to Secretary Bergland of the Agriculture Department to convey the pressing need for reform in the EWP program as it is

currently administered. The following is the text of that letter:

Congress of the United States,
House of Representatives,
Washington, D.C., June 26, 1980.

Hon. Bob Bergland,
U.S. Department of Agriculture,
Washington, D.C.

Dear Secretary Bergland: I am writing to you regarding a matter of very great concern to the residents of my congressional district living, or owning lands, adjacent to the flood-prone Salinas and Carmel Rivers in Monterey County, California.

In February of this year heavy rainfall in the central California area resulted in widespread damage to homes and property, being especially severe in Monterey and Santa Cruz Counties in my district. While nearby Santa Cruz County did, in fact, receive a disaster declaration by the President to enable needed assistance to be made available to county residents, the damage total in Monterey County was not deemed severe enough to warrant a similar declaration. Consequently, Monterey County residents, many of whom have experienced heavy property losses due mainly to soil erosion, have looked for aid to the federal emergency assistance programs which are not dependent upon a Presidential disaster declaration for their implementation. One of the most important of these is the Emergency Watershed Protection program (EWP) administered by the Agriculture Department's Soil Conservation Service.

Unfortunately, the administration of the program in the current instance has proved far from adequate to meeting the needs of the affected property owners. Despite the widespread damage which did occur from the February storms, and the great number of individuals seeking assistance, the Soil Conservation Service has recently notified County residents that only very limited assistance has been approved.

I am aware of the pressing demands of budgetary constraints at the federal level, and recognize that in many instances federal aid programs will have to be revised and scaled-back in order to meet these demands. I am also aware that the Emergency Watershed Protection program, formerly administered under the authority of Section 216 of Public Law 81-516, did previously require substantial obligations of federal funds. However, I am concerned that in the effort to reduce the costliness of a particular program, we not overcompensate, and ultimately impair or negate that program's effectiveness. I believe this to be the case in the present instance.

Close to two hundred residents of Monterey County experienced some property damage as a result of the flooding which occurred in February and subsequently submitted requests to the Soil Conservation Service for emergency assistance. Only recently have the applications been reviewed by the State Conservationist and a determination been made with regard to the number of eligible applicants. Of the substantial number of requests which were received, three projects have been declared eligible for Emergency Watershed Protection by the SCS.

In many cases agricultural property owners who had lost substantial amounts of land to soil erosion were declared ineligible for assistance because of the severe limitations which have been placed on the protection of agricultural land. In other instances, petitions for assistance were denied based on inflexible economic justification criteria utilized by the agency which fails to adequately assess project benefits and neglect the costs to be incurred in future years as a result of the decision not to implement assistance.

I am in the process of working with the residents of the County in appealing some of the decisions which were made by the SCS during its review of project applicants. However, it appears that a fundamental problem does exist in the scope of work authorized under current regulations. I would urge that the interim guidelines for the program which became effective October 1, 1979, be reviewed with an eye toward authorizing essential watershed protection measures to be undertaken in flood damaged areas. While I concur with the decision to implement reforms designed to prevent wasteful expenditures, we must exercise caution lest these reforms effectively negate the benefits of important public service programs such as emergency watershed protection.

Thank you for your attention to this matter. I look forward to hearing from you.

Sincerely,

Leon E. Panetta,
Member of Congress.

Third, coordination of flood control efforts: A major difficulty which has confronted landowners in attempting to obtain assistance in the repair of flood damaged land or in planning for future flood mitigation efforts has been the lack of coordination between Federal, State, and local agencies. This often results in duplicatory efforts, omission of projects to be undertaken, and an inability on the part of affected landowners to determine what assistance they are eligible for under the law.

This problem has been especially severe in working with the two key flood control agencies at the Federal level, the Corps of Engineers and the Soil Conservation Service. In addition to the inadequacies in the programs administered by these agencies, the failure to effectively coordinate their activities has compounded the difficulties faced by property owners in flood damaged areas. To a great extent the duties and mission of the two agencies overlap, necessitating meaningful communication to resolve uncertainties of jurisdiction. In the absence of such communication, it is often the case that individuals who would better qualify for assistance under one program are designated eligible for a less applicable one, or are denied assistance entirely. Additionally, many individuals who could receive assistance under one or another program are unable to find their way through the complex maze of present flood control administration.

In order to help better meet the needs of the affected communities in my region, I have begun working with the county board of supervisors, landowners in the flood-prone areas, and representatives of the Federal agencies administering disaster assistance in order to foster greater communication among these parties. I am hopeful that this can facilitate the availability of needed assistance to the area in times of flooding in a manner which avoids overlapping jurisdictions or the omission of eligible projects.

While I believe these steps can go a long way in addressing the pressing need to provide more effective flood control assistance in many regions of the Nation, ultimately I believe a comprehensive review of Federal disaster assistance programs may be called for. I would ask my colleagues to join with me in urging the adoption of the reforms I have advocated here today as well as in considering the need for long-term solutions to the flood control problems we face.●

PERSONAL EXPLANATION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. McDONALD. Mr. Speaker, today, July 2, 1980, through a misunderstanding, I was unable to be present and vote on the supplemental appropriations bill taken up—H.R. 7542. Had I been present I would have voted "no" and I was so paired, for the reason that the budget is already on its way to being unbalanced again and these supplemental appropriations will just add to the red ink and inflation to the detriment of the country.●

SOVIET CHEMICAL AND BIOLOGICAL WEAPONS

HON. DAN QUAYLE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. QUAYLE. Mr. Speaker, I am today introducing a concurrent resolution which instructs the President of the United States to take immediate action with regard to the continued development of chemical and biological weapons by the Soviet Union.

The Soviet Union, the United States, and 111 other nations have joined in what is known as the Biological Warfare Convention of 1972.

This treaty severely limits the research, development, and testing of chemical or biological agents which might be usable as a weapon of war.

In April 1979, reports reached the West of a serious accident at a facility in Sverdlovsk, Russia. Although the Soviet Union has resisted any complete description of what happened and why, Western experts have concluded that a research facility suffered an explosion which released a substantial amount of Anthrax spores into the atmosphere. These spores were inhaled by a great number of people, leading to the death of perhaps 1,000 inhabitants of this Russian city in a matter of a few hours.

Mr. Speaker, my good friend from Iowa, Mr. Leach, introduced a resolution this past spring asking the President to work with the Soviet Union in collecting data on this accident. It is clear that the Soviet Union is not about to admit to their violation of an international treaty by sharing any information on an illegal activity which killed 1,000 of their people.

We have all heard and read reports concerning the use of chemical or biological agents against the tribesmen in Afghanistan by the invading Soviet troops.

Without regard to the truth of these specific charges, the weight of evidence would clearly indicate that the Soviet Union is once again acting contrary to an international agreement to which they are a party.

The President should immediately go to the United Nations Security Council and demand an investigation into the research, development, testing, and possible use of these abhorrent weapons of war.

The President should also investigate what, if any, defenses the United States has developed in the event such agents are used against our citizens.

The resolution, Mr. Speaker, calls upon the President to make such an investigation, and report to the Congress, not later than September 30, 1980, the status of such defenses, if indeed such defenses do exist.●

THE FUTURE OF NUCLEAR POWER

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. GOLDWATER. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

STATEMENT OF HON. JOHN W. WYDLER AT THE ATOMIC INDUSTRIAL FORUM/SWEDISH ATOMIC FORUM

Gentlemen: With the Nuclear Non-Proliferation Treaty Review Conference scheduled for this August and with the International Fuel Cycle Evaluation (INFCE) just completed, it appears that it is time for a reconsideration of non-proliferation policy on the part of the United States and other signatory NPT nations. Secretary Pickering has indicated that the Carter Administration is willing to consider some flexibility in the future implementation of U.S. policy and that sounds like a step in the right direction. Of course, we must recognize that a change in Administration this November will mean a dramatic change in U.S. policy not just a subtle shift. Mr. Reagan has indicated that he will place strong positive emphasis on the nuclear option, both domestically and on the international front. My presumption is that his approach on non-proliferation will rest on some general guidelines based on assuring countries that we are a reliable supplier and working out bilateral agreements rather than attempting to apply an inflexible, unilateral code on both friend and foe alike. Our existing policy has failed to distinguish between friends and potential enemies and we treat each nation "as though it was the worst case on the proliferation scale."

While everyone pays lip service to the problem as being one of nuclear proliferation—when discussed it becomes clear the problem is really one of American policy. I believe that the most serious difficulty with non-proliferation is that the U.S. has been simply trying to have everyone play by our set of rules, but as INFCE indicates, we are a majority of one. There are claims that INFCE was simply a technical exercise but I believe that it had major political impact since it didn't turn out the way the Administration had hoped and planned. President Carter called for INFCE to obtain international agreement to his non-proliferation approach. Clearly the results are negative in that its general conclusions are: multilateral controls are much more important than technical fixes and there is no proliferation-proof fuel cycle.

My own interest in non-proliferation matters began with the breeder reactor issue in the spring of 1977 when our Science and Technology Committee became involved in that matter with the President. Since then I have visited nearly 20 countries and come away with one overwhelming conclusion: we could not have gone about non-proliferation in a more counterproductive manner. No one can deny that non-proliferation is a desirable goal but we have approached the issue based on the premise that "a policy of denial" will work. Unlike the situation during the fifties, the U.S. does not monopolize the nuclear technology or material. Nevertheless, based on the misguided policy we have lost billions of dollars in nuclear business and related policy influence on other nations. The INFCE exercise, while buying time for President Carter, cannot be considered in a vacuum. While the Administration was asking everyone to await INFCE results for new policy directives, the U.S. nuclear industry was beifng subjugated to second place in the nuclear league. We have lost irretrievable ground in nuclear capability and that has been aggravated by our growing reputation as an unreliable supplier and the reaction to our policy of insisting that other nations renegotiate contracts.

I also recognize that the Nuclear Non-proliferation Act had no small part to play in making this unfortunate reputation for the U.S. It is now clear that the Act must be amended and a new set of guidelines established which will be acceptable to all nations of the world.

It is obvious that developed and developing nations must arrive at a modern set of rules for sharing nuclear technology, that is, an international standard covered by all-inclusive language. There must be a general set of rules which recognizes the need for reliability of supply and the fact we can no longer simply separate nations into "have" and "have not" camps. The U.S. must agree to be bound by these new guidelines. It can no longer be "the U.S. versus the world" as INFCE so clearly confirmed thus these new guidelines should allow governments to minimize the impact of non-proliferation policy changes on supply while reducing the real risks.

So the question is: Where do we go from here with the INFCE results? I believe that the upcoming NPT Review Conference should consider a resolution on the question of assured supply. President Carter should take the leadership role on the issue and suggest that supplier and consumer nations meet on this matter next year. That meeting should be the vehicle for arriving at new general guidelines. The United States must agree to be bound by these rules because it has been clearly the heart of the supply problem.

Secretary Pickering has indicated that the Administration is willing to seek a "new normalcy" and I consider that movement a hopeful sign. However, I am not satisfied with the Administration timetable for resolution which is open-ended. Mr. Reagan, as I mentioned, has indicated he favors a shift from a negative policy of denial to a positive supplier's position. In any event, by early next year we will know who is formulating the U.S. position, hopefully, on the basis that a "generic and predictable" approach is preferable to the present unstable situation.

I would like to strike a positive note. I hope, as many of you, that my country will move to reestablish its position as a "constructive leader in nuclear power development." I believe the "Atoms for Peace" concept can be rejuvenated through aggressive U.S. leadership. In brief, I think we have the opportunity to make the Eighties "the Decade of Stable Supply."

The No. 1 problem for the future of the world's nuclear industry is the uncertainty of supply of fuels and equipment caused by the non-proliferation policy of the U.S. Government. These supply problems are caused and/or exacerbated by the worldwide anti-nuclear movement which operates by exerting pressures on the political systems in the free nations of the world. This worldwide anti-nuclear movement, while continuing to be active, has passed its peak and has failed to achieve its goal of dealing the peaceful uses of nuclear power a death blow.

This group, like the problem of disposal of any nuclear waste, can be managed if the industry will fight them intelligently and increase its unified activity to educate the public and get the real facts to them.

To use an American idiom "we have turned the corner" in the fight to save the nuclear industry from destruction by the nogrowth, small-is-beautiful, nuclear-will-give-you-cancer movement that has focussed opposition against nuclear power in the last 10 years.

I know the U.S. Congress has turned the corner. The zenith of opposition to nuclear power arose in the 6 months after Three Mile Island when efforts were made to call a moratorium on U.S. nuclear activity. These efforts were defeated and there now exists a clear pro-nuclear majority in both the House and Senate.

Not only has the Congress voted for the breeder 3 years in a row with a fourth vote pending, but they have sustained the commitment to licensing construction and operation of plants in the wake of the Three Mile Island accident. This summer we are seeing strong evidence of the Congressional interest in moving the nuclear option with major bills pending on nuclear waste management, spent fuel and AFR storage provisions. The Congress simply cannot accept the indecision built into the Administration's timetable for nuclear waste disposal.

Share with me a look at the world 50 years from today—I see a world where the use of nuclear power will be far in excess of what we now project.

I see a world where developed nations will have chosen to produce 100 percent of their electricity by nuclear power.

I see a world where the breeder will be widespread—and reprocessing commonplace—so the transition will have been made to a virtually limitless energy source.

I see a world in which people accept the fact that nuclear power is the cleanest, safest and cheapest option and that they will look back on this era and wonder what all the fuss was about.

I hope to see a world that has organized the nuclear industry and itself in such a way that the proliferation of the peaceful uses of nuclear power have put to rest the fears of proliferation of war-like uses.

I do not see this last element clearly, but I hope it will come to pass and I think we can make it happen. We can begin here and now.

Let's get started!●

TEETH FOR THE FBI

HON. GERALD B. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. SOLOMON. Mr. Speaker, during the mid-1970's the Congress seriously overreacted to abuses which were uncovered in our FBI and CIA. Today, those agencies are unable to do their jobs because of restrictions placed on them by Congress.

Fortunately, many Members of Congress are waking up to this fact. In the case of the FBI, a group of Senators, led by Paul Laxalt, have drafted a new charter for that agency which will allow it to perform its proper function.

Mr. Speaker, the best expression of support for this important proposal is found in a fine editorial in the Albany Times-Union on June 27. I would like to share this editorial with my colleagues:

Teeth for the FBI

> Should not law enforcement agencies have the authority to investigate activity leading to a crime before a crime takes place?
>
> Should not our police have the authority to investigate those planning a murder, and not have to wait until someone is murdered before taking action?
>
> Although answers to these questions may seem obvious, the legislative pendulum frequently swings against the granting of such authority. The Federal Bureau of Investigation has had its wings clipped to a point where the criminal element enjoys wider latitude than at any time in recent years.
>
> There are hopeful signs, however, that the pendulum may start swinging in the direction of greater protection for the citizenry, not less. The hope springs from proposals by a group of Republican senators who have drafted a new charter for the FBI.
>
> The senators, led by Paul Laxalt of Nevada, do not deny that there have been abuses of FBI authority. Allegedly among them are invasion of privacy, unnecessary surveillance, and illegal interference with those holding unpopular political views. But these abuses are a matter of the past, and controls enacted to stop them are now hindering proper enforcement of law and protection of society.
>
> The Laxalt group would lift those controls, making it possible for the FBI to sniff out plotters of crime before the plots are carried out. The proposed charter defines criminal activity not only as "acts which violate the criminal laws," but also "the planning and preparation for such acts, the threat of such acts or activity which is likely to or has the potential of violating the criminal laws."
>
> It is a bit unsettling to think that the FBI has its hands tied when it comes to ordering surveillance of those who are "planning and preparing" to break the law. It is what makes it possible for people to get away with murder, literally.
>
> If we want to be protected by our law enforcement agencies, those agencies must be given the weapons necessary to do the job.●

RE-CREATING THE REPUBLICAN MAJORITY

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. GINGRICH. Mr. Speaker, when people live with a certain reality long enough, they begin to think no other reality is likely or even possible. The line, "You can get used to anything," has many applications. But history is a cycle of the heretical becoming the progressive becoming the status quo becoming yesterday's news story. Those caught up in any one of these phases tend to forget about the others.

Too many of my fellow Republicans fail to appreciate the magnitude of the political shift that is underway. They do see that our economic and foreign policies are a shambles. To quote Senator Jake Garn, "We are at 1929 economically and 1939 internationally." They believe that just about anything can happen. Anything, that is, except the promotion of the GOP to majority status.

Any group of outs can become ins should the current ins destroy everything. The Democratic leadership, congressional and Presidential, is at present an assembly of gropers-in-the-dark, players-for-time, and whistlers-past-the-graveyard. Yet what would Republicans do with the White House, half the Senate, and 200 or so House seats? Considering the severity of the recession, as well as the generally bleak mood of the country, that may be the result of the November balloting.

So the first stage of political realinement may happen in 1980. Domination by one party ends, and the other party gains the edge. But this may or may not mean real realinement. Many Republicans are giddy enough just thinking of a one-shot election sweep, but that first step is useless unless we take the next step. We should be thinking of how to turn a temporary rejection of Democratic stewardship into support for genuine Republican government.

Historically there is a model of Republican economic management that can command majority support. The peak of the Republican Party was from 1896 through 1912. We have to go back that far to see the GOP at the peak of its creative governing ability. There were specific traits of the McKinley-Roosevelt-Taft era that made all-Republican government a fact. These traits, adapted to fit the 1980's, can serve as the intellectual foundation for a GOP majority for the rest of this century.

The first trait of Republican government has to be sound money, industrial growth, and jobs. This economic commitment was symbolized by the "full dinner pail," used in the key campaigns of 1896 and 1900. The Republicans eschewed abstract monetary theories and the "bloody shirt" of post-Civil War divisiveness. Instead they talked bread-and-butter issues to working Americans.

They were opposed by William Jennings Bryan, who preached salvation through silver and openly longed for an idyllic rural society. In 1896 the Republicans were situated between the Cleveland Democrats, who had presided over a 3-year depression, and the Bryan Populists, who wanted to inflate a skeptical country out of its miseries.

William McKinley stood for growth of the economic pie, Bryan for growth of the money supply. GOP workers distributed 1 million copies of William Allen White's "What's The Matter With Kansas?" They leafleted on an unprecedented scale to warn America of the inflationary threat personified by Bryan. Wrote historian Margaret Leech:

> Simple economics lessons stressed the disadvantage of inflation to people of limited means—to those dependent on pensions, to holders of insurance policies and depositors in savings banks, to all who owned a bit of property or were trying to save something for their old age or their children.

This educational campaign was Mark Hann's inspiration. It not only worked politically in winning the election; it also worked historically in creating a consensus for a generation of policy.

Rather than be ashamed of McKinley, as liberal intellectuals have told us to be for the last half century, we ought to say:

> Given the choice between McKinley and double-digit inflation, McKinley looks good. Given the choice between turning back the clock on the industrial revolution, as Bryan sought to do and as some would do today, and providing more jobs and a rising standard of living, McKinley looks very good.

Translated into 1980 reality, that comes out like this:

> Given the Democratic insistence on years of declining living standards, high inflation, and escalating tax burdens, the Republican call for an across-the-board tax rate reduction, more incentives, greater productivity, and full employment sounds like the better way.

Economics is the key element in any plan to build a GOP majority—in the 1890's or the 1980's. However, there are two other elements of vital importance. Republicans must deal with the resurgence of nationalism and the perpetual yearning for clean government.

Nationalism, Teddy Roosevelt style, is what Americans want and what America needs over the next decade. We want an end to lectures about human rights from people like Ayatollah Khomeini. We need an end to the crisis of confidence in ourselves if we are to fend off the Soviets in the coming period of danger.

Rooseveltian nationalism doesn't mean an unsophisticated, jingoistic foreign policy. It means strength and consistency. With TR, it meant winning a Nobel prize for negotiating Russo-Japanese peace. It meant a timely, creatively shared parentage of the Panama Canal. The essence of Rooseveltian conduct was its refusal to simply react to the latest crisis. Instead, TR acted to build assets—the canal, the U.S. Navy, the national parks—for the future—assets all American became owners of.

The country wants a quiet but firm foreign policy of which we can be proud. Americans do not want to threaten anyone. On the other hand, we are tired of being threatened by terrorists and dictators. Americans don't want to conquer anyone. We also don't want to sit by while Cubans and Soviets conquer at will. Americans want a peaceful world, but we want the peace of freedom and choice—not the quiet of the secret police and the Gulag Archipelago. There is a groundswell for a nationalistic foreign policy, but it must be sophisticated and competent.

The final ingredient in the recipe for a new GOP majority is clean government. We must revive the Lafollette tradition of the Progressive wing of the GOP. We must offer absolute and consistent opposition to corruption in government. Too many Republicans had their loyalties torn during the Watergate crisis, but since then we've had Koreagate and ABSCAM—neither of which can be labeled as of Republican origin.

It is the absolute duty of the minority party to call attention to suspicious behavior and to call for reform to cure the evils of corruption. Remember the stirring words and deeds of early 20th century reformers, who cleaned up the cities in an alliance with the muckrakers. Remember, too, what they brought to State and local government—a willingness to invent and tinker with programs and structures, through initiatives and referenda and in other ways. In this way did a segment of the GOP cement ties with the middle class, adding effective and open government to those other basic of a healthy polity, full employment and national security.

Prosperity, nationalism, and clean government will make the Republicans once again the majority. It's not easy, but it's far from impossible. A combination of the other party's mistakes and defaults and intense creativity of the part of Republicans everywhere can cause the transformation. It has happened before. For the country's sake, it needs to happen again.●

ENERGY MOBILIZATION BILL

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. DINGELL. Mr. Speaker, the New York Times in its July 1, 1980, editorial gives further consideration to the House vote on the Priority Energy Project Act, the energy mobilization board bill. The Times' statement on the defeat of the conference report speaks well to the support of the bill and correctly addresses the substantive reason for the vote against the report.

It would be wise and it is hoped that those who opposed the measure will in due time, and after the conferees reconsider the outstanding issues, vote their conscience in terms of national policy needs.

The editorial follows:

WHAT REPUBLICANS CALL AN ENERGY VICTORY

The issue was decided—or at least it appeared to be: Last year the House and Senate voted to create somewhat different versions of an Energy Mobilization Board, with powers to speed Government action on priority energy projects. Then, after months of wrangling, a conference committee fashioned a compromise that balanced the need for quick decisions against the dangers of licensing potentially dangerous pipelines, refineries and power plants without careful consideration. All that remained was for Congress to give its final approval.

But something happened on the way back to the forum. House Democrats split fairly evenly on a motion to kill the conference bill, just as they had on votes during the original debate. This time, however, Republicans who had before provided the margin of victory voted heavily against the bill. The chance to embarrass President Carter, it seems, proved more attractive than the opportunity to support constructive energy legislation.

Can the Energy Mobilization Board be revived? There is little hope of winning the support of the critical liberal Democrats, who see an irresolvable conflict between cutting red tape and guarding the environment. Some of them would accept a new agency, but only if it lacked the authority to impose timetables on state and local governments, or to override legal constraints passed after project construction had begun, or to streamline legal appeals. Such a mobilization agency could not mobilize much.

That leaves it up to the Republicans. Many of them say the board is to be feared because it would concentrate power in the Federal Government. It is hard to believe they can seriously take this line of reasoning. Energy is a national problem, not a state problem; decisions on, say, the location of a right of way for a new interstate pipeline or the conversion of a power plant from oil to coal can affect everyone. Nor does it make sense to deride the board as just another layer of bureaucracy in an overregulated economy. After all, sponsors of private projects would only ask assistance from such a board in the first place if they thought it could help cut red tape.

The real question is whether Republicans in the House can be persuaded to put energy policy above partisan politics during an election year.●

AFT OPPOSES TRUTH-IN-TESTING

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. GOODLING. Mr. Speaker, as most of the Members are aware, the Subcommittees on Elementary, Secondary, and Vocational Education and Postsecondary Education have under consideration H.R. 4949, a bill which would legislate a national Truth-in-Testing Act patterned after the New York law. My chief concern in this area has been that the Congress not rush into this area prematurely. The existence of the New York statute provides an experiment from which many lessons can be learned. It has been my contention that the experiment should be given sufficient time to mature so that we may learn the lessons which it may offer. Consequently, it was with great interest than I read a recent news release from the American Federation of Teachers on the subject of truth-in-testing. The article provides a number of cogent reasons for deferring indefinitely further consideration of so-called truth-in-testing laws.

I enter this article into the RECORD for the consideration of the Members. The article follows:

AFT SOLIDIFIES PRO TESTING, ANTI-TRUTH-IN-TESTING STANCE

As the controversy over standardized testing continues to rage, the leadership of the 550,000-member American Federation of Teachers has formalized its longstanding support for the responsible use of such tests and has made official its opposition to so called "truth-in-testing" proposals.

Meeting in Detroit, Michigan, last week, the 31-member AFT Executive Council unanimously approved a resolution favoring the use of standardized tests for "diagnostic, prescriptive, selection, placement and evaluation purposes" so long as they do not become the sole basis for making determinations regarding a student's educational future and are considered only as one of several factors that should go into assessing academic performance.

The reasons for AFT's opposition to the adoption of state and federal truth-in-testing laws, which mandate the full disclosure of questions and answers to individuals who take the SAT's and other widely administered standardized tests, are also spelled out in the resolution.

Foremost among these is the fact that such disclosure will erode the quality and integrity of the tests by making it impossible to reuse questions that have been proven over time to be effective, bias-free measures of academic performance. The costs of constantly having to develop sound new tests would become prohibitive and the testing process would be destroyed, leaving the educational community with far less objective indicators of student performance.

"Teachers need various types of test information as a guide to determine what students are learning, what education problems they have, and how they can best be helped," said AFT national president Albert Shanker.

"The public also needs to see evidence that schools are doing their jobs. Public support for public schools is often directly related to the general perception of how well schools are meeting a broad range of educational needs," added Shanker, who also scored the NEA and other groups that oppose standardized tests for "trying to bury the evidence."

Recognizing, however, that most testing programs have limitations and that there is widespread misunderstanding regarding the interpretation of test results, the AFT has also called for:

Increased study of the testing process.

Wider dissemination of accurate information regarding the valid uses of standardized tests and their results and about the goals and limitations of various tests.

Accurate reporting of test results to teachers, students and the public.

Increased education of the general public, the press and elected officials regarding standardization tests, their uses and potential abuses.

Among the goals of the AFT in pursuing these measures are "to counter the erroneous claims of testing opponents that standardized tests are elitist tools used to stifle the progress of educationally deprived children," and "to eliminate the tendency of the media to misinterpret the significance of test results," said Shanker.

As an indication of the support that exists among classroom teachers for the AFT position on testing, Shanker cited a national poll conducted last year by the Psychological Corporation in which more than 80 percent of the teachers surveyed said they favored various uses of standardized tests.

He cautioned, however, against "the tendency of administrators to use test results as a means of evaluating the performance of an individual teacher or school."

The enclosed articles present sound arguments in support of standardized testing.

POLICY STATEMENT ADOPTED BY THE AFT EXECUTIVE COUNCIL

Accurate and appropriate measures are needed to assess eductional progress in American schools. We need to know what students are learning and what they are not; we need to be able to diagnose student weaknesses and problems so appropriate prescriptive measures can be taken. The public needs to see evidence that schools are performing their proper function. Public support for public schools is often related directly to the general perception of how well schools are meeting a broad range of educational needs.

Standardized tests can provide useful information for teachers, students, parents, and the public when these tests are an integral part of the instructional program, where the tests are matched to the curriculum, and when these tests are used appropriately for the purposes for which they are intended. Teachers need various types of test information as a guide in determining what students know, and what eductional problems students have, and how they can be helped. Comparative student data provide valuable information on how well standards are being met.

Problems do exist with many current testing programs and practices, and changes need to be made so that more accurate and useful information can be derived for educational purposes. Serious problems also exist with the manner in which test scores are sometimes used and misused by public officials, the media and members of the public. Attempts to use test scores to compare individual student performance, without reference to other factors which affect student achievement, are a disservice to the public debate on education.

Care must be taken, though, to guard against changes so sweeping as to compromise the very usefulness of the tests we are trying to reform. This danger exists with current "truth-in-testing" legislation.

Therefore, the American Federation of Teachers recommends the following policies on standardized testing.

The AFT supports:

The proper and appropriate use of standardized tests for diagnostic, prescriptive, selection, placement, and program evaluation purposes. Such test information should not be the sole basis for decisionmaking, but must be analyzed together with a number of other factors.

Increased study of testing and the wide dissemination of information regarding the proper and appropriate use of standardized tests and the accurate reporting of tests results to teachers, students, parents, and the public.

Increased education of the general public and elected officials as to what constitutes fair use of tests as well as what types of uses are abusive, unfair or illegitimate.

The concept that public education remains accountable to the public for its actions and that standardized tests are one measure of educational performance.

The requirement that agencies receiving public funds who offer educational training programs, be mandated to provide the same performance measures as public education.

The AFT opposes:

The elimination of standardized tests based on the inaccurate and irresponsible claims that such tests prevent students from gaining from any subsequent efforts of schools to educate children, as has been charged in recent testing literature.

The adoption of truth in testing legislation which mandates sweeping disclosure of test questions and answers which will destroy the quality and usefulness of such tests. The wholesale disclosure of test questions and answers employed in scoring will make such tests more costly, as well as destroy their quality and usefulness by eliminating secure questions used for insuring comparability over time.

The kind of misuse of standardized tests' by the public or the media which misinterprets the significance of specific test results, or attempts to use the results as a comparative standard between individual teachers or schools, without reference to other means of evaluating student performance and other factors affecting student achievement.●

LET US EXTEND OUR FAMILIES

HON. MAJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mrs. HOLT. Mr. Speaker, we will know that high inflation and rising tax burdens driven by inflation are causing real reductions in the standard of living and even hardship for many American families.

Some of us have voted repeatedly to reduce deficit spending and cut taxes to offset the economic problems facing our constituents and our country.

But I rise to remind the House of an extremely important side of the problem that is not often mentioned in our macroeconomic deliberations. Raging inflation and the growing tax burden have been steadily diminishing the ability of families to support or help to support their senior citizens.

It is common for us to dwell on the family responsibility to care for and educate the young, but our society has failed to give appropriate emphasis to the family responsibility to care for and support the elderly.

I believe we have an obligation to enact policies that encourage and reward the acceptance of that responsibility.

This is among the reasons why I have cosponsored the Family Protection Act of 1980 (H.R. 7445), which would move national policy in the right direction.

One part of this bill would provide a tax credit of $250 or a deduction from taxable income of $1,000 for any household which includes a dependent aged 65 or over.

Another section of this bill would authorize tax-deductible trust accounts through which a person could set aside as much as $3,000 a year to help support an elderly parent. The interest yield from such accounts would also be tax exempt until such time as the beneficiary started drawing on the fund.

Some years ago we made an important start in this direction when we enacted special tax incentives for people to save for their own retirement in individual retirement accounts. The eligibility for these accounts should be expanded, and the amounts sheltered from taxes should be raised.

But we should also use this concept to cover people who are saving to provide some help for the retirement incomes of their parents.

I would remind the House that increased saving helps the economy by building the pool of investment capital.●

TAX RELIEF FOR GROWTH AND STABILITY

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. PURSELL. Mr. Speaker, I am delighted to see that Representatives and Senators from both sides of the aisle are now joining the chorus for tax relief. Meanwhile, of course, there exists substantial disagreements over specific proposals. Accordingly, the task now is to produce legislation that majorities in both houses of Congress can agree on.

During the past two sessions I have been discussing ideas for such legislation with scores of people back in my district, the State of Michigan and here in Washington. Early in those discussions I received a letter from one of the Nation's most distinguished economists and community leaders. Let me quote the last paragraph of the letter:

> If the Kemp-Roth bill were a little less ambitious in the magnitude of tax reduction I would support it. If it came down to having the Kemp-Roth tax reduction or none at all, I would still support it and vote for it. My preference, however, would be a little more modest.

That seemed to sum up the feeling of a great many of the people with whom I have talked. Accordingly, I asked my staff to prepare a bill based on the basic 30-percent tax reduction approach, but one that would be phased in over a 5-year period, so as to, in part, alleviate the fears of some that the quicker 3-year implementation period of the Kemp-Roth bill would add unduly to the Federal deficit.

Many of my colleagues have indicated that the time is now right to introduce this legislation—H.R. 7730—and we are doing so today with the hope that it can serve as a catalyst for reaching agreement on much needed tax relief. I am pleased to report that 84 Members already have joined in sponsoring H.R. 7730.

Let me at this point briefly describe the bill and then relate its major objectives: It would provide for:

A 30-percent reduction in personal income taxes over a 5-year period, resulting in a $19 billion tax decrease in the first year—1981—compared to over $30 billion initially with the Kemp-Roth legislation.

"Indexation" of the tax rates and personal exemptions starting in 1986. Under indexation, adjustments would be made each year to reduce tax rates and increase exemptions in direct proportion to inflation, as measured by the Consumer Price Index.

Among the primary goals sought by our bill are:

STABILITY

H.R. 7730 would encourage long-range stability in the economy by insuring a series of tax cuts people can count on. It is not a quick-fix concept, but a simple, straightforward, balanced tax reduction package.

PRESERVATION OF PURCHASING POWER

Without indexing, taxpayers are continually faced with what is often called taxflation—the interaction of inflation and taxes. They are climbing a greased pole, getting pay raises designed to catch up with the cost of living, but then finding they have no more—or even less—purchasing power due to inflation, while at the same time being pushed into higher tax brackets, so that Uncle Sam gets a higher percentage of their income in taxes.

If the predictions of 13-percent inflation this year come true, taxes will go up about 21 percent on the average. Between 1980 and 1981, taxpayers will cough up $23.4 billion only because they have been pushed up into higher tax brackets.

JOBS

Taxes are now at 21.7 percent of our gross national product (GNP), the highest level since 1944, at the height of World War II. Despite the deep concerns about the prices of food, clothing, and housing, it is taxes, not consumer products which are the most rapidly rising factors in the budget of the average American family.

Reducing taxes would leave billions of dollars in the paychecks of working men and women; money in the hands of our people to spend for these necessities, while providing increased demand for goods and services. That means more jobs.

INCENTIVES FOR INVESTMENT AND PRODUCTIVITY

Our Nation is suffering from a decline in personal saving and in capital investment—both compared to the past and to other industrial countries. Again, reducing taxes would free billions of dollars for these vital activities.

I might also add that time and again I have talked to workers who would not increase their work hours or output because they feel the extra income is eaten up by taxes.

During my time in Congress I have had an opportunity to observe firsthand the tireless work of JACK KEMP, BARBER CONABLE, BILL GRADISON and others to promote the merits of tax reduction. The American people owe a great debt of gratitude to them for their patient persistence and effective efforts.

More than anything else, it is my desire that Congress take action to help restore increased confidence in our Nation and its economic system. People are tired of working until mid-May just to pay off their Government tax bill every year. Poll after poll indicates support for reduced taxes—including indexation. Elected representatives must respond—it is the very essence of our democratic system. However, let us repond in as statesmanlike way possible—in a bipartisan, forward looking, and workable manner.

I hope very much that the bill—H.R. 7730—we are introducing today can contribute to such a response and provide leadership toward a responsible solution. We offer a constructive alternative.●

PRIORITY ENERGY PROJECT ACT OF 1980

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. DINGELL. Mr. Speaker, some of my colleagues have asked for a more detailed statement of S. 1308. The following is a summary of the conference agreement:

THE ENERGY MOBILIZATION BOARD

The conference agreement establishes a three-member, full-time Energy Mobilization Board. The members of the Board must be nominated by the President and confirmed by the Senate. At the time of the nomination, the President designates the Chairman who will be paid at Level II and serve at the pleasure of the President. A second member will serve until February 1, 1981, and the third member will serve until February 1, 1982. Thereafter, members filling these terms will serve for two years. They will be paid at a Level II rate.

There also will be a General Counsel, subject to advice and consent of the Senate, and an Executive Director. They will be paid at Level IV.

The Board is not a regulatory Board, nor an independent agency.

The Chairman is the administrator of the Board. The Chairman will have functions similar to that of Chairman of the Federal Energy Regulatory Commission. Final actions by the Board to designate an energy project as a Priority Energy Project, and other final decisions and actions specified in various titles of the Act, are intended to be taken by a majority vote of the Board, with a quorum present.

All federal laws, such as the Freedom of Information Act, the Federal Property Administrative Services Act of 1949, the Ethics in Government Act of 1978 and other federal laws apply to the Board in the same way as they apply to other federal agencies except as specified in the conference agreement.

The conference agreement also provides that the Sunshine Act shall apply to certain meetings of the Board. A list of the meetings in which it must apply is included in the legislation. They include the determination to designate an energy project as a Priority Energy Project, the establishment of a Project Decision Schedule, the determination that an environmental impact statement is required and to designate a lead agency for that purpose, the determination to enforce the Project Decision Schedule, a determination that the Board make the decision in lieu of the agency decision or action, and a determination to use the grandfather authority or to make a recommendation to the President. Additional meetings that the Board designates will also be subject to the Sunshine Act.

The Administrative Procedure Act also applies to the Board except that certain matters will be carried out by order and will not be subject to the adjudicatory provisions of the Administrative Procedure Act.

Before the Board can accept applications for designation of energy projects, it must promulgate the regulations needed to carry out its functions. The Board will identify these and promulgate them within 60 days after all members are initially confirmed.

The Board's authority to receive applications and designate projects terminates eight years after enactment of this Act, except that it may continue to operate for a period of time until all of the energy projects that have been designated begin initial commercial operation.

STATE PARTICIPATION

Provision is made for the affected States to have representatives participate with the Board in matters respecting an energy project that has been designated, except in regard to strategies concerning the States. The Board and the States are encouraged to develop agreements concerning designated projects and the establishment of Project Decision Schedules.

DESIGNATION OF PRIORITY ENERGY PROJECTS

The conference agreement provides for the designation of energy projects as Priority Energy Projects. The term "energy projects" is very broadly defined and includes conservation projects, as well as supply and alternative fuel projects. It also includes energy projects that have already been initiated, but not completed. It does not apply to nuclear energy projects. It applies to research and development projects.

In order to be designated, the energy project must still require some decisions or actions by an administrative agency, but Projects that have begun construction prior to enactment of S. 1308 could be designated.

Once an application for designation has been received, the Board must consider it and act on it within 45 days after the close of a public comment period on the application. The public comment period will also be 45 days.

Provision is made for automatic designations of powerplants as Priority Energy Projects, if it is determined, based on an application, that such powerplants will use coal or coal-derived fuel as the primary energy source. The electric powerplants are the same as those defined in the Powerplant and Industrial Fuel Use Act of 1978.

PROJECT DECISION SCHEDULE

Once an energy project is designated as a Priority Energy Project, the affected agencies, federal and non-federal, must transmit information listing significant agency decisions and actions that must be taken concerning the Project. The term "decisions and actions" includes leases, rights-of-way, permits, licenses, rates, financial aid approval, and other forms of approval. Non-federal agencies include State agencies, local agencies, and Indian tribes. Procedural requirements applicable to such decisions and actions and other information, including a tentative schedule for such decisions or actions, must be submitted by the agency, as well as deadlines applicable to the applicant.

Not later than 30 days after the information is transmitted to the Board, the Board must establish a Project Decision Schedule for all agency decisions and actions relating to the designated Project, except those which the Board believes not necessary to include on the Schedule. This Schedule will set deadlines for agency decisions and actions and for actions by the applicant.

The goal for completing agency decisions and actions is twelve months from the date a completed application for the decision or action is filed with the agency. The Project Decision Schedule can provide for shorter deadlines than that established by other provisions of law or by the agency themselves.

Provision is also made for modification by the Board of the Project Decision Schedule and for extension of certain deadlines.

The conference agreement makes it clear that the establishment of the Project Decision Schedule is not to tilt the decison one way or the other. In addition, the Act requires that the Project is not exempted from any applicable requirements established by, or pursuant to, federal, State or local law. Finally, the Act is not construed to affect the authority, except as specified in the Act, or independence of an independent federal regulatory agency.

NEPA

Upon designation, but before the Project Decision Schedule established, the Council on Environmental Quality must determine if the agency decisions or actions require an environmental impact statement and designate the appropriate lead agency. If the Council fails to act in a timely fashion, then the Board can take on this responsibility.

The Board can require that there only be one environmental impact statement insofar as federal agencies are concerned. The Board is also encouraged to work with the States in ensuring that the environmental impact statement be used to substitute for comparable non-federal agencies' statements.

MODIFIED AGENCY PROCEDURES

The conference agreement also provides authority for federal and non-federal agencies to change their procedures relative to consideration of decisions and actions concerning Priority Energy Projects in order to speed up consideration of these Projects. The changed procedures must be made in accordance with applicable law, and they must be done in the same manner as the procedures to be changed were originally adopted and with public participation. They apply solely to Priority Energy Projects.

Provision is also made in the case of federal agencies for the Board to recommend such changes in agency procedures for the Priority Energy Projects and to eventually order the federal agency to make the changes. Such recommendations and orders cannot apply to independent federal regulatory agencies like the ICC, SEC and FERC.

All of these changes are subject to judicial review.

COURT ENFORCEMENT

If a federal or non-federal agency has failed, or is likely to fail, to comply with a deadline on the Project Decision Schedule, the Board may bring an action in the United States District Court to enforce the deadline. Such action can only take place, however, after notice and public hearing, which must be completed within 45 days after notice. In any such court action, the court may review whether the agency, acting under the Board's imposed deadline, could comply with applicable laws, as may be modified pursuant to this Act. The court can issue orders to require compliance with the Schedule, but not decide in lieu of the agency.

BUMP-UP

Provision is made for the Board to make a decision in lieu of a final agency decision or action where the federal or non-federal agency has failed to comply with the deadline for the final agency decision or action on the Project Decision Schedule. If the Board decided to use this bump-up authority, the agency can go to court and challenge that authority within ten days after that decision of the Board. The Board, however, cannot be stayed pending this review.

The decision of the Board made in lieu of a federal or non-federal agency must be made in accordance with the same provisions of law applicable to that decision or action, if made by the agency. That includes judicial review.

STATE SITTING LAWS

If the Board determines that a State has a State sitting law that establishes one process for agency decisions and actions, there will be no bump-up until the deadline for last agency decision or action on the Project Decision Schedule has passed.

PROJECT SPECIFIC GRANDFATHER AUTHORITY

Under this authority, the Board may suspend, modify or amend federal, State and local statutes, rules regulations and standards that apply to a Priority Energy Project, if such statute, rule regulation, or standard was enacted or promulgated during a specified period. In essence, this applies to new statutes, rules, regulations, or standards enacted after the date of enactment of this Act, but before initial commercial operation of the Project.

The Board would take action by order and the order must be project specific. The Board would do so only after notice and a public hearing and after making certain findings. The findings would include a determination that the law was enacted within the period specified in the Act, that it presented an impediment to the implementation of the Project, and that there was substantial evidence that implementation of the order will not result in substantial harm to the public health or safety, taking into account the purposes for which the federal, State or local statute, rule, regulation or standard was enacted or promulgated and the terms and conditions imposed by the Board pursuant to this Act to mitigate adverse effects and enhance fish and wildlife.

The Board must also find that the order is not prohibited in whole or in part by certain laws listed in the bill. They relate to labor laws, water rights, civil rights, security laws, the Federal Internal Revenue Code, antitrust laws, and laws, etc. The Board cannot overturn an agency decision or action already made relative to a Project, although there is provision for staying certain decisions to allow the Board to act. The Board's order is subject to judicial review.

PROJECT SPECIFIC EXPEDITED CONGRESSIONAL REVIEW

This applies to federal statutes, rules, regulations, and standards which present a substantial impediment to the implementation of a Priority Energy Project. Here the Board, on its own motion or on petition of the Project, may in its discretion, recommend to the President suspension, modification, or amendment of such statutes, rules, regulations or standards as they apply to the Priority Energy Project. In this case, the statute, rule, regulation, or standard must be one that was enacted prior to the period for which the grandfather suspension, modification, or amendment is possible. It cannot apply after the date of the initial commercial operation of the Project.

The Board must first conduct a hearing, after notice. The Board must make findings similar to those for the grandfather authority. It must include terms and conditions to mitigate adverse effects and enhance fish and wildlife and make its recommendation to the President.

The President cannot act on the Board's recommendation for 30 days. Thereafter the President may adopt the Board's recommendation or modify it, remand it back to the Board, take no action or reject the Board's recommendation. If adopted as recommended by the Board or with modifications, the President must also make the same findings, including findings relative to the public health and safety and the prohibitions concerning labor laws, water laws, etc.

Any recommendation by the President cannot be effective until it is first submitted to the Congress and approved by the Congress pursuant to a joint resolution which is subject to Presidential veto under the Constitution. There must be a separate recommendation and a separate joint resolution for each statute, rule, regulation, or standard recommended for suspension, modification, or amendment. It can only apply to one Project. The President, during one Congress, may submit recommendations identifying no more than 12 Projects. The President cannot amend the recommendation after it is submitted to Congress. The joint resolution cannot be amended. The recommendation and resolution must be referred to the Committee of jurisdiction over the law to be suspended, etc.

The bill provides procedures for Congressional approval of the joint resolution which are similar to the modified EPCA procedures adopted by the Congress in the Emergency Energy Conservation Act of 1979. The Congress has 60 calendar days of continuous session to consider the resolution. After 40 days of continuous session, the Committee may be discharged. The principal difference is that any 3 members of the Committee can request and obtain a meeting of the Committee to consider a joint resolution and, in the 40-day period when discharge of a Committee is not possible, the Committee by majority vote of the full committee Members, with a quorum present, may vote not to report a resolution and thus prevent a discharge. The Committee can, however, later reverse itself.

JUDICIAL REVIEW

The Temporary Emergency Court of Appeals, which currently considers matters arising under the Emergency Petroleum Allocation Act and which was established under the Economic Stabilization Act of 1970, will consider appeals from most federal and non-federal agency decisions and actions, and Board actions. The court is required to sit in the vicinity of the Project to the greatest extent practicable. Petitions for judical review, with some exceptions listed in the Act, must be filed within 30 days after final agency decision or action or Board action, or be barred. (Review of procedural changes is 60 days. Review of grandfather orders is 60 days. Review of prohibitions is 60 days.)

Provision is made for appeal to the Supreme Court, but appeal must be filed within 30 days after final TECA decision. Each injunction and renewal thereof is limited to 120 days.

Certain actions are not judicially reviewable, except as may be provided by the Constitution. They are: adequacy of application for designation; designation decision; decision to establish or modify a Project Decision schedule; determination that the State has or does not have a single process for sitting energy projects; and any decision of the Board to discuss strategies without the Governor's representative.

Special provision is made for judicial review of Presidential recommendations after approval by Congress to enforce the prohibitions concerning labor laws, civil rights laws, water rights, etc.

CERTIFICATION

The Board has discretionary authority to issue certifications that all agency decisions and actions are completed, including judicial review, but only if all such decisions and actions are identified and included on the Project Decision Schedule. The certification is subject to judicial review.

WATER LAW

Nothing in the conference agreement is to be construed as expanding or conferring upon the United States, its agents, permittees, or licensees any right to acquire rights to the use of water.

The United States, its agents, permittees, or licensees must appropriate water within any State for an energy project pursuant to procedural and substantive provisions of State law, regulation, or rule of law governing appropriation, use, or diversion of water.

The establishment or exercise, pursuant to State law, of terms or conditions including terms or conditions terminating use, on permits or authorizations for the appropriation, use of diversion of water for energy projects shall not be deemed because of any interstate carriage, use or disposal of such water to constitute a burden on interstate commerce.

Nothing in the conference agreement shall alter in any way any provision of State law, regulation, or rule of law or of any interstate compact governing the appropriation, use or diversion of water.

AUTHORIZATION FOR APPROPRIATIONS

The Act authorizes for the Board $2 million in FY 1980, $9.5 million in FY 1981, $11 million in FY 1982, and calls for biennial authorization thereafter.

OIL AND GAS PROVISIONS

The Act requires that within 180 days after enactment, federal agencies having a responsibility for issuing decisions concerning applications for permits to drill on federal oil and gas leases must adopt procedures to reach decision within 90 days after application is filed. The goal is 30 days. This period can be extended. The agencies must also comply with all applicable laws. The Board reviews the procedures and they become effective 90 days after submission to the Board, unless the Board indicates that they do not meet the requirements of the law. Then they must be reversed.

Provision is also made for expediting review of exploration permits, drilling leases, and mine plan approvals for production of coal, oil, and gas on federal lands.

The above provisions apply only to onshore federal lands.●

NAACP INVITATION TO REAGAN

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. GILMAN. Mr. Speaker, when I first learned that Governor Reagan would not attend the convention of the NAACP in Florida I had some concern. Pursuant to my inquire, I was pleased to learn later that only for the apparent mixup in his scheduling operation he most certainly would have been present. I know the Governor is vitally interested in every segment of our society—I know he is most interested and concerned about our black society and the problems facing black Americans. His message to black Americans is directed to their concerns regarding jobs, housing, and education. I am confident that as President and working with a Republican Congress he will address these problems not with rhetoric but with action. I take this opportunity to commend to my colleagues Governor Reagan's telegram to Mr. Benjamin Hooks, executive director of the NAACP, which I am inserting at this point in the RECORD:

> This is a follow-up to my telephone conversation with you today. As I indicated to you, I simply was not aware of the invitation to speak before the convention until just a half-hour before we talked.
>
> We know the invitation was sent, but it was not held up in our headquarters and I simply can't explain the non-delivery.
>
> I deeply regret, personally, that I did not learn of it sooner and that I am unable to be with you since I will be out of the country. The fact is, I would like to have joined you there very much.
>
> Let there be no doubt about one thing. I have not and I will not write off the black vote in this campaign. I intend to establish policies which will encourage greater capital investment in America's black communities and thereby create more job opportunities for everyone.
>
> The American family, and black families in particular, are paying a terrible price for the economic policies of the present administration. Some economists tell us that unemployment could well reach 10% before this painful recession bottoms out.
>
> The consequences of the Carter economic failures are hurting everyone, and blacks and other minorities the most.
>
> The answer lies in more jobs, real jobs and a healthy economy.
>
> This is what all of us want. This is what we've wanted for 3½ years. And it's what the policies of a Reagan administration will be geared to achieve.
>
> It's time that blacks in the country recognize that they have been taken for granted for too many years—by a party which has promised so much for so long, and delivered so little, especially in these last 3½ years.
>
> Again, I regret not having learned of your invitation until now. I look forward to working with you in the coming campaign.
>
> Sincerely,
>
> RONALD REAGAN.●

SOCIAL SECURITY INJUSTICE

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mrs. HOLT. Mr. Speaker, one of the grave injustices in our society is the limitation that Congress has imposed on the earned income of social security retirees.

Under current law, a social security retiree who earns more than $5,000 a year must give up 50 cents from benefits for every dollar he earns.

For the average retired worker, this often means a standard of living near the poverty level, unless he finds work that enables him to avoid reporting his wages. Thousands have taken this course for very understandable reasons.

Mr. Speaker, social security retirement benefits are earned benefits to which workers are entitled by many years of toil and paying social security taxes. We all know that social security benefits are not sufficient by themselves to provide a decent standard of living.

There is no limit imposed by law on the amount of income a social security retiree may receive from savings and investments. The law applies a limit only to earned income. The effect of this double standard is to protect the more affluent retirees and penalize the poorer beneficiaries.

I believe it is very laudable for people to save and invest for their retirement, and I heartily endorse the special tax incentives we have provided for this purpose. They should be expanded.

However, I believe it is an inexcusable injustice for us to maintain a law that requires a loss of benefits from the social security beneficiary whose only source of extra retirement income is the wages he can earn.

It is time for us to end this inequity by eliminating the earned income limitation from the social security retirement law.●

REVITALIZING THE U.S. ECONOMY

HON. JOHN J. LAFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. LAFALCE. Mr. Speaker, as the economy slips into recession and endures double-digit inflation, increasing attention is being devoted to the underlying problems within the economy, rather than one-shot and ill-advised reversions back to the discredited responses.

Unless fundamental decisions are made about a wide range of economic issues, the U.S. economy could be consigned to the scrap heap of the world economy. Declining productivity, insufficient industrial innovations, inadequate funding for research and development, and a poor export performance are only some of the problems within the U.S. economy. A solution to these deep and underlying problems will require a comprehensive strategy, which will be addressed to all of the problems and will have many components.

Therefore, I want to draw my colleagues' attention to an article which appeared in the June 30 edition of Business Week, entitled "Revitalizing the U.S. Economy." This article attempts with a great deal of success to address all of these complex problems and to present some solutions to them. The introduction to this comprehensive article presents an outline of that long article, and I want to share that introduction with my colleagues, so that they might peruse the entire article during the district work period.

The introduction follows:

[From Business Week, June 30, 1980]

REVITALIZING THE U.S. ECONOMY

The U.S. economy must undergo a fundamental change if it is to retain a measure of economic viability let alone leadership in the remaining 20 years of this century. The goal must be nothing less than the reindustrialization of America. A conscious effort to rebuild America's productive capacity is the only real alternative to the precipitous loss of competitiveness of the last 15 years, of which this year's wave of plant closings across the continent is only the most vivid manifestation.

Reindustrialization will require sweeping changes in basic institutions, in the framework for economic policymaking, and in the way the major actors on the economic scene—business, labor, government, and minorities—think about what they put into the economy and what they get out of it. From these changes must come a new social contract between these groups, based on a specific recognition of what each must contribute to accelerating economic growth and what each can expect to receive.

BLUEPRINT FOR THE FUTURE

In this special issue, the editors of Business Week present a specific plan for reindustrialization. We document the extent of America's industrial decline and look into its causes. We suggest the outlines of a workable new social contract. We take an inventory of the strengths of the U.S. economy that form the possible basis for a reindustrialization drive, reaching conclusions about which industries can flourish and which must be allowed to vanish. We show how innovation, investment, and exports can be encouraged and how collective bargaining must be changed. We ask whether a reindustrialization plan can work, focusing on the lessons to be learned from other countries that are ahead of the U.S. in industrial policies geared to growth and international competition, particularly Germany and Japan.

We recognize that a reindustrialization plan must be carefully conceived because it can easily be botched so badly that it will accelerate the decline in the U.S. economy rather than arrest it. The great danger is that the U.S. political system will translate reindustrialization into some brand of "lemon socialism" whose main focus will be to save the lemons—obsolete jobs and companies that are going bankrupt because they are too inefficient to compete in world markets. That's what happened in Britain and Italy, although Britain is trying to change its ways. It is not what has happened in Germany and Japan, where the emphasis is on building the strength of companies that can compete effectively.

A reindustrialization plan is also dangerous because it requires an industrial policy that chooses which industries, sectors, and product lines should be encouraged because they have a good chance in international competition and which should be abandoned as likely failures. The large number of Edsels that both economic forecasters and business planning departments have produced is a vivid demonstration of how easily the forecasts that must inevitably underlie industrial policy can go awry. But there seems no alternative to social agreement on those sectors of the economy that must be encouraged. Such an agreement plays a vital role in Germany, Japan, and France. "We must think about what our traditional economic sectors will look like a decade out and what the potential future sectors might be. If we simply watch while the rest of the world pursues active industrial policies, we will wind up making what Germany and Japan leave over," says Arnold H. Packer, Assistant Secretary of Labor for policy, evaluation, and research.

Even with the most effective strategy imaginable, reindustrialization will be a difficult goal to achieve. Although the economic policies of both Japan and Germany are far better geared to effective international competition than is U.S. policy, it is impossible to ascribe those countries' success to any specific policy or set of policies. The explanation is rather to be found in a difference in state a mind. The Germans and the Japanese come to economic decisions with a set of attitudes far more attuned to the realistic opportunities available in the world economy of the final quarter of the 20th century than do Americans.

Rebuilding U.S. industry will therefore require a total reprogramming of the way in which Americans think about their economy. U.S. economic growth in the century between the end of the Civil War in 1865 and the beginning of the Vietnam war in 1965 was the eighth wonder of the world. That growth occurred because basic U.S. institutions and attitudes were ideally suited to taking advantage of the growth opportunities available in that century. Those opportunities were presented by a great internal frontier crying to be exploited. Virtually every aspect of economic policy showed sheer genius in allowing the U.S. to grow rapidly—from Lincoln's Homestead Act of 1862, which ensured access to new land by the broad majority, to the Sherman Antitrust Act of 1890, which insured that small owners would not be totally gobbled up by the powerful. And in industry and finance, the U.S. invented a vehicle ideally suited to exploit the opportunities of a continental frontier, the widely owned and publicly traded giant corporation.

The rapid growth in productive capacity that developed from exploitation of that frontier also put a distinctive stamp on U.S. social policy and labor relations. The great traumas of America's golden century were its business slumps, and particularly the Depression of the 1930's. They occurred during a hundred-year period during which wholesale prices were essentially stable. These slumps, therefore, led most people to believe that rapid growth of supply could be taken for granted, and that it was basically a deficiency of demand that could throttle the economic engine. This vision eventually led to government policies based on Keynesian economics. It also shaped the attitudes of U.S. labor. Our job, said the United Auto Workers' most vigorous president, Walter P. Reuther, "is to carve the fat" off the companies. And he wanted to give the "fat" to the workers to make sure they had enough income to buy the products that industry could produce. A competitive advantage in world markets was not the major issue. Reflecting the same attitudes, U.S. social policy focused on redistributing income rather than on training to increase productivity.

After World War II, the U.S. economic model was at first emulated by the world. The Treaty of Rome created a European common market in the image of the continental market in the U.S. The wealth created during the golden century allowed U.S. corporations to become the great multinationals that were the most dynamic force in the world economy.

Bred during a century of economic preeminence based on the exploitation of an internal frontier, American attitudes are not suited to a world economy that has become increasingly integrated (for the industrial countries, exports now amount to 13 percent of gross national product as compared to 7 percent in 1961), where much of U.S. technology has migrated abroad, and where energy independence is rapidly becoming a wistful memory. Smaller countries with a history of dependence on foreign trade now have an edge based on centuries of conditioning to the need to survive in a world market.

THE PRICE OF IRRESOLUTION

The effects of the obsolescence of economic psychology in the U.S. have been devastating. Overall economic growth slid to 2.9 percent per year in the 1970s from 4.1 percent in the 1960s and 3.9 percent in the 1950s. The U.S. standard of living now ranks only fifth in the world; it ranked the highest as recently as 1972. The U.S. inflation rate was higher than the average of all industrial countries in 1979 for the first time in history.

Nor do these macro statistics tell the whole story. At a deeper level, the U.S. economy is showing signs of the kind of fatigue that caused industrial powers such as 19th century Britain to go into an irreversible slide. Investment in the U.S. stands at some 10 percent of gross national product as compared with 15 percent in Germany and 20 percent in Japan. Lacking the stimulus of new capital plant, U.S. productivity growth had declined. Indeed, instead of using more and more capital in production, the U.S. is becoming more labor intensive in its production methods. Since 1976, the capital stock has increased at a 3 percent annual rate and hours worked by a larger 3.8 percent. The statistics for Germany and Japan are exactly the opposite. An increase in the labor intensity of output is not a sign of vigor but of decay.

In what may be an optimistic portent, the decline in the U.S. economy has advanced so far that the public as a whole has begun to sense a need for change. "The state of mind of the public is worried sick and in a panic," says Daniel Yankelovich, chairman of the public opinion polling firm of Yankelovich, Skelly & White Inc. "In that condition, people know there is something wrong. That pushes them into working out accommodations that make economic sense."

If Yankelovich is right, the question of whether the U.S. will reindustrialize depends on whether the business, bureaucratic, and political elites can get together to provide the leadership. An enormous amount has to be done, and the time to do it is running short. So much has to be done that it may not be possible to do it all. But the U.S. has to make a start. Certainly the jolt provided by the current recession has created an environment in which the public is ready to reindustrialize America.●

THE INSTITUTE FOR POLICY STUDIES: EMPIRE ON THE LEFT: PART III

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. McDONALD. Mr. Speaker, Dr. Rael Isaac's study of the operations of the Institute for Policy Studies has provided an encapsuled survey of IPS/TNI "covert operations" concealing the hand of this Marxist influence apparatus that supports major Soviet strategic goals. These "covert operations" include a news service, Pacific News Service, which it subsidizes with tax exempt money in competition with taxpaying news organizations.

The article follows:

The advantages of covert operations are obvious. On the one hand, potentially embarrassing affiliations can be concealed, and on the other, supposedly independent groups, publications, news services, etc. can echo the IPS line while it appears to the public that they are being exposed to information, issues, and opinions developed by independent organizations.

Mother Jones, a glossy West Coast magazine which fills the gap left by the passing of Ramparts, poses as an independent journal. In the February-March, 1977 issue the magazine raises the question, "Who's Behind Mother Jones?" The reply is lengthy and virtuous, "no banks, no corporations," but there is no mention of the Institute for Policy Studies. Mother Jones asserts that it is published by a nonprofit foundation, the Foundation for National Progress. The magazine's readers have no way of knowing that the Foundation for National Progress is a project of IPS. This can be ascertained from the Foundation's financial statements, but these are not, of course, distributed to readers of Mother Jones. In an April, 1977 article Mother Jones endorsed its own candidates for high position in the Carter administration. It offered IPS co-director Richard Barnet as the ideal Secretary of State and Gar Alperovitz of the IPS offshoot, the Cambridge Institute, as the ideal director of the Office of Management and Budget. Again, readers did not realize this was simple self-aggrandizement by the Institute.

The Internal Revenue Service prohibits a substantial part of the activities of a publicly supported organization from going for "propaganda." To help circumvent possible problems, Mother Jones, which relies on IPS writers and echoes all IPS themes, is defined as a journal of the Foundation for National Progress. One does not subscribe to Mother Jones but becomes a member of the Foundation, entitling one to the Foundation's publication.

The subversion of IRS requirements is also apparent in IPS transferring of foundation funds. The Stern Fund, a long-time IPS supporter, gave IPS $30,000 in 1976 earmarked for the IPS project, the National Committee for Alternative State and Local Public Policies. One of the most successful of IPS projects, it brings together elected city and state officials to consider "alternative" legislation at the local level (government control of utilities, government ownership of banks, "community control" of business, etc.). According to the Internal Revenue Code the Stern Foundation must certify that it did not pay any monies to "attempt to influence legislation" or "communicate with any other government official or employee who may participate in formulation of legislation."[22]

Again, the Pacific Alliance of the Foundation for National Progress produces anti-nuclear energy materials and wrote and coordinated an anti-nuclear ballot initiative for California. This activity, too, would appear to be prohibited by the IRS code, which says that no publicly supported charity can "attempt to influence any national, state or local legislation" or "participate or intervene in any political campaign."[23]

The combination of "covert action" with "subversion" is also apparent in the operation of the Pacific News Service. This masquerades as an "independent, nonprofit source of news and analysis." Brochures do mention that the Service is a project of the Bay Area Institute—but not that the Bay Area Institute is a subsidiary of the Institute for Policy Studies. Although the Service is a propaganda vehicle, and should not be eligible for foundation funds, it is able to offer lower rates than rival news services that pay taxes. It has become attractive to editors of major papers, especially now that it has become more sophisticated, dropping repetitive tell-tale phrases like "fascist regimes," "U.S. imperialism," etc. that marred earlier writing.

But perhaps the most impressive project for what certainly can be described as "subversion" has been David Cortright's study for IPS of insurgent movements in the armed forces. Active in the so-called GI Movement of protest against the Vietnam War, Cortright was brought to IPS where he engaged in a study of the army for several years. In a report on his IPS-sponsored trip to an anti-NATO Congress in Holland, Cortright professed to be encouraged by a rank and file opposition to military service in all the "highly capitalized nations." Cortright asserts that "democratization and resistance inside the army represent our best hope for preventing war and restraining aggressive State power." Although the specific grievances of soldiers (more money, long hair, better conditions) might seem "reformist" demands, Cortright points out that "to gain mass support" they must be addressed. Furthermore, Cortright notes, even such marginal issues can produce radical change for they have implications for the relations of power within the ranks and thus can undermine military discipline. Cortright concludes that the effort to achieve a mass soldier organization within the American armed forces should be considered, for it could have the effect of "crippling military effectiveness."[24]

The Institute for Policy Studies has in fact, created its own empire—its own version of the "multinational corporation." Just as multinationals developed because they found that rational economic organization required operation across national lines, so IPS established the Transnational Institute because it recognized, in its own words, "that the social and political problems of the United States . . . are in fact part of larger global problems."[25] More prosaically, IPS found a foreign-based operation a more convenient way to establish working contracts with a host of international "liberation" groups, among them the PLO.

In Race and Class, the Transnational Institute's journal "for Black and Third World Liberation," Eqbal Ahmad, in a memorial tribute, describes his close relationship with PLO leader Rashed Hussein who, writes Ahmad, "was clearer than many of us on the dangers Israel represented for the future." One of Rashed Hussein's plans that Ahmad praises was to embark on a massive funeral march from Amman to Jerusalem to bring the body of the ex-Mufti Hajj Amin al-Husseini "home" for burial.[26] (The ex-Mufti was the notorious fomentor of terror who spent World War II in Germany urging Hitler to murder the Jews faster.)

Although only a fraction of IPS projects have been mentioned here, the empire is much broader than even a complete listing would suggest. Other groups that seem independent of IPS are in fact linked with it through a network of interlocking directorates of a complexity and multiplicity most multinationals would envy.[27] Even more important, IPS serves as the nerve center of what is known as "the Movement," the coalition of groups advocating radical change in American society that developed out of the civil rights movement, the New and Old Left, and the anti-war movement; it now finds itself coalescing in the anti-nuclear energy campaign.

---

[22] IRS Form 990-PF, Part V, 14(a)(1).

[23] IRS Form 990, Part IV, 1.

[24] IPS Transmittal Institute, The Link, February 1975.

[25] Institutional Analysis No. 2, "The Institute for Policy Studies," p. 29.

[26] Eqbal Ahmad, "Memorial for an Exile: Rashed Hussein," Race and Class, Vol. XX, No. 3, Winter, 1979, pp. 289–93.

[27] Enumeration would severely tax the reader but a single example can be offered to give an idea of the web's complexity. The California Public Policy Center, which is closely related to Tom Hayden's Campaign for Economic Democracy, is apparently independent of IPS. However, Fred Branfman, director of the California Public Policy Center, is also a paid Fellow of IPS's Foundation for National Progress and Derek Shearer, another Fellow of the Foundation for National Progress and a member of the steering committee of IPS's National Committee for Alternative State and Local Public Policies is a staff economist for the California Public Policy Center and an organizer for the conferences of the Campaign for Economic Democracy.

Were it not for the rise of the New Left, which emerged almost simultaneously with IPS, IPS might have had little more impact than the Liberal Project. Although Barnet, Raskin, Maccoby, Waskow, and Alperovitz, the key early IPS figures, were ten years older than the new student radicals, they had anticipated many of their concerns. Others they quickly adopted as their own. IPS, partly through its student intern programs, partly through the leadership role its Fellows took in the anti-war movement, partly through being an ongoing presence for a movement that was amorphous and prone to split when it organized, played a major role for the New Left.

At first IPS involvement with the New Left and the anti-war movement seemed to have derailed the Institute. Most of its original audience of policy-makers was lost as IPS became increasingly militant and its leading Fellows were arrested. But once the war was over, IPS was greatly strengthened. IPS now had a new credibility among policy-makers for, with the war lost, those who had opposed it early appeared vindicated. The "extreme" nature of IPS Fellows' opposition (a trip to North Vietnam, disruptive demonstrations) was forgotten. And IPS had a wider audience now. While the New Left disappeared from public consciousness after the war, its adherents did not disappear. Many became government officials at various levels and were responsive to IPS efforts to bring down the system through the system. They flocked to the annual National Conferences on Alternative State and Local Public Policies. "Graduates" of the New Left constitute much of the broader IPS public and subscribe to the various IPS journals.

The rise of new protest movements, many of them deriving inspiration from the old, has also enhanced the importance of IPS. Many of the new groups are primarily concerned with a single issue—peace groups, consumer groups, anti-nuclear groups, groups of dissatisfied minorities from gays to American Indians, groups seeking the "liberation" of one of a number of foreign lands from "Palestine" to El Salvador. IPS is able to supply what Fellow Gar Alperovitz calls the "conscious political vision" essential to set the "partial" goals in an overall ideological context.

For IPS, the nuclear energy issue is now crucial, an equivalent of the Vietnam War in its ability to mobilize masses. From the standpoint of IPS, nuclear energy is a "reformist" issue, like long hair and higher pay in the army, but like those issues it has the potential for creating structural changes (e.g., retarding growth) that do concern IPS.

It has been part of the "conscious political vision" of IPS that, in Raskin's words, "this country and modern nations run on ideas to a large extent" and "on the political level, you have to develop a sense that there are groups within the organized political structure—Congress or the Executive—who are interested in such ideas. Otherwise no real political transformation can occur." [28]

IPS's experiences in its years on the "outside" had strengthened this view among its Fellows. The demonstration at the Democratic National Convention in 1968 strengthened the IPS conviction that its original course had been correct. After the demonstrations at the convention, which he helped to plan, Waskow wrote: "The lesson of Chicago is guerrilla politics—not guerrilla war. . . . Our armies of the night need new recruits—to get them we must invent a political course of action, not street tactics." [29]

Initial access to policy-makers was, of course, not difficult because IPS founders had all played a role in government. Shortly after its founding, IPS, in the fall of 1963, held a "Seminar on National Security and Disarmament" to which White House and State Department officials, Congressmen, and their leading staff members were invited. It exemplified the pattern of "information gathering" that was the IPS hallmark. The seminar studied the structure and operations of the U.S. defense system; its Congressional, Defense Department, and defense industry interactions; and how and by whom policies were formulated and decisions implemented down the chain of command. In the words of the IPS prospectus, the seminar was designed to find "the loci and levers of change in the present system," i.e., the pressure points to bring it down. The information was provided by the government aides and officials who participated as well as by other officials with whom they established contacts for IPS.

Seminars held by IPS for Congressmen in 1965 on "The New Era of American Policy and Statecraft," according to John Rees, were seminal in the formation of Members of Congress for Peace through Law (MCPL).[30] During the period of IPS disfavor on Capitol Hill, MCPL in many respects carried forward the kinds of policies IPS would have favored. MCPL coordinated votes against appropriations for the Vietnamese War and against aid to the South Vietnamese government. From small beginnings, the MCPL has developed into a body of 188 members of the House and Senate that acts as a lobby to limit defense spending; it has opposed all the major new weapons development proposals. Individual members of the MCPL have been in the forefront of the effort to hobble the intelligence agencies.[31] The MCPL also serves as a "human rights" lobby. The human rights problems examined are primarily those of countries allied with or friendly to the U.S.

Perhaps the most dramatic instance of renewed IPS influence on Capitol Hill is the "alternative budget." In 1975, John Conyers (Dem.-Mich.), one of the most stalwart IPS supporters on the Hill, in the name of 47 members of Congress, almost all of them members of the MCPL, invited IPS to prepare a study of the (Ford) budget. IPS produced a 120-page study. The following year, 55 members of Congress asked IPS "to extend its excellent analysis of the Budget to include concrete proposals on how federal spending should be redirected." [32] The Alternative Budget, now called the Basic Needs Budget, has become an IPS institution. IPS's National Priorities Project is now active in developing strategy for the Transfer Amendment that would mandate the spending of billions of dollars to be cut from the defense budget for programs that "meet human needs." The Amendment has wide support among the Members of Congress for Peace through Law.

---

[28] David Kelley, "For Socialist Alternatives," *Barron's*, August 23, 1976, p. 5.

[29] *Information Digest*, Oct. 9, 1970.

[30] *Information Digest*, Supplement to issue dated Dec. 30, 1977.

[31] Currently no less than eight committees of Congress—the armed services, foreign relations, appropriations, and intelligence committees of both Houses—must be informed of every major CIA operation. That comprises around 400 people, including the staffs of these committees. Given the probability of leaks, this means there can be no such operations.

[32] Letter from John Conyers Jr. to Marcus Raskin dated February 26, 1976.●

JACK B. BAIRD—PUBLIC SERVANT

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. STARK. Mr. Speaker, I welcome this opportunity to pay tribute and call to the attention of my colleagues, the work of Jack B. Baird. Jack Baird officially retired on July 1, 1980, after 23 years of invaluable service to the city of Livermore and the firefighting profession. I would, at this time, like to express my admiration and commend him on his dedication and devotion to public service and contributions to fire and life safety.

The many accomplishments attributable to Mr. Baird are representative of his outstanding and remarkable career; a career which was most demanding and challenging; a career which the community of Livermore shall never forget.

His career as fire chief for the city of Livermore began in 1957, at a time which the fire department had 25 volunteers, 4 engines, and a NBFU rating of class 6. After his first 6 years in office, Mr. Baird had upgraded this rating to class 4A. Under his administration, three new fire stations were built—one which is the alternate Alameda County Emergency Operating Center—the fire department grew to a full-time paid staff of 47 people, and the number of pumpers, trucks, tankers, staff cars, and equipment increased significantly.

Jack Baird actively participated in the Twin-Valley Fire Chiefs Association, Alameda County Fire Chiefs Association, and California Fire Chiefs Association throughout his career. From 1974 to 1975 he served as president of the latter and was involved in the planning of legislation creating the State board of fire services and the establishment of the State fire academy at Asilomar.

Few men have ever been as involved and dedicated to their profession as Jack Baird. He was responsible for the implementation of the mutual aid programs currently in effect in Alameda County and Twin-Valley area due to his strong belief in the mutual aid concept. He also implemented the arson task force concept whereby any jurisdiction could request investigation expertise from others on a mutual aid basis while fire prevention liaison officer for the Alameda County fire chiefs. His management skills are typified by the existence of a modern set of department personnel rules and regulations.

Jack was an instructor/trainer and first aid chairman for the American Red Cross and as a consequence of his belief in the effectiveness of public education, many Livermore citizens received training in fire safety and first aid.

The 50,000 citizens of the city of Livermore owe a great deal to Jack Baird, their fire chief of 23 years. His reputation as firefighter, administrator, and command officer are known throughout the State of California. I am glad to have had the privilege of honoring Jack Baird and recognizing his contributions to fire and life safety. I wish him the best in years to come.●

H.R. 6121

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. MARKEY. Mr. Speaker, I have expressed a number of concerns with respect to the pending legislation to revise the Communications Act of 1934, H.R. 6121. While I believe the intent of this legislation is laudable, I fear that its practical effects may be anticompetitive. As presently drafted, the proposal would, among other things, set aside the 1956 consent decree agreed to by A.T. & T., and the Department of Justice. Because of these provisions, as well as others in the bill, the legislation could impair the Government's case in the Federal antitrust suit against A.T. & T., which was brought in 1974. The Honorable William Saxbe, the former Attorney General of the United States, who brought that suit, articulated these concerns most forcefully in a statement made public here on June 25. I submit Mr. Saxbe's statement for the RECORD at this time.

STATEMENT BY THE HONORABLE WILLIAM B. SAXBE, FORMER ATTORNEY GENERAL OF THE UNITED STATES

Ladies and gentlemen of the press, thank you for coming here this afternoon. It is good to be back in Washington even if only for a few hours. I do not return here often nor without certain purpose. Today, my purpose is a mixture of professional concern and personal dismay.

I shall be brief and to the point.

In 1974, as Attorney General of the United States, I approved the filing of a civil antitrust case against the American Telephone & Telegraph Company and the Bell Telephone System. The decision to bring that suit was based, in part, upon a welter of complaints filed with the Justice Department. The complainants encompassed a wide range of small and large businesses which were attempting to compete with AT&T. But the suit was also launched because the Justice Department, upon serious investigation of AT&T's practices and operations, believed there was a clear and reasonable basis for action.

This was not an action against bigness for bigness sake. Nor was it an action to mollify frivolous or undocumented charges. There was, in the Department's view, probable cause to believe that Bell's conduct in the marketplace had a chilling effect on competition in terminal telephone equipment, in interstate public and private long-haul transmission, and in satellite and microwave transmission for video programming, cable television and mobile radio services.

Recall, if you will, that the Justice Department took this action a little more than a year before the telephone industry sought special national legislation to protect its so-called "natural monopoly." In retrospect, I believe that this legislative initiative was an unmistakable response to a perceived belief on the part of AT&T that Justice's suit was not without merit.

No lawyer with responsibility for litigation should attempt to prejudge facts which ultimately may be proved—or disproved—in that litigation. But no person—whether a corporation, interest group or private individual—should find support in the use of economic and political power to write legislation which attempts to relieve them from liability for conduct that ultimately will be proved in court.

I am shocked by legislation now moving through the United States Congress. The House of Representatives bill H.R. 6121 now marches forward in the name of competition and deregulation. It is being touted as creating new opportunities for competition and business—as well as celebrating new benefits for consumers of telecommunications.

That may be its intent. But I sincerely doubt that its goal can be achieved without paying two enormous and unattractive price tags. The first is that by creating a so-called separate competitive subsidiary that would be a clone of a giant monoply from the instant it goes into business, the bill represents a triumph for competition in nothing more than semantics and structural disguise. The second is that in pursuing its present legislative course, Congress is unquestionably intruding upon the antitrust laws of this nation. The bill would, by legislative fiat, grandfather AT&T's past behavior, which is being called to account in the government's suit, and relieve AT&T of future antitrust accountability should its new subsidiary prove less competitive than its architects envision.

I suggest that the major effect of this proposed legislation will be that of a Trojan Horse. The effect, I fear, will be not to foster a new era of competition so much as it will be to gut the government's pending antitrust case. It would, by statute, foreclose the possibility of a federal court imposing the full measure of remedies the law allows to prevent the recurrence of anticompetitive conduct that may be proved in a court that represents all the people in this land. By so doing, the Congress would be telling the American people that in order to have free choice in the marketplace, they must abandon their rights to petition for relief if such choices result in further abuses.

If one listens carefully to the litany being sung about this bill—a litany well tuned to the current disposition for deregulation—one has to be impressed with the implied virtues of enhancing or revising a law which is clearly in need of change. The 1934 Communications Act, few would disagree, can stand modernization. So be it. Congress has said it. A coalition of telephone companies, labor unions, users and investment bankers said so here on Monday. One presumes that AT&T would like it too. Yet in the quest for remedy, there seems to be a convoluted, dangerously errant notion that to be for deregulation also implies that, for those aggrieved, protection under the law will remain intact. It will not.

If deregulation is a legitimate goal—and I think it can serve this industry as well as any—then Congress can serve that end better by ensuring that the existing laws which bear upon age old questions of market behavior are not put asunder in the process.

If deregulation is desirable, then let two conditions prevail among those who would father its existence and mother its growth. First, the telephone companies, which have dominant monopoly power within their exchanges, should not be entirely freed of regulation until marketplace conditions for full and fair competition exist. That is simply not the case now. And this proposed legislation does not provide safeguards to assure anyone that it can happen that way. Leaving such matters to the "telephone fairy" is both naive and irresponsible.

Second, if the 1956 agreement is outmoded—and quite possibly it is—then the proper remedy is to seek its modification by the court under whose authority it was negotiated. To do otherwise is a breach of the legal process. For a legislative body to preempt such an agreement by statute is virtually unprecedented.

There is a serious question as to the propriety and legality of the Congress interfering with a judiciously approved agreement between AT&T and the government. Under its terms, AT&T agreed to stay out of all other businesses except communications, which was to remain subject to regulation. If conditions have changed enough to justify reconsideration of those terms, then Congress and AT&T should both accept the fact that the court is the appropriate place to seek that recourse.

It is curious that AT&T would make an end-run around the court to obtain a modification of its agreement by legislation unless it was convinced it might not be able to sustain its case. More troublesome than curious is the fact that the Congress would unwittingly run AT&T's interference in the abridgement of established legal procedure.

These legislative maneuvers are nothing more than a scandalous interference with the judicial process and the power of judicial control. It was suggested that the monopoly telephone industry's underlying goal in legislation almost five years ago was to drive the government's antitrust case off course. The new urgency to pass legislation now seems to be driven by the $1.8 billion private antitrust judgment against AT&T recently handed down in Chicago.

My sense of shock has its personal side, of course. I brought the government's case. I believed then, and I remain convinced today, that the case was warranted. The prospect for remedial legislation notwithstanding, the case was predicated on a conviction that AT&T was thwarting competition, was stifling technological innovation and shortchanging the consuming public.

Therefore, no matter what zeal may exist for a new law, I am further surprised that Congress believes it can inject itself into questions raised by that suit with a prescription for special preference legislation which appears to exempt AT&T from liability under the law. It is a mockery of the law. It also threatens to make a mockery of the legislative process.

I was a member of the United States Senate. I have respect for the necessary and often difficult choices that must be made in constructing useful legislation. But I was a lawyer before I was a senator or an attorney general—and I still believe that ours is a government of laws, not a government of men. And our system of government, for the most important of reasons provides for a separation of powers.

Justice Stone once observed that: "The law itself is on trial in every case as well as the cause before it." If there are flaws in the antitrust laws, let those who write laws governing antitrust deal with the deficiencies. We cannot tolerate a less circumspect approach by those whose first business is to write laws governing the future of telecommunications.

Those lawmakers have a solemn responsibility to bring new policy direction where it is warranted. They do not have the right to moot judicial prerogatives in the process.

"Reach out and touch someone" says the now familiar AT&T advertising slogan. But touching someone ought not to carry with it a legislative blessing to squash competition. That's what the government's case is all about.

Perhaps it is time for the American public to reach out and touch their elected members of Congress—and demand that this wrongheaded legislation be stopped in its tracks.

Thank you again for giving me this opportunity to express my views. I will be delighted to answer any questions you may have at this time.●

PITTSBURGH'S BROADCAST CHAMPION RETIRES

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, as everyone knows, Pittsburgh is the city of champions. A champion of the broadcast industry in Pittsburgh has just retired after 48 years in the business. His name is Ed Schaughency—better known to listeners at KDKA radio as Uncle Ed.

"Uncle Ed" has been an institution in Pittsburgh much the same as the Pirates and the Steelers. In 48 years of broadcasting with KDKA radio, Uncle Ed has watched the industry grow from its infancy to its present state of sophistication.

But he has done more than devote time to the broadcasting business. He has given it a warmth and feeling which will never be equaled. He has delighted audiences with his Ed and Rainbow shows, reading the comics during the newspaper strike, playing Santa Claus as master of ceremonies during the Allegheny County fairs, and offering his time to numerous other good causes.

Many generations of Pittsburghers have happily grown up listening to Uncle Ed; being told morning after morning whether to wear that raincoat or whether grandma has to put on another petticoat.

We will all miss Uncle Ed, but we will never forget him. He is truly a champion in a champion city.

Mr. Chairman, I share with you an article from the Pittsburgh Press of June 27, about Ed Schaughency:

UNCLE ED BURIED WITH PRAISE AT RETIREMENT

(By Pete Bishop)

His eyes, how they twinkled!
His dimples, how merry!
His cheeks were like roses,
His nose like a cherry.

And why shouldn't they have been? Last night was Uncle Ed's "funeral."

Figuratively only, of course. Ed Schaughency, who retires today after 48 years on KDKA, the longest stint any announcer has ever served with one radio station, was feted at Le Mont last night, but unlike Shakespeare's Julius Caesar, none came to bury him, but to praise him.

Mayor Richard S. Caliguiri declared an "Ed Schaughency Week" and presented him a key to the city and a silver medal, joking, "Had you retired two months ago this would have been worth a lot more."

Emcee Jack Bogut read congratulatory messages from some notables unable to attend: Rege Cordic, Gov. Dick Thornburgh, Chuck Tanner and Willie Stargell. "Pops" also sent a gold star for Bogut to stick on Schaughency's forehead and a Pirate cap and jacket.

There were testimonials from Wendy King, Bill Steinbach, Art Pallan and station manager Tony Hirsh, who presented Schaughency with a plaque, read a message from Westinghouse Board Chairman Robert Kirby and gave the honoree and his wife, Gertrude, a gift trip to Bermuda in the fall.

Their son and two daughters recited a short, humorous poem; 48 listeners, one for each year of his service, were on hand and a female trio, backed by Jack Purcell and some of his musicians, sang "I Can't Give You Anything but Love."

There were citations from the state Senate and House of Representatives.

It remained for Schaughency himself, who has been known as the Old Getter-Upper, Col. Ed, Ed S. (because so many people couldn't spell his surname) and, most appropriately, Uncle Ed, who alluded to the evening as a burial.

Wouldn't it be nice, he said, if you could have your funeral before you died so you could hear the minister's laudatory eulogy, smell the flowers, taste the food, shake the hands and have a flower pinned to your lapel?

"You've pinned roses into my button-hole today and let us (he and his wife) smell them," he said. "Bless your hearts. Welcome to my funeral. You'd think I was somebody, wouldn't you?"

The praise wasn't confined to the rostrum. Said colleague John Haidar over dinner: "I've been charmed by the very fact that in an industry noted by turnovers and people being transient that one man could have made a career of 48 years at one station and watched the industry from its infancy to this point of sophistication."

Added colleague Perry Marshall, "I just believe he's kind of a dying breed; he's a gentleman of the old school. I've never heard him say one word against another human being over 25 years. He has humility, decency; he's a decent human being. I'm going to miss the hell out of that man."

"My friends," said Uncle Ed, "if you don't have happiness you'd better look for it. The more you share it, the more you achieve it. You can't give it away." And sharing it is exactly what he's done for almost half a century and why far more people than Marshall will miss him.●

THE SPIRIT OF PROJECT INDEPENDENCE

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. DINGELL. Mr. Speaker, my good friend with whom I have walked many a mile upon different occasions inclusive of certain strenuous debates on energy policy issues, Mr. Frank G. Zarb, has delivered a speech which I urge my colleagues to review and study.

Mr. Zarb's speech was presented in London, England, June 20, 1980, before the International Conference on "The Energy Emergency: Oil and Money 1980."

The speech addresses what its respected author's views are as to the urgent needs for the United States and other nations to determine what both the future energy and financial policy must be for the world, not just for the United States nor just for other oil dependent nations.

Mr. Zarb, who was the Administrator of the Federal Energy Administration, later incorporated into the U.S. Department of Energy, has renowned expertise on energy issues and coordinates that knowledge today with his expertise in financial matters.

The speech follows:

THE SPIRIT OF PROJECT INDEPENDENCE

(By Frank G. Zarb)

While most of the globe strains under new political tensions and deepening economic uncertainties, there seems to be less time and fewer resources devoted to the longer-term energy challenge. Since 1974 the world economy has been on a shaky course, acting like a terminal patient who rallies from time to time only to relapse into deeper crisis. As a result, the pressing questions of the day relate more and more to immediate survival. How will the United States and Western Europe pay $180 billion for oil over the next twelve months, and at the same time, maintain reasonable economic balance? How will the growing number of developing countries already in serious trouble get by the next twelve months of debt service and at the same time pay their oil bills? (Countries such as Brazil will pay more than 40 percent of export revenue for oil imports in 1980). How can the banking system and the international financial institutions help to recycle OPEC surpluses in order to keep a breath of life in the international monetary system? Each week there is a new political event which threatens to interrupt the flow of oil from the Mid-East, prompting nations to buy and store extra oil for use during emergency disruptions, adding further to their balance of payments burden—payments they may be unable to make.

The subject of this conference says something about the mood of the times, "The Energy Emergency—Oil and Money 1980." And why not? There has never been a greater potential for national defaults and a very busy Paris Club. The world leaps from super inflation to steep recession—both conditions producing consumer and worker unhappiness, leading to the possibility of social upheaval.

Two major "oil-quakes" since 1973 have produced one financial shock after another, with little time for recovery. It's no wonder that we here, at this meeting, have focused most of our attention on the immediate "oil-money" emergency. A total preoccupation with the crisis of the moment is understandable, but it is no less troublesome to consider that in the year 2000, this room could be filled with worried financial faces, meeting to discuss problems of the same character, but substantially deeper, producing broader and more complicated dislocations. It is times like this which make me wonder—

what ever happened to the Spirit of Project Independence?

Some of you may recall that Project Independence was the title of a proposed United States energy program prepared in 1974-75, following the 1973-74 oil embargo. To some it represented a very basic blueprint leading ultimately to the redesign and rebuilding of systems for energy consumption and energy production throughout the world. An important number of political leaders in the United States complained that it was a wild plan with no chance of success. To others it was seen as a conspiracy to sabotage the free enterprise system. To still others it was viewed as a secret way to give huge windfalls to the multinational oil companies at the expense of the American taxpayer. To those who authored and supported Project Independence, it represented a state of mind, a confidence in the future, a dream that could be real—a spirit based on the understanding that oil and gas were finite. Project Independence recognized the new realities of energy, challenged old institutions, and sought to initiate the long process which would reshape the future. That spirit now seems buried under the debris of the constant day-to-day "oil-money" crisis.

With that in mind I'd like to spend the next few minutes to talk about building and financing the energy systems of tomorrow—energy which may come from some combination of heavy oil, tar sands, oil shales, black shales, methanol from natural coal seams, devonian shales, geopressurized methane—the BTU's which will come from biomass, fusion fuels, wave energy, wind energy, tidal energy, earth or space-based solar energy, ocean/thermal energy, and advanced geothermal energy—giant facilities which will produce crude oil from coal in large commercial volumes, or high Btu coal gasification plants which will provide pipeline-grade natural gas at relatively low prices, in enormous volumes. These are the advanced systems which, in 1975, many said should be developed to commercial scale by 1990; and now the hope is for some modest progress by the year 2000. In the course of the next twenty years these systems will require an investment of one and one-half trillion dollars in addition to the commitment of vast international scientific and technological talent. How unreal that projection sounds when we consider the crisis atmosphere of today. How impossible it must seem to a world so diverse in motivation as each nation and each region seeks to serve its own self interests. But what are those interests? And are they so different—east, west, north or south—oil exporter or oil importer—are their needs and motives so different when it comes to the question of development of energy for the world economy of tomorrow? I think not.

Consider oil-producing Saudi Arabia. Some might think that the level of Saudi interest in seeking practical alternatives to oil is relatively low. But, that conclusion is wrong. It is clear to Saudi Arabia, as it is to other major producing countries, that the value of their oil will not decrease with the orderly development of alternative forms of fuel—they realize more keenly than others that their crude oil supplies are finite. Whether it is forty years or sixty years, the day will come when Saudi oil reserves, as we know them, will disappear.

They will be left with what?—a store of dollars—legal claim on the wealth of a prosperous world economy, or the shambles of a fallen era. The Saudis know that the time to begin preparations for tomorrow—is NOW—using today's financial strength to "buy into" the future. All petroleum-exporting countries have a material stake in the development of new energy sources for the post-2000-year period.

The industrialized world, particularly the European Economic Community and the United States, where there is some degree of energy self-sufficiency, has an obvious need to develop new energy systems for the future. Countries such as Japan, where there is virtually zero energy self-sufficiency, share a more urgent requirement for the development of new energy technologies. It is mindless for industrialized nations not to place advanced energy high on their list of national priorities.

Needless to say, developing countries will have an improved opportunity to develop when their energy cost, per unit of output, can be put back into reasonable proportion relative to other economic values. This new balance can be reached only when they lessen their dependence on high-priced imported oil in favor of new energy sources.

Contrary to the conclusion of some analysts, let me assure you that the Eastern-Bloc countries, led by the Soviet Union, also have a significant need to diversify energy sources away from conventional oil and gas. It's important to remember that the Soviets now supply oil and gas to: Hungary, Czechoslovakia, Poland, Bulgaria, East Germany, Mongolia, Cuba, Vietnam, and North Korea. In addition, the USSR exports oil and gas to the West in order to obtain an important amount of its hard currency earnings. At the moment, the Soviets have a surplus of more than 100 million tons of oil and 25 billion cubic meters of gas. But signs of a declining growth rate in annual oil and gas production are beginning to show. It can be argued that when the Soviets begin to experience sharp reductions in oil and gas availability (probably early 1990's), they must have developed alternative forms of fuel or will attempt to compete, perhaps militarily, for whatever is left in the Middle East.

In a capsule, this is the situation:

A world with an essential and common need to deliver a new generation of energy systems in less than twenty years.

The work now underway in this critical area is restricted to individual nation or token bilateral projects. These efforts, including the most recent U.S. synthetic fuels legislation, are simple beginnings. Even added together they are not significant.

To achieve a creditable level of advanced energy production by the year 2000, the demands placed on science, high technology design and construction must be pushed to limits never before faced by mankind.

A capital investment of more than one and one-half trillion dollars is in itself a challenge, but when one adds the high risk factor for this kind of venture it pales even the boldest of bankers, investment bankers, merchant bankers and ministers of finance.

Yes, we face a formidable undertaking—more urgent than any short-term emergency facility, but less easy to energize because it lacks the focus that an immediate crisis brings to such matters.

When viewed through the budget of an individual nation, the ability to make important progress toward long-term energy security seems just too formidable to contemplate. . . . . However, when looked at as a world-wide effort, the idea begins to look more feasible. Think of it—a world-wide, coordinated energy effort!

Such a grand scheme: its purpose is right, and the concept is sound—but how can this tattered old world possibly be mobilized for an enterprise even as noble as this one?

To facilitate an international energy effort, the system adopted should emphasize: 1. simplicity, 2. minimum affiliation with world political bodies. 3. substantial participation by scientists and businessmen.

From a technical standpoint, the operating process could be relatively simple. Each country would use an existing panel or (if needed) create a small energy board, to be assigned the mission of determining energy projects in which its country will participate.

For example, properly appointed panels of the United States, Germany and Saudi Arabia might individually determine that their international interests would be served by participating in a joint venture which would develop and produce a space-based solar energy system. The three countries would then join together and negotiate proportional contribution of technology, funding, and management to accomplish this task. Similarly, the United Kingdom, France, Kuwait and Japan might combine to construct the first generation of commercial-scale high BTU coal gasification plants.

There is no point in taking time today with details, but I can clearly envision a significant number of major advanced energy projects which could be developed by multinational joint ventures.

The mechanics of a workable process, in which the world could join together in a mutual effort to develop the energy systems of tomorrow, are not complicated, but creating the attitude—the atmosphere for such a program to flourish is obviously more difficult—some would even say impossible.

In order to set a world-wide tone for international Project Independence, there are at least three major preliminary issues to be resolved. They are: (1) a rationale system for crude oil pricing; (2) a comprehensive program for long-term petro-dollar investment; (3) the involvement of developing third-world countries.

MODIFIED INDEX FOR CRUDE OIL PRICING

It is time to acknowledge that since oil reserves are limited, the value of oil will continue to rise as we diminish its supply. With that in mind oil producers and consumers should agree on a loose index which will set some parameters for the price of crude oil for the next five years. This flexible index should provide for a minimum annual adjuster for inflation keyed to OPEC imports plus a maximum yearly "real" increase up to say 5 percent if the market will take it. Obviously, this system would be negotiated to achieve fine tuning—and could not work during periods of shortages brought on by war or other unusual events. However, a flexible index could provide a stabilized planning base, and reduce counter-productive "shock-swings" in oil prices. At the same time, it could provide exporters with a fair and predictable return for their oil.

Some market advocates will argue that an index scheme would preclude the market from driving down the price of crude during periods of oversupply, just as some of the hard-line members of OPEC will complain that indexing will take from them a valued political tool. Purists will complain that indexing will preclude efficient allocation during periods of tight supply. Given our experiences since 1973, and the prospects for further chaos, those worn-out objections should be rejected.

COMPREHENSIVE PROGRAM FOR PETRO-DOLLAR INVESTMENT

A world-wide program to develop advanced energy systems must assume extensive funding by individual oil-producing countries. However, there will still remain enormous dollar reserves to be invested. Up to this point, the recycling of petro revenues has not been a very successful exercise. Although industrialized countries have complained that OPEC permanent long-term investment has not been forthcoming, those countries have not gone out of their way to make permanent oil-capital welcome. It is astonishing how even an investment in a hotel by an Arab-oil group gives rise to highly visible and sometimes unenthusiastic comment. Members of OPEC have long indicated a goal to use their new financial strength to become members of the international financial establishment. They have, however, demonstrated a reluctance to get involved in investments over which they will have little control, or where their acceptance as a full partner is not welcome. An important amount of OPEC's dollars must find their way into the real wealth of industrialized economies. It is time to consider the establishment of Joint Investment Trusts which could commingle the investment resources of the industrialized oil users with the petro-funds of OPEC. To facilitate this result, special trusts would be established in traditional money centers to manage the investment of sizable amounts of commingled funds. For example, the ten largest United States investing institutions, including insurance and credit companies, could match funds with selected members of OPEC, under the direction of a jointly owned management company to invest in the mainstream of the industrialized world. Its objectives would be similar to any well-run investment company seeking a maximum rate of return with reasonable risk. Let me emphasize that this mainstream petro-dollar investment activity is separate and apart from the funding required for advanced energy projects. However, when oil-rich nations are properly accepted as full and "real" partners in the world financial community, it will be easier to convince them of their responsibilities in a more speculative international energy scheme.

DEVELOPING COUNTRY PARTICIPATION

While developing countries could contribute science and human talent, they will not at this time make significant financial input to a world-wide energy effort. However, they must be made part of the process and benefit from its results. The major principals, that is OPEC and the industrialized world, should agree that energy technology transfer to developing countries will be made easy. Further, it will be useful to involve developing countries in advanced energy plant development. For example, that space-based solar energy project jointly developed by the U.S., Germany and Saudi Arabia could be used to provide electrical power for Turkey, India or portions of Africa. Developing countries are world citizens—they must be part of and be the recipients of any world-wide energy effort if it is to succeed.

Well, there it is—a simple scheme to combine the resources of the world to focus on a few selected technologies on a project-by-project basis with the benefits available to all others, especially developing countries. I can already hear the skeptics articulate the extraordinary problems this approach must overcome to be workable. Many will go so far as to say it's absolutely impossible.

It won't be easy, and it is not more impossible than the course of benign neglect we are currently following. Day-to-day crises-solving is needed but it is not enough—individual efforts such as the U.S. synthetic fuels plan are well meaning but do not even begin to represent a creditable effort.

So why not try this international attempt at securing the energy needs of our grandchildren's grandchildren. Who knows if we can make this work even modestly well—if we can kindle a global spirit of Project Independence to produce real benefits for the human race—if we can restore a feeling of a positive future to replace some of the despair and hostility. Maybe—just maybe—we will achieve a little more understanding, demonstrate in a small way the rewards of cooperation—and not only help to insure a secure energy future, but help to move one small step toward securing a prosperous and peaceful tomorrow.●

RAISED EYEBROWS ON CAPITOL HILL—THE SHARED MONOPOLY CASE

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. COELHO. Mr. Speaker, the agricultural community of California's Central Valley—the heart and soul of my congressional district—are most sensitive to the activities of our Government. Their livelihoods depend on the strength of our economy and little that Washington does goes unnoticed or is not felt 3,000 miles away.

Eight years ago the Federal Trade Commission began an antitrust investigation against the cereal industry charging Kelloggs, General Mills, General Foods, and Quaker Oats with maintaining "a highly concentrated, noncompetitive market structure"—a violation of section 5 of the Federal Trade Commission Act. This was the first case opened under section 5 of the FTC Act which went after an alleged oligopoly, and the first proceeding ever on a "shared monopoly" for which no statutory language exists.

The FTC action generated considerable interest in my congressional district since many of the ingredients packaged by these cereal companies are grown there. "Why," my constituents would ask, "is the FTC spending all this money on an investigation of this sort when there are so many other deep-rooted consumer concerns which are being neglected?"

Even the national media was curious. Peter Passell, writing in a New York Times editorial last fall, called the cereals case:

> * * * An expensive exercise in antitrust theory, unworthy of the Commission's time or energy.

The noted economist went on to say that:

> Even if the FTC staff could prove the charges, the remedies proposed would mean little or nothing in potential consumer savings.

The consequences of the FTC suit extend beyond the companies under investigation. Jobs in the agriculture sector in the part of the country which I represent stand to be lost. The consumer must bear the exorbitant legal fees paid by these companies for their defense—a perfect example of how regulatory authority adds to our severe inflation in the economy. The very agency entrusted to protect the consumer interest has actually done great damage by initiating this case. The money spent to pay counsel could have just as easily been spent on research and development to add to our Nation's productivity.

A tremendous frustration I have with the cereals case is that this is just one of many regulatory efforts which represents an untimely, in fact, wasted expenditure of our tax dollars. This Congress has wrestled with the reach of the FTC in a number of areas—their interest in farmer cooperatives being of special interest to me. The point is that an administration committed to getting our economy back on track—a White House committed to growth in our economic system, should question the value of a proceeding such as this one on which the FTC has embarked. The case has dragged on long enough, and I see more harm than good coming out of it. The companies do not need the harassment, the consumer is no better off, and related industries like those in California who deal with the cereal concerns are puzzled as to why the FTC is overstepping its bounds when there are some legitimate problems worth being investigated.

Recently a House panel examined the procedural irregularities associated with this case which get right to the issue of fairness and impartiality in our administrative process. The developments surrounding the involvement of Administrative Law Judge Harry R. Hinkes raise a number of questions which have yet to be satisfactorily resolved. Last March I wrote Chairman Pertschuk to draw his attention to the possible violations of the Administrative Procedures Act by Judge Hinkes. I am pleased that my colleagues, Congressmen ALBOSTA and WOLPE, have brought their Post Office and Civil Service Subcommittee into this matter with hopes of clarifying the role of Judge Hinkes in the shared monopoly case. Their report is something which I look forward to reviewing.

Mr. Speaker, the shared monopoly case is raising a few eyebrows on Capitol Hill. Grocery store patrons everywhere will surely feel the effect of the FTC action, and every sector of the economy stands to be affected by regulatory escapades like this. A little more emphasis on productivity in the economy and a little less wasting time on who puts the raisins in Raisin Bran would do us all a great service.●

MIDDLE AGE TODAY—DIFFERENT THAN BEFORE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. BIAGGI. Mr. Speaker, recently the New York Daily News featured an article I consider worthy of the attention of my colleagues. The article discusses the dynamic publisher of the magazine Prime Time—Barbara Hertz.

The premise behind Prime Time magazine is that it recognizes that middle age has been redefined to meet the new demands of the 1980's. The most significant change has been in attitude—middle age is no longer the signal that life begins its denouement—rather middle age can be a signal of a new phase of adulthood a phase with new challenges and new productivity.

I fully subscribe to the new premises about middle age and feel they can be extended to our senior citizen population as well. The Subcommittee on Human Services of which I am chairman has just completed a report entitled "Future Directions for Aging Policy—A Human Service Model"—What we say is that in addition to the burgeoning numbers of senior citizens in America today—we must view this as a welcome development because of the continuing contributions which seniors have to make to our society. The demographics of America are changing so radically that it will grow increasing difficult to portray age 65 as old.

I urge my colleagues to read the fascinating story of Barbara Hertz. She is performing an important service for our Nation with the publishing of the positive magazine Prime Time.

The article follows:

REDEFINING MIDDLE AGE

(By Linda Ciero)

MIAMI—When Barbara Hertz "retired," she wasn't ready to live out her years in her winter cottage on Sanibel Island, becoming another member of Florida's "prune juice and rocking chairs" population. That lifestyle wasn't for her.

She decided a lot of people like her felt they were getting better as they got older. So she embarked on a new career—as the publisher of a magazine catering to that group—during the time of life some refer to as middle age. She calls that time her "prime."

And that is what she has christened her new magazine: Prime Time. It is a monthly magazine for people age 45 to 64.

"It occurred to me that middle age today is very different from what it once was," she says. "It used to be that by the time you were 45 or 50, your life was set in concrete. You had your job, your family, your value system in place.

"But that no longer holds true. People today are starting new careers and new families at that age, venturing out in all kind of ways that middle-aged people are not supposed to be venturing in. I decided that no one was talking to this age group, and that's how the magazine evolved."

The magazine carries regular columns on fashion, health, finances and education.

Hertz is a good example of how people in "prime time" are changing lifestyles.

She had worked 17 years at Parents' magazine, 11 as managing editor. She wanted something new, so she changed careers—and spent nine years as director of development for Barnard College. Three years ago she left Barnard, "and I had to decide what to do with the rest of my life."

She decided she'd like to enter the corporate world, since it was one place she'd never been. But she found that while "yes, corporations do want women, they want young women with fresh MBAs, not someone my age, for positions of clout and responsibility."

So Hertz did some freelancing, writing stories about how people like herself and her husband, David—who at age 58 entered law school after a successful career as a businessman—were spending their middle years. From there, it was a logical progression to publishing a magazine that would appeal to those people she'd been busy writing about.

Response from advertisers and from readers has been encouraging, she says. Circulation now is about 100,000. "One theme we find in our mail is people saying over and over, 'At last somebody is respectable at 45 or 50.' It is fascinating—the sociology of our culture is changing so fast. There are now 45 million people in their middle years, and as a whole we are not worshipping youth the way we once did.

"It is our age group that controls 53 percent of the discretionary income in this country," she continues.

"We can make decisions about how we spend our money—and spend our lives—without worrying any more about things like putting our kids through college or paying a mortgage. We're free now to take vacations we always wanted to take, to buy the car we always wanted, to upgrade and even completely change our lifestyles."

Prime Time, Hertz says, is an "upbeat" magazine. "We try first and foremost to point out that people in their prime have unlimited options."

Recent issues have featured stories on topics as diverse as coping with aging parents and participating in the physically grueling Outward Bound program. The June issue contains a story entitled "Fired at 50," which deals with the emotional and psychological upheaval of such an event and then details how to take your boss to court if you believe you've been the victim of age discrimination.

Advertising, in keeping with the editorial content of the magazine, also is upbeat, Hertz says. "I decided early on that if we were going to be upscale in editorial, advertising had to complement that." So Hertz rejects advertising for such items as denture cleaners, laxatives, burial vaults and retirement communities. "Turning away advertising is very painful at this stage of the game," Hertz concedes. "But I think it is important if we are going to keep our image intact."

A recent readership survey shows that the median age of people reading Prime Time is 52.4, with 85 percent of the readers in the 45 to 64 age group, Hertz says. The median income of readers is $32,000 a year; the average income is $45,000.

Although readership statistics are impressive, she concedes she has had some trouble attracting advertisers, who argue that by the time people hit their middle age, they've already made up their minds on what products to buy—and won't change.

"My belief is that if we are changing our lifestyles, we can change our minds on what Scotch we drink," she says, her preaching voice coming back once again. "I mean, just because we've been drinking Chivas Regal for years doesn't mean we can't start drinking white wine."

Anything, as long as it isn't prune juice from a rocking chair.●

GUN CONTROL LEGISLATION

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mrs. COLLINS of Illinois. Mr. Speaker, I have long advocated, cosponsored, and worked for legislation that will result in the enactment of gun control—not to take weapons away from law-abiding citizens, but to significantly diminish their wholesale availability.

The use of handguns has so dramatically increased during the last decade that now 2 million or more are being manufactured and sold annually in the United States. Violent crime is directly related to the use and availability of these weapons. Therefore, Federal regulation of their manufacture, possession, sale, transportation, and importation is needed to eliminate the senseless deaths that occur in this Nation with such alarming frequency.

In my continued effort to make gun control legislation a reality for the citizens of the Seventh Congressional District, I would like to share with my colleagues an article recently published in the Chicago Defender. The article is as follows:

[From the Chicago Defender, May 3, 1980]

STILL THE DEBATE: SHOULD THERE BE CONTROL?

(By Gay Pauley)

NEW YORK.—You can tuck one into the palm of your hand or into a shirt pocket like a pen. It can weigh as little as an ounce. It can be smaller than your wallet or the cosmetics case in your purse.

It looks as harmless as a transistor radio or an attachment for your camera. But its harmlessness, or its destruction, depends upon who is holding, and using it.

This is the handgun, in its infinite variety a neatly packaged instrument of death that you can buy for, say, $10—"or cheaper by the dozen," as one New York Police official told me.

The Federal Bureau of Alcohol, Tobacco and Firearms said there are about 50 million handguns in the United States—"and nobody knows where they are."

Various sources say someone is murdered with a handgun every hour of the day. By this time tomorrow, 26 more Americans will be murdered by handgun fire.

These handguns, the killers, also are weapons other than for murder—for robbery, rape, aggravated assault, burglary, larceny-theft.

The handgun not only is the killer, but the subject of one of the major controversies today, reaching right to the White House and even embracing the campaigns of every major candidate for the U.S. presidency.

The great debate: Should there be more stringent controls on firearms, should they be slackened, should there be none at all? The arguments are, strong. Organized groups and individuals lobbying with formidable weaponry (like money) on matters of weaponry.

"What can you do with a handgun?" said Capt. Norman Jacobmeyer, Chief of Homicide of the St. Louis Police Department.

"For protection? From what? Shoot at a target?

"Baloney."

St. Louis has the highest homicide rate of any major U.S. city, says the Federal Bureau of Investigation in its latest regular Uniform Crime Reports.

"The whole point in the argument is that there are no statistics showing that more stringent legislation will reduce crime," says John Adkins, spokesman for the National Rifle Association, headquartered in Washington.

Says NRA's opposite Handgun Control, Inc., the lobby group for stricter controls, "During January 1980, over 600 Americans died because of easy availabiilty of handguns." This Washington-based group reported a fatality count for 1979 at 8,034, based on its survey of newspaper clippings voluntarily mailed to the organization.

Still another group operating on the national scene is the National Coalition to Ban Handguns, organized in 1974 with some 30 national organizations (religious, professional, educational) to combat "the growing handgun problem."

The Carter Administration is deeply involved in the problem. The President's mother, "Miss Lillian," waded in even before Senator Edward M. Kennedy announced he would oppose President Carter for the 1980 nomination.

She said in front of a kick-off audience last fall that if Senator Kennedy ran, "I hope to goodness nothing happens."

Said Handgun Control, Inc., "Many were stunned by Mrs. Carter's reference to potential assassination attempts. Her comments inadvertently joined the handgun debate to the 1980 campaign ahead. Nine out of 10 attempted or successful assassinations of presidents or presidential candidates involved handguns."

President Carter based part of his 1976 campaign platform on the need for more stringent handgun controls.

Now the White House told UPI, matters are up to Congress. "We'd be glad to cooperate with Congress on this," said a spokesman. "Last year, Treasury Department issued a routine requirement concerning registration of serial numbers in certain types of handguns. Congress not only rejected that idea, but they removed from the Treasury budget . . . $4.3 million that could have been used to administer the program.

"I think that indicates the attitudes of Congress. So. although I do favor increased safety of the American people because of this step, I think to pursue it aggressively in the Congress would be a mistake, but we will cooperate with the Congress . . ."

Democratic presidential hopeful Kennedy—who lost his two older brothers to assassin's bullets —and Congressman Peter Rodino of New Jersey in turn have introduced legislation for stronger handgun controls.

Handgun Control, Inc. says this marks the first time that the chairmen of the Senate and House Judiciary Committees have jointly sponsored such legislation and signs are that other lawmakers are adding to their support.

President Carter has faced a lot of criticism from groups demanding stronger handgun controls. One of the most vocal is Nelson T. Shields III, socially prominent, a successful industrialist, and father of a gunned-down son, Nick.

Nick, at 22, was a random target of a .32 caliber pistol (one of the so-called "Saturday Night Specials") in San Francisco in 1974. Shields, a former Navy pilot, now serves as chairman of Handgun Controls, which estimates its membership at more than 100,000.

The National Rifle Association has 1.6 million members, said Adkins. They include Ronald Reagan, the Republican Presidential candidate. This was brought out during the presidential primary season in Concord, N.H., when the large field of presidential contenders met with an organization of firearms buffs.

Each candidate, with the exception of Congressman John B. Anderson of Illinois, tried to outdo the next in telling of his love for hunting and unqualified opposition to gun controls.

Anderson argued that owners of concealable weapons should have to get licenses just as automobile drivers do.

"I cannot understand why a gun owner should not have to prove that he can use the weapon competently," said Anderson.

President Carter wasn't there, but son Jack was—to tell downhome tales of how the president shot his first quail as a small boy. Even now, Jack told a capacity audience, his father could bag the full limit. "My father really knows how to shoot."

But it took Ronald Reagan to cap the show. "Thank you for your warm welcome, my fellow members of the NRA," he said.

You can start the controversy over gun controls with the Second Amendment to the Constitution. It reads simply, "A well-regulated militia, being necessary to the security of a free state, the right of people to keep and bear arms, shall not be infringed." The Amendment, part of the Bill of Rights, dates to 1791.

Shall man's right to carry a weapon be abridged? The right to bear arms comes down through English Common Law, through the American Revolution, settling the "Old West", our frontier society, and on into the mystique today of firearms ownership. This mystique seems difficult to analyze.

But consider our modern folk heroes—the long-running television series, "Gunsmoke" with Matt Dillon, the award-winning movies "High Noon" "Shane."

In 1968, a federal firearms act banned sales of handguns to anyone under 21, rifles and shotguns to anyone under 18. There were to be no mail-order sales between individuals. It is illegal to transport a gun interstate. Licenses are forbidden for felons or the dishonorably discharged.

The federal act also requires licensing on weapons and has many restrictions on imports. A way around the import ban, police tell me, is to import the parts and then assemble the guns in this country.

In addition, most states and many cities have their own supplemental laws. Massachusetts has one of the strongest state laws—one year of mandatory prison for anyone convicted of carrying an illegal gun in public.

The New York State Legislature is considering a similarly strict code, with New York City's Major Edward Koch one of the strongest proponents.

"It's time to take illegal handguns out of the hands of criminals before they kill and rob," Koch told the legislators.

New York City's Police Commissioner Robert McGuire testified that, "A 10-year-old kid can get a gun on the streets of our city."

Fourteen members of McGuire's department have been killed by guns since Koch became mayor in 1978. Another 51 have been shot and wounded. Six police officers already are this year's death toll.

"It seems every day I am either going to a hospital; to a wake or to a funeral . . . gun control now is the over-riding public imperative," McGuire said earlier.

Headlines scream of "open warfare on the cops." And the Federal Bureau of Investigation has just announced the national toll for 1979—77 local, county, state and federal law enforcement officers were killed by handguns. Overall, the murder rate of police officers was up 13 percent over 1978.

But a UPI survey of state legislatures reveals little action this year for altering laws already on the books.

In many states, showing your driver's license is sufficient to acquire a gun owner's license.

In a just-published "Firearm Use in Violent Crime," the Justice Department's National Institute of Law Enforcement and Criminal Justice cited some of the arguments for and against stronger controls. They were excerpted from the Congressional Digest.

Advocates argue that the gun homicide rate is extremely high and exceeds that of many other major nations. Most of the American public supports stronger legislation. Accidents from handguns are extremely high; most handgun deaths are crimes of passion ("If you don't have a gun, you're not apt to kill"). They say curbing availability of handguns is needed, because long prison terms for handgun offenders would have no significant deterrent effect. And, they say, the right to bear arms under the Second Amendment applies to states, not individuals.

Those opposing stricter controls argue that they will not end crime. They say they would destroy the rights of Americans to defend themselves and their homes. They say criminals will obtain guns regardless of any law passed, and that guns do not cause crime, people do.

"New gun controls would be just a band-aid," said Adkins of NRA. "They won't stop crime. What's going on today ties in with our economic situation . . . I don't believe in the tenet that if you didn't have a gun, you couldn't kill.

"The lower crime rate of the Depression? We didn't have the mentality then that we've grown into today.

"We have to take a good hard look at the whole social and criminal justice system.

"The criminal knows the laws, the average citizen does not. The main thrust of NRA is that if a certain given community wants its own severe restrictions, that's up to the people of the area.

"(President) Carter . . . useless to push Congress when Congress wasn't . . . in the mood to pass further legislation. It was not politically feasible.

"Further controls just open up too many chances of abuse of (the rights) of law-abiding citizens."

Handguns Control, Inc., in its monthly "Body Count," reported that "during the third year of the Carter Administration (1979), 8,034 persons died in handgun violence. The figure includes 184 children (12 and under) and 558 persons 60 and over."

Consider some of the case histories the organization cited:

Chicago—William and Ada Pagan, 48 and 38, were murdered during a robbery of their grocery store. Juan Jimenez, 38, a patron, also was murdered.

Atlanta, Ga.—Faye Garrision, 69, was murdered by a handgun during a robbery of Rich's Department Store.

Detroit—Clarence Castelow, 13, was murdered during the robbery of a local market. The youth had gone to the market to return some empty bottles.

Houston—Totibio Hernandez, 60, was murdered, and his grandson wounded, by a man who ostensibly stopped to help them after their car developed trouble.

Three of the most recent crimes by handgun made national headlines.

"Diet Doctor Slain: Headmistress Charged," read one headline on the case of the slaying of Dr. Herman Tarnower, a prominent Purchase, N.Y. physician, and the best-selling author of the *Scarsdale Diet* book.

The physician was the victim, in his luxurious home, of a .32 caliber revolver. Accused in the shooting is Jean S. Harris. Police said Mrs. Harris acquired the revolver in Virginia, where she was headmistress of the exclusive Madeira School for Girls.

Rob Anderson of the attorney general's office in Virginia said state law of gun controls complies with federal—no convicted felon may possess firearms, or transport them out of state. Exceptions: those carrying out duties as a member of the Armed Forces or of the National Guard of Virginia or other states, or law enforcement officer in performance of duty.

"We lose our First Lady," read another headline. This was the slaying of the Mayor of St. Albans, Vt., shot at her home office with a .22 caliber revolver. Janet Smith 66, the town's first woman mayor, had been in office less than a week. A handyman was charged with first degree murder. Vermont's gun control legislation is that of the federal statute.

Still another: "Former Congressman Allard Lowenstein killed." Lowenstein was slain the day after he had once again exhorted Congress to pass the Kennedy-Rodino hand gun control act.

None of these three occurred in cities under the dubious honors.

Adkins of NRA listed a $4 million annual budget paid by membership and donated funds, but estimated that at least half of that sum goes to "education, training, hunter education, police training courses, competitions . . ."●

LOVE OF COUNTRY AND FLAG; TO MAINTAIN LAW AND ORDER

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. DICKINSON. Mr. Speaker, Dr. Karl B. Justus, formerly national executive director of the Military Chaplains Association and now chaplain general of the Military Order of World Wars, has written a most thought-provoking article which was recently published in Officer Review, a publication of the Military Order of World Wars. The article was first delivered as an address to the northern Virginia chapter of MOWW on May 14, 1980. I would like to share this article with my colleagues in the House:

"LOVE OF COUNTRY AND FLAG; TO MAINTAIN LAW AND ORDER"

(By Dr. Karl B. Justus)

Twelve years ago this July, I gave a major address on the subject—"What's Happened to America?"—which, later, was entered into the Congressional Record by the late Senator Everett Dirksen. Recently I reviewed that manuscript. I was struck by the fact that not only could that title make for a timely topic these twelve years later, but some of the things I discussed then still make for contemporary consideration. Nevertheless, I shall forego that easier option since your Chapter Commander, Captain Luby, asked me to undertake a specific theme—and for this occasion I have prepared accordingly.

In our Preamble, read as part of the opening ceremony for this meeting, we find some of the most noble precepts known to us as Americans. It is one thing to speak them, but only as we observe and live them in daily routines will they become meaningful—and contribute to the strength and security of this Nation.

That Preamble embraces nine important statements, which clearly set forth the high purposes of our Order. Each one is an integral part of the overall purpose, but I have been asked to direct our attention to two of those vital precepts. I now quote the significant phrases in those two.

To inculcate and stimulate love of our country and the Flag. . . . Ever to maintain law and order. . . . The first statement sets forth that we propose, not only, to practice patriotism, but that we propose to teach and promote it. The second statement is saying that, as loyal, patriotic citizens, we believe that law and order should be maintained and prevail throughout the land. In my opinion, no other precepts in that Preamble are more important than these two.

During the riotous, chaotic, indeed, horrendous decades of the sixties and early seventies, patriotism seemed to be a dirty word. Patriotism, itself, was laughed at, frowned upon, hushed up and outmoded by many so-called citizens.

Along with that, our Flag—the Stars and Stripes—held no meaning for many of our citizens. The Flag was not respected by them, and was often abused and besmirched—even burned. Such flagrant disrespect was disgraceful, equaled only by the evident disloyalty of the protesting perpetrators. I believe that true patriotism respects and honors the American Flag. The very symbol of the purity, integrity and sacrifice that has made this a great nation and kept us free.

Strangely enough, it was not only some of the rebellious protesters of the sixties and early seventies that manifested a lack of respect for the Flag. As the national Executive Director of The Military Chaplains Association, I was occasionally confronted by one or two clergymen-in-uniform—yes, I mean chaplains—who, said, "Justus, the trouble with you is—everything that you say or write you wrap in the Flag." That hardly requires any further comment.

I am a staunch advocate of undiluted patriotism—and I believe that every true American loves and honors the Flag of our country. I am indeed, proud to wrap anything I have to say in our Flag. Whether in peace or in war, good Americans honor our national Ensign—and whenever situations dictate a call to the colors in defense of our freedoms, our ideals and all that we hold dear, a true patriot will answer that call—even to the point of making the supreme sacrifice. Patriotism to our Nation, and love for our country and the Flag, should be second only to our love and loyalty to almighty God.

It is only recently, since the Iranian situation arose—that unwarranted, unnecessary and tragic imprisoning of fifty of our countrymen in our own embassy—yes, only since then has there arisen a new sense of patriotism and appreciation for our Flag. During the football bowl games over the last New Year period, it was a pleasant and stimulating change to see American Flags waving from all over the stands—and to hear that the Star Spangled Banner has been sung with more gusto at recent public gatherings. For sure, it was wonderful and inspiring to see the Stars and Stripes in all sizes—waving throughout the arena—when that unbelievable, talented young American hockey team vanquished the surging Soviets and "put them on ice" at the Winter Olympics in Lake Placid.

I am unashamed to say that as I stand and watch a parade—when the furls of the Red, White and Blue come by, accompanied by a good band playing, The Stars and Stripes Forever—I feel a lump in my throat, a tear dims the eye and a tingle goes up and down my spine. God didn't make us all the same, but the person whose chemistry has never produced the thrill I just described has surely missed something.

Just as we issue a call for renewed patriotism and love for our country and the Flag so, with equal fervor and conviction, do we call for the maintenance of law and order.

In the not-too-distant past, we saw what happens when law is disregarded and order is flaunted and replaced with chaos. Only two months ago, we saw over 30,000 youths come to Washington to protest the President's call for a draft registration. This was the first time since the massive anti-Vietnam war protests. Fortunately, however, the unbridled protests and unmitigated rebellion that harassed us in the late sixties and early seventies, which had come to rest ere the last decade closed, was not in evidence. Nevertheless, the seeds of riot and rebellion cannot be too far beneath the surface in a generation that is so permissive—and that seems to lack a clear sense of duty and obligation to the defense and security interests of America.

Our unmatched freedoms in America have been bought with a price—for every citizen of this land, but with all of our freedoms, citizens of every age need to be reminded that America is a nation where liberty under law is advocated. If we make license out of liberty, law and order disintegrate.

When we come to consideration of law and order, we are confronted with a complex subject. There are those who seem to feel that the breakdown in law and order has resulted solely, in recent-past years, from entangled race relations—mainly the conflicts which have, at times, arisen between blacks and whites. However, the problem, cannot be so narrowly confined. Any breakdown in law and order involves many elements. In addition to any racial conflict, which has lessened, contributing factors may be the economy itself, disruptions in the social order, unemployment, rising crime, prejudice, permissiveness, lack of moral and ethical standards and values, apathy, lenient judicial decisions, and many others. Time will not allow us to go into all of these factors.

It is true that there continues to be some injustice and inequity in our social structure and human relationships. Nevertheless, this can never constitute either a moral or legal justification for people to take matters into their own hands. Those of us who feel that freedom was mainly designed to permit us to do our own thing may one day awaken to the fact that we are not contributing anything to the good of our society. As good Americans we must realize that IF we are to enjoy "inalienable rights" we must, also, accept Unalterable Responsibilities. It has been a lack of such sense that has constituted one of our day's most serious breakdowns which, if continued, can lead only to social and moral bankruptcy.

Following the massive, rebellious protests and riots of some years back, the late Elmo Roper did a survey on the basic causes. That study shed light not only on causes and remedies of riots, and on riot behavior, but revealed a significant area of order in our cities that was obscured by the dramatic impact of the riots. His organization interviewed 500 whites and 500 blacks in each of six cities. What Roper found was more similarities than differences among the six cities.

I quote from his findings: "We found that a riot potential existed in each of the six cities, both those which had experienced riots and those which had not. While some cities were closer to the brink than others, none was immune to the possibility of riot. When the cities were ranked on a combination of indices of Negro discontent, it turned out that the city where Negro turmoil was at its peak was, indeed, in the riot column—but that the city where Negroes were least disturbed was also a riot city. Obviously, if a riot did break out in the least inflamed city, a riot could break out in any of them. The study concluded: there is no single factor or combination of factors which assures that a city will be riot-free."

The maintenance of law and order quite evidently must encompass the quality of our life as well as the economics of our life. It involves not only what kind of a living are we making, but what kind of a life are we making.

Our society continues to be plagued with a rising crime rate. Not too many months ago I read in the U.S. News & World Report an article stating that the FBI found that crime was on the rise last year—and that major crimes, such as rape, murder, and armed assault had risen by 11 percent: Furthermore, right here in the nation's Capital, I heard a recent TV editorial stating that there had been 10,000 major crimes in Washington in 1979. Combatting crime and trying to bring it under even reasonable control is a tremendous task calling for relentless effort. Currently the FBI is, and has been, conducting a campaign against crime that constitutes the greatest effort in its history. It reports to be carrying on simultaneously some fifty undercover operations against the Mafia, as well as any politicians and white-collar criminals whose nefarious actions help the Mafia to prosper.

One of the saddest aspects of the thwarting of law and order is the fact that so much of the crime, in our cities and now in the suburbs, is carried on by youth. More and more young people seem to be turning to crime. Surely a factor contributing to this is that an increasing number of young people are hooked on dope—and many who are not yet hooked say, at the least, that they have tried some kind of dope. I did not research the exact number, but from all reports it is appalling the number of young people in school today who regularly take dope, or have turned in on alcohol. Many of these youths are totally apathetic toward anything that is vital in our society. I expect that a majority of youths in America today are good citizens and, hopefully, are on the right track. It is just unfortunate that there are so many others who have been caught up in ventures that destroy their lives, which results in the breaking of our laws and thence to a disruption of order.

What has led so many youths into ways that are contrary to what are the accepted standards of right living? What has contributed to the attitudes of so many youths who have no respect for law and order, or any kind of authority? Undoubtedly there are many factors, but I want to mention just one that could, conceivably, rest on the doorstep of some of our homes. I sincerely believe that it has been the naive, progressive, totally-permissive attitudes, and the abdication of exercising any kind of authority, that have held sway the last two decades—among cultured, educated, affluent people—which has thrown respect out the window, led to increasing crime and, hence, has seriously hindered law enforcement. Even in many very fine, supposedly-Christian, homes parents have been too busy, or have been afraid or unwilling, to exercise any control over their children. God save the child who has grown up without respect for authority and without any discipline. Surely those parents will have to bear the responsibility for having failed in their tasks.

In addition, I think that our schools must bear part of the responsibility for wayward young people. Some of our school administrators and teachers have been so far out—that they should have been put out of our schools. I had experience with a few, a number of years back. Furthermore, some of the things that are taught in school today, as well as some things which are not taught, contribute to some of the youth attitudes and habits we have mentioned.

A few months ago General Talbott, our Chief of Staff, prepared a report to present to the MOWW Executive Committee at its midwinter staff meeting. Later, I found that, due to a lack of time, he had by-passed a part of his report—a part I found astounding.

One of the most important subjects we are taught is history. Permit me to share with you just a few excerpts from General Talbott's report:

"Do we realize that most American high school history books tilt in favor of the Soviet Union? Our sons and daughters are being taught that Lenin and Stalin were, basically, benign figures, that the Soviets are more sinned against than sinning in the Cold War, that the UN is the neglected vessel of mankind's hopes, and that Castro is an economic and social reformer.

"At the request of the Ethics and Public Policy Center of Georgetown University in Washington, D.C., Martin F. Herz, a veteran diplomat, undertook to examine how six best-selling high school history texts treated sixteen topics of the Cold War. These ranged from the Yalta agreement to the containment policy, from the Berlin blockade to the Cuban missile crisis, from the Korean War to the Vietnam conflict. The conclusions of his 76-page report, How the Cold War Is Taught, are sobering. With the exception of a single paragraph in a single history book, Herz says, 'None of the textbooks can be said to present an overly favorable view of U.S. foreign policy. On the contrary, there is a tendency of several to give the Soviet Union greater benefit of the doubt than is given to the United States'."

It would seem to me that the Military Order of the World Wars has not even scratched the surface with its Patriotic Education program—which our Preamble says we propose to promote in this Nation. In light of the findings of Herz, it would seem it will require the combined efforts of many patriotic organizations such as ours to reverse this teaching trend in many of our schools.

To conclude, I think we live in a marvelous land; America is the greatest nation on earth. What's wrong with America is far less than what is right with America, and there is nothing wrong that cannot be changed through orderly processes. Against the background of this TV age, and in a lighter vein, I might even say that if you "Pour on the Heinz, you can put a lake in your bake, and give a rise to your fries." You can "fill it to the rim with Brim" and you can even get "Midasized in 30 minutes." In the final analysis, however, life is a very serious business—and we must give it our all and our best—every day.

So, I call upon every Companion of the Military Order to renew his/her love for our Country and the Flag—and to do all within the power of each of us to contribute to the order and stability of the land that we love.

As Marvin Stone, Editor of US News & World Report, wrote in his March 3, 1980 editorial, "The road just ahead runs straight uphill. It doesn't take occult powers to realize that. But to predict the more distant future requires a combination of statistical drudgery, intuition and faith. The most important of these is Faith—in ourselves and in our country—because either the presence or the absence of it can be self-fulfilling."•

ADMINISTRATION REVISES OIL BACKOUT LIST

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

• Mr. DINGELL. Mr. Speaker, at the subcommittee's request, the Department of Energy has revised an extensive amount of material obtained by the subcommittee from each of the utilities named on the list of 107 generating units designated by the President on March 6, 1980, for conversion from oil to coal. As a result of that review, the administration has developed a revised list of designated powerplants which are identical to the list adopted by the Senate a few days ago. The Department of Energy's letter and revised list are as follows:

DEPARTMENT OF ENERGY,
Washington, D.C., June 30, 1980.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Energy and Power, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request that the Department of Energy and the Environmental Protection Agency review the initial list of 107 powerplants included in the Administration's "utility oil backout" legislative proposal and provide the Subcommittee on Energy and Power with a revised list of conversion candidates.

In the several months since the original list of plants was compiled, we have received extensive information and comment on the appropriateness of including specific units in the legislation for mandatory prohibitions against the use of oil and natural gas. After carefully reviewing this material, including responses to a survey of affected companies by the staff of the Subcommittee, we believe that the list of plants included in the final version of S. 2470 is an appropriate basis for legislation. We are enclosing a copy of this revised list in the same form as the earlier Administration submission to the Congress.

Although there is a degree of consensus by most interested parties that these plants are appropriate for inclusion in the legislation, some parties have expressed concerns about specific plants; these are noted with an asterisk. The concerns are detailed in the enclosed copy of a Committee staff memorandum to Members of the Senate Committee on Energy and Natural Resources.

The Department of Energy has reviewed those powerplants that have been deleted from and added to the original list, and we are enclosing a technical discussion of the rationale for changes in the original list. In most cases the changes are based on technical and economic considerations which may affect the cost-effectiveness of converting these facilities to coal or alternate fuels. In a few cases these considerations were coupled with strong reservations by the elected officials of areas affected by conversion which suggest specific units would be inappropriate candidates for mandatory prohibitions under this legislation. DOE's accord in any action to remove specific units from the list of candidates for mandatory prohibition under this legislation, however, does not constitute a conclusion that such units may not be appropriate candidates for conversion under existing statutory authorities, including the authority to prohibit excessive use of petroleum or natural gas in units which are capable of using a fuel mixture.

We look forward to working with you in support of timely enactment of this important legislation.

Sincerely,

LYNN R. COLEMAN.

LIST FOR GENERAL PROHIBITION

DOE region, state, company, and station	Units	Name-plate capacity (MW)	In-service (year)
Region I:			
Connecticut:			
Connecticut Light & Power (Northeast Utilities):			
Devon	7	104	1956
Do	8	104	1958
Norwalk Harbor	1	163	1960
Do	2	163	1963
United Illuminating:			
Bridgeport Harbor	3	400	1968
Maine:			
Central Main Power:			
Mason	[1]3	33	1952
Do	[1]4	33	1952
Do	[1]5	33	1955
Massachusetts:			
Boston Edison:			
Mystic	4	125	1957
Do	5	156	1959
Do	6	156	1961
Canal Electric (New England Electric System):			
Canal	[1]1	543	1968
Holyoke Water Power (Northern Utilities):			
Mt. Tom	[1]1	136	1960
New England Power (New England Electric System):			
Brayton Point	[1]1	241	1963
Do	[1]2	241	1964
Do	[1]3	643	1969
Salem Harbor	1	82	1952
Do	2	82	1952
Do	3	170	1958
Western Mass. Electric (Northeast Utilities):			
West Springfield	[1]1	51	1949
Do	[1]2	51	1952
Do	[1]3	114	1957
New Hampshire:			
Public Service of New Hampshire			
Schiller	4	50	1952
Do	5	50	1955
Do	6	50	1957
Rhode Island:			
Narragansett Electric (New England Electric System):			
South Street	[1]12	62	1955
Region II:			
New Jersey:			
Atlantic City Electric:			
Deepwater	7	23	1952
Do	8	75	1954
Do	9	23	1957
Jersey Central Power (General Public Utilities):			
Sayreville	4	122	1955
Do	5	125	1958
Public Service Electric & Gas:			
Bergen	1	325	1959
Do	2	325	1960
Burlington	7	195	1955
Hudson	1	455	1964
New York:			
Central Hudson Gas & Electric:			
Danskammer	3	147	1959
Do	4	239	1967
Consolidated Edison:			
Arthur Kill	2	376	1959
Do	3	535	1969
Ravenswood	[1]3	1028	1965
Long Island Lighting Co.:			
E. F. Barrett	1	188	1956
Do	2	188	1963
Port Jefferson	3	188	1958
Do	4	188	1960
Niagara Mohawk Power:			
Albany	1	100	1952
Do	2	100	1952
Do	3	100	1952
Do	4	100	1954
Orange and Rockland:			
Lovett	4	197	1966
Do	5	202	1969
Region III:			
Delaware:			
Delmarva Power & Light:			
Edge Moor	1	70	1951
Do	2	70	1951
Do	3	75	1954
Do	4	177	1966
Maryland:			
Baltimore Gas and Electric:			
Brandon Shores	[1]1	610	1982
Do	[1]2	610	1984
C. P. Crane	1	190	1961
Do	2	209	1963
H. A. Wagner	[1]1	132	1956
Do	[1]2	136	1959
Pennsylvania:			
Philadelphia Electric:			
Cromby	2	230	1955
Virginia:			
Virginia Electric and Power:			
Chesterfield	3	113	1952
Do	4	188	1960
Do	[1]5	359	1964
Do	[1]6	694	1969
Portsmouth	3	185	1959
Do	[1]4	239	1962
Possum Point	3	114	1955
Do	4	239	1962
Yorktown	1	188	1957
Do	2	188	1959
Region IV:			
Florida:			
Tampa Electric:			
F. J. Gannon	[1]1	125	1957
Do	[1]2	125	1958
Do	[1]3	179	1960
Do	[1]4	187	1963
Georgia:			
Savannah Electric:			
Effingham	1	163	1979
Region V:			
Illinois:			
Commonwealth Edison:			
Collins	4	520	1978
Do	5	520	1979
Michigan:			
Detroit Edison:			
River Rouge	[1]1	283	1956
St. Clair	5	358	1959
Total		17,056	

[1] Denotes units on which there is lack of consensus.●

CAPTIVE NATIONS WEEK

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. OTTINGER. Mr. Speaker, the week of July 13-19 marks the observancé of Captive Nations Week. This year's observance assumes special significance because it occurs against a backdrop of Soviet armies firmly entrenched in Afghanistan. This newest captive nation serves as a constant reminder to the free world that millions of people live under conditions where they are denied the most basic of freedoms.

The cause of human rights and personal liberty remains a universal desire, yet half the world continues to struggle for freedom and independence.

Captive Nations Week gives us the opportunity to remind the world that the Soviet Union holds captive more than just a few dissidents. Nearly half of the two dozen captive nations lie under Soviet domination.

The repression of human rights has been the cornerstone of the captive cause. People throughout the world are denied rights of self-determination, freedom to travel, freedom to worship, and freedom of speech. The trials of Soviet dissidents demonstrate that the Soviet Government has little regard for fundamental rights of individuals. The Soviet policy and practice of silencing dissidents among their own citizens should not be tolerated. We must make it clear to the Soviets that future relations are dependent on their willingness to meet their obligations under the Helsinki Final Act and Universal Declaration of Human Rights.

Those who suffer without freedom look toward America for support. Our country remains the symbol of liberty and the leader in the struggle for universal freedom. It is an important role, one that we must not relinquish. We must demonstrate to captive nations and their oppressors that America will support whatever measures are necessary until the struggle for national independence and human liberty is won.●

STATEMENT OF CHAIRMAN AL ULLMAN, COMMITTEE ON WAYS AND MEANS, WITH RESPECT TO THE RULE TO BE REQUESTED FOR CONSIDERATION OF H.R. 7478, RELATING TO MANAGEMENT OF THE PUBLIC DEBT

HON. AL ULLMAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. ULLMAN. Mr. Speaker, on July 1, 1980, the Committee on Ways and Means ordered favorably reported to the House H.R. 7478, a bill relating to the management of the public debt. Specifically, the bill would permit the Secretary of the Treasury to increase the interest rate ceiling on U.S. savings bonds above the statutory ceiling of 7 percent, as long as the increase in any 6-month period does not exceed 1 percentage point. In addition, the bill would increase the amount of long-term bonds that may be issued with interest rates above the present 4¼ percent ceiling from $50 billion to $54 billion through September 30, 1980. Thereafter the limitation would be further increased to $70 billion.

Pursuant to the rules of the Democratic Caucus, I take this occasion to advise my colleagues as to the nature of the rule that I will request for consideration of H.R. 7478 on the floor of the House. The Committee on Ways and Means specifically instructed me to request the Committee on Rules to grant a closed rule which would only provide for:

First. Committee amendments, which would not be subject to amendment;

Second. One hour of general debate, to be equally divided;

Third. Waiving all necessary points of order; and

Fourth. One motion to recommit, with or without instructions.

We intend to officially report H.R. 7478 to the House on July 22, 1980. It is our intention to request to be heard before the Committee on Rules as expeditiously as possible.●

EDISON VERSUS PUBLIC SERVICE COMMISSION—FREEDOM OF SPEECH

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. FRENZEL. Mr. Speaker, a recent Supreme Court opinion in Consolidated Edison against Public Service Commission reinforced the Court's strong statement in behalf of free speech in First National Bank of Boston against Billottia. The Court wisely held that the New York State Public Service Commission could not prevent a private corporation from informing its customers of its views on controversial issues of public policy.

These two cases illustrate that the Court has lost none of its devotion to the 1st and 14th amendments to our Constitution. They are also an invitation to increase corporate activism by institutions which have too long stood mute while self-proclaimed defenders of the public interest used them as public whipping boys.

It is, in my judgment, a good thing that a power generating utility corporation had the courage to speak up on the issue of nuclear power. I hope many corporations will not be reluctant to exercise their rights of free speech on important public issues through a variety of communications media.

The *Edison* decision also bodes ill for the pending court challenge of independent expenditures in Federal elections. Edison is not necessarily related, but it, like independent expenditures, depends on basic first amendment rights.

The *Edison* case may also affect the Federal Election Commission's decision on the distribution of information, like voting records, which may have some influence on Federal elections.●

TRIBUTE TO BILL CLAY

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. STOKES. Mr. Speaker, it is a privilege for me to pay tribute to my fellow colleague and member of the Congressional Black Caucus, Bill Clay. As Missouri's first black Congressman, he has been one of the few, at times the only, voice in Congress demanding programs for ex-offenders so that they can obtain meaningful employment and return to society. If it were not for CETA and Bill Clay's efforts to implement ex-offender employment programs, I am fully convinced that the level of crime and violence in the streets would be even greater than it is today.

We in Congress know all too well the effect that the administration's current policy is having on double-digit inflation, not to mention depression-like unemployment. Conditions like these produce crime, and the statistics on those in contact with the criminal justice system reflect the economic misery plaguing America today. Studies indicate that about one-half of those arrested in major urban centers are without jobs; those sentenced to prison exhibit unemployment rates that are three-to-four times higher than their nonincarcerated counterparts; and 54 percent of those who are 24 or younger are without jobs 1 year after their release from Federal prisons.

A few years ago, Bill Clay discovered that the Department of Labor had done virtually nothing to provide additional manpower services to offenders. Between fiscal years 1977 and 1979, only $200,000 was actually spent on national office programs for offender employment.

Because of his membership on the House Subcommittee on Employment Opportunities, the subcommittee with jurisdiction over the Department of Labor's employment programs, Bill Clay was able to sponsor 13 offender amendments that became law in the CETA reauthorization of 1978. Those amendments not only require the Government agencies receiving employment funds to address the special needs of offenders, but that efforts to eliminate artificial barriers to employment—barriers caused by arrest or conviction records—must also be undertaken.

But I am especially proud of my colleague for his efforts to implement offender programs. Because offenders were getting virtually nothing in the way of targeted job programs, Bill Clay offered an amendment on the floor of the House last June to earmark $5 million for offender employment programs.

Mr. Speaker, that amendment passed the House, but unfortunately was later deleted from the final appropriation bill in lieu of report language directing the Secretary of Labor to allocate a significant portion of funds for offender employment projects. Through Bill Clay's efforts, DOL allocated approximately $4.6 million in fiscal year 1980 for national ex-offender programs.

This year, the gentleman from Missouri succeeded in adding nine offender-related amendments to the Youth Act of 1980, currently pending on the floor. If and when this legislation is passed, Bill Clay's amendments will mean that starting in fiscal year 1982, recipients of entitlement funds under title IV of CETA—the youth section—will be required to create programs tailored to the needs of youthful offenders.

This is quite a record of achievement, although certainly much more in the way of funds should be allocated to human services. The recent vote to increase defense spending by billions means quite simply, that the dominant interests who control Congress have written off sizable segments of the poor. For some, I confess, crime has already become a way of existence.

In a very special way, Mr. Speaker, Bill Clay understands the conditions that lead offenders into trouble with the law. He represents the First District of St. Louis with its high levels of unemployment. During the mid-fifties and early sixties, he was arrested over 100 times for demonstrating on behalf of efforts to eliminate racial discrimination. At the age of 25, he ran for the board of alderman in St. Louis, won, and was reelected. Since 1969, his constituents have reelected him to Congress as an advocate for social legislation, such as his support for the original Humphrey-Hawkins full employment bill.

Mr. Speaker, it is indeed a pleasure for me to recognize the outstanding legislative contributions of Congressman Bill Clay.●

INTEREST RATES HURT FARMERS

HON. JACK HIGHTOWER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. HIGHTOWER. Mr. Speaker, interest rates hurt farmers as much or more than any segment of the economy and the entire economy has been brought to its knees by the current rates of interest.

Commodity loan rates that farmers can get on their crops are now at 11 percent and facility loans are at 13 percent from the Department of Agriculture. This continues in spite of the fact that the cost of money to the Government as of July 1, is 8¼ percent.

In Texas, farmers are putting new crop wheat into the loan today. There is no reason that these interest rates cannot be brought into line to help take some of this pressure off the farmer. If the Department of Agriculture would act now, today, many farmers that might not go into the loan or have to go in at the higher interest rate would be helped. If USDA waits a month or two to make the decision, farmers in my area will have already made their decision and it will be too late once again. On Thursday, I will send a letter to Secretary Bergland requesting prompt action to lower interest rates on commodity and facility loans from ASCS. I invite any Member wishing to cosign the letter to let me know by noon on Thursday, July 3.●

THE ADMINISTRATION HAS ABANDONED ISRAEL AGAIN

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. OTTINGER. Mr. Speaker, I rise to deplore the fact that the administration has once again turned its back on Israel through its failure to veto Monday's Security Council resolution on Jerusalem. In abstaining from voting on this resolution which condemned Israel's claim that Jerusalem is its capital, the administration has once again betrayed our most steadfast Middle East ally.

Let us not forget that only 4 years ago the Democratic platform, on which President Carter ran, pledged to support Israel in establishing Jerusalem as its capital and moving the U.S. Embassy from Tel Aviv to Jerusalem. Now Mr. Carter remains silent as the United Nations votes to declare that such actions would hamper the peace process. Nonsense. Thirteen nations currently have embassies in Jerusalem. Rather than acquiescing to this regrettable U.N. vote, the administration should, at long last, move our Embassy to Jerusalem.

I thus urge my colleagues to support House Concurrent Resolution 171 which I introduced on August 1, 1979. This resolution would have the United States recognize Jerusalem as the capital of Israel and relocate our Embassy there. Congress must stand up and insist that we stand by Israel.●

HONORING JAN PEERCE: AMERICA'S MOST FAMOUS OPERATIC TENOR

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. OTTINGER. Mr. Speaker, I am privileged to call to the attention of my colleagues the achievements of Jan Peerce, an outstanding performing artist who has contributed tremendously to the cultural life of the entire world. Jan Peerce is celebrating his 50th season as America's most famous operatic tenor this year. His impressive list of achievements truly serves as an inspiration to all, not the least of which is the extraordinary longevity of his operatic performance, 50 years probably setting a world record.

Jan Peerce is known and loved across our country. He regularly sings in communities throughout the United States: From New York to Miami, from Atlantic City to San Francisco. He is as familiar and popular in small towns as he is in the largest of cities.

Jan Peerce has been successful not just as one of the most noted operatic singers in the world, but also in virtually every facet of entertainment: concerts, film, television, and on Broadway. For 6 months he performed in the starring role of Tevye in the recordbreaking performance of "Fiddler on the Roof." Recently, he made his second tour of Australia, and regularly makes musical cruises of the Caribbean aboard the S.S. *Rotterdam*, in addition to his yearly schedule of crosscountry and international concerts. Adding another honor to his many accomplishments, Jan Peerce's autobiography "The Bluebird of Happiness" (prepared by the noted American author and journalist, Alan Levy), has had considerable success in bookstores everywhere.

It is a constant source of astonishment to his worldwide audiences in Paris and London, Tel Aviv, and Tokyo, that Jan Peerce is not only American born but entirely the product of American operatic training. Jan Peerce's rise from the streets of New York's Lower East Side was long and hard. He made his first money singing in a synagogue at the age of 11, relentlessly pursuing his goal, he earned his living as a violinist and band leader, taking voice lessons at every opportunity.

Tributes and honors to Jan Peerce's artistry have been bestowed on him from all over the world. European governments have honored him for bringing their countries and the United States closer together through the development of cultural ties. One wall of his study in New Rochelle, N.Y., is paneled with honors and awards, including an honorary doctorate of music from the New York College of Music, and the Handel Medallion from the City of New York in recognition of his artistic and humanitarian contributions to the citizens of his native town.

Jan Peerce has also been a leading member of the Jewish community. He has made significant contributions to preserving and enriching Jewish musical cultural heritage. In addition, he and his wife Alice have been major national figures in ongoing efforts to develop support for the State of Israel.

Jan Peerce has enriched the lives of all who have known him or heard his music. I am proud to call Jan Peerce and his wife Alice my friends.●

SETTING THE RECORD STRAIGHT ON THE KEMP-GARCIA ENTERPRISE ZONES BILL

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. GARCIA. Mr. Speaker, I am one of the two drafters of a bill which is designed to provide jobs and small businesses to America's most severely depressed inner cities and rural areas. The other drafter is JACK KEMP. Clearly, JACK and I disagree on many issues. Equally clearly, when we draft legislation together as we did on the Urban Jobs and Enterprise Zones Act (H.R. 7563), we are asking our colleagues and their staffs to take a nondogmatic approach to our work, to judge it on what it says, and to consider carefully whether it will do what it says it will do.

To that end, I am somewhat concerned by the fact that another member has distributed a "Dear Colleague" letter to many of our colleagues which inadvertently but substantially misrepresents what my bill says and does. JACK and I have spent many weeks rewriting JACK's earlier bill in order to orient it more precisely:

To the provision of jobs to underemployed inner-city youth;

To the increased hiring of the rural and urban poor;

To the strengthening of the social security system;

To the assurance that funding levels of existing social programs will not be affected within enterprise zones; and

To the economic revitalization of our Nation's most severely distressed slums.

Our enterprise zones bill, in essence, would permit localities that wished to do so the option of cutting a host of personal and business taxes within the most harshly impoverished neighborhoods of the United States. Apart from my surprise that our colleague inadvertently neglected to mention in his letter that the bill is as much my authorship as it is my codrafter's, I would hope other Members and their staffs understand that he mistakenly depicts what the bill actually states.

First, my bill is neither a replacemnt nor an add on to Kemp-Roth, as the letter suggests. I do not support Kemp-Roth for I dispute the utility of the Laffer Curve upon which it is based. However, both Jack and I agree that one need not endorse the Laffer Curve in order to support the concept of cutting tax rates in designated areas, where businesses do not presently exist, in order to reduce the startup costs for local entrepreneurs who would initiate their own businesses but for tax costs which they find prohibitively expensive.

Second, the decision as to what constitutes an enterprise zone is not left to any Federal agency, as the letter suggests. My bill specifically leaves that decision to local and State governments who know best the economic conditions within their borders. These zones, essentially, will be the areas of the United States with the worst poverty and the highest unemployment. Moreover, my bill is a demonstration program. No governmental unit need attempt the experimental approach I offer if it does not want to attempt it. It's that simple. If a governmental body does try my approach, the bill provides that existing levels of social program funding, which are often dependent upon taxes collected in an area, will be unaffected. Furthermore, the argument advanced in the letter that my bill's eligibility requirements will not work because the Ford administration once attempted a plan whose eligibility requirements did not work is, at most, interesting.

Third, the letter states that an industry qualifies for tax benefits if one-third of its workers live around the enterprise area. Thus, it is argued, two-thirds of those benefited could live in the suburbs and enjoy a tax windfall. What the bill actually requires—among several requirements—is that at least 30 percent of the families living in the designated zone be below the poverty level and that the average rate of unemployment in the zone for the most recent 2-year period in which data are available be at least twice the average national rate of unemployment for that period. Moreover, it requires that at least half the people in the businesses assisted by the cuts in tax rates within the zones be residents of the same zones. This, I would contend, is a far cry from what the "Dear Colleague" letter suggests.

Fourth, the letter states that the bill fails because local governments do not have the authority in most States to cut property taxes within the zones. This premise is correct, but it is precisely that lack of authority which prompted Jack and me to provide flexibility in our bill by permitting any appropriate level of government—State, county, or municipality—the power to cut property taxes with the State's approval. Legally, of course, we have done nothing other than to affirm a power which every State already possesses.

Fifth, the letter states flatly that workers who reside in the enterprise zones would have to pay more taxes than they do at present. Were this to occur it would be illegal, for by law the only way a State could designate a particular area as an enterprise zone is by mandating that its residents—working and unemployed—pay fewer taxes than they do at present.

Sixth, the letter suggests that my bill would weaken the social security trust fund. Nothing could be further from the truth. Precisely because I agree with the author of the "Dear Colleague" letter that job incentives for innercity youth should not be paid for by reduced benefits to the innercity elderly, I have added a section to my bill which provides specifically that any reduction of social security tax collections is to be made up from general revenues.

Seventh, the letter states that "it is incredible that the Kemp plan should have exempted the State government from making a contribution." On the contrary, Jack and I specifically provide that the only way an area can qualify as an enterprise zone is if the State government alone, or both the State and local governments which have taxing powers acting together, agree to reduce property taxes within the zone. If they do not so agree, then they have acted effectively to refuse participation in our experimental community economic redevelopment project.

Eighth, finally, and most mistakenly, the letter argues with great passion that my bill is a bad one because it replaces already existing social programs for the poor, the innercity youth, and the vulnerable worker. All this is done, according to our colleague, because I wish to replace these approaches with a tax cut which will go toward big business. As a liberal, I have devoted my entire political career at the local, State, and Federal levels to developing and nurturing those programs. My bill, therefore, deliberately reflects this orientation by requiring specifically, first, that the property tax reduction is to be disregarded for tax effort purposes and second, that it is supplementary to these programs. It is most emphatically not a replacement of them. Moreover, numerous academic—for example, MIT—and Federal—for example, SBA—studies indicate pretty conclusively that the incentives offered by this bill are not the sort that will induce resettlement of existing businesses into a poverty area. Rather, this bill is designed to encourage the creation of small businesses owned and operated by the very people who live within a designated enterprise zone.

Favorable columns on the Kemp-Garcia Urban Jobs and Enterprise Zones Act have been written by William Raspberry, George Will, the staffs of the Detroit News and the Washington Post, and 3 weeks ago a laudatory op-ed piece appeared in the New York Times. I, of course, would welcome your cosponsorship of my bill, for it is my honest personal belief that it represents an excellent supplemental new approach to urban and rural redevelopment.

Our slums now produce little revenue either for their residents—that is, wages—or for their governments—that is, taxes. I believe that it makes a great deal of sense to supplement existing programs with tax cuts to the poor and to those in impoverished neighborhoods who wish to become small business persons in order to assist people, who often live out their entire lives without hope of economic betterment, to become active producers of revenue. This assessment is based upon my work as a highly involved member of the Subcommittee on Housing and Community Development and my representation of the people of the South Bronx.

Jack and I will be conducting hearings in Congress and around the country to allow those who would be most affected by the bill to comment upon it. We welcome criticism of it, and we are both quite amenable to amending our legislation in any way that will improve it. Recognizing that our bill would represent a historical new approach to urban and rural redevelopment, one that would in all likelihood help existing social programs to work more effectively, all we ask is that you read the bill, think about what it offers and what its possible problems are, and ultimately judge it on what it says.●

FORMER PRESIDENTS FACILITIES AND SERVICES REFORM ACT OF 1980

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. OTTINGER. Mr. Speaker, on July 1, I introduced the Former Presidents Facilities and Services Reform Act of 1980, H.R. 7713. The purpose of this legislation is to place limits and restrictions on the services and allowances provided to former Presidents, their wives and widows, and minor children in order to bring this area of expenditure back under control. This year, these costs have for the first time exceeded the White House appropriation; and in fiscal year 1981 are expected to approach $22 million.

I believe that we owe our former Presidents security from physical threats, an adequate pension, and financial assistance to help them respond to the many requests for information they receive resulting from the fact that they served as President of this country. At the same time, it is important to remember that former Presidents are private citizens with no formal Government duties or responsibilities.

A decade ago, the cost of providing for former Presidents was less than $4 million; today it is approximately $22 million. For example, the cost of maintaining Presidential Libraries has grown from less than $2 million 10 years ago to $12.5 million in 1981. Clearly, we must exert control over the escalating costs of providing for former Presidents.

This legislation is intended to control these expenditures in a number of ways. The bill would:

Establish a central Presidential Library for the deposit and preservation of the records of former Presidents,

Limit Secret Service protection to a period of 8 years beginning on the effective date of this title or the date on which the person becomes a former President, and to periods of actual threat,

Place a lid on allowances for office and staff of former Presidents, gradually reducing the funds over time to a maximum of $200,000, and

State that Federal funds cannot be used for partisan political or income-generating activities.

It has also become apparent over the last several months that the American taxpayers want to see all Federal expenditures reviewed and, where appropriate, reduced. They believe, as I do, that these programs must not be exceptions to that rule. This bill is balanced to meet the needs of former Presidents and also to serve the taxpayers' interest in placing controls on an area of runaway Government expenditures.

Identical legislation has been introduced in the Senate by Senators CHILES, PRYOR, and PERCY. Joint hearings were held by the Senate Appropriations Subcommittee on Treasury, Postal Services, and General Government, and the Governmental Affairs Subcommittee on Civil Service and General Services.

I am hopeful that the House will act on this important cost-saving measure in the near future.●

SOLZHENITSYN ON RUSSIA AND AMERICA

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. DORNAN. Mr. Speaker, when I last visited the headquarters of the Tactical Air Command, its commander, Air Force Gen. William Creech recommended to my reading an amazing article by the most renowned Russian living outside of the U.S.S.R. Aleksandr Solzhenitsyn, probably the world's greatest literary artist, recently published his article in the Washington Post detailing the conceptual misunderstandings that animate modern American foreign policy. The main lesson of the Russian writer's essay is that the conflict between East and West is, in its essence, an ideological rather than a national conflict, a conflict between elites rather than nations. It is a struggle rooted in a profound disagreement over the nature of man, the meaning of human liberty and the role of personality, and, indeed, the ultimate purpose of life itself. What the great Russian writer is trying to tell us is that, as Americans, we have no conflict with the Russian people; their Russianness, their very ethnicity, constitutes no inevitable or pernicious threat to us or our own way of life. Indeed, to argue otherwise is to fall victim to a simplistic racial or ethnic interpretation of history, an odd quirk of intellectual fate for the leadership of a liberal democratic Western power that prides itself on its momentous defeat of racialist or ethnocentric ideology as embodied in the Nazi Reich.

Mr. Speaker, it is not the Russians who threaten the destruction of Western liberty; it is the Communists, the unelected Kremlin elite, who have declared a comprehensive ideological war against the Western powers and their allies. This is a simple truth that we have all too often forgotten in the heat of cold war rhetoric; and the injustice of our own habitual misunderstandings are thus visited upon a whole people who themselves have been the first and most long-suffering victims of Soviet communism. Lenin, himself, expressed utter contempt for Russia and things Russian. It is the religious traditions and cultural values of Russia that have suffered direct persecution from a minority Communist elite of men who view such traditional values as backward and alien to the minds of the ruling Communist progressives. Ironically, the same Kremlin hatred of traditional moral and cultural values animates certain deracinated Western intellectuals, a fact that might explain the conscientious attempt to focus not on an aggressive, doctrinaire Communist ideology, but on the primary victims of that ideology—the Russian people and their own national traditions. For the edification of my colleagues, I submit for the record Solzhenitsyn's profound analysis.

SOLZHENITSYN: WHY AMERICANS FAIL TO UNDERSTAND RUSSIA

(By Alexander Solzhenitsyn)

Anyone not hopelessly blinded by his own illusions must recognize that the West today finds itself in a crisis, perhaps even in mortal danger. One could point to numerous particular causes or trace the specific stages over the last 60 years which have led to the present state of affairs. But the ultimate cause clearly lies in 60 years of obstinate blindness to the true nature of communism. . . .

Two mistakes are especially common. One is the failure to understand the radical hostility of communism to mankind as a whole—the failure to realize that communism is irredeemable, that there exist no "better" variants of communism; that it is incapable of growing "kinder," that it cannot survive as an ideology without using terror, and that, consequently, to coexist with communism on the same planet is impossible. Either it will spread, cancer-like, to destroy mankind, or else mankind will have to rid itself of communism (and even then face lengthy treatment for secondary tumors).

The second and equally prevalent mistake is to assume an indissoluble link between the universal disease of communism and the country where it first seized control—Russia. This error skews one's perception of the threat and cripples all attempts to respond sensibly to it, thus leaving the West disarmed. This misinterpretation is fraught with tragic consequences; it is imperiling every nation, Americans no less than Russians. One will not have to await the coming of future generations to hear curses flung at those who have implanted this misapprehension in the public awareness. . . .

The American reader receives his information about, and forms his understanding of, Russian history and the present-day Soviet Union chiefly from the following sources: American scholars (historians and Slavists), American diplomats, American correspondents in Moscow and recent emigres from the U.S.S.R. . . .

In recent years American scholarship has been noticeably dominated by a most facile, one-dimensional approach, which consists in explaining the unique events of the 20th century, first in Russia and then in other lands, not as something peculiar to communism, not as a phenomenon new to human history, but as if they derived from primordial Russian national characteristics established in some distant century. This is nothing less than a racist view. The events of the 20th century are explained by flimsy and superficial analogies drawn from the past. While communism was still the object of western infatuation, it was hailed as the indisputable dawning of a new era. But ever since communism has had to be condemned, it has been ingeniously ascribed to the age-old Russian slave mentality.

This interpretation currently enjoys wide support, since it is so advantageous to many people: If the crimes and vices of communism are not inherent to it, but can be attributed entirely to the traditions of old Russia, then it follows that there exists no fundamental threat to the western world; the rosy vistas of detente are preserved, together with trade and even friendship with communist countries, thereby ensuring continued comfort and security for the West; western communists are freed from incrimination and suspicion ("they'll do a better job; theirs will be a really good communism"); and a burden falls from the conscience of those liberals and radicals who lent so much of their fervor and their assistance to this bloody regime in the past.

Scholars of this persuasion treat the history of the old Russia on a correspondingly preemptory manner. They permit themselves the most arbitrary selection of phenomena, facts and persons, and accept unreliable or simply false versions of events. Even more striking is their almost total disregard for the spiritual history of a country which has been in existence for a thousand years, as though (as Marxists argue) this has had no bearing upon the course of its material history. . . .

Richard Pipes' book "Russia Under the Old Regime" may stand as typical of a long series of such pronouncements that distort the image of Russia. Pipes shows a complete disregard for the spiritual life of the Russian people and its view of the world—Christianity. He examines entire centuries of Russian history without reference to Russian Orthodoxy and its leading proponents (suffice to say that St. Sergius of Radonezh, whose influence upon centuries of Russian spiritual and public life was incomparably great, is not once mentioned in the book, while Nil Sorsky is presented in an anecdotal role). Thus, instead of being shown the living being of a nation, we witness the dissection of a corpse. Pipes does devote one chapter to the church itself, which he sees only as a civil institution and treats in the spirit of Soviet atheistic propaganda. This people and this country are presented as spiritually underdeveloped and motivated, from peasant to tsar, exclusively by crude material interests.

Even within the sections devoted to individual topics there is no convincing, logical portrayal of history, but only a chaotic jumble of epochs and events from various centuries, often without so much as a date. The author willfully ignores those events, persons or aspects of Russian life which would not prove conducive to his thesis, which is that the entire history of Russia has had but a single purpose: the creation of a police state. He selects only that which contributes to his derisive and openly hostile description of Russian history of the Russian people. The book allows only one possible conclusion to be drawn: that the Russian nation is antihuman in its essence, that it has been good for nothing throughout its thousand years of history, and that as far as any future is concerned it is obviously a hopeless case. . . .

There are two names which are repeated from book to book and article to article with a mindless persistence by all the scholars and essayists of this tendency: Ivan the Terrible and Peter the Great, to whom—implicitly—they reduce the whole sense of Russian history. But one could just as easily find two or three kings no whit less cruel in the histories of England, France or Spain, or indeed of any country, and yet no one thinks of reducing the complexity of historical meaning to such figures alone. And in any case, no two monarchs can determine the history of a thousand-year-old nation. But the refrain continues. Some scholars use this technique to show that communism is possible only in countries with a "morally defective" history, others in order to remove the stigma from communism itself, laying the blame for its incorrect implementation upon Russian national characteristics. . . .

With American scholars demonstrating such a fundamental misunderstanding of Russia and the U.S.S.R., the blunders perpetrated by politicians come as less of a surprise: Although they are ostensibly men of action, their heads are ever under the sway of current theories and their hands shackled by the exigencies of the moment.

Only the combined effect of these factors can account for the notorious resolution on the "captive nations" (PL 86-90), passed by the U.S. Congress on July 17, 1959, and subsequently renewed: The manifest culprit, the U.S.S.R., is nowhere identified by name; world communism is referred to as "Russian"; Russia is charged with the subjugation of mainland China and Tibet and the Russians are denied a place on the roll of oppressed nations (which includes the nonexistent "Idel-Ural" and "Cossackia").

Ignorance and misunderstanding have clearly spread far beyond this one resolution.

Many present and former U.S. diplomats have also used their office and authority to help enshroud Soviet communism in a dangerous explosive cloud of vaporous arguments and illusions. Much of this legacy stems from such diplomats of the Roosevelt school as Averell Harriman, who to this day assures gullible Americans that the Kremlin rulers are peace-loving men who just happen to be moved by the heartfelt compassion for the wartime suffering of their Soviet people. (One need only recall the plight of the Crimean Taters, who are still barred from returning to the Crimea for the sole reason that this would encroach upon Brezhnev's hunting estates.) In reality the Kremlin leadership is immeasurably indifferent to and remote from the Russian people; a people whom they have exploited to the point of total exhaustion and near extinction, and whom, when the need arises, they will mercilessly drive to destruction in their millions.

By means of his essays, public statements and words of advice, all of which are supposedly rooted in a profound understanding of Soviet life, George Kennan has for years had a major detrimental influence upon the shape and direction of American foreign policy. He is one of the more persistent architects of the myth of the "moderates" in the Politburo, despite the fact that no such moderates have ever revealed themselves by so much as a hint. He is forever urging us to pay greater heed to the Soviet leaders' pronouncements and even today finds it inconceivable that anyone should mistrust Brezhnev's vigorous denials of aggressive intent. He prefers to ascribe the seizure of Afghanistan to the "defensive impulses" of the Soviet leadership. Many western diplomats have abandoned painstaking analysis in favor of incurable self-delusion, as we can see in such a veteran of the political arena as Willy Brandt, whose "Ostpolitik" is suicidal for Germany. Yet these ruinous ventures are the very ones honored with Nobel Prizes for Peace.

I would note here a tendency which might be called the "Kissinger syndrome," although it is by no means peculiar to him alone. Such individuals, while holding high office, pursue a policy of appeasement and capitulation, which sooner or later will cost the West many years and many lives, but immediately upon retirement the scales fall from their eyes and they begin to advocate firmness and resolution. How can this be? What caused the change? Enlightenment just doesn't come that suddenly. Might we not assume that they were well aware of the real state of affairs all along, but simply drifted with the political tide, clinging to their posts?

Long years of appeasement have invariably entailed the surrender of the West's positions and the bolstering of its adversary. Today we can assess on a global scale the achievement of the West's leading diplomats after 35 years of concerted effort: They have succeeded in strengthening the U.S.S.R. and Communist China in so many ways that only the ideological rift between those two regimes (for which the West can take no credit) still preserves the western world from disaster. In other words, the survival of the West already depends on factors which are effectively beyond its control.

These diplomats still fall back on their precarious assumptions about an imaginary split within the Soviet Politburo between nonexistent "conservatives" and "liberals," "hawks" and "doves," "Right" and "Left," between old and young, bad and good—an exercise of surpassing futility. Never has the Politburo numbered a humane or peace-loving man among its members. The communist bureaucracy is not constituted to allow men of that caliber to rise to the top—they would instantly suffocate there.

Despite all this, America continues to be fed a soothing diet of fond hopes and illusions. Hopes have been expressed of a split in the Politburo, with one particular version claiming that it was not in fact Brezhnev who occupied Afghanistan! Or else leading experts have offered the fancy that "the U.S.S.R. will meet its Vietnam," be it in Angola, Ethiopia or Afghanistan. (These experts and their readers may rest assured that the U.S.S.R. is at present quite capable of gobbling up five more such countries, swiftly and without choking.) And again and again we are asked to set our hopes on detente despite the trampling of yet another country. (There is indeed no cause for alarm here, for even after Afghanistan the Soviet leaders will be only too happy to restore detente to the status quo ante—an opportunity for them to purchase all that they require in between acts of aggression.)

It goes without saying that America will never understand the U.S.S.R. or fully grasp the danger it poses by relying on information from diplomats such as these.

But politicians of that ilk have lately been reinforced by recent emigres from the Soviet Union, who have set about actively promoting their own spurious "explanation" of Russia and the U.S.S.R. There are no outstanding names among them, yet they earn prompt recognition as professors and Russian specialists thanks to their sure sense of the kind of evidence that will find favor. They are persistent, outspoken and repetitious contributors to the press of many countries, and the more or less concerted line which they take in their articles, interviews and even books may be briefly summed up as follows: "collaboration with the communist government of the U.S.S.R., and war on Russian national consciousness."

While these individuals were still in the U.S.S.R. they generally served the communist cause in various institutes, or were even actively employed for a number of years in the mendacious communist press, without ever voicing opposition. Then they emigrated from the Soviet Union on Israeli visas without actually going to Israel (the Israelis term them "dropouts"). Having reached their destinations in the West, they immediately proclaimed themselves experts on Russia, on her history and national spirit, and on the life of the Russian people today—something which they could not so much as observe from their privileged positions in Moscow. . . .

The efforts of these tendentious informants have been supplemented and reinforced over the last year by a number of articles written by American journalists and in particular by the Moscow correspondents of American newpapers. The gist of these articles is more of the same: the grave threat which any rebirth of Russian national consciousness is said to pose to the West; an unabashed blurring of distinctions between Russian Orthodoxy and anti-Semitism (when it is not explicitly claimed that the two are identical, they are obtrusively juxtaposed in consecutive phrases and paragraphs); finally there is the extraordinary theory according to which the rising forces of national and religious consciousness and the declining, cynical communist leaders have but a single dream—to merge together into some sort of "New Right." The only puzzling question is what has been stopping them from doing just that for all these years? Who is there to forbid it? The truth of the matter is that religious and national circles in the U.S.S.R. have been systematically persecuted with the full force of the criminal code.

At first glance one is struck by how closely accounts by emigre informants and by free American correspondents coincide: If two independent sources report one and the same thing, then there must surely be something to it. But one must take into account the circumstances under which all western correspondents have to operate in the Soviet Union: Authentic Soviet life, especially life in the provinces and in the rural districts, is hidden from their view by an impenetrable wall; any trips they make out of the city are purely cosmetic, and are carefully stage-managed by the KGB; moreover, it is extremely hazardous for ordinary Soviet people in the provinces to engage in conversation with a foreigner, other than at the KGB's behest. Typical is Robert Kaiser's admission that in the four years he spent as Moscow correspondent of The Washington Post he had heard no mention whatever of the massive Novocherkassk uprising of 1962.

The western correspondent relies for his information upon the following: a careful screening of the vacuous and sterile official Soviet press; off-the-record comments and speculations gleaned from western diplomats (the sources coincide); and chance encounters with middle-level representatives of the Soviet elite (but as human material this is too shoddy and unreliable to merit serious attention). Their chief source, however, is the conversations they have with those few Muscovites who have already irrevocably violated the ban on fraternizing with foreigners, usually these are representatives of the same Moscow circles to which the aforementioned emigre informants once belonged. They are the chief source of information used in strident doom-laden articles about the worldwide menace of Russian nationalism. And this is how some anonymous anti-Semitic leaflet in a Moscow gateway is taken up by the western press and invested with universal significance. But it also explains why the sources so often agree: An image of the world is formed in accordance with its reflection in a single splinter of glass. In physics this is known as systematic instrument error.

But when some information happens to point in a different direction, when it fails to tally with what the western press is presently looking for in Moscow, then it is simply suppressed. A case in point is the extremely important interview which Igor Shafarevich gave to Christopher Wren of The New York Times, but which was not published in the western press. In the same way western scholars and the western press have been ignoring the Herald of the Russian Christian Movement (*Vestnu Russkogo Khristianskogo Dvizheniia*), a Paris-based journal which has been appearing for half a century; yet the journal enjoys great popularity in cultivated circles and is in fact published with their direct participation. Acquaintance with this journal would give western commentators quite a different picture, far removed from the horrors they are wont to describe.

Only this absence of informed opinion can account for the warped view that the main problem in the U.S.S.R. today is that of emigration. How can the problems of any major country be reduced to the issue of who is allowed to depart from it? Here and there in the Russian provinces (Perm was a recent example) strikes involving many thousands of starving workers have been dispersed by force of arms (paratroops have even had to be dropped onto the factory roof)—but is the West alert enough to note all this and to react to it?

And what of the far-reaching process which is now under way in Russia and which is scheduled for completion in 10 to 15 years, a process threatening the very survival of the Russian people? It aims at nothing less than the final destruction of the Russian peasantry; huts and villages are being razed, peasants are being herded together in multi-storied settlements on the industrial model, links with the soil are being severed; national traditions, the national way of life, even apparently the Russian landscape and the national character—all are disappearing forever. And the reaction of the meager western news media to this murderous communist onslaught on the very soul of our people? They have not so much as noticed it!

In the first revolution (1917-20) Lenin's curved dagger slashed at the throat of Russia. Yet Russia survived. In the second revolution (1929-31) Stalin's sledgehammer strove to pound Russia to dust. Yet Russia survived. The third and final revolution is irrevocably under way, with Brezhnev's bulldozer bent on scraping Russia from the face of the earth. And at this moment, when Russian nationhood is being destroyed without pity, the western media raise a hue and cry about the foremost threat to the world today—Russian national consciousness . . .●

PERSONAL EXPLANATION

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. OTTINGER. Mr. Speaker, a longstanding commitment in my district last evening required me to miss votes on rollcall Nos. 390 and 391. Had I been present I would have voted "aye" on the amendment offered by Mr. Fish to H.R. 7584, "State-Justice appropriations" to provide additional funds for the Immigration and Naturalization Service border patrol—which passed 337 to 72—and "aye" on the amendment offered by Mr. McClory also to H.R. 7584 "State-Justice appropriations" which would have mandated that $100 million from existing funds for the Justice Department be set aside for the LEAA which I feel badly needs additional support—it failed by a vote of 182-221.●

TRIBUTE TO WILLIE McCOVEY

HON. BILL ROYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. ROYER. Mr. Speaker, I rise today to mark the passing of an era in American baseball. On July 7, 1980, the San Francisco Giants' star first baseman, Willie McCovey, will hang up his spikes, and retire from organized baseball.

When Willie leaves the diamond for the last time, he will leave a void that will not be easily filled. I recall fondly his very first game as a Giant—how he went four for four—a triple, two doubles and a single—and by so doing relegated another player to the relative obscurity of the outfield: Orlando Cepeda.

"Stretch," as he is known to baseball fans worldwide, is one of the most positive persons I have had the pleasure of knowing. He brought to the game of baseball not only his tremendous skills and awesome power, but also a sense of humor, a steadiness, and a gentleness that served as a model for his teammates, coaches, and fans alike. His ability to get the clutch home run was legendary. Just thinking of the many times when, at a crucial point in the game, Willie strode to the plate with runners on and whacked a mighty blow, saving the day for the Giants, makes my heart race again.

So I ask that you, my colleagues, join with me today in honoring this great athlete who has provided so much flavor and interest in the fabric of our everyday lives. My children and my children's children understand life a little better because of Willie McCovey and the example he set. My mind is cluttered with the many happy memories of his sterling play, his tremendous swing. Our lives will be a little less dramatic, a little less exciting, without Willie on the field—but they have been so enriched by the fact that he was out there for a three-decade span. Goodby Willie—and thanks.●

RECENT EVENTS IN SOUTH KOREA

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. BONKER. Mr. Speaker, I am deeply disappointed and concerned about recent events in South Korea. Several months ago, when I visited that country, I was impressed by the determination of most segments of Korean society to work together to bring about greater progress toward democracy. Every sign pointed in the direction of instituting a truly democratic system. In meeting after meeting, Koreans from all walks of life, in and out of government, expressed the hope that the provisional government would be able to manage an orderly and constitutional transition under civilian rule. They spoke of looking forward to the constitutional changes and free elections which would give them a new government broadly supported by all segments of Korean society. All of us who advocate the cause of human rights in the world were encouraged by what seemed to be a very promising situation leading to the political liberalization of South Korea.

Today, these hopes lie shattered as the Korean military moved quickly to reinstitute a severe martial law, which curbed the incipient political process, led to the closing of the national assembly and universities, forced the abandonment of all political activity, and led to the arrest of many major political figures.

I had the pleasure of meeting most of the civilian leaders but one of them, Kim Dae Jung, is easily the most popular figure in Korea. There is great fear about his safety. Since the repressive crackdown, nothing has been heard about his whereabouts or any of the other imprisoned leaders. Their families have not been allowed to see them and with each passing day, concern grows about their health and well-being. Rumors are rife that the surrogate government is preparing staged trials for the political leaders in its custody, either to execute them or to confine them to long imprisonment.

Our Government must make it clear that this would be a terrible mistake. Force should not be the answer to legitimate dissent. Discontent in South Korea will not disappear until all Koreans are assured the full protection of their basic human rights and a fair voice in their government.

South Korea's national security is dependent on stability and stability can be best insured by a broad national consensus. In fact, South Korea's future growth and development are dependent on the support of the people rather than on measures which restrict their civil and political liberties. If the South Korea Government is perceived by its own people as a renegade government, who will defend it if an emergency should arise? Facing a hostile enemy, how will it survive if its own population is hostile as well?

Our democratic ideals and our security interests make it essential for us to use our influence to guide South Korea back on the road to constitutional reform, elections, and a new government with broad support from the Korean people. Unless this takes place, it will be increasingly difficult to justify to the American people the continuation of our close relationship.

Action is needed now. Public and private expressions of concern are not enough. Our Government must act forcefully and call for the release of political leaders such as Kim Dae Jung. We must call for the reopening of the national assembly and the universities and, above all, we must call for an end to the day-to-day involvement of Korean generals in the political affairs of the country.

I share with my colleagues a deep commitment to the political independence and territorial integrity of South Korea and I look with pride on the mutually productive relationship that has developed between our two countries. I feel compelled, however, to remind all that it has never been the lack of weapons but internal discord and insensitivity to human needs that threaten repressive governments, and often, our own security interests.●

H.R. 6806

HON. AL ULLMAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. ULLMAN. Mr. Speaker, on July 1, 1980, the Committee on Ways and Means ordered favorably reported to the House H.R. 6806, with amendments. H.R. 6806 relates to the accounting treatment of the investment tax credit and accelerated depreciation for public utility ratemaking purposes.

Pursuant to the rules of the Democratic Caucus, I take this occasion to advise my colleagues as to the nature of the rule that I will request for consideration of H.R. 6806 on the floor of the House. The Committee on Ways and Means specifically instructed me to request the Committee on Rules to grant a closed rule which would only provide for:

One. Committee amendments, which would not be subject to amendment;

Two. One hour of general debate, to be equally divided;

Three. Waiving all necessary points of order; and

Four. One motion to recommit, with or without instructions.

We intend to officially report H.R. 6806 to the House on July 22, 1980. It is our intention to request to be heard before the Committee on Rules as expeditiously as possible.●

PERSONAL EXPLANATION

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. OTTINGER. Mr. Speaker, on Tuesday, May 20, a prior commitment in my district delayed my return to Washington and required me to miss votes on rollcall Nos. 241, 242, and 243. Had I been here, I would have voted "yea" on suspending the rules and passing all three: H.R. 6940 "Infant Formula/Marijuana Penalties" (which passed by a vote of 388 to 15); H.R. 7102 "Veterans' Health Care Personnel" (which passed by a vote of 406 to 1); and H.R. 3 "Omnibus National Parks Bill" (which passed 300 to 102).

In addition, on Friday, May 30, a commitment in my district required my early departure from Washington and as a result I missed the vote on rollcall No. 284. Had I been present, I would have voted "yea" on final passage of H.R. 4046 "Antitrust Collateral Estoppel" (which passed by a vote of 254 to 0).●

MUST BALANCE TOTAL ECONOMY

HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. CAMPBELL. Mr. Speaker, my hometown newspaper, the Greenville News/Piedmont, carried what I consider a most astute editorial on June 29. In South Carolina, the economic necessity for a tax cut for 1981, enacted now, is well recognized. I commend the following editorial to the attention of my colleagues, and hope it helps to change some minds on this issue.

MUST BALANCE TOTAL ECONOMY

Ronald Reagan's call for enactment now of a large federal tax cut and reduced federal spending sets the stage for a major battle over fundamental economic issues.

Republicans in Congress are using the Reagan statement to challenge the ruling Democrats as never before—and they are on the right side of the issue.

Initial narrow defeat of a Reagan tax cut move in the Senate on Thursday by no means ends the struggle. It served mainly to set the stage for later battles as numerous appropriations bills come up. More important, it forced Democrats to promise a tax-cut measure of their own.

That's progress. It indicates something positive may emerge from this session of Congress, if political maneuvering does not snarl up the legislative machinery.

Reagan's plan for a 10 percent cut in income taxes next Jan. 1, presumably to be followed by more reductions in succeeding years until taxes have been lowered by 30 percent, is a logical way to attack the combination of inflation and recession that grips the nation.

His call for business tax relief in the form of accelerated depreciation allowances is a logical way to promote productivity which has sagged lately.

Accompanying all this would be efforts to slash federal spending, which has gotten out of hand in recent decades. Reagan emphasizes elimination of waste in government—waste which is documented in study after study of federal operations.

For example, a recent book, carefully put together by United Press International reporter Donald Lambro, cites federal waste of approximately $100 billion a year.

His book—Fat City: How Washington Wastes Your Taxes—contains details of waste, such as $100,000 a year on masseurs in Capitol gymnasiums. The thousands of small items he mentions add up to a staggering burden on overtaxed Americans.

Reagan advocates a tax reduction of only about $20 billion next year—an amount that should be covered easily by waste elimination in the federal budget.

Make no mistake about it. High taxes and high government spending sap the productive private sector—the businesses and the people who work to create the goods and services Americans need and use. Easing the federal burden would create more jobs and would encourage businesses and workers to produce more—and thus to create more wealth for both themselves and for necessary government services.

Tax and spending control, plus elimination of costly government regulation, is the sensible way to balance both the federal budget and the total national economy.

The United States has indulged in a badly unbalanced national economy for too many years now. We have invested too much in the public or government side, too little in the private sector.

Reagan, backed by congressional Republicans, essentially is calling for a balanced economy as a cure for economic ills.

We hope the attempt attracts enough moderate Democratic support to ensure success in Congress this year.●

U.S. CONGRESSIONAL TRAVEL AND TOURISM CAUCUS AND THE NATIONAL TOURISM POLICY ACT

HON. JOHN W. JENRETTE, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. JENRETTE. Mr. Speaker, the passage of the National Tourism Policy Act on Tuesday by the House made me very proud—proud that the Congress recognizes this very important segment of the American economy as a business and not just a vehicle of pleasure. The passage of the act also makes me proud to have been the founder and the first chairman of the Congressional Tourism Caucus, the largest caucus ever formed in the Congress and one of the prime forces behind the passage of the act. The purpose of the caucus, as is well known by now, is to promote an industry long overlooked for its contribution to our society and our economy.

However, passage of the act is not enough. We must see that every avenue of support and development be explored so that the industry stays in the forefront of productivity, growth, or, in other words, continues to provide just good old fashioned competitive service. This task will take dedication on the part of this administration and future administrations; it will take strong oversight by the Congress; and, as important as anything else, it will take strong and active participation on behalf of the industry. I think the industry can make strong gains in business, employment, and revenues, and, even more importantly, in American good will if, together, we keep on striving for excellence.

The tourism caucus was founded for several reasons, but two very personal reasons come to mind as I reflect on the years of hard work that went into passage of this legislation. First, I wanted to act before another energy crisis could take its toll on my home, the "Grand Strand" region of South Carolina. I remembered, only too well, the long lines of people waiting for gasoline and not knowing it would be available when their turn came at the pump. I felt strongly that Government policy relating to the allocation of gasoline should take into consideration the value of the tourism industry. Even more so, I wanted to act positively then rather than reacting to the next crisis as we have done too often in the past.

Second, I wanted to work out a method whereby the "Grand Strand" could expand its season and attract foreign tourists who normally vacation in New York, Washington, or Miami. This was and is within the grasp of the leaders of the "Grand Strand" through the contacts they had available through the tourism caucus. We could have insured that the "Grand Strand" was made a "must stop" in our national tour guides.

It is obvious to me now that my hopes will not materialize. Myrtle Beach gained the expanded season it has today because of the hard work of a few who realized its potential as the "Golf Capital" of the world. Many people in the "Grand Strand" now enjoy the fruits of the labor of those few who have worked since the beginning.

Unfortunately, I have found that unlike those who promoted golf at the beginning, most of those who could benefit from a similar expansion really have not made a sufficient effort to make it a reality. The Myrtle Beach City Council, the chamber of commerce and the local papers appear to be happy with the status quo.

I am disappointed that the work I have done has not been utilized more. More importantly, I am disappointed that the executive director of the tourism caucus, whom I hand picked, and who knows the "Grand Strand" better than any other tourist place in the world, has not been recognized and used to the extent that he could have to promote and protect tourism on the "Grand Strand."

There is a great opportunity there. I wish more of the business people on the "Grand Strand" cared enough to take advantage of it. I shall never be able to understand this lack of interest in what could be the biggest windfall since the "golf package."

Energy is a serious problem. A gasoline shortage could have serious effects on the "Grand Strand," and that is one the primary reasons I founded the tourism caucus. But jobs, balancing the budget, and a strong military were the major topics people talked about during my recent primary campaign. Jobs must be protected and job opportunities must be expanded. That will be my first priority during the coming months. Energy obviously will play an important part in this. To be assured of jobs, an employer must be assured of a sufficient amount of energy to run his business. Likewise the employee must have a dependable supply of energy to get to his job.

Energy dependability is important in maintaining jobs. Obviously, it is important to the tourism industry. But where does one place the priority? That is a question which first came up when the administration proposed weekend or single-day gasoline station closings, off-limit days for a certain number of cars and other gasoline-rationing plans. I had a big hand in sending a message to the White House that weekend gasoline station closings would not be acceptible. The gasoline rationing plan recently sent by the White House will not be supported by me, or, I hope, the tourism caucus.

It would benefit only the wealthy and the multicar owners at the expense of the one-car working person.

Hopefully, it will not come down to choosing between energy for the nation or tourism. But if it does, what course should I take? I've heard from the people who work and from the people who want jobs. I've heard very little from those who depend on the tourism trade for their livelihood.

I think it is regrettable that the memory of some is so short that they would not use every means available to plan for their own future. The energy crisis is real and it will be with us for years to come. I am disappointed that business people on the "Grand Strand" have not seen fit to use the opportunities within their grasp to prepare for their future at a time when our future is so uncertain.●

TRIBUTE TO WILLIAM E. WILLIAMS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. DERWINSKI. Mr. Speaker, recently, one of Illinois' greatest suburban newspaper publishers, Mr. William E. Williams, passed away, just 8 days short of his 81st birthday. Bill Williams had been the publisher of Star Publications, which serves south and southwest Cook County and eastern Will County, Ill., for more than 50 years. Newspapering was his life.

During his career, Bill Williams consistently displayed his dedication and strong commitment to providing responsible news to the people whom he served by the Star newspapers. He left an indelible mark on the newspaper field as well as making a significant impact upon the people and the communities in suburban Cook and Will Counties. His determination to keep his newspaper among the best anywhere was the key to the great success and quality exhibited by the publications of the Williams Press.

Having devoted his entire lifetime to the newspaper profession, he developed a news chain, which provided the public with regional news and an insight into the local issues that face the south suburban areas. Under his leadership, the newspaper grew from the founding edition, the Chicago Heights Star, to a group of 13 semiweekly newspapers throughout the south and southwest suburbs that are recognized as being among the finest in the

Nation. During his career, the circulation rose to almost 100,000.

Although he had turned much of the management of the business over to his sons, Charles W. and William E., III, some time ago, he maintained a regular schedule at the main office of Star Publications until 1979, working a few hours each morning. Even during his semiretirement, he retained an interest in the business side of the publishing operation as well as in the editorial policy.

His father, also William E. Williams, and the founder of the Star, taught him as a young boy to distribute the wood and metal type. Bill Williams became a full-time employee of the business in 1919, at the age of 20. When his father died in 1922, his mother assumed publishing responsibilities which he later took over.

Under his leadership, the Star newspapers were selected as the best paper chain in Illinois by the Illinois Press Association more times than any other newspaper. In addition, they have won major awards for journalistic excellence at the national level from the National Newspaper Association and the Suburban Newspapers of America.

Bill Williams was the founder and a past president of the Cook County Publishers Association, and a past president of the Illinois Press Association. In addition, he was a charter member of the Chicago Heights Chamber of Commerce and was selected as that city's "Man of the Year." He was instrumental in the community in such areas as health care, facilities for the aged, and in community relations and organizations such as the Boy Scouts of America and suburban boys' clubs.

His countless friends and associates will remember him as a man of high integrity, acute journalistic acumen, and for his wisdom and leadership. I know him as a conscientious, hard working and dedicated journalist, and as a warm and personable individual.

I extend my sympathies to his wife, Cynthia, and to the entire Williams family on the great loss that they have experienced. Bill will be missed, but his many contributions will remain with us.●

EMERGENCY SMALL BUSINESS PAPERWORK REDUCTION ACT OF 1980

HON. DAN MARRIOTT

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. MARRIOTT. Mr. Speaker, while the rest of our economy has struggled under the heavy regulatory and economic burden it bears, the regulatory agencies themselves have shown remarkably good health. In fact, because of their good health, the United States is in danger of choking to death on paperwork.

The quantity of forms, directives, memos, regulations, and other redtape is mindboggling.

Between 1970 and 1977, the number of pages in the Federal Register, the document in which new Federal regulations are published, went from 20,036 pages annually to an estimated 60,000 pages, an increase of 204 percent.

A 1977 study showed that 5 million small businesses spend $15 billion to $20 billion annually on Federal paperwork alone. That is an average of $3,000 per year per small business. And, according to studies by Murray Wiedenbaum and by Drs. James T. Bennett and Manuel H. Johnson, that may be just the tip of the iceberg.

The expenditure of time and money on Federal paperwork constitutes an unnecessary burden on the initiative and productive energies of our citizens and businesses, particularly since much of that time and energy is spent on forms that are trivial or redundant.

Small businesses are hit relatively harder by Federal regulatory paperwork and information requirements than are large firms; small firms often lack an in-house expert, or the funds to hire an expert, to deal with this paperwork burden.

Because the reduction of the paperwork burden created for small business is an urgent necessity, I have today introduced "The Emergency Small Business Paperwork Reduction Act of 1980."

My measure is a straightforward piece of legislation. Simply stated, it says that Federal executive and independent agencies will, over a 3-year period, reduce by one-third the Federal paperwork costs borne by small business.

There is a significant difference between this measure and other similar proposals. As studies by Bennett and Johnson, as well as by other researchers, have shown, if the bureaucracy is merely told to reduce the costs of either regulations or paperwork, they will simply begin to cut their own costs by shifting them onto the private sector.

My bill precludes that by defining "Federal paperwork costs" as the costs of compliance with Federal paperwork requirements borne by small business.

Realizing that the goal of reducing the burden of Federal paperwork requirements by the amount required in the bill may be difficult for some agencies to reach in the time required, I have written in a procedure the agency can use to obtain an extension of the deadline for an additional 2 years.

The measure also calls on the President and the Comptroller General to develop strategies for the reduction of Federal paperwork costs to small business. A part of their task will be to fine tune the methods now used to estimate the actual costs borne by small business.

Mr. Speaker, it has been established that the citizens of the United States spend 787 million man-hours per year in filling out forms required by the Federal Government alone. The Commission on Federal Paperwork estimates that more than $100 billion is spent on Federal paperwork each year. That works out to about $500 for every man, woman, and child in this country.

The National Archives and Records Service estimated, in 1977, it cost the Federal Government $43 billion to process its own paperwork, over 10 percent of the outlays for fiscal year 1977. My measure is the all-important first step in tackling this problem.

Mr. Speaker, I submit, in support of this measure, an excerpt from a forthcoming book by Bennett and Johnson. Drs. Bennett and Johnson are on the faculty of George Mason University and are noted experts on the growth of government and the resulting impacts on the private sector.

THE POLITICAL ECONOMY OF FEDERAL GOVERNMENT GROWTH

Even after adjustment for the qualitative changes in employment and financial operations of the federal government, these two measures of size still grossly understate the impact of government activity on the economy. Government activity, primarily through regulations and red tape, imposes enormous costs on the private sector, which are not reflected in statistics on employment or finance. According to Joseph Scherer, "The regulatory functions at all levels of government have far ranging effects on the operation of the economy, even though these activities require relatively little government spending and few government employees. At the federal level, these regulatory activities are broad in size."

Because government does not bear the costs of its regulatory activity, these costs may be regarded as "hidden taxes" which are passed on to the private sector. Seminal work in the measurement of the costs of federal regulation has been done by Professor Murray L. Weidenbaum, Director of the Center for the Study of American Business, at Washington University. Weidenbaum has estimated that some 56 federal agencies are engaged in federal regulation, and funding for these agencies cost $6 billion in fiscal year 1980, a miniscule part of the federal budget. Yet, the cost of compliance for the private sector is in excess of $100 billion per year.

The costs associated with federal regulatory activities, however, do not take into account all costs of paperwork and red tape. Consider the following statement from the Final Summary Report of the Commission on Federal Paperwork issued in October, 1977:

The total costs of Federal paperwork are difficult to determine; but, as best we can estimate, more than $100 billion a year, or about $500 for each person in this country, is spent on Federal paperwork. Our estimates of costs to some major segments of society are:

The Federal Government: $43 billion per year.

Private Industry: $25 to 32 billion per year.

State and local government: $5 to 9 billion per year.

Individuals: $8.7 billion per year.

Farmers: $350 million per year.

Labor Organizations: $75 million per year.

As shown in the citation above, the direct costs of paperwork to the federal government are about $43 billion per year (as a 1977), a substantial sum, but this figure does not include the total burden on the private sector. By any standard of comparison, the nation is awash in a sea of bureaucratic forms. The Internal Revenue Service alone employs 13,200 forms, including form letters which are given form numbers; about 613 million man-hours were expended by individuals and businesses in fiscal year 1978 in completing these forms. As of June, 1972, the Office of Management and Budget reported that agencies of the federal government (excluding IRS) used 5,567 forms that generated more than 418 million responses.

Much of the information collected by the Federal Government is not used or is redundant. As resources are diverted from productive pursuits to filling out Federal forms, output is reduced and economic efficiency is impaired. The paperwork burden falls disproportionately on small firms and individuals who lack the resources to deal with bureaucratic demands for data. Thus government paperwork discourages small business enterprise and thereby contributes to the nation's unemployment ills among those workers who produce useful goods and services. To the extent that paperwork reduces economic incentives to produce goods and services, inflation is also exacerbated by the reduction in supply. Therefore, the indirect costs of paperwork make the total burden even larger and contribute to social and economic problems.

Government paperwork and regulatory activity have both increased rapidly over time. Table III-8 presents estimates prepared by the National Archives and Records Service of the costs of major types of paperwork in the Federal government for fiscal years 1955, 1966, and 1973.

TABLE III-8.—COST ESTIMATES OF FEDERAL GOVERNMENT PAPERWORK BY TYPE OF PAPERWORK, FISCAL YEARS 1955, 1966, AND 1973

[In millions of dollars]

	1955	1966	1973
Type of paperwork:			
Correspondence	$1,000	$1,500	$2,790
Reports	700	1,000	1,860
Forms	867	1,000	1,860
Directives	100	1,000	1,860
Files	650	1,500	2,790
ADP paperwork		1,100	2,040
Other [1]	683	960	1,800
Total	4,000	8,060	15,000

[1] Includes office copying, microfilming, records disposition, vital records, and paperwork automation.

Source: U.S. Congress, Senate, Committee on Government Operations, "Improving the Coordination of Federal Reporting Services," hearings (Washington, D.C.: U.S. Government Printing Office, 1974), p. 209.

Between 1966 and 1973, costs to the federal government increased by 86 percent and, if the Federal Paperwork Commission's estimate is used to assess the costs in fiscal year 1977, paperwork costs to the federal government increased by 187 percent between 1973 and 1977. The increase in paperwork costs during the 1970's was paralleled by the growth of federal funding for regulatory activity. This is not surprising, because reports and economic/environmental impact statements are part and parcel of the regulatory process. Weidenbaum estimated that, in fiscal year 1970, government funds for regulatory activity were about $866 million, approximately one-sixth of the estimated amount for fiscal year 1980.

To some extent, one would expect that the increase in government regulations and paperwork would increase as government grows. As the statistics cited above indicate, however, regulation and red tape and the associated impact on the private sector can grow much more rapidly than either employment or expenditure data would indicate.●

SMALL SAVERS AND SMALL INVESTORS INCOME TAX AMENDMENTS OF 1980

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. OTTINGER. Mr. Speaker, I am today introducing legislation to create the additional incentives for increased savings that I believe are essential to the economic health of our Nation.

Increased savings incentives are essential if we are to encourage the capital formation necessary to revitalize the housing industry and make the investments in productivity and energy efficiency that are essential to our Nation's future.

Earlier this year, a part of the windfall profits tax legislation, H.R. 3919, Congress did enact a modest tax exemption for small savers. This first step exempts from the Federal income tax $200 in combined interest and dividend income annually for individuals and $400 for those filing joint returns.

I believe, however, that we must go much further in providing meaningful savings incentives and tax equity. I am therefore today introducing the Small Savers and Small Investors Income Tax Amendments of 1980. This measure will double the small savers tax break to $400 in combined interest and dividend income annually for individuals and $800 for those filing joint returns. In addition, this measure would provide seniors with a $3,000 tax exemption or a $600 tax credit on income earned from dividends and interest.

I believe this measure represents an important component in the creation of the effective economic policy we need if we are to create jobs, get a handle on inflation, and make the investments we need for America's future.

The text of this legislation follows:

H.R. 7742

A bill to amend the Internal Revenue Code of 1954 to double the amount of interest and dividend income exempt from tax, to allow taxpayers to elect to receive a refundable credit in lieu of the partial exclusion of interest and dividend income, and to provide for a special partial exclusion of interest and dividend income in the case of elderly taxpayers with low and moderate incomes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Small Savers and Small Investors Income Tax Amendments of 1980".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 2. DOUBLED DIVIDEND AND INTEREST EXCLUSION; SPECIAL EXCLUSION FOR LOW AND MODERATE INCOME ELDERLY.

(a) IN GENERAL.—Paragraph (1) of section 116(b) (relating to maximum amount of exclusion of dividends and interest received) is amended to read as follows:

"(1) MAXIMUM DOLLAR AMOUNT.—

"(A) GENERAL EXCLUSION.—The aggregate amount excluded under subsection (a) for any taxable year shall not exceed $400 ($800 in the case of a joint return).

"(B) EXCLUSION FOR ELDERLY.—

"(i) GENERAL RULE.—In the case of an individual who has attained age 65 before the close of the taxable year or who is married on the date of the closing of the taxable year to an individual who has attained age 65 before the close of the taxable year, the aggregate amount excluded under subsection (a) for any taxable year shall not exceed $3,000 ($6,000 in the case of a joint return).

"(ii) CERTAIN MARRIED COUPLES MUST FILE JOINT RETURNS.—Except in the case of a husband and wife who live apart at all times during the taxable year or who have each attained age 65 before the close of the taxable year, if the taxpayer is married at the close of the taxable year, the exclusion provided by this subparagraph shall be allowed only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year."

(b) TECHNICAL AMENDMENT.—Subsection (c) of section 116 is amended by adding at the end thereof the following new paragraph:

"(4) JOINT RETURN DEFINED.—The term 'joint return' means the joint return of a husband and wife under section 6013."

(c) EFFECTIVE DATE.—

(1) The amendments made by this section shall apply to taxable years beginning after December 31, 1980.

(2) Subsection (c) of section 404 of the Crude Oil Windfall Profit Tax Act of 1980, approved April 2, 1980, is amended by striking out ", and before January 1, 1983".

SEC. 3. CREDIT IN LIEU OF PARTIAL EXCLUSION OF DIVIDENDS AND INTEREST RECEIVED.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting after section 44E the following new section:

"SEC. 44F. CREDIT IN LIEU OF PARTIAL EXCLUSION OF DIVIDENDS AND INTEREST RECEIVED.

"(a) GENERAL RULE.—In the case of an individual who has elected for the taxable year to receive a credit under this section in lieu of an exclusion under section 116, there shall be allowed $600 ($1,200 in the case of a joint return under section 6013) as a credit against the tax imposed by this chapter.

"(b) TIME AND MANNER OF ELECTION.—The Secretary shall by regulation prescribe the time and manner for elections to receive a credit under subsection (a).

"(c) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for the taxable year shall not exceed the tax imposed by this chapter for such taxable year, reduced by the sum of the credits allowed under a section of this subpart having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43. For purposes of the preceding sentence, the term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a)."

(b) Credit Made Refundable.—

(1) In general.—Subsection (b) of section 6401 of such Code is amended—

(A) by striking out "and 43 (relating to earned income credit)" and inserting in lieu thereof "43 (relating to earned income credit), and 44F (relating to partial exclusion of dividends and interest received)"; and

(B) by striking out "and 43," and inserting in lieu thereof ", 43, and 44F,".

(2) Conforming amendments.—

(A) Paragraph (5) of section 44C(b) of such Code is amended by striking out "and 43" and inserting in lieu thereof "43, and 44F".

(B) Paragraph (5) of section 44D(b) of such Code is amended by striking out "and 43" and inserting in lieu thereof "43, and 44F".

(C) Paragraph (1) of section 44E(e) of such Code is amended by striking out "and 43" and inserting in lieu thereof "43, and 44F".

(D) Paragraph (2) of section 55(b) of such Code is amended by striking out "and 43" and inserting in lieu thereof ", 43, and 44F".

(E) Subsection (c) of section 56 of such Code is amended by striking out "and 43" and inserting in lieu thereof "43, and 44F".

(F) Paragraph (4) of section 6201(a) of such Code is amended—

(i) by striking out "or 43" in the heading thereof and inserting in lieu thereof ", 43, or 44F"; and

(ii) by striking out "or section 43 (relating to earned income)" and inserting in lieu thereof ", section 43 (relating to earned income), or section 44F (relating to partial exclusion of dividends and interest received).

(c) Clerical Amendments.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 44E the following new item:

"Sec. 44F. Credit in lieu of partial exclusion of dividends and interest received."

(2) Section 116 (relating to partial exclusion of dividends and interest received) is amended by adding at the end thereof the following new subsection:

"(d) Cross Reference.—

For election to receive credit in lieu of partial exclusion of dividends and interest received, see section 44F."

(3) Subsection (b) of section 6096 (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44E" and inserting in lieu thereof "44E, and 44F".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1980.●

RICHARD B. OGILVIE ON THE FUTURE OF THE MILWAUKEE ROAD

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. REUSS. Mr. Speaker, on June 20, 1980, Richard B. Ogilvie, trustee of the Milwaukee Road, spoke to the Rail Service Industrial Task Force and Transportation Committee of the Metropolitan Milwaukee Association of Commerce. Governor Ogilvie's comments summarize the significant steps which have been taken to restructure the Milwaukee Road, as well as some of its present problems and the alternatives for its future. I want to share his comments with my colleagues.

Comments by Richard B. Ogilvie

In behalf of Worth Smith, Pete White, and all the officers and employees of the Milwaukee, I thank you for inviting us up to meet with you today. I also want to thank you for your strong and continuing support of our efforts to reorganize the Milwaukee Road and put it back on its feet.

I would like to be able to tell you without any reservations that we shall be able to reorganize the Milwaukee. Personally, I have a strong feeling that this will be the outcome. In reality, however, the jury is still out, and so today I shall stop a bit short of that point and, instead, bring you up-to-date on a number of the recent events which lie behind our current optimism.

We have come a long and difficult way in our efforts to restructure the Milwaukee into the kind of railroad it should be. We have had a lot of help from many quarters, a lot of support from all of you here in the Milwaukee area. We are grateful for that help. I hope that we have been able to reciprocate with a better railroad.

If I may assume that you are generally familiar with why the Milwaukee is in trouble and what it has been trying to do about that trouble for the past 2½ years, I would like to concentrate on the events which have occurred over the winter and spring of 1980. If I miss anything of particular importance to any of you, or if I leave anything unclear, I will also leave plenty of time for questions.

Let us begin with the embargo of services on those portions of the Milwaukee which, as trustees, Stanley Hillman and I had determined should not be part of a reorganized Milwaukee Road—indeed, could not be part of it without jeopardizing the financial vitality of the entire operation.

You will recall that late last year both the reorganization court and the court of appeals affirmed the need for the embargo if anything was to survive of the Milwaukee in its own name. For a week in early November 1979, the Milwaukee Road was projected into the future as an operating property of approximately the size we saw as being its destiny. That embargo was lifted by the passage of the Milwaukee Railroad Restructuring Act, a law which had both its good and its bad features for us, mostly bad.

In due course, time and the Interstate Commerce Commission erased most of the bad features, but certainly not the additional debt we had incurred. The Federal loans which we had been required to accept in order to continue our operations on the entire system expired at the end of February. Judge McMillen ordered me to put the embargo back in place. I did so in two stages. The embargo became fully effective April 1.

We began to see the beneficial results almost immediately. Suddenly, for the first time in the memory of many of our veterans, the Milwaukee Road had a suitable fleet of reliable locomotives and sufficient freight cars of virtually every type to meet the needs of its customers. As we had predicted, concentrating on approximately 3,500 miles of railroad the resources which had been spread out across 9,500 miles was of immense benefit to us and to our shippers.

We have seen a port authority formed to buy a branch line which is some distance from navigable waters.

We have seen the creation of several totally new common-carrier short lines, several of which are here in Wisconsin.

We are seeing the State of South Dakota, by legislation, establish a state rail authority which will ultimately own a sizable percentage of the rail lines in that State.

We are supporting the State of Wisconsin as it exercises its right of eminent domain over transportation properties and condemns some 380 miles of line which it wants but we do not with the understanding that we will work out the price in court later.

And, of course, we are arranging the sale of quite a bit of our former railroad to such established carriers as Union Pacific and Burlington Northern, and we hope to be doing so later with the Chicago and North Western, the Illinois Central Gulf and others.

In a manner of speaking, we have added to our system, too. We have picked up temporarily a sizable piece of business which the Rock Island used to handle in the Quad Cities and at Muscatine, Iowa. If we can reach an agreement with the Rock Island's trustee which can find its way through two reorganization courts and the ICC, we plan to buy that portion of the Rock Island which we are presently operating.

At this point, just one sale of our line has been closed and finalized under the terms of the Milwaukee Railroad Restructuring Act. Since that piece of law was prompted in large part by the efforts to preserve our lines to the Pacific Coast, I think it only fitting that that sale, to Potlatch Corp. of the lines in the Idaho Panhandle, broke the continuity of the Pacific Coast Extension. There is no more Milwaukee Road line through to Seattle and Tacoma.

I should report to you also that during the process of installing the embargo, and since, the majority of the lines which have been embargoed were ordered by the court to be abandoned, with the ICC's concurrence. We are well on the way to becoming the 3,500-mile railroad we should be.

We are not, however, altogether over the summit of our long climb. There are other aspects of our reorganization process which continue to be critical.

The Milwaukee's stockholders and some of its creditors desire us dead and liquidated. They would cut off our access to the funds we need to get through to reorganization. They have appealed from the orders which Judge McMillen has entered giving me the authority to borrow the money we need. So far, the U.S. Court of Appeals has backed up the District Court.

Organized labor is appealing many of the abandonments which the reorganization court has ordered. Labor is also asserting that full convention labor protection is due and payable now to affected employees. You will remember that we have long been concerned that such payments, if required, probably would consume virtually all of the available assets of the estate.

And, of course, we have this little problem with our plan of reorganization at the ICC. Last March, the ICC rejected my plan. It also rejected a stockholders' plan which calls for liquidation, the only alternative to reorganization which I have.

The Commission's decision on our plan seemed to reflect a rather significant change in its philosophy of rail regulation, a change which we are seeing in other activities of the Commission as well. We read the decision to say that a reorganized Milwaukee Road, or for that matter any new railroad, should be able to earn a rate of return at least equal to the cost of money for a railroad, or about 11 per cent.

What is interesting about that decision, of course is that, for generations, the ICC under other leadership was perfectly content to regulate railroads so that they earn, on the average, only about a fourth of that rate. While we find ourselves applauding the Commission's enlightenment over rates of return, we also find ourselves wishing that the Commission had not chosen our reorganization game plan as a time to change the rules.

As the result of the Commission's action, and more particularly as a result of the Carter administration's efforts to limit Government credit, the Federal Railroad Administration has now taken the position that it cannot be as helpful as it, and we, had contemplated.

For example, when we finally sign up with FRA later this month for our summer track-rehabilitation programs under the 4R Act, we shall find that our original programs have been trimmed significantly. Where we had expected to obtain about $33 million for track work, we shall receive only about $19 million this year. Furthermore, a consideration in the discussions we are having with the Chicago & North Western over large track coordinations is the fact that we will not be able to rehabilitate certain of our lines and thus must find an alternative course of action.

Frankly, the FRA's change of position gives us a problem. We are within sight of the end of our borrowing from the taxpayers. If the ICC will approve a modification of our reorganization plan, we believe that we will be able to pay the taxpayers back, with interest. But if the Federal Government abandons us now, our entire reorganization scenario will be jeopardized and ultimately the cost to the taxpayers may be far greater than is their temporary investment in our survival.

In effect, I was left by the ICC with a choice from among three courses of action: a new reorganization plan; liquidation—that is, the piecemeal sale and abandonment of the entire Milwaukee; or the sale of Milwaukee II as a going concern to another railroad. I reported to the court on May 14 as to my choice.

I informed Judge McMillen that we have reanalyzed the potential of "Milwaukee II" and have projected its results into the future. We have concluded that our best course is to file a new plan of reorganization with the ICC early next year based on the results of operation as we expect them to be between now and then. We believe that "Milwaukee II" will produce income from rail operations in 1982 and that it will produce bottom-line profits beginning in 1983. We believe that we can meet and indeed exceed that rate-of-return criterion set by the ICC. We can do so without the earnings of Milwaukee Land Company—and we've got the land company up for sale as a way to extinguish the railroad's mortgage debt and expedite the reorganization process.

At the same time, we cannot overlook the possibility that the sale of "Milwaukee II" to another railroad might produce even greater benefits for our customers, our employees, and the estate. So we're talking with several railroads about that.

I trust that the mention of this alternative doesn't unduly alarm you. It is, of course, my intention to reorganize the Milwaukee as an entity if I can do so. Yet, as we look ahead at what will be happening to the Nation's railroads in the corporate sense, based on current merger activities, I think we can see that our collective destiny is as a strong industry built around perhaps no more than six major railroad companies nationwide. I suggest that we would all agree that it would be better for the Milwaukee to be included in one of those major companies than to be excluded from all of them.

There will be some concern about competition—there is already, of course. It might be well to remember that if all the railroads of the United States were, today, placed in one corporate ownership, that corporation would be handling just a little more than a third of the total flow of intercity freight ton-miles. How that theoretical single rail carrier could be a monopoly with only that share of the business escapes me—and, of course, we're not in any way talking about that kind of an amalgamation. Indeed, I look upon the corporate restructuring of our railroads as a way to avoid having the Government own and very likely operate all of our railroads—a result which neither we nor Government want.

Let me leave you with this message: "Milwaukee II" can succeed if it is given the chance. We are most appreciative of the help you've given us in coming this far. I hope that we are reciprocating in a manner that will earn your continuing support. If you can help us convince our Federal regulators and Federal bankers that the issue, in the final analysis, is not so much our need for a strong railroad as it is yours, then perhaps together we'll achieve the reorganization which we all so deeply desire.

Thank you.●

SAUDI F-15 EQUIPMENT SALE

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● **Mr. DODD.** Mr. Speaker, last Monday I sent a letter to President Carter which has now been cosigned by 49 of my colleagues. Our letter expresses our deep concern over reports that the administration is seriously considering a request by Saudi Arabia to purchase additional equipment for the 60 F-15 fighters already on order from the United States.

The additional equipment Saudi Arabia is seeking—conformal fuel tanks, multiple ejection bomb racks, and AIM-9L air-to-air missiles—would significantly increase the range and the ground attack capability of the Saudi F-15's. When the Congress debated the wisdom of originally allowing the sale of the 60 F-15's to Saudi Arabia, we were assured by the administration that no equipment would be provided to Saudi Arabia which would increase the range or ground attack capability of the aircraft. If this sale is proposed to Congress, we believe that it would constitute a violation of the commitment we were given 2 years ago.

Our letter to the President concludes by asking the President not to submit to Congress any request for additional equipment for the Saudi F-15's.

The letter and list of cosigners follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., June 30, 1980.

The PRESIDENT,
The White House, Washington, D.C.

DEAR MR. PRESIDENT: We are deeply concerned over reports that your Administration is seriously considering a request by the Kingdom of Saudi Arabia to buy additional equipment for the sixty F-15 fighters already on order from the United States.

The equipment Saudi Arabia is seeking, (conformal fuel tanks, multiple ejection racks for increased ordnance, and AIM-9L air-to-air missiles), will significantly increase the combat radius, lethality, and the ground attack capability of the Saudi F-15's. In addition, the KC-135 tankers and the airborne warning and control aircraft the Saudis are also reportedly seeking would further enhance the combat effectiveness of the sixty F-15's.

When the Congress debated the wisdom of providing the F-15 air-superiority fighter to Saudi Arabia two years ago, Secretary of Defense Harold Brown assured the Chairman of the Senate Foreign Relations Committee that, "Saudi Arabia has not requested nor do we intend to sell any other systems or armaments that would increase the range or enhance the ground attack capability of the F-15." Providing the equipment the Saudis are reportedly now requesting would, in our opinion, constitute a violation of the Administration's assurances to Congress.

Two years ago, your Administration argued that Saudi Arabia needed this nation's most formidable air-superiority fighter in order to defend itself against potential attach in this volatile region of the world. It was made clear that the Saudis intended to use the F-15 in its primary mission as an air-superiority fighter and in a defensive role. The addition of the equipment being requested would significantly increase the aircraft's offensive ground attack capability, and would therefore greatly increase the potential threat to Israel.

We would therefore respectfully request that you do no submit any request to Congress for the sale of this additional equipment to Saudi Arabia.

Sincerely,

Jonathan B. Bingham, Lester L. Wolff, Stephen J. Solarz, Gerry E. Studds, William R. Ratchford, Fortney H. (Pete) Stark, Andrew Maguire, Robert F. Drinan, Mike Lowry, Herbert E. Harris II, William S. Green, Ted Weiss, John Edward Porter, Frederick W. Richmond, Charles F. Dougherty, James A. Courter, Gladys Noon Spellman, Edward J. Derwinski, Elizabeth Holtzman, Benjamin A. Gilman, William H. Gray, Morris K. Udall, Robert A. Young, James J. Blanchard, John B. Anderson, Henry A. Waxman, Harold C. Hollenbeck, Claude Pepper, Hamilton Fish, Jr., William M. Brodhead, Edwin B. Forsythe, Jerome A. Ambro, Margaret M. Heckler, Timothy E. Wirth, Christopher J. Dodd, Benjamin S. Rosenthal, William R. Cotter, Michael D. Barnes, William Lehman, Frank Horton, William J. Hughes, Sidney R. Yates, Richard L. Ottinger, Don Edwards, James J. Oberstar, Martin Frost, Norman F. Lent, Matthew F. McHugh, Anthony Toby Moffett, Leon E. Panetta.●

THE INSTITUTE FOR POLICY STUDIES: EMPIRE ON THE LEFT: PART IV

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

• Mr. McDONALD. Mr. Speaker, IPS is the "perfect intellectual front for Soviet activities which would be resisted if they were to originate openly from the KGB." So wrote one of the free world's ranking experts on Soviet strategy, subversion and terrorism, Brian Crozier, director of the Institute for the Study of Conflict.

In the June-July 1980 issue of Midstream, Dr. Rael Jean Isaac examines the leading role played by IPS in the so-called human rights campaign to destabilize traditional U.S. allies; in the campaign to weaken the U.S. intelligence agencies; and in the spreading of propaganda in support of Soviet foreign policy goals, most recently the invasion of Afghanistan.

Dr. Isaac has written:

> That the Institute for Policy Studies should have become a moral arbiter on human rights for Congressmen must surely rank as a macabre joke, for it excuses the most repressive states on the Left and the most vicious terror organizations.

The article follows:

The human rights campaign of the Carter administration has proved an enormous boon to IPS. In its campaigns on Capitol Hill, IPS has concentrated upon Chile and South Korea, the first because a "progressive" regime (that of Salvador Allende) was toppled by a "reactionary" regime (that of Augusto Pinochet); the second because it represents the most direct United States commitment remaining outside Europe. IPS has successfully mobilized support from its Congressional admirers. Representative Tom Harkin (Dem.-Iowa) called a Capitol Hill news conference in April, 1978, at which IPS's Howard Wachtel and Isabel Letelier presented a "new" report (it had already been given seven months earlier at a U.N. hearing) on loans from private banks to the Chilean government. In response to these revelations, Representative Henry Reuss (Dem.-Wis.), chairman of the House Banking Committee, sent telegrams to six of the major banks cited in the report urging them to "give the American people a full public explanation of why they are keeping a pariah nation afloat." [33]

IPS held a "Conference of Japanese and U.S. Parliamentarians on Korean Problems" in September, 1977, under Congressional sponsorship in the Cannon Office Building. In his keynote speech, George McGovern called for a "new" policy in Korea based on detachment of the United States from South Korea because of its human rights violations. The United States and North Korea together, said McGovern, could effect a "peaceful resolution" of the conflict. Subsequent speakers dwelt at length on South Korean human rights violations and "corruption" in the relations between both Korea and the United States, and Korea and Japan. Since IPS had structured the conference, there was little opportunity to examine what the human rights situation was in North Korea.

Footnotes at end of article.

IPS also was one of the sponsors of a Capitol Hill conference on Chile, Argentina, Bolivia, and Uruguay entitled "U.S. Latin American Policy and Human Rights" in September, 1977. That the Institute for Policy Studies should have become a moral arbiter on human rights for Congressmen must surely rank as a macabre joke, for it excuses the most repressive states on the Left and the most vicious terror organizations.

IPS has had a major impact in the weakening of U.S. intelligence capabilities. The Church committee hearings on intelligence abuses in 1975-76 were influenced by the long-standing campaign of IPS and related groups against the intelligence agencies. At present, the Center for National Security Studies, to which IPS is closely related (its previous head, Robert Borosage, a former Fellow and long-time trustee of IPS, is now IPS director), has assumed a leading role in the battle for further restricting the powers of both the FBI and CIA, already severely restricted in the current proposed charters being considered by Congress. At a January, 1980, hearing on an Intelligence Identities Protection Act that would make it a criminal offense to disclose the names of U.S. intelligence agents operating abroad, Morton Halperin of the Center testified that this would be an unconscionable violation of "freedom of speech." The director of the CIA testified that unless disclosure was penalized, the agency would find it impossible to operate.[34]

Another indication of the extent of IPS influence on policy-making is that the Institute's "policy experts" have become Establishment experts. IPS-Transnational Institute established in 1976 an Ad Hoc Working Committee on Latin America headed by Roberta Salper, who in 1973 had served as a member of the Central Committee of the Puerto Rican Socialist Party, a Castroite group calling for immediate liberation of Puerto Rico from U.S. "imperialism." [35] Of the other six members of the group, four were also staff or consultants to the privately funded (Ford and Rockefeller Brothers) Commission on United States-Latin American Relations, better known as the Linowitz Commission. Not surprisingly, the two groups came up with similar policy recommendations. The IPS study was released after the Linowitz one and was designed to increase support for it. Since many of the recommendations were adopted by the administration, one assumes that the IPS document, known among IPS staff as "Son of Linowitz," did not hurt the parent.

In a remarkable irony, IPS has become mentor to Congress on the American democratic process it despises. "The Program of Political Transition" of IPS in 1978 directed an ongoing seminar on the Democratic Party, "its composition, direction, and the role of progressives within it" for Congressmen and their staff.[36]

In Congress then, IPS has concentrated its efforts on undermining support for the defense budget (in the name of "human needs"), making it impossible for the intelligence agencies to function (in the name of "freedom of speech") and denying the legitimacy of governments allied with or friendly to the United States (in the name of "human rights"). Since the ability of the United States to maintain itself as a great power rests on its defense forces, its intelligence services, and its allies, IPS has concentrated upon the crucial areas in its campaign to destroy the United States as what IPS calls "the Violence Colony."

IPS has won financial support to match its increased influence. Beginning with a budget of under $200,000 contributed by a variety of liberal foundations, IPS now has a budget of over $1 million. This does not include many of its projects which bring in an additional million a year.

By far the most important donor in the last decade has been the Samuel Rubin Foundation. The President of the Rubin Foundation is radical lawyer Peter Weiss, married to Rubin's daughter Cora Weiss, also an officer of the Foundation and a radical activist. Peter Weiss is chairman of the board of the Institute for Policy Studies. In 1974, the Rubin Foundation gave $1,200,000 to the Transnational Institute and, while that was the high point of funding, it has since given between $400,000 to $500,000 a year to IPS. Since substantial funds have gone separately to IPS projects, the Rubin Foundation's contribution is even larger than it appears to be. (For example, in 1974 the Rubin Foundation also gave $62,500 to IPS's Health Policy Advisory Center, $20,000 to the Exploratory Project for Economic Alternatives, etc.[37]) Since large sums have also gone to the Fund for Tomorrow, another Peter and Cora Weiss-controlled foundation, which in turn siphons more money to IPS, the Rubin Foundation contribution indeed mounts up. Over $2 million went to IPS from the now defunct DJB Foundation, whose founder, Daniel J. Bernstein, said the chief enemy of mankind was "the injustice of governments and of the United States government in particular."

IPS Fellows are encouraged to find their own sources of support for specific projects to supplement monies raised by the Institute. A consistent source of this kind of support has been the Louis Rabinowitz Foundation. The Rabinowitz Foundation, like IPS, has displayed interest in the armed forces, and financed the National Lawyers Guild South East Asia Military Project, which according to a Congressional study "Organized Subversion in the Armed Forces" was engaged in efforts to foster disobedience within the army in the Pacific area.[38]

An internal Transnational Institute memo dated September 9, 1976, discovered by police in the briefcase of its then director Orlando Letelier following his murder (of which, more shortly), suggests another source for IPS funds. The memo mentioned the difficulties the Institute would face if it accepted money from foreign governments while continuing to maintain financial independence from the U.S. government. The memo suggested that a way around the problem could be found if such funds were used indirectly to fund jointly sponsored conferences or by funding facilities, travel, etc. by direct purchase so that they did not enter the books. To what extent such practices have been employed by IPS must be unknown—if used, they do not appear on the books.

We have already noted that many of the leading figures of IPS were originally government officials in responsible positions who left the government because of disillusionment with prevailing policy assumptions. Under the Carter administration, there has been a reverse movement as individuals linked to IPS, its subsidiaries, and closely related groups, have moved into government, especially into the National Security Council, the Department of State (not surprisingly they are attracted to the "human rights" sector), and ACTION, which controls various social action programs. It was presumably to this new cadre that Senator Moynihan referred when he urged President Carter to demonstrate his seriousness about adopting a more realistic policy toward Soviet expansion by dismissing those of his appointees who held the reverse perspective and now implemented policy.

The return of IPS to government is a symptom of the Institute's greatest triumph: winning a broadly accepted legiti- apologetics for Soviet expansion, etc. Brian ative programs with leading universities, including Johns Hopkins School of Advanced International Studies and Antioch College among others. IPS has offered a Ph. D. program in conjunction with Union Graduate School of Yellow Springs, Ohio. IPS now runs its own "Washington School" offering courses by present and former Congressmen, Institute Fellows, and government bureaucrats. Courses are also offered by such luminaries as James Zogby, director of the PLO support group, the Palestine Human Rights Campaign. (It is yet another indication of IPS influence on Capitol Hill that John Conyers sent out a letter on March 20, 1980 to his Congressional colleagues enclosing the IPS catalogue and asking that they share it with their staff.)

IPS Fellows have produced a veritable avalanche of publications. While "progressive" journals are of course open to them, mainstream publications like Harpers and Atlantic and reputable daily papers have published the essays of IPS Fellows. The New Yorker magazine ran a three-part series on "The World's Resources" by Richard Barnet in March and April, 1980.

The most disturbing indication of IPS's increased legitimacy among opinion-makers as well as policymakers is that IPS has practically become an institutional columnist for The New York Times. While the frequency of its use of IPS varies, in the three-month period between March 1 and June 1, 1979, The New York Times published an article by Peter Weiss (March 2), five articles by Eqbal Ahmad (March 28, April 15, April 25, May 13, May 23), an article by Fred Halliday (May 18), and an article co-authored by Marcus Raskin (June 1). A major article by Richard Barnet appeared in The Times Magazine on April 1.

IPS Fellows use their Times space to undermine support for every U.S. ally in the Third World and to glorify terrorist groups and countries that have gone over to the Soviet bloc, while blaming untoward Soviet actions on American provocation. Peter Weiss casts the blame for the Vietnamese invasion of Cambodia, the Chinese invasion of Vietnam, and the genocidal mania of the Pol Pot regime on the United States. Eqbal Ahmad portrays the United States as the villain heading the "pusher's list" of arms suppliers, "hooking" Third World countries on arms partly through training programs for foreign students. In another column Ahmad praises the Polisario, the West Saharan "liberation" movement backed by "democratic" Algeria.

Fred Halliday in an essay on Afghanistan, then in the Soviet orbit but not yet invaded by the Soviet Union, praised the Soviet-backed regime. Those waging a guerrilla war against it he accused of being feudal remnants whose income from smuggling had been cut or who opposed the emancipation of women. After the Soviet invasion, in the IPS journal In These Times (January 16-22, 1980) Halliday blamed the invasion on Pakistan and Saudi Arabia. In the New York Times (March 4, 1980), he confined himself to warning against U.S. aid to those fighting the Soviet takeover. He concluded in his article by asserting that U.S. interests did not lie in turning the clock back in Afghanistan; instead, the U.S. should "exert its influence upon Israel to bring about an acceptable solution of the Arab-Israel dispute," since the Muslims did not really care what happened to Afghanistan but were concerned about "Palestine."

Since The Times identifies the Institute simply as "a research organization in Washington, D.C." (when it identifies it at all), the reader is in no position to know that he is the object of a sophisticated propaganda barrage with the complicity of a newspaper whose integrity he trusts.[39]

The activities of the Institute inevitably raise serious questions of motivation. IPS has consistently advocated policies that accord with the Soviet line, whether the issue is disarmament (for the West), abolition of nuclear power (for the West), support for Soviet-linked revolutionary groups, apologetics for Soviet expansion, etc. Brian Crozier, director of the London Institute for the Study of Conflict, says bluntly that IPS is the "perfect intellectual front for Soviet activities which would be resisted if they were to originate openly from the KGB."[40]

FOOTNOTES

---

[33] Information Digest, April 21, 1978.

[34] Ibid., February 8, 1980.

[35] Institution Analysis No. 2, "The Institute for Policy Studies," op. cit., p. 21.

[36] Information Digest, April 21, 1978.

[37] Rubin Foundation Financial Report, Foundation Center, 888 Seventh Avenue, New York City.

[38] Hearings before the Subcommittee to Investigate the Administration of the Internal Security Laws of the Committee on the Judiciary, United States Senate, 94th Congress, First session, Part 1, The U.S. Navy, Sept. 25, 1975. U.S. Govt. Printing Office, 1976, pp. 12-17. See also Financial Report of the Louis Rabinowitz Foundation for 1971, Foundation Center.

[39] For a fuller account of The Times Op Ed page and IPS see Rael Jean Isaac, "The Times Op-Ed Page: mouthpiece for Institute of leftist 'liberalism,'" The Jewish Week, June 24, 1979, p. 44.

[40] Brian Crozier, "Power and National Sovereignty," National Review, February 2, 1979.●

COLA

HON. JAMES A. COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. COURTER. Mr. Speaker, in the process of attempting to balance the budget, the legislative committees of this body were forced to make some painful decisions in reducing programs and projects. While our Budget Committee is to be commended for its efforts to reduce Federal spending, some of its recommendations left the legislative committees with little or no maneuverability. As a result, past commitments and future consequences often were ignored.

A case in point is the recommendation concerning cost-of-living adjustments for Federal annuitants.

In 1976, legislation was enacted which provided for twice-a-year adjustments, but at the same time eliminated the so-called 1-percent kicker. It was argued then, with considerable justification, that the 1-percent kicker was inflationary. As a matter of fact, had the 1-percent kicker remained on the books, the additional cost since 1976 would be $2 billion. In an effort to make sure that pension adjustment more accurately reflected changes in the cost of living, the twice-a-year formula was adopted.

Now, we are telling our annuitants we are going back on our word. We are reneging on the commitment we made in 1976. I think it is a serious mistake. Our retirees are receiving nothing more than what the Consumer Price Index calls for under a formula that was approved by Congress.

I too am concerned about inflation and think it is a problem of the highest priority. But I do not think one group of Americans should be continually singled out for cuts in benefits which were promised then.●

PRESIDENTIAL PRIMARY SYSTEM

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. SWIFT. Mr. Speaker, all of us in politics come across the unexpected applause line. In recent months, traveling through my district and speaking with a variety of civic groups, I've come across such a line—an offhand remark I made about the crazy state of our Presidential primary system. Clearly, the American public recognizes that the way we go about nominating candidates for the highest office in our land does not make any sense.

Our present system—which seems to stretch endlessly from the first caucus in frigid Iowa to one of the last in balmy California—is a hopeless hodgepodge. Candidates appear on the ballot in some States; not in others. Rules differ dramatically from State to State. Some states merely hold beauty contests, with no connection between primary balloting and selecting delegates for either party's national convention. Other States, such as my own, hold caucuses. And still others select delegates by popular primary vote.

The whole process is too long, too confusing, and too costly. It is not a system of apples compared to apples. It is a system of apples compared to oranges, to green grapes, to limes, to lemons—to anything but each other. It is a system that becomes mired in a carnival-like atmosphere—candidates and their electronic entourage swooping down onto some small, unsuspecting community for an hour or so to do the obligatory media event. The process is so drawn out that we find candidates riding the crest of one event only to be washed out weeks later as another event cascades over them.

The whole thing seems to sink to a battle of who has Big Mo and who has Little Mo. Not the type of system to draw out the potential Lincolns or Jeffersons or Roosevelts.

And the public clearly knows that. In a recent poll on the choice between Jimmy Carter or Ronald Reagan, 11 percent of the people volunteered that they wanted neither.

Mr. Speaker, the House is about to recess for the first of two national conventions, supposedly the endproduct of all this mayhem. The Presidential prospects of either party compells me to introduce this legislation. Too many of our citizens—people I have talked to at the local Rotary or senior center—say they do not like the choice our primary system has produced. The time has come to reform our primary system, and I would like to give you a rough outline of the legislation I am introducing today.

Basically, the bill would establish a series of five regional primaries, to be held beginning the first Tuesday in March 1984, 3 weeks apart. My bill would not require a State to hold a Presidential primary. However, if the State was going to choose delegates to the Republican or Democratic national conventions by a primary vote, they would be required to hold their primary the same time other States in that region did.

The primary system would be monitored by the Federal Elections Commission, and a candidate would qualify in one of two ways: First, by qualifying for Federal matching campaign funds under existing law, or second, collecting signatures of 1 percent of the registered voters in the region but not more than 25 percent of those signatures from any one State.

The bill would allow up to 60 percent of any State's delegates to be selected through the Presidential primary, with selection of the remaining 40 percent selected by a method adopted by the individual State parties. In addition, the delegates chosen through the regional primary would be distributed to the candidates on a proportional basis, so that if you received 40 percent of the popular vote you would receive 40 percent of the delegates open to primary vote selection. It would also allow voters to cast their ballots for an uncommitted slate.

Mr. Speaker, the likely conclusion to the two national conventions being held in the next few weeks dramatically underscores the essential weakness in our Presidential primary system. I hope that my bill can become a vehicle for much-needed change and I will be working with my fellow members of the House Administration Committee to see that these reforms come about.●

SOCIAL SECURITY RIPOFF

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. ROTH. Mr. Speaker, there is growing concern among our citizens for the social security system. One of the glaring eyesores in the system is the fact that many prisoners are receiving special security disability benefits. There is legislation, H.R. 5610, that would correct this fault in the present system. I recently testified before the House Ways and Means Committee on behalf of this bill and because of the importance of this matter I would like to submit for the RECORD this testimony.

The testimony follows:

TESTIMONY OF CONGRESSMAN TOBY ROTH BEFORE THE HOUSE WAYS AND MEANS COMMITTEE

Mr. Chairman, I am very grateful for the opportunity to join with you and my other colleagues at this hearing today. It is a pleasure to present my views in strong support of legislation to provide that social security disability benefits not be paid to individuals who are confined in penal institutions or correction facilities.

The question of convicted criminals receiving social security disability payments has received increased attention as more and more examples are revealed of how the American taxpayers are getting ripped-off. There are basically four areas I would like to address in my remarks today before this subcommittee.

1. The present situation puts the American people in double jeopardy. In many cases, society will pay twice when a convict goes to jail. First, there is the cost of crime to society, and second, the taxpayer pays for the room and board and rehabilitation of the convict. It represents a colossal ripoff to the taxpayers if on top of this a prisoner is able to collect up to $538 a month from the Social Security Administration.

Providing social security benefits to convicted criminals circumvents the original purpose and intent of the Social Security Act. The system was never designed to provide a retirement pension but to assist retirees, the handicapped, and surviving family members to recoup income lost to death, disability and retirement. Prisoners have no need for a monthly allowance as all their basic needs are already provided.

2. It is ridiculous to further weaken the social security program and at the same time expect the taxpayer to pay more to enrich criminals.

Payments to the disabled and their dependents have quadrupled from about $3 billion in 1970 to nearly $12 billion in 1978 and the amount is increasing annually. During that same period, the total number of beneficiaries has increased from almost 3 to 5 million.

We have been hearing for years that our social security system is on the verge of bankruptcy. Some have even recommended taxing social security, an idea that I adamantly oppose. How then can it afford to make payments to convicted criminals? Overtaxed citizens sacrifice enough without having to subsidize this kind of give-away. This current situation flies in the face of decency and common sense. It is an insult to every American taxpayer.

Moreover, it is incredible that the vast number of social security beneficiaries are forced to accept a lower standard of living while prisoners live high on the hog in their rent-free cells.

3. Apart from the issue of whether inmates are abusing the social security system, reports are that the money creates other problems at the prison.

The money makes many inmates targets for strong-arming by other inmates. For example, in one instance a prisoner got a check and was strong-armed out of $300 and another inmate's girlfriend on the outside cashed the check before it could be stopped. Then somebody snitched and protection had to be provided for the snitch.

Other reports are that a lot of money just creates a lot more discipline problems. A social security check in prison means the inmate can live like a king. As one guard put it, "This is a place where $100 a month will buy you drugs, cigarettes and luxuries. And social security checks, it should be noted, can be as high as $538 a month.

4. Finally, while the situation cries out for action it appears that an administrative paralysis has set in and many would rather hide behind the law than change it to correct the problem.

We must remember that Congress made the law, and Congress can change the law. Any system that has a loophole big enough for David Berkowitz, the infamous "Son of Sam," to be receiving benefits, means there is something terribly wrong with that system. This particular incident of giving benefits to Son of Sam is going to create a tremendous loss of confidence among those vast millions of Americans who pay into the social security system with the belief that this money is going to be used to help them when they are old and infirm.

We must prove once and for all, Mr. Chairman, that crime does not pay by enacting legislation to correct this blatant abuse of our nation's social security program. Thank you.●

TRIBUTE TO OUR FLAG

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. CLINGER. Mr. Speaker, at this time of our country's birthday, we tend to reflect on the eminence and dignity America has so rightfully been granted. Our Nation's greatness is inseparable from the freedom and liberty that is symbolized in our flag. Each time the American flag is seen we remember the glorious heritage that nurtured the America of today. Dr. Elbert R. Moses, Jr. of Clarion, Pa., has authored "Tribute to our Flag" that I would like to share with my colleagues:

TRIBUTE TO OUR FLAG

The sheer beauty and simplicity of design of our American flag can cause a lump in our throats. It stands for our hopes and achievements for us all. It stands for our sacrifices and our struggles. It symbolizes our dedication to all those ideals set forth so clearly in the Declaration of Independence.

Our Flag was born in 1777 and we now have 50 stars each representing our 50 states. The number of stripes is 13 and represent the original 13 states. These 13 red and white stripes signify the history of that bitter struggle of the colonies as they fought side by side for their freedom and found in union there was strength. The red stripes stand for courage, the white for liberty and the blue field of the flag for loyalty. Our Flag represents a symbol of liberty for all Americans.

If one is in a foreign land, our Flag stands for America and immediately brings our thoughts homeward bound. Those of us who have been abroad can remember with pride when we saw our Flag flowing in the

breeze. We stopped. We looked. We listened. Every star and every stripe has a message. There is no language where their voice is not felt. Our Flag speaks to us all. It has a legend of victories both on sea and on land. It speaks to us of union, liberty and justice under the Constitution.

Our Flag represents two centuries of Liberty and Freedom. Cherish it with all your might, guard it with all your wisdom, and display it with pride for our land.●

UNCONTROLLED REFUGEE MIGRATION

HON. LARRY J. HOPKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. HOPKINS. Mr. Speaker, I'd like to express my utmost concern for the growing problems of uncontrolled refugee migration. We, as representatives of the American people must now address ourselves to the costs of the Carter administration's lack of a firm refugee policy. But the question will remain as to how to deal with future mass exoduses such as the Cuban-Haitian one.

We must focus on the present situation keeping in mind what our present actions denote for the future. We must have a firm, coherent policy for dealing with such peoples as the Haitians and Cubans. President Carter, after 2 months of inconsistency in his Cuban-Haitian exodus policy, has finally established a cutoff date which occurred June 19. He must now make it clear that additional refugees will be relocated to other countries or repatriated to Cuba.

The price of delay has been dear. Because of the President's open arms policy a few weeks ago, more and more Caribbean peoples will be enticed to leave their impoverished homelands to seek the wealth of America.

In addition, the President has now granted the Haitian-Cuban entrants an indefinite parole. My question is whether this latest action will further encourage more Cubans and Haitians to cross miles of ocean to Florida. I think that we must be concerned with this possibility. Again, the involvement of other countries is needed to help correct this dilemma.

The President despite his broad powers of dealing with such problems accomplished too little too late to ease the strain on our country in confronting the exodus. Let me now focus on another aspect of the President's lack of concerted action.

Although it's difficult to assess a particular policy when few actually know what that policy is, it is clear to me that the most disturbing aspect of the refugee situation is our lack of information about who—or what is entering our country's borders. The Fort Chaffee incident is a clear example of this lack of knowledge. I believe that a full investigation needs to be conducted in order to expel those who are proven to have been involved in the uprising. We cannot just sit back and allow Castro to send mental patients and convicts to our country. It is time that we let Castro's regime know that it must pay a price for such actions. President Carter's so-called condemnation has been distinctively weak. Evidence for this assertion can be found by simply citing the new waves of Cubans reaching south Florida's shoreline. And who will feel the brunt of this storm? The American taxpayer, of course.

Most predict that migrations, such as the Cuban-Haitian exodus, will continue throughout the world; 600,000 will have migrated to just the United States by the end of this year. The Cuban-Haitian problem is not just an American problem, but a world problem, as well. Therefore, we must actively seek more involvement by world organizations, such as the U.N., to help solve the problems which are the result of these new migration patterns. We must obtain more cooperation from U.N. officials in the effort to relocate these refugees in other countries. In conducting such actions, we will be laying the groundwork for dealing with problems of future migrations to the United States. Again, I plea to the administration and Congress to work for solutions that are adequate for today and applicable for tomorrow.●

JAMES HENRY WEST CELEBRATES 100TH BIRTHDAY

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. LELAND. Mr. Speaker, Mr. James Henry West, who is a constituent of mine, will celebrate his 100th birthday on July 6. Mr. West, who was born in Louisiana, was the sixth child of a family of 22 children.

In 1925, Mr. West moved to Texas where he has lived ever since. He and his wife, Lucritia Bass, were married for 67 years before her death in 1968.

Mr. West, a carpenter by trade, worked on the construction of three of the major plantations in Louisiana and many of the structures in the Studewood, Heights, and third ward sections of Houston are monuments to Mr. West's skill as a builder.

Mr. West is a member of the Shiloah Baptist Church of Houston and he has one son, G. Randolph West, and two grandsons.

Mr. Speaker, I am proud to have Mr. West as a constituent and I am happy to salute him today on the floor of this House and wish him well on his special day and I hope he has many more years of health and happiness.●

INSTITUTE FOR POLICY STUDIES: EMPIRE ON THE LEFT—PART V

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. McDONALD. Mr. Speaker, in concluding this study of the activities of the Institute for Policy Studies, Dr. Rael Jean Isaac, writing in the June/July issue of Midstream, examines the thin intellectual framework upon which IPS leaders Marcus Raskin and Richard Barnet have erected their house of cards, smugly termed our own political wreckers groups by IPS associates.

The article and footnotes follows:

The personnel of the Institute do little to ease suspicion. While IPS may not have known that Orlando Letelier was using his position as Director of the Transnational Institute as a "cover" for his activities as an (unregistered) agent receiving payments from Cuba, the Institute's reaction on learning of Letelier's "Cuban connection" was not to dissociate itself from him but to make him a hero and a martyr.[41]

Letelier has been ambassador to Washington under the Allende regime and, later, Foreign Minister. Arrested by the new regime, he was eventually released and worked for IPS until he was killed in September, 1976 (along with IPS staff member Roni Moffitt) by a bomb detonated under the seat of his car. Agents of Chilean intelligence have been convicted of the crime. Correspondence found in Letelier's briefcase between Letelier and Beatrice Allende, wife of the second in command of the Cuban secret police (in turn wholly controlled by the Soviet KGB), revealed that Letelier has received a lump sum followed by monthly payments from Cuba and that his strategy was to present "an apolitical character, oriented exclusively to the problems of human rights."

What is perhaps most interesting about the Letelier case is the "news management" of the incident. The long-cultivated IPS relationship with the media paid off. While the Washington Post published an initial column by Evans and Novak detailing the story, it suppressed their second column and substituted an IPS coverup story. Reed Irvine, director of Accuracy in Media, summarized the contents of the documents and described the Post coverup in a full page ad which he sought to place in the Post. When the Post refused to print it, Irvine took the ad first to the Washington Star and then to The New York Times, which refused to print the ad without deletions Irvine would not make. It refused to print the story of the Letelier documents on the grounds it did not find them of "news interest."[42] The Washington Post, a voracious consumer of "leaks," has the effrontery to publish an editorial on April 14, 1977, denouncing the leak of the Letelier documents.

To this date, although the Times continues to print stories on the Letelier murder, it has refused to breathe a word about the contents of the briefcase. Yet the killing of the agent of one foreign country by the agents of another is a rather different story from the wanton murder of a liberal exiled diplomat dedicated to human rights.[43]

Upon Letelier's death, IPS made Tariq Ali head of the Transnational Institute. Ali is a leader of the British section of the Trotskyite Fourth International, which maintains contact with terrorist groups world-wide. A long-time promoter of the PLO, Ali has been barred from entering the United States, France, India, Japan, Turkey, Thailand, Hong Kong, and Bolivia. Ali is quoted by Newsweek (Jan. 14, 1974) as saying: "We are dedicated to achieving socialism all over the world and not through peaceful revolution." IPS appointed as head of the Holland office of the Transnational Institute another revolutionary, Basker Vashee, who doubled as representative of the Zimbabwan African People's Union and as director of WISE, World Information Service on Energy, which dispenses advice to opponents of atomic energy. WISE praised the March, 1979, bombing of a reactor in Spain by Basque terrorists.

Most of those trained as lawyers at IPS are members of the National Lawyers Guild. Since it was established with the aid of the Comintern in 1936,[44] the Guild has expanded to include radicals of various stripes. It remains, however, affiliated with the Soviet-controlled International Association of Democratic Lawyers.[45]

And yet, intent to promote the interests of foreign powers does not have to be assumed to explain what IPS does. If we take seriously Raskin's assumptions, the Soviet Union, scarcely an anarchist's paradise, is no better than the United States. (It may have a slight edge in its failure to produce as much of the things people do not "really need.") The problem is that for IPS to have any hope of moving forward toward building the "reconstructed" society, it must allay fears about the Soviet Union, since if the Soviet Union were building up its own national-security system, we would need intelligence agencies, an army, advanced technology, etc.

IPS is forced, accordingly, to explain aggressive Soviet behavior by the Soviets' perception of threat from the United States. In the IPS analysis, unilateral U.S. disarmament and acceptance of Soviet actions in Africa, Asia, Europe, or Latin America actually enhance United States security. By easing Soviet fears, such acceptance reduces the likelihood of further seemingly aggressive Soviet moves. Dismantling the national-security state thus becomes the best security option, ensuring the possibility of peaceful utopian collectivism in the land mass now organized as the United States.

But there may be another explanation for the carelessness of IPS concerning the background—and present actions—of its Fellows. In the perspective of IPS Fellows, they are oppressed by a brutal, criminal, and senseless empire, the United States of America. A colonized people has the right to rebel against imperial power. All laws are the laws of empire, hence unworthy of respect. Once alienation has reached that point, treason becomes meaningless. The colonized will cooperate with those who can help to free them, even if the colonized may recognize that the aid is given to achieve goals that may not be their own.

The success of IPS is frightening. In a free society fringe groups of all sorts can and do appear. If a group revives Kropotkin and argues, to use the words of IPS Fello Karl Hess, that "there should be only the villages and then the world as units of political and social organization—nothing in between, such as nations,"[46] a free society can listen and—one would expect at this stage of human experience—smile tolerantly. What is frightening is the way in which the political elite of this country has confronted the challenge laid down by IPS, which has made no secret that its target is dismantling all American institutions, economic, political, social, and cultural.

Surely in retrospect one of the most remarkable features of the 1970s will be that an organization with such a target could convince a significant number of American legislators to pursue legislation designed to advance it; that supporters of the IPS perspective could move into key positions in the government bureaucracy; that IPS could become the source of trusted "experts" whose input into policy was seen as serving the public interest; and that "Establishment" media could regard IPS as a source of a significant perspective on public policy.

The success of the Institute for Policy Studies reveals far less about the Institute than it does about United States leadership in the political realm, in the universities, and in the powerful fourth estate of journalism. There is a lack of trained intelligence within this leadership—or the puerile fantasies of IPS would never have been accorded serious attention. There is a lack of faith—one suspects even elementary knowledge of—traditional American values and their intellectual underpinnings.

IPS is supremely self-confident in the nostrums that it offers. It confronts a leadership without faith in itself or in its traditions. the real lesson of IPS is the extent to which that faith has been lost—and thus how intensely vulnerable this society has become to what a speaker at an IPS conference on March 18, 1980 proudly called "our own political wreckers groups."

FOOTNOTES

[41] The Institute established memorial "human rights" awards given annually in honor of Letelier and Moffitt.

[42] On the Letelier documents see Accuracy in Media's *AIM Report*, January, 1977, Part I; March, 1977, Part I; April, 1977, Part I; April, 1977, Part II; May, 1977, Part I; May, 1977, Part II; July, 1977, Part II. See also *Information Digest*, April 22, 1977 and the *Congressional Record*, December 20, 1979, E 6287.

[43] This writer, following a long article in *The New York Times* in October, 1979, on Letelier and the effort to extradite from Chile individuals wanted in connection with his murder, sent a letter to the editor mentioning the contents of the briefcase as a factor that might help to explain why he had been murdered. The letter was not published. An answer came from George Palmer, Assistant to the Executive Editor of *The Times*, saying that *The Times* had kept readers fully informed of the "significant elements of the Orlando Letelier case." The letter went on to acknowledge the existence of the documents and said that while "they might have" indicated that Mr. Letelier "had some contact with Cuban authorities" *The Times* did not believe they "established that he had been a paid agent of Cuban intelligence." But what is interesting about this is that while *The Times* could have summarized the documents for its readers allowing them to form their own conclusions, instead it has simply refused to mention them, providing an excellent example of what Reed Irvine calls "The Pinsky Principle": if the facts in a story conflict with a reporter's political predilections, he doesn't bend or twist the facts, he just doesn't write the story.

[44] Staff Study for House Internal Security Committee on Revolutionary Activity Directed toward the Administration of Penal or Correctional Systems, Part III, Government Printing Office, 1973, p. 130.

[45] Institution Analysis No. 12, "The Anti-Defense Lobby: Part III," The Heritage Foundation, p. 13.

[46] *Bulletin* of Alliance for Neighborhood Government.●

DAILY RECORD 80TH BIRTHDAY

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. COURTER. Mr. Speaker, on June 25, my constituents celebrated the 80th anniversary of Morris County's major newspaper, the Daily Record. Founded in 1900 by Ernest Tomlinson, the infant newspaper quickly became established as the only daily in an area served by three weeklies.

Norman Balderston Tomlinson, Sr., followed in his father's footsteps in the newspaper business, and, following Ernest Tomlinson's death, took over as publisher and editor. Despite the troubled and financially hard-pressed years of the Depression, the Record was able to keep the presses rolling and did well enough to acquire its strongest competitor in Morris County, the Jerseymen.

Under the skillful management of Norman B. Tomlinson, Jr., the small daily has grown to become a respected institution and a chief source of community information. Tomlinson expanded the paper by publishing a Sunday Daily Record, two weekly magazines, YOU and TGIF, and editions for portions of Somerset, Sussex, and Warren Counties, in addition to Morris County.

The commitment to a high standard of excellence in reporting journalism is reflected in the paper's wide following and support from the business community. Over the years, the paper has consistently covered the international and national events both thoroughly and objectively, while keeping the area residents informed on what's going on at home as well.

I would like to thank my colleagues for the opportunity to make note of this special occasion and to express appreciation to the Daily Record for its many years of fine service to northwest New Jersey. Eighty years of good journalism is going to be hard to beat, but the Record's readers are looking forward to 80 more.●

LEND-LEASE SHIPS FROM JAPAN?

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980 .

● Mr. PAUL. Mr. Speaker, I would like to call the attention of my colleagues to a column by syndicated columnist Anthony Harrigan which appeared in the Brownsville, Tex., Herald. The subject of the column was our current lend-lease program, a topic that I have tried to call attention to many times here in the House. Mr. Harrigan correctly states that Japan should be required to do more to protect itself. Instead, the American taxpayers are subsidizing the defense of Japan so that Japanese companies can avoid the taxes necessary for a strong defense. These companies then export cars to the United States, putting our domestic manufacturers at a disadvantage. The defense subsidy to our wealthy allies has very serious economic repercussions.

[From the Brownsville, Tex., Herald, May 1, 1980]

LEND LEASE AGAIN

(By Anthony Harrigan)

Lend lease ships from Japan?

Yes, that's what the United States should be insisting upon. It's an idea whose time has come.

We have today in the Indian Ocean a naval task force of more than 20 warships. Virtually everyone agrees that such a task force—a de facto Fifth Fleet will be needed for years to come in order to safeguard the oil route across the Indian Ocean.

Deployment of such force is costing and will cost the United States colossal sums, at a time when America can least afford to build and position warships in distant global regions.

While U.S. taxpayers are carrying the entire cost of the operation, other countries, notably Japan, are beneficiaries of the American naval action.

A train of tankers from the Persian Gulf to the Japanese home islands is Japan's lifeline. Without the Persian Gulf-Indian Ocean route, the lights would go out in the second greatest industrial power in the world.

Japan, however, isn't paying a single yen for the security of the oil route across the Indian Ocean. It is getting a free ride on that as it is on other areas of national defense—all at the expense of the United States.

While Japan has a small Maritime Self-Defense Force in the Pacific, it depends almost completely on the U.S. Seventh Fleet and other American military contingents. The United States also provides Japan with a nuclear shield.

American military protection for Japan means that the country spends only .9 percent of its gross national product on national defense. The United States spends about 5 percent and may have to spend up to eight percent to obtain adequate protection and safeguard its friends and allies.

Obviously, Japan should be required to do more to protect itself so that America doesn't have to bear such a heavy burden. The Japanese attempt to hide buildup and overseas deployments. There's no barrier, however, to Japan making financial contributions to free world defense.

That's where the lend lease concept is applicable. In World War II, the United States built ships for its allies and leased them for a token sum. Japan could and should be required to do the same thing. For example, it could easily construct the fast deployment ships the administration wants in order to pre-position military oilers and repair vessels needed by an Indian Ocean fleet.

It's astonishing that President Carter and Congressional leaders aren't loudly calling for a lend lease program by Japan. Unfortunately, they are silent while Japan does nothing for its own defense.

This is the Japan that's waging a virtual economic war against U.S. industry in order to obtain a larger share of American markets.●

NUCLEAR FUEL TO INDIA—A SETBACK FOR NONPROLIFERATION

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. BROOMFIELD. Mr. Speaker, President Carter once identified nuclear nonproliferation as "one of mankind's most pressing challenges." In a speech he delivered during the 1976 campaign, Jimmy Carter decried the method of using the sale of nuclear fuels to other nations as a carrot in diplomatic negotiations, and stated:

> The continuing global proliferation of nuclear weapons is a dangerous and unacceptable barrier to world peace. The more countries that possess nuclear weapons, the greater the risk that nuclear warfare can erupt in local conflicts, and that these could trigger a major nuclear war. Terrorism, already a grave international threat, takes on an almost unthinkable dimension in a world where plutonium is widely available and inadequately safeguarded.

The President's recent decision to override the unanimous NRC decision and approve the shipment of 38 tons of enriched uranium to India constitutes a dramatic about-face from his previously stated commitment to nuclear nonproliferation and represents the most recent example in a long line of foreign policy inconsistencies that have characterized his administration. I believe that President Carter's new posture is a serious setback to the cause of nuclear nonproliferation and his decision to ship the uranium is a grave mistake reflecting insufficient consultation and largely unfounded and myopic reasoning.

To be sure, our nuclear relationship with India is a unique one. At this time, India is the only nation receiving U.S. enriched uranium that has not signed the Nuclear Non-Proliferation Treaty. Moreover, that nation continues to refuse comprehensive International Atomic Energy Agency (IAEA) safeguards on all of its nuclear facilities.

India first became a nuclear violator when on May 18, 1974, the nation detonated a nuclear device constructed from unsafeguarded plutonium produced in a Canadian research reactor which used U.S.-supplied heavy water. The Nuclear Non-Proliferation Act, a product of the House Foreign Affairs Committee on which I serve as the ranking minority member, was in large measure stimulated by India's nuclear explosion.

The U.S. decision concerning the shipment of the enriched uranium to India is being interpreted widely both at home and abroad as the test case of our Nation's commitment to nuclear nonproliferation. Approval of the enriched uranium shipment to India will be seen abroad as an American backdown from its previously strong commitment to nuclear nonproliferation in favor of the possibility of improved relations with India. This was evidenced by comments from our Canadian friends at the recently held Canada-United States Interparliamentary Group meeting in San Diego, Calif. At this meeting, our Canadian friends stated that if the United States again approves the shipment of nuclear fuel to India, the Government of Canada will surely be displeased.

The shipment of fuel to India will also establish a precedent for future nonproliferation efforts by the United States. In particular, it will be a signal to other countries that they may violate nonproliferation agreements and acquire nuclear arms without incurring any costly penalties, and it will severely cripple the credibility of our Nation's position in virtually all nonproliferation related negotiations. Among these are the efforts to upgrade dozens of deficient bilateral and multilateral cooperation agreements, to persuade countries such as Italy, France, and Switzerland not to sell weapons-related technology to countries like Iraq and Pakistan, and to negotiate controls for the use of plutonium in the future.

Furthermore, I believe that the decision to ship the uranium to India would increasingly destabilize what is already a deteriorating political and military situation in Southwest Asia.

By shipping the nuclear fuel to India, relations between the United States and Pakistan would be further strained. In April of 1979, the United States cut off all assistance, except food aid, to Pakistan in response to evidence that Pakistan was developing a nuclear weapon in violation of nuclear nonproliferation stipulations in the Foreign Assistance Act. Pakistan would rightly perceive U.S. nonproliferation policy to be clearly inconsistent between India and Pakistan. In addition, the shipment would further incite Pakistan to bolster its nuclear military capability in response to the increased weapons potential of India.

India's nuclear capability also affects the People's Republic of China because of India's strategic location—a location actively exploited by the Soviet Union in order to encircle the People's Republic of China. The shipment of enriched uranium to India under these conditions could increase the likelihood of the People's Republic of China entering into a more dangerous South Asian arms race. The People's Republic of China recent successful ICBM tests are an important harbinger in that regard.

The uranium shipment in question is authorized under a 1963 agreement between the United States and India for cooperation in civil uses of nuclear energy. This agreement commits India to fuel the two 200-megawatt reactors at the Tarapur Power Station solely with U.S. enriched uranium. The United States, in turn, is committed to supply this uranium if the Indian Government can obtain the necessary export license. The agreement also stipulates that safeguards be maintained on the U.S.-supplied fuel to Tarapur and that that fuel be used only for peaceful purposes and not for "atomic weapons or for any other military purposes." Furthermore, the agreement requires that the fuel not be reprocessed or excess plutonium from the fuel transferred to other nations without U.S. agreement. The Tarapur agreement expires in 1993.

Proponents of the shipment argue that by not selling the uranium, the United States would be violating the 1963 agreement, and in so doing damage the credibility of the United States as a reliable agreement partner. I believe that this argument is invalid on two counts.

First, article II(c) of the agreement stipulates that the quantity of enriched uranium provided by the United States shall not at any time be in excess of the quantity necessary for the full loading of the Tarapur reactors plus an additional amount which by mutual determination the two parties deem is necessary to enable efficient and continuous operation of the station. The NRC has calculated that India currently has a sufficient stockpile of fuel to power one of the Tarapur reactors until May of 1983 and the other until December 1982. The United States would not strictly be in violation of the agreement if it waited as late as February of 1982 before shipping the fuel, as such a late shipment would still meet the reactor's needs.

Second, the 1963 agreement states that India agrees to "comply with all applicable laws, regulations, and ordinances of the United States." The Nuclear Nonproliferation Act with its full scope safeguard requirement constitutes such a law, and, in fact, is the principal law governing U.S. nuclear assistance. Section 306 of the 1978 Nuclear Nonproliferation Act specifies as a criterion for nuclear exports applied after September 10, 1979, that the importing nation must have IAEA safeguards in place for all peaceful nuclear activities in nonnuclear weapon states. In addition, the act specifies that, after March 10, 1980, export licenses cannot be approved if the first export would occur after this date.

Despite considerable U.S. efforts to negotiate, India has steadfastly refused to adopt full scope safeguards and inspections for all of her nuclear facilities. In this regard, the 38 ton shipment approved by President Carter clearly seems to fall after the March 10, 1980, deadline for comprehensive IAEA safeguards. However, Deputy Secretary of State Warren Christopher argued in his testimony before the House Foreign Affairs Committee that the shipments are within the grace periods stipulated in the Nuclear Non-Proliferation Act because "delay by the U.S. Government, for which India can hardly be held responsible, is the only reason that the fuel was not shipped before March 10, 1980." This assertion contradicts previous State Department testimony before Congress in 1978, when it was stipulated that the actual and not the intended shipment date of the export governs.

Assuming then that the actual shipment date of the export governs, the proposed uranium sale to India thereby violates the Nuclear Non-Proliferation Act. However, the Nuclear Non-Proliferation Act does allow for special circumstances that would validate the sale. For example, the NRC may issue an export license if it is notified that the President has determined that failure to approve a license would seriously prejudice the achievement of U.S. nonproliferation objectives or otherwise jeopardize common security and defense. The President has presented two arguments which attempt to invoke the special circumstances clause of the Nuclear Non-Proliferation Act.

First, the President has argued that the shipment is vital for the achievement of U.S. nonproliferation objectives because failure to ship the enriched uranium to India would be interpreted by India as a U.S. violation of the Tarapur agreement. As a result, India would consider itself free from all IAEA safeguards and restrictions imposed by the 1963 agreement on the use of the U.S. supplied fuel, and would not be unlikely to employ that fuel in some way antagonistic to the cause of nuclear nonproliferation, such as using the spent fuel from the Tarapur reactor to produce more nuclear weapons. The Carter administration's reasoning in this argument, while not unsound, is myopic. India has made it clear that it would interpret U.S. disapproval of the shipments as abrogating the 1963 agreement, thus freeing itself of all constraints imposed by the agreement. However, in the one precedent to this situation, when Canada cut off fuel supplies after the 1974 test explosion, India did not withdraw IAEA safeguards from the Canadian reactors.

Nonetheless, the possibility that India will use their supply of spent fuels to produce more bombs cannot be precluded. Currently, they have about 226 metric tons of spent fuel which, if reprocessed, has a possible yield of approximately 100 bombs. President Carter considers it imperative that the United States head off this possibility by continuing to supply India with enriched uranium and in so doing accede to their interpretation of the 1963 agreement. Allowing India to blackmail us in this manner is not a solution to the problem but merely defers the impact of the problem. In 1993, the Tarapur agreement will expire, freeing India of all obligations imposed by the agreement. The only difference is that by then they will have the capacity to construct 200 bombs. This alternative seems hardly consistent with U.S. nonproliferation objectives. Furthermore, this argument supporting the sale of uranium to India on the grounds of U.S. nonproliferation objectives ignores the overwhelmingly negative impact of the shipment to the cause of nonproliferation among all other nations.

Second, the Carter administration has attempted to invoke the special considerations clause in the Nuclear Nonproliferation Act by arguing that U.S. security concerns in South and Southwest Asia, in the wake of the unrest in Iran and the invasion of Afghanistan, necessitate that the shipment go through to bolster our relations with India, a country which, the administration contends, can promote security and stability in the area. Not selling India the fuel, it is argued, will result in the tilting of India toward the Soviet Union, with the likely outcome of Moscow supplanting Washington as the supplier of Tarapur fuel.

I believe that this argument completely ignores all other relationships between India and the United States by assuming that the 38 ton shipment is the only existing vehicle for promoting healthy United States-Indian relations. If the United States disapproved the shipment, India would continue to desire good relations with the United States for many reasons. Even though the Bingham resolution of disapproval, which I cosponsored and which has strong bipartisan support, prohibits the export of U.S. nuclear fuel to India, our country would still be able to sell India vital nuclear components for the safe operation of the Tarapur reactors. The United States also sells India significant high technology and chemical products and continues to provide India with substantial U.S. development assistance and Public Law 480 support. Furthermore, India is interested in the possibility of U.S. military assistance, in particular several thousand TOW missiles, to balance her conventional arms supply relationship with the Soviet Union.

It is conceivable that India would react to a U.S. disapproval of the uranium shipment by establishing an exclusive Tarapur fuel supply relationship with the U.S.S.R. While regrettable, such a development would not be dangerous to U.S. security interests. The Soviet Union is already supplying heavy water nuclear material to India in addition to other assistance including the $1.6 billion arms agreement recently signed. Given the substantial trade relationship which already exists between the U.S.S.R. and India, the addition of a Tarapur fuel agreement would not enhance Soviet leverage over India to a significant degree.

Furthermore, a Soviet takeover of the Tarapur fuel agreement would not be dangerous from a nonproliferation standpoint. Soviet nonproliferation requirements are quite strict. Often, for example, the U.S.S.R. will only agree to lease fuel rather than to sell it outright.

Thus, it does not seem that President Carter can justify approval of the uranium shipment by invoking the special consideration clause in the Nuclear Nonproliferation Act either. The final argument proposed by the Carter administration was presented by Warren Christopher in his testimony to the House Foreign Affairs Committee in the following way: "If we do not proceed, we could close the door on any opportunity for influencing India's future nuclear activities."

Recent events since 1974 have conclusively demonstrated that with or without the Tarapur agreement, the United States has not been able to influence Indian foreign policy, be it in regard to nuclear nonproliferation matters or otherwise. The events to which I refer include the 1974 test explosion of a "peaceful" nuclear device, which was conspicuously in violation of at least the spirit of U.S. nonproliferation goals, if not agreements themselves. Prime Minister Gandhi's refusal to rule out the possibility of further "peaceful nuclear experiments," the continued Indian rejection of full scope nuclear safeguards and inspections, India's trade agreement with Iran which undermines U.S. trade sanctions, as well as India's position that the Soviet invasion of Afghanistan was "understandable."

The Carter administration has unconvincingly pursued all possible lines of reasoning in an attempt to justify a decision that is quite simply wrong. Approval of the 38 ton shipment of enriched uranium to India would set a dangerous precedent that would undermine the credibility of the United States and all aspects of the nuclear nonproliferation cause. I strongly urge the Congress to disapprove this shipment of uranium to India.●

H.R. 6722

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. BEDELL. Mr. Speaker, the Small Business Committee yesterday voted to report out the Small Business Motor Fuel Marketer Preservation Act, H.R. 6722 as amended. This legislation originated in the Small Business Subcommittee on Antitrust, which I chair.

Congressman Jim Hanley is a coauthor of H.R. 6722 and a member of the Antitrust Subcommittee. He helped draft the bill and he helped mark it up in subcommittee.

Yesterday it was necessary for Jim to preside over a meeting of the Post Office and Civil Service Committee, which he chairs. As you know, yesterday his committee completed work on the Postal Service budget and directed the continuation of Saturday mail delivery. This unfortunate scheduling conflict prevented him from being at the meeting of the Small Business Committee.

Congressman Hanley gave his proxy to me, with instructions to vote for the bill. Inadvertently, I failed to record Jim's vote when the roll was called.

I am taking this opportunity to apologize to Jim and to express my appreciation for his strong and continuing support of the Small Business Motor Fuel Marketer Preservation Act.●

SOLAR ENERGY FOR OUR SCHOOLS, HOSPITALS, AND PUBLIC BUILDINGS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. GILMAN. Mr. Speaker, today I am introducing a bill which directs itself to the energy crisis and how we can help our public institutions convert from oil consumption to solar power.

Two obstacles to greater utilization of solar energy to date have been: First, its cost, and second, a lack of certain economic incentives. One of the highly neglected areas happens to be our Nation's schools and hospitals. The windfall profits tax, recently signed into law, provides numerous tax credits and subsidies directed at reducing our dependency on foreign oil. However, by its very nature it failed to provide effective assistance for our schools, public buildings and hospitals which are, obviously, not eligible for any tax credits.

The reason that there has been relatively little concern over the energy needs of our hospitals and schools is partially due to the National Energy Conservation Policy Act (NECPA) of 1978, Public Law 95-619, which contains grant programs to promote energy conservation in those sectors of the public and private and nonbenefit buildings. However, the amount of funding, which constitutes a total of $900 million over a 3-year period, is not enough to do all the work needed to solarize the buildings involved. After all, there are, across the country, some 120,000 educational institutions and 10,000 hospitals, each of which have as many as 50 separate buildings. To outfit each of them with the necessary solar equipment will require a major effort that must go well beyond initial studies and a few pilot projects for each institution or hospital.

As it stands, the NECPA makes grants available to each State to conduct a statewide program of energy audits, that is, an onsite visit which determines the building profile or its size, type, rate of energy use, and so forth. Following the audit, grants are made available for the actual purchase and installation of energy equipment. The grant programs for schools and hospitals and buildings owned by public care institutions and units of local government, provide 50 percent matching Federal grants to assist in the implementation of the audits and solar material. The programs are administered by DOE offices in each of the 50 States, Puerto Rico, the Virgin Islands, the District of Columbia, Guam, and American Samoa.

My bill seeks to amend the Energy Policy and Conservation Act by extending the funds for the energy audits and the installation of solar systems in schools and hospitals and public buildings until fiscal year 1983, and sets the dollar amount at $3,000,000,000 per fiscal year, including an increase in funds for the technical assistance to $90,000,000.

Mr. Speaker, solar energy is nonpolluting, inexhaustible, and potentially economical. It is especially attractive to consumers because it can be employed in a decentralized fashion, allowing small community organizations, such as schools and hospitals, substantial control over their energy supply. Solar programs are essential to fight inflation and strengthen our national security. DOE has estimated that for every dollar taxpayers saved in fiscal year 1981 by cutting a solar budget, they will pay $30 in 1985 for the imported oil which could otherwise be saved. When one considers the enormous amount of energy that our hospitals, schools, and public buildings use each year, and the serious problems that will occur should they run out of oil during a time of crisis and have to shut down, it becomes obvious that we must make their energy independence a high priority.

The vehicle for the installation of solar equipment into these buildings already exists under the present program, but we must make sure that it is a forward moving vehicle and does not come to a screeching halt after the initial funding has been spent.

Mr. Speaker, at this point in the Record, I insert a full copy of my bill and urge my colleagues to support this legislation which provides the funds needed for this vital sector of our economy and which will, ultimately, accelerate our drive toward energy independence.

The bill follows:

H.R. —

A bill to amend the Energy Policy and Conservation Act to authorize certain appropriations for energy conservation programs for schools and hospitals and buildings owned by units of local government

and public care institutions, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, **That (a) subsection (a) of section 397 of the Energy Policy and Conservation Act is amended to read as follows:**

"Sec. 397. (a) For the purpose of making grants to States to conduct preliminary energy audits and energy audits pursuant to section 393, there is authorized to be appropriated $25,000,000 for the fiscal year ending September 30, 1981, and for each of the two succeeding fiscal years, such sums to remain available until expended.".

(b) Subsection (b) of section 397 of the Energy Policy and Conservation Act is amended by striking out "1979, and" and substituting "1979", by inserting after "1980," the following: "and $300,000,000 for each of the fiscal years ending on September 30 of 1981, 1982, and 1983,", and by striking out the items relating to 1979 and 1980 in the table contained in the last sentence of such subsection and substituting the following:

September 30, 1979	30
September 30, 1980	30
September 30, 1981	15
September 30, 1981	10
September 30, 1982	5.".

(c) Subsection (c) of section 397 of such Act is amended to read as follows:

"(c) For the expenses of the Secretary in administering the provisions of this part, there are hereby authorized to be appropriated such sums as may be necessary for each fiscal year in the six consecutive fiscal year periods ending September 30, 1983, such funds to remain available until expended.".

(d)(1) Section 400G of such Act is amended by striking out subsections (a) and (b), by redesignating subsection (c) as (b), and by inserting the following new subsection immediately after "400G.":

"(a) For the purpose of making grants for energy audits and technical assistance under this part, there is hereby authorized to be appropriated not to exceed $25,000,000 for the fiscal year ending September 30, 1981, $30,000,000 for the fiscal year ending September 30, 1982, and $35,000,000 for the fiscal year ending September 30, 1983, such funds to remain available until expended.".

(2) Subsection (b) of section 400G of such Act (as redesignated by paragraph (1)) is amended by striking out "two consecutive fiscal year periods ending September 30, 1979" and inserting in lieu thereof "three consecutive fiscal year periods ending September 30, 1983".●

FOURTH DISTRICT CONGRESSIONAL CLASSROOM

HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. CAMPBELL. Mr. Speaker, it was my fortunate privilege to bring 28 stellar high school students from the Fourth District of South Carolina to our Nation's Capital for a congressional classroom last month. This program provided these outstanding students with impressions of the inner workings of the Federal Government, of our Nation's culture as well as the landmarks of Washington, D.C. I hope and truly believe that the experiences these high school students gained from the congressional classroom will genuinely enrich their future academic and cultural endeavors.

These 28 rising high school students were chosen by their high schools as the most valuable students to participate in the Fourth District congressional classroom program. The 4-day intensive program gave the students a chance to see a wide variety of cultural and historical riches, including a play at the John F. Kennedy Center for the Performing Arts, tours of the Supreme Court, FBI, White House, Federal Reserve Board, National Archives, and the Smithsonian museums. I met with these bright students and was quite impressed with their interest in seeing Congress in action, the Capitol Building and in asking me about my duties. They seemed stirred with patriotism by their tour of the Arlington Cemetery and were quite concerned with the economic and political state of our Nation.

Their insightful questions confirmed my conviction that young people can only benefit from the opportunity to ask their Representatives questions, to see firsthand the making of our laws and to experience the riches of our Nation's history and culture. Hopefully, these students will learn from their exposure the complexity of the problems facing our Nation and be able to ponder and possibly offer positive alternatives for future solutions.

We are fortunate in the Fourth District to have civic-minded companies who share my conviction, and I would like to offer a special word of appreciation to these companies who offered financial support which made this program possible. These public-spirited companies wish to remain anonymous.

I also want to congratulate each of the congressional classroom participants and their parents and to assure my colleagues that if these students are typical of the upcoming generation, then our future is in excellent hands. The 1980 Fourth District congressional classroom students include: Bert Parker, son of Mr. and Mrs. Gilbert Parker from Spartanburg; Kent Nolen, son of Mr. and Mrs. Tom Nolen of Spartanburg; Clete Harmon, son of Mr. and Mrs. Alfred C. Harmon of Wellford; Mike Murray, son of Mrs. Elaine Murray of Whitestone; Layne McDaniel, daughter of Mr. and Mrs. Jim McDaniel of Chesnee; Mike Stortz, son of Dr. and Mrs. Michael Stortz of Spartanburg; Ashley Hayes, granddaughter of Mrs. M. P. Johnson of Spartanburg; Jody Brown daughter of Mr. and Mrs. Joe Brown of Landrum; David Hart, son of Mr. and Mrs. John Hart of Jonesville; Terry Hammett, son of Mrs. Bobby Hammett of Woodruff; Lisa Panosian, daughter of Dr. and Mrs. Edward Panosian of Greenville; Mike Ferguson, Mr. and Mrs. L. C. Ferguson of Taylors; Brian Dacus, son of Mr. and Mrs. W. Grover Dacus of Greenville; Jvell Dickey, daughter of Mr. and Mrs. Willie Peterson of Taylors; Allen Bryant, son of Reverend and Mrs. Billy Bryant of Mauldin; Charles Cureton, son of Reverend and Mrs. Stewart Cureton of Greenville; Tommy McCraw, son of Mrs. Dayton McCraw of Mauldin; Charles W. Kellett III, son Mr. and Mrs. Charles W. Kellett II of Simpsonville; Andrea Day, daughter of Mr. and Mrs. A. E. Weedon of Simpsonville; Kimi Smith, daughter of Mr. and Mrs. Junior William Roberts of Greer; Sherri Lister, daughter of Mr. and Mrs. Bob Lister of Taylors; Rueben Ridgeway, son of Mr. and Mrs. A. F. Ridgeway of Greenville; Sidney Sherman, son of Mr. and Mrs. Theodore Sherman of Greer; and Vicki Gaines, daughter of Dr. and Mrs. James Gaines of Greenville.●

BORIS DEKHOVICH, VICTIM OF HUMAN RIGHTS VIOLATIONS

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. OBERSTAR. Mr. Speaker, Boris Dekhovich is a Soviet Jew who, like so many thousands of his brother and sister Jews in the U.S.S.R., has committed the crime of asking his government for permission to exercise a fundamental right guaranteed him by the Helsinki accords.

Boris Dekhovich has sought, and been denied, permission to join his family in Israel. He has, thereby, become one of the legion of "refusniks," held captive in the Soviet Union because of his faith.

His petition has led to repeated harassment by the KGB. He now can find only occasional work. He has been separated from his parents and sisters who live in Israel because his government severely restricts the rights of its citizens to emigrate as they wish.

Mr. Speaker, the Members of this body, and all other democratically elected legislatures and parliaments throughout the world, have the responsibility to speak out against the violations of human rights no matter where they occur.

The persecution of Jews in the Soviet Union is assuming a menacing pattern of widespread, government-led, organized anti-Semitism. It is an insidious and frightening evocation of the anti-Semitism of nazism.

I am pleased to speak on behalf of Boris Dekhovich, as part of the Helsinki vigil, led in this House by our colleague, ANDY MAGUIRE. Last week, 60 of our colleagues joined in an appeal to Leonid Brezhnev to ask that Boris

Dekhovich be permitted to emigrate. I include for the RECORD a copy of our letter and a list of those who signed.

I hope that by the end of this Congress I will be able to report the good news that Boris Dekhovich is in Israel.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., June 13, 1980.

Mr. LEONID BREZHNEV,
President of the U.S.S.R., Council of Ministers, The Kremlin, Moscow, U.S.S.R.

DEAR MR. PRESIDENT: We, as Members of the U.S. House of Representatives, are deeply concerned about the denial of those human rights guaranteed all people by the Helsinki Accords.

The Accords guarantee that freedom of emigration is a fundamental right of all peoples. The violation of that right must be the concern of all democratically elected legislatures and parliaments throughout the world.

We are writing now because of our particular concern for Soviet citizen, Boris Dekhovich, UL, Kosmonovtov, 20, Apt. 67, Vinnitsa, Ukranian SSR, who has been denied his right to join his family in Israel.

He has repeatedly sought to exercise the right to emigrate guaranteed him under the Helsinki Accords.

Prior to their departure in August, 1975, the parents and sisters of Boris Dekhovich were subjected to repeated harassment because of their desire to emigrate and because of their religious beliefs.

Granting Boris Dekhovich an exit visa would offer a significant expression of the commitment of your government to the Helsinki Accords. His reunion with his family would not threaten your government or your people.

We urge you to permit Boris Dekhovich to emigrate to Israel.

Sincerely,

James L. Oberstar, M.C.; Jerome A. Ambro, M.C.; Les AuCoin, M.C.; Adam Benjamin, Jr., M.C.; William M. Brodhead, M.C.; Phillip Burton, M.C.; Charles F. Dougherty, M.C.; Robert F. Drinan, M.C.; Mickey Edwards, M.C.; Hamilton Fish, Jr., M.C.; Martin Frost, M.C.; William H. Gray, III M.C.; Tom Harkin, M.C.; Joseph P. Addabbo, M.C.; Bill Archer, M.C.; Michael D. Barnes, M.C.; James J. Blanchard, M.C.; Berkley Bedell, M.C.; William L. Dickinson, M.C.; Thomas J. Downey, M.C.; Bob Edgar, M.C.; Melvin H. Evans, M.C.; Bill Frenzel, M.C.; Albert Gore, Jr., M.C.; S. William Green, M.C.; Margaret M. Heckler, M.C.; Frank Horton, M.C.; Dale E. Kildee, M.C.; William Lehman, M.C.; Mike Lowry, M.C.; Andrew Maguire, M.C.; Matthew F. McHugh, M.C.; Morgan F. Murphy, M.C.; Richard L. Ottinger, M.C.; Charles B. Rangel, M.C.; James H. Scheuer, M.C.; Edward J. Stack, M.C.; Jack F. Kemp, M.C.; Robert J. Lagomarsino, M.C.; Norman F. Lent, M.C.; Dan Lungren, M.C.; Marc L. Marks, M.C.; Norman Y. Mineta, M.C.; Richard Nolan, M.C.; Claude Pepper, M.C.; Benjamin S. Rosenthal, M.C.; Stephen J. Solarz, M.C.; Fortney H. Stark, M.C.; Bennett M. Stewart, M.C.; Henry A. Waxman, M.C.; Lester L. Wolff, M.C.; Antonio B. Won Pat, M.C.; Millicent Fenwick, M.C.; Barbara A. Mikulski, M.C.; Frank J. Thompson, Jr., M.C.; Ted Weiss, M.C.; Howard Wolpe, M.C.; Sidney R. Yates, M.C.; William J. Hughes, M.C.; Thomas A. Luken, M.C.●

MUSIC TEACHERS COUNCIL OF WESTCHESTER, N.Y., 40TH ANNIVERSARY

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. OTTINGER. Mr. Speaker, I would like to call your attention to the 40th anniversary of the Music Teachers Council of Westchester, N.Y. The organization's fine efforts over these years has been instrumental in encouraging and developing young musical talent throughout Westchester. The council continually sponsors a broad range of exciting programs and services. During the year the council holds several concerts and recitals so that the public may enjoy and appreciate the superb talent these performers have to offer. Without the council's initiative the musical ability may be overlooked. The immeasurable service this organization provides through its concerts and recitals is beneficial not only to those who attend, but also to the performers who are given a much needed forum to display their talents.

In addition, the council maintains a resourceful library at the Westchester Conservatory of Music. The Music Teachers Council also extends its programs to the entire community by offering unique and interesting courses, which may earn college credit.

One name that cannot go without mention is that of Gaby Milne, whose association with the council has been crucial to the organization's success. Her training and background exemplify the professionalism and dedication the council maintains. Mrs. Milne studied piano at the Vienna Conservatory of Music. She continued her studies in England where she won a scholarship to London's Howard-Jones School of Music, and was awarded a teachers degree by the Royal Academy of Music in London. It has been to her credit and her students' great benefit that she has so ably shared her skills over the years.

I would also like to congratulate Eleanor Perrone, a pianist; Sharon Gewitz, a violinist; and Vincent Trovato, a pianist; who received the most recent Music Teachers Council scholarship awards. These students represent the highest standards among young performers in Westchester. Their deep commitment to music is evident from their longstanding association with musical performances. The Music Teachers Council presented in May a delightful concert featuring these young artists.

Mr. Speaker, the Music Teachers Council's continual service to the Westchester community through its wide variety of programs deserves the applause of all on its 40th anniversary year.●

STATEMENT OF CHAIRMAN AL ULLMAN, COMMITTEE ON WAYS AND MEANS, WITH RESPECT TO THE RULE TO BE REQUESTED FOR CONSIDERATION OF THE RECONCILIATION RECOMMENDATIONS OF THE COMMITTEE ON WAYS AND MEANS

HON. AL ULLMAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. ULLMAN. Mr. Speaker, on July 25, 1980, the Committee on Ways and Means ordered favorably reported to the House, H.R. 7652, a bill which contains the reconciliation recommendations of the Committee on Ways and Means for spending reductions and revenue increases pursuant to sections 3(a)(8) and 3(a)(9) of House Concurrent Resolution 307, the first concurrent budget resolution for fiscal year 1981. Under these sections of the first budget resolution, the Committee on Ways and Means is required to report specific recommendations by July 2, 1980, which, first, reduce spending for fiscal year 1981 with respect to laws or bills within the committee's jurisdiction by $2 billion, and second, increase fiscal year 1981 revenues by $4.2 billion. The Committee on Ways and Means will submit the provisions of H.R. 7652 to the House Budget Committee which will assemble all of the reconciliation recommendations of the various House committees and report them without substantive revision in a single omnibus reconciliation bill.

Pursuant to the rules of the Democratic Caucus, I take this occasion to advise my colleagues as to the nature of the rule that I will request for consideration of the reconciliation recommendations of the Committee on Ways and Means on the floor of the House. The Committee on Ways and Means specifically instructed me to request the Committee on Rules to grant a modified closed rule on the reconciliation proposals reported by the Committee on Ways and Means which would only provide for:

First, Ways and Means Committee amendments, which would not be subject to amendment;

Second, an amendment which would not be subject to amendment, if offered by Mr. VANIK and if printed in the CONGRESSIONAL RECORD, delaying the effective date of H.R. 1543, trade adjustment assistance program improvements, to September 30, 1981;

Third, 2 hours of general debate, to be equally divided between the chairman and ranking minority member of the Committee on Ways and Means; and

Fourth, waiving all necessary points of order.

We intend to officially report H.R. 7652 to the House and submit the provisions of the bill to the House Budget Committee on July 2, 1980. It is our intention to appear before the Committee on Rules at such time as the omnibus reconciliation bill may be scheduled for hearing by the Rules Committee.●

SHE'S A FARMER'S WIFE

HON. VIRGINIA SMITH

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mrs. SMITH of Nebraska. Mr. Speaker, the June issue of Kernels and Chaff, the newsletter of the Nebraska-Wyoming Wheat Growers Association, carries a description of the multifaceted jewel that shines in every rural home where there is a farmer's wife.

I know many of them and they are everything Mr. Valentine says and more. They are truly appreciated where they are known. With the thought that more people should come to know them and appreciate their versatility and their attributes, I insert Mr. Valentine's tribute, "She's a Farmer's Wife," in the RECORD.

SHE'S A FARMER'S WIFE

(By Dan Valentine)

She comes in all assorted sizes—short and tall and medium high . . .

She comes in all assorted colors—blonde, brunette, and in-between.

She's America's greatest career girl . . . she feeds the men who feed the world.

She's a farmer's wife.

Her busy hands are the hope of the future.

She's America in a gingham dress . . . She's democracy in a pair of blue jeans . . . She's freedom in a checkered apron.

She's a farmer's wife.

She can saddle a horse . . . Tat a doily . . . Can peaches . . . Pitch hay . . . Lift milk cans . . . Feed chickens . . . Drive tractors . . . and still be the belle of the ball at the Saturday night dance.

She's America's greatest hostess . . . and can feed six or 60 at a moment's notice during harvest . . . and still find time to wear a rose in her hair.

She's a farmer's wife.

Her day begins with the first smile of dawn, and she says goodnight to the moon when it is high in the sky.

She is a wife and mid-wife . . . She is mother and sweetheart . . . She is grandmother and good neighbor.

She is charming hostess, helpful helpmate . . .

She is housewife . . . Farmhand . . . Chicken raiser . . . Canner . . . Seamstress . . . Spur-of-the-moment veterinarian . . .

She is Sunday School teacher . . . P-T-A chairman . . . Party-giver . . . Gardener . . . Woman of all trades.

She's a farmer's wife.

She's a wave of a mother's hand as the schoolbus disappears down the lane . . . She's a bowl of hot soup to an ailing neighbor . . . She's a hot mince pie cooling off on a well-scrubbed window sill . . . She's geraniums on a shady porch . . . She's a glass of cool lemon-ade on a hot summer's day . . . She's a sun-bonnet in a tomato patch . . .

She's a farmer's wife.

Her gentle hands can ring a dinner bell . . . Soothe the fevered brow of a sick child . . . Cook a stew . . . Pick a flower . . . and hitch a team of horses.

She's as modern as tomorrow . . . and as old-fashioned as yesterday.

She can dress in the latest Fifth Ave. fashions . . . and still whip up a batch of fresh-baked bread . . .

She gives the nation tall, strong sons . . . and self-reliant daughters.

She's a farmer's wife.

She is strong when the land is weak . . . She brings roots to the wilderness and the singing grass . . .

She likes the crackle of a friendly fire on winter evenings . . . She likes the sound of children laughing on a grassy summer lawn . . . She likes the aroma of fresh-baked bread, and the music of strong men laughing. She likes the curl of smoke coming from friendly chimneys . . . and family reunions and Fourth of July picnics . . . and neighbors.

She has the courage that brings gentleness to raw plains . . . and her tender hands and loving eyes settle wild valleys.

She brings warmth to cold prairies . . . and civilization to new frontiers . . .

She's a farmer's wife.●

SMALL BUSINESS TAX INCENTIVES ACT OF 1980

HON. DAN MARRIOTT

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. MARRIOTT. Mr. Speaker, today I am introducing a bill to amend the Internal Revenue Code of 1954 to relieve some of the financial pressure facing small business in the 1980's. This bill is called the Small Business Tax Incentives Act of 1980.

It is a celebrated fact that when America is in trouble, it is usually the small individual, or company who comes up with the answer which bails us out.

The miracle of xerography has answered our massive copy needs, tungsten carbide has greatly increased our industrial capacity. Even the air conditioning which keeps the perspiration from our face as we wrestle with our Nation's problems in this sultry town was developed by a small innovative firm.

In January these small companies, who form the backbone of the innovative, industrial giant which America has become, gathered in Washington to advise lawmakers on how to help them to continue their tradition of solving American problems and fulfilling American dreams.

The result was 15 top priority recommendations which, to small business, have passed the point of being desirable, and have become a necessity. The first five of these recommendations concerned restructuring of the tax system to provide relief from the pressures caused by inflation, and to restore the vitality of the American dream.

The White House Conference on Small Business ended on January 17, 1980. Since that time the Congress has taken virtually no substantive steps toward answering these problems. My bill is intended to point out the direction that first step should take. There are six key features in the Marriott "Small Business Tax Incentives bill":

CORPORATE TAX RATE REDUCTION

This provision will aid small business in two ways. Since small businesses have a harder time finding capital than larger businesses, this bill would aid the small business by allowing it to retain more of its hard-found capital. Also since small business pays more for its capital when it can be found, the small firm does not have the leverage of the larger firms, and consequently has a harder time competing with large corporations for equity capital. By providing a greater after-tax rate of return for small business this bill would give small business stock more desirability.

ELIMINATION OF DOUBLE TAXATION OF DIVIDENDS

This overdue piece of legislation would not only be more equitable to the taxpayer, but would also be an incentive for much needed investment.

INCREASE IN AMOUNT OF USED PROPERTY AVAILABLE FOR CREDIT

By increasing the amount of used property from $100,000 to $300,000 this provision would not only aid small business, but would add incentive to American firms to update their operations by creating a market for their used capital.

INCENTIVES FOR INVESTING IN SMALL BUSINESS

By allowing a $20,000 deduction for equity investments in small businesses, this provision will also aid the small businesses to raise the needed capital to operate, while, at the same time, helping the economy through creation of jobs, added competition, greater production, et cetera.

NONRECOGNITION OF CAPITAL GAIN ON EXCHANGE OF S.B. PROPERTY

This is a provision long needed in our tax structure. In an inflationary economy, capital gains need to be computed on the replacement cost basis, rather than the historical cost basis presently used, that is essentially what this provision does provided that the investor stays within the small business guideline. This provision, as well as the capital gains reduction for small business investments not only results in greater equity for the taxpayer, but also provides incentive to investors to make capital available to small business.

EXCLUSION OF SMALL BUSINESS FROM ESTATE TAX

This provision will allow families to retain the small family-owned business for which they've struggled.

No one can doubt that America faces a troubled time. Our present energy, economic, and strategic problems may overshadow all of our past difficulties. If we are to successfully meet these challenges, we must reverse the trend that threatens to destroy small business, the life-blood of our free enterprise system. This bill will begin to reverse that trend.

Money invested in, or left with small business results in the creation of jobs and results in future benefits for the Government.

Assuming that each job created, or saved, results in compensation of $6 per hour and lasts for 3 years, the Federal Government is the beneficiary of $7,300 which is about $3,200 in additional tax revenue, and a savings of $4,100 in unemployment benefits and/or welfare payments for each 3 years. In other words Mr. Speaker, this bill will result in savings to the Federal Government, while performing a vital duty to the unemployed and to small businesses.

Mr. Speaker, it is clear that the time has come to move beyond providing only lip service to the needs of small business in our Nation. Now is the time to act on those needs.●

DOE'S SOLAR AND CONSERVATION FAILURES

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. OTTINGER. Mr. Speaker, I have become increasingly concerned over the past few months that the Department of Energy's solar and conservation programs are inadequate to meet the Nation's needs or the administration's goals for these technologies. My concern was first raised by the DOE's fiscal year 1981 budget request which reflected a business as usual approach to solar and conservation despite strong administration verbal commitments. Then, in March the GAO released a report which indicated that DOE has no plan to achieve the goal for solar energy announced by the President last June, and has not yet implemented a number of the initiatives announced in June by the President. This was followed by an OTA report, prepared for the House Science and Technology Committee, which found that a lack of direction and leadership by DOE management is hampering the progress of the DOE conservation and solar energy programs, and that many C. & S.E. programs suffer from inadequate planning, frequent and debilitating management changes and other internal difficulties. Finally, in late May we learned of an internal DOE memorandum by Secretary Duncan which set multiyear funding levels for solar and conservation substantially below their current share of the DOE budget.

Because of these concerns I invited Secretary Duncan to appear before the Energy Development and Applications Subcommittee of the House Science and Technology Committee on June 12. At that hearing I read excerpts from a memorandum by DOE Assistant Secretary, Thomas Stelson, on the key issues facing the Department's conservation and solar energy programs. That memorandum provides an excellent and concise assessment, from within, of the issues confronting the C. & S.E. programs.

I therefore submit it for the RECORD for my colleagues' information:

IV. CS ISSUES

INTRODUCTION

This section contains a number of issues which are of major importance to CS programs, but are not directly within the control of the Assistant Secretary for Conservation and Solar. These issues are pertinent to the full understanding of the Conservation and Solar program and the resource allocations contained in this FY82-FY86 program memorandum. This section is not a listing of program assumptions or program content differences among the "minimum", "Basic", "Enhanced" and "Over-Guidance" levels. These differences are described in each subprogram section of this report.

The issues to be addressed are as follows:

I. President's solar goal of 20 percent solar by 2000 is at risk.

II. Efficient energy use is necessary to raise industrial productivity.

III. Program funding is not consistent with program benefits and costs.

IV. Role of conservation in emergency planning.

Issue: The President has set a national goal of meeting 20 percent of the total energy consumption in the year 2000 with solar energy resources. This is considered an ambitious target but one which is fittingly so in view of the estimated potential of known technologies and of the economic, political, health, and environmental problems associated with continued heavy reliance on conventional fuels. This goal is not likely to be met with the level of resource commitment presently made by DOE to solar programs.

The Domestic Policy Review of Solar Energy (DPR) as well as a number of more recent analyses have differed in their estimates of the potential contribution of solar energy to the U.S. energy supply: A consensus nevertheless exists that the federal government will have to provide sizable support in order to make a significant transition to solar energy within this century.

By setting the 20 percent goal, the President indicated that the country needs to make renewable resources an important source of energy by the end of this century. However, the fiscal year 1980 budget did not rise above a business-as-usual level in response to that new commitment. Again, a year later, the fiscal year 1981 budget shows no marked increases.

The 1982 budget should show a sizable increment to solar funding over the previous budget or at least include analysis that demonstrates that a continued low level of funding is consistent with the 20 percent goal. Existing analysis does not indicate the latter; rather, it shows that for each technology, the basic level of the PPBS is far below that level of funding that could realistically lead to attainment of the 20 percent goal.

In the Solar Buildings Application Subprogram the basic level funding would result in major delays in research, products, and market development. For example, the Photovoltaics Program Element would slip 1 to 1.5 years behind the schedule it sets for reaching technological and commercial readiness targets for residential, intermediate, and central systems. The schedule and targets were set in the Draft Photovoltaic Multi-Year Program Plan (6/79) in response to Legislation that directs progress at a rate consistent with the 20 percent goal (Public Law 95-590, the Solar Photovoltaic Energy Research, Development, and Demonstration Act of 1978). In addition, the failure to meet these milestones implies a failure to follow congressional mandate.

In the case of the Passive and Hybrid Solar Energy Systems Program Element, the basic level of funding will result in less than half the passive solar units needed by 1985 to achieve the national goals of 1 Quad of displacement by 2000. The recent defeat of the passive solar tax credit in Congress makes it all the more important that support be provided through DOE programs to encourage passive solar building and retrofits.

In the case of both passive and active systems, making significant contributions by the year 2000 will require advanced system research and technology development in conjunction with activities that build an efficient market structure. The Basic level funding for active systems would make it impossible for DOE to complement private sector expansion efforts will be research and development (e.g. advanced materials development, solar heat pump testing), and commercialization efforts that the industry cannot afford.

The Biomass Energy Systems Program Element (in the Solar Industrial Applications Subprogram) is not likely to meet the DPR maximum practical contribution of 5.4 Quads in 2000 with Basic level funding. At that level, innovative conversion and advanced feedstocks research and system development for the production of petrochemical substitutes (medium-Btu gas, and fuel oil) would not be possible, nor would accelerated wood commercialization.

At the basic level of funding the Alcohol Fuels program will not meet the specifications of the alcohol fuels program which has been promised by the President.

In that same Subprogram, Solar Thermal Energy Systems requires above-Basic levels of funding for assessing potential fuels and chemicals processes and their applications, for supporting infant industries in the three technologies (central receivers, parabolic dish, linear receivers), for a community-scale applications program, and numerous other projects. In particular, very small amounts of funds would be available under Basic funding for repowering and industrial process heat retrofits—technologies which require substantial technology development and market enhancement.

Legislation is pending that would set a wind power development path with interim targets of 800 MW in 1988, of which 100 MW are to be small systems in place in 1986. Meeting these goals would indicate completion of basic activities that are needed to support a strong contribution to the U.S. 20 percent goal in 2000. The very limited commercialization activity that would be possible under the basic funding level would be insufficient and would take place too late for the wind program element to attain these or comparable goals.

Completion and monitoring of OTEC pilot and demonstration plants are pre-requisites to any commercial plants; therefore, it is impossible to know whether OTEC will contribute any energy to U.S. supplies in the year 2000 until those plants are in operation. An essentially zero contribution would be virtually assured by funding at the basic level which would require the previously publicized pilot plant completion date of 1985 to be pushed back many years; at this budget level the demonstration plant would not be deployed until the late 1990's. These delays would directly contradict plans previously submitted to Congress by DOE. In addition the basic funding level would preclude any demonstrations of a significant size of wave, current, or salinity gradient technology.

It is recognized that the 20 percent goal is not designed to be attained by Federal effort alone. Even so, demonstrable support of the President's 20 percent goal would imply significantly enhanced Federal funding of solar programs.

Issue: Efficient energy use is a necessary concomitant of enhanced industrial productivity. DOE's present programs and policies in the industrial sector are focused primarily on promoting efficient use of energy. The issue now is whether a concerted effort of DOE and other cognizant Federal agencies (e.g. Council of Economic Advisors, Treasury) should explore broader sets of policies to enhance overall productivity, thereby also making a possible giant stride in reduced energy use.

The major mechanism by which productivity can be enhanced is through accelerated capital formation and a rapid turnover of obsolete capital stock. In many sectors of the economy the U.S. is saddled with old, inefficient capital stock. Much of our capital base in the major industrial areas such as steel is based on old techniques of production which compare very unfavorably with the technology now available. This is not the case in Western Europe and Japan. The industrial plant and equipment of these countries is based on production techniques that became available in the post World War II era. In order for a major advance in productivity to be made the old, obsolete plant, equipment, and processes in the United States have to be replaced. However, this capital cannot be replaced on a piecemeal basis. Modern production usually requires a highly optimized plant which requires a very large expenditure. In sum, a serious commitment to enhanced productivity would require major incentives to enable rapid capital turnover.

This has far-reaching implications for national energy conservation. New capital equipment that industry would install would necessarily reflect the new energy price regime. Capital that was designed for very low relative energy prices would be replaced by capital designed for rapidly increasing relative energy prices and uncertain supply. This would cause a dramatic decrease in the level of energy demand. A number of technologies being demonstrated by the industrial conservation program office show energy savings of 50% over conventional practices. Just bringing the capital stock to the efficiency level of currently available technologies would have a major effect. In other words, an effort to improve the national productivity through accelerated capital turnover would inherently give a substantial boost to energy conservation. The salutory effect of increased productivity through capital turnover goes beyond its obvious impact on U.S. industrial competitiveness. It has the added bonus of reducing our need for imported oil, relieving another major strain on the economy.

The energy impact of increased productivity is known and dramatic. Thus it seems both appropriate and very desirable for the Department of Energy to take an active role in the productivity debate. DOE could instigate a government wide effort, along with Commerce, Treasury, and other agencies, to coordinate programs and financial incentives. DOE has a natural role to play in such an effort, as efficiency and energy use reduction would be a major result of the proposed activity. The present DOE activities have been more narrowly focused on energy conservation per se rather than on energy conservation as a concomitant of a major industrial innovation and overhaul program. While these efforts have yielded significant results and must continue, a much bolder and broader focus is called for in the context of declining productivity, rising energy costs, and growing foreign dependence.

At present DOE is developing new legislation, the Job Security and Energy Conservation Act, which is a package of energy taxes and financial incentives including cost-shared RD&D. While this legislation must be pursued vigorously, DOE must explore and devise, in concert with other cognizant Federal agencies such as the Council of Economic Advisors, DOC and the Treasury Department, even more ambitious means of raising overall industrial productivity which will not only invigorate U.S. industry but also will have large benefits in terms of reduced energy use. An important next step would be to establish an interagency Productivity Task Force under the auspices of the Energy Coordinating Committee with the mandate to study and develop recommendations for enhancing the overall industrial productivity in the United States. This effort could be highly complementary to the Administration's plans to create an office for productivity, technology, and innovation within the Commerce Department.

Issue: There is little consistency between the program funding of conservation programs based on benefits and costs and the benefits and costs of supply programs. Conservation and supply programs are not in balance and a review is needed.

A number of major studies have concluded that energy conservation is the most cost-effective energy source available in the U.S., especially in the near-term. In spite of the large potential of conservation, its critical role in reducing oil imports during the 1980's, its short lead time relative to supply options, as well as other favorable characteristics, the Department of Energy's funding of conservation is low relative to the funding of fossil and nuclear supply. Program priorities and funding are inconsistent with conservation and supply benefit and cost comparisons. 1980 budget appropriations for fossil and nuclear supply research, technology development, production, demonstration, and distribution amounted to 2.81 billion dollars. Funding for the DOE conservation effort, including a number of programs which have elements of welfare assistance, amounted to 814 million dollars.

This relative proportion of funding will not be changed by the funds from the windfall profits tax as they are currently allocated. Over the life of the tax, the amount going to both conservation and renewable resource supply is proposed to be 7.6 billion dollars. Conservation itself is slated for 1.9 billion. This is to be contrasted with the synthetic fuels program, which is getting 20 billion dollars.

The fact that significant conservation is already happening bears testimony to its cost-effectiveness. However, there are a number of factors causing it to occur at a rate much slower than would be nationally desirable. There is much that DOE can do to accelerate this highly desirable activity.

The present funding imbalance seems to stem from two causes. First, the Department of Energy does not have a systematic and objective analytical means to optimally allocate funds between supply enhancement and demand reduction efforts. The broad allocation of funds, such as between the Fossil Energy programs and the Conservation and Solar Energy programs, appears to be more a function of historical trend than a function of the relative national benefits from various programs. This implies that programs which are not funded by one DOE office due to internal fiscal guidance constraints might have much higher national benefit/cost ratios than programs which do get funded in another office. An effort should be made to rectify this deficiency in the planning and resource allocation process. PPBS is ostensibly designed to achieve this result. Operationally, however, the PPBS process falls far short of making trade-off analyses among major cross-program options within DOE.

The diffuse and dispersed nature of conservation programs, despite their big overall potential, seems also to detract from receiving emphasis commensurate with their potential benefits relative to supply projects. Supply projects tend to be individually larger and therefore more easily understood from the standpoint of their public and political impact.

A variety of studies, including work done by the Division of Conservation and Solar Energy, "Energy Future: Report of the Energy Project at the Harvard Business School," "Energy: The Next Twenty Years," and others have shown a wide range of conservation technologies to be more cost-effective than available supply options. Studies have also shown that conservation technologies are environmentally more benign, are less capital intensive, operate faster, and stimulate productivity more than proposed supply options.

What is needed is a planning mechanism which competes all technologies on a comparable footing, and compares the full range of social costs and benefits that support of the technologies entails. DOE should commission a study which will provide systematic trade-offs of projected DOE efforts and will recommend a re-balancing of resource commitments.

Issue: Does Conservation Have a Role in Emergency Planning.

The Policy and Fiscal Guidance of January 1980 identifies only two elements of emergency planning: (1) the Strategic Petroleum Reserve (SPR); and (2) oil decontrol. These two measures are inadequate. Instead we should also look at the enormous potential contribution of conservation.

SPR certainly is effective in the short run. After a crisis begins, the drawdown period postpones the moment of reckoning many months and allows diplomatic and/or military means to reestablish supply. SPR is not, however, a mechanism to eliminate the overall vulnerability of the economy to shortages of political origin. Thus SPR attacks the symptoms of supply shortfall, but not the cause.

Oil decontrol attacks the cause of shortages by increasing supply and decreasing demand. However, the effectiveness of this measure depends on the assumption that market prices are the primary barrier to efficient consumption of energy. In fact, however, much analysis shows numerous barriers are not price related. Energy would be consumed inefficiently without more vigorous information programs, cost-shared R&D and financial incentives to overcome first-cost biases and lack of investment capital. Thus, decontrol also is not an adequate response to emergency planning needs.

Conservation programs do respond to the nonprice barriers. Thus they could serve in an emergency planning context as a preventive measure that reduces demand to the point where erratic foreign supply is no longer problematical. The Emergency Energy Conservation Act, 1979, already recognizes the role for conservation in dealing with emergencies. The precise level of reduction towards which we should strive needs, however, to be established after careful analysis. That level is certain to be higher than our current goals because our current goals are based on a concept of economic efficiency that does not fully consider factors external to the market such as supply interruptions. Although this more aggressive conservation may be appropriate from a national perspective, we will not achieve it if we do not adequately recognize the role that an all-out conservation effort can plan in an emergency situation. Since aggressive conservation may play an important preventive role in the Nation's response to emergencies, we should at least identify the measures necessary to implement an aggressive conservation program that takes account of the disruptive cost of supply shortfalls. In practical terms, we should begin to include supply interruption scenarios in our planning process and consider greatly accelerated conservation programs.●

PRIMARY REFORM

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. UDALL. Mr. Speaker, it is apparent to many of us that the Presidential nominating process is out of control and badly in need of reform. This year we have endured primaries in 37 States and hundreds of district and county caucuses in the remaining States. Some primaries consist of direct voting for candidates, others of ballots marked with the names of delegates and candidates. In at least one State, the delegates were listed, but the ballot contained no mention of whom the delegates were pledged to support at the party conventions. Some of the primaries are mere beauty contests with no actual effect on delegate selection.

The length of the preconvention campaign has been exhausting for both candidates and voters. Aside from the preprimary campaigning, which actually began almost 2 years ago, we have had primaries running from New Hampshire in February to the last set of elections in June. The financing necessary greatly benefits the wealthier, well-known candidates. The media has exaggerated the importance of the early primaries, and as a result the people in California, Ohio, New Jersey, and the other late primary States were unable to choose from the full range of candidates. The decreased choices in the late primaries is a major fault with simultaneous, but geographically scattered, primaries that are staged through a 6-month period.

An alternative which I have favored is to limit primaries to the first Tuesday in each of 4 consecutive months—March, April, May, and June. No State would be required to have a primary, but those which did would have to hold it on one of these four dates. By forcing candidates to campaign in more than one State at a time, preferably in more than one geographic area, we would return to national campaigns which are not so strictly limited by local and parochial concerns.

A second alternative, favored by several Members of the House, is for a regional primary system, with the elections grouped into four or five or six areas. This proposal has the advantage of economy, for it would limit the amount of time spent in travel and would increase the amount of time the candidate would appear before the voters. It would also eliminate the unavoidable occurrence of having States bunch up at the first available primary date, a process which now yearly adds to the length of the primary season.

A third alternative is for a national primary, either with no regional difference, or with allowances for regional concerns and regional candidates. The drawback, despite this idea's advantage of simplicity, is that it does not allow as much time for consideration, thought, and examination of the contenders for the parties' nominations.

We must bring some order to the primary system. These alternatives would make the nominating process more rational, shorter, less harmful to later States, and less likely to be covered by the media as a simple horserace. There are of course drawbacks to any proposal for reform and this is precisely why a thorough study is necessary. I have joined my friend from New York (Mr. OTTINGER) and several other Members in creating an ad hoc task force on primary reform, which we hope will be useful in focusing attention in this area. I have also introduced a resolution to establish a Commission on Presidential Nominations to provide an urgently needed review of the Presidential nominating process. This is a companion measure to Senate Joint Resolution 189, introduced by Senator STEVENSON and 16 cosponsors.

The bipartisan Commission would completely analyze the current and alternative methods for the nomination of Presidential candidates, the selection of delegates to national nominating conventions, campaign financing, the selection process for Vice President, the effects of the news media, voter participation laws and regulations, and races by independent candidates for President.

The 20 members of the Commission would be appointed—6 each by the President pro tempore of the Senate—on the recommendation of the majority and minority leaders—the Speaker of the House, and the President, and would include the chairmen of the two national parties, serving ex officio. Members of Congress, elected and appointed State officials, and other citizens would be eligible. Its findings and recommendations would be reported within 1 year of the bill's enactment in order to allow the Congress to act well in advance of the 1984 elections.

Every 4 years we voice concern about how we elect our Presidents and every 4 years we vow to try to do something about it. As an unsuccessful candidate for the Democratic Presidential nomination in 1976, I saw from the inside just how difficult and wasteful the entire process can be. I believe that a comprehensive review of the Presidential nominating process is more urgently needed now than ever before.●

A CITY ON THE MOVE

HON. KENT HANCE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 2, 1980

● Mr. HANCE. Mr. Speaker, I would like to take a brief moment to call attention of the Members to an article written by Mr. Anthony Harrigan, president of the United States Industrial Council.

It was called to my attention by Hon. Bert L. Talcott, a former member of this body representing the great State of California, and now director of the Washington office of the United States Industrial Council.

The article is entitled "A City on the Move" and is about Lubbock, Tex., in my district. The article is reproduced below:

A CITY ON THE MOVE

(By Anthony Harrigan)

LUBBOCK, TEX.—Cotton is king here in the South Plains region of Texas.

Jay Harris, editor of the Lubbock Avalanche-Journal says the South Plains 1980 cotton planting may amount to 4.4 million acres. Indeed, almost one fifth of all the cotton grown in the United States last year was grown on the South Plains.

North of this city, one travels through rich cotton fields extending to the horizon. It is agriculture on a scale to which Easterners are unaccustomed.

But cotton is only one component in the diversified economic base of this West Texas city of 200,000. There are more than 27,000 oil wells in a 125 mile radius of Lubbock. Texas Tech has 23,000 students, making this community a major educational center. NATO fighter pilots are trained at an airbase outside the city. The Santa Fe railroad serves a variety of industries. Commercial office space is 98 percent rented.

As Mr. Harris rightly says, "Lubbock and the area should remain one of the bright spots on the nation's economic map in the months ahead."

This happy condition exists after a decade of extraordinary community effort. Ten years ago the downtown heart of Lubbock was almost completely destroyed by a devastating tornado. The city rebuilt in an imaginative way so that the flattened area has become a major new center of business and civic activities.

Mr. Harris has lived in Lubbock since 1930, but he views his city with a perspective gained from worldwide travels in recent years—in Africa, India, and Europe. As I write this he is preparing to leave for Taiwan and Hong Kong.

Lubbock and other cities in West Texas no longer are isolated, provincial communities. While older, larger and more famous cities are in a state of deterioration with gloomy prospects for the future, Lubbock, Amarillo and Midland are on America's inland energy frontier. They also are in a region that, as a result of irrigation plays a major role in feeding the nation and producing the fiber it needs.

These cities are among the beneficiaries of a process of industrial relocation that is taking place at a rapid rate. They are comparatively close to important mineral production areas. Power plants in this area receive their coal from Wyoming.

Moreover, this is an area that believes in the traditional work ethic. It was settled by sturdy stock that believed deeply in self-reliance. This outlook has endured. Therefore, the region is profoundly conservative in its philosophy. The people here are building their own future. They aren't waiting for government to do it for them.

The only obstacle to the continuing development of this and other progressive areas is the movement that would deny companies the opportunity to relocate.

Recently, proponents of a closed, static economy met at Northwestern University's Kellog Graduate School of Management to sound the cry for reparations legislation and federally-funded, worker-owned plants—proposals aimed at halting or slowing the move of plants to cities such as Lubbock. The political representatives of the inland energy frontier will have to work hard to block the efforts of the movement that want to introduce a medieval rigidity into a traditionally mobile industrial economy.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, July 3, 1980, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 8

10:00 a.m.

Joint Economic

*Energy Subcommittee

To hold hearings to study the impact of energy's inflationary rates on American families.

2228 Dirksen Building

JULY 15

10:00 a.m.

Appropriations

Labor, Health and Human Services, and Education Subcommittee

To hold joint hearings with the Labor and Human Services' Subcommittee on Aging on the impact of senile dementia on older Americans.

4232 Dirksen Building

Labor and Human Resources

Aging Subcommittee

To hold joint hearings with the Appropriations' Subcommittee on Labor, Health and Human Services, and Education on the impact of senile dementia on older Americans.

4232 Dirksen Building

JULY 21

9:30 a.m.

Commerce, Science, and Transportation

Consumer Subcommittee

To hold oversight hearings to examine the proposed Federal Trade Commission's rule on mobile home warranty service.

235 Russell Building

JULY 22

9:30 a.m.

Commerce, Science, and Transportation

Business meeting, to consider H.R. 2743, to provide for a national policy for materials research and development and to strengthen Federal and private programs of materials research and development to insure national security and economic stability and growth.

235 Russell Building

10:30 a.m.

Labor and Human Resources

To hold hearings on S. 2887, to protect the confidentiality of data made available to the Bureau of Labor Statistics.

4232 Dirksen Building

JULY 23

10:00 a.m.

Finance

To hold hearings on miscellaneous tax reduction proposals.

2221 Dirksen Building

Select on Small Business

To resume oversight hearings on the alleged mismanagement of the Small Business Administration's surety bond guarantee program.

424 Russell Building

JULY 24

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings on the administration's transition plans to develop an operational land remote sensing satellite system.

235 Russell Building

10:00 a.m.

Finance

To continue hearings on miscellaneous tax reduction proposals.

2221 Dirksen Building

Labor and Human Resources

Health and Scientific Research Subcommittee

To hold oversight hearings on the activities of the National Health Service Corps.

4232 Dirksen Building

Select on Indian Affairs

To hold oversight hearings on the implementation of Indian educational programs.

6226 Dirksen Building

JULY 25

10:00 a.m.

Finance

To continue hearings on miscellaneous tax reduction proposals.

2221 Dirksen Building

JULY 28

10:00 a.m.

Finance

To resume hearings on miscellaneous tax reduction proposals.

2221 Difksen Building

JULY 29

9:30 a.m.

Commerce, Science and Transportation

Science, Technology, and Space Subcommittee

To hold hearings to assess certain provisions relating to the use of space environment contained in the proposed Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (pending receipt by the Senate).

235 Russell Building

Labor and Human Resources

Handicapped Subcommittee

To resume oversight hearings on the implementation of the Education For All Handicapped Children Act (Public Law 94-142).

4232 Dirksen Building

10:00 a.m.

Finance

To continue hearings on miscellaneous tax reduction proposals.

2221 Dirksen Building

Select on Indian Affairs

To hold hearings on S. 2166, to establish a National Institute of Native American Culture and Arts Development.

6226 Dirksen Building

2:00 p.m.

Office of Technology Assessment

The Board to hold a meeting on pending business items.

Room to be announced

JULY 30

9:30 a.m.

Veterans' Affairs

Business meeting, to consider S. 2649, to increase the rates of compensation for disabled veterans, and to increase the rates of dependency and indemnity compensation for their survivors, and amendment No. 1888, to provide for limited specially adapted housing benefits for certain severely disabled veterans to S. 2649, aforementioned.

412 Russell Building

10:00 a.m.

Finance

To continue hearings on miscellaneous tax reduction proposals.

2221 Dirksen Building

JULY 31

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings to assess certain provisions relating to the use of space environment contained in the proposed Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (pending receipt by the Senate).

235 Russell Building

Labor and Human Resources

Handicapped Subcommittee

To resume oversight hearings on the implementation of the Education For All Handicapped Children Act (Public Law 94-142).

5110 Dirksen Building

10:00 a.m.

Finance

To continue hearings on miscellaneous tax reduction proposals.

2221 Dirksen Building

Labor and Human Resources

Health and Scientific Research Subcommittee

To hold hearings to review the Food and Drug Administration's evaluation of the drug dimethyl sulfoxide (DMSO), to determine its application and effectiveness.

4332 Dirksen Building

AUGUST 6

10:00 a.m.

*Energy and Natural Resources

To hold hearings on S. 2695, to limit the severance tax percentage that a State may impose on coal shipped in interstate commerce.

3110 Dirksen Building

AUGUST 26

10:00 a.m.

*Veterans' Affairs.

To hold oversight hearings on the implementation of small business loan programs for veterans recommended by the White House Conference on Small Business.

412 Russell Building

SENATE—*Monday, July 21, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by Hon. HOWELL HEFLIN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Eternal God, ruler of men and nations, we thank Thee for Thy providential care over the Members of this body. Make us a people mindful of Thy favor and glad to do Thy will. May no task be so trivial, no work so insignificant as not to be done to Thy glory. May the mind of the Master lay hold upon us as we undertake concerns both new and old. In His spirit may we renew our work for that better world promised by prophets and saints of old.

In hope that sends a shining ray
Far down the future's broadening way:
In peace that only Thou canst give,
With Thee, O Master, let me live.

—WASHINGTON GLADDEN.

Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 21, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HOWELL HEFLIN, a Senator from the State of Alabama, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. HEFLIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

WELCOME BACK TO THE SENATE

Mr. ROBERT C. BYRD. Mr. President, I want to welcome back all of my colleagues. My good friends on the Republican side of the aisle have concluded their nominating convention. Although I do not believe that their convention was "successful" in the sense that it was a launching-pad for a victory in November, it was, from all reports, a successful and satisfying experience for members of the GOP.

In 3 short weeks, the Democrats will be holding their convention in New York City. I certainly expect the convention to be successful—in every sense of the word.

In the meantime, there is much to be done. Although, we are, indeed, in the midst of a campaign season, I believe that a spirit of comity and cooperation will enable the Senate to do its work. Even as the politics of the Presidential campaign swirls around us, the Senate should be calm in the midst of the storm—the eye of the hurricane.

As each candidate takes his case to the country, the Senate must get on with the business of government.

We have little time left, and must make the most of it. There are 15 working days, including Saturdays, between now and close of business August 6, when the Senate will recess until August 18. The Senate will be in session on Saturday, July 26 and Saturday August 2.

Today, debate begins on the Alaska lands bill. There is a time agreement on the bill. I understand that the debate will take some time. The Senate will then proceed to act as expeditiously as possible on expiring authorizations, and on appropriations bills as they are reported.

In the near future, the majority whip (Mr. CRANSTON) and I shall be meeting with the distinguished minority leader and the minority whip, Senator BAKER and Senator STEVENS, and we shall seek to devise an efficient legislative program for the coming 2½ weeks.

I know that Senators on both sides of the aisle would appreciate having advance notice of measures which will be taken up. I hope that the joint leadership can work out such a program in advance, and that we can soon report the details of that program.

My good friends and colleagues in the Republican leadership have always been most helpful and most cooperative in this regard. So I look forward to a very productive 2½ weeks.

Mr. President, I reserve the remainder of my time.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the acting minority leader is recognized.

TOGETHER, A NEW BEGINNING

Mr. STEVENS. Mr. President, on behalf of Members on this side of the aisle, I thank the majority leader for his comments. Our stay in Detroit was a pleasant one. We concluded our 32d National Convention after hours of pageantry, emotion, and speculation, having spent a great deal of time on the only real question mark of our convention, the Vice Presidential nominee.

While the party platform may not be all things to all people, it is, nonetheless, the product of many hours of long thoughtful consideration and, with some exceptions, will serve as a solid base for Republican philosophy in this new decade. Senator JOHN TOWER, as well as many others in the Senate, should be commended for their vital role in meeting the highly controversial task of setting out party policy in a manner which would serve to satisfy the large broad section of the party.

As a Republican, and more importantly, as an American, I am proud to have Ronald Reagan at the head of our ticket. When I chose to endorse him months ago, I did so on the basis of his record as Governor of one of the largest States in the Nation. During his tenure, California was a leading force in national politics. It was used as an example for many of the surrounding Western States, even though it was on a much higher level due to its geographic size.

Governor Reagan understands the problems of our Nation. In choosing a candidate to support in November, I urge all Americans to consider whether or not their choice will be able to handle the problems they face at this critical time in our Nation's history. Jimmy Carter, during his term in office, has failed the West miserably and, in my State of Alaska, the damage he has done is even worse.

Ronald Reagan has the ability to lead this Nation toward a new beginning, together with all Americans. It was the theme of the convention and I believe events there attest to the fact, that, under a Reagan administration, this Nation will be back on its feet again, as it was before Jimmy Carter took office.

Detroit symbolized the unity of the

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

party and never more obviously than when former President Gerald Ford took to the podium. In his impassioned speech, the former GOP Presidential nominee stated unequivocably that he would "do everything in my power to elect our nominee, no one will try harder, work longer, and speak with more conviction" in the coming campaign than he. In selecting George Bush as his Vice Presidential running mate, Governor Reagan made the right choice in choosing a man of moderate political persuasion so that he can capitalize on that by attracting voters of similar persuasion to the ticket in November.

Ronald Reagan proved that he will work toward the goal of bringing all people to the ticket including blacks, women, all minorities and union members. His record as Governor of California stands as proof positive of his propensity toward seeking balanced ideas, and surrounding himself with staff people of varied political backgrounds and philosophies.

In the words of George Bush, "the party has never been more unified than now, 1980." Our goal as Republicans is to reach out to all Americans and prove to them that the kind of leadership offered by Reagan-Bush is far better than that offered by the present occupants of the White House.

I believe the tide in this country has shifted in our favor and the November Presidential, senatorial, and congressional races, as well as State-level offices, will, hopefully, lead this Nation to its new beginning, with Ronald Reagan heading the charge.

ORDER OF PROCEDURE

Mr. STEVENS. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. There are 6 minutes plus.

Mr. STEVENS. Mr. President, I ask unanimous consent that the time for the minority leader under the special order be allocated to me.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THANKS TO THE CITY OF DETROIT

Mr. BAKER. Mr. President, it will not, I think, have escaped the notice of my colleagues on both side of the aisle that the Republican Party gathered last week for its quadrennial national convention in Detroit, Mich.

It is not my purpose in these remarks to praise the unity of my party so manifest in its convention nor the superior qualities of its nominees for President and Vice President, praiseworthy indeed as these things are.

Rather it is my purpose to praise the people of Detroit and of the State of Michigan for their extraordinary hospitality during our visit there. I have attended each of my party's conventions since 1952, and I have never been so favorably impressed by the cordiality and efficiency of the host city as I was last week in Detroit.

All Americans understand that recent years have not been easy for our great cities. Detroit has had its special problems, intimately tied as its prosperity is to one great industry. But my visit to Detroit persuaded me that the people of Detroit are winning. Detroit is proof that "renaissance" is not just an elegant dream but a real possibility for our cities. The spirit of cooperation among the various segments of the city's society is almost tangible. And not least the city of Detroit and the State of Michigan have chosen for themselves unusually competent and far-sighted leadership in Mayor Coleman Young and Gov. William Milliken. In men like these we find confirmation that the challenges of modern political leadership can be met with effectiveness, vision, graciousness, and style.

Mr. President, on behalf of Mrs. Baker and myself, I take this opportunity to extend to the people of Michigan and the city of Detroit our sincere appreciation for their warm hospitality during the Republican Convention.

REQUEST FOR REMOVAL OF INJUNCTION OF SECRECY

Mr. ROBERT C. BYRD. Mr. President, as in executive sesison, I ask unanimous consent that the injunction of secrecy be removed from a protocol amending the Income Tax Convention with Israel (Executive M, 96th Congress, second session), which was transmitted to the Senate on July 3, 1980, by the President of the United States, and ask that the treaty be considered as having been read the first time, that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

Mr. GRAVEL. Mr. President, I rise to object to that.

Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. There never was one officially declared.

Mr. ROBERT C. BYRD. Mr. President, I withdraw the request.

Mr. STEVENS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

PRIVILEGE OF THE FLOOR—H.R. 39

Mr. STEVENS. Mr. President, I ask unanimous consent that privilege of the floor be granted to the following people during consideration of this measure each day it is pending and during rollcalls: Steve Silver, Tony Bevinetto, Becky Gernhardt, Greg Chapados, and Tim McKeever.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE ALASKA LANDS BILL

Mr. STEVENS. Mr. President, I ask that the Parliamentarian or the Chair answer some parliamentary inquiries.

The ACTING PRESIDENT pro tempore. The Senator will state them.

Mr. STEVENS. Mr. President, it is the understanding of the Senator from Alaska that prior to the recess on July 3 there was an order entered which grants the majority leader the right to recognition following the leaders' time and the time for special orders in order to call up the Alaska lands bill; is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. STEVENS. And is that calling up of the Alaska lands bill a debatable motion or is it a matter of right of the majority leader?

The ACTING PRESIDENT pro tempore. Under the provisions of the order of February 7, 1980, the majority leader can call it up without debate as a matter of right.

Mr. STEVENS. So that there would be no way to have any debate concerning the calling up of the Alaska lands bill today?

The ACTING PRESIDENT pro tempore. If the majority leader exercises the power that is granted to him.

Mr. STEVENS. Mr. President, I state that the time agreement entered on February 7 indicated that the majority leader should consult with the minority leader. It is my understanding—I was not here on July 3, I left early—it is my understanding, and I checked with Senator BAKER's office, that the majority leader did discuss the matter with Senator BAKER prior to having the order entered which grants him the right to recognition today, and we were on notice the bill was going to be called up today. I want the RECORD to show that consultation has taken place and the minority leader has been notified by the majority leader of his intention. It is still his discretion to call up the bill today. It is my understanding he will do that.

Mr. President, the agreement that has been entered is a unique agreement. I would like to ask the Chair under the circumstances of this agreement whether a point of order may validly be raised against an amendment on the basis that it would touch more than one place in the bill if that amendment contains material that refers to only one subject.

The ACTING PRESIDENT pro tempore. Under the previous agreement and under the colloquy in connection therewith, it is the opinion of the Chair that if an amendment deals with one subject matter only, that it can be directed to different sections of the bill.

Mr. STEVENS. I thank the Chair.

Mr. GRAVEL. If the Senator will yield on that point, the Chair is talking on one subject matter. What, precisely, does the Chair mean? If an amendment deals with refuges and it is amended, various other areas of the State, and creating refuges or expanding refuges, would that be, under the definition of the Chair's view, one subject?

Mr. STEVENS. The Senator from Alaska is happy to yield for the purpose of the question, but I do have other comments to make.

Mr. GRAVEL. I thank my colleague.

The ACTING PRESIDENT pro tempore. If it deals with one subject matter alone, even if it does hit the bill in numerous places, the Chair thinks it would be in order.

Mr. GRAVEL. I am asking of the Chair a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. GRAVEL. The original inquiry of my colleague from Alaska, that on the one subject definition, what is that definition? I am asking that if an amendment goes to various parts of the bill, to amend various parts of the bill, either expanding refuges or creating new refuges, would that subject matter be germane, would that be considering one subject matter, the fact that we leap around the subcontinent and create or expand refuges? Is that one subject matter?

The ACTING PRESIDENT pro tempore. The Chair cannot deal in hypothetical situations. It would have to reserve judgment on individual amendments as they are offered, subject to the provisions of that amendment, to determine whether or not it deals with a single subject matter.

Mr. STEVENS. Mr. President, I want to continue under the special order, if I may, and call to the attention of the Senate the charts I have prepared for use during this debate. While I am not going to proceed with debate, I hope that Members of the Senate and their staffs who are given access to the floor will take advantage of this.

The ACTING PRESIDENT pro tempore. The Senator is recognized for his 15 minutes under the order.

Mr. STEVENS. I thank the Chair.

Mr. President, one of these is a map of the United States and the other is a map of the State of Alaska, with the same scale.

I ask that my assistant who prepared this, Mr. Chapados, just remove the Arctic wildlife area and show the Senate how this will work.

Now, any one of those areas can be removed. These are areas under the Tsongas amendments which would be made into either national parks, wildlife refuges, wild and scenic rivers, or national forests.

Mr. Chapados will remove the Arctic Wildlife Range, some 17 million acres of land, and place it in a New England area. I am sure anyone can see it takes up about seven States in space there.

If it is moved to the West, of course, the western States being larger would be different.

But I hope Members of the Senate will take some of these areas off the map of Alaska and put them on their State and determine just how big these areas are that we are talking about.

Let us remove the Yukon Delta example. That is the largest in area.

I think the Senate can see what would happen to Utah if this area is placed over it. That is about 80 percent the size of Utah that we are talking about in one wildlife refuge.

I would not want the Senate to think we are talking about wildlife areas that the south 48 is normally used to, 200,000 or 300,000 acres, at the most. We are talking about millions of acres, and we are talking about, in these five amendments of Senator TSONGAS, an area that is as large as the State of California.

I think, if we add in the other areas already withdrawn, it would be the size of Texas that we are talking about.

We are a State one-fifth the size of the United States. This bill already covers an area roughly one-third of our State.

The Tsongas amendments expand the withdrawn areas to where it is almost 45 percent of our State. The Senate and others interested in this matter should keep that in mind. Later, we will give the Senate another opportunity to compare these areas under the bill of the Senate Energy Committee and under the Tsongas amendments.

Mr. Chapados has prepared some areas that can be taken off the map of the State of Alaska and the Senate Energy Committee areas. The difference in those not only are depicted in colors, Members can compare the size, to see that we are dealing with the same amount of acreage in almost every instance but we are dealing with proper classifications, so far as we are concerned, under the Senate Energy Committee's provisions.

Mr. President, this is going to be a very long debate and a difficult one for all of us. It is my hope that we will keep in mind that this bill deals not only with Federal land in Alaska but also with the continuation of the Alaska lifestyle, and that is the key to this subject, so far as we are concerned.

I thank all those who have helped prepare this, and I urge the Members and their staffs to examine these maps.

If Mr. Chapados will take down the map of the State of Alaska, we will show the others.

We have had prepared a separate chart for each of the Tsongas amendments, so that the Senate can compare the treatment given to a particular area under the Senate Energy Committee bill and the Tsongas amendment. For example, if Senators will examine the Yukon Flats-Porcupine River area they will see that the Senate Energy Committee classifies the area in one manner. The Tsongas amendment will make it all a wildlife refuge, and we depict the impact of the area according to the U.S. Fish and Wildlife Service wildlife data.

We will show to the Members of the Senate and others interested how the Senate Energy Committee bill deals with the same subject as the Tsongas amendments, and I will be glad to answer any questions.

I hope the leadership will be patient with those of us who will have some large exhibits during the consideration of this bill.

I reserve the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, does the distinguished Senator from Alaska (Mr. GRAVEL) wish some of my time?

Mr. GRAVEL. Yes. I should like to address a few parliamentary inquiries.

Mr. ROBERT C. BYRD. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has, all together, 18 minutes on both orders, combined.

Mr. ROBERT C. BYRD. I thank the Chair.

How much time does the Senator need?

Mr. GRAVEL. Five minutes.

Mr. ROBERT C. BYRD. I yield 10 minutes to the Senator.

PARLIAMENTARY INQUIRIES

Mr. GRAVEL. Mr. President, I ask unanimous consent that the following staff members have the privilege of the floor during the consideration of this measure: Patrick Pourchot, Bill Hoffman, Ron Rasley, Heida Boucher, and Campbell Gardett.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRAVEL. The Chair stated earlier that if it is a single subject and though it goes to the various parts of the bill, that be germane. I was trying to identify what that single subject might be.

The ACTING PRESIDENT pro tempore. The Chair says that it would be in order, not germane. There is a distinction between germaneness and being in order in this context.

Mr. GRAVEL. It would be in order as a result of the time agreement effected in February. Is that correct?

The ACTING PRESIDENT pro tempore. Ordinarily, an amendment may not hit a bill in multiple places, only one; but under the time agreement and the colloquy, it is permissible for an amendment to hit the bill in more than one place, provided it deals with a single subject.

Mr. GRAVEL. I was rereading the time agreement, and I did not see anything in the time agreement that indicated that it could hit in multiple parts—which is, of course, at variance with the normal germaneness rule. I wonder if the Chair might apprise me of the specific language that grants the Chair the right to make that interpretation.

The ACTING PRESIDENT pro tempore. The Chair has been advised by the Parliamentarian that it is in the colloquy leading up to the agreement.

Mr. GRAVEL. Is the colloquy binding upon the Senate, with something as vital as a germaneness rule? In other words, if the statement was not entered into the time agreement, then is the Chair not stretching its powers of interpretation to say that they were talking about that and that that now is what the order is? But it was not specifically in the order.

The ACTING PRESIDENT pro tempore. It was the underlying intent of the agreement.

Mr. GRAVEL. If it were the intent of the agreement, would it not have been placed in the agreement, since this is at such variance with normal germaneness rules?

The ACTING PRESIDENT pro tempore. The Chair is not sure that it understood the last question.

Mr. GRAVEL. The point the Senator from Alaska is making is this: The whole germaneness issue which is vital on this particular agreement, on the normal germaneness, as I understand it, is that you cannot normally amend a bill in various titles because of germaneness. However, in this agreement, the Chair is making an interpretation that, because of colloquies, though the order does not state this power—I recall the colloquies very well. They were very vague, so vague that we were left the ability to vitiate at some future time if there were some lack of good faith.

So I merely want to pinpoint the rules precisely as we go into these deliberations, as to what germaneness is going to be and what is going to be involved.

In other words, are we going to be subject to a capriciousness, whereby if one person has an amendment that goes to various parts of the bill, that will be considered germane, and if another person has an amendment that goes to refuges and parks or deals with hunting rather than boundaries, that may not satisfy the test of germaneness as we understand it?

I believe that if we do not have this cleared up very carefully right now, we will find ourselves howling in this Chamber as to whether his amendment is right and can be considered and my amendment is wrong and cannot be considered. I hope we will set the ground rules very precisely and cast them in writing, if we can, at this point.

The ACTING PRESIDENT pro tempore. Until the specific language of an amendment is before the Chair, it would be impossible for the Chair to rule.

There are two different points involved here—first, whether or not the amendment is germane, the second question being as to whether or not an amendment can hit the bill in multiple places.

Under the agreement and colloquy, the "in order" aspect allows multiple applicability—two different sections, if it deals with one subject.

Mr. GRAVEL. But that is not in the order as I understand the order. I am going by memory and maybe I can be corrected by the Parliamentarian. That is not in the order. We have the precise order and we have the judgment of the Parliamentarian which may be at variance from custom at this point.

The ACTING PRESIDENT pro tempore. It might be advisable if the Senator from Alaska consults with the Parliamentarian here briefly. I suggest that the Senator might have a quorum call and discuss this matter. We seem to be repeating the same things. It might be that we could get a little closer if the Senator from Alaska and the Parliamentarian might discuss this.

Mr. GRAVEL. I thank the Chair for his patience in this regard.

I thank the majority leader for yielding time. I will consult with the Parliamentarian privately. I will not call for a quorum until it is the desire of the majority leader.

I yield to the majority leader and thank him very much.

Mr. STEVENS. Mr. President, I yield back the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

The ACTING PRESIDENT pro tempore. All time having been previously yielded back on the previous order, then under a previous order the majority leader is recognized to call up H.R. 39.

Mr. ROBERT C. BYRD. Mr. President, under the authority vested in me by the order of the Senate dated February 7, 1980, I now call up H.R. 39, Calendar Order No. 442.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

> A bill H.R. 39 to provide for the designation and conservation of certain public lands in the State of Alaska, including the designation of units of the National Park, National Wildlife Refuge, National Forest, National Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources with an amendment to strike all after the enacting clause and insert new language.

The ACTING PRESIDENT pro tempore. The Senator from Washington is recognized.

Mr. JACKSON. Mr. President, before proceeding, I yield to the distinguished senior Senator from Illinois (Mr. STEVENSON) to submit a conference report.

Mr. STEVENSON. I thank the Senator for yielding.

Mr. JACKSON. Mr President, I ask unanimous consent that the time not be taken out of my time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENSON. I thank the distinguished Senator from Washington.

NASA AUTHORIZATIONS, 1981—CONFERENCE REPORT

Mr. STEVENSON. Mr. President, I submit a report of the committee of conference on S. 2240 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2240) to authorize appropriations to the National Aeronautics and Space Administration for fiscal year 1981 for research and development, construction of facilities, research and program management, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of June 27, 1980.)

Mr. STEVENSON. Mr. President, the conference report on S. 2240 authorizes $5,587,904,000 for the National Aeronautics and Space Administration for fiscal year 1981. Of the total amount, $4,436,750,000 is for research and development, $118 million is for construction of facilities, and $1,033,154,000 is for research and program management.

The conference agreement is $18,050,000 above the Senate amount and $34,250,000 below the amount voted by the House for NASA. The agreement is $70,250,000 above the revised budget request; however, it is $148,750,000 below the original budget request for the agency for fiscal year 1981.

The increase above the revised request reflects, in large part, restorations of revised budget cuts in fundamental activities that are essential to maintaining a foundation in space and aeronautical research and technology that will support future endeavors the Nation may desire to undertake. The principal exception to the foregoing was the addition by the House and the Senate, in their original bills, of funds to initiate development of the solar electric propulsion system to provide an advanced in-space propulsion capability. This system will remove many of the constraints in mission planning and execution that now exist for space projects.

Mr. President, I believe the conference report represents a fair and reasonable resolution of the differences between the House and the Senate on S. 2240, and further, that it will provide for a balanced, although fiscally constrained, program for NASA for fiscal year 1981.

Mr. President, I move the approval of the conference report.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. STEVENSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

The Senate continued with the consideration of H.R. 39.

Mr. JACKSON. Mr. President, I yield myself such time as I may require.

Mr. President, I am very pleased to rise in support of the committee reported version of H.R. 39. This bill represents countless hours of work by the members of the Energy and Natural Resources Committee. As many of my colleagues know, the committee has conducted over 60 business meetings on the Alaska lands issue over the past 2 years. These business meetings were preceded by many days of public hearings, briefings and workshops both in Alaska and here in Washington. These long hours have produced, in my view, a balanced and reasonable proposal; a proposal which protects the most outstanding natural and wildlife resources to be found in this country while at the same time helping to insure that Alaska's vast timber, mineral, and energy resources will not be placed "off limits."

Mr. President, the proposal before the Senate today is the product of an essentially bipartisan Energy Committee effort. The members of the committee, both majority and minority, worked together to draft a responsible Alaska lands bill and I commend my colleagues for their efforts in this regard. Make no mistake, there were and are differences of opinion regarding the manner in which the Federal lands in Alaska should be managed. As the committee struggled to find a solution to many of the complex problems presented by the Alaska lands issue, members often disagreed as to what represented the "correct" approach. Nevertheless, Members on both sides of the aisle and both sides of the Alaska issue were able to solve most of these problems by their hard work and willingness to compromise, rather than through partisan or ideological rollcall votes.

Mr. President, the principal purpose of H.R. 39, as reported by the committee, is to afford protection to approximately 102.3 million acres of Federal land in Alaska through a variety of land classification systems which insure Federal ownership and management. The bill more than doubles the size of the existing National Park National Wildlife Refuge Systems; it triples the size of the National Wilderness Preservation System; and it virtually completes the public land allocations in Alaska which began with the Statehood Act of 1958 which granted the State the right to select approximately 104 million acres of public land. This Federal land disposal process was continued by the Alaska Native Claims Settlement Act of 1971 which granted Alaska Natives the right to select approximately 44 million acres of Federal land.

While the overriding purpose of the Settlement Act was the resolution of native claims in Alaska, the 1971 Act also set into motion a process which nears culmination in the bill before the Senate today. Recognizing a national interest in the disposition of Federal lands in Alaska, section 17(d)(2) of the Settlement Act directed the Secretary of the Interior to withdraw 80 million acres of unreserved public land which he deemed suitable for addition to or creation as units of the national park, forest, wildlife refuge and wild and scenic rivers systems.

The recommendations made by the Secretaries of the Interior in the years following 1971 have been carefully considered by the Committee on Energy and Natural Resources in developing this legislation which provides permanent protection for 102 million acres of national interest lands in Alaska.

The committee also considered the legislative recommendations of the Alaska Coalition, both Alaska Senators and the House of Representatives.

Mr. President, let me ask my colleagues to think about these numbers for a minute. As reported, the committee bill would add almost 43 million acres to the National Park System. In Alaska, a total area as large as my own State of Washington would be devoted to new national parks. The bill would add some 42.5 million acres to the National Wildlife Refuge System; the wilderness preservation system would be increased by 38.3 million acres. Twenty-four components would be added to the wild and scenic rivers system and 11 million acres to the National Forest System. These are massive additions to these existing systems. They are additions which, in my view, provide well deserved protection for Alaska's nationally significant scenic, historic, wildlife, and scientific resources.

In addition to the land designations themselves, the measure reported from the Senate Energy and Natural Resources Committee contains a series of policy titles which address such issues as subsistence hunting, transportation and access, Federal-State cooperation, implementation of the Alaska Statehood Act and Alaska Native Claims Settlement Act, and the unique combination of wilderness, wildlife, and energy resource values on the Alaska North Slope. By any standard, the bill before the Senate today is a major environmental initiative that deals responsibly and fairly with the Alaska lands issue.

Understanding the magnitude of the Federal land designations made in Alaska by the committee bill, it is difficult for me to accept a characterization of the bill as "unacceptably weak." Nor can I agree with those who would label the committee bill "unbalanced," and contrast it unfavorably to the House bill.

I urge my colleagues to look beyond the rhetoric on this issue and examine the facts. Look closely at the differences between the House bill and the committee bill. Copies of the committee report and maps of the various proposals have been made available to the Senate and I commend them to my colleagues for study. I believe that the Senate will agree with me that the committee boundaries, management designations and policy provisions are balanced and reasonable.

Because the committee bill does, in my view, represent a balanced approach to the Alaska lands issue, I have indicated that I will oppose all of the first degree amendments which have been permitted under the time agreement. I have said on many occasions that the Senate and the Nation can be best served by adopting the committee's work product and proceeding expeditiously to conference with the House. Differences between the two versions can best be worked out in that forum rather than here on the floor of the Senate.

I plan to also vigorously oppose the substitute amendment which, under the time agreement, may be offered after all other amendments have been considered. For all practical purposes, the substitute amendment is the House-passed bill. To adopt the substitute would render meaningless the countless hours of work associated with the committee's efforts on this issue and would deprive the Senate of any independent role in shaping the Alaska lands issue.

I urge my colleagues to join with me in supporting the version of the Alaska lands bill reported by the Senate Energy and Natural Resources Committee.

Mr. HATFIELD. Mr. President, the chairman, in his statement, has detailed the committee's efforts and involvement in the Alaska lands legislation. The committee, under his very able leadership, has carefully crafted this bill in a record number of markup sessions during two Congresses. Chairman Jackson has been meticulous in inviting the Alaskan Senators into the process to express their views, offer amendments and be part of the legislative process in committee. Throughout the committee's deliberations, he has maintained a perspective toward balancing the competing interests in this complex act, and I think he did an outstanding job.

I share his amazement and chagrin at some of the extremely negative characterizations of the committee bill as being totally unacceptable as a responsible conservation measure. I remind my colleagues that the committee bill is a landmark effort in preservation. It represents additional environmental protection and safeguards for an enormous amount of public land. This bill more than doubles the land area designated by Congress as part of the National Park and National Wildlife Refuge Systems. It triples the size of the National Wilderness Preservation System.

H.R. 39, as reported by the committee, virtually completes the public land allocation in Alaska which began with statehood in 1959. The Statehood Act granted the State of Alaska the right to select over 104 million acres of public land. The land disposal process was continued by the Alaska Native Claims Settlement Act, which granted native entities the right to select about 44 million acres of public lands. This bill, as reported, sets aside about 105 million acres in public lands in the four systems of conservation and adds more environmental protection and responsibilities by classifying conservation units under BLM management.

Alaska needs this legislation to resolve the uncertainty surrounding these lands and to provide the proper classification to these public lands.

The use of the 1906 Antiquities Act by the President to establish 56 million acres of national monuments and various withdrawals under the Federal Land Policy and Management Act is very limited. These executive withdrawals do not permit enough flexibility to tailor conservation measures to the special resource values of individual areas. In short, the agencies' authority to vary land management to fit different resource values is severely restricted. The establishment of these monuments, by the President's own admission, is basically a temporary holding action.

It is, therefore, the responsibility of Congress to make these important land classification decisions—where to establish parks, where to establish refuges, forests, wilderness, recreation, and conservation areas, where to classify rivers as wild, scenic, or recreational.

The committee, led by our chairman with his vast knowledge of public lands, aided by the senior Senator from Alaska (Mr. STEVENS), with his 20 years of public land law experience, met in 58 markup sessions during two Congresses in order to make these detailed land classification decisions.

Mr. President, no one has worked harder to get a bill than Senator STEVENS. I remind my colleagues that the assistant minority leader responded to the chairman's invitation to sit in on committee deliberations during the 95th Congress. The senior Senator from Alaska (Mr. STEVENS) worked day and night within the system to bring a bill out of committee and onto the floor. He has done the same thing in the 96th Congress and joined the committee to work even harder on this immense task. Senator STEVENS has contributed his leadership and skills in developing the committee bill. I urge my colleagues to carefully consider his statements and to draw from his experience and expertise.

Mr. President, I stand with the distinguished chairman of the Energy and Natural Resources Committee in urging the Members of the Senate to support the committee-passed bill. I hope that my colleagues will resist any efforts to dismantle this proposal. Amendments will destroy the delicate balance which has been achieved during our long and difficult deliberations. I implore you to let the conference committee resolve the few issues that separate the House-passed bill from our committee bill. Acreage is not a major issue. The major issues involve land classifications, access, and energy exploration. These complex issues are best resolved in conference.

I join with the chairman in requesting the Senate's support for the committee bill.

Mr. STEVENS. Mr. President, I yield myself such time as I may use.

I want to thank my good friend, Alaska's good friend, and our neighbor to the south, Senator JACKSON, the chairman of the Energy Committee.

I want to recall a little bit of history for those who may not know it or may not recall it. Senator JACKSON was the chairman of the subcommittee that handled the Alaska Statehood bill, and I remember so well dealing with him on that subject as the Alaska Statehood bill went through the Senate without an amendment. It was the first statehood bill in history that had been considered by the Senate, passed as it was passed by the House, because at the time we knew that was the only thing we could do to achieve statehood.

He was the chairman of the committee at the time we considered the Alaska Native Claims Settlement Act, and that act is an historic act of Congress in that it was the first time Congress ever settled a myriad of claims of Indian, Eskimo, and Aleut people by an act of Congress rather than going through years and years and years of litigation at substantial cost to generation after generation of Alaska Native people.

He again was the chairman of the committee at the time we handled the Alaska pipeline, and the bill I introduced and the amendment that subsequently was added to the right-of-way bill when it was passed through the Senate and went to conference and became law.

I do not know of any Member of the Senate who has the record of being so completely familiar with one subject such as the Alaska lands issue as Senator JACKSON. He has, in fact, been a Member of the Senate and been in key positions in the Senate during all of this time.

I wish to take some time to remind the Senate of that history.

At the time we became a State there were forces throughout the Nation that thought the new State of Alaska would be incapable of managing its own fish and wildlife. So there was a provision put in the Alaska Statehood Act that required the certification of the Secretary of Interior that the new State of Alaska had, in fact, been organized and that the State could manage its own fish and wildlife. That was a right of every State, and we obtained it following the certification of the Secretary of Interior, then Fred Seaton.

We have had, from the time we originally sought statehood, the opposition of some of the extremists in the environmental movement who did not believe that Alaskans ought to have access to or the right to manage some of the resources, such as the wildlife resources in our State.

After we became a State, the State started to exercise its rights under the Statehood Act which provides that we may select lands from the Federal Government to be our dowry from the Federal Government and to become statehood lands. Those land selections were different from every other State. Every other State of the Union got sections 16 and 36 out of every township, but, because of the vast size area of Alaska, when we obtained the right to select lands Congress gave us the right to select our lands.

As those selections commenced, we found that we were running into withdrawals that had been made or classification orders that had been entered that prevented the State from getting the lands it wanted. We were entitled to select vacant, unappropriated, unreserved Federal lands to become statehood lands and the classification orders and withdrawals impeded those selections.

It was at that time that we also got to the point where it was obviously necessary to settle the Alaska Native land claims. Section 4 of the Statehood Act reserved the rights of the Alaskan Natives to subsequent determination and, as I have said, those rights were set about by the Alaska Native Claims Settlement Act.

Following that act, the Native people of Alaska had the right to their land. Approximately 45 million acres were confirmed to the Alaskan Native people in that settlement. Those selections by both the Natives and the State continues to run into the designations of lands for purposes of national forests, wild scenic rivers, national parks, or wildlife refuges.

When we were considering the Alaska Native Claims Settlement Act, in section 17(d)(2), Congress provided that the Secretary of Interior view up to 80 million acres of Alaskan lands and determine which of those lands should be set aside for consideration in Congress in these four national sytems.

In 1973, pursuant to section 17(d)(2), the then Secretary of Interior Rogers Morton submitted recommendations to the Congress. Those recommendations covered 83 million acres.

I think it is important to note that of that amount, 18 million acres was reserved as national forests. We, at that time, as a Congress, started reviewing those recommendations. Congress had given itself 5 years to review the recommendation of the Secretary of Interior under section 17(d)(2) of the Alaska Native Claims Settlement Act.

In 1977, the chairman of the Interior Committee in the House introduced a bill which surprised us all, because it went far beyond the concept involved in section 17(d)(2) and would have affected about 150 million acres of Alaska's land. The House did pass the Udall bill in the last Congress. And after the Senate Energy Committee had reported out its bill—again, it was in the last Congress, a vote of 17 to 1 that reported out that bill—we went into an informal conference between the Members of the House and the Members of the Senate seeking to reach an agreement that would permit the Senate to consider a bill in the waning hours of the last Congress that would be accepted by the House. We negotiated for a substantial period of time. It is a matter of history now that an agreement was reached which all of the parties were willing to support.

That agreement would have disposed of the Alaska d–2 lands issue and would have prevented the subsequent actions which bring us together today. Let me emphasize that the agreement which I refer to represented an acceptable and livable piece of legislation which I was prepared to support.

In those last days of the 95th Congress, the major congressional participants, Congressmen YOUNG, UDALL, and SEIBERLING, Senators JACKSON, HANSEN, DURKIN, and myself joined by Secretary Andrus, were able to solve this problem in a fair and amicable manner. That same type of solution can be achieved again. All parties agree that we need a good bill which serves the dual purpose of protecting the legitimate national interest in certain spectacular areas of Alaska while still fulfilling the promises of the Federal Government made to the State of Alaska, the Alaska Native community, and the population of my State as a whole through the Alaska Statehood Act, the Alaska Native Claims Settlement Act and the many statements all parties involved have made regarding the protection of the Alaskan lifestyle.

From the time that the 95th Congress adjourned, there have been no changes which require that this issue be dealt with in a different light. There have been additional executive withdrawals of the land concerned, but no change in ownership has occurred nor have any bulldozers been reported poised to scar the land.

The executive withdrawals by President Carter, though permanent in effect, were temporary in nature. Throughout the process to prepare the environmental impact statement prior to these withdrawals and in the statements accompanying the withdrawals the President and the Secretary of the Interior made it clear that the administrative actions were taken "to preserve Congress options for next year," in the words of the White House press release. The administration does not expect the Congress to rubberstamp these withdrawals.

The withdrawals do not coincide with administration recommendations to Congress. In most cases they are an amalgam of the largest exterior boundaries for a given proposed d–2 unit among the House bill, Senate committee bill, or the administration recommendations. They do not and did not represent any final consensus and they must be altered accordingly. The Senate bill does alter them.

The additional withdrawals by Secretary Andrus are of the same nature and I urge you to consider all the withdrawals as they were intended to be treated as temporary withdrawals which Congress shall and must use its constitutional authority to act upon.

The sole authority under the Constitution for the final disposition of public lands is vested in the Congress. I cannot believe this Congress wishes to set a precedent for large-scale executive action because of congressional inaction in a specific Congress. The Alaska d–2 lands issue is not the only land issue dealing with vast acreage of land at the same time or under a specific time limit. Both RARE II national forest and BLM public land wilderness consideration deal with equally large amounts of land within a previously determined timetable.

The failure of the Congress to exercise its substantive authority over public land designation will set the stage for further massive withdrawals by the executive to protect lands because of congressional inaction. To rubber stamp by confirmation executive withdrawals in Alaska will invite similar withdrawals in the lower 48 should Congress not act on a given proposal or set of proposals. It is imperative that Congress reassert its constitutional authority over the final designation of public lands in Alaska.

A PROPER PERSPECTIVE

Placing the consideration of the Alaska d-2 lands issue in its proper perspective is absolutely essential.

Two points must be brought to the attention of the Senate.

First. Neither the State of Alaska nor the Alaska Natives have received the lands which they were promised under the Alaska Statehood Act and the Alaska Native Claims Settlement Act. Of the 105 million acres granted to Alaska in 1958, less than one-quarter—25 million acres—have been patented. The situation is equally as bad for Alaska's Natives. Of 44 million acres to be conveyed by the terms of the land claims settlement in 1971, less than 20 million acres have been conveyed. It is incorrect and unfair to contend that the State of Alaska and Alaska's Natives have had their land claims satisfied.

Second. The expansion of proposed d–2 unit boundaries have created a multitude of problems which must be addressed and fairly dealt with. The original study area involved "not more than 80 million acres." By expanding the proposed boundaries by 50 percent, numerous difficulties including direct interference with uncompleted State and Native selection rights and the endangering of the livelihoods of thousands of Alaskans have been created.

The Tsongas amendments are the amendments which will principally concern the Senate, I believe. There are many problems with these amendments that are to be proposed by our colleague from Massachusetts. As the debate on these amendments continues, I expect to discuss them at length.

TSONGAS AMENDMENTS—RADICALLY DIFFERENT

There are many problems with the amendments proposed by Senator TSONGAS. As debate on the amendments continues, these problems will be discussed. Let me emphasize that these differences are enormous.

The Tsongas amendments to a large degree confirm the President's withdrawals rather than viewing them as the temporary withdrawals they were intended to be.

Again I emphasize that in making those withdrawals, the President encompassed every acre that was covered by any amendment that had been suggested to the Congress. No determination was made as to what acreage should be included in a particular unit. They simply moved to protect all of the acreage under these vast withdrawals. By confirming those withdrawals, the Tsongas amendments harm many commercial hunting guides who are immediately and permanently put out of work.

The impact on the Alaskan economy is estimated by the Department of Fish and Game to be over $1 million, almost $2 million, a year. The additional acres of parks will double the acreage in the park system, and these areas proposed by Senator TSONGAS as parks now contain some of the finest hunting areas in Alaska. The total effect of the Tsongas amendments on hunting in Alaska is devastating.

The effect on mining in Alaska of these withdrawals is even more devastating. World class mineral deposits including the Greens Creek and Nabesna/Orange Hill mining districts are in effect rendered invalid. Hundreds of mineral claims dating back to the gold rush at the turn of the century are also imperiled.

The wilderness in the Tsongas amendments nearly doubles the wilderness in the Senate committee bill.

As the chairman pointed out, the action of the Senate committee bill triples the amount of wilderness in the United States.

The total size of the National Wilderness Preservation System after the 15 years of existence is but 19 million acres—this means Alaska would have nearly four times as much wilderness as the rest of the Nation. Most of this increase has been strategically placed to impair or prevent existing future uses which might otherwise occur—and I am talking about the Tsongas amendments—such as recreational and transportation access and the general continuation of the Alaskan lifestyle.

The Tsongas amendments imperil the existing timber industry in southeast Alaska. One of the great goals of the committee legislation is to achieve a wilderness package in southeast Alaska which would preserve the existing timber industry. The package included in the Senate committee bill does that and was agreed to by all parties during negotiations in 1978 that the approach of the Senate Energy Committee was a valid one. We have included that again this year in our Senate Energy Committee bill.

The wilderness package in the Tongass forest contained in the Tsongas amendments not only ignores that solution, but also nearly triples the wilderness in southeast Alaska thereby imperiling 2,000 jobs and virtually insuring that half of the timber industry and logging industry of Alaska will be closed.

These are but a few of the concerns raised by the Tsongas amendments. I urge my colleagues to review all the changes proposed closely.

One of the major events which has occurred abroad that we must address is that concerning America's energy needs. These are issues that must concern us as we deal with domestic decisionmaking such as involved in this bill.

AMERICAN ENERGY NEEDS

For the past 2 years, we have witnessed events that force us all to look for a rapid alternative to America's dependence upon imported energy sources. The loss of Iran, possibly forever, as a major supplier of oil has had and will continue to have devastating effects. If it is the policy of this country to seek energy independence, the Congress must look to the Federal lands in Alaska. Despite the fact that one-half of the Nation's publicly owned lands are located in Alaska, there has not been a new oil or gas lease issued in Alaska in 12 years. Major areas with oil and gas potential are proposed for inclusion in systems which will preclude their proper evaluation or development under the Tsongas amendments.

The most distressing example, though not the only one, involves the Arctic Wildlife Range. All indications are that another Prudhoe Bay-type superfield may exist beneath the coastal plain of the Arctic Wildlife Range. Yet, it is proposed by the Tsongas amendments that this area along with the rest of the existing range and much of the proposed addition be designated as wilderness. Such a designation will forever preclude the ability to evaluate its potential.

We are talking about 10 to 15 billion barrels of oil or more which would increase our domestic reserves by nearly 25 percent or more.

The authorization to continue the USGS Alaska mineral resource program as suggested by the Senator from Massachusetts, is of little consolation. That program is woefully underfunded and improperly staffed. Two years ago the General Accounting Office released a study all but condemning the program for its inefficiency.

Some of the most highly promising areas of Alaska for oil and gas potential are being condemned without any exploration or evaluation under the Tsongas amendments. An additional 40 million acres of sedimentary basins are placed in refuge status, much of which is also designated as wilderness. These areas will never be properly evaluated and Congress will never know the effect of such a decision on America's energy independence. If this Congress is serious about improving its domestic source of energy supply, it must deal straightforwardly and honestly with Alaska's immense potential.

Mr. President, before I conclude my remarks I want to salute the distinguished floor managers of this bill, Senators JACKSON and HATFIELD. Because of their patience along with that of Senator HATFIELD's distinguished predecessor, Senator HANSEN of Wyoming, the Senate has before it a balanced piece of legislation which it can endorse and send to conference committee with the House. As everyone knows, the distinguished Senators from Washington and Oregon have presided over the consideration of this most complex piece of legislation for 7 years. This was done in the last 2 years with a record 60 markup sessions. The committee has done its work well and the Senate should support the committee.

This bill was reported out, once again, in this Congress by a vote of 17 to 1. Senator TSONGAS was the only dissenting vote in the Energy Committee.

Mr. President, this is a balanced bill which serves the interests of the Nation. It is also fair to my constituents. It deals with our problems and resolves the uncertain land status which has been plaguing us since statehood.

The legislation provides for the conveyance of our State and native lands which were promised us under the Alaska Statehood Act and the Alaska Native Lands Claims Settlement Act. It assures us access to our lands. The Senate bill rejects the administrative withdrawals and settles the land status in an equitable fashion. The Senate committee bill provides fair designations which will permit the exploration and development of Federal lands with high resource development values

The Senate Energy Committee bill insures that the State of Alaksa will continue to manage our fish and game within our borders as do other States, and it protects the Alaskan lifestyle which is so important to all Alaskans.

I firmly believe that the best course for Alaska is for the Senate to approve this committee bill without amendments and send it to conference. There the Members of both Houses who have spent so much time on this legislation can work out the differences between our bodies and draft legislation which all should support.

My approach is simple. Let the conference committee work out any differences between the House version and the Senate committee product. The Tsongas amendments should be rejected. After all, the Senate committee bill is monumental in its scope. Upon passage, two thirds of the National parks and wilderness areas will be located in Alaska as will 85 percent of the wildlife refuges of the country. Eight of the 10 largest parks and the 8 largest refuges will be located in Alaska. This bill will double the park system, double the refuge system, and triple the wilderness system. Yet it is held to be inadequate by some extremists. The committee bill is truly a bill which has fulfilled the mandate of the congressional study envisioned by section 17(d)(2) of the Alaska Native Claims Settlement Act and brought about by the selections made by the State of Alaska under our Statehood Act.

Mr. President, I urge my colleagues to support Senators JACKSON and HATFIELD.

The committee bill, if approved without amendment and sent to conference, will mean that the Congress as a whole will have an opportunity to vote upon a fair bill, fair to the Nation and fair to my State.

Again, in closing, Mr. President, I urge every Senator to look at this map that we have prepared and take any one of the refuges off or any one of the parks off and place it on their State. See just how much of the total of their State would be withdrawn by any one of these areas. We are not talking about little refuges. We are not talking about little parks.

That one park that goes from the Gates of the Arctic over through the Noatak is the same as the distance between here and Columbus, and is as deep as all of Ohio.

Under the proposal of Senator TSONGAS there would not be the possibility for any one right-of-way north to south through there. His amendments would close them all up.

I will discuss that later.

Mr. President, I think it imperative that the Senate understand that if we approve the Tsongas amendments, we are not only withdrawing the lands affected by his proposals, but we are shutting off access to the State and native lands which are so essential also to the development of the mineral, oil, and gas potential of my State.

Mr. President, I ask unanimous consent that some analyses of the Tsongas amendments and material prepared by the Governor's office of the State of Alaska concerning the impact of this amendment on sports hunting in Alaska be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MAY 9, 1980.

BRIEF ANALYSIS OF THE TSONGAS AMENDMENTS

When the Alaska lands legislation was pending in the House of Representatives, many proponents of the Udall-Anderson bill argued that passage of an extremely expansive measure was necessary because of what the Senate might do. In fact, the Senate Energy Committee has reported a strong environmental measure, even stronger than the legislation reported in the 95th Congress. This bill, which was recommended by a margin of 17–1, is the product of numerous hearings and markup sessions held over a two year period.

In apparent disregard of the careful balance and analysis which are incorporated into the Committee bill, the Tsongas amendments would adopt most of the boundaries and management designations included in the Udall-Anderson measure. As a consequence, severe impacts on energy, minerals, and other national concerns would result. In addition, many State interests would be adversely affected.

A short summary of the amendments and the issues which are raised by them follows.

NATIONAL PARKS

This Tsongas amendment makes major changes in the careful balance between pure park and preserve/national recreation area status which the Senate Committee established. The argument for the most part is not whether the areas involved should be managed by the National Park Service; they would be in both Committee and Tsongas versions. The questions are whether sport hunting will be permitted subject to proper regulation, and in a limited instance, whether the Secretary is left the discretion to allow some resource activity. The Tsongas amendment would resolve these questions in the negative while the Energy Committee would permit established hunting activities to continue.

WILDLIFE REFUGES

This amendment is a whole title substitute which would in effect replace the Senate Committee's work product with that of the House. The House boundaries in all areas dealt with would be utilized. The net effect of the amendment is to eliminate the land selections granted to the State of Alaska by the Committee and to delete other management designations which the Committee felt were necessary to permit energy, mineral, and other resource development in areas not containing critical habitat and wildlife. While the Committee bill would strike a careful balance between otherwise competing concerns, this measure would add nearly 40 million acres to the national wildlife refuge system—more than doubling the system's current size and adding individual refuge units larger than some states.

WILDERNESS

Although the Senate Committee bill would more than triple the existing wilderness system, the Tsongas amendment would nearly double that acreage. Included as wilderness is the coastal plain of the Arctic National Wildlife Range—the most promising unexplored petroleum structure in North America—and individual wilderness units larger than some states. As a consequence, even environmentally sensitive resource assessments would be prohibited. Moreover, there would be severe impacts on the construction of visitor and other facilities necessary to enjoy conservation areas, on surface transportation of energy and other commodities, and on various activities which have no significant environmental effects. Thus, while both the Committee and Tsongas approaches would designate vast areas as wilderness, the Tsongas amendment is so expansive as to be of principal benefit to only those hardy souls who can hike these areas.

The amendment also provides for a formal wilderness study of all areas not designated wilderness, which under applicable case law prevents any activities that would alter wilderness characteristics until a final Congressional decision. In effect, all areas of the bill would be wilderness pending Congressional action. By contrast, the Committee bill would earmark vast areas for wilderness study, but would delete certain areas important for other uses.

SOUTHEAST ALASKA

This amendment adopts the House boundaries as they relate to wilderness in Southeast Alaska. Rather than utilizing the combination of wilderness and special management areas contained in the Senate Committee bill, the Tsongas amendment takes an extremely broad view of wilderness. By contrast, the Committee version would designate ⅔ of the 6 million acres of wilderness in the Tsongas amendment (40 percent of the Tongass National Forest), with the remainder statutorily withdrawn from harvest unless Congress acts. A review of data would be conducted in ten years, but no harvesting could occur without an Act of Congress. If the timber in these special management areas is not necessary to perpetuate existing harvest levels, it is unlikely that Congress would authorize further cutting. Therefore, the areas involved would receive essentially the same protection under the Committee and Tsongas approaches. The Committee approach is deemed necessary, however, to prevent existing job loss and community instability in the event that Senator Tsongas is wrong about wilderness impacts on harvest levels.

MISCELLANEOUS

This amendment adopts the basic thrust of the House transportation title. Because of Alaska's unique transportation situation (in a state one fifth the size of the nation, there are fewer paved roads than in the District of Columbia and Montgomery County combined), the Senate Committee provided a special process. The process streamlines decision making on transportation applications and involves the Department of Transportation in planning and certain decisions. Yet, strong environmental protection is assured in a number of ways, including Presidential and Congressional involvement in decisions regarding parks and wilderness areas. In contrast, the Tsongas amendment minimizes the role of the DOT and greatly restricts the ability to appeal a negative decision. By so doing, antiquated approaches which have proved so inadequate in other contexts are perpetuated.

Additionally, the amendment would designate wild river corridors which were rejected for access or other reasons in the Energy Committee bill.

INTERRELATIONSHIP BETWEEN AMENDMENTS

Attention should be given to the interrelationship between the various amendments just described. For example, a press release by Senators Hart and Chafee regarding the wildlife refuge amendment emphasized that these provisions do not preclude oil exploration in the Arctic National Wildlife Range. Yet, another amendment proposed by Senator Tsongas would do this very thing. There is also confusion in the treatment of the proposed Tetlin National Wildlife Range and other aspects of the amendments.

DETAILED CRITIQUE OF THE TSONGAS AMENDMENTS—ACREAGE COMPARISON

	Energy committee bill	Tsongas amendments to committee bill
NEW LANDS		
Parks and monuments	22.3	25.9
Park preserves	18.0	18.2
Park recreation areas	2.7	0
Wildlife refuges	43.0	57.2
Conservation areas (BLM)	8.4	0
Forests	8.4	2.9
Wild and scenic rivers	1.2	1.7
New lands total	104.0	105.9
REDESIGNATED LANDS		
Forest monuments	1.5	3.2
Forest recreation area	1.2	1.2
Forest special management areas	2.1	0
Redesignated lands total	4.8	4.4
WILDERNESS DESIGNATION		
Existing park/new wilderness	8.1	8.1
Existing refuge/new wilderness	4.4	13.2
Existing forest/new wilderness	2.9	2.7
Subtotal	15.4	24.0
New park preserves/new wilderness	21.6	25.8
New refuges/new wilderness	0	6.6
Redesignated forest lands/new wilderness	1.4	3.2
Subtotal	23.0	35.6
Wilderness total	38.4	59.6
LANDS AFFECTED		
New lands	104.0	105.9
Existing forest areas placed in more restricted categories (other than wilderness)	4.8	4.4
Existing lands redesignated as wilderness	15.4	24.0
Total, lands affected	124.2	134.3

IMPACTS OF THE TSONGAS AMENDMENTS ON THE SENATE ENERGY COMMITTEE BILL

The Alaska lands legislation reported by the Senate Energy and Natural Resources Committee by a vote of 17 to 1, is a strong environment bill by any standard. But, unlike the Udall-Anderson bill, the Senate Committee measure offers carefully-conceived solutions that avoid the polar extremes in resolving the complex series of issues raised by the Alaska lands legislation.

In apparent disregard of the careful balance and analysis which are incorporated into the Committee bill, the Tsongas amendments would adopt most of the boundaries and management designations included in the Udall-Anderson measure. As a consequence, severe impacts on energy, minerals, and other national concerns would result. In addition, many State interests would be adversely affected.

This paper summarizes some of the more critical adverse impacts that would result from the adoption of the Tsongas amendments to the Committee bill.

ALASKA'S CROWN JEWELS

Proponents of the Udall-Anderson bill and the Tsongas amendments often argue that the Senate Committee bill is too weak to provide adequate protection for the "crown jewels" of Alaska. Nothing could be a greater exaggeration. The Senate Energy Committee bill provides strong protection for those areas cited as examples of Alaska's "crown jewels."

In addition to doubling the size of both the National Park and Wildlife Refuge Systems, the Senate Committee bill designates more than 37 million acres of Alaskan lands as wilderness and earmarks many millions more for wilderness study. These wilderness designations triple the size of the National Wilderness Preservation System. Finally, 24 of Alaska's finest rivers or river segments are added to the Wild and Scenic Rivers System by the Senate Committee bill, with ten additional rivers being designated for further study.

In total, the Senate Committee bill would designate 104 million acres of new conservation units—an area larger than the State of California—or 124 million acres of both new units and existing withdrawals, whose designations have been upgraded. After land conveyances to Alaska Native corporations and the State, a full 70 percent of all Federal lands in Alaska would be included in the national conservation systems assuming the Senate Committee bill.

The Tsongas amendments, like the Udall-Anderson bill, would create conservation units far in excess of the acreage required to protect Alaska's "crown jewels." These measures often include as part of this excess acreage important commodity resources which, because of their inclusion within conservation system units, might not be developed. Consider, for example, the Yukon Flats. Far beyond the significant habitat areas which produce over two million ducks annually, the Tsongas amendments encompass several million acres of upland and benchland areas above the Flats. These areas, some of which the State wishes to receive as partial fulfillment of its Statehood Act entitlement, comprise the finest agricultural soils in all of Alaska. The Tsongas amendment would also include in the Refuge the White Mountains, an area radically different in terrain from the Yukon Flats, and studded with existing mining claims.

By adopting the boundaries and basic concepts of the Udall-Anderson bill, the Tsongas amendments contain numerous other examples of excessive and unnecessary land withdrawals.

OIL AND GAS

The Tsongas amendments would severely affect both the exploration and development of Alaska's important onshore oil and gas potential. Adverse impacts would result from: (a) wilderness designation of the Arctic National Wildlife Range (ANWR), which could contain an oil field the size of Prudhoe Bay, and other Refuge lands, and (b) counterproductive changes in the Committee bill's transportation title—changes which would make it more difficult to obtain access across conservation system units to areas with oil and gas potential.

The ANWR is the most promising oil and gas prospect on the North American continent. Although the acreage of ANWR with prime oil and gas potential is relatively small (approximately 200,000 acres), this limited acreage could conceivably contain a large percentage of the economic oil and gas resources in onshore Alaska. In this regard, it should be noted that 4/10% of the North Slope area (Prudhoe Bay) contains 32% of the nation's proven reserves of oil. Moreover, ANWR's prospective oil and gas resource area is located only 75 miles from a developed transportation system (the trans-Alaska pipeline). For these reasons, most geologists believe on the basis of recent studies that the petroleum potential of ANWR is far superior to that of the National Petroleum Reserve Alaska.

The Tsongas amendments and the Udall-Anderson measure designate this important oil and gas area as wilderness, which precludes any meaningful assessment work, including seismic testing, and development, even under the most stringent environmental safeguards. (See accompanying sheet for a more detailed critique of this aspect of the Tsongas amendments.) It should be noted that no pending Alaska lands bill proposes the development of ANWR. The Committee bill proposes a systematic study of petroleum, wildlife, and other values; the final decision about development is left to Congress. Proponents of the Tsongas amendments oppose this careful assessment; they apparently do not trust the Congress to make the right decision once all relevant information is known. (As yet, there has been no seismic exploration in ANWR. While most biologists believe that oil exploration can occur without adversely affecting the Porcupine caribou herd, there is little data relating to the impacts from any future development.)

The Tsongas amendments' wilderness designation of other Refuge lands and its blanket wilderness study for all other conservation system units in Alaska would all but preclude exploration of large and unexplored petroleum provinces.

In addition, the Tsongas amendments weaken the Committee bill's process for providing transportation system access to and from other oil and gas areas. Development of Alaska's energy resources will be largely contingent upon construction of new petroleum transportation facilities. The Tsongas amendments would make it more difficult to locate pipelines and related facilities across such areas. (See subsequent section on transportation for more detail.)

STATE LANDS

Although the Statehood Act of 1958 granted the State of Alaska 104 million acres of land, the State has received effective title (patent or tentative approval) to only about 37 million acres. Moreover, the State has been prevented from selecting many of the lands which it has identified.

The Tsongas amendments would eliminate about 1.7 million acres of November, 1978 land selections granted to the State by the Senate Energy Committee. These lands contain values ranging from outstanding agricultural soils to prime mineral areas, and were selected by the State to better balance its existing land holdings. In addition to including existing state land within conservation system units, thereby needlessly creating nearly 400,000 acres of state inholdings, the Tsongas amendments would deny State selection along Alaska's two principal rivers—the Yukon and the Kuskokwim River (middle segment). This would eliminate State ownership opportunities along the only two portions of these rivers which are not already selected by Alaska Native corporations or included within Federal conservation system units.

Although the Tsongas amendments retain the Senate Committee bill's comprehensive title designed to remedy a number of long-standing problems regarding the selection and conveyance of State lands, the amendments make significant changes that would confound the Committee's deliberate decision to convey to the State certain lands selected prior to 1978.

TIMBER JOBS

The Tongass National Forest in Southeast Alaska supports a timber industry which comprises a major sector of the regional economy. Approximately 3,000 people are employed directly by the timber industry, which has harvested an average of 520 million board feet annually during the period 1970 to 1976.

The Senate Energy Committee's bill designates 4.4 million acres of the Tongass National Forest as wilderness while at the same time insures that sufficient timber will be available to maintain the current level and distribution of employment by designating another 2.1 million acres as special management areas. These areas would be closed to logging for ten years during which time the timber supply and demand from Southeast Alaska will be monitored. If, after ten years timber is needed from these special areas to maintain employment levels, Congress could act to permit logging. Otherwise, the areas would continue to be off-limits to logging.

The proposed Tsongas amendments would increase wilderness in Southeast Alaska to 5.9 million acres, or about 36% of the Tongass National Forest. In order to mitigate the expected impact on the economy of Southeast Alaska, an estimated $12.5 million will need to be invested by the federal government. This estimate is based on several critical economic assumptions concerning the availability of Native-owned timber and the benefits of new, but untried, forest management and harvest technologies. Without this additional funding, only 360 million board feet of timber could be harvested, and serious unemployment problems in several Southeast communities would result.

While preserving Southeast's most beautiful lands, the Senate Energy Committee bill protects existing jobs and the region's economic stability through its built-in contingency plan should the Senator Tsongas economic assumptions prove inaccurate. In contrast to the Committee approach, accurate assumptions about wildnerness impacts upon harvest levels under the Tsongas amendments could result in the loss of numerous existing jobs in Southeast Alaska.

MINERALS

The development of Alaska's mineral potential is severely constrained by the Tsongas amendments. Several existing world-class mineral discoveries are included within wilderness areas, preserves, etc. Under existing regulations, it is extremely difficult to develop valid claims into mining operations within such units. Hence, inclusion of these discoveries in restrictive units may be tantamount to prohibiting development. Among the affected discoveries are the U.S. Borax molybdenum find (one of the world's largest discoveries), the Green's Creek, silver-gold-lead-zinc deposit, the Mr. Prindle uranium discovery, and the Orange Hill copper find.

Access routes to other major mineral areas are blocked by the pattern of unit designations. For example, the extremely important Ambler district (where three of the mineral discoveries are valued at more than $8 billion) is virtually surrounded by three Park Service wilderness areas and two wildlife refuges. Whereas the Committee bill has special access provisions for this particular case, the Tsongas amendments delete them. It is highly improbable that a developed surface transportation route to these mineralized areas would be permitted across such units under the Tsongas amendments.

The Tsongas amendments also replace conservation system units which may be opened by the Secretary of the Interior to mineral exploration and development under controlled conditions with conservation units without this flexibility. This change would result in the final closure of about 10 million acres of mineral-rich land. Moreover, the effect of the Committee bill's mineral assessment program is significantly altered by the Tsongas amendments' deletion of the Secretary's mandatory report to the President on his mineral assessment findings.

SPORT HUNTING

Throughout Alaska, sport hunting is an important activity with significant economic spin-offs. The President's unilateral creation of new national monuments in December, 1978 closed 43 million acres to recreational hunting, coupled with an additional 7.5 million acres closed by statutory or executive action in prior years. Although much acreage remains open to sport hunting despite the national monument designations, the lands closed by the President's action contain many of the high quality hunting areas sought by those who prize the opportunity to hunt in truly wild country.

The Tsongas amendments do take steps to correct some of the anti-hunting excesses of the President's action. Compared to the Committee bill, the Tsongas amendments close 3.6 million more acres to hunting. The impacts of closing these additional areas are quite substantial. For example, under the Tsongas amendments no areas within the 8-million acre "Gates of the Arctic" complex would be open to sport hunters. There would be increased hunting pressure on adjoining lands, with the concomitant management problems which such pressure would generate. In addition, hunting guides would be heavily impacted. Between 47 and 49 percent of the established and State-assigned guide areas fall partly or completely in parks.

The Tsongas amendments could also impose restrictions on hunting-related activities in many areas, particularly in wilderness units. These restrictions create a situation where, although sport hunting is legally permitted, hunters may be denied access or other necessary use of the area. For example, a Tsongas provision requires that all permitted temporary facilities (such as tent platforms) be removed from Park System units after each use, even though such facilities are often used in successive seasons.

TRANSPORTATION AND ACCESS

Because of Alaska's embryonic highway and surface transportation system (in Alaska, a state 1/5 the size of the nation, there are fewer paved roads than in the District of Columbia and Montgomery County combined), procedures for establishing transportation and utility corridors across federal land are extremely important. In view of Alaska's undeveloped surface transportation system and the cumbersome procedures under existing law for approving new transportation applications, the Senate Energy Committee provided a special process for Alaska. The process streamlines decision making on transportation applications and involves the Department of Transportation in planning and certain decisions. (Contrary to some assertions, the Senate Committee bill does not expand the decision-making function of the Department of Transportation beyond that provided by existing law.) At the same time, the Senate Committee bill assures strong environmental protection in a number of ways, including Presidential and Congressional involvement in decisions regarding parks and wilderness areas.

While the Tsongas amendments leave intact certain provisions of the Senate Committee bill's transportation title, the amendments would minimize the role of the Department of Transportation and greatly restrict the ability of applicants to appeal a negative decision. The Tsongas amendment would bestow upon land managing agencies, which have no particular expertise in transportation matters, veto power over access decisions. And, the Tsongas amendments would do away with the formalized appellate procedures of the Senate Committee bill which include review by the President. In making these changes, the Tsongas amendments blunt the thrust of the Committee bill's transportation title and perpetuate antiquated approaches which have proven so inadequate in other contexts.

Additionally, the Tsongas amendments, by their redesignation of many of the Committee bill's conservation units, make obtaining surface transportation access into key development areas difficult to impossible. Numerous examples exist. As previously mentioned, the wilderness designation of the upper Ambler River Valley or "boot" area of the Gates of the Arctic conservation unit all but precludes access across this area to and from the mineral-rich Ambler mining district. Moreover, the Tsongas amendments' designation of the Koyuk River on the Seward Peninsula precludes a portion of an alternate access route from the Ambler district southwest to Norton Sound. The amendments' designation of the Copper River between Wood Canyon and the Tasnuna River would prevent the completion of the Copper River Highway linking Cordova with the State's highway network. Curiously, the Tsongas amendments would restrict even public access into the Wrangell park unit by prohibiting improvements to the sub-standard road from Chitina to McCarthy.

CONCLUSION

Unfortunately, the Alaska lands issue has become clouded in misinformation and innuendo. The issue is not one of environment versus development or concerned citizens juxtaposed against special interests.

The bill reported by the Senate Energy and Natural Resources Committee is, in fact, a strong environmental measure and, because of this and its overall balance, the State of Alaska urges your support for the bill as opposed to the Tsongas amendments and the Tsongas substitute. In addition to its strong conservation emphasis, the Committee bill addresses other important federal and state concerns. For one thing, the Committee measure would facilitate the environmentally sensitive assessment of Alaska's oil and gas and other mineral resources. Representations to the contrary notwithstanding, the Tsongas amendments and substitute, like the Udall/Anderson measure, would not accomplish this result. Additionally, the Senate Committee bill, far better than any other pending measure, addresses other state concerns as reflected in a resolution enacted by the State Legislature in 1979.

In summary, the State remains committed to the enactment of reasonable legislation as the best means for resolving the Alaska lands issue. However, the Tsongas substitute and related amendments simply do not constitute the carefully balanced approach which is so necessary to the fulfillment of both federal and state objectives.

STRATEGIC AND CRITICAL MINERALS IN ALASKA

CURRENT NATIONAL SITUATION

The United States is becoming increasingly dependent upon foreign sources to supply its requirements for non-fuel minerals. The nation now imports one-half of 24 of the 32 essential industrial minerals and metals it consumes. The trend toward increasing dependence upon possibly unreliable sources is viewed by many observers, including the Government Accounting Office, as a potential threat to U.S. industry's future access to non-fuel minerals.

For those imported minerals and metals that are important to the nation's defense, prospects of insufficient supplies are especially disturbing. Minerals essential to the national defense are divided into two categories—critical and strategic—on the basis of their importance, uniqueness, and import reliance. Critical minerals, such as titanium, zinc, cadmium, gold, silver, and gypsum, may be abundant within the United States, but for social, economic, environmental, or political reasons, the country relies heavily on foreign sources for these commodities. Strategic minerals are those of which there exists a chronic domestic shortage because economic reserves of the commodity have not been found within the United States. Examples of strategic minerals are cobalt, chromium, nickel, tin, platinum-group metals, tungsten, and antimony. Many of these strategic minerals are used in the manufacture of space-age alloys which figure importantly in the production of aircraft and missile components.

The United States' reliance on foreign sources of supply for strategic and critical minerals is in sharp contrast to that of the Soviet Union. The Soviets are either self-sufficient or are exporters of many of the key industrial non-fuel minerals and metals now imported by the United States. Because the Soviet mineral policy is based upon the principle of maximum use of its domestic mineral supply, the USSR has become the most self-sufficient nation in minerals and metals among the world's leading industrial nations. The contrast between the U.S. and USSR reliances upon mineral imports is graphically illustrated by the attached chart.

If the United States' imports of strategic and critical minerals are to be reduced, we must increase conservation and recycling, and must undertake the identification and development of new or known domestic sources of these key minerals.

ALASKA'S POTENTIAL CONTRIBUTION

Alaska can make a particularly significant contribution to increased production. Alaska contains 17 of the 29 critical and strategic minerals identified by the 1975 Conference of Strategic and Critical Minerals. The most abundant strategic minerals present in Alaska are cobalt, nickel, tin, platinum-group metals, mercury, fluorite, tungsten, antimony, and chromium. The Alaska portion of the nation's known mineral reserve base is particularly impressive. Alaska contains the equivalent to: 80 percent of the U.S. domestic tin reserve base, 50 percent of the platinum-group metals U.S. reserve base (excluding yet-to-be measured reserves near Stillwater, Montana), 25 percent of the nation's fluorite reserve base, 20 percent of both the tungsten and nickel reserve bases, and about 18 percent of the nation's cobalt and antimony reserve bases. Additionally, Alaska's chromium resources are judged to be significant.

It is sometimes suggested that although Alaska does possess many of these and other important mineral resources, the economic production of these minerals will not occur for many years. This may be true for those deposits which are of relatively low grade and are far from existing surface transportation systems. However, new discoveries of compact, high-grade ore bodies, and those containing particularly high value commodities, such as tin, tungsten, gold, or uranium, could be developed very soon. In addition, the discovery near tidewater of even low-grade mineral deposits like molybdenum at Quartz Hill and nickel at Brady Glacier (both in Southeastern Alaska) suggests that, if permitted by federal land management, these deposits could also be produced in the short-term future.

IMPACT OF PENDING ALASKA LANDS LEGISLATION

The outcome of the Alaska National Interest Lands Legislation could have a positive or negative effect on Alaska's future contribution to reducing United States imports of strategic, critical, and other important minerals. By way of example, the Senate Energy Committee bill—a strong environmental measure by any standard—excludes Alaska's seven world-class mineral deposits from land designation that would prevent their development. The Udall-Anderson bill and the Tsongas substitute and amendments include four of these major discoveries within restrictive designations that would make their development—even on the basis of valid existing rights—difficult to impossible.

Others important mineral areas, such as Chulitna, Squirrel River, the Kilbuck Mountains and the upper Amber Valley, that are either transferred to state ownership or designated as areas which may be opened to future mineral development under the Senate Energy Committee Bill, are closed to mineral entry by the Udall-Anderson and Tsongas measures.

The pattern of land designation in the Udall-Anderson bill and the Tsongas substitute and amendments also affects potential mineral development of lands outside proposed conservation units by blocking access routes. For example, the extremely important Ambler District (where three of the mineral discoveries are valued at more than $8 billion) is virtually surrounded by three Park Service Wilderness areas and two wildlife refuges. It is highly improbable that developed surface transportation to this mineralized area would be permitted across such units, especially considering the inadequate transportation and access mechanism in either the Udall-Anderson bill or the Tsongas substitute. The Senate Energy Committee bill effectively deals with such access problems through its transportation and access title.

CONCLUSION

Federal land classifications are not always the only impediment to increased Alaska production of strategic and critical minerals, but restrictive classifications in and of themselves can preclude this much-needed mineral development. In contrast to the Udall-Anderson bill and the Tsongas substitute and related amendments, the Senate Energy Committee bill in many situations. permits mineral development by keeping certain highly-mineralized areas in the public domain, by adapting the land management of certain proposed conservation units to allow for environmentally sound mineral exploration and development, and by adopting workable access provisions.

June 1980.

WHAT'S BEST FOR WILDLIFE IN ALASKA—THE IMPACT OF ALASKA LANDS LEGISLATION ON SPORT HUNTING

Alaska's history is dotted with breathtaking events, just as its landscape is punctuated by awe-inspiring vistas. From man's first venture into the New World to Alaska's Statehood and the Alaska Native Claims Settlement Act, the scale of Alaskan events has been momentous. Now, another unprecedented event, the Alaska National Interest Lands legislation, may become law. How Congress shapes its final form will affect all Alaskans and sportsmen throughout the United States for generations.

BACKGROUND

In 1971, Congress passed the Alaska Native Claims Settlement Act (ANCSA) to provide just compensation for aboriginal claims to Alaska and to clear the way for the Trans-Alaska oil pipeline. Environmentalists successfully urged Congress to also provide additional protection in the Act for wildlife habitat and scenic resources. Section 17(d)

(2) of ANCSA directed the Secretary of the Interior to recommend to Congress up to 80 million acres for inclusion in "national interest lands"—either National Forest, National Wildlife Refugee, Wild and Scenic Rivers, or National Park Systems. Secretary Morton recommended 83 million acres to Congress in 1974, but his recommendation was soon upstaged by the first series of bills championed by Representative Morris Udall. These bills included 120 to 155 million acres. Traditional sport hunting, trapping, and State management of fish and resident wildlife were seriously threatened. Suddenly hunters, trappers, and commercial fishermen, in and out of Alaska, realized their activities were threatened by huge potential parks and by intrusion of anti-hunting politics into Federal wildlife management policies.

In spite of various more rational counterproposals, the U.S. House of Representatives passed an extreme bill in both 1978 and 1979. The Senate Energy and Natural Resources Committee, on the other hand, has taken a more reasonable approach to Alaska lands legislation. The Committee has reported balanced substitute measures for both House-passed bills; the current bill was reported out of Committee by a vote of 17 to 1.

THE PRESENT SITUATION

Legislative action on the Alaska lands bill reported by the Senate Energy Committee is scheduled for consideration by the Senate in late July. Senator Paul Tsongas has proposed further amendments that would essentially recreate the House-passed H.R. 39. Senator Stevens proposed an amendment which would strengthen the State of Alaska's role in fish and wildlife management in keeping with existing law. Senator Gravel proposed an amendment that would retain more area open to hunting by placing it in National Preserve rather than National Park classification.

ISSUES

The Senate bill is not a "development" bill.—

The Senate Committee bill has been labeled a development-oriented bill by the Alaska Coalition, the umbrella-lobbying organization for groups such as the Sierra Club, Friends of the Earth, Defenders of Wildlife, Fund for Animals, Friends of Animals, and others. In addition, Representative Udall, in a letter on behalf of the Sierra Club Legal Defense Fund, said that 60 percent or "225 million acres" in Alaska "are already slated for development" and implied that Alaska's wildlife may not survive if his bill, or a similar one, is not passed. Both statements are demonstrably untrue.

In fact, the Senate Committee bill places 120 million acres, an area larger than California and nearly one-third of Alaska's 375 million acres, in Federal conservation systems and special use areas. After land conveyances to Alaska Native corporations and the State, a full 70 percent of all Federal lands in Alaska would be included in the national conservation systems under the Senate Committee bill. Moreover, these and all other Federal lands in Alaska will remain subject to the host of Federal environmental protection laws now on the books, plus various State laws.

As for State-owned lands, Alaska has over 3 million acres in the State Parks System, plus 1.5 million acres of State-designated critical habitant, refuges, and sanctuaries for fish and wildlife, and more areas are being proposed.

Sport hunting will be severely impacted by the House or Tsongas bills.—

You've probably been told Representative Udall's bill or Senator Tsongas' proposed revisions will be best for hunters and wildlife. For several reasons that's not the case. Excessive National Parks in traditional hunting areas: Most conservationists agree that well-regulated sport hunting does not harm wildlife populations, yet the Alaska Coalition opposes the Preserves in the Senate Committee's bill and any addition to them. The Senate Committee bill places 22.2 million acres in Park, which would be closed to sport hunting but open to subsistence hunting. Senator Gravel has proposed switching about 2 million acres more from Park to Preserve, which would allow continued sport hunting but would still preclude logging, mining, and other development. The 20 million acres remaining in Park would still contain some of Alaska's best game ranges.

On the other hand, the Udall or Tsongas measures would ratify closure of 27 of the 42 million acres presently closed to sport hunting by National Monuments, rather than "open" 91 percent of Alaska as it has been claimed. 91 percent of Alaska's lands will not remain open to public hunting and trapping because over 10 percent of Alaska's land was dedicated to private ownership by the Alaska Native Claims Settlement Act and State land protection and disposal will further reduce the area available for public hunting and trapping. Furthermore, because an area is left open to hunting does not assure that it is a good hunting area. Extensive areas left open contain no Dall sheep or brown/grizzly bears, while many of the best traditional sport hunting areas for these species are included in Parks.

The Senate Committee bill better reflects the interests of sportsmen and conservationists, and Senator Gravel's amendment would further improve the situation without detriment to wildlife populations or habitat.

Impact on harvest: Although the Udall and Tsongas measures would affect game harvest by sport hunters less than the existing National Monuments, the lost opportunity would still be significant. Based on harvest reports, species population data, and field observations of hunting patterns, the Alaska Department of Fish and Game estimates that harvests will be reduced by 10 to 12 percent for moose, 21 percent for brown/grizzly bear, and 24 percent for Dall sheep. However, one half (25,000) of the State's Dall sheep would be in either Park, State closed areas, or State controlled use/permit areas under the Udall or Tsongas measures and current State law. Under the Senate bill, 45 percent would be included in these protected situations. Prior to the Alaska lands controversy, Dall sheep prospered with only 25 percent of their number under such protection. Department of the Interior estimates for these same species are considerably lower because they rely solely on written harvest reports. In fact, a special National Park Service study of harvest reports from the proposed Wrangell-St. Elias Park and Preserve was unable to accurately determine the number of unregulated hunts that occurred in the Park portion of the proposed unit. Harvest reports yield incomplete information, but they are easiest to use for remote bureaucracies unfamiliar with field conditions.

Alaska's guiding industry will be heavily impacted.—

Alaska has about 420 registered sport hunting guides of whom about 210 have assigned hunting areas where they are obligated to hunt, and other guides may not hunt without their permission. The House-passed H.R. 39 would preclude hunting on about 100 assigned hunting areas to some degree—some guides would be totally out of business, others would be less affected. An unknown number of guides who have no assigned areas, but hunt in general zones, would also be affected by Park designations. Because of its greater Preserve acreage, the Senate Committee H.R. 39-amended would affect significantly fewer guides. The impact of eliminating or reducing guiding opportunities will fall not only on guides but on sport hunters who are not Alaskans, because nonresident hunters, most of whom are U.S. citizens, are obligated by State law to have a guide when hunting Dall sheep and brown/grizzly bear.

Wildlife managers and sportsmen express their views.—

Wildlife professionals and wildlife user groups nationwide have expressed their views through support of a resolution by the International Association of Fish and Wildlife Agencies which represent wildlife management agencies throughout the Western Hemisphere. The resolution support the Senate Committee bill and recognizes that improvement is needed in:

(1) Clarifying State management authority,

(2) Confirming the State's authority to manage subsistence uses, and

(3) Increasing management and hunting opportunities through boundary refinements (i.e., Preserve rather than Park designation).

This resolution is supported by N.R.A., Safari Club International Wildlife Management Institute, Wildlife Legislative Fund, National Trappers Association, Alaska Wildlife Federation and Sportsmen's Council, and other national and local groups.

The House passed H.R. 39 and Tsongas substitute measures undermine the traditional balance between State and Federal wildlife management responsibilities.—

One of the principal reasons for Alaska's fight for statehood was its desire to manage fish and resident wildlife. The experience with Federal management during territorial days had been bleak. Since statehood, the State has established a comprehensive management program premised on carefully compiled field data. As a result, most populations of fish and wildlife species are viable and healthy.

The House-passed bill threatens the traditional Federal-State relationship with respect to management of fish and resident wildlife. In several important sections, the bill fails to draw a clear distinction between the Federal responsibility for habitat management and the State's traditional role as manager of fish and resident wildlife. This confusion could lead to Federal interference in the setting of seasons, bag limits, and other facets of day-to-day regulation. In particular, Federal oversight of subsistence uses provides little protection to State prerogatives and authorizes the Secretary to set regulations if he determines the State has met certain subsistence-related requirements. This raises the real possibility of constant Federal interference. The Tsongas versions are scarcely an improvement over the House bill. By contrast, the Senate Committee bill provides the State with additional administrative and judicial safeguards from unnecessary Federal intervention. Senator Stevens' amendment would further clarify and strengthen the State's traditional role in keeping with existing Federal law.

Ecosystems will not be "fragmented," and development is constrained.

Vague fears are played upon by some environmentalists who say that the Senate bill "fragments" ecosystems. In fact, the Senate Committee bill protects vast areas of Alaska, including large, single-use Park lands. The Senate Committee bill stresses logical conservation units that conform as closely as possible to ecological characteristics, resource potential, and important existing human uses. Developmental uses on Federal, multi-use lands in the Senate Committee bill must conform to a land use plan before any resource extraction is allowed. On the Arctic National Wildlife Range, where oil and gas exploration is authorized, the Secretary would set the rules based on biological studies. Only Congress could allow exploratory wells or oil and gas development after continuing studies of both oil and gas potential and the environmental risks of development.

Overall, the Senate Committee bill has crucial advantages to the hunter and trap-per over the House-passed bill, yet it does not allow irresponsible exploitation of the lands, waters, or wildlife habitats of Alaska. The amendments of Senators Stevens and Gravel seek to "fine tune" provisions of the bill. We urge your support. Write, wire, or call your Senators today and urge them to support conservation by supporting the Senate Energy and Natural Resources Committee bill and to vote against the Tsongas amendments and the Tsongas substitute.

TESTIMONY OF ROSS G. SCHAFF

Mr. Chairman and members of the Committee: My name is Ross G. Schaff, State Geologist for the State of Alaska, and Director of the Division of Geological and Geophysical Surveys of the Alaska Department of Natural Resources. I have spent 18½ years of my professional career in Alaska dealing with virtually every aspect of Alaska's mineral, energy, and water resources. Today I will comment mainly on petroleum and natural gas, but will also mention coal, sand and gravel, and water.

The staff of the State Geological Survey has prepared a map which depicts the younger sedimentary basins of Alaska which have a resource potential for oil and gas, as well as uranium, coal, and other leasable minerals. This map is based solely on public information and the boundaries of each basin are subject to criticism. Nevertheless, the map illustrates the general distribution of the oil and gas potential in Alaska, as well as the magnitude of this potential. I have also provided the Committee with an "Energy Resource Map of Alaska" which depicts the full range of energy resources, including potential hydroelectric power sites.

The first important point I wish to make concerning the oil and gas potential of Alaska is that relative to the conterminous United States, the data base from which we are all required to make decisions is extremely weak and uncertain. I recognize that this statement has been made many times and will be made many more times, but in my opinion it is one of the most significant realities with which we must deal. I have provided you with a list of Alaska's basins and a tabulation of the number of drill holes per basin to illustrate my point. Significant is that twelve of these basins have never been drilled; four have had only one hole; five have had fewer than 10. Only two have had significant exploration, and these are the producers: The Cook Inlet and the North Slope. By way of contrast, the Los Angeles Basin (1,250 square miles) is smaller than Alaska's smallest basin, the Holitna Basin, and has had approximately 20,000 holes and produced 5.7×10^9 barrels of oil. From this, it should be clear at this stage of exploration that we can provide very little information about the energy resources of Alaska's sedimentary basins. Clearly, there is a need for extensive exploration of all basins before valid conclusions can be made.

A case in point is an area of chief concern to this Committee, namely, the Arctic Wildlife Range. In our opinion, the coastal plain of this Range and the adjacent area offshore has the greatest potential for oil and gas of any area in the United States. There is little more we can say because we have no seismic information, no drill holes; only aeromagnetic, gravity, and surface information. What then is the basis for such a grandiose statement?

First, the geology is unique to the North Slope Basin. This is the only area of this huge basin which contains younger sediments which are known to contain oil and gas elsewhere on the Slope, where structural traps are seen to exist. One surface expression of this structural style is the March Anticline, which exceeds 50 km. in length.

Second, the reservoir characteristics of these rocks are near the ideal with superb porosities and permeabilities.

Third, the source rocks believed to be responsible for the oil of Prudhoe Bay outcrop within the Range in the Sadlerochit Mountains, and the younger sequence contains highly organic holes.

Fourth, one must admit that there is an undefined potential in the older rocks for a Prudhoe Bay type of accumulation.

Fifth, three oil seeps and two outcrops of oil-stained sandstone add significance to the oil and gas potential.

In addition, seismic data offshore reveal numerous structures similar to the March Anticline, and it is likely that these continue onshore into the Range. One offshore structure is 150 km. in length.

Finally, commercial quantities of oil and gas have been discovered to the east by Canada in geologically similar terrain, and discoveries have been made to the east at Flaxman Island and Point Thomson.

Thus all the elements necessary to encourage further explorations are present: superb reservoir characteristics, source rocks, and structures which may have trapped oil and gas in both the younger and older rocks.

The State of Alaska is as concerned about the environmental impact on this region as it has consistently been elsewhere in the State. The exploration phase can be done with no substantial short or long range impact as has been demonstrated in NPR–A. Seismic surveys conducted in the winter months on frozen, snow-covered ground can be accomplished without leaving a trace. Thin, non-permanent drilling pads can be removed and reseeded, allowing for their disappearance with 10 years. Gravel airstrips will not be needed for exploratory drilling conducted during the winter. Sand and gravel resources needed for drilling pads are abundant in the numerous braided streams of the area and can be obtained without disturbing the stream itself. Water, the State's most precious resource, can be obtained from lakes and streams only through compliance with the State's rigid water appropriation laws and regulations. Finally, the caribou are not found in this area during the winter months when the exploratory phase will be carried out.

The development phase, if oil and gas are discovered, is obviously more problematic. We have, fortunately, two models in the State for reflection and observation. The first is the Swanson River field in the Kenai Moose Range, an existing unit of the Refuge system, and which is commonly cited by both environmentalists and developers as a model of how oil production can take place with minimal effect on the environment. More relevant to this discussion is the second model, namely, Prudhoe Bay. I leave judgment on both of these areas to experts more qualified than I. I would point out, however, that while the exploration phase will involve all of the coastal plain of the Range (perhaps 2 dozen wells), the development phase will involve only a very small percentage of the area.

For example, for Prudhoe Bay, 45,000 square miles were involved in the exploration phase, but only 400 square miles are involved in production.

I will conclude my testimony with several miscellaneous thoughts:

(1) If exploration is conducted in the Arctic Wildlife Range, whether by industry or government, provisions should be made for involving the State of Alaska in the process. Information obtained onshore will be invaluable to the State's assessment of the resource potential within the State's submerged lands adjacent to the Range. In turn, Federal government would benefit from information obtained by the State.

(2) Consideration should also be given to insuring that the State has access to the area of State submerged lands off the Arctic Wildlife Range, surrounded as it is by ice to the north and the Range to the south. Provisions for access elsewhere is an essential component of legislation affecting Alaska's resources.

(3) If exploration of the Range or other wildlife areas of the State is permitted, I would encourage the Committee to provide for adequate hydrologic investigations. Water is our most basic resource, and much of Alaska is a desert. Yet it is the one resource about which we have the least knowledge for decision making.

(4) Perhaps as much as 50 percent of the nation's coal resources can be found on the North Slope. Estimates range greatly, again because of the scanty data base. As many as 3.3 trillion tons have been suggested by the USGS. Assuming 3 barrels of oil is the BTU equivalent of 1 ton of coal, a conservative energy resource equivalent of 3 trillion barrels of oil is present on the North Slope. This figure is greater than the oil reserves of the entire world. Studies should include an evaluation of this immense energy resource.

Thank you.

Mr. GRAVEL. Mr. President, we today consider most unusual legislation. I want to say that if I had my "druthers," I would rather be somewhere else. I would rather be in Alaska today, where it is a lot more comfortable than it is here in Washington, D.C., pressing forward my efforts at reelection so that I might remain in this body for another 6 years. But because of a time agreement that was entered into last February, we are here. It is a time agreement that I entered into with open eyes, because I had no choice—but I felt then the time agreement then was bad. And I feel now a time agreement is bad. I feel that taking up the legislation now is the wrong thing to do. I felt that last year, when I would not agree to a time agreement. I felt that the year before, and I shall probably feel that for some time.

I cannot think of a greater mistake that this body could make, whether it passes S. 9, which we are told is a great piece of legislation—and I shall go into great detail to show that it is not—or H.R. 39, which is the House equivalent and which is offered to us in various forms in the Tsongas amendments.

We are told that this is landmark legislation; this is really preservation stuff; we are doing it right, once and for all. It is quite the contrary. We as a Senate and we as a nation are going to be making one of the biggest mistakes in our history. I feel that this may well be the turning point economically in our society. I think historians may look back and ask, "Was there ever a key time when the United States of America decided not to continue its role as a superpower; could we pick a point in time when that happened?"

Oh, you could say that we have had environmental-industrial confrontations. I think the first one we had here was the SST. In the wisdom of the Senate, we decided not to build an SST commercial aircraft, even though we were two-thirds of the way on the road to paying for everything. But the Senate did not trust itself. It did not trust the legislative body.

So we killed the program before the prototyping was to be completed because, just before the prototyping was completed, the preservationists in our society said it is a foreordained conclusion that the Congress would vote to go forward with the SST. So what we did was lose that one.

It is interesting that the generals in that particular battle against the environmental community were the distinguished senior and junior Senators from the State of Washington.

I joined with them at that time.

The next area of conflict we came into with our new maturity as a people, the next industrial-environmental confrontation, took place with the Alaska oil pipeline.

In a little parcel of land up there on the North Slope, a little more than 200,000 acres, was found the largest reserve under the American flag.

We would think that once we had found that much oil, and recognizing that oil is a scarce and dear commodity, that it would have been given that the Congress would have rapidly gone on record in favor of that oil being withdrawn.

That oil was discovered in 1968, and in 1969 the companies in question were readying plans to bring the oil out.

At the end of 1969, a law was passed, which I consponsored, the prime sponsor of which was the distinguished junior Senator from Washington. It was a landmark piece of legislation and I am proud to have been associated with it. I am proud to say that piece of legislation has not been altered one iota, and should not be altered. That was the NEPA Act, the National Environmental Protection Act.

What it said, and certainly the principle remains immutable for me, is that before the Federal Government does something, it ought to study it.

To me that is extremely reasonable, that we ought to study it.

With respect to the Alaska oil pipeline, that is exactly what happened. Of course, since this was a new law, it was normal that industry would treat it very cavalierishly and that the Government, similarly, would have a cavalierish approach.

What perfunctory studies were done at the time really did not address in a very serious fashion the difficulties in taking the oil from one of the most difficult parts of the world, traversing the subcontinent of Alaska, and transporting it to the American heartland.

What happened is what we would expect to happen. That is, that environmentalists, who had been seasoned at this time by about 5 years of litigation and losing, were just then feeling their oats, getting experienced, just then really becoming capable to truly take on our industrial society.

Of course, coming off the victory of the SST, they had drunk some heady wine.

They began to litigate, saying that the Alaska oil pipeline was not going to be done right, it should be studied and there should be alternatives, we should look at a Canadian alternative, that we should look at whether we needed the oil, or not.

This litigation went forward from 1970 until 1973. Then in February of 1973, the court ruled that the right of way under existing law was not sufficient to build the pipeline.

There was no amount of wishful thinking that could make it go forward. The court had no choice but to remand to the Congress, requiring that the right of way be changed before this project go forward.

At that point in time, the courts also could have remanded to the Congress for a determination with respect to the environmental questions involved, to determine whether or not the stipulations involved in building the pipeline were adequate. The courts chose not to do that.

I felt that was unfortunate because we had spent, as a Nation, in excess of $100 million studying how to bring the oil down from the North Slope to Valdez.

It just dawned on me, no great prescience, just commonsense, that if we spent that much time to study how to do this, and since what was happening in the courts was a dilatory tactic used by preservationists who did not want us to touch the oil, that maybe we ought to say that somebody is in command in our society, and maybe that somebody should be the Congress of the United States.

I brought forward an amendment that, literally, did just that. It stipulated that we had studied this enough, that although there was no desire to circumvent the Environmental Protection Act, that what we wanted to do at that point in time was take the leadership role and say that we, the Congress, in the interest of the American people, wanted to see this pipeline built.

After a great deal of acrimony in and out of the State of Alaska, that decision, on the 17th of July, 1973, was made.

The decision to change the right-of-way was just a perfunctory decision. That was made, but also the decision to build the Alaska pipeline was made. That decision was made in this Chamber by one vote. Had the Vice President of the United States not voted with our cause, the Alaska oil pipeline today would not be built. That would mean that 13 percent of this nation's energy, that is satisfied by the oil from Prudhoe Bay coming down to Valdez, 13 percent of American oil would not be going to the south 48.

That means, the people of the United States would be importing 13 percent more oil than we are presently importing, which is around 8 million barrels a day. The balance of payments, the inflationary push, the loss of jobs would be even worse. I think it is interesting to hearken back to what was the charge, that the oil pipeline was going to despoil the Alaskan environment and it should not be developed.

I know of no one at this point in time who looks at the Alaska oil pipeline and seriously maintains that charge today—the charge that the pipeline and the oil activity is doing harm to the caribou on the North Slope.

Here we have, right in the Prudhoe Bay area, a caribou herd of 5,000 animals. Scientists have studied it and see no ill effect. In fact there has been a slight growth in the herd. All the gnashing of teeth and the claims that this would hurt the caribou just did not come to pass.

We were told that the fact this pipeline traverses the subcontinent would cause all kinds of problems and that it would just do enormous harm.

So that we keep the situation in perspective, I say that the impact of the Alaska oil pipeline across that subcontinent is the same as a string being laid across an 18-hole golf course. Those are the same proportions. That, of course, shows the course that was taken by the preservationists in this country, and they lost that battle.

The score in this great industrial-environmental confrontation, the score between those who have read the book "The Limits of Growth," but not much beyond that, and those who see the limited perspective of that book, is one and one. They won one, the SST, and they lost one, the Alaska oil pipeline.

Now comes the Alaska d–2 lands issue, close on the heels of the pipeline.

It is interesting to suppose what would have happened had the Senate not on July 7, 1973, by one vote, voted for the Alaska oil pipeline.

At that time, I thought that it would have probably meant a couple of years of delay in court. But, in point of fact the issue would have hit right at the tail end, hit the caboose of the train that was coming into the station, and that was, of course, d–2.

What would have been the consequences of that. I can only leave to your imagination. We Alaskans know well what those consequences could be; because as we have a national recession today in the Nation, we supposedly are in prosperity today in Alaska, and still have a higher rate of employment than we have today in the Nation, which is supposed to be in a deep recession.

So, for us, the prosperity in building the pipeline, the revenue coming from the pipeline, that now can permit us, as one of the poorest areas in the United States, to meet a public agenda to help raise our quality of life to a level equal to that in the south 48—all that would have been denied.

So jobs, inflation, and economic difficulties would have been terrible in Alaska; but jobs and inflation in the south 48 equally would have been adversely affected as a result of that possible mistake.

I bring this up only as a prelude in trying to define what really is going on here today and in the ensuing days, because many people are going to be mistaken, and they are going to think that the issue is the Alaska lands issue and that the issue is Alaska. That could not be further from the truth. What is at stake here is the next battle in this great Nation of ours by the preservationists and all those who believe in economic growth.

So here, today, we see engaged the great growth-no growth debate.

Alaska is merely the victim of this conflict, much as Alaska was merely the victim because we happened to find that oil in Prudhoe Bay. Had that oil not been found, there would have been no big deal.

So the preservationists in our society, the nowgrowthers, like the Luddites of 100 years or more, want to turn back the clock, want to turn down the intensity of activity in our society. These people who have it made, the paternalists, the arrogant ones, the dilettants who do not have to worry about the paycheck at the end of the week, who can sit in their Olympian heights and say what is good for the rest of society—those no-growthers learned the lesson of 1973. That lesson is that if you find the treasure, such as finding 10 billion barrels of oil, it is awfully tough to lock it up. But if you can move before the discoveries are made, then, just maybe, it will be easier for you to win the industrial-environmental confrontations.

Do you think it is a coincidence—and I will step to the map—do you think it is a coincidence that when you look at this map, you see the only break in the entire northern section of Alaska is this little path where the oil pipeline comes through? Do you think it is a coincidence that all this surrounding land is taken? If you do, you are somewhat naive, because the purpose of taking all that land is to deny use of all this other land. The little parcel of ground right here—just a little, itty-bitty parcel of land—a little more than 200,000 acres, is a third of the entire U.S. energy reserve, oil and gas. I am speaking in general terms. It may be even more than that. A third to 25 percent is on this little parcel of ground.

So, back in 1973, the environmentalists, the preservationists, learned their lesson well, extremely well; because if you take all this surrounding land, then you cannot get to this little parcel of land.

Of course, the question arises: Is all this land worth taking? That is something that we will have time to address in the days ahead.

Look at this little area here, to show how one can add insult to injury. This is called the Boot. This area is the Arrigetch. There are areas in there that are so beautiful that I do not care what is underneath it—I would not want it to be touched. I have a very beautiful picture of the Arrigetch on my wall. I do not think it should be touched. It should be a virgin wilderness in perpetuity.

This little piece of land that juts down from the park, which is wilderness—does not look odd to you? They call it a Boot. It sort of shoots underneath there. If you bother to fly over it, you will find the terrain is totally uncharacteristic of this land. It is not even esthetically attractive. Why would anybody want to extend anything into that area? For a simple reason: They want to block something, maybe. That is the case.

This is one of the most mineralized areas in the North American Continent. So by selecting these areas you lock it up.

There is no way that anybody with any integrity could, with a straight face, say that should be looked up as wilderness. So what did they do? They did the next best thing. They do not lock it up as wilderness. They surround it so that it cannot be used. That, of course, is what actually is going on in this legislation. You see various moves. You are told how large the takings are. Are they that large for a reason? Sure, they are. Not that you need to safeguard all that area. I will go over these various areas in detail.

The purpose is tactically to lock up as much as you can of that Federal domain and use it in such a way that you deny the State of Alaska the use of its lands, and you deny the Natives the use of their land.

I think the tipoff to that plan is very simple. I have had conversations with preservationists on this subject.

Back in 1971, when the Natives' claims were settled, the Natives wanted 40 million acres. By great skill and perseverence, a great lobbying effort, and some support I am proud to have given, and support by others from the Alaskan community, they won their 40 million acres.

One should remember that, at the time, the best offer they had from the preservationists and environmental community, they won their 40 million acres.

One should remember that, at the time, the best offer they had from the preservationists and environmental community was 2.5 million acres. I know, because I was privy to conversations, that there was great gnashing of teeth within the environmental community because this land sort of slipped out of their hands. This legislation, whether it is S. 9 or H.R. 39, is a device to get that land back into the hands of the preservationists, and similarly the statehood lands.

We all have heard the cliche repeated extensively in the House, repeated extensively on the stump, and it has great acceptability to the American people. If you took a poll, you probably would find that most people are knowledgeable about what is going on. If you ask the question, "Do you want to save Alaska?" Of course, everybody wants to save Alaska. That is particularly so if one lives in Los Angeles and he has emphysema and the smog is bothering him, and he cannot do anything about his problem there, so he wants to strike out in the abstract and save some place that he thinks it possible to save. Or if one lives in New Jersey and he is driving down the turnpike and goes through that hell row of refineries—and God knows what happens on both sides—of course, he wants to save some place. He cannot quite save New Jersey in the late afternoon, but he can save Alaska. That is far away.

But are we saving Alaska? Ridiculous. We are not saving Alaska. Alaska is already saved just as New Jersey is already saved, and just as Los Angeles is already saved.

For the last 15 years, to the credit of the great maturity of the American people, this Senate and this House of Representatives, this Congress has been passing environmental legislation after environmental legislation. Some of it may be a little extreme and needs to be corrected, and I am sure it will be. But most of it is a product of our maturity, and we are not going to regress on that. We are not going to step back one iota from our commitment to clean water, clean air, the intelligent disposal of solid waste. We are not going to regress from that mature commitment. So we have passed a body of law, the Clean Air Act, the Clean Water Act, the Coastal Zone Management Act, the Solid Waste Disposal Act, and I could go on in a litany and I will later submit one for the record when I have more time.

Of all this legislation that protects every single acre of ground under the American flag, whether it is in New Jersey, in Cleveland, in Los Angeles, or in Alaska, the only difference is that since we in Alaska are virgin, we do not have to play that catchup game that they have to play in Michigan. We do not have to be patient until we can get these industries turned on to the new technologies and get installed scrubbers. We do not have to get the tradeoffs, as is being done in Los Angeles, where if they come in with a loading dock for oil they have to close down several cleaning establishments because of the amount of pollution going in the air. No. We do not have to do that in Alaska.

The reason we do not have to do this in Alaska is that essentially we are virgin.

So if as a result of all the legislation that is on the books today the Nation is protected, and the agenda is going forward to correct the past ills in the south 48 as it should be—I think we in Alaska can say we are blessed since we did not experience the development that other areas experienced—then there is no way that our environment can be despoiled in Alaska, just no way.

If there is a way, then let us change the Clean Air Act and the Clean Water Act and all these other acts because if there is a way to despoil Alaska, there is a way to despoil New Jersey even worse than it is now, or Michigan worse than it is now, or Minnesota worse than it is now. I hope that my colleagues will stand up and demand that their States be protected from this possible degradation that looms around the corner.

But that degradation does not exist around the corner. It does not exist in Alaska. If it needs to be corrected, let us correct. So let us put aside this false cliche that this legislation is to protect Alaska, because it is not to protect Alaska. Alaska is protected just as the remainder of the Nation is protected, and thank God we are protected because we have a great deal to protect in Alaska. We have wilderness. We have recreational and esthetic beauty beyond one's fondest imagination. So I thank God that we are protected.

If Alaska is protected already, then what is the purpose of this legislation? What is the purpose in this glorious S. 9, of taking 140 million acres and matching that together with a potpourri of H.R. 39 or something close to it, probably around 130 million acres?

Considering that we have 50 million acres already in Government deepfreezes, that comes to 180 million acres plus that will be under these extra layers.

Is that obviously to save Alaska? Of course not. Alaska is already saved. I have made that point.

Then what is the purpose of this? We are talking about half the subcontinent of Alaska. Of this appendage at the northwest corner of the Northern Hemisphere, half of that is put into various layers of classification to deny its use. And in so doing we actually impair probably a third or more of the use of the remainder of the subcontinent.

So I wish to say to the no-growthers in the United States that the preservationists, although they are sincere and are some of the finest people who walk this Earth, do violent wrong to this great country of ours. This subcontinent is one-fifth of the United States, and to take that one-fifth of the United States out of the inventory of the Nation is an error that to me is difficult to comprehend, extremely difficult. That is the reason most Americans do not comprehend it.

If it is the case that most Americans do not comprehend it, and they are being told, of course, "We have to save Alaska," then how did we get ourselves to this situation where we are strapped into a straitjacket of a time agreement? How did we get this far? How is it that such a dastardly piece of legislation would pass the distinguished House of Representatives overwhelmingly? How could something like that happen in a democracy, particularly a democracy which certainly is the most preeminent democracy in the world? How could that happen in a society that has one of the highest degrees of literacy and one of the best communication systems in the world? How could it happen that such a colossal error could be made by the distinguished House of Representatives?

It is difficult but, if one looks hard and really pierces to try to understand the politics of how things go, one can find out how this kind of mistake is made. It is made this way: The preservationist community in this country, which essentially controls the various environmental organizations in this country, is, by and large, held in high repute by the American people, and for a very good reason. It was not the steel companies that initiated our 15-year-long quest for a clean environment. It was not Congress that initiated all of this legislation. No. It was the preservationists and the environmentalists who were fed up with the ridiculousness of our society that could not produce and at the same time recycle its production, that could not at the same time maintain clean water. So they stood up with great courage, and they took years of abuse, because the establishment was not about to be moved easily.

So these preservationists and environmentalists led the charge and fought and were bloodied. They led it without money. They nickeled and dimed it while the large corporations in this country had the money to fight to maintain the status quo.

Oh, there may have been a corporate entity now and then that saw the efficacy and the merit of this, but they could not do very much, because if they spent the money to clean up what they were doing, they were disadvantaged economically. Therefore they would not survive economically. So they had no choice but to make, maybe sneak, a contribution in the dark of night to a few environmental organizations.

Then, of course, you had second-generation wealth, the wealth that came from the rapacious greed of those who did despoil the environment. When it got to second generation some of it was wasted, but some of it was intelligently used, used for what we call conscience money. They funneled a lot of money into these activities.

So we come to the present period where we see the preservationists and the environmental leadership come to Congress. They have great clout because they have respectability, because they have credentials which they have properly earned. The tragedy is, as has been the case so often, when you have a lot of power and that power is not checked, then it begins to corrupt.

So my good preservationist and environmental friends have a lot of power, and I want to tell you that they are no more devoid of corruption than anybody else. They are human beings. So, as they press forward with their present cause, in my mind they will bring about a great deal of corruption to our economic system.

They now come to the Congress heavily armed, well-connected, strong Senators prepared to die for their cause, and they have a method in politics that is very, very important; that is, that since people have a lot of respect for the environmental community, for the good things they have done, the environmental community can go out and rate politicians, and the unknowing electorate, that does not want to bother to do research on various elected officials, will take up these ratings and see that on Senator so-an-so he had a 60-percent rating from this environmental organization or he had a 30-percent rating from that environmental organization, and so lo and behold it is of concern to people like me who hold public office what our ratings are with respect to these various organizations.

Now come the problems. Suppose I come from the State of Michigan, and I represent a State deeply concerned about the production of automobiles. Automobiles, of course, have been highly regulated by this Congress, particularly in terms of the Clean Air Act, because we know the biggest pollutant in the Nation we have today is the automobile.

So if I am a Senator who comes from the State of Michigan I have to be careful. I may be a strong environmentalist, but by the same token I cannot be too strong on clean air because I might just wipe out hundreds of thousands of jobs, and I cannot do that because I could not survive.

So because I come from that State I may not be able, when the Clean Air Act comes up, to pass muster with the preservationists and environmentalists.

If I come from the State of New Jersey, which has a lot of chemical industry, and again we are talking about the Clean Air Act or maybe the Clean Air and Clean Water Act, maybe I cannot again vote exactly with them. So, therefore, I hurt my environmental record.

Or look what happened in the Senate but a month ago when we had coal conversion. We had the leadership of this country who wanted to convert as much as possible to coal. Of course, we do not have the acid rain situation solved or figured out. We do not really know its full impact. That makes it tough for a person from a coal State who has to vote for coal conversion. So he does not do too well on the environmental scorecard that afternoon.

So lo and behold along comes the Alaskan-lands issue, and that Senator sits there and in come about 25 visitors, 25 citizens, from his State who belong to various environmental organizations, and they say, "Senator, would you help us to protect Alaska, which is going to be despoiled?"

That Senator is very busy—we all are, we have a lot of things to do. That Senator sits back and he is impressed. He has 25 visitors who just came to his door from his constituency. They may vote for him, they may contribute to his next campaign, they may be workers in his next campaign. So he has every natural human motivation to want to do what they want him to do. They are his constituents, after all. So they leave a lot of material with him. He does not have time to read that material, so he passes it on to staff.

Then along comes a lobbyist from Alaska who is pressing for legislation. This Senator weighs that. Of course, that lobbyist from Alaska cannot do anything more for him except make a contribution at some point. But that will not be worth too much because it is an area quite distant from his domain, unless he has contact with that lobbyist in other areas of interest.

So that Senator sits there and he thinks for a minute, "Boy, there are 25 of my constituents," and there is one Alaskan who has come in. Where do you think that Senator is going to vote on that issue?

First, he can do what is good for the Lord, and he can save Alaska.

Second, he can please some of his constituents.

Third, it gives him a chance to a good rating on the environmental rating charts.

That process I have just described to you is called an environmental throw-away vote. In my considered judgment, I would say that in the House of Representatives there were about 100 of those votes. Those of us who watched the issue closely could tell when the die was cast because it was supposed to be a very close vote, very close count. But when the die was cast and the Alaska lands issue was going to pass, conscience went out the window and, boy, everybody broke a leg to get to the podium to vote what was right, and that was to lock up Alaska. So that is how that most unusual 2-to-1, 3-to-1 vote occurred in the House of Representatives.

I do not say this to demean any individual in the House of Representatives. This is the normal process of democracy. It is not unusual.

Now we come to the situation in the Senate where the Senate has worked its will, unfortunately against my will, to try to bring about a piece of legislation which they think is a compromise. I would like to go over that compromise in great detail at this point, and I will have added materials to place in the RECORD as we go forward.

I want to take this time to try to make as many points as possible. I doubt that, in the course of this debate, many Senators will hear the arguments. The Chamber now is literally vacant. And yet probably the only hope we have, we Alaskans being in the minority, is in this Chamber. It is a good place for Alaska to take its case, because this is the only institution under the American flag where there can be security for the minority. But I am heartened by the presence, the unusual presence of the press in the gallery, who are beginning to follow this issue. Because if this issue lasts more than a few days, it is going to be big national news, and it may be that what is said at the beginning here can be some of the base material to be used to communicate to the American people what is happening on this particular issue.

As I stated, Alaska is just a victim in this; just a passing victim. What is at stake is the economic viability of this great Nation of ours. I want to make this distinction. I stand here with two citizenships. I stand here as a citizen of Alaska but, first and foremost, I stand here as a citizen of the United States of America. And I will even add that I stand here even above that as a citizen of the human race.

But, as a citizen of the United States of America, I am only one of 230 million people that has a say—excluding being a Senator—on what happens in the Federal domain. As a citizen of Alaska, I have a say on what happens in the 150 million acres that lie within the State domain. There is the difference.

And so when we do something to this treasure chest called the Federal domain, and we do it in such a way that we impair the treasure chest of a State, then we compound the error. We compound it in this way, if I can draw this comparison: Alaska is the treasure chest. You open up that treasure chest. That is one-fifth of the United States. This great subcontinent is a treasure chest. Inside of that treasure chest you have wilderness. You have esthetic beauty, you have urban development, where people make their homes, my home, the people I represent, their homes, where they work, where they rear their children, where they send their children to school, where old folks go to old folks homes, and where people die and where we bury them.

In addition, in Alaska, we have timber, we have one of the great forests of the world. In addition, we have minerals. It is one of the most highly mineralized areas of any continent.

In addition to minerals, we have tourism. In addition to tourism, we have fisheries. We have all of these activities and more in the treasure chest.

There is a small group of Americans—about 2 percent—who through the use of their clout and leverage and through the capriciousness of our political system want to open up the cover of that treasure chest, reach in and take out wilderness and slam the lid on the rest of what is in the treasure chest to the detriment of the people of this country, denying them this treasure. That is what is afoot in this legislation and what has been done as a result of the passage of S. 9 and as a result of the passage of H.R. 39.

Mr. President, prior to 1971, several proposals for additional park and refuge lands in Alaska were discussed by conservationists and Federal agencies both within Alaska and outside. For example, a 4-million-acre Gates of the Arctic in the Central Brooks Range was urged in 1968 by Secretary Udall. A park or scenic area had also been proposed in Wrangell-St. Elias, and extensions to Mt. McKinley had been discussed. Many of the important waterfowl nesting areas and other wildlife areas had already been designated as units of the National Wildlife Refuge System. In fact, 22 million acres of the 30 million acres in the National Refuge System were already located in Alaska.

In 1971, during final consideration of the Native Claims Settlement Act, a provision was added, section 17(d)(2), which authorized the Secretary of the Interior to withdraw up to 80 million acres of Federal land in Alaska for study as potential units of the National Park, National Wildlife Refuge, National Forest, and National Wild and Scenic Rivers Systems.

At this point, Mr. President, I would like to state that many in Alaska have reflected that: "Boy, how did it happen back there that the conference committee would make a decision to grab 80 million acres?" I have been criticized for not stopping it then. My colleague has been criticized. My departed friend, the Congressman at the time, Nick Begich, was criticized. "Why didn't we stop it?"

Well, in point of fact, it was not 80 million acres, it was around 120 million acres to 130 million acres that Mo UDALL, Congressman UDALL, the author of the present legislation that we have before us, was trying to get. And so, by jumping up and literally ranting and raving in the conference, we were able to cut that figure down to 80 million.

But people say, "Why didn't you filibuster the conference report at that time?" Can you imagine? Here we had been fighting our hearts out to get justice for the Native community in Alaska, 40 million acres of Native lands in fee title, with all the minerals at stake—literally a billion dollars was at stake—and somebody now has the temerity to suggest that we Alaskans should have come to the floor and filibustered the conference report because there was a study—a study—inside that conference report.

Now, true, we should have asked for hearings. Memory escapes me. Maybe we did in those deliberations. But we did not. I do not know. I do not remember.

But I know one thing, regardless if it is my Monday morning quarterbacking or anybody else's Monday morning quarterbacking, it would have been preposterous to think that we could have gone to the floor to filibuster legislation that was so vital to Alaska, one of the most vital pieces of legislation in our history, that we would have filibustered that legislation over a study. I just want to underscore that, because that is exactly how this all started, with just a little old study.

Now, the figure that was chosen, 80 million acres, which, became so sacrosanct, there was nothing magical about this figure. It was not a figure representing the approximate acreage of proposed conservation units in Alaska at that time. It was merely an arbitrary number which was arrived at in conference as a compromise to protect the natural values of Alaska's lands in the Nation's interest during the study.

(Mr. PRYOR assumed the chair.)

Mr. GRAVEL. I viewed, at the time, the 80 million acres as the upper limit—the upper limit—the highest we could go; 80 million acres as the upper limit of the acreage which might eventually go into the conservation system units under study and following further congressional action.

At that time, even 80 million acres seemed inconceivable in light of the lands which had already been set aside in Alaska and the level of resource information known on these lands.

I remind you, at the time we had 15 million acres already set aside, so this 80 million acres had to appear preposterous to us because it is a virgin area. No one really knows what is there. In 1973, Secretary Morton recommended 83 million acres—not 80—83 million acres. What a coincidence. He recommended 83 million acres of land for permanent designation, of which nearly 19 million acres would have been designated as units of multiple-use planning forest system.

I might say to my predecessor's credit, Ernest Gruening, and we will be submitting this for the RECORD, that upon hearing this he spoke as loudly as possible and as indignantly as possible over what had taken place in the Executive, which he was very familiar with, which had been so oppressive to Alaska during territorial days.

In 1977, the Democrats were not to be outdone by the Republicans in currying favor with the preservationists and environmental community, since it now was a game of one-upsmanship. Secretary Andrus announced a new administration Alaska lands proposal of approximately 93 million acres. He did them 10 million acres better. Ninety-three million acres, with little acreage added to the national forest system.

The significance is that at least when you are dealing with a forest you adhere to a multiple use concept. That, of course, is not the case with wilderness, wherein you can do nothing, or parks, where you can do very little, or refuges, where you similarly can do very little, that is incompatible to the purpose of the system.

The following year, the House passed legislation designating roughly 124 million acres of land.

Is it not interesting—this was in 1978—

that we went from 1971, when out of the clear blue sky was picked a figure of 80 million acres, and the Republicans to look good before the environmentalists made it 83 million acres, and the Democrats when they came in to make it look even better made it 93 million acres. And now we have the Democrat-controlled House of Representatives passing overwhelmingly 124 million acres. All of this started from pie in the sky, just reaching up. We will show amply later that there are no studies to back up any of this. What backs up all of this land is the avaricious appetite of those preservationists who want to stop the growth of this great Nation of ours.

Last year, in 1979, the House again passed legislation designating 130 million acres in new conservation systems. The escalation of the amount of acreage to be designated was not due to an influx of new information on the natural values of these areas. The scenic beauty of the Central Brooks Range was not changing. That little blue area that is being used to block mining all of a sudden did not get beautiful. It is the same as it was before the House took up the issue.

The science beauty of the Central Brooks Range was not changing from the time of Secretary Udall in 1968, when he proposed a 4-million-acre Gates of the Arctic Park. Four million acres in 1968 was what the Secretary was recommending. What is in this bill is 8 million acres, twice that. All of a sudden did it get more beautiful or are people maybe taking land so that that land cannot be used for something else?

No, what in fact changed was the growing appetite of the national environmental community, led by the preservationists, whose power had grown considerably from 1968 until today.

During that same time, the knowledge as to what other resources of the lands were involved, such as hard rock minerals and oil and gas, remained in a rudimentary level.

We still do not know what resources may be in these lands and which ones may be critical to the Nation's energy and other needs, now and in the future.

I would be the first to press for a permanent designation of many areas in Alaska where the obvious natural values clearly outweigh any development-oriented values.

The Central Brooks Range—Mr. President, could we have order in the body?

The **PRESIDING OFFICER**. The Senate will be in order.

Mr. **GRAVEL**. I would not want to deny a couple of my colleagues wisdom that I am trying to share with them. Not knowing what their votes will be, they might very well be in great need of this.

The Central Brooks Range, the Wrangells, the south side of Mount McKinley, Cape Kruzenstern and Aniachak Caldera all represent some of the truly remarkable scenic, cultural, and natural values of the Nation and the world. These areas should be permanently protected for the enjoyment of all Americans and future generations.

But the proposals which have passed the House and which the Committee has reported for full Senate consideration are simply too much, too soon. They defy sound land practices at a time in which the Nation's resources are sorely strapped. These deficiences are related directly to our current economic difficulties.

I want to say that again, Mr. President. These deficiencies of oil and minerals are related to our current economic difficulties. So that when a person from Michigan, New Jersey, or Ohio votes to lock up Alaska he is not protecting Alaska or locking up Alaska, he is putting people on Main Street, Cleveland, and on Main Street, Des Moines, Iowa, and on Main Street, Jersey City, out of work, and best he know this.

These practices defy intelligent practices. Ironically, it is politics, not resource consideration, which prompts this rush to lock up such enormous acreages.

In November 1978, after the last Congress adjourned without passing Alaska lands legislation, the Secretary used the Federal Land Policy and Management Act to withdraw over 110 million acres from all uses for up to 3 years.

The part that I am initially describing at this moment is what I think is one of the sad pages in the history of the relationship between the Executive and the Congress, because what I am about to describe are the most unfortunate bullying tactics by the Executive, primarily the Secretary of Interior, tactics to bully and to force Alaskans to comply with what they know in their hearts is bad law.

They know this because they live in that area, close to what is going on.

On December 1, 1978, the President proclaimed 56 million acres as part of the National Monuments System, claiming to have the authority to do this. This extraordinary action was taken under the 1906 Antiquities Act. He has threatened to use other provisions of the Federal Lands Policy and Management Act to turn most of the remaining 110 million acres into 20-year wildlife refuges, some of which he has already done—at the time, he was threatening to do it if Congress did not enact legislation.

So we have the President, who has locked up 56 million acres into monuments; the Secretary, who initially took 120 million acres in a 3-year withdrawal, which was a special emergency. Then we had the Secretary again, this year—because we merely worked out a time agreement that pushed this issue back to today—take another 40 million acres for a 30-year study. So the Secretary and the President have, literally, taken 196 million acres directly for a lengthy period of time, and then, an additional 30-some odd million acres to run for another 18 months, almost 2 years.

All of this when the land in question was already under Federal domain, and not one acre of land could be used by anybody without the permission of the Secretary in question. So there was no threat to the land. What was afoot here was a clear case of trying to scare us, bully us, frighten us into compliance. In my mind, for the Executive to do that is a clear misuse of power.

Why were these withdrawals necessary? Obviously, not to protect the land. Even the Secretary admits that in a cover letter of October 25, 1978, requesting review comments on the administration's supplemental on the proposed withdrawals in Alaska by Cynthia Wilson, special assistant to the Secretary. I quote her letter:

> First it should be clear that the purpose of any administrative action is to give additional layers of protection to the land and preserve the option of Congress until legislation is enacted. Although the Administration is confident that the protective land withdrawals in December—

Those land withdrawals were the original 3-year emergency withdrawals—

> are capable of continuing to preclude the entry, location, or selection of the national interest lands, the lands are so significant to the nation that prudence dictates—

Is that not an interesting phrase, "that prudence dictates?"

You know who prudence is? That is the politician at the Interior Department who is in liaison with the preservationist committee. That is who Mr. Prudence is.

So prudence dictated—

> that they be protected as fully as possible under existing executive branch authorities pending final congressional action.

The Department admitted that the (d)(1) withdrawals which overlaid the (d)(2) withdrawals would remain in force after the December 18, 1978 expiration of the (d)(2) withdrawals. The Department conceded that (d)(1) would continue to "protect" the lands involved. Yet, this existing withdrawal was overlaid with another under the provisions of FLPMA in November of 1978. But even this was not enough. On December 1 of last year, monuments were created over roughly half of these same lands. Why do you need monuments where you have at least two other existing withdrawals on the land?

So what had happened? We had two layers of Government action. The land was already in Government hands. Then, as they say, because prudence dictates, they put another layer and then another layer, and then they went ahead and withdrew half of that into monuments, which is not reversible by the President and can only be reversed by the Congress.

The real reason is this: Because Alaska was to be punished for not submitting to lands legislation. With the turnover of most of the monument land to the Park Service came a raft of new regulations, most onerous of which was the prohibition of sport hunting, guiding, and trapping in those areas.

It is interesting to note, when we look at the various divisions within the State of Alaska and the acrimony that this has caused, that those people who are punished and are bullied the most are the ones who want to fight the hardest: the trappers, the miners, the guides, the sportsmen. They would not knuckle under to an arrogant Executive.

This pressure to submit to legislation has been exacerbated now with the threat to create—and that threat has been met already—an additional 40 million acres of refuge study land. That was done in February of this year.

And now we are told that if Congress—this Congress, this Senate—does not act, Secretary Andrus is going to withdraw some more land and the President is going to create some more monuments. Well, I would take the same view that most Alaskans are taking. That is the view they are taking right now, and it is, "Mr. President and Mr. Andrus, our answer to you and this bullying is not no, but, hell, no."

I think there can be no doubt that the bill reported out of the committee this year is more responsive to the needs of Alaska and the Nation than the bill reported by the committee last year. However, when viewed from the standpoint of the resources involved—when viewed dispassionately without this political chicanery that we have to give in to the preservationists, who want to turn back the economic clock of the United States—when we put that chicanery aside and look dispassionately at what we are doing—then this is very bad legislation.

When viewed from the standpoint of the resources involved, both known and as yet unknown, the bill is still extreme and would do great damage to the economic and lifestyle pursuits of Alaskans and the needs of the Nation in the years to come.

While there are provisions in the bill which hopefully will protect many of the ongoing uses of the lands involved, the bill falls far short of providing the options which we will need in the not-too-distant future if we are to continue to thrive as a State and as a nation. The vast land "locked up" by the bill (over 100 million acres), the inadequate provisions for future access across conservation system units created by the bill, and the imposition of a huge new Federal bureaucracy will effectively freeze Alaska permanently in the economic state it is now, with limited opportunities for growth or diversification.

Let me state that there probably is not a member of this body who in the last 9 months has not gone out on the stump and made a speech about how he wants to cut taxes in some way or other, or how he wants to cut back on the size of government. Of course, that sells well with the American people. They are fed up.

Yet, whoever votes for S. 9 or H.R. 39 increases the bureaucracy and the cost of government to the tune of $100 million a year in the former, and in the latter, $200 million a year.

If a resident in Des Moines, Iowa knew that his tax dollars were going to be used to massage the land in Alaska when he is unemployed and when he is suffering inflation at the rate he is suffering now because of unbalanced budgets, he would be horrified and hang that Senator from the yardarm.

I notice just leaving the chamber is my colleague, who has such a distinguished career as a tax cutter, is one of those who has associated himself with the possible increase in Government that will take place in this particular legislation.

Is it not interesting that we are going to cut back on housing programs in the State of Wisconsin because of the budget, but we are going to increase the housing program to be able to build $300,000 houses for the rangers who are going to live up in The Gates of the Arctic?

I wonder if the people in Wisconsin, if they knew that, and were suffering that unemployment and that inflation, if they would be so quick to capitulate or give a darn about the ratings of their Senators on the environmental criteria.

But this is what is in this bill. I am not making this up. These are not horror stories. This is par for the course.

What do we think we do when we spend? It is authorized in here. We have a report. They talk about the $100 million, and in the House, the $200 million in H.R. 39. What do you think that money is spent for?

We have to go and count the bears. We have to go and count the caribou.

I wonder how a person who is just laid off in Detroit would feel about that when he has just suffered a 20-percent increase in inflation? How would he feel about that? That person in Detroit does not know what is going on because the communications in our society are very imperfect, and we Alaskans are a small minority.

So, what they are fed is this rhetoric of "Save Alaska." They are fed the kind of bias, rank bias we saw on CBS yesterday morning at 10 o'clock as part of their Sunday program, where they showed beautiful shots of Alaska, I mean beautiful shots of Alaska, and making the case to save Alaska. They had made our case by filming inside of a bar, with people just slobbering over the bar, drinking beer and saying that nobody knows our problems.

This was the caricature given the American people so they could properly judge what is going on in this particular issue.

Shame on that network. Shame on them, that they would defile the communications process so.

But the guy in Detroit who is sitting there unemployed, suffering 18-percent inflation, does not know from nothing, because he just saw it on TV that the bad guys just want to rape Alaska.

When we hear distinguished Members of the other body, or this body, who will stand up in the next few days, telling us that Alaska is about to go to ruin, they do not know what they are talking about. They are dealing in falsehoods and half-truths.

We in Alaska, who make it our home, do not want to see it ruined. We do not want to see it ruined, but we want to see this great country of ours survive.

So a huge Federal bureaucracy will be effectively foisted upon Alaska and will effectively freeze Alaska permanently in the economic state that it is now.

How would anybody in this audience like to have $100 million worth of bureaucrats disturb his life? How would you like that? Do you not think that life is tough enough the way it is? Do you want another $100 million worth of bureaucrats? That is what you will do to us. That is what you will do to us, but you will pay for it. It is your tax dollars, because you pay more than we do, you are more people than we are. But you pay $100 million and massage the land in Alaska. I hope you enjoy it. I hope you enjoy it as you suffer the unbalanced budgets and the inflation and the lack of minerals that will cause you to be more dependent on the Arab countries and South Africa, oil you will not get that we would bring to you. I hope you enjoy spending that money, locking up your treasure. I hope you enjoy it.

The resources, especially energy resources, which these lands hold will be removed from the national inventory at a time when dependency on foreign sources is driving our economy into a downward spiral with no end in sight.

That is what is happening to you, and if you get the time, spend a little time and watch it happen to you right on this floor.

As pointed out in the following remarks, the boundaries of the designated units, in most instances, encompass far more lands than are reasonably necessary to protect the resource values involved. In many cases, the justification of "whole ecosystems" included in boundaries is violated and can only be viewed as a convenient device by which to place more land in conservation units.

Let me now speak to title II, the national park system.

The bill would designate over 42 million acres in the national park system, nearly 22 million acres of which would be in "pure park" areas where sport hunting would be prohibited. Although many popular hunting areas were excluded from the "pure park" boundaries, some areas experiencing moderate sport hunting and guiding activities remain in the park designations. In particular, the park designations in the Killik River area in the Gates of the Arctic, portions of the Wrangell-St. Elias Park, and areas in the Lake Clark and Denali Park additions will displace many sport hunters and guides causing hardship and economic loss.

I will have something to say on that later.

Traditionally, hunting has not significantly impacted wildlife population.

There are no studies that back up any actions in the legislation before us to indicate that hunting should be cut off because of its impact on the wildlife. There are no studies. These are capricious, political, arbitrary decisions.

Traditional hunting has not significantly impacted wildlife populations in these areas over the past decades, and no apparent biological benefit would come through closure of these areas. For this reason, I offered in committee an amendment which would have continued sport hunting in the designated park units for a period of 5 years. During this time, the Secretary would study the effects of sport hunting on wildlife populations.

Based on these studies, he could then make selective closures. To me, this makes much more sense than arbitrarily closing areas regardless of the impacts on wildlife.

I lost that amendment, and the impact is that we do not know what we are doing. We know there is wildlife; we know that, historically, it has been hunted. There is no study to indicate that has been doing any harm. Yet, now we are going to stop the hunting, and we do not know what effect that will have.

Anybody in a lay capacity knows that if a herd is maintained at a certain level because of its interaction with human beings and is hunted down on a renewable basis, and then all of a sudden you remove that predator, man, what happens is that the herd can expand, go beyond its nourishment capacities in the area, and might destroy itself. All that is done in the name of conservation and preservation.

All I asked to do in committee was to study it for 5 years, so that we could see what we were doing. But, of course, the danger with that kind of study is that you might pick up some knowledge to prove you are wrong. So the name of the game is not to find knowledge; it is to use your political muscle to effect what you want to do.

In the Gates of the Arctic, as mentioned above, the original proposal for this area in 1968 was 4 million acres. The committee bill designates nearly 8 million acres. One area in particular, the boot, which I described earlier—which is not characteristic of the remainder of the land—is merely used as a device to stop mining. It has been included not because of its unique natural features but because of the demands of the environmental community.

As I have stated, this is a device that almost encloses the Ambler River copper field district, making surface access to this area of the boot impossible. I will submit a detailed statement for the RECORD at a later time.

Is it not interesting that S. 9, this great piece of balanced legislation, has doubled the amount of land that was originally thought would adequately protect the Gates of the Arctic, from 4 million acres, which can amply protect anything in that area, to 8 million acres? However, if you go back to what is reasonable to protect, the 4 million acres, you do not get that ribbon across the continent which then blocks access to the remainder of what is left in the north.

So, in order to work your will, to be able to block off strategic areas of possible resources, you cannot take the small areas and merely protect what is proper and beautiful in terms of scenic value or wilderness. You have to take these large, voracious amounts of land that have no such value but have great practical value to impair economic activity.

Let us talk about Lake Clark for a moment. This unit includes about 300,000 acres around Tazimina Lakes which were not even in the administration's 1977 proposal.

In other words, the committee, which is putting forth a "balanced bill," is going beyond what the Republican administration did in upsmanship, and then the Democratic administration did in upsmanship, and then they are doing Cecil Andrus one better, to show that their credentials are intact with respect to being preservationists.

It was the understanding at the time of the Cook Inlet land trade that this area would most logically be managed by the State in concert with other State lands to the south. Furthermore, a hydroelectric site on Tazimina Lake has been identified as having the greatest potential for meeting the power needs of the Bristol Bay area in the near future. Designation of this area as a park preserve will probably endanger what could be an excellent source of long-range, economical, and environmentally sound energy.

Is it not interesting that the committee feels that it has done its work so well in protecting and having a balanced bill that in that area of Alaska, the Bristol Bay area, where we have one of the great fish runs of the area. It is there that we have been raped by the wealth that has gone outside, and we have great poverty. The cost of energy is on the order of 40 cents a kilowatt plus, when in Washington you pay 2 cents a kilowatt. In the Native community the per capita income is $4,000 a year, and the cost of living is 150 percent higher than it is in Washington.

What do you do to these people? You take away the only lake that can be used to give them cheap, renewable, environmentally sound energy. The committee should stand proud of that accomplishment of balance.

Let us look to the Kobuk Valley. In order to protect 20,000 acres of unique arctic sand dunes—I have helicoptered over these sand dunes, and you could drop in the middle and think you were in the Sahara Desert, if it were not for the weather. It is a key archeological site, and there are other key archeological sites on the Kobuk River. Do you know what a study showed as to what you needed to protect that 20,000 acres? We had a study done, paid for by State and Federal tax dollars, and it was done by the Federal Land Use Planning Commission. They figured that to protect 20,000 acres, if you could surround it with 200,000 acres, you would do a good job of protecting it.

If you did that, you would not be able to lock up the barriers here. Here, again, is this Ambler River copper district; and if you took only a small amount of acreage, just to protect the sand dunes, you would not be able to lock it up. And so what do you think the committee did in order to protect the sand dunes and by accident seal off the area from economic viability? Oh, they needed 1.7 million acres in order to protect 20,000 acres, and a study revealed that you could protect it very adequately with 200,000 acres. So it is about 1.5 million acres of what we call sheer greed, for unsatisfied rapacious preservationists' appetites.

Let us look to the Denali additions, the additions to Mount McKinley National Park.

The addition to the north of the existing Mount McKinley National Park sweeps far out onto the flats nearly to Lake Minchumina ostensibly to protect the winter range of a caribou herd.

That sounds good. Of course, there are no studies.

Ironically, the caribou range, on occasion, far beyond this area and no logical ecosystem boundary appears to be followed for this northern expansion. Furthermore, no studies were brought out demonstrating that park protection in this area was necessary or relevant to the population of the herd.

And yet that is what we are going to feed the American people as to why we go out and grab all this land—because it is the herd. Yet, there is no study. It is just a phony statement that is made. It is a throw-away statement made in argumentation.

The addition on the south includes several key townships near the Tokositna River which are the subject of a study by the State to examine the potential for development of a recreational complex within Denali State Park. In order to manage this area more comprehensively, and to insure that recreational facilities could be built according to a master plan for the area, several townships should be deleted and added to Denali State Park.

I tried in committee to have this land unified with the State. This was not going to be a terribly disastrous thing since the State has a park, and what I was trying to do was take it from the Federal park and put it in the State park so we could have some overall planning and not have to have the cost of dealing with the Washington bureaucracy. I failed in that regard.

I have a study that was accepted. Maybe my study will be successful, as was the original Udall study back in 1971.

Let us look to Yukon-Charley.

YUKON-CHARLEY

The State of Alaska was denied selection of approximately 180,000 acres of prime agricultural and mineralized land along the extreme northwest edge of the 1.7 million-acre unit. Although the Statehood Act provided for State selections prior to ANCSA or this act, several desired selection areas such as this are precluded by these designations.

CAPE KRUSENSTERN

The principal archeological sites are located in the 114 beach ridges on the Cape itself, comprising roughly 10,000 acres of land.

Although the Federal-State Land Use Planning Commission for Alaska recommended 190,000 acres to protect these resources, this bill takes 560,000 acres of land, clearly an unnecessary action for its protection.

WRANGELL-ST. ELIAS

In addition to the closure of several key Dall sheep hunting areas by this unit, approximately 150,000 acres of land within the over 12 million-acre unit were desired for selection by the State.

Mind you, the State only wants 150,000 acres out of a 12-million acre unit.

These lands are located along the McCarthy Road on the far west side of the unit and would serve to consolidate existing State land ownership in the area.

The only reason to deny the State, is to capriciously, politically place impediments to intelligent land planning. This is an area where we already have a road.

BERING LAND BRIDGE

The administration has consistently pointed out the prime archeological and geological values of this unit. But an examination of the Department's EIS on this proposal shows the lava fields and the archeological sites clustered in several distinct units comprising less than a million acres—substantially smaller than the 2.5 million-acre unit in the bill.

Again, this is a case of taking land not to protect the item in question but to tactically impair utilization of the subcontinent of Alaska as an economic, contributing entity of the United States.

In addition, the configuration of this unit literally encircles the village of Shishmaref, and there is no way to get to that village other than by sea. Here again is a humble village that has literally the cost of energy several times that of any other place, a cost of living several times that, with a high level of poverty, and purposefully and maliciously that community is surrounded without reason. When you look at the regulations that have been foisted upon these people it is absolutely disgusting.

Looking to title III, the National Wildlife Refuge System, the Becharof area:

Because of the presence of State-selected lands, additional lands desired by the State, and the potential of this area for a cross peninsula transportation or utility link, an appropriate action would have been to include the area in the Bristol Bay Cooperative Region for further study and possible land ownership consolidation prior to permanent classification. Coupled with the extensive Alaska Peninsula Refuge designated by the bill, there remain few, if any, feasible routes across the Alaska Peninsula which will realistically be available after this legislative action.

Mr. President, let me just tell you what that means. Along the Aleutian chain that you see, by key selections in key areas and making that wilderness you literally deny overland access to the entire heartland of Alaska.

So it is our ambition, whether it can be realized or not. The fact that we would be denied ability to develop a connecting road system and a ferry system to the Gulf of Alaska, to the Bristol Bay upward to western Alaska, to the Bering Sea, to that whole area of Alaska, to be denied that by the clever selection of what is one or two of the best routes is maliciousness of the worst order.

In the Selawik area, although the Federal-State Land Use Planning Commission had recommended a 1.48 million-acre refuge in this Nation encompassing the prime waterfowl habitat, the committee bill designates a 2.15 million-acre unit.

Mr. President, let me tell you that the Federal Land Use Planning Commission was commissioned by this Congress to go study that area. This committee never even went to Alaska for a hearing, and those who did the technical work came back with a recommendation of 1.48 million acres. And what did the committee do? As a result of capriciousness, political convenience, log rolling, you say what you will, the committee came up with 2,150,000 acres.

I asked, Why? Is there any fragment of information to warrant doing this? Of course not.

The committee leadership tells us this is a balanced bill. There is not one iota of technical knowledge or information to substantiate the difference between going from 1.48 million acres to 2.15 million acres. This acreage extends far into the upland area beyond waterfowl nesting areas. This is in the uplands. It is a refuge for birds, and that is not where the birds are.

In the southeast corner of the unit this arbitrary extension has particular consequences, and this is what the game is all about. These consequences are that it includes a natural transportation or utility route between the Ambler River copper district to the north and the Norton Sound to the south, Norton Sound region to the south and to the west. Again it is like the Boot. Here we have another device locking it up from outside.

Thus, inclusion of this additional acreage would certainly thwart any potential access in this region in the future. Mr. President, let me just tell you that while this may sound a little bit like fun and games that we play here, I want to give you one figure that Americans should find very sobering because the aggregate of this chicanery of taking land that is not necessary to be taken, but taking it in order to be able to thwart economic activity and, in this particular case, to thwart mining activity, will have an impact on the United States of America of $9 trillion.

I want to repeat that, and I will be coming forth with documented testimony to that effect. So when my colleagues in the Senate gnash their teeth and beat their bosoms about how they are concerned about the employment and inflation in this country for the constituents who live in their States, let me take another breath when they recognize for what it is this chicanery of taking of all this land far in excess of what is needed. The game that is played is to thwart mining, to thwart the possible discovery of oil and gas. In mining alone, I will repeat, in the foreseeable economic future of this Nation, we are talking about an impact of $9 trillion.

(Mr. JOHNSTON assumed the chair.)

Mr. GRAVEL. Let us look to the Koyukuk. A similar case exists for the Koyukuk unit. While the Land Use Planning Commission, again a Commission, one paid for by your tax dollars, a Commission to go study, recommended 2.5 million acres for this unit, this bill goes much beyond the rational boundaries necessary to protect the waterfowl nesting areas in the lowlands. Again the extension of the unit into the uplands in the northwest corner where it connects with the Selawik refuge effectively seals off the Ambler River district to the north from any possible overland access to the Norton Sound region. Again I want to congratulate the committee in its objective deliberations in carefully sealing off one of the finest mineral areas in the world.

Let us look to Innoko. This unit is yet another example of including much more acreage than is reasonably necessary for the protection of the resources involved or to form any rational ecosystem boundaries. The 3.85 million acres in this bill are 1.6 million acres more than the well-studied boundaries developed by the Land Use Planning Commission.

In the Yukon Flats area, this area has been identified by the State of Alaska in its resource inventory as having some of the highest agricultural potential in the State. Much of this high potential land is located on the uplands, and let me repeat, when we are creating refuges, we are creating refuges for the birds, and the birds go, by and large, where the water is, and the uplands are not where the water is. So much of this high potential land is located on the uplands near the existing highway system on the main western and southwestern fringes of the unit.

Ironically these are, for the most part, not the same areas. The lowlands have been surveyed as having high waterfowl values, and the State has indicated a high priority selection interest in 600,000 acres of the 5.710-million-acre unit along the western ridge. This, of course, borders the pipeline haul road. This land is mostly upland of low or no waterfowl habitat value, and could have been readily removed from the unit at no jeopardy to the resources involved. But here again the resource is to be denied, and lest we are confused that it is only the miners who get hurt or the sportsmen who get hurt, here the resource to be denied is a natural area that has agricultural potential in our State of Alaska.

Under title IV of the national conservation areas, in general, these are areas which were not recommended by the administration for designation, but were pushed for inclusion in wildlife refuges by the national environmental community.

Justification for inclusion of these units in any system is, frankly, difficult. Designation of these areas as not conservation areas seems to be little more than an arbitrary "halfway house" effort to appease certain interest groups. One particular example where even logical ecosystem boundaries are violated by these units is the Chandalar area.

Let me just speak a moment about the "halfway house" operation. The William O. Douglas Arctic Range was first essentially a range, a refuge. We are now escalating what we are doing and, of course, not in this legislation, but in legislation that will be offered, it will be to place this into a wilderness area. We have received indications in cursory studies that probably this is one of the finest sedimentary basins under the American flag. People have stated that if they only had one oil well to drill to look for oil, it would be in this area. That is the area that, under the Tsongas proposal, would be put into wilderness.

That is the area that could be put up for lease and people could look for oil there, and if it is found it could be shipped to Americans. It is only 100 miles away from the pipeline, and the pipeline is not operating at capacity. So if you had a find there, you could ship that oil, and rather than have 1,500,000 barrels a day coming out of Alaska, you could have another 2 million barrels a day. Then rather than paying for boondoggle projects to squeeze rock in an uneconomic process to try to get some oil, all you would have to do would be to let them drill and it would not cost you anything. They will pay you for the right to go there.

And that is where they say they think the best possible find is.

What has this committee bill, S. 9, done, this balanced piece of legislation? It takes away the right to lease it. It takes it away. S. 9, when it was first introduced, assured 10 years of diddling around with it. You could do seismic work but that is all. You could not drill any holes. How are you going to know if there is another there?

In S. 9 in committee we made a tremendous step forward. After my amendment lost to permit drilling, there were some pangs of conscience on the Republican side. So they offered an amendment which cut it down to 5 years. So today the Secretary could lease that land to benefit the American people by maybe finding oil. But, no, in this piece of legislation, you have to wait 5 years, and in that 5 years the best you can do is seismic work and never drill a hole. You will never know what is there. And at the end you come back to Congress with your seismic work and say, "Hey, we want the Congress to give us permission to drill for oil," which is exactly where you are right now.

So you blow 5 years. For what? Maybe there is no energy crisis that is perceived by the Secretary of the Interior. Maybe the President of the United States does not understand the energy crisis. Maybe my Republican colleagues and my Democratic colleagues on the Energy Committee are not aware of the energy crisis that besets this country. They are probably not, because they are the ones who voted to wait 5 years to even drill a hole, even drill a hole.

Do you know why? What is so sacrosanct about this area? You have the Porcupine herd of caribou. There is a Porcupine herd that occasionally comes into the area. They calve during 6 weeks of the year. They do not calve every month of the year there, just 6 weeks out of the year.

Now, do you not think that we could just lock it up for 2 months and let the American people have all the oil and gas that is there for the other 10 months? Do you not think human beings have enough judgment to do that?

Obviously, this balanced bill does not have enough confidence in human beings to exercise that kind of intelligent judgment. No. And I do not mean to ridicule the committee's efforts. I know they have worked hard. But I think we can push it a bit further, because we are going to have an amendment here that says we want to put that into wilderness.

Secretary Andrus wants it in wilderness. Is it not interesting that at the same time the Secretary wants to put that into wilderness, he had made some leases available up there in the Beaufort Sea in the Arctic Ocean, where we are now going to drill for oil, where it is considerably more difficult, where we have to press for new technologies? It is a lot more dangerous, and we are going to drill for oil out there.

Now, here are these environmentalists who wear their badges proud, who are turning around and not letting us drill for the easy stuff, which is a lot more environmentally sound, and insist that we go in the Beaufort Sea and drill. The Natives are suing them in that area for the very simple reason that we have not completed a coastal zone plan that gives them protection for their own community under the law. They are not asking for protection that is out of hand. They are asking for protection under the law.

But the same Secretary who wears his credentials of preservation proud is the same one who is prepared to go out and dig in the ice, when he will not even dig on land where it is easy and where we think most of it is. That is the convoluted reasoning that I spoke of before, of the corruption that is taking place within the preservationists community, because, like all other human beings, when you have a lot of power, power tends to corrupt. It corrupts your mind, and so you lose judgment. I can cite you chapter and verse of where it is being done in other parts of the State, shoddy judgment and, in point of fact, doing harm.

The Secretary insists on leasing all of the offshore areas. The Secretary has made no effort to have any leasing on onshore areas. I do not think it takes a genius to recognize that it is more difficult and environmentally more dangerous to lease offshore, and here in an area where we have great fisheries.

I am for exploiting our oil. I think our Nation needs it. But I object, I object to the Secretary winking and making off that the Coastal Zone Management Act does not exist while he goes forward and willy-nilly insists that we go ahead and drill for oil in these areas and that the people whose homes are there cannot be party to the process and do at least as much as the Scots did and the Shetlands, and that is:

> If you are going to play "economics" in my backyard, you are going to do it under my rules. So when you leave, you are not going to leave a hulk of rusting steel. You are going to leave us a decent port development.

But that is not what is going on in the North Slope. That is why our good friends up there are suing the Government. And I hope they continue to sue, because if you cannot get intelligent activity voluntarily, you can beat some of it into some of these heads that run this unusual Government of ours.

Mr. President, the Chandalar National Conservation Area includes the upper drainage of the North Fork of the Chandalar River. All of the lands to the west and to the south of the unit, which comprise most of the Chandalar River drainage, are in State ownership. Logically, the State should manage all of these lands as a single unit, including the Upper North Fork drainage. There are no particular values associated with the Chandalar unit. The fact of the matter is that it was a stop gap measure short of including it in the Arctic Range. Rather than stretching the "ecosystem" even further by placing it in with the 5.65 million-acre addition to the range, the national conservation area was created as a kind of nonrefuge/refuge due to its dubious ecological affinity with the Arctic extension lands and also to create that halfway house so that a few years hence they will come back and take the rest of it into the wilderness.

But this will suffice. With leadership like Mr. Andrus in the Interior Department, you do not need a wilderness in order to create a wilderness. All you have to do is want to do it in your head and you will have as much wilderness as you want.

TITLE V—NATIONAL FOREST SYSTEM

I commend the committee for its adoption of the Porcupine National Forest. I think we need a plurality in the management of Federal lands in Alaska to set up some administrative checks and balances. The creation of this interior national forest is a step toward achieving a more diverse approach to land management.

I think, however, that there are additional areas in the interior of the State which lend themselves to national forest management. The Forest Service has demonstrated its ability to manage diverse resources such as we have in the Yukon Flats region to the benefit of both environmentally sensitive values and resource extraction activities. I think that larger portion of the flats could have been placed within the Porcupine National Forest and perhaps other areas, such as the Nowitna area along the Yukon River, could have been placed under the Forest Service's management charge.

MISTY FJORDS NATIONAL MONUMENT

This is an interesting case, indeed. The creation of the Misty Fjords National Monument is one of the clearest examples in the bill where the boundaries have been drawn to thwart development of potential resource commodities. This committee defeated an amendment which would have removed the Quartz Hill molybdenum discovery from the unit. The potential for development of this mine will be in the hands of the Secretary of Agriculture. For although there are specific provisions which would permit the claims to be "proved up," other regulations governing mine development within the monument may prove formidable and may adversely impact upon the economic visibility of the project. When we create a national mounment with very specific protective purposes, we set in motion a management scheme which will, by definition, subjugate uses such as the molybdenum mine to the primary purposes of the unit.

I want to underscore that, the primary purpose of the unit. I want to tell you, that is not mining. Unfortunately, we will not know the ultimate outcome of the bill's provisions for 5 to 10 years after enactment.

The potential of the Quartz Hill deposit is estimated at 700 million tons of 15 percent moly, making it the world's first or second largest. This has an estimated in place gross value of $7 billion. Operation of the mine would involve an annual gross sales of $150 million to $200 million over the 40 years of operation. Seven hundred permanent employees would be associated with the mine after construction. Clearly, the economic consequences of the mine are significant for Alaska and the Nation.

Is it not interesting? This body cries out, and we hear the words so often, "Let us go create jobs." When we hear a government bureaucracy talk about creating jobs, it has a phony ring to it. You cannot create jobs. Either there needs to be done something economically or there does not need to be.

You can hire someone to sweep and clean a floor and pay him, and that, of course, is what we do a lot of in our society. We pay people to do useless work.

So here we have a situation where we have 700 jobs that can be created, not through some phony Government subsidy, but because there is a mineral and because that mineral is important and society needs it.

Here, again, I want to talk about the convoluted reasoning or the corrupted reasoning of our all-powerful preservationists.

Molybdenum is used to strengthen steel. So probably the most significant thing we can do to solve our environmental problem is to lighten the automobile, make it smaller but lighten the automobile so it would use less fuel and thereby pollute less.

So what would be logical? It would be logical then to extract a mineral where it would have the least impact, process that mineral into an alloy, and then with that alloy build light automobiles, use less gasoline, and thus create less bad air in Los Angeles or wherever you want to clean up the environment.

Under this convoluted reasoning you get the situation where you have the preservationists who do not want any molybdenum mined in Alaska. But here, again, if you will, recall the parallel I made to Prudhoe Bay and the fact that we found oil. Once we found oil it was very difficult to win the battle to lock it up from a preservationist's point of view. We could say, "Hey, look, the oil is there, we cannot lock it up." That flies in the face of logic in our country.

We have the same problem with the Quartz Hill molybdenum mine. You have the first or second largest mine in the world, so it is difficult for them to lock it up. But they do a good job at it. They talk a lot. They talk about "We are going to give you special regulations." But the long and short of it is they put it into the system. If they were sincere about wanting to clean up the environment, the first thing they would do is leave the molybdenum mine out so we could get that to advance the environment.

But that is not the game they play. The game they play is not to clean up the environment. The game they play is to turn back the growth of the country. It has nothing to do with cleaning up the environment. It is to turn back the growth of the country. It is the no-growthers.

If you have a molybdenum mine and you can now clean up the automobile, you are free to build a lot of automobiles, you are free to give a lot of people a lot of freedom with their automobiles. But that is not what they want to do because that is growth. That, in my mind, is intelligent growth and they are against growth, whether it is intelligent or not.

That is the game that is being played with the great Alaska land freeze or the great deep freeze of Alaska. That is the game that is played.

Ironically, the character of the land around the mine site is not particularly distinctive when compared to many other areas in southeast Alaska. There are scenic values associated with the Granite Fjords 10 to 15 miles away. Mind you, I took my political life in my hands 2 years earlier than the first introduction of this legislation and suggested that we ought to have a study. I was the first elected public official in Alaska to step forward. I was castigated by industry because I had the temerity to suggest that maybe we ought to study and see if we ought to have any wilderness areas. Study it. The area we were going to study was Granite Fjords. To me, that seemed reasonable. But, of course, that is where I found out what the game was we were playing. I really wanted a study to find out what the facts were.

That is not what they wanted. What they wanted was to lock it up. The study was incidental. So when they had the power to lock it up, they forgot the study.

So all of the wilderness areas in southeast are not the product of any study; they are the product of brute political force.

So you have this mine, and the closest thing warranted by the environmental community in southeast Alaska, the closest thing in harmony, was 10 to 15 miles away from this mine. Is there a purpose in locking up capriciously, without study, the largest or second largest molybdenum find in the world? Does that make sense?

That is what is in this compromise piece of legislation. Does that make sense?

The scenic values, as I have stated, associated with the Granite Fjords 10 to 15 miles away are nowhere near what we have here, which is an area north of the site. These values were the basis for the initial Forest Service wilderness study in the region, and they have little in common with the more mundane topographic features of the Quartz Hill area. Thus, inclusion of the mine site in the monument, not only in the Udall bill but by actions of the President of the United States when he created the monument, can only be viewed as an effort by some to try to block any mining in the region. And anybody who thinks that there is a chance that they are going to be able to mine this area, I think, is naive. The name of the game is no growth, and we are only going to realize that goal by having no growth, not by permitting growth here and there.

Inclusion of the mine site in the monument can only be viewed as an effort by some to try to block any mining in the region. Inclusion in the monument, in spite of the special provisions, may indeed give those who desire to stop the project the very tools by which to succeed.

Allowing the mineowners to exercise their valid existing rights in moving toward development does not mean we must sacrifice the important fisheries values in the area. There is no doubt that the mine would be and should be made to conform to the highest water quality and fisheries protection standards. The question becomes, "Is additional fisheries protection language necessary above and beyond existing law?" The State and Federal Government currently have great control on discharges and development plans through the Clean Water Act, the Forest Management Practices Act, the Solid Waste Disposal Act, the Clean Air Act, the National Environmental Policy Act, the State's Anadromous Fish Act and other existing law and regulatory authority. I believe that we now have the law and the capability to adequately protect the salmon streams in the area.

Mr. President, could we have order in the Senate, please?

The PRESIDING OFFICER. Let there be order in the Senate.

Mr. GRAVEL. I thank the Chair. I am going to great pains to try to share this knowledge with the staff, the Senators who are attending, and those in the gallery, because there is an outside chance that this might persuade a mind or two—only an outside chance. It has been my experience that speaking on this floor does not persuade very much.

The fishing industry is one of the biggest renewable resource components of the Alaskan economy and will be with us long after the moly mine. Thus, the State of Alaska in its own self-interest, is not about to endanger the fisheries through development of the mine. With existing law, with this attitude on the part of the State, and with modern mining technology that we now have, I see no reason why we cannot reap the economic benefits of this mine while at the same time, protecting our fisheries—and, of course, bring the rewards of this mining activity to an improved environment, which is what this is all about.

Let me speak to the national wilderness preservation system. I think in the main, the committee designated wilderness areas carefully, relying heavily on studies which have already been undertaken for existing conservation system units.

Unfortunately, this approach was not followed in the Tongass Forest in southeast Alaska. Wilderness designations in the Tongass Forest seriously jeopardize the continuation in the timber industry at current levels of harvest.

Rather than simply designating certain wilderness in the Tongass and leaving the balance available for multiple use management, the committee bill tries to finesse—and I want to underscore this—the committee bill tries to finesse the issue in an attempt to appease the demand of the various interest groups. What comes out is a significant amount of nonwilderness wilderness areas in the form of "Special Management Areas" and hollow, hollow promises of additional Federal spending to make more timber available for haresting.

The wilderness actually designated in the bill—4.2 million acres—reasonably follows the recommendations of the Regional Forester in the Tongass Land Use Management Planning process. I think the truly unique and outstanding natural areas of the forest are protected. Unfortunately, some areas such as the Stikine River Valley and the Unuk River Valley are also included which do not follow the Regional Forester's recommendations. These two areas are the most feasible routes for a transportation or utility link between Canada and southeastern Alaska. Including them in the systems will permanently preclude their use in the bill.

Do you think it is a coincidence, Mr. President, that in all of southeast Alaska, other than up by Haines and Skagway, all of that lower part, do you think it is a coincidence that they picked the two key areas that could be used to tie into Canada, an overland route? Do you think it is a coincidence that those little areas fall into wilderness? If you think that is a coincidence, I shall tell you another lie.

No, it is not coincidence. That is exactly what they wanted to do, fix it so there would not be a normal artery of transportation, something that is basically vital to any economic activity. They wanted to fix it so we would not be able to have the only two areas—the Stikine and the Unuk areas—that maybe, some day, we might want to tie in those areas of southeast Alaska with Canada on an overland route, rather than the ferry system that we have today. And they find themselves in this unbalanced bill.

Going on to the timber problem involved in this bill, I want to say for the record that the case I am making here on timber is not joined by the timber industry of Alaska. What the timber industry of Alaska sees in this S. 9 is a good piece of legislation, and they are prepared to accept it. I think that is unfortunate, because there is no legislation that I see on the horizon that will not cost 2,000 jobs, and I shall proceed to explain how that takes place.

I think it is very serious, because we are going to see people who are concerned about jobs in their State. Whether they come from Massachusetts, Colorado, Michigan, or New Jersey, they are concerned about jobs in their area. We are bailing out Chrysler, not because of the company, obviously, but because of the jobs in question. So they are quick to safeguard the jobs in their areas, but I want to know, and I think we are all going to be able to watch what they do for jobs in Alaska.

Now, let us look at this case. For the past 7 years, the timber harvest in southeast Alaska has been 520 million board feet. That is 7 years. That is the amount of trees we cut and that maintains essentially, two large pulp mills and some camp mills—sawmills.

Although less timber has been harvested in recent years due to market conditions, the longer average is probably more indicative of the long-range needs of the industry to maintain a level of employment and, of course, to maintain a cyclical level of rejuvenation in the forest. Claims are made that the committee bill protects or even guarantees this level of harvest at 520 million board feet, and they claim that happens as a result of the 4.2 million acres of wilderness designation.

Of course, this is not so, because this part of the committee bill is not in the real world. This is the tooth fairy section of the bill.

According to the latest available Forest Service figures, the removal of the wilderness areas designated in the bill would leave 430 million board feet—let me repeat: According to the latest available Forest Service figures—not my figures; the Forest Service figures—the removal of the wilderness areas designated in the bill would leave 430 million board feet of the timber available for harvest annually. That is nearly 90 million board feet below the long-term average. So that means if that were to stay just the way it is, with that 90 million board feet less to cut, we are going to lose some jobs.

The committee further designates 2 million acres of special management areas in the forest where timber harvesting is prohibited except by act of Congress upon the recommendation of the Secretary of Agriculture.

The special management areas remove an additional 70 million board feet of timber from the annual harvest, leaving only approximately 360 million board feet available for harvest.

If we have only 360 million board feet, that is where we compute out the shortfall to 2,000 jobs, directly and indirectly, lost.

But now for the shell game being perpetrated on these innocent people.

The bill provides that although the timber in the SMA's is not available for harvesting, the overall allowable cut of the forest shall not be reduced by the amount of timber in the SMA's.

So it means that we will count the 2 million in this proposal being studied as if one cutting in that area.

Thus, cutting is permitted in the forest at a rate which cannot be sustained over the 100 year or so cutting cycle of the forest.

In other words, we will be cutting at a faster rate than the forest can rejuvenate itself.

That is, at some point in the cycle, we will run out of timber if Congress never permits the cutting in the SMA's. I cannot realistically foresee this type of overharvesting being permitted or condoned by the Forest Service or the environmental community, which was party to setting up this shell game scenario.

Obviously, if somebody did try to do it, they would sue, litigate, and the Forest Service would have to come forward, as they told me that this does not meet the cutting cycle. So, the courts would stop it from happening and they would not be able to cut at a level as if they were including the special management area.

If this provision becomes law, I think we will be beseiged with law suits seeking to enjoin any cutting level beyond that commensurate with the amount of timber which is actually available for harvesting. In the end, I am afraid the ploy of creating *de facto* wilderness areas and not facing the true economic consequences of the action will not succeed.

In fact, I would say that the Tsongas substitute, which does cost jobs, is at least straightforward and we see the results of it.

Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. There will be order in the Senate.

Mr. GRAVEL. There is another sleight of hand in the bill because the bill attempts to bridge the gap between the timber available after the wilderness and SMA designations and the 520 million board feet average cut.

Here is how it does this:

To achieve the difference between the 430 million board feet—which includes the timber in the SMA's—and the 520 level, the bill authorizes an additional $10 million appropriation for roading and precommercial thinning activities and a $5 million loan program for advanced harvesting technology. This would supposedly make available an additional 90 million board feet of marginal timber.

Let me recapitulate for a moment because this goes from the sublime to the ridiculous.

We are now told the $10 million figure in the bill should be $13 million. So, rather than $15 million in the bill, it would require $18 million. I did some computations on the $15 million level.

I say it is a hoax being perpetrated by the committee on the people of southeast Alaska because, realistically, I do not think the Congress will put up $15 million a year every single year, or $18 million a year, or $20 million a year, or $30 million a year as inflation goes forward to substitute cutting down trees in Alaska or to subsidize the jobs.

That money is needed. That money is needed to make up 90 million board feet, 90 million board feet that comes as a subsidy, using $15 million for the number of jobs in question which comes to $12,000 per job, to go into the timber industry for Alaska for a product that is placed in export.

Is there any Senator here that believes that from now on, that because we put some fine language in the bill saying you will guarantee, that you will appropriate the money, $12,000 per job per year, for whatever that amounts to in the future?

If there is any Senator who thinks they will do that for the future, I would ask him later to stand up and tell us.

Is there any Senator who thinks that they will appropriate this, future Congresses will appropriate $15 million, $20 million, $30 million, which is what we are talking about, when we do the computations for $15 million this year, that the subsidy is $170 to knock down a tree that will then be sold to Japan or Korea?

Is there any taxpayer within sound of my voice who wants to put up his tax money right now with the budget deficits we have, with the unemployment that we have, and wants to pay $170 to knock down a tree?

I hope that taxpayer will write his Senator and applaud him when he votes this, applaud him for this shell game, because there is nobody in the future that will do that here. It would be a lot more honest if we faced up to it.

We have a situation where, in order to keep the employment level in southeast Alaska in the timber industry, we need 520 million board feet. This bill will give 360 million board feet.

They tell us we will get 70 million board feet back when they let them cut in the special management areas, areas which will be managed as wilderness for a decade, and in which cutting can only take place after an act of Congress.

Thinking that is going to happen is wishing for the tooth fairy.

Then these 70 million board feet that help us get up to 520, and the 90 million board feet, is dependent upon a continued appropriation of $15 million a year. Escalate that for inflation, and they tell us $170 to knock down a tree, or $12,000 per year per job subsidy.

Again, anybody who believes that will happen in the future believes in the tooth fairy.

So what happens is that we have a piece of legislation, whether it is this committee bill, S. 9, which wipes out 2,000 jobs but does not tell us, or H.R. 39, which does wipe out 2,000 jobs but at least has the guts to tell us straight up and down what they are doing to us. So at least we can argue and say, "You come from Michigan and you're concerned about Chrysler and those jobs. Well, I'm just as concerned about the job of the fellow who works in Thorne Bay."

So stand up and show what you are doing, rather than trying to do it in a dark room, where we cannot see you slip it to us.

In summary, to reach the 520 million board feet level, we must be able to eventually cut in the special management areas and must receive substantial annual appropriations beyond current levels. In the committee's deliberations, I had offered an amendment which would have taken one small step, just a small one, in making these provisions more realistic. Rather than permitting cutting in the special management areas only with congressional approval, my amendment tried to help the forestry industry just a wee bit. It would have required that it have only Secretarial approval and not congressional approval. I think this would have been tied more substantially to the problem at hand—that of providing sufficient timber to maintain the existing level of industry.

I want to underscore that we are not talking about growth here. We are talking about keeping the jobs of people who are presently employed in this area. We are talking about businesses in Ketchikan and Sitka which are dependent upon this industry, people who will be hurt by an act of Congress, and without any security.

So a business that has to close its doors because of this will not even get the benefit of things we have done in other areas where we have done violence to the economy. There we at least have sent in special give-away moneys to cushion that situation, but that is not happening in this shell game.

Throwing this decision in the future to Congress invites a politicized decision, much like that we are suffering today, and one that probably would not favor the local interests of Alaskans who depend on this industry for their livelihood.

Let us look at the North Slope.

Although the committee bill was amended to replace a Government exploration program (seismic only) in the Arctic range with a private program, the provisions simply do not go far enough when viewed in the light of our current and future energy shortages.

During the committee markup I offered an amendment which would have directed the Secretary to initiate a leasing program in both the national petroleum reserve-Alaska and the Arctic wildlife range within the next 1 to 2 years. In light of the Nation's increasing dependence on foreign oil supplies and the devastating impacts of the resulting adverse balance-of-trade payments on the country's economy, we must begin to take immediate positive steps which will help result in continued energy supplies in the future.

Our energy problem will not go away by itself. Leasing in the range or in NPRA will not solve today's gas lines, but it would certainly be a positive step in helping to solve the even greater shortages and lines we will experience 6 to 10 years from now.

This is not to say that we must sacrifice environmental values. There is no question that protection of the Porcupine caribou herd should be a national priority. From the experience at Prudhoe Bay and from our experience with oil and gas exploration on the North Slope, there is no reason why exploration activities or even development activities should impact significantly on the migration patterns or calving activities of the caribou herd.

All exploration would be done during the winter months when the caribou are not present. Seismic and drilling operations can be done without even the use of permanent structures or facilities, using ice strips and ice roads.

Of course, if there is no oil, these would be permitted to melt, and there would be no impact upon the area in question. Mind you, you can do what you want. There would be no impact after it, and you could do it when the caribou are not even there.

Any potential development could be designed and operated in such a manner as to minimize any disruption of caribou patterns. But, as is demonstrated at nearby Prudhoe Bay, caribou do not appear to be adversely affected in terms of numbers or movements by the presence of physical structures.

Furthermore, the area which might conceivably be utilized, should oil be discovered, is significant in comparison to the total area used for migration and calving activities of the herd. In fact, the area of highest oil and gas potential in the Arctic range lies at the extreme western range of the calving area and is only occasionally used by the herd. There is nothing to indicate that even avoidance of such a developed oil field for calving activities would have any impact on the overall health or population of the herd—as has been the case at Prudhoe Bay where a small herd of 5,000 animals has reproduced at about the same rate from the onset of development to the present.

Mr. President, those 5,000 animals were right in the middle of $10 billion of activity, and it did not seem to bother their sex lives or their habits.

In the case of NPRA, the 19 wells—and I point out here that the NPRA activities that I will discuss are a product of this Energy Committee and a policy that I have opposed in the past—which soon will be completed by the Federal Government will cost the taxpayers about $600 million.

All you taxpayers paid that to drill these holes. They have not found any oil yet.

The current Interior appropriations bill calls for an additional $140 million or more to be spent in this year. Even the Secretary of the Interior, that great conservationist, has indicated that he would much rather go into a leasing program than continue to spend tax dollars on that. But congressionally appropriated funding has continued, and the program continues under the able leadership of the bureaucrats and the private contractors doing the work.

How ironic that we have clear indications that the oil companies are more than willing to bid on the tracts right now in NPRA and the range. It is not just a few companies either. Thus, I have no doubt that we would get good competition for leases and that such leases would receive sizable bids and/or royalties.

If we have private companies standing in the wings to explore this area and pay us for the privilege, regardless if they find anything or not, why are we paying over $600 million for the Government to poke around looking for oil compared to the $900 million lease sale that the State of Alaska received as a result of the Prudhoe Bay discoveries? Little wonder that we have budget problems.

Clearly it is time to cut our losses and to move to immediate leasing in NPRA and, of course, the range. Oddly enough, the traditionally much larger Arctic caribou herd which calves in NPRA has been of less concern than the Porcupine herd, as witnessed by the immediate leasing provisions for the reserve/refuge in the Udall-backed House bill and, of course, the Tsongas amendment.

Is it not an interesting inconsistency that they want to take the range which is 100 miles from the Alaska pipeline, and they will not let you drill there, and we think there is oil there, but they will not let you drill there because of the Porcupine caribou herd? Then you turn around with the same degree of inconsistency and they go to NPRA and in one case they are prepared to let you drill there even though you have a larger caribou herd there. I wonder where the logic is. Is it that there is one kind of caribou that is not bothered by economic activity in NPRA, and a special kind of caribou that lives in the range and he is bothered by oil wells? And then of course we have the caribou who live in Prudhoe Bay, and they seem to enjoy it very well and prosper very well. All this is to say that the entire policy emanating from this legislation is riddled with inconsistencies with respect to what should be done, and these inconsistencies have only one bottom line, and that is to deny the American people the economic substance and the energy it needs to maintain its strength.

(Mr. BAUCUS assumed the chair.)

Mr. GRAVEL. Mr. President, from a larger perspective, the committee bill has potentially profound impacts on the future availability of oil and gas resources. By placing 25 to 30 million acres of sedimentary basins in Alaska within conservation systems it has elected to remove any realistic chance of these lands ever being explored for oil and gas resources. For although a majority of these lands lie within wildlife refuges where oil and gas leasing is theoretically permissible, there has never been a single lease let on any refuge in Alaska, or to my knowledge, anywhere in the United States.

Let me tell my fellow Americans what that means: That means that with the energy crisis that we have and the Federal land that Americans own in Alaska, our Government is telling us that on 30 million acres we cannot go look for oil when from a geologic point of view there is a likelihood that oil is there. Does that make any sense? Does that make any sense at all? We are inconsistent at best.

My colleague before took his nicely colored map over there and took off some pieces and put them on the United States to show us how big these areas proposed are. Thirty million acres is the size of Oklahoma. That is a big State. That is not Massachusetts. That is not Rhode Island. That is not New Jersey. It is one of the big western States. And the Energy Committee, the committee that is supposed to bring us energy, the committee that is going to solve the problems for us on energy is the committee that has put this land into systems where we cannot go look for oil. We do not know if the oil is there or not. All we know is the geologic structure is there. That is between 25 and 30 million acres of sedimentary basins. When I was pointing to the map before the way the areas were strategically located, I venture to say that they are blocking somewhere between 50 to 100 million acres of sedimentary basin from being touched.

The large sedimentary basin of the Bristol Bay is all going to be surrounded by refuge. Who is going to look for oil? If you find oil you have to bring it ashore, onshore is the refuge. And you cannot touch the refuge unless it is compatible with the birds. Do you think the Secretary would say that drilling for oil is compatible with the birds? But that is what this committee is doing in this balanced bill and that is the best piece of legislation before us. Americans should see the other piece of legislation that passed the House of Representatives 3 to 1 as to how much sedimentary basins that were locked up for America. And it was not we from Alaska. It was our friends from Ohio, and it was our friends from New Jersey. They do not want Americans to have any Alaskan oil or gas. I do not know why. They do not want Americans to have that. They want Americans to pay the Arabs and continue paying the Arabs.

I do not think that my voice is going to carry to all 200 million Americans. But I do not think that I am so offbeat or so devoid of comprehension of how Americans feel as I travel around. If they had an inkling that in this legislation we are locking up this amount of sedimentary basin they would hang every Member of this body from the yardarm.

There was a poll that was done by Cambridge Research. It is the firm that the President uses to tell him how the people think. And that poll said that 60 percent of Americans would go into existing wilderness if there were a chance of oil. So what does the Senate and the House of Representatives do? They lock up 30 million acres of sedimentary basin. An area the size of the State of Oklahoma is locked up where you do not ever dare look.

There has been a recent downgrading of the potential of onshore oil and gas discoveries in Alaska, and I might say that here again we have the shell game of statistics, the shell game of studies. It has been convenient even for the Secretary to have very pessimistic reports on how much oil there is on shore. So despite recent downgrading of potential for onshore oil and gas discoveries in Alaska by the Department of the Interior, the fact remains that little seismic exploration and almost no drilling has occurred on the sedimentary basins included in units in the bill.

In fact, outside of Prudhoe Bay and the Cook Inlet, our two major oil areas, outside of those two areas and the NPRA there have been fewer than 65 exploratory wells in Alaska. Mind you, 65 outside of those areas. Even in total there have been less than 1,000 oil and gas wells drilled in the State to date. This represents about one oil well for every 375,000 acres in Alaska.

Now in the south 48, where there has been a lot of oil activity there have been over 2 million oil wells drilled since oil was first discovered in Titusville in 1859. That amounts to one well per thousand acres. Let me repeat so we can get the full impact of how virgin Alaska is and what the potential is. In the south 48 since the beginning of oil being discovered we have drilled the equivalent of one well per thousand acres.

In Alaska it is one well per 375,000 acres. With this level of exploration it is absurd to write off any area as having no or low potential for oil and gas discoveries.

TITLE XI—TRANSPORTATION AND UTILITY SYSTEMS

Although the bill does contain a unique process for expediting decisionmaking in obtaining rights-of-way for transportation and utility systems across conservation system units, the decision to permit such access rests in one case (refuges and national recreation and conservation areas) with the various agency heads, with the possibility of an appeal to the President. In the case of parks and wilderness areas, the President must approve the access and then the Congress must approve it by joint resolution.

There is no question that this process is better than the procedures under existing law. But the circumstances in Alaska and the extraordinary designations under this bill clearly call for unusual provisions. The size of the conservation systems designated in the bill and the manner in which they link up to form barriers several hundred miles long in some instances pose almost insurmountable problems in reaching many adjacent State- and Native-owned lands.

While provisions in the bill hopefully insure access for owners of property within the boundaries of conservation system units, access to lands adjacent to units remains at the discretion of the Secretary, the President or Congress. I offered an amendment in committee which would have enabled the State of Alaska to file for access and then allow sufficient time for study and right-of-way location. If after a certain time, the Secretary did not issue a right-of-way providing reasonable access at some location, the application of the State would be automatically approved. To me, this would have been an equitable manner to deal with access in light of the magnitude of the units designated.

If the units were not as large or were not so strategically arranged, special access language would not be necessary. I do not think the language in the bill will adequately deal with the problems which will arise in the future, and we will find ourselves perpetually denied needed access to adjacent State and private lands, by the Secretary, the courts, or Congress.

The bottom line of this situation is the denial of the full range of use of these lands and hence, the de facto taking of property rights which have been granted to the State and to the Native corporations by the Alaska Statehood Act and by the Alaska Native Claims Settlement Act.

Mr. President, one of the reasons why I am so disturbed with this legislation is not only the mistake that could be made by a nation in locking up this treasure—certainly we are entitled to do that—but what has disturbed me most is, as a citizen of Alaska, the unfair treatment we are receiving. Through the device of this legislation, by overlaying these various layers of bureaucratic activity, we discourage economic activity, we discourage options that would be available to poor people to improve the quality of life they now endure. So it is not just the Federal domain. I know many times we have been unfairly charged with—we Alaskans—being greedy about the land. This is not so.

If one amendment were to pass that would guarantee us—and I have an amendment to do that—access, and I am not talking about access for a man off the street. I am not talking about access for a small company, I am not talking about access by a multinational, I am talking about access by the sovereign State of Alaska. I am talking about after the sovereign State of Alaska applies for access that there is literally a year of study and public hearings, and that there is an involvement of all of the Federal agencies involved, and at that point in time, if the Federal Government is not prepared to give access, that they do not want to grant access because they do not want any growth, if at that point in time access is not approved, then the access filed for by the State, the sovereign State, of Alaska is the access that will be approved automatically.

That is not asking too much. But unless this access provision is there, because of the way the proposed units are located pellmell across the State of Alaska, they will stop things from happening there and from happening here, like the access routes in the Southwest, the access roads to effectively get minerals to market, the consequences of which are $9 trillion to this great Nation of ours—you know, they say the cost of the Vietnam war was $150 billion, and we are paying dearly now for the inflation caused by that war. We are paying dearly now for that mistake.

The data we have from the mining industry show, projected out, that this bill will have a $9 trillion impact on the American economy. When I started out this statement and said this issue was not Alaska, but that we were just victims, that we Alaskans just happened to be there and live in the treasure chest of the Nation. What is going on in this Nation, in these large forces, these sociological forces, is the desire on the part of the no-growthers who do not know how to stop the growth of the planet, they cannot do it through population control because of moral and social grounds, so since they cannot stop the population growth, since the preservationists want to turn back the clock, cannot stop the population growth, they have gone after the next tool available, and that tool is to grab at the choke points of our economic society and choke them, stop economic activity whenever and wherever they can find it.

It is indiscriminate. You see it in the Quartz Hill molybdenum site. They are against this. They are against solar energy or wind energy in Oregon; they are against dams in one place, they are against oil or gas exploration. They are "aginners" all over the horizon. It is not coordinated. They are "aginners" because they are against growth.

So they cannot stop growth by population, and they will, therefore, stop it by choking the economic areas.

I submit to you in this confused abuse of power they do the most dastardly acts to the human race that can be imagined, because when you turn back the clock on the economy, and when you tell people who have enjoyed a standard of living at this point that they now have to come down to this point, they will not buy it. When you tell people who have had a standard of living in the Third World that they can never aspire to the economic well-being of the developed OECD countries, you remove hope and you leave them a legacy of desperation.

What we show with this "legislation to save Alaska," is the desperation in this country and we will show desperation in the underdeveloped world. We will control the growth of this planet and we will do it through the forces of the Four Horsemen of the Apocalypse. That may seem farfetched, but I sincerely believe that the consequences of this legislation are that meaningful to the world, to the Nation, and to my State.

I thank the Chair and I yield the floor at this time.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS addressed the chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I yield myself such time as I may require.

I would not like the record to indicate that my silence on the comments made by my colleague indicates any agreement with his analysis of any of the amendments or of the bill.

I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. STEVENS. Against the managers of the bill equally.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

Mr. GRAVEL. Mr. President, will my colleague withhold on suggesting the absence of a quorum?

The PRESIDING OFFICER. Without objection, the quorum call is withdrawn.

Mr. GRAVEL. Mr. President, the time would be charged to the managers of the bill. Am I considered one of the managers of the bill in the time allotted to me?

The PRESIDING OFFICER. There are six managers of the bill, of which the Senator from Alaska (Mr. GRAVEL) is one.

Mr. GRAVEL. Well, Mr. President, I do not know as I take too kindly to just having time idly fritter by. This is a very serious issue. There are only two Senators on the floor, both Senators from Alaska. Since everybody else wants to lock us up, the least they could do is get here to the floor.

I ask unanimous consent that any time for the quorum call not be charged to anybody.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. GRAVEL. Let me just suggest to my colleague from Alaska that he and I—he may present one case and I may present another case. But I think it is unfair for us to have our time eaten up—his time and my time—and thereby just let sift, like bleeding and hemorrhaging, precious time from us when nobody else gives a darn about Alaska and are not even showing up.

If they do not want to show up, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. GRAVEL. On the time of the Senator from Massachusetts (Mr. TSONGAS).

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. GRAVEL. Mr. President, I suggest the absence of a quorum. It will go live.

The PRESIDING OFFICER. On whose time does the Senator suggest the absence of a quorum?

Mr. GRAVEL. I do not have any time to suggest who it might be. I just tried

The PRESIDING OFFICER. The Senator does have a right to suggest the absence of a quorum.

Mr. GRAVEL. I suggest the absence of a quorum and I see no quorum present.

The PRESIDING OFFICER. On whose time?

Mr. GRAVEL. To be equally divided on the time of the amendments and not on the bill.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. There are no amendments now. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. GRAVEL. There are amendments that are intended to be called up. We would all be shortchanged a little bit of time on those amendments.

Mr. STEVENS. There is no time until the amendments are called up.

The PRESIDING OFFICER. The Senator is correct.

Mr. GRAVEL. Mr. President, I ask the Parliamentarian, can I not create time on that basis?

The PRESIDING OFFICER. The Senator can make such a request, but by unanimous consent.

Mr. GRAVEL. Mr. President, I could send one of my amendments to the desk. Obviously, we are in an embarrassing situation because nobody wants to come here and debate this.

I will suggest the absence of a quorum and that the time be charged, as was indicated, to the managers of the bill.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, my colleague has talked for a little over 3 hours, about 3 hours and 10 minutes. I do think that the other Senators involved ought to have the courtesy of the time to get here. I am informed that they are on their way.

I do think that we ought to be very clear about what we are doing here today. I particularly want to make certain that, as we proceed, we try to do so on a basis that will assure us of the maximum support possible. I hope that we will be able to hear from the Senator from Massachusetts (Mr. TSONGAS), who, I understand, is going to make an opening statement and that soon thereafter he will call up his first amendment.

It is my understanding—and I might ask the Chair to clarify this—that the first order of business under this time agreement must be the five amendments of the Senator from Massachusetts. That was our agreement at the time, that he would offer five amendments, then the three of us each have the right—Senator GRAVEL, Senator JACKSON, and I—to offer three amendments and, following that time, there will be a substitute which could be offered by the Senator from Massachusetts if he desires to offer it.

I know that it is not spelled out in the agreement that he must proceed, but it was my understanding at the time that that was the procedure that we all agreed to.

It is also my understanding that he intends to call up the so-called refuge amendment after he finishes his opening statement. We are all trying to accommodate the time frame of those who are trying to return to Washington following this very long recess. I am hopeful that we can accommodate the desires of the other Senators and their convenience as we open this debate.

This debate, Mr. President, could prove to be a very long debate should any of the Tsongas amendments not be tabled and be passed, because we have a series of problems with these amendments. There is no question, without being in any way in a position of trying to be dilatory, that the complexities of these amendments will require that we offer a series of second-degree amendments that will deal with these areas. All you have to do is look at the map to see how much area is covered and how complex they are.

I might ask the Senator from Massachusetts (Mr. TSONGAS) if he intends to make an opening statement.

Mr. ROTH. I will make the opening statement.

Mr. STEVENS. Mr. President, I yield to the Senator from Delaware.

Is the Senator going to use the time of the Senator from Massachusetts (Mr. TSONGAS)?

Mr. ROTH. Yes, I will.

Mr. STEVENS. Mr. President, I yield to the Senator from Delaware for the purpose of making a statement. I believe it will be charged to the time of the Senator from Massachusetts (Mr. TSONGAS).

The PRESIDING OFFICER. Does the Senator from Massachusetts yield time?

Mr. TSONGAS. I yield to the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I am proud to be a cosponsor of the Alaska National Interest Lands Conservation Act of 1979 and delighted to join with my colleagues in its active support. As the first and principal Republican sponsor of this bill in the 96th Congress, I want to point out that Delaware—"The First State"—has a long and proud history of commitment to preservation of our natural resources.

This is truly the conservation bill of the century. It is a balance between the legitimate development needs and desires of the great State of Alaska and the national wilderness treasures which belong to all Americans. The forests, the fowl, and the fjords are irreplaceable, and this bill will protect them for our future generations.

Conservation has never been the exclusive province of one or the other political party in this country. On the contrary, our impressive history of conservation achievements shows that each step has been built upon the previous step, regardless of which party controlled the Congress or held the White House. Teddy Roosevelt built much of the great foundation for our conservation policies during his Presidency. On these foundations later Presidents and later Congresses have built, without regard to partisan differences, the policies which now protect our clean air, our wildlife, and the migratory waterfowl so important to my own fellow Delawareans, the waters of our streams and rivers and shorelines, and our matchless forest and alpine wilderness.

I think we can all agree that as we look at our past leaders who displayed enough courage and foresight to create national parks, forests, refuges, and monuments of the areas of historic and natural splendor, that we look at those leaders with great respect and admiration. We have a great Nation, the greatest in the world, and we have a great natural heritage. Nowhere else in the world is there a country that maintains such a tremendous variety of awesomely spectacular lands as well as importantly diverse habitats, ecosystems, and natural areas. Our beautiful coasts, the awesome Redwoods, the Rockies, and Grand Canyon, the Everglades—is there any question that these be preserved for all American people? There are worthy areas in every single State across the Nation that have been kept in their natural state for all to enjoy.

Now this Congress has the challenge before it to take action safeguarding the largest unspoiled, natural environments, left in our country today. All too often Congress has been prodded toward preservation of a natural area only because that treasure was nearly destroyed.

Many people have expressed concern that by preserving these large parcels of land, the valuable natural resources have been overlooked. The boundaries that are drawn allow for the orderly development of Alaska's significant minerals and resources, while carefully maintaining a responsibility for uniquely fragile habitats, so critically important to the health and survival of Alaska's wildlife.

Our position provides protection for the delicately balanced forest ecosystems while permitting the established timber industries to maintain a rate of production necessary for their economic success. We maintain the security of jobs that are dependent on resource conservation, in tourism and commercial fisheries.

Destructive clear cutting or over use of these forests could have serious detrimental effects to the wildlife that abound there and to the streams and inland pools so vital to the fish, bears, and eagles.

I have serious concerns over these streams and creeks for it is here that the earth and seas actually come and blend together. It is in these small waterways, like the irreplaceable tidal marshes at home in Delaware, that the entire biological cycle of life begins. It is here that the waters are flooded with nutrients from the soils and decaying vegetation, this feeding the small organisms, to be preyed on by the smaller fish. The cycle continues supporting the magnificent schools of salmon, the champion-sized bear, and the Nation's largest abundance of Bald Eagles, all so characteristic of Alaska's rich environment.

I believe that all too often we forget that the Earth we live on is a finite system. Once we change or destroy what is here it is gone to us, never to be regained.

We have before us now a very exciting opportunity. We can preserve ecosystems, watersheds, significant habitats, and spectacular mountains in their entirety, for the benefit of all Americans.

I am pleased to be a cosponsor of the Tsongas-Roth substitute, and of the National Forest amendment. I am pleased to represent the hundreds of Delawareans and Americans all across the Nation that have expressed their deep conviction toward our natural heritage and the Alaska lands bill. I urge my colleagues to join me in support of the greatest conservational opportunity ever to face this Congress, and perhaps the greatest opportunity to have ever faced any Congress in history.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I yield to my friend from Delaware.

Mr. ROTH. Mr. President, while waiting for the distinguished Senator from Massachusetts to come to the floor, I would like to point out that I am very pleased to be joining the Senator in five amendments to the bill before us. It is my understanding that the first amendment that will be offered is the refuge bill that would place 55.8 million acres of Federal land in Alaska under the protection of the National Wildlife Refuge System. I believe that, as my distinguished colleague from Rhode Island has pointed out, this is a particularly important amendment for the entire Nation. Some 20 percent of our entire North American waterfowl population breed in Alaska, and the annual fall flight of birds other than waterfowl is estimated at 200 to 400 million birds.

Whether your interest is as a waterfowl hunter in California's marsh or a birdwatcher on the Chesapeake Bay, many of these birds originate in Alaska.

Too many refuges have been created where lowland wetlands are severed from upland watersheds or conflicting management schemes among various landowners and managing agencies making long-term protection difficult at best. In Alaska, we do not want to repeat these patterns.

We now have the chance to protect watersheds and ecosystems which are in public ownership. We believe that this amendment will be a very substantial improvement to this legislation.

Mr. President, I would like to point out that prior to 1971, the Federal Government owned 95 percent of Alaska's total area of 375 million acres. The Alaska Statehood Act of 1958 provided for the eventual transfer of 104 million acres, about 30 percent of the 375 million acres, from Federal ownership to State ownership.

The Alaska Native Claims Settlement Act of 1971 granted 44 million acres of Federal lands to Alaska's Native people. Section 17(d)(2) of the Native Claims Act authorized the Secretary of the Interior to withdraw from development 80 million acres for consideration by Congress as additions to national parks, wildlife refuges, wild and scenic rivers, and national forest systems.

Congress was given 5 years from December 17, 1973, until December 17, 1978, to act on the withdrawal. The House passed Alaska lands legislation, H.R. 39, on May 9, 1978, by a vote of 277 to 31. The Senate Energy and Natural Resources Committee worked a year ago on an Alaskan bill.

When it became clear that in that year we would not enact an Alaska lands bill before the December 17, 1978, expiration of the d-2 withdrawals, I wrote the President as well as the Secretary of the Interior urging them to provide interim protection to Alaska lands pending congressional action in the 96th Congress.

On November 16, 1978, Secretary Andrus withdrew 10 million acres of land from development under his statutory authority and on December 1, 1978, President Carter designated 56 million acres as national monuments under the Antiquities Act of 1906. This was intended to be an interim bill until Congress could exercise its prerogative on the issue this year.

On January 31, 1979, I then was glad to introduce a bill entitled "The Alaskan National Interest Lands Conservation Act of 1979," which represented a matter of great importance to the people of my State. Our bill would double the amount of national conservation lands in America. There are enough lands owned individually by private landowners. These are public lands, held in common by all of us and dedicated to future generations of Alaskans and Delawareans, Americans all. Under our bill, we seek simply to identify and protect those areas of richest wildlife value, of greatest scenic splendor, of unique nationally important value, and especially of most ecological value to future generations of Americans.

Under that bill, 43 million acres would have been added to our national park systems and 68 million acres set aside as wildlife refuges. In addition, over 1 million acres are designated as wild and scenic rivers and 9 million acres of national forest lands would be given wilderness protection. Of these new park, refuge and forest lands and scenic river systems, a total of 86 million acres will be designated as wilderness and preserved from destructive development.

Even with this bill, there remain many millions of acres of other Federal lands in Alaska not in conservation system units, left available for development. Under this bill, there are provisions for access, guaranteeing that rights of access through or across these conservation units would be provided for those needing access to their own lands.

This bill contains careful provision for mineral assessment on a continuing basis across the length and breadth of conservation units. This bill does provide that with careful exceptions, the President may propose specific mining activity within these areas, and procedures were assured for expedited congressional consideration for any such Presidential proposal.

As I said at the time that we introduced our bill, out of the total 375 billion acres in Alaska, 40 percent, 149 million acres, will be State, Native, or privately owned; 21 percent, or 80 million acres, would be Federal lands open to mineral entry, logging, and multiple uses; 61 percent, 229 million acres, the total of the last two, would be open to a wide variety of uses unaffected by our bill. Thirty-six percent, 137 million acres, would be in existing or new conservation units.

Seventy percent of metallic mineral land would be outside conservation units. Eighty-seven percent of all Alaska lands would be open to sport hunting; 97 percent of all high-potential oil and gas lands would be open to possible development, and 100 percent of all Federal lands in Alaska would be open to mineral assessment and geological survey by the Department of the Interior.

In short, as I said in the beginning of my statement, we believe that this can be the conservation bill of the century. We believe that Congress and the Senate can adopt a fair and a balanced bill for all Americans. Time is short, Mr. President, and our future generations are watching us. I urge my colleagues to join us in swiftly enacting a truly historic Alaskan lands bill.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Massachusetts.

Mr. TSONGAS. Mr. President, we are beginning a process today that will have a far-reaching effect, not only for the people of Alaska and the resources that are there, but for the relief of all the people of this country. I got involved in this issue a number of years ago when I was in the House and served on the Committee on the Interior under Representative UDALL. I served on the subcommittee that was involved with the Alaska lands issue.

A lot of time was spent on that issue in the House, as it was here. It was not resolved in 1978, so we are back again. I argue that the same concerns and principles that were discussed at that point are pretty much true today.

Mr. President, this issue has been decribed as the conservation bill of the century. I do not think there is any question that, no matter how long we may serve in this body, we shall never have quite the opportunity that we have today to act in the interest of our country, taking into account the legitimate interests of the people of Alaska, as expressed by their Senators.

I have found, working with Senator STEVENS and Senator GRAVEL, that the process has been one of trying to accommodate, trying to discuss the issue in a way that allowed reason to prevail. We went through a number of issues in the committee, and I might say that the substitute that may be before us later on this week suggests that there was an attempt to compromise. Rather than holding out a substitute that was the same thing as the House version, in fact, the Tsongas-Roth substitute takes into account many of the changes that were suggested by the Senators from Alaska in committee.

The reason for doing that was quite simple: there is no simple right or wrong in this piece of legislation. We may feel that there is, but, from a longer perspective, it seems to me that what we want to do is pass a piece of legislation that works, that takes into account that there are natural resources that have to be protected, but also takes into account that there are people who live in Alaska whose interests are legitimate and have to be taken into account. I think that any piece of legislation that does not accept that is simply ill founded and ill fated.

So we have been very careful to try to put something together that, 10 or 15 years down the road, will look proper and will demonstrate that we were not simply engaged in a process of seeing who could win and who would lose. There have been a number of examples when either side could have exercised its proxies, for example, and prevailed, but chose not to do so. I should like publicly to commend and thank the two Senators from Alaska for the spirit of comity and cooperation which prevailed—most of the time, anyway—during the committee deliberations.

The other point I make in preface, Mr. President, is that if this issue is going to be dealt with properly in a way that can sustain itself over time, it has to be done here, on the floor. I hope that, more than anything else, we shall not get ourselves in a situation where this issue is resolved by the President of the United States.

If the issue is not resolved here, either by tactics or by the votes, if we cannot come of the conference with a mutually acceptable bill, and it is then left to the President to exercise withdrawals, I would look upon that as a failure. Although I might applaud the withdrawals from a conservationist perspective, the need to engage in that process, in fact, would suggest the Senate failed in its work.

The problem with withdrawals is very simple. That is, it is not sophisticated. It is a very hamhanded approach and one that should be employed only as a last resort.

I hope the 100 Members of this body try to resolve the issue in a way that, perhaps, leaves nobody completely happy, but which avoids that last potential resolution, because I do not think it will satisfy anybody.

I think it has the seeds for very serious, long-term difficulty. I feel that way and I do not live in Alaska. I would suspect that any objective view would conclude that it is as important, if not more so, for the people of Alaska once and for all to have this issue decided, and decided in a way that is fair and final. I hope what we have done today is to begin that process.

Mr. President, the public wildlands in Alaska are an extraordinary opportunity to act in the national interest. This national challenge is fundamentally different from past ones. Such as the Marshall plan or the Apollo program. This complex issue does not demand major investment of tax dollars. It does not demand faith in a drawing-board dream. Instead, we are deliberating on a wealth of existing, natural wonders that belong to all Americans and will continue to belong to all Americans.

In my home State, we have the Cape Cod national seashore. It was decided, and I think properly so, that the resource represented by that area has a national implication and, therefore, the Congress acted.

No one argued that point. Obviously, not many felt it was something improper for the Government to do.

We all have in our own States examples of the same kind of thing. Alaska is simply larger both in scope and in terms of natural resources represented there.

Nature made the wilderness and wildlife in Alaska majestic during hundreds of thousands of years. Man is challenged merely to respect and preserve that natural majesty.

We can look back on those Presidents who decided, and those Congresses in their time, to set aside lanc in America to be preserved. We very seldom hear any one say that was a mistake.

Those national parks and wildernesses we have, we treasure. Very seldom do we find any Member of Congress suggesting that should be changed.

But what would have happened back in those days if people were not prepared to vote to preserve the land that God gave to us? They were prepared to suggest there was another dimension, that we are not simply put on this Earth to live and to use, that we have, hopefully, some sense of what we leave behind.

Time is not kind to missed opportunities for conservation. In most of our States, we are now engaged in enormously expensive salvage operations, to protect part of a watershed or a bit of wildlife habitat. These Federal lands in Alaska give Americans a chance to conserve our natural heritage far better than we have in the past. In Alaska, Congress has one great last chance to do the job right the first time.

We have before the Energy and Interior Committees the barrier islands bill. In my service, in 6 years in the Congress, both in the House and in the Senate, I have seen a number of bills come before committees trying to undo the mistakes of the past. I can say that it cannot be done. In those cases where there has been movement, it has been very expensive. I point out, for example, the redwoods bill that passed out of the House last year.

Alaska lands legislation must facilitate development that is compatible with adequate preservation of priceless wilderness and wildlife. This balance has been discussed painstakingly over recent years. As a House Member, and as a Member of the Senate, I have worked for maximum economic opportunity wherever it is not unjustifiably costly to environmental values.

The issue, obviously, is one of balance. The Senators from Alaska, perhaps, would argue for one case and I for another, and that issue will be decided before our colleagues.

In these deliberations, every economic interest that could profit from a piece of these Federal lands makes its best case. This is as it should be. But the overall effect of their special pleadings has been to popularize the notion of harsh tradeoffs. These interests have pursued their maximum advantage with simple dichotomies—for example, energy against environment. This fits on a bumper-sticker, but at best it is hyperbole. I am confident that the exaggerated claims of some developmental interests will backfire.

About 3 weeks ago, for example, I was back home in Massachusetts and my schedule said that two individuals wanted to drive me from one function to another to discuss Alaska, which I agreed to do. When I finished the one function, I got into the car. These two individuals began to browbeat me on what we were doing to "lock up Alaska." In this particular case, it involved oil and gas. I asked them where they got their information. Their information came from the same group that argued there is as much oil in Alaska as there is in Saudi Arabia. So I indicated the source of that information and the fact that that kind of statement had been discounted, not only by the USGS, but also, interestingly, by some of the oil companies.

The more we got into it, the more it was obvious that what these people were reacting to were rhetorical statements that had no basis in fact, that were, in essence, bumper sticker economics. By the time we finished, these gentlemen apologized for having acted without information and said they would get back to the primary source and indicate their displeasure for having been misled.

I will get into the exaggerated claims in some detail later; 95 percent of the lands of Alaska that have high and favorable potential for hydrocarbons are open. How can we describe that as a lockout? Can we imagine any Member of the Senate getting 95 percent of the vote and someone saying that is not enough, he cannot sit here, what his or her reaction would be?

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. TSONGAS. I yield.

Mr. STEVENS. Does the Senator wish to have his opening statement uninterrupted?

Mr. TSONGAS. I wonder whether I can do that, and I will be glad to respond if the Senator is still here when I finish. [Laughter.]

(Mr. MORGAN assumed the chair.)

Mr. TSONGAS. Mr. President, as a member of the Energy and Natural Resources Committee, I participated actively in the markup of the Alaska National Interest Lands Conservation Act. Through the leadership of our distinguished chairman, Senator JACKSON, and the efforts of the Senators from Alaska (Mr. STEVENS and Mr. GRAVEL) and other committee members, we were able to work out important compromises. The committee subsequently adopted a number of our agreements on crucial issues.

Although they may not admit it publicly, in at least some cases the Senators from Alaska were surprised by our willingness to agree to what I considered to be some of their quite legitimate interests.

Nonetheless, I concluded that the committee's bill is unbalanced in favor of development interests. It disregards the fragile, pristine character and vastness of the public's lands in Alaska. It risks the integrity of prime national park, wildlife refuge and wilderness lands. With the cosponsorship of 12 colleagues, Senator ROTH and I introduced a comprehensive substitute—amendment 626. This substitute blends the approach used in the bill which passed the House by a 360 to 65 landslide last year with many of the agreements worked out during committee markup. Under the time agreement, we reserve the right to bring the Tsongas-Roth substitute to a vote.

Of more immediate interest, I have also introduced a package of five amendments designed to clear up the most glaring weaknesses of the committee bill. I believe that these amendments, if adopted, would bring this bill above the rockbottom line for Americans committed to conserving irreplaceable Federal lands in Alaska.

The national parks amendment (No. 1779), cosponsored by Senator MATHIAS and myself, would protect the proposed national parks from mining and associated development. It also would create an acceptable park/preserve balance, providing for both sport hunting and wildlife sanctuaries.

The rivers and transportation amendment (No. 1780), cosponsored by Senators PROXMIRE and EAGLETON, would provide increased protections for wild and scenic rivers and create a more efficient, well-balanced transportation process.

The wilderness amendment (No. 1781), cosponsored by Senators NELSON and LEVIN, would place areas into that protective category in some cases where the committee failed to do so—notably the William O. Douglas Arctic Wildlife Range. That, obviously, is a very controversial part of the amendment and one about which we will hear a great deal in the future.

The national wildlife refuge amendment (No. 1782) is cosponsored by Senators HART, CHAFEE, RANDOLPH, CULVER, and CHURCH. It would place incomparable wildlife areas under expert management by the U.S. Fish and Wildlife Service in proper refuge categories in coherent units. The committee bill would splinter them into various multiple-use jurisdictions under inappropriate agencies.

The national forest amendment (No. 1783) is cosponsored by Senators ROTH, MCGOVERN, and myself. It would abolish the statutory annual allowable cut which the committee established for the Tongass National Forest. It would give full wilderness protection to most of the "special management areas" in the committee bill. I refer to this amendment in shorthand as the Southeast amendment.

NATIONAL PARKS AMENDMENT

Mr. President, there is a general consensus about how much acreage should be set aside for the park system in Alaska. The President has established 40 million acres of national park monuments, and the committee bill and House-passed legislation both recommended about 43 million acres for the park system in Alaska. The Tsongas-Mathias amendment on national parks supports about 44 million acres. So in terms of acreage, it simply is not a great difference. The difference is not in overall amounts. Our parks amendment differs from the committee bill in what activities will be permitted within that acreage. So the issue is the protection provided in the acres, not so much how many acres are involved.

The committee bill would threaten the integrity of the National Park System. It would downgrade existing national monuments to national recreation areas (NRA's) to allow new mining and mineral development. America's most spectacular parklands would be open to mining, roadbuilding, industrial rights-of-way, and a host of other nonpark uses. To facilitate such development, the bill would recklessly alter boundaries, dismember and subdivide parks. Then it would reclassify the sub-units arbitrarily—undermining the NPS land classifications system now used throughout the country.

The bill departs from usual policy with regard to hunting. This bill places too many park areas in a special category—park preserves—where sport hunting is permitted. The committee proposed to leave 91 percent of Alaska open to hunting. The amendment we will submit would still leave 90 percent of the State open for hunters. Ninety percent of the State of Alaska would be open for hunters, and the argument is used that we are locking up Alaska from hunters. When I went to school and took mathematics, 90 percent was a significant number, and it stretches credibility to argue that 90 percent is not enough.

The inadequacies of the committee bill are exemplified in its treatment of the Gates of the Arctic. This is the greatest wilderness park in North America. It is located in the Central Brooks Range, entirely north of the Arctic Circle. At the northern extent of the Rocky Mountains, its maze of glacier covered valleys and rugged mountains host an array of wildlife—the migration of the western Arctic caribou herd, grizzly bear, Dall sheep, wolf, and birds of prey. The Gates of the Arctic has been studied for national park status for some 30 years.

In the existing Gates of the Arctic National Monument, the bill would designate as "preserve" the lands surrounding the Native village at Ananktuvik Pass. The residents there depend on the wildlife and other resources of the area for their survival. With the preserve designation, the Native people would be placed in unfair competition with sport hunting guides and their clients for limited wildlife resources.

Also, the bill would establish an NRA in the southern part of this monument and mandate a transportation corridor across park lands. This would be done to assist the speculative hopes of firms with neighboring mining interests—even though less-damaging alternative routes exist. The committee bill divides into five subunits what should be a single, cohesive national park, as has been proposed by Secretaries of the Interior dating back to Rogers C. B. Morton in 1973.

Under the amendment, the entire area is confirmed as a full-fledged national park. It will retain protection against the threats of future roadbuilding, mineral development, and trophy hunting. Subsistence hunting by local people will continue. Most of the Brooks Range, of which Gates of the Arctic is a part, will remain open to trophy hunters. The amendment affects only 2 percent of the statewide harvest of Dall sheep—2 percent. Is that a great deal to ask for? The amendment would not mandate a transportation corridor across the park, and thus would protect the integrity of the National Park System as provided in existing law. If and when a future need is claimed, Congress should decide this issue through the appropriate mechanism—the transportation title of the bill (title XI).

The Wrangell-St. Elias National Park and Preserve is the mountain kingdom of North America. It has the Nation's greatest concentration of mountain peaks over 16,000 feet. Its glaciers tower over valleys deeper than Yosemite. Fed by glacial meltwaters, large braided rivers drain the region. The diversity of landforms, from seacoast to high mountains, provides habitat for a representation of interior Alaska fauna. This includes Dall sheep, mountain goat, brown and black bear, bison, and wolf.

In the Wrangell-St. Elias park complex, the committee bill would establish a 1.24 million acre NRA—rather than a preserve. This would be not for recreation purposes, but to allow new mining activities. The committee bill would open to hunting the few prime areas where park visitors could relatively easily view some of the largest Dall sheep in North America and other wildlife. This preserve status would severely restrict traditional park uses for visitors in other areas.

The amendment seeks to retain some accessible areas to view wildlife for the vast majority of visitors, my colleague's constituents and mine. It would designate slightly more area, 350,000 acres, as national park rather than national preserve. The amendment would affect less than 1 percent of the statewide harvest of Dall sheep—less than 1 percent. Is that too much to ask for?

To forestall threats of new mineral development and habitat destruction, the committee's recreation area would be designated a national preserve. National preserves are open to sport hunting, but minimize habitat destruction from activities such as mining, which does the greatest damage to sport hunting.

The Wrangell-St. Elias park complex and the adjacent Kluane Park in Canada have been designated a world heritage area by the United Nations. This honor is given to the world's greatest parks. The park and preserve included in the amendment are consistent with Canada's park and game preserve classification at Kluane. They comprise the right protection for this international treasure.

One could ask legitimately whether it is appropriate for the United States to take actions in conflict with what is being done by the Canadians, whose sensitivity to the resource has already been shown.

The Katmai National Park and Preserve is the home of the Alaskan brown bear. This is an issue that I was involved in with an amendment when I was in the House of Representatives. Established in 1918, Katmai is an excellent example of volcanism, and scenic and recreational resources. Katmai National Monument is the last place in Alaska in which an entire population of Alaskan brown bear can be preserved.

Is it not of some societal interest that that entire population of Alaskan brown bear be preserved? I think the answer is pretty obvious.

Katmai's Naknek Lake system is the third most important watershed to Alaska's major Bristol Bay salmon fishing industry. Lush valleys and pristine rivers flow from snow-covered peaks—sustaining an abundance of fish and wildlife. And obviously, the jobs that depend on that abundance continuing are in balance in this particular amendment. The 1978 national monument addition and this legislation aim to add critical recreational features to the monument. They seek to provide sufficient habitat to protect salmon spawning streams and a largely unhunted population of the giant Alaskan brown bear.

From the protected zone of Katmai National Monument, the committee bill would deliberately delete one area. This would create a "firing line" for sport hunters to shoot brown bear. This is an area through which the park bears regularly move from their salmon feeding grounds in the State's McNeil River Bear Sanctuary to other areas inside the Katmai Monument.

They, in essence, would have a shooting gallery where the bear in its natural migration patterns would be subject to this kind of onslaught. I hope that my colleagues would find this to be inappropriate.

The amendment changes the committee's national park boundary—by 200,000 acres—to protect critical bear habitat. The amendment affects less than 1 percent of the State-wide annual take of brown bear. Bear hunting will still be allowed throughout most of the Alaska peninsula—again less than 1 percent, and I would hope by now what the Senate is understanding is we are talking about dimensions that are really quite marginal. We are talking about preserving values but not at enormous cost in terms of the traditional take of Dall sheep and brown bear.

If we cannot find it possible to make that accommodation—we are talking about 9 dimension of 1 percent—then I hope that we will perhaps begin to rethink some of our positions.

The Noatak National Preserve is the largest undeveloped watershed in North America. The Noatak is the largest mountain-ringed river valley in America still virtually unaffected by human development. It is mostly tundra-covered and located entirely north of the Arctic Circle. But the basin contains the continent's northwesternmost extension of the boreal forest, and the most diverse array of flora in the northern latitudes of the Earth. As a transitional zone and migration route for plants and animals between Arctic and subarctic environments, the Noatak has a rich variety of fish and wildlife habitats. In recognition of its importance for scientific research, the United Nations has named the Noatak basin a biosphere reserve. The committee bill excludes lands in the Noatak's delta region from national preserve status. This undermines the goal of preserving the largest undeveloped river basin in North America.

Does it make sense that there should not be at least one that remains in that category?

The lower Noatak has scores of nationally significant archeological sites. This area is also the nesting grounds for important populations of swan and geese which migrate through the lower 48 States each year.

The committee bill would also carve out a 390,000-acre NRA in a critical part of the Noatak watershed. This was an apparent attempt to weaken the level of protection for this area—designated in its entirety as an international biosphere reserve. The logic of the committee bill in designating this NRA escapes me.

This amendment adds important Federal lands in the lower Noatak watershed as a preserve. The amendment would protect critical wildlife habitat, archeological sites, and the integrity of the Noatak basin.

The Denali National Park and Preserve salutes Mount McKinley—the largest mountain in North America. Denali—"the great one"—is its ancient Indian name. Mount McKinley National Park was established in 1917 to protect the mountain and the associated wildlife in surrounding foothills and valleys. Amidst the spectacular backdrop of Mount McKinley and the Alaska Range, the park is one of North America's best places to view and study wildlife—including the McKinley caribou herd, brown bear, Dall sheep, and moose. Due to inaccurate surveying and inadequate knowledge of wildlife movements, the southern half of Mount McKinley and critical wildlife habitat were not included in the original park in 1917. The national monument and the legislation address this oversight.

But the committee bill removes critical habitat both for spawning salmon and grizzly bear along the Toklat River. Habitat critical to caribou calving and rearing in the Chulitna River area is also removed from the national monument.

The amendment seeks to protect critical grizzly bear and salmon habitat in the north, and key caribou breeding and post-calving grounds in the eastern portion of the park. It would retain these two units of 115,000 acres and 75,000 acres in protected status. These would be designated as national preserve areas open to sport hunting, but preserving the habitat.

The Bering Land Bridge National Preserve is where the Asian and North American continents met during the last ice age. The 1,000-mile wide Bering Land Bridge, now submerged under the sea, was the migration route from Asia to North America for many plants, animals, and man. The Bering Land Bridge National Preserve would protect a remnant of that bridge in an area that contains rich evidence of migration during the ice age. Fossils there have recorded the past, from minute pollen grains to large land mammals such as the mammoth. Unique tundra plant communities and migratory birds from Asia make the preserve a living link with the ancient world.

The committee bill deletes two areas from the Bering Land Bridge National Monument. The western deletion is an important watershed, with wetlands and waterfowl breeding areas. The eastern area includes major fossil evidence of great archeological values.

The amendment maintains protections for an area totaling 140,000 acres. As a national preserve, these areas, and the rest of the present national monument, would be opened to sport hunting.

Let me summarize the parks provisions with regard to three issues: mining, transportation, and sport hunting.

The issue of mining is addressed by the National Parks amendment because the committee's bill opens two areas of the Gates of the Arctic National Park and one large area of the Wrangell-St. Elias National Preserve to mining. The adverse impacts of mining primarily affect wilderness, wildlife species and habitats, water quantity and quality, scenic and recreational values, and both sport and subsistence hunting. Despite past mineral exploration dating back over 50 years, no significant mining exists here. Yet, the nationally and internationally significant park values are unknown and universally acknowledged: the House bill, the administration proposal, and this amendment all place these lands under full national park designation.

The committee bill prohibits core drilling for mineral exploration in national parks, but allows it in national preserves. There is no apparent defensible reason for this distinction. The amendment prohibits core drilling in national preserves.

The valid, existing rights of miners within park units are recognized. Their right of access is guaranteed by section 1110 of the committee bill.

Let me read that again. The valid, existing rights of miners within park units are recognized and their right of access is guaranteed by section 1110 of the committee bill.

None of the Alaska lands proposals would deprive the State or Natives of any lands which they have validly selected. Much of this State and Native land was selected for mineral development and the potential for that development. The State and Native peoples decided where they wanted to make this selection. Obviously, mineral development was one of the key criteria that they used. They were really quite astute in determining where that potential existed, and that coincided to a large extent with the lands that were withdrawn, both by the State and by the Native peoples.

The Senate committee bill's parks provision would keep closed approximately 9.8 percent of the lands with metallic mineral potential in Alaska. By contrast this amendment would keep closed 13.5 percent—only a 3.7 percent difference. With the amendment, approximately 61 percent of all lands in Alaska which the USGS identifies as possibly having metallic mineral resource potential will be outside of all conservation systems units. Approximately 70 percent of such lands would be outside conservation system units under the committee bill. Alaska's most spectacular scenery would be protected for the enjoyment of all Americans, while development would be focused toward the less sensitive and more promising areas.

So here you have what I would think would be a very convenient dovetailing of interests. Mineral development will take place in those areas where the potential is greater and also where the natural resource values we wish to preserve are less obvious. In that particular case it seems to me that both what Alaska wants and what the Nation wants as a whole can be gained.

The issue of transportation access is a nonissue. I have heard this issue raised now for the 3 years I have been involved with this issue, and yet there has been a serious attempt both in the House and in the Senate to accommodate the legitimate interests that have been raised.

Under all versions of H.R. 39, valid existing rights to lands within the conservation areas are protected, including access rights to State and Native lands as well as mining claims. There is no need for surface transportation corridors or rights-of-way across the park system areas. No one now knows which—if any—deposits in question are developable. No one knows what the most economic routes and modes of transportation would be. The bill has a transportation process for parks which—combined with the few changes in the Proxmire-Eagleton amendment—is more than adequate to accommodate the need for future transportation decisions.

I would invite my colleagues to go and look at that, to read that language, and see whether they do not end up with the same conclusion. Both the Tsongas amendments and the committee bill make appropriate provisions for the authorization of any needed transportation corridors.

In the Gates of the Arctic, the committee mandates a right-of-way. No conclusive demonstration of the need for this corridor exists. The scheme for this right-of-way was one of several ideas suggested to the committee by one mining company. If a need for a corridor ever is proved, the committee's own transportation title establishes a procedure for authorizing rights-of-way.

The issue of sport hunting is obviously important and one that I know many of my colleagues are interested in and concerned about and have received mail on. The Tsongas-Mathias park amendment makes careful adjustments to the committee bill in order to provide key wildlife sanctuaries and visitor viewing areas.

Under the national park amendment, only 10 percent of Alaska would remain closed to sport hunting. The committee bill would leave 9 percent of Alaska closed to sport hunting. Thus, there is only a 1 percent difference between the amendment and the committee bill in areas closed to sport hunting. This 1 percent includes critical wildlife habitats which are needed as wildlife sanctuaries. They are vital to provide opportunity for people to view undisturbed wildlife in a safe area. The great bulk of Alaska remains open to hunting.

We hear the term again "lockup," that somehow we are locking up Alaska in terms of sport hunting. It is interesting rhetoric and makes for very interesting mail. The facts simply belie those allegations.

Under the national park amendment, 10 percent of Alaska is closed, under the committee bill, it is 9 percent. Those are the dimensions of what we are talking about.

A principal purpose of the National Park System is to provide wildlife sanctuaries. We have been doing that for years and we have honored those who have done it in the past. These are places where scientists can study and visitors can view unhunted wildlife populations. The professional recommendation of the Department of the Interior would have kept more lands now in the national monuments closed to sport hunting than are kept closed by the Tsongas-Mathias amendment.

Only six principal persons now work as professional guides in the areas covered in the Tsongas-Mathias amendment. Existing State of Alaska law and regulation provide that any guide who loses hunting territory because of Federal policy will be compensated elsewhere. Also, the parks will provide new employment opportunities for the guiding of hiking, rafting, fishing, and photography parties.

Last year, more than four times as many people visited Mount McKinley National Park than purchased hunting licenses in the entire State of Alaska. The recreational and economic benefits and public use and enjoyment of the parks designated in the amendment exceed the small amount of sport hunting foreclosed.

RIVERS AND TRANSPORTATION AMENDMENT

The Rivers and Transportation Amendment designates components of the Wild and Scenic Rivers System. It tightens the approval process for future transportation projects crossing conservation system units. It makes the management provisions for conservation system units more similar to existing policy. This amendment makes important improvements in the committee bill. Let me go into that for a moment.

The committee bill designates 24 rivers and authorizes studies for 10 additional rivers. While sounding generous with designations, actually only 7 rivers of the 24 are entirely or partially outside park and refuge units. The other 17 are protected, therefore, even without this title. The important issue is that rivers which are fully qualified—portions of the Copper and Yukon Rivers—are omitted.

The committee bill also fails to designate two rivers for study status, which undoubtedly qualify for the system but which need additional study. The Koyuk is one and the Kuskokwim is the other. This amendment would designate a portion of the Copper River as wild, and the rampart section of the Yukon River as scenic. It would authorize studies for the other two.

The Copper River flows by some of the most spectacular mountain scenery on the North American continent. It is the only major American river transecting the Alaskan Coastal Range. It sustains major salmon runs vital to commercial and subsistence fisheries, provides significant wildlife habitat, and is an outstanding float river. Opposition to the designation of the Copper River apparently has been based on a contention that it would prevent the completion of the Copper River Highway. The State has not yet established the need for—nor feasibility of—such a road. But it has identified a route up the Tasnuna River, outside the proposed Copper wild river designation of this amendment as the most likely route for a highway.

The Yukon River, in this case the Ramparts section, represents a last chance to designate a continental river, an opportunity no longer available in the lower 48. The Ramparts section is one of the most scenic segments of the river as it cuts through the Ray Mountains, and is reminiscent of the Palisades of the Hudson. Designation would not adversely affect use of the river for commercial barge traffic. The once proposed, infamous Ramparts Dam project is apparently a dead issue and is strongly opposed by the vast majority of the people of the region.

The amendment would identify the Koyuk and the Kuskokwim Rivers for study and protect them while the study is carried out. The Koyuk River, a gentle, clear float stream, is representative of the Seward Peninsula, and is a wintertime concentration area for moose. The middle Kuskokwim is the most scenic section of another major Alaskan river. Although no commercial fishing exists in the segment of the river, the Kuskokwim is a major salmon spawning river and therefore is important for subsistence and commercial fishing. Both rivers deserve evaluation by the administration and the Congress through "Study" designation to weigh the merits of including the rivers in the Rivers System.

The committee bill fails to make necessary changes to adequately protect corridors of designated rivers prior to establishment of final river corridors, and study rivers, prior to a determination on their designation. Under the committee bill, corridors are no wider than an average of one-quarter mile from each bank. In Alaska, a corridor greater than one-quarter mile is sometimes necessary to adequately protect watershed, wildlife, and other natural resources. The same protection is needed for rivers in the "lower 48," but there is much less publicly owned, undeveloped land along most lower 48 rivers. This made inclusion of provisions for wider corridors not feasible for such rivers. In Alaska, however, the land near such rivers is now in Federal ownership. It is undeveloped, and of a pristine quality which distinguishes it from river corridors in the lower 48.

The Energy Committee's "river protection zones" which may extend out to 2 miles from the bank, are a misnomer. They are inadequate, since they could result in mining, mineral leasing, and other resource development. And how you can do that and protect the river at the same time I think is pretty obviously impossible on its face. And these zones would fail to protect the river adequately.

The amendment would give the Secretary of the Interior the option of extending boundaries of designated rivers out to 2 miles from the "ordinary high water mark"—the highest point the river usually reaches, during the ice-free months. This provision exists in the House-passed bill and is supported strongly by the administration. Corridors would not automatically be 4 miles wide.

In establishing final river corridors, consideration would be given to a combination of values, including protecting the line-of-sight view from any point along the river itself, as well as protecting zones of riparian habitat and other critical natural resources. Likewise, it is prudent to protect the wider corridor during the time boundaries are being established for designated rivers and for study rivers during the study period. This amendment would do this by closing them to entry under the public land laws, including the mining and mineral leasing laws.

The Senate committee provision regarding transportation and utility systems fail to make it certain that the land managing agency, whether it be Interior or Agriculture, would have "lead responsibility" for EIS preparation. As it is in the bill, there is no clear assignment of such responsibility. The amendment would designate the land managing agency—as opposed to Department of Transportation, HUD, DOD, et cetera—as the lead agency for any required EIS preparation.

The committee bill also includes a provision which could result in allowing the State—through its planning authority—to route transportation systems across conservation system units, even when other feasible alternatives are available. And the rationale for that, I would hope, is not obvious. The amendment replaces the requirement in the bill that any transportation system be on the State's transportation plan before it could be approved.

In cases where there is existing law governing the consideration of transportation system applications, the appeal of a disapproval goes to the President. Under the Senate committee bill, the President has no criteria—other than a vague and overly broad public interest one—on which to base his decision. The amendment adds a requirement for a finding by the President that a right-of-way would be "compatible" with the purposes of the conservation unit, and that there is no "economically feasible and prudent alternative" to such a right-of-way.

These, I think, are criteria that can be understood by all parties. It would provided a certain amount of definitive criteria for those parties that would be applying.

The problem of trespassers on Federal lands is the amendment's last major concern. It erases the distinction found in the committee bill between trespass cabins located within National Parks and those found in other conservation units. This change represents a compromise between the virtual ban on trespass cabins found in the House bill and the liberalized treatment accorded trespassers on non-national park Federal lands by the Senate committee.

It is simply one more example of an attempt to try to find a middle ground between the two positions of the House bill and the Senate version.

The amendment also has minor provisions concerning small hydroelectric dams, potential agricultural uses in conservation units and an exchange of lands within the State of Alaska.

NATIONAL FOREST AMENDMENT

For many, the National forest amendment is the single most important amendment to the Energy Committee bill. Nowhere are the deficiencies of the committee bill more vivid and the need for amendment more pressing than in the section dealing with the Tongass National Forest in southeast Alaska. I suspect that this is also the most sensitive issue as viewed by at least one of the Senators from Alaska.

Though the difference in wilderness acreage is relatively small—4.3 million in the committee bill, and 5.9 million acres in the amendment—the 1.6 million acres involved contain the heavily forested lowland ecosystems where the real wildlife, fishing and recreational values, lie, as well as significant timber resources.

The committee bill falls far short of a balanced representative sample of the Tongass. More importantly, this amendment asks whether America's largest national forest is going to be governed by a professional land management plan, 2 years in the making, or by a concoction of entirely new land classifications, dangerous timber harvest practices based on questionable concerns, and additional decisions by a future Congress.

Our amendment states that the Tongass is too important to serve as a guinea pig for experimental forest management, and would adopt, with only minor modifications, the Tongass land management plan (TLMP) developed by the Forest Service.

Let me say, Mr. President, to anyone listening to this, the spelling of Tongass is T-o-n-g-a-s-s, and I am not mispronouncing my own name.

The committee proposes establishing an entirely new management system, the "special management areas," to deal with the perceived "uncertainties" in the economic findings of the Forest Service. These "uncertainties" include:

Whether the Native timber corporations would cut their timber, how fast, and where it would be sold;

The effect of export of round logs from Native lands on the demand for processed sawtimber from the National Forest in the Japanese market;

Whether Congress would appropriate the money needed to offset the USFS's increased costs for providing timber sales following reduction in the land base and the reforms in harvest practices required in the National Forest Management Act of 1976.

Although supporters of the committee bill hold out these special management areas as a "have your cake and eat it too" proposition, it is apparent that this untried and uncertain approach just will not work. The committee recognizes that the special management areas have outstanding wilderness values. The committee protects them all right—but only for 10 years. During these 10 years, the Secretary must—he has no discretion—include their timber in calculating the proper sustained yield harvest for the entire forest—the annual allowable cut. Thus, the bill says: These lands are protected now, but when cutting elsewhere in the forest, assume that the lands will be available later—a "now you see it, now you don't" system.

This is anathema to professional foresters, because it subjects the Forest Service to future pressures from an industry operating under the assumption that these lands would be available. Realistically, you would not blame the industry.

The Forest Service's only option is to reduce sales later because the sustainable yield has been exceeded.

This is not the way we manage our forests in Oregon, or Arizona, or New England, and it is an unwise policy for our forests in Alaska.

At the end of 10 years, the Secretary must submit to Congress a request for a waiver of the prohibition on timber sales, if at any time—not some 10-year or 5-year average, but any time—the timber supply to industry falls below the supposedly magical figure of 520 million board feet (mmbf). I do not know where that 520 mmbf has to come from, whether it has to come from the Tongass alone, whether it can come from the Native corporations as well, or from Canada—undoubtedly the courts will have to decide.

But no matter where—if at any time industry is 500 or 515—even though industry cuts only 440 now—the Secretary must send this whole thing back to Congress. I do not think anybody looks forward to a situation where the uncertainties in the law require these issues to be resolved in the court system. Whether you are a preservationist or a developer, that is the least attractive option.

THE TONGASS LAND MANAGEMENT PLAN

Our amendment is rooted in the Tongass land management plan—a 2-year effort by the Forest Service. That plan looked not only at wilderness but at the region's economy, the fishing industry—which we do not hear a great deal about—and its dependence on salmon spawning streams, and the area's magnificent and varied wildlife and scenic resources.

At some point, there will be discussion, although I shall not do it here, as to how important the timber areas are, not only to the timber industry but, because of its integrated economic ecosystem, to the fishing industry which, over the long term, is just as important a renewable resource as timber.

In the last Congress, when I worked on this issue in the House, opponents of a strong wilderness package in southeast Alaska said, "Don't legislate wilderness now. It might create job loss. Wait for the Tongass land plan. Wait to see what the Forest Service recommends."

Well, that is what we have done. For various reasons, we waited. The issue is now before us. Fortunately, the Tongass plan is done. And it shows that will work. It shows that the goals of timber production, fisheries and wildlife protection, and wilderness preservation can be put together in a package like the Tsongas-Roth package and there will be no job loss.

Some of the same people who said, "Wait for the plan, wait for the plan," now say, "Ignore the plan; put the decision off until later."

Well, we have already put the decision off until now. We have the information and I suggest that we do it right and we do it right now, instead of creating a whole new system the professionals do not want that will be left to the courts to decipher, and that will be right back here in 10 years for further deliberation.

If we do not intend to follow the plan, why did we have it done in the first place? There were simply no other criteria as detailed and as creative as the Tongass land management plan. Those who suggest that we have not had an equal responsibility to show what will be better in terms of their own detailed plan.

What the committee fails to address is that the national forest that produced 520 mmbf no longer exists. It has been reduced by State and Native selection of fully one-quarter of the Tongass' best timber-producing land. Those selections have not been by the Federal Government, they have been by the States and Native peoples.

The Forest Service tells us in the Tongass land management plan, that the national forest existing today is capable of producing a sustained yield of 450 mmbf, and that is what the amendment allows for. The Forest Service tells us that a cut of 520 mmbf would overcut the forest, and sacrifice the forest's other values that are the essence of multiple use.

We are going to hear a great deal in the next 2 or 3 days of the difference between 520 million board feet and 150 million board feet. Let me spend a moment on that.

Some people opposing this amendment say that the 450 mmbf production allowed under the TLMP is too low, that industry needs the arbitrary figure of 520 mmbf mandated in the committee bill.

As an illustration, when Senator STEVENS from Alaska was referring to the southeast provisions, he indicated that if my amendment passed, we would have a significant cut in jobs in the timber industry. In fact, I believe the figure of 2,000 was used in that discussion. I do not understand why the industry needs 520 million board feet when, in recent years, it has existed quite well on—how many? 440 million board feet. So here we have a situation where a proposal is 450 million board feet, which is higher than the yield in the last 5 years, and we are told that if that amendment passes, there will be an immediate cut in jobs. In other words, if we give them a cut higher than what they have been cutting for 5 years, that will result in a job loss. I, for one, find that very interesting as an argument.

How can a proposal that allows a cut of 450 million board feet in the Tongass National Forest remove jobs from an industry that cuts 440 there today? The answer, I think, is rather obvious.

Bear in mind that the local industry can—and we fully expect that it will—process additional timber the State and Natives fully expect to cut from their newly acquired chunks of the old Tongass. In essence, what has happened is that we take the original Tongass; we then have the State and Native selections that have taken place. So we are going to have, in essence, the existing cut plus what has been done by these other groups.

The Forest Service estimates the potential yield to equal at least 158 mmbf annually, while Native corporation spokesmen put the figure at 250 mmbf. That production means jobs—contract logging jobs, longshoremen's jobs, and local pulpwood contracts—jobs that are being filled right now, this year.

Our amendment, in effect, replaces the guessing game of the committee bill with the professional analysis of TLMP—which says that the national forest can provide 450 mmbf, that this will be supplemented with what the State and Natives say they plan to harvest, providing the potential for harvest growth—and designates now, those wilderness proposals so obviously deserving that protection.

So, you are going to have an increase in timber production in southeast from the 440 million board feet that has been the number the last 5 years to something between 600 million and 700 million board feet—and we are told we will cut jobs.

The amendment wilderness proposals include the full Admiralty Island National Monument and wilderness—the last remaining large island that has not been extensively clearcut. It is home to more bald eagles than in all of the other States combined, home to the famous Admiralty Island brown bear and home of the one Tlingit village that wishes to retain their traditional cultural values and live a subsistence lifestyle as their ancestors did before them.

As I look at the eagle above the Presiding Officer, I suggest that if we do not start passing some of these amendments, that may be the only place we will be able to see eagles left in the United States.

Our amendment restores a full Misty Fjords National Monument, the largest, most spectacular and diverse of the proposals for protection in southeast Alaska and an area of unparalleled fisheries production. If anyone wants to see what the area looks like, in my office there is a picture of that area. It is just very striking.

And we provide wilderness protection for all but an area of 30,000 acres surrounding the molybdenum claims of U.S. Borax Corp. We provide for guaranteed access and development of the Quartz Hill claims, as does the committee bill, in accordance with an agreement Senator STEVENS and I made during Committee deliberations last year, an agreement, I might add, that was favorably received by representatives of U.S. Borax.

At the time of the agreement, Senator STEVENS and I agreed that the one element of the agreement which I reserved the right to attempt to amend was the wilderness exclusion around the claims of U.S. Borax.

That was a very heated issue. We spent a lot of time on it in committee. I think what we have come up with is recognition of the rights of U.S. Borax, which wants that mine to be developed. We provide the necessary access to bring that about.

No one, either here, or in the House, or in the administration, seriously questions the right of U.S. Borax to go in and develop its claim. In fact, we would argue it is in the national interest they do exactly that.

Since its creation in 1978, the Misty Fjords National Monument has quickly become a popular attraction for visitors to southeast Alaska and is now visited by special cruise ships and the Alaska State Ferry. As I said, our amendment maintains the full spectrum of Misty Fjords waters and mountains, while explicitly providing for potential development of the molybdenum claims.

The amendment includes the full West Chichagof-Yakobi wilderness proposal, a smaller but self-contained and diverse peninsula of rugged outer coast, and serene inner waterways heavily used by local hunters and fishermen, recreational boaters and hikers.

In addition, the amendment provides wilderness protection for two smaller units, Karta River and Rocky Pass, which are identified by the State and Federal fish and wildlife agencies as vital habitat with high recreational and scenic values as well.

But there is another important reason for full wilderness protection for all these proposals now. Unlike much of interior Alaska, a land of vast potential, southeast Alaska is currently an active, intensively managed working national forest with existing towns and cities scattered throughout the archipelago.

The Forest Service is mandated to manage this land for multiple uses, including timber development—development which will probably occur within the next decade on commercial quality lands outside those designated by the Congress as wilderness. This is as it should be.

But up to now, there has been no designated wilderness in the Tongass National Forest. The Forest Service has recommended a good, balanced package to the Congress, if adopted, it will protect the gems of the Southeast without interfering with other goals. If we ignore this recommendation, or even create a special system which assumes that the areas will be available for development later, we not only desert our duties to act responsibly on these recommendations, but we likely will foreclose our future options—right now.

(Mr. BUMPERS assumed the chair.)

Mr. TSONGAS. Mr. President, the other two amendments we are allowed to offer under the time agreement deal with, first, wilderness designation on existing units of the National Wildlife Refuge System and the National Park System, cosponsored by Senators NELSON and LEVIN, and, second, the Wildlife Refuge System amendment which is cosponsored by Senators HART, CHAFEE, CULVER, RANDOLPH, and CHURCH.

Senators sponsoring those amendments will address those amendments and I will not attempt to do so at this time since they will follow me in sequence.

Let me talk to the issue of fairness to Alaskans which has been raised by the Senators from Alaska and which I think we all have a responsibility to be sensitive to.

FAIRNESS TO ALASKANS

Underlying all the particular issues is our commitment to treat Alaskans fairly. I am convinced that we have kept that commitment—and that balanced legislation will continue this fair treatment. I totally reject the chronic claim that Congress is in any danger of violating Alaska's rights as a State or breaking the contract made with the people of Alaska when they entered the Union in 1959.

The facts in this case should speak for themselves. When Alaska entered the Union in 1959, the then 200,000 people of

Alaska were given under the Statehood Act the right to make selections "from the public lands of the United States in Alaska which are vacant, unappropriated, and unreserved at the time of their selection."

Under this section, the State has already made selections of 100 million acres, almost all of which are currently being processed and turned over to the State. The State, therefore, has already selected well over 90 percent of its total entitlement of 105 million acres.

If one thinks that is not a lot of land, look up your own State, how many acres are included in your State.

The size and scope of this grant is unprecedented; indeed, this grant to the people of Alaska represents fully one-third of all the congressional land grants ever made by the Federal Government to all States since the American Revolution.

Unlike most of the rest of the public land States, the people of Alaska were given the right to select any vacant, unappropriated Federal lands in Alaska as long as the lands in question were not reserved by the Federal Government at the time of their selection. As a result, the State of Alaska has wisely chosen lands that will provide the greatest economic benefit to the people of Alaska.

I might say that we have all read stories about the benefits which have accrued to the people of Alaska by the oil finds, the decision to abolish the State income tax, and that kind of thing.

To a Senator who comes from a State that has a chronic deficit and undergoes some very serious problems in terms of the economy and the tax burden upon citizens, that is not an insignificant issue.

The State of Alaska wants to change the rules of the game. They want the U.S. Congress to allow the State of Alaska to select lands that have already been reserved by the Federal Government, and which are strictly off limits to State selection under section 6(b) of the Statehood Act.

These lands are in the heart of existing national monuments and key conservation units we seek to protect under our bill. The State would like Congress to dismember the existing Yukon Flats and Wrangell-St. Elias National Monuments as well as the proposed Alaska Peninsula Wildlife Refuge.

This approach must not succeed. The other alleged unfairness is that we would somehow "take" valid State selections and turn them back over to the Federal Government. This is patently false. Under this five-amendment package, not 1 acre of validly selected State or Native lands is taken from them.

We do, however, include within the exterior boundaries of our proposed conservation boundaries a small amount of validly selected or patented State land of approximately 3 million acres. But this is State land, and the State can do what it wants, unaffected by our bill.

The reason and the only reason that these lands are included under all of the proposals before the House is to encourage the State to swap these lands for Federal lands of equal value elsewhere in the State if they so desire. And this is a position that the State of Alaska has consistently supported throughout the development of this legislation.

If we have learned anything as a nation in the administration of our public lands, it is that we should avoid wherever possible the creation of in-holdings. It just does not make economic or ecological sense to create a pattern of fractured landownership, particularly in areas of such high wildlife and scenic importance.

Why should we allow the State of Alaska to take these public lands, many of them included in existing national monuments, to which the State has no legal right? There is simply no reason in light of the most favored status already given Alaska under the Statehood Act not to follow the letter and the spirit of that Statehood Act and allow the State to select their remaining 9.5 million acre entitlement from the huge remaining pool of 85 million acres of Federal lands outside any of the proposed conservation units.

Alaska has been well served by Congress in the past. Not only did the Statehood Act and the Alaska Native Claims Settlement Act authorize over 150 million acres of land to State and private ownership, but they also allowed the State to choose some of the very best, and valuable, most developable land. Those choices are paying off today as the State faces the prospect of a $3 billion surplus in its Treasury at the end of fiscal year 1981, and as much as $18 billion by 1985. That surplus stems directly from oil receipts from land that the Federal Government gave to Alaska. I am sure my colleagues are aware of the recent action taken by the Alaska Legislature to repeal the State income tax and to provide a cash rebate for its citizens. Coming from a State where the tax burden is one of the highest in the Nation, I find it impossible to swallow the notion that Alaska will in any way be mistreated by passage of a strong lands bill. The State of Alaska enjoys a particularly enviable economic position at this time, and will for a long time to come, due in great part to the land grant of the Federal Government. And while all of the State's land entitlement has not been conveyed to Alaska, the vast majority of such land has been or is now in the process of being conveyed.

FOR ALL AMERICANS, FOR ALL TIME

Mr. President, I join this debate in the solemn, sober belief that during however many years we may serve in this Chamber, we will not again debate so great a conservation opportunity. I believe that this conservation challenge surpasses those debated in years past by my distinguished colleagues. Indeed, in our lifetimes, Congress has not confronted such an extraordinary chance to conserve the natural legacy of all Americans—for all Americans, for all time.

Mr. President, about 2 months ago, my 6-year-old daughter said to me that her kindergarten teacher was telling her about endangered species, and she was concerned about the animals that are being destroyed by men and concerned about what that meant to her. She turned to me and said, "Daddy, are you doing anything for endangered species?"

I hope the answer to that will be "Yes."

What we are dealing with here is a responsibility that we were not put on this Earth simply to exploit. We are the recipients of the benefits of those people who have come and gone, who decided to preserve something.

I spent last week in Cape Cod, and much of what I enjoyed and what my family enjoyed is there and preserved because there are people who are willing to acknowledge that higher responsibility.

There are generations that will follow ours—of Alaskans and non-Alaskans—who will go up to that enormously rich and God-granted State and will either view the legacy we have given to them in terms of preservation or in terms of exploitation. That will be decided by this Congress.

We are all sensitive to the wishes of our colleagues. I believe that, in the normal course of events, we have a right to be sensitive to the wishes of the two distinguished Senators from Alaska. But there are other values as well.

The caribou that we will hear about in the Nelson amendment do not vote, the bald eagles do not vote, the Dall sheep do not vote, the brown bears do not vote, but they are as alive as you are, and perhaps within a larger framework of values, they are as important as men.

Mr. STEVENS. Mr. President, does the Senator wish to be interrupted yet?

Mr. TSONGAS. No.

The question is not whether these creatures and these values are going to be protected in such a way that man will be diminished. If that were the case, there would be no argument for this bill.

The question is whether we can achieve a balance, that we can give people their legitimate right to economic development, to give the State of Alaska the right to proceed with its selection, but at the same time reserve to future generations the right to see the land that God gave to us, to see it in a way that is unspoiled. That is the legacy and that is the unique opportunity that is now before this body.

Mr. President, I should like to read into the RECORD at some point editorials that have appeared in various newspapers around the country, but I understand that the Senator from West Virginia wishes to make some remarks. If he wishes to do it now, I will be glad to yield to him, and I will read the editorials after he finishes.

Mr. STEVENS addressed the Chair.

Mr. TSONGAS. Mr. President, I have not yielded.

Mr. STEVENS. Will the Senator yield to me for the purpose of charging this time?

Mr. TSONGAS. I yield.

Mr. STEVENS. Mr. President, the Senator from Washington asked that the time used by the Senator from West Virginia be charged to his time.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. TSONGAS. Mr. President, if we can establish a procedure here, the Senator from West Virginia will speak, then the Senator from Colorado will speak, then I will be available to the Senator from Alaska for his inquiries, and then I will read the editorials.

Mr. STEVENS. Mr. President, I ask unanimous consent that that be the order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, I appreciate the courtesy and cooperation of the able Senator from Massachusetts (Mr. TSONGAS) of the Senator from Alaska (Mr. STEVENS) and the understanding of the Senator from Colorado (Mr. HART).

Not that this takes on any degree of importance over the subject matter that we have, but there was a release which has been given to the media earlier today, and I wanted this statement based upon something that I said at the time of the release to be live remarks on the floor of the Senate. I, with the understanding that you have made, will hope to speak very briefly to the subject matter which is not the Alaskan lands bill, which I will want to discuss with other Senators and work on certain amendments in which I am interested, during the debate, discussion, and then the final vote.

And I am grateful also to the chairman of the committee who is now on the floor for having said earlier he would give me this opportunity. I am appreciative of the Senator from Washington (Mr. JACKSON).

LORD KILLANIN IGNORES SOVIET INVASION IN HIS WARPED AND INTEMPERATE CONDEMNATION OF THE OLYMPIC BOYCOTT BY THE UNITED STATES

Mr. RANDOLPH. Mr. President, a United Press International dispatch from Moscow prior to the formal opening of the Olympic Games on Saturday contains some unseemly comments from the outgoing president of the International Committee on the Olympics.

Lord Killanin, in what UPI describes as a tone of "uncharacteristic bitterness," charged that if American football and baseball had been included in the Moscow Olympics, "we would not have had the boycott."

He accused President Carter and his aides of having "virtually no knowledge of any sport other than American football and baseball."

I say to my colleagues I feel that Lord Killanin is wide of the mark, very wide of the mark, in several instances. He wrongly interprets the Olympic boycott as the sole decision of President Carter and his aides. While our President certainly gave effective leadership to encourage other nations to boycott the Olympics in Moscow, it was the Congress of the United States, acting as representatives of the American people, that joined in this decisionmaking process through formal resolutions approved by both the Senate and the House of Representatives.

The ultimate decision was made by the U.S. Olympic Committee which voted overwhelmingly at its meeting in Denver, not to participate if the Games were held in Moscow.

The retiring IOC president appears to have as little understanding of the American political process as he accuses President Carter of having in regard to international sports.

As to his cynical observations on "football and baseball," it is sufficient to point to the records of the modern Olympic games and note that American athletes have always represented themselves well in all sports events.

But the most alarming fact about Lord Killanin's intemperate remarks is his total disregard of the reason for the boycott. He made absolutely no mention of the Soviet invasion of Afghanistan. It is well to talk about sportsmanship and fair play in the context of the games, but apparently Lord Killanin feels that Soviet armored attacks on helpless Afghanistan villages have no relationship to the Soviet Government hosting the Olympics.

There are 81 nations represented in Moscow, a participation higher than anticipated. Therefore, Lord Killanin deems the boycott "a failure."

On the contrary, the decision of most Western countries, with the notable exception of France, not to go to Moscow is an ennobling symbol of condemnation for the Soviet invasion. Our human rights policy would have been a failure, in my opinion, if no boycott had been evoked.

Mr. President, I shall ask to have printed in the RECORD the news article from the Martinsburg, W. Va., Journal of July 19, which I read while visting beautiful Harpers Ferry National Historical Park on Saturday, July 19.

I ask unanimous consent that the article entitled "Boycotted Olympics Open; Carter Blasted," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BOYCOTTED OLYMPICS OPEN; CARTER BLASTED

MOSCOW.—Lord Killanin, outgoing president of the International Olympic Committee, Friday attacked President Carter's leadership of the boycott of the Moscow Games, which open Saturday with a Soviet spectacular in Lenin Stadium.

As an athlete jogged into Moscow holding aloft the Olympic torch, Killanin unleashed a blistering attack in which he charged Carter and his aides of having "virtually no knowledge of any sport other than American football and baseball."

With uncharacteristic bitterness, Killanin said that if those sports "had been in the Olympic Games, we wouldn't have had the boycott."

The 65-year-old Irish peer, who said he was tired "after eight traumatic years" in office, made it clear in a news conference he believed the boycott had failed.

Prior to the boycott, 100 nations were expected to send teams to the Moscow Olympics, Killanin said.

"But when I saw President Leonid Brezhnev a few weeks ago, I thought it likely that only 50 would compete but the number here is 81. That's 31 more than I thought."

Killanin said the boycott failed because Carter and his aides "did not understand how sport is organized in the world."

He did not refer to the Soviet invasion of Afghanistan, which prompted the boycott, but IOC sources said he and other committee members expect a new Soviet offensive there once the Olympics are out of the way.

Noting that the term "boycott" originated in his own country when Irish tenants refused to pay taxes to their landlords, Killanin said, "It did not work then and it does not work now. I believe boycotts are counter-productive."

He said the U.S. government's request that its flag not be flown at the closing Olympic ceremony was still under discussion "but at the moment there is no change in the final ceremony."

Mr. RANDOLPH. I thank my colleague.

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

The Senate continued with the consideration of the bill (H.R. 39).

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Mr. President, again I yield time as the manager of the bill, Senator JACKSON, I think, would yield time to his colleague.

Mr. HART. Mr. President, if the Senator will yield 15 minutes on the bill I shall appreciate it.

Mr. STEVENS. If there is any dispute the time can run against our time later. But I believe it will run against the time of Senator JACKSON.

Mr. HART. I thank the Senator.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. HART. Mr. President, the Senate has before it today a landmark piece of legislation. All sides agree to that. The Alaska lands bill has often been said to involve the "conservation votes of the century." This is not an overstatement. Never before has Congress had an opportunity to protect such vast tracts of unspoiled land as units of our different conservation systems: National parks and preserves, national wildlife refuges, wilderness areas, and wild and scenic rivers. In Alaska, for the first time, we have a chance to put into these conservation systems entire ecological units, before commercial activities destroy their natural character and limit our options.

But the issues involved in this bill are not just conservation issues. Alaska offers much more than just wilderness and wildlife. Alaska is rich in many economic resources, including huge reserves of oil and gas we need to develop to meet national needs. As we decide which lands to preserve for the future, we must also be far-sighted enough to allow the development of these resources.

Coloradans must regularly grapple with similar conflicts involving our own State's resources. Colorado has more magnificent mountains than are found in any State except Alaska. In our oil shale reserves, we also have abundant energy resources. As we in Colorado face the issues related to these and our other resources, it is a continuing challenge both to preserve what is special about our State and to develop the resources the entire Nation needs.

I have approached the Alaska lands bill in the same manner, following the same general principles I use with Colorado's resources. I have studied the resource values of the lands in question. I have then supported preservation of those lands which have as their highest values special wilderness, wildlife, or recreation qualities. But I have also favored development of those other lands which have as their highest values resources which are important to satisfy national or State economic needs—especially our energy needs.

After carefully reviewing the Alaska lands issue from this perspective, I have concluded that the Energy Committee's admirable efforts to strike an acceptable balance do not fully succeed. The committee's bill would short-change future generations by failing to protect many lands which should be designated as national parks and preserves, national wildlife refuges, wilderness areas, or wild and scenic rivers.

A better overall balance would be drawn by strengthening the Committee bill, along the lines proposed by the amendments to be offered by Senator TSONGAS, myself, and other Senators.

Senator CHAFEE and I, along with three other Senators, will offer an amendment to restore one-third of the deletions the Energy Committee made from the House bill's proposed wildlife refuges. Our amendment would increase the wildlife refuge designations from 43 million acres to 57 million acres. The amendment will protect much of Alaska's most productive wildlife habitat, including crucial areas which the Energy Committee bill would open to activities incompatible with wildlife protection. The crucial areas which would be protected by our amendment, but not by the committee bill, include:

More than 4 million acres of additions to the William O. Douglas Arctic Wildlife Refuge, to protect the entire range of our largest remaining caribou herd;

More than 5 million acres in the Yukon Flats National Wildlife Refuge, the world's most productive waterfowl breeding area; and

The entire Nowitna National Wildlife Refuge, which is both caribou winter range and an important waterfowl breeding area.

The second strengthening amendment, the national parks amendment, to be offered by Senators TSONGAS and MATHIAS would designate 26 million acres as national parks or monuments, and 18 million acres as national preserves. While this is an increase of only 1 million acres over the total designations proposed in the Energy Committee bill, several of the differences are crucial. For example, the Tsongas-Mathias amendment would establish a Gates of the Arctic National Park in the Central Brooks Range, as has been proposed by Secretaries of the Interior dating back to Rogers C. B. Morton in 1973. By contrast, the Energy Committee bill would splinter this area into five separate units, opening key parts of the park to mining, sport hunting, and highways. The Tsongas-Mathias amendment would correct similar flaws in the committee's proposals for Wrangell-St. Elias National Park and Preserve, Katmail National Park and Preserve, Noatak National Preserve, and Denali National Park and Preserve.

The southeastern Alaska amendment, to be sponsored by Senators TSONGAS, ROTH, and MCGOVERN, would establish a balanced scheme for the management of the Tongass National Forest in southeastern Alaska. The amendment would increase wilderness designations in the Tongass National Forest to the level recommended by the Forest Service. The amendment would also allow timber harvesting at a level that will preserve existing jobs, but would delete the committee's proposed mandate to overcut the forest, in violation of the principle of sustained yield.

The wilderness amendment, to be offered by Senators NELSON and LEVIN, would increase wilderness designations in national parks and wildlife refuges from 54 million acres to 61 million acres. This includes wilderness designations in the existing Arctic National Wildlife Range, to protect the critical calving areas of the largest remaining caribou herd in the United States. Because of the oil potential of this area, this is an issue I am still studying, and on which I reserve judgment.

The fifth amendment, to be offered by Senators PROXMIRE and EAGLETON, would include 27 rivers in the wild and scenic river system, and would authorize studies of 12 additional rivers. This amendment would also establish a rational process for allowing transportation and utility rights-of-way across conservation system units.

Taken together, these amendments will designate more than 100 million acres as national parks or preserves, national wildlife refuges, wilderness areas, or wild and scenic rivers. Designation of so much land is unprecedented, dwarfing all the designations previously made by Congress. The wildlife refuge amendment alone would almost triple the total land included in the National Wildlife Refuge System.

But these designations should be measured against the scale of Alaska, not the scale of the rest of the United States. Alaska is so vast that it makes up one-fifth of America's total land mass. While the contiguous States cover four time zones, Alaska by itself covers five. In a State both so huge and boasting such extraordinary wilderness and wildlife values, it is appropriate to set aside a considerable amount of land in conservation units.

But because the strengthening amendments would designate so much land, several arguments have been made against them. I have examined the arguments made by those who oppose the amendments, and found them to be ill-founded. In particular, I would like to address two of these arguments: that the amendments would be unfair to Alaskans, and that the amendments would lock up Alaska's oil and gas resources.

First, by setting aside and protecting the national lands of greatest environmental importance, Congress is not being unfair to Alaskans. We have already been more than fair to Alaskans. The designation of conservation system units is just one part—the last part—of the overall disposition of the federally-owned lands in this huge State. The earlier congressional decisions on the disposition of those lands included greater generosity to Alaskans than Congress has shown to the people of any other public land State.

Under the Alaska Statehood Act, Congress granted the Alaska State government title to more than 104 million acres of Federal land. This is the most generous statehood land grant in our history. Of all land granted to all the States, Alaska has received one-third.

With few restrictions, the State was able to select its land from any Federal land in the State, while other statehood grants were precisely defined. Alaska has taken advantage of this generous law by selecting the Federal lands with greatest economic potential. In just one area—the Prudoe Bay Area, with its 12 billion barrels of oil—the State has been given enormous riches which originally belonged to the Federal Government. The State government is now receiving an annual income of almost $2 billion from Prudhoe Bay, making it the wealthiest State government in the Nation. This year, the State has an annual surplus of $3 billion, more than double the amount of the State's entire operating budget. This $3 billion is a staggering surplus for a State with only 400,000 citizens. If the Federal Government were to have a comparable per capita surplus, that surplus would be more than $1.5 trillion.

As the State begins to reap the benefits of its other land selections, its wealth will increase even further.

Congress has also treated the native populations of Alaska much more fairly than their counterparts in the lower 48. The Alaska Native Claims Settlement Act provided the State's natives authority to select 44 million acres of Federal land. The natives, like the State government, have taken advantage of this unprecedented grant by choosing many lands with high potential for oil and gas development or other high economic value.

So the strengthening amendments, when seen in the context of other congressional decisions involving Federal land in Alaska, are not unfair to the people of Alaska. Instead, they are fair to all Americans, who have a stake in the remaining Federal lands in Alaska.

The second major argument against the amendments—that they would lock up important oil and gas resources—is also inaccurate.

It is true that we have to develop Alaska's oil and gas. Over half of the energy we consume comes from petroleum. And over half the petroleum we consume comes from dangerously insecure foreign sources. We have no greater national security or economic need than the breaking of our addiction to foreign oil. To find enough domestic oil to meet our needs, we will have to look to Alaska and other unexplored parts of the country.

But we can both develop Alaska's valuable oil and gas and preserve a reasonable share of the undeveloped land in the State. The strengthening amendments are designed to do this by still leaving almost all areas of oil potential available.

Estimates of Alaska's undiscovered, recoverable energy resources range from 12 to 49 billion barrels of oil, and from 29 to 132 trillion cubic feet of gas. We must greatly increase our efforts to develop these reserves, cutting our dangerous dependence on foreign oil.

The boundaries of the proposed conservation system units included in the strengthening amendments have been carefully drawn to keep almost all Alaska's extensive oil and gas reserves available for development.

To begin with, the best estimates by the U.S. Geological Survey are that most of Alaska's undiscovered oil and gas lies offshore, and so would not be affected by these land designations. With the Department of the Interior's recently accelerated program for developing these Outer Continental Shelf lands, virtually all of the highly promising offshore areas will be open for leasing within the next 5 years.

Mr. President, the amendment which I intend to offer would not in any way seriously depreciate the efforts to develop the oil and gas resources.

In closing, let me just say of course, Alaska also has substantial onshore oil and gas resources. In most instances, we do not yet know precisely which areas have the best potential for new discoveries. But we do know which areas have some potential, because oil and gas can only occur in sedimentary basins, and we know where these basins are located in Alaska. The conservation system units in the strengthening amendments are generally outside these basins. In the few instances where there are overlaps between conservation system units and the sedimentary basins, the strengthening amendments would explicitly allow exploration for and development of oil and gas.

The only exception to this would be the coastal plain of the existing Arctic National Wildlife Range, where many argue that unparalleled wildlife and wilderness values make this the last place we should turn for oil. By keeping the Arctic refuge closed to oil and gas activities—as has been done by every administration since the refuge was created during President Eisenhower's administration—we would forgo some supplies of oil.

But even if the Arctic refuge remains closed to development, 94 percent of the onshore lands with proven, high, and favorable potential for oil and gas would still be available for development.

So our choice is not between locking up all energy resources or protecting Alaska's wildlands. We can greatly improve the committee bill without blocking necessary energy development.

With the passage of amendments to strengthen the committee bill, the Senate would meet its responsibility to all Americans—including those still unborn—in addressing this, our last great chance to make the right decisions from the beginning. I urge my colleagues to join me in supporting a strong bill.

Mr. President, I thank the Senator from Alaska for yielding the time.

Mr. STEVENS. Mr. President, will the Senator from Washington confirm that the time used by the Senator from Colorado has been charged to his time?

Mr. JACKSON. Mr. President, the time utilized by the Senator from Colorado will be assessed to my 5-hour time.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Mr. President, I yield myself such time as I may require.

I wish that the situation were as rosy as the Senator from Colorado has just described it. I wish it were true that the vast oil and gas provinces of Alaska and the mineral provinces would be opened. Unfortunately, it is not true.

There have been representations made by the Interior Department that we have attempted to refute. It is a difficult problem for one small State, despite the generosity of the Federal Government, to offset the propaganda machines of the Federal Government when it comes to misinformation concerning our resources.

I hope the Senate will realize that we do know this State of ours better than anyone else. We live there 365 days a year. We have studied it now, many of us, for year upon year upon year, and the oil and gas provinces of Alaska are fairly well known. Many of them are, in fact, closed by the Tsongas amendment. A portion of them are even closed by the Senate Energy Committee bill. But we have, I think, the right to attempt to get to the Senate the information we know to be true.

I have, for instance, on my desk a map that shows the oil and gas provinces of Alaska graded in terms of those that are very important, and showing the shaded areas of those that are restricted by the Tsongas amendment. I would invite any Member of the Senate to take a look at them, because it is undisputed that this is based upon the Bureau of Mines information given out in 1978, and it shows the areas that are, in fact, closed by the Tsongas amendment.

First, however, let me get to this problem about Senator TSONGAS' comments concerning our allocation of lands under the Statehood Act. It is true we have a very generous allocation of lands under the Statehood Act as compared to other States. But I think the Senate must keep in mind that the other States have been entered under the Homestead Act and other acts, and a vast amount of the other States were, in fact, in private ownership.

In the State of Alaska less than 1 percent of Alaska was in private ownership at the time we got statehood.

No one felt our land was worth much. As a matter of fact, our delegate first asked for 20 million acres as a land grant at the time he introduced the first statehood bill.

As repeated committees of Congress reviewed the prospect of Alaska statehood, they all agreed there should be additional land awarded to the State of Alaska, so that we could achieve some semblence of independence from the Federal Government as far as our financial situation was concerned.

I might point out another thing, and that is this: The Federal Government controlled Prudhoe Bay for over 100 years. Repeated attempts were made by those involved in the oil industry to get the Federal Government to lease the Prudhoe Bay, 450,000 acres, for oil and gas development, and repeatedly the Federal officials said it was not worth it, it had no real prospect for oil and gas development. That land had been restored to entry, been restored to leasing, in 1958 when the Secretary of the Interior revoked the old Public Land Order 82.

From that time on, the Secretaries of the Interior could have leased Prudhoe Bay. None of them decided to do it. Then the State of Alaska selected, under the Statehood Act, that land which is now encompassed in Prudhoe Bay, and the State of Alaska leased those lands for oil and gas development, and the Prudhoe Bay discovery was made on State lands, because the Federal Government had no confidence in those lands from the point of view of any type of exploration for oil and gas.

Had it not been for the statehood selection and our ability to take Federal lands out of Federal ownership and attract the capital necessary to explore for and develop that oil and gas, there would have been no Prudhoe Bay discovery and there would have been no production there today. That represents more than 10 percent, about 13 percent of our known supply of petroleum in this country and about 10 percent of the supply of natural gas. I think that the statehood land grants proved themselves in that one instance alone.

I hope that my friend from Massachusetts (Mr. TSONGAS) would answer some questions I have concerning his opening statement here today. I particularly want to dispute the statement he has made concerning 95 percent of the important and very important oil provinces being opened for development under the Tsongas amendments. I would like to discuss with him some of the questions of access. Particularly, I would like to discuss the question of access across the refuges that are made into wilderness and in the national park areas as proposed in his amendments, because it is our contention that his amendments do, in fact, deny us access across these lands, whereas the Senate energy bill preserves access to State and native lands and preserves access in Federal lands for those who have mining claims.

The interesting thing about it is, as the Senator from Massachusetts has stated, that his amendments would not deny the State of Alaska those selections that have validly been made. The question of whether they are validly made, apparently, according to this amendment, is to be determined by the Secretary of Interior, not by the courts. Once before the State of Alaska was compelled to take the Secretary of Interior to court. As a result of that out-of-court settlement, the State of Alaska was entitled, under the case of Egan versus Morton, to select specific lands. Subsequent to that decision, the Secretary of Interior withdrew additional lands, thereby preventing already filed State selections which had not been approved from being valid under their deterimnation.

We take the position, if the Congress is unwilling to validate it as the Senate Energy Committee bill does, that we will win that lawsuit. We had the right to file selections to those lands, and once they were selected it was improper for the Secretary of Interior to step in and withdraw the lands that had already been selected by the State of Alaska under the Statehood Act and by the natives under the Alaska Native Claims Settlement Act.

The consequences of the use of valid State selections and native selections under the Tsongas amendment will mean that we will be denied those because of the interpretation made by the Secretary of Interior, an improper interpretation. Once before, the United States had agreed to that in the case of Egan versus Morton and the Federal Government did back up and did make available to the State the land that our former Governor had selected at that time.

We are confident that we could win another suit that led 17 out of 18 of the Senate Energy Committee members to determine that the bill that is before us is the proper bill. It settles that lawsuit and says to the State of Alaska: "Take the land you selected," and tells the Secretary of Interior to convey the land that it has selected, and, meanwhile, sets aside more land for more national parks and more national refuges than any bill in history.

There, too, I hope to discuss that with the Senator from Massachusetts (Mr. TSONGAS). It is nice for all of them to talk about increasing the national wildlife refuges of this country by a factor of three, but they forget that we start off with a factor of three. We have three times as many acres of our State in wildlife refuges than all of the rest of the United States put together now.

If this bill passes as we have suggested it, there will be 80 percent of the wildlife refuges of the United States in our State. Senator TSONGAS will increase that by 5 percent. It sounds like we are not arguing about much, but we are arguing about a tremendous amount of acreage when you take into consideration the amount of land that is already withdrawn.

I would like to be able to discuss with my good friend some of the provisions in his amendments, because I think it is important for us to get a focus on this and to ask him some general questions.

For instance, why does he do away with all the national park preserves? The national park preserves differ from a national park only in that it permits hunting and permits nothing else. Our committee allowed hunting in vast areas of the State under the administration of the National Park Service. But why should we do away with it? Why should we do away with the national park recreation areas that we create to meet the specific conditions of the area involved where there are known minerals that need to be exploited?

Mr. President, I think it is important for us to get into a dialog on some of these matters. I hope that we will be able to do it here. It was my understanding we would do that, get into some of the general discussion here this evening.

Mr. President, I suggest the absence of a quorum and ask that the time be allocated to all parties concerned equally, all the time on the bill equally.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9:15 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9:15 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE CONVENING OF THE SENATE THROUGH SATURDAY, AUGUST 2, 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, after tomorrow, the Senate convene daily through Saturday of this week at 9 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that next week the Senate convene daily at 9 a.m. through Saturday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR HARRY F. BYRD, JR., TOMORROW

Mr. ROBERT C. BYRD. Mr. President, ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, Mr. HARRY F. BYRD, JR., be recognized for not to exceed 15 minutes, and that Mr. JEPSEN then be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the recognition of Mr. JEPSEN on tomorrow be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE AUTHORIZATIONS, 1981

APPOINTMENT OF SENATE CONFEREES

Mr. TSONGAS. Mr. President, I yield to the Senator.

Mr. STEVENS. I thank the Senator from Massachusetts.

Mr. President, Senator TOWER and I have been over the matter, and we wish to propose conferees for what is called the military procurement bill which passed on the last day we were in session. The papers are at the desk, as I understand. It is a House bill. Am I correct?

The PRESIDING OFFICER. The Senator is correct. Does the Senator have a list of the conferees?

Mr. STENNIS. Yes, Mr. President. We have a list in this way, Mr. President: We are going to ask that the Chair appoint the membership of our own Senate Armed Services Committee. It is a very large bill in which all participated.

The PRESIDING OFFICER. Is there objection?

Mr. STENNIS. Mr. President, I want to yield to the Senator from Texas for a statement, if I may, at this point.

Mr. TOWER. Mr. President, I would simply say that the distinguished chairman of the committee and I have discussed this matter. I am fully in accord with what he proposes to suggest in the way of appointments by the Chair to the conference.

Mr. STENNIS. Mr. President, as I said, this is a very large bill, a voluminous bill. Participation was had by all members of our committee. Even though we know they cannot all attend a reception, we think it is wise to promise that all of them be appointed as conferees to represent the Senate. Mr. President, I so move.

The motion was agreed to and the Presiding Officer appointed Messrs. STENNIS, JACKSON, CANNON, HARRY F. BYRD, JR., NUNN, CULVER, HART, MORGAN, EXON, LEVIN, TOWER, THURMOND, GOLDWATER, WARNER, HUMPHREY, COHEN, and JEPSEN, conferees on the part of the Senate.

Mr. STENNIS. Mr. President, I thank the Chair and I thank the Senator from Massachusetts.

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

The Senate continued with the consideration of the bill (H.R. 39).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum——

Mr. STEVENS. Mr. President, will the Senator withhold that?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. Mr. President, charged against the time of the Senator from Oregon (Mr. HATFIELD), I yield to the Senator from Maryland such time as he may desire.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. Mr. President, this debate which was begun this morning on the Alaska national interest lands is a debate which has been anticipated for a long time. It is a debate which has been in the making for a long time. Consequently, there have been Americans who have played a very active role in shaping the issue and in preparing us for this day.

As we begin to talk about Alaska, what Alaska means, not only to Alaskans but to all Americans, my mind goes back to some of the most interesting discussions

I have had on that subject, discussions that I had with a very long-time, personal friend, one with whom I served in the Congress, a neighbor in Maryland, an adviser on many subjects. I am referring, Mr. President, to the very distinguished Secretary of the Interior, the late Rogers C. B. Morton.

I suppose if there was one overwhelming commitment and interest in Rogers Morton's life, it was on the subject of America, America in all its aspects. He just was a devoted, dedicated patriot.

But within that broad concept of America, he was a dedicated environmentalist. He really cared about what happened to the soil, to the water, to the air, about what happened to the beasts, the birds, the fish. He was fascinated by how nature worked, about the various life systems on this planet, about how changes in the natural environment would change the life systems of various birds, beasts, fish, plant life.

I learned a tremendous amount in these discussions with Rog Morton, and my own interest in the environment was very much quickened as a result of his commitment, of his interest, of his ability to describe so vividly exactly what he saw in nature and why he thought it was important for the United States to have a deep national commitment to the preservation of nature.

Although he had many fascinating and interesting jobs, and although he was a natural as a Congressman from the Eastern Shore of Maryland, I suspect that the job that he liked best in his career was that of being Secretary of the Interior because it gave him an opportunity to really do things in relation to the environment that he thought were important, to try to develop some resources that were important—energy resources; to try to preserve other resources that he thought ought to be conserved.

Rogers Morton was extremely interested in Alaska. He saw it as one of the most fascinating, one of the most valuable areas of the entire world. He took his duties as a kind of a trustee of the Federal lands in Alaska very seriously. He and Mrs. Morton traveled to Alaska to know the land better, to get to know the people better, and he became extremely interested in the formulation of the policy of the Interior Department which ultimately has generated this legislation which is now before us.

I am struck by many of the things he said, one of which was in an interview with a journalist in which Rogers Morton is quoted as having said:

> The d-2 lands should be set up primarily in parks and refuges, in non-multiple use management systems. And maybe we can have another 80 million acres of d-1 land in some kind of restricted use areas. Then future generations would have a decision to make, because the land would not be harmed.

That was really the kind of philosophy he expressed to me. If we would make decisions in our generation they ought to be the decisions which reserve to the future the possibility of doing something other and different. We should not make the decisions in our generation which preclude for the future the kinds of options, the kind of opportunities, that ought to be available to them.

Back in 1972, as Interior Secretary, he designated some 273 million acres—about two-thirds of the federally owned land in Alaska—for selection by the State government, the natives, and study and classification by the Federal Government. At that time, he said:

> Determination of the final ownership and management of these lands will take a number of years, under the terms of the Alaska Native Claims Settlement Act and the Alaska Statehood Act. But what we are doing today has significance for all Americans, because it sets a framework for the selections that will be made. It is my intention to move as rapidly as possible in implementing the applicable laws, while preserving good land use practices and observing the rights of everyone concerned.

Mr. STEVENS. Will the Senator yield?

Mr. MATHIAS. Yes.

Mr. STEVENS. If Rog Morton's recommendations had been followed by the Congress, we would have had 83 million acres, not 146 million acres, and we would have had 18 million acres in national forests. The Senate Energy Committee bill only has 5.5 million acres in national forests. That is the last of the Rog Morton recommendations before us in the Interior.

In addition to that, Secretary Morton's recommendations recognized the preexisting pattern of protection under State lands and under State management, which the Tsongas amendments refuse to recognize. In particular, when you look at the caribou, the caribou of Alaska are primarily in the 9 million acres that were in the Arctic wildlife range which was set aside in January of 1961 by one of Secretary Morton's predecessors, Secretary Seaton. There has been no allegation whatsoever that those caribou are in any way threatened by the existing management pattern as to what goes on, on Alaska's side of the border.

But in order to meet the fears expressed by some people that it might happen in the future, the proposal before us would add another 8 million acres to the wildlife refuge.

There, again, we have not argued for setting the lands aside. We have argued for the designation they want to make part of it into a national forest, as Secretary Morton did.

I only wish that had we been farsighted enough to recognize that Secretary Morton's recommendations were balanced, we should have met him on the ground that he entered on, which was a ground of fairness in 1973. Instead, we are fighting a considerable battle here not on the basis of what happened under Secretary Morton's recommendations, not on the basis of the original Secretary Andrus' recommendations, but now on the lands that were added by Congressman UDALL on two separate occasions and two subsequent Congresses, which go far beyond either Secretary Morton or Secretary Andrus.

Mr. MATHIAS. Mr. President, I think this is a subject we shall discuss at some length tomorrow, when we move to act on amendments. I think it has to be recognized that the state of knowledge of Alaska has expanded considerably since this subject was begun to be thought about within the Department and among the American people in the early part of the last decade. The Senator from Alaska has used the word "fairness" and that is a very appropriate word to use in referring to the way in which Rogers Morton conducted the affairs of the Department of the Interior.

In fact, in closing, Mr. President, I want to quote one other statement from Secretary Morton, made when he was appearing at his confirmation hearing. He was asked about his ideas and the plans of the Department for legislation on new parks and recreation areas and wilderness areas in Alaska. In his response to that question, he said, in part:

> We have got to make sure that the equity that finally results from whatever this, however this claim is settled, does have in it a basic component that reflects the interest of all of the American people. And Alaska, because of its size, because of its nature, I believe, is one of the great areas that we can develop in the highest order of conservation, through the selection of park areas, wilderness areas, and other set-asides, which would preserve the integrity of its flora and fauna, which actually are shared not only by the people of Alaska, the Natives, but also by all the American people.

In that answer, Mr. President, I think you hear Rog Morton speaking to the Senate today.

The PRESIDING OFFICER. Who yields time?

Mr. GRAVEL. Mr. President, I suggest the absence of a quorum, and have it charged——

Mr. STEVENS. All time on the bill, Mr. President.

Mr. GRAVEL. I accept, that it be charged equally.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS TO 9 A.M. TOMORROW, AND ORDER FOR RECOGNITION OF CERTAIN SENATORS ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow Mr. Morgan be recognized for not to exceed 15 minutes, Mr. Gravel be recognized for not to exceed 15 minutes, and Mr. Jepsen be recognized for not to exceed 15 minutes, following the order for the recognition of Mr. Harry F. Byrd, Jr., and that the Senate come in at 9 a.m., rather than 9:15 as earlier stated.

The PRESIDING OFFICER. Is there objection?

Mr. TSONGAS. Mr. President, reserving the right to object, I indicate to the leader that it would be my intent tomorrow to call up the first amendment, the refuge amendment, with Senator Hart, who will manage it, if that is acceptable to all parties, at least to know what our procedure is going to be.

Mr. ROBERT C. BYRD. Would the Senator like to lay his amendment down tonight?

Mr. TSONGAS. There has been some discussion as to the germaneness issue, and I would rather have the evening, so that what I do will be intact.

Mr. ROBERT C. BYRD. All right.

Mr. President, following the orders for the recognition of Senators, the Senate will automatically resume consideration of the Alaska lands bill, at which time the distinguished Senator could offer his amendment in the morning.

The PRESIDING OFFICER. Is there objection to the request of the majority leader? The Chair hears none, and it is so ordered.

THE DROUGHT IN FLORIDA

Mr. STONE. Mr. President, I have just returned from a visit to northwest Florida, where I have seen the effects on the farmers and growers of that very important part of our State of the drought and the heat of the last weeks. It is devastating. I have pictures here. Unfortunately, the Congressional Record cannot use photographs, but in looking at these photographs that I hold in my hand, I notice what I saw in the last several days: A dead corn crop, a half-killed soybean crop, a deeply wounded peanut crop, and what is just as vivid in my mind, the look on the faces of those farmers.

These are the same farmers who suffered a devastating drought in 1977 and a freeze before that. The drought led to the kind of borrowing of disaster loan money from the Small Business Administration, Farmers Home, and the ASCS, that loaded them to the gills with debt. They were hoping and praying for a convergence of decent weather and a decent market so that they could pay these debts. Now, burdened as they are by those disaster loans, which the whole country meant for them to have so that there would be food on the table in this country, as well as food exports for our foreign exchange—now, they have been heavily hurt and some of them may be mortally hurt by this new drought and this new heat.

To give an example of what the heat can mean in the livestock business, in north Florida, in a number of feeding operations, the cattle were given 10-percent additional feed and no weight gain—none at all—resulted because of the excessive heat. That is the reason the cattle are being slaughtered now and why food prices, particularly meat prices, will be higher in a few months, even though they will be fairly stable now, because of this slaughtering of the animals. A number of our feeders are feeding their winter forage now and will not really have any resources left this winter. That is why they feel constrained to send their animals to slaughter now.

What are we going to do about it? If we do nothing, it will be mainly the family farm which goes into bankruptcy in a large part of my State, and I am satisfied that what I have seen in north Florida is duplicated even more, and it is even worse, in places like Texas and the Southwest, and even in a great part of the Midwest. If we do nothing and these farms are bankrupted, the loans which the Federal Government made or guaranteed will be worthless. Picking up used equipment is no answer and not producing food for our country and for export is certainly no answer.

I find it very significant that when the President wanted to respond to the Russian invasion of Afghanistan, he essentially had only one heavy weapon, because the Olympic boycott is a weapon. The transfer of high technology was already under close scrutiny and it was a retaliation, but not a heavy retaliation. The only really heavy weapon that the United States possessed was the boycott on grain to the Soviet Union.

Incidentally, that has been porous and other countries have benefited instead of the American farmer, chiefly Argentina and the multinational grain traders.

If we give away the survival of our farmers in this third environmental disaster to them—the freeze, the last drought, and now this drought—and we let them collapse and we take back the relatively worthless equipment—if you do not use it, it is relatively worthless—neither the U.S. taxpayer will be ahead nor will, particularly, the U.S. consumer.

Therefore, what should we do? My office has, today, contacted the agencies that extend those disaster loans and extended them in 1977—chiefly, the Farmers Home Administration and the Small Business Administration, and also the Agricultural Stabilization and Conservation Service. In the case of at least the Small Business Administration and of the Farmers Home Administration, those agencies have authority either to defer payments or reschedule payments so as to help farmers survive in extreme emergency. I ask that the administration promptly consider and that my colleagues promptly consider the deferral of all disaster and similar agricultural loans for 2 years as to both principal and interest, and that these payments be added to the end of the notes instead of ballooned and accelerated to come due along with regular payments in the third year.

Frankly, these farmers need to have two breaks for 2 years. One, for decent weather, and two, for a decent market in order to repay these agricultural disaster loans, and they want to repay these loans.

It will not do us any good, it will not do the taxpayer any good, to bankrupt the farmers. It will not do the consumers any good not to produce the food and fiber which they will produce.

These farmers, particularly the young farmers, those that did not inherit all the assets they need and that have scrambled and scratched to put together a working family farm, they can make it if they have a break and it will not do anybody any good if they do not have this break.

I noticed in the papers this morning that many Congressmen and Senators returned from the recess talking about how the United States citizens and constituents they visited were not interested in a tax cut so much as they were in national survival and an end to inflation.

I urge my colleagues and the administration to consider that national survival and a combating of the inflation cannot be done without the strongest asset we have in this country, a strong agriculture and strong food production.

That can be done if we help them now. They need to have the reassurance that we want them to continue and survive.

The best and most immediate reassurance we can give them, and I refer not only to the farmers in my State but to all of those farmers all through this country, suffering in the middle of this excessive heat and this continued drought, the best reassurance that we can give them is if we promptly defer their disaster loan payments for at least 2 years.

They are already loaned up in their operating loans. If we will do that, I am satisfied that these stubborn and good producers will keep going to the benefit, not only of their families, not only of a reduction or prevention of welfare costs, but for food on their table, on the tables of this country, and on the tables of the world, that otherwise will not be there, adding to the price inflation here and everywhere around the world.

I thank the distinguished minority whip for yielding me this time out of order, and I thank my colleagues.

SCIENTIFIC ADVANCES CONTRASTED WITH GENOCIDE CONVENTION STAGNATION

Mr. PROXMIRE. Mr. President, the recent Supreme Court decision, Diamond against Chakrabarty, which permits the patenting of new life forms calls attention to the tremendous advances our scientific community has made to protect and improve our lives. Today, we find scientists laboring to develop micro-organisms which make insulin, hormones, proteins, and virus fighters. All of these developments seek to safeguard, lengthen, and improve the quality of human life. The Genocide

Convention is likewise striving to preserve the right to live free from devastating interference.

The rapid advance of technology is in striking contrast to the Senate's prolonged inaction on the ratification of the Genocide Convention. This paradox is all the more distressing in a country that has so strongly advocated the cause of human rights throughout the world.

The Genocide Convention is an international treaty which prohibits mass murder. The convention defines genocide as certain acts committed with the intent to destroy or adversely affect a substantial part of a national ethnic, racial, or religious group. The failure of the United States to support the treaty undermines the progress made in the area of human rights and weakens our efforts to insure the continuance of life.

In only a few short years, we have acquired the capability to create new life. Why is it, then, that after 31 years, we have made so little progress toward preventing genocide? I urge the Senate to do its part and commit itself to protecting existing life. Let us ratify the Genocide Convention.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that morning business be closed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

The Senate continued with the consideration of H.R. 39.

Mr. TSONGAS. Mr. President, will the Chair indicate how much time remains to the various parties?

The PRESIDING OFFICER. The Senator from Massachusetts, together with the Senator from New Hampshire, has 194 minutes remaining. The Senator from Alaska (Mr. GRAVEL) has 106 minutes remaining. The Senator from Washington (Mr. JACKSON) has 264 minutes remaining. The Senator from Alaska (Mr. STEVENS), with the Senator from Oregon (Mr. HATFIELD), has 242 minutes remaining.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. TSONGAS. I yield.

Mr. ROBERT C. BYRD. I announce that there will be no rollcall votes today.

Mr. TSONGAS. Mr. President, if the Chair will indulge me further, this is the time remaining on the bill and does not refer to time remaining on amendments. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. TSONGAS. I pledge myself not to use the entire 194 minutes remaining to me and to the Senator from New Hampshire; and in the interests of humanity, I suggest that the others may follow the same course. I suspect that they will do that, in any case.

Mr. President, I will finish today's activities, at least from my point of view, by reading into the RECORD some of the editorials that have appeared recently in newspapers around the country and which I think provide a perspective that may be a bit more objective than that of those of us who are participating, and it might be interesting to people to hear them.

In today's Washington Star, the following editorial appears, under the title "Alaska Lands Showdown":

> The Senate today begins its deferred wrestling match over an Alaskan lands bill. The issue carries extraordinary emotional freight, lending itself to facile interpretation and sending, as it does, the deeply partisan on both sides of the barricades.
>
> What is not disputed, except on the fringes, is that it is time for Congress to complete work on the complicated matter of Alaskan lands.
>
> The House passed H.R. 39, the Udall-Anderson bill, in May 1979; it is a compromise, focused on conservation without altogether impeding the exploration and development of Alaska's resources. The House bill has the support of the Carter administration and the Alaska Coalition, which includes such conservation organizations as the Audubon Society, Friends of the Earth, the Wilderness Society and the Sierra Club. It is fiercely opposed by the state of Alaska and its congressional delegation as too restrictive and violative of state rights.
>
> The Senate Energy and Natural Resources Committee in November 1979 approved a bill differing significantly from the House version. Supporters in the Senate, including an unusual if fragile alliance of Ted Stevens and Mike Gravel, argue that the Senate committee bill is more sensitive to Alaska and better attuned to national requirements for new oil, gas and other mineral resources.
>
> As irresolution continued on Capitol Hill, President Carter took out what Interior Secretary Andrus called an "insurance policy" by putting 40 million additional Alaskan acres under federal custody; the action brought to 177 million the acreage that the administration has reserved as national monuments, wilderness areas or proposed for conservation systems. These executive land-use restraints are stricter than the House bill would impose, and some will become permanent unless modified or revoked by a congressional bill.
>
> This puts even greater pressure on the Alaskans and their supporters to get what they consider preferable legislation approved.
>
> Neither the Carter administration nor the Alaska Coalition and its allies consider the Senate committee bill a proper approach. Senators Paul Tsongas and William Roth have introduced a substitute that parallels the House passed bill; in addition, the Tsongas forces are armed with five amendments, which they say would improve the Energy Committee's bill to the point that a reasonable and acceptable compromise could be fashioned in conference.
>
> The differences between the Senate committee bill and the House-passed version are not so great in terms of the land that would be protected as part of the national heritage as in philosophical and managerial emphases. The Arctic National Wildlife Range in northeastern Alaska illustrates the issue.
>
> The Senate committee bill would permit seismic, or subsurface, exploration there for oil and gas deposits (estimates of their size vary widely). Senator Tsongas would permit only surface geological investigation until a thorough environmental study is done. Supporters of the committee bill argue that the refuge has been studied to exhaustion and that it behooves us to find out how much petroleum is in the area before North Slope oil nears depletion. But recent reports, including one by the U.S. Geological Survey, suggest there may be considerably more petroleum in the North Slope than is already discovered.
>
> If the debate over the Arctic National Wildlife Refuge can be taken as symbolic of the larger fight, and that seems appropriate, prudence would dictate that the Senate should—at least—accept the Tsongas amendments to the Energy Committee bill. Passage of the Tsonga-Roth substitute that is identical to the House version would be better yet.
>
> The House bill does not prohibit development of Alaska's bounty in perpetuity. It does assert crucial and appropriate federal trusteeship in Alaska. It provides a wise approach to safeguarding this in invaluable resource based on sound and traditional national conservation policies.

I yield to the Senator from Rhode Island at this point.

Mr. CHAFEE. Mr. President, the Alaska lands bill before us today presents one of the greatest opportunities in our history for land and wildlife conservation. Today, we have the once in a lifetime chance to protect especially important natural areas, scenic vistas and wildlife habitats. Unlike many conservation efforts in the lower 48 States, the opportunity to protect natural resources in Alaska can be done wih foresight and before irreparable harm is done to the resources we seek to protect. Rarely do we have the opportunity to protect resources right—the first time.

Protecting land and wildlife in Alaska is not only important for that State, but for our entire Nation. If we do not act strongly and decisively today, many of our conservation efforts in the lower 48 States will be in vain.

I am pleased that the Senate finally has the opportunity to debate the Alaska lands bill. While the House has twice overwhelmingly passed a strong Alaska bill, the full Senate has never before considered the issue. Because of the lack of Senate action, the President used his Executive powers in December 1978 to designate monuments and make withdrawals, designed to protect the land until Congress acted. Although the land is protected today, it is not being managed as wisely as it should be. Our efforts today will hopefully resolve many of the longstanding conflicts which now stem from the uncertainty surrounding land classification in Alaska. In so doing, we will further our dual goals of conservation and wise use of natural resources.

Mr. President, there is a myth that we cannot afford to preserve parks, wildlife refuges and wilderness in Alaska, but must make the maximum amount of land open to development in order to provide access to needed mineral, timber and oil resources.

The facts demonstrate that this view is simply wrong. Along with many other Americans—many from my State of Rhode Island—I believe we can enact a strong and rational Alaska bill without denying us needed resources. I want our Nation to have a strong economy. A strong economy requires us to wisely develop and utilize our natural resources. But there is much more in Alaska than minerals, timber, and oil: There is unparalleled wilderness landscape, fantastic wildlife resources, and an indigenous culture of people who have lived in harmony for centuries with the land and wildlife. Clearly, it is our responsibility to strike a fair balance between resource development and conservation.

La[illegible] in this debate, along with Senator HART and others, I will offer an amendment to provide greater protection of wildlife and their habitat in Alaska. Other amendments will be offered dealing with national parks, wilderness, rivers, forests, and transportation procedures. I strongly urge my colleagues to listen to the debate on these amendments and remember the uniqueness of the entire Alaska lands issue. By doing a good job in protecting the land and wildlife in Alaska we can protect a living heritage of scenic and wildlife treasures—not only for ourselves but for future generations.

I thank the distinguished junior Senator from Massachusetts for yielding me this time.

Mr. TSONGAS. Mr. President, before I yield to the Senator from Michigan let me read the editorial that appeared today in the Washington Post. Having just read the editorial in the Washington Star, I suggest that at least in one city there is unanimous opinion on what should be done on this issue.

The Washington Post editorial is entitled "Saving the Best of Alaska."

> The first item of legislative business before the Senate when it resumes operations today will be the Alaskan lands bill. The debate is likely to be long,—

That is certainly the case—

> ferocious and misleading. Before it begins, it may be well to recognize that neither of the two competing versions of this legislation is as bad as its opponents advertise.
>
> The Senate energy committee bill, which is being opposed by the Carter administration and environmental organizations, would not open up Alaska's vast spaces to total destruction by exploiters of natural resources. The amendments that will be proposed to this bill—and that are being opposed by the energy committee and the state of Alaska—would not destroy Alaska's economy and would not deprive the nation of vast oil supplies.
>
> The lands bill—in either form—is not an energy bill, a gun control bill or a "get" Alaska bill, despite all that has been and will be said. It is a bill that will determine how much federal protection the known and unknown resources of that state receive. The energy committee bill tilts toward opening up for use now or in the near future certain areas that the amendments, as well as the legislation that passed the House last winter, would put into the federal deep freeze.
>
> This difference in approach is illustrated by the way the two versions treat the Arctic Wildlife Range. The energy committee wants that range opened now to oil exploration while reserving to Congress the future decision on whether to extract any oil that might be found there. The amendments, and the House bill, would declare the range to be wilderness where such exploration would be barred.
>
> The difference is critical. If the range is closed to exploration, oil will be sought elsewhere in Alaska. If it is found, pressure to open the range will ease. But if the range is opened now, the resources used in exploring it will not be used elsewhere and, if oil is found under it, the pressure to develop the range—at the expense of its wildlife—will be enormous. That leads us to support the conclusion of the Carter administration: put the range in wilderness and look elsewhere first.
>
> The Alaskan state government fears that putting a wilderness stamp on this range (and other areas) will close them forever to development. That is a legitimate fear because Congress has no record of releasing lands once they are designated as wildernesses or national parks. But the wilderness designation should not be regarded as totally irreversible. Its purpose is to preserve for the future as much unspoiled acreage as the nation can now afford. What the policymakers of the future do with it is their business. Surely future members of Congress will not believe themselves unable to open the range (or other areas, such as the forests of southeast Alaska) if the time comes when the resources they contain are needed desperately.
>
> This approach—save what you can for the future— is the one that should guide the Senate's work on this legislation. That is particularly true because knowledge of Alaska's resources is still skimpy. The wildlife range may rest on a vast pool of oil, although the odds are against it. There may or may not be vast pools elsewhere. In this situation, the wise policy is to preserve the best of Alaska until—at least—the rest of it has been fully developed. The five key amendments to the energy committee bill do just that.

I now yield to the Senator from Michigan.

Mr. LEVIN. Mr. President, I thank my friend from Massachusetts.

Mr. President, the debate which is beginning today is truly one of historic significance. The bill which is before the Senate today will make a major contribution towards resolving issues which have been outstanding since the State of Alaska was created. Alaska is one of our most outstanding national treasures, and by our actions on this legislation we will decide how to make the best use of its many and varied resources.

The Alaskan National Interest Lands Conservation Act is a measure which has drawn the interest and concern of citizens all across the Nation. Americans from every region have been working for the enactment of strong legislation from time of consideration in the 95th Congress in 1977. It is not surprising that so significant a conservation bill should elicit widespread support from so many people. After all, wilderness is an integral part of America's character, and our national legacy.

The Federal lands in Alaska belong to all the people of this country, just as Federal lands in every other State. Our constituents, in every State, have the right to expect us to act in a manner which will protect their own interest in the Alaskan lands. They care about the scenic and recreational resources of Alaska. They care about the wildlife and biological resources of Alaska. And they care about the mineral and natural resources of Alaska. The protection of all of these resources must be effected and balanced in this legislation, and that is the primary challenge that lies before us.

Aldo Leopold, the renowned American conservationist, wrote:

> I am glad I shall never be young without wild country to be young in.
>
> Of what avail are forty freedoms without a blank spot on the map?

If we fulfill our responsibility to safeguard—in the national interest—the finest and most fragile of Alaska's public lands, the Americans who follow us will always have wild country to be young in. We can give them no more valuable inheritance.

I am gratified and heartened that the people of Michigan and all other parts of the country recognize a great conservation opportunity in Alaska, and that they have worked diligently to champion a strong and comprehensive Alaska lands bill for the past 3½ years. But I join these citizens in their disappointment that the Senate Energy Committee has fallen short of the minimal mark in this important measure.

I appreciate the long, difficult work the Energy Committee has done on this legislation. As the Washington Post indicated in its editorial this morning, the differences between the committee bill, and the amendments which will be offered to it by Senator TSONGAS and others, are not so vast or unbridgeable as some would suggest. The Energy Committee bill, as the Post stated, "would not open up Alaska's vast spaces to total destruction by exploiters of natural resources." Neither would the amendments "destroy Alaska's economy and deprive the Nation of vast oil supplies."

We must get beyond the emotional rhetoric of those who insist, on the one hand, that Alaskans and Alaskans alone know what the proper form of management is for Federal lands in the State, and on the other hand, that all Federal lands in Alaska should be placed in protective status regardless of the mineral and other resources which may be forgone. In my view, however, the Energy Committee has in a number of areas tilted its resolution of resource conflicts toward the development and exploitation of mineral resources in areas where the mineral potential does not justify the damage that would be done. I believe that the Tsongas amendments go a long way toward restoring the appropriate balance, without unduly restricting oil or mineral exploration.

The total amount of land incorporated into conservation units is not significantly different in the Energy Committee bill and in the Tsongas amendments. The type of management which specific areas would receive, however, differs greatly. Again, where conflicts have arisen, the committee has generally opted for the more flexible, less protective form of management, which in many cases does not provide adequate protection for the unique and fragile resources that exist within conservation units. The amendments would correct some of these problems as well.

The overall acreage figures in the State of Alaska, and the breakdown of ownership, provide some interesting perspective on the issues raised by this legislation. Alaska's overall land mass comprises roughly 375 million acres. When Alaska was granted statehood in 1959, 104 million acres of Federal land were promised to the State—the most generous land grant ever given any new State. With passage of the Alaska Native Claims Settlement Act in 1971, native peoples were granted an additional 44 million acres.

Thus, Alaska's 400,000 people have exclusive control of over 148,000,000 acres, an area as big as California plus three-quarters of Oregon. Subtract the 27,000,000 acres already legislated as national parks and wildlife refuges, the 104 million acres that would be incorporated within conservation units by this bill, and the million or so acres in other private ownership, and there still remain roughly 100 million acres of Federal land available for multiple uses under Bureau of Land Management or Forest Service management. It is clear that, with or without the Tsongas amendments, this is not "lock-up" legislation.

As I indicated above, the conflicts that exist between the bill reported by the Energy Committee and the changes that would be made by the Tsongas amendments, revolve mostly around the management of lands which are incorporated into the conservation system either way, rather than over new land acreage. The Tsongas amendments, generally encompass a presumption toward the more restrictive management category, while the Energy Committee bill opts for fewer restrictions. There is, in my view, an obvious and yet critically important reason why the amendment's approach makes greater sense, when one looks at this issue not only as an immediate problem but also from a long-range perspective.

Lands which are preserved today will remain in that status tomorrow, and whatever resources are available for exploitation will still be available. A decision to provide protection through restrictive designations is a decision which can be reexamined at any point in the future, as circumstances change. On the other hand, a decision to allow resource exploration and/or production is not likely to be a reversible decision; particularly in an environment as fragile as the Arctic region, any damage which is done to an ecosystem may well be permanent.

The overall issue does need to be resolved expeditiously. The State of Alaska and the Native peoples have been promised the right to make vast land selections within the State, but those selections have been effectively frozen while Congress ponders the question of what areas it wishes to preserve within federally designated conservation units. We have an obligation to make those decisions, which are already long overdue, so that the State and the natives can receive title to the lands which are rightfully theirs.

It is my hope, in closing, that we can give this legislation the serious and comprehensive scrutiny it deserves, and then pass it in a form which protects the important interests which all Americans have in our public lands in Alaska.

We are being presented with an opportunity and a challenge which will never be available to us again. I hope we will consider it in the way in which history will judge that this last great balancing operation between the need for preservation and the need for development in America indicated that there was no needless sacrifice of wild country to be young in, and no facile surrender of the eternal to the immediate.

I thank the Chair and I thank my friend from Massachusetts.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Mr. President, I suggest the absence of a quorum and ask it be charged to all time left on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TSONGAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TSONGAS. Mr. President, as the issue of Alaska wears on I am going to on occasion read into the RECORD editorials from around the country in support of the position that I have taken, and others have taken, in regard to the Alaska lands bill.

I would like at this point to read into the RECORD an editorial that appeared this morning in the Milwaukee Journal entitled "A Greedy Grab for Alaskan Lands."

I might make note for the RECORD that the Senate has not winced at the terms used in editorials so far, so I will continue to wind my way through. Then, I will allow my colleagues to go home and prepare for tomorrow's debate.

> An epic battle between prudent conservation and outright greed will erupt in the US Senate tomorrow as lawmakers take up legislation to open millions of acres of parks, forests and wilderness in Alaska to private exploitation. Commendably, Wisconsin's two Senators are among the broad cross section of Americans, including President Carter, who want to safeguard these precious national treasures for future generations.
>
> At issue is a measure, recommended by the Senate Energy Committee, that would gut the protective provisions of a good bill enacted overwhelmingly by the House last year. In eviscerating the House bill the committee would:
>
> Downgrade the protective status of three million acres of proposed national park land, opening it to mining.
>
> Delete 37 million acres of proposed wildlife refuge.
>
> Knock out 29 million acres of wilderness.
>
> Boost timber cutting far beyond current levels, ram new transportation corridors across wilderness and require that oil and gas exploration have top priority in the environmentally sensitive William O. Douglas Arctic Wildlife Range.
>
> Sens. Paul Tsongas (D-Mass.) and William Roth (R-Del.) have sponsored a rival measure, similar to the House-passed bill. And amendments to accomplish the same protection have been offered by a group of Senators, including Wisconsin's Gaylord Nelson and William Proxmire.
>
> Two basically misleading arguments are used by backers of the dreadful Energy Committee bill. They say their measure is needed to help the nation achieve energy independence, and that the Tsongas-Roth approach represents a "new colonialism," with Washington telling Alaskans how to use their land.
>
> The energy argument is a red herring. The Tsongas-Roth approach would still leave 95 percent of Alaska's "favorable" and "high potential," onshore oil and natural gas tracts, and 100 percent of its offshore areas, open for development. In addition, the 22.5 million-acre National Petroleum Reserve-Alaska would be opened for oil and gas exploration and leasing, which the Energy Committee bill would not do.
>
> Moreover, the Tsongas-Roth approach would leave 60 percent of the promising hard-rock mineral areas available for development and 91 percent of Alaska's total land area available for hunting.
>
> As for "new colonialism," the very concept ignores the overriding fact that those lands belong not to Alaskans, not to Washington, but to all the people of the United States. When Alaska became a state 20 years ago, it was given the right to select 150 million federal acres, and it renounced further claims to federal lands.
>
> Today, Alaskans are benefiting richly from the lands that are open to exploitation. In fact, the state's oil revenue piled up to a $3 billion budget surplus this year. Oil income is expected to yield $53 billion in state budget surpluses over the next decade. Alaska has decided to abolish its income tax.
>
> Yet the present state government and potential private exploiters want more. They do not need or deserve it.
>
> Many prominent Americans are among supporters of the strong Tsongas-Roth approach, including such names as Laurance Rockfeller, James Buckley, Douglas Fraser, George Romney, Sargent Shriver and Elmo Zumwalt. A strong majority of US Senators should add their names to that list.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum. I again ask that the time be charged to all time remaining on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, there will be no further action on the Alaska lands bill today.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following Calendar Orders Nos. 911, 912, 913, 926, 927, 928, 930, 931, and 932.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. And 921.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, there is no objection. The matters have been reviewed and have been cleared on this side.

Mr. ROBERT C. BYRD. Mr. President, if agreeable with the distinguished acting minority leader, I ask unanimous consent that the various measures enumerated be adopted en bloc, that amendments, where shown, be adopted to the measures and to the titles, and that the motion to reconsider en bloc be laid on the table.

Mr. STEVENS. Mr. President, reserving the right to object, and I shall not object——

Mr. ROBERT C. BYRD. And that statements by Senators, where indicated, may be printed in the Record.

Mr. STEVENS. That is what I was going to suggest, that statements be placed in the Record at the appropriate places. I would have no objection under those circumstances.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that appropriate extracts from the committee reports be inserted in the Record where necessary to explain the content of the measures.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR CERTAIN INDIAN TRIBES TO FILE CLAIMS FOR DAMAGES

The Senate proceeded to consider the bill (S. 341) to authorize the Three Affiliated Tribes of the Fort Berthold Reservation to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the U.S. Constitution, and for other purposes, which had been reported from the Select Committee on Indian Affairs and the Committee on the Judiciary, jointly, with an amendment to strike all after the enacting clause and insert the following:

Section 1. Notwithstanding sections 2401 and 2501 of title 28, United States Code, and section 12 of the Indian Claims Commission Act of August 13, 1946 (60 Stat. 1052; 25 U.S.C. 70k), and notwithstanding the lapse of time, statutes of limitations, or the defense of res judicata or collateral estoppel, or any other provisions of law, jurisdiction is hereby conferred upon the Court of Claims to hear, determine, and render judgment on any claim filed by the Three Affiliated Tribes of the Fort Berthold Reservation within one year from the date of this Act for the taking under the fifth amendment of the Constitution of the nine million eight hundred and forty-six thousand one hundred eighty-six and ninety-three one-hundredths acres of land defined as the territory of the Three Affiliated Tribes in the Treaty of Fort Laramie of September 17, 1851 (11 Stat. 749), to which the Three Affiliated Tribes of the Fort Berthold Reservation and the United States were parties, being the same land determined by the Court of Claims to have an average value of 50 cents per acre for a total of $4,923,093.47 in Fort Berthold Indians versus United States (71 Ct. Cl. 308) (1930) (hereinafter "prior case") : *Provided*, That the value of the land fixed at an average of 50 cents per acre in the prior case shall be binding on the parties in any suit brought under this Act.

Sec. 2. If the Court of Claims determines that the claimant is entitled to just compensation under the fifth amendment, the Court shall enter an award computed on the basis of established judicial precedent: *Provided, however*, That as a measure of just compensation the Court shall compute interest at the rate of 5 per centum per annum. No offsets, including gratuities, subsequent to the terminal date of the accounting in the prior case shall be allowed or deducted from any judgment entered under authority of this Act, except that the United States shall be entitled to an offset, against any judgment entered under authority of this Act, of the sum of money, if any, awarded as a judgment in the prior case.

Sec. 3. The provisions of section 15 of the Act of August 13 1946 (60 Stat. 1053; 25 U.S.C. 70n) shall be applicable with respect to any claim filed pursuant to this Act in the same manner and to the same extent as if such claim were pending before the Indian Claims Commission except that the functions of the Commission shall be performed by the Court of Claims.

Sec. 4. The provisions of the Act of November 4 1963 (77 Stat. 301; 25 U.S.C. 70n–1–7) shall be applicable with respect to any claim filed pursuant to this Act in the same manner and to the same extent as if claim were pending before the Indian Claims Commission except that reference to the Commission shall be deemed to be the Court of Claims.

The amendment was agreed to.

● Mr. MELCHER. Mr. President, the bill, S. 341, that is now before the Senate for its consideration is similar to S. 1795 on which I have already made a detailed statement.

This bill, which was carefully deliberated by both the Select Committee on Indian Affairs and the Committee on the Judiciary will permit the Three Affiliated Tribes of the Fort Berthold Reservation to sue in the U.S. Court of Claims for alleged taking of certain of their lands in violation of the fifth amendment to the Constitution. I urge the Senate to act favorably on this measure.

Like the Blackfeet and Gros Ventre Tribes in S. 1795, the Fort Berthold Tribes have never had a chance to litigate the question of whether there was a fifth amendment taking that would entitle them to just compensation. As with S. 1795, Congress can grant equity when the courts cannot. Both committees recognize the unique nature of this claim and S. 341 provides an equitable remedy by allowing the tribes to litigate on the merits and by waiving the Government's res judicata defense. Congressional power to waive this defense was just reaffirmed on July 7 by the Supreme Court in the Sioux case.

If the Fort Berthold Tribes can prove their case as to all of the lands involved, the maximum liability would be $22.4 million.

The Three Affiliated Tribes look to Congress for the equity they deserve and again I urge the Senate to pass S. 341.●

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

AUTHORITY FOR CERTAIN INDIAN TRIBES TO FILE CLAIMS FOR DAMAGES

The Senate proceeded to consider the bill (S. 1795) to authorize the Gros Ventre Tribe to file in the court of claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the U.S. Constitution, and for other purposes, which had been reported from the Select Committee on Indian Affairs and the Committee on the Judiciary, jointly, with an amendment to strike all after the enacting clause and insert the following:

Section 1. Notwithstanding sections 2401 and 2501 of title 28, United States Code, and section 12 of the Indian Claims Commission Act of August 13, 1946 (60 Stat. 1052; 25 U.S.C. 70k), and notwithstanding the lapse of time, statutes of limitations, or the defense of res judicata or collateral estoppel, or any other provisions of law, jurisdiction is hereby conferred upon the Court of Claims to hear, determine, and render judgment on any claim filed by the Blackfeet and Gros Ventre Tribes within one year from the data of this Act for the taking under the fifth amendment of the Constitution of the twelve million two hundred and sixty-one thousand seven hundred forty-nine and seventy-six one-hundredths acres of land defined as the territory of the Blackfeet and Gros Ventre Tribes in the Treaty of October 17, 1855 (11 Stat. 657) to which the Blackfeet and Gros Ventre Tribes and the United States were parties, being the same land determined by the Court of Claims to have an average value of 50 cents per acre for a total of $6,130,874.88 in Blackfeet and other Nations versus United States (81 Ct. Cl. 101) (1935) (hereinafter "prior case"): *Provided*, That the value of the land fixed at an average of 50 cents per acre in the prior case shall be binding on the parties in any suit brought under this Act.

Sec. 2. If the Court of Claims determines that the claimant is entitled to just compensation under the fifth amendment, the Court shall enter an award computed on the basis of established judicial precedent: *Provided, however*, That as a measure of just compensation the Court shall compute interest at the rate of 5 per centum per annum. No offsets, including gratuities, subsequent to the terminal date of the accounting in the prior case shall be allowed or deducted from any judgment entered under authority of this Act, except that the United States shall be entitled to an offset, the sum of money, if any, awarded as a judgment in the prior case.

Sec. 3. The provisions of section 15 of the Act of August 13, 1946 (60 Stat. 1053; 25 U.S.C. 70n) shall be applicable with respect to any claim filed pursuant to this Act in the same manner and to the same extent as if such claim were pending before the Indian Claims Commission except that the functions of the Commission shall be performed by the Court of Claims.

Sec. 4. The provisions of the Act of November 4, 1963 (77 Stat. 301; 25 U.S.C. 70n–1–7), shall be applicable with respect to any claim filed pursuant to this Act in the same manner and to the same extent as if such claim were pending before the Indian Claims Commission except that reference to the Commission shall be deemed to be to the Court of Claims.

The amendment was agreed to.

● Mr. MELCHER. Mr. President, the bill, S. 1795, that is now before the Senate for its consideration was jointly referred to the Select Committee on Indian Affairs and the Committee on the Judiciary. The Select Committee ordered the bill favorably reported on April 30 and the Judiciary Committee acted unanimously in favor of the bill on June 24. The bill, which was carefully deliberated by both committees, will allow the Blackfeet and Gros Ventre Tribes, to sue in the U.S. Court of Claims for alleged taking of certain of their lands in violation of the fifth amendment to the Constitution. I urge the Senate to act favorably on this measure.

The Congress has plenary power over Indian affairs and a constitutional responsibility to see that tribes are dealt with fairly. Because of this responsibility, tribes look to Congress to act as a court of last resort in granting equity and in correcting past injustices. That is what we are attempting to do for the Blackfeet and Gross Ventre Tribes under S. 1795 that is being considered today.

The tribes brought a claim to the U.S. Court of Claims for the taking of lands to which they held a title by treaty grant. The suit was decided prior to a 1935 Supreme Court ruling that Indian tribes, like private landowners, are entitled to damages for the delay in payment for the taking of their lands (just compensation). There are three criteria to be met: The tribe must have had recognized title, the taking must have been ratified by Congress, and the land had to be taken without the tribes consent.

Unfortunately for the Blackfeet and Gros Ventre Tribes, they have never had a chance to litigate the question of whether there was a fifth amendment taking of their lands that would entitle them to just compensation. After the 1935 Supreme Court decision, the Tribes sought to have their fifth amendment claim reviewed by the Indian Claims Commission but were denied on the technical defense of res judicata. The Indian Claims Commission ruling was upheld by the U.S. Court of Claims, even though the latter court recognized the injustice of not allowing the claim to be heard on its merits.

Congress can, however, grant equity when the courts cannot. Both the Judiciary Committee and the Indian Affairs Committee recognize the unique nature of this case and provide an equitable remedy by allowing the tribes to litigate on the merits and by waiving the Government's res judicata defense.

This is not the first time Congress has waived this defense. Pursuant to a statute passed in the 95th Congress, the Sioux Tribe was allowed to reopen its fifth amendment claim involving the taking of the Black Hills. On July 7, the Supreme Court affirmed the lower court judgment in the Sioux case and overwhelmingly rejected the Justice Department's key argument that Congress is without power to waive the Government's defense of res judicata. The committees strongly believe that the case of the Blackfeet and Gros Ventre Tribes is an appropriate one for Congress to waive the Government's defense of res judicata because the circumstances are very similar to those of the Sioux case. Yesterday's Supreme Court decision confirms the judgment and consequent action of the committees, despite Justice Department's argument to the contrary.

The committees are convinced, however, that this case along with the Fort Berthold and Assiniboine case that are dealt with in other bills pending before the Senate today, S. 341 and S. 1796, are the last ones needing to be resolved by waiver of res judicata. All prior Indian land cases have been carefully researched and documented by the Department of Justice and the Indian Claims Commission and, other than the Creek and Chickasaw Tribes of Oklahoma, they have been unable to discover any other cases involving these unique set of circumstances. The latter two cases involve such small parcels of land that the committees are advised that it would not be worthwhile for the tribes to litigate the fifth amendment issue.

The Sioux case involves over $100 million. If the Blackfeet and Gros Ventre Tribes can prove their case as to all of the lands involved, the maximum liability would be $28.5 million.

The Blackfeet and Gros Ventre Tribes are looking to Congress for the equity to which they are entitled and again I urge favorable Senate action on S. 1795.●

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

The title was amended so as to read:

An act to authorize the Blackfeet and Gros Ventre Tribes to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the United States for damages for delay in payment for lands claimed to be taken in violation of the United States Constitution, and for other purposes.

AUTHORITY FOR ASSINIBOINE AND BLACKFEET TRIBES TO FILE CLAIMS AGAINST THE UNITED STATES

The Senate proceeded to consider the bill (S. 1796) to authorize the Assiniboine Tribe and the Blackfeet Tribe to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the U.S. Constitution, and for other purposes, which had been reported from the Select Committee on Indian Affairs with an amendment to strike all after the enacting clause and insert the following:

SECTION 1. Notwithstanding sections 2401 and 2501 of title 28, United States Code, and section 12 of the Indian Claims Commission Act of August 13, 1946 (60 Stat. 1052; 25 U.S.C. 70k), and notwithstanding the lapse of time, statutes of limitations, or the defense of res judicata or collateral estoppel, or any other provisions of law, jurisdiction is hereby conferred upon the Court of Claims to hear, determine, and render judgment on any claim filed by the Assiniboine Nation or Tribe within one year from the date of this Act for the taking under the fifth amendment of the Constitution of the six million four hundred and seventy-seven thousand nine hundred and forty acres of land defined as the territory of the Assiniboine Nation in the Treaty of Fort Laramie of September 17, 1851 (11 Stat. 749), to which the Assiniboine Nation and the United States were parties, being the same land determined by the Court of Claims to have an average value of 50 cents per acre for a total of $3,238,970 in Assiniboine Indian Tribe versus United States (77 Ct. Cl. 347), (1933), appeal dismissed and certiorari denied (292 U.S. 606) (1934) (hereinafter "prior case"): *Provided*, That the value of the land fixed at an average of 50 cents per acre in the prior case shall be binding on the parties in any suit brought under this Act.

SEC. 2. If the Court of Claims determines that the claimant is entitled to just compensation under the fifth amendment, the Court shall enter an award computed on the basis of established judicial precedent: *Provided, however*, That as a measure of just compensation the Court shall compute interest at the rate of 5 per centum per annum. In calculating any award due claimant, the Court shall treat the amount of $2,492,319, that portion of offsets in the prior case that represents the tribe's own funds, as if that sum had not been offset in the prior case. No offsets, including gratuities, subsequent to the terminal date of the accounting in the prior case shall be allowed or deducted from any judgment entered under authority of this Act, except that the United States shall be entitled to an offset, against any judgment entered under authority of this Act, of the sum of money, if any, awarded as a judgment in the prior case.

SEC. 3. The provisions of section 15 of the Act of August 13, 1946 (60 Stat. 1053; 25 U.S.C. 70n), shall be applicable with respect to any claim filed pursuant to this Act in the same manner and to the same extent as if such claim were pending before the Indian Claims Commission except that the functions of the Commission shall be performed by the Court of Claims.

SEC. 4. The provisions of the Act of November 4, 1963 (77 Stat. 301; 25 U.S.C. 70n–1–7), shall be applicable with respect to any claim filed pursuant to this Act in the same manner and to the same extent as if such claim were pending before the Indian Claims Commission except that reference to the Commission shall be deemed to be to the Court of Claims.

The amendment was agreed to.

● Mr. MELCHER. Mr. President, the bill, S. 1796, that is now before the Senate for its consideration is similar to S. 1795 on which I have already made a detailed statement.

This bill, which was carefully deliberated by both the Select Committee on Indian Affairs and the Committee on the Judiciary will permit the Assiniboine Tribe to sue in the U.S. Court of Claims for alleged taking of certain of their lands in violation of the fifth amendment to the Constitution. I urge the Senate to act favorably on this measure.

Like the Blackfeet and Gros Ventre Tribes in S. 1795, the Assiniboine Tribe has never had a chance to litigate the question of whether there was a fifth amendment taking that would entitle them to just compensation. As with S. 1795, Congress can grant equity when the courts cannot. Both committees recognize the unique nature of this claim and S. 1796 provides an equitable remedy by allowing the tribe to litigate on the merits and bv waiving the Government's res judicata defense. Congressional power to waive this defense was just reaffirmed on July 7 by the Supreme Court in the Sioux case.

If the Assiniboine Tribe can prove its case as to all of the lands involved, the maximum liability would be $16.5 million.

The Assiniboine Tribe looks to Congress for the equity they deserve and again I urge the Senate to pass S. 341.●

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

The title was amended so as to read:

A bill to authorize the Assiniboine Tribe to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the United States Constitution, and for other purposes.

OPERATIONS BY OPIC IN THE PEOPLE'S REPUBLIC OF CHINA

The Senate proceeded to consider the bill (S. 1916) to authorize operations by the Overseas Private Investment Corporation (OPIC) in the People's Republic of China.

● Mr. CHURCH. Mr. President, today the Senate will consider S. 1916, a bill to extend programs of the Overseas Private Investment Corporation (OPIC) to the People's Republic of China (PRC). This bill would permit OPIC to offer guarantees or insurance against certain noncommercial risks to American businessmen wishing to invest in the PRC.

OPIC is a wholly owned U.S. Government corporation created by Congress in 1969, "to mobilize and facilitate the participation of United States private capital and skills in the economic and social development of less developed friendly countries, thereby complimenting the development assistance objectives of the United States." OPIC currently operates programs in over 90 developing countries, including several nonmarket economies.

As you know, Mr. President, the People's Republic of China after almost 30 years of virtual isolation, has recently begun to open its economy to international commerce. Chinese officials have expressed a willingness to receive foreign investments, and in July of last year, adopted a foreign investment law in an attempt to lay a framework within which such investment may take place.

The United States and China have taken several major steps toward establishing diplomatic and economic relations. On January 1, 1970, full diplomatic relations were established between China and the United States. In February of this year, a bilateral trade agreement between the United States and the People's Republic of China entered into force. Recently, the U.S. Export-Import Bank approved its first preliminary commitment of Exim credits to an American business interested in exporting to China. Passage of S. 116, making OPIC programs available to American businessmen interested in investing in China, would therefore be a logical next step.

S. 1916 follows the procedure used in 1971 to permit OPIC to operate in the nonmarket economies of Yugoslavia and Romania. It amends section 239 of the Foreign Assistance Act to exempt the PRC, as well as Romania and Yugoslavia, from section 620 of the Foreign Assistance Act with respect to OPIC programs. Section 620 prohibits the extension of any assistance under the Foreign Assistance Act to Communist countries.

Passage of S. 1916 will in no way interfere with OPIC programs currently operating in Taiwan. Section 5 of the 1979 Taiwan Relations Act specifically provides for continued operation of such programs.

Mr. President, on June 30, the Senate Committee on Foreign Relations recommended by a vote of 12 to 1 that the Senate give favorable consideration to S. 1916. I urge my colleagues to give their support to passage of this bill.●

● Mr. JAVITS. Mr. President, I rise in support of S. 1916, which will authorize the operations of the Overseas Private Investment Corporation (OPIC) in the People's Republic of China (PRC). This bill is necessary to extend OPIC's programs to China and to permit the State Department to begin negotiations on a bilateral investment guaranty agreement without which OPIC cannot begin such operations in China.

The importance of OPIC's programs in facilitating the expansion of economic relations between the United States and the developing countries was recognized in Vice President Mondale's announcement during his visit to China in August 1979, that the United States intended to make the OPIC programs available in that country as part of the U.S. policy to support U.S.-PRC trade relations. Subsequently, in October, Senator Pell and I introduced S. 1916 while Congressman Bingham introduced companion legislation in the House, H.R. 5252, in order to authorize these OPIC operations in China.

There is already considerable interest in OPIC services as to the PRC, both on the part of U.S. investors and PRC officials. I understand from OPIC that eight U.S. companies have formally filed letters of intent to purchase such OPIC insurance. Also, I understand, there have been 15 preliminary indications of interest from U.S. investors about OPIC financing U.S. ventures in the PRC.

China's trade and investment officials have in a number of meetings with OPIC officials indicated their interest in having OPIC programs become operational as soon as possible. I understand that Chinese officials are aware of the requirement that a bilateral investment guaranty agreement must first be negotiated before OPIC can operate in the PRC. I further understand that OPIC and State Department officials do not anticipate any undue obstacles to the satisfactory conclusion of these investment guaranty agreement negotiations.

Encouragement of U.S. investment in the PRC through the OPIC program benefits the U.S. economy by giving U.S. firms the opportunity to participate in the investment opportunities in the PRC, thereby increasing the ability of the United States to increase the trade between the two countries.

The OPIC program would also encourage and facilitate the investment of U.S. know-how, capital, and skills in the PRC, which has embarked upon an ambitious program of modernization of its economy. Availability of the OPIC program may permit investors to structure their investments on terms more favorable to the PRC than otherwise. In addition, the availability of OPIC programs could in many instances be the deciding factor as to whether an investment is made.

This bill does not affect OPIC operations in any way other than extending them to the PRC. The same standards with respect to run-away plants, balance of payments requirements and other provisions protecting U.S. economic interests will apply to projects in the PRC as apply currently to project requests for other countries. In addition, the extension of OPIC operations to the PRC will not affect OPIC programs in Taiwan, which were—and are to be—continued under the provisions of the Taiwan Relations Act.

Mr. President, S. 1916 must be viewed in the overall context of U.S. economic relations with the developing world, especially with the People's Republic of China. The extension of OPIC operations to the PRC will permit U.S. investors in the PRC to avail themselves of a program which will improve their competitive position as to investors from other industrialized countries in the PRC. I urge my colleagues to support S. 1916.●

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 239 of the Foreign Assistance Act of 1961, as amended, is further amended by striking out "or" before "Romania" and inserting in lieu thereof a comma, and by inserting "or the People's Republic of China" following "Romania".

NATO MUTUAL SUPPORT ACT OF 1979

The bill (H.R. 5580) to amend title 10, United States Code, to authorize the Secretary of Defense to enter into certain agreements to further the readiness of the military forces of the North Atlantic Treaty Organization, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96–842), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

The purpose of this bill is to authorize the Secretary of Defense to enter into certain agreements with the North Atlantic Treaty Organization (NATO) countries and subsidiary bodies for the acquisition and, after consultation with the Secretary of State, the reciprocal provision of logistical support, supplies and services, thus facilitating host nation support and cross-servicing arrangements between United States and NATO military forces deployed in Europe and adjacent waters. Specifically, the bill would—

(1) authorize the Secretary of Defense to waive certain provisions of the Arms Export Control Act and other U.S. laws relating to the acquisition and transfer of goods and services by the Department of Defense;

(2) establish reciprocal pricing and reimbursement procedures for the acquisition and transfer of logistical support, supplies and services provided in host nation support and cross-servicing agreements;

(3) establish $100 million annual ceilings on such U.S. acquisitions and transfers, and a $25 million ceiling on the acquisition of supplies other than petroleum, oils, and lubricants;

(4) establish an annual reporting requirement detailing the nature, quantity and value of all transactions made under this authority;

(5) prohibit any increase in inventories and supplies for U.S. forces in Europe for the purpose of transferring such services and supplies under this authority;

(6) provide for prior Congressional consideration of implementing regulations issued by the Secretary of Defense.

STATE JUSTICE INSTITUTE ACT OF 1980

The Senate proceeded to consider the bill (S. 2387) to aid State and local governments in strengthening and improving their judicial systems through the creation of a State Justice Institute, which had been reported from the Committee on the Judiciary with amendments as follows:

On page 20, beginning with line 8, insert the following:

(d) The Institute shall incorporate in any grant, cooperative agreement, or contract awarded under this section in which a State or local judicial system is the recipient, the requirement that the recipient provide a match, from private or public sources, equal to 25 per centum of the total cost of such grant, cooperative agreement, or contract, except that such requirement may be waived in exceptionally rare circumstances upon the approval of the chief justice of the highest court of the State and a majority of the Board of Directors.

On page 20, line 18, strike "(d)" and insert "(e)";

On page 21, line 1, strike "(e)" and insert "(f)";

On page 22, beginning with line 18, insert the following:

(d) The authorization to enter into contracts or any other obligation under this Act shall be effective for fiscal year 1981 and any succeeding fiscal year only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

On page 22, line 23, strike "(c)" and insert "(d)";

On page 23, line 15, strike "or";

On page 23, beginning with line 16, insert the following:

(2) interfere with the independent nature of any State judicial system nor allow sums to be used for the funding of regular judicial and administrative activities of any State judicial system other than pursuant to the terms of any grant, cooperative agreement, or contract with the Institute, consistent with the requirements of this Act; or

On page 23, line 23, strike "(2)" and insert "(3)";

On page 30, beginning with line 1, insert the following:

AUTHORIZATIONS

SEC. 14. There are authorized to be appropriated for fiscal year 1982 such sums as may be necessary to carry out the provisions of this Act.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "State Justice Institute Act of 1980".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds and declares that—

(1) the quality of justice in the Nation is largely determined by the quality of justice in State courts;

(2) State courts share with the Federal courts the general responsibility for enforcing the requirements of the Constitution and laws of the United States;

(3) in the Federal-State partnership of delivery of justice, the participation of the State courts has been increased by recently enacted Federal legislation;

(4) the maintenance of a high quality of justice in Federal courts has led to increasing efforts to divert cases to State courts;

(5) the Federal Speedy Trial Act has diverted criminal and civil cases to State courts;

(6) an increased responsibility has been placed on State court procedures by the Supreme Court of the United States;

(7) consequently, there is a significant Federal interest in maintaining strong and effective State courts; and

(8) strong and effective State courts are those which produce understandable, accessible, efficient, and equal justice, which requires—

(A) qualified judges and other court personnel;

(B) high quality education and training programs for judges and other court personnel;

(C) appropriate use of qualified nonjudicial personnel to assist in court decisionmaking;

(D) structures and procedures which promote communication and coordination among courts and judges and maximize the efficient use of judges and court facilities;

(E) resource planning and budgeting which allocate current resources in the most efficient manner and forecast accurately the future demands for judicial services;

(F) sound management systems which take advantage of modern business technology, including records management procedures, data processing, comprehensive personnel systems, efficient juror utilization and management techniques, and advanced means for recording and transcribing court proceedings;

(G) uniform statistics on caseloads, dispositions, and other court-related processes on which to base day-to-day management decisions and long-range planning;

(H) sound procedures for managing caseloads and individual cases to assure the speediest possible resolution of litigation;

(I) programs which encourage the highest performance of judges and courts to improve their functioning, to insure their accountability to the public, and to facilitate the removal of personnel who are unable to perform satisfactorily;

(J) rules and procedures which reconcile the requirements of due process with the need for speedy and certain justice;

(K) responsiveness to the need for citizen involvement in court activities through educating citizens to the role and functions of courts, and improving the treatment of witnesses, victims, and jurors; and

(L) innovative programs for increasing access to justice by reducing the cost of litigation and by developing alternative mechanisms and techniques for resolving disputes.

(b) It is the purpose of this Act to assist the State courts and organizations which support them to obtain the requirements specified in subsection (a)(9) for strong and effective courts through a funding mechanism, consistent with doctrines of separation of powers and federalism, and thereby to improve the quality of justice available to the American people.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "Institute" means the State Justice Institute;

(2) "Board" means the Board of Directors of the Institute;

(3) "Director" means the Executive Director of the Institute;

(4) "Governor" means the Chief Executive Officer of a State;

(5) "recipient" means any grantee, contractor, or recipient of financial assistance under this Act;

(6) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States; and

(7) "Supreme Court" means the highest appellate court within a State unless, for the purposes of this Act, a constitutionally or legislatively established judicial council acts in place of that court.

ESTABLISHMENT OF INSTITUTE; DUTIES

SEC. 4. (a) There is established in the District of Columbia a private nonprofit corporation which shall be known as the State Justice Institute. The purpose of the Institute shall be to further the development and adoption of improved judicial administration in State courts in the United States. To the extent consistent with the provisions of this Act, the Institute shall exercise the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (except for section 1005(a) of title 29 of the District of Columbia Code).

(b) The Institute shall—

(1) direct a national program of assistance designed to assure each person ready access to a fair and effective system of justice by providing funds to—

(A) State courts;

(B) national organizations which support and are supported by State courts; and

(C) any other nonprofit organization that will support and achieve the purposes of this Act;

(2) foster coordination and cooperation with the Federal judiciary in areas of mutual concern;

(3) make recommendations concerning the proper allocation of responsibility between the State and Federal court systems;

(4) promote recognition of the importance of the separation of powers doctrine to an independent judiciary; and

(5) encourage education for judges and support personnel of State court systems through national and State organizations, including universities.

(c) The Institute shall not duplicate functions adequately performed by existing nonprofit organizations and shall promote, on the part of agencies of State judicial administration, responsibility for success and effectiveness of State court improvement programs supported by Federal funding.

(d) The Institute shall maintain its principal offices in the District of Columbia and shall maintain therein a designated agent to accept service of process for the Institute. Notice to or service upon the agent shall be deemed notice to or service upon the Institute.

(e) The Institute, and any program assisted by the Institute, shall be eligible to be treated as an organization described in section 170(c)(2)(B) of the Internal Revenue Code of 1954 and as an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from taxation under section 501(a) of such Code. If such treatments are conferred in accordance with the provisions of such Code, the Institute, and programs assisted by the Institute, shall be subject to all provisions of such Code relevant to the conduct of organizations exempt from taxation.

(f) The Institute shall afford notice and reasonable opportunity for comment to interested parties prior to issuing rules, regulations, guidelines, and instructions under this Act, and it shall publish in the Federal Register, at least thirty days prior to their effective date, all rules, regulations, guidelines, and instructions.

BOARD OF DIRECTORS

SEC. 5. (a) (1) The Institute shall be supervised by a Board of Directors, consisting of eleven voting members to be appointed by the President by and with the advice and consent of the Senate. The Board shall have both judicial and nonjudicial members, and shall, to the extent practicable, have a membership representing a variety of backgrounds and reflecting participation and interest in the administration of justice.

(2) The Board shall consist of—

(A) six judges, to be appointed in the manner provided in paragraph (3);

(B) one State court administrator, to be appointed in the manner provided in paragraph (3); and

(C) four public members, no more than two of whom shall be of the same political party, to be appointed in the manner provided in paragraph (4).

(3) The President shall appoint six judges and one State court administrator from a list of candidates submitted by the Conferences of Chief Justices. The Conference of Chief Justices shall submit a list of at least fourteen individuals, including judges and State court administrators, whom the conference considers best qualified to serve on the Board. Prior to consulting with or submitting a list to the President, the Conference of Chief Justices shall obtain and consider the recommendations of all interested organizations and individuals concerned with the administration of justice and the objectives of this Act.

(4) In addition to those members appointed under paragraph (3), the President shall appoint four members from the public sector to serve on the Board.

(5) The President shall appoint the members under this subsection within sixty days from the date of enactment of this Act.

(b) (1) Except as provided in paragraph (2), the term of each voting member of the Board shall be three years. Each member of the Board shall continue to serve until the successor to such member has been appointed and qualified.

(2) Five of the members first appointed by the President shall serve for a term of two years. Any member appointed to serve for an unexpired term arising by virtue of the death, disability, retirement, or resignation of a member shall be appointed only for such unexpired term, but shall be eligible for reappointment.

(3) The term of initial members shall commence from the date of the first meeting of the Board, and the term of each member other than an initial member shall commence from the date of termination of the preceding term.

(c) No member shall be reappointed to more than two consecutive terms immediately following such member's initial term.

(d) Members of the Board shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

(e) The members of the Board shall not, by reason of such membership, be considered officers or employees of the United States.

(f) Each member of the Board shall be entitled to one vote. A simple majority of the membership shall constitute a quorum for the conduct of business. The Board shall act upon the concurrence of a simple majority of the membership present and voting.

(g) The Board shall select from among the voting members of the Board a chairman, the first of whom shall serve for a term of three years. Thereafter, the Board shall annually elect a chairman from among its voting members.

(h) A member of the Board may be removed by a vote of seven members for malfeasance in office, persistent neglect of, or inability to discharge, duties, or for any offense involving moral turpitude, but for no other cause.

(i) Regular meetings of the Board shall be held quarterly. Special meetings shall be held from time to time upon the call of the chairman, acting at his own discretion or pursuant to the petition of any seven members.

(j) All meetings of the Board, any executive committee of the Board, and any council established in connection with this Act, shall be open and subject to the requirements and provisions of section 552b of title 5, United States Code, relating to open meetings.

(k) In its direction and supervision of the activities of the Institute, the Board shall—

(1) establish such policies and develop such programs for the Institute as will further achievement of its purpose and performance of its functions;

(2) establish policy and funding priorities and issue rules, regulations, guidelines, and instructions pursuant to such priorities;

(3) appoint and fix the duties of the Executive Director of the Institute, who shall serve at the pleasure of the Board and shall be a nonvoting ex officio member of the Board;

(4) present to other Government departments, agencies, and instrumentalities whose programs or activities relate to the administration of justice in the State judiciaries of the United States, the recommendations of the Institute for the improvement of such programs or activities;

(5) consider and recommend to both public and private agencies aspects of the operation of the State courts of the United States considered worthy of special study; and

(6) award grants and enter into cooperative agreements or contracts pursuant to section 7(a).

OFFICERS AND EMPLOYEES

SEC. 6. (a) (1) The Director, subject to general policies established by the Board, shall supervise the activities of persons employed by the Institute and may appoint and remove such employees as he determines necessary to carry out the purposes of the Institute. The Director shall be responsible for the executive and administrative operations of the Institute, and shall perform such duties as are delegated to such Director by the Board and the Institute.

(2) No political test or political qualification shall be used in selecting, appointing, promoting, or taking any other personnel action with respect to any officer, agent, or employee of the Institute, or in selecting or monitoring any grantee, contractor, person, or entity receiving financial assistance under this Act.

(b) Officers and employees of the Institute shall be compensated at rates determined by the Board, but not in excess of the rate of level V of the Executive Schedule specified in section 5316 of title 5, United States Code.

(c) (1) Except as otherwise specifically provided in this Act, the Institute shall not be considered a department, agency, or instrumentality of the Federal Government.

(2) This Act does not limit the authority of the Office of Management and Budget to review and submit comments upon the Institute's annual budget request at the time it is transmitted to the Congress.

(d) (1) Except as provided in paragraph (2), officers and employees of the Institute shall not be considered officers or employees of the United States.

(2) Officers and employees of the Institute shall be considered officers and employees of the United States solely for the purposes of the following provisions of title 5, United States Code: Subchapter I of chapter 81 (relating to compensation for work injuries); chapter 83 (relating to civil service retirement); chapter 87 (relating to life insurance); and chapter 89 (relating to health insurance). The Institute shall make contributions under the provisions referred to in this subsection at the same rates applicable to agencies of the Federal Government.

(e) The Institute and its officers and employees shall be subject to the provisions of section 552 of title 5, United States Code, relating to freedom of information.

GRANTS AND CONTRACTS

SEC. 7. (a) The Institute is authorized to award grants and enter into cooperative agreements or contracts, in a manner consistent with subsection (b), in order to—

(1) conduct research, demonstrations, or special projects pertaining to the purposes described in this Act, and provide technical assistance and training in support of tests, demonstrations, and special projects;

(2) serve as a clearinghouse and information center, where not otherwise adequately provided, for the preparation, publication, and dissemination of information regarding State judicial systems;

(3) participate in joint projects with other agencies, including the Federal Judicial Center, with respect to the purposes of this Act;

(4) evaluate, when appropriate, the programs and projects carried out under this Act to determine their impact upon the quality of criminal, civil, and juvenile justice and the extent to which they have met or failed to meet the purposes and policies of this Act;

(5) encourage and assist in the furtherance of judicial education;

(6) encourage, assist, and serve in a consulting capacity to State and local justice system agencies in the development, maintenance, and coordination of criminal, civil, and juvenile justice programs and services; and

(7) be responsible for the certification of national programs that are intended to aid and improve State judicial systems.

(b) The Institute is empowered to award grants and enter into cooperative agreements or contracts as follows:

(1) The Institute shall give priority to grants, cooperative agreements, or contracts with—

(A) State and local courts and their agencies,

(B) national nonprofit organizations controlled by, operating in conjunction with, and serving the judicial branches of State governments; and

(C) national nonprofit organizations for the education and training of judges and support personnel of the judicial branch of State governments.

(2) The Institute may, if the objective can better be served thereby, award grants or enter into cooperative agreements or contracts with—

(A) other nonprofit organizations with expertise in judicial administration;

(B) institutions of higher education;

(C) individuals, partnership firms, or corporations; and

(D) private agencies with expertise in judicial administration.

(3) Upon application by an appropriate Federal, State or local agency or institution and if the arrangements to be made by such agency or institution will provide services which could not be provided adequately through nongovernmental arrangements, the Institute may award a grant or enter into a cooperative agreement or contract with a unit of Federal, State, or local government other than a court.

(4) Each application for funding by a State or local court shall be approved by the State's supreme court, or its designated agency or council, which shall receive, administer, and be accountable for all funds awarded by the Institute to such courts.

(c) Funds available pursuant to grants, cooperative agreements, or contracts awarded under this section may be used—

(1) to assist State and local court systems in establishing appropriate procedures for the selection and removal of judges and other court personnel and in determining appropriate levels of compensation;

(2) to support education and training programs for judges and other court personnel, for the performance of their general duties and for specialized functions, and to support national and regional conferences and seminars for the dissemination of information on new developments and innovative techniques;

(3) to conduct research on alternative means for using nonjudicial personnel in court decisionmaking activities, to implement demonstration programs to test innovative approaches, and to conduct evaluations of their effectiveness;

(4) to assist State and local courts in meeting requirements of Federal law applicable to recipients of Federal funds;

(5) to support studies of the appropriateness and efficacy of court organizations and financing structures in particular States, and to enable States to implement plans for improved court organization and finance;

(6) to support State court planning and budgeting staffs and to provide technical assistance in resource allocation and service forecasting techniques;

(7) to support studies of the adequacy of court management systems in State and local courts and to implement and evaluate innovative responses to problems of record management, data processing, court personnel management, reporting and transcription of court proceedings, and juror utilization and management;

(8) to collect and compile statistical data and other information on the work of the courts and on the work of other agencies which relate to and effect the work of courts;

(9) to conduct studies of the causes of trial and appellate court delay in resolving cases, and to establish and evaluate experimental programs for reducing case processing time;

(10) to develop and test methods for measuring the performance of judges and courts and to conduct experiments in the use of such measures to improve their functioning;

(11) to support studies of court rules and procedures, discovery devices, and evidentiary standards, to identify problems with their operation, to devise alternative approaches to better reconcile the requirements of due process with the needs for swift and certain justice, and to test their utility;

(12) to support studies of the outcomes of cases in selected subject matter areas to identify instances in which the substance of justice meted out by the courts diverges from public expectations of fairness, consistency, or equity, to propose alternative approaches to the resolving of cases in problem areas, and to test and evaluate those alternatives;

(13) to support programs to increase court responsiveness to the needs of citizens through citizen education, improvement of court treatment of witnesses, victims, and jurors, and development of procedures for obtaining and using measures of public satisfaction with court processes to improve court performance;

(14) to test and evaluate experimental approaches to providing increased citizen access to justice including processes which reduce the cost of litigating common grievances and alternative techniques and mechanisms for resolving disputes between citizens; and

(15) to carry out such other programs consistent with the purposes of this Act as may be deemed appropriate by the Institute.

(d) The Institute shall incorporate in any grant cooperative agreement or contract awarded under this section in which a State or local judicial system is the recipient, the requirement that the recipient provide a match, from private or public sources, equal to 25 per centum of the total cost of such grant, cooperative agreement, or contract, except that such requirement may be waived in exceptionally rare circumstances upon the approval of the chief justice of the highest court of the State and a majority of the Board of Directors.

(e) The Institute shall monitor and evaluate, or provide for independent evaluations of, programs supported in whole or in part under this Act to insure that the provisions of this Act, the bylaws of the Institute, and the applicable rules, regulations, and guidelines promulgated pursuant to this Act, are carried out.

(f) The Institute shall provide for an independent study of the financial and technical assistance programs under this Act.

LIMITATIONS ON GRANTS AND CONTRACTS

SEC. 8. (a) With respect to grants or contracts made under this Act, the Institute shall—

(1) insure that no funds made available to recipients by the Institute shall be used at any time, directly or indirectly, to influence the issuance, amendment, or revocation of any Executive order or similar promulgation by any Federal, State, or local agency, or to undertake to influence the passage or defeat of any legislation by the Congress of the United States, or by any State or local legislative body, or any State proposal by initiative petition, unless a governmental agency, legislative body, a committee, or a member thereof—

(A) requests personnel of the recipients to testify, draft, or review measures or to make representations to such agency, body, committee, or member; or

(B) is considering a measure directly affecting the activities under this Act of the recipient or the Institute;

(2) insure all personnel engaged in grant or contract assistance activities supported in whole or part by the Institute refrain, while so engaged, from any partisan political activity; and

(3) insure that every grantee, contractor, person, or entity receiving financial assistance under this Act which files with the Institute a timely application for refunding is provided interim funding necessary to maintain its current level of activities until—

(A) the application for refunding has been approved and funds pursuant thereto received; or

(B) the application for refunding has been finally denied in accordance with section 8 of this Act.

(b) No funds made available by the Institute under this Act, either by grant or contract, may be used to support or conduct training programs for the purpose of advocating particular nonjudicial public policies or encouraging nonjudicial political activities.

(c) The authorization to enter into contracts or any other obligation under this Act shall be effective for fiscal year 1981 and any succeeding fiscal year only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

(d) To insure that funds made available under this Act are used to supplement and improve the operation of State courts, rather than to support basic court services, funds shall not be used—

(1) to supplant State or local funds currently supporting a program or activity; or

(2) to construct court facilities or structures, except to remodel existing facilities to demonstrate new architectural or technological techniques, or to provide temporary facilities for new personnel or for personnel involved in a demonstration or experimental program.

RESTRICTIONS ON ACTIVITIES OF THE INSTITUTE

SEC. 9. (a) The Institute shall not—

(1) participate in litigation unless the Institute or a recipient of the Institute is a party, and shall not participate on behalf of any client other than itself; or

(2) interfere with the independent nature of any State judicial system nor allow sums to be used for the funding of regular judicial and administrative activities of any State judicial system other than pursuant to the terms of any grant, cooperative agreement, or contract with the Institute, consistent with the requirements of this Act; or

(3) undertake to influence the passage or defeat of any legislation by the Congress of the United States or by any State or local legislative body, except that personnel of the Institute may testify or make other appropriate communication—

(A) when formally requested to do so by a legislative body, committee, or a member thereof;

(B) in connection with legislation or appropriations directly affecting the activities of the Institute; or

(C) in connection with legislation or appropriations dealing with improvements in the State judiciary, consistent with the provisions of this Act.

(b)(1) The Institute shall have no power to issue any shares of stock, or to declare or pay any dividends.

(2) No part of the income or assets of the Institute shall inure to the benefit of any director, officer, or employee, except as reasonable compensation for services or reimbursement for expenses.

(3) Neither the Institute nor any recipient shall contribute or make available Institute funds or program personnel or equipment to any political party or association, or the campaign of any candidate for public or party office.

(4) The Institute shall not contribute or make available Institute funds or program personnel or equipment for use in advocating or opposing any ballot measure, initiative, or referendum, except those dealing with improvement of the State judiciary, consistent with the purposes of this Act.

(c) Officers and employees of the Institute or of recipients shall not at any time intentionally identify the Institute or the recipient with any partisan or nonpartisan political activity associated with a political party or association, or the campaign of any candidate for public or party office.

SPECIAL PROCEDURES

SEC. 10. The Institute shall prescribe procedures to insure that—

(1) financial assistance under this Act shall not be suspended unless the grantee, contractor, person, or entity receiving financial asssistance under this Act has been given reasonable notice and opportunity to show cause why such actions should not be taken; and

(2) financial assistance under this Act shall not be terminated, an application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than thirty days, unless the grantee, contractor, person, or entity receiving financial assistance under this Act has been afforded reasonable notice and opportunity for a timely, full, and fair hearing, and, when requested, such hearing shall be conducted by an independent hearing examiner. Such hearing shall be held prior to any final decision by the Institute to terminate financial assistance or suspend or deny funding. Hearing examiners shall be appointed by the Institute in accordance with procedures established in regulations promulgated by the Institute.

PRESIDENTIAL COORDINATION

SEC. 11. The President may, to the extent not inconsistent with any other applicable law, direct that appropriate support functions of the Federal Government may be made available to the Institute in carrying out its functions under this Act.

RECORDS AND REPORTS

SEC. 12. (a) The Institute is authorized to require such reports as it deems necessary from any grantee, contractor, person, or entity receiving financial assistance under this Act regarding activities carried out pursuant to this Act.

(b) The Institute is authorized to prescribe the keeping of records with respect to funds provided by grant or contract and shall have access to such records at all reasonable times for the purpose of insuring compliance with the grant or contract or the terms and conditions upon which financial assistance was provided.

(c) Copies of all reports pertinent to the evaluation, inspection, or monitoring of any grantee, contractor, person, or entity receiving financial assistance under this Act shall be submitted on a timely basis to such grantee, contractor, or person or entity, and shall be maintained in the principal office of the Institute for a period of at least five years after such evaluation, inspection, or monitoring. Such reports shall be available for public inspection during regular business hours, and copies shall be furnished, upon request, to interested parties upon payment of such reasonable fees as the Institute may establish.

(d) Non-Federal funds received by the Institute, and funds received for projects funded in part by the Institute or by any recipient from a source other than the Institute, shall be accounted for and reported as receipts and disbursements separate and distinct from Federal funds.

AUDITS

SEC. 13. (a)(1) The accounts of the Institute shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants who are certified by a regulatory authority of the jurisdiction in which the audit is undertaken.

(2) The audits shall be conducted at the place or places where the accounts of the Institute are normally kept. All books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Institute and necessary to facilitate the audits shall be made available to the person or persons conducting the audits. The full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to any such person.

(3) The report of the annual audit shall be filed with the General Accounting Office and shall be available for public inspection during business hours at the principal office of the Institute.

(b)(1) In addition to the annual audit, the financial transactions of the Institute for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the General Accounting Office in accordance with such rules and regulations as may be prescribed by the Comptroller General of the United States.

(2) Any such audit shall be conducted at the place or places where accounts of the Institute are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files and other papers or property belonging to or in use by the Institute and necesary to facilitate the audit. The full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to such representatives. All such books, accounts, financial records, reports, files, and other papers or property of the Institute shall remain in the possession and custody of the Institute throughout the period beginning on the date such possession or custody commences and ending three years after such date, but the General Accounting Office may require the retention of such books, accounts, financial records, reports, files, and other papers or property for a longer period under section 117(b) of the Accounting and Auditing Act of 1950 (31 U.S.C. 67(b)).

(3) A report of such audit shall be made by the Comptroller General to the Congress and to the Attorney General, together with such recommendations with respect thereto as the Comptroller General deems advisable.

(c)(1) The Institute shall conduct, or require each grantee, contractor person, or entity receiving financial assistance under this Act to provide for, an annual fiscal audit. The report of each such audit shall be maintained for a period of at least five years at the principal office of the Institute.

(3) The Institute shall submit to the Comptroller General of the United States copies of such reports, and the Comptroller General may, in addition, inspect the books, accounts, financial records, files, and other papers or property belonging to or in use by such grantee, contractor, person, or entity, which relate to the disposition or use of funds received from the Institute. Such audit reports shall be available for public inspection during regular business hours, at the principal office of the Institute.

AUTHORIZATIONS

SEC. 14. There are authorized to be appropriated for fiscal year 1982 such sums as may be necessary to carry out the provisions of this Act.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-843), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

State Courts share with federal courts the awesome responsibility for enforcing the rights and duties of the Constitution and laws of the United States. Our expectations of state courts, and the burdens we have placed upon them, have increased significantly in recent years. Decisions of the United States Supreme Court, the enactment of wide-reaching legislation by the Congress, and the diversion of cases from the federal courts, for example, have all taken their total on state courts dockets and the workload of state judges and courts personnel.

Today, state courts handle over ninety-six percent of all the cases tired in the United States. It is therefore quite apparent that the quality of justice in the United States is largely determined by the quality of justice in our state courts.

Moreover, there have been major changes in the mission of courts and judges, both in the state and federal systems, over the last few decades. For instance earlier in this century there was much argument as to whether judges' functions included an obligation to see that cases in their courts moved toward disposition in a regular and efficient manner. Today, however, problems of administration have taken their place alongside problems of adjudication as legitimate responsibilities of judges. Nearly everyone has come to acknowledge that judges have a duty to insure that their cases do not simply languish on the docket, but instead are moved to a conclusion with as much dispatch and economy of time and effort as practicable.

We do not look with disfavor on the occurrence of any of these events, nor do our state courts shirk from the discharge of their constitutional duties. But it is appropriate for the federal government to provide financial and technical assistance to state courts to insure that they remain strong and effective in a time when their workloads are increasing as a result of federal policies and decisions.

As the late Tom Clark, Associate Justice of the Supreme Court, once wrote, "Courts sit to determine cases on stormy as well as calm days. We must therefore build them on solid ground, for if the judicial powers fail, government is at an end."

If we are to build our state courts on "solid ground," if we are to have state courts which are accessible, efficient, and just, we must have the following: structures, facilities, and procedures to provide and maintain qualified judges and other court personnel; educational and training programs for judges and other court personnel: sound management systems; better mechanisms for planning, budgeting and accounting; sound procedures for managing and monitoring caseloads; improved programs for increasing access to justice; programs to increase citizen involvement and guaranteed greater judicial accountability.

S. 2387 would be a major step toward the achievement of these goals. It creates a State Justice Institute to aid state and local governments in strengthening and improving their judicial systems. Such an institute—consistent with the doctrines of federalism and separation of powers that are essential to an independent judiciary—could assure strong and effective state courts, and thereby improve the quality of justice available to the American people.

TRANSFER OF CERTAIN EMPLOYEES

The bill (S. 2936) to transfer certain employees of the Architect of the Capitol to the Sergeant at Arms of the Senate, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) those employees engaged by the Architect of the Capitol pursuant to section 1 of the Act of June 30, 1932, as amended (40 U.S.C. 185a), for the primary purpose of servicing official motor vehicles, together with the functions performed by such employees, shall, on October 1, 1980, be deemed transferred to the jurisdiction of the Sergeant at Arms of the Senate. In no case shall any such employee receive a reduction in his basic compensation as the result of such transfer.

(b) For purposes of section 8339(m) of title 5, United States Code, the days of unused sick leave to the credit of any such employee as of the date such employee is transferred by this Act shall be included in the total service of such employee in connection with the computation of any annuity under subsections (a)-(e) and (o) of such section.

(c) In the case of days of annual leave to the credit of any such employee as of the date such employee is transfererd by this Act, the Architect of the Capitol is authorized to make a lump sum payment to each such employee in order to compensate such employee for that annual leave. Such payments shall not be considered a payment or compensation within the meaning of any law relating to dual compensation.

(d) As used in this Act, the term "servicing" includes, with respect to an official motor vehicle, the washing and fueling of such vehicle, the checking of its tires and battery, and checking and adding oil.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-844), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The bill would authorize the transfer of those employees in the Office of the Architect of the Capitol with responsibilities of servicing official Senate vehicles to the Office of the Senate Sergeant at Arms. The employees engaged by the Architect of the Capitol under the authority of the Legislative Branch Appropriation Act, 1932, as amended (40 U.S.C. 185a), would be affected.

AUTHORITY TO RECEIVE BEQUESTS TO THE U.S. GOVERNMENT

The Senate proceeded to consider the bill (S. 2185) to authorize the Federal Emergency Management Agency to accept a bequest to the U.S. Government of approximately $500,000, which had been reported from the Committee on Governmental Affairs with an amendment to strike all after the enacting clause and insert the following:

That section 601 of the Disaster Relief Act of 1974 (42 U.S.C. 5201) is amended—

(1) by inserting "AND ACCEPT GIFTS" after "RULES" in the heading;

(2) by inserting "(a)" before "The President"; and

(3) by adding at the end thereof the following new subsection:

"(b) In furtherance of the purposes of this Act, the President or his delegate may accept and use bequests, gifts, or donations of service, money, or property, real, personal, or mixed, tangible, or intangible. All sums received under this subsection shall be deposited in a separate fund on the books of the Treasury and shall be available for expenditure upon the certification of the President or his delegate. At the request of the President or his delegate, the Secretary of the Treasury may invest and reinvest excess monies in the fund. Such investments shall be in public debt securities with maturities suitable for the needs of the fund and shall bear interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The interest on such investments shall be credited to, and form a part of, the fund.".

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

The title was amended so as to read:

A bill to authorize the acceptance and use of bequests and gifts for disaster relief.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-845), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

S. 2185 was introduced on December 20, 1979 by Senator Danforth to permit the Federal Emergency Management Agency to accept the bequest of Cora Brown of approximately $500,000 to be used as a special fund for the relief of human suffering caused by natural disasters or other disasters not caused by or attributable to war, both within and without this country.

Mrs. Cora Brown died on August 20, 1977 and stipulated that approximately $500,000 of her estate be left to the Federal government for the creation of a special fund to relieve human suffering. Since specific legislative authority is required for the Federal government to receive gifts for a specific use, S. 2185 was introduced.

Upon introduction, S. 2185 was referred to the Committee on Governmental Affairs, and subsequently to the Subcommittee on Intergovernmental Relations.

In commenting on the proposed legislation, the Department of Justice and the Department of Treasury recommended amendment of the bill. These agencies recommended that the legislation be amended to allow the Federal government to accept *any* bequest, including the bequest of Cora Brown, in furtherance of the purposes of the Disaster Relief Act of 1974. The Federal Emergency Management Agency (FEMA), which administers the Act, concurred with this recommendation. With this amendment FEMA would be authorized to accept future bequests without the necessity of additional legislation. In addition, the amendment addressed Treasury's concern over establishing a fund for the sole purpose of accepting a single gift. The subcommittee and the full Committee, concurring in the agencies' recommendation, amended the bill accordingly.

Pursuant to S. 2185, Mrs. Brown's request and all other future gifts of a similar nature will be credited to a separate fund available for expenditure by the President or his delegate under the terms and conditions of Sections 305, 306, and 408 of the Disaster Relief Act.

Excess monies in the fund may be reinvested by the Secretary of the Treasury in public debt securities with maturities suitable for the needs of the funds. All interest on investments shall be credited to and form part of the fund.

CARL ALBERT INDIAN HEALTH FACILITY

The Senate proceeded to consider the bill (S. 2801) to designate the Indian health facility in Ada, Okla., the "Carl Albert Indian Health Facility".

Mr. BOREN. Mr. President, the Senate today is considering S. 2801, a bill which I introduced to designate the Indian health facility in Ada, Okla., as the "Carl Albert Indian Health Facility," in honor of the former Speaker of the U.S. House of Representatives, the Honorable Carl Albert of Oklahoma.

During his long and distinguished career in the House, Speaker Albert exhibited unfailing support and dedication to efforts advanced to upgrade the economic and social self-sufficiency of the first Americans. Recognizing that one factor of major importance in achieving a sound economy for any group of people is a health status of the highest level, Speaker Albert was always supportive of the Indian peoples' efforts to improve the quantity and quality of the health care provided to them.

Having represented a State with the highest number of Indian tribes as well as the largest number of Indians of any State in the Nation, Speaker Albert is well acquainted with the difficulty which Indian tribes in Oklahoma and throughout the country encounter in their efforts to achieve a health status of the highest level for their tribal constituencies.

Recognizing the numerous unmet health care needs of the thousands of Indian people in southeastern Oklahoma, Speaker Albert was instrumental in securing funds for the much-needed comprehensive health care facility currently nearing completion in Ada, Okla. The facility will provide complete health care services to approximately 20,000 Chickasaw and other Indians, principally in southeastern Oklahoma.

It is the desire of the Chickasaw Nation that this comprehensive health care facility, located in the headquarters city for the Chickasaw Nation, be named in honor of Carl Albert in appreciation for his friendship and service to the Chickasaw Nation over the years. The Cherokee, Choctaw, Creek, and Seminole Nations joined the Chickasaws in this desire and the "Five Civilized Nations" have passed a joint resolution seeking to have this facility named after Speaker Albert. I support the tribes in their desire and am pleased to be able to help them in this effort.

Mr. President, I hope the full Senate will join me in this tribute to Carl Albert, the distinguished former Speaker of the House, a friend of the Chickasaw Nation, and Oklahoma's senior statesman.

I also would like to thank members of the Select Committee on Indian Affairs and the chairman of the committee, the senior Senator from Montana, for their prompt action on this bill. I would also like to express my thanks to the committee for the work which they have done on this legislation.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Indian Health Facility located at 1001 North Country Club Road, Ada, Oklahoma, shall hereafter be known and designated as the "Carl Albert Indian Health Facility".

SEC. 2. Any reference in law, map, regulation, document, record, or other paper of the United States to such facility shall be held to be reference to the "Carl Albert Indian Health Facility".

TRIBAL DISPOSITION OF TRUST FUND PER CAPITA PAYMENTS

The Senate proceeded to consider the bill (S. 2767) to provide that per capita payments to Indians may be made by tribal governments, and for other purposes, which had been reported from the Select Committee on Indian Affairs with amendments as follows:

On page 2, line 9, after the period, insert the following:

Before payment of trust funds to an Indian tribe for per capital distribution, the Secretary must find that—

(1) the tribe has a duly elected governing body authorized by the tribal membership to represent and act for the tribe;

(2) the tribe has a bonded tribal official authorized to accept and disburse funds belonging to the tribe;

(3) the tribe has an approved plan of operation containing an outline of the procedures established to account for, disburse, and control the funds advanced, the name of the tribe's depository, and a provision for audits by public accountants or the Secretary;

(4) the tribal governing body has approved a resolution requesting authority to make per capital payments itself; and

(5) the tribe agrees to certify that all enrolled tribal members participate in the distribution and that any enrolled members whose names may be inadvertently omitted from the payment roll are subsequently paid. Questions of entitlement shall be subject to review by the tribal court or such independent body as the tribe may establish.

SEC. 2. (a) The minor or incompetent's share of trust funds may be disbursed in such amounts as may be deemed necessary for the best interest of the minor or incompetent's health, education, welfare, and emergencies under a plan governing such funds for minors and incompetents developed under the authority of the tribal governing body and approved by the Secretary.

(b) Any such plan shall provide for review and adjustment of disbursements to parents or guardians for the benefit of minors or incompetents by the tribal court or such other independent mechanisms as the tribe may establish. Such adjustments shall be approved by the Secretary.

(c) The tribe shall provide an annual report on trust per capita payments to the Secretary containing such information as the Secretary shall require.

On page 3, line 23, strike "2" and insert "3";

On page 4, line 5, strike "3" and insert "4";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That funds which are held in trust by the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") for an Indian tribe and which are to be distributed per capita to members of such tribe may be so distributed by either the Secretary or the governing body of such tribe. Any funds so distributed shall be paid by the Secretary or such governing body directly to the member involved, or, if such member is a minor or has been legally determined not competent to handle such member's own affairs, to a parent or guardian of such member. Before payment of trust funds to an Indian tribe for per capita distribution, the Secretary must find that—

(1) the tribe has a duly elected governing body authorized by the tribal membership to represent and act for the tribe;

(2) the tribe has a bonded tribal official authorized to accept and disburse funds belonging to the tribe;

(3) the tribe has an approved plan of operation containing an outline of the procedures established to account for, disburse, and control the funds advanced, the name of the tribe's depository, and a provision for audits by public accountants or the Secretary;

(4) the tribal governing body has approved a resolution requesting authority to make per capita payments itself; and

(5) the tribe agrees to certify that all enrolled tribal members participate in the distribution and that any enrolled members whose names may be inadvertently omitted from the payment roll are subsequently paid. Questions of entitlement shall be subject to review by the tribal court or such independent body as the tribe may establish.

SEC. 2. (a) The minor or incompetent's share of trust funds may be disbursed in such amounts as may be deemed necessary for the best interest of the minor or incompetent's health, education, welfare, and emergencies under a plan governing such funds for minors and incompetents developed under the authority of the tribal governing body and approved by the Secretary.

(b) Any such plan shall provide for review and adjustment of disbursements to parents or guardians for the benefit of minors or incompetents by the tribal court or such other independent mechanisms as the tribe may establish. Such adjustments shall be approved by the Secretary.

(c) The tribe shall provide an annual report on trust per capita payments to the Secretary containing such information as the Secretary shall require.

SEC. 3. (a) Funds distributed under this Act shall not be liable to the payment of any previously contracted obligation.

(b) Nothing in this Act shall affect the requirements of the Act of October 19, 1973 (87 Stat. 466; 25 U.S.C. 1401 et seq.), or of any plan under such Act, with respect to the use or distribution of funds subject to such Act.

SEC. 4. (a) The following provision of section 1 of the Act of June 10, 1896 (29 Stat. 336; 25 U.S.C. 117) is repealed: "That any sums of money hereafter to be paid per capita to individual Indians shall be paid to said Indians by an officer of the Government designated by the Secretary of the Interior.".

(b) Section 19 of the Act of June 28, 1898 (30 Stat. 502) is repealed.

The amendments were agreed to.

● Mr. HATFIELD. Mr. President, the legislation before the Senate, S. 2767, is straightforward and noncontroversial. The bill would provide that per capita payments to Indians could be made by either the Secretary of the Interior or by the tribal governments to which the funds involved belong. At present, under statutes dating back to the 1890's, only an "officer of the Government, designated by the Secretary of the Interior" is authorized to make such per capita payments. Accordingly, S. 2767 would also repeal the statutes limiting the execution of the disbursements to an officer of the Government.

The situation which gave rise to the need for this bill occurred on the Warm Springs Reservation in Oregon. The tribe had, since 1976, been using its automatic data processing system to print checks distributed to tribal members as dividends from tribal enterprises, unaware of the statutes requiring that the Secretary make per capita payments.

In fact, the BIA Agency Office had been handling the distribution before 1976, but was more than happy to have the tribe relieve it of the administrative cost and burden of the distribution when the tribe had acquired the capability. The circulation of tribal checks strengthened its profile in the community as a responsible employer and industrial concern. The arrangement was working well until the recent Solicitor's opinion which held that such an arrangement was in contravention of the 1896 and 1898 statutes. The result is that the BIA Agency staff has during the past year again been shouldered with the needless extra burden of drafting and distributing monthly per capita checks.

To underscore the inefficiency and waste that has been brought about by the Solicitor's ruling, Mr. Ken Smith, the general manager of the Confederated Tribes of Warm Springs, testified before the Select Committee on Indian Affairs that some 2,300 per capita payments on tribal checks had been regularly made within a matter of minutes, whereas it has taken the agency staff about 6 man days to individually type the same number of Federal Government checks.

The Interior Department testified before our committee that the "requirements that per capita payments be distributed only by Federal officers are no longer necessary." It was pointed out that the statutes requiring such a mechanism were enacted at a time when most tribes had no organizational means for accounting for the disbursement of funds to their members. The Department acknowledges that many tribes have proved themselves fully capable of handling the distribution of per capita payments, and therefore, takes the position that the tribes should be permitted to make such distribution of funds.

Mr. President, the Congress has stated in the Indian Self-Determination and Education Assistance Act that it is its intention that tribes take more initiative in handling their own affairs. It is clear that we should then encourage such initiatives as Warm Springs has taken in the matter of per capita distributions by removing laws which are no longer relevant to today's circumstances and which in fact impede greater self-determination among the tribes. Moreover, it is quite obvious that the BIA has enough work to do without having to take on additional responsibilities which are much more efficiently handled at the tribal level. I urge my colleagues to support this legislation.●

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, for recapitulation, the Senate has adopted Calendar Order Nos. 911, 912, 913, 921, 926, 927, 928, 930, 931, and 932, am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that my statement be printed in the RECORD on tomorrow in relation to Calendar Order No. 921.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO INDEFINITELY POSTPONE SENATE RESOLUTION 397 AND HOUSE JOINT RESOLUTION 507

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar Order Nos. 846 and 924 be indefinitely postponed.

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR BAYH ON WEDNESDAY, JULY 23, 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Wednesday, after the two leaders have been recognized under the standing order, Mr. BAYH be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT RECEIVED DURING THE RECESS

Under the authority of the order of July 2, 1980, the Secretary of the Senate, on July 3, July 7, July 10, and July 18, 1980, received messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received on July 3, July 7, July 10, and July 18, 1980, are printed at the end of the Senate proceedings.)

Under authority of the order of July 2, 1980, the Secretary of the Senate, on July 3, 1980, received a message from the President of the United States, transmitting a treaty.

REPORT ON UNITED STATES PARTICIPATION IN THE UNITED NATIONS—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE RECESS—PM 222

Under the authority of the order of July 2, 1980, the Secretary of the Senate, on July 3, 1980, received the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

I am pleased to transmit to the Congress this report of the activities of the United States Government in the United Nations and its affiliated agencies during calendar year 1978.

This 33rd annual report covers the second year of my Administration, and I believe it confirms our conviction that the United Nations is of vital and growing importance to the conduct of U.S. foreign relations.

The year 1978 revealed some of the strengths of the UN system. Among the actions taken during 1978 by the United Nations that best exemplify its strength were the rapid establishment of the United Nations Interim Force in Lebanon (UNIFIL) and the development of a UN plan to ensure the early independence of Namibia through free and fair elections. The UN plan for Namibia includes the authorized establishment of a United Nations Transition Assistance Group (UNTAG) to assist the Secretary General's Special Representative for Namibia. Formation of UNTAG still awaits final agreement on the implementation of a Namibia settlement.

The establishment of UNIFIL was particularly important for the development of the UN's peacekeeping operations. UNIFIL is a test of the UN's ability to gain the cooperation of the parties concerned because, unlike other peacekeeping operations, it operates without a precise agreement between opposing parties. In an area where there has been little or no exercise of legitimate civil authority, the Force is attempting to maintain peace within the territory of a sovereign country where there are indigenous, rebellious armed groups supported from outside. The technique of peacekeeping is among the most innovative activities of the United Nations, and one of the most successful.

The year 1978 also witnessed small but growing third world interest in UN human rights initiatives, and the Special Session on Disarmament, which set forth goals and priorities for disarmament negotiations. The United Nations also began to become closely involved in efforts to alleviate the human tragedy in Kampuchea.

The continuing difficulties of the United Nations in dealing with general economic issues were demonstrated by the year-long impasse over the mandate of the Committee of the Whole. In contrast, the decision to convene a Conference on New and Renewable Sources of Energy, which we strongly support, and the reconvening of the negotiating conference on the Common Fund for Commodities, which has since made substantial progress, are solid evidence of the UN's growing ability to deal effectively with specific international economic problems.

The United States remains deeply concerned about the budgetary growth in the UN system, and in 1978 voted against the UN budget for the first time because it failed to exercise the necessary financial restraint. We are continuing to monitor closely UN expenditures, programs, and personnel practices.

It is my hope that this report will contribute to knowledge of and support for the UN as an institution, and to continued active and constructive U.S. participation.

JIMMY CARTER.

THE WHITE HOUSE, *July 3, 1980.*

REPORT OF THE NATIONAL SCIENCE FOUNDATION—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE RECESS—PM 223

Under the authority of the order of July 2, 1980, the Secretary of the Senate, on July 3, 1980, received the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

I have, on many occasions, stressed my belief that our Nation's future—in particular its economic health—is tied to the vitality and advances of science and technology. For that reason I am pleased to transmit this annual report for Fiscal Year 1979 of the National Science Foundation. The National Science Foundation's primary responsibility—unique among Federal agencies—is to assure that we continue to generate broad scientific knowledge and to draw on the collective expertise of the scientific community to identify the most important problems and best opportunities for Federal support.

As this annual report shows, National Science Foundation-supported research continues to produce promising and far-reaching results. If we look at a variety of developments important to today's world—such as advances in agriculture, medical science, communications, alternative energy supplies and conservation, computers, or industrial processes—we can trace threads back through the years to the basic research, often supported by the National Science Foundation, that made them possible. Likewise, we can be assured that many of the results being reported now will, eventually, similarly enhance our daily lives and well-being.

Our success in continuing this process of nurturing and speeding the generation of knowledge is not an intellectual luxury but is critical to our future. At a time of increasing constraints on the availability of material resources throughout the world, our national research capability is a particularly valuable resource to enable us to devise innovative approaches to difficult problems. The National Science Foundation is important to the development and maintenance of that resource, and I hope you will take the opportunity to review its recent activities described in this report.

JIMMY CARTER.

THE WHITE HOUSE, *July 3, 1980.*

REPORT OF THE FEDERAL PREVAILING RATE ADVISORY COMMITTEE—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE RECESS—PM 224

Under the authority of the order of July 2, 1980, the Secretary of the Senate on July 3, 1980, received the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

In accordance with Section 5347(e) of Title 5 of the United States Code, I hereby transmit to you the 1979 Annual Report of the Federal Prevailing Rate Advisory Committee.

JIMMY CARTER.

THE WHITE HOUSE, *July 3, 1980.*

MESSAGES FROM THE HOUSE RECEIVED DURING THE RECESS

Under the authority of the order of July 2, 1980, the Secretary of the Senate, on July 7, 1980, received a message from the House of Representatives, which reported that the House has passed the following bill, with amendments in which it requests the concurrence of the Senate:

S. 1097. An act to establish a national tourism policy, a Cabinet level coordinating council and a nonprofit corporation as an implementing agency to carry out the national tourism policy.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also reported that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 7474. An act to provide for a research, development, and demonstration program to achieve early technology applications for ocean thermal energy conversion systems, and for other purposes;

H.R. 7482. An act to authorize the President of the United States to present on behalf of Congress a specially struck gold-plated medal to the United States Summer Olympic Team of 1980;

H.R. 7542. An act making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes;

H.R. 7573. An act to provide an extension of the time frame for nomination of a selection pool under the Cook Inlet land exchange; and

S.J. Res. 168. Joint resolution designating July 18, 1980, as "National POW-MIA Recognition Day".

The enrolled bills and joint resolution were subsequently signed by the Vice President.

MESSAGES FROM THE HOUSE

At 5:18 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 1466. An act to provide for the distribution of certain funds appropriated to pay judgments in favor of the Delaware Tribe of Indians and the absentee Delaware Tribe of Western Oklahoma in Indian Claims Commission dockets 27-A and 241, 289, and 27-B and 338, and for other purposes; and

S. 2508. An act to provide for the disposition of the Gila River Pima-Maricopa Indian Community judgment funds awarded in dockets 236-A, 236-B, and 236-E before the Indian Claims Commisssion and the U.S. Court of Claims, and for other purposes.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

S. 2382. An act to provide for additional authorization for appropriations for the Tinicum National Environmental Center.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. HEFLIN).

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on July 7, 1980, he had presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 168. Joint resolution designating July 18, 1980, as "National POW-MIA Recognition Day".

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4158. A communication from the President of the United States submitting a proposal for an allocation of the net revenues expected from the Crude Oil Windfall Profit Tax Act of 1980; to the Committee on Appropriations and the Committee on the Budget, jointly, by unanimous consent.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication transmitted by the President of the United States, relative to the allocation of the net revenues expected from the Crude Oil Windfall Profit Tax Act of 1980, be referred jointly to the Committee on Appropriations and the Committee on the Budget.

The PRESIDING OFFICER. Without objection, it is so ordered.

EC-4159. A communication from the Secretary of Labor, transmitting, pursuant to law, a report on the administration of the Employee Retirement Income Security Act of 1974 (ERISA); to the Committee on Labor and Human Resources and the Committee on Finance, jointly, by unanimous consent.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication transmitted by the Secretary of Labor, relative to the annual report on the administration of ERISA, be referred jointly to the Committee on Finance and the Committee on Labor and Human Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

EC-4160. A communication from the General Counsel, United States General Accounting Office, reporting, pursuant to law, on the status of budget authority that was proposed, but rejected, for rescission; to the Committee on Appropriations and the Committee on the Budget, jointly, pursuant to order of January 30, 1980.

EC-4161. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on rescissions and deferrals, July 1, 1980; to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Select Committee on Indian Affairs, the Committee on Labor and Human Resources, the Committee on Banking, Housing, and Urban Affairs, the Committee on the Judiciary, the Committee on Finance, the Committee on Foreign Relations, the Committee on Governmental Affairs, the Select Committee on Small Business, the Committee on Environment and Public Works, and the Committee on Rules and Administration, jointly, pursuant to order of January 30, 1975.

EC-4162. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Direct Farmer-To-Consumer Marketing Program Should Be Continued And Improved," July 9, 1980; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4163. A communication from the President of the United States, transmitting proposals which reduce the requests for supplemental appropriations for the fiscal year 1980 by $103,066,000, 1980 appropriation language, and amendments to the request for appropriations for the fiscal year 1981 in the amount of $116,612,000; to the Committee on Appropriations.

EC-4164. A communication from the Deputy Assistant Secretary of Defense (Administration), reporting, pursuant to law, on receipts and disbursements to appropriations from disposal of military supplies, equipment and material; to the Committee on Appropriations.

EC-4165. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the American Institute on Taiwan's proposed Letter of Offer to the Coordination Council for North American Affairs for Defense Articles estimated to cost in excess of $15 million; to the Committee on Armed Services.

EC-4166. A communication from the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), transmitting, pursuant to law, a report entitled "Conceptual Plan for the Redevelopment of Truman Naval Annex, Key West, Florida"; to the Committee on Armed Services.

EC-4167. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, on a construction project to be undertaken by the Army National Guard; to the Committee on Armed Services.

EC-4168. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, on a construction project to be undertaken by the Army National Guard; to the Committee on Armed Services.

EC-4169. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the American Institute on Taiwan's proposed Letter of Offer to the Coordination Council for North American Affairs for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-4170. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Implications of Highway Sophisticated Weapon Systems on Military Capabilities," June 30, 1980; to the Committee on Armed Services.

EC-4171. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Military Exchange Systems: How they Can Provide More Benefits for Military Personnel," July 18, 1980; to the Committee on Armed Services.

EC-4172. A communication from the Assistant Secretary of the Army (Installations, Logistics, and Financial Management), reporting, pursuant to law, that a study has been conducted with respect to converting the consideration and containerization function at Sharpe Army Depot, Lathrop, California, and a decision has been made that performance under contract is the most cost-effective method of accomplishing it; to the Committee on Armed Services.

EC-4173. A communication from the Secretary of Commerce, reporting, pursuant to law, on restrictions on exports for the Kama River Truck Complex (Kam AZ) in the USSR; to the Committee on Banking, Housing, and Urban Affairs.

EC-4174. A communication from the Chairman, Cost Accounting Standards Board, transmitting, pursuant to law, a final rule relating to cost of money as an element of the cost of capital assets under construction; to the Committee on Banking, Housing, and Urban Affairs.

EC-4175. A communication from the President, Export-Import Bank of the United States, transmitting, pursuant to law, a report of actions taken by Eximbank during the two quarters ending March 31, 1980; to the Committee on Banking, Housing, and Urban Affairs.

EC-4176. A communication from the Secretary of Housing and Urban Development, transmitting a draft of proposed legislation to provide an improved and expedited mortgage foreclosure procedure with respect to multifamily mortgages held by the Secretary of Housing and Urban Development pursuant to title II of the National Housing Act or section 312 of the Housing Act of 1964, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

EC-4177. A communication from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, a report on (1) the average number of passengers per day on board each train operated; and (2) the on-time performance at the final destination of each train operated, by route and by railroad; to the Committee on Commerce, Science, and Transportation.

EC-4178. A communication from the Executive Director, United States Olympic Committee, transmitting, pursuant to law, an audited account of the U.S. Olympic Committee, together with a report of the activities of the organization; to the Committee on Commerce, Science, and Transportation.

EC-4179. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Problems in Implementing Regulatory Accounting and Costing Systems for Railroads," July 17, 1980; to the Committee on Commerce, Science, and Transportation.

EC-4180. A communication from the Chairman, Federal Trade Commission, transmitting, pursuant to law, the sixty-fifth annual report of the Commission covering its accomplishments during the fiscal year ending September 30, 1979; to the Committee on Commerce, Science, and Transportation.

EC-4181. A communication from the Secretary, Interstate Commerce Commission, reporting, pursuant to law, that the Commission needs an additional 45 day extension in Docket No. 37301, Restricted Transit, Trans-Continental Shipments of Oil; to the Committee on Commerce, Science, and Transportation.

EC-4182. A communication from the Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, a report on the proposed disposal of 143 acres of land at Plum Brook Station, Sandusky, Ohio; to the Committee on Commerce, Science, and Transportation.

EC-4183. A communication from the Assistant Secretary of the Treasury (Legislative Affairs), transmitting, pursuant to law, a report for 1979 on fishery allocations, permits, and foreign import barriers; to the Committee on Commerce, Science, and Transportation.

EC-4184. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Congress Should Scale Down Redwood Employee Program Benefits," July 8, 1980; to the Committee on Energy and Natural Resources.

EC-4185. A communication from the Secretary of Energy, transmitting, pursuant to law, a report entitled "Impacts of Potential Changes in the Rates and Power Allocations of the Power Authority of the State of New York, PASNY)"; to the Committee on Energy and Natural Resources.

EC-4186. A communication from the General Counsel, Department of Energy, transmitting, pursuant to law, notices of meetings related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-4187. A communication from the Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed contract with Skelly and Loy, Harrisburg, Pennsylvania, for a research project entitled "Development of a Dewatering System for Controlling Fracture Dominated Inflow for Acid Mine Drainage Abatement"; to the Committee on Energy and Natural Resources.

EC-4188. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Changes in Public Land Management Required to Achieve Congressional Expectations," July 16, 1980; to the Committee on Energy and Natural Resources.

EC-4189. A communication from the Chairperson, Interagency Geothermal Coordinating Council, Department of Energy, transmitting, pursuant to law, the fourth annual report on the Geothermal Energy, Research, Development and Demonstration Program; to the Committee on Energy and Natural Resources.

EC-4190. A communication from the Deputy Assistant Attorney General, Antitrust Division, Department of Justice, transmitting pursuant to law, a report on the Voluntary Agreement and Plan of Action to Implement the International Energy Program; to the Committee on Energy and Natural Resources.

EC-4191. A communication from the Comptroller General of the United States, transmitting, pursuant to the law, a report entitled "Additional Management Improvements Are Needed to Speed Case Processing at the Federal Energy Regulatory Commission," July 15, 1980; to the Committee on Energy and Natural Resources.

EC-4192. A communication from the General Counsel, Department of Energy, transmitting, pursuant to law, notice of a meeting related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-4193. A communication from the Secretary of the Interior, transmitting, pursuant to law, a comprehensive plan for the protection, preservation and interpretation of Ebey's Landing National Historical Reserve, Washington; to the Committee on Energy and Natural Resources.

EC-4194. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposes continued occupancy under a succeeding lease of space located at 1735 North Lynn Street, Arlington, Virginia; to the Committee on Environment and Public Works.

EC-4195. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposes the acquisition of space by lease in San Francisco, California; to the Committee on Environment and Public Works.

EC-4196. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, a report entitled "NRC Semi-Annual Report to Congress on the Status of Domestic and International Evaluations of Nuclear Fuel Cycle Systems," April 1980; to the Committee on Environment and Public Work.

EC-4197. A communication from the Governor, State of Minnesota, transmitting pursuant to law, copies of the 1980 Minnesota Water Quality Report; to the Committee on Environment and Public Works.

EC-4198. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, a report entitled "Air Quality Assessment of Hydrocarbon and Carbon Monoxide Emission Standards for 1984 and Later Model Year Heavy-Duty Engines," June 1980; to the Committee on Environment and Public Works.

EC-4199. A communication from the Secretary of the Treasury, transmitting a draft of proposed legislation to provide for protection of the spouses of major Presidential and Vice Presidential nominees; to the Committee on Finance.

EC-4200. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within sixty days after the execution thereof; to the Committee of Foreign Relations.

EC-4201. A communication from the Assistant Secretary for Congressional Relations, Department of State, transmitting, pursuant to law, a report on the role of the multilateral development banks in increasing food production and improving nutrition in developing countries, June 9, 1980; to the Committee on Foreign Relations.

EC-4202. A communication from the President, Overseas Private Investment Corporation, transmitting, pursuant to law, the corporations annual report for the period October 1, 1978 to September 30, 1979; to the Committee on Foreign Relations.

EC-4203. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "AID Slow In Dealing With Project Planning and Implementation Problems," July 15, 1980; to the Committee on Foreign Relations.

EC-4204. A communication from the Assistant Secretary for International Organization Affairs, Department of State, transmitting, pursuant to law, the April 1980 report issued by the United Nations Joint Inspection Unit; to the Committee on Foreign Relations.

EC-4205. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "AID Must Consider Social Factors in Establishing Cooperatives in Developing Countries," July 16, 1980; to the Committee on Foreign Relations.

EC-4206. A communication from the Assistant Secretary of the Treasury (Legislative Affairs), transmitting, pursuant to law, a special report analyzing the impact of economic programs supported by financing from the Supplementary Financing Facility of the International Monetary Fund on the provision of basic human needs; to the Committee on Foreign Relations.

EC-4207. A communication from the Acting General Counsel, Federal Trade Commission, transmitting, pursuant to law, a report on new record systems; to the Committee on Governmental Affairs.

EC-4208. A communication from the Administrator, General Services Administration, reporting, pursuant to law, on a report the National Commission on Electronic Fund Transfers made to the President on October 28, 1977, entitled "Electronic Fund Transfers in the United States"; to the Committee on Governmental Affairs.

EC-4209. A communication from the Director, Office of Personnel Management, reporting, pursuant to law, on recommended Presidential exclusions for positions in the Department of State (until July 13, 1981), the Veterans Administration, and the Department of Justice; to the Committee on Governmental Affairs.

EC-4210. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "First Step Completed in Conversion to Senior Executive Service," July 11, 1980; to the Committee on Governmental Affairs.

EC-4211. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Special Agents Should Be Phased Out as FBI Crime Laboratory Examiners," July 18, 1980; to the Committee on Governmental Affairs.

EC-4212. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of GAO reports released in June 1980; to the Committee on Governmental Affairs.

EC-4213. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, D.C. Act 3-206, "Public Utilities Reimbursement Fee Act of 1980," and report, adopted by the Council on June 17, 1980; to the Committee on Governmental Affairs.

EC-4214. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, D.C. Act 3-205, "Rental Housing Conversion Regulation Act of 1980," adopted by the Council on June 17, 1980; to the Committee on Governmental Affairs.

EC-4215. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Examination of Fiscal 1979 Presidential and Vice Presidential Certified Expenditures," July 16, 1980; to the Committee on Governmental Affairs.

EC-4216. A communication from the Assistant Secretary for Health and Surgeon General, Department of Health and Human Services, transmitting, pursuant to law, a report on a new system of records; to the Committee on Governmental Affairs.

EC-4217. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, D.C. Act 3-216, "Prohibition of Electric and Gas Utility Service Terminations to Master-Metered Apartment Buildings Act of 1980" and reports, adopted by the Council on June 17, 1980; to the Committee on Governmental Affairs.

EC-4218. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, D.C. Act 3-213, "Minority Contracting Act Amendments of 1980," and report, adopted by the Council on June 17, 1980; to the Committee on Governmental Affairs.

EC-4219. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, D.C. Act 3-208, "Closing and Dedication of Public Alleys in Square 449 Act of 1980," and report, adopted by the Council on June 17, 1980; to the Committee on Governmental Affairs.

EC-4220. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, D.C. Act 3-207, "Closing of a Public Alley in Square 224 Act of 1980," and report, adopted by the Council on June 17, 1980; to the Committee on Governmental Affairs.

EC-4221. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, D.C. Act 3-214, "District of Columbia Revenue Act of 1980," and report, adopted by the Council on July 1, 1980; to the Committee on Governmental Affairs.

EC-4222. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, D.C. Act 3-217, "District of Columbia Financial Institutions Tax Act of 1980," and report, adopted by the Council on June 17, 1980; to the Committee on Governmental Affairs.

EC-4223. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, D.C. Act 3-215, "Increase in the Deposit Fee for Ballot Recounts Act of 1980," and reports, adopted by the Council on June 17, 1980; to the Committee on Governmental Affairs.

EC-4224. A communication from the Special Council and Acting Special Council Office of Special Council, transmitting, pursuant to law, a report of the office's activities for the year 1979; to the Committee on Governmental Affairs.

EC-4225. A communication from the National Adjutant, Legion of Valor of the United States, transmitting, pursuant to law, a financial statement of the office as of April 30, 1980; to the Committee on the Judiciary.

EC-4226. A communication from the Chairman and members, United States Commission on Civil Rights, transmitting, a statement on "Police Practices and the Preservation of Civil Rights"; to the Committee on the Judiciary.

EC-4227. A communication from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, an order in the case of a certain alien who has been found admissible to the United States under the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-4228. A communication from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders entered under the authority contained in section 13(b) of the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-4229. A communication from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders suspending deportation, as well as a list of the persons involved; to the Committee on the Judiciary.

EC-4230. A communication from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, 500 reports concerning visa petitions which the Service has approved according the beneficiaries of such petitions third and sixth preference classification under the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

EC-4231. A communication from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders entered in 1,161 cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of such aliens; to the Committee on the Judiciary.

EC-4232. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Government Measures of Private-Sector Productivity: Users Recommend Changes," July 8, 1980; to the Committee on Labor and Human Resources.

EC-4233. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report of annual audit of the Student Loan Marketing Association for the year ended December 31, 1979; to the Committee on Labor and Human Resources.

EC-4234. A communication from the Secretary of Health and Human Resources, transmitting, pursuant to law, a report on environmental health; to the Committee on Labor and Human Resources.

EC-4235. A communication from the Attorney General of the United States, reporting, pursuant to law, re Greenberg v. Bolger, No. 80 Civ. 340 (E.D. N.Y.), decided on June 20, 1980; to the Committee on Rules and Administration.

EC-4236. A communication from the Administrator, Veterans' Administration, transmitting a draft of proposed legislation to amend title 38, United States Code, to provide the Veterans' Administration revolving supply fund with authority to base its charges for the direct cost of supplies and equipment on recent significant purchase prices and allow for retention and use of such charges in the operations of the revolving supply fund; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES RECEIVED DURING THE RECESS

Under the authority of the order of July 2, 1980, the following reports of committees were submitted on July 11, 1980:

By Mr. CULVER, from the Committee on Environment and Public Works, with amendments:

S. 1480. A bill to provide for liability, compensation, cleanup, and emergency response for hazardous substances released into the environment and the cleanup of inactive hazardous waste disposal sites (together with minority, additional and supplemental views) (Rept. No. 96-848).

Under the authority of the order of July 2, 1980, the following reports of committees were submitted on July 16, 1980:

By Mr. NUNN, from the Committee on Armed Services, without amendment:

H.R. 5748. An act to amend title 32, United States Code, to modify the system of accountability and responsibility for property of the United States issued to the National Guard (Rept. No. 96-849).

S. Res. 487. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5766. Referred to the Committee on the Budget.

By Mr. NUNN, from the Committee on Armed Services, with an amendment and an amendment to the title:

H.R. 5766. An act to amend title 10, United States Code, to authorize additional Reserve Officers' Training Corps scholarships for the Army, to provide a certain number of such scholarships for cadets at military junior colleges, to authorize the Secretary of the Army to provide that cadets awarded such scholarships may serve their obligated period of service in the Army Reserve or Army National Guard of the United States, and for other purposes (Rept. No. 96-850).

H.R. 4627. An act to permit citizens of the Northern Mariana Islands to enlist in the Armed Forces of the United States before becoming citizens of the United States upon the establishment of the Commonwealth of the Northern Mariana Islands (Rept. No. 96-851).

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, without amendment:

H.R. 1197. An act to simplify the tonnage measurement of certain vessels (Rept. No. 96-852).

H.R. 1198. An act to clarify the authority to establish lines of demarcation dividing the high seas and inland waters (Rept. No. 96-853).

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, with an amendment and an amendment to the title:

H.R. 6613. An act to amend the Shipping Act, 1916, in order to prohibit regulation of collective bargaining agreements by the Federal Maritime Commission (Rept. No. 96-854).

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, with amendments:

H.R. 2538. An act to facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes (Rept. No. 96-855).

By Mr. LEVIN, from the Committee on Governmental Affairs, with an amendment and an amendment to the title:

H.R. 827. An act to establish dispute resolution procedures and an arbitration board to settle disputes between organizations of supervisors and other managerial personnel and the U.S. Postal Service (Rept. No. 96-856.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. NELSON, from the Select Committee on Small Business:

Special report entitled "Budget Allocations to Select Committee on Small Business" (Rept. No. 96-857).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CANNON (by request):

S. 2942. A bill to amend the Merchant Ship Sales Act of 1946; to the Committee on Commerce, Science, and Transportation.

By Mr. DOMENICI:

S. 2943. A bill to authorize the waiver in certain circumstances of the reimbursement requirement under section 5003(a) of title 18 of the United States Code, to relieve the State of New Mexico of certain liabiltiy, and for other purposes; to the Committee on the Judiciary.

By Mr. CANNON (by request):

S. 2944. A bill to provide for participation of subsidized vessels in a Sealift Readiness Program of the Department of Defense, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. PROXMIRE:

S. 2945. A bill for the relief of Kenneth and Virginia Hunke; to the Committee on the Judiciary.

By Mr. GARN (for himself, Mr. INOUYE, Mr. MAGNUSON, Mr. YOUNG, Mr. STEVENSON, Mr. HEINZ, Mr. MATHIAS, Mr. JAVITS, Mr. CRANSTON, Mr. ROTH, Mr. PERCY, Mr. SCHWEIKER, and Mr. LEAHY):

S.J. Res. 191. Joint resolution providing additional program authority for the Export-Import Bank of the United States; to the Committee on Appropriations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CANNON (by request):

S. 2942. A bill to amend the Merchant Ship Sales Act of 1946; to the Committee on Commerce, Science, and Transportation.

MERCHANT SHIP SALES ACT

● Mr. CANNON. Mr. President, I introduce today, at the request of the Secretary of Commerce, a bill to amend the Merchant Ship Sales Act of 1949.

I ask unanimous consent that the letter of transmittal, the text of the bill, and the statement of purpose and need be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2942

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the last sentence of section 11(a) of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744) is amended by striking out the words "during any period in which vessels may be requisitioned under section 902 of the Merchant Marine Act, 1936, as amended" and inserting in lieu thereof the words "whenever the President shall proclaim that the security of the national defense makes it advisable or during any national emergency declared by proclamation of the President".

THE SECRETARY OF COMMERCE,
Washington, D.C., June 24, 1980.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed are six copies of a draft bill "To amend the Merchant Ship Sales Act of 1946." together with a statement of purpose and need in support thereof.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of this legislation to the Congress from the standpoint of the Administration's program.

Sincerely,

PHILIP M. KLUTZNICK,
Secretary of Commerce.

Enclosure.

STATEMENT OF PURPOSE AND NEED

Section 11(a) of the Merchant Ship Sales Act of 1946 created the National Defense Reserve Fleet. It also provides that vessels in the National Defense Reserve Fleet shall not be used for any purpose whatsoever except during any period in which vessels may be requisitioned under section 902 of the Merchant Marine Act, 1936.

Section 902 of the Merchant Marine Act, 1936, provides that whenever the President proclaims that the security of the national defense makes it advisable or during any national emergency declared by proclamation of the President, it shall be lawful for the Secretary of Commerce to requisition any vessel owned by citizens of the United States or under construction within the United States. The United States was in an emergency that invoked the authority of section 902 from December 16, 1950, when the President issued a proclamation of National Emergency (15 F.R. 9031), until September 14, 1978, when the declaration was, in substance terminated by P.L. 94-412. The President can still declare another national emergency. However, the only authorities that would be invoked by such a declaration would be those the President specifies in the Proclamation or in a subsequent Executive Order.

Consequently, the ships in the National Reserve Fleet cannot now be utilized until the President makes a proclamation of national emergency which specifically authorizes the Secretary of Commerce to requisition privately owned vessels. There may well be conditions under which it would be desirable to use National Defense Ships without also raising the threat of requisitioning commercial ships. Reserve fleet ships were used extensively during the Korean and Vietnam wars to provide logistics support for the Armed Services. The 145 ships in the National Defense Reserve Fleet may well be put to similar use again in the future.

The draft bill would therefore amend section 11(a) of the Merchant Ship Sales Act of 1946 to permit the President to use ships in the NDRF without also having to invoke section 902 of the Merchant Marine Act, 1936.

Enactment of the proposed legislation would not require additional appropriations.●

By Mr. DOMENICI:

S. 2943. A bill to authorize the waiver in certain circumstances of the reimbursement requirement under section 5003(a) of title 18 of the United States Code, to relieve the State of New Mexico of certain liability, and for other purposes; to the Committee on the Judiciary.

EMERGENCY FEDERAL PRISON FACILITIES ACT

● Mr. DOMENICI. Mr. President, the violent riot at the New Mexico State Penitentiary on February 2 and 3 of this year was a disaster in the State because of the measure of devastation, both emotionally and financially, it wrought.

The State has shouldered the major responsibility for the crisis. Investigations have begun to define the cause of the riots so that they do not reoccur in New Mexico or elsewhere. The State legislature has appropriated $27.9 million in general fund moneys and $10 million in severance tax bonds for expenses associated directly with the prison riot. In addition, the legislature earmarked $50 million for the following fiscal year to plan, design, and construct a new maximum security facility. A new 288 bed medium security will be ready for occupancy in mid-September.

However, in the aftermath of the riot, 358 inmates were relocated and the State will be billed for their maintenance at 10 Federal penitentiaries.

The legislation I introduce today does three things. It forgives the State of New Mexico the costs accrued to the Federal Government for temporarily housing prison inmates; it gives the Attorney General the authority to waive part or all of the future costs incurred by any State for housing inmates by the Federal Government resulting from a prison disaster, and lastly, it mandates a study to determine the actual additional costs incurred by the Federal Government by placing the inmates in Federal custody.

It is my belief that the actual costs waived by this bill are significantly less than the amount the State will be billed. This opinion is based on three considerations. The Federal penal institutions are presently under capacity. Since there is a fixed administrative cost associated with their operation, the expense of housing New Mexico inmates could be absorbed within the Federal Bureau of Prison's current operating budget.

Second, the nature of the New Mexico situation is due to a disaster—an unforeseen occurrence beyond the State's ability to cope, necessitating Federal assistance. The last point is that the State is not asking for an appropriation of dollars but rather asks the forgiveness of a debt.

Mr. President, I believe the flexibility this legislation gives the Attorney General is needed for the future. But New Mexico needs assistance now. It is my hope that the Judiciary Committee will recognize the emergency nature of this legislation and consider it as quickly as possible.●

By Mr. CANNON (by request):

S. 2944. A bill to provide for participation of subsidized vessels in a sealift readiness program of the Department of Defense, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SEALIFT READINESS PROGRAM

● Mr. CANNON. Mr. President, I introduce today, at the request of the Department of the Navy, a bill to provide for participation of subsidized vessels in a sealift readiness program of the Department of Defense, and for other purposes.

I ask unanimous consent that the letter of transmittal and the text of the bill be printed in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 2944

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 506 of the Merchant Marine Act, 1936 (46 U.S.C. 1156) is amended by inserting "(a)" immediately before "Every" at the beginning thereof and by adding at the end thereof the following new subsection:

"(b) Every owner of a vessel for which a construction-differential subsidy has been paid from sums appropriated after June 25, 1978, or has been paid under a contract for construction or reconstruction entered into after the effective date of this subsection, shall offer such vessel for enrollment in a Sealift Readiness Program approved by the Secretary of Defense not later than thirty days from the effective date of this subsection or from the date the owner acquires possession of such vessel, whichever is the later. The owner of any such vessel shall be liable to refund to the Secretary of Commerce for failure to offer the vessel for such enrollment that portion of the construction-differential subsidy paid or payable for the vessel as the period of time during which such failure exists bears to twenty-five years."

SEC. 2. Section 605 of the Merchant Marine Act, 1936 (46 U.S.C. 1175) is amended by adding at the end thereof the following new subsection:

"(d) No contract for the payment of operating-differential subsidy for any vessel shall be made or extended after the effective date of this subsection unless the owner shall have offered such vessel for enrollment in a Sealift Readiness Program approved by the Secretary of Defense. Every owner of a vessel for which an operating-differential subsidy is paid under a contract for the payment of such subsidy in existence on the effective date of this subsection shall offer such vessel for enrollment in such Sealift Readiness program not later than thirty days from the effective date of this subsection or from the date the owner acquires possession of such vessel, whichever is the later. The Secretary of Commerce shall withhold from any subsidy payment due on any voyage of such vessel during which the owner shall have failed to offer the vessel for such enrollment an amount which bears the same ratio to the subsidy payment for the entire voyage as the period of time of such failure bears to the total time of such voyage."

SEC. 3. This Act shall take effect upon enactment.

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington, D.C., May 30, 1980.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is enclosed a draft of legislation "To provide for participation of subsidized vessels in a Sealift Readiness Program of the Department of Defense, and for other purposes."

This proposal is a part of the Department of Defense Legislative Program for the 96th Congress. The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this proposed legislation to the Congress. The Department of the Navy has been designated as the representative of the Department of Defense for this legislation. It is recommended that this proposal be enacted by the Congress.

PURPOSE OF THE LEGISLATION

The purpose of the proposed legislation is to make a matter of permanent law the requirement for fiscal years 1979 and 1980 that ships built with construction-differential subsidy or operated with operating-differential subsidy be made available for participation in the Sealift Readiness Program of the Department of Defense. This requirement is found in Section 2(1) and (2) of the Maritime Appropriations Authorization Act for Fiscal Year 1979, P.L. 95-298 dated June 26, 1978, 92 Stat. 339, and in Section 2(1) and (2) of the Maritime Appropriation Act for Fiscal Year 1980, P.L. 96-112 dated November 16, 1979, 93 Stat. 847.

The Military Sealift Command, Department of the Navy, the ocean transportation shipping agency of the Department of Defense, has conducted a Sealift Readiness Program with some of the ships of common carriers transporting military cargo in the foreign trades since 1970. Those carriers have been required to participate in the program as a condition of receiving defense cargo for carriage over the routes they serve. Those carriers enter into agreements with the Military Sealift Command to make available up to 50 percent of their ships for charter when a national response to an emergency situation is required and when adequate shipping is not forthcoming under normal procurement processes or is not available from other sources such as the National Defense Reserve Fleet (NDRF). Approval of the Secretary of Commerce, as well as of the Secretary of Defense, is required for the chartering of ships under that program This ensures participation of the Government agency statutorily charged with protecting and promoting the interests of the U.S. Merchant Marine in any decision to acquire shipping under the program. The program is not dependent upon use of the vessel requisitioning provisions of the Merchant Marine Act, 1936. Consequently, it is particularly useful during situations of international tension, when additional shipping is needed but, is not volunteered, that do not justify reestablishment or use of the government's requisitioning authority or its authority to withdraw ships from the NDRF.

The program includes unsubsidized ships as well as those built or operated with subsidy funds. It does not include subsidized ships of contract carriers or subsidized ships of common carriers serving routes over which little military cargo moves. Thus, many unsubsidized ships have a greater obligation to the government to serve in time of military need than have ships built or operated with subsidy. Inclusion of subsidized ships in the Sealift Readiness Program would not only substantially increase the number of ships available to meet military needs without resort to requisitioning, but would equalize the obligation of subsidized ships with the unsubsidized ships in the program. It was this latter obligation, we believe, that led the 95th Congress to enact the provisions of the Merchant Marine Authorization Act that would be made permanent legislation by the draft bill. The enactment of the bill is thus consistent with the public policy for support of the U.S. Merchant Marine, as found in Section 101 of the Merchant Marine Act, 1936, 46 U.S.C. 1101.

The draft bill would require all ships built with subsidy funds appropriated after June 25, 1978, to be offered to the Secretary of Defense for enrollment in the Sealift Readiness Program. That is the date preceding the effective date of P.L. 95-298. The bill, consequently, continues the requirement placed on ships built with construction-differential subsidy funds authorized by Section 2(1) of that Act and by Section 2(1) of P.L. 96-112.

The draft bill includes a penalty for failure of the owners of subsidized ships to offer them for enrollment in the program. The owners will be required to repay or forego a portion of the subsidy payments measured by the period of time during which their failure persists. The formulas for computing the amount of the penalties are substantially the same as now exist for the computation of repayments required when subsidized ships serve domestic U.S. trade routes.

COST AND BUDGET DATA

No United States funds would be expended by the enactment of this proposed legislation. Implementation of the Sealift Readiness Program by chartering ships from their owners would be funded by appropriations made to the Department of Defense for transportation purposes. No additional funds would be required for the implementation of this program.

Sincerely,

EDWARD HIDALGO,
Secretary of the Navy.●

By Mr. GARN (for himself, Mr. INOUYE, Mr. MAGNUSON, Mr. YOUNG, Mr. STEVENSON, Mr. HEINZ, Mr. MATHIAS, Mr. JAVITS, Mr. CRANSTON, Mr. ROTH, Mr. PERCY, Mr. SCHWEIKER, and Mr. LEAHY):

S.J. Res. 191. Joint resolution providing additional program authority for the Export-Import Bank of the United States; to the Committee on Appropriations.

ADDITIONAL DIRECT LOAN AUTHORITY FOR THE EXPORT-IMPORT BANK

● Mr. GARN. Mr. President, on behalf of myself, Senators INOUYE, MAGNUSON, YOUNG, STEVENSON, HEINZ, MATHIAS, JAVITS, CRANSTON, ROTH, PERCY, SCHWEIKER, and LEAHY, I am introducing a joint resolution which provides additional direct loan authority for the Export-Import Bank and thus solves the dilemma which we left on July 2 when the House failed to provide any new authority for the Bank. As most of my colleagues know, the Bank is virtually out of funds and without this resolution would have to close down.

Mr. President, this resolution is technically an appropriations bill, and of course the tradition is that appropriation bills are originated in the House of Representatives. By the introduction of this resolution, it is not our intention to part with that tradition. The purpose of introducing this is informational, so that the other side will know what proposal it is that we on this side support. In addition, the people who use the Export-Import Bank are in agreement that this proposal is the best route to take and they likewise strongly support it. So, the hope would be that the House would pass a resolution very similar to this which we could then pass quickly and send to the President without any delay which would be caused by a conference.

Mr. President, briefly this joint resolution raises the available direct loan authority to $5 billion, $3.75 billion of which is in the continuing resolution and has already been used, and $1.250 billion which would be provided under this joint resolution. However, because of the budget situation, the resolution makes this additional authority available in three different manners in order to be within the ceiling of the revised second resolution on the budget for fiscal year 1980.

Paragraph one of the resolution provides $251 million in additional direct loan authority, resulting in an additional $128 million in budget authority, and $39 million in outlays in fiscal year 1980; paragraph two provides an additional $664 million in direct loan authority resulting in an additional $276 million in budget authority, with no impact on outlays in fiscal year 1980 due to the proviso at the end of the paragraph; and paragraph 3 provides an additional $335 million in direct loan authority with no budgetary impact either on budget authority or outlays in fiscal year 1980 because of the proviso at the end of that paragraph. Therefore, the total budgetary effect of this resolution is to use up $404 million in budget authority and $39 million in outlays. The availability under the revised second resolution ceiling for fiscal year 1980 is $405 million in budget authority and $39 million in outlays, thus this resolution is within that ceiling.

Mr. President, I do not think I need

to say much more about how crucial this particular matter is, as I believe most Members are aware of the adverse impact which would result if we did not provide this additional direct loan authority for the Export-Import Bank. As we all know, it is a time of high balance of payments deficits, and high unemployment. This resolution means more exports and more jobs.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 191

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the limitation on program activity of the Export-Import Bank of the United States is increased as follows:

EXPORT-IMPORT BANK OF THE UNITED STATES

Limitation on Program Activity

(1) In addition to amounts otherwise authorized for such purpose for the fiscal year 1980 not to exceed $251,000,000 is authorized for the fiscal year 1980 for other than administrative expenses of the Export-Import Bank of the United States, which amount shall be available for direct loans.

(2) In addition to the amount authorized by paragraph (1), not to exceed $664,000,000 is authorized for the fiscal year 1980 for other than administrative expenses, which amount shall be available for direct loans; *Provided,* That the amount authorized by this paragraph shall not be available for disbursement before October 1, 1980.

(3) In addition to the amounts authorized by paragraphs (1) and (2), not to exceed $335,000,000 is authorized for the fiscal year 1980 for other than administrative expenses, which amount shall be available for direct loans: *Provided,* That the amount authorized by this paragraph shall not be available for obligation or disbursement before October 1, 1980.●

● Mr. ROTH. Mr. President, I join Senator Garn and a number of my other colleagues in supporting a joint resolution to raise the program authority for the Export-Import Bank of the United States. Eximbank is fast depleting its reserves, and I believe we must approve the additional authority if we are to maintain the viability of a major vehicle in America's export promotion effort.

For a number of reasons, Eximbank is a program and an institution that warrants our increased financial support. First, the Bank contributes to an improved U.S. export performance by placing our traders on a more competitive footing with foreign producers in the contract bidding process. In 1978 alone, Eximbank helped promote $10.6 billion in U.S. exports of which $4.8 billion was assisted by direct credits and financial guarantees.

Greater exports mean improved national economic health. A study by the Georgetown Center for Strategic and International Studies, estimates that for each $15 billion we export in manufactured goods, we increase our gross national product by $37 billion and provide jobs for 1 million workers. In 1978, therefore, Eximbank's direct assistance can be estimated to have resulted in a $12 billion increase in our GNP and to have provided employment for approximately 300,000 Americans. Many of those jobs will be assured for years to come as U.S. firms continue to produce and export the spare and replacement parts for plant and equipment originally financed by Eximbank.

Second, we should increase our support for Eximbank, as its financing is critical to many U.S. exporters. Numerous industries, particularly those in the capital goods area, depend on the relatively longer repayment terms provided by the Bank. The United States is a world leader in the export of heavy manufactured goods, including oil and gas development plants, power equipment and aircraft. Two-thirds of U.S. industrial exports are capital goods. Even as we experience larger and larger trade deficits overall, the heavy equipment trade balance remains in surplus, partially as a result of the availability of longer term export financing. Were we to allow Exim to close its lending window, we could expect to see our trade position and hence our technological lead in capital goods erode as well.

Third, Eximbank deserves greater congressional backing because of its importance to the U.S. economy. Exim is a financially self-sustaining institution whose net operating income in fiscal year 1980 is estimated to be $130.6 million. In the past, Exim has channeled some of its income to the U.S. Treasury in the form of dividends, thereby, helping to ease the budget crisis. Moreover, by facilitating U.S. production for export, Exim aids in increasing tax receipts and eases the unemployment burden.

Last, and most important, we must demonstrate the Government's true commitment to export expansion as part of a national export policy. We must show our industries and our trading partners alike that we are serious about exporting, serious about being reliable world suppliers of technologically superior goods. According to the executive branch, Eximbank is already precommitted for direct loans of over $14 billion, with at least $3.2 billion precommitted in 1981. Had they sufficient authority, the Bank's officers could approve $2 billion in additional loans. This joint resolution goes much of the way toward fulfilling that need.

In setting our priorities, it is essential that we make room in the budget for additional Eximbank authority. Earlier this year, before the Budget Committee completed work on the first budget resolution, I submitted a list of specific reductions in the fiscal year 1981 budget which would have saved more than $35 billion. For example, I recommended my grant consolidation bill, S. 878, be passed. This proposal would save $3 to $4 billion in fiscal 1981. I also included recommendations for reduction in Government travel, Government film-making and Government regulation. Any one of these recommendations would more than offset the proposed increase in Eximbank funding.

There is a demand for U.S. goods overseas, a demand that we in Congress ought to help satisfy and thereby prove our commitment to U.S. export expansion. We have asked industry and labor to become aggressive in foreign competition. We, in the Government, must provide them the tools—in the form of adequate, flexible financing—to meet that competition.●

ADDITIONAL COSPONSORS

S. 1411

At the request of Mr. Chiles, the Senator from Louisiana (Mr. Johnston) was added as a cosponsor of S. 1411, a bill to improve the economy and efficiency of the Government and the private sector by improving Federal information management, and for other purposes.

S. 2418

At the request of Mr. Bentsen, the Senator from Massachusetts (Mr. Tsongas) was added as a cosponsor of S. 2418, a bill to amend the Internal Revenue Code of 1954 to increase the competitiveness of American firms operating abroad and to help increase markets for U.S. exports.

S. 2487

At the request of Mr. Bellmon, the Senator from Utah (Mr. Garn) was added as a cosponsor of S. 2487, a bill to amend the Internal Revenue Code of 1954 to provide more equitable treatment of independent oil producers, including royalty owners, under the crude oil windfall profit tax.

S. 2623

At the request of Mr. Goldwater, the Senator from Indiana (Mr. Bayh), the Senator from Utah (Mr. Garn), the Senator from Kansas (Mrs. Kassebaum), the Senator from South Dakota (Mr. McGovern), the Senator from South Carolina (Mr. Thurmond), and the Senator from Indiana (Mr. Lugar) were added as cosponsors of S. 2623, a bill to incorporate the U.S. submarine veterans of World War II.

S. 2765

At the request of Mr. Magnuson, the Senator from Alaska (Mr. Gravel) was added as a cosponsor of S. 2765, a bill to amend the Fishery Conservation and Management Act of 1976, and for other purposes.

S. 2805

At the request of Mr. Nelson, the Senator from New York (Mr. Moynihan) was added as a cosponsor of S. 2805, a bill to provide that revenue ruling 80–60 shall not require a change in the taxpayer's method of accounting for taxable years beginning before 1980.

S. 2818

At the request of Mr. Talmadge, the Senator from Iowa (Mr. Culver) was added as a cosponsor of S. 2818, a bill to amend the Internal Revenue Code of 1954 with respect to the treatment of mutual or cooperative electric and telephone companies.

SENATE RESOLUTION 487—ORIGINAL RESOLUTION REPORTED DURING THE RECESS TO WAIVE CONGRESSIONAL BUDGET ACT

Pursuant to authority of the order of July 2, 1980, Mr. Nunn, from the Committee on Armed Services, on July 16, 1980, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 487

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 5766, a bill to amend title 10, United States Code, to authorize additional Reserve Officers' Training Corps scholarships for the Army, to provide a certain number of such scholarships for cadets at military junior colleges, to authorize the Secretary of the Army to provide that cadets awarded such scholarships may serve their obligated period of service in the Army Reserve or Army National Guard of the United States, and for other purposes.

Such a waiver is necessary because section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to H.R. 5766, as reported by the Committee on Armed Services.

SENATE RESOLUTION 488—SUBMISSION OF A RESOLUTION TO REFER S. 2945 TO THE COURT OF CLAIMS

Mr. PROXMIRE submitted the following resolution, which was referred to the Committee on the Judiciary:

S. RES. 488

Resolved, That the bill entitled "A bill for the relief of Kenneth and Virginia Hunke" now pending in the Senate, together with all the accompanying papers, is referred to the Chief Commissioner of the United States Court of Claims. The Chief Commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any, legally or equitably due from the United States to the claimant.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

● Mr. CHURCH. Mr. President, I would like to announce, for the information of the Senate and the public, the scheduling of a public hearing before the Energy Research and Development Subcommittee of the Senate Committee on Energy and Natural Resources.

The hearing is scheduled for Tuesday, July 22, 1980, at 10 a.m., in room 3110, Dirksen Senate Office Building. Testimony will be received regarding S. 2884, a bill to provide for an accelerated program of light water nuclear reactor safety research and development, to be carried out by the Department of Energy.

For further information regarding the hearing you may wish to contact Dr. Willis D. Smith of the subcommittee staff on extension 224-4431.●

SUBCOMMITTEE ON ENERGY RESOURCES AND MATERIALS PRODUCTION

● Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public that the Subcommittee on Energy Resources and Materials Production of the Committee on Energy and Natural Resources will hold a hearing on S. 2734, authorizing the Secretary of the Interior to transfer certain land and facilities used by the Bureau of Mines, and for other purposes.

The hearing will be held on August 1, at 10 a.m., in room 3110 Dirksen Senate Office Building.

Questions regarding this hearing should be directed to Thomas L. Laughlin of the subcommittee staff at 224-2564.●

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

● Mr. CHURCH. Mr. President, the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resources will hold hearings on the bill S. 2774, to authorize an accelerated research, development, and demonstration program to advance in situ technologies for energy production from underground coal deposits and unconventional gas resources. The hearings will be on July 29 and 31, 1980, at 10 a.m.; the room will be announced at a later date.

Questions regarding the hearings should be addressed to Mr. Lee Wallace at 224-4431.●

COMMITTEE ON ENERGY AND NATURAL RESOURCES

● Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public that the Committee on Energy and Natural Resources has rescheduled a hearing on S. 2695, a bill to amend the Powerplant and Industrial Fuel Use Act of 1978 to further the objectives of national energy of conserving oil and natural gas through removing excessive burdens on production of coal.

The new hearing date is August 6, at 10 a.m., in room 3110 of the Dirksen Senate Office Building.

Questions regarding this hearing should be directed to George Dowd of the committee staff at 224-2564.●

SUBCOMMITTEE ON PROCUREMENT

● Mr. NELSON. Mr. President, the Select Committee on Small Business, Subcommittee on Procurement, will hold a hearing on S. 2873, to provide SBA loans to small businesses in the communications industry on July 24, 1980.

The hearing will begin at 9:30 a.m., in room 424 of the Russell Senate Office Building.●

SUBCOMMITTEE ON ENERGY RESOURCES AND MATERIALS PRODUCTION

● Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public that the Subcommittee on Energy Resources and Materials Production of the Committee on Energy and Natural Resources will hold 2 days of hearings on the Commerce Committee staff draft version of H.R. 2743, to provide for a national policy for materials research and development and to strengthen the materials research and development capability and performance of the United States.

These hearings will be held on Tuesday, July 29, and Thursday, July 31, at 10 a.m. in room 3110 of the Dirksen Senate Office Building.

Questions regarding these hearings should be directed to Thomas L. Laughlin of the subcommittee staff at 224-2564.●

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, the Select Committee on Small Business has canceled the hearing for July 23, 1980, on its oversight of SBA's surety bond guarantee program. This hearing will be continued in the latter part of August or early September. The time and room will be announced then.●

COMMITTEE ON ENERGY AND NATURAL RESOURCES

● Mr. JACKSON. Mr. President, I would like to announce a change in the time and place of the Committee on Energy and Natural Resources' hearing on the geopolitics of oil formerly scheduled for July 23, 1980. The hearing has been postponed until July 31 at 2 p.m. The new location for the hearing will be room 318 of the Russell Senate Office Building. Dr. Henry Kissinger will be the witness at the hearing.

For further information, please contact Jim Pugash, staff counsel at (202) 224-0611.●

SUBCOMMITTEE ON TAXATION, FINANCING, AND INVESTMENT

● Mr. NELSON. Mr. President, the Select Committee on Small Business has rescheduled the Subcommittee on Taxation, Financing, and Investment hearing on procedural difficulties encountered by smaller business in dealing with the IRS for July 31, 1980.

The hearing will begin at 9:30 a.m., in room 424 of the Russell Senate Office Building.●

SELECT COMMITTEE ON INDIAN AFFAIRS

● Mr. MELCHER. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public field hearing before the Select Committee on Indian Affairs.

A hearing is scheduled for August 11, 1980, beginning at 10 a.m., in the main courtroom of the Federal courthouse in Billings, Mont., to receive testimony regarding S. 2832, a bill to establish special Federal magistrates to exercise jurisdiction over Federal offenses occurring within Indian reservations.

For further information regarding the hearing you may wish to contact Peter Taylor or Jo Jo Hunt of the committee staff at 224-2251. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Select Committee on Indian Affairs, U.S. Senate, Washington, D.C. 20510.●

SELECT COMMITTEE ON SMALL BUSINESS AND THE SUBCOMMITTEE OF OVERSIGHT OF GOVERNMENT MANAGEMENT

● Mr. NELSON. Mr. President, the Select Committee on Small Business will conduct a joint hearing with the Governmental Affairs Subcommittee on Oversight of Government Management on

July 29 and 30, 1980, on "regulatory negotiations."

The hearing will begin at 9:30 a.m., in Room 424 of the Russell Senate Office Building.●

ADDITIONAL STATEMENTS

MORATORIUM ON COMMERCIAL WHALING

● Mr. MAGNUSON. Mr. President, today the International Whaling Commission begins its annual meeting to establish regulations governing whaling activities in the world's oceans. Mr. President, I most strongly urge our U.S. delegation and the IWC as a whole to adopt a complete international moratorium on all commercial whaling to take effect immediately.

Not only is the scientific data base for IWC regulation inadequate to manage whales globally without subjecting them to unacceptable risks, but in addition, a variety of actions have been taken and continue to be taken by nations that undermine the existing international program. These undermining actions include trade in whale products and equipment with nonmember nations and failure to submit needed scientific data.

On March 15 of last year I introduced Senate Concurrent Resolution 14 calling at that time for an international moratorium of indefinite duration on all commercial whaling. This resolution passed the Senate; however, the IWC failed to agree upon such a moratorium.

The time is right again to push forward in our attempts to secure an international moratorium on all commercial whaling. The reasons for such a moratorium are as cogent now as they were last year or the year before or the year before. Neither I nor my colleagues who support this effort to achieve a moratorium will cease our efforts until that is in fact accomplished. Furthermore, I will take every appropriate action in the Congress to deter activities which support and nourish the commercial slaughter of the world's great whale populations.

For example, a measure which I authorized along with Senator Packwood, another champion of whale protection, during this Congress bans any foreign nation's fishing fleets from our 200-mile zone if that nation has violated, or undermined through trade in whale products, the IWC's whaling regulations. This is designed to help cut off foreign markets for the outlaw whaling industry.

This amendment would be even more effective in stopping the worldwide slaughter of whales if the IWC will adopt the absolute commercial whaling moratorium which I proposed last year and which we are again pushing this year.

Mr. President, I urge my colleagues to also join in to support the prompt international acceptance of a complete moratorium on all commercial whaling.●

AVIATION TRUST FUND SURPLUS

● Mr. CANNON. Mr. President, on June 28, 1980 the Senate passed H.R. 7477, a bill which extended the taxes which feed the Aviation Trust Fund through October 1, 1980. While I did not object to the passage of H.R. 7477, I do wish to state for the record that I am strongly opposed to maintaining high taxes for the Aviation Trust Fund when we already have a $3.5 billion surplus in that fund.

Some have argued to me that we must keep these aviation taxes high because they result in revenue for the Federal budget. I do not accept this one-sided view of the trust fund which ignores the fact that these tax revenues can only be spent on airport and airway programs. To keep the airport and airway taxes higher than needed to finance the trust fund's expenditures will result in balancing the Federal budget by bringing money to Washington and keeping it here. I am sure that is not the way the public expects us to balance the Federal budget, and indeed fiscal prudence demands that we balance the Aviation Trust Fund as well as balancing the Federal budget.

Reducing the airport and airway taxes in order to balance the trust fund and eliminate the already unconscionable surplus over a reasonable period of time is the fiscally responsible avenue to pursue. Ignoring the expenditure side of the trust fund balance sheet and maintaining these earmarked taxes at excessive levels in the name of Federal revenue does not represent to me an acceptable blueprint for reauthorizing this trust fund program.

However, while H.R. 7477 keeps these taxes at their existing levels, I did not object because of the bill's limited (3 months) effect and the Finance Committee's opinion that this legislation is needed to provide for an orderly consideration of a new 5-year tax authorization beyond fiscal year 1980.●

MEXICO EARNING U.S. RESPECT

● Mr. GOLDWATER. Mr. President, the editor of the Arizona Republic and Phoenix Gazette, Mr. Darrow Tully, recently did what I wish more American newspaper people would do and that is visit Mexico and particularly the capital, Mexico City. I admit to being prejudiced on this matter because I was brought up on the Mexican border and spoke Spanish at almost the same time I spoke English. Of all countries in this world, Mexico has long ago proven she is a friend of the United States, wants to be a friend of ours and all she is asking for is something we call simpatico in Spanish. Now that does not mean sympathy as you might think, but it means to become understanding, to be willing to tackle problems with each country and to help wherever it can be done.

Mexico is a true republic whose people are, I believe, as patriotic and loyal to their country and their principles as any people you will find on this Earth. They are industrious people, they are people of art, of which my State of Arizona is a great beneficiary. And, above all, Mr. President, they want to be heard by the United States. I have long suggested that the important focal points of our foreign policy should be to the south of us and not across the broad oceans, and I would suggest to the incoming Secretary of State, whoever that may be, that I urge on the President the acceptance of the role of those south of us that I have described. While it has never been my pleasure to know the President, Senor Lopez Portillo, as intimately as I have know most of the other modern day Presidents of Mexico, I do know of his record, I know of the high esteem in which he is held in Mexico, of his intelligence and his devotion to freedom, to peace and understanding.

Mr. President, I ask that this exceedingly excellent article by Mr. Tully be printed in the Record.

The article follows:

Mexico Earning U.S. Respect

(By Darrow Tully)

Mexico City.—"We Mexicans continue to call ourselves revolutionaries because the ideals and objectives of the revolution has not been totally achieved."

Jose Lopez Portillo, president of Mexico, spoke in a quiet but resolute voice.

"One of the conditions of the Mexican state is to create a Mexican nationality."

Along with a few other U.S. newspaper executives, I had been invited to visit with the Mexican president, to discuss Mexico's future and the future of relations with its northern neighbor.

Lopez Portillo, in the fourth year of his six-year term, describes himself as of middle-class origin, the son of a modest soldier, a public employee and intellectual.

Schooled as a lawyer, he is an avid reader, a lover of the outdoors, philosophy, and the fine arts as well as a published writer and novelist. He keeps a trim 165 pounds on his 6-foot frame, and performs daily calisthenics.

He presides over the nation from Los Pinos, a magnificent mansion located in verdant Chapultepec Park just east of Center City. It was here, in this serene setting, I had the opportunity to talk with "El Presidente" and get some insight into his character.

President Lopez Portillo joined Mexico's ruling Institutional Revolutionary Party in 1945 while still in school. In 1957, after 10 years teaching political science, the party appointed him to its Economic and Social Planning Committee. It was this experience that focused his energies on the absolute necessity of finding solutions to Mexico's historic problems.

Lopez Portillo refers to oil as Mexico's "historical opportunity."

He feels oil will provide the wherewithal to reduce population growth, organize and coordinate industrial development with demographic needs, and bring Mexico into its own technological era.

Succeeding Luis Echeverria as president, he entered office at a chaotic period, but brought the country from severe recession, near-anarchy and gross corruption to a climate of political stability and the highest rate of sustained economic growth in Latin America.

Lopez Portillo is a man of intense pride and sensitivity.

"Mexican nationality," he feels, will establish a new relationship with the United States and a place for Mexico in the industrial world. The traditional "little brother" relationship with the United States is a fading anachronism.

Oil is the catalyst for change.

Over 90 percent of Mexico's onshore and offshore territory is considered by geophysicists to be potentially oil bearing.

Only one-tenth of that area has been explored. Proven reserves make Mexico the world's sixth richest oil nation.

Lopez Portillo is dedicated to selling oil only as fast as the Mexican economy can absorb the money. Administration officials point scornfully to Venezuela which they contend has squandered its oil money with no lasting good to show for it.

President Lopez Portillo plans to use oil reserves to establish a sound, export-oriented, industrial economy.

Some of his plans are mind-boggling in scope. His plan to change the present population growth patterns from the highland areas of Mexico City and Monterrey to seaport areas and the border strip contiguous to the United States is monumental in its implications.

His stated plan to "discourage industrial growth in the highlands and provide incentives for coastal development" has no parallel.

President Lopez Portillo is dedicated to the conversion of petro dollars to a viable industrial sector providing jobs and exports instead of dollars for imports.

The government will use petro dollars to entice businessmen to enter such industries as machine tools and agribusiness with the highest priorities on capital goods manufacturing. The oil money will enable the government to offer tax incentives, low interest loans, expanded credit and subsidized energy rates.

Lopez Portillo admits that even if industrial development succeeds, the crushing social and economic problems will take years to solve.

Over 50 percent of Mexico's population is under 14. Seventy-five percent of the population is under 25. He attributes the population explosion to increased life expectancy of 33 years to 65, at the time infant mortality was declining. As a result, Mexico's population growth rate reached 3.2 percent per year.

Although a strong Roman Catholic nation, a vigorous educational program has helped reduce population growth to 2.9 percent in 1979. The government's stated objective, 2.5 percent in 1985, seems realistic.

Abortion is not considered to be an alternative.

Over half the country's labor force is either jobless or underdeveloped, and one adult in five is illiterate.

It is a formidable task to combine an education program with a family planning campaign to create job opportunities and reduce population growth.

There are no quick solutions. "It will not be before the end of this century," he said, "if we take the utmost care of our surplus profits, that we will be able to solve the structural problem of unemployment." It is questionable whether the depressed people of Mexico will be patient enough to wait for jobs and their share of the country's oil boom.

As the rural poor flock to the cities, the unemployment problem becomes further exacerbated. Untrained and unskilled masses who are largely unemployable create an ongoing potential for social unrest.

A note of sadness permeates President Jose Lopez Portillo's voice as he describes some of the events affecting Mexico-United States relationships. "As a country that has been hurt historically, respect is very important to us."

Lopez Portillo quotes Aristotle. At a state dinner, during a visit by President Carter, he remarked:

"Aristotle said that he conceived of a society, after Plato's ideal state, in which there would be no men so rich as to buy other men and no men so poor as to have to sell themselves."

Lopez Portillo believes the lack of respect for Mexico by the United States has increased.

He feels that at the start of his administration relationships between the two countries was at a new high. However, the president cannot conceal his anger as he describes a steady decline in Mexico-United States relations.

"I was prepared to sell natural gas to the United States in 1977. The United States was our logical customer. We had surplus gas as a result of our oil production. The United States was *facing* severe shortages as a result of acute weather."

President Lopez Portillo authorized pipeline construction to carry the gas (at some political risk and a cost of over one billion dollars) assuming Washington would endorse the deal worked out between Mexico and major United States oil companies.

However, former Energy Secretary James Schlesinger was telling the world we had "plentiful" supplies of natural gas and that we would simply up production in Alaska if Mexico did not meet the Canadian price of $2.15 per 1,000 cubic feet (Mexico was asking $2.60 per 1,000 cubic feet).

President Lopez Portillo seems more upset about the rhetoric than the demand for a lower price.

"We were accused of 'holding the United States up' and 'bluffing.' This was a serious breach of respect.

"However, we solved the problem. We turned the pipeline around and made other uses of the gas.

"So, you see, this lack of respect has impacted our relations. Fortunately, this is history, but we cannot have our respect and dignity undermined."

This extremely articulate man, the epitome of a cultured gentleman, makes no effort to conceal his contempt and anger at the treatment he and his country received from Schlesinger. Two years have not wiped away the insult.

This was a costly error on the part of Schlesinger because we subsequently negotiated a deal for Mexican gas at $3.62 per cubic foot with price escalators tied to the rising cost of petroleum. Washington has seemingly not been able to adjust to dealing with Mexico as a nation of equal footing.

Recent events have exacerbated the uneasy relationships between the two countries.

Mexico has disagreed with our foreign policy decisions either in whole or in part on the Iranian crisis and freezing Iranian funds, the handling of the situation surrounding the Shah and the Olympic boycott.

Mexican newspaper publisher Manuel Acosta summed up his feelings in a recent speech when he said:

"I don't think the historical events of the past are an influence today but they formed us as a people. It is part of us. The cloudiness of our relationship today comes from current contemporary differences."

The United States must recognize it is dealing with a new nationalism, somewhat akin to the fledgling leaving the nest.

Future relationships with Mexico must be based on mutual need, mutual benefit, and mutual respect.

Then truly we will have a mutually beneficial relationship rather than the old love-hate relationship.●

FULFILLING ENERGY STRATEGY

● **Mr. JACKSON.** Mr. President, there is a growing recognition around the world of the fact that if we are to significantly reduce our consumption of oil we must, in addition to conserving energy by using it more wisely, increase our production and consumption of coal and expand our nuclear power capacity. Recently, Dr. Hans Bethe, winner of the Nobel Prize in physics, wrote an excellent article in the New York Times about the significant steps taken at the recent "economic summit" in Venice.

Dr. Bethe points out that while some of the proposals will be unpopular that the goals set forth need to be achieved. I ask that the text of Dr. Bethe's article be printed in the RECORD.

The article follows:

FULFILLING ENERGY STRATEGY

(By Hans A. Bethe)

WASHINGTON.—A few days ago, in Venice, President Carter and the leaders of Britain, Canada, France, Italy, Japan and West Germany approved an economic charter designed to lead these countries out of their bondage to the oil-producing countries. Time will tell whether the remedies prescribed are realistic. The medicine is bitter, the doses large, the patients reluctant at best and completely negative at worst.

But most difficult of all is the reorientation required in the Carter Administration. The bureaucrats will be obliged to make 180-degree turns if they are to be faithful to the document approved by the President. Foot-dragging can no longer be tolerated; real problems will have to be solved quickly; red-tape bureaucrats and progress-blockers must be removed.

We should all be pleased with and applaud the tone and direction of the energy section of the seven-nation statement. It commits the West to break the linkage that has existed between oil consumption and economic growth—that is, it recognizes that the cost of oil today, and even more in the future, inhibits economic growth and contributes in a major way to the inflationary pressures from which we all suffer. I would also add that as long as these seven nations continue to rely very heavily on imported oil to drive their industrial complexes, their national security and independence will be greatly jeopardized.

Particularly worthy of note is the commitment that the seven made to the goal of oil-displacement, through twin reliance on both energy conservation and production of alternative sources. I believe that the Carter Administration has shown a bias toward reducing oil imports primarily through energy-conservation measures. I, on the other hand, have favored the balanced and pragmatic approach that utilizes both conservation and increased production, and hope that the Administration will now lend its considerable weight to both goals equally.

The United States and its allies specified an ambitious program in Venice that, if successful, promises to end a very difficult economic and political period for the West. We should, however, not underestimate the difficulties facing us, generated not only by outside forces but, what is perhaps even more serious, by forces within our own societies.

The Venice declaration seeks to replace 15 million to 20 million barrels of oil per day by doubling the production and consumption of coal and by an expansion of nuclear-power capacity. We welcome the Carter Administration to the multitudes who have recognized for a long time that nuclear power would not necessarily cause the end of the human race and that imported oil is a greater danger to the future of American society as we know it.

All of us should now monitor very closely the actions of the Administration, particularly how deeds match words. On the same day that President Carter signed the Venice statement, the platform committee of the Democratic Party, which he controlled, approved an antinuclear plank, albeit with some qualifications. Is the President really master of his household?

As for the doubling of coal production and consumption, it has been reported that the coal industry has an annual overcapacity of 100 million miners. The industry is facing a myriad of regulatory inhibitions, as well as environmental concerns, that may well have a dampening effect on coal demand. It will be very difficult to double coal production and demand unless both regulatory and environmental concerns are dealt with in a more reasonable fashion. The "all-or-nothing" approach is bound to bring disaster to all of us.

Despite all the potential problems, we should not denigrate the Venice statement. On the contrary, it is worthy of active support by all citizens. To the critics, I would say: "What better alternatives do you have?" Any policy in isolation can be criticized. All policy choices are those of the damned: One chooses the least unpalatable one. When viewed within that framework, it is clear that the leaders of the seven countries have formulated the correct goals and a coherent strategy to achieve those goals.

The time has arrived for the bureaucrats to translate the concepts into concrete programs. That has not been the case to date; in fact, Washington has been a major part of the problem. Most important of all, however: Now is the time for all citizens to insist that the Venice declaration become a reality by closely following the actions of the Carter Administration, as well as the promises of other candidates for President.●

AIRLINE DEREGULATION

● Mr. CANNON. Mr. President, I submit for the RECORD an article which appeared in the Buffalo, Wyo., Bulletin on June 26, 1980. It represents the positive and practical views of one small community with respect to the provisions of the Airline Deregulation Act of 1978, particularly as they affect air service to the smaller communities of our Nation.

The article follows:

AN OVERVIEW OF AIRLINE SERVICE TO THIS AREA

Since passage of the Airline Deregulation Act in October of 1978, there has been a growing concern in the Buffalo-Sheridan area about what kind of scheduled airline service would be available in the future.

Sheridan is one of a number of small to medium-sized communities where major airline service is being discontinued because the carrier is not able to cover the cost of serving the community.

Airline deregulation is the most far-reaching example of the government relaxing its rigid regulatory hold on an industry, and it is a natural subject for debate. Let's review, in a nutshell, what the lawmakers had in mind in 1978 when they decided that a competitive airline industry would provide the traveling public more control and better service than one regulated by a federal agency in Washington.

Before deregulation, the Civil Aeronautics Board (CAB) told the airlines where they could fly and how much they could charge. This strict regulation helped the United States build the best aviation system in the world and protected the industry and the public from unfair competition, but it also promoted inefficient operations and often disregarded the most effective and least costly ways to use many valuable resources.

In reality the airlines could compete only with service options—not through competitive fares. Competition consisted of airlines increasing the number of their flights on a particular route, with each flight being that much emptier. Some offered movies, fancy meals, champagne, snappy uniforms, etc. Thus, consumers were denied the options of price competition while the airlines perhaps minimized the growing importance of fuel economy.

Tight CAB route regulation also led to inefficiencies. No airline could add new communities or drop old ones without demonstrating to the Board, through long, expensive and uncertain proceedings, that the market could support a new airline or adjust to the loss of an established one.

Deregulation, consequently, was an attempt by the lawmakers to ease artificial restrictions placed on the airline industry and to introduce the same competitive forces existing in other industries that provide consumers a wide variety of price and service options. Under deregulation, an airline's success or failure depends on its own management decisions, not on decisions made by the Civil Aeronautics Board.

Today, the rule of thumb which guides airlines in deciding from a smorgasbord of fare and route options is simple: where enough people want to fly, the airlines will provide service at whatever price the competitive market-place determines. This means that if there are enough passengers to cover the costs of operating an aircraft—whether it be a jet, turboprop, or prop—an airline will be there.

Of course, the amount of service from a particular point will be determined by the extent of demand in that market. New York, Los Angeles and Chicago naturally have more people who want to fly and, therefore, receive a wider variety of service than do Raleigh, N.C. or Sheridan, Wyo.

The 1978 Airline Deregulation Act does, however, insure that all communities which had been receiving "certified service" from a major airline on October 24, 1978 are guaranteed a level of air service for ten years—and, if needed, the government will subsidize it.

Under the Small Communities Program the CAB determined "essential air service" levels for more than 550 small and medium-sized communities across the country meeting the designations set forth in the act. These essential levels are the minimum levels of air service that the Board feels will insure the community access to the national air transportation system.

Seven Wyoming communities—Jackson, Laramie, Lovell/Powell/Cody, Riverton/Lander, Rock Springs, Sheridan and Worland—have received essential air service determinations from the federal government. These determinations are guaranteed for 10 years and will be re-evaluated every three years to take into consideration the communities' changing air service needs and capabilities.

It should be noted that these minimum essential air service levels are just that—a minimum. It's a base level of service that the community will always receive through 1988. The only limit on the amount of air service a community receives hinges on the amount of air travel the community itself generates.

This, essentially, is what competition is all about. In many small and medium-sized communities across the country small, commuter airlines, using aircraft having 60 seats or less, are filling the void left when certificated airlines using larger jet aircraft cannot cover their costs and choose to leave a market.

This process has occurred successfully across the country in, for example, Ottumwa, Iowa, where Mississippi Valley Airlines replaced Ozark; in Pocatello, Idaho where four commuters, Sky West, Transwestern, Cascade, and Mountain West, replaced Western; and in Visalia, Calif. where Inland Empire replaced United.

In these communities and others it was necessary for the air traveling community to appraise the situation realistically: with today's skyrocketing fuel prices, interest rates and labor costs, major airline carriers simply cannot afford to fly nearly empty airplanes on a route in one market while there are other markets with more potential to fill these seats. Remember, an airline seat is not like a barrel of oil that can sit around waiting to be used. Once that airplane takes off, the revenue from an empty seat is lost forever.

Commuter carriers use smaller, more efficient planes that are more suited to serve the traffic demands of smaller markets. In fact, many small and medium-sized communities have found that commuters, because they fly this type of aircraft, are able to offer more daily flights than the other carriers offered. Of course, commuter airlines must pass rigid safety and financial fitness standards as determined by the Federal Aviation Administration and the Civil Aeronautics Board.

A recent editorial in the Lincoln [Neb.] Journal seemed to sum up the attitude of communities across the country that are adjusting to changes brought about by deregulation while realizing that these changes have not necessarily been negative to their overall air service. The editorial concludes, "This is not a future necessarily as buoyant as the past for veteran air travelers in Lincoln, either in terms of particular nonstop flight availability or kinds of equipment. But who doesn't appreciate by now we're living in an era of moderated expectations?

"Realistically then, the air service changes should not be militantly resisted, or even accepted only after a grudging fashion. New opportunities present themselves. And someone kicking the turf in anger might miss seeing such opportunities."

While Sheridan's air service situation is, obviously, not identical to that in Lincoln, the opportunities for air service development and expansion in Sheridan are just as likely.

Right now the Civil Aeronautics Board staff is reassessing the city's essential air service determination upon its request. In the interim the Board recently approved Western Airlines' petition to leave Sheridan and designated Air U.S. and Big Sky to serve as the replacement carriers. The Board came to this decision after determining that the two airlines are capable of providing reliable replacement service.

Sheridan is changing every day. There is risk in changes and vulnerability as well, but change can breed opportunity. There can be no progress without change—and risk is often the price of growth.

The seeds for change have been planted. Where Sheridan goes from here depends, to a large extent, on the wishes and the efforts of its citizens. Whatever the outcome of the appeal, at least two commuter carriers, Air U.S. and Big Sky, have expressed a desire to increase their service in order to meet Sheridan's growing demand. And if this demand continues to grow, there is no reason other airlines could not come to Sheridan.

This is the beauty of competition. No other period in the history of air travel has offered such an opportunity for growth and development than today—right now! It's up to the communities, the airlines, and the air traveling public to take advantage of the possibilities open to them.●

THANKS TO THE CITY OF DETROIT AND STATE OF MICHIGAN

● Mr. DOLE. Mr. President, it was my great honor and privilege to serve as a delegate and subcommittee chairman of the platform committee at the 32d Republican National Convention, held in Detroit, Mich.

Mr. President, I want to take this opportunity to commend the people of Detroit and of the State of Michigan for their hospitality and courteous manner during the 2-week convention period.

It was the unanimous opinion of the Kansas delegation, and, indeed, of all delegates with whom we spoke, that Detroit had made an extraordinary and highly successful attempt to accommodate delegates, alternates, the press and others. The friendliness of the populace was evident from the first day and remained to the final session. Taxi drivers, law enforcement personnel, hotel workers, restaurant employees, and the man and woman on the street—all were very cheerful and helpful.

I believe special note should be made of the efforts of Mayor Coleman Young, who remained firm in his resolve to keep the city operating under difficult circumstances. His personal role in mediating a potentially crippling strike was crucial to its being settled without disruption to the proceedings. I met personally with Mayor Young while at the convention and I can say that I was extremely impressed with him, both as a man and as a leader of a great city.

I would also like to commend Governor William Milliken for his role in making the convention a success. He was a fine host, and made his fellow Republicans feel right at home.

We came to Detroit at a difficult time in the city's history. Unemployment is high due to deep depression in the auto industry and the city's renaissance has been put on hold pending a return to sane interest rates and a more stable economic situation. Certainly no one could have blamed the people of Detroit had they been preoccupied with their own troubles. But they were not so preoccupied.

Mr. President, I was among those who believed that holding our national convention in Detroit would serve our party well, indicating our support for urban America, for working people and for minorities.

I also believed the city of Detroit could host such a convention in a professional manner.

Mr. President, I am pleased to report that I was correct on all counts. The people of Detroit and of the great State of Michigan are to be commended on hosting one of the finest political conventions in history. On behalf of my Kansas delegation and all Republicans, I want to say "thank-you Detroit." ●

THE MENTAL HEALTH SYSTEMS ACT

● Mr. KENNEDY. Mr. President, the distinguished Senator from North Carolina, Mr. Morgan, recently expressed in the Record (July 2, 1980) his concern about rumors that the entire Mental Health Systems Act might be jeopardized if we do not enact title III, which establishes a mental patients' bill of rights and advocacy program.

The distinguished Senator from North Carolina also noted in his statement in the Record that the Mental Health Systems Act, S. 1177, is legislation that ought to be passed; that he intends, however, to try to amend title III prior to final passage; and that he is prepared to have the bill brought to the Senate floor, to have a debate and vote on title III, and thereafter to move ahead with final passage to the bill.

I welcome Senator Morgan's support of S. 1177 as whole. This legislation will do much to rationalize and strengthen the nationwide effort to treat the mentally ill in community-based settings; to provide badly needed care for the chronically mentally ill, severely disturbed children and adolescents, the elderly, and other groups with special problems; to eliminate duplication between State and Federal systems of mental health care; and to promote preventive efforts in the field of mental health. It is essential that Congress enact S. 1177 this year.

I regret that Senator Morgan disagrees with the Committee on Labor and Human Resources about the need for the mental patients' bill of rights and advocacy program contained in title III. The need for this title is well established.

The hearings conducted by the committee, together with the extensive discussions held with concerned groups, confirm the need. The provisions of title III were carefully drafted, with the help of the American Psychiatric Association, American Psychological Association, National Mental Health Association, National Association of State Mental Health Program Directors, National Council of Community Mental Health Centers and other groups.

Finally, Mr. President, I wish to state my appreciation for Senator Morgan's willingness to help bring the Mental Health Systems Act to the floor, promote an expeditious debate on title III, and thereafter move toward prompt final passage of the bill. Senator Morgan had previously indicated his intention to filibuster the bill; as a result, debate on S. 1177 did not commence in late June as initially hoped. Though we do not yet agree on title III. it is encouraging that the Senate will be able to proceed to final action on this important legislation.●

INVESTIGATION OF BILLY CARTER

● Mr. DOLE. Mr. President, the recent revelations surrounding Billy Carter's representation on behalf of the Libyan Government and the resulting Justice Department investigation raises many questions which should be answered.

As reported by the media, Billy Carter's conduct over the past year and a half, needs an impartial review. The President's brother first met with Libyan officials in September 1978. Subsequently, Libyan officials came to the United States as the guest of Billy Carter. On January 12, 1979, the Justice Department, having commenced its investigation of Carter's Libyan activities, sent him a letter asking him to file as an agent of the Government of Libya. This letter and a similar follow-up letter went unanswered.

In August 1979, Billy Carter returned to Tripoli for a 2-month stay and in time to attend the 10th anniversary celebration of Colonel Qaddafi's revolutionary Marxist government. In January 1980, Carter, while denying to FBI agents that he was a paid representative of the Libyan Government, received a $20,000 "loan," with no written terms from Tripoli. He received another "unwritten loan" for $200,000 this April.

On June 2, 1980, the Justice Department learned for certain of the $220,000 pay off. Within a week, Billy Carter somehow was informed of the Justice Department's knowledge. On June 11, he discussed the matter with National Security Adviser Zbigniew Brzezinski and then separately with White House Chief Counsel Lloyd Cutler. Mr. Cutler specified the legal counsel that Billy Carter should retain—Stephen Pollack and Henry Ruth. That same day, Pollack contacted the Justice Department and settlement negotiations began.

On July 14, more than 4 weeks later, a settlement agreement was finally announced. Billy Carter would have to obey the law and register as a foreign agent. In return, he admits no guilt nor would face prosecution for his past failure to comply with the Foreign Agents Registration Act.

This chain of events, if true, raises a multitude of questions which the American people have a right to have answered.

First, concerning Billy Carter's conduct with regard to the law, was he put on notice by the Justice Department letters in early 1979 that he had a legal obligation to register as a foreign agent? The act requires every person, except under certain exemptions not applicable here, who becomes an agent of a foreign country, to register within 10 days with the Attorney General. Does Carter's apparent repeated failure to comply until he knew of the Justice Department's certain knowledge of the payments constitute a violation of the law under 22 U.S.C. § 618(a)(2)? Did Billy Carter have some inside Government source which tipped him off the first week of June that the Justice Department was closing in?

Second, concerning the Justice Department handling of the investigation, when their letters to Billy Carter in early 1979 went unanswered, why did they not bring suit forcing him to register? Why did it take over 4 weeks to work out a negotiated settlement? In light of the apparent evidence against Billy Carter should the Justice Department have taken further action?

Mr. President, I have no way of verifying the press accounts recently reported. Perhaps the conduct of the Justice Department indicates favoritism shown to the President's brother. Perhaps it is indicative of the difficulty the Justice Department's registration unit has in enforcing the act, with a limited staff, no subpena power over other agencies, and no civil penalties to impose. In either case, the situation should be fully explored.

That is why on July 18 I made a formal request for Senate Judiciary Committee hearings to delve into the unanswered questions about Billy Carter's Libyan connection. Such hearings gain increased relevance in light of the disclosure by Robert Vesco in a separate Judiciary Committee investigation, as reported by the press today, that he had interceded for the Libyans to procure release of a U.S. Government ban on some airliners sought by Colonel Qaddafi. Perhaps the Judiciary Committee inquiry of Billy Carter could be coordinated with that of Robert Vesco to exhaust thoroughly all possibilities of Libyan influence over U.S. officials.

In closing, Mr. President, I ask that an editorial by columnist William Safire printed in today's New York Times be placed in the Record at this point.

The editorial follows:

None Dare Call It Billygate

(By William Safire)

Washington.—The President's brother has grudgingly admitted much of what has been suggested in this space for 18 months—that he was secretly taking payments from the terrorist regime of Libyan dictator Muammar el-Qaddafi while acting as his propagandist and agent of influence.

The greater scandal is that he will not be prosecuted for having broken the disclosure law. Senate investigators will soon be looking into these examples of Carter favoritism:

1. *Carter officials gave the Libyans good reason to believe that Billy Carter had foreign-policy influence.* The President's Appointments Secretary directed the two top Arabists on the National Security Council staff to brief the President's brother and his associate. The Washington Star revealed that they spoke on four occasions, a courtesy unavailable to other lobbyists and one bound to impress Dictator Qaddafi.

On top of that, the U.S. Charge d' affaires in Tripoli met with Billy Carter and asked him to carry "nonspecific" messages to the dictator on behalf of the U.S. Government.

2. *To protect the President's brother, the Carter Justice Department has in effect repealed the criminal provisions of the Foreign Agents Registration Act.* For 16 months, Philip Heymann's Brotherly Love Division groveled before Billy Carter's stonewalling, never considering a grand jury investigation. As a result, the intent of Congress is set aside; no overt propagandist for a foreign power need register. If caught, he can follow the Carter precedent: sign a civil consent decree and pay no penalty.

3. *Somebody in the White House may have known of the $220,000 payoff in May, before the Justice Department learned of it on June 2, and tipped Billy off to the perils of misleading the F.B.I.* Ordinarily, intelligence gathered by clandestine or electronic means about Libyan assassination or penetration plans would go to Zbigniew Brzezinski. The National Security Advisor informs me he did not receive information about Billy Carter's deal with Qaddafi; he also denies prior knowledge of the briefings of the President's brother by his staff.

However, after a year and a half of brushing off the polite queries from Joel Lisker at Justice, Billy Carter suddenly volunteered to come in to check on the status of the investigation—exactly eight days after the lawman, had learned of the payoff. Guilty conscience—or inside information? If the latter, a special prosecutor would have to look into an obstruction of justice.

4. *The White House may have improperly involved itself in Billy Carter's defense.* On June 11, when the nature of Non-Prosecutor Lisker's questioning led Billy Carter to believe that the payments had been discovered, the panicked brother of the President telephoned Mr. Brzezinski. That was odd—why the National Security Adviser?

"I'm a friend of the family," Zbig replies. He does not want to take questions about Billy Carter at all. "He called me up and said he wanted to talk to me. He came to see me. The minute he opened his mouth about the Justice Department, I called Lloyd Cutler in."

Presidential Counsel Cutler tells me he spoke to Carter for two or three minutes about his foreign agent problem, then recommended a specific attorney. Cutler called Stephen Pollack, head of the D.C. bar, who had represented Hamilton Jordan, and put him on the telephone to the President's brother; they made an appointment.

Attorney Pollack called Justice after he had been retained, told Mr. Lisker that the case had been referred to him by the White House and said that Billy would answer no further questions that day. Mr. Pollack and his partner, former special prosecutor Henry Ruth, made four calls to White House Counsel Cutler while working out the no-penalty consent.

"What's wrong with recommending a good lawyer?" demands Lloyd Cutler, an honorable man indignant at a suggestion of impropriety. To say "see a lawyer" is proper, but for any high Government official to specify "see this particular lawyer," whoever it is, is improper. For Mr. Pollack to say to the Justice Department that the case had been referred to him by the White House was also unconsciously unconscionable; for him to report to the White House counsel on the progress of the case may have improperly provided the Chief Executive—charged with "executing the law"—with too much information about the Justice Department's treatment of his brother.

5. *The President and his brother do not have their stories straight.* Asked by reporters on July 15 if he had talked to his brother about the consent decree, Billy Carter replied: "No I have not. I have not talked to Jimmy about it at all." But two days later, the brother of Qaddafi's agent stated: "Just a few days ago I recommended to Billy that he go ahead and make a complete revelation. . . ."

Why had the President not advised, "a complete revelation" before the Government learned of the payoffs? Did he assure his brother that no prosecution would follow his admission of what was already known? Was a witness present? (Ah, for a tape of that meeting.)

And why—this question keeps nagging—was Billy Carter's first panic-stricken call from the Justice Department to Zbigniew Brzezinski?●

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President. I do not know when I will have a better time to make my 16th statement in a series of statements on The United States Senate, so I will take this opportunity to do so, if no Senator seeks recognition, and upon the completion of my statement I will recess the Senate. There will be no further business transacted today.

Mr. STEVENS. Mr. President, if the Senator will yield, it is my understanding this is another in the series of statements the Senator from West Virginia has been making.

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. Some of us have other engagements. There will be no further business transacted today?

Mr. ROBERT C. BYRD. There will be no further business, I assure the distinguished acting Republican leader.

Mr. President, I ask unanimous consent that upon the completion of my statement the Chair recess the Senate under the order until 9 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I thank the distinguished Senator.

THE UNITED STATES SENATE

Mr. ROBERT C. BYRD. Mr. President, at this moment as I speak, my words are being recorded by an official reporter of debates. By tomorrow morning, these remarks and all other items of business conducted on the Senate floor today will have been transcribed and printed in the Congressional Record. This daily volume, which may run to several hundred pages, will then be distributed to the offices of every member of the Senate and the House, to various federal and state agencies, and to individual subscribers—many of them public and university libraries—all across this nation and abroad. Within approximately two years, today's proceedings, and the record of all other meetings of the Senate during the second session of the 96th Congress, will be bound and indexed in the permanent volumes of the Congressional Record.

This is a remarkable achievement which, because of its speed, accuracy, and reliability, we may possibly take for granted. However, the Record is a vital instrument of the legislative process without which our work would be nearly impossible. We rely on the Record to follow the progress of legislation, from a bill's introduction to its passage or defeat. When we are busy with committee meetings or other Senate business, we depend on the Record for a complete account of the floor discussion we might have missed. And when we have completed our work, the Record preserves the legislative histories to which the courts, long into the future, will refer in determining the Congressional intent behind the laws which we have written. Of course, the Journal has priority in this respect.

Mr. President, the Congressional Record is a symbol of our democracy through which the people may fully observe the making of their laws and may hold their lawmakers accountable for their words and deeds. For these reasons, I direct my remarks today, as part of a series of discussions on the history and procedures of the United States Senate, toward the men and women who have served as our official reporters and toward the evolution of the Congressional Record.

The Constitution provides that each house of the Congress shall keep a journal of its proceedings, a mandate that both the House and the Senate have faithfully upheld since the first Congress in 1789. These journals are, in effect, minute books or summaries of the floor proceedings published after each session of the Congress is completed. The Record has grown and been perfected over the years as necessity and political sensibility have required even though there is no requirement in the Constitution for its publication.

The Senate, for the first five years of

its existence, kept its doors closed to both the press and the public, while the House of Representatives, following the practice of various State legislatures, admitted both press and public from the outset to its deliberations. The smaller Senate, which envisioned playing an advisory role to the President, chose to observe the custom of the earlier Continental and Confederation Congresses and the Constitutional Convention by conducting its business in secret. Yet, outsiders, particularly those from the press who were interested in the Senate's activities, had little difficulty in learning their substance from its talkative members.

The greatest pressure for open sessions came from the State legislatures whose duty it was at that time to elect United States Senators. Virginia and other southern states especially believed that they could keep track of their senators' legislative behavior only through open sessions. For the first five years, however, their efforts were turned back by a majority of Senators who argued that secrecy ensured their freedom of discussion. Indeed, the Senate chambers in New York and Philadelphia had no galleries for reporters or other visitors.

In 1794, a major debate took place in the Senate over whether Republican Senator Albert Gallatin, a financial wizard and thorn in the side of President Washington's Federalist administration, had satisfied the Constitution's nine-year residency requirement for Senators. Under increasing public pressure, the Senate voted to open its doors for that debate and authorized the construction of suitable galleries. These galleries were built in the summer of 1795 and opened to the public on December 9, 1795. Two days later, the first substantive debates of the Senate were published in the Philadelphia newspapers. Unfortunately for those interested in the Senate's early history, they were not the verbatim accounts to which we have become accustomed today. Since these first accounts were prepared by newspaper reporters, they often reflected the partisan biases of their editors. Nor were the reporters admitted to the Senate floor; they sat in the galleries and often missed remarks that were difficult to hear.

To rectify this situation, the Senate by a vote of 16 to 12, on January 5, 1802, resolved that stenographers and notetakers should be admitted to the Senate floor and assigned to "such place . . . as the President shall allot." Three days later, the debates of the Senate began to appear regularly in the columns of the *National Intelligencer*, a tri-weekly Washington paper that provided the first reports of debate.

The founder of the *National Intelligencer* was Samuel Harrison Smith, a close ally of President Jefferson. Upon his retirement in 1810, the paper was taken over by Joseph Gales, Jr. and William W. Seaton, two stenographic reporters. Seaton reported on the House of Representatives, while Joseph Gales was the sole reporter in the Senate from 1807 to 1820.

The *National Intelligencer* published its notes on the debates, which other newspapers around the country then clipped and reprinted. While the *Intelligencer* generally performed a creditable job, shorthand reporting was still in a primitive stage, and the results were often haphazard. The reporters had their political favorites and enemies, and their coverage varied accordingly. Some Senators neglected to submit copies of their speeches or to correct the early drafts of the reporters' notes. Others, such as Daniel Webster, would visit the offices of Gales and Seaton after the Senate had adjourned to correct and elaborate upon versions of their speeches. It is also alleged that on at least one occasion a reporter dozed off during one speech and awoke during another Senator's remarks, recording both speeches as the same.

The *National Intelligencer* held its position by patronage, both houses of Congress having elected Gales and Seaton as their official printers. In the 1820's, Gales and Seaton expanded their activities by publishing the *Register of Debates*, which provided fuller reports on Congressional debates and proceedings than those which appeared in their newspaper. The *Register of Debates*, a private venture, was thus the forerunner of our current CONGRESSIONAL RECORD.

In 1829, the political tides turned, and Gales and Seaton lost their position as Congressional printers. Deeply in debt, they looked for new projects to raise revenue, publishing first the *American State Papers*—a remarkable collection of early American historical documents—and then the *Annuals of Congress*, which went back to the First Congress and filled in the gap for Congressional proceedings through 1824 when the *Register of Debates* began.

Then in 1833, rival publishers, Francis Blair and John C. Rives, won the title of official printers for Congress and launched the *Congressional Globe*. Blair and Rives hired their own stenographers, and for the next four years both the *Globe* and the *Register* published the Senate and House proceedings. Finally, in 1837, Gales and Seaton terminated the *Register of Debates*. The *Congressional Globe* continued its work from 1833 until 1873.

During those years, the reporters of debates worked directly for their newspapers. Not until 1873, when the Government Printing Office began the CONGRESSIONAL RECORD, did Congress directly hire its own reporters, although reporters had been paid at public expense since 1855. They have remained as Senate and House employees since that time.

Over the years, the format of the published proceedings has gradually developed into the style of the current CONGRESSIONAL RECORD. It was during the era of the *Congressional Globe*, in 1848, that verbatim reporting became standard. Senate reporters used handwritten shorthand exclusively from 1848 until 1974 when the stenotype machine first made its appearance on the Senate floor. Today, five of the seven reporters use machine shorthand, just as the gentleman who stands within reach of me is doing at this time, while one uses the Pitman system and one the Gregg system of pen shorthand. By 1862, the role of the shorthand reporters was so well defined that the Confederate Congress also adopted the same procedure. In 1865, Congress provided that the *Globe* should be published daily and delivered to the members of both houses at their next meeting.

Mr. President, the official reporters of debates came into existence on March 4, 1873, as a result of the recommendations of a commission headed by Senator Henry Anthony of Rhode Island. Since then, they have performed their work efficiently and unobtrusively in the crossfire of debate in this chamber. However, they should not be seen as an anonymous group. It is possible to trace the various individuals who have performed this task and to mention some of the most outstanding among them.

The founder of the Senate's corps of verbatim reporters was Richard Sutton, who sat in the gallery of the British House of Commons with Charles Dickens when both were young shorthand writers for the press. Sutton came to this country in 1838 and worked as the Washington correspondent for the *New York Herald*. In December 1848, Sutton and a group of shorthand writers began reporting the proceedings of the Senate for the *Congressional Globe*. Among those working for Sutton was 14-year old Dennis F. Murphy, hired on the advice of Senator John C. Calhoun. Murphy became head of the corps of reporters upon Sutton's retirement in 1869.

It is worth pausing a moment to make special reference to Dennis Murphy and his family and their remarkable record of 112 years of continuous service to the Senate. As I mentioned, Dennis Murphy became a reporter of debates in 1848; he served until his death in 1896. His brother James also served as a Senate reporter for twenty years, as well as another brother, Edward, who served nearly sixty years, from 1860 until his death in 1919. Edward's son, James W. Murphy, joined the corps of reporters in 1896, became chief reporter in 1934, and remained on the job until his retirement in 1960, after I had been in the Senate 2 years. James Murphy was chief reporter when I first came to the Senate, and I find it startling to think that his uncle had been appointed by John C. Calhoun.

Other significant figures who have served as reporters have included Theodore Shuey, who labored for sixty-five years, from 1868 until 1933. Shuey had participated in the battle of Gettysburg during the Civil War and had kept a detailed diary of his experiences in Pitman shorthand. At the time of his Senate service, he was considered the most scholarly reporter in the world. For over sixty years, he did not miss a single session of the Senate.

Some of my colleagues will recall John D. Rhodes, as I do, who retired as chief reporter of debates in 1963, after forty-five years of service. Rhodes arrived during the tumultuous debate over the Versailles Treaty in 1919 and retired the year of the Nuclear Test Ban Treaty in 1963. There was also Gregor MacPherson, known as "Mr. Mac," who served for thirty-two years, until his death in 1966. Following MacPherson as chief reporter was Charles Drescher. Since 1974, our chief reporter has been G. Russell

Walker, who has been a member of the Senate staff for the past fifteen years.

The seven reporters who actually appear on the Senate floor to report the proceedings are:

William D. Mohr, Benjamin H. Firshein, Charles J. Reynolds, Eleanor R. Ross, E. Frances Garro, Frank A. Smonskey, and Ronald Kavulick.

Supporting them are three staff assistants and six expert transcribers. The Chief Reporter and his assistants are under the jurisdiction of the Secretary of the Senate.

Mr. President, all of us who serve in the United States Senate owe a great debt to the reporters of debate. This debt was most eloquently described by our late colleague, Senator Everett Dirksen, who said:

> It baffles me when I think of the readability of the Congressional Record, because, when all is said and done, I think it will be agreed that Congress is really the home of the split infinitive, where it finds its finest fruition; this is the place where the dangling participle is certainly nourished; this is the home of the broken sentence; and if there were no dashes I do not know what our distinguished official reporters would do. This is the home where, with impunity, we can ignore the comma and the semicolon, we can ignore the exclamation mark and the question mark; and yet; somehow, out of this great funnel it all comes out right, and it is all readable.

It was readable, Senator Dirksen concluded, because of the endeavors of the official reporters of Senate debate.

These reporters watch out for us. They check our grammar and double check our quotations. Since Scripture is often quoted on the Senate floor, the reporters keep a Bible at hand to authenticate our verses and citations—and, by the way, it is the King James version. I understand that this handsome Bible was given to the reporters in the 1930's by Senator Huey P. Long, the father of the current distinguished senior Senator Russell Long from Louisiana. When he gave the Bible to the reporters, Senator Huey Long related how his wife had been reading his speeches in the Congressional Record and told him:

> I want to see those wonderfully educated reporters of the Senate who take those supposed quotations you are making from the Bible and fit them into your speeches exactly as they are in the Scripture!

The reporters of debate live by the rules and make the Members of the Senate live up to the rules which we have set for the Congressional Record. Profanity is prohibited, and a series of dots are used in the Record to indicate any "forbidden" words. Indeed, one Member of the House of Representatives, Thomas Blanton, was censured by his colleagues in 1921 for having printed in the Record a letter from a constituent which contained profane language.

Maps, diagrams, or illustrations may not be inserted in the Record without the approval of the Joint Committee on Printing. Only two illustrations have ever appeared in the Congressional Record, and they were both introduced on October 3, 1913 by Senator Benjamin Tillman of South Carolina. "Senator Tillman's Allegorical Cow," as they were both entitled, portrayed a large cow spanning the continent, being fed by farmers in the west and being milked by Wall Street in the east. I shall not, at this point, seek to deprive Senator Tillman of this distinction, although I am prepared to have reprinted in the Record his two illustrations.

No member of the Senate is permitted to speak disparagingly of any other member or of any other State in the Union. No member is entitled to make more than one revision of his or her remarks for the permanent Record. No italics, bold face, capitals, or unusual indentation may be used for emphasis. No full reports of committees will be printed in the Record if previously printed elsewhere. No material in a foreign language may be printed, except with the permission of the Joint Committee on Printing.

Mr. President, the reporter who is taking down my words as I speak is here on the floor for just ten minutes at a time. After ten minutes have elapsed, this reporter will be replaced by another reporter and, at that time, will return to the office of the official reporters, where the notes will be dictated onto dictating machine discs, or, in the case of the stenotype machine reporters, the notes will be either dictated or noteread. The dictation or the stenotype notes will be transcribed by a team of six expert transcribers.

The typed transcript is returned to the reporter, who will compare it with the original notes, insert appropriate headlines, check for conformity with the *Government Printing Office Style Manual* and Senate procedural requirements, and make minor grammatical corrections.

The transcript is then submitted to the Chief Reporter for further editing, collating, indexing, and arrangement for printing in the Congressional Record.

Remarks made by Senators in the Senate Chamber are usually available in typewritten form within one-half to three-quarters of an hour after delivery. Under the Rules of the Senate, Senators are then permitted to make minor but not substantive changes in their remarks.

Senators will often help out the reporters by making available to them the prepared statements—just as I am doing now—outlines, or other material they used when they addressed the Senate. We can be assured that the reporters appreciate this assistance as they try to cope with Senators who whisper and Senators who shout, and with the wide and sonorous range of regional accents. In fact, Gregor MacPherson used to refer to any Senator who handed a prepared copy of his remarks to the reporters as a "statesman."

When a debate gets especially fast and furious, we sometimes make it difficult for the reporter to follow our colloquies. Once when the late Senator from Michigan, Philip Hart, was presiding, he found it necessary to gavel the Senate to order and said,

> Gentlemen, gentlemen. The reporter is having difficulty; you are both talking at once. Even I am having trouble understanding what you are saying.

Other Senators are known for their particularly rapid rate of speech. The late distinguished former Senator from Minnesota, Hubert Humphrey, was an eloquent speaker, but his rapid-fire words could be quite intimidating to all but the most experienced reporters. One newcomer to the corps of official reporters related how the senior reporters warned him, "Oh, wait until you get Humphrey; wait until you get Humphrey!" But they also gave him a useful tip: while Senator Humphrey spoke very quickly, he frequently repeated himself for emphasis. Senator Humphrey, I understand, never had any complaints about the quality of their reporting.

In addition to prepared remarks, Senators may submit to the Legislative Clerk prepared statements, which they do not intend to read, for inclusion in the body of the Record under the headline "Additional Statements," or as "Extensions of Remarks" at the back of the Record, although this section is used primarily by members of the House of Representatives. Statements which are inserted but not read are indicated in the Record by a small black circle, a printing symbol known as a "bullet," so that readers will know that it was not actually spoken on the floor of the Senate.

Mr. President, this last innovation, the "bullet," was added in 1977, as part of a series of so-called reforms to improve the readability of the Record of Senate proceedings. These reforms are a cause in which I have had particular interest, and I am pleased with the changes we have inaugurated.

I must say that I am not so greatly pleased in one respect, at least, with the changes we have inaugurated, that being that it requires every Senator to at least read the opening sentence of a statement in order to prevent the bullet from being used. For this reason, many Senators now come to the floor and read sections of a speech, or at least the first sentence, in order to avoid the bullet, even though the full speech is not read into the Record. This takes up the time of the Senate needlessly. I have always felt that when I endorse a check, I have to stand behind that check. By the same token, if I insert a speech in the Record, I have to stand behind every word and am fully responsible for my words, whether I deliver them orally or I do not. So, for that reason, I cannot fully subscribe to the use of the bullet as a very useful reform.

At any rate, that is the way it is.

Since early in 1970, Senators who announce live pairs on votes are listed under a heading "Present and Giving a Live Pair" with their positions shown as for or against the particular measure.

This was done at my request during the tenure of the then majority leader, Mr. Mansfield.

The program announced by the Majority Leader is always placed in the Record immediately prior to the recess or adjournment for the day. The last page of the Record indicates the next session and the schedule of business for each body.

Messages from the House and the President are collected during the day and printed in one place in the morning business, rather than sprinkled throughout the proceedings.

The Daily Digest at the end of the Record includes an entry showing the record votes taken, together with a running total. Quorum calls are similarly indicated.

This is another innovation which I brought about during the leadership of Mr. Mansfield, I having felt that it would be useful to Senators if they could find in one place in the Record every day the total number of rollcall votes that had occurred during the session up to that time.

Mr. President, I would like to briefly summarize the makeup of the Congressional Record, which consists of Senate Proceedings, House Proceedings, Extensions of Remarks, and the Daily Digest.

The Senate Proceedings are alternated with the House Proceedings on a daily basis, as far as possible, with the Senate being first in the Record one day and the House the next day. Pages for each of these components are numbered consecutively from the first day of each session. Senate page numbers are preceded with an S, House pages by an H, Extension of Remarks pages by an E, and Daily Digest pages by a D.

The Extensions of Remarks and the Daily Digest are always the last portions of the Record. Between them, one will often find what might be called "filler" material. This material includes: Laws and Rules for Publication of the Record; a listing of Representatives and Senators and their office numbers; officers of the House and Senate; committee assignments of members; and members of the Supreme Court and certain Federal Courts.

The Daily Digest was the product of the Legislative Reorganization Act of 1946—which in so many ways helped to streamline and "modernize" the Senate's work. By the mid-1940's, the Record had become so thick that without some sort of daily index it was becoming practically unusable. Dr. Floyd M. Riddick, who was already a specialist in Congressional procedure, recommended to the Special Committee on Legislative Reorganization that they create a digest to be added to the Record with the highlights of each day's activities as a handy reference. His proposal became part of Public Law 601, and at the beginning of the 80th Congress in 1947, Dr. Riddick was invited to become the Senate editor of the first Daily Digest, a post which he held until he became the assistant Parliamentarian in 1951.

Starting the Digest was no easy work. Committee clerks, already burdened with their own work, resisted taking the additional notes for Digest citations. Yet the Digest had only one staff member covering all the Senate committees and another covering the Senate Chamber. Eventually, through persistence, a system was developed, and the Digest became the integral part of the Record that it is today.

To ascertain what business was transacted on the previous day, the reader of the Congressional Record should turn to the Daily Digest and look under the heading "Senate." There one will find the chamber action, such as bills introduced and reported, and measures passed. There will also be a brief description of the legislation.

Also included, if applicable, are messages from the House, presidential communications, statements on introduced bills, committee authority to meet, additional statements, confirmations, program, and record votes. With the indicated page numbers, the reader may use the Daily Digest to find the location in the Senate proceedings where the desired material is located.

The Senate proceedings are chronologically set forth in the Record with several exceptions. All material relating to Routine Morning business is assembled in one section, usually toward the end of the proceedings. This includes messages received during the day from the House and the President, measures introduced, additional cosponsors, resolutions submitted, committee authority to meet, and other morning business transactions permitted by the Senate rules. However, if a Senator introduces a measure under a special order to address the Senate, his remarks remain in the Record at the place in which they were given.

The Chief Reporter may also place unspoken statements, when properly submitted, so as to appear in the Record during the consideration of the measure to which they are germane.

In the debate portion of the proceedings, one page of the Record as a general rule, covers approximately ten minutes of debate.

Over the last decade inflation has increased the cost of producing the Record rather sharply as it has everything else. For its value to the Nation, however, the Congressional Record is surely worth its cost.

As I close my dissertation on this subject, may I personally express my gratitude, and I am sure I speak on behalf of all my colleagues, when I say, "Thanks," to Mr. Walker and to his excellent team of Official Reporters and all of the staff who work with them to make the Congressional Record readable, informative, and useful, not only to my colleagues, but also to the great American public.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows: The Senate will convene at 9 a.m., and after the two leaders have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes: Mr. Harry Flood Byrd, Jr., Mr. Morgan, Mr. Gravel, and Mr. Jepsen, after which the Senate will resume its consideration of the pending business, H.R. 39, order No. 442, the so-called Alaska lands bill.

There is a time agreement on the bill. Rollcall votes are expected on tomorrow. I would suggest to my colleagues that they be prepared for early and late sessions daily until action on this bill is completed, and thereafter, of course, because there is much work to do.

So Senators should be informed that the Senate will be in reasonably late tomorrow and, of course, convene at the hour of 9 o'clock daily throughout the remainder of this week, including Saturday, and will be meeting at 9 o'clock daily next week, including Saturday, and will be meeting at 9 o'clock daily thereafter until the August break occurs.

Mr. President, I yield the floor.

RECESS TO 9 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 9 a.m. tomorrow.

Thereupon, at 7:26 p.m., the Senate recessed until tomorrow, Tuesday, July 22, 1980, at 9 a.m.

NOMINATIONS

Executive nominations received by the Secretary of the Senate on July 3, 1980, under authority of the order of the Senate of July 2, 1980:

National Science Foundation

John Brooks Slaughter, of Washington, to be Director of the National Science Foundation for a term of 6 years, vice Richard C. Atkinson, resigned.

Executive nominations received by the Secretary of the Senate on July 7, 1980, under authority of the order of the Senate of July 2, 1980:

Department of State

Lyle Franklin Lane, of Washington, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Paraguay.

Department of State

Henry Precht, of Georgia, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Mauritania.

Bureau of Justice Statistics

Harry Alan Scarr, of Virginia, to be Director of the Bureau of Justice Statistics (new position).

Farm Credit Administration

The following-named persons to be Members of the Federal Farm Credit Board, Farm Credit Administration, for terms expiring March 31, 1986:

Ralph Raikes, of Nebraska, vice Dennis S. Lundsgaard, term expired.

William D. Wampler, of Virginia, vice Galen B. Brubaker, term expired.

Executive nominations received by the Secretary of the Senate on July 10, 1980, under authority of the order of the Senate of July 2, 1980:

Department of State

Robert S. Gershenson, of Pennsylvania, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Uruguay.

Department of State

Barbara M. Watson, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Malaysia.

National Council on Educational Research

The following-named persons to be Members of the National Council on Educational Research for the terms indicated:

For the remainder of the term expiring September 30, 1980:

Maria B. Cerda, of Illinois, vice Frederick Henry Schultz, resigned.

For terms expiring September 30, 1982:

Joseph J. Davies, Jr., of Louisiana, vice Carl H. Pforzheimer, Jr., term expired.

Timothy S. Healy, of the District of Columbia, vice Jewel Lafontant, term expired.

John S. Shipp, Jr., of Florida, vice Wilson C. Riles, term expired.

For a term expiring September 30, 1983:

Maria B. Cerda, of Illinois (reappointment).

National Council on the Humanities

The following-named persons to be Members of the National Council on the Humanities for terms expiring January 26, 1986:

Marcus Cohn, of Maryland, vice Luis A. Ferre, resigned.

Samuel DuBois Cook, of Louisiana, vice Robert B. Hollander, Jr., term expired.

Roland Paul Dille, of Minnesota, vice Robert Nisbet, resigned.

A. Bartlett Giamatti, of Connecticut, vice Caroline Ahmanson, term expired.

George Alexander Kennedy, of North Carolina, vice Kay Howe, term expired.

Louise Ano Nuevo Kerr, of Illinois, vice Ted Ashley, term expired.

Frances Dodson Rhome, of Indiana, vice Truman G. Madsen, term expired.

Philip Aaron Schaefer, of California, vice Blanchette Rockefeller, term expired.

Anita Silvers, of California, vice William A. Hewitt, term expired.

Executive nominations received by the Secretary of the Senate on July 18, 1980, under authority of the order of the Senate of July 2, 1980:

Nuclear Regulatory Commission

Albert Carnesale, of Massachusetts, to be a Member of the Nuclear Regulatory Commission for the term expiring June 30, 1985, vice Richard T. Kennedy, term expired.

In the Air Force

lt Gen. Devol Brett, U.S. Air Force (age 56), for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Walter D. Druen, Jr., [redacted]FR, U.S. Air Force.

In the Army

The following-named officer under the provisions of title 10, United States Code, sections 3036 and 3066, to be assigned as chief of engineers, a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Joseph Key Bratton, [redacted], U.S. Army.

In the Navy

The following temporary lieutenants on the U.S. Navy for permanent promotion to the grade, pursuant to title 10, United States Code, sections 5782, and 5791.

SUPPLY CORPS

Adams, Mark M.
Alexander, Oran T.
Allion, Dennis G.
Anderson, James S.
Anderson, Stephen F., III
Argento, Terry J.
Argue, Arthur C., III
Awtrey, Warren
Balint, David L.
Bang, Paul G.
Banghart, Allan A.
Barrs, Jack C.
Beassie, Leslie J.
Beaty, Richard M.
Beckman, Robert J.
Bell, William R.
Bender, Danny A.
Bennett, Bruce R.
Benson, Edwin R., III
Berg, Roland D.
Bernet, William C.
Bird, Robert R.
Blanton, James E., II
Bocchino, David L.
Bock, John H., III
Bonafede James M.
Bonner, Alonzo B., Jr.
Boyce, Thomas F.
Boyer, James C.
Boyle, John E.
Branaman, Larry G.
Bullock, David R.
Bunker, Thomas A.
Burdon, William H.
Bush, Stephen V.
Callahan, Paul W.
Callaway, Michael P.
Camp, Gary L.
Capizzi, David A.
Carpenter, Levon H.
Cassano, Anthony J. Jr.
Cavanaugh, John H.
Chambers, Thomas R.
Cole, John L.
Colvin, Bruce A.
Connolly, John J.
Conover, Richard P.
Coon, Wynn L.
Corack, Edward W.
Courter, David E.
Croll, John M.
Cronauer, Harold T., Jr.
Crowley, Indy C.
Cummings, Patrick W.
Cummins, John L.
Cunningham, Victor E.
Curtin, Michael F.
Deck, Roger J.
Deuaurentis, Michael J.
Dennis, David A.
Dewell, Kenneth G.
Difranco, Steven J.
Duffey, Thomas O.
Eastlund Lon E.
Eller, Jeffrey M.
Emerson, Jimmie D.
Engel, Steven R.
Ensminger, David S.
Evans, Michael W.
Fages, Sheldon N.
Faurie, Bruce R.
Feltes, Dales J.
Flanagan, John E., Jr.
Flores, Rufino B.
Foster, Robert L.
Fowler, James M.
Frailey, Elden L.
Fredericks, Kenneth D.
Fremont, Robert F., III
Friedel, John M.
Fuller, Dana A., Jr.
Gandola, Kenneth D.
Garot, Otto L.
Gift, Wendell J., III
Gillespie, Daniel D.
Gordohn, Richard E.
Cranston, Jeffrey R.
Grant, Charles W.
Gregory, Troy R.
Griggs, William C.
Grimes, David M.
Grimes, Gary C.
Groman, Mark S.
Gross, Thomas D.
Guerard, Franklin P.
Gunia, Earl G.
Hammond, Richard C., Jr.
Hammons, Thomas J., III
Hannaford, Philip S.
Harder, Melvin S., III
Hartman, Douglas M.
Hartman, Larry D.
Hauser, Christopher G.
Hayes, Bryan F.
Hayes, John R., Jr.
Heiman, Kenneth H.
Henderson, Harold E.
Henke, Louis, III
Henning, Robert A.
Herbert, Raymond J.
Hertstein, Mark S.
Hesch, Gerald F.
Hickson, Edward E.
Hickman, Ronald W.
Hinkel, Shelby, Jr.
Hoffer, Jayme W.
Hoffman, Lee D.
Hoffman, Thomas L.
Holland, Benjamin "A"
Holy, Theodore S.
Honsinger, Larry E.
Huber, Christopher D.
Huffman, Jimmie L.
Hughes, Gary J.
Hunt, Stephen R.
Hurley, Joseph F., Jr.
Husty, Peter L.
Jackson, John E.
Jamrisko, Steven F.
Jenkins, Gwilym H., Jr.
Johnson, Johnnie, III
Johnson, Mitchell C.
Johnson, Philip H.
Johnson, William E.
Jones, David C., III
Jordan, Leonard R., III
Joslin, Richard M.
Kaloupek, William T.
Kaufman, Gary R.
Keating, Charles L.
Kellam, Steven L.
Kelly, Daniel C.
Kern, Thomas M.
King, Wallace V.
Kirk, John R.
Koehler, Jay B.
Kosar, Peter G.
Lambert, John R.
Larue, Stephen L.
Lawrence, Robert C.
Leather, John E.
Leclair, Daniel V.
Lehman, Ralph N.
Leon, John A., Jr.
Leroy, Osborn
Lippert, Thomas R.
Locke, James W., Jr.
Lorenzo, Mark C.
Lottes, William R., II
Lowndes, Rawlins
Main, Archibald M., III
Mainor, Julius C.
Mallon, Patrick J.
Marczynski, Alfons C.
Martinec, Dennis P.
Matsushima, Rodney F.
McCray, James E., II
McDevitt, Harry J., III
McGee, Gary O.
McKenzie, Donald R., Jr.
Mellard, Charles W., Jr.
Mercier, Kevin G.
Miller, Felton
Miller, Raymond L.
Milligan, Robert L.
Mitchell, Kent R.
Mitchell, Lonsdale C.
Moessner, Frederick W.
Moffitt, Michael A.
Monaco, Robert E.
Moore, Joseph N.
Moore, Robert T., III
Moran, Michael D.
Munson, Timothy O.
Nielsen, Gerald T.
Nogosek, John
Ohagan, Michael G.
Orr, William D.
Oshier, Daniel R.
Owen, Wayne A.
Pathwickpaszyc, John C.
Paul, MacGregor H.
Peart, Douglas T.
Perkins, Charles A.
Perkins, George W., Jr.
Perry, Gordon C.
Pinta, Roger J.
Pledger, John D.
Poston, Cary D.
Powell, Jeffrey P.
Proctor, Leonard L.
Reeve, Robert E.
Reily, James D., Jr.
Robertson, James M., III
Roddahl, Jeffrey L.
Rorex, Thomas A.
Rosenzweig, David A.
Ross, Charles A.
Rountree, James S.
Rova, Bruce W.
Royer, Frank E.
Russell, George L., Jr.
Sabo, Joseph P.
Schaffer, John E.
Scheckel, Daniel P.
Schenck, Clayton L.
Schlax, Thomas P.
Schmidt, Colman A.
Schmidt, William G.
Schmitt, Jerome H.
Schneider, Jefferey W.
Schrader, Thomas D.
Schwartz, Allen B.
Seebeck, Robert N.
Selby, Theodore J.
Sheppard, Theodore J.
Shiffman, Robert L.
Shoemaker,Charles K.
Simmons, John R.
Simmons, Rogers S.
Sims, Donald B., Jr.
Smith, Raymond W.
Solis, Armando R.
Solomon, John W.
Sorrow, Walter T.
Sparks, George F.
Standen, Eric A.
Steigelman, Anthony E.
Stilwell, Robert R.
Stokes, David V.
Stone, Daniel H.
Strunk, Lawrence W.
Sule, Michael F.
Swanson, Graydon N.
Sweney, Robert L.
Tarleton, George L., II
Teipel, Mark A.
Todd, Dale E.
Tufts, John E.
Ustick, Michael L.
Vedder, Helmuth
Vinagre, Eduardo G.
Vinson, Charles M.
Wadsworth, David B.
Wallace, Harry R., Jr.
Walters, James S.
Ward, John D.
Weidemann, James L.
Wells, Randolph R.
Wenslaff, William A.
Werthmuller, Foy W.
West, Paul K.
Willis, Roger A.
Wilson, George W.
Wimett, William T.
Wingfield, George R.
Witham, Michael J.
Wood, Robert H., II
Woods, Willie E.
Worrall, Eric H.
Wortman, David C.
Wright, Dennis L.
Wright, William A.
Yates, David S.
Yount, Mark L.
Zehner, Dale J.
Zimmermann, Bruce E.

CHAPLAIN CORPS

Benner, August W., Jr.
Cluff, Merlin H.
Condon, William G.
Darcy, William J.
Duncan, Charles R.
Eis, Charles R.
Ferguson, Melvin R.
Gardner, Ronald E.
Giuntoli, Thomas G.
Grogan, Gerald R.
Livojevich, Ronald
McCreary, Stanley H.
Pyrch, Paul
Tambourin, Sauveur D.
Williams, Robert H.
Wiltshire, Wallace W., II

CIVIL ENGINEER CORPS

Ackerbauer, Blair
Allen, Donald C., Jr.
Allen, James R.
Allshouse, Clare R.
Anderson, Lee L., Jr.
Andvik, Brian K.
Augustin, James H., Jr.
Bacon, Thomas A.
Barrows, William C.
Berry, Michael G.
Blanton, Guy I., Jr.
Boothe, Thomas M.
Breitzke, Thomas C.
Buckman, Thomas H.
Bukoski, Thomas J.
Burgoyne, Richard E., Jr.
Campbell, Gordon M.
Carll, David R.
Chamberlin, Paul D.
Checkovich, James K.
Cherry, John M.
Christensen, Thomas H.
Clark, David J.
Clements, Neal W., Jr.
Clinkingbeard, Terry A.
Clough, Paul L.
Collins, William W.
Corbett, James T.
Cornell, Wayne L.
Costello, Donald H., Jr.
Craft, Gary M.
Daignault, Stephen W.
Dailide, Eduard A.
Dampier, Kenneth D.
Darr, Roger W.
Dean, Joseph C.
Dew, Fred W.
Dierckman, Thomas E.
Digeorge, Frank P., III
Doo, Harry Y. C. K.
Doyle, John R.
Dun, Richard A.
Elkins, James E.
Elsbernd, Robert L.
Foster, James E.
Fritchen, David R.
Garcia, Raul E.
Gebert, David K.
George, David R.
Goddard, Nelson G.
Gorden, David W.

Guthrie, Gene S., Jr.
Haas, Richard F., Jr.
Hall, William M.
Halwachs, James E.
Hanes, Samuel H., Jr.
Herriott, Thomas R.
Hill, Jerry D.
Hiller, Paul W.
Hocker, Robert G., Jr.
Holst, Ronald P.
Horn, Larry S.
Hutchins, Donald B.
Interholzinger, Jared F.
Kean, William P.
Kechter, Ronald A.
Keene, Ronald E.
Keifer, John M.
Kendall, James B.
Kennedy, Michael G.
Kleven, Courtney C.
Knoll, Joseph C.
Kolster, William G.
Kornegay, Edward L.
Kotz, John E.
Kraai, Bernard W., Jr.
Krochalis, Richard F.
Laboon, Thomas A., Jr.
Lappano, Gilbert C.
Leidholt, Deanne E.
Leonard, Donald B.
Longo, Paul D.
MacNamara, Timothy C.
McKay, Kenneth P.
Miller, Steven R.
Morris, Donald E.
Morris, Donald G.
Morrow, James F., III
Murphy, Bernard F., Jr.
Newton, Clifford C.
Nylen, Sven T., III
Olszewski, Paul J.
O'Toole, Thomas R.
Parisi, Anthony M.
Parsons, Robert C.
Perry, Michael J.
Pizzano, Robert C.
Praskievicz, Michael W.
Pyles, Troy K.
Rautenberg, Robert C.
Reynolds, Glenn E.
Rigby, William H., Jr.
Roach, David G.
Rodriguez, Glenn R.
Scullion, Leonard P.
Seltzer, George H., III
Smith, Loren W.
Sollenberger, Lee A.
Spruit, Donald R.
Steinbrugge, Richard L.
Stotmeister, Kevin S.
Streicher, Burton L.
Stryker, Harry F.
Terry, Ronald E.
Tucker, Gregory T.
Tull, Terrence W.
Turowski, Henry J., Jr.
Uzarski, Donald R.
Vanderels, David M.
Vandyk, Peter M.
Veselenak, John C.
Walker, Arthur O., Jr.
Walker, William F.
Weaver, Vaughan C.
Wegener, Gary R.
Weyrauch, Edwin F.
White, Judson H., Jr.
Wisehart, Thomas C.
Wong, Jack J., Jr.
Ybanez, Robert E.
Zook, Michael J.
Zuber, David E.

JUDGE ADVOCATE GENERAL'S CORPS

Baggett, Joseph E.
Bagley, David W., II
Baker, Stephen C.
Bartlett, James E., III
Becker, Fred R., Jr.
Bell, Dale E.
Blackwood, Robin M.
Boudewyns, Timothy M.
Bridge, Jonathan J.
Buechler, Christopher L.
Burnett, Weston D.
Caruthers, William P.
Cattanach, Robert E., Jr.
Champagne, Gerald E.
Clark, Norman K.
Connelly, Thomas J., Jr.
Davidson, Kerry T.
Decicco, William A.
Deschauer, John J., Jr.
Dirks, John A.
Eddy Richard W., Jr.
Fayle, Patrick A.
Friedman, Leonard
Genzler, Patrick A.
Gonzalez, Glenn N.
Graber, Steven W.
Groat, John S., Jr.
Gugni, Gilbert
Halvorson, James E.
Hardy, David M.
Harrison, John G., Jr.
Haskel, Peter B.
Hayden, Lawrence E., Jr.
Henebery, John K.
Holcombe, David P.
Holt, John B.
Horgan, Mark M.
Hunt, Charles R.
Jacobsen, Walter L.
Jakubiak, Thomas F.
Kirkpatrick, Gerald J.
Leachman, Timothy L.
Ledvina, Thomas N.
Marciano, Charles A.
Massey, Thomas J., Jr.
McCabe, Sally J.
McConnell, Daniel D.
McDonald, Alvin L.
McGuire, Michael R.
McLaughlin, Peter J.
Monahan, Robert P.
Morgan, John D.
Muschamp, Werner L.
Nystedt, Charles M.
Park, James D.
Parker, Kathleen A.
Parnell, Joe M.
Peace, David L.
Pitts, Russell A.
Pixa, Rand R.
Prochazka, Frank J., Jr.
Rae, Robert B.
Robertson, Brian D.
Scranton, Joseph D.
Seaman, Robert C., Jr.
Smitherman, William T.
Stemplewicz, John T.
Stimson, Paul M.
Strong, Franklin W., Jr.
Swanson, Ronald V.
Switzer, David R.
Tapajcik, John M.
Tielens, Thomas P.
Walsh, Richard F.
Weber, Donald B.
Winfrey, Ronald R.
Young, Timothy C.
Yuhas, Christine M.

MEDICAL SERVICE CORPS

Ambler, Frederick A.
Ammons, Paul F.
Anderson, Charles L.
Anderson, Jerry T.
Auker, Charles R.
Auth, Bernard J.
Ayers, Robert R.
Barber, Norman J.
Barina, Fred G., Jr.
Barnett, Phillip J.
Beatty, Earl, III
Bennett, James D.
Benny, Judith A.
Black, Ronald W.
Bolduc, Paul R.
Bolster, Hugh T.
Bourgeois, August, L., Jr.
Boyles, Robert W.
Brent, William H.
Breton, Robert W.
Brickeen, Jerry W.
Briere, Gerald P.
Brocker, Fred L.
Brown, William G.
Buffington, John R.
Butler, David E.
Caldwell, Craig R.
Calvin, James B.
Campos, Theodore R.
Carroll, Robert M.
Carter, Robert C., Jr.
Caton, Gene A.
Christopher, John P.
Clarkson, Wallace M.
Cline, Ferdinand C.
Connors, Charles V.
Cordell, Norman W.
Cosenza, Joseph M.
Cox, Tommy W.
Crabbe, Joel R.
Crabtree, Roger D.
Crank, Harold L.
Crittenden, George H.
Cronin, Patrick D.
Daniel, David G.
Davidson, Dennis, M.
Davis, Joe E.
Day, Charles S.
Dean, Larry M.
Decspikes, Robert A.
Defibaugh, Thomas R.
Derr, John D.
Dial, William S.
Dickerson, Martha J.
Dillingham, Joe G.
Dittman, David
Dougherty, Kathleen S.
Duncan, Carl F.
Dunkleman, Dennis C.
Eberle, James E.
Edgmon, Bobby R.
Eichelberg, Wallace C.
Eimers, Orin K.
Elkins, Bryan R.
Epling, Stephen R.
Estey, Melvyn, A., Jr.
Evans, William H., Jr.
Ewing, Ronald C.
Eyre, Jay M.
Felton, Robert E.
Frey, Mary L.
Fristad, Arvid C.
Gammarano, Peter V., Jr.
Garms, Peter P
Garton, Michael L.
Gervais, David R.
Ghent, Ernest R.
Gibson, George E., Jr.
Glans, Dale C., Jr.
Glowacki, David A.
Goodloe, Murriel E.
Gray, Brian H.
Greedan, Andre M.
Greenan, John E., III
Grissom, Michael P.
Gruenau, Steven P.
Hargett, David A.
Harmon, Layton O.
Harris, Steven D.
Harrison, Robert B., Jr.
Hazzard, Charles A.
Heisler, Robert P.
Heltsley, John R.
Hetrick, John R.
Hickey, Rodney D.
Higgins, Janet L.
Hisoire, Dennis P.
Holman, Larry D.
Hughes, Francis J., Jr.
Hughes, Haywood N.
Huju, John I
Jillson, Susan G.
Jones, Buddy L.
Jones, Rudolph
Jose, Lynn T.
Kelly, Stephen J.
Kish, Robert J.
Kmet, Joseph P.
Knee, Dale O.
Knight, Michael G.
Korn, George B.
Kramer, Jeffrey A.
Kremser, Gary L.
Kunerth, Marshall G.
Kunkel, Clyde E.
Kurtich, Richard B.
Lane, John C.
Langston, Carl C., Jr.
Larocco, James M.
Lawrence, Jonathan D.
Lemmeman, Donald J.
Lewis, Marion S.
Lewis, Morris N.
Lindstrom, Lorel L.
Littlejohn, Harold P.
Lockhart, Ralph A.
Love, Douglas, Jr.
Mahin, Patrick L.
Malinky, Robert L.
Malinoski, James W.
Martin, Donna R.
Martin, Early M.
Maskulak, Michael J.
Mastervich, Mark M.
McCaig, Joe M.
McCarthy, Judith A.
McClerklin, Aaron
McCoy, Wendel T
McGann, Dennis M.
McGinn, Charles F.
McNamara, Patrick F.
Meisel, Robert H.
Mell, Leroy D., Jr.
Meskill, Gerard V.
Meyer, Michael
Miller, Harriet I.
Miller, Robert M.
Mitts, Estill D., Jr.
Mize, Lewis W.
Mohler, Dennis L.
Moran, William J.
Moses, William R.
Muklevicz, Robert E.
Mullin, Jimmie J.
Murphree, Garry W.
Murphy, Harry B.
Murphy, Patrick E.
Nelson, Ronald C.
Newton, Gary
Norris, Henry H., Jr.
Oldham, Richard T.
Olson, Steven D.
Palmer, James F.
Parks, Jackie H.
Parr, Laurence F.
Parrish, Gerald E.
Pate, George
Paul, Frank E.
Peksens, Richard K
Penkunas, John J.
Peters, Vernon M.
Peterson, Jack L.
Peterson, John C.
Pinkerton, Randy H.
Radmore, Kenneth J., Jr.
Randle, Kenneth R.
Rathjen, Roger L
Raymond, James L.
Reading, Thomas E.
Rendin, Robert W.
Reynolds, William H.
Rockhill, Robert C.
Rooney, John A.
Rosciam, Charles J.
Rose, Donald C.
Ruffin, Tommy L.
Rutherford, Bruce D.
Sampson, Raymond N.
Santore, Orlando J., Jr.
Scheurer, Jeanne C.
Schick, Gary E.
Schmitz, Nancy C.
Sheridan, Peter F.
Sherman, Forrest A.
Silvas, Jose M.
Simas, Amance R.
Skog, Roy R., Jr.
Slater, Gary L.
Sloan, Robert W.
Slobodnik, Bruce A.
Smedley, Fulton J.
Smith, Donald A.
Smith, Steven L.
Sparkman, Thaddeus H.
Spencer, Charles A.
Stine, John W.
Straub, Ronald W.
Thompson, J. Ronald
Tittman, Frederick R., Jr.
Todd, Hamilton S., Jr.
Todd, Michael L.
Trocha, Paul J.
Trosper, James H.
Turner, Leighton K.
Ulcickas, John
Vasquez, Jesse H.
Vaughn, Charles D.
Wallace, Gale F.
Wallace, William E.
Ward, Ernest D.
Waterman, Cheryl M.
Watts, Len S.
Weappa, Larry R.
Webb, John R., Jr.
Wheeler, David L.
White, Richard W.
Whiten, Ronnie E.
Wilder, Thomas W.
Willems, John P.
Williams, Gary E.
Williams, Margaret E.
Williams, Paul E.
Williams, Warren, Jr.
Willis, George R., Jr.
Wolfe, Theodore E., III
Woods, Walden R.
Wright, Betty L.
Wright, Laban J.
Yost, Harry E.
Zimmerman, Craig A.
Zimmerman, John H.

NURSE CORPS

Allison, Rachel V.
Applegate, Joanne W.
Atkinson, Nancy J.
Barnes, Paula
Barrett, Linda S.
Baumann, Mary A. E.
Bechtel, Robert H., Jr.
Beeson, Virginia R.
Beto, Cathleen A.
Bishop, Joan A.
Bishop, Wayne F.
Bitzer, Merlin D.
Bodnar, Joseph A.
Bogart, Deanna R.
Boire, Loretto A.
Bolden, Cheryl V.
Boneberg, Cecelia M.
Bonnet, Kathleen M.
Bowden, Mary A.
Boyer, John F.
Boyle, Cary T.
Broad, John R.
Brown, David A.
Brown, Rebecca S.
Brown, Terry L.
Burns, Kathryn P.
Cabral, Richard E.
Campbell, Julia C.
Campbell, Mary K.
Cappiello, Joseph L., Jr.
Capps, Karen N.
Carroll, Sue M.
Casa, Peggy B.
Centko, Marietta J.
Chapman, Gayland J.
Cherrington, Dolores A.
Christman, Patricia K.
Coffman, Peggy S.
Collier, Adriane A.
Comte, Michele A.
Condon, Edward G., III
Cornish, David L.
Cornwall, Thomas L.
Correnti, Patrick S.
Cothern, Jimmie G.
Cranley, Kathleen A.
Cranston, Christine S.
Crowell, Mary J.
Cummings, Linda M.
Curlee, Candace
Cychosz, Beverly K.
Czabaj, Marlene B.
Daehn, Linda M.
Davis, William M.
Dawe, Cecelia M.
Day, Lynn B.
Day, Marilyn A.
Deliberto, Vincent L.
Dick, Suzanne
Dobbs, Gwenda Q.
Donahue, Mary H.
Donofrio, Robert N.
Droz, Cynthia M.
Ebner, Mary A.
Egan, Bernadette A.
Ellis, Jo Carol
Ellis, Susan L. F.
Eversole, Donna R.
Finn, Thomas J.
Foster, Irene A. S.
Frazee, Daniel C.
Gallino, Alice A.
Gantz, Gary S.
Garvey, Geraldine A.
Gearhart, Lee K.
George, Melissa A.
Gharabaghli, Sandra M.
Glenn, Judy J.
Goff, Vicki K.
Graham, Alfred E. Jr.
Grandy, Dale H.
Griffiths, Loretta A.
Grimes, Virginia D.
Guard, Janet D.
Gutowski, Mary M.
Haley, Kathleen A.
Hankel, Elaine M.
Hargrave, Michael R.
Harmeyer, Gary R.
Hart, Dwaine K.
Haviland, Rebecca J.

Hayes, Claudia A. B.
Hemmelgarn, Nina T.
Henbest, David
Herzler, Ralph E., III
Hinger, Carol A.
Hodges, Gail L.
Hoffman, Mary H.
Hofman, Linda L.
Holmes, Anne A.
Holmes, Lawrence C.
Hooper, Janet L.
Hruby, Margaret O.
Huber, Joan M.
Hughesrease, Marsha L.
Hutchins, John W., Jr.
Hyams, Orval W.
Irvine, Linda J.
Iverson, Halvor E., Jr.
Jackson, Royal H.
Johnson, Laurie L.
Jones, Christine S.
Jones, Donald G.
Jonkers, Judith A.
Kanurick, Ronald G.
Kato, Yuki
Kenney, Patricia A.
Kidgell, Patrick F.
Kimberly, Ruth A.
Korns, Barbara J.
Kowba, Maureen D.
Kozlowski, Janet G.
Krahenbuhl, Allie F.
Kuhnly, Diane B.
Kunkel, Ann M.
Kupchinsky, Stanley J.
Law, Diane E.
Lawman, Alene D.
Lescavage, Nancy
Lett, Max R.
Lewis, Rasalie D.
Lombardi, Judith E.
Loose, David S.
Lopez, John D.
Lousche, Kathleen M.
Lujan, Eugenio A.
Macnamee, Debra J.
Mader, Suzan H.
Maggi, Nancy F.
Majewski, Bernadette
Mangan, Martha Y.
Manzitto, Arthur S.
Marine, Peggy D.
Marquart, Alison W.
Marsh, George L.
Matika, Linda C. T.
May, Rita V.
McClain, Terry W.
McColl, William D.
McConnell, Maryann S.
McDonald, Mitchell A.
McKinzie, Beth A.
McMullen, Suzanne T.
Meier, Mardean E.
Michael, Dorothy A.
Minnick, Kristine E.
Monahan, Michael E.
Monroe, Victoria M.
Moore, Judith C.
Moran, Janice W.
Morsillo, Sigrun M.
Murphy, Kathryn R.
Nickerson, Carolyn J.
Nietman, Linda J.
Northup, Jacqueline K.
O'Donnell, Katherine G.
O'Hare, Patricia J.
Osborn, David L.
Oswald, Gregory S.
Otlowski, Donna M. M.
Owen, Nancy J.
Patterson, Marla K.
Pentecost, William R.
Peterson, Janet L.
Peterson, Peggy Jo
Phillips, Danny R.
Phillips, Jean M.
Picchi, Christine A.
Pittman, Alice A.
Powell, Robert L., Jr.
Powers, John C., II.
Quinn, Mary E.
Ramsey, Lorna J.
Ratigan, Thomas R.
Richard, Shirley M.
Richburg, William E.
Robertson, Rosalyn L.
Robinson, Leslie E.
Robitaille, Gloria J.
Rocha, Elizabeth D.
Rock, Marion L.
Rodriguez, Fe E.
Ross, Beverly J.
Rostock, Cynthia A.
Ruiz, Joann H.
Ruschmeier, Elizabeth M.
Rychlinski, Charlene
Sample, Priscilla
Schafer, Dwight D.
Schemmer, Carol L.
Schnoor, Elaine H.
Sciuto, Renata M.
Shaia, Evelyn R.
Shelton, Mary C.
Smiley, Janice S.
Smith, Julianne "K"
Smola, Theresa N.
Snell, Stanley P.
Soileau, Joseph C.
Spangler, Catherine E.
Speirs, Carol L.
Standen, Julianne
Stoessel, Kathleen B.
Sullivan, Dennis J.
Swan, Catherine A.
Tarnowski, Laurence A.
Taschner, Ardis L.
Templeton, Alma N.
Thompson, Mari E.
Thompson, Thomas N.
Timmcke, Teresa A.
Tomsky, Carol N.
Trenhaile, Cherie H.
Trent, James E.
Tucker, Judith L.
Turpin, Lori A.
Twarog, Thomas W.
Ungvarsky, Linda D.
VanBuren, Donna J.
Vannest, Ronald L.
Wahl, Marilyn J.
Walgren, Kenneth D.
Ward, Deborah A.
Ward, Elizabeth A.
Warren, Freda M.
Wayne, James F.
Wells, Mary E.
Wenner, Linda J.
Wentland, Paul D.
Westmoreland, Jane D.
White, Grace M.
White, Patricia P.
White, Therese A.
Whittemore, Kenneth R., Jr.
Wierzbowski, Daniel S.
Williams, Colleen K.
Williams, Darryl M.
Williams, Donald L.
Wilson, Nancy D.
Wolf, Elaine M.
Woodworth, Linda C.
Wright, Mitchell P.
Yarbrough, Patricia K.
Young, Deborah J.
Young, Robert R.
Zabel, Nancy D.
Zech, Harriet E.

IN THE MARINE CORPS

The following-named officers of the Marine Corps for appointment to the grade of chief warrant officer, W-4 under the provisions of title 10, United States Code, section 563:

John Bartusevics
Marion W. Brookshier
William C. Broughton, Jr.
John A. Bryant
James R. Bullock, Jr.
Thomas E. Cartier
Tilden U. Click
Herbert L. Day
James F. Doner, Jr.
Melvyn A. Douglas
Richard E. Ehrler
Jerry L. Ellis
Timothy J. Euman
John D. Hess
Ralph W. Hickman
Calvin M. Hoar
Jack N. Hurley
Kenneth D. Lewis
Wayne W. Macey
Gerald H. Massey
James H. McGee
Frank W. Mott
Joseph O. Ortiz
Ronald L. Phillips
William T. Pope
Thomas A. Reynolds
William C. Riddle, Jr.
Clifford Robinson, Jr.
James L. Rodak
Stephen L. Shivers
Frederick H. Trout
Albert L. Wade
Leonard R. Webb
Richard L. Wheeler
Anthony P. Witek
Billy W. Woodard

The following-named officers of the Marine Corps for appointment to the grade of chief warrant officer, W-3 under the provisions of title 10, United States Code, section 563:

Rudy K. Abrams
Catherine M. Adkins
Jimmy D. Adkins
Winston E. Anding
Michael J. Atcheson
Charles J. Avery, Jr.
Ralph T. Bates
Richard F. Beatty
Romeo W. Belanger, Jr.
Ronald L. Belvill
Howard W. Benjamin
Richard L. Bernarde
David C. Berryhill
Robert W. Bishop
Clinton A. Bittick, Jr.
John C. Bradford
Terry W. Bradley
Kenneth L. Bridgeman
Phillip L. Brocker
Marlin A. Bromley
Gary W. Brown
George L. Brown
Jackie D. Brown
Robert M. Brown
Daniel L. Calise
William E. Claussen
Michael D. Coffey
Ray J. Coffman
Michael J. Cooper
Timothy J. Connolly, Jr.
Charles L. Crabill
Francis E. Croucher
Charles H. Dawson III
Richard B. Dawson
Daniel R. Dearman
Steven S. Demers
Francis J. Demoss
William N. Dischinger
Robert P. Donohoo
Arthur C. Downey
Charles R. Dyer
Richard E. Ekerberg, Jr.
Roy D. Erickson
Woodrow G. Franklin
Richard M. Frazier
Arthur G. Friend
Robert E. Fugate
Thomas E. Fultz
Wayne J. Gammel
Michael E. George
Ernie L. Gillespie
Ernest T. Gonzales
Lance J. Goss, Jr.
Wilbur L. Graves III
Lawrence R. Green
William F. Green
Benjamin S. Guerrero
Robert L. Hairston
Richard E. Harrell
Earl W. Heister
Martin W. Hendrix
David C. Hering
Steven B. Hockensmith
James F. Hopkins
Joseph M. Husick
Warren W. Irvine
George L. Joiner, Jr.
Michael L. Kernan
John Konicki
Charles W. Kossick, Jr.
Ronald O. Larson
Thomas E. Laursen
Elbert Laymance, Jr.
Daniel C. Leutner
Richard W. Levan
Roderic H. Light, Jr.
Leonard C. Long III
Charles A. Lundy
Joseph R. Lyon, Jr.
Daniel J. Macsay
William E. Manginen
Richard B. Markle
Linda R. Mason
John C. Matejov
Alex R. Mattheus
Leonard L. Maxwell
Christobol, H. Mendez
Frank E. Merrifield, Jr.
Sandra K. Messall
Roy C. Miller, Jr.
William R. Mimiaga
Scott J. Minturn
Richard A. Montgomery
John K. Neel
Carlos Negron, Jr.
Daniel P. O'Sullivan
Lyman G. Otley
John L. Owens
Benjamin Palacios, Jr.
Joseph J. Palacpac
Raymond M. Peavy
Arturo Perez
Gary N. Peters
Thomas E. Phillips
William E. Porter, Jr.
Evelyn M. Potts
Paul J. Prevost
John E. Pritchard
Donald Pritt, Jr.
Thomas E. Price
Bobby E. Purnell
Phillip E. Pyle, Jr.
Robert S. Pyle
Edgar F. Quigley, Jr.
Stephen A. Rand
Emmette H. Reeves
Teryl L. Reiman
Arthur H. Richardson, Jr.
Edwin R. Ring
William D. Rivers
Melvin Rogers
Richard F. Sands
Donald Schwartz, Jr.
Tommy L. Sellers
Gordan A. Shaw
Stanley D. Sheats
Frederick L. Sherwood
Thomas L. Shirk
Antonio B. Silva
Johnny A. Simonowich
Gary A. Sloan
John R. Sloan
Wilbur M. Smith, Jr.
Pedro E. Souza
Ernest B. Stark
Gary D. Stewart
Danny W. Sullenger
Richard M. Summers
James C. Taylor
Richard F. Tedeschi
James G. Thorpe
Richard A. Urquhart
Thomas Uselding
Graydon S. Uyeda
Mark A. Vogler
Alexander W. Walmsley
William L. Walsh
Mark Wells
David M. White
Walter W. Whittington III
Jerry E. Wicks
Kenneth R. Williams, Jr.
Richard P. Williams
Winifred Winn
Johnny M. Withrow
David L. Wittenhagen
Eugene E. Wolbert
Ronald D. Wright
Wayne E. Wrighting
Richard D. Young
Bernard W. Ziobro, Jr.

The following-named officers of the Marine Corps for appointment to the grade of chief warrant officer, W-2 under the provisions of title 10, United States Code, section 563:

Charles F. Adams
Jerry W. Albright
Albert M. Allison, Jr.
Bruce H. Anderson
Robert L. Anderson
Leroy G. Bainbridge
Lawrence E. Baker, Jr.
Gary L. Baranik
Terrence G. Barth
Warren C. Bartholomew
Michael G. Baxter
Brook L. Bauer
Charles L. Beckwith
Dellas R. Bennett
David C. Bell
Henry J. Bell
John W. Bloodworth, Jr.
Richard C. Brannan
Ronald R. Brassard
Kenneth D. Brooks
George F. Brown
Michael E. Brown
Vernon E. Browning
David P. Brunstad
Stephen A. Burnley
Robert L. Busher
Linda Y. Burns
Richard L. Buss
Richard E. Cadle
Sylvan V. Cain
John R. Campbell
Paul L. Campbell, Jr.
Jon P. Caradine
William H. Carnes III
Ronald R. Chambers
Duke R. Chapman
Howard P. Clarke
William M. Clemons
James E. Coleman
Donnie R. Collins
Charles E. Cone
Daniel F. Connolly
Ronald J. Crabbs
James A. Craig, Jr.
Clyde V. Croswell, Jr.
Francis X. Cubillo
James A. Cummings, Jr.
Carl J. Cwiklinski
Roger W. Daigger
Thomas J. Daley
Eric A. Dawson
John M. Decker
Lloyd L. Denn
James H. Deshotel
Duane C. Devoe
Ronald S. Devoe
Robert E. Dillon, Jr.
Richard G. Dorrity
Bobby G. Duncan
Dennis J. Dunlap
Jerry L. Dunning
David D. Duval
Gary E. Engelking
Charles E. Evans
John E. Evans
Dana F. Fanaro
Ronnie J. Farmer
Randy L. Ferguson
Lyle A. Ferrara
Darryl G. Fleming
Anthony D. Flowers
Bernard J. Franklin
Jerry H. Garant
Stephen L. Galloway
Joseph J. Gerende
James R. Godfrey
Leonard A. Goetz, Jr.
Richard L. Gommel
David C. Gordon
Chris A. Grabin
Edward E. Grieder
Jackie L. Grinstead
Jerald R. Hansen
Jackie Harness
Samuel T. Harrelson, Jr.
Alton C. Hartwig
James M. Hastings
Ronald C. Hathaway
Robert L. Haugland
Edward E. Hawkins
Peter E. Henschke
Dale A. Hilbert
Jesse L. Hill, Jr.
Ronnie L. Hill
Harry F. Hinkle, Jr.
Jesse Hinson
David F. Hunter
Michael E. Hurley
Jacky L. Hyatt
Robert D. Ihde
Clarence C. Ingle
Raymond A. Ingram
Charles M. Jackson
John A. Jackson
Ronald L. Jackson

Joseph P. Jacobs
Daniel Jasinski
Howard D. Jines
Dannie J. Johnson
Merlin J. Johnson
Robert E. Johnson
Ross A. Johnson, Jr.
Tommy L. Johnson, Jr.
Maurice E. Jones
Dearthur Jordan
Byrch G. Kelley
Eric J. Kennedy
Bruce E. Killian
Joseph D. Kinney
Bryan E. Klinger
Richard W. Knauf
Lawrence W. Knox
Karl E. Koehler
John T. Krause
Gerald E. Krewson
Dalton J. Langlinais
Charlie A. Larson
Lloyd V. Lee
Phillip W. Lucas
Harold J. Lyssy
James M. Madden
Claudia R. Maldonado
Martin H. Mallady
August F. Malson
John J. Manning
Rodney G. Marquart
James A. Martin, Jr.
David E. Marvin
Thomas C. Massingill
Alan J. Matthews
Robert J. McDonough, Jr.
Robert W. McManus
Michael K. McNamara
Hector L. Melendez
Terry E. Menteer
Chris R. Miller
James C. Miller
James D. Miller
Robert M. Miller
Robert R. Mitchell
Gary W. Montouri
Robert G. Moody
Larry D. Morris
Harvey D. Morrow
Randolph P. Myers
Charles P. Neumann
Billy J. Norwood
Larry E. Nowak
Michael F. Olson
Charles D. Palmer
Ronnie L. Patrick
Lee R. Perkins
Robert M. Perry
Timothy A. Pickett
Paul J. Piper
Elden G. Pontius
Michael E. Powell
Ray D. Prather
William E. Priester, Jr.
Robert E. Priseler
Edwin M. Ramos
Raymond A. Ratzel
John H. Regan
John L. Richardson
Phillip L. Rivera
Warren S. Robinette, Jr.
David L. Robins
John R. Rodgers, Jr.
James E. Rodgers, Jr.
Lawrence A. Romaine, Jr.
Leonard W. Ross
Larry L. Scamara
William D. Schmidt
Henry A. Seay, Jr.
John C. Seibel
Robert W. Seibel
Joyce E. Shryock, Jr.
David S. Simko
Frank M. Skidmore
Jeffrey L. Smith
John R. Smith
Ulysses S. Smith
Wayne E. Smith
Daniel B. Smitherman, Jr.
William K. Snowden
Darrell C. Snyder
Raymond C. St Germain
John M. Stopko
George H. Swarts III
Stanley D. Temple
Robert E. Timmons, Jr.
Ronald E. Tucker
Scott C. Uitdenhowen
George W. Vanbeek
Robert H. Vandendries
Robert J. Vankuiken
Gaudencio Viloria
Harriett F. Voisine
Farrell V. Walker
George W. Walker
Terrence N. Walker
Ivan L. Wallen
Alan L. Wanek
Raymond L. Wasson
Larry A. Westcott, Jr.
Walter R. Whiteaker
Lawrence J. Whited
Joseph F. Whittemore
Gary D. Wimsett
Joseph J. Windsor, Jr.
Clarence J. Wirth, Jr.
Robert C. Wittenberg
David W. Wyble

Capt. Charles P. Erwin, U.S. Marine Corps, for appointment to the grade of major, pursuant to title 10, United States Code, section 6222.

HOUSE OF REPRESENTATIVES—*Monday, July 21, 1980*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Let all who take refuge in Thee rejoice, let them ever sing for joy; and do Thou defend them, that those who love Thy name may exult in Thee.—Psalms 5: 11.

We rejoice in Your goodness to us, O God, and we trust in Your providence. Even as we praise You for blessings we have received, we remember those less fortunate who have great need and who are anxious about their lives. We pray especially for the hostages in Iran and for their families. Grant to them the strength of Your spirit and the light of Your countenance that they may be sustained and comforted in the knowledge of Your loving care. In spite of the turmoil of our time keep us all aware of Your grace as we seek to honor You with lives of service to others. Amen.

THE JOURNAL

The **SPEAKER**. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2492. An act to regulate commerce, promote energy self-sufficiency, and protect the environment, by establishing procedures for the location, construction and operation of ocean thermal energy conversion facilities and plantships to produce electricity and energy-intensive products off the coasts of the United States; to amend the Merchant Marine Act, 1936, to make available certain financial assistance for construction and operation of such facilities and plantships; and for other purposes.

FIFTIETH ANNIVERSARY OF VETERANS' ADMINISTRATION

(Mrs. **BOGGS** asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. **BOGGS**. Mr. Speaker, I rise today in salute to the celebration of the 50th anniversary of the Veterans' Administration.

This morning I have attended two ceremonies honoring this special occasion: One held in old St. John's Church celebrating the issuance of a commemorative stamp; the other, the dedication of a living tree, appropriately a scarlet maple, in the prestigious location of Lafayette Square, the President's park.

Those in attendance were reminded in a musical rendition by the Army Band of the poem "Trees" by Joyce Kilmer, killed in action in France in 1918, that "A tree looks at God all day, And lifts its leafy arms to pray."

On this special day, our hopes go out that this living memorial will symbolize a prayer of blessing for the brave men and women who are our veterans; a prayer of thanksgiving for the work of the Veterans' Administration, especially in the fields of medicine, science, and rehabilitation; and, a prayer for the securing of the peace with freedom and justice for which they all served.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The **SPEAKER** laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
July 21, 1980.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted July 2, 1980, the Clerk has received the following messages from the Secretary of the Senate:

1. On Thursday, July 3, 1980, that the Senate agree to the amendment of the House of Representatives to the amendments of the Senate to the bill (H.R. 7474) entitled "An Act to provide for an accelerated research and development program to achieve early applications of ocean thermal energy conversion systems, and for other purposes."

2. On Thursday, July 3, 1980, that the President pro tempore, pursuant to Public Law 94–201, appointed Dr. Ronald Clifford Foreman, Jr., of Florida, from private life, to the Board of Trustees, American Folklife Center, for a six-year term beginning March 9, 1980.

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.
W. RAYMOND COLLEY,
Deputy Clerk.

ANNOUNCEMENT BY THE SPEAKER

The **SPEAKER**. The Chair desires to announce that pursuant to the authority granted him on Wednesday, July 2, he did on Sunday, July 6, sign the following enrolled bills:

H.R. 7474. An act to provide for a research, development, and demonstration program to achieve early technology applications for ocean thermal energy conversion systems, and for other purposes;

H.R. 7482. An act to authorize the President of the United States to present on behalf of Congress a specially struck gold-plated medal to the U.S. Summer Olympic Team of 1980;

H.R. 7542. An act making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes;

H.R. 7573. An act to provide an extension of the time frame for nomination of a selection pool under the Cook Inlet land exchange; and

S.J. Res. 168. Joint resolution designating July 18, 1980, as "National POW-MIA Recognition Day."

CONSENT CALENDAR

The **SPEAKER**. This is Consent Calendar day. The Clerk will call the first bill on the Consent Calendar.

PROVIDING DISTRIBUTION OF FUNDS APPROPRIATED TO PAY JUDGMENTS IN FAVOR OF DELAWARE TRIBE INDIANS

The Clerk called the Senate bill (S. 1466) to provide for the distribution of certain funds appropriated to pay judgments in favor of the Delaware Tribe of Indians and the absentee Delaware Tribe of western Oklahoma in Indian Claims Commission dockets 27–A and 241, 289, and 27–B and 338, and for other purposes.

There being no objection, the Clerk read the Senate bill, as follows:

S. 1466

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any provision of the Act of October 19, 1973 (87 Stat. 466), or any other law, or any regulation or plan promulgated pursuant thereto, the funds appropriated by the Act of December 15, 1971 (85 Stat. 627) for the award in docket 289; by the Act of March 21, 1972 (86 Stat. 86) for the award in dockets 27–A and 241; by the Act of March 7, 1978 (92 Stat. 107) for the award in dockets 27–B and 338; on October 31, 1978, in accordance with section 1302 of the Act of July 27, 1956 (70 Stat. 694), as amended (31 U.S.C. 724a), for the award in dockets 27–E and 202; and on August 6, 1979, in accordance with section 1302 of such Act of July 27, 1956, for the award in docket 27; including all interest and investment income accrued thereon, less attorney fees and litigation expenses incurred in connection with such awards, shall be used and distributed as provided in this Act.

SEC. 2. The Secretary of the Interior (hereinafter the "Secretary") shall prepare a roll of all persons who were born on or prior to October 3, 1972, and who are living on the date of the enactment of this Act who are citizens of the United States and who are descended from a lineal ancestor whose name appears on the "Registry" filed in the Office of the Commissioner of Indian Affairs pursuant to article 9 of the treaty with the Delaware Indians of July 4, 1866 (14 Stat. 793) or who are descended from a lineal ancestor whose name appears on the "Register" prepared pursuant to the agreement dated April 8, 1867, between the Delaware Tribe of

---

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Indians and the Cherokee Nation. No person shall be eligible for enrollment under this section who was paid, or was eligible to be paid, pursuant to the Act of October 3, 1972 (82 Stat. 762).

SEC. 3. (a) Upon completion of the roll provided for in section 2 of this Act, the Secretary shall segregate and establish a separate fund from the funds described in the first section of this Act. Such separate fund shall be in an amount equal to $1,488.22 multiplied by the number of persons whose names appear on the roll prepared in accordance with section 2 of this Act: *Provided*, That said separate fund shall not in any event exceed the maximum amount of $1,488,220 regardless of the number of such enrollees.

(b) The Secretary shall pay 10 per centum of the fund established by subsection (a) of this section to the Kansas Delaware Tribe of Indians, Incorporated, and to the Delawares of Idaho, Incorporated, in a ratio proportionate to their respective number of members enrolled under section 2 of this Act, for the sole purpose of enabling such corportions to pay attorneys' fees for the representation of such members in connection with their efforts to achieve participation in the distribution of funds under the Act of October 3, 1972, and in addition thereto, shall pay to such corporations from the fund established by subsection (a) of this section all expenses in connection therewith which the Secretary finds to be reasonable.

(c) After payments made pursuant to subsection (b) of this section, the Secretary shall distribute the balance of the separate fund established pursuant to subsection (a) of this section on a per capita basis to those who have been enrolled by the Secretary under section 2 of this Act.

SEC. 4. After the establishment of the separate fund prescribed in section 3(a) of this Act, 17 per centum of all of the then remaining funds described in the first section of this Act shall be apportioned by the Secretary to the Delaware Tribe of Western Oklahoma. The Secretary shall prepare a roll of all persons born on or before, and living on, the date of the enactment of this Act who are citizens of the United States and whose names appear on the membership roll of the Delaware Tribe of Western Oklahoma, brought current as of the date of the enactment of this Act. No more than 60 per centum of the funds apportioned to the Delaware Tribe of Western Oklahoma shall be distributed on a per capita basis, in amounts as equal as possible, to all tribal members enrolled in accordance with this section. No less than 40 per centum of said funds, including any amounts remaining from the aforementioned per capita distribution, shall be invested by the Secretary for tribal social and economic programing purposes, including periodic dividend payments: *Provided*, That the voting membership of the tribe may elect to designate more than 40 per centum of the total funds apportioned to the tribe for such programing purposes. Said programing funds, including all interest and investment income accrued, shall be utilized by the tribal governing body on an annual budgetary basis, subject to the approval of the Secretary.

SEC. 5. (a) After the establishment of the fund prescribed in section 3(a) and the apportionment of funds to the Delaware Tribe of Western Oklahoma as prescribed in section 4 of this Act, the remaining balance of the funds described in the first section of this Act shall be divided and distributed per capita, in accordance with the provisions of this section, among all persons whose names appear on a roll prepared by the Secretary, which roll shall include all persons born on or prior to and living on the date of the enactment of this Act who are citizens of the United States and whose names or whose lineal ancestors' names appear on any of the following rolls or records:

(1) the "Registry", filed in the Office of the Commissioner of Indian Affairs pursuant to article 9 of the treaty with the Delaware Indians of July 4, 1866 (14 Stat. 793);

(2) the Delaware (Cherokee Delaware) Indian per capita payroll approved by the Secretary of the Interior on April 20, 1906; or

(3) the "Register" prepared pursuant to the agreement of April 8, 1867, between the Delaware Tribe of Indians and the Cherokee Nation.

(b) The per capita amount determined pursuant to subsection (a) of this section with respect to any person (except a person enrolled pursuant to section 2 of this Act) who was born after October 3, 1972, shall not be less than the amount of per capita payment such person would otherwise receive if no separate fund had been established pursuant to section 3(a) and if the total funds described in the first section of this Act were reduced only by the amount of funds apportioned to the Delaware Tribe of Western Oklahoma pursuant to section 4 of this Act.

(c) The Secretary shall identify those persons who qualify and are enrolled under section 5(a)(1) and (3) of this Act exclusive of those persons who qualify under section 5(a)(2) of this Act. The amount of their individual shares shall be multiplied by the number of such enrollees. The Secretary shall pay 10 per centum of this total amount to the Kansas Delaware Tribe of Indians, Incorporated, and to the Delawares of Idaho, Incorporated, in a ratio proportionate to their respective number of members enrolled under subsection (a) of this section for the sole purpose of the payment of their attorneys' fees in connection with their efforts to achieve participation in the funds set forth in subsection (a) of this section. The Secretary shall distribute the balance of said total amount on a per capita basis to those persons enrolled under section 5(a)(1) and (3) of this Act subject to the requirement of section 5(b) of this Act.

(d) No person shall be entitled to more than one per capita share under subsection (a) of this section, nor shall any person who received a per capita share under section 4 of this Act be eligible to receive any share under this section.

SEC. 6. The per capita shares of living competent adults shall be paid directly to them. Per capita shares of deceased individual beneficiaries shall be determined and distributed pursuant to regulations prescribed by the Secretary. Per capita shares of legal incompetents and per capita shares of persons under age eighteen shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary determines to be necessary to protect the interests of such persons.

SEC. 7. (a) Except for funds to be held in escrow as provided hereinafter in this section, the Secretary shall pay and distribute all funds, as provided in this Act, forthwith upon completion of the enrollment process to be established by the rules and regulations to be promulgated under section 10 of this Act, which enrollment process period shall not be deemed to include the period of time for action upon enrollment appeals.

(b) The Secretary, in arranging for the per capita payments under sections 3, 4, and 5 of this Act, shall hold at interest in an escrow account the apportioned shares, including any attorneys fees applicable thereto as provided in sections 3 and 5, of all applicants whose entitlements are the subjects of enrollment appeals, pending determinations of all enrollment appeals.

(c) The aggregate amount of any apportioned shares applicable to unsuccessful applicants for enrollment under section 3 of this Act, including the attorneys fees attributable to such apportioned shares as provided in such section, shall be paid and distributed by the Secretary, 17 per centum to the Delaware Tribe and Western Oklahoma for programing purposes as provided in section 4 of this Act, and the remaining 83 per centum shall be paid and distributed as provided in section 5 of this Act: *Provided*, That per capita payments which would be payable under section 5 of this Act of less than $5 shall be aggregated and paid 19 per centum to the Delaware Tribe of Western Oklahoma and 81 per centum to the Delaware Tribe of Indians, both for programing purposes.

(d) The amount of any apportioned shares applicable to unsuccessful applicants for enrollment who claimed entitlement through membership in the Delaware Tribe of Western Oklahoma shall be added to the programing portion of that tribe's share of these awards.

(e) The amount of any apportioned shares applicable to unsuccessful applicants who claimed entitlement under section 5(a)(2) of this Act shall be added to the programing portion of the Delaware Tribe of Indians' share of awards provided for in the Act of October 3, 1972 (86 Stat. 762).

(f) The total amount of any apportioned shares applicable to unsuccessful applicants who claimed entitlement through section 5 (a)(1) or section 5(a)(3) shall be paid and distributed as provided in section 5(c): *Provided*, That per capita payments which would be payable under section 5(c) of this Act of less than $5 shall be aggregated and paid 19 per centum to the Delaware Tribe of Western Oklahoma and 81 per centum to the Delaware Tribe of Indians, both for the programing purposes of said tribes.

SEC. 8. None of the funds distributed per capita or made available for programing purposes under this Act shall be subject to Federal or State income taxes or be considered income or resources in determining eligibility for assistance under Federal, State, or local programs.

SEC. 9. Nothing contained in this Act shall be construed as recognizing the Kansas Delaware Indians, the Kansas Delaware Tribe of Indians, Incorporated, the Idaho Delaware Indians or the Delawares of Idaho, Incorporated, as federally recognized Indian tribes.

SEC. 10. The Secretary is authorized and directed within sixty days from the date of enactment of this Act, to promulgate rules and regulations to implement this Act, including the establishment of enrollment procedures and a deadline for the filing of enrollment applications on a date not more than one hundred and twenty days after publication of said regulations.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DISTRIBUTING JUDGMENT FUNDS AWARDED TO GILA RIVER PIMA-MARICOPA INDIAN COMMUNITY IN ARIZONA

The Clerk called the bill (H.R. 7249) to provide for the disposition of the Gila River Pima-Maricopa Indian Community judgment funds awarded in dockets Nos. 236–A, B, and E before the Indian Claims Commission and the U.S. Court of Claims, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

H.R. 7249

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, the funds appropriated on May 4, 1977 (91

Stat. 61), in satisfaction of the judgment granted to the Gila River Pima-Maricopa Indian Community in dockets numbered 263–A and B before the Indian Claims Commission and on April 23, 1979, in docket numbered 236–E before the United States Court of Claims, less attorney fees and litigation expenses, and including all interest and investment income accrued, shall be used and distributed as provided herein.

SEC. 2. (a) The Secretary of the Interior shall invest the principal sum of funds in all dockets pursuant to the provisions of the first section of the Act of June 24, 1938 (25 U.S.C. 162a). The interest and investment income accrued shall be immediately available to the Gila River Indian Community upon the approval by the Secretary of the Interior of the Community's Plan of Operation and Budget as set forth in Gila River Indian Community resolution numbered GR–100–79, adopted August 1, 1979, as follows:

(1) 50 per centum of such interest and income resulting from dockets numbered 236–A and B shall be used as operational costs of the Gila River Indian Community; and

(2) 50 per centum of such interest and income shall be distributed to the seven Community districts, prorated on the basis of current population at the time such distributions are made and shall be used for the general district government operations and programs.

(b) All of the accrued interest and income from docket numbered 236–E shall be used as operational costs of the Gila River Indian Community. Thereafter, interest on invested funds shall be advanced quarterly and used as provided in this section.

SEC. 3. The Gila River Indian Community may utilize portions of the principal funds referred to in section 2 of this Act in connection with programs proposed by the Gila River on a budgetary basis which has been approved by the Secretary of the Interior.

With the following committee amendments:

Page 3, line 1, after "income" insert "resulting from dockets 236–A and 236–B".

Page 3, strike all of lines 9 through 11 and insert, in lieu thereof, the following: Gila River Indian Community. After the date of enactment of this Act, all interest and investment income accrued from dockets 236–A, 236–B, and 236–E shall be advanced quarterly and utilized as provided in this subsection and paragraphs (1) and (2) of subsection (a) of this section.".

Page 3, line 19, strike "Indian Community" and insert "tribal governing body".

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. PASHAYAN. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from the further consideration of the Senate bill (S. 2508) to provide for the disposition of the Gila River Pima-Maricopa Indian Community judgment funds awarded in dockets 236–A, 236–B, and 236–E before the Indian Claims Commission and the U.S. Court of Claims, and for other purposes, a measure similar to the bill just passed, and ask for its immedate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2508

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, the funds appropriated on May 4, 1977 (91 Stat. 61), in satisfaction of the judgment granted to the Gila River Pima-Maricopa Indian Community in dockets 236–A and 236–B before the Indian Claims Commission and on April 23, 1979, in docket 236–E before the United States Court of Claims, less attorney fees and litigation expenses, and including all interest and investment income accrued, shall be used and distributed as provided herein.

SEC. 2. (a) The Secretary of the Interior shall invest the principal sum of funds in all dockets pursuant to the provisions of the first section of the Act of June 24, 1938 (25 U.S.C. 162a). The interest and investment income accrued shall be immediately available to the Gila River Indian Community upon the approval by the Secretary of the Interior of the community's plan of operation and budget as set forth in Gila River Indian Community Resolution Numbered GR–100–79, adopted August 1, 1979, as follows:

(1) 50 per centum of such interest and income resulting from dockets 236–A and 236–B shall be used as operational costs of the Gila River Indian Community; and

(2) 50 per centum of such interest and income resulting from dockets 236–A and 236–B shall be distributed to the seven community districts, prorated on the basis of current population at the time such distributions are made and shall be used for the general district government operations and programs.

(b) All of the accrued interest and income from docket 236–E shall be used as operational costs of the Gila River Indian Community. After the date of enactment of this Act all interest and investment income accrued from dockets 236–A, 236–B, and 236–E shall be advanced quarterly and utilized as provided in this subsection and paragraphs (1) and (2) of subsection (a) of this section.

SEC. 3. The Gila River Indian Community may utilize portions of the principal funds referred to in section 2 of this Act in connection with programs proposed by the Gila River tribal governing body on a budgetary basis which has been approved by the Secretary of the Interior.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 7249) was laid on the table.

The SPEAKER. This concludes the call of the Consent Calendar.

FIFTY-TWO HOSTAGES STILL REMAIN TO BE FREED

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, I just had the opportunity of going to the State Department where I joined with Secretary of State Muskie in welcoming home Richard Queen, our hostage who was returned from Iran this last week. It was a very emotional moment for Mr. Queen and his mother and father, who were present, an emotional moment for all of us who were there to welcome home this brave American.

It also was a moment for all of us to remember that there are 52 hostages still left in Iran, 52 Americans who must be released.

It just is a shame that the Iranian Government does not recognize that as long as they hold these Americans, they will lose far more themselves in the long run than they can ever gain.

Mr. Speaker, there was a prayer this morning that the 52 be returned safely and that we see them home before too long. I know that all the Members join in that prayer.

☐ 1210

PROTECTION OF OUR AGENTS CRIES OUT FOR LEGISLATIVE ACTION

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, on the Fourth of July, the home of a senior U.S. Embassy official in Jamaica was machinegunned and bombed. Luckily, Richard Kinsman, our first secretary at the Embassy in Kingston, was not hurt. Fortunately, his wife and three children were away on vacation when their home was sprayed with .45 caliber bullets.

That attack came 2 days after the editor of the so-called Covert Action Information Bulletin declared that Kinsman was a CIA agent and gave out his home address, phone number, automobile tag numbers, and the make and description of his car.

Rarely has an event cried out more clearly for legislative action. A nation which cannot protect its own dries up its sources of information and becomes the object of international ridicule.

On January 30, I introduced a bill to protect the identities of our agents and testified on that subject before the House Select Committee on Intelligence. My bill would make it a federally punishable criminal offense to disclose the identities of secret U.S. agents. There was bipartisan agreement that we need such legislation to protect our agents in their often dangerous work and to keep open the avenues of intelligence upon which the safety of our Nation conceivably could depend.

It is now July 21, and we must act quickly on this measure if it is to win passage this year. I hope the Intelligence Committee will affirmatively report such a bill on Wednesday. If the committee will do so, it will be the intention of the leadership to schedule it on a suspension of the rules and bring it rapidly to the floor for the overwhelming approval which it deserves.

Those who serve the United States deserve the protection of the United States.

PEACETIME REGISTRATION IS BEING ACCEPTED

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, I still feel very strongly that peacetime registration of men is needed. This information gathered today and for the next 2 weeks will be invaluable to the Selective Service System.

Mr. Speaker, as far as I can tell, and I made some calls across the country, our young men are not defying their Nation and they are registering. We are hoping that well over 98 percent of these young Americans will register.

There are some demonstrations, some antiregistrants are laying down in front of the post offices, but these young men are walking around them, walking in and signing their names.

Mr. Speaker, peacetime registration is in place and it is working.

THE MISSOURI DISASTER

(Mr. BURLISON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURLISON. Mr. Speaker, Missouri is now experiencing the longest seige of heat and drought in history. The State has had 17 straight days of over 100 degree temperatures. The number of confirmed fatalities in this record-breaking heat wave is over 220 and 262 additional deaths suspected. All indications from the news media and State reports and other data are that Missouri is the hardest hit State in the Midwest.

Mr. Speaker, the 10th District of Missouri is primarily an agricultural area. I have been in my district for the past 20 days. After observing the crops in the constant heat, I say for many farmers there is no way to make a substantial crop. It is now estimated that the agricultural losses suffered by the farmers in Missouri are at $1.5 billion. My farmers had a start toward the best crop in years until this sweltering dry heat hit. Even a rain today would not undo the severe production damages.

Missouri Gov. Joseph Teasdale has sent to the President a request for an agricultural disaster declaration for the entire State. I have contacted the administration to urge rapid and favorable attention to this urgent request for financial assistance to the farmers of Missouri. This is an essential step which must be taken. Our farmers are faced with overwhelming difficulties with high production costs, the Russian grain embargo, and many other obstacles. We cannot continue to let them fall deeper and deeper into financial peril. Our farm population consists of 4 percent of the Nation. Action needs to be taken immediately to assist the segment of the United States responsible for providing the other 96 percent, as well as the world, with food and fiber products.

QUESTIONS ABOUT ADMINISTRATION OF JUSTICE IN BILLY CARTER CASE

(Mr. GREEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN. Mr. Speaker, the action of the Justice Department with reference to Billy Carter's violation of the Foreign Agents Registration Act raises serious questions as to the administration of justice by the Carter administration. Those questions include:

First. Why did it take the Justice Department so long to resolve this case?

Second. Why was no criminal prosecution brought for what appears to be a flagrant violation of the law?

Third. Why did the Justice Department make a settlement under which Billy Carter gets to keep the apparently never to be paid back interest-free loan he received? That is an open invitation to break the law, at least for the President's relatives.

The Libyan Government, headed by Colonel Qaddifi is bankrolling the Palestinian Liberation Organization and other terrorist groups throughout the world. Surely, when the President's brother starts representing that government in violation of the law, the Justice Department should not allow him to walk away with his ill-gotten gains.

I call upon the House Judiciary Committee to investigate this gross miscarriage of justice.

WHAT WAS PRESIDENT CARTER'S INVOLVEMENT IN THE JUSTICE DEPARTMENT'S HANDLING OF THE BILLY CARTER AFFAIR?

(Mr. BAUMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAUMAN. Mr. Speaker, the revelations about Billy Carter continue day after day and we now are apparently faced with a corrupt situation in which the highest office in the land may have been used for personal profit and gain by the President's brother. Why else would the Justice Department warn Billy Carter that he was in trouble and about to be prosecuted? Why would White House legal counsel be used to give legal advice to the President's brother? Why are the files on Billy Carter being removed from the agencies and taken to the White House?

This is no second-rate burglary. If President Richard Nixon engaged in this kind of activity, the majority side of the aisle would be falling over themselves to get an impeachment resolution brought to the floor of the House.

This Carter scandal involves corruption at the highest levels of influence and policy. It involves the President's brother treating with and being paid by one of the rottenest governments in the world; a government that has destroyed not only our embassy but even now seeks to destroy the State of Israel. And this matter may involve the changes in this administration's policy toward Israel, which have included a serious reduction in U.S. support for Israel.

Is there any link between Billy Carter and those changes in United States-Israeli policy? I believe we need a special prosecutor. We must have a congressional investigation. We need to look into why the Justice Department has taken this course and why Billy Carter has received this special treatment. Most of all, we need to know what was the role of the President of the United States.

U.S. AIR FORCE FIGHTER F-16 NAMED "FIGHTING FALCON"

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, today I have a pleasant announcement. This is indeed a great day at Hill Air Force Base in Utah. Today the U.S. Air Force, after 3½ years of fainthearted delays is finally giving a formal nickname to its newest fighter aircraft, the sleek General Dynamics F-16.

The F-16 joined as a combat ready aircraft its brother fighter the F-15, "Eagle," in the skies above our fair land over a year ago. It first flew during its test phase on February 2, 1974, and over these last 6½ years this beautiful and innovative little peacekeeper has never had a traditional nickname. Why? Because it could never have been christened with any other moniker than the one it will receive within the hour: the "Falcon." And that name was "taken." However, I started calling the F-16, the "Falcon," myself in this well over 3½ years ago, but the Air Force would not make the name official out of fear of a legal suit because of a business-jet which uses the name. Pan American, headed, as a matter of fact, by an outstanding retired Air Force general officer, Gen. William Seawell, markets the French Dassault fan jet Falcon in the United States General Seawell, a former superintendent of the Air Force Academy whose mascot is a "gy-falcon," advised the USAF that his French associates might be upset. But there are many precedents to civilian and military aircraft sharing names. For example the famous McDonnel Douglas Navy A-4 Skyhawk and the equally famous Cessna Skyhawk, a four place light plane. There is nothing to worry about. There never was.

The magnificent team of F-15 "Eagle" and F-16 "Falcon" will now be keeping the peace together, from the weeds on the deck all the way up to the edge of space. They both will be manning the defense lines over the skies of Europe, where the "Falcon" will fly with, in addition to U.S. Air Force, with the Air Forces of Denmark, the Netherlands, Belgium, and Norway.

It is satisfying to know that our F-16 will not have the same solitary fate as the General Dynamics F-111, which, alone among combat airplanes, has gone its entire career, a decade and a half, without a nickname. Of course it was unofficially named the "Aardvark" by the pilots who fly it and have come to admire its bombing accuracy.

Pan Am's General Seawell can relax. The deed is done. As of today its the F-16 Fighting Falcon. And, General, as a fellow collector of falcon and eagle art and sculpture I always knew your heart was with those of us pulling and pushing for today's ceremony. I flew the F-16 on October 3, 1979, and a "Falcon" she truly is. Breathtaking, especially when your pulling 9 G's. Long may she fly.

PRESIDENT CARTER CANNOT CLAIM CREDIT FOR INCREASING DEFENSE BUDGET

(Mr. TRIBLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRIBLE. Mr. Speaker, again and again we have heard the Carter administration take credit for reversing a downward trend in defense spending. Indeed last week, Secretary Brown asserted that defense spending increased 10 percent under this administration—and this assertion will undoubtedly be repeated.

This claim is a massive deception. The March revision of defense budget growth provided by the Office of Management and Budget demonstrates that, in fact, obligational authority for defense declined in real terms in both fiscal years 1978 and 1979.

Obligational authority is the most accurate measure of an administration's commitment to military preparedness. Mr. Brown's assertion is based on defense outlays which, in large measure, are attributable to increases in outlays provided by the Ford administration.

Mr. Carter has kept his campaign promise to cut the defense budget. It is inconceivable that he should now claim credit for increasing it.

INTELLIGENCE EMPLOYEES IDENTITIES LEGISLATION

(Mr. DERWINSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERWINSKI. Mr. Speaker, shortly after being marked as a CIA officer under cover—a U.S. Embassy official was attacked by terrorists in Kingston, Jamaica. Fortunately, his wife and children were away when the home was bombed and machinegunned and, fortunately, he was not hit himself.

The attempted murder occurred, according to the press "less than 48 hours after Louis Wolf of Washington had given a press conference in which he listed the names of 14 persons he said were connected with the CIA." Wolf is coeditor of Covert Action Information Bulletin, a periodical which publicly identifies as CIA personnel, Americans and non-Americans, thus marking them for murder by terrorists abroad.

In his press conference, Wolf "provided home addresses and unlisted telephone numbers as well as descriptions of their cars and license plate numbers. His newsletter is a successor to an earlier publication called 'Counter Spy.' It was after 'Counter Spy' had disclosed the identity of Richard Welch as CIA station chief in Athens, Greece, and his address was reprinted in Athens, that Welch was assassinated by gunmen on December 23, 1975."

Wolf broke no law, State Department officials pointed out bitterly. The question remains, why not? Many of my colleagues and I have cosponsored legislation to provide such a law. The bill has been languishing, unfortunately. It is high time that it was passed.

There is no legitimate motive, in my view, for one American to finger another for assassination. I think it is past due to legislate on this issue, to show where the Congress stands on the question of the legality of pointing out—accurately or not—a person as being a U.S. intelligence employee or agent.

I can tell you where I stand. I want such a law to protect our intelligence people overseas and I believe the majority of the Members of this House would agree. I call on the House Permanent Select Commitee to come forth with a bill.

FIFTIETH ANNIVERSARY OF VETERANS' ADMINISTRATION

(Mr. HAMMERSCHMIDT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAMMERSCHMIDT. Mr. Speaker, I take only a minute to remind my colleagues that today marks the 50th anniversary of one of our Nation's finest agencies, the Veterans' Administration. I thought perhaps my colleagues would want to extend their own congratulations and remarks in the RECORD.

Fifty years ago today, President Hoover created the Veterans' Administration as a part of a governmental streamlining process intended to allow the federal system to function more efficiently. Three separate agencies—the Veterans' Bureau, the Bureau of Pensions of the Interior Department, and the National Homes for Disabled Volunteer Soldiers—were brought together in order to deal with the special needs and administer the special benefits of those who served our country. In 1930, this country had 4.7 million veterans. The Veterans' Administration had a staff of 31,500 people, and administered 54 hospitals. Today, of course, we have more than 30 million veterans. The Veterans' Administration is the largest independent agency, employing almost 220,000 individuals and operating 172 hospitals.

And Mr. Speaker, what was true in 1930 remains true today. The Veterans' Administration was created to deal with the special needs and benefits of individuals who have served our country. A special body of law has evolved and has been refined in order to meet these needs and administer these benefits. It is for that reason that those who are intimately involved with veterans programs resist all attempts to have veterans programs incorporated into those which come under the jurisdiction of the Department of Health and Human Services, formerly HEW. This Government has no need to further streamline veterans programs. The agency was created in a streamlining process. It has been successful in carrying out it programs for half a century. I salute it on the anniversary of its creation, and I thank those thousands of dedicated men and women who have made careers out of caring for "him who has borne the battle."

● Mr. WYLIE. Mr. Speaker, I am pleased to join my colleagues in congratulating the Veterans' Administration today as we recognize the 50th anniversary of its existence.

This agency, created to provide "one-stop" service to the Nation's veterans, was established in 1930 with the enactment of Public Law 71-536. At that time there were about 4.7 million veterans. The newly created agency began with a comparatively small staff of 31,500 employees.

Although deluged with an extremely heavy workload at its beginning, occasioned by a newly enacted increase in pension benefits for Spanish-American War veterans; a new disability allowance for World War I veterans; making more than 2 million loans under the World War Adjusted Compensation Act, and an unprecedented demand for hospital care, the fledging agency met the challenge by providing all of the services that had previously been divided among three independent agencies of the Federal Government. The Veterans' Administration was off to a good start.

In the years since its creation, the Veterans' Administration has grown, as have its responsibilities. Today, its 217,632 employees administer a host of benefits and services to 30.1 million veterans and 57.8 million members of their families and 3.6 million survivors of deceased veterans.

During its 50-year existence, the Veterans' Administration has quietly and efficiently performed its assigned mission. The high degree of success it has attained in performing this mission is due, in large measure, to the dedication and sense of commitment demonstrated by the thousands of employees of the Veterans' Administration across the Nation.

To them, I extend my sincere congratulations upon the 50th birthday of their agency.●

GENERAL LEAVE

Mr. HAMMERSCHMIDT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of this speech.

The SPEAKER pro tempore (Mr. BURLISON). Is there objection to the request of the gentleman from Arkansas?

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore (Mr. BURLISON) laid before the House the the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
July 21, 1980.

Hon. THOMAS P. O'NEILL, Jr.
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted July 2, 1980, I have the honor to transmit sealed envelopes received from the White House as follows:

1. At 3:55 p.m. on Thursday, July 3, 1980, and said to contain a message from the President whereby he transmits the 29th

Annual Report of the National Science Foundation which covers fiscal year 1979.

2. At 3:55 p.m. on Thursday, July 3, 1980, and said to contain a message from the President wherein he transmits the 33rd Annual Report on U.S. Participation in the United Nations which covers calendar year 1978.

3. At 3:55 p.m. in Thursday, July 3, 1980, and said to contain a message from the President whereby he transmits the 1979 Annual Report of the Federal Prevailing Rate Advisory Committee.

With kind regards, I am,

Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.
By W. RAYMOND COLLEY,
Deputy Clerk.

ANNUAL REPORT OF THE NATIONAL SCIENCE FOUNDATION, FISCAL YEAR 1979—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Science and Technology:

(For message, see proceedings of the Senate of today, July 21, 1980.)

☐ 1230

THE 1979 ANNUAL REPORT OF FEDERAL PREVAILING RATE ADVISORY COMMITTEE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Post Office and Civil Service:

To the Congress of the United States:

In accordance with Section 5347(e) of Title 5 of the United States Code, I hereby transmit to you the 1979 Annual Report of the Federal Prevailing Rate Advisory Committee.

JIMMY CARTER.

THE WHITE HOUSE, *July 3, 1980.*

THE 33D ANNUAL REPORT OF ACTIVITIES OF THE U.S. GOVERNMENT IN THE UNITED NATIONS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs:

(For message, see proceedings of the Senate of today, July 21, 1980.)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

VETERANS' DISABILITY COMPENSATION AND SURVIVORS' BENEFITS AMENDMENTS OF 1980

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7511) to amend title 38, United States Code, to provide a cost-of-living increase in the rates of disability compensation for disabled veterans and in the rates of dependency and indemnity compensation for survivors of disabled veterans, and for other purposes.

The Clerk read as follows:

H.R. 7511

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Veterans' Disability Compensation and Survivors' Benefits Amendments of 1980".

SEC. 2. Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—VETERANS' DISABILITY COMPENSATION BENEFITS

RATES OF DISABILITY COMPENSATION

SEC. 101. (a) Section 314 is amended—

(1) by striking out "$48" in subsection (a) and inserting in lieu thereof "$54";

(2) by striking out "$88" in subsection (b) and inserting in lieu thereof "$99";

(3) by striking out "$133" in subsection (c) and inserting in lieu thereof "$150";

(4) by striking out "$182" in subsection (d) and inserting in lieu thereof "$206";

(5) by striking out "$255" in subsection (e) and inserting in lieu thereof "$288";

(6) by striking out "$321" in subsection (f) and inserting in lieu thereof "$363";

(7) by striking out "$380" in subsection (g) and inserting in lieu thereof "$429";

(8) by striking out "$440" in subsection (h) and inserting in lieu thereof "$497";

(9) by striking out "$495" in subsection (i) and inserting in lieu thereof "$559";

(10) by striking out "$889" in subsection (j) and inserting in lieu thereof "$1,005";

(11) by striking out "$1,104" and "$1,547" in subsection (k) and inserting in lieu thereof "$1,248" and "$1,748", respectively;

(12) by striking out "$1,104" in subsection (l) and inserting in lieu thereof "$1,248";

(13) by striking out "$1,217" in subsection (m) and inserting in lieu thereof "$1,375";

(14) by striking out "$1,383" in subsection (n) and inserting in lieu thereof "$1,563";

(15) by striking out "$1,547" each place it appears in subsection (o) and (p) and inserting in lieu thereof "$1,748";

(16) by striking out "$664" and "$989" in subsection (r) and inserting in lieu thereof "$750" and "$1,118", respectively;

(17) by striking out "$995" in subsection (s) and inserting in lieu thereof "$1,124"; and

(18) by striking out "$192" in subsection (t) and inserting in lieu thereof "$217".

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

RATES OF ADDITIONAL COMPENSATION FOR DEPENDENTS

SEC. 102. Section 315(1) is amended—

(1) by striking out "$54" in clause (A) and inserting in lieu thereof "$61";

(2) by striking out "$91" in clause (B) and inserting in lieu thereof "$103";

(3) by striking out "$121" in clause (C) and inserting in lieu thereof "$137";

(4) by striking out "$151" and "$30" in clause (D) and inserting in lieu theerof "$171" and "$34", respectively;

(5) by striking out "$37" in clause (E) and inserting in lieu thereof "$42";

(6) by striking out "$67" in clause (F) and inserting in lieu thereof "$76";

(7) by striking out "$97" and "$30" in clause (G) and inserting in lieu thereof "$110" and "$34", respectively;

(8) by striking out "$44" in clause (H) and inserting in lieu thereof "$50";

(9) by striking out "$98" in clause (I) and inserting in lieu thereof "$111"; and

(10) by striking out "$82" in clause (J) and inserting in lieu thereof "$93".

CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

SEC. 103. Section 362 is amended by striking out "$240" and inserting in lieu thereof "271".

TITLE II—SURVIVORS' DEPENDENCY AND INDEMNITY COMPENSATION BENEFITS

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

SEC. 201. (a) Subsection (a) of section 411 is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade	Monthly rate
E-1	$368
E-2	381
E-3	390
E-4	415
E-5	426
E-6	436
E-7	457
E-8	481
E-9	[1]504
W-1	467
W-2	486
W-3	499
W-4	529
O-1	467
O-2	481
O-3	516
O-4	545
O-5	601
O-6	676
O-7	732
O-8	802
O-9	862
O-10	[2]944

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $542.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,011.".

(b) Subsection (b) of such section is amended by striking out "$38" and inserting in lieu thereof "$43".

(c) Subsection (c) of such section is amended by striking out "$98" and inserting in lieu thereof "$111".

(d) Subsection (d) of such section is amended by striking out "$49" and inserting in lieu thereof "$55".

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 202. Section 413 is amended—

(1) by striking out "$165" in clause (1) and inserting in lieu thereof "$186";

(2) by striking out "$237" in clause (2) and inserting in lieu thereof "$268";

(3) by striking out "$306" in clause (3) and inserting in lieu thereof "$346"; and

(4) by striking out "$306" and "$62" in clause (4) and inserting in lieu thereof "$346" and "$70", respectively.

RATES OF SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 203. Section 414 is amended—

(1) by striking out "$98" in subsection (a) and inserting in lieu thereof "$111";

(2) by striking out "$165" in subsection (b) and inserting in lieu thereof "$186"; and

(3) by striking out "$84" in subsection (c) and inserting in lieu thereof "$95".

TITLE III—MISCELLANEOUS PROVISIONS

EXTENSION OF VETERANS' ADMINISTRATION OFFICE IN THE REPUBLIC OF THE PHILIPPINES

SEC. 301. Section 230(b) relating to Veterans' Administration regional office in the Republic of the Philippines, is amended by striking out "1981" and inserting in lieu thereof "1985".

DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 302. (a) Section 413, relating to dependency and indemnity compensation for children, is amended by inserting "(a)" before "Whenever" and by adding at the end of such section the following new subsection:

"(b) If dependency and indemnity compensation has been awarded under this section to the child or children of a veteran and the entitlement of an additional child of such veteran to dependency and indemnity compensation under this section is later established effective retroactively, the amount payable retroactively to the additional child shall be the amount equal to the difference between the total of the increased award for the retroactive period and the prior total award for that period.".

(b) Section 414(c), relating to supplemental dependency and indemnity compensation for children, is amended by adding at the end thereof the following: "However, if during the month in which such a child attains the age of eighteen such child is also being considered to be a child below the age of eighteen for purposes of additional dependency and indemnity compensation for a surviving spouse under section 411(b) of this title, the amount payable to the child for that month under this section shall be reduced by the amount payable to the surviving spouse for the same month under such section which is attributable to the child.".

LIMITATION ON PAYMENT OF BURIAL ALLOWANCES FOR VETERANS DYING DURING FISCAL YEAR 1981

SEC. 303. Benefits may not be paid under either section 902 or 903(a) of title 38, United States Code, in the case of an individual who dies during the period beginning on October 1, 1980, and ending on September 30, 1981, and with respect to whose death benefits under either such section may otherwise be paid if the individual's income during the twelve-month period immediately preceding the individual's death exceeded $20,000. If the individual was married during such twelve-month period, the income of the individual's spouse during such period shall be included in determining the income of the individual for the purposes of this section.

HEADSTONES AND MARKERS FOR CLOSE RELATIVES BURIED IN STATE VETERANS' CEMETERIES

SEC. 304. Section 906(a), relating to headstones and markers, is amended by adding at the end of such section the following new paragraph:

"(4) Any individual described in section 1002(5) of this title who is buried in a State veterans' cemetery.".

PAYMENT OF PENSION

SEC. 305. (a) Section 3104(a), relating to duplication of benefits, is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end of such subsection the following new paragraph:

"(2) Notwithstanding the provisions of paragraph (1) of this subsection and section 3105 of this title, pension under section 521 or 541 of this title may be paid to a person entitled to receive retired pay concurrently with such person's receipt of such retired pay to the extent that the amount of pension otherwise payable to such person is reduced because of such retired pay on the same basis that reductions in pension are made because of income from other sources.".

(b) Section 3202(a)(1)(C), relating to payment of pension to hospitalized veterans, is amended by striking out "of not less than two full calendar months," and inserting in lieu thereof "in which pension was reduced pursuant to subparagraph (A) or (B) of this paragraph.".

LIMITATION OF PAYMENT OF COMPENSATION FOR SERVICE-CONNECTED DISABILITIES OR DEATH AND OF DEPENDENCY AND INDEMNITY COMPENSATION DURING CONFINEMENT IN A PENAL INSTITUTION

SEC. 306. (a) Chapter 55 is amended by inserting after section 3204 the following new section:

"§ 3205. Limitation of payment of compensation for service-connected disabilities or death and payment of dependency and indemnity compensation during confinement in a penal institution

"(a) Compensation for a service-connected disability or death under chapter 11 of this title or any other law administered by the Veterans' Administration and dependency and indemnity compensation under chapter 13 of this title or any other law administered by the Veterans' Administration may not be paid in an amount in excess of $60 per month to or for any individual who is imprisoned in a Federal, State, or local penal institution as a result of conviction of a felony or misdemeanor for the period beginning sixty-one days after such individual's imprisonment begins and ending on the date such individual's imprisonment ends.

"(b) If a veteran is disqualified from receiving compensation in an amount in excess of $60 per month for any period solely by reason of subsection (a) of this section, the Administrator may apportion and pay to such veteran's spouse, children, or dependent parents the compensation which such veteran would have received for such period but for this section.

"(c) If any surviving spouse or child of a veteran is disqualified from receiving compensation or dependency and indemnity compensation for any period solely by reason of subsection (a) of this section, the Administrator may (1) if the surviving spouse is so disqualified, pay to the child, or children, the compensation or dependency and indemnity compensation which would be payable if there were no such surviving spouse, or (2) if a child is so disqualified, pay to the surviving spouse or other children, as applicable, the compensation which would be payable if there were no such child.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"3205. Limitation of payment of compensation for service-connected disabilities or death and payment of dependency and indemnity compensation during confinement in a penal institution.".

MINIMUM NUMBER OF EMPLOYEES OF AMERICAN BATTLE MONUMENT COMMISSION

SEC. 307. The third paragraph of the first section of the Act entitled "An Act for the creation of an American Battle Monuments Commission to erect suitable memorials commemorating the services of the American soldier in Europe, and for other purposes", approved March 4, 1923 (36 U.S.C. 121), is amended by inserting after the second sentence thereof the following new sentence: "To ensure adequate care and maintenance of the cemeteries, monuments, and memorials under the jurisdiction of the Commission, the Commission, subject to the availability of appropriations, shall employ (1) not less than 50 personnel in the competitive service (as defined in section 2102 of title 5, United States Code), of whom not less than 43 shall be assigned to duty in foreign countries in which such cemeteries, monuments, and memorials are located, and (2) not less than 348 individuals who are citizens of the countries in which such cemeteries, monuments, and memorials are located, who shall be hired for local employment relating to the care and maintenance of such cemeteries, monuments, and memorials.".

TITLE IV—EFFECTIVE DATES

EFFECTIVE DATES

SEC. 401. (a) The amendments made by titles I and II and by sections 302(b) and 306 shall apply only to payments for months beginning after September 30, 1980.

(b) The amendments made by section 304 shall apply only with respect to individuals dying after September 30, 1980.

(c) The amendments made by sections 301, 305, and 307 shall take effect on October 1, 1980.

(d) The amendments made by section 302(a) shall apply only with respect to determinations of entitlement to dependency and indemnity compensation made after September 30, 1980.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Mississippi (Mr. MONTGOMERY) will be recognized for 20 minutes, and the gentleman from Arkansas (Mr. HAMMERSCHMIDT) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is most appropriate that we consider a bill today that would extend benefits for our Nation's veterans. Today marks the 50th anniversary of the Veterans' Administration. I am quite pleased with this agency and I take great pleasure in serving as a member of the Committee on Veterans' Affairs. In my view, the VA and the Congress have established veterans programs that are superior to any in the world and I congratulate the Honorable Max Cleland and other dedicated employees of the Veterans' Administration on this their 50th anniversary.

Over the weekend President Carter had a reception for the different veterans and veterans' organizations at the White House. Tonight the chairman of the Committee on Veterans' Affairs, the gentleman from Texas (Mr. ROBERTS) will make the keynote address pertaining to veterans at the Pension Building. I might say, Mr. Speaker, that not only are the veterans going to miss the gentleman from Texas (Mr. ROBERTS) but also the Congress as well. As we know, the Chairman has decided not to run again, but at a later date we certainly would like to honor Chairman ROBERTS on how strong he has been as chairman of this committee and also for representing the veterans.

Mr. Speaker, this bill is designed to assist our Nation's service-connected disabled veterans. It will increase benefits to those who have diseases and disabilities incurred or aggravated by military service. Many of these veterans were disabled while serving during a wartime period.

The bill would provide an increase of 13 percent in the compensation and DIC rates. In addition to providing a basic rate increase for service-connected disabled veterans and their dependents, this bill would increase the statutory awards payable to our most severely disabled veterans, and the housebound and aid and attendance allowances, and the annual clothing allowance paid to veterans.

This 13-percent rate increase would become effective October 1, 1980, and would cost $979.8 million in new budget authority in fiscal year 1981. The cost would not exceed the targets currently contained in the budget resolution.

Service-connected compensation is payable to veterans who suffer from a disease or disability incurred during service.

The percentage of disability for a specific disability is assigned by the Veterans' Administration. That agency has established a "Schedule for Rating Disabilities" which is used as the guideline for the measuring of the degree of disability. Compensation is paid for disabilities at ratings of 10 percent, 20 percent, 30 percent, and so forth up to 100 percent. The amount of compensation payable for each percentage of disability is established by law. Additional compensation is payable for the loss of a limb, blindness, and other severe disabilities. Additional dependency allowance is payable to veterans with a rating of 30 percent or more for a spouse, minor children, or dependent parents.

Historically, the Congress has increased compensation rates whenever there has been an appreciable increase in the cost-of-living index, since the rates are not indexed to the Consumer Price Index by law. This is necesessary to insure that inflation does not erode the purchasing power of those drawing compensation and DIC benefits.

The percent of increase in compensation rates over those paid on July 1, 1933, is reflected by this following table:

	Percent of increase in compensation rates over those paid on July 1, 1933																		Cumulative increase in Consumers Price Index since 1917	Cumulative increase in compensation since 1917
	1934	1944	1945	1946	1949	1952	1954	1957	1962	1965	1969	1970	1972	1974	1975	1976	1977	1978		
10 percent	11.1	27.8	------	53.3	66.7	75.0	88.9	111.1	122.2	133.3	155.6	177.8	211.1	255.6	288.9	322.2	355.6	388.9	430.1	450.0
20 percent	11.1	27.8	------	53.3	66.7	75.0	83.3	100.0	111.1	122.2	138.9	155.6	183.3	227.8	261.1	288.9	316.7	344.4	430.1	400.0
30 percent	11.1	27.8	------	53.3	66.7	75.0	85.2	103.7	114.8	122.2	140.7	159.3	185.2	229.6	263.0	292.6	318.5	348.2	430.1	404.2
40 percent	11.1	27.8	------	53.3	66.7	75.0	83.3	102.8	113.9	127.8	147.2	166.7	194.4	238.9	272.2	302.8	330.6	361.1	430.1	418.8
50 percent	11.1	27.8	------	53.3	66.7	91.7	102.2	122.2	137.8	151.1	171.1	200.0	231.1	280.p	317.8	351.1	380.0	415.6	430.1	480.0
60 percent	11.1	27.8	------	53.3	66.7	91.7	101.9	122.2	137.0	151.9	172.2	201.9	235.5	290.7	337.0	372.2	403.7	440.7	430.1	508.3
70 percent	11.1	27.8	------	53.3	66.7	91.7	101.6	122.2	136.2	155.6	176.2	206.4	236.5	296.8	344.4	379.4	411.1	449.2	430.1	517.9
80 percent	11.1	27.8	------	53.3	66.7	91.7	101.4	122.2	136.1	158.3	179.2	209.7	240.3	301.4	350.0	386.1	418.1	455.6	430.1	525.0
90 percent	11.1	27.8	------	53.3	66.7	91.7	101.2	121.0	135.8	158.0	179.0	208.6	239.5	301.2	349.4	385.2	417.3	455.6	430.1	525.0
100 percent	11.1	27.8	------	53.3	66.7	91.7	101.1	150.0	177.8	233.3	344.4	400.0	450.0	548.9	627.8	685.6	737.8	798.9	430.1	911.3
Aid and attendance			40.0	68.0	68.0	88.0	88.0	88.0	88.0	88.0	88.0	88.0	88.0	108.0	108.0	124.0	124.0	124.0	408.4	124.0
2 statutory losses			33.3	60.0	60.0	77.3	80.0	106.0	126.7	166.7	233.3	273.3	310.7	384.7	442.7	486.0	524.7	570.0	408.4	570.0
Loss, both eyes			34.3	61.1	61.6	78.9	88.0	105.1	122.9	157.1	214.3	252.0	287.4	357.1	412.0	453.1	489.7	532.6	408.4	532.6
Loss 2 eyes and 1 limb or double P. & T			32.5	59.0	59.0	76.5	85.5	100.5	120.0	162.5	212.5	250.0	285.0	354.5	409.0	449.5	486.0	529.0	408.4	529.0
Creative organ			20.0	44.0	44.0	60.0	68.0	80.0	110.0	140.0	180.0	213.6	244.8	306.8	355.6	392.4	428.8	463.2	408.4	463.2
1 hand or 1 foot				20.0	20.0	33.3	40.0	50.0	75.0	100.0	133.3	161.3	187.3	239.0	279.7	310.3	337.3	369.3	268.4	369.3
Arm or leg above elbow or ankle							0	0	0	0	0	0	0	0	0	0	0	0	148.8	0
1 hand and 1 foot plus portion of either									33.3	66.7	100.0	124.0	146.7	191.3	226.0	252.0	275.3	302.7	129.9	302.7
2 hands or 2 feet or blind									9.4	32.1	69.8	90.2	109.1	146.8	176.2	198.5	218.1	241.5	124.4	241.5
Arrested TB														0	16.67	26.7	35.3	45.3	58.6	45.3

Widows and children of veterans who die of causes determined to be service-connected are entitled to receive monthly dependency and indemnity compensation.

The purpose of this benefit is to provide partial compensation to the designated survivors for the loss in financial support sustained as the result of the service-connected death. Income and need are not factors in determining a surviving spouse's or child's entitlement since the Nation assumes, in part, the legal and moral obligation of the veteran to support the spouse and children.

Payments of DIC for surviving spouses are determined on the basis of the veteran's service pay grade and range from $368 monthly for the surviving spouse of an E–1 to $944 monthly for the surviving spouse of an O–10. Surviving spouses are entitled to an additional $43 monthly for each child.

It is well established that the Congress has placed the very highest priority on the payment of compensation and dependency and indemnity compensation benefits to eligible veterans. During the past 6 years, the Congress will have provided more than $3,360,000,000 in tax free benefit increases.

The following summarizes the legislative initiatives in this program during the past 6 years:

FISCAL YEAR 1981—H.R. 7511—$979.8 MILLION

The reported bill would provide a 13 percent increase in compensation and DIC rates (other than the "K" award) effective October 1, 1980. The rate of the totally and permanently disabled veteran would be increased from $889 to $1,005 per month, or $12,060 annually.

FISCAL YEAR 1980—P.L. 96–128—$669.7 MILLION

The Act provided a 9.9 percent increase in the compensation and DIC rates effective October 1, 1979, except for the "K" award which is to become effective October 1, 1980. In addition, a new basic entitlement was established permitting payment of aid and attendance benefits to a new group of severely disabled veterans upon an affirmative showing of and demonstrated need for the regular aid and attendance of another person.

FISCAL YEAR 1979—P.L. 95–479—$520.4 MILLION

The Act provided a 7.3 percent increase in the compensation and DIC rates effective October 1, 1978. In addition, the Act: (1) provided additional compensation to veterans who suffered the loss or loss of use of three extremities; (2) established a new statutory award of $175 monthly to certain veterans suffering from the service-connected loss or loss of use of an extremity ratable at not less than 40 percent and who subsequently suffered the non-service-connected loss or loss of use of the paired extremity at a level ratable at no less than 40 percent; (3) reduced from 50 percent to 30 percent the rate of disability required before additional compensation for dependents is payable to veterans; (4) provided dependency and indemnity compensation entitlement to survivors if the veteran immediately before death had suffered total service-connected disability for 10 or more years or continuously since discharge for not less than 5 years. Provided, for the first time, additional dependency and indemnity compensation to a surviving spouse who, because of disability, is permanently housebound; (5) provided for a second level of aid and attendance benefits for certain catastrophically disabled veterans needing a higher level of care; (6) clarified the intent of the Congress to assure exemption from taxation of compensation paid in lieu of military retired pay; (7) increased the service-connected death burial benefit from $800 to $1,100; and (8) increased the automobile assistance allowance payable on a one-time basis to certain severly disabled veterans from $3,300 to $3,800.

FISCAL YEAR 1978—P.L. 95–117—$312.5 MILLION

The Act provided a 6.6 percent increase in compensation and DIC rates to service-connected disabled veterans and eligible dependents. In addition, it provided entitlement to a grant, not to exceed $25,000, as assistance in purchasing specially adapted housing for certain veterans who, because of the service-connected loss or loss of use of one lower extremity and one upper extremity which affects the function of balance or propulsion, are precluded from locomotion without aid of braces, crutches, canes or a wheelchair.

FISCAL YEAR 1977—P.L. 94-433—$388 MILLION

The Act provided for an 8 percent increase in the rates of compensation and DIC. In addition, the Act provided that the VA would pay increased compensation to the disabled veteran rated 50 percent to 100 percent who has a spouse who is a patient in a nursing home or who is so helpless as to need regular aid and attendance. It also provided for an increase in mortgage protection life insurance available for certain severely disabled veterans from $30,000 to $40,000. The measure also authorized the VA to pay the cost of transporting the remains of deceased, service-disabled veterans to a national cemetery for burial and extended eligibility for VA assistance in the purchase of automobiles and necessary special adaptive equipment to certain disabled veterans who served from September 16, 1940. The benefit had been limited to those with service in World War II or thereafter.

FISCAL YEAR 1976—P.L. 94-71—$490 MILLION

Increased by 10 percent the rates of compensation payable to service-connected disabled veterans rated 10 to 50 percent. Cases rated 60 percent or more disabled were increased by 12 percent. Statutory awards, relating to more serious disabilities, were increased by 12 percent.

The bill further incorporates the provisions of two burial benefit and cemetary proposals.

The first would provide headstones and markers for close relatives of veterans buried in State veterans cemeteries. The second would provide for a minimum number of employees for the American Battle Monuments Commission. This will assure the Commission's ability to adequately maintain the cemeteries, monuments, and memorials located abroad.

The bill would extend authority for the Administrator to operate the Manila Regional Office from September 30, 1981, to September 30, 1985.

This legislation would also provide cost savings amounting to approximately $86.5 million in budget authority in fiscal year 1981. This amount would be realized by limiting eligibility for nonservice-connected burial and plot allowances to cases where the income of the deceased veteran and his spouse, in the 12 months prior to the veteran's death, had been $20,000 or less. This limitation would realize a savings of $83.5 million in fiscal year 1981, according to the Congressional Budget Office.

In addition, the bill would provide that incarcerated veterans entitled to compensation or pension and incarcerated survivors entitled to death benefits would have their benefits limited to an amount not in excess of $60 a month on the 61st day following his or her confinement. The benefits not paid could be apportioned to their dependents.

We have read in the newspapers where we have some individuals who are serving sentences for murder and other major criminal offenses who are drawing Federal benefits. In some cases, these individuals are drawing veterans benefits. This change in current law would restrict these benefits to these individuals. This provision would provide for a saving of $3 million during the next fiscal year.

SECTION-BY-SECTION ANALYSIS OF THE REPORTED BILL

Title I of the reported bill would provide a cost-of-living increase in the basic rates of compensation payable to veterans for service-connected disabilities and the additional amount authorized for dependents for those disabilities rated 30 percent or more The bill proposes to increase the rate by 13 percent.

Title I would also increase by the same percentage the annual clothing allowance payable to certain veterans wearing or using prosthetic or orthopedic appliances. The following table shows the compensation payable under current law compared with that to be provided in the reported bill:

	Increase (monthly rate)	
	From	To
Percentage of disability or subsection under which payment is authorized:		
(a) 10 percent	$48	$54
(b) 20 percent	88	99
(c) 30 percent	133	150
(d) 40 percent	182	206
(e) 50 percent	255	288
(f) 60 percent	321	363
(g) 70 percent	380	429
(h) 80 percent	440	497
(i) 90 percent	495	559
(j) 100 percent	889	1, 005
Higher statutory awards for certain multiple disabilities:		
(k) (1) Additional monthly payment for anatomical loss or loss of use of, any of these organs: 1 foot, 1 hand, blindness in 1 eye (having light perception only), 1 or more creative organs, both buttocks, organic aphonia (with constant inability to communicate by speech), deafness of both ears (having absence of air and bone conduction)—for each loss	62	62
(2) Limit for veterans receiving payments under (a) to (j) above	1, 104	1, 248
(3) Limit for veterans receiving payments under (l) to (n) below	1, 547	1, 748
(l) Anatomical loss or loss of use of both hands, both feet, 1 foot and 1 hand, blindness in both eyes (5/200 visual acuity or less), permanently bedridden or so helpless as to require regular aid and attendance	1, 104	1, 248
(m) Anatomical loss or loss of use of 2 extremities so as to prevent natural elbow or knee action with prosthesis in place, blind in both eyes, either with light perception only or rendering veteran so helpless as to require regular aid and attendance	1, 217	1, 375
(n) Anatomical loss of 2 extremities so near shoulder or hip as to prevent use of prosthesis or anatomical loss of both eyes	1, 383	1, 563
(o) Disability under conditions entitling veteran to 2 or more of the rates provided in (l) through (n), no condition being considered twice in the determination, or deafness rated at 60 percent or more (impairment of either or both ears service-connected) in combination with total blindness (5/200 visual acuity or less)	1, 547	1, 748
(p) (1) If disabilities exceed requirements of any rates prescribed; Administrator of VA may allow next higher rate or an intermediate rate, but in no case may compensation exceed	1, 547	1, 748
(2) Blindness in both eyes (with 5/200 visual acuity or less) together with (a) bilateral deafness rates at 40 percent or more disabling (impairment of either or both ears service-connected) next higher rate is payable, or (b) service-connected total deafness of 1 ear next intermediate rate is payable, but in no event may compensation exceed	1, 547	1, 748
(3) Anatomical loss or loss of usè of 3 extremities, the next higher rate in paragraphs (l) to (n) but in no event in excess of	1, 547	1, 748
(q) This subsection repealed by Public Law 90-493.		
(r) (1) If veteran entitled to compensation under (o) or to the maximum rate under (p); or (effective Oct. 1, 1979) at the rate between subsections (n) and (o) and under subsection (k), and is in need of regular aid and attendance, he shall receive a special allowance of the amount indicated at right for aid and attendance in addition to such rates	664	750
(2) If the veteran, in addition to need for regular aid and attendance, is in need of a higher level of care, a special allowance of the amount indicated at right is payable in addition to (o) or (p) rate	989	1, 118
(s) Disability rated as total, plus additional disability independently ratable at 60 percent or over, or permanently housebound	995	1, 124
(t) Additional monthly allowance for a veteran in receipt of compensation for a disability not evaluated more than 90 percent disabling who has suffered a service-connected loss or loss of use of an extremity evaluated not less than 40 percent and has suffered a nonservice-connected loss or loss of use the paired extremity evaluated at not less than 40 percent	192	217

In addition to basic compensation rates and/or statutory awards to which the veteran may be entitled, dependency allowances are payable to veterans who are rated at not less than 30 percent disabled. The rates which follow are those payable to veterans while rated totally disabled. If the veteran is rated 30, 40, 50, 60, 70, 80, or 90 percent disabled, dependency allowances are payable in an amount bearing the same ratio to the amount specified below as the degree of disability bears to total disability. For example, a veteran who is 50 percent disabled receives 50 percent of the amounts which appear below.

	Rate	
	From	To
If and while veteran is rated totally disabled and—		
(A) Has a spouse but no child living	$54	$61
(B) Has a spouse and 1 child living	91	103
(C) Has a spouse and 2 children living	121	137
(D) Has a spouse and 3 or more children living	151	171
Plus for each living child in excess of 3	30	34
(E) Has no spouse but 1 child living	37	42
(F) Has no spouse but 2 children living	67	76
(G) Has no spouse but 3 or more children living	97	110
Plus for each living child in excess of 3	30	34
(H) Has a mother or father, either or both dependent upon him for support for each parent so dependent	44	50
(I) For a spouse who is a patient in a nursing home or who is so helpless as to require regular aid and attendance	98	111
(J) For each child who has attained age 18 and who is pursuing a course of instruction at an approved educational institution	82	93

Title II would increase the rates of dependency and indemnity compensation (DIC) payable to surviving spouses and children of veterans whose deaths are service-connected by 13 percent.

The following table shows the current dependency and indemnity rates payable to surviving spouses of deceased veterans whose deaths are service-connected and the proposed rate increase contained in the reported bill:

Pay grade	From	To
E-1	$326	$368
E-2	337	381
E-3	345	390
E-4	367	415
E-5	377	426
E-6	386	436
E-7	404	457
E-8	426	481
E-9	446	504
W-1	413	467
W-2	430	486
W-3	442	499
W-4	468	529
0-1	413	467
0-2	426	481
0-3	457	516
0-4	482	545
0-5	532	601
0-6	598	676
0-7	648	732
0-8	710	802
0-9	763	862
0-10	835	944

1. If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps or master chief petty officer of the Coast Guard, the surviving spouse's rate is increased from $480 to $542.

2. If the veteran served as Chairman of the Joint Chiefs of Staff; Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, the rate for the surviving spouse is increased from $895 to $1,011.

Increases from $38 to $43 monthly the additional DIC rate payable to surviving spouses for each child of the veteran under age 18.

Increases from $98 to $111 monthly the spouse's aid and attendance rate.

Increases from $49 to $55 monthly the spouse's housebound rate.

When there is no surviving spouse receiving dependency and indemnity compensation, payment is made in equal shares to the children of the deceased veteran. These rates would increase as follows:

	Increase (monthly rate)	
	From	To
1 child	$165	$186
2 children	237	268
3 children	306	346
Each additional child	62	70

Increases from $98 to $111 the additional rate payable to a child who has attained the age of 18 but who became permanently incapable of self-support while under such age.

Increases from $165 to $186 the rate payable concurrently with DIC payment to a widow with a child who has attained the age of 18 but who became permanently incapable of self-support while under such age.

Increases from $84 to $95 the rate payable to a child who has attained the age of 18 but is no more than 22 and pursuing a course of instruction at an approved educational institution concurrently with DIC payment to surviving spouse.

Title III of the bill contains several miscellaneous provisions. Among other things the bill would:

(1) Extend the authority of the Administrator of Veterans' Affairs to operate and maintain a regional office in the Republic of the Philippines. Current authority will expire September 30, 1981. The bill would extend the authority through September 30, 1985. In recommending the extension the Administrator noted:

"It has been the agency's experience that there is a significant advantage in maintaining a regional office in Manila, where the local employees' understanding of Filipino culture and language greatly facilitates the processing of claims."

(2) Provide headstones and markers for certain close relatives of veterans who are buried in a State veterans' cemetery. Under existing law the Veterans Administration provides grave markers for veterans and next of kin buried in national cemeteries; however, they are not provided for next-of-kin buried in State cemeteries. The bill would authorize the VA to furnish a headstone or marker for the grave of the spouse or other eligible dependent of a veteran if that individual were buried in a State veterans' cemetery rather than a national cemetery, and irrespective of whether the veteran died before or after such dependent. The Administration supports this provision of the bill and the VA's views are highlighted later in this report.

This provision of the bill is designed to carry out the purpose of H.R. 6146, introduced by the Honorable Marjorie S. Holt of Maryland. In testimony before the Subcommittee on Compensation, Pension, Insurance and Memorial Affairs during hearings held on May 12, 1980, Mrs. Holt reminded the Subcommittee of the fine effort the State of Maryland is making to alleviate the shortage of space in the National Cemeteries by developing a system of five State veterans' cemeteries. While State cemeteries are expected to be patterned after the national cemetery system, total uniformity in the marking of graves can be achieved only at the expense of the State or the next of kin. This proposed change in current law supports the effort being made by the State of Maryland and other States to carry out the policy of uniformity in the marking of graves in State cemeteries.

(3) Assure that adequate personnel are provided so that the American Battle Monuments Commission can continue to effectively carry out its mission in operating and maintaining overseas cemeteries and monuments within its jurisdiction.

The continuous personnel turmoil over the past 12 years, generated by various personnel reduction programs together with work week reductions for the labor force in Europe (France and Benelux countries) generally from 48 down to 40 hours, have created major problems for the American Battle Monuments Commission in its efforts toward mission accomplishment.

These cuts have resulted in a 20 percent loss in the Commission's labor force at the same time work requirements have increased due to structure aging demanding more maintenance and planting maturation requiring more care. Additionally, a valid need has always existed for a superintendent and an assistant to manage each of the Commission's 14 major cemeteries and P. L. 95-479 requires that these two positions be filled by U.S. citizens. Yet, the continuous reductions have resulted in a current shortage of five assistant superintendents.

The reported bill would require the Office of Management and Budget to allocate the personnel and funds, for these five personnel provided such funds should be appropriated by Congress.

Members of the House are aware of the high standard that has been established for the maintenance of our overseas monuments and cemeteries. The standard of care can not be maintained with the continuing loss of personnel. Every year an enormous amount of executive time and effort is expended by the Commission, the Office of Management and Budget, and the Department of State in order to salvage enough people for the Commission to operate at established standards. Personnel reductions have now reached a point below the minimum essential to perform required services.

Title III of the bill also contains several other miscellaneous provisions which would eliminate certain anomalies which have developed in the statutory scheme concerning the dependency and indemnity compensation and pension programs. The bill would:

(1) Provide a more equitable system for the computation of survivors' dependency and indemnity compensation benefits when an overpayment is created by the retroactive addition of another child.

(2) Eliminate duplication of DIC payments which occur from the first day of the month to the child's 18th birthday when such child chooses to pursue a higher course of education and becomes eligible in his or her own right to DIC benefits.

(3) Provide for the concurrent payment of pension and military retired pay in an amount not to exceed authorized maximum support levels.

(4) Extend the period of time in a domiciliary, hospital or nursing home from two to three calendar months before a veteran would be subjected to a reduced pension of $60 monthly, and further amends the readmission provision so that a veteran reentering such institutions within a 6-month period would not suffer an immediate pension reduction following the month of readmission unless such prior period of care had been of lengthy duration (over three months).

Finally, Title III contains two cost-savings provisions.

In its budget request to the Congress submitted earlier this year, the Administration recommended that Congress "save" more than $700 million in Function 700—Veterans' Benefits and Services. It recommended $400 million in "legislative savings" and, in addition, recommended that its original FY-81 budget request be reduced by another $323 million through the appropriations process.

Your Committee disagreed with the Administration's proposed "legislative savings"; however, the Committee on the Budget agreed with the Administration and included the $400 million "savings" in H. Con. Res. 307 when it was reported to the House. Members are aware that the Budget Resolution, containing these "savings" was adopted by the House by a vote of 225 to 193.

In order to carry out the expressed intent of the House, the reported bill contains two provisions that, if enacted, would result in "savings" of $85.5 million during the next fiscal year.

First, the bill would limit the payment of compensation or DIC during confinement in a penal institution to $60 monthly 61 days after conviction and such individual's imprisonment begins and ending on the date such individual's imprisonment ends. The Administrator would be authorized to apportion and pay to such individual's dependents the compensation or DIC payable which such individual would receive for that period but for his or her confinement in a penal institution.

According to the Congressional Budget Office, this provision would result in reduced Federal expenditures of $3 million in FY-81 and each year thereafter through FY-85.

The bill would limit the payment of burial benefits to help defray a portion of the burial and funeral expenses of certain deceased veterans. The bill would limit eligibility for non-service-connected burial and plot allowances to cases where the taxable income of the deceased veteran and his spouse, in the twelve months prior to the veteran's death, had been $20,000 or less.

The Committee intends to make clear that in determining the income for benefit purposes, the Administrator shall make his determination based on the veteran's taxable income in the case of a single veteran, or the joint taxable income in the case of a married veteran who filed a joint tax return, or the combined taxable income of the veteran and spouse in the case of a married veteran who filed a separate tax return for the taxable year preceding the taxable year in which death occurred. Taxable income will be the income as defined in section 63 of the Internal Revenue Code of 1954, as amended.

According to the Congressional Budget Office, this provision, if enacted, would result in a reduction in Federal expenditures of $85.2 million during the next fiscal year.

It should be noted that the Committee is proposing this change in existing law because of the mandate contained in the Budget Resolution. It is not a legislative initiative of the Committee contained in its recommendations to the Committee on the Budget submitted March 15, 1980. The action is being taken in order to comply with H. Con. Res. 307.

Mr. Speaker, this is a good bill. It should be enacted. Given the fact that the Consumer Price Index is not rising as rapidly as it did during the winter and early spring, I believe the proposed 13 percent will be about right. In addition, we are faced with a situation where we are being told to save $400 million by limiting current benefits and services for veterans, or in some cases, to terminate programs. Given that situation, I think we should live within the targets established by the House in the budget resolution and this bill will do that.

The cost-savings proposed by the subcommittee reflects a substantial move toward realizing the goal established for the Committee on Veterans' Affairs in the budget resolution adopted by the Congress.

I want to thank the ranking minority member of the subcommittee, the distinguished gentleman from Ohio (Mr. WYLIE), my distinguished chairman, the Honorable RAY ROBERTS, of Texas, the committee's capable ranking minority member, Mr. HAMMERSCHMIDT, of Arkansas, and all members of the subcommittee for their support of this legislative proposal.

I am sure they share my pleasure at being able to bring you this bill which will benefit some 2,268,909 service-connected veterans and about 324,217 widows and orphans of veterans who have died of service-connected causes on this 50th anniversary of the creation of the Veterans' Administration.

I urge all Members of the House to support this measure.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Arkansas (Mr. HAMMERSCHMIDT).

Mr. HAMMERSCHMIDT. Mr. Speaker, I want to associate myself with the remarks of the gentleman from Mississippi, our very fine subcommittee chairman, in his acknowledgment of the splendid service that the gentleman from Texas (Mr. ROBERTS) has rendered to this committee as its chairman as well as to the Congress and certainly to our Nation's veterans. I will further pursue this subject more comprehensively at a later and more appropriate time. Since this is a very important bill, I want at this time to pay my thanks and respect to the chairman, the gentleman from Texas (Mr. ROBERTS).

I see a fine member of our Veterans' Affairs Committee staff sitting with him, "Monk" Willis, who serves as staff director. I want to express my appreciation for his long and faithful service to the gentleman from Texas (Mr. ROBERTS) and to our committee. I look forward to his continuing cooperation as we together develop legislation in our committee affecting veterans and their dependents and survivors.

Mr. Speaker, I rise in support of H.R. 7511, a measure that will, among other things, authorize a much needed cost-of-living increase in the monthly rates of compensation for service-connected disability and dependency and indemnity compensation for survivors of our war dead.

At the outset, Mr. Speaker, I want to express my appreciation to the gentleman from Mississippi, who chairs the Compensation, Pension, Insurance and Memorial Affairs Subcommittee and the gentleman from Ohio (Mr. WYLIE) the ranking minority member of the subcommittee, and the other members of the subcommittee for their diligence in pursuing this legislation to a reasonable solution.

Their task has not been an easy one. The budgetary restraints under which we are operating made their task an especially difficult one and, of course, influenced their decision on this measure.

The 13-percent increase authorized by this measure is slightly less than the automatically indexed increase of 14.3 percent given to non-service-connected pensioners and social security recipients last month.

This is most unfortunate. It is my considered judgment that the service-connected disabled veteran and the survivors of our war dead deserve, at the very least, the same percentage increase as has been given to pensioners and social security recipients.

The Budget Committee, however, recommended a 13-percent increase and the budget resolution passed by this body earlier this year established funding targets commensurate with this recommendation. This action, coupled with a budget resolution mandate requiring $400 million in legislative cost savings, left our committee with little choice in the matter.

Let me make it clear, Mr. Speaker, that I strongly support the concept of a balanced budget. I do not believe, however, that the Nation's taxpayers want the budget to be balanced at the expense of those who sacrificed so much in pursuit of the survival of our Nation.

I am hopeful, Mr. Speaker, that the other body, taking action at a later date as it will, should have a more accurate fix on the actual increase in the Consumer Price Index and we can then agree upon a well-deserved and appropriate cost of living adjustment in the payments to service-connected disabled veterans and the survivors of those who died of service related causes.

Meanwhile, I urge that the bill, H.R. 7511, be passed.

□ 1240

Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. WYLIE), the distinguished ranking minority member of our subcommittee.

Mr. WYLIE. Mr. Speaker, I rise in support of this bill before us today which would provide for a 13-percent cost-of-living increase in monthly payments to service connected disabled veterans and their survivors.

Mr. Speaker, at the outset, I, too, would like to commend the gentleman from Mississippi (Mr. MONTGOMERY), the chairman of our subcommittee, for the fair and impartial manner in which he conducted the hearings at all times on this bill and as the gentleman from Arkansas just said the subcommittee had a most difficult task. A part of the reason for our most difficult task was we wanted to provide an adequate cost-of-living increase for those veterans who are our greatest obligation, if you will, and I think we should adhere to the philosophy that these disabled veterans are our Nation's No. 1 priority.

However, Mr. Speaker, I am also a firm supporter of the balanced budget concept and I must readily admit I did not want to contribute to the possibility of approving a budget that would be once again out of balance. I think at the same time there were some good arguments in favor of an increase which would parallel or be comparable to that approved for the non-service-connected veteran pensioner.

Mr. Speaker, there are other provisions in the bill which have been alluded to by the gentleman from Mississippi, the chairman of the subcommittee, but I would like to specifically mention a provision which was recommended by the gentlewoman from Maryland (Mrs. HOLT) which would provide headstones and markers for the next of kin of veterans buried in State veterans' cemeteries.

Mr. Speaker, I yield back the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield such time as he may consume to the gentleman from Puerto Rico (Mr. CORRADA).

Mr. CORRADA. Mr. Speaker, In these inflationary times, citizens with fixed incomes find their buying power badly reduced. Veterans comprise a large part of this sector.

This is why it is with great pleasure that I rise today in support of H.R. 7511, a bill that provides a 13-percent increase in service-connected disability compensation and dependency and indemnity compensation for veterans and their survivors, among other things.

To these veterans, to these who sacrificed the most, this bill to an extent restores what inflation has taken away. It restores what Congress intended them to have. It is just and proper that this be done.

As American citizens living in peacetime, let us not forget or ignore those who risked their own lives in times of war to make peace possible.

As the representative of Puerto Rico in Congress, I am proud that Puerto Ricans as American citizens have also served and sacrificed themselves for this country with bravery and courage in the wars and conflicts in which our Nation has been involved this century. Over 192,000 Puerto Ricans have served in our military forces at times of war. My constituents served with pride and distinction in World War I, World War II, the Korean and Vietnam conflicts. In fact, based on population, Puerto Rico ranked third in the Nation in casualties in the Korean conflict.

As I stand ready and firm to support our Puerto Rican veterans I ask you all to support American citizens everywhere who for a lifetime may carry disabilities, the scars which reflect their sacrifice for our freedom.

I urge my dear colleagues, to vote in favor of this bill that will do justice to our veterans.

Mr. MONTGOMERY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

● Mrs. HOLT. Mr. Speaker, I rise to support H.R. 7511, which would authorize cost-of-living increases in the compensation for disabled veterans and survivors.

This legislation represents a special and continuing obligation of the U.S. Congress to provide for those who have become disabled in the service of our country, but there is another small feature of this bill to which I would call the attention of the House.

We are all aware of the shortage of space in national cemeteries, but some Members may not realize that certain States are meeting the need by developing their own veterans' cemeteries. I am proud to say that my own State of Maryland has been leading this trend.

The State of Maryland several years ago started developing a system of five veterans' cemeteries to serve the needs of Maryland veterans.

The State has attempted to develop and operate these cemeteries according to standards that make them comparable to the best of the national cemeteries. I believe that the States which are assuming this responsibility deserve our support.

Under existing Law, the Veterans' Administration provides grave markers for veterans and next-of-kin buried in the national cemeteries, but the grave markers are provided only for veterans buried in the State cemeteries.

When the current law was enacted many years ago, State veterans' cemeteries were not anticipated and no provision was made for next-of-kin grave markers. This problem would be remedied by my bill, H.R. 6146, which has been incorporated into this legislation.●

● Mr. ROBERTS. Mr. Speaker, I want to commend the distinguished gentleman from Mississippi, the chairman of the Subcommittee on Compensation, Pension, Insurance, and Memorial Affairs, for his leadership in bringing before the House a major bill that will benefit our Nation's service-connected veterans and their eligible survivors. I also want to commend the ranking minority member of the subcommittee, my good friend, Chalmers Wylie, the gentleman from Ohio, for the strong leadership he has exerted in putting this legislation together. All members of the subcommittee worked hard to get this legislation to the floor and I appreciate the efforts of every single member of the subcommittee. The gentleman from Mississippi has explained the bill very well and I shall not take the time of the House to repeat what he has already stated. We must adjust the rate of compensation and DIC paid to veterans and eligible survivors in order to offset inflation that has occurred since the last increase, October 1, 1979. The 13-percent rate increase contained in this bill, in my view, is adequate. It tracks closely the latest projected CPI index and I think will assure that compensation for our Nation's veterans will not be eroded.

Mr. Speaker, I am also proud of the efforts of the gentleman from Mississippi, Mr. Wylie, Mr. Hammerschmidt, and others who have cooperated in helping us meet the mandate of the House to enact legislative cost savings amounting to $400 million this year. This bill contains cost savings of $85 million. Although I am personally against some of the "savings" we were asked to bring about, the vote in the House indicated that these savings have been approved by a majority of our Members. We took the mandate seriously and worked together to accomplish the will of the House.

I think the bill accomplishes two major things. First, it will provide an adequate cost-of-living increase for our Nation's veterans beginning the first of October and the cost-savings provision will help us accomplish the legislative mandate contained in the first concurrent resolution. I am happy to support the bill and urge my colleagues to vote for its passage.●

● Mr. HILLIS. Mr. Speaker, I rise in wholehearted support of H.R. 7511, the Veterans Disability Compensation and Survivors' Benefits Amendments of 1980.

My colleagues, the Honorable Sonny Montgomery, chairman of the Subcommittee on Compensation Pension, Insurance, and Memorial Affairs, and the ranking minority member of the subcommittee, the Honorable Chalmers Wylie, have more than adequately described the significant provisions of this legislation.

However, I do want to again bring to the attention of my colleagues a few of the new provisions contained in the bill. H.R. 7511 incorporates a suggestion of our colleague, the Honorable Marjorie Holt, of Maryland, by providing for headstones or markers for certain survivors of deceased veterans buried in State veterans cemeteries. Currently, these survivors are entitled to markers only if the veteran is buried in a national cemetery and this minor change will have little additional cost to our taxpayers.

Also included within H.R. 7511 is a proposal to limit payment of compensation benefits to incarcerated veterans after conviction of a crime. I believe we all can rationalize the need for this remedial action and I commend the committee's leadership for its inclusion in the bill.

I realize many of us have received criticism that the increase in compensation benefits is only 13 percent. However, I agree with our colleague, the Honorable Ray Roberts, chairman of the House Committee on Veterans' Affairs, who has called this increase both reasonable and justified, with inflation projections running 12.8 percent since the last increase was granted.

Mr. Speaker, I will not belabor my colleagues with further rhetoric on this legislation which has already been thoroughly explained by those who have preceded me. Suffice to say, this is a good bill and I urge my colleagues to vote for this legislation.●

● Mr. GLICKMAN. Mr. Speaker, I rise in strong support of H.R. 7511 and to commend our Committee on Veterans' Affairs for its fine work in putting together a bill which realistically responds to the needs of our veterans and at the same time takes a number of steps designed to trim the costs of our veterans programs. This is a good bill, a balanced bill, and a bill every Member of this body should feel comfortable supporting.

In providing for a 13 percent increase in compensation rates for veterans with service-connected disabilities, the bill simply realizes that the ravages of inflation hit our veterans hard. And the fact that those with service-connected disabilities literally "gave of themselves" to this Nation of ours makes it absolutely essential that we not let the compensation which they so dearly deserve be eroded. The committee bill provides much needed help.

Our colleagues, the gentleman from Texas, Chairman Roberts, and the gentleman from Arkansas, Ranking Minority Member Hammerschmidt, deserve our thanks for bringing this bill to the floor. I urge all of my colleagues to give it their full support.●

● Mrs. HECKLER. Mr. Speaker, I support H.R. 7511, the Veterans' Disability Compensation and Survivors' Benefits Amendments of 1980. This is one of the most far reaching and significant veterans' bills the House will have the opportunity to act upon this year.

This bill would provide a 13-percent cost-of-living increase in compensation payments being provided to our Nation's 2.2 million veterans who were injured during their military service. A quarter of a million widows (and widowers) of service connected disabled veterans will benefit from this legislation, as will 85,000 children.

I do commend the chairman of the Compensation Subcommittee and of the full committee, Messrs. Montgomery and Roberts, and the ranking minority member of both the subcommittee and full committee, Mr. HAMMERSCHMIDT, for their diligence and resolve in producing an increase in service connected disability rates during this very tight budget year. We have reported a needed bill to the House and I do recommend to my colleagues that they vote to pass this legislation.

There is one particular aspect of this bill that I would like to comment upon, however, and that is the fact that the bill provides a rate of increase in compensation payments to service connected disabled veterans that is 1.4 percent less than the increase provided in other Federal pension programs.

For example, social security pensioners and nonservice connected disabled veteran pensioners will receive a cost of living increase of 14.4 percent. Yet, our service connected disabled veterans would, under the provisions of this bill, receive 13 percent.

In this regard, I would like to commend the ranking minority member, the distinguished gentleman from Arkansas (Mr. HAMMERSCHMIDT) for his initiative in attempting to amend this bill in subcommittee to remedy this inequity. The gentleman's amendment would have increased the rate by 1.4 percent, to 14.4 from the existing 13 percent. Support for the gentleman's amendment was so strong that opponents managed only a one vote edge.

The rationale behind the 13 percent figure has been neither compelling nor persuasive. The Budget Committee has recommended a 13 percent increase based on projections (CBO) that the Consumer Price Index will increase from 11.8 to 12.8 percent.

But the Department of Labor's latest figures—covering the 12-month period ending last May—show the CPI increased by 14.4 percent over that period of time. In January, February and March of this year, the CPI increase during each month was 1.4 percent—the difference between the two proposed increases.

We on the Veterans' Committee have worked especially hard during recent months to bring our budget into line with the ceiling established by the House during the reconciliation process.

I do continue to believe that, when we consider the increases in the Consumer Price Index—and the fact that other Federal pensioners are receiving a full 14.4 cost-of-living increase—a 14.4 increase for our service connected disabled veterans is both necessary and fair.

I trust that, as we pass this bill here today, the other body can further contribute to its refinement.●

The SPEAKER pro tempore. The question is on the motion of the gentleman from Mississippi (Mr. MONTGOMERY) that the House suspend the rules and pass the bill, H.R. 7511.

The question was taken.

Mr. HAMMERSCHMIDT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

VETERANS' REHABILITATION AND EDUCATION AMENDMENTS OF 1980

Mr. HEFNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7394) to amend title 38, United States Code, to revise the veteran's vocational rehabilitation program, to provide a 10-percent increase in the rates of educational assistance under the GI bill, to make certain improvements in the educational assistance programs for veterans and eligible survivors and dependents, to revise and expand veterans' employment and training programs, to provide certain cost-saving administrative provisions, and for other purposes, as amended.

The Clerk read as follows:

H.R. 7394

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Veterans Rehabilitation and Education Amendments of 1980".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—REVISION OF VOCATIONAL REHABILITATION PROGRAM

REVISION OF VOCATIONAL REHABILITATION PROGRAM

SEC. 101. (a) Chapter 31 is amended to read as follows:

"CHAPTER 31—VOCATIONAL REHABILITATION

"Sec.
"1500. Purpose.
"1501. Definitions.
"1502. Basic entitlement.
"1503. Periods of eligibility.
"1504. Scope of services.
"1505. Duration of services.
"1506. Subsistence allowances.
"1507. Counseling.
"1508. Vocational rehabilitation plan.
"1509. Leaves of absence.
"1510. Regulations to promote satisfactory conduct and cooperation.
"1511. Revolving fund loans.
"1512. Vocational rehabilitation for hospitalized members of the Armed Forces and veterans.
"1513. Training outside the United States.
"1514. Unpaid training work experience.
"1515. Rehabilitation resources.
"1516. Development of employment and on-job training opportunities.
"1517. Employment assistance.
"1518. Staff training and development.
"1519. Rehabilitation research and special projects.
"1520. Veterans' Advisory Committee on Rehabilitation.

"§ 1500. Purpose

"The purpose of the program created by this chapter is to provide all services necessary to enable veterans with service-connected disabilities to attain maximum independence, to become employable, and to obtain and maintain suitable employment.

"§ 1501. Definitions

"For the purposes of this chapter—

"(1) The term 'vocational rehabilitation' means those services which provide assistance needed for the accomplishment of the purposes of this chapter, as set forth in section 1500 of this title. Such services include such diagnostic, medical, social, psychological, economic, and vocational services as are determined by the Administrator to be needed to render a veteran who has an employment handicap because of service-connected disability employable and employed and to enable the veteran to achieve maximum independence.

"(2) The term 'employment handicap' means a disability the limiting effects of which impair an individual's ability to prepare for, obtain, or retain employment consistent with such individual's abilities, aptitudes, and interests.

§ 1502. Basic entitlement

"(a) A veteran is entitled to vocational rehabilitation under this chapter if the veteran—

"(1) has a service-connected disability which is compensable under chapter 11 of this title and which was aggravated or incurred in service on or after September 16, 1940;

"(2) was released from active duty under conditions other than dishonorable or is hospitalized in a military hospital pending final discharge; and

"(3) is determined by the Administrator to be in need of vocational rehabilitation because of an employment handicap.

"(b) A previously rehabilitated veteran whose condition has changed to the extent that the veteran requires vocational rehabilitation to enter employment more suitable to the veteran's abilities and aptitudes may receive such additional vocational rehabilitation under this chapter as the Administrator considers appropriate.

"§ 1503. Periods of eligibility

"(a) Unless a longer period of eligibility is authorized pursuant to subsection (b) or (c) of this section, vocational rehabilitation may not be afforded to a veteran after the end of the nine-year period beginning on the date of the veteran's discharge or release.

"(b) If a veteran is prevented from entering, or having entered, from completing, vocational rehabilitation training within the period of eligibility prescribed in subsection (a) of this section because—

"(1) the veteran had not timely attained, retained, or regained medical feasibility for training because of disability;

"(2) the veteran had not timely met the requirement of a discharge or release under conditions other than dishonorable, but the nature of such discharge or release was later changed by appropriate authority; or

"(3) the veteran had not timely established the existence of a compensable service-connected disability,

such training may be afforded the veteran during a period not to exceed four years beyond the period of eligibility otherwise applicable to the veteran.

"(c) A veteran who is found to be in need of vocational rehabilitation to overcome the handicap of blindness, or other serious disability, resulting from a service-connected disability which affords basic eligibility for vocational rehabilitation under section 1502 of this title may be afforded such vocational rehabilitation after the termination date otherwise applicable to the veteran when such action is determined by the Administrator to be necessary for such veteran based upon such veteran's disability and need for vocational rehabilitation, if—

"(1) the veteran had not previously been rehabilitated as the result of training furnished under this chapter, or

"(2) such serious disability (whether blindness or otherwise) has developed from, or as a result of, the worsening of the veteran's service-connected disability since the veteran was declared rehabilitated to the extent that it precludes the veteran performing the duties of the occupation for which the veteran was previously trained under this chapter.

"§ 1504. Scope of services

"(a) Vocational rehabilitation services which may be provided by the Administrator under this chapter to a veteran entitled to such services include the following:

"(1) Evaluation of the potential for rehabilitation of the veteran, including diagnostic and related services to determine whether the veteran's service-connected disability causes a handicap to employment and whether a rehabilitation goal is feasible for the veteran and to provide a basis for planning a suitable vocational rehabilitation program or a program of services to improve the rehabilitation potential of the veteran, as appropriate.

"(2) Educational, vocational, and personal adjustment counseling.

"(3) A vocational rehabilitation plan for the veteran under section 1508 of this chapter.

"(4) Vocational and other training services, including individualized tutorial assistance, personal adjustment and work adjustment training, tuition, fees, books, supplies, licensing fees, and other training materials.

"(5) Treatment for mental and emotional disorders.

"(6) Medical diagnosis, care, treatment, and hospitalization.

"(7) Prosthetic appliances, eyeglasses, and other corrective devices.

"(8) Placement services to effect suitable placement in employment, and postplacement services to ensure satisfactory adjustment in employment.

"(9) Services to the veteran's family as necessary for the rehabilitation of the veteran.

"(10) Special rehabilitation services, including the following services for the blind and deaf:

"(A) Services such as language training, speech and voice correction, training in ambulation, and one-hand typewriting.

"(B) Orientation, adjustment, mobility, and reader services for the blind, and interpreter and other services for the deaf.

"(C) Telecommunications, sensory, and other technological aids and devices.

"(11) A subsistence allowance as authorized by section 1506 of this chapter.

"(12) For the most severely disabled veterans requiring homebound training, self employment, or both homebound training and self employment, essential equipment, supplies, and minimum stock of materials determined necessary to begin employment. The Administrator shall, by regulation, establish criteria and cost limitations for the furnishing of such materials.

"(13) Transportation, as authorized in section 111 of this title, plus a special transportation allowance during training, job seeking, and the initial employment stage for veterans who, because of their handicap, have transportation expenses above those incurred by persons not so handicapped.

"(14) Work study allowance, as authorized by section 1685 of this title.

"(15) Loans as authorized by section 1511 of this chapter.

"(16) Other incidental goods and services, including necessary books, supplies, and equipment determined by the Administrator to be necessary to accomplish vocational rehabilitation in the individual case.

"(b) A veteran who is found to be in need of vocational rehabilitation may elect to pursue such a program under chapter 34 of this title as authorized by section 1687 of this title. A veteran pursuing a program of vocational rehabilitation under such chapter may receive those vocational rehabilitation services set forth in subsection (a) of this section other than those set forth in clauses (4), (11), (15), and (16).

"§ 1505. Duration of services

"Unless a longer period of time is prescribed by the Administrator—

"(1) the period of services to evaluate and improve rehabilitation potential of veterans for whom the feasibility of attainment of rehabilitation is indeterminate may not exceed twelve months; and

"(2) the period of vocational rehabilitation training and associated services authorized under this chapter following a finding of feasibility of vocational rehabilitation may not exceed forty-eight months.

"§ 1506. Subsistence allowances

"(a) Each veteran shall be paid a subsistence allowance in accordance with this section during a certified period of (1) evaluation of vocational rehabilitation potential, (2) vocational rehabilitation training, and (3) postvocational rehabilitation training (not to exceed two months).

"(b) Except as otherwise provided in this section, the subsistence allowance paid to a veteran under this chapter shall be determined in accordance with the following table, and shall be the monthly amount shown in column II, III, IV, or V (whichever is applicable as determined by the veteran's dependency status) opposite the appropriate type of program being pursued as specified in column I:

"Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional training:				
Full-time	$282	$349	$412	$30
Three quarter-time.	212	262	309	23
Half-time	141	175	206	15
Farm cooperative, apprentice, or other on-job training:				
Full-time	246	297	343	23
Unpaid on-job training or work experience in Federal agency:				
Full-time	282	349	412	30
Evaluation and improvement of vocational rehabilitation potential:				
Full-time	282	349	412	30

"(c) If the vocational rehabilitation training consists of training on the job by an employer, such employer shall be required to submit monthly to the Administrator a statement in writing showing any wage, compensation, or other income paid by the employer to the veteran during the month, directly or indirectly. Based upon such written statements, the Administrator is authorized to reduce the subsistence allowance of such veteran to an amount considered equitable and just.

"(d) The Administrator shall define full-time and part-time status in the case of all eligible veterans undergoing vocational rehabilitation under this chapter.

"(e) If the veteran pursues a program on a residential basis in a specialized rehabilitation facility, the Administrator is authorized to pay to such facility the cost of the veteran's room and board and, in addition, to pay to the veteran that portion of the allowance for dependents payable, as determined by the veteran's dependency status, under subsection (b) of this section for a full-time institutional program.

"(f) During the two-month period following a determination that a veteran is employable, the veteran shall be paid at the rate provided in subsection (b) of this section for the full-time benefits payable for the type of vocational training pursued.

"(g) A veteran pursuing an unpaid program of vocational rehabilitation training or work experience in a Federal agency under the provisions of section 1514 of this chapter shall be paid the subsistence rate provided in subsection (b) of this section for a full-time institutional program.

"(h) A subsistence allowance under this section may not be paid to a veteran who is incarcerated in a Federal, State, county, or local prison or jail.

"(i) Payment of a subsistence allowance may be made in advance in accordance with the provisions of section 1780(d) of this title.

"§ 1507. Counseling

"Subject to regulations which the Administrator shall prescribe, each eligible veteran shall be provided initial counseling and necessary counseling during any period which the veteran is undergoing vocational rehabilitation evaluation, vocational rehabilitation training, or posttraining assistance. Such counseling may include vocational, educational, rehabilitation, psychological, personal adjustment, and employment counseling. If appropriate, family counseling may be provided.

"§ 1508. Vocational rehabilitation plan

"(a) Each veteran pursuing a program of vocational rehabilitation shall participate in the planning and decision process in formulating a comprehensive, individualized written rehabilitation plan for such veteran. Such plan shall include (1) a statement of long range goals and intermediate objectives for the rehabilitation of such veteran, (2) a statement of the specific services to be provided to such veteran and a time schedule for the providing of such services, (3) a projected date for completion of necessary rehabilitation, and (4) objective criteria for evaluating the veteran's progress under the plan.

"(b) Each rehabilitation plan shall be reviewed at least annually and, if determined necessary, modified to meet the needs of the veteran.

'§ 1509. Leaves of absence

"The Administrator shall prescribe such regulations as the Administrator considers necessary for granting leaves of absence to veterans pursuing vocational rehabilitation training. During authorized leaves of absence, a veteran shall be considered to be pursuing vocational rehabilitation training.

"§ 1510. Regulations to promote satisfactory conduct and cooperation

"The Administrator shall prescribe such rules and regulations as the Administrator considers necessary to promote satisfactory conduct and cooperation on the part of veterans who are receiving services under this chapter. If the veteran fails to maintain satisfactory conduct or cooperation in the rehabilitation process, and the Administrator determines that discontinuance of rehabilitation on that account is necessary, rehabilitation benefits and services will be terminated until such time as it is determined that the basis for the unsatisfactory conduct or lack of cooperation has been removed.

"§ 1511. Revolving fund loans

"The revolving fund established pursuant to part VII of Veterans Regulation Numbered 1(a) is continued in effect, and may be used by the Administrator, under regulations prescribed by the Administrator, for making advances, not in excess of $400 in any case, to veterans pursuing vocational rehabilitation. Such advances, and advances from such fund made before the effective date of the Veterans' Rehabilitation and Education Amendments of 1980, shall bear no interest and shall be repaid in such installments as may be determined by the Administrator, by proper deductions from future payments of compensation, pension, subsistence allowance, educational assistance allowance, or retirement pay.

"§ 1512. Vocational rehabilitation for hospitalized members of the Armed Forces and veterans

"(a) Vocational rehabilitation may be provided under this chapter to any person who is hospitalized pending final discharge from the active military, naval, or air service, if such person is otherwise eligible. In such cases, no subsistence allowance shall be payable.

"(b) Vocational rehabilitation may be provided under this chapter to veterans who are hospitalized at Veterans' Administration hospitals or domiciliaries or, where feasible, at any other hospital or medical facility.

"§ 1513. Training outside the United States

"Pursuant to such regulations as the Administrator shall prescribe, vocational rehabilitation training under this chapter may be provided outside the United States if it is determined that such training is necessary in the particular case to provide the preparation needed to render the veteran employable in a suitable occupation and as is determined to be in the best interest of the veteran and the Federal Government.

"§ 1514. Unpaid training and work experience

"Notwithstanding any other provision of law, the facilities of any Federal agency may be used to provide unpaid training or work experience as part or all of a veteran's program of vocational rehabilitation when the Administrator determines such training or work experience is necessary to accomplish vocational rehabilitation. While pursuing such training or work experience, an uncompensated veteran shall be deemed an employee of the United States for the purposes of the benefits of chapter 81 of title 5, but not for the purposes of laws administered by the Office of Personnel Management.

"§ 1515. Rehabilitation resources

"(a) For the purpose of providing services under this chapter, the Administrator may—

"(1) use the facilities, staff, and other resources of the Veterans' Administration;

"(2) employ such additional personnel and experts as the Administrator considers necessary; and

"(3) use the facilities and services of any Federal agency, agencies maintained by joint Federal and State contributions, private institutions and establishments, and private individuals.

Use of facilities and services under clause (3) may be procured through contract, agreement, or other cooperative arrangement.

"(b) A program of vocational rehabilitation (including individual courses) to be pursued by the veteran under this chapter shall be subject to the approval of the Administrator.

"§ 1516. Development of employment and on-job training opportunities

"(a) The Administrator shall actively promote the development and establishment of on-the-job training and employment opportunities for veterans with service-connected disabilities through direct Veterans' Administration staff outreach to employers and through Veterans' Administration coordination with Federal, State, and local governmental agencies and appropriate nongovernmental organizations.

"(b) Under regulations the Administrator may prescribe, payments may be made to employers for providing on-job training to veterans in individual instances when the Administrator determines payments to be necessary to obtain the needed on-job training.

"§ 1517. Employment assistance

"(a) A veteran who is determined to be employable shall be furnished assistance in obtaining employment suitable to the veteran's handicap, interests, and aptitudes. Such assistance may include (1) direct placement of the veteran in employment, and (2) utilization of placement services of (A) the Rehabilitation Services Administration of the Department of Education, (B) the State employment service and the Veterans Employment Service of the Department of Labor, (C) the Office of Personnel Management and (D) any other public or nonprofit organization having placement services available.

"(b) If a veteran has trained for self-employment under this chapter, the Administrator shall cooperate with the Small Business Administration to assist the veteran to secure a loan for the purchase of equipment needed to establish the veteran's own business. The Administrator may provide license fees required by the veteran to operate the business as authorized by section 1504(4) of this chapter and, where deemed appropriate, may provide the initial tools and equipment required as authorized by section 1504(12) of this chapter.

"(c) The Administrator may furnish an eligible veteran who has trained under a State rehabilitation program with the objective of self-employment in a small business enterprise such supplementary equipment and initial stocks and supplies needed by the veteran but not supplied through the State program or other sources.

"§ 1518. Staff training and development

"(a) The Administrator shall provide a program of ongoing professional training and development for Veterans' Administration counseling and rehabilitation staffs engaged in providing vocational rehabilitation services under this chapter. The objective of such training shall be to ensure that vocational rehabilitation services for veterans are provided in accordance with the most advanced knowledge, methods, and techniques available for the vocational rehabilitation of handicapped persons. For this purpose, the Administrator may employ the services of consultants and may make grants to, and contract with, public or private agencies (including institutions of higher learning) to conduct such training.

"(b) The Administrator shall coordinate with the Commissioner of the Rehabilitation Services Administration, Department of Education and with the Deputy Assistant Secretary of Labor for Veterans' Employment, in planning and carrying out staff training in areas of joint program concern.

"§ 1519. Rehabilitation research and special projects

"(a) The Administrator shall carry out an ongoing program of activities to advance resources available for use in vocational rehabilitation of veterans. For this purpose, the Administrator shall conduct and provide support for the development or conduct, or both the development and conduct, of—

"(1) studies and research concerning the psychological, social, vocational, industrial, and economic aspects of vocational rehabilitation of handicapped veterans, including new methods of rehabilitation; and

"(2) projects which will provide increased resources and potential for accomplishing the vocational rehabilitation of handicapped veterans.

"(b) For the purpose specified in subsection (a) of this section, the Administrator is authorized to make grants to or contract with public or nonprofit agencies, including institutions of higher learning.

"(c) The Administrator shall cooperate with the Secretary of Education regarding vocational rehabilitation studies, research, and special projects of mutual agency concern.

"§ 1520. Veterans' Advisory Committee on Rehabilitation

"(a) The Administrator shall appoint an advisory committee to be known as the Veterans' Advisory Committee on Rehabilitation. The members of the committee shall be appointed by the Administrator and shall serve for terms to be determined by the Administrator not to exceed three years. The Administrator may designate one of the members of the committee as the chairman of the committee. In addition to the members appointed by the Administrator, the membership of the committee shall include the Commissioner of the Rehabilitation Services Administration of the Department of Education, the Director of the National Institute for Handicapped Research, and the Deputy Assistant Secretary of Labor for Veterans' Employment as ex officio members.

"(4) chapters 32, 34, 35, and 36 of this title and the former chapter 33;";

(3) by striking out ", but this section" and all that follows and inserting in lieu thereof a period; and

(4) by adding at the end thereof the following new subsection:

"(b) No person may receive assistance under chapter 31 of this title in combination with assistance under any of the provisions of law cited in clauses (1), (2), (3), and (4) of this section in excess of forty-eight months (or the part-time equivalent thereof) unless the Administrator determines that additional months of benefits under chapter 31 of this title are required to accomplish the purposes of vocational rehabilitation as set forth in that chapter.".

(b) Section 1631(a)(1) is amended by adding at the end thereof the following new sentence: "The number of monthly benefit payments to which a participant is entitled is subject to the provisions of section 1795 of this title limiting the aggregate period for which any person may receive assistance under two or more programs of educational or vocational assistance administered by the Veterans' Administration.".

(c)(1) Chapter 34 is amended by inserting after section 1686 the following new section:

"(b) The Administrator shall advise and consult with the committee from time to time with respect to the administration of veterans' rehabilitation programs under this title.

"(c) The committee shall make such reports and recommendations to the Administrator and the Congress as it considers desirable. Among these reports shall be an annual review and report to the Administrator on the vocational, physical, and psychological rehabilitation activities of the Veterans' Administration. The annual report shall include an assessment of the rehabilitation needs of veterans and a review of the plans of the Veterans' Administration to meet such needs.".

(b) The items relating to chapter 31 in the table of chapters at the beginning of title 38, United States Code, and in the table of chapters at the beginning of part III of such title, are amended to read as follows:

"31. Vocational Rehabilitation....... 1500".

AVAILABILITY OF VOCATIONAL REHABILITATION ASSISTANCE IN CONJUNCTION WITH EDUCATIONAL ASSISTANCE

SEC. 102. (a) Section 1795 is amended—

(1) by inserting "(a)" before "The aggregate";

(2) by striking out clause (4) and inserting in lieu thereof the following:

"§ 1687. Rehabilitation services

"(a) Any veteran who is eligible for vocational rehabilitation under chapter 31 of this title and who is found to be in need of vocational rehabilitation may elect to pursue a vocational rehabilitation plan which has been approved under such chapter using educational assistance entitlement under this chapter. Any such veteran may be furnished those services authorized by section 1504(b) of this title as necessary to carry out such plan.

"(b) Notwithstanding any other provision of law, a veteran pursuing a vocational rehabilitation program under this chapter as authorized by subsection (a) of this section shall be considered to be in a vocational rehabilitation program and to be otherwise eligible for any assistance provided under other programs to veterans pursuing or completing a program under chapter 31 of this title.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1686 the following new item:

"168. Rehabilitation services.".

(d) Section 1781 is amended by inserting ", or subsistence allowance granted under chapter 31 of this title," after "of this title".

TITLE II—GI BILL RATE INCREASE

RATES OF EDUCATIONAL ASSISTANCE FOR VETERANS

SEC. 201 (a) The table in section 1682(a)(1) is amended to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$342	$407	$464	$29
Three-quarter-time	257	305	348	22
Half-time	171	204	232	15
Cooperative	276	323	367	21".

(b) Section 1682(b) is amended by striking out "$311" and in inserting in lieu thereof "$342".

(c) The table in section 1682(c)(2) is amended to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Basis	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Full-time	$276	$323	$367	$21
Three-quarter-time	207	242	275	16
Half-time	138	162	184	11".

(d) Section 1692(b) is amended by striking out "$69" and "$828" and inserting in lieu thereof "$76" and "$911".

RATES OF EDUCATIONAL ASSISTANCE FOR SURVIVORS AND DEPENDENTS

SEC. 202. (a) Section 1732(b) is amended by striking out "$251" and inserting in lieu thereof "$276"

(b) Section 1742(a) is amended by striking out "$311", "$98" both places it appears, and "$10.40" and inserting in lieu thereof "$342", "$108", and "$11.44", respectively.

RATES FOR STATE APPROVING AGENCIES ADMINISTRATIVE EXPENSES, FOR EDUCATIONAL ASSISTANCE FOR ON-JOB TRAINING, AND FOR EDUCATION LOANS

SEC. 203. (a) Subsection (b) of section 1774 is amended to read as follows:

"(b) The allowance for administrative expenses incurred pursuant to subsection (a) of this section shall be paid in accordance with the following formula:

"Total salary cost reimbursable under this section	Allowable for administrative expense
$5,000 or less	$693.
Over $5,000 but not exceeding $10,000	$1,247.
Over $10,000 but not exceeding $35,000	$1,247 for the first $10,000, plus $1,155 for each additional $5,000 or fraction thereof.
Over $35,000 but not exceeding $40,000	$7,548.
Over $40,000 but not exceeding $75,000	$7,548 for the first $40,000, plus $999 for each additional $5,000 or fraction thereof.
Over $75,000 but not exceeding $80,000	$14,969.
Over $80,000	$14,969 for the first $80,000, plus $872 for each additional $5,000 or fraction thereof.".

(b) The table in section 1787(b)(1) is amended to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Periods of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
First 6 months	$249	$279	$305	$13
Second 6 months	186	217	243	13
Third 6 months	124	155	180	13
Fourth and any succeeding 6-month periods	62	92	119	13".

(c) Section 1798(b)(3) is amended by striking out "$311" and inserting in lieu thereof "$342".

TITLE III—EDUCATIONAL ASSISTANCE PROGRAM ADJUSTMENTS

PART A—EDUCATIONAL ASSISTANCE FOR VETERANS

CLARIFICATION OF AUTHORITY OF ADMINISTRATOR TO DISAPPROVE AN APPLICATION FOR BENEFITS IF ENROLLMENT OF THE APPLICANT WOULD VIOLATE ANY PROVISION OF CHAPTER 36

SEC. 301. The second sentence of section 1671 is amended to read as follows: "The Administrator shall approve such application unless the Administrator finds that (1) such veteran or person is not eligible for or entitled to the educational assistance applied for, (2) the veteran's or person's selected educational institution or training establishment fails to meet any of the requirements of this chapter or chapter 36 of this title, (3) the veteran's or person's enrollment in, or pursuit of, the program of education selected would violate any provision of this chapter or chapter 36 of this title, or (4) the veteran or person is already qualified.".

EXCEPTION IN CERTAIN CASES TO 50-PERCENT EMPLOYMENT RULE FOR VOCATIONAL COURSES

SEC. 302. Subsection (a) of section 1673 is amended by adding at the end thereof the following flush sentence:

"The provisions of clause (2) shall not apply to any course offered by an educational institution in any year if the total number of veterans and eligible persons (as defined in section 1701(a)(1) of this title) enrolled in the institution during the preceding two-year period did not exceed 35 per centum of the total enrollment in such institution during such period and the course had met the requirements of such clause for any two consecutive reporting periods.".

APPROVAL OF COURSES OFFERED THROUGH OPEN CIRCUIT TELEVISION

SEC. 303. Subsection (c) of section 1673 is amended by striking out ", if the major portion of the course requires conventional classroom or laboratory attendance"'.

ELIMINATION FROM COMPUTATION OF 85-15 RULE OF COUNTING OF PERSONS RECEIVING BASIC ECONOMIC OPPORTUNITY GRANTS AND SUPPLEMENTAL OPPORTUNITY GRANTS

SEC. 304. The first sentence of section 1673 (d) is amended—

(1) by striking out the comma after "institution" and inserting in lieu thereof "or"; and

(2) by striking out "and/or by grants from any Federal agency".

STANDARDS FOR DETERMINING SATISFACTORY PROGRESS

SEC. 305. Section 1674 is amended by striking out the second sentence thereof.

EDUCATION OUTSIDE THE UNITED STATES

SEC. 306. The text of section 1676 is amended to read as follows:

"(a) An eligible veteran may not enroll in any course at an educational institution which is not located in a State unless such veteran enrolls in an approved course leading to a standard college degree (or the equivalent of a standard college degree) to be pursued at an educational institution of higher learning so recognized by the foreign government's commissioner of education, or the equivalent, and approved by the Administrator.

"(b) The Administrator, in the Administrator's discretion, may deny or discontinue the educational assistance under this chapter of any veteran in a foreign educational institution if the Administrator determines that such enrollment is not in the best interest of the veteran or the Government.".

EDUCATIONAL ASSISTANCE ALLOWANCE FOR CONTINUING EDUCATION REQUIRED BY LAW

SEC. 307. (a) Paragraph (1) of section 1682(d) is amended to read as follows:

"(1) Notwithstanding the provisions of section 1671 of this title prohibiting the enrollment of an eligible veteran in a program of education in which such veteran has already qualified, an otherwise eligible veteran shall be allowed educational assistance for up to six months (or the equivalent thereof in part-time assistance) for (A) the pursuit of refresher training to permit such veteran to update such veteran's knowledge and skills and to be instructed in the technological advances which have occurred in such veteran's field of employment during and since the period of such veteran's active military service, and (B) the pursuit of continuing education or training required by Federal, State, or local law either to attain professional or vocational relicensure or to retain employment in a particular profession or vocation.".

(b) Paragraph (2) of such section is amended by striking out "refresher" and inserting in lieu thereof "education or".

COMPUTATION OF EDUCATIONAL ASSISTANCE ALLOWANCE FOR VETERANS PURSUING COURSES BY OPEN CIRCUIT TELEVISION

SEC. 308. Section 1682 is amended by adding at the end thereof the following new subsection:

"(f) The educational assistance allowance of an eligible veteran pursuing a course in part by open circuit television, as provided in section 1673 of this chapter, shall be computed in the same manner as for an independent study program as provided in subsection (e) of this section.".

DISQUALIFICATION OF CERTAIN FAMILY MEMBERS FROM ELIGIBILITY AS QUALIFIED TUTORS

SEC. 309. Section 1692(b)(2) is amended by inserting "and is not the eligible veteran's parent, spouse, brother, or sister" after "is qualified".

PART B—EDUCATIONAL ASSISTANCE FOR DEPENDENTS AND SURVIVORS

REPEAL OF MANDATORY COUNSELING FOR DEPENDENTS

SEC. 311. (a) Section 1713 is amended by striking out "provisionally" and "provisional".

(b) Section 1720(a) is amended—

(1) by striking out "required" and inserting in lieu thereof "authorized"; and

(2) by striking out "shall arrange for, and the eligible person shall take advantage of," and inserting in lieu thereof "may, on request, arrange for"; and

(3) by striking out the second sentence thereof.

(c) Section 1761(a) is amended—

(1) by striking out "required" and inserting in lieu thereof "authorized"; and

(2) by striking out "or require".

CLARIFICATION OF AUTHORITY OF ADMINISTRATOR TO DISAPPROVE AN APPLICATION FOR BENEFITS IF ENROLLMENT OF THE APPLICANT WOULD VIOLATE ANY PROVISION OF CHAPTER 36

SEC. 312. The text of section 1721 is amended to read as follows:

"The Administrator shall finally approve an application if the Administrator finds that—

"(1) section 1720 of this title has been complied with;

"(2) the proposed program of education constitutes a 'program of education' as that term is defined in this chapter;

"(3) the eligible person is not already qualified, by reason of previous education or training, for the educational, professional, or vocational objective for which the courses of the program of education are offered;

"(4) the eligible person's proposed educational institution or training establishment is in compliance with all the requirements of this chapter and chapter 36 of this title; and

"(5) it does not appear that the enrollment in or pursuit of such person's program of education would violate any provision of this chapter or chapter 36 of this title.".

EXCEPTION IN CERTAIN CASES TO 50-PERCENT EMPLOYMENT RULE FOR VOCATIONAL COURSES

SEC. 313. (a) Section 1723(a) is amended by adding at the end thereof the following flush sentence:

"The provisions of clause (2) shall not apply to any course offered by an educational institution in any year if the total number of veterans and eligible persons enrolled in the institution during the preceding two-year period did not exceed 35 per centum of the total enrollment in such institution during such period and the course had met the requirements of such clause for any two consecutive reporting periods.".

COURSES PURSUED THROUGH OPEN CIRCUIT TELEVISION

SEC. 314. Subsection (c) of section 1723 is amended to read as follows:

"(c) The Administrator shall not approve the enrollment of an eligible person in any course to be pursued by open circuit television (except as herein provided) or by radio. The Administrator may approve the enrollment of an eligible person in a course, to be pursued in residence, leading to a standard college degree which includes, as an integral part thereof, subjects offered through the medium of open circuit television.".

EDUCATION OUTSIDE THE UNITED STATES

SEC. 315. Section 1723 is further amended by adding at the end thereof the following new subsection:

"(e)(1) An eligible person may not enroll in any course at an educational institution which is not located in a State or in the Republic of the Philippines, unless such person enrolls in an approved course leading to a standard college degree (or the equivalent of a standard college degree) to be pursued at an educational institution of higher learning so recognized by the foreign government's commissioner of education, or the equivalent, and approved by the Administrator.

"(2) The Administrator, in the Administrator's discretion, may deny or discontinue the educational assistance under this chapter of any eligible person in a foreign educational institution if the Administrator determines that such enrollment is not in the best interest of the eligible person or the Government.".

STANDARDS FOR DETERMINING SATISFACTORY PROGRESS

SEC. 316. Section 1724 is amended by striking out the second sentence thereof.

PAYMENT OF EDUCATIONAL ASSISTANCE ALLOWANCE TO OR ON BEHALF OF ELIGIBLE PERSONS

SEC. 317. The text of section 1731 is amended to read as follows:

"(a) The Administrator shall, in accordance with the applicable provisions of this section and of chapter 36 of this title, pay to each eligible person (or to the parent or guardian of the eligible person where applicable) who is pursuing a program of education under this chapter an educational assistance allowance to meet, in part, the expenses of the eligible person's subsistence, tuition, fees, supplies, books, equipment, and other educational costs.

"(b) The educational asistance allowance of an eligible person pursuing a program of education at an educational institution shall be paid as provided in chapter 36 of this title.".

COMPUTATION OF EDUCATIONAL ASSISTANCE ALLOWANCE OF ELIGIBLE PERSONS PURSUING COURSES BY OPEN CIRCUIT TELEVISION

SEC. 318. Section 1732(c) is amended by adding at the end thereof the following new paragraph:

"(4) The monthly educational assistance allowance to be paid on behalf of an eligible person pursuing a course in part by open circuit television, as authorized in section 1723(c) of this title, shall be computed in the same manner as for an independent study program as provided in section 1682 (e) of this title.".

PART C—AMENDMENTS RELATING TO ADMINISTRATION OF EDUCATIONAL BENEFITS

PERIOD FOR WHICH EDUCATIONAL ASSISTANCE ALLOWANCE MAY BE PAID

SEC. 321. (a) Subsection (a) of section 1780 is amended—

(1) by inserting "in, and pursuit of, such program" afer "enrollment" in the second sentence thereof;

(2) by inserting ", the provisions of such regulations as may be promulgated by the Administrator pursuant to subsection (f) of this section," in clause (1) after institution"; and

(3) by striking the semicolon at the end of such clause and inserting in lieu thereof ", and if the actual period of time for pursuit of one or more unit subjects is for a period of time shorter than the enrollment period at the educational institution, payment may be only for the actual period of such pursuit;".

(b) Subsection (g) of such section is amended by inserting "and define" after "determine" in the first sentence thereof.

REPORTS BY VETERANS, ELIGIBLE PERSONS, AND EDUCATIONAL INSTITUTIONS TO THE VETERANS' ADMINISTRATION

SEC. 322. (a)(1) The heading of section 1784 is amended to read as follows:

"§ 1784. Reports by veterans, eligible persons and institutions; reporting fee".

(2) Subsection (a) of such section is amended—

(A) by striking out "Educational" and inserting in lieu thereof "Veterans, eligible persons, and educational"; and

(B) inserting "such" after "each."

(3) Subsection (b) of such section is redesignated as subsection (c).

(4) Such section is further amended by inserting after subsection (a) the following new subsection:

"(b) Educational institutions shall, without delay, report to the Administrator any fact which the educational institution knows or through the exercise of reasonable diligence should know which indicates the course or educational institution does not, or has not, met any of the requirements of chapters 34, 35, or 36 of this title.".

(b) The item relating to such section in the table of sections at the beginning of chapter 36 is amended to read as follows:

"1784. Reports by veterans, eligible persons and institution; reporting fee.".

MEASUREMENT OF COURSES

SEC. 323. (a) Section 1788(a)(4) is amended—

(1) by inserting "in residence" after "university" the first place it appears.

(2) by inserting "standard" after "on a";

(3) by inserting "per semester" after "fourteen semester hours" the first place it appears; and

(b) by striking out "and which the educational institution considers to be quarter or semester hours for other administrative purposes" after "deficiency".

(b) Section 1788 is further amended by adding at the end thereof the following new subsection:

"(c) For the purposes of subsection (a)(4) of this section, the term 'in residence on a standard quarter- or semester-hour basis' means study at a site or campus of a college or university, or off-campus at an official resident center, requiring pursuit of regularly scheduled weekly class instruction at the rate of one standard class session per week throughout the quarter or semester for one quarter or one semester hour of credit, and a standard class session is defined as one hour (or one fifty-minute period) of academic instruction, two hours of laboratory instruction, or three hours of workshop training.".

(c) Such section is further amended by inserting "(a)(1)" in clauses (1) and (2) of subsection (a) after "1775".

BREAKS IN EDUCATION WHICH ARE NOT COUNTED AS ABSENCES

SEC. 324. (a) Section 1780(a)(2) is amended by striking out the semicolon at the end of such section and inserting in lieu thereof ", intervals between terms which do not exceed fifteen calendar days, and periods when the institution is not in session because of teacher conferences or teacher training sessions (not to exceed five days in any twelve-month period);".

(b) Section 1780(a)(C), is amended by inserting "in excess of fifteen calendar days" after "periods" the third place it appears.

ADVISORY COMMITTEE ON VETERANS' EDUCATIONAL ASSISTANCE PROGRAMS

SEC. 325. The text of section 1792 is amended to read as follows:

"(a) There shall be an advisory committee formed by the Administrator which shall be composed of persons who are eminent in their respective fields of education, labor, and management, and of representatives of institutions and establishments furnishing education to eligible persons or veterans enrolled under chapter 32, 34, or 35 of this title. The committee shall also include veterans representatives of World War II, the Korean conflict era, the post-Korean conflict era, the Vietnam era, and the post-Vietnam era. The Assistant Secretary of Education for Postsecondary Education and the Deputy Assistant Secretary of Labor for Veterans' Employment shall be ex officio members of the advisory committee.

"(b) The Administrator shall advise and consult with the committee from time to time with respect to the administration of this chapter and chapters 32, 34, and 35 of this title. The committee may make such reports and recommendations as it deems desirable to the Administrator and the Congress.

"(c) The committee shall remain in existence until December 31, 1989.".

TITLE IV—POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM ADJUSTMENTS

ELIGIBILITY OF CERTAIN VETERANS FOR THE POST-VIETNAM-ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM

SEC. 401. Section 1602(1)(A) is amended—

(1) by inserting "who is not eligible for educational assistance under chapter 34 of this title and" after "any veteran"; and

(2) by striking out "initially" in clauses (i) and (ii).

DISTRIBUTION OF UNUSED CONTRIBUTIONS TO VETERANS' EDUCATIONAL ASSISTANCE PROGRAM UPON DEATH OF PARTICIPANT

SEC. 402. Section 1624 is amended to read as follows:

"§ 1624. Death of participant

"If a participant dies while on active duty or after having been discharged or released from active duty, the amount of such participant's unused contributions to the fund shall be paid—

"(1) to the beneficiary or beneficiaries designated by such participant under such participant's Servicemen's Group Life Insurance policy, or

"(2) if no beneficiary has been designated under such policy or if the participant is not insured under the Servicemen's Group Life Insurance program, then—

"(A) to the surviving spouse of such participant;

"(B) if no surviving spouse, to the child or children of such participant and descendants of deceased children by representation;

"(C) if none of the above, to the parents of such participant or the survivor of them;

"(D) if none of the above, to the duly appointed executor or administrator of the estate of such participant; or

"(E) if none of the above, to other next of kin of such participant entitled under the laws of domicile of such participant at the time of death.".

TITLE V—VETERANS' EMPLOYMENT AND TRAINING PROGRAMS

ELIGIBILITY FOR JOB COUNSELING, TRAINING, AND PLACEMENT SERVICES

SEC. 501. (a) Section 2001 is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) The term 'veteran' means a person—

"(A) who served in the active military, naval, or air service for a period of more than 180 days and who was discharged or released therefrom with other than a dishonorable discharge; or

"(B) whose discharge or release from active duty was for a disability incurred or aggravated in the line of duty."; and

(2) by adding at the end thereof the following new paragraph:

"(4) The term 'disabled veteran' means a person (A) who is entitled to disability compensation under laws administered by the Veterans' Administration, or (B) whose discharge or release from active duty was for a disability incurred or aggravated in the line of duty.

"(5)(A) Subject to subparagraph (B) of this paragraph, the term 'Vietnam-era veteran' means a veteran any part of whose active military, naval or air service was during the Vietnam era.

"(B) No veteran may be considered to be a Vietnam-era veteran under this paragraph after December 31, 1989.".

(b) Section 2003 is amended—

(1) by striking out "manpower" in the fourth sentence and inserting in lieu thereof "employment"; and

(2) by inserting ", disabled veterans, and Vietnam-era veterans" in paragraph (6) after "eligible veterans".

REVISIONS IN ANNUAL REPORT ON PLACEMENT OF VETERANS BY THE SECRETARY OF LABOR

SEC. 502. (a) Subsection (a)(1) of section 2007 is amended by striking out ", especially those veterans who have been recently discharged or released from active duty,".

(b) Subsection (c) of such section is amended by striking out the second sentence and inserting in lieu thereof the following: "The report shall include, by State, the number of veterans, Vietnam-era veterans, disabled veterans, and eligible persons who registered for assistance with the public employment service system and, in each of such categories, the number referred to jobs, the number placed in jobs expected to last over 150 days, the number referred to and placed in job training programs and subsidized employment, the number who were counseled, and the number who received some reportable service.".

EXPANSION OF ELIGIBILITY FOR EMPLOYMENT AND TRAINING PROGRAM FOR DISABLED AND VIETNAM-ERA VETERAN

SEC. 503. Paragraphs (1) and (2) of section 2011 are amended to read as follows;

"(1) The term 'disabled veteran' has the meaning given such term in section 2001(4) of this title.

"(2) The term 'Vietnam-era veteran' has the meaning given such term in section 2001(5) of this title.".

VETERANS' EMPLOYMENT EMPHASIS IN FEDERAL CONTRACTS

SEC. 504. (a) Subsection (a) of section 2012 is amended—

(1) by striking out "veterans of the Vietnam era" in the first sentence and inserting in lieu thereof "Vietnam-era veterans" and

(2) by striking out "within 60 days after the date of enactment of this section, which regulations" and inserting in lieu thereof "which".

(b) Subsection (b) of such section is amended to read as follows:

"(b) If any disabled veteran or Vietnam-era veteran believes any contractor of the United States has failed to comply or refuses to comply with the provisions of the contractor's contract relating to the employment of veterans, the veteran may file a complaint with the Secretary of Labor, who shall promptly investigate such complaint and take appropriate action in accordance with the terms of the contract and applicable laws and regulations.".

EXPANSION OF ELIGIBILITY OF VETERANS FOR FEDERAL EMPLOYMENT AND TRAINING PROGRAMS

SEC. 505. (a) Section 2013 is amended—

(1) by striking out "(as defined in section 101(2) of this title) who served on active duty for a period of more than 180 days or was discharged or released from active duty for a service-connected disability"; and

(2) by striking out "public service employment" and all that follows in such section and inserting in lieu thereof "employment or training program financed in whole or in part with Federal funds.".

(b)(1) The heading of such section is amended to read as follows:

"§ 2013. Eligibility requirements for veterans under Federal employment and training programs".

(2) The item relating to such section in the table of sections at the beginning of chapter 42 of such title is amended to read as follows:

"2013. Eligibility requirements for veterans under Federal employment and training programs.".

EMPLOYMENT WITHIN THE FEDERAL GOVERNMENT

SEC. 506. Section 2014 is amended—

(1) in subsections (a) and (b)(1), by striking out "veterans of the Vietnam-era" and inserting in lieu thereof "Vietnam-era veterans";

(2) in subsection (b)—

(A) by striking out "veteran of the Vietnam era" in paragraphs (1)(B) and (1)(C) and inserting in lieu thereof "Vietnam-era veterans";

(B) by striking out paragraph (2) of such subsection and redesignating paragraph (3) thereof as paragraph (2);

(3) in subsection (c), by striking out "Public Law 93-112 (87 Stat. 391)" and inserting in lieu there of "the Rehabilitation Act of 1973 (29 U.S.C. 791(b))";

(4) in subsection (e), by striking out "such Public Law 93-112" and inserting in lieu thereof "the Rehabilitation Act of 1973 (29 U.S.C. 791(d))"; and

(5) by adding at the end thereof the following new subsection:

"(g) To further the policy stated in subsection (a) of this section, the Administrator may give preference to qualified disabled veterans and qualified veterans of the Vietnam era in selecting and appointing individuals for employment in the Veterans' Administration as veterans' benefits counselors and veterans' claims examiners.".

REEMPLOYMENT RIGHTS OF RESERVES CALLED TO ACTIVE DUTY

SEC. 507. (a) Subsection (c) and (g) of section 2024 are amended by striking out "three consecutive months" and inserting in lieu thereof "twelve consecutive weeks".

(b) Subsection (f) of such section is amended to read as follows:

(f) For the purposes of subsections (c) and (d) of this section, full-time training or other full-time duty performed by a member of the National Guard under section 316, 502, 503, 504, or 505 of title 32 is considered active duty for training. For the purposes of subsection (d) of this section, inactive duty training performed by that member under section 502 of title 32 or section 206, 301, 309, 402, or 1002 of title 37 is considered inactive duty training.".

TITLE VI—COST-SAVINGS PROVISIONS

REPEAL OF AUTHORITY FOR PURSUIT OF FLIGHT AND CORRESPONDENCE TRAINING

SEC. 601. (a) (1) Section 1631 is amended by striking out subsection (c).

(2) Section 1641 is amended to read as follows:

"§ 1641. Requirements

"The provisions of sections 1663, 1670, 1671, 1673, 1674, 1676, and 1683 of this title and the provisions of chapter 36 of this title, with the exception of sections 1777, 1780(b), and 1787, shall be applicable to the program.".

(b) (1) Section 1652(c) is amended by striking out "correspondence school,".

(2) Section 1662(c) is amended by striking out "or flight training within the provisions of section 1677 of this chapter,".

(3) Section 1673(b) is amended by striking out "except as provided in section 1677 of this title, the" and inserting in lieu thereof "The".

(4) (A) Section 1677, relating to flight training, is repealed.

(B) The table of sections at the beginning of chapter 34 is amended by striking out the item relating to section 1677.

(5) Section 1681 is amended—

(A) in subsection (b), by striking out ", other than a program exclusively by correspondence or a program of flight training,"; and

(B) by striking out subsection (c) (including the center heading preceding such subsection).

(6) Section 1682(a) (1) is amended by striking out "1677 or".

(7) (A) Section 1684 is amended to read as follows:

"§ 1684. Apprenticeship or other on-job training

"Any eligible veteran may pursue a program of apprenticeship or other on-job training and be paid a training assistance allowance as provided in section 1787 of this title.".

(B) The item relating to such section in the table of sections at the beginning of chapter 34 is amended to read as follows:

"1684. Apprenticeship or other on-job training.".

(c) (1) Section 1701(a) (6) is amended by striking out "correspondence school,".

(2) (A) Section 1734 is amended—

(i) by striking out "(a)"; and

(ii) by striking out subsection (b).

(B) The heading for such section is amended to read as follows:

"§ 1734. Apprenticeship or other on-job training".

(C) The item relating to such section in the table of sections at the beginning of chapter 35 is amended to read as follows:

"1734. Apprenticeship or other on-job training.".

(d) (1) Section 1780 is amended—

(A) in subsection (a)—

(i) by striking out ", other than a program by correspondence or a program of flight training,"; and

(ii) by striking out clause (5);

(B) by striking out subsection (b) (including the center heading preceding such subsection); and

(C) by redesignating subsections (c), (d), (e), (f), and (g) as subsections (b), (c), (d), (e), and (f), respectively.

(2) Section 1784(a) is amended by striking out "or, in the case of correspondence training, the late date a lesson was serviced by the school".

(3) (A) Section 1786, relating to correspondence courses, is repealed.

(B) The table of sections at the beginning of chapter 36 is amended by striking out the item relating to section 1786.

(4) The second sentence of section 1798(c) is amended by striking out "correspondence, flight,".

(e) Section 604(a) of the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (38 U.S.C. 1712 note) is amended by striking out "(1) eligible to pursue a program of education exclusively by correspondence by virtue of the provisions of sections 1786 of such title (as added by section 316 of this Act) or (2)".

DEDUCTION OF OVERPAYMENTS FROM FUTURE BENEFITS PAYMENTS AND REQUIREMENT THAT INTEREST AND OTHER COSTS BE CHARGED ON THE PAYMENT OF CERTAIN AMOUNTS DUE THE UNITED STATES

SEC. 602. (a) (1) Chapter 53 is amended by adding at the end thereof the following new sections:

"§ 3113. Overpayment adjustments

"(a) If there is an overpayment of compensation under chapter 11 of this title, an overpayment of dependency and indemnity compensation under chapter 13 of this title, an overpayment of pension under chapter 15 of this title, or section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978, or an overpayment of educational assistance benefits under chapter 31, 32, 34, 35, or 36 of this title, the amount of such overpayment shall be deducted (unless waived by the Administrator under section 3102 of this title) from any future payment made under laws administered by the Veterans' Administration to the person concerned.

"(b) The right of the Administrator to make deductions under this section shall not be subject to any limitation with respect to the time for bringing civil actions or for commencing administrative proceedings.

"§ 3114. Interest and other costs on delinquent payments of certain amounts due the United States

"(a) Subject to section 3102 of this title and to subsection (b) of this section, interest and administrative costs shall be charged on amounts owed to the United States for (1) overpayment of benefits under laws administered by the Veterans' Administration, or (2) the provision of care or services under chapter 17 of this title. Interest on such amounts shall accrue from the date of the initial notification of the amount due to the person or educational institution owing such amount. The administrative costs which may be collected are such amount of the cost to the Veterans' Administration of furnishing the benefit or care or services, and such amount of the cost of the collection of the amount owed the United States for such overpayment or care or services, as may be determined by the Administrator to be equitable.

"(b) Interest under this section shall not be charged if the amount due the United States is paid within a reasonable period of time. The Administrator shall prescribe by regulation what shall constitute a reasonable period of time for such payment.

"(c) The rate of interest to be charged under this section shall be based on the rate of interest paid by the United States for its borrowing and shall be determined under such regulations as the Administrator shall prescribe.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new items:

"3113. Overpayment adjustment.
"3114. Interest and other costs on delinquent payments of certain amounts due the United States.".

(b) (1) Subsection (a) of section 3102 is amended by inserting "(or any interest thereon)" after "overpayments".

(2) Subsection (c) of such section is amended by inserting "(or any interest thereon)" after "indebtedness" both places it appears.

(c) Section 415 is amended by striking out subsection (f) and redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

(d) Subsection (b) of section 506 is amended to read as follows:

"(b) If there is an overpayment of pension under section 521, 541, or 542 of this title or under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978, the amount of such overpayment shall be deducted (unless waived by the Administrator under section 3102 of this title) in accordance with section 3113 of this title.".

(e) The text of section 1785 is amended to read as follows:

"(a) Whenever the Administrator finds that an overpayment has been made to an eligible person or veteran, the amount of such overpayment shall constitute a liability of the eligible person or veteran to the United States.

"(b) Whenever the Administrator finds that an overpayment has been made to an eligible person or veteran as the result of (1) the willful or negligent failure of an educational institution to report as required by this chapter or chapter 34 or 35 of this title and applicable regulations, to the Veterans' Administration excessive absences from a course, or discontinuance or interruption of a course by the eligible person or veteran, or (2) false certification by an educational institution, the amount of such overpayment shall constitute a liability of the educational institution to the United States.

"(c) Any overpayment referred to in subsection (a) or (b) may be recovered, except as otherwise provided in section 1784(b) of this title, in the same manner as any other debt due the United States.

"(d) Any such overpayment may be waived as to the eligible person or veteran as provided by section 3102 of this title. Waiver of any such overpayment as to the eligible person or veteran shall in no event release the educational institution from liability under subsection (b).

"(e) (1) Any amount collected from the eligible person or veteran shall be reimbursed to the educational institution which is liable pursuant to subsection (b), to the extent that collection was made from the educational institution.

"(2) This section shall not preclude the imposition of any civil or criminal liability under this or any other law.

"(3) Nothing in this section or any other provision of this title shall be construed as requiring any instituton of higher learning to maintain daily attendance records for any course leading to a standard college degree.".

(f) Section 3114 of title 38, United States Code, as added by subsection (a) shall apply to payments of amounts due the United States which are made after the date of the enactment of this Act, but no interest shall accrue by virtue of such amendments for any period before such date.

DISCLOSURE OF CERTAIN INFORMATION BY THE VETERANS' ADMINISTRATION TO CONSUMER REPORTING AGENCIES

SEC. 603. (a) Subsection (f) of section 3301, relating to confidential nature of claims, is amended to read as follows:

"(f) (1) The Administrator may disclose the name or address, or both, of any person who is a present or former member of the Armed Forces or a dependent of a present or former member of the Armed Forces (and such other information concerning such person as is authorized to be released under subsection (e) of this section)—

"(A) to any nonprofit organization, if the release is directly connected with the conduct of programs and the utilization of benefits under this title;

"(B) to any criminal or civil law enforcement governmental agency or instrumentality charged under applicable law with the protection of the public health or safety, if a qualified representative of such agency or instrumentality has made a written request that such name or address, or both, be provided for a purpose authorized by law;

"(C) to any consumer reporting agency—

"(i) for the purpose of locating any such person—

"(I) if the person has been administratively determined to be indebted to the United States by virtue of participation in any Veterans' Administration benefits program; or

"(II) when necessary to conduct any study authorized by section 219 of this title or authorized or required by any other Federal law pertaining to the evaluation of veterans' benefits programs; or

"(ii) subject to paragraph (2) of this subsection, if the person has been determined by the Administrator to have failed to respond to administrative efforts to collect moneys owed by such person to the United States by virtue of participation in any Veterans' Administration benefits program; or

"(D) for use in connection with proceedings for the collection of amounts owed to the United States by virtue of the participation by such person in any Veterans' Administration benefits program.

"(2)(A) Disclosure of information under clause (C)(ii) of paragraph (1) of this subsection may only be made for the purpose of obtaining consumer reports in order to assess the ability of the person to repay the amount owed to the United States or to give notice of the outstanding obligation.

"(B) The Administrator may not disclose any information under clause (C)(ii) of paragraph (1) of this subsection which would give notice of a debt owed by any person to the United States until after thirty days have elapsed after reasonable efforts have been made to notify the person of the Administrator's intent to disclose information concerning the debt.

"(3) If a person to whom paragraph (1) of this subsection applies who has been administratively determined to be indebted to the United States by virtue of participation in any Veterans' Administration benefits program alleges that the Veterans' Administration is in error as to the existence or the amount of the indebtedness or alleges that repayment of all or any part of such indebtedness is not required, disclosure of such person's name and address may not be made under clause (C)(ii) of paragraph (1) of this subsection until a determination regarding the allegation has been made by the Administrator.

"(4) Section 552a of title 5 shall not apply to records released by the Administrator to a consumer reporting agency under a contract entered into to accomplish any of the purposes set forth in clause (C) of paragraph (1) of this subsection. The Administrator shall take reasonable steps to provide for the personal privacy of persons about whom information is disclosed under such clause.

"(5)(A) Any organization or member thereof or other person who, knowing that the use of any name or address released by the Administrator pursuant to paragraph (1) of this subsection (except as specified in subparagraph (B) of this paragraph) is limited to the purpose specified in such paragraph, willfully uses such name or address for a purpose other than those so specified, shall be guilty of a misdemeanor and be fined not more than $5,000 in the case of a first offense and not more than $20,000 in the case of any subsequent offense.

"(B) Subparagraph (A) of this paragraph shall not apply to the use of any name or address released by the Administrator to a consumer reporting agency under a contract entered into to accomplish any of the purposes of clause (C) of paragraph (1) of this subsection.

"(6) The Administrator shall prescribe regulations for the administration of paragraphs (1), (2), and (3) of this subsection.

"(7) For the purpose of this subsection, the term 'consumer reporting agency' means—

"(A) a consumer reporting agency, as such term is defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)); or

"(B) any organization (as determined by the Administrator) which provides to an agency described in subparagraph (A) of this paragraph information relating to the credit experience of persons.".

(b)(1) Subsection (c) of such section is amended—

(A) by inserting "(1)" after "(c)"; and

(B) by adding at the end of such subsection the following new paragraph:

"(2) Any appraisal report or certificate of reasonable value submitted to or prepared by the Veterans' Administration in connection with any home, condominium, or mobile home loan under chapter 37 of this title shall be made available to any person who applies for such report or certificate.".

(2) Such section is further amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) (as amended by subsection (a) of this section) the following new subsection (g):

"(g)(1) The Administrator may disclose the name or address, or both, of any person (and such other information relating to the identity of such person as the Administrator may prescribe) to any person in a category of persons described in regulations prescribed pursuant to paragraph (3) of this subsection, if the release of such information is necessary for the purpose of—

"(A) determining the creditworthiness, credit capacity, income, or financial resources of a person who has (i) applied for any benefit under chapter 37 of this title, or (ii) submitted an offer to the Administrator for the purchase of property acquired by the Administrator under section 1820(a)(5) of this title;

"(B) verifying, either before or after the Administrator has approved a person's application for assistance in the form of loan insurance or a loan guaranty under chapter 37 of this title, information submitted by a lender to the Administrator regarding the creditworthiness, credit capacity, income, or financial resources of such person.

"(C) offering for sale or other disposition by the Administrator, pursuant to section 1820 of this title, any loan or installment sale contract owned or held by the Administrator; or

"(D) providing assistance to any applicant for benefits under chapter 37 of this title or administering such benefits, so long as the Administrator records the fact of the disclosure in the records of the person concerned.

"(2) Section 552 of title 5 shall not apply to records released by the Administrator to a consumer reporting agency under a contract entered into to accomplish any of the purposes set forth in paragraph (1) of this subsection. The Administrator shall take reasonable steps to provide for the personal privacy of persons about whom information is disclosed under such paragraph. For the purposes of this paragraph, the term 'consumer reporting agency' has the meaning given such term by paragraph (7) of subsection (f) of this section.

"(3) The Administrator shall prescribe regulations for the administration of this subsection. Such regulations shall specify and describe the categories of persons to whom information may be released under paragraph (1) of this subsection.".

REPEAL OF AUTHORITY TO PURSUE PREDISCHARGE EDUCATION PROGRAM (PREP) UNDER CHAPTER 32

Sec. 604. (a) Section 1631 is amended—

(1) by striking out subsection (b); and

(2) by redesignating subsection (d) as subsection (b).

(b)(1) Subchapter VI of chapter 34 is repealed.

(2) Section 1661(c) is amended by striking out "subchapters V and VI" and inserting in lieu thereof "subchapter V".

(3) The table of sections at the beginning of such chapter is amended by striking out the item relating to subchapter VI and the items relating to sections 1695, 1696, 1697, and 1698.

(c)(1) Subsection (c) of section 1780 (as redesignated by section 601(d)(1)(C) is amended—

(A) in paragraph (2)—

(i) by striking out "(other than under subchapter VI of chapter 34)"; and

(ii) by striking out "paragraphs 5 (B) and (C) and (6)" and inserting in lieu thereof "paragraphs (4) (B) and (C) and (5)";

(B) by striking out paragraph (3);

(C) by redesignating paragraph (4) as paragraph (3);

(D) by redesignating paragraph (5) as paragraph (4) and striking out "paragraphs (2) and (3)" in such paragraph and inserting in lieu thereof "paragraph (2)"; and

(E) by redesignating paragraph (6) as paragraph (5) and striking out "paragraph (5)" in such paragraph and inserting in lieu thereof "paragraph (4)".

(2) Subsection (d) of such section (as redesignated by section 601(d)(1)(C) is amended by striking out "subsection (d)(2) and (3)" and inserting in lieu thereof "subsection (c)(2)".

(3) Subsection (e) of such section (as redesignated by section 601(d)(1)(C) is amended by striking out "(except as provided by subsection (d)(3) of this section)".

(4) Subsection (c) of section 1784 (as redesignated by section 322(a)(3)) is amended by striking out "section 1780(d)(5)" and inserting in lieu thereof "section 1780(c)(4)".

(5) Section 1788(a)(6) is amended by striking out "or 1696(a)(2)".

(6) Section 1789(b)(5) is amended by striking out "or VI".

(7) The second sentence of section 1798 (c) is amended by striking out ", or PREP".

(8) Section 1798(f)(2) is amended by striking out "section 1780(d)(5)" and inserting in lieu thereof "section 1780(c)(4)".

LIMITATION ON EDUCATIONAL ASSISTANCE ALLOWANCES OF INCARCERATED VETERANS AND INCARCERATED ELIGIBLE PERSONS

Sec. 605. (a) Section 1682(b) is amended—

(1) by striking out "or" at the end of clause (1);

(2) by adding "or" at the end of clause (2); and

(3) by inserting after clause (2) the following new clause:

"(3) in the case of a veteran who is incarcerated in a Federal, State, county, or local prison or jail,"

(b) Section 1732 is amended by adding at the end thereof the following new subsection:

"(e) In the case of an eligible person who is incarcerated in a Federal, State, or local prison or jail, the educational assistance allowance shall be at the same rate as prescribed in section 1682(b)(3) of this title for incarcerated veterans.".

(c) Section 1780(a) (as amended by section 601(d)(1)(A)) is further amended by inserting after clause (4) the following new clause (5):

"(5) to any eligible veteran or person incarcerated in a Federal, State, or local prison or jail for any course (A) for which the tuition and fees of the veteran or person are paid under any Federal program (other that a program administered by the Administrator) or under any State or local program, or (B) for which there are no tuition and fees.".

TITLE VII—TECHNICAL AMENDMENTS

TECHNICAL AMENDMENTS

SEC. 701. (a)(1) Section 1740 is amended by inserting "(as defined in section 1701(a)(1)(A) of this chapter)" after "person".

(b) Section 1790(b)(2) is amended by striking out "therefor" and inserting in lieu thereof "for".

(c) The GI Bill Improvement Act of 1977 (Public Law 95-202) is amended—

(1) by striking out "paragraph (1)" in section 305(b)(3) and inserting in lieu thereof "paragraph (2)"; and

(2) by striking out "honorand" in section 401(a)(1)(B) and inserting in lieu thereof "honorable".

TITLE VIII—EFFECTIVE DATE

EFFECTIVE DATE

SEC. 801. (a)(1) Except as provided in paragraph (2), the amendments made by title I shall take effect on October 1, 1980, or on the first day of the first month beginning after the end of the sixty-day period beginning on the date of the enactment of this Act, whichever is later.

(2) Section 1506 of title 38, United States Code, as amended by the amendment made by section 101(a), shall apply to payments of subsistence allowances for periods beginning after September 30, 1980.

(b) The amendments made by title II shall take effect on October 1, 1980.

(c)(1) Except as provided in paragraph (2), the amendments made by titles III, IV, V, and VI shall take effect on the first day of the first month beginning after the end of the sixty-day period beginning on the date of the enactment of this Act.

(2) The amendments made by sections 311, 601, and 604 shall take effect on October 1, 1980.

(d) The amendments made by title VII shall take effect on the date of the enactment of this Act.

The SPEAKER pro tempore (Mr. MURTHA). Is a second demanded?

Mr. HAMMERSCHMIDT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The gentleman from North Carolina (Mr. HEFNER) will be recognized for 20 minutes, and the gentleman from Arkansas (Mr. HAMMERSCHMIDT) will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. HEFNER).

Mr. HEFNER. Mr. Speaker, I yield myself such time as I may consume. I am pleased to present to the House a comprehensive veterans' rehabilitation and education bill developed and recommended by the Subcommittee on Education, Training, and Employment, of which I am privileged to serve as chairman. H.R. 7394 is the end result of a number of hearings held by the subcommittee in Washington and in the field. These hearings included legislative proposals recommended by the administration regarding the rehabilitation, education, and training programs administered by the Veterans' Administration. H.R. 7394 contains eight titles, and I will briefly describe the provisions of each:

Title I revises and updates the Vocational Rehabilitation Program for service-connected veterans to enable veterans to attain independence, become employable, and obtain and maintain employment. It also includes a 17-percent cost-of-living increase in living allowances under this program.

During the first session of the 96th Congress, my subcommittee developed and recommended H.R. 5288, the Veterans' Rehabilitation and Education Amendments of 1979. H.R. 5288 was reported by the committee on October 4, 1979, and passed by the House on October 16, 1979, by a vote of 405 to 1. Subsequently, on January 24, 1980, the Senate passed H.R. 5288 after substituting the provisions of S. 870, as amended.

Most of the provisions of title I of H.R. 7394 were approved when the House passed H.R. 5288. Therefore, I will not review the vocational rehabilitation provisions of title I at this time.

Title II proposes a 10-percent cost-of-living increase in veterans' educational and training programs, which is within the budget limitations of the first concurrent resolution on the budget for fiscal year 1981 (H. Con. Res. 307).

The Subcommittee on Education, Training, and Employment considered a bill which proposed a 15-percent cost-of-living increase for veterans and persons taking training and education under programs administered by the Veterans' Administration. However, to comply with the limitations imposed by the first concurrent budget resolution for fiscal year 1981, House Concurrent Resolution 307, H.R. 7394 would increase Veterans' Administration education and training programs by only 10 percent.

Title III proposes a number of educational assistance program adjustments. Most of these provisions are included in H.R. 5288 as approved by the House on October 16, 1979. The purpose of these amendments is to improve and strengthen the administration of veterans' education and training programs. Inasmuch as most of the provisions of title III were approved by the House when it passed H.R. 5288 on October 16, 1979. I will not review them again at this time.

Title IV contains two minor amendments to the post-Vietnam-era veterans educational assistance program for persons who entered on active duty in the Armed Forces since January 1, 1977. These two amendments were recommended by the Veterans' Administration, and are intended to improve the administration of the contributory education assistance program for members of the All-Volunteer Armed Forces.

Title V revises eligibility for veterans employment and training programs administered by Department of Labor.

There are a number of preferences granted veterans who seek jobs or job assistance at local public employment agencies. These programs are under the jurisdiction of the Department of Labor, and were approved by Congress to help veterans seeking employment in the private sector. The proposed revisions in title V are strongly supported by veterans organizations and believed to be a long step toward making existing Department of Labor job preference programs for veterans, more effective and meaningful, especially for Vietnam and disabled veterans.

Title VI includes cost savings provisions totaling $180 million. The first concurrent budget resolution has mandated that the Veterans' Affairs Committee recommend $400 million in legislative savings. The Subcommittee on Education, Training, and Employment has recommended a number of provisions, including terminating three programs, to help achieve this goal.

Presently, the Veterans' Administration is owed over $400 million in education overpayments. These outstanding debts are of deep concern to the committee. Three provisions of title VI would expand the authority of the Veterans' Administration to collect these outstanding debts.

One provision will allow the Veterans' Administration to disclose names and addresses of veterans, and other information to consumer reporting agencies or credit bureaus for debt collection purposes. Another would authorize the Veterans' Administration to charge interest on these debts, plus an additional charge to cover the administrative costs of recovering the debts. A third provision makes it clear that there is no time limitation on offsetting of debts against future veterans' benefits payments administered by the Veterans' Administration. According to the Congressional Budget Office estimates, these three provisions will realize cost savings of $116 million for fiscal year 1981.

Title VI also includes the termination of three programs effective October 1, 1980; namely, flight and correspondence courses under the GI bill, and predischarge training for those participating in the post-Vietnam-era educational assistance program. The House has already approved ending the PREP program when it passed H.R. 5288. Terminating flight and correspondence training is in response to the reconciliation mandate as approved in the first concurrent budget resolution (H. Con. Res. 307). Terminating these three programs will realize costs savings of an estimated $58 million for fiscal year 1981. Another cost savings provision in title VI would place a limitation on payments for incarcerated veterans, which will realize a cost savings of $6.2 million for fiscal year 1981.

The chairman has included in the reconciliation recommendations by our committee, which were submitted to the Budget Committee, all of the provisions of title VI to help meet the reconciliation instructions contained in House Congressional Resolution 307, which sets forth the congressional budget for fiscal years 1981, 1982, and 1983. Since the Subcommittee on Education, Training, and Employment made the difficult decision to recommend costs savings, as required by the budget resolution, it was the decision of the subcommittee to have these provisions made a part of H.R. 7394. The total cost of the bill exceeds $300 million, but because of the cost savings provisions in title VI, the net cost of H.R. 7394 is $123.5 million in budget authority and approximately $95 million in estimated outlays for fiscal year 1981.

Title VII includes technical amendments.

Title VIII provides that the cost-of-living increase and termination of programs, which will realize cost savings for fiscal year 1981 will be effective October 1, 1980.

Mr. Speaker, I want to express my deep appreciation to the distinguished chairman of the full committee, Mr. **ROBERTS** of Texas, and the distinguished minority member of the full committee, Mr. **HAMMERSCHMIDT** of Arkansas, for their cooperation and assistance in helping to bring this legislation to the floor today. I am also grateful to the ranking minority member of the subcommittee, Mrs. **HECKLER** of Massachusetts, for her assistance. I want to thank every other member of the subcommittee who worked in getting this bill before the House. It will provide substanial help to many service-connected disabled veterans, especially those with severe disabilities and make other improvements to veterans education and training programs. The bill was reported unanimously by the full committee.

Mr. Speaker, I urge that H..R 7394 be adopted.

TITLE I—REVISION OF VOCATIONAL REHABILITATION PROGRAM

Mr. Speaker, the vocational rehabilitation program (ch. 31, title 38 U.S.C.) is for veterans who are in need of vocational rehabilitation to overcome a handicap resulting from service-connected disabilities. They may receive up to 48 months of education or training to restore their employability "unless a longer period is prescribed by the (VA) Administrator." The full cost of their training is paid by the Veterans' Administration and, in addition, they receive a subsistence allowance while in training and for 2 months after rehabilitation. These disabled veterans are provided counseling assistance in selecting a suitable objective and planning a program of rehabilitation training. While in training they are provided continuing help by vocational rehabilitation specialists. Necessary employment assistance is provided following completion of training.

As of January 30, 1980, more than 831,700 disabled veterans had trained under the vocational rehabilitation program since July 1943, and nearly 109,000 of these were disabled Vietnam era veterans. The Veterans' Administration has estimated that more than 27,600 veterans will train under this program during fiscal year 1980.

Most of the provisions of title I were approved by the House when it passed H.R. 5288 on October 16, 1979. Therefore, I will not further discuss these provisions, except to indicate that I am having made a part of my remarks a section-by-section analysis of each provision of H.R. 7394, which includes an explanation of the changes proposed in title I as enacted into law will update the vocational rehabilitation program for service-connected veterans.

TITLE II—GI BILL RATE INCREASE

Title II of the bill includes a 10 percent cost-of-living increase in all education and training programs administered by the Veterans' Administration, with the exception of the vocational rehabilitation program.

The last rate increase went into effect on October 1, 1977.

Although our committee had recommended to the Committee on the Budget that the benefit level be increased by 15 percent effective October 1, 1980, the Committee on the Budget limited the funding level to only 10 percent, the level requested by the administration. In order to comply with the targets contained in House Concurrent Resolution 307, the reported bill contains only a 10-percent increase in the rate. The rate increase would be applicable to the following programs, effective October 1, 1980: GI bill (chapter 34); dependents' education and training program (chapter 35); cooperative training; restorative training; on-the-job and apprenticeship training; the aggregate amount a veteran may borrow under the Veterans' Administration education loan program; farm cooperative training; tutorial assistance, and the reimbursable expenses for State approving agencies.

There follows a table of rates paid under the GI bill since 1966, including the rates resulting from the 10-percent increase contained in the reported bill:

Law and type of course	Single veteran	Veteran and 1 dependent	Veteran and 2 dependents	Additional dependents
Public Law 89–358, June 1, 1966: Full-time institutional	$100	$125	$150	----------
Public Law 90–77, Oct. 1, 1967:				
Full-time institutional	130	155	175	$10
Full-time cooperative farm	105	125	145	7
Full-time on-job training	80	90	100	----------
Public Law 91–219, Feb. 1, 1970:				
Full-time institutional	175	205	230	13
Full-time cooperative farm	141	165	190	10
Full-time on-job training	108	120	133	----------
Public Law 92–540, Oct. 1, 1972:				
Full-time institutional	220	261	298	18
Full-time cooperative farm	177	208	236	14
Full-time on-job training	160	179	196	8
Public Law 93–508, Dec. 3, 1974, retroactive to Sept. 1, 1974:				
Full-time institutional	270	321	366	22
Full-time cooperative farm	217	255	289	17
Full-time on-job training	189	212	232	9
Public Law 93–602, Jan. 1, 1975: Full-time institutional	196	220	240	10
Public Law 94–502, Oct. 15, 1976:				
Full-time institutional	292	347	396	24
Full-time cooperative farm	235	276	313	18
Full-time on-job training	212	238	260	11
Public Law 95–202, Oct. 1, 1977:				
Full-time institutional	311	270	422	26
Full-time cooperative farm	251	294	334	19
Full-time on-job training	226	254	277	12
10 percent increase as contained in the reported bill will increase the rates to the following amounts:				
Full-time institutional	342	407	464	29
Full-time cooperative farm	276	323	367	21
Full-time on-job training	249	279	305	13

TITLE III—GI BILL EDUCATIONAL ASSISTANCE PROGRAM ADJUSTMENTS

The current GI bill program was established by Public Law 89–358 approved March 3, 1966, and is currently authorized by chapters 34 and 36, title 38, USC. It provides educational assistance allowances, mainly on a monthly basis, in order to restore lost educational opportunities to those individuals whose careers were interrupted or impeded by reason of active military service after January 31, 1955, and before January 1, 1977. In addition, tutorial assistance allowances, work-study allowances, and counseling services are available to eligible veterans. Cumulatively, since the inception of the current GI bill program, over 7.6 million veterans and active duty personnel have received $30 billion in educational assistance through September 1979.

As I previously indicated, the majority of the provisions in title III were approved by the House when it passed H.R. 5288 on October 16, 1979, therefore, I will not further discuss these provisions.

TITLE IV—POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM ADJUSTMENTS

The post-Vietnam-era veterans' educational assistance program (ch. 32, title 38 U.S.C.) was enacted to provide educational assistance to those persons who enter the Armed Forces after December 31, 1976, to assist young men and women in obtaining an education they might not otherwise be able to afford, and to promote and assist the all-volunteer military program of the United States by attracting qualified persons to serve in the Armed Forces. To be eligible for training under this program the person must have served 181 days or more, have been released under conditions other than dishonorable and have participated in a payroll deduction plan. Benefits will be accumulated by including contributions from the participating serviceperson with matching funds from the VA at the rate of $2 for each $1 contributed by the participant. DOD may contribute an additional unspecified amount. The participant's contributions are limited to the range of $50 to $75 monthly and a total maximum of $2,700. Entitlement is limited to a maximum of 36 months or the number of months of participation, whichever is less.

It is estimated that more than 11,000 are taking training under the chapter 32 program during fiscal year 1980, and that an estimated 15,000 will be training under this program in fiscal year 1981.

Title IV includes a provision to allow certain veterans with active duty prior to January 1, 1977, to become eligible to participate in the post-Vietnam-era educational assistance program (VEAP), and a provision to provide for the distribution of unused contributions made under the VEAP Program upon the death of the participant.

TITLE V—REVISION OF ELIGIBILITY FOR VETERANS' EMPLOYMENT AND TRAINING PROGRAMS

Employment programs for veterans are generally under the jurisdiction of the Department of Labor with the Deputy Assistant Secretary for Veterans Employment having responsibility for monitoring the program.

Chapter 41—job counseling, training, and placement service for veterans—concerns programs and initiatives the intent of which is to establish an effective: (1) Job and job training counseling service program; (2) employment placement service program; and (3) job training placement service program for eligible veterans and eligible persons. Chapter 42—employment and training of disabled and Vietnam era veterans—concerns: (1) Disabled veterans' and Vietnam era veterans employment emphasis under Federal contracts; (2) several modifications of the eligibility requirements for persons attempting to qualify for certain Federal manpower training programs; and (3) options for employment and training (or combinations of employment and training) within the Federal Government. Veterans' reemployment rights, chapter 43, concerns the reemployment rights of persons who leave their jobs to perform training or service in the Armed Forces and the rights of persons who are members of the National Guard or members of the Reserves. Chapter 43 also concerns employers' obligations to returning veterans and to members of the National Guard and the Reserves.

Title V would amend section 2001 of title 38 to group all veterans definitions for Department of Labor (DOL) programs (except Comprehensive Employment and Training Act (CETA) which is a separate law) in chapter 41 of title 38. This is an improvement over existing title 38 provisions because chapter 41 refers to all Department of Labor employment and training programs for veterans. In addition, the changes would revise the veterans definitions to make improvements or simplifications.

The definition of "veteran" would be changed to add the requirement for more than 180 days of active military service to be considered a veteran. This revision makes chapter 41 compatible with other veterans benefits and programs in regard to length of service required such as chapter 34 of title 38.

The term "disabled veteran" would be revised to remove the requirement for a 30-percent disability rating. This makes chapter 41 compatible with the fact that percentage of disability does not necessarily equate with the employability of the disabled veteran, as in chapter 31, the vocational rehabilitation program, nor does it reflect the degree of need for employment and training services.

The term "Vietnam era veteran" would replace the current definition "veteran of the Vietnam era." The revision also removes the limitation of separation within 48 months of the date of application for services to be considered as a Vietnam era veteran. In addition, the proposal attaches a delimiting date of December 31, 1989, to the definition or, stated differently, after that date there will be no designation for Vietnam era veterans in chapter 41.

TITLE VI—COST SAVINGS PROVISIONS

Most distressing to the committee for a period of years has been the staggeringly high number of educational overpayments, totaling over $1 billion which the Veterans' Administration has been unsuccessful in collecting from veterans. Overpayments occur when the veteran accepts a payment, to which the veteran is not entitled, for an education or training course. By the time the Veterans' Administration has received notice from either the veteran or the school, the veteran has already been paid a number of months for terminated education or training courses. In some instances, these overpayments represent fairly large amounts of money. However, according to a General Accounting Office study of this problem, there are a high number of outstanding debts which are $600 or less, representing close to $200 million in debts. These debts will never be collected because the Veterans' Administration, until recently, has been either unwilling or unable to establish necessary procedures to reach these veterans and make a prompt recovery of these outstanding debts. This has been of great concern to this committee and the General Accounting Office.

The policy has been for the Veterans' Administration to send three computer-generated letters from a central office in St. Paul, Minn., to the veteran. This procedure has resulted in reducing some of the overpayments.

When the Veterans' Administration is unsuccessful in collecting these debts, it turns the cases over to the Justice Department for further action. However, there is an established policy under which the U.S. attorneys, assigned to U.S. district courts, do not take action against persons whose indebtedness to the Government is $600 or less. Further, under the present laws administered by the Veterans' Administration, there is no way that the Veterans' Administration is able to adversely affect the credit of persons who have an outstanding debt because of an educational or other overpayment.

The net result of the present situation is that veterans with a debt of $600 or less are immune from court or administrative process, which is a disincentive for veterans to repay the debt. In fact, the committee learned that many veterans repay the outstanding debt until the debt is $600 or less knowing that they will not be reachable under current Department of Justice and Veterans' Administration procedures. A number of hearings, which have been described in another section of this report, have left no doubt that the Veterans' Administration needs additional authority if it is to successfully recover this huge amount of bad debts, currently running close to $600 million during fiscal year 1980.

Not only did the Subcommittee on Education, Training and Employment conduct several oversight and legislative hearings including the problems of outstanding debts which include overpayments of education, compensation, pension, and hospital benefits, but the Subcommittee on Special Investigations, chaired by the Honorable RONALD MOTTL, also addressed itself to the problems of waste, fraud and mismanagement in the Veterans' Administration. Both subcommittees have strongly recommended that action be taken by the committee to strengthen the hand of the Veterans' Administration to recover these outstanding debts. At the same time, veterans' rights are to be protected and the Veterans' Administration is to implement new authority only after making certain that the veteran has had ample opportunity to receive notice and make restitution of the debt before these procedures are brought into effect.

On July 31, 1979, the Subcommittee on Education, Training and Employment, conducted hearings on H.R. 4764 to permit disclosure of names, addresses, and other information maintained by the VA to consumer reporting agencies for certain debt collection purposes. The committee recognizes that disclosure of names and addresses for the purposes mentioned above requires safeguards against potential misuses of such information. The committee's bill requires the VA to take reasonable steps to notify every debtor of the possibility that his or her credit rating could be affected if the debt is not repaid. In addition, the reported bill requires the VA to reexamine their records, in any case where the debtor alleges error, before releasing information about the debt to a consumer reporting agency. Once information about the debt is released to the consumer reporting agency, the debtor may exercise rights afforded by the Fair Credit Reporting Act. The committee also assumes that the VA will exercise its authority to release debt information in a prudent and responsible manner. Taken together, these safeguards should eliminate any serious problems which could arise from this new practice.

The subcommittee received testimony from the Veterans' Administration (VA), the General Accounting Office (GAO), The American Legion, AMVETS, and the Non-Commissioned Officers Association.

This and subsequent hearings demonstrated that a number of unresolved issues have impeded Federal debt collection efforts in general and the VA in particular. Accordingly, VA and Federal debt collection in general has not kept pace with the increasing number of debts. The Federal Claims Collection Standards issued jointly by the Comptroller General and the Attorney General state:

> The head of an agency or his designee shall take aggressive action, on a timely basis with effective follow up, to collect all claims of the United States.

Section 603 of H.R. 7394 would amend section 3301 of title 38, United States Code, to permit disclosure of names and addresses and other information maintained by the Veterans' Administration to a consumer reporting agency for certain debt collection purposes. This section includes a prohibition against using information provided by the VA for a purpose other than that intended by the VA when it made the disclosure. This provision is intended to prevent credit bureaus from utilizing information disclosed for locator purposes, or in order to obtain a credit report, for any other purposes. Any other knowing use of VA information would be subject to the criminal penalties presently found in subsection (f).

The president of Associated Credit Bureaus, Inc., has informed the committee that the credit bureaus represented by this trade association are interested in cooperating with the Veterans' Administration in accomplishing the purposes of this legislation, but that they would be unwilling to do so if they had to set up special procedures to accommodate this one Federal agency.

It is the position of the committee that the language of section 603 is comprehensive enough to permit credit bureaus to treat VA inquiries and credit data in the same manner as private-sector inquiries and credit data. Accordingly, the committee would like the record to show that first, the primary objective of the legislation is to enable the Veterans' Administration to utilize commercial credit bureaus under the same terms and conditions as private-sector creditors to locate debtors, assess the ability of persons to repay their debts, and to give notice of outstanding obligations pursuant to the provisions of the Fair Credit Reporting Act; and second, nothing in the legislation should be interpreted as requiring credit bureaus to modify or otherwise change their operating and disclosure procedures in order to do business with the Veterans' Administration as long as the credit bureaus are in full compliance with the requirements of the Fair Credit Reporting Act.

A question has also been raised as to whether the Veterans' Administration's disclosure of information to a commercial credit bureau would constitute "a contract for the operation by or on behalf of the agency of a system of records to accomplish an agency function." 5 U.S.C. 552a(m). This subsection could require that the Privacy Act be applied to the credit bureau's record system. Under these contracts, the Veterans' Administration would provide certain information from its own system of records to private-sector systems operated by commercial credit bureaus in order to aid it in collecting delinquent debts.

It is the position of the committee that such contracts between a credit bureau and the Veterans' Administration, or any other Federal agency for that matter, would not be subject to subsection 552a(m) of the Privacy Act because the contract would not require the credit bureau to operate a system of records on behalf of the agency. Rather, the Veterans' Administration would contract to provide information to and receive information from a private-sector system of records previously established by the contractor for its own purposes. Moreover, the committee position on this matter is supported by a legal opinion contained in a September 27, 1979, letter from GAO's General Counsel to the Justice Department's Office of Legal Counsel.

Nevertheless, because there is still some uncertainty on the part of the Office of Management and Budget concerning this matter, the committee has included a clarifying statement in the bill to the effect that records disclosed to commercial credit bureaus pursuant to subsection 3301(f) of title 38, United States Code, are not subject to section 552a of title 5. It should not be inferred from this, however, that subsection 552a(m) is applicable to contracts between other Federal agencies and commercial credit bureaus.

The committee is confident the authority given the Administrator will greatly enhance his efforts to collect outstanding educational debts. According to the Congressional Budget Office, the Federal Government should realize savings totaling more than $20 million in fiscal year 1981 should the provision be enacted.

VA NOT AGGRESSIVE IN DEBT COLLECTION

Many agencies, including VA, have not been aggressive in pursuing debt collection, and present collection methods are expensive, slow, and ineffective when compared with commercial practices. Consequently, as of June 30, 1979, VA had on its books over $186 million in educational assistance overpayment accounts for which active collection action was no longer being taken. Unless the debtors of these VA accounts apply for future benefits from which the debts can be offset, there is little hope of future collection. In addition to the dormant or terminated debts, VA was actively pursuing $406 million in educational assistance overpayments as of April, 1980. Collection on some of these debts will be unsuccessful and the number of terminated accounts will continue to grow.

The number and amount of terminated accounts is evidence that VA's debt collection efforts are only partially effective. The VA's failure to collect debts is a disservice to veterans and American taxpayers. When veterans do not repay the VA, they are given benefits they are not entitled to and unauthorized money is given to veterans. Furthermore, it is unfair to veterans who repay their overpayments and other taxpayers who have to bear the cost of the uncollected overpayments.

VA'S CURRENT DEBT COLLECTION PROCESS

The current VA debt collection process involves sending computer generated collection letters to debtors. These letters give the debtor the opportunity to have the debt waived or compromised or to pay the debt on a repayment plan.

Many debtors do not respond to the VA collection letters and further VA collection action depends on the amount of the debt. If the debt is over $600 and VA determines the debtor has the ability to repay, the account can be referred to the Department of Justice for further collection and possible litigation.

With the exception of cases involved in the recently instituted test program at the VA to obtain repayment of these debts under $600 through action in the courts by VA attorneys, there has been no incentive for debtors to pay, once their accounts are terminated, because (1) they will not receive any additional requests for payment, (2) the debt will not be pursued through litigation, (3) no interest is being charged on the debt, and (4) the debt is not part of their credit history as recorded in a commercial credit bureau. Other would-be lenders to the debtor are unaware of the delinquent debt and, therefore, it is not a reflection on the debtor's credit worthiness. Until recently, all accounts which were less than $600, or over $600 but the debtor was unemployed, had insufficient income, or could not be located, were terminated. When an account is terminated, administrative collection action by the VA stops, and the debt is removed from the VA's Centralized Accounts Receivable System (CARS) where collection activities are conducted. The debt may then be collected in the future if the veteran applies for and receives additional educational or compensation and pension (C&P) benefits or if the veteran applies for a VA guaranteed home mortgage.

There is evidence that some veterans know the dollar limit for referral to GAO and Justice for further collection action. With this knowledge, veterans will pay only the balance of their VA debts above the dollar limit for referral, and then, under VA procedures, the account will be terminated. A VA official has stated that some veterans' organizations on campuses publicize the dollar limit and, in one case, the VA campus representative told the veteran what the dollar limit was. Because of the concern expressed by the committee regarding the continuing educational overpayments, the VA has now discontinued terminating cases on a large scale basis. However, no further collection efforts are being made on many cases due to limitations on conducting such activity. The reported bill will remove these limitations, thus allowing the VA to pursue collection efforts on terminated debts.

OFFSET AGAINST FUTURE BENEFITS MATCHING PROGRAM

In April 1979, VA instructed its regional offices to check guaranteed mortgage loan applicants to determine if they had an educational assistance overpayment account or a defaulted education loan. Since the inception of this program the VA has collected over $6.5 million. While the committee commends VA on initiating this program, they are disappointed that such a program was not initiated years ago when the magnitude of the educational assistance overpayment problem became apparent. The Federal Claims Collection Standards published in 1966 state that agencies seeking the collection of statutory penalties, forfeitures, or debts will, as an enforcement aid or for compelling compliance, give serious consideration to the suspension or revocation of licenses or other privileges for any inexcusable, prolonged, or repeated failure of a debtor to pay such claim. The committee believes these standards gave VA the authority to initiate a matching program long before 1979.

Additionally, the committee believes the matching program could be strengthened to be even more effective. The program has allowed veterans with delinquent educational assistance overpayment or defaulted education loans to pay VA on a repayment plan after their mortgage loan is guaranteed by VA. The VA, however, has no recourse against veterans if they stop paying once the guaranteed mortgage is approved and the debt owed is under $600. Also, there is no reason to believe debtors who have refused to pay VA before will faithfully follow a repayment plan, in the absence of a legally enforceable promissory note. In the business world it is unlikely a bank would make a loan to an individual if he or she had an outstanding delinquent debt.

The committee believes that guaranteed VA mortgages should not be approved until the veteran has made suitable and binding arrangements for repayment of the delinquent debt.

Furthermore, the VA has no criteria on how much regional offices should accept as a downpayment on the repayment plans. For example, in June 1979, the Philadelphia VA Center established 22 repayment plans on delinquent debts totaling $9,659. Initial cash received on these plans was only $210 or 2 percent of the outstanding indebtedness. Also, no interest is charged on delinquent educational assistance overpayments.

A final point on VA's matching program is that approximately 90 percent of guaranteed mortgage applications are submitted by automatic lenders. These lenders can commit VA to guaranteeing a loan. The current procedures require automatic lenders to ask veterans if they have any indebtedness to VA, and if there is an indebtedness, the lender is to instruct the veteran to clear the debt with VA.

The committee believes this procedure has potential for abuse because (1) it relies on the honesty of the debtor to admit a VA indebtedness and the diligence of the lender to question potential borrowers, and (2) there is no followup by VA to insure that lenders are following VA procedures. The VA should develop some method to determine the effectiveness of automatic lenders in the matching program.

In another method of offsetting benefits, the GAO found that of 1,200 terminated educational assistance overpayment accounts, 1 percent of the veterans were receiving payments for compensation and pension benefits. This indicates to the committee that VA's checking the offsetting benefits is not as effective as it should be and concurs with GAO's recommendation to VA in 1976 that a routine automated procedure to check for offsetting benefits is needed.

There are conflicting views that the Veterans' Administration is precluded from making deductions from future benefit payments because of the Federal statute of limitations with respect to the time a civil action may be brought or commenced for administrative proceedings. So that there will be no misunderstanding on this issue, the reported bill provides that overpayments will be deducted from any future payments made under laws administered by the Veterans' Administration to the person to whom the overpayment was made, and such overpayment has not been recovered or waived. According to the Congressional Budget Office, the Federal Government should realize savings totaling more than $30 million in fiscal year 1981 should the provision be enacted.

ASSESSMENT OF INTEREST AND ADMINISTRATIVE COSTS

The committee believes that the addition of interest and administrative costs, which could be avoided by prompt payment, would provide an added incentive to debtors to repay the debt, as well as a means of recovering a portion of the administrative costs of collection action. The bill provides that the rate of interest to be charged shall be based on the rate of interest paid by the United States for its borrowing. The VA will be responsible for determining a reasonable time period in which payment would avoid assessment of these costs. According to the Congressional Budget Office, the Federal Government should realize savings totaling more than $50 million in fiscal year 1981 should the provision be enacted.

TERMINATE FLIGHT, CORRESPONDENCE AND PREDISCHARGE TRAINING PROGRAMS

The first concurrent resolution on the budget for fiscal year 1981 includes reconcilitation instructions to eight House Committees to report legislation which would cut amounts from programs within their jurisdiction. The Committee on Veterans' Affairs was instructed under this reconciliation directive to report $400 million by July 2, 1980. In the report on the first concurrent budget resolution for fiscal year 1981, the Budget Committee listed a number of programs as legislative savings proposals to meet the reconciliation request. Two programs earmarked by the Budget Committee for a total savings of $57 million for fiscal year 1981 were flight and correspondence training benefits for veterans and their dependents under the GI bill, and the dependents education and training program.

The Veterans' Administration has requested the Congress to repeal the authority for flight and correspondence training for 4 straight years. In each instance your committee has rejected the VA recommendation to end these two programs.

In that regard, on March 26, 1979, the Veterans' Administrator transmitted a draft bill entitled GI bill Amendments Act of 1979, including a provision to repeal * * * authority for pursuit of flight training by veterans and the pursuit of correspondence training by veterans and dependents.

In justification for proposing the repeal of these two education and training programs, the Veterans' Administration referred to a report dated July 11, 1978, sent to the Congress by the Veterans' Administration, entitled "Study of Vocational Objective Programs Approved for the Enrollment of Veterans". The Veterans' Administration went on to say:

> We believe that the ineffectiveness of these two programs in achieving their intended purpose, along with potential for abuse within their programs, necessitates their termination. There is ample evidence that the training does not lead to jobs for the majority of trainees and that the courses tend to serve avocational, recreational and/or personal enrichment, rather than basic readjustment and employment objectives.

Another provision of H.R. 7394 proposes to terminate the predischarge education program authorized under the post-Vietnam era education assistance program (VEAP), the education program created for persons entering the Armed Forces since January 1, 1977. The estimated savings to terminate the flight training for veterans is $46 million, correspondence training for veterans and dependents is $11 million, and the PREP program is $3 million, for a total of $60 million in savings if these benefits are terminated.

The decision to terminate flight training and correspondence programs, two long standing programs which have been available to veterans in all three GI bills (World War II, Korea and Vietnam), should not be construed to mean that the Veterans' Affairs Committee agrees with the views of the Veterans' Administration or the Budget Committee regarding these programs. The termination of these two education and training programs is provided for in this bill only because of the mandate of the House. It is a budgetary decision imposed on the committee. Because legislative savings must be recommended to the House by July 2, the committee has included provisions in the reported bill to end these programs effective October 1, 1980, which will result in a cost saving of $46 million for flight training and $11 million for correspondence training in fiscal year 1981.

H.R. 3272, a bill carrying out the Veterans' Administration request, was introduced on March 27, 1979, and includes provisions to repeal flight training and correspondence training under laws administered by the Veterans' Administration. Hearings on March 28 and July 31, 1979, considered this bill. This was the third straight year that these programs were recommended for elimination by the Veterans' Administration. The Subcommittee on Education, Training and Employment, however, did not act favorably on the Veterans' Administration request to terminate these programs, and did not include any provisions in the recommended H.R. 5288, which was considered and reported by the Committee on October 4, 1979 (House report 96–498) and passed by the House on October 16, 1979.

In presenting its fiscal year 1981 budget request, the Veterans' Administration again recommended the elimination of flight and correspondence training for veterans and dependents with an estimated savings of approximately $57 million. However, the report to the Committee on the Budget from the Committee on Veterans' Affairs on the Budget proposed for fiscal year 1981 did not contemplate terminating flight and correspondence training. After indicating that the committee did not expect to favorably consider legislation to eliminate these two programs, the report stated:

> This is the fourth consecutive year that the Administration has submitted this proposal. It is the committee's views that this program has fulfilled its intended purpose—helping the beneficiary adjust to his or her changed circumstances by providing the training needed for basic employment.

The House Budget Committee, however, in its report to accompany the first concurrent resolution on the budget for fiscal year 1981. House Concurrent Resolution 307, mandated the Committee on Veterans' Affairs to realize $400 million in savings as specified in the reconciliation instructions. The report further directed the Veterans' Affairs Committee to submit its $400 million reconciliation recommendations by June 15, 1980. The Budget Committee recommendation listed a number of ways that the $400 million in legislative savings could be achieved.

The Budget Committee recommended that flight and correspondence training be terminated for the reasons outlined in the report. House Report 96–857, accompanying House Concurrent Resolution 307—The first concurrent budget resolution for fiscal year 1981, as follows:

> For several years the President has proposed the elimination of flight and correspondence training benefits. These benefits were designed to enhance readjustment to civilian life, to provide training for basic employment. However, it has become clear that these programs are not serving their intended goals, that the training is used for recreational purposes and does not lead to professional full-time employment. Action could be taken this year to eliminate these benefits and the Predischarge Education Program (PREP). CBO estimates that approximately $60 million in savings would result from termination of these benefits.

Another provision of Title VI would limit the amount of assistance payable under the G.I. bill to an incarcerated veteran to the costs of the veteran's tuition and fees. This is identical to a provision in H.R. 5288, which passed the House on October 16, 1979. H.R. 7394 further amends this provision to disallow payments to incarcerated veterans in those cases where the tuition and fees of the veteran or eligible person under a Veterans' Administration education and training program, are paid under another Federal, State, or local program, or in those cases where there are no tuition or fees.

These cost savings provisions in title VI, if enacted, will realize an estimated cost savings of approximately $180 million for fiscal year 1981. All of these provisions have been recommended to the Budget Committee as part of the reconciliation bill, which is required by the reconciliation mandate of the first concurrent budget resolution for fiscal year 1981 in House Concurrent Resolution 307.

Title VII proposes a number of technical changes.

Title VIII sets the effective date of the amendments proposed to be made by the bill as the first day of the first month beginning 60 days after the date of enactment, except for rate increases and counseling, which would become effective on October 1, 1980, as well as termination of flight and correspondence training and the PREP program.

Mr. Speaker, in addition to a copy of a section-by-section analysis of each provision of H.R. 7394, I request that a copy of the Congressional Budget Office estimate on H.R. 7394 be made a part of my remarks.

Finally, Mr. Speaker, I want to again thank all who have helped bring this bill, H.R. 7394, to the floor today. It is a very comprehensive bill with provisions of intense interest to millions of veterans. The committee wished it could have done more, but under the circumstances, this is a good bill, and I urge its adoption.

□ 1250

Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. WOLFF).

Mr. WOLFF. Mr. Speaker, I rise in support of H.R. 7394, the Veterans' Rehabilitation and Education Amendments of 1980. This is important legislation and would offer needed assistance to veterans in school and significant improvements in rehabilitation programs for veterans with service-connected disabilities. It is fitting that our consideration of this bill coincides with the 50th anniversary of the Veterans' Administration because the GI bill education programs have been one of the most successful veterans programs in the VA's history. Yet, while I support the present provisions of this legislation, I would point out that there are important needs which the bill fails to address. Much more needs to be done. The greatest need is to provide more assistance to veterans who fought in the conflict in Vietnam—our Vietnam veterans.

Over the past several years, I have joined with some of the members of the committee and others of my colleagues in this body to support legislation to provide greater assistance to these Vietnam veterans. We have maintained that there has never been an adequate comprehensive program of readjustment for these veterans. Now, many of those who served in Vietnam are ineligible even for the assistance offered by this legislation because of the expiration of their delimiting date. More important is that, while GI bill education benefits have proved a vital help for many veterans; many more would be better served by additional employment initiatives.

The need for such assistance is clear. Unemployment rates for veterans are now at their highest level since 1976, as many as 494,000 veterans are now unemployed—with a great many of these veterans of Vietnam. A recent Harris survey showed that employment difficulties are the problems that Vietnam veterans are most likely to have encountered since leaving the service.

It is also clear that a majority of the American people feel Vietnam veterans deserve a greater level of assistance from their Government. The Harris survey shows that a two-thirds majority of citizens feel that the Federal Government should do more to help Vietnam veterans. Yet, efforts to win support in the committee and in the Congress for significant initiatives to address these problems effectively have fallen far short of the mark.

The fact that many of the programs offering employment assistance have been vastly underutilized while the problems of unemployment persist among Vietnam veterans shows that a new approach is needed to tackle this problem. An important factor missing in most of the employment programs such as the VA on-the-job-training program is the lack of clear incentives for potential employers to participate; a view which is borne out by the recent Harris study which found that only 25 percent of employers had ever participated in a Government-sponsored veterans job effort.

When this bill was being considered in committee, I had cosponsored and supported an amendment to help alleviate this problem. I have introduced legislation and supported efforts in the subcommittee by my colleagues Mrs. HECKLER and Mr. DASCHLE to provide for a program of career development, advancement, and training to help meet the needs of Vietnam veterans.

Such an initiative, when limited to Vietnam theater veterans, could be enacted within the strict budget ceilings which have been imposed on the Veterans' Affairs Committee by this House.

Although we had significant support in the committee, this amendment was unfortunately not passed. Although there is, I believe, a substantial degree of support in the House for such measures—seeing the many Members who have cosponsored legislation which I and others have introduced to address this and other problems affecting Vietnam veterans—we can offer no amendment to let this issue be decided by the whole body. In this regard, I would point out that, while the procedure to consider veterans' bills under suspension of the rules has some advantages in terms of ease and quicker consideration, we lose something by not being able to bring out discussion and debate on issues which may not have been addressed sufficiently in the committee. I think that in this case, it is the veterans who fought and sacrificed in Vietnam who are losing out. I hope that in the future we can be more mindful of their needs.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 7394, the Veterans Rehabilitation and Education Amendments of 1980. I would first like to commend the distinguished chairman of the Subcommittee on Education, Training, and Employment, Mr. HEFNER, and the distinguished ranking minority member of that subcommittee, Mrs. HECKLER, for the work they have done on this legislation. Under the present budgetary constraints, their task was an enormously difficult one. I know that Mrs. HECKLER worked very hard on a career development package that was not included in the legislation. I am in sympathy with both her intent and her efforts with respect to that legislation, and I do hope that the subcommittee will further explore employment incentives in the future.

This legislation incorporates the restructuring of the disabled veterans vocational rehabilitation program which passed our body last session, and I am proud to again commend it to my colleagues, with the hope that the other body will adopt this important measure. Those who have become disabled in the line of duty deserve the full range of rehabilitation, including job placement assistance, which will be provided for them for the first time if this provision becomes law.

H.R. 7394 also will increase the monthly stipend for veterans attending institutions under the GI bill by 10 percent. I and the other members of the Veterans' Affairs Committee supported a 15-percent increase in these benefits in our recommendations to the Budget Committee earlier in this session, and I consider it highly unfortunate that the administration and the Budget Committee, as well as the full House of Representatives in our budget deliberations, supported the decrease that resulted in the current 10-percent level. The cost of living has increased approximately 37 percent since the last GI bill increase. As you know, Mr. Speaker, an attempt was made to allow the House to debate this and other reductions in the Veterans' Administration budget, but was voted down by the Rules Committee and the House. Accordingly, I am supporting the 10-percent increase, and the other cost-savings provisions in this legislation, only because our attempts to provide greater benefits have been denied.

The cost savings provisions contained in title 6 of the legislation include a termination of correspondence school and flight training programs. Mr. Speaker, I consider it unfortunate that the administration and the Budget Committee took this action. I do not understand why we should deny participation in these programs to a veteran who has earned his entitlement through affirmative service to our country. It seems to me that we are making an inappropriate value judgment about the applicability of such study. Nonetheless, I consider the other aspects of this legislation too important to vote against it because of these eliminations, and I yield to the judgment of the full House when it voted to terminate the programs during consideration of the budget.

In summary, Mr. Speaker, I support this legislation and recommend it to my colleagues, although I would have much preferred to see it in the form that the Veterans' Affairs Committee recommended to the Budget Committee earlier in this session.

Mr. HEFNER. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. MOTTL).

Mr. MOTTL. Mr. Speaker, I rise in support of H.R. 7394, the Veterans' Rehabilitation and Education Amendments of 1980.

This bill contains cost-saving provisions that have been the subject of hours of work by the Subcommittee on Special Investigations, and I am grateful to Chairman HEFNER and members of the committee for including these provisions in this bill.

Three provisions in particular will help the Veterans' Administration recover more than $100 million in outstanding debts in fiscal 1981.

One provision would authorize the VA to disclose names and addresses of veterans to consumer reporting agencies for debt collection purposes.

The second provision would authorize the VA to charge interest on debts from overpayments of benefits.

The third provision clarifies the authority of the VA to set off debts against future benefits payments.

Mr. Speaker, only a small minority of veterans abuse the programs we have established in their behalf. But when the bad debt account has reached $600 million, we must give the VA all the legal tools reasonably necessary to collect these funds. The veterans organizations, I would add, are fully behind this collection effort.

In this time of belt-tightening and budget-cutting that threatens the fiber of VA programs, a comment by a VFW witness sums up why these collection tools are needed:

> Even at today's inflationary prices, $600 million would build four 500-bed hospitals.

□ 1300

Mr. HEFNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Puerto Rico (Mr. CORRADA).

Mr. CORRADA. Mr. Speaker, today we are about to consider a piece of legislation that will enhance the opportunities of our veteran population to reintegrate into the civilian life in a most productive way for themselves and to the society in which they live in. This bill provides for the revision of the vocational rehabilitation program for veterans, increases the subsistence allowance under that program, provides a 10-percent increase in the rates of educational assistance under the GI bill and makes various changes in the veterans' educational assistance and employment and training programs.

Many of those veterans who served in the wars and conflicts in which our Nation was engaged during this century, specifically those who served in the Vietnam conflict, came home eager and looking forward to continue their education. A great deal of them found it difficult to do so because of the economic hardships they encountered. I truly believe that it is our duty to provide our veteran population with the opportunity and the necessary tools to get a better education, attain maximum economic independence by becoming more employable, and obtaining and maintaining suitable employment.

I have always had great admiration for, and supported our veterans because they were the ones who sacrificed the most for our Nation and offered their lives to our democracy. Because of it I make veterans' well-being one of my first priorities, and I propose to defend their rights at all times. I urge you to vote in favor of this bill, which opens new opportunities of self-improvement to our veterans. Thank you.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. WYLIE), a very valuable member of the subcommittee.

Mr. WYLIE. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I enthusiastically support the enactment of this bill since, among other things, it would modernize and improve the vocational rehabilitation program for disabled veterans.

At the same time the bill provides for a long overdue and much needed increase in GI educational benefits.

I might say that I want to commend the chairman of the Subcommittee on Education, Training, and Employment, the gentleman from North Carolina (Mr. HEFNER), and the subcommittee's ranking minority member, the gentlewoman from Massachusetts, Mrs. MARGARET HECKLER, for their wisdom and untiring efforts in developing this important piece of legislation.

But right now, Mr. Speaker, I would like to engage, if I may, the gentleman from North Carolina (Mr. HEFNER) in a colloquy with reference to the correspondence schools issue.

This bill would terminate the VA arrangement for schooling with correspondence schools, and since this bill was reported from the subcommittee I have been contacted by many persons involved in correspondence school training. My investigation reveals that the program is relatively free of abuses, and that maybe some of the abuses which showed up during our hearings in some cases came from some of the less well-established classroom schools. However, I do not want to get into that just now.

What I do think, Mr. Speaker, is that correspondence school education can in some subjects provide time flexibility and place flexibility which can help some veterans and the system.

My question is this: If we pass this bill today, as we surely will, that will not foreclose in the gentleman's mind discussion of the subject of correspondence schools when we go to conference, will it?

Mr. HEFNER. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I am glad to yield to the subcommittee chairman.

Mr. HEFNER. Mr. Speaker, as the gentleman well knows, we are not in favor of cutting off any of the programs. We would like to have all the programs fully funded, but we found ourselves in the position with this bill, when we passed the reconciliation, that we did not have much choice but to go this route.

Certainly in conference with the Senate—and I feel sure I will be part of the conference committee—we would not have a closed mind to the Senate's position on this particular issue.

Mr. WYLIE. Mr. Speaker, I have discussed this issue for the record in a colloquy with the chairman of the full committee, the gentleman from Texas (Mr. Roberts), as we were reporting the bill out of committee, and he expressed the same view, that the Senate has a provision in its bill which would include or not exclude the correspondence schools.

I might say that it is my feeling that we may find a better place to save $11 million than by eliminating the correspondence schools from the GI entitlement program.

Mr. Speaker, what the gentleman is saying here today is that we have not slammed the door on the correspondence school idea, and that it will be a matter for open discussion in the conference committee, is that right?

Mr. HEFNER. Mr. Speaker, if the gentleman will yield, if we can find places where we can save some money and get the results we want to get, as a famous catcher for the Yankees said, "It ain't over till it's over." We would certainly keep an open mind.

Mr. WYLIE. Mr. Speaker, I thank the gentleman for his reassurance on that point, and I yield back the balance of my time.

Mr. HEFNER. Mr. Speaker, I have no further requests for time.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to a very valuable member of the full committee, the gentleman from Indiana (Mr. Hillis).

Mr. HILLIS. Mr. Speaker, I rise in full support of the legislation pending before the House today, H.R. 7394, the Veterans Rehabilitation and Education Amendments of 1980.

Many of the provisions included within this bill were contained in H.R. 5288 which passed the House overwhelmingly last October. As you know, H.R. 5288 was drastically changed by the other body.

I, too, want to commend my colleagues, the Honorable Bill Hefner, chairman of the Subcommittee on Education, Training, and Employment, and the ranking minority member, the gentlelady from Massachusetts, the Honorable Margaret Heckler, for their diligence in bringing this legislation to the floor for our consideration.

This bill includes many cost-saving provisions which will result in the House Committee on Veterans' Affairs meeting the requirement of the first budget resolution that we recommend $400 million in legislative savings.

Included in these cost-saving provisions are the termination of flight and correspondence training programs. As you all know, we have been steadfast in refusing to terminate these programs. However, because of the first budget resolution and efforts to balance the budget, these terminations are reluctantly included in this bill.

However, Mr. Speaker, I must point out my personal disappointment that not included in this bill is a provision authorizing the Veterans' Administration to use its own attorneys for the collection of overpayments. This provision was unfortunately removed from the bill reported to the House. Hearings by the Subcommittee on Special Investigations earlier this year proved beyond any reasonable doubt that the Department of Justice attorneys are being less than forceful in their pursuit of these overpayments and the Government is losing many millions of dollars each year. In fact, these attorneys frankly could care less whether or not the overpayments are collected. I share in the concern expressed by our colleague, the Honorable Ron Mottl, that the interest of the American taxpayer should be of greater concern to us than whether Justice or VA attorneys have the authority to litigate these cases.

However, on the whole, Mr. Speaker, this is a good bill deserving of the support of every Member of the House and I urge my colleagues to support this legislation.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to a very distinguished member of our committee, the gentleman from Michigan (Mr. Sawyer).

Mr. SAWYER. Mr. Speaker, I had an amendment incorporated in this bill which knocks out duplicative pay for incarcerated veterans where the State or local government provides entirely the cost of their education. We conducted a survey and found we will probably save by that amendment $10 million per year as opposed to the $6.2 million that the Budget Office estimates.

In any event, there is one phase of this bill that I would hope in conference we will take another look at, and that is the knocking out of flight training. The Veterans' Affairs Committee did not knock it out, but the Budget Committee in effect did. I think that the Senate version of reducing the participation by the Federal Government is a much wiser course rather than the abolition, and I would hope that the chairman of the subcommittee would give some consideration in conference to our leaning toward the Senate version. I very much support the bill, but I have gotten all kinds of static on knocking out of flight training. As I have gotten into it, I find there is considerable merit in the objections to knocking it out.

Mr. Speaker, I yield back the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. Gilman), who has always shown a great interest in veterans, particularly the missing in action, the prisoners of war, and similar aspects of veterans' affairs.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of H.R. 7394, the Veterans' Rehabilitation and Education Amendments of 1980, and I want to commend the distinguished chairman of the subcommittee, the gentleman from North Carolina (Mr. Hefner), and the ranking minority member, the gentleman from Arkansas (Mr. Hammerschmidt), for bringing this measure to the floor at this appropriate time.

It is of critical importance to our Nation that the men and women who served in our Armed Forces service be provided opportunities for a complete integration into civilian life. Today, there are more than 30 million American veterans who have courageously served our Nation's interests during the Spanish American War, World War I, World War II, the Korean, and the Vietnam conflicts—and there are more than 2.2 living veterans who were wounded or injured during wartime service. Above and beyond that, there are millions of American veterans who continue to need assistance in areas of health, housing, and education and training.

The veterans' rehabilitation and educational bill before us today goes a long way toward assisting our veterans in terms of providing for a 10-percent across-the-board increase in all VA education and training programs and by authorizing the VA to utilize all necessary services to enable veterans with service-connected disabilities to become employable, obtain suitable employment, and to maintain employment. Also included is a 17-percent increase in estimated subsistence rates.

Mr. Speaker, I support this vital legislation because of the pressing needs of our veterans. However, I am disappointed that the House Committee on Veterans' Affairs did not see it fit to consider what I have always thought to be an equally important issue, namely, the extension of educational assistance beyond the presently designated period of eligibility of 10 years. I had introduced legislation, H.R. 1370, which would have eliminated the time limitation for completing a program of studies. Apparently, that legislation was never given the consideration it truly deserved.

Unfortunately, the present bill does not go far enough in allowing our veterans to meet their educational expectations without the fear of forfeiting benefits due to a change in circumstances, and in allowing the veterans to enjoy a rightful status as first-class citizens, a status which has been sorely lacking in the last several years. Many of our Vietnam veterans have had to delay their educations for various reasons: The need to raise a family, to earn extra money, or for unforeseen reasons over which the veteran has had no control. We should not penalize these veterans for not being able to fit their plans into the statutory mold.

Nevertheless, I support the bill before us today because it does address itself to the other side of the coin, specifically, the issue of financial assistance. In these inflation ridden days it is important that GI benefits are substantial enough to not only cover the educational costs for the veteran, but, just as important, to provide an incentive for future military careers among our younger generations of American men and women.

Mr. Speaker, I urge my colleagues to support this measure, in the interests of immediate concern to our veterans, and to look beyond that to providing more extensive benefits in the future.

● Mr. DASCHLE. Mr. Speaker, I rise in support of H.R. 7394, but remain concerned about the fact that no employment initiative was enacted for Vietnam veterans. In this time of recession, with unemployment lines growing, veterans of the Vietnam era will once again bear a disproportionate burden of this unemployment. Already, 480,000 of them are unemployed which is an increase over the previous year of 135,000. With my colleagues LESTER WOLFF and MARGARET HECKLER, attempts were made in the subcommittee and full committee to enact a new and innovative career development and training program designed to assist those who have the greatest need. Unfortunately, the majority of committee members did not agree with the need for this program. My hope is that efforts in the Senate to enact this program will be successful. Nevertheless, the 10-percent increase in GI bill payments will help hard-pressed veterans cope with increasing inflation and the fact that it has been 3 years since an increase was last voted.

In addition, the elimination of flight training deeply concerns me. Over 15,000 veterans currently enrolled in flight training courses will soon be ineligible for reimbursement. There have been continuing attacks against this program, especially since the publication of a GAO report stating that most of the pilots training under the program were there for recreational purposes only. Unfortunately, pilots surveyed for this report were taken from a biased sample which the VA, which has long tried to terminate the program, provided for the GAO. My concern also stems from the fact that there will be a continuing drain from the military to the private sector as the number of commercially trained pilots in the private sector shrivels due to this action. This has been a continuing problem in the Armed Forces and now there will be increased pressure on military pilots to defect to the private sector.

Though I have these reservations, the majority of provisions in H.R. 7394 are worthwhile and will assist veterans greatly. For this reason, I commend the leadership of the committee for their efforts on this legislation.●

● Mr. ROBERTS. Mr. Speaker, I strongly support H.R. 7394. It is a major piece of legislation that will benefit several hundred thousand veterans and eligible dependents going to school under the vocational rehabilitation program and the GI bill.

Last year we passed a bill (H.R. 5288) that would make major improvements in the vocational rehabilitation program. In addition, that measure would have provided a 17-percent rate increase in the subsistence allowance under the chapter 31 program. The Senate failed to take action on the bill in time for us to get a measure to the President before adjournment; therefore, it is imperative that we move with this legislation swiftly. It will mean much to our Nation's service-connected veterans.

The bill is also important to those going to school under chapters 34, 35 and 36 of title 38, United States Code. Title II of the bill provides for a 10 percent cost-of-living increase, the first rate increase since 1977. I wish the increase could have been more, but the administration only recommended a 10 percent increase, as did the Committee on the Budget. Since this amount was contained in the first concurrent budget resolution, so as not to exceed the targets contained therein, the committee decided to stay within the budget and report a 10-percent increase. Our Committee would have preferred a 15 percent rate increase as recommended to the Budget Committee in our report dated March 15, 1980; however, we could not have recommended that to the House without exceeding the targets contained in the first concurrent resolution.

Mr. Speaker, I want to speak briefly about the cost savings contained in this bill. The amount totals about $180 million. The committee has taken major steps to assure that the Veterans' Administration aggressively pursues the collection of outstanding debts existing mostly from overpayments in the education program. In addition, the committee is recommending termination of flight training and correspondence school programs. I hasten to suggest that, in my view, neither the administration nor the Budget Committee has submitted any data to justify that these programs should be terminated. According to the latest information we have received from the Veterans' Administration, a vast majority of those going to school under the flight training program have participated or are participating in a job-related activity. Nonetheless, the Committee is aware of the mandate of the House and we are complying with that mandate. The record should show, however, that this action would not have been taken but for the reconciliation instructions contained in the budget resolution.

Members should know that these legislative reductions in veterans benefits are contained in this bill because the committee was mandated to make certain recommendations to the Committee on the Budget no later than July 2—legislative recommendations that would realize $400 million in "savings."

Finally, Mr. Speaker, I want to pay tribute to the gentleman from North Carolina, our friend and colleague, BILL HEFNER. As most of you know, BILL assumed the chairman of our Education, Training, and Employment Subcommittee at the beginning of the 96th Congress. Recently he received overwhelming support from his colleagues and was appointed to fill a vacancy on the Appropriations Committee. I want to personally thank BILL for the leadership he has provided in the subcommittee. I can tell you, Mr. Speaker, he has been an outstanding chairman and I know he will rise rapidly in the Appropriations Committee as he has done on the Committee on Veterans' Affairs.

I know of no Member more highly regarded in this House. I know of no Member who is more dedicated in his work. But the thing I admire most about BILL HEFNER is that he is a man of commitment and when it comes time to cast a hard vote he is never one to shy away. He is a great individual and I want everyone to know that we could ask no more from any individual than we have asked of BILL HEFNER and he has responded without hesitation. I am very grateful for the work he has done on the committee, not only as chairman of the subcommittee, but the strong support he has given me on the full committee. The veterans of our Nation are fortunate to have BILL HEFNER as a friend and we all wish him well as a member of the Appropriations Committee.

Mr. Speaker, this measure is must legislation and I hope that my colleagues will support the bill so that we can proceed to work out whatever differences that may exist with the other body and get a bill to the President without delay.●

● Mr. HARRIS. Mr. Speaker, I intend to vote for H.R. 7394, but with great reservations over the section which eliminates reimbursement for veterans' flight training, which is a valuable and productive program.

The Veterans' Affairs Committee states in its report that it too is opposed to the elimination of this program, and, in fact, has successfully opposed administration attempts in recent years to do away with flight training for veterans.

Because of the reconciliation requirements of the House budget resolution, however, the committee was compelled to eliminate this program, along with some other veterans programs.

I voted against the reconcilation provision which has dictated the elimination of flight training, and I wish this program could be preserved.

H.R. 7394 is, on the whole, a commendable bill. It increases the subsistence allowance for veterans, it expands important vocational training and rehabilitation programs, and makes other significant improvements that will be helpful to veterans. It is because of these provisions that I intend to support the bill.

I am hopeful that, in conference with the Senate, some reimbursement for flight training can be restored. This is a valuable program, which should not have been eliminated.●

● Mr. ANDERSON of California. Mr. Speaker, there are a number of excellent and well-deserved rehabilitation and education programs contained in the bill H.R. 7394, the Veterans' Rehabilitation and Education Amendments of 1980. However, I must express my concern—my opposition to one provision in this legislation.

Currently, chapter 34, title 38 of the United States Code provides payment of 90-percent of the tuition charge to eligible veterans taking flight training.

However, the reported bill contains a provision to eliminate authority for flight training by veterans. The recommendation to terminate this important program is a budgetary decision based on a mandate by the House Budget Committee to the Committee on Veterans' Affairs in hope of realizing a $400 million savings as specified in the reconciliation instruction.

While the committee report states that:

> Their programs are not serving their intended goals, that the training is used for recreational purposes and does not lead to professional full-time employment.

I have been contacted by a flight training school in my congressional district which indicated to me just the opposite. Flight Safety International, located in Long Beach, Calif. pointed out to me that 89 percent of their graduates are currently employed in aviation, and the cost of training varies from $6,000 to $13,000 per pilot. Also, in order to qualify for flight training reimbursement under the GI bill a veteran must have already obtained his private pilot license. This indicates to me a sound financial commitment and personal motivation by the veteran.

I have advocated a balanced Federal budget and a reduction in government spending, and while the decision to eliminate this program is estimated to save approximately $47 million, I can not agree with the Veterans' Administration recommendation to the committee to eliminate this long-standing program which has been available to veterans in all three GI bills—World War II, Korea and Vietnam.●

● Mrs. HECKLER. Mr. Speaker, the bill now before us—H.R. 7394, the Veterans' Rehabilitation and Education Amendments of 1980—originated in the Veterans' Subcommittee on Education, Training, and Employment. As ranking minority member of that subcommittee, I recommend to my colleagues in the House that they vote to approve this legislation.

This bill contains eight titles—titles which range in their content from technical amendments to the fundamental redesign of long standing VA programs to meet modern needs. While it also provides long-needed cost-of-living increases in certain programs, it does not contain a provision which addresses the severe employment needs of our youngest veterans, the Vietnam veteran.

I commend the chairman of the subcommittee, the distinguished gentleman from North Carolina (Mr. HEFNER) for his leadership in developing the many beneficial provisions of this bill; and I commend the distinguished chairman of the full committee, the gentleman from Texas (Mr. ROBERTS) for his expeditious action in reporting the bill to the floor to be considered in a timely fashion.

H.R. 7394 contains two major provisions which provide a very much needed cost-of-living increase for veterans and their dependents pursuing educations or programs of employment training. One such provision is a 10-percent increase in GI bill benefits for veterans studying under the GI bill. This is the first increase in GI bill benefits since 1977, and in the face of a tight economy, it is sorely needed.

The second major increase in benefits is in the vocational rehabilitation program for service-connected disabled veterans. This rate of increase is 17 percent. This bill provides a major restructuring of the vocational rehabilitation program, the first such restructuring since the program's inception in 1943.

The most salient change in the vocational rehabilitation program is a refocus on placing a newly trained veteran into actual employment. Previously, the program's single purpose was to train a disabled veteran to compete in the employment market. But, today, almost 40 years since this program was conceived, the job market has changed. Improvements in this program reflect this change.

For example, a counseling component is placed into the program. This permits the disabled veteran to better prepare for his new employment responsibilities—and challenges. This counseling also would be available to family members, who then could better assist the veteran and provide all important and often critical support for him at home.

Unemployment among disabled veterans frequently runs at as high a rate as 80 percent. This is not because disabled veterans do not want to work. It is because they have special problems of physical mobility or impairment, or psychological discomfort. The changes we propose in this legislation today can assist our service-connected disabled veterans in their desire to make their own way.

Title III of H.R. 7394 contains education and training program amendments, including changes I have advocated during the past 3 years. For example, the computation of students receiving Federal basic educational opportunity grants, and supplemental grants, is now excluded from the 85-to-15 ratio.

The administratively authorized Advisory Committee on Veterans' Educational Assistance programs at the VA is codified by this title.

Title IV provides for more effective and timely recovery of overpayments by the VA, authorizing the VA to release the name of a delinquent veteran to a credit rating bureau so the delinquency can appear on his credit rating.

Title V would revise some of the eligibility criteria that a veteran must meet to obtain assistance in securing a job. One such change—which I have called to the attention of my colleagues on the committee—would eliminate the requirement that a Vietnam-era veteran in need of employment assistance can obtain it for only 48 months following separation from active duty. This bill would allow him to obtain assistance if it is needed, period.

Title VI is significant because it contains numerous cost saving provisions. For example, an incarcerated veteran now receiving GI bill payments, while at the same time enrolled in a program already paid for by the State or local jurisdiction, would no longer draw GI benefits under this bill.

I do commend this bill to my colleagues, and I urge the other body to act as expeditiously on it as possible, since the beginning of the new fiscal year is nearer than would seem.

I do regret, however, that an employment provision for unemployed Vietnam veterans could not be included in this bill. Unemployment among Vietnam veterans is nearing the 500,000 mark once again. Joblessness among this group of veterans has been chronic and persistent.

The recently released, congressionally mandated survey of Vietnam veterans—conducted by pollster Louis Harris—found that one out of every two Vietnam veterans was experiencing employment problems (48 percent). The Harris survey also found that 66 percent of all Americans believe the Federal Government is not doing enough for Vietnam veterans, to help them find their way back to productive and meaningful civilian lives.

I understand that the comprehensive and effective employment program which I advocated in the committee will be offered in the other body as an amendment to a companion bill regarding VA programs of education and training. I hope that Congress may yet produce such a program.

Mr. Speaker, I would like to thank my colleagues on the subcommittee and the full committee for their continuing faithful commitment to the veteran and his dependents. During this time of severe fiscal constraint, this bill contains cost savings provisions of some $300 million, and yet we are able to provide cost-of-living increases to veterans who have not enjoyed any increases in recent years. I recommend that this bill do pass.●

□ 1310

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time.

Mr. HEFNER. Mr. Speaker, I have no further requests for time.

The SPEAKER. The question is on the motion offered by the gentleman from North Carolina (Mr. HEFNER) that the House suspend the rules and pass the bill, H.R. 7394, as amended.

The question was taken.

Mr. HAMMERSCHMIDT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. HEFNER. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on the bill, H.R. 7394.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

TAX-FREE STATUS OF SOCIAL SECURITY BENEFITS

Mr. ULLMAN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 351) with respect to taxing social security benefits.

The Clerk read as follows:

H. Con. Res. 351

Whereas social security was established to protect the income of Americans against the serious economic risks that families face upon retirement, disability, and death; and

Whereas social security provides a monthly payment to some thirty-five million beneficiaries; and

Whereas the 1979 Advisory Council on Social Security has recommended that half of social security benefits be included in taxable income for Federal income taxes; and

Whereas social security benefits are now exempt from Federal taxation; and

Whereas for the people affected, taxing of social security benefits would be tantamount to a cut in benefit payments; and

Whereas 15 to 20 per centum of the elderly—even with social security—are today below the poverty level and all Americans are suffering the effects of inflation; and

Whereas estimates based on 1978 data indicate that taxing one-half of social security benefits would affect ten million six hundred thousand tax filing units of the twenty-four million two hundred thousand individuals who received social security cash benefits; and

Whereas the estimated impact of this taxation of social security benefits would have increased the average tax liability of those tax units affected in 1978 by $350; and

Whereas the total estimated increase in Federal tax collections in 1978 by the taxation of one-half of social security benefits would be $3,700,000,000; and

Whereas the prospect of possible cuts has alarmed many older Americans and undermined the confidence of Americans in the integrity of the social security program: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the Social Security Advisory Council's recommendation that one-half of social security benefits should be subject to taxation would adversely affect social security recipients and undermine the confidence of American workers in the social security programs, that social security benefits are and should remain exempt from Federal taxation, and that the Ninety-sixth Congress will not enact legislation to implement the Advisory Council's recommendation.

The SPEAKER. Pursuant to the rule, a second is not required on this motion.

The gentleman from Oregon (Mr. ULLMAN) will be recognized for 20 minutes, and the gentleman from Texas (Mr. ARCHER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at the present time, social security benefits are totally exempt from Federal income taxes. Social security benefits derived this tax-exempt status from administrative rulings in 1938 and 1941. These administrative rulings have the force of law. No administration would dare attempt to tax social security benefits by administrative action. Given the enormous policy ramifications of a change in the tax status of social security benefits, the administration would have to recommend, and Congress would have to pass, legislation before social security benefits became taxable.

Nevertheless, since the 1979 Social Security Advisory Council recommended that half of social security benefits be included in taxable income for purposes of Federal income taxes, many citizens have been concerned that their social security benefits might become taxable in the very near future. This concurrent resolution assures social security recipients that the 96th Congress will not pass legislation affecting the tax-free status of their social security payments. In my opinion, not only the 96th Congress but also future Congresses will not enact changes in the tax-free status of social security benefits.

I urge that we pass this resolution which clearly outlines to the American people that their social security benefits will remain tax free.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this resolution which expresses the sense of this Congress that social security benefits should not be subject to Federal income tax. Having said that, Mr. Speaker, I am a little bit concerned lest this become a precedent that every time someone outside of Congress recommends that Congress tax something that is not presently being taxed that we have to pass a resolution saying we are not going to tax it.

I think this resolution is not really necessary. The Commitee on Ways and Means is not considering any legislation to tax social security benefits. The Subcommittee on Social Security, which would be vitally concerned about any action in this area, has not even discussed the matter—and I think the distinguished chairman of that subcommittee, my friend and colleague, the gentleman from Texas (Mr. PICKLE), will bear me out on this—and has no plans to do so.

Further, I am not aware of any bill now pending to tax these benefits. Nevertheless, having said all of that, failure to support this resolution might be construed somehow or another as an expression of willingness to tax social security benefits. Therefore, because I certainly do not favor the taxation of social security benefits, I support this resolution.

Mr. ULLMAN. Mr. Speaker, I yield 3 minutes to the chairman of the Subcommittee on Social Security, the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Speaker, many of our senior citizens who are greatly dependent on their social security benefits for retirement income were alarmed by the 1979 Advisory Council proopsal that one-half of one's social security benefits be subject to the income tax.

Social security benefits are not taxed now, and they are not going to be taxed. There was never any intent by the Congress to tax social security benefits—and this measure just puts it down in black and white: social security benefits will not be taxed.

I said that at the time the Council's report was published, and I recognize that the elderly of America need a strong and positive statement to that effect.

The resolution before us today is that strong statement. The resolution is similar to one which has already been presented in the Senate Finance Committee—and this means that both the House and the responsible committee in the Senate will be on formal record against taxing social security benefits. The resolution also is similar to the recommendation made earlier by our able colleague DON ALBOSTA.

The elderly of this country can be assured that the Congress has not gone so far astray that it begins 2 weeks of hearings tomorrow on whether to have a tax cut, but would at the same time consider taxing social security. That would be ludicrous, obviously.

Moreover, I have a very strong disagreement with the Advisory Council on the issue of taxing social security benefits, and as chairman of the Subcommittee on Social Security, I wish to state that disagreement.

In their report, the Council states that—

> The right to social security benefits is derived from earnings in covered employment just as is the case with private pensions.

And the Council further states—

> The current tax treatment of private pensions is a far more appropriate model for the tax treatment of social security.

This is a bold statement with which I disagree. Social security is not so directly analogous to private pensions. Its purpose is significantly different; its coverage is different; its method of operation is different.

Private pensions have as their objective the provision of retirement income. But they also have many other concurrent objectives. They are used to recruit qualified employees. They fulfill management objectives such as the inducement of retirement of older employees so younger ones can advance. And they perform many other functions related to the businesss or organizaton sponsoring them.

Social security was instituted for the general good of the populace. In the House report accompanying the passage of the Social Security Act of 1935, the committee noted that the title II social security program was devised—

> to keep the cost of Federal-aided State pensions under Title I from becoming extremely burdensome in future years, and to assure support for the aged as a matter of right than as a public charity, and in amounts which will insure not merely subsistence but some of the comforts of life.

The 1935 act recognized the growing numbers of elderly in this country, the reduced ability of children fully to support aged parents, and the uncertainty of depending on private savings to provide for the elderly. And it recognized that an old-age public welfare program alone would not be sufficient to meet the needs of the elderly and would likely, in the future, be too burdensome to society.

It was for this general protection of the Nation—not just to provide a personal pension program—that the title II program was established.

Second, social security uses a different form of coverage than do private pensions. Private pensions are voluntary mechanisms. With only a few exceptions, social security is a mandatory program. By and large, one does not have the choice of opting in or out of social security or of shopping around for a "good social security program" in deciding on a job. And, while private pensions must treat all earners alike, social security seeks to provide a floor of protection, buttressed by a weighted benefit formula which definitely favors the lower incomes. Social security also provides dependent, survivor, and disability insurance of a scope not envisioned in private pensions but very much a part of the national general economic well-being.

Third, social security and private pensions do not rely on similar operations. While private pensions, in collecting and investing contributions, must honor a bond to have on hand resources to cover the obligations to all contributing, social security relies on an intergenerational bond backed by the taxing powers of the U.S. Government.

To say then—as the Advisory Council did—that because both social security benefits and pensions have some relation to wages earned—and to base a radical change in the treatment of social security benefits on this one point—is to ignore the vast and critical differences between the two types of programs.

Let me address now the impact of the Advisory Council proposal. The Council went to some pains to explain that low-income individuals would not be hurt by this proposal.

I include here a table prepared by the Congressional Budget Office indicating just who would have to pay additional taxes, and I think the Members can see the results for themselves. Many, many elderly with incomes of $15,000 or less would face higher taxes—and this is where the bulk of the social security recipients are found.

INCOME TAX INCREASES RESULTING FROM THE TAXATION OF HALF OF OASDI BENEFITS, BY INCOME CLASS

Income class (thousands of dollars)	Total number of OASDI beneficiaries filing returns (thousands)	OASDI beneficiaries in income class as a percent of all OASDI beneficiaries filing returns	Average increase in income tax liability (dollars)
Less than 5	10, 883	45. 0	1
5 to 10	6, 574	27. 2	103
10 to 15	3, 210	13. 3	321
15 to 20	1, 536	6. 3	447
20 to 30	1, 215	5. 0	528
30 to 50	505	2. 1	791
50 to 100	186	. 8	1, 111
100 to 200	40	. 2	1, 448
Above 200	14	. 1	1, 272
Total	24, 163	100. 0	155

Source: Department of Treasury Individual Income Tax Model, 1979 law at 1978 income levels.

Finally, let me address the concept of taxing social security benefits from the standpoint of the argument that because of the progressive nature of the income tax laws, we would only be taxing those who can afford to be taxed.

This is just a back-door method of putting a means test on social security benefits. It is saying to the American people: We want you to pay considerable payroll taxes all your working life, but if, when you retire, your total income is a bit high, then we will take some of your earned benefits right back again in the form of an income tax.

This is directly contrary to the purpose of the law and cuts at the very root of the earned right concept of social security.

The Advisory Council is a wise and august body, but this is one proposal which they and the American people should realize was put to rest by the Congress the moment it was made.

Our action today puts that position firmly on the official record.

Mr. ULLMAN. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Speaker, I want to thank the chairman of the Committee on Ways and Means for yielding and for acting on this resolution.

This is a resolution which I originally initiated, with the gentleman from Michigan (Mr. ALBOSTA), and it arises because of the Presidential Advisory Committee's recommendation that half of social security benefits be taxed. That recommendation caused alarm throughout the country, raising the prospect that, indeed, those benefits would be taxed.

Furthermore, a good many newspapers, including the New York Times in my area, came out in favor of taxing social security benefits, espousing it as a good idea.

The gentleman from Michigan (Mr. ALBOSTA) and I, and a majority of the Democratic Caucus, in a resolution that we put forward, came to the strong conclusion that it was not a good idea. We passed a resolution requesting the Ways and Means Committee to definitively act on our legislation to put the House on record firmly against taxation of benefits.

In sum, passage of this resolution today is definitely not an exercise in futility in which there was no prospect for any action being taken and we are just going through the motions; there was a real prospect and real fear of that taxation.

I think it is important that we make it clear that the Congress of the United States has no intention of taxing these benefits.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I would like to commend the gentleman from New York (Mr. OTTINGER) and also the gentleman from Michigan for providing leadership in this area so that we can protect our elderly citizens who are on retirement social security from seeing those social security benefits reduced through a proposed bill which would have taxed part of those social security benefits.

I think it is very worthwhile legislation. In fact, to most of the senior citizens that are presently on social security, this bill is a clear statement to them from the Congress that they no longer have to have this worry about a reduction in those social security benefits. As one, who, like most of the Members here, has spent a good part of this time out in my district, I still hear it, even though I have repeatedly told my people that there is no way that such a bill is going to pass this Congress. You repeatedly hear it. And this is a clear way to tell those people that they really do not have to worry about it. I wish to again commend the gentleman in the well for his leadership on this.

Mr. OTTINGER. I want to thank the gentleman for his support.

I would like to say that the senior citizen network throughout the country is a very efficient network.

Mr. VOLKMER. Yes.

Mr. OTTINGER. Once this prospect arose, because of the Presidential Advisory Committee's recommendation, in newsletters throughout the country and in newspaper articles throughout the country, this prospect was raised as a real fear. Senior citizens, who at the present time are living on the margin of survival, would be placed in the position of having their fixed benefits eaten away by these new taxes, and it became a very real fear. So I am very glad that we are taking this action and it clearly is important that we do so.

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. OTTINGER. I yield to my friend, the gentleman from Texas.

☐ 1320

Mr. PICKLE. I simply want to state the resolution before us now is one that is similar to the resolution introduced by our colleague, the gentleman from Michigan (Mr. ALBOSTA), and the gentleman from New York and others in this body. So the measure we are voting on now is similar to that which was introduced earlier.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I rise in support of House Concurrent Resolution 351, to declare that it is the sense of Congress that social security benefits remain tax free.

I commend our colleagues on the Ways and Means Committee for spelling out congressional intent and opposition to this issue.

The possibility of the taxation of social security benefits is a matter that is disturbing to my senior citizen constituents. I hope that the passage of this resolution, in clarifying congressional intent, will help to allay their fears.

I believe that it would be bad public policy to tax social security benefits, because most social security recipients need every penny of those benefits to maintain a basic standard of living. Moreover, the taxation of social security benefits would constitute a breaking of the bargain we have made with Americans who expect that these benefits will be tax free and who have made their retirement plans with that fact in mind.

It is gratifying that the House is afforded this opportunity to strongly record its opposition to any proposal to tax these benefits, and I urge all of my colleagues to support this resolution.

Mr. OTTINGER. I thank my friend from New York who was very helpful to us in putting together and getting support for this resolution.

Mr. GRASSLEY. Mr. Speaker, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Iowa.

Mr. GRASSLEY. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of House Concurrent Resolution 351 which expresses the sense of the Congress that social security benefits should continue to be exempt from Federal income taxes.

As you know, some sort of action along these lines is necessary because, in late 1979, the Advisory Council on Social Security recommended that one-half of an individual's benefits should be subject to Federal taxation. The Council estimated that a tax would raise approximately $4 billion in revenues.

Current law does not specifically prohibit the taxing of social security benefits. For that reason, on December 14, 1979, I agreed to cosponsor legislation that would expressly prohibit Federal income taxes from being levied on any portion of an individual's social security benefits. A majority of my colleagues in the House of Representative have also signed onto this measure and I must, quite frankly, express bewilderment as to why this approach, that would change the law as opposed to simply expressing the sense of the Congress, was not followed.

It seems to me that this is a matter of such import to our senior citizens that we ought to actually change the law. We ought not to allow the Internal Revenue Service any latitude or discretion whatsoever. We cannot trust those in the executive branch who, in their continued search for funds for the Federal Treasury, are more likely to view this question as a balance sheet or business ledger than to pay attention to the equities involved.

The simple fact of the matter is that social security benefits are not "new" income to an individual. The recipient has already paid Federal income taxes and social security taxes on the payments which he or she receives.

Mr. Speaker, I have been contacted by hundreds of Iowans who expressed genuine fear, alarm, and apprehension over the Advisory Council's recommendation. By passing this measure we will, at least in part, allay their concerns. I urge approval of the concurrent resolution.

Mr. OTTINGER. I thank the gentleman for his support.

I was just deluged with mail from senior citizens when this recommendation came out; taxing one-half of——

The SPEAKER pro tempore. The time of the gentleman from New York (Mr. OTTINGER) has again expired.

Mr. ULLMAN. Mr. Speaker, I yield 2 additional minutes to the gentleman from New York.

Mr. OTTINGER. Taxing one-half of these benefits would mean an average increased tax burden of $350 for almost half of the social security recipients of this additional tax and would be tantamount to a reduction in benefits, and this is not consistent with our past effort to try to protect the elderly in the devastating effect of inflation. To give with one hand and take away with the other would be a cruel hoax.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. OTTINGER. I am pleased to yield again to the gentleman from Missouri.

Mr. VOLKMER. I would like to comment, in discussing this legislation, which is very meaningful for our elderly citizens, with the chairman of the Committee on Ways and Means, of course I have been receiving many letters on this from my retired citizens. I have also received many letters from many of my retired citizens who have small savings in interest-bearing accounts of 15 percent. It is not exactly this matter, but I have also been informed by the chairman of the Committee on Ways and Means that that too is dead, and I am grateful to hear that. I wish to commend the gentleman from Oregon (Mr. ULLMAN), the chairman of the Committee on Ways and Means, for doing so much for our senior citizens throughout the United States and also the gentleman from New York for his efforts in their behalf also.

Mr. OTTINGER. I thank the gentleman. I would like to point out this is of significance not only to retirees, but also people who are working now and counting on being able to get the benefits for which they have worked free of taxes, as all the other recipients have in the past. If we change signals in midstream, we would have in effect been welching on our commmitment to the people who worked so hard to earn the benefits they do receive from social security.

I thank the chairman of the Committee on Ways and Means again, and the minority as well, for helping us to put through this resolution today.

Mr. Speaker, since the Social Security Advisory Council recommended taxing one-half of the social security benefits last December, I have been working hard to prevent this. On December 12, I introduced House Concurrent Resolution 225 expressing the sense of Congress that social security benefits are and should remain tax exempt. This resolution gained strong bipartisan support. On May 15, the House Democratic Caucus unanimously adopted, 152 to 0, a resolution I sponsored with Representative DON ALBOSTA requesting the Ways and Means Committee to take immediate action to reaffirm the fact that social security benefits are tax-exempt. House Concurrent Resolution 351 was reported by the Ways and Means Committee in response to this action taken by the Democratic Caucus. I believe passage of this resolution will send a clear message to the American people, particularly to all senior citizens and the disabled, that their benefits will not be taxed.

Taxing social security benefits would be tantamount to a reduction in benefits and this is not consistent with our past efforts to try to protect the elderly from the devastating effects of inflation. To give with one hand and take away with the other is a cruel hoax. I find this tax proposal particularly appalling at a time when those on fixed incomes are staggering under the burdens of inflation and struggling to make ends meet.

Social security benefits have been tax free from the start of the program. Taxing these benefits now would be a major break with the faith of the workers of this country. These workers have paid their social security taxes for 10, 20, 30, or 40 years and now are facing the possibility of being taxed again. How can we expect workers to continue to support the social security system if we renege on the promise of the benefits for which they have paid?

The proposal to tax benefits has alarmed not only the 35 million social security recipients who already are being overwhelmed by inflation, but also the millions of American workers who are contributing to the social security program and justifiably counting on the benefits they have been promised. We owe it all Americans to adopt this resolution today and I urge my colleagues to support House Concurrent Resolution 351.

Mr. ULLMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. ALBOSTA).

Mr. ALBOSTA. Mr. Speaker, I want to state clearly at the outset, I am totally opposed to the recommendation of the Advisory Council on Social Security. I feel very strongly that this plan to tax social security benefits is a misguided proposal, exhibiting a lack of concern on the part of a majority of the Advisory Council for an element in our society who has already paid its dues.

Social security taxes were paid by our elderly public throughout their working years. Americans are currently paying more than 6 percent of their income to finance the social security program. Income taxes are paid on those funds collected because social security taxes are not tax-deductible. Now, a majority of the members of the Advisory Council are saying that the American public has not paid enough taxes toward the social security system, and 50 percent of people's social security benefits should be treated as taxable income. I wholeheartedly disagree.

To justify its actions, the Advisory Council states that because of the double exemptions afforded our elderly citizens, couples living on combined incomes under $7,400 would not pay any tax on their social security benefits. This figure drops to $5,000 for single people. It was further estimated by the Advisory Council that the taxation of social security benefits would affect 10.6 million people currently receiving benefits. That number is just less than one-half of all social security recipients.

According to the Social Security Administration, 40 percent of all social security recipients live on incomes between $5,000 and $15,000. This income group certainly is not reaping "windfall profits" from the tax free status of social security benefits. They cannot afford an additional $300 to $500 tax burden that would be placed on them should the Advisory Council's plan be implemented. This is particularly true among the group representing people with incomes between $5,000 and $9,900. This group represents close to 30 percent of all social security recipients.

Clearly, with the current inflation rate, those people cannot afford the additional tax burden on money they had always felt was coming to them on a tax free basis. It would certainly be improper for the Federal Government to change course midstream on this issue at the expense of the American elderly public.

When I became aware of the recommendation to tax social security benefits, I introduced H.R. 6012, to prohibit the taxation of benefits. This bill writes into law the tax free status of benefits. Currently there is no provision in the law stating that social security benefits are tax exempt. The present nontaxability was established by a 1941 IRS ruling, and has never been challenged or reaffirmed by statute. I therefore feel that with the evolution of the Advisory Council opinion, now is the time to write the tax exempt status of social security benefits into law. It is clear that this feeling is overwhelming in the Congress, because of the number of cosponsors my bill currently has.

I am confident that the passage of House Concurrent Resolution 351 is the first step to write this provision in the law. I thus urge its speedy passage.

Mr. ULLMAN. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Mr. Speaker, I rise in strong support of legislation which expresses the sense of Congress that social security benefits ought to continue to be tax exempt.

I have heard the argument that other forms of retirement benefits are subject to income tax and thus equity demands that social security benefits also be taxed. I reject that argument because I believe it has twisted the correct solution to the inequity. Instead of penalizing social security recipients in the name of equity, we ought to allow a greater portion of other retirement programs to be tax free.

I do not believe there is any one group of citizens who are suffering more under the pressures of inflation than senior citizens trying to make ends meet on a fixed income—and in the case of social security recipients, current law prohibits their trying to earn the extra money needed without losing benefits they have paid for. Speaking of equity, neither private pension plans nor the Federal retirement program imposes this kind of penalty, and it seems to me that equity demands the removal of the outside income limitations on social security benefits.

Finally, and if for no other reason, fairness dictates that benefits continue to be tax exempt. I cannot imagine a more cruel way to raise revenues than to impose an income tax on a group of people, the great majority of whom are struggling to make it; as it is, these people had a more than reasonable expectation that these benefits were to be tax free and their budgets were planned accordinglv. To suddenly reverse a tax policy that has been in existence since 1941 would be both unfair and would indicate a callous disregard for the very real plight of a great many of the folks who would be taxed. I cannot imagine a more heartless solution to our revenue problems.

I strongly urge my colleagues' support for this sense of the Congress resolution and should there be any indication that the administration might proceed with the proposal without legislative direction, we need to act to amend the statute, itself.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I would like to rise in support of this bill, but there are two changes we ought to make in social security: If it is an insurance program, when you are 65, you ought to be able to make anything you want and continue to pay in the social security, and you should not have to sacrifice benefits. We must come to that. If it is insurance, that is the way it ought to be. No insurance company asks you when you total your car, how much money you have. They just pay. But not long ago a woman called me on a radio program, and she burst into tears before it was over. I was nearly in tears myself.

The SPEAKER pro tempore. The time of the gentleman from California (Mr. GOLDWATER) has expired.

Mr. ULLMAN. Mr. Speaker, I yield 1 additional minute to the gentleman from California.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. She had made $440 too much as a part-time checker in the A. & P., and she had to give back some of her social security benefits. There is something wrong about that. We really ought to pay attention, and make a change.

Second, Mr. Speaker, I do urge the attention of the chairman and ranking member to this problem: when a cost-of-living increase occurs in social security, it should not knock one off another program of which one is a beneficiary. There are elderly people in my State knocked off programs when an increase is granted. No cost-of-living increase should disqualify you for any other program of which you are a benefiicary before the cost-of-living increase goes into effect. What is the point of a cost-of-living increase if you are going to lose benefits to which you are entitled under another program? I would like to urge this change on the committee.

□ 1330

Mr. GOLDWATER. Mr. Speaker, I yield to my colleague, the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Speaker, I thank my colleague for yielding.

It seems to me that the commission recommendation is another example of what I see around here altogether too often.

The SPEAKER pro tempore. The time of the gentleman from California (Mr. GOLDWATER) has again expired.

Mr. ARCHER. Mr. Speaker, I yield 1 additional minute to the gentleman from California.

Mr. LAGOMARSINO. Mr. Speaker, if the gentleman will yield further, I think it is an example of what we see altogether too often around here; that is, changing contracts, treaties and obligations that have already been entered into in good faith on both sides. If we want to tax social security benefits—and I do not—let us start with people who come into the program after this point but not people who have already been in it, who have counted on the benefits not being taxable, and with whom we have made a contract.

I strongly support the legislation.

Mr. ULLMAN. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Maryland (Mrs. SPELLMAN).

Mrs. SPELLMAN. Mr. Speaker, I thank the chairman.

Mr. Speaker, I would like to commend the chairman of the Ways and Means Committee, Mr. ULLMAN, for his prompt action on House Concurrent Resolution 351.

I well remember the day the Social Security Advisory Council released its recommendation that one-half of social security benefits be taxed. Immediately senior citizens began calling my office; some, in tears, described the impossibility of the situation facing them. Taxation of their meager incomes was the final straw; many of them told me that they could not survive if benefits were taxed—if that little bit of income were taken from them.

What an unconscionable way to repay these people who spent their working years building this country. The proposal amounted to a change "in mid-stream" of the contract entered into in good faith when they began paying their FICA taxes. It amounted to the Government's giving with one hand only to take with the other; and taking from those who can least afford it. As it is, social security beneficiaries find it difficult enough to cope with today's constantly rising prices.

We need to correct deficiencies in the system—I quite agree with my colleagues who noted earlier in this debate that the earnings limitation was much too low. It should be raised, and I will continue to work toward that goal. In the meantime, however, we cannot allow the threat of taxation of benefits to continue hanging over the heads of the elderly in this country.

The proposal to tax benefits is a threat to the very foundation of the social security program. There is a great deal of difference between insurance benefits, such as social security, and pensions. We should not blur that line with proposals such as this to tax insurance benefits. It sets a dangerous precedent, undermining confidence in the social security system and in our Government. The Council's recommendation was, quite simply, bad policy, and I oppose it.

The measure before us not only expresses the sense of the Congress that social security benefits should not be subject to taxation, but also states that this Congress will not enact legislation to implement the Advisory Council's recommendations. No stronger statement of our opposition to the proposal to tax benefits can be made than by supporting House Concurrent Resolution 351. I urge my colleagues to join in acting to restore confidence in the social security program by voting in favor of the resolution.

● Mr. HAMMERSCHMIDT. Mr. Speaker, as one of the many sponsors of legislation in the 96th Congress to clearly prohibit the taxation of social security benefits, I rise in support of House Concurrent Resolution 351.

Social security benefits have always been totally exempt from Federal income taxes; however, one of the proposals of the 1979 Advisory Council on Social Security called for making one-half of social security benefits subject to Federal income tax. In my opinion, taxing social security benefits would be contrary to the concept of social security as an earned retirement and insurance program for the elderly and would introduce a welfare-type need concept by taxing those with additional income but not those without other income.

The proposal is highly discriminatory. According to the Advisory Council's formula, 10.6 million social security recipients out of a total 24.2 million would be affected by this proposal—the upper income one-third of the retired population. The increased tax burden would be approximately $350 per year, per person.

Further, social security tax is highly progressive—structured so that the higher wage earners foot the bill for most of the payroll tax and then receive proportionately less in benefits as wage replacement. To tax the retirement benefits of this same group of taxpayers would simply underscore the progressive nature of this tax.

The funds received by taxing social security benefits would be considered general revenues. Taxing the benefits would in no way contribute to sustaining the retirement programs, but would further undermine Americans' confidence in the social security system. Numerous surveys show that public confidence in the system is now at an all-time low. Taxing benefits could prove to be the last straw.

To assure that undue concern on the part of beneficiaries is not created by the Advisory Council recommendation, and that the confidence of American workers in the social security program is not undermined, the committee has acted swiftly and properly to report this concurrent resolution which will affirmatively state that it is the sense of the Congress that no such change in the tax treatment of social security benefits will be enacted by the 96th Congress.●

● Mr. ADDABBO. Mr. Speaker, I rise in support of the resolution (H. Con. Res. 351) calling for the continuation of the tax exempt status of social security benefits. I urge my colleagues vote in favor of this measure which is vital to the millions of Americans relying on the payments from social security, and block any attempt which will enact legislation making these benefits subject to taxation.

At the present time, social security benefits are totally exempt from Federal income taxes. However, in December of 1979, the Social Security Advisory Council issued a report recommending changing the tax treatment so as to include one-half of the amount of social security benefits in an individual's taxable income. If ever a recommendation was not to be implemented, this one certainly is. It is a recommendation which will have twofold consequences if put into law. To begin with, Americans are currently under a terrible strain as they confront higher inflation and growing taxes. The last thing Americans can afford to pay is yet another tax. In addition, I fear this tax will fall on the segment of our population least capable of absorbing more taxes—the retired and disabled. It is unconscionable that any Government body would seek to tax these people.

Along with what I have just stated, it is my firm belief that this recommendation, if implemented, will seriously undermine the confidence of American workers in the social security programs and could conceivably be the straw that breaks the camels back for a program under much criticism at the present time. I am confident that if taxation is not implemented, the future of the social security program may very well be a bright one.

Millions of Americans, young and old, depend on the Social Security Administration for security. Again, we must support any measures which would prevent the benefits received by Americans from becoming liabilities. I ask your passage of this resolution and am confident that you will see to it that social security benefits will remain tax-exempt.●

● Mr. WRIGHT. Mr. Speaker, I support this legislation. It establishes our firm resolve that social security benefits shall remain exempted from taxation. Social security is not charity. It is not a gift. It is an earned right, a contractual obligation between our Government and our older citizens.

A tax on those benefits—hard-earned and often too meager—would fly in the face of our national commitment to the elderly and cause injury to those who in good faith have worked and paid social security taxes for years. They are entitled now to a dignified retirement.

Any attempt to tax those benefits would be a clear violation of the compact made and agreed to by the Government and its citizens.

Today, we in the House of Representatives state our firm resolve to forbid the taxation of social security benefits. With this resolution we declare the overwhelming will of the Congress that social security benefits are and should remain exempt from Federal taxation.●

● Mr. HEFTEL. Mr. Speaker, since coming to this body in 1976, various issues involving the social security system have been debated almost continuously in the Congress. It is surprising therefore, that one of the most basic issues regarding the social security system has remained unresolved by this House until today.

I am speaking, of course, of the tax status of benefits received under the social security system. Until this issue was addressed by the Ways and Means Committee, the tax-exempt status of these benefits hinged solely on administrative decisions made by the IRS in 1938 and 1941. This situation had to be clarified and made certain by codifying in law, the administrative decisions made more than 40 years ago.

By expressing the sense of the Congress with respect to the taxability of these benefits we can finally lay to rest the doubts which have arisen on the part of the Nation's elderly and others. In view of the millions of senior citizens affected and the amount of benefits paid out yearly from the social security trust fund it is imperative that the taxability issue be finally and conclusively resolved.

Recent reports by both the Social Security Advisory Council and the President's Commission on Pension Policy have recommended that social security benefits be taxed in whole or in part. In my judgment, it is unsound tax policy to grant a benefit and then take part of it away via the tax system. Moreover, such a policy would reduce significantly the effectiveness of the social security system and undermine the program in the eyes of American workers. Taxing the benefits of our retired, elderly recipients would also be inequitable in the extreme since the employee's and employer's contributions to social security were made in after-tax dollars.

I must urge my colleagues to join with me in passing this resolution which will insure that social security benefits will not be taxed. By so doing we can alleviate some of the financial uncertainty confronting our senior citizens and reinforce public confidence in the social security system.●

● Mr. BIAGGI. Mr. Speaker, I rise in full support and as a cosponsor of House Concurrent Resolution 351 expressing the sense of Congress that social security benefits shall remain tax exempt. Enactment of this legislation is vital if we are to allay the very real fears of senior citizens that this Congress might adopt such a proposal.

Late last year, the Advisory Council on Social Security, as part of an overall report, recommended that one-half of social security benefits be subject to taxation.

As an original member of the House Select Committee on Aging, I stand totally opposed to the imposition of a tax on current social security benefits. The tax would directly affect some 10.6 million Americans and if imposed at the Advisory Committee level would equal approximately $350 a year—an amount which would place further hardship on the economic fortunes of these older Americans.

It should be noted that the Advisory Council was not in fact unanimous in their recommendation to tax benefits. In fact three members filed dissenting views raising many valid points.

The tax-exempt status of social security, proposed first in legislation and later implemented through administrative rulings, has stood unchallenged for some 40 years. This is not the time to change the policy—for if anything, seniors today are enduring as difficult a time economically as anytime in the past 40 years. Taxation of benefits would be the breach of a covenant between workers and their Government. It would be economically regressive and socially cruel. Hopefully, an overwhelming vote in favor of this resolution will put the issue of taxation of benefits to rest for the foreseeable future.●

● Mr. SNOWE. Mr. Speaker, I support House Concurrent Resolution 351, which would express the sense of Congress that the 96th Congress will not enact legislation to change the tax treatment of social security benefits.

I strongly and vigorously oppose the proposal to tax social security benefits recommended by the Advisory Council on Social Security. The Advisory Council's recommendation to tax half of all social security benefits is an unnecessary and unfair proposal that could place serious burdens on many Americans.

Since 1941, when the Bureau of Internal Revenue ruled on this issue, social security benefits have been nontaxable. To change the rules after millions of American workers have invested in and relied upon this system would be very unfair and would constitute a broken promise to the American people. Social security differs from all other retirement annuities because participation in the program is mandatory. All private sector workers must pay FICA taxes throughout their working years, and to tax benefits derived from this would be to tax social security beneficiaries twice.

Although the Advisory Council's proposal would not affect those living solely on social security benefits, it would put many older citizens in a very difficult financial situation. The majority of senior citizens on social security are already hard pressed because of the rising cost of food, medical care, and energy.

We must encourage Americans to save and invest money for retirement so that they may enjoy these years and live in comfort. Additionally, many social security recipients who are still able to work choose to do so to supplement their incomes, and we should not discourage them from doing so. To tax social security benefits would certainly be a disincentive, because it would add to the tax burden of these retirees, therefore decreasing the value of their efforts to supplement their social security income.●

● Mr. MINISH. Mr. Speaker, I am pleased to rise in support of House Concurrent Resolution 351 expressing opposition to taxing social security benefits.

As one of the first Members of this body to sponsor legislation prohibiting such a tax, I am happy that the entire House will have the opportunity to go on record on this issue. I urge my colleagues in the strongest terms to support House Concurrent Resolution 351.

In my 17 years in Congress I cannot remember any more misguided or unjust proposal than the one to tax social security benefits. I have done some research on the intent of Congress at the time social security was first proposed. Nowhere in the hundreds of pages of debate on the program is any mention made of subjecting social security benefits to Federal taxation.

We are all keenly aware of the devastating impact of inflation upon all Americans. Inflation's insidious effects are felt first and hardest by those on fixed incomes. Taxing social security benefits would have a dramatic impact upon the lifestyles of millions of American retirees. These people are already finding it difficult to make ends meet.

Should such a proposal be approved, 24 million Americans would, in effect, have their benefits reduced. This is not only unjust, it is cruel. Approximately 20 percent of America's elderly now live below the poverty level.

In conclusion, Mr. Speaker, I urge the House to go on record as firmly opposed to taxing social security benefits. The confidence and well-being of millions of Americans are at stake.●

● Mr. PEPPER. Mr. Speaker, today the House has before it two important measures related to the social security system. House Concurrent Resolution 351 would express the sense of Congress that social security benefits are and should remain exempt from Federal taxation. H.R. 7670 would authorize a temporary reallocation of social security payroll tax receipts from the disability insurance trust fund to the old age and survivors insurance trust fund. As chairman of the House Select Committee on Aging, I offer my firm support for both of these proposals.

As all of us know, last December the Social Security Advisory Council recommended that social security payments be taxed. My reaction was that adoption of this recommendation would represent a classic case of the Federal Government's giving with one hand and taking away with the other. This change would mark a fundamental violation of the principle by which people have paid taxes into the social security system in the expectation that they would receive tax-free benefits. I cannot help but believe that such an assault on retirement benefits will make the 35 million social security beneficiaries and the 110 million contributors alarmed about their Government's intention to honor its commitments to them.

Because of my opposition to taxation of social security, I am extremely pleased that the Ways and Means Committee has taken such decisive action in reaffirming the tax exempt status of social security benefits and I urge this House to join with it in doing so.

Yet, Mr. Speaker, it would be futile, indeed ridiculous, for us to prevent the taxation of social security benefits only to see such benefits stopped for lack of revenues. As all of us know, the old age and survivors insurance trust fund will face a cash-flow problem by 1982 if no new sources of funds are found.

I need not tell you what the nearly $9 billion in monthly benefits means to its recipients. I need not tell you of the human dignity which OASI benefits bring to its 34 million recipients—or of the human misery which would result if the OASI fund were to fail. And I need not tell you of the responsibility we bear to generations of Americans.

By temporary reallocating tax receipts from the DI to the OASI funds, we would gain 2 precious years in which to restructure the financing of social security. During that time, I would hope that we could enact legislation providing for the use of general revenues in financing social security. Regardless of what decision is made, we can, we should, and we must carefully, and deliberately, restructure social security financing so that it will be solvent when our children and their children retire.

Mr. Speaker, I urge all of my colleagues to join with me in expressing their affirmation of the principles of social security by supporting House Concurrent Resolution 351 and H.R. 7670. We can do no less.●

● Mr. ALBOSTA. Mr. Speaker, I rise in support of House Concurrent Resolution 351, declaring that social security benefits are and should remain tax exempt. On December 4, 1979, I introduced H.R. 6012, to actually prohibit the taxation of social security. This legislation currently has 240 cosponsors.

While it is clearly unusual for a piece of legislation to amass that type of support, Members were motivated by a recommendation of the Advisory Council on Social Security stating that 50 percent of a person's social security should be taxed.

On June 4, 1980, the House Democratic Caucus passed a resolution sponsored by Dick Ottinger and me, requesting the Ways and Means Committee to consider and report out a measure reaffirming the fact that social security benefits are tax exempt. While that committee did not accept my legislative approach, this resolution before us today is very important to assure our elderly community that the Congress has no intention of following the recommendation of the Advisory Council.

I would like to thank Chairman Ullman for his quick action in this regard. If it were not for his commitment to the elderly citizens of this Nation, this resolution would not be on the floor of the House today.

Mr. Speaker, I want to state clearly at the outset, I am totally opposed to the recommendation of the Advisory Council on Social Security. I feel very strongly that this plan to tax social security benefits is a misguided proposal, exhibiting a lack of concern on the part of a majority of the Advisory Council for an element in our society who has already paid its dues.

Social security taxes were paid by our elderly public throughout their working years. Americans are currently paying more than 6 percent of their income to finance the social security program. Income taxes are paid on those funds collected because social security taxes are not tax deductible. Now, a majority of the members of the Advisory Council are saying that the American public has not paid enough taxes toward the social security system, and 50 percent of people's social security benefits should be treated as taxable income. I wholeheartedly disagree.

To justify its actions, the Advisory Council states that because of the double exemptions afforded our elderly citizens, couples living on combined incomes under $7,400 would not pay any tax on their social security benefits. This figure drops to $5,000 for single people. It was further estimated by the Advisory Council that the taxation of social security benefits would affect 10.6 million people currently receiving benefits. That number is just less than one-half of all social security recipients.

According to the Social Security Administration, 40 percent of all social security recipients live on incomes between $5,000 and $15,000. This income group certainly is not reaping "windfall profits" from the tax-free status of social security benefits. They cannot afford an additional $300 to $500 tax burden that would be placed on them should the Advisory Council's plan be implemented. This is particularly true among the group representing people with incomes between $5,000 and $9,900. This group represents close to 30 percent of all social security recipients.

Clearly, with the current inflation rate, those people cannot afford the additional tax burden on money they had always felt was coming to them on a tax-free basis. It would certainly be improper for the Federal Government to change course midstream on this issue at the expense of the American elderly public.

When I became aware of the recommendation to tax social security benefits, I introduced H.R. 6012, to prohibit the taxation of benefits. This bill writes into law the tax-free status of benefits. Currently there is no provision in the law stating that social security benefits are tax exempt. The present nontaxability was established by a 1941 IRS ruling, and has never been challenged or reaffirmed by statute. I therefore feel that with the evolution of the Advisory Council opinion, now is the time to write the tax-exempt status of social security benefits into law. It is clear that this feeling is overwhelming in the Congress, because of the number of cosponsors my bill currently has.

I am confident that the passage of House Concurrent Resolution 351 is the first step to write this provision in the law. I thus urge its speedy passage.

● Mr. HARRIS. Mr. Speaker, I rise today in support of House Concurrent Resolution 351, which declares the sense of the House of Representatives that social security benefits should not be taxed.

It is certainly no secret that runaway inflation is imposing severe hardships on all Americans. However, it is also true that inflation takes its most severe toll on our senior citizens, most of whom live on fixed incomes. In these difficult times, when our elderly continue to lose their purchasing power, the Government should be working hard to find ways to reverse this dangerous trend and to protect our senior citizens from financial disaster.

Despite this situation, however, in December 1979 the Advisory Council on Social Security recommended that the Congress take action to tax social security retirement, disability, and survivor benefits. Although just a recommendation, the Nation's senior citizens are alarmed—and justifiably so.

Mr. Speaker, taxing social security benefits that were earned after years of hard work and sacrifice is unthinkable and unnecessary. Present benefits are already too meager, and reducing their income further would only represent another painful and unwarranted stab at the pocketbooks of our senior citizens. These people who have spent their lives building America have the right to live out their remaining years in dignity without the fear of having to choose between staying warm in the winter, eating, living in decent housing, or receiving adequate health care. If the Congress took action to tax social security benefits that Hobson's choice would only have to be made more often.

I urge my colleagues to support this resolution that will make it clear to our senior citizens that we do not intend to act upon this ill-advised recommendation. Our elderly deserve this reassurance that we are here to protect, not penalize, them in their retirement years.●

● Mr. LEWIS. Mr. Speaker, I rise in support of the resolution introduced by the gentleman from Oregon. This resolution puts the House on record as opposing any suggestions to tax social security benefits.

However, I do not believe the Congress went far enough to assure social security recipients that at some point down the road, benefits will not be taxed. Not only does the resolution lack the force of law, but it specifically pertains to the 96th Congress. The implication is that next year, the 97th Congress may very well take a more serious look at revamping the entire social security system and consider some form of taxation on benefits.

My concern about this possibility led to the introduction of a bill, H.R. 6512, which amends title II of the Social Security Act to specifically prohibit benefits payable under social security from being taxed. In addition I have joined with California State Senator David Roberti, Democrat, in a statewide petition drive urging the California Legislature and the U.S. Congress to prohibit the Internal Revenue Service from taxing social security benefits.

Senior citizens across the country are justifiably concerned in light of the President's Federal Advisory Council on Social Security recommendation that half of social security benefits be included as taxable income. They have been looking to the Congress to prohibit any action in this direction and what answer have they received? A mere statement of intent by their elected officials.

Surely the U.S. Congress can do better. Clearly this action alerting the Internal Revenue Service of congressional intent does not go far enough.●

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this legislation.

The SPEAKER pro tempore (Mr. DANIELSON). Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. ULLMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 351).

The question was taken.

Mr. ULLMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

GOLD MEDAL FOR BRYAN LEWIS ALLEN

Mr. ANNUNZIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5800) to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Bryan Lewis Allen, as amended.

The Clerk read as follows:

H.R. 5800

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, (a) the President of the United States is hereby authorized to present, on behalf of the Congress, to Bryan Lewis Allen, in recognition of his ability, perserverance and success in navigating the crossing of the English Channel in a self-powered plane. For such purpose, the Secretary of the Treasury is authorized and directed to cause to be struck a gold medal with suitable emblems, devices, and inscriptions, that is to include the recognition of the great contribution to aeronautics rendered by Dr. Paul MacCready in his design of the plane, as determined by the Secretary. There are authorized to be spent from already appropriated funds not to exceed $20,000 to carry out the provisions of this subsection.

(b) The Secretary of the Treasury may cause duplicates in bronze of such medal to be coined and sold under such regulations as he may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, overhead expenses and the cost of the gold medal, and the appropriation used for carrying out the provisions of this subsection shall be reimbursed out of the proceeds of such sale.

(c) The medal provided for in this section is a national medal for the purpose of section 3551 of the Revised Statutes (31 U.S.C. 368).

The SPEAKER pro tempore. Is a second demanded?

Mr. SHUMWAY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. ANNUNZIO) will be recognized for 20 minutes, and the gentleman from California (Mr. SHUMWAY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ANNUNZIO).

Mr. ANNUNZIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5800 would authorize the Treasury to strike a gold medal for the President to present on behalf of Congress to Bryan Lewis Allen. This medal would commemorate Mr. Allen's historic crossing of the English Channel in a self-powered airplane.

Mr. Allen is the first and only man to fly a self-powered aircraft across the English Channel. His 23-mile flight also set a record for the longest man-powered flight in history. In past years, Congress has honored aviation pioneers such as the Wright brothers and Charles Lindbergh and it is only fitting that Bryan Lewis Allen should also be honored.

In 1977, Bryan Lewis Allen became the first man to successfully complete a flight in a man-powered aircraft. That plane, the *Gossamer Condor*, now hangs in the Smithsonian Institution. For many people that would have been glory enough, but for Bryan Lewis Allen it was only the beginning.

Early on the morning of June 12, 1979, Bryan Lewis Allen took off from England and slowly pedaled his 55-pound airplane, the *Gossamer Albatross*, out over the English Channel. Less than 3 hours later, he landed his plane safely on the coast of France.

At one point during the flight he was barely skimming over the wave tops and had almost decided to give up his attempt. On another occasion he had to change directions to avoid a collision with a supertanker. Nevertheless, he persevered and successfully completed this historic flight.

Three amendments have been made to the bill. The first amendment provides that the inscription on the medal commemorate Paul MacCready, the designer of Mr. Allen's aircraft.

The second amendment provides that the funds for the medal be spent from already appropriated funds. This assures that this medal will not result in any additional Government spending.

The final amendment authorizes that the sale of bronze duplicates to the public be priced to recover the expenses of the gold medal. This further assures that there is absolutely no cost to the Government for striking the gold medal.

As many of you know, I have previously announced that the Subcommittee on Consumer Affairs would not consider any gold medal bills unless they were cosponsored by at least 218 Members. That provision does not apply to this bill because it had already been reported from both the subcommittee and the full Banking Committee prior to my institution of the cosponsor requirement. I want to reaffirm, however, that this cosponsor requirement will be strictly applied to all gold medals that have not yet been introduced or that are now pending before the subcommittee.

I would point out that H.R. 5800 does have 111 cosponsors. While this does not meet the 218 cosponsorship requirement imposed on new medal bills, I feel that by bringing the legislation to the floor under suspension, which of course requires a two-thirds vote, the legislation is not receiving that much preferential treatment as opposed to other medal bills now before the subcommittee.

Britain has already honored Mr. Allen with a medal of distinction presented by Prince Charles. France has also bestowed upon him a medal of honor. It is time that Congress join those countries and honor this inventive and daring American.

Mr. SHUMWAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to take this opportunity to explain that, in weighing the merits of the many requests that come to Congress for national medals and before our subcommittee, it is important that we honor only those events that have contributed to and advanced the history of the United States in a very significant sense. I believe that the first crossing of the English Channel in a manpowered plane is, indeed, worthy of being commemorated by a gold medal.

As the distinguished chairman has explained, Mr. Bryan Allen, a 26-year-old bicyclist, pedaled America's *Gossamer Albatross* some 22 miles in 2 hours and 49 minutes to make aviation history and to break his own world distance record for muscle-powered flight. His pedaling powered a bicycle-type chain that twirled a propeller at the rear of the craft. He had to pedal at times furiously to keep the propeller turning fast enough to skim some 10 or 30 feet above the channel at about 8 miles per hour.

Mr. Speaker, Mr. Allens' physical ability, his perseverance and his success, certainly are to be commended. I might add that this was the second major aerial feat by Americans to end in success within a year. On August 17, 1978, three Americans completed the first successful Atlantic balloon crossing. That event was honored llikewise with a gold medal.

Again, as the distinguished chairman has mentioned, Mr. Allen has received from Prince Charles of England the highest medal which England accords and, likewise, a similar medal from the Government of France.

In considering this legislation, Mr. Speaker, it seemed only proper that the gold medal reflect in some manner our recognition and appreciation of the great contribution to aeronautics that was rendered by the plane's designer, Dr. Paul MacCready.

For this reason, an amendment was accepted in the subcommittee that would call for that recognition to appear in some fashion on one side of the gold medal.

MacCready, an aeronautical engineer and former world soaring champion, has come to be known as the "Father of Man-Powered Flight." Certainly, it is appropriate that the gold medal should recognize such an accomplishment.

Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. Thomas).

□ 1340

Mr. THOMAS. Mr. Speaker, I rise today in support of H.R. 5800, a bill authorizing the President of the United States to present a medal on behalf of Congress to Bryan Lewis Allen, the first aviator to cross the English Channel in man-powered aircraft.

Bryan's 22-mile channel crossing was completed in 2 hours and 49 minutes, a new endurance record for human-powered flight. His aircraft, the "Gossamer Albatross," weighed but 55 pounds, yet its wingspan was 96 feet, wider than that of a DC-9. This fragile aircraft of carbon filament tubing and Mylar plastic sheathing was developed by Paul MacCready, Bryan's partner in this historic venture. Both Americans share the $200,000 prize offered by industrialist Henry Kremer and the Royal Aeronautical Society of England for the first human-powered flight over the English Channel.

Under the rules of the flight, the plane had to be heavier than air, Bryan had to launch it under his own power from the ground and pilot it by himself—the same rules which Kremer had stipulated for Bryan Allen's first historic flight in August of 1977 in Kern County, Calif., when he completed a figure-eight course of 1.15 miles to become the first aviator ever to achieve sustained, controlled flight under human power alone.

The airplane which Bryan flew on that historic day in 1977, the *Gossamer Condor*, is now on display in the National Air and Space Museum. To view that delicate aircraft, it would seem next to impossible that it could hold together in flight, yet it is a tribute to the skill and ingenuity of its inventor, Paul MacReady, and its pilot, Bryan Allen, that it did. Once again, Americans were first to conquer a new dimension of flight, and I am doubly proud that one of those Americans, Bryan Allen, is a resident of my home, Kern County.

Last year, this same team was again first, in a much more demanding test—the crossing of the channel. The task required a plane strong enough to withstand the winds over the channel yet light enough for a person to launch and sustain in flight. MacCready built it.

It also required a person light enough yet strong enough to keep the plane aloft. Bryan Allen, a former trackman and cyclist, filled the bill. He logged 70 miles of roadwork each day on his bicycle while training in the southeast countryside of England. When June 12 came, the *Gossamer Albatross* was rolled out of its hangar, Bryan was secured in the cockpit, and after a minor repair to the aircraft, he pedalled the plane 7 feet aloft and kept it above the English Channel for 22 miles.

During the flight, Bryan managed to to avoid an oil tanker and the choppy waves of the channel, and he touched down at Cape Gris-Nez, France, amid a crowd of newspeople and aviation enthusiasts from around the world. Among the acclaim which followed Bryan's aviation feat was an elaborate medal presentation ceremony at the Royal Academy of Aeronautics, where Prince Charles personally bestowed upon Bryan one of Britain's highest medals of distinction. France, too, presented Bryan with a medal of honor.

Mr. Speaker, I ask that the Congress of the United States also demonstrate the esteem in which it holds this extraordinary milestone in aviation, and the man who achieved it, by authorizing a specially struck medal to be awarded by the President of the United States.

By so honoring Bryan Allen, the country will renew its commitment to conquering the frontiers of flight, its tradition of inventiveness coupled with old-fashioned hard work that has resulted in so many successes. I ask the Congress to approve this legislation to honor Bryan Allen.

Mr. ANNUNZIO. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. Dornan).

Mr. DORNAN. Mr. Speaker, I wanted

to associate myself with the remarks of my three distinguished colleagues from California. I had the pleasure of meeting young Brian Allen out in the Rayburn Room some months back. Brian told me his harrowing story of coming within inches of the English Channel waves seven different times. This "Gossamer Albatross" story proves that there are still young American men and women in this great country of ours who will work against unbelievable odds to fulfill dreams and explore frontiers yet unknown.

Mr. SHUMWAY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ANNUNZIO. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ANNUNZIO) that the House suspend the rules and pass the bill, H.R. 5800, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

MISCELLANEOUS TARIFF AND CUSTOMS AMENDMENTS

Mr. VANIK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5047) to provide for the temporary suspension of duty on the importation of color couplers and coupler intermediates used in the manufacture of photographic sensitized material (provided for in items 405.20 and 403.60, respectively), as amended.

The Clerk read as follows:

H.R. 5047

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AMENDMENTS TO TARIFF SCHEDULES

SEC. 101. AMENDMENT OF TARIFF SCHEDULES.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a schedule, item, or other provision, the reference shall be considered to be made to a schedule, item, or other provision of the Tariff Schedules of the United States (19 U.S.C. 1202).

SEC. 102. FOREIGN MATERIALS DETERMINATIONS RELATING TO TARIFF TREATMENT OF PRODUCTS OF INSULAR POSSESSIONS.

General headnote 3(a)(ii) is amended to read as follows:

"(ii) In determining whether an article produced or manufactured in any such insular possession contains foreign materials to the value of more than 50 percent, no material shall be considered foreign which either—

"(A) at the time such article is entered, or

"(B) at the time such material is imported into the insular possession,

may be imported into the customs territory from a foreign country, other than Cuba or the Philippine Republic, and entered free of duty; except that no article containing material to which (B) of this subdivision applies shall be exempt from duty under subdivision (i) unless adequate documentation is supplied to show that the material has been incorporated into such article during the 18-month period after the date on which such material is imported into the insular possession.".

SEC. 103. YARNS OF SILK.

(a) Subpart D of part 1 of schedule 3 is amended—

(1) by amending item 308.40 by striking out "8.1% ad val." and "40% ad val." in rate columns numbered 1 and 2, respectively, and inserting in lieu thereof "Free", and by striking out "5% ad val." in the LDDC column; and

(2) by amending item 308.50 by striking out "11.6% ad val." and "50% ad val." in rate columns numbered 1 and 2, respectively, and inserting in lieu thereof "Free", and by striking out "5% ad val." in the LDDC colcolumn.

(b) Items 905.30 and 905.31 are repealed.

(c) The amendments made by subsections (a) and (b) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after June 30, 1980.

SEC. 104. POPPY STRAW EXTRACT.

(a) Part 3 of schedule 4 is amended—

(1) by striking out item 437.14 and inserting in lieu thereof the following:

	Opium alkaloids and their compounds:		
437.14	*Poppy straw extract having an alkaloid content of not less than 90 percent, if imported for use in producing codeine, morphine or thebaine*	*Free*	*Free*
437.15	*Other*	*$1.50 per oz.*	*$3 per oz."*

and

(2) by striking out item 439.30 and inserting in lieu thereof the following:

	Advanced:		
"439.40	*Poppy straw extract if imported for use in producing codeine, morphine or thebaine*	*Free*	*Free*
439.41	*Other*	*1.5% ad val.*	*10% ad val."*

(b) Item 907.70 is repealed.

(c) The amendments made by subsections (a) and (b) apply with respect to articles entered, or withdrawn from warehouse, for consumption after June 30, 1980.

SEC. 105. FIELD GLASSES AND BINOCULARS.

(a)(1) Item 708.51 is amended by striking out "7.9% ad val." in rate column numbered 1 and inserting in lieu thereof "Free", and by striking out "3.4% ad val." in the LDDC rate column.

(2) Item 708.52 is amended by striking out "18.5% ad val." in rate column numbered 1 and inserting in lieu thereof "Free", and by striking out "8% ad val." in the LDDC rate column.

(b) The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

SEC. 106. ENTRY OF CERTAIN VALUABLE WASTES.

That headnote 2(b)(ii) of subpart C of part 5 of schedule 8 is amended to read as follows:

"(ii) all articles and valuable wastes resulting from such processing will be exported or destroyed under customs supervision within the bond period; except that in lieu of the exportation or destruction of valuable wastes duties may be tendered on such wastes at rates of duties in effect for such wastes at the time of importation.".

SEC. 107. WATER CHESTNUTS AND BAMBOO SHOOTS.

(a) Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

'903.45	*Water chestnuts or bamboo shoots, frozen (provided for in item 137.87 or 138.45, part 8A, schedule 1)*	*Free*	*Free*	*On or before 6/30/83*
903.50	*Water chestnuts (provided for in item 141.70, part 8C, schedule 1)*	*Free*	*Free*	*On or before 6/30/83*
903.55	*Bamboo shoots in airtight containers (provided for in item 141.78, part 8C, schedule 1)*	*Free*	*Free*	*On or before 6/30/83''*

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

SEC. 108. URETHANE CURING AGENT (TMAB).

(a) Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.05	*Bis(4-aminobenzoate)-1, 3-propanedio (trimethylene glycol di-p-aminobenzoate) (provided for in item 403.60, part 1B, schedule 4)*	*Free*	*No change*	*On or before 6/30/83".*

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

SEC. 109. COLOR COUPLERS AND COLOR INTERMEDIATES.

(a)(1) Item 907.10 of the Appendix is amended by striking out "6/30/80" and inserting in lieu thereof "6/30/82".

(2) Item 907.12 of the Appendix is amended by striking out "6/30/80" and inserting in lieu thereof "6/30/82".

(b) The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after June 30, 1980.

SEC. 110. DOXORUBICIN HYDROCHLORIDE.

(a) Item 907.20 of the Appendix is amended by striking out "6/30/80" and inserting in lieu thereof "6/30/82".

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after June 30, 1980.

SEC. 111. LEVULOSE.

(a) Item 907.90 of the Appendix is amended by striking out "10% ad val." and inserting in lieu thereof "Free", and by striking out "6/30/80" and inserting in lieu thereof "12/31/81".

(b) The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after June 30, 1980.

SEC. 112. FLAT KNITTING MACHINES.

(a) Subpart B of part 1 of the Appendix is amended by striking out items 912.07 and 912.08, and by inserting in numerical sequence the following new item:

"912.07	*Power-driven flat knitting machines over 20 inches in width (provided for in item 670.19 or 670.20, part 4E, schedule 6)*	*Free*	*No change*	*On or before 6/30/83".*

(b) The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

SEC. 113. WARP KNITTING MACHINES.

(a) Subpart B of Part 1 of the Appendix is amended by inserting in numercial sequence the following new item:

"912.13	*Warp knitting machines (provided for in item 670.20, part 4E, schedule 6)*......	*Free*	*No change*	*On or before 6/30/83".*

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

SEC. 114. SPECIAL EFFECTIVE DATE PROVISION.

If the date of enactment of this Act is after June 30, 1980, then, upon request therefor filed with the customs officer concerned on or before the 180th day after such date of enactment, the entry of any article—

(1) which was made after June 30, 1980, and before such date of enactment, and

(2) with respect to which there would have been no duty if the amendment or amendments, as the case may be, made by sections 103, 104, 109, 110, and 111 applied to such entry,

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930, or any other provision of law, be liquidated or reliquidated as though such entry had been made on June 30, 1980.

TITLE II—AMENDMENTS TO OTHER TRADE LAWS

SEC. 201. SAME CONDITION DRAWBACK.

(a) Section 313 of the Tariff Act of 1930 (19 U.S.C. 1313) is amended—

(1) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(2) by inserting immediately after subsection (i) the following:

"(j) SAME CONDITION DRAWBACK.—(1) If imported merchandise, on which was paid any duty, tax, or fee imposed under Federal law because of its importation—

"(A) is, before the close of the three-year period beginning on the date of importation—

"(i) exported in the same condition as when imported, or

"(ii) destroyed under Customs supervision; and

"(B) is not used within the United States before such exportation or destruction;

then upon such exportation or destruction 99 per centum of the amount of each such duty, tax, and fee so paid shall be refunded as drawback.

"(2) The performing of incidental operations (including, but not limited to, testing, cleaning, repacking, and inspecting) on the imported merchandise itself, not amounting to manufacture or production for drawback purposes under the preceding provisions of this section, shall not be treated as a use of that merchandise for purposes of applying paragraph (1)(B).".

(b) The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

SEC. 202. INFORMAL ENTRY OF CERTAIN U.S. PRODUCTS.

Section 498(a) of the Tariff Act of 1930 (19 U.S.C. 1498(a)) is amended—

(1) by redesignating paragraphs (2) through (11) as paragraphs (3) through (12), respectively; and

(2) by inserting immediately after paragraph (1) the following new paragraph:

"(2) Products of the United States, when the aggregate value of the shipment does not exceed $10,000 and the products are imported—

"(A) for the purposes of repair or alteration prior to reexportation, or

"(B) after having been either rejected or returned by the foreign purchaser to the United States for credit;".

SEC. 203. TECHNICAL AMENDMENTS TO THE TRADE AGREEMENTS ACT OF 1979.

The Trade Agreements Act of 1979 (Public Law 96-39; 93 Stat. 144 et seq.) is amended as follows:

(1) Section 852 is amended by striking out: "So much of subpart D of part 12 of schedule 1 of the Tariff Schedules of the United States as follows headnote 1 is amended to read as follows:

Aquavit: "

and inserting in lieu thereof the following:

"Subpart D of part 12 of schedule 1 of the Tariff Schedules of the United States is amended to read as follows:

Subpart D headnote:

1. The rates of duty provided for the products enumerated in this subpart shall be assessed on a proof gallon basis (i.e., the rates shown indicate the amount of duty which shall be collected on each gallon of an imported product at 100 proof). The amount of duty which shall be collected for each gallon of a product which is imported at more than or less than 100 proof shall bear the same ratio to the applicable rate of duty as the proof of the imported product bears to 100 proof.

Aquavit: '".

(2) Paragraph (1) of section 1107(a) is amended to read as follows:

"(1) inserting 'and' after 'subpart E', and by striking out 'headnote 4' and inserting in lieu thereof 'headnote 3', in headnote 3(a)(i), and".

SEC. 204. FOREIGN-TRADE ZONES BOARD REPORTS.

Section 16(c) of the Act entitled "An Act to provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", approved June 18, 1934 (48 Stat. 1002; 19 U.S.C. 81p(c)), is amended by striking out "on the first day of each regular session" and inserting in lieu thereof "by April 1 of each year".

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. ROOFING TILES FOR CHINESE CULTURAL AND COMMUNITY CENTER OF PHILADELPHIA, PENNSYLVANIA.

(a) The Secretary of the Treasury shall admit free of duty roofing tiles purchased from the China National Arts and Crafts and Export Corporation for the use of the Chinese Cultural and Community Center in Philadelphia, Pennsylvania.

(b) If the liquidation of the entry for consumption of any article subject to the provisions of subsection (a) has become final, such entry shall be reliquidated within 90 days after the date of enactment of this Act, and the appropriate refund of duty shall be made notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514).

SEC. 302. CONVEYANCE OF CERTAIN LANDING CRAFT TO COOS COUNTY, OREGON.

(a) Notwithstanding any provision of title III of the Liquor Law Repeal and Enforcement Act (49 Stat. 879), and subject to subsection (b), the District Director of the United States Customs Service, Portland, Oregon, is authorized and directed to convey to the Coos County sheriff's office, Coos County, Oregon, all right, title, and interest of the United States to the three lighter amphibious resupply cargo craft (LARC's) seized by officers of such Customs Service and officers of such sheriff's office in the drug raid conducted jointly by such officers on December 31, 1977, at Bandon, Coos County, Oregon.

(b) The conveyance described in subsection (a) shall be made subject to the payment by the Coos County sheriff's office of such storage or other expenses which may have been incurred with respect to the craft described in such section from the date of seizure of such craft to the date of delivery to the sheriff's office.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio (Mr. VANIK) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Committee on Ways and Means reported H.R. 5047 with an amendment in the nature of a complete substitute to create a single omnibus bill consolidating 17 noncontroversial tariff and customs bills plus technical amendments to the Trade Agreements Act of 1979, which were considered separately and reported favorably by the committee with amendments.

Title I of H.R. 5047, as amended, combines 12 bills amending the tariff schedules of the United States to provide for or continue temporary suspension or the elimination of rates of duty on imports of particular products:

Section 101 is a definition provision applicable to all sections in title I.

Section 102, introduced as H.R. 6687 by our colleague from the Virgin Islands, Mr. EVANS, amends general headnote 3(a) of the tariff schedules by excluding from the definition of "foreign" material, those materials which could have been imported into the United States free of duty at the time those materials were actually imported into the insular possession, provided that the material was incorporated into the article produced in the insular possession within 18 months after its importation into the insular possession. Thus, manufacturers in the insular possessions would no longer have to bear the risk not borne by their United States and Puerto Rican competitors that materials they purchase for articles to be shipped to the United States may lose their duty-free status.

Section 103, introduced as H.R. 7173 by our colleague, Mr. SCHULZE, eliminates the rates of duty on certain yarns of silk entered, or withdrawn from warehouse, for consumption after June 30, 1980. The bill as introduced was amended by the committee to provide permanent duty elimination rather than continuation of the existing suspension of duties, which has been renewed periodically since 1959.

There is no domestic production of these yarns.

Section 104, introduced as H.R. 5952 also by our colleague Mr. SCHULZE, eliminates the rates of duty on poppy straw extract imported for use in producing codeine, morphine, or thebaine entered, or withdrawn from warehouse, for consumption after June 30, 1980. The committee amended the bill as introduced to provide a permanent duty elimination rather than continuation of the existing temporary duty suspension. There is no domestic production of poppy straw extract, which is a raw material for essential medical drugs.

Section 105, introduced as H.R. 5875 by our colleagues, Mr. MINETA and Mr. GIBBONS, eliminates the column 1 (MFN) rates of duty on field glasses and binoculars. There is no domestic production of the articles covered by the duty elimination.

Section 106, introduced as H.R. 7167 by our colleagues, Mr. NOWAK and Mr. LAFALCE, amends the Tariff Schedules to permit retention of valuable wastes generated during the processing of imported merchandise brought in under bond, provided that applicable duties are tendered on such wastes. The provision removes a problem for metal-processing businesses on the United States-Canadian border who must destroy or export rather than use the metal scrap byproduct.

Section 107, introduced as H.R. 6673 by our colleague, Mr. LATTA, suspends temporarily the rates of duty on water chestnuts and bamboo shoots until June 30, 1983. The committee amended the bill as introduced to apply to frozen as well as to prepared or preserved, but not to fresh, water chestnuts and bamboo shoots. Duty suspension will reduce consumer prices for canned water chestnuts and bamboo shoots of which there is no or very limited domestic production.

Section 108, introduced as H.R. 6278 by our colleague, Mr. SHANNON, suspends temporarily the column 1 (MFN) rate of duty on the urethane curing agent known as TMAB, used by the polyurethane industry, until June 30, 1983. Duty suspension will enable Polaroid to develop a U.S. market sufficient to warrant domestic production of the product.

Section 109, introduced as H.R. 5047 by our colleague, Mr. FRENZEL, continues the existing temporary suspension of the column 1 (MFN) rates of duty on color couplers and color intermediates until June 30, 1982. Continuation of duty-free status will enable color print paper producers relying on imported couplers and intermediates to remain competitive pending completion of domestic production facilities.

Section 110, introduced as H.R. 6269 by our colleague from Delaware, Mr. EVANS, continues the existing temporary suspension of the column 1 (MFN) rate of duty on doxorubicin hydrochloride, known as Adriamycin, until June 30, 1982. Duty suspension will reduce consumer costs for this cancer chemotherapy drug not produced in the United States.

Section 111, introduced as H.R. 7145 by our colleague, Mr. JENKINS, suspends temporarily the column 1 (MFN) rate of duty on levulose entered, or withdrawn from warehouse, for consumption after June 30, 1980 until December 31, 1981. The committee amended the bill as introduced to provide for temporary suspension rather than continuation of the existing temporary duty reduction on levulose. Duty suspension will enable continued marketing of imported levulose until domestic production begins in mid-1981.

Section 112, introduced as H.R. 7047 by our colleagues, Mr. HOLLENBECK and Mrs. HECKLER, suspends temporarily the column 1 (MFN) rate on duty on hat knitting machines until June 30, 1983. The committee amended the bill as introduced to delete suspension of the column 2 rate of duty applicable to Communist countries, to limit coverage to wide-bed machines not produced domestically, and to simplify the product description and its administration.

Section 113, introduced as H.R. 7004 by our colleague, Mr. SCHULZE, suspends temporarily the column 1 (MFN) rate of duty on warp knitting machines until June 30, 1983. The committee amended the bill as introduced to provide a 3-year rather than 2-year suspension.

Duty suspension on flat and warp knitting machines will reduce costs to domestic knitwear producers purchasing needed machinery not available domestically.

Section 114 provides retroactive application of existing duty suspensions or reductions which expired June 30, 1980 on specific products included in this bill.

Title II of H.R. 5047 as amended includes three bills to amend other trade laws:

Section 201, introduced as H.R. 5464 by our colleagues, Mr. FRENZEL and Mr. ROSTENKOWSKI, amends section 313 of the Tariff Act of 1930, to provide for the allowance of the "drawback" privilege—that is, the refund of duties—to include articles of foreign origin exported in the same condition as when imported, or destroyed under the supervision of U.S. Customs, within 3 years of date of importation. The committee amended the bill as introduced to provide clearly that incidental operations are to be performed on the imported merchandise itself as opposed to allowing it to be used while in the United States to test other merchandise. By greatly simplifying and expanding the drawback provision, the bill encourages firms to maintain and augment their operations in the United States.

Section 202, introduced as H.R. 5452 by our colleague, Mr. STANTON, amends the section 498(a) of the Tariff Act of 1930 to allow for the "informal" entry of U.S.-origin merchandise not exceeding $10,000 in aggregate value, when imported for repair or alteration prior to reexportation, or when rejected or returned by the foreign purchaser for credit. This provision will eliminate a needless burden and expense on purchasers of U.S. products while not resulting in any loss of revenues to the Treasury.

Section 203 amends section 852 and paragraph (1) of section 1107(a) of the Trade Agreements Act of 1979 to make two technical conforming changes in the headnotes of the tariff schedules.

Section 204, introduced as H.R. 5827 by administration request, amends the act of June 18, 1934 to permit the Foreign Trade Zones Board to submit its annual report to the Congress no later than April 1 of each year.

Title III of H.R. 5047 as amended contains two sections consisting of trade provisions of a private relief nature:

Section 301, introduced as H.R. 5065 by our colleague, Mr. LEDERER, provides for the duty-free entry of roofing tiles purchased from China for the use of the Chinese Cultural and Community Center of Philadelphia, Pa.

Section 302, introduced as H.R. 5442 by our colleagues, Mr. WEAVER, authorizes and directs U.S. Customs to convey to the Coos County, Oreg., sheriff's office all interest of the United States to three amphibious craft which were seized in a drug raid. The committee amended the bill as introduced to make this conveyance subject to the payment by the Coos County sheriff's office of storage expenses and other costs incurred from the date of seizure.

Mr. Speaker, the Committee on Ways and Means has not received objections from any sources to any section of H.R. 5047, as amended, which the committee ordered reported by voice vote.

I urge its passage.

□ 1350

The SPEAKER pro tempore. The Chair recognizes the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. SCHULZE) a member of the subcommittee and a prime sponsor of three of the sections of this bill.

Mr. SCHULZE. I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of H.R. 5047. While I feel many of the provisions contained within this legislation are very beneficial, I will confine my comments today to only those three sections of the bill which I have personally sponsored.

Section 103 of H.R. 5047 is designed to permanently suspend tariff duties on unbleached and uncolored fine silk yarns.

As my colleagues may know, the duty on these items has been suspended almost continuously since 1959. Since there is no domestic production of silk yarn nor is any anticipated, I believe a permanent suspension is appropriate.

There are many benefits to be gained by this action, including allowing domestic textile and apparel manufacturers to compete more effectively with imported fine silk textiles and apparel, thus preserving the jobs of Americans who manufacture these products.

Section 104 of this legislation would also permanently suspend duties on imported concentrate of poppy straw, which expired on June 30, 1980.

The United States is totally dependent on imported concentrate poppy straw, which is a raw material used in the production of medicinal codeine and morphine.

It is also a material whose importation and processing into medicine is strictly regulated by the Justice Department under the Controlled Substances Act.

While the worldwide opium shortage

which forced domestic producers to switch from opium to concentrate has somewhat eased, poppy straw concentrate remains a vital ingredient in the production of certain prescription drugs.

As a result of the current duty suspension, production costs have been reduced and prescription drugs containing codeine and morphine are less expensive for consumers.

The final section of H.R. 5047 which I will address is section 113. This provision will suspend the column 1 rate of duty on imports of tricot and raschel warp knitting machines for a 3-year period.

In order to remain competitive in domestic and world markets, domestic warp knit manufacturers must acquire a new generation of machinery which can only be purchased outside this country.

There has been no domestic production of warp knit machinery since 1975. Yet, these companies must pay a current U.S. duty rate of 6.7 percent ad valorem on each machine they purchase from an MFN country. The burden of this duty is substantial, considering that the highly sophisticated warp knit machinery, produced principally in West Germany, costs between $35,000 and $50,000 per unit.

Suspending the U.S. column 1 rate duty for a period of 3 years will have several beneficial effects. This action would permit domestic textile firms to purchase the needed new machinery at a lower cost, thus facilitating the competitiveness of U.S. textile and apparel products in both domestic and foreign markets. In addition, removal of this tariff burden would be particularly beneficial to American consumers who ultimately pay for such tariffs in the form of higher prices for knitted textile and apparel products.

Finally, a more competitive U.S.-made product means that a warp knit company will be better able to increase its sales in both domestic and foreign markets. This will clearly have a beneficial effect upon domestic employment and upon our international balance of trade.

Mr. Speaker, rarely do we have an opportunity to pass legislation which has no adverse effect on any U.S. interest and offers real potential savings for all Americans.

I urge the immediate adoption of this needed legislation.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join my colleague in supporting H.R. 5047, an omnibus bill consisting of 17 noncontroversial tariff and trade measures, previously introduced as separate bills, plus technical amendments to the Trade Agreements Act of 1979.

The numerous provisions of this combined bill have been adequately described by our colleague from Ohio, the distinguished chairman of the Trade Subcommittee. All of the provisions were approved by voice vote, and opposition to them either did not arise or was satisfactorily resolved during the committee process. Furthermore, the administration opposes none of the sections contained in this bill.

I would like to focus my brief remarks on title II of the bill. This title makes several changes in the U.S. customs laws that I believe will be beneficial to U.S. businesses engaged in foreign trade principally by contributing to a freer flow of trade across the border and by reducing unnecessary administrative burdens. These benefits, of course, also flow through to the consumer in the form of reduced costs for products.

One provision, of which I am the sponsor, would permit a "drawback" or refund of duties paid on merchandise imported into the United States and later exported if the merchandise was not used in this country and was exported in the same condition. However, and most importantly, drawback of duties would not be denied where only incidental operations, such as testing, cleaning, repacking, and inspecting, were performed on the merchandise. In other words, incidental operations would not be considered a "use" of the merchandise in the U.S. market nor a change in the condition of the goods.

The drawback provision simplifies and expands current customs law and procedures with respect to refunds or nonapplication of duties on exported goods. Drawback is already provided for duties on imported merchandise used in the manufacture of products later exported. In addition, under current law, duties on imported merchandise not used in a manufacturing process but later exported in the same condition, can be avoided through the use of temporary importation bonds, customs-bonded warehouses, or foreign trade zones. Section 201 of this bill provides a simplified and less costly procedure of "same condition drawback" similar to that now applied to imported goods used in a manufacturing process.

A second change in the customs laws, provided in section 202, would permit certain eligible merchandise to come into the United States under informal entry procedures. Such merchandise cannot exceed $10,000 in aggregate value and must either be imported for purposes of repair or alteration prior to reexportation or be rejected and returned by a foreign buyer for credit. Current law permits duty-free treatment for American goods that later come back into the country without having been advanced in value or improved in condition while abroad. However, if the goods are valued above $250, a more costly formal entry procedure must be exercised.

As my colleagues can see, both these provisions simplify customs procedures and provide cost benefits to American businesses and consumers alike. The Trade Subcommittee, with the support of the U.S. Customs Service, has been active in the reform of customs laws and procedures. This bill contains minor but important changes that mark a continuation of our efforts.

Mr. Speaker, I urge my colleagues to give unanimous approval to H.R. 5047, with all its important provisions.

● Mr. MINETA. Mr. Speaker, I would like to comment briefly on two sections of H.R. 5047 which offer us an opportunity to make small—but significant—improvements to our current trade law.

Section 105 would eliminate duties on fieldglasses, opera glasses, and prism binoculars imported from most-favored-nation status trading partners. Currently, there is an ad valorem tariff of 18.5 percent on prism binoculars imported from Japan and Germany, where the highest quality commercial products are made. It is, of course, the American consumer who ultimately pays the costs of this duty. Since there is no commercial production of these articles in the United States, the tariffs protect no domestic industry. In fact, the main effect of the tariffs is to increase costs to the consumer. Section 105 would remove these burdensome duties and lower consumer costs of binoculars, fieldglasses, and opera glasses.

Section 201 allows for refund of duties on foreign made goods when they are exported in the same condition as when imported, or when they are destroyed under the supervision of the U.S. Customs Service within 3 years of the date of importation. Section 201 allows the importer to recoup duties paid on goods that are excess or unusable. Thus, it removes restrictions on the importer's ability to meet the needs of its foreign and domestic customers. It promotes better inventory management and cash flow—and this improves the productivity of the industry.

At a time when we are looking for ways to stimulate American business, we should be eager to make these small changes in trade law which will have such beneficial effects on consumer prices and on the efficiency of businesses which use imported goods.●

Mr. FRENZEL. Mr. Speaker, I have no further requests for time, and I yield back the remainder of my time.

Mr. VANIK. Mr. Speaker, I yield back the remainder of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. VANIK) that the House suspend the rules and pass the bill, H.R. 5047, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to provide for the temporary suspension of certain duties to extend certain existing suspensions of duties, and for other purposes."

A motion to reconsider was laid on the table.

TARIFF ACT AMENDMENTS FOR FISH NETTING

Mr. VANIK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6571) to amend the Tariff Act of 1930 to temporarily continue the present duty-free status of the cost of fish net and netting purchased and repaired in Panama, as amended.

The Clerk read as follows:

H.R. 6571

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 466 of the Trade Act of 1930 (19 U.S.C. 1466) is amended by adding at the end thereof the following new subsection:

"(g) During the period commencing October 1, 1979 and ending December 31, 1981, the duty imposed under subsection (a) shall not apply to the purchase of and cost of repair of tuna purse seine nets and netting for any United States documented tuna purse seine vessel of greater than 500 tons carrying capacity or any United States tuna purse seine vessel required to carry a certificate of inclusion under the general permit issued to the American Tunaboat Association pursuant to section 104 of the Marine Mammal Protection Act of 1972.".

☐ 1400

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio (Mr. VANIK) will be recognized for 20 minutes and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6571, as amended by the Committee on Ways and Means, amends section 466 of the Tariff Act of 1930 to provide that the 50 percent ad valorem rate of duty imposed under that section shall not apply during the period October 1, 1979 through December 31, 1981 to purchase of and cost of repair of tuna purse seine nets and netting for any U.S. documented tuna seine vessel. The bill was introduced by our colleague, Mr. BREAUX.

Prior to October 1, 1979, vessels documented under U.S. law were permitted to purchase equipment and initiate repairs in the Panama Canal Zone without payment of the 50-percent duty under section 466 because U.S. Customs did not consider the Panama Canal Zone to be a "foreign country" within the meaning of section 466. Duty-free status of the Panama Canal Zone terminated on October 1, 1979, upon transfer of the canal to Panama.

Most tuna net installation and repair takes place in the Canal Zone, adjacent to historical tuna fishing grounds in the eastern Pacific Ocean. Netting purchased in the Canal Zone from Japan and Taiwan distributors is the only netting currently available which meets the requirements of the Marine Mammal Protection Act.

U.S. netting manufacturers and tuna industry have agreed to work together to develop and produce netting in sufficient quantity and of adequate quality meeting environmental specifications to supply the needs of the U.S. tuna fleet by 1982. Continuation of duty-free treatment for purchases and repair of tuna netting in Panama provided by the bill for a 2-year period in the meantime, will remove the considerable additional expense of the 50-percent duty to the tuna industry on orders placed with foreign manufacturers for 1980 and 1981.

H.R. 6571, as amended, represents a compromise between the U.S. tuna industry, domestic fish net manufacturers, and the administration, which the committee ordered reported by voice vote. I urge its passage.

Mr. FRENZEL. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I join my colleagues in supporting H.R. 6571, a bill temporarily reinstating duty-free treatment for the purchase and repair of tuna purse seine nets for large tuna vessels.

This bill is designed to provide an extended adjustment period to owners of tuna fishing vessels operating in the eastern tropical Pacific Ocean who suddenly found that the longstanding duty-free treatment of net purchases and repairs was revoked when the status of the Canal Zone changed last fall. With the passage of legislation implementing the Panama Canal Zone Treaty, the Canal Zone became a "foreign country" for customs purposes and thus duties were applied where none had been levied before.

The duty now in effect is 50 percent ad valorem on the cost of equipment purchased, the repair parts or materials to be used, or the expenses of repairs made in foreign countries on U.S. vessels engaged in foreign or coastal trade. Although the duty applies to a broad range of ships, the adverse effects of the duty increase in this instance are felt principally by those tuna vessels which had previously enjoyed duty-free status for repairs made in the Canal Zone. Therefore H.R. 6571 focuses temporary relief from such duty on U.S. documented tuna seine purse vessels and limits the duty-free treatment solely to purchases and repairs of tuna purse seine nets and netting.

Although whether such vessels make their purchases or repairs in the Canal Zone is not a condition for duty-free status under this bill, the description of the vessel virtually limits the bill's provisions to those vessels adversely affected by the Canal Zone changeover. Of course, any provision that would favor a single country or group of countries would be in violation of our international agreements to provide nondiscriminatory tariff treatment to all nations with whom we trade on a most-favored-nation basis.

Some problems with this bill were raised by U.S. netting manufacturers who are increasing their production and attempting to become more competitive with Japan and other Far Eastern producers. In response to these concerns, the duty suspension was limited to 27 months and restricted to certain vessels as discussed above. Thus, U.S. netting manufacturers are provided the necessary lead time to produce netting in sufficient quantity and quality to supply the needs of the U.S. tuna fleet while tuna vessels are also given some time to adjust to the new status of the Canal Zone.

Mr. Speaker, I believe the bill as amended by the Ways and Means Committee is fair and accommodates all the parties involved. I know of no opposition to the bill as amended. I urge my colleagues to approve H.R. 6571.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New Jersey (Mr. FORSYTHE), a member of the Committee on Merchant Marine and Fisheries.

Mr. FORSYTHE. Mr. Speaker, for as long as I have been a Member of the Merchant Marine and Fisheries Committee, the U.S. tuna fleet has been hailed as the world leader in tuna fishing technology. The men who constitute the captains and crews of our tuna fleet have constantly pioneered new types of gear and new fishing techniques which have enabled them to maintain their preeminent position. In 1979, the U.S. tuna fleet landed 508 million pounds of tuna valued at $215 million. Tuna is the fourth most important fishery in the United States in terms of both volume and value. The U.S. fleet has also developed new nets and new techniques which have reduced the incidental mortality of porpoises to levels which only a few years ago were believed to be beyond the realm of possibility. If the captains and crews of foreign vessels could follow the example of our fishermen, the overall rate of porpoise mortality could be reduced substantially.

Today, our tuna fleet needs our assistance. For years, the Panama Canal Zone was considered a duty-free zone and the fleet which was operating in the eastern tropical Pacific returned to Panama for the purchase and repair of its sophisticated nets. Because of the relationship of the United States with the Canal Zone, the expenditures made for the purchase or repair of nets was duty-free. However, when the United States returned jurisdiction of the Canal Zone to Panama, the Zone was no longer considered a duty-free U.S. port and netting purchased in the Canal Zone from Japan and Taiwan distributors became subject to the 50-percent duty on foreign netting.

While we would all hope that the tuna fleet would purchase U.S.-produced netting, the sad truth is that foreign-made nets are the only ones available which meet the requirements of the Marine Mammal Protection Act. Given the fact that an average net costs $200,000, and given the fact that there is no place else to purchase the netting, it makes little sense to penalize the U.S. tuna fleet by forcing them to pay a 50-percent tax on imported netting. Such a tax would erode the competitive position of the U.S. fleet and is a needless penalty to be imposed on this fleet. However, the legislation before us today provides this special exemption for the tuna fleet only until December 31, 1981. It is anticipated, in fact it is expected, that by the end of 1981, the U.S. industry will be able to manufacture nets adequate to the needs of the tuna industry.

To assist our tuna fleet during this period of time, I urge the adoption of H.R. 6571.

Mr. FRENZEL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VANIK. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. VANIK) that the House suspend the rules and pass the bill, H.R. 6571, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend the Tariff Act of 1930 to continue temporarily the duty-free status of the cost of certain fish net and netting purchases and repairs.".

A motion to reconsider was laid on the table.

DUTY FREE TREATMENT OF WOOD VENEERS

Mr. VANIK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6975) to eliminate the duty on hardwood veneers, as amended.

The Clerk read as follows:

H.R. 6975

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That part 3 of schedule 2 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended as follows:

(1) Item 240.00 is amended by striking out "1% ad val." in rate column numbered 1 and inserting in lieu thereof "Free", and by striking out "Free" in the LDDC rate column;

(2) Item 240.02 is amended by striking out "7% ad val." in rate column numbered 1 and inserting in lieu thereof "Free", and by striking out "4% ad val." in the LDDC column;

(3) Item 240.03 is amended by striking out "2% ad val." in rate column numbered 1 and inserting in lieu thereof "Free", and by striking out "Free" in the LDDC column;

(4) Item 240.04 is amended by striking out "5% ad val." in rate column numbered 1 and inserting in lieu thereof "Free", and by striking out "3.2% ad val." in the LDDC column; and

(5) Item 240.06 is amended by striking out "2% ad val." in rate column numbered 1 and inserting in lieu thereof "Free", and by striking out "Free" in the LDDC column.

SEC. 2. The amendments made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio (Mr. VANIK) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6975, as reported with technical amendments by the Committee on Ways and Means, eliminates the column 1 (most-favored-nation) rates of duty and temporary rates applicable to imports from least developed developing countries on wood veneers. The bill was introduced by our colleague from Tennessee (Mr. FORD).

Duty elimination would enable U.S. manufacturers of plywood, who rely on imported logs and veneers for the manufacture of their product, to obtain veneers at a lower cost and thus compete more effectively with imported plywood. Restrictions on the export of logs by major supplying countries have forced U.S. manufacturers to rely more heavily on imported veneers. U.S. supply of high quality domestic hardwoods is insufficient to meet the needs of domestic furniture, cabinet, and plywood producers. Most of the veneers covered by the bill are no longer competitive with domestic products.

During the multilateral trade negotiations, the wood industry sector advisory committee requested duty-free entry for all hardwood and softwood veneers as a negotiating goal. Maximum reductions were negotiated, but immediate implementation and elimination of the higher duties was not possible because of statutory limitations on the negotiating authority.

H.R. 6975, as amended was ordered reported by the Committee on Ways and Means by voice vote. I urge its passage.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also support H.R. 6975, a bill to eliminate the duty on five tariff items covering column I entries of hardwood and softwood veneers. As explained earlier, such veneers are used primarily as cores or backing for plywood.

Throughout the multilateral trade negotiations (MTN), the industry called for the elimination of duties on imported wood veneers in the context of overall reciprocal tariff reductions. This goal was advocated because there was little competitive domestic production and, by removal of the duties, the U.S. plywood manufacturers hoped to benefit from easier access to lower cost imported veneers. The domestic plywood industry also would be able to improve their competitive position with respect to imported plywood. Although significant reductions were made in the MTN, the limitations of current law prevented a complete elimination of the duty. Our principle foreign supplier is Canada, one of this country's most valuable trading partners.

We now have an opportunity, through this legislation, to respond to the market situation that has developed over the years which has made these duties unnecessary. An adjustment in the duties in this instance will be felt beyond the plywood industry, with the furniture and housing industries also benefiting from the reduced cost of wood veneers. It is especially important in this period of high inflation to work to remove those tariffs that serve no purpose other than to push prices higher.

Mr. Speaker, I want to point out that the committee did receive testimony in opposition to this bill from labor organizations because of the fear that some jobs might be affected in those companies that currently use or supply domestic hardwood veneers. However, the Department of Labor has responded to our satisfaction that increases in employment in labor-intensive wood product industries would outnumber any possible job losses resulting from passage of this bill. I believe in the final analysis the bill will be very helpful to labor since it will contribute to the overall economic improvement of the industries involved.

Mr. Speaker, H.R. 6975 has received broad support including an endorsement by the administration. The revenue loss associated with its passage amounts to approximately $5 million per year based on 1979 imports. I urge unanimous approval of H.R. 6975.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VANIK. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. VANIK) that the House suspend the rules and pass the bill, H.R. 6975, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to eliminate the duties on wood veneers.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VANIK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bills just passed, H.R. 5047, H.R. 6571 and H.R. 6975.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

REALLOCATION OF SOCIAL SECURITY TAXES BETWEEN OASI AND DI TRUST FUNDS

Mr. PICKLE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7670) to amend title II of the Social Security Act to make necessary adjustments in the allocation of social security tax receipts between the Federal old-age and survivors insurance trust fund and the Federal disability insurance trust fund.

The clerk read the bill as follows:

H.R. 7670

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 201(b)(1) of the Social Security Act is amended by striking out clauses (H) through (K) and inserting in lieu thereof the following: "(H) 1.50 per centum of the wages (as so defined) paid after December 31, 1978, and before January 1, 1980, and so reported, (I) 1.1 per centum of the wages (as so defined) paid after December 31, 1979, and before January 1, 1981, and so reported, (J) 1.30 per centum of the wages (as so defined) paid after December 31, 1980, and before January 1, 1982, and so reported, (K) 1.65 per centum of the wages (as so defined) paid after December 31, 1981, and before January 1, 1985, and so reported, (L) 1.90 per centum of the wages (as so defined) paid after December 31, 1984, and before January 1, 1990, and so reported, and (M) 2.20 per centum of the wages (as so defined) paid after December 31, 1989, and so reported,".

(b) Section 201(b)(2) of such Act is amended by striking out clauses (H) through (K) and inserting in lieu thereof the following: "(H) 1.0400 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1978, and before January 1, 1980, (I) 0.7775 per centum of the

amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1979, and before January 1, 1981, (J) 0.9750 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1980 and before January 1, 1982, (K) 1.2375 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1981, and before January 1, 1985, (L) 1.4250 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1984, and before January 1, 1990, and (M) 1.6500 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989,".

Sec. 2. The amendments made by the first section of this Act shall apply with respect to remuneration paid, and taxable years beginning, after December 31, 1979.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas (Mr. Pickle) will be recognized for 20 minutes, and the gentleman from New York (Mr. Conable) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. Pickle).

(Mr. PICKLE asked and was given permission to revise and extend his remarks and include extraneous matter.)

Mr. PICKLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before us today is a necessary step to make sure that social security beneficiries, particularly those under the large retirement and survivors program (OASI) continue to receive full benefits on time as they have for the past 40 years.

While this bill is necessary, it is not enacted in haste or in alarm. The Subcommittee on Social Security has examined carefully the effect of the economy on the trust funds for the past 2 years. While many seem to regard the recent projections of trouble in the social security funds as a "great discovery," it is something the subcommittee has lived with—and planned for—every day.

The bill we bring today is a deliberate step both to insure the stability of the trust funds and to provide the Congress the time it will need to make any further changes necessary.

This bill has been endorsed by Social Security Commissioner, William Driver, Health and Human Services Secretary, the Honorable Patricia Harris, and the White House. It is also supported by aging organizations, business groups such as chambers of commerce, and labor groups such as the AFL–CIO.

While we recognize that H.R. 7670 is an interim step, it is not a patch-up job, and the public should understand this bill as one part of an ongoing effort to adjust social security to the current and future needs of the American worker and his or her family.

This is an effort which, I am happy to say, has been free of partisan bickering and which has been conducted on a high plane of debate, where the well-being of the program and of those who depend on it has been foremost.

While there has been a lot of discussion both in and out of Congress, Congress itself has not acted often in the area of social security financing.

With bipartisan support, it acted in 1972 to index the social security system and to institute a "dynamic" actuarial accounting structure suitable for an indexed system. In 1977 Congress again acted, this time to make corrections and adjustments necessary under the new, indexed system.

It has not taken any action regarding financing since that time. In these same years, however, the economy has not performed as expected. The indexed social security program is more susceptible to extreme changes in the economy, such as those we have suffered over the last few years, and that is our reason for being here today.

While the economy has had a definite effect on the trust funds, I wish to make the strong point that the action the Congress took in 1977 is still sound. It provided major corrections and a sound foundation, so that the problems we face today are not nearly so awesome as some newspaper headlines would have us believe.

H.R. 7670 embodies a rather minor adjustment in the trust funds, but this action will insure the Congress that it will have the time to take any other actions needed. Those other actions needed may not be much more dramatic than the bill before us today—or they may require deeper changes in the program.

In that regard, the subcommittee will continue both to monitor the status of the funds and to bring forward corrective actions wherever they are needed.

And whatever is required, the Congress will have the time carefully to consider these actions and I have full confidence that the Congress will act, as it always has, in a nonpartisan and positive manner.

The bill before us today follows a practice which has been followed several times in the past.

Under the social security program, we have three trust funds into which the payroll tax receipts are automatically appropriated according to a schedule set out in the law. These are the old-age and survivors fund, the disability fund, and the medicare hospital insurance fund.

Under current economic assumptions, as contained in the 1980 social security trustees report, the old-age and survivor fund will not be able to pay full benefits beginning in late 1981. This is due almost entirely to adverse economic conditions of the past few years. The July 3 social security checks, for instance, contained a 14.3-percent benefit increase mandated by the benefit formula which is indexed to keep pace with inflation. This 14.3 percent benefit increase, however will cost the trust funds $16.8 billion in increased payments in the first year alone.

In addition, higher unemployment has reduced income to the trust funds over what was expected.

Reserves in the disability fund, however, are expected to increase steadily in the future under both the intermediate and the pessimistic assumptions of the 1980 trustees report. Experience in the disability program has been better than projected in 1977, and the recent enactment of Public Law 96–265 will further improve the performance of this fund.

Reallocation, the mechanism used in H.R. 7670, has been the traditional way of redistributing the OASDI tax rates when there have been changes in the law and in the experience of the programs and in order to keep all the programs on a more or less even reserve ratio.

Reallocation means that the formula for allocating the incoming payroll tax receipts is changed in the law so that funds will flow into the various funds in a different mix than currently projected.

The action does not affect the overall tax rates in any way. It does not affect any money already in a particular trust fund. Nor does it have any effect whatsoever on benefit payments.

H.R. 7670 would reallocate between the old-age and the disability funds so that there will be sufficient reserves in the OASI fund for an additional year, until late 1982.

The following tables outline the changes in the tax schedules and the projected reserves for the OASI and DI funds under the various trustee assumptions.

TABLE 1.—REALLOCATION OF TAX RATE SCHEDULE BETWEEN OASI AND DI UNDER H.R. 7670

[Percent of taxable earnings]

Calendar years	Total for OASDI[1]	Allocated rates under present law		Reallocated rates under H.R. 7670	
		OASI	DI	OASI	DI
Employees and employers, each:					
1980	5.08	4.330	0.750	4.520	0.560
1981	5.35	4.525	.825	4.700	.650
1982–84	5.40	4.575	.825	4.575	.825
1985–89	5.70	4.750	.950	4.750	.950
1990 and later	6.20	5.100	1.100	5.100	1.100
Self-employed persons:					
1980	7.05	6.0100	1.0400	6.2725	.7775
1981	8.00	6.7625	1.2375	7.0250	.9750
1982–84	8.05	6.8125	1.2375	6.8125	1.2375
1985–89	8.55	7.1250	1.4250	7.1250	1.4250
1990 and later	9.30	7.6500	1.6500	7.6500	1.6500

[1] The total OASDI tax rate under H.R. 7670 between OASI and DI is the same as under present law.

TABLE 2.—TRUST FUND ASSETS AT THE BEGINNING OF THE YEAR AS A PERCENTAGE OF OUTGO DURING THE YEAR UNDER PRESENT LAW AND UNDER H.R. 7670

	UNDER PRESENT LAW								
	Optimistic assumptions			Intermediate assumptions			Pessimistic assumptions		
	OASI	DI	OASDI	OASI	DI	OASDI	OASI	DI	OASDI
1979	30	30	30	30	30	30	30	30	30
1980	23	36	24	23	35	24	23	35	24
1981	15	45	19	15	44	18	14	43	18
1982	8	65	15	6	61	12	3	55	9
1983	2	92	12	−2	84	8	−9	70	(1)
1984	−4	126	11	−10	111	4	−21	88	−8
1985	−8	169	11	−17	142	(1)	−33	109	−17
1986	−7	239	19	−21	196	3	−42	149	−21
1987	−4	320	30	−23	254	7	−52	192	−25
1988	(1)	406	42	−26	315	11	−62	236	−30
1989	5	498	55	−27	278	16	−73	283	−34
1990	11	594	70	−28	442	23	−83	332	−38

	UNDER H.R. 7670								
	Optimistic assumptions			Intermediate assumptions			Pessimistic assumptions		
	OASI	DI	OASDI	OASI	DI	OASDI	OASI	DI	OASDI
1979	30	30	30	30	30	30	30	30	30
1980	23	36	24	23	35	24	23	35	24
1981	19	21	19	18	20	18	18	19	18
1982	14	16	15	12	13	12	9	10	9
1983	8	40	12	4	33	8	−3	23	(1)
1984	3	73	11	−3	60	4	−15	43	−8
1985	−1	113	11	−11	91	1	−27	64	−17
1986	(1)	181	19	−14	144	3	−36	103	−21
1987	3	260	30	−17	201	7	−46	146	−25
1988	7	344	41	−19	261	11	−56	191	−29
1989	12	434	55	−21	324	16	−67	238	−34
1990	18	528	70	−21	388	23	−77	286	−38

□ 1410

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. STUDDS). The Chair recognizes the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 7670. It is, literally, the least we can do to keep the major social security trust fund solvent through 1981.

According to administration actuaries, if corrective action is not taken, the old-age and survivors insurance (OASI) trust fund will run short of money to pay benefits at some point late next year. This bill is the vehicle for minimal corrective action. It would shift some payroll tax collections from the disability insurance (DI) trust fund to the OASI fund. Although the DI fund is much smaller, it is much better off financially, and a transfer of taxes should keep both OASI and DI afloat until late summer or early fall of 1982.

In essence, then, this bill merely buys some time for the 97th Congress. Instead of about 7 months, if this bill is passed, the 97th Congress will have about 18 months in which to act.

Which brings me to the one problem I have with this legislation. It is needed, but it nevertheless symbolizes a congressional unwillingness to tackle the truly tough social security issues. It is, in a sense, another patch-and-mend job on a social insurance system that badly needs permanent strengthening. We are postponing, again, a confrontation with such difficult issues as long-term financing, an increasing tax burden on workers and their employers, the system's treatment of women, and the perennial matter of universal coverage.

Even with its massive tax increases, the 1977 social security amendments left the system with a long-range actuarial deficit equal to 1.4 percent of taxable payroll, which translates roughly into some $800 billion current. That deficiency must be dealt with eventually.

In dealing with it, the Congress must make a fundamental decision either to increase income to, or to decrease outgo from, the trust funds which pay benefits. In either case, the decision should be made expeditiously so that beneficiaries and contributors will have, as soon as possible, a better idea of what the system holds for them in the future. Whatever changes are coming, they need to know far in advance so that they can adjust with a maximum of ease.

Today, there is widespread unease in the country about the long-range stability of the social security system. Fears and apprehensions need to be allayed, and allowing the system to move from financial crisis to financial crisis does not help in that regard.

□ 1420

Public concern over rising payroll taxes appears to have subsided in recent months, but I suspect this may be a temporary lull. This issue might start heating up again after the tax rate and the taxable wage base both take a quantum jump on January 1 of next year.

As for the treatment of women and the question of whether social security coverage should be extended to Federal employment, there have been voluminous studies and prolonged debate. Both balls are now in the congressional court, and they will continue bouncing around until we muster enough courage to meet them squarely.

I freely concede there is not time enough left in the 96th Congress to go through the painful decisionmaking process on these issues. Therefore, we have no recourse but to pass this bill, and the social security buck. The 97th Congress will have to cope with another trust fund shortfall in 1982, and a simple reallocation, as this bill provides, will not suffice again. The same old problems will be there, but the same old answers will not then be available to us.

Mr. Speaker, we must approach social security on a bipartisan basis. We must work together to insure that there is a broad base of support and a willingness on the part of the Members of this or any subsequent Congress to deal with these terribly controversial and sensitive issues on a long-term basis. We cannot continue to "toggle" up the system with baling wire every 2 years.

We are running out of expendients of this sort that protect the trust funds temporarily from the possibility of bankruptcy. In the meantime all the long-term projections receive the attention of writers and analysts, and there are scare headlines that not only frighten old people about whether they will be receiving their checks at the beginning of next month but frighten young people about whether their benefits will be worth anything when they finally get them.

So unless we do some long-term planning of the sort this Congress or any responsible governmental group should be capable of doing, we are going to have a continuing downward spiral of confidence in a system which is central to our personal security plans and which, therefore, requires our very earnest consideration.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I thank my colleague for yielding.

I know that what I am about to talk about is not one of the major problems which our colleague, the gentleman from New York (Mr. CONABLE), has so ably described, but it is a problem because it concerns the public conception of the system.

When our people, old and young, those who are paying into the system and those who are receiving the benefits, hear about social security benefits paid to prisoners in prison, they wonder how well this is being administered.

I would like to ask my colleague whether or not this deplorable mistake is continuing or whether it has been stopped.

Mr. CONABLE. Mr. Speaker, I thank the gentlewoman for her timely question.

We have had hearings on this matter. I can give the gentlewoman every assurance that it is the intention of this Member, in any event, and, I believe, the chairman of the subcommittee as well, to resolve that problem in some constitutional way.

I am sure the gentlewoman is aware of the fact that social security payments are made as a matter of right, and that equal protection of the laws requires us to find some way of achieving the goal without in the process delineating among recipients on the basis of their worthiness. Benefits should be available as a matter of right.

Mrs. FENWICK. But Mr. Speaker, surely we ought to be able to define disability on the basis of something that is a real disability and not the fact that one has committed a crime against society and is being maintained at public expense somewhere else. It is perfectly preposterous that the agency has defined "disability" to include those who are in prison.

Mr. CONABLE. Mr. Speaker, I thank the gentlewoman for her comments, and I would like to tell her that we have carefully crafted a bill in a way which we believe will eliminate any possibility of constitutional objections based on failure of equal protection of the laws. I think my friend, the gentleman from Texas (Mr. PICKLE), the distinguished chairman of the subcommittee, will confirm every intention on the part of the committee of seeing that this outrage is not continued or is not allowed to recur.

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Speaker, the gentleman is correct. Our subcommittee is concerned with the issue the gentlewoman from New Jersey (Mrs. FENWICK) has raised.

Both the gentleman in the well and I have introduced a measure on this issue. We each have introduced bills which we think will address the problem.

This is not as alarming a problem as some might think in the numbers involved, because a survey shows that only 224 people in Federal institutions are receiving any social security benefits, although we do not have information yet regarding prisoners housed in State institutions. No matter what the amount is, no matter what the numbers might be, whether it is right or wrong, we must find a better answer to the problem to protect this constitutional right, as the gentleman from New York (Mr. CONABLE) has said.

May I also say to the gentlewoman from New Jersey—and I want to stress this—that when she says we are in a deplorable condition now with respect to social security and to the administration of the social security program, I would say to the gentlewoman that the problem we face today is not through ill or bad administration of the program, but it is primarily because of the economic conditions we face in our Nation.

In the Nation today, the problem is that we have such high inflation and interest rates and such high unemployment, and that means less money is going into our trust fund. It means that more people are drawing higher benefits and people are retiring earlier.

So the problem is brought about by the economic conditions facing the Nation, not by the administration of the program. I dare say that the social security program has been administered as well as any program in the Government today. Less than 2 percent or 1½ percent is spent on administration.

So we may quarrel with individual bills or individual programs, but overall social security has been administered in a manner that gives great confidence to the people.

Mr. CONABLE. Mr. Speaker, if I may reclaim my time, my version would be somewhat different from that.

I think our problems in social security result from the failure of this body to approach it from a long-term viewpoint. We are not dealing with speculative problems or a future that cannot be determined. We have a population bulge going through our system like a pig through a python, and it is clearly visible. We know who is going to be retiring, we know who is going to be moving into the work force within the next 20 or 30 years, and clearly it is within the capacity of this body to plan this vital institution in such a way that it will be funded in the future.

Our planning has not been good. As the gentleman from Texas (Mr. PICKLE) says, the administration of the system has been good. As a matter of fact, I am amazed that it has been as good as it has since Congress has dumped on the Social Security Administration all kinds of additional responsibilities without giving it the skills or the additional personnel to deal with them.

In fact, the Social Security Administration has done remarkably well, considering that it has had three commissioners in the past 5 years and this should be a job which requires great skill and considerable continuity in administration.

We have problems with social security. The point is it is within our capacity to deal with them, and we have not dealt with them except on this kind of a basis from crisis to crisis, permitting the scare headlines and the decline in confidence which has resulted from that.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield further?

Mr. CONABLE. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I thank my colleague for yielding.

In the first place, I cannot take the answer that a down turn in the economy increases the number of aged people. People become aged at 65 whether there is a boom or a crisis. I cannot accept that argument.

Mr. CONABLE. It does decrease the revenue in the system.

Mrs. FENWICK. Yes, it does decrease the revenue in the system, but what I am talking about is the lack of commonsense on the definition of disability.

How could any agency of the U.S. Government think that Congress intended to give social security disability benefits to people in prison? That is lacking commonsense, and that is all I am talking about. It is not mismanagement.

Mr. CONABLE. Mr. Speaker, perhaps the gentlewoman has her quarrel with the court system but not with us.

Mrs. FENWICK. It is just commonsense that is lacking.

Mr. CHARLES H. WILSON of California. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. Mr. Speaker, on a matter similar to that raised by the gentlewoman from New Jersey (Mrs. FENWICK), I, too, am concerned with the amount of money that goes overseas.

The gentleman did state very strongly that social security payments are a matter of right, and it is the constitutional right of the people to receive them, those who are eligible. Yet there is a real serious problem, I think, with recipients who are living in Greece, Italy, and other foreign countries and who, when their spouses become deceased, go back to the old country. I would imagine that here we are talking of millions and millions of dollars and hundreds of thousands of people rather than 230 prisoners who might be in prison.

□ 1430

But this, too, presents a very serious problem. I do not know whether it is one that deserves attention or not.

Mr. CONABLE. The gentleman is correct. It may be a problem, in terms of the number of people who are drawing money overseas. It may be cheaper for a beneficiary to live in some foreign country and, therefore, he or she may get an added windfall by doing that. I believe, however, that if we are going to have payments as a matter of right, it would be very difficult to say that because somebody was out of the country he or she loses the right that flows directly from the contributions made.

If we could so define the worthiness to receive benefits, then I am afraid we would find other reasons for denying people the benefits that now are theirs as a matter of right, and I think that we have to be very careful with that.

Mr. Speaker, I have nothing further to say about the bill that is before the body at this point. I think the 97th Congress clearly will need all of the inspiration and luck that it can get, but, more than that, it will need an earnest attention to long-term considerations. In the meantime, this is the least we can do to give assurance that there will not be some faltering in the system during the interim.

I compliment the chairman of the subcommittee on having taken this step. If it had not been taken, we would be very quickly in trouble. Obviously, I am not in favor of that. And the thrust of my remarks should not be against this measure but an exhortation that we will move into longer term considerations as quickly as possible. I think immediately after a Presidential election is a very good time to deal with these particularly sensitive issues, and I hope that it will be addressed early in 1981 rather than leaving it until once again the scare headlines can further erode public confidence in this terribly important institution.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PICKLE. Mr. Speaker, when we passed the social security reform measure in 1977, it was a courageous step that Congress took. And under any normal set of circumstances we would not be faced with a situation we face today. The gentleman from New York is correct that we need to take this limited action. We need to do it quickly to insure the older citizens primarily that sufficient money will be in the OASI trust fund to pay their monthly benefits. This should restore confidence so that people will not be alarmed. It is an important step to take, and I urge the adoption of H.R. 7670.

● Mr. BIAGGI. Mr. Speaker, I rise in support of H.R. 7676, emergency legislation to provide for the transfer of funds between the old-age and survivors insurance program and the disability insurance programs of the social security system. Passage of this legislation is required if we are to avert the calamity of having OASI benefits interrupted sometime during 1981.

It should be noted that President Carter displaying great foresight called for such an interfund transfer approach very early in the year. It was apparent then as it is now without such an adjustment the OASI fund would begin to experience a severe cash flow problem which could affect benefit payments. The cash flow problem, according to a recent report by the social security trustees is a result of higher than expected inflation rates and the continued reduction in the ratio between beneficiaries and contributors.

Under this legislation, the OASI share of the payroll tax would increase from its present 4.33 percent to 4.52 percent and finally in 1981 be upped again to 4.7 percent. Not only is the percentage increased, so is the amount of taxes from which to draw.

Social security is a vital part of the economic fortunes of millions of Americans. Close to 90 percent of all persons over the age of 65 have received social security benefits in each year since 1967. More than 60 percent of these people rely on social security for more than one half of their income while almost 25 percent rely on it for their entire income.

I am proud to serve as an original member of the House Select Committee on Aging. I worked closely with our chairman, Mr. PEPPER, earlier this year on a resolution which reaffirmed that social security recipients should receive a cost of living increase of at least 13 percent in 1980. Some proposals had been offered to trim the size of the increase to help achieve a balanced budget. The cost of living increase was in fact, 14.3 percent, one of the more realistic increases in memory. H.R. 7670 should be viewed in a complimentary light to help insure the uninterrupted payment of these increased benefits and all others which may follow.

For this time period, H.R. 7670 will suffice. However, it is high time that we began to examine the social security system in a more comprehensive reform spirit. Several areas come immediately to mind.

The first is general revenue financing. The time has clearly come for this. Personally, I favor an approach such as that advocated by our distinguished former colleague Jim Burke, the so-called ⅓-⅓-⅓ plan. This is necessary if we are to realistically address the future of the social security system.

I also firmly support elimination of the outside earnings limitation which serves to discriminate against those older persons who still are capable and willing to work.

Finally, it is imperative that the gender based distinctions inherent to the system be removed to end discrimination against women. I have spoken to the chairman of the subcommittee, Mr. PICKLE, on this matter on several occasions and he is clearly sympathetic.

Finally let me conclude by noting that it was over 1 month ago when I testified before Mr. PICKLE's subcommittee in shock and outrage over revelations that Son of Sam, David Berkowitz, had been receiving social security disability benefits for a period of time while in prison. The individual matter involving Berkowitz has apparently been resolved but there is a larger issue to contend with, the rights of prisoners in general to receive disability benefits. I hope this issue is explored in greater detail in the months ahead as well.

With the passage of H.R. 7670 and earlier of House Concurrent Resolution 351, we are taking two important steps in restoring the word security to its prominent place in the discussion of social security.●

● Mr. ARCHER. Mr. Speaker, I support H.R. 7670 because it is an essential piece of legislation.

It provides for a reallocation of collected social security payroll taxes between the two trust funds that pay cash benefits. Both funds—for old-age and survivors insurance (OASI) and for disability insurance (DI)—are financed through a single tax rate, levied on a single wage base. Money is allocated to each fund according to a formula in the law. We have adjusted this formula before, most recently in 1977, so there is ample precedent for what we are being asked to do in this bill.

The fund which pays benefits to retirees, their dependents and survivors, is running short of money. Actuaries estimate that late in 1981, perhaps in November, OASI will not be able to pay all the benefits that will be due.

The smaller fund, which pays benefits to insured disabled workers and their dependents, is temporarily in relatively better financial condition. A transfer of money from DI to OASI is designed to keep the system solvent until late in 1982.

Before that time, of course, a more lasting solution to trust fund financial problems must be found. The chairman and the members of the Subcommittee on Social Security, on which I serve as the ranking minority member, have pledged themselves to launch a thorough search for that solution. The subcommittee will, as I understand the schedule, conduct some field hearings during the remainder of this year and then begin work early in 1981 on legislation to restore both funds to solvency.

It clearly will not be a simple task. The days of easy answers to social security problems are, I am afraid, gone forever. We will need all the help we can get, and I hope some will come from the National Commission on Social Security, which was given a broad mandate in the 1977 amendments to study the system and come up with recommendations for the Congress to consider. The Commission's final report, due January 11, promises to be very timely.

Also due next year is a final report from the President's Commission on Pension Policy, with an even broader mandate.

The reports of these two groups, plus the already completed findings of more specialized task forces, should give us a stronger information foundation on which to build our legislation.

As for now, however, we have no sensible alternative to the bill before us, and I urge my colleagues to support it.●

Mr. PICKLE. Mr. Speaker, I do not have any other requests for time.

The SPEAKER pro tempore (Mr. DANIELSON). The question is on the motion offered by the gentleman from Texas (Mr. PICKLE) that the House suspend the rules and pass the bill, H.R. 7670.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PICKLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT CONTEMPT CITATION

Mr. BENNETT. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 743) which is printed in House Report 96–1078 regarding proceedings against O. Robert Fordiani.

The Clerk read as follows:

H. RES. 743

Resolved, That pursuant to 2 U.S.C. 192 and 194, the Speaker of the House certify the report (96–1078), detailing the refusal of O. Robert Fordiani to obey a lawful supena of the House of Representatives and to testify before the House Committee on Standards of Official Conduct, to the U.S. Attorney for the District of Columbia to prosecute the said Fordiani for contempt of Congress.

The SPEAKER pro tempore. Is a second demanded?

Mr. SPENCE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida (Mr. BENNETT) will be recognized for 20 minutes, and the gentleman from South Carolina (Mr. SPENCE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. BENNETT).

POINT OF ORDER

Mr. CHARLES H. WILSON of California. Mr. Speaker, this is not a suspension. Does not this come up as a resolution in which a full hour is granted on the resolution?

The SPEAKER pro tempore. The Chair will advise the gentleman that this is called up under suspension of the rules.

Mr. BENNETT. Mr. Speaker, under this suspension, I will yield 10 minutes to the gentleman from California (Mr. CHARLES H. WILSON), but pending that I yield myself such time as I may require to explain this matter.

Mr. Speaker, on January 2, 1980, Mr. O. Robert Fordiani failed to appear pursuant to a subpena to give testimony before the Committee on Standards of Official Conduct. The committee was meeting in executive session for the purpose of receiving testimony concerning possible violations of House rule XLIII by Representative CHARLES H. WILSON of California. A brief history of the events leading up to this contempt will now be discussed.

During the February 7, 1979, organizational meeting of the committee, a subcommittee was appointed to further develop certain information relating to Representative CHARLES H. WILSON gathered during the Korean influence investigation. Pursuant to that assignment, on May 10, 1979, the committee staff presented to the committee a list of persons and requested that subpenas be issued for them. Mr. Fordiani was on the list, and a subpena was authorized on May 10, 1979, and signed by me as chairman on the 30th of that month.

Mr. Fordiani was contacted in California on June 7 by members of the committee staff. He at that time was employed as Representative WILSON's district representative. He was offered the opportunity to submit to an interview at that time, but he declined to be interviewed. At that point Mr. Fordiani was served with a subpena to appear before the committee. The return date was June 13, 1979.

Mr. Fordiani had for some time been under the care of two doctors. Both doctors indicated that Mr. Fordiani could be interviewed. A third doctor recommended that he not testify. Despite that recommendation, however, it was agreed by Mr. Fordiani's attorney and the committee staff that a deposition could be arranged and taken in California.

Arrangements were finally made to record the testimony of Mr. Fordiani on December 13, 1979. These arrangements were canceled on December 12, 1979, by his attorney, reporting that Mr. Fordiani had injured himself by a fall and further reporting that Mr. Fordiani was not interested in rescheduling the interview.

Thereafter, the return date for the subpena served on Mr. Fordiani was set for January 2, 1980, in Washington, D.C., and he was notified of this through his attorney by registered letter on December 19, 1979.

Neither Mr. Fordiani nor his attorney appeared at the January 2 meeting. I noted Mr. Fordiani's failure to appear pursuant to the subpena at this meeting and declared for the record that the act of Mr. Fordiani was contemptuous.

Later, the committee was informed by Mr. Fordiani's attorney that Mr. Fordiani would be unable to be present for a deposition due to the condition of his health and that he was incapable of assisting the committee in its investigation.

On March 7, 1980, the committee contacted Dr. Saul Faerstein in California, who agreed to evaluate Mr. Fordiani was physically and mentally competent to provide information to the committee to the best of his recollection and to withstand the rigors of examination and cross-examination, particularly if interviewed on the west coast.

This committee has attempted to accommodate Mr. Fordiani but he has refused to cooperate and has defied the legitimate authority of this committee. The committee therefore recommends that the House respond to Mr. Fordiani's defiance by initiating the statutory proceedings for having him prosecuted for criminal contempt of Congress.

I have conferred with the gentleman from South Carolina (Mr. SPENCE) on this matter, and he is now the second, and I have no further observation to make at this point but instead I will yield 10 minutes to the gentleman from California (Mr. CHARLES H. WILSON).

Mr. CHARLES H. WILSON of California. Mr. Speaker, we probably have, if we are fortunate, about a dozen Members on the floor at this time. This is a very serious matter that we are considering at this time. This is a resolution which, when adopted—and it will be adopted—we are going to ask the U.S. court to bring criminal charges or to conduct criminal charges against Bob Fordiani, a very, very sick man and one who cannot make the trip to Washington, one who has been failing for the past 3 years.

☐ 1440

Now, it is ridiculous for me to participate in this resolution, and yet, this is a loyal employee who has been with me for 16 years and has done an outstanding job with the Government and for me as a Member of Congress.

I think it is unfortunate that in the committee report, only the letter from Dr. Saul Faerstein, the committee-appointed psychiatrist, is included in the report when there is very lengthy evidence from three other physicians which, if added to the report, could possibly convince Members of the House that this is a sick man and that there were extenuating circumstances involved in his inability or refusal to participate in any questioning.

Now I must say that when the committee counsel, Mr. Wisebram and the investigator, Mr. Bermingham, visited various people, former employees and so forth, and they called me and told me about it, I said, "Cooperate in every way you can, but if you want my advice on something, I would suggest that you have an attorney with you before you talk to them," whether it was a formal deposition or whether it was just an interview, by members of the committee staff. And I think Mr. Fordiani's actions themselves are evidence that he was a sick man. This is evidence that can be gained from, I am sure, the reports that Mr. Bermingham and Mr. Wisebram laid with the committee when they returned from one of their many trips to California. They found the great State of California quite a bit to their liking apparently. But I think it is an interesting thing that Mr. Fordiani was subpenaed in June of 1979, and the psychiatrist appointed by the committee did not examine him until March of 1980.

Now, it was an early morning meeting, and he might have been more alert just having risen from his sleep in the morning than if the examination were held 2 or 3 hours later. But his condition on that day in March of 1980 can in no way at all testify as to what his condition was in June of 1979 when he did not respond to the subpena.

I might say that after the letter from the psychiatrist in California was sent to the committee and the formal open hearings on the censure motion against me were continued, Mr. Fordiani was not subpenaed and not asked to appear as a witness at that hearing, even though the psychiatrist had indicated that he was capable of testifying.

Mr. Wisebram, at that hearing, you would have been left with the impression by his actions, that Mr. Fordiani had been subpenaed because he said, "Well, under ordinary circumstances, the next witness I would call would be Mr. Fordiani, but he did not show up," leaving the impression with the members of the committee and those in the audience that Mr. Fordiani had deliberately refused to come. He had not been subpenaed for the 1980 hearings.

I have nothing more to add. I think this is a very cruel thing. I think that the committee knows as well as I that when this goes to the Federal court, they will take into consideration all of the medical information that has been accumulated in this matter. I think they will recognize that Mr. Fordiani is living on borrowed time. He went immediately from his conference with the committee psychiatrist to the hospital to be admitted for an operation of a blockage, a second operation on the other side of his body, from the one that is referred to in the committee report, and he was to have the examinations to find out what his condition was to have this operation.

The operation was called off and the doctors determined that it was inoperable because the blockage was at the brain; and they said it would kill him in surgery if they were to attempt the operation. This is not a light matter, something that you take so cavalierly.

I could have called a quorum call, but what good does that do? We called a quorum call when we had a Member of the House who was up for censure, and 100 people stayed here to listen to those proceedings. Who was going to stay here to listen to the proceedings about a guy named Bob Fordiani? No one. But it is cruel that this body is attempting to do this. I have no doubt that the House will vote it practically almost unanimously, without my vote, but probably with everybody else's vote in the House.

I think it is wrong. I am terribly sorry that this has had to take place.

Mr. BENNETT. Mr. Speaker, I would like to reserve the balance of my time.

Mr. SPENCE. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. LIVINGSTON).

Mr. LIVINGSTON. Mr. Speaker, I thank the gentleman for yielding.

With all due respect to the gentleman from California and his remarks, I think that he may have pointed out a lot of facts that will ultimately be borne out, but I do not think that it is the function of this body to determine why Mr. Fordiani failed to honor his subpena. The fact is that the subpenas were issued, and Mr. Fordiani knew that he was to have appeared and that he did not appear.

Being a former prosecutor, I can say to this body that of course it is the discretion of the U.S. attorney involved or the Justice Department, when they take a matter such as this as they determine whether or not prosecution should lie.

That is not our jurisdiction. That is not our function here. All we can do is report the matter to the Justice Department and let them take whatever action is necessary.

I do think that for this House not to stand up and not to support its subpenas and to let someone just simply voluntarily ignore those subpenas and choose not to appear in response to those subpenas would be a rather unfortunate precedent to set. It is for that reason I support this motion and would hope that the House would support the chairman.

Mr. CHARLES H. WILSON of California. Mr. Speaker, will the gentleman yield?

Mr. LIVINGSTON. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. I thank the gentleman for yielding.

Let me ask this question: The gentleman is aware, I am sure, that in each instance that Mr. Fordiani failed to appear it was on advice of counsel?

Mr. LIVINGSTON. I know that that has been alleged.

Mr. CHARLES H. WILSON of California. Maybe counsel are the ones who should be up for contempt of Congress.

Mr. LIVINGSTON. The gentleman might have a point, and certainly the counsel will have an opportunity to appear before the Justice Department and make that argument. I do not think we should really weigh the merits of whether or not Mr. Fordiani should be tried. I simply suggest that this body cannot simply stand by and allow its subpenas to be ignored and that when a subpena is ignored, and when a person fails to appear in response to those subpenas, we should make note of that, send it on to the Justice Department, and they should take whatever action they deem necessary or not take whatever action.

□ 1450

But that is within their prerogative and not within the jurisdiction of this body.

Mr. CHARLES H. WILSON of California. Would the gentleman yield further for a question?

Mr. LIVINGSTON. I would be happy to yield.

Mr. CHARLES H. WILSON of California. Would the gentleman feel the same way, that anyone who does not appear on advice of counsel because of physical disabilities, that there is no circumstance such as that that warrants a consideration of not appearing?

Mr. LIVINGSTON. I would simply say that whether or not Mr. Fordiani acted in response to advice of counsel or whether or not he acted in response to advice from his doctors, really are facts for the Justice Department to determine and to confirm or deny. That is not again for this body to determine.

Mr. BENNETT. Mr. Speaker, I have no further requests for time.

Mr. SPENCE. Mr. Speaker, I have no further requests for time and yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. BENNETT) that the House suspend the rules and agree to the resolution (H. Res. 743).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

OCEAN THERMAL ENERGY CONVERSION ACT OF 1980

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6154) to regulate commerce, promote energy self-sufficiency, and protect the environment, by establishing procedures for the location, construction, and operation of ocean thermal energy conversion facilities and plantships to produce electricity and energy-intensive products off the coasts of the United States; to amend the Merchant Marine Act, 1936, to make available certain financial assistance for construction and operation of such facilities and plantships; and for other purposes, as amended.

The Clerk read as follows:

H.R. 6154

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Ocean Thermal Energy Conversion Act of 1980".

SEC. 2. DECLARATION OF POLICY.

(a) It is declared to be the purposes of the Congress in this Act to—

(1) authorize and regulate the construction, location, ownership, and operation of ocean thermal energy conversion facilities located in the territorial sea of the United States or connected to the United States by pipeline or cable, consistent with the Convention on the High Seas and general principles of international law;

(2) authorize and regulate the construction, location, ownership, and operation of ocean thermal energy conversion plantships documented under the laws of the United States, consistent with the Convention on the High Seas and general principles of international law;

(3) authorize and regulate the construction, location, ownership, and operation of ocean thermal energy conversion plantships by United States citizens, consistent with the Convention on the High Seas and general principles of international law;

(4) establish a legal regime which will permit and encourage the development of ocean thermal energy conversion as a commercial energy technology;

(5) provide for the protection of the marine and coastal environment, and consideration of the interests of ocean users, to prevent or minimize any adverse impact which might occur as a consequence of the development of such ocean thermal energy conversion facilities or plantships;

(7) protect the interests of the United States in the location, construction, and operation of ocean thermal energy conversion facilities and plantships; and

(8) protect the rights and responsibilities of adjacent coastal States in ensuring that Federal actions are consistent with approved State coastal zone management programs and other applicable State and local laws.

(b) The Congress declares that nothing in this Act shall be construed to affect the legal status of the high seas, the superjacent airspace, or the seabed and subsoil, including the Continental shelf.

SEC. 3. DEFINITIONS.

As used in this Act, unless the context otherwise requires, the term—

(1) "adjacent coastal State" means any coastal State which is required to be designated as such by section 105(a)(1) of this Act, or which is designated as such by the Administrator in accordance with section 105(a)(2) of this Act;

(2) "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration;

(3) "antitrust laws" includes the Act of July 2, 1890, as amended, the Act of October 15, 1914, as amended, and sections 73 and 74 of the Act of August 27, 1894, as amended;

(4) "application" means any application submitted under this Act (A) for issuance of a license for the ownership, construction, and operation of an ocean thermal energy conversion facility or plantship; (B) for transfer or renewal of any such license; or (C) for any substantial change in any of the conditions and provisions of any such license;

(5) "coastal State" means a State in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes;

(6) "construction" means any activities conducted at sea to supervise, inspect, actually build, or perform other functions incidental to the building, repairing, or expanding of an ocean thermal energy conversion facility or plantship or any of its components, including, but not limited to, piledriving, emplacement of mooring devices, emplacement of cables or pipelines, and deployment of cold water pipes, and alterations, modifications, or additions to an ocean thermal energy conversion facility or plantship;

(7) "facility" means an ocean thermal energy conversion facility;

(8) "Governor" means the Governor of a State or the person designated by law to exercise the powers granted to the Governor pursuant to this Act;

(9) "high seas" means that part of the oceans lying seaward of the territorial sea of the United States and outside the territorial sea, as recognized by the United States, of any other nation;

(10) "licensee" means the holder of a valid license for the ownership, construction, and operation of an ocean thermal energy conversion facility or plantship that was issued, transferred, or renewed pursuant to this Act;

(11) "ocean thermal energy conversion facility" means any facility which is standing or moored in or beyond the territorial sea of the United States and which is designed to use temperature differences in ocean water to produce electricity or another form of energy capable of being used directly to perform work, and includes any equipment installed on such facility to use such electricity or other form of energy to produce, process, refine, or manufacture a product, and any cable or pipeline used to deliver fresh water or such electricity or product to shore, and all other associated equipment and appurtenances of such facility, to the extent they are located seaward of the highwater mark;

(12) "ocean thermal energy conversion plantship" means any vessel which is designed to use temperature differences in ocean water, while floating unmoored or moving through such water, to produce electricity or another form of energy capable of being used directly to perform work, and includes any equipment installed on such vessel to use such electricity or other form of energy to produce, process, refine, or manufacture a product, and any equipment used to transfer such product to other vessels for transportation to users, and all other associated equipment and appurtenances of such vessel;

(13) "plantship" means an ocean thermal energy conversion plantship;

(14) "person" means any individual (whether or not a citizen of the United

States), any corporation, partnership, association, or other entity organized or existing under the laws of any nation, and any Federal, State, local or foreign government or any entity of any such government;

(15) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and any other Commonwealth, territory, or possession over which the United States has jurisdiction;

(16) "test platform" means any floating or moored platform, barge, ship, or other vessel which is designed for limited-scale, at-sea operation in order to test or evaluate the operation of components or all of an ocean thermal energy conversion system and which will not operate as an ocean thermal energy conversion facility or plantship after the conclusion of such tests or evaluation;

(17) "thermal plume" means the area of the ocean in which a significant difference in temperature, as defined in regulations by the Administrator, occurs as a result of the operation of an ocean thermal energy conversion facility or plantship; and

(18) "United States citizen" means (A) any individual who is a citizen of the United States by law, birth, or naturalization; (B) any Federal, State, or local government in the United States, or any entity of any such government; and (C) any corporation, partnership, association, or other entity, organized or existing under the laws of the United States or of any State, which has as its president or other executive officer and as its chairman of the board of directors, or holder of similar office, an individual who is a United States citizen and which has no more of its directors who are not United States citizens than constitute a minority of the number required for a quorum necessary to conduct the business of the board.

TITLE I—REGULATION OF OCEAN THERMAL ENERGY CONVERSION FACILITIES AND PLANTSHIPS

SEC. 101. LICENSE FOR THE OWNERSHIP, CONSTRUCTION, AND OPERATION OF AN OCEAN THERMAL ENERGY CONVERSION FACILITY OR PLANTSHIP.

(a) No person may engage in the ownership, construction, or operation of an ocean thermal energy conversion facility which is documented under the laws of the United States, which is located in the territorial sea of the United States, or which is connected to the United States by pipeline or cable, except in accordance with a license issued under this Act. No United States citizen may engage in the ownership, construction, or operation of an ocean thermal energy conversion plantship except in accordance with a license issued under this Act or in accordance with a license issued by a foreign nation whose licenses are found by the Administrator, after consultation with the Secretary of State, to be compatible with licenses issued under this Act.

(b) The Administrator shall, upon application and in accordance with the provisions of this Act, issue, transfer, amend, and renew licenses for the ownership, construction, and operation of—

(1) ocean thermal energy conversion plantships documented under the laws of the United States, and

(2) ocean thermal energy conversion facilities documented under the laws of the United States, located in the territorial sea of the United States, or connected to the United States by pipeline or cable.

(c) The Administrator may issue a license to a United States citizen in accordance with the provisions of this Act if—

(1) he determines that the applicant can and will comply with applicable laws, regulations, and license conditions;

(2) he determines that the construction and operation of the ocean thermal energy conversion facility or plantship will be in the national interest and consistent with national security and other national policy goals and objectives, including energy self-sufficiency and environmental quality;

(3) he determines, after consultation with the Secretary of the department in which the Coast Guard is operating, that the ocean thermal energy conversion facility or plantship will be operated with reasonable regard to the freedom of navigation and other reasonable uses of the high seas and authorized uses of the Continental Shelf, as defined by United States law, treaty, convention, or customary international law;

(4) he has not been informed, within forty-five days after the conclusion of public hearings on that application, or on proposed licenses for the designated application area, by the Administrator of the Environmental Protection Agency that the ocean thermal energy conversion facility or plantship will not conform with all applicable provisions of any law for which he has regulatory authority;

(5) he has received the opinions of the Federal Trade Commission and the Attorney General, pursuant to section 104 of this title, as to whether issuance of the license would create a situation inconsistent with the antitrust laws, or the ninety-day period provided in section 104 has expired;

(6) he has consulted with the Secretary of Energy, the Secretary of Transportation, the Secretary of State, the Secretary of the Interior, and the Secretary of Defense, to determine their views on the adequacy of the application, and its effect on programs within their respective jurisdictions;

(7) the proposed ocean thermal energy conversion facility or plantship will be documented under the laws of the United States;

(8) the applicant has agreed to the condition that no vessel may be used for the transportation to the United States of things produced, processed, refined, or manufactured at the ocean thermal energy conversion facility or plantship unless such vessel is documented under the laws of the United States;

(9) when the license is for an ocean thermal energy conversion facility, he determines that the facility, including any pipelines or submarine electric transmission cables and equipment which are components of the facility, will be located and designed so as to minimize interference with other uses of the high seas or the Continental Shelf, including cables or pipelines already in position on or in the seabed and the possibility of their repair;

(10) the Governor of each adjacent coastal State which has an approved coastal zone management program in good standing pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) has approved or is presumed to approve, pursuant to section 105 of this title, issuance of the license;

(1) when the license is for an ocean thermal energy conversion facility, he determines that the thermal plume of the facility is not expected to impinge on so as to degrade the thermal gradient used by any other ocean thermal energy conversion facility already licensed or operating, without the consent of its owner;

(12) when the license is for an ocean thermal energy conversion facility, he determines that the thermal plume of the facility is not expected to impinge on so as to adversely affect the territorial sea or area of national resource jurisdiction, as recognized by the United States, of any other nation, unless the Secretary of State approves such impingement after consultation with such nation;

(13) when the license is for an ocean thermal energy conversion plantship, he determines that the applicant has provided adequate assurance that the plantship will be operated in such a way as to prevent its thermal plume from impinging on so as to degrade the thermal gradient used by any other ocean thermal energy conversion facility or plantship without the consent of its owner, and from impinging on so as to adversely affect the territorial sea or area of national resource jurisdiction, as recognized by the United States, of any other nation unless the Secretary of State approves such impingement after consultation with such nation; and

(14) if a regulation has been adopted which places an upper limit on the number or total capacity of ocean thermal energy conversion facilities or plantships to be licensed under this Act for simultaneous operation, either overall or within specific geographic areas, pursuant to a determination under the provisions of section 107(b)(4) of this Act, issuance of the license will not cause such upper limit to be exceeded.

(d)(1) In issuing a license for the ownership, construction, and operation of an ocean thermal energy conversion facility or plantship, the Administrator shall prescribe any conditions which he deems necessary to carry out the provisions of this Act, or which are otherwise required by any Federal department or agency pursuant to the terms of this Act.

(2) No license shall be issued, transferred, or renewed under this Act unless the licensee or transferee first agrees in writing that (A) there will be no substantial change from the plans, operational systems, and methods, procedures, and safeguards set forth in his application, as approved, without prior approval in writing from the Administrator, and (B) he will comply with any license condition the Administrator may prescribe in accordance with the provisions of this Act.

(3) The Administrator shall establish such bonding requirements or other assurances as he deems necessary to assure that, upon the revocation, termination, relinquishment, or surrender of a license, the licensee will dispose of or remove all components of the ocean thermal energy conversion facility or plantship in a manner approved by the Administrator. In the case of components which another applicant or licensee desires to use, the Administrator may waive the disposal or removal requirements until he has reached a decision on the application. In the case of components lying on or below the seabed, the Administrator may waive the disposal or removal requirements if he finds that such removal is not otherwise necessary and that the remaining components do not constitute any threat to the environment or to navigation, fishing, or other uses of the ocean or the seabed.

(e) Upon application, a license issued under this Act may be transferred if the Administrator determines that such transfer is in the public interest and that the transferee meets the requirements of this Act and the prerequisites to issuance under subsection (c) of this section.

(f) Any United States citizen who otherwise qualifies under the terms of this Act shall be eligible to be issued a license for the ownership, construction, and operation of an ocean thermal conversion facility or plantship.

(g) Licenses issued under this Act shall be for a term of not to exceed twenty-five years. Each licensee shall have a preferential right to renew his license subject to the requirements of subsection (c) of this section, upon such conditions and for such term, not to exceed an additional ten years upon each renewal, as the Administrator determines to be reasonable and appropriate.

SEC. 102. PROCEDURE.

(a) The Administrator shall, after consultation with the Secretary of Energy and the heads of other interested Federal agencies, issue regulations to carry out the purposes and provisions of this Act, in accordance with the provisions of section 553 of title 5, United States Code, without regard to subsection

(a) thereof. Such regulations shall pertain to, but need not be limited to, application for, and issuance, transfer, renewal, suspension, and termination of, licenses. Such regulations shall provide for full consultation and cooperation with all other interested Federal agencies and departments and with any potentially affected coastal State, and for consideration of the views of any interested members of the general public. The Administrator is further authorized, consistent with the purposes and provisions of this Act, to amend or rescind any such regulation. The Administrator shall complete issuance of final regulations to implement this Act within one year after the date of its enactment.

(b) The Administrator, in consultation with the Secretary of the Interior and the Secretary of the department in which the Coast Guard is operating, may, if he determines it to be necessary, prescribe regulations, consistent with the purposes of this Act, relating to those activities involved in site evaluation and preconstruction testing at potential ocean thermal energy conversion facility or plantship locations that may (1) adversely affect the environment; (2) interfere with other reasonable uses of the high seas or with authorized uses of the Outer Continental Shelf; or (3) pose a threat to human health and safety. If the Administrator prescribes regulations relating to such activities, such activities may not be undertaken after the effective date of such regulations except in accordance therewith.

(c) Not later than sixty days after the date of enactment of this Act, the Secretary of Energy, the Administrator of the Environmental Protection Agency, the Secretary of the department in which the Coast Guard is operating, the Secretary of the Interior, the Chief of Engineers of the United States Army Corps of Engineers, the Chairman of the Federal Energy Regulatory Commission, and the heads of any other Federal departments or agencies having expertise concerning, or jurisdiction over, any aspect of the construction or operation of ocean thermal energy conversion facilities or plantships, shall transmit to the Administrator written descriptions of their expertise or statutory responsibilities pursuant to this Act or any other Federal law.

(d)(1) Within twenty-one days after the receipt of an application, the Administrator shall determine whether the application appears to contain all of the information required by paragraph (2) of this subsection. If the Administrator determines that such information appears to be contained in the application, the Administrator shall, no later than five days after making such a determination, publish notice of the application and a summary of the plans in the Federal Register. If the Administrator determines that all of the required information does not appear to be contained in the application, the Administrator shall notify the applicant of the deficiencies and shall not publish such notice and summary with respect to the application until such deficiencies have been remedied.

(2) Each application shall include such financial, technical, and other information as the Administrator determines by regulation to be necessary or appropriate. Such information shall include, but need not be limited to—

(A) the name, address, citizenship, and the ownership interest in the applicant, of each person having any ownership interest in the applicant of greater than 3 per centum;

(B) to the extent feasible, the name, address, and citizenship of any person with whom the applicant has made, or proposes to make, a significant contract for the construction or operation of the ocean thermal energy conversion facility or plantship, and a description of such contract;

(C) the proposed physical size and location (for a plantship, a description of the area in which the plantship is intended to be operated) of the ocean thermal energy conversion facility or plantship, and the intended capacity of such facility or plantship to produce electricity, fresh water, or other products;

(D) a description of the thermal energy conversion cycle to be used by the ocean thermal energy conversion facility or plantship, a description of any production, processing, refining, or manufacturing process which will be used to make a product, and a description of the methods which will be used to deliver electricity, fresh water, or product to shore;

(E) a description of the significant features of the technology to be used in the ocean thermal energy conversion facility or plantship and any storage or loading or unloading facilities associated with such facility or plantship;

(F) if construction is expected to proceed in phases, a description of each phase, including the anticipated date of completion for each phase;

(G) the intended daily volumes of warm and cold water flow through the facility or plantship, and a description of the area or areas on which the thermal plume of the ocean thermal energy conversion facility or plantship may be expected to impinge under expected oceanic and seasonal conditions;

(H) the financial and technical capabilities of the applicant to construct or operate the ocean thermal energy conversion facility or plantship;

(I) other qualifications of the applicant to hold a license under this Act;

(J) a description of the procedures to be used in constructing, operating, and maintaining the ocean thermal energy conversion facility or plantship, including systems for control of biofouling and for oil and hazardous substance spill prevention, containment, and cleanup; and

(K) such other information as may be required by the Administrator to determine the environmental impact of the proposed ocean thermal energy conversion facility or plantship.

(e)(1) At the time notice of an application for an ocean thermal energy conversion facility is published pursuant to subsection (d) of this section, the Administrator shall publish a description in the Federal Register of an application area encompassing the site proposed in the application for such facility and within which the thermal plume of one ocean thermal energy conversion facility might be expected to impinge on so as to degrade the thermal gradient used by another ocean thermal energy conversion facility, unless the application is for a license for an ocean thermal energy conversion facility to be located within an application area which has already been designated.

(2) The Administrator shall accompany such publication with a call for submission of any other applications for licenses for the ownership, construction, and operation of an ocean thermal energy conversion facility within the designated application area. Any person intending to file such an application shall submit a notice of intent to file an application to the Administrator not later than sixty days after the publication of notice pursuant to subsection (d) of this section, and shall submit the completed application no later than ninety days after publication of such notice. The Administrator shall publish notice of any such application received in accordance with subsection (d) of this section. No application for a license for the ownership, construction, and operation of an ocean thermal energy conversion facility within the designated application area for which a notice of intent to file was received after such sixty-day period, or which is received after such ninety-day period has elapsed, shall be considered until action has been completed on all timely filed applications pending with respect to such application area.

(f) An application filed with the Administrator shall constitute an application for all Federal authorizations required for ownership, construction, and operation of an ocean thermal energy conversion facility or plantship, except for authorizations required by documentation, inspection, certification, construction, and manning laws and regulations administered by the Secretary of the department in which the Coast Guard is operating. At the time notice of any application is published pursuant to subsection (d) of this section, the Administrator shall forward a copy of such application to those Federal agencies and departments with jurisdiction over any aspect of such ownership, construction, or operation for comment, review, or recommendation as to conditions and for such other action as may be required by law. Each agency or department involved shall review the application and, based upon legal considerations within its area of responsibility, recommend to the Administrator the approval or disapproval of the application not later than forty-five days after public hearings are concluded pursuant to subsection (g) of this section. In any case in which an agency or department recommends disapproval, it shall set forth in detail the manner in which the application does not comply with any law or regulation within its area of responsibility and shall notify the Administrator of the manner in which the application may be amended, or the license conditioned, so as to bring it into compliance with the law or regulation involved.

(g) A license may be issued only after public notice, opportunity for comment, and public hearings in accordance with this subsection. At least one such public hearing shall be held in the District of Columbia and in any adjacent coastal State to which a facility is proposed to be directly connected by pipeline or electric transmission cable. Any interested person may present relevant material at any such hearing. After the hearings required by this subsection are concluded, if the Administrator determines that there exist one or more specific and material factual issues which may be resolved by a formal evidentiary hearing, at least one adjudicatory hearing shall be held in the District of Columbia in accordance with the provisions of section 554 of title 5, United States Code. The record developed in any such adjudicatory hearing shall be part of the basis for the Administrator's decision to approve or deny a license. Hearings held pursuant to this subsection shall be consolidated insofar as practicable with hearings held by other agencies. All public hearings on all applications with respect to facilities for any designated application area shall be consolidated and shall be concluded not later than two hundred and forty days after notice of the initial application has been published pursuant to subsection (d) of this section. All public hearings on applications with respect to ocean thermal energy conversion plantships shall be concluded not later than two hudnred and forty days after notice of the application has been published pursuant to subsection (d) of this section.

(h) Each person applying for a license pursuant to this Act shall remit to the Administrator at the time the application is filed a nonrefundable application fee, which shall be deposited into miscellaneous receipts of the Treasury. The amount of the fee shall be established by regulation by the Administrator, and shall reflect the reasonable administrative costs incurred in reviewing and processing the application.

(i)(1) The Administrator shall approve or deny any timely filed application with respect to a facility for a designated application area submitted in accordance with the provisions of this Act not later than ninety days after public hearings on proposed licenses for that area are concluded pursuant to subsection (g) of this section. The Administrator shall approve or deny an application for a license for ownership, construction, and operation of an ocean thermal energy conversion plantship submitted pursuant to this Act no later than ninety days after the public hearings on that application are concluded pursuant to subsection (g) of this section.

(2) In the event more than one application for a license for ownership, construction, and operation of an ocean thermal energy conversion facility is submitted pursuant to this Act for the same designated application area, the Administrator, unless one or a specific combination of the proposed facilities clearly best serves the national interest, shall make decisions on the license applications in the order in which they were submitted to him.

(3) In determining whether any one or a specific combination of the proposed ocean thermal energy conversion facilities clearly best serves the national interest, the Administrator, in consultation with the Secretary of Energy, shall consider the following factors:

(A) the goal of making the greatest possible use of ocean thermal energy conversion by installing the largest capacity practicable;

(B) the amount of net energy impact of each of the proposed ocean thermal energy conversion facilities;

(C) the degree to which the proposed ocean thermal energy conversion facilities will affect the environment;

(D) any significant differences between anticipated dates for commencement of operation of the proposed ocean thermal energy conversion facilities; and

(E) any differences in costs of construction and operation of the proposed ocean thermal energy conversion facilities, to the extent that such differentials may significantly affect the ultimate cost of energy or products to the consumer.

SEC. 103. PROTECTION OF SUBMARINE ELECTRIC TRANSMISSION CABLES AND EQUIPMENT.

(a) Any person who shall willfully and wrongfully break or injure, or attempt to break or injure, or who shall in any manner procure, counsel, aid, abet, or be accessory to such breaking or injury, or attempt to break or injure, any submarine electric transmission cable or equipment being constructed or operated under a license issued pursuant to this Act shall be guilty of a felony and, on conviction thereof, shall be liable to imprisonment for a term not exceeding ten years, or to a fine not exceeding $100,000, or to both fine and imprisonment, at the discretion of the court.

(b) Any person who by culpable negligence shall break or injure any submarine electric transmission cable or equipment being constructed or operated under a license issued pursuant to this Act shall be guilty of a misdemeanor and, on conviction thereof, shall be liable to imprisonment for a term not exceeding six months, or to a fine not exceeding $10,000, or to both fine and imprisonment, at the discretion of the court.

(c) The provisions of subsections (a) and (b) of this section shall not apply to any person who, after having taken all necessary precautions to avoid such breaking or injury, breaks or injures any submarine electric transmission cable or equipment in an effort to save the life or limb of himself or of any other person, or to save his own or any other vessel.

(d) The penalties provided in subsections (a) and (b) of this section for the breaking or injury of any submarine electric transmission cable or equipment shall not be a bar to a suit for damages on account of such breaking or injury.

(e) Whenever any vessel sacrifices any anchor, fishing net, or other fishing gear to avoid injuring any submarine electric transmission cable or equipment being constructed or operated under a license issued pursuant to this Act, the licensee shall indemnify the owner of such vessel for the items sacrificed, provided that the owner of the vessel had taken all reasonable precautionary measures beforehand.

(f) Any licensee who causes any break in or injury to any submarine cable or pipeline of any type shall bear the cost of the repairs.

SEC. 104. ANTITRUST REVIEW.

(a) Whenever any application for issuance, transfer, or renewal of any license is received, the Administrator shall transmit promptly to the Attorney General and the Federal Trade Commission a complete copy of such application. Within ninety days of their receipt of the application, the Attorney General and the Federal Trade Commission shall each conduct such antitrust review of the application as they deem appropriate, and submit to the Administrator any advice or recommendations they deem advisable to avoid any action upon such application by the Administrator which would create a situation inconsistent with the antitrust laws. If either the Attorney General or the Federal Trade Commission, or both, fails to file such views within the ninety-day period, the Administrator shall proceed as if such views had been received. The Administrator shall not issue, transfer, or renew the license during the ninety-day period, except upon written confirmation by the Attorney General and the Federal Trade Commission that neither intends to submit any further advice or recommendation on the application during such period.

(b) The issuance of a license under this Act shall not be admissible in any way as a defense to any civil or criminal action for violation of the antitrust laws of the United States, nor shall it in any way modify or abridge any private right of action under such laws. Nothing in this section shall be construed to bar the Attorney General or the Federal Trade Commission from challenging any anticompetitive situation involved in the ownership, construction, or operation of an ocean thermal energy conversion facility or plantship.

SEC. 105. ADJACENT COASTAL STATES.

(a) (1) The Administrator, in issuing notice of an application pursuant to section 102(d) of this title, shall designate as an "adjacent coastal State" any coastal State which (A) would be directly connected by pipeline or electric transmission cable to an ocean thermal energy conversion facility as proposed in an application, (B) in whose waters any part of such proposed ocean thermal energy conversion facility would be located, or (C) in whose waters an ocean thermal energy conversion plantship would be operated as proposed in an application.

(2) The Administrator shall, upon request of a State, designate such State as an "adjacent coastal State" if he determines (A) that there is a risk of damage to the coastal environment of such State equal to or greater than the risk posed to a State required to be designated as an "adjacent coastal State" by paragraph (1) of this subsection, or (B) that the thermal plume of the proposed ocean thermal energy conversion facility or plantship is likely to impinge on so as to degrade the thermal gradient at possible locations for ocean thermal energy conversion facilities which could reasonably be expected to be directly connected by pipeline or electric transmission cable to such State. This paragraph shall apply only with respect to requests made by a State not later than the fourteenth day after the date of publication of notice of application for a proposed ocean thermal energy conversion facility in the Federal Register in accordance with section 102(d) of this title. The Administrator shall make any designation required by this paragraph not later than the forty-fifth day after the date he receives such a request from a State.

(b) (1) Not later than five days after the designation of a State as an adjacent coastal State pursuant to this section, the Administrator shall transmit a complete copy of the application to the Governor of such State. The Administrator shall not issue a license without the approval of the Governor of each adjacent coastal State which has an approved coastal zone management program in good standing pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.). If the Governor of such a State has not transmitted his approval or disapproval to the Administrator by the forty-fifth day after public hearings on the application are concluded pursuant to section 102(g) of this title, such approval shall be conclusively presumed. If the Governor of such a State notifies the Administration that an application, which the Governor would otherwise approve pursuant to this paragraph, is inconsistent in some respect with the State's coastal zone management program, the Administrator shall condition the license granted so as to make it consistent with such State program.

(2) Any adjacent coastal State which does not have an approved coastal zone management program in good standing, and any other interested State, shall have the opportunity to make its views known to, and to have them given full consideration by, the Administrator regarding the location, construction, and operation of an ocean thermal energy conversion facility or plantship.

(c) The consent of Congress is given to two or more States to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, (1) to apply for a license for the ownership, construction, and operation of an ocean thermal energy conversion facility or plantship or for the transfer of such a license, and (2) to establish such agencies, joint or otherwise, as are deemed necessary or appropriate for implementing and carrying out the provisions of any such agreement or compact. Such agreement or compact shall be binding and obligatory upon any State or other party thereto without further apparent by the Congress.

SEC. 106. DILIGENCE REQUIREMENTS.

(a) The Administrator shall promulgate regulations requiring each licensee to pursue diligently the construction and operation of the ocean thermal energy conversion facility or plantship to which the license applies.

(b) If the Administrator determines that a licensee is not pursuing diligently the construction and operation of the ocean thermal energy conversion facility or plantship to which the license applies, or that the project has apparently been abandoned, the Administrator shall cause proceedings to be instituted under section 111 of this title to terminate the license.

SEC. 107. PROTECTION OF THE ENVIROMMENT.

(a) The Administrator shall initiate a program to assess the effects on the environment of ocean thermal energy conversion facilities and plantships. The program shall include baseline studies of locations where ocean thermal energy conversion facilities or plantships are likely to be sited or operated; research; and monitoring of the effects of ocean thermal energy conversion facilities and plantships in actual operation. The purpose of the program shall be to assess the environmental effects of individual ocean thermal energy facilities and plantships, and to assess the magnitude of any cumulative environmental effects of large numbers of ocean thermal energy facilities and plantships.

(b) The program shall be designed to determine, among other things—

(1) any short-term and long-term effects on the environment which may occur as a result of the operation of ocean thermal energy conversion facilities and plantships;

(2) the nature and magnitude of any oceanic, atmospheric, weather, climatic, or biological changes in the environment which may occur as a result of deployment and operation of large numbers of ocean thermal energy conversion facilities and plantships;

(3) the nature and magnitude of any oceanic, biological, or other changes in the environment which may occur as a result of the operation of electric transmission cables and equipment located in the water column or on or in the seabed, including the hazards of accidentally severed transmission cables; and

(4) whether the magnitude of one or more of the cumulative environmental effects of deployment and operation of large numbers of ocean thermal energy conversion facilities and plantships requires that an upper limit be placed on the number of total capacity of such facilities or plantships to be licensed under this Act for simultaneous operation, either overall or within specific geographic areas.

(c) Within one hundred eighty days after enactment of this Act, the Administrator shall prepare a plan to carry out the program described in subsections (a) and (b) of this section, including necessary funding levels for the next five fiscal years, and submit the plan to the Congress.

(d) The program established by subsection (a) of this section shall be reduced to the minimum necessary to perform baseline studies and to analyze monitoring data, when the Administrator determines that the program has resulted in sufficient knowledge to make the determinations enumerated in subsection (b) of this section with an acceptable level of confidence.

(e) The issuance of any license for ownership, construction, and operation of an ocean thermal energy conversion facility or plantship shall be deemed to be a major Federal action significantly affecting the quality of the human environment for purposes of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). For all timely applications covering proposed facilities in a single application area, and for each application relating to a proposed plantship, the Administrator shall, pursuant to such section 102(2)(C) and in cooperation with other involved Federal agencies and departments, prepare a single environmental impact statement, which shall fulfill the requirement of all Federal agencies in carrying out their responsibilities pursuant to this Act to prepare an environmental impact statement. Each such draft environmental impact statement relating to proposed facilities shall be prepared and published within one hundred eighty days after notice of the initial application has been published pursuant to section 102(d) of this title. Each such draft environmental impact statement relating to a proposed plantship shall be prepared and published within one hundred eighty days after notice of the application has been published pursuant to section 102(d) of this title. Each final environmental impact statement shall be published not later than ninety days following the date on which public hearings are concluded pursuant to section 102(g) of this title. The Administrator may extend the deadline for publication of a specific draft or final environmental impact statement to a later specified time for good cause shown in writing.

(f) An ocean thermal energy conversion facility or plantship licensed under this title shall be deemed not to be a "vessel or other floating craft" for the purposes of section 502(12)(B) of the Federal Water Pollution Control Act of 1972 (33 U.S.C. 1362(12)(B)).

Sec. 108. Documentation, Inspection, Safety, and Manning Requirements.

(a) The Secretary of the department in which the Coast Guard is operating shall, subject to recognized principles of international law, prescribe by regulation and enforce procedures with respect to any ocean thermal energy conversion facility or plantship licensed under this Act, including, but not limited to, rules governing vessel movement, procedures for transfer of materials between such a facility or plantship and transport vessels, designation and marking of anchorage areas, maintenance, law enforcement, and the equipment, training, and maintenance required (1) to promote safety of life and property at sea, (2) to prevent pollution of the marine environment, (3) to clean up any pollutants which may be discharged, and (4) to otherwise prevent or minimize any adverse impact from the construction and operation of such ocean thermal energy conversion facility or plantship.

(b) The Secretary of the department in which the Coast Guard is operating shall, subject to recognized principles of international law, issue and enforce regulations with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property on any ocean thermal energy conversion facility or plantship licensed under this Act.

(c) Whenever a licensee fails to mark any component of such an ocean thermal energy conversion facility or plantship in accordance with applicable regulations, the Secretary of the department in which the Coast Guard is operating shall mark such components for the protection of navigation, and the licensee shall pay the cost of such marking.

(d)(1) Subject to recognized principles of international law and after consultation with the Secretary of Commerce, the Secretary of the Interior, the Secretary of State, and the Secretary of Defense, the Secretary of the department in which the Coast Guard is operating shall designate a zone of appropriate size around and including any ocean thermal energy conversion facility licensed under this Act, and may designate such a zone around and including any ocean thermal energy conversion plantship licensed under this Act, for the purposes of navigational safety and protection of the facility or plantship. The Secretary of the department in which the Coast Guard is operating shall by regulation define permitted activities within such zone consistent with the purposes for which it was designated. The Secretary of the department in which the Coast Guard is operating shall, not later than thirty days after publication of notice pursuant to section 102(d) of this title, designate such safety zone with respect to any proposed ocean thermal energy conversion facility or plantship.

(2) In addition to any other regulations, the Secretary of the department in which the Coast Guard is operating is authorized, in accordance with this subsection, to establish a safety zone to be effective during the period of construction of an ocean thermal energy conversion facility or plantship licensed under this Act, and to issue rules and regulations relating thereto.

(3) Except in a situation involving force majeure, a licensee of an ocean thermal energy conversion facility or plantship shall not permit a vessel, registered in or flying the flag of a foreign state to call at, load or unload cargo at, or otherwise utilize such a facility or plantship licensed under this Act unless (A) the foreign state involved has agreed, by specific agreement with the United States, to recognize the jurisdiction of the United States over the vessel and its personnel, in accordance with the provisions of this Act, while the vessel is located within the safety zone, and (B) the vessel owner or operator has designated an agent in the United States for receipt of service of process in the event of any claim or legal proceeding resulting from activities of the vessel or its personnel while located within such a safety zone.

(e)(1) The Secretary of the department in which the Coast Guard is operating shall promulgate and enforce regulations specified in paragraph (2) of this subsection and such other regulations as he deems necessary concerning the documentation, design, construction, alteration, equipment, maintenance, repair, inspection, certification, and manning of ocean thermal energy conversion facilities and plantships. In addition to other requirements prescribed under those regulations, the Secretary of the department in which the Coast Guard is operating may require compliance with those vessel documentation, inspection, and manning laws which he determines to be appropriate.

(2) Within one year after the date of enactment of this Act the Secretary of the department in which the Coast Guard is operating shall promulgate regulations under paragraph (1) of this subsection which require that any ocean thermal energy conversion facility or plantship—

(A) be documented;

(B) comply with minimum standards of design, construction, alteration, and repair; and

(C) be manned or crewed by the United States citizens or aliens lawfully admitted to the United States for permanent residence, unless—

(i) there is not a sufficient number of United States citizens, or aliens lawfully admitted to the United States for permanent residence, qualified and available for such work, or

(ii) the President makes a specific finding, with respect to the particular vessel, platform, or moored or standing structure, that application of this requirement would not be consistent with the national interest.

(3) For the purposes of the documentation laws, for which compliance is required under paragraph (1) of this subsection, ocean thermal energy conversion facilities and plantships shall be deemed to be vessels and, if documented, vessels of the United States for the purposes of the Ship Mortgage Act, 1920 (46 U.S.C. 911–984).

(f) Subject to recognized principles of international law, the Secretary of the department in which the Coast Guard is operating shall promulgate and enforce such regulations as he deems necessary to protect navigation in the vicinity of a vessel engaged in the installation repair, or maintenance of any submarine electric transmission cable or equipment, and to govern the markings and signals used by such a vessel.

Sec. 109. Prevention of Interference With Other Uses of the High Seas.

(a) Each license shall include such conditions as may be necessary and appropriate to ensure that construction and operation of the ocean thermal energy conversion facility or plantship are conducted with reasonable regard for navigation, fishing, energy production, scientific research, and other uses of the high seas, either by citizens of the United States or by other nations in their exercise of the freedoms of the high seas as recognized under the Convention on the High Seas and the general principles of international law.

(b) The Administrator shall promulgate regulations specifying under what conditions and in what circumstances the thermal plume of an ocean thermal energy conversion facility or plantship licensed under this Act will be deemed—

(1) to impinge on so as to degrade the thermal gradient used by another ocean thermal energy conversion facility or plantship, or

(2) to impinge on so as to adversely affect the territorial sea or area of national re-

source jurisdiction, as recognized by the United States, of any other nation.

Such regulations shall also provide for the Administrator to mediate or arbitrate any disputes among licensees regarding the extent to which the thermal plume of one licensee's facility or plantship impinges on the operation of another licensee's facility or plantship.

(c) The Secretary of the department in which the Coast Guard is operating shall promulgate, after consultation with the Administrator, and shall enforce, regulations governing the movement and navigation of ocean thermal energy conversion plantships licensed under this Act to ensure that the thermal plume of such an ocean thermal energy conversion plantship does not unreasonably impinge on so as to degrade the thermal gradient used by any other ocean thermal energy conversion plantship or facility except in case of force majeure or with the consent of the owner of the other such plantship or facility, and to ensure that the thermal plume of such an ocean thermal energy conversion plantship does not impinge on so as to adversely affect the territorial sea or area of national resource jurisdiction, as recognized by the United States, of any other nation unless the Secretary of State has approved such impingment after consultation with such nation.

SEC. 110. MONITORING OF LICENSEE'S ACTIVITIES.

Each license shall require the licensee—

(1) to allow the Administrator to place appropriate Federal officers or employees aboard the ocean thermal energy conversion facility or plantship to which the license applies, at such times and to such extent as the Administrator deems reasonable and necessary, to assess the effectiveness of, and to report to the Administrator whenever such officers or employees have reason to believe there is a failure to comply with, any condition of, or regulation applicable to, the license;

(2) to cooperate with such officers and employees in the performance of monitoring functions; and

(3) to monitor the environmental effects, if any, of the operation of the ocean thermal energy conversion facility or plantship in accordance with regulations issued by the Administrator, and to submit such information as the Administrator finds to be necessary and appropriate to assess environmental impacts and to develop and evalute mitigation methods and possibilities.

SEC. 111. SUSPENSION, REVOCATION, OR TERMINATION OF LICENSE.

(a) Whenever a licensee fails to comply with any applicable provision of this Act or any applicable rule, regulation, restriction, or condition issued or imposed by the Administrator under the authority of this Act, the Attorney General, at the request of the Administrator, shall file an action in the appropriate United States district court to—

(1) suspend the license; or

(2) if such failure is knowing and continues for a period of thirty days after the Administrator mails notification of such failure by registered letter to the licensee at his record post office address, revoke such license.

No proceeding under this section is necessary if the license, by its terms, provides for automatic suspension or termination upon the occurrence of a fixed or agreed upon condition, event, or time.

(b) If the Administrator determines that immediate suspension of the construction or operation of an ocean thermal energy conversion facility or plantship or any component thereof is necessary to protect public health and safety or to eliminate imminent and substantial danger to the environment, the Administrator may order the licensee to cease or alter such construction or operation pending the completion of a judicial proceeding pursuant to subsection (a) of this section.

SEC. 112. RECORDKEEPING AND PUBLIC ACCESS TO INFORMATION.

(a) Each licensee shall establish and maintain such records, make such reports, and provide such information as the Administrator, after consultation with other interested Federal departments and agencies, shall by regulation prescribe to carry out the provisions of this Act. Each licensee shall submit such reports and shall make available such records and information as the Administrator may request.

(b) Any information reported to or collected by the Administrator under this Act which is exempt from disclosure pursuant to section 552(b)(4) of title 5, United States Code (relating to trade secrets and confidential commercial and financial information), shall not—

(1) be publicly disclosed by the Administrator or by any other officer or employee of the United States, unless the Administrator has—

(A) determined that the disclosure is necessary to protect the public health or safety or the environment against an unreasonable risk of injury, and

(B) notified the person who submitted the information ten days before the disclosure is to be made, unless the delay resulting from such notice would be detrimental to the public health or safety or the environment, or

(2) be otherwise disclosed except—

(A)(i) to other Federal and adjacent coastal State government departments and agencies for official use,

(ii) to any committee of the Congress of appropriate jurisdiction, or

(iii) pursuant to court order, and

(B) when the Administrator has taken appropriate steps to inform the recipient of the confidential nature of the information.

SEC. 113. RELINQUISHMENT OR SURRENDER OF LICENSE.

Any licensee may at any time, without penalty, surrender to the Administrator a license issued to him, or relinquish to the Administrator, in whole or in part, any right to conduct construction or operation of an ocean thermal energy conversion facility or plantship, including part or all of any right of way which may have been granted in conjunction with such license: *Provided*, That such surrender or relinquishment shall not relieve the licensee of any obligation or liability established by this or any other Act, or of any obligation or liability for actions taken by him prior to such surrender or relinquishment, or during disposal or removal of any components required to be disposed of or removal pursuant to this Act.

(b) If part or all of a right of way which is relinquished, or for which the license is surrendered, to the Administrator pursuant to subsection (a) of this section contains a pipeline or electric transmission cable which is used in conjunction with another license for an ocean thermal energy conversion facility, the Administrator shall allow the other licensee an opportunity to add such right of way to his license before informing the Secretary of the Interior that the right of way has been vacated.

SEC. 114. CIVIL ACTIONS.

(a) Except as provided in subsection (b) of this section, any person having a valid legal interest which is or may be adversely affected may commence a civil action for equitable relief on his own behalf in the United States District Court for the District of Columbia—

(1) against any person who is alleged to be in violation of any provision of this Act or any regulation or condition of a license issued pursuant to this Act; or

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary.

In suits brought under this Act, the district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce any provision of this Act or any regulation, or term or condition of a license, issued pursuant to this Act, or to order the Administrator to perform such act or duty, as the case may be.

(b) No civil action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to sixty days after the plaintiff has given notice of the violation to the Administrator and to any alleged violator; or

(B) if the Administrator or the Attorney General has commenced and is diligently prosecuting a civil or criminal action with respect to such matters in a court of the United States, but in any such action any person may intervene as a matter of right; or

(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice of such action to the Administrator.

Notice under this subsection shall be given in such a manner as the Administrator shall prescribe by regulation.

(c) In any action under this section, the Administrator or the Attorney General, if not a party, may intervene as a matter of right.

(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines that such an award is appropriate.

(e) Nothing in this section shall restrict any right which any person or class of persons may have under any statute or common law to seek enforcement or to seek any other relief.

SEC. 115. JUDICIAL REVIEW.

Any person suffering legal wrong, or who is adversely affected or aggrieved by the Administrator's decision to issue, transfer, modify, renew, suspend, or terminate a license, may, not later than sixty days after such decision is made, seek judicial review or such decision in the United States court of appeals for the District of Columbia. A person shall be deemed to be aggrieved by the Administrator's decision within the meaning of this Act if he—

(A) has participated in the administrative proceedings before the Administrator (or if he did not so participate, he can show that his failure to do so was caused by the Administrator's failure to provide the required notice); and

(B) is adversely affected by the Administrator's action.

SEC. 116. TEST PLATFORMS; LICENSE FOR PILOT OR DEMONSTRATION OCEAN THERMAL ENERGY CONVERSION FACILITY OR PLANTSHIP.

(a) The provisions of this title shall not apply to any test platform.

(b) Not later than one year after the date of enactment of this Act, the Secretary of Energy shall, after consultation with the Administrator, issue regulations providing for issuance by the Secretary of Energy of a license for ownership, construction, and operation of any pilot or demonstration ocean thermal energy conversion facility or plantship which is financed in whole or in part by the Department of Energy. Such regulations shall be issued in accordance with the provisions of section 553 of title 5, United States Code, without regard to subsection (a) thereof, and shall provide for the Secretary of Energy to make, after consultation with the Administrator, all licensing decisions and determinations related to issuance of a license for such a pilot or demonstration facility or plantship in lieu of the Administrator. Such regulations shall include as many of the requirements and procedures of this title as are necessary, feasible, and practicable for the licensing of such pilot or demonstration facilities and plantships, without damaging the nature of or unduly delaying such projects. A license issued by the Secretary of Energy under this subsection shall have the same status and validity as a license issued by the Administrator pursuant to the other provisions of this title.

TITLE II—MARITIME FINANCING FOR OCEAN THERMAL ENERGY CONVERSION FACILITIES AND PLANTSHIPS

SEC. 201. DETERMINATIONS UNDER MERCHANT MARINE ACT, 1936.

(a) (1) For the purposes of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177), any ocean thermal energy conversion facility or plantship licensed pursuant to this Act, and any vessel providing shipping service to or from such an ocean thermal energy conversion facility or plantship, shall be deemed to be a vessel operated in the foreign commerce of the United States.

(2) The provisions of paragraph (1) of this subsection shall apply for taxable years beginning after December 31, 1981.

(b) For the purposes of the Merchant Marine Act, 1936, any vessel documented under the laws of the United States and used in providing shipping service to or from any ocean thermal energy conversion facility or plantship licensed pursuant to the provisions of this Act shall be deemed to be used in, and used in an essential service in, the foreign commerce or foreign trade of the United States, as defined in section 905(a) of such Act.

SEC. 202. AMENDMENTS TO TITLE XI OF MERCHANT MARINE ACT, 1936.

(a) Section 1101 of the Merchant Marine Act, 1936 (46 U.S.C. 1271) is amended—

(1) in subsection (b) by striking "and" immediately before "dredges" and inserting in lieu thereof a comma, and by inserting immediately after "dredges" the following: "and ocean thermal energy conversion facilities or plantships",

(2) in subsection (g) by striking "and" after the semicolon,

(3) in subsection (h) by striking "equipping." and inserting in lieu thereof "equipping; and ", and

(4) by adding at the end thereof a new subsection (i) to read as follows:

"(i) The term 'ocean thermal energy conversion facility or plantship' means any at-sea facility or vessel, whether mobile, floating unmoored, moored, or standing on the seabed, which uses temperature differences in ocean water to produce electricity or another form of energy capable of being used directly to perform work, and includes any equipment installed on such facility or vessel to use such electricity or other form of energy to produce, process, refine, or manufacture a product, and any cable or pipeline used to deliver fresh water or such electricity or product to shore, and all other associated equipment and appurtenances of such facility or vessel, to the extent they are located seaward of the highwater mark.".

(b) Section 1104(a)(1) of the Merchant Marine Act, 1936 (46 U.S.C. 1274(a)(1)) is amended by striking "or (E)" and inserting in lieu there of "(E) as an ocean thermal energy conversion facility or plantship; or (F)".

(c) Section 1104(b)(2) of the Merchant Marine Act, 1936 (46 U.S.C. 1274(b)(2)) is amended by striking out "vessel;" and inserting in lieu thereof "vessel: *Provided, further,* That in the case of an ocean thermal energy conversion facility or plantship which is constructed without the aid of construction-differential subsidy, such obligations may be in an aggregate principal amount which does not exceed 87½ per centum of the actual cost or depreciated actual cost of the facility or plantship:".

SEC. 203. OTEC DEMONSTRATION FUND.

(a) Title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271–1279b) is further amended by adding at the end thereof a new section 1110 to read as follows:

"SEC. 1110. (a) Pursuant to the authority granted under section 1103(a) of this title, the Secretary of Commerce, upon such terms as he shall prescribe, may guarantee or make a commitment to guarantee, payment of the principal of and interest on an obligation which aid in financing, including reimbursement of an obligor for expenditures previously made for, construction, reconstruction, or reconditioning of a pilot or demonstration ocean thermal energy conversion facility or plantship owned by citizens of the United States. Guarantees or commitments to guarantee under this subsection shall be subject to all the provisos, requirements, regulations, and procedures which apply to guarantees or commitments to guarantee made under section 1104(a)(1) of this title, except that—

"(1) no guarantees or commitments to guarantee may be made by the Secretary of Commerce under this subsection before October 1, 1981;

"(2) the provisions of subsection (d) of section 1104 of this title do not apply to guarantees or commitments to guarantee made under this section;

"(3) guarantees or commitments to guarantee made under this section may be in an aggregate principal amount which does not exceed 87½ per centum of the actual cost or depreciated actual cost of the pilot or demonstration ocean thermal energy conversion facility or plantship. If the pilot or demonstration ocean thermal energy conversion facility or plantship is supported with appropriated Federal funds, such guarantees or commitments to guarantee may not exceed 87½ per centum of the aggregate principal amount of that portion of the actual cost or depreciated actual cost for which the obligor has an obligation to secure financing in accordance with the terms of the agreement between the obligor and the Department of Energy or other Federal agency; and

"(4) the provisions of this section may be used to guarantee obligations for a total of not more than five separate pilot and demonstration ocean thermal energy conversion facilities and plantships.

"(b) A guarantee or commitment to guarantee may not be made under this section unless the Secretary of Energy certifies to the Secretary of Commerce that the ocean thermal energy conversion facility or plantship for which the guarantee or commitment to guarantee is sought is a pilot or demonstration plant for the development of alternative energy sources for the United States and is either approved or participated in by the Department of Energy, and the Secretary of Commerce determines that sufficient guaranty of performance or payment is being provided by the Department of Energy or any other Federal or State agency or any person to lower the risk of loss to a level which is reasonable, taking into account the need of the United States to develop new renewable sources of energy and the benefits to be realized from construction and operation of the proposed pilot or demonstration ocean thermal energy conversion facility or plantship.

"(c) A special subaccount in the Federal Ship Financing Fund, to be known as the OTEC Demonstration Fund, shall be established on October 1, 1981. The OTEC Demonstration Fund shall be used for obligation guarantees authorized under this section which do not qualify under other sections of this title. Except as specified otherwise in this section, the operation of the OTEC Demonstration Fund shall be identical with that of the parent Federal Ship Financing Fund. The aggregate unpaid principal amount of the obligations guaranteed with the backing of the OTEC Demonstration Fund and outstanding at any one time shall not exceed $2,000,000,000.

"(d) The provisions of section 1105(d) of this title shall apply specifically to the OTEC Demonstration Fund as well as to the Fund.

"(e) The interest on any obligation guaranteed under this section shall be included in gross income for purposes of chapter 1 of the Internal Revenue Code of 1954.".

(b) (1) Section 1103(f) of the Merchant Marine Act, 1936 (46 U.S.C. 1273(f)) is amended by striking out "$10,000,000,000." and inserting in lieu thereof "$12,000,000,000. of which $2,000,000,000 shall be limited to obligations pertaining to pilot or demonstration ocean thermal energy conversion facilities or plantships guaranteed under section 1110 of this title.".

(2) The amendment made by paragraph (1) of this subsection shall take effect October 1, 1981.

TITLE III—ENFORCEMENT

SEC. 301. PROHIBITED ACTS.

It is unlawful for any person who is a United States citizen or national, or a foreign national on board an ocean thermal energy conversion facility or plantship or other vessel documented or numbered under the laws of the United States, or who is subject to the jurisdiction of the United States by an international agreement to which the United States is a partv—

(1) to violate any provision of this Act, or any rule, regulation, or order issued pursuant to this Act, or any term or condition of any license issued to such person pursuant to this Act;

(2) to refuse to permit any Federal officer or employee authorized to monitor or enforce the provisions of this Act, as provided for in sections 110 and 303 of this Act, to board an ocean thermal energy conversion facility or plantship or any vessel documented or numbered under the laws of the United States, for purposes of conducting any search or inspection in connection with the monitoring or enforcement of this Act or any rule, regulation, order, term or condition referred to in clause (1) of this section;

(3) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer or employee in the conduct of any search or inspection described in clause (2) of this section;

(4) to resist a lawful arrest for any act prohibited by this section; or

(5) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person subject to this section knowing that the other person has committed any act prohibited by this section.

SEC. 302. REMEDIES AND PENALTIES.

(a) (1) The Administrator or his delegate shall have the authority to issue and enforce orders during proceedings brought under this Act. Such authority shall include the authority to issue subpenas, administer oaths, compel the attendance and testimony of witnesses and the production of books, papers, documents, and other evidence, to take depositions before any designated individual competent to administer oaths, and to examine witnesses.

(2) Whenever on the basis of any information available to him the Administrator finds that any person subject to section 301 is in violation of any provision of this Act or any rule, regulation, order, license, or term or condition thereof, or other requirements under this Act, he may issue an order requiring such person to comply with such provision or requirement or bring a civil action in accordance with subsection (b) of this section.

(3) Any compliance order issued under this subsection shall state with reasonable specificity the nature of the violation and a time

for compliance, not to exceed thirty days, which the Administrator determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

(b)(1) Upon a request by the Administrator, the Attorney General shall commence a civil action for appropriate relief, including a permanent or temporary injunction to halt any violation for which the Administrator is authorized to issue a compliance order under subsection (a)(2) of this section.

(2) Upon a request by the Administrator, the Attorney General shall bring an action in an appropriate district court of the United States for equitable relief to redress a violation, by any person subject to section 301 of this title, of any provision of this Act, any regulation issued pursuant to this Act, or any license condition.

(c)(1) Any person who is found by the Administrator after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 301 of this title shall be liable to the United States for a civil penalty, not to exceed $25,000 for each violation. Each day of a continuing violation shall constitute a separate violation. The amount of such civil penalty shall be assessed by the Administrator, or his designee, by written notice. In determining the amount of such penalty, the Administrator shall take into account the nature, circumstances, extent and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(2) Any person against whom a civil penalty is assessed under paragraph (1) of this subsection may obtain a review thereof in the appropriation court of the United States by filing a notice of appeal in such court within thirty days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Administrator. The Administrator shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Administrator shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(3) If any person subject to section 301 fails to pay a civil penalty assessed against him after it has become final, or after the appropriate court has entered final judgment in favor of the Administrator, the Administrator shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(4) The Administrator may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this subsection.

(d)(1) Any person subject to section 301 of this title is guilty of an offense if he willfully commits any act prohibited by such section.

(2) Any offense, other than an offense for which the punishment is prescribed by section 103 of this Act, is punishable by a fine of not more than $75,000 for each day during which the violation continues. Any offense described in paragraphs (2), (3), (4), and (5) of section 301 is punishable by the fine or imprisonment for not more than six months, or both. If, in the commission of any offense, the person subject to section 301 uses a dangerous weapon, engages in conduct that causes bodily injury to any Federal officer or employee, or places any Federal officer or employee in fear of imminent bodily injury, the offense is punishable by a fine of not more than $100,000 or imprisonment for not more than ten years, or both.

(e) Any ocean thermal energy conversion facility or plantship licensed pursuant to this Act and any other vessel documented or numbered under the laws of the United States, except a public vessel engaged in noncommercial activities, used in any violation of this Act or of any rule, regulation, order, license, or term or condition thereof, or other requirements of this Act, shall be liable in rem for any civil penalty assessed or criminal fine imposed and may be proceeded against in any district court of the United States having jurisdiction thereof, whenever it shall appear that one or more of the owners, or bareboat charterers, was at the time of the violation a consenting party or privy to such violation.

SEC. 303. ENFORCEMENT.

(a) Except where a specific section of this Act designates enforcement responsibility, the provisions of this Act shall be enforced by the Administrator. The Secretary of the department in which the Coast Guard is operating shall have exclusive responsibility for enforcement measures which affect the safety of life and property at sea, shall exercise such other enforcement responsibilities with respect to vessels subject to the provisions of this Act as are authorized under other provisions of law, and may, upon the specific request of the Administrator, assist the Administrator in the enforcement of any provision of this Act. The Administrator and the Secretary of the department in which the Coast Guard is operating may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment, including aircraft and vessels, and facilities of any other Federal agency or department, and may authorize officers or employees of other departments or agencies to provide assistance as necessary in carrying out subsection (b). The Administrator and the Secretary of the department in which the Coast Guard is operating may issue regulations jointly or severally as may be necessary and appropriate to carry out their duties under this section.

(b) To enforce this Act on board any ocean thermal energy conversion facility or plantship or other vessel subject to the provisions of this Act, any officer who is authorized by the Administrator or by the Secretary of the department in which the Coast Guard is operating may—

(1) board and inspect any vessel which is subject to the provisions of this Act;

(2) search the vessel if the officer has reasonable cause to believe that the vessel has been used or employed in the violation of any provision of this Act,

(3) arrest any person subject to section 301 if the officer has reasonable cause to believe that the person has committed a criminal act prohibited by sections 301 and 302(d) of this title;

(4) seize the vessel together with its gear, furniture, appurtenances, stores, and cargo, used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of this Act if such seizure is necessary to prevent evasion of the enforcement of this Act;

(5) seize any evidence related to any violation of any provision of this Act;

(6) execute any warrant or other process issued by any court of competent jurisdiction; and

(7) exercise any other lawful authority.

(c) Except as otherwise specified in section 115 of this Act, the district courts of the United States shall have exclusive original jurisdiction over any case or controversy arising under the provisions of this Act. Except as otherwise specified in this Act, venue shall lie in any district wherein, or nearest to which, the cause of action arose, or wherein any defendant resides, may be found, or has his principal office. In the case of Guam, and any Commonwealth, territory, or possession of the United States in the Pacific Ocean, the appropriate court is the United States District Court for the District of Guam, except that in the case of American Samoa, the appropriate court is the United States District Court for the District of Hawaii. Any such court may, at any time—

(1) enter restraining orders or prohibitions;

(2) issue warrants, process in rem, or other process;

(3) prescribe and accept satisfactory bonds or other security; and

(4) take such other actions as are in the interest of justice.

(d) For the purposes of this section, the term "vessel" includes an ocean thermal energy conversion facility or plantship, and the term "provisions of this Act" or "provision of this Act" includes any rule, regulation, or order issued pursuant to this Act and any term or condition of any license issued pursuant to this Act.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. EFFECT OF LAW OF THE SEA TREATY.

If the United States ratifies a treaty, which includes provisions with respect to jurisdiction over ocean thermal energy conversion activities, resulting from any United Nations Conference on the Law of the Sea, the Administrator, after consultation with the Secretary of State, shall promulgate any amendment to the regulations promulgated under this Act which is necessary and appropriate to conform such regulations to the provisions of such treaty, in anticipation of the date when such treaty shall come into force and effect for, or otherwise be applicable to, the United States.

SEC. 402. INTERNATIONAL NEGOTIATIONS.

The Secretary of State, in cooperation with the Administrator and the Secretary of the department in which the Coast Guard is operating, shall seek effective international action and cooperation in support of the policy and purposes of this Act and may initiate and conduct negotiations for the purpose of entering into international agreements designed to guarantee noninterference of ocean thermal energy conversion facilities and plantships with the thermal gradients used by other such facilities and plantships, to assure protection of such facilities and plantships and of navigational safety in the vicinity thereof, and to resolve such other matters relating to ocean thermal energy conversion facilities and plantships as need to be resolved in international agreements.

SEC. 403. RELATIONSHIP TO OTHER LAWS

(a)(1) The Constitution laws, and treaties of the United States shall apply to an ocean thermal energy conversion facility or plantship licensed under this Act and to activities connected, associated, or potentially interfering with the use or operation of any such facility or plantship, in the same manner as if such facility or plantship were an area of exclusive Federal jurisdiction located within a State. Nothing in this Act shall be construed to relieve, exempt, or immunize any person from any other requirement imposed by Federal law, regulation, or treaty.

(2) Ocean thermal energy conversion facilities and plantships licensed under this Act do not possess the status of islands and have no territorial seas of their own.

(b)(1) Except as may otherwise be provided by this Act, nothing in this Act shall in any way alter the responsibilities and authorities of a State or the United States within the territorial seas of the United States.

(2) The law of the nearest adjacent

coastal State to which an ocean thermal energy conversion facility, located beyond the territorial sea and licensed under this Act, is connected by pipeline or electric transmission cable, now in effect or hereafter adopted, amended, or repealed, is, declared to be the law of the United States, and shall apply to such facility, to the extent applicable and not inconsistent with any provision or regulation under this Act or other Federal laws and regulations now in effect or hereafter adopted, amended, or repealed: *Provided, however,* That the application of State taxation laws is not extended outside the seaward boundary of any State. All such applicable laws shall be administered and enforced by the appropriate officers and courts of the United States outside the seaward boundary of any State.

(c)(1) For the purposes of the customs laws administered by the Secretary of the Treasury, ocean thermal energy conversion facilities and plantships documented under the laws of the United States and licensed under this Act shall be deemed to be vessels.

(2) Except insofar as they apply to vessels documented under the laws of the United States, the customs laws administered by the Secretary of the Treasury, including the provisions of the Tariff Act of 1930, as amended (19 U.S.C. 1202), and other laws codified in title 19, United States Code, shall not apply to any ocean thermal energy conversion facility or plantship licensed under this Act, but all foreign articles to be used in the construction of any such facility or plantship, including any component thereof, shall first be made subject to all applicable duties and taxes which would be imposed upon or by reason of their importation if they were imported for consumption in the United States. Duties and taxes shall be paid thereon in accordance with laws applicable to merchandise imported into the customs territory of the United States.

Sec. 404. Submarine Electric Transmission Cable and Equipment Safety.

(a) The Secretary of Energy, in cooperation with other interested Federal agencies and departments, shall establish and enforce such standards and regulations as may be necessary to assure the safe construction and operation of submarine electric transmission cables and equipment subject to the jurisdiction of the United States. Such standards and regulations shall include, but not be limited to, requirements for the use of the safest and best available technology for submarine electric transmission cable shielding, and for the use of automatic switches to shut off electric current in the event of a break in such a cable.

(b) The Secretary of Energy, in cooperation with other interested Federal agencies and departments, is authorized and directed to report to the Congress within sixty days after the date of enactment of this Act on appropriations and staffing needed to monitor submarine electric transmission cables and equipment subject to the jurisdiction of the United States so as to assure that they meet all applicable standards for construction, operation, and maintenance.

Sec. 405. Annual Report.

Within six months after the end of each
or some other energy-intensive product.
of enactment of this Act, the Administrator shall submit to the President of the Senate and the Speaker of the House of Representatives a report on the administration of this Act during such fiscal year. Such report shall include, with respect to the fiscal year covered by the report—

(1) a description of progress in implementing this Act;

(2) a list of all licenses issued, suspended. revoked, relinquished, surrendered, terminated, renewed, or transferred; denials or issuance of licenses; and required suspensions and modifications of activities under licenses;

(3) a description of ocean thermal energy conversion activities undertaken pursuant to licenses;

(4) the number and description of all civil and criminal proceedings instituted under title III, and the current status of such proceedings; and

(5) such recommendations as the Administrator deems appropriate for amending this Act.

Sec. 406. Authorization of Appropriations.

There are authorized to be appropriated to the Secretary of Commerce, for the use of the Administrator in carrying out the provisions of this Act, not to exceed $3,000,000 for the fiscal year ending September 30, 1981, not to exceed $3,500,000 for the fiscal year ending September 30, 1982, and not to exceed $3,500,000 for the fiscal year ending September 30, 1983.

Sec. 407. Severability.

If any provision of this Act or any application thereof is held invalid, the validity of the remainder of the Act, or any other application, shall not be affected thereby.

The SPEAKER pro tempore. Is a second demanded?

Mr. PRITCHARD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. Studds) will be recognized for 20 minutes, and the gentleman from Washington (Mr. Pritchard) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. Studds).

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, ocean thermal energy conversion—called OTEC for simplicity—is one of the renewable solar energy technologies which can make a substantial contribution to our energy supply in future years, and which can help us meet the goal set by President Carter last year of deriving 20 percent of our energy from the sun by the year 2000.

The OTEC technology uses the temperature differences between cold, deep ocean water, and warmer ocean surface water heated by the sun to run a thermodynamic cycle similar to that used in refrigerators. By using large amounts of the hot and cold water, an OTEC plant can generate a large amount of electricity. The electricity generated by OTEC can be sent to shoreside electric power company grids by submarine cables, or it can be used on the OTEC platform itself to manufacture ammonia or some other energy-intensive product. Ammonia could either be used directly (freeing for other uses some of the 3 percent of our natural gas supplies now used to make ammonia for fertilizer or industrial use), or used as a way of transporting hydrogen to large banks of fuel cells located anywhere in the United States. The fuel cells would use the hydrogen to generate electricity through a completely pollution-free chemical reaction. OPEC uses the surface water of the ocean as both a solar heat collector and a heat storage medium, and because of this OTEC is one of the very few solar energy technologies which can produce full power 24 hours a day.

Mr. Speaker, last Thursday President Carter signed into law H.R. 7474, the OTEC demonstration bill authored by Chairman Fuqua of the Committee on Science and Technology and Senator Matsunaga. By signing that bill, President Carter has taken a major step toward making OTEC a major contributor to U.S. energy supplies in the years to come. The new public law provides for the needed large-scale demonstration of OTEC systems, so that financial institutions, investors, electric utility companies, and insurance companies can see for themselves that OTEC costs can be projected with reasonable accuracy and that OTEC can be depended upon to produce baseload electric power.

The new public law also establishes goals for demonstration of 100 megawatts of OTEC capacity by 1986 and 500 megawatts by 1989; achievement of price reductions to make OTEC competitive with conventional energy sources in the gulf coast region by the mid-1990's; and installation of 10,000 megawatts of OTEC capacity by the year 1999. The first demonstration projects to meet these goals are expected to be initiated by the Department of Energy, and to be cost-shared between the Department of Energy and private industry. Attainment of the stated goal of 10,000 megawatts in operation by the year 1999 can be accomplished only if private industry is able to raise the capital to construct OTEC plants on its own after the initial demonstration projects.

Mr. Speaker, H.R. 6154, the bill under consideration here today, originated late last year as a result of oversight hearings in the Subcommittee on Oceanography. During those hearings we learned that recent engineering and technological breakthroughs have removed the major barriers to construction of large-scale OTEC plants, and that there were two remaining barriers to implementation of OTEC as a commercial energy technology. The first such barrier was the need for demonstration of large-scale OTEC systems, which has been taken care of by the bill which was signed into law last week. The second remaining barrier is the need for enactment of a Federal regulatory framework and capital formation assistance provisions; that will be taken care of by enactment of the bill we are considering today.

OTEC is a new activity in the ocean, and most OTEC activities will be conducted on the high seas beyond the usual limits of national jurisdiction. Admiralty law generally governs activities of vessels on the high seas, but admiralty law does not speak to many of the aspects of OTEC activities because they have not yet been engaged in on the high seas. Consequently, the Federal Government must act to clearly state the jurisdictional authority and the governmental policies which will apply to OTEC activities before private companies will be able to raise the capital to build commercial OTEC facilities and plantships. The primary purpose of H.R. 6154 is to take those governmental actions which are necessary to remove legal and other institutional uncertainties before they become actual barriers which would seriously impede the commercial deployment of energy-producing OTEC facilities and plantships.

H.R. 6154 accomplishes this primary purpose by stating the necessary jurisdictional authority, specifying the agencies which will administer it, establishing a fair and expeditious one-stop licensing system administered by the National Oceanic and Atmospheric Administration in the Department of Commerce, specifying which Federal and State laws apply to OTEC facilities and plantships, providing that OTEC facilities and plantships be treated as vessels for most purposes under U.S. laws, and making both commercial and demonstration OTEC facilities and plantships eligible for Federal loan guarantees under Title XI of the Merchant Marine Act, 1936.

Title I of H.R. 6154 establishes the licensing and regulatory system for OTEC facilities and plantships to be administered by the National Oceanic and Atmospheric Administration. The time limits placed on each step in the decisionmaking process will result in a final decision on each license application within 365 days of its submission. This title of the bill also contains provisions to insure that OTEC operations will be totally compatible with our goal of maintaining an unpolluted environment, and it requires study of any cumulative environmental impacts which might be caused by OTEC operation. The best information available indicates that any environmental effects of OTEC will be substantially less than the environmental effects of other energy technologies.

Title II of H.R. 6154 amends the Merchant Marine Act, 1936 to include OTEC facilities and plantships in several of that act's important provisions. The bill makes both commercial and demonstration OTEC facilities and plantships eligible for vessel mortgage obligation guarantees—which are a specialized form of loan guarantees—under title XI of the Merchant Marine Act, 1936, which now applies to most U.S. vessels, floating drydocks, and mobile offshore drilling platforms. Loan guarantees for pilot and demonstration OTEC plants are limited to projects approved or participated in by the Department of Energy, and cannot be committed until October 1, 1981.

They are limited to 87½ percent of the private capital involved in the project. Loan guarantees for pilot and demonstration projects are limited to no more than five such projects, and the overall amount which can be guaranteed for such projects cannot exceed $2 billion. The availability of these loan guarantees will enable private industry to raise capital to participate in the cost of the Department of Energy's pilot and demonstration OTEC plants, thereby reducing the amount of appropriated funds which will be needed for OTEC development.

Title III of H.R 6154 contains enforcement provisions. Title IV of the bill contains miscellaneous provisions, including the authorization for appropriation of $3 million for fiscal year 1981, $3.5 million for fiscal year 1982, and $3.5 million for fiscal year 1983 for implementation of the act.

Mr. Speaker, H.R. 6154 was favorably reported to the House by a unanimous vote of the Committee on Merchant Marine and Fisheries.

We had planned to bring this bill to the floor under a simple 1-hour open rule, and were granted such a rule by the Committee on Rules. However, because of the large number of bills awaiting consideration and the fact that no Member has indicated a desire to offer an amendment to H.R. 6154, we sought and were granted permission to bring the bill before the House under suspension of the rules. The virtually identical bill filed by Senator INOUYE in the other body was passed by that body by unanimous consent on July 2.

H.R. 6154 removes legal and institutional uncertainties which would otherwise prevent the commercial implementation of this renewable solar energy technology. The bill does that in a way which is wholly compatible with efforts to maintain a pollution-free environment. The bill's provisions are completely in accord with current and developing international law.

I urge my colleagues to support passage of H.R. 6154 so we can fully utilize this new energy technology.

☐ 1500

Mr. PRITCHARD. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in support of H.R. 6154, the Ocean Thermal Energy Conversion Act of 1980. OTEC has the potential of supplying, at reasonable cost, a significant portion of our country's new energy needs by the year 2000 and will therefore reduce our need for imported oil. OTEC-produced energy can be delivered to the United States by electrical transmission cables and can be fed directly into utility grids from offshore U.S. islands or Gulf of Mexico sites, or energy from OTEC systems can be used directly in energy-intensive manufacturing processes such as fertilizer or aluminum production. The cost for OTEC power is projected to be comparable to coal and nuclear costs, and yet the process is largely nonpolluting and does not pose the environmental problems associated with coal and nuclear power technologies.

Even though OTEC has great promise in moving the United States away from its dependence on foreign oil, we have heard in testimony before the Subcommittee on Oceanography that utility companies have a traditional reluctance to assume unusual technological risks. Utilities, by their nature and because of the regulatory climate in which they operate, are conservative investors in new technologies. Strong institutional, economic, financial, and legal barriers exist which limit utility involvement in research and development. In order to make OTEC attractive to utilities and investors, these barriers must be eliminated or minimized.

H.R. 6154 is a major step in promoting prompt commercial development of OTEC because the act helps to reduce many of the barriers that currently preclude commercial OTEC development. Title I of H.R. 6154 establishes a finite and one-stop regulatory approval process that will eliminate many of the costly delays that are present in current energy projects. Title II of the act makes commercial OTEC development attractive to investors because it classifies OTEC facilities and plantships as vessels which makes them eligible for Federal mortgage guarantees under title XI of the Merchant Marine Act of 1936.

Mr. Speaker, I believe that the enactment of H.R. 6154 will insure prompt and widespread participation by the private sector in the construction of OTEC facilities and plantships. After the technology has been demonstrated in large, test-scale systems, this legislation will allow full-scale commercialization to occur without the regulatory delays which have too often slowed or stopped the implementation of new technologies. OTEC can be a major part of the energy future of the United States and the world, and I believe that prompt enactment of H.R. 6154 will help make this happen.

Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. FORSYTHE).

Mr. FORSYTHE. Mr. Speaker, I join my colleagues in support of H.R. 6154, the Ocean Thermal Energy Conversion Act of 1980. One of the major problems facing the United States is the availability and the price of fuel. The continuing controversy with Iran, the OPEC oil embargo of 1973–74, and large increases in oil prices in succeeding years continue to remind us of our vulnerability to an abrupt curtailment of oil; and each new increase in oil prices increases our negative trade deficit. Unfortunately, the United States is increasingly dependent on imported oil. Crude oil imports have doubled since the oil embargo of 1973–74 and imports supply one-third of our oil requirements. Our dependence on foreign oil has grown despite growing political instability and increasing Soviet influence in the Mideast, increasing prices and continuing threats of oil interruptions. OTEC is a method of producing energy that can help to reduce our dependence on foreign oil, and prompt commercialization of OTEC will be enhanced by this act.

OTEC is attractive for several reasons other than reducing our dependency on foreign oil. Electricity produced from OTEC facilities can be transmitted into existing transmission grids or used directly in several energy-intensive manufacturing processes. Some reports indicate that when the nutrient-rich cold water is pumped up from deep within the ocean to the surface that this will stimulate production in the surface layers of the ocean. Some researchers feel that the aquaculture byproduct of OTEC plants will be more valuable than the electricity itself. OTEC is also attractive because it reduces our balance of trade deficit in two different ways.

First, by producing power from a fuel which is free we avoid paying foreign countries for the energy that we require. Second, OTEC facilities will be attractive to other countries which are even more dependent on imported oil than the

United States. By developing the OTEC technology as fast as possible, the United States will be in an excellent position to export this technology. This will provide new jobs for U.S. workers and it could help to bolster the shipbuilding industry.

Mr. Speaker, this Congress is in a rare position to encourage a new U.S. industry based on energy extraction from the oceans. I must emphasize, however, that we must act quickly. Utility companies require lead times of 8 to 12 years to bring new electrical generating capacity on line. Utility companies also have little incentive to pursue new technologies; therefore, an aggressive demonstration program must be followed to show utilities that ocean thermal energy conversion is a viable process and that OTEC can provide the uninterruptible power needs of the utilities. H.R. 6154 reduces the licensing time which would otherwise be required by establishing a one-stop licensing process with a strict time limit for decisionmaking. Quite often when a new technology or industrial activity arises which must be licensed, industry has to wait until the Congress has considered the requisite legislation, and until the responsible agency has written and promulgated implementing regulations. Passage of H.R. 6154 will start the administrative process now so that the responsible agency will have its regulations in place and be prepared to process license applications when the industry is ready to begin licensing and construction of commercial OTEC plants.

H.R. 6154 removes the legal and institutional uncertainties which would seriously impede the commercial deployment of energy-producing OTEC facilities and plantships. If Congress is intent upon achieving energy independence, we must move quickly in removing barriers that inhibit development and commercialization of new energy technologies. I urge my colleagues to vote for the passage of H.R. 6154, which will remove many of the barriers to commercial deployment of OTEC facilities and plantships.

Mr. PRITCHARD. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. CARNEY).

Mr. CARNEY. Mr. Speaker, I, as a member of the Merchant Marine and Fisheries Committee and the Science and Technology Committee and one who has supported this bill through the process in both committees, rise in strong support of H.R. 6154, the Ocean Thermal Energy Conversion Act of 1980. OTEC is a renewable and environmentally sound method of producing energy and is thus an attractive energy substitute to our current fuel mix. OTEC offers an almost inexhaustible energy supply that is available 24 hours per day and has the potential for meeting baseload power needs. OTEC is especially attractive as an energy source because it offers a real promise of holding down or even reducing the cost of electricity. Because its only fuel is the solar energy stored in the oceans, there are no fuel costs to increase. The higher the cost of oil and natural gas, the more attractive OTEC becomes, since its fuel is free and the cost of building and operating OTEC facilities is comparable to other powerplants.

H.R. 6154 is an important step in utilizing the solar energy that is stored in the oceans. H.R. 6154 removes legal and other institutional uncertainties before they become actual barriers which would seriously impede the commercial deployment of energy-producing OTEC facilities and plantships. Through the issuance of licenses, the bill makes clear that the United States will permit those under its jurisdiction to exercise their freedom of the high seas to conduct OTEC activities, with reasonable regard to the rights of others as required by international law.

In particular, the bill requires any OTEC facility or plantship licensed under the act to refrain from interfering with the operations of any other OTEC facility or plantship, a legal requirement which is a prerequisite to the ability to raise the susbtantial amounts of capital necessary to build OTEC facilities and plantships. The bill also specifies which bodies of Federal and State law apply to OTEC facilities and plantships, so that OTEC owners will know in advance the laws which apply to contracts and other matters relating to OTEC operations outside the boundaries of the United States.

Financial uncertainties will be reduced since H.R. 6154 makes OTEC facilities and plantships eligible for participation in the title XI vessel mortgage obligation guarantee program established by the Merchant Marine Act of 1936. H.R. 6154 also reduces the licensing time which would otherwise be required by establishing a one-stop licensing process for OTEC facilities and plantships. This process will eliminate many of the costly delays that are present in current energy projects.

In this period of energy uncertainties, it is imperative that we develop energy technologies that reduce our dependence upon foreign oil and yet can be developed in an environmentally sound manner. OTEC is an energy source that is available now, that can provide baseload power at competitive rates, yet is largely nonpolluting, uses no fuel, and is nonhydrocarbon and nonnuclear.

Mr. Speaker, H.R. 6154 will provide a big boost to commercialization of an alternative energy source and I urge its passage.

Mr. STUDDS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Speaker, I rise in support of the bill, H.R. 6154, and hope the House will approve it.

I would like to ask a question of the distinguished gentleman from Massachusetts, the chairman of the subcommittee, Mr. STUDDS.

It is our understanding that the Senate made several changes to this bill that you intend to incorporate in H.R. 6154, which will clarify pilot plant and commercial demonstration plant eligibility for loan guarantees. Is this correct?

Mr. STUDDS. Mr. Speaker, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from Massachusetts.

Mr. STUDDS. The gentleman is entirely correct.

Mr. FUQUA. Because of the Science Committee's legislative activities for OTEC which are embodied in Public Law 96–310 and jurisdiction over all civilian energy research and development, including commercial demonstrations I wish to make the record clear that this bill is not viewed as excluding or limiting the jurisdiction of the Committee on Science and Technology for commercial demonstrations of technology. At the minimum this should include the receipt by the Committee on Science of the annual report required under H.R. 6154. Is this agreeable to the gentleman from Massachusetts?

Mr. STUDDS. I find this agreeable.

Mr. FUQUA. I thank the gentleman for being so agreeable and urge adoption of the bill.

Mr. STUDDS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Puerto Rico (Mr. CORRADA).

Mr. CORRADA. I rise in strong support of H.R. 6154, the Ocean Thermal Energy Conversion Act of 1980. The purpose of this legislation is to regulate and promote energy self-sufficiency by establishing procedures for the location, construction, and operation of ocean thermal energy conversion facilities and plantships.

This legislation is essential for the development of this technology. Together with H.R. 7474, which was approved by the Congress on July 2, the Congress goes clearly on record as being totally committed to the development of OTEC.

I commend the sponsor of this legislation, Congressman GERRY STUDDS, chairman of the Subcommittee on Oceanography of the Merchant Marine and Fisheries Committee, for his leadership in this area.

Mr. Speaker, Puerto Rico is totally committed to the development of OTEC. We see an urgent need and a promising future for this type of advanced energy technology. Because of our complete and expensive dependence on mostly foreign oil, for the production of electricity, Puerto Rico welcomes the development of new energy sources that will not only reduce such dependence on oil, but will also provide relief from unreasonable and inflationary increases in the cost of producing electricity.

Mr. Speaker, I urge all my colleagues to vote in favor of this legislation.

Mr. PRITCHARD. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. DORNAN).

Mr. DORNAN. Mr. Speaker, I rise in vigorous support of H.R. 6154 and to associate myself with the remarks of my committee colleagues on both sides of the aisle. Even though this is a capital intensive project, of all the energy-producing advanced technologies we are developing, OTEC does appear to give us great promise for the next century with the least risk. As the people in the OTEC business say, it is "benigned and it is lovable." OTEC has no detractors that I know of anywhere.

I think during the demonstration phase an overwhelming vote of support from the Members of this body and likewise from the other body will keep this exciting technology properly funded and moving quickly toward commercial success a new energy source so badly needed.

● Mr. MURPHY of New York. Mr. Speaker, today the Congress has the opportunity to advance an innovative technology which will in the next decade adequately respond to our energy dilemma.

With the passage of H.R. 6154, the Ocean Thermal Energy Conversion—OTEC—Act of 1980, a favorable commercial investment climate will be created for OTEC—a nonpolluting, nonnuclear alternative energy source. This bill will provide the financial motivation that investors need to begin constructing OTEC plantsites. We can then turn away from, and become independent of, the oil-producing countries.

OTEC technology utilizes the temperature difference between the warm surface waters and the cold, deeper waters to produce electrical energy. With this technology we could construct plantsites off the coasts of Hawaii, Puerto Rico, the Virgin Islands, the Florida gulf stream and the Gulf of Mexico, because these areas contain the necessary temperature differential. OTEC offers an endless supply of energy and uses only solar energy for its fuel.

A commercial-sized OTEC plant can generate large amounts of electricity which can be put directly into an electric company's transmission grid, or used on the OTEC platform to produce ammonia or support other energy-intensive manufacturing processes.

The Department of Energy is sponsoring a major effort to develop the OTEC system as a future source of energy through a level of funding which contains over 90 percent of the ocean systems budget from the Department, since the OTEC program was established in the Energy Research and Development Administration 5 years ago, the Federal Government has invested over $100 million in the program.

The Committee on Merchant Marine and Fisheries has a broad interest in new energy technologies, and unanimously reported out the bill on May 7.

H.R. 6154, states the necessary jurisdictional authority, specifies the agencies which will administer the program, establishes a fair and expeditious one-stop licensing system, and makes both commercial and demonstration OTEC facilities and plantships eligible for Federal loan guarantees under title XI of the Merchant Marine Act of 1936.

The conditions for operation of OTEC facilities or vessels used to transport any production of any OTEC facility or plantship include the requirement that those vessels be documented under the laws of the United States. These requirements are consistent with the long-standing law that vessels operating commercially in or about the territorial waters of the United States be documented under the laws of the United States. The maintenance of the U.S. maritime transportation system, especially in terms of the operation of strategically significant energy and energy byproduct facilities is an urgent and compelling need for the continued security of the United States, in terms of both its economy and defense.

In light of the escalating demand for energy it is imperative that the United States develop alternate energy sources. Without the adoption of H.R. 6154 and governmental support, industries will not have the incentive they need to begin construction of OTEC plantsites. Congress cannot afford to overlook this noncontroversial form of energy.

Mr. Speaker, I urge my colleagues to support ocean thermal energy conversion through passage of H.R. 6154.●

● Mr. AKAKA. Mr. Speaker, I rise in strong support of H.R. 6154.

The 1980's have been designated as the "Decade of the Oceans," and with good reason. In the years to come, it is to the ocean we must turn if we are to continue our search for alternative energy sources.

We are rapidly running out of our energy resources, both at home and abroad. And, the more energy we consume, the fewer resources we have. The cycle of the "energy squeeze" is indeed a self-perpetuating one.

Passage of this legislation is a step toward breaking that cycle. Passage of this legislation means that we can begin to look at the ocean as a source of energy.

The success of ocean thermal energy conversion technology is important not only to us, as a nation, but it also could play a significant role in the economies of island nations throughout the world. For these island nations which rely solely on petroleum as an energy source, OTEC could mean the difference between a thriving economy and one which is staggered by the ever-rising cost of oil.

The role of the development of technologies such as OTEC is critical in our fight for energy self-sufficiency. I am pleased that the U.S. Congress realizes that the push toward implementation of commercialized OTEC plants is one of the steps that we must take as a nation.

● Mr. HEFTEL. Mr. Speaker, it gives me great pleasure to rise in support of H.R. 6154, the "Ocean Thermal Energy Conversion Act of 1980." I am pleased to be a cosponsor of this legislation and would like to take this opportunity to congratulate my distinguished colleague from Massachusetts, Mr. STUDDS, for his outstanding effort on behalf of this promising alternative energy technology.

The global effort to find and develop new sources of energy encompasses not only the 30 percent of the Earth's surface covered by land but extends, as well, to the greater part covered by water. Not only do offshore regions offer resources in petroleum, natural gas, coal, and materials for fission or fusion, but the ocean environment can provide unique sources of renewable energy, holding out promise for augmenting conventional energy sources and for reducing dependence on imported fuels. In this regard, interest has heightened in the renewable energy resource potential of the world's oceans and the significance of the role they could play in easing the strain on U.S. energy resources.

The Congress has already acted on legislation, H.R. 7474, introduced by Mr. FUQUA, which would accelerate and set goals for the OTEC, research and development program in the Department of Energy. Such legislation is crucial to the development of the OTEC technology. H.R. 6154 will bring the demonstration and commercialization of OTEC systems closer to reality by establishing the legal framework for their deployment and by making both commercial and demonstration OTEC facilities and plantships eligible for Federal loan guarantees. The bill then is a logical second step after the enactment of the necessary research and development legislation.

H.R. 6154 would set up a one-step licensing system administered by the National Oceanic and Atmospheric Administration in the Department of Commerce for commercial OTEC plants, and by the Department of Energy for pilot and demonstration projects under its jurisdiction. This process would result in final decisions on license applications within 1 year of their submission. The loan guarantee program to be established by this legislation would enable private industry to raise the needed funds to participate in the DOE's OTEC pilot and demonstration programs.

Mr. Speaker, I believe that H.R. 6154 would effectively remove the legal and regulatory barriers which might otherwise impede the early commercialization of this important alternate energy technology. At the same time, the loan guarantees to be provided under the legislation will insure the maximum participation of private industry in the development of ocean thermal energy.

Again, let me take this opportunity to congratulate my distinguished colleague from Massachusetts (Mr. STUDDS), for his efforts. I look forward to working with him and my other House colleagues for an OTEC program which will contribute significantly to our national energy future.●

Mr. STUDDS. Mr. Speaker, I have no further requests for time and yield back the balance of my time.

Mr. PRITCHARD. Mr. Speaker, I have no further requests for time and yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. STUDDS) that the House suspend the rules and pass the bill, H.R. 6154, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. STUDDS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2492) to regulate commerce, promote energy self-sufficiency, and protect the environment, by establishing procedures for the location, construction, and operation of ocean thermal energy conversion facilities and plantships to produce electricity and energy-intensive products off the coasts of the United States; to amend the Merchant Marine Act, 1936, to make available certain financial assistance for construction and operation of such facilities and plantships; and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the Senate bill as follows:

S. 2492

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Ocean Thermal Energy Conversion Act of 1980".

SEC. 2. DECLARATION OF POLICY.

(a) It is declared to be the purposes of the Congress in this Act to—

(1) authorize and regulate the construction, location, ownership, and operation of ocean thermal energy conversion facilities connected to the United States by pipeline or cable, or located in the territorial sea of the United States consistent with the Convention on the High Seas and general principles of international law;

(2) authorize and regulate the construction, location, ownership, and operation of ocean thermal energy conversion plantships documented under the laws of the United States, consistent with the Convention on the High Seas and general principles of international law;

(3) authorize and regulate the construction, location, ownership, and operation of ocean thermal energy conversion plantships by United States citizens, consistent with the Convention on the High Seas and general principles of international law;

(4) establish a legal regime which will permit and encourage the development of ocean thermal energy conversion as a commercial energy technology;

(5) provide for the protection of the marine and coastal environment, and consideration of the interests of ocean users, to prevent or minimize any adverse impact which might occur as a consequence of the development of such ocean thermal energy conversion facilities or plantships;

(6) make applicable certain provisions of the Merchant Marine Act, 1936 (46 U.S.C. 1177 et seq.) to assist in financing of ocean thermal energy conversion facilities and plantships;

(7) protect the interests of the United States in the location, construction, and operation of ocean thermal energy conversion facilities and plantships; and

(8) protect the rights and responsibilities of adjacent coastal States in ensuring that Federal actions are consistent with approved State coastal zone management programs and other applicable State and local laws.

(b) The Congress declares that nothing in this Act shall be construed to affect the legal status of the high seas, the superjacent airspace, or the seabed and subsoil, including the Continental Shelf.

SEC. 3. DEFINITIONS.

As used in this Act, unless the context otherwise requires, the term—

(1) "adjacent coastal State" means any coastal State which is required to be designated as such by section 105(a)(1) of this Act or is designated as such by the Administrator in accordance with section 105(a)(2) of this Act;

(2) "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration;

(3) "antitrust laws" includes the Act of July 2, 1890, as amended, the Act of October 15, 1914, as amended, and sections 73 and 74 of the Act of August 27, 1894, as amended;

(4) "application" means any application submitted under this Act (A) for issuance of a license for the ownership, construction, and operation of an ocean thermal energy conversion facility or plantship; (B) for transfer or renewal of any such license; or (C) for any substantial change in any of the conditions and provisions of any such license;

(5) "coastal State" means a State in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes;

(6) "construction" means any activities conducted at sea to supervise, inspect, actually build, or perform other functions incidental to the building, repairing, or expanding of an ocean thermal energy conversion facility or plantship or any of its components, including but not limited to, piledriving, emplacement of mooring devices, emplacement of cables and pipelines, and deployment of the cold water pipe, and alterations, modifications, or additions to an ocean thermal energy conversion facility or plantship;

(7) "facility" means an ocean thermal energy conversion facility;

(8) "Governor" means the Governor of a State or the person designated by law to exercise the powers granted to the Governor pursuant to this Act;

(9) "high seas" means that part of the oceans lying seaward of the territorial sea of the United States and outside the territorial sea, as recognized by the United States, of any other nation;

(10) "license" means the holder of a valid license for the ownership, construction, and operation of an ocean thermal energy conversion facility or plantship that was issued, transferred, or renewed pursuant to this Act;

(11) "ocean thermal energy conversion facility" means any facility which is standing or moored in or beyond the territorial sea of the United States and which is designed to use temperature differences in ocean water to produce electricity or another form of energy capable of being used directly to perform work, and includes any equipment installed on such facility to use such electricity or other form of energy to produce, process, refine, or manufacture a product, and any cable or pipeline used to deliver such electricity, freshwater, or product to shore, and all other associated equipment and appurtenances of such facility, to the extent they are located seaward of the highwater mark;

(12) "ocean thermal energy conversion plantship" means any vessel which is designated to use temperature differences in ocean water while floating unmoored or moving through such water, to produce electricity or another form of energy capable of being used directly to perform work, and includes any equipment installed on such vessel to use such electricity or other form of energy to produce, process, refine, or manufacture a product, and any equipment used to transfer such product to other vessels for transportation to users, and all other associated equipment and appurtenances of such vessel;

(13) "plantship" means an ocean thermal energy conversion plantship;

(14) "person" means any individual (whether or not a citizen of the United States), any corporation, partnership, association, or other entity organized or existing under the laws of any nation, and any Federal, State, local or foreign government or any entity of any such government;

(15) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the United States Virgin Islands, Guam, the Commonwealth of the Northern Marianas, and any other Commonwealth, territory, or possession over which the United States has jurisdiction;

(16) "test platform" means any floating or moored platform, barge, ship, or other vessel which is designed for limited-scale, at sea operation in order to test or evaluate the operation of components or all of an ocean thermal energy conversion system and which will not operate as an ocean thermal energy conversion facility or plantship after the conclusion of such tests or evaluation;

(17) "thermal plume" means the area of the ocean in which a significant difference in temperature, as defined in regulations by the Administrator, occurs as a result of the operation of an ocean thermal energy conversion facility or plantship; and

(18) "United States citizen" means (A) any individual who is a citizen of the United States by law, birth, or naturalization; (B) any Federal, State, or local government in the United States, or any entity of any such government; or (C) any corporation, partnership, association, or other entity, organized or existing under the laws of the United States, or of any State, which has as its president or other executive officer and as its chairman of the board of directors, or holder of similar office, an individual who is a United States citizen and which has no more of its directors who are not United States citizens than constitute a minority of the number required for a quorum necessary to conduct the business of the board.

TITLE I—REGULATION OF OCEAN THERMAL ENERGY CONVERSION FACILITIES AND PLANTSHIPS

SEC. 101. LICENSE FOR THE OWNERSHIP, CONSTRUCTION, AND OPERATION OF AN OCEAN THERMAL ENERGY CONVERSION FACILITY OR PLANTSHIP.

(a) No person may engage in the ownership, construction, or operation of an ocean thermal energy conversion facility which is documented under the laws of the United States, which is located in the territorial sea of the United States, or which is connected to the United States by pipeline or cable, except in accordance with a license issued pursuant to this Act. No citizen of the United States may engage in the ownership, construction or operation of an ocean thermal energy conversion plantship except in accordance with a license issued pursuant to this Act, or in accordance with a license issued by a foreign nation whose licenses are found by the Administrator, after consultation with the Secretary of State, to be compatible with licenses issued pursuant to this Act.

(b) The Administrator shall, upon application and in accordance with the provisions of this Act, issue, transfer, amend, or renew licenses for the ownership, construction, and operation of—

(1) ocean thermal energy conversion plantships documented under the laws of the United States, and

(2) ocean thermal energy conversion facilities documented under the laws of the United States, located in the territorial sea of the United States, or connected to the United States by pipeline or cable.

(c) The Administrator may issue a license to a citizen of the United States in accordance with the provisions of this Act unless—

(1) he determines that the applicant cannot and will not comply with applicable laws, regulations, and license conditions;

(2) he determines that the construction and operation of the ocean thermal energy conversion facility or plantship will not be in the national interest and consistent with national security and other national policy goals and objectives, including energy self-sufficiency and environmental quality;

(3) he determines, after consultation with the Secretary of the department in which the Coast Guard is operating, that the ocean thermal energy conversion facility or plantship will not be operated with reasonable regard to the freedom of navigation or other reasonable uses of the high seas and authorized uses of the Continental Shelf, as defined by United States law, treaty, convention, or customary international law;

(4) he has been informed, within 45 days after the conclusion of public hearings on that application, or on proposed licenses for the designated application area, by the Administrator of the Environmental Protection Agency that the ocean thermal energy conversion facility or plantship will not conform with all applicable provisions of any law for which he has enforcement authority;

(5) he has received the opinion of the Attorney General, pursuant to section 104 of this Act, stating that issuance of the license would create a situation in violation of the antitrust laws, or the 90-day period provided in section 104 has expired;

(6) he has consulted with the Secretary of Energy, the Secretary of Transportation, the Secretary of State, the Secretary of the Interior, and the Secretary of Defense, to determine their views on the adequacy of the application, and its effect on programs within their respective jurisdictions and determines on the basis thereof, that the application for license is inadequate;

(7) the proposed ocean thermal energy conversion facility or plantship will not be documented under the laws of the United States;

(8) the applicant has not agreed to the condition that no vessel may be used for the transportation to the United States of things produced, processed, refined, or manufactured at the ocean thermal energy conversion facility or plantship unless such vessel is documented under the laws of the United States;

(9) when the license is for an ocean thermal energy conversion facility, he determines that the facility, including any submarine electric transmission cables and equipment or pipelines which are components of the facility, will not be located and designed so as to minimize interference with other uses of the high seas or the Continental Shelf, including cables or the possibility of their repair;

(10) the Governor of each adjacent coastal State with an approved coastal zone management program in good standing pursuant to the Coastal Zone Management Act of 1972 (33 U.S.C. 1451 et seq.) determines that, in his or her view, the application is inadequate or inconsistent with respect to programs within his or her jurisdiction;

(11) when the license is for an ocean thermal energy conversion facility, he determines that the thermal plume of the facility is expected to impinge on so as to degrade the thermal gradient used by any other ocean thermal energy conversion facility already licensed or operating, without the consent of its owner;

(12) when the license is for an ocean thermal energy conversion facility, he determines that the thermal plume of the facility is expected to impinge on so as to adversely affect the territorial sea or area of national resources jurisdiction, as recognized by the United States, or any other nation, unless the Secretary of State approves such impingement after consultation with such nation;

(13) when the license is for an ocean thermal energy conversion plantship, he determines that the applicant has not provided adequate assurance that the plantship will be operated in such a way as to prevent its thermal plume from impinging on so as to degrade the thermal gradient used by any other ocean thermal energy conversion facility or plantship without the consent of its owner, and from impinging on so as to adversely affect the territorial sea or area of national resource jurisdiction, as recognized by the United States, of any other nation unless the Secretary of State approves such impingement after consultation with such nation; and

(14) when a regulation has been adopted which places an upper limit on the number or total capacity of ocean thermal energy conversion facilities or plantships to be licensed under this Act for simultaneous operation, either overall or within specific geographic areas, pursuant to a determination under the provisions of section 107(b)(4) of this Act, issuance of the license will cause such upper limit to be exceeded.

(d)(1) In issuing a license for the ownership, construction, and operation of an ocean thermal energy conversion facility or plantship, the Administrator shall prescribe conditions which he deems necessary to carry out the provisions of this Act, or which are otherwise required by any Federal department or agency pursuant to the terms of this Act.

(2) No license shall be issued, transferred, or renewed under this Act unless the licensee or transferee first agrees in writing that (A) there will be no substantial change from the plans, operational systems, and methods, procedures, and safeguards set forth in his application, as approved, without prior approval in writing from the Administrator, and (B) he will comply with conditions the Administrator may prescribe in accordance with the provisions of this Act.

(3) The Administrator shall establish such bonding requirements or other assurances as he deems necessary to assure that, upon the revocation, termination, relinquishment, or surrender of a license, the licensee will dispose of or remove all components of the ocean thermal energy conversion facility or plantship as directed by the Administrator. In the case of components which another applicant or licensee desires to use, the Administrator may waive the disposal or removal requirements until he has reached a decision on the application. In the case of components lying on or below the seabed, the Administrator may waive the disposal or removal requirements if he finds that such removal is not otherwise necessary and that the remaining components do not constitute any threat to the environment, navigation, fishing, or other uses of the seabed.

(e) Upon application, a license issued under this Act may be transferred if the Administrator determines that such transfer is in the public interest and that the transferee meets the requirements of this Act and the prerequisites to issuance under subsection (c) of this section.

(f) Any United States citizen who otherwise qualifies under the terms of this Act shall be eligible to be issued a license for the ownership, construction, and operation of an ocean thermal energy conversion facility or plantship.

(g) Licenses issued under this Act shall be for a term of not to exceed twenty-five years. Each licensee shall have a preferential right to renew his license subject to the requirements of subsection (c) of this section, upon such conditions and for such term, not to exceed an additional 10 years upon each renewal, as the Administrator determines to be reasonable and appropriate.

SEC. 102. PROCEDURE.

(a) The Administrator shall, after consultation with the Secretary of Energy and the heads of other Federal agencies, issue regulations to carry out the purposes and provisions of this Act, in accordance with the provisions of section 553 of title 5, United States Code, without regard to subsection (a) thereof. Such regulations shall pertain to, but need not be limited to, application for issuance, transfer, renewal, suspension, and termination of licenses. Such regulations shall provide for full consultation and cooperation with all other interested Federal agencies and departments and with any potentially affected coastal State, and for consideration of the views of any interested members of the general public. The Administrator is further authorized, consistent with the purposes and provisions of this Act, to amend or rescind any such regulation. The Administrator shall complete issuance of final regulations to implement this Act within 1 year of the date of its enactment.

(b) The Administrator, in consultation with the Secretary of the Interior and the Secretary of the department in which the Coast Guard is operating may, if he determines it to be necessary, prescribe regulations consistent with the purposes of this Act, relating to those activities in site evaluation and preconstruction testing at potential ocean thermal energy conversion facility or plantship locations that may (1) adversely affect the environment; (2) interfere with other reasonable uses of the high seas or with authorized uses of the Outer Continental Shelf; or (3) pose a threat to human health and safety. If the Administrator prescribes regulations relating to such activities, such activities may not be undertaken after the effective date of such regulations except in accordance therewith.

(c) Not later than 60 days after the date of enactment of this Act, the Secretary of Energy, the Administrator of the Environmental Protection Agency, the Secretary of the department in which the Coast Guard is operating, the Secretary of the Interior, the Chief of Engineers of the United States Army Corps of Engineers, and the heads of any other Federal departments or agencies having expertise concerning, or jurisdiction over, any aspect of the construction or operation of ocean thermal energy conversion facilities or plantships, shall transmit to the Administrator written description of their expertise or statutory responsibilities pursuant to this Act or any other Federal law.

(d)(1) Within 21 days after the receipt of an application, the Administrator shall determine whether the application appears to contain all of the information required by paragraph (2) of this subsection. If the Administrator determines that such information appears to be contained in the application, the Administrator shall, no later than 5 days after making such a determination, publish notice of the application and a summary of the plans in the Federal Register. If the Administrator determines that all of the required information does not appear to be contained in the application, the Administrator shall notify the applicant and take no further action with respect to the application until such deficiencies have been remedied.

(2) Each application shall include such financial, technical, and other information as the Administrator determines by regulation to be necessary or appropriate to process the license pursuant to section 101.

(e)(1) At the time notice of an application for an ocean thermal energy conversion facility is published pursuant to subsection (d) of this section, the Administrator shall publish a description in the Federal Register of an application area encompassing the site proposed in the application for such facility and within which the thermal plume of one ocean thermal energy conversion facility might be expected to impinge on so as to degrade the thermal gradient used by another ocean thermal energy conversion facility, unless the application is for a license for an ocean thermal energy conversion facility to be located within an application area which has already been designated.

(2) The Administrator shall accompany such publication with a call for submission of any other applications for licenses for the ownership, construction, and operation of an ocean thermal energy conversion facility within the designated application area. Any person intending to file such an application shall submit a notice of intent to file an application to the Administrator not later than 60 days after the publication of notice pursuant to subsection (d) of this section, and shall submit the completed application no later than 90 days after publication of such notice. The Administrator shall publish notice of any such application received in accordance with subsection (d) of this section. No application for a license for the ownership, construction, and operation of an ocean thermal energy conversion facility within the designated application area for which a notice of intent to file was received after such 60-day period, or which is received after such 90-day period has elapsed, shall be considered until action has been completed on all timely filed applications pending with respect to such application area.

(f) An application filed with the Administrator shall constitute an application for all Federal authorizations required for ownership, construction, and operation of an ocean thermal energy conversion facility or plantship, except for authorizations required by documentation, inspection, certification, construction, and manning laws and regulations administered by the Secretary of the department in which the Coast Guard is operating. At the time notice of any application is published pursuant to subsection (d) of this section, the Administrator shall forward a copy of such application to those Federal agencies and departments with jurisdiction over any aspect of such ownership, construction, or operation for comment, review, or recommendation as to conditions and for such other action as may be required by law. Each agency or department involved shall review the application and, based upon legal considerations within its area of responsibility, recommend to the Administrator the approval or disapproval of the application not later than 45 days after public hearings are concluded pursuant to subsection (g) of this section. In any case in which an agency or department recommends disapproval, it shall set forth in detail the manner in which the application does not comply with any law or regulation within its area of responsibility and shall notify the Administrator of the manner in which the application may be amended or the license conditioned so as to bring it into compliance with the law or regulation involved.

(g) A license may be issued, transferred, or renewed only after public notice, opportunity for comment, and public hearings in accordance with this subsection. At least one such public hearing shall be held in the District of Columbia and in any adjacent coastal State to which a facility is proposed to be directly connected by pipeline or electric transmission cable. Any interested person may present relevant material at any such hearing. After the hearings required by this subsection are concluded, if the Administrator determines that there exists one or more specific and material factual issues which may be resolved by a formal evidentiary hearing, at least one adjudicatory hearing shall be held in the District of Columbia in accordance with the provisions of section 554 of title 5, United States Code. The record developed in any such adjudicatory hearing shall be part of the basis for the Administrator's decision to approve or deny a license. Hearings held pursuant to this subsection shall be consolidated insofar as practicable with hearings held by other agencies. All public hearings on all applications with respect to facilities for any designated application area shall be consolidated and shall be concluded not later than 240 days after notice of the initial application has been published pursuant to subsection (d) of this section. All public hearings on applications with respect to ocean thermal energy conversion plantships shall be concluded not later than 240 days after notice of the application has been published pursuant to subsection (d) of this section.

(h) Each person applying for a license pursuant to this Act shall remit to the Administrator at the time the application is filed a nonrefundable application fee, which shall be deposited into miscellaneous receipts of the Treasury. The amount of the fee shall be established by regulation by the Administrator, and shall reflect the reasonable administrative costs incurred in reviewing and processing the application.

(i)(1) The Administrator shall approve or deny any timely filed application with respect to a facility for a designated application area submitted in accordance with the provision of this Act not later than 90 days after public hearings on proposed licenses for that area are concluded pursuant to subsection (g) of this section. The Administrator shall approve or deny an application for a license for ownership, construction, and operation of an ocean thermal energy conversion plantship submitted pursuant to this Act no later than 90 days after the public hearings on that application are concluded pursuant to subsection (g) of this section.

(2) In the event more than one application for a license for ownership, construction, and operation of an ocean thermal energy conversion facility is submitted pursuant to this Act for the same designated application area, the Administrator, unless one or a specific combination of the proposed facilities clearly best serves the national interest, shall make decisions on license applications in the order in which they were submitted to him.

(3) In determining whether any one or a specific combination of the proposed ocean thermal energy conversion facilities clearly best serves the national interest, the Administrator, in consultation with the Secretary of Energy, shall consider the following factors:

(A) the goal of making the greatest possible use of ocean thermal energy conversion by installing the largest capacity practicable in each application area;

(B) the amount of net energy impact of each of the proposed ocean thermal energy conversion facilities;

(C) the degree to which the proposed ocean thermal energy conversion facilities will affect the environment;

(D) any significant differences between anticipated dates and commencement of operation of the proposed ocean thermal energy conversion facilities; and

(E) any differences in costs of construction and operation of the proposed ocean thermal energy conversion facilities, to the extent that such differentials may significantly affect the ultimate cost of energy or products to the consumer.

SEC. 103. PROTECTION OF SUBMARINE ELECTRIC TRANSMISSION CABLES AND EQUIPMENT.

(a) Any person who shall willfully and wrongfully break or injure, or attempt to break or injure, or who shall in any manner procure, counsel, aid, abet, or be accessory to such breaking or injury, or attempt to break or injure, any submarine electric transmission cable or equipment being constructed or operated under a license issued pursuant to this Act shall be guilty of a misdemeanor and, on conviction thereof, shall be liable to imprisonment for a term not exceeding 2 years, or to a fine not exceeding $5,000, or to both fine and imprisonment, at the discretion of the court.

(b) Any person who by culpable negligence shall break or injure any submarine electric transmission cable or equipment being constructed or operated under a license issued pursuant to this Act shall be guilty of a misdemeanor and, on conviction thereof, be liable to imprisonment for a term not exceeding 3 months, or to a fine not exceeding $500, or to both fine and imprisonment, at the discretion of the court.

(c) The provisions of subsections (a) and (b) of this section shall not apply to any person who, after having taken all necessary precautions to avoid such breaking or injury, breaks or injures any submarine electric transmission cable or equipment in an effort to save the life or limb of himself or of any other person, or to save his own or any other vessel.

(d) The penalties provided in subsections (a) and (b) of this section for the breaking or injury of any submarine electric transmission cable or equipment shall not be a bar to a suit for damages on account of such breaking or injury.

(e) Whenever any vessel sacrifices any anchor, fishing net, or other fishing gear to avoid injuring any submarine electric transmission cable or equipment being constructed or operated under a license issued pursuant to this Act, the licensee shall indemnify the owner of such vessel for the items sacrificed: *Provided*, That the owner of the vessel had taken all reasonable precautionary measures beforehand.

(f) Any licensee who causes any break in or injury to any submarine cable or pipeline of any type shall bear the cost of the repairs.

SEC. 104. ANTITRUST REVIEW.

(a) Whenever any application for issuance, transfer, or renewal of any license is received, the Administrator shall transmit promptly to the Attorney General a complete copy of such application. Within 90 days of the receipt of the application, the Attorney General shall conduct such antitrust review of the application as he deems appropriate, and submit to the Administrator any advice or recommendations he deems advisable to avoid any action upon such application by the Administrator which would create a situation inconsistent with the antitrust laws. If the Attorney General fails to file such views within the 90-day period, the Administrator shall proceed as if such views had been received. The Administrator shall not issue, transfer, or renew the license during the 90-day period, except upon written confirmation by the Attorney General that he does not intend to submit any further advice or recommendation on the application during such period.

(b) The issuance of a license under this Act shall not be admissible in any way as a defense to any civil or criminal action for violation of the antitrust laws of the United States, nor shall it in any way modify or abridge any private right of action under such laws. Nothing in this section shall be construed to bar the Attorney General or the Federal Trade Commission from challenging any anticompetitive situation involved in the ownership, construction, or operation of an ocean thermal energy conversion facility or plantship.

SEC. 105. ADJACENT COASTAL STATES.

(a)(1) The Administrator, in issuing notice of application pursuant to section 102 (d) of this title, shall designate as an "adjacent coastal State" any coastal State which (A) would be directly connected by electric transmission cable or pipeline to an ocean thermal energy conversion facility as proposed in an application, or (B) in whose waters any part of such proposed ocean thermal energy conversion facility would be located, or (C) in whose waters an ocean thermal energy conversion plantship would be operated as proposed in an application.

(2) The Administrator shall, upon request of a State, designate such State as an "adjacent coastal State" if he determines that (A) there is a risk of damage to the coastal environment of such State equal to or greater than the risk posed to a State required to be designated as an "adjacent coastal State" by paragraph (1) of this subsection or (B) that the thermal plume of the proposed ocean thermal energy conversion facility or plantship is likely to impinge on so as to degrade the thermal gradient at possible locations for ocean thermal energy conversion facilities which could reasonably be expected to be directly connected by electric transmission cable or pipeline to such State. This paragraph shall apply only with respect to requests made by a State not later than the 14th day after the date of publication of notice of application for a proposed ocean thermal energy conversion facility in the Federal Register in accordance with section 102(d) of this title. The Administrator shall make any designation required by this paragraph not later than the 45th day after the date he receives such a request from a State.

(b)(1) Not later than 5 days after the designation of adjacent coastal State pursuant to this section, the Administrator shall transmit a complete copy of the application to the Governor of such State. The Administrator shall not issue a license without consultation with the Governor of each adjacent coastal State which has an approved coastal zone management program in good standing pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.). If the Governor of such a State has not transmitted his approval or disapproval to the Administrator by the 45th day after public hearings on the application is concluded pursuant to section 102(g) of this title, such approval shall be conclusively presumed. If the Governor of such a State notifies the Administrator that an application which the Governor would otherwise approve pursuant to this paragraph is inconsistent in some respect with the State's coastal zone management program, the Administrator shall condition the license granted so as to make it consistent with such State program.

(2) Any adjacent coastal State which does not have an approved coastal zone management program in good standing, and any other interested State, shall have the opportunity to make its views known to, and to have them given full consideration by, the Administrator regarding the location, construction, and operation of an ocean thermal energy conversion facility or plantship.

(c) The consent of Congress is given to two or more States to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, (1) to apply for a license for the ownership, construction, and operation of an ocean thermal energy conversion facility or plantship or for the transfer of such a license, and (2) to establish such agencies, joint or otherwise, as are deemed necessary or appropriate for implementing and carrying out the provisions of any such agreement or compact. Such agreement or compact shall be binding and obligatory upon any State or other party thereto without further approval by the Congress.

SEC. 106. DILIGENCE REQUIREMENTS.

(a) The Administrator shall promulgate regulations requiring each licensee to pursue diligently the construction and operation of the ocean thermal energy conversion facility or plantship to which the license applies.

(b) If the Administrator determines that a licensee is not pursuing diligently the construction and operation of the ocean thermal energy conversion facility or plantship to which the license applies, or that the project has apparently been abandoned, the Administrator shall cause proceedings to be instituted under section 111 of this title to terminate the license.

SEC. 107. PROTECTION OF THE ENVIRONMENT.

(a) The Administrator shall initiate a program to assess the effects on the environment of ocean thermal energy conversion facilities and plantships. The program shall include baseline studies of locations where ocean thermal energy conversion facilities or plantships are likely to be sited or operated; and research; and monitoring of the effects of ocean thermal energy conversion facilities and plantships in actual operation. The purpose of the program shall be to assess the environmental effects of individual ocean thermal energy facilities and plantships, and to assess the magnitude of any cumulative environmental effects of large numbers of ocean thermal energy facilities and plantships.

(b) The program shall be designed to determine, among other things—

(1) any short-term and long-term effects on the environment which may occur as a result of the operation of ocean thermal energy conversion facilities and plantships;

(2) the nature and magnitude of any oceanographic, atmospheric, weather, climatic, or biological changes in the environment which may occur as a result of deployment and operation of large numbers of ocean thermal energy conversion facilities and plantships;

(3) the nature and magnitude of any oceanographic, biological or other changes in the environment which may occur as a result of the operation of electric transmission cables and equipment located in the water column or on or in the seabed, including the hazards of accidentally severed transmission cables; and

(4) whether the magnitude of one or more of the cumulative environmental effects of deployment and operation of large numbers of ocean thermal energy conversion facilities or plantships to be licensed under this Act for simultaneous operation, either overall or within specific geographic areas.

(c) Within 180 days after enactment of this Act, the Administrator shall prepare a plan to carry out the program described in subsections (a) and (b) of this section, including necessary funding levels for the next 5 fiscal years, and submit the plan to the Congress.

(d) The program established by subsections (a) and (b) of this section shall be reduced to the minimum necessary to perform baseline studies and to analyze monitoring data, when the Administrator determines that the program has resulted in sufficient knowledge to make the determinations enumerated in subsection (b) of this section with an acceptable level of confidence.

(e) The issuance of any license for ownership, construction, and operation of an ocean thermal energy conversion facility or plantship shall be deemed to be a major Federal action significantly affecting the quality of the human environment for purposes of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)). For all timely applications covering proposed facilities in a single application area, and for each application relating to a proposed plantship, the Administrator shall, pursuant to such section 102(2)(C) of this title and in cooperation with other involved Federal agencies and departments, prepare a single environmental impact statement, which shall fulfill the requirement of all Federal agencies in carrying out their responsibilities pursuant to this Act to prepare an environmental impact statement. Each such draft environmental impact statement relating to proposed facilities shall be prepared and published within 180 days after notice of the initial application has been published pursuant to section 102(d) of this title. Each such draft environmental impact statement relating to a proposed plantship shall be prepared and published within 180 days after notice of the application has been published pursuant to section 107(d) of this title. Each final environmental impact statement shall be published not later than 90 days following the date on which public hearings are concluded pursuant to section 102(g) of this title. The Administrator may extend the deadline for publication of a specific draft or final environmental impact statement to a later specified time for good cause shown in writing.

(f) An ocean thermal energy conversion facility or plantship licensed under this title shall be deemed not to be a "vessel or other floating craft" for the purposes of section 502(12)(B) of the Federal Water Pollution Control Act of 1972 (33 U.S.C. 1362(12)(B)).

SEC. 108. MARINE ENVIRONMENTAL PROTECTION AND SAFETY OF LIFE AND PROPERTY AT SEA.

(a) The Secretary of the department in which the Coast Guard is operating shall, subject to recognized principles of international law, prescribe by regulation and enforce procedures with respect to any ocean thermal energy conversion facility or plantship licensed under this Act, including, but not limited to, rules governing vessel movement, procedures for transfer of materials be ween such a facility or plantship and transport vessels, designation and marking of anchorage areas, maintenance, law enforcement, and the equipment, training, and maintenance required (1) to promote the safety of life and property at sea, (2) to prevent pollution of the marine environment, (3) to clean up any pollutants which may be discharged, and (4) to otherwise prevent or minimize any adverse impact from the construction and operation of such ocean thermal energy conversion facility or plantship.

(b) The Secretary of the department in which the Coast Guard is operating shall issue and enforce regulations, subject to recognized principles of international law, with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property on any ocean thermal energy conversion facility or plantship licensed under this Act.

(c) Whenever a licensee fails to mark any component of such an ocean thermal energy conversion facility or plantship in accordance with applicable regulations, the Secretary of the department in which the Coast Guard is operating shall mark such components for the protection of navigation, and the licensee shall pay the cost of such marking.

(d)(1) Subject to recognized principles of international law and after consultation with the Secretary of Commerce, the Secretary of the Interior, the Secretary of State, and the Secretary of Defense, the Secretary of the department in which the Coast Guard is operating shall designate a zone of appropriate size around and including any ocean thermal energy conversion facility licensed under this Act and may designate such a zone around and including any ocean thermal energy conversion plantship licensed under this Act for the purposes of reorganizational safety and protection of the facility or plantship. The Secretary of the department in which the Coast Guard is operating shall by regulation define permitted activities within such zone consistent with the purpose for which it was designated. The Secretary of the department in which the Coast Guard is operating shall, not later than 30 days after publication of notice pursuant to section 102(d) of this title, designate such safety zone with respect to any proposed ocean thermal energy conversion facility or plantship.

(2) In addition to any other regulations, the Secretary of the department in which the Coast Guard is operating is authorized, in accordance with this subsection, to establish a safety zone to be effective during the period of construction of an ocean thermal energy conversion facility or plantship licensed under this Act, and to issue rules and regulations relating thereto.

(e)(1) The Secretary of the department in which the Coast Guard is operating shall promulgate and enforce regulations specified in paragraph (2) of this subsection and such other regulations as he deems necessary concerning the documentation, design, construction, alteration, equipment, maintenance, repair, inspection, certification, and manning of ocean thermal energy conversion facilities and plantships. In addition to other requirements prescribed under those regulations, the Secretary of the department in which the Coast Guard is operating may require compliance with those vessel documentation, inspection, and manning laws which he determines to be appropriate.

Within 1 year after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall promulgate regulations under paragraph (1) of this subsection which require that any ocean thermal energy conversion facility or plantship—

(A) be documented;

(B) comply with minimum standards of design, construction, alteration, and repair; and

(C) be manned or crewed by United States citizens or aliens lawfully admitted to the United States for permanent residence, unless—

(i) there is not a sufficient number of United States citizens, or aliens lawfully admitted to the United States for permanent residence, qualified and available for such work, or

(ii) the President makes a specific finding, with respect to the particular vessel, platform, or moored or standing structure, that application of this requirement would not be consistent with the national interest.

(3) For the purposes of the documentation laws, for which compliance is required under paragraph (1) of this subsection, ocean thermal energy conversion facilities and plantships shall be deemed to be vessels and, if documented, vessels of the United States for the purposes of the Ship Mortgage Act, 1920 (46 U.S.C. 911–984).

(f) Subject to recognized principles of international law, the Secretary of the department in which the Coast Guard is operating shall promulgate and enforce such regulations as he deems necessary to protect navigation in the vicinity of a vessel engaged in the installation, repair, or maintenance of any submarine electric transmission cable or equipment, and to govern the markings and signals used by such a vessel.

SEC. 109. PREVENTION OF INTERFERENCE WITH OTHER USES OF THE HIGH SEAS.

(a) Each license shall include such conditions as may be necessary and appropriate to ensure that construction and operation of the ocean thermal conversion facility or plantship are conducted with reasonable regard for navigation, fishing, energy production, scientific research, or other uses of the high seas, either by citizens of the United States or by other nations in their exercise of the freedoms of the high seas as recognized under the Convention of the High Seas and the general principles of international law.

(b) The Administrator shall promulgate regulations specifying under what conditions and in what circumstances the thermal plume of an ocean thermal energy conversion facility or plantship licensed under this Act will be deemed—

(1) to impinge on so as to degrade the thermal gradient used by another ocean thermal energy conversion facility or plantship, or

(2) to impinge on so as to adversely affect the territorial sea or area of natural resource jurisdiction, as recognized by the United States, of any other nation.

Such regulations shall also provide for the Administrator to mediate or arbitrate any disputes among licensees regarding the extent to which the thermal plume of one licensee's facility or plantship impinges on the operation of another licensee's facility or plantship.

(3) Except in a situation involving force majeure, a licensee of an ocean thermal energy conversion facility or plantship shall not permit a vessel, registered in or flying the flag of a foreign state, to call at, load or unload cargo at, or otherwise utilize such a facility or plantship licensed under this Act unless (A) the foreign state involved has agreed, by specific agreement with the United States, to recognize the jurisdiction of the United States over the vessel and its personnel, in accordance with the provisions of this Act, while the vessel is located within the safety zone, and (B) the vessel owner or operator has designated an agent in the United States for receipt of service of process in the event of any claim or legal proceeding resulting from activities of the vessel or its personnel while located within such a safety zone.

(c) The Secretary of the department in which the Coast Guard is operating shall promulgate, after consultation with the Administrator, and shall enforce, regulations governing the movement and navigation of ocean thermal energy conversion plantships licensed under this Act to ensure that the thermal plume of such an ocean thermal energy conversion plantship does not unreasonably impinge on so as to degrade the thermal gradient used by the operation of any other ocean thermal energy conversion plantship or facility except in case of force majeure or with the consent of owner of the other such plantship or facility, and to ensure that the thermal plume of such of an ocean thermal energy conversion plantship does not impinge on so as to adversely affect the territorial sea or area of national resource jurisdiction, as recognized by the United States, of any other nation unless the Secretary of State has approved such impingement after consultation with such nation.

SEC. 110. MONITORING OF LICENSEES' ACTIVITIES.

Each licensee shall require the licensee—

(1) to allow the Administrator to place appropriate Federal officers or employees aboard the ocean thermal energy conversion facility or plantship to which the license applies, at such times and to such extent as the Administrator deems reasonable and necessary to assess compliance with any condition or regulation applicable to the license, and to report to the Administrator whenever such officers or employees have reason to believe there is a failure to comply;

(2) to cooperate with such officers and employees in the performance of monitoring functions; and

(3) to monitor the environmental effects, if any, of the operation of the ocean thermal energy conversion facility or plantship in accordance with regulations issued by the Administrator, and to submit such information as the Administrator finds to be necessary and appropriate to assess environmental impacts and to develop and evaluate mitigation methods and possibilities.

SEC. 111. SUSPENSION, REVOCATION, OR TERMINATION OF LICENSE.

(a) Whenever a licensee fails to comply with any applicable provision of this Act or any applicable rule, regulation, restriction, or condition issued or imposed by the Administrator under the authority of this Act, the Attorney General, at the request of the Administrator, shall file an action in the appropriate United States district court to—

(1) suspend the license; or

(2) if such failure is knowing and continues for a period of 30 days after the Administrator mails notification of such failure by registered letter to the licensee at his record post office address, revoke such license.

No proceeding under this section is necessary if the license, by its terms, provides for automatic suspension or termination upon the occurrence of a fixed or agreed upon condition, event, or time.

(b) If the Administrator determines that immediate suspension of the construction or operation of an ocean thermal energy conversion facility or plantship or any component thereof is necessary to protect public health and safety or to eliminate imminent and substantial danger to the environment established by any treaty or convention, the Administrator may order the licensee to cease or alter such construction or operation pending the completion of a judicial proceeding pursuant to subsection (a) of this section.

SEC. 112. RECORDKEEPING AND PUBLIC ACCESS TO INFORMATION.

(a) Each licensee shall establish and maintain such records, make such reports, and provide such information as the Administrator, after consultation with other interested Federal departments and agencies, shall by regulation prescribe to carry out the provisions of this Act. Each licensee shall submit such reports and shall make available such records and information as the Administrator may request.

(b) Any information reported to or collected by the Administrator under this Act which is exempt from disclosure pursuant to section 552(b)(4) of title 5, United States Code (relating to trade secrets and confidential commercial and financial information), shall not—

(1) be publicly disclosed by the Administrator or by any other officer or employee of the United States, unless the Administrator has—

(A) determined that the disclosure is necessary to protect the public health or safety or the environment against an unreasonable risk of injury, and

(B) notified the person who submitted the information 10 days before the disclosure is to be made, unless the delay resulting from such notice would be detrimental to the public health or safety or the environment, or

(2) be otherwise disclosed except—

(A)(i) to other Federal and adjacent coastal State government departments and agencies for official use,

(ii) to any committee of the Congress of appropriate jurisdiction, or

(iii) pursuant to court order, and

(B) when the administrator has taken appropriate steps to inform the recipient of the confidential nature of the information.

SEC. 113. RELINQUISHMENT OR SURRENDER OF LICENSE.

Any licensee may at any time, without penalty, surrender to the Administrator a license issued to him, or relinquish to the Administrator, in whole or in part, any right to conduct construction or operation of an ocean thermal energy conversion facility or plantship, including part or all of any right of way which may have been granted in conjunction with such license: *Provided*, That such surrender or relinquishment shall not relieve the licensee of any obligation or liability established by this or any other Act, or of any obligation or liability for actions taken by him prior to such surrender or relinquishment, or during disposal or removal of any components required to be disposed of or removed pursuant to this Act.

(b) If part or all of a right of way which is relinquished, or for which the license is surrendered, to the Administrator pursuant to the Administrator pursuant to subsection (a) of this section contains an electric transmission cable or pipeline which is used in conjunction with another license for an ocean thermal energy conversion facility, the Administrator shall allow the other licensee an opportunity to add such right of way to his license before informing the Secretary of the Interior that the right of way has been vacated.

SEC. 114. CIVIL ACTIONS.

(a) Except as provided in subsection (b) of this section, any person having a valid legal interest which is or may be adversely affected may commence a civil action for equitable relief on his own behalf in the United States District Court for the District of Columbia whenever such action constitutes a case or controversy—

(1) against any person who is alleged to be in violation of any provision of this Act or any regulation or condition of a license issued pursuant to this Act; or

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary.

In suits brought under this Act, the district courts of the United States shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce any provision of this Act or any regulation or term or condition of a license issued pursuant to this Act, or to order the Administrator to perform such act or duty, as the case may be.

(b) No civil action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to 60 days after the plaintiff has given notice of the violation to the Administrator and to any alleged violator; or

(B) if the Administrator or the Attorney General has commenced and is diligently prosecuting a civil or criminal action with respect to such matters in a court of the United States, but in any such action any person may intervene as a matter of right; or

(2) under subsection (a)(2) of this section prior to 60 days after the plaintiff has given notice of such action to the Administrator.

Notice under this subsection shall be given in such a manner as the Administrator shall prescribe by regulation.

(c) In any action under this section, the Administrator or the Attorney General, if not a party, may intervene as a matter of right.

(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines that such an award is appropriate.

(e) Nothing in this section shall restrict any right which any person or class of persons may have under any statute or common law to seek enforcement or to seek any other relief.

SEC. 115. JUDICIAL REVIEW.

Any person suffering legal wrong, or who is adversely affected or aggrieved by the Administrator's decision to issue, transfer, modify, renew, suspend, or terminate a license may, not later than 60 days after such decision is made, seek judicial review of such decision in the United States Court of Appeals for the District of Columbia. A person shall be deemed to be aggrieved by the Administrator's decision within the meaning of this Act if he—

(1) has participated in the administrative proceedings before the Administrator (or if he did not so participate, he can show that his failure to do so was caused by the Administrator's failure to provide the required notice); and

(2) is adversely affected by the Administrator's action.

SEC. 116. TEST PLATFORMS AND COMMERCIAL DEMONSTRATION OCEAN THERMAL ENERGY CONVERSION FACILITY OR PLANTSHIP.

(a) The provisions of this title shall not apply to any test platform which will not operate as an ocean thermal energy conversion facility or platform after conclusion of the testing period.

(b) The provisions of this title shall not apply to ownership, construction, or operation of any ocean thermal energy conversion facility or plantship which the Secretary of Energy has designated in writing as a demonstration project for the development of alternative energy sources for the United States which is conducted by, participated in, or approved by the Department of Energy. The Secretary of Energy, after consultation with the Administrator, shall require such demonstration projects to abide by as many of the substantive requirements of this title as he deems to be practicable without damaging the nature of or unduly delaying such projects.

SEC. 117. PERIODIC REVIEW AND REVISION OF REGULATIONS.

The Administrator and the Secretary of the Department in which the Coast Guard is operating shall periodically, at intervals of not more than every 3 years, and in consultation with the Secretary of Energy, review any regulations promulgated pursuant to the provisions of this title to determine the status and impact of such regulations on the continued development, evolution, and commercialization of ocean thermal energy conversion technology. The results of each such review shall be included in the next annual report required by section 405. The Administrator and such Secretary are authorized and directed to promulgate any revisions to the then effective regulations as are deemed necessary and appropriate based on such review, to ensure that any regulations promulgated pursuant to the provisions of this title do not impede such development, evolution, and commercialization of such technology. Additionally, the Secretary of Energy is authorized to propose, based on such review, such revisions for the same purpose. The Administrator or such Secretary, as appropriate, shall have exclusive jurisdiction with respect to any such proposal by the Secretary of Energy and, pursuant to applicable procedures, shall consider and take final action on any such proposal in an expeditious manner. Such consideration shall include at least one informal hearing pursuant to the procedures in section 553 of title 5, United States Code.

TITLE II—MARITIME FINANCING FOR OCEAN THERMAL ENERGY CONVERSION

SEC. 201. DETERMINATIONS UNDER THE MERCHANT MARINE ACT, 1936.

(a)(1) For the purposes of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177), any ocean thermal energy conversion facility or plantship licensed pursuant to this Act, and any vessel providing shipping service to or from such an ocean thermal energy conversion facility or plantship, shall be deemed to be a vessel operated in the foreign commerce of the United States.

(2) The provisions of paragraph (1) of this subsection shall apply for taxable years beginning after December 31, 1981.

(b) For the purposes of the Merchant Marine Act of 1936 (46 U.S.C. 1177 et. seq.) any vessel documented under the laws of the United States and used in providing shipping service to or from any ocean thermal energy conversion facility or plantship licensed pursuant to the provisions of this Act shall be deemed to be used in, and used in an essential service in, the foreign commerce or foreign trade of the United States, as defined in section 905(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1244(a)).

SEC. 202. AMENDMENTS TO TITLE XI OF THE MERCHANT MARINE ACT, 1936.

(a) Section 1101 of the Merchant Marine Act, 1936 (46 U.S.C. 1271), is amended—

(1) in subsection (b) by striking "and" immediately before "dredges" and inserting in lieu thereof a comma, and by inserting immediately after "dredges" the following: "and ocean thermal energy conversion facilities or plantships",

(2) in subsection (g) by striking "and" after the semicolon,

(3) in subsection (h) by striking "equipping" and inserting in lieu thereof "equipping and", and

(4) by adding at the end thereof a new subsection (i) to read as follows:

"(i) The term 'ocean thermal energy conversion facility or plantship' means any at-sea facility or vessel, whether mobile, floating unmoored, moored, or standing on the seabed, which uses temperature differences in ocean water to produce electricity or another form of energy capable of being used directly to perform work, and includes any equipment installed on such facility or vessel to use such electricity or other form of energy to produce, process, refine, or manufacture a product, and any cable or pipeline used to deliver such electricity, freshwater, or product to shore, and all other associated equipment and appurtenances of such facility or vessel, to the extent they are located seaward of the highwater mark."

(b) Section 1104(a)(1) of the Merchant Marine Act, 1936 (46 U.S.C. 1274(a)(1)), is amended by striking "or (E)" and inserting in lieu thereof "(E) as an ocean thermal energy conversion facility or plantship; or (F)".

(c) Section 1104(b)(2) of the Merchant Marine Act, 1936 (46 U.S.C. 1274(b)(2)), is amended by striking "vessel;" and inserting in lieu thereof "vessel: *Provided further,* That in the case of an ocean thermal energy conversion facility or plantship which is constructed without the aid of construction-differential subsidy, such obligations may be in an aggregate principal amount which does not exceed 87½ percent of the actual cost or depreciated actual cost of the facility or plantship;".

SEC. 203. OTEC DEMONSTRATION FUND.

(a) Title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271–1279b) is further amended by adding at the end thereof a new section 1110 to read as follows:

"SEC. 1110. (a) Pursuant to the authority granted under section 1103(a) of this title, the Secretary of Commerce, upon such terms as he shall prescribe, may guarantee or make a commitment to guarantee, payment of the principal of and interest on an obligation which aids in financing, including reimbursement of an obligor for expenditures previously made for, construction, reconstruction, or reconditioning of a commercial demonstration ocean thermal energy conversion facility or plantship owned by citizens of the United States. Guarantees or commitments to guarantee under this subsection shall be subject to all the provisions, requirements, regulations, and procedures which apply to guarantees or commitments to guarantee made pursuant to section 1104(a)(1) of this title, except that—

"(1) no guarantees or commitments to guarantee may be made by the Secretary of Commerce under this subsection before October 1, 1981;

"(2) the provisions of subsection (d) of section 1104 of this title shall apply to guarantees or commitments to guarantee for that portion of a commercial demonstration ocean thermal energy conversion facility or plantship not to be supported with appropriated Federal funds;

"(3) guarantees or commitments to guarantee made pursuant to this section may be in an aggregate principal amount which does not exceed 87½ percent of the actual cost or depreciated actual cost of the commercial demonstration ocean thermal energy conversion facility or plantship: *Provided*, That, if the commercial demonstration ocean thermal energy conversion facility or plantship is supported with appropriated Federal funds, such guarantees or commitments to guarantee may not exceed 87½ percent of the aggregate principal amount of that portion of the actual cost or depreciated actual cost for which the obligor has an obligation to secure financing in accordance with the terms of the agreement between the obligor and the Department of Energy or other Federal agency; and

"(4) the provisions of this section may be used to guarantee obligations for a total of not more than 5 separate commercial demonstration ocean thermal energy conversion facilities and plantships or a demonstrated 400 megawatt capacity, whichever comes first.

"(b) A guarantee or commitment to guarantee shall not be made under this section unless the Secretary of Energy, in consultation with the Secretary of Commerce, certifies to the Secretary of Commerce that, for the ocean thermal energy conversion facility or plantship for which the guarantee or commitment to guarantee is sought, there is sufficient guarantee of performance and payment to lower the risk to the Federal Government to a level which is reasonable. The Secretary of Energy must base his considerations on the following: (1) the successful demonstration of the technology to be used in such facility at a scale sufficient to establish the likelihood of technical and economic viability in the proposed market; and (2) the need of the United States to develop new and renewable sources of energy and the benefits to be realized from the construction and successful operation of such facility or plantship.

"(c) A special subaccount in the Federal Ship Financing Fund, to be known as the OTEC Demonstration Fund, shall be established on October 1, 1981. The OTEC Demonstration Fund shall be used for obligation guarantees authorized under this section which do not qualify under other sections of this title. Except as specified otherwise in this section, the operation of the OTEC Demonstration Fund shall be identical with that of the parent Federal Ship Financing Fund: except that notwithstanding the provisions of section 1104(g), (1) all moneys received by the Secretary pursuant to sections 1101 through 1107 of this title with respect to guarantees or commitments to guarantee made pursuant to this section shall be deposited only in the OTEC Demonstration Fund, and (2) whenever there shall be outstanding any notes or other obligations issued by the Secretary of Commerce pursuant to section 1105(d) of this title with respect to the OTEC Demonstration Fund, all moneys received by the Secretary of Commerce pursuant to sections 1101 through 1107 of this title with respect to ocean thermal energy conversional facilities or plantships shall be deposited in the OTEC Demonstration Fund. Assets in the OTEC Demonstration Fund may at any time be transferred to the parent fund whenever and to the extent that the balance thereof exceeds the total guarantees or commitments to guarantee made pursuant to this section then outstanding, plus any notes or other obligations issued by the Secretary of Commerce pursuant to section 1105(d) of this title with respect to the OTEC Demonstration Fund. The Federal Ship Financing Fund shall not be liable for any guarantees or commitments to guarantee issued pursuant to this section. The aggregate unpaid principal amount of the obligations guaranteed with the backing of the OTEC Demonstration Fund and outstanding at any one time shall not exceed $2,000,000,000.

"(d) The provisions of section 1105(d) of this title shall apply specifically to the OTEC Demonstration Fund as well as to the Fund: *Provided, however*, That any notes or obligations issued by the Secretary of Commerce pursuant to section 1105(d) of this title with respect to the OTEC Demonstration Fund shall be payable solely from proceeds realized by the OTEC Demonstration Fund.

"(e) The interest on any obligation guaranteed under this section shall be included in gross income for purposes of chapter I of the Internal Revenue Code of 1954.".

(b)(1) Section 1103(f) of the Merchant Marine Act, 1936 (46 U.S.C. 1273(f)) is amended by striking out "$10,000,000,000." and inserting in lieu thereof "$12,000,000,000; of which $2,000,000,000 shall be limited to obligations pertaining to commercial demonstration ocean thermal energy conversion facilities or plantships guaranteed pursuant to section 1110 of this title.".

(2) The amendment made by paragraph (1) of this subsection shall take effect October 1, 1981.

TITLE III—ENFORCEMENT

SEC. 301. PROHIBITED ACTS.

It is unlawful for any person who is a United States citizen or national, or a foreign national on board an ocean thermal energy conversion facility or plantship or other vessel documented or numbered under the laws of the United States, or who is subject to the jurisdiction of the United States by an international agreement to which the United States is a party—

(1) to violate any provision of this Act, or any rule, regulation, or order issued pursuant to this Act, or any term or condition of any license issued to such person pursuant to this Act;

(2) to refuse to permit any Federal officer or employee authorized to monitor or enforce the provisions of sections 110 and 303 of this Act to board an ocean thermal energy conversion facility or plantship or any vessel documented or numbered under the laws of the United States, for purposes of conducting any search or inspection in connection with the monitoring or enforcement of this Act or any rule, regulation, order, term, or condition referred to in paragraph (1) of this section;

(3) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer or employee in the conduct of any search or inspection described in paragraph (2) of this section;

(4) to resist a lawful arrest for any act prohibited by this section; or

(5) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person subject to this section knowing that the other person has committed any act prohibited by this section.

SEC. 302. REMEDIES AND PENALTIES.

(a)(1) The Administrator or his delegate shall have the authority to issue and enforce orders during proceedings brought under this Act. Such authority shall include the authority to issue subpenas, administer oaths, compel the attendance and testimony of witnesses and the production of books, papers, documents, and other evidence, to take depositions before any designated individual competent to administer oaths, and to examine witnesses.

(2) Whenever on the basis of any information available to him the Administrator finds that any person subject to section 301 of this title is in violation of any provision of this Act or any rule, regulation, order, license, or term or condition thereof, or other requirements under this Act, he may issue an order requiring such person to comply with such provision or requirement, or bring a civil action in accordance with subsection (b) of this section.

(3) Any compliance order issued under this subsection shall state with reasonable specificity the nature of the violation and a time for compliance, not to exceed 30 days, which the Administrator determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

(b)(1) Upon a request by the Administrator, the Attorney General shall commence a civil action for appropriate relief, including a permanent or temporary injunction, any violation for which the Administrator is authorized to issue a compliance order under subsection (a)(2) of this section.

(2) Upon request by the Administrator, the Attorney General shall bring an action in an appropriate district court of the United States for equitable relief to redress a violation, by any person subject to section 301 of this title, of any provision of this Act, any regulation issued pursuant to this Act, or any license condition.

(c)(1) Any person who is found by the Administrator, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 301 of this title shall be liable to the United States for a civil penalty, not to exceed $25,000 for each violation. Each day of a continuing violation shall constitute a separate violation. The amount of such civil penalty shall be assessed by the Administrator, or his designee, by written notice. In determining the amount of such penalty, the Administrator shall take into account the nature, circumstances, extent and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(2) Any person against whom a civil penalty is assessed under paragraph (1) of this subsection may obtain a review thereof in the appropriate court of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Administrator. The Administrator shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Administrator shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(3) If any person subject to section 301 fails to pay an assessment of a civil penalty against him after it has become final, or after the appropriate court has entered final judgment in favor of the Administrator, the Administrator shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate court of the United States. In such action, the validity and appropriate-

ness of the final order imposing the civil penalty shall not be subject to review.

(4) The Administrator may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this subsection.

(d)(1) Any person subject to section 301 of this title is guilty of an offense if he willfully commits any act prohibited by such section.

(2) Any offense, other than an offense for which the punishment is prescribed by section 103 of this Act, is punishable by a fine of not more than $75,000 for each day during which the violation continues. Any offense described in paragraphs (2), (3), (4), and (5) of section 301 is punishable by the fine or imprisonment for not more than 6 months, or both. If in the commission of any offense, the person subject to section 301 uses a dangerous weapon, engages in conduct that causes bodily injury to any Federal officer or employee, or places any Federal officer or employee in fear of imminent bodily injury, the offense is punishable by a fine of not more than $100,000 or imprisonment for not more than 10 years, or both.

(e) Any ocean thermal energy conversion facility or plantship licensed pursuant to this Act and any other vessel documented or numbered under the laws of the United States, except a public vessel engaged in noncommercial activities, used in any violation of this Act or of any rule, regulation, order, license, or term or condition thereof, or other requirements of this Act, shall be liable in rem for any civil penalty assessed or criminal fine imposed and may be proceeded against in any district court of the United States having jurisdiction thereof, whenever it shall appear that one or more of the owners, or bareboat charterers, was at the time of the violation a consenting party or privy to such violation.

SEC. 303. ENFORCEMENT.

(a) Except where a specific section of this Act designates enforcement responsibility, the provisions of this Act shall be enforced by the Administrator. The Secretary of the department in which the Coast Guard is operating shall have exclusive responsibility for enforcement measures which affect the safety of life and property at sea, shall exercise such other enforcement responsibilities with respect to vessels subject to the provisions of this Act as are authorized under other provisions of law, and may, upon the specific request of the Administrator, assist the Administrator in the enforcement of any provision of this Act. The Administrator and the Secretary of the department in which the Coast Guard is operating may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment, including aircraft and vessels, and facilities of any other Federal agency or department, and may authorize officers or employees of other departments or agencies to provide assistance as necessary in carrying out subsection (b) of this section. The Administrator and the Secretary of the department in which the Coast Guard is operating may issue regulations jointly or severally as may be necessary and appropriate to carry out their duties under this section.

(b) To enforce the provisions of this Act on board any ocean thermal energy conversion facility or plantship or other vessel subject to the provisions of this Act, any officer who is authorized by the Administrator or the Secretary of the department in which the Coast Guard is operating may—

(1) board and inspect any vessel which is subject to the provisions of this Act;

(2) search the vessel if the officer has reasonable cause to believe that the vessel has been used or employed in the violation of any provision of this Act;

(3) arrest any person subject to section 301 of this title if the officer has reasonable cause to believe that the person has committed a criminal act prohibited by sections 301 and 302(d) of this title;

(4) seize the vessel together with its gear, furniture, appurtenances, stores, and cargo, used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of this Act if such seizure is necessary to prevent evasion of the enforcement of this Act;

(5) seize any evidence related to any violation of any provision of this Act;

(6) execute any warrant or other process issued by any court of competent jurisdiction; and

(7) exercise any other lawful authority.

(c) Except as otherwise specified in section 115 of this Act, the district courts of the United States shall have exclusive original jurisdiction over any case or controversy arising under the provisions of this Act. Except as otherwise specified in this Act, venue shall lie in any district wherein, or nearest to which, the cause of action arose, or wherein any defendant resides, may be found, or has his principal office. In the case of Guam, and any Commonwealth, territory, or possession of the United States in the Pacific Ocean the appropriate court is the United States District Court for the District of Guam, except that in the case of American Samoa, the appropriate court is the United States District Court for the District of Hawaii. Any such court may, at any time—

(1) enter restraining orders or prohibitions;

(2) issue warrants, process in rem, or other process;

(3) prescribe and accept satisfactory bonds or other security; and

(4) take such other actions as are in the interest of justice.

(d) For the purposes of this section, the term "vessel" includes an ocean thermal energy conversion facility or plantship, and the term provisions of this Act" or "provision of this Act" includes any rule, regulation, or order issued pursuant to this Act and any term or condition of any license issued pursuant to this Act.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. EFFECT OF LAW OF THE SEA TREATY.

If the United States ratifies a treaty, which includes provisions with respect to jurisdiction over ocean thermal energy conversion activities, resulting from any United Nations Conference on the Law of the Sea, the Administrator, after consultation with the Secretary of State, shall promulgate any amendment to the regulations promulgated under this Act which is necessary and appropriate to conform such regulations to the provisions of such treaty, in anticipation of the date when such treaty shall come into force and effect for, or otherwise be applicable to, the United States.

SEC. 402. INTERNATIONAL NEGOTIATIONS.

The Secretary of State, in cooperation with the Administrator and the Secretary of the department in which the Coast Guard is operating, shall seek effective international action and cooperation in support of the policy and purposes of this Act and may initiate and conduct negotiations for the purpose of entering into international agreements designed to guarantee noninterference of ocean thermal energy conversion facilities and plantships with the thermal gradients used by other such facilities and plantships, to assure protection of such facilities and plantships and of navigational safety in the vicinity thereof, and to resolve such other matters relating to ocean thermal energy conversion facilities and plantships as need to be resolved in international agreements.

SEC. 403. RELATIONSHIP TO OTHER LAWS.

(a)(1) The Constitution, laws, and treaties of the United States shall apply to an ocean thermal energy conversion facility or plantship licensed under this Act and to activities connected, associated, or potentially interfering with the use or operation of any such facility or plantship, in the same manner as if such facility or plantship were an area of exclusive Federal jurisdiction located within a State. Nothing in this Act shall be construed to relieve, exempt, or immunize any person from any other requirement imposed by Federal law, regulation, or treaty.

(2) Ocean thermal energy conversion facilities and plantships licensed under this Act do not possess the status of islands and have no territorial seas of their own.

(b)(1) Except as may otherwise be provided by this Act, nothing in this Act shall in any way alter the responsibilities and authorities of a State or the United States within the territorial seas of the United States.

(2) The law of the nearest adjacent coastal State to which an ocean thermal energy conversion facility located beyond the territorial sea and licensed under this Act is connected by electric transmission cable or pipeline, now in effect or hereafter adopted, amended, or repealed, is declared to be the law of the United States, and shall apply to such facility, to the extent applicable and not inconsistent with any provision or regulation under this Act or other Federal laws and regulations now in effect or hereafter adopted, amended, or repealed: *Provided, however*, That the application of State taxation laws is not extended hereby outside the seaward boundary of any State. All such applicable laws shall be administered and enforced by the appropriate officers and courts of the United States outside the seaward boundary of any State.

(c)(1) For the purposes of the customs laws administered by the Secretary of the Treasury, ocean thermal energy conversion facilities and plantships documented under the laws of the United States and licensed under this Act shall be deemed to be vessels.

(2) Except insofar as they apply to vessels documented under the laws of the United States, the customs laws administered by the Secretary of the Treasury shall not apply to any ocean thermal energy conversion facility or plantship licensed under the provisions of this Act, but all foreign articles to be used in the construction of any such facility or plantship, including any component thereof, shall first be made subject to all applicable duties and taxes which would be imposed upon or by reason of their importation if they were imported for consumption in the United States. Duties and taxes shall be paid thereon in accordance with laws applicable to merchandise imported into the customs territory of the United States.

SEC. 404. SUBMARINE ELECTRIC TRANSMISSION CABLE AND EQUIPMENT SAFETY.

(a) The Secretary of Energy, in cooperation with other interested Federal agencies and departments, shall establish and enforce such standards and regulations as may be necessary to assure the safe construction and operation of submarine electric transmission cables and equipment subject to the jurisdiction of the United States. Such standards and regulations shall include, but not be limited to, requirements for the use of the safest and best available technology for submarine electric transmission cable shielding, and for the use of automatic switches to shut off electric current in the event of a break in such a cable.

(b) The Secretary of Energy, in cooperation with other interested Federal agencies and departments, is authorized and directed to report to the Congress within 60 days after the date of enactment of this Act on appropriations and staffing needed to monitor submarine electric transmission cables and equipment subject to the jurisdiction of the United States so as to assure that they meet all applicable standards for construction, operation, and maintenance.

SEC. 405. ANNUAL REPORT.

Within 6 months after the end of each of the first 3 fiscal years after the date of enactment of this Act, the Administrator shall submit to the President of the Senate and the Speaker of the House of Representatives a report on the administration of this Act during such fiscal year. Such report shall include, with respect to the fiscal year covered by the report—

(1) a description of progress in implementing this Act;

(2) a list of all licenses issued, suspended, revoked, relinquished, surrendered, terminated, renewed, or transferred; denials of issuance of licenses; and required suspensions and modifications af activities under licenses;

(3) a description of ocean thermal energy conversion activities undertaken pursuant to licenses;

(4) the number and description of all civil and criminal proceedings instituted under title III of this Act, and the current status of such proceedings; and

(5) such recommendations as the Administrator deems appropriate for amending this Act.

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Commerce, for the use of the Administrator in carrying out the provisions of this Act, not to exceed $3,000,000 for the fiscal year ending September 30, 1981, not to exceed $3,500,000 for the fiscal year ending September 30, 1982, and not to exceed $3,500,000 for the fiscal year ending September 30, 1983.

SEC. 407. SEVERABILITY.

If any provision of this Act or any application thereof is held invalid, the validity of the remainder of the Act, or any other application, shall not be affected thereby.

Mr. STUDDS. Mr. Speaker, the bill just passed originated in the House late last year. Early this year, Senator INOUYE filed an identical bill in the Senate. Since that time an extraordinary amount of cooperation has occurred among the Members and committees of both bodies which have worked to perfect this bill. As a result of that cooperation, the bill (S. 2492) which was passed by the Senate on July 2 is almost identical to the bill (H.R. 6154) which was just passed by the House.

While there are several differences between the two versions of the bill which might be called substantive, most of the differences involve only minor differences in language or technicalities. The three most important differences are the result of a floor amendment adopted in the Senate. One of those provisions stipulates that the Secretary of Energy will require his Department's OTEC demonstration plants to abide by most of the substantive provisions of the act, instead of actually issuing licenses for them as provided in the House version.

The Senate amendment strengthens the provisions of section 203 of the bill to slightly tighten up the requirements which must be satisfied in connection with issuance of vessel mortgage obligation guarantees for OTEC demonstration plants. The final change made by the Senate floor amendment requires a review of the regulations under the act every 3 years to make certain that the regulations are not impeding the development and commercialization of OTEC technology. All the other differences between the two versions of the bill are minor.

One other difference between the two bills which should be mentioned is the difference in penalties for willfully damaging a submarine cable carrying electricity from an OTEC facility to shore. H.R. 6154 was amended during our committee deliberations to increase the penalty for willful injury to a submarine electric cable to 10 years imprisonment and/or a $100,000 fine.

The Senate kept the bill's original penalty of 2 years and/or a $5,000 fine. A similar difference exists in the penalty for injuring a submerged electric cable by culpable negligence where the House bill provides a penalty of 6 months and/or a $10,000 fine while the Senate bill has a penalty of 3 months and/or a $500 fine. I believe the higher penalties proposed by the House are more in line with the nature of the offense, and will support action to correct this part of the bill in the future.

There are several other differences in the language of the two bills, although I believe most of those differences are not matters of substantive disagreement. In subsection 101(d)(2)(B) the House version requires a licensee to agree to comply with any license conditions the Administrator may prescribe in accordance with the provisions of the act, while the Senate version refers only to "condition." Since the act authorizes the Administrator to attach conditions only when he issues, transfers, or renews a license, the language of the Senate version has the same substantive meaning as the House language.

The Senate bill in several places uses the term "citizen of the United States." In agreeing to the Senate bill the House understands that the term "citizen of the United States" has the same meaning as the term "U.S. citizen," which is defined in section 3(18) of the bill.

In the first sentence of section 102(a) of the bill, the House version requires the Administrator to consult with the Secretary of Energy and the heads of other interested Federal agencies prior to issuing regulations. The sentence in the Senate bill does not include the word "interested." It is the understanding of the House in passing the Senate language that the language of the Senate version does not require the Administrator to consult with the head of every Federal agency, but only with the heads of those Federal agencies which are interested.

Section 102(c) of the bill lists the heads of several Federal agencies and requires them and the heads of any other Federal agencies having expertise concerning, or jurisdiction over, any aspect of the construction or operation of OTEC facilities or plantships to provide written information to the Administrator within 60 days. The House version includes the Chairman of the Federal Energy Regulatory Commission in the list of agency heads specifically mentioned in the bill, while the Senate version does not. The House understands that the Federal Energy Regulatory Commission meets the criterion for applicability of this provision to agencies not specifically listed in the bill, and that the requirements of section 102(c) will therefore apply to the Chairman of the Federal Energy Regulatory Commission.

The last sentence of section 102(d)(1) of the Senate version states that if the Administrator determines that all of the required information does not appear to be contained in the application, the Administrator shall notify the applicant and take no further action with respect to the application until such deficiencies have been remedied. The similar sentence in the House version replaced the words "takes no further action" with the words "shall not publish such notice and summary." The House, in passing the Senate version of the bill, takes note of the fact that publication of the notice and summary is the next step in the official decisionmaking process after determination that an application is complete, and therefore believes the effect of the two sets of language is identical. The House does not understand the Senate language as requiring the Administrator to stop all in-house processing of the application in this circumstance, so long as the official notice and summary are not published until the deficiencies in the application have been remedied.

Section 102(d)(2) of the House version contained an itemized list of information to be included in each application for a license. The corresponding section of the Senate version merely requires inclusion of the information the Administrator determines by regulation to be necessary or appropriate to process the license. The House expects that the specific items listed in the House version of the bill will be included in the regulations.

Section 101(c)(5) and 104 of the House bill require antitrust review by both the Attorney General and the Federal Trade Commission, while the corresponding sections of the Senate version require such review only by the Attorney General. The House does not intend that the Senate language be interpreted to preclude the Attorney General from soliciting and accepting the advice of the Federal Trade Commission or from incorporating that advice in his own comments to the Administrator if he deems it appropriate.

In section 203 of the bill, the House version states that "pilot or demonstration" OTEC facilities and plantships will be eligible for vessel mortgage obligation guarantees under the authority of that section. The Senate bill uses the term "commercial demonstration" to describe the OTEC facilities and plantships eligible for vessel mortgage obligation guarantees under section 203. The House understands that this change in terminology is not meant to change the substantive meaning and that any OTEC facility or plantship which meets the substantive requirements of section 203 will be eligible for vessel mortgage obligation guarantees to the extent specified in that section, no matter whether it is labeled by the Department of Energy as a "pilot," "demonstration," "commercial demonstration," or other type of project with similar meaning.

The first sentence of section 403(c)(2) of the Senate bill makes reference to the "customs laws administered by the Secretary of the Treasury" without further specifying which laws are being referred to. The House version of the bill specifies that the laws being referred to include "the provisions of the Tariff Act of 1930, as amended (19 U.S.C. 1202), and other laws codified in title 19, United States Code." The House understands that this is the meaning intended by the Senate language in section 403(c)(2).

I want to commend Senator INOUYE of Hawaii for his diligent and energetic work in obtaining passage of S. 2492 in the Senate. The fact that the House and Senate versions of this bill are so nearly identical is visible evidence of the hard work and cooperation of the members and staff of the Committee on Merchant Marine and Fisheries in the House and the Committee on Commerce, Science, and Transportation and the Committee on Energy and Natural Resources in the Senate. I would also like to acknowledge the efforts of Chairman DON FUQUA and the members and staff of the House Committee on Science and Technology in cooperating to insure that the two OTEC bills being considered in our committees would mesh well together to make it possible for OTEC to become a major new energy source for the future.

Mr. Speaker, because S. 2492 is almost identical to H.R. 6154 as just passed by the House, I see no need for any prolonged process of negotiation with the other body, and urge immediate passage of S. 2492.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 6154) was laid on the table.

GENERAL LEAVE

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

□ 1510

BUREAU OF STANDARDS AUTHORIZATION

Mr. BROWN of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7113) to authorize appropriations to the Director of the National Bureau of Standards for fiscal year 1981, and for other purposes, as amended.

The Clerk read as follows:

H.R. 7113

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Bureau of Standards Authorization Act for Fiscal Year 1981".

AUTHORIZATION FOR PROGRAM ACTIVITIES

SEC. 2. (a) There are hereby authorized to be appropriated to the Director of the National Bureau of Standards, hereinafter referred to as the Director, to carry out activities performed by the National Bureau of Standards for the fiscal year 1981, the sums set forth in the following line items:

(1) Measurement Research and Standards, $44,161,000;

(2) Engineering Measurements and Standards, $21,516,000;

(3) Computer Science and Technology, $11,603,000;

(4) Core Research Program for Innovation and Productivity, $12,800,000;

(5) Technical Competence Fund, $6,176,000;

(6) Research Competence Program, $2,000,000;

(7) Fire Research Center, $1,253,000; and

(8) Central Technical Support, $10,112,000.

(b) Notwithstanding any other provision of this or any other Act—

(1) of the total amount authorized under subsection (a)(1), not less than $245,000 shall be available for the "Environmental Measurements Program";

(2) of the total amount authorized under subsection (a)(2), not less than $425,000 shall be available for the purpose of "Earthquake Hazards Engineering";

(3) of the total amounts authorized under subsections (a)(1) and (a)(2), not less than $2,000,000 shall be available for "Measurement Standards for the Handicapped";

(4) of the total amount authorized under subsection (a)(4), not less than $2,500,000 shall be available for the purpose of "Automated Manufacturing Research Facility"; and

(5) of the total of the amounts authorized under subsections (a)(4) and (a)(8), not more than $6,123,000 shall be available for "Transfer to Working Capital Fund".

EXCESS FOREIGN CURRENCY

SEC. 3. In addition to the sums authorized in section 2, not more than $400,000 is authorized to be appropriated for fiscal year 1981 for expenses of the National Bureau of Standards incurred outside the United States, to be paid for in foreign currencies that the Secretary of the Treasury determines to be excess to the normal requirements of the United States.

NATIONAL TECHNICAL INFORMATION SERVICE

SEC. 4. In addition to the sums authorized in section 2, the sum of $8,140,000 is authorized to be appropriated to the Assistant Secretary of Commerce for Productivity, Technology, and Innovation for fiscal year 1981 to carry out activities performed by the National Technical Information Service.

OFFICE OF ASSISTANT SECRETARY FOR PRODUCTIVITY, TECHNOLOGY, AND INNOVATION

SEC. 5. In addition to the sums authorized in section 2, the sum of $7,200,000 is authorized to be appropriated to the Assistant Secretary of Commerce for Productivity, Technology, and Innovation for fiscal year 1981 for the purpose of research, development, and related activities in the field of innovation and productivity.

SALARY ADJUSTMENTS

SEC. 6. In addition to the sums authorized to be appropriated by this Act, such additional sums as may be necessary to make any adjustments in salary, pay, retirement, and other employee benefits which may be provided for by law are authorized to be appropriated for fiscal year 1981, and, if the full amount necessary to make such adjustments is not appropriated, the adjustments shall be made proportionately from sections 4 and 5 and in the line items in section 2(a) in a manner reflecting the extent to which the amount of each such line item in section 2(a) is attributable to employee benefits of the type involved.

AVAILABILITY OF APPROPRIATIONS

SEC. 7. Appropriations made under the authority provided in this Act shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making such appropriations.

APPORTIONMENT OF APPROPRIATED FUNDS

SEC. 8. If the total amount of the appropriations made by any Act for program activities included in section 2(a) is less than the total amount authorized to be appropriated for those activities by section 2 (a), the amount available from such appropriations for any particular line item, prior to any transfer in section 9 shall bear the same ratio to the amount authorized to be appropriated for that activity by section 2(a) as the total amount of the appropriations made by such appropriation Acts for all included program activities bears to the total amount authorized to be appropriated for all such activities by section 2(a), except to the extent specifically otherwise provided in the text of the Act making the appropriations for the program activities involved.

TRANSFER OF FUNDS

SEC. 9. Funds may be transferred among the line items listed in section 2(a), following the application of section 8, but neither the total funds transferred from any line item nor the total funds transferred to any line item may exceed 10 per centum of the amount authorized for that line item in section 2(a), following the application of section 8, unless:

(1) thirty calendar days have passed after the Director or his designee has transmitted to the Speaker of the House of Representatives, to the President of the Senate, to the chairman of the Committee on Science and Technology of the House of Representatives, and to the chairman of the Committee on Commerce, Science, and Transportation of the Senate a written report containing a full and complete explanation of the transfer involved and the reason for it, or

(2) before the expiration of thirty calendar days the chairmen of both the Committee on Science and Technology of the House and the Committee on Commerce, Science, and Transportation of the Senate have written to the Director to the effect that they have no objection to the proposed transfer.

ACTIVITIES PERFORMED FOR OTHER AGENCIES

SEC. 10. The Director shall charge for any service performed by the Bureau, at the request of another Government agency, in compliance with any statute enacted before, on, or after the date of the enactment of this Act which names the Secretary of Commerce, hereinafter referred to as the Secretary, or the Director and/or the National Bureau of Standards as a consultant to another Government agency, or calls upon the Secretary or the National Bureau of Standards to support or perform any activity for or on behalf of another Government agency or to cooperate with any Government agency in the performance by that agency of any activity, regardless of whether the statute specifically requires reimbursement to the Secretary, the Director, or the National Bureau of Standards by such other Government agency for such service, unless funds are specifically appropriated to the Secretary, the

Director, or the National Bureau of Standards to perform such service. The Director may, however, waive any charge where the service rendered by the Bureau is such that the National Bureau of Standards will incur only nominal costs in performing it. Costs shall be determined in accordance with section 12(e) of the Act of March 3, 1901, as amended (15 U.S.C. 278b(e)).

FACILITIES IMPROVEMENT

Sec. 11. Section 14 of the Act of March 3, 1901 (15 U.S.C. 278(d)) as amended, is further amended by striking out "$75,000" and inserting in lieu thereof "$250,000".

INTERNATIONAL ACTIVITIES

Sec. 12. In order to develop and strengthen the expertise of the National Bureau of Standards in science and engineering, to enhance the Director's ability to maintain the Bureau's programs at the forefront of worldwide developments in science and engineering, and to cooperate in international scientific activities, the Act of March 3, 1901 (15 U.S.C. 271–278h), as amended, is further amended by inserting immediately after section 16 the following new section:

"Sec. 17. (a) The Director is authorized, notwithstanding any other provision of law, to expend such sums, within the limit of appropriated funds, as the Director may deem desirable, through the grant of fellowships or any other form of financial assistance, to defray the expenses of foreign nationals not in service to the Government of the United States while they are performing scientific or engineering work at the National Bureau of Standards or participating in the exchange of scientific or technical information at the National Bureau of Standards.

"(b) The Congress consents to the acceptance by employees of the National Bureau of Standards of fellowships, lectureships, or other positions for the performance of scientific or engineering activities or for the exchange of scientific or technical information, offered by a foreign government, and to the acceptance and retention by an employee of the National Bureau of Standards of any form of financial or other assistance provided by a foreign government as compensation for or as a means of defraying expenses associated with the performance of scientific or engineering activities or the exchange of scientific or technical information, in any case where the acceptance of such fellowship, lectureship, or position or the acceptance and retention of such assistance is determined by the Director to be appropriate and consistent with the interests of the United States. For the purposes of this subsection, the definitions appearing in section 7342(a) of title 5 of the United States Code apply. Civil actions may be brought and penalties assessed against any employee who knowingly accepts and retains assistance from a foreign government not consented to by this subsection in the same manner as is prescribed by section 7432(h) of title 5 of the United States Code.

"(c) Provisions of law prohibiting the use of any part of any appropriation for the payment of compensation to any employee or officer of the Government of the United States who is not a citizen of the United States shall not apply to the payment of compensation to scientific or engineering personnel of the National Bureau of Standards.".

REPEAL OF LIMITED AUTHORIZATION

Sec. 13. Section 18 of the Act of March 3, 1901, as amended (15 U.S.C. 278h), is further amended by: (1) repealing subsection (b); and (2) removing the designation "(a)" from the remaining paragraph.

Sec. 14. The effective date of section 11 and section 12 of this Act shall be October 1, 1980.

The SPEAKER pro tempore. Is a second demanded?

Mr. HOLLENBECK. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. Brown) will be recognized for 20 minutes, and the gentleman from New Jersey (Mr. Hollenbeck) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. Brown).

GENERAL LEAVE

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BROWN of California. Mr. Speaker, I yield such time as he may desire to utilize to the distinguished chairman of the full committee, the gentleman from Florida (Mr. Fuqua).

Mr. FUQUA. Mr. Speaker, the bill before you today, H.R. 7113, represents the first annual authorization for the National Bureau of Standards, the Nation's oldest national laboratory and lead agency for measurement science and standards. I am happy to say that the bill has the unanimous support of the committee.

I would like to express my appreciation to the gentleman from New York (Mr. Wydler), ranking minority member of the Committee on Science and Technology, and to the gentleman from New Jersey (Mr. Hollenbeck) ranking minority member of the Subcommittee on Science, Research and Technology, for their cooperation and support during the consideration of this bill in committee.

I would especially like to thank the chairman of the Science, Research and Technology Subcommittee, Mr. George Brown from California, for his competent guidance of this bill from its very inception to the House floor.

Six days of hearings were held, including a field hearing at the Bureau's facilities in Gaithersburg, during which time budgetary items were scrutinized and programs outlined in detail for subcommittee members by Bureau officials. Outside witnesses included representatives from "user" agencies and other knowledgeable people in the science field. These hearings, including background information from the General Accounting Office and the Congressional Research Service and extensive briefings by the National Bureau of Standards staff, form the basis for this authorization request today.

The committee bill authorizes a total of $125,361,000 for fiscal year 1981. Of that amount, $109,621,000 would be appropriated to the National Bureau of Standards; $8,140,000 to the National Technical Information Service; $7,200,000 to the Office for Productivity, Technology and Innovation and $400,000 in excess foreign currency for NBS programs. This represents a $10.6 million increase over the President's revised budget request for fiscal year 1981 of $114.7 million. The committee believes the increase is justified and necessary in order to meet the objectives of the President's program to stimulate innovation in industry, sustain economic growth, and improve productivity. Even more important, this increase is necessary in order for the Bureau to continue to provide its excellent technical support to the Federal agencies.

Mr. Speaker, the committee believes H.R. 7113 is a good bill, and I urge the Members to vote for it.

Mr. Speaker, I yield back my time to the gentleman from California (Mr. Brown).

Mr. BROWN of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the chairman of the full committee, the gentleman from Florida (Mr. Fuqua) for his remarks.

Mr. Speaker, I join Chairman Fuqua in urging the passage of H.R. 7113. This bill would authorize the sum of $125,361,000 for the National Bureau of Standards and related research, development, information and innovation activities.

This bill is notable in several respects. It represents, first of all, the initial authorization bill for the National Bureau of Standards since it was established as an agency of the Federal Government 80 years ago. Since that time the NBS has grown slowly and steadily as the importance of weights and measures have increased in our industrial society.

Over the years the Committee on Science and Technology has conducted several oversight hearings on the Bureau's activities. As the level of appropriated funds approached the $100 million mark, our committee concluded that the authorization should be changed from being on a continuing to an annual basis. This will permit the House to have the benefit of a more detailed scrutiny of the many important programs being performed at the Bureau. We believe this will become especially important in the years to come as the questions of technological innovation and industrial productivity will need careful attention, and as the National Bureau of Standards plays a growing role in these fields.

The sum which would be authorized by H.R. 7113 would exceed the President's March budget by $10 million. The major part of that increase, the sum of $7 million, would authorize several new initiatives for the Bureau's "core research program for innovation and productivity." This is an area where the NBS has already begun a modest effort. Our committee concluded that a significant strengthening of this effort would be both timely and important for our long term attack on the problems of productivity and automation.

I might comment as an aside, Mr. Speaker, that it has become obvious over the past several weeks since the committee acted on this bill that the question of improving the American economic sector, the business and industrial sector of our Nation, is assuming a higher and higher priority. We think this is right and proper, and we think that the proposed program for the National Bureau of Standards submitted by the President, based upon the normal reviews which occurred last fall, are an inadequate recognition of this growing emphasis upon the need to improve the productivity of the American economy. The only significant changes that we have made in the President's proposed budget are in this area of seeking to enhance these programs relating to innovation and productivity by the National Bureau of Standards.

A special initiative in the automation area is the "automated manufacturing test facility." The bill would provide a minimum of $2.5 million for this facility. The $2.5 million would permit NBS to acquire the necessary hardware for this facility which will be used to develop new methods for testing and quality control of the integrated circuit chips.

The bill would also authorize the programs of the National Technical Information Service and the Office of Productivity, Technology and Innovation. These small programs, operating at respectively $8 and $7 million, each make significant contributions to improving our national posture in science and technology. Both would, with the exception of a very small ($250,000) increase for the NTIS, be authorized at the level requested by the President. I call special attention to the administration's request for the startup of the Cooperative Technology Centers, three of which would be funded by this bill.

Mr. Speaker, this bill will allow this and the many other important programs of the NBS to go forward. I urge the Members of the House to support it.

I urge the Members also to familiarize themselves in greater detail, through at least perusal of the committee report, with the very important work of this agency, which receives relatively little attention over the years and yet has had a growing number of responsibilities thrust upon it because of the high quality and importance of the work that is done there.

Mr. Speaker, I reserve the remainder of my time.

The SPEAKER pro tempore. The Chair recognizes the gentleman from New Jersey (Mr. Hollenbeck).

Mr. HOLLENBECK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join my colleagues to rise in support of H.R. 7113 to authorize appropriations for the National Bureau of Standards. I commend Chairman George Brown of the subcommittee and Chairman Fuqua and ranking minority Member Jack Wydler and the staff of the subcommittee for helping to prepare this bill for consideration today.

Mr. Speaker, this is the first time that the House of Representatives has actually considered a specific authorization for the National Bureau of Standards. We devoted a substantial amount of time to this effort. As the gentleman from California pointed out, the National Bureau of Standards is the Nation's laboratory for measurement standards which provides the elementary data base for so much of our industrial technology. In more recent years, the Bureau of Standards has been mandated to undertake research in a wide variety of areas ranging from computer sciences to fire research and even to a small area in connection with earthquake research. Mr. Speaker, as ranking minority member on the subcommittee I strongly support this bill, and I particularly commend the committee's initiatives in connection with technological innovation and economic productivity at the Bureau upon which topic the subcommittee just this morning held a formal hearing in my home district. As I have often stated here, improving the Nation's productivity is one of the major tasks facing us. It ranks with resolving our energy and materials resources problems with which it is interconnected.

Mr. Speaker, evidence before the committee has emphasized repeatedly the direct and significant relationship between R. & D. and technological innovation. Specific areas singled out within the Core Research program for innovation and productivity include automated flexible manufacturing, for which $2.5 million is authorized, as well as continuous process technology, high performance materials processes, and very large-scale integrated circuits. As you know, Mr. Speaker, very large-scale integrated circuits would place individual computer switches on chips approximately 1 micron in diameter—or one-millionth of a meter.

The next generation of computer technology will increase the capabilities of computing technology by whole orders of magnitude, and will make it possible to undertake the complex computations required for economic and climate and geological simulations. Right now, Mr. Speaker, the United States is engaged in a race with Japan to be the world leader in this technology. We are behind, to be very honest, at this point because we as a Nation have not devoted sufficient resources to very large-scale integrated circuits. I believe the time has come to correct this situation, and the effort at the National Bureau of Standards represents one step, albeit a very small step, in this direction.

Mr. Speaker, I urge my colleagues to join me in supporting H.R. 7113. I believe the National Bureau of Standards has done a fine job in the past and deserves our support. I encourage it, over the coming years, to continue the development of new programs so that its competence will match the new research needs of the eighties and nineties. Above all, and I say this because the Bureau of Standards is a facility that does its work through in-house research rather than through grants and contracts, it is important that the Bureau maintain fresh blood and new ideas. I strongly urge the Director to keep this in the forefront as he designs programs for future years. I hope that the Congress will support initiatives such as the industrial innovation initiative which we would authorize by this bill.

☐ 1520

Mr. Speaker, I have no further requests for time.

Mr. BROWN of California. Mr. Speaker, I have no further requests for time.

● Mr. RITTER. Mr. Speaker, I join my colleagues of the Science Committee and rise in support of H.R. 7113. The bill authorizes appropriations in the amount of $109,621,000 for fiscal year 1981 for the National Bureau of Standards. In addition, it authorizes approximately $15.5 million for the National Technical Information Service, for the Office of Productivity, Technology and Innovation set up under the Department of Commerce, and for the use of excess foreign currencies.

Mr. Speaker, the National Bureau of Standards itself has long been recognized as a standard of excellence throughout the world in the measurement of basic physical constants as well as the physical and chemical properties of materials and fuels. More recently, it has been mandated to undertake research in areas such as fire prevention and control, computer sciences, and many others.

Mr. Speaker, given the close and essential support which the Bureau has traditionally supplied American industry, I strongly support the committee's recommendation that the Bureau develop a core research program on innovation and productivity seeking to apply the Bureau's talents to improving national economic productivity. As stated in the committee report, this initiative would include $2.5 million for an automated manufacturing research facility as well as efforts in continuous process technology, automated flexible manufacturing, high-performance materials, and very-large-scale integrated circuits.

The last is of particular importance in that the United States is engaged in a highly competitive race for superiority in developing the hardware for the next generation of computers. The heart of computer hardware in the late 1980's and 1990's will be so-called very-large-scale integrated circuits (VLSI). We apparently are lagging in the competition with the Japanese in this area. Even today, in the production of computer memory elements, in the question of quality control, U.S. circuit chips have a failure rate three times that of the Japanese. We are losing domestic markets as a result. The Bureau's program would contribute both basic and applied research in these areas.

Mr. Speaker, in sum, I urge the House to approve H.R. 7113. Let me say that it has been a pleasure to work with my colleagues, Chairman Fuqua, Subcommittee Chairman Brown, Ranking Minority Member Jack Wydler, and Subcommittee Ranking Minority Member "C

HOLLENBECK and others on the Science Committee in the development of this bill. I thank you, Mr. Speaker.●

● Mr. WYDLER. Mr. Speaker, I join my colleagues of the Committee on Science and Technology and rise in support of H.R. 7113 to authorize appropriations for fiscal year 1981 for the National Bureau of Standards. I commend Chairman FUQUA, the chairman of our subcommittee, GEORGE BROWN, and the ranking minority member of the subcommittee, "CAP" HOLLENBECK, for the work they have done to prepare this bill. Mr. Speaker, the National Bureau of Standards is the Nation's laboratory for the measurements of basic physical and chemical standards upon which all of our experimental research as well as a great deal of industrial design are based.

Without basic measurements of the physical or chemical properties of substances over a wide range of conditions, our economy would come to a virtual standstill. These measurements must become more and more precisely defined as the precision of our technology grows. The committee bill authorizes $109.6 million for the National Bureau of Standards plus some $15.5 million for the National Technical Information Service and for a new office in the Department of Commerce for productivity, technology and innovation.

These recommendations, I believe, are consonant with the policy pronouncements which the administration has made with regard to industrial innovation, but which it has not chosen to follow through with in terms of actual requests for funding. This strikes me as a curious contradiction in the administration's policy. It professes support for revitalizing our economy while at the same time denying the funds which would be necessary to carry out that activity. Thus, I concur with the committee's recommendation for a core research program for innovation and productivity.

Mr. Speaker, I urge the House to approve H.R. 7113 and authorize the programs of the National Bureau of Standards for fiscal year 1981.●

The SPEAKER pro tempore. All time has expired. The question is on the motion offered by the gentleman from California (Mr. BROWN) that the House suspend the rules and pass the bill, H.R. 7113, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid upon the table.

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2320) to authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards, including certain special statutory programs, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill as follows:

S. 2320

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Bureau of Standards Authorizations of Appropriations Act for Fiscal Years 1981 and 1982".

AUTHORIZATIONS FOR ACTIVITIES UNDER THE ACT OF MARCH 3, 1901

SEC. 2. (a) There are hereby to be appropriated to the Secretary of Commerce to carry out activities performed by the Bureau under the Act of March 3, 1901, as amended (15 U.S.C. 271–278h), except section 16 thereof (15 U.S.C. 278f), $87,733,000 for fiscal year 1981, and $119,706,000 for fiscal year 1982, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and for other nondiscretionary costs.

(b) Section 16 of the Act of March 3, 1901, as amended (15 U.S.C. 278f), is further amended by adding at the end thereof a subsection (c) to read as follows:

"(c) For the purposes of this section, there are authorized to be appropriated to the Secretary of Commerce $1,253,000 for fiscal year 1981, and $1,378,000 for fiscal year 1982, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirements, other employee benefits required by law, and for other nondiscretionary costs.".

(c) Section 18 of the Act of March 3, 1901, as amended (15 U.S.C. 278h), is further amended by: (1) repealing subsection (b); and (2) removing the designation "(a)" from the remaining paragraph.

AUTHORIZATIONS FOR ACTIVITIES UNDER OTHER STATUTES

SEC. 3. (a) There are authorized to be appropriated to the Secretary of Commerce $15,390,000 for fiscal year 1981, and $16,930,000 for fiscal year 1982, together with such sums as may be necessary for increases resulting from adjustment in salary, pay, retirement, other employee benefits required by law, and for other nondiscretionary costs to carry out the activities specified for performance by the Secretary or the Bureau in:

(1) section 111(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 759(f);

(2) sections 5 (d) and (e), 8 and 9(a) of the Fair Packaging and Labeling Act (15 U.S.C. 1454 (d) and (e), 1457 and 1458(a));

(3) section 383(c) of the Energy Policy and Conservation Act, as amended (42 U.S.C. 6363(c));

(4) section 5002 of the Solid Waste Disposal Act, as amended (42 U.S.C. 6952);

(5) section 5(d) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704 (d)); and

(6) title IV of the Trade Agreements Act of 1979 (19 U.S.C. 2531–2573).

(b) There are authorized to be appropriated to the Secretary of Commerce to carry out research by the Bureau in the area of environmental measurement sciences $245,000 for fiscal year 1981, and $270,000 for fiscal year 1982, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and for other nondiscretionary costs.

(c) There are authorized to be appropriated to the Secretary of Commerce to carry out the purposes of the Standard Reference Data Act (15 U.S.C. 290–290f) $4,073,000 for fiscal year 1982, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and for nondiscretionary costs.

FACILITIES IMPROVEMENT

SEC. 4. The Act of March 3, 1901, as amended (15 U.S.C. 271–278h), is further amended by striking the figure "$75,000" in section 14 of such Act (15 U.S.C. 278d) and inserting in lieu thereof the figure "$250,000".

INTERNATIONAL ACTIVITIES

SEC. 5. In order to develop and strengthen the Department of Commerce's expertise in science and engineering, to enhance the Secretary's ability to maintain the Department's programs at the forefront of worldwide developments in science and engineering, and to cooperate in international scientific activities, the Act of March 3, 1901, as amended (15 U.S.C. 271–278h), is further amended by adding immediately after section 16 (15 U.S.C. 278f) a new section 17 to read as follows:

"SEC. 17. (a) The Secretary is authorized, notwithstanding any other provision of law, to expend such sums, within the limit of appropriated funds, as the Secretary may deem desirable, through the grant of fellowships or any other form of financial assistance, to defray the expenses of foreign nationals not in service to the Government of the United States while they are performing scientific or engineering work at agencies of the Department of Commerce or participating in the exchange of scientific or technical information at agencies of the Department of Commerce.

"(b) The Congress consents to the acceptance by an employee of the Department of Commerce of fellowships, lectureships, or other positions for the performance of scientific or engineering activities or for the exchange of scientific or technical information, offered by a foreign government, and to the acceptance and retention by an employee of the Department of Commerce of any form of financial or other assistance provided by a foreign government as compensation for and/or to defray the expenses associated with performing scientific or engineering activities or exchanging scientific or technical information, when the acceptance of such fellowship, lectureship, or position or the acceptance and retention by an employee of such assistance is determined by the Secretary to be appropriate and consistent with the interests of the United States. For the purposes of this subsection, the definitions appearing in section 7342(a) of title 5 of the United States Code apply. Civil actions may be brought and penalties assessed against any employee who knowingly accepts and retains assistance from a foreign government not consented to by this subsection in the same manner as prescribed by section 7342(h) of title 5 of the United States Code.

"(c) Provisions of law prohibiting the use of any part of any appropriation for the payment of compensation to any employee or officer of the Government of the United States who is not a citizen of the United States, shall not apply to the payment of compensation to scientific or engineering personnel of the Department of Commerce.".

MOTION OFFERED BY MR. BROWN OF CALIFORNIA

Mr. BROWN of California. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BROWN of California moves to strike out all after the enacting clause of the Senate bill, S. 2320, and insert in lieu thereof the provisions of the bill, H.R. 7113, as passed.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to authorize appropriations to the Director of the National Bureau of Standards for fiscal year 1981, and for other purposes.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 7113) was laid on the table.

House Resolution 679 and House Resolution 684 were laid on the table.

PERMISSION FOR COMMITTEE ON THE BUDGET TO FILE BILL AND REPORT ON THE OMNIBUS RECONCILIATION ACT OF 1980

Mr. GIAIMO. Mr. Speaker, I ask unanimous consent that the Committee on the Budget have until 7 o'clock tonight to file the bill and report on the Omnibus Reconciliation Act of 1980.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

RESEARCH AND DEVELOPMENT AUTHORIZATION ESTIMATES ACT

Mr. FUQUA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7689) To amend the Presidential Science and Technology Advisory Organization Act of 1976 and to amend the National Science Foundation Act of 1950 to provide additional information to the Congress for the purpose of providing a basis for implementing multiyear research and development authorizations.

The Clerk read the bill as follows:

H.R. 7689

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled That this Act may be cited as the "Research and Development Authorization Estimates Act".

SEC. 2. Section 204 of the Presidential Science and Technology Advisory Organization Act of 1976 (42 U.S.C. 6613) is amended by inserting at the end thereof the following new subsection:

"(c) (1) In addition to carrying out his functions under subsection (b) (3), the Director shall advise the President with respect to, and shall assist the Director of the Office of Management and Budget in the preparation of, for inclusion in the budget submission of the President in each even-numbered year, an estimate of the appropriate funding levels for research and development, for the fiscal year to which such budget applies and for at least the next following fiscal year, of each Federal department, agency, and instrumentality which conducts major research and development programs.

"(2) Such estimate shall include an identification of the major research and development programs of such departments, agencies, and instrumentalities and shall include a justification of the estimated funding levels, together with such explanatory materials and data as may be necessary to explain the purposes and functions of the research and development involved.

"(3) For the purpose of assisting in the preparation of such estimates and justifications—

"(A) the Director shall consult with the departments, agencies, and instrumentalities concerned; and

"(B) each such department, agency, and instrumentality shall furnish the Director such information or other assistance as the Director deems necessary to carry out this paragraph.

"(4) For purposes of this subsection, the term 'major research and development programs' means those research and development programs of Federal departments, agencies, and instrumentalities which are identified by the President as supporting a substantial preponderance of all federally sponsored research and development.".

SEC. 3. Section 206 of the Presidential Science and Technology Advisory Organization Act of 1976 (42 U.S.C. 6615) is amended—

(1) by striking out the heading of such section and inserting in lieu thereof the following:

"FOUR-YEAR OUTLOOK"

(2) by striking out "five years" in subsections (a) and (b) and inserting in lieu thereof "four years";

(3) by striking out "and" at the end of subsection (a)(1), by striking out the period at the end of subsection (a)(2) and inserting in lieu thereof a semicolon, and by inserting after subsection (a)(2) the following new paragraphs:

"(3) the significant effects of current and projected trends in science and technology on the social, economic, and other requirements of the Nation; and

"(4) existing and projected scientific and technological resources, including specialized manpower.";

(4) by striking out "annually revise the five-year outlook" in subsection (b) and inserting in lieu thereof "revise, not later than the date on which the President is required to submit the budget in each even-numbered calendar year, the four-year outlook";

(5) by striking out "and" at the end of subsection (c)(1), by striking out the period at the end of subsection (c)(2) and inserting in lieu thereof a semicolon, and by inserting after subsection (c)(2) the following new paragraph:

"(3) recommend legislation on science- and technology-related programs and policies that will contribute to the resolution of such problems.";

(6) by inserting "the Federal Coordinating Council for Science, Engineering, and Technology (as established by Executive Order 12039, dated February 24, 1978) and with" immediately after "consult as necessary with" in subsection (d); and

(7) by adding at the end of such section the following new subsection:

"(e) Such report shall be issued under the imprimatur of the Office regardless of the manner in which it is produced or of the resources used to produce it.".

SEC. 4, (a) Section 209 of the Presidential Science and Technology Advisory Organization Act of 1976 (42 U.S.C. 6618) is amended to read as follows:

"ASSESSMENT OF INFLATION FACTORS

"SEC. 209. (a) The Office, in consultation with the Director of the Office of Management and Budget, shall be responsible for studying on a continuing basis the impact of inflation on the conduct of federally supported research and development, including the identification of criteria which may be used to evaluate such impact.

"(b) The Office shall further advise and assist the Director of the Office of Management and Budget in conducting appropriate analyses of inflation in the research and development portions of the budget as part of the economic assumptions and forecasts on which the budget is based.".

(b) Section 205(a) of such Act (42 U.S.C 6614) is amended—

(1) by striking out paragraph (2);

(2) by redesignating paragraphs (3) through (10) as paragraphs (2) through (9), respectively;

(3) by striking out paragraph (11); and

(4) by redesignating paragraphs (12) and (13) as paragraphs (10) and (11), respectively.

SEC. 5. Section 3 of the National Science Foundation Act of 1950 (42 U.S.C. 1862) is amended by adding at the end thereof the following new subsection:

"(g) The Foundation shall, not later than the date on which the President is required to submit the budget to the Congress, annually submit to the Congress an analysis of all Federal research and development funding by function. Such analysis shall be based on the latest data available, and shall include an analysis of data from the most recently completed fiscal year.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Florida (Mr. FUQUA) will be recognized for 20 minutes, and the gentleman from New Jersey (Mr. HOLLENBECK) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. FUQUA).

GENERAL LEAVE

Mr FUQUA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 7689.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FUQUA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 7689 is the third version of a proposed multiyear research and development authorization estimates act. It is the result of 15 months of full committee consideration including two sets of hearings, an interim report, and the written contributions of many knowledgeable individuals.

The bill is a pilot endeavor designed to give Congress and the executive more flexibility in handling authorizations. It does not require subcommittees or committees to follow any particular procedure or do anything differently. It does require the executive to submit estimates of its major research and development programs for at least 2 years—so that committees may authorize for more than 1 year if they so desire.

The bill has been worked out in collaboration with the Office of Management and Budget and the President's science adviser. It also has received backing from, among others, the General Accounting Office, the Congressional Budget Office, the Office of Technology Assessment, the National Science Board, the National Academy of Sciences, and most of the major academic associations.

The bill contains no provisions for new funding.

PROVISIONS OF THE BILL

H.R. 7689 contains four major provisions. These are as follows:

First. In addition to his statutory responsibilities to advise and assist the President and the OMB throughout the budget formulation process, the Director of the Office of Science and Technology Policy shall advise and assist the Director of OMB in the preparation of estimated budget requests for major R. & D. programs for at least 2 years. Such estimates are to be included in the R. & D. portion of the Federal budget submitted to Congress in even-numbered years.

Second. The foregoing requirement is designed to apply to programs which account for about 95 percent of all Federal R. & D. funding.

Third. In order to provide Congress with timely information which is coordinated with R. & D. budget requests, the following changes are made in the Science and Technology Policy and Organization Act of 1976 and the National Science Foundation Organic Act.

The 5-year outlook dealing with trends, status, needs, uses and evaluations of science and technology, which is now required to be revised annually, is changed to a 4-year outlook with updating at the 2 year mid-point.

The annual report required additionally of OSTP—which has been shifted together with the outlook to the National Science Foundation by Executive order—is eliminated—but its major focus and purposes are folded into the 4-year outlook and its update.

The annual report on Federal R. & D. "funding by function," now being done by NSF on a voluntary basis, is made statutory and its time of submission to Congress is required annually to coincide with submission of the Federal budget.

Fourth. OSTP is given the task of assisting and advising OMB in a continuing analysis and evaluation of how inflation factors are affecting R. & D., the nature of those factors, and how they should be applied in the Federal R. & D. budget process.

Mr. Speaker, this bill represents a step toward greater congressional use of multiyear authorizations. It would be unrealistic to expect such use to crystallize overnight. It will take time and patience to work out methods of operation and to sort out programs which may lend themselves to the multiyear procedure vis-a-vis those which may not. The ultimate effect is not readily predictable. However, as other demands on Congress continue to grow—and there are many—the mechanism suggested by H.R. 7689 could lead to marked benefits for Congress as a whole by permitting more flexible scheduling and greater freedom in the application of committee time.

□ 1530

Mr. HOLLENBECK. Mr. Speaker, I yield as much time as he may consume to the gentleman from Kansas (Mr. WINN).

Mr. WINN. Mr. Speaker, in the past years, I have grown to appreciate the significance of the Federal investment in research and development. Even though the annual investment is only 5 percent of the total Federal budget, it represents a vital element in maintaining and stimulating the integrity of the Nation's technological enterprise. Unfortunately, in many instances the budgetary process induces some very serious inefficiencies into the programs. The inability for the Congress to understand the future budgetary requirements makes it unrealistic to make long-term commitments to various programs. In turn, it is impossible for the executive agencies to enter into long-term contracts which could be far more cost-effective than the current 1-year agreements.

This legislation is an innovative approach to resolving that problem by allowing the opportunity for the use of a multiyear authorization. An important aspect of this legislation though is that it does not require a multiyear authorization but merely makes it feasible if it could result in more effective spending of the American tax dollar.

In spite of my support for this legislation, though, I want to caution my colleagues that this legislation should not be used as an excuse for reducing the congressional oversight of Federal programs. One of the primary advantages of an annual authorization is that it forces the committee to thoroughly review the program annually. In the event a committee decides to institute a multiyear authorization, it is even more important to maintain an adequate amount of indepth program oversight.

The chairman, Mr. FUQUA, has done a outstanding job of describing the details of the legislation. I would merely add that I believe that the committee has done a very thorough job reviewing it. A very extensive series of hearings has been conducted over the past year in which we received testimony from the executive branch, private industry, and academia. All suggestions made by the Executive office have been incorporated into this legislation. And, even though there has not been a formal statement of support from the administration, they have stated that the concept is consistent with their budgetary philosophy.

I would be remiss if I did not point out to the Members of the House that there are some dissenting views on the committee. My colleague, Mr. HOLLENBECK, along with Mr. BROWN, have stated some concerns regarding certain aspects of the legislation; mainly the changes in the existing law which will modify certain reporting requirements of the Science Policy Act and NSF Organic Act. However, they clearly state that they support the multiyear authorization concept.

Mr. Speaker, this legislation is not perfect, but it is a sincere attempt to resolve a serious problem. The lack of perfection, though, is made up for by its flexibility. I encourage its support.

Mr. FUQUA. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Alabama (Mr. FLIPPO).

Mr. FLIPPO. Mr. Speaker, I enthusiastically support H.R. 7689, the R. & D. Authorization Estimates Act, whose purpose is to provide additional information to the Congress as a basis for implementing multiyear authorizations for federally sponsored research and development programs.

The bill has been carefully crafted following a 15-month, indepth review by the full Committee on Science and Technology on the subject of multi-year authorizations for R. & D. The committee has reported a bill to the House that is designed to give the Congress and the Executive greater flexibility in handling authorizations. The bill attempts to achieve this in the following ways:

First, the bill would require the Office of Science and Technology Policy to assist the OMB in developing budget estimates for at least 2 years for the major Federal research and development programs.

Second, the bill would change certain reporting deadlines of the Science Policy Act of 1976 and the National Science Foundation Organic Act in order to provide more timely budgetary and related information to the Congress to assist it in its budgetary decisionmaking.

Finally, the bill would require the OSTP Director, in consultation with OMB, to analyze and evaluate inflation factors on federally sponsored R. & D.

As the chairman of the committee has already indicated, the bill does not contain any funding provisions, nor does it require congressional committees to follow any particular procedure relative to its authorization activities.

What the bill does represent is a mutual effort between the Committee on Science and Technology and the executive branch to work out a methodology by which multiyear authorizations for R. & D. can be considered.

Prior to this legislative initiative, there has existed what essentially could be called a deadlock between the Congress and the Executive, precipitated by the administration's desire for multiyear authorizations without accompaniment of specific budget requests, and the Congress unwillingness to consider open-ended authorizations.

This bill attempts to present a compromise between these two points of view by requiring the Executive to submit at least second year budget estimates for the major R. & D. programs, so that the Congress may consider multiyear authorizations if it so desires.

A major concern of everyone, of course, when considering multiyear authorizations is what impact inflation will have on programs authorized beyond the first year. In fact, the committee devoted a good deal of time to this particular issue in its hearings on the bill. As a result, a special feature of the bill addresses this concern—H.R. 7689 provides for a continuing analysis and evaluation by OSTP and OMB of inflation's impact on federally supported R. & D. Monitoring inflation in this way will hopefully lead to a greater understanding of its effects and nuances on Federal R. & D., and will enable the Congress to recognize the best manner in which to factor inflation when authorizing programs on a multiyear basis.

As a cosponsor of this legislation, I believe the bill has promising potential. In fact, if enacted, the bill could possibly serve as a pilot program for greater congressional use of multiyear authorizations.

Mr. Speaker, H.R. 7689 is an innovative piece of legislation that is deserving of strong endorsement. I urge Members' support.

Mr. HOLLENBECK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the gentleman from Kansas pointed out earlier, there were some dissenting views on the committee. I, for one, signed those views, and they appear in the report expressing my concerns over portions of the legislation; namely, the changes in existing law which modify certain reporting requirements of the Science Policy Act and the Organic Act for the National Science Foundation.

Sections 3 and 4 of the bill make a series of extensive changes to the present science policy reports required by the Science Policy Act of 1976. Section 3 would change the 5-year outlook report in a number of significant ways, and section 4 would essentially abolish the annual science and technology report. The bill would also add in section 5 a new statutory mandate for a report. We believe that these proposed changes are premature, are being made without the benefit of a careful review of their place in the overall structure of science policy reports, and are only peripherally related to the primary objective of the bill.

We do not question the need to review the demands for existing reports, and the desirability of eliminating or modifying reports which have proved to be ineffective in use, or unnecessarily cumbersome in preparation. But we do question the wisdom of making extensive changes without careful analysis of user needs and the relationship of those reports to other planning and reporting requirements. These include the National Science Board's annual reports on the health of American science, such as the biannual "science indicators" reports, as well as a number of other statutory and nonstatutory reports.

We recognize that the present administration has had difficulties in achieving the timely submission of both of these reports. However, these difficulties have been, in our view, largely self-imposed. The reports were intended to be brief, concise, policy-oriented statements of past accomplishments, future opportunities and national policy, made personally by the OSTP Director as the President's science and technology spokesperson. Instead they have been engulfed in a massive apparatus for contracted inputs, drafting and redrafting, and multiple approvals. The result has been that they have become cumbersome in preparation, excessive in length, and late in submission. That was not the intent of Congress in mandating these reports. The excessive costs, said to exceed $2 million, which have been incurred as a result, confirm that the administration has relied on outside agencies and contractors to prepare these reports as a substitute for its own direct participation at the highest level. The failure of the OSTP and its supporting agencies to meet the mandate of Congress should not require this committee to modify that mandate to match executive branch performance.

The solution to these problems is not changes in the statutory requirement for timing, frequency, or scope, or the abrupt termination of any of the reports. Rather we would urge present and future OSTP Directors to take a more positive view of the need for these reports as concise, significant policy statements by senior officials of the administration. In this manner they could be available for timely use in the policy process in both the Congress and the executive branch. They could also serve as a guide to the private sector of the perceptions by the administration of key policies issues. It is valuable for the administration to articulate its views and subject them to congressional and public scrutiny. We look at these reports as a means to define and debate policy, and not as a bureaucratic burden to be borne or delegated. As a policy tool, these documents should be prepared at the highest level of Government, and certainly they can not be contracted out to organizations not fully attended to broader societal goals.

The many particular, small changes in sections 3, 4, and 5 include some which we individually would now be prepared to support. We stress, however, our view that piecemeal changes should be avoided in favor of a careful, over-all review of not only these two reports, but the entire science policy report and planning structure. Such a review, with due and much needed emphasis on the users as well as the producers, would undoubtedly yield a better reporting system and one which could command broader support.

However, I have made it clear that I do support the multiyear authorization concept, and do support the concept of the bill. As the gentleman from Kansas stated, the lack of perfection in the legislation is made up for by its flexibility, and I encourage that.

Mr. Speaker, I yield back the balance of my time.

Mr. FUQUA. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Arkansas (Mr. ANTHONY).

Mr. ANTHONY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I should like to make a brief observation about the change in reporting requirements which are proposed in H.R. 7689.

The National Science Policy and Organization Act of 1976 stipulates that the Office of Science and Technology Policy undertake two kinds of annual reports: A 5-year outlook which is to be extensively revised each year, plus an annual report dealing with at least seven specialized categories of issues. By reorganization plan, the President transferred both these functions to the National Science Foundation.

The original reporting requirements in the 1976 act were optional in the House version—but were changed as I have described by the Senate. In conference, the House concurred. However, I am sure that neither body would have suggested that such reports be done by the National Science Foundation. Experience has shown why.

The current arrangement is awkward, expensive, and, for the Foundation, a considerable burden. For example:

It should be noted that the National Science Foundation must now produce, under its charter, not only its own annual report, the annual report of its governing Board, and 13 annual statistical reports, but 20 reports required by other statutes plus about a dozen special reports required each year by authorization bills. This is about 50 reports a year.

It should also be noted that the cost of the first 5-year outlook was approximately $1 million. Under present law, appropriate "revision" as required could run $250,000 or more. The first annual report cost about $100,000 to produce; the second will be on the order of $200,000.

H.R. 7689 will help alleviate such costs and workloads, as well as provide for more timely and useful inputs to the R. & D. budget process.

The committee has not attempted to evaluate the substance of the single 5-year outlook or the single annual report which have been completed to date. This we would leave to the appropriate subcommittees to examine and determine as needed.

H.R. 7689 does, however, change the 5-year outlook to 4 years and requires that it be updated—not completely revised—on alternate even-numbered years. Both the outlook and its 2-year update would thereby be submitted concurrently with the 2-year R. & D. estimates as an additional timely aid to the Congress. The bill also eliminates the requirement for an additional annual report, but folds the more important elements of the latter into the outlook. Moreover, it is expected that the National Science Board's report on "science indicators" will continue to be issued during odd-numbered years so that fresh reporting on the status, needs, uses and progress of science and technology will in fact occur each year.

I believe this arrangement will prove far more feasible than the requirements of existing law—and the concept is strongly supported by the administration as well as the General Accounting Office and the Congressional Budget Office.

● Mr. HARKIN. Mr. Speaker, legislation such as the bill before us today, H.R. 7689, represents an encouraging sign that the Congress is taking a good look at some of the problems it faces in managing the Federal budget workload.

The congressional budget process, particularly as it has evolved in recent years, has not existed without its problems. In fact, it appears at times to be cracking under the strain of a burgeoning congressional workload, one which is most highly visible in terms of the increase in authorizing legislation. During the 2d session of the 95th Congress, there were 79 authorizations contained in 43 separate bills. That is a far cry from just 10 years ago when the Congress considered only 15 authorizations contained in 9 bills.

The groundwork set forth in H.R. 7689 for the future consideration of multiyear authorizations should ameliorate, over time, our current situation, by making it possible to reduce the number of authorizations Congress must consider each year.

The bill focuses on the R. & D. portion of the Federal budget, the scope of which has changed dramatically over the last several years—from $19 billion in 1975 to $32 billion in 1980.

The bill, of course, does not mandate

multiyear authorizations by the Congress, but it does require additional budget information on major R. & D. programs so that Congress has the flexibility and the means to consider multiyear authorizations, if it so desires.

Why the prior selection of Federal R. & D. programs for potential multiyear authorizations?

Concern for stability and continuity in R. & D. funding surfaced in discussions of Federal science policy as long ago as congressional hearings on the formulation of a national science policy in 1970. The direct linkage between stable funding patterns and healthy research programs has been cited many times during the last decade as a compelling reason for the Congress to consider some form of forward funding procedure.

Proponents of multiyear funding for research and development have suggested over the years that the inherent long-term planning process of R. & D. would make certain R. & D. programs particularly suitable for advanced budgeting. Authorizing on a multiyear basis could lessen the budgeting procedures and requirements which sometimes seriously disrupt the conduct of scientific research when required on an annual basis.

The use of multiyear authorizations might also improve the efficiency and effectiveness of Federal R. & D. programs; this, in turn, could yield a greater output on the Federal R. & D. dollar. Thus, the potential of multiyear authorizations has important implications as a tool to enhance the productivity of our scientific enterprise.

We are hopeful that multiyear authorizations will also enable Congress to conduct its oversight more effectively by encouraging congressional emphasis on broad policy issues, rather than the detailed and sometimes minor aspects of purely budgetary matters. The Congress should also have greater options to pursue other issues warranting careful attention.

Mr. Speaker, enactment of this legislation could have significant results. I encourage passage of the bill.●

● Mr. McCORMACK. Mr. Speaker, the Rules of the House of Representatives charge the Committee on Science and Technology with continuing review and study of all laws, programs, and Government activities involving nonmilitary research and development (R. & D.).

Pursuant to such rules the full committee, in April 1979, held a review of all federally supported activities from the standpoint of the total R. & D. portion of the Federal budget. That review was revealing in many ways, but two aspects of it stood out:

First. The Federal R. & D. investment—from $30 to $35 billion—is most significant when seen in the perspective of "controllability," meaning those funds not already committed under continuing law. R. & D. represents about 22 percent of the entire annual "relatively controllable" part of the budget.

Dr. Frank Press, the President's Science Adviser, told the committee:

> An added reason to give attention to research and development in planning and funding research and development is that the budgeting in this area is relatively controllable in contrast to many other activities in the Federal budget. This makes research and development particularly vulnerable to the fiscal climate and to competing pressures for support. At the same time, unless there is continuity of support for meritorious programs, the resources needed in the conduct of research and development can be wasted and in some cases irretrievably lost.

Second. A very large part of Federal R. & D. programs must be authorized on an annual basis. This means in turn that much time and effort be spent by both the legislative and executive branches in authorizing activities with a consequent diminishing of time available to assign to other important matters. A concomitant occurrence is that sometimes authorization bills fail to complete the legislative course during the fiscal year—so that a significant loss of effort and legislative guidance may occur.

The committee's review, together with subsequent hearings and inquiries, suggest that both branches contribute to some of the R. & D. budgetary difficulties. The executive branch, by failing to submit R. & D. budget estimates in sufficient detail for more than a year at a time, has made it difficult for Congress to consider authorization for longer than a year in most cases. The legislative branch, with its multiple budget procedures and bill referrals, has made it difficult in many instances to get the authorizing job done competently within allotted timeframes.

Mr. Speaker, we are all familiar with these problems and we know many Members and committees are working diligently to ease the situation. We seek to advance their efforts with this bill. Certainly, congressional committees whose missions are not solely fiscal cannot afford to allocate three-fourths or more of their time purely to budgetary issues—as many committees now must do. Some new procedures are needed to relieve the pressure.●

□ 1540

Mr. HOLLENBECK. Mr. Speaker, I have no further requests for time.

Mr. FUQUA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FLIPPO). The question is on the motion offered by the gentleman from Florida (Mr. FUQUA) that the House suspend the rules and pass the bill, H.R. 7689.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

COMMISSION ON WARTIME RELOCATION AND INTERNMENT OF CIVILIANS ACT

Mr. DANIELSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5499) to establish a Commission to gather facts to determine whether any wrong was committed against those American citizens and permanent resident aliens affected by Executive Order No. 9066, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5499

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SHORT TITLE

SECTION 1. This Act may be cited as the "Commission on Wartime Relocation and Internment of Civilians Act".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) approximately one hundred and twenty thousand civilians were relocated and detained in internment camps pursuant to Executive Order Numbered 9066, issued February 19, 1942, and other associated actions of the Federal Government;

(2) approximately one thousand Aleut civilian American citizens were relocated and, in some cases, detained in internment camps pursuant to directives of United States military forces during World War II and other associated actions of the Federal Government; and

(3) no sufficient inquiry has been made into the matters described in paragraphs (1) and (2).

(b) It is the purpose of this Act to establish a commission to—

(1) review the facts and circumstances surrounding Executive Order 9066, issued February 19, 1942, and the impact of such Executive order on American citizens and permanent resident aliens;

(2) review directives of United States military forces requiring the relocation and, in some cases, detention in internment camps of American citizens, including Aleut civilians, and permanent resident aliens of the Aleutian and Pribilof Islands; and

(3) recommended appropriate remedies.

ESTABLISHMENT OF COMMISSION

SEC. 3. (a) There is established the Commission on Wartime Relocation and Internment of Civilians (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of seven members, who shall be appointed within ninety days after the date of enactment of this Act as follows:

(1) Three members shall be appointed by the President.

(2) Two members shall be appointed by the Speaker of the House of Representatives.

(3) Two members shall be appointed by the President pro tempore of the Senate.

(c) The term of office for members shall be for the life of the Commission. A vacancy in the Commission shall not affect its powers, and shall be filled in the same manner in which the original appointment was made.

(d) The first meeting of the Commission shall be called by the President within one hundred and twenty days after the date of enactment of this Act, or within thirty days after the date on which legislation is enacted making appropriations to carry out this Act, whichever date is later.

(e) Four members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f) The Commission shall elect a Chairman and Vice Chairman from among its members. The term of office of each shall be for the life of the Commission.

(g) Each member of the Commission who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS–18 under the General Schedule contained in section 5332 of title 5, United States Code, for each day, including traveltime, he or she is engaged in the actual performance of his or her duties as a member of the Commission. A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

DUTIES OF THE COMMISSION

SEC. 4. (a) It shall be the duty of the Commission to—

(1) review the facts and circumstances surrounding Executive Order Numbered 9066, issued February 19, 1942, and the impact of such Executive order on American citizens and permanent resident aliens;

(2) review directives of United States military forces requiring the relocation and, in some cases, detention in internment camps of American citizens, including Aleut civilians, and permanent resident aliens of the Aleutian and Pribilof Islands; and

(3) recommend appropriate remedies.

(b) The Commission shall hold public hearings in such cities of the United States that it finds appropriate.

(c) The Commission shall submit a written report of its findings and recommendations to Congress not later than the date which is one year after the date of the first meeting called pursuant to section 3(d) of this Act.

POWERS OF THE COMMISSION

SEC. 5. (a) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this Act, hold such hearings and sit and act at such times and places, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandum, papers, and documents as the Commission or such subcommittee or member may deem advisable. The Commission may request the Attorney General to invoke the aid of an appropriate United States district court to require, by subpena or otherwise, such attendance, testimony, or production.

(b) The Commission may acquire directly from the head of any department, agency, independent instrumentality, or other authority of the executive branch of the Government, available information which the Commission considers useful in the discharge of its duties. All departments, agencies, and independent instrumentalities, or other authorities of the executive branch of the Government shall cooperate with the Commission and furnish all information requested by the Commission to the extent permitted by law.

ADMINISTRATIVE PROVISIONS

SEC. 6. The Commission is authorized to—

(1) appoint and fix the compensation of such personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the compensation of any employee of the Commission may not exceed a rate equivalent to the rate payable under GS-18 of the General Schedule under section 5332 of such title;

(2) obtain the services of experts and consultants in accordance with the provisions of section 3109 of such title;

(3) enter into agreements with the Administrator of General Services for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the Administrator;

(4) procure supplies, services, and property by contract in accordance with applicable laws and regulations and to the extent or in such amounts as are provided in appropriation Acts; and

(5) enter into contracts with Federal or State agencies, private firms, institutions, and agencies for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of the duties of the Commission, to the extent or in such amounts as are provided in appropriation Acts.

TERMINATION

SEC. 7. The Commission shall terminate ninety days after the date on which the report of the Commission is submitted to Congress pursuant to section 4(c) of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. To carry out the provisions of this Act, there are authorized to be appropriated $1,500,000.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California (Mr. DANIELSON) will be recognized for 20 minutes, and the gentleman from California (Mr. MOORHEAD) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. Mr. Speaker, I yield myself such time as I may consume.

(Mr. DANIELSON asked and was given permission to revise and extend his remarks.)

Mr. DANIELSON. Mr. Speaker, I rise in support of H.R. 5499, as amended by the Judiciary Committee. This bill will establish a commission to study the internment of Japanese-Americans pursuant to Executive Order 9066, and the relocation and, in some cases, internment of certain American citizens of the Aleutian and Pribilof Islands, during World War II.

On February 19, 1942, President Franklin D. Roosevelt issued Executive Order 9066, which authorized establishment of military areas for the internment of American citizens and resident aliens. That order resulted in the evacuation and internment of more than 120,000 Japanese-American civilian citizens and resident aliens.

Executive Order 9066 empowered military commanders to prescribe certain military areas from which they could exclude any persons. The order did not specifically mention or specify any particular groups, but was used to intern Japanese-Americans as a "military necessity." However, only Japanese-Americans on the U.S. mainland were interned. Further, only persons of Japanese descent were involved in this internment process. American citizens of German or Italian ancestry, and German and Italian aliens, were not interned and were not restricted.

Also, during World War II, approximately 1,000 U.S. citizens of the Aleutian and Pribilof Islands were relocated and, in some cases, interned on the mainland because of the threat of military action against those islands. Evidence submitted at the hearings on this bill indicates that during that internment, many Aleuts died from lack of adequate shelter, poor sanitary conditions and inadequate medical care. Since that situation has never been fully examined, the committee felt it was a proper subject to include as a part of the work of the Commission.

On June 2, 1980, the Subcommittee on Administrative Law and Governmental Relations, which I chair, held a hearing on this subject and received testimony from various witnesses. Those witnesses presented a compelling case for the creation of this Commission. The committee heard of cases in which Americans of Japanese descent were stripped of their worldly possessions and forced to relocate in internment camps, many miles from their homes, on very short notice. The testimony revealed that the deprivation of liberty and the taking of property from those Japanese-Americans took place without court trials, without any accusations being brought by the Government, and without any findings of wrongdoing by those Americans.

The committee also received testimony from representatives of Native American Aleut citizens of the Pribilof and Aleutian Islands who described the relocation and internment of approximately 1,000 citizens by the American military forces during World War II. It was revealed that many American citizens and residents of the Aleutian and Pribilof Islands were removed from their homes by U.S. military forces and detained in internment camps maintained in southeastern Alaska by officials of the U.S. Department of the Interior from 1942 until 1945. That relocation followed the Japanese bombing of Dutch Harbor on the Aleutian chain. The testimony indicated that these Aleut citizens were kept in camps and other facilities and their movements were severely restricted. Further, at those camps there was inadequate shelter, medical support and clothing which resulted in disease and suffering causing death to many of the Aleuts. Because of that testimony, the committee felt that a study of this situation should be included as a part of the work of the Commission.

It is intended that the Commission will have a threefold function. First, there will be an educational purpose, where, through hearings and appropriate publicity, Americans of all ages will be fully informed about this unfortunate episode in our history. Second, the committee hopes that the Commission's findings will serve a deterrent function, where a comprehensive study of these events will serve as a warning to future generations so that an occurrence such as this should not, and will not, happen again. Finally, the committee feels that the Commission's deliberations will provide a focus for a discusion of the various redress proposals that have been suggested and thereby appropriate recommendations to the Congress can be made.

Mr. Speaker, I strongly support the establishment of this Commission. I feel it is a necessary step toward redressing the grievances of many American citizens who were treated so unfairly by our Government during World War II.

Therefore, I urge the House to act favorably on this legislation and to pass H.R. 5499, as amended.

Mr. Speaker, I might add in conclusion that this bill has broad support, and that we now have, at my last count, 148 cosponsors.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield for a question?

Mr. DANIELSON. I will be pleased to yield for a question.

Mr. BAUMAN. Mr. Speaker, if under the Japanese-American Evacuation Claims Act nearly $38 million was paid out, why is this legislation necessary in addition?

Mr. DANIELSON. Mr. Speaker, the reason, if I may respond to the gentleman from Maryland, is that the Japanese-American Claims Act, which was carried out during 1949 and up until about 1960, only touched the surface of a number of these claims. Many were never brought to the attention of the claims agency which is a branch of the Department of Justice, and the matter was not fully taken care of.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman.

Mr. MOORHEAD of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this legislation which would create a Commission on Wartime Relocation and Internment of Civilians. H.R. 5499 reflects an attempt by the Congress to provide a national focus on the wrongs done to Japanese-American citizens and permanent resident aliens of Japanese ancestry during World War II.

This episode is one of the most controversial in American history. What essentially occurred was that some 70,000 American citizens and some 43,000 additional Japanese nationals were deprived of their liberty and property without due process of law. Over 120,000 individuals on the west coast were expelled from their homes and confined in detention camps, without having any formal charges brought against them and without any trial by jury. Many lost businesses, homes, and farms. Lives were ruined or, at least, altered for all time.

The Commission which would be created by this legislation is directed to review the facts and circumstances surrounding Executive Order 9066, issued by President Roosevelt in 1942. It was this Executive Order which provided the authority to military commanders in the western United States to exclude persons from designated geographic areas. This kind of comprehensive overview of the facts and circumstances surrounding this incident is long overdue.

As I view it, the Commission has a threefold function. First, it will have an educational purpose, where through appropriate publicity, Americans of all ages will learn more about this unfortunate episode. Second, it is hoped that the Commission's work will serve a deterrent function. That is, a detailed study concerning these events will serve as a warning to all generations of Americans that this type of occurrence should not and cannot happen again. Finally, it is hoped that the Commission's deliberations will provide a focus for a discussion of the various redress proposals that have been put forth.

The Subcommittee on Administrative Law specifically rejected the idea of going ahead with the comprehensive claims program, granting monetary redress to the injured parties, at this time. Cost was a serious concern and the estimates for such a program ranged up to $3 billion and more. I might point out that from 1949–58 the Justice Department operated a limited claims program, dealing with property losses. Over $36 million in settlements were paid out to the claimants. However, it should be emphasized that they only received 8½ cents on the dollar and no claims based upon deprivations of constitutional rights was permitted.

The creation of this Commission would be an important symbol to the members of the Japanese-American community in the United States. It is essential for us to all understand the manner in which these decisions were made and why. This is an important step for us to take and I strongly urge the Members of this House to support H.R. 5499.

□ 1550

Mr. DANIELSON. Mr. Speaker, I have the honor of yielding such time as he may consume to the distinguished majority leader, the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Thirty-eight years have passed, Mr. Speaker, since the U.S. Government ordered the internment of thousands of American citizens on no more ground than their racial heritage. They were effectively incarcerated solely because their ancestry was Japanese.

Like the suspension of habeas corpus by Abraham Lincoln during the Civil War, this act was one of those grotesque aberrations of the American political system—one of those outrageously wrong things that we do in moments of great national stress, and which we later regret.

There is no way in which we can ever repay those proud and loyal Americans for having questioned their patriotism. We cannot give them back the months of their lives nor redress the shame to which we subjected them by impugning their loyalty to this land.

The best we can do, therefore, is to take notice that what we did under the severe pressure of that wrenching emergency was completely out of character for us—to apologize to those on whom we afflicted the insulting assumption of their disloyalty, and to avow that never again will any group of American citizens be subjected to such humiliations on grounds no more valid than the blood that runs in their veins.

With still remembered pain, I recall reading from the Southwest Reporter in 1944 the digest of the Supreme Court's ruling in this case. I had just returned from a tour of military duty in the Pacific where I had participated in combat missions against the armed forces of Japan. But I could not agree with that ruling. Ingloriously and to our everlasting shame, the Court upheld as constitutional the act of our Government in rounding up the Japanese-American citizens, almost as though they were cattle, and herding them into corrals.

Barely more than 21 years of age at the time, I knew nevertheless that the ruling of the U.S. Supreme Court on that occasion was temporizing with eternal truth. I swore then that whenever I had a chance to do so, I would speak out against it. For it was an unconstitutional and unconscionable undertaking, totally inconsistent with our most fundamental precepts. It deserves to be condemned today, just as it deserved to be condemned even then.

During World War II, American citizens of Japanese ancestry established a record of patriotism unexcelled by Americans of any other racial strain. Native-son battalions, recruited from our west coast and Hawaii, endured the heaviest battlefield casualities of any American field unit. Theirs justly became the most highly decorated organization in the entire history of the U.S. armed services.

Many of my very good and close friends in Texas who served in the 36th Division during World War II owe their lives to the selfless, heroic, and sacrificially patriotic devotion of the men of the 442d Infantry Regimental Combat Team. Those Americans of Japanese ancestry who comprised that unit broke through the enemy lines in Italy after other units had failed and, at great cost to themselves, they rescued that substantial part of the 36th Division which had found itself trapped and surrounded. No Texan and no American should ever forget that act of marvelous heroism.

In our unreasoning fear and misguided zeal at the outset of World War II, we did a great disservice to our fellow Americans of Japanese heritage. At the very least, we now should say that we are sorry. We might recall in this connection the words of Abraham Lincoln who said:

> Those who would deny freedom to others do not deserve it themselves. And, under a just God, they will not long retain it.

Mr. MOORHEAD of California. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. Mr. Speaker, the consideration of this legislation recalls events in American history that do not inspire pride. During World War II, some 120,000 Japanese-Americans and other persons of Japanese ancestry suffered what can only be characterized as an egregious denial of their basic civil rights.

The bill we are considering today would establish a Commission on Wartime Relocation and Internment of Civilians. This seven-member body will study the circumstances surrounding the exclusion orders issued by the military commanders under the authority of Executive Order 9066. As a result of these actions persons were excluded from designated geographic areas on the west coast, detained in camps elsewhere, and many were relocated in other parts of the Nation. Under the terms of H.R. 5499, the Commission will hold hearings in a variety of appropriate locations and consider what recommendations, if any, that should be made to the Congress. The Commission would be granted subpena powers and is assured of the cooperation of all relevant Federal agencies.

The case law surrounding these events is interesting and somewhat surprising. The constitutionality of the Executive Order 9066 and the legislation which ratified and confirmed it (act of Congress, March 21, 1942) were the subject of two noted court challenges. In *Hirabayashi* v. *U.S.*, 320 U.S. 81 (1942), the Supreme Court upheld the terms of a curfew order imposed solely against citizens of Japanese ancestry.

The Court viewed it as a valid exercise of the war power of both the Congress and the executive branch (including, the military authorities). The Court specifically deferred to Congress and the military commander as to whether the curfew was a necessary protective measure to meet the threats of sabotage and espionage. They stated that the differentiation in the executive order based solely on the fact of Japanese ancestry did not violate the due process clause of the fifth amendment, holding that there was a "reasonable basis" for such a distinction in the light of all the relevant facts and circumstances.

In *Korematsu* v. *U.S.*, 323 U.S. 214 (1944), the Court again refused to inquire behind the military judgment which led to the issuance of an order excluding all persons of Japanese ancestry from certain designated areas on the west coast. Related orders also required these persons to report to assembly centers and detention camps. The Court held the exclusion order constitutional as of the time it was issued (May 1942).

The committee's mandate is general and H.R. 5499 does not in any way predispose specific recommendations. The Subcommittee on Administrative Law, which considered this measure, chose to reject, at this time, the establishment of a comprehensive monetary reimbursement program for those interned or their legal heirs. Frankly, given the price tag of between $3 and $4 billion it was felt that such a decision needs additional study.

If I may, I would like to add one personal note. During World War II it was my privilege to take into my home a young Japanese-American who was directly affected by these decisions. His name is Tyler Tanaka and he stayed with us for the duration of World War II. This brought home to me and my family a very real and personal dimension of these events. Today, Tyler is a successful businessman operating a travel agency in Los Angeles, Calif. Like thousands of other Japanese-Americans, he has reassimiliated himself into our society without any apparent trace of bitterness. Recently, I received a letter from him urging the enactment of H.R. 5499, as a mechanism for making all Americans knowledgeable and sensitive to the injustices that took place.

This is commendable and important legislation which deserves the support of the Members of the House.

The letter I received from Tyler Tanaka is as follows:

Japan & Orient Tours, Inc.,
Los Angeles, Calif., June 13, 1980.
Congressman Robert McClory,
Congress of the United States,
House of Representatives,
Washington, D.C.

Dear Bob: Thank you for your letter of June 2nd.

I learned of S1647 and HR5499 and was thinking of writing when your letter arrived. It is my understanding that HR5499 would establish the means to review all aspects of the WW2 internment of Japanese Americans.

As suggested by you, I spoke with my mother and Iris, as well as to my family. My mother does not harbor any bitterness but expressed sadness in losing a lifetime of savings and a business. She was more concerned about expressing her thankfulness for the church saving her home which served as the foundation from which she and my father struggled to rebuild their lives following the end of the war.

Iris feels that she should speak for our departed father. She feels for the hardships he faced in overcoming economic and social obstacles in establishing life in this new land. She expresses the disappointment when the interment wiped out his lifetime work. Sadly, after the war, he was too old to re-establish his business, but with dignity, he worked at manual labor (gardening) to sustain my mother and himself until his death. To the end, he was proud that he never accepted a penny in charity or welfare, nor was a burden to his children. Through what must have been painful husbandry, he left my mother financially sufficient so that she, too, would not have to depend on welfare. Iris feels that this must not ever be allowed to occur again in our country.

Most surprising was the reactions of my 16 year old daughter, Diane. Unbeknownst to me, she did a term paper on relocation a year or two back. She expressed strong feelings of anger of the injustice of the entire relocation episode. As she is normally a bright happy girl, her intense feeling on this issue did catch me off guard.

Bob, our long years of friendship came as a result of the evacuation. For this, I am grateful; however, you, perhaps more than any other member of Congress, understand the evacuation's affront to personal dignity and democratic principles. You once stated your stand against the injustice once before when you took me, a confused and difficult lad, from the camp and into the intimacy of your home.

I would be most pleased with any effect you may undertake to secure passage of this Legislation.

With love,

Tyler.

Mr. DANIELSON. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. Mineta).

Mr. MINETA. Mr. Speaker, I rise in strong support of H.R. 5499, the Commission on Wartime Relocation and Internment of Civilians Act.

I would first like to commend the gentleman from Texas (Mr. Wright), the distinguished majority leader, and the gentleman from New Jersey (Mr. Rodino), the chairman of the Committee on the Judiciary, for their sponsorship of this legislation, and our colleague, the gentleman from California (Mr. Danielson), for his strong support and leadership on this issue. I would also like to thank the gentleman from Illinois (Mr. McClory), the ranking minority member on the Committee on the Judiciary, as well as our colleague, the gentleman from California (Mr. Moorhead), who is the ranking minority member of the subcommittee that handled this bill and thank them for their efforts relative to this legislation.

As many of my colleagues may know, I was one of the 120,000 Americans of Japanese ancestry who were evacuated from our homes on the west coast and detained in internment camps in our country's interior during World War II. Back in 1942, although I was too young to experience directly the suffering and frustration my parents, relatives, and their friends felt so strongly, I did know that Executive Order 9066 set into motion a puzzling and serious chain of events that profoundly affected the lives of many loyal American citizens and resident aliens.

In the ensuing 38 years since we were sent to the camps, I and others who were interned still have many unanswered questions about the experience. Many of us were American citizens—how could our own Government have deprived us of our liberty with no explanation of what we did wrong? Why were we given no trial? Was it necessary to put us into camps, given the war hysteria at the time? Besides these unanswered questions, we feel that we share a special responsibility to insure that no person—citizen or resident alien—is ever again subjected to such an experience.

In 1976, President Gerald Ford formally rescinded the Executive order that sent us to the camps, but the many questions we have still remain. I believe that the Commission to be established by H.R. 5499 and charged with the reviewing the circumstances leading up to our evacuation and internment would help answer these many unresolved questions. It would provide an important framework for a factual discussion of this sad chapter in our not-so-distant past. Such a comprehensive and objective study is long overdue, and will force us as a society to concentrate on the facts: What really happened, and what were the consequences?

Equally as important, the Commission study will have considerable educational value. It will educate or remind people about an event they may not remember or know much about. It came as a surprise to me to realize that only one Member of Congress currently serving was in office back at the time of the internment in 1942. There are hundreds of thousands of citizens and public officials who are too young to remember much about the evacuation and internment of either the Japanese Americans or the residents of the Aleutians and Pribilof Islands. In addition, the history textbooks in our schools are notorious for their lack of mention of either occurrence.

My greatest hope for this Commission is that by focusing this country's attention on the evacuation and internment and the unresolved civil and constitutional questions, it will also help prevent this kind of occurrence from ever being repeated. The Commission will travel to different locations hearing testimony from those who were affected by the evacuation and internment. I believe it will thus contribute to heightening our awareness as a nation that we as individual citizens must acknowledge and understand the errors of our past, or we will be doomed to repeat those errors.

Mr. Speaker, I would like to share with you and my colleagues the message I believe the Commission will communicate to every citizen in our country, regardless of race, ethnic background, or religion. That message is this: What happened in 1942 can happen again. Civil liberties cannot be taken for granted. Our greatest hope is that the knowledge we gain from the proposed commission will guarantee that this tragic abuse of civil and constitutional rights will never occur again.

I ask my colleagues to join me in supporting this legislation to create a study commission on the evacuation and internment.

☐ 1600

Mr. MOORHEAD of California. Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, the remarks made earlier by the gentleman from Texas (Mr. WRIGHT), as usual, are an eloquent statement of the case and the plight that faced the Japanese-Americans and Japanese aliens in this country 38 years ago in 1942. At that time I believe I was only 5 or 6 years old.

I am sure there are a great many Americans who do not realize that President Roosevelt's action was one of the greatest denials of civil liberties to ever occur in peacetime or wartime in our history. It was in fact a total destruction of the Constitution under circumstances which some might say explain why that would happen. I think there was no excuse for such action. It is of course an historic fact that American forces at Pearl Harbor on December 7, 1941, were attacked without warning by Imperial Japanese forces at the same time Japanese diplomats were negotiating for peace with the U.S. officials here in Washington.

Many thousands of Americans died at the hands of Japanese. But none of that goes to the question of the loyalty of the Japanese-Americans and those in this country who were treated not just shabbily, but perhaps in one of the worst manners that American citizens and those who should be protected by laws ever have been treated.

Having issued that judgment of this one Member, I have to oppose this legislation. Like so many bills that come before the House, it is well intentioned. It seeks to do something many would like to do. That is assuage a wrong that occurred in the past. But it is absolutely ridiculous for us to, as we did a few years ago in the case of the Hawaiian Natives Claims Settlement Commission, propose a million-and-a-half-dollar, commission to go back and look at history with the only apparent purpose, as the gentleman from California just stated, of allowing Americans to know what might have happened, the true facts, so that it might not happen again.

I suggest to this body that that is not the role of a Federal commission at the cost of a million and a half dollars. If it is the proper role for a Federal commission, then many other groups who have suffered at the hands of the Government throughout our 204-year history and even beyond should also have their commission, their investigation, their examination of history with a report issuing forth.

What concerned me is something more than that also. There was enacted into law by the Congress of the United States, the Japanese-American Evacuation Claims Act. And $38 million were paid out under that act for those Japanese who had suffered at the hands of the Federal Government and others. While that law dealt with property loss, it did not in any way compensate for the loss of liberty. There were 26,568 claims awarded under that act.

Now if there are still those who are not compensated, they should receive help under existing claims laws. Perhaps the law needs to be revised, assuring access to those claims processes, but why must we have a commission to go back and relive the entire experience, looking toward what?

One of the Members of this body has introduced legislation that would give $15,000 to each and every one of those Japanese ancestry or their heirs who were interned; $15,000, plus $15 per day during the internment.

The Congressional Budget Office has estimated in a separate report that this will include 119,000 people now living, at a cost of $4 billion—$4 billion, not million.

Now, I think this fact should be laid before the House, because frankly, this commission, the bill proposes, by its mandate, looks forward to the possibility of some sort of payment program, and that is what it could cost if it is to be handled in just and equal terms. Is that what we want to do for American Indians? Do we want to go back and do it for Hawaiians?

The House voted on September 8, 1978, 190 to 148 to recommit and deny the creation of a commission for aboriginal Hawaiians based on the wrong done to them 90 years ago when the United States supposedly took their land without just compensation. Maybe the wrong done to the Japanese-Americans is even worse.

All I am suggesting is that these commissions and the end toward which they proceed inexorably, because of the staff they hire and subpena powers they are given and money they spend, are improper. They are not the proper course to follow. It certainly does nothing to wipe out the wrong that was done. It could do a great deal to set a precedent that will do wrong in the future. I hope when a vote is taken on this legislation, which requires two-thirds, the bill will be rejected.

Mr. DANIELSON. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. MATSUI).

Mr. MATSUI. Mr. Speaker, I speak today on behalf of H.R. 5499 and hope that this august body will support this bill, because I feel it is a very unique opportunity for the U.S. Congress and the people of this country to study and look into the causes of what happened in 1942.

The gentleman from Maryland (Mr. BAUMAN) spoke very eloquently a few moments ago about his position on this particular bill. I might speak from the perspective of an individual and not so much as a Member of Congress. I happened to be 6 months old when the internment camp order came down from President Roosevelt.

☐ 1610

My mother and my father and myself, along with my grandmother who had been here for 60 years, were shipped to first Tulelake, and then Idaho. We spent my first 4½ years in those camps and from what my mother and father are willing to tell me about it, it was not the kind of experience that I would wish on any person, not only in this country, but in the entire world.

The gentleman from Maryland (Mr. BAUMAN) mentions the fact that there is very little relevance for the U.S. Congress to be involved in this issue. I would have to disagree with the gentleman. There are still people in this country who say that the internment of Japanese-Americans some 38 years ago was understandable. Some even say that it was justified.

I think that it is only proper for an objective body like this Congress to set up a commission of objective men and women to look into why this happened, what were the circumstances around it and how can we make sure that in the next 200 years it will not happen again?

For that reason, I think it is very important that the people of this body support this particular piece of legislation.

I might also mention one other thing, although it is not germane to this particular piece of legislation. The gentleman from Maryland (Mr. BAUMAN) speaks of the $38 million that in the 1950's was given to Japanese-Americans who happened to spend time in these relocation centers. I must say, my mother and father submitted a claim and they received about $380 back from the Federal Government. They were very thankful for that. We are not saying it was a bad act for the Government to do; but I might add, that was only 10 cents on the dollar. It was only 10 percent of their provable claims; but in spite of that, this bill does not ask for any money. It just asks that a commission be set up to look into this matter to see what the causes were and what remedies should be given, if any.

The gentleman from Maryland (Mr. BAUMAN) and you and I and all of us will have an opportunity to vote on remedies if the Commission should at some future dates say that remedies are proper and desirable. We can turn it down if we find that it is proper and desirable to turn it down.

So we are not giving $38 million or $4 billion, as the gentleman from Maryland (Mr. BAUMAN) speaks of. In fact, the gentleman from California (Mr. MINETA), myself, all the members of the subcommittee, did not sponsor the piece of legislation that Mr. BAUMAN speaks of because we felt that it was inappropriate and improper since there has been no study done. We do not know if remedies are proper at this time. Maybe the Commission will say the Government was justified; so we want to find that out through this particular legislation.

In closing, I would only like to commend the gentleman from California (Mr. DANIELSON), the chairman of the subcommittee, and the gentleman from California (Mr. MOORHEAD) and the gentleman from Illinois (Mr. McCLORY) for the very strong work that they did in bringing this bill to the floor of the House.

Of course, I must say to the majority leader, the gentleman from Texas (Mr. WRIGHT) that I appreciated very much the fact that the gentleman went before the Senate and also the subcommittee on the House side and testified in favor of this bill.

Mr. Speaker, I join my colleagues today in support of H.R. 5499, the Commission on Wartime Relocation and Internment of Civilians Act.

Thirty-eight years have passed since President Roosevelt signed Executive Order 9066, which broadly authorized any military commander to exclude any person from any area. Congress was also involved in this decision, validating the Presidential action by imposing criminal penalties for violation of this order. This sweeping delegation of power to the military ultimately led to the relocation and internment of more than 120,000 persons of Japanese ancestry during World War II.

Historians, academicians, and constitutional law authorities, as well as those who suffered the injustices and indignities of being uprooted and forced to evacuate with only a few days' notice to "internment centers," have attempted to explain the rationale and consequences for the Government's action during the early months of America's involvement in World War II.

However, the American people still do not know how the decision to evacuate and intern persons of Japanese ancestry was made at the highest levels of government. Nor do they know what factors were involved and what rationale was employed to make this decision, or what the real consequences were not only for persons of Japanese ancestry, but for all Americans.

Last year, Mr. Speaker, some of my colleagues and I discussed this issue and what remedies Congress might provide. H.R. 5499 is the result of our efforts. We believe that establishment of this Commission is the best mechanism to meet the goals which resulted from our meetings.

This factfinding Commission could decide how best to educate the American people about this period in our history, clearly one of the primary goals of H.R. 5499. In addition, the Commission could address a continuing question: Should compensation be provided to those interned, and if so, in what form?

The Commission would provide a forum for discussion of the many redress proposals which have been offered. Various options range from direct financial redress to those who were interned to the establishment of a trust fund to study the constitutional questions involved. Other alternatives include the possible funding of projects of direct benefit to former internees living at or below the poverty line, and educational endeavors regarding this period in our history.

The Commission would serve as the focal point for all of these concerns.

However, the ultimate decision on appropriate actions in response to this situation would be left with the U.S. Congress and the American people only after we have fully examined the reasons for and consequences of the internment of persons of Japanese heritage during World War II.

Mr. Speaker, I encourage my colleagues to support H.R. 5499 today so that all Americans of all backgrounds will be afforded the opportunity to review our errors of the past, and at the same time make sure it never happens again in the future.

Mr. LEWIS. Mr. Speaker, will the gentleman yield?

Mr. MATSUI. Yes. I yield.

Mr. LEWIS. Mr. Speaker, I would like to compliment the gentleman on his remarks. I would like to associate myself with those remarks.

Mr. MOORHEAD of California. Mr. Speaker, I have no further requests for time.

Mr. DANIELSON. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from Illinois (Mr. YATES).

Mr. YATES. Mr. Speaker, would the gentleman from California (Mr. MOORHEAD) yield another minute or two?

Mr. MOORHEAD of California. I will be happy to yield the gentleman 2 minutes.

Mr. YATES. Mr. Speaker, I rise in support of this legislation.

I must say, I am quite surprised at the reaction of my good friend, the gentleman from Maryland (Mr. BAUMAN), constitutional scholar that the gentleman is. Certainly I have heard the gentleman argue time and again for sustaining the provisions of the U.S. Constitution. I am surprised that the gentleman is not in favor of equal protection of the laws for all citizens of the United States.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield on that point?

Mr. YATES. Of course, I do.

Mr. BAUMAN. Mr. Speaker, the gentleman knows the statement he just made about my position bears no relationship to what I just said, nor to my position. I am in favor of equal protection of the laws. I simply do not think this commission will advance that equal protection at this late date. It is not the proper method.

Mr. YATES. Well, the gentleman's statement speaks for itself. I disagree with him.

I feel that the Japanese-Americans in this instance were certainly deprived of their equal protection. Equal justice under law is a cornerstone of American values. Enemies of the country whose ethnic origin was Germany or Italy were not given the same kind of harsh treatment that Japanese-Americans received.

I have the feeling that if one of the constituents of the gentleman from Maryland (Mr. BAUMAN) were wrongfully incarcerated by a Federal marshal or by a Federal narcotics agent, if he were jailed and it were shown that he was wrongfully imprisoned, I am sure the gentleman from Maryland (Mr. BAUMAN) would be among the first to seek just compensation for this wrong having been committed upon him.

There is no doubt, there is no doubt on anybody's mind the gentleman from Maryland (Mr. BAUMAN) concedes, other opponents of this legislation concede that this was a most flagrant wrongdoing by the Government of the United States, not only against Japanese-American aliens, but against American citizens, Japanese-American citizens. American citizens of Japanese derivation were among those who were imprisoned.

This bill marks another chapter in the efforts made by the U.S. Congress to rectify the wrongs done to Americans of Japanese origin. Over the years the Congress has step by step taken measures to correct inequities earlier Congresses had created.

The SPEAKER pro tempore (Mr. FLIPPO). The time of the gentleman from Illinois (Mr. YATES) has expired.

Mr. MOORHEAD of California. Mr. Speaker, I yield 2 additional minutes to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, I thank the gentleman. I will yield to the gentleman from Illinois (Mr. McCLORY) as soon as I finish my sentence.

The Oriental Exclusion Laws which were directed against people of oriental birth were stricken from the books. Japanese aliens who lived here for years were finally allowed to become American citizens. A wrong was righted.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr Speaker, I thank the gentleman for yielding.

I want to concur with what the gentleman from Illinois is saying and how pleased we were that so many Japanese-Americans or those of Japanese ancestry relocated in Illinois during World War II, especially in the Chicago area, and the disappointment was that after the war was over, they almost all went back to California.

Mr. YATES. Well, that is not true, may I say to the gentleman. I am proud to say that in my district in the city of Chicago, one of the largest communities is the Japanese-American community. We are very proud to have them there. They are among the finest citizens we have in the city of Chicago.

The claims legislation to which the gentleman from Maryland referred, provided only a pittance compared to the total sum of the losses suffered by the Japanese-Americans. They never received nearly the value of the properties taken from them when they were rounded up. I think this legislation will serve to correct a wrong that should have been corrected many, many years ago. I support it and I urge the Congress to support it.

Mr. MOORHEAD of California. Mr. Speaker, I yield 1 additional minute to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I just want to say to the gentleman that there is no way that we can rewrite American history and return to redress the wrongs that occurred at the hands of Federal officials.

I vividly recall my great aunt, Annie Whitkopf telling me about how my grandmother Dressler was born in Alsace Lorraine and my grandfather who was born in Germany dropped the second "n" from their name during the first World War because of the violence against Germans in the Baltimore area where they then lived.

Now, I do not suggest that we should appoint a commission to investigate the anti-German feeling that existed as a result of World War I or World War II. I am just saying to the gentleman that the means to redress these wrongs existed in the Federal claims laws in the past. We cannot constantly appoint commissions when we have no money to run the Government which is already at a deficit.

I salute the Japanese-Americans who served our country so faithfully in this body and in the second World War. I have no prejudice or any grievance against any of them.

I would say, however, they have benefited from the many thousands of Federal programs that now exist, just as any other American citizens has benefited since that time. To go back and offer redress for a wrong for which proper compensation can never be paid, the denial of liberty, the deprivation of freedom, to me is a mistake and sets a bad precedent.

Mr. DANIELSON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I rise in support of this legislation as a cosponsor and urge my colleagues to support it.

I have no question, of course, nor does the gentleman from Illinois (Mr. YATES) of the good faith of the gentleman from Maryland; but I would like to quarrel a bit with the gentleman's characterization of this bill as similar to one the House 2 years ago recommitted involving a commission for native Hawaiians. There are at least two major differences. First of all, the bill 2 years ago dealt with alleged acts of negligence committed by the United States before it exercised sovereignty in the Hawaiian Islands.

Second, it appointed a commission of 15, a majority of which by the bill had to be members of the native Hawaiian community, who were potentially beneficiaries of the Commission's findings. Neither defect applies to this bill.

☐ 1620

There is no question that the relocation order directly involved 120,000 American citizens and permanent resident aliens and that it was, as the gentleman from Maryland indicated, one of the most totally unconstitutional acts in our history. I think the justification for this legislation is clear. We have no commitment here to any specific remedy. That can be addressed at a later time after the Commission reports.

This Commission of seven members, three appointed by the President and two by this House and two by the Senate not have the defects that I think were so evident in the earlier Hawaiian bill. I hope it will be adopted.

Mr. MOORHEAD of California. Mr. Speaker, I yield the final minute to the gentleman from Illinois (Mr. MCCLORY).

Mr. McCLORY. Mr. Speaker, I thank the gentleman for yielding. I just want to point out that in my view this Commission is to study a different problem than the other problems relating to discrimination against ethnic or racial minorities which occurred in this country. In this case the Japanese-Americans were uprooted from their homes, given 48 hours' notice, deprived of their businesses and their homes, and moved physically and bodily. In the instance with which I am familiar the Japanese-Americans were moved first into the Santa Anita Racetrack, and then into relocation or internment centers. That is a unique and egregious deprival of constitutional rights and basic human rights which I think deserves this study and this special interest on the part of Congress.

Mr. DANIELSON. Mr. Speaker, I want to thank all Members for having participated in this exchange. Every Member's comments were eloquent and I am delighted they will appear in the RECORD of these proceedings.

I want to thank all of the Members from my subcommittee. I cannot imagine any subcommittee chairman having greater cooperation than I received. It was magnificent.

Mr. COELHO. Mr. Speaker, as a cosponsor of H.R. 5499, creating a national Commission on Wartime Relocation and Internment of Civilians, I am greatly pleased with its passage today and I thank my colleagues who supported this measure.

Passage of this legislation does not right the wrongs committed against Japanese-American citizens who were interned during World War II, but at least it is a first step toward making amends for this tragic episode of our past and toward assuring that we will not take similar action in the future to violate the constitutional rights of American citizens.

The time has been long overdue for the action we have taken today.

● Mr. DIXON. Mr. Speaker, our strength as a great and good people derives in large part from our ability to cast a critical eye upon ourselves in those instances where injustice and discrimination occur. I support H.R. 5499, to provide for a comprehensive study of the wartime internment of Japanese-Americans, because it provides a mechanism by which this unpleasant and tragic episode in American history can be fully and fairly addressed.

The tragedy of Executive Order 9066 is forever etched in the experiences of the 120,000 otherwise loyal and devoted Japanese Americans whose lives were disrupted and ancestry stigmatized by this action. The interruption, and in many cases the destruction of these individuals' careers, income and family life is a casualty of war made even more grievous by the needlessness of this action. In this regard, the tragedy of 9066 is perhaps even more poignantly reflected in the shame of the majority, whose support or acquiescence facilitated this detention. That otherwise honorable individuals such as President Franklin Roosevelt, then California Gov. Earl Warren, and Members of Congress and the Supreme Court could instigate, implement, or endorse such an action is dramatic testimony to the degree to which men's minds, hearts and souls are distorted by the exigencies of war.

Unlike these leaders, we in the 96th Congress have the historical perspective to see the damages wrought by their actions, both to the individuals involved, and to the constitutional freedoms guaranteed all Americans. This perspective is particularly evident to the 28th District of California, which includes the highest percentage of Japanese Americans of any district in the continental United States. As a result, we have a special obligation to insure that the injured parties are compensated to the full extent possible and practical. In addition, we must again remind Americans that eternal vigilance is the price of liberty. Finally, we must again remind ourselves, as elected officials, that we cannot defend freedom abroad by deserting it at home.

H.R. 5499 will establish a special Presidential commission, with full and appropriate powers and resources to undertake the necessary task of shedding further light on this unfortunate tragedy. I urge its passage as an unpleasant—but vital—reminder to us all.●

● Mr. HEFTEL. Mr. Speaker, I rise in support of H.R. 5499, a bill to create a commission on the wartime relocation and internment of civilians.

As you know, Executive Order 9066, issued February 19, 1942, resulted in the evacuation and internment of more than 120,000 Japanese-American civilian citizens and resident aliens. Hearings or any other form of procedural due process were denied the detainees. Yet, the Supreme Court upheld Executive Order 9066. Congress did not challenge the order nor subsequently conduct an adequate investigation of the facts surrounding internment. It becomes apparent that these Japanese-American citizens and legal resident aliens were deprived of their liberty and property based on ethnic origins alone. There can be no question but that this action constituted a complete abrogation of our democratic ideals. Still, the events and circumstances surrounding this action have never been thoroughly examined.

Mr. Speaker, H.R. 5499 will serve not only to review the situation surrounding Executive Order 9066, but will examine the impact this order had on the detainees. By creating a Commission that will formulate, as a preface, questions besetting the incident, including the cause, necessity, and effects of the detainment, I am confident that we will be able to clear the record. Past commissions have been an important tool in educating the public about particular issues, and this Commission can do the same, and hopefully deter a reoccurrence of similar injustices.

I look forward to passage of this long overdue legislation, and urge my colleagues to join with me in voting for the passage of this bill.●

● Mr. WAXMAN. Mr. Speaker, it has been nearly 40 years since President Franklin Roosevelt issued Executive Order 9066, an infamous document which initiated an ugly episode in our history. Under this authority, more than 120,000 U.S. citizens of Japanese ancestry were seized and removed to internment camps with total disregard to due process of law. Rarely, if ever, have the basic human and civil rights of so many of our citizens been so systematically violated. These Japanese Americans were placed under control of the military authorities in terribly inadequate housing, with little sanitation and limited health and medical care.

The ordeal of these Japanese Americans, who were wrongly imprisoned, is a stain on our national conscience. It is terribly important that, as a country, we acknowledge these injustices and reiterate our commitment that they never be permitted to happen again.

H.R. 5499, which establishes a national Commission on Civilian Wartime Relocation and Internment, will enable us to begin, at least, this crucial task. It will provide for yearlong public study of the internment, and will make a full report to Congress. The Commission will also examine whether any compensation should be considered for those who were interned.

This Commission, therefore, will help educate the Nation to these events in the interest of avoiding their repitition in the future. This is the least we can provide for those who suffered such a travesty of justice. It is long overdue.

I am proud to be consponsor of H.R. 5499, and urge its passage today.●

● Mr. YOUNG of Alaska. Mr. Speaker, it is significant that with the passage today of H.R. 5499, the U.S. Congress has seen fit to recognize the grave injustices suffered by American citizens interred in Government-sponsored interment camps here in the States during World War II. All of us are aware to varying degrees of the plight suffered by the Japanese-Americans during this period of time; all of us regret these injustices and by our votes, hope that the Blue Ribbon Commission will establish evidence that will go a long way toward insuring that these injustices will not be suffered again.

Yet, although our knowledge of the Japanese-American interments is universal, many of my colleagues will be surprised to learn that Aleuts within the then-Territory of Alaska were submitted to equal, and in many cases, much worse, conditions in a relocation that was initiated. and then essentially forgotten by the U.S. Government. To clear up any questions that remain in the minds of my colleagues, and to shed light on the Aleuts' tragic experience during World War II, I should like to enter into the RECORD the following testimony, submitted during hearings on this same legislation earlier this year before the Subcommittee on Administrative Law and Governmental Relations of the Committee on the Judiciary:

COMMISSION ON WARTIME RELOCATION AND INTERNMENT OF CIVILIANS ACT

Mr. Chairman, Members of the Subcommittee, I appreciate this opportunity to submit a statement on the "Commission on Wartime Relocation and Internment of Civilians Act," a bill which has the support of our colleagues in the House and has been approved by the other body on May 22nd.

Mr. Chairman, a great injustice was suffered by one hundred twenty thousand American citizens and permanent resident aliens of Japanese ancestry during World War II. These citizens, in violation of their civil rights and human rights were relocated and detained in internment camps without any military justification. Their condition has long burdened the conscience of America. This legislation, which you hear today, will initiate an appropriate inquiry by a "blue ribbon" Commission, and lead to recommendations for appropriate relief. The Commission will make recommendations to ensure that no such action is taken by government in the future.

Although the plight of the Japanese-Americans is well known, it is little known that a large number of my constituents, the Native American Aleut people living in their ancestral homes on the Aleutian Chain and the Pribilof Islands, were removed by military orders in June 1942 and detained in camps in Southeastern Alaska until mid-1944.

Mr. Chairman, during Senate committee consideration of this bill, Senator Ted Stevens offered amendments to expand the mandate of the Commission to include an investigation of the facts surrounding the removal and internment of the Aleuts during the war. His amendments were approved by the committee, and the Senate-passed bill, containing the Stevens amendments, is now before your subcommittee.

The representatives of the Aleut people, Mr. Mike Zaharof, from St. Paul Island, and Mr. Phil Tutiakoff, from Unalaska, will testify today about conditions in the camps and the injustices suffered by nearly 1,000 Aleut citizens. They will submit for the record of these proceedings detailed materials which describe the basis for Aleut relocation and detention. They will appeal to this subcommittee to include the Aleut experience in the mandate of the Commission under this bill.

Mr. Chairman, Japanese war messages intercepted in April 1942 indicated that an attack would be made on the Aleutian Islands, probably sometime in early June. On June 2, a part of the enemy force was sighted approximately 400 miles south of Kiska Island by a U.S. Navy plane. Early on June 3, the Japanese bombed Dutch Harbor (Unalaska). The Navy facilities there, and the army's Fort Mears were again bombed on June 4. And at 1:00 a.m. on June 8, 1942, units of the Imperial Japanese Army made an unopposed landing at Holtz Bay, on Attu Island. Kiska Island was subsequently occupied by the Japanese as well.

These events initiated the chain which led to the removal and the internment of the Aleut people. Local military commanders decided to clear the islands of the Native Americans living there. On Atka, the crew of the U.S.S. *Gillis* destroyed the village by fire, and the Aleuts were evacuated by aircraft. The U.S.S. *Hulbert*, operating in Nazan Bay, evacuated about 60 Aleuts. These events occured on June 12. And on June 16, the evacuation of the Pribilof Islands was accomplished by an Army transport, the S.S. *Delarof*. On St. George, the cattle were shot; they were returned to the wild on St. Paul. The people were permitted to take very few possessions. When the *Delarof* sailed, the authorities had not yet decided where to land the Aleuts.

Although the initial decision to evacuate the Islands was not malicious, the following two years were a living nightmare for my constituents. They ultimately were interned in abandoned fish canneries and fishmeal plants, and in an abandoned gold mine in Southeastern Alaska. They were not provided with adequate shelter, medical supplies, or other facilities and equipment necessary to maintain health and life. There were epidemics of disease in the camps. Many citizens died from exposure and lack of medical care. They were neglected and nearly forgotten.

Military censorship was invoked to ensure that the outside world knew nothing of the conditions under which the Aleuts were kept. The able bodied men were removed from the largest camps, at Funter Bay on Admiralty Island, for work details back on the Pribilof Islands, from whence they came. But the old men, the women and children, were kept in the camps unable to care for themselves. Wholesale disease and death was the result.

Mr. Chairman, soon after the evacuation it became apparent the Japanese had abandoned any plans for occupation of the Aleutian Chain. There was no military necessity for keeping Aleut civilians, or other civilians, from returning to their homes. Of course, only the Aleuts and some Interior Department employees had been evacuated. The non-Native civilian population in the Dutch Harbor-Unalaska area was permitted to remain, while the Native Aleut population was kept segregated in the camps.

The wanton disregard for the health and welfare of the Aleut civilians, for a two year period in the government camps, is a disgrace and is well documented in materials assembled from the U.S. archives by the Aleutian/Pribilof Islands Association, the legally-recognized representative of the Aleut people. The segregation of this race of people, while others had access to their homes, was a denial of civil rights and due process. There has been no compensation for the massive losses suffered by the Aleut people during those tragic times.

Mr. Chairman, I urge your subcommittee to approve the language contained in the Senate-passed bill which includes the Aleut experience as a basis for Commission review and action. I urge you to report the Senate-passed bill so that this Commission can be established, and begin work, at the earliest possible time.

Only after a full disclosure, on the public record, of the injustices suffered by the Japanese-Americans and the Aleuts, can this Nation determine the proper remedies and ensure that similar racially-motivated official actions do not again occur.

Thank you, Mr. Chairman.●

● Mr. AKAKA. Mr. Speaker, I rise in strong support of H.R. 5499, the Wartime Relocation and Internment of Civilians Act. As Congressman from Hawaii, with over 250,000 Japanese American citizens, I share with the gentleman from California (Mr. MINETA) the profound belief that a special factfinding commission must be established to finally determine, after these many years, whether wrongs were inflicted upon more than 120,000 Japanese Americans innocently caught up in the hysteria of the Second World War.

In 1941, the United States was caught almost completely unprepared by a potential military adversary of long standing. Our Nation's defense was so inadequate and overstretched that the Japanese military leaders had good reason to believe that a surprise attack on Pearl Harbor would knock the United States out of the Pacific war before it really started. And since the United

States could not immediately respond to the attack on the field of battle, our leaders, both civilian and military, responded by incarcerating 100,000 or more of their fellow citizens, solely on account of their national origin.

Ironically, in Hawaii, the site of Pearl Harbor, Japanese Americans on the whole fared better than their mainland counterparts; 1,444 were actually interned, and the internment camps were located on the mainland, not in Hawaii. As Hawaiians, we were proud of a special battalion, the 100th comprised of Nisei National Guards, men and draftees from Hawaii, and our pride multiplied after the exploits at Anzio and elsewhere of our own 442d Regimental Combat Team, entirely made up of young Hawaiians of Japanese descent.

Unfortunately, Hawaii was not untouched by the anti-Japanese hysteria that marked the early days of World War II. The territory was placed under control of the military, until the Government's martial law decree was thrown out as unconstitutional by the U.S. Supreme Court.

Perhaps like the Court, the proposed factfinding commission will find that the internment program of the Second World War was excessive and that the essential rights and liberties which the Constitution guarantees each and every one of us were wrongfully abridged as the Nation and her leaders scrambled for their very existence in the days, weeks, and months that followed Pearl Harbor.

If that is so, then we in the Congress will have to consider our duty to right those wrongs in an appropriate and responsible way. In the meantime, however, we can, and we must, take action necessary to assure that the United States will never again be unprepared for war. In this way, we can guarantee our fellow citizens that in the event of a military attack, the U.S. response will not be against our own citizens and the resident aliens who have voluntarily placed themselves under our protection. Instead our response, sure and swift, will be against the aggressor on the battlefield.●

● Mr. LEWIS. Mr. Speaker, I rise in support of H.R. 5499, to establish a Commission on Wartime Relocation and Internment of Civilians. I believe this legislation reflects an attempt by the Congress to provide a national focus on the wrongs done to Japanese American citizens and permanent resident aliens of Japanese ancestry during World War II.

This episode was undoubtedly one of the most controversial in our history. Thousands of American citizens and Japanese nationals were deprived of their liberty and property without due process of law.

Several weeks ago the Subcommittee on Administration Law and Governmental Relations held a hearing on this subject and received testimony from various witnesses. Those witnesses presented a compelling case for the creation of this Commission. The committee heard of cases in which Americans of Japanese descent were stripped of their worldly possessions and forced to relocate in internment camps, many miles from their homes on very short notice. It is still shocking to me that this deprivation of liberty and the taking of property from those Japanese Americans took place without court trials, without any accusations being brought by the Government and without any findings of wrongdoing by those Americans.

The bill we are considering would establish a Commission on Wartime Relocation and Internment of Civilians as you know. This proposed seven-member body would study the circumstances surrounding the exclusion orders issued by the military commanders under Executive Order 9066 which led to the Japanese internment in 1942. The Commission would also hold hearings and consider what recommendations, if any, should be made to the Congress.

It is our responsibility to educate the American people about this period of history and provide a forum by which we can assure that these acts will not happen again.

In closing, I am reminded of the words of Jean Jacques Rousseau who said:

> Free people remember this maxim: We may acquire liberty, but it is never recovered if it is once lost.

I urge my colleagues to support H.R. 5499.●

● Mr. BROOMFIELD. Mr. Speaker, 38 years ago, a grave injustice was perpetrated by this country upon 120,000 Americans of Japanese ancestry and Japanese resident aliens when, by Executive order, their constitutional rights were suspended, and they were uprooted and incarcerated for no reason other than their Japanese ancestry.

While some may cosign this act to an aberration resulting from wartime hysteria following the bombing of Pearl Harbor, there are important lessons to learn from this period in our history—lessons that have serious implications regarding the constitutional safeguards that protect all of us today.

The fact-finding Commission, proposed in the legislation before us, can serve to help us learn from the experiences that took place 38 years ago.

Many Americans have either forgotten or have never known about this tragic period in our history. Focusing upon this period can serve to remind us just how fragile our civil liberties really are. If they are not constantly protected and nurtured, they may one day prove to be nothing more than eloquent but hollow words on the paper that is our Constitution.

More importantly, it is my greatest hope that from the work of the Commission and with the understanding derived from its findings, we can assure that such an act will never happen in this country again.

It would be a serious injustice to those who suffered in the camps 38 years ago and to those who continue to bear the scars today if the Commission were to examine this tragic episode as a single, limited incident that occurred in our past. That abridgement of civil liberties and that incarceration and suffering can only be given meaning if it can serve to point the way in preventing its reoccurrence.

Finally, Mr. Speaker, the work of this Commission would have particular meaning and significance to those Japanese Americans who were incarcerated, and to their children.

For many Japanese Americans, the Commission's work would help provide some of the answers to questions long left unanswered. Certainly historians, constitutional scholars, those who were the victims of this injustice, and the grown children of those internees have written about that period in our history and have tried to explain it.

However, the questions remain, for there is no official explanation as to how the decision was made at the highest levels of government to evacuate and intern only Japanese Americans and Japanese alien residents. Neither is there an explanation as to what rationale was employed to justify trampling upon the civil liberties guaranteed in our Constitution and what the long-term effects of that action are today.

There are some, Mr. Speaker, who argue that Italian and German Americans also suffered from discrimination and hatred during the Second World War. They ask how the treatment of these ethnic groups differed from the Japanese Americans.

To these people I would say that there is a great difference. Only in the case of Japanese Americans and the Japanese resident aliens did the Federal Government, through each of its three branches, suspend the Constitution and deny them their civil rights.

There are others who would point out that approximately $38 million has already been paid as compensation for property loss under the Evacuation Claims Act. Further, under the legislative mandate in the bill, the Commission is to consider the various redress proposals that have been suggested and which could cost the Government an additional $4 billion.

I believe there is a difference between compensation for property loss—compensation that was only about one-tenth of the proven value of the property loss—and payment as a redress for injustice done by the Government. However, this bill does not take a position on any form of compensation but only instructs the Commission to study the various proposals and to make recommendations to this body.

While it seems to me that the assignment of a dollar value to the loss of one's civil liberties and to the suffering and doubt that existed during those years of incarceration can only cheapen the meaning of those experiences, it would be for the Commission to make its recommendations, and it will be for the Congress to determine the appropriateness of those recommendations.

Mr. Speaker, I support the passage of this bill, H.R. 5499, and the establishment of the Commission on Wartime Relocation and Internment of Civilians. I believe that we, as a Nation, can greatly benefit from its proposed work, for if we do not study the past and learn from our mistakes, we will be doomed to repeat those mistakes.●

GENERAL LEAVE

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. DANIELSON) that the House suspend the rules and pass the bill, H.R. 5499, as amended.

The question was taken.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

CHILD NUTRITION AMENDMENTS OF 1980

Mr. FORD of Michigan. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7664) to amend the National School Lunch Act and the Child Nutrition Act of 1966 to extend the authorizations of appropriations contained in such acts, and for other purposes.

The Clerk read as follows:

H.R. 7664

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Child Nutrition Amendments of 1980".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. (a) The National School Lunch Act is amended—

(1) in section 13(p), by striking out "for the fiscal years beginning October 1, 1977, and ending September 30, 1980" and inserting in lieu thereof "For the fiscal year ending September 30, 1978, and for each succeeding fiscal year ending on or before September 30, 1985"; and

(2) in section 14(a), by striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1985".

(b) The Child Nutrition Act of 1966 is amended—

(1) in section 5(e), by striking out "fiscal years ending September 30, 1978, September 30, 1979, and September 30, 1980" and inserting in lieu thereof "fiscal year ending September 30, 1978, and for each succeeding fiscal year ending on or before September 30, 1985";

(2) in section 7(e), by striking out "and the succeeding fiscal year" and inserting in lieu thereof "and for the six succeeding fiscal years";

(3) in section 7(i), by striking out "For the fiscal years beginning October 1, 1977, and ending September 30, 1980" and inserting in lieu thereof "For the fiscal year ending September 30, 1978, and for each succeeding fiscal year ending on or before September 30, 1985";

(4) in section 17(c)(2), by striking out "for the fiscal years ending September 30, 1981, and September 30, 1982" and inserting in lieu thereof "for the fiscal year ending September 30, 1981, and for each succeeding fiscal year ending on or before September 30, 1985";

(5) in the first sentence of subsection (g), by inserting "and such sums as may be necessary for the three subsequent fiscal years," before "for the purpose";

(6) in section 17(h)(2), by striking out "through 1982" and inserting in lieu thereof "through 1985"; and

(7) in section 19(j)(2), by striking out "For the fiscal year beginning October 1, 1979" and inserting in lieu thereof "For the fiscal year ending September 30, 1980, and for each succeeding fiscal year ending on or before September 30, 1985".

SEVERE NEED ASSISTANCE UNDER THE SCHOOL BREAKFAST PROGRAM

SEC. 3. (a) Section 4 of the Child Nutrition Act of 1966 is amended by adding at the end the following new subsection:

"(h) If in any school year the parents of not less than 10 per centum of the children enrolled in any school submit a petition to the governing authority of the school requesting that a school breakfast program be implemented, the governing authority of the school shall determine and announce to the public, within one hundred and twenty days after receipt of the petition, whether it shall implement the breakfast program in such school. No determination by a school governing authority to refuse to implement a school breakfast program for which a petition has been submitted under this subsection shall become final until the governing authority has held a public hearing, for which adequate notice was provided to all parents of children attending the school, on the advisability of implementing the breakfast program at such school.".

OUTREACH FOR SCHOOL BREAKFAST PROGRAM

SEC. 4. (a)(1) Section 11(e) of the National School Lunch Act is amended—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(B) by inserting after paragraph (1) the following paragraph:

"(2)(A) The plan required under paragraph (1) shall also include a component pertaining to the school breakfast program which sets forth the manner in which the State educational agency shall inform schools serving low-income areas about the school breakfast program, shall encourage the participation of such school in that program, and shall comply with the requirements of subparagraph (B). The component required under this paragraph shall include the information described under clauses (i) and (ii), and, to the extent permitted by data available to the State education agency, the information described under clauses (iii) and (iv):

"(i) The number of schools in the State that qualify for severe need reimbursement under section 4(d) of the Child Nutrition Act of 1966; the number of such schools that received such reimbursement during the year preceding the year in which the plan required under paragraph (1) is in effect; and the number of schools that are anticipated as being eligible for such reimbursement for the year subsequent to the year in which such plan is in effect.

"(ii) The number of schools in the State which qualify for food service equipment under section 5(e) of the Child Nutrition Act of 1966; and the number of such schools that received such assistance during the year preceding the year in which the plan required under paragraph (1) is in effect.

"(iii) The schools (listed by the school district in which they are located) which will initiate the breakfast program during the year in which the plan required under paragraph (1) is in effect.

"(iv) The schools (listed by the school district in which they are located) which will not offer the breakfast program during the year in which the plan required under paragraph (1) is in effect and which serve 25 per centum or more of their school lunches free or at reduced cost.

"(B) Each State educational agency shall encourage the participation of schools in the school breakfast program by initiating an outreach program, which shall include the following activities:

"(i) Preparation and dissemination of information about the breakfast program to schools serving low-income areas which do not offer such program.

"(ii) To the extent practicable, visits by personnel of the State educational agency to schools servicing low-income areas which do not offer the breakfast program to discuss the program with appropriate school officials and personnel and to encourage and assist such schools to participate in the program.

"(iii) Provision of information about the breakfast program to the general public (particularly in areas with a concentration of low-income families), including parent-teacher organizations, parental school advisory councils, and other interested groups, and provision of such information to the print and broadcast media."; and

(C) by adding at the end thereof the following new paragraph:

"(5) The State plan required under this subsection shall be made available by the Secretary and by the State educational agency for inspection by the public at reasonable times.".

(2) The amendment made by paragraph (1)(B) of this subsection shall be effective with respect to State plans submitted by each State on or around May 15, 1982, except that State educational agencies shall be required to carry out the provisions of section 11(e)(2)(B) of the National School Lunch Act (as added by such amendment) to the extent practicable during the school year beginning after June 30, 1981.

(b) Section 5 of the Child Nutrition Act of 1966 is amended by inserting "(1)" after "(c)" and by adding at the end thereof the following new paragraph:

"(2) The State educational agency shall make available to the public a list of those schools which have received food service equipment assistance under this section. In the listing the schools shall be grouped according to the school district in which they are located. The listing required under this paragraph shall be updated annually.".

SUMMER FOOD PROGRAM SPONSORS

SEC. 5. Section 13(a)(4) of the National School Lunch Act is amended by redesignating subparagraphs (A) through (E) as clauses (i) through (v), respectively, by inserting "(A)" after "(4)", and by adding at the end the following new subparagraphs:

(B) If a school given funding priority under subparagraph (A)(i) of this paragraph has not notified the State by March 15 of any year that the school desires to operate the program, such school shall lose its funding priority under this paragraph. If any school given funding priority under subparagraph (A)(i) of this paragraph notifies the State after March 15 of any year that such school desires to operate the program and another service institution also proposes to serve the same area, the State shall select the service institution that the State determines shall operate the program most successfully.

"(C) Each State shall establish a date by which applications for funding for the program under this section must be submitted. A State may accept applications after such date only when the failure to do so would deny the program to an area with poor economic conditions or would deny access to the program to a significant number of needy children.".

FOOD SERVICE EQUIPMENT FOR SCHOOLS

SEC. 6. Section 5(f) of the Child Nutrition Act of 1966 is amended—

(1) by amending paragraph (1) to read as follows:

"(f)(1) Funds made available to schools under this section shall be used only—

"(A) for facilities which enable the schools to prepare and cook meals, or receive meals, at the schools;

"(B) for a kitchen which (i) serves the schools, and (ii) is operated by a local school district, by a non-profit private school, or by the authority responsible for the administration of one or more such schools; or

"(C) to enable public or private non-profit institutions, under the conditions described under paragraph (2), to provide the school lunch or breakfast for children attending such schools."; and

(2) in paragraph (2), by striking out "hot".

AMENDMENTS TO THE CHILD CARE FOOD PROGRAM

SEC. 7. Section 17 of the National School Lunch Act is amended in subsection (g) by adding at the end the following new paragraph:

"(5) The State shall use appropriate bilingual materials whenever (A) the State conducts outreach activities to encourage participation in the program, or (B) provides to institutions participating in the program (or to other eligible institutions) informational services, including information on nutrition education, menu-planning, food preparation, and the training of local administrative personnel.".

AMENDMENTS TO THE SPECIAL SUPPLEMENTAL FOOD PROGRAM

SEC. 8. (a) Section 17(f)(33) of the Child Nutrition Act of 1966 is amended to read as follows:

"(3)(A) Each State agency shall set aside program funds in an amount sufficient to serve migrant farmworkers, taking into account (i) both the number of migrant farmworkers eligible to participate in the program who reside or are employed in the State and the number anticipated to enter the State during the year, (ii) the length of time such persons will remain in the State, and (iii) the projected administrative costs required to carry out services for such persons under this paragraph. The State agency may make such reserved funds available to local agencies which intend to initiate the program in areas in which large numbers of migrant farmworkers reside or are employed. In determining which local agencies may receive funds under this paragraph, the State agency shall give preference to the following entities serving areas most severely impacted by a substantial migrant farmworker population: migrant farmworker health agencies, and migrant or seasonal farmworker organizations having access to health services. In the State plan required under paragraph (1), the State agency shall describe the manner in which it intends to spend the funds set aside under this subparagraph. In developing the portion of the State plan required under this subparagraph, the State agency shall consult with appropriate migrant and seasonal farmworker organizations.

"(B) The Secretary shall evaluate the projections made by each State of funds required to provide services to migrant farmworkers in order to ensure that the amount of funds so reserved is sufficient, and the Secretary shall ensure that such funds are made available by the State agency to provide such services, as described under the State plan. The Secretary shall also establish procedures under which migrant farmworkers who have been certified to participate in the program shall, to the maximum extent practicable, continue to receive program benefits in a timely manner whenever they leave one State or project area implementing the program and travel to another such State or area.

"(C) The State, acting together with migrant and seasonal farmworker organizations, shall conduct outreach services in areas where large numbers of migrant farmworkers reside or are employed. The State may use the administrative funds provided under subsection (h) to pay the expenses incurred by such organizations in providing such outreach services.

"(D) As soon as possible after the date of the enactment of the Child Nutrition Amendments of 1980, the Secretary shall establish a definition for the term 'migrant farmworker', which definition shall be uniformly applicable to all programs serving such farmworkers under this paragraph.".

(b) Section 17(h) of the Child Nutrition Act of 1966 is amended—

(1) in paragraph (2), by adding at the end the following sentence: "The Secretary may make additional amounts available to the States based on the number of local agencies serving migrant farmworkers and the number of such farmworkers served."; and

(2) by adding at the end the following new paragraph:

"(5) To those local agencies which demonstrate to the satisfaction of the State agency that advance funding of administrative expenses is necessary to administer the program in an effective and efficient manner, the State agency shall forward in advance an amount equal to the projected administrative costs of such agencies for a period, as determined by the State agency, of not more than three months.".

(c) Section 17(i) of the Child Nutrition Act of 1966 is amended by inserting "(1)" after "(i)" and by adding at the end the following new paragraphs:

"(2) Within forty-five days of any reallocation of funds by the Secretary from one State to another, each State agency shall determine whether any of its local agencies are unable to spend the funds allocated to them. If any of such local agencies are deemed unable to spend their full allocation, the State agency shall reallocate the projected unexpended funds to either new local agencies in the State or to local agencies in the State that are seeking, and have the capability, to serve additional eligible persons.

"(3) In making any determinations under paragraph (1) with respect to the reallocation of funds, the Secretary shall take into account any unexpected changes in the movement of migrant farmworkers from one State to another. The Secretary shall not reallocate unspent program funds set aside by a State for services for migrant farmworkers under subsection (f)(3) if there is a likelihood that such funds will be spent during the fiscal year for such services. If the Secretary determines to reallocate any such funds, the Secretary shall give first preference for such funds to States that need additional funds to provide services to migrant farmworkers.".

SCHOOL LUNCH PROGRAM ADMINISTRATION

SEC. 9. Section 9(b) of the National School Lunch Act is amended by adding at the end thereof the following new paragraph:

"(3) The Secretary shall provide to State agencies, and to schools for which the Secretary directly administers the school lunch program, materials describing those programs which have been most successful in avoiding the physical segregation of, overt identification of, or other discrimination against children eligible for free or reduced-price lunches. Such State agencies shall ensure that such materials are provided to all schools participating in the school lunch program under this Act (other than the schools for which the Secretary directly administers the program).".

NATIONAL ADVISORY COUNCIL

SEC. 10. Section 15 of the National School Lunch Act is amended—

(1) in the first sentence of subsection (a), by striking out "nineteen" and inserting in lieu thereof "twenty-one";

(2) in the second sentence of subsection (a), by inserting "two members shall be involved in the conduct or supervision of school lunch programs in nonprofit private schools," after "classroom teacher,"; and

(3) in subsection (b), by striking out "fifteen" and inserting in lieu thereof "seventeen".

SCHOOL LUNCH ELGIBILITY STUDY

SEC. 11. Section 18 of the National School Lunch Act is amended by inserting "AND SCHOOL LUNCH ELIGIBILITY STUDY" after "STUDY" in the section heading, by inserting "(a)" after "SEC. 18.", and by adding at the end thereof the following new subsection:

"(b)(1) The Secretary shall conduct a study to determine (A) the threshold at which it becomes cost effective to provide free lunches to all children attending a school in which a large percentage of children receive free or reduced-price lunches, and (B) the threshold at which it becomes cost effective to provide free lunches to all children attending schools within the jurisdiction of a local educational agency in any case in which a large percentage of children attending such schools receive free or reduced-price lunches. In conducting the study, the Secretary shall consider the administrative savings which would result from providing free lunches as described in the preceding sentence, the additional operating costs which would be incurred from carrying out any such program, and such other factors as the Secretary may consider relevant to the determination of cost effectiveness.

"(2) To carry out this subsection, the Secretary shall use only those funds generally made available to the Department of Agriculture for purposes of Research and Development for fiscal years 1981 or 1982 (or both).".

FOOD PROGRAM GUIDELINES

SEC. 12. The Child Nutrition Act of 1966 is amended by adding at the end the following new section:

"PROGRAM GUIDELINES

"SEC. 21. The Secretary shall prepare guidelines relating to the programs under sections 3 and 4 of this Act, the school lunch program under the National School Lunch Act, and the programs under sections 13 and 17 of such Act, to suggest the manner in which the objectives of such programs can best be achieved by school food authorities and other institutions participating in such programs. These guidelines shall include the following information: (1) the extent and type of parent and student involvement in such programs; (2) and evaluation of different kinds of meal delivery, food preparation, and food processing methods; (3) the environment most suitable for providing meals under such programs, including the type of ventilation, the space required for each child, and proper lighting; and (4) the types of foods and meals which provide the best nutrition. The Secretary shall revise the guidelines under this section at least annually.".

PARENT AND STUDENT PARTICIPATION

SEC. 13. The Child Nutrition Act of 1966 is amended by adding at the end (after section 21 as added by section 12 of this Act) the following section:

"PARENT AND STUDENT PARTICIPATION

"SEC. 22. School food authorities that operate the school lunch program under the National School Lunch Act or the school breakfast program under section 4 of this Act, and institutions that operate programs under section 13 or 17 of the National School Lunch Act, shall promote activities to involve students and parents in such programs. Activities which may be conducted under this section may include program promotion, involvement of student and parents in menu planning or in the enhancement of the eating environment, or related community support activities. Each school and institution participating in any program referred to in the first sentence of this section is encouraged to establish a parent-student advisory committee to assist the school or institution to improve the quality of the food program which it sponsors, to increase participation in the program by eligible individuals, and to increase the consumption of nutritional foods.".

CONGRESSIONAL REVIEW

SEC. 14. (a) The National Lunch Act is amended by redesignating the second section 22 contained in such Act as section 23 and by adding at the end of such Act the following new section:

"CONGRESSIONAL REVIEW

"SEC. 24. (a) (1) Concurrently with the publication in the Federal Register of any final regulation of general applicability under this Act or under the Child Nutrition Act of 1966, such regulation shall be transmitted to the Speaker of the House of Representatives and the President of the Senate. Such regulation shall become effecive not less than 45 days after such transmission unless the Congress shall, by concurrent resolution, find that the regulation is inconsistent with the Act from which it derives its auhority, and disapprove the regulation.

"(2) The failure of the Congress to adopt a concurrent resolution under paragraph (1) with respect to any final regulation under this Act or under the Child Nutrition Act of 1966 shall not represent, with respect to such regulation, an approval or finding of consistency with the Act from which the regulation derives its authority for any purpose, nor shall such failure to adopt a concurrent resolution be construed as evidence of an approval or finding of consistency necessary to establish a prima facie case, or an inference or presumption, in any judicial proceeding.

"(3) For purposes of this section, the term 'regulation' means any rule, regulation, guideline, interpretation, or requirement of general applicability.

"(b) The forty-five-day period specified in subsection (a) shall be deemed to run without interruption except during periods when either House is in adjournment sine die, in adjournment subject to the call of the Chair, or in adjournment to a day certain for a period of more than four consecutive days. In any such period of adournment, the forty-five days shall continue to run, but if such period of adjournment is thirty calendar days or less, the forty-five-day period shall not be deemed to have elapsed earlier than ten days after the end of such adjournment. In any period of adjournnment which lasts more than thirty days, the forty-five-day period shall be deemed to have elapsed after thirty calendar days has elapsed unless, during those thirty calendar days, either the Committee on Education and Labor of the House of Representatives or the Committee on Agriculture, Nutrition, and Forestry of the Senate (or both) shall have directed its chairman, in accordance with the rules of the committee and the rules of that House, in transmit to the Secretary of Agriculture a formal statement of objection to the final regulation. Such letter shall suspend the effective date of the final regulation until not less than twenty days after the end of such adjournment, during which the Congress may enact the concurrent resolution provided for in this section. In no event shall the final regulation go into effect until the forty-five-day period shall have elapsed, as provided for in this section, for both Houses of the Congress.

"(c) Whenever a concurrent resolution of disapproval is enacted by the Congress under the provisions of this section, the Secretary of Agriculture may issue a modified regulation to govern the same or substantially identical circumstances, but shall, in publishing such modification in the Federal Register and submitting it to the Speaker of the House of Representatives and the President of the Senate, indicate how the modification differs from the final regulation earlier disapproved, and how the agency believes the modification disposes of the findings by the Congress in the concurrent resolution of disapproval.".

(b) The amendment made by subsection (a) of this section shall be effective with respect to (1) any regulation (or amendment thereto) promulgated on or after the date of the enactment of this Act, and (2) any regulation relating to the Assessment, Improvement, and Monitoring System, for which system a proposed rule was published in the Federal Register on September 14, 1979.

REPORTS ON NUTRITION STUDIES

SEC. 15. The National School Lunch Act is amended by adding at the end thereof (after section 24 as added by section 14 of this Act) the following:

"REPORTS ON NUTRITION STUDIES

"SEC. 25. During fiscal years 1981 through 1985 the Secretary of Agriculture shall submit annual reports to appropriate committees of the Congress listing any projects or studies being conducted by the Department of Agriculture (either directly or through grants or contracts) relating to feeding programs or to nutrition generally. The Secretary shall include in such submissions a brief description of the project or study and a statement of its status.".

The **SPEAKER** pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Michigan (Mr. FORD) will be recognized for 20 minutes, and the gentleman from Pennsylvania (Mr. GOODLING) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. FORD).

Mr. **FORD** of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. **FORD** of Michigan. Mr. Speaker, today we are calling up for consideration H.R. 7664, the Child Nutrition Amendments of 1980.

This legislation extends through fiscal year 1985 certain child nutrition programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966. The bill also contains amendments to these programs designed to strengthen their administration and maximize their effectiveness.

H.R. 7664 extends three programs whose authorizations expire at the end of this fiscal year: The summer food service program, the nutrition education and training program, and the funding authority for State administrative expenses. The committee bill also reauthorizes the reservation of funds under the food service equipment assistance program.

In addition, H.R. 7664 extends two programs which expire at the end of fiscal year 1982: the supplemental food program for women, infants, and children—generally referred to as the WIC program; and the commodity purchasing authority under section 14 of the National School Lunch Act.

H.R. 7664 extends all of these programs through fiscal year 1985 so that Congress may have the opportunity to comprehensively review all the nonpermanent child nutrition programs together at one time.

I want to point out that in the child nutrition legislation that was sent up to Congress in March, the administration recommended that these expiring programs be extended. I might also add that on July 26 the Senate Agriculture Committee reported out S. 2675, a companion bill to H.R. 7664, that extends these programs through fiscal year 1984.

Although the most significant feature of H.R. 7664 is the reauthorization of the expiring programs, the other amendments that are included in the committee bill will have a very positive impact on the overall operation of the programs. These provisions are intended to not only strengthen program administration but also provide greater incentives for program expansion and the optimal use of program funds.

Under the provisions of the bill, the WIC program is amended to allow for the reallocation of local funds and to authorize advance program payments to operating WIC clinics. In addition, the bill requires States to set aside program funds to serve migrant populations and conduct outreach in areas where migrant workers reside or are employed.

H.R. 7664 amends the school breakfast program in an effort to promote program expansion. The bill requires that if 10 percent of the parents in a school request to have a school breakfast program, a school board must hold a public hearing if the request is denied. The bill also requires greater specificity in the State plan for school breakfast outreach efforts in low-income areas.

H.R. 7664 amends the summer food service program by establishing a date that would provide for the orderly determination of sponsors for local areas. The equipment assistance program is amended to provide equipment funds to schools with a satellite food service.

H.R. 7664 provides authority for Congress, through concurrent resolution to disapprove final child nutrition regulations. Finally, the bill directs the Secretary of Agriculture to submit an annual report to Congress on any ongoing departmental studies or projects relating to nutrition and to conduct a study on the cost-effectiveness of a universal feeding program.

I want to emphasize that the amendments contained in H.R. 7664 are intended to improve the overall cost-effectiveness of the child nutrition programs and they will in no way increase program costs. I would also mention that these amendments are noncontroversial and have broad-based, bipartisan support.

Mr. Speaker. H.R. 7664 reflects favorably on the Federal commitment to child nutrition. First, by extending the expiring programs through fiscal year 1985, Congress is providing a stability that will encourage the States and local agencies to reaffirm their commitment to these programs. Second, the other amendments contained in the committee bill, will provide program improvements that will insure a more efficient and effective means of meeting the nutritional needs of our Nation's children.

I urge my colleagues to pass this legislation.

Cost Estimate—Fiscal Year 1981

[In millions]

	1981
Summer Food Program:	
Required Budget Authority	$149
Estimated Outlays	134
State Administrative Allowance	
Required Budget Authority	38
Estimated Outlays	38
Nutrition Education	
Estimated Authorization Level	23
Estimated Outlays	19
WIC Program	
Estimated authorization	----
Estimated Outlays	----
Commodities Program	
Estimated authorization level	----
Estimated Outlays	----
Total budget authority	210
Total outlay	191

Mr. BAUMAN. Mr. Speaker, will the gentleman yield for a question?

Mr. FORD of Michigan. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, in reading over the summary of this bill I noticed it encompasses about $4.4 billion over a 5-year period in authorizations for various programs. Was there not an agreement between the majority and the minority leaders some time ago that bills under suspension would not exceed a certain amount—I believe $100 million? This is a rather large amount of money and, of course, no amendments are in order as a result of it being under suspension.

Mr. FORD of Michigan. I believe I should have made it more clear that this is a simple extension and is not a new authorization of programs. I am under the impression that if a program is going to be extended beyond some *x* millions, I forget the number, or a new program is to be created, it will not be created by suspension. But I do not believe the rule was intended for a simple extension of existing authorizations. We make no change in the authorizations in the bill.

Mr. BAUMAN. It would simply carry forward existing levels of spending for 5 years?

Mr. FORD of Michigan. Existing authorization. The levels of spending will be lessened by the action we have taken in reconciliation which cuts $500 million from these programs for fiscal 1981.

☐ 1630

Mr. BAUMAN. If the gentleman will yield further briefly, I would only say for my own part that I do not find it satisfactory when you have bills of $4.4 billion to bring them up under suspension because it does preclude any Member from offering amendments, and obviously this bill would be one on which Members might well wish to offer amendments.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Pennsylvania (Mr. Goodling).

Mr. GOODLING. Mr. Speaker, this bill simply extends authorizations for several existing child nutrition programs which expire on October 1, as the gentleman from Michigan (Mr. Ford) explained, such as funding for State administrative expenses, the food service equipment assistance program for needy schools, nutrition education and training, summer food service programs, and then it also extends two programs which expire in fiscal year 1982, the special supplemental food program for women, infants, and children, and the commodity purchasing authority under section 14 of the National School Lunch Act, which, of course, I have no respect for, and which the gentleman from Michigan (Mr. Ford) and I tried to do something about, and someday we may be successful and everybody will see the light in that if you can purchase 80 percent of your food locally, you should have the intelligence to do the other 20 percent.

These programs are extended through fiscal year 1985 in order to enable the committee to undertake a comprehensive review.

The bill also incorporates certain program improvements such as grants to the Congress, through concurrent resolution, authority to disapprove USDA child nutrition regulations, in other words, no legislation through regulation, which happens from time to time, too many times in fact.

It directs the Secretary of Agriculture to submit an annual report to Congress on any ongoing departmental or department-funded studies on child nutrition/school feeding programs. It requires the Secretary to distribute information to schools on model programs to provide for anonymity of low-income children receiving free or reduced school meals.

As the gentleman from Michigan (Mr. Ford) indicated, reconciliation will decrease these costs by over $500 million.

Mr. Speaker. I have no requests for time.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Michigan (Mr. Ford).

Mr. FORD of Michigan. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. Kildee).

Mr. KILDEE. Mr. Speaker, I rise in support of the motion to suspend the rules and pass H.R. 7664, the Child Nutrition Amendments of 1980. I believe that the Federal Government can make no finer use of its funds than to provide adequate nutrition for the children of our country.

H.R. 7664, extends through 1985 six child nutrition programs which otherwise would expire. Four of these programs expire this year:

The summer food service program;

The nutrition education program;

The food service equipment program; and

The authority for State administrative expenses.

Two of these programs expire in 1982:

The special supplemental food program for women, infants, and children (WIC) program; and

The standby commodity authority.

The bill also makes several improvements in the administration of these programs. For instance, school districts are encouraged to institute a breakfast program when at least 10 percent of the parents of children in schools request such a program.

This bill has bipartisan support in the committee, and the extension of all of these programs was requested by the administration.

Normally a bill like this would be expected to receive a unanimous vote in the House. However, some confusion has arisen this year because the administration and then the Congress in the first concurrent resolution on the budget have asked for a cutback of $½ billion on child nutrition funding.

I want to assure my colleagues that this bill does not contain any funding reductions. Nor does anything in the bill itself create additional program costs. It is simply a bill to give stability to existing child nutrition programs by extending them through 1985.

The House will deal with the separate issue of whether to make cutbacks in these programs in fiscal year 1981 when we consider the reconciliation bill which will be brought to the floor by the Budget Committee shortly. It will be during consideration of the Budget Committee bill that Members must decide whether these programs ought to be cutback for fiscal year 1981.

I make this point because I do not want any Members to be confused about the bill before us today. To repeat, it simply extends six existing child nutrition programs. This bill does not deal with funding reductions.

Therefore, I urge all the Members to vote for this bill before us today.

● Mr. GARCIA. Mr. Speaker, today we are considering legislation reauthorizing four child nutrition programs scheduled to expire at the end of fiscal year 1980: I speak of the Child Nutrition Amendments of 1980.

The child nutrition programs were enacted originally in the belief that it is in the best interest of this Nation to have healthy children capable of learning. I believe it made sense then, and it makes sense now. Kids deserve this effort to keep them healthy.

Now the "proposition 13" mentality is threatening the very existence of these programs, let alone their effectiveness. If anything these programs should be expanded, not threatened with reduction. It is not only a matter of which class of people will suffer the most with these cutbacks: but a matter of economics.

If these programs are not enacted, we will again be saying to the poor people of this Nation that they are to be the scapegoats for the failure of the Nation's economic policies. In this regard, it is ironic that spending in social programs is looked upon as inflationary, but an increase in defense spending makes sound fiscal policy.

In this time of inflation and Government belt-tightening, I think every effort should be made to cut waste, improve efficiency and where possible, reduce costs. But we should not undermine the heart of the child nutrition programs or damage their fundamental purpose of providing low-cost, high-quality, nutritious meals to all of the Nation's school children as an important part of our national resources. The commitment of the Congress has been, and should continue to be, to make the child nutrition programs the most effective programs possible, which demands that it benefit all of the Nation's schoolchildren. Effective learing occurs when children are capable of learning: There can be no learning when hunger is the continuous state of mind.

I urge my colleagues to vote for passage of H.R. 7664, the Child Nutrition Amendments of 1980.●

Mr. GOODLING. Mr. Speaker, I have no further requests for time, and yield back the remainder of my time.

Mr. FORD of Michigan. I have no additional requests for time. I yield back the remainder of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. FORD) that the House suspend the rules and pass the bill, H.R. 7664.

The question was taken; and on a division (demanded by Mr. BAUMAN), there were—yeas 13, nays 2.

So (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3 of rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order: H.R. 7511, H.R. 7394, House Concurrent Resolution 351, and H.R. 5499.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

VETERANS' COMPENSATION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 7511.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. MONTGOMERY) that the House suspend the rules and pass the bill, H.R. 7511, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 383, nays 1, not voting 49, as follows:

[Roll No. 402]

YEAS—383

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Bingham
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Heckler
Hefner
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marlenee
Marriott
Martin
Matsui
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Quillen
Rahall
Railsback
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—1

Beilenson

NOT VOTING—49

Anderson, Ill.
Andrews, N.C.
Bethune
Blanchard
Byron
Chisholm
Dodd
Downey
Edwards, Okla.
Ferraro
Frost
Gibbons
Gray
Hawkins
Heftel
Holtzman
Hubbard
Huckaby
Jones, Tenn.
Kogovsek
Leach, La.
Lent
Lott
Lundine
McEwen
Marks
Mathis
Mattox
Mavroules
Murphy, N.Y.
Myers, Pa.
Nolan
Oakar
Perkins
Pursell
Quayle
Rangel
Rostenkowski
Runnels
Santini
Sebelius
Smith, Iowa
Solarz
St Germain
Stokes
Udall
Wilson, Bob
Wilson, C. H.
Wilson, Tex.

☐ 1650

The Clerk announced the following pairs:

Mr. Jones of Tennessee with Mr. Andrews of North Carolina.

Mr. Dodd with Mr. Leach of Louisiana.

Ms. Ferraro with Mr. Quayle.

Mr. Mavroules with Mr. Bethune.

Mr. Santini with Mr. Frost.

Mr. St Germain with Mr. Lent.

Mrs. Chisholm with Mr. Sebelius.

Mr. Hawkins with Mr. Bob Wilson.

Mr. Mathis with Mr. Lott.

Mr. Murphy of New York with Mr. Charles H. Wilson of California.

Mr. Myers of Pennsylvania with Mr. Runnels.

Mr. Rostenkowski with Mr. Pursell.

Mr. Solarz with Mr. Hubbard.

Mr. Stokes with Mr. Edwards of Oklahoma.

Mr. Udall with Mr. Gibbons.

Mr. Mattox with Mr. Kogovsek.

Mr. Rangel with Mr. Charles Wilson of Texas.

Mr. Smith of Iowa with Mrs. Byron.

Mr. Blanchard with Mr. Heftel.

Ms. Holtzman with Mr. Gray.

Mr. Downey with Mr. Marks.

Mr. Lundine with Ms. Oakar.

Mr. Huckaby with Mr. Nolan.

Mr. Perkins with Mr. McEwen.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b)(3) of rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

VETERANS REHABILITATION AND EDUCATION AMENDMENTS OF 1980

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 7394, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. Hefner) that the House suspend the rules and pass the bill, H.R. 7394, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 383, nays 0, noting 50, as follows:

[Roll No. 403]

YEAS—383

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.,
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Bingham
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marlenee
Marriott
Martin
Matsui
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Quillen
Rahall
Railsback
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stark
Steed
Stenholm
Stewart
Stockman
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—50

Anderson, Ill.
Bethune
Blanchard
Byron
Chisholm
Conyers
Dodd
Downey
Edwards, Okla.
Ferraro
Frost
Gibbons
Gray
Hall, Ohio
Heftel
Holtzman
Hubbard
Huckaby
Jones, Tenn.
Kogovsek
Leach, La.
Lent
Lott
Lundine
McEwen
Marks
Mathis
Mattox
Mavroules
Murphy, N.Y.
Myers, Pa.
Nolan
Oakar
Perkins
Pursell
Quayle
Rangel
Rostenkowski
Runnels
Santini
Sebelius
Smith, Iowa
Solarz
St Germain
Stanton
Stokes
Udall
Wilson, Bob
Wilson, C. H.
Wilson, Tex.

□ 1700

The Clerk announced the following pairs:

Ms. Ferraro with Mr. Bethune.

Mr. Gray with Mr. Anderson of Illinois.

Mr. Jones of Tennessee with Mr. Pursell.

Mr. Rangel with Mr. Bob Wilson.

Mr. Rostenkowski with Mr. Quayle.

Mr. Santini with Mr. Lent.

Mr. St Germain with Mr. Edwards of Oklahoma.

Mr. Mavroules with Mr. Hall of Ohio.

Mr. Murphy of New York with Mr. Lott.

Mr. Myers of Pennsylvania with Mr. Sebelius.

Mr. Dodd with Mr. Marks.

Ms. Holtzman with Mr. McEwen.

Mr. Lundine with Mr. Runnels.

Mr. Stokes with Mr. Stanton.

Mr. Downey with Mr. Charles H. Wilson of California.

Mrs. Chisholm with Mr. Blanchard.

Mr. Mathis with Mr. Maddox.

Mr. Perkins with Ms. Oakar.

Mr. Heftel with Mr. Hubbard.

Mr. Kogovsek with Mr. Gibbons.

Mr. Smith of Iowa with Charles Wilson of Texas

Mr. Udall with Mr. Huckaby.

Mr. Solarz with Mr. Nolan.

Mrs. Byron with Mr. Leach of Iowa.

Mr. Frost with Mr. Conyers.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

TAX-FREE STATUS OF SOCIAL SECURITY BENEFITS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution (H. Con. Res. 351).

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. Ullman) that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 351) on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 384, nays 1, not voting 48, as follows:

[Roll No. 404]

YEAS—384

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Bingham
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman

Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marlenee
Marriott
Martin
Matsui
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Quillen
Rahall
Railsback
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—1

Beilenson

NOT VOTING—48

Anderson, Ill.
Andrews, N.C.
Bethune
Blanchard
Byron
Chisholm
Dodd
Downey
Edwards, Okla.
Ferraro
Frost
Gibbons
Gray
Heftel
Holtzman
Hubbard
Huckaby
Jones, Tenn.
Kogovsek
Leach, La.
Lott
Lundine
McEwen
Marks
Mathis
Mattox
Mavroules
Moorhead, Pa.
Murphy, N.Y.
Myers, Pa.
Nolan
Oakar
Perkins
Pursell
Quayle
Rangel
Rostenkowski
Runnels
Santini
Sebelius
Smith, Iowa
Solarz
St Germain
Stokes
Udall
Watkins
Wilson, C. H.
Wilson, Tex.

The Clerk announced the following pairs:

Ms. Ferraro with Mr. Lott.

Mr. Mathis with Mr. Pursell.

Mr. Mavroules with Mr. Sebelius.

Mr. Moorhead of Pennsylvania with Mr. McEwen.

Mr. Murphy of New York with Mr. Marks.

Mr. Myers of Pennsylvania with Mr. Leach of Louisiana.

Mr. St Germain with Mr. Bethune.

Mr. Stokes with Mr. Anderson of Illinois.

Mr. Santini with Mr. Maddox.

Mr. Rangel with Mr. Andrews of North Carolina.

Mr. Rostenkowski with Mr. Perkins.

Mr. Kogovsek with Mr. Runnels.

Mrs. Chisholm with Mr. Watkins.

Mr. Dodd with Mr. Charles H. Wilson of California.

Mr. Downey with Ms. Oakar.

Mr. Gray with Mr. Hubbard.

Mr. Heftel with Mr. Gibbons.

Ms. Holtzman with Mr. Edwards of Oklahoma.

Mrs. Byron with Mr. Blanchard.

Mr. Nolan with Mr. Huckaby.

Mr. Jones of Tennessee with Mr. Quayle.

Mr. Smith of Iowa with Mr. Charles Wilson of Texas.

Mr. Solarz with Mr. Frost.

Mr. Lundine with Mr. Udall.

So (two-thirds voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

COMMISSION ON WARTIME RELOCATION AND INTERNMENT OF CIVILIANS ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5499, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. DANIELSON) that the House suspend the rules and pass the bill, H.R. 5499, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 279, nays 109, not voting 45, as follows:

[Roll No. 405]

YEAS—279

Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Biaggi
Bingham
Boggs
Boland
Bolling
Boner
Bonior
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Carr
Carter
Cavanaugh
Clausen
Clay
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Danielson
Dannemeyer
Daschle
de la Garza
Deckard
Dellums
Derwinski
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Drinan
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Frenzel
Fuqua
Garcia
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Grisham
Guarini
Hall, Ohio
Hamilton
Hammerschmidt
Hanley
Hansen
Harkin
Harris
Hawkins
Heckler
Hinson
Hollenbeck
Horton
Howard
Hughes
Hyde
Ireland
Jacobs
Jeffords
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Kastenmeier
Kemp
Kildee
Kindness
Kostmayer
LaFalce
Lagomarsino
Leach, Iowa
Lederer
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marlenee
Marriott
Matsui
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nowak
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pepper
Petri
Peyser
Porter
Preyer
Price
Pritchard
Quillen
Railsback
Ratchford
Reuss
Rhodes
Richmond
Rinaldo
Rodino
Roe
Rose
Rosenthal
Rousselot
Roybal
Royer
Russo
Sabo
Sawyer
Scheuer
Schroeder
Seiberling
Sensenbrenner
Shannon
Sharp
Shumway
Simon
Skelton
Snowe
Spellman
Stack
Staggers
Stanton
Stark
Stewart
Stockman
Studds
Swift
Symms
Synar
Tauke
Tauzin
Thomas
Thompson
Traxler
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Waxman
Weaver
Weiss
White
Whitehurst
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Young, Alaska
Young, Mo.
Zablocki

NAYS—109

Abdnor
Ambro
Archer
Ashbrook
Barnard
Bauman
Beard, Tenn.
Bevill
Bonker
Brooks
Brown, Ohio
Butler
Campbell
Carney
Chappell
Cheney
Cleveland
Collins, Tex.
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Davis, Mich.
Davis, S.C.
Derrick
Devine
Dickinson
Duncan, Oreg.
Duncan, Tenn.
Early
Erlenborn
Evans, Ga.
Fenwick
Fountain
Fowler
Gaydos
Gramm
Gudger
Guyer
Hagedorn
Hall, Tex.
Hance
Harsha
Hefner
Hightower
Hillis
Holland
Holt
Hopkins
Hutchinson
Hutto
Ichord
Jeffries
Jenkins
Jenrette
Jones, N.C.
Kazen
Kelly
Kramer
Latta
Leath, Tex.
Lee
Loeffler
Martin
Miller, Ohio
Mitchell, N.Y.
Montgomery
Mottl
Murphy, Pa.
Nichols
O'Brien
Paul
Pease
Pickle
Rahall
Regula
Ritter
Roberts
Robinson
Roth
Rudd
Satterfield
Schulze
Shelby
Shuster
Smith, Nebr.
Snyder
Solomon
Spence
Stangeland
Steed
Stenholm
Stratton
Stump
Taylor
Trible
Walker
Watkins
Whitley
Whittaker
Winn
Wydler
Wylie
Yatron
Young, Fla.
Zeferetti

NOT VOTING—45

Anderson, Ill.
Bethune
Blanchard
Byron
Chisholm
Dodd
Downey
Edwards, Okla.
Ferraro
Frost
Gibbons
Gray
Heftel
Holtzman
Hubbard
Huckaby
Jones, Tenn.
Kogovsek
Leach, La.
Lott
Lundine
McEwen
Marks
Mathis
Mattox
Mavroules
Murphy, N.Y.
Myers, Pa.
Nolan
Oakar
Perkins
Pursell
Quayle
Rangel
Rostenkowski
Runnels
Santini
Sebelius
Smith, Iowa
Solarz
St Germain
Stokes
Udall
Wilson, C. H.
Wilson, Tex.

□ 1710

The Clerk announced the following pairs:

Ms. Ferraro with Mr. Bethune.

Mr. Jones of Tennessee with Mr. Leach of Louisiana.

Mr. Rangel with Mr. Pursell.

Mr. Santini with Mr. Lott.

Mr. St Germain with Mr. Marks.

Mr. Mavroules with Mr. Sebelius.

Mr. Lundine with Mr. Quayle.

Mr. Huckaby with Mr. Edwards of Oklahoma.

Mr. Dodd with Mr. Frost.

Mrs. Chisholm with Mr. Heftel.

Mr. Gray with Mr. Mathis.

Ms. Holtzman with Ms. Oakar.

Mr. Murphy of New York with Mr. Nolan.

Mr. Myers of Pennsylvania with Mr. McEwen.

Mr. Stokes with Mr. Udall.

Mr. Smith of Iowa with Mr. Charles H. Wilson of California.

Mr. Blanchard with Mr. Runnels.

Mr. Rostenkowski with Mr. Perkins.

Mr. Hubbard with Mr. Gibbons.

Mr. Downey with Mrs. Byron.

Mr. Kogovsek with Mr. Maddox.

Mr. Solarz with Mr. Charles Wilson of Texas.

Mr. CAMPBELL and Mr. HAGEDORN changed their votes from "yea" to "nay."

Mr. SKELTON changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from the further consideration of the Senate bill (S. 1647) to establish a commission to review the facts and circumstances surrounding Executive Order No. 9066, issued February 19, 1942, and the impact of such Executive order on American citizens and permanent resident aliens, to review directives of U.S. military forces requiring internment of Aleut civilians, and to recommend appropriate remedies, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1647

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Commission on Wartime Relocation and Internment of Civilians Act".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) approximately one hundred and twenty thousand civilians were relocated and detained in internment camps pursuant to Executive Order Numbered 9066, issued February 19, 1942, and other associated actions of the Federal Government;

(2) approximately one thousand Aleut civilian American citizens were relocated and, in some cases, detained in internment camps pursuant to directives of United States during World War II and other associated actions of the Federal Government; and

(3) no sufficient inquiry has been made into the matters described in paragraphs (1) and (2).

(b) It is the purpose of this Act to establish a commission to—

(1) review the facts and circumstances surrounding Executive Order Numbered 9066, issued February 19, 1942, and the impact of such Executive order on American citizens and permanent resident aliens;

(2) review directives of United States military forces requiring internment of Aleut civilians; and

(3) recommend appropriate remedies.

ESTABLISHMENT OF COMMISSION

SEC. 3. (a) There is established the Commission on Wartime Relocation and Internment of Civilians (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of seven members, who shall be appointed as follows:

(1) Three members shall be appointed by the President.

(2) Two members shall be appointed by the Speaker of the House of Representatives.

(3) Two members shall be appointed by the President pro tempore of the Senate.

(c) The term of office for members shall be for the life of the Commission. A vacancy in the Commission shall not affect its powers, and shall be filled in the same manner in which the original appointment was made.

(d) The first meeting of the Commission shall be called by the President within sixty days after the date of enactment of this Act.

(e) Four members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f) The Commission shall elect a Chairman and Vice Chairman from among its members. The term of office of each shall be for the life of the Commission.

(g) Each member of the Commission who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS–18 under the General Schedule contained in section 5332 of title 5, United States Code, for each day, including traveltime, he or she is engaged in the actual performance of his or her duties as a member of the Commission. A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

DUTIES OF THE COMMISSION

SEC. 4. (a) It shall be the duty of the Commission to—

(1) review the facts and circumstances surrounding Executive Order Numbered 9066, issued February 19, 1942, and the impact of such Executive order on American citizens and permanent resident aliens;

(2) review directives of United States military forces requiring internment of Aleut civilians; and

(3) recommend appropriate remedies.

(b) The Commission shall hold public hearings in Los Angeles, San Francisco, and Fresno, California; Portland, Oregon; Seattle, Washington; Anchorage, Unalaska, and Saint Paul, Alaska; Phoenix, Arizona; Salt Lake City, Utah; Denver, Colorado; Chicago, Illinois; New York, New York; Washington, D.C.; and in any other city that the Commission finds appropriate.

(c) The Commission shall submit a written report of its findings and recommendations to Congress not later than October 1, 1981.

POWERS OF THE COMMISSION

SEC. 5. (a) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this Act, hold such hearings and sit and act at such times and places, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandum, papers, and documents as the Commission or such subcommittee or member may deem advisable. The Commission may request the Attorney General to invoke the aid of an appropriate United States district court to require, by subpoena or otherwise, such attendance, testimony, or production.

(b) The Commission may acquire directly from the head of any department, agency, independent instrumentality, or other authority of the executive branch of the Government, available information which the Commission considers useful in the discharge of its duties. All departments, agencies, and independent instrumentalities, or other authorities of the executive branch of the Government shall cooperate with the Commission and furnish all information requested by the Commission to the extent permitted by law.

ADMINISTRATIVE PROVISIONS

SEC. 6. The Commission is authorized to—

(1) appoint and fix the compensation of such personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the compensation of any employee of the Commission may not exceed a rate equivalent to the rate payable under GS–18 of the General Schedule under section 5332 of such title;

(2) obtain the services of experts and consultants in accordance with the provisions of section 3109 of such title;

(3) enter into agreements with the Administrator of General Services for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and Administrator;

(4) procure supplies, services, and property by contract in accordance with applicable laws and regulations and to the extent or in such amounts as are provided in appropriation Acts; and

(5) enter into contracts with Federal or State agencies, private firms, institutions, and agencies for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of the duties of the Commission, to the extent or in such amounts as are provided in appropriation Acts.

TERMINATION

SEC. 7. The Commission shall terminate on February 1, 1982, unless extended by a subsequent Act of Congress.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. To carry out the provisions of this Act, there are authorized to be appropriated $1,500,000 for the period beginning October 1, 1980 and ending February 1, 1982.

MOTION OFFERED BY MR. DANIELSON

Mr. DANIELSON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DANIELSON moves to strike out all after the enacting clause of the Senate bill, S. 1647, and insert in lieu thereof the provisions of the bill, H.R. 5499, as passed.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to establish a Commission to gather facts to determine whether any wrong was committed against those American citizens and permanent resident aliens affected by Executive Order No. 9066, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 5499) was laid on the table.

ICA FILMS TO BE MADE AVAILABLE TO LBJ LIBRARY

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, I am today introducing a bill, and cosponsored by my colleague Jack Brooks, to make available to the Lyndon Baines Johnson Library those International Communication Agency films which relate to President Johnson. These films would be released to the Lyndon Baines Johnson Library in Austin, Tex., so that those films will be available for use for such purposes as the library deems appropriate.

It is the intention of the Lyndon Baines Johnson Library to make these films available for showing at the library and to be available for public TV, for schools and universities but not for any commercial use.

The films that have particular relevance are:

"A President's Country," "The President," "Lyndon Baines Johnson, President of the United States," "Bridge of Friendship & Faith," "The President of Upper Volta Visits America," "Journey to the Pacific," "A Day in Malaysia," "In Common Cause," "Guest of Honor," "A Day in April," "The Week End," "Johnsons in Mexico," "Asian Journey," "Common Purpose," "LBJ at San Antonio 1967," "Day of the Oath 1964 Inauguration," "Meeting at Glasboro."

These films are rich in historical detail that will be valuable to our schoolchildren. It is fitting that these films be available at the library to further the educational opportunities that the library affords.

A precedent for this exists in that Public Law 95–105 provided for the release of films and trims and outs of the films concerning John Fitzgerald Kennedy to the John Fitzgerald Kennedy Library in Boston, Mass.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2240) entitled "An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes."

The message also announced that the Senate insists upon its amendment to the bill (H.R. 6974) entitled "An act to authorize appropriations for fiscal year 1981 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for fiscal year 1981 for civil defense, and for other purposes," disagreed to by the House; and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Stennis, Mr. Jackson, Mr. Cannon, Mr. Harry F. Byrd, Jr., Mr. Nunn, Mr. Culver, Mr. Hart, Mr. Morgan, Mr. Exon, Mr. Levin, Mr. Tower, Mr. Thurmond, Mr. Goldwater, Mr. Warner, Mr. Humphrey, Mr. Cohen, and Mr. Jepsen to be the conferees on the part of the Senate.

□ 1720

GENERAL LEAVE

Mr. BENJAMIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 7593, legislative branch appropriations, and that I may be permitted to include extraneous and tabular matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

LEGISLATIVE BRANCH APPROPRIATIONS, FISCAL YEAR 1981

Mr. BENJAMIN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7593) making appropriations for the legislative branch for the fiscal year ending September 30, 1981, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Illinois (Mr. Michel) and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. Benjamin).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 7593, with Mr. Brooks in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

Under the unanimous-consent request agreement, the gentleman from Indiana (Mr. Benjamin) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. Michel) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Indiana (Mr. Benjamin).

Mr. BENJAMIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is a privilege for me to present the legislative branch appropriation bill for fiscal year 1981 to the House. Before we begin, I would like to express my thanks to the other members of the subcommittee for their help and support throughout the hearings and markup process. The members of the subcommittee include Mr. Smith of Iowa; Mr. Giaimo, of Connecticut; Mr. Obey, of Wisconsin; Mr. Michel, of Illinois, who has been very cooperative in his position of ranking minority member; Mr. Conte, of Massachusetts, the ranking minority member of the full Appropriations Committee; Mr. Rudd, of Arizona; and of course, Mr. Whitten, of Mississippi, who, as chairman of the Committee on Appropriations, is an ex-officio member of the subcommittee.

Mr. Chairman, I would like to pay special homage to a former subcommittee member whom we all dearly miss—the late John Slack of West Virginia.

Mr. Chairman, John Slack served the people of his district and the Nation for almost 20 years as a Member of Congress. He served as a member of the Appropriations Committee during that entire period of time, and as a member of the Legislative Branch Subcommittee in the 89th Congress, and until his untimely death, in the 96th Congress.

As a newly elected subcommittee chairman, I valued John Slack's friendship and counsel. His advice was always wise and useful—and his motives were humane and compassionate. As all of us do, I shall miss his help as we proceed through this debate today.

RECOMMENDATIONS FOR FISCAL YEAR 1981

Mr. Chairman, the bill we are considering today contains appropriations for fiscal year 1981 totaling $973,738,600, of which $565,064,600 is for congressional operations. These figures exclude appropriations for the operation of the Senate in accord with the long-term practice under which each body determines its own housekeeping requirements.

The budget requests considered by the committee total $1,056,551,700. The recommendation is $82,813,100 less than was requested. This is a reduction of 8 percent under the amounts presented in the President's budget. We have searched our records going back over 25 years and find, Mr. Chairman, this is the largest reduction in a legislative branch bill ever presented to this House.

The overall appropriations recommended are $598,863 less than the current year level. This is almost one-tenth of 1 percent less than the funds appropriated for fiscal year 1980.

Thus, we have actually reduced the size of the legislative branch budget. In the face of our recent 12-percent inflation rate, this budget is far below the amount necessary to keep up with the inflation in prices and wages.

In general, no increases for workload expansion have been allowed. It has been the general policy of the committee to provide the funds necessary for pay raises and other mandatory items and for a selected number of the increases made necessary because of rising prices. These increases have been offset by reductions in staffing, equipment, alterations, repairs, and in the potential effects of legislation.

The bill requires a 2.7-percent reduction in the projected level of legislative branch employment. But I believe we have been careful to insure that the essential operations necessary to support the Congress have been preserved.

Thus, while the Federal budget presented by the administration is up by 8.1 percent and, while the budget resolution calls for an increase in budget authority between fiscal year 1980 and fiscal year 1981 of 5.3 percent, we are bringing a legislative branch budget to the House that will result in a reduction of budget authority and spending between 1980 and 1981.

We are actually reducing the employment base in the legislative branch and we are reducing the overall size of the legislative branch.

Mr. Chairman, we can tell the taxpayers that the legislative branch is participating completely—as a matter of fact we are showing the way—in the very difficult task of balancing the fiscal year 1981 budget.

At this point in the RECORD under permission which I have already obtained, I will insert a tabulation detailing the committee recommendations in comparative form. The tabulation is a corrected version of the tables which appeared in the report, House Document 96-1098, which contained a few inaccuracies inadvertently printed by the Government Printing Office:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1980 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1981

[Excludes Senate items including those under Architect of the Capitol. All amounts are in the form of "appropriations" unless otherwise indicated.]

Agency and item	New budget (obligational) authority, fiscal year 1980[1]	Budget estimates of new (obligational) authority, fiscal year 1981[2]	New budget (obligational) authority, recommended in bill	Bill compared with— New budget (obligational) authority, fiscal year 1980	Bill compared with— Budget estima of new (obil tional) auth fiscal year
TITLE I—CONGRESSIONAL OPERATIONS					
HOUSE OF REPRESENTATIVES					
Payments to Widows and Heirs of Deceased Members of Congress					
Gratuities, deceased Members	$60,663			−$60,663	
Compensation and Mileage for the Members					
Compensation of Members	29,213,000	$29,254,300	$29,254,300	+41,300	
Mileage of Members	210,000	210,000	210,000		
Total, compensation and mileage for the Members	29,423,000	29,464,300	29,464,300	+41,300	
House Leadership Offices					
Office of the Speaker	602,700	602,700	602,700		
Office of the Majority Floor Leader	421,600	446,500	446,500	+24,900	
Office of the Minority Floor Leader	521,800	546,700	546,700	+24,900	
Office of the Majority Whip	459,600	459,600	459,600		
Office of the Minority Whip	359,400	359,400	359,400		
Total, House leadership offices	2,365,100	2,414,900	2,414,900	+49,800	
Salaries, Officers and Employees					
Office of the Clerk	8,960,900	9,680,000	9,680,000	+719,100	
Office of the Sergeant at Arms	13,782,800	14,308,500	14,308,500	+525,700	
Office of the Doorkeeper	4,829,800	5,084,800	5,084,800	+255,000	
Office of the Postmaster	1,363,500	1,403,100	1,403,100	+39,600	
Office of the Chaplain	52,800	52,800	52,800		
Office of the Parliamentarian	295,900	292,000	292,000	−3,900	
Compilation of precedents of the House of Representatives	210,000	190,000	190,000	−20,000	
Technical assistant, Office of the Attending Physician	34,700	34,700	34,700		
House Democratic Steering Committee	344,800	344,800	344,800		
House Democratic Caucus	90,900	103,800	103,800	+12,900	
House Republican Conference	594,000	448,600	448,600	−145,400	
Six minority employees	316,500	316,500	316,500		
L. B. J. interns and former Speakers' staff	686,300	692,900	692,900	+6,600	
Total, salaries, officers and employees	31,562,900	32,952,500	32,952,500	+1,389,600	
Committee Employees					
Professional and clerical employees (standing committees)	26,405,000	27,000,000	27,000,000	+595,000	
Committee on Appropriations (Studies and Investigations)					
Salaries and expenses	3,086,000	2,856,000	2,856,000	−230,000	
Committee on the Budget (Studies)					
Salaries and expenses	277,000	245,000	245,000	−32,000	
Office of the Law Revision Counsel					
Salaries and expenses	493,000	510,000	510,000	+17,000	
Office of the Legislative Counsel					
Salaries and expenses	2,086,000	2,097,000	2,097,000	+11,000	
Members' Clerk Hire					
Clerk hire	126,807,600	126,808,000	126,808,000	+400	
Contingent Expenses of the House					
Allowances and Expenses					
Official expenses of Members	39,418,800	43,049,000	43,049,000	+3,630,200	
Supplies, materials, administrative costs and Federal tort claims	3,483,600	7,545,000	7,545,000	+4,061,400	
Furniture and furnishings	2,079,000	2,480,000	2,000,000	−79,000	$−480,000
Reporting hearings	1,650,000	1,810,000	1,810,000	+160,000	
Reemployed annuitants reimbursement	661,500	1,709,000	1,709,000	+1,047,500	
Government contributions	15,656,400	16,052,000	16,052,000	+395,600	
Miscellaneous items	456,400	507,000	507,000	+50,600	
Total, allowances and expenses	63,405,700	73,152,000	72,672,000	+9,266,300	−480,000
Special and Select Committees					
Salaries and expenses	44,155,000	46,500,000	41,500,000	−2,655,000	−5,000,000
Total, contingent expenses of the House	107,560,700	119,652,000	114,172,000	+6,611,300	−5,480,000
Total, House of Representatives	330,126,963	343,999,700	338,519,700	+8,392,737	−5,480,000

See footnotes at end of table.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1980 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1981—Continued

[Excludes Senate items including those under Architect of the Capitol. All amounts are in the form of "appropriations" unless otherwise indicated.]

Agency and item	New budget (obligational) authority, fiscal year 1980 [1]	Budget estimates of new (obligational) authority, fiscal year 1981 [2]	New budget (obligational) authority, recommended in bill	Bill compared with—	
				New budget (obligational) authority, fiscal year 1980	Budget estimates of new (obligational) authority, fiscal year 1981
JOINT ITEMS					
Contingent Expenses of the Senate					
Joint Economic Committee	$2,749,000	$2,150,000	$2,150,000	−$599,000	
Joint Committee on Printing	864,000	794,000	760,000	−104,000	−$34,000
Total, contingent expenses of the Senate	3,613,000	2,944,000	2,910,000	−703,000	−34,000
Joint Committee on Taxation					
Salaries and expenses	2,519,000	2,670,000	2,632,000	+113,000	−38,000
Office of the Attending Physician					
Medical supplies, equipment, expenses, and allowances	459,000	503,900	503,900	+44,900	
Capitol Police					
General expenses	809,500	834,000	834,000	+24,500	
Capitol Police Board	1,263,000	1,351,600	915,000	−348,000	−436,600
Total, Capitol Police	2,072,500	2,185,600	1,749,000	−323,500	−436,600
Education of Pages					
Education of congressional pages and pages of the Supreme Court	220,000	258,000	236,000	+16,000	−22,500
Official Mail Costs					
Expenses	50,707,000	36,633,000	36,633,000	−14,074,000	
Capitol Guide Service					
Salaries and expenses	655,000	664,000	664,000	+9,000	
Statements of Appropriations					
Preparation	13,000	13,000	13,000		
Total, joint items	60,258,500	45,872,000	45,340,900	−14,917,600	−531,100
OFFICE OF TECHNOLOGY ASSESSMENT					
Salaries and expenses	11,199,000	14,200,000	11,000,000	−199,000	−3,200,000
CONGRESSIONAL BUDGET OFFICE					
Salaries and expenses	12,386,000	13,544,000	12,386,000		−1,158,000
ARCHITECT OF THE CAPITOL					
Office of the Architect of the Capitol					
Salaries	2,836,000	3,401,000	3,221,000	+385,000	−180,000
By transfer of sec. 311 from House office buildings	(172,000)			(−172,000)	
Contingent expenses	210,000	210,000	210,000		
Total, Office of the Architect of the Capitol	3,046,000	3,611,000	3,431,000	+385,000	−180,000
Capitol Buildings and Grounds					
Capitol buildings	7,394,000	8,675,000	7,326,000	−68,000	−1,349,000
By transfer of sec. 311 from House office buildings	(308,000)			(−308,000)	
Capitol grounds	4,062,000	2,243,000	2,147,000	−1,915,000	−96,000
By transfer of sec. 311 from House office buildings	(107,000)			(−107,000)	
House office buildings	18,484,000	18,010,000	16,760,000	−1,724,000	−1,250,000
Release of sec. 311 funds	(632,000)			(−632,000)	
Capitol Power Plant (operation)	14,181,000	17,629,000	17,098,000	+2,917,000	−531,000
Total, Capitol Buildings and Grounds	44,121,000	46,557,000	43,331,000	−790,000	−3,226,000
Total, Architect of the Capitol (except Library buildings and grounds)	47,167,000	50,168,000	46,762,000	−405,000	−3,406,000
LIBRARY OF CONGRESS					
Congressional Research Service					
Salaries and expenses	27,890,000	31,589,000	28,656,000	+766,000	−2,933,000
GOVERNMENT PRINTING OFFICE					
Congressional printing and binding	79,078,000	89,978,000	82,400,000	+3,322,000	−7,578,000
Total, title I—Congressional operations	568,105,463	589,350,700	565,064,600	−3,040,863	−24,286,100
TITLE II—OTHER AGENCIES					
BOTANIC GARDEN					
Salaries and expenses	1,464,000	2,092,000	1,588,000	+124,000	−504,000
By transfer of sec. 311 from House office buildings	(70,000)			(−70,000)	
LIBRARY OF CONGRESS					
Salaries and expenses	103,562,000	110,895,000	102,181,000	−1,381,000	−8,714,000
Release of sec. 311 funds	(447,000)			(−447,000)	
By transfer of sec. 311 from furniture and furnishings	(800,000)			(−800,000)	
Copyright Office, salaries and expenses	9,632,000	10,612,000	9,546,000	−86,000	−1,066,000
Books for the blind and physically handicapped, salaries and expenses	34,500,000	35,290,000	34,337,000	−163,000	−953,000
Collection and distribution of library materials (special foreign currency program):					
Payments in Treasury-owned foreign currencies	3,187,100	3,568,100	3,568,100	+381,000	
U.S. dollars	375,900	411,900	389,900	+14,000	−22,000
Total, collection and distribution of library materials	3,563,000	3,980,000	3,958,000	+395,000	−22,000
Furniture and furnishings	870,000	4,160,000	1,775,000	+905,000	−2,385,000
Total, Library of Congress (except Congressional Research Service)	152,127,000	164,937,000	151,797,000	−330,000	−13,140,000

See footnotes at end of table.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1980 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1981—Continued

[Excludes Senate items including those under Architect of the Capitol. All amounts are in the form of "appropriations" unless otherwise indicated.]

Agency and item	New budget (obligational) authority, fiscal year 1980 [1]	Budget estimates of new (obligational) authority, fiscal year 1981 [2]	New budget (obligational) authority, recommended in bill	Bill compared with— New budget (obligational) authority, fiscal year 1980	Bill compared with— Budget estimates of new (obligational) authority, fiscal year 1981
ARCHITECT OF THE CAPITOL					
Library Buildings and Grounds					
Structural and mechanical care	$4,410,000	$11,437,000	$5,183,000	+$773,000	−$6,254,000
COPYRIGHT ROYALTY TRIBUNAL					
Salaries and expenses	471,000	490,000	456,000	−15,000	−34,000
GOVERNMENT PRINTING OFFICE					
Printing and binding	18,941,000	22,145,000	16,250,000	−2,691,000	−5,895,000
Office of Superintendent of Documents, salaries and expenses	23,219,000	26,200,000	23,400,000	+181,000	−2,800,000
Total, Government Printing Office (except congressional printing and binding and acquisition of site and general plans and designs of building)	42,160,000	48,345,000	39,650,000	−2,510,000	−8,695,000
GENERAL ACCOUNTING OFFICE					
Salaries and expenses	204,300,000	218,070,000	210,000,000	+5,700,000	−8,070,000
COST-ACCOUNTING STANDARDS BOARD					
Salaries and expenses	1,300,000	961,000		−1,300,000	−961,000
Total, title II—Other agencies	406,232,000	446,332,000	408,674,000	+2,442,000	−37,658,000
TITLE III—CAPITAL IMPROVEMENTS					
GOVERNMENT PRINTING OFFICE					
Acquisition of site and general plans and designs of building		20,869,000			−20,869,000
Grand total, titles I, II and III: New budget (obligational) authority	974,337,463	1,056,551,700	973,738,600	−598,863	−82,813,100
RECAPITULATION					
Title I—Congressional operations	568,105,463	589,350,700	565,064,600	−3,040,863	−24,286,100
Title II—Other agencies	406,232,000	446,332,000	408,674,000	+2,442,000	−37,658,000
Title III—Capital improvements		20,869,000			−20,869,000
TITLE I—CONGRESSIONAL OPERATIONS					
House of Representatives	330,126,963	343,999,700	338,519,700	+8,392,737	−5,480,000
Joint items	60,258,500	45,872,000	45,340,900	−14,917,600	−531,100
Office of Technology Assessment	11,199,000	14,200,000	11,000,000	−199,000	−3,200,000
Congressional Budget Office	12,386,000	13,544,000	12,386,000		−1,158,000
Architect of the Capitol (except Library buildings and grounds)	47,167,000	50,168,000	46,762,000	−405,000	−3,406,000
Congressional Research Service, Library of Congress	27,890,000	31,589,000	28,656,000	+766,000	−2,933,000
Congressional printing and binding, Government Printing Office	79,078,000	89,978,000	82,400,000	+3,322,000	−7,578,000
Total, title I—Congressional operations	568,105,463	589,350,700	565,064,600	−3,040,863	−24,286,100
TITLE II—OTHER AGENCIES					
Botanic Garden	1,464,000	2,092,000	1,588,000	+124,000	−504,000
Library of Congress (except Congressional Research Service)	152,127,000	164,937,000	151,797,000	−330,000	−13,140,000
Library buildings and grounds, Architect of the Capitol	4,410,000	11,437,000	5,183,000	+773,000	−6,254,000
Copyright Royalty Tribunal	471,000	490,000	456,000	−15,000	−34,000
Government Printing Office (except congressional printing and binding)	42,160,000	48,345,000	39,650,000	−2,510,000	−8,695,000
General Accounting Office	204,300,000	218,070,000	210,000,000	+5,700,000	−8,070,000
Cost-Accounting Standards Board	1,300,000	961,000		−1,300,000	−961,000
Total, title II—Other agencies	406,232,000	446,332,000	408,674,000	+2,442,000	−37,658,000
TITLE III—CAPITAL IMPROVEMENTS					
Government Printing Office		20,869,000			−20,869,000
Grand total, new budget (obligational) authority	974,337,463	1,056,551,700	973,738,600	−598,863	−82,813,100

---

[1] Includes supplemental appropriations enacted into law by Public Law 96–304.

[2] Includes the following budget amendments (H. Doc. 96–294) for fiscal year 1981:

Office of the Majority Floor Leader	$24,900
Office of the Minority Floor Leader	24,900
House Democratic Caucus	12,900
House Republican Conference	12,900
Total budget amendments	75,600

REVENUE ACTIVITIES

There are a number of revenue activities within the legislative branch which will return $67 million before expenses to the Federal Government during fiscal year 1980. Included in this estimate is $2 million to the Capitol Power Plant in reimbursements for heating and air-conditioning, $11 million from copyright fees and the sale of catalog cards and publications by the Library of Congress, and $54 million from the sale of Government documents through the Office of the Superintendent of Documents. Savings attributable to General Accounting Office activities total approximately $2.6 billion, which also have an offsetting effect on total Federal finances.

MAJOR ITEMS IN BILL

TITLE I—CONGRESSIONAL OPERATIONS

The bill provides a total of $565,064,600 for fiscal year 1981 for seven major areas of activity in direct support to the Congress. These include the House, joint items, the Office of Technology Assessment, the Congressional Budget Office, the Architect of the Capitol (except Senate and Library buildings and grounds), the Congressional Research Service, and congressional printing and binding.

HOUSE OF REPRESENTATIVES AND JOINT ITEMS

The allowance of $383,860,600 for the House and Joint Items for 1981 is a reduction of $6,524,863 under 1980 appropriations enacted to date and includes $9 million for increased expenses for various housekeeping items which are more than offset by a $14 million reduction in mail and franking costs by the Members.

RECOMMENDED REDUCTIONS

The total recommendation for congressional operations is $24,286,100 less than was requested. Included in this decrease is a reduction of $5 million in funding requested for the special and select committees—due to actions already taken and approved by the House. A reduction of $480,000 in furniture and furnishings for the House; a reduction of $531,000 in various joint items; a reduction of $3,200,000 in the request of the Office of Technology Assessment; $1,158,000 less than requested by the Congressional Budget Office; the deferral of certain projects and other downward adjustments totaling $3,406,000 in the budget of the Architect; a reduction of $2,933,000 for the operation of the Congressional Research Service; and a reduction of $7,578,000 in congressional printing and binding, most of which is for printing already performed and for which allowance has been made in the supplemental.

TITLE II—OTHER AGENCIES

A total of $408,674,000 is recommended for the seven agencies carried in title II of the bill. This allowance is an increase of $2,442,000 over the current level of appropriations and $37,658,000 less than requested.

The agencies that are included in this title of the bill and the amounts recommended are as follows: First, Botanic Garden, $1,588,000; second, Library of Congress (except the Congressional Research Service), $151,797,000; third, Library buildings and grounds, $5,183,000; fourth, Copyright Royalty Tribunal, $456,000; fifth, Government Printing Office (except congressional printing and binding), $39,650,000; and sixth, General Accounting Office, $210,000,000.

Mr. Chairman, I will not attempt to discuss all of the recommendations made by the Committee for the various agencies funded in this title of the bill, but I would like to mention a few. Our general policy has been to provide only the resources necessary to maintain activities at the current level and to fund mandatory increases. None of the 146 additional staffing requested to expand activities have been allowed. In addition, a reduction of 326 positions under the staffing currently authorized has been made. These reductions result primarily from a hiring freeze imposed by several of the agencies in March.

Also, Mr. Chairman, the committee has recommended no funding for the Cost Accounting Standards Board. We have taken a close look at this agency—it has done its job well since 1971—but its job is now finished. It has fulfilled its congressional mandate to issue standards that will achieve uniformity and consistency in cost accounting on Government contracts. It has issued the necessary standards and the necessary rules and regulations. From all the informed sources, we have learned that the mission is complete—its purposes fulfilled. It is now time to shut the door. Thus, there is no appropriation for CASB in the bill.

CAPITAL IMPROVEMENTS

Due to lack of authorization, the committee has denied the funds for site acquisition and design of a proposed new Government Printing Office building.

TITLE III—GENERAL PROVISIONS

There is a general provision in the bill which provides that, during fiscal year 1981, individuals in the legislative, executive, or judicial branch, or the District of Columbia government, may not receive a pay raise over their rate of pay on September 30, 1980, if their salary is set at a rate which is equal to or greater than level V of the Executive Schedule (currently frozen at $50,112.50 per annum), or to a percentage of such rate. There is also a limitation on bonuses paid to senior executive service personnel.

EXPLANATION OF SECTION 306

Section 306 provides for a pay freeze for high-level individuals in the legislative, executive, and judicial branches or in the government of the District of Columbia.

The first sentence provides that the rate of basic pay or salary will be frozen at the rate payable or, if higher, the maximum rate payable on September 30, 1980, which is the last day before the 1980 comparability adjustment is to take effect. It also defines in clauses (1) and (2) the individuals who are subject to the freeze. Under clause (1) any individual whose rate of pay is $50,112.50 or more (that is equal to or greater than level V of the Executive Schedule) is covered by the freeze. This clause covers those individuals whose rates of pay were directly affected by the 1977 Quadrennial increase (such as judges, Members, Senators, heads and assistant heads of cabinet departments), as well as individuals whose rates of pay are administratively set at rates above $50,112.50 (such as certain high-level positions in the Postal Service).

Clause (2) covers those individuals whose rates of pay are limited to a maximum rate which is equal to or greater than the rate for level V by reason of a statutory or other salary ceiling. For example, the maximum rate for GS–18 is limited to the rate for level V which under existing law (section 101(c) of Public Law 96–86) is $50,112.50. Under the provision the $50,112.50 ceiling is maintained. The amendment also maintains existing ceilings on rates of pay for committee staffs, other officers and employees of the House and Senate, and for administrative assistants whose maximum rate of pay is limited by congressional resolution.

Clause (2) would also limit the 1980 pay increase for some individuals who are currently paid less than the level V payable rate of $50,112.50. For example, a GS–16, step 2 employee presently makes $49,485. Under the amendment, he could not receive this October's entire comparability increase since his pay would be subject to the "'frozen" $50,112.50 statutory ceiling. The parenthetical "(or a percentage of such maximum rate)" insures a freeze in rates of pay for those House subcommittee staff employees whose rates are limited to 75 percent of level IV.

Section 306 applies to individuals in all three branches, and thus includes individuals in the Postal Service, and the military service. It should be noted that the freeze applies to individuals in the Senior Executive Service, and those senior executives whose maximum salary is, on September 30, 1980, limited to the rate payable for level V may not be paid at a rate which exceeds the level V ceiling.

Similarly, those few senior executives whose maximum salary is, on September 30, 1980, limited to the rate payable for level IV, may not be paid at a rate which exceeds the level IV ceiling. The office of Personnel Management has informally estimated that the freeze will apply to 30,934 individuals broken down as follows:

Executive branch:	
Currently at level V or above	19,377
Additional affected by frozen ceiling	10,069
Legislative branch	576
Judicial branch	912

Under the provision, the freeze is in effect for fiscal year 1981. If the freeze is to continue beyond fiscal year 1981, it will be necessary for Congress to enact a similar limitation of funds again next year.

Subsection (b) provides a special rule to cover positions which are created after September 30, 1980, and requires the appropriate officials in each branch to promulgate regulations to insure that the pay for such positions will be set at a rate equivalent to that for comparable positions which were in existence on September 30, 1980.

Subsection (c) provides that the total remuneration paid to senior executive service, or similar pay system, employees may not exceed $52,750. All but the approximately 226 SES who are making maximum salaries would be eligible for bonus awards under this limitation, although not the full amount provided under current law. This would not affect the payment of differentials, allowances, or other payments, except salaries and bonuses.

Subsection (d) provides that the salary or pay actually paid to an employee, as a result of the application of the amendment, will serve as the basis for computing life insurance, retirement, and other benefits, rather than the higher statutory rate.

ESTIMATED COST OF OCTOBER 1980 PAY ADJUSTMENT FOR EXECUTIVE, LEGISLATIVE AND JUDICIAL EMPLOYEES

	Number of employees affected	6.2-percent increase in scheduled rates
Vice President	1	$5,300
Executive Schedule	511	1,821,300
SES	6,047	19,298,538
General Schedule and related	8,470	27,193,644
Foreign Service	1,205	3,976,500
VA—Department of Medicine and Surgery	3,143	10,248,324
Congressional	576	2,287,000
Judicial	912	3,427,300
	20,865	68,257,906

CONCLUSION

Mr. Chairman, these are the highlights of the bill. The committee report explains our actions in much more detail, and is available to all the Members of the House.

The committee has little discretion as far as the amounts for the House and the joint items of the Congress are concerned. Salaries, allowances, and expenses of the Members, special and select committee funding and other items have been approved by the House and are already in effect through the adoption of House resolutions from the Committee on House Administration. Where the committee has discretion, it has been exercised.

As I noted earlier in my remarks, the committee is recommending an overall reduction totaling $82,813,000, and none of the new positions requested in those areas where we have control have been allowed.

We are bringing a legislative branch budget to the House that is smaller than the current year.

We have trimmed the fat from the legislative branch and have made a conscious effort to stimulate increases in productivity.

We have no apologies to make in voting for this budget, Mr. Chairman.

Mr. Chairman, this is a good bill and one I think all the Members can support and identify with during this period of extreme budget austerity.

I recommend that it be approved.

☐ 1730

Mr. BAUMAN. Mr. Chairman, will the gentleman yield for a question?

Mr. BENJAMIN. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I thank the gentleman for yielding.

For those of us who oppose the pay raise, could the gentleman briefly describe the provisions of this bill dealing with the pay of Members of Congress and the senior executive service; what does the bill do regarding the pay raise that otherwise will be accorded on October 1?

Mr. BENJAMIN. The provision in the bill protected by the rule is section 306 and deals with the pay. It restricts any pay increment for the senior officials of Government, those making $50,112.50 and above, and also restricts any increase in pay for the Members and senior officials of the legislative branch of Government and Federal judges. This means that the cost-of-living adjustment which otherwise would go into effect will not go into effect if the provision is adopted. Section 306 also contains an SES bonus cap.

Mr. MICHEL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think we have all heard expressions being used of the billion dollar Congress. We are all a part of it, but I would like to point out that if you break down those items in this legislative appropriation bill having to do with the Congress itself, exclusive of those other things to which the public itself is a party to, we are talking about $565 million.

The $408 million additional then goes for providing services to the public and Government as a whole, such as the Library of Congress, the General Accounting Office, the Government Printing Office, and so forth.

I call the Members' attention to page 3 and page 4 of the committee report in which we detail those items which are funded in this legislative appropration bill, but for which all the American public is benefited, rather than simply the Congress itself.

The overall amount in this bill represents an increase of about 3.6 percent over the 1980 level. It also represents a reduction of nearly $83 million below the budget request. This is the second year in a row, as our distinguished chairman of the subcommittee has pointed out, in which we have made some significant reductions in the legislative appropriation bill.

All net staffing increases, totaling 273 positions, were denied, and we are even asking some agencies to reduce their personnel base, through a freeze on hiring. The reduction in base will total 394 positions. The total reduction, both new and current, will be 667 positions, or 2.8 percent of the work force covered by the bill.

I want to take the opportunity at this juncture to commend the action of our subcommittee chairman, the gentleman from Indiana (Mr. BENJAMIN), for the good work that the gentleman has done in asking those probing kinds of questions and standing fast for keeping the lid on hiring so far as the legislative branch is concerned.

We have also turned down virtually all of the proposed improvement projects. The two reductions in the House account were in the special and select committees, where the $5 million reduction reflects the House action on the funding resolutions, and the $480,000 for furniture and furnishings, where we felt that the proposed 25 percent increase requested was excessive.

We have made reductions in the Joint Economic Committee, the Joint Taxation Committee, education of pages, and the Office of Technology Assessment, all basically reflecting denials of additional positions that were requested.

We have reduced the amount for the Congressional Budget Office by nearly $1.2 million. This will force the CBO to absorb 35 percent of the 1979 pay increase and not exceed the 1980 operating level.

The amount for the Architect of the Capitol has been reduced by $3.4 million, which reflects a denial of positions and projects. The Architect asked for 17 additional positions. We denied them all, but do allow the Architect to fill seven of the requested positions by shifting seven existing ones.

We have rejected the request to replace the Minton tile in the Senate.

We have rejected the request to install new bronze handrails in the House gallery; to replace two street sweepers; and to install additional wiring and lower ceiling heights in the Longworth Building.

We have also denied their undertaking several improvements in the Capitol powerplant.

In addition, we have sharply reduced the requests to increase the number of elaborate detection systems in the entrances of the House office buildings and to renovate the Longworth cafeteria.

For the Congressional Research Service, we have denied the additional 73 positions they have requested, and have also reduced the number of current positions by 19, reflecting against that freeze on hiring. This total reduction of 92 positions below the budget request ought to save us nearly $3 million in this area.

It is, of course, important in facilitating this saying for use to make sure that we do not overload the Congressional Research Service with work that could just as easily be done within our own offices.

The Library of Congress requested a total of 146 new positions. We denied every one of them. In addition, we have reduced their current position level by 120 to reflect again that freeze on hiring. This represents a net reduction below the budget of 266 positions, saving over $12 million.

The request of $7 million to initiate the renovation and restoration of the Main and Jefferson Library of Congress buildings has been rejected, and instead we provided funds for planning and the development of detail working drawings and specifications.

The current estimate for the project is $57 million, but we felt that more firm, concrete estimates are needed before we launch a project of this magnitude.

The Government Printing Office was reduced by $8.9 million, in part due to the increased subscription price for the Federal Register. In addition, the request for $20 million to begin planning for a $204 million building for the GPO was not included in the bill, because the project has not yet been authorized.

The budget request for the General Accounting Office has been reduced by $8.1 million, but this will still leave GAO $9.7 million more than they got in 1980. Part of the reduction is due to the hiring freeze, which is expected to produce a reduction again of 175 positions.

I have to commend each and every one of the members of the subcommittee for reducing the budget request for nearly every item, particularly when it came to increased hiring and staffing, to keep this thing in line. I think we have done an excellent job this year in presenting this legislative appropriation bill.

At the appropriate time, I will have an amendment modifying that provision carried in the current bill for the executive pay bonus item, which was a matter of controversy in the supplemental appropriation bill.

Mr. Chairman, at this time I will be happy to yield to our distinguished ranking member of the full Appropriation Committee, who sits on this subcommittee, the gentleman from Massachusetts (Mr. CONTE) such time as he may desire.

☐ 1740

Mr. CONTE. Mr. Chairman, I rise in support of the bill, and to commend the able and hard-working chairman of this subcommittee, Mr. Benjamin, and the equally capable and conscientious ranking minority member, Bob Michel, for bringing out what might well turn out to be the most fiscally responsible appropriations bill we will see during this session.

This bill providing for the operations of the legislation branch and related agencies for fiscal year 1981 is $83 million, or 8 percent below the budget requests, and it is only $2.7 million, or three-tenths of 1 percent, over the combined amount provided in the fiscal 1980 bill and the recently enacted supplemental appropriations bill for the current year.

The committee has denied all requests for new positions for the coming fiscal year, and most physical improvement requests have also been denied. The agencies and offices funded in the bill are directed on pages 9 and 10 of the committee report to meet increased workloads with increased productivity—certainly a new approach in the field of Government operations.

I will submit for the Record a more detailed summary of the bill, and so I will not take any more time for that at this point. I do want to mention, however, a couple of items which have received some interest around here.

There are no funds in this bill for the Hart Senate Office Building, as all funds to complete that palace have been appropriated—a total of $138 million.

On page 12 of the report, we have included language prohibiting the practice of providing elocution lessons for the House reading clerks.

It is my understanding that a grand total of $130 ($65 each) was spent for this purpose this year, which generated all that mail we got.

We have included bill language which will enable the U.S. Capitol Historical Society, as well as similar organizations for the White House and the Supreme Court, to use the printing and distribution services of the Government Printing Office on a fully reimbursable basis. I believe we all have benefited from the work of these groups, and we should assist them whenever we can.

As most of you are aware, we have also included bill language denying any pay increase for Members of Congress and high-level executive branch officials during fiscal year 1981.

And finally, we have included language placing a cap on total pay and bonuses of top executive branch officials—the Senior Executive Service. The combined total of salary and bonuses could not exceed $52,750 under this cap, rather than the potential of $70,000 if no limit is imposed. We must get a handle on this situation while there is still time.

Mr. Chairman, that concludes my remarks. As I mentioned earlier, I will insert a summary of the bill at this point. I urge my colleagues to support the bill. The summary follows:

Highlights

H.R. 7593 provides $973.7 million for House and related activities in FY 81, including:

$210 million for the General Accounting Office;

$151.8 million for the Library of Congress;

$126.8 million for salaries of Members' office staff; and

$114.2 million for contingent expenses of the House.

SUMMARY

H.R. 7593 provides a total FY 81 appropriation of $973.7 million for the legislative branch, $82.8 million less than requested, but $33.8 million more than in FY 80. The increase over FY 80 is largely due to pay raise costs. (The committee points out that, if pending supplementals are taken into account, the bill recommends 2 percent under FY 80).

The chart on the following page compares the recommended FY 81 appropriations with the FY 80 totals and the request. As it is traditional that each House of Congress set funding levels for its own items, the bill contains no Senate appropriations.

Title I—Congressional Operations

The committee recommends a total of $535.1 million in FY 81 for the activities in direct support of congressional operations (exclusive of the Senate), an increase of $20.1 million over FY 80 levels, but $24.3 million less than requested.

House of Representatives

The $338.5 million recommended for the operations of the House is $25.6 million above the FY 80 appropriation, but $5.5 million below the request. The bulk of the appropriation is for salaries of Members' staff ($126.8 million), and contingent expenses of the House ($114.2 million, including $72.7 million for allowances and expenses; and $41.5 million for special and select committees, and investigative expenditures and staff of the standing committees). Other appropriations include: $29.5 million for Member compensation and mileage; $33 million for the salaries of House officers and employees; and $27 million for the salaries of professional and clerical employees of the 22 standing House committees. The committee orders an end to public funding of elocution lessons for the House Reading Clerks.

Joint Items

The committee recommends $45.3 million for joint House-Senate items, $531,100 less than requested and $14.8 million less than current funding. The bulk of the funding ($36.6 million) and the reduction from the FY 80 levels ($14.1 million) is for official mail costs. This funding may be used to cover shortages in FY 80 mail funds.

Architect of the Capitol

A total of $46.8 million is recommended for the operation and maintenance activities under this jurisdiction—$3.4 million less than requested, and $405,000 less than in FY 80. Most of the decrease from the request is for operations of the Capitol buildings ($1.3 million) and the House Office Buildings ($1.2 million).

Congressional Research Service

For CRS, $28.7 million is recommended, $2.9 million less than requested, and $1.6 million more than in FY 80. The request for 73 additional positions is denied, and the hiring freeze is extended through FY 81, resulting in a reduction of 19 authorized positions.

GPO/Congressional Printing and Binding

A total of $82.4 million is provided for congressional printing and binding in FY 81, $7.6 million less than requested, but $7.9 million more than current funding. The committee recommends funding prior year deficiencies totaling $4.6 million in the FY 80 supplemental.

Title II—Other Agencies

The committee recommends a total of $408.7 million for 7 agencies under this title, $13.7 million more than in FY 80, and $37.7 million less than requested. Most of these activities provide general governmental or public service.

Library of Congress (except Congressional Research Service)

A total of $151.8 million is recommended for the Library of Congress in FY 81—$1.4 million more than in FY 80, but $13.1 million less than requested. The bulk of the funds is for salaries and expenses ($102.2 million), and for books for the blind and physically handicapped ($34.3 million). Also, $9.5 million is provided for the Copyright Office. Most of the reduction from the request ($8.7 million) falls in the category of salaries and expenses.

The committee estimates that only $41.7 million (27.3 percent) of this recommendation for FY 81 will be used for congressional support services; the remainder will go toward the Library's many governmental and public service functions. The Library will receive a total of $210.1 million from other appropriations and various receipts and reimbursements.

General Accounting Office

The $210 million recommended for GAO in FY 81 is $8.1 million less than requested, but $9.7 million above FY 80 levels. A hiring freeze is extended through FY 81, reducing the requested staff levels by 175 to the current 5,100 positions. As with other agencies in this bill, GAO's budget supports more than direct congressional services. The committee estimates that only 36 percent of the requested amount is for direct support activities.

Cost Accounting Standards Board

The committee recommends termination of the Board and no appropriation in FY 81. Established by 1970 law, the Board was charged with developing cost-accounting standards for defense contractors. To date the Board has issued numerous rules, regulations and standards, and plans to issue indirect cost standards this year, thereby completing its statutory assignment.

Title III—General Provisions

Capital Improvements

The committee denies, without prejudice, the $20.9 million requested for the new GPO printing plant, because of lack of authorization.

Pay Freeze and and Other Miscellaneous Provisions

The bill freezes the pay of senior executive, legislative and judicial branch members, including Members of Congress (level V of the Executive Schedule and above), at the September 30, 1980 rate. Pay for members of the Senior Executive Service is limited to an aggregate total of $52,750 in FY 81.

H.R. 7593 also:

Prohibits the use of funds for the care and maintenance of private vehicles (except where permitted under House Administration regulations); and

Permits House and Senate pages to remain on the payroll between adjournment of the second session of the 96th Congress and the convening of the first session of the 97th Congress.

Mr. MICHEL. Mr. Chairman, I yield 5 minutes to the other Republican member of the subcommittee, the gentleman from Arizona (Mr. Rudd).

Mr. RUDD. Mr. Chairman, it is a great privilege to serve on the Legislative Branch Appropriations Subcommittee. I take this opportunity to commend the hard working members of the committee and especially Chairman ADAM BENJAMIN, who has with firmness and intelligence managed this legislation.

He does an outstanding job in leading a meticulous examination of each activity funded by this bill, which I certainly support.

This bill is $82.8 million below the budget estimate for fiscal year 1981, and $20.9 million below current fiscal year 1980 legislative branch appropriations already projected.

Mr. Chairman, I have raised several matters of concern in the past, including the high cost of the District of Columbia Metropolitan Police detail assigned to the Capitol Police force, and financial management problems at the Office of Technology Assessment.

I am personally hopeful that these recommended reforms will all be implemented promptly.

Congress will also benefit from an objective assessment of OTA's work product in the form of numerous technology assessments that it issues, to determine whether this work product to date has conformed to the intent of OTA's enabling statute and does not overlap or duplicate work of the General Accounting Office and Congressional Research Service.

Such an impartial assessment of OTA's work product will hopefully be initiated soon.

Mr. Chairman, I fully support the recommendation in this bill to terminate the Cost Accounting Standards Board, which has completed its statutory mandate.

Congress has enacted a law to phase out the D.C. Metropolitan Police detail for which we must pay a 64.1-percent surcharge to the D.C. government, above the cost of salary reimbursement, for police retirement purposes.

The phase-out of this 21-man police detail from the District government, scheduled to be completed by 1990, should be completed earlier, if possible, in light of the $43,571 average cost per metropolitan policeman that Congress will have to pay so long as the detail continues.

Serious financial management problems existed at the Office of Technology Assessment when the current Director assumed his position.

The committee initiated a major investigation of this situation, and issued a report detailing numerous needed administrative reforms.

In sum, this is a good bill, which conforms to the needed spirit of governmental austerity.

At this time, I recommend its passage.

Mr. MICHEL. Mr. Chairman, I yield to the gentleman from Michigan (Mr. TRAXLER).

Mr. TRAXLER. Mr. Chairman, I thank the gentleman and want to congratulate the members of the subcommittee, the chairman, the ranking minority member for an excellent bill.

I do have a question in connection with the west front. Can either gentleman tell me what is the situation with the west front of the Capitol now? It is in a deplorable condition. I have had many complaints from visitors to the Capitol and from constituents. The question I have is what is the plan or the program in relation to the repair or restoration or expansion of the west front?

Mr. MICHEL. I will be happy to yield to the chairman of the subcommittee for a response. I would just say to the gentleman I share the gentleman's concern for the deplorable condition in which the west front is today, particularly if, as has been voted by the Building Commission, we hold our inauguration for the next President of the United States on the west side of the Capitol rather than the east front. I am wondering how all of that buttressing is going to be camouflaged or what kind of an image that is going to project of a capitol falling apart at the seams with the west front as a backdrop for the inauguration of a President.

Mr. BENJAMIN. Will the gentleman yield?

Mr. MICHEL. I am happy to yield to the distinguished chairman of the subcommittee.

Mr. BENJAMIN. I thank the gentleman for yielding.

As the gentleman may recall, this issue was before the Congress in 1977. This House did vote to extend the west front. There in conference, we reached an impasse with the other body. We did provide the Architect of the Capitol with funds for the study of various alternatives and directed that these alternatives be presented to the Commission on the West Central Front of the U.S. Capitol. The Architect has completed the study and the Commission is considering the matter.

As my colleagues may also recall, during the action taken on the supplemental appropriation bill for fiscal year 1980, the other body did provide $453,000 out of its contingent fund for scraping and painting the west front in order to prepare it for the 1980 inaugural ceremonies scheduled for January 20, 1981. Otherwise there is no action pending before this Committee on the west front.

Mr. TRAXLER. I thank the gentleman.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield for a question?

Mr. MICHEL. I yield to the gentleman.

Mr. BAUMAN. The gentleman from Indiana has just remarked on the fact that an historic precedent at least dating back to the administration of Andrew Jackson will be shattered next January when President Reagan is inaugurated on the west front rather than the east front of the Capitol. I have taken some interest in this, being somewhat of a Capitol history buff, and I have written to the members of the Joint Commission on the Inauguration. I have received from the Honorable Speaker of the House, my good friend from Massachusetts, a letter which explains why this decision was made. It contains some very convincing arguments.

I also wrote to the majority leader of the other body, the Senator from West Virginia, Mr. BYRD, and received the identical letter that I received from the Speaker, right down to the last word, proving that great minds do flow in the same channels.

My only concern is that this maneuver on the West Front, will not save money and that it will require work to spruce up the West Front in some manner in order to make it presentable for these ceremonies, and that it will lead to what this Congress has rejected in the past, and that is another glorious edifice complex of buildings out on the West Front extending it so that more and more offices can be built. I realize this is a living, breathing building, and the gentleman from Illinois (Mr. MICHEL) and his colleague from Indiana (Mr. BENJAMIN) make it so.

But has any of this come to light in the deliberations of the subcommittee on this precedent-shattering decision?

Mr. MICHEL. No. I must say to the gentleman that I have never seen the letters to which he refers, nor have I been a party or been advised of the specific reasons why that decision was made. When it came to me on one afternoon just perchance, I must confess that I was very surprised the decision had been reached and agreed to, but I have never really inquired as to what the reasons for making the switch were.

Mr. BAUMAN. If the gentleman will yield further, I wonder if the gentleman from Indiana can tell us what the proof of these savings is so far as the use of the West Front. I understand that there is $100,000 supposedly that can be saved, or more. Why can we save so much more money by using the West Front?

Mr. BENJAMIN. Will the gentleman yield?

Mr. MICHEL. I yield to the gentleman.

Mr. BENJAMIN. Basically, although there are anticipated savings, the real reason for the change from the east front to the west front is because of the increased number of people that could be accommodated. Perhaps there are some who feel that the incumbent President will be reelected, and that at a second inaugural he will draw more in terms of multitudes and would need more space.

Mr. BAUMAN. That constitutes proof of the savings undoubtedly in the gentleman's mind, I would say. For the sake of history I include at this point the Speaker's letter with apologies to Senator BYRD:

WASHINGTON, D.C.,
June 17, 1980.

Hon. ROBERT E. BAUMAN,
House of Representatives,
Washington, D.C.

DEAR BOB: In response to your inquiry regarding the location of the forthcoming inaugural ceremony, the report you cited is correct in that the plans have indeed been developed and approved by the Joint Congressional Committee on Inaugural Ceremonies.

There does appear to be some misinformation with regard to past history, however. Formal inaugural ceremonies have taken place in numerous locations, including the Senate Chamber, the House Chamber and the front of the "Old Brick Capitol". As recently as 1909, for example, President William Howard Taft was inaugurated in the Senate Chamber. In 1897, President William McKinley was inaugurated at a location in front of the Supreme Court section of the Capitol rather than on the East Portico. As you noted, President Franklin D. Roosevelt was inaugurated at the South Portico of the White House, although it was in 1945 for his fourth inaugural rather than the third, and the record indicates that the decision was made for monetary reasons rather than illness. I have attached a copy of an article containing Senator Harry F. Byrd's recollection of the reasons.

Thus, the Joint Committee felt that there was no truly compelling historical reason for retaining the ceremony on the East Portico. On the other hand, several persuasive reasons for holding it on the West side arose during the discussion:

1. The grandeur and magnificence of the space and surroundings provided by the Mall seemed more befitting for such a ceremony.

2. The natural amphitheater formed by the terraces and the west lawn tends itself better to this type of ceremony than does the East Front parking lot.

3. The Mall did not attain the basis for its present appearance until 1934; prior to that, it contained many undesirable characteristics, including, at earlier times, the railroad station, the canal, a swamp, a deteriorated commercial district, and so forth, and was thus not possible to consider as an alternate location.

4. Exit and entry from the building for the House and Senate and other dignitaries is comparable to that on the East Portico, and other such physical needs are similarly comparable so that no compelling disadvantages appeared.

5. Because the terraces form a natural "stage", the cost of construction will be very much less, thus substantially reducing the cost to the taxpayer.

6. The several months disruption to the East Front parking will be avoided.

7. The ceremony will be capable of being witnessed in person by several hundred thousand people, many more than would be possible on the East side.

For these and other reasons, the Joint Committee, after careful deliberation, concluded that the Mall side was thus a location more commensurate with the importance, dignity and grandeur of the inaugural ceremony than the East Portico and that the ceremony should therefore take place there.

We feel certain that the results will fulfill the expectations of the Joint Committee and all of the millions of citizens and others worldwide who will witness the ceremony in person and on television.

With every good wish,

Sincerely,

THOMAS P. O'NEILL, Jr.,
The Speaker.

Mr. MICHEL. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

MILEAGE OF MEMBERS

For mileage of Members, as authorized by law, $210,000.

AMENDMENT OFFERED BY MR. MILLER OF OHIO

Mr. MILLER of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of Ohio: Page 2, strike lines 11 through 13.

□ 1750

Mr. MILLER of Ohio. Mr. Chairman, my amendment would strike $210,000 from the bill and cut funding which pays Members for one additional trip to their districts. This goes back to July 28, 1866, when the law was passed that would allow mileage for one trip per session from the Member's home to Washington and then his return to the home.

I am aware that this is authorized, and the chairman and the ranking member of the committee undoubtedly feel that it is necessary to have the $210,000 in the bill. Since 1977 we have had a new type of bookkeeping—and every Member can provide vouchers for the trips home. We had 10 different categories that were changed in 1977 so that we would only have 2 separate categories, 1 for expense and 1 for salaries of staff that means that now every Member can voucher for every trip because it is possible to transfer between funds the amount necessary to make any additional trips that a Member may need to make to his congressional district. It is just appropriating funds for a law that has been on the books for over 100 years, and we are still continuing to appropriate funds for that purpose. I think it is important that we show the American people that since times have changed and the procedures have changed, it is not necessary for any person here to sign a voucher and collect 20 cents a mile to Washington and back home for each session. That's over and above the regular trips that they are allowed to voucher for.

I would request a vote for the amendment that would strike the $210,000.

Mr. Chairman, I yield back the remainder of my time.

Mr. BENJAMIN. Mr. Chairman, I rise in opposition to the amendment. The provision that the gentleman from Ohio (Mr. MILLER) seeks to strike is an amount which is requested to fund an entitlement for Senators, Representatives, and Delegates authorized by 2 U.S.C. 43. The law states that each Senator, Representative, and Delegate shall receive mileage at the rate of 20 cents per mile to be estimated by the nearest route usually traveled in going to and returning from each regular session. This entitlement was established in 1866 and pertains to Senators as well as Members of this body.

Under present procedures, the funds are not automatically disbursed to House Members; rather, each Member receives a letter from the Committee on House Administration at the beginning of each session. The Member must sign and return the letter before any disbursements or credits to a Member's account are made.

The gentleman indicates that this is an archaic provision of law, and says that subsequent to its enactment the Congress provided for more trips to the district by the membership. That is true. Through the procedures of the House, the number of trips has been increased. The mileage has been prorated, depending on the type or mode of transportation employed. On the other hand, we obviously presume the Congress knows what was done previously, and certainly we realize what has been in the law since 1866. Consequently, when additional trips were added, the Congress took into consideration the statutory requirement.

We are not providing for an additional trip; we are merely fulfilling our statutory responsibility in funding this provision of law.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. BENJAMIN. I yield to the gentleman from New Jersey.

Mr. THOMPSON. I thank the gentleman for yielding.

Notwithstanding the ancient statute which the distinguished chairman has cited, it might be pointed out that under the reforms of 4 years ago, the allowances for Members were consolidated into two categories. One is for staff, and the other is a lump-sum allowance, allowing Members total discretion in terms of the number of trips which they can take in lieu of other expenditures, such as stationery, stamps, printing, and so on.

With respect to travel, it is a matter of the Member's discretion as to whether he or she feels it necessary to travel back and forth out of that allowance, and it has amounted overall to a great saving. No one today can really argue that the least expensive automobile to operate can be operated, with depreciation, tolls, fuel, and so on, for as little as 20 cents a mile. That is perfectly ridiculous. Industry allows much more than that. Industry allows actual cost. In fact, the amount per trip should be increased—I mean the rate, not the Member's overall allowance, but the amount which can be taken from the allowance—beyond the 20 cents a mile which it is now.

This body and the other body agreed to deregulate airlines. Look what has happened. Air fare costs have escalated 100 percent to 150 percent. So the savings here would be nothing more than cosmetic, minuscule, and would actually have the effect of inhibiting Members who feel it necessary in the course of their business to represent their constituents to go back and forth at their discretion.

Mr. BENJAMIN. I thank the gentleman for his comments.

Mr. MILLER of Ohio. Mr. Chairman, will the gentleman yield?

Mr. BENJAMIN. I yield to the gentleman from Ohio.

Mr. MILLER of Ohio. I thank the gentleman for yielding. As I recall, the chairman of the committee mentioned that this was a trip that must be signed for. That seems to be a part of the problem. I have a copy of the form, which is automatically sent from the Committee on House Administration to every individual. It shows the amount of miles from Washington to the home of the Congressman or Congresswoman.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. MILLER of Ohio, and by unanimous consent, Mr. BENJAMIN was allowed to proceed for 2 additional minutes.)

Mr. MILLER of Ohio. If the gentleman will yield further, the total mileage is multiplied by 20 cents. When a Member signs the form, that money is deposited automatically into the checking account of the Congressman. It has nothing to do with the 20 cents a mile that should be increased that the chairman of the committee spoke of. It is a separate trip for which everyone can collect. We have at least 10 Members so far this year who have not signed the voucher and have not accepted the money. It is a law that is 100 years old. We should dispose of the law, and we should not appropriate the $210,000.

Mr. BENJAMIN. I would suggest to the gentleman from Ohio that he introduce a bill to amend the law and not try to legislate this matter on the Legislative Branch Appropriations bill. This bill is only fulfilling our responsibilities under the law.

Mr. MILLER of Ohio. I respect the chairman's view, and I understand that he has done a remarkable job on what he has. But I feel that also it is necessary at this point in time to offer the amendment. When we attempt to offer one on an authorizing committee, it seems to be the same kind of a debate, that we should not appropriate the funds. Now we have an opportunity today to stop that appropriation.

☐ 1800

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. BENJAMIN. I yield to the gentleman from Iowa.

Mr. BEDELL. I would like to ask a question of the author of the amendment.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. BENJAMIN was allowed to proceed for 1 additional minute.)

Mr. BENJAMIN. I yield to the gentleman from Iowa.

Mr. BEDELL. If I understand correctly, the gentleman does not object to paying people for the trips they have taken but when they sign this slip, they do not even indicate that they have taken the trip and they could, therefore, legally collect for trips not taken, according to the slip. The whole purpose of the gentleman's amendment is to see that the trips are taken when payment is made and this would not restrict people from being paid for trips they take to their district. Is that correct?

Mr. MILLER of Ohio. That is absolutely correct. The trip formally taken can be vouchered for and once this particular voucher is signed, automatically the money comes to the Member, but the Member does not need to take the trip.

Mr. BENJAMIN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. MILLER).

The question was taken; and on a division (demanded by Mr. MILLER of Ohio, there were—ayes 12, noes 26.

RECORDED VOTE

Mr. MILLER of Ohio. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 217, noes 159, not voting 57, as follows:

[Roll No. 406]

AYES—217

Abdnor
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Bafalis
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Bedell
Beilenson
Bennett
Bereuter
Boner
Bonker
Bouquard
Bowen
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Carney
Carr
Cavanaugh
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derrick
Devine
Dicks
Dornan
Duncan, Tenn.
Eckhardt
Edgar
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fenwick
Findley

Fish
Fisher
Fithian
Foley
Fountain
Fowler
Frenzel
Fuqua
Gilman
Ginn
Glickman
Goldwater
Goodling
Gradison
Gramm
Grassley
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hammerschmidt
Hance
Hansen
Harris
Heckler
Hefner
Hightower
Hillis
Hinson
Hollenbeck
Hopkins
Horton
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Kastenmeier
Kazen
Kelly
Kildee
Kindness
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Levitas
Livingston
Loeffler
Long, Md.
Lowry
Lujan
Luken
McCloskey
McCormack
McDonald
McHugh
Maguire
Markey
Marlenee
Miller, Ohio
Mitchell, N.Y.
Moffett
Montgomery

Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Myers, Ind.
Neal
Nelson
Nichols
Nowak
Panetta
Pashayan
Paul
Pease
Petri
Pickle
Porter
Preyer
Quillen
Railsback
Regula
Rinaldo
Ritter
Robinson
Roth
Royer
Russo
Sawyer
Schroeder
Schulze
Seiberling
Sensenbrenner
Sharp
Shumway
Shuster
Simon
Skelton
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
Staggers
Stangeland
Stanton
Stenholm
Stump
Symms
Tauke
Taylor
Thomas
Trible
Ullman
Van Deerlin
Vander Jagt
Volkmer
Walker
Wampler
Watkins
Weaver
White
Whitehurst
Whitley
Whittaker
Williams, Mont.
Williams, Ohio
Wirth
Wolff
Wolpe
Wylie
Yatron
Young, Fla.

NOES—159

Addabbo
Akaka
Alexander
Ashley
Badham
Bailey
Beard, Tenn.
Benjamin
Bevill
Biaggi
Bingham
Boggs
Boland
Bolling
Bonior
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, John
Carter
Chappell

Clay
Coelho
Collins, Ill.
Conte
Conyers
Corman
Daniel, Dan
Danielson
Davis, S.C.
Dellums
Derwinski
Dingell
Dixon
Dodd
Donnelly
Dougherty
Drinan
Duncan, Oreg.
Early
Edwards, Ala.
Edwards, Calif.
Evans, Ga.
Fary
Fascell
Fazio

Flippo
Florio
Ford, Mich.
Ford, Tenn.
Forsythe
Garcia
Gaydos
Gibbons
Gingrich
Gonzalez
Gore
Green
Grisham
Hamilton
Hanley
Harsha
Hawkins
Holland
Holt
Howard
Hutchinson
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.

Jones, Okla.
Lederer
Lehman
Leland
Lewis
Lloyd
Long, La.
Lundine
Lungren
McClory
McDade
McKay
McKinney
Madigan
Marriott
Matsui
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Mollohan
Moorhead, Pa.
Murphy, Pa.

Murtha
Musto
Natcher
Nedzi
O'Brien
Oberstar
Ottinger
Patten
Patterson
Pepper
Peyser
Price
Pritchard
Rahall
Ratchford
Reuss
Richmond
Roberts
Roe
Rose
Rosenthal
Rousselot
Roybal
Rudd
Sabo
Satterfield
Scheuer
Shannon

Shelby
Smith, Iowa
Stack
Stark
Steed
Stewart
Stratton
Studds
Swift
Synar
Tauzen
Thompson
Traxler
Vanik
Vento
Walgren
Weiss
Whitten
Wilson, Bob
Winn
Wright
Wyatt
Wydler
Yates
Young, Alaska
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—57

Anderson, Ill.
Bethune
Blanchard
Burton, Phillip
Byron
Campbell
Chisholm
Cotter
Dickinson
Downey
Edwards, Okla.
Ferraro
Frost
Gephardt
Giaimo
Gray
Harkin
Heftel
Holtzman

Hubbard
Huckaby
Jones, Tenn.
Kemp
Kogovsek
LaFalce
Leach, La.
Lent
Lott
McEwen
Marks
Martin
Mathis
Mattox
Mavroules
Murphy, N.Y.
Myers, Pa.
Nolan
Oakar

Obey
Perkins
Pursell
Quayle
Rangel
Rhodes
Rodino
Rostenkowski
Runnels
Santini
Sebelius
Solarz
St Germain
Stockman
Stokes
Udall
Waxman
Wilson, C. H.
Wilson, Tex.

☐ 1820

Mrs. BOGGS and Messrs. SYNAR, DRINAN, LEWIS, and HAWKINS changed their votes from "aye" to "no."

Messrs. AuCOIN, LOWRY, BARNARD, ECKHARDT, MARLENEE, PASHAYAN, DANIEL B. CRANE, CLINGER, HUTTO, DICKS, VOLKMER, FISH, ALBOSTA, NELSON, FUQUA, JEFFRIES, LONG of Maryland, and ULLMAN changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk proceeded to read the bill.

Mr. BENJAMIN (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, and that the remainder of the bill be open to amendment at any point, subject to points of order being raised.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The CHAIRMAN. Are there any points of order?

The Chair hears no points of order.

The Chair recognizes the gentleman from Massachusetts (Mr. CONTE).

AMENDMENT OFFERED BY MR. CONTE

Mr. CONTE. Mr. Chairman, I offer an amendment.

The portion of the bill to which the amendment relates is as follows:

OFFICE OF SUPERINTENDENT OF DOCUMENTS

SALARIES AND EXPENSES

For necessary expenses of the Office of Superintendent of Documents, including compensation of all employees in accordance with the provisions of 44 U.S.C. 305; travel expenses (not to exceed $38,300): *Provided*, That expenditures in connection with travel expenses of the Depository Library Council to the Public Printer shall be deemed necessary to carry out the provisions of chapter 19 of title 44, United States Code; price lists and bibliographies; repairs to buildings, elevators, and machinery; and supplying books to depository libraries; $23,400,000: *Provided further*, That $300,000 of this appropriation shall be apportioned for use pursuant to section 3679 of the Revised Statutes, as amended (31 U.S.C. 665), with the approval of the Public Printer, only to the extent necessary to provide for expenses (excluding permanent personal services) for workload increases not anticipated in the budget estimates and which cannot be provided for by normal budgetary adjustments.

The Clerk read as follows:

Amendment offered by Mr. CONTE: On page 26, line 21, strike the period, and insert the following: ": *Provided further*, That none of the funds appropriated or otherwise made available by this paragraph shall be used to distribute U.S. Government publications authorized under section 1719 of title 44 of the United States Code for the Soviet Union, Cuba or Iran.".

Mr. BAUMAN. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Maryland (Mr. BAUMAN) reserves a point of order against the amendment.

The gentleman from Massachusetts (Mr. CONTE) is recognized in support of his amendment.

Mr. CONTE. Mr. Chairman, I offer this amendment to correct a ridiculous situation in which we find U.S. taxpayers' dollars being spent to send U.S. Government publications, including some with security implications, free of charge to the Governments of the Soviet Union, Cuba, and Iran.

This farce occurs because of a law put on the books back in the 19th century which authorized U.S. participation in an international book exchange in accordance with the Brussels Convention of 1886. For nearly a hundred years now we have been sending publications around the world through the Library of Congress and the Smithsonian Institution. On June 3 of this year, the House suspended the rules and passed by a voice vote H.R. 7302, to transfer this international book outlet function from the Smithsonian to the Superintendent of Documents. Therefore, my amendment is attached to the paragraph appropriating funds to the Superintendent of Documents.

Listen to a few of the documents which have been sent, free of charge, to the Soviets, the Cubans, and even to Iran: U.S. Army Field Manuals, Army Technical Manuals, including one on the Lance, a missile used by our forces in Europe which utilizes both nonnuclear and nuclear warheads. Also sent was the global autovon telephone directory from the Defense Communications Agency. That must have been helpful.

In our generosity, we have also sent Defense Intelligence Agency and Central Intelligence Agency maps and atlases, including such materials covering Afghanistan, Angola, Saudi Arabia, Israel, South Korea, Pakistan, and Yugoslavia.

Mr. Chairman, I am certain that as word gets out that American taxpayers are footing the bill to send these materials, or any publications for that matter, to the Soviet Union, Cuba, and Iran, there will be a storm of protest from our constituents, and there should be. Therefore, I urge a strong vote of support for my amendment which would put an end to this practice.

The CHAIRMAN. The Chair will inquire, does the gentleman from Maryland (Mr. BAUMAN) insist on his point of order?

Mr. BAUMAN. Mr. Chairman, having examined the amendment, I concede the point of order to the gentleman from Massachusetts on his nongermane amendment.

Mr. BENJAMIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to accept the amendment offered by the gentleman from Massachusetts (Mr. CONTE).

This amendment is going to save the Government substantial amounts and will correct a deficiency in the existing law. I commend the gentleman for offering this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. CONTE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GLICKMAN

Mr. GLICKMAN. Mr. Chairman, I offer an amendment.

The portion of the bill to which the amendment relates is as follows:

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

For authorized printing and binding for the Congress; for printing and binding for the Architect of the Capitol; expenses necessary for preparing the semimonthly and session index to the Congressional Record, as authorized by law (44 U.S.C. 902); and printing and binding of Government publications authorized by law to be distributed to Members of Congress, $82,400,000: *Provided*, That this appropriation shall not be available for printing and binding part 2 of the annual report of the Secretary of Agriculture (known as the Yearbook of Agriculture): *Provided further*, That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceeding fiscal years.

The Clerk read as follows:

Amendment offered by Mr. GLICKMAN: On page 17, line 2, insert the following immediately before the colon: "or for printing and binding of copies of the permanent edition of the CONGRESSIONAL RECORD for individual Representatives, Resident Commissioners or Delegates authorized under 44 U.S.C. 906".

□ 1830

Mr. GLICKMAN. Mr. Chairman, the purpose of this amendment would prohibit the use of funds in this bill to allow authority for use as Members of Congress to be provided bound, printed sets of the CONGRESSIONAL RECORD for our own personal use. We already get the temporary RECORDS. But the effect of this would be to save approximately $400,000.

For the 2d session of the 95th Congress, 81 Members of the House requested and received sets of the bound edition of the CONGRESSIONAL RECORD. According to Chairman FRANK THOMPSON, who wrote us last year and asked us not to order these, saying that they were in every library in America, including the Library of Congress, the cost was approximately $5,000 per set. And he said in his letter of July 9:

> I respectfully request each Member personally to consider the need of his office for this very expensive bound and printed version of the CONGRESSIONAL RECORD. As you may know, Congress pays for the copies of the RECORD which are distributed throughout the country to 1,300 congressionally designated depository libraries, and this version of the bound, finalized, printed copy of the RECORD is available to your staff for research through the Library of Congress and the House and Senate Libraries.

I want to compliment the chairman of the subcommittee, the gentleman from Indiana (Mr. BENJAMIN), and also the chairman of the committee, the gentleman from New Jersey (Mr. THOMPSON), for making a bona fide effort to reduce the use of this extravagance of $400,000, which really does not help anybody, nor does it hurt anybody not to have it. But as I understand it, 81 Members of the House requested and received sets of the bound edition of the CONGRESSIONAL RECORD. In this era of austerity, this seems an appropriate place to cut. It will save approximately $400,000, and I urge adoption of the amendment.

Mr. THOMAS. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from California.

Mr. THOMAS. Did the gentleman say that after the chairman of the committee sent out a letter requesting that no one order it, 81 Members of the House ordered copies anyway?

Mr. GLICKMAN. I cannot give the gentleman a time sequence.

Mr. THOMAS. Do we have a list of names?

Mr. GLICKMAN. I do not.

All I am saying is that in July of 1979, the chairman sent a letter saying:

> Please do not order it, or please think twice before you order it, because you can get these bound copies in every congressionally declared library.

I am just saying, let us remove the authority.

Mr. THOMAS. Does the gentleman have any idea how many Members ordered them in the Congress prior?

Mr. GLICKMAN. No, I do not.

And I have introduced this bill to do this, and I have approximately 50 Members of the House who have cosponsored the legislation.

Mr. BENJAMIN. Mr. Chairman, I am not going to oppose this amendment. I do not think it affects anything of great historical significance. The gentleman's amendment affects approximately 80 bound volumes. There are 1,168 bound volumes that are prescribed by title 44 of the United States Code. What he should do is to introduce legislation to do away with all of these bound volumes, if that is his aim. That is what we should be considering instead of offering a limitation on the legislative branch appropriations bill. Since I do not believe this is a matter of grave import, I will not oppose the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas (Mr. GLICKMAN).

The question was taken; and on a division (demanded by Mr. GLICKMAN) there were—ayes 40, noes 33.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. REGULA

Mr. REGULA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. REGULA: On page 33, after line 13, add a new section as follows:

SEC. 307. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

Mr. REGULA. Mr. Chairman, this is an amendment which we have adopted on all of the previous appropriation bills. It deals with the problem of contracting out. We have read all of the horror stories in recent weeks. What I am trying to do here is to require that they be published so that we can be aware of what is being done in the way of outside contracts.

Mr. BENJAMIN. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Indiana.

Mr. BENJAMIN. Mr. Chairman, we have examined the amendment offered by the gentleman. We believe it is definitely good public policy, and this side accepts the amendment.

Mr. REGULA. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. REGULA).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. KOSTMAYER

Mr. KOSTMAYER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KOSTMAYER: Page 33, after line 13, add the following:

"SEC. 307. No part of the funds appropriated by this Act shall be used for the printing or purchase of either 1982 House wall calendars or 1982 U.S. Capitol Historical Society calendars to be distributed gratuitously from, or under the name of, offices of Members of the House of Representatives."

Mr. KOSTMAYER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk concluded the reading of the amendment.

Mr. KOSTMAYER. Mr. Chairman, this is a simple amendment. Each year Members of the House receive 2,500 calendars which we send to our constituents. This costs the taxpayers of this country a little over $1 million a year. It seems to me that, in this time when we are concerned with our priorities, many worthwhile and important programs which serve the people of this country are being cut, programs which affect those who live in the cities, programs which affect the poor, programs which affect children, all programs which are sustaining cuts. It seems to me perfectly reasonable to reduce this particular appropriation bill by about $1 million and to dispense with the distribution of calendars to our constituents. It seems to me that this is really not a legitimate function of the Federal Government. And while I recognize that the calendars are popular with our colleagues, it seems to me that this is the very least that we can do.

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman from California.

Mr. PASHAYAN. Do these calendars have much information on them, or are they mainly for display purposes?

Mr. KOSTMAYER. These calendars are highly unique. They carry the days of the week and the months of the year on them, and they are, of course, available from the butcher, the baker, the real estate agent, anyone in your hometown. Many people receive them free. So they are calendars.

Mr. PASHAYAN. But the number of people who receive them are very select; are they not?

Mr. KOSTMAYER. Every Member of the House must make a judgment as to which 2,500 people among his constituents should receive these calendars. So they are somewhat select, I suppose.

Mr. PASHAYAN. They are really not available to the general public, in the sense that they are very select?

Mr. KOSTMAYER. They are available to the general public at cost. They can be purchased, but they are available to these 2,500 constituents, in particular, free of charge, to whomever the Member of Congress decides to send them.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman from New York.

Mr. CONABLE. Can the gentleman tell me if these calendars are equal in cost?

I have heard that the official calendar costs roughly twice what the calendar sent out by the Historical Society costs. I find, myself, that the Historical Society calendars are much more in demand than the official calendars. I wonder if the gentleman is inclined at all to divide the issue between these two calendars or between these two types of calendars, or if he is moving to try to wipe out the entire issue.

Mr. KOSTMAYER. The gentleman from Pennsylvania is trying to wipe out all of the calendars. There are two calendars, one which is printed by the Government Printing Office, which costs a dollar, and the other which is printed by the Capitol Historical Society at a cost of approximately 47 cents.

I should point out just one other thing, and that is that the Clerk of the House who purchases the calendars from the Historical Society pays 47 cents for them. They cost 47 cents.

□ 1840

This is not of any benefit to the Capitol Historical Society and in no way would jeopardize or do anything to jeopardize the Historical Society.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman from California.

Mr. DORNAN. I have supported the gentleman on this before. I want to clarify a point. If someone wants to send calendars, if they simply must fulfill some impulse to send calendars to somebody, they can purchase them at the same price out of his stationery allowance?

Mr. KOSTMAYER. That is correct. There is no such thing as a free lunch.

Mr. DORNAN. Terrific idea. Let us all go with it and do away with this inflationary idea. Great stuff.

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. I would ask the gentleman to just consider all of the horrible implications of what he is suggesting, of little children learning their arithmetic by the numbers on a congressional calendar. Think of the horrible implications of the dear little old lady who for 20 years saved those calendars on her dining room wall or in her living room, a bit of Americana being preserved in her home. I would ask the gentleman just to consider if he will the sense of history that permeates the homes with these gorgeous calendars found everywhere. I would ask the gentleman out of the goodness of his heart to have mercy upon little children who want to learn numbers, senior citizens who want to decorate their homes and those who love a bit of Americana in their domiciles.

Mr. KOSTMAYER. I, of course, share the concerns expressed by the gentleman from Maryland. I will say only to him, these calendars, of course, will remain available to the gentleman's constituents at either a dollar for the printing of the office calendar or 47 cents for the other.

Mr. MITCHELL of Maryland. A million dollars for a little bit of patriotism in the American home. That is a cheap one.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. KOSTMAYER) has expired.

(At the request of Mr. THOMAS and by unanimous consent, Mr. KOSTMAYER was allowed to proceed for 2 additional minutes.)

Mr. THOMAS. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman from California.

Mr. THOMAS. I thank the gentleman for yielding.

With a slight correction, it was indicated that the calendar provided only the month of the year, the year in fact, and the day of the week. For those of you who have not seen the 1980 edition, the July picture is the future home of the former Governor of California and on the 21st day of July, it says in 1780 an American attack at Bulls Ferry, N.J., was repulsed. Each day of the week gives a specific point in history which might be at least as valuable for some people who count themselves as Americans, as the particular day of the week, in fact the week, the month, or the year.

Mr. KOSTMAYER. I thank the gentleman.

Mrs. BOGGS. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman from Louisiana.

Mrs. BOGGS. I would like to ask the gentleman if he does not recognize that there is no limit on the number of calendars that can be procured from the Government Printing Office, the official calendar and also if he does not realize that this is an inappropriate amendment in the House. It should be an amendment that is brought to the House Administration Committee in a timely fashion.

In about 1962, I suppose it was, after the Capitol Historical Society had been formed, the House Administration Committee felt that it was such an attractive calendar with so much historical content that the House Administration Committee entered into a contract with the Historical Society to produce the calendars and have them available to the Members. The contract for the calendar takes about 18 months to produce a timely calendar, and this amendment should certainly be brought to the consideration of the House Administration Committee and should not be brought after the fact on the floor, concerning the distribution of the calendars and amount of moneys paid to the Historical Society.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. KOSTMAYER) has expired.

(By unanimous consent, Mr. KOSTMAYER was allowed to proceed for 1 additional minute.)

Mr. KOSTMAYER. I just say my amendment affects the calendars to be printed in 1982, not in 1981, so we have taken care of that problem.

I did testify before the subcommittee, before the subcommittee of the gentleman from Indiana (Mr. BENJAMIN), several months ago and tried to work this matter out without bringing it to the floor.

Finally, the issue is not the merit or lack thereof of the calendars. The issue is very simply should the people of this country have to pay for the calendars, either a dollar or half a dollar, or should they receive them free. I think they should have to pay for them.

Mr. BENJAMIN. Mr. Speaker, I rise in opposition to the amendment.

Mr. BENJAMIN. Mr. Chairman, I rise in opposition to the amendment.

The gentleman's amendment would not allow the wall calendars now obtained each year by the House from the Capitol Historical Society and the Government Printing Office to be distributed to constituents as they have been since 1901.

The amendment is obviously not new. On June 28, 1977, the gentleman from Pennsylvania offered the same language accompanied by a reduction in accounts amounting to $574,000. After admitting that the calendars had become an institution of the House, he stated that he would prefer to directly appropriate Federal funds to the U.S. Capitol Historical Society rather than to have historical calendars, a part of a 13-year program launched by the historical society to educate citizens on the events, battles and sacrifices made that finally led to the drafting and acceptance of the Constitution of the Continental Congress in 1787 and the adoption of the Constitution by the 13 colonies in 1789.

The House was undoubtedly perplexed by the gentleman's economic rationale—do not purchase calendars to help in the education of our country—just give money. The vote was 18 to 52 and the amendment was defeated.

Nearly a year later, a gentleman from Colorado, now a Member of the other body, moved to have the costs of the purchase of calendars and several other items paid out of the official office expense allowance. That amendment did not bar the purchase or distribution of calendars—it merely transferred its payment from the Government Printing Office and the contingency fund of the House to a dedicated account. That amendment carried 214 to 159.

The gentleman believes that he will bring about a savings of approximately $600,000 representing the denial of purchase of 930,000 historical society calendars and 167,000 GPO 2-year calendars. Mr. Chairman, the gentleman's amendment does not reduce the size of this bill by one penny.

A year ago the Legislative Branch Subcommittee reduced spending requests by $82.2 million, then the largest cut in a legislative budget in history. This bill cuts $82.8 million from requests, another record. We may yet restrain spending in this bill by another $9.4 million. Those are economies that can well be appreciated by the taxpayer.

The effect of the amendment offered by the gentleman from Pennsylvania is to bar the gratuitous distribution of calendars. It does not, I repeat, it does not cut the appropriation level by 1 penny. The amendment, otherwise stated, says you can purchase calendars. You can then sell those calendars. But you cannot give the calendars gratuitously to citizens, schools, libraries, public offices or for any other patriotic, educational, altruistic or eleemosynary use.

Mr. Chairman, the society's calendars cost the Government only 47 cents each but they frequently provide the only means of communication between the Government and the U.S. public. These calendars, which provide historical information on our Nation and its origins, are useful for their informational as well as their functional value.

The calendar, Mr. Chairman, at 47 cents is a pretty good investment in bringing some of the less complicated, more intelligible and informative facts about our Government to the people.

Also, Mr. Chairman, we should look at the producer of this calendar—the U.S. Capitol Historical Society. This is a nonprofit group that makes a major contribution to this body and to this institution. They make no profit on their operations and have been able to contribute almost $2 million in art work, publications, educational films and other gifts and contributions to the Capitol.

The House has been ordering this calendar from the historical society since 1968. There is no legitimate reason for changing that arrangement. The historical society requires 18 months for the production of a calendar. The amendment here may well affect the 1981 and 1982 calendars which will cost the historical society the loss of considerable money.

The situation with the GPO calendar is similar. It costs 99 cents each.

Finally, Mr. Chairman, dealing with specific items that should or should not be provided for in a Member's allowance is not an appropriation issue. I have suggested to the gentleman that he should take this matter up with the Committee on House Administration. Ordering these calendars is within the jurisdiction of that committee and I think that is the course of action that will, in the long run, be the best vehicle for resolving this problem.

I urge the defeat of this amendment.

Mr. PICKLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gentleman from New York (Mr. CONABLE) and I serve on the U.S. Capitol Historical Executive Committee. I have been a member of the Executive Committee for some 10 years and the gentleman from New York (Mr. CONABLE) for several years. We have spent a great deal of our time trying to carry on the work of the History Society.

☐ 1850

A lot of that work is made possible by projects such as the calendars, the question before us today.

I submit to the chairman of this committee, who so ably said that these calendars are quite often the only connection between many individuals in the United States and the Government itself, that it serves a very useful purpose. The funds that are obtained by the Society are not for profit, because we carry on the work of this Historical Society without any cost to the Federal Government. Each of you every day go down the corridor in the hallway below us and see the beautiful murals above us, put there by the Capitol Historical Society—at no cost to the Government.

You see the continuing project going in a T-form in the other direction, strictly by virtue of the work of the U.S. Capitol Historical Society. All the moneys are put back into the preservation of the Capitols history.

All of this serves a very useful purpose. It is educational, it is helpful. The calendars are sometimes the only thing that people get from their Government. I would think this amendment ought to be voted down and the committee should be supported.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I was watching this debate on television. I hope it will not be allowed to be closed until a few of us would have a chance to say a good word for the calendars.

I have been on the House Administration Committee for 10 years, and almost every year there arises some hero who would slash the Capitol Historical Society calendars and thereby establish some reputation as a great budget cutter. Those heroes, however, have never volunteered to give up a thousand dollars from their newsletter allowance, which would have the same monetary effect.

May I say, Mr. Chairman, that it is my considered judgment that the Capitol historical calender provides far more information than most of the newsletters that I see go out of these three Capitol buildings.

My experience is much like that of my colleagues, the gentleman from Texas. My constituents frequently tell me that the only good thing they get from their Government is this particular calendar. I send them to schools. I send them to barber shops, to VFW halls, KC halls, or wherever. I have never had any kind of an experience but a good one, saying that is wonderful. It teaches us about our history.

Perhaps sending them out through the Members is not the most efficient form of distribution that we could have, but it is a good form and serves a good use. I think that those who would be heroes would do a better service to their country if they would take some cuts in their own personal allowances.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, I would like to associate myself with the gentleman's remarks.

I would like to point out also that while it may be that you can buy a calendar for 47 cents, at this point if you wish to go beyond your allocation, it would cost a great deal more than that if it were not for the volume that is achieved by the House buying the allocations to the Members. These calendars are bid on a volume basis. You would be paying 75 cents or a dollar or more if they were not bought in the volume that is involved by virtue of the House's purchase of the Members allocations.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for his contribution.

I would state further that the Capitol Historical Society does an enormous amount of research at its own expense to produce each year a calendar that is slightly different. This year they take us back 200 years to whatever year that was, 1780. They give us the historical events that occurred day by day in that particular year. It is an absolutely fascinating exercise in historical research and one that I think we could all benefit from.

Mr. KOSTMAYER. Mr. Chairman, will the gentleman yield to me?

Mr. FRENZEL. I will yield briefly.

Mr. KOSTMAYER. Mr. Chairman, I appreciate the gentleman's yielding. Perhaps my friend, the gentleman from Minnesota, missed part of the debate between his office and the floor. I see the gentleman was in quite a hurry to get over here.

We are not discussing the merits of the calendars. Everyone here thinks the calendars are terrific and wonderful. What we are saying is that if you want a calendar, you ought to pay half a dollar or a dollar for it. That is all. There is no reason why the taxpayers of the country—if I could just finish my sentence, then I will yield back—there is no reason why the taxpayers of the country should pay $1 million for only 2,500 calendars.

Mr. FRENZEL. Mr. Chairman, I do not yield further. The gentleman had plenty of time.

Mr. Chairman, the problem is that, as stated by the gentleman from New York, in order to achieve the volume purchase that we have, we have to have a significant quantity of these and we have to be able to plan on them. For those of you who will unblushingly take your combined expense allowance and will send out your newsletters on a regular basis, I would suggest that the sending of the calendar to your constituents renders a far greater service.

I hope the amendment will be decisively defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. KOSTMAYER).

The amendment was rejected.

AMENDMENT OFFERED BY MR. MICHEL

Mr. MICHEL. Mr. Chairman, I offer an amendment.

The portion of the bill to which the amendment relates is as follows:

SEC. 306. (a) No part of the funds appropriated for the fiscal year ending September 30, 1981, by this Act or any other Act may be used to pay the salary or pay of any individual in any office or position in the legislative, executive, or judicial branch, or in the government of the District of Columbia, at a rate which exceeds the rate (or maximum rate, if higher) of salary or basic pay payable for such office or position for September 30, 1980, if the rate of salary or basic pay for that office or position is—

(1) fixed at a rate which is equal to or greater than the rate of basic pay for level V of the Executive Schedule under section 5316 of title 5, United States Code, or

(2) limited to a maximum rate which is equal to or greater than the rate of basic pay for such level V (or to a percentage of such a maximum rate) by reason of section 5308 of title 5, United States Code, or any other provision of law or congressional resolution.

(b) For purposes of subsection (a), the rate or maximum rate (as the case may be) of salary or basic pay payable for September 30, 1980, for any office or position which was not in existence on such date shall be deemed to be the rate or maximum rate (as the case may be) of salary or basic pay payable to individuals in comparable offices or positions for such date, as determined under regulations prescribed—

(1) by the President, in the case of any office or position within the executive branch or in the government of the District of Columbia;

(2) jointly by the Speaker of the House of Representatives and the President pro tempore of the Senate, in the case of any office or position within the legislative branch; or

(3) by the Chief Justice of the United States, in the case of any office or position within the judicial branch.

(c) No part of the funds appropriated by this Act or any other Act shall be used to pay any member of the Senior Executive Service an aggregate amount of more than $52,750 in total remuneration during fiscal year 1981 as a result of either (1) any lump-sum payment for rank authorized during fiscal year 1981 by section 4507 of title 5, United States Code, or (2) any performance award authorized during fiscal year 1981 by section 5384 of title 5, United States Code. Nor shall any such funds be used to authorize or to pay comparable cash awards under any personnel system established on or after October 13, 1978, similar to the Senior Executive Service for any office or position in grade GS-16, 17, or 18 of the General Schedule or in level IV or V of the Executive Schedule, or any comparable office or position in the executive (including the United States Postal Service or any Government corporation), judicial, or legislative branch or in the government of the District of Columbia at a rate in excess of that allowed under this subsection for a number of the Senior Executive Service.

(d) For purposes of administering any provision of law, rule, or regulation which provides retirement, life insurance, or other employee benefit, which requires any deduction or contribution, or which imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

The Clerk read as follows:

Amendment offered by Mr. MICHEL: On page 32, beginning with line 13, strike everything through line 6 on page 33 and insert the following:

"(c) None of the funds appropriated by this Act or any other Act shall be used to pay performance awards in fiscal year 1981 under 5 U.S.C. 5384 or any comparable personnel system established on or after October 13, 1978 to more than 25 percent of the number of Senior Executive Service or comparable pesonnel system positions in any such agency."

Mr. YATES. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Illinois reserves a point of order.

Mr. MICHEL. Mr. Chairman, this amendment is a carbon copy of the compromise language I proposed in the conference report for the recently enacted supplemental appropriation bill for 1980 having to do with the senior executive bonus item.

It would, in other words, insure a continuation of the same policy in 1981 as we have in 1980.

What the amendment would do is to reduce the number of senior executives eligible for bonus payments from 50 percent, as provided for in the authorizing law, to 25 percent, and would remove the cap on the amount of the bonus payment that we have in this bill as reported.

My amendment addresses perhaps the major concern regarding the program of bonus payments—that if 50 percent of the employees could receive bonuses, the bonus might be used as a straight pay increase mechanism rather than as a reward for outstanding performance. Making only 25 percent eligible would more effectively force the agency to take performance into account and reward only those most deserving of a bonus.

At the same time, this approach would allow the incentive element of the program to be fully tested. A cap at $52,750, allowing bonuses of a few thousand dollars, really doesn't provide all that much of an incentive. We ought to give this incentive feature a chance to really be carried out in practice before undermining it with a cap of this sort. With all the complaints we hear about bureaucratic bungling, surely we ought not to stand in the way of trying something new to improve the picture.

I urge adoption of the amendment.

Mr. BENJAMIN. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I am happy to yield.

Mr. BENJAMIN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, we have reviewed this amendment. This is precisely what was agreed to in the supplemental conference, which was accepted by both Houses.

We have also reviewed the procedure with Mr. CAMPBELL, the Director of the Office of Personnel Management, and we are satisfied that as a result of that conference there is going to be a tremendous amount of oversight on the SES system and we are grateful for that. This side accepts the gentleman's amendment.

Mr. MICHEL. Mr. Chairman, I thank the distinguished chairman for his comments.

Mr. YATES. Mr. Chairman, I withdraw the point of order.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. MICHEL).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BAUMAN

Mr. BAUMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BAUMAN: On page 33, after line 13, insert the following new section:

"SEC. 307. None of the funds appropriated or otherwise made available in this Act for the House of Representatives or for any other agency shall be used to provide legal representation for any employee without the specific authorization of the Congress."

Mr. YATES. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Illinois reserves a point of order.

Mr. BAUMAN. Mr. Chairman, I yield to the gentleman from Indiana.

Mr. BENJAMIN. Mr. Chairman, I thank the gentleman for yielding.

What the gentleman has incorporated into his amendment is language which has appeared in previous legislative branch appropriations bills.

This side accepts the amendment and thanks the gentleman for it.

Mr. BAUMAN. Mr. Chairman, I thank the gentleman.

Mr. YATES. Mr. Chairman, I withdraw my point of order.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. BAUMAN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MILLER OF OHIO

Mr. MILLER of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Page 33, after line 13, add:

SEC. 309. Of the total budget authority provided in this Act, for payments not required by law, 2 per centum shall be withheld from obligation and expenditure; *Provided*, That of the amount provided in this Act for each appropriation account, activity, and project, for payments not required by law, the amount withheld shall not exceed 5 per centum.

Mr. MILLER of Ohio. Mr. Chairman, I will not take the 5 minutes. The amendment is a 2-percent reduction, as we have had on many of the appropriation bills.

The total amount of the bill is $973 million. The nonmandatory section is $598 million. Two percent amounts to approximately $11.8 million. That is what we are voting on.

We are now over $900 billion in debt.

□ 1900

We are now paying interest of approximately $75 billion annually. If we are going to reduce the budget, we should reduce here in the House where we are paying expense for calendars and newsletters as we heard a little while ago. We should reduce this bill and bite the bullet. We are proposing that this bill be reduced $11.8 million. I request a "yea" vote.

Mr. GRASSLEY. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman.

Mr. GRASSLEY. Mr. Chairman, I want to rise in support of the gentleman's amendment. I want to compliment the gentleman for the amendment. I think it does show the proper leadership we in the legislative body ought to show.

I also want to inform the Members of the House that legislation was passed in the other body on June 2 that would do about what the gentleman wants to do, only fives times as much. To the extent to which the other body adopted an amendment offered by the Senator from Virginia, amended by the Senator from West Virginia, it cut the appropriations for that body for the next fiscal year by 10 percent. That amendment was offered to the authorization bill on the Council on Wage and Price Stability.

Surely if the other body can find it in their wisdom to agree by a very wide margin to a reduction of 10 percent across the board, we ought to be able to find room for a 2-percent reduction in our appropriation.

Mr. MILLER of Ohio. I yield back the balance of my time.

Mr. BENJAMIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, normally, the Miller amendment to impose a percentage reduction on the legislative branch appropriation bill should be opposed. However, for reasons I shall explain, I believe that we should accept a 2-percent reduction.

We had a similar reduction applied to the 1979 bill. In that case—which was 5 percent—a little over $22 million was withheld from obligation. We have estimated the prospective impact of this amendment—a 2-percent reduction—would be about $9,400,000. Based on our experience of 2 years ago, most of the legislative branch obligations are mandated by law—thus the $9 million that would be withheld under this amendment would primarily affect the General Accounting Office, the Library of Congress, the Architect of the Capitol, and the smaller agencies in the bill.

We have already reduced those agencies by over $38 million and they would be further reduced by this amendment. We have not only denied any new positions for these agencies—we have also imposed reductions of 353 staff positions. We have acted on the specifics of these budgets, Mr. Chairman, and we have made reductions after lengthy hearings and deliberations.

The 1981 legislative branch bill is $82,813,000 under the budget request. Last year, we brought a bill to this House that was $82,096,200 under the budget. We have searched our records going back over 25 years and find these are the largest reductions ever proposed for the legislative branch. I think that is an historical fact of which every Member of this Chamber can be proud. We do not need a meat ax—such as this amendment is—we have already made sizable reductions and directed them toward specific areas where we believed reductions were feasible and desirable.

As a matter of fact, this type of amendment can lead to some mischief. When the 5-percent cut was made in 1979, the Library of Congress applied over 30 percent of the cut to the books for the blind and physically handicapped program. That is the kind of result we get from a meat-ax approach. That is why we need an appropriations process to review the annual budget requests and to make the appropriation decisions in an orderly and regulated fashion.

A further statistic should be noted. We are actually bringing this bill in at a level which is lower than last year's level. When the pending supplemental requests for 1980 are reflected, this bill is $21 million under the current 1980 operating level.

If the supplementals recommended in H.R. 7542, the Supplemental Appropriations and Rescission Act, 1980, are included, this bill is $600,000—or almost 1 percent—under this year's level.

We have reduced the purchasing power of the legislative branch budget for 2 consecutive years, Mr. Chairman, with inflation running at 10 to 12 percent, we would have to increase this budget by $90 to $100 million each year just to stay even—but this bill actually reduces the budget by over one-half million dollars. Thus, we are not only making large reductions—we are actually reducing the relative size of the legislative branch in this bill.

The agencies in our budget have been frugal, and the committee has been even more frugal. It may have been opportune in past years to apply the meat ax to the legislative branch budget—but times have changed. The committee has not rubber-stamped this bill—large and significant reductions have been made.

Mr. Chairman, it is politically attractive to vote for an across-the-board cut. I guess part of the appeal is in reducing legislative branch manpower. But this amendment would not accomplish that to any significant extent at all. Most of the congressional manpower is protected by the rules of the House or controlled by the regulations set forth by the Administration Committee and approved by the House.

If the gentleman is seeking manpower reductions he will not accomplish it with this amendment. He will have to work with the Administration Committee and others to do that.

As far as overall manpower is concerned, you may be interested in some interesting facts. The 1981 budget considered by the committee requested 273 new positions for the legislative branch. The committee rejected every request for additional positions. Not one new position was allowed.

The budget requests forecasted a level of 24,374 jobs in the legislative branch. This bill not only denied new positions but imposed reductions in the current manpower base of 353 positions.

Thus, this bill reduces the number of projected legislative branch employment by 2.8 percent. What other agency—or department—can make that statement? But this is not just a department in this bill—this is an entire branch of Government—the legislative branch. And we have reduced employment by 2.8 percent.

That is a figure that every member who wants to be on record as opposing deficits and uncontrolled Government growth can vote for.

Finally, Mr. Chairman, let us look at what this amendment is aimed at—the legislative branch of our Government. This is not a routine appropriation bill which provides multibillions for a variety of executive branch functions—this bill covers one-third of our whole system of democratic Government. Now the legislative branch is a whipping boy for a lot of people in the press and elsewhere—but let us remember it is one-third of our system of Government. The legislative branch is the cornerstone of the people's right to be heard in the making of our laws—and in preserving our rights and the advantages of a free society.

Why do we want to impair the legislative branch? I would think my distinguished colleague who offered this amendment would be more concerned with protecting—or even enhancing—the relative strength of the legislative branch. With all the complexities of our modern society and the pervasiveness of the Government, we need the modest research capabilities provided by the Congressional Research Service, Office of Technology Assessment, CBO, and others—we need the activities of the General Accounting Office to ferret out the waste and abuse and the fraud—we need the investigative and technical capabilities of our staffs to help us provide all the services that our constituents expect and to assist in the legislative workload.

Mr. Chairman, we should normally reject a meat-ax thrust upon the legislative branch. This bill is $82 million under the budget—it is $67 million under the budget resolution ceilings—it is $600,000 under the 1980 levels approved by this House—and it is almost 1 percent under last year while the entire executive branch budget is looking for a 5.3-percent increase over 1980.

We have no apologies to make for the recommendations in the bill—the legislative branch is showing the way to a balanced budget.

Having explained that the gentleman's amendment is unnecessary, and perhaps even unwise, I reluctantly accept the amendment on the thesis that it will compel this body to examine any requests for supplemental appropriations with greater sensitivity. Hopefully, it will also mandate greater productivity—a source of subcommittee concern. Finally, it will force the legislative branch to reexamine its priorities. For these reasons, this side accepts the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Miller).

The amendment was agreed to.

Mr. BENJAMIN. Mr. Chairman, I move that the committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the Chair, Mr. Brooks, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7593) making appropriations for the legislative branch for the fiscal year ending September 30, 1981, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 6974, DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1981

Mr. PRICE. Mr. Speaker, I ask unanimous consent to take from th Speaker's table the bill (H.R. 6974) to authorize appropriations for fiscal year 1981 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loans, to authorize appropriations for fiscal year 1981 for civil defense, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Illinois? The Chair hears none, and appoints the following conferees: Messrs. Price, Bennett, Stratton, Ichord, Nedzi, Charles H. Wilson of California, White, Nichols, Bob Wilson, Dickinson, Whitehurst, Spence, and Beard of Tennessee, and Messrs. Boland, Burlison, and Robinson from the Permanent Select Committee on Intelligence only when differences regarding intelligence-related activities are under consideration.

CONGRESSIONAL ADJOURNMENT

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, as congressional spending keeps increasing causing the national debt to go over $900 billion, we should be mindful of the causes of this Federal overspending. A major cause of overbudgeted Federal programs and rampant Federal spending is Congress extended sessions. We have created massive Federal bureaucracies for which Congress appropriates more money. The more Congress meets, the more we spend for inflation and higher taxes.

A 1946 law on congressional proceedings states that Congress should adjourn by the end of July. It says:

> Except in time of war or during a national emergency proclaimed by the President, the two Houses shall adjourn sine die not later than the last day (Sundays excepted) in the Month of July in each year unless otherwise provided by Congress.

Later the rules were amended, but final adjournment was still the end of July. The amended rule stated:

> (a) unless otherwise provided by Congress, the two Houses shall—(1) adjourn sine die not later than July 31 of each year, or (2) in the case of an odd-numbered year, provide, not later than July 31 of such year, by concurrent resolution adopted in each House by roll-call vote, for the adjournment of the two Houses from that Friday in August which occurs at least thirty days before the first Monday in September (Labor Day) of such year to the second day after Labor Day.
>
> (b) this section shall not be applicable in any year if on July 31 of such year a state of war exists pursuant to a declaration of war by the Congress.

Congress has taken the phrase "unless otherwise provided by Congress" in the rules to conduct practically year-round sessions. In the 86th Congress which covered the years 1959 and 1960, the House of Representatives cast 780 votes; in the last full Congress, the 95th, covering 1977 and 1978, over 1,500 votes were cast. The more we vote the more money we spend. The Federal Government spent $92.2 billion in 1960 and had a balanced budget. In 1978, the Federal Government spent $450 billion and had a $50 billion deficit.

I have introduced a bill, House Concurrent Resolution 7, which would limit the number of days Congress could meet. It would permit up to 120 days for congressional business and force Congressmen to go home to their districts to see the effects that excessive legislation passed in Washington is having on the taxpayers back home.

It was the intent of the rules that Congress should adjourn in July. The more Congress stays in session, the more it costs the American taxpayer. America has more government than it wants, more regulations than it needs, and more taxes than it can afford to pay. America would have a much brighter future if Congressmen spent less time in Washington and more time back home.

CYPRUS—6 YEARS LATER

(Mr. KILDEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KILDEE. Mr. Speaker, this week marks the sixth year since Turkish troops invaded and occupied the northern portion of the independent nation of Cyprus. That invasion resulted in the displacement of over 200,000 Greek and Turkish Cypriots. For any of us, the loss of our homes and jobs would be a tragedy. On Cyprus, such an individual tragedy must be multiplied thousands of times.

There are two things which are of great concern to me. First, because of other problems in the world, the situation on Cyprus is in danger of becoming the forgotten problem. Its rank as a priority item in our foreign policy, unfortunately, is so low that there has been almost no reference to it by either major political party this year.

The second thing that disturbs me is that with the passage of time, an aura of legitimacy and permanence is given to the present situation. I warned of this 1 year ago. Another year has passed, and we are another year closer to seeing the possibility become a reality.

As a Nation we can neither condone nor accept the occupation of a sovereign nation by the army of another nation. It is contrary to the moral and ethical principles which have guided us. We also have a moral responsibility to see that those who have been displaced receive justice.

I would renew the call that I have made each year at this time. The administration should be doing everything it can to bring about a just settlement of the issues on Cyprus. Among the things that should be done which are not being done is bringing a maximum amount of pressure to bear on Turkey to withdraw the forces of occupation. Turkey is, indeed, a valued ally and friend, but that makes our responsibility that much greater. In some ways it is analogous to the situation in a family where one member does something that is very wrong. The other members of the family have a responsibility to see that the person who has erred corrects his or her action. Such measures are taken not out of malice but because of love and friendship.

The occupation of Cyprus is not in the interests of either the United States or Turkey. It contributes to instability in the Eastern Mediterranean, and acts as a drain on a Turkish economy that is already in shambles.

During the last Congress, the administration assured us that if the arms embargo on Turkey were lifted, progress toward a settlement would be made. Only the most naive could believe that any real progress has been made. The suspension of the embargo has not worked, and the time has come to once again use it as a lever to encourage the Turkish Government to take the ethical and proper action.

BUSINESS AS USUAL FOR THE INTERNATIONAL TRADE COMMISSION

(Mr. BRODHEAD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRODHEAD. Mr. Speaker, as you know, the administration recently announced a limited set of proposals to aid the American auto industry. The linchpin of this package was a personal request by the President that the International Trade Commission (ITC) speed up its investigation of damage to the industry. Without the ITC's report, neither the President nor Congress can reasonably take action. Last Friday, the ITC announced that it refuses to comply with this key provision of the administration's package.

Mr. Speaker, the ITC has decided to do business as usual. This decision bespeaks indifference to the needs of a large number of American workers. And it comes at a time when the public is increasingly fed up with the Federal Government's sluggish responses to their concerns. People are rightly angry at the bureaucracy's preoccupation with its own rules and regulations in the face of pressing national problems. The ITC's inaction is a serious instance of mindless and needless delay.

The ITC need not look far to find the evidence it requires to complete its work. Last month, sales of American-made cars plunged to an annual rate less than three-fifths of what it was just 2 years ago. This plunge has been accompanied by a jump of three-fifths in the sales of foreign imports. Today, more than one car in four sold in the United States is in fact produced by foreign labor. We know the result: As of last month, a total of 239,000 U.S. autoworkers had been laid off indefinitely; another 450,000 in supply industries were also out of work. In my own State of Michigan, many of these unemployed workers are now exhausting their unemployment benefits and have no prospect of reemployment. Our welfare caseload has risen to its highest level in history: The number of families on welfare is increasing each month by 3,000 to 4,000.

These are the facts. Why does the ITC insist that it needs 6 months to study them? Why must unemployed autoworkers wait 6 months for their Government to even begin to consider alternatives for action? In the face of a crisis of this magnitude, one wonders what is required to get the Government's attention and make it move. I strongly urge the ITC to reverse its decision. I urge the ITC to inform itself now of what has long been clear to every family with a breadwinner in the American auto industry. We who are concerned about the vitality of this industry—unions, management, suppliers. Congress—stand ready to cooperate fully with the ITC. We want to know: What will be their response? Thoughtful, swift establishment of the facts, or business as usual?

□ 1910

EIGHTEENTH ANNUAL QUESTIONNAIRE

The SPEAKER. Under a previous order of the House, the gentleman from New Hampshire (Mr. CLEVELAND) is recognized for 60 minutes.

● Mr. CLEVELAND. Mr. Speaker, last April I mailed my 18th annual questionnaire to the residents of the Second Congressional District of New Hampshire. The results of the questionnaire, together with my own answers and comments will again be shared with my colleagues and readers of the CONGRESSIONAL RECORD. The people who live in the Second Congressional District (which is bordered by Massachusetts, Vermont, Maine and Canada as well as the First New Hampshire District) have proven in the past to be extremely reflective of national opinion and quite frequently ahead of it.

This year more than 15,500 persons took the time and trouble to respond, which is better than a 10-percent increase over last year. Once again the most important message from New Hampshire's Second Congressional District is that its residents are intensely concerned with the problems of energy and inflation at home, the state of our national defense and the conduct of our foreign policy abroad.

Unfortunately, space does not permit me to share the many comments returned with the questionnaires. It is interesting to note, however, that most of the added comments reflected deep disenchantment, often bordering on despair, with our Government here in Washington. People do not view the Federal Government as part of the solution; rather they view it as the biggest part of the problem. Many people express frustration with the fact that the Government in Washington never balances its budget as do governments and families in New Hampshire. It is ironic that, as working people in New Hampshire and elsewhere are filing for unemployment benefits, there are few if any Federal bureaucrats doing the same.

Mr. Speaker, having announced that I shall retire from the House at the end of this year, this is a good time to thank the many people who have responded to my questionnaire over the years. Their responses, suggestions and criticisms have been enormously helpful in enabling me to represent my district successfully. As usual a number of people suggest that the questions are "loaded." If so it is surely not deliberate as the whole purpose is to find out how constituents feel on selected issues. Again a number of complaints were filed on the difficulty of a yes or no answer. That is why we invited an "undecided" answer, which is a luxury not afforded to Members of Congress, often faced with large complex bills, some sections of which we may oppose and others we may support.

Here are the questions, my constituents' responses, and my own comments:

1. PRIORITIES.—Of those issues and concerns which in your opinion are properly subject to Congressional action, which three would you most like the Congress to deal with in the coming months?

[In percent]

Inflation/Economy	54
Defense	38
Energy	29
Taxes	16
Government Spending	10
Balanced budget	8
Anti-nuclear	7
Pronuclear	7
Less Government	7
Foreign Affairs	7
Alternative energy	6
Draft/registration	6
Iran/hostages	5

Social Security	4
Environment	4
Revenue Sharing	3
Minimum Wage	2
Moscow Olympics	2
Unemployment	2
Welfare Reform	1.8
Interest Rates	1.8
Energy Prices	1.7
Crime	1.4
Economic Development vs. Environment	1.4
Ethics in Government	1.4
Education	1.2

Inflation and the economy, defense, and energy are rated as top priorities in response to the above question. In 1979 the top three were the same although in different order.

Considering the overwhelming public concern with these issues, it is reasonable to ask why the U.S. Congress and your Government have not done a better job in addressing these problems. There is no easy answer and no single answer. However, if you take a good hard look at those issues which rate less than 1 percent interest (listed below), there may be a clue to at least part of the reason. Take for example, policy issues concerning veterans, health, the elderly, and gun control. Although these important concerns rate a very low overall priority in comparison with the top four or five, they are the subject of advocacy by well organized and articulate groups. They generate a great deal of mail and lead to frequent office conferences, the consumption of time in legislative hearings, the study of proposals, and attempts to be responsive. Much the same can be said of labor issues, consumer protection, prayer in public schools and almost all of the other interests listed.

In the letter accompanying the questionnaire, it was noted that:

> The erosion of the two-party system has resulted in (or perhaps caused) the proliferation of single-issue, special issue and "cause" groups. They zero in on particular bills or programs with increasing effect.

The example cited was the new Department of Education established by Congress despite general public opposition (the response to the 1979 questionnaire opposed the proposal by 67 percent to 22 percent.

This clearly demonstrates how effective relatively small groups can be. The problem is aggravated, as I noted then, by the increasing size and complexity of the congressional establishment. This tendency, illustrated by the more than 200 official committees and subcommittees to which Congressmen are assigned and the more than 50 unofficial caucuses (such as the Tourism Caucus, the Steel Caucus, and numerious ethnic and regional groups), severely splinters and weakens Congress. Perhaps greater effort should be devoted to improving the organization of Congress so that truly top priority national issues and concerns can be more effectively addressed here. Unfortunately, there is little or no constituency for improving Congress—as we learned during our year-long effort with the Select Committee on Committees—so at the present time there is little action on this front.

Simply put, Congress is made up of elected officials, who are responsive to constituent pressures. As a result, they seem to spend equal time on all issues, whether they are at the top of the agenda or merely have a few vocal proponents. There is no willingness to focus on the big issues long enough to lick them; it is just too easy to jump from subject to subject in response to the group visiting town, or the mail being generated.

While the Federal Government has not dealt effectively with our most important problems, it is worth noting that in energy, as in other fields, some parts of a solution are evolving through the free enterprise system. Energy conservation is taking effect, spurred on by unpleasant but very effective higher prices for energy. Alternate sources of energy ranging from solar to wood are being rapidly adopted here in New England, again stimulated much more by the higher price of oil than by all the Government programs from Washington.

ISSUES LISTED BY LESS THAN 1 PERCENT OF RESPONDENTS

Business Aid, National Health Insurance, News Media, ERA, Abortion, Mass Transit, Health, Elderly, Immigration, Peace, Housing, Gun Control, Imports, Lobby Control, Space Program, Nuclear Waste, Campaign Reform, Impeach Carter, Veterans, Legalize Marijuana, Wage Price Controls, Postal Service, Right to Work, Sunset, Capital Formation, Leadership, SALT II, Social Programs, Transportation, Agriculture, Farm Lands, Labor Unions, Busing, States Rights, Human Rights, Civil Rights, Big Business, Chemical Waste, Consumer Protection, Middle East, Mortgage Money, Prayer in Public Schools, Food, Alaska Oil, Arts, CIA, Disarmament, 55 MPH, Domestic Violence, Direct Election of the President, Gold Standard.

2. NUCLEAR POWER.—Should we continue to develop nuclear power for generating electricity?

[In percent]

1980:	
Yes	55
No	38
Undecided	7
1979:	
Yes	52
No	42
Undecided	6

This year's question, a repeat of last year's, drew an even higher proportion favoring continued nuclear power development. The 1979 question was asked shortly after the Three Mile Island incident, which had a great deal of negative publicity. Earlier, in both 1976 and 1977, 63 percent of questionnaire respondents favored construction of the Seabrook nuclear powerplant. As a strong supporter of nuclear power to generate electricity, the response to this question is heartening to me. The fact that most of the developed nations (with whom, of course, we must compete) are moving forward in this area more rapidly than we are is significant.

The Kemeny Commission and other bodies investigating Three Mile Island have urged even more safety improvements. The issue of nuclear waste disposal has received significant attention, and the development of pilot storage facilities at carefully selected sites seems nearer than ever. But this is at least as much a political problem as a scientific or technical one.

New England continues to derive about 35 percent of its electricity from nuclear plants. Unfortunately, most of the rest must come from oil-fired generators which rely on foreign sources of oil. This foreign oil is draining our economy through ever-rising prices, and the supply is always subject to embargo. Reliance on domestic energy sources, including but not limited to nuclear power, seems preferable.

3. MINIMUM WAGE.—Would you favor a somewhat lower minimum wage rate for people under age 19 in an effort to increase job opportunities for the young?

[In percent]

Yes	69
No	27
Undecided	4

Many experts believe that the minimum wage rate eliminates many of the potential jobs which might otherwise be available to young people just entering the job market, often without substantial skills. There is some evidence that each rise in the minimum wage tends to decrease job opportunities for these people.

In 1977, the House of Representatives debated a motion to establish a "youth differential" at 85 percent of the minimum wage for young workers during their first 6 months on the job. I supported this approach but the amendment was defeated.

While there is no absolute certainty that a lower minimum wage at entry level would create additional jobs, the evidence is very persuasive. We simply cannot accept the idea of requiring young people to waste years of their lives without productive employment because we are afraid to try an innovative solution. An overwhelming majority of New Hampshire residents seem ready and willing to try.

4. REVENUE SHARING.—Should federal revenue sharing to states be cut as part of the effort to balance the federal budget?

[In percent]

Yes	55
No	35
Undecided	10

Congress has cast several votes to cut Federal revenue sharing with the States, so this position seems likely to prevail. On the other hand, revenue sharing funds earmarked to local communities will almost surely be continued.

The House recently debated an amendment which would have given each State a choice between cuts in revenue sharing (where there is little Federal control) or equivalent across-the-board reductions in categorical grants (where spending is subject to Washington redtape and bureaucratic approval). Though I supported this amendment, the majority of the House did not. This would suggest they prefer to keep control over Federal grant funds in Washington.

In any event, the need of balancing the Federal budget is very real. The endless cycle of grossly unbalanced budgets is simply causing too much damage, that is, inflation, so strong steps must be taken.

We must also realize that the people hurt worst by this inflation are not the rich or the business and professional people, rather, it is the average working people whose pay will never keep up with the kind of inflation we have been experiencing, and who are being squeezed mercilessly in trying to balance family budgets. People living on fixed incomes are watching their retirement plans disintegrate. Families are despairing of making things a little bit better for themselves and their children, and are struggling just to try to preserve something like the standard of living they previously enjoyed. The American dream of owning one's own home is fading, and it seems to many people that all the politicians and bureaucrats can worry about is finding enough money to keep spending on social programs. No, the really heartless ones are those who want to spend, spend, spend, mindless of the fact that they are breaking the average working family and many senior citizens.

5. NEWS.—Do you believe that the news you read, see and hear is generally accurate and fair?

[In percent]

1980:	
Yes	39
No	47
Undecided	14
1975:	
Yes	37
No	47
Undecided	16
1974:	
Yes	44
No	50
Undecided	6
1973:	
Yes	46
No	42
Undecided	10
1972:	
Yes	34
No	49
Undecided	12
1971:	
Yes	36
No	48
Undecided	11

Through the years, opinion on this question has been generally consistent. With enough diversity of sources, the news one reads, sees and hears is likely to be reasonably accurate and fair. The problem comes when one relies on only one or two sources, such as the network news.

My long-held concern over the quality of news reporting from the Washington scene should not be construed as favoring any abridgement of free speech. However, the news media, like other individuals or organizations (including the Government) can benefit from constructive criticism.

The lack of objective and factual information is a major national problem. As stated in my retirement announcement, this Nation has "self-corrected before and, if the people get the facts, it will self-correct again, hopefully before it self-destructs." A thorough, fair and accurate reporting of events and issues would help assure that the people "get the facts."

6. MOSCOW OLYMPICS.—Should the United States pull out of the 1980 Olympics in Moscow while the Soviet Union continues to maintain occupation troops in Afghanistan?

[In percent]

Cleveland questionnaire:	
Yes	77
No	19
Undecided	4
D'Amours questionnaire:	
Yes	83
No	12
Undecided	5

This question was selected because of the large volume of mail which the issue generated. In addition, the same question was asked earlier in the year by my colleague in the First Congressional District, NORM D'AMOURS, and it is always interesting to compare the opinions of the two New Hampshire districts, even though they were expressed at different times.

The Soviet Union's invasion of Aghanistan certainly deserves unqualified condemnation by the world community. While it is unfortunate that athletes will be deprived of participating in the 1980 summer Olympics, the need to respond to the Soviet action is compelling.

If the United States had set a much firmer course over the last 4 years, perhaps the Soviets would not have been tempted to expand their empire. Inconsistency and a lack of clear policy in Washington thus may have contributed to the invasion.

Unfortunately, the last several years have been a long series of inconsistent signals coming from Washington so that our allies have become reluctant to side with us lest they be subsequently undercut by the United States. The Russian invasion of Afghanistan, and Russian activities in South Yemen, Ethiopia, Angola, Cuba, and Vietnam all suggest further problems in the not-too-distant future. Our defense must be stronger, and that implies something more than simply purchasing new weapons systems.

7. BUSINESS AID.—Do you believe that the federal government should financially assist businesses such as Chrysler Corp. when they are threatened with bankruptcy?

[In percent]

Yes	15
No	76
Undecided	9

Businesses have a right to make money and earn a profit, but if they mismanage their affairs, they also have a right to go bankrupt. It is that simple.

While one may be deeply concerned over the fate of the many Chrysler Corp. workers, it is very important for the future of our economic system that corporate management realize that the taxpayer will not rescue them if they run into trouble. For this reason, I voted against the Federal aid package providing $1.5 billion in loan guarantees to Chrysler, which nevertheless passed the House by a vote of 252 to 141. Under our bankruptcy laws, by the way, a good deal of the Chrysler operation could have been continued by the courts and protected from creditors.

In years past, my votes were also cast against special Federal aid to the Lockheed Corp. and to New York City.

It is small business which is the backbone of this country, and big government will never bail it out. Big business, despite its affinity for big government, its ability to mobilize public relations campaigns, and the support it gets from labor unions whose members' jobs are threatened, should have to use the established alternatives of merger and/or the receivership/bankruptcy procedures which small business is told to use.

8. SOCIAL SECURITY.—Should federal employees who are now exempted be brought under Social Security as part of their retirement system?

[In percent]

Yes	50
No	37
Undecided	13

The purpose in asking this question was to encourage debate and help develop informed opinion on an aspect of our social security system which is little understood. There is confusion in this area, as indicated by the large undecided response and by the many comments written on the questionnaires returned.

At the present time, Federal employees contribute 7.5 percent of their salaries to the Civil Service Retirement System, but are exempt from social security coverage and thus do not pay any social security taxes on their Government incomes.

Many Federal employees, at some time in their lives, also work the minimum number of quarters under social security in a non-Government job in order to qualify for minimum social security benefits. These minimum benefits are higher than justified by the amount actually paid into the system in order to assist lower income people. Thus, inappropriately high social security benefits may go to Federal employees already receiving generous Civil Service retirement benefits under their separate plan.

Exempting Federal employees from social security also sends clear signal to the American people that the system is good enough for them but not for Federal workers, including Congressmen, Senators, and the President.

In 1977, I supported social security coverage for Federal employees but only 37 other Members of Congress voted likewise. In principle, Civil Service retirement should supplement social security in a fair manner, and not be replaced by it. This would be similar to many private pensions which augment social security benefits. Obviously, present Federal employees should have their pensions protected, but we must reform the system for the future.

9. TAX CUT.—Generally federal income tax cuts have been across-the-board for all taxpayers. Would you favor instead a tax cut primarily designed to stimulate investment, savings, capital formation and productivity?

[In percent]

Yes	62
No	27
Undecided	11

The favorable response to this question was a rather pleasant surprise, given the fact that most working Americans are being very hard-pressed by terrible inflation and ever-rising Federal, State, and local taxes.

There is growing recognition that to assure economic growth and more jobs in the future, it is necessary to increase capital investment in new plants and more efficient machinery. Thus, a more selective tax cut could accelerate productivity, create new jobs, and spur much-needed technological improvements.

In addition, interest earned on personal savings accounts should largely be exempt from Federal income taxes. This would encourage savings and provide the mortgage money needed for homebuilding and homebuying.

It often seems that Washington is deliberately trying to undermine the productive drive of American business. Our tax system and our use of government regulations effectively divert business effort away from improving our productive capacity, and have contributed to many of our problems. Remember the political push in the 1960's for the steel industry to keep prices down? Now we have an industry with outmoded plants being driven from markets by foreign competition. It is time for Washington to focus on the future, and to encourage new capital investment in emerging growth industries.

10. DRAFT REGISTRATION.—Do you favor selective service registration for young men (but not the draft itself) at this time?

[In percent]

Yes	76
No	18
Undecided	6

Last September, I voted with 154 other Congressmen for draft registration of young men. Unfortunately, that amendment was not supported by the President and failed, 259 to 155. But that was before Afghanistan.

Following this brutal Soviet invasion, the President had a change of heart and began to lobby for draft registration. In April, the House voted again and this time, 218 Members of Congress joined me in support of registration. Unfortunately, the earlier lack of resolve had probably sent a significant signal to the Kremlin and to other interested observers.

Because of the long lead time necessary to respond to a military threat, the United States must have a registration system in place so that, if a draft were ever needed, it could be quickly implemented. I was one of the early supporters of the All-Volunteer Army; therefore, the necessity of reinstituting registration is not at all pleasing. Like it or not, however, the fact is that we live in a very rough world and should the draft become necessary we must be ready to move.

A closely related problem which is at long last receiving public attention is the relationship between the pay being received by the All-Volunteer Army and the need to retain highly skilled technicians who can frequently earn much more in the private sector.

11. DEFENSE.—Do you believe this country should rebuild and maintain a defense capability sufficiently superior (not just equal) to that of any potential adversary in order to deter military assault on our legitimate national interests?

[In percent]

Yes	79
No	15
Undecided	6

Many people who would prefer lower defense spending objected to the wording of this question saying it was biased; this certainly was not the intention.

It was drafted specifically to determine whether constituents support taking the steps necessary to insure that U.S. defense capability is clearly superior to that of the Soviet Union, or whether they support the concept of parity, or essential equality, which was so popular during the mid-1970's.

The Soviet Union's invasion of Afghanistan, subversive activities in various parts of Africa, the stationing of combat forces in Cuba, and the staggering buildup of Soviet armed forces illustrate the dangers we face. Peace and stability can be achieved only if we are willing to make use of our great resources to develop a military force strong enough to discourage further Soviet adventures.

We should also remember the 1930's when the failure of the Western democracies to respond to invasion of neighboring countries directly contributed to further aggression. Had these countries reacted strongly and promptly to the military adventures of Germany, Japan, and Italy, World War II might not have resulted. That ought to be a sobering memory, and one which compels us to do whatever is necessary to strengthen our military capability.

12. ECONOMIC DEVELOPMENT AND POPULATION GROWTH.—On the one hand, economic development provides jobs for the young and unemployed, and greater opportunity for those who want to improve jobs and income. On the other hand, the arrival of new businesses and industries has raised questions of harm to the state's natural resources and quality of life. Which ONE of the following statements do you most support?

a. Environmental issues have been stressed too much, making needed economic development difficult; 37 percent.

b. Economic development and population growth should be more strictly controlled; 30 percent.

c. Environmental and economic development issues have both been stressed to about the right degree; 20 percent.

d. Undecided; 13 percent.

This issue is a very complex one. New Hampshire's natural beauty and environmental resources are tremendously valuable and deserve careful attention and protection. At the same time, the people of New Hampshire need good jobs to support their families; thus, economic development is also a necessity.

Many respondents this year argued that both environmental protection and economic development are possible, and this is probably true. Unfortunately, some environmental activists during the last decade often insisted on regulations which are both expensive and unnecessary. Large tracts of wilderness were favored over the multiple use of resources—an approach followed successfully in the White Mountain National Forest. Court suits were used to kill economic development projects, or to cause costly delays. The result has been a great expenditure of money but a disproportionately low environmental impact for that money.

In general, however, most of New Hampshire has balanced environmental concerns with economic development rather effectively so that we still have a clean, attractive, and productive State. Still, there are significant problems of hazardous waste, air and water pollution, and too-rapid growth which need to be addressed at the local, State, and Federal levels. It is noteworthy that jobs are the predominant issue in the North country, while southern New Hampshire has serious doubts about the impact of rapid population and economic growth.

This year's question was a direct result of the experience of Lebanon, N.H., in trying to build a safer airport with new terminal facilities and an adjacent industrial park. A small group of no-growth advocates (who all seem to have good jobs themselves), calling themselves environmentalists, teamed up with a professor from a small Vermont law school and sued the city. The case was moved to Boston because of their complaints about New Hampshire judges, and a Federal judge in Boston stopped all work on the industrial park and airport runway improvements. Given the fact that these same people have not objected to projects in white collar Hanover, N.H., or Norwich, Vt., where they live, the conclusion is inescapable that they feel growth is bad only if it provides jobs for average people. The ability of a small group of educated and well-to-do people to stop this project is illustrative of the problems created when environmental concerns are exploited.

The issue of balancing growth and the environment has been addressed in past questionnaires. For example, in 1971, 69 percent of respondents said they would oppose the location of a new industry in their community if it would add substantially to water, air, or noise pollution. In 1972, however, another questionnaire asked whether a company should be shut down if, after substantial expenditures, it was still in violation of antipollution standards, but could achieve compliance within 3 years; nearly 70 percent of respondents said no. Modifications of questions definitely affect the type of response elicited.

In addition, this year's results were separately tabulated for several communities to ascertain the differences in opinion between various parts of the congressional district. One of the most dramatic differences occurred on this question, where 53 percent of Berlin residents thought that environmental issues had been stressed too much, while only 25 percent of Hanover residents agreed.

Since the questionnaires were coded this year to identify responses from the communities of Berlin, Concord, Hanover, Lebanon, Littleton, and Nashua, anyone desiring to know the community-by-community results for a specific question may simply contact my office.●

NEEDED: A NATIONAL CREDIT POLICY TO FIGHT INFLATION AND RECESSION

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 20 minutes.

● Mr. REUSS. Mr. Speaker, since January we have entered a steep slump. Friday's announcement on the gross national product revealed that in the second quarter the economy declined more rapidly than at any time since the Second World War. Housing, steel, autos, and other basic industries are in crisis. Unemployment, already too high, is going higher. Inflation and interest rates have come down, but both remain intolerably high and show no signs of coming down any further.

In the face of these difficulties, neither the administration nor its Republican opposition have a credible policy. Two false remedies are on the market. The first has been tried before, and it failed. The second is now in effect, but to continue with it would be recklessly damaging to our economy, our financial institutions, and our social fabric.

The first false remedy is the Republican remedy: Immediate tax reduction. This is an invitation to more inflation. Whether supply-side or demand-side, all tax reductions are essentially alike. All tax reductions increase the disposable after-tax income of their beneficiaries. All therefore entail an increase in private sector spending, and this increase, whether directed at consumption or investment goods, will have some effect on output and some on prices. If the tax benefits go primarliy to rich individuals and profitable corporations, as our Republican friends suggest, then much of the money will be invested in assets and in land, with a substantial effect on prices and little on output. The consequences of a tax reduction will be an early renewal of inflation. And the advocates of tax reduction have no remedy for inflation, except a renewal of the recession which tax reduction was supposed to cure.

This is not merely prognosis. This is history. We came out of the last slump, of 1973–74, in exactly this fashion: With the tax reductions of April 1975. Growth resumed, unemployment fell somewhat, but long in advance of predictions inflation reaccelerated and the administration and the Federal Reserve took steps to bring the expansion to a halt. We do not need another ride on the roller-coaster of inflationary tax reduction. The administration has wisely refused—so far—to embrace Republican proposals for tax reduction.

The second false remedy is to rely on the Federal Reserve through its control of the money supply to end inflation with tight money and credit. This is the policy which the Federal Reserve has been openly pursuing since October of 1979, and which, in the absence of anything else, is the de facto economic policy of the administration.

This policy is an invitation to more recession. As the Banking Committee acknowledged in its April 15, 1980 report, signed by all but one member, the Federal Reserve achieved control over the monetary aggregates with its October actions. But rather than delivering a slow deceleration of inflation without recession, as monetarist economics had promised and as the committee had hoped, monetary control delivered a devastating recession. The recession in turn knocked monetarist hopes for continued stable money growth into a cocked hat.

Moreover, the sharp rise in interest rates employed to achieve monetary control put savings and loan associations, mutual savings banks, and even some large commercial banks on the ropes last winter, while the sharp recent fall in interest rates—a consequence of the recession—threatens to unnerve international financial markets and to destabilize the dollar.

Meanwhile the social costs of deliberate recession are rapidly building up. The balanced budget is a dead letter. The finances of our unemployment compensation system are under strain, and the demand for welfare services and other forms of assistance is rising. The outbreaks in Miami testify to the damage that a deteriorating, hopeless economy does to the fragile social fabric of our cities. In short, further experimentation with a policy of benign monetary neglect is a recipe for social disaster.

What then? The way to begin is with a comprehensive policy on the uses of credit.

First. At the broadest macroeconomic level, there is nothing wrong under most conditions with the rule that the Federal Reserve should set, and try to meet, a target for the growth of money and credit. Such a rule quite properly causes the Federal Reserve to "lean against the wind": To restrain booms and to soften slumps. That, surely, is to the good. But such a policy by itself cannot cope with the forces of instability that buffet our economy in the present world. To launch such a policy unaided and alone courts domestic social chaos and international financial disorder.

Our national credit policy must be coordinated with our allies. The unaided pursuit of stable monetary expansion is hamstrung by the conflicting objectives of monetary policy aboard, especially in Germany and the United Kingdom. If the United States alone pursues monetary expansion in the midst of recession, our interest rates will fall sharply by comparison with those abroad. If relative interest rates fall, short-term capital will flow away from this country, and the dollar will come under renewed international pressure. The immediate consequence will be a new surge in the prices of imports of raw materials and manufacturers; the ultimate consequence will be a new rise in the price of oil. We can afford neither.

There is no way we can pursue a monetary strategy for recovery in a vacuum. We must coordinate our recovery from recession with the central banks of our allies. To this end, the Federal Reserve and the Treasury should begin immediate discussions with Germany and Britain, to persuade them to lower their interest rates as we lower ours. If all of our major allies act in a coordinated way, interests rates can come down without destabilizing short-term capital flows. This will help economic expansion in all countries without threatening anyone's currency. If there is a need to avert inflationary pressures, that end can be accomplished with tighter fiscal policies, which will not have the same adverse international ramifications.

Third, most important, we must recognize that for the indefinite future our national reserves of credit will be scarce. We must use the Nation's credit resources to fight both inflation and recession by encouraging lending to productivity-enhancing capital investment, small business, housing, consumers and farmers, and discouraging lending for commodity speculation and corporate takeovers.

We need urgently to address the question of to whom our scarce credit resources should go. Everyone wants credit. Only the largest and most profitable corporations can finance their expansion plans without it. Small businesses rely on credit. So do farmers. So do homebuyers, and so do millions of consumers. A national policy on who should have priority access to this credit is an indispensable concomitant of a national policy—which we must have—that makes credit relatively scarce.

The American banking system has traditionally decided, in millions of individual loan decisions, who is to get this credit, and who is not. The U.S. banking system has therefore occupied a position of almost unique power and of public responsibility. Traditionally, we have relied on the forces of the free market to guide the use of this power.

Sadly, we have found that under the stresses of inflation and recession the market gives bad advice to private lenders. Experience reveals that the Federal Reserve's present procedures of oversight and voluntary suasion cannot offset—or even detect—the vast speculative impulse that seems to grip the banking industry when the economy is on the ropes.

Last October, the Federal Reserve and the administration took a first, halting step toward a policy on the uses of credit. The Fed announced a series of objectives, and it wrote to the banking system asking for cooperation in their attainment. The objectives were entirely laudable: that banks should concentrate their lending on small businesses, consumers, home buyers, farmers and productive capital investment, while avoiding loans for commodity, gold and foreign exchange speculation and for purely financial activities such as stock buy-backs and corporate takeovers.

But despite these good intentions, the Federal Reserve and the administration have utterly failed to monitor and secure voluntary compliance with their request.

Faced with declining loan demands at high interest rates after October 1979 the banking system simply disregarded the Federal Reserve's admonitions. Meanwhile the Federal Reserve did nothing.

How else can one account for the incredible fact that nearly 10 percent of all bank lending in the country in February and March flowed to two men only—Nelson Bunker and W. Herbert Hunt?

How else can one account for such loans as the $40 million credit from five large banks to Nortek, Inc., approved in late October, which had its unvarnished purpose—"to acquire the equity securities of * * * 'Target' Corporation"—written right into the loan application?

How else can one account for the duplicitous behavior of the large New York banks in the first quarter, who raised their official prime rates, to which small business and housing loans were tied, thereby squeezing small borrowers right out of the market, while the banks made over two-thirds of their total loans—to big borrowers—at rates below the official prime?

How else, indeed can one account for the record profits turned in by the big New York banks in the first quarter?

How else can one interpret the fact that the Federal Reserve did not know of any bank lending against silver until March 26, that it has taken no action to restrain the Nortek or any other purely financial loan, that it has allowed Bunker Hunt's daughter to buy a silver mine despite a guarantee, made in the Fed's own report to Congress, that the Fed-approved loan to the Hunts and Placid Oil would bar the Hunts and "any related entity" from all speculative activity for the lifetime of the loan?

In mid-March, the Federal Reserve took steps that ostensibly stiffened surveillance and control over speculative lending. This was the Special Credit Restraint Program. Did it work? We will never know, because, incredibly, the Federal Reserve did not ask the banks to report on how much speculative lending they had been doing prior to the imposition of restraints. So we cannot find out whether the reporting requirements had their desired effect. We in Congress, in short, have no way to assess whether the anti-speculative measures did or did not work. And in any case the issue is now academic, since only a few weeks ago the Fed withdrew its anti-speculative admonitions and abolished its reporting requirements, allowing the blindfold to slip totally over its eyes.

Unfettered speculation has the effect of raising interest rates, and making loans harder to get, for legitimate borrowers, such as small business, home buyers and builders, consumers and farmers. This discrimination against the borrower that we ought to be helping is made worse by the recent big bank practice of posting phony prime interest rates—the rates which the big banks are supposed to charge their best customers. In fact, when the prime rate was 20 percent a couple of months ago, and the average borrower was paying 20 percent plus, the big banks were giving under-the-table discounts to their large corporate customers of as much as 5 percentage points. Bank loans at below prime rates—mainly large loans of short maturities, rose from 8.8 percent in 1977 to 16.1 percent in 1978, to 32.6 percent in 1979, and to an astounding 58.8 percent of all new loans at 48 large banks in May 1980. The main effect is to squeeze borrowers who are not eligible for these secret-rebate prime loans.

I have previously called the attention of the Federal Reserve to the problem of the phoney prime loans. Their reply of July 17, which I have made public today, says that—

> The data . . . do not themselves appear to justify sweeping charges of discrimination against particular groups of borrowers.

But the Federal Reserve concedes that the unrealistically high prime rates of this spring may have worked "to the disadvantages of customers that do not have access to the open market for large short-term business credit." This was precisely what I had feared. And the Fed's study, far from invalidating my claim of sweeping discrimination against worthy borrowers, in fact shows that they were given the short end of the lender's stick. For example, the study shows that the average size of loans below prime by 48 large banks in May was $1.2 million while the average size of loans above prime at the same banks was $208,000.

Mr. Speaker, there is only one way to control credit, and that is to control it. If the Federal Reserve is asleep at the switch, and if small business, agriculture, productive capital investment and the construction industry are therefore derailed, then the President should step in under the emergency powers of the Credit Control Act with affirmative steps to guarantee access to credit for these vital uses.

To implement this policy, no new economic inventions are required. The Federal Reserve already has the necessary tools, through its reserve, discount and regulatory powers, to achieve an inflation-recession breakthrough. Where there is a will, there is a way; all we need is the will. The Republican platform, I notice, explicitly opposes the use of credit controls. For the President to take this step, I suggest, would be not only good economics, but good politics in the scrappy Harry Truman tradition.

Let me remind my Republican friends that a credit policy is not a retreat from free enterprise. On the contrary, it is an investment in the future of free enterprise which we cannot afford not to make.●

THE VA—50 YEARS OF SERVICE

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. ROBERTS) is recognized for 10 minutes.

● Mr. ROBERTS. Mr. Speaker, today, July 21, 1980, marks the 50th anniversary of the Veterans' Administration as the sole Federal agency responsible for caring for the needs of the American veteran. Over the years the VA has grown to meet the needs of a veteran population that has increased sevenfold since 1930. Including veterans, their dependents and survivors, this one Federal agency serves a potential clientele of nearly half the American population.

Since the Continental Congress granted the first compensation to veterans of the Revolution, our Government has spent well over $300 billion caring for the needs of veterans and their families. Almost 90 percent of that figure has been authorized by the Congress and channeled through the present Veterans' Administration and preceding agencies since the end of World War I.

In 1931, the total first full year budget for the new Veterans' Administration was $786 million. Some 35,000 employees were paid $58 million during that year, serving 4.6 million veterans. Fifty years, and three wars later, the fiscal year 1981 budget is projected to exceed $21 billion in outlays, funding benefits and services, carefully administered by 220,000 dedicated VA employees, for over 30 million veterans in the United States today.

The VA story is one of growth, of progress, but also commitment. This commitment should not be judged in terms of dollars and cents alone. As we celebrate the VA 50th birthday, we should look beyond the Veterans' Administration as an institution, beyond the buildings and the budgets. We should judge the accomplishments of this Federal agency, and the Congress in supporting it, in terms of lives saved, in terms of hope for the disabled, security for the widow, comfort for the orphan, and a hope for a productive life for all those who have served in the defense of this Nation.

Over the past 50 years our Government has devised for those who served in its defense, the most extensive list of benefits of any nation on Earth: Readjustment, education, rehabilitation, compensation, income security, medical treatment, job training, employment, home loans, and even burial benefits. The costs have indeed been great. But the price has been small in comparison to the huge debt we owe.

As the Veterans' Administration enters its second half century of service, we affirm our commitment for the welfare of the American veteran. In doing so, on this very special occasion, we acknowledge all those who have served in the VA and who continue to toil every day in behalf of those who have kept our country both strong and free.●

TESTIMONY IN SUPPORT OF H.R. 6632 "THE RESEARCH REVITALIZATION ACT OF 1980"

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

● Mr. VANIK. Mr. Speaker, today, during oversight hearings on trade policy before the Ways and Means Trade Subcommittee, the Scientific Apparatus Makers Association (SAMA) delivered an important statement on the need to increase the productivity and export opportunities of American industry.

While endorsing a number of proposals, I am particularly pleased that they gave a detailed justification for passage of H.R. 6632, the Research Revitalization Act of 1980. This bill, which has been sponsored by some 65 Members of the House, offers a major opportunity to keep American industry in a leadership position in the products of the future. I would like to include at this point in the RECORD portion of SAMA's testimony in support of H.R. 6632:

PORTIONS OF STATEMENT OF CHARLES A. MCKAY, EXECUTIVE VICE PRESIDENT, FOXBORO COMPANY, FOXBORO, MASS.

Your bill, Mr. Chairman, recognizes the fact that one of the most significant changes in the entire process of industrial innovation has been the gradual shift of university research efforts away from industrial needs. This has largely resulted from the growing and dominant role of the Federal Government in funding about 70 percent of such research and thus controlling its direction. This legislation is designed to redress the imbalance and direction of university research by providing certain tax incentives and cost accounting treatment similar to that afforded business-applied R&D activities.

The Research Revitalization Act would:

1. Allow a 25 percent tax credit for cash contributed to a research reserve during the taxable year.

2. Provide that the research reserve will be tax exempt.

3. Permit a deduction in the taxable year for aggregate payments from the reserve for research or experimentation performed by universities.

4. Carry certain restrictions:

The tax credit would be subject to a ceiling of five percent of taxable income.

Misuse of the funds would subject the firm to a 300 percent penalty. Contributions to the fund must be spent within four years.

This bill recognizes that R&D spending results in economic benefits similar to those brought about by capital investment. But, it goes beyond this in several respects:

1. It creates a greater incentive for R&D spending by allowing a larger tax credit.

2. By involving universities it encourages more and broader based research; it helps change the focus of a portion of university research away from the Government toward industry; and it contributes to expanding the pool of highly trained engineers and scientist who are oriented to the ongoing research needs of industry.

3. It allows small and medium-sized firms to collaborate in the funding of research where such activity is feasible.

It has been suggested by some Members of Congress with whom we have talked that the provisions of S. 2906 be combined with your bill, H.R. 6632. This suggestion troubles us in one regard. We do not believe that it would be appropriate at this time to include in your bill the concept of allowing a tax credit for funds committed to university research to be based on an average of a firm's previous activities in this regard. We understand the rationale for taking this approach in S. 2906—to reduce the financial impact on the treasury and to insure that tax funds are not committed to activities which are already being undertaken by companies in the high technology industries. We do not think that the same rationale should be applied to H.R. 6632. The revenue impact of your bill is not that significant, Mr. Chairman, and it is our belief that if an averaging test were to be placed in H.R. 6632, it would discourage companies from utilizing its provisions and thereby blunt the effectiveness of your legislation.

NEED FOR THE RESEARCH REVITALIZATION ACT

Pressure on the R&D dollar from inflation, interest rates, environmental and other regulations has translated into a substitution of short term profitability goals for longer term growth objectives by a large proportion of firms. At the same time, industry-university cooperation on research is at its lowest point in decades.

Until World War II, the university was a significant source of new scientific knowledge and innovative ideas for industry. This is no longer true. In the last thirty years, the Federal Government's funding of research at universities has mushroomed bringing Government direction and control of work performed by university scientists. Academic researchers are increasingly oriented toward the needs of Government. Political considerations are important in "selling" projects to Government policymakers and interest in economic applications has declined. Furthermore, science graduates who formerly went into careers in industry are now staying on at the universities for teaching and research or going to work directly for the Government.

Academic R&D focuses on basic work. Nearly 70 percent of all university research is basic research. Federal, State and local government funds account for 75 percent of the funding while institutional funds and nonprofit institutions supply an additional 21 percent. Private industry is responsible for only 4 percent of the support for basic research.

In fact, one of the most significant changes in the entire process of industrial innovation has been the gradual shift of university research efforts away from industrial needs. The conventional wisdom, over this period of time, has been that basic or exploratory research requires huge amounts of money and time and the private sector simply cannot afford to take the risks of funding it.

The Federal Government has thus become the primary source of funds for university research. As the provider of funds, the Federal Government has also been instrumental in directing the course of university research and development.

Federal agencies are still the biggest source of R&D funds. Most of the money goes for defense, space and energy efforts. Of the $3.6 billion of basic research obligations, 79 percent are from the mission agencies—Defense, HEW, Energy, etc., to carry out their objectives, while 21 percent is allocated to the National Science Foundation for its broad objective of expanding scientific knowledge.

During the period in which the conventional wisdom took hold and became institutionalized, the tax system adopted by the U.S. grew to penalize basic research and the adaptation of basic research to technology. Though a combined working of corporation income tax and capital gains tax, the system moved to greatly favor short-term investments, immediate gains and in turn, has made long term investments in an uncertain future unattractive and unrewarding.

In an article appearing in Science magazine (vol. 204, 25 May, 1979) Peter Drucker explored the drifting apart of industry and the academic community. He noted the estrangement between the two communities was furthered by the Federal purse. Government offered scientists highly paid jobs—in both the university and the Government. Government also appeared willing to support science for science's sake, rarely if ever raising questions as to accountability of grants-receiving scientists for performance and results. Drucker went on to point out that science had become accustomed to large amounts of public money in return for which it had to accept political rather than economic yardsticks for success and performance:

The main yardstick being whether a program for the support of this or that major scientific enterprise could be sold to governmental policy makers; and—a logical consequence—whether this or that search for knowledge fitted the political ideologies and popular fads of this or that clique or faction. Thus, American science, quite understandably, came to consider the question of economic application and economic benefits to be irrelevant and irksome . . . even more crucial to the estrangement from industry on the part of science is the fact that for the last quarter-century, work in graduate school has come to focus on the production of Ph. D.'s certified for teaching in institution of higher learning. Prior to World War II, science teaching focused on undergraduates, as students who were likely to make science their career. In graduate school, the focus was largely on the preparation of research scientists for outside laboratories, that is, in private industry and, to a lesser extent, in Government. The basic graduates were the ones who then got the good jobs in industry; other jobs for scientists were exceedingly rare.

The results of the estrangement are evident all around industry today. The demands on the Federal budget have focused a concentration upon current problems. There has been a substantial drain on the storehouse of knowledge from which industry must draw to develop the needed new products and innovative processes to keep secure the U.S. technological edge.

That the storehouse is not being refilled at the same rate that it is being emptied is evident in our Nobel prize experience. The United States has dominated the Nobel prizes in science in the last 20 years when 73 Americans won prizes in physics and chemistry. Not a single year has passed since 1954 that at least one American has not won at least a share of these Nobel prizes. However, Nobel prizes are awarded for work done at least 10 years before. Since U.S. support for basic research relative to other industrial nations is declining, these countries can be seen to be gaining their share of these coveted awards and the science base which accompanies them.

As a result of the redirection of university research to fulfillment of the goals of the Government, industry has come to face an additional problem—a significant shortage of scientific and engineering manpower. A greater number of these people have remained in the university system than have become employed by the Government itself. As R&D spending has declined in the United States, enrollments in science and engineering disciplines have declined over the last 10 years. Furthermore, foreigners now make up a higher percentage of science and engineering graduate students in the United States—about 30 percent in 1978.

The Research Revitalization Act will address the decline in industry/university interaction. It will do so in several ways. First, by providing an adequate tax incentive to industry it will encourage industry to increase its expenditures for university research. Second, by focusing attention on the need for industry/university dialog, beneficial dialog will be increased in the natural course of events by this stimulus. The result of this increased dialog will be a higher level of technological competence on the part of industry, which in turn should lead to the productivity improvements this country needs.

The commitment to U.S. technological preeminence requires that the storehouse of knowledge continually be replenished and expanded. If we act to enable this Nation's high technology industries to both participate in the development of the science as well as the resultant products and processes we will go a long way toward assuring our future.

The benefits of research and development to the U.S. economy and American society have been substantial. A result of the intensive effort in R&D over the last fifty years has been the development of a group of high technology industries which have, in turn, produced the products responsible for much of this Nation's economic progress. These industries are the primary industrial performers of R&D as well as major consumers of science and technology. The economic facts of life more than justify actions to promote increases in the level of R&D performance by these industries.

A recent study by Data Resources, Inc. concluded that benefits of progress achieved through the creation and adoption of advanced technology are much broader than opponents have suggested. The study concluded that high technology industries, in terms of all meaningful aggregate economic indicators, have surpassed low technology industries. Findings relating to real growth, productivity, inflation and employment, in fact, support the desirability of creating an economic environment conducive to the continuation of the activities responsible for the economic success of this group of industries.

The findings of the DRI study justify support for policies and initiatives to foster R&D and in turn industrial innovation and the implementation of new technologies. These can be summarized as follows:

1. Real growth: High technology industries expanded at 6.7 percent compound rate from 1950 to 1974, versus 2.3 percent for low-technology industries.

2. Productivity: Output per employee increased 4.0 percent in high-technology industries as opposed to only 2.0 percent in traditional activities.

3. Inflation: The favorable labor productivity record is mirrored in the price record.

0.5 percent annual inflation in high-technology versus 3.0 percent in low-technology firms.

4. Employment: The gains in output per worker were not at the expense of employment. The rapidly modernizing industries surpassed their conservative counterparts by a substantial margin—2.6 percent versus 0.3 percent. The enhanced domestic and international competitive posture generated more than enough demand to expand employment at a fast pace.

". . . the members of SAMA would avail themselves of the opportunities presented in the Research Revitalization Act should it become law. Three-quarters of the respondents said that they would increase their outlays for university research by about 65 percent. Those surveyed currently devote about 2.5 percent of their R&D budgets to university research. This proportion would increase to more than 4 percent.

How important is this and what kind of an impact would it have? Academic R&D focuses primarily on basic and exploratory research. Nearly 70 percent of all research conducted by colleges and universities falls within these categories. Federal, State and local governments are responsible for 75 percent of the funding while institutional funds and nonprofit institutions supply an additional 21 percent. The remainder is funded by private industry. With funding from governments barely keeping pace with inflation, the potential for nearly doubling industry involvement in this area can have a very beneficial impact.

We do not delude ourselves into thinking that the Research Revitalization Act is the cure for our country's productivity and balance of trade problems, nor is it the solution for the problem of developing and maintaining a technology lead over our foreign competitors. It is however, a very solid step in the direction of achieving those two goals.●

BELATED VICTIM OF A HAUNTING WAR

The SPEAKER. Under a previous order of the House, the gentleman from South Dakota (Mr. DASCHLE) is recognized for 5 minutes.

● Mr. DASCHLE. Mr. Speaker, the following article by Art Harris of the Washington Post chronicles the continuing difficulties many Vietnam veterans are still having due to their service in Vietnam. It is the story of one who made it and one who did not. The tragedy in this story has been repeated elsewhere and confirms the need for special programs to help many of these veterans.

The efforts of the Vietnam Veterans in Congress Caucus have been directed toward instituting these special programs, which do not have to be at the expense of other veterans. As in the words of a well-known Vietnam veteran—

> Until the Nation is willing to pay the price for those who have sacrificed, how can we expect others to step forward to sacrifice in the future. . . .

Following is the text of the article:

BELATED VICTIM OF A HAUNTING WAR

(By Art Harris)

"Bo," he wrote to his wife in the diary he kept. "This is how my last days went. I love you forever, Hank."

There is no telling what Vietnam veteran Hank Brown saw that night as he hugged the shadows, pacing back and forth atop the grassy knoll outside his Prince George's County apartment in the muggy predawn darkness. Only one thing is certain: he felt the enemy was near.

He wondered if they would try to take him alive. He was prepared to fight and, if it was ordained, he was more than prepared to die.

He most feared a frontal attack, and as in the past, herded his three children into the living room for the night, barricading the hallway with furniture and placing his wife Bettye on guard at the dining room table, a pot of boiling water and steak knife at the ready. If she dozed off—she often did—he would splash cold water on her face, admonish her for being a lousy soldier, part the yellow curtains and stare off into the darkness that terrified him.

So it was that Wednesday night, May 14.

He yanked Bettye out of bed at 11 p.m., breaking one of her fingernails, and dragged her and their groggy, pajama-clad children into the living room bunker. For three days and nights he had kept his troops on round-the-clock alert; they were exhausted.

"That's a warning!" he shouted, hearing a backfire outside their basement apartment in a dingy, sprawling, yellow-brick complex in Riverdale called Coventry Park, full of Washington's suburban working class. "You've got to get out of the house. Something is going to happen! Tonight!"

Bettye bundled the children into their green 1972 Maverick and fled to her mother's house in Baltimore.

Vietnam combat veteran Paul Karlsven, 29, was easing his Dodge Monaco police cruiser along Old Annapolis Road alone, occasionally stopping to shine his searchlight at the dancing shadows on the roadside when he took the dispatcher's call. It was 2:40 a.m.

A new Coventry Park resident, a 39-year-old white divorcee with three children, was hysterical, the dispatcher reported. A man had just banged on her door, begging to talk. She refused to open the door; he went downstairs. From her window, she could see a black male skulking about. It looked as if he might be trying to break into the apartment below her. Karlsven stomped the accelerator.

Within three minutes, the two combat veterans had faced off in the night, and Brown lay dying, at the bottom of the small rise he meant to defend, a knife in his hand, two .38 caliber slugs in his stomach, his face in the dirt. By midafternoon, he was dead. The downstairs apartment Brown was trying to get into was his own.

Brown's death—a delayed casualty of a war that still haunts thousands of America's warriors nearly a decade after officials slammed shut the history books—is more than a passing tragedy of our time. It is the story of two men who took remarkably similar roads to the same war and different roads home—the black veteran who was never the same after Vietnam, and the white veteran who became a cop and managed to get on with his life after the war.

Henry Franklin Brown Jr. was one of nine children raised by a steelworker and his wife, both refugees from Depression-era poverty and prejudice in rural South Carolina, in the early 1940s, his parents met in Conshohocken, Pa., population 10,195, a factory town 20 miles north of Philadelphia, and planted new roots in "Deer Hunter" country.

His father, Henry Brown Sr., 77, a World War II Army quartermaster, says he always "tried to teach the children to do the right thing," an ethic that Hank had trouble reconciling with being ordered to Vietnam.

"He didn't like the idea of being sent to kill people he didn't even know," says Hank's oldest sister, Lee Dixon, a customer relations specialist with a computer firm. The night before he left for Vietnam, Hank stayed at her house. "He was very upset," she recalls. "He said, 'We grew up in church and were taught, "Thou shalt not kill." He couldn't see the reasoning behind wars. He didn't want to go fight people he had nothing against, whose culture he didn't understand. But he said, 'I'll go because I have to.' "

Soon, he was ducking heavy incoming fire as a mortar crewman with the American Division. He spent his tour slogging through the lush jungles of the Central Highlands, dodging Vietcong ambushes half a world away from home.

Brown distinguished himself in combat, winning a Bronze Star for valor and two Purple Hearts, military records show. He was wounded twice in action.

The grenade that exploded near his head on May 26, 1969, made blood spurt from his ears and nose and left him with an incurable ringing in his ears, constant and nerve-racking. He watched his best friend die a few feet away. He'd been standing in a spot Brown had just left.

For that wound, and a thigh injury he received 10 days later, the Veterans Administration awarded him an $88-a-month disability check.

"The day after I was wounded, I woke up to find I was not myself emotionally," he later wrote is an unsteady hand to his senator, Richard S. Schweiker (R-Pa.). "I had trouble talking. I felt like a freak. I might have said 25 words in three days. I haven't been the same since Vietnam. If I had known this would happen to me, I would have tried to avoid going into the service. Can you help me?"

His family first noticed the change in Brown right after his discharge in November 1970 when he brought Bettye, his young wife, home to Conshohocken to meet the folks, brothers and sisters and his childhood friends. They packed into the Browns' three-story brick row house for the "Welcome Home Hank" party on East Hector Street. They all wanted to know what the war had been like.

After the guests left, they huddled in the kitchen and Hank told them how the Army did a "quick patch job" on his wounds and shipped him back to the front. A second grenade ripped through him 10 days later. Only then was he sent home, he said bitterly.

He clenched his fists as he spoke; he'd never known what it was like to be a black man in a white man's world until Vietnam. He'd grown up in a largely white neighborhood devoid of racial antagonism; his parents hadn't prepared him for the prejudice, the intense racial animosity and bitter confrontations he'd witnessed in Vietnam: bayonet fights between blacks and whites, who went away to war and came back not right emotionally," he said.

fraggings, enmity, self-segregation. He'd learned to distrust the white man. He was cursing now, shattering the kitchen with words never before allowed inside the Brown home.

"What makes you feel like that?" asked a sister. "We weren't raised that way. What's changed you?"

"The things I've seen!" he snapped, stalking off to bed.

After 14 months stalking the Vietcong with the rugged 173rd Airborne Brigade, Paul Karlsven came home to College Park in May 1971 and threw his medals in the garbage. He hated the war, but he stayed away from antiwar demonstrations. He resented his protesting peers, fearing he'd "do something I'd be sorry for later."

The easy-going, second child born to a career Navy nuclear physicist, Karlsven was a rudderless juvenile prankster when he dropped out of Bladensburg Senior High School at 16. A year later, he joined the Army to get his youthful act together.

A Nick Nolte look-alike with blue eyes and sandy blond hair, descended from Norwegian farmers who migrated to Minnesota in the 1800s, Karlsven moved every few years with his father's Navy assignments: Albuquerque, San Diego, Las Vegas, Norfolk, Washington.

He made friends easily, never getting too close, a tactic, he supposes, that helped him survive Vietnam. As a soldier, he slept on the ground "with one eye open," pulled night ambush duty, bathed in streams and "lived like an animal."

Once he let down his guard and showered a Vietnamese child with candy and affection. Later, he found the boy dead, blown up by a booby trap he was trying to set for Karlsven's platoon. He learned to be suspicious of everyone; things were never as they seemed. "I considered everyone the enemy," he says.

He got nicked with shrapnel, but never put in for a purple heart. His feet still itch from "jungle rot," the result of wading through rice paddies and never having time to let boots dry out.

The first time he shot an enemy soldier, he got nauseated and his knees wobbled. Later it got easier. "I never thought about it too much," he recalls, with a shrug. "But that's a segment of my life that's over and done with."

Back from Vietnam two months, he married his fiance, Sara, an insurance agent. His nightmares evaporated after a while, though he shoved her to the ground at a Rolling Stones concert when a cherry bomb exploded. Otherwise, he says he has readjusted just fine.

Four years ago, he quit a secure, $6.50-an-hour meatcutter's job with Giant Food to become a Prince George's County cop. He wanted a challenge, the adrenaline edge he hadn't felt since Vietnam. There were only so many ways a man could carve prime rib. "I just got tired of seeing what went on in the streets without being able to do anything about it," he says.

"Nobody wants to shoot anyone," he said in an interview, referring to his encounter with Brown. "But I don't feel guilty. Guilt is something you feel when you've done something wrong. I took the action I did to stay alive. I had to do what I had to do."

Home from the war, Brown rented a small house in Conshohocken on East Hector Street, found work as a machinist cranking out window frames for prefabricated homes and began to raise his own family. At the end of a day, he felt exhausted, "like I've worked a day and a half," he told his wife. Loud noises frightened him. He couldn't forget Vietnam. "I heard the war stories every day," says his wife. But, save for the nightmares and the nerves, he was getting along.

His hometown doctor, Patrick Castellano, detected Brown's nervousness in 1971. Castellano wasn't surprised. "I'd seen too many who went away to war and came back not right emotionally," he said.

Brown kept slowly disintegrating. He thought people were trying to harm him and his family. He rarely slept at night, and threw out the knives and baseball bat he kept beneath the bed for protection only after his wife threatened to leave him.

He was "losing his sense of reality" by the time he checked into nearby Coatesville VA Hospital in 1977, said Castellano. The longer he stayed, the more paranoid he became. He scrawled his fears in the diary, dispatches from the front:

"To protect myself, I do not sleep at night. I want to see my enemy face to face. I want to fight a good battle . . .

"I will not die without a fight. They will pay dearly for my life, whether I am here to know the price they paid or not."

He checked out of Coatesville against medical advice, "to conserve what sanity I had left." he told his wife. Armed with a bottle of Thorazine, a powerful tranquilizer that kept the demons in check, he went home, not back to work. The medication made him drowsy. He feared falling asleep at the machine, having his fingers chewed off.

Brown's wife quit her job as a psychiatric assistant at a nearby mental hospital to say with Hank and the kids. She went on welfare. That hurt Brown's pride. He vowed to find work and began rounding up stray dogs for the Humane Society. He quit—he hated putting the dogs to sleep. The family started living off Social Security disability, his VA disability check, his wife's public assistance allotment, $972 a month in all.

His VA check was limited to $88 a month, 20 percent disability for the two wounds received in Vietnam. A VA appeals board denied his claim that the paranoid schizophrenia, diagnosed by psychiatrists at the Coatesville VA Hospital in 1977, seven years after his tour in Vietnam, was [illegible] war-related injury for which he should be compensated. VA policy only recognizes emotional problems as service connected if diagnosed within one year of discharge. VA examiners dismissed Dr. Castellano's observations within that time frame as irrelevant [illegible] government records show Hank shrugged [illegible] off.

Hank moved the family [illegible] Riverdale in 1977, to be near an understanding older brother, Carl Groves, a Navy Department researcher and his wife Mary. He'd spent high school summers living with them, busing dishes at the nearby pancake house for pocket money. Often talking long into the night, he warned Mary Groves about the impending attack.

At home, Hank and his wife fought. At times, he hit her. Once, she scooped * * * Walk," and dedicated the pain and tried to jump off a bridge. Police rescued him.

He checked into Springfield State Hospital in Sykesville for 52 days. He longed to escape, and chronicled his agony in the small, wide-lined notebook, the diary he'd begun at Coatesville. Hank Brown was his own Boswell. He had soul, insight into his sorrow. He was afraid to laugh because people might think it was the laugh of a crazy person.

He titled the diary, "The Long Walk," and dedicated the pain and loneliness inside to his devoted wife. She discovered the diary after Hank died, squirreled away in a closet inside a green suitcase, amidst the war medals and the shiny America souvenir knife he kept mounted on a red velvet plaque.

"Which road do I take and where will each lead me? Death on the one hand, running on the other. What a choice! Only the fact that I'm sure I can take my own life keeps me sane. Why do people assume someone unafraid of death must have a personality defect?"

He was obsessed with death.

"Death, I continue to await your coming, do not tarry long. There is no justice in this land . . .

"Only taking my own life, along with my written words, will clear my name. But my love of my wife and kids keeps my hands in check."

He entertained only two options: suicide or escape.

"Escape or die. All I can think of is escape. But escape to what? A life of running, hiding and looking over my shoulder?"

He dubbed the escape plan, "Operation Show Your Hand." He began casing the hospital's linoleum halls and saving towards the $15 he figured would be enough to buy a bus ticket home.

"Today, they moved me to another ward. It's more spacious and there's less security, but I still feel locked up. The loneliness is becoming more unbearable with each passing day.

"How long can I go on this way before I become totally feelingless? I grow colder towards myself every day. People have commented on my outward calm, but within, I am like a volcano, ready to erupt."

He dreaded the slow-motion days. The only things he could look forward to: breakfast, lunch and dinner, and the "infrequent" visits from his wife. But nights were worse.

"One hour till bedtime. It's almost like Vietnam. I can't wait till dark and when dark comes, I can't wait till it's light. I was wounded at night, in my sleep; and ever since I've become terribly paranoid at night . . .

"I do not fear the end, although I feel its nearness. I lived through Vietnam, but my chances of coming out of this alive are almost nil."

After he was released from Springfield, he knew he was still sick. But he tried to lick it through exercise, nutrition. He played basketball daily, mixing it up with boys half his age. He ran for miles, pedaled a stationary bicycle for hours, pumped iron, practiced yoga, immersed himself in self-improvement. He eliminated sugar from his diet. He plowed through books on ESP and mind control. The day before he died, he purchased the National Enquirer as an elixir. The cover story "Brainpower: How to Use It!"

But there was always the contradiction between his outward ambition—the gung-ho optimism—and his inward fatalism. He dreamed of a job as a NASA engineer, pondered opening his own television repair shop. He stayed up much of the night poring over wiring diagrams and electronics texts. He studied to become an electronics technician on the GI Bill.

Instructors at TESST Electronics in Hyattsville say he had as promising a future as any student they'd ever seen. Hank had finished half the coursework in solid state engineering with an A average, one of the top four students out of a class of 40 when he dropped out last fall to reenter the VA Hospital in Washington.

"If he'd finished with those grades, he would have had no trouble getting a job with IBM, Motorola, Xerox, you name it," said instructor Michael Bochnak, a communications specialist with Motorola.

At the school picnic, he introduced Bochnak to Bettye and the children. "They are why I'm going to school and working so hard," Bochnak recalls him saying with pride.

"I never knew anyone who tried so hard," echoes his wife.

He pushed his three children hard, too, rewarding every A with $1, Bs with 50 cents and Cs with nothing. He still owed his 8-year-old daughter, Tina, a third-grader at Templeton Elementary, $10.50 for her last report card. He gave his son toy soldiers to play with and ended up playing with them himself.

He taught them to mind their elders and obey the law. Indeed, when a police officer knocked on the door to apartment 101 last February, Brown bought two $5 tickets to the variety show benefit for the Prince George's County Fraternal Order of Police. He had never been in trouble with the law.

The day before he was shot, Hank knocked on the door of his sister-in-law, Mary Groves. "Something is going to happen to me," he said. "When it does, you've got to investigate it. Don't leave a stone unturned."

She didn't understand; nor did his wife.

"Bettye, why don't you believe me? Why doesn't anyone believe me? But then again, would you believe a madman? I guess that's what they consider me."

Brown hadn't eaten or slept in days. Food made him drowsy. He wanted to stay alert. He paced about the apartment, keeping Bettye up for three all-night vigils. She couldn't take it anymore. At 7:30 a.m. that Wednesday morning, she drove him to the VA Hospital's mental health clinic on Irving Street. Carl and Mary Groves came along.

Brown felt hopeless, he confessed in the car. But he refused to go inside. "I go to the hospital, I get better. I get out and get down again. No one can help me."

Finally, after two hours in the car, he signed in. But got restless and walked out. They drove him to Prince George's Mental Health Clinic in Bladensburg. He stalled again, sitting down finally with Helen McAllister, a psychologist who recommended he be hospitalized, according to Bettye Brown. Hank refused to check in.

As a last resort, the psychologist advised the family to find a judge to sign an emergency petition, ordering Brown into the county hospital's psychiatric ward for 96 hours, says his wife. That was the only way he could be treated.

Desperate, the two women left Hank with his brother and raced to the chambers of Prince George's County District Court Judge Irving H. Fisher, a retired Air Force legal officer. On the petition, his wife stated her reasons for the request: "paranoia, disabled Vietnam veteran fears people are after him. Suicidal tendencies. Fears he'll hurt himself or others.

Brown was carrying a steak knife in his pocket, Bettye told the judge. Had he actually assaulted anyone yet asked Fisher. Not yet, said his wife.

"Denied," scrawled Fisher on the bottom of the petition. It was 2:15 p.m.

"Normally, I don't tend to reject such petitions," said Judge Fisher, "very distressed" after being informed that Brown had died hours after the request was denied. He estimated that in his four years on the bench, he has rejected "maybe 10 percent" of the 100 or so emergency petitions that have come before him.

Ordering someone hospitalized on the basis of a third party's statements "denies another person of serious constitutional rights," said Fisher. The law requires the petitioner show that the potential mental patient is in "imminent danger to himself or others.

"Technically, the case did not qualify. But if I had any inkling . . . any idea how serious it was," he would have signed the order in an instant," he said. "My views are to be liberal to avert a potential disaster. I take my responsibilities very seriously. I do the best I can."

That night, Bettye Brown left her agitated husband and drove off with the children. Carl Groves checked on his brother and found him locked out of his apartment. Mary Groves called the police. "My brother-in-law is reliving the war," she said. "He doesn't hardly know what he's doing. Is there anything you can do?"

"Absolutely nothing," said the officer.

He fantasized about joining a cadre of fellow Vietnam combat veterans, alienated and angry; they would strap on grenades, put their M-16s on rock and roll (automatic) and pour into the streets.

"Enacting change through violence—not against the people, but against the system that sent us to Vietnam and has bullshitted us since we returned—is the only way veterans will get their due.

"Maybe I should have gone to Canada with the smart guys and not served my country with—how do most Americans call us—fools?

". . . If it's war they want, it's war they will get. To hell with the good guy attitude. I've pushed almost all fear about death aside. I will never live in prison. The God of truth, love and courage is on my side.

"Let me go to the grave as the man I know I am. I will either die fighting, or kill myself . . .

"Live free or die"

"How ya doing?" asked Karlsven. He shone his flashlight at Brown and caught a "wild look" about the eyes. Brown was standing outside his apartment door. He started moving towards Karlsven. The cop tensed.

"Hold it right there," he ordered.

"Why should I?" growled Brown, tackling the cop. They rolled over and over, down the dewy embankment. The cop outweighed his assailant by 40 pounds; he swung his nightstick again and again, but he couldn't stop Brown's ferocious attack. Karlsven was on his back now, kicking out as Brown drew a steak knife and began slashing at his feet.

He scrambled up. Brown lashed out again, slicing into the cop's left arm, a small cut that would later require one stitch just above his tatoo, "Airborne." The cop was frightened. He thought the stranger was trying to kill him.

He drew his gun and fired twice at nearly point-blank range. Brown groaned and rolled down the hill, his blood ebbing out on the path his children took to school.

Surgeons at Prince George's General Hospital fought to save Brown's life, but the bullets had ripped through the intestines, a kidney, the vena cava, severing the main artery in the stomach. They couldn't stop the bleeding.

"Bo, if you are reading this book, I am no longer among the living. You should know that I want to be where I am rather than (the hospital). Don't sorrow for the dead. Have sorrow for the living, for they are still going through their problems.

"Don't blame yourself, it was my doing. Everything is my fault, so put the blame in the coffin and close the lid. One good thing about being dead is that I can talk without you interrupting. Ha, ha.

"I love you, Bo. This is just one big love letter to you. To help you understand the man you (were) married to. At last now I know the truth."

Bettye Brown sat on a couch in the basement apartment, pulling out memories from the closet. Her daughter, Tyesheia, 3, rolled around in a green sun dress with a Donald Duck doll. She showed the visitor the medals, the scrapbooks, the condolence cards from the Army Chief of Staff, another from the Army Ladies of Arlington. She pulled out the flag, presented at graveside at Arlington National Cemetary, where Hank was buried with three rifle volleys May 20, a gray, rainy day.

"We were best friends," said the widow who mourned her soldier. "We did everything together."

There was an aura of peace about her. In a strange way, she felt relieved, she said.

"At last, the war is over for him."

Epilogue: As the sun came up, Karlsven sat huddled in the Forestville station house, waiting to make his statement to a homocide detective. His lawyer, Sam Sperio, was confident; it sounded like a "good shooting," homicide vernacular for self-defense. Within two days, his client would be cleared by police investigators and back on his beat.

But the detective hesitated to take down the young cop's statement right away—he wanted to determine how Karlsven was taking the fact that he'd just had to use his .38 on a man.

"Ever shot anyone before?" he asked.

"Yeah," said the cop. "I was in Vietnam."●

A TRIBUTE TO DR. AND MRS. ST. JOHN

The SPEAKER. Under a previous order of the House, the gentleman from Alabama (Mr. SHELBY) is recognized for 5 minutes.

● Mr. SHELBY. Mr. Speaker, last month—on June 5—two very special people in Alabama celebrated a very special occasion: their golden wedding anniversary. That in and of itself is something to applaud—but Vernon and Virginia St. John deserve special praise for the exemplary lives they led throughout these 50 years.

Born and raised and educated in Alabama, Vernon and Virginia met and married as young teachers in 1930. Ever since then they have both—separately and jointly—invested inestimable time and energy in the betterment of school systems throughout Alabama. In addition, they have been active and invaluable participants in all sorts of community and church related services and projects.

During her active career, Virginia has taught all types of courses from democracy to English, coached girls basketball (in 1928), directed plays, served as school principal, even made the fire every morning in one of her classrooms. At one point, seeing the need for a school librarian, Virginia took it upon herself to head off to the University of Alabama where she received her masters in library science which she quickly put to use in both the Opp City School and the First Baptist Church of Opp.

Now that she has "retired" from teaching, Virginia has become a busy member of the retired teachers' organization and is president of the Opp Chapter of AARP. As a member of Delta Kappa Gamma, she has held the offices of county president, district director, and State parliamentarian.

Meanwhile, Vernon's career in the field of education has been equally illustrious. Having taught, coached, and served as principal, Vernon became superintendent of the Opp city schools from 1945 to 1971. When he stepped down from that post, a brandnew school was serving the community and Opp was one of three school systems in the State with fully accredited elementary, middle, and high schools.

Vernon extended his public service orientation to elected office for a period of time, serving two terms during the 1930's as a State senator. He was also principal of the Hazelwood High School at that time; his capable wife filled in for him when he was away in Montgomery. Upon his retirement, Vernon began to serve as a special consultant for American Educators Life Insurance Co. and in 1978 was honored by induction into the Opp Chamber of Commerce Hall of Fame.

In order to continue their contributions to the education process—even in absentia—Vernon and Virginia have established a scholarship at Opp High School to be awarded annually to a graduating senior. My hat is off to this couple who represent the pinnacle of devotion—both to each other and to their profession. The world—and certainly the State of Alabama—is better for their having passed through it.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MAVROULES, for July 21 through August 17, on account of illness.

Ms. OAKAR (at the request of Mr. WRIGHT), for July 21 through July 23, on account of serving by designation of the Speaker as congressional representative at the Mid-Decade U.N. Conference on Woman.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DOUGHERTY) to revise and extend their remarks and include extraneous material:)

Mr. CLEVELAND, for 60 minutes, today.

(The following Members (at the request of Mr. BARNARD) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 15 minutes, today.
Mr. ANNUNZIO, for 5 minutes today.
Mr. COTTER, for 5 minutes, today.
Mr. REUSS, for 20 minutes, today.
Mr. ROBERTS, for 10 minutes, today.
Mr. VANIK, for 5 minutes, today.
Mr. DASCHLE, for 5 minutes, today.
Mr. SHELBY, for 5 minutes, today.
Mr. FAZIO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BAUMAN, to revise and extend his remarks and to include extraneous material during debate on H.R. 7593.

Mr. ERLENBORN, and to include extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $982.50.

(The following Members (at the request of Mr. DOUGHERTY) and to include extraneous matter:)

Mr. MICHEL in two instances.
Mr. FRENZEL.
Mr. ROYER.
Mr. DORNAN in four instances.
Mr. PAUL in two instances.
Mr. HILLIS.
Mr. DANIEL B. CRANE.
Mr. GOLDWATER.
Mr. MCCLORY.
Mr. LEWIS in two instances.
Mr. BAUMAN in 10 instances.
Mr. BEREUTER.
Mr. SENSENBRENNER.
Mr. RHODES.
Mr. JOHNSON of Colorado.
Mr. COLLINS of Texas in three instances.
Mr. ROTH.
Mr. HANSEN in two instances.
Mr. HYDE.
Mrs. SNOWE.
Mr. EVANS of Delaware.

(The following Members (at the request of Mr. BARNARD) and to include extraneous matter):

Mr. STARK.
Mr. MINETA.
Mr. MAZZOLI.
Mr. RANGEL.
Mr. HAMILTON in 10 instances.
Mr. SCHEUER.
Mr. PHILLIP BURTON.
Mr. RODINO.
Mr. ROYBAL.
Mr. JACOBS.
Mr. ADDABBO.
Mr. ANDERSON of California in 10 instances.
Mr. GONZALEZ in 10 instances.
Mr. BROWN of California in 10 instances.
Mr. ANNUNZIO in six instances.
Ms. HOLTZMAN in 10 instances.
Mr. JONES of Tennessee in 10 instances.
Mr. BONER of Tennessee in five instances.
Mr. STOKES.
Mr. BINGHAM.
Mr. MINISH.
Mr. RATCHFORD.
Mr. RUSSO.
Mr. WALGREN.
Mr. DASCHLE.
Mr. GIAIMO.
Mr. SKELTON.
Mr. MITCHELL of Maryland.
Mr. MCCORMACK.
Mr. HEFTEL in three instances.
Mr. DELLUMS.
Mr. PEPPER in two instances.
Mr. EDGAR.
Mr. AMBRO in three instances.
Mr. MCDONALD in five instances.
Mr. BOLLING.
Mr. WOLFF in two instances.
Mr. JONES of Oklahoma.
Mr. JOHN L. BURTON.
Mr. WAXMAN in two instances.
Mr. AKAKA.

SENATE ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to enrolled bills and a joint resolution of the Senate of the following titles:

S. 2240. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes;

S. 2382. An act to provide for additional authorization for appropriations for the Tinicum National Environmental Center; and

S.J. Res. 168. Joint resolution designating July 18, 1980, as "National POW-MIA Recognition Day."

ENROLLED BILLS SIGNED

Mr. NEDZI, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 7474. An act to provide for a research, development, and demonstration program to achieve early technology applications for ocean thermal energy conversion systems, and for other purposes;

H.R. 7482. An act to authorize the President of the United States to present on behalf of Congress a specially struck gold-plated medal to the U.S. Summer Olympic Team of 1980;

H.R. 7542. An act making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes; and

H.R. 7573. An act to provide an extension of the time frame for nomination of a selection pool under the Cook Inlet land exchange.

BILLS PRESENTED TO THE PRESIDENT

Mr. NEDZI, from the Committee on House Administration, reported that that committee did on July 7, 1980, present to the President, for his approval, bills of the House of the following titles:

H.R. 7474. An act to provide for a research, development, and demonstration program to achieve early technology applications for ocean thermal energy conversion systems, and for other purposes;

H.R. 7482. An act to authorize the President of the United States to present on behalf of Congress a specially struck gold-plated medal to the U.S. Summer Olympic Team of 1980;

H.R. 7542. An act making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes; and

H.R. 7573. An act to provide an extension of the time frame for nomination of a selection pool under the Cook Inlet land exchange.

ADJOURNMENT

Mr. BARNARD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 11 minutes p.m.), the House adjourned until tomorrow, Tuesday, July 22, 1980, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4766. A letter from Director, Office of Management and Budget, Executive Office of the President, transmitting a cumulative report on rescissions and deferrals of budget authority as of July 1, 1980, pursuant to section 1014(e) of Public Law 93-344 (H. Doc. No. 96-341); to the Committee on Appropriations and ordered to be printed.

4767. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting the final report on receipts and disbursements pertaining to the disposal of surplus military supplies, equipment and material, covering the disposition of the closing balance for proceeds deposited as of the end of fiscal year 1979, pursuant to section 813 of the Department of Defense Appropriation Act, 1979; to the Committee on Appropriations.

4768. A letter from the Comptroller General of the United States, transmitting his review of the deferrals of budget authority contained in the message from the President dated June 18, 1980 (House Document No. 96-329), pursuant to section 1014(b) and (c) of Public Law 93-344 (H. Doc. No. 96-342); to the Committee on Appropriations and ordered to be printed.

4769. A letter from the General Counsel, U.S. General Accounting Office, transmitting a report on the status of budget authority that was proposed, but rejected, for rescission; to the Committee on Appropriations.

4770. A letter from the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), transmitting a report on the conceptual plan for the redevelopment of Truman Naval Annex, Key West, Fla., pursuant to section 610(b) of Public Law 94-431; to the Committee on Armed Services.

4771. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various construction projects proposed to be undertaken by the Army National Guard, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

4772. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of a construction project proposed to be undertaken by the Army National Guard, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

4773. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice that a study has been conducted of the motor vehicle maintenance function at

Pine Bluff Arsenal, Arkansas, and that a decision has been made that performance under contract is the most cost-effective method of accomplishing it, pursuant to section 806 of Public Law 96–107; to the Committee on Armed Services.

4774. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice that a study has been conducted of the custodial services function at Anniston Army Depot, Alabama, and that a decision has been made that performance under contract is the most cost-effective method of accomplishing it, pursuant to section 806 of Public Law 96–107; to the Committee on Armed Services.

4775. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice that a study has been conducted of the consolidation and containerization function at Sharpe Army Depot, Lathrop, Calif., and that a decision has been made that performance under contract is the most cost-effective method of accomplishing it, pursuant to section 806 of Public Law 96–107; to the Committee on Armed Services.

4776. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice that a study has been conducted of the custodial services functions at Brooke Army Medical Center, Fort Sam Houston, Tex., and that a decision has been made that performance under contract is the most cost-effective method of accomplishing it, pursuant to section 806 of Public Law 96–107; to the Committee on Armed Services.

4777. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the proposed sale of certain defense equipment by the American Institute in Taiwan to the Coordination Council for North American Affairs (Transmittal No. 80–73), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

4778. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Navy's proposed sale of certain defense equipment and services to the United Kingdom (Transmittal No. 80–81), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

4779. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on the role of the multilateral development of banks in increasing food production and improving nutrition in developing countries, pursuant to section 901 of Public Law 95–118; to the Committee on Banking, Finance and Urban Affairs.

4780. A letter from the Assistant Secretary of the Treasury for Legislative Affairs, transmitting a special report analysing the impact of economic program supported by financing from the Supplementary Financing Facility of the International Monetary Fund on the provision of basic human needs, pursuant to section 30(b) of the Bretton Woods Agreements Act, as amended (92 Stat. 1052); to the Committee on Banking, Finance and Urban Affairs.

4781. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on the export expansion facility program for the 6 months ended March 31, 1980, pursuant to Public Law 90–390; to the Committee on Banking, Finance and Urban Affairs.

4782. A letter from the Chairman, Council of the District of Columbia, transmitting District of Columbia Act 3–205, "To prohibit the conversion of housing accomodations and rental units to transient occupancies; and for other purposes," pursuant to section 602 (c) of Public Law 93–198; to the Committee on the District of Columbia.

4783. A letter from the Chairman, Council of the District of Columbia transmitting District of Columbia Act 3–206, "To establish a fee to be paid by the public utilities in the District of Columbia to reimburse the District of Columbia Treasury for amounts appropriated for the Public Service Commission and the Office of the People's Counsel, and for other purposes," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

4784. A letter from the Chairman, Council of the District of Columbia, transmitting District of Columbia Act 3–207, "To order the closing of a public alley located in square 224 bounded by G Street NW., 14th Street NW., F Street NW., and 15th Street NW. (S.O. 78–147) (ward 2)," pursuant to section 602 (c) of Public Law 93–198; to the Committee on the District of Columbia.

4785. A letter from the Chairman, Council of the District of Columbia, transmitting District of Columbia Act 3–208, "To order the closing of public alleys in square 449, bounded by L Street NW., M Street NW., 6th Street NW., and 7th Street NW., and to accept the dedication of land in square 449 for alley purposes (S.O. 78–315) (ward 2)," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

4786. A letter from the Chairman, Council of the District of Columbia, transmitting District of Columbia Act 3–213 "To amend the Minority Contracting Act of 1976, to extend the life of the Minority Business Opportunity Commission, to improve the provisions pertaining to appointment of the Commissioners and their terms of office, to clarify the definition of certain terms, and for other purposes," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

4787. A letter from the Chairman, Council of the District of Columbia, transmitting District of Columbia Act 3–214, "To enhance the revenues of the District of Columbia, and for other purposes." pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

4788. A letter from the Chairman, Council of the District of Columbia, transmitting District of Columbia Act 3–215, "To amend provisions of the District of Columbia Election Act, which provide for a deposit fee for ballot recounts," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

4789. A letter from the Chairman, Council of the District of Columbia, transmitting District of Columbia Act 3–216 "To prohibit termination of electric and gas utility services, under the jurisdiction of the Public Services Commission, to master-metered apartment buildings, to authorize tenants to deduct from rent payments made for utility service and to authorize the Superior Court to appoint a receiver for monies owed for utility service," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

4790. A letter from the Chairman, Council of the District of Columbia, transmitting District of Columbia Act 3–217, "To repeal the gross earnings tax on financial institutions and replace it with a personal property tax and a franchise tax based on net income, and for other purposes." pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

4791. A letter from the Chairman, Council of the District of Columbia, transmitting District of Columbia Act 3–218, "To amend the Solid Waste Regulations of the District of Columbia," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

4792. A letter from the District of Columbia Auditor, transmitting various reports issued by his office, pursuant to section 455 of Public Law 93–198; to the Committee on the District of Columbia.

4793. A letter from the Secretary of the Treasury, transmitting the annual report and audit of the Student Loan Marketing Association for calendar year 1979, pursuant to section 439(k) and (n) of the Higher Education Act of 1965, as amended to the Committee on Education and Labor.

4794. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on economic relations between the United States and Taiwan during the period January to June, 1980, pursuant to section 12(d) of Public Law 96–8; to the Committee on Foreign Affairs.

4795. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of a proposed license for the export of certain defense equipment sold commercially to Indonesia (Transmittal No. MC–26–80), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4796. A letter from the Assistant Secretary of State for International Organization Affairs, transmitting a report issued by the United Nations Joint Inspection Unit, pursuant to section 301(e)(3) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

4797. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

4798. A letter from the Director, Defense Security Assistance Agency, transmitting a report on a proposed Memorandum of Understanding between the United States, France, and Germany to establish a joint program to develop commonly approved changes in a defense system (Transmittal No. 02–80), pursuant to section 27(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4799. A letter from the Director, Defense Security Assistance Agency, transmitting a report covering the quarter ended June 30, 1980, listing the price and availability estimates provided to countries and the requests for issuance of letters of offer received, pursuant to section 28 of the Arms Export Control Act, as amended; to the Committee on Foreign Affairs.

4800. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the American Institute in Taiwan to offer to sell certain defense equipment to the Coordination Council for North American Affairs (Transmittal No. 80–73), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4801. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the American Institute in Taiwan to offer to sell certain defense equipment to the Coordination Council for North American Affairs (Transmittal No. 80–75), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4802. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Spain (Transmittal No. 80–80), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4803. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment and services to the United Kingdom (Transmittal No. 80–81), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4804. A letter from the Secretary of Commerce, transmitting a report on the restrictions being imposed on the export of truck engines to the Soviet Union in response to the invasion of Afghanistan, pursuant to section 6(e) of Public Law 96-72; to the Committee on Foreign Affairs.

4805. A letter from the President, Overseas Private Investment Corporation, transmitting the annual development report of the Corporation for fiscal year 1979, pursuant to section 240A(a) of the Foreign Assistance Act of 1961, as amended to the Committee on Foreign Affairs.

4806. A letter from the Secretary of Labor, transmitting a report on the department's activities under the Freedom of Information Act during calendar year 1979, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

4807. A letter from the Director, Office of Administration, Executive Office of the President, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); the Committee on Government Operations.

4808. A letter from the Assistant Secretary for Health and Surgeon General, Department of Health and Human Services, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4809. A letter from the Acting General Counsel, Federal Trade Commission, transmitting notice of two proposed new records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4810. A letter from the Administrator of General Services, transmitting a followup report on the recommendations contained in the report of the National Commission on Electronic Fund Transfers dated October 28, 1977, pursuant to section 6(b) of the Federal Advisory Committee Act; to the Committee on Government Operations.

4811. A letter from the Secretary of the Interior, transmitting a comprehensive plan for the protection, preservation and interpretation of Ebey's Landing National Historical Reserve, Washington, pursuant to section 508(b)(2) of Public Law 95-625; to the Committee on Interior and Insular Affairs.

4812. A letter from the Assistant Secretary of the Interior, transmitting a copy of a proposed contract with Skelly and Loy, Harrisburg, Pa., for a research project entitled "Development of a Dewatering System for Controlling Fracture Dominated Inflow for Acid Mine Drainage Abatement," pursuant to section 1(d) of Public Law 89-672; to the Committee on Interior and Insular Affairs.

4813. A letter from the Deputy Assistant Attorney General (Antitrust Division), transmitting the seventh report on the voluntary agreement and plan of action to implement the International Energy Program, pursuant to section 252(i) of the Energy Policy and Conservation Act; to the Committee on Interstate and Foreign Commerce.

4814. A letter from the Secretary of Health and Human Services, transmitting a plan for collecting information on the effects of the environment on health, pursuant to section 306(1)(1) of the Public Health Services Act, as amended; to the Committee on Interstate and Foreign Commerce.

4815. A letter from the Secretary of Energy, transmitting a report on the effect of Federal law on rates established by State utility agencies, pursuant to section 601 of the Public Utility Regulatory Policies Act of 1978; to the Committee on Interstate and Foreign Commerce.

4816. A letter from the General Counsel, Department of Energy, transmitting notice of a meeting related to the International Energy Program held on July 8 and 9, 1980, in New York, N.Y.; to the Committee on Interstate and Foreign Commerce.

4817. A letter from the General Counsel, Department of Energy, transmitting notice of various meetings related to the International Energy Program to be held on July 21 and 22, 1980, in Paris, France; to the Committee on Interstate and Foreign Commerce.

4818. A letter from the General Counsel, Department of Energy, transmitting notice of a meeting related to the International Energy Program to be held on July 22, 1980, in Paris, France; to the Committee on Interstate and Foreign Commerce.

4819. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting a report on the air quality assessment of hydrocarbon and carbon monoxide emission standards for 1984 and later model year heavy-duty engines, pursuant to section 202(a)(3)(E)(i) of the Clean Air Act, as amended; to the Committee on Interstate and Foreign Commerce.

4820. A letter from the Chairman, Federal Trade Commission, transmitting the 65th annual report of the Commission, covering fiscal year 1979, pursuant to section 6(f) of the act of September 26, 1914; to the Committee on Interstate and Foreign Commerce.

4821. A letter from the Chairman, Securities and Exchange Commission, transmitting a report on beneficial ownership reporting requirements, pursuant to section 13(h) of the Securities Exchange Act of 1934, as amended; to the Committee on Interstate and Foreign Commerce.

4822. A letter from the President, United States Railway Association, transmitting the Association's annual report on the performance of the Consolidated Rail Corporation, during calendar year 1979, pursuant to Public Law 93-236, as amended; to the Committee on Interstate and Foreign Commerce.

4823. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

4824. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in the cases of certain aliens found admissible to the United States, pursuant to section 212(a)(28)(I)(ii) of the Immigration and Nationality Act; to the Committee on the Judiciary.

4825. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of certain aliens, pursuant to section 212(d)(6) of the act; to the Committee on the Judiciary.

4826. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in the cases of certain aliens under the authority contained in section 13(b) of the Act of September 11, 1957, pursuant to section 13(c) of the act; to the Committee on the Judiciary.

4827. A letter from the U.S. Commission on Civil Rights, transmitting a statement on police practices and the preservation of civil rights; to the Committee on the Judiciary.

4828. A letter from the national adjutant, Legion of Valor of the U.S.A., Inc., transmitting the annual audit report of the organization for the year ended April 30, 1980, pursuant to section 3 of Public Law 88-504; to the Committee on the Judiciary.

4829. A letter from the Assistant Secretary of the Treasury for Legislative Affairs, transmitting the second annual report on fishery allocation, permits, and foreign import barriers, pursuant to section 201(f) of the Fishery Conservation and Management Act of 1976, as amended; to the Committee on Merchant Marine and Fisheries.

4830. A letter from the Director, Office of Personnel Management, transmitting notice of various exclusions from the Senior Executive Service made by the President, pursuant to 5 U.S.C. 3132(f); to the Committee on Post Office and Civil Service.

4831. A letter from the Governor of the State of Minnesota, transmitting the 1980 Minnesota water quality report, pursuant to section 305(b) of the Federal Water Pollution Control Act, as amended; to the Committee on Public Works and Transportation.

4832. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report on Bear Creek watershed, Trinity River basin, Texas, in response to a resolution of the House Committee on Public Works adopted April 11, 1974; to the Committee on Public Works and Transportation.

4833. A letter from the Administrator of General Services, transmitting a prospectus proposing the acquisition of space by lease in San Francisco, Calif., pursuant to section 7 of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

4834. A letter from the Administrator of General Services, transmitting a prospectus proposing continued occupancy under a succeeding lease of space located at 1735 North Lynn Street, Arlington, Va., pursuant to section 7 of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

4835. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report on the disposal of land at the Plum Brook Station, Sandusky, Ohio, pursuant to section 207 of the National Aeronautics and Space Act, as amended; to the Committee on Science and Technology.

4836. A letter from the Chairman, Interagency Geothermal Coordinating Council, transmitting the fourth annual report on the Geothermal Energy, Research, Development and Demonstration program, covering fiscal year 1979, pursuant to sections 204(d) and 302(a) of Public Law 93-410, and section 15 of Public Law 93-577; to the Committee on Science and Technology.

4837. A letter from the Administrator of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to provide the Veterans Administration revolving supply fund with authority to base its charges for the direct cost of supplies and equipment on recent significant purchase prices and allow for retention and use of such charges in the operations of the revolving supply fund; to the Committeee on Veterans' Affairs.

4838. A communication from the President of the United States, transmitting the proposed allocation of the net revenues expected under the Crude Oil Windfall Profit Tax Act of 1980, pursuant to section 102(d) of the act (H. Doc. No. 96-343); to the Committee on Ways and Means and ordered to be printed.

4839. A letter from the Acting Comptroller General of the United States, transmitting a report discussing the need for continuing and improving the Federal Farmer-to-Consumer Direct Marketing Program (CED-80-65, July 9, 1980); jointly, to the Committees on Government Operations and Agriculture.

4840. A letter from the Acting Comptroller General of the United States, transmitting a report concerning the problems the Departments of Agriculture and the Department of Interior are having in managing public lands to achieve the expectations of the Congress (CED-80-82A, July 16, 1980); jointly, to the Committees on Government Operations, Agriculture, and Interior and Insular Affairs.

4841. A letter from the Acting Comptroller General of the United States, transmitting a report on the implications of highly sophisticated weapon systems on military capabilities (PSAD-80-61, Jun 30, 1980); jointly, to the Committees on Government Operations and Armed Services.

4842. A letter from the Acting Comptroller General of the United States, transmitting a report on consolidating and centralizing the military services' exchange systems (FPCD-

80-50, July 18, 1980); jointly, to the Committees on Government Operations and Armed Services.

4843. A letter from the Acting Comptroller General of the United States, transmitting a report on federally-financed research and communication on Soviet affairs (ID-80-48, July 2, 1980); jointly, to the Committees on Government Operations, Armed Services, Foreign Affairs, and the Permanent Select Committee on Intelligence.

4844. A letter from the Acting Comptroller General of the United States, transmitting a report on Special Agents being phased out as FBI Crime Laboratory Examiners (GGD-80-60, July 18, 1980) jointly, to the Committee on Government Operations and the Judiciary.

4845. A letter from the Acting Comptroller General of the United States, transmitting a report on the weaknesses in the Agency for International Development project management process (ID-80-33, July 15, 1980); jointly, to the Committees on Government Operations and Foreign Affairs.

4846. A letter from the Acting Comptroller General of the United States, transmitting a report on the need for the Agency for International Development to consider social factors in establishing cooperatives in developing countries (ID-80-39, July 16, 1980); jointly, to the Committees on Government Operations and Foreign Affairs.

4847. A letter from the Acting Comptroller General of the United States, transmitting a report pointing out problems associated with the Redwood Employee Protection Program (HRD-80-63, July 8, 1980); jointly, to the Committee on Government Operations and Interior and Insular Affairs.

4848. A letter from the Acting Comptroller General of the United States, transmitting a report on management improvements needed to speed case processing at the Federal Energy Regulatory Commission (EMD-80-54, July 15, 1980); jointly, to the Committees on Government Operations and Interstate and Foreign Commerce.

4849. A letter from the Acting Comptroller General of the United States, transmitting a report concerning the problems in implementing regulatory accounting and costing systems for railroads (FGMSD-80-61, July 17, 1980); jointly, to the Committees on Government Operations and Interstate and Foreign Commerce.

4850. A letter from the Acting Comptroller General of the United States, transmitting a report on the first step completed in conversion to senior executive service (FPCD-80-54, July 11, 1980); jointly, to the Committees on Government Operations, and Post Office and Civil Service.

4851. A letter from the Acting Comptroller General of the United States, transmitting a report on fiscal 1979 Presidential and Vice Presidential certified expenditures (FGMSD-80-70, July 16, 1980); jointly to the Committees on Government Operations and Post Office and Civil Service.

4852. A letter from the Acting Comptroller General of the United States, transmitting a report on water quality standard violations not significant enough to justify costly preventive actions (CED-80-86, July 2, 1980); jointly, to the Committees on Government Operations, and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on July 2, 1980, the following report was filed on July 8, 1980]

Mr. BROOKS: Committee on Government Operations. Report on alleged violations of U.S. aviation laws and regulations by LAN Chile Airlines (Rept. No. 96-1157). Referred to the Committee of the Whole House on the State of the Union.

[Pursuant to the order of the House on July 2, 1980, the following reports were filed on July 15, 1980]

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6520. A bill to revise requirements under the Federal reclamation laws, relating to acreage limitations, equivalency, and residency, to provide for approval of repayments contracts and written representations, and for other purposes; with amendment (Rept. No. 96-1158). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 7267. A bill to establish a reservation for the Confederated Tribes of Siletz Indians of Oregon; with amendments (Rept. No. 96-1159). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4124. A bill to provide for the United States to hold in trust for the Tule River Indian Tribe certain public domain lands formerly removed from the Tule River Indian Reservation; with amendments (Rept. No. 96-1160). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 7242. A bill to facilitate and encourage the production of oil from tar sand and other hydrocarbon deposits; with amendment (Rept. No. 96-1161). Referred to the Committee of the Whole House on the State of the Union.

Mr. FUQUA: Committee on Science and Technology. H.R. 7689. A bill to amend the Presidential Science and Technology Advisory Organization Act of 1976 and to amend the National Science Foundation Act of 1950 to provide additional information to the Congress for the purpose of providing a basis for implementing multiyear research and development authorizations (Rept. No. 96-1162). Referred to the Committee of the Whole House on the State of the Union.

[Submitted July 21, 1980]

Mr. WHITE: Committee on Armed Services. H.R. 7536. A bill to amend title 10, United States Code, to reduce the cost-sharing required of participants in the civilian health and medical program of the uniformed services (CHAMPUS) for inpatient medical care provided on an emergency basis (Rept. No. 96-1164). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROBERTS: Committee on Veterans' Affairs. H.R. 7458. A bill to amend chapter 37 of title 38, United States Code, to permit veterans to refinance outstanding loans previously guaranteed under such chapter; with amendment (Rept. No. 96-1165). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee on Agriculture. H.R. 5546. A bill to amend the United States Grain Standards Act to permit grain delivered to export elevators by any means of conveyance other than barge to be transferred into such export elevators without official weighing, and for other purposes; with amendment (Rept. No. 96-1166). Referred to the Committee of the Whole House on the State of the Union.

Mr. GIAIMO: Committee on the Budget. H.R. 7765. A bill to provide for reconciliation pursuant to section 3 of the First Concurrent Resolution on the Budget for the Fiscal Year 1981. (Rept. No. 96-1167). Referred to the Commitee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 6899. A bill to revitalize maritime policy, reorganize certain Government agencies, and reform regulation of maritime affairs in the United States; with amendment (Rept. No. 96-935, pt. 4). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on July 2, 1980, the following report was filed on July 15, 1980]

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6318. A bill to confirm a conveyance of certain real property by the Central Pacific Railway Co. and Southern Pacific Co. to A. C. Taber and his wife, Mary Taber; with amendments (Rept. No. 96-1163). Referred to the Committee of the Whole House.

[Omitted from the Record of July 2, 1980]

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. FUQUA. Committee on Science and Technology. H.R. 7418. A bill to establish a research, development, and demonstration program for the disposal of radioactive wastes; with amendments, and referred to the Committees on Interior and Insular Affairs and Interstate and Foreign Commerce for a period ending not later than August 1, 1980 for consideration of such portions of the bill and amendments as fall within those committees' jurisdiction over the regulation of the domestic nuclear energy industry under clauses 1(k) and 1(l), rule X (Rept. No. 96-1156, pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GIAIMO:

H.R. 7765. A bill to provide for reconciliation pursuant to section 3 of the First Concurrent Resolution on the Budget for the fiscal year 1981.

By Mr. CORMAN:

H.R. 7766. A bill to amend the Internal Revenue Code of 1954 to extend for 1 year the provision providing refunds of Federal motor fuels taxes imposed on fuels used in certain taxicabs; to the Committee on Ways and Means.

By Mr. DASCHLE:

H.R. 7767. A bill to amend title 38, United States Code, to allow veterans with service-connected disabilities who are eligible for military retired pay for nonregular service to receive compensation for such disabilities from the Veterans' Administration and to receive such retired pay without reduction in either such compensation or such retired pay; to the Committee on Veterans' Affairs.

By Mr. DECKARD:

H.R. 7768. A bill to amend the Federal Mine Safety and Health Act of 1977 to prohibit the issuance of a citation by the Secretary of Labor after the initial inspection of any coal mine or other mine, and for other purposes; to the Committee on Education and Labor.

H.R. 7769. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to prohibit the issuance of any notice of violation by the Secretary of the Interior after the initial inspection of a surface coal mining and reclamation operation, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. GRADISON:

H.R. 7770. A bill to name the Environmental Research Center in Cincinnati, Ohio, the "Andrew W. Breidenback Environmental Research Center"; to the Committee on Public Works and Transportation.

By Mr. HANSEN:

H.R. 7771. A bill to amend the Contract Work Hours Standards Act to require overtime compensation only for hours of employment in excess of 40 hours on a workweek; to the Committee on Education and Labor.

By Mr. JACOBS:

H.R. 7772. A bill to amend the Internal Revenue Code of 1954 to exclude from the gross income of individuals over age 65 amounts received on redemption of certain U.S. savings bonds which have been held for at least 10 years; to the Committee on Ways and Means.

By Mr. MOORHEAD of California:

H.R. 7773. A bill to reform the Powerplant and Industrial Fuel Use Act of 1978 to encourage a reduction of air pollution and oil consumption by existing electric powerplants; to the Committee on Interstate and Foreign Commerce.

By Mr. MOTTL:

H.R. 7774. A bill to amend the Communications Act of 1934 to eliminate certain provisions of such act relating to coercive practices affecting broadcasting; to the Committee on Interstate and Foreign Commerce.

By Mr. PICKLE (for himself and Mr. Brooks):

H.R. 7775. A bill to make available to the Lyndon Baines Johnson Library those International Communication Agency films which relate to President Johnson; to the Committee on Foreign Affairs.

By Mr. RANGEL:

H.R. 7776. A bill to provide for medicare and medicaid pilot demonstration projects; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. DORNAN:

H.R. 7777. A bill to amend the Internal Revenue Code of 1954 to provide for tax reductions and reforms; jointly, to the Committees on Ways and Means, Government Operations, and Rules.

By Mr. RHODES:

H.R. 7778. A bill to provide for protection of the spouses of major Presidential and Vice Presidential nominees; to the Committee on the Judiciary.

By Mr. ULLMAN:

H.R. 7779. A bill to amend the Internal Revenue Code of 1954 to authorize 3 additional judges for the Tax Court; to the Committee on Ways and Means.

H.R. 7780. A bill to authorize the Administrator of General Services to donate to State and local governments certain Federal personal property loaned to them for civil defense use, and for other purposes; jointly, to the Committees on Armed Services and Government Operations.

By Mr. WATKINS:

H.R. 7781. A bill to establish a National Water Utilities Bank to insure the availability of financing to water utilities; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ZEFERETTI:

H.R. 7782. A bill to amend the District of Columbia Police and Firemen's Salary Act of 1958 to provide for the same cost-of-living adjustments in the basic compensation of officers and members of the U.S. Secret Service Uniformed Division as are given to Federal employees under the General Schedule; to the Committee on the District of Columbia.

By Mr. SHANNON:

H. Con. Res. 383. Concurrent resolution to disapprove the determination of the President not to provide import relief for the leather wearing apparel industry; to the Committee on Ways and Means.

By Mr. BENNETT:

H. Res. 743. Resolution providing that the Speaker of the House certify the Report of the Committee on Standards of Official Conduct with respect to the proceedings against O. Robert Fordiani, to the U.S. Attorney for the District of Columbia; considered and agreed to .

By Mr. MOORHEAD of California:

H. Res. 744. Resolution expressing the sense of the House of Representatives regarding certain aspects of the model adoption legislation and procedures which the Secretary of Health and Human Services is required to issue under the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978; to the Committee on Education and Labor.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

501. By the SPEAKER: Memorial of the Legislature of the State of California, relative to integrated pest management; to the Committee on Agriculture.

502. Also, memorial of the Legislature of the State of California, relative to modernization of Federal reclamation laws for agricultural purposes; to the Committee on Interior and Insular Affairs.

503. Also, memorial of the Legislature of the State of California, relative to deportation of foreign nationals; to the Committee on the Judiciary.

504. Also, memorial of the Legislature of the State of Florida, relative to Cuban and Haitian refugees; to the Committee on the Judiciary.

505. Also, memorial of the Senate of the State of Illinois, relative to voluntary prayer in schools; to the Committee on the Judiciary.

506. Also, memorial of the Legislature of the State of California, relative to the recognition of the small and independent business bill of rights; to the Committee on Small Business.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DECKARD:

H.R. 7783. A bill for the relief of Honesto K. Fenol, doctor of medicine, his wife Rosabella Montes-Fenol, and their son Lawrence Mark Fenol; to the Committee on the Judiciary.

By Mr. DORNAN:

H.R. 7784. A bill for the relief of Norma Obitz; to the Committee on the Judiciary.

By Mr. HUTTO:

H.R. 7785. A bill for the relief of Berendina Antonia Maria van Kleeff; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added in public bills and resolutions as follows:

H.R. 654: Mr. Ginn.

H.R. 1071: Mr. Roth.

H.R. 1297: Mr. Price, Mr. Mavroules, Mr. Mineta, and Mr McCloskey.

H.R. 1714: Mr. Harris.

H.R. 1904: Mr. Murphy of Pennsylvania.

H.R. 2815: Mr. Harris.

H.R. 4897: Mr. Forsythe.

H.R. 5022: Mr. Pepper.

H.R 5211: Mr. Schulze.

H.R. 5225: Mr. Gramm, Mr. Miller of Ohio, Mr. Leach of Louisiana, Mr. Evans of Indiana, Mr. Lujan, Mr. Kelly, Mr. Weaver, Mr. Whitten, Mr. Rhodes, Mr. Satterfield, Mr. Gingrich, Mr. Whitley, and Mr. Rose.

H.R. 5409: Mr. Cotter and Mr. Yates.

H.R. 5738: Mr. Murphy of Pennsylvania, Mr. Tauke, Mr. Forsythe, Mr. Addabbo, and Mr. Fish.

H.R. 6181: Mr. Hyde, Mr. Bedell, Mr. Pursell, and Mr. Tauke.

H.R. 6194: Mr. Davis of Michigan, Mr. Andrews of North Dakota, Mr. Glickman, Mr. Lewis, Mr. Mitchell of New York, and Mr. Fascell.

H.R. 6683: Mr. Frost.

H.R. 6817: Mr. McDade and Mr. Marks.

H.R. 7089: Mr. Evans of Georgia, Mr. Richmond, Mrs. Collins of Illinois, Mr. Walgren, Mr. Solarz, Mr. Rinaldo, Mr. Porter, and Mr. Myers of Pennsylvania.

H.R. 7157: Mr. Cotter, Mr. Rosenthal, Mr. Bonior of Michigan, Mr. Wolpe, Mr. D'Amours, Mr. Conyers, Mr. Horton, Mr. Weaver, Mr. Baldus, Mr. Frost, Mr. Edgar, Mr. Seiberling, Mr. Leach of Louisiana, Mr. Lloyd, Mr. Edwards of Oklahoma, Mr. Davis of Michigan, Mr. McKinney, Mr. Harris, Mr. Mattox, Mr. Panetta, Mr. Stangeland, Mr. Kildee, Mr. Ambro, Mr. Drinan, Mr. Dixon, Mr. Forsythe, Mr. Bedell, Mr. Lederer, Mr. Addabbo, Mr. Howard, Mr. Mitchell of Maryland, Mr. Maguire, Mr. Neal, Mr. Vento, Mr. Hughes, Mr. Roe, Mr. Corman, Mr. Daschle, Mr. Oberstar, Mr. Kostmayer, Mr. Guarini, Mr. Glickman, Mr. Lungren, Mr. Ford of Tennessee, Mr. Ottinger, Mr. Bingham, Mr. Rinaldo, Mr. Gilman, Mr. Wirth, Mr. Mitchell of New York, and Mr. Charles Wilson of Texas.

H.R. 7254: Mr. Bedell, Mr. Kostmayer, Mr. Forsythe, Mr. Ottinger, and Mr. McDade.

H.R. 7346: Mr. Mollohan, Mr. Abdnor, Mr. Goodling, Mr. Santini, Mrs. Holt, and Mr. Edgar.

H.R. 7352: Mr. Fazio, Mr. Lagomarsino, Mr. Whitehurst, Mr. Dougherty, Mr. Barnes, Mr Whittaker, Mr. Stokes, Mr. Hillis, Mr. Bedell, and Mr. Hughes.

H.R. 7433: Mr. Lederer.

H.R. 7441: Mr. Young of Alaska, Mr. Rose, Mr. Whitehurst, Mr. Derwinski, Mr. Spence, Mr. Leath of Texas, Mr. Gramm, Mr. Duncan of Tennessee, Mr. Lee, Mr. Leach of Louisiana, Mr. Shumway, Mr. Dougherty, Mr. Lagomarsino, Mr. Jeffries, Mr. Edwards of Oklahoma, Mr. Bedell, Mr. Lott, Mr. Marks, Mr. Frost, Mr. Frenzel, Mr. Burgener, Mr. Abdnor, Mr. Hyde, Mr. Fazio, Mr. White, Mr. Heftel, Mrs. Schroeder, Mr. Hughes, Mr. McDonald, Mr. Won Pat, Mr. Ichord, Mr. Bob Wilson, Mr. Gingrich, Mr. Edwards of Alabama, Mr. Beard of Tennessee, Mr. Dickinson, Mrs. Holt, Mr. Badham, Mr. Wyatt, Mr. Horton, Mr. Forsythe, Mr. Stump, Mr. Bailey, Mrs. Byron, Mr. Bevill, Mr. McDade, Mr. Leach of Iowa, Mr. Weaver, and Mr. Kildee.

H.R. 7557: Mr. Clay, Mr. Flippo, and Mr. Leland.

H.R. 7576: Mr. Railsback, Mr. Alexander, Mr. Mathis, Mr. Brinkley, Mr. Zablocki, Mr. Ginn, Mr. Frenzel, Mr. Duncan of Tennessee, Mr. Pepper, Mr. Corrada, Mr. Cleveland, Mr. de la Garza, Mr. Seiberling, Mr. Simon, Mr. Fowler, and Mr. LaFalce.

H.R. 7622: Mr. Mitchell of New York, Mr. Baldus, Mr. Atkinson, Mr. Bedell, Mr. Hinson, Mr. McDade, Mr. Kogovsek, Mr. Corcoran, and Mr. Rinaldo.

H.R. 7625: Mr. Bevill, Mr. Nichols, Mr. Gingrich, Mr. Shelby, Mr. Flippo, and Mr. Dickinson.

H.R. 7735: Mr. Wolff.

H.J. Res. 69: Mr. Edwards of Alabama, Mr. Volkmer, Mr. Flippo, Mr. Shannon, Mr. Clinger, Mr. Daniel B. Crane, Mr. Buchanan, Mr. Evans of Delaware, Mr. Kogovsek, and Mr. Deckard.

H.J. Res. 451: Mr. Cheney.

H.J. Res. 488: Mr. Corman and Mr. Long of Maryland.

H.J. Res. 511: Mr. FLIPPO, Mrs. HOLT, and Mr. JONES of Tennessee.

H.J. Res. 551: Mr. ANDREWS of North Carolina, Mr. BAUMAN, Mr. BEVILL, Mr. BINGHAM, Mr. BLANCHARD, Mr. BOWEN, Mr. JOHN L. BURTON, Mrs. CHISHOLM, Mr. CONYERS, Mr. DAN DANIEL, Mr. DELLUMS, Mr. DERRICK, Mr. DINGELL, Mr. DORNAN, Mrs. FENWICK, Mr. GEPHARDT, Mr. GOLDWATER, Mr. HANCE, Mr. HOWARD, Mr. LONG of Louisiana, Mr. LONG of Maryland, Mr. MCEWEN, Mr. MCHUGH, Mr. MAVROULES, Mr. MINETA, Mr. NEAL, Mr. NEDZI, Mr. OTTINGER, Mr. PEYSER, Mr. RAILSBACK, Mr. ROSE, Mr. SANTINI, Mr. SHANNON, Mr. SOLARZ, Mr. STARK, Mr. SWIFT, Mr. THOMPSON, Mr. BOB WILSON, Mr. WHITLEY, and Mr. WOLFF.

H.J. Res. 578: Mr. BUTLER, Mr. CLINGER, Mr. DERWINSKI, Mr. FISHER, Mr. HARRIS, Mr. MAZZOLI, Mr. MURPHY of Pennsylvania, Mr. NOLAN, Mr. PATTEN, Mr. SATTERFIELD, Mr. SCHEUER, Mr. TRIBLE, Mr. WAMPLER, and Mr. WHITEHURST.

H. Con. Res. 306: Mr. AMBRO, Mr. ANDREWS of North Carolina, Mr. BADHAM, Mr. BROOMFIELD, Mr. BROYHILL, Mr. BUCHANAN, Mr. BUTLER, Mr. CONABLE, Mr. COUGHLIN, Mr. DAN DANIEL, Mr. DAVIS of Michigan, Mr. EMERY, Mr. ENGLISH, Mr. EVANS of Delaware, Mr. FINDLEY, Mr. FOWLER, Mr. FROST, Mr. GOODLING, Mr. HAMMERSCHMIDT, Mr. HEFTEL, Mr. HIGHTOWER, Mr. HINSON, Mr. HOLLAND, Mrs. HOLT, Mr. HORTON, Mr. HUTTO, Mr. HYDE, Mr. JENRETTE, Mr. JONES of North Carolina, Mr. KAZEN, Mr. KELLY, Mr. LATTA, Mr. LEDERER, Mr. LEE, Mr. LENT, Mr. LEVITAS, Mr. LUKEN, Mr. MCDADE, Mr. MARKS, Mr. MARLENEE, Mr. MATTOX, Mr. MICA, Mr. MITCHELL of New York, Mr. MOTTL, Mr. MURPHY of Pennsylvania, Mr. MURPHY of New York, Mr. MYERS of Indiana, Mr. NELSON, Mr. O'BRIEN, Mr. PERKINS, Mr. PETRI, Mr. PICKLE, Mr. QUAYLE, Mr. REGULA, Mr. RINALDO, Mr. ROBERTS, Mr. ROYER, Mr. SATTERFIELD, Mr. SAWYER, Mr. SEBELIUS, Mr. SENSENBRENNER, Mr. SHUSTER, Mr. SKELTON, Mrs. SNOWE, Mr. STEED, Mr. STOCKMAN, Mr. TAUZIN, Mr. TRIBLE, Mr. WATKINS, Mr. WHITTEN, Mr. BOB WILSON, Mr. CHARLES H. WILSON of California, Mr. WYDLER, Mr. WYLIE, Mr. YOUNG of Florida, Mr. YOUNG of Alaska, Mr. BONER of Tennessee, and Mr. SANTINI.

H. Con. Res. 344: Mr. PEPPER, Mr. MCKINNEY, Mr. FINDLEY, Mr. QUAYLE, Mr. GOODLING, Mr. FISH, Mr. WYLIE, Mr. HUBBARD, and Mr. COUGHLIN.

H. Res. 709: Mr. SYNAR.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

382. The SPEAKER presented a petition of the Knights of Columbus, Sarasota, Fla., relative to public broadcasting, which was referred to the Committee on Interstate and Foreign Commerce.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6711

By Mr. WEISS:

—Page 58, line 5, insert immediately after "(B)" the following: "in only those instances where the data necessary for making the determinations required by subparagraph (A) are unavailable,".

H.R. 7235

By Mr. DINGELL:

—Amend section 204(a) to add a new paragraph (d)(4) to section 10712, following present section 10712(d)(3), as follows:

"(4) Any contract in existence as of the effective date of the Rail Act of 1980 shall be filed in accordance with Subsection (b) hereof and shall continue to have the same force and effect hereafter as if it had been entered after and pursuant to the provisions of this section."

H.R. 7262

By Mr. LEVITAS:

Page 93, after line 22, insert the following:

LEGISLATIVE VETO

SEC. 327. Section 7(o) of the Department of Housing and Urban Development Act is amended to read as follows:

"(o)(1) Notwithstanding any other provision of law, simultaneously with prescribing any rule or regulation by the Secretary under this Act or any other Act, the Secretary shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in paragraph (2), the rule or regulation shall not become effective, if—

"(A) within 90 calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule or regulation promulgated by the Secretary of Housing and Urban Development dealing with the matter of , which rule or regulation was transmitted to Congress on .', the blank spaces therein being appropriately filled; or

"(B) within 60 calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within 30 calendar days of continuous session of Congress after such transmittal.

"(2) If, at the end of 60 calendar days of continuous session of Congress after the date of promulgation of a rule or regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule or regulation, and neither House has adopted such a resolution, the rule or regulation may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule or regulation may go into effect not sooner than 90 calendar days of continuous session of Congress after its promulgation unless disapproved as provided in paragraph (1).

"(3) For the purposes of paragraphs (1) and (2) of this subsection—

"(A) continuity of session is broken only by an adjournment of Congress sine die;

"(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 30, 60, and 90 calendar days of continuous session of Congress; and

"(C) the term 'rule or regulation' does not include the setting of interest rates pursuant to section 3 of Public Law 90–301.

"(4) Congressional inaction on, or rejection of, a resolution of disapproval under this subsection shall not be deemed an expression of approval of the rule involved."

H.R. 7583

By Mr. HARRIS:

—Page 43, after line 5, insert the following:

SEC. 614. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract in excess of $10,000, prior to the date that such executive agency enters the completed Federal Procurement Data System Individual Procurement Action Report (indicating that the contract is a consultant contract or a commercial and industrial type activity contract), with respect to such obligation into the Federal Procurement Data System, pursuant to regulations promulgated under the Office of Federal Procurement Policy Act.

—Page 43, after line 5, insert the following:

SEC. 614. No more than an amount equal to 20 percent of the total funds appropriated under this Act for any agency for any fiscal year and apportioned to such agency pursuant to section 3679 of the Revised Statutes of the United States (31 U.S.C. 665) may be obligated during the last two months of such fiscal year.

By Mr. LEVITAS:

—Page 43, after line 5, insert the following:

SEC. 614. No part of any of the funds appropriated by this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

H.R. 7591

By Mr. HARRIS:

—Page 51, after line 26, insert the following:

SEC. 612. No part of any appropriation contained in this Act shall be expended by any executive agency, as refererd to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract in excess of $10,000, prior to the date that such executive agency enters the completed Federal Procurement Data System Individual Procurement Action Report (indicating that the contract is a consultant contract or a commercial and industrial type activity contract), with respect to such obligation into the Federal Procurement Data System, pursuant to regulations promulgated under the Office of Federal Procurement Policy Act.

By Mr. LEVITAS:

—Page 51, after line 26, insert the following:

SEC. 612. None of the funds appropriated or otherwise made available by this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

H.R. 7631

By Mr. LEVITAS:

—Page 45, after line 23, insert the following:

SEC. 411. No part of any appropriation contained in this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

H.R. 7724

By Mr. HARRIS:

—Page 60, after line 9, insert the following:

SEC. 307. No more than an amount equal to 20 percent of the total funds appropriated under this Act for any agency for any fiscal year and apportioned to such agency pursuant to section 3679 of the Revised Statutes of the United States (31 U.S.C. 665) may be obligated during the last two months of such fiscal year.

—Page 60, after line 9, add the following:

SEC. 307. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract in excess of $10,000, prior to the date that such executive agency enters the completed Federal Procurement Data System Individual Procurement Action Report (indicating that the contract is a consultant contract or a commercial and industrial type activity contract), with respect to such obligation into the Federal Procurement Data System, pursuant to regulations promulgated under the Office of Federal Procurement Policy Act.

EXTENSIONS OF REMARKS

WILVER DORNELL STARGELL

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. WALGREN. Mr. Speaker, this past Sunday America paid tribute to one of its finest athletes and gentlemen—Wilver Dornell Stargell. "Pops" Stargell, as he is known by his teammates, is not only an outstanding baseball player—but also one of the sport's finest humanitarians.

The captain of the world champion Pittsburgh Pirates has been a Pirate all his professional career. Although he was born in Earlsborough, Okla., he lives in Pittsburgh with his wife Dolores and his four children—Wendy, Precious, Wilver, Jr., and Kelli. He has a strong commitment to the people of the Pittsburgh area, as he demonstrates through his chairmanship of the Willie Stargell Foundation for Sickle Cell Anemia, his annual fund-raising bowling tournament, and his countless other public service activities. No one in baseball would doubt that Willie Stargell holds the record for commonsense, humor, sensitivity, and plain old hard work.

Willie Stargell holds a few other records too. He was the first and only Pirate to hit over 400 home runs, the only player to hit a ball out of Dodger Stadium—a feat he performed twice—the 1979 National League Most Valuable Player, the MVP of the 1979 National League playoffs and the most valuable player in the world series in 1979, the 1978 National League Comeback Player of the Year, the winner of the Fred Hutchinson Award in 1978, the National League homerun leader in 1971 and 1973, the National League RBI leader in 1973, the alltime Pirate homerun leader, the alltime Pirate RBI leader, the alltime Pirate extra-base hit leader, the 1979 Sportsman of the Year by Sports Illustrated, the Sporting News 1979 Man of the Year, the 1979 Associated Press Male Athlete of the Year, the New York Baseball Writers 1979 Babe Ruth Award winner, and the Dapper Dan's Man of the Year in 1979.

Mr. Speaker, Willie Stargell Day coincided with the day the Pirates moved into first place in the National League East. I am certainly proud to represent an area which claims Willie Stargell as the "Pops" of our "FAM-A-LEE."●

PROBLEMS IN OUR ECONOMY

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. HILLIS. Mr. Speaker, like most of my colleagues, I have spent the last 2 weeks back home talking with my constituents. I had the opportunity to meet with businessmen, farmers, retired military personnel, factory workers, and veterans and talk about their problems and issues of importance to them.

The overriding concern of the individuals I met with is the economy. People are no longer convinced that the future promises them security. The American dream is fast becoming just that: a dream. Most everyone I talked to feels that inflation and unemployment will continue at unacceptably high rates throughout 1980 and 1981; that the Soviet Union will continue to become more powerful; and that American industry will continue to decline.

The businessmen I spoke with complained about excessive Government regulations and interference which threatens the free enterprise system. They felt that inflation threatened their ability to turn a profit. They feared that the recession would force people to reduce their spending resulting in a corresponding decline in business. The passage of capital formation legislation is considered a necessity by most if American productivity is to increase.

The farmers I talked to were concerned about the effects of inflation and credit controls on their businesses. Farmers who must borrow money in order to finance their operations, have had a very difficult time this year.

The embargo was mentioned on a number of occasions as further aggrevating the problem. Most farmers, while supporting the President's efforts to bring sanctions against the Soviets for their invasion of Afghanistan, do not feel that the actions thus far have been very effective. The embargo has caused several disruptions in the marketplace making future prices uncertain.

I was fortunate to have an opportunity to meet with the retired officers association at Fort Benjamin Harrison. As retired military personnel, most of them expressed deep concern over the state of our military readiness. While the return to draft registration was hailed as a step in the right direction, it alone will not solve our readiness problems. There was a consensus that military benefits have eroded over the last 10 years and, as a result, it is increasingly more difficult to recruit and retain qualified people.

Most officers I talked to felt that the Soviet Union would continue adventures such as Afghanistan as long as the United States is not willing to respond in a more positive manner such as increased defense spending. While most realized that the Congress has recommended a small increase in defense spending, they felt the increase was insufficient.

A large segment of my constituency is directly or indirectly dependent upon the auto industry as the basis for their economy. As everyone here knows, the auto industry has hit a 30-year low. It was interesting to discuss the President's speech of July 8 in Detroit which suggested several steps to aid the industry with union members and auto management. I think the general consensus was that the President's program was a lot more symbolism than help. The only portion of the suggested package which will help the auto industry is credit and dealer aid. However, as I understand the situation, that aid must also go for foreign car dealers who are competing to place Americans out of work.

I also met with several veterans organizations and I can report that our veterans are very concerned about the continued erosion of the Veterans' Administration and the programs it administers. As the World War II veteran population approaches the age when there will be greater need for and use of VA hospitals, the President's budget restricts the needed growth and expansion of VA facilities. It is all too obvious to our veterans that President Carter feels little empathy toward them and that through less than adequate funding, the VA's health care delivery system has been allowed to deteriorate. To permit this is a mockery to the dedicated services of over 30 million veterans today, and unknown numbers in the future.

The fact that so many different people, from different walks of life, with different interests and philosophies are concerned about the state of affairs in our Nation is the result of a total lack of leadership. The American people have been misled by broken campaign promises. They have been betrayed by a Congress which increases taxes every year and passes legislation which reduces individual and collective freedoms.

The American people are tired of paying more for a government which produces less. They are tired of politics as usual. This body owes the American people the courage to deal effectively with the problems of today. We must reduce Federal spending and

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

regulations; we must reform our tax code and reduce taxes for both individuals and businesses. And above all, we must provide the requisite funds to insure American military superiority.

If the leadership in this Congress is unwilling or incapable of this task, and if the President refuses to provide the direction, then it is long past time for a change in who controls the executive and legislative branches of our Government.●

FATHER MEAGHER

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. LEWIS. Mr. Speaker, Father Thomas Francis Meagher was born in Drom, County Tipperary, Ireland, on June 18, 1915. He is one of 11 children born to William and Susan Meagher, including Sister Lucy who still serves her order, the Company of Mary, in Limerick, Ireland. As a seminarian, he studied at St. Patrick's College, Thurles, County Tipperary, from where he was ordained at the Cathedral of the Assumption, Thurles, on June 9, 1940. On ordination he was assigned to the Salford Diocese in Salford, England, where he worked among the miners in Lancashire for 2 years, from where he joined the British Army and served as chaplain for 5 years during World War II.

After his discharge from the service in 1947 he came to the United States to the Archdiocese of San Antonio, Tex., where he was appointed secretary to Archbishop Robert E. Lucy. While in San Antonio he did special work in social justice and public relations and was very valuable in the defense of the Spanish-speaking community, whom he felt, at that time, were being very much exploited.

In 1954 he was assigned to the Diocese of San Diego and since his arrival in California he has acted as pastor at St. Mary Magdalen Church in Jacumba, St. Francis Church, Elsinore, St. Catherine of Siena Church, Rialto, and St. Thomas Mission in Fort Yuma. While at St. Catherine's in Rialto he planned and supervised the building of a new convent for the teaching nuns and the rebuilding of the rectory. Also, while in Rialto he had the distinct honor of being elected president of the Priests' Senate of the San Diego Diocese, and again, which proves his ability in this office, he has been elected as president to the Priests' Senate in our San Bernardino Diocese. Since his arrival at St. Christopher's Church in Sunnymead in 1972, where he still serves, his accomplishments re the improvements of the parish plant have been numerous, and the payment in full of an extensive parish debt in 1979 was certainly no small feat.

He has instilled a feeling of spirituality in his parish. He is well loved by his parishioners, both current and past, many of whom still travel from his former parishes for his advice and guidance. He has proven himself to be a down-to-earth individual, with a deep commitment to his stewardship, which is readily imparted to and instilled in his parishioners.●

WISDOM OF DECRIMINALIZING MARIHUANA USE

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. MAZZOLI. Mr. Speaker, I commend to the attention of my colleagues the following editorial from the July 3 Washington Post. The editorial underscores, to my satisfaction, the unwisdom of legislation to decriminalize marihuana use.

GETTING HIGH/GETTING HURT

While the debate over legalization or decriminalization of marijuana rages on, the National Institute on Drug Abuse has recently published two important documents that should change the focus of most people's attention. One is a summary of current research findings on the effects of marijuana on health, and the other is a survey of the extent and intensity of current marijuana use.

The survey shows a continuing trend of more frequent use, by younger individuals, or more potent marijuana. The fraction of 12- to 17-year-olds who have ever used pot has grown from 7 percent in 1967 to 14 percent in 1971 to 31 percent last year. Of this age group, 17 percent are current users—defined as those who have used the drug within the past month. In the past five years, daily use by high school seniors has almost doubled, and now stands at 10.3 percent. Almost 40 percent of this year's graduating class are current users.

These are underestimates, since they are based only on interviews of those actually attending school. Nor do they reflect the increasing potency of the plant. The fraction of THC—marijuana's principal psychoactive component—in plants imported from Mexico has increased twentyfold since 1973. And marijuana from Colombia, which accounts for more and more of today's supply, is estimated to be twice as potent as the current Mexican crop.

The biological effects of marijuana use are much less certain, since most experiments must be done on animals. But some effects are becoming clear. Marijuana produces lung damage as great as or greater than that caused by tobacco. It also contains more cancer-producing substances than does tobacco smoke. The Drug Institute concludes that "it appears likely that daily use of marijuana may lead to lung damage even greater than that resulting from heavy cigarette smoking." Research on animals, as yet unconfirmed in humans, shows a definite suppression of the immune system—the body's chief defense against illness. A range of evidence indicates that marijuana affects the delicate balance of glands and hormones that govern sexual development and reproductive function, including effects on fertility in both sexes and damage to the developing fetus.

The most serious effects appear to be psychological—especially in young people. Any biological system is more vulnerable to damage during periods of rapid change than during periods of stability and 12- to 17-year-olds are in a period of extremely rapid psychological change involving intellectual skills and learning, emotional growth and personality development. There is a growing consensus that each of these functions may be seriously impaired by marijuana use during this period.

While this may seem a pretty sobering list, the sum of what is still unknown is even more scary. Marijuana has only been widely used in this country for just over 15 years. Most cancer latencies are 20 years or longer and, as has been demonstrated in the case of alcohol and tobacco, it may require decades of use by very large numbers of people before even devastating effects of a drug become evident.

Pot is clearly a dangerous substance—at least for 12- to 17-year-olds and possibly for older people as well—and its illegal status has obviously not curbed its availability. While the appropriate legal treatment for marijuana possession and sale is one important issue, there is also an urgent need to find ways to diminish marijuana use by those who are being hurt worst by it.●

WELFARE AND WORKING

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. PAUL. Mr. Speaker, the Reverend James A. Rodgers, pastor of the Church of Christ on Old Angleton Road in Lake Jackson, Tex., recently published a commentary in the Brazosport Facts.

This commentary, based on Biblical principles, has great relevance for the House. I would like to call this essay to my colleagues' attention.

DON'T FEED HIM

(By Rev. James A. Rodgers)

A fellow once asked me if the Bible had anything to say about giving welfare payments to people who refused to work. While the Scriptures do not speak of a specific form of civil government and welfare payments, they do deal with the basic principle of the question.

When the Apostle Paul wrote to the church at Thessalonica, there were those in it who felt the second coming of Christ was very near. Perhaps using this as an excuse, they had quit their jobs and were living on hand-outs from their brethren. They had made themselves dead-beats and parasites. Here is some of what Paul wrote about this matter:

"For even when we were with you, this we commanded you, that if any would not work, neither should he eat. For we hear that there are some which walk among you disorderly, working not at all, but are busybodies. Now them that are such we command and exhort by our Lord Jesus Christ, that with quietness they work, and eat their own bread." (2 Thess 3:10-12).

The idea was simple: If a man chooses not to work, then he has no right to eat. Let him starve. The brethren in the church there were forbidden to subsidize and therefore promote a life of idleness. Too, to allow such free time on their hands would enable them to meddle in other men's matters.

Our country needs to learn and apply this lesson. Sure, there is a certain amount of real unemployment, but the statistics don't tell us how many people "will not work" in areas where jobs are available. Some people would rather get almost the same amount of money for doing nothing. Nobody tells us how many people are touring the country on a perpetual vacation at our expense * * * and how many of those are participating in demonstrations against punishment for crimes, moral laws, and who knows what? Nor do the statistics tell us of the degree of personal diligence they use toward finding jobs. How many are just sitting around all day barefooted, half-clad, smoking dope, and watching their hair grow? We wonder about these figures, especially if they are on the welfare rolls.

How can so many illegal aliens pour into south Texas and suddenly find jobs, if none are available? "Oh," say some, "* * * those jobs aren't MEANINGFUL!" Well, they would sure mean something if we needed them to survive! If a job is honest, moral, and provides a living, then it is meaningful and helpful to everyone. What's wrong with being a carpenter's helper or laborer? If everyone were Chiefs, then who would be the Indians? Someone has to actually do the work, and work is honorable.

No one doubts that there are people in our country who really need help, but, toward some, we need to hearken to the principle set forth in the Bible: If a man will not work, neither let him eat.●

JACK R. GILSTRAP—GENERAL MANAGER, SOUTHERN CALIFORNIA RAPID TRANSIT DISTRICT

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. ANDERSON of California. Mr. Speaker, the public transit industry of California will soon lose one of its most effective and respected leaders as Southern California Rapid Transit District General Manager Jack R. Gilstrap ends his 20-year career with RTD to become executive vice president of the American Public Transit Association. I report this news to my colleagues today with a mixed feeling of both regret and pride. On the local scene in Los Angeles and the surrounding area, his contributions have been substantial as an administrator of the Nation's third largest urban mass transit system and as a powerful advocate for the public transit industry. For this reason we are sorry to see him leave. However, we are pleased to know his move away from California will also mean a move up to a leadership position on the national scene.

Jack Gilstrap's career with the RTD has been an impressive one indeed. Under his leadership as this organization's chief administrator for the past 10 years, the RTD bus system has expanded, and now records 344.7 million passenger boardings and more than 106.5 million miles of operation annually. His most recent and noteworthy successes include the commitment of Federal funds to begin preliminary engineering work on the planned Wilshire subway starter line and the award of Federal funds permitting the purchase of 1,200 new buses—the largest bus delivery of its kind in the Nation.

Moving to take over the reins of the Nation's major public transit trade organization will place Jack Gilstrap in surroundings he is already quite familiar with. He has already gained national prominence as a member of the Federal Urban Mass Transportation Administration's Capital Grant Criteria Committee; the Federal Aid to Urban Systems Act Advisory Committee; and the National Safety Council's Board of Directors. In addition, he was recently selected to serve as a member of the National Academy of Sciences Transportation Research Board.

As a member of the House Surface Transportation Subcommittee and an advocate of greater support for public transit myself, I have on many occasions worked closely with Jack Gilstrap and his capable staff. We have enjoyed the working relationship and look forward to developing the same as he assumes his new position with the American Public Transit Association. We extend our appreciation to him for all the work he has done to improve mass transit operations in southern California. My wife, Lee, joins me in congratulating Jack on his new appointment and we wish him, his wife Pauline, and their children, Peter and Melissa, the best of success in future endeavors.●

U.S. FIRMS LOSE GROUND

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. FRENZEL. Mr. Speaker, the Wall Street Journal of July 2 carried an interesting article headed "U.S. Firms Lose Ground In Mideast." The article states that the American share of Middle Eastern markets is shrinking at a time when U.S. companies badly need foreign orders, and it lists a number of reasons why.

One of the prime reasons for the loss of trade is that the United States is the only country in the world that taxes the foreign earnings of its citizens, thus forcing U.S. contractors to raise their bids to cover the extra tax expense.

Companies also gripe that any perquisites aimed at easing Mideast life for a U.S. worker are apt to be interpreted as income by the IRS.

The tax factor has another, subtler effect. Saudi agencies cannot hire Americans anymore, so they hire Europeans. The Europeans naturally favor their home countries in placing or recommending orders.

The article is an awfully good argument for removing an awfully bad law. This Congress should forthwith repeal the taxes on income earned by Americans abroad. That is about as good an incentive to stimulate exports as we can possibly provide.●

TRIBUTE TO CAPT. GEORGE PERNICIARO

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. RUSSO. Mr. Speaker, today I would like to pay tribute to Capt. George Perniciaro, retiring after 40 years as a Calumet City police officer. A dedicated public servant, Captain Perniciaro has won the respect and admiration of the community for his faithful service.

Affectionally known as Captain George, he served with honor, dignity, and integrity. It is not surprising then that he was highly respected by his fellow officers and that all who came in contact with him were impressed by his fairness to everyone at all times, to both the young and the old.

Captain Perniciaro began his career in law enforcement with an appointment as a police officer on January 16, 1940. His public duties were interrupted when he was called to serve the country in the U.S. Air Force. After 3 years with the Air Force, he returned to the Calumet City Police Department in 1945 where he has served loyally until his retirement on June 1 of this year.

On August 1 the city of Calumet is giving a testimonial dinner in honor of Captain George. Here his friends, relatives, neighbors, and fellow policemen will have the opportunity to tell this warm and generous human being how lucky they were to have such an outstanding public servant and to offer their thanks.

I commend Capt. George Perniciaro for his unfailing service and I know my colleagues join with me in wishing him a full and happy retirement.●

HOW TO INCREASE FARM INCOME

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. HAMILTON. Mr. Speaker, I would like to insert my "Washington Report" for Wednesday, July 16, 1980, into the CONGRESSIONAL RECORD:

HOW TO INCREASE FARM INCOME

Recently I spoke of my deep concern about farm income in a news release to the Ninth District. Farmers are having one of their worst years since the early 1930's, and if the present trends continue their income will fall to levels lower than at any time since the Great Depression. The newsletter details the causes of the problem, steps that have been taken to solve it, and further efforts we should make to increase farm income.

The nation's farmers are caught in a relentless squeeze. Average farm prices have dropped 8 per cent over the past 12 months, while average farm production costs have risen more than 12 per cent and are expected to go higher. The problem cannot be traced to a single cause, such as the embargo on shipment of grain to the Soviet Union. Even before the Soviet invasion of Afghanistan, experts were predicting that farm income would be cut by one-fifth. So far this year, the cut has been deeper than that. Inflation, especially in the form of expensive energy, fertilizer, and loans, has sent production costs soaring. Record levels of production and bulging reserves have sent prices skidding.

There is no single step we can take to solve the current farm problem. The main action taken by the Carter Administration has been to isolate excess commodities. The federal government acquired contract rights to the wheat, corn, and soybeans previously bound for the Soviet Union, encouraged farmers to place their wheat and feed grains in the farmer-owned reserve, and began a series of direct purchases of wheat and corn. Also, the federal government is buying up hog and beef products to strengthen prices. Congressional committees likewise have looked into measures to reduce excess supply. Pending bills would set up a paid land diversion program for 1980 and would increase loan rates for farmers contributing to the farmer-owned reserve. A bill has been signed into law to make price support loans available to all farmers, not just to those who participated in the set-aside last year.

A more effective approach to the farm problem would be to increase the demand for our agricultural products. After all, commodities taken off the market today could threaten prices in the future. I support several initiatives to increase demand:

We should end the embargo on shipment of grain to the Soviet Union. Although not a major cause of the farm problem, the embargo has depressed prices in the short term, and in the long term it has damaged our reputation as a reliable supplier of food. At the same time, the embargo has failed to harm the Soviets significantly. Current indications are that the Soviets will be able to recoup more than half their losses through purchases from other nations. It is simply unreasonable to continue a policy that hurts American farmers more than the Soviets.

We should reduce barriers to farm exports. The Multilateral Trade Agreements removed many foreign barriers to trade, but more needs to be done. For example, import fees raise the cost of American corn sold in Europe to $6-$9 per bushel. Restraints on our exports also arise inadvertently from decisions on domestic policy. I have sponsored a bill which, among other things, would amend various trade laws, governmental regulations, and paperwork requirements that tend to hamper exports. The bill also calls on all governmental agencies to assess the impact of their decisions on the export sector.

We should develop additional markets abroad. Losses in the Soviet market should be made up by development of emerging markets, especially those in China and Mexico. Exports to China have been climbing steadily, but more progress can be made. Furthermore, with revenues from oil and natural gas approaching $60 million daily, Mexico is a prime new market for our grain. Our exports to Mexico are expected to reach $1.6 billion in 1980.

We should improve our commodity export programs. Since 1956 the Commodity Credit Corporation has financed more than $7 billion in farm exports for purchasers who might not otherwise have been able to afford these commodities. The agency also guarantees loans to American exporters to protect them against commercial and noncommercial risks. I support moves to enhance our ability to finance farm exports.

We should boost the production of gasohol. Ethanol derived from sorghum, wheat, and corn has created an important new market for surplus and distressed grain. Some 40 million bushels of corn alone will be used in the production of ethanol this year, with as many as 200 million bushels being so utilized next year. We do not have the distilleries to process very large volumes of grain, so Congress has passed a bill to provide $1.2 billion for loans and guarantees to support extra production of fuels from biomass. Up to $200 million will be distributed for small-scale projects. This initiative has my full backing.

Finally, we should do all we can both to contain inflation and to moderate interest rates. A stable economy would do much to help the farmer hold production costs at acceptable levels. It should be kept in mind that although 1980 and 1981 will be difficult years for farmers, the long-term outlook is positive. Rising world population will mean continued growth in the demand for food. The lack of good cropland worldwide will mean more work for our immensely strong farm sector. It will be the linchpin in efforts to meet these trends head-on.●

THE GREATEST THREAT TO FREEDOM

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● **Mr. DORNAN.** Mr. Speaker, Government interference with personal freedom is nothing new in our country. At the present time, with the present administration, however, it seems that more and more Government controls, rules, and regulations are leaving each of us with less and less of our constitutional freedoms of life, liberty, and the pursuit of happiness.

Sounds disheartening, does it not? What is more discouraging is the fact that we bring it upon ourselves, criticizing and complaining about the Federal Government's intrusions into our lives yet never doing anything about it. I would like to share with my colleagues an essay written by one of my younger constituents, Jennifer Shelly of Palos Verdes Estates, Calif. Jennifer is in the sixth grade at Margate School. I think she did a good job of recognizing that the greatest threat to freedom in America is our own lack of individual responsibility.

The Greatest Threat to Freedom

I think the greatest threat to freedom is how the Government is taking over our country. The people in our country don't care enough any more so they leave it to the Government. I think that everyone who has freedom should use it. People need to demonstrate responsibility in their lives.

If we all don't accept responsibility the Government will start taking away our freedom little by little. If everyone doesn't care to give their ideas and energy as well as speaking out they'll soon find a dictator will speak for them and then they'll have no freedom at all.

The founders of our country knew the importance of freedom of speech, freedom of religion and the freedom of the press. They protected these freedoms and fought for them. As a young American, I also feel the importance of these freedoms and I hope, by everyone working, we can help our country survive.●

FREEDOM: OUR MOST PRECIOUS NATIONAL TREASURE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● **Mr. MICHEL.** Mr. Speaker, Vice Adm. James B. Stockdale, who spent nearly 8 years as a prisoner of the Communist North Vietnamese, under the most unimaginable barbarous conditions, has written an essay that every American should read.

At this point, I wish to insert in the Record: "Freedom: Our Most Precious National Treasure," by Vice Adm. James B. Stockdale, from Parade magazine, June 29, 1980.

Freedom: Our Most Precious National Treasure—An Essay

(By Vice Adm. James B. Stockdale)

Before the big iron gates slammed behind me as I entered the Hanoi prison, I found it hard to think of freedom as something other than an abstraction that's used in songs, Supreme Court debates and political speeches. In this respect I was like many Americans today who take freedom for granted. By the time I was released to come home nearly eight years later, freedom had long since ceased to be an abstraction to me.

To those of us who have served time in Communist jails, freedom has a delicious, tangible meaning. It has become something we can figuratively reach out and touch. Such feelings are likely understandable in men who have spent years shackled and manacled in isolation. But my love of freedom is not just a reaction to cruelty; my appreciation of its preciousness stems from a first-hand understanding of its rarity. The void of freedom in other parts of the world—and particularly the passivity with which this lack is accepted—is staggering to a man who is born and raised free. In my Hanoi cell, I found myself daily picking up shocking signals in that milieu of deadened sensitivities. Like these:

The routine feedlot attitude of the simple peasant guards who delivered daily food rations down the line to cooped-up humans, fowl and livestock, with expressionless unconcern for the continual darkness, suffocating closeness, and isolation in which the chickens, pigs and men were confined.

The continuous barking of loudspeakers on the street telling the people of Hanoi what to think.

The pathetic ignorance behind the outburst of a prominent political cadre who shouted to me in a moment of exasperation: "We may not have freedom, but after 400 years we have order, and we will settle for that."

These and countless other impressions drive home to me the fact that human freedom is not the way of the world. To be free to come and go, to choose your life's work, to go for the big bucks of selfless service, or to hit the road as a drifter—these are not open choices to most of the 4.5 billion souls on this planet. Human freedom as we

Americans know it is available only to a steadily shrinking minority of people.

You don't know what freedom is until, for a starter, you live for several years in a box-cell 10 feet long and 4 feet wide. I was crouched in the corner of that cell when my guards caught me writing a note to one of my fellow POWs. They were very mad about that note, so they took me from that box-cell to an even smaller, low-ceilinged outbuilding, a place we called "Calcutta," and laid me on the floor in squeeze irons.

Fetters and jail take away your external freedom; you can't get up and go. But what about the freedom of your will and spirit? Our captors wanted to get at that more than anything. Not by brainwashing—I don't believe there is any such thing—it's a journalist's word. The real answer is simpler: it's pain. They tied your arms behind your back with ropes, shutting off circulation, and then violently and methodically tightened those ropes further, forcing your head down between your legs to produce claustrophobia. Death was not an option; there was only one way to stop it, and that was to say, "I submit."

In his *Nicomachean Ethics,* Aristotle points out the difference between acts done voluntarily and those under compulsion. But he adds that a measure of free choice may remain even in the severest extortion situations. We had many ways of clinging to that tiny residue of freedom in Hanoi. One way was the tap code. Although we were in solitary confinement we could surreptitiously communicate with one another, set up a chain of command, encourage the doubtful, console the depressed, comfort the hurt.

We figured out ways to prevent our captors from manipulating us into making photo and television propaganda for them. One way was to assume a character like an actor—a personality of unpredictability. Our captors did not hold with unpredictability. When they put an American pilot before the cameras they wanted to be sure of his total submission. For that they had to be sure that his behavior was predictable. To sabotage that, when put under stress you could stage random scenes of emotional instability. You could throw chairs around and yell, "To hell with the torture." You had to be a good actor. If they thought you had not lost control of yourself but were putting them on, within minutes you could be back in the ropes sobbing like a baby. When you pulled off the act convincingly, they didn't like it. For then you were not useful as propaganda. They'd say, "This guy is not what we want to take downtown."

People have said to me, "I couldn't take a prison experience like you guys. You all must have had a tremendously high threshold of pain." But it was not a question of a high or low threshold of pain; it was a question of endurance. It didn't matter so much if you submitted under pain one day so long as you made them start all over again the next day. They didn't like to do that. So the thing was to cling to that tiny vestige of freedom it was in your power to hold.

That word freedom is crucial. Freedom does not exist because our Constitution says it should. Over the course of our country's history, people have constantly labored to keep freedom and have paid dearly for it.

Our Declaration of Independence of 204 years ago this week remains one of the most stirring documents in history, signaling a commitment to bear the responsibilities of protecting a way of life. After our bitter struggle for independence, brave and earnest men stepped forward to write our Constitution and formally frame the reasons for which we had fought that unpopular war against the British. No one had to remind our Founding Fathers of the cost. Fifty-six of them knowingly laid their lives, liberty and honor on the line when they signed that Declaration of Independence. And they paid their dues. In the ensuing war, nine were killed in action, five died as prisoners of war, 12 had their homes burned, several lost sons, one man's wife died in prison, and 17 (including Thomas Jefferson) went broke. The legacy of these men was summed up very simply by Tom Paine: "Those who expect to reap the blessings of freedom must, like men, undergo the fatigue of supporting it."

This nation has come a long way since the drafting of the Constitution, and the milestones are littered with human sacrifice. We've fought wars around the globe in freedom's name and have paid a terrible price for our most fundamental national belief. Today, there are men and women who may lay down their lives for this country and the freedom for which it stands.

We all bear the painful costs of freedom. As we formally celebrate the commitment to break from England and to protect our natural rights, let's hug to our breasts our freedom—our most precious national treasure—knowing that it, like a child, is imperfect and demanding but undeniably good. Let's keep our centuries-old habit of protecting that child of America, that freedom. She's getting more rare and precious every day.●

NATIONAL PORT WEEK

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. MURPHY of New York. Mr. Speaker, I would like to take this opportunity to welcome back my colleagues from the recess and to announce that House Joint Resolution 551, to proclaim "National Port Week," is well on its way toward floor action. We currently have 201 cosponsors with 17 more needed for the resolution to be reported out of the Post Office and Civil Service Committee. Along with Congressmen BIZZ JOHNSON, PETE MCCLOSKEY, and BILL HARSHA, I urge all of our colleagues who have not yet cosponsored to join us in support of this clearly important resolution. The Members who have asked that their names be added to the list of cosponsors since the last insert in the RECORD are as follows: Mr. ANDREWS of North Carolina; Mr. BAUMAN; Mr. BEVILL; Mr. BINGHAM; Mr. BLANCHARD; Mr. BOWEN; Mr. JOHN L. BURTON; Ms. CHISHOLM; Mr. CONYERS; Mr. DAN DANIEL; Mr. DELLUMS; Mr. DERRICK; Mr. DINGELL; Mr. DORNAN; Mrs. FENWICK; Mr. GEPHARDT; Mr. GOLDWATER; Mr. HANCE; Mr. HOWARD; Mr. LONG of Louisiana; Mr. LONG of Maryland; Mr. MCEWEN; Mr. MCHUGH; Mr. MAVROULES; Mr. MINETA; Mr. NEAL; Mr. NEDZI; Mr. OTTINGER; Mr. PEYSER; Mr. RAILSBACK; Mr. ROSE; Mr. SANTINI; Mr. SHANNON; Mr. SOLARZ; Mr. STARK; Mr. SWIFT; Mr. THOMPSON; Mr. BOB WILSON; Mr. WHITLEY; AND MR. WOLFF.●

GOLD STANDARD

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. PAUL. Mr. Speaker, although anything would be an improvement on our present paper money standard, more and more people are coming to understand that the best backing for a currency is gold.

I was glad to see a recent article on this subject in the New York Times, and I would like to call it to my colleagues' attention.

GOLD, TENACIOUS, IS STILL AN EITHER ORE

(By Steven Beckner and Bogdan Kipling)

WASHINGTON.—The probable nominations of Jimmy Carter and Ronald Reagan as their parties' Presidential candidates has set the stage for a highly ironic clash of economic policy ideas.

In a reversal of historic roles, the Democrats seem hell bent on balancing the budget even if it means raising taxes and unleashing a recession.

If President Carter's latter-day Hooverism seems odd, Mr. Reagan's approach is no less surprising. The Republican frontrunner, after all, wraps himself in John F. Kennedy's populist mantle as he promises to cut taxes and stimulate the economy.

But the world has not completely turned upside down, as proved by Mr. Reagan's advocacy of a return to the gold standard.

This is one policy issue that meshes perfectly with traditional Republican philosophy. Although it has not been a part of the formal G.O.P. platform since 1952, gold has retained a vocal constituency within the party.

But again ironically, it was the Nixon Administration that wiped out the last vestiges of the gold standard in 1971 when President Nixon told foreign central banks that the United States would no longer redeem dollars with gold at the rate of $35 per ounce.

Every Administration since then has tried to eliminate gold from the world's monetary system.

To prove the validity of this policy, the Treasury made a show of dumping United States gold bars until last November.

But gold refuses to go away. It constitutes the bulk of world monetary reserves and serves as collateral for official loans.

Canada is issuing an official gold coin, and the United States may soon follow. The European Monetary System is based on 20 percent of Common Market gold stocks, and the International Monetary Fund may use its gold as a safety net under the dollar.

But, no matter how Mr. Reagan presents his golden ideas to the public, actually making the dollar convertible into the yellow metal once more would be a tricky proposition.

Why? To have any meaning at all, a new gold standard could not be all that different from the old one, which worked like a mechanical governor on an engine: It regulated the speed of the economy at home and in international trade.

The dollar was convertible into a fixed amount of gold at the United States Treasury. This obligation to redeem banknotes ensured that no more money was printed than could be backed with gold.

The same rigorous discipline applied internationally. If the United States overspent abroad, less gold would be left in the country, shrinking the money in circulation. In turn, the economy would slow down and prices would fall. Theoretically, American exports would become cheaper and the balance of payments would be restored. But the system was crippled by the paper-money financing of World War I. And in 1933, Franklin D. Roosevelt closed Fort Knox to Americans, although foreign governments could still get gold for dollars.

The 1944 Bretton Woods agreement made the dollar the only convertible unit, worth one thirty-fifth of an ounce gold. All other currencies were valued in terms of the dollar.

Even this modified gold standard proved too onerous, as politicians chafed at the automatic restraints it imposed on their spending. And it is doubtful whether a gold standard can ever be reinstated until the political will to live with it is resurrected.

If the determination to maintain sound money and stable prices does not exist, then no artificially imposed standard will prevent politicians from evading its constraints.

Still, the inflation that followed Richard M. Nixon's formal abandonment of gold is now making the "barbarous relic" respectable again.

Treasury Secretary G. William Miller is not impressed. Ronald Reagan's endorsement of the gold standard, he said, would help President Carter. "Gold won't be an issue in the campaign unless Reagan makes it an issue," Mr. Miller said, "but it may be to Carter's benefit if he does."

Jude Wanniski, an economic adviser to Mr. Reagan, just loved Mr. Miller's remark. William Jennings Bryan, he observed, ran three times against gold—and lost three times. "The American people," Mr. Wanniski insists, "would respond very positively if the dollar was once again backed by something of value."

The supreme irony would be if, come the election, Mr. Reagan nails Mr. Carter to Bryan's "Cross of Gold." ●

HORSERACING INDUSTRY PROBLEMS

HON. JAMES A. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. SCHEUER. Mr. Speaker, last week, the Washington Post ran a series of articles entitled, "The Integrity of Racing." The articles chronicled a series of problems plaguing the horseracing industry today; problems ranging from race-fixing to manipulation by drugs.

Horseracing is still the Nation's largest spectator sport, and its problems affect some 75 million fans who attend the Nation's tracks each year. Many of these problems are difficult to solve. However, our colleague, Mr. VENTO, has recently introduced H.R. 7254, the Corrupt Horseracing Practices Act of 1980. If enacted, this bill would take affirmative steps to end not only the use of illegal drugs on racehorses, but also would severely restrict the use of drugs which are now permitted in many racing jurisdictions—drugs which often enable sore or injured animals to race when they should be resting.

The overuse and abuse of many of these drugs is not only dangerous to the horses and their riders, but also is unfair to the vast wagering public, who cannot be expected to understand the intricacies of the effects of these drugs on a horse's performance. I urge my colleagues to review the first of this series of articles, and to support this worthwhile legislation.

The articles follow:

[From the Washington Post, June 25, 1980]

PUBLIC TRUST FADING FAST—PREAKNESS FINAL "PROOF"

(By Bart Barnes and Clem Florio)

From the mailbag at the Maryland State Racing Commission in the weeks following the disallowed foul claim in last month's Preakness:

"Racing is on thin ice. You had better clean it up."—Silver Spring.

"All people involved in horse racing—from the top of the ladder to the bottom rung—are sweating under the glare of a national spotlight focused on race fixing."—New York.

"There is a big enough cloud forming over thoroughbred racing as it is, with the horror story of the drugging of these unfortunate colts so they are forced to run on inflamed tendons and fractured ankles."—California.

"My wife says all professional sports are fixed, and this proves it."—Minnesota.

To racing fans across the country, the Preakness seemed to provide further evidence of bad officiating, injustice, and maybe corruption. People who watched the Preakness believed the worst because public confidence already was at its ebb. The sport is facing perhaps its greatest crisis ever.

In a massive federal investigation that has yet to run its course, charges have alleged hundreds of fixed races at tracks up and down the east coast through the midwest. Dozens have been substantiated with convictions.

Simultaneously, state racing commissions throughout the nation are wrestling to close the Pandora's Box they opened in the early 1970s when they approved controlled medication for racehorses.

What they got instead was drugging of horses on an unprecedented scale. Under pressure from a variety of fronts, commissions now are beginning to clamp down on drug use. But the pharmaceutical industry is so sophisticated that new drugs are coming on the market faster than racing chemists can develop tests for them.

And there are indications that racing, the nation's No. 1 spectator sport for more than a quarter century, may be declining in popularity.

For the record, the Preakness controversy developed when Jacinto Vasquez, jockey on runner-up Genuine Risk, claimed that Angel Cordero Jr., aboard winner Codex, interfered with his horse, forcing her to run wide on the final turn. Risk was bidding for the lead. Vasquez also said Cordero bumped his filly and hit her with his whip.

After painstakingly detailed testimony and hours upon hours of reviewing films, the Thoroughbred Board of Maryland's Racing Commission decided it was strictly a judgment call whether or not there was a foul. It affirmed the track stewards' decision disallowing the claim.

What the Thoroughbred Board could not do was dispel the deep-seated cynicism with which many fans regard racing.

It may be that the suspicion of larcency has been part of horse racing since men first learned to ride horses. In fact, The Wall Street Journal suggested recently that if a fixed race were advertised in advance, with only the name of the winner withheld, fans would flock in record numbers to the track to bet on the outcome.

What is unprecedented about the current investigation is the degree of documented race fixing.

In the last year, the Justice Department's Organized Crime Strike Force has helped convict 31 jockeys, trainers, owners, bookmakers and organized crime figures on charges relating to race fixing.

Another 12 are waiting trial, nine have been acquitted, and the number of fixed races is said to be "in the hundreds."

"Never," says Paul Coffey, deputy chief of the Organized Crime Section at Justice, "has there been any series of prosecutions of this magnitude in the history of sports."

The investigations have brought hundreds of witnesses, ranging from owners to stewards to veterinarians to jockeys, before grand juries.

Moreover, prosecutors say, the industry itself has shown little inclination to clean up its own act. One official complained, "First they'll say, 'Show us proof there's anything wrong.' Then, after a conviction, they take the attitude that the problem's been solved and the guilty punished."

"Racing commissions are appointed to see that the cash flow keeps coming in to the states, not to run a clean show," says the Humane Society's Marc Paulhus.

Since the early 1970s, the drug controversy has intensified, and it appears to be peaking this year. Critics of the industry contend that horses routinely are given stimulants and depressants, many of them undetectable in laboratories. Sore and lame horses, they argue, are given painkillers so they can run at top speed when they should be recuperating.

"Racing's drugging policy could spell doom for the sport," thundered Rep. Bruce F. Vento (D-Minn.) last month on the floor of the House of Representatives.

"The use of drugs may benefit a few, but it certainly casts a shadow over the integrity of the sport and endangers the life and well-being of both the jockey and the animal."

The author of a bill calling for federal regulation of horse medications, Vento contends drugs are eroding public confidence in racing.

As far back as 1974, he told colleagues in the House, a survey by the National Commission on the Review of the National Policy Toward Gambling reflected "the lack of faith that bettors have in the integrity of racing. In mean ratings for the survey, all bettors stated their conviction that races were fixed pretty often."

The leading American spectator sport for the last 28 years, horse racing last year drew 77,679,945 fans who bet more than $6 billion at the tracks. But the figure was down by more than a millon fans from 1978, and there are other ominous omens.

For one thing, the average track patron is relatively old—between 45 and 50. The industry is not attracting younger fans as it must if it is to maintain its popularity. Clearly, the furor over fixing and drugs isn't helping.

"We certainly don't enjoy the news accounts which have appeared," says Bill Christine, director of the Thoroughbred Racing Association, which represents most of the nation's major tracks.

"We all want racing to have a high image."

Adds Joseph Kellman of the Illinois Racing Commission: "If you can restore credibility with the public, you might be able to bring racing back where it ought to be.

"If you polled race track goers as to what percentage of them think horse racing is le-

gitimate, I'd be surprised if 80 to 90 percent of them did not say it was illegitimate.

"Young people who might be interested in racing read the papers and they read about drugs and fixed races. Do you think this encourages them to come out to the track? It's bad enough to lose your money legitimately. The public is just tired of being screwed."

The current round of fixing prosecutions received its major impetus from Tony Ciulla, convicted of fixing races in 1975 and sentenced to four to six years in prison. While in prison, Ciulla made a deal with federal prosecutors. He testified at grand jury investigations and fixing trials in return for immunity from prosecution, relocation by the U.S. Marshal Service and a new identity as a member of the Federal Witness Program.

Ciulla admitted fixing hundreds of races at 39 tracks around the country before his involuntary retirement in 1975. Although he has been inactive since, his shadow spreads across the industry.

"You have this situation," said one prosecutor, "where Ciulla and his associates were able to fix hundreds of races with the greatest of ease between 1973 and 1975. It's naive not to assume that it's still going on."

Moreover, the investigations stemming from the Ciulla information are continuing. In testimony last month before a New York jury, jockey Jose Amy mentioned 10 of the nation's leading jockeys and former jockeys in connection with alleged race fixing schemes although he was not specific about times or places.

Among them were Vasquez (winner of the Kentucky Derby this year on Genuine Risk), Cordero and Jorge Velasquez, a top stakes-winning rider. All have denied any connection with race fixing.

Amy, who testified with a grant of immunity from prosecution, was a witness at the trial of Con Errico, a former jockey. Errico was found guilty of bribing riders in a scheme to fix nine races at Aqueduct and Saratoga in 1974 and 1975.

According to Justice Department files, the race-fixing probes include indictments handed down in Detroit, Harrisburg and Boston, in addition to New York. They charge race fixing at 10 tracks.

The payoffs from these fixes were often enormous. Ciulla said that on Aug. 16, 1973 he made $35,000 betting on a fixed race in Detroit. A month later he won $65,000 on one race. In neither case do the amounts reflect winnings from offtrack bookmakers.

One of Ciulla's favorite schemes was to fix the favorite horses, then place exacta or trifecta bets on all remaining combinations.

"They did everything," said Coffey, citing testimony at the trials. "They paid jockeys to hold their horses. They hit their horses with drugs to make them run fast."

At least once, according to testimony, a drugging scheme backfired and a whole race had to be canceled.

In that incident, also in Detroit, four horses were drugged. One died and the other three collapsed in their stalls before post time.

For offtrack bookies reluctant to pay off on fixed races, Ciulla enlisted the aid of organized crime "enforcers" to make collections.

At the height of the operations, Ciulla's crew of intermediaries and runners was said to have been so large that he spent $6,000 a week for motel rooms, food, liquor, telephone calls and travel.

Despite Ciulla's revelations, there are still those in the industry who argue that the claims of race fixing are exaggerated and that the industry is getting a bum rap.

"Sure, the black eyes that we get now and then always hurt," says Robert Furtick, a member of the Maryland Thoroughbred Board. "But we're no worse than the auto industry. Look at all the cars they have to recall."

Harvey Furgatch of the California Horse Racing Board says: "I do not believe the horse racing industry has any more nonsense going on than most other industries, and that includes banking, business, elected officials, meat packing, oil. . . .

"I dare say there are more students cheating their way through college than there are people cheating in the horseracing business." ●

COMBATING DRUG ABUSE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. HAMILTON. Mr. Speaker, I would like to insert my "Washington Report" for Wednesday, July 9, 1980, into the CONGRESSIONAL RECORD:

COMBATING DRUG ABUSE

During my visits to the Ninth District, many Hoosiers repeatedly ask me what they can do to combat drug abuse among school-age young people. They also want to know whether they can obtain assistance from local, state, and federal agencies.

Aside from the pressure of schoolmates and the availability of drugs, there are several other factors that complicate the fight against drug abuse among school-age youngsters. Television, for instance, sometimes seems to treat the use of drugs such as alcohol in a casual way. Also, some experts suggest that the weakening of traditional institutions in the community—the family, the church, and so on—has made the struggle against drug abuse much more difficult. What is needed to overcome these influences is a broadly based effort involving all who are concerned. The experts agree that the starting point must be general knowledge of drug abuse and some idea of the extent of drug abuse in the community.

Those who study drug abuse say that the most important steps against it begin with the family. Before drug abuse problems appear, the family can educate itself about them and ward them off by spending more time together. Parents can set a strong example by taking medicines only when necessary and cutting down or eliminating the use of alcohol and tobacco in the home. If a drug abuse problem has appeared, parents should address it immediately. A calm, consistent approach is best, and children should be praised if they have brought the matter up on their own. Above all, the experts insist that parents should not feel ashamed about drug abuse in the family. They correctly point out that many parents must confront it.

Families can also take action together. Parents can discuss drug abuse in informal meetings, and they can devise uniform rules of conduct for all their children. To reduce the pressure of schoolmates and other negative influences, the rules might limit children's unsupervised time, establish reasonable curfews, and require chaperones for all major activities where young people gather. Cooperation among parents can extend into the school through existing parent-teacher organizations, thereby lifting some of the burden of prevention and treatment that falls on school officials. One suggestion is that an entire meeting be devoted to the problem of drug abuse. Films, outside speakers, and displays may aid discussion.

According to many experts, programs that add to a student's educational experience are valuable. Programs of "affective education" (education aimed at development of the whole person, not just academic achievement) may strengthen the interpersonal skills of young people by helping them clarify values, build self-esteem, make good decisions, and solve personal problems. Programs in which students tutor and counsel one another give students the opportunity to work with other students, helping both parties through the uneasy transition to adulthood. Programs of life-career planning attempt to make school more meaningful by having students examine their long-range goals. Many experts recommend that such efforts be combined with community programs that allow youngsters to spend their free time more profitably. Community centers can supply meeting places and facilities for hobbies and sports. Outings—camping, sightseeing, field trips, and so on—are good ideas. Helping young people find interesting jobs or volunteer work is another alternative. Existing organizations—YMCA, YWCA, 4-H, Boy Scouts, and Girl Scouts—can sometimes meet these needs.

Authorities on drug abuse stress several points for people who wish to set up comprehensive drug abuse programs in their community. To begin, needs must be carefully assessed and options fully considered. Cooperation with programs already in operation can be a great help. When the final decisions are made, the best strategy is to start small and build slowly, letting modest successes lead to larger ones. Also, those in charge should do their "homework" before seeking funds. When they have the attention of a potential supporter, they should rely on their firsthand observations of drug abuse in the community. Finally, an enthusiastic, knowledgeable staff is a must. Staff can be trained at centers located throughout the nation or by consultants who come into the community. Evaluation will be necessary if a program is to continue in operation. Able use of the local media, exchange of data with other programs, and cooperation with the schools are further items that should have high priority.

Where to get funds, of course, is a key question in the formulation of any program to fight drug abuse. New efforts may look for help to local foundations, the United Way, civic clubs, local businesses, and local branches of large businesses. One of the best ways to get funds is to show a connection in the community between drug abuse and such problems as crime and youth unemployment. Major national foundations, nationwide religious organizations, the Law Enforcement Assistance Administration, federal job training programs, and the community's own revenue sharing program are sources that should be investigated. Both the prevention and treatment branches of the Indiana Division of Addiction Services allocate corporate and federal money to community-based programs. Assistance in designing and implementing programs is also available.

(NOTE.—Much of the information in this newsletter comes from three publications of the National Institute on Drug Abuse: It Starts With People; Experiences in Drug Abuse Prevention, Drug Abuse Prevention For Low-Income Communities: Manual For Program Planning, and Parents Peers And Pot.)●

REV. HERBERT GUICE DAY, AUGUST 10, 1980

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. STARK. Mr. Speaker, on behalf of Rev. Herbert Guice, pastor of Bethel Missionary Baptist Church, Mayor Lionel J. Wilson has proclaimed Sunday, August 10, 1980, as "Rev. Herbert Guice Day" in the city of Oakland, Calif.

Reverend Guice began the Bethel Missionary Baptist Church of Oakland 30 years ago with less than 50 members. Since then the church has grown into one of the most respected and admired institutions in Oakland.

Along with his strong pastoral leadership, Reverend Guice has participated in and helped organize a variety of other projects in the bay area. He has initiated scholarship and job coordinational programs as well as being active in the Alameda County branches of the NAACP, Red Cross, Welfare Advisory Committee, and the Oakland Unified School District.

Reverend Guice's contributions have been many and it is only fitting that we honor these and express our gratitute for his unending efforts. I join the many admirers of Reverend Guice in official recognition.●

THE FIGHT AGAINST INFLATION

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. DORNAN. Mr. Speaker, the President's "War Against Inflation" has caught the American wage earner in a crossfire of high prices and high rates of unemployment. Millions are now idled by the recession. Meanwhile, inflation has not ended. It has only been put into a state of remission, like a cancer in our Nation's heart and soul, ready to rear its head at the first opportunity. And at what expense?

The economic indicators for June demonstrate the depth of the recession into which the country is plunging. Nearly every major indicator suggests that this crisis may well surpass in severity every major downturn since World War II: Capital investment—down; production of durable goods—down; new housing starts—down; and unemployment—up.

However, even now, the darkness resulting from the current policies has been pierced by the light of fiscal responsibility. The Committee to Fight Inflation, an arm of the American Enterprise Institute, has been formed out of a bipartisan group of leading economists headed by former Federal Chairman Arthur Burns.

I welcome the leadership the committee is providing in this very important fight for economic stability and submit, for the RECORD, their views as a prudent and responsible alternative to the disastrous policies of the administration.

COMMITTEE TO FIGHT INFLATION

Chronic inflation at unprecedented levels is a serious threat to the stability of our system—economic, social, and political. Since efforts to control inflationary pressures have not been successful, a serious crisis of confidence has developed. The growing public concern about the destructive effects of inflation has created an opportunity to marshal and maintain broad support for effective anti-inflation policies. A committee of private citizens with extensive experience in government has been formed to promote such policies.

Founding members of the committee include:

Arthur F. Burns, Chairman, former Chairman of the Board of Governors, Federal Reserve System.

Henry H. Fowler, Vice Chairman, former Secretary of the Treasury.

W. Michael Blumenthal, former Secretary of the Treasury.

John W. Byrnes, former Ranking Minority Member, Ways and Means Committee, U.S. House of Representatives.

Frederick L. Deming, former Under Secretary of the Treasury.

C. Douglas Dillon, former Secretary of the Treasury.

Paul W. McCracken, former Chairman of the Council of Economic Advisers.

George H. Mahon, former Chairman of the Appropriations Committee, U.S. House of Representatives.

William McC. Martin, Jr., former Chairman of the Board of Governors, Federal Reserve System.

Wilbur D. Mills, former Chairman of the Ways and Means Committee, U.S. House of Representatives.

George P. Shultz, former Secretary of the Treasury.

William E. Simon, former Secretary of the Treasury.

John J. Williams, former Ranking Minority Member, Finance Committee, U.S. Senate.

A POLICY STATEMENT

The problem of inflation has reached crisis proportions in our country. From an annual average rate of rise in prices of 1.9 percent over the eleven years ending in 1967, inflation accelerated to a rate of 6.3 percent over the next eleven years, ending in 1978; and then to a rate of 13 percent in 1979 and to a still higher rate in early 1980.

The rapidity of price advances will abate during the recession that is now under way; indeed, the most recent price indexes suggest that such a process has already begun. We must be alert to the danger that this slowing will lead to complacency about inflation, and that the concurrent rise in unemployment will again elicit highly stimulative fiscal and monetary policies. In that event we can be certain that prices will be rising more rapidly at the start of the next economic recovery than in any preceding recovery, that inflation will have gained strong new momentum, and that the hope of ending it in the reckonable future will sharply diminish.

The urgency of dealing with the inflation problem can hardly be exaggerated. By causing economic imbalances, inflation has been the primary channel through which recession—and with it widespread unemployment—has come twice to our country since 1973. The signs of havoc brought on by inflation are all around us. Inflation has created large and wholly arbitrary redistributions of income and wealth. Inflation has eroded the real value of everyone's money income and monetary assets. For example, the real value of a 1967 dollar had declined to 41 cents by early 1980.

Inflation has thus been depriving people of effective means of planning for their future and of providing against the contingencies that arise in life. It has been destroying the self-respect of many of our citizens by forcing them onto the welfare rolls. It has damaged our nation by increasing anxiety, and by breeding discontent and social tension. It has reduced the efficiency of financial markets and of the workshops of our economy, and it has made our economy more vulnerable to recession. Ultimately, inflation threatens the survival of free competitive enterprise and of our democratic institutions.

Our rapid domestic inflation has already substantially reduced the value of the dollar abroad, and with it the power and prestige of the United States in the international arena. As inflation continues, it poses a continuing threat of flight from the dollar, and thus of further contraction of its value in foreign exchange markets. Such a development would intensify domestic inflation by raising the costs of all imported goods, and it would further weaken our country's international prestige.

We cannot afford delay in taking the measures needed to restore general price stability in our country. If we are to rout inflationary psychology we must act with determination to see the matter through despite the short-run costs that will be incurred by some, perhaps many, of our citizens. Under present circumstances, we must forswear superficially attractive but ultimately counterproductive measures such as mandatory wage and price controls.

We urge the prompt adoption of a program dealing with the following areas:

(1) Fiscal Policy

During recent decades there have been sharply rising pressures on Congress to adopt new spending programs and to expand existing programs. Pressures for spending cuts or tax increases have been much weaker. The result has been a virtually unbroken string of budget deficits over the last twenty years. Moreover, these deficits have been generally increasing both in dollar amounts and—since the 1950's—as a percentage of the gross national product. This persistent pattern of deficit financing has contributed powerfully to the impetus of inflation and to the rapid spread of inflationary psychology.

In the Budget Act of 1974 Congress adopted new procedures designed to deal on a unified basis with separate revenue and expenditure decisions. While these procedures represent an important step forward, it is essential that the ability of Congress to resist pressures for deficit financing be considerably strengthened. We recommend a further revision of the budget process that would make it much more difficult to run deficits. Our proposal would require a balanced budget unless a deficit is authorized by something more than a simple majority—say, two thirds—of each house of Congress. Such a measure would demonstrate to the public that the Congress is finally ready to take stern and responsible action to end the persistent budget deficits that have nourished our inflation.

Deficits can, of course, be eliminated either by raising taxes or by holding down expenditures. We believe that the national interest would now be best served by restraints on expenditures. We recognize that significant over-all savings are becoming difficult to achieve partly because of the requirements of national defense but also because of rapid growth of social security, federal pensions, and the other entitlement programs that are automatically linked to rising prices. We therefore urge the Congress to consider proposals to weaken the tie between the price indexes and outlays under the entitlement programs, insofar as that can be done without injuring those most in need. In addition to its beneficial effect on federal spending, such a course would strengthen the constituency opposed to inflation, and it would also set a constructive example for the private economy.

(2) Monetary Policy

The ability of the Federal Reserve System to combat inflation has in the past been limited by lack of understanding and support in the Congress. Although the System has at times stepped hard on the monetary brakes, its policies have at other times accommodated a good part of the inflationary pressures in the market place. At present, the general thrust of monetary policy is appropriately restrictive. The Federal Reserve has been and will remain the faithful agent of Congress; but if it is to continue to combat inflation forthrightly and with vigor, it must have the strong and steadfast support of Congress. We recommend that Congress adopt a concurrent resolution stressing the importance of restrictive monetary policies in furthering the goal of ending inflation.

(3) Government Price-Raising Actions

Over the years, our government has persistently acted to raise prices by measures that served to boost incomes and protect employment of particular groups at the expense of the public at large. These measures include tariffs, import quotas, marketing agreements and other restraints on international trade. They include farm price supports and acreage restrictions that raise the cost and reduce the supply of food. They include the minimum wage and Davis-Bacon legislation that tend to raise labor costs throughout the economy. They include also restrictions on competition in the transportation and numerous other industries. In view of overwhelming evidence of the power of market competition to serve the public interest by holding down prices, it is vitally important that Congress, first, stop raising prices by enacting new restraints on trade; and second, that it proceed methodically to dismantle, or at least weaken, much of existing legislation that impedes the competitive process.

(4) Government Regulation

During the past decade Congress has poured out a flood of legislation in response to public concerns about degradation of the environment and hazards to the health and safety of both workers and consumers. Much of this legislation and the regulations promulgated under it have been running up costs and prices unnecessarily. It is essential that there be a thorough reform of outstanding laws and regulations, and more careful design in any future measures, so that basic national objectives may be achieved at minimum feasible cost. The reform should take full account of costs as well as benefits; it should seek the most efficient means of reaching agreed-upon goals; it should give careful attention to the pace at which changes in processes, practices, or products are mandated; and it should provide expeditious procedures that yield timely and definite conclusions.

(5) The Environment for Business Investment

Inflationary pressures have been fostered in recent years by a flattening-out of the trend in the output of goods and services per manhour, and most recently by an absolute decline in productivity. Our country needs urgently to encourage productivity-enhancing capital investments and, more generally, a greater willingness by business firms to innovate and assume risks. The Congress should promote these objectives by scheduling reductions in business taxes in each of the next five to seven years—the reduction to be quite small in the first two years but to become substantial in later years. This sort of tax legislation, supplemented in due course by reduction in the capital gains tax, would not run up the budget deficit in this critical year or next; it would thus scrupulously avoid fanning the fires of inflation. Its passage would, however, release powerful forces to expand capital investment, thereby improving the nation's productivity and exerting downward pressure on prices later on. Such tax legislation would also help in the more immediate future to ease the difficult adjustments forced on many businesses and their employees by the adoption of other parts of our suggested program.

(6) Other Measures To Increase Productivity

We urge that other feasible means be adopted to increase the productivity of our economy. These should include larger private and public outlays for research and development; more carefully designed manpower training programs; productivity councils in individual plants, shops, and offices in communities across the country, in which employees and employers can pool their ideas for improving the efficiency with which their tasks are discharged; and other means of encouraging cooperative efforts of labor and management in furthering their common interest in greater efficiency.

(7) Energy

The problem of energy is intertwined with that of inflation. On the one hand, skyrocketing costs of imported oil have contributed to our domestic inflation; on the other hand, governmental actions to limit the rise in domestic prices of oil products have weakened incentives for conservation and for expansion of the domestic supply of oil and of alternative sources of energy. We believe that, despite the short-run effects on the price level, the rapid decontrol of oil prices—and perhaps the addition of consumption taxes—would serve the national interest by speeding the day when our nation regains substantial independence in the energy area. Only then will we be free of the threat to the stability of our price level—and to our national security—that is posed by present dependence on foreign energy supplies.

CONCLUDING COMMENTS

Our critical problem of inflation did not emerge suddenly. It has been gathering force for many years. Its roots lie deep in the political and philosophical attitudes that emerged from the Great Depression of the 1930's.

While our inflation is largely a consequence of government actions, those actions in turn reflect excessive public demands for the good things of life—rising living standards, better provisions for income security, more assistance to the disadvantaged among us, a cleaner environment, fuller protection of the public's health and safety, and special benefits for a growing number of interest groups. Each of these demands is thoroughly understandable. Together, however, they release persistent inflationary forces—first, by requiring of government greater outlays than tax revenues can finance, second, by demanding of the private economy greater output than its languishing productivity can support.

At best, the task of ending inflation will be difficult. But there is no hope of eventual success unless the American people come to understand the nature of the problem and are prepared to support the stern measures required to solve it. We see some signs that the needed understanding and support are growing. And we look forward to the time when our nation will again experience the economic progress that is possible in an environment of generally stable prices.●

CARGO THEFT—THE TAKE GETS BIGGER

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. PICKLE. Mr. Speaker, my fight against cargo theft is not slowing down because the crooks are not slowing down. In fact, the crooks are taking even bigger hauls these days.

To illustrate this point, I want to include in the CONGRESSIONAL RECORD an article that appeared in the American Trucking Association's ATA Security Council newsletter. This is the March issue. The article is written by Robert W. Hurley, who has worked hard in the industry circles to combat theft. He is the former president of the security council.

This article shows that now is not the time to be wishing away the problem of securing our goods in shipment.

Hello there, fellow victims of inflation! What a time to be responsible for the safe movement of goods when the price jumps 10%, or more, between pick-up and delivery! The whole thing is just getting crazy, particularly with metals. A case in point: on the 19th of January, thieves came to the Moore-McCormick Lines Pier in Brooklyn and kidnapped a guard. After removing him from the premises in the classic big black car, they then removed two containers, each 20 feet long, containing tin ingots. The guard was on the floor of the car for five hours while the container theft was being accomplished. Loss was valued at $500,000. I am told there were 80+ containers on that pier that day, so those fellas must have really had the luck of the Irish to be so fortunate as to stumble on the two containing the tin ingots. At any rate, they got 'em, and no trace of 'em as yet.

There continues to be a whole bunch of equipment thefts in the Southwest, and Texas in particular, with the equipment then being taken into Mexico. The Texas Department of Public Safety is doing a super job of tracking them down, but the negotiations necessary to get them back across the border are quite something. I didn't know the Ayatollah had a branch down there! Anyway, a word to the wise: if you're within range of the Mexican border, better upgrade the security on the equipment.

Things in the Los Angeles area continue to be very active, particularly with TV sets. There have been three recent hijackings of TV loads there—two road trailers and a set of doubles. That set of doubles ought to be a first. Loss in those three incidents is believed to be $670,000. Another carrier had two T/L of imported athletic shoes taken from them, $50,000 each. There were several other incidents involving calculators, stereos, cameras, TV's again, tires and motorcycles.

The incident of the year, so far, probably has to be the theft of a load at Los Angeles International Airport worth just over a million dollars. Fortunately, it was recovered later pretty much intact. Contents: Missile Guidance Systems. Hopefully, the instructions were sent under separate cover.

For those of you who haul meat into the Los Angeles area, to the Vernon section, nothing but bad news. Over twenty loads have been taken at gun point there in the last sixty days. No place to go and sit around waiting to deliver! All in all, the west coast seems to be a veritable beehive of activity, not much of which sounds very encouraging.

A task force in NYC headed by the Safe and Loft Squad finally rounded up the biggest gang of freight thieves on record, I should think. A group of South Americans (principally from Equador) have been systematically stealing an estimated five million dollars worth of goods a year, for the past three years, from the garment section of New York City. If you've ever been there, you know what a madhouse that eight square block area is, also what a wealth of merchandise is there, on the street, in trucks, and in the old buildings which make up the area. A whole bunch of people involved are going to be deported and there are solid cases for prosecution against a sizeable number who will see the judge before they see their travel agent. But, the fact remains they did take custody of an awful lot of clothing in the process. Once again, "Hats off" to the New York City Safe & Loft Squad, who do consistently outstanding work in that fair city on most every kind of case imaginable having to do with trucks.

In closing, a few words about some of the most inflationary freight there is these days, namely metals N.O.I. As most of you are aware the precious metals market has gone crazy of late, with 200-300 percent increases—in some cases, even more. A whole lot of other metals have jumped in value also, mostly because of the supply/demand situation. At the moment, many metals are better than cash, because they are increasing in value while the value of your money is going down. We all are well advised to know just what it is we're transporting under the classification of metals N.O.I. You will be absolutely amazed at the value of some of these LTL shipments, in light of the rapidly changing market conditions. As many times as we have joked about getting Brinks decals for our trucks, the way things are going, that may be more truth than fiction.

To give you some idea how critical the tin situation is getting in New York, customs agents are now escorting loads off the piers to insure their safe arrival at the trucking terminals. Unfortunately, the escort doesn't stay with this freight until it gets to the "great divide" but I guess that's our problem. Anyhow, tin and all kinds of other metals are now very crime-prone freight. It takes all of your security expertise and ingenuity to handle it safely and will continue to do so for some time to come.

The Bird of Paradise says, in spite of it all, count your blessings—somebody else has more trouble than you. As an example, three thieves recently got into a DC-6 cargo plane at Miami International Airport, cleared with the tower for take off, and flew away. The plane wasn't missed until the next day. About ten days later, the same plane crash-landed in northern Florida, full of narcotics from South America. How would you like to be the security person for that airline?

Bulletin at press time: A trailer containing a volume shipment of tin ingots was stolen from the yard of a carrier in Chicago over the Presidents' day long weekend. Initial reports indicate $250,000 lost.●

CIVIL WAR DEAD

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. JACOBS. Mr. Speaker, the following is a thoughtful letter from Jerry and Joyce Tonroy of Indianapolis. I believe it deserves the careful consideration of every Member of Congress.

JUNE 28, 1980.

Hon. ANDREW JACOBS,
Congressman from Indiana.

DEAR REPRESENTATIVE JACOBS: I hope you will actively oppose efforts by the VA to disinter the graves of Civil War dead—the unknown at Grafton W. Virginia—to make room for future burials.

It is not right to do this. We are continually prodding Vietnam about the return of our fallen from there, and disturbing the resting places of our war dead does not seem consistent with this current effort and attitude.

Half of the Civil War dead were buried as unknowns, and they should have the same civil rights as other fallen soldiers. They should not be moved just to provide a "bennie" for veterans.

Moving all of our war dead would not solve the space problem for future burials.

I think the degree of service and sacrifice rendered by our war dead merits special treatment and tribute that does not accrue ordinary veterans for whom service is not the cause of death. We can be generally assured that soldiers—known and unknown—alike—died in the line of duty, and that most veterans do not.

As a tribute to war dead cemeteries of the Civil War fallen should be all national monuments like battle sites. Tributes rank higher than bennies.

When I visited the Tomb of the Unknown Soldier at Arlington, I was not impressed by the mechanical toy soldier guards, one of whom spoke like a machine when my boy got too close to the ropes, but I was deeply moved as I read the citations and decorations (in the building)—Purple Heart, Medal of Honor, Legion de Honneur, and others—awarded to the Unknown Soldier.

The remains are not those of just unknowns, each grave is one of the Unknown Soldier, and each Unknown should not be nameless and numberless and without property for burial (they earned that plot and paid much more than any veteran can); but on each Unknown should repose all glory, honor, tribute, and gratitude due all our fallen—known and unknown—collectively.

I hope you will support efforts to end any tampering with Civil War. Thank you.

Sincerely,

JERRY AND JOYCE TONROY, MATTHEW.●

RADIO STATION KIEV'S GOLDEN ANNIVERSARY

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. ROYBAL. Mr. Speaker, radio station KIEV is celebrating its "Golden Anniversary," commemorating 50 years of broadcasting in the southern California area.

During those 50 years, primarily under the leadership of the current president and general manager William J. Beaton, the station has grown from an original depression-era 100 watt facility to its current 5,000-watt capacity, with broadcasts originating from both its Glendale and downtown Los Angeles studios.

KIEV has maintained this growth under the finest of American traditions, with single-family ownership in an industry normally dominated by large networks and impersonal conglomerates. Today, William J. Beaton is also joined in active management by his two sons and current vice presidents, Fred and Ronald Beaton.

KIEV has consistently sought to present to southern California listeners a varied and interesting format of programs, including many award winners in numerous professional areas. Included in the current format are George Putnam, one of the most honored newsmen in California, Mr. Blackwell, one of the most internationally respected fashion experts, Hal Mintz, professor of law and recipient of the California State Bar Association's First Place for Excellence in Legal Affairs Broadcasting, restaurant and entertainment critics Paul Wallach and Gregg Hunter, and health expert Dr. Gershon Lesser. The station also has a commitment to strong moral values and family life, and dedicates a portion of program time to a wide range of religious programing.

Mr. Beaton, during his long and distinguished career in radio broadcasting made a strong commitment to affirmative action in radio long before it became "fashionable" or legally mandated. While serving as manager of another station, KWKW, he made that station into a completely Hispanic, Spanish-language station at a time when such actions were rare. Beaton has also been chosen by his fellow broadcast executives an unprecedented four times as president of the Southern California Broadcasters' Association.

It is most fitting that we, in the Congress of the United States, join the management and staff of radio station KIEV in commemorating 50 years of distinguished public service.●

REPROGRAMING OF AID FUNDS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. HAMILTON. Mr. Speaker, I wrote to the Department of State several weeks ago concerning the possible reprograming of economic and military assistance funds in order to increase aid funds for Oman, Kenya, and Somalia pursuant to any facility access agreements we may sign with those countries.

While no reprograming planning has gone ahead for Somalia and the issue of reprograming fiscal year 1981 funds must await legislation pending before the Congress, there apparently will be some reprograming of fiscal year 1980 funds.

Attached is my exchange of letters with the State Department:

JUNE 3, 1980.

Hon. EDMUND S. MUSKIE,
Secretary of State,
Department of State,
Washington, D.C.

DEAR MR. SECRETARY: It is my understanding that the United States intends to reprogram fiscal year 1980 and 1981 foreign assistance funds for Oman, Kenya and Somalia.

I would like to know from which countries the various FMS, IMET, ESF and Public Law 480 funds will be reprogramed.

I look forward to hearing from you.

With best regards.

Sincerely yours,

LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.

DEPARTMENT OF STATE,
Washington, D.C.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, House of Representatives.

DEAR MR. CHAIRMAN: Secretary Muskie has asked me to reply to your letter of June 3 concerning the possible reprograming of foreign assistance funds for Oman, Kenya, and Somalia in fiscal years 1980 and 1981. You asked from which countries the various FMS, IMET, ESF and Public Law 480 funds might be reprogramed.

As you know, we have been negotiating with the Governments of Oman, Kenya, and Somalia seeking agreements for access to military facilities as part of our response to the Soviet threat in Southwest Asia. We have concluded agreements with Oman and Kenya; negotiations with Somalia are not as far along and are continuing.

In implementation of our new relationship, we have identified the sources for the increased FMS, ESF, IMET and Public Law 480 levels in fiscal year 1980. We will shortly be submitting formal reprograming notifications to the Congress for Omani FMS and Kenyan ESF programs. We are for the present deferring final decisions on the sources of fiscal year 1980 FMS financing for Somalia as well as sources of our fiscal year 1981 assistance requirements for all three countries.

We justified an FMS financing program of $10 million for Oman in fiscal year 1980. Under the strictures of the continuing resolution authority, we had provided only $9 million of that amount. As a result of our access negotiations with Oman, we will provide an additional $15 million in FMS financing for fiscal year 1980 for a total program of $25 million, necessitating the reprograming of $16 million in continuing resolution funds. The sources for this requirement are Korea, Greece, and Jordan ($4 million each); Lebanon ($2 million), Morocco and Bolivia ($1 million each). The $10 million ESF program needed for Kenya will come from Portugal (a $7.4 million reduction in the originally planned balance of payments loan) and Syria ($2.6 million). The $20,000 IMET program for Oman was included as part of a larger reprograming notification which was sent to Congress on May 22, 1980. The $20,000 for Oman came from a much larger program we had tentatively earmarked for Pakistan and subsequently released. The Pakistan program, in turn, had been established through modest cuts in several country programs.

The additional $10 million in Public Law 480 title I, for Kenya and the $3 million for Somalia will be included in the next quarterly report submitted to the Congress. These funds were reprogramed from the fiscal year 1980 reserve fund, not from specific country programs.

Sincerely,

J. BRIAN ATWOOD,
Assistant Secretary for Congressional Relations.●

ROBERT DRINAN

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. PHILLIP BURTON. Mr. Speaker, ROBERT DRINAN will be sorely missed by his colleagues, his constituents, and the Nation. He combines the highest ideals with outstanding legal scholarship and a deep understanding of the pragmatic realities of legislative politics.

Father DRINAN has provided unique leadership in the ongoing effort to ease the oppression of Soviet Jewry. He is a leader in the search for peaceful solutions to international conflict and a staunch defender of the basic rights of all the world's people.

Congressman DRINAN's difficult but graceful acceptance of a papal order to leave office ends his elective career but, I am certain, does not end his efforts to attain the goals he worked so hard for in Congress the past 10 years. Those of us who have worked with him during that time wish him well in those efforts.

His presence in Washington will be sorely missed by all his friends and particularly Sala and PHIL BURTON.●

ECONOMIC POLICY STATEMENT BY AMERICAN JEWISH CONGRESS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. RANGEL. Mr. Speaker, last month I had the pleasure of attending and addressing a convention panel on "The Changing Political Process" held by the American Jewish Congress, Commission on Urban Affairs, in New York City. The presentations and panel discussions were provocative and informative, embracing issues and problems of national concern. Today I would like to share with my fellow colleagues a statement on the "National Economic Policy" presented at this meeting on behalf of the American Jewish Congress.

This resolution represents an important statement expressing the need for a sound economic policy which will minimize the problems of the Nation's poor and at the same time enable this country to return to a direct path toward economic progress and stability. This text is, in my opinion, a valid statement which outlines sound economic and social policy objectives for resolving the inflation crisis which currently besets us, and it offers viable means for achieving this goal. Here then, is the economic policy statement presented by the American Jewish Congress:

AMERICAN JEWISH CONGRESS, RESOLUTION ON NATIONAL ECONOMIC POLICY

We believe that it is essential to again speak out on the state of the economy, and to make clear our position on those short- and long-range directions the Nation should take, and those that should be avoided, in dealing with the economic crisis that besets us.

This we must do for many compelling reasons, including the following:

1. The situation we now face is, indeed, of crisis proportions. Inflation is at an historic high and poses a serious threat to the viability of our economy.

2. The impending major economic dislocation that is so widely predicted, both domestically and internationally, carries the real potential of severely undermining the stability of our democratic foundations and the confidence of our citizenry in the validity of our political system.

3. If this crisis is not properly treated, there will be a greatly reduced possibility of achieving, or even continuing to move toward, those social goals and programs to which the American Jewish Congress is dedicated because they represent our faith in the securing of a society where equal opportunity prevails and in which peoples of varied persuasions and faiths will live together in justice and harmony. This requires that whatever sacrifices must be made to deal with our economic problems must be equitably shared by all parts of the population.

4. Economic unrest and dislocation would be aggravated on a worldwide basis in proportion to the economic crisis in the United States. Such a situation would pose a grave threat to the security of Jews everywhere. History shows that the ugly apparition of anti-Semitism inevitably accompanies economic calamities and depressions.

The difficulties besetting our Nation today make it all the more important to reaffirm the policies we adopted in 1976 and 1977, embodied in the statement "On Economic Policy," completed in February 1977. We said in that document:

That minimal economic security must be assured to all families;

That the social services required for a decent life must be delivered in fashion that is not only economical and well administered but fashioned in a way that assures the dignity of the recipient;

That such services must be consolidated and simplified, with the programs federally funded and operated according to federal standards of eligibility and benefits; and

That, while such services must be universal, special attention should be directed to certain high risk groups, such as the unemployed youth, whose unemployment is destroying their sense of value and sense of self; those who live in our urban ghettos; and those aged and infirm who cannot cope with their problems without government aid and assistance.

These objectives, as well as those relating to the many unmet physical needs of the nation we have catalogued in our past statements, remain valid as we now adapt our economic policy to deal with the current dislocations. Development of such a policy should not be hampered by rigid insistence on a requirement of a balanced budget. Inevitably, then, we find ourselves in agreement with both liberal and conservative critics who have voiced their objections to the programs adopted and being proposed by the Administration to deal with our immediate inflation problems.

The Administration's programs threaten to be as inequitable as they are ineffective. Budget reductions of $14-16 billion in a $3 trillion economy are manifestly too trivial to seriously affect economic activity and the behavior of prices. They are, moreover, concentrated on programs vital to the welfare of low-income Americans and the fiscal viability of major metropolitan areas in the midwest and northeast. It is particularly cruel to curtail federal welfare grants, countercyclical aid, job training programs and mass transit support at a time of recession. It requires no great economic wisdom to predict that a policy which depends on recession as a cure, aside from objections, can easily let the patient slip into a more acute condition—an uncontrolled depression.

The especially acute danger is of a wage-price spiral whose loops ascend at ever sharper angles. Unions which settled last year for 8-9 percent will understandably press for higher settlements. In this inflationary environment, employers will pass wage increases on to customers and the subsequent price explosion will, in turn, justify larger wage claims.

It is not too late to pursue better alternatives. Consistent with our 1977 Resolution, we call for an immediate freeze on wages, other incomes and prices. We recognize that freezes and controls are no more than necessary responses to the kind of acute emergency we are now experiencing. Since oil imports are a major source of inflation, a vital accompaniment to a general freeze would be a reinforced energy policy that would ensure that our dependence of foreign energy sources is substantially reduced in the shortest time possible.

Without explaining in complete detail our position with regard to long-range economic objectives and the policies needed to achieve them, we reiterate and amplify our stands on the state of and future needs of our economy. The long-range economic goals of the nation should be to insure:

1. That economic growth, almost nonexistent during the last decade, be accelerated.

2. That new policies be adopted to encourage growth in those areas that meet not only our economic needs but also our humanitarian responsibilities.

3. That a national investment policy be adopted which will provide the necessary planning and support for the direction of our economy.

To achieve these goals:

1. The executive branch of government must be reorganized to provide a better mechanism for planning and more effectively executing economic development policies.

2. Incentives for savings must be increased.

3. The Federal government must develop tax policies that encourage the investment of savings aimed at meeting our capital needs and other national objectives, discourage tax avoidance, provide for greater equity with respect to tax burdens and discourage economic inequality.

4. The nation should recognize the need to plan the direction of major elements of our economic system, essentially using the market system to meet established goals.

5. The nation needs to increase its support of innovation in applied technology, for use in the general market system.

6. Small business needs that have been long neglected must be dealt with in our government's economic decisions. The support of small business will require a major improvement in services, including management help and capital needs.

The destructive impact of an economic breakdown would affect the lives of all Americans; would produce further disequilibrium in an already fragile international order; and would cast a heavy shadow on Israel's security.

Accordingly, we must assure that our constituents will have a full understanding of the present situation and the future perils it connotes. We further pledge to earnestly work toward the realization of those policies we have called for as needed in the weeks and years ahead. In so doing, we will seek to move in alliance with other likeminded groups and organizations.●

SPIRIT OF HELSINKI VIGIL 1980—SERGEI YERMOLAEV

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. ADDABBO. Mr. Speaker, there are in this world people who can be classified as the "haves" and the "have nots." When I think of that expression, my thoughts immediately center on the wide differences in human rights enjoyed or not enjoyed by citizens in the United States and the Soviet Union. In the United States, Americans have many opportunities to express themselves, whether it be to practice their religion, petition the Government, publish articles and letters in magazines and newspapers, and, among other things, an unrestricted freedom to travel. The antithesis of what we have come to accept in this country as rights holds true in the Soviet Union, a country intent on restricting the flow of ideas and people. As a participant in the Spirit of Helsinki Vigil 1980, I would like to take this opportunity and call to the attention of my distinguished colleagues the plight of Sergei Yermolaev, a prisoner of conscience now imprisoned somewhere in the Soviet Union. I call him and others like him to the attention of this Chamber in the hope that we shall continue to keep in the public eye the human rights violations occurring daily in the Soviet Union.

Sergei Yermolaev was arrested, together with a friend, on the night of January 13, 1979, on the Moscow subway. He was charged with violating a section of the Soviet criminal code under "malicious hooliganism" because he shouted "CPSS is a gang! Down with the CPSS!" However, the reason for his arrest was not his denouncement of the Communist Party of the Soviet Union; rather, it was his devotion to the Christian faith and his membership in a Christian seminar being conducted in many cities in the U.S.S.R., including Moscow and Leningrad.

These seminars, considered illegal in the Soviet Union, and conducted by professors and students, are dedicated to the study of religion and philosophy, topics considered taboo in that country. The Soviet authorities have made it a point to crack down on the conducting of the seminars, waging an all-out effort to arrest as many of the participants as possible. To many, these seminars are the only place where one's religion can be practiced, the only place where one can find spiritual salvation. The price, however, is often a prison cell, with many like Sergei, serving time in concentration camps or psychiatric prisons, suffering from ill health, with the likelihood of them receiving medical care a dim one.

The tragedy of Sergei Yermolaev is being repeated over and over again in the Soviet Union. An even greater tragedy would be for the United States to reduce the pressure it has been applying on the Soviet Union in regards to living up to agreements in the Helsinki accords and the universal declaration of human rights. Human rights rightfully belong to every human, young and old, rich and poor, in every city and town, in every nation. As long as there are people like Sergei Yermolaev being imprisoned for speaking their minds, the free nations of the world must continue to speak out for those who are unable to.●

JURIDICAL MALPRACTICE

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. DANIEL B. CRANE. Mr. Speaker, self-government is necessarily limited government. That truism is still to be learned, apparently, by most Members of Congress, to the detriment of our Nation.

Recently Dr. Antonin Scalia, professor of law at the University of Chicago, delved into what he believes are at the root of so many of our problems, and that can be aptly characterized, in the words of Frederic N. André, as juridical malpractice. Panhandle magazine, published by the Panhandle Eastern Pipe Line Co., recently published an incisive article by Professor Scalia on what he believes to be the three principal causes of the imperial judiciary. I urge my colleagues to ponder his thoughts.

THE JUDGES ARE COMING

(By Dr. Antonin Scalia)

We live in a time of vastly expanded judicial intervention in our lives. If you have any doubt about it, leaf through a few recent editions of your local newspaper, and note what a remarkably high percentage of the stories involve court decisions. Not the routine sort of court decision whose main function and effect is to determine that A owes so much money to B; but decisions profoundly altering our schools, our businesses or our social practices. Decisions halting or mandating entire governmental programs. Decisions establishing private rights or obligations previously unheard of. The once inconspicuous third branch of government has become so prominent in our national affairs that weekly news magazines have taken to devoting a regular section to "The Law"; and thousands of idealistic young men and women enter our law schools each year, spurred on less by economic calculation or intellectual predilliction than by the conviction that in this field above all they can help make a better world.

The field of constitutional interpretation, particularly at the federal level, attracts perhaps the most public attention. Within the past 15 years, the Supreme Court has decreed that the following issues are beyond the pale of normal political debate and resolution, but must be resolved as indicated: Public schools cannot begin the day with voluntary, nondenominational prayer. State legislatures cannot be structured like the federal Congress, with one house selected on a basis that is not proportional to population. No crime can carry a mandatory death penalty. Abortion cannot be prohibited by law. Public high school students cannot be prevented from wearing symbols of political protest to class. Public use of indecent and offensive language (including words of the four-letter variety) cannot be generally prohibited. Adolescents must be allowed to purchase contraceptives without their parents' consent. Obscene writings and photographs cannot be prohibited as long as they are contained within a larger work which, "taken as a whole," is not obscene. A city cannot condition local adoption of an "open housing" ordinance upon passage of a referendum. No public employee can be dismissed because of party affiliation unless that factor is relevant to effective job performance. The list could be expanded with many other examples of prohibitions or commands which the Supreme Court has pronounced to be within the Constitution, even though supported by no broad contemporary consensus, and even though contrary to long-standing historical practice.

State supreme courts have made similarly expansive use of state constitutions. Most far-reaching in their social effects have been decisions by the high courts of several states striking down long-standing provisions for local (and thus unequal) funding of public schools.

After the constitutional decisions—which are, after all, preeminently important because they are so difficult to change by the democratic process—public attention is most often attracted by those increasingly numerous judicial decisions which strike down or mandate significant governmental action. The Nuclear Regulatory Commission's disapproval of a nuclear generating plant is set aside; the Environmental Protection Agency is directed to issue revised emission standards; the Corps of Engineers is prohibited from continuing construction of a dam; or the President is prevented from enforcing his wage-price guidelines.

Finally, there are those frequent judicial decisions which create new private rights and obligations in such traditional areas of court-made law as tort and contract. Negotiable notes given by purchasers of consumer goods and sold to banks are held subject to the defense that the goods were defective; car owners who leave their keys in the ignition are held liable for injuries caused by joy-riding car thieves; a well-to-do parent is held obligated to provide a college education for his son; promises made in exchange for cohabitation out of wedlock are held to be enforceable; manufacturers are held responsible for injuries resulting from misuse of their products in specific disregard of the accompanying instructions.

The courts have displayed a new activism, not merely in saying what the law is, but in deciding what they may do about it. Not many years ago, it was understood that a court would not generally apply any remedy which required it to conduct "continuing supervision" of the parties' activities. Today by contrast, several federal district court judges have become deeply involved in day-to-day management of public school systems, prisons and state mental institutions, in order to assure what they consider an adequate remedying of past constitutional violations.

This "remedial" aspect of the new judicial activism is perhaps the most arbitrary, and the least subject to even rough democratic controls. A trial judge's selection of a remedy, unlike his determination of the substantive law, is traditionally subject to only very limited review by appellate panels. So long as the remedy is technically permissible, the wisdom of applying it is basically up to the individual trial judge. This is part of the reason, by the way, that the "more conservative" and "less activist" Supreme Courts which our democratic processes have produced have had negligible effect upon what is certainly the most vigorously protested area of judicial intervention: mandatory busing. The highly visible Supreme Court appointments made over eight years by Presidents Nixon and Ford are likely to have less effect on this and similar matters than the 150 newly created judgeships filled by President Carter.

There is another respect in which the remedial aspect of the new judicial activism is the most troubling. Broad remedial measures—particularly when applied against public institutions—involve the courts most deeply in an allocation of limited social resources. Almost invariably, that allocation is made without consideration, even by the individual trial judge, of the total social effect. When (as has happened) a federal judge orders a state to provide air conditioners in its mental institution, he has no idea what other state programs the necessary funds will be diverted from. Perhaps, in the whole scheme of things, additional cells in state prisons are more necessary than the air conditioners; or supplemental law enforcement in the state's major cities. The judge has no way of knowing whether these concerns will, or should, be sacrificed. On the basis of briefs and argument concerning a single institution, he has by his decree elevated air conditioners to priority number one upon state funds.

To some extent, of course, any judicial decision—on substance as well as on remedies—mandates social priorities. When the Supreme Court announced, for example, that state welfare recipients believed to be collecting funds unlawfully could not constitutionally be dropped from the rolls without a prior hearing, it was in effect saying that state funds had to be devoted to such prior hearings rather than, for example, to the construction of additional subsidized housing. This "priority effect" is indeed one of the principal arguments for judicial restraint in the creation of new rights.

Since increased judicial power is such a multi-faceted phenomenon, its causes are, as one might expect, numerous and complex. They lie within the legal profession, within the legislatures, and within the society at large. A few warrant mention here. There are, first of all, the law schools—which perhaps more than any other single influence have been responsible for that aspect of the new activism which is manifested in a readiness to overturn past precedents and to reach substantive results contrary to current practice and understanding.

The Anglo-American legal system is called a "common law" system. As that term implies, the role of the courts was originally regarded as one of announcing the common understanding of the society—the "customary law"—with regard to the legal issues that came before them. Of course their function was never exclusively that. Even at the outset, many issues came before them as to which there simply was no common understanding, in which event they would simply have to "make" new law by analogizing as best they could from well-accepted principles or previously decided cases—or even by frankly asking what would be the most desirable outcome. But by and large, to the extent there was a common understanding, the courts were expected to express it. It was a system in which analytic consistency from one case to another was avowedly less important than an accurate reflection of the commercial or social mores with respect to the matter at hand.

Of course such a system began to decline long before this nation was formed, as society grew more complex, and the courts found themselves dealing more and more frequently with difficult issues on which there was no conceivable social consensus. "Finding" the common law became more and more often a process of deductive reasoning from established principles or earlier cases. Logic and internal consistency in the body of law came to replace the societal understanding as the ordinary touchstone of a correct result. This shift in attitude was furthered by the rapid growth of statutory law requiring judicial interpretation—which meant that an ever-increasing proportion of the judges' craft had little to do with "common understanding." And the doom of the common-law mentality was sealed when, in relatively recent times, legal education was entrusted to university-connected law schools that employed a method of instruction (the so-called "case system") consisting of rigorous logical analysis of prior precedents.

This historical development was, as I have suggested, inevitable—and by and large desirable. While it left us with jurists less respectful of the common understanding, the methodology of logical analysis from prior precedents does not provide much room (though assuredly some) for judicial innovation. In the last three or four decades, however, the law schools have added yet another element to the methodology. The analytic, precedent-related approach has been supplemented, if not replaced, by substantial doses of "policy analysis"—intensive examination of the social desirability of each rule of law, no matter how well established it may be. Not infrequently such analysis demonstrates (we think) that the rule in question, even though analytically sound, is pragmatically quite foolish. There is no doubt of the intellectual value—indeed, even the intellectual necessity—of such process; neither I nor most of my colleagues would want to teach law without it. The result, however, is that we have produced a generation of lawyers and judges who have been suckled on the notion that the most intelligent approach to a legal problem is not "What is the common understanding?" but, rather, "What makes social sense?" That is indeed the most intelligent approach for the scholar, or the legislator, or the philosopher-king; but it is an entirely unworkable approach for the judicial system as a whole. Because opinions differ widely about predictable social effects and, for that matter, about their desirability, policy analysis is a jurisprudential foundation of shifting sand. Most judges, I think, recognize this and adhere, by and large, to the precedents. But there is no doubt that they have absorbed, directly or indirectly from the law schools, a new predisposition to "remake" the law. This, more than any other single factor, may explain the emergence of the judge-legislator.

The disappearance of the common-law mentality, and its most recent replacement by the technique of policy analysis have been particularly harmful in the field of constitutional adjudication. In its Bill of Rights guarantees, the Constitution, unlike an ordinary statute, purports to be an embodiment of the fundamental beliefs of our society. Its principal operative terms—"free exercise of religion," "freedom of the press," "unreasonable searches and seizures," "due process of law," "cruel and unusual punishment"—are virtually meaningless without reference to a particular societal tradition. Does the "free exercise of religion," for example, permit human sacrifice? Surely not—but only because the term is to be given meaning by the traditions and understandings of 20th-century American, rather than 15th-century Polynesian society.

The Bill of Rights is an invitation, in other words, for the courts to behave in the old-fashioned, common-law mode. They are not to "give" it content, but wherever possible to discern its content in the traditions and understandings of the nation. It would seem to me a contradiction in terms to suggest that a state practice engaged in, and widely regarded as legitimate, from the early days of the Republic down to the present time, is "unconstitutional." I do not care how analytically consistent with analogous precedents such a holding might be, nor how socially desirable in the judges' view. If it contradicts a long and continuing understanding of the society—as many of the Supreme Court's recent constitutional decisions referred to earlier in fact do—it is quite simply wrong. There will be no relief from the most far-reaching intrusions of the modern judiciary until the Supreme Court returns to this essentially common-law approach to constitutional interpretation.

At the federal level, a second major cause of the increased intrusiveness of the courts is the coequal branch of government from which vigorous criticism of that intrusiveness is often to be heard—the Congress. The Constitution provides that the President "shall take care that the laws be faithfully executed." In recent years, however, the Congress has conferred essentially this same function upon the courts, by providing for judicial review of agency action at the instance of persons who are no more affected by the action in question than any member of the public. This involves a radical alteration of the judicial role—from that of protecting individual rights, to that of protecting the public at large against executive malfeasance. And it involves a massive increase in judicial power. Many of the prominent cases alluded to above, representing judicial intervention in the administration of important federal programs ranging from energy to the environment, have been made possible by this congressional expansion of "standing to sue."

But the Congress has increased judicial power even more by what it has *not* done. In enacting the major new legislative programs of the '60s and '70s—particularly those calling for implementation by administrative agencies—it has repeatedly failed to give anything but the vaguest content to the laws. Platitudinous legislation, it has found, projects the maximum image of vigorous congressional action at the minimum political risk. The vagueness must ultimately be resolved, of course, and the political judgments necessary for such resolution must be taken, by the courts.

Thus, the Congress passes a law requiring the Department of Health, Education and Welfare to assure the elimination of "sex discrimination" in federally assisted educational programs. Everyone applauds. Who, after all, can be in favor of sex discrimination? It soon develops, however (as Congress knew when it passed the law), that "elimination of sex discrimination" is only a slogan. To some, it means little more than equal job opportunity and equal pay for equal work. To others, it includes also the expenditure of equal funds on men's and women's sports; or even the prohibition of all-male or all-female team sports. And to still others (quite seriously) the elimination of father-son dinners, unisex dorms or even unisex toilets. Who is to tell us, then, what the Congress meant—when in point of fact it did not *know* what it meant, and quite obviously did not *want* to know, for fear of antagonizing one or the other side of the sexual revolution? The answer, of course, is the courts. In law suits challenging HEW's actions, they will ultimately develop for us a whole body of law concerning sex discrimination on the basis of virtually no guidance from our elected representatives in Congress.

The same game has been played in many other fields. "Protect the environment!" the Congress directed the Environmental Protection Agency. And a grateful nation cheered. But wait a minute, what does protecting the environment mean? Will the environmental standards that EPA must issue clean up the air 90 percent and raise the cost of living two percent, or will they clean up the air only 60 percent and raise the cost of living one percent? Will they prohibit parking in downtown Los Angeles? Will they effectively ban heavy industry in Colorado? Those are the hard questions—"political" questions that have no right or wrong "scientific" answer—precisely the sort of questions legislatures are established to address. But in this case, who will answer them? Initially the EPA, and ultimately the courts.

In other words, much of the courts' increase in power (and the same can be said of the increase in power of the bureaucracy) is the calculated result of default by our elected representatives. They want to improve our lives through government compulsion (or at least want to appear to do so), but have neither the time nor the political stomach to say precisely how that compulsion should be applied. That minor detail is left to the agencies and ultimately, through judicial review of agency action, to the courts.

But before the reader takes too much comfort in blaming the law schools and Congress, I come to the third principal cause of the "Imperial Judiciary." The fault, to tell the truth, lies mostly in ourselves. We want to rule others—which means, in a democracy based upon equal application of the laws, that we want to be ruled. Since at least the days of the New Frontier, America has been dominated by a There-Oughta-Be-a-Law, Mr. Fix-It mentality. Is there any vice, any injustice, any inequity, even any hardship in the world? We will pass a federal law, or better yet establish a federal agency, to correct it. And where laws do not yet exist, we will go directly to the courts to obtain relief—for there is, we have all come to believe, "no wrong without a remedy."

Such a system of total virtue and total beneficence entails, we are coming to learn, total subservience as well. There is simply a physical limit to the degree of government action—virtuous and beneficent or not—which a democratic system can sustain. Past a certain point, which we have in recent years well exceeded, government intervention can no longer be controlled or directed by representative assemblies and elected executive officials whose time, after all, is not expandable. George Washington and the First Congress had 365 days a year available for considering all the matters committed to their charge. That situation has not changed in 200 years. The multiplication of subordinate executive officials still leaves only one politically responsible chief executive, with 365 days to spare; and however much the numbers of congressmen and senators may have increased, the time available for their central function—joint deliberation and enactment—remains unaltered. It must be apparent that if the areas of our law-giving are to continue to expand, fundamental political decisions must increasingly be made by unelected officials, be they called regents or bureaucrats or judges.

I am suggesting that one of the fundamental causes of increased judicial power—and a cause that will alone sustain it even if all the others are removed—is our own evidently insatiable demand for government-imposed improvements in the existing order of things. Self-government is necessarily limited government, at least at any single governmental level. The choice is, alas, a stark one: Learn to love the rule of the courts, or learn to be a bit more tolerant of some of the imperfections that exist about us.●

MERCIA LETON KAHN

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. JOHN L. BURTON. Mr. Speaker, I would like to bring to the attention of my colleagues in the House the enormous contributions of Mercia Leton Kahn in the field of aging. She has been instrumental in the development of a national policy in this area.

Her dedication has, of course, not gone unnoticed. She has been honored with citations from the Social Security Director, the Department of Health, Education, and Welfare, and the National Medicare Bureau Director. But her contributions to our society and the Nation as a whole cannot be measured solely by these awards.

She is a tireless proponent of an improved social security system and a vocal advocate of improved conditions for the aged. Ms. Kahn is a woman of great integrity and high accomplishment whose dedication is unsurpassed.

Her service to San Francisco and the Nation exemplifies the best in public spirit and motivation. I have known Ms. Kahn for many years and maintain a deep respect for her work with the elderly, both the medicare and social security programs have benefited from her outstanding service. Her work with the elderly has earned her the respect of many organizations: the American Association of Retired Persons, the Los Angeles County Council of Nursing Homes Association, and the I.S.C.A. World Congress.

I, too, would like to acknowledge the accomplishments of Mercia Leton

Kahn, and respectfully ask that this body and the Nation as a whole honor her today.●

ADDRESS OF SARAH WEDDINGTON TO U.N. CONFERENCE OF WOMEN

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Ms. MIKULSKI. Mr. Speaker, last week, thanks to your appointing me as a congressional adviser to the U.S. delegation, I had the opportunity to participate in the United Nations Mid-Decade Conference for Women.

This was a moving and exciting experience for me and I appreciate the honor of being appointed. I was able to meet and to begin working with women from many other countries who shared my concern for such issues as the plight of women refugees and the terrible problems of family violence. Although I had to leave early because of the congressional calendar, I know that some of the resolutions on which I began work will be carried forward by the U.S. delegation.

I also had the chance to work with other members of the very able U.S. delegation, and especially delegation cochairs Sarah Weddington and U.N. Ambassador Donald McHenry. Sarah Weddington, who delivered the principal U.S. speech to the plenary session on July 17, gave an eloquent and forceful presentation which was very warmly received by other delegates. In fact, her speech had the distinctive honor of being interrupted by applause at least five times.

I believe Sarah Weddington's speech to the plenary session could serve as a keynote for the entire U.N. Mid-Decade Conference. It is an excellent description of the status of women in this country and everywhere, and a call to action for all of us. I am pleased to present it to my colleagues:

Address of the Honorable Sarah Weddington, Co-Chairperson, U.S. Delegation, the World Conference of U.N. Decade for Women

Madame President, Distinguished Delegates, and Concerned Women who have gathered here in this great city:

For all our Delegation, it is an honor to join in this Conference with the remarkable Delegates who have done so much in their nation's quest for equality among men and women.

The next two weeks are ours, all of ours, to make of them what we can—what we must—for women around the world.

How right that we meet in Denmark—a country which has made progress its tradition, and where equality, justice, and dignity are the common heritage of all.

Madame President, your election to the Presidency of the Conference is a recognition of your special diplomatic talents, and of your country's achievements. We look forward to working with you.

Just five years ago in Mexico City, the world learned that women would no longer accept being excluded from the decisions which affect their lives. Since then, time and again, we have seen women demonstrate the will to direct the forces of change.

This is the message we hear—this is the message we bring you from the people of the United States. It is their hope that the Delegates meeting here will focus upon the problems, aspirations, and goals that unite women throughout the world. Recognizing our diversity, we emphasize our unity. Let our deliberations be an example of goodwill to all who seek to improve the lives of women, men, and children—everywhere.

We come here to evaluate the progress of women in our respective countries in accordance with the World Plan of Action. We are here to rededicate ourselves to complete the unfinished agenda of our times in the firm belief that to advance the cause of women's rights is to advance the cause of human rights.

Here in Copenhagen we will further that cause if we use our energies, our wisdom, and our compassion to study and explore what we and our countries can do to combat the age-old enemies of humankind—poverty, illiteracy, disease.

These problems are the special lot of women because for centuries women and their children have been the principal victims of inequities, oppression, and conflict. Their plight and their progress is the principal issue before us—the overriding economic issue; the overriding political issue; and the overriding social issue.

But, since Mexico, we know that things will not change unless we, the women of the world, have the WILL to change things. Since Mexico we know that the prejudice enshrined in our minds by past millenia cannot be abolished in a single decade. But since Mexico, too, we know we must try. We know also that no amount of sloganeering and finding of scapegoats can change the fact that one of the root causes of our present predicament is the continuing domination of woman by man. The solution lies in the full and active involvement of women in all affairs of life.

This is a fact recognized by United Nations Secretary General Waldheim, who minced no words when he told us Monday that "if the quest for solutions of the world's problems is to emanate from the popular level, as it must, it demands as much involvement from women as from men."

All of us were impressed by his fervor. Over and over from this podium we have heard Her Majesty, the gallant Queen of Denmark, the Prime Minister, the Secretary General of this Conference, and you, Madame President, rallying us.

Therefore, we women must play the crucial role of confronting these problems in pursuing the goals of this Conference—equality, development, and peace.

The task before us will not be easy. In the United States we have encountered disappointments in spite of the progress we have made. The Equal Rights Amendment to the Constitution of the United States remains an unfulfilled promise. Seven Presidents of the United States have supported it. The majority of men and women of all political parties support it. The President of the United States is working most vigorously for it. It has passed the United States Congress twice. Thirty-five of our 50 States have ratified it. Yet, in the few States needed for ratification, there remain voices of the frightened few who oppose equality for women fighting a rearguard action. Hopefully, Madame President, by the time we meet again, the E.R.A. will have strengthened the Constitution of the United States. We will not rest until we have overcome.

Now let me speak about our progress. The President of the United States, who has made equality of women before the law a personal commitment, has instructed me to sign the "Convention Eliminating all Forms of Discrimination Against Women". I do this with pride and with the prayer that the promise of the Convenant will become a reality for all women—everywhere.

I will sign the Convention with pride because, in the fields of health, employment, and education—the specific themes of this Conference—we have made significant progress in our country.

In the area of health, the life expectancy of women has risen to 77 years. Women have become more active participants in the nation's Health Care System. Our Cabinet post for health is held by a woman. There are more women doctors today than ever before—but still not enough. There are more women health officers—but still not enough. Infant mortality and maternity death rates have dropped—but not enough. The incidence of high risk and unwanted pregnancies has been reduced through family planning—but not enough. There is more research on women-related health problems—but not enough. We will continue our efforts.

Women in our nation in recent years have exposed to the public many issues and problems previously ignored—domestic violence, rape, unnecessary use of drugs, unnecessary surgery, occupational hazards such as dangerous exposure to chemicals, and the mental stress caused by dual responsibilities in the home and workplace without the necessary support services. The many efforts now underway to deal with these problems owe much to the public concern and persistence of women. The Conference in Mexico also made a difference. It was a catalyst pushing us on.

Working women present a special challenge: 60 percent of all women between 18 and 64 years are employed, and it is estimated that by 1990 this figure will rise to 85 percent. It will be our task to better prepare them for employment and confront the endemic problems of occupational segregation and low wages. It is the task of those women who are taking their place among the leadership of unions and of corporations to assure that the laws which forbid discrimination in employment are fully observed.

Our government has been striving to strengthen the role of women in public life. Women have been appointed to the Cabinet and to key positions in government agencies. The Voice of America is now the voice of a woman and she is here—in our Delegation. I, myself a product of the Woman's Movement, am honored to be part of an Administration which has named 38 of our 44 women Federal Judges. We are witnessing an increase in the number of women elected to public office at the State and Federal levels. Two of these women leaders are with us here, both members of the U.S. House of Representatives. Our entire Delegation is proof that increasing numbers of women have attained distinction in our nation. We are far from crowding the halls of power in Washington but the fact is that—since the Mexico City Conference—our numbers have increased and our collective voice is stronger. And it is heard.

In education, American women have made significant progress since we last met. Most women now complete 12 years of schooling, and roughly half of college and university enrollments are women.

Today there has been a tremendous increase in the number of women who study to be lawyers, doctors, engineers, and business leaders.

Largely because of efforts of our Women's Movement, Federal Legislation has been passed making it illegal to discriminate against women in the educational system. These laws affect admission of students, hiring and promotion of teachers and administrators, and the apportionment of funds and facilities between male and female students.

Enforcement of these laws is not perfect but our new Department of Education, headed by a distinguished woman, and our voluntary women's organizations are actively monitoring progress and insisting upon full compliance with the laws. They are working, for example, to eliminate gender-role stereotypes from textbooks, and to demonstrate that girls and women are active participants of society. Women's study courses have been added to the curricula of many universities.

Madame President, we know that our progress at home is inextricably linked to the advancement of women everywhere. It is truer today than ever before.

Since Mexico in 1975, our quest for equality has been hampered by the wrenchings of a world in which tradition, as well as modernization, often subject women to new degrees of vulnerability. We have seen the process of development place additional burdens on women and create stress within the family structure; we have seen revolutions relegating women to passive roles. And we have witnessed the flight of millions of families from their lands—forced into statelessness by the lawlessness of states.

We are deeply concerned about the special problems of women in Southern Africa who must live and attempt to raise their families under apartheid. The documentation prepared by the Secretariat on this item leaves no doubt about the plight of the non-white women in South Africa and Namibia. Their sufferings stretch the limits of human tolerance, for not only does apartheid separate the races, it separates families, and places a particular burden on women. We will examine measures to ease those burdens.

And, Madame President, we are especially concerned by the plight of refugee women who suffer the multiple pressures of homelessness, discrimination, and despair.

Madame President, if these are troubled times, they must not sway us from our determination that the "Decade for Women" be a time for progress and achievement. For our part, Secretary of State Edmund Muskie has, therefore, reaffirmed that "a key objective of United States foreign policy is to advance worldwide the status and condition of women". The United States is conscious of its obligation to remain an important participant in the economic progress of the developing countries, particularly as it affects women.

In this era of diminishing resources and growing scarcity, women will bring new vitality to the process of economic and social development. It is their right to do so and it is our responsibility here at the Conference to see that these rights are honored.

The United States Delegation commits itself to work with you in the days to come to pursue this goal. Just as we have contributed to the Voluntary Fund for the United Nations Decade for Women, we will also support proposals for a Third Conference for Women, to be held in 1985 to assess further progress.

We are convinced that the remainder of this Decade for Women must prepare the next century of peace, a century that ensures full equality among all people. But the path to peace lies through mutual tolerance and through the search for permanent and comprehensive solutions. It holds true for the North and the South, for the East and the West, in all corners of the globe, in South-East Asia, as well as in the Middle East. To end the sufferings of women, we must cease the human conflicts. Therefore it would contribute greatly to the success of this Conference if we demonstrate our unity to the world—the unity of women; and our will—the will of women in seeking peaceful solutions to international problems.

But we must do more than demand peace; seek peace; pray for peace. We ourselves must build peace—step by patient step. There is a song in my country, Madame President, which begins this way: "Let there be peace on earth, and let it begin with me."

Our Conference will be an even greater success if we translate that noble sentiment into action—here, now, in Copenhagen. In our deliberations, let us demonstrate to the world our will to act in a spirit of compromise; to achieve agreements peacefully and with principle; and to respect honest differences of opinion.

Let there be peace on earth—and let it begin with all of us.●

TRIBUTE TO CAPT. ANTHONY J. DOPAZO, USN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. ANDERSON of California. Mr. Speaker, completing a successful career in one's profession can bring great satisfaction. But combining such an accomplishment with the knowledge that one has won the friendship and admiration of his colleagues is even more rewarding. And this is an achievement that Capt. Anthony J. Dopazo can proudly claim.

Captain Dopazo has announced his retirement from the U.S. Navy and will soon leave his position as planning officer at the Long Beach Naval Shipyard. To honor him on his outstanding career in the military service and to express their appreciation for all he has done for them, his friends and associates will hold a special dinner for him on the night of July 26, 1980. Today, I join in the spirit of saluting this man by sharing with you highlights of his career.

Anthony Dopazo graduated from the U.S. Naval Academy in Annapolis, Md., and also attended the Naval Post Graduate School in Monterey, Calif., during his 32 years in the military service. Upon receiving his degree in mechanical engineering, he was assigned to the Naval Ship Systems Command where he served as Assistant Project Manager for cruiser modernizations. He then served as construction analyst, and following this assignment, received his first assignment to California's Long Beach Naval Shipyard.

This 3-year tour of duty at the shipyard, beginning in 1971, gave him experience in both production and planning, as he was assigned as the assistant repair officer and engineering officer. His assignment upon completion of this tour at the shipyard was that of chief engineer aboard the U.S.S. *Kitty Hawk.* This ended in 1976, when he returned to Long Beach, and began his second tour of duty at the naval shipyard. In June 1978 he assumed duties as planning officer, the position he will soon retire from.

Captain Dopazo can be proud of the significant contribution he has made to operations at the Long Beach Naval Shipyard. He led the 705-person planning department in successfully executing numerous ship overhauls, many of which were completed ahead of schedule and within tight budget restrictions. His leadership made possible the completion of an innovative plan to reduce the duration of the first overhaul ever scheduled for a DD-963 class vessel. One of his most enduring contributions was his personal direction in establishment of the Navy's first true automation of the shipyard planning process.

Mr. Speaker, Capt. Anthony Dopazo has demonstrated the highest degree of professional competence during his many years of service in our Nation's military. For this he deserves our congratulations and our appreciation. My wife, Lee, joins me in paying tribute to this man and the fine record he has established. The recognition he is to receive on July 26 is truly deserved. We wish Captain Dopazo, his wife Renie, son John, and daughter Laura, all the best of success and prosperity in the future.●

NATIONAL POW-MIA DAY DECLARED BY PRESIDENT

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. BIAGGI. Mr. Speaker, this past Friday, July 18, by virtue of a Presidential proclamation, the Nation observed National POW-MIA Recognition Day. It is appropriate on this occasion that we pay tribute to these brave Americans and never relent in our efforts to achieve a full accountability for them.

The number of Americans still held as prisoners or listed as missing in Vietnam remains intolerably high, a full 7 years after the conflict in Vietnam ended. The Government of North Vietnam has consistently demonstrated both arrogance and insensitivity in their approach to providing for a full accounting. Their actions are in violation of international law, not to mention basic principles of morality.

The American public has gained a new sensitivity about this issue by virtue of the Iranian hostage crisis. In Iran 52 of our citizens have been held captive for more than 8 months. Yet for some of our fighting men in Vietnam the periods of captivity in some cases exceed 10 years. Our commitment and resolve for their safe release should be just as strong as for the Iranian hostages.

For the families and loved ones of our POW's and MIA's the support of the American public is absolutely essential. The anguish and uncertainty they face as part of their daily living is so tragic.

Mr. Speaker, at this point in the RECORD I wish to insert the text of President Carter's proclamation on National POW-MIA Recognition Day.

NATIONAL P.O.W.-M.I.A. RECOGNITION DAY, 1980

(By the President of the United States of America)

A PROCLAMATION

In each of America's wars our prisoners of war have been called upon to make uncommon sacrifices. Upon them has fallen the arduous responsibility of defending American ideals under the absolute control of the enemy. Extremely difficult at best, this responsibility becomes magnified almost beyond comprehension when men and women are treated inhumanely—in violation of ordinary compassion, fundamental moral standards, and basic international obligations.

The Congress has by Joint Resolution designated July 18, 1980, as "National P.O.W.-M.I.A. Recognition Day."

All Americans should recognize the special debt we owe our fellow citizens who, as prisoners during wartime, sacrificed their freedom that we might enjoy the blessings of peace and liberty. Likewise, we must remember the unresolved casualties of war—our soldiers who are still missing. The pain and bitterness of war endures for their families, relatives, and friends.

Our Nation will continue to seek answers to the many questions that remain about their fate.

Now, therefore, I, Jimmy Carter, President of the United States of America, do hereby designate Friday, July 18, 1980, as National P.O.W.-M.I.A. Recognition Day, a day dedicated to all former American prisoners of war, to those still missing, and to their families. I call on all Americans to join in honoring those who made the uncommon sacrifice of being held captive in war, and their loved ones.

And I call on State and local officials and private organizations to observe this day with appropriate ceremonies and activities.

In witness whereof, I have hereunto set my hand this second day of July in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fourth.

JIMMY CARTER.●

EL SALVADOR: PROSPECT AND RETROSPECT—PART II

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. McDONALD. Mr. Speaker, State Department policy of trying to co-opt the Communists by implementing the Communist program is not working out very well in El Salvador—but Ambassador White keeps trying. At the same time, our Ambassador to Guatemala, Frank Ortiz, is evidently to be replaced for failing to work with the leftists bent on the destruction of the Guatemalan Government. Ambassador Ortiz has been quoted in the New York Times, June 28, as saying that his "efforts to strengthen the middle" in Guatemala were frustrated by Washington's evident preference for the left. And, of course, what Ambassador Ortiz terms "epochal happenings in Nicaragua and El Salvador" have not eased his task. Guatemalans are naturally well aware of what is happening in neighboring Central American nations.

The connivance of the United States, through the Department of State, in saddling Nicaragua with a Marxist government now receiving friendly advice on human rights from North Korea, and in bringing about the brutal chaos presently seen in El Salvador, is public knowledge in Guatemala.

For the record, we now present the second half of the recent testimony offered to the Inter-American Affairs Subcommittee by the distinguished Salvadorean banker, Sr. Luis Escalante Arce:

> Driven by political motives of its own, the U.S. Department of State in its policy for Central America has spoken, in the voices of recent U.S. Presidents, of the need for change, change and yet more socio-economic change in El Salvador. The cry goes on oblivious of the fact that this small country, impelled by the spirit, energy and sheer hard work of its people, has indeed been achieving change for the better—in the directions and at the pace dictated by the needs of its society.
>
> The need for change, State Department catchword, has been met and surpassed in El Salvador, as may be seen in the improvement year after year in the Salvadorean living standard. In its annual increases in agricultural and industrial production. In the growth of its highway network, in the building of more schools, more hospitals and clinics. The list goes on.
>
> The mythical need for change some years ago brought about nationalization of the Salvadorean Coffee Company. It went into the market, buying and selling coffee, and imposing its decisions upon all exporting of coffee from the country. At length, the nationalized company generally embraced a policy of speculation, with the aim of acting in concert with other producer countries to raise coffee prices in the world market.
>
> The state-run company officials' lack of experience in the delicate, ticklish business of coffee trading led, as of the profit-and-loss statement of the Salvadorean Coffee Company published last year, to the nationalized company's having to report a loss of more than 280 million colones, or $112 million; while its managers claim to have cleared a theoretical profit for the previous year of 500 million colones, amounting to $200 million dollars.
>
> Incidentally, El Salvador's then-President himself participated in the speculative strategy unsuccessfully pursued by the nationalized Salvadorean Coffee Company. This further underlines the undesirability of the invasion of government agencies into the field of private enterprise.
>
> Coffee plays a vital role in the Salvadorean economy, as coffee exporting is the chief source of the dollar earnings absolutely essential for the imports that enable the country to develop. Moreover, coffee solves an otherwise insoluble agricultural problem: it is the only major crop that can be grown efficiently, let alone profitably, in El Salvador's steep terrain.
>
> One other benefit that coffee has brought to El Salvador's economy is worth mention. The role of coffee exports in the nation's foreign trade is what has blessed El Salvador with a stable currency—steadily quoted at 2.50 to the American dollar ever since 1934.
>
> The replacement of Ambassador Devine by Mr. Robert White has had the effect of shaking El Salvador anew. Ambassador White, taking advantage of the weakness of the present junta government, demanded—as American Viceroy of El Salvador—implementation of the aforementioned coup proclamation's plans for agrarian reform, and nationalization of private banks.
>
> These two demands seem to be regarded as cure-alls in certain quarters in the United States. But their blanket application without regard for local conditions in a small country such as El Salvador can be disastrous.
>
> As to agrarian reform, the government has begun by seizing the best-run and best-cultivated properties. These, in addition to their productive value, are the source of employment for thousands of the rural population. Reportedly, nearly 400 properties have been seized, with what is called Stage One of the land reform still in progress.
>
> The first effects to be expected from these measures are a marked drop in agricultural production, and a rise in unemployment.
>
> To offset the drop in production, there is talk of administering the best managed and most productive agri-business farms as cooperatives. This would probably not produce good results. Instead, it would make it evident that all the "reform" has accomplished is to put hundreds of farms under a single taskmaster—the government, as exponent of state capitalism.
>
> As to the nationalization of the nation's private banks, one junta member declared that the step was taken because it behooved the junta politically to do so. In this respect, the mythical "need for change" was supported by a further myth—that El Salvador's private banks made loans only to relatives and friends of the banks' boards of directors.
>
> Those who echo such assertions either forget or do not know of the existence of Article 197 of the nation's banking law, in force for decades. That article of the Law for Credit Institutions and Related Organizations, prohibits the directors of licensee institutions from extending loans to family members or relatives within the third remove of consanguinity or the second remove of relationship by marriage.
>
> As it happens, El Salvador's banking law and the Superintendency of Banking that enforces it through regulations and interpretations are regarded internationally as a model of scrupulous protection of the public. It also should be noted that, under the Presidency of Col. Arturo Armando Molina, who preceded President Romero, a Monetary Board was set up. The President himself was the Board's president, while the head of the Salvadorean Central Bank was its secretary. Thus, in effect, the Central Bank was made an appendage of the Monetary Board which set policy on money, credit, and related matters. Besides the country's chief executive, various cabinet members were also on the Board.
>
> Before nationalization, nine private banks operated in El Salvador, along with branches of four foreign banks. The government had its own separate banking and financial institutions.
>
> There was lively competition among El Salvador's private banks and foreign bank branches. The Banco Agricola Comercial of

El Salvador was noted for its innovations in the field of small-scale banking; it made a rule of business of serving the greatest number of people that it could.

It is my belief that Salvadoreans were well served by their private banks, as were the country's commerce, agriculture, its large industry and its small businesses.

For a developing country with a forward-looking and enlightened free economic system, the last thing needful is the nationalization of private banking. If there were any doubt as to the soundness of El Salvador's banks, or the scope and efficiency of their services, the most advisable course would have been to follow the example of the United States when President Roosevelt closed all banks for the historic three-day "banking holiday". After that, those banks which were shaky did not reopen, while others recommenced operations in closer compliance with regulatory requirements protective of the banking public.

In El Salvador, daily turmoil in the political, economic, civic, moral and social spheres is plunging the country ever more deeply into anarchy. The replacement of the inept Romero government by force, by first one and then another ruling junta, has deeply eroded constitutionality. The junta's padlocking of the legislature, deeply wounding the fundamentally republican national structure, has turned it into a slipshod five-man dictatorial rule.

There are also other ways in which the amateurish junta rides roughshod over our basic constitutional principles, which cannot and should not be set aside short of a Constitutional Convention.

We are now without the caliber of freedom of the press and of speech which are the prerogatives of democratic peoples and the hallmark of democratic regimes.

Our guarantees of individual freedom are shrinking further. Deprived of the protection of life and property by the authorities, the citizen sees human life grow cheaper.

More and more, penetration by Soviet Cubanization from nearby Nicaragua is scourging our territory, and our institutions.

It is my conviction that, for the Free World's sake, U.S. foreign policy should not go on turning a blind eye to what is happening to the countries of Central America. Bit by bit, the democratic frameworks of those countries are being warped, re-molded into socialistic structures to Soviet patterns.

However unimportant these countries may seem to the United States, as the Sovietized Cuban system now sinking its roots there spreads further, the United States will be brought face to face with Central America's geographic significance. It is the potentially powerful springboard for Soviet Cubanization of the countries to the south, as well as aimed at Mexico.

In El Salvador's sad case, it is urgent that the present governing junta give way to one with broad support and democratic temper. This could continue to include military men along with civilian leaders of recognized integrity free of political commitments.

A responsibility of any such new coalition will be to call a Constitutional Assembly to restore constitutional order in the country. Whether by promulgating a new Constitution or by rededication to, and reinforcement of, the Constitution in force until the October 1979 coup, this must be done.

Once constitutional order is restored presidential elections must be called, with guarantees assuring the citizens the opportunity fairly to elect a President of proven ability, honesty and responsibility, not least with due regard for the handling and investment of public funds.

Such a President is needed scrupulously to guide an administration of economic freedom for the well-being and progress of the Salvadorean people.●

ADMIRAL HAYWARD VIEWS RETURN TO THE DRAFT

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. SKELTON. Mr. Speaker, recently, Chief of Naval Operations, Adm. Thomas Hayward, U.S. Navy, on June 19, 1980, while meeting with representatives of news media in Washington, expressed his view that a return to the draft may be necessary in view of the gradual failure of the All-Volunteer Force during the past 5 years. I wish to share his statement regarding this matter with Members of this body:

> I believe that the AVF is gradually slipping and that it is the recession which is making it look a little bit better than it probably is below the surface. I also believe that the time has come for the country to get mobilized in its attitude toward national security. The events of the past year have wakened an awful lot of people into understanding how serious the world situation is and how important a strong national security posture is to fulfilling our objectives worldwide.

Mr. Speaker, Admiral Hayward indicated concern that improvement in the Nation's economy would be accompanied by a downturn in volunteers. He pointed out that the retention of middle-grade officer and enlisted personnel was also part of the overall manpower posture in the Armed Forces and that recruiting cannot compensate for skill shortages caused by inadequate personnel retention.

Responding to a question about the Navy's need for a draft, Admiral Hayward said that neither the Navy nor the Naval Reserve would benefit from a renewal of the draft. "The Navy clearly does not need the draft," he said. He acknowledged that he had altered his views since becoming Chief of Naval Operations 2 years ago based on subsequent world events and a continuing study of military manpower factors since taking office.

He also acknowledged that renewal of the draft would provoke a lot of protest among the Nation's youth, but that this protest "would not represent a consensus of the American people."●

NORTHPORT SNAPPERS WIN SOCCER TITLE

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. AMBRO. Mr. Speaker, I rise today to call attention to the fine achievement of the Snappers of Northport, Long Island, New York Soccer Club in capturing the eastern U.S. championship on July 6, 1980. These young athletes, through their hard work and dedication, have reached the highest level of success possible in organized soccer for 14-year-old girls.

The final road to victory for the Snappers began this past spring when they defeated four southern New York State teams to gain entry to the regional competition to become the southern New York State champions.

The eastern U.S. finals consisted of a grueling 3 days of soccer played against teams from 14 other eastern States. The championship game was played against a Fairfax, Va. team on the final afternoon of the match. It took just one goal and excellent defensive play from the Snappers to defeat Fairfax, 1 to 0. The Snappers were awarded gold medals in recognition of their outstanding victory during ceremonies following the match.

The Snappers made many personal sacrifices in order to give the countless hours of practice necessary to build a championship team. Whether drilling on the field or working with dedicated parents at a bake sale to raise funds, these youngsters truly exhibited strength of character in their determination to rise to the top of their sport.

This year's championship team is coached by Joan Corie and assisted by Heda Eberl. Both of these women generously offered their patient guidance to the team, and, perhaps more importantly, helped to instill the ideas of fair play and team work. The team is also supported and sponsored by Amgus Stevely, general contractor of Northport.

I congratulate these fine young ladies for their achievement, and wish them all continued success in the future.●

INCREASED MILITARIZATION OF SPACE THREATENS CIVILIAN SPACE PROGRAMS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. BROWN of California. Mr. Speaker, on Wednesday and Thursday of this week, the Space Science and Applications Subcommittee of the Science and Technology Committee, both of which are chaired by my colleague from Florida, DON FUQUA, will be holding hearings on civil space policy. The topics to be discussed will include the relationship between the military space program and the civilian space program, and the attainment of an appropriate balance between these two programs.

Mr. Speaker, I have previously expressed in this body some uneasiness at the relative erosion of our civilian space effort compared with the military space program. Budget totals, taken by themselves, are a crude and sometimes misleading index of impor-

tance and influence. Nevertheless, the yearly trend in these totals is, I believe, of considerable significance to our hopes for the peaceful development of space resources. The recent Soviet launch of a hunter-killer satellite has focused attention on the critical role played by intelligence satellites in national security and on the increasing efforts by both the United States and the Soviet Union to develop an antisatellite capability. The prospect of a military space race threatens the security of all nations and points up the importance of renewing efforts to reach an antisatellite treaty agreement.

Mr. Speaker, I wish to commend to my colleagues a recent article by John Markoff of the Pacific News Service on the militarization of space. The article mentions the point of view held in some quarters, which I strongly oppose, that the maintenance of separate civilian and military space programs is an "expensive philosophical luxury." I hope that the preservation of the integrity of our civilian space program will receive careful attention in the Space Subcommittee's deliberations this week.

The article follows:

OUTER SPACE—THE MILITARY'S NEW HIGH GROUND

(By John Markoff)

A windowless blue three-story cement building set next to a freeway in Sunnyvale, Calif., just outside San Francisco is the command center for the newest branch of the U.S. armed forces.

Marked only by two massive antennae pointing skyward, and referred to as the "blue zoo" by some of the men who work inside, the U.S. Satellite Control Facility is the operational command center for the Space Division of the U.S. Air Force, established last year.

The center is a key link in a new U.S. push to develop the capability to fight a war in outer space. It is the nerve center of a worldwide network of tracking stations that allow the Air Force to control the hundreds of military satellites used for communication, navigation, intelligence gathering and early warning of potential Soviet missile attacks.

"Space is the high ground in today's world," says General Richard Henry, the man who commands the nation's space forces.

The U.S. has sought higher ground following the loss of key electronic intelligence monitoring stations as a result of the Iranian revolution. In the past, sensitive spying equipment that the U.S. had stationed along Iran's border with the Soviet Union permitted the military to keep tabs on missile tests taking place deep inside Soviet territory.

Since the loss of these stations, the U.S. has been forced to rely more heavily on "ferret" satellites which gather photographic and electronic intelligence from orbit and relay it back to the Satellite Control Facility.

Although satellite intelligence collection is protected by existing SALT agreements, defense experts are concerned that any war between the United States and the Soviet Union would probably begin with efforts to knock out the opponents' spy satellites. Without the intelligence that such satellites provide, the United States would be virtually paralyzed in a war situation.

Both countries have been spending increasingly large portions of their military budgets on space related systems (the U.S. spent $4.1 billion last year), and this new arena for the arms race is apt to prove far more costly than anything that has been spent on earth-based weapons to date.

The clearest indication that the de facto ban on an arms race in space is breaking down is the recent anti-satellite test conducted by the Soviet Union. The test, which began April 3, ended a two-year moratorium during which the U.S. and the Soviet carried out negotiations aimed at banning satellite weapons from space.

U.S. officials announced recently that the Soviets had launched an anti-satellite target vehicle, called Cosmos 117. A short time later a Soviet "hunter-killer" satellite was launched which completed a rendezvous with the target satellite, although it was not detonated as other killer satellites have been in the past.

Defense officials said the killer satellite is designed to enter the same orbit as the target satellite and then close in to within several hundred yards. The killer satellite is then exploded, sending thousands of pieces of shrapnel to destroy the target.

Now that the Soviets have resumed their testing of space weapons, the U.S. is certain to follow. The Air Force has awarded a $58 million contract to the Vought Corporation to develop a "direct ascent" satellite killer which will be carried under the wing of an F-15 fighter aircraft. The Vought hunter-killer is designed to seek out an enemy satellite with an infrared homing device and then collide with it.

American tests are scheduled to begin this year and the weapon will probably be deployed beginning in 1983. Because the American killer satellite will be carried by the F-15, it is believed it will be more flexible than the Soviet system since U.S. aircraft are deployable around the world.

Besides the killer satellite research, both the United States and the Soviets are also developing particle beam and laser weapons for use against satellites. An American intelligence report sent to the President in mid-May claims that the Soviets have successfully developed a ground-based laser weapons that may be effective against low-orbiting U.S. surveillance satellites. The report also claims the Soviets may be able to deploy a space-based laser weapon effective against higher orbiting communications satellites by the mid-1980s.

The renewed satellite weapons testing has led to a growing debate over who is leading the new arms race in space. Charles Sheldon II, a Library of Congress space expert, believes that the Soviets have a distinct advantage over the U.S. today. Mr. Sheldon says the Soviet Union's space program has been extremely active. "There have been 31 launches so far this year, of which 4 are U.S., 2 are Japanese, and the rest are Soviet," he says.

However, Pentagon critic and former defense engineer Robert Aldridge disputes claims that the U.S. is lagging behind the Soviets. Mr. Aldridge argues that American anti-ballistic missile research, which is well advanced, is virtually the same as anti-satellite research. "I get them mixed up," Mr. Aldridge states. "I don't think there is any difference between shooting down a missile or a satellite."

One reason to believe that the Pentagon will not allow a "killer satellite gap" to develop is that space-based systems have become crucial to America's earthbound military operations in recent years. Pentagon executives frequently cite the fact that 70 percent of all American military communications are now routed through space. These satellite systems transmit routine military communications as well as provide top secret channels to be used in the event of a nuclear war.

According to the authoritative trade magazine Aviation Week and Space Technology, the Pentagon is already laying specific plans for doing battle with the Soviet Union in space. It reported that Soviet spy satellites that aid in tracking U.S. Navy vessels will be the "prime targets" for the U.S. anti-satellite system in a war.

The magazine also reported that the Joint Chiefs of Staff have already composed two lists of Soviet satellites to be attacked first.

Some Pentagon and military officials have come to believe that space may be an ideal battleground for the next war, and that such a war could take place without endangering earth.

"Under certain circumstances, space may be viewed as an attractive arena for a show of force," Lt. Gen. Thomas P. Stafford, United States Air Force Deputy Chief of Staff for Research, Development and Acquisition and former Apollo astronaut, told a closed meeting of the Senate Armed Services Subcommittee on Research and Development recently.

"Conflict in space does not violate national boundaries, does not kill people and can provide a very visible show of determination at a relatively modest cost. Because of this possibility, it is desirable to provide the national command authorities with the additional option of ordering response-in-kind to a space attack," General Stafford said.

Arms control advocates say that the danger of militarizing space is that an attack on a nation's satellites would almost surely be responded to by an all-out nuclear strike since its intelligence gathering capability would be crippled.

A major obstacle to anti-satellite treaty agreements is Soviet insistence that its tests are directed at a potential Chinese satellite threat and not at American intelligence-gathering satellites. Space analyst General Sheldon agrees that the Soviet anti-satellite tests have not been conducted at altitudes above 2,000 kilometers (1,240 miles). American early warning satellites are generally placed about 30,000 kilometers (18,600 miles) above the earth's surface. Also, the recent Chinese ballistic missile launching adds further weight to the Soviet claim.

An almost certain consequence of the renewed military space race is that it will lead to a new debate over America's space policy. Congress, which counts several former astronauts among its members, has been pressuring President Carter to expand American space activities.

In addition to the debate over the expansion of the space program, there has been increasing pressure from within the Pentagon to take over NASA, the nation's civilian space program. A recent study of U.S. space policy conducted by three Air Force officers concluded that separate civilian and military space programs were "expensive philosophical luxuries" which the U.S. cannot indefinitely afford.●

OMNIBUS RECONCILIATION ACT

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. GIAIMO. Mr. Speaker, today the Budget Committee reported a bill of reconciliation which will achieve

savings of more than $6 billion in spending and produce revenues of more than $4 billion, the Omnibus Reconciliation Act of 1980. It is a monumental achievement that eight committees of this House were able to complete their part of the reconciliation process quickly and thoroughly. It will be an even greater achievement when these reforms are enacted into law.

When one considers that some 75 percent of the spending of the Federal Government at any given time is based on laws enacted in prior years, it is easy to understand that spending restraint can hardly be achieved without going into existing law. For fiscal year 1981, some $450 billion in spending will be provided in laws already enacted.

Early this year the leadership of both Houses and the administration decided that basic reforms in spending and revenues had to be sought. In addition, when the Budget Committee led the drive to reduce spending in fiscal year 1981, it recommended cuts of $16 billion in discretionary spending suggested in the President's January budget. When the bill of reconciliation is finally passed, and when its savings and reforms are added to the cuts in discretionary spending, this Congress will have made a massive move toward sound and prudent fiscal management.

In reporting the Omnibus Reconciliation Act, the Committee on the Budget directed me to seek a rule barring all amendments other than those necessary to resolve inconsistencies within the reconciliation bill itself or those which in the opinion of the Committee on Rules merit special consideration. Without this kind of closed rule, I fear that orderly consideration of the reconciliation bill would be impossible.●

CONGRATULATIONS TO TERRY LaBARBERA OF SANTA MONICA

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. DORNAN. Mr. Speaker, I would like to bring special attention to the accomplishments of a dedicated community leader.

On July 24, 1980, Terry LaBarbera, wife of Joe LaBarbera of LaBarbera's Restaurant, West Los Angeles, will be honored with a special recognition dinner. The dinner will be to acknowledge Mrs. LaBarbera's many years of service to the Santa Monica community, and to note particularly her recent completion of a 2-year term as president of the Santa Monica girls club.

Terry served as president of the girls club from 1978 to 1980 and initiated their current program for building a facility in Santa Monica. She has also been active in the Santa Monica PTA, Red Cross, and other social service organizations. Terry has been particularly involved with fundraising and helping youth.

Mrs. LaBarbera's good works are inspiring to all with whom she associates. On July 24 Terry's many friends will have the opportunity to express a hearty "thank you" to this most deserving lady.●

MIA/POW RECOGNITION DAY

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. WOLFF. Mr. Speaker, last Friday, July 18, I was honored to be invited to participate in ceremonies at the Pentagon honoring our men still listed as missing in action, or as prisoners of war from the Vietnam war.

At that ceremony, a coalition from the National League of Families, from Members of Congress, from national and local veterans' organizations across the Nation, and from concerned private citizens, joined in launching a nationwide petition campaign on behalf of the goal of obtaining a full accounting on our MIA's and POW's.

As I said at the ceremonies Friday, when I visited Hanoi last August, the Vietnamese said they were "surprised" to learn that any Americans were still interested in the MIA/POW question.

When I visited Hanoi again last January, to present evidence on 425 remains we feel certain the Vietnamese have stored, despite their denials, the Subcommittee on Asian and Pacific Affairs again tried to demonstrate to Vietnam's leaders the continuing concern of the American people regarding the humanitarian quest for a final accounting for our men.

With the petition drive we are now inaugurating, we hope that the organizational facilities of the task force on MIA's/POW's chaired by Mr. GUYER at the request of the Subcommittee on Asian and Pacific Affairs, will provide a method whereby the American people can send the message to Hanoi loud and clear—we still care. We demand a final accounting for our men.

I do not think there is any question that so long as Hanoi continues to maintain it has no further knowledge on the many hundreds of our men which we know they once had in custody, both alive and dead, the many bilateral and strategic issues involved in United States-Vietnamese relations will remain very difficult to approach. I can assure you that, as chairman of the Subcommittee on Asian and Pacific Affairs, I will see to it personally that normalization of relations with the Vietnamese will await our satisfaction on this score.

Thus, I think it is equally clear that it is in Hanoi's humanitarian and strategic interest to respond to the families and friends of our men still listed as POW's and MIA's from so long ago.

Accordingly, Mr. GUYER and I are today circulating a letter to our colleagues urging their support and participation in the nationwide petition drive.

Following will be a copy of our "Dear Colleague," and a copy of our petition, which we urge you to adapt to your own needs.

We hope that by early October, we will have gathered more than 1 million signatures on these petitions, which we will then deliver personally to the Vietnamese delegation to the United Nations.

Never again will the Vietnamese be able to claim they "didn't know we still cared."●

THE EXPERTS WHO BURIED CONTAINMENT

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. McDONALD. Mr. Speaker, since World War II, there has been one single group that appears to formulate and speak for United States' foreign policy. This is the Council on Foreign Relations. Through its publication, "Foreign Affairs," it has systematically decided what the United States can and cannot do in the field of foreign affairs, and through its strategically placed membership being largely successful in seeing to it that all foreign policymaking groups in the U.S. Government adhere to these "permissible" views.

The Council on Foreign Relations has promoted and brought about the policies that resulted in our fighting two no-win wars in Korea and Vietnam, and finding that after all these years, the Soviets were uncontained decreed containing communism had become unnecessary and irrevelant, that is up till the time of the Soviet invasion of Afghanistan. Now of course they are attempting to find ways to weasel their way out of yet another foreign policy failure. One wonders why these people continue to be considered as experts since they have seldom been correct in any of their assessments. Mr. Carl Gresham, a resident scholar at Freedom House outlined this problem in Commentary magazine recently and the pertinent parts follow as they appeared in the Washington Star of July 13, 1980 for the edification of my colleagues who keep listening to the wrong experts.

THE EXPERTS WHO BURIED CONTAINMENT

When President Carter said that the Soviet invasion of Afghanistan had caused him "drastically" to alter his perception of Soviet intentions, many people wondered how a great power like the United States could have as its leader a man who, by his own admission, did not understand the most important strategic and military issue facing the country.

The answer, at once simple and dismaying, is that the president's pre-Afghanistan "perception" of the Soviet Union was not at all exceptional or a product of his own naivete but rather reflected the conventional wisdom of most government officials, academic experts and others specializing in foreign affairs.

No less a figure than former Secretary of State Cyrus Vance, a man who epitomizes urbane sophistication in foreign affairs, had observed in an interview with Time magazine in 1978 that President Carter and Soviet President Brezhnev had "similar dreams and aspirations" about the future of the world. Views of this kind had not gained widespread acceptance in the country as a whole, since most Americans remained distrustful of the Soviet Union. But by the time Jimmy Carter assumed office, such ideas had become the stock-in-trade of the relatively small group of specialists constituting what is often called the foreign-policy establishment.

The foreign-policy establishment associated with the administration of Jimmy Carter may be viewed as the natural successor to the old internationalist establishment which presided over American policy during the era of the Cold War and which collapsed as a result of America's defeat in Vietnam. The demise of the old establishment occurred about a decade ago and is not talked about much today, except as a subject of historical interest (it is, for example, an important underlying theme of Henry Kissinger's. "White House Years," which deals with the period in question). Nonetheless, it was a turning point in recent American history, for with the passing of this establishment, the bipartisan consensus which had sustained U.S. foreign policy and defined its purposes for a generation disappeared, leaving a paralyzing residuum of division and demoralization. Moreover, its passing was the occasion for the emergence of a new establishment dedicated to the transformation of American foreign policy in light of the experience in Vietnam.

It is perhaps misleading to distinguish between an old and a new establishment, since we are really speaking of a single group. The Council on Foreign Relations, the preeminent institution of the old establishment, did not fold up, nor was its leadership usurped by a dissident tendency. But it emerged from the trauma of Vietnam a very different institution from what it had been before and with a new political character. The principal way the Council had changed was that its leading members had ceased to believe in the world outlook they had espoused since the end of World War II.

In 1970, writing in the Council's journal Foreign Affairs, Townsend Hoopes, who had been deputy assistant secretary of defense and undersecretary of the Air Force during the Johnson administration, asked how "so many intelligent, experienced and humane men in government"—the establishment, in other words—could have failed to understand the "immorality" of the Vietnam intervention and the "cancerous division" it had created within America. His answer, which was fast becoming the prevailing view of these "intelligent, experienced and humane men" themselves, was that they were products of a period dominated by the "cold-war syndrome and its ramified legacy." Hoopes urged unilateral withdrawal from Vietnam and the rejection of the cold-war mentality that had led us into the war in the first place.

But it was not enough for the establishment to condemn the war in Vietnam. To restore its political authority, it had to undo its own historical link with the conflict. This was accomplished by transferring responsibility for the war to the Nixon administration, which remained, as Hoopes wrote, "residually hooked on the cold-war syndrome."

BELIEFS OF A LIFETIME

It was still not enough, however, merely to create the myth that the establishment had played no part in the Vietnam disaster. It was also necessary, as Hoopes had observed, to break with the "cold-war syndrome." Here the senior members of the establishment faced a difficult dilemma, for they could not repudiate the beliefs of a lifetime without destroying—not just in the eyes of others, but, more critically, in their own as well—their legitimacy as a source of political authority.

The task of ideological reconstruction fell primarily to a group of specialists associated with Foreign Policy, a journal founded in 1970 "to stimulate rational discussion of the new directions required in American foreign policy" after Vietnam. Its two editors, Samuel P. Huntington and Warren Demian Manshel, felt that a magazine with "no institutional memory" was needed to redefine the "basic purposes" of America in the world "with a keener awareness that an era in American foreign policy, which began in the late 1940s, had ended." As it happened, the political outlook that Foreign Policy adopted was quite consistent with the one beginning to be developed in Foreign Affairs, and many of the same people wrote for both publications. But in the new journal one could discern a more systematic attempt to revise American policy and to formulate a new post-Vietnam world view.

THE GROUP WAS NOT MONOLITHIC

The specialists who contributed most to this revision were not a monolithic group. Among them were some members of the old elite such as Townsend Hoopes, Paul C. Warnke and Thomas L. Hughes. A larger element consisted of younger government officials of the "Vietnam generation" such as Leslie Gelb, Richard Holbrooke and Anthony Lake, and academics like Richard H. Ullman of Princeton, who could reasonably think of themselves as future leaders of a revived establishment. They were joined by a small group of radical intellectuals, among them Richard J. Barnet of the Institute of Policy Studies and Richard Falk of Princeton, who saw the need for basic changes in American society if the country's foreign policy was to be set aright.

In addition to these different tendencies, several individuals who are not so easily categorized made important contributions to the effort to revise U.S. foreign policy. One of them was George F. Kennan, formerly a foreign-service officer and now at Princeton, who was best known as the author of the famous "Mr. X" article of 1947 in Foreign Affairs setting forth the containment doctrine, though he had broken with this policy even before it became fashionable to do so in the late 1960s. Another was Zbigniew Brzezinski of Columbia, who did not break until the early 1970s, and then did so very suddenly and with an elaborate theoretical justification. A third important figure was Stanley Hoffmann of Harvard, a consistent critic of U.S. foreign policy whose Gaullist opposition to U.S. leadership in the world merged in the 1970s with the post-Vietnam denigration of American global power.

Writers like Kennan, Brzezinski and Hoffmann differed with one another on significant points and in the emphasis they gave to various issues. But such differences (regarding U.S. relations with allies and with the Third World and the relative importance of transnational forces as opposed to the prerogatives of the nation-state) were much less important than their agreement that containment was no longer a valid basis for American foreign policy. In fact, opposition to containment was the principle that united all the writers who participated in the redefinition of an establishment perspective on foreign affairs. It was the starting point for any discussion of the U.S. world role, the basic assumption that all shared and none questioned. Opposition to containment could not by itself serve as a new creed, since it pointed in no positive direction. But the reaction to the Vietnam war was such that it was possible to bring people together merely on the basis of what they were against. And what everyone was against—at least everyone who aspired to a place in a new foreign-policy establishment—was American resistance to the advance of communism in the world.

FINDING CONTAINMENT UNNECESSARY

Thus during the first half of the 1970s, an elaborate intellectual structure was built in defense of the idea that the containment of communism by the United States was neither possible, nor necessary, nor even desirable. This idea, above all others, was the "lesson of Vietnam," and the overriding purpose of the aspiring establishment was to make it the guiding principle of American foreign policy as a whole.

The various domestic constraints on the exercise of American power abroad, involving both political attitudes and structural features of the American system, were thought to present a formidable and probably insuperable obstacle to the continued pursuit of the containment policy. But even if none of them existed, the opponents of containment still felt that the United States had no choice but to abandon the use or even the threat of military force to oppose communist advances in the world.

"Perhaps the principal lesson of the past decade," Warnke and Gelb wrote, "is that military force is a singularly inept instrument of foreign policy." In a world dominated by nationalism and rising demands for economic equality, one could not emphasize enough, in Stanley Hoffman's opinion, "the increasingly obvious irrelevance of military power to most of the goals pursued by states."

According to Richard J. Barnet, not only had it become much more difficult for both major powers to extend control over other countries, but recent history had shown that even "the entry of new countries into the Communist bloc involves heavy costs as well as benefits for the Soviet Union."

In fact, the whole notion that the outcome of conflicts like the one in Vietnam mattered any longer in world politics was based on a concept of security that had been rendered obsolete by advances in military technology.

PARALYSIS OF POWER

Advances in military technology had altered international relations in even more fundamental ways, virtually ruling out future confrontations between the great powers and opening the way for new forms of non-military competition. According to Brzezinski, the "balance of terror" had rendered the power of the United States and the Soviet Union "largely non-usable." With both countries constrained by a "paralysis of power," containment was no longer relevant, and secondary powers such as China, Europe and Japan would play an enhanced role in international diplomacy.

Still another factor making containment irrelevant was the revolution in technology and communications which was thought to have created a more interrelated world order. Brzezinski, the leading exponent of this point of view, said that "an emerging global consciousness is forcing the abandonment of preoccupations with national supremacy and accentuating global-interdependence."

The transformation of international politics by new global forces was not the only reason given to explain why containment was no longer necessary. Even more significant was the idea that the Soviet Union had become a status-quo power and was now genuinely committed to detente with the United States. Marshall Shulman acknowledged that detente offered "tactical advantages" to the Soviet Union, but he felt that "more fundamental" factors—among them the Soviet Union's need for economic cooperation with the West, its desire to stabilize the arms race, and its fear of China—required Moscow to favor "a long-term commitment to a policy of low tension abroad."

George Kennan, whose views on this subject carried special weight because he had first enunciated the containment doctrine a quarter of a century earlier, now came to the conclusion that the military rivalry between the United States and the Soviet Union no longer had any "foundation in real interests." It was kept alive, he thought, by "irrational fear" and "institutionalized force of habit" which the military industrial complex of each big power exploited to its own advantage.

THE ATTITUDE OF EQUANIMITY

While the critique of containment was intended to disassociate the new establishment from the policies of the past, it suggested as well general guidelines for the policies of the future. The first such guideline was the adoption of an attitude of "equanimity," as one writer termed it, toward changes in the world which previously would have been considered injurious to American security.

The doctrine of equanimity had many advantages for the United States, the most obvious being that it would eliminate the prospect of a future Vietnam. And in a larger sense, it meant that the United States could now adopt an attitude of "benign neglect," as Warnke and Gelb put it, "toward international military involvements."

Toward this end, Ullman urged that "a central goal of American policy over the coming years" should be to terminate the support which had previously been extended to "repressive" regimes on "expediential grounds." It was also important, wrote Tom J. Farer of Rutgers, to "soften our image as an intractable opponent of change" by making "gestures" of accommodation on three issues of paramount concern to the Third World—Southern Africa, the Palestinians and North-South economic relations.

Above all, Brzezinski wrote, American policy would have to be "sympathetically sensitive to the significant shift in global emphasis" toward equality. This would not necessarily be very costly for the United States, said Farer, since only the authoritarian elites in the Third World were demanding equality—for states, not individuals—and therefore "the overall number of people who have to be given a stake in the essential structures of the existing international economic system is relatively small." But even if one allowed that it might be costly, and many writers were of this opinion, it was still necessary for political reasons to respond sympathetically to demands for a "new international economic order."

EQUANIMITY AND AFGHANISTAN

The application of the doctrine of equanimity to the 1978 communist coup in Afghanistan did not prevent the Soviet invasion a year-and-a-half later. The unilateral cancellation of U.S. weapons programs did not have any noticeable effect on the Soviet military buildup. "Getting on the side of change" in Africa did not stop the Soviet Union and its proxies from intervening in Ethiopia. And following the rule of non-collision in the case of Soviet brigade in Cuba, or the earlier installation there of Soviet MiG-23 attack planes, did not encourage Cuba to restrain its subversive and terrorist activities in Central America and the Caribbean.

An administration that began by assuming it could improve relations with the Soviet Union if only it downplayed East-West issues is now obsessed with such concerns. Having repudiated an illusory American hegemony, it now faces the real danger of Soviet hegemony—a prospect it is trying desperately to elude by restoring a balance of power, something it once considered outdated and "Machiavellian" and whose workings it still does not seem to * * *●

U.S. ELECTRONICS FIRMS ENDORSE "10-5-3" CAPITAL COST RECOVERY ACT

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. JONES of Oklahoma. Mr. Speaker, as my colleagues know, the Ways and Means Committee is preparing to open hearings tomorrow on the need for tax reform legislation to counteract the current economic recession, and to stimulate creation of new jobs for renewed economic growth. It therefore gives me great pleasure to announce that yet another sector of our Nation's industrial community has gone on record with official support for prompt enactment of the Capital Cost Recovery Act. H.R. 4646 is being sponsored by Congressman Barber Conable and myself, as well as an overwhelming 307-Member majority of our House colleagues.

The American Electronics Association, representing in excess of 1,200 electronics and high-technology companies in 43 States, has provided me with their indepth analysis of the long-range, beneficial effects of H.R. 4646. I recommend that my colleagues study carefully the AEA conclusions as they concern the urgent need for reform of our current tax depreciation system.

The AEA's endorsement of H.R. 4646 is particularly important for it is America's modern day high-technology industries that we must pay particular attention to as we strive to regain preeminence and competitive leadership in the critical arena of world trade. There are some who have claimed the benefits of H.R. 4646 are too strongly weighted in favor of our long-established labor-intensive industries such as steel, autos, and manufacturing. I believe this excellent analysis and endorsement of the CCRA by the American Electronics Association effectively rebuts those claims, and I include their full statement at this point in the Record:

American Electronics Association,
Government Operations Office,
Washington, D.C., April 15, 1980.

Hon. James R. Jones,
U.S. House of Representatives,
Washington, D.C.

Dear Congressman Jones: The Board of Directors of the American Electronics Association as well as AEA's Government Affairs Committee which I chair have asked me to communicate to you our Association's support for your bill, the Capital Cost Recovery Act, H.R. 4646.

AEA is a trade association of more than 1,200 electronics companies in 43 states. Our members manufacture electronic components, instruments, and computers for domestic and export markets as well as supplying services and products in the communications and data processing industries. While our membership employs more than one million Americans and includes some of the nation's largest companies, a majority of our companies are small businesses employing fewer than 200 people.

Both the Board of AEA and my Committee which has responsibility for developing policy on tax legislation have considered H.R. 4646 several times over the past year. We have consistently concluded that enactment of this bill would be in the best interests of our country.

We believe the key consideration is the effect the bill could have on this nation's sagging rate of productivity growth. As you know, over the last decade, the U.S. has suffered the worst record of productivity growth in the entire industrial free world. At the same time, the amount of our GNP consumed by government spending has risen steadily. We have been spending beyond our capacity to produce. For more than a decade, the gap between our spending and our production has been filled by inflation—the worst in our country's history.

We believe that to break out of this cycle we must, both control the growth of federal spending (which your other bill H.R. 5371 would do admirably) and enhance our ability to produce goods and services more cheaply—which is the point of H.R. 4646.

The Capital Cost Recovery Act will stimulate productivity by accelerating the return of capital invested in plant, equipment, and vehicles. These funds can then be reinvested in newer and more productive facilities. Improved productivity, in turn, is essential to retaining our existing export markets and winning new ones.

Given the key role H.R. 4646 could play in combatting that part of our inflation caused by poor productivity, we find it ironic that Treasury has opposed it on grounds it could fuel the other part of the same problem, excess spending. But we believe Treasury's estimates of the revenue loss H.R. 4646 would cause are overstated.

For example, Treasury spokesmen have told us they based their estimate of the tax benefit to the electronics industry on the impact the bill would have on companies which elect the Asset Depreciation Range (ADR) system. But, as the Treasury statement concedes, "a very small percentage of small business tax payers have chosen to elect the ADR system." Few electronics companies use ADRs today. The system is too complicated, and the extremely short, useful lives of much of the equipment used in our industry has often made case-by-case "facts and circumstance" determinations more attractive to our companies. Therefore, the revenue loss from this bill caused by the electronics industry would be only a fraction of Treasury's estimate.

At the same time, nearly the whole cost of the bill should be fundable, with no deficit at all, through revenues from the so-called "windfall profits" tax which have been reserved for just such a use.

We recognize the direct effect of this bill will not benefit our specific industry as much as it will help others. But, we also know that what is good for the economy as a whole is good for us—both as businessmen and as citizens. If this bill passes, we would expect companies in every industry to be better able to adopt the best and most productive technology in their production processes and products. Since some of the greatest strides in productivity often result from new uses of electronic technology, we believe H.R. 4646 would both widen the market for our products and help our suppliers hold down their costs.

As your well know, our industry is also working in this Congress to stimulate productivity and innovation through restoration of deferred tax treatment of employee stock options. We are also developing a proposal to create tax incentives for increased R&D. We greatly appreciate your leadership on the stock option bill, H.R. 5060, and look forward to working with you to stimulate R&D. We see these measures complementing your work on accelerated depreciation and are optimistic that all three badly needed reforms can be enacted.

Sincerely yours,

CHARLES H. FROST,
Chairman,
AEA Government Affairs Committee.●

H.R. 7262—HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1980—BUILDING ENERGY PERFORMANCE STANDARDS

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● **Mr. GOLDWATER.** Mr. Speaker, in anticipation of tomorrow's debate on H.R. 7262, the Housing and Community Development Act of 1980, I would like to refer my colleagues to the following documents pertaining to the controversial building energy performance standards (BEPS), section 315 of the bill. I believe that both the articles from the July 1980 issue of Building Design & Construction magazine and the executive summary of the Council on Wage and Price Stability's report on BEPS are very persuasive arguments in favor of the amendment which will be offered during consideration of the bill by our distinguished colleague from Ohio, BUD BROWN. I hope that my colleagues on both sides of the aisle can agree on necessity of a 2-year extension of the program coupled with area demonstration projects and support the Brown amendment when it comes before us this week.

[Editorial From Building Design & Construction, July 1980]

AN ENERGY PIG IN A PATRIOTIC POKE

First results of BD&C's poll on the federal government's proposed Building Energy Performance Standards (BEPS) offer little encouragement to the Department of Energy (DOE).

This magazine in May published a debate between a proponent and an opponent of BEPS. Readers were invited to choose sides by circling numbers on the reader service card.

As of June 4, with 129 votes counted, the opponents led by a margin of 4 to 1. But the biggest surprise was that our architect readers opposed BEPS by 2 to 1.

The debate over BEPS, therefore, does not pit architects against engineers, as it has been billed, but the total building industry against the regulators. I further suspect, although I cannot document it, that BEPS has little support among the public, among Congress, and—yes—among the technical staff members of DOE itself.

If a lot of people weren't worried about saving face over having spent millions of dollars without producing a usable regulation, BEPS might just collapse from the dead weight of all its complexities.

Actually, I see no need for face saving exercises. The research that has been done is enormously valuable. AIA and DOE deserve praise for expanding our body of energy knowledge. The fact that still more research needs to be done does not detract one iota from the merit of the work so far. It's just insufficient for the original purpose. In fact, the most important research needed now is whether a performance standard of any kind for new buildings is feasible and practical. All of us wish it could be, but wishing doesn't make it so.

The worst flaw of BEPS is that is has failed to produce a budget number that can be verified by checking actual energy use in a completed building. Can such a number be produced? I'm waiting to be shown.

In the meantime, I propose to the undecided: Read BEPS and the support documents. Decide for yourself if the rule is complete, understandable, cost effective and workable. Don't look silly, as the New York Times did on May 14 by saying in an editorial on BEPS that "the issue, in a word, is insulation." Or don't speak to quickly, as did the building team on Chicago's State of Illinois Center in declaring erroneously in a press release that the project meets BEPS. The team overlooked weighting factors. In short, don't buy an energy pig in a patriotic poke. We can and must do better.

OLIVER WITTE,
Editor.

[From Building Design & Construction, July 1980]

AIA FIGHTS THE AMENDMENT TO DELAY BEPS BY 2 YEARS

The battle over Building Energy Performance Standards (BEPS) intensified last month when the American Institute of Architects (AIA) publicly advertised in the Washington Post that any delay in adopting the standards would waste energy.

Aimed at federal legislators, the $15,500 advertisement called for defeat of a BEPS amendment tacked onto the Housing and Urban Development (HUD) Reauthorization bills, S. 2719 and H.R. 7262. That amendment would postpone issuance of the BEPS final rule by 2 years and their implementation by 3 years. Presently, HUD is responsible for overseeing implementation of the standards, although the Department of Energy (DOE) has drafted the document.

AIA has more invested in BEPS than most other professional organizations, and AIA/Research Corporations' (AIA/RC) credibility is on the line.

During the public comment stage, AIA opposed any equivalent approach to BEPS, and recommended phasing out all component based energy standards, such as standard 90 by the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE). AIA holds that phasing out standard 90 should be accomplished within 2 years of publication of the rule. Their ad maintained this opinion.

WOULD TECHNOLOGY FREEZE?

"Further delay will accelerate the adoption of narrow, prescriptive standards. By endorsing one method or material over another such standards thwart innovation and creativity. Moreover, they (component based standards) freeze technology at a time when nothing is more certain than technological change," AIA's advertisement read.

Most other professional organizations in the construction industry contend that more research is needed before the final BEPS rule can be published. It was through the lobbying efforts of both the National Association of Home Builders (NAHB) and the American Consulting Engineers Council (ACEC) that the proposed delay was included in the HUD bills. ACEC has joined forces with NAHB, ASHRAE, the National Conference of States on Building Codes and Standards, and the Building and Office Managers Associations, among others, to form the Construction Industry Coalition for Responsible Energy Regulation. The coalition's purpose is to urge legislators' support for delay in BEPS.

While ACEC has aligned itself with other construction industry organizations, AIA has formed a lobbying group of its own including the consumer Federation of America, the National Council of Senior Citizens and the U.S. Conference of Mayors.

A BEPS "GET WELL" PLAN

DOE favors at least some delay in publication of final rules, according to John Cable, director of DOE's building division.

Secretary of Energy Charles W. Duncan Jr. said last month that "some delay" would occur in the final draft appearance of the Building Energy Performance Standards (BEPS), but declined to predict when Congress would approve the legislation.

The secretary admitted to the delay during a press conference following his keynote address to the American Institute of Architects (AIA) national convention in Cincinnati June 1 to 4. The AIA has tirelessly supported the August 14 BEPS deadline, specified by the law that authorized the standards.

When pressed for details concerning the sanctions that the energy standards would carry with them, Secretary Duncan said that "on the more onerous end, it could mean cutting off federal funds to the project."

In May, DOE staff members were compiling a "get well" plan for BEPS, but the plan's success hinges on congressional approval of a 2 year delay, Cable said. The proposal includes changes to the standards and would set specific directions for BEPS implementation activities, which have not yet been issued.

A major component to DOE's plan is to test the standards in from 5 to 10 states. Much of the public comment on BEPS suggests that DOE continue to evaluate design energy budgets and weighting factors, and to monitor compliance, all of which could be done during the interim trial program.

If the "get well" plan has the opportunity to proceed, DOE staff has isolated areas where additional research is needed. For the commercial building sector, DOE would expand BEPS studies to include 1979 building energy consumption data, additional analysis of climatic factors and initial life cycle cost analysis for the prototype buildings used in recent BEPS work.

Determining the equivalency of component based energy standards with BEPS is another big issue DOE faces.

DEPARTMENT OF ENERGY'S PROPOSED ENERGY PERFORMANCE STANDARDS FOR NEW BUILDINGS (BEPS)

REPORT OF THE REGULATORY ANALYSIS REVIEW GROUP SUBMITTED BY THE COUNCIL ON WAGE AND PRICE STABILITY [1] APRIL 30, 1980

Executive summary

The Regulatory Analysis Review Group has completed its study of the Department of Energy's proposed new Building Energy Performance Standards (BEPS). This Report contains our conclusions and our recommendations for changes in the basic enabling statue and in the way DOE develops the programs.[1]

---

[1] The Council on Wage and Price Stability is an organization created by the Council on Wage and Price Stability Act (Public Law 93-387), within the Executive Office of the President. The authority of the Council to intervene in governmental rulemaking and ratemaking proceedings, conferred by section 3(a)(8) of the act, has been delegated to the Director of the Council (see 40 FR 52882).

Congress began consideration of energy performance standards for new buildings in 1975, out of concern that—several years after the oil embargo—builders in many cases still were not using proven conservation techniques. In deciding to authorize BEPS, Congress turned to a program already underway in the National Bureau of Standards to develop general performance standards (as opposed to standards that prescribe particular designs and thus limit flexibility) for new buildings. The enabling statute (Public Law 94-385 "ECPA") requires DOE to complete and to apply these standards to federal buildings and federal housing programs. Congress also left open the possibility that after final standards are issued, States and localities could be required to incorporate them into their own building codes and apply them to all new buildings.

Over the past five years, the energy situation has changed considerably, and the justification for a nationwide BEPS program has been weakened. There are two major reasons for this:

It appears that better energy conservation techniques are being applied in new construction. For example, when BEPS was first considered in 1975, only 2 percent of new homes were equipped with heavy ceiling insulation (at an R-value of 30 or more). By 1977, almost 30 percent were heavily insulated.

Other programs to encourage conservation are taking effect:

With some success, DOE has been encouraging States and localities to adopt the component performance standards of the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE).

Policies are being adopted to make energy prices reflect true cost; these policies include crude oil decontrol and peak pricing of electricity.

After careful consideration, we recommend that:

DOE and Congress reassess the desirability of BEPS and consider replacing it with other conservation programs, or, at the very least, postpone its effective date.

If Congress does not modify the BEPS legislation, DOE should refocus the program to address those areas where the building industry otherwise would fail to conserve as much as it should.

Our misgivings about the program are serious:

(1) It is impossible to determine with assurance whether the stringency of the standards is too great, too little, or just about right. Although DOE, HUD, and the Congress have been concerned for over 5 years with the use of energy conservation techniques, we still have so little information on current industry practice and on the benefits from additional conservation that we simply cannot determine the extent to which the proposed standards will help.

(2) It is not even clear what kind of market failure BEPS is designed to remedy. The proper government response to inefficient building design depends in large part on the reasons the industry is not conserving adequately. There are several possibilities:

Energy prices based on lower, rolled-in average cost, rather than on marginal cost, due to rate regulation.

Social costs borne by the nation as a whole, such as the vulnerability to an embargo of oil imports.

Myopic behavior, whereby builders and consumers take insufficient account of rising energy prices.

If the failure in the market is myopia caused by lack of information, mandatory performance standards are unlikely to help. In principle, such standards could address either mispricing of energy or myopia caused by financial or other institutional impediments. However, other approaches might be as useful in principle and less difficult to apply in practice.

(3) It may be impossible to determine the proper rates of trade-off among fuels in meeting standards. DOE's proposed "weighting factors" (determining the rate of tradeoff) erroneously are based on differentials in cost already accounted for by the market, as well as on other social costs. Setting correct weights would require framing the extent of myopia in the market.

(4) Variation in energy use among buildings is too great. Even though DOE has been very thorough and its proposal is highly complex, the proposed standards are still not particularized enough to take account of all the factors that should affect the appropriate level of conservation. In some cases, BEPS will be too lax, partly because the proposal relies on techniques and studies that are several years old and partly because the standards as a practical matter cannot be adjusted for all the circumstances that warrant additional conservation efforts. In some cases, the program will be unrealistically strict, imposing excessive costs on builders and consumers.

(5) The implementation effort has a long way to go. Little visible progress has been made in developing building codes that are equivalent to BEPS, which Congress expected to be the major mode of implementation. Yet, unless Congress acts to postpone BEPS, all federal buildings (6% of commercial construction) and federally funded housing programs (15% of all housing starts) will be legally required to comply with BEPS each year beginning in 1982, without proper means for either the government or builders to be sure that compliance is achieved. In addition, mechanisms for implementation are needed that allow easy updating of the standards as energy prices rise.

Our Report lists other problems as well.

There are a number of alternative programs to BEPS that may foster conservation in new construction more effectively and efficiently:

Programs to train or advise designers in the use of current and advanced conservation techniques.

Assistance to states and localities to modify building codes.

A labelling program under which every prospective buyer of a new building would be told its design energy use.

A pilot BEPS program only for federal buildings, or in volunteering states.

A program of minimum prescriptive standards, or more broadly applicable ASHRAE standards.

Even if Congress declines to amend the statute, DOE can improve the program without new legislation by:

Gathering and analyzing more information on energy efficient building design.

Researching the reasons for current inefficient designs.

Applying weights to different fuels to reflect appropriately the social cost of energy use.

Developing reference building designs to determine compliance.

Considering whether a noncompliance fee sanction could be used to increase program flexibility.

Considering reducing the stringency of BEPS and clearly characterizing them as "minimum acceptable" standards.

Revising the Standard Evaluation Technique to make it a more accurate indication of actual energy consumption.

Revising the influence of different energy budget categories to be more consistent with actual effect on building's energy use; further, explicitly stating why each budget category has been chosen.

Examining how to maintain indoor air quality economically.

Accelerating development of a complete implementation plan.

Developing better estimates of the costs and benefits of BEPS.●

KID'S DAY

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. WAXMAN. Mr. Speaker, through the efforts of the promotions and advertising department, the press department, and the community broadcast relations department of station KNXT, "Stars for Kids," a major benefit for the Children's Hospital, Hollygrove and the Children's Theatre will be held at the Los Angeles Forum on Friday, August 1, 1980.

The Children's Hospital of Los Angeles has a worldwide reputation as a leader in pediatric medicine, having offered comfort and hope to more than 1 million children since opening its doors in 1901.

Hollygrove, the Los Angeles Orphans' Home Society, marks its 100th birthday as a privately operated residential treatment center for troubled children, fulfilling physical and emotional needs for those children who require special help to begin a new and better life.

The Children's Theatre, Los Angeles, has reached more than 65,000 Los Angeles area children, offering multidimensional programs of both contemporary and traditional productions, thus providing a meaningful adjunct to the education of youngsters.

Mr. Van Gordon Sauter, vice president and general manager of station KNXT is to be commended for his outstanding efforts on behalf of these deserving institutions, and for the dedication and interest he has demonstrated toward their continued success. Mr. Sauter and station KNXT are making a major contribution to the betterment of children's lives and to the community at large. I ask the Members to join me in recognizing "Kid's Day" and in congratulating the Children's Hospital, Hollygrove and the Children's Theatre and all the children they serve so well.●

PUERTO RICAN DAY PARADE

HON. PETER W. RODINO JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. RODINO. Mr. Speaker, I am honored that once again the New

---

[1] An Addendum attached to this report contains remarks of the Department of Energy.

Jersey statewide Puerto Rican Day parade will be held in my home city of Newark on July 27. This year's parade promises to be one of the most ambitious because of the active participation of so many members of the Newark community.

Mr. Johnny Cossio is president of the executive committee of the 1980 Puerto Rican Statewide Parade. Walter Mercado, the television personality, will be the grand marshal. This year's queen, Everly Aponte, is an appropriate representative of Puerto Rico, the jardin de flores.

There are many men and women who have worked hard to make this parade a success, and while there are too many of them to name here, I want to note just a few of those who have been responsible for the central organization.

My friend Marie Gonzales, who is a member of the Newark Human Rights Commission, is again serving as liaison and coordinator for the parade and the Puerto Rican community. Pablo Rivera is the parade's general coordinator, and Casto Maldonado, Tony Perez, and Roberto Rivera are advisers to the executive committee. Ernesto Cabrera is assistant coordinator; Johnny Velez is first vice president; Jimmy Marrero is second vice president and Ramon Noguet is third vice president of the parade. The executive secretary is Bertha Mellowes; the recording secretary is Gloria Torres Texidor; the treasurer is Antonia Ortiz; the subtreasurer is Frank Melendez and the sergeant at arms is Cipriano Suarez.

Honorary members of the parade's executive committee include the Governor of Puerto Rico, Carlos Romero Barcelo; New Jersey Governor Brendan Byrne; Newark Mayor Kenneth Gibson and Dr. Jose Rosario, who is the founder and executive director of FOCUS, Inc., in Newark.

Mr. Speaker, this is the 18th year of the Puerto Rican Day parade in Newark. The tremendous effort by so many concerned persons combines to make the week of July 21 through July 27 one of the most festive of the year. During this week, all American citizens can rightly take pride in the constitution of the Commonwealth of Puerto Rico and the beautiful Puerto Rican traditions that enrich our country. In Newark and throughout New Jersey the Puerto Rican community is proud of the contributions of their heritage to American society.

Governor Byrne and Mayor Gibson have recognized the importance of this celebration and they will declare the day of July 27 as Puerto Rican Day in the city and the State. As this week continues there will be much celebration of the cultural contributions of Puerto Rican Americans. On Friday, July 25, the Newark Museum will host a cultural program featuring dances of Puerto Rico. On Saturday, Jose Rosario will host a banquet for the Puerto Rican community, and on Sunday Mayor Gibson will hold a breakfast prior to the parade. Miguel Rodriguez, who has been closely involved with the parade for many years, is working hard to coordinate the activities prior to the parade.

When the parade begins on Sunday afternoon, the efforts of all those people will come together to signify the ambition and creativity of the Puerto Rican people. I believe the parade will heighten our appreciation for Puerto Rican culture, and I look forward to more Puerto Rican Americans taking over positions of leadership in society. I know that the Puerto Ricans in my home community are working toward this goal. For example, they are vitally concerned with providing opportunities for young people. All of the proceeds of the parade will go toward a college scholarship fund for needy Puerto Rican students.

Mr. Speaker, America is fortunate to include the Puerto Rican heritage as part of our culture and I am especially proud to be a part of one of the most vibrant Puerto Rican communities on the U.S. mainland.●

GASOLINE RATIONING WILL STALL OUT IN AN EMERGENCY

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. AMBRO. Mr. Speaker, the gasoline rationing proposal submitted by the administration and the Federal Department of Energy is not only inequitable and expensive, it also will not work.

But these are not my views alone; these are the views of Alvin L. Alm, this very administration's former Assistant Secretary of Energy, 1977–79, and now the director of the study on environmental quality and industrial fuel decisions at the Energy and Environmental Policy Center at Harvard University, as the following excerpt from an article entitled "The Dependence Dilemma" and published in Newsday on July 13, 1980, will attest.

The article follows:

GASOLINE RATIONING WILL STALL OUT IN AN EMERGENCY

Let us assume that 6 million barrels per day of world oil production from the Persian Gulf is terminated. Because the transportation system has many protracted links, the first effects of that cutback are not felt by end-users for two to three months after production stops.

During this early period, when there is little knowledge about the duration of the interruption, the government would urge voluntary conservation efforts. As the supply interruption worsens and stocks are drawn down, the gasoline lines lengthen and tempers flare. State-imposed odd-even and minimum-purchase requirements temporarily reduce lines but by now the storage has reached the point that efforts to lessen panic buying have only temporary salutory effects. So the federal government rations gasoline.

At first blush, gasoline rationing does not sound that draconian except to the ardent free-market enthusiast. After all, it provides, or at least seems to provide, an equitable way to distribute supplies. It is thought to have worked during World War II. In any case, it would last only as long as the emergency continues. But before accepting rationing as a good idea, we need to see how it would work.

Let us assume that the plan used is the one proposed for public comment by the Department of Energy. The government mails out entitlement coupon books to owners of the 150 million registered vehicles (including automobiles, trucks, and buses) in the United States. Let us assume that 90 per cent of the entitlement books reach their destination—an optimistic assumption considering that one-third of the vehicle fleet turns over each year. That means that 10 per cent of the available gasoline would not be used until owners and rationing books connect through the bureaucratic process.

Once a motorist receives a rationing book, assuming some measure of luck, he or she can go to a bank or other designated place and redeem it for rationing coupons. The banks, which can barely keep up with regular accounts, would be expected to deal with this new onslaught of work by training thousands of new temporary employees. It is not hard to imagine gasoline lines being replaced by long lines at redemption centers. And it is far from certain where the armored cars and vaults will come from to handle this new currency.

The magnitude of the management challenge is only part of the problem. Billions of dollars of a new currency will provide enticing opportunities for counterfeiting. Exceptions and special allocations will require a new bureaucracy to deal with a myriad of special circumstances and the entreaties of special interest groups. Farmers, doctors, social workers, taxicab drivers, traveling salesmen and many other groups will plead special circumstances requiring either class or case-by-case decisions. Since the DOE proposal will allocate rationing coupons on the basis of registered vehicles, there will be a strong incentive for motorists to buy junk cars to increase their allocation of this new currency.

Finally, there is no guarantee that available gasoline supplies will catch up with demand. Since gasoline prices will be controlled, no incentives will exist to shift supplies as demand inevitably shifts, probably away from rural areas. At worst, motorists may have rationing tickets that cannot be used because of mismatches between supply and demand.

Nevertheless, if rationing is bound to fail in meeting a large supply interruption now, why do many recall its working during World War II? Part of the explanation is the same type of nostalgia that makes the 1950s seem like an interesting period today. In fact, rationing broke down before the end of the war as black markets cropped up and inequities became more apparent. Large disparities in gasoline developed in different parts of the country. By 1943, East Coast allocations would have allowed only 4,800 miles of driving, while in other states east of the Rockies, gasoline availability was sufficient to allow 5,250 to 6,550 miles of driving. Local rationing boards were required to make innumerable decisions on extra gasoline allocations. The examples of inequities and counterfeiting caused a school official in Springfield, Mass., to exclaim that "rationing is producing a nation of liars."

But other factors were even more important. During World War II, the entire transportation infrastructure was different, with relatively compact urban areas, heavy reliance on mass transit, and only 30 million motor vehicles on the roads. The great upsurge in suburban population and personal transportation is a post-World War II phenomenon. Gasoline rationing was phased in over a number of years during World War II, which allowed administrative problems to be worked out. Finally, because the war effort was widely supported and most families had relatives whose lives were at stake, or perceived to be at stake, there was a greater willingness to make sacrifices. Clearly, the World War II experience is not applicable today.

Even if gasoline rationing is an administrative monstrosity, are there any realistic alternatives? Is it possible to allow gasoline price increases to allocate supplies during a serious supply interruption, creating huge (although temporary) windfall profits for oil companies and retail outlets? Before answering these questions, it is useful to discuss how rationing actually provides equity.

The DOE gasoline-rationing plan calls for creation of a white-market system that would allow rationing coupons to be bought and sold. If a motorist had sufficient money and valued driving heavily, he or she could buy more tickets at a white-market center. Those who valued other goods or services more highly, or did not need all the coupons issued, could sell them at the center. (The white-market approach is particularly equitable for the poor, who could trade gasoline coupons for necessities). The value of tickets, along with the controlled price of gasoline, would represent the market value of gasoline. For example, if tickets were worth \$1.50 and the controlled price was \$1.50, the market value of gasoline would be \$3. Under rationing, consumers would in effect receive the windfalls for all tickets that were sold.

If gasoline prices were decontrolled, however, oil companies would receive windfalls from sale of gasoline at the market clearing price. Rationing would have the effect of preventing windfall profits to producers and creating a source of revenues for consumers. Hence, we face a dilemma. While rationing would have positive equity benefits, it would pose almost insuperable administrative problems.

There are, however, ways to achieve the same equity benefits and still use the superior qualities of the marketplace to allocate supplies. Suppose that instead of sending motorists rationing coupons worth a dollar, the government sent them cash, collected from a temporary windfall-profits tax imposed during an emergency. Instead of redeeming coupons, buying or selling them, and putting up with a host of other administrative complexities, motorists could make choices in the marketplace with money instead of coupons. The gasoline price under such a system would be much higher, but incomes would also be proportionately higher.

Such a system might work as follows:

Crude oil prices would be decontrolled during the course of a supply interruption, allowing prices to rise naturally to market levels, before, during and after the interruption. This would avoid the need for government management of the supply system.

An emergency windfall tax would be imposed on domestic oil producers, refiners, and distributors. The windfall profits tax would collect up to 90 percent of any final price increase not associated with average crude oil costs. The tax would be levied on increases over the base price for producers, and over the base markups for refiners, wholesalers, and retailers of gasoline. The size of the tax, therefore, would fluctuate according to the emergency market conditions, automatically disappearing if the price dropped to the base price. By recouping only 90 percent of the windfall, an adequate incentive would be provided for efficient allocation of the limited supplies.

The windfall tax would be rebated directly to the public. At worst, the proceeds of the tax could be rebated to the registered owners of automobiles, and be as fair as the proposed gasoline-rationing scheme. Or, rebates would be given to all households, a distribution mechanism that passed the House of Representatives to allocate revenue from President Carter's proposed crude-oil equalization tax. Since the poor spend less for energy than the affluent, a per-household rebate would be substantially more progressive than any system conferring economic benefits only on owners of vehicles.

Although administration problems would crop up with a tax-rebate scheme, there are important distinctions between these problems and those that would be faced by gasoline rationing. The latter would create a new administrative superstructure and bureaucracy, while the former would rely on the well-administered Internal Revenue Service. The latter would directly affect millions of Americans, while the former would be confined to the oil industry. The latter would require breaking new ground at every step, including creation of a duplicate currency, while the former would require adjustments to the tax system with definitions and data to be derived from the current oil price-control program.

Only a perpetual optimist can view the next decade without foreseeing one or more serious supply interruptions. It is time to give top priority to developing market alternatives to rationing.●

U.S. OIL COMPANIES

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. COLLINS of Texas. Mr. Speaker, the record of achievement of the U.S. oil companies is strong in performance. America has serious energy problems and most of them can be placed squarely in the lap of Government bureaucracy.

Germany and Japan have no domestic oil production, yet they have handled energy much better. These two countries relied on open market economics, whereas in the United States we have had an energy policy established by the political expediency of Congress. Then it was implemented by an overstaffed bureaucracy that turned confusion into chaos.

The answer for a strong energy program in the United States is to have complete oil and gas price deregulation.

Two reports have just been completed. At the request of President Carter, the Departments of Justice and Energy made independent reports. Read the full statements. But for an excellent summary, I refer you to the New York Times front page story written by Robert D. Hershey, Jr. Here is Hershey's story from the New York Times:

> Detailed studies released today by two Federal departments conclude that the nation's oil companies were blameless in the gasoline shortage that led to long lines and sporadic violence at service stations in the spring and summer of 1979.
>
> The studies, ordered by President Carter to investigate possible collusion or other illegalities on the part of the industry, found that the shortages were the result of loss of oil from Iran, normal factors such as declining domestic output and, to a significant extent, the Government's own pricing and allocation rules.
>
> One of the studies was conducted by the Justice Department, which considered a host of conspiracy theories and was unable to find credible evidence to support any of them.
>
> "In summary," the Justice Department study said, "the United States experienced a deficit in crude oil imports in the first nine months of 1979 because of a world crude shortage and that shortage was, in large part, the result of the Iranian production cutback."
>
> STOCKPILES, IMPORTS, MANAGEMENT
>
> The unanticipated shortfall in imports accounted for 62 percent of the shortage, the department estimated, with lower output at home accounting for 16 percent. The rest of the shortage was a result of lower yields from refineries, mainly because of increased demands for petrochemical feedstocks, aviation fuel and unleaded gasoline.
>
> Oil company management of crude and gasoline inventories played "no significant role," the report said.
>
> The other investigation was conducted by the Department of Energy, which came largely to the same conclusions.
>
> "The primary factors underlying this overall reduction in availability and supply to consumers were the levels of stockpiles at the beginning of 1979, the level of imports during the first half of the year and inventory management," the department said.
>
> The Justice Department study attributed the shortage, in part, to the Energy Department's frequently amended allocation rules. It said the rules caused "significant" uncertainty and for various reasons failed to match supplies accurately with demand. One reason for this, it said, was that the allocation mechanism, based on historic demand, could not take into account swiftly enough the changes in demand patterns. Another, it said, was that the shortage itself radically changed demand, reducing it, for example, in vacation areas while increasing it in cities.
>
> "D.O.E.'s allocation rules were incapable of responding to this change", the Justice Department said.
>
> The department also said that it seemed "highly possible" that price controls gave refiners, jobbers and retailers too little discretion to adjust prices and could have spread the crude shortfall to regulated products like gasoline.●

CRIMINAL CODE REFORM—THE WRONG BILL

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. DELLUMS. Mr. Speaker, our political system is founded upon principles which insure fundamental and constitutional rights to every citizen of this country. However, throughout the history of our country there have been attempts to diminish the full strength of our constitutional guarantees. Presently, many of my constituents have written to me about various disturbing aspects of Senate bill 1722. Their concerns focus on the infringement of political rights of the entire citizenry and the erosion of the human rights of people in prison.

More specifically, they are alarmed about the threat to our most sacred constitutional rights, freedom of speech and the right to assemble. I, too, am concerned about the Senate's attempt to recodify criminal laws because I know that such laws affect all other laws regarding fundamental and constitutional rights.

My constituents' concerns, as well as my own, pertain to specific provisions of the Senate's Criminal Reform Act which would undoubtedly erode our constitutional rights. Although S. 1722 is expected to pass in the Senate, this discussion is presented for the purpose of discouraging my colleagues from adopting similar regressive legislation in the House. Therefore, I would like to take this opportunity to insert into the CONGRESSIONAL RECORD statements regarding sections of S. 1722 which threaten the protections guaranteed to every citizen of this country by the Constitution.

The following commentary is taken from a letter sent to my office by members of my constituency, the East Bay Women For Peace:

> We have followed this legislation closely from its birth to the present and agree with the Southern California Chapter of the Americans for Democratic Action that it presents a serious threat to the Civil liberties of the American people.
>
> We are also aware that some of its (S. 1722) provisions could have a direct effect on our organization and possibly make us subject to criminal charges resulting in a jail sentence and/or $250,000 fine. The following are some of the provisions that concern us: Obstructing a Government Function by Physical Interference; Impairing Military Effectiveness; Obstructing Military Recruitment or Induction; and Engaging in a Riot, etc.
>
> If this bill had been in effect during the Vietnam War, our organization and its leaders could have been charged with violating some or all of the above, for we did engage in anti-draft activities, and in fact, we participated in anti-draft rallies at the induction center.
>
> We could have been accused of Impairing Military Effectiveness because we were, and continue to be, critical of the billions of dollars which our government squanders on nuclear weapons at the expense of the future of the world and at the expense of the needs of the citizens of our country.

In addition to the infringement of political rights, I would also like to draw your attention to the most inhumane and unwise feature of the Senate's criminal code legislation. Senate bill 1722 abolishes parole, despite testimony from experts who state that the abolishment of parole would be unwise. Unfortunately, the bill seems to emphasize that punishment ought to be the sole motive for imprisonment. However, it is my feeling that denying another human being his or her liberty, dignity, and freedom is sufficient punishment for an offender, without further denying that same human being the assistance which she or he needs upon returning to society.

I think that any attempt to recodify criminal laws without incorporating a program of rebuilding and uplifting incarcerated human beings is a disgrace to our so-called civilized and advanced society. Moreover, it would be unwise to incarcerate individuals without aiming to rehabilitate them, because they will eventually return to society. Therefore, a revised criminal code should be progressive rather than retrogressive. A new criminal code ought to understand and address the causes of antisocial behavior rather than to deal with the causes superficially by punishing the wrongdoer and nothing more. The policy of punishing offenders without trying to help them readjust to our society will breed hostility, resentment, fear, and other destructive elements which will eventually lead to more antisocial behavior.

Innovative criminal laws should include alternatives to incarceration. For example, in cases involving the damage or destruction of property there should be measures whereby the offender could work in order to compensate the person who suffered a loss. At the very least, new criminal legislation ought to increase the number and improve the effectiveness of rehabilitation programs. It would be in society's best interest to encourage the implementation of additional educational, vocational, and counseling programs in the prisons. The implementation of such programs would benefit our economy because able-bodied people would be trained to produce more goods and services for our country. Thus, the money spent on training programs would be more fruitful than spending tax dollars for larger and/or additional prison facilities throughout the country. Finally, in a time when future is particularly affected by the attitudes of other countries toward it, criminal law recodification in this country should reveal to the rest of the world that we are honestly trying to deal with the various factors that lead to criminal activity.

I would like to conclude by stating that legislative attempts to revise the criminal code have been ambitious, but they have not given enough consideration to the protection of civil liberties and human rights. It is both improper and impossible to consider in one bill the nearly 3,000 separately enacted pieces of legislation comprising the Federal criminal code. To do so will be to neglect the interests of all Americans who fall subject to these laws. Therefore, I believe that the reform of our criminal laws must be conducted in a manner consistent with the democratic principles of our country. If our criminal laws are reformed incrementally, adequate congressional attention would be given to each proposed reform. This approach would guarantee protection against the political compromises which are made to insure the passage of omnibus legislation. In the case of criminal code reform, such compromises serve to undermine our constitutional rights.

Consequently, for all the reasons which I have enumerated above, I urge my colleagues to defeat any regressive criminal legislation if it comes to the House floor.●

READY OR NOT?

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. McDONALD. Mr. Speaker, Charles Michael Alston, a recent graduate of the Virginia Military Institute, had a column on the current agitation against draft registration printed in the Richmond Times-Dispatch of June 29, 1980. He presented the issue with great clarity and in particular made the point that I strongly believe in that the United States needs a universal draft system if we are to survive in today's world. I would prefer universal military training. Mr. Alston will attend law school at Washington and Lee University this fall I am informed and I predict a great future for him as an attorney. He argues his case exceedingly well.

The column follows:

READY OR NOT?

(By Charles Michael Alston)

> Members of the VMI community can only reflect in disbelief at the uproar on college campuses across the nation in response to President Carter's proposed re-implementation of mandatory registration for the draft. The present cry of "Hell no, we won't go!" raised by many of our contemporaries at other schools is highly inconsistent with the "Nuke Iran now!" hysteria and the burning of effigies which besieged us at the end of the last semester. Josiah Bunting, in a recent feature article in Time, characterizes the United States as a nation of sports spectators which has now lost its will to participate actively in the world. Widespread opposition to registration for the draft coinciding with calls for bolstering the national defense seems to support Bunting's hypothesis of an emasculated America, willing to cheer from the sidelines but yet unwilling to make any actual commitment.
>
> One of the principal arguments advanced by those opposed to the idea of a draft rests on the premise that any draft violates the rights of the individual by requiring "involuntary servitude." Opponents to the draft fail to realize, however, that national defense constitutes a "public good," which, without the supervision of government, would simply never realize itself through the free market system. Just as the government has the right to tax, so it also has the right to require reasonable service from its citizenry. It is inconceivable that someone could experience the benefits of our free society without incurring a moral obligation to participate actively in its defense.
>
> Opponents of the draft then point to the all-volunteer armed services as an adequate and effective force which eliminates the need for a draft. The caliber of man who

presently enlists as a volunteer is considerably below expectations; often those who can do little else respond to recruitment drives.

The drug problem and recruiting scandals which have rocked the all-volunteer armed forces are serious indicators of the inadequacy of the present situation; sophisticated weapons systems require more than a tenth-grade or eleventh-grade education to operate.

The most serious drawback of the all-volunteer system becomes evident from a simple analysis of the statistics. If we are now not meeting requirement goals with the relatively large pool of young men born in 1961–63, what will happen in 1987 when the Defense Department tries to seal the all-volunteer concept to a much smaller pool of men born from 1968–1979 when the practice of "zero population growth" (ZPG) through many new methods of birth control first became widespread. The sooner we begin the draft, the better for national security.

Many of those who oppose the draft call themselves patriots and maintain that they would fight to defend America if she were attacked by an aggressor. The fallacy of this thinking is obvious; when one speculates about the next war, one always seems to think back to the last big one. In a conflict of the future we will not have six months to a year to mobilize a sleeping giant; readiness will be the bray. Not only will modern weapons systems bring a war much closer to home much faster, but we will need a much larger force than we have now. It is pure fantasy to start to draft in times of crisis the type of intelligent people from colleges which the armed forces need most; there simply will not be enough time to process such personnel through the bureaucracy, give them basic training, and then send them on to advanced school for weapons systems training.

What the country needs, then, is a universal draft system which would require all men and women, regardless of economic status or educational objectives, to serve eighteen consecutive months in an armed service some time between their eighteenth and twenty-eighth birthday. Conscientious objectors who could satisfy a board with the sincerity of their reservations would serve an alternate service in some social field. Such a system of a universal draft, in light of the inadequacies of the present all-volunteer forces, the complexity of modern weapons systems, and the immediate nature of modern war, is not a convenience; it is a necessity.●

CASTRO'S TROUBLES

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980.

● Mr. BINGHAM. Mr. Speaker, some of our most strident self-anointed anti-Communist crusaders have a habit of overestimating the capabilities of the Soviet Union. The same with Castro's Cuba. For example, those who have resolutely fought against U.S. aid for the current Nicaraguan regime argue relentlessly that the invincible Fidel Castro has already won the battle in Nicaragua and is winning in the Caribbean-Central America area as a whole.

A refreshingly different point of view is reflected in an article by Graham Hovey, which appeared in the New York Times before the July recess. The article, which makes clear that Castro's Cuba is not an antagonist to whom we have to concede any victories, follows:

Cuba Said To Make Its Neighbors Edgy

(By Graham Hovey)

Washington, June 21.—While Cuba's standing among other Western Hemisphere nations is not expected to suffer any lasting damage from the spectacle of 114,000 Cubans leaving their homeland for the United States, there are indications that elements of Havana's recent foreign policy have left a number of Caribbean and Latin American governments both disturbed and puzzled.

According to Carter Administration officials, these elements include the sinking of a Bahamian patrol boat by Cuban MIG fighter planes May 10, which they say has diminished President Fidel Castro's stature with the black nations of the Caribbean. Some Caribbean diplomats in Washington share that assessment.

The officials and diplomats are at a loss to explain Cuba's long delay in apologizing for the bombing and agreeing to pay compensation for the ship and to the families of four Bahamian sailors killed in the attack.

Nor can they understand clearly why Mr. Castro has offended friendly governments in Costa Rica and Guyana and picked quarrels with Peru and Venezuela that push those countries to the brink of a diplomatic rupture with Havana.

A LAPSE IN FERVOR

Some officials attribute a number of these developments to tensions in the Cuban society brought on by a deteriorating economy and the lapse in revolutionary fervor disclosed by Mr. Castro himself in a speech to Communist Party officials last Dec. 27.

The officials believed from the outset that Mr. Castro opened the gates for the flood of Cubans to Key West to relieve the country's unemployment problem and rid his society of antirevolutionary elements and other undesirables.

But they cannot understand why he deliberately expanded a dispute with Peru and Venezuela over the right to asylum for Cubans who had taken refuge in the Havana embassies of those countries and then extended the quarrel to Costa Rica when it offered to serve as a transfer point for Cuban refugees.

Administration officials and Caribbean diplomats say they doubt that the flight of Cubans will permanently damage Mr. Castro's international standing because a similar exodus would occur in many other countries if the United States would accept the refugees.

PEOPLE A LITTLE BIT SCARED

But one Caribbean ambassador said he agreed with Administration specialists that the attack in the Bahamas would make black Caribbean countries less eager for cooperation with Havana and even less willing than formerly to emulate the Castro Government.

Until that incident, he said, most people in the Caribbean had not worried very much about either subversion by Cuba or Mr. Castro's possession of sophisticated Soviet arms and the maintenance of large armed forces trained by Soviet advisers.

"Now, I think the people are, quite frankly, a little bit scared," the ambassador said. "The Bahamians have never had this kind of trouble with Cuba before."

American specialists were more blunt about what they perceived as the racial consequences of the Bahamian incident. "The fact is that they picked on a black country that is entirely indefensible," an official said. "This unquestionably is a blow to Cuba in the Caribbean."

"Until then, Castro had played the racial thing very cleverly," another specialist said. "Even his sending of thousands of Cuban troops to fight in Africa went over well with the black people of the Caribbean. In their eyes, he was helping a black government against the white South Africans in Angola, for example.

"But now, with the sinking of the Bahamian ship, Castro has abruptly become the bully, the giant beating up on the little Bahamas and humiliating a black government."

DELEGATIONS ARE SNUBBED

Mr. Castro had offended some Latin American and Caribbean governments last summer by what they regarded as his arbitrary and prejudicial managing of the conference in Havana of nations professing nonalignment.

Delegations unwilling to follow Cuba's political line, including the treatment of the Soviet Union as a supporter of the nonaligned countries, found themselves quartered in grubby hotels far from the conference center and assigned less desirable positions in the speaking order.

One delegate treated in this manner was Prime Minister Forbes Burnham of Guyana, which in 1972 became the first Caribbean nation to establish full relations with the Castro Government. Guyana subsequently abrogated a fishing agreement with Cuba, charging that the Castro Government had violated its commitments.

American specialists believe that these tactics, along with the necessity for Cuba to support the Soviet invasion of Afghanistan, helped defeat Mr. Castro's vigorous campaign for a seat on the United Nations Security Council in January.

The Carter Administration remains concerned about Cuba's capacity for exploiting the poverty and political instability of many Central American and Caribbean countries and about its own difficulties in persuading Congress to vote sufficient aid for that volatile region.

But Administration specialists say that Cuba long ago ceased to be a model for either political or economic development for all but a very few countries in the hemisphere.

An American specialist with long experience in the area noted that "not even the most radical of the Sandinist leaders in Nicaragua ever said they wanted to use Cuba as a model."●

DO NOT TAX SOCIAL SECURITY

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980.

● Mr. ROTH. Mr. Speaker, no single issue has caused as much concern and anger among senior citizens in the Eighth District as the proposal to tax social security benefits.

A Green Bay woman wrote to me:

> If you were a widow of 20 years who raised six children to maturity alone and who worked hard to save a little to take care of yourself when you could no longer work, how would you feel about being taxed again for social security payments which you have earned and which you are now receiving?

She continued—

> I am now 70 years young and have never asked for welfare and have always felt the older adult should not be coddled and given everything, but neither do I feel they should be penalized for what they have managed to save and certainly should not be double taxed for social security payments.

A couple in Land O'Lakes said:

> Retirees living in their own home on a fixed income can ill afford to pay additional taxes. It is a constant struggle to keep solvent in these days of inflation and taxes that keep getting higher and higher.

A Weyauwega nurse wrote:

> We who have sacrificed are still doing it, believe it or not. We are making it, but that is about all.

Perhaps the man and wife from Peshtigo said it best, "What more does the Government want from us—the middle class?"

At the present time, social security benefits are totally exempt from Federal income taxes. The Social Security Advisory Council, in its report issued on December 7, 1979, made a recommendation to change this tax treatment so as to include one-half of the amount of social security benefits in an individual's taxable income.

I certainly agree with the gentleman from Oconto Falls who said:

> There are millions of good Americans, hard-working, honest people who paid into this fund all their lives, who don't have enough money and need every cent of income they receive to maintain their standard of living.

This is an ill-conceived tax, and it must be defeated.●

RACIAL DISCRIMINATION IN PRIVATE SCHOOLS SHOULD NOT BE SUBSIDIZED BY THE FEDERAL GOVERNMENT

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. STOKES. Mr. Speaker, several weeks ago, the House considered, and passed, the Ashbrook amendment to the Fiscal Year 1980 Supplemental/Rescission Appropriations Act. This amendment prohibits the Internal Revenue Service (IRS) from using appropriated funds to implement any regulations that might result in the loss of tax exempt status to a private, religious, or church operated school. Representative Ashbrook has indicated that he will again propose this amendment when the House considers the Treasury, Postal Service, and General Government Appropriations Act, 1981.

Before the Ashbrook amendment is debated again by the House, several serious problems with this language should be considered. The Ashbrook language, by prohibiting "any rule, policy, procedure, guideline, regulation, standard or measure," prevents the IRS from developing the necessary tools to address those private or religious schools which have been adjudicated to be racially discriminatory and which are currently receiving tax exemptions. It should be noted that the Supreme Court has held that the IRS is required to deny charitable or educational status to discriminatory private schools. And, revenue procedures proposed by the IRS to accomplish this are a result of Federal court challenges to IRS enforcement of its constitutional and statutory obligations. Further, any legislative efforts to prevent the IRS from carrying out a recent court order in Mississippi concerning this issue raises serious constitutional questions. For example, the U.S. District Court for the District of Columbia has ordered the IRS to use court-specified standards in reviewing the tax exempt status of certain private schools in Mississippi.

A number of related issues have been raised which should be clarified.

First, many supporters of the Ashbrook language believe that the IRS currently has the power to revoke the tax-exempt status of private schools that are racially discriminatory. This is not the case. At the present time, IRS regulations permit schools to receive tax exemptions merely on the basis of adopting and certifying—but not implementing—a policy of nondiscrimination. Thus, the IRS must presume a private school to be nondiscriminatory simply because it says it is. Only those private schools that have refused even to make public statements of nondiscrimination have had their tax-exempt status revoked by the IRS.

Second, it has been said that by placing the burden of proving its nondiscriminatory policies on the individual school, the IRS will harass thousands of private schools when only a small number of such schools actually practice racial discrimination. This statement has no basis in fact. First, the burden of proving a nondiscriminatory policy would fall upon only certain "badge of doubt" schools. As specified in Green against Miller, only those schools meeting the following criteria would have to show that they do not practice racial discrimination:

Schools that have been adjudicated to be racially discriminatory, or

Schools that were established or expanded at or about the time the public school districts in which they are located or which they serve were desegregating.

The absence of any minority students does not, in and of itself, subject a private school to IRS scrutiny. To require that a school in this limited group of schools show by objective acts and declarations that it does not, in fact, discriminate in order to retain its tax-exempt status is no different from current IRS policy in which the individual taxpayer must demonstrate that he or she is entitled to a tax exemption or deduction. Moreover, as a practical matter, IRS resources and manpower are insufficient to conduct investigations of any private schools except those clearly discriminating against racial minorities.

Third, during debate on the Fiscal Year 1980 Supplemental/Rescission Act, Representative Ashbrook stated that the judge who issued the court order in Green against Miller issued an inconsistent decision as compared to an earlier decision in Wright against Miller—a national, class action lawsuit, currently on appeal, concerning tax exemptions for discriminatory private schools. Although the court in Wright against Miller stated its desire not to directly contravene the will of the Congress with respect to the Ashbrook amendment, the court dismissed the case on jurisdictional grounds and did not consider its merits. On the other hand, the merits of the Green case were considered. As a result, the court issued specific orders for the IRS to follow in Mississippi in reviewing the tax exempt status of certain private schools.

Fourth, many private schools have stated that it would be too costly and administratively burdensome to comply with the court-specified instructions that "badge of doubt" schools must show evidence that they do not discriminate. In Green, the court stated that such evidence of nondiscriminatory practices might include: Recruitment programs to attract minority students or teachers; meaningful public advertising stressing open admissions policies; or proof of meaningful communication between a school and minority groups concerning a school's nondiscrimination policies. Many of these activities are or can be incorporated into a school's normal course of operation. If a school must recruit teachers, how much more costly is it to recruit minority as well as nonminority teachers? How costly is it for a school to hold an open house for minorities as well as nonminorities in the community to learn about the school?

The arguments advanced by those in favor of the Ashbrook amendment are in large measure a smokescreen to cover up the real issue of Government subsidization of racial discrimination in private schools. Implementation of the standards specified by the U.S. District Court for the District of Columbia by the IRS will not prevent private schools from practicing racial discrimination if they so desire or otherwise interfere with private education. Rather, by applying fair and reasonable national criteria for determining whether private schools discriminate on the basis of race. The IRS will be fulfilling its obligation to insure that schools that do practice racial discrimination no longer benefit from the substantial Federal subsidy that tax exemption confers. The Congress has the obligation to permit the IRS to carry out the procedures designed to accomplish this.●

SCHOOL PRAYER

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. RHODES. Mr. Speaker, I have today signed the discharge petition which is aimed at bringing S. 450 to the House for a vote, since it has been languishing in subcommittee without action for more than 1 year.

One of the key features of the bill is that it would remove jurisdiction over school prayer matters from the Court. This is constitutionally acceptable under the powers granted to Congress to establish exceptions for Supreme Court jurisdiction.

It is my opinion that the Supreme Court in the past has gone too far in its eradication of voluntary prayer in the schools. It has stretched beyond reason the separation of church and state provided in our Constitution and I believe that a vast majority of the American people favor provision for voluntary prayer. This bill would allow the States to pass laws permitting voluntary prayer without review by the Court.

Since there is great public interest in resolving this matter, which the courts have not really clarified, I feel that this legislation should not be killed by deliberate neglect, but should come before the House. It is good legislation that would establish a firm and correct Federal policy on the school prayer issue.●

ADMINISTRATION STILL ENGAGES IN WISHFUL THINKING ABOUT NICARAGUA

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. BAUMAN. Mr. Speaker, our Ambassador to Nicaragua, Lawrence Pezzulo, recently got caught in an attempt to apply revolutionary rhetoric to capitalist ideology. He tried out a bit of "leftspeak" on a group of Nicaraguan businessmen, telling them that just as the Sandinista Front was the self-proclaimed "vanguard of the revolution," so could the business community be the "vanguard of national reconstruction."

But the Sandinistas caught him at his game, and promptly reminded the Ambassador that revolution and reconstruction are inseparable, and that the Sandinistas are not about to yield the field to anyone else. It is, they said, the Sandinistas who will "reconstruct" Nicaragua.

Ambassador Pezzulo's naivete would be laughable were it not also representative of the administration's pathetic understanding of what is going on in Central America today. We are not dealing with temporary, nationalist, political opposition groups who coalesce simply to overthrow a government and then disband, but rather full-fledged, Marxist, Cuban-supplied liberation organizations whose goal upon taking power is to remake society in the Communist image. The Sandinistas, like the guerrillas now terrorizing El Salvador, Honduras, and Guatemala, are intent on nothing less than total control of the Central American people and a destruction of democracy and capitalism.

I include here a copy of the Sandinista response to Ambassador Pezzulo's remarks, as printed in the official Sandinista newspaper, Barricada.

BARRICADA TAKES ISSUE WITH U.S. AMBASSADOR'S REMARKS

(Managua Radio Sandino, July 3, 1980)

[Text] Barricada says the remarks by U.S. Ambassador Lawrence Pezzullo to a group of businessmen reflect his confusion about the revolutionary process in our country. Pezzullo said at a luncheon given by the American Chamber of Commerce that Nicaraguan private enterprise can be the vanguard of national reconstruction, just as the Sandinist National Liberation Front [FSLN] is the vanguard of the revolution.

Revolution and national reconstruction, Barricada says, cannot be two different things. National reconstruction is the concrete expression of the revolution, whose vanguard is the FSLN, serving as basic guarantor of stability and development of the process. The official organ of the FSLN adds that the FSLN's role as vanguard is not restricted to military aspects, nor did it end at the moment of taking power. The paper says private enterprise has an important role to play in the reactivation of Nicaragua's economy, but it adds that the rules of the game are clearly established, and (?acting as) the vanguard in reconstruction is already a historical fact.●

BILLION DOLLAR NIGHTMARE AT HUD

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980.

● Mr. McDONALD. Mr. Speaker, ii there breathes a Member of this body who has not had all sorts of difficulties with section 8 HUD grants in the congressional district he or she represents, I would be very surprised. In the Seventh Congressional District of Georgia they have created discontent from all sides. The Reader's Digest, in its June 1980 issue, has put together an excellent discription of this expensive bureaucratic nightmare. In my view the article shows once again that the Government cannot replace private efforts and that in attempting to do so, it merely sets up clumsy redistribution programs that do not work. The article follows for the edification of my colleagues:

BILLION DOLLAR NIGHTMARE AT HUD

(By Donald Robinson)

Consider the rent-subsidy program known as section 8—and weep. In six short years it has enabled developers and their clients to tap the federal till for an astonishing 130 billion dollars.

When Congress enacted the Housing and Community Development Act of 1974, the lawmakers generally ignored an obscure rent-subsidy program authorized under Section 8. And why not? Section 8's appropriation that first year was, by Washington standards, minuscule: Just $42 million.

Six years later, though, Section 8 is raging out of control. The $3 billion reserved for Section 8 in President Carter's latest budget is only the tip of the iceberg. If the President has his way, the Department of Housing and Urban Development (HUD) will sign contracts in fiscal 1981 obligating taxpayers to shell out $20 billion in rent subsidies in coming years. And that's just this year's commitment. From 1974 to 1979, HUD committed itself to Section 8 subsidies totaling $310 billion!

The beneficiaries of this government largess are legion, although all too few of them are the truly poor who desperately need it. In Los Angeles, welfare families are authorized to live in two-bedroom apartments for as little as $126 a month; HUD picks up the rest of the $503-a-month rent. In San Francisco, welfare recipients live in $472-a-month apartments, courtesy of HUD.

Developers who are awarded contracts to put up new Section 8 apartment complexes do even better. Once the contract is in hand, the idea is to sell interests in the project to wealthy private investors. In so doing, the developer reaps a large and immediate gain, while his new partners—most in the 60-to-70-percent tax bracket—save money they would otherwise lose in taxes. And both can expect to earn large profits over the long term.

Deeply concerned over Section 8's potential for profit finagling is U.S. Senator William L. Armstrong (R., Colo.), a member of the Senate Banking, Housing and Urban Affairs Committee. "Section 8 is a potential bonanza for grasping politicians, influence peddlers and other rip-off artists," he says. "Before it is through, this one provision of one act may cost taxpayers upward of $600 billion. It is sheer madness."

Tapping the Till. None of this was planned, of course, when Congress approved Section 8 six years ago. The goals of the program—to encourage developers to construct modestly priced rental housing, and to assist the poor in paying their rents—were worthy then, and are even more so today in view of our national housing crisis. But can these goals be realistically achieved under the present provisions of the law?

A developer who wishes to participate in the Section 8 program submits his construction plans for a new or rehabilitated apartment house to HUD's local representative. The agency then determines the "fair-market rent" the developer can charge for each apartment. In practice, this simple phrase becomes a nightmare for the taxpayer—for the more luxurious the apartment, the higher HUD will set the rent. Furthermore, HUD will guarantee to pay almost all of the rent for the next 20 to 40 years for any apartment that's occupied by people HUD deems to be poor enough. Qualified families pay only 15 to 25 percent of their gross income for rent and utilities. HUD antes up the rest.

The most amazing thing about the program is the official definition of a low-income family. By Congresssional fiat, any family qualifies that earns less than 80 percent of the median income in its area. Thus, in Washington, D.C., a family of four with an income of $16,083 a year is considered poor by HUD and is entitled to a huge rent subsidy from the taxpayer. A family of four in New York City with an income of $17,269 a year can tap Uncle Sam's till for over $6000 a year in Section 8 subsidies. In Chicago, a four-member family can make as much as $15,934 a year, and still get Section 8 assistance.

"It doesn't make sense," says Senator Armstrong. "You take from a working guy the money he has earned with his hands and you use it to pay for somebody else's housing—housing often far superior to that of the man who is paying the bill."

Big Spenders. The need for housing help to the poor—the genuinely poor—is real. Rent controls, declining construction by private industry, conversions of existing apartments to condominiums, building abandonments—all have combined in recent years to create a severe housing shortage for the 26 million American families who rent apartments or homes. Indeed, the national rental-vacancy rate is five percent, one of the lowest recorded since the Census Bureau started collecting such data in 1956. But is Section 8 any way to solve the problem?

A months-long investigation by The Reader's Digest did disclose some Section 8 projects—in Newark, Jersey City, Chicago and other places—where low-income, elderly and handicapped people are housed comfortably and economically. But these are overshadowed by evidence of extravagance and waste.

A classic example of this is New York City's luxurious Taino Towers. Located in East Harlem, Taino's 35-story, concrete-and-glass towers contain 656 air-conditioned apartments, ranging from studios to duplexes and featuring double-size windows and screened-in balconies. There are also greenhouses, an Olympic-size swimming pool, an auditorium and a gymnasium. Apartments in this classy complex do not come cheap. A two-bedroom unit, for example, rents for $598. But none of the tenants will pay the fair-market price. In fact, each apartment in Taino Towers will be subsidized by the government to the tune of $9,608 a year (Section 8 covers $5,869 of this; the rest comes under an older HUD program). The total cost to the taxpayer for this one apartment complex: $6,302,848 each year.

This incredible generosity is compounded by administrative practices that are shockingly lax. Investigators for Congress's watchdog, the General Accounting Office (GAO), discovered, for instance, that only one of 17 HUD field offices checked had a system to prevent duplication of subsidy payments. Thus the agency was often paying developers and tenants far more than the law required. Worse, formulas for verifying tenant income are so complicated that GAO studies have found them to be "incomprehensible." Last year, concerned over this problem, Congress unanimously approved an amendment requiring HUD to tighten control over verification procedures. Buried deep within the Housing and Community Development Amendments of 1979—and adopted despite heavy pressure from developer groups—this major corrective measure is today largely ignored by the HUD hierarchy.

Not surprisingly, HUD administrators often have no idea how much they spend—or on what. Asked how many Section 8 projects were located in his jurisdiction—a statistic that should have been on the tip of his tongue—a top HUD official in the Washington field office confessed that he had no idea. In New York, another administrator could not even guess how much his office had dispensed in Section 8 subsidies. It took him nearly a month to determine the answer: $133 million.

Guaranteed Profit. With so much easy money at stake, it is small wonder that Section 8 has attracted fast-buck artists. Here's how they cash in:

Any developer who gets HUD's okay on a Section 8 project can quickly obtain a mortgage from a bank for 90 percent of the project's cost, since HUD guarantees repayment. What's more, he generally pays only half the prevailing interest rate, with HUD paying the other half. And since HUD guarantees him a profit of ten percent of the cost of the project, he can even borrow most of the money for the down payment on the mortgage.

Given these conditions, it comes as no surprise that charges ranging from political favoritism in Rhode Island to outright corruption in New jersey have plagued HUD operations. A team of reporters from the Providence, R.I., Journal-Bulletin accused officials in Gov. J. Joseph Garrahy's office of handing out projects to those whose political "support" was generous. The Bulletin's allegations—denied by officials—have nonetheless prompted a full-scale investigation of Section 8 housing in Rhode Island. And in New Jersey, a string of convictions and federal-state indictments have been handed down following a three-year housing-fraud scandal. According to the most recent indictments, building contractors James M. Canino and Alvin Raphael allegedly diverted $1.5 million from HUD's Parkview Towers project and used it to improve their own properties with such pluses as swimming pools, cabanas, tennis courts, etc.

Needed: Drastic Reform. Year after year, the cost of Section 8 escalates. What can be done to stem its waste and extravagance? Senator Armstrong has proposed a seven-point program:

1. HUD should restructure Section 8 to ensure more competitive bidding and to encourage reduction of costs by sharing savings with developers.

2. HUD must eliminate the mountains of red tape that are driving up Section 8's costs.

3. HUD must pay more attention to preserving existing rental housing. Let's stop the epidemic of abandonment.

4. The federal government should subsidize interest rates only for those who agree to charge moderate rentals and to maintain their buildings according to clearly defined "decent living" standards.

5. Rental subsidies should go solely to people who need them: families who earn no more than 50 percent of the national median income. (That income was $20,428 in 1978; so the cut-off point for that year should have been $10,214.)

6. HUD must develop an effective system for verifying tenant income.

7. The Justice Department and HUD must promptly take steps to clean out corruption from Section 8 before it infects the entire program.

"Section 8 is a perfect example of a government program that was adopted with little thought and administered with little care," sums up Senator Armstrong. "Drastic reforms are necessary if the interests of the long-suffering taxpayer are to be protected."●

OPPOSITION TO "SAGEBRUSH REBELLION" LEGISLATION

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980.

● Mr. BROWN of California. Mr. Speaker, I am sure many Members have heard compelling arguments why the so-called Sagebrush Rebellion legislation being talked about is a reasonable idea. While there can be no doubt that specific examples of callous or inefficient Federal management of public lands can be cited, there is also no doubt that similar examples can be cited at the State and local government level. The enactment in 1976 of a new Bureau of Land Management Organic Act was the manifestation of legitimate concern about Federal management of a public land trust. When we passed this legislation 4 years ago, we knew some past practices would have to change to meet the needs of sound land use management for the future. The so-called Sagebrush Rebellion is a reaction against these new legislative requirements.

Many in the West, of course, oppose the Sagebrush Rebellion legislation and not only because they believe in the concept of national stewardship over national resources. Perhaps the most serious criticism I have seen of the proposed legislation was sent to me by Orange County Planning Commissioner Fred Light, who is chairman of the Subcommittee on the Sagebrush Rebellion of the California County Planning Commissioners Association. Since this matter is of interest and importance to the entire Nation, I insert the resolution and fact sheet of this group in the CONGRESSIONAL RECORD at this time. The material follows:

CALIFORNIA COUNTY
PLANNING COMMISSIONERS ASSOCIATION,
July 15, 1980.

Hon. GEORGE E. BROWN, Jr.,
House Office Building,
Washington, D.C.

DEAR REPRESENTATIVE BROWN: Enclosed is a resolution and background statement adopted overwhelmingly at the mid-year meeting of the California County Planning Commissioners Association held on May 17, 1980, in San Francisco.

The resolution speaks to the problem, and we would hope you do everything possible to contribute to our concerns and aims.

If you have any questions or need other materials, please contact me.

Sincerely,

FRED LIGHT,
Orange County Planning Commissioner, Chairman, Subcommittee on Sagebrush Rebellion.

Enclosure.

"SAGEBRUSH REBELLION" RESOLUTION AS AMENDED IN COMMITTEE ON FEBRUARY 9, 1980

Whereas, the federal lands of California are public lands belonging to all Americans, and

Whereas, these lands are being conscientiously managed by federal agencies that are properly funded to carry out their responsibilities, and

Whereas, California Counties have been working successfully to resolve conflicts over land use policy with federal agencies through memoranda of understanding and other cooperative arrangements, and

Whereas, the transfer of these lands would work to the disadvantage of local jurisdictions in California, including a significant loss of revenues in many counties,

Therefore, the California County Planning Commissioner's Association, duly gathered at its annual spring meeting in San Francisco, on May 17, 1980, does hereby request the California congressional delegation to oppose efforts to turn these public lands over to management by the individual states, and to strengthen cooperative arrangements for reducing potential conflicts between federal and state and local land use policies.

BACKGROUND STATEMENT ON FEDERAL LANDS

(In Support of Draft CCPCA Resolution)

During the 19th and early 20th centuries, much of the original 2 billion acres of federal lands were disposed of via statehood grants, railroad grants, mining claims, homesteads, etc. As the frontier closed, about 312 million acres of national parks and forests, Indian reservations, military bases, and wildlife refugees were created. The remaining 453 million acres (⅔ in Alaska), known as the "public lands," are under the Bureau of Land Management (BLM).

In California, these public lands hold significant watershed, grazing, mineral, forest, and wildlife resources, providing local counties with many millions of dollars of subvention and in-lieu payments annually.

In 1976, Congress enacted the Federal Land Policy Management Act ("BLM Organic Act"), which authorized BLM to manage and protect its lands similarly to the U.S. Forest Service and National Park Service. Congress thereby strengthened its policy of retaining federal lands for multiple use and sustained yield management, while protecting the environment. This concept was to provide the nation with an optimum mix of grazing, oil, minerals, recreation, and timber benefits, while protecting both natural and historical resources, and soil quality.

The Organic Act mandated BLM to prepare and implement management plans for these lands, to include coordination with local governments and private interests. In the process, issues have been raised regarding federal land management practices, resulting in efforts on the part of primarily cattle and mining interests to transfer BLM lands (and possibly other federal lands) to state ownership and control. This effort, referred to as the "Sagebrush Rebellion", is based on the claim that states would manage these lands more effectively, and in a manner more responsive to these special interests.

There appear to be several significant issues which must be taken into account in weighing this proposal:

1. Local finance: Transfer of these lands to the State of California would eliminate about $75 million of grants and payments in lieu of taxes upon which many California counties are highly dependent, and thus would create substantial fiscal burdens locally.

2. State capability: Presently, California has no state agency which could effectively take on this land management responsibility, nor are there adequate funds available to support such functions under current and projected state fiscal conditions.

3. Variable policies: Even if such funds existed in California, there is no evidence to guarantee responsible and efficient management of these lands in the public interest by other states. Disposal of these lands via sales to private parties is likely.

4. Local expenses: At a minimum, all California counties would be required to revise and amend their general plans and zoning ordinances to reflect land ownership changes.

5. Environmental damage: Without adequate state staffing, substantial waste of, or harm to, public resources, historical artifacts, and environmental values could result.

In summary, the federal lands belong to the American public as a whole, and provide both direct and indirect benefits for everyone. They represent a national economic and environmental resource. To turn them over to the states would put a severe fiscal burden on many counties, create new state bureaucracies (or, in their absence, leave these lands without adequate management), engender a patchwork of variable management practices throughout the west, and endanger the environment and the wealth of resources that it embraces.

Prepared by the ad hoc CCPCA "Sagebrush Rebellion" committee, February 9, 1980.●

ANOTHER GENERAL FOR SALT

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980.

● Mr. BINGHAM. Mr. Speaker, "I find it a strange way to punish the Soviets for invading Afghanistan by allowing them to field an unlimited number of nuclear warheads against our Nation," so says Lt. Gen. George M. Seignious (retired), former Director of ACDA.

Ratification of SALT II may be on the shelf in the Senate for practical political reasons, but the case for ratification is as strong as ever and should not be forgotten just because we are in an election year.

I insert herewith a report in the Washington Post from June 24 of an interview with General Seignious:

SEIGNIOUS SEES SALT PACT AIDING CONVENTIONAL ARMS

(By Michael Getler)

A retired Army three-star general says the United States should move ahead with ratification of the stalled strategic arms control treaty with Moscow because the threat from the Soviets is not so much from nuclear missiles but from conventional battlefield forces.

Without a nuclear arms treaty, says George M. Seignious II, there will have to be an expensive buildup of American long-range strategic nuclear forces "and that will mean less attention and less resources to meet the Soviets where I think they pose the greatest and most immediate threat."

"Nuclear-tipped missiles sitting in silos in Montana are not the right weapon to stop Soviet tanks moving toward the Persian Gulf," the former director of the U.S. Arms Control and Disarmament Agency said in a speech yesterday before the Rotary Club of Atlanta.

Seignious, now a member of the president's advisory committee on arms control and disarmament, said this need to focus on the Soviet conventional arms threat was "one reason why I am in favor of the SALT II treaty. It offers us a chance to put a lid on the nuclear arms race and concentrate on countering Soviet conventional forces."

Though SALT II has been stalled in Congress for months, primarily because of the Soviet invasion of Afghanistan, most argument about whether it was in national security interests has focused on the nuclear balance between the two superpowers. Relatively little attention has been given to conventional forces which are more apt to be used.

In making a case for SALT as being in U.S. interests no matter how sour the political relations with Moscow, Seignious said that without the ceilings on nuclear weapons imposed by SALT, the Soviets could "double, triple and possibly even quadruple" the atomic warheads they could throw at the United States by the end of this decade. "These are cold, hard figures, not scare stories," he said.

"I find it a strange way to punish the Soviets for invading Afghanistan by allowing them to field an unlimited number of nuclear warheads against our nation," he added.

The retired general warned against endangering the public consensus toward strengthening defense that has formed since Afghanistan by "throwing money" indiscriminately at a U.S. arms buildup.

In a possible reference to Congress and the White House as well, Seignious said we need "sensible defense spending combined with every possible ounce of political imagination to control the threat these military measures are designed to confront."●

H.R. 7384—THE CIVIL RIGHTS IMPROVEMENTS ACT

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. MITCHELL of Maryland. Mr. Speaker, on May 19, 1980, I introduced the Civil Rights Improvements Act, H.R. 7384, to insure that all Americans will have access to the Federal court system to raise claims that their federally guaranteed rights have been violated. Representatives CHISHOLM, DIGGS, STOKES, RANGEL, CLAY, EVANS of the Virgin Islands, LELAND, COLLINS, and GRAY joined in my effort on that day. The measure has since been referred to the House Judiciary Committee's Administrative Law and Government Relations Subcommittee.

The Civil Rights Improvements Act has been carefully designed to protect the rights of citizens against acts of abuse by municipal employees at all levels of government. Of equal importance is the fact that H.R. 7384 contains provisions to insure that the courts have authority to order the necessary, meaningful relief to redress citizen grievances. By removing many of the current procedural and technical barriers to achieving these ends, this bill will put new and vital meaning into the concept of equal justice under the law for all citizens.

I am certain that my colleagues here in the House share my concern about those instances in which governmental entities have not been fully or, in many cases, even partially accountable to persons whose civil rights are violated as a result of municipal actions. On the State and local level, the impact of the Civil Rights Improvements Act can be very significant if we are to penetrate the shield which excuses police brutality, inequities in welfare cases, and other acts of abuse by municipal employees against citizens. I believe we are all too familiar with particular cases in which the citizens have been at the mercy of such employees due to the lack of specific guidelines for circumstances under which municipalities at all levels will be liable for damages or other monetary relief under section 1983 of the Civil Rights Act of 1871.

A similar measure, S. 1983, has been introduced by Senator CHARLES MATHIAS, Representative of Maryland. However, the Mitchell version of the Civil Rights Improvements Act contains the following three provisions which are not included in S. 1983: One, the citizen's right to enjoy his/her reputation; two, prosecutorial immunity; and three, the application of the Civil Rights Improvements Act's provisions to other pertinent statutes, regulations, rules, orders, and directives.

The following points outline the objectives of the Civil Rights Improvements Act:

H.R. 7384—OBJECTIVES OF THE CIVIL RIGHTS IMPROVEMENTS ACT

1. To strengthen the Civil Rights Act of 1871, 42 U.S.C. Section 1983.

2. To ensure that all Americans will have access to the federal court system to raise claims that their federally guaranteed rights have been violated.

3. To ensure that the courts will have the authority to order the relief necessary to meaningfully redress grievances.

4. The extent of a municipality's liability has been left unclear by the Supreme Court's 1978 decision in *Monell* v. *Department of Social Services*, and this has presented many problems in Section 1983 cases. The Civil Rights Improvements Act defines "person" as used in Section 1983, to include States, counties, municipalities, and other forms of local government.

5. Provides for Section 1983 actions against States which are presently immune from damages when they violate an individual's civil rights. The Supreme Court's decision in *Fitzpatrick* v. *Bitzer*, 429 U.S. 445, clearly establishes that Congress has the authority to act under section 5 of the 14th amendment to hold States accountable in these cases.

6. Establishes guidelines for the circumstances under which governmental entities, including States and municipalities, will be liable for damages or other monetary relief under Section 1983. This will benefit governmental entities by giving them clear notice of the extent of their potential liability.

7. Establishes a limited and carefully drawn definition of liability which is confined to situations where the governmental entity itself or employees in positions of authority where actually involved in malfeasance or where a victim would have no other recourse. The categories of liability include: (a) where the illegal conduct has been authorized by statute or other official policy; (b) where a supervisor encouraged or directed the illegal conduct; (c) where there is a history of misconduct by the governmental employee but no supervisory action has been taken to either stop the conduct or prevent its recurrence; or, (d) where there has been conduct violative of the Act but the person seeking relief cannot reasonably identify the perpetrator, such as when a police officer acts illegally but conceals his/her badge or other identification.

8. Defines the extent of injuntive relief which is available in cases of civil rights violations. By permitting injunctive relief against the entity when an officer, employee or agent of that entity engages in prohibited conduct, the Act ensures that in fashioning a remedy the court will have the authority to get to the heart of the problem. (This expands the very narrow doctrine of *Rizzo* v. *Goode*, 432 U.S. 362 1976) which has severely limited the scope of available injunctive relief.

9. To guarantee that victims of injustice will have meaningful redress by providing that governmental entities will not have the ability to hide behind immunities when it would otherwise be liable as provided in the bill.

10. Gives clear direction to the federal courts that it is their role to hear Section 1933 claims regardless of whether non-criminal state proceedings are or have been pending or could be invoked. (Bill specifically precludes the introduction of a requirement that a litigant exhaust available administrative or judicial remedies before bringing a Section 1983 claim in federal court.)

11. Alleviates the problems of long, undue court proceedings and referrals to State courts by Federal courts by providing that a Federal court may only refer a question to the State courts where: (a) the State has established a procedure whereby questions may be certified to its highest court; (b) the question of State law may be controlling and cannot be satisfactorily determined from existing authority; and, (c) the court finds that certification would cause neither undue delay nor hardship.

12. Lays out the circumstances under which a Federal Court can intervene in a State criminal proceeding which threatens the claimant's civil rights.

13. Creates a limited liability for prosecutors in cases where they knowingly or wantonly suppress exculpatory evidence.

14. Creates a cause of action under Section 1983 for injury to a person's reputation.

15. Sets forth the limited instances in which the doctrine of res judicata (which prevents court action on an issue if the court decides that the particular issue has already been decided in a prior precedent-setting case, or decision) is applicable in Section 1983 cases.

16. Establishes a nationwide statute of limitations for Section 1983 lawsuits.

17. Defines the word "laws" as it appears in Section 1983 to make it absolutely clear that this section applies to all statutes, regulations, rules, orders and directives currently in force or hereinafter enacted or issued by any branch of the Government of the United States.●

RETENTION AND RECRUITMENT OF RESERVE FORCES AND NATIONAL GUARD

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. DASCHLE. Mr. Speaker, I am introducing legislation which would have a positive impact on the retention and recruitment of individuals into the Reserve Forces and National Guard.

This bill would specifically do two things. One would be to change the present inequity regarding the treatment of disability payments and Reserve retired pay. Second, it would be an inducement for active duty personnel who have service-related disabilities to continue on in a limited capacity with the Reserves or National Guard.

Presently, any Reserve retiree with a service-related disability has his Reserve pension reduced by the amount he receives for his disability, or vice versa, depending on which is larger. Thus, there is little financial incentive to continue service to the country in the Reserves or Guard because a veteran receiving compensation payments realizes that his Reserve pension would be negated by current law. Such a policy thwarts attempts to strengthen the Reserves, especially in obtaining already trained and experienced personnel.

My legislation would remove this impediment and encourage already trained and qualified individuals to consider Reserve or Guard service after they had decided to leave the Active Forces. Since Reserve pensions are not paid until age 60, there is little cost associated with this legislation.

Considering the difficulties in reaching quotas for our Reserve Forces, this legislation at a nominal cost would serve to attract the type of people the military is now seeking to fill out the Reserve system as well as end the inequity which now exists regarding the payment of compensation benefits and pensions to Reserve retirees. I hope that my colleagues can give this legislation their full support. Following is the text of the bill:

H.R. 7767

A bill to amend title 38, United States Code, to allow veterans with service-connected disabilities who are eligible for military retired pay for non-regular service to receive compensation for such disabilities from the Veterans' Administration and to receive such retired pay without reduction in either such compensation or such retired pay.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3104(a) of title 38, United States Code, relating to duplication of benefits, is amended—

(1) by striking out "Except" and inserting in lieu thereof "(1) Except as provided in paragraph (2) of this subsection and except"; and

(2) by adding at the end thereof the following new paragraph:

"(2) Compensation under chapter 11 of this title and reserve retired pay pursuant to section 1331 of title 10 may be paid concurrently to any person."

SEC. 2. Section 3105 of title 38, United States Code, relating to waiver of retired pay, is amended—

(1) by striking out "Any" and inserting in lieu thereof "Except as provided in subsection (b) of this section, any"; and

(2) by adding at the end thereof the following:

"(b) Any person who is receiving reserve retired pay pursuant to section 1331 of title 10 and who is otherwise eligible to receive compensation under chapter 11 of this title shall be entitled to receive such compensation without a waiver of all or any part of such retired pay.".

SEC. 3. The amendments made by this Act shall apply to payments of compensation and retired pay for months after September 1980.●

NATIONAL POW-MIA RECOGNITION DAY

HON. JEROME AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. AMBRO. Mr. Speaker, I rise today to voice my enthusiastic support of House Joint Resolution 507 designating July 18, 1980, as "National POW-MIA Recognition Day," a resolution which I was proud to cosponsor. This day served to commemorate those who have been prisoners of war and those who have been missing in action, a group of valiant Americans who have made untold and immeasurable sacrifices for their fellow citizens and their country.

Today we enjoy relative peace, a blessing that we must defend with increasing persistence. However, the sounds of battle are still not far behind us, and the graves of those who perished serving this Nation in Southeast Asia still remind us of the painful experience of war. For those taken prisoner and those missing in action, this day will serve as an eternal symbol of our continuing indebtedness to America's POW's and MIA's, whose supreme dedication to the United States must not be forgotten.

Abandoning universal practices of human decency, our enemies often subjected American servicemen in captivity to torture and other inhumane treatment. We will never know for sure how many of our young men and women perished in captivity as a result of this barbarous behavior.

Even those who, through their unwillingness to yield to an unbearably hostile period of captivity, managed to escape the Vietnam horror must bear a scar which will never disappear. The mark of the mental and physical anguish to which they were subjected will remain; their wounds of war can never heal completely.

It is my hope that this POW-MIA Recognition Day will not only remind us of the past struggles of these men and women, but of the continuing struggles of our former prisoners of war, and the more than 2,000 soldiers of the Vietnam era who remain unaccounted for. We do not know if these individuals are alive or dead, but this uncertainty must be laid to rest. I was a strong proponent of the now dissolved House Select Committee on MIA's, and I continue to urge strongly the use of full economic, diplomatic, and political means to assure full accounting of all MIA's. I share in the sorrow of the families of these proud, dedicated soldiers, and feel, as all Americans must, the emptiness they endure not knowing the fate of their brave, lost loved ones.

War is one of the unpleasant costs we must pay in preserving the ideals that we as Americans support, and National POW-MIA Recognition Day gives us the opportunity to commemorate and honor those who, perhaps, have born those costs most dearly. It is time, Mr. Speaker, to salute those few American soldiers who have sacrificed of themselves for the sake of the many.●

A TRIBUTE TO A DISTINGUISHED CLERGYMAN

HON. WILLIAM RATCHFORD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. RATCHFORD. Mr. Speaker, I rise today to pay tribute to a native son of my home town of Danbury, Conn., whose distinguished and remarkable career as a servant of God and the community of man has earned him—and brought him—honors far greater than this body can bestow.

The Reverend James F. Cunningham, of the Congregation of Saint Paul, celebrated last month the conclusion of 50 years' service to the Roman Catholic Church—a span and a breadth of service that took him from Connecticut to Washington, D.C.: to Los Angeles; to the mountains of Tennessee; to Panama and Puerto Rico during the Second World War; to Rome, where he was rector for 12 years of the Paulists' Santa Susanna's Church; to Chicago and Fort Lauderdale and New York, where he now works in the Paulist development office.

Father Cunningham's life and his work have been sublimely dedicated to a rare brand of service—to those within and without the Church, to Americans and to people of other lands.

In his work at Santa Susanna's Church, the parish for American Catholics living in or near Rome, Father Cunningham served as a sort of informal ambassador of good will and good works. In his chaplaincy in the Navy during the Second World War, he won considerable acclaim for his heroism in combat when he rescued injured shipmates and was himself injured—a deed that earned him the Bronze Star Medal and the Purple Heart.

Father Cunningham's good deeds, in fact, are far too numerous to list here. But they have adhered to a common theme, a unifying concept of service and compassion and gentle righteousness. As he recounted in his 1966 book, "American Pastor in Rome," a retreat master had once told the future Father Cunningham: "If you wish to help people do not be an amateur. Be a professional."

This good man has been, and earnestly remains, a true professional in his work and in his life, and I commend his name and his deeds to my colleagues today in the 51st year of his priesthood.●

THE WEST HELD HOSTAGE BY BANKERS' GREED

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. BAUMAN. Mr. Speaker, shortly before we embarked on our July recess, I saw a fascinating and terrifying article in the Baltimore Sun about a little-known threat to the Western World: The massive debt the Soviet bloc nations owe to our lending institutions.

You wouldn't think that a borrower could ever dictate terms to a lender, yet because of the outrageously large amount of money the West has lent to the Soviets and its satellites this is exactly what is happening. The Soviets owe our financial institutions so much in unguaranteed loans that the Soviets could wipe out our major banks by simply refusing to pay. Our bankers know this, yet they continue to lend money to our enemies to increase business, and the Soviets continue to demand and get extensions on outstanding loans because everyone is afraid of a default.

The article explains the problem succinctly and well, and I commend it to my colleagues' attention. This intolerable situation begs for an immediate remedy, voluntarily by the banking institutions if possible, legislatively by this body if necessary, before we become slaves to our banking system's greed.

The article follows:

[From, the Baltimore Sun, June 29, 1980]

Soviet Debt Puts the West at Its Mercy

(By James Whitmire)

The Soviet Union has a secret weapon in the struggle between the world's two great superpowers. The weapon is not in the Red Army's arsenal—it's not a bomb or a chemical. It's worse; it could devastate the West without a shot being fired. And it is a weapon the West is not only constructing for the Russians, but paying for as well.

The weapon is debt.

Quietly, assiduously, Western banks since the mid-1970s have allowed the Soviet bloc to pile up $60 billion to $80 billion in outstanding debt. The magnitude of this debt is such that a Soviet default might spark a financial panic capable of collapsing the capitalist banking system.

There is growing concern within the international community that Soviet-bloc countries will never be capable of generating enough hard currency to repay their debts—or, more chilling, have no intention of repaying in the first place.

The Soviets are almost certain, at some point, to use the threat of default as a lever to gain political concessions from the West. Should U.S.-Soviet relations ever decline into desperate straits, the Soviets could simply defy their benefactors and cancel the debt outright.

Even so, lending to the Soviet bloc continues at a furious pace, despite the loans' questionable merit from either a political or a financial point of view.

In 1977 the Senate Foreign Relations Committee concluded that the entire international financial system could crumble beneath the weight of one or two major defaults.

The committee had in mind defaults involving far less money than is now loaned through Comecon to the Soviet bloc. Comecon is a Common Market-like agency that coordinates economic policy for the Soviet Union and its East European client states. (Though technically loans are made to individual Comecon members, Russian planners wield almost total control over the organization and its use of funds.)

So far, the only public debate on East-West trade involves the politics of the exchange. There is contention about whether our grain exports serve to shore up the inefficient Soviet system and strengthen the Kremlin elite's grip on power. There is strategic argument about whether transferring advanced technology contributes to our adversary's military power.

But there has never been debate over the simple fact that the Soviet bloc, in effect, does not pay outright for what it gets. The West sends machines and grain, and receives debt in return.

Washington officially downplays the prospect of a Comecon default, but anxious whispering can be heard. "We should have been a lot more cautious," says an informed State Department offical. "They've got us where they want us now."

One source referred to a conversation he had with National Security Adviser Zbigniew Brzezinski, in which Mr. Brzezinski admitted to worrying "quite a bit" about the political leverage the Soviets gain through their debt.

"Indebtedness often increases the leverage of the debtor and decreases the leverage of the creditor." Mr. Brzezinski is quoted as saying. (He declined to be interviewed for this article.) Noting that the English, West Germans and Italians have loaned especially large sums to the Soviet bloc, Mr. Brzezinski is quoted as concluding, "if a Comecon country defaulted, it could create considerable problems."

Government officials also worry that exposing such a predicament to abrasive public response would play into Soviet hands, by increasing the West's sense of weakness and vulnerability. When pressed, officials at the departments of Commerce and State admit that the growing Comecon debt is ominous, but they invariably change the subject by pointing to the much larger—and equally uninsured—debt owed by Third World nations.

Credit outstanding to "less-developed countries" has risen from $137 billion in 1974 to more than $300 billion today. The prospect of a Third World default, officials contend, is a greater cause for alarm than possible Soviet misbehavior.

The Third World debt is, of course, troubling. But poor nations are not a rigid ideological bloc acting cohesively. Far more important, they are not out-and-out avowed political and economic competitors. They do not have large, potent armies and have not preoccupied themselves with devising new instruments of pressure and coercion, as have the Soviets.

The West's tenuous grasp of the Comecon debt problem is indicated by the fact that no one can agree on how much credit actually has been extended. The most conservative estimate is that the debt has increased from less than $10 billion in the early 1970s, to $18 billion in 1974, to $48 billion in 1977—a pace many times greater than the rate of inflation. It hovers between $60 billion and $80 billion today—an amount equal to the total assets of Exxon and General Motors combined.

In 1976 Henry A. Kissinger described the debt as "sudden" and "striking." Yet it continued to climb, unopposed. Allen J. Lenz of Commerce's Bureau of East-West Trade (which supports the above low-end estimates) predicts that by 1985 Soviet-bloc borrowing could hit $108 billion.

Miles Costick, director of the conservative Institute on Strategic Trade, says the Commerce Department deliberately deflates the debt figure because of its desire to "generate trade at any price." The current trends, Mr. Costick believes, point to a debt of at least $200 billion by 1990—$45 billion of which, he says, will be held by Russia itself.

Comecon debt is a recent development, because until the early 1970s the Soviets didn't want to borrow money. The Soviet regime traditionally had an aversion to debt that one economist described as "positively Victorian."

On the rare occasions that Soviet-bloc countries borrowed, they were scrupulous about meeting interest and repayment timetables, an International Monetary Fund official says. Thus, when economic difficulties forced them into the credit market in the early 1970s, Western bankers were impressed by their impeccable borrowing records. The bankers declared Comecon countries to be good risks.

Comecon's early-1970s arrival on the credit market couldn't have come at a better time from the East's perspective, because the West's commercial banks were inordinately liquid. Following the 1973 quadrupling of OPEC oil prices, Arab petrodollars swelled Western banks, simultaneously, because of the 1974-1975 recession, private sector demand for loans was low. The banks were eager to find outlets for idle capital.

Most of the banks granting Comecon loans are the same ones involved in other aspects of the international credit market. According to an informed source, Citicorp is the largest lender, followed (in rough order) by Morgan Guaranty Trust, Chase Manhattan and Hanover Trust.

Many of their loans are not for specific purposes, like the credits the Export-Import Bank of the United States extends, but "untied" loans. In this case, the bank sends a lump sum directly to the central bank of the Comecon member nation. The Comecon nation then uses the money as it sees fit while (in theory at least) repaying the lender in regular installments. Specific loans are often tied to a project—say, the development of a coalfield—whose completion will enhance the debtor nation's ability to repay.

Untied loans can be used for anything: to cover balance-of-payment deficits, to buy hard currency for new purchases, or in some cases, to meet the payments on previous loans. This makes them the most precarious of all. Because they are entirely uninsured, they are called "sovereign risk" loans—loans against the creditworthiness of the country itself.

Banks usually form syndicates (risk-sharing pools) on sovereign risk loans, so that in case of trouble the lead bank does not suffer all the loss. "For all intents and purposes, these loans are made solely on faith, with no recourse if the Soviets refuse to pay," says a State Department analyst. "I sure hope Citicorp knows what it's doing," he adds.

Most of the initial loans were five- to seven-year agreements on terms highly favorable to Comecon. Sources have told me that the ease with which Comecon obtained its loans was a revelation to Eastern governments. So were the full implications of the arrangement.

After finally tasting the forbidden fruit of Western credit, Comecon nations realized they could never be forced to repay. What once seemed like a flirtation with capitalist corruption began to look like a fine means to drain strength from the crumbling bourgeois powers.

What began as a civilized courtship has degenerated into a shotgun marriage for Western banks. Comecon nations have begun asking that their debts be "rescheduled," stretching out repayment timetables and effectively lowering interest rates.

Poland, the second-largest and most "overextended" of Comecon borrowers (the Soviet Union holds the most loans, followed by Poland, East Germany and Hungary), has been heavily rescheduled. Even if it wanted to repay, it lacks the money to do so.

Poland, according to an IMF source, recently came perilously close to default. It owes the West $18.5 billion. Debt service on that amount—or the interest needed to continue the loan, without retiring any principal—is $4.5 million. Poland couldn't even come up with the debt service; the Soviet Union stepped in and covered $1 billion of the amount with gold.

In spite of such signs, bankers are willing to reschedule. The relationship is propelled by an internal dynamic that makes Western banks feel obliged to maintain the flow of loans, even against their better judgment. A very large debtor has substantial influence over his creditor, for he can undermine or even destroy the bank by refusing to pay.

Nearly every major Western bank is involved in a syndicate that is on the hook. So the entire system, not just individual banks, is threatened. It recalls the adage, "Make a small loan and you have a debtor. Make a large loan, and you have a partner."

Banks often take the easy way out and reschedule loans because they seek to maintain what some disparagingly refer to as "the illusion of liquidity." When a large debtor can't or won't repay, banks are unwilling to force him into default.

While banks loan their deposits (assets), they are required by law to keep only about 7 percent of the money they "have" on hand for demand-withdrawals. The collapse of any large debtor would inevitably cause depositors to demand their money back, which would drain the federal deposit-insurance pools, activate other risk-sharing syndicates and spread the chaos further.

It would seem that, even if he were afraid to cut his losses and call in existing Comecon paper, a timid banker would refrain from making fresh loans. But observers believe the banking community is caught in the "undertow syndrome," swirling ever deeper into trouble. Bankers tend to see no alternative to being sucked under the tide of more Comecon loans.

While Western governments feign ignorance of their predicament, the Soviet bloc is fully aware of it. Although insiders widely believe that Comecon has no intention of honoring its debts, it surely will not repudiate them as long as there is no crackdown on repayment.

Even if the Soviet Union and its bloc plan to honor its debts to the West, there is the question of whether they are capable of repaying the debt. The rate of credit growth far exceeds the rate of real economic growth in the East.

The economic and political risks of the existing Soviet-bloc debt present immediate problems of frightening proportions. But unless bankers cease making new and equally hopeless loans to the East, the situation could become far worse.

Whatever happens, the threat posed by the existing Soviet-bloc debt is real and immediate. The Soviets are beginning to master the classic nuances of manipulating banks. They are learning to finesse and demur, allowing the bureaucratic momentum of good money after bad to work its magic unassisted. ●

BIOGRAPHY OF SPEAKER O'NEILL

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. BOLLING. Mr. Speaker, Paul Clancy of the Washington Star and Shirley Elder of Media General News Service have written a lively new book about Speaker O'NEILL. It is called "Tip," a biography of the Speaker of the House, published by MacMillan Publishing Co. In the following review in the Richmond Times-Dispatch of July 3, Charles McDowell has caught the flavor of the book—and the Speaker.

HERE'S THE BOOK ON "TIP" O'NEILL

WASHINGTON.—It isn't often that Thomas P. O'Neill, the speaker of the House, visits the press gallery. If you want to talk with "Tip" O'Neill, you do it on his turf, downstairs, and he tends to make the rulings on what needs talking about.

Also it isn't often that the press gallery has a wine and cheese party at the end of the day. But it did one afternoon this week, and O'Neill came to the party.

The huge Irishman with the floppy white hair lifted a little glass of wine and proposed a toast to two reporters—an absolute precedent, as far as I can tell.

"Congratulations," he said, "you almost understand me."

The objects of this stunning compliment were Shirley Elder of Media General News Service and Paul Clancy of The Washington Star. Thus did the speaker join their colleagues in saluting the publication of their book, "Tip."

It is a perceptive and lively biography of a flat-out politician in an era of self-righteous, self-proclaimed statesmen.

With thanks to Elder and Clancy and the MacMillan Publishing Co., I will try to pass along some of the flavor of Tip O'Neill.

ON JOINING

"One of the basics of politics my father taught me was this: If you're a joiner, fine, but never go to a meeting. I never went to a meeting of the Elks; I never went to a meeting of the Knights of Columbus; I never went to a meeting of the Holy Name. Because they'd become very factional. Don't get yourself involved in factions. Stay away from the meetings. But when the time comes, if you think it's running well, be a part of the change. And I was."

RECALLING HIS BOYHOOD IN BOSTON

"There was such loyalty, there was such a group. You admired the guys who were the great athletes. You admired the guy who could dance, who could play cards, who could sing. I admired Jed Barry—he was such a knowledgeable guy. Joe Healy, absolutely brilliantly talented. We used to kid Joe. Joe used to go to the library when it wasn't raining."

THE CONGRESSMAN'S LOT

"There's a banquet in my state and I'm sharing the platform with our two senators who are, of course, famous. Afterwards, 200 people come up and ask for Ted Kennedy's autograph. Two hundred come up and ask for Ed Brooke's autograph. And 18 come up and ask me for a favor."

SOUTHERNERS IN THE WHITE HOUSE

"They came up here and they didn't understand us Irish politicians or Jewish politicians from the urban areas. The average Southerner is a sweet talker and a charmer and charismatic, a smooth type that can skin you alive with sweetness and kindness. Politics are different in the North. There's a terseness and a toughness and an infighting. The Northern House member gets into the fray as soon as possible. The Southerner steps back."

O'Neill befriended Jimmy Carter and still speaks up for the Democratic president. He also speaks up to him. When the congressional leaders started going to the White House for weekly breakfasts, they were served coffee and pastry.

O'Neill spoke to the president: "This is a helluva breakfast. Why don't you feed us when you bring us over here?"

The situation improved: "From that day on, they started to give us sausages and bacon. They have scrambled eggs and poached eggs. They have toast, a danish roll, and grits.

"I don't eat grits.

"And coffee. After we'd been going there about a month, I said, 'Y'know, I can't stand coffee black and I can't stand it with milk. I've always used either cream or Coffee Rich.' And they've served it with cream from then on. Y'know if you're in the family, you're supposed to talk up about things like that."

ON POLITICS

"I'm a politician and I'm proud of it. I've been with every type businessman in the world. There's no profession more honorable than politics. We're barraged. We're criticized. But, percentagewise, there are more people in public life who are honest than there are in any other profession in the world. The politician is criticized because that's the way of American life: kick hell out of Congress. So I'm part of that American life that's kicked hell out of. Hey, that doesn't bother me a bit."●

TRIBUTE TO FRED C. JENNINGS

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. LEWIS. Mr. Speaker, it is indeed an honor to have the opportunity to recognize one of the truly fine citizens in America today, Mr. Fred C. Jennings. He has been selected by the California Inland Empire Council of the Boy Scouts of America to receive the coveted 1980 Distinguished Citizen Award. It is my pleasure to pay tribute to him before my colleagues.

Born in Salt Lake City, Utah, Fred Jennings was raised in Glendale, Calif., and received his formal education at UCLA. From 1926-46 Jennings was employed by Texaco. He then purchased a Lincoln/Mercury dealership in Riverside which he successfully operated until 1958 when he sold his business to devote all his time to real estate investment and development. In 1961 he became the president of Sun Gold investment firm.

Fred Jennings is past president of both the Riverside Chamber of Commerce and the United Fund of Riverside. He served as a director of Alfred M. Lewis Inc., the Riverside Community Hospital and has been chairman of the Riverside County Savings Bond Advisory Committee. He is a past director of security, Pacific National Bank.

He has served as a member and chairman of the California Highway Commission; as a member of the State transportation board; the Riverside Board of Utilities, and the advisory board of the Automobile Club of Southern California.

Fred C. Jennings' contributions to our society have touched the entire community and it is an honor to commend him to the House of Representatives.●

TAX CHANGES ON EARNED INCOME OVERSEAS NEEDED TO SPUR TRADE

HON. BILL ROYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. ROYER. Mr. Speaker, I recently testified before a Senate subcommittee on a problem which is becoming very serious. I am referring to our weakening trading position overseas, especially in relation to other industrial nations which are aggressively pursuing overseas contracts. As American dollars continue to hemorrhage overseas due to our enormous oil bill—a problem which we have done little to resolve since the oil embargo—we must find ways to insure that we are exporting all we can to other parts of the world in order to establish a favorable trade balance.

Specifically, many of us have looked at the tax changes that were made in 1976 and 1978—sections 911 and 913—and concluded that they are counterproductive to the goals cited above. These sections, besides being incredibly complex, provide for the taxation of income earned by Americans overseas. The results of these sections over the last few years in terms of trade are truly alarming:

> Over the last three years the U.S. balance of trade deficits have amounted to $100B.
>
> In 1975 U.S. construction and engineering firms ranked first in the Middle East; in 1979 they were twelfth. Moreover, in 1975, U.S. firms in the Middle East had a 10 percent share of the market, while in 1979 they had only 1 percent.
>
> Worldwide these same firms now rank seventh in terms of share; in 1976 they ranked first.

While it is true that the drop in America's world position is not totally based upon the tax problems posed by sections 911 and 913, it is clear that they are significant disincentives to American firms operating overseas. Of course, what is particularly discouraging is that no other important trading nation in the world taxes its citizens working overseas. Encouraging firms to work overseas is not only good economics, but it is good politics as it creates jobs at home. Moreover, there are certain intangible benefits that accrue when Americans work overseas. There has always been a streak of isolationism in the American character, and thus to the extent that Americans work overseas, better understanding between people is fostered, reducing unwarranted fears and suspicions.

Located in my district is the international headquarters for the Guy F. Atkinson Co. I spoke with Atkinson executives about the effects of the 911 and 913 provisions on their ability to do business overseas. They informed me that in 1975, before the tax changes went into effect, the company submitted four bids for a total of $358 million. They obtained one amounting to $200 million. In 1979 the company submitted bids totaling $636 million, but did not receive one order. Once again, it is difficult to lay the blame totally on the 911 and 913 sections, but top managment at Guy F. Atkinson informed me that these tax laws are having a significant impact on their ability to perform overseas.

Interestingly enough, certain policies of the company, though clearly patriotic, also restrict its ability to operate overseas. Evidently the company has no program to recruit foreign nationals to work in white-collar positions on Atkinson projects overseas.

Other constituents are also very concerned about the problem. During the last 6 to 8 months I have received numerous letters from constituents working overseas bemoaning the adverse impacts of the tax laws. I would like to share a portion of one letter that I received from one of my constituents, an executive for Bechtel's Refinery Group in Saudi Arabia. He wrote:

> After completing our assignment in Indonesia, we transferred to Bechtel's operations in Saudi Arabia, where my position encompasses all petroleum-related work throughout the Middle East. Upon my arrival, our American staff approximated 70 percent of our non-manual expatriate force or some 30 percent of the total force employed by Bechtel in the Kingdom. Subsidized foreign competition, most notably from the Koreans, and unequal treatment of taxes on income compared to British, North European or Japanese nationals, have caused us to work aggressively to reduce dependence upon American staff and to bring in British, Northern European and Far Eastern nationals. The situation in the United Arab Emirates should be an object lesson for the United States of America. Under the domination of French, Dutch and Japanese interests our share of the market has diminished close to zero.
>
> It is estimated that one American working in Saudi Arabia generates fifteen jobs in the United States. If is well-known that people who offer design services, such as Bechtel, tend to work with familiar codes, specifications and manufacturers. The diminishing U.S. presence means that less and less orders are placed in the United States and our "Balance of Payments" deficit widens. Those of us who work in the non-Defense area are acutely sensitive to the competition we see from Italy, Germany, France, The Netherlands and Britain. If we could somehow eliminate the tax liabilities on foreign-earned income; on employer-supplied housing; on education allowances and on other pay offsets, the U.S. worker is competitive against the North European or Japanese.

Mr. Speaker, while admittedly the evidence is anecdotal, it is representative of numerous letters that I have received. Something very wrong is clearly happening to American firms trying to operate overseas.

Mr. Speaker, I commend the efforts of Representatives FRENZEL and JONES to arrive at some solution to the problems caused by sections 911 and 913. They have introduced, and I have cosponsored, H.R. 5211, which makes needed changes in our tax laws concerning earned income overseas. The evidence is clear and convincing; we seriously weakened our trading position by enacting sections 911 and 913 and to ignore the problem for long is at our own peril. American industry is the most technologically advanced and employs the most competent people in the world. However, the world is different from the 1950's and 1960's when American industry was predominant almost as of right. If is not so much that America has declined, though there may be some of that, but that the other countries have caught up. In the future America must trade more aggressively as these other countries do now. It simply makes no sense for this Government to send American industry into the world with one arm tied behind its back to bid on competitive contracts. Mr. Speaker, I urge swift action on H.R. 5211 by the House Ways and Means Committee.●

CONGRATULATIONS TO LEE ARENBERG OF SANTA MONICA HIGH SCHOOL

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. DORNAN. Mr. Speaker, as the issues facing our Nation increase in complexity, it gives me great pleasure to acknowledge the positive views of an outstanding American youth. The thoughts expressed by Lee Arenberg in his commencement address given to the Santa Monica High School graduating class of 1980 are inspiring. They reaffirm my confidence that tomorrow's leaders are developing the reasoning qualities needed to successfully guide our Nation:

PARADOX IN PARADISE

(Commencement Address by Lee Arenberg, Speaker of the Class of 1980, Santa Monica, Calif., High School)

To some 1980 is a leap year; to others an election year; and to us, the year of our high school graduation. Many decisions await us, as well as all other graduates this year. The issues are still as profound for us as they were for our parents. But the questions that await us are more complicated. The answers less clear and harder to reach. The key issue for our generation is in reality a paradox. It is a discord between individual prerogatives and society's needs; a conflict between freedom and democracy. Freedom is the individual's right to scale the highest pinnacle of success or to fail in the attempt and once having reached the summit to be able to stay up there and enjoy it. Democracy is the shared right to try but to have each individual's successes or failures limited—to have a floor and ceiling on their mountain. The battle lies in the fact that our society will no longer accept extremes of failure. We will no longer accept the hungry man, the man with no place to live, the man without clothes, or the illiterate man as this graduation testifies. But in not accepting that, we have committed resources that might have been obtained by an individual practicing complete freedom. Or worse, taken some of those resources from him. Society is beginning to deny the right of a man to charge what the market will bear, to deny the right of a man to produce certain products; to deny a man the right to pursue certain lines of research and at times to deny a man the right to speak and write as he sees his truth. And we are rapidly approaching the time in which a man will be denied the rights of consumption as he sees fit. Thus, in preventing total failure, we have simultaneously denied total freedom. This is not only limited to individuals in American society but is a world-wide problem among nations and groups of nations. This paradox is the challenge of the 80's and it must be resolved lest the perceived denials of one group lead to a series of violent conflicts or worse—the destruction of society!

The problem we face in answering this question is not new but its resolution is more urgent today than ever before. Perhaps the great philosopher Hillel put the issue in its most cogent form when he challenged his contemporaries some 2,000 years ago with the following:

"If I am not for myself, who will be for me? And if I am only for myself, what am I? And if not now—when?"

The answers that Hillel sought have never been more needed than now. None of us, or anyone in any graduating class in America today, can escape these questions; whether we go to college, to work or take a year off to "sort out our lives." Whether, we who are about to enter the American political process—be it simply at the ballot box or in a more active role—are equipped to answer Hillel's questions remains to be seen. That our teachers here at SAMOHI have done their best to prepare us, there is no doubt. On behalf of my fellow graduates I would like to thank all the faculty for the efforts that they have made.

I can only promise that we will try our best to answer Hillel's questions as best and as soon as we can.

Thank you and Peace.●

CAPTIVE NATIONS WEEK

HON. F. JAMES SENSENBRENNER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. SENSENBRENNER. Mr. Speaker, I would like to join my colleagues in observing the 22d Captive Nations Week this week of July 21 to 27.

While we in Congress have been commemorating this special week since 1958, the leaders of the U.S.S.R. have not stopped their policy of forcefully incorporating surrounding peoples into their empire for over 60 years. Under the auspices of national liberation, Moscow has periodically invaded other nations. First it was the Ukraine, Georgia, Byelorussia, and the Caucasus; then the Baltic nations were taken; and in the decades following World War II, the nations of eastern Europe have come under the fetters of Moscow. This past year we have witnessed yet another example of Soviet "liberation": Afghanistan.

Despite official statements declaring that all is calm in this country, the proud Afghan people are continuing their struggle against their uninvited oppressors. The number of deaths are increasing daily there, but this has not dampened the patriotic fervor of these people. On the contrary, it has strengthened it. The Afghans have declared a jihad, or holy war, in their fight to remain independent. They would prefer to die rather than to be permanently occupied and denied their liberty and freedom.

The United States can no longer stand by quietly while Moscow continues their expansionism. We have boycotted the Olympics and imposed trade restrictions. We have called upon our allies and all nations of the world to join us by voicing their own outrage at the Soviet invasion of yet another nation. However, foreign troops have remained on Afghan soil and it is not likely that Moscow will voluntarily withdraw them. A strong resistance continues to survive and expand and I applaud these people who refuse to concede to Russian domination.

Afghanistan is only the most recent example of Moscow's policy. We cannot continue to turn our backs on the illegal and immoral seizure of nations by the Soviet Union, either past or present. This week, being the week of the Olympics in Moscow, makes it most fitting for us to recognize the plight of the Afghan people and to express our hopes that they will be able to enjoy the rights and freedom they so ardently desire.●

SCHOOL CUTS ENERGY USE IN HALF; SAVES EDUCATION DOLLARS

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980.

● Mr. HYDE. Mr. Speaker, at a time when we are all looking for creative and innovative ways to conserve our Nation's vital energy supplies, I am pleased to bring to the attention of my colleagues the exemplary accomplishments of Oak Park-River Forest High School in my district. In 1971, this institution set a goal of reducing energy consumption by 50 percent and has now achieved that objective, saving the school district hundreds of thousands of dollars in the process.

I know that Members of Congress frequently hear from students, teachers, school board members, and community officials, among others, asking for assistance and guidance in the area of energy conservation. I think the information contained in the following news release prepared by Oak Park-River Forest High School on its conservation project might be useful to schools throughout the Nation, and I am pleased to share it with my colleagues:

> OAK PARK, ILL.—Oak Park-River Forest High School has achieved its goal of reducing energy consumption by 50 percent. Although energy conservation was not the chief public concern in 1971, Oak Park-River Forest High School officials became concerned that so many education dollars were being used to heat and light the building. The decision was made to attempt to cut energy costs. A 50 percent reduction in usage became the goal. Since that time, Building and Grounds Director Richard Rietz and his staff employed a variety of measures to reduce energy consumption.
>
> The goal was achieved without the use of expensive and sophisticated computers. "Thermostat adjustments, efficient lighting procedures, improved controls and shutting down of equipment when not needed account for the bulk of the savings," Rietz explains.
>
> Once the initiative to conserve energy began, Rietz says his staff was creative in the ideas they developed. He particularly credits his assistant George Giles, Chief Engineer Frank Flasch, and Chief Electrician Pete Meiron for their ingenuity and diligence—and in some cases, common sense.
>
> One of the school's more dramatic conservation efforts was highly noticeable. Visitors to the school have been surprised to find darkened hallways, at least until a passing bell rings. The school's hall lighting system is tied in to the bell system. When students are passing from one class to another, the halls are well-lit, but when the tardy bell rings and students are to be out of the halls, the lights go out except as needed for emergency use.
>
> In 1970-71, the school used 952,461 therms of natural gas and 8,762,000 KWH of electricity. These have been reduced in 1979-80 to 457,294 therms and 4,395,000 KWH, for a 52 percent and 49.8 percent reduction respectively. At today's rates, if the school were still consuming gas and electricity at 1970-71 levels, the district would be paying $300,025 for gas and $433,780 for electricity. With the 50 percent reduction in use, the school district saved $372,209 this year alone. The amount of energy conserved would heat and light about 400 homes, notes Rietz.
>
> The school has not changed much in the past nine years. the 719,702 square feet of usable floor space is the same. However, the school is open to the public more today than in 1970-71.
>
> Heavily used by community, more evening activities have been scheduled. Triton Community College established an extension program at the high school four nights a week and girls' after school athletics have increased.●

SOPHIE AND JULIUS M. COHEN

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. WAXMAN. Mr. Speaker, on Sunday, August 10, 1980, the American Jewish Congress will honor its western regional director, Julius M. Cohen and his wife Sophie Cohen, its executive secretary. After 15 years as director and 11 years as executive secretary, the Cohens are retiring to enjoy their leisure at a new home on the shore of the Pacific.

Julius Cohen appears to have crammed the accomplishments of several lifetimes into his working years. Born in Rochester, N.Y., he graduated from Cornell University in 1935. During his college years he was editor of several publications and worked as campus correspondent for others. In Rochester, he was president of B'nai B'rith, served on the boards of every major Jewish organization, taught for 9 years at Temple B'rith Kodesh, and was the recipient of numerous awards. After a 9-year editorial stint, Julius Cohen was called, during World War II, to the National Jewish Welfare Board, officially accredited by the Department of Defense to serve military personnel of Jewish faith. AS USO-JWB director, first in the South and then in the West, for 21 years he won worldwide acclaim for USO Pal Day programs, broadcast by Armed Forces radio and television into 85 countries around the world and receiving awards from every branch of service, including the B'nai B'rith District 4 Distinguished Service Award.

Following a 21-month tenure as community development director for Gateways Hospital, for which he received the Gateways Award, Julius Cohen was appointed in 1965 as American Jewish Congress regional director. Listed in "Who's Who in the West" and "Who's Who in American Jewry", he is a past president of the western region, National Association of Jewish Center Workers, and board member of numerous organizations including the Business Development Center of Southern California. His graduate work includes Rochester Business Institute, Columbia University, University of North Carolina, and Stanford University.

It is difficult to list every aspect of Julius Cohen's community involvements, but to mention just a few more; he has performed many services in behalf of thousands of military personnel at area bases; street academy; single adults; city attorney's task force for nursing home reform; interracial council for business opportunity; and Business Development Center of Southern California.

Sophie Cohen has worked with and supported her husband's endeavors for the 24 years of their marriage. She served overseas during World War II with the American Red Cross. She was secretary to the late Rabbi Maxwell H. Dubin of the Wilshire Boulevard Temple. She is presently executive secretary of the American Jewish Congress, western region. But a bare recital of the positions she has held does not illuminate Sophie Cohen's inspired and devoted efforts. Like her husband, she has not spared herself in the service of others.

Julius and Sophie have enriched all of the communities in which they have resided. They have not missed those who could not help themselves; the Cohens saw to it that better lives resulted from their presence. While I ask the Members to join me in honoring Sophie and Julius Cohen who have given so openhandedly of themselves, it is really Sophie and Julius who honor us, who have enriched us with their generous gifts of themselves. I hope that their time of retirement will be warmed by the love and gratitude of their countless beneficiaries.●

ALBERT RAINS RECEIVES NATIONAL RECOGNITION

HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. BEVILL. Mr. Speaker, during his 20 years of service to the people of Alabama, in the Congress, Mr. Albert Rains came to be known as Mr. Housing, due to his outstanding legislative contributions in that field.

As a member of the House Banking and Finance Committee, Albert Rains was responsible for the development and passage of landmark housing legislation, which has been of immeasurable benefit to the people of our Nation.

On May 18, 1980, Albert Rains, who is a resident of the Fourth District of Alabama, was inducted into the Housing Hall of Fame, in recognition for his achievements.

I would like to share with my colleagues the following article about this great honor for Albert, which appeared in the Gadsden Times.

ALBERT RAINS RECEIVES NATIONAL RECOGNITION

(By M. D. Garmon)

Albert M. Rains of Gadsden, former U.S. Representative, was inducted into the Housing Hall of Fame on May 18, in recognition of his legislative contributions to housing.

Rains was honored along with 16 other housing leaders in ceremonies held by the National Association of Home Builders in Washington, D.C. His selection by the Board of Governors of the National Housing Center was announced during the trade association's annual convention and exposition in Las Vegas in January.

"During his 20 years in Congress, Rep. Rains' contributions to housing were legion," said NAHB president Merrill Butler at the awards ceremony. "He fought to hold down the rising cost of developed land which today threatens to price many young Americans out of the home buying market. He piloted the Mass Transit Act through the House thereby easing the shortages of buildable land in metropolitan areas," Butler said.

Rains, who spent 20 years as Democratic Representative in the U.S. House, voluntarily retired from Congress in 1964.

A member of the House Banking and Finance Committee, Rains was selected to head a special committee on housing created by Congress shortly after World War II.

Rains, as Chairman of the committee, was responsible for development and passage of landmark housing legislation during his tenure, affecting many facets of life in the U.S.

Among the innovative programs developed by the special committee headed by Rains were: FHA, urban renewal, mass transit, college dormitory construction, nursing home construction, and housing for the elderly.

"'Every American is entitled to safe, sound, decent and sanitary housing in which to live,' was the policy adopted by my committee in 1948," Rains said, "and that's still national policy."

The current rate of inflation in the U.S. and high interest rates have had a negative effect on new housing construction, but Rains said he feels the tide may be turning.

"I can see the beginning of an upswing in local housing and real estate. Because of declining interest rates, I'm optimistic that housing locally will be back on track by the beginning of Fall," Rains said Friday.

"If recession helps curb the high cost of building materials, I think we'll see light at the end of the tunnel. And next year could be a record year for the construction of housing," said the former Congressman who was dubbed "Mr. Housing—USA."

During the award ceremony in Washington, Rains was presented with a large medallion bearing an engraved portrait of the former Congressman. A plaque bearing Rains' portrait will be on permanent display in the Housing Hall of Fame located in the National Housing Center in Washington.

The Housing Hall of Fame was established by NAHB in 1976 to honor the men and women who have made lasting contributions to the cause of providing all Americans with decent and affordable homes.●

DRAFT MEANS WAR

HON. JAMES P. (JIM) JOHNSON

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Mr. JOHNSON of Colorado. Mr. Speaker, we should not delude ourselves about the draft registration process which commences this week. No Member of this House should doubt that draft registration will inevitably lead to classification and conscription. And, as Andrew M. Greeley pointed out in his column published July 14, 1980, the historical evidence is that conscription leads to war.

I remind my colleagues again that self-sacrifice and patriotism are gifts from the people to their country. Our country is not going to be defended by irrational appeals to patriotism and specious rhetoric. Peacetime draft registration can only inspire mistrust and suspicion.

Ultimately, peacetime draft registration will be self-defeating. Rather than discouraging war, it only will make war more possible. I strongly urge my colleagues to heed Mr. Greeley's warning.

NOTE: CONSCRIPTION MEANS WAR

Registration means conscription and conscription means war.

The United States has had conscription three times in the last 40 years. There have been three wars—World War II, Korea and Vietnam. Despite Mr. Carter's denials, no one seriously doubts that this draft registration victory is the first step to conscription. The Russian invasion of Afghanistan was pretext for the president to do what the military and the military committees in Congress have been wanting to do for a couple of years—begin registration as a preliminary to renewing peacetime conscription.

It is an election year, however. Carter doesn't want to take the chance of having voters wonder about how an army of conscripts is going to frighten the Russians out of Afghanistan. So the first step is taken. Let no one be deceived. Within a year after the election, whether Carter or Reagan wins, there will be conscription, and for the fourth time since 1940, young men (and perhaps young women) will be forced against their will into military service. Will this be the time that the availability of a conscript army will not seduce American leaders into thinking they can use such an army in a foolish military adventure on foreign soil?

American leaders have never learned the lesson that you can't fight a foreign war (at least not for very long if casualties are high) on foreign soil. We all thought that lesson was learned in 1952, after Korea. Within a decade American leaders were making the same stupid blunder again in Vietnam. By 1982, 10 years after Vietnam, one can expect that the conscripted sons (and perhaps daughters) of America will be fighting on some muddy foreign battlefield to support a fascist regime whose survival has somehow become essential to the security of the United States. If Reagan is elected it may not even take two years for this new police action to begin.

If the leaders of the United States have not learned their lesson. however, it must also be said that the American people seem uneducable on the subject of military conscription. The majority opinion in the United States is certainly not against registration. Indeed, it is perhaps evenly divided on the subject of conscription. Vietnam apparently never happened, and neither did Korea. Carter and the congressmen who voted for registration read the polls and have no fear that the registration law is a threat to their re-election. There may be single issue voters on the subject of abortion. There are no single issue voters on the draft—or so it would seem.

Conscription is not an issue to most Americans because neither they nor their offspring are threatened by it. It is, however, an overriding issue with a very substantial number of young men and women and their parents. They are the voters who quietly read the newspapers to see how their congressmen and senators voted on the registration law and then solemnly swear that they will never again cast their ballot for anyone who supports even the first step of conscription. How many Americans to whom conscription is a dominating single issue? Surely no less than 5 percent and probably no more than 10 percent. But enough to be decisive in a close election. The day the young men begin to line up in front of the post office, Congressman John Anderson will gain more voters and more contributors.

But how could President Carter, supposedly a shrewd campaigner (but incompetent president), have made the mistake of providing those who want young American bodies the half loaf of registration during an election? Without increasing American military strength in the slightest, registration antagonizes a substantial proportion of voters. Carter is a smart politician, isn't he?

Sure. Remember 1976? Jimmy Carter began his campaign with almost a 20 percentage point lead over the president who pardoned Richard Nixon. He won by less than a percentage point. That is a shrewd politician for you.●

UNIVERSITY STUDENTS COME TO THE AID OF SMALL BUSINESSES

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980.

● Mr. BEREUTER. Mr. Speaker, today's edition of the Wall Street Journal contains a most interesting article about a program to aid small businesses that has been operating this summer in one local community in my congressional district in Nebraska.

The program was developed by the University of Nebraska at Omaha. Its purpose is to adopt the Small Business Administration's Small Business Institutes to rural communities by utilizing the educational backgrounds and enthusiasm of business students. This was accomplished by having these students work with the owners and managers of small businesses in rural communities. One such community that participated in the program this summer is Norfolk, Nebr.

I wish to share the article, "Graduate Students Provide Help to Hard-Pressed Nebraska Firms," with my colleagues. I think they will agree that both the students and firms they worked with received tremendous benefits from the program.

This type of program of sharing experience and knowledge—in effect, lending a hand, should be encouraged. I applaud the students and the business leaders who agreed to participate in the program.

The article follows:

[From the Wall Street Journal, July 21, 1980]

GRADUATE STUDENTS PROVIDE HELP TO HARD-PRESSED NEBRASKA FIRMS

(By David P. Garino)

As the recession sweeps across the prairie like the hot wind, many owners of small businesses in America's heartland are especially in need of an always scarce resource: top-flight advice. "So many farm-implement dealers are going out of business," says Larry Dinkel, who sells tractors and other equipment in Norfolk, Neb. "We're glad to have someone digging into things.

Most of the digging in Mr. Dinkel's community this summer is being done gratis by 51 graduate students. During 10 days of intense one-on-one sessions last month, the students worked with the owners and managers of 51 Norfolk businesses, scouring financial records, analyzing inventories, questioning billing procedures and marketing tactics. Later, with the help of a computer, they devised a five-year financial plan for each business. This month, they are preparing final reports with specific recommendations.

The students are MBA candidates at several schools taking part in a four-year-old program developed by the University of Nebraska at Omaha. Its purpose is to adapt for rural communities the Small Business Administration's Small Business Institutes—clinics on 470 campuses around the country that give free advice to entrepreneurs. The SBA says the Omaha program is the only one in which students visit rural towns.

Small rural businesses "don't have access to consultants or major accounting firms," says David Ambrose, chairman of the university's marketing department and director of the program. Owners are so close to their businesses, they often "can't see the grass in the cracks in the sidewalk."

Some chamber of commerce members in Norfolk were skeptical, says Delayne Deitloff, chamber president. "They asked, 'What's the catch?' They had a hard time believing it was free." About 50 companies declined to participate. The main reason: Unwillingness to let students examine financial records, though confidentiality has been promised. "Most people," says Mr. Ambrose, "would sooner let you see their medical records."

Students worked in the field during the day and discussed cases at evening classes, sometimes lasting past midnight. Pamela Acuff anticipated one problem that didn't materialize: "We were afraid we might be thought of as smart-aleck kids." To break the ice, she brought along a box of doughnuts on one of her first visits to the machine shop that was her client firm. Placing them next to the coffee machine, she announced that they were for everybody. After wearing a dress the first day, she changed to jeans "to fit in better."

"I understand the hesitancy of small businessmen to expose their companies to someone they don't believe is in the real world," Mrs. Acuff says. When talking to Kenneth Cook, the shop operator, she says, "I didn't want to come across as a know-it-all. I never said, 'You should do it this way.'"

In discussing the shop's accounts receivable, Mrs. Acuff pointed out that some had been due for more than 90 days. Because the shop didn't charge interest, she said, it was, in effect, carrying the customers. Convinced of that point, Mr. Cook seems inclined to impose a late charge.

Most business owners give the program and the students high marks. Mr. Dinkel, the farm-implement dealer, has learned how to do his own cash-flow projections. Richard Ahrenheltz, a Michelin tire dealer, is adding a less expensive line of passenger-car tires to help get through lean times. And Donald Beltz, a motorcycle shop operator, is considering a stepped-up plan for marketing snowmobiles to improve his off-season business.

Jacqualyn Bennett analyzed sales of the Lighthouse, a lighting fixture retailer and wholesaler. Her research showed retail sales accounted for only 10 percent of volume and yet consumed most of the marketing effort. So she advised the store to make regular checks of building permits as a source of potential customers.

The technique seems to help. In one recent week, says manager Dawn Beach, "we completed three houses for contractors," despite otherwise sluggish building activity. Mrs. Bennett adds modestly: "I was fortunate to have a client so willing to give my ideas a try."

The Norfolk Sewing Center recently raised its basic service charge to $32.50 from $22. Student Eduardo Conoan says owner Carl Nore "wanted to be a nice guy" to customers, but competitors were charging $35 to $60 for similar services. If the new rate had been in effect last year, says center manager Jan Mitchell, the business would have brought in at least $1,000 in extra income.

Like many of his fellow students, Mr. Conoan believes the Norfolk experience has been more rewarding than working on case studies in the classroom. Textbook cases often have "incomplete marketing data," he contends. For the sewing store, he had to develop all the data himself. "If something was missing, it was my own fault because I didn't ask the right question."

Mr. Conoan also says the experience has reinforced his "career choice" of making financial evaluations, probably for an airline. And the time he spent in Norfolk convinced him he doesn't want to go into business for himself. "Small businessmen sit up and worry a good part of the night," he observes. "If I did that, I'd want to be compensated better than they are."●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, July 22, 1980, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 23

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold hearings on the nomination of Stephen M. Goldfeld, of New Jersey, to be a Member of the Council of Economic Advisers.

5302 Dirksen Building

Budget

To continue hearings in preparation for reporting the Second Concurrent Resolution on the Congressional Budget for fiscal year 1981.

6202 Dirksen Building

Environment and Public Works

Business meeting, to mark up an original bill providing for a comprehensive approach to the regulation of nuclear waste disposal, codifying the licensing authority of the Nuclear Regulatory Commission relating to the regulation and control of nuclear waste, and requiring notification to State authorities of the Department of Energy's intent to explore a site for a radioactive waste storage or disposal facility to be selected within such State.

4200 Dirksen Building

Finance

To hold hearings on miscellaneous tax reduction proposals.

2221 Dirksen Building

Joint Economic

To hold hearings to review economic conditions and to discuss the future outlook for the economy.

6226 Dirksen Building

Judiciary
Business meeting, to consider pending legislation and nominations.
2228 Dirksen Building

Rules and Administration
Business meeting, to consider legislative and administrative business.
301 Russell Building

12 Noon
Judiciary
Criminal Justice Subcommittee
To hold oversight hearings on forfeiture of profits of drug traffickers.
5110 Dirksen Building

2:00 p.m.
Budget
To continue hearings in preparation for reporting the Second Concurrent Resolution on the Congressional Budget for fiscal year 1981.
6202 Dirksen Building

2:30 p.m.
Conferees
On H.R. 5192, authorizing funds through fiscal year 1984 for higher education programs of the Department of Education.
S-145, Capitol

JULY 24

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume oversight hearings on the administration's transition plans to develop an operational land remote sensing satellite system.
235 Russell Building

Labor and Human Resources
To hold joint hearings with House Education and Labors' Subcommittee on Employment Opportunities on health and other effects of unemployment.
4232 Dirksen Building

Select Committee on Small Business
Government Procurement Subcommittee
To hold hearings on S. 2873, providing SBA loans and guaranteed loans for small businesses in the communications industry.
424 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To hold hearings on H.R. 7340, proposed Cash Discount Act.
5302 Dirksen Building

Budget
To continue hearings in preparation for reporting the second concurrent resolution on the congressional budget for fiscal year 1981.
6202 Dirksen Building

Environment and Public Works
Business meeting, to continue markup of an original bill providing for a comprehensive approach to the regulation of nuclear waste disposal, codifying the licensing authority of the Nuclear Regulatory Commission relating to the regulation and control of nuclear waste, and requiring notification to State authorities of the Department of Energy's intent to explore a site for a radioactive waste storage or disposal facility to be selected within such State.
4200 Dirksen Building

Finance
To continue hearings on miscellaneous tax reduction proposals.
2221 Dirksen Building

Foreign Relations
Arms Control, Oceans, International Operations, and Environment Subcommittee
To hold hearings on the forthcoming Nonproliferation Treaty Review Conference, to be held on August 11 through September 5, 1980, in Geneva, Switzerland; and to consider S. 333, strengthening Federal programs and policies for combatting international and domestic terrorism.
4221 Dirksen Building

Governmental Affairs
Permanent Subcommittee on Investigations
To hold oversight hearings on the implementation of the Department of Energy's gasoline allocation program.
1318 Dirksen Building

Judiciary
Criminal Justice Subcommittee
To continue oversight hearings on forfeiture of profits of drug traffickers.
5110 Dirksen Building

Select on Indian Affairs
To hold oversight hearings on the implementation of Indian educational programs.
6226 Dirksen Building

2:30 p.m.
Conferees
On H.R. 5192, authorizing funds through fiscal year 1984 for higher education programs of the Department of Education.
S-145, Capitol

JULY 25

9:30 a.m.
Special on Aging
To hold hearings on energy assistance to the elderly.
6226 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the substance of S. 2718, authorizing funds for each of fiscal years 1981 through 1985 for the Economic Development Administration and the Small Business Administration to facilitate the formation of U.S. export trading companies to expand export participation by smaller U.S. companies (pending on Senate calendar).
5302 Dirksen Building

Environment and Public Works
Water Resources Subcommittee
To hold oversight hearings on the construction of the Tennessee/Tombigbee Rivers waterways project for the purpose of facilitating barge traffic on the inland waterway system.
4200 Dirksen Building

Finance
To continue hearings on miscellaneous tax reduction proposals.
2221 Dirksen Building

Governmental Affairs
Permanent Subcommittee on Investigations
To continue oversight hearings on the implementation of the Department of Energy's gasoline allocation program.
3302 Dirksen Building

3:00 p.m.
Conferees
On H.R. 5192, authorizing funds through fiscal year 1984 for higher education programs of the Department of Education.
S-207, Capitol

JULY 28

10:00 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 2926, proposed Magnetic Fusion Energy Engineering Act.
3110 Dirksen Building

Environmental and Public Works
Water Resources Subcommittee
To hold hearings to evaluate the ability of the national transportation system to handle anticipated increases in coal production.
4200 Dirksen Building

Finance
To resume hearings on miscellaneous tax reduction proposals.
2221 Dirksen Building

2:30 p.m.
Finance
International Trade Subcommittee
To hold hearings on U.S./International trade strategy.
2221 Dirksen Building

JULY 29

9:30 a.m.
Agriculture, Nutrition, and Forestry
Environment, Soil Conservation, and Forestry Subcommittee
To hold hearings on S. 1942, proposed Resource Conservation and Development Act.
457 Russell Building

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to assess certain provisions relating to the use of space environment contained in the proposed Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (pending receipt by the Senate).
235 Russell Building

Labor and Human Resources
Handicapped Subcommittee
To resume oversight hearings on the implementation of the Education For All Handicapped Children Act (Public Law 94-142).
4232 Dirksen Building

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices and Foreign Agricultural Policy Subcommittees
To hold joint hearings on S. 2569, to provide for certain State agencies to perform official inspections with respect to grain marketing, and S. 2886, to provide for additional means for transporting grain to export elevators.
324 Russell Building

Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 2774, proposed Underground Coal Gasification and Unconventional Gas Research, Development, and Demonstration Act.
318 Russell Building

Energy and Natural Resources
Energy Resources and Materials Production Subcommittee
To hold hearings on the substance of H.R. 2743, to provide for a national policy for materials research and development capability and performance of the United States.
3110 Dirksen Building

Environment and Public Works
Water Resources Subcommittee
To hold oversight hearings on the environmental effects of the Harry S Truman Dam in Missouri.
4200 Dirksen Building

Finance

To continue hearings on miscellaneous tax reduction proposals.

2221 Dirksen Building

Select on Indian Affairs

To hold hearings on S. 2166, to establish a National Institute of Native American Culture and Arts Development.

6226 Dirksen Building

3:00 p.m.

*Office of Technology Assessment

The Board to hold a meeting on pending business items.

EF-100, Capitol

JULY 30

9:30 a.m.

Veterans' Affairs

Business meeting, to consider S. 2649, to increase the rates of compensation for disabled veterans, and to increase the rates of dependency and indemnity compensation for their survivors, and amendment No. 1888, to provide for limited specially adapted housing benefits for certain severely disabled veterans to S. 2649, aforementioned.

412 Russell Building

10:00 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

Finance

To continue hearings on miscellaneous tax reduction proposals.

2221 Dirksen Building

JULY 31

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings to assess certain provisions relating to the use of space environment contained in the proposed Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (pending receipt by the Senate).

235 Russell Building

Judiciary

To hold hearings on the nominations of George Howard, Jr., to be U.S. District Judge for Eastern and Western Districts of Arkansas; Susan C. Getzendanner and Charles P. Kocoras, each to be a U.S. District Judge for the Northern District of Illinois; and John E. Sprizzo, to be U.S. District Judge for the Southern District of New York.

2228 Dirksen Building

Labor and Human Resources

Handicapped Subcommittee

To resume oversight hearings on the implementation of the Education For All Handicapped Children Act (Public Law 94-142).

5110 Dirksen Building

10:00 a.m.

Energy and Natural Resources

Energy Research and Development Subcommittee

To resume hearings on S. 2774, proposed Underground Coal Gasification and Unconventional Gas Research, Development, and Demonstration Act.

Room to be announced

Energy and Natural Resources

Energy Resources and Materials Production Subcommittee

To resume hearings on the substance of H.R. 2743, to provide for a national policy for materials research and development capability and performance of the United States.

3110 Dirksen Building

Finance

To continue hearings on miscellaneous tax reduction proposals.

2221 Dirksen Building

Labor and Human Resources

Health and Scientific Research Subcommittee

To hold hearings to review the Food and Drug Administration's evaluation of the drug dimethyl sulfoxide (DMSO), to determine its application and effectiveness.

4332 Dirksen Building

AUGUST 1

9:30 a.m.

*Labor and Human Resources

Health and Scientific Research Subcommittee

To hold oversight hearings on the activities of the National Health Service Corps.

4232 Dirksen Building

10:00 a.m.

Energy and Natural Resources

Energy Resources and Materials Production Subcommittee

To hold hearings on S. 2734, to provide for the transfer of certain land and facilities used by the Bureau of Mines located at Carnegie-Mellon University in Pittsburgh, Pennsylvania.

3110 Dirksen Building

AUGUST 4

10:00 a.m.

Energy and Natural Resources

Energy Research and Development Subcommittee

To resume hearings on S. 2926, proposed Magnetic Fusion Energy Engineering Act.

3110 Dirksen Building

AUGUST 5

9:30 a.m.

Agriculture, Nutrition, and Forestry

Environment, Soil Conservation, and Forestry Subcommittee

To hold hearings on S. 2861, designating certain lands in the State of North Carolina for inclusion in the National Wilderness Preservation System.

324 Russell Building

AUGUST 6

10:00 a.m.

*Energy and Natural Resources

To hold hearings on S. 2695, to limit the severance tax percentage that a State may impose on coal shipped in interstate commerce.

3110 Dirksen Building

AUGUST 19

10:00 a.m.

Select on Indian Affairs

To hold oversight hearings on the implementation of Indian housing programs.

5110 Dirksen Building

AUGUST 26

10:00 a.m.

*Veterans' Affairs.

To hold oversight hearings on the implementation of small business loan programs for veterans recommended by the White House Conference on Small Business.

412 Russell Building